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SENATE—*Wednesday, September 29, 2004*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Sovereign Ruler of the Universe, today we sense that our battles are not simply with flesh and blood. We war against principalities and powers. Thank You for providing us with spiritual weapons to defeat carnal foes.

Forgive us when we chase the temporary and flee from the permanent. Empower us to capture our thoughts and actions, making them subject to Your will.

Give our lawmakers today an awareness of the complexity of the great controversy between good and evil. Speak to them when they look to You for guidance. Remind them that truth crushed to earth will rise again. Bless our military sons and daughters in harm's way. We pray this in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

The PRESIDING OFFICER (Mr. BROWNBACK). The Senator from Massachusetts.

ORDER OF PROCEDURE

Mr. KENNEDY. Mr. President, I note that our leaders are talking. Obviously, the tradition is to recognize or permit them to address the Senate, but I would like to speak just for a few moments this morning on a matter.

Mr. REID. Mr. President, I have a unanimous consent request. Will the Senator yield for a unanimous consent request?

Mr. KENNEDY. Yes.

Mr. REID. Mr. President, I ask unanimous consent that when the leaders finish their statements, that Senator KENNEDY be recognized.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning the Senate will resume consideration of the intelligence reform bill. As our colleagues know, several amendments are currently pending to the bill, including the Specter intelligence consolidation amendment. We do hope to reach a time agreement on that amendment this morning, allowing us to vote on the Specter amendment. I know Senator SPECTER is here. I hope we make real progress on that amendment this morning. Hopefully, we can have a vote sometime this morning. The chairman and ranking member, of course, will be here to work through pending amendments as well as those that may be offered today.

I was just talking to the Democratic leader. We are going to have votes throughout the day, as we continue to move forward on this bill. In addition, because of a number of amendments we know we have to consider and will consider—I do not know the entire range—it is very likely that we will need to continue to work throughout today, tomorrow, possibly Friday, and we cannot rule out having votes on Friday, and indeed on Monday. Many times we try to schedule votes such that we pay deference to individual Senators' schedules, and we will try to do that as well.

On the other hand, as we all know, we are going to depart on October 8, and with that we have a huge amount of business to do, with this very bill, the single greatest reform bill on intelligence in the last 50 years, and we need to continue to work with the extensions, the continuing resolution, address transportation, address welfare, and have the appropriations bills as well. So from a scheduling standpoint, I ask for real consideration by our colleagues in that we need to move expeditiously, get the amendments to the floor, and have them appropriately debated.

Mr. DASCHLE. Mr. President, will the majority leader yield for a question?

Mr. FRIST. I am happy to yield.

Mr. DASCHLE. Mr. President, the majority leader and I have been talking the last couple days with regard to the schedule for this particular bill. I would ask the majority leader if he could again indicate his desire, and certainly one that I can support, which would set in motion a series of events requiring today that all amendments be listed; that is, we would have a finite list, and that by tomorrow all amendments be filed, and that at some point in this debate, in the next couple of days, all amendments be offered.

I think it is very important for us to have a clear understanding of the universe of amendments that are there. If we get that finite list this morning, or sometime through the earlier part of the day, and then the order requiring that all amendments be filed so we know exactly what the language is for those amendments, and then offered, we would be in that position.

I ask the majority leader if that is his intent. And we could work through the day with that expectation in mind.

Mr. FRIST. Mr. President, through the Chair, in response, as we discussed yesterday, if we could get the list of amendments, I think we said by about 10 o'clock this morning—and I think those lists have been coming in—and the filing deadline, let's discuss that over the course of the morning. It would be great if we could do it even late today so we could work on those over the course of tonight. But, again, we defer to leadership and the managers, but it would be great to have that language. That would give people from last night over the course of today to finalize that language. So I agree weakheartedly.

● This "bullet" symbol identifies statements or insertions which are not spoken by a member of the Senate on the floor.

I would just suggest that maybe we could have that filing deadline sometime today or this evening and have staff work over the course of the day rather than tomorrow. Again, it is just so that we can see what the universe is and we can systematically put a little bit of a sense of urgency on getting people to focus on the bill itself. But I agree wholeheartedly, let's have a list here in the next 20 minutes or so, and then mutually establish a filing deadline by which we can actually see the language.

Mr. DASCHLE. I would just ask the majority leader if it is his view as well, since these amendments require legislative drafting, that all Senators ought to understand that the period for drafting these amendments could expire as early as tomorrow. So they need to get their amendments to legislative counsel to make sure they are in concert with the pending bill. I ask if the majority leader shares that view.

Mr. FRIST. Mr. President, I do. I think our colleagues can tell from the dialog going on that we, as leadership, are trying to give a framework to accelerate the process that is currently underway in discussing a very important bill. Our colleagues have met in various caucuses. I know a lot of our Members on this side of the aisle are meeting right now, and we are putting forth the same message to bring those amendments forward. And the managers will process those in an orderly way.

Mr. President, I want to very briefly comment on the bill. We received yesterday the administration's statement of policy that is in support of the Collins-Lieberman bill. I think that was a very important statement for us to receive to show the administration's strong support. In the expression of support, and support for passage of the Collins-Lieberman bill, there were comments made about certain provisions about which they have caution flags. That will be addressed appropriately on the floor of the Senate.

So I am glad we received the letter yesterday. It allows us to address many of those concerns through debate and amendment over today and tomorrow and the next several days.

The administration specifically backs the creation of a national intelligence director with—and I quote from the letter—"full, effective, and meaningful budget authorities and other authorities to manage the Intelligence Community, including statutory authority for the newly created National Counterterrorism Center."

I mention that because it shows the huge support for reform. There is nothing really that new about the reform. There have been 13 reports, national commissions over the last 10, 15, 20 years, 13 different ones urging intelligence reform. Now it is on the floor of the Senate. Indeed, we will accomplish that.

I do want to stress that we have both the reform of the executive branch, which is mainly the Collins-Lieberman bill, but we also have the internal reform within this body itself for oversight. Both of those, of course, were recommendations of the 9/11 Commission. The Democratic leader and I have a task force working on the internal reform. Both of those elements of reform are going to be dealt with before we depart. That is a lot of business to accomplish, and that is why there is a sense of urgency in moving along.

Yesterday, we voted on a number of amendments, including the McCain amendment and the Hutchison amendment. We will see more provisions of the McCain-Lieberman bill come through with amendments to be addressed on the Senate floor as they look at specific 9/11 recommendations.

We do want to do this expeditiously. After we pass the bill, we have to go to the conference with the House and work out any differences between the two bills.

I also want to mention briefly the news that came out regarding the FBI and the shortage of linguists to translate intelligence materials. That sort of news is alarming. After 9/11, we know we can't be behind the curve. Our enemies are smart. They are clever, resourceful. We have seen it time and again. We need an intelligence system that will block them at every turn. It is my hope that the Collins-Lieberman legislation will help address this problem. The recruitment of linguists is specifically cited as one of the issues the bill seeks to address.

Moreover, in the bill the new national intelligence director will have the authority to prioritize and allocate resources appropriately. Clearly, this issue would likely fall under that person's purview. Whether it is strengthening the FBI or buttressing the CIA or integrating our intelligence capabilities, these are among the many reasons we have to move with deliberate speed to finish this legislation. Nothing less than America's national security is at stake.

I yield the floor.

RECOGNITION OF THE MINORITY LEADER

The PRESIDING OFFICER. The minority leader is recognized.

INTELLIGENCE REFORM

Mr. DASCHLE. Mr. President, in discussing these matters with the majority leader, there is somewhat of a rare consensus here that the two matters he has raised once again this morning are critical, not only to this body but to the country, and must be addressed prior to the time we leave. The bill currently pending, managed so well by Senators COLLINS and LIEBERMAN, and the task force and the effort to reorganize the legislative branch creating greater oversight and clearer lines of responsibility for intelligence are critical matters and high priorities. I hope we can continue to keep the discipline and focus on this legislation until we have successfully completed it.

I am optimistic, given the cooperation and the degree of comity on these matters, that we can complete our work, but I do believe it is going to take the kind of schedule that the majority leader and I addressed a moment ago.

OUR RESPONSIBILITY TO AMERICA'S HEROES

Mr. DASCHLE. Mr. President, over the past 4 years, as we have watched the heroism of our men and women in uniform, our Nation has gained a new awareness for the service and sacrifice of American soldiers. In communities all across our country, Americans are praying for the safe return of loved ones serving abroad. They are sending letters and care packages and small reminders of home. But they are counting the days until they can show the thanks they feel and our soldiers deserve face to face.

Few values bring Americans more closely together than our gratitude and respect for the men and women who serve in uniform to protect us. And today, all America is united in gratitude for the service of our Armed Forces and for the many sacrifices their families must make to accommodate their absence.

Regrettably, there are troubling signs that the tremendous burdens we have placed on their shoulders have begun to come at a cost. In recent weeks, we have learned that the National Guard and Reserves are having difficulty recruiting and retaining enough soldiers to defend our country. For the first time in a decade, the Army Guard is unable to meet its requirement for 350,000 soldiers. Too many soldiers are leaving and recruiting can't keep up.

A regular survey of reservists has found that the percentage of Army Reserve members who plan to reenlist has fallen from 69 percent in May 2003 to 59 percent in May 2004. There can be no doubt, the stress of long deployments and active duty are having an effect on recruiting.

Increasingly, our national security is put in the hands of the citizens soldiers of our National Guard and Reserve. When recruitment for the Guard and Reserve falls off, it threatens to undermine the readiness and the effectiveness of our Armed Forces. Let there be no doubt: Now more than ever, we need our Armed Forces to be strong and prepared enough to meet the threats we face today and those we may see tomorrow.

Earlier in the week, the New York Times reported that the Army is considering cutting the length of its 12-month combat tours in Iraq and Afghanistan in order to relieve the stress of duty. This could be a positive step. Special attention also needs to be paid to considering new ways to honor the service of our reservists and offer new incentives for signing up. The debt we owe our soldiers shouldn't be limited to a welcome-home parade. It begins before we send them abroad and it shouldn't end when they return home. This is a debt we must honor every day.

But consider the welcome home thousands of Guard members received when they returned stateside recently only to find they had lost their jobs while they were fighting in Iraq. Over the past 3 years. thousands of Guard members and reservists have come home to find themselves out of work.

Ron Vander Wal, a member of South Dakota Guard's 200th Engineer Company had to sue his employer just to get his old job back. Ron is now back at work, but he never should have had to go to court to get what was rightfully his.

Thousands more aren't as fortunate. And every time a soldier returns home to find that he has less than when he left to fight, we have failed that soldier. How can we ask our soldiers to fight for us overseas and then force them to fight for their jobs once they get home? Sadly, this is only the tip of the iceberg.

More than 400,000 reservists and National Guard members have been mobilized since September 11, 2001. They represent 40 percent of our forces in the region. Their bravery and professionalism have been vital to every aspect of our mission in Iraq. Many of them have been working to improve the lives and health of average Iraqis. And yet, when they return, one out of every five Guard members and Reservists—and 40 percent of junior enlisted personnel—will have no health insurance of their own. That is simply unacceptable.

This kind of neglect is regrettably reflected in our treatment of veterans. as well. Last month, I spoke to a woman from Hartford, SD, whose father served in the Navy—in Vietnam and elsewhere. Recently, her father died, and in his final months the family struggled with the VA to get the benefits he needed. This woman became quite frustrated with the VA and its ability to care for veterans. Today, this woman who loves her country and is proud of her father's service says she will advise her children against joining the military, because she feels our country just doesn't take care of its vets in their hours of greatest need.

That is intolerable. Not only is it morally wrong not to honor the service of our veterans, but it directly affects our ability to recruit the next generation of American heroes. Something needs to be done.

Let there be no doubt, the problems with the VA health system are not the fault of the doctors and nurses and the other men and women who work at VA hospitals and clinics. They are among the most talented, most dedicated health professionals in this country. But they can only do so much with the resources they are given. And from the first days of this administration, the White House has systematically tried to reduce veterans benefits, cut funding to the VA, and shortchange the healthcare of America's veterans.

Over the past 4 years, the budget for veterans health has risen far less than has the cost of delivering health care, forcing VA hospitals to meet rising demand with shrinking resources. The White House's 2005 budget deepens this trend by including less than a one-tenth of one percent funding increase, while health costs nationwide are rising at double digit rates of inflation. Overall, the White House budget falls nearly $4.3 billion short of veterans' needs, according to the independent budget created by leading nonpartisan veterans groups.

The veterans least able to pay are being asked to pick up the difference. Over the course of the last 3 years, the amount vets have paid toward their own care has increased a staggering 340 percent, or $561 million. And if the White House gets its way, vets would need to pick up more than a half billion dollars more of their care in 2005.

This is wrong. Americans treasure their freedom and we treasure those who have sworn to defend it. The kind of treatment our veterans and reservists are receiving defies the gratitude Americans feel in their hearts and betrays our tradition of caring for those who wore the uniform of their country.

There are two steps Congress should take immediately. First, we should pass the National Guard and Reservist Bill of Rights which I introduced earlier this month. This bill codifies a set of rights the men and women serving in our National Guard and Reserve have earned with their service to our Nation. It states that every reservist has the right to straight answers about his or her deployments, and deployments that are no longer than those of full-time soldiers; the right to the best equipment the Nation has to offer; the right to adequate, timely, and problem-free compensation; the right to child care for his or her family; the right to quality, affordable health care; the right to employment when he or she returns home; the right to education benefits; the right to a fair retirement plan; and the right to representation at the highest levels of the Department of Defense. Perhaps most important, this bill of rights would ensure that the Guard and Reserve remain attractive opportunities for Americans who want to serve their country.

Second, it is time we made good on a simple promise to veterans: If you wore the uniform of our Nation, if you fought under our flag, your health care needs will be met for life. The full funding of veterans health care should be made mandatory under law. For too long, the VA budget has been subject to the give and take of budget politics. We need to set things straight. The funding for the VA should no longer be set by political convenience, or back-room deals, or the zero-sum game of budget politics. One thing, and one thing alone, should govern the care of our veterans; that is, the needs of our veterans.

How could we do otherwise? How could we let our country move forward and leave behind the men and women whose bravery has won our freedom and prosperity? Moreover, how could we let our children grow up believing that our Government fails to honor and repay those who risk their lives in service to the Nation.

We cannot afford to wake up one day and discover that our military lacks the manpower it needs to defend our country. The signs of an impending recruitment crisis are all around us. We should not let this Congress adjourn without taking real steps to prevent this developing problem from undermining the strength of our military for years to come. It is time to act.

I yield the floor.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. FRIST. Mr. President, very quickly, I understand the Senator from Massachusetts will be recognized shortly. I ask him, is he going to be speaking on the underlying bill?

Mr. KENNEDY. I will be speaking about issues that are included in the underlying bill.

Mr. FRIST. I will ask that following the Senator's time we be given a like amount of time to comment on whatever subject it would be. Then I encourage that we would be able to go straight to the underlying bill. We have the managers here, and I know the Senator has a statement he wants to make.

I ask unanimous consent that Senator KYL follow Senator KENNEDY, with a similar amount of time to respond on the topic, whatever it may be, and we will go straight to the bill. I want to encourage us to stay on the underlying bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

POLICY IN IRAQ

Mr. KENNEDY. Mr. President, I thank the leader and the leadership. I know the matters we have before us are of great importance and urgency. So is the matter about which I will address the Senate.

By any reasonable standard, our policy in Iraq is failing. We are steadily losing ground in the war. Even after 9/11, it was wrong for this President or any President to shoot first and ask questions later, to rush to war and ignore or even muzzle serious doubts by experienced military officers and experienced officials in the State Department and the CIA about the rationale and justification for the war, and the strategy for waging it.

We all know that Saddam Hussein was a brutal dictator. We have known it for more than 20 years. We are proud, very proud, of our troops for their extraordinary and swift success in removing Saddam from power.

But as we also now know beyond doubt, Saddam did not pose the kind of immediate threat to our national security that could possibly justify a unilateral, preventive war without the broad support of the international community. There was no reason whatsoever to go to war when we did, in the way we did, and for the false reasons we were given.

The administration's insistence that Saddam could provide nuclear material or even nuclear weapons to al-Qaida has been exposed as an empty threat. It should have never been used by President Bush to justify an ideological war that America never should have fought.

Saddam had no nuclear weapons. In fact, not only were there no nuclear weapons, there were no chemical or biological weapons either, no weapons of mass destruction of any kind.

Nor was there any persuasive link between al-Qaida and Saddam and the 9/11 attacks. A 9/11 Commission Staff Statement put it plainly:

> Two senior bin Laden associates have adamantly denied that any ties existed between al-Qaida and Iraq. We have no credible evidence that Iraq and al-Qaida cooperated on attacks against the United States.

The 9/11 Commission Report stated clearly that there was no "operational" connection between Saddam and al-Qaida.

Secretary of State Colin Powell now agrees that there was no correlation between 9/11 and Saddam's regime. So does Secretary of Defense Donald Rumsfeld. Nevertheless, President Bush continues to cling to the fiction that there was a relationship between Saddam and al-Qaida. As the President said in his familiar Bush-speak, "The reason that I keep insisting that there was a relationship between Iraq and Saddam and al-Qaida is because there was a relationship between Iraq and al-Qaida."

That's the same logic President Bush keeps using today in his repeated stubborn insistence that the situation is improving in Iraq, and that we and the world are safer because Saddam is gone.

The President and his administration continue to paint a rosy picture of progress in Iraq. Just last Wednesday, he referred to the growing insurgency as "a handful of people." Some handful.

Vice President CHENEY says we're "moving in the right direction," despite the worsening violence. Our troops are increasingly the targets of deadly attacks. American citizens are being kidnapped and brutally beheaded.

But Secretary Rumsfeld says he's "encouraged" by developments in Iraq.

Our colleague Senator LINDSEY GRAHAM doesn't buy that, and he has said so clearly: "We do not need to paint a rosy scenario for the American people."

Neither does our colleague Senator HAGEL, a Vietnam veteran and a member of the Senate Foreign Relations Committee. As he stated unequivocally last week, "I don't think we're winning . . . The fact is, we're in trouble. We're in deep trouble in Iraq."

The National Intelligence Estimate in July, although not yet made public, made this point as well—and made it with such breathtaking clarity that for the good of our country, officials leaked it to the press. The New York Times said the estimate "spells out a dark assessment of prospects for Iraq." The same Times report and other reports, the National Intelligence Estimate outlines three different possibilities for Iraq through the end of next year. The worst-case scenario is that Iraq plunges into outright civil war. The best-case scenario—the best case—is that violence in Iraq continues at current levels, with tenuous political and economic stability.

President Bush categorically rejected that analysis, saying the CIA was "just guessing." Last week, he retreated somewhat. He said he should have used "estimate" instead of "guess."

In other words, the best case scenario between now and the end of 2005 is that our soldiers will be bogged down in a continuing quagmire with no end in sight. President Bush refused to give the time of day to advice like that by the best intelligence analysts in his administration, but the American people need to hear it.

We learned in yesterday's New York Times that the President was also warned by intelligence officials before the war that the invasion could increase support for political Islam and result in a deeply divided society in Iraq, a society prone to violent internal conflict. Before the war, President Bush received a report that warned of the possible insurgency.

It is listed on the front page of the New York Times. Just to mention part of the story:

> "The same intelligence unit that produced a gloomy report in July about the prospects of growing instability in Iraq warned the Bush administration about the potentially costly consequence of an American-led invasion 2 months before the war began," Government officials said Monday. The assessments predicted that an American-led invasion of Iraq would increase support for political Islam and would result in a deeply divided Iraq society prone to violent internal conflict. The assessment also said a war would increase sympathy across the Islamic world for some terrorist objectives, at least in the short run.

That is the warning this President had, but he rushed headlong into the war with no plan to win the peace. Now, despite our clear failures, the President paints a rosy picture. Look at today's national newspapers. The Washington Post, on the front page, says:

> Growing Pessimism on Iraq. A growing number of career professionals within the national security agencies believe that the situation in Iraq is much worse, and the path to success much more tenuous, than is being expressed in public by top Bush administration officials. . . .
>
> "While President Bush, Defense Secretary Donald H. Rumsfeld and others have delivered optimistic public appraisals, officials who fight the Iraqi insurgency and study it at the CIA and State Department and within the Army officer corps believe the rebellion is deeper and more widespread than is being publicly acknowledged," officials say.
>
> People at the CIA "are mad at the policy in Iraq because it's a disaster, and they're digging the hole deeper and deeper. . . ."
>
> "Things are definitely not improving."

When is the President going to level with the American people?

In the New York Times today—these are in the last 2 days, Mr. President—on the front page it says: "Baghdad," and this is a different story:

> Over the past 30 days, more than 2,300 attacks by insurgents have been directed against civilians and military targets in Iraq, in a pattern that sprawls over nearly every major population center outside the Kurdish north, according to comprehensive data compiled by a private security company with access to military intelligence reports and its own network of Iraqi informants.
>
> The sweeping geographical reach of the attacks . . . suggests a more widespread resistance than the isolated pockets described by the Iraqi government officials.

The outlook is bleak, and it is easy to understand why. It is because the number of insurgents has gone up. The number of their attacks on our troops has gone up. The sophistication of the attacks has gone up. The number of our soldiers killed or wounded has gone up. The number of hostages seized and even savagely executed has gone up.

Our troops are under increasing fire. More than 1,000 of America's finest young men and women have been killed. More than 7,000 have been wounded. In August alone, we had 863 American casualties. Our forces were attacked an average of 70 times a day, higher than for any month since President Bush dressed up in a flight suit, flew out to the aircraft carrier, and recklessly declared, "Mission accomplished" a year and a half ago.

The President, the Vice President, the National Security Council, Secretary Rumsfeld, and other civilian leaders in the Pentagon failed to see the insurgency that took place last year and that began to metastasize like a deadly cancer. How could they have not noticed?

Perhaps because they were still celebrating their "mission accomplished."

For 2 years, terrorist cells in Iraq have been spreading like cancer. Any doctor who would let that happen to a patient would be guilty of malpractice. In many places in Iraq today, it is too dangerous to go out even with guards. The streets are so dangerous that some parents are apparently keeping their children home from school, afraid they will be kidnapped, or worse, along the way.

The State Department does not attempt to conceal the truth about the danger, at least in its travel warnings. Its September 17 advisory states that Iraq remains very dangerous.

At the end of August, a bloody 3-week battle in Najaf ended with an agreement that U.S. troops would give up the city. Fallujah and now other cities are no-go zones for our troops, presumably to avoid even greater casualties, until after the election.

Those are not the only areas where we have lost control. Last Friday, Secretary Powell said:

> We don't have government control, or government control is inadequate, in Samarra, Ramadi, Erbil and a number of other places.

We continue to use so-called precision bombing in Iraq, even though our bombs cannot tell whether it is terrorists or innocent families inside the buildings they destroy.

What is helping to unite so many Iraqi people in hatred of America is this emerging sense that America is unwilling, not just unable, to rebuild their shattered country and provide for their basic needs. Far from sharing President Bush's unrealistic rosy view, they see close up that their hopes for peace and stability are receding every day.

Inevitably, more and more Iraqis believe that attacks on American forces are acceptable, even if they would not resort to violence themselves. For every mistake we make, for every innocent Iraqi child we accidentally kill in another bombing raid, the ranks of the insurgents climb, and so does their fanatical determination to stop at nothing to drive us out.

An Army reservist described the deteriorating situation this way:

> For every guerrilla we kill with a smart bomb, we kill many more innocent civilians and create rage and anger in the Iraqi community. This rage and anger translates into more recruits for the terrorists and less support for us.

The Iraqi people's anger is also fueled by the persistent blackouts, the power shortages, the lack of electricity, the destroyed infrastructure, the relentless violence, the massive lack of jobs and basic necessities and services.

By any reasonable standard, our policy is failing in Iraq. The President should level with the American people. He should take off his rose-colored glasses, understand the truth, and tell the truth. The American people and our soldiers in Iraq deserve answers to the questions they have about the war: Will President Bush come to the Presidential debate tomorrow prepared to answer the hard questions? Will he admit that we are on a catastrophic path in Iraq? Will he admit that we rushed to a $200 billion war with no plan to win the peace? Will he offer a concrete plan to correct our course?

We are steadily losing ground in the war. No amount of campaign spin can obscure those facts. We have to do better. November 2 is our chance. This President had his chance in Iraq. We deserve a new call, and I believe we will have it on November 2.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. SMITH). The Senator from Arizona has 14 minutes 15 seconds.

IRAQ

Mr. KYL. Mr. President, I am going to respond to my colleague from Massachusetts. He has made a pretty vicious attack, I would say, on the President of the United States, contending that he has not leveled with the American people, that he has to begin telling the truth about what is going on in Iraq. These are very serious charges, and I would like to try to respond to them.

The Senator from Massachusetts began by a recitation of why, in his view, "the outlook is so bleak," to use his quotation, and why he concluded that "we're losing the war," another quotation from the Senator.

I see in the Senator's remarks, and others that I have heard recently, a steely determination to keep hopelessness alive. I do not think that should be the policy of the United States. The President has a much better vision about how to bring the war against militant Islam to a conclusion.

There were no constructive alternatives, as my colleagues will recall, from the comments of the Senator from Massachusetts. There were no ideas about how we could do better. It was just an attack on the President and an assertion that we are losing the war, the implications of which were left hanging.

When he said the President has this attitude of shooting first and asking questions later, then perhaps we need to recall that we have already been attacked. We did not shoot first. We were attacked viciously on 9/11 and it changed everything about our approach to the war against militant Islam.

Secondly, when the Senator from Massachusetts accuses the President of painting a rosy picture and then refers to the National Intelligence Estimate that predicted some pretty dire consequences, he forgets two things. First, President Bush has said repeatedly from the very beginning that this would be a very long and difficult conflict. He has never wavered from that. In fact, he has tried to inspire the American people to continue to persevere in this war.

One does not inspire people by wringing their hands and talking about how we are losing the war. Think about what kind of a message that sends to the troops and to the families who are sacrificing, to a mom who gets notice that her young son has been killed in Iraq: We are losing the war. It is hopeless. The outlook is bleak.

Well, what are we fighting for? What kind of a message does it send to our allies, who some people say they could convince to come into this conflict, we are losing the war, now please come in? That is not exactly going to persuade them to come into the conflict.

Finally, and most importantly, what kind of a message does it send to the enemy to suggest that they are winning and we are losing? Major political figures in this country argue that we are losing the war. It gives confidence to the enemies. That is exactly what they want to hear. Osama bin Laden has said we are the weak horse and he is the strong horse. If we convey that message to him, we increase the possibility that he will continue to think he can win and that he will continue to engage in this fight.

We need to break his will. He is testing our will and comments such as this are not helpful to challenging the American people to continue to persevere in this contest.

The question is about the American will, and I do not think the comments we heard from the Senator from Massachusetts are going to be effective in helping to sustain that will. I rather think the approach that Winston Churchill took in World War II accentuating the positive, yes, but not ignoring the negative and challenging the British people and the people of the Allies to persevere in that war is the right approach, and that is what President Bush has tried to do.

The Senator from Massachusetts has confused a couple of issues. First, he confuses violence in Iraq with less security at home. I do not think we are less secure at home because there is violence in Iraq. In fact, one of the reasons we have not been attacked at home for over 3 years is because we have taken the fight to the enemy and we have largely been successful. We have not lost a battle in this war.

There are battles yet to be fought, and the enemy attacks us with guerilla tactics, but we can persevere and win militarily. So I do not think we should confuse the fact that there is violence in Iraq and therefore conclude we are less secure at home. That is simply not true.

Secondly, the Senator from Massachusetts alleges that there was no relationship, no connection, between the terrorists and the Saddam Hussein regime. I want to try to debunk this myth right now, so let me quote from the CIA, from the 9/11 Commission, and from George Tenet's assessment since we are going to be quoting the National Intelligence Estimate. This is what the head of the CIA, George Tenet, said:

> Our understanding of the relationship between Iraq and al-Qaida is evolving and is based on sources of varying reliability. Some of the information we have received comes from detainees, including some of high rank.
>
> We have solid reporting of senior level contacts between Iraq and al-Qaida going back a decade.

No relationship? According to the CIA, not true.

Continuing to quote:

> Credible information indicates that Iraq and al-Qaida have discussed safe haven and reciprocal nonaggression.
>
> Since Operation Enduring Freedom, we have solid evidence of the presence in Iraq of al-Qaida members, including some that have been in Baghdad.
>
> We have credible reporting that al-Qaida leaders sought contacts in Iraq who could help them acquire WMD capabilities. The reporting also stated that Iraq has provided training to al-Qaida members in the areas of poisons and gases and making conventional bombs.
>
> Iraq's increasing support to extremist Palestinians, coupled with growing indications of a relationship with al-Qaida, suggest that Baghdad's links to terrorists will increase, even absent U.S. military action.

No relationship? No contacts? No connection? Read the intelligence reports.

What did the 9/11 Commission say? Quoting from Thomas Kean, cochair of the 9/11 Commission:

> There was no question in our minds that there was a relationship between Iraq and Al Qaeda.

Let us get the facts straight. If we are going to come to the Senate floor and charge the President of the United States with misinforming the American people, we need not misinform them ourselves.

Quoting further from the 9/11 Commission report:

> With the Sudanese regime acting as an intermediary, Bin Ladin himself met with senior Iraqi intelligence officers in Khartoum in late 1994 or early 1995. Bin Ladin is said to have asked for space to establish training camps, as well as assistance in procuring weapons, but there is no evidence that Iraq responded to this request . . . [but] the ensuing years saw additional efforts to establish connections.

That is from page 61 of the report. From page 66:

> In March 1998, after Bin Ladin's public fatwa against the United States, two Al Qaeda members reportedly went to Iraq to meet with Iraqi intelligence. In July, an Iraqi delegation traveled to Afghanistan to meet first with the Taliban and then with Bin Ladin. Sources reported that one, or perhaps both, of these meetings was apparently arranged through Bin Ladin's Egyptian deputy, Zawahiri, who had ties of his own to the Iraqis.

From page 66:

> Similar meetings between Iraqi officials and Bin Ladin or his aides may have occurred in 1999 during a period of some reported strains with the Taliban. According to the reporting, Iraqi officials offered Bin Ladin a safe haven in Iraq. Bin Ladin declined, apparently judging that his circumstance in Afghanistan remained more favorable than the Iraqi alternative. The reports describe friendly contacts and indicates some common themes in both sides' hatred of the United States. But to date we have seen no evidence that these or the earlier contacts ever developed into a collaborative operational relationship. . . .

That is the critical distinction. We have to be careful of our language, especially when we are accusing the President of the United States of misleading the American people. Our language matters. The President never alleged an operational link or that Saddam Hussein helped to plan the 9/11 attack on the United States, but there is plenty of evidence of connections between bin Laden, al-Qaida, other terrorists and Iraq and Saddam Hussein.

The Intelligence Committee report in July of this year reported:

> [F]rom 1996 to 2003, the Iraqi Intelligence Service "focused its terrorist activities on Western interests, particularly against the U.S. and Israel.

They go on to quote the letter from George Tenet that I quoted before.

> [A]ccording to a CIA report called Iraqi Support for Terrorism, "the general pattern that emerges is one of al Qaeda's enduring interest in acquiring chemical, biological, radiological and nuclear (CBRN) expertise from Iraq."

This is exactly what Senator MCCAIN talked about a few weeks ago, what the President has talked about, what the Vice President has talked about, our concern of this relationship that would some day, if we did not act against Iraq, blossom into fullblooded support, full-blown support from Iraq to al-Qaida.

Finally:

> [T]he Iraqi regime "certainly" had knowledge that Abu Musab al Zarqawi—described in Iraqi Support for Terrorism as "a senior al Qaeda terrorist planner"—was operating in Baghdad and northern Iraq.

I ask unanimous consent that a New York Times article of June 25, 2004, which further makes this point, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the New York Times, June 25, 2004]

IRAQIS, SEEKING FOES OF SAUDIS, CONTACTED BIN LADEN, FILE SAYS

(By Thom Shanker)

Contacts between Iraqi intelligence agents and Osama bin Laden when he was in Sudan in the mid 1990's were part of a broad effort by Baghdad to work with organizations opposing the Saudi ruling family, according to a newly disclosed document obtained by the Americans in Iraq.

American officials described the document as an internal report by the Iraqi intelligence service detailing efforts to seek cooperation with several Saudi opposition groups, including Mr. bin Laden's organization, before Al Qaeda had become a full-fledged terrorist organization. He was based in Sudan from 1992 to 1996, when that country forced him to leave and he took refuge in Afghanistan.

The document states that Iraq agreed to rebroadcast anti-Saudi propaganda, and that a request from Mr. bin Laden to begin joint operations against foreign forces in Saudi Arabia went unanswered. There is no further indication of collaboration.

Last week, the independent commission investigating the Sept. 11 attacks addressed the known contacts between Iraq and Al Qaeda, which have been cited by the White House as evidence of a close relationship between the two.

The commission concluded that the contacts had not demonstrated "a collaborative relationship" between Iraq and Al Qaeda. The Bush administration responded that there was considerable evidence of ties.

The new document, which appears to have circulated only since April, was provided to The New York Times several weeks ago, before the commission's report was released. Since obtaining the document, The Times has interviewed several military, intelligence and United States government officials in Washington and Baghdad to determine that the government considered it authentic.

The Americans confirmed that they had obtained the document from the Iraqi National Congress, as part of a trove that the group gathered after the fall of Saddam Hussein's government last year. The Defense Intelligence Agency paid the Iraqi National Congress for documents and other information until recently, when the group and its leader, Ahmad Chalabi, fell out of favor in Washington.

Some of the intelligence provided by the group is now wholly discredited, although officials have called some of the documents it helped to obtain useful.

A translation of the new Iraqi document was reviewed by a Pentagon working group in the spring, officials said. It included senior analysts from the military's Joint Staff, the Defense Intelligence Agency and a joint intelligence task force that specialized in counterterrorism issues, they said.

The task force concluded that the document "appeared authentic," and that it "corroborates and expands on previous reporting" about contacts between Iraqi intelligence and Mr. bin Laden in Sudan, according to the task force's analysis.

It is not known whether some on the task force held dissenting opinions about the document's veracity.

At the time of the contacts described in the Iraqi document, Mr. bin Laden was little known beyond the world of national security experts. It is now thought that his associates bombed a hotel in Yemen used by American troops bound for Somalia in 1992. Intelligence officials also believe he played a role in training Somali fighters who battled Army Rangers and Special Operations forces in Mogadishu during the "Black Hawk Down" battle of 1993.

Iraq during that period was struggling with its defeat by American-led forces in the Persian Gulf war of 1991, when American troops used Saudi Arabia as the base for expelling Iraqi invaders from Kuwait.

The document details a time before any of the spectacular anti-American terrorist strikes attributed to Al Qaeda: the two American Embassy bombings in East Africa in 1998, the strike on the destroyer Cole in Yemeni waters in 2000, and the Sept. 11 attacks.

The document, which asserts that Mr. bin Laden "was approached by our side," states that Mr. bin Laden previously "had some reservations about being labeled an Iraqi operative," but was now willing to meet in Sudan, and that "presidential approval" was granted to the Iraqi security service to proceed.

At the meeting, Mr. bin Laden requested that sermons of an anti-Saudi cleric be rebroadcast in Iraq. That request, the document states, was approved by Baghdad.

Mr. bin Laden "also requested joint operations against foreign forces" based in Saudi Arabia, where the American presence has been a rallying cry for Islamic militants who oppose American troops in the land of the Muslim pilgrimage sites of Mecca and Medina.

But the document contains no statement of response by the Iraqi leadership under Mr. Hussein to the request for joint operations, and there is no indication of discussions about attacks on the United States or the use of unconventional weapons.

The document is of interest to American officials as a detailed, if limited, snapshot of communications between Iraqi intelligence and Mr. bin Laden, but this view ends with Mr. bin Laden's departure from Sudan. At that point, Iraqi intelligence officers began "seeking other channels through which to handle the relationship, in light of his current location," the document states.

Members of the Pentagon task force that reviewed the document said it described no formal alliance being reached between Mr. bin Laden and Iraqi intelligence. The Iraqi document itself states that "cooperation between the two organizations should be allowed to develop freely through discussion and agreement."

The heated public debate over links between Mr. bin Laden and the Hussein government fall basically into three categories: the extent of communications and contacts between the two, the level of actual cooperation, and any specific collaboration in the Sept. 11 attacks.

The document provides evidence of communications between Mr. bin Laden and Iraqi intelligence, similar to that described in the Sept. 11 staff report released last week.

"Bin Laden also explored possible cooperation with Iraq during his time in Sudan, despite his opposition to Hussein's secular regime," the Sept. 11 commission report stated.

The Sudanese government, the commission report added, "arranged for contacts between Iraq and Al Qaeda."

"A senior Iraqi intelligence officer reportedly made three visits to Sudan," it said, "finally meeting bin Laden in 1994. Bin Laden is said to have requested space to establish training camps, as well as assistance in procuring weapons, but Iraq apparently never responded."

The Sept. 11 commission statement said there were reports of further contacts with Iraqi intelligence in Afghanistan after Mr. bin Laden's departure from Sudan, "but they do not appear to have resulted in a collaborative relationship," it added.

After the Sept. 11 commission released its staff reports last week, President Bush and Vice President Dick Cheney said they remained convinced that Mr. Hussein's government had a long history of ties to Al Qaeda.

"This administration never said that the 9/11 attacks were orchestrated between Saddam and Al Qaeda," Mr. Bush said. "We did say there were numerous contacts between Saddam Hussein and Al Qaeda. For example, Iraqi intelligence officers met with bin Laden, the head of Al Qaeda, in the Sudan. There's numerous contacts between the two."

It is not clear whether the commission knew of this document. After its report was released, Mr. Cheney said he might have been privy to more information than the commission had; it is not known whether any further information has changed hands.

A spokesman for the Sept. 11 commission declined to say whether it had seen the Iraqi document, saying its policy was not to discuss its sources.

The Iraqi document states that Mr. bin Laden's organization in Sudan was called "The Advice and Reform Commission." The Iraqis were cued to make their approach to Mr. bin Laden in 1994 after a Sudanese official visited Uday Hussein, the leader's son, as well as the director of Iraqi intelligence, and indicated that Mr. bin Laden was willing to meet in Sudan.

A former director of operations for Iraqi intelligence Directorate 4 met with Mr. bin Laden on Feb. 19 1995, the document states.

Mr. KYL. I note, concluding with this point, that Abdul Yasim and Abu Nidal were harbored in Iraq. The Taliban did not directly involve itself in 9/11 or have weapons of mass destruction either, but it harbored people like this and that is one reason we went after the Taliban and Saddam Hussein's regime in Iraq.

With regard to the connections between Iraq and al-Qaida, the case is very clear that they were there and the President stands correct, and I hope the Senator from Massachusetts would stand corrected.

Finally, as to the suggestion that Iraq was a diversion from succeeding in Afghanistan, that we have not finished the job there, we were very successful in defeating the Taliban and killing a lot of al-Qaida and capturing a lot of al-Qaida in Afghanistan, and in establishing a regime there which will be holding elections. Karzai made it very clear when he came to this country and expressed his appreciation, just as did Prime Minister Allawi of Iraq, to American forces for helping to provide the Afghanis with enough freedom to control their own future. I think there is confusion that the only al-Qaida are on the border between Afghan and Pakistan, and since we have not captured every single one of them, including Osama bin Laden, therefore our activities in Iraq are responsible for this fact. There has been no evidence of that. As a matter of fact, our military commanders make the point it is not true, that Iraq was not a diversion from anything we had to do in Afghanistan where we were very effective and successful.

To those who convey this sense of panic, that all is going bad, the opposite of that is not those of us who support the President's policy saying everything is rosy. I do not know that anybody has ever used that phrase. If they have, I would like to see it. The President has said repeatedly that this is a long and difficult war and it is going to require a great deal of perseverance and commitment by the American people. But as contrasted by those who create the sense of panic, the President has a vision and the President's commanders have a strategy. When I saw General Abizaid on television last Sunday, he didn't paint a rosy picture. He painted a very realistic assessment. But he also portrayed a calm confidence that if we can persevere we can prevail.

That is what he asked of the American people, to allow the military commanders as well as the Commander in Chief to carry out the vision to defeat the militant Islamic terrorists wherever they are. As I said, they are not only in Afghanistan; they are all over the world including primarily in the Middle East. That is why this war has many fronts. It is not just Afghanistan. We fought simultaneously to try to gain support from Pakistan, Saudi Arabia, the Libyan regime, and from Syria. We did what we did in Afghanistan. We have done what we have done in Iraq. There are still some places to go, but we have also been in Yemen and Sudan, and so on.

The bottom line here is you can't isolate one place in the world and say we have to do that first and win every possible goal there before we can do anything else anywhere else. The President has made it clear that by going to one of the chief sources of terrorism, namely Iraq, we can help to win this war.

The fact that there was such a connection between the terrorists—between al-Qaida and the Iraqi regime—is I think validated by the fact that they have been able to so successfully continue to attack Americans and American forces in Iraq.

Let's consider that the military commanders just might know what they are talking about, No. 1. No. 2, it does no good to wring our hands and paint a picture of panic. Realistic assessments, absolutely; truth to the American people, absolutely; but leadership that presents a vision and a strategy for winning the wider war on terrorism, that is what the President has provided. That is why I am very proud to support President Bush's efforts in this regard.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, leadership time is reserved.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the U.S. Government, and for other purposes.

Pending:

Wyden Amendment No. 3704, to establish an Independent National Security Classification Board in the executive branch.

Collins Amendment No. 3705, to provide for homeland security grant coordination and simplification.

Specter Amendment No. 3706, to provide the National Intelligence Director with the authority to supervise, direct, and control all elements of the intelligence community performing national intelligence missions.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, the debate now will resume on the amendment offered by the Senator from Pennsylvania. As discussed last night, we have an informal agreement that Senator ROBERTS would be recognized for—is it 25 minutes, I ask Senator ROBERTS?

Mr. ROBERTS. I thought the agreement was 30.

Mr. REID. Mr. President, I could not hear the Senator from Maine. She said there had been an order that the Senator be recognized?

Ms. COLLINS. Mr. President, if I can respond to the Democratic leader's inquiry, there was an informal discussion last night. There was not an order entered, to the best of my knowledge, but an informal agreement that Senator ROBERTS would be recognized, and it was either 25 or 30 minutes. I am uncertain.

Mr. ROBERTS. If the distinguished chairman will yield, I am not sure of the timeframe. I think my remarks will be approximately 30 minutes. I hope they will not go over 30 minutes. But that would be my goal.

Mr. REID. My only inquiry here is, Senator HARKIN wishes to speak for 10 minutes sometime. We recognize we should have gotten to the bill earlier than we have, but we didn't, and now with the dialog that has gone on Senator HARKIN believes he needs to speak, so we need to somehow figure a way to allow him to do that.

The Senator from Maine has the floor. We understand that. But is there some way between the two managers we can get Senator HARKIN some time here this morning? Otherwise he is just going to hang around and cause trouble.

Ms. COLLINS. Mr. President, if I could complete my sequencing here. After Senator ROBERTS, Senator LEVIN had asked to be recognized on the Specter amendment. They were both here last night, so I want to respect their requests as well.

I wonder if we could arrange for Senator HARKIN to speak after the first series of votes today, for 10 minutes.

Mr. REID. That is fine. After the first vote today I ask unanimous consent Senator HARKIN be recognized.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Senator STEVENS to follow Senator HARKIN.

Ms. COLLINS. As part of that sequencing, it would be 10 minutes for Senator HARKIN and 10 minutes for Senator STEVENS—oh, I am sorry. Senator STEVENS is on the bill?

Mr. REID. It would be 15 minutes for Stevens, 15 for Harkin? Or unlimited for Stevens?

Ms. COLLINS. Senator STEVENS is going to be speaking on the bill so he has asked for an unlimited amount of time.

Mr. REID. We understand Senator STEVENS, being the President pro tempore of the Senate, can speak as long as he wants. Again I repeat, after the first vote Senator HARKIN will be recognized for 15 minutes, and then Senator STEVENS will be recognized.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The Senator from Kansas is recognized.

AMENDMENT NO. 3706

Mr. ROBERTS. Mr. President, I rise in support of the Specter amendment. Before I begin, I would like to commend the managers of the bill, Senators COLLINS and LIEBERMAN, for their extraordinary patience and their hard work as we continue working through this process. Senators COLLINS and LIEBERMAN are very prominent and hard-working Senators. They have been given a very tough assignment and a limited timeframe in which to complete it. Nevertheless, they have produced a bill which is a step in the right direction.

As chairman of the Senate Intelligence Committee, I look forward to working with the Senators who serve on the committee of assignment by the leadership as the Senate attempts to make intelligence reform a reality.

Simply put, the Specter amendment would give the national intelligence director, or what we call now the NID, the authority to direct and supervise and control our national intelligence collection agencies. In doing so, it will create a clear chain of command that will leave no doubt in anybody's mind that the national intelligence director is in charge and is accountable.

There is no rush to judgment on this issue. The debate in which we are currently engaged is the same debate that has been going on for decades, centered on how to grant increased authority to the Director of Central Intelligence, or a new national intelligence director, while leaving undisturbed the intelligence community's structural status quo. Time and time again, those who have struggled with this conundrum have found we simply can't get there from here under that context. In other words, I believe it takes significant organizational change to overcome the inherent conflicts in the current structure of our national intelligence community.

True empowerment requires a national intelligence director with both budget authority and the authority to direct and control the activities of the intelligence collection agencies. One without the other will once again leave us with an intelligence head who can neither succeed nor be held fully accountable.

Let me state that the bill reported by the Governmental Affairs Committee does address the question of budget authority very effectively. It is significant and well contained. The bill leaves unaddressed, however, the issue of the national intelligence director's authority to direct, to supervise, and control the activities of our national intelligence collection agencies.

In short, the bill, in my opinion, preserves divided loyalties inherent in the current structure. Why is it so difficult to give this new NID direct control over all of the intelligence community agencies? It is no secret. The issue centers on the fact that the National Reconnaissance Office, which designs and acquires our spy satellites, the National Security Agency, which collects our signal intelligence, and the National Geospatial Intelligence Agency, which processes and disseminates our satellite imagery, all fall under the direct control of the Secretary of Defense.

These agencies, while essential to the collection of national intelligence, have also been deemed essential to the Pentagon's ability to fight and to win wars. In essence, these agencies serve two masters: The head of the intelligence community and the Secretary of Defense. This tension has existed for decades, and it continues today. As long as the Secretary of Defense directs the day-to-day activities of these agencies, the new national intelligence director will continue to struggle with a structure that undermines his ability to succeed as the head of the intelligence community.

It appears to me that under today's bill the national intelligence director's authority concerning collection will be about the same as the DCI's has been for over 50 years. I do not mean to be a pessimist, but history has shown in practice that these authorities to "establish requirements," "manage the collection task," and "resolve the conflicts" have limited ability when an agency works with the Secretary of Defense and not for the head of the intelligence community.

Why has it been so difficult to streamline the chain of command in the intelligence community? Because when the Defense Department comes up on the radar screen and announces to Congress and the media that its ability to defend America will be undermined if it loses direct control over its intelligence agencies, Members of Congress rightfully pause and they certainly take note. This is especially true today when American forces are engaged in combat. This, however, should not lead to what we call paralysis.

During this debate, we have heard a great deal about support to our dedicated, brave men and women in uniform, i.e., the warfighters. Many of my colleagues have argued and will continue to argue that the national intelligence director must not be allowed to direct and supervise the control of activities of our national intelligence collection agencies. In their view, granting such an authority would undermine the Secretary of Defense's ability to fight and win wars. For this to be true, the national intelligence director would have to deny our military commanders the information they need to wage war. I cannot conceive of any circumstance where that would be the case.

I am a member of the Armed Services Committee. I am a former Marine officer. I would not sanction any legislation that I thought would limit the ability of our troops to fight and to win wars. I recognize the special requirements of the Department of Defense. As chairman of the Intelligence Committee, I also know that the Department of Defense is only one of the major consumers of intelligence. Important, yes; major, yes; but one.

I often hear people referring to the Department of Defense as the principal consumer of intelligence. While the Department is a significant and important consumer of intelligence, we need to remember one thing: The principal consumers of intelligence are the President of the United States, the Congress, and the National Security Council. They are the principal consumers. The Department of Defense is a major consumer.

In time, the Department of Homeland Security is likely to become a voracious consumer of intelligence, perhaps on a par with the Department of Defense.

I do not believe the defense of the homeland is any less important than prosecuting the war. Consequently it does not make sense to have 80 percent of our intelligence collection apparatus controlled by one consumer, and that is the Department of Defense.

If we give the national intelligence director the authority to manage all of the national collection agencies, that will ensure one office is responsible and accountable for meeting the intelligence requirements of all consumers including, of course, that of the Department of Defense. If any Cabinet member believes their intelligence requirements are not being met, he or she can address the issues to the national intelligence director. If a Cabinet member does not agree with NID's decision, they can take it up with the President of the United States.

I also note that in testimony before Congress, the directors of two of the Pentagon's intelligence collection agencies—the National Security Agency and the National Geospatial Intelligence Agency—stated that having their agencies transferred to the control of a national intelligence director would not degrade their level of support to the military.

Let me repeat that. The directors of two of the Pentagon's intelligence collection agencies—the National Security Agency and the National Geospatial Intelligence Agency—stated that having their agencies transferred to the control of a national intelligence director would not degrade their level of support to the military.

Additionally, some have argued that giving the national intelligence director line control of agencies with uniformed military personnel would be complicated. There will certainly be some issues to be resolved, to be sure. But the Department of Defense regularly details military personnel to agencies and offices outside of the Department of Defense. We would not be breaking new ground here. We have had civilian control of the military since the founding of this Nation, and I don't see how civilian control by a national intelligence director is qualitatively different than civilian control by the Secretary of Defense. They both work for the President.

There has been a lot of talk about that fact in regard to meetings we have had with people in uniform and the Secretary of Defense and a certain Senator asking, How would you feel if your budget was controlled by somebody who didn't wear a uniform? Well, the Secretary of Defense doesn't wear a uniform. When the military appears before the Congress, they don't wear a uniform. Neither does the Secretary of Army, Navy, or Air Force wear a uniform.

Let me detail a few examples to illustrate why direct control is so important to the success of the national intelligence director.

As recently as last week—I would like for Members to pay attention to this—as recently as last week, the Senate Intelligence Committee received a very troubling briefing in closed session that clearly demonstrated that even on matters relating to the terrorist threat to our homeland, today, now, the terrorist threat that we face, the intelligence agencies still stubbornly refuse to adequately share information. Why are these agencies still not sharing? Some progress has been made. But why are they still not sharing? Is it because the DCI doesn't have adequate budget authority? No. They don't share it because they work for 15 different bosses and no one holds them accountable for information sharing. The national intelligence director can cajole, he can plead, he can consult all he wants; he can promulgate policies and guidelines all day long. He can create grand, trusted information networks. But without a national intelligence director with direct control, there will be no one to force adequate information sharing within the intelligence community.

Let us take another example.

We have all heard former DCI Tenet's now famous declaration of war against al-Qaida in 1998. Mr. Tenet ordered that no resource was to be spared in this critical effort. He declared war as a result of Osama bin Laden issuing fatwas to kill Americans.

What happened as a result of this bold order? Not much. The National Security Agency went its own way, saying: Thank you, Mr. DCI, for your interest in national security, but we are going to retool for a threat that has nothing to do with terrorism.

What would have happened if Mr. Tenet had the authorities granted to the national intelligence director under the Collins-Lieberman bill when he made his 1998 declaration? He might have said: We are at war, and the NSA will see that reflected in the budget you will receive in the next year or so, assuming Congress does not make any changes to it. That is budget authority. That is the crowbar he would use in terms of influence. However, with the authorities to direct, supervise, and control, which are provided in the Specter amendment, Mr. Tenet would have been able to order the NSA to stop retooling for the other threat, get to work that day, focus their efforts on al-Qaida. In the 21st century, threats evolve too quickly to wait a year or so for the national intelligence director's budget change to have any effect. The NID must have direct control in order to make immediate changes.

The bill before the Senate today is a significant step in the right direction. Credit goes to Senator COLLINS and Senator LIEBERMAN. There are many good provisions in the bill which should improve the intelligence community, but it is missing something very important—a clear chain of command and accountability.

As the examples I have cited demonstrate, a clear chain of command and accountability that comes with it are essential to real and lasting reform. If we do not make the hard choices now, I fear after yet another series of intelligence failures—and Lord knows I do not want to sit as chairman of the Intelligence Committee and have any more "Oh my God" hearings in regard to past tragedies from Khobar Towers to embassy bombings to the Khartoum chemical plant to the failure to even try to come as close as possible to predicting the India nuclear blast, Somalia, the USS *Cole*, and obviously September 11. We do not want to go back down that road.

I fear the Senate Intelligence Committee will be right back in its hearing room listening to the newly minted national intelligence director testify while he enjoys a great deal of budget authority he still lacks the real authority to perform the day-to-day operations of our intelligence agencies and therefore lacks ability to lead as we expect and as he must. I urge my colleagues to support the Specter amendment so there is no doubt in anyone's mind that the national intelligence director is in charge and is accountable.

I will take a few more moments to comment on some of the debate I have heard concerning this amendment. This is not a new debate. What I heard in the Senate yesterday and today represents an age-old tension that has existed since the intelligence community was created.

Ms. COLLINS. Would the Senator yield briefly for a unanimous consent request?

Mr. ROBERTS. Certainly. I would be more than happy, in the middle of shining the light of truth into darkness, to yield for a unanimous consent request.

Ms. COLLINS. I apologize for interrupting the Senator. Mr. President, I ask unanimous consent that the only amendments remaining to the bill other than the pending amendments be the two lists I now send to the desk; provided further that they be subject to second degrees that are related to the subject matter of the first degree; further, that all other provisions governing the consideration of this bill remain in effect.

Mr. SPECTER. Reserving the right to object, would the distinguished chairwoman repeat that unanimous consent request?

Mr. REID. Mr. President, basically what we have done, we now have a finite list of amendments. The two cloakrooms have hotlined every Senator, and we have, I am sorry to say, more than 200 amendments, but that is the finite list, and the Senator from Pennsylvania is on the list.

Mr. SPECTER. Parliamentary inquiry: For how many amendments am I on the list?

Mr. REID. Seven.

Ms. COLLINS. Seven plus the pending amendment.

Mr. SPECTER. I thank the Chair.

Mr. ROBERTS. If the Senator will yield, may I ask if the 21 amendments I have drafted, amendments that would improve the nature of the bill, are they included in that list?

Ms. COLLINS. They are indeed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Thank you, Mr. President.

I thank the Senator.

Mr. REID. Mr. President, if the Senator will allow me to make a statement as to what we are going to do here for a minute, I will be very brief.

The two leaders have directed the two managers of the bill that the next step will be to get a filing deadline. Hopefully that will be in the next few hours. We may not be able to do it until tomorrow, but we are working as quickly as we can to make sure amendments people have submitted will be drafted. We are moving along as quickly as we can.

The list of amendments is as follows:

Shelby, Domestic Preparedness; Shelby, Domestic Preparedness; Shelby, NID; Ensign, Relevant; Ensign, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Inhofe, Relevant; Lugar, Relevant; Lugar, Relevant; Voinovich, Presidential Appointments; Cornyn, Human Smuggling; Cornyn, State and Local Law Enforcement; Cornyn, Drivers Licenses.

Snowe, IG; Snowe, Red Teams; Snowe, NIE Reports; Snowe, NCTC Reports; Snowe, Relevant; Snowe, Relevant; Allard, Marshall Imagery; Allard, Personnel Authorities; Allard, Personnel Authorities; Allard, Geospatial Informatrion; Cornyn, Cyber Security; Grassley, Money Laundering/Terror Financing; Grassley, IG/Whistleblower Protection; Grassley, Visas; Grassley, Visas; Grassley, Related; Grassley, Related; Grassley, Related.

Hutchison, Center for Alternative Intel. Analysis; Hutchison, Relevant; McConnell, Related; McConnell, Related; McConnell, Related; McConnell, Related; Domenici, Natl. Critical Infrastructure Center; Domenici, Border Surveillance; Domenici, WMD Intel. Center; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant; Sessions, Relevant.

Kyl, Relevant; Kyl, Relevant; Kyl, Relevant; Kyl, Relevant; Kyl, Relevant; Kyl, Relevant; Chambliss, Border Security; Chambliss, Document Security; Chambliss, Relevant; Chambliss, Relevant; Chambliss, Military Intel.; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant; McCain, Relevant.

Roberts, NID Agency Control; Roberts, Definitions; Roberts, IC/NFIP Programs; Roberts, IC/NFIP Programs; Roberts, Non-NFIP DIA Programs; Roberts, Intel-Sharing; Roberts, NIDs Authorities; Roberts, NIA; Roberts, NID; Roberts, Sect. 504 of Natl. Sec. Act of 1947; Roberts, NID Control of CIA; Roberts, Reprogramming and Transfers; Roberts, New Positions Subject to NID Concurrence; Roberts, NID Authority; Roberts, NID Authority; Roberts, Analytic Review Unit; Roberts, GC Provision; Roberts, IG Provision; Roberts, NCTC and NIC Responsibilities; Roberts, SecDef Responsibilities to NID for NIP; Roberts, NID Authority; Roberts, NID Authority; Roberts, NID; Roberts, Relevant; Roberts, Relevant.

Hatch, Punishment for Stowaways; Hatch, FBI Translators; Hatch, Expedited Terrorist Removal; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant; Warner, Relevant.

Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Stevens Relevant; Stevens, Relevant; Stevens, Relevant; Stevens, Relevant; Gregg, FBI; Gregg, Relevant; Coleman, Information Network; Coleman, Strike; Collins, Relevant; Collins, Relevant; Collins, Relevant.

Talent, Relevant; Burns, Federal Flight Deck Officer Prog.; Burns, Relevant; Burns, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Specter, Relevant; Frist, Relevant; Frist, Relevant; Frist, Relevant; Frist, Relevant; Frist, Relevant; Frist, Relevant to any on list; Frist, Relevant to any on list; Frist, Relevant to any on list; Frist, Relevant to any on list; Frist, Relevant to any on list.

Collins, Relevant; Collins, Relevant; Collins, Relevant; Collins, Relevant; Collins, Relevant; Collins, Relevant to any on list; Collins, Relevant to any on list; Collins, Relevant to any on list; Collins, Relevant to any on list; Collins, Relevant to any on list; Collins, Managers' amdendments; Voinovich, Ethics in government.

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Akaka, 1. Relevant; 2. Relevant; 3. Relevant; 4. Relevant.

Baucus, 1. Relevant.

Bayh, 1. Congressional Reform.

Biden, 1. Relevant; 2. Relevant.

Bingaman, 1. Terrorism; 2. Lab Employees; 3. Chief Science Officer; 4. Relevant.

Boxer, 1. Relevant; 2. Relevant; 3. Relevant.

Byrd, 1. Relevant; 2. Relevant; 3. Relevant; 4. Relevant.

Cantwell, 1. Biometric Visas.

Carper, 1. Rail Security.

Clinton, 1. Relevant; 2. Relevant; 3. 2nd degree to Collins Formula Grants.

Conrad, 1. Relevant; 2. Relevant; 3. Relevant.

Corzine, 1. Relevant; 2. Relevant; 3. Relevant.

Daschle, 1. Related; 2. Related; 3. Related to any on the list; 4. Related to any on the list.

Dayton, 1. NID Communication with Congress.

Dorgan, 1. Nano-technology.

Durbin, 1. Civil liberties; 2. Civil liberties; 3. Foreign language, Science, technology education.

Feingold, 1. Information sharing; 2. Relevant.

Feinstein, 1. State and Local; 2. DoD Tactical; 3. National Intel University; 4. Clarify sub-official role; 5. Colocation; 6. FBI General; 7. Reserve Corps; 8. Related; 9. Related.

Graham, 1. NIC; 2. Education and Training; 3. Relevant; 4. Relevant.

Jeffords, 1. Interoperability; 2. Preparedness; 3. Security; 4. Critical Infrastructure.

Harkin, 1. Civil Liberties; 2. Civil Liberties; 3. Related.

Hollings, 1. MTSA deadlines.

Inouye, 1. TSA.

Lautenberg, 1. NID Five year term (renewable); 2. Close Business with Terrorists Loophole; 3. Risked Based Homeland Security; 4. Port Security; 5. Rail Security; 6. Saudi Arabia.

Leahy, 1. Relevant; 2. Relevant; 3. Translators Report Act; 4. FISA Oversight; 5. FBI Reform Act; 6. USA Patriots Restoration Act; 7. Whistle Blower Protections; 8. Information Sharing Enhancement; 9. Civil Liberties Review Board Improvements; 10. Passenger Screening/Watch Lists; 11. Passenger ID verification.

Levin, 1. Intel Requirements; 2. Alternative Intel; 3. Critical Infrastructure Protection; 4. Budget Authority; 5. Relevant; 6. Relevant.

Lieberman 1. Relevant; 2. Relevant; 3. Relevant; 4. Relevant to any on list; 5. Relevant; 6. Relevant; 7. Relevant to any on list; 8. Relevant to any on list; 9. Relevant to any on list; 10. Relevant to any on list.

Hollings, 1. Creating National Intelligence Coordinator.

Nelson (FL), 1. Relevant; 2. Relevant; 3. Relevant.

Reed, 1. LNG; 2. Transit Security.

Reid, 1. Relevant; 2. Relevant.

Rockefeller, 1. Relevant; 2. Relevant; 3. Relevant to any on the list; 4. Relevant to any on the list.

Sarbanes, 1. Civil liberties.

Schumer, 1. Signal Corps; 2. Biometric Screening; 3. Port Security; 4. Cyber Security; 5. Foreign Intelligence Surveillance Act; 6. Saudi Arabia; 7. Truck Security; 8. Rail Security; 9. Relevant; 10. Relevant; 11. Relevant.

Wyden, 1. Independent Security Classification Board (S.A.# 3704); 2. Databases.

Mr. ROBERTS. What I heard in the Senate yesterday in regard to comments on this debate represents an age-old tension that has existed since the intelligence community was created.

Members heard numerous quotes from statutes such as title 10, title 50. The heart of this debate, however, is whether we will give an individual unambiguous control of intelligence activities in the United States. We can quote from the United States Code all day. The point is the laws could be changed. That is what we do in the Congress. The debate today is about what the law should be, not what the law is. Arguing the status quo is convenient, but it is not always correct.

This bill gives the new national intelligence director one very good tool. It is called budget authority. It does not give him control. The Specter amendment gives the national intelligence director control, which means accountability and real reform.

As we have debated this issue, I have heard many Members cite the words and reported opinions of the 9/11 Commission. The 9/11 Commission has done a great service to this country, but the Commissioners themselves have made it clear they do not have all the answers.

The 9/11 Commission did produce an excellent study of the failures leading up to the attacks of September 11. The Governmental Affairs Committee bill is faithful to the lessons the Commission drew from its work. It is an excellent report. But I remind my colleagues that the Commission's report was based on a single case study—the period leading up to the attacks of September 11. However, a broader historical examination of our intelligence community leads many—including this Senator—to the important conclusion that over the last 50 years, the intelligence community has drifted due to the lack of or absence of a clear chain of command and the lack of accountability that a clear chain of command can bring. That clear chain of command requires giving the national intelligence director the authority to direct, to control, and to supervise our national collection agencies.

Our job is not to take the work of the 9/11 Commission as a sacred text which is not to be questioned or altered; our job is to take their work and integrate it with the lessons learned over the 50-plus years of history of our intelligence community and nearly 30 years of congressional oversight by the Intelligence Committee. As the Senator from Pennsylvania has pointed out, his amendment incorporates many of those lessons.

Yesterday, I also heard Members argue that the Specter amendment would create confusing chains of command for the National Security Agency, the National Reconnaissance Office, the National Geospatial-Intelligence Agency, and the intelligence collection elements of the Defense Intelligence Agency. I respectfully disagree.

In addition to providing the national intelligence director with the authority to direct, supervise, and control these agencies, the Specter amendment clarifies other provisions of law to specifically address this concern. It amends title 10 and title 50, adds two new provisions to the law to specifically clarify that the Directors, again, of the National Security Agency, the National Reconnaissance Office, the National Geospatial-Intelligence Agency, and the intelligence collection elements of the Defense Intelligence Agency report directly to the national intelligence director.

While this amendment gives the national intelligence director direct control over these agencies, they remain "combat support agencies"—nobody quarrels with that—and the Secretary of Defense will still have influence over them. That is by design. No one is trying to change that. I think it is much better than the bill's current language in which the Secretary of Defense has direct control of these agencies, and the NID only has influence and persuasion. I can tell you from past history, influence and persuasion do not get you very far at the Pentagon.

Some have argued that only the Secretary of Defense can manage the combat support agencies. Some argue that only if the Secretary of Defense manages the Pentagon's national intelligence collection agencies will the warfighter receive adequate support. This is a fallacy. As I said earlier, there is no reason to believe the Defense Department will not receive the support it needs if the Pentagon's national intelligence collection agencies report to the national intelligence director.

The amendment provides the Secretary of Defense with important feedback mechanisms to make sure the Department is getting the national intelligence support it needs.

First, the Secretary of Defense is required to provide the national intelligence director with some performance appraisals for the directors of the national intelligence collection agencies. Second, the national intelligence director will receive recommendations from the Chairman of the Joint Chiefs of Staff based upon a biannual review of the combat support plans for the National Security Agency; again, the National Reconnaissance Office; again, the National Geospatial-Intelligence Agency; and the DIA, again, the Defense Intelligence Agency.

Working with the Secretary of Defense through these feedback mechanisms, the national intelligence director will ensure that the Defense Department's intelligence needs are met. Clearly, this amendment recognizes the important support role these agencies play to the Department of Defense in its role as an intelligence consumer.

Now, I also heard the argument yesterday that giving the national intelligence director direction, supervision, and control of the National Geospatial-Intelligence Agency is a bad idea because that agency is responsible for making maps. I point out that this agency used to be named the National Imagery and Mapping Agency, but they changed its name to signal a change in the manner in which it would perform its mission.

The National Geospatial-Intelligence Agency, or the NGA, uses intelligence data acquired by satellites and other means and melds that data into the maps that our entire Government uses. This is what is now called geospatial intelligence. The maps we use have the full benefit of the intelligence data we gather all around the world. Mapmaking is not inconsistent with the national intelligence director's mission.

Another argument heard yesterday against the Specter amendment was that the 9/11 Commission had considered granting the NID direction, supervision, and control authorities but rejected the idea on the grounds that the duties of managing these agencies would overload the national intelligence director. However, I note that the Secretary of Defense controls the military services, the Reserves, the unified commands, the defense agencies, field activities, literally millions of uniformed and civilian personnel, and those who mow the yard outside the Pentagon.

So if I understand correctly, in order not to overburden the national intelligence director, we will leave the national intelligence collection agencies under the control of an already extremely busy and, I might add, effective Secretary of Defense. This logic escapes me.

I also heard an argument that the 9/11 Commission had rejected granting the national intelligence director greater authorities because the Commissioners preferred what was described on the Senate floor as a "lean, mean modern corporate structure."

I ask my colleagues, What successful modern corporation would not give its chairman and CEO the authority to direct, supervise, and control every component of the organization for which he or she was held accountable by the shareholders? We should not confuse direction, supervision, and control with micromanagement.

I also heard the argument that the Specter amendment would promote group-think within the intelligence community. Well, I can tell you that the Senate Intelligence Committee wrote the book on the occurrence of group-think in its report on the prewar assessments on Iraq's WMD programs.

It is a problem that we on the committee watch very carefully every week, almost every day. I do not believe the Specter amendment will promote any kind of group-think. I would be concerned about the risk of group-think if we were proposing to grant the national intelligence director the authority to direct, supervise, and control the analytical content of our national analytical agencies. That is not what Senator SPECTER's amendment proposes. It proposes direction, supervision, and control over the Department of Defense's national intelligence collection agencies.

Additionally, as was seen in the committee's examination of the prewar assessments—as I say, it took us over a year, 22 professional staff members; we interviewed over 220 analysts—the creation of a strong national intelligence director will prevent group-think in the intelligence community. A strong director will ensure a level playing field in which the analysis of all agencies will be given full consideration and equal consideration based upon the quality of the analysis when intelligence community assessments are being developed. If anyone has studied the committee's Iraq report—and I encourage Senators to read it, 511 pages—they know that the lack of a level playing field was a major problem.

Mr. President, with that I am going to conclude my remarks. I urge Members to support the Specter amendment.

The Specter amendment has been described as a "bridge too far." This well-known term is a product of the tragic Battle of Arnhem, Holland, in 1944.

Many historians see the tragedy of Arnhem as a combination of errors, i.e., the undertaking, for some political reasons, of an ill-advised military campaign opposed by American commanders; i.e., and a massive intelligence gap that failed to detect a large concentration of German armor in the area.

Mr. President, the "bridge too far" analogy is apt, but it cuts in favor of the Specter amendment. We must not, for political reasons, fail to make the hard decisions that are necessary to ensure a strong, in-charge national intelligence director.

These decisions are difficult. They are hard. But these decisions are critically needed. The changes we make today have one overarching goal: to prevent another intelligence failure on the order of Arnhem and September 11. Because of those failures, the allies suffered 17,000 casualties and, obviously, on September 11, 3,000 died.

Failure to approve the Specter amendment may be seen by historians as a tragic half-measure that led to another Arnhem or another September 11.

I yield the floor.

The PRESIDING OFFICER. The Senator from Utah.

Mr. HATCH. Mr. President, I ask unanimous consent that Senator BOND immediately follow me in order.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HATCH. Mr. President, I associate myself with the remarks of the distinguished chairman of the Intelligence Committee.

I rise today to support the amendment offered by Senator SPECTER. This amendment has the support of Senators SPECTER, SHELBY, and ROBERTS—two former chairmen of the Intelligence Committee, as well as the current chairman of the Senate Select Committee on Intelligence. I have had the pleasure to work closely with these colleagues, and I respect their experience and their independent thinking on intelligence matters.

This amendment is also cosponsored by a bipartisan group of Senators from the Intelligence Committee. This amendment establishes the goals set forth by 14 Senators who addressed a letter to Chairman COLLINS and Senator LIEBERMAN on September 20, 2004, in which they sought to ensure that the national intelligence director has the ability to control the day-to-day operations of all of our national intelligence assets.

I consider myself privileged to serve as a member of the Intelligence Committee during these difficult and historic times. Yet I can also say that during these years I have heard too many excuses for intelligence failures. I have seen firsthand the damage that comes when the head of the intelligence community lacks the ability to effectively lead our national intelligence agencies.

The chairman and the ranking minority member of the Governmental Affairs Committee have taken on a monumental task, for which I am grateful. They have been charged with writing a bill that modifies the National Security Act of 1947, to give the national intelligence director greater budget control and stronger authority to manage the intelligence community. This task, as we all know, has been extremely complicated.

It is particularly difficult when one considers the broad authorities that the National Security Act of 1947 already granted to the Director of Central Intelligence, as head of the intelligence community.

Under that act, the DCI was given substantial authority to develop a budget for national intelligence activities, to set election requirements and priorities, and to direct intelligence analysis. The Intelligence Committee has observed over time, however, that the DCIs cannot exercise their authorities because they do not have actual control over the operations of the national intelligence agencies. This is because the National Security Agency, the National Reconnaissance Office, and the National Geospatial-Intelligence Agency report operationally to the Secretary of Defense, and DCIs have had to negotiate and cajole to ensure that their operational initiatives were met. As a result, to keep from hindering this day-in/day-out negotiation, DCIs were unable to effectively exercise their broad budget authorities.

There is no greater example in my eyes—or at least modern example—than in 1998, when former DCI George Tenet recognized that we needed to direct all of our intelligence resources to defeating al-Qaida. This was his famous "declaration of war" against al-Qaida, and he declared that no resource of intelligence would be spared to defeat al-Qaida. He was ignored by the intelligence community that he was in charge of leading.

For example, the National Security Agency retooled for a different signals intelligence mission, not for the war on al-Qaida. We simply cannot ignore this example of unused DCI authorities. We cannot forget the lessons of past intelligence failures. I am concerned that the best intentions of the Governmental Affairs legislation will never be fulfilled and that the good authorities granted to the national intelligence director under the legislation will never be effectively exercised.

The debate we are having today about the authorities of the national intelligence director versus the Secretary of Defense has occurred in this town over and over again since the National Security Act was first passed back in 1947. As the intelligence community grew, the authorities of the Director of Central Intelligence were diluted as the Secretary of Defense gained a greater share of control over our intelligence agencies.

We have a unique opportunity in the next few weeks to establish a structure that puts someone truly in charge of our national intelligence mission. I think we have to take this opportunity to clarify the confused chains of command that have handcuffed past Directors of Central Intelligence.

With a national intelligence director empowered to "supervise, direct and control" our national collection assets, we will implement real reform, not just establish another bureaucratic level and finally have one person who is actually accountable to the President and to Congress. Only with the Specter amendment's clear chains of command will we give the national intelligence director the authorities necessary to meet his vast responsibilities.

Some will argue that the Specter amendment goes too far; that it is just too hard to separate the NSA, NRO, and NGA from the Department of Defense; that it will hinder intelligence support for the warfighters. The argument made has not been compelling. Why are clear chains of command a bridge too far, as some have suggested? That is a clear image, but it does not illuminate the argument. Why should we rely on a mishmash of budget and personnel controls to put a national intelligence director nominally in charge when we know that real control and accountability will only come with a clear chain of command to the director? We have all been saying that for months and so has the 9/11 Commission. Why are we talking about current provisions of law to show that these combat support agencies can't be separated from the Defense Department?

Let's not let arguments about current law confuse the issue. We are talking about putting a national intelligence director in charge. We are debating a bill that would change current law. If the Specter amendment requires, we can accommodate other necessary provisions.

Finally, no one believes that the NSA, NRO, NGA, and DIA would stop supporting the warfighter if this amendment is enacted. Really, does anybody? The answer to that is no. If I believed that, I would not support this amendment. Why would a national intelligence director turn off the intelligence support upon which our warfighters rely so much? I have never known a DCI to do such a thing. No national intelligence director would ever shortchange the warfighter. No President or Congress would ever permit that. In fact, the Specter amendment recognizes the unique position of the Department of Defense as an intelligence consumer—giving the Secretary of Defense the right to prepare annual performance evaluations for the Directors of the Central Intelligence Agency, the NRO, NSA, NGA, and DIA, and maintaining the Joint Chiefs biannual review of the combat support plans of the NRO, NSA, NGA, and DIA.

What the Specter amendment does not do is maintain the current confused chains of command for the national intelligence collectors within the Department of Defense. The Specter amendment recognizes that accountability and effective management are only possible with clear chains of command. The blunt tool of budget control is not an effective mechanism for flexible midcourse corrections in intelligence collection that a national intelligence director must be able to make, without having to negotiate or consult for his or her priorities.

If the confused chains of command of the status quo are an effective mechanism for control, we should ask the Secretary of Defense if budget control would be sufficient for him to "coordinate" a war. If the Secretary of Defense only controlled the Army's budget, would that be sufficient command of the Third Infantry Division? If he only controlled the Navy's budget, could he order an aircraft carrier from one ocean to another and expect it to move? If the answers to those questions are no, then why should we settle for anything less than full direction, supervision, and control of national intelligence collection for the national intelligence director?

I support the Specter amendment. I know everybody on this floor is sincerely trying to resolve these problems as best they can. I commend the distinguished committee for the work it has done in bringing this bill to the floor and the two leaders on the floor. But I think we should support the Specter amendment. I urge all my colleagues to do the same.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I thank the Chair and appreciate the words of my colleagues.

In spite of years of recognition that intelligence was in dire need of reform, the catalyst of this year's reform initiative was the tragedy of September 11, 2001. The intelligence failure of Iraq's WMD programs only underscores this point.

I applaud many of the provisions of the Collins-Lieberman bill. However, I stand in support of the Specter amendment as a means to provide absolutely essential powers to the national intelligence director. For those who may just happen to be listening for the first time, the national intelligence director is now known as the NID. But this NID must have powers to bring together fully and effectively our national collection efforts.

In spite of my respect and admiration for the efforts of my colleagues, I remind the Senate that now is the time for bold action. This deliberative body must be prepared to stare down very powerful executive branch bureaucracies—and a few of our own—that are instinctively protecting their turf. Three thousand dead Americans should be a message to all of us that we must make significant changes.

A witness before the Senate Intelligence Committee put it well. She said:

> History's lesson is to make the most of reform opportunities when they arise because they do not arise often and they do not last long. We have one of those rare windows of opportunity now. And if the past is any guide, there will not be another chance for a generation. These realities mean that reforms should be sweeping because they will be lasting. The choices we make will be with us for decades to come.

I fear we are not being as bold in the underlying bill as circumstances demand. We all agree that the 9/11 Commission published a great report outlining in detail the events of September 11, 2001.

We could not and we should not detract from their efforts. However, one fundamental concern I have in this is that it is now 3 years after 9/11, and we are only now taking action, largely based on the recommendation of a panel not specifically chartered to focus on the intelligence failures leading to 9/11.

I am concerned that a commission directed by law to investigate the "facts and circumstances relating to the terrorist attacks of September 11, 2001," has become the only basis for intelligence reform.

Well, there is a lot of work that has been going on in this body and in the other body about intelligence reform that is not covered in the 9/11 report.

Just since the end of the Cold War, there have been many major studies of intelligence reform, staffed by intelligence professionals. They include the joint Senate/House inquiry into 9/11, the Aspin-Brown Commission, IC21 study, the House Permanent Select Committee on Intelligence study, the Scowcroft review, and many others.

As I listen to the debate on this Collins-Lieberman bill, I am concerned that the truly meritorious recommendations and thoughts from these other commissions have been largely disregarded. Rather, I seem to hear—behind most of the key provisions in the bill—the rationale that "the 9/11 Commission said so." Well, we do respect and take seriously the work of the 9/11 Commission, but we must be sure that we consider the other recommendations of studies specifically examining the intelligence process. I happen to think that many of those are more accurately reflective of the needs of the intelligence community.

Recommendation No. 1, from the joint Senate/House inquiry into the 9/11 intelligence failure was:

> Congress should amend the National Security Act of 1947 to create and sufficiently staff a statutory director of national intelligence who shall be the President's principal advisor on intelligence and shall have the full range of management, budgetary, and personnel responsibilities needed to make the entire U.S. intelligence community operate as a coherent whole.

The House Permanent Select Committee on Intelligence's staff study entitled, "IC21," or "Intelligence Community in the 21st Century," stated:

> The [intelligence community] would benefit greatly from a more corporate approach to its basic functions. Central management should be strengthened, core competencies (collection, analysis, and operations) should be reinforced and infrastructure should be consolidated wherever possible.

The 9/11 Commission's Vice Chairman, Lee Hamilton, for whom I have a great deal of respect, admitted to our committee in open session that they really had not even considered more bold reform. He said the Commission simply looked at things they thought they could accomplish. I believe the word he may have used was "pragmatic." They simply did not consider more bold reforms, so maybe we ought not to consider their recommendations as final. It is up to us. We have the ultimate responsibility of passing this bill. Are we going to pass what is pragmatic, what seems to be the least upsetting to the bureaucracies or do we want to be bold and pass something that will make the intelligence community work? Count me in the latter category.

Yesterday, my good friend, the chairman of the committee writing this bill, alluded to some of the concerns I have. When responding to concerns about DOD being shortchanged by the NID's budget authority, she reminded us all that ultimately the President determines the budget. That will always be the case. Let us not also forget that the bureaucracies of the OMB and many committees of the Senate and the House also determine the budget. There is simply too many ways to water down the limited real authority that budgetary powers provide. More real day-to-day authorities are needed, especially if we are to hold a NID accountable for our intelligence efforts. As bothersome as the OMB is in the effective operation of Government—I say that only half facetiously—does anybody think the OMB runs the agencies of Government? They mess them up sometimes. There are a lot of areas I can tell you where the OMB has shortchanged vitally important activities. But run them? I don't think so. Budgetary authority is not the same thing as running an agency.

The way I read the bill, it seems as though any agency or department that didn't want to chafe under a powerful NID has found a way out. This bill leaves the door open for several key agencies, such as the State Department's Bureau of Intelligence and Research, INR; major portions of the FBI'S intelligence operations capabilities; the Department of Energy's Office of Intelligence; the Treasury Department's Office of Terrorism and Financial Intelligence, and others, to avoid the authority of a NID. So under the Governmental Affairs bill, a NID who declares war on al-Qaida—as referenced by Chairman ROBERTS of the Intelligence Committee a few minutes ago—will have even fewer troops to try to muster for this war, and little additional power that doesn't already exist today.

Let us recall that every knowledgeable voice on this issue is adamant: If you create a NID, he must be given power; otherwise, you create an intelligence czar and have made the problem worse. We have created a drug czar and all kinds of czars, but they are not able to get the job done. As I continue to listen to DOD proponents, I am concerned that insufficient authorities are granted in the GAC bill, and they will be even further eroded, putting us one step closer to creating an intelligence czar with a great title and very little authority.

One of the recurring themes we always hear on the Intelligence Committee—on which I have had the pleasure to serve for only a year and three-quarters—is the reluctance of the agencies to share information with those who need to know. We know all too well there are many legitimate reasons not to share intelligence. We understand the need to protect sources and methods. We also understand that decisions not to disseminate some information may rightly involve protecting U.S. civil liberties. But parochialism, poor information architectures, and bureaucratic confusion should not be included amongst the reasons to squirrel away intelligence that we need by cognizant analysts throughout the community.

Three years after 9/11, and after dozens of hearings in which intelligence community management describes "seamless" intelligence sharing, we end up prying a little deeper to find out that it simply is not the case. While there have been improvements in some areas of intelligence sharing, they are often done under duress. As soon as the "heat" is off, you can bet that those parochial agencies will return to intelligence hoarding, not intelligence sharing. We must empower a NID to force appropriate intelligence sharing even in times when the congressional and executive spotlights are not on the issue.

I believe it has already been referred to on the Senate floor that at a recent hearing, the intelligence committee was truly dumbfounded as we listened to different agencies talk about a specific threat. Two agencies had a very different view of the severity of that threat when they started talking to each other at the witness table.

One of the agencies said: We have information that you don't have.

They were supposed to be working on the same threat. I asked a dumb question. I said: Why didn't you share it? They said it was sensitive information. Well, wait a minute. They were trying to give us a recommendation on a very serious matter, and the two agencies that were supposed to work together on this serious matter didn't want to share information with each other? I used to think when we worked on a need-to-know basis, if you have a sensitive collection system, you need to keep the name and identity very closely guarded. They were happy to tell us in the Intelligence Committee the reason they were keeping a particular source on another matter in confidence was because it was so sensitive. I will tell you one thing. If you have ever seen a sieve, it looks too much like the Intelligence Committee. We don't need to know the names or even the identifying features of an intelligence source in the committee. But if that is the essential element on which the analysts are going to determine whether this particular source is reliable, they ought to be sharing it on a very limited basis with all of the people involved in the task.

I understand that the information that was gathered by the Iraqi Survey Group after the war was very effective because they brought in collectors and analysts from different agencies who were working on the same problem and they put their heads together. What a wonderful thing. They must have had a table. They laid out the information on the table. They did what informally is called "red teaming" and they came up with better estimates.

The NID, the national intelligence director, needs to be able to take care of this himself, not to negotiate with the positions with other departments or go to the White House and Congress and say, will you get these guys together to talk?

This reluctance to share information appears to be so deeply ingrained that only direct orders to do so are adequate, not budgetary influences.

Let me be candid. As a member of the Intelligence Committee I am convinced that the worst offenders of not sharing intelligence are the CIA and the NSA, but there are others. Arm twisting that is largely limited to budgetary problems and powers will not solve the problem. We know getting the information shared among agencies, red teaming, as they say, is very important. In other words, if the players are at the table, they are going to get their best result when everybody turns over their cards and shows what they are holding, but right now some of the agencies are going to the table and keeping their cards face down, saying, boy, we know some stuff, it is in our hand, and we are not going to show you.

Budget authority alone is not going to get them to turn over the cards. Red teaming cannot be successful unless the cards are turned over and the red team knows what cards the CIA is holding, for example.

Full deference should be given to civil liberties concerns, and I hope that the Collins-Lieberman provisions for improving information architectures within the intelligence community will allow for getting the right intelligence to the right people, and in the case of very sensitive intelligence or any other critical, possibly damaging intelligence, only to the right people. But it has to be gotten to the people who need it.

Some have argued that the Specter amendment will lead to too much centralized control, therefore group-think. Not likely. Let's be clear. The Specter amendment deals with national collection, entities of the NSA, NGA, portions of the DIA and CIA. This will help streamline collection and reduce inefficiencies. It will allow the NID truly to harness the collection capabilities against our Nation's primary threat: The terrorists.

This leaves capabilities organic to the DOD currently funded under the Joint Military Intelligence Program, JMIP, and the Tactical Intelligence and Related Activities, somewhat glamorously acronymed the TIARA, still firmly under DOD control, as they should be. DOD will not be short-changed and our Nation will have a more effective collection effort.

Today, the DOD is the most voracious consumer of intelligence. That is why they have the lion's share of the intelligence budget and significant organic collection assets whose sole function is support to the warfighter. However, national collectors must be unified in an effort to meet national needs which include those of the key intelligence entities in our war or terror: DOD, CIA, FBI, and the Department of Homeland Security, where the appetite for terrorism-related intelligence collection will only continue to grow.

I heard debate yesterday on the combat support agencies. Nobody denies that these agencies, the NRO, the NSA, and the NGA, are still combat support agencies, but as their name suggests, they also serve national interests. When we examine this in a larger light, we realize that having these agencies report directly to the Secretary of Defense solely made sense during the Cold War. However, as I mentioned earlier in this statement, the decisions we make today will be with us for decades to come.

The world has changed. The war on terror is not going to go away soon. While DOD is still a voracious consumer of intelligence, it is now a partner with the CIA, FBI, the Department of Homeland Security, and others in the war on terrorism. As other agencies continue to join CIA and DOD as coequals, it makes sense to have a national intelligence director who can see to the needs of all of these agencies and best harness all national collection capabilities to meet our national needs.

Again, we need to look decades down the road. We must recognize the need to empower a NID to meet these needs. I believe Chairman ROBERTS has already mentioned this several times, but let me state that the Directors of the National Security Agency and the National Geospatial-Intelligence Agency stated that having their agencies transferred to the control of a NID would not degrade their level of support to the military. Considering their testimony, as well as other commentary and the maintenance of DOD's military intelligence collections, the Pentagon need not fear the Specter amendment in any way.

It so happens I have a personal interest in this. As many of my colleagues know, my son is a young ground intelligence second lieutenant in the Marine Corps. I certainly do not want to do anything that would interfere with his or his comrades' ability to get the information, the intelligence, the estimates, and the tactical intelligence they need to leave them hanging out without adequate cover. My colleagues can bet I would never do that.

I conclude by giving some thoughts from Dr. David Kay, the interim head of the Iraqi Survey Group, who testified before us many times and who was a real bright light in gathering intelligence. He is certainly not afraid to speak the truth in spite of whom he may offend. He told the Intelligence Committee:

> I am concerned, however, that simply creating a national intelligence director, even one that seems to have—and we think has—real powers . . . and we think budget and personnel authority is real power, we will not end up addressing the real problems . . .

Well, budget and personnel authority is some power but, as Dr. Kay indicated, it is not real power.

Dr. Kay further stated:

> I think you need to place the national intelligence director in charge, charged by you, Congress, with ensuring that all of the collection assets of this government work to support the national intelligence strategies and priorities.

Dr. Kay recognizes the need for a unified collection effort. We cannot afford to waste or misuse scarce collection assets. I think Dr. Kay also knows the frustration of fragmented control quite well. He was a DCI special adviser on Iraq and then, as I have noted, headed the intelligence efforts of the Iraq Survey Group, or ISG. He wrestled with authorities quite frequently. In large part, this was due to the limited powers of the DCI vis-a-vis other department heads, but when they made progress is when they coordinated and cooperated and the agencies worked together.

I urge my colleagues to support the Specter amendment. This is a key fix to give the NID some of the powers he or she will need if we are to ask the NID to be accountable for our national intelligence effort.

I yield the floor.

Mr. SHELBY. Mr. President, I rise to express my strong support for the Specter amendment currently pending before the Senate. However, I want to first take a moment to commend Senator COLLINS and Senator LIEBERMAN for their hard work and dedication to this important legislation. These are difficult issues and I believe that we all strive to reach the same goal—a safer, more secure America. The question before us now is how we best accomplish that goal.

I have long advocated for significant overhaul of the intelligence community in order to change the way it operates and specifically who controls the community and its assets. For too long, the intelligence community has lacked a strong leader with the ability to command and control the multitude of agencies that operate as independent parts without a focused direction.

I do not believe that Congress's action in 1947 intended to create the intelligence framework we currently have—a framework where no one has the ability to direct the actions of the community as a whole. I believe that Congress intended to create a Director of Central Intelligence with clear lines of authority and accountability within the intelligence community—one that is much like what we are attempting to create now with a national intelligence director.

The underlying bill does take some important steps toward the creation of a national intelligence director with the power and authority to chart a path for real reform within the intelligence community. Unfortunately, I believe that the underlying bill fails to provide the national intelligence director with all of the authorities required to provide the unity of leadership and accountability necessary for real reform.

I believe that clear lines of authority between the national intelligence director and our national intelligence collection agencies, extending beyond budgetary control, are critical to our success in countering national security threats of the 21st century. The national intelligence director must have the ability to direct, supervise and control the elements of the intelligence community.

There must be no doubt in anyone's mind that the national intelligence director is in charge. Without the additional authorities that are provided in the Specter amendment, there will be doubt.

The Specter amendment seeks to eliminate any question about who is ultimately in charge of the intelligence community. With the additional authority included in this amendment, there will no longer be an opportunity for finger pointing and excuse making.

Ultimately, the national intelligence director will either be congratulated for the success of the intelligence community or held accountable for their failures.

I believe that budgetary authority is an important part of the overall structure of a strong national intelligence director. But beyond that, he or she must have day-to-day operational control of all elements of the intelligence community performing national intelligence collection missions, including the Central Intelligence Agency, the National Reconnaissance Office, the National Security Agency, and the National Geospatial-Intelligence Agency, and the humint parts of the Defense Intelligence Agency.

Giving the national intelligence director budget authority but not day-to-day operational control will leave the intelligence agencies serving two masters and will inevitably maintain the status quo that has continuously failed us. Fundamental change is a must if we are going to work to prevent any further attacks.

I believe this amendment serves as a perfect complement to the actions taken in the National Intelligence Reform bill. This amendment simply enhances the authority of the national intelligence director.

I continue to believe that change for the sake of change will do nothing to accomplish our goal. A powerful national intelligence director is a vital part of our future fight against the terrorists that have dedicated their lives for the purpose of destroying America and its citizens. If we truly want to create a strong national intelligence director who has the authorities necessary to command and control our intelligence community and its assets, we must pass the Specter amendment.

I urge my colleagues to take advantage of this opportunity and support this amendment to ensure that true change is possible through the enabling of a powerful national intelligence director.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I oppose the Specter amendment and I will take a few minutes to explain my opposition. I think all of us are in favor of bold moves, of having a powerful new national intelligence director and having analysis that is independent and objective, much more so than has been the case in the last few decades and recently, to have that analysis done by a group which can bring together all of the information and come up with a coordinated position which is independent and objective, and the NCTC is able to do that.

This amendment would place the National Security Agency and the National Geospatial-Intelligence Agency, the NSA and the NGA, and the National Reconnaissance Office, the NRO, under the direction, supervision, and control of the national intelligence director and would do the same for the Director of the Defense Intelligence Agency regarding the national intelligence collection mission of the DIA.

In doing so, this amendment would have the national intelligence director basically be substituted for the Secretary of Defense in the military chain of command. There are thousands of uniformed members of our military who are currently in those agencies.

To break the chain of command and to say for the first time we are going to take thousands of uniformed personnel and put them under the supervision, direction, and control of a civilian agency head would create havoc inside of the military, would create a very unfortunate precedent, and would in the process be creating a new agency, a new agency that would require a supervisory staff similar to the supervisory staff that now exists in the Office of the Secretary of Defense for the agencies which would be transferred.

Those are the two major reasons I have problems. There is a third I want to talk about in a moment. But the two major reasons I have are that it would require the creation of a whole new supervisory bureaucracy for these agencies in the national intelligence director's office. You cannot supervise these agencies, from the national intelligence director's perspective, without having people to engage in that supervision the way the Office of the Secretary of Defense now supervises and overseas these agencies. So we would be creating a new bureaucracy.

We should be breaking down walls between bureaucracies, not building up a new bureaucracy.

When the 9/11 Commission reached its conclusion and when they testified in front of us, they told us they decided not to create a department. They thought that would be overcentralization. They were bold. I don't think anybody can successfully argue here that the 9/11 Commission was not bold. They were bold. They made some major shifts, in terms of budget execution authority and in terms of personnel authority. In shifting those authorities over the agencies which we are debating here to the NID, they made a major decision relative to power, relative to control. But they decided they would not go toward a more centralized new agency; that they would rather coordinate with the budgeting personnel power in a new powerful NID but not create a new bureaucracy in the process.

There are many reasons why their decision—and I focus on the 9/11 Commission recommendation at our hearing—was a wise one. Their approach was not just bold in terms of recommending the transfer of budget and personnel authority, but it was wise in not creating a new bureaucracy in the process.

The chain of command is such that we now do not put large numbers of our uniformed military people outside of the chain of command and under the command and control of civilian supervisors. We do not do that. There is a purpose for having a chain of command from your commander inside the military, which is clear, which you must abide by. That is what you sign up for when you join the military and that is what is so essential to military effectiveness, that the chain of command be solid and that it not be broken in the way this amendment would break a chain of command.

These agencies we are talking about today are integral parts of the Defense Department. They are recognized for the support they provide to combat operations. Indeed, when the Congress adopted the Goldwater-Nichols Reorganization Act of 1986, we created the concept of "command support agencies." Pursuant to that legislation, the DIA and the National Geospatial-Intelligence Agency have been designated by law as command support agencies. We hear that designation will continue. But it is pretty hard to square that with what this amendment proposes, which is that they would not be inside the military chain of command. They would still have the label but not the reality. They would be called combat support agencies, but they would not be in the chain of command of the Department of Defense.

The combat support functions of the DIA and the NSA and the NGA have been recognized in law. The Chairman of the Joint Chiefs of Staff is required by law to evaluate periodically, and not less often than every 2 years, the responsiveness and readiness of these agencies to support operating forces in the event of war or threats to national security. The pending amendment would preserve the form of the periodic review. That periodic review by the JCS Chairman of the combat support agencies of the intelligence community would be retained, but it would be a report which is in form only because it is the Secretary of Defense who is charged with being responsible for the combat capabilities of the Armed Forces.

The NID, the national intelligence director, does not have the responsibility that the Secretary of Defense has for the combat capabilities of our Armed Forces. So to simply say, well, there will still be a periodic review by the Chairman of the Joint Chiefs of the combat support agencies of this community, but then to say that report goes to the NID, the national intelligence director, instead of going to the person who we make responsible for the combat abilities of the Armed Forces, is a hollow gesture. It says that one thing will continue to be true, we will still call them a combat support agency, but when it comes to the real world of where that review goes, it will go to the person, the national intelligence director, who is not the person responsible for the combat capabilities of the Armed Forces. So we have a break in the chain of command, which is unprecedented, which creates all kinds of problems inside the military in terms of military effectiveness, which weakens not only the power of the Secretary of Defense but which undermines his responsibility to make sure we have full combat capability inside of the Department of Defense.

For these reasons, that we should not be creating a new bureaucracy, we should be breaking down walls of old bureaucracies; that this amendment would require new supervisory staff over these entities if they are going to be transferred to the national intelligence director in order to help him perform the supervision of these agencies, which is now performed by the Office of the Secretary of Defense; and because this would represent an unprecedented break in the chain of command that now exists, and which is so critical to our military effectiveness, I believe the 9/11 Commission reached the right balance. Their balance was one which was conscious and conscientious; it was bold but it was wise.

I have one other thought which I want to share and then I will yield. These agencies now do analysis on their own. We got some very important analysis before the Iraq war, in fact, from the Defense Intelligence Agency, analysis which was different from the analysis produced by the Central Intelligence Agency. If we are serious about wanting alternative views relative to intelligence; if we are serious, as the 9/11 Commission urges us to be and as I hope we are, about ending the politicization and misuse of intelligence to support policy positions; if we are serious about promoting objectivity and independence of analysis, we would want these agencies not to be shifted because their analysis should not be under the control of the national intelligence director. Their analysis should be independent and objective. For these agencies to be shifted outside of where they now are, separate from the national intelligence director, and put underneath his umbrella, is going to make us weaker when it comes to the most critically important reform we should be producing, which is to have objective, independent analysis of intelligence which can be provided to the policymakers and not shaped to support policies of the policymakers.

To remove these agencies that now are in a position to provide alternative analysis and to put them under the aegis of the national intelligence director will make that many fewer sources of independent, objective intelligence that will be available to our policymakers. That is a real loss.

There are other provisions in this bill and other provisions I hope will be added during the amendment process to promote the objectivity and independence of intelligence analysis.

We have had too much abuse in this area. We have had too much shaping and exaggeration, going back at least as far as the Gulf of Tonkin Resolution, when intelligence was misused, to the Iran-Contra years when intelligence was misused, shaped, and exaggerated in order to support particular policy positions, and the same thing happened before the Iraq war. We have to find ways to break down any kind of group-think, any kind of a monolithic approach to intelligence, and we have to make it more difficult for a national intelligence director to be doing the shaping, to be in total control of the analysis of intelligence.

That is why having an NCTC office separate from NID is so important. Having an NCTC director who is subject to the confirmation of the Senate is so important. That is why some of the other provisions which we were able to add in committee to promote the independence and objectivity of the intelligence analysis are so important.

We should not be reducing the numbers of sources of independent analysis of intelligence, as this amendment would do, by putting these agencies that now produce intelligence analysis under the aegis, supervision, and operational control of the national intelligence director. It is too much concentration of that critically important analysis power under one person. We should be wary of doing that. We should be moving in a very different direction.

We should be finding ways to plot independence and objectivity of intelligence so we don't have a repeat of the fiasco we just saw where we had 500 pages, according to a bipartisan Intelligence Committee report, of instances where intelligence was shaped, stretched, and exaggerated, and they all moved in one direction. All those intelligence changes and all the shaping was moved in the direction of supporting a particular policy of the administration. That is a great danger.

This amendment, because it concentrates or would concentrate agencies that are currently involved in intelligence analysis under the NID, increases the danger rather than reduces the danger of having intelligence which is shaped to support policy rather than provide support for objective information and objective estimates to the policymakers.

I oppose this amendment. I hope it will be defeated.

I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask unanimous consent that Senator DEWINE be added as cosponsor of the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SPECTER. Mr. President, I am advised that Senator SHELBY would like to speak to the bill. He is now chairing the Banking Committee, which is hearing from the 9/11 Commission. I have talked to the manager of the bill. I ask unanimous consent that the pending amendment be set aside so we might start utilizing the time of the floor on another amendment which I intend to offer.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3761

Mr. SPECTER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER], for himself and Mrs. FEINSTEIN, proposes an amendment numbered 3761.

Mr. SPECTER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To specify a term of service for the National Intelligence Director)

On page 10, between lines 16 and 17, insert the following:

(d) TERM OF OFFICE; REMOVAL.—(1) The term of service of the National Intelligence Director shall be ten years.

(2) An individual may not serve more than one term of service as National Intelligence Director.

(3) Paragraphs (1) and (2) shall apply with respect to any individual appointed as National Intelligence Director after the date of the enactment of this Act.

(4) If the individual serving as Director of Central Intelligence on the date of the enactment of this Act is the first person appointed as National Intelligence Director under this section, the date of appointment of such individual as National Intelligence Director shall be deemed to be the date of the commencement of the term of service of such individual as National Intelligence Director.

On page 10, line 17, strike "(d)" and insert "(e)".

On page 11, line 3, strike "(e)" and insert "(f)".

On page 11, line 5, strike "subsection (c)" and insert "subsection (e)".

Mr. SPECTER. Mr. President, this amendment would give the national intelligence director a 10-year term, the same kind of a term the Director of the Federal Bureau of Investigation now has. The debate on this bill generally has stressed—and appropriately so—the need for a strong, independent national intelligence director.

The interest of having policy determinations guide our new intelligence estimates has been stressed repeatedly. There is a very broad, historical precedent of the desirability of taking steps to guarantee to the maximum extent possible that the intelligence estimates will be independent and will not be in line to try to promote some specific policy objective.

The 10-year term, as I say, is modeled after the term of the Director of the Federal Bureau of Investigation.

When I offered this amendment in committee, I had a provision for removal only for cause. After considering the matter, I have stricken that provision because I believe it is unnecessary. I believe by analogy to the FBI Director, the inference is plain that the removal can be only for cause.

I will refer very briefly to comments by Senator BYRD on July 26 of 1976 when the FBI Director was given the 10-year term. Senator BYRD said, "The setting of a 10-year term of office by Congress would as a practical matter preclude or at least inhibit a President from arbitrarily dismissing an FBI director for political reasons."

Senator BYRD goes on to note that obviously a successor would have to be confirmed by the Senate. But there could not be the removal of the FBI Director for political reasons. The implication is pretty clear that removal can only be for cause.

The additional views of Senator LEVIN on the national intelligence reform bill which he submitted on September 27 contain a very good summary of authorities on this proposition generally. I am going to cite a number of the authorities which Senator LEVIN referred to in those additional views. I complimented Senator LEVIN a few moments ago on the floor of the Senate for the quality of his views which he submitted and said I was going to quote him. He said it was unnecessary, but I believe in the interest of full disclosure that it is good to give Senator LEVIN that credit.

The references to what happened with the Gulf of Tonkin Resolution where that intelligence reports were used—and inappropriately used—for representations about intelligence to support the administration's position are well known historically. The Secretary of Defense at that time, McNamara, cited classified information to support the passage of the Gulf of Tonkin Resolution which President Lyndon Johnson wanted. Those citations were made to support the conclusion that the Gulf of Tonkin Resolution ought to be adopted.

The analyst for the National Security Archive, John Prados, said that Secretary McNamara used the intercepts as a "trump card" during the 1964 hearings to "silence doubters." According to the views of Mr. Prados, Secretary McNamara asserted that "intelligence reports from a highly classified and unimpeachable source reported that North Vietnam was making preparations to attack our destroyers, and "the attack was underway." Finally, "The North Vietnamese lost two ships in the engagement." Those materials turned out to be unsubstantiated, as a matter of fact.

It was notorious that Central Intelligence Director William Casey misrepresented intelligence during the Iran-Contra period. The bipartisan Iran-Contra report specified that Director Casey "misrepresented or selectively used available intelligence to support the policy that he was promoting."

In former Director of the Central Intelligence Agency, Robert Gates' memoirs entitled "From the Shadows: The Ultimate Insider's Story of Five Presidents and How They Won the Cold War," former CIA Director Gates said or referred to Bill Casey as a DCI who had his own foreign policy agenda and had the estimating program as a powerful instrument in forcing the pace of the policy area.

Former Secretary of State George Shultz, in his memoir "Turmoil and Triumph, My Years as Secretary of State," published in 1993, referred to former Director of the CIA Bill Casey, who had very strong policy positions and was so ideological that they inevitably colored his selection and assessment of materials, once again, using the position of intelligence director to have a determination of policy.

Former Director of the CIA and also former Director of the FBI William Webster testified before the Senate Governmental Affairs Committee on August 16 of this year and said:

> With respect to relations with the President, while the leader of the intelligence community must be the principal adviser on intelligence to the President, he must work hard, very hard, to avoid either the reality or the perception that intelligence is being framed or that is read, spun, to support a foreign policy of the administration.

The 10-year term, so it does not coincide with the term of the President, is designed to give the national intelligence director the reality of independence and certainly to avoid the perception that the intelligence is being spun for the interests of the chief executive.

Two days after Judge Webster testified, the Senate Select Committee on Intelligence heard from former chief weapons inspector David Kay, who said:

> Intelligence must serve the Nation and speak truth to power even if in some cases elected leaders choose, as is their right, to disagree with the intelligence with which they are presented. This means that intelligence should not be part of the political apparatus or process.

A 10-year term would seek to ensure, guarantee, that the national intelligence director was independent, and was not a part of the political process or apparatus.

Mr. Kay went on to say:

> This is, I think, if you move forward on a national intelligence director legislation, is going to be the hardest thing to communicate, that the national intelligence director must serve the national security objectives of the Nation, and he serves whoever is the President best by giving him unvarnished truth, which will often not be welcome.

Again, a 10-year term would guarantee that kind of independence to the national intelligence director.

On the same day, former GEN Charles Boyd told the Intelligence Committee of the enormous pressures that political appointees are under to "give the President what he wants rather than what he doesn't want but needs," and the upshot of what General Boyd had to say was that rather than seeking a special and close relationship to the President, General Boyd articulates a standard for an intelligence director "ought to be his distance from the President, his independence of the President, his professionalism and be respected as such."

Again, a 10-year term would promote that.

A few days ago, on September 21, the very distinguished Center for Strategic and International Studies, a group consisting of former Senators and former Secretaries of Defense, former Directors of the Central Intelligence Agency, and two former Secretaries of State, had this to say:

> When intelligence and policy are too closely tied the demands of policymakers can distort intelligence and intelligence analysis, can hijack the policy development process. It is crucial to ensuring the separation that the intelligence community leader have no policy role. A single individual with a last word on intelligence and some policy as well could be a dangerously powerful actor in the national security arena using intelligence to advocate for particular policy positions, budget requests, or weapon systems that often lack the knowledge to challenge.

Here, again, the citation of authorities supports the concept that the national intelligence director ought to be objective, ought not to be seeking to promote any special policy of the chief executive and all of that would be enhanced by the 10-year term.

The amendment which I offer, I do so on behalf of the Senator from California, Senator FEINSTEIN, and myself.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I certainly understand the intent of the Senator from Pennsylvania in offering this amendment. Indeed, he offered it during the markup of the Governmental Affairs Committee. It was debated at length.

Initially, in considering this issue, I, too, was inclined to believe that the new national intelligence director should have some sort of term of office.

However, the testimony we heard through our eight hearings changed my mind in this regard.

Under our legislation, S. 2845, the NID serves as the principal adviser to the President. The individual not only manages the intelligence community and heads up the new national intelligence authority, but serves as the principal adviser to the President. I am stressing that role because I believe that is key to why the director, in fact, should not have a fixed term. It is essential that the NID enjoy the full confidence and trust of the President of the United States. That was a point made by the 9/11 Commission chairman, Tom Kean, at our very first hearing on July 30. But we heard that repeated time and again by our witnesses. All of the former DCIs who came before the committee, representing a variety of times and administrations, were unanimous in their view that the new NID should serve at the pleasure of the President.

The then Acting Director of the CIA John McLaughlin made the point at our September 8 hearing that for the NID to successfully clarify our assignment of serving as the principal adviser to the President, he must enjoy the President's trust and confidence.

Consider a situation where the Presidency changes parties during that 10-year-period. It would be very awkward for a new President of a different party to inherit the national intelligence director from the previous administration. Their world views and philosophy may have nothing in common. Yet the President has to have a close and trusting relationship with the national intelligence director. The President should be able to choose his or her own person for that critical post.

Proponents of having a 10-year term have frequently compared this proposal to the 10-year term of the Director of the FBI. I would note that I asked Director Mueller whether he thought the new NID should have a 10-year term similar to his. He said he did not think a 10-year term or any fixed term was appropriate for the national intelligence director. He said the role of the FBI Director is very different from the role of the national intelligence director.

Over and over again during our hearings, Senator LIEBERMAN and I raised this question with the witnesses because we, too, were trying to reach the right determination. Over and over again, the advice was the same, whether it was the 9/11 Commission, the Acting Director of the CIA, the former Directors of the CIA, or Director Mueller of the FBI. Over and over again, they advised against setting a term.

So we need to create a position where the individual will enjoy the full confidence and trust of the President of the United States. That is the only way that individual can effectively carry out the role he is assigned in this legislation to serve as the President's principal intelligence adviser.

For these reasons, I urge my colleagues to oppose the amendment of the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I also rise to oppose this amendment by the Senator from Pennsylvania. This is, as Senator COLLINS has indicated, a matter we discussed in what I thought was a very thoughtful discussion in our committee deliberation on a similar amendment.

There are good arguments on both sides. The objective here is to balance the independence we want our national intelligence director to have with the importance of having a trusting relationship with the President of the United States. In the end, I concluded it would be wrong to give a fixed term to the national intelligence director for the reason to which I just heard Senator COLLINS refer.

Remember, we have given the national intelligence director two main responsibilities. One is to administer the intelligence community. The other is to be the principal intelligence adviser to the President of the United States. In fact, one could argue, although the national intelligence director as administrator has many customers, if you will, for intelligence, the No. 1 customer is the President of the United States as President and certainly as Commander in Chief. So that is a relationship that must be a trusting relationship.

The danger is that an incoming President will be given someone in whom he does not have that kind of confidence. Unfortunately, history—recent history—gives us an example of that, without attributing blame. President Clinton and then-Director of the FBI, Mr. Freeh, had a relationship that was not mutually confident, and, therefore, he had somebody in that critical position who had very little contact with the President of the United States. He was Director of the FBI, not the principal personal intelligence adviser in the sense of giving advice personally to the President of the United States.

The concern about the independence of the national intelligence adviser is an important one. I feel very strongly that in this bill Senator COLLINS and I offer, and our committee offers to the Senate, we have done a lot to protect the independence of the national intelligence director.

For instance, contrary to the original proposal of the 9/11 Commission, which proposed that this office of the national intelligence director be in the White House, we said no, that may raise questions and in fact problems with regard to the independence of the NID if he or she is just down the hall from the President. That ought to be out of the Executive Office of the President and established as an independent agency.

We went well beyond that in a title particularly that was added in our committee, most of the work of which was done by Senator LEVIN, which is all about the independence of the office, the objectivity of the intelligence that the adviser, the director gives to the President, to the country, to the agencies he serves, independence even to the extent that we say the national intelligence director should be like the Chairman of the Federal Reserve Board in this sense: that he does not need administration approval to testify before Congress, does not need his testimony cleared, if you will, by the OMB.

So there is a lot built in here that is meant to guarantee, as best a statute can, the independence of this office, without hamstringing—if that is the right phrase here—a President with a national intelligence director in whom he does not have trust or in whom he loses trust as time goes on.

But this is that critical a position. I would not want to give a national intelligence director a set term any more than I would want to give a Secretary of Defense, Secretary of State, Director of OMB, or National Security Adviser fixed terms. These are positions that must every day be filled by people who enjoy the confidence and trust of the President of the United States.

For that reason, I oppose the amendment and urge our colleagues to do so as well.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Pennsylvania.

Mr. SPECTER. Madam President, I think Senator LIEBERMAN has advanced an argument in support of my amendment. If I could have the attention of Senator LIEBERMAN, when I quote him, I want to quote him to his face. I want him to hear what I have to say.

I say to Senator LIEBERMAN, we agree more often than we disagree, although we are at odds on two of my amendments today.

But when the distinguished Senator from Connecticut cites the relationship between President Clinton and FBI Director Freeh, I think he is supporting my argument. He is supporting my argument about the need for independence. There was an investigation being conducted by the FBI on campaign finance irregularities, and the President—I would not call him a subject, but he was a part of those who were being looked into on the soft money issue.

Then, without unduly belaboring the point, on this floor we had the impeachment proceeding. Issues involved were obstruction of justice and perjury. So the kind of independence the Director of FBI had by virtue of a 10-year term, I think, served the Nation well.

Going back to the administration of President Nixon, without going into any detail, you had activities by the FBI Director which led to this 10-year term to insulate the Director from the appointing authority by the President.

When the chairwoman refers to a philosophy of having the national intelligence director, appointed by a preceding President, serving the President, I suggest this is not like a Cabinet officer, such as the Secretary of State or the Secretary of Defense, who is supposed to carry out the policy of the President, who is supposed to have the same philosophy. Here we have a national intelligence director who is supposed to tell the President what the objective facts are on intelligence. It is inevitable in human relations, if you know what somebody wants to hear, an inclination to tell somebody what that person wants to hear, especially if that person is the appointing power.

So on the question of confidence and trust, I think the American people would have more confidence and trust in a national intelligence director who is independent from the President.

When the talk and the argument is made about an adviser, here again, the national intelligence director is not an adviser like the Secretary of State or the Secretary of the Treasury or the Secretary of Health and Human Services, carrying out the President's policies and seeking to give him advice to carry out those policies. Here we want somebody who will be strong and independent and objective and tell it like it is, even if it is not what the President wants to hear, and even if it contradicts the policies which the President wants to carry out.

This bill does contain some elements stressing the independence of the national intelligence director such as not requiring permission to testify before Congress, putting affirmative obligations on the national intelligence director to keep the Congress informed as well as the chief executive informed.

I think this is an important addition, to have a strong, independent, objective national intelligence director.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, first let me say to Senator SPECTER that he is quite right, we do, much more often than not, agree on matters. Unfortunately this amendment is not one of them, notwithstanding the arguments he just made.

There is an interesting historical note we are familiar with that when the 10-year term for the FBI Director came into effect, I was not here, but I gather it was as a matter of reform as against the effective lifetime term that the former Director, Mr. Hoover, had. So that was in that reality.

Here is the circumstance I am worried about. We have done everything we can in this bill to create independence in the national intelligence director position and to set standards that say: You have to level with the President. The worst thing that can happen is if you feel you have to create a good personal relationship and satisfy policy desires. In fact, we have language in here that is quite remarkable that says the national director "must provide intelligence to the President that is timely, objective, independent of political consideration, and based on all sources available to the intelligence community, information that has not been shaped to serve policy considerations, that comes from a variety of intelligence assessments and analytical views."

I am quoting directly from our proposal.

We have set up the office of ombudsman, a very unusual office, and, thanks to a combination of Senator ROCKEFELLER and Senator SHELBY, created within it an analytical review unit which will do a kind of quality control on the work of the intelligence director, again to try to ensure that there is a real independence and objectivity and willingness to speak the truth.

The situation I would worry about, if we have a director for a fixed year term of 10 years, would be that the President simply loses confidence in that director for one reason or another. So on critically important questions such as we have seen in our time—do you send American troops into combat, what foreign policy do we adopt toward threatening nations such as Iran and North Korea—if you have a President lacking confidence or trust, and it could be in the competence of the individual or in his or her dispassion or objectivity, you leave the President either without adequate intelligence advice on matters of great national importance or you encourage the President to end-run the national intelligence director, go directly to the head of the CIA and other agencies. That is not a healthy situation.

Of course, it totally undercuts exactly what we are trying do to do, which is to create a national intelligence director who will oversee the total intelligence community. For those reasons, in this situation, I continue to oppose the Specter amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I ask unanimous consent that at 2 p.m. today, the Senate proceed to a vote in relation to the Specter amendment No. 3761, regarding a 10-year term, provided that no amendment be in order to the amendment prior to that vote. I also ask consent that following that vote, the Senate proceed to a vote in relation to the Specter amendment No. 3706 regarding the NID consolidation, again with no second degrees in order to the amendment prior to the vote on the first degree. And finally, I ask that the order with respect to the statements of Senator HARKIN and Senator STEVENS begin following those two votes.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Reserving the right to object, could we change that request to 2:15 p.m. rather than 2 o'clock?

Ms. COLLINS. I would so modify the request.

Mr. REID. The other is in the form of a question. What could happen here is one person could get the floor and keep it until 2:15. We need some ability to make sure there is an equitable distribution of time during the next 2 hours. I am wondering if the chairmen have an idea how we can divide the time. I see a couple of Senators on the floor. Any one of them could get the floor and talk until 2:15.

Ms. COLLINS. I would say to the Senator that we would welcome people coming to the floor with their amendments. Generally, these amendments are not breaking down along party lines.

Mr. REID. We have two votes set at 2:15. My question, though, is, are we going to divide the time prior to that or just let things happen as they will? That is fine with us.

Mr. LIEBERMAN. Madam President, if I may answer the question, my hope is—and I believe it is the chairman's hope—that we will stay on the bill and people will come over and introduce more amendments, that we have more debate between now and 2:15.

Mr. REID. Is my friend saying the debate is basically completed on these two amendments?

Ms. COLLINS. Senator SHELBY and Senator DEWINE wish to speak.

Mr. REID. If the two managers don't have a concern, I don't either. What we would do is, if the statements are completed, there would be nothing wrong with people setting the amendments aside and offering other amendments.

Mr. LIEBERMAN. Absolutely.

Ms. COLLINS. I believe we are very near the end of the debate.

Mr. REID. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, I come to the floor to support the Specter amendment. I would first like to congratulate my colleague from Maine for the fine job she has done. This is a very difficult bill to put together. It has taken a lot of work. She and Senator LIEBERMAN are certainly to be congratulated.

I would call everyone's attention to the fact that the 9/11 Commission was not the first commission to point out the need for more power in the person who is in charge of our intelligence. Just about every commission that has looked at intelligence reform has come to this conclusion.

Beginning in 1947, the period right after World War II gave birth to the modern intelligence community. Ever since then, this has been a problem. There was a grand compromise that was made at that time and that compromise set us on this path. The situation, though, has gotten worse and worse as time has gone on. And as some of my colleagues have pointed out, we have reached the point where, when George Tenet knew and understood, as frankly few people in this country did, about the threat from Osama bin Laden and al-Qaida and declared war, he looked around and frankly did not have the troops. And the reason he did not have the troops was he did not control the budget. He did not have the power.

He had the responsibility, but he did not have the power. So we have a problem and everybody, I think, understands that. My concern all along has been that we would create this new position, supposedly over the entire intelligence community. Yet this new position would not have the authority. I think Senator COLLINS and Senator LIEBERMAN have given that person authority, but I don't think, frankly, they have gone far enough.

If you look at the language Senator SPECTER has included in his amendment, it is a significant improvement over the language of this bill. I ask my colleagues to read the language. If you are concerned about giving this person authority, the Specter language is much better. The worst thing we could do would be to create this new position and think we have given him or her authority and not have given them the authority.

I wonder if I may get the attention of my colleague from Maine at this time, if I may explore with the Senator part of this bill. Again, I thank my colleague for the great work she has done on this bill. I believe she has done a very good job. I am trying to understand the language. As I have told her privately and I have told her again publicly, I prefer the Specter language. But I would like to clarify a little bit what this new position, the NID position—whoever occupies it—what he or she would be able to do under the Senator's bill. If I may pose a couple of questions.

If we can start with the NGA and the whole issue of the satellites, this has been a problem in the past. We don't have to on the floor today go over the problem of the moving of satellites. I ask my colleague this. Let's say that the NID did, in fact, want to move a satellite positioned on country A, and wants to get intelligence from country Z. What ability does that person have to do that? Can you point to the specific language in the bill that would get this done very quickly?

Ms. COLLINS. Madam President, I will find the specific language to show the Senator from Ohio. I have the language. The NID would establish collection and analysis requirements for the Intelligence Community, determine collection and analysis priorities, manage and issue collection and analysis tasking, and resolve conflicts in the tasking abilities of the intelligence community. So the language is very clear that the NID would have enhanced authority to resolve the kinds of conflicts that sometimes do occur now on the allocation of satellite resources, for example.

Mr. DEWINE. So it is the Senator's feeling that—and everything is very time sensitive—in a matter of hours this person could make the decision and basically order this to be done?

Ms. COLLINS. The Senator is correct. Perhaps it will be of some comfort to the Senator from Ohio to know that the language in this regard was suggested to our committee by Senator ROBERTS and comes from his bill. There is very strong language regarding the issue the Senator has raised.

Mr. DEWINE. I appreciate that. If my colleague could answer this: In a real-world situation, when we are dealing with satellites—and we will not go into the countries on the floor—if a decision had to be made in a matter of hours, if we need this information and we need to move from here to there, could that be ordered? I am using the word "ordered." I am not talking about consultation or prayer together. I am talking about ordering it. Can that be ordered? Can this person order this to be done, saying it will be done, I don't care what anybody else says?

Ms. COLLINS. As I indicated to the Senator from Ohio—and I thought I was very clear in answering his question—it says the NID can issue directions in the collection and analysis tasking. I think the language is very clear that the answer is yes.

Mr. DEWINE. I appreciate what the language is, but I want to know, for the history we are establishing today, if my colleague believes that would include the term "order." In other words, a direction that this will be done.

Ms. COLLINS. The term of art is the issue. That is the correct legal language to use. It is adopted from Senator ROBERTS' bill. My answer is yes.

Mr. DEWINE. I appreciate that.

Mr. LIEBERMAN. If the chairman will yield, these are very important questions the Senator from Ohio is raising. I want to assure him, first, that we raised the same questions during our committee's deliberation, including meetings with the heads of these national intelligence agencies that are within the Department of Defense. The Senator from Ohio is undoubtedly aware of the reality, which is that the current Director of Central Intelligence has the authority under law to convene a committee, an interagency committee, which every day apparently makes, as one witness said to us, thousands of decisions about where our signal intelligence and image intelligence assets go. In fact, one of the heads of an agency said he didn't remember a time when there was an inability to agree. There is also, clearly, in the end, both in current law, as I understand it, and in the proposal we are making, if the rare situation occurs, you have to have somebody in power to make that decision. Now it is the CIA. Under our proposal, it would be the national intelligence director.

Mr. DEWINE. I appreciate the response. I was just saying to my colleague that my understanding of the reading of recent history has been that the power has not been adequate, with all due respect, and that the history has indicated there have been times when it has not been satisfactory, the results have not been where they should have been, which would indicate to me that the status quo is not acceptable. That is why I am asking whether the new language—I am trying to understand whether the new language is a significant improvement over the status quo. We are on the floor under the understanding that the status quo is not acceptable. I congratulate my colleagues for trying to improve the status quo. I know they are working to do that. That is why I asked that question.

Let me move on to another question.

Mr. LIEBERMAN. If the Senator will yield, if I may respond. I want to refer the Senator to page 14 of our bill in section 4, enumerating the powers of the national intelligence director. We say "establish collection and analysis requirements for the intelligence community to determine collection and analysis priorities, issue and manage collection analysis tasking, and resolve conflicts in the tasking of elements of the intelligence community within the national intelligence program, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President."

So this is language that completely mirrors existing statute for the Director of Central Intelligence. From testimony we heard, it is fortunately working very well that the conflicts, by the testimony of at least one head of one of the agencies, just do not occur; they work it out.

Mr. DEWINE. I say to my colleague that there are Members besides myself who can privately tell the Senator that there is a history that would indicate this does not work, that the status quo is not acceptable.

If what the Senator is telling me today is this is not really much change from the status quo, then I say to my colleague that we have a major problem.

I reference the language in the old law. I think my colleague may be right, and let me read the old law, which is the status quo today, and this is the power that the head of the intelligence community has today: establish the requirements and priorities to govern the collection of national intelligence by elements of the intelligence community; next, approve collection requirements; determine collection priorities and resolve conflicts in collection priorities levied on national collection assets, except as otherwise agreed with the Secretary of Defense pursuant to the direction of the President.

Just on its face, one would think that resolving these conflicts is already given to the DCI today, and that is why, frankly, I prefer the language of the Specter amendment which talks about the director overseeing the execution of the national intelligence program and to supervise, direct, and control the operations, which to me is the key language.

I yield to my colleague.

Ms. COLLINS. If the Senator would yield on that point, I do not want the Senator to mistakenly believe there are no changes in our bill with regard to current law. There is a very critical change.

Mr. DEWINE. If I could reclaim my time, the problem is the colleague of the Senator just told me there was not much of a change at all, and this is the problem with the language: One of the Senators saying there is a change and the other saying there is not much change. That is ambiguous, which is the problem, with all due respect to both of my colleagues, who are great friends. It is the language; it is not the Senators.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Perhaps it was my language that was confusing. I do not think the statutory language is.

The fact is, there is an addition of authority to the NID—there is no question about that—that the DCI does not have, and that is to issue and manage collection and analysis tasking.

What I was trying to say earlier, and I want to distinguish this, is the current law enables the DCI to convene the agency representatives, which they do every day, to resolve and decide where our national assets go, and then to resolve a conflict, as described in the language that I read from, which is what the current DCI has.

We have added, very importantly, and the Senator is right, the ability of the national intelligence director additionally to issue and manage collection and analysis tasking.

Mr. DEWINE. Reclaiming my time, so there is a change?

Ms. COLLINS. If the Senator will yield?

Mr. DEWINE. I will yield.

Ms. COLLINS. There is a very significant change, as I said to the Senator when he first raised this very important question. We recognize that the current Director of the CIA cannot issue tasking, cannot require the collection of information, under this section of the law. That is why we took language recommended by Senator ROBERTS, included it in the bill that I believe the Senator from Ohio may have cosponsored, which strengthened that authority by adding the language, "issue and manage collection and analysis tasking." That is not in current law.

Mr. DEWINE. I appreciate that. I will have to go back and study this a little bit more.

I say to my colleague from Maine, I am happy with her answer when she responded to my question, can this be ordered, and her response, I believe, was yes. In other words, under her bill the NID could order the satellite to be moved. Because I think there is a problem.

The evidence is that in the past there have been some problems—I am not saying it is a problem that occurs all the time; it probably gets worked out most of the time—but there have been some problems and I think this needs to be a situation where there has been a problem or there might be a problem, be ordered, it has to be. So I certainly appreciate the response.

Let me ask another question, if I could. Moving to the area of signal intelligence, NSA, let us say the NID, under the Senator's bill, decided it was in our national interest to move the assets, move the resources, from listening to country X to terrorist Y organization. It is the same type of issue but again a real world issue. We are moving our assets; we have to make this decision very quickly in the real world. Could that person order that to be done?

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. If the Senator would yield for a response.

Mr. DEWINE. I yield.

Ms. COLLINS. My answer would be the same. The NID has the authority, has the power, to use the words of Senator from Ohio, to issue these orders, to task these agencies to carry out these directives.

I note that because the NID has the authority to manage the budgets of these agencies, he has a pretty big stick to use as enforcement.

Mr. DEWINE. If we can just talk back and forth a minute, let me interject and then the Senator can respond. I appreciate the progress the Senator has made in regard to the budget, and I think that is very important, but we have seen from our work on the Intelligence Committee, in looking at the intelligence community, a lot of these decisions that are being dealt with in the real world, are very time sensitive so when a budget change is made, we are talking about the next year or 2 years. Those are very important. They are changing directions. That is important. So I congratulate the Senator for making that change.

I am not concerned that the Senator has not done that in her bill. The Senator has done that. What I am concerned about is the execution. For example, I see in the Specter language: direct, oversee, execute the national intelligence program. Then he goes on to say: supervise, direct, and control the operations of the Central Intelligence Agency, the National Security Agency, et cetera.

So what I see in the Specter language that gives me a great deal of comfort is "supervise, direct, control operations." To me, "operations" is the key language because now we are dealing with things that are very time sensitive.

What I worry about is not the long-term planning. I am convinced that the Senator has taken care of that and I congratulate her for that. What I worry about is real world examples that I have now, such as we are listening to one country, or we have assets over here that we need to move very quickly over here and target a terrorist organization, and say we have limited assets, can we do that. It is a hypothetical, but could that decision be made?

Ms. COLLINS. Madam President, I think the Senator from Ohio is raising excellent, important questions in this debate, but he is creating a misimpression of what the bill does with regard to budget authority.

This is not 1 year off or 2 years off. The NID has budget execution authority, not just putting the budget together for presentation and recommendation to the President; he executes the budget as the year goes by. He has strong authority to reprogram funds with congressional approval and notification, I hasten to say, and to transfer funds.

He has extensive authority to transfer personnel. He has the right under our bill to appoint the heads of these agencies with concurrence from the Secretary of Defense. That is a major change from current law.

If the Senator from Ohio is saying, as he is, that the NID should have direct line authority over the day-to-day operations of these combat support agencies, I disagree with the Senator from Ohio. I believe it does not make sense and, in fact, the NID could not handle running these agencies day to day. As Senator LEVIN indicated earlier, you would have to create an enormous supervisory staff within the office of the NID if you were going to transfer that authority from the Secretary of Defense. Clearly, the NID has the authority to direct the collection and analysis of information by the heads of these agencies, but I do not think he should be running them day to day.

Mr. DEWINE. If I could follow that up with a question, since the Senator raised it—and I think I know her answer, but I want to make sure I do understand her answer—talking about moving people around, according to the newspapers—this is what is published in the newspapers—there is a problem with a backlog apparently in listening to tapes of intercepts, at least that is what has been in the newspaper. Would the NID have the authority to move linguists from one agency to another to correct that problem? For example, if they had to, they could move them from the DIA to the CIA?

Ms. COLLINS. Absolutely.

Mr. DEWINE. This person, he or she, could pick up the phone and say: We are going to move 50 people, 100 people from over here to over there?

Ms. COLLINS. Absolutely.

Mr. DEWINE. This person does not have to call the SECDEF, does not have to do anything?

Ms. COLLINS. If the Senator will yield so I can respond to his question.

Mr. DEWINE. Surely.

Ms. COLLINS. There is very strong authority for the NID to transfer personnel who are working within the national intelligence program throughout the Federal Government and, indeed, I would envision the staffing of the National Counterterrorism Center would come from the NID taking linguists, analysts, operatives, collectors—all sorts of expertise—from the various intelligence agencies. And I know for a fact we need to give the NID that power because I visited with the head of the Terrorist Threat Integration Center who does not have that power and finds it very difficult to get the personnel resources he needs.

Mr. DEWINE. I appreciate the answer. So the Senator is saying this person can actually go in to DIA and say: I want those people. I want them. We are going to take them from DIA, and we are going to put them over here at CIA because I know best what the priorities need to be, and this is national security, and we are going to get it done.

Ms. COLLINS. Will the Senator yield for a response?

Mr. DEWINE. I certainly will.

Ms. COLLINS. The DIA employees who are part of the national intelligence program, yes, the answer is yes. DIA employees who are part of DOD's tactical intelligence programs, which are outside the scope of the authority of the NID, the answer in that case would be no. So it depends. But if they are part of the national intelligence program, which thousands of DIA employees are, the answer is yes.

Mr. DEWINE. I appreciate that. What I do not understand, though, is what I thought I heard earlier on about the Senator's distinction between tasking and control. That does sound like control to me. The Senator from Maine is saying they can task but they cannot control. Basically, that sounds like control to me if you can move someone.

Ms. COLLINS. I disagree with the Senator, so I do not know how to respond. I was saying the NID does not run the day-to-day, daily operations of the NSA, for example.

Mr. DEWINE. And I appreciate that. But in direct response to my question, the Senator is saying that person could, in fact, make that command decision, pick up the phone and say, "We are moving 50 people," and that would be done, and that would be it. I want to make sure on the record because I think it is going to be very important 2 years from now or 18 months from now, and I would hate for the NID person to come before our committee and say: "I can't move people around."

Ms. COLLINS. If the Senator will yield for a response.

Mr. DEWINE. I am happy to yield.

Ms. COLLINS. Madam President, I direct the Senator from Ohio to the exact language in the bill. On page 27, starting on line 21:

> (C) in accordance with procedures to be developed by the National Intelligence Director, transfer personnel of the intelligence community funded through the National Intelligence Program from one element of the intelligence community to another element of the intelligence community;

I think that language is crystal clear that the NID could, indeed, take a linguist from the counterterrorism division of the FBI and transfer that individual to the National Counterterrorism Center, or an analyst from DIA who is funded through the national intelligence program and shift that individual to the counterterrorism center. I think it is very clear.

Mr. DEWINE. I thank my colleague from Maine for answering these questions. As always, she is very eloquent and has been very thoughtful in her questions and her work on the bill. I congratulate her for the good work she has done.

Madam President, I do appreciate my colleague's answers. I will be voting in favor of the Specter amendment simply because I think it is more clear. I think it adds something to this bill. I think it makes it more specific. It is clear. When we are done with our work, then it will be up to the great bureaucracy, the men and women who are out there to defend us—and I do not use "bureaucracy" in a derogatory way at all; these are great people doing wonderful work out there who are defending us—it will be up to them to make this work. We have an obligation to do our best to give them something that will work and to give them the language that will allow the clearest lines of authority.

I believe if you take the Collins-Lieberman bill, which is good work, and you then add the Specter amendment, the Specter amendment makes it clearer, makes it more precise, and makes the lines of authority much easier to understand.

I believe it also will deal with a concern I have had for a long time, as we saw this reform coming, and that is my fear that we would create this new position, give them authority, and do a pretty good job, but not quite give them all the authority this person needs.

We have had the opportunity in the Intelligence Committee to listen to some of the things that have gone wrong for the last few years, and there have been a lot of things that have gone wrong. It is not only organization. It is not only line authority. It is not only the fact that the DCI did not have enough power, but that is part of it. This bill goes a ways to deal with that. I believe the Specter amendment improves it further and makes it clearer, and is the right way to go.

Somebody has to be in charge. The buck has to stop somewhere. Never again do we want to be in a position where it is not clear who is in charge. Never again does this country want to be in a position where the top person in intelligence doesn't have all the authority he or she needs to protect us, to protect our children, to protect our families. The Specter amendment will make it very clear where the buck stops. The buck will stop with this person whom we are now calling the NID and who is called the NID under the Collins-Lieberman bill. So I will vote in favor of the Specter amendment. I urge my colleagues to vote in favor of it as well.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I wonder if the Senator from Ohio would address a question which his question raised in my mind, having spent a lot of time trying to figure out what the line is, in terms of supervision and control. Let me put the hypothetical this way. I would also appreciate the managers perhaps listening to it as well.

We have a new national intelligence director. The first question the Senator from Ohio asked, the first that I heard, at least, was: Can that director direct, order—in the words of the chairman, "task"—the collection, let's say, of signals intelligence in Iraq instead of Afghanistan? Can he or she make that decision?

We only have certain resources. We have to allocate them. Can that director, after consulting, presumably—because these are day-to-day consultations, as the Senator from Connecticut says; these go on every single day, these decisions on allocations and priorities. But hopefully, after going through that process, can that NID, that director, say: OK, folks, I have heard it; we have to make a decision. We are collecting signals in Iraq; we are not going to do it in Afghanistan.

The chairman's answer was "yes." It seems to me that ought to be very reassuring to folks.

The next question is, should that director be responsible for deciding which airplane it is that is going to do the collection? My good friend from Ohio says no. I think, shaking his head no. But that is what is left to the day-to-day operations. That is why you need to leave that decision on which airplane is going to go over Iraq to the day-to-day operational decisions inside of that agency. You can't transfer all of those decisions to a NID. That is where I think the Senator from Ohio would draw the line, I hope. That is clearly where I draw the line.

Mr. DEWINE. If I could respond?

Mr. LEVIN. I am happy to yield.

Mr. DEWINE. My colleague and I have, I think, the same objectives. My colleague from Maine and I have the same objectives. I think our differences are, frankly, down to what language accomplishes this. I think, also, I have more skepticism and bring to the table maybe more skepticism about how the world works. I am usually the optimist. But on this I am skeptical about the ability of this new position, someone whom we are now throwing into a newly created position, to be able to drive his or her agenda. I am concerned about it. I think it is a concern based on reason. There is a reason to be concerned about it, knowing the bureaucracy and how it works.

I think the Specter language is more clear, it is more precise: Supervise, direct, control operations. That doesn't mean picking planes or worrying about the day-to-day activities. That is not how I interpret it. It is not how I interpret it.

Mr. LEVIN. If the Senator will yield, I don't know any other way you can.

Mr. DEWINE. It is your time.

Mr. LEVIN. If the Senator will yield to respond, and I don't want to interrupt, but that is exactly what the words "controlling operations" mean. That is what the word "operations" means.

I think the Senator from Ohio is correct in pressing for clear answers to the wording in the bill. There are plenty of places where I have some similar questions which I will be raising by amendment, but I don't think this is one of them. I don't think this is one of the places. Because I think the bill is clear here that when the NID issues collection tasking, that is exactly what the Senator from Ohio wants, is to issue collection tasking, I believe.

But what I believe the Senator from Ohio does not want is to control the day-to-day operations as to how that task will be carried out. Yet that is what the Specter language results in.

Rather than clarifying this issue as between the order or the task, and how you are going to carry it out, it blurs the issue. Because once the Senator from Ohio says it is not his understanding of the Specter language that the operations which will now be assigned to NID include the day-to-day operations, then where is that line drawn? If it is not the day-to-day operations, if you are truly shifting those agencies to the responsibility and control of the NID, of course he is responsible for the day-to-day operations. Where is the line, where is the operations point divided between the NID who controls operations under Specter and the operations not controlled by the NID, under your understanding?

Mr. DEWINE. If I can respond, I understand my colleague's point. It strikes me that we have come a long way in this debate and the evolution of this bill. I think we have gone in the correct direction. I look at where we were 2 months ago or 3 months ago in this debate—it is all for the good. When every one of us speaking on the Senate floor, all four of us who are down here at this moment are basically saying we want the same thing and what we are now debating, I believe, is the language to get there. I think my colleagues, Senator LIEBERMAN, Senator COLLINS, my colleague from Michigan, would agree we are saying basically we want the same thing. I think that is good.

We are going to vote different ways on the Specter amendment, but I think this is progress because there is a consensus that has emerged that we want this head of intelligence in this country to be accountable, to have the control that person lacking them has, so the buck will stop with that person, so when they come in front of our committee we can't hear the excuses. It is going to be a great improvement.

I congratulate my colleagues for the great work they have done. I think this debate we have had here for the last 45 minutes has been a very good one. I think we have clarified some things and we clearly clarified, at least in my mind, the intent of the authors of this bill.

I think we created some interesting legislative history about what the power of this person should be. There should be no doubt in any person's mind in the future, NID or anyone who has to deal with him, what their powers should be in this area. I think that is all for the good.

I thank my colleague and yield the floor.

Mr. LEVIN. I thank my friend from Ohio.

In closing, I do have some questions about certain words in this particular paragraph which I will raise later on the floor, relative particularly to the establishment of requirements, because I think the consumer must establish the requirements and not the NID. I think there is also an issue about analysis, because I think we ought to be promoting greater numbers of analyses, and not getting into group-think. We should be promoting independent, objective analysis and I think this wording probably or unintentionally could concentrate or centralize that in a NID.

I think that is an unintended result, but we can discuss that later. But on this one issue that is raised in this amendment, it seems to me this amendment goes exactly in the direction all of us want, which is we need somebody to make a tasking decision, to have that power, and to do it exactly as our friend from Ohio said. You can't at a critical moment have that confused or diffused or uncertain. If something has to be done quickly, someone has to make a decision, and the person who makes a decision in this bill is clearly the NID on the tasking of the intelligence. That is where the decision, it seems to me, has to reside.

But again, I think the Specter amendment, because it goes into the operational side after the task is issued, goes too far, and rather than clarifying an issue will put the responsibility purportedly on somebody who can't handle that responsibility, who doesn't have the horses to handle that responsibility inside of his agency, unless you recreate the entire Department of Defense almost inside the NID in order to carry out those day-to-day operations to effectuate the task collection which properly belongs with the NID.

Mr. LIEBERMAN. Madam President, before the Senator from Ohio leaves the floor, I want to thank him. Although we disagree on the Specter amendment, his questions have illuminated the details of the underlying Governmental Affairs Committee proposal in a way that I as one of the sponsors feel shows a balance, which is we are trying to do something the 9/11 Commission says we urgently and desperately need to do, which is to fill the gap where the Commission said there is no one in charge of America's intelligence today—a lot of great assets but no one in charge. It is like an army without a general or a football team without a quarterback.

So we are creating a national intelligence director. We are giving that position, that strength, which the current director of Central Intelligence doesn't have. We are separating that position from the Director of the Central Intelligence Agency. But we are not giving the director line authority over the constituent agencies. He is going to be there to call the plays, if you will, to resolve conflicts, to make sure all the assets of the intelligence community—here we do have totally shared goals—are serving the national interest and all of the customers of the intelligence community and, most importantly, serving the President of the United

States who represents the national interest, but not in control with line authority over the constituent agencies.

As has been said, we think that will make, and the 9/11 Commission said it will create, a top-heavy organization. We don't need to do it.

I am quoting Secretary of State Powell's statement which he made to us on September 13 when he testified at a hearing. He said:

The Director of Central Intelligence was there before but the DCI did not have that kind of authority.

I add parenthetically that is the authority we are giving the national intelligence director.

Colin Powell said:

> In this town, it is budget authority that counts. Can you move money? Can you set standards for people? Do you have the access needed to the President? The NID will have all of that. I think this is a far more powerful player, and that will help the State Department.

There is a substantial transformation of what exists now. But it doesn't remove day-to-day control over operations from the individual departments. It is that balance that is part of the strength of our proposal, I submit to my colleagues. There are those on both sides who are unhappy about our balance. Senator SPECTER is stating it much too simplistically and we didn't go far enough to give power to the NID, so his amendment would effectively create a secretary of intelligence with line control over all the constituent parts of the intelligence community.

There will be other amendments from people who feel we have gone too far, particularly with regard to the Department of Defense, because in fact we do change budget control authority from the Department of Defense to the national intelligence director, to strengthen that position for exactly the reason Secretary Powell says, acknowledging that the intelligence director serves the President and the entire Government insofar as Government agencies need good intelligence, including the State Department. And the Secretary effectively said to us, he explicitly said, he is confident that the State Department will get more and better intelligence which it needs to advise the President on the conduct of our foreign policy. It is critical. Obviously, the needs for the Defense Department and warfighters are also critical, but they are not the only ones who need intelligence in our Government. The new director will, I think, better be able to satisfy all of those customers for the best possible intelligence.

I think it has been a helpful debate. I hope our colleagues who are not on the floor are keeping an ear to the debate, or at least their staff is, because it reminds me of some of the debates we had in the Governmental Affairs Committee which ultimately led us to a point where there were many disagreements along the way, with almost 50 amendments filed, where the bill was reported out of committee on a nonpartisan vote, unanimous vote.

I don't have explicit hopes that will happen in the full Senate, but I look forward to as thoughtful an exchange as we have just had, leading to a resounding vote for the kind of transformational reform of our intelligence community that the 9/11 Commission recommends, which we all know is desperately needed as soon as possible to better protect the American people from the clear and present danger of terrorist attacks.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. TALENT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. STEVENS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, is there any time limit on speaking right now?

The PRESIDING OFFICER. There is no time limit.

Mr. STEVENS. There is a vote set for 2:15?

The PRESIDING OFFICER. That is correct.

Mr. STEVENS. Mr. President, I come to the Senate to make extensive remarks on this bill. I do so with the full realization that my schedule prevented me from attending the hearings of the committee on which I am a member, chaired by Senator COLLINS and the ranking member, Senator LIEBERMAN. I commend them for their activities through July and August with the hearings they conducted. During that period of time, the Senator from Hawaii and I were in a parliamentary conference with the Chinese National Peoples Congress, and we had other events that prevented us from being in Washington while they conducted the hearings.

I preface this to say I voted for the bill to come out of the committee, but at the time I stated specifically to the managers of the bill that I would have some amendments in the Senate and whether I voted for the final passage of this bill would depend upon the outcome of some of those amendments.

Let me also say in this preface to my comments that as the staff reports were prepared by the 9/11 Commission, and my staff delivered those to me from the Internet and I read those—I also read the report when it first came out—and then, on the increased pressure that came from the members of the former 9/11 Commission to have early consideration of this subject, I reread the report and formed some very fixed opinions about this subject.

I have never seen members of a Commission, which went out of existence upon delivering the report, lobby the Congress so hard. My understanding is they raised a considerable amount of money, rehired some of their staff, and are currently lobbying the Congress. I do hope they have complied with the lobbying laws. In any event, this pressure has been significant and it is compelling the Congress to judgment in a very short period of time, in my judgment.

As I said, I have read and reread the 9/11 Commission Report. Last week, our Appropriations Committee held hearings on the report recommendations. We did that because when I returned to Washington I found there was a series of people who indicated they had not been heard by the Governmental Affairs Committee who wanted to have an opportunity to present testimony to the Congress.

We heard from Dr. Henry Kissinger; from three former military commanders in chief: GEN Joe Ralston, U.S. Air Force, retired, former commander of the U.S. European Command and supreme allied commander of Europe and NATO; ADM Dennis Blair, U.S. Navy, retired, former commander of the U.S. Pacific Command; ADM James Ellis, retired, former commander of the U.S. Strategic Command. Our committee also heard testimony from Dr. John Hamre, president and CEO of the Center for Strategic and International Studies and former Under Secretary of Defense. We heard from Judge Richard Posner of the Court of Appeals for the Seventh Circuit, and Dale Watson, former Executive Assistant Director of Counterterrorism and Counterintelligence for the FBI.

Our committee spent 2 days listening to the testimony on the 9/11 Commission's recommendations. Each witness who appeared was an expert in his field with years of dedicated service to the Nation. After listening to their thoughts and suggestions, I have come to the conclusion we have only begun to scratch the surface for what needs to be considered by the Congress before we finally act on this subject.

Copies of the hearings we held before the Appropriations Committee have been given to every Senator and to all intelligence-related staff of the Senate. They are available to anyone who wishes. They were printed as a public document.

Since the passage of the National Security Act in 1947, at least 19 commissions, committees, and panels have made recommendations aimed at reorganizing our Nation's intelligence community. Those proposals have led to changes in internal agency direction, precedence, or directive, and to new statutes, but none of those reports were adopted in their entirety or in this type of timeframe or context.

During last week's hearings before our committee, Senator INOUYE asked whether it would be wise for Congress to make a decision about restructuring the intelligence community in the next 2 weeks. Judge Posner, who is a very erudite professor of law at the University of Chicago in addition to being a Federal circuit judge—he also recently authored a very thoughtful article on intelligence reform in the New York Times—testified he thought it would be "unwise and most unfortunate." He expressed doubts that the analytical problems could be resolved in that timeframe and expressed concerns that the Presidential campaign and politics should not be the right setting for this reform.

I agree with Judge Posner. However, I have approached this legislation as a committee member with an open mind, and I am hopeful that the Senate will move forward on some reforms during this year.

I do have concerns about current efforts to restructure the Nation's intelligence community. For starters, the witnesses I heard last week revealed serious issues with the underlying document for these efforts. That was the 9/11 Commission Report. The Commission's recommendations do not reflect their own account of what happened on September 11. As Judge Posner said before our committee:

> The first 338 pages of the commission's report are an extremely detailed and thorough narrative of the background to the attacks themselves, and the immediate response.
>
> It is a very fine job. . . . Then after that, the commission goes off on what is really a different tangent in considering organizational change because it is not clear, from reading their narrative, that the problems were organization[al] problems for which organization[al] solutions or reorganization would be indicated. So I think there is a mismatch between this very detailed narrative and a rather more summary discussion of organizational change that really does not match the problems that the report itself had identified.

That is the end of Judge Posner's quote.

Because the Commission's recommendations are somewhat divorced from its own account of what happened on 9/11, the Commission adopts, in my view, a flawed vantage point from which to suggest reforms. For example, one of the concerns Judge Posner expressed in our hearings last week was that the report—and again I quote—

> . . . really is oriented toward preventing not new threats, but a repetition of 9/11. Now, an exact repetition of 9/11 is extremely unlikely because that has already happened. We know about that. What I think we have to worry [more] about [is the threat of] biological terrorism, nuclear terrorism, agricultural terrorism because, you know, destruction of agriculture by biological weapons could be as destructive as biological warfare against people. So we ought to try to think about the disasters that have not happened, but that is very difficult to do, so we tend to think about what has already happened.

That is the end of Judge Posner's comments about that.

As we debate this legislation, one of the things we must keep in mind is there have been substantial changes in our intelligence-gathering methods and operations since 9/11. We personally witnessed those on trips to Afghanistan and Iraq during this past year. The situation we faced in the morning of 9/11 is not the situation we face today, and the threats, although related, are not identical. Efforts to reorganize the intelligence community must take into account the current state of operations and the broad scope of the risks we face. We cannot be mesmerized by just one threat.

As I said, I am not opposed to intelligence reform. But any changes should reflect the current context of intelligence. Since 9/11, many members of the intelligence community have testified before Senate committees, and they have told us they are doing things differently, that today there is a free flow of ideas that did not exist before 9/11. Congress should not take any action that might—intentionally or unintentionally—stifle that progress.

I support many aspects of this legislation. I am in favor of the creation of a national intelligence director who can serve as the President's primary intelligence adviser. I also support the creation of a national counterterrorism center. However, I am very concerned about the way the NID's role is defined in this legislation. I urge Members to read it. Read it. Look at the pages. There are nine and a half pages that describe the powers of this person. It would do well for people to understand what it says, what the real context of this is. This person is going to be a very unique individual. What I fear is, this person is going to assemble underneath the NID a series of staff people who will be telling other people what to do based upon their understanding of what the director of NID intended to do. Quoting from the bill:

> The National Intelligence Director shall—
>
> determine the annual budget for the intelligence and intelligence-related activities of the United States by—
>
> providing to the heads of the departments containing agencies or elements within the intelligence community and that have one or more programs, projects, or activities with the National Intelligence program, and to the heads of such agencies and elements, guidance for development [of] the National Intelligence Program budget pertaining to such agencies or elements. . . .

It goes on, all the way through. The national intelligence director is in charge of preparing the annual defense budgets, including those for the Department of Defense related to military intelligence programs, with the concurrence of the Secretary. He would be in charge of "collection and analysis requirements" for the entire intelligence community. He is going to have to "provide advisory tasking on the collection of intelligence to elements of the United States Government having information collection" activities. He will have the right to go to any Department or agency of the Federal Government and say, "What are you doing?" and have access to their information. He will "manage and oversee the National Counterterrorism Center," which, again, I say, I do believe in that type of center, but can he manage that and be a director at the same time?

I urge the Senate to look at the job description of this one person. No person on Earth can do all those things. What he is going to do is assemble a whole series of subordinates who will tell the existing agency heads, many of whom are constitutional officers, Secretaries, confirmed by the Senate, to perform the functions of their Department. But this person is going to have assistants telling those Secretaries what to do and demanding they have access to information those Secretaries have collected through their own processes. Now, I think, if you read this, this is an enormous task for any individual. An NID is needed, but that type of bureaucracy that is set up by this bill is just overwhelming.

He also ensures "that appropriate officials of the United States Government . . . have access to a variety of intelligence assessments and analytical views," protecting "intelligence sources and methods," establishing "requirements and procedures for the classification of intelligence."

He is a czar, one person. Now, we know not one person can do all those things. This means to me a new level of bureaucracy, an appointed level, not described in this bill at all. But he is going to have a series of people working for him. I am told there will probably be 800 people in this office of national intelligence director. There is the flaw. There is the flaw, and the President's letter yesterday mentioned it.

This legislation also gives the NID authority to set security, personnel, and informational technology standards all the way across the intelligence community. In other words, no matter whether you are the FBI, CIA, or DIA, you must follow the standards set by the NID to do your business. Unheard of, just unheard of.

This also includes the establishment and direction over information sharing. This person alone will determine who shares what information. Now, I believe this effort will create more problems than it solves. Judge Posner, again, addressed this in his testimony to our committee last week. He said:

> The commission thinks the reason the bits of information that might have been assembled into a mosaic spelling 9/11 never came together in one place is that no one person was in charge of intelligence.

He means at that time. But he said:

> That is not the reason. The reason, or rather, the reasons are, first, that the volume of information is so vast that even with the continued rapid advances in data processing it cannot be collected, stored, and retrieved and analyzed in a single database. . . .

That is an objective of this bill. Anyone in the industry will tell you it is not possible yet.

> Second, legitimate security concerns limit the degree to which confidential information can safely be shared, especially given the ever-present threat of moles like the infamous Aldrich Ames.

Now, Mr. President, still quoting Judge Posner:

> And third, the different intelligence services and the subunits of each service tend, because information is power, to hoard it. Efforts to centralize the intelligence function are likely to lengthen the time it takes for intelligence and analyses to reach the President, reduce diversity and competition in the gathering and analysis of intelligence data, limit the number of threats given serious consideration and deprive the President of a range of alternative interpretations of ambiguous and incomplete data—and intelligence data will usually be ambiguous and incomplete.

That is, again, the end of Judge Posner's comment.

Giving the NID information-sharing authority may actually prove to be counterproductive. The implications Judge Posner raises need full debate and discussion. I hope we will have some of that today. At the very least, we cannot assume that Congress has rectified this problem by simply vesting information-sharing authority in one individual, only one individual, because that is the process for information sharing.

What if, in a later administration, the NID wants more centralized control? What if that person shares the viewpoint of the prior administration that there should be walls between these agencies? He will determine when they learn what is going on between one agency and another. That is the implication of what we are hearing here. We took down the walls with the PATRIOT Act. We said no more walls. Yet here is one person who determines the total rules for sharing. And probably under the current atmosphere, the return to the walls is impossible, but this authority does not prevent walls.

There is no limit on the NID's concept of sharing. That person alone will determine what sharing is between agencies and who gets the information and who has access to it.

I am also concerned about the language in this legislation concerning the structure of the office of NID. I mentioned that before. We don't need to create a new bureaucracy here, and it seems to me this legislation risks doing just that. We need to delete or significantly revise the parts of this bill that delve into unnecessary or excessive detail about the organization of the office of NID. Again, I call the attention of Senators to the bill itself. It has greater detail concerning specific authority for one individual than I have ever seen.

The Statement of Administration Policy, dated September 28, specifically addressed this issue of creating "a cumbersome new bureaucracy" or "legislated mandated bureaucracy will hinder, not help, in the effort to strengthen U.S. intelligence capabilities and to preserve our constitutional rights."

Continuing from the administration's letter:

> The Administration urges the Senate to delete or significantly revise these problematic provisions.

We will have amendments to do just that at a later time.

I believe we must take time to carefully consider the people in the field now and how this legislation will impact them. I recently had occasion to meet with the chiefs of station of the CIA from around the world. I was most impressed with what they said about how long it takes to establish a position as a chief of station and how long it takes to develop assets who have the willingness and the ability to go into a neighboring country or in the same country they are in and try to obtain the information we need about developments that might threaten our future.

Currently there are 175,000 persons working in the intelligence community. One hundred fifty thousand of them are military personnel today. They do an incredible job with much personal sacrifice, many under difficult circumstances and far away from their families for years. The creation of the NID will have serious consequences for them and the Department of Defense intelligence personnel. The consequences for the Department of Defense intelligence personnel must be carefully considered as we adopt these reforms.

I don't believe you can alter one piece of this puzzle without having an impact somewhere else. I am concerned not only about the impact the legislation will have in terms of unintended consequences of the big picture but also the impact it will have on our career intelligence operatives who are working out in the field today.

I hope to go on to that later. We had a gap in our development of human intelligence, and it was a serious gap for a series of years. It takes more than 5 years to develop one of these people. Now we are operating with a group of human intelligence experts which is very limited.

This legislation says the NID will "establish intelligence collection and analysis requirements for the intelligence community." This arrangement will centralize the prioritization and control of intelligence and, I believe, could detrimentally affect military leaders outside Washington, DC.

The NID would inevitably focus on the current crisis in Washington—I assume, this doesn't say anywhere, that NID will be here, somewhere near the President—possibly shortchanging the long-term collection and analysis needed for intelligence preparation for battlefields in distant regions.

Currently there is a diversity within intelligence. I do believe in a NID, but I believe in more of a coordinator than a commander. This creates a new commander in chief of intelligence. The Constitution didn't create one. I do believe this is a very difficult proposition the way it is described, what the powers and authorities will be.

When combat occurs, intelligence could swing into full force to support the troops, but by then it would be too late. We need a consistent peacetime intelligence effort to ensure that we can either avoid conflict or give U.S. forces high-quality information when they must engage an enemy.

I am also concerned about the nature of the NID position. Right now we have one agency that deals with domestic threats and another that deals with foreign threats. There are reasons for this division.

Domestic and international threats are distinct and require different intelligence tactics and strategies. The NID collapses international and domestic intelligence concerns into one position, one control, one definition authority, and one access authority. I do believe that this is the kind of situation Judge Posner warned us about last week where we would have an intelligence community that is too rough on our citizens or too gentle with foreign threats because it needs to adhere to uniform policies across the domestic and international context. If that is not the intent, the bill should so state.

There is a reason for different approaches to foreign threats than those that are internal within our constitutional authorities. I believe Judge Posner's warning ought to be listened to by the Senate. We do not need an intelligence community that is too rough on our own citizens and too gentle with foreign threats.

I believe the NID position should reflect what Dale Watson, another witness before our committee, recommended last week. He has a long service in the FBI intelligence division. This was his judgment:

> This position must be a job and not a position. The individual who has this responsibility of being the NID needs to work within the NID and within the intelligence community. The NID should not be a public relations job. The NID should not be on the speaking circuit or conducting liaison. The NID should be a central-focused individual that looks at where [we] are across the board in all areas. . . . I think the NID ought to be a term appointment. I think the NID has to have the responsibility and be able to do the task.

What we are really saying is, Congress should not rush to implement the recommendations put forth in the 9/11

Commission report. For my part, I hope to spend more time in the Chamber listening to my colleagues and exchanging views on this legislation.

As of now I am inclined to support a course that creates a national intelligence director and a national counterterrorism center, gives them 6 months to get up and running, and then invites them to come and tell those of us in Congress who must make the final decision what additional authorities and changes they actually need. This director ought to become familiar with what we have now before he tries to fix it.

That is one of the things we learned as young men, I thought. If the watch is running and it works, you ought not to try to fix it until you know that there might be some way you can improve it.

This situation is just the opposite. I do think we ought to look forward in this week to a debate that is one that will be productive so that the changes in the administration's letter we received yesterday are not only listened to but they are accommodated to the maximum extent possible.

I have a series of questions that I want to read into the RECORD. These are questions I intend to ask the managers of these bills as we go through this process. It is a long list of questions, I will say. The first is in regard to military personnel.

Based on the fact there is no differentiation between civilian and military personnel in your bill, could the NID have the power to hold military personnel for more than their stated rotations, more than their career path that they are on? For example, could they hold a military person at the National Counterterrorism Center longer than is detailed from the Department of Defense? If they could, what is the effect on their ability for promotion in the future? If needed for a military mission, how would the Secretary of Defense or one of the service chiefs be able to have that military individual returned to a nonintelligence program or position?

Is it true that once in the NID, the NID has control over the individual person's future, particularly when, I remind the Senate, again, 80 percent of the people we are talking about are Department of Defense people, most of whom have career programs, are on a career path, and part of that path involves being an intelligence official for a period of time?

Also, based on the educational requirements designated for personnel in the national intelligence program by the national intelligence director, how would this be reconciled for those military personnel who must complete military education courses for the advancement of their careers?

Periodically, particularly the officers, and some noncommissioned officers, must complete additional military education courses in order to move upward, have upward mobility in their particular service.

Also, how much control would the DOD have over military personnel assigned to the NID? Would the NID control their assignments and their careers? How would the NID ensure that they have the requisite training and assignments to remain competitive for promotion within their parent military service? What role does the Secretary of Defense have in meeting the statutory responsibilities in title 10 and title 5 for the Armed Forces personnel?

I have heard comments that this new national intelligence director organization could, as I said, be in excess of 800 people. If that is true, it would seem that this legislation will create a new bureaucracy to deal with intelligence.

So I asked the managers directly, how large will the national intelligence director organization be? Does the NID have unlimited ability to hire people? Where would the personnel for such a structure come from? There is already a shortage of intelligence people in the intelligence community. Where are these people going to come from? Is he going to take them from the CIA or the DIA? And if he does, do they lose their career path? Is everybody subject to the control of the NID? Can he tell them you must come? I thought intelligence was a volunteer organization. I think it must be if we are to be successful.

Why does this legislation single out the FBI for the NID's ability to fix the rate of pay? This bill gives only the NID the power to fix the rate of pay for the FBI and the intelligence section. Why doesn't it extend this to all personnel involved if he is to be so powerful? It seems to be a very strange section.

The number of qualified personnel in the intelligence field is fairly limited. Will the creation of the NID and this organization dilute the numbers? How long would it take to build and to grow the additional numbers if they are required in order to create and fulfill the obligations of the director under this reorganization?

I have some questions about the Department of Defense directly. If the national intelligence assets are transferred to a new national intelligence director, how do we ensure to our military commanders that national assets will be reliably available to them before a conflict? They have control under this bill when the conflict comes, when they have the right to obtain their own intelligence. How will the Department of Defense relate to its defense support agencies, such as the NRO, National Reconnaissance Agency, or NSA, or the National Geo spatial-Intelligence Agency, NGA, if they are effectively under the national intelligence agency? Will they still be combat support agencies, subject to the military leaders, as they are now—the Joint Chiefs of Staff and the Secretary of Defense? Where does this fit in? Will the NID have the power to convert current military positions into civilian positions? Where does he recruit from?

Within this bill, I would like to have an answer as to whether you have altered the definition of "joint military intelligence programs." I do not see such a definition, but it is a very important segment of intelligence.

As to the budget, am I correct in understanding the NID controls the budget of the NSA, NGA, NRO, and that the NID recommends nominees to be directors of these entities, with the concurrence of the Secretary of Defense? What happens to the current directors? Is this some time off in the future? Can he immediately clear the deck and put new people in charge of the agencies? These agencies, along with DIA, are both national and combat support agencies. How will the proposed bill ensure these agencies remain responsive to the military forces they support if their funding and personnel are controlled by another department?

How does the National Security Advisory and Office of Management and Budget fit into the overall role of coordination or budget coordination envisioned by this legislation?

Particularly, how would the national intelligence director, with strong budgetary and personnel authority and the ability to control the dollars, 85 percent of which are now controlled by the Department of Defense, still maintain a relationship with the DOD? Does it control the whole 85 percent or just the part that is related to the defense agencies specifically mentioned? Currently, I assume the committee knows that the payroll for all of those people comes through the Department of Defense. This assumes, I take it, that the payroll will now come through the budget of the NID. Which ones are you going to pay? Who will make the separation, the Secretary of Defense or NID, as to which ones NID pays and which ones the Department of Defense pays? That is going to be a headache, in my opinion.

The bill provides the national director, in terms of an organization, with the power to reach into other departments to manage personnel, budget, and acquisition programs. Is this on a day-by-day basis, or on the basis of a plan or the formation of a divide-and-command authority? It seems to be that. It seems to be an invitation for turmoil that will cause operational problems as soon as it is created. He is supposed to reach in and tell them I will manage your personnel, your budget, and your acquisitions? A series of things is on the books that envisions particular acquisitions by various agencies over the period ahead. Some of those laws, apparently, will have to be changed if this person's authority is to be effective, because it will conflict with existing laws, if they are not changed.

How do the benefits of centralization of the intelligence function impact the benefits of diversity and competition in the production of useful intelligence? Does the committee believe that diversity in competition is not needed and that is intended by this bill?

Is it possible to link the national intelligence director to the National Security Council and place it under the control of the national security adviser? Is that possible? Today, the President is in control of those entities within the executive branch, and they are personally responsible to him. That is what the letter we received yesterday says. I hope we think twice about the lines of authority and what are the prerogatives of the President as Commander in Chief and as President of the United States under the Constitution.

Currently, national intelligence priorities are established by the President and the National Security Council. Does a national intelligence director with such powers weaken the NSC process and the roles of the National Security Adviser and the Secretary of State? Will they still have the same role, notwithstanding this national intelligence director is going to have the authority to tell them and make the decisions on what intelligence they need in carrying out their authorities as constitutional advisers to the President?

Could some of the objectives sought by the reorganization be achieved by strengthening the existing institutions? I am not sure that has been considered adequately. That seems to be the compelling rush of the 9/11 Commission—throw everything out and set up something new. There is not even a period for transition in this process. This cannot happen overnight. The reorganization proposed by this bill would take at least a year. During that process, what happens to careers and to people's morale? Why can we not build on what we have, rather than creating something so new that has the extreme power to invade every agency that even touches any piece of intelligence?

Does this legislation create a system in which intelligence is reported to two masters? For example, would the members of the intelligence community be under the control of the national intelligence director and their own agency bosses? I assume that is the case. How does it work on a day-to-day basis if they are not? I assume persons employed by one agency are responsible to the person who hired them. This bill now envisions, I take it, that the NID has the right to hire and fire in any of the agencies involved.

Will the system envisioned by this legislation create conflicts in collection and analysis tasking? Currently, there is a working relationship between these agencies as to who is going to pursue one subject or another, as they task the analysis of information coming in on a daily basis. I don't see why the system creates other conflicts in that process.

The 9/11 Commission report highlighted that there was a lack of information sharing within the intelligence community. But evidence points out this was just as serious within agencies as it was across agencies. How can problems of sharing within agencies be solved by layering another set of controls over all of the agencies?

We ought to think about what happens to the agencies that exist now and how they should transition into this national intelligence director realm, and not assume it is automatically created as soon as the bill is passed.

Would the national intelligence director's role in crafting intelligence policy supplant that of other Cabinet Secretaries? Under this bill, would the Cabinet Secretaries lose their own organic capability to do intelligence analysis? Are we telling the Secretary of State he cannot hire somebody to do intelligence that he thinks he needs? If so, would this undercut Cabinet Secretaries who are constitutional officers of the Government charged with managing the instruments of foreign and security policy for the country?

I do not think we should proceed to create a national intelligence director that has the power to tell those Cabinet Secretaries what they can do in terms of gathering intelligence and analysis.

How would these same Cabinet Secretaries fulfill the constitutional authority vested in them by Congress unless they have the power to make an independent judgment about what is the proper conclusion from the intelligence available to them?

Could the national intelligence director function without having the analytical branch of the CIA placed under his or her direction? I say that again, the only analytical branch we really have is the CIA, and this bill seems to say that the NID gets that analytical branch of the CIA. If it does not, will we have duplicate analytical branches? What is the role of CIA under this concept, as far as analysis is concerned?

If the essential relationship between analysts and operators is weakened, does the operational branch become rudderless and the analytical branch too academic? Would the CIA become an organization for conducting clandestine activities only?

I do not think this bill tells us what we expect from CIA in the future. It says what we expect the NID to do, but it really does not reaffirm the role of any existing agencies that I have defined.

Creating an intelligence czar with domestic surveillance authority that is not under the Attorney General, and measures that separate domestic intelligence from law enforcement, go against all the lessons learned by democratic governments the hard way. What are the concerns and dangers of merging domestic and foreign counterterrorism operations under one organization?

Again, I refer to extensive comments Judge Posner made to us before our committee. How will competing views on intelligence be brought to the President's attention? Indeed, how will competing views merge at all in a structure that is so centralized and under the control of the NID?

Much of the bill which stems from the recommendations of the 9/11 Commission report seem to be directed only to the threat of Islamic terrorism, which I agree is a tremendous threat. But does this legislation enable us to better deal with the growing worldwide threats of proliferation of weapons of mass destruction and other very serious problems in terms of intelligence gathering and analysis?

How much will congressional oversight be reduced if this bill becomes law? It appears to point toward one committee but has total budget authority,-total reorganization authority dealing with one person who has total authority in the intelligence community. It eliminates diversity. It eliminates even the opportunity for a separate think. It is going to be a two-group thinks, and if they work together, where is the diversity in this community? Where do we get accurate analyses if we can have only the one that is made by the NID?

We created the Department of Homeland Security in an election cycle. I think the experts are telling us now that the transition has not been successful, and the current organization falls short of its goals, as far as homeland security. But isn't that the same environment we face right now, Mr. President? Can we avoid some of the same mistakes we made and have experienced through the Department of Homeland Security and its legislation and development of this legislation?

Would the National Counterterrorism Center be involved in operations? Why would there be a director of operations listed in this organization unless it is involved in operations? If it is, doesn't that complicate planning for operations that currently go on within the Department of Defense, CIA, FBI, and other agencies? Are they all subject to the control of the NID, even in terms of operations?

I do not think that is the intent, but again I do not think it is clear. It is my understanding that the inspector general would have authority to conduct investigations of the relationships among elements of the intelligence community within the national intelligence program and the authority to investigate relationships among elements of the intelligence community within the national intelligence program and other elements of the intelligence community.

If a close reading of this bill grants authorities to the inspector general of this community far greater than other inspectors general—I was asked that question once and was told it is just the same as the others; that it was just the same. I challenge that now because I do not think other inspectors general have the authority to investigate relationships between the communities, nor do I think the inspector general should have the authority to audit interagency processes in addition to the programs and operations within the national intelligence authority. It presumes we can find an inspector general and his staff that will have the right to complete access of all the intelligence to which the national intelligence director has access. I seriously question that in connection with intelligence.

Does the authority to investigate interagency processes create a tension between the inspector general of the NID and inspectors general of other agencies? I do not see anything that says the Department of Defense inspector general or all of the inspectors general in the intelligence community—and they all have them—is subordinate to all of them, yet this person has authority to investigate interagency processes that are really relationships between agencies, not how the agencies function, not whether something is going on, but whether they are getting along. Who is getting along with whom? What are you going to do with existing IGs? What is their role under this bill?

I do not think it is spelled out at all. I think the bill authorizing the inspector general of the NID to provide policy direction to improve the effectiveness of interagency process, without consulting the Secretaries of Cabinet departments, without consulting agency heads, and without consulting the inspectors general in the agencies themselves, has not been thought through at all.

I do believe the authority to provide policy guidance politicizes the position of inspector general to NID and it would endanger the IG's independence, which I believe is critical to conducting fair and unbiased audits in investigations. I also think there ought to be some statement of the relationship we expect to exist between the NID and the inspector general and the inspectors general of individual agencies that are subordinate to the NID.

Those are just a few of the questions that came to my mind as I read through this bill and report and the comments that have been made. I do hope we have time to explore some of those questions because I think they need to be answered. I do think we need to take care of what the relationship is between this NID and particularly the Department of Defense.

I hope we can work together and find a way to answer the requests made by the administration that were stated yesterday. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska yields the floor. Who seeks recognition? The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3766

(Purpose: To ensure the availability of electromagnetic spectrum for public safety entities)

Mr. McCAIN. Mr. President, I have an amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 3766.

Mr. McCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. McCAIN. Mr. President, I ask unanimous consent that my amendment be set aside to allow Senator LAUTENBERG to propose an amendment and to speak for no longer than 10 minutes, at which time I will return to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator yields the floor. The Senator from New Jersey is recognized.

AMENDMENT NO. 3767

Mr. LAUTENBERG. Mr. President, I thank my colleague from Arizona for his patience. I send my amendment to the desk and I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 3767.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each)

On page 10, line 2, insert "(1)" after "DIRECTOR.—".

On page 10, line 5, insert ", for a term of up to 5 years" after "Senate".

On page 10, after line 5, insert the following:

(2) The National Intelligence Director may be reappointed by the President for additional terms of up to 5 years each, by and with the consent of the Senate.

Mr. LAUTENBERG. Mr. President, first, I commend the chairman of the committee and our esteemed ranking member and say I am pleased to see that we have a chance to wrap up discussion on this reform attempt in the time we are presently allowing.

I offer an amendment to establish a 5-year term for the national intelligence director. Our colleague from Pennsylvania has put forward an amendment to extend the term for the national intelligence director, to put in place a term that is 10 years in length, and I salute the Senator's attempt to try to assure objectivity for the new intelligence chief. The Senator from Pennsylvania and I share the same goal and that is to do all we can to make sure the national intelligence director is as independent and nonpartisan as possible.

My specific proposal differs from the approach used by the Senator from Pennsylvania. Mine would establish a 5-year term, not a 10-year term, for the national intelligence director. Under my amendment, if the President wants to reappoint that person, he could, as long as he sends the nomination to the Senate and we confirm him or her.

Under Senator SPECTER's amendment, the director's term would be limited to a single 10-year term. I think a formula of 5-year terms that could be renewed is more practical. If we are serious about objective intelligence, then we have to provide a national intelligence director with as much independence as we can, that allows him to tell the President things the President may not generally want to hear. The NID should be able to provide information and analysis to the President without necessarily worrying about job security.

During one of our hearings in the Governmental Affairs Committee on intelligence reform earlier this month, I asked interim CIA Director John McLaughlin what he thought of a limited term for the national intelligence director. His response was that it may be yet another way to ensure the objectivity and nonpolitical character of whoever holds that office.

Interim Director McLaughlin is on target. A term for the national intelligence director will bolster objectivity and help keep politics out of our intelligence data.

Some of my colleagues have voiced concern that they want to make sure the director is someone the President trusts, and I wholeheartedly support that. I agree it is critical that the individual and the President have a relationship built on trust. I believe my amendment bolsters that trust. With an independent, objective national intelligence director, the President can trust that the data he gets is objective.

When it comes to intelligence data, a President surely does not want a simple yes-man. The President needs independent, clean, quality analysis.

Unlike the amendment that has been proposed, my amendment does not restrict the director to only one term. If the President wants to renominate the same person to serve in the post again, then he may do so, and the Senate will then decide whether to confirm the person for another term.

I want to be clear that while the amendment provides a degree of independence to the NID, it is not absolute. Under my amendment, the President could certainly dismiss the NID if he did not have further confidence in his ability to perform. In fact, all it takes for the President to remove the director is the will to do so. So I believe my amendment will help improve the quality of nominees for the position of national intelligence director. With a 5-year term in place, there will be an expectation that the individual serve both Democrats and Republicans. Given what I hope will be a nonpartisan mandate, we will see much more objective and nonpartisan nominees.

I urge my colleagues to support this amendment, and I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Maine.

Ms. COLLINS. Mr. President, I know the Senator from Arizona is in the Chamber to offer his amendment so I will speak only very briefly. Senator LAUTENBERG's amendment is an improvement over the amendment offered by the Senator from Pennsylvania because it is a shorter term and it does allow the President to remove the NID without specifying a cause, but I still find it problematic.

We are talking about the individual who is going to be the principal adviser to the President. The witnesses were virtually unanimous in advising us that that individual has to have the trust and confidence of the President and that it would be a mistake to set a term.

I argue further against this amendment in the context of the Specter amendment. In light of the fact that the Senator from Arizona is waiting, I will not repeat those arguments at this time.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I believe under the previous unanimous consent agreement that Senator LAUTENBERG's amendment will be set aside and we will return to the consideration of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator is correct.

Mr. McCAIN. I also understand that at 2:15 there will be votes as previously ordered.

The PRESIDING OFFICER. Under the previous order, the vote will occur at 2:15 in relation to the Specter amendment No. 3761.

AMENDMENT NO. 3766

Mr. McCAIN. Mr. President, I would like to use the time between now and the time the vote is ordered to briefly talk about the amendment, but before I do I will say I understand there is controversy associated with this amendment. I do not intend, nor do I believe, that we should hold up the progress of this legislation and I would be more than willing to agree to a time agreement immediately upon completion of the pending votes to give the opponents of this amendment time to consider that.

I would also point out to both proponents and opponents of this amendment this issue is very well known. There may be some Members who are not that familiar with this amendment, but it goes all the way back to 1997 when we had hearings before the Commerce Committee on May 15, 1997, where following the Oklahoma bombing there was, in the view of the witnesses, an urgent requirement to get spectrum to the public safety community as quickly as possible. That was 7 years ago. The same arguments are being used today as were used 7 years ago after the Oklahoma tragedy. So I believe this amendment addresses, as Senator LIEBERMAN and I had committed to do to the families and to the members of the 9/11 Commission, the fact that we would act one way or another on all 41 of their recommendations.

This addresses the following recommendation made by the 9/11 Commission:

> Recommendation: Congress should support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes. Furthermore, high-risk urban areas such as New York City and Washington, D.C., should establish signal corps units to ensure communications connectivity between and among civilian authorities, local first responders, and the National Guard. Federal funding of such units should be given high priority by Congress.

What we are talking about is not only addressing the expedited aspect of their recommendation but also increased assignment. That is why, in this legislation, all of those who are presently using analog spectrum would be required by a date certain, December 31, 2008, without exception, without loophole, to move off of the analog to digital spectrum.

To take care of those who are still using over-the-air broadcasting, $1 billion would be set aside from the auction of this spectrum in order to provide the provision of set top boxes for those Americans who are still using over-the-air television as their primary way of receiving television signals. This is a small amount compared to the immense value of the spectrum itself.

This amendment is supported by the 9/11 Commission. I have a letter from them and statement in support of it.

It says:

> We write in support of your amendment to S. 2845 regarding public safety spectrum. Your amendment provides for the expedited and potentially increased assignment of spectrum for public safety purposes. By creating a funding mechanism to aid first responders in the purchase of new equipment, it also recognizes that spectrum alone is insufficient to address the deficiencies in public safety interoperability. In this way, your amendment squarely addresses the needs of public safety cited in the 9/11 Commission report.
>
> We urge your colleagues to support this amendment, because it takes significant steps to addressing the urgent needs of police, fire, emergency medical, and other public safety agencies. By establishing a firm date of December 31, 2007, for the return of spectrum long promised to public safety, your amendment provides much-needed certainty with respect to access to this spectrum. And by establishing a firm date of December 31, 2008, for completion of the digital television transition nationwide, your amendment creates an essential funding mechanism for the purchase of public safety equipment using proceeds from the auction of the broadcast analog spectrum. This latter deadline also ensures that the return of broadcast spectrum for public safety occurs with minimal risk of litigation, minimal impact on consumers, and with maximum flexibility of the Congress to allocate additional spectrum to public safety if it concludes such an allocation is necessary.
>
> Finally, we urge the Senate to reject efforts to weaken your amendment by adding loopholes purporting to offer "flexibility" to the assignment of spectrum to public safety entities. The need for this spectrum is too great; the stakes are too large; and the time is too pressing to succumb to efforts to delay these critical measures for first responders everywhere.

I will talk about the successful efforts orchestrated by the National Association of Broadcasters to delay indefinitely the transition from analog to traditional spectrum. Now that my friend from Montana is in the Chamber, I will quote from a speech he made in 1997, 7 years ago, which basically lays out the same concerns he and the National Association of Broadcasters have today.

It is time we acted. It's time we gave these people the spectrum they deserve. We can do that, along with providing those who are now and will only receive over-the-air television a set top box, which will allow them to receive digital television signals.

Mr. President, I think we are close to 2:15.

The PRESIDING OFFICER. The Senator has half a minute remaining.

Mr. McCAIN. I understand, as I said before, that there is controversy associated with this. I will be more than happy to agree to a time agreement, a very reasonable time agreement to debate this issue and vote on this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that there be 2 minutes equally divided between the two votes.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. There will be 2 minutes, equally divided.

Mr. DOMENICI. Between the votes. Not on the first amendment.

Ms. COLLINS. Prior to the second vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3761

Ms. COLLINS. Mr. President, under the previous order we are now going to proceed to a vote on Senator SPECTER's amendment, No. 3761. That is the amendment that would set the 10-year term for the national intelligence director. I move to table the amendment.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 4, as follows:

[Rollcall Vote No. 191 Leg.]

YEAS—93

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—4

Byrd
Feinstein
Specter
Stabenow

NOT VOTING—3

Akaka
Edwards
Kerry

The motion was agreed to.

Mr. BOND. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3706

The PRESIDING OFFICER. Under the previous order, the Senate will now proceed to a vote in relation to Specter amendment No. 3706. There will be 2 minutes of debate equally divided prior to the vote.

Who seeks time?

The Senator from Maine.

Ms. COLLINS. Mr. President, I would like to split the 1 minute on the opponents' side, 30 seconds for myself and 30 seconds for the Senator from Connecticut.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. I ask the Senator from Pennsylvania, do you want to go first?

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, this amendment gives the national intelligence director authority to supervise, direct the kind of managerial authority which is indispensable if the national intelligence director is to be effective.

Of those of us who have dealt with the Central Intelligence Agency, Senator ROBERTS, the current chair of the committee, is forcefully in favor of this amendment, as is Senator SHELBY, former chairman of the committee, as am I. Very forceful arguments were made today by members of the committee—Senator HATCH, Senator BOND, Senator DEWINE.

But if we are really to bring the intelligence community under management, if we are really to have the kind of coordination, to have all of the information in one locale, where 9/11 could have been prevented, and to have accountability, it is indispensable to do more than give budget authority, which is all the committee bill does, but to give the national intelligence director the authority to supervise, direct real management authority to get the job done.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Maine.

Ms. COLLINS. Mr. President, in deciding to keep the NSA and the NGA within the Department of Defense, we were mindful of the fact that these agencies are combat support agencies. We do not want to sever the link between these agencies and the Secretary of Defense. We have already given the NID strong power in terms of budget, in terms of appointing the heads of these agencies, with concurrence from the Secretary of Defense. I urge opposition to the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I also urge opposition to the Specter amendment. The fact is, our committee has found a balance. We have created someone in charge of the intelligence community who is not there now, giving that person the authority Senator COLLINS has referred to, but leaving line control over the agencies of the intelligence community, including the Department of Defense, within the Department of Defense and those existing agencies.

The fact is, this amendment goes too far and goes too far politically because if this amendment should pass, this bill is not going to go anywhere in the House, and we will end up leaving ourselves vulnerable.

The PRESIDING OFFICER. The time has expired.

The Senator from Maine.

Ms. COLLINS. I move to table the amendment.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 78, nays 19, as follows:

[Rollcall Vote No. 192 Leg.]

YEAS—78

Allard
Allen
Baucus
Biden
Bingaman
Boxer
Breaux
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Cornyn
Corzine
Daschle
Dayton
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Sessions
Smith
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—19

Alexander
Bayh
Bennett
Bond
Brownback
Conrad
Craig
Crapo
DeWine
Harkin
Hatch
Lott
Murkowski
Roberts
Santorum
Shelby
Snowe
Specter
Wyden

NOT VOTING—3

Akaka
Edwards
Kerry

The motion was agreed to.

The PRESIDING OFFICER. Under the previous order, the Senator from Iowa, Mr. HARKIN, will be recognized for 15 minutes.

Mr. HARKIN. Mr. President, how much time does the Senator from Iowa have?

The PRESIDING OFFICER. The Senator will be recognized for 15 minutes under the previous order.

Mr. LIEBERMAN. Mr. President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

IRAQ AND AL-QAIDA

Mr. HARKIN. Mr. President, there is no longer any doubt about President Bush's reelection strategy. It is the same strategy that was used in the election 2 years ago: They invoke the images of the 9/11 attacks and warn that new terrorist attacks are imminent. They stoke Americans' fears and anxieties. And, of course, they accuse their opponents of being weak on terrorism, not willing to defend America.

The events of 9/11 were traumatic, and we all understand Americans' fear of a new terrorist attack. But it is despicable to politicize this fear. It is despicable to exploit people's anxieties for political advantage. But this administration has done this again and again.

This is exactly what Vice President DICK CHENEY was up to when he warned that if JOHN KERRY is elected President, then "the danger is that we'll get hit again, that we'll be hit in a way that will be devastating."

You have to appreciate the pure Orwellian beauty of that statement. It was on President Bush's watch that we suffered the September 11 attack, a real attack, not a hypothetical one, and that attack happened despite multiple warnings to Mr. Bush from the CIA that al-Qaida was planning to attack America. Yet now his attack dog Vice President has the gall to warn that if JOHN KERRY is elected President, the terrorists will hit us with a "devastating attack."

As I said, this is the administration's reelection strategy: Fear and smear; politicize the terrorist threat; exploit people's fears and anxieties for political advantage.

Late last week, President Bush and his allies escalated this strategy to a new level. They are now saying, in effect, that Senator KERRY is giving aid and comfort to the terrorists, and that as Republican Representative TOM COLE crudely put it:

> If George Bush loses the election, Osama bin Laden wins the election.

Last Tuesday, the senior Senator from Utah, and a good friend of mine, Senator HATCH, said that terrorists "are going to throw everything they can between now and the election to try and elect KERRY."

Last Monday, Deputy Secretary of State Richard Armitage said terrorists in Iraq "are trying to influence the election against President Bush."

Last Thursday, President Bush said Senator KERRY's statements on Iraq "can embolden the enemy."

And Vice President CHENEY called Senator KERRY "destructive" to the war on terrorism.

This morning our colleague from Arizona, Senator KYL, criticized an earlier floor statement by Senator KENNEDY. Senator KYL said that Senator KENNEDY's criticisms of the President's policy in Iraq were "giving confidence to the enemy." That was said just this morning on the floor of the Senate.

This is disturbing. Since when is an entirely legitimate and justified criticism of the President's policy in Iraq "giving confidence to the enemy." This is an outrageous accusation. It has no place on the Senate floor for legitimate debate.

I remind the Senator from Arizona of the wise words of President Dwight Eisenhower who said that criticism and dissent are the bedrock of democracy. This is what President Eisenhower said in 1954 at Columbia University:

> Here in America, we are descended in blood and in spirit from revolutionists and rebels—men and women who dared to dissent from accepted doctrine. As their heirs, we may never confuse honest dissent with disloyal subversion.

That was President Dwight Eisenhower.

So we will not be silenced by accusations of disloyalty or accusations that we are helping the enemy or giving confidence to the enemy. Is all we are supposed to do hush up and allow Mr. Bush's reckless policies to lead us deeper and deeper into the quagmire?

These gentlemen claim to have such excellent access to the terrorists' thoughts. It would be nice if they would turn that knowledge into an effective policy against the terrorists. Instead, at key junctures, this administration has made disastrously wrong choices and repeatedly these decisions have played into the terrorists' hands. Look at the record.

It is a fact that the September 11 attacks happened despite repeated warnings to the President from the CIA that al-Qaida was planning to attack America. Those warnings included an August 8, 2001, President's daily briefing which he received when he was on vacation in Crawford, TX, titled "Bin Laden Determined to Strike in U.S." That is not a subhead or a sentence in the memo; that is the title of the memo: "Bin Laden Determined to Strike in U.S."

Let's look at the rest of the record.

President Bush botched the single best opportunity to capture bin Laden when we had him cornered in Torah Borah in Afghanistan, and yet the President removed intelligence personnel and predator aircraft from Afghanistan to put them in Iraq.

It was President Bush who 3 years ago pledged to smoke bin Laden out of his cave but has utterly failed to do so. Instead, by successfully defying the President, because we have been so bogged down in the quagmire of Iraq, bin Laden has become a folk hero across much of the Muslim world. He has attracted not only thousands of new recruits but dozens of imitators, new bin Ladens, forming their own terrorist organizations to attack America and Americans.

It was President Bush who diverted, as I said, our military and intelligence resources from the hunt of bin Laden in order to attack Iraq.

It was President Bush whose taunt of "bring it on" did indeed bring it on—a nationwide insurgency in Iraq, an urban guerrilla that has trapped our Armed Forces, as I said, in a quagmire.

It was President Bush whose unilateral approach on Iraq served to alienate many of our oldest allies and to turn world opinion against the United States.

It was President Bush whose invasion and occupation of the second largest Arab country has outraged much of the Muslim world and has been a recruiting bonanza for terrorism. Indeed, George W. Bush's policies—reckless and wrong—have been the best recruiting tool imaginable for al-Qaida.

This is an astonishing record of mistakes, misjudgments, miscalculations, and mismanagement. It is an astonishing record of George W. Bush again and again playing into Osama bin Laden's hands. It is sort of like watching the cartoon of Wile E. Coyote chasing the Road Runner, only it is not funny. It is a colossal tragedy that has put our Nation at even greater risk.

Ironically, President Bush's father, the first President Bush, warned against the folly of invading and occupying Iraq. On February 28, 1999, speaking to a group of Desert Storm veterans at Fort Myer, VA, he said:

> Had we gone into Baghdad—we could have done that, you guys could have done it, you could have been there in 48 hours—and then what? Whose life would be on my hands as the Commander in Chief because I unilaterally went beyond international law, went beyond the stated mission and said we're going to show our macho? We're going into Baghdad. We're going to be an occupying power—America in an Arab land with no allies at our side. It would have been disastrous.

That is not this Senator saying that; that is former President Bush in February 1999.

Now, of course, we heard the same pathetic warnings from Brent Scowcroft, James Baker, and other foreign policy specialists, but this President and his partner DICK CHENEY and their posse of neoconservative intellectuals thought they knew better. They reveled in words like "slam dunk" and "cakewalk." And so now the disaster Bush 41 warned against has become a reality under Bush 43.

President Bush repeatedly says that his No. 1 job is to protect the American people. But the view of professionals on the front line is that he has failed to do so.

The Iraq invasion has set back, rather than advanced, the war on terrorism and al-Qaida. Osama bin Laden remains at large. Our Armed Forces are bogged down in Iraq with casualties rising above 8,000 and are not available to respond to real threats to the United States. In the wake of the Abu Ghraib prison scandals, our moral authority and credibility on the world stage are at rock bottom.

I was watching former President Jimmy Carter, winner of the Nobel Peace Prize, at the Carter Center just a few days ago saying that he has visited 120 countries around the world, and he believes that at no time in the history of our country has our esteem, credibility, and moral authority been at such a low point.

Despite President Bush's loud threats toward the so-called "axis of evil" on his watch, North Korea has acquired nuclear weapons. Iran appears to be proceeding with impunity to develop its own nuclear arsenal. Again, this is an extraordinary record of mistakes, misjudgments, miscalculations, and missed opportunities.

As a consequence of the choices made by this President over the last 4 years, I believe today America is weaker, less secure, and more vulnerable. It is indeed time, past time, to change these policies.

I ask unanimous consent that at the termination of my remarks, two articles, "Growing Pessimism on Iraq," Wednesday, September 29, Washington Post, and an article appearing on September 28 in the New York Times, "Iraq Study Sees Rebels' Attacks as Widespread," be printed in their entirety in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibits 1 and 2.)

Mr. HARKIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator from Iowa has 3 minutes 40 seconds remaining.

Mr. HARKIN. I want to correct one other thing that was said this morning by the Senator from Arizona. He talked about the connections between al-Qaida and Iraq. He quoted Mr. Tom Kean speaking about that relationship, and I will quote, in its entirety, from page 66 of the report:

> The reports describe friendly contacts and indicate some common themes in both sides' hatred of the United States. But to date we have seen no evidence that these or the earlier contacts ever developed into a collaborative operational relationship. Nor have we seen evidence indicating that Iraq cooperated with al-Qaida in developing or carrying out any attacks against the United States.

Sure, it is true that al-Qaida had relationships with Iraq. They had relationships with Saudi Arabia. They had relationships in Egypt. They had relationships in a lot of countries. But as the report clearly shows on page 66, there was no operational relationship between al-Qaida and Iraq as determined by the Commission.

I yield back whatever time I have remaining.

EXHIBIT 1

[From the Washington Post, Sept. 29, 2004]

GROWING PESSIMISM ON IRAQ

(By Dana Priest and Thomas E. Ricks)

A growing number of career professionals within national security agencies believe that the situation in Iraq is much worse, and the path to success much more tenuous, than is being expressed in public by top Bush administration officials, according to former and current government officials and assessments over the past year by intelligence officials at the CIA and the departments of State and Defense.

While President Bush, Defense Secretary Donald H. Rumsfeld and others have delivered optimistic public appraisals, officials who fight the Iraqi insurgency and study it at the CIA and the State Department and within the Army officer corps believe the rebellion is deeper and more widespread than is being publicly acknowledged, officials say.

People at the CIA "are mad at the policy in Iraq because it's a disaster, and they're digging the hole deeper and deeper and deeper," said one former intelligence officer who maintains contact with CIA officials. "There's no obvious way to fix it. The best we can hope for is a semi-failed state hobbling along with terrorists and a succession of weak governments."

"Things are definitely not improving," said one U.S. government official who reads the intelligence analyses on Iraq.

"It is getting worse," agreed an Army staff officer who served in Iraq and stays in touch with comrades in Baghdad through e-mail. "It just seems there is a lot of pessimism flowing out of theater now. There are things going on that are unbelievable to me. They have infiltrators conducting attacks in the Green Zone. That was not the case a year ago."

This weekend, in a rare departure from the positive talking points used by administration spokesmen, Secretary of State Colin L. Powell acknowledged that the insurgency is strengthening and that anti-Americanism in the Middle East is increasing. "Yes, it's getting worse," he said of the insurgency on ABC's "This Week." At the same time, the U.S. commander for the Middle East, Gen. John P. Abizaid, told NBC's "Meet the Press" that "we will fight our way through the elections." Abizaid said he believes Iraq is still winnable once a new political order and the Iraqi security force is in place.

Powell's admission and Abizaid's sobering warning came days after the public disclosure of a National Intelligence Council (NIC) assessment, completed in July, that gave a dramatically different outlook than the administration's and represented a consensus at the CIA and the State and Defense departments.

In the best-case scenario, the NIC said, Iraq could be expected to achieve a "tenuous stability" over the next 18 months. In the worst case, it could dissolve into civil war.

The July assessment was similar to one produced before the war and another in late 2003 that also were more pessimistic in tone than the administration's portrayal of the resistance to the U.S. occupation, according to senior administration officials. "All say they expect things to get worse," one former official said.

One official involved in evaluating the July document said the NIC, which advises the Director of Central Intelligence, decided not to include a more rosy scenario "because it looked so unreal."

White House spokesman Scott McClellan, and other White House spokesmen, called the intelligence assessment the work of "pessimists and naysayers" after its outlines were disclosed by the New York Times.

President Bush called the assessment a guess, which drew the consternation of many intelligence officials. "The CIA laid out several scenarios," Bush said on Sept. 21. "It said that life could by lousy. Life could be okay. Life could be better. And they were just guessing as to what the conditions might be like."

Two days later, Bush reworded his response. "I used an unfortunate word, 'guess.' I should have used 'estimate.' "

"And the CIA came and said, 'This is a possibility, this is a possibility, and this is a possibility,'" Bush continued. "But what's important for the American people to hear is reality. And the reality's right here in the form of the prime minister. And he is explaining what is happening on the ground. That's the best report."

Rumsfeld, who once dismissed the insurgents as "dead-enders," still offers a positive portrayal of prospects and progress in Iraq but has begun to temper his optimism in public. "The path towards liberty is not smooth there; it never has been," he said before the Senate Armed Services Committee last week. "And my personal view is that a fair assessment requires some patience and some perspective."

This week, conservative columnist Robert D. Novak criticized the CIA and Paul Pillar, a national intelligence officer on the NIC who supervised the preparation of the assessment. Novak said comments Pillar made about Iraq during a private dinner in California showed that he and others at the CIA are at war with the president. Recent and current intelligence officials interviewed over the last two days dispute that view.

"Pillar is the ultimate professional," said Daniel Byman, an intelligence expert and Georgetown University professor who has worked with Pillar. "If anything, he's too soft-spoken."

"I'm not surprised if people in the administration were put on the defensive," said one CIA official, who like many others interviewed would speak only anonymously, either because they don't have official authorization to speak or because they worry about ramifications of criticizing top administration officials. "We weren't trying to make them look bad, we're just trying to give them information. Of course, we're telling them something they don't want to hear."

As for a war between the CIA and White House, said one intelligence expert with contacts at the CIA, the State Department and the Pentagon, "There's a real war going on here that's not just" the CIA against the administration on Iraq "but the State Department and the military" as well.

National security officials acknowledge that the upcoming presidential election also seems to have distorted the public debate on Iraq.

"Everyone says Iraq certainly has turned out to be more intense than expected, especially the intensity of nationalism on the part of the Iraqi people," said Steven Metz, chairman of the regional strategy and planning department at the U.S. Army War College. But, he added, "I don't think the political discourse that we're in the middle of accurately reflects anything. There's a supercharged debate on both sides, a movement to out-state each side."

Reports from Iraq have made one Army staff officer question whether adequate progress is being made there.

"They keep telling us that Iraqi security forces are the exit strategy, but what I hear from the ground is that they aren't working," he said. "There's a feeling that Iraqi security forces are in cahoots with the insurgents and the general public to get the occupiers out."

He added: "I hope I'm wrong."

EXHIBIT 2

[From the New York Times, Sept. 29, 2004]

IRAQ STUDY SEES REBELS' ATTACKS AS WIDESPREAD

(By James Glanz and Thom Shanker)

BAGHDAD, IRAQ, Sept. 28.—Over the past 30 days, more than 2,300 attacks by insurgents have been directed against civilians and military targets in Iraq, in a pattern that sprawls over nearly every major population center outside the Kurdish north, according to comprehensive data compiled by a private security company with access to military intelligence reports and its own network of Iraqi informants.

The sweeping geographical reach of the attacks, from Nineveh and Salahuddin Provinces in the northwest to Babylon and Diyala in the center and Basra in the south, suggests a more widespread resistance than the isolated pockets described by Iraqi government officials.

The type of attacks ran the gamut: car bombs, time bombs, rocket-propelled grenades, hand grenades, small-arms fire, mortar attacks and land mines.

"If you look at incident data and you put incident data on the map, it's not a few provinces," said Adam Collins, a security expert and the chief intelligence official in Iraq for Special Operations Consulting-Security Management Group Inc., a private security company based in Las Vegas that compiles and analyzes the data as a regular part of its operations in Iraq.

The number of attacks has risen and fallen over the months. Mr. Collins said the highest numbers were in April, when there was major fighting in Falluja, with attacks averaging 120 a day. The average is now about 80 a day, he said.

But it is a measure of both the fog of war and the fact that different analysts can look at the same numbers and come to opposite conclusions, that others see a nation in which most people are perfectly safe and elections can be held with clear legitimacy.

"I have every reason to believe that the Iraqi people are going to be able to hold elections," said Lt. Col. William Nichols of the Air Force, a spokesman for the American-led coalition forces here.

Indeed, no raw compilation of statistics on numbers of attacks can measure what is perhaps the most important political equation facing Prime Minister Ayad Allawi and the American military: how much of Iraq is under the firm control of the interim government. That will determine the likelihood—and quality—of elections in January.

For example, the number of attacks is not an accurate measure of control in Falluja; attacks have recently dropped there, but the town is controlled by insurgents and is a "no go" zone for the American military and Iraqi security forces. It is a place where elections could not be held without dramatic political or military intervention.

The statistics show that there have been just under 1,000 attacks in Baghdad during the past month; in fact, an American military spokesman said this week that since April, insurgents have fired nearly 3,000 mortar rounds in Baghdad alone. But those figures do not necessarily preclude having elections in the Iraqi capital.

Pentagon officials and military officers like to point to a separate list of statistics to counter the tally of attacks, including the number of schools and clinics opened. They cite statistics indicating that a growing number of Iraqi security forces are trained and fully equipped, and they note that applicants continue to line up at recruiting stations despite bombings of them.

But most of all, military officers argue that despite the rise in bloody attacks during the past 30 days, the insurgents have yet to win a single battle.

"We have had zero tactical losses; we have lost no battles," said one senior American military officer. "The insurgency has had zero tactical victories. But that is not what this is about.

"We are at a very critical time," the officer added. "The only way we can lose this battle is if the American people decide we don't want to fight anymore."

American government officials explain that optimistic assessments about Iraq from President Bush and Prime Minister Allawi can be interpreted as a declaration of a strategic goal: that, despite the attacks, elections will be held. The comments are meant as a balance to the insurgents' strategy of roadside bombings and mortar attacks and gruesome beheadings, all meant to declare to Iraq and the world that the country is in chaos, and that mayhem will prevent the country from ever reaching democratic elections.

In a joint appearance last week in the White House Rose Garden, Mr. Bush and Dr. Allawi painted an optimistic portrait of the security situation in Iraq.

Dr. Allawi said that of Iraq's 18 provinces, "14 to 15 are completely safe." He added that the other provinces suffer "pockets of terrorists" who inflict damage in them and plot attacks carried out elsewhere in the country. In other appearances, Dr. Allawi asserted that elections could be held in 15 of the 18 provinces.

Both Mr. Bush and Dr. Allawi insisted that Iraq would hold free elections as scheduled in January.

"The question is not whether there are attacks," said one Pentagon official. "Of course there are. But what are the proper measurements for progress?"

Statistics collected by private security firms, which include attacks on Iraqi civilians and private security contractors, tend to be more comprehensive than those collected by the military, which focuses on attacks against foreign troops. The period covered by Special Operations Consulting's data represents a typical month, with its average of 79 attacks a day falling between the valleys during quiet periods and the peaks during the outbreak of insurgency in April or the battle with Moktada al-Sadr's militia in August for control of Najaf.

During the past 30 days those attacks totaled 283 in Nineveh, 325 in Salahuddin in the northwest and 332 in the desert badlands of Anbar Province in the west. In the center of Iraq, attacks numbered 123 in Diyala Province, 76 in Babylon and 13 in Wasit. There was not a single province without an attack in the 30-day period.

Still, some Iraqis share their prime minister's optimism when it comes to the likelihood that elections, and a closely related census, can be carried out successfully amid so much violence. "We are ready to start," said Hamid Abd Muhsen, an Iraqi education official who is supervising parts of the census in Baghad. "I swear to God."

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, the Democratic leader, the managers of the bill, and the leadership on both sides have been in conversation over the last 30 minutes or so looking at the schedule for the bill that is on the Senate floor. It is a critically important bill. We have made good progress, and if we look at the way the day has been spent, it has been spent on very significant legislation. But if we project that out and look at the reality, we have 300 amendments that have been given to the managers and to leadership on a bill that we absolutely will finish before we depart.

We will finish reform of the executive branch, which is on the floor, and reform of the Senate, before we leave on October 8. There is also a lot of other business—the appropriations, the continuing resolutions, and the extensions.

With that recognition, we have 300 amendments. In a little bit, the Democratic leader and I will have a unanimous consent for a filing deadline tomorrow during the afternoon so that everybody will, as we said earlier this morning and late last night, get their amendments in, and language so that we can fully assess how many amendments we are going to really have to deal with. Our deadline that we set this morning at 10 did generate 300 potential amendments.

It is clear we are going to have to pick up the pace on issues that have been discussed thoroughly in committee. We are going to have to, in a very efficient way, have our managers deal with them on the Senate floor and go through the amendments in an orderly way. At some point it may be necessary for us to file cloture. It is not something we want to do, but if we file cloture we would still be able to have germane amendments introduced. That is not the intent, but unless we can work through the amendments, have the amendments submitted, have people come to the floor today, tonight, tomorrow, Friday, and Monday, it is something that at least we will have to consider. I say that, again, to give some sense of urgency that we need to have these amendments come forward. We need to see them, and we need to have the managers have the opportunity to debate them and vote on them expeditiously.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I add my voice of support for what the majority leader said. We want Senators who have amendments to come to the floor to offer them. As we get this filing deadline agreement, we are also going to ensure that Senators are protected. We know there is a backlog with the legislative counsel and that it will take a little time to draft them. So we will accommodate Senators with that practical consideration in mind, but we hope that Senators understand Friday is going to be a full day of work, and we need a lot of amendments offered on Friday.

We are going to have to have all of these amendments debated, and we will look at the circumstances at some point. I will support the cloture motion if we are not making adequate progress. So Senators need to offer their amendments, agree to time limits, and move this legislative process along.

We will get that filing agreement this afternoon, and Senators then will have the opportunity to be clearer as to their intention with regard to these amendments. It is not our desire to hold them precisely to the language of the amendment, but we need to know how many real amendments there are.

I support the majority leader's commitment to both the bill pending as well as to the organization of the legislative branch prior to the time we leave. Both of these matters have to be addressed, and I think as we continue to work as successfully as we have, we can accomplish this work before we leave. We just need the cooperation of all Members in that regard.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, we are making good progress. We will continue to come to the floor to give a perspective given the fact that we have so little time before we depart. Again, we are going to finish both the internal oversight as well as the external oversight before we leave because we need to keep working in an efficient, rapid, but obviously deliberative way. We both thank the managers for their tremendous job and leadership thus far.

The PRESIDING OFFICER. The Senator from Alabama.

AMERICAN CANNOT GO WOBBLY ON IRAQ

Mr. SESSIONS. Mr. President, I know we are in a political season, and I suppose that will impact our business in the Senate as we address the many issues that are before us. But the Senator from Iowa just made some comments about where we are in the war on terror that I think need to be discussed.

First, I remember when former President Bush called Maggie Thatcher to ask for her support for his action during the first gulf war. Saddam Hussein had invaded Kuwait and he asked for her support.

Maggie Thatcher said: Of course, Mr. President. Just do not go wobbly on me.

That phrase was discussed quite a lot at the White House. Everyone understood that once a commitment is made to do something like confront a tyrant like Saddam Hussein after he invaded the sovereign nation of Kuwait, that you could not go wobbly once action was undertaken.

Secondly, we spent weeks and months in this body discussing the problem of Saddam Hussein. I know my distinguished friend from Iowa was a military pilot and can appreciate the fact that our aircraft were being fired on over a thousand times as they enforced the no-fly zones over Iraq related to the U.N. resolutions that arose after Hussein's attack on Kuwait.

We were spending billions of dollars maintaining our aircraft in the region because we were concerned about Saddam Hussein. He was in violation of 16 U.N. resolutions, and we urged him to come clean several times. We gave him one last chance to join the civilized nations of the world. He was given those warnings in clear and unequivocal ways. This Senate discussed it and voted on it. We voted with a three-fourths majority to support the President and to authorize the President to make one final demand on Iraq and Saddam Hussein to renounce their weapons of mass destruction, to renounce their activities in violation of the U.N., and to demonstrate that he had complied with the demands of the civilized world.

Saddam Hussein rejected that opportunity, and we knew at the time if he did not comply, that hostilities would begin.

We are all grownups in this body and we knew what it meant when we voted. At the time, the distinguished junior Senator from Massachusetts and now the Democratic nominee for President voted for the resolution that authorized the President to commence hostilities. Now some want to go wobbly. They say that things are not going perfectly. Since we have an election cycle on, they believe they can just say anything they want even if it undermines our soldiers in the field or if it encourages the enemy. And I would add that these detractors will say that if anybody accuses them of harming the effort to defeat terrorism or complains about the impact to the morale of our troops in the field, why, they will just say it is free speech. They believe they can say whatever they want to.

Of course there is free speech. Any Senator in this body can come forth and say whatever they want to. I do not intend to impugn the motives of any who express their views about the hostilities in Iraq at this point. But I would just say this: Some things can hurt. When we have a Senator in an official hearing or on the floor of the Senate make statements before the world such as that the misbehavior that occurred and the illegalities that occurred in Abu Ghraib prison indicated that Saddam Hussein's prison had been "opened under new management," I suggest to you that Senator is subject to being criticized for it. That is because he was wrong, No. 1, and No. 2, it encouraged and gave fodder for those who want to complain that the United States is on a mission to harm the Iraqi people and not to establish a sovereign, free, prosperous government, which is what we want to do. That is our goal.

So it is legitimate that we express concerns about some of the statements made by colleagues. That is an honest debate. If people, in effect, think we have Saddam Hussein's prisons under new management, they have a right to say so. But I submit we have had hearing after hearing, and the evidence clearly shows it is not true. It is not correct. We ought not be saying such falsehoods on the floor of the Senate.

They say things are so bad in Iraq and we are worse off at home. However, Iraqi Prime Minister Allawi recently said:

> "It's very important for the people of the world really to know what we are winning. We are making progress in Iraq. We are defeating terrorists. Najaf, Samarra, Mosul, Basra are all live examples that a lot of progress has been made. And this is all because of the determination of the Iraqi people."

They say that the elections can't be held in Iraq. We have heard that argument. This is what Prime Minister Allawi said:

> "We are definitely going to stick to the timetable of elections in January of next year. We are doing our best to ensure that we meet the time of the elections. We are adamant that democracy is going to prevail, it is going to win Iraq. We are going to stick to this time, and I call upon the United Nations to help us in providing whatever it takes to make the elections a success in Iraq. January next, is going to be a major blow to terrorists and insurgents. Once we go through the democratic process, once we achieve progress towards democracy, the terrorists will be defeated."

So said Prime Minister Allawi.

Here is what the Iraqi people say. An International Republican Institute poll in Iraq showed this: 87 percent of Iraqis polled nationwide indicated they plan to vote in the January elections. Eighty-seven percent planned to vote!

Most observers understand that it is not good if people won't participate in an election. You would rather have them vote. Whichever side of an issue you prefer, you still want to vote. But a massive boycott of an election would be something that would be serious and cause us concern if people weren't interested in an election. But 87 percent said they intend to vote. Seventy-seven percent said that "regular, fair elections" were the most important political right for the Iraqi people. Seventy-seven percent said that.

Here is what the critics say: The U.S. went to war without a "broad and deep coalition," and this has "divided our oldest alliance, NATO."

But here are the facts. There are more Iraqi and non-U.S. soldiers on the ground stabilizing Iraq than there are U.S. forces. Besides the United States, there are 32 countries contributing approximately 25,000 soldiers to the coalition operating in Iraq; 15 of the 26 NATO countries have troops on the ground in Iraq. The Iraqi Government has approximately 154,500 soldiers and police forces on hand to provide security and stability throughout the country.

On 22 September, our NATO allies agreed to further implement the decision by the heads of state and government to increase the assistance to the Government of Iraq with the training of its security forces. General Patreus, commander of the 101st Airborne, is over there now. Actually, he was formerly the commander of the 101st. He led them in northern Iraq and Mosul, and he has now gone back to train Iraqi forces. He is a remarkable general with incredible capacity for work, and energy. I am confident that he will be successful.

I know there is much to be accomplished. We have a lot of high goals in Iraq. It is not an easy matter. It is going to be a tough battle, but we are making progress. We will prevail, and we must not go wobbly.

I yield the floor.

AMENDMENT NO. 3766

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, what is the pending business?

The PRESIDING OFFICER. The amendment of the Senator, No. 3766, is the pending business.

Mr. McCAIN. Mr. President, I would like to discuss my amendment. We are in some discussions right now with other staffs, and hopefully we may have an agreement that would then allow us to agree by voice vote to this amendment. But I want to talk about it because it is a very important issue. It is important to our first responders. It is important to our broadcasters. It is important to public safety.

There is a long history, going back at least to Oklahoma City, that the failure to have the ability to communicate costs the lives of innocent Americans. It really is not any more complicated than that.

I ask unanimous consent that a letter to me from the Association of Public-Safety Communications Officials-International, the Congressional Fire Services Institute, the International Association of Chiefs of Police, the International Association of Fire Chiefs, Major Cities Chiefs Association, Major County Sheriffs' Association, and the National Sheriffs' Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 28, 2004.

Hon. JOHN McCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR McCAIN, we are writing to express our strong support for your proposed amendment to S. 2845, the "National Intelligence Reform Act of 2004," to establish a firm date to provide additional radio spectrum for our nation's first responders.

As you know, police, fire, emergency medical and other public safety agencies face severe shortages of radio spectrum in much of the nation, and are often forced to operate on crowded radio frequencies that are incompatible with their neighboring agencies. Additional public safety spectrum would enhance our homeland security by promoting more interoperable radio communications, alleviating dangerous congestion on existing radio systems, and allowing for the implementation of state-of-the-art communications technologies to protect the safety of life and property.

In 1997, Congress required that certain television broadcast spectrum be reallocated for public safety use, but limited access to that spectrum until the uncertain end of the digital television (DTV) transition. Your amendment would establish a firm date of January 1, 2008, to make that already allocated public safety spectrum available nationwide, and end the DTV transition overall as of January 1, 2009. The amendment would also provide a source of funding for future interoperable radio communications, and create an opportunity for further public safety spectrum allocations.

We urge the Senate to reject amendments to your proposal that would add uncertainty for public safety spectrum availability. Without a firm date, state and local governments will not be able to proceed to plan, fund, or construct new interoperable radio communications systems.

Thank you for your continued support of our nation's first responders.

Sincerely,

GREGORY BALLENTINE,
President, Association of Public-Safety Communications Officials-International.

STEVE EDWARDS,
Chairman, Congressional Fire Services Institute.

CHIEF JOE POLISAR,
President, International Association of Chiefs of Police.

CHIEF ROBERT A. DIPOLI,
President, International Association of Fire Chiefs.

CHIEF HAROLD HURT,
President, Major Cities Chiefs Association.

SHERIFF MARGO FRASIER,
President, Major County Sheriffs' Association.

SHERIFF AARON D. KENNARD,
President, National Sheriffs' Association.

Mr. McCAIN. Mr. President, I will quote from some of the letter. It says:

> We are writing to express our strong support for your proposed amendment to S. 2845 . . . to establish a firm date to provide additional radio spectrum for our Nation's first responders.

What is the situation today? The situation today is that there are television stations that are on frequencies, channels 60 through 69, that will remain there forever under the present situation. In other words, in an appropriations bill—not through the Commerce Committee but in an appropriations bill—language was included that said that the broadcasters do not have to achieve a transition from analog to digital until 85 percent of the viewing audience in America had access to HDTV.

In testimony before the committee, Chairman Powell of the Federal Communications Commission said that is never. That is never, he said—or decades. We have to get this spectrum freed up so we will have it available for all of our first responders so in the case of a disaster or an attack, they will have the ability to communicate with each other.

As the letter points out, in 1997, and that was 7 years ago:

> . . . Congress required that certain television broadcast spectrum be reallocated for public safety use, but limited access to that spectrum until the uncertain end of the digital television transition.

The problem is, for 7 years, since we assigned that date, we have not made that transition and, as I stated, if Chairman Powell is correct, we will never make that transition to the point where the analog spectrum would have to be returned.

The letter from these public safety and first responders states:

> We urge the Senate to reject amendments to your proposal that would add uncertainty for public safety spectrum viability. Without a firm date, State and local governments will not be able to proceed to plan, fund or construct new interoperable radio communications systems.

That is the heart of it.

I repeat that the reason I am proposing this amendment is because the 9/11 Commission stated this as one of their urgent recommendations that needed to be acted upon.

I have been made painfully aware over the years of the power and influence of the National Association of Broadcasters. In 1997, they got billions of dollars worth of digital spectrum. They have sat before our committee and promised that by 2003 or 2004 all of it would be returned—all of their analog spectrum would be returned. And, of course, they were able to prevail time after time. I am not going to waste the valuable time of this body describing how they were able to do that. But we are now facing a situation where we have to get this spectrum freed up. We have to do it.

Some will argue it is not enough. We have had testimony before our committee that we need more spectrum for public safety; that we need more for first responders. But right now we don't have enough. Right now. We need to clear this up.

Let me also point out who is sitting on the spectrum channels 60 to 69. Unfortunately, a lot of it is Hispanic television. Some of it is religious broadcasters, and by moving them off that spectrum it obviously would be somewhat discriminatory. The spectrum is being used, as I mentioned, in television broadcasting. This amendment would authorize auctioning off the analog spectrum that is not used and the proceeds from that would be used to purchase set-top boxes for those individuals or families who are still only receiving over-the-air television.

I remind you again why the spectrum is so critical. It is not a new issue. In 1995, the Federal Communications Commission and the National Telecommunications and Information Administration established a Public Safety Wireless Advisory Committee to evaluate the needs of Federal, State, and local public safety officials through the year 2010. The committee included distinguished experts from public safety agencies, equipment manufacturers, commercial service providers, and the public at large. This organization filed its report on September 11, 1996, making key recommendations. The first recommendation was stated quite directly: "More spectrum is required."

The committee explained, "In the short term"—talking about 5 years, talking about 1996 when their report was issued—"approximately 25 Megahertz of new Public Safety allocations are needed. The present shortages can be addressed by making part of the spectrum presently used for television broadcast channels 60–69 available as soon as possible."

That was back in 1996.

Among other recommendations, the PSWAC noted, "Funding limitations will remain a major obstacle in the adoption of needed improvements in Public Safety communications systems. At a time when government budgets are tight, alternative methods of funding future Public Safety communications systems must be identified. Otherwise the substantial benefits afforded by technology will not be realized."

The recommendations of this distinguished commission are as true today as they were 7 years ago. And yet we have continued to fail to deliver this spectrum to public safety.

In 1997, I chaired a hearing examining public safety spectrum issues. My committee heard first-hand accounts of the troubles experienced a the Oklahoma City bombing. We heard chilling testimony from Oklahoma City Council Member Mark Schwartz about the day of the bombing. He said, "We had our trailer command post, the State, the county, the Feds: We were next door to one another, because we could not communicate in any other way in our crisis." He told the story of standing with an FBI agent whose cell phone was not operating. The only way the agent could communicate with Washington was through a friend of Mr. Schwartz in Florida who had two phone lines in his house. The friend used one line to talk to Oklahoma City and the other line to talk to the FBI in Washington. Mr. Schwartz explained, "You could not use your cell phones, because they were jammed. Southwestern Bell at this time went down. . . . This is why this additional public safety spectrum has to be in place. Because it means saving lives. And I do not care where it is in this country, the public is entitled to it."

That hearing was 7 years ago. We are no better off today. The 9/11 Commission report made the following observation: "The inability to communicate was a critical element at the World Trade Center, Pentagon, and Somerset County, crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the local, State, and Federal levels remains an important problem." Nothing has changed.

What happened during those 7 years? Congress got the message, at least partially, following the PSWAC report. In the Balanced Budget Act of 1997, Congress allocated 24 megahertz to public safety. Big win for public safety, right? Wrong. The 24 megahertz was just an empty promise. Why? Because broadcasters insisted on an exception to this requirement. That exception continues to exist today with no end in sight. Under current law, public safety will not receive access to the spectrum until completion of the digital television transition. I asked FCC Chairman Powell at a hearing earlier this month, "if neither the FCC nor Congress took any further action, when do you think the digital television transition would be complete? He replied, "decades."

We cannot wait decades. We cannot stand by while another Oklahoma City or Pentagon or New York incident occurs hoping for broadcasters to act in the best interests of the public rather than the best interest of themselves. We must act now.

The Wall Street Journal characterized the issue quite well on Monday: "You would think that these days, Congress would be on a terrorism high alert, paying any price to keep the homeland secure. But there's at least one chink in Washington's antiterror resolve, as was evident in the U.S. Senate last week. It involves the broadcasting lobby and the high-stakes politics associated with the transition to digital TV. Most people have heard about big D.C. lobbies like the ones for tobacco and guns. Compared with the broadcasters, though, they're but a few suburban moms writing letters. Multichannel News, a trade paper, says the broadcast industry is 'so potent it's considered immune from the laws of political physics.'"

The article proceeds to describe the SAVE LIVES Act calling it "an easy and obvious solution." But the article aptly describes the fate of the bill last week in the Senate Commerce Committee: "But the broadcasting lobby liked virtually nothing about the bill, and senators couldn't muscle up the political will to pass it. The Commerce Committee voted 13–9 against the McCain proposal, approving a vastly watered-down alternative. Only four channels would have to be returned by 2008, and even that handover could be delayed indefinitely if broadcasters could persuade the FCC that doing so would cause "consumer disruption." The National Association of Broadcasters, the main lobby group, says it is only concerned about preserving the ability of millions of Americans to watch free broadcast TV; it also says it is moving as quickly as it can toward digital television. Maybe. It's also possible that Congress, in doing the broadcasters' bidding, has managed a striking bifecta: a ridiculous technology policy that leaves it open to the charge of being soft on terrorists.

I ask my colleagues: If there is another disaster—and I pray every single night that there never is—whether it be a terrorist attack, whether it be a natural disaster, with which we are now becoming unfortunately more and more familiar, will we be able to tell the first responders that we have taken every possible action to give them the ability to communicate with one another to save lives?

I hope I can work out an agreement with my friend from Montana, who has a different philosophical view on this issue, which I respect. I hope I can work out an agreement with him so that we can move forward and close this loophole that has been created, at the same time understanding there are legitimate concerns that broadcasters have in arranging for this transition to take place. But we cannot have it be endless.

I yield the floor.

Mr. BURNS. Mr. President, the Senator from Nevada has asked for 5 minutes. I will let him have his 5 minutes now and I will follow him.

The PRESIDING OFFICER. Is there objection?

Mr. LEAHY. Reserving the right to object, and I will not object, is that 5 minutes on the amendment or on another matter?

Mr. ENSIGN. On the amendment.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. ENSIGN. Mr. President, very briefly, I rise in strong support of what Senator MCCAIN is trying to do. This underlying bill is acting on a lot of the proposals the 9/11 Commission has brought forward. It has recognized some serious problems we face in this global war on terrorism and has asked Congress to address those—at least some of those problems—in this bill. Senator MCCAIN has tried with this amendment to address some more of those problems.

Frankly, we do have a problem with first responders. They do not have the spectrum they need to be able to communicate properly during disasters. We have seen that a few times in the past. The 9/11 Commission has strongly recommended we take the kind of action Senator MCCAIN is trying to take today and free up the spectrum from the broadcasters, the spectrum they have agreed to give up next year—frankly, the hard deadline Senator MCCAIN has put forward is actually years out from that—and the broadcasters are now saying they cannot do that. It would be too expensive for them and cause all kinds of problems.

The broadcasters have had this spectrum for free for a long time. In the agreement—forgetting the digital spectrum—they were supposed to get off of the analog spectrum, which is part of the spectrum we want to give to some public safety groups for better communication.

This is not just a question of radios being able to work. In the future, with the technology that is out there, we are talking about video, about broadband over some of this spectrum that will make our first responders much more effective in the jobs they are doing.

The amendment Senator MCCAIN has brought forward will not only help first responders in the case of a terrorism attack, but it will also do a lot of good things for our economy. Freeing up this much spectrum will probably raise, according to estimates I have seen, around $50 billion for the U.S. Government to help with the deficit. It will stimulate investment in America. It will create jobs.

There will be incredibly exciting new technologies brought forward that we cannot imagine today if this spectrum is freed up.

It also goes to the heart of American competitiveness. We are falling behind on a technology front from the rest of the world. We have to deploy broadband widely across America. Spectrum is a very important part of deploying broadband, and it is critical that we move this process forward, that we not let a special interest group block what will benefit virtually every American.

I rise in strong support of the McCain amendment. I am hopeful we can get this worked out, if not on this bill, on a bill in the near future.

I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Montana is recognized.

AMENDMENT NO. 3773 TO AMENDMENT NO. 3766

(Purpose: To ensure the availability of electromagnetic spectrum for public safety entities)

Mr. BURNS. Mr. President, we do not want to prolong this debate because we have already discussed it in the Commerce Committee. I have a second-degree amendment that tightens that loophole down a little bit, but I want to set the record straight.

The 9/11 Commission recommendation read this way:

> Congress should support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes.

That is all it said. There is spectrum available if the FCC would only assign it.

When we accelerate the transition to digital we are taking the small market television people almost off the air. In fact, some would say that we are turning off about 73 million TV sets. As long as you set a hard date on a transition, those who would supply the equipment for that transition that you have to have, it seems as though the prices never come down.

I have been in the market a little bit. I might have rode in town on the last load of pumpkins, but I didn't fall off the load and break my head. As long as there is a date there, the price will stay high and some of the little stations will never be able to make the transition.

I have the smallest TV market in the United States called Glendive, MT. It is 258th in all the markets. They cannot afford that. In 1998, I sent a check down there to buy the time when I was running for the Senate, and the buy was the biggest buy they had all year. They called me back and wanted to know if I wanted them to send the deed to the station. They thought I had bought the station.

That is what we are looking at. Do we want to take off these little stations? We are talking about public safety—free over the air. Television does weather, a lot of announcements and public service in our local news. How many people could not take their eyes off the televisions in this market whenever these twisters were going around in advance of and behind all of the hurricanes and the leftover hurricanes that come through this area. Do we want to lose those free over-the-air broadcasters? I don't think so, not with the service they provide to our local communities.

We have talked with the first responders, and we have done a lot of work with the first responders. We have a bill on the Senate floor today called E 9-1-1, and the heart of that bill is to make sure that every time you pay your phone bill you pay a little tax, and that money goes to the States so that these communication centers can upgrade, modernize. When you dial 9-1-1 on your cell phone, they can locate you as if you dialed in on a wired line.

I think that is a no-brainer. It only took 4 years to pass the original bill. Now we have to make sure the money goes to the right place. Senator CLINTON of New York and I have been working on that for 2 years. And it still hasn't passed.

This underlying bill we are talking about, as recommended by the 9/11 Commission, this legislation should not even be on this bill because they are talking about intelligence. They are talking about if something bad were to happen in this country. We are talking about after it happens, and that is a whole new kettle of fish.

I am offering a second-degree amendment in the form of a substitute. Basically, it tightens up the loophole that the Senator from Arizona is so concerned about.

I will read it into the RECORD:

> (B) to the extent necessary to avoid customer disruption but only if all relevant public safety entities are able to use such frequencies free of interference by December 31st, 2007, or are otherwise able to resolve interference issues with relevant broadcast licensee by mutual agreement.

That is what we are saying, that the first responders have to ask for it. I will tell you, and I agree with the Senator from Arizona, we are going to lose some stations—and those channels, some of them are minority stations—as a result of this legislation.

I appreciate where the Senator from Arizona wants to go, but I will tell you, market forces usually do a better job in transitioning us into a new era than hard and fast dates do. They do it in an economical sense and let everybody, all competitors, compete and survive in the marketplace.

We know there is going to be demand for high-definition television. I can remember, in 1991, going to the Consumer Electronics Convention in Las Vegas. Do you know what they wanted to do? They wanted the Government to set the standards of high-definition television. My message then was: You do not want the Government to set standards, because when we put them in law, they are there for a long time. Your competition is international. You set the standards. The industry sets the standards, the standards in which they can compete and still make the transition to and use the new technologies that are to come.

That is basically what we are talking about. So I offer this amendment in the form of a substitute and ask for its adoption.

I yield the floor.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. Mr. President, I presume we are about ready to perhaps dispose of this amendment.

The PRESIDING OFFICER. Is the Senator from Montana sending an amendment to the desk?

Mr. BURNS. I can do that.

Mr. LOTT. Mr. President, while the amendment is being sent to the desk, let me say I appreciate the way these two Senators and all involved have worked this out. I think this is a suitable arrangement. The spectrum issue and its availability to first responders is very important. But this loophole was an opportunity for the spectrum issue to be avoided, perhaps in perpetuity.

I think the language we have here is reasonable language. I commend my colleagues for being willing to work through it where we will not have an extended debate through the afternoon, which is the right thing to do.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I join with the Senator from Mississippi in thanking and congratulating Senator MCCAIN and Senator BURNS for this agreement. I also thank Senator LOTT for his part in securing this agreement. I know he was very helpful. They really reached not only an amicable but a meaningful compromise on how to accomplish one of the goals of the 9/11 Commission, which in its report describes the consequences of the inability of public safety officials to communicate at the World Trade Center, the Pentagon, and in Pennsylvania.

The Commission recommended, specifically, that the Congress "support pending legislation which provides for the expedited and increased assignment of radio spectrum for public safety purposes."

Senator MCCAIN offered an amendment. The potential existed not only for disagreement about it but for very long debate which would have made it hard for the Senate to move forward expeditiously on the urgent underlying legislation. Senator BURNS and Senator MCCAIN have reached an agreement which is meaningful. It gets something done. I might say, I hope and believe that it may set a precedent for other amendments pending.

There are a lot of people who have said we face some intractable issues on this bill, but here we see clear evidence we can work through these issues and, in that sense, set a precedent for how we can work through the other pending issues on this bill.

I thank everyone involved. I will strongly support the amendment.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Arizona.

Mr. MCCAIN. Mr. President, I ask unanimous consent that the Burns amendment be proposed as a second-degree perfecting amendment to the McCain amendment.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCAIN. I think that clears up the parliamentary situation. So we are now considering the Burns second-degree amendment to the McCain amendment.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Montana [Mr. BURNS] proposes an amendment numbered 3773 to amendment No. 3766.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. MCCAIN. That clears up the parliamentary situation.

I thank my friend from Montana. I know how involved he has been on this issue. I was referring back to a hearing we had in 1997 on this issue. I do thank him. This compromise is certainly not what he wanted and it is not what I wanted. I also thank Senator LOTT for his good offices in helping, as well as the cooperation of the staffs, as well as that of Senator HOLLINGS and his staff.

Again, this is not what I wanted. This is not what Senator BURNS wanted. But this is a way to achieve the primary recommendation of the 9/11 Commission, which is to free up spectrum for first responders.

I will not quote again because I do not have it right here, but it is important we get this spectrum to our public safety and first responders so they will be able to communicate in case of a disaster or attack.

The compromise amendment modifies my proposal by eliminating the requirement that all broadcasters vacate the analog spectrum by a date certain. Significantly, this compromise still provides the certainty that public safety was seeking, that they will receive the spectrum they were promised in 1997 by January 1, 2008.

This was not my preference on how to proceed. I never believed in treating broadcasters differently. However, this amendment does so by requiring broadcasters on channels 62 through 69 to vacate their spectrum if there is a bona fide request made by public safety. The NAB is supporting this amendment and has decided to treat its members differently.

This approach has been agreed to by Senators BURNS, HOLLINGS, and myself. Again, it was not my preference to proceed in this discriminatory manner, but in the interest of ensuring passage this year, I thought this was a positive step for public safety. However, I remind my colleagues this disparate treatment should be reviewed by the FCC this year.

The FCC can remedy this discriminating treatment by completing its work toward ending the DTV transition. I urge the FCC to do so. I also urge the incoming chairman, Senator STEVENS, and Chairman BARTON of the Commerce Committee in the House to review this discriminatory treatment and the DTV transition upon Congress's return in January.

Lastly, I remind my colleagues that this approach does not provide public safety the much needed money for equipment or consumers, a subsidy to ensure all over-the-air viewers can continue to view television. It was not my preference to strand public safety or consumers in this manner. I hope in the near term Congress will readdress this need to support public safety equipment funding. I thank my colleagues.

Mr. President, I do not believe there would be any further debate. I think the Senator from Montana would agree to have a voice vote.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Arizona, the Senator from Montana, and the Senator from Mississippi for working on this issue. I very much appreciate that. I urge adoption of the amendment by a voice vote.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no further debate, without objection, the second-degree amendment is agreed to.

The amendment (No. 3773) was agreed to.

The PRESIDING OFFICER. Is there further debate on amendment No. 3766, as amended?

If not, without objection, the amendment, as amended, is agreed to.

The amendment (No. 3766) was agreed to.

Ms. COLLINS. Mr. President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3774

Mr. MCCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself and Mr. LIEBERMAN, proposes an amendment numbered 3774.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. MCCAIN. Mr. President, on behalf of myself and Senator LIEBERMAN I propose an amendment that includes a number of the national preparedness provisions recommended by the 9/11 Commission and is similar to the related proposal we introduced as part of S. 2774 on September 7. It does not address the issue of homeland security grants or spectrum allocation, as those issues will be addressed separately. I believe that this amendment will be non-controversial, and I hope that my colleagues will support it.

One of the lessons that we learned from the terrorist attacks of September 11 is that not only was our country not prepared to prevent the terrorist attacks, but we were not adequately prepared to immediately respond to the attack. One of the fundamental lessons learned is that we need to do more to prepare our first responders and the general public to respond to a terrorist attack.

The stories of the New York City Police Department not being able to communicate with the New York City Fire Department have led serious efforts to increase the amounts of money devoted to increasing interoperability. Lives of the brave men and women of the fire department and the people working at the World Trade Center were lost during the terrorist attacks due, in part, to a lack of communication and the lack of a coordinated strategy to respond to large scale disasters. We must continue to work to ensure that we equip our first responders with the equipment and training necessary to ensure both their safety and their ability to carry out their critical missions.

The Commission's report emphasizes the importance of teamwork, collaboration, cooperation, and the involvement of key decisionmakers. Their recommendations build upon these themes. The report recommends that emergency response agencies nationwide should adopt the Incident Command System to ensure that there is a command structure in place when responding to an emergency. This amendment expresses the Sense of Congress that the Secretary for Homeland Security require homeland security grant applicants aggressively implement the ICS and unified command systems. The amendment also would follow the Commission's recommendation to remedy the long-standing liability and indemnification impediments to the provision of mutual aid in the National Capital Region.

Consistent with the recommendations, the amendment also would direct the Secretary of Homeland Security to work with the Federal Communications Commission, the Secretary of Defense, and State and local government officials to encourage and support the establishment of consistent and effective communications capabilities in the event of an emergency in a high-risk urban area. The Secretary is also directed to work with the Secretary of Defense to plan for supplying additional back-up communications support in the event of an emergency.

As pointed out by the 9/11 Commission, the private sector controls approximately 85 percent of the critical infrastructure in the Nation, and the report therefore places particular emphasis on the importance of private sector preparedness. The Commission report endorses the American National Standards Institute, ANSI, and National Fire Protection Association, NFPA, voluntary Standard on Disaster/Emergency Management and Business Continuity Programs. The amendment would direct the Secretary of Homeland Security to establish a program to promote private sector preparedness for terrorism and other emergencies, including urging companies to adopt this ANSI/NFPA standard.

In striving to protect our Nation from the threat of terrorism, we must continuously analyze our weaknesses and prepare for the threats of the future. This amendment directs the Secretary of Homeland Security to fulfill this important responsibility by reporting to Congress regularly on his work to complete vulnerability and risk assessments, and the adequacy of the government's plans to protect our Nation's critical infrastructure.

As our Nation continues to stand vigilant against the threats of future terrorist attacks, this amendment takes on additional meaning. Despite all the work done since September 11, it is likely that we will be struck by terrorists again. We must continue to work to ensure that we are ready to respond to any attack. This amendment strives to get us closer to that goal.

Again, I believe that this amendment should be noncontroversial, and I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I commend the Senator from Arizona for his amendment. It would implement five important recommendations of the 9/11 Commission that would improve our national preparedness. This amendment would support efforts underway to ensure that Federal, State, and local entities all use what is known as the incident command system. I know that our first responders in Maine are leaders in the Nation in using and training with this system. They have told me how critical it is for effective response to terrorist attacks for there to be a working command structure in place. This can only be accomplished with training and organization before an attack or other such emergency.

Senator MCCAIN's amendment would enable the first responders protecting our Nation's Capital to save lives regardless of which side of the Potomac they happened to be on. It does that by establishing an interstate mutual aid compact in the Washington, DC area. It would encourage coordination and communication in urban areas. It would encourage private sector preparedness and help private industry to be better prepared for an attack as well. It would ensure that a nonregulatory, voluntary program be established to promote preparedness within the private sector, using a consistent methodology to address preparedness.

Finally, it encourages the Department of Homeland Security to take a hard look at critical infrastructure, which the Department is already doing, and report to Congress about its findings.

I urge my colleagues to accept the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am proud to be a cosponsor of this amendment with Senator MCCAIN. It is part of legislation that we introduced early in September, along with Senators SPECTER and BAYH and others, to implement all the recommendations of the 9/11 Commission. This definitely complements the core of the proposal that Senator COLLINS and I and the members of the Governmental Affairs Committee made to the full Senate.

The underlying bill would make historic changes to reform our intelligence community to do the best job we possibly can of knowing where our terrorist enemies are, what they are planning, and to strike at them before they can strike at us based on that intelligence.

We have to be prepared for occasions when terrorist attacks may succeed. That is exactly what this measure is all about. It is preparing our local communities to join in the prevention of attacks and then to improve the public and private infrastructures to be ready to respond in the best possible way.

The 9/11 Commission recognized that even big cities with first responders and public service systems that are highly well regarded can be overwhelmed by a terrorist attack as we saw on September 11. That is why this amendment would encourage people to come together, to work together to coordinate the capabilities of each of their communities into a greater unified force.

This amendment would, therefore, help promote integrated emergency command systems that give an array of response agencies at the local level clear roles and leadership in the event of a crisis.

Specifically, it encourages the Department of Homeland Security to condition its terrorism preparedness grants on evidence that the communities are adopting a so-called incident command system, a coordinated system which I have seen in effect in communities in Connecticut and around the country.

The amendment also calls on the Department of Homeland Security to help create emergency community capabilities in urban areas that are most likely to be targeted for terrorist attacks. This is the complement to the agreement between Senators MCCAIN and BURNS we just adopted.

Finally, the amendment urges the Secretary of Defense to regularly report on the plans and strategies of NORTHCOM, the northern command, the new command designed to defend, through the military, the U.S. homeland. We want to know more about the role envisioned for NORTHCOM, to ensure that the unique capabilities of the DOD are well organized, prepared, and available should the President need to activate them for the defense of our homeland.

Together these provisions are going to bolster our defenses against terrorism, even as the underlying bill—if I can put it this way—works to strengthen our offense, which is the offense of the best, most coordinated intelligence system we can have.

I strongly urge my colleagues to support this amendment.

Before I yield the floor, if there is no further debate, I believe this is a noncontroversial amendment, though a substantial one, and I urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, without objection, the amendment is agreed to.

The amendment (No. 3774) was agreed to.

Mr. LIEBERMAN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Hawaii is recognized.

Mr. INOUYE. Mr. President, I rise this afternoon to address the question of intelligence reform and the future of our national security establishment.

I believe this is the single most important issue to be addressed by the Congress this year. Today, the Senate is considering legislation which would overturn the current structure of the intelligence community, primarily in response to the recommendations of the Commission established to review the tragedy of 9/11.

While I agree that improvements are needed, I urge all of my colleagues to approach this matter very cautiously. We live in interesting and very dangerous times. Many felt that with the collapse of the Soviet Union we had entered into a new era of world peace. I think most of us here recall that we, the President and the Congress, immediately proceeded to claim a peace dividend, and we sought to reap its benefits by cutting back on national security spending. Perhaps it was the right thing, in a world that had indeed fundamentally changed, to reduce our national security spending. Important programs in both defense and intelligence were curtailed.

In hindsight, some now question why certain areas of the budget were reduced. As the Cold War ended, it was clear we needed to review our national security programs. For 45 years, our defense and intelligence capabilities had keenly focused on the Soviet Union. We had devised weapons systems, strategies, and intelligence capabilities, all designed to counter that threat. Since the fall of the Berlin Wall, our leaders have been working to adjust the focus of our national security apparatus to de-emphasize certain elements of our strategy and accentuate others. These changes have taken a long time and some have met resistance. Those of you who know the military history might recall that during World War I, with the advent of tanks and other motor vehicles, it became apparent that the horse cavalry was obsolete; it simply had no place on the 20th century battlefield. Yet while that war ended in 1917, it took until the 1930s for the Army to completely eliminate the horse cavalry from its ranks.

In his highly acclaimed account of the Cuban missile crisis, "The Essence of Decision," Graham Allison explains how President Kennedy was surprised when Khrushchev wanted to negotiate the removal of our missiles from Turkey, while he removed missiles from Cuba, but President Kennedy had already directed that the Turkish missiles be removed.

After 42 years in the Senate, I am aware of how frustrating it can be to change the massive national security bureaucracy. It has frustrated the reformers in those agencies who recognize what needs to be done. Each Secretary of Defense and CIA Director since 1990 has worked to change the emphasis of these agencies from a Cold War focus, and they are succeeding, albeit very slowly.

The Congress can legislate changes, but that is only half the battle. As President Kennedy discovered, those who have to implement these changes must do so. We should not be fooled into thinking this bill will be fully implemented, unless it does right by the agency it seeks to change and is supported by them. As written, I do not believe this bill meets that test.

It is clearly our responsibility to make constructive recommendations that can lead to improvements in our national security bureaucracy. That is what the people expect of us. We must be sure that the bill we pass is in fact constructive and will not create greater problems than it solves. If we pass legislation that fundamentally alters the current intelligence structure, we can ensure that it will lead to a period of several years during which the new intelligence community will experience growing pains.

Furthermore, if, in our attempt to strengthen the control of the head of intelligence, we disenfranchise those it is supposed to support, the impact of this bill will clearly be adverse. I understand the frustrations of my colleagues and of all Americans who suffered because of 9/11—those who lost loved ones in particular, but in reality all Americans because our lives were changed by that tragedy.

Every Member of Congress wants to improve our defenses against any further terrorist attack. I say to each of my colleagues again, what is most important, what is absolutely critical is that we make changes that are positive, that improve our national security structure, and that do not have unintended consequences that could jeopardize our security.

We all recognize that we face a new enemy, one that knows no borders and operates beyond the norms of civilized society, but we also know that we have 130,000 troops standing in harm's way, who face a threat significantly different than the one we face here at home.

The new national security system we create must allow us to meet both of these challenges, as it must be able to protect us from the proliferation of weapons of mass destruction and from the threats of nations that might seek to harm us, our allies, or our interests around the world.

I often remark that we have the greatest military in the world, perhaps in the history of mankind. Our young men and women who put on the uniform of this country serve us magnificently. Let me remind you that it is only 1 percent of our citizens who serve in our Armed Forces to protect the remaining 99 percent of us. We are truly in their debt.

It is for them that I strongly support a robust budget to strengthen defense every year. It is also for them that we must ensure we do nothing to weaken the support they get from the intelligence community.

I would like to note that, in addition to our military, our Nation is lucky to be served by the men and women in our intelligence community.

They represent the best in public service. There are those who have criticized our intelligence community since 9/11, but the men and women in this field are truly dedicated, patriotic Americans. In seeking to change how we manage intelligence we must be sure that we remember those who serve in both of these communities.

We are focusing on intelligence reform in this bill because there is need for further improvement. The tragedy of 9/11 and the faulty intelligence which had many believing that Iraq had weapons of mass destruction demonstrate that our system is not perfect. It was exactly these problems which led the 9/11 Commission and many others to call for reforming intelligence.

Like all Americans I commend the Commission for its work. It did a masterful job of reviewing the facts, combing through the massive data, and presenting the results in clear and concise prose. Their report provides a great reconstruction of the events of 9/11 and why it occurred. However, some not that the conclusions they draw may not be fully justified by the facts they uncovered.

Last week, the Appropriations Committee received testimony from several expert witnesses. We heard from a distinguished jurist, Judge Richard Posner, who studied the 9/11 Commission report and was disturbed by its recommendations. He concluded that the Commission went way beyond the evidence presented.

The Commission contends that we had an intelligence failure, that it was a systemic problem as opposed to several mistakes being made by our intelligence community. They blame it on a failure to connect the dots and a lack of imagination.

In their analysis, and also cited by the Committee, for example, they note that several terrorists met in Malaysia and that a few proceeded from there to the United States and took part in the attack on 9/11. They conclude with hindsight that the CIA should have recognized that these terrorists were linked to the bombing of the USS *Cole* and should have informed the FBI and the State Department about the meeting.

It is this type of evidence which the Commission and the Governmental Affairs Committee both cite as the justification for an overhaul of our intelligence infrastructure.

We all wish that our analysts would have been prescient enough to recognize the relationship among these terrorists, and their connection to the *Cole* bombing, and the importance of the Malaysian meeting.

We all wish that these same analysts would have made that information available to the FBI and State Department where there exists a possibility that it would have triggered an investigation of their movements here. But I for one believe it would have taken a lot of luck for that to have happened—more than simply connecting the dots or having better imagination.

Consider this point. It has been more than 3 years since the attack on our Nation. In that time, we have devoted billions of dollars and we have sacrificed many young lives in the war on terrorism, but as far as we know, Osama bin Laden remains hidden from view directing the farflung al-Qaida network.

Would anyone seriously claim that we have not worked hard enough to connect the dots since 9/11?

Intelligence is a tough business. Like me, many of our colleagues have been involved in intelligence oversight for the Congress. I am not telling them something new.

We have witnessed advances in communications and in command and control and other technologies which have revolutionized intelligence. But, with all the highly sophisticated tools in our arsenal, we still can not find Osama.

Earlier this year, former CIA Director Tenet testified to the Congress that it would take another 5 years before we had successfully rebuilt an inadequate human intelligence capability in the war on terror. Some immediately held up the Director's statement as an indication that we have not addressed human intelligence requirements. And that is simply not the case.

For 50 years we promoted human intelligence, but our focus was on defeating international communism in places where it was taking root, primarily in Europe, Asia, and Latin America. In some cases it takes a generation to build a human intelligence network. When we took our peace dividend, we set back the efforts to refocus human intelligence on newer threats.

When the Director says it will take another 5 years, it is not because we haven't been responsive since the rise of al-Qaida. Should we have been working on this more vigilantly? Maybe. But I ask you: Who among us knew at the end of the Cold War that the greatest challenge we were likely to face in the future would come from the son of a Saudi construction magnate?

Had we known that at the time of Desert Storm, could we have convinced all of our colleagues that there should be no peace dividend because we needed to prepare for al-Qaida? We all know the answer to that.

So I ask you: How will changing the intelligence structure solve this dilemma? Will it allow us to grow our human intelligence capability overnight? Obviously not, but it could distort the working relationship among the various agencies so that intelligence support is harder for the agencies, such as the Defense Department, to get.

That could lead agencies with the financial wherewithal to provide that capability internally. That outcome would be expensive and very harmful.

The Commission looks at this issue only through the lens of terrorism, and seeks to ensure better coordination within the community.

In so doing, it fails to consider the varied responsibilities and needs of all the actors which depend on intelligence.

As you know, as ranking member of the Defense Appropriations Subcommittee, I have access to virtually all of our Nation's secrets, including those in the Defense Department and in intelligence programs as well.

Over the past 3 years our Committee has been informed of multiple threats, most of which have never been publicized. The intelligence community must treat each warning with utmost care. They must research and investigate each one to determine its veracity, and then respond appropriately to those incidents which are deemed credible.

In many cases what some call connecting the dots is really like searching for a needle in a haystack. And, just to make it more difficult, there are many hay stacks to examine and in some cases the needle looks exactly like hay. Sure the needles are there and theoretically they could be found, but should we really expect our analysts to find them every time?

Furthermore, I want everyone to realize that we are not standing still. We have come a long way in improving intelligence cooperation.

We created the Terrorist Threat Integration Center to bring analysts from various parts of the community to work together.

The enactment of the PATRIOT Act brought down a wall which had previously blocked information sharing between various parts of the intelligence community and the FBI. Our defense and intelligence leaders are working to break stovepipes and to ensure that information sharing is working.

Certainly more improvements are needed in intelligence cooperation and in new technology to improve information sharing.

Our Nation has the finest national security apparatus—defense and intelligence—in the world. It is not perfect and it never will be. Some areas can be improved. But it is a critical capability.

Our warfighters—our young men and women who, as we speak, are serving in harm's way—depend on seamless intelligence. It is our solemn duty to ensure that we can continue to provide them the best. We must make sure that we do not inadvertently take actions which could sever the link between our defense capabilities and intelligence support.

We cannot take the Secretary of Defense out of the loop simply because we seek to strengthen the head of the intelligence community.

So what changes shall we make to improve the intelligence capability of this country?

First, I would suggest, as recommended by the Commission and the Governmental Affairs Committee, that we establish a national counterterrorism center.

The one real failing of the intelligence community in preparing for 9/11, be it in the FBI, the CIA, the NSA or other organizations was the inability or unwillingness to share terrorist intelligence and analysis completely and seamlessly among the disparate parts of this community.

Many improvements have already been made, but the one reform that truly can respond to the cries from the families of 9/11 victims is to address this issue, and to address it now. This is the most critical change that needs to be legislated and our Intelligence and Armed Services Committees need to follow up to make sure it is implemented and is effective in conducting it mission.

That center needs to be the clearing house for all intelligence on counterterrorism, both foreign and domestic. It needs to work across disciplines and agencies, and it needs to have the support of all of the intelligence community. It needs to be the analytical capability for the community in the field of counterterrorism.

We need to join foreign and domestic analysis together to be sure that we get the full intelligence picture. However, because this Nation believes that foreign and domestic intelligence programs must be separated to ensure that civil liberties and the rights of all Americans are safeguarded, I would urge my colleagues not to give this organization any operational role.

It certainly should conduct analysis and strategic planning, but operational planning and operations should continue to be handled as they are today through other parts of the intelligence community working with the Defense Department overseas and the FBI working here at home in conjunction with other relevant domestic agencies.

I believe that as we establish this new organization, the national intelligence director's charter should ensure that this national counterterrorism center receives the resources it needs and that the director should focus his efforts on this one challenge in its first year of existence.

I agree with the managers of the bill that other intelligence centers may need to be created, but I believe the decision to do so should come from the President based on the recommendation of the national intelligence director with the concurrence of the National Security Council and the Congress.

Most important, we have to make sure we come up with the right solutions for the rest of the intelligence community. What may be right for counterterrorism may not be the solution that best serves our intelligence needs for weapons proliferation or for our military. For those reasons, I am not comfortable with rushing this process.

Some criticize the community for a "group think" outlook. They say that the analysis that indicated that in all probability Iraq was in possession of weapons of mass destruction is an example of group think. I am one who questioned the results of that analysis.

With hindsight, I speculate that the community failed because it tried to provide policy makers the answer they wanted rather than a fair interpretation of the facts. Nonetheless, if group think was a problem, how will that be improved by greater centralization of the analytical capabilities in the community? Won't that only exacerbate that problem?

And by creating a more powerful intelligence director with a closer tie to policy making, won't that likely lead to more attempts to sway analysts to reach politically acceptable conclusions?

These are the troubling facts that were not addressed by the 9/11 Commission and are not adequately considered in this bill.

Last week, the Appropriations Committee received testimony from seven witnesses, all of whom are experts in the field of national security and counterterrorism. Included among them were Dr. Henry Kissinger, the current head of the Center for Strategic and International Studies, and former Deputy Secretary of Defense, Dr. John Hamre.

I do not believe I would be overstating their views to say they were quite concerned with the legislation being proposed by the Governmental Affairs Committee.

Their counsel was to be cautious. Dr. Kissinger recommended that Congress study this issue more carefully.

He urged us to take another 6 months before we moved forward on what is the most significant Government overhaul since the National Security Act of 1947.

Last week, noted experts in national security, including former Secretary of State George Shultz, former CIA Director William Gates, former Secretaries of Defense Bill Cohen and Frank Carlucci, and former Senators Nunn, Hart, Bradley, Rudman and Boren, all recommended that the Congress proceed cautiously. They urged all of us to remember the old medical adage: First, do no harm.

This is a most important debate and a most important issue. I know some of my colleagues worry that if we do not act now we will lose the opportunity for significant change. I recognize this concern. But enacting bad legislation in haste because there is a popular demand to act is not the proper way for this body to respond.

The Senate was created to cool the passions of the people. Our history, our culture, even our rules are all deeply instilled with the concept of proceeding cautiously.

I urge my colleagues to agree with those of us who recommend beginning the process of reform by establishing a new central authority for intelligence, a national intelligence director, any by responding to the specific challenges raised by the events of 9/11 with the creation of a national counterterrorism center.

But I believe we need to give a new administration and Congress more time to determine how the rest of the national security apparatus will be structured. Let us use the coming year to determine how we balance the additional responsibilities and share power among the various components of our national security agencies.

This matter is too important to rush through in 2 weeks in the heat of a Presidential campaign. Please let us act responsibly.

I yield the floor.

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I want to give my colleagues an update on an amendment that was offered yesterday. It is an amendment that was offered by Senator WYDEN on behalf of himself, Senator SNOWE, Senator GRAHAM, and Senator LOTT. I believe we have reached an agreement on a compromise to that amendment, which deals with declassification. Actually, I recall the Presiding Officer, Senator CORNYN, is also a cosponsor of the amendment.

We have been able to work out an alternative to the amendment. We are just waiting for language to come from legislative counsel. It is my hope, and I believe the hope of Senator LIEBERMAN, that we will be able to dispose of that amendment this afternoon.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the chairman. That is certainly my hope. I am grateful that all the parties have come together about this amendment. I think we have a solution that doesn't create another board but does realize the goals that Senator WYDEN and the other bipartisan sponsors of the amendment have, to have a reasonable means of asking for a second look, if I can put it that way, at a classification decision made by the executive branch with regard to congressional access to intelligence information. I am very pleased about that and I hope we can get the language here and do it this afternoon.

I also say to our colleagues how important is the announcement made earlier today by the bipartisan leadership, Senator FRIST and Senator DASCHLE. I hope people will respond to it. First, I thank the two of them for the extent to which they have worked in support of the effort Senator COLLINS and I are making and that they are together in support of the effort, which is exactly the standard that needs to be set as we work on this critical national security matter.

Second, there is a clear message, which is that Senator FRIST and Senator DASCHLE may together move to invoke cloture unless there is a steady movement of Senators to the floor introducing their amendments, because there is an excessive—there is an indication of an intention to file over 200 amendments. Senator FRIST has made clear that we are not going to depart from Washington until we finish this bill and take action on the report of the working group, led by Senators MCCONNELL and REID, with regard to reform of congressional oversight of intelligence, as urged on us by the 9/11 Commission.

I am very grateful for that statement of policy by the leadership. We ought not leave here until the Senate completes its work on these two critically important matters. These are urgent. There would simply be no excuse to our constituents, to the American people at large, to have left for political campaigns while the Nation is under clear and present danger of terrorist attack, with a certain unsettling imminence suggested as we lead up to our national elections.

I join with Senator COLLINS in thanking our colleagues who have come to the floor with amendments; those, as was the case with Senators MCCAIN and BURNS, who worked out a very significant and real compromise on what could have been a long distraction on the road to adopting our proposal.

I hope people will now come to the floor. We will be here for a while more today. Obviously, we will be here tomorrow. Leadership told us we will be here Friday and Monday. The sooner we get these amendments in and consider them and dispose of them, the sooner we are going to pass this bill, move on to legislative reform, and recess.

With thanks for the pace we are setting so far and for the support we are receiving, I urge Members who have amendments to come to the floor and offer them at this time. We are open for business.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent I be recognized as in morning business for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. DURBIN are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I ask unanimous consent that I be recognized for 2 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMODITY CHECK-OFF PROGRAM

Mr. INHOFE. Mr. President, I think we are all familiar with what the Commodity Check-Off Program is. It is a program that is voluntary in all commodities. It allows people to donate to the USDA a small percentage of profits in order to promote their product. This is something that has worked especially well, and something we are having a little problem with now because the USDA says if they change this amount, they do not have the authority to do it.

I will introduce a bill that will give them that authority. It is supported by all farm organizations, by the administration, by the Farm Bureau, by the Farmers Union. There is no opposition. I anticipate that it will be taken up on the floor, and I will introduce it in time.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. GRAHAM of South Carolina). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I have asked the two managers of the bill if I might speak in morning business for a few minutes. Let me ask for 7 minutes, and if they need the floor to do business on the 9/11 Commission bill, I will give up the floor. I want to speak of something I think is very important.

The PRESIDING OFFICER. Without objection, it is so ordered.

DISASTER AID

Mr. DORGAN. Mr. President, first I will talk about disaster aid. I will talk specifically about disaster aid for family farmers in the northern Great Plains who have been hard hit.

We have been talking a lot about disaster aid for people who have been victims now of four successive hurricanes in the Southeast. God bless those people who have been victims of the hurricanes. They have had a difficult time. Perhaps none of us can understand how awful it has been for them. Those storms have swept a wide tract across the southeastern corner of the United States.

I have always believed, in my service in the United States Congress, that for those who need help because of natural disasters, the Congress should help. I have always voted for assistance, when I served in the both the House and the Senate. The people who await the aid need to understand we want to make certain we provide this assistance during this difficult time.

In recent days, I have been reading reports about the disaster aid that the Senate included in the Homeland Security Appropriations bill. In that bill, the Senate included legislation dealing agricultural disaster assistance for family farmers around the country, not just in the Southeast. Now some are saying maybe the disaster aid we put in the Homeland Security appropriations bill will have to be stripped out. I want to talk about that for a moment.

It is critically important that we provide disaster aid not only for those people and those farmers in the Southeast, but also for other farmers around the country who have lost their entire crops due to weather-related disasters.

I was reading an e-mail from a young woman. She wrote an e-mail that I will paraphrase. It describes the culture of family farming and describes why I care so much and why some of my colleagues are so passionate about this issue. Her name is Annie. She writes that her dad is a farmer and was diagnosed with an inoperable brain tumor that proved to be cancerous. He has now been taking aggressive treatment. The prognosis is not great. She said: When we found out about dad's cancer, our neighbors told us not to worry about the farm. She said: My youngest brother was trying to manage the farm on his own this summer, but on August 25, 100 neighbors showed up at the farm with combines, grain carts, trucks, and semis to harvest the wheat. The local Case dealership donated some manpower and some machinery. The local crop insurance agency catered an outdoor barbecue to feed 150 people who worked.

She sent pictures of her dad, who is suffering from a brain tumor, but more importantly a picture of all the combines that came over, all the trucks, all donated, all from folks who showed up because they knew a neighbor was in trouble. It is part of the culture and the value system of family farming. The network of farms that dots the prairies in this country, especially in the northern Great Plains that I know so much about in terms of family farming, is part of the culture of this country.

A wonderful author named Richard Critchfield talked of the origin of family values that originated on family farms, and moved to small towns and big cities to refresh and nourish family values in this country. That is why family farms are so critically important.

In my part of the country this year we did not have hurricanes, but in the spring we had torrential rains. These are pictures of the same State. This is the southwestern corner of my State. It looks exactly like a moonscape, or perhaps the surface of Saturn, as we have seen in pictures. There is no vegetation, nothing growing. There has been a protracted drought. I had people tell me north of Hettinger, North Dakota, they had 2.2 inches of total moisture from January 1 to July 1–6 months, 2.2 inches of total moisture. Their land was destroyed; no vegetation at all.

This picture is the same State, the State of North Dakota, with a farmer standing in his field inundated by water. There were 1.7 million acres in North Dakota not planted this year. Let me say that again: 1.7 million acres could not be planted. Farmers like this farmer standing in the middle of his field risk everything. When they cannot plant their entire farm, they will go broke if they do not get some help. Drought and inundated by torrential rains, they could not plant 1.7 million acres, and in August, when the corn and beets needed heat units to grow, we had a freeze. It was a very unusual occurrence in North Dakota, but it froze in August, a frost that damaged some of these crops.

The Senate passed a disaster aid package for victims in the Southeast recovering from the hurricanes, and also passed an agricultural disaster aid package on the Homeland Security bill. We need to finish that job.

I hear and now read in the National Journal and Congressional Quarterly that some are saying it is likely we will not keep the agricultural disaster package in the Homeland Security bill through the conference committee, because we have some people who do not want that to happen. I would say to those people: There is not a difference between the reimbursement for a crop that was lost in northern Florida or a crop that was lost in northern North Dakota due to a weather-related disaster. They both occur in counties that are disaster counties. They both occur in a way that is devastating to the family farmer and will injure that family in an irreparable way unless this country says, We are here to help you.

I want to tell those who are saying this cannot be done: this must be done. We will help those folks who have been injured by the four hurricanes, but we will also insist on helping others across a wide band of this country who were injured by torrential rains and by a protracted drought in the heartland and parts of the West. There is a broad consensus in the Senate that disaster aid must be helpful also to family farmers in other parts of America. We cannot allow this to be dropped. We must continue to impress upon those who would not include this assistance that when we provide disaster aid, it must include all of those who have been affected and devastated by weather-related disasters.

If I might mention one additional point. We are currently dealing with homeland security and terrorism in the Senate. I commend the managers of the bill on both the Republican and Democrat side. I have watched the debate and the discussion. I think it has been wonderfully done, very professionally handled.

NATIONAL REGISTRY OF CONVICTED SEX OFFENDERS

Mr. President, terrorism comes in many forms. Within our country, one form of terror is perpetrated by sex offenders.

I have introduced a piece of legislation to deal with this problem. I would like to describe why it is important that the Senate Judiciary Committee act on this legislation. And let me, at the outset, thank Senator HATCH, the Chairman of the Judiciary Committee, for his support of it.

Not quite one year ago, a young coed at the University of North Dakota was working at a shopping center in Grand Forks, ND. At about 5 in the afternoon, she left her job to walk out to her car. She was abducted and brutally murdered.

The alleged murderer is now in jail. He will be standing trial. This man had been incarcerated 23 years for violent sex offenses in Minnesota, and then let out of prison. He was considered a high-risk offender, but he was let out of prison to go back on the streets, with no monitoring of any sort.

That afternoon, when this young woman named Dru Sjodin walked out of that shopping center, her assailant was free to roam that parking lot, to abduct her and to brutally murder her.

After this tragic crime, I found out that there was a serious flaw in the way that sex offenders are tracked in this country. If you were living, for example, in Grand Forks, ND, as this young college coed was, and you checked the North Dakota sex offender registry, you would not know that violent sex offenders had been let out of jail in Minnesota and were living in your area, just a few miles across the state line.

I think there ought to be a publicly available national database of convicted sex offenders who are released from prison, so people are able to get a meaningful list of sex offenders in their area, including offenders across state lines.

I also think when a high-risk sex offender is about to be released from prison, the local State attorney ought to be notified, to determine whether to seek further incarceration for the protection of the public.

Third, if a high-risk sex offender is, in fact, released from prison, then there ought to be intensive monitoring following that person's release, for a period of at least one year.

In this case, a high-risk, dangerous offender was released from prison after 23 years. He was under zero supervision. A wonderful young coed from the University of North Dakota walked out of a shopping center. She was abducted at knifepoint and then brutally murdered.

Maybe we save some lives with a bill, which would be known as Dru's Law, that would require a national database to be made available to the American public through the internet.

Maybe we can avoid future circumstances where high-risk sex offenders are turned loose with zero supervision.

I thank Senator HATCH and Senator LEAHY. They have both reviewed this legislation, and both think it has merit. It is not something that would cost very much. It is something that has a great deal of common sense to it. I also thank Senators DAYTON, COLEMAN, CONRAD, JOHNSON, LUGAR, and DURBIN, who on a bipartisan basis have cosponsored this legislation.

I passed a piece of legislation very much like this about 2 years ago. A young woman named Jeanna North, who was 11 years old, was murdered in Fargo, ND, by a man named Kyle Bell. He was being hauled around the country by a private company that was contracted by the State to haul prisoners from one facility to another.

I do not think a convicted murderer should ever leave the arms of law enforcement, and turned over to a private company. But I found out it is done all the time. If they are going to haul a convicted murderer, a violent offender, they will often contract with a private company.

It turns out, they contracted with a company that took this man named Kyle Bell, this murderer, and hauled him around the country. They stopped for gas. One guard was asleep, the other was in buying a cheeseburger, and Kyle Bell crawled out of the bus and walked into a parking lot of a shopping center, wearing his street clothes, mind you.

That will never happen again. There is now a law on the books. It says if you are a private company hauling violent offenders, then there are certain responsibilities with respect to the restraints to be used, the clothing the prisoners must wear while being transported—bright orange clothing—and the Justice Department of the United States must establish consistent rules.

So what happened with Kyle Bell, the fellow who murdered young Jeanna North, is not going to happen again. Someone is not going to walk into a shopping center in street clothes because a private contracting company was transporting a convicted murderer and one was asleep in the van and the other was buying a cheeseburger and the convicted murderer walks off. That is not going to happen again.

Sometimes it is just a matter of common sense. It seems to me with respect to this issue of Dru's Law, dealing with high-risk convicted sex offenders, we can do much, much more, and we should do much, much more.

I, once again, say to Senator HATCH and Senator LEAHY, thank you for your cooperation. I know you have been working to see how we might move this legislation. I am looking forward to having it a part of other legislation that moves from the Judiciary Committee.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3704

Mr. LIEBERMAN. Mr. President, the Senator from Oregon, Mr. WYDEN, along with a very impressive bipartisan group of cosponsors, introduced an amendment of real import 2 days ago. We said we would try very hard to work it out. I am quite delighted and grateful that we have worked it out in a way that is acceptable to all involved and it accomplishes a very significant public purpose. I thank the Senator from Oregon for all he did to bring us to that point.

I happily yield the floor to him.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. WYDEN. Mr. President, I express my appreciation to both the distinguished Senator from Connecticut and the chairman of the committee, Senator COLLINS. As I said on Monday, the Senate is well served by having this bipartisan duo that has long practiced good government steering us on this important piece of legislation.

The Senator from Connecticut is absolutely right; the three of us have worked very cooperatively over the last few days. Senator LOTT also has made a valuable contribution, as well as Senator CORNYN, Senator DAYTON, and Senator SNOWE. A bipartisan group of Senators has been concerned about this issue. I believe the legislative counsel's office will have the actual language to bring to the Senate very shortly, probably in 10 or 15 minutes.

With the agreement of the Senator from Connecticut, I will take a few minutes to outline what the distinguished Senator from Maine, the Senator from Connecticut, myself, Senator LOTT, and our group have agreed to.

The ability to stamp a Government document secret is one of the most powerful tools in our Government. The backdrop for this whole debate was best summed up by Governor Kean, who did such a good job in chairing the 9/11 Commission, who said three-quarters of all the documents he saw associated with his work on the 9/11 Commission that were classified should not have been classified. The power to stamp, in effect, Government documents secret is now a power wielded by people in the belly of 18 Federal agencies where they now classify more than 14 million new documents each year. This is a power that costs taxpayers about $6.5 billion a year, and it is a power that is simply out of control.

Senators on both sides of the aisle recognize that the system used to classify information for national security purposes is broken. It has been the premise of our bipartisan group that it is possible to fight terrorism ferociously, aggressively, and at the same time make sure that the public's right to know information the public is entitled to is addressed.

When we look, for example, at the Senate Intelligence Committee—Senator LOTT, Senator SNOWE, Senator BAYH and I serve on that committee—had it not been for the exceptional work of Chairman ROBERTS and Senator ROCKEFELLER, much of what we tried to do with respect to our bipartisan report on prewar intelligence would have simply been censored. It would have all been drowned in a sea of black ink. So what we need to do is bring some common sense to this area which is now a hodgepodge of laws and regulations and directives. We are now in a position to outline the changes we have agreed to in our legislation.

First—most importantly—this legislation establishes an independent body known as the independent national security classification board which would review existing or proposed classification of any document or material. They would, in effect, be part of an effort for the first time to ensure that there would be an independent board to which there can be an appeal of classification decisions. Although right now an executive agency has had an appeals body, it has been off limits to congressional requests. For the first time, there will be an independent board that will look at these classification issues and there will be a right of the Congress to appeal a decision.

The distinguished chair of the committee was not on the floor, but I want to express while she is here my appreciation to her. What this has been all about from the very beginning is not a Democratic or Republican issue.

This has been about righting the imbalance between the executive branch and the legislative branch with respect to classification decisions. That is what we have been able to do. It ensures that any President's prerogatives as Commander in Chief are maintained. That is essential with respect to national security issues.

We will also have a chance to bring some real independence to the process of how Government documents are classified by ensuring that for the first time there is an independent route to have a classification decision reviewed.

That process will come after we have had a top-to-bottom review of the standards and processes used to classify information. The chair of the committee and I have talked about this in the past. What has been striking is we have never even done a review of the processes that are now used to classify documents. People such as those who run the National Archives have said that has been a factor in our having such a chaotic system.

So for the first time, again, Congress would have input into the scope of the review that would take place with respect to how Government documents are classified as well as the guidelines or standards that would be issued as a result of the review.

The independent national security classification board the amendment establishes would assume the duties of a group now known as the public interest declassification board. The new board would be made up of nine individuals, five of whom are appointed by the President and four of whom are appointed by the Senate and the House leadership. This is an effort to try to maintain a new kind of balance between the legislative branch and the executive branch.

In order to make sure that balance is maintained over time, the new board may recommend changes in the classification of all or portions of documents, but the President does not have to accept them. However, the key feature here is, if the President chooses not to accept a recommendation of the independent national security classification board, the President would have to submit to Congress in writing the justification for a decision not to implement the recommendation.

To reiterate, there would be an independent body to which Congress can appeal national security classification decisions, but at the same time, if the President doesn't see it in the same way the independent board does, the President, as Commander in Chief, still has the power to exercise the constitutional prerogative as the President determines, but for the first time it would have to be done in writing. I do not subscribe to the view that there is an inherent conflict between the executive branch's accountability to Congress and the American people on one hand and the constitutional role of the President as Commander in Chief. We have long needed a balance in this area, a balance between the public's need for sound, clear-eyed analysis, and the executive's desire to protect the Nation's legitimate security interests.

In my view, there is no room in this equation for the use of classification to insulate officials and agencies from politics. That was essentially the motivation that got Senator LOTT and Senator SNOWE and a bipartisan group of us in the first place. We have seen this abused again and again.

Senator Moynihan did exceptional work years ago, documenting how so many documents have been classified largely because they were trying to provide political cover rather than protection for this country's national security. Senator Moynihan was a mentor to me because when I came to the

Senate, I said I was interested in making changes.

Senator COLLINS has been very helpful. She has also been helpful on some of the other issues we will take up in the course of this legislation, particularly the data mining area, where she and Senator LIEBERMAN have a great interest as well.

But Senator LOTT, Senator BOB GRAHAM, Senator CORNYN, Senator SNOWE—the group who worked on this issue—are very appreciative of the help we received from the chair and the ranking minority member.

This amendment involves millions of Government documents. It involves more than $6 billion that is spent on the classification system each year.

I think we are starting now to lift this kind of fog of secrecy—changing a classification system that rewards secrecy and discourages openness. We will have the amendment actually before the Senate probably in a few minutes. In the interest of time—I know the hour is late and Senators have amendments—I wanted to speak about this, and I wanted to describe what it was that we have agreed to.

Senator COLLINS's staff and Senator LIEBERMAN's staff have put in a lot of hours with us over the last few days. I am very appreciative and particularly pleased that it would be possible to make these kinds of changes. Senator Moynihan was right years ago when he advocated a process that brought some real independence and a right of appeal to a classification decision. The amendment we will offer tonight does just that.

I see the distinguished chairman of the committee in the Chamber. I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I express my appreciation to Senator WYDEN. He is always so good to work with on so many issues, and we have enjoyed working on this one as well.

I want to recognize that Senator LOTT was also very involved in the negotiations and working with Senator LIEBERMAN and me to modify this amendment in a way to preserve the goal of the amendment, and yet to address some concerns we had about creating a new board, unnecessary bureaucracy, or some duplication.

As I indicated when Senator WYDEN first offered his amendment, I believe he is addressing a very real problem, and that is improving the way we classify and declassify documents. I know the members of the Intelligence Committee have been very frustrated with the process that they went through in developing a lengthy report, only to have so much of it redacted and to have no good way of appealing those redactions, no good way of challenging what many members of that committee, on both sides of the aisle, viewed as excessive secrecy or excessive classification.

I have been concerned that the original amendment intruded unnecessarily into the President's constitutional prerogative and duplicated some of the provisions in our bill. I believe the changes we have worked out so cooperatively go a very long way toward addressing the concerns we had while advancing the goal.

Rather than creating a new board to review the classification policy, Senator WYDEN's amendment would now ensure that Congress has an opportunity to make comments regarding the Presidential review of classification policies already established under the Collins-Lieberman bill, and even more importantly to the Senator who has said we need an independent place for Congress to go to bring appeals regarding classification decisions, the revised amendment has agreed to build upon a board that already exists, the Public Interest Declassification Board. The amendment would change the name of that board to the Independent National Security Classification Board. This board was established in 2001, but it is still being put into place.

Under the Wyden amendment, it will have specific authority to hear appeals of classification decisions from specified congressional committees. The board would then make a recommendation to the President, which the President could either accept or reject. If the President rejects the board's decision, then the President, as the Senator indicated, would have to send a written justification of that decision to Congress. This framework helped to address some of the concerns we had about the original amendment.

I will note that this is not the administration's favorite amendment, even in the revised form, but I believe we have struck a fair balance and I am prepared to recommend that we accept the amendment once we get it. I understand it is going to be here momentarily. There were a few technical glitches.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, again, I thank Senator WYDEN. It was a pleasure for us and our staffs to work with him and his staff. As I said, this is a substantial accomplishment. I particularly enjoyed the Senator's reference to the late, great Senator Pat Moynihan. I have a vision of Pat in Heaven smiling right now. I can see that smile. He is probably not wearing that hat that we all loved so much at the time.

The important thing here is this is a right of appeal, if you will, regarding the President's power to classify documents. That is a right that will exist in a limited number of Members of Congress, interestingly and importantly, of both parties. The ultimate beneficiaries, of course, are the American people.

Members of Congress have access to matters that are fully classified. So this is really the public's right to know. If these Members of Congress decide that the public has a right to know, ought to have a right to know the content of something that has been classified, they will have the right to appeal to this board for review. It is a very finely balanced compromise that is substantial, real, and preserves the President's right as Commander in Chief to have the final word. So this was real legislating in the public interest.

I thank the Senator and his cosponsors for the leadership and persistence that brought this matter to the floor and results now in this agreement which I think will receive unanimous consent from the Senate.

The PRESIDING OFFICER. The Senator from Oregon is recognized.

Mr. WYDEN. Mr. President, I will be very brief. Again, I express my appreciation to the chair and ranking minority member. The chair made an important point with respect to the executive branch. Clearly, no President, no executive branch is going to ever hold a rally in favor of this kind of idea.

I think the Senator mentioned Senator LOTT. Senator LOTT has been invaluable from the very beginning. He said we just have to build in—whether it is Democrats or Republicans—a new sense of independence. I have tried to say that there is no question in my mind, whether it was a Democratic administration or a Republican administration, what you are talking about are human beings who I think inherently are going to be concerned about something coming out. So out comes the stamp and something is marked "classified," and by the time the rubberstamp program is done, you have millions of documents classified in our country for reasons that have nothing to do with national security.

The Senator from Maine has summed it up very well. I am sure we are going to continue to hear from the administration as this is debated in the Senate and in the House. I do think we have struck a balance that ensures that by giving the President, in effect, the first word on a classification decision, through their appointees having the ability to classify a Government document and, in effect, the last word on a subject, because the independent board makes the recommendation to the President, if the President decides he doesn't want to go along with the independent board, they get the last word by stating in writing why they think the independent board is off base. I think that is the kind of balance between the executive branch and the legislative branch that we ought to have.

What pleases me is tonight this is the end of the line for a classification system that, in effect, encourages secrecy, discourages openness, and I am glad a bipartisan effort could have put all this time into it. I think we will have the amendment over here quickly. With the concurrence of the chair and the ranking minority member, it is not my intent to ask for a recorded vote. I think we can do it on a voice vote.

I yield the floor.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3727

Ms. COLLINS. Mr. President, on behalf of Senator CORNYN, I send an amendment to the desk, and I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. CORNYN, proposes an amendment numbered 3727.

Ms. COLLINS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: to amend provisions of law originally enacted in the Clinger-Cohen Act to enhance agency planning for information security needs)

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS TO CLINGER-COHEN PROVISIONS TO ENHANCE AGENCY PLANNING FOR INFORMATION SECURITY NEEDS.

Chapter 113 of title 40, United States Code, is amended—

(1) in section 11302(b), by inserting "security," after "use,";

(2) in section 11302(c), by inserting ", including information security risks," after "risks" both places it appears;

(3) in section 11312(b)(1), by striking "information technology investments" and inserting "investments in information technology (including information security needs)"; and

(4) in section 11315(b)(2), by inserting ", secure," after "sound".

Ms. COLLINS. Mr. President, this proposal amends the Cohen-Clinger Act to explicitly require Federal agencies to emphasize information security from the earliest possible stages of a new system's IT capital planning and investment decisionmaking process.

The Office of Management and Budget has instructed agencies through its budget guidance that information security must be a vital part of the capital planning and investment control process. Amending the Cohen-Clinger Act to codify this guidance will ensure that the law reflects a certain threat environment in cyberspace and requires that information security be an integral part of the Federal acquisition process for the long term.

Security should be reinforced as we migrate toward a more interoperable environment. I believe this amendment is helpful. It is my understanding that it has been cleared on both sides.

Mr. LIEBERMAN. Mr. President, this is a good amendment. I thank Senator CORNYN for offering it. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to amendment No. 3727.

The amendment (No. 3727) was agreed to.

Ms. COLLINS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3763

Ms. COLLINS. Mr. President, on behalf of Senator COLEMAN, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. COLEMAN, proposes an amendment numbered 3763.

Ms. COLLINS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: to strike the amendments made by section 202, regarding the National Homeland Security Council)

On page 117, strike line 1 and all that follows through page 118, line 7.

Ms. COLLINS. Mr. President, Senator COLEMAN has offered an amendment that would strike the language in our bill that merges the Homeland Security Council into the National Security Council. I note that the administration yesterday in its Statement of Administration Policy, in which it endorsed passage of our legislation, expressed considerable concern about the provisions that would reorganize the President's internal policy staff by merging the National Security Council and the Homeland Security Council. The administration feels strongly that Congress should not legislate and make permanent the internal organization of the President's own executive offices or otherwise limit the flexibility needed to respond quickly to threats or attacks.

In looking further at this issue, I agree with the concerns raised by the administration. Senator COLEMAN's amendment striking the merger of those two councils within the Executive Office of the President is acceptable to me.

That is what his amendment would accomplish. I believe the amendment has been cleared on both sides and I urge its passage.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment. I thank Senator COLEMAN for submitting it. The Homeland Security Council was, as I recall, created by the President and then made into statute as part of the Homeland Security Act that created the Department of Homeland Security. It was meant to be an advisory board to the Secretary of Homeland Security and also a place to which the Secretary could bring representatives of other departments that might not be in the security community normally, such as the Department of Health and Human Services, in terms of bioterrorism, for instance. So I think it has played an important role.

The 9/11 Commission report very gently recommended that we consider merging the Homeland Security Council into the National Security Council. Senator COLEMAN raises a concern that I think is justified as to, one, whether all of these items ought to be on the agenda of the National Security Council, which is already quite busy; two, that this council has a constructive role to play uniquely for the Department of Homeland Security, and insofar as one of the thoughts behind the Commission's suggestion was that merging the Homeland Security Council into the National Security Council would provide a forum where disputes between departments could be resolved, the President, of course, always reserves the right to call the heads of the relevant departments together to do that.

So the long and the short of it is, I think it is too early to—what was the Mark Twain line? The rumors of my death are premature, or something like that. I think the same could be said of the Homeland Security Council. There is a reason for it to live on. Senator COLEMAN's amendment achieves that, and I support it.

The PRESIDING OFFICER (Mr. ALEXANDER). Is there further debate?

If not, the question is on agreeing to amendment No. 3763.

The amendment (No. 3763) was agreed to.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3704, AS MODIFIED

Ms. COLLINS. Mr. President, on behalf of Senator WYDEN, I send a modification of the Wyden amendment No. 3704 to the desk. I ask unanimous consent that the amendment be so modified.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3704), as modified, is as follows:

On page 134, line 14, insert "issue guidelines" before "on classification"

On page 134, strike lines 16 and 17 and insert the following:

commonly accepted processing and access controls, in the course of which review, the President may consider any comments submitted by the Select Committee on Intelligence, the Committee on Armed Services, the Committee on Foreign Relations of the Senate, and the Permanent Select Committee on Intelligence, the Committee on Armed Services, and the Committee on International Relations of the House of Representatives regarding—

(i) the scope of the review the President should undertake in formulating the guidelines under this subparagraph; and

(ii) the substance of what guidelines should be issued.

On page 177, after line 17, add the following:

SEC. 226. CONGRESSIONAL APPEALS OF CLASSIFICATION DECISIONS.

(a) REDESIGNATION OF PUBLIC INTEREST DECLASSIFICATION BOARD AS INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD.—(1) Subsection (a) of section 703 of the Public Interest Declassification Act of 2000 (title VII of Public Law 10-567; 50 U.S.C. 435 note) is amended by striking "'Public Interest Declassification Board'" and inserting "'Independent National Security Classification Board'".

(2) The heading of such section is amended to read as follows:

"SEC. 703. INDEPENDENT NATIONAL SECURITY CLASSIFICATION BOARD.".

(b) REVIEW OF CLASSIFICATION DECISIONS.—

(1) IN GENERAL.—The Independent National Security Classification Board shall, pursuant to a request under paragraph (3), review any classification decision made by an executive agency with respect to national security information.

(2) ACCESS.—The Board shall have access to all documents or other materials that are classified on the basis of containing national security information.

(3) REQUESTS FOR REVIEW.—The Board shall review, in a timely manner, the existing or proposed classification of any document or other material the review of which is requested by the chairman or ranking member of—

(A) the Committee on Armed Services, the Committee on Foreign Relations, or the Select Committee on Intelligence of the Senate; or

(B) the Committee on Armed Services, the Committee on International Relations, or the Permanent Select Committee on Intelligence of the House of Representatives.

(4) RECOMMENDATIONS.—

(A) IN GENERAL.—The Board may make recommendations to the President regarding decisions to classify all or portions of documents or other material for national security purposes or to declassify all or portions of documents or other material classified for such purposes.

(B) IMPLEMENTATION.—Upon receiving a recommendation from the Board under subparagraph (A), the President shall either—

(i) accept and implement such recommendation; or

(ii) not later than 60 days after receiving the recommendation if the President does not accept and implement such recommendation, transmit in writing to Congress justification for the President's decision not to implement such recommendation.

(5) REGULATIONS.—The Board shall prescribe regulations to carry out this subsection.

(6) EXECUTIVE AGENCY DEFINED.—In this section, the term "Executive agency" has the meaning given that term in section 105 of title 5, United States Code.

Ms. COLLINS. Mr. President, this modification was debated earlier this evening. There is no further debate on the amendment as modified.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3704), as modified, was agreed to.

Ms. COLLINS. I move to reconsider the amendment and I move to lay it on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, in consultation with the managers of the bill, it is the desire of the majority leader and Democratic leader to keep moving tonight. I will send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

AMENDMENT NO. 3781

Mr. WARNER. Mr. President, in the study of the 9/11 report, frequent reference is made to the Goldwater-Nichols Act. It is a piece of legislation in which, as a member of the Armed Services Committee, I had a great deal of participation, working on this particular statute. It was an attempt, and a successful attempt, to rewrite the defense-related laws, and describes certain changes which would make the Department and particularly the Joint Chiefs of Staff a more effective body.

I want to refer to one provision.

I ask unanimous consent that certain portions of the statute be printed in the RECORD following my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1).

Mr. WARNER. Mr. President, that provision reads as follows:

Advice and Opinions of Members Other Than Chairman . . . A member of the Joint Chiefs—

That could be the Chief of Staff of the Army, the Chief of Naval Operations, the Chief of Staff of the Air Force, the Commandant of the Marine Corps.

I repeat:

A member of the Joint Chiefs of Staff—other than the Chairman—may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President—

That is the President of the United States—

—the National Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, or the Secretary of Defense, as the case may be.

We learned that in the course of the past 18 months or maybe longer—I will not try to define the exact period of time—when our President was making decisions in connection with certain advice he was receiving from the intelligence community—I will just touch on this lightly, and perhaps others will want to address this with more specificity—certain caveats, being other opinions—the opinions, say, of the Director of Central Intelligence—were not brought with sufficient force and effect to the attention of the policymakers.

The purpose of my amendment is to enable a framework by which, following the precedents of the Goldwater-Nichols Act, certain individuals in the contemplated new legislative framework as described by the distinguished chairman and members of the Governmental Operations Committee, other opinions will be brought to the attention of the President at such time as the NID is briefing the President.

I will refer with specificity to the amendment I have sent to the desk at this time. The first paragraph is technical, so I will omit that. I will go right to the operative paragraph:

Advice and opinions of Members other than Chairman. "Members" refers to the Joint Intelligence Community Council which is established, it is my understanding, by the chairman's statute.

A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the National Intelligence Director to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

> The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council [or the Secretary of Defense] is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the council.

Lastly, "Recommendations to Congress:

> Any member of the Joint Intelligence Community Council may make such recommendations to Congress.

I presume that would be interpreted as the leadership of both Houses and the chairmen and ranking members of the relevant committees.

The reason I have not been more specific here is that we are awaiting the decisions of the group on which I am privileged to serve headed by the distinguished whip, Mr. MCCONNELL, and on other side the distinguished whip, the Senator from Nevada, Mr. REID.

In other words, as we look at the revisions that will be proposed in connection with the oversight responsibilities of the Congress, that may require some refinement.

I will reread it:

> Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence committee as such member considers appropriate.

I think that is the insurance that is quite visible to put in place such that other opinions can be considered by the President of the United States.

Throughout, the 9/11 report referred to: We have to have imagination. We often use the phrase "be competitive" with opinions within the structure of the intelligence committee. I believe that is all good. I really do. And the purpose of this amendment is to ensure that there is in law a procedure that these important members of this council will have the opportunity to see that their views are presented contemporaneous—at the same time the President receives the views of the NID. That is the purpose of the amendment.

I understand tonight it will be pending, and at such time as the distinguished chairman of the committee wishes to come over and review the subject with others, I would be happy to do so.

EXHIBIT I

(d) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Chief of Staff (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the Chairman to the President, the National Security Council, or the Secretary of Defense. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time he presents his own advice to the President, the National Security Council, or the Secretary of Defense, as the case may be.

(2) The Chairman shall establish procedures to ensure that the presentation of his own advice to the President, the National Security Council, or the Secretary of Defense is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Joint Chiefs of Staff.

(e) ADVICE ON REQUEST.—The members of the Joint Chiefs of Staff, individually or collectively, in their capacity as military advisers, shall provide advice to the President, the National Security Council, or the Secretary of Defense on a particular matter when the President, the National Security Council, or the Secretary requests such advice.

(f) RECOMMENDATIONS TO CONGRESS.—After first informing the Secretary of Defense, a member of the Joint Chiefs of Staff may make such recommendations to Congress relating to the Department of Defense as he considers appropriate.

Ms. COLLINS. Mr. President, I thank the distinguished chairman of the Senate Armed Services Committee for coming forward this evening and laying down this amendment. He has explained very clearly the purpose. I very much appreciate that explanation.

As the Senator is aware, the ranking member of the committee had a commitment for this evening. I would like to hold the amendment over until tomorrow morning. But I am very grateful to the Senator for laying down the amendment this evening so that we can continue to make progress on this bill. As always, he has given his proposal a great deal of thought. I appreciate the parallels that he is drawing to the provisions of the Goldwater-Nickles Act and the fact that the members of Joint Chiefs are allowed to present their views independently to Congress and to the President. I very much appreciate his laying down the amendment tonight. I look forward to having further consideration in the morning.

Mr. WARNER. Mr. President, I thank the distinguished chairman for her views.

I ask unanimous consent that Senator STEVENS be listed as a cosponsor of the amendment. There may be others in due course that would like to do so.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I am privileged to offer one of the first amendments. I have other amendments of which I think the chairman is aware. We are going to comply with her request and the leadership to have the text before them within the amendments that are established. I want to be very constructive as a working partner as we move forward with this important piece of legislation.

Ms. COLLINS. Mr. President, the distinguished chairman of the Senate Armed Services Committee is always constructive in every way. I very much appreciate the thought and the knowledge he has and the depth with which he explores important issues.

Mr. WARNER. Mr. President, on that note, I best yield the floor.

AMENDMENT NO. 3781

Mr. WARNER. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Virginia [Mr. WARNER], for himself and Mr. STEVENS, proposes an amendment numbered 3781.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the requirements and authorities of the Joint Intelligence Community Council)

On page 119, beginning on line 17, strike "upon the request of the National Intelligence Director.'." and insert "at least monthly and otherwise upon the request of the National Intelligence Director or another principal member of the Council

"(e) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the National Intelligence Director to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

"(2) The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

"(f) RECOMMENDATIONS TO CONGRESS.—Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.".

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. COLEMAN). Without objection, it is so ordered.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators able to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRIBUTE TO IRVING B. HARRIS

Mr. DURBIN. Mr. President, last Saturday, on September 25, the city of

Chicago, the State of Illinois, and our Nation, lost a great man. Irving Harris died at the age of 94 in the city of Chicago. He was my friend and my inspiration.

I have been called on many times to give commencement speeches at colleges and universities, medical schools and law schools. When I speak to the young students about what they can make of their lives, I never fail to tell them the story of Irving Harris and his life. It is a great story, and one that I would like to share with my colleagues in the Senate.

Irving Harris was born and raised in Saint Paul, MN. He and his two brothers were raised by a father, who was a merchant, and a mother who inspired him and his two brothers, in their words, "to always be No. 1 in your class." They listened carefully to their parents and they succeeded in almost unimaginable ways.

The two Harris brothers, Neison and Irving, joined a friend and started a company in 1946, the Toni Home Permanent Company. Within 2 years, Tony home permanents had become so popular across the United States that they sold this company to Gillette for $20 million. The year was 1948; $20 million was a huge sum of money.

If you followed his business career, Irving Harris went on to do many things—to be the director of a mutual fund, to start another company in North Brook, IL, the Pittway Corporation, which he ultimately sold for some $2 billion. Just those facts and those stories alone tell you of the business success of Irving Harris. But if you were to stop with those stories, you would not understand his greatness, nor would you understand the real measure of this man.

Unlike some people who were given great gifts of wealth and skill and then used them to make their own lives more comfortable, Irving Harris saw life much differently. He was a man who was constantly looking for ways to help others, particularly ways to help children. And for over 60 years, he took his wealth and his business success and devoted it to helping other people in so many different ways.

He helped create the Yale Child Study Center at Yale University to honor his alma mater but also to try to find ways to help children born in poverty have a full and successful life.

He provided the funds that launched the center for the University of Chicago's Graduate School of Public Policy Studies, which bears his name, and the Erikson Institute for Advanced Studies in Child Development.

Irving Harris believed that children, if given the right nurturing experience and the right chance, could succeed. A lot of people believe that. But he invested his money in that belief.

He started the Ounce of Prevention Fund in the city of Chicago in the State of Illinois to prove that point again. He was one of the early people pushing for Head Start.

Let me read to you what Irving Harris said in one of his books. The book is entitled, "Children in Jeopardy: Can We Break the Cycle of Poverty?" Irving Harris wrote in 1996, "I believe that God's gift of brain potential is not discriminatory.

"Kindergarten is much too late to worry if a child is ready to learn. We must begin in the first days and weeks and months of life to get children ready to learn."

That was his passion and that was his belief. That fueled his life and his interest.

The many times that we would sit down and talk about policies, he would come back to these points about how many wasted lives of children there are in America because we didn't start soon enough and we didn't do well enough and we didn't understand the complexity of the challenges facing these children.

So this man so successful in business focused so much of his life and time on children and helping them in so many different ways.

He was certainly good at business—one of the best. But he took that success and he took that money and tried to improve the lives of others.

His philanthropy didn't end there. There is hardly a place you can turn in Chicago without seeing Irving Harris's name or the name of his wife Joan. They left their mark in our city as they left it in our Nation.

Joan, Irving Harris's wife of 30 years, whom I met just the other day, recounted her frustration when she was trying to build a new theater in downtown Chicago for music and dance to make it part of Mayor Daley's hugely successful Millennium Park. She turned to Irving one day and said: I just think we are going to have to give up. I don't think I can come up with money to build the theater.

I will not quote him exactly, but Irving basically said: I feel like that myself, and I don't think I am ever going to get the promised land. We are going to do it.

He told Joan they were going to do it, and they did. They made a massive investment in that theater—some $39 million of the $52 million price tag to build that theater. That theater is going to endure in his name and in the name of Joan Harris. It is going to entertain, and it is going to remind a lot of people of the good in culture, in music, in art that really lifts us all.

They did the same thing, incidentally, in Aspen, CO. If you go to Aspen, CO, where they used to spend some time, they decided they needed a special place—an outdoor gathering place for music festivals—you will find that Harris music gathering place, the Harris Music Center, just another part of his legacy.

The University of Chicago President, Don Michael Randel, called Mr. Harris "one of those extraordinary and too-rare individuals whose passion and humanity made a real difference in the lives of others."

Mr. Randel said:

> Because of his foresight and his generosity, countless disadvantaged children have been able to fulfill their potential and to become productive citizens. And many of the most fundamental social problems suffered by children and families now have some hope of resolution thanks to the research he has so generously supported.

In addition to his wife Joan, Irving Harris is survived by his daughters, Virginia Polsky and Roxanne Frank; a son Bill, who is a close friend as well, a person who has devoted his life to many important causes such as the global AIDS epidemic and children's causes; a stepdaughter, Louise Frank; stepsons, Daniel and Jonathan Frank; a sister, June Barrows; 10 grandchildren and 26 great-grandchildren.

His legacy goes beyond his family. His legacy will be realized by others for generations to come. Irving Harris's life will not be measured in the number of dollars he earned but the number of lives that he touched, not in the assets he accumulated but in the fact that he was such an asset to Chicago and to America. The pillars of American business know of his success, but Irving Harris was a pillar of strength and hope for the poor, and in that effort he made his life a model for us all.

It is my good fortune in this business to meet many people and to meet many wonderful people. I count on one hand the most amazing people I have ever met, and Irving Harris will be in that number.

I will miss Irving Harris, but I am grateful to have known him and to be inspired by his lifetime of caring and hope.

OFFICE OF COMPLIANCE NOTICE

Mr. STEVENS. Mr. President, I ask unanimous consent that the attached statement from the Office of Compliance be printed in the RECORD today pursuant to section 304(b)(1) of the Congressional Accountability Act of 1995 (2 U.S.C. 1384(b)(1)).

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FROM THE BOARD OF DIRECTORS OF THE OFFICE OF COMPLIANCE

Implementing Certain Substantive Rights and Protections of the Fair Labor Standards Act of 1938, as Required by Section 203 of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1313.

NOTICE OF PROPOSED RULEMAKING

Background: The purpose of this Notice is to initiate the process for replacing existing overtime pay eligibility regulations with new regulations which will substantially mirror the new overtime exemption regulations recently promulgated by the Secretary of Labor.

Do FLSA overtime pay requirements apply via the CAA to Legislative Branch employing offices? Yes. One of the regulatory statutes incorporated in part through the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1301 et seq., is the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. 201 et seq. Section 203(a)(1) of the CAA states: "[t]he rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the [FLSA] . . . (29 U.S.C. 206(a)(1), 207, 212(c)) shall apply to covered employees." Section 7 of the FLSA, 29 U.S.C. 207, includes the requirements regarding the payment of time and one half overtime pay to employees.

Are there existing overtime exemption regulations already in force under the CAA? Yes. In 1996, the Board of Directors of the Office of Compliance promulgated the existing CAA overtime exemption regulations based on the "old" 29 CFR Part 541 regulations which were in force until August 23, 2004. These regulations were adopted pursuant to the CAA section 304 procedure outlined herein below. Those regulations are found at Parts H541 (applicable to the House of Representatives), S541 (applicable to the Senate), and C541 (applicable to the other employing offices covered by section 203 of the CAA) of the FLSA Regulations of the Office of Compliance. These regulations remain in force until replaced by new regulations. Office of Compliance regulations can be accessed via our web site: www.compliance.gov.

Why is this Notice being issued? This Notice of Proposed Rulemaking is occasioned by the recent promulgation of new overtime exemption regulations by the Secretary of Labor at Vol. 69 of the Federal Register, No. 79, at pp. 22122 et seq., on August 23, 2004. The new regulations of the Secretary of Labor are set out at 29 U.S.C. Part 541, and replace the regulations which had been in effect prior to August 23, 2004. The Secretary of Labor's regulations do not apply to employing offices and employees covered by the CAA.

Why are there separate sets of existing FLSA regulations for the House of Representatives, the Senate, and the other employing offices covered by the CAA? Section 304(a)(2)(B) of the CAA, 2 U.S.C. 1384(a)(2)(B), requires that the substantive rules of the Board of Directors of the Office of Compliance "shall consist of 3 separate bodies of regulations, which shall apply, respectively, to—(i) the Senate and employees of the Senate; (ii) the House of Representatives and employees of the House of Representatives; and (iii) the other covered employees and employing offices." In 1996, the House of Representatives (H. Res. 400) and the Senate (S. Res. 242) each adopted by resolution the FLSA regulations applicable to each body. The Senate and House of Representatives adopted by concurrent resolution (S. Con. Res. 51) the regulations applicable to other employing offices and employees.

Are there substantive differences in the proposed regulations for the House of Representatives, the Senate, and the other employing offices? No. While there are some differences in other parts of the existing FLSA regulations applicable to the Senate, the House of Representatives, and the other employing offices (chiefly related to the mandate at section 203(c)(3) of the CAA, 2 U.S.C. 1313(c)(3), regarding "covered employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate . . ."), the Board of Directors has identified no "good cause" for varying the text of these regulations. Therefore, if the proposed part 541 regulations are adopted, the prefixes "H", "S", and "C" will be affixed to each of the sets of regulations for the House, for the Senate, and for the other employing offices, but the text of the part 541 regulations will be identical.

How are substantive regulations proposed and approved under the CAA? Section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), requires that the Board of Directors propose substantive regulations implementing the FLSA overtime requirements which are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions . . . except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulation would be more effective for the implementation of the rights and protections under this section." Pursuant to section 304 of the CAA, 2 U.S.C. 1384, the procedure for promulgating such substantive regulations requires that: (1) the Board of Directors adopt proposed substantive regulations and publish a general notice of proposed rulemaking in the Congressional Record; (2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking; (3) after consideration of comments by the Board of Directors, that the Board adopt regulations and transmit notice of such action together with the regulations and a recommendation regarding the method for Congressional approval of the regulations to the Speaker of the House and President pro tempore of the Senate for publication in the Congressional Record; (4) committee referral and action on the proposed regulations by resolution in each House, concurrent resolution, or by joint resolution; and (5) final publication of the approved regulations in the Congressional Record, with an effective date prescribed in the final publication. For more detail, please reference the text of 2 U.S.C. 1384. This Notice of Proposed Rulemaking is step (1) of the outline set forth above.

How does the Board of Directors recommend that Congress approve these proposed regulations? Pursuant to section 304(b)(4) of the CAA, 2 U.S.C. 1384(b)(4), the Board of Directors is required to "include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution." The Board of Directors recommends that the procedure used in 1996 be used to adopt these proposed overtime exemption regulations: the House of Representatives adopted the "H" version of the regulations by resolution; the Senate adopted the "S" version of the regulations by resolution; and the House and Senate adopted the "C" version of the regulations applied to the other employing offices by a concurrent resolution.

Are these proposed regulations also recommended by the Office of Compliance's Executive Director, the Deputy Executive Director for the House of Representatives, and the Deputy Executive Director for the Senate? Yes, as required by section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), the substance of these regulations is also recommended by the Executive Director and Deputy Executive Directors of the Office of Compliance.

How are the Secretary of Labor's new overtime exemption regulations different than the old Secretary of Labor regulations at 29 CFR Part 541? The Secretary of Labor has substantially rewritten Part 541. Much of the regulatory framework for determining whether a particular employee should or should not receive overtime pay at time and one-half of that employees's regular rate of pay has been restructured under the new Part 541. For the Secretary of Labor's explanation of the substance of the changes, see the Department of Labor's discussion of the new regulations found at: www.dol.gov/fairpay/.

How similar are the proposed CAA regulations with the new Secretary of Labor regulations? Except for certain required changes, which are shown in the accompanying proposed regulations, the Board of Directors has repeated the text of the regulations at 29 CFR Part 541. "Good cause" for modification of the existing regulations of the Secretary of Labor, as required by section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), consists of those changes needed to reflect the authority of the CAA as the enabling statute for these regulations, the requirement at section 225(d)(3) of the CAA, 2 U.S.C. 1361(d)(3), that the CAA "shall not be construed to authorize enforcement by the executive branch of this Act. . . .". If there is any additional good cause for a particular proposed variation from the Secretary of Labor's regulations, it is set out adjacent to that provision of the proposed regulation.

Are these proposed CAA regulations available to persons with disabilities in an alternate format? This Notice of Adoption of Amendments to the Procedural Rules is available on the Office of Compliance web site, www.compliance.gov which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794d. This Notice can also be made available in large print or Braille. Requests for this Notice in an alternative format should be made to: Alma Candelaria, Deputy Executive Director, Office of Compliance, 110 2nd Street, S.E., Room LA-200, Washington, D.C. 20540; 202-724-9225; TDD: 202-426-1912; FAX: 202-426-1913.

30-DAY COMMENT PERIOD REGARDING THE PROPOSED REGULATIONS

How can I submit comments regarding the proposed regulations? Comments regarding the proposed new overtime exemption regulations of the Office of Compliance set forth in this NOTICE are invited for a period of thirty (30) days following the date of the appearance of this NOTICE in the Congressional Record. In addition to being posted on the Office of Compliance's section 508 compliant web site (www.compliance.go) this NOTICE is also available in the following alternative formats: Large Print, Braille. Requests for this NOTICE in an alternative format should be made to: Bill Thompson, Executive Director, or Alma Candelaria, Deputy Executive Director, Office of Compliance, at 202-724-9250 (voice) or 202-426-1912 (TDD).

Submission of comments must be made in writing to the Executive Director, Office of Compliance, 110 Second Street, S.E., Room LA-200, Washington, D.C. 20540-1999. It is requested, but not required, that an electronic version of any comments be provided on an accompanying computer disk. Comments may also be submitted by facsimile to the Executive Director at 202-426-1913 (a non-toll-free number.) Those wishing to receive confirmation of the receipt of their comments must provide a self-addressed, stamped post card with their submission.

Copies of submitted comments will be available for review on the Office's web site at www.compliance.gov, and at the Office of Compliance, 110 Second Street, S.E., Washington, D.C. 20540-1999, on Monday through

Friday (non-Federal holidays) between the hours of 9:30 a.m. and 4:30 p.m.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL 104–1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 12 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within the Legislative Branch.

HOW TO READ THE PROPOSED AMENDMENTS

The text of the proposed amendments reproduces the text of the regulations promulgated on August 23, 2004 by the Secretary of Labor at 29 CFR Part 541, and shows changes proposed for the CAA version of these same regulations. Changes proposed by the Board of Directors of the Office of Compliance are shown as follows: *[[deletions within italicized brackets]]*, ***and added text in italicized bold***. Therefore, if these regulations are approved as proposed, *[[bracketed text will disappear from the regulations]]*, ***and added text will remain***. If these regulations are approved for the House of Representatives by resolution of the House, they will be promulgated with the prefix "H" appearing before each regulations section number. If these regulations are approved for the Senate by resolution of the Senate, they will be promulgated with the prefix "S" appearing before each regulations section number. If these regulations are approved for the other employing offices by joint or concurrent resolution of the House of Representatives and the Senate, they will be promulgated with the prefix "C" appearing before each regulations section number.

PROPOSED OVERTIME EXEMPTION REGULATIONS

PART 541—DEFINING AND DELIMITING THE EXEMPTIONS FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, COMPUTER AND OUTSIDE SALES EMPLOYEES

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Authority: 29 U.S.C. 213; *[[Public Law 101–583, 104 Stat. 2871]]*; ***2 U.S.C. 203; 2 U.S.C. 304.*** *[[Reorganization Plan No. 6 of 1950 (3 CFR 1945–53 Comp. p. 1004); Secretary's Order No. 4–2001 (66 FR 29656).]]*

Subpart A—General Regulations

Sec. 541.0 Introductory statement. (a) Section 13(a)(1) of the Fair Labor Standards Act (Act), as amended, ***and as applied pursuant to section 203 of the Congressional Accountability Act of 1995, 2 U.S.C. 1313,*** provides an exemption from the Act's minimum wage and overtime requirements for any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee, *[[as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act.]]* Section 13(a)(17) of the Act provides an exemption from the minimum wage and overtime requirements for computer systems analysts, computer programmers, software engineers, and other similarly skilled computer employees. (b) The requirements for these exemptions are contained in this part as follows: executive employees, subpart B; administrative employees, subpart C; professional employees, subpart D; computer employees, subpart E; outside sales employees, subpart F. Subpart G contains regulations regarding salary requirements applicable to most of the exemptions, including salary levels and the salary basis test. Subpart G also contains a provision for exempting certain highly compensated employees. Subpart H contains definitions and other miscellaneous provisions applicable to all or several of the exemptions. (c) Effective July 1, 1972, the Fair Labor Standards Act was amended to include within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee under section 13(a)(1) of the Act. The equal pay provisions in section 6(d) of the Fair Labor Standards Act are also administered and enforced by the *[[United States Equal Employment Opportunity Commission]]* ***Office of Compliance.***

Sec. 541.1 Terms used in regulations. Act means the Fair Labor Standards Act of 1938, as amended. *[[Administrator means the Administrator of the Wage and Hour Division, United States Department of Labor. The Secretary of Labor has delegated to the Administrator the functions vested in the Secretary under sections 13(a)(1) and 13(a)(17) of the Fair Labor Standards Act.]]* ***CAA means Congressional Accountability Act of 1995, as amended. Office means the Office of Compliance. Employee means a "covered employee" as defined in section 101(3) through (8) of the CAA, 2 U.S.C. 1301(3) through (8), but not an "intern" as defined in section 203(a)(2) of the CAA, 2 U.S.C. 1313(a)(2). Employer, company, business, or enterprise each mean an "employing office" as defined in section 101(9) of the CAA, 2 U.S.C. 1301(9).***

Sec. 541.2 Job titles insufficient. A job title alone is insufficient to establish the exempt status of an employee. The exempt or nonexempt status of any particular employee must be determined on the basis of whether the employee's salary and duties meet the requirements of the regulations in this part.

Sec. 541.3 Scope of the section 13(a)(1) exemptions.

(a) The section 13(a)(1) exemptions and the regulations in this part do not apply to manual laborers or other "blue collar" workers who perform work involving repetitive operations with their hands, physical skill and energy. Such nonexempt "blue collar" employees gain the skills and knowledge required for performance of their routine manual and physical work through apprenticeships and on-the-job training, not through the prolonged course of specialized intellectual instruction required for exempt learned professional employees such as medical doctors, architects and archeologists. Thus, for example, non-management production-line employees and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers and laborers are entitled to minimum wage and overtime premium pay under the Fair Labor Standards Act, and are not exempt under the regulations in this part no matter how highly paid they might be.

(b)(1) The section 13(a)(1) exemptions and the regulations in this part also do not apply to police officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees, regardless of rank or pay level, who perform work such as preventing, controlling or extinguishing fires of any type; rescuing fire, crime or accident victims; preventing or detecting crimes; conducting investigations or inspections for violations of law; performing surveillance; pursuing, restraining and apprehending suspects; detaining or supervising suspected and convicted criminals, including those on probation or parole; interviewing witnesses; interrogating and fingerprinting suspects; preparing investigative reports; or other similar work.

(2) Such employees do not qualify as exempt executive employees because their primary duty is not management of the enterprise in which the employee is employed or a customarily recognized department or subdivision thereof as required under Sec. 541.100. Thus, for example, a police officer or fire fighter whose primary duty is to investigate crimes or fight fires is not exempt under section 13(a)(1) of the Act merely because the police officer or fire fighter also directs the work of other employees in the conduct of an investigation or fighting a fire.

(3) Such employees do not qualify as exempt administrative employees because their primary duty is not the performance of work directly related to the management or general business operations of the employer or the employer's customers as required under Sec. 541.200.

(4) Such employees do not qualify as exempt professionals because their primary duty is not the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction or the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as required under Sec. 541.300. Although some police officers, fire fighters, paramedics, emergency medical technicians and similar employees have college degrees, a specialized academic degree is not a standard prerequisite for employment in such occupations.

Sec. 541.4 Other laws and collective bargaining agreements. The Fair Labor Standards Act provides minimum standards that may be exceeded, but cannot be waived or reduced. Employers must comply, for example, with any Federal, State or municipal laws, regulations or ordinances establishing a higher minimum wage or lower maximum workweek than those established under the Act. Similarly, employers, on their own initiative or under a collective bargaining agreement with a labor union, are not precluded by the Act from providing a wage higher than the statutory minimum, a shorter workweek than the statutory maximum, or a higher overtime premium (double time, for example) than provided by the Act. While collective bargaining agreements cannot waive or reduce the Act's protections, nothing in the Act or the regulations in this part relieves employers from their contractual obligations under collective bargaining agreements.

SUBPART B—EXECUTIVE EMPLOYEES

Sec. 541.100 General rule for executive employees.

(a) The term "employee employed in a bona fide executive capacity" in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (2) Whose primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof; (3) Who customarily and regularly directs the work of two or more other employees; and (4) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight.

(b) The phrase "salary basis" is defined at Sec. 541.602; "board, lodging or other facilities" is defined at Sec. 541.606; "primary duty" is defined at Sec. 541.700; and "customarily and regularly" is defined at Sec. 541.701.

Sec. 541.101 Business owner. The term "employee employed in a bona fide executive capacity" in section 13(a)(1) of the Act also includes any employee who owns at least a bona fide 20-percent percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management. The term "management" is defined in Sec. 541.102. The requirements of Subpart G (salary requirements) of this part do not apply to the business owners described in this section.

Sec. 541.102 Management. Generally, "management" includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures.

Sec. 541.103 Department or subdivision. (a) The phrase "a customarily recognized department or subdivision" is intended to distinguish between a mere collection of employees assigned from time to time to a specific job or series of jobs and a unit with permanent status and function. A customarily recognized department or subdivision must have a permanent status and a continuing function. For example, a large employer's human resources department might have subdivisions for labor relations, pensions and other benefits, equal employment opportunity, and personnel management, each of which has a permanent status and function. (b) When an enterprise has more than one establishment, the employee in charge of each establishment may be considered in charge of a recognized subdivision of the enterprise. (c) A recognized department or subdivision need not be physically within the employer's establishment and may move from place to place. The mere fact that the employee works in more than one location does not invalidate the exemption if other factors show that the employee is actually in charge of a recognized unit with a continuing function in the organization. (d) Continuity of the same subordinate personnel is not essential to the existence of a recognized unit with a continuing function. An otherwise exempt employee will not lose the exemption merely because the employee draws and supervises workers from a pool or supervises a team of workers drawn from other recognized units, if other factors are present that indicate that the employee is in charge of a recognized unit with a continuing function.

Sec. 541.104 Two or more other employees. (a) To qualify as an exempt executive under Sec. 541.100, the employee must customarily and regularly direct the work of two or more other employees. The phrase "two or more other employees" means two full-time employees or their equivalent. One full-time and two half-time employees, for example, are equivalent to two full-time employees. Four half-time employees are also equivalent. (b) The supervision can be distributed among two, three or more employees, but each such employee must customarily and regularly direct the work of two or more other full-time employees or the equivalent. Thus, for example, a department with five full-time nonexempt workers may have up to two exempt supervisors if each such supervisor customarily and regularly directs the work of two of those workers. (c) An employee who merely assists the manager of a particular department and supervises two or more employees only in the actual manager's absence does not meet this requirement. (d) Hours worked by an employee cannot be credited more than once for different executives. Thus, a shared responsibility for the supervision of the same two employees in the same department does not satisfy this requirement. However, a full-time employee who works four hours for one supervisor and four hours for a different supervisor, for example, can be credited as a half-time employee for both supervisors.

Sec. 541.105 Particular weight. To determine whether an employee's suggestions and recommendations are given "particular weight," factors to be considered include, but are not limited to, whether it is part of the employee's job duties to make such suggestions and recommendations; the frequency with which such suggestions and recommendations are made or requested; and the frequency with which the employee's suggestions and recommendations are relied upon. Generally, an executive's suggestions and recommendations must pertain to employees whom the executive customarily and regularly directs. It does not include an occasional suggestion with regard to the change in status of a co-worker. An employee's suggestions and recommendations may still be deemed to have "particular weight" even if a higher level manager's recommendation has more importance and even if the employee does not have authority to make the ultimate decision as to the employee's change in status.

Sec. 541.106 Concurrent duties.

(a) Concurrent performance of exempt and nonexempt work does not disqualify an employee from the executive exemption if the requirements of Sec. 541.100 are otherwise met. Whether an employee meets the requirements of Sec. 541.100 when the employee performs concurrent duties is determined on a case-by-case basis and based on the factors set forth in Sec. 541.700. Generally, exempt executives make the decision regarding when to perform nonexempt duties and remain responsible for the success or failure of business operations under their management while performing the nonexempt work. In contrast, the nonexempt employee generally is directed by a supervisor to perform the exempt work or performs the exempt work for defined time periods. An employee whose primary duty is ordinary production work or routine, recurrent or repetitive tasks cannot qualify for exemption as an executive.

(b) For example, an assistant manager in a retail establishment may perform work such as serving customers, cooking food, stocking shelves and cleaning the establishment, but performance of such nonexempt work does not preclude the exemption if the assistant manager's primary duty is management. An assistant manager can supervise employees and serve customers at the same time without losing the exemption. An exempt employee can also simultaneously direct the work of other employees and stock shelves.

(c) In contrast, a relief supervisor or working supervisor whose primary duty is performing nonexempt work on the production line in a manufacturing plant does not become exempt merely because the nonexempt production line employee occasionally has some responsibility for directing the work of other nonexempt production line employees when, for example, the exempt supervisor is unavailable. Similarly, an employee whose primary duty is to work as an electrician is not an exempt executive even if the employee also directs the work of other employees on the job site, orders parts and materials for the job, and handles requests from the prime contractor.

Subpart C—Administrative Employees

Sec. 541.200 General rule for administrative employees.

(a) The term "employee employed in a bona fide administrative capacity" in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (2) Whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and (3) Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

(b) The term "salary basis" is defined at Sec. 541.602; "fee basis" is defined at Sec. 541.605; "board, lodging or other facilities" is defined at Sec. 541.606; and "primary duty" is defined at Sec. 541.700.

Sec. 541.201 Directly related to management or general business operations.

(a) To qualify for the administrative exemption, an employee's primary duty must be the performance of work directly related to the management or general business operations of the employer or the employer's customers. The phrase "directly related to the management or general business operations" refers to the type of work performed by the employee. To meet this requirement, an employee must perform work directly related to assisting with the running or servicing of the business, as distinguished, for example, from working on a manufacturing production line or selling a product in a retail or service establishment.

(b) Work directly related to management or general business operations includes, but is not limited to, work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations, government relations; computer network, internet and database administration; legal and regulatory compliance; and similar activities. Some of these activities may be performed by employees who also would qualify for another exemption.

(c) An employee may qualify for the administrative exemption if the employee's primary duty is the performance of work directly related to the management or general business operations of the employer's customers. Thus, for example, employees acting as advisers or consultants to their employer's clients or customers (as tax experts or financial consultants, for example) may be exempt.

Sec. 541.202 Discretion and independent judgment.

(a) To qualify for the administrative exemption, an employee's primary duty must include the exercise of discretion and independent judgment with respect to matters of significance. In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered. The term "matters of significance" refers to the level of importance or consequence of the work performed.

(b) The phrase "discretion and independent judgment" must be applied in the light of all the facts involved in the particular employment situation in which the question arises. Factors to consider when determining whether an employee exercises discretion and independent judgment with respect to matters of significance include, but are not limited to: whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices; whether the employee carries out major assignments in conducting the operations of the business; whether the employee performs work that affects business operations to a substantial degree, even if the employee's assignments are related to operation of a particular segment of the business; whether the employee has authority to commit the employer in matters that have significant financial impact; whether the employee has authority to waive or deviate from established policies and procedures without prior approval; whether the employee has authority to negotiate and bind the company on significant matters; whether the employee provides consultation or expert advice to management; whether the employee is involved in planning long- or short-term business objectives; whether the employee investigates and resolves matters of significance on behalf of management; and whether the employee represents the company in handling complaints, arbitrating disputes or resolving grievances.

(c) The exercise of discretion and independent judgment implies that the employee has authority to make an independent choice, free from immediate direction or supervision. However, employees can exercise discretion and independent judgment even if their decisions or recommendations are reviewed at a higher level. Thus, the term "discretion and independent judgment" does not require that the decisions made by an employee have a finality that goes with unlimited authority and a complete absence of review. The decisions made as a result of the exercise of discretion and independent judgment may consist of recommendations for action rather than the actual taking of action. The fact that an employee's decision may be subject to review and that upon occasion the decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment. For example, the policies formulated by the credit manager of a large corporation may be subject to review by higher company officials who may approve or disapprove these policies. The management consultant who has made a study of the operations of a business and who has drawn a proposed change in organization may have the plan reviewed or revised by superiors before it is submitted to the client.

(d) An employer's volume of business may make it necessary to employ a number of employees to perform the same or similar work. The fact that many employees perform identical work or work of the same relative importance does not mean that the work of each such employee does not involve the exercise of discretion and independent judgment with respect to matters of significance.

(e) The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources. See also Sec. 541.704 regarding use of manuals. The exercise of discretion and independent judgment also does not include clerical or secretarial work, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routine work. An employee who simply tabulates data is not exempt, even if labeled as a "statistician."

(f) An employee does not exercise discretion and independent judgment with respect to matters of significance merely because the employer will experience financial losses if the employee fails to perform the job properly. For example, a messenger who is entrusted with carrying large sums of money does not exercise discretion and independent judgment with respect to matters of significance even though serious consequences may flow from the employee's neglect. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee's duties may cause serious financial loss to the employer.

Sec. 541.203 Administrative exemption examples.

(a) Insurance claims adjusters generally meet the duties requirements for the administrative exemption, whether they work for an insurance company or other type of company, if their duties include activities such as interviewing insureds, witnesses and physicians; inspecting property damage; reviewing factual information to prepare damage estimates; evaluating and making recommendations regarding coverage of claims; determining liability and total value of a claim; negotiating settlements; and making recommendations regarding litigation.

(b) Employees in the financial services industry generally meet the duties requirements for the administrative exemption if their duties include work such as collecting and analyzing information regarding the customer's income, assets, investments or debts; determining which financial products best meet the customer's needs and financial circumstances; advising the customer regarding the advantages and disadvantages of different financial products; and marketing, servicing or promoting the employer's financial products. However, an employee whose primary duty is selling financial products does not qualify for the administrative exemption.

(c) An employee who leads a team of other employees assigned to complete major projects for the employer (such as purchasing, selling or closing all or part of the business, negotiating a real estate transaction or a collective bargaining agreement, or designing and implementing productivity improvements) generally meets the duties requirements for the administrative exemption, even if the employee does not have direct supervisory responsibility over the other employees on the team.

(d) An executive assistant or administrative assistant to a business owner or senior executive of a large business generally meets the duties requirements for the administrative exemption if such employee, without specific instructions or prescribed procedures, has been delegated authority regarding matters of significance.

(e) Human resources managers who formulate, interpret or implement employment policies and management consultants who study the operations of a business and propose changes in organization generally meet the duties requirements for the administrative exemption. However, personnel clerks who "screen" applicants to obtain data regarding their minimum qualifications and fitness for employment generally do not meet the duties requirements for the administrative exemption. Such personnel clerks typically will reject all applicants who do not meet minimum standards for the particular job or for employment by the company. The minimum standards are usually set by the exempt human resources manager or other company officials, and the decision to hire from the group of qualified applicants who do meet the minimum standards is similarly made by the exempt human resources manager or other company officials. Thus, when the interviewing and screening functions are performed by the human resources manager or personnel manager who makes the hiring decision or makes recommendations for hiring from the pool of qualified applicants, such duties constitute exempt work, even though routine, because this work is directly and closely related to the employee's exempt functions.

(f) Purchasing agents with authority to bind the company on significant purchases generally meet the duties requirements for the administrative exemption even if they must consult with top management officials when making a purchase commitment for raw materials in excess of the contemplated plant needs.

(g) Ordinary inspection work generally does not meet the duties requirements for the administrative exemption. Inspectors normally perform specialized work along standardized lines involving well-established techniques and procedures which may have been catalogued and described in manuals or other sources. Such inspectors rely on techniques and skills acquired by special training or experience. They have some leeway in the performance of their work but only within closely prescribed limits.

(h) Employees usually called examiners or graders, such as employees that grade lumber, generally do not meet the duties requirements for the administrative exemption. Such employees usually perform work involving the comparison of products with established standards which are frequently catalogued. Often, after continued reference to the written standards, or through experience, the employee acquires sufficient knowledge so that reference to written standards is unnecessary. The substitution of the employee's memory for a manual of standards does not convert the character of the work performed to exempt work requiring the exercise of discretion and independent judgment.

(i) Comparison shopping performed by an employee of a retail store who merely reports to the buyer the prices at a competitor's store does not qualify for the administrative exemption. However, the buyer who evaluates such reports on competitor prices to set the employer's prices generally meets the duties requirements for the administrative exemption.

(j) Public sector inspectors or investigators of various types, such as fire prevention or safety, building or construction, health or sanitation, environmental or soils specialists and similar employees, generally do not meet the duties requirements for the administrative exemption because their work typically does not involve work directly related to the management or general business operations of the employer. Such employees also do not qualify for the administrative exemption because their work involves the use of skills and technical abilities in gathering factual information, applying known standards or prescribed procedures, determining which procedure to follow, or determining whether prescribed standards or criteria are met.

Sec. 541.204 Educational establishments.

(a) The term "employee employed in a bona fide administrative capacity" in section 13(a)(1) of the Act also includes employees: (1) Compensated for services on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government) exclusive of board, lodging or other facilities, or on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which employed; and (2) Whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment or department or subdivision thereof.

(b) The term "educational establishment" means an elementary or secondary school system, an institution of higher education or other educational institution. Sections 3(v) and 3(w) of the Act define elementary and secondary schools as those day or residential schools that provide elementary or secondary education, as determined under State law. Under the laws of most States, such education includes the curriculums in grades 1 through 12; under many it includes also the introductory programs in kindergarten. Such education in some States may also include nursery school programs in elementary education and junior college curriculums in secondary education. The term "other educational establishment" includes special schools for mentally or physically disabled or gifted children, regardless of any classification of such schools as elementary, secondary or higher. Factors relevant in determining whether post-secondary career programs are educational institutions include whether the school is licensed by a state agency responsible for the state's educational system or accredited by a nationally recognized accrediting organization for career schools. Also, for purposes of the exemption, no distinction is drawn between public and private schools, or between those operated for profit and those that are not for profit.

(c) The phrase "performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

(1) Employees engaged in academic administrative functions include: the superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students, establishing and maintaining academic and grading standards, and other aspects of the teaching program; the principal and any vice-principals responsible for the operation of an elementary or secondary school; department heads in institutions of higher education responsible for the administration of the mathematics department, the English department, the foreign language department, etc.; academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and other employees with similar responsibilities.

(2) Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers or dietitians do not perform academic administrative functions. Although such work is not considered academic administration, such employees may qualify for exemption under Sec. 541.200 or under other sections of this part, provided the requirements for such exemptions are met.

Subpart D—Professional Employees

Sec. 541.300 General rule for professional employees.

(a) The term "employee employed in a bona fide professional capacity" in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging, or other facilities; and (2) Whose primary duty is the performance of work: (i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or (ii) Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

(b) The term "salary basis" is defined at Sec. 541.602; "fee basis" is defined at Sec. 541.605; "board, lodging or other facilities" is defined at Sec. 541.606; and "primary duty" is defined at Sec. 541.700.

Sec. 541.301 Learned professionals.

(a) To qualify for the learned professional exemption, an employee's primary duty must be the performance of work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction. This primary duty test includes three elements:

(1) The employee must perform work requiring advanced knowledge;

(2) The advanced knowledge must be in a field of science or learning; and (3) The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

(b) The phrase "work requiring advanced knowledge" means work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment, as distinguished from performance of routine mental, manual, mechanical or physical work. An employee who performs work requiring advanced knowledge generally uses the advanced knowledge to analyze, interpret or make deductions from varying facts or circumstances. Advanced knowledge cannot be attained at the high school level.

(c) The phrase "field of science or learning" includes the traditional professions of law, medicine, theology, accounting, actuarial computation, engineering, architecture, teaching, various types of physical, chemical and biological sciences, pharmacy and other similar occupations that have a recognized professional status as distinguished from the mechanical arts or skilled trades where in some instances the knowledge is of a fairly advanced type, but is not in a field of science or learning.

(d) The phrase "customarily acquired by a prolonged course of specialized intellectual instruction" restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession. The best prima facie evidence that an employee meets this requirement is possession of the appropriate academic degree. However, the word "customarily" means that the exemption is also available to employees in such professions who have substantially the same knowledge level and perform substantially the same work as the degreed employees, but who attained the advanced knowledge through a combination of work experience and intellectual instruction. Thus, for example, the learned professional exemption is available to the occasional lawyer who has not gone to law school, or the occasional chemist who is not the possessor of a degree in chemistry. However, the learned professional exemption is not available for occupations that customarily may be performed with only the general knowledge acquired by an academic degree in any field, with knowledge acquired through an apprenticeship, or with training in the performance of routine mental, manual, mechanical or physical processes. The learned professional exemption also does not apply to occupations in which most employees have acquired their skill by experience rather than by advanced specialized intellectual instruction.

(e)(1) Registered or certified medical technologists. Registered or certified medical technologists who have successfully completed three academic years of pre-professional study in an accredited college or university plus a fourth year of professional course work in a school of medical technology approved by the Council of Medical Education of the American Medical Association generally meet the duties requirements for the learned professional exemption. (2) Nurses. Registered nurses who are registered by the appropriate State examining board generally meet the duties requirements for the learned professional exemption. Licensed practical nurses and other similar health care employees, however, generally do not qualify as exempt learned professionals because possession of a specialized advanced academic degree is not a standard prerequisite for entry into such occupations. (3) Dental hygienists. Dental hygienists who have successfully completed four academic years of pre-professional and professional study in an accredited college or university approved by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs of the American Dental Association generally meet the duties requirements for the learned professional exemption. (4) Physician assistants. Physician assistants who have successfully completed four academic years of pre-professional and professional study, including graduation from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant, and who are certified by the National Commission on Certification of Physician Assistants generally meet the duties requirements for the learned professional exemption. (5) Accountants. Certified public accountants generally meet the duties requirements for the learned professional exemption. In addition, many other accountants who are not certified public accountants but perform similar job duties may qualify as exempt learned professionals. However, accounting clerks, bookkeepers and other employees who normally perform a great deal of routine work generally will not qualify as exempt professionals. (6) Chefs. Chefs, such as executive chefs and sous chefs, who have attained a four-year specialized academic degree in a culinary arts program, generally meet the duties requirements for the learned professional exemption. The learned professional exemption is not available to cooks who perform predominantly routine mental, manual, mechanical or physical work. (7) Paralegals. Paralegals and legal assistants generally do not qualify as exempt learned professionals because an advanced specialized academic degree is not a standard prerequisite for entry into the field. Although many paralegals possess general four-year advanced degrees, most specialized paralegal programs are two-year associate degree programs from a community college or equivalent institution. However, the learned professional exemption is available for paralegals who possess advanced specialized degrees in other professional fields and apply advanced knowledge in that field in the performance of their duties. For example, if a law firm hires an engineer as a paralegal to provide expert advice on product liability cases or to assist on patent matters, that engineer would qualify for exemption. (8) Athletic trainers. Athletic trainers who have successfully completed four academic years of pre-professional and professional study in a specialized curriculum accredited by the Commission on Accreditation of Allied Health Education Programs and who are certified by the Board of Certification of the National Athletic Trainers Association Board of Certification generally meet the duties requirements for the learned professional exemption. (9) Funeral directors or embalmers. Licensed funeral directors and embalmers who are licensed by and working in a state that requires successful completion of four academic years of pre-professional and professional study, including graduation from a college of mortuary science accredited by the American Board of Funeral Service Education, generally meet the duties requirements for the learned professional exemption.

(f) The areas in which the professional exemption may be available are expanding. As knowledge is developed, academic training is broadened and specialized degrees are offered in new and diverse fields, thus creating new specialists in particular fields of science or learning. When an advanced specialized degree has become a standard requirement for a particular occupation, that occupation may have acquired the characteristics of a learned profession. Accrediting and certifying organizations similar to those listed in paragraphs (e)(1), (e)(3), (e)(4), (e)(8) and (e)(9) of this section also may be created in the future. Such organizations may develop similar specialized curriculums and certification programs which, if a standard requirement for a particular occupation, may indicate that the occupation has acquired the characteristics of a learned profession.

Sec. 541.302 Creative professionals.

(a) To qualify for the creative professional exemption, an employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as opposed to routine mental, manual, mechanical or physical work. The exemption does not apply to work which can be produced by a person with general manual or intellectual ability and training.

(b) To qualify for exemption as a creative professional, the work performed must be "in a recognized field of artistic or creative endeavor." This includes such fields as music, writing, acting and the graphic arts.

(c) The requirement of "invention, imagination, originality or talent" distinguishes the creative professions from work that primarily depends on intelligence, diligence and accuracy. The duties of employees vary widely, and exemption as a creative professional depends on the extent of the invention, imagination, originality or talent exercised by the employee. Determination of exempt creative professional status, therefore, must be made on a case-by-case basis. This requirement generally is met by actors, musicians, composers, conductors, and soloists; painters who at most are given the subject matter of their painting; cartoonists who are merely told the title or underlying concept of a cartoon and must rely on their own creative ability to express the concept; essayists, novelists, short-story writers and screen-play writers who choose their own subjects and hand in a finished piece of work to their employers (the majority of such persons are, of course, not employees but self-employed); and persons holding the more responsible writing positions in advertising agencies. This requirement generally is not met by a person who is employed as a copyist, as an "animator" of motion-picture cartoons, or as a retoucher of photographs, since such work is not properly described as creative in character.

(d) Journalists may satisfy the duties requirements for the creative professional exemption if their primary duty is work requiring invention, imagination, originality or talent, as opposed to work which depends primarily on intelligence, diligence and accuracy. Employees of newspapers, magazines, television and other media are not exempt creative professionals if they only collect, organize and record information that is routine or already public, or if they do not contribute a unique interpretation or analysis to a news product. Thus, for example, newspaper reporters who merely rewrite press releases or who write standard recounts of public information by gathering facts on routine community events are not exempt creative professionals. Reporters also do not qualify as exempt creative professionals if their work product is subject to substantial control by the employer. However, journalists may qualify as exempt creative professionals if their primary duty is performing on the air in radio, television or other electronic media; conducting investigative interviews; analyzing or interpreting public events; writing editorials, opinion columns or other commentary; or acting as a narrator or commentator.

Sec. 541.303 Teachers.

(a) The term "employee employed in a bona fide professional capacity" in section 13(a)(1) of the Act also means any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed. The term "educational establishment" is defined in Sec. 541.204(b).

(b) Exempt teachers include, but are not limited to: Regular academic teachers; teachers of kindergarten or nursery school pupils; teachers of gifted or disabled children; teachers of skilled and semi- skilled trades and occupations; teachers engaged in automobile driving instruction; aircraft flight instructors; home economics teachers; and vocal or instrumental music instructors. Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

(c) The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the State to refer to different kinds of certificates. However, private schools and public schools are not uniform in requiring a certificate for employment as an elementary or secondary school teacher, and a teacher's certificate is not generally necessary for employment in institutions of higher education or other educational establishments. Therefore, a teacher who is not certified may be considered for exemption, provided that such individual is employed as a teacher by the employing school or school system.

(d) The requirements of Sec. 541.300 and Subpart G (salary requirements) of this part do not apply to the teaching professionals described in this section.

Sec. 541.304 Practice of law or medicine.

(a) The term "employee employed in a bona fide professional capacity" in section 13(a)(1) of the Act also shall mean: (1) Any employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and is actually engaged in the practice thereof; and (2) Any employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of the profession.

(b) In the case of medicine, the exemption applies to physicians and other practitioners licensed and practicing in the field of medical science and healing or any of the medical specialties practiced by physicians or practitioners. The term "physicians" includes medical doctors including general practitioners and specialists, osteopathic physicians (doctors of osteopathy), podiatrists, dentists (doctors of dental medicine), and optometrists (doctors of optometry or bachelors of science in optometry).

(c) Employees engaged in internship or resident programs, whether or not licensed to practice prior to commencement of the program, qualify as exempt professionals if they enter such internship or resident programs after the earning of the appropriate degree required for the general practice of their profession.

(d) The requirements of Sec. 541.300 and subpart G (salary requirements) of this part do not apply to the employees described in this section.

Subpart E—Computer Employees

Sec. 541.400 General rule for computer employees.

(a) Computer systems analysts, computer programmers, software engineers or other similarly skilled workers in the computer field are eligible for exemption as professionals under section 13(a)(1) of the Act and under section 13(a)(17) of the Act. Because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the applicability of this exemption.

(b) The section 13(a)(1) exemption applies to any computer employee compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities, and the section 13(a)(17) exemption applies to any computer employee compensated on an hourly basis at a rate not less than $27.63 an hour. In addition, under either section 13(a)(1) or section 13(a)(17) of the Act, the exemptions apply only to computer employees whose primary duty consists of: (1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications; (2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; (3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or (4) A combination of the aforementioned duties, the performance of which requires the same level of skills.

(c) The term "salary basis" is defined at Sec. 541.602; "fee basis" is defined at Sec. 541.605; "board, lodging or other facilities" is defined at Sec. 541.606; and "primary duty" is defined at Sec. 541.700.

Sec. 541.401 Computer manufacture and repair. The exemption for employees in computer occupations does not include employees engaged in the manufacture or repair of computer hardware and related equipment. Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs (e.g., engineers, drafters and others skilled in computer-aided design software), but who are not primarily engaged in computer systems analysis and programming or other similarly skilled computer-related occupations identified in Sec. 541.400(b), are also not exempt computer professionals.

Sec. 541.402 Executive and administrative computer employees. Computer employees within the scope of this exemption, as well as those employees not within its scope, may also have executive and administrative duties which qualify the employees for exemption under subpart B or subpart C of this part. For example, systems analysts and computer programmers generally meet the duties requirements for the administrative exemption if their primary duty includes work such as planning, scheduling, and coordinating activities required to develop systems to solve complex business, scientific or engineering problems of the employer or the employer's customers. Similarly, a senior or lead computer programmer who manages the work of two or more other programmers in a customarily recognized department or subdivision of the employer, and whose recommendations as to the hiring, firing, advancement, promotion or other change of status of the other programmers are given particular weight, generally meets the duties requirements for the executive exemption.

Subpart F—Outside Sales Employees

Sec. 541.500 General rule for outside sales employees. (a) The term "employee employed in the capacity of outside salesman" in section 13(a)(1) of the Act shall mean any employee: (1) Whose primary duty is: (i) making sales within the meaning of section 3(k) of the Act, or (ii) obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and (2) Who is customarily and regularly engaged away from the employer's place or places of business in performing such primary duty.

(b) The term "primary duty" is defined at Sec. 541.700. In determining the primary duty of an outside sales employee, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall be regarded as exempt outside sales work. Other work that furthers the employee's sales efforts also shall be regarded as exempt work including, for example, writing sales reports, updating or revising the employee's sales or display catalogue, planning itineraries and attending sales conferences.

(c) The requirements of subpart G (salary requirements) of this part do not apply to the outside sales employees described in this section.

Sec. 541.501 Making sales or obtaining orders.

(a) Section 541.500 requires that the employee be engaged in: (1) Making sales within the meaning of section 3(k) of the Act, or (2) Obtaining orders or contracts for services or for the use of facilities.

(b) Sales within the meaning of section 3(k) of the Act include the transfer of title to tangible property, and in certain cases, of tangible and valuable evidences of intangible property. Section 3(k) of the Act states that "sale" or "sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(c) Exempt outside sales work includes not only the sales of commodities, but also "obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer." Obtaining orders for "the use of facilities" includes the selling of time on radio or television, the solicitation of advertising for newspapers and other periodicals, and the solicitation of freight for railroads and other transportation agencies.

(d) The word "services" extends the outside sales exemption to employees who sell or take orders for a service, which may be performed for the customer by someone other than the person taking the order.

Sec. 541.502 Away from employer's place of business. An outside sales employee must be customarily and regularly engaged "away from the employer's place or places of business." The outside sales employee is an employee who makes sales at the customer's place of business or, if selling door-to-door, at the customer's home. Outside sales does not include sales made by mail, telephone or the Internet unless such contact is used merely as an adjunct to personal calls. Thus, any fixed site, whether home or office, used by a salesperson as a headquarters or for telephonic solicitation of sales is considered one of the employer's places of business, even though the employer is not in any formal sense the owner or tenant of the property. However, an outside sales employee does not lose the exemption by displaying samples in hotel sample rooms during trips from city to city; these sample rooms should not be considered as the employer's places of business. Similarly, an outside sales employee does not lose the exemption by displaying the employer's products at a trade show. If selling actually occurs, rather than just sales promotion, trade shows of short duration (i.e., one or two weeks) should not be considered as the employer's place of business.

Sec. 541.503 Promotion work.

(a) Promotion work is one type of activity often performed by persons who make sales, which may or may not be exempt outside sales work, depending upon the circumstances under which it is performed. Promotional work that is actually performed incidental to and in conjunction with an employee's own outside sales or solicitations is exempt work. On the other hand, promotional work that is incidental to sales made, or to be made, by someone else is not exempt outside sales work. An employee who does not satisfy the requirements of this subpart may still qualify as an exempt employee under other subparts of this rule.

(b) A manufacturer's representative, for example, may perform various types of promotional activities such as putting up displays and posters, removing damaged or spoiled stock from the merchant's shelves or rearranging the merchandise. Such an employee can be considered an exempt outside sales employee if the employee's primary duty is making sales or contracts. Promotion activities directed toward consummation of the employee's own sales are exempt. Promotional activities designed to stimulate sales that will be made by someone else are not exempt outside sales work.

(c) Another example is a company representative who visits chain stores, arranges the merchandise on shelves, replenishes stock by replacing old with new merchandise, sets up displays and consults with the store manager when inventory runs low, but does not obtain a commitment for additional purchases. The arrangement of merchandise on the shelves or the replenishing of stock is not exempt work unless it is incidental to and in conjunction with the employee's own outside sales. Because the employee in this instance does not consummate the sale nor direct efforts toward the consummation of a sale, the work is not exempt outside sales work.

Sec. 541.504 Drivers who sell.

(a) Drivers who deliver products and also sell such products may qualify as exempt outside sales employees only if the employee has a primary duty of making sales. In determining the primary duty of drivers who sell, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including loading, driving or delivering products, shall be regarded as exempt outside sales work.

(b) Several factors should be considered in determining if a driver has a primary duty of making sales, including, but not limited to: a comparison of the driver's duties with those of other employees engaged as truck drivers and as salespersons; possession of a selling or solicitor's license when such license is required by law or ordinances; presence or absence of customary or contractual arrangements concerning amounts of products to be delivered; description of the employee's occupation in collective bargaining agreements; the employer's specifications as to qualifications for hiring; sales training; attendance at sales conferences; method of payment; and proportion of earnings directly attributable to sales.

(c) Drivers who may qualify as exempt outside sales employees include: (1) A driver who provides the only sales contact between the employer and the customers visited, who calls on customers and takes orders for products, who delivers products from stock in the employee's vehicle or procures and delivers the product to the customer on a later trip, and who receives compensation commensurate with the volume of products sold. (2) A driver who obtains or solicits orders for the employer's products from persons who have authority to commit the customer for purchases. (3) A driver who calls on new prospects for customers along the employee's route and attempts to convince them of the desirability of accepting regular delivery of goods. (4) A driver who calls on established customers along the route and persuades regular customers to accept delivery of increased amounts of goods or of new products, even though the initial sale or agreement for delivery was made by someone else.

(d) Drivers who generally would not qualify as exempt outside sales employees include: (1) A route driver whose primary duty is to transport products sold by the employer through vending machines and to keep such machines stocked, in good operating condition, and in good locations.

(2) A driver who often calls on established customers day after day or week after week, delivering a quantity of the employer's products at each call when the sale was not significantly affected by solicitations of the customer by the delivering driver or the amount of the sale is determined by the volume of the customer's sales since the previous delivery. (3) A driver primarily engaged in making deliveries to customers and performing activities intended to promote sales by customers (including placing point-of-sale and other advertising materials, price stamping commodities, arranging merchandise on shelves, in coolers or in cabinets, rotating stock according to date, and cleaning and otherwise servicing display cases), unless such work is in furtherance of the driver's own sales efforts.

Subpart G—Salary Requirements

Sec. 541.600 Amount of salary required.

(a) To qualify as an exempt executive, administrative or professional employee under section 13(a)(1) of the Act, an employee must be compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities. Administrative and professional employees may also be paid on a fee basis, as defined in Sec. 541.605.

(b) The $455 a week may be translated into equivalent amounts for periods longer than one week. The requirement will be met if the employee is compensated biweekly on a salary basis of $910, semimonthly on a salary basis of $985.83, or monthly on a salary basis of $1,971.66. However, the shortest period of payment that will meet this compensation requirement is one week.

(c) In the case of academic administrative employees, the compensation requirement also may be met by compensation on a salary basis at a rate at least equal to the entrance salary for teachers in the educational establishment by which the employee is employed, as provided in Sec. 541. 204(a)(1).

(d) In the case of computer employees, the compensation requirement also may be met by compensation on an hourly basis at a rate not less than $27.63 an hour, as provided in Sec. 541. 400(b).

(e) In the case of professional employees, the compensation requirements in this section shall not apply to employees engaged as teachers (see Sec. 541.303); employees who hold a valid license or certificate permitting the practice of law or medicine or any of their branches and are actually engaged in the practice thereof (see Sec. 541.304); or to employees who hold the requisite academic degree for the general practice of medicine and are engaged in an internship or resident program pursuant to the practice of the profession (see Sec. 541.304). In the case of medical occupations, the exception from the salary or fee requirement does not apply to pharmacists, nurses, therapists, technologists, sanitarians, dietitians, social workers, psychologists, psychometrists, or other professions which service the medical profession.

Sec. 541.601 Highly compensated employees.

(a) An employee with total annual compensation of at least $100,000 is deemed exempt under section 13(a)(1) of the Act if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part.

(b)(1) "Total annual compensation" must include at least $455 per week paid on a salary or fee basis. Total annual compensation may also include commissions, nondiscretionary bonuses and other nondiscretionary compensation earned during a 52-week period. Total annual compensation does not include board, lodging and other facilities as defined in Sec. 541.606, and does not include payments for medical insurance, payments for life insurance, contributions to retirement plans and the cost of other fringe benefits. (2) If an employee's total annual compensation does not total at least the minimum amount established in paragraph (a) of this section by the last pay period of the 52-week period, the employer may, during the last pay period or within one month after the end of the 52-week period, make one final payment sufficient to achieve the required level. For example, an employee may earn $80,000 in base salary, and the employer may anticipate based upon past sales that the employee also will earn $20,000 in commissions. However, due to poor sales in the final quarter of the year, the employee actually only earns $10,000 in commissions. In this situation, the employer may within one month after the end of the year make a payment of at least $10,000 to the employee. Any such final payment made after the end of the 52-week period may count only toward the prior year's total annual compensation and not toward the total annual compensation in the year it was paid. If the employer fails to make such a payment, the employee does not qualify as a highly compensated employee, but may still qualify as exempt under subparts B, C or D of this part. (3) An employee who does not work a full year for the employer, either because the employee is newly hired after the beginning of the year or ends the employment before the end of the year, may qualify for exemption under this section if the employee receives a pro rata portion of the minimum amount established in paragraph (a) of this section, based upon the number of weeks that the employee will be or has been employed. An employer may make one final payment as under paragraph (b)(2) of this section within one month after the end of employment. (4) The employer may utilize any 52-week period as the year, such as a calendar year, a fiscal year, or an anniversary of hire year. If the employer does not identify some other year period in advance, the calendar year will apply.

(c) A high level of compensation is a strong indicator of an employee's exempt status, thus eliminating the need for a detailed analysis of the employee's job duties. Thus, a highly compensated employee will qualify for exemption if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part. An employee may qualify as a highly compensated executive employee, for example, if the employee customarily and regularly directs the work of two or more other employees, even though the employee does not meet all of the other requirements for the executive exemption under Sec. 541.100.

(d) This section applies only to employees whose primary duty includes performing office or non-manual work. Thus, for example, non-management production-line workers and non management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, laborers and other employees who perform work involving repetitive operations with their hands, physical skill and energy are not exempt under this section no matter how highly paid they might be.

Sec. 541.602 Salary basis.

(a) General rule. An employee will be considered to be paid on a "salary basis" within the meaning of these regulations if the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed. Subject to the exceptions provided in paragraph (b) of this section, an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked. Exempt employees need not be paid for any workweek in which they perform no work. An employee is not paid on a salary basis if deductions from the employee's predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

(b) Exceptions. The prohibition against deductions from pay in the salary basis requirement is subject to the following exceptions: (1) Deductions from pay may be made when an exempt employee is absent from work for one or more full days for personal reasons, other than sickness or disability. Thus, if an employee is absent for two full days to handle personal affairs, the employee's salaried status will not be affected if deductions are made from the salary for two full day absences. However, if an exempt employee is absent for one and a half days for personal reasons, the employer can deduct only for the one full-day absence. (2) Deductions from pay may be made for absences of one or more full days occasioned by sickness or disability (including work-related accidents) if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by such sickness or disability. The employer is not required to pay any portion of the employee's salary for full-day absences for which the employee receives compensation under the plan, policy or practice. Deductions for such full-day absences also may be made before the employee has qualified under the plan, policy or practice, and after the employee has exhausted the leave allowance thereunder. Thus, for example, if an employer maintains a short-term disability insurance plan providing salary replacement for 12 weeks starting on the fourth day of absence, the employer may make deductions from pay for the three days of absence before the employee qualifies for benefits under the plan; for the twelve weeks in which the employee receives salary replacement benefits under the plan; and for absences after the employee has exhausted the 12 weeks of salary replacement benefits. Similarly, an employer may make deductions from pay for absences of one or more full days if salary replacement benefits are provided under a State disability insurance law or under a State workers' compensation law. (3) While an employer cannot make deductions from pay for absences of an exempt employee occasioned by jury duty, attendance as a witness or temporary military leave, the employer can offset any amounts received by an employee as jury fees, witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption. (4) Deductions from pay of exempt employees may be made for penalties imposed in good faith for infractions of safety rules of major significance. Safety rules of major significance include those relating to the prevention of serious danger in the workplace or to other employees, such as rules prohibiting smoking in explosive plants, oil refineries and coal mines. (5) Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of workplace conduct rules. Such suspensions must be imposed pursuant to a written policy applicable to all employees. Thus, for example, an employer may suspend an exempt employee without pay for three days for violating a generally applicable written policy prohibiting sexual harassment. Similarly, an employer may suspend an exempt employee without pay for twelve days for violating a generally applicable written policy prohibiting workplace violence. (6) An employer is not required to pay the full salary in the initial or terminal week of employment. Rather, an employer may pay a proportionate part of an employee's full salary for the time actually worked in the first and last week of employment. In such weeks, the payment of an hourly or daily equivalent of the employee's full salary for the time actually worked will meet the requirement. However, employees are not paid on a salary basis within the meaning of these regulations if they are employed occasionally for a few days, and the employer pays them a proportionate part of the weekly salary when so employed. (7) An employer is not required to pay the full salary for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. Rather, when an exempt employee takes unpaid leave under the Family and Medical Leave Act, an employer may pay a proportionate part of the full salary for time actually worked. For example, if an employee who normally works 40 hours per week uses four hours of unpaid leave under the Family and Medical Leave Act, the employer could deduct 10 percent of the employee's normal salary that week.

(c) When calculating the amount of a deduction from pay allowed under paragraph (b) of this section, the employer may use the hourly or daily equivalent of the employee's full weekly salary or any other amount proportional to the time actually missed by the employee. A deduction from pay as a penalty for violations of major safety rules under paragraph (b)(4) of this section may be made in any amount.

Sec. 541.603 Effect of improper deductions from salary.

(a) An employer who makes improper deductions from salary shall lose the exemption if the facts demonstrate that the employer did not intend to pay employees on a salary basis. An actual practice of making improper deductions demonstrates that the employer did not intend to pay employees on a salary basis. The factors to consider when determining whether an employer has an actual practice of making improper deductions include, but are not limited to: the number of improper deductions, particularly as compared to the number of employee infractions warranting discipline; the time period during which the employer made improper deductions; the number and geographic location of employees whose salary was improperly reduced; the number and geographic location of managers responsible for taking the improper deductions; and whether the employer has a clearly communicated policy permitting or prohibiting improper deductions.

(b) If the facts demonstrate that the employer has an actual practice of making improper deductions, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. Employees in different job classifications or who work for different managers do not lose their status as exempt employees. Thus, for example, if a manager at a company facility routinely docks the pay of engineers at that facility for partial-day personal absences, then all engineers at that facility whose pay could have been improperly docked by the manager would lose the exemption; engineers at other facilities or working for other managers, however, would remain exempt.

(c) Improper deductions that are either isolated or inadvertent will not result in loss of the exemption for any employees subject to such improper deductions, if the employer reimburses the employees for such improper deductions.

(d) If an employer has a clearly communicated policy that prohibits the improper pay deductions specified in Sec. 541.602(a) and includes a complaint mechanism, reimburses employees for any improper deductions and makes a good faith commitment to comply in the future, such employer will not lose the exemption for any employees unless the employer willfully violates the policy by continuing to make improper deductions after receiving employee complaints. If an employer fails to reimburse employees for any improper deductions or continues to make improper deductions after receiving employee complaints, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. The best evidence of a clearly communicated policy is a written policy that was distributed to employees prior to the improper pay deductions by, for example, providing a copy of the policy to employees at the time of hire, publishing the policy in an employee handbook or publishing the policy on the employer's Intranet.

(e) This section shall not be construed in an unduly technical manner so as to defeat the exemption.

Sec. 541.604 Minimum guarantee plus extras.

(a) An employer may provide an exempt employee with additional compensation without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly-required amount paid on a salary basis. Thus, for example, an exempt employee guaranteed at least $455 each week paid on a salary basis may also receive additional compensation of a one percent commission on sales. An exempt employee also may receive a percentage of the sales or profits of the employer if the employment arrangement also includes a guarantee of at least $455 each week paid on a salary basis. Similarly, the exemption is not lost if an exempt employee who is guaranteed at least $455 each week paid on a salary basis also receives additional compensation based on hours worked for work beyond the normal workweek. Such additional compensation may be paid on any basis (e.g., flat sum, bonus payment, straight-time hourly amount, time and one-half or any other basis), and may include paid time off.

(b) An exempt employee's earnings may be computed on an hourly, a daily or a shift basis, without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly required amount paid on a salary basis regardless of the number of hours, days or shifts worked, and a reasonable relationship exists between the guaranteed amount and the amount actually earned. The reasonable relationship test will be met if the weekly guarantee is roughly equivalent to the employee's usual earnings at the assigned hourly, daily or shift rate for the employee's normal scheduled workweek. Thus, for example, an exempt employee guaranteed compensation of at least $500 for any week in which the employee performs any work, and who normally works four or five shifts each week, may be paid $150 per shift without violating the salary basis requirement. The reasonable relationship requirement applies only if the employee's pay is computed on an hourly, daily or shift basis. It does not apply, for example, to an exempt store manager paid a guaranteed salary of $650 per week who also receives a commission of one-half percent of all sales in the store or five percent of the store's profits, which in some weeks may total as much as, or even more than, the guaranteed salary.

Sec. 541.605 Fee basis.

(a) Administrative and professional employees may be paid on a fee basis, rather than on a salary basis. An employee will be considered to be paid on a "fee basis" within the meaning of these regulations if the employee is paid an agreed sum for a single job regardless of the time required for its completion. These payments resemble piecework payments with the important distinction that generally a "fee" is paid for the kind of job that is unique rather than for a series of jobs repeated an indefinite number of times and for which payment on an identical basis is made over and over again. Payments based on the number of hours or days worked and not on the accomplishment of a given single task are not considered payments on a fee basis.

(b) To determine whether the fee payment meets the minimum amount of salary required for exemption under these regulations, the amount paid to the employee will be tested by determining the time worked on the job and whether the fee payment is at a rate that would amount to at least $455 per week if the employee worked 40 hours. Thus, an artist paid $250 for a picture that took 20 hours to complete meets the minimum salary requirement for exemption since earnings at this rate would yield the artist $500 if 40 hours were worked.

Sec. 541.606 Board, lodging or other facilities.

(a) To qualify for exemption under section 13(a)(1) of the Act, an employee must earn the minimum salary amount set forth in Sec. 541.600, "exclusive of board, lodging or other facilities." The phrase "exclusive of board, lodging or other facilities" means "free and clear" or independent of any claimed credit for non-cash items of value that an employer may provide to an employee. Thus, the costs incurred by an employer to provide an employee with board, lodging or other facilities may not count towards the minimum salary amount required for exemption under this part 541. Such separate transactions are not prohibited between employers and their exempt employees, but the costs to employers associated with such transactions may not be considered when determining if an employee has received the full required minimum salary payment.

(b) Regulations defining what constitutes "board, lodging, or other facilities" are contained in 29 CFR part 531. As described in 29 CFR 531.32, the term "other facilities" refers to items similar to board and lodging, such as meals furnished at company restaurants or cafeterias or by hospitals, hotels, or restaurants to their employees; meals, dormitory rooms, and tuition furnished by a college to its student employees; merchandise furnished at company stores or commissaries, including articles of food, clothing, and household effects; housing furnished for dwelling purposes; and transportation furnished to employees for ordinary commuting between their homes and work. *[[Good cause for the inclusion of subsection (b): The regulations referenced in this paragraph at 29 CFR 531.29 are not substantive regulations, but are "interpretive" regulations which were not incorporated in Part 531 of the CAA regulations adopted in 1996. However, the Board of Directors has determined that, since these particular interpretive regulations are incorporated by reference in the new substantive regulations, employing offices and employees may reference these particular interpretive regulations as part of the new substantive regulations as proposed here.]]*

Subpart H—Definitions and Miscellaneous Provisions

Sec. 541.700 Primary duty.

(a) To qualify for exemption under this part, an employee's "primary duty" must be the performance of exempt work. The term "primary duty" means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole. Factors to consider when determining the primary duty of an employee include, but are not limited to, the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee's relative freedom from direct supervision; and the relationship between the employee's salary and the wages paid to other employees for the kind of nonexempt work performed by the employee.

(b) The amount of time spent performing exempt work can be a useful guide in determining whether exempt work is the primary duty of an employee. Thus, employees who spend more than 50 percent of their time performing exempt work will generally satisfy the primary duty requirement. Time alone, however, is not the sole test, and nothing in this section requires that exempt employees spend more than 50 percent of their time performing exempt work. Employees who do not spend more than 50 percent of their time performing exempt duties may nonetheless meet the primary duty requirement if the other factors support such a conclusion.

(c) Thus, for example, assistant managers in a retail establishment who perform exempt executive work such as supervising and directing the work of other employees, ordering merchandise, managing the budget and authorizing payment of bills may have management as their primary duty even if the assistant managers spend more than 50 percent of the time performing nonexempt work such as running the cash register. However, if such assistant managers are closely supervised and earn little more than the nonexempt employees, the assistant managers generally would not satisfy the primary duty requirement.

Sec. 541.701 Customarily and regularly. The phrase "customarily and regularly" means a frequency that must be greater than occasional but which, of course, may be less than constant. Tasks or work performed "customarily and regularly" includes work normally and recurrently performed every workweek; it does not include isolated or one-time tasks.

Sec. 541.702 Exempt and nonexempt work. The term "exempt work" means all work described in Sec. 541.100, 541.101, 541.200, 541.300, 541.301, 541.302, 541.303, 541.304, 541.400 and 541.500, and the activities directly and closely related to such work. All other work is considered "nonexempt."

Sec. 541.703 Directly and closely related.

(a) Work that is "directly and closely related" to the performance of exempt work is also considered exempt work. The phrase "directly and closely related" means tasks that are related to exempt duties and that contribute to or facilitate performance of exempt work. Thus, "directly and closely related" work may include physical tasks and menial tasks that arise out of exempt duties, and the routine work without which the exempt employee's exempt work cannot be performed properly. Work "directly and closely related" to the performance of exempt duties may also include recordkeeping; monitoring and adjusting machinery; taking notes; using the computer to create documents or presentations; opening the mail for the purpose of reading it and making decisions; and using a photocopier or fax machine. Work is not "directly and closely related" if the work is remotely related or completely unrelated to exempt duties.

(b) The following examples further illustrate the type of work that is and is not normally considered as directly and closely related to exempt work: (1) Keeping time, production or sales records for subordinates is work directly and closely related to an exempt executive's function of managing a department and supervising employees. (2) The distribution of materials, merchandise or supplies to maintain control of the flow of and expenditures for such items is directly and closely related to the performance of exempt duties. (3) A supervisor who spot checks and examines the work of subordinates to determine whether they are performing their duties properly, and whether the product is satisfactory, is performing work which is directly and closely related to managerial and supervisory functions, so long as the checking is distinguishable from the work ordinarily performed by a nonexempt inspector. (4) A supervisor who sets up a machine may be engaged in exempt work, depending upon the nature of the industry and the operation. In some cases the setup work, or adjustment of the machine for a particular job, is typically performed by the same employees who operate the machine. Such setup work is part of the production operation and is not exempt. In other cases, the setting up of the work is a highly skilled operation which the ordinary production worker or machine tender typically does not perform. In large plants, non-supervisors may perform such work. However, particularly in small plants, such work may be a regular duty of the executive and is directly and closely related to the executive's responsibility for the work performance of subordinates and for the adequacy of the final product. Under such circumstances, it is exempt work. (5) A department manager in a retail or service establishment who walks about the sales floor observing the work of sales personnel under the employee's supervision to determine the effectiveness of their sales techniques, checks on the quality of customer service being given, or observes customer preferences is performing work which is directly and closely related to managerial and supervisory functions. (6) A business consultant may take extensive notes recording the flow of work and materials through the office or plant of the client; after returning to the office of the employer, the consultant may personally use the computer to type a report and create a proposed table of organization. Standing alone, or separated from the primary duty, such note-taking and typing would be routine in nature. However, because this work is necessary for analyzing the data and making recommendations, the work is directly and closely related to exempt work. While it is possible to assign note-taking and typing to nonexempt employees, and in fact it is frequently the practice to do so, delegating such routine tasks is not required as a condition of exemption. (7) A credit manager who makes and administers the credit policy of the employer, establishes credit limits for customers, authorizes the shipment of orders on credit, and makes decisions on whether to exceed credit limits would be performing work exempt under Sec. 541.200. Work that is directly and closely related to these exempt duties may include checking the status of accounts to determine whether the credit limit would be exceeded by the shipment of a new order, removing credit reports from the files for analysis, and writing letters giving credit data and experience to other employers or credit agencies. (8) A traffic manager in charge of planning a company's transportation, including the most economical and quickest routes for shipping merchandise to and from the plant, contracting for common-carrier and other transportation facilities, negotiating with carriers for adjustments for damages to merchandise, and making the necessary rearrangements resulting from delays, damages or irregularities in transit, is performing exempt work. If the employee also spends part of the day taking telephone orders for local deliveries, such order-taking is a routine function and is not directly and closely related to the exempt work. (9) An example of work directly and closely related to exempt professional duties is a chemist performing menial tasks such as cleaning a test tube in the middle of an original experiment, even though such menial tasks can be assigned to laboratory assistants. (10) A teacher performs work directly and closely related to exempt duties when, while taking students on a field trip, the teacher drives a school van or monitors the students' behavior in a restaurant.

Sec. 541.704 Use of manuals. The use of manuals, guidelines or other established procedures containing or relating to highly technical, scientific, legal, financial or other similarly complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills does not preclude exemption under section 13(a)(1) of the Act or the regulations in this part. Such manuals and procedures provide guidance in addressing difficult or novel circumstances and thus use of such reference material would not affect an employee's exempt status. The section 13(a)(1) exemptions are not available, however, for employees who simply apply well-established techniques or procedures described in manuals or other sources within closely prescribed limits to determine the correct response to an inquiry or set of circumstances.

Sec. 541.705 Trainees. The executive, administrative, professional, outside sales and computer employee exemptions do not apply to employees training for employment in an executive, administrative, professional, outside sales or computer employee capacity who are not actually performing the duties of an executive, administrative, professional, outside sales or computer employee.

Sec. 541.706 Emergencies.

(a) An exempt employee will not lose the exemption by performing work of a normally nonexempt nature because of the existence of an emergency. Thus, when emergencies arise that threaten the safety of employees, a cessation of operations or serious damage to the employer's property, any work performed in an effort to prevent such results is considered exempt work.

(b) An "emergency" does not include occurrences that are not beyond control or for which the employer can reasonably provide in the normal course of business. Emergencies generally occur only rarely, and are events that the employer cannot reasonably anticipate.

(c) The following examples illustrate the distinction between emergency work considered exempt work and routine work that is not exempt work: (1) A mine superintendent who pitches in after an explosion and digs out workers who are trapped in the mine is still a bona fide executive. (2) Assisting nonexempt employees with their work during periods of heavy workload or to handle rush orders is not exempt work. (3) Replacing a nonexempt employee during the first day or partial day of an illness may be considered exempt emergency work depending on factors such as the size of the establishment and of the executive's department, the nature of the industry, the consequences that would flow from the failure to replace the ailing employee immediately, and the feasibility of filling the employee's place promptly. (4) Regular repair and cleaning of equipment is not emergency work, even when necessary to prevent fire or explosion; however, repairing equipment may be emergency work if the breakdown of or damage to the equipment was caused by accident or carelessness that the employer could not reasonably anticipate.

Sec. 541.707 Occasional tasks. Occasional, infrequently recurring tasks that cannot practicably be performed by nonexempt employees, but are the means for an exempt employee to properly carry out exempt functions and responsibilities, are considered exempt work. The following factors should be considered in determining whether such work is exempt work: Whether the same work is performed by any of the exempt employee's subordinates; practicability of delegating the work to a nonexempt employee; whether the exempt employee performs the task frequently or occasionally; and existence of an industry practice for the exempt employee to perform the task.

Sec. 541.708 Combination exemptions. Employees who perform a combination of exempt duties as set forth in the regulations in this part for executive, administrative, professional, outside sales and computer employees may qualify for exemption. Thus, for example, an employee whose primary duty involves a combination of exempt administrative and exempt executive work may qualify for exemption. In other words, work that is exempt under one section of this part will not defeat the exemption under any other section.

Sec. 541.709 Motion picture producing industry. The requirement that the employee be paid "on a salary basis" does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $695 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under subparts B, C or D of this part, and who is employed at a base rate of at least $695 a week is exempt if paid a proportionate amount (based on a week of not more than 6 days) for any week in which the employee does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and the daily base rate would yield at least $695 if 6 days were worked; or (b) The employee is in a job category having a weekly base rate of at least $695 and the daily base rate is at least one-sixth of such weekly base rate.

Sec. 541.710 Employees of Public Agencies. (a) An employee of a public agency who otherwise meets the salary basis requirements of section 541.602 shall not be disqualified from exemption under sections 541.100, 541.200, 541.300 or 541.400 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because: (1) Permission for its use has not been sought or has been sought or denied; (2) Accrued leave has been exhausted; (3) The employee chooses to use leave without pay. (b) Deductions from the pay of an employee of a public agency for absences due to a budget required furlough shall not disqualify the employee from being paid on a salary basis except on the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

40TH ANNIVERSARY OF THE WILDERNESS ACT

Mr. McCAIN. Mr. President, throughout our country's history there have been many debates in the Congress over the use, conservation, and protection of our natural resources. These debates have resulted in landmark policies, such as the Louisiana Purchase, the Homestead Act, and the establishment of the world's first national park, Yellowstone, in 1872.

Natural resource and environmental issues are inherently complex and often controversial, for they involve tradeoffs in which many diverse interests have a stake. There is one interest that cannot speak for itself and relies upon the vision of others: the interest of future generations. Teddy Roosevelt said it best, it seems to me, in his 1916 book, A Book-Lover's Holidays in the Open, where he castigates those "short-sighted men who in their greed and selfishness will, if permitted, rob our country of half its charm by their reckless extermination of all useful and beautiful wild things". He goes on to say, "Our duty to the whole, including the unborn generations, bids us restrain an unprincipled present-day minority from wasting the heritage of these unborn generations. The movement for the conservation of wild life and the larger movement for the conservation of all our natural resources are essentially democratic in spirit, purpose, and method."

It is in this spirit of our moral obligation to the future—to those who, in Teddy Roosevelt's memorable phrase, are "within the womb of time"—that I wish to salute the 40th anniversary of the Wilderness Act of 1964. I am pleased to lend my support to this bipartisan resolution honoring the milestone legislation preserving our Nation's rare and spectacular wild places.

Arizona has the good fortune to have numerous preserved wilderness areas, thanks to this law. In fact, more than 4,500,000 acres have been preserved in 90 wilderness areas. These range from the Cabeza Prieta Wilderness of more than 800,000 acres, to the 2,040 acre Baboquivari Peak Wilderness, an extraordinary area designated in 1990. From our desert expanses to the heights of 12,643-foot Humphrey's Peak, the highest point in Arizona, protected within the Kachina Peaks Wilderness, Arizona is not only one of America's fastest-growing states, but also a state in which we preserve and treasure our wilderness heritage.

In 1936, the great forester and wilderness champion, Bob Marshall, spoke of the luxury—a privilege—we Americans have. He commented that Americans can enjoy "a twofold civilization—the mechanized, comfortable, easy civilization of twentieth-century modernity, and the peaceful timelessness of the wilderness where vast forests germinate and flourish and die and rot and grow again without any relationship to the ambitions and interferences of man."

In spite of the environmental challenges that face our country and the world today, I am very grateful for the vision of past leaders that enacted this law to ensure that those who inhabit our nation many generations into the future will be able to experience wilderness in their lives, as we do today. As we celebrate the protection of existing and additional wilderness areas under this historic law, we follow our most noble and nonpartisan traditions of national resource conservation.

Mr. President, I ask unanimous consent to have printed in the RECORD the following statement of Stewart Udall, one of our Nation's conservation leaders and the Secretary of the Interior in the Kennedy and Johnson administrations, presented at an event on September. 19, 2004, commemorating the 40th anniversary of the Wilderness Act.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY FORMER INTERIOR SECRETARY STEWART UDALL—WILDERNESS ACT COMMEMORATIVE DINNER, WASHINGTON, DC, SEPTEMBER 19, 2004

I am honored and delighted to be here tonight with John Dingell and Gaylord Nelson and Bob Byrd. I was running for Congress 50 years ago right now, and I came in the door with John Dingell and Bob Byrd had been there two years, and they considered him a "hick,"—he played the fiddle, he loved the folk music of his people and now he is the conscience of the Senate.

If you want to know why I say that, you will buy his book, "Losing America," and find out what his message is. John Dingell, you were given too little credit tonight. The National Environmental Policy Act would probably not have been passed if it had not been for John Dingell. What you don't know is Wayne Aspinell thought it was a crazy idea, and John Dingell said "if he doesn't want it, then I will pick it up." And he carried the mail through the House. So I want to say something—I'm on a "lecture tour" this evening. There was something about that time, and John Dingell and I discussed it—the 60s into the 70s was called a golden age of sorts. One of the things that comes to my mind as I go back there is the way you saw young Congressmen and Senators who were pretty raw in the beginning, but they had open minds and they grew and they developed new convictions and they developed new horizons. One example was John and Robert Kennedy—changing before your eyes. And John Dingell and Bob Byrd are examples of this, and my brother—yes, my brother. It did not take him long to enlarge his mind and encompass it. And that is a great gift—to be open minded and have the capacity to grow. It's a very great gift. And can we see members of congress now, too many of them that come in with fixed ideologies and fixed views, and they will stay for 10 or 25 years, and when they leave they have the very same views. They haven't changed a damn thing. It's pathetic.

So now a lot of it's been covered, and I only have time to hit a few high notes because I promised Mike Matz (executive director of the Campaign for America's Wilderness) that I would give out of my faulty memory some of the highlights of the Wilderness bill. And this is an extraordinary story. The wilderness idea—it originated here in this country. The national park idea originated in this country —the idea of setting aside areas. And Bob Marshall, Aldo Leopold, and a little group came up with this, and it was thought to be a far-out and crazy idea, and it culminated with the introduction of the wilderness bill.

One person left out was Humphrey, John Saylor—what a great man he was. Thomas Kuchel, Republican from California was one. And he shortly became the deputy leader—the whip to Everett Dirksen, and the reason we got an overwhelming bipartisan vote, in the Senate, was Tom Kuchel. Tom Kuchel, so give him credit for it. What a great, great man he was. To show you the spirit of bipartisanship, we worked on Point Reyes together. When I went to his office, he'd say, "Hi Stewie, what do you want today?" And that's the way it was in that period. But the Wilderness Bill—Howard Zahniser—Mr. Zahniser—the man was a saint. He rewrote and touched up that bill 60 times over a period of 8 years. Every time Aspinall raised a new argument, he'd work on a little language and tried to offset it. He was truly a saintly person—a poet, a lover of Thoreau, a wonderful man.

But when the wilderness bill got off the ground, and too much we, all of us, when it's all over, like to take credit. I have been given more than my share tonight. Two persons I would single out are President John F. Kennedy and Senator Clinton Anderson of New Mexico. Clint Anderson had been as a young insurance man, a personal friend of Aldo Leopold in Albuquerque, and when he became chairman of the Committee after the 1960 election, and Kennedy was president. I didn't tell Kennedy what to do. Clint Anderson went to the White House and said, "Kennedy didn't campaign on wilderness, I can't find anything in the campaign." He said put in your message to Congress on conservation—Presidents used to send up such messages, if they had a conservation program—a call for the enactment of a wilderness bill along the lines of Senate bill five—his bill. Kennedy put it in, and that electrified the country—to have a call like that. And in July the bill went to the floor of the Senate, and I'll tell you I was startled. I was startled, Senator Byrd. The vote was 78 to 12, and people all over the country—the conservationists—suddenly began to arouse and see how much power they have.

We give too much credit in my view—I was a Congressman—to members of Congress. Lyndon Johnson was great at that—"the Congress, they did it". They enact laws, yes. But there was an upsurge, an uplifting of people. Conservation had been put on the shelf after Pearl Harbor and then there was a Cold War and Kennedy issued a call for national seashores and we got started on 14 of them. Some of them passed later on, but I have to say what made it all possible was a bipartisanship and affection between the members of the old generation—my generation. We were depression kids, we fought the war, we believed in mutual respect. That was what made it so wonderful in those days. And that spirit carried forward. Richard Nixon was a damn good conservation president.

I like metaphors, and I have likened what happened—we just saw the Olympics—to a relay race, because the work and conservation in those days was never finished. There was a pipeline. Heavens, it took Gaylord Nelson—because he wanted the people to accept it—12 years to do the Apostle Islands National Seashore. It took Bill Hart 10 years to do Sleeping Bear Dunes in Michigan. And this meant that when we came, and a different party won the White House, you carried the baton. I am not sure Nixon understood in the beginning, but they took it and they ran with it. Russell Train, Nat Reed—those wonderful people who put that ad in the newspaper last month that said "Come back to the mainstream, come back to the main stream." And Gerald Ford carried it on, and Jimmy Carter. And then—no names mentioned—but a Secretary of the Interior when 1981 began, refused. In fact, he said—and I never understood where he was coming from—we've been going in the wrong direction for the last 20 years, so he wouldn't take the baton. And it has been on the floor ever since.

The bipartisanship by these five presidents was ended, and I want to say because there is so much doublespeak these days—don't let a president or his people say because he signed a wilderness bill that he is for wilderness. Does he issue a call for more wilderness? That's the test. That's the test. The Land and Water Conservation Fund—oh I can take some credit on that, but I won't—too long. Do you know, 10 billion dollars in 1960 dollars, Senator Byrd, went into that program and half of it went to the states and they matched it, and almost 40 thousand projects—cities, counties, open space, playgrounds—boy, do we need playgrounds with this plague of obesity that is claiming this country. We ought to go back to that program.

Well that's enough, I guess, and you know how strongly I feel. The fight is not over, as everyone has said tonight. And we may have gaps and we have an ebb and flow. I'd like to believe, I am a troubled optimist, but there will be a flow again in terms of wilderness preservation. And I like to end, and my vision is gone so I have to memorize things. I can't use notes, I just blabber away. Congressman Aspinall—from Colorado—was an honorable man, as John Dingell and I have discussed. He was strong-headed, but an honorable man. Very stubborn and he could be dictatorial. He wouldn't even let his committee consider the bill—no hearings—no bill reported. John Saylor would say, "Wayne, you cannot get away with this forever," and we tried to persuade him. Where was he? He said to me once, Stuart—I was one of his boys, I trained under him, he taught you a lot of things—and he said people that don't understand me, don't understand that my congressional district is a mining district. It had been a mining district. He was a great champion of the American Mining Congress. He regarded a wilderness bill as a lock up. That was the argument that Howard Zanhiser had to work against all the time. He said, "Stuart, you may get a bill from out of my committee, but you might not recognize it." And so it came to a compromise. And he and Clinton Anderson were two old bulls that ended up hating and distrusting each other. And Anderson's bill had all of the elements, the framework, and the language about how you identified a wilderness bill and how you passed a wilderness bill. And Anderson put in 50 million acres of lands that the Forest Service largely had already identified. Aspinall cut it back to nine. And they made the compromise because Anderson had to give in if he wanted to get a wilderness bill. So it was cut way back. Aspinall thought it might be true today—but not in the next 20 or 30 years—that if every bill had to pass individually through the Senate and House, that Congressmen who held the views that he did, would not want a wilderness in their area because it was locking up very valuable resources. And so that is the way it played out. And the wilderness bill—the essential elements of the wilderness bill—were there when the bill was passed. And this was a great moment for the country. What happened was the citizens all over the country—in the West and the East, the Congressmen and the Senators got behind wilderness bills, and that is why we have the 110 million acres today.

I have to say one final thing about Mo Udall, my brother, and this is getting back, Senator Byrd, to your book because the whole democratic process as far as I can see, is gone in the House of Representatives. It's gone. We have another man that says no bill will go out of his committee unless it meets my personal standards. What kind of democracy is that? Mo Udall was committed to the idea—he wrote a book, it's been thrown away, "The Job of A Congressman." A bill is introduced, you have hearings—everybody that wants to be heard can be heard—you have field hearings, you mark up a bill, the committees work their will—if it can survive the committee it goes to the floor of the House and the House works its will. That's democracy, and that's what he was committed to, and that is gone now. Things are tucked into appropriation bills now. A democracy has been watered down and disappeared, and that is one of the things Senator Byrd's book is about.

So let's bear that in mind, but don't give up. Don't give out—the fight goes on. I'm finally going to end, I'm sorry, I got carried away. The case for wilderness was made against the lock up argument by Clinton Anderson, who said "wilderness is an anchor to windward." Knowing it is there, we can go about our business of managing our resources wisely and not be a people in despair, ransacking our public lands for the last barrel of oil, the last board of timber, the last blade of grass, the last tank of water. That was Clint Anderson's answer to the lock up argument.

Wallace Stenger, as usual, caught the spirit in that wonderful essay he wrote in 1960. He said, "We need this wild country even if we do no more than go to the edge and look in. We need it as a symbol of our sanity as creatures as part of the geography of hope." And Ansel Adams, the great photographer said it in a different way, and I once said, "Ansel, can I apply your statement to the Grand Canyon and Yosemite?" "Of course," he said Ansel was writing home after his first trip to New Mexico and he used these words: All is very beautiful and magical here. He is talking about the landscape. "All is beautiful and magical here." A quality one cannot describe. He said, "The sky and the land is so enormous and that the detail is so precise and exquisite," the eye of the photographer—"that wherever you are, there is a golden glow and everything is sideways under you and over you, and the clocks stopped long ago."

Keep up the fight, and good night.

Mrs. FEINSTEIN. Mr. President, this month our Nation celebrates the 40th anniversary of the Wilderness Act. To commemorate the anniversary of this landmark legislation, I want to take a few moments to highlight the historic importance of this law, and remind us of some of the work remaining to be done.

When President Lyndon B. Johnson signed the Wilderness Act into law on September 3, 1964, it became our unambiguous national policy "to secure for the American people of present and future generations the benefits of an enduring resource of wilderness."

The legislation empowered those of us in Congress, with the ultimate approval of the President, to designate Federal lands for protection as part of our national wilderness preservation system. It was a tremendous accomplishment, immediately placing some 1.2 million acres of wilderness in 13 areas on national forest lands throughout my home State of California under statutory protection. And it protected another 8 million acres of land in other States.

But that was only the start. Over the ensuing four decades, Californians have welcomed acts of Congress that have expanded most of those initial areas. Today, those original 13 wilderness areas have grown to 1.7 million acres of wilderness firmly protected by statute.

The Wilderness Act also required that numerous other areas of Federal land be studied, with local public hearings, leading to Presidential recommendations for additional wilderness areas. Congress has enacted those proposals in California, beginning with the great San Rafael Wilderness near Santa Barbara in 1969—the first area added to the national wilderness system after the Wilderness Act became law.

Another early study focused on the 50,000-acre Ventana Primitive Area in the mountains along the central California coast above Big Sur—an area the U.S. Forest Service preserved in the 1930s. The study led Congress to establish the 98,000-acre Ventana Wilderness in 1969, with the leadership, among others, of California Senator Thomas Kuchel.

Since that time we have revisited this area in four additional laws, most recently when we passed and President George W. Bush signed a law in late 2002 further expanding this wilderness. As a result, the Ventana Wilderness now covers 240,000 acres.

Beyond the original Wilderness Act study areas, our California delegation has listened carefully to the diverse voices of the people of California. Year after year, we receive proposals for wilderness protection that come to us from ordinary citizens and organizations in our State, most often working in close consultation with the Federal land managing agencies involved and our State government.

Many of these proposals have been enacted, particularly for lands administered by the U.S. Forest Service and the Bureau of Land Management. As a result of all this work, California now boasts 130 wilderness areas comprising 14 million acres.

These California wilderness areas offer a diverse spectrum of landscapes and ecosystems, recreational opportunities and scenic vistas, from the high peaks and forested valleys of the Sierra, to the extraordinarily wild deserts that Senator Alan Cranston and I fought to protect in the California Desert Protection Act of 1994—

one of my proudest achievements for the people of California.

In celebrating the 40th anniversary of the Wilderness Act, I particularly stress that the work of preserving California's wilderness heritage has always been a bipartisan endeavor. In our State, we enjoy wilderness areas found in the congressional districts of both Democrats and Republicans, protected in laws signed by every President since this program began 40 years ago—Presidents Lyndon Johnson, Richard Nixon, Gerald Ford, Jimmy Carter, Ronald Reagan, George H.W. Bush, Bill Clinton, and George W. Bush.

The act itself became law after 8 years of congressional debate. Endorsed by the Eisenhower administration and the administrations of Presidents John F. Kennedy and Lyndon B. Johnson, the act was shaped by practical-minded people, mostly westerners. It is, as Senator Kuchel said during those Senate debates, "reasonable . . . not extreme in any degree."

Senator Kuchel insisted that the law not conflict with State water rights and that the act respect existing mining claims and established grazing uses. At the same time, Senator Kuchel reminded his colleagues that protecting wilderness watersheds is key to abundant, clean water supplies—the lifeblood of California's ranching and agricultural sector, our thriving cities and towns, and the economic well-being of our entire Nation.

Still, there is more wilderness to be protected and more work to be done. These days, Federal lands that deserve a fair look by Congress are, in some cases, under threat from other kinds of use that are inconsistent with the preservation of wilderness. This is the kind of careful balancing Congress undertakes as we make these decisions.

This Congress has a great opportunity to preserve even more stunning wilderness by completing action on the Northern California Coastal Wild Heritage Wilderness Act that I have cosponsored with my colleague Senator BARBARA BOXER. This bill has the strong and effective support of Representative MIKE THOMPSON, in whose district every acre of its proposed wilderness areas is situated, and the support of numerous cosponsors, including California Representatives from both sides of the aisle.

Among the 300,000 acres this priority bill would protect is the 42,000-acre King Range Wilderness, a wild expanse on our California "lost coast" south of Eureka. Many of the proposals in this bill are based on agency recommendations or proposals by local citizens like the Humboldt County nurse who has been working to save the King Range for 20 years. These areas enjoy strong support, as wilderness, from local business owners in the area, from hunting and fishing enthusiasts, from dedicated backpackers to young parents hiking or backpacking to introduce their children or their grandchildren to nature at its most wild.

Similarly worthy, bipartisan proposals await action for wilderness sponsored by our colleagues from New Mexico and Washington. And no less worthy is the proposed wilderness area designation for an area on the Caribbean National Forest in Puerto Rico—a wilderness area proposed by the U.S. Forest Service more than three decades ago.

As we consider these wilderness proposals, we can generally rely upon existing standards and interpretations of the Wilderness Act. Thanks to our predecessors we have a wealth of guidance in the legislative history of the Wilderness Act and the more than 100 laws Congress has enacted since to protect additional lands.

Now, as we celebrate the 40th year of the Wilderness Act, the preservation of our wilderness has never been more important. Population growth, especially in the Western United States, is placing increased pressure on our public lands. That is why it was so critical that our leaders acted 40 years ago and why it is urgent that we continue to preserve our Nation's natural treasures today.

John Muir once said, "Everybody needs beauty as well as bread, places to play in and pray in, where nature may heal and give strength to body and soul alike."

For 40 years, the Wilderness Act has entrusted Congress and the American people with the means to preserve that beauty.

NOTICE OF CHANGE IN SENATE SERVICE PIN REGULATIONS

Mr. LOTT. Mr. President, I wish to announce that in accordance with Title V of the Rules of Procedure of the Senate Committee on Rules and Administration, the committee has updated the Senate Service Pin regulations effective September 22, 2004.

Based on the committee's review of the 1987 regulations which authorize the issuance of a staff service pin when a Senate staff member has served 12 years in the Senate, the Committee has concluded that service pins should be awarded to staff members who have served 20 years in the Senate and to those staff members who have served for 30 years.

Regulations adopted by the Committee on Rules and Administration on September 22, 2004, to replace similar regulations approved by the Committee on September 23, 1987, pursuant to S. Res. 21, agreed to September 10, 1965, relative to the awarding of service pins to Members, officers, and employees of the Senate:

1. Service pins of the material and design suggested by the Secretary of the Senate and approved by the leadership of the Senate and the Committee on Rules and Administration, together with appropriate Certificates of service signed by the Secretary of the Senate, shall be procured and awarded by the Secretary of the Senate.

2. Each Member of the Senate and each elected officer of the Senate shall receive his/her pin and certificate upon taking office.

3. Each employee of the Senate shall receive a pin and certificate after the completion of 12, 20, and 30 years on the Senate payroll.

4. Senate service shall be limited to all service—whether continuous or not—performed while on the Senate payroll.

5. Former employees of the Senate are not covered unless they were on the Senate payroll on or after September 22, 2004, and were otherwise qualified.

6. After the initial award of pins and certificates, the Secretary of the Senate shall arrange for presentation of subsequent awards to those who qualify pursuant to the pertinent provisions of this regulation.

7. Each individual who qualifies will receive a pin and certificate and no additional pins will be subsequently awarded to such individuals for more than 30 years of Senate service, except that appropriate date plates and/or seals may be presented by the Secretary of the Senate at termination of service.

NATIONAL HISPANIC HERITAGE WEEK

Mr. JOHNSON. Mr. President, I today publicly recognize the importance of National Hispanic Heritage Month. This 30-day observance begins September 15th, the independence day of five Latin American countries, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, and includes Mexico's Independence Day, September 16, as well as Chile's day of Independence, September 18.

Despite that Hispanic Americans have played important roles in our great nation for the last five centuries, it wasn't until the 1960s that this legislative body officially honored the Hispanic ethnic legacy. In 1968 Congress voted to name the week including September 15 and 16 National Hispanic Heritage Week, and in 1988 Congress passed Public Law 100–402, expanding National Hispanic Heritage Week to a 30-day celebration.

Hispanic individuals have made immeasurable contributions to America in many fields. Dr. Severo Ochoa discovered RNA, Ribonucleic acid, and as a result won the Nobel Prize and set the foundations of many of today's medical technologies. Cesar Chaves made great strides in worker's rights, and more than three dozen Hispanic Americans have been awarded the Medal of Honor for their military service to our country.

America, the great melting pot, has always taken pride in her diversity. Over 10,000 of my constituents are of Hispanic origin, and approximately 40 million Hispanics call America home, making them the United States' largest minority group. It is with great honor that I bring attention to National Hispanic Heritage Month and the contributions of the Hispanic people.

SPECIAL OLYMPICS SPORT AND EMPOWERMENT ACT OF 2004

Mr. BURNS. Mr. President, I rise to speak on the Special Olympics and Empowerment Act of 2004. I am proud to be an original cosponsor of this legislation which will create a multi-million dollar authorization, over 5 years, for the Special Olympics. This crucial funding will expand the scope of the Special Olympics by offering more children and adults with disabilities the opportunity to join in the life-changing events of the Special Olympics program.

The oath of the Special Olympics is "Let me win. But if I cannot win, let me be brave in the attempt." This mission of this program certainly rings true to the spirit of America and beyond. More than one million athletes and 500,000 volunteers participate in Special Olympics world-wide. Also, in my State of Montana, the Special Olympics signifies a real success: during the last year over 2,000 Special Olympics athletes participated and they could choose from as many as fourteen Olympic-style sports.

It is important to me that Montanans with developmental and intellectual disabilities have access to recreational opportunities that will not only improve their health and well-being, but also promote mental and emotional strength. I encourage my colleagues to join me in supporting the Special Olympics.

ADDITIONAL STATEMENTS

HONORING THE ACCOMPLISHMENTS OF BEN WOODMAN

• Mr. BUNNING. Mr. President, I pay tribute to and congratulate Ben Woodman of Berea, KY on being awarded a Boren Undergraduate Scholarship from the David L. Boren National Security Education Program, NSEP.

Mr. Woodman was one of 181 applicants nationwide to receive one of these scholarships. NSEP is administered within the National Defense University in the Department of Defense. It funds outstanding U.S. students to study critical languages and world regions in exchange for a commitment to seek employment with the Federal Government in the arena of national security.

Mr. Woodman has been studying Arabic and will spend the year in Egypt. He attends the University of Kentucky and is majoring in international economics and Arabic.

The citizens of Madison County should be proud to have a man like Ben Woodman in their community. His example of dedication and hard work should be an inspiration to the entire Commonwealth. He has my most sincere admiration for this work and I look forward to his continued service to the United States.•

TRIBUTE TO ANTOINE PETTWAY

• Mr. SESSIONS. Mr. President, I wish to recognize the achievements of Antoine Pettway on the occasion of his being honored by his high school, Wilcox Central High School, in Camden, AL. During ceremonies for Mr. Pettway, the Mayor of Camden, Henrietta Blackmon, presented him with a key to the city and a series of speakers praised their native son for his skills on the basketball court and for his strengths as a person. I have watched his career unfold with special interest because I too went to school in the small town of Camden. While the community is not a wealthy one, it has produced many outstanding young people, and Antoine is one of the most noteworthy.

Antoine Pettway was born on November 13, 1982, to Joseph Pettway and Linda Crawford. Growing up in the small, rural town of Alberta, AL, Antoine ate, slept, and breathed basketball, when he was not working on his father's cattle farm or in his grandfather's country store. Pettway was a high school basketball standout averaging 24.3 points, 5.2 rebounds, and 6.7 assists, per game. Subsequently, with his athletic skills and strong leadership on and off the court, Antoine was able to help clinch State championship titles in 1998 for Keith High School, and in 2000 for Wilcox Central High School. Antoine was not only known for his athletic success, but also his academic success. He was a 4.0 student in high school and Salutatorian of his graduating class.

Pettway received athletic scholarships from Jacksonville State, Louisiana Tech, Alabama State, and Alabama A&M, but his heart belonged to the University of Alabama. Standing at only 6 feet, he was not noticed by the Tide's coach, Mark Gottfried, until the State tournament and after all scholarship positions had been filled for the upcoming season. However, Antoine was approached by Coach Gottfried and asked to walk on as a freshman. So, with the help of his father and an academic scholarship, Antoine Pettway entered the University of Alabama in the fall of 2000 and joined the Crimson Tide basketball team as a walk-on for the 2000-2001 season.

Antoine, determined to prove to Coach Gottfried that he belonged, averaged 2.9 points, 1.6 assists, and 1.1 rebounds per game during the 29 games he played his freshman year. His best game was a stand-out performance at Ole Miss in which he scored 19 points. His energy and skills on the court earned Pettway a scholarship in July of 2002.

During his sophomore year, Antoine became a well-recognized figure on the Crimson Tide's basketball team not only for his charisma and athletic ability, but also his bright red, shiny sneakers. They became his trademark. His "ruby slippers" earned him fame around the country, but he is probably most remembered that year for his layup at the buzzer that gave Alabama a 65–64 victory over Florida, clinching the Tide's first Southeastern Conference title since 1987.

In the 2002-2003 season, Pettway started 10 games and averaged 6.3 points, 2.5 rebounds, and 2.4 assists per game. He was ranked 7th in the SEC in assists to turnover ratio and shot 81.8 percent from the free throw line, making 36 of 44. His hard work and awesome talent was recognized by the basketball community when he was awarded the MVP of the Basketball Hall of Fame Tipoff Classic.

Antoine remained the heart and soul of the Crimson Tide's basketball team through his senior year and led his team to the Elite Eight of the NCAA Tournament, a plateau that Alabama basketball had never reached before. He was the starting point guard and averaged 9.38 points, 3.62 rebounds, and 3.31 assists per game.

Antoine's dedication and extraordinary work ethic can be seen not only on the basketball court, but also in the classroom. In his senior year, he was named Academic All-Southeastern Conference. To make the honor roll, an athlete must be a sophomore or higher in academic standing and have a 3.0 (on a 4.0 scale) or higher grade point average. He graduated from the University of Alabama in May of 2004 with a degree in Health Care Management.

Most recently, Antoine Pettway was selected as the World Basketball Association's "Rookie of the Year" and was named to the 2nd Team All-WBA All-Star Team. He helped lead his team, the Kentucky Reach, the first Christian-based professional basketball team, to an 11-9 record and averaged 4.6 assists and 12.7 points per game. He is ranked second in the league in assists and 14th in scoring.

The people of Camden and Wilcox county are proud of his basketball success, and they are even more proud of his leadership, his academic achievements, and his character. Indeed, Antoine Pettway's accomplishments on and off the court have inspired young and old to strive for excellence. He has high ideals and is true to his faith. The people of the State of Alabama are proud to call him their native son, and I wish him best of luck with his future endeavors. Whatever the future holds for this Wilcox County native son, it will be bright because he has his priorities straight.

I am proud to recognize the accomplishments of a great American and Alabamian, and a wonderful representative of Wilcox County, Antoine Pettway.●

COMMEMORATING THE 100TH ANNIVERSARY OF THE POLISH DAILY NEWS

● Mr. LEVIN. Mr. President, I am honored to recognize Dziennik Polski, or the Polish Daily News, one of Michigan's oldest and honored publications, on its 100th anniversary. The Polish Daily News can be proud of its dedication to generations of Polish Americans and its support of American traditions and ideals. The Polish Daily News has worked together with other organizations in the greater Detroit area to help build strong and effective communities, which has given rise to a diverse and vibrant socioeconomic region in southeast Michigan.

Founded in 1904 by a small group of community members, the Polish Daily News was housed in a building on the south side of Canfield east of Riopelle. This was home to the paper until the 1960s when the offices and print production moved to a location on Van Dyke in Detroit. A third and fourth move relocated the newspaper to two addresses on Joseph Campau, with the last one in Hamtramck. As Detroit's primary Polish newspaper serving the new immigrants who began to settle in what was becoming the Nation's Motor City, the Polish Daily News played a vital role in building a strong Polonia that was committed to full participation in American life. The paper supported a cohesive community that encouraged its members to strive for accomplishments that reflected their shared values of a deep commitment to family, faith, hard work, as well as the American ideals of democracy and freedom. With a circulation of 30,000 during the 1940s and 1950s, the Polish Daily News kept its readership informed about the struggle for Poland's independence from Soviet oppression while advocating for a future democratic Poland and strong U.S.-Poland relations.

Today as the Polish Weekly, the newspaper continues the heritage of promoting both a strong Polonia and citizen participation in the life of the United States. The Polish Daily News is celebrating its 100th anniversary of serving the Polish-American community of greater Detroit on Saturday, October 2, 2004. Families, friends, community leaders, and elected officials will gather at the American Polish Cultural Center in Troy to pay tribute to the important efforts of the Polish Daily News organization which has helped to promote community life and strengthen Polish-American pride throughout the 100 years of its existence.

I know my Senate colleagues join me in also congratulating publisher Bruno Nowicki and the editors and staff, along with the community supporters and many friends of the Polish Daily News/Polish Weekly on this great milestone. I am proud to recognize their record of service to the Polish-American community and their respected standing among all the people of Michigan. A Hearty Sto Lat—Another 100 Years.●

REMEMBERING ED HENNESSEE FROM LAWTON, OK

● Mr. INHOFE. Mr. President, earlier today, my State of Oklahoma, as well as the Nation, lost a true friend of education.

Ed Hennessee, a longtime resident of Lawton, OK died doing what he loved best—advocating for children attending federally connected school districts.

Ed served the Lawton Public Schools in a variety of capacities for many years retiring as assistant superintendent for business in 1995.

While in that capacity he fought for a program that I have come to champion—Impact Aid.

The program's origin was rooted in Oklahoma in the late 1940s and early 1950s, when Oscar Rose, superintendent of the Mid-Del Schools and others convinced Congress that the Federal Government had a responsibility and an obligation to provide assistance to school districts serving children whose parents were employed by the Federal Government or the military. Ed Hennessee continued that legacy right up to the time of his death this morning.

During his long education career, Ed received many honors, including being named the State of Oklahoma Teacher of the Year.

However, he was most proud of the fact that he was helping children.

He truly understood that education is about giving children an opportunity to be successful. One of his most frequent statements was "Teach a child to love to learn, then you will be successful teaching them any school subject." Ed was a success because he loved learning.

He also loved helping others have the opportunity to learn, and, thankfully, he taught many the importance of using their gifts and talents to help our children. Although he retired from the Lawton Public Schools in the mid-1990s, he continued serving federally connected schools. As executive director of the National Council of Impacted Schools, he continued to work for both Oklahoma federally connected schools, along with other schools throughout the nation.

He visited my office at least twice a year to talk about ways to improve the program. He was an expert on the intricacies of the often complex and confusing details of Impact Aid and freely offered that expertise. When my staff or I needed information about how schools in Oklahoma and around the country would be affected by the level of funding appropriated for Impact Aid, Ed knew the answers. He was an innovator for Impact Aid.

For example, S. 777 was a bill I developed from one of his ideas. Ed was in Washington this weekend to advocate for the Impact Aid program when he became ill. He was doing what he had been doing for more than a quarter of a century— asking Congress to fulfill its obligation to school districts all across this country that are impacted by a federal presence.

Prior to Ed's retirement, he served on the Board of Directors of the National Association of Federally Impacted Schools and served as its President from 1991 to 1993. He never stopped putting the needs of federally connected students at the top of his priority list. His presence will indeed be missed—not only by those who knew him well, such as his dear wife Edna who was always by his side—but also by those who enjoy the fruits of his labor.●

IN RECOGNITION OF HIS EXCELLENCY H.E. BADER OMAR AL-DAFA, AMBASSADOR OF QATAR TO THE UNITED STATES

● Mr. LEVIN. Mr. President, I take this opportunity to recognize Ambassador H.E. Bader Omar Al-Dafa, a distinguished career diplomat and the current Ambassador of Qatar to the United States. Ambassador Al-Dafa, who earned his bachelor's degree in political science from Western Michigan University in 1975, will receive the College of Arts and Sciences Alumni Achievement Award from Western Michigan University in a special ceremony on October 15, 2004.

Ambassador Al-Dafa is admired in Michigan for his dedication to service and his work in promoting US-Arab relations. His efforts to foster better understanding among America, Qatar and the Arab world through support of important initiatives in the American Arab community are appreciated by many. His respect for diplomacy has been demonstrated throughout his exemplary career which spans more than 25 years.

Upon graduation from Western Michigan University, Ambassador Al-Dafa began his career as a diplomatic attaché at the Ministry of Foreign Affairs, Doha. While serving in his second assignment as First Secretary at the Embassy of the State of Qatar in Washington, DC, he earned a master's degree in international public policy from the School of Advanced International Studies at Johns Hopkins University in 1979. With his solid understanding of America and its people, Ambassador Al-Dafa has been energetic and consistent in his commitment to improving bilateral relations.

Ambassador Al-Dafa has served in his post as Ambassador of Qatar to the United States since September 5, 2000. Prior to this assignment, he served as Non-Resident Ambassador to Mexico; Director of European and American Affairs Department, Ministry of Foreign Affairs in Qatar; Ambassador to The Russian Federation; Non Resident Ambassador to Finland, Latvia, Lithuania, Estonia; Ambassador to France and Non Resident Ambassador to Greece; Non-Resident Ambassador to Switzerland; Ambassador to Egypt and Permanent Representative to the Arab League in Cairo, Egypt; and Ambassador to Spain. Through the Washington Embassy, Ambassador Al-Dafa has worked on a wide array of programs, including the establishment of branches of Virginia Commonwealth University, Texas A&M, and Weill Cornell Medical College in Education City in Doha. In addition to Arabic and English, he speaks Spanish and French fluently. Ambassador Al-Dafa is married to Awatef Mohamed Al-Dafa and has three children.

I know my colleagues join me in congratulating Ambassador Al-Dafa on his success and achievements in international affairs and on this prestigious honor that will be conferred by Western Michigan University. I am pleased to offer my best wishes on his continued service and contribution to the close ties and good relations between the State of Qatar and the United States.●

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 10:33 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills and joint resolution:

S.J. Res. 41. Joint resolution commemorating the opening of the National Museum of the American Indian.

H.R. 1308. An act to amend the Internal Revenue Code of 1986 to provide tax relief for working families, and for other purposes.

H.R. 3389. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations.

The enrolled bills and joint resolution were signed subsequently by the President pro tempore (Mr. STEVENS).

At 1:52 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, with an amendment:

S. 643. An act to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes.

The message also announced that pursuant to the request of September 14, 2004, the House returned the act (S. 2261) to expand certain preferential trade treatment for Haiti to the Senate.

The message further announced that the House disagrees to the amendment of the Senate to the bill (H.R. 4200) to authorize appropriations for fiscal year 2005 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year for Armed Forces, and for other purposes, and agrees to the conference asked by Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House:

From the Committee on Armed Services, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. HUNTER, WELDON of Pennsylvania, HEFLEY, SAXTON, MCHUGH, EVERETT, BARTLETT of Maryland, MCKEON, THORNBERRY, HOSTETTLER, JONES of North Carolina, RYUN of Kansas, GIBBONS, HAYES, Mrs. WILSON of New Mexico, Messrs. CALVERT, SIMMONS, SKELTON, SPRATT, ORTIZ, EVANS, TAYLOR of Mississippi, ABERCROMBIE, MEEHAN, REYES, SNYDER, TURNER of Texas, SMITH of Washington, Ms. LORETTA SANCHEZ of California, and Mr. HILL.

From the Permanent Select Committee on Intelligence, for consideration of matters within the jurisdiction of that committee under clause 11 of rule X: Messrs. HOEKSTRA, LAHOOD, and Ms. HARMAN.

From the Committee on Agriculture, for consideration of section 1076 of the Senate amendment, and modifications committed to conference: Messrs. GOODLATTE, BURNS, and STENHOLM.

From the Committee on Education and the Workforce, for consideration of sections 590, 595, 596, 904, and 3135 of the House bill, and sections 351, 352, 532, 533, 707, 868, 1079, 3143, and 3151–3157 of the Senate amendment, and modifications committed to conference: Messrs. CASTLE, SAM JOHNSON of Texas, and BISHOP of New York.

From the Committee on Energy and Commerce, for consideration of sections 596, 601, 3111, 3131, 3133, and 3201 of the House bill, and sections 321–323, 716, 720, 1084–1089, 1091, 2833, 3116, 3119, 3141, 3142, 3145, 3201, and 3503 of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, UPTON, and DINGELL.

From the Committee on Government Reform, for consideration of sections 801, 806, 807, 825, 1061, 1101–1104, 2833, 2842, 2843 of the House bill, and sections 801, 805, 832, 851, 852, 869, 870, 1034, 1059B, 1091, 1101, 1103–1107, 1110, 2823, 2824, 2833, and 3121 of the Senate amendment, and modifications committed to conference: Messrs. TOM DAVIS of Virginia, SHAYS, and WAXMAN.

From the Committee on House Administration, for consideration of sections 572 and 1065 of the Senate amendment, and modifications committed to conference: Messrs. NEY, EHLERS, and LARSON of Connecticut.

From the Committee on International Relations, for consideration of sections 811, 1013, 1031, 1212, 1215, title XIII, sections 1401–1405, 1411, 1412, 1421, and 1422 of the House bill, and sections 1014, 1051–1053, 1058, 1059A, 1059B, 1070, title XII, sections 3131 and 3132 of the Senate amendment, and modifications committed to conference: Messrs. HYDE, LEACH, and LANTOS.

From the Committee on the Judiciary, for consideration of sections 551, 573, 616, 652, 825, 1075, 1078, 1105, 2833, 2842, and 2843 of the House bill, and sections 620, 842, 1063, 1068, 1074, 1080–1082, 1101, 1106, 1107, 2821, 2823, 2824, 3143, 3146, 3151–3157, 3401–3410 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas, and CONYERS.

From the Committee on Resources, for consideration of sections 601 and 2834 of the House bill, and section 1076 of the Senate amendment, and modifications committed to conference: Messrs. POMBO, WALDEN of Oregon, and INSLEE.

From the Committee on Science, for consideration of section 596 of the House bill, and sections 1034, 1092, and title XXXV of the Senate amendment, and modifications committed to conference: Messrs. BOEHLERT, SMITH of Michigan, and GORDON.

From the Committee on Small Business, for consideration of sections 807 and 3601 of the House bill, and sections 805, 822, 823, 912, and 1083 of the Senate amendment, and modifications committed to conference: Mr. MANZULLO, Mrs. KELLY, and Ms. VELÁZQUEZ.

From the Committee on Transportation and Infrastructure, for consideration of sections 555, 558, 596, 601, 905, 1051, 1063, 1072, and 3502 of the House bill, and sections 321, 323, 325, 717, 1066, 1076, 1091, 2828, 2833–2836, and title XXXV of the Senate amendment, and modifications committed to conference: Messrs. YOUNG of Alaska, DUNCAN, and CAPUANO.

From the Committee on Veterans Affairs, for consideration of sections 2810 and 2831 of the House bill, and sections 642, 2821, and 2823 of the Senate amendment, and modifications committed to conference: Messrs. SMITH of New Jersey, BROWN of South Carolina, and MICHAUD.

From the Committee on Ways and Means, for consideration of section 585 of the House bill, and section 653 of the Senate amendment, and modifications committed to conference: Messrs. SHAW, CAMP, and RANGEL.

The message also announced that the House has passed the following bill, without amendment:

S. 1537. An act to direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery.

S. 1687. An act to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

S. 1778. An act to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes.

S. 2052. An act to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail.

S. 2180. An act to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

S. 2363. An act to revise and extend the Boys and Girls Clubs of America.

S. 2508. An act to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse.

The message further announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 2941. An act to correct the south boundary of the Colorado River Indian Reservation in Arizona, and for other purposes.

H.R. 3210. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte Bear Creek Subbasins in Oregon.

H.R. 3247. An act to provide consistent enforcement authority to the Bureau of Land Management, the National Park Service, the United States Fish and Wildlife Service, and the Forest Service to respond to violations of regulations regarding the management, use, and protection of public lands under the jurisdiction of these agencies, to clarify the purposes for which collected fines may be used, and for other purposes.

H.R. 3479. An act to provide for the control and eradication of the brown tree snake on the island of Guam and the prevention of the introduction of the brown tree snake to other areas of the United States, and for other purposes.

H.R. 3597. An act to authorize the Secretary of the Interior, through the Bureau of Reclamation, to conduct a feasibility study on the Alder Creek water storage and conservation project in El Dorado County, California, and for other purposes.

H.R. 3954. An act to authorize the Secretary of the Interior to resolve boundary discrepancies in San Diego County, California, arising from an erroneous survey conducted by a government contractor in 1881 that resulted in overlapping boundaries for certain lands, and for other purposes.

H.R. 4046. An act to designate the facility of the United States Postal Service located at 555 West 180th Street in New York, New York, as the "Sergeant Riayan A. Tejada Post Office".

H.R. 4066. An act to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes.

H.R. 4077. An act to enhance criminal enforcement of the copyright laws, to educate the public about the application of copyright law to the Internet, and for other purposes.

H.R. 4319. An act to complete the codification of title 46, United States Code, "Shipping," as positive law.

H.R. 4469. An act to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California.

H.R. 4579. An act to modify the boundary of the Harry S Truman National Historic Site in the State of Missouri, and for other purposes.

H.R. 4596. An act to amend Public Law 97–435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009.

H.R. 4606. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

H.R. 4617. An act to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California, and for other purposes.

H.R. 4657. An act to amend the Balanced Budget Act of 1997 to improve the administration of Federal pension benefit payments for District of Columbia teachers, police officers, and fire fighters, and for other purposes.

H.R. 4683. An act to enhance the preservation and interpretation of the Gullah Geechee cultural heritage, and for other purposes.

H.R. 4808. An act to provide for a land exchange involving private land and Bureau of Land Management land in the vicinity of Holloman Air Force Base, New Mexico, for the purpose of removing private land from the required safety zone surrounding munitions storage bunkers at Holloman Air Force Base.

H.R. 4827. An act to amend the Colorado Canyons National Conservation Area and Black Ridge Canyons Wilderness Act of 2000 to rename the Colorado Canyons National Conservation Area as the McInnis Canyons National Conservation Area.

H.R. 4838. An act to establish a Healthy Forest Youth Conservation Corps to provide a means by which young adults can carry out rehabilitation and enhancement projects to prevent fire and suppress fires, rehabilitate public land affected or altered by fires, and provide disaster relief, and for other purposes.

H.R. 5009. An act to extend water contracts between the United States and specific irrigation districts and the City of Helena in Montana, and for other purposes.

H.R. 5016. An act to extend the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska.

H.R. 5025. An act making appropriations for the Department of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes.

H.R. 5027. An act to designate the facility of the United States Postal Service located at 411 Midway Avenue in Mascotte, Florida, as the "Specialist Eric Ramirez Post Office".

H.R. 5133. An act to designate the facility of the United States Postal Service located at 11110 Sunset Hills Road in Reston, Virginia, as the "Martha Pennino Post Office Building."

H.R. 5147. An act to designate the facility of the United States Postal Service located at 23055 Sherman Way in West Hills, California, as the "Evan Asa Ashcraft Post Office Building".

H.J. Res. 102. Joint resolution recognizing the 60th anniversary of the Battle of Peleliu and the end of Imperial Japanese control of Palau during World War II and urging the Secretary of the Interior to work to protect the historic sites of the Peleliu Battlefield National Historic Landmark and to establish commemorative programs honoring the Americans who fought there.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 461. Concurrent resolution expressing the sense of Congress regarding the importance of life insurance, and recognizing and supporting National Life Insurance Awareness Month.

At 3:56 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 480. An act to redesignate the facility of the United States Postal Service located at 747 Broadway in Albany, New York, as the "United States Postal Service Henry Johnson Annex".

H.R. 5122. An act to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms.

The message also announced that the House has agreed to the following concurrent resolution with an amendment.

S. Con. Res. 135. Concurrent resolution authorizing the printing of a commemorative document in memory of the late President of the United States, Ronald Wilson Reagan.

At 4:32 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following joint resolution, in which it requests the concurrence of the Senate:

H.J. Res. 107. Joint resolution making continuing appropriations for the fiscal year 2005, and for other purposes.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 1084. An act to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

H.R. 1787. An act to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

S. 2852. A bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

The following bills were read the first and second times by unanimous consent, and placed on the calendar:

H.R. 5025. An act making appropriations for the Departments of Transportation and Treasury, and independent agencies for the fiscal year ending September 30, 2005, and for other purposes.

H.R. 4066. An act to provide for the conveyance of certain land to the United States and to revise the boundary of Chickasaw National Recreation Area, Oklahoma, and for other purposes.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2866. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that on today, September 29, 2004, she had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 41. Joint resolution commemorating the opening of the National Museum of the American Indian.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9492. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Columbus, NE Doc. No. 04–ACE–42" (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9493. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Urbana, OH Doc. No. 04–AGL–01" (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9494. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Georgetown, OH Doc. No. 04–AGL–02" (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9495. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Janesville, WI Doc. No. 04–AGL–07" (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9496. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; Kalamazoo, MI Doc. No. 04–AGL–04" (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9497. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class E Airspace; South Haven, MI Doc. No. 04–AGL–05" (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9498. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace; Rochester, MN; Modification of Class E Airspace; Rochester, MN Doc. No. 04–AGL–10" (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9499. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace; Camp Douglas, WI Doc. No. 04–AGL–08" (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9500. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Modification of Class D Airspace; Mount Clemens, MI Doc. No. 03–AGL–20" (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9501. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; King Salmon, AK Doc. No. 03–AAL–09" (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9502. A communication from the Program Analyst, Federal Aviation Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Establishment of Class E Airspace; Shungnak, AK Doc. No. 04–AAL–08" (RIN2120–AA66) received on September 28, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9503. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law , the report of a rule entitled "Indiana Regulatory Program" (IN–154–FOR) received on September 28, 2004; to the Committee on Energy and Natural Resources.

EC–9504. A communication from the Director, Office of Surface Mining, Department of the Interior, transmitting, pursuant to law , the report of a rule entitled "Ohio Regulatory Program" (OH–248–FOR) received on September 28, 2004; to the Committee on Energy and Natural Resources.

EC–9505. A communication from the Director, Office of Human Resources, Department of Energy, transmitting, pursuant to law, the report of a nomination for the position of Assistant Secretary for Policy and International Affairs, Department of Energy, received on September 28, 2004; to the Committee on Energy and Natural Resources.

EC–9506. A communication from the General Counsel, Federal Energy Regulatory Commission, transmitting, pursuant to law, the report of a rule entitled "Revisions to Oil Pipeline Regulations Pursuant to the Energy Policy Act of 1992" (Doc. No. RM93–11–002) received on September 28, 2004; to the Committee on Energy and Natural Resources.

EC–9507. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled "The Superfund Innovative Technology Evaluation Program: Annual Report to Congress FY 2002"; to the Committee on Environment and Public Works.

EC–9508. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Iowa Update to Materials Incorporated by Reference" (FRL#7812–5) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9509. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Plans for Designated Facilities; New Jersey" (FRL#7818–4) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9510. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Connecticut: Final Authorization of State Hazardous Waste Management Program Revisions" (FRL#7817–9) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9511. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Priorities List for Uncontrolled Hazardous Waste Sites" (FRL#7817–6) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9512. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination to Stay and/or Defer Sanctions, Maricopa County Environmental Services Department" (FRL#7818–1) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9513. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Protection of Stratospheric Ozone; Listing of Substitutes in the Foam Sector" (FRL#7821–6) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9514. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Hunting: Late Seasons and Bag and Possession Limits for Certain Migratory Game Birds" (RIN1018–AT53) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9515. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Hunting: Final Frameworks for Late Season Migratory Bird Hunting Regulations" (RIN1018–AT53) received on September

28, 2004; to the Committee on Environment and Public Works.

EC–9516. A communication from the Assistant Secretary for Fish and Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Designation of Critical Habitat for the Mexican Spotted Owl" (RIN1018–AT53) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9517. A communication from the Deputy Director, Fish and Wildlife Service, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Remove the Tiniam Monarch from the Federal List of Endangered and Threatened Wildlife" (RIN1018–AI14) received on September 28, 2004; to the Committee on Environment and Public Works.

EC–9518. A communication from the Regulations Coordinator, Centers for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Continuation of Medicare Entitlement When Disability Benefit Entitlement Ends Because of Substantial Gainful Activity" (RIN0938–AK94) received on September 28, 2004; to the Committee on Finance.

EC–9519. A communication from the Regulations Coordinator, Centers for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Health Care Fraud and Abuse Data Collection Program; Technical Revisions to Healthcare Integrity and Protection Data Bank Collection Activities" received on September 28, 2004; to the Committee on Finance.

EC–9520. A communication from the Regulations Coordinator, Centers for Medicaid and Medicare Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Physicians' Referrals to Health Care Entities with which They Have Financial Relationships (Phase II); Correcting Amendment" (RIN0938–AK67) received on September 28, 2004; to the Committee on Finance.

EC–9521. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Collected Excise Taxes; Duties of Collector" (RIN1545–BB75) received on September 28, 2004; to the Committee on Finance.

EC–9522. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "NQLX SFC Dealers Revenue Ruling" (Rev. Rule 2004–94) received on September 28, 2004; to the Committee on Finance.

EC–9523. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the Chief Human Capital Officers (CHCO) Council's Report to Congress for fiscal year 2003; to the Committee on Governmental Affairs.

EC–9524. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2003; to the Committee on Governmental Affairs.

EC–9525. A communication from the Director, Office of General Counsel and Legal Policy, Office of Government Ethics, transmitting, pursuant to law, the report of a rule entitled "Technical Updating Amendments to Executive Branch Financial Disclosure and Standards of Ethical Conduct Regulations" (RIN3209–AA00 and 04) received on September 28, 2004; to the Committee on Governmental Affairs.

EC–9526. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Listing of Color Additives Subject to Certification; D&C Black No. 2; Correction" (Doc. No. 1987C–0023) received on September 28 , 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9527. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Labeling for Menstrual Tampons; Ranges of Absorbency, Change from 'Junior' to 'Light'" (Doc. No. 2000N–1520) received on September 28, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9528. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Skin Protectant Drug Products for Over-the-Counter Human Use; Final Monograph; Technical Amendment" (RIN0910–AF42) received on September 28, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9529. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Dental Devices; Dental Noble Metal Alloys and Dental Base Metal Alloys; Designation of Special Controls" (Doc. No. 2003N–0390) received on September 28, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9530. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Presubmission Conferences" (Doc. No. 2000N–1399) received on September 28, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC–9531. A communication from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting, pursuant to law, a report relative to the Commission's Inventory of Commercial and Inherently Governmental Activities; to the Committee on Health, Education, Labor, and Pensions.

EC–9532. A communication from the Director, Administrative Office of the United States Courts, transmitting, pursuant to law, a report relative to time limits for the federal courts to act on capital habeas petitions and motions for rehearing; to the Committee on the Judiciary.

EC–9533. A communication from the Vice Chair, Election Assistance Commission, transmitting, pursuant to law, the report of a rule entitled "Statement of Policy Regarding National Mail Voter Registration Form" received on September 28, 2004; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

H.R. 1417. To amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges.

By Mr. DOMENICI, from the Committee on Energy and Natural Resources, without amendment and with a preamble:

S. Con. Res. 121. A concurrent resolution supporting the goals and ideals of the World Year of Physics.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRAHAM of Florida (for himself and Mr. NELSON of Florida):

S. 2857. A bill to authorize ecosystem restoration projects for the Indian River Lagoon and the Picayune Strand, Collier County, in the State of Florida; to the Committee on Environment and Public Works.

By Mr. GREGG (for himself, Mr. ALLARD, and Mr. ALEXANDER):

S. 2858. A bill to amend the Internal Revenue Code of 1986 to clarify the proper treatment of differential wage payments made to employees called to active duty in the uniformed services, and for other purposes; to the Committee on Finance.

By Ms. MURKOWSKI:

S. 2859. A bill to amend the National Aquaculture Act of 1980 to prohibit the issuance of permits for marine aquaculture facilities until requirements for such permits are enacted into law; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SANTORUM (for himself and Mr. ROCKEFELLER):

S. 2860. A bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation; to the Committee on Finance.

By Mrs. MURRAY (for herself, Mr. KENNEDY, Ms. MIKULSKI, Mr. DURBIN, Mr. DODD, and Mr. REED):

S. 2861. A bill to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program; to the Committee on Health, Education, Labor, and Pensions.

By Mrs. CLINTON:

S. 2862. A bill to amend the Foreign Assistance Act of 1961 to provide assistance for developing countries to promote quality basic education and to establish the achievement of universal basic education in all developing countries as an objective of United States foreign assistance policy, and for other purposes; to the Committee on Foreign Relations.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. SCHUMER, Mr. DEWINE, and Mr. DASCHLE):

S. 2863. A bill to authorize appropriations for the Department of Justice for fiscal years 2005, 2006, and 2007, and for other purposes; to the Committee on the Judiciary.

By Mr. GRASSLEY (for himself, Mr. LEAHY, Mr. BOND, Mr. NELSON of Nebraska, and Mr. FEINGOLD):

S. 2864. A bill to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted; to the Committee on the Judiciary.

By Mr. DAYTON:

S. 2865. A bill to require that automobiles and light trucks are able to operate on a fuel mixture that is at least 85 percent ethanol, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. INHOFE (for himself, Mr. HAGEL, Mr. ROBERTS, Mr. BURNS, Mr. CORNYN, Ms. CANTWELL, Mrs. BOXER, Mr. NELSON of Nebraska, and Mr. CRAIG):

S. 2866. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans; read the first time.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SMITH (for himself and Mr. WYDEN):

S. Res. 441. A resolution expressing the sense of the Senate that October 17, 1984, the date of the restoration by the Federal Government of Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, should be memorialized; to the Committee on Indian Affairs.

By Ms. LANDRIEU (for herself and Mr. ALLEN):

S. Res. 442. A resolution apologizing to the victims of lynching and their descendants for the Senate's failure to enact anti-lynching legislation; to the Committee on the Judiciary.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 443. A resolution to authorize testimony, document production, and legal representation in United States v. Roberto Martin; considered and agreed to.

By Mr. FRIST (for himself, Mr. DASCHLE, Mr. SPECTER, Mr. ALEXANDER, and Mr. REID):

S. Res. 444. A resolution congratulating and commending the Veterans of Foreign Wars of the United States and its national Commander-in-Chief, John Furgess of Tennessee; considered and agreed to.

ADDITIONAL COSPONSORS

S. 282

At the request of Ms. SNOWE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 282, a bill to amend the Education Sciences Reform Act of 2002 to require the Statistics Commissioner to collect information from coeducational secondary schools on such schools' athletic programs.

S. 473

At the request of Mr. FEINGOLD, the name of the Senator from Delaware (Mr. CARPER) was added as a cosponsor of S. 473, a bill to amend the Federal Water Pollution Control Act to clarify the jurisdiction of the United States over waters of the United States.

S. 533

At the request of Mr. SCHUMER, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 533, a bill to provide for a medal of appropriate design to be awarded by the President to the next of kin or other representative of those individuals killed as a result of the terrorist attacks of September 11, 2001.

S. 847

At the request of Mr. NELSON of Florida, his name was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 977

At the request of Mr. FITZGERALD, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. 977, a bill to amend the Public Health Service Act, the Employee Retirement Income Security Act of 1974, and the Internal Revenue Code of 1986 to require that group and individual health insurance coverage and group health plans provide coverage from treatment of a minor child's congenital or developmental deformity or disorder due to trauma, infection, tumor, or disease.

S. 983

At the request of Mr. CHAFEE, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 983, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 989

At the request of Mr. ENZI, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 989, a bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes.

S. 1010

At the request of Mr. HARKIN, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 1010, a bill to enhance and further research into paralysis and to improve rehabilitation and the quality of life for persons living with paralysis and other physical disabilities.

S. 1304

At the request of Ms. SNOWE, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 1304, a bill to improve the health of women through the establishment of Offices of Women's Health within the Department of Health and Human Services.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1601

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 1601, a bill to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, and for other purposes.

S. 1700

At the request of Mr. HATCH, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1700, a bill to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes.

S. 1996

At the request of Mr. DASCHLE, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 1996, a bill to enhance and provide to the Oglala Sioux Tribe and Angostura Irrigation Project certain benefits of the Pick-Sloan Missouri River basin program.

S. 2338

At the request of Mr. BOND, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 2338, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 2363

At the request of Mr. LEAHY, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2363, a bill to revise and extend the Boys and Girls Clubs of America.

S. 2426

At the request of Mr. NELSON of Nebraska, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2426, a bill to amend title XVIII of the Social Security Act to clarify the treatment of payment under the medicare program for clinical laboratory tests furnished by critical access hospitals.

S. 2431

At the request of Mr. NELSON of Nebraska, the names of the Senator from Michigan (Ms. STABENOW) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of S. 2431, a bill to amend title XVIII of the Social Security Act to improve access to diabetes self-management training by designating certified diabetes educators recognized by the National Certification

Board of Diabetes Educators as certified providers for purposes of outpatient diabetes education services under part B of the medicare program.

S. 2526

At the request of Mr. BOND, the name of the Senator from Colorado (Mr. CAMPBELL) was added as a cosponsor of S. 2526, a bill to reauthorize the Children's Hospitals Graduate Medical Education Program.

S. 2568

At the request of Mr. BIDEN, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2593

At the request of Mrs. LINCOLN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2593, a bill to amend title XVIII of the Social Security Act to provide medicare beneficiaries with access to geriatric assessments and chronic care management, and for other purposes.

S. 2715

At the request of Mr. COLEMAN, the name of the Senator from New Mexico (Mr. BINGAMAN) was added as a cosponsor of S. 2715, a bill to improve access to graduate schools in the United States for international students and scholars.

S. 2770

At the request of Mr. DASCHLE, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2770, a bill to establish a National Commission on American Indian Trust Holdings.

S. 2808

At the request of Mr. BYRD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2808, a bill to amend title 5, United States Code, to make the date of the signing of the United States Constitution a legal public holiday, and for other purposes.

S. 2827

At the request of Mrs. CLINTON, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2827, a bill to amend the Federal Rules of Evidence to create an explicit privilege to preserve medical privacy.

S. CON. RES. 136

At the request of Mr. CONRAD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 271

At the request of Mr. COLEMAN, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. Res. 271, a resolution urging the President of the United States diplomatic corps to dissuade member states of the United Nations from supporting resolutions that unfairly castigate Israel and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East.

S. RES. 311

At the request of Mr. BROWNBACK, the name of the Senator from South Dakota (Mr. DASCHLE) was added as a cosponsor of S. Res. 311, a resolution calling on the Government of the Socialist Republic of Vietnam to immediately and unconditionally release Father Thadeus Nguyen Van Ly, and for other purposes.

S. RES. 408

At the request of Mr. SMITH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 408, a resolution supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence.

S. RES. 424

At the request of Mr. CRAIG, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. Res. 424, a resolution designating October 2004 as "Protecting Older Americans From Fraud Month".

AMENDMENT NO. 3704

At the request of Mr. WYDEN, the names of the Senator from Iowa (Mr. HARKIN) and the Senator from New Jersey (Mr. CORZINE) were added as cosponsors of amendment No. 3704 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3706

At the request of Mrs. FEINSTEIN, her name was withdrawn as a cosponsor of amendment No. 3706 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

At the request of Mr. SPECTER, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of amendment No. 3706 proposed to S. 2845, supra.

AMENDMENT NO. 3710

At the request of Mr. NELSON of Nebraska, his name was added as a cosponsor of amendment No. 3710 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GREGG (for himself, Mr. ALLARD, and Mr. ALEXANDER):

S. 2858. A bill to amend the Internal Revenue Code of 1986 to clarify the proper treatment of differential wage payments made to employees called to active duty in the uniformed services, and for other purposes; to the Committee on Finance.

Mr. GREGG. Mr. President, military action in Afghanistan and Iraq has brought to light another example of how outdated and burdensome government policies can punish generous employers. Employers that continue to pay their employees now on active duty in the uniformed services are experiencing tax and pension difficulties that are discouraging this pro-worker, patriotic gesture. Apparently, when it comes to companies showing their respect for their employees called to serve, there is special meaning to the old cliché "no good deed goes unpunished."

The National Committee for Employer Support for the Guard and Reserve, a nationwide association, reports that over 2,500 employers have signed a pledge of support and have gone above and beyond the requirements of the law in support of their National Guard and Reserve employees. This includes many of our Nation's largest and most reputable corporations, including 3M, McDonalds, Wal-Mart, Home Depot, Liberty Mutual and many others. These commendable companies provide reservist employees who are on active duty with "differential pay" that makes up the difference between their military stipend and civilian salary.

Not just national companies provide special pay to our men and women who are called to serve overseas. In New Hampshire, some of the most remarkable stories of corporate patriotism can be found. BAE Systems of Nashua provides differential pay to their 25 called-up employees and continuing access to benefits to family members. The company even provides a stipend to make up the lost pay of active duty spouses of company employees when the spouse's employer is not able to provide differential pay.

Consider also the account of Mr. Marian Noronha, Chairman and Founder of Turbocam, a manufacturer based in Dover, New Hampshire. An immigrant from India, Mr. Noronha has not only provided his employees with differential pay and continued family health benefits, but has also extended to each of his activated employees a $10,000 line of credit. His active duty reservist and Guard employees have used this money to, among other things, purchase personal computers so their families can communicate with them while they are overseas. Several other New Hampshire private-sector companies, including Hitchiner Manufacturing Company in

Milford, have exemplary records when it comes to dealing with reservist employees. Also, New Hampshire's Governor Benson by Executive Order has extended differential pay for up to 18 months to State employees who have been called to active duty.

Under current law, employers of reservists and guardsmen called up for active duty are required to treat them as if they are on a leave of absence under the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA). The Act does not require employers to pay reservists who are on active duty. But as I have pointed out, many employers pay the reservists the difference between their military stipends and their regular salaries. Some employers provide this "differential pay" for up to three years. For employee convenience, many of these companies also allow deductions from the differential payment for contributions to their 401(k) retirement plans.

The conflict arises, however, because a 1969 IRS Revenue Ruling considers the employment relationship terminated when active duty begins. This ruling prevents employers from treating the differential pay as wages for income tax purposes, resulting in unexpected tax bills at the end of the year for these military personnel. Further, the contributions made to the worker's retirement account potentially invalidate, disqualify, the employer's entire retirement plan which could make all amounts immediately taxable to plan participants and the employer.

The Uniformed Services Differential Pay Protection Act that I am introducing today clarifies that differential wage payments are to be treated as wages to current employees for income tax purposes and that retirement plan contributions are permissible.

Differential wage payments would be treated as wages for income tax withholding purposes and reported on the worker's W–2 form. This means that active duty personnel will not be hit with end-of-the-year tax bills.

No New Taxes: The legislation does not change present law, and deferential wage payments will not be subject to Social Security and unemployment compensation taxes.

Definition: "Differential wage payments" are defined to mean any payment which: (1) is made by an employer to an individual while he or she is on active duty for a period of more than 30 days, and (2) represents all or a portion of the wages the individual would have received from the employer if he or she were performing service for the employer.

An individual receiving differential wage payments would continue to be treated as an employee for purposes of the rules applicable to qualified retirement plans, removing the threat that contributions on his or her behalf would invalidate the employer's entire plan.

Distributions Protected: Clarifying language is included to ensure that individuals would continue to be permitted to take distributions from their accounts when they leave their jobs for active duty. Thus, the right to receive distributions will be preserved even though individuals are treated as current employees for contribution purposes. The bill includes a prohibition on making elective deferrals or employee contributions for six months after receiving a distribution.

Satisfying Nondiscrimination Rules: In order to avoid disruptions in retirement savings plans and to remove disincentives, employers could disregard contributions to retirement savings accounts based on differential wage payments for nondiscrimination testing purposes, provided that such payments are available to all mobilized employees on reasonably equivalent terms.

In summary, the Uniformed Services Differential Pay Protection Act upholds the principle that employers should not be penalized for their generosity towards our Nation's reservists and members of the National Guard.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2858

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniformed Services Differential Pay Protection Act".

SEC. 2. INCOME TAX WITHHOLDING ON DIFFERENTIAL WAGE PAYMENTS.

(a) IN GENERAL.—Section 3401 of the Internal Revenue Code of 1986 (relating to definitions) is amended by adding at the end the following new subsection:

"(i) DIFFERENTIAL WAGE PAYMENTS TO ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.—

"(1) IN GENERAL.—For purposes of subsection (a), any differential wage payment shall be treated as a payment of wages by the employer to the employee.

"(2) DIFFERENTIAL WAGE PAYMENT.—For purposes of paragraph (1), the term 'differential wage payment' means any payment which—

"(A) is made by an employer to an individual with respect to any period during which the individual is performing service in the uniformed services while on active duty for a period of more than 30 days, and

"(B) represents all or a portion of the wages the individual would have received from the employer if the individual were performing service for the employer."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to remuneration paid after December 31, 2004.

SEC. 3. TREATMENT OF DIFFERENTIAL WAGE PAYMENTS FOR RETIREMENT PLAN PURPOSES.

(a) PENSION PLANS.—

(1) IN GENERAL.—Section 414(u) of the Internal Revenue Code of 1986 (relating to special rules relating to veterans' reemployment rights under USERRA) is amended by adding at the end the following new paragraph:

"(11) TREATMENT OF DIFFERENTIAL WAGE PAYMENTS.—

"(A) IN GENERAL.—Except as provided in this paragraph, for purposes of applying this title to a retirement plan to which this subsection applies—

"(i) an individual receiving a differential wage payment shall be treated as an employee of the employer making the payment,

"(ii) the differential wage payment shall be treated as compensation, and

"(iii) the plan shall not be treated as failing to meet the requirements of any provision described in paragraph (1)(C) by reason of any contribution which is based on the differential wage payment.

"(B) SPECIAL RULE FOR DISTRIBUTIONS.—

"(i) IN GENERAL.—Notwithstanding subparagraph (A)(i), for purposes of section 401(k)(2)(B)(i)(I), 403(b)(7)(A)(ii), 403(b)(11)(A), or 457(d)(1)(A)(ii), an individual shall be treated as having been severed from employment during any period the individual is performing service in the uniformed services described in section 3401(i)(2)(A).

"(ii) LIMITATION.—If an individual elects to receive a distribution by reason of clause (i), the plan shall provide that the individual may not make an elective deferral or employee contribution during the 6-month period beginning on the date of the distribution.

"(C) NONDISCRIMINATION REQUIREMENT.—Subparagraph (A)(iii) shall apply only if all employees of an employer performing service in the uniformed services described in section 3401(i)(2)(A) are entitled to receive differential wage payments on reasonably equivalent terms and, if eligible to participate in a retirement plan maintained by the employer, to make contributions based on the payments. For purposes of applying this subparagraph, the provisions of paragraphs (3), (4), and (5), of section 410(b) shall apply.

"(D) DIFFERENTIAL WAGE PAYMENT.—For purposes of this paragraph, the term 'differential wage payment' has the meaning given such term by section 3401(i)(2)."

(2) CONFORMING AMENDMENT.—The heading for section 414(u) of such Code is amended by inserting "AND TO DIFFERENTIAL WAGE PAYMENTS TO MEMBERS ON ACTIVE DUTY" after "USERRA".

(b) DIFFERENTIAL WAGE PAYMENTS TREATED AS COMPENSATION FOR INDIVIDUAL RETIREMENT PLANS.—Section 219(f)(1) of the Internal Revenue Code of 1986 (defining compensation) is amended by adding at the end the following new sentence: "The term 'compensation' includes any differential wage payment (as defined in section 3401(i)(2))."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2004.

(d) PROVISIONS RELATING TO PLAN AMENDMENTS.—

(1) IN GENERAL.—If this subsection applies to any plan or annuity contract amendment—

(A) such plan or contract shall be treated as being operated in accordance with the terms of the plan or contract during the period described in paragraph (2)(B)(i), and

(B) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of the Internal Revenue Code of 1986 or the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(2) AMENDMENTS TO WHICH SECTION APPLIES.—

(A) IN GENERAL.—This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any amendment made by this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2007.

(B) CONDITIONS.—This subsection shall not apply to any plan or annuity contract amendment unless—

(i) during the period beginning on the date the amendment described in subparagraph (A)(i) takes effect and ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted), the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

By Ms. MURKOWSKI:

S. 2859. A bill to amend the National Aquaculture Act of 1980 to prohibit the issuance of permits for marine aquaculture facilities until requirements for such permits are enacted into the law; to the Committee on Agriculture, Nutrition, and Forestry.

Ms. MURKOWSKI. Mr. President, it is a fact that scientists, the media and the public are gradually awakening to the serious disadvantages of fish raised in fish farming operations compared to naturally healthy wild fish species such as Alaska salmon, halibut, sablefish, crab and many other species.

News reports are now common that cite not only the general health advantages of eating fish at least once or twice a week, but the specific advantages of fish such as wild salmon, which contains essential Omega-3 fatty acids that may help reduce the risk of heart disease and possibly have similar beneficial effects on other diseases.

Educated and watchful consumers have also seen recent stories citing research demonstrating that farmed salmon fed vegetable-based food does not have the same beneficial impact on cardio-vascular health, but that the demand for non-vegetable-based food for fish farms may be decimating populations of other key fish species.

Those same alert consumers may also have seen stories indicating that fish farms may create serious pollution problems from the concentration of fish feces and uneaten food, that fish farms may harbor diseases that can be transmitted to previously healthy wild fish stocks, and that fish farming has had a devastating effect on communities that depend on traditional fisheries.

And yet, despite abundant evidence that fish farming practices are deeply problematic, a small cadre of federal bureaucrats continues to push hard for legislation that would encourage the development of huge new fish farms off our coasts. These same people have been pushing the idea for a number of years, and are closer than ever to presenting draft legislation that would vastly expand fish farming by encouraging the development of new farms in the U.S. Exclusive Economic Zone from 3 to 200 miles offshore.

Not only does this small group want to encourage such development, but reports indicate they want to change the rules to place all the decision-making authority over new farms in the hands of just one agency—which just happens to be theirs—rather than continue the current system where authority is spread among the agencies with the greatest expertise in different areas, such as hydraulic engineering, environmental protection, fish biology, etc.

We cannot afford a rush to judgment on this issue—it is far too dangerous if we make a mistake.

The Natural Stock Conservation Act I am introducing today lays down a marker for where this debate needs to go. It would prohibit the development of new offshore aqua-culture operations until Congress has acted to ensure every federal agency involved does the necessary analyses in areas such as disease control, engineering, pollution prevention, biological and genetic impacts, and other critical issues, none of which are specifically required under existing law.

I realize it is far too late in this session to anticipate action on such a controversial and complex issue, but I intend this bill to stimulate further debate on this issue next year, as Congress begins serious work on the future of our ocean programs in response to the U.S. Ocean Commission report. I intend to pursue this discussion vigorously, and I will be calling on other coastal senators to work with me.

We all want to make sure we enjoy abundant supplies of healthy foods in the future, but not if it means unnecessary and avoidable damage to wild species, to the environment generally, and to the economies of America's coastal fishing communities.

I ask unanimous consent that the text of my bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2859

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Natural Stock Conservation Act of 2004".

SEC. 2. PROHIBITION ON PERMITS FOR AQUACULTURE.

The National Aquaculture Act of 1980 (16 U.S.C. 2801 et seq.) is amended—

(1) by redesignating sections 10 and 11 as sections 11 and 12 respectively; and

(2) by inserting after section 9 the following new section:

PROHIBITION ON PERMITS FOR AQUACULTURE

"SEC. 10. (a) IN GENERAL.—The head of an agency with jurisdiction to regulate aquaculture may not issue a permit or license to permit an aquaculture facility located in the exclusive economic zone to operate until after the date on which a bill is enacted into law that—

"(1) sets out the type and specificity of the analyses that the head of an agency with jurisdiction to regulate aquaculture shall carry out prior to issuing any such permit or license, including analyses related to—

"(A) disease control;

"(B) structural engineering;

"(C) pollution;

"(D) biological and genetic impacts;

"(E) access and transportation;

"(F) food safety; and

"(G) social and economic impacts of such facility on other marine activities, including commercial and recreational fishing; and

"(2) requires that a decision to issue such a permit or license be—

"(A) made only after the head of the agency that issues such license or permit consults with the Governor of each State located within a 200-mile radius of the aquaculture facility; and

"(B) approved by the regional fishery management council that is granted authority under title III of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1851 et seq.) over a fishery in the region where the aquaculture facility will be located.

"(b) DEFINITIONS.—In this section:

"(1) AGENCY WITH JURISDICTION TO REGULATE AQUACULTURE.—The term 'agency with jurisdiction to regulate aquaculture' means each agency and department of the United States, as follows:

"(A) The Department of Agriculture.

"(B) The Coast Guard.

"(C) The Department of Commerce.

"(D) The Environmental Protection Agency.

"(E) The Department of the Interior.

"(F) The U.S. Army Corps of Engineers.

"(2) EXCLUSIVE ECONOMIC ZONE.—The term 'exclusive economic zone' has the meaning given that term in section 3 of the of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802).

"(3) REGIONAL FISHERY MANAGEMENT COUNCIL.—The term 'regional fishery management council' means a regional fishery management council established under section 302(a) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)).".

By Mr. SANTORUM (for himself and Mr. ROCKEFELLER):

S. 2860. A bill to amend the Internal Revenue Code of 1986 to classify automatic fire sprinkler systems as 5-year property for purposes of depreciation; to the Committee on Finance.

Mr. SANTORUM. Mr. President, today I am introducing along with Senator ROCKEFELLER the Fire Sprinkler Incentive Act of 2004. Passage of this bipartisan bill would serve to help reduce the tremendous annual economic and human loss that fire in the United States inflicts on our Nation.

In the United States, fire departments responded to approximately 1.7 million fires in 2002. Annually, over 500,000 of these are structural fires causing approximately 3,400 deaths, around 100 of which are firefighters. Fire also caused some 18.5 million civilian injuries and $10.3 billion in direct property loss. The indirect cost of fire in the United States annually exceeds $80 billion. These losses are staggering. All of this translates to the fact that fire departments respond to a fire every 18 seconds. Every 60 seconds a fire breaks out in a structure and in a residential structure every 80 seconds.

There are literally thousands of high-rise buildings built under older codes that lack adequate fire protection. In addition, billions of dollars were spent to make these and other buildings handicapped accessible, but people with disabilities now occupying these buildings are not adequately protected from fire. At recent code hearings, representatives of the health care industry testified that there are approximately 4,200 nursing homes that need to be retrofitted with fire sprinklers. They further testified that the cost of protecting these buildings with fire sprinklers would have to be raised through corresponding increases in Medicare and Medicaid. In addition to the alarming number of nursing homes lacking fire sprinkler protection, there are literally thousands of assisted living facilities housing older Americans and people with disabilities that lack fire sprinkler protection.

The solution resides in automatic sprinkler systems that are usually triggered within 4 minutes of the temperature rising above 120 degrees. The National Fire Protection Association (NFPA) has no record of a fire killing more than two people in a public assembly, educational, institutional, or residential building that has fully operational sprinklers. Furthermore, sprinklers are responsible for dramatically reducing property loss.

Building owners do not argue with fire authorities over the logic of protecting their building with fire sprinklers. The issue is cost. This bill would drastically reduce the staggering annual economic toll of fire in America and thereby dramatically improve the quality of life for everyone involved. This legislation provides a tax incentive for businesses to install sprinklers through the use of a 5-year depreciation period, opposed to the current 27.5 or 39-year period for installations in residential rental and non-residential real property respectively. While only a start, the bill will help eliminate the massive losses seen in nursing homes, nightclubs, office buildings, apartment buildings, manufacturing facilities, and other for-profit entities.

This bill enjoys support from a variety of organizations. They include: the American Insurance Association, the American Fire Sprinkler Association, the California Department of Forestry and Fire Protection, Campus Firewatch, Congressional Fire Services Institute, Independent Insurance Agents & Brokers of America, International Association of Arson Investigators, International Association of Fire Chiefs, International Fire Service Training Association, National Fire Protection Association, National Fire Sprinkler Association, National Volunteer Fire Council, the Society of Fire Protection Engineers, and the Mechanical Contractors Association of America.

The Fire Sprinkler Incentive Act of 2004 provides long needed safety incentives for building owners that will help fire departments across the country save lives. I ask my colleagues for their support of this important piece of legislation.

Mr. ROCKEFELLER. Mr. President, every 18 seconds a fire department somewhere in America responds to a fire. And sadly, in 2001, not including those killed in the terrorist attacks on September 11, there were almost 4,000 deaths in America resulting from fires, including the deaths of 99 firefighters. Obviously, the Government cannot prevent every tragedy. But when we can help, we ought to. That is why I am proud to introduce legislation today with my friend from Pennsylvania, Senator SANTORUM, that will create incentives for the installation of fire sprinkler systems, which are indisputably effective in limiting death and destruction by fires. The Fire Sprinkler Incentive Act of 2004 will make retrofit installation of fire sprinklers more affordable.

The National Fire Protection Association has no record of a fire killing more than two people in a building that had a properly installed and functioning sprinkler system. Less important than saving lives, but still important, sprinklers can dramatically reduce the property damage caused by fires. Because sprinkler systems are so successful, many jurisdictions require that newly constructed buildings be built with proper fire suppression technology.

Unfortunately, building codes for new construction cannot protect the many people who are living, working, or meeting in older buildings that do not have sprinklers. And because retrofitting buildings is so expensive few property owners can reasonably afford the upgrade. The legislation that the Senator from Pennsylvania and I are introducing today will provide some tax relief to property owners who are willing to make the investment in sprinkler systems that can save lives.

A business that operates nursing homes, for example, may not be able to afford to retrofit its older facilities without charging residents insupportable fees. The Fire Sprinkler Incentive Act will help ameliorate the costs of sprinkler installation by enabling property owners to depreciate the investment over a five-year period. This small change to the Tax Code can result in lives saved and property preserved.

I look forward to working with my colleagues to get this important legislation enacted.

By Mr. HATCH (for himself, Mr. LEAHY, Mr. SCHUMER, Mr. DEWINE, and Mr. DASCHLE):

S. 2863. A bill to authorize appropriations for the Department of Justice for fiscal years 2005, 2006, and 2007, and for other purposes; to the Committee on the Judiciary.

Mr. HATCH. Mr. President, I rise today along with my colleagues Senators LEAHY, DEWINE, and SCHUMER to introduce the "Department of Justice Appropriations Authorization Act, fiscal years 2005 through 2007." I want to thank Senator LEAHY for his hard work on this bill. I also want to thank the House Judiciary Committee under the leadership of Chairman SENSENBRENNER for developing legislation upon which we have been able to build.

I am pleased that Congress passed a Department of Justice reauthorization bill last Congress for the first time in over two decades. The bill, however, did not address a number of authorities, including the Office of Justice Programs. The bill we are introducing today authorizes and consolidates and makes permanent a host of appropriations authorities. These authorities are essential to the administration of the Department of Justice and its ability to accomplish its mission.

The Department of Justice's central duty is to provide security and justice for all Americans. I believe this legislation is essential to the Department's work in protecting America from future terrorist attacks. Importantly, the legislation will facilitate the Department's ability to continue providing much-needed assistance and advice to our state and local law enforcement.

I want to take a moment to highlight some of the more important provisions of this bill. Title I of the bill authorizes appropriations for the major components of the Department for fiscal year 2005 through fiscal year 2007. Among these authorizations are funding for Federal Bureau of Investigation and the newly created Terrorism Threat Integration Center to fight the war against terrorism, and the Drug Enforcement Administration to combat the trafficking of illegal drugs.

Title II of the bill restructures and authorizes many of the grant programs at the Department. Specifically, it restructures the Byrne and Local Law Enforcement Block Grant (LLEBG) programs and authorizes for the first time ever the Local Law Enforcement Block Grant. By merging these two programs into one Edward Byrne Memorial Justice Assistance Grant program (JAG), it will allow states to make one application for funds and streamline the process.

I want to take a moment and address the concern I have heard raised that the merger of these programs will somehow cause states to lose the assistance they rely upon. Although we have combined the funds into one program, we have kept the same purpose areas so that activities and programs funded currently under Byrne and LLEBG may continue to be eligible for funds under the JAG program. Additionally, the money allocated to the JAG program is set up to split the funds 50/50—fifty percent of the JAG funds are allocated in the same manner that Byrne grants are currently allocated, and fifty percent are allocated in the same manner that the LLEBG funds are currently allocated. Each state receives 0.25 percent of the overall funds. Then of the remaining funds, 50 percent is distributed based upon population, similar to the Byrne grants, and the other 50 percent is based on the violent crime rate, similar to the LLEBG. In other words, the JAG program is designed to address the same purposes of the Byrne and LLEBG programs, and funds are intended to be allocated in the same manner. The only difference is that those funds will now come from one pot of money—the JAG account.

That being said, I do share the concern that money for the one pot, the JAG account, will be reduced. I have supported full funding for Byrne and LLEBG grants in the past, and I will continue to support funding for the JAG program. For this reason, this legislation authorizes the JAG account to receive the total amount of funds that both the Byrne and LLEBG programs received in Fiscal Year 2003 plus a 2 percent increase. I am hopeful that the Appropriators will fund the new JAG program at the same level. In fact, one of the benefits of creating one new program is that it will help limit the earmarking of these grants, thus allowing meritorious programs to receive money that may have been previously allocated for some earmark.

In addition to the authorization of the JAG program, this legislation restructures the COPS program as one single block grant program covering all of its current purposes so local governments will need to file only one COPS application for any of these purposes. The bill reauthorizes the Boys and Girls Club of America, the Regional Information Sharing System (RISS), the Crime Free Rural States Grant program, the National Criminal History Background Check System, the National Incident-Based Reporting System, and the records of the National Crime Information Center. Further, the bill makes a number of important changes to grants that assist victims of crime and to the drug courts to enable these valuable programs to be more effective. *In addition, the legislation creates a new Office of Weed and Seed Strategies to replace the never-before authorized executive Office of Weed and Seed Strategies.

The bill includes the Prevention and Recovery of Missing Children Act and the Senior Safety Act to better protect our nation's most vulnerable citizens: our children and seniors. The Prevention and Recovery of Missing Children Act sets standards for the registration of sex offenders which will make our registration system more accurate and reliable. The Senior Safety Act enhances the penalties for crimes committed against seniors, including fraud and telemarketing fraud, and includes a provision to safeguard pensions from fraud and theft.

One of the keys to fighting terrorism is a tough arsenal of laws designed to target those who support or assist terrorists and their cause, such as those who launder money. This legislation includes the Combating Money Laundering and Terrorist Financing Act of 2004 which adds several provisions to the list of specified unlawful activities within the RICO statute that serve as predicate offenses under the money laundering statute. It adds a provision to the civil forfeiture statute to allow for the forfeiture of property outside U.S. territorial boundaries if the property was used in the planning of a terrorist act that occurred within the U.S. It also includes a parallel transaction provision which provides that all parts of a parallel or dependent financial transaction are considered a money laundering offense if one part of that transaction involves the proceeds of an unlawful activity.

This legislation also includes the Koby Mandell Act which creates within the DOJ an Office of Justice for Victims of Overseas Terrorism. The office will assume responsibility for the administration of the Rewards for Justice Program and its website. The office will offer rewards in an effort to capture terrorists involved in harming American citizens overseas. It will also provide other related services including sending U.S. officials to funerals of American victims of terrorism overseas.

This bill also contains important immigration provisions, including the PROMISE Act. The PROMISE Act is an immigration enforcement measure that amends the Immigration and Nationality Act so that those who fail to satisfy their child support obligations are ineligible to enter the United States. Further, those already in the United States will be ineligible for certain immigration benefits, such as citizenship.

This bill is a step in the right direction. I look forward to continuing to work with Senator LEAHY and the House Judiciary Committee to enact this legislation. I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

There being no objection, the additional material was ordered to be printed in the RECORD, as follows:

DOJ REAUTH SECTION BY SECTION

Section 1. Short Title; Table of Contents

Section 1 provides that the bill may be cited as the "Department of Justice Appropriations Authorization Act, Fiscal Years 2005 through 2007" and sets forth the table of contents.

TITLE I—AUTHORIZATION OF APPROPRIATIONS

Section 101. Authorization of Appropriations for Fiscal Year 2005

Section 101 sets forth specific sums authorized to be appropriated to carry out the activities of the Department of Justice for Fiscal Year 2005. These sums are set out in 22 accounts. The numbers generally reflect the President's budget requests for the Department of Justice for Fiscal Year 2004 with a 2% inflation adjustment.

Section 102. Authorization of Appropriations for Fiscal Year 2006

Section 102 sets forth specific sums authorized to be appropriated to carry out the activities of the Department of Justice for Fiscal Year 2006. These sums are set out in 22 accounts. The numbers generally reflect the President's budget requests for the Department of Justice for Fiscal Year 2005 in Section 101 with a 2% inflation adjustment.

Section 103. Authorization of Appropriations for Fiscal Year 2007

Section 103 sets forth specific sums authorized to be appropriated to carry out the activities of the Department of Justice for Fiscal Year 2007. These sums are set out in 20 accounts. The numbers generally reflect the numbers for Fiscal Year 2006 in section 102 with a 2% inflation adjustment.

TITLE II—IMPROVING THE DEPARTMENT OF JUSTICE'S GRANT PROGRAMS

Subtitle A—Assisting Law Enforcement and Criminal Justice Agencies

Section 201. Merger of Byrne Grant and Local Law Enforcement Block Grant Programs

Section 201 merges the current Byrne Grant Program (both formula and discretionary) and the Local Law Enforcement Block Grant Programs into one new Edward Byrne Memorial Justice Assistance Grant Program. This will allow states and local governments to make one application for this money annually for a four-year term.

The formula for distributing these grants combines elements of the current Byrne and LLEBG formulas. For allocating money to the states, each state automatically receives 0.25% of the total.

Of the remaining amount, 50% is divided up among the states according to population (the method currently used under Byrne) and 50% is divided up based on the violent crime rate (the method currently used under LLEBG).

Each state's allocation is then divided among state and locals in the following manner. Sixty percent of the allocation goes to the state. Then, that 60% is divided between state and locals based on their relative percentages of overall criminal justice spending within the state. The state keeps its portion of the 60% and gives out the local portion in the state's discretion. This follows how Byrne formula grants are now done.

The remaining 40% of the state's allocation goes directly to the local governments from OJP. Each class of local governments (e.g., cities, counties, townships, etc.) gets a share based on its relative percentage of local criminal justice spending within the state. Within each class, the class's share is divided up between the local governments in that class based on their crime rate. This is similar to how LLEBG grants are now done.

The bill authorizes $1.075 billion for FY 2005 for the program which represents a 2% increase over the amount appropriated for both programs in Fiscal Year 2003. A new feature of the program is that states will be allowed to keep grant funds in interest bearing accounts until spent and then keep the interest. However, all money must be spent during the four-year grant period.

Section 202. Clarification of Official To Be Consulted by Attorney General in Considering Application for Emergency Federal Law Enforcement Assistance

Section 202 amends the Emergency Federal Law Enforcement Assistance program (42 U.S.C. Sec. 10501 et seq.) to clarify that in awarding grants under this program the Attorney General shall consult with the Assistant Attorney General for the Office of Justice Programs rather than the Director of the Office of Justice Assistance. This change simply brings the statute into conformity with the existing chain of command in the Department.

Section 203. Clarification of Uses for Regional Information Sharing System Grants

Section 203 amends the authorization for the Regional Information Sharing System (42 U.S.C. Sec. 3796h) to clarify its regional character and its authority to establish and maintain a secure telecommunications backbone.

Section 204. Authorization ofAppropriations for the Regional Information Sharing System Grants to facilitate Federal-State-Local Law Enforcement Response Related to Terrorist Attacks

Section 204 reauthorizes the Regional Information Sharing System for FY 2005–2007 at $100 million each year.

Section 205. Integrity and Enhancement of National Criminal Record Databases

Section 205 amends the authorizing statute for the Bureau of Justice Statistics (42 U.S.C. Sec. 3732): (1) to clarify that the Director shall be responsible for the integrity of data and statistics and the prevention of improper or illegal use or disclosure; (2) to provide specific authorization for the already existing National Criminal History Background Check System, the National Incident-Based Reporting System, and the records of the National Crime Information Center and to facilitate state participation in these systems; and (3) to facilitate data-sharing agreements between the Bureau of Justice Statistics and other federal agencies.

Section 206. Extension of Crime Free Rural States Grant Program

Section 206 reauthorizes the Crime Free Rural States Grant program for FY 2005–2007.

Subtitle B—Building Community Capacity to Prevent, Reduce, and Control Crime

Section 211. Office of Weed and Seed Strategies

Section 211 creates a new Office of Weed and Seed Strategies. This office will replace the current Executive Office of Weed and Seed, and for the first time, this program will have a specific authorization.

Subtitle C—Assisting Victims of Crime

Section 221. Grants to Local Nonprofit Organizations to Improve Outreach Services to Victims of Crime

Section 221 amends the crime victim assistance grants program to allow grants of less than $10,000 to be made to smaller neighborhood and community-based victim service organizations. Currently, grants under this program tend to go to larger organizations, and this amendment simply emphasizes that some of the money spent in this program should go to smaller organizations as well.

Section 222. Clarification and Enhancement of Certain Authorities Relating to Crime Victims Fund

Section 222 makes several minor adjustments to the authorities relating to the Crime Victims Fund.

Subsection 222(1) clarifies that the fund may only accept gifts, donations, or bequests if they do not attach conditions inconsistent with applicable laws or regulations and if they do not require the expenditure of appropriated funds that are not available to the Office of Victims of Crime. Current law establishes a $50 million antiterrorism reserve within the fund. Each year that reserve may be replenished by using up to 5% of the money in the fund that was not otherwise expended during that year.

Subsection 222(2) permits replenishments of the Antiterrorism Emergency Reserve based upon amounts "obligated" rather than amounts actually "expended" in any given fiscal year.

Subsection 222(3) allows the Assistant Attorney General to direct the use of the funds available for Indian child abuse program grants under 42 U.S.C. Sec. 10601(g) and to use 5% of those funds for grants to Indian tribes to establish victim assistance programs.

Subsection 222(4) clarifies that the Antiterrorism Emergency Reserve may be replenished only once each fiscal year, rather than be continually replenished as amounts are obligated or expended. It also ensures that no AER funds are included in limitations on annual Crime Victims Fund obligations.

Section 223. Amounts Received Under Crime Victim Grants May Be Used by State for Training Purposes

Section 223 amends the grant programs for victim compensation and victim assistance to allow the states part of the reserved amount for administrative costs for training purposes.

Section 224. Clarification of Authorities Relating to Violence Against Women Formula and Discretionary Grant Programs

Section 224 makes several clarifications to the program to fund grants to combat violent crimes against women. Subsection 224(a) clarifies that grants may be used for victim services. Subsection 224(b) corrects an incorrect section number reference in last Congress' DOJ authorization bill. Subsection 224(c) clarifies that grants under the program can be made to Indian tribal domestic violence coalitions and corrects other technical errors and makes conforming changes. Subsection 224(d) changes the reporting requirement on the program from annual to biennial.

Subsection 224(e) clarifies that state and tribal governments may use grant funds under the program to pay for forensic medical exams for sexual assault victims so long as the victims are not required to seek reimbursement from their insurers. It further provides that the victim shall not be required to participate in the criminal justice system or cooperate with law enforcement in order to be provided with a forensic medical exam, reimbursement for such exam, or both. Subsection 224(f) makes a technical amendment to the heading for this part of the Code.

Section 225. Expansion of Grant Programs Assisting Enforcement of Domestic Violence Cases To Also Assist Enforcement of Sexual Assault Cases

Section 225 amends the programs to provide grants to encourage domestic violence arrest policies and to provide assistance for rural domestic violence and child abuse enforcement to clarify that such grants can also be used to assist enforcement of sexual assault cases.

Subtitle D—Preventing Crime

Section 231. Clarification of Definition of Violent Offender for Purposes of Juvenile Drug Courts

Section 231 amends the juvenile drug court grant program so that offenders who are convicted of a violent misdemeanor may participate in the program. Currently, misdemeanor offenders may participate only if their offense is non-violent.

Section 232. Eligibility for Grants Under Drug Court Grants Program Extended to Courts That Supervise Non-Offenders With Substance Abuse Problems

Section 232 amends the drug court program to allow continuing supervision over nonviolent offenders as well as other related persons who may be before the court. This will allow a drug court to consolidate the cases of related individuals who may be under its jurisdiction at one time and supervise them jointly.

Section 233. Terms of Residential Substance Abuse Treatment Program for Local Facilities

Section 233 amends the Residential Substance Abuse Treatment for State Prisoners program to clarify that the grants should go to local correctional facilities and detention facilities where prisoners are held long enough to carry out a 3-month course of drug treatment.

Section 234. Rural 9-1-1 Service

Section 234 authorizes the Attorney General to provide grants for access to, and improvements on a communications infrastructure that will ensure a reliable and seamless communication between, law enforcement, fire, and emergency medical service providers in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area and in States.

Section 235. Methamphetamine Cleanup

Section 235 authorizes the Methamphetamine Cleanup program. The program funds the cleanup of methamphetamine laboratories and related hazardous waste, and provides additional contract personnel, equipment, and facilities to local governments.

Section 236. National Citizens Crime Prevention Campaign

Section 236 authorizes the National Citizens Crime Prevention Campaign for FY 2005–2007 and requires a 30% non-Federal match for all Federal funds.

Section 237. SEARCH, the National Consortium for Justice Information and Statistics

Section 237 authorizes the Bureau of Justice Assistance to award a grant to SEARCH, the National Consortium for Justice Information and Statistics to perform its functions under the direction of the Office of Justice Programs.

Subtitle E—Other Matters

Section 241. Changes to Certain Financial Authorities

Subsection 241 (a) raises from 3 to 6 percent the amount of money collected from civil debt collection activities that can be credited to the Working Capital Fund established under 28 U.S.C. Sec. 527.

Subsection 241 (b) exempts the Southwest Border Initiative from the requirement that it reimburse the Treasury for untimely payments and the requirement that it pay interest to states for untimely payments.

Subsections 241(c) and (d) update certain general law enforcement authorities of the Attorney General to include the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Section 242. Coordination Duties of Assistant Attorney General

Subsection 242(a) amends the authorizing statute for OJP to include the Office for Victims of Crime within the list of OJP bureaus. Subsection 242(b) allows the Assistant Attorney General to place special conditions on all grants.

Section 243. Repeal of Certain Programs

Section 243 repeals seven grant programs that have been authorized, but have largely not been funded in recent years: the Criminal Justice Facility Construction Pilot Program; the Family Support Program; the Matching Grant Program for School Security; the Local Crime Prevention Block Grant Program; the Assistance for Delinquent and At-Risk Youth Program; and the Improved Training and Technical Automation Program; the Other State and Local Aid Program.

Section 244. Elimination of Certain Notice and Hearing Requirements

Section 244 eliminates the requirement that OJP must provide notice and a hearing for grant applicants whose applications are denied. It further eliminates the opportunity for appellate review of the decisions arising from such hearings. These rights are rarely used.

Section 245. Amended Definitions for Purposes of Omnibus Crime Control and Safe Streets Act of 1968

Section 245 broadens the definition of the term "Indian Tribe" to allow more tribes to be treated as units of local government for purposes of OJP grants. It broadens the definition of the term "combination" of State and local governments to include those who jointly plan. It amends the definition of the term "neighborhood or community-based organizations" to clarify that it includes faith-based organizations.

Section 246. Clarification of Authority To Pay Subsistence Payments to Prisoners for Health Care Items and Services

Under current law, the Attorney General is required to pay for health care items and services for certain prisoners in the custody of the United States. In every instance, he must not pay more than the lesser of what the Medicare or Medicaid program would pay. This requires the Attorney General to expend a great deal of effort to determine that in each case. This subsection changes that to simply say that he shall not pay more than the Medicare rate. It also substitutes the Department of Homeland Security for a reference to the now defunct Immigration and Naturalization Service.

Section 247. Consolidation of Financial Management Systems of Office of Justice Programs

Section 247 requires the Assistant Attorney General of the Office of Justice Programs to make two significant financial management reforms: (1) consolidate all accounting activities of OJP into a single financial management system under the direct management of the Office of the Comptroller by September 30, 2010, and (2) consolidate all procurement activities of OJP into a single procurement system under the direct management of the Office of Administration by September 30, 2007.

The Assistant Attorney General is required to begin the consolidation of accounting activities under the Office of the Comptroller and the consolidation of procurement activities under the Office of Administration not later than October 1, 2003. The Office of Administration is to begin the consolidation of procurement operations and financial management systems into a single financial system not later than September 30, 2005.

Section 248. Authorization and Change of COPS program to single grant program

Section 248 reauthorizes the COPS program while restructuring it as one single block grant program covering all of its current purposes so local governments will need only to file one COPS application for any of these purposes.

Section 249. Enhanced Assistance for Criminal Investigations and Prosecutions by State and Local Law Enforcement Officials

Section 249 enhances assistance for criminal investigations and prosecutions by requiring the Attorney General to provide federal assistance upon request by a state, local or Indian tribe governments.

TITLE III—COMBATING MONEY LAUNDERING AND TERRORIST FINANCING ACT OF 2004

Section 301. Short Title

Section 301 authorizes that this bill may be cited as the "Combating Money Laundering and Terrorist Financing Act of 2003".

Section 302. Specified Activities for Money Laundering

Amends the Racketeer Influenced and Corrupt Organizations Act (RICO) to expand its scope to cover acts or threats involving burglary, embezzlement, and fraud in the purchase of securities. Modifies provisions regarding: (1) the laundering of monetary instruments to include violations of the Social Security Act relating to obtaining funds through misuse of a social security number, to grant authority to the Secretary of Homeland Security and the Commissioner of Social Security over offenses within their jurisdictions, and to cover certain informal transfers of the proceeds of specified unlawful activity; and (2) engaging in monetary transactions in property derived from specified unlawful activity to grant authority to the Secretary over offenses within his jurisdiction.

Section 303. Illegal Money Transmitting Businesses

Changes the name of a money transmitting business the operation of which is prohibited from an "unlicensed" to an "illegal" money transmitting business. Specifies that such a business shall be illegal if it fails to comply with money transmitting business registration requirements (current law), whether or not the defendant knew that the operation was required to comply with such requirements. Authorizes the Attorney General, the Secretary of the Treasury, and the Secretary of Homeland Security to investigate violations regarding such businesses.

Section 304. Assets of Persons Committing Terrorist Acts Against Foreign Countries or International Organizations

Amends the Federal criminal code to provide for civil forfeiture of the assets of individuals or entities engaging in planning or perpetrating any act of international terrorism against any international organization or foreign government.

Section 305. Money Laundering through Informal Value Transfer Systems

Section 305 amends the Federal criminal code to include as money laundering unlawful transactions where one part of such plan or arrangement actually involves the proceeds of specified unlawful activity.

Section 306. Technical Corrections to Financing of Terrorism Statute

Section 306 amends 18 USC 2339(c) to change the definition of concealment and other minor changes.

Section 307. Miscellaneous and Technical Amendments

Section 307 amends 18 USC 982(b), 18 USC 1510(b)(3)(B) and adds technical amendments Sections 1956, 1957.

Section 308. Extension of the Money Laundering and Financial Crimes Strategy Act of 1998

Reauthorizes the Money Laundering and Financial Crimes Strategy Act of 1998 through years 2004, 2005, and 2006.

TITLE IV—PREVENTION AND RECOVERY OF MISSING CHILDREN ACT OF 2004

Section 401. Short Title

This Title may be called the "Prevention and Recovery of Missing Children Act of 2004."

Section 402. Findings

Section 403. Missing Child Reporting Requirements

Section 403 stops the practice of removing a missing child entry from the NCIC database when the child reaches age 18 to increase the chances for child recovery and investigative information available for other cases. It also requires that a missing child be entered into NCIC within 2 hours of receipt.

Section 404. Standards for Sex Offender Registration Programs

Section 404 requires that (1) a state register sex offenders before they are released from prison; (2) the registering agency obtain current fingerprints and a photograph (annually), as well as a DNA sample, from an offender at the time of registration; (3) registrants obtain either a driver's license or an identification card from the department of motor vehicles; (4) registration changes occur within 10 days of the changes taking effect; (5) all registered sex offenders verify their registry information every 90 days; and (6) states inform another state when a known registered person is moving into its jurisdiction. This section also creates a felony designation for the crime of non-compliance with the registration requirements.

Section 405. Effective Date

The provisions in this title will go into effect 2 years after this bill is signed into law.

TITLE V—BULLETPROOF VEST PARTNERSHIP GRANT ACT OF 2004

Section 501. Short Title

This title may be called the "Bulletproof Vest Partnership Grant Act of 2004."

Section 502. Authorization of Appropriations

Amends the Omnibus Crime Control and Safe Streets Act of 1968 to extend through FY 2007 the authorization of appropriations for the Bulletproof Vest Partnership Grant Program (a matching grant program which helps State, tribal, and local jurisdictions purchase armor vests for use by law enforcement officers).

TITLE VI—PACT ACT

Section 601. Short Title

This title may be called the "Prevent All Cigarette Trafficking Act" or "PACT Act."

Section 602. Collection of State Cigarette Taxes

This section increases the ability of state, local, and tribal governments to collect excise taxes from cigarette and smokeless tobacco sales by strengthening the Jenkins Act, which requires reporting of interstate cigarette sales. Jenkins now explicitly includes cigarette and smokeless tobacco sales made via phone, Internet or mail. Delivery sellers must report interstate sales, including those to distributors, to state, local, and tribal governments, as well as list all Jenkins requirements on the bill of lading, and maintain records of all delivery sales. Delivery sales may not be made until excise tax stamps are applied. Violators of Jenkins are subject to felony prosecution and civil penalties. State, local and tribal governments, as well as tobacco manufacturers may prevent and restrain violations of Jenkins in U.S. district courts, in addition to their respective jurisdictions.

Section 603. Treatment of Cigarettes as Nonmailable Matter

This section prohibits a person from sending cigarettes and smokeless tobacco via the U.S. Postal Service in the continental United States.

Section 604. Penal Provisions Regarding Trafficking in Contraband Cigarettes

Under the amended Contraband Cigarette Trafficking Act ("CCTA"), the threshold amount of non-excise tax-paid cigarettes is lowered to 10,000. CCTA covers smokeless tobacco if the quantity exceeds 500 single-units. Monthly reports must be filed detailing transactions and inventory with the Attorney General and Secretary of Treasury, as well as with state and tribal authorities as appropriate, if monthly delivery sales exceed these contraband thresholds. Seized cigarettes and smokeless tobacco may be used for undercover law enforcement operations. State, local and tribal governments, as well as tobacco manufacturers may prevent and restrain violations of the CCTA in U.S. district courts, in addition to their respective jurisdictions.

Section 605. Compliance with Model Statute or Qualifying Statute

This section prohibits tobacco manufacturers and importers from participating in transactions occurring in states party to the Master Settlement Agreement ("MSA"), which involve cigarettes manufactured by companies that are not in compliance with the "qualifying statute" of the particular MSA state. These statutes require that states neutralize the cost disadvantages of the manufacturers that entered into the MSA due to their escrow payments. State attorneys general may bring actions in the United States district courts to prevent and restrain violations of this section.

Section 606. Undercover Criminal Investigations of the Bureau of Alcohol, Tobacco, Firearms and Explosives

This section grants BATFE the authority to offset expenses incurred in undercover operations by revenue obtained from the same operation. This will enhance their ability to conduct sting operations. BATFE is also empowered to inspect the records and premises of those who ship, sell, distribute, or receive in interstate commerce any quantity in excess of the contraband threshold, within a single month.

Section 607. Inspection by the Bureau of Alcohol, Tobacco, Firearms and Explosives of Records of Certain Cigarette Sellers

This section empowers the BATFE to inspect the records and premises of those who ship, sell, distribute, or receive in interstate commerce any quantity in excess of the contraband threshold, within a single month.

Section 608. Compliance with Tariff Act of 1930

Section 609. Exclusions Regarding Indian Tribes and Tribal Matters

Section 610. Effective Date

The new authority granted to the BATFE is effective immediately. All other changes are effective 90 days after enactment.

TITLE VII—CREATE ACT

Section 701. Short Title

Section 701 authorizes that this bill may be cited as the "Cooperative Research and Technology Enhancement (CREATE) Act of 2004."

Section 702. Collaborative Efforts on Claimed Inventions

Section 702 amends Federal patent and trademark law to deem subject matter developed by another person and a claimed invention to have been owned by the same person or subject to an obligation of assignment to the same person, for purposes of provisions that treat inventions of a common owner similarly to inventions made by a single person, if: (1) the claimed invention was made by or on behalf of parties to a joint research agreement (agreement) that was in effect on or before the date the claimed invention was made; (2) the claimed invention was made as a result of activities undertaken within the scope of the agreement; and (3) the application for patent for the claimed invention discloses, or is amended to disclose, the names of the parties to the agreement.

Section 703. Effective Date

Section 703 applies the CREATE Act to any patents issued after its enactment and does not apply to any pending action before the courts or the Patent and Trademark Office.

TITLE VIII—PROTECTING INTELLECTUAL RIGHTS AGAINST THEFT AND EXPROPRIATION ACT OF 2004

Section 801. Short Title

Section 801 authorizes that this bill may be cited as the "Protecting Intellectual Rights Against Theft and Expropriation Act of 2004".

Section 802. Authorization of Civil Copyright Enforcement by Attorney General

Section 802 amends Federal copyright law to authorize the Attorney General (AG) to: (1) commence a civil action against any person who engages in conduct constituting copyright infringement; (2) collect damages and profits resulting from such infringement; and (3) collect

Section 803. Authorization of Funding for Training and Pilot Program

Section 803 directs the Attorney General to: (1) develop a program to ensure effective implementation and use of the authority for civil enforcement of the copyright laws, including training programs for qualified personnel from the Department of Justice and United States Attorneys Offices; and (2) report annually to Congress on the use of such enforcement authority and progress made in implementing the training programs.

Authorizes appropriations for FY 2005.

TITLE IX—KOBY MANDELL ACT OF 2004

Section 901. Short Title

Section 902. Definitions

Section 903. Establishment of an Office of Justice for Victims of Overseas Terrorism in the Department of Justice

Section 903 creates within the DOJ an Office of Justice for Victims of Overseas Terrorism which will assume the responsibility for administration of the Rewards for Justice Program and its website. These offices will offer rewards to capture all terrorists involved in harming American citizens overseas as well as other related services including sending US officials to funerals of American victims of terrorism overseas.

Included in this section are reporting requirements to Congress and monitoring of actions by governments and regimes pertaining to terrorists who have harmed American citizens. This section also requires the Office to initiate negotiations to secure compensation for American citizens or their families who were harmed by organizations who claim responsibility for the acts of terrorism.

The Office will also be required to monitor the incarceration abroad of terrorists who have harmed American citizens overseas to ensure their incarceration is similar to that condition of incarceration in the United States. As well, this section requires that all terrorists who have harmed Americans overseas are treated by the US government as persona non grata.

Section 904. Authorization of Appropriations

Section 904 authorizes for 2005-2007 such sums as may be necessary to carry out this title.

TITLE X—SENIOR SAFETY ACT OF 2004

Section 1001. Short Title

The title may be cited as the "Seniors Safety Act of 2004."

Section 1002. Findings and Purposes

This section enumerates 14 findings on the incidence of crimes against seniors, the large percentages of seniors who can expect to spend time in nursing homes, the amount of Federal money spent on nursing home care and the estimated losses due to fraud and abuse in the health care industry.

The purposes of the Act are to enhance safeguards for pension plans and health benefit programs, prevent and deter criminal activity that results in economic and physical harm to seniors, and ensure appropriate restitution.

Section 1003. Definitions

Definitions are provided for the following terms: (1) "Crime" is defined as any criminal offense under Federal or State law; and (2) "Senior" is defined as an individual who is older than 55.

Subtitle A—Combating Crimes Against Seniors

Section 1011. Enhanced Sentencing Penalties Based on Age of Victim

Directive to the United States Sentencing Commission. The U.S. Sentencing Commission is directed to review and, if appropriate, amend the sentencing guidelines applicable to the age or a victim.

Section 1012. Study and Report on Health Care Fraud Sentences

(a) DIRECTIVE TO THE UNITED STATES SENTENCING COMMISSION. The U.S. Sentencing Commission is directed to review and, if appropriate, amend the sentencing guidelines applicable to health care fraud offenses.

(b) REQUIREMENTS. During its review, the Sentencing Commission shall: ensure that the guidelines reflect the serious harms associated with health care fraud and the need for law enforcement to prevent such fraud; consider enhanced penalties for persons convicted of health care fraud; consult with representatives of industry, judiciary, law enforcement, and victim groups; account for mitigating circumstances; assure reasonable consistency with other relevant directives and guidelines; make any necessary conforming changes; and assure that the guidelines adequately meet the purposes of sentencing.

(c) REPORT. The Sentencing Commission shall report the results of the review required under (a) and include any recommendations for retention or modification of the current penalty levels for health care fraud offenses, by December 31, 2004.

Section 1013. Increased Penalties for Fraud Resulting in Serious Injury or Death

This section increases the penalties under the mail fraud statute, 18 U.S.C. §1341, and the wire fraud statute, 18 U.S.C. §1343, for fraudulent schemes that result in serious injury or death. Existing law provides such an enhancement for a narrow class of health care fraud schemes (see 18 U.S.C. 1347). This provision would extend this penalty enhancement to other forms of fraud under the mail and wire fraud statutes that result in death or serious injury. The maximum penalty if serious bodily harm occurred would be up to twenty years; if a death occurred, the maximum penalty would be a life sentence.

Section 1014. Safeguarding Pension Plans From Fraud and Theft

(a) IN GENERAL. This section would add new section 1351 to title 18, United States Code.

§1351: Fraud in Relation to Retirement Arrangements.

(a) This section defines retirement arrangements and provides an exception for plans established by the Employee Retirement Income Security Act (ERISA).

(b) This section punishes, with up to ten years' imprisonment, the act of defrauding retirement arrangements, or obtaining by means of false or fraudulent pretenses money or property of any retirement arrangement. Retirement arrangements would include employee pension benefit plans under the Employee Retirement Income Security Act (ERISA), qualified retirement plans under section 4974(c) of the Internal Revenue Code (IRC), medical savings accounts under section 220 of the IRC, and funds established within the Thrift Savings Fund. This provision is modeled on existing statutes punishing bank fraud (see 18 U.S.C. §1344) and health care fraud (see 18 U.S.C. §1347). Any government plan defined under section 3(32) of title I of the ERISA, except funds established by the Federal Retirement Thrift Investment Board, is exempt from this section.

(c) The Attorney General is given authority to investigate offenses under the new section, but this authority expressly does not preclude other appropriate Federal agencies, including the Secretary of Labor, from investigating violations of ERISA.

(b) CONFORMING AMENDMENT. The table of sections for chapter 63 of title 18 United States Code, is modified to list new section "1351. Fraud in relation to retirement arrangements."

Section 1015. Additional Civil Penalties for Defrauding Pension Plans

(a) IN GENERAL. This section would authorize the Attorney General to bring a civil action for a violation, or conspiracy to violate, new section 18 U.S.C. §1351, relating to retirement fraud. Proof of such a violation established by a preponderance of the evidence would subject the violator to a civil penalty of the greater of the amount of pecuniary gain to the offender, the pecuniary loss to the victim, or up to $50,000 in the case of an individual, or $100,000 for an organization. Imposition of this civil penalty has no effect on other possible remedies.

(b) EXCEPTION. No civil penalties would be imposed for conduct involving an employee pension plan subject to penalties under ERISA, 29 U.S.C. §1132.

(c) DETERMINATION OF PENALTY AMOUNT. In determining the amount of the penalty, the court is authorized to consider the effect of the penalty on the violator's ability to restore all losses to the victims and to pay other important tax or criminal penalties.

Section 1016. Punishing Bribery and Graft in Connection with Employee Benefit Plans

This section would amend section 1954 of title 18, United States Code, by changing the title to "Bribery and graft in connection with employee benefit plans," and increasing the maximum penalty for bribery and graft in regard to the operation of an employee benefit plan from 3 to 5 years imprisonment. This section also broadens existing law under section 1954 to cover corrupt attempts to give or accept bribery or graft payments, and to proscribe bribery or graft payments to persons exercising de facto influence or control over employee benefit plans. Finally, this amendment clarifies that a violation under section 1954 requires a showing of corrupt intent to influence the actions of the recipient of the bribe or graft.

Subtitle B—Preventing Telemarketing Fraud

Section 1021. Centralized Complaint and Consumer Education Service for Victims of Telemarketing Fraud

(a) CENTRALIZED SERVICE. This section directs the Commissioner of the Federal Trade Commission to log the receipt of calls complaining about telemarketing fraud and provide information on telemarketing fraud to such individuals. The FTC is also authorized to provide civil or criminal law enforcement information about specific companies.

(b) FRAUD CONVICTION DATA. The Attorney General is directed to provide information about corporations and companies that are the subject of civil or criminal law enforcement action for telemarketing fraud, under Federal and state law, to the FTC in electronic format, so that the FTC can enter the information into a database maintained in accordance with section (a).

(c) AUTHORIZATION OF APPROPRIATIONS. Authorization is provided for such sums as are necessary to carry out the section.

Section 1022. Blocking of Telemarketing Scams

(a) EXPANSION OF SCOPE OF TELEMARKETING FRAUD SUBJECT TO ENHANCED CRIMINAL PENALTIES. Section 2325 of title 18, United States Code, is amended by replacing the term "telephone calls" with "wire communication utilizing a telephone service" to clarify that telemarketing fraud schemes executed using cellular telephone services are subject to the enhanced penalties for such fraud under 18 U.S.C. §2326.

(b) BLOCKING OR TERMINATION OF TELEPHONE SERVICE ASSOCIATED WITH TELEMARKETING FRAUD. This section adds new section 2328 to title 18, United States Code, to authorize the termination of telephone service used to carry on telemarketing fraud, and is similar to the legal authority provided under 18 U.S.C. §1084(d), regarding termination of telephone service used to engage in illegal gambling. The new section 2328 requires telephone companies, upon notification in writing from the Department of Justice that a particular phone number is being used to engage in fraudulent telemarketing or other fraudulent conduct, and after notice to the customer, to terminate the subscriber's telephone service. The common carrier is exempt from civil and criminal penalties for any actions taken in compliance with any notice received from the Justice Department under this section. Persons affected by termination may seek an appropriate determination in Federal court that the service should not be discontinued or removed, and the court may direct the Department of Justice to present evidence supporting the notification of termination. Definitions are provided for "wire communication facility" and "reasonable notice to the subscriber."

TITLE XI—FEDERAL PROSECUTORS RETIREMENT BENEFIT EQUITY ACT OF 2004

Section 1101. Short Title

This title may be called the "Federal Prosecutors Retirement Benefit Equity Act."

Section 1102. Retirement Treatment of Federal Prosecutors

Amends the definition of law enforcement officer to include prosecutors for retirement purposes.

Section 1103. Provisions Relating to Incumbents

Defines "federal prosecutor" to include assistant United States Attorneys and attorneys at the Department of Justice designated by the Attorney General under the conditions set out in this title. The change takes effect upon enactment of the bill. This section also sets a time limit for the attorneys to elect to opt out.

Section 1104. Department of Justice Administrative Actions

Directs the Attorney General to consult with the Office of Personnel Management on this title and make regulations.

TITLE XII—ANTI-ATROCITY ALIEN DEPORTATION ACT OF 2004

Section 1201. Short Title

This title may be cited as the "Anti-Atrocity Alien Deportation Act of 2004."

Section 1202. Inadmissibility and Deportability of Aliens Who Have Committed Acts of Torture or Extrajudicial Killing Abroad

Currently, the Immigration and Nationality Act (INA) provides that (i) participants in Nazi persecutions during the time period from March 23, 1933 to May 8, 1945, and (ii) aliens who engaged in genocide, are inadmissible to the United States. See 8 U.S.C. §1182(a)(3)(E)(i) and (ii). Current law also provides that aliens who have participated in Nazi persecutions or engaged in genocide are deportable. See §1227(a)(4)(D). The bill would amend these sections of the INA by expanding the grounds for inadmissibility and deportation to cover aliens who have committed, ordered, incited, assisted, or otherwise participated in the commission of acts of torture or extrajudicial killing abroad and clarify and expand the scope of the genocide bar.

Subsection (a) would first amend the definition of "genocide" in clause (ii) of section 212(a)(3) of the INA, 8 U.S.C. 1182(a)(3)(E)(ii). Currently, the ground of inadmissibility relating to genocide refers to the definition in the Convention on the Prevention and Punishment of the Crime of Genocide. Article III of that Convention punishes genocide, the conspiracy to commit genocide, direct and public incitement to commit genocide, attempts to commit genocide, and complicity in genocide. The bill would modify the definition to refer instead to the "genocide" definition in section 1091 (a) of title 18, United States Code, which was adopted to implement United States obligations under the Convention and also prohibits attempts and conspiracies to commit genocide.

Specifically, section 1091 (a) defines genocide as "whoever, whether in time of peace or in time of war, . . . with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial or religious group as such: (1) kills members of that group; (2) causes serious bodily injury to members of that group; (3) causes the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques; (4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part; (5) imposes measures intended to prevent births within the group; or (6) transfers by force children of the group to another group." This definition includes genocide by public or private individuals in times of peace or war. While the federal criminal statute is limited to those offenses committed within the United States or offenders who are U.S. nationals, see 18 U.S.C. 1091(d), the grounds for inadmissibility in the bill would apply to such offenses committed outside the United States that would otherwise be a crime if committed within the United States or by a U.S. national.

In addition, the bill would broaden the reach of the inadmissibility bar to apply not only to those who "engaged in genocide," as in current law, but also to cover any alien who has ordered, incited, assisted or otherwise participated in genocide abroad. This broader scope will ensure that the genocide provision addresses a more appropriate range of levels of complicity.

Second, subsection (a) would add a new clause to 8 U.S.C. §1182(a)(3)(E) that would trigger operation of the inadmissibility ground if an alien has "committed, ordered, incited, assisted, or otherwise participated in" acts of torture, as defined in section 2430 of title 18, United States Code, or extrajudicial killings, as defined in section 3(a) the Torture Victim Protection Act. The statutory language—"committed, ordered, incited, assisted, or otherwise participated in"—is intended to reach the behavior of persons directly or personally associated with the covered acts, including those with command responsibility. Command responsibility holds a commander responsible for unlawful acts when (1) the forces who committed the abuses were subordinates of the commander (i.e., the forces were under his control either as a matter of law or as a matter of fact); (2) the commander knew, or, in light of the circumstances at the time, should have known, that subordinates had committed, were committing, or were about to commit unlawful acts; and (3) the commander failed to prove that he had taken the necessary and reasonable measures to (a) prevent or stop subordinates from committing such acts, or (b) investigate the acts committed by subordinates in a genuine effort to punish the perpetrators. Attempts and conspiracies to commit these crimes are encompassed in the "otherwise participated in" language. This language addresses an appropriate range of levels of complicity for which aliens should be held accountable, and has been the subject of extensive judicial interpretation and construction. See *Fedorenko* v. *United States*, 449 U.S. 490, 514 (1981); *Kalejs* v. *INS*, 10 F.3d 441, 444 (7th Cir. 1993); *U.S.* v. *Schmidt*, 923 F. 2d 1253, 1257-59 (7th Cir. 1991); *Kulle* v. *INS*, 825 F. 2d 1188, 1192 (7th Cir. 1987).

The definitions of "torture" and "extrajudicial killing" are contained in the Torture Victim Protection Act, which served as the implementing legislation when the United States joined the United Nations' "Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment." This Convention entered into force with respect to the United States on November 20, 1992 and imposes an affirmative duty on the United States to prosecute torturers within its jurisdiction. The Torture Victim Protection Act provides both criminal liability and civil liability for persons who, acting outside the United States and under actual or apparent authority, or color of law, of any foreign nation, commit torture or extrajudicial killing.

The criminal provision passed as part of the Torture Victim Protection Act defines "torture" to mean "an act committed by a person acting under the color of law specifically intended to inflict severe physical or mental pain or suffering (other than pain or suffering incidental to lawful sanctions) upon another person within his custody or physical control." 18 U.S.C. §2340(1). "Severe mental pain or suffering" is further defined to mean the "prolonged mental harm caused by or resulting from (A) the intentional infliction or threatened infliction of severe physical pain or suffering; (B) the administration or application, or threatened administration or application, of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality; and (C) the threat of imminent death; or (D) the threat that another person will imminently be subjected to death, severe physical pain or suffering, or the administration or application of mind-altering substances or other procedures calculated to disrupt profoundly the senses or personality." 18 U.S.C. §2340(2).

The bill also incorporates the definition of "extrajudicial killing" from section 3(a) of the Torture Victim Protection Act. This law establishes civil liability for wrongful death against any person "who, under actual or apparent authority, or color of law, of any foreign nation . . . subjects an individual to extrajudicial killing," which is defined to mean "a deliberated killing not authorized by a previous judgment pronounced by a regularly constituted court affording all the judicial guarantees which are recognized as indispensable by civilized peoples. Such term, however, does not include any such killing that, under international law, is lawfully carried out under the authority of a foreign nation."

Both definitions of "torture" and "extrajudicial killing" require that the alien be acting under color of law. A criminal conviction, criminal charge or a confession are not required for an alien to be inadmissible or removable under the new grounds added in this subsection of the bill.

The final paragraph in subsection (a) would modify the subparagraph heading to clarify the expansion of the grounds for in admissibility from "participation in Nazi persecution or genocide" to cover "torture or extrajudicial killing."

Subsection (b) would amend section 237(a)(4)(D) of the INA, 8 U.S.C. §1227(a)(4)(D), which enumerates grounds for deporting aliens who have been admitted into or are present in the United States. The same conduct that would constitute a basis of inadmissibility under subsection (a) is a ground for deportability under this subsection of the bill. Under current law, assisting in Nazi persecution and engaging in genocide are already grounds for deportation. The bill would provide that aliens who have committed any act of torture or extrajudicial killing would also be subject to deportation. In any deportation proceeding, the burden would remain on the government to prove by clear and convincing evidence that the alien's conduct brings the alien within a particular ground of deportation.

Subsection (c) regarding the "effective date" clearly states that these provisions apply to acts committed before, on, or after the date this legislation is enacted. These provisions apply to all cases after enactment, even where the acts in question occurred or where adjudication procedures within the Department of Homeland Security (DHS) or the Executive Office of Immigration Review were initiated prior to the time of enactment.

Section 1203. Inadmissibilty and Deportability of Foreign Government Officials Who Have Committed Particularly Severe Violations of Religious Freedom

This section of the bill would amend section 212(a)(2)(G) of the INA, 8 U.S.C. §1182(a)(2)(G), which was added as part of the International Religious Freedom Act of 1998 (IFRA), to expand the grounds for inadmissibility and deportability of aliens who commit particularly severe violations of religious freedom. Current law bars the admission of an individual who, while serving as a foreign government official, was responsible for or directly carried out particularly severe violations of religious freedom within the last 24 months. 8 U.S.C. §1182(c)(2)(G). The existing provision also bars from admission the individual's spouse and children, if any. "Particularly severe violations of religious freedom" is defined in section 3 of IFRA to mean systematic, ongoing, egregious violation of religious freedom, including violations such as (A) torture or cruel, inhuman, or degrading treatment or punishment; (B) prolonged detention without charges; (C) causing the disappearance of persons or clandestine detention of those persons; or (D) other flagrant denial of the right to life, liberty, or the security of persons. While IRFA contains numerous provisions to promote religious freedom and prevent violations of religious freedom throughout the world, including a wide range of diplomatic sanctions and other formal expressions of disapproval, section 212 (a)(2)(G) is the only provision which specifically targets individual abusers.

Subsection (a) would delete the 24-month restriction in section 212 (a)(2)(G) since it limits the accountability, for purposes of admission, to a two-year period. This limitation is not consistent with the strong stance of the United States to promote religious freedom throughout the world. Individuals who have committed particularly severe violations of religious freedom should be held accountable for their actions and should not be admissible to the United States regardless of when the conduct occurred.

In addition, this subsection would amend the law to remove the current bar to admission for the spouse or children of a foreign government official who has been involved in particularly severe violations of religious freedom. The bar of inadmissibility is a serious sanction that should not apply to individuals because of familial relationships that are not within an individual's control. None of the other grounds relating to serious human rights abuse prevent the spouse or child of an abuser from entering or remaining lawfully in the United States. Moreover, the purpose of these amendments is to make those who have participated in atrocities accountable for their actions. That purpose is not served by holding the family members of such individuals accountable for the offensive conduct over which they had no control.

Subsection (b) would amend section 237(a)(4) of the INA, 8 U.S.C. §1227(a)(4), which enumerates grounds for deporting aliens who have been admitted into or are present in the United States, to add a new clause (E), which provides for the deportation of aliens described in subsection (a) of the bill.

The bill does not change the effective date for this provision set forth in the original IFRA, which applies the operation of the amendment to aliens "seeking to enter the United States on or after the date of the enactment of this Act."

Section 1204. Waiver of Inadmissibility

Under current law, most aliens who are otherwise inadmissible may receive a waiver under section 212(d)(3) of the INA to enter the nation as a nonimmigrant, where the Secretary of State recommends it and the Attorney General approves. Participants in Nazi persecutions or genocide, however, are not eligible for such a waiver. Our bill retains that prohibition. It does allow for the possibility, however, of waivers for those who commit acts of torture or extrajudicial killings.

Section 1205. Bar to Good Moral Character, Asylum and Refugee Status, and Withholding of Removal for Aliens Who Have Committed Acts of Torture, Extrajudicial Killings, or Severe Violations of Religious Freedom

This section of the bill would amend section 101 (f) of the INA, 8 U.S.C. §1101(f), which defines "good moral character," to make clear that aliens who have committed torture, extrajudicial killing, or severe violation of religious freedom abroad do not qualify. Good moral character is a prerequisite for certain forms of immigration relief, including naturalization, cancellation of removal for nonpermanent residents, and voluntary departure at the conclusion of removal proceedings. Aliens who have committed torture or extrajudicial killing, or severe violations of religious freedom abroad cannot establish good moral character. Accordingly, this amendment prevents aliens covered by the amendments made in sections 2 and 3 of the bill from becoming United States citizens or benefiting from cancellation of removal or voluntary departure. Absent such an amendment there is no statutory bar to naturalization for aliens covered by the proposed new grounds for inadmissibility and deportation.

It would also make aliens who are inadmissible under section 212(a)(3)(E) of the INA, 8 U.S.C. 1182(a)(3)(E), ineligible for asylum, refugee status, or withholding of removal.

Section 1206. Establishment of the Office of Special Investigations

Attorney General Civiletti established OSI in 1979 within the Criminal Division of the Department of Justice, consolidating within it all "investigative and litigation activities involving individuals, who prior to and during World War II, under the supervision of or in association with the Nazi government of Germany, its allies, and other affiliatated [sic] governments, are alleged to have ordered, incited, assisted, or otherwise participated in the persecution of any person because of race, religion, national origin, or political opinion." (Att'y Gen. Order No. 85179). The OSI's mission continues to be limited by that Attorney General Order.

Subsection (a) would first amend the INA, 8 U.S.C. §1103, by directing the Attorney General to establish an Office of Special Investigations within the Department of Justice with authorization to denaturalize any alien who has participated in Nazi persecution, genocide, torture or extrajudicial killing abroad. This would not only provide statutory authorization for OSI, but also expand OSI's current authorized mission beyond Nazi war criminals.

The second part of this subsection would require the Attorney General to consult with the Secretary of the Department of Homeland Security before making decisions about prosecution or extradition of the aliens covered by this bill. The third part of this subsection sets forth specific considerations in determining the appropriate legal action to take against an alien who has participated in Nazi persecution, genocide, torture or extrajudicial killing abroad. Significantly, in order to fulfill the United States' obligation under the "Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment" to hold accountable torturers found in this country, the bill expressly directs the Department of Justice to consider the availability of prosecution under United States laws for any conduct that forms the basis for removal and denaturalization. In addition, the Department is directed to consider extradition to foreign jurisdictions that are prepared to undertake such a prosecution. Statutory and regulatory provisions to implement Article 3 of the Convention Against Torture, which prohibits the removal of any person to a country where he or she would be tortured, must also be part of this consideration.

Subsection (b) authorizes additional funds for these expanded duties to ensure that OSI fulfills its continuing obligations regarding Nazi war criminals.

Section 1207. Reports on Implementation of the Act

This section of the bill would direct the Attorney General, in consultation with the Homeland Security Secretary, to report within six months on implementation of the Act, including procedures for referral of matters to OSI, any revisions made to INS forms to reflect amendments made by the bill, and the procedures developed, with adequate due process protection, to obtain sufficient evidence and determine whether an alien is deemed inadmissible under the bill.

It also requires the Attorney General and the DHS Secretary to report annually on the number of criminal investigations and prosecutions undertaken pursuant to the Act, the number of persons removed from or denied admission to the United States pursuant to the Act, and the nationality of those persons.

TITLE XIII—PROMISE ACT

Section 1301. Short Title

This title may be called the "Parental Responsibility Obligations Met through Immigration System Enforcement Act" or "PROMISE Act".

Section 1302. Aliens Ineligible To Receive Visas and Excluded from Admission for Non-Payment of Child Support

Section 1302 amends INA §212(a) so that aliens who are in violation of court order to pay child support are inadmissible. This section defines child support order to include orders from a court in the United States as well as any foreign country, if a reciprocity agreement exists between that country and the United States or any individual State. The applicant for admission may become admissible by satisfying the outstanding child support debt, or by entering into an approved payment arrangement.

Section 1303. Authority To Parole Aliens Excluded from Admission for Non-Payment of Child Support

Section 1303 allows for the alien's physical return to the United States in the event that it is crucial to his ability to pay child support, the Secretary of DHS may parole the alien, but the alien will be subject to removal until he meets his support obligations.

Section 1304. Effect of Non-Payment of Child Support on Establishment of Good Moral Character

Section 1304 amends INA §101(f) so that an alien who is not in compliance with a court order to pay child support does not possess good moral character. This provision includes agreements in the United States and in any foreign country, if a reciprocity agreement exists between that country and the United States or any individual State. The alien would be unable to obtain certain immigration benefits, the most important of which is U.S. citizenship, without being able to demonstrate statutory good moral character.

Section 1305. Authorization To Serve Legal Process in Child Support Cases on Certain Visa Applicants and Arriving Aliens

Section 1305 authorizes immigration officers to serve on any alien seeking admission to the United States legal process with respect to any action to enforce or to establish a legal obligation of an individual to pay child support.

Section 1306. Authorization To Obtain Information on Child Support Payments by Aliens

Section 1306 grants the Secretaries of State and Homeland Security as well as the Attorney General access to child support payment information of an alien seeking an immigration benefit.

Section 1307. Effective Date

The provisions of this title shall be effective 90 days after enactment.

TITLE XIV—FALLEN HEROES OF 9/11 ACT

Section 1401. Short Title

Section 1401 authorizes that this bill may be cited as the "Fallen Heroes of 9/11 Act."

Section 1402. Congressional Findings

Section 1403. Fallen Heroes of 9/11 Congressional Medals

Authorizes the President to present to the personal representative or next of kin of each individual who died on or after September 11, 2001, as a direct result of the act of terrorism within the United States on that date, a Fallen Heroes of 9/11 Congressional Medal in recognition of their sacrifice and to honor their deaths.

Section 1404. Duplicate Medals

Directs the Secretary of the Treasury to strike: (1) three medals to honor victims of the attack at the World Trade Center (WTC), victims aboard United Airlines Flight 93 that crashed in Pennsylvania, and victims at the Pentagon; and (2) duplicate medals for presentation to each precinct house, firehouse, emergency response station, or other duty station or place of employment to which officers, emergency workers, and other employees of the U.S. Government and of State and local government agencies (including the Port Authority of New York and New Jersey) and others who responded to and perished as a direct result of the WTC attacks were assigned on September 11, 2001.

Section 1405. Establishment of Lists of Recipients

Directs the Secretary of Treasury to establish a list of individuals eligible under section 1604 and add individuals as they subsequently become eligible.

Section 1406. Sales to the Public to Defray Costs

Directs the Secretary of Treasury to strike and sell duplicate medals to the public to defray the costs of production.

Section 1407. National Medals

The medals struck pursuant to this title are national medals for purposes of chapter 51 of title 31, United 11 States Code.

TITLE XV—MISCELLANEOUS PROVISIONS

Section 1501. Technical Amendments Relating to Public Law 107–56

Section 1501 makes a series of technical amendments to Public Law No. 107-56, the USA PATRIOT Act.

Section 1502. Miscellaneous Technical Amendments

Section 1502 makes a series of technical amendments to Title 18 and Title 28, and it also repeals a duplicative authorization of a sexual abuse prevention program for runaway children which has recently been reauthorized in another statute. Sec. 117(b) of Pub. L. No. 108-96.

Section 1503. Minor Substantive Amendment Relating to Contents of FBI Annual Report

Section 1503 adds a requirement that the FBI include the number of personnel receiving danger pay in its annual report.

Section 1504. Use of Federal Training Facilities

Section 1504 is intended to ensure that the Justice Department uses the most cost-effective training and meeting facilities for its employees. For any predominantly internal training subsection (a) requires the Justice Department to use only a facility that does not require a payment to a private entity for the use of such facility, unless specifically authorized in writing by the Attorney General. Subsection (b) requires the Attorney General to prepare an annual report to the Chairmen and Ranking Members of the House and Senate Judiciary Committees that details each training requiring authorization under subsection (a). The report must include an explanation of why the facility was chosen and a breakdown of any expenditures incurred in excess of the cost of conducting the training at a facility that did not require such authorization.

Section 1505. Technical Correction Relating to Definition Used in "Terrorism Transcending National Boundaries" Statute

Makes technical changes to 18 USC 1958.

Section 1506. Increased Penalties and Expanded Jurisdiction for Sexual Abuse Offenses in Correctional Facilities

Section 1506 increases the penalties for sexual abuse within federal correction facilities and those who are held by the Bureau of Prisons.

Section 1507. Expanded Jurisdiction for Contraband Offenses in Correctional Facilities

Section 1507 expands the jurisdiction for contraband offenses in correctional facilities to include those in the custody of or in a facility under the control of the Attorney General and the Bureau of Prisons.

Section 1508. Magistrate Judge's Authority To Continue Preliminary Hearing

Amends 18 USC 3060(c) to include a provision to allow a magistrate judge to extend a preliminary hearing without the consent of the accused after a showing of extraordinary circumstances.

Section 1509. Boys and Girls Clubs of America

Section 1509 reauthorizes the Boys and Girls Club of America through 2010 and increases the minimum number of clubs that must exist nationwide.

Section 1510. Authority of the Inspectors General

Section 1510 amends the Crime Control Act of 1990 to allow Inspectors General to provide assistance to the National Center for Missing and Exploited Children.

Section 1511. Foreign Student Visas

This section would allow foreign students participating in "distance learning" programs at U.S. colleges and universities to enter the United States for up to 30 days on an "F" visa, in order to pursue their studies. Such aliens would be ineligible to change their nonimmigrant classification while in the United States.

Section 1512. Pre-Release Custody of Prisoners

This provision corrects an anomaly that developed in the law that prevents the BOP from exercising their previous ability to place convicts in community correctional facilities for a small part of the final portion of their sentences, so as to facilitate a smoother transition back into society.

Section 1513. FBI Translator Reporting Requirement

Section 1513 amends section 205 of the USA PATRIOT Act regarding an important reporting requirement by the Attorney General to the Senate and House Judiciary Committees about (1) the number of translators employed by the FBI, (2) legal and practical impediments to using translators employed by other Federal, State, or local agencies, on a full, part-time, or shared basis, and (3) the needs of the FBI for specific translation services in certain languages, and recommendations for meeting those needs. This section clarifies the deadline for the report, makes such reporting an annual requirement and expands the reporting requirement to include translators contracted by the government.

Section 1514. Amendment to Victims of Child Abuse Act

Section 1514 provides specific guidance on what information is required to be reported to the CyberTipline to include information on the content and images of the apparent violation, the Internet Protocol Address, the date and time associated with the violation, and specific contact information for the sender. In 1999, Congress established a statutory "duty to report" evidence of apparent violations of child pornography laws by Internet Service Providers (ISPs) to the CyberTipline which is operated by the National Center for Missing & Exploited Children (NCMEC).

Section 1515. Development of an Information System Interstate Compact for Adult Offender Supervision

This section supports the development of an information sharing system between states to support the exchange of information on offenders seeking and completing transfer from one state to another through the Interstate Compact for Adult Offender Supervision. This system will (1) establish a system of uniform data collection; (2) allow instant and real time access to information on active criminal cases by criminal justice officials; (3) provide regular reporting of Compact activities to heads of state councils, state executive, judicial and legislative leaders and criminal justice administrators; and (4) will be designed to integrate with current and future national, state, and local information systems.

TITLE XVI—REAUTHORIZATION OF THE NATIONAL FILM PRESERVATION BOARD

Section 1601. Short Title

Section 1601 sets forth the short title of Title XVII, the "National Film Preservation Act of 2004."

Section 1602. Reauthorization and Amendment

Section 1602 generally reauthorizes the National Film Preservation Board and directs the Librarian of Congress to continue the National Film Registry, established and maintained under the National Film Preservation Acts of 1988, 1992 and 1996, to maintain and preserve films that are culturally, historically, or aesthetically significant.

Section 1602(a) clarifies that the National Film Registry seal may be used with all formats of Registry films (e.g., film, video, DVD), inserts language regarding copyright ownership of Registry films that is consistent with a similar provision under the Sound Recording Preservation Act of 2000 [P.L. 106-474]; and sets forth, among current duties and powers of the Librarian under this title, new duties, parallel to those under the Sound Recording Preservation Act, to make registry films more broadly accessible for research and educational purposes, to review the comprehensive national plan developed under the National Film Preservation Act of 1992 and amend it to the extent necessary to ensure that it addresses technological advances in film preservation and storage and to undertake initiatives to ensure preservation of the nation's moving image heritage, in concert with efforts of the National Audio-Visual Conservation Center (NAVCC) of the Library of Congress and other organizations.

Section 1602(b) amends the National Film Preservation Board to increase Board membership from 20 to 22 members, and amends the provision governing reimbursement of expenses so that it is consistent with the corresponding provision of the Sound Recording Preservation Act of 2000. The two new members are at-large members appointed by the Librarian.

Section 1602(c) incorporates parallel language from the Sound Recording Preservation Act of 2000, requiring the Librarian to utilize the NAVCC to ensure proper storage, preservation and dissemination of Registry films.

Section 1602(d) clarifies that the National Film Registry seal may be used with all formats of Registry films (e.g., film, video, DVD).

Section 1602(e) extends the authorization of the National Film Preservation Act for 10 years from the effective date of this Act, by striking the 7-year authorization period under the 1996 Act and substituting a 17-year period, dating from the 1996 Act effective date.

TITLE XVII—REAUTHORIZATION OF THE NATIONAL FILM PRESERVATION FOUNDATION

Section 1701. Short Title

Section 1701 sets forth the short title of Title XVIII, the "National Film Preservation Foundation Reauthorization Act of 2004."

Section 1702. Reauthorization and Amendment

Section 1702(a) increases the Foundation's Board of Directors from nine to twelve, and allowing Board members to serve an unlimited number of terms.

Section 1702(b) and (c) permit the Board to incorporate the foundation in any location, rather than only in the District of Columbia.

Section 1702(d) increases the authorized appropriations level for federal matching funds for the Foundation from $250,000 per year to: $500,000 in fiscal years 2004 and 2005, and $1 million for fiscal years 2006 through 2013.

TITLE XVII—DREAM ACT

Section 1801. Short Title

This title may be called the "Development, Relief, and Education for Alien Minors Act."

Section 1802. Definition of an Institute of Higher Education

This section explains that "institution of higher education" is defined by the Higher Education Act of 1965.

Section 1803. Restoration of State Option To Determine Residency for the Purposes of Higher Education Benefits

Section 1803 repeals IIRIRA §505, 8 U.S.C. §1623. Each state is free to determine whom it deems a resident for the purpose of determining in-state tuition. The DREAM Act does not compel states to offer in-state tuition to undocumented aliens, nor does it prevent states from offering in-state tuition to anyone else.

Section 1804. Cancellation of Removal and Adjustment of Status of Certain Long-Term Residents Who Entered the United States as Children

Section 1804 provides that applicants may qualify for an initial conditional period of six years during which they can earn permanent resident status if they entered the United States at least five years prior to enactment, were under 16 years of age at the time of entry and are not inadmissible or deportable for specifically enumerated grounds. There is a limited waiver only applicable for grounds of inadmissibility under Immigration and Nationality Act (INA) §212(a)(6) or deportability under INA §237(a)(1), (3), and (6). The applicant must also have graduated from high school, obtained a GED, or be admitted to an institution of higher learning as defined in 20 U.S.C. §1001. Additionally, the secondary and higher education institutions must be located within the United States. Persons previously ordered deported are not eligible for adjustment of status under this Act. Exceptions are made for those who remain within the United States with the U.S. government's consent or who received the deportation order while under the age of sixteen. This section also contains a physical presence requirement that the applicant must not have been out of the United States for more than ninety days in one visit, or one hundred and eighty days in the aggregate during the five-year period. There is a possible waiver of this requirement if the applicant shows exceptional circumstances no less compelling than serious illness to self, or death or serious illness to an immediate family member.

Section 1805. Conditional Permanent Residence Status

Section 1805 provides the ways through which conditional residents, after proving themselves worthy after six years, may become permanent residents. The ways are to earn a degree from an institution of higher education or to complete two years in a bachelor's or higher program, or to serve honorably in the military for at least two years. The applicant may obtain a waiver for these requirements but only at the discretion of the Secretary of Homeland Security or the Attorney General and only if applicant demonstrates "exceptional and extreme unusual hardship." In addition, the applicant must maintain a clean record, meaning no crime or other misdeed that would render the applicant deportable or inadmissible. The alien cannot be a public charge during the six-year period. The applicant also must maintain continuous residence, as defined by this act, in the United States. If the applicant successfully completes the enumerated requirements, the six-year conditional period also satisfies the residency requirements for naturalization, subject to the limitations set forth in section 316 of the Immigration and Nationality Act.

Section 1806. Retroactive Benefits Under this Act

Section 1806 provides that if at the time of enactment an alien has already satisfied all requirements under sections 1804 and 1805 (meaning that the alien has already "passed the test" and has proven himself or herself worthy of the DREAM Act benefits) then that alien can adjust to permanent resident status without going to school or serving in the military again. Those who benefit from this "grandfather" clause must undergo the six-year conditional period and comply with all other requirements.

Section 1807. Exclusive Jurisdiction

Section 1807 provides that the Secretary of Homeland Security has jurisdiction to adjudicate affirmative applications for benefits, but the jurisdiction transfers to the EOIR under the DOJ when the applicant is in removal proceedings. The DREAM Act benefits will be available defensively to those in proceedings. Children 12 years of age or older who satisfy all other requirements of this act but who are still enrolled full time in school shall be granted a stay of proceedings by the EOIR. To the extent permissible under existing law, a child whose removal proceedings are stayed may obtain work authorization. Section 1807 does not preempt any existing federal or state labor laws, including laws governing minimum age to work.

Section 1808. Penalties for False Statements in Application

Section 1808 provides for criminal penalties for falsifying the application including fine or imprisonment or both.

Section 1809. Confidentiality of Information

Section 1809 contains a confidentiality clause. The Government is not permitted to use information gathered in processing an application under the DREAM Act to initiate removal proceedings against anyone. Violation of the confidentiality agreement would result in a fine up to $10,000. However, information sharing is permissible for the purpose of investigating a crime or a national security breach. Information also may be disseminated to a coroner for the purpose of identifying the deceased.

Section 1810. Expedited Processing of Applications; Prohibition on Fees

Section 1810 prohibits the collection of an application fee.

Section 1811. SERVIS Registration

Section 1811 requires an institution of higher education to register any student it enrolls who is a beneficiary under this Act in the Student and Exchange Visitor Information System (SEVIS).

Section 1812. Higher Education Assistance

Section 1812 limits the types of federal financial assistance that beneficiaries may receive. This section limits federal financial assistance under Title IV of the Higher Education Act of 1965 to student loans under Parts B and D, and work study programs under Part C of Title IV.

Section 1813. GAO Report

Section 1813 requires the Government Accounting Office (GAO) to produce a study, seven years after enactment, concerning the number of aliens who apply for and receive benefits under this Act.

TITLE XIX—DRU'S LAW

Section 1901. Short Title

This title may be called the Dru Sjodin National Sex Offender Public Database Act of 2004, or Dru's Law

Section 1902. Definitions

Section 1903. Availability of the NSOR Database to the Public

Section 1904. Release of High Risk Inmates

Mr. LEAHY. Mr. President, I am pleased to introduce with Senator HATCH the "Department of Justice Appropriations Authorization Act, fiscal years 2005 through 2007." I thank Senator HATCH, the Chairman of the Judiciary Committee, for support of this legislation.

In the 107th Congress, the Senate and the House of Representatives properly authorized spending for the entire Department of Justice, "DOJ" or the "Department", for the first time since 1979. Congress extended that authorization in 1980 and 1981. Until 2002 Congress had not passed nor had the President signed an authorization bill for the Department. In fact, there were a number of years where Congress failed to consider any Department authorization bill. This 23-year failure to properly reauthorize the Department forced the appropriations committees in both houses to reauthorize and appropriate money.

We ceded the authorization power to the appropriators for too long, but in the 107th Congress Senator HATCH and I joined forces with House Judiciary Chairman SENSENBRENNER and Ranking Member CONYERS to create and pass bipartisan legislation that reaffirmed the authorizing authority and responsibility of the House and Senate Judiciary Committees—the "21st Century Department of Justice Appropriations Authorization Act," Public Law 107-273. A new era of oversight began with that new charter for the Justice Department, with the Senate and House Judiciary Committees taking active new roles in setting the priorities and monitoring the operations of the Department of Justice, the FBI and other law enforcement agencies, and that bill helped our oversight duties in many ways. And, as we have learned in the past three years, the fight against terrorism makes constructive oversight more important than ever before.

Already this Congress, House Judiciary Committee Chairman SENSENBRENNER and Ranking Member CONYERS have authored and shepherded through the House of Representatives a new Department of Justice Appropriations Authorization Act for Fiscal Years 2004 through 2006, H.R. 3036. I commend both Chairman SENSENBRENNER and Ranking Member CONYERS for working in a bipartisan manner to pass that legislation in the House of Representatives.

The "Department of Justice Appropriations Authorization Act, Fiscal Years 2005 through 2007," is a comprehensive authorization of the Department based on H.R. 3036 as passed by the House of Representatives on March 30, 2004. Our bipartisan legislation would authorize appropriations for the Department for fiscal years 2005 through 2007, provide permanent enabling authorities which will allow the Department to efficiently carry out its mission, clarify and harmonize existing statutory authority, and repeal obsolete statutory authorities. The bill also establishes certain reporting requirements and other mechanisms intended to better enable the Congress and the Department to oversee the operations of the Department. Finally, our bill incorporates numerous other pieces of legislation on such issues as preventing—and recovering missing children, cigarette trafficking, intellectual property, going after terrorists who commit violent acts against American citizens overseas, among others—currently pending before Congress that enjoy strong bipartisan support.

I will now highlight a number of the provisions that make up this authorization bill.

Title I of our bill authorizes appropriations for the Department of Justice for each of fiscal years 2005 through 2007. With minor exceptions, these authorizations generally reflect the President's budget request.

Title II makes numerous improvements and upgrades to the Department's grant programs that assist law enforcement and criminal justice agencies; build community capacity to prevent, reduce and control crime; assist victims of crime; and prevent crime.

We decided to combine the current Byrne formula grant, Byrne discretionary grant and Local Law Enforcement Block Grant, (LLEBG), programs into one Edward Byrne Memorial Justice Assistance Grant Program with an authorization of $1.075 billion and a list of 35 uses—a combination of the traditional Byrne and LLEBG grants regulations—for which these grants may be used.

I am a longtime supporter of the Edward Byrne Memorial State and Local Law Enforcement Assistance Program and the LLEBG, both of which have been continuously targeted for elimination by the Bush Administration. LLEBG, which received $225 million this year, provide local governments with the means to underwrite projects that reduce crime and improve public safety, and allow communities to craft their own responses to local crime and drug problems. The Edward Byrne Memorial State and Local Law Enforcement Assistance Program, which Congress funded at $659,117,000 in fiscal year 2004, makes grants to States to improve the functioning of the criminal justice system, with emphasis on violent crimes and serious offenders, and to enforce State and local drug laws. As a senator from a rural State that relies on LLEBG and Byrne grants to combat crime, I have been concerned with the President's proposals for funding and program eliminations of these well-established grant programs; our legislation makes it clear that the same authorized funding levels and uses will be available under the new consolidated grant program as under the previous two grant programs.

I am pleased that Title II also extends the authorization of appropriations for the Regional Information Sharing System, RISS, at $100 million for each of fiscal years 2005 through 2007. RISS serves as an invaluable tool to Federal, State and local law enforcement agencies by providing much-needed criminal intelligence and investigative support services. It has built a reputation as one of the most effective and efficient means developed to combat multi-jurisdictional criminal activity, such as narcotics trafficking and gang activity. Without RISS, most law enforcement officers would not have access to newly developed crime-fighting technologies and would be hindered in their intelligence-gathering efforts.

By providing State and local law enforcement agencies with rapid access to its secure, state-of-the-art, nationwide information sharing system, RISS gives law enforcement officers the resources they need to identify and apprehend potential terrorists before they strike. With this in mind, I authored Title VII of the USA PATRIOT Act, Public Law 107-56, to increase information sharing for critical infrastructure protection. The law expanded RISS to facilitate information sharing among Federal, State and local law enforcement agencies to investigate and prosecute terrorist conspiracies and activities, and increased authorized funding to $100 million.

Proper funding provides RISS with the means to maintain six regionally-based information sharing centers that allow for information and intelligence services to be disseminated nationwide addressing major, multi-jurisdictional crimes. In addition, as the September 11 terrorist attacks and calls for increased vigilance against future attacks demonstrated, RISS requires additional support to intensify anti-terrorism measures.

Each RISS center has up to 1,600 member agencies, the vast majority of which are at the municipal and county levels. Over 400 State agencies and over 850 Federal agencies, however, are also members. The Drug Enforcement Administration, Federal Bureau of Investigation, U.S. Attorneys' Offices, Internal Revenue Service, Secret Service, Customs, and the Bureau of Alcohol, Tobacco, Firearms and Explosives are among the Federal agencies that participate in the RISS Program.

Unfortunately, the Consolidated Appropriations law for FY 2004 did not provide full funding for RISS, instead including $30 million for the program. For the coming fiscal year, the President has proposed $45 million. We must ensure that RISS can continue current services, meet increased membership support needs for terrorism investigations and prosecutions, increase intelligence analysis capabilities and add staff to support the increasing numbers of RISS members.

This title also contains a reauthorization of the Crime Free Rural States program that we created in the DOJ Authorization bill in the last Congress. This program authorizes $10 million annually for rural states to address specific crime problems plaguing their areas. In Vermont, for example, this funding could be used to battle heroin abuse and its consequences.

This authorization bill contains a number of provisions of great interest to victim service organizations and those who administer federal grants for victim assistance and compensation. In particular, I am pleased that we have responded to repeated requests from the field to increase the amount that State assistance and compensation programs may retain for administrative purposes. I have been proposing such an increase for many years, without success.

Under current law, not more than five percent of victim assistance and compensation grants may be used for the administration of the State program receiving the grant. The House bill effectively decreases this already-low apportionment by combining administrative costs with training costs—currently one percent under guidelines promulgated by the Office for Victims of Crime, OVC. By contrast, we propose raising the amount that can be used for both worthwhile purposes to 7.5 percent of the grants. While this is still less than 10 percent retention permitted, for example, by the Violence Against Women Act, it will help States to accommodate the addition of training purposes in their costs.

Our bill will also amend the Victims of Crime Act, VOCA, to clarify the provisions establishing the Antiterrorism Emergency Reserve in various ways. The original H.R. 3036 permits replenishments of the Emergency Reserve based upon amounts obligated rather than amounts actually expended in any given fiscal year. Our bill includes two additional clarifications that I proposed. First, it makes explicit that the Emergency Reserve may be replenished only once each fiscal year, and may not be continually replenished as amounts are obligated or expended. Allowing continual replenishments could result in the obligations or expenditures exceeding the $50 million Emergency Reserve maximum. Second, we have ensured that all Emergency Reserve funds—whether carried over, used to replenish the Reserve, obligated or expended—fall above the cap on spending from the Crime Victim Fund as set by appropriations legislation.

Section 242 of the House-passed bill authorized the Assistant Attorney General for the Office for Justice Programs (OJP) to impose special conditions and determine priorities for formula grants. It was unclear to me why the authority to determine formula grant priorities was necessary and what its real impact would be on local victim services. Could it be read to authorize OJP to infringe on the discretion of each State to meet its own needs, as for example by mandating that State VOCA programs give priority to public agencies over nonprofit community organizations, or fund faith-based programs before secular programs? Priorities are already set out by Congress in the authorizing statutes, as is the requirement that programs coordinate public and private victim services in their communities, and the Justice Department should not be allowed to override those congressional directives. Moreover, VOCA already has extensive reporting requirements that enable the Department to monitor how States are distributing these funds. We have therefore deleted the authority to determine formula grant priorities, while retaining the special conditions provision.

Subtitle D of Title II deals with approaches to prevent crime. I am especially pleased that we included provisions that will specifically aid in preventing rural crime because rural States and communities face a number of unique law enforcement challenges. We added these provisions from Senator DASCHLE's "Rural Safety Act," S. 1907, of which I am proud to be an original cosponsor. I commend our Democratic Leader for his commitment to providing real and meaningful investments to address the unique set of challenges facing rural law enforcement agencies.

Rural law enforcement officers patrol larger areas, operate under tighter budgets and with smaller staffs than their urban and suburban counterparts. This legislation creates programs specifically designed to meet the many complex needs of rural law enforcement agencies and officers. Methamphetamine production and use, for example, is a growing concern for Vermonters. Because the ingredients and the equipment used to produce methamphetamines are so inexpensive and readily available, the drug can be manufactured or "cooked" in home-made labs. This has become one of the major problems facing law enforcement agencies nationwide. Last month, the Vermont State Police busted the first known methamphetamine lab in the State. We must help our law enforcement agencies as they struggle to keep up with its troubling growth.

To help law enforcement combat the spread of methamphetamine and other challenges, we authorize in this bill $20 million in grants for fiscal year 2005 to provide for the cleanup of methamphetamine laboratories and related hazardous waste in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area; and the improvement of contract-related response time for cleanup of methamphetamine laboratories and related hazardous waste in units of local establish methamphetamine prevention and treatment pilot programs in rural areas, and provide additional financial support to local law enforcement.

We also establish a rural 9-1-1 service program to provide access to, and improve a communications infrastructure that will ensure a reliable and seamless communication between, law enforcement, fire, and emergency medical service providers in units of local government and tribal governments located outside a Standard Metropolitan Statistical Area and in States. Grants authorized at $25 million for fiscal year 2005 under this program will be used to establish or improve 9-1-1 service in rural communities. Priority in making grants under this program will be given to communities that do not have 9-1-1 service.

I am pleased that our bill includes the Campbell-Leahy-Hatch Bulletproof Vest Partnership Grant Act of 2003, a bill to reauthorize an existing matching grant program to help State, tribal, and local jurisdictions purchase armor vests for use by law enforcement officers. This bill was passed by the Senate by unanimous consent a year ago this month and it awaits consideration by the House of Representatives.

This measure marks the third time that I have had the privilege of teaming with my friend and colleague Senator CAMPBELL to work on this legislation. We authored the Bulletproof Vest Grant Partnership Act of 1998 in response to the tragic Carl Drega shootout in 1997 on the Vermont-New Hampshire border, in which two State troopers who did not have bulletproof vests were killed. The Federal officers who responded to the scenes of the shooting spree were equipped with lifesaving body armor, but the State and local law enforcement officers lacked protective vests because of the cost.

Two years later, we successfully passed the Bulletproof Vest Partnership Grant Act of 2000, and I hope we will go 3-for-3 this time around. Senator CAMPBELL brings to our effort invaluable experience in this area and during his time in the Senate he has been a leader in the area of law enforcement. As a former deputy sheriff, he knows the dangers law enforcement officers face when out on patrol. I am pleased that we have been joined in this effort by 12 other Senate cosponsors.

Our bipartisan legislation will save the lives of law enforcement officers across the country by providing more help to State and local law enforcement agencies to purchase body armor. Since its inception in 1999, this highly successful Department of Justice program has provided law enforcement officers in 16,000 jurisdictions nationwide with nearly 350,000 new bulletproof vests. In Vermont, 148 municipalities have been fortunate to receive funding for the purchase of almost 1200 vests. Without the Federal funding given by this program, I daresay that there would be close to that number of police officers without vests in Vermont today.

The Bulletproof Vest Partnership Grant Act of 2003 will further the success of the Bulletproof Vest Partnership Grant Program by re-authorizing the program through fiscal year 2007. Our legislation would continue the Federal-State partnership by authorizing up to $50 million per year for matching grants to State and local law enforcement agencies and Indian tribes at the Department of Justice to buy body armor.

We know that body armor saves lives, but the cost has put these vests out of the reach of many of the officers who need them. This program makes it more affordable for police departments of all sizes. Few things mean more to me than when I meet Vermont police officers and they tell me that the protective vests they wear were made possible because of this program. This is the least we should do for the officers on the front lines who put themselves in danger for us every day. I want to make sure that every police officer who needs a bulletproof vest gets one.

We also included in this authorization bill the "Prevent All Cigarette Trafficking, PACT, Act," as passed by the Senate by unanimous consent on December 9, 2003, but which has yet to be taken up and passed by the House. I commend Senators HATCH and KOHL for their leadership on this measure and thank them for working with me, among others, to craft the compromise language that we include in this bill to crack down on the growing problem of cigarette smuggling, both interstate and international, as well as to address the connection between cigarette smuggling activities and terrorist funding. I am proud to join Senator HATCH, Senator KOHL and 10 others as a cosponsor of the standalone bill.

I also thank the National Association of Attorneys General and the Campaign for Tobacco-Free Kids, for working with us and contributing to this language. I want to say a special thanks to Vermont Attorney General Bill Sorrell, who also serves as the current Chair of the NAAG Tobacco Committee, for his valuable input on the problems with cigarette smuggling that states are facing and his support for this compromise measure. I also want to thank the Vermont Grocers Association, the Vermont Retail Association, the Vermont Association of Chiefs of Police, and the National Conference of State Legislatures for their support for this measure.

The movement of cigarettes from low-tax areas to high-tax areas in order to avoid the payment of taxes when the cigarettes are resold has become a public health problem in recent years. As State after State chooses to raise its tobacco excise taxes as a means of reducing tobacco use and as a source of revenue, many smokers have sought cheaper means by which to purchase cigarettes. Smokers can often purchase cigarettes and tobacco from remote sellers, Internet or mail order at substantial discounts due to avoidance of State taxes. These sellers, however, are evading their tax obligations because they neither collect nor pay the proper State and local excise taxes for cigarette and other tobacco product sales.

We have the ability to dramatically reduce smuggling without imposing undue burdens on manufacturers or law abiding citizens. By reducing smuggling we will also increase government revenues by minimizing tax avoidance. My friend General Sorrell has told me that this has become a rapidly growing problem in Vermont as more and more tobacco product manufacturers fail to collect and pay cigarette taxes. Criminals are getting away with smuggling and not paying tobacco taxes because of weak punishments, products that are often poorly labeled, the lack of tax stamps and the inability of the current distribution system to track sales from State-to-State. These lapses point to a need for uniform rules governing group sales to individuals.

The PACT Act will give States the authority to collect millions of dollars in lost State tax revenue resulting from online and other remote sales of cigarette and smokeless tobacco. It also ensures that every tobacco retailer, whether a brick-and-mortar or remote retailer of tobacco products, play by the same rules by equalizing the tax burdens.

Moreover, the PACT Act gives States the authority necessary to enforce the Jenkins Act, a law passed in 1949, which requires cigarette vendors to report interstate sales of cigarettes. This legislation enhances States' abilities to collect all excise taxes and verify the deposit of all required escrow payments for cigarette and smokeless tobacco sales in interstate commerce, including internet sales. In addition, it provides Federal and State law enforcement with additional resources to enforce state tobacco excise tax laws.

Finally, at the request of the National Association of Attorneys General and many State Attorneys General, we have added a new section to provide the States with authority to enforce the Imported Cigarette Compliance Act to crack down on international tobacco smuggling. This additional authority should further reduce tax evasion and eliminate a lucrative funding source for terrorist organizations.

We must not turn a blind eye to the problem of illegal tobacco smuggling. Those who smuggle cigarettes are criminals and we must close the loopholes that allow cigarette smuggling to continue.

The United States has from its inception recognized the importance of intellectual property laws in fostering innovation, and vested in Congress the responsibility of crafting laws that ensure that those who produce inventions are able to reap economic rewards for their efforts. I am pleased that we can today include, as part of the Department of Justice Authorization Act, the "Cooperative Research and Technology Enhancement Act of 2004," the CREATE Act, legislation that I cosponsored along with Senator HATCH, Senator KOHL, Senator FEINGOLD, Senator SCHUMER, Senator GRASSLEY, Senator JOHNSON, and Senator COCHRAN. This bill will provide a needed remedy to one aspect of our Nation's patent laws. On June 25, 2004, the CREATE Act passed the Senate by unanimous consent.

When Congress passed the Bayh-Dole Act in 1980, the law encouraged private entities and not-for-profits such as universities to form collaborative partnerships in order to spur innovation. Prior to the enactment of this law, universities were issued fewer than 250 patents each year. That this number has in recent years surpassed two thousand is owed in large measure to the Bayh-Dole Act. The innovation this law encouraged has contributed billions of dollars annually to the United States economy and has produced hundreds of thousands of jobs.

However, one component of the Bayh-Dole Act, when read literally, runs contrary to the intent of that legislation. In 1999, the United States Court of Appeal for the Federal Circuit ruled, in Oddzon Products, Inc. v. Just Toys, Inc., that non-public information may in certain cases be considered "prior art"—a standard which generally prevents an inventor from obtaining a patent. Thus some collaborative teams that the Bayh-Dole Act was intended to encourage have been unable to obtain patents for their efforts. The result is a disincentive to form this type of partnership, which could have a negative impact on the U.S. economy and hamper the development of new creations.

However, the Federal Circuit in its ruling invited Congress to better conform the language of the Bayh-Dole Act to the intent of the legislation. The "CREATE Act" does exactly that by ensuring that non-public information is not considered "prior art" when the information is used in a collaborative partnership under the Bayh-Dole Act. The bill also includes strict evidentiary burdens to ensure that the legislation is tailored narrowly in order to solely fulfill the intent of the Bayh-Dole Act.

I am pleased that the PIRATE Act, which I cosponsored with Senator HATCH, will be included as part of this bipartisan bill. Like the overall bill, the PIRATE Act is a consensus bill that will give the Justice Department new and needed tools—in this case, these tools are specific to the fight against piracy. This bill was unanimously passed by the Senate on June 25, 2004. By including this measure in the Department of Justice Authorization Bill, we hope to muster more forces to combat the growing problem of digital piracy.

For too long, Federal prosecutors have been hindered in their pursuit of pirates, by the fact that they were limited to bringing criminal charges with high burdens of proof. In the world of copyright, a criminal charge is unusually difficult to prove because the defendant must have known that his conduct was illegal and he must have willfully engaged in the conduct anyway. For this reason prosecutors can rarely justify bringing criminal charges, and copyright owners have been left alone to fend for themselves, defending their rights only where they can afford to do so. In a world in which a computer and an Internet connection are all the tools you need to engage in massive piracy, this is an intolerable predicament.

The PIRATE Act will give the Attorney General civil enforcement authority for copyright infringement. It also calls on the Justice Department to initiate training and pilot programs to ensure that Federal prosecutors across the country are aware of the many difficult technical and strategic problems posed by enforcing copyright law in the digital age.

This new authority does not supplant either the criminal provisions of the Copyright Act, or the remedies available to the copyright owner in a private suit. Rather, it allows the government to bring its resources to bear on this immense problem, and to ensure that more creative works are made available online, that those works are more affordable, and that the people who work to bring them to us are paid for their efforts.

I am pleased that the Koby Mandell Act of 2003 was included in this legislation. I am a proud cosponsor of the stand-alone bill. The Act would establish an office within the Department of Justice with a mandate to ensure equal treatment of all victims of terrorist acts committed overseas. Its primary role would be to guarantee that vigorous efforts are made to pursue, prosecute, and punish each and every terrorist who harms Americans overseas, no matter where attacks occur. It would also take steps to inform victims of important developments in international cases, such as status reports on efforts to capture terrorists and monitoring the incarceration of those terrorists who are imprisoned overseas. This is important legislation that would send a strong message of resolve that we are committed to finding and punishing every terrorist who harms Americans overseas.

I am pleased that we have included part of S. 1286, the Seniors Safety Act, which I introduced last year. This bill would create an enhanced sentencing penalty for those who commit crimes against the elderly, create new civil and criminal penalties for pension fraud, and create a centralized service to log complaints of telemarketing fraud.

We would also provide the Attorney General with a new and substantial tool to prevent telemarketing fraud—the power to block or terminate service to telephone facilities that are being used to defraud innocent people. The Justice Department could use this authority to disrupt telemarketing fraud schemes directed from foreign sources by cutting off the swindlers' telephone service. Even if the criminals acquire a new telephone number, temporary interruptions will prevent some seniors from being victimized.

We have agreed to incorporate a slightly revised version of the Federal Prosecutors' Retirement Benefit Equity Act of 2004, which was originally introduced as a stand-alone bill with my good friends Senator HATCH, Senator MIKULSKI and Senator DURBIN. This bill would correct an inequity that exists under current law, whereby Federal prosecutors receive substantially less favorable retirement benefits than nearly all other people involved in the Federal criminal justice system including pretrial services officers, probation officers, accountants, cooks and secretaries of the Bureau of Prisons. Indeed the benefits incorporated in this bill are comparable not only to those received by traditional "law enforcement officers" such as Federal agents, but also the Capitol Police, Supreme Court police, air traffic controllers and firefighters. The bill would essentially allow, but not mandate, AUSAs to retire at age 50 with 20 years of service.

Currently, Assistant United States Attorneys, AUSAs, and other Federal prosecutors are not eligible for these enhanced benefits even though they are enjoyed by the vast majority of other employees in the criminal justice system. Once a defendant is brought to into the criminal justice system, the person with whom they have the most face-to-face contact, and often in an extremely confrontational environment, is the Federal prosecutor. AUSAs and other Federal prosecutors participate in planning investigations, interviewing witnesses both inside and outside of the office setting, debriefing defendants, obtaining warrants, negotiating plea agreements and representing the government at trials and sentencings. Each of these responsibilities encompass "the investigation, apprehension, or detention" of individuals suspected or convicted of violating Federal law which is just one justification for granting extended benefits to law enforcement officers.

AUSAs are an integral part of the criminal justice system and their unique position and demanding jobs has rightfully earned them the benefits set forth in this important bill.

I am pleased that S. 710, the Leahy-Hatch Anti-Atrocity Alien Deportation Act, was included in this legislation. This measure would expand the grounds for removing alien human rights violators from the United States, or for denying them entry in the first place. We have heard many accounts of abusers who have taken advantage of America's freedoms after committing horrifying violations of their fellow citizens in their native lands. We need to stop that from happening again.

This bill passed the Judiciary Committee last November but has been subject to an anonymous hold on the floor. A similar version of it passed the Senate by unanimous consent in the 106th Congress. It is long past time to make it law.

I would note that on May 12, a Rwandan man wanted on international charges of genocide and crimes against humanity was arrested at his suburban Chicago home by agents from the Bureau of Immigration and Customs Enforcement, ICE. Before I and others began to raise the issue of the war criminals among us, it was my impression that the former INS paid little attention to rooting out these thugs. I am pleased that the issue has taken on greater importance at ICE, and urge the Senate to pass this bill so that we can expand the grounds of inadmissibility and removability for human rights violators.

I am proud that we include Schumer-Specter legislation to honor the sacrifice of the September 11, 2001, terrorist victims by creating Congressional medals that would be awarded to their families and loved ones by the President. I am proud to have joined my friends as a cosponsor of this legislation, as have 18 other Senators.

The tragedy of September 11, 2001, demanded unprecedented sacrifices of everyday American civilians and rescue workers—3,000 of whom lost their lives in the attacks. In recognition of their heroic actions on that day, the bipartisan Fallen Heroes of 9/11 Act would create a medal to be awarded posthumously to the victims of the September 11 terrorist attacks. The medal would be designed by the Department of Treasury and awarded to representatives of the deceased by the President. The production of the medals would be paid for by the sale of duplicate medals to the public. Those of us who lost loved ones almost three years ago can never have them back, but a medal of honor could recognizes the sacrifices and heroic efforts of our fallen citizens.

We also incorporated language similar to the Leahy-Grassley-Lincoln "Missing Child Cold Case Review Act of 2004," S. 2435, which will allow an Inspector General to authorize his or her staff to provide assistance on and conduct reviews of the inactive case files, or "cold cases," involving children stored at the National Center for Missing and Exploited Children, NCMEC, and to develop recommendations for further investigations. The only alteration we made to the original bill was to include language to also allow the Inspector General of the Government Printing Office to authorize his or her staff to work on cold cases.

Speed is everything in homicide investigations. As a former prosecutor in Vermont, I know firsthand that speed is of the essence when trying to solve a homicide. This focus on speed, however, has led the law enforcement community to generally believe that any case not solved within the first 72 hours or lacking significant leads and witness participation has little likelihood of being solved, regardless of the expertise and resources deployed. With time, such unsolved cases become "cold," and these are among the most difficult and frustrating cases detectives face because they are, in effect, cases that other investigators, for whatever reason, failed to solve.

Our Nation's law enforcement agencies, regardless of size, are not immune to rising crime rates, staff shortages and budget restrictions. Such obstacles have strained the investigative and administrative resources of all agencies. More crime often means that fewer cases are vigorously pursued, fewer opportunities arise for follow-up and individual caseloads increase for already overworked detectives.

All the obstacles that hamper homicide investigations in their early phases contribute to cold cases. The National Center for Missing and Exploited Children—our Nation's top resource center for child protection—presently retains a backlog of cold cases involving children that law enforcement departments nationwide have stopped investigating primarily due to all these obstacles. NCMEC serves as a clearinghouse for all cold cases in which a child has not been found and/or the suspect has not been identified.

This provision will allow an Inspector General to provide staff support to NCMEC for the purpose of conducting reviews of inactive case files to develop recommendations for further investigation and similar activities. The Inspector General community has one of the most diverse and talented criminal investigative cadres in the Federal Government. A vast majority of these special agents have come from traditional law enforcement agencies, and are highly trained and extremely capable of dealing with complex criminal cases.

Under current law, an Inspector General's duties are limited to activities related to the programs and operations of an agency. This measure would allow an Inspector General to permit criminal investigators under his or her supervision to review cold case files, so long as doing so would not interfere with normal duties. An Inspector General would not conduct actual investigations, and any Inspector General would only commit staff when the office's mission-related workloads permitted. At no time would these activities be allowed to conflict with or delay the stated missions of an Inspector General.

From time to time a criminal investigator employed by an Inspector General may be between investigations or otherwise available for brief periods of time. This act would also allow those resources to be provided to the National Center for Missing and Exploited Children. Commitment of resources would be at a minimum and would not materially affect the budget of any office.

We have before us the type of bipartisan legislation that should be moved easily through the Senate and House. It is supported by the Department of Justice Office of the Inspector General. I applaud the ongoing work of the National Center for Missing and Exploited Children and hope that we can soon provide NCMEC with the resources it requires to solve cold cases involving missing children.

This authorization bill includes a provision that would help colleges and universities in Vermont and across the Nation. It would allow foreigners who are pursuing "distance learning" opportunities at American schools to enter the country for up to 30 days to fulfill academic requirements. Under current law, these students do not fall under any visa category, and many are being denied entry and are thus unable to complete their educations. This is a loophole that harms both those students and the institutions that serve them.

In recent months, serious questions have been raised in the media and in several congressional hearings about deficiencies within the translation program at the FBI. Nearly 2 years ago I began asking questions in Judiciary Committee hearings about the FBI's translation program. Most of these remain unanswered. As a result, members of our Committee are no closer to determining the scope of the issue, including the pervasiveness and seriousness of FBI shortcomings in this area, or what the FBI intends to do to rectify personnel shortages, security issues, translation inaccuracies and other problems that have plagued the translator program for years.

Section 205 of the USA PATRIOT Act included an important reporting requirement by the Attorney General to the Senate and House Judiciary Committees about 1. the number of translators employed by the FBI, 2. legal and practical impediments to using translators employed by other Federal, State, or local agencies, on a full, part-time, or shared basis, and 3. the needs of the FBI for specific translation services in certain languages, and recommendations for meeting those needs. To date, the Attorney General has not made the report required by Section 205—most likely because there is no date certain written in the law by which the report must be made. This provision fills that gap by requiring the report "not later than 30 days after the date of enactment . . . and annually thereafter . . . with respect to the preceding 12 month period." It also expands the reporting requirement to include translators "contracted" by the government in addition to those "employed."

I have worked my entire professional life to protect children from those who would prey on them. Preventing child exploitation through the use of the Internet is one concrete and important way to help this important cause. In this regard, under the Protection of Children from Sexual Predators Act of 1998, Public Law 105-314, remote computing and electronic communication service providers are mandated to report all instances of child pornography to the National Center for Missing and Exploited Children. I respect and applaud the work of NCMEC and its tireless efforts in this important national priority.

In March 1998, Congress mandated that NCMEC initiate the CyberTipline for citizens to report online sexual crimes against children. In December 1999, Congress passed Public Law 106-113 to modify 42 U.S.C. §13032(b)(1) to set forth a "duty to report" by ISPs. According to NCMEC, many U.S. electronic communications service providers are not complying with the requirement that they register and use the CyberTipline to report child porn found on their services because supporting regulations required to be promulgated by the Department of Justice on matters such as the contents of the report were never done so.

In this authorization bill we propose language that amends the "duty to report" language by providing specific guidance on what information is required to be included in the ISP reports. The information required includes the content and images of the apparent violation, the Internet Protocol Address, the date and time associated with the violation, and specific contact information for the sender.

America's film heritage is an important part of the American experience, an inheritance from previous generations that help tell us who we are—and who we were—as a society. They offer insight into our history, our dreams, and our aspirations. Yet sadly, this part of American heritage is literally disintegrating faster than can be saved. Today, I am delighted that with the help of Senator HATCH, the "National Film Preservation Act" can be included in our Department of Justice Reauthorization bill.

I introduced the "National Film Preservation Act" last November, a bill that will reauthorize and extend the "National Film Preservation Act of 1996." We first acted in 1988 in order to recognize the educational, cultural, and historical importance of our film heritage, and its inherently fragile nature. In doing so, Congress created the National Film Preservation Board and the National Film Preservation Foundation both of which operate under the auspices of the Library of Congress in order to help save America's film heritage.

The "National Film Preservation Act" will allow the Library of Congress to continue its important work in preserving America's fading treasures, as well as providing grants that will help libraries, museums, and archives preserve films and make those works available for study and research. These continued efforts are more critical today than ever before. While a wide range of works have been saved, with every passing day we lose the opportunity to save more. Fewer than 20 percent of the features of the 1920s exist in complete form and less than 10 percent of the features of the 1910s have survived into the new millennium.

The films saved by the National Film Preservation Board are precisely those types of works that would be unlikely to survive without public support. At-risk documentaries, silent-era films, avant-garde works, ethnic films, newsreels, and home movies frequently provide more insight into the American experience than the Hollywood sound features kept and preserved by major studios. What is more, in many cases only one copy of these "orphaned" works exists. As the Librarian of Congress, Dr. James H. Billington, has noted, "Our film heritage is America's living past."

I would like to thank Senator HATCH again for working with me to include the "National Film Preservation Act" in the bill we are introducing today.

I am pleased that the DREAM Act has been included in this bill. I am a cosponsor of the bill, which Senators HATCH and DURBIN introduced last year and was passed last fall by the Judiciary Committee. It would benefit undocumented alien children who were brought to the United States by their parents as young children, by restoring States' ability to offer them in-state tuition and offering them a path to legal residency. It has been distressing that a bill with Committee approval and 48 sponsors has been unable to get a vote on the floor of the Senate, and I hope that including the DREAM Act in this legislation will give it added momentum.

Status Reports on Enemy Combatants: The House-passed bill included an important reporting requirement authored by Representative ADAM SCHIFF and adopted by the House Judiciary Committee. Specifically, this provision required the Department of Justice to submit an annual report to Congress specifying the number of U.S. persons or residents detained on suspicion of terrorism, and describing Department standards for recommending or determining that a person should be tried as a criminal defendant or designated as an enemy combatant. A Washington Post editorial dated April 3, 2004, praised this provision, while noting that "If more members of the House took their duty to legislate in this critical area seriously, Congress would craft a bill that actually imposed standards rather than simply inquired what they were." I agree, and regret that was unable to persuade Chairman HATCH to retain this modest oversight tool.

Privacy Officer: I am disappointed that we will not be including the privacy officer provision referred to us by the House. It is critical that the Department have a designated leader who is consistently mindful of the impact of the Department's activities on privacy rights. While there has been some history of a privacy official at the Department, these positions have been nonstatutory, and thus there has been no guarantee of consistent vigor and accountability on these issues. Given that the Department's mission increasingly involves gathering and assessing personal information, we simply can't afford to have a lapse in accountability on privacy. Moreover, this is not an untested idea. Congress created a privacy officer for the Department of Homeland Security, and it has been recognized as a successful example of how this role can be helpful in assessing and addressing privacy concerns. We need to follow this lead, and the privacy officer provision would have been a good opportunity to do so.

I look forward to working with Senator HATCH, Congressman SENSENBRENNER and Congressman CONYERS to continue the important business of reauthorizing the Department of Justice. Clearly, regular reauthorization of the Department should be part and parcel of the Committees' traditional role in overseeing the Department's activities. Swift passage into law of the "Department of Justice Appropriations Authorization Act, Fiscal Years 2005 through 2007" will be a significant step toward enhancing our oversight role.

By Mr. GRASSLEY (for himself, Mr. LEAHY, Mr. BOND, Mr. NELSON of Nebraska, and Mr. FEINGOLD):

S. 2864. A bill to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Farmer Bankruptcy Relief Act of 2004".

SEC. 2. EIGHTEEN-MONTH EXTENSION OF PERIOD FOR WHICH CHAPTER 12 OF TITLE 11, UNITED STATES CODE, IS REENACTED.

(a) AMENDMENTS.—Section 149 of title I of division C of Public Law 105–277 (11 U.S.C. 1201 note) is amended—

(1) by striking "January 1, 2004" each place that term appears and inserting "July 1, 2005"; and

(2) in subsection (a)—

(A) by striking "June 30, 2003" and inserting "December 31, 2003"; and

(B) by striking "July 1, 2003" and inserting "January 1, 2004".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) are deemed to have taken effect on January 1, 2004.

By Mr. INHOFE (for himself, Mr. HAGEL, Mr. ROBERTS, Mr. BURNS, Mr. CORNYN, Ms. CANTWELL, Mrs. BOXER, Mr. NELSON of Nebraska and Mr. CRAIG):

S. 2866. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans; read the first time.

Mr. INHOFE. Mr. President, I rise today to proudly introduce the Commodity Assessment Protection and Reform Act.

This legislation fixes a potential problem for our wheat producers in the State of Oklahoma as well as other wheat producing states.

As Government encourages agricultural producers to become more responsible for their own marketing and research programs, it is vital that we give producers the ability to do just that.

To enhance marketing and research of agricultural commodities, farm programs for many years have authorized the use of marketing loans for some commodities. Producers receive cash loans using the commodity as collateral. Marketing loans allow the producer to market crops while also providing cash to pay outstanding bills.

These marketing and research programs provide many benefits: increasing commodity category sales; creating a viable, thriving marketplace for individual businesses; providing greater opportunity for brands and businesses to compete for their share of the category; protecting small producers from being severely disadvantaged against large competitors that could undermine industry growth; building a more favorable economic environment—better prices for producers, more revenue growth for processors; reducing dependence on taxpayer dollars for support payments and government administration in times of economic hardship; providing an open, free flow of consumer information to help consumers make informed choices about purchasing these commodities; and providing ongoing investments in research to ensure product quality, safety and nutrition expectations.

For wheat, this program is administered by the individual State wheat commissions and is not a national program. In Oklahoma, wheat producers have the option to opt out of the program if they choose.

Wheat producers in Oklahoma, and in many other States, have supported this system for collecting assessments on the commodities they produce. For wheat placed under loan with the United States Department of Agriculture, USDA, Commodity Credit Corporation, CCC, the CCC has collected these grower-funded assessments. Again, these assessments are used to fund research and marketing programs.

The loan placement is considered to occur at the first point of sale. The CCC has supported State commissions in the collection of grower-funded assessments for many years. These State assessments have been collected under a cooperative agreement defined in a Memoranda of Understanding between individual State commodity commissions and the USDA.

Recently USDA determined that if the state commission changes the assessment rate, USDA would no longer honor a Memorandum of Understanding between a state commodity commission and USDA. In several states, wheat growers voted to increase their support of commodity activities by approving an assessment increase. State wheat commissions whose growers have voted for increased funding are faced with no viable means of collecting assessments on the commodity under the loan program.

USDA claims that it lacks statutory authority to recognize these new or modified Memoranda of Understanding. The decision by USDA not to honor amended Memoranda of Understanding could cause serious financial harm to the work of the commissions, which support a range of activities from research to market development.

The use of these funds is very important for the expanding markets and increasing research. They become even more critical when wheat prices are low.

This decision by USDA to no longer honor these Memoranda of Understanding has caused great hardship for a number of wheat states whose producers have voluntarily voted to give more of their own money to programs they deem important.

In order to correct this problem, I am introducing legislation that will allow USDA to continue to collect approved State commodity assessments. This legislation authorizes the USDA to recognize a Memorandum of Understanding when a State has increased or modified its assessment rate, as well as recognize Memoranda of Understanding that have been terminated prior to the date of enactment of this legislation.

According to USDA, the cost of implementing this legislation would be minimal, since the collection procedure is already in place and will only require a change in the factor of the assessment.

I would like to note that the House Agriculture Committee passed this bill unanimously last week through the excellent work of my friends GEORGE NETHERCUTT and BOB GOODLATTE.

The House Agriculture Committee informs me that their intention is to achieve full House passage of this legislation by suspension of the rules next week. I want to make a special plea to the Senate to pass this simple, much-needed, thoroughly bipartisan, and noncontroversial legislation in the 108th Congress. Toward that end, I request that the bill be held at the desk per Rule 14.

Again, as Government encourages agricultural producers to become more responsible for their own marketing and research programs, this common sense legislation is needed to ensure the continued success of these programs.

At this time I thank the people in Oklahoma who have contacted me in support of this legislation: Jeramy Rich with the Oklahoma Farm Bureau, Ray Wulf with the Oklahoma Farmers Union, Tim Bartram with the Oklahoma Wheat Growers Association, Mark Hodges with Oklahoma Wheat Commission, Mike Kubicek with the Oklahoma Peanut Commission, as well my Legislative Assistant Mike Ference who assisted me with this legislation. I appreciate all of their support.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commodity Assessment, Protection, and Reform Act".

SEC. 2. COLLECTION OF COMMODITY ASSESSMENTS.

Subtitle B of title I of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 7931 et seq.) is amended by adding at the end the following:

"SEC. 1210. COLLECTION OF COMMODITY ASSESSMENTS.

"(a) DEFINITION OF ASSESSMENT.—In this section, the term 'assessment' means funds that are—

"(1) collected with respect to a specific commodity in accordance with this Act;

"(2) paid by the first purchaser of the commodity in accordance with a State law or this title; and

"(3) not collected through a tax or other revenue collection activity of a State.

"(b) AUTHORITY TO COLLECT COMMODITY ASSESSMENTS FROM MARKETING ASSISTANCE LOANS.—The Secretary may collect commodity assessments from the proceeds of a marketing assistance loan made under this subtitle in accordance with an agreement between the Secretary and the State.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 441—EXPRESSING THE SENSE OF THE SENATE THAT OCTOBER 17, 1984, THE DATE OF THE RESTORATION BY THE FEDERAL GOVERNMENT OF FEDERAL RECOGNITION TO THE CONFEDERATED TRIBES OF COOS, LOWER UMPQUA, AND SIUSLAW INDIANS, SHOULD BE MEMORIALIZED

Mr. SMITH (for himself and Mr. WYDEN) submitted the following resolution; which was referred to the Committee on Indian Affairs:

S. RES. 441

Whereas the Coos, Lower Umpqua, and Siuslaw Restoration Act (25 U.S.C. 714 et seq.), which was signed by the President on October 17, 1984, restored Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians;

Whereas the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians historically inhabited land now in the State of Oregon, from Fivemile Point in the south to Tenmile Creek in the north, west to the Pacific Ocean, then east to the crest of the Coast Range, encompassing the watersheds of the Coos River, the Umpqua River to Weatherly Creek, the Siuslaw River, the coastal tributaries between Tenmile Creek and Fivemile Point, and portions of the Coquille watershed;

Whereas in addition to restoring Federal recognition, that Act and other Federal Indian statutes have provided the means for the Confederated Tribes to achieve the goals of cultural restoration, economic self-sufficiency, and the attainment of a standard of living equivalent to that enjoyed by other citizens of the United States;

Whereas by enacting the Coos, Lower Umpqua, and Siuslaw Restoration Act (25 U.S.C. 714 et seq.), the Federal Government—

(1) declared that the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians were eligible for all Federal services and benefits provided to federally recognized tribes;

(2) provided the means to establish a tribal reservation; and

(3) granted the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians self-government for the betterment of tribal members, including the ability to set tribal rolls;

Whereas the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians have embraced Federal recognition and self-sufficiency statutes and are actively working to better the lives of tribal members; and

Whereas economic self-sufficiency, which was the goal of restoring Federal recognition for the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians, is being realized through many projects: Now, therefore, be it

Resolved, That it is the sense of the Senate that October 17, 1984, should be memorialized as the date on which the Federal Government restored Federal recognition to the Confederated Tribes of Coos, Lower Umpqua, and Siuslaw Indians.

SENATE RESOLUTION 442—APOLOGIZING TO THE VICTIMS OF LYNCHING AND THEIR DESCENDANTS FOR THE SENATE'S FAILURE TO ENACT ANTI-LYNCHING LEGISLATION

Ms. LANDRIEU (for herself and Mr. ALLEN) submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 442

Whereas the crime of lynching succeeded slavery as the ultimate expression of racism in the United States following Reconstruction;

Whereas lynching was a common practice in the United States until the middle of the 20th century;

Whereas lynching was a crime that occurred throughout the Nation, with documented incidents in all but 4 States;

Whereas at least 4,749 people, predominantly African-Americans, were reported lynched in the United States between 1881 and 1964;

Whereas 99 percent of all lynch mob perpetrators escaped any form of punishment from State or local officials;

Whereas lynching prompted African-Americans to form the National Association for the Advancement of Colored People (NAACP) and prompted members of B'nai B'rith to found the Anti-Defamation League;

Whereas nearly 200 anti-lynching bills were introduced in Congress during the first half of the 20th century;

Whereas between 1890 and 1952, 7 Presidents petitioned Congress to end lynching;

Whereas between 1920 and 1940, the House of Representatives passed 3 strong anti-lynching measures;

Whereas protection against lynching was the minimum and most basic of Federal responsibilities, yet the Senate failed to enact anti-lynching legislation despite repeated requests by civil rights groups, Presidents, and the House of Representatives;

Whereas until the recent publication of "Without Sanctuary: Lynching Photography in America", the victims of lynching have never been properly acknowledged;

Whereas only by coming to terms with its history can the United States effectively champion human rights abroad: and

Whereas an apology offered in the spirit of true repentance moves the Nation toward reconciliation and may become central to a new understanding upon which improved racial relations can be forged: Now, therefore, be it

Resolved, That the Senate—

(1) apologizes to the victims and survivors of lynching for its failure to enact anti-lynching legislation;

(2) expresses its deepest sympathies and most solemn regrets to the descendants of victims of lynching whose ancestors were deprived of life, human dignity, and the constitutional protections accorded all other citizens of the United States; and

(3) remembers the history of lynching, to ensure that these personal tragedies will be neither forgotten nor repeated.

Ms. LANDRIEU. Mr. President, it has been said that "ignorance, allied with power, is the most ferocious enemy justice can have." Sadly, this great body, in which I am so proud to serve, once allied its power with ignorance. In so doing, it condoned unspeakable injustice that diminished the role of the Senate, and heaped untold suffering on Americans sorely in need of our protection. I am referring to the Senate's role in the decades long campaign to end lynching in this country. On three separate occasions, our colleagues in the House of Representatives passed anti-lynching legislation with overwhelming majorities. On all three of those occasions members of this Chamber blocked, or filibustered the consideration of that legislation.

Between 1882, when records first began to be collected, and 1968 four thousand, seven hundred and forty-two Americans lost their lives to lynch mobs. The experts believe that undocumented cases might double that figure. The vast majority of those killed—three thousand, four hundred and forty-five Americans—were African American. Sadly, a disproportionate number of those deaths occurred within my home region of the South, but 46 of the 50 States experienced these atrocities. Lynching was truly a national problem deserving the attention of the national legislative bodies.

Frederick Douglas seems to have captured the real reason for this dark period of our national history. These acts of terrorism were not so much an admission of African Americans' weakness, but of their perseverance—and indomitable spirit. Douglas wrote: It is proof that the Negro is not standing still. He is not dead, but alive and active. He is not drifting with the current, but manfully resisting it . . . A ship rotting at anchor meets with no resistance, but when she sails on the sea, she has to buffet opposing billows. The enemies of the Negro see that he is making progress and they naturally wish to stop him and keep him in just what they consider his proper place.

It was, in short, the ability of African Americans to overcome Jim Crow laws, to overcome share-cropping, to overcome second-class citizenship that provoked such savagery. Its an old story that repeats itself throughout human history. Whether it was the Israelites in Egypt, the colonial empires in Africa or America's own history of Apartheid, rulers that assume superiority inevitably prove themselves models of mankind's basest instincts.

It should also be noted that this was not only an outrage committed against African Americans. The effort to dehumanize people on the basis of race or ethnicity did not limit itself to black Americans. In fact, the single largest incident of lynching occurred in my home state, in my home town of New Orleans. Yet, the victims were not black. They were Italians. On March 14, 1891, 11 Italian immigrants were lynched in the City of New Orleans. These immigrants too were thought to be less than human, and were simply rounded up as a group of the "usual suspects" following the murder of Police Superintendent David Hennessy. Already edgy from a media prompted mafia scare, a mob surrounded the prison and eventually battered down the doors. An armed group of twenty-five men overtook the guards and summarily riddled the bodies of the 11 Italian prisoners with bullets. Their bodies were hung on lampposts outside the prison. Eyewitnesses described the cheering of the crowd as deafening.

Of course, the attacks on that day are an example of mob justice and its irrational prejudices. However, in nearly 25 percent of all lynchings the motivations of the attackers came down to a bald attempt to maintain a caste system in this country. The NAACP cataloged the reported motivations for these forms of attack. They included: using disrespectful, insulting, slanderous, boastful, threatening or incendiary language; insubordination, impertinence, or improper demeanor, a sarcastic grin, laughing at the wrong place, a prolonged silence; refusing to take off one's hat to a white person or to give the right-of-way when encountering a white on the sidewalk; resisting assault by whites; being troublesome generally; disorderly conduct, petty theft or drunkenness; writing an improper letter to a white person; paying undue or improper attention to a white female; accusing a white man of writing love letters to a black woman; or living or keeping company with a white woman; turning or refusing to turn state's evidence; testifying or bringing suit against a white person; being related to a person accused of a crime and already lynched; political activities; union organizing; conjuring; discussing a lynching; gambling; operating a house of ill fame; a personal debt; refusing to accept an employment offer; vagrancy; refusing to give up one's farm; conspicuously displaying one's wealth or property; and trying to act like a white man.

In many instances, lynchings were little more than a way to remove an economic competitor and confiscate his property. This was true in a number of cases in Mississippi involving successful African American landowners, and in one notorious Hawaiian case involving a Japanese immigrant competing with established white businessmen.

Many of my colleagues might wonder why now? After all, some of these incidents are over a century old. There are two reasons. First, this aspect of American history is not well known or understood. As reconstruction concluded in the South, a very ugly struggle to reassert the social structure that preceded the Civil War took place. A great deal of it occurred with the tacit consent of the Federal Government, and the most part, the media either shared in the common prejudice, or simply ignored what was occurring.

Fortunately, we have the publication of the book "Without Sanctuary" by James Allen, Hilton Als, Congressman John Lewis, and Leon F. Litwak to serve as a focal point for our attention to this neglected history. This is a difficult book to examine. It serves as a catalog of inhuman crime perpetrated by very ordinary citizens. Looking at anything so tragic as the victims of these crimes would be disturbing, but that is not what will leave a lasting impression. It is the festive attitude, the smiles and smirks on the crowd gathered around the victim. They clearly take a perverse pride in this act. Hannah Arendt, the famous political philosopher, subtitled her book on Adolph Eichman's war crimes trials "A Report on the Banality of Evil." When you look at the expressions on the faces of the murderers in these photos, that is all you can think about. These are not crazed killers, these are rational people going about their everyday lives, and committing unspeakable acts in the process.

Photos like these serve to remind us that a healthy society is not something that is built up over time, and then like a great monument, exists for centuries. Rather, a healthy society is a thin levee that must be constantly improved and maintained to hold back the worst instincts of mankind. I think the horrible pictures that came from Abu Gharib prison served as a reminder of this lesson. This book is even greater testimony that atrocities are not events that only occur in far off places. They can and have occurred here in the United States.

The only way to maintain a healthy society is to acknowledge and discuss our mistakes. No one would defend the Senate's filibuster of anti-lynching legislation today. I would like to think that any Senator who did so would quickly be looking for another line of work. However, despite the change of attitude we have taken no action to remedy our wrong. That is the purpose of this resolution today. I would like to extend my deep thanks to my courageous colleague, the Junior Senator from Virginia. He seemed to instantly understand the significance of this effort, and I believed it was vitally important to proceed with this resolution in a bipartisan manner. His input and drive have made this effort much more successful than it otherwise would have been.

It is our intention to submit this legislation today, and use the recess period to confer with our colleagues about it. When we reconvene next year, we will resubmit this resolution, and at that time, we hope to have the co-sponsorship of every member of this body. Then, we will endeavor to enact the resolution to commemorate Black History month.

I said ignorance allied with power is justice's most ferocious enemy. Yet imagine what truth allied with power can bring. For over 50 years, African American achievement was seen as a threat to the majority of people in this nation. It is time to close the book on that tragic period and begin to celebrate the achievements of black Americans as accomplishments that have bettered us all. I believe that this resolution of apology will be an important symbolic step in this process of healing and growth.

Mr. ALLEN. Mr. President, I rise today to speak in support of an anti-lynching resolution that Ms. LANDRIEU and I are submitting. Like all of my colleagues, I am proud to be a member of this Chamber, not for its grandeur, but because of the grand ideas it represents. It is here, on these same small desks where big ideas have been debated and argued through the course of our history for the greater good of our Nation. It is here in this Chamber, on this floor, where our Democracy reaches consensus from what our Founding Fathers called, the "Will of the People."

In the history of this Chamber, there have been many great minds and defenders of Freedom. One of those whose words still reverberate here today is Daniel Webster. Standing in the old Senate Chamber, Webster told his colleagues in 1834 that a "representative of the people is a sentinel on the watch tower of liberty."

I know that Webster was right. I believe throughout our history, the United States Senate has been a watchtower on Liberty. It has been venerated as the World's greatest deliberative body. The formidable British Member of Parliament, William Gladstone called the American Senate, "that remarkable body, the most remarkable of all the inventions of modern politics."

But unfortunately, this august body has a dark stain on its history. A stain that was borne of hatred, racism, and the blood of mostly African Americans who died from a noose, from flogging, from a torch, from the evil heart of men.

I rise today to offer a formal and heartfelt apology to all the victims of lynchings in our history—black, white, Jewish, Indian, Hispanic and Asian and the failure of the U.S. Senate to take action when action was most deserved.

The term "lynching" has its roots in my own beloved Commonwealth. Charles Lynch, a Virginia planter during the Revolutionary War meted out his own form of justice without a court. In Bedford County, Lynch persecuted Tories and Tory sympathizers without trial.

Soon, others who desired to thwart the rule of law and to trample on the rights of the accused used "lynchings" against the innocent or lightly accused.

This body stood by as these vile killings captivated front-page headlines, drew crowds with morbid curiosity and left thousands of mostly African Americans hanging from trees or bleeding to death from the lashings of whips. This body failed to act and in not acting, failed to protect the Liberty of which Webster spoke.

According to the archives of Tuskegee Institute, 4,749 Americans died by lynching starting in 1882. Two-thirds of these lynchings were perpetrated against black men, women, and children. Many were not lone acts by a few white men, but angry mobs whipped into frenzies by skewed mentalities of right and wrong.

One of those who suffered this awful fate was an African American named Zachariah Walker of Coatesville, VA. In 1911, Walker was dragged from a hospital bed where he was recovering from a gunshot wound. Accused of killing a white man—which he claimed was in self-defense—Walker was burned alive at the stake without a trial.

Such horrendous acts were not a regional phenomenon. Yes, it is true that most lynchings took place in Southern States. But, Illinois, Ohio, Michigan and even this city of Washington, D.C. experienced mob violence, making lynching not just a regional problem, but a national crime.

Yet, despite the national scope of these acts, the U.S. Senate failed to pass one of the estimated 200 anti-lynching bills introduced in Congress in the first half of the Twentieth Century. Three strong pieces of legislation were passed by the other body, but faced filibusters and failures to reach cloture on this Senate floor.

In the winter of 1937–38, one grisly lynching captivated this body's attention. The crime had happened in Mississippi the previous April. Two African Americans were taken from a jail. They were whipped and torched. Senator Champ Clark of Missouri posted photographs of the brutality back here in the cloakroom. For six weeks, this body debated. For six weeks! In the end, those in favor of an anti-lynching bill failed to enact cloture over the filibustering of others.

Historians will no doubt disagree as to a single reason that U.S. Senators blocked legislation to make lynching a federal crime. My desire here is not to get into motivations.

Regardless of their reasoning, our reason tells us that it was wrong and it is time to right it.

Thankfully, justice in our Nation has moved forward and left such despicable acts to history. But, this story can never be complete without an acknowledgement from this body that it failed to protect individual freedoms and rights.

It ignored the protection our Founding Fathers extended to those accused of crimes and the bedrock foundation of our system of justice that everyone is innocent until proven guilty. And, it turned its back on the most helpless in our society at a time when the weak needed protection.

I stand here today as a proud Senator from a Southern State. I look around this chamber and know of its abundance of honor and integrity throughout its history. Yet, we have not been perfect, especially on this issue. We failed our American ideals and we failed our citizens.

As Ephesians teaches us, "all things that are reproved are made manifest by the light."

My fellow Senators, this apology is too long in coming. I respectfully urge all of us to reprove this omission of history as a strong step never to be repeated in our future.

SENATE RESOLUTION 443—TO AUTHORIZE TESTIMONY, DOCUMENT PRODUCTION, AND LEGAL REPRESENTATION IN UNITED STATES V. ROBERTO MARTIN

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 443

Whereas, in the case of *United States* v. *Roberto Martin*, Crim. No. 04–CR–20075, pending in Federal District Court in the Southern District of Florida, testimony and documents have been requested from an employee in the office of Senator Bob Graham;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved that employees of Senator Graham's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the case of *United States* v. *Roberto Martin*, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator Graham's staff in the action referenced in section one of this resolution.

SENATE RESOLUTION 444—CONGRATULATING AND COMMENDING THE VETERANS OF FOREIGN WARS OF THE UNITED STATES AND ITS NATIONAL COMMANDER-IN-CHIEF, JOHN FURGESS OF TENNESSEE

Mr. FRIST (for himself, Mr. DASCHLE, Mr. SPECTER, Mr. ALEXANDER, and Mr. REID) submitted the following resolution; which was considered and agreed to:

S. RES. 444

Whereas the organization now known as the Veterans of Foreign Wars of the United States ("VFW") was founded in Columbus, Ohio, on September 29, 1899;

Whereas the VFW represents approximately 2,000,000 veterans of the Armed Forces who served overseas in World War I, World War II, Korea, Vietnam, the Persian Gulf War, Bosnia, Iraq, and Afghanistan; and

Whereas the VFW has, for the past 105 years, provided voluntary and unselfish service to the Armed Forces and to veterans, communities, States, and the United States, and has worked toward the betterment of veterans in general and society as a whole: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the historic significance of the 105th anniversary of the founding of the Veterans of Foreign Wars of the United States ("VFW");

(2) congratulates the VFW on achieving that milestone;

(3) commends the approximately 2,000,000 veterans who belong to the VFW and thanks them for their service to their fellow veterans and the United States; and

(4) recognizes the VFW's national Commander-in-Chief, John Furgess, for his service and dedication to the veterans of the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3755. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3756. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3757. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3758. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3759. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3760. Mr. SARBANES (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3761. Mr. SPECTER (for himself and Mrs. FEINSTEIN) proposed an amendment to the bill S. 2845, supra.

SA 3762. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3763. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3764. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill S. 2806, making appropriations for the Departments of Transportation and Treasury, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table.

SA 3765. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3766. Mr. MCCAIN proposed an amendment to the bill S. 2845, supra.

SA 3767. Mr. LAUTENBERG proposed an amendment to the bill S. 2845, supra.

SA 3768. Mr. BAUCUS (for himself, Mr. ROBERTS, Mr. CRAIG, and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3769. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3770. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3771. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3772. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3773. Mr. BURNS proposed an amendment to amendment SA 3766 proposed by Mr. MCCAIN to the bill S. 2845, supra.

SA 3774. Mr. MCCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, supra.

SA 3775. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3776. Mr. BURNS (for himself and Mr. BUNNING) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3777. Ms. SNOWE (for herself, Mr. ROBERTS, Ms. MIKULSKI, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3778. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3779. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3780. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3781. Mr. WARNER (for himself and Mr. STEVENS) proposed an amendment to the bill S. 2845, supra.

SA 3782. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3783. Mr. SESSIONS (for Mr. INOUYE) proposed an amendment to the bill S. 2436, to reauthorize the Native American Programs Act of 1974.

SA 3784. Mr. SESSIONS (for Mr. CRAIG) proposed an amendment to the bill S. 2639, to reauthorize the Congressional Award Act.

SA 3785. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3786. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3787. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3788. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3789. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3790. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3791. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3792. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3793. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3755. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, line 14, insert before the period the following: ", whether expressed in terms of geographic region, in terms of function, or in other terms".

On page 95, line 3, insert after the period the following: "Each notice on a center shall set forth the mission of such center, the area of intelligence responsibility of such center, and the proposed structure of such center.".

On page 96, line 7, insert "of the center and the personnel of the center" after "control".

On page 96, between lines 8 and 9, insert the following:

(5) If the Director of a national intelligence center determines at any time that the authority, direction, and control of the Director over the center is insufficient to accomplish the mission of the center, the Director shall promptly notify the National Intelligence Director of that determination.

On page 96, strike line 15 and all that follows through page 97, line 2, and insert the following:

(1) develop and unify a strategy for the collection and analysis of all-source intelligence;

(2) integrate intelligence collection, analysis, and planning for operations, both inside and outside the United States;

(3) develop interagency plans for the collection and analysis of all-source intelligence, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, coordination of agencies operational activities, recommendations for operational plans, and assignment of departmental or agency responsibilities;

(4) ensure that the collection of all-source intelligence and the conduct of operations are informed by the analysis of all-source intelligence; and

On page 98, beginning on line 20, strike "to the extent practicable, approve the request" and insert "to the maximum extent possible. If a request is denied, the head of the department, agency, or element concerned shall provide the National Intelligence Director with a justification of the denial of such request. The National Intelligence Director may submit any request so denied to the National Security Council for resolution".

On page 99, between lines 20 and 21, insert the following:

(g) REVIEW AND MODIFICATION OF CENTERS.—(1) Not less often than once each year, the National Intelligence Director shall review the area of intelligence responsibility assigned to each national intelligence center under this section in order to determine whether or not such area of responsibility continues to meet intelligence priorities established by the National Security Council.

(2) Not less often than once each year, the National Intelligence Director shall review the staffing and management of each national intelligence center under this section in order to determine whether or not such staffing or management remains appropriate for the accomplishment of the mission of such center.

(3) The National Intelligence Director may at any time recommend to the President a modification of the area of intelligence responsibility assigned to a national intelligence center under this section. The National Intelligence Director shall make any such recommendation through, and with the approval of, the National Security Council.

(h) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for each national intelligence center under this section.

On page 99, line 21, strike "(g)" and insert "(i)".

SA 3756. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 108, between lines 8 and 9, insert the following:

SEC. 153. ADDITIONAL EDUCATION AND TRAINING REQUIREMENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) Foreign language education is essential for the development of a highly-skilled workforce for the intelligence community.

(2) Since September 11, 2001, the need for language proficiency levels to meet required national security functions has been raised, and the ability to comprehend and articulate technical and scientific information in foreign languages has become critical.

(b) LINGUISTIC REQUIREMENTS.—(1) The National Intelligence Director shall—

(A) identify the linguistic requirements for the National Intelligence Authority;

(B) identify specific requirements for the range of linguistic skills necessary for the intelligence community, including proficiency in scientific and technical vocabularies of critical foreign languages; and

(C) develop a comprehensive plan for the Authority to meet such requirements through the education, recruitment, and training of linguists.

(2) In carrying out activities under paragraph (1), the Director shall take into account education grant programs of the Department of Defense and the Department of Education that are in existence as of the date of the enactment of this Act.

(3) Not later than one year after the date of the enactment of this Act, and annually thereafter, the Director shall submit to Congress a report on the requirements identified under paragraph (1), including the success of the Authority in meeting such requirements. Each report shall notify Congress of any additional resources determined by the Director to be required to meet such requirements.

(4) Each report under paragraph (3) shall be in unclassified form, but may include a classified annex.

(c) PROFESSIONAL INTELLIGENCE TRAINING.—The National Intelligence Director shall require the head of each element and component within the National Intelligence Authority who has responsibility for professional intelligence training to periodically review and revise the curriculum for the professional intelligence training of the senior and intermediate level personnel of such element or component in order to—

(1) strengthen the focus of such curriculum on the integration of intelligence collection and analysis throughout the Authority; and

(2) prepare such personnel for duty with other departments, agencies, and element of the intelligence community.

SA 3757. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TSA FIELD OFFICE INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS REPORT.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to the Congress, which may be transmitted in classified and redacted formats, setting forth—

(1) a descriptive list of each field office of the Transportation Security Administration, including its location, staffing, and facilities;

(2) an analysis of the information technology and telecommunications capabilities, equipment, and support available at each such office, including—

(A) whether the office has access to broadband telecommunications;

(B) whether the office has the ability to access Transportation Security Administration databases directly;

(C) the means available to the office for communicating and sharing information and other data on a real time basis with the Transportation Security Administration's national, regional, and State offices as well as with other Transportation Security Administration field offices;

(D) the means available to the office for communicating with other Federal, State, and local government offices with transportation security related responsibilities; and

(E) whether and to what extent computers in the office are linked through a local area, network or otherwise, and whether the information technology resources available to the office are adequate to enable it to carry out its functions and purposes; and

(3) an assessment of current and future needs of the Transportation Security Administration to provide adequate information technology and telecommunications facilities, equipment, and support to its field offices, and an estimate of the costs of meeting those needs.

SA 3758. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 5 through 16 and insert the following:

(2) The term "foreign intelligence" means information gathered, and activities conducted, relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term "counterintelligence" means—

(A) foreign intelligence gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities; and

(B) information gathered, and activities conducted, to prevent the interference by or disruption of foreign intelligence activities of the United States by foreign government or elements thereof, foreign organizations, or foreign persons, or international terrorists.

On page 6, line 12, strike "counterintelligence or".

On page 7, beginning on line 5, strike "the Office of Intelligence of the Federal Bureau of Investigation" and insert "the Directorate of Intelligence of the Federal Bureau of Investigation".

On page 8, between lines 6 and 7, insert the following:

(8) The term "counterespionage" means counterintelligence designed to detect, destroy, neutralize, exploit, or prevent espionage activities though identification, penetration, deception, and prosecution (in accordance with the criminal law) of individuals, groups, or organizations conducting, or suspected of conducting, espionage activities.

(9) The term "intelligence operation" means activities conducted to facilitate the gathering of foreign intelligence or the conduct of covert action (as that term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(10) The term "collection and analysis requirements" means any subject, whether general or specific, upon which there is a need for the collection of intelligence information or the production of intelligence.

(11) The term "collection and analysis tasking" means the assignment or direction of an individual or activity to perform in a specified way to achieve an intelligence objective or goal.

(12) The term "certified intelligence officer" means a professional employee of an element of the intelligence community engaged in intelligence activities who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike ", subject to the direction and control of the President,".

On page 123, between lines 6 and 7, insert the following:

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official as the Director of the Federal Bureau of Investigation designates as the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint direction, supervision, and control of the Attorney General and the National Intelligence Director.

(3) The Director of the Federal Bureau of Investigation shall report to both the Attorney General and the National Intelligence Director regarding the activities of the Federal Bureau of Investigation under subsections (b) through (d).

On page 123, line 7, strike "(e)" and insert "(f)".

On page 123, line 17, strike "(f)" and insert "(g)".

On page 126, between lines 20 and 21, insert the following:

SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official within the Federal Bureau of Investigation as the Director of the Federal Bureau of Investigation shall designate.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) The discharge by the Federal Bureau of Investigation of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Human source development and management by the Bureau.

(5) Collection by the Bureau against nationally-determined intelligence requirements.

(6) Language services.

(7) Strategic analysis.

(8) Intelligence program and budget management.

(9) The intelligence workforce.

(10) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

SA 3759. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 44, strike lines 22 and 23 and insert the following:

(4) The General Counsel of the Intelligence Community.

On page 45, strike lines 1 through 10 and insert the following:

(6) The Officer for Civil Rights and Civil Liberties of the Intelligence Community.

(7) The Privacy Officer of the Intelligence Community.

(8) The Chief Information Officer of the Intelligence Community.

(9) The Chief Human Capital Officer of the Intelligence Community.

(10) The Chief Financial Officer of the Intelligence Community.

On page 51, strike lines 6 through 24 and insert the following:

SEC. 124. GENERAL COUNSEL OF THE INTELLIGENCE COMMUNITY.

(a) GENERAL COUNSEL OF INTELLIGENCE COMMUNITY.—There is a General Counsel of the Intelligence Community who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) PROHIBITION ON DUAL SERVICE AS GENERAL COUNSEL OF ANOTHER AGENCY.—The individual serving in the position of General Counsel of the Intelligence Community may not, while so serving, also serve as the General Counsel of any other department, agency, or element of the United States Government.

(c) SCOPE OF POSITION.—The General Counsel of the Intelligence Community is the chief legal officer of the intelligence community.

(d) FUNCTIONS.—The General Counsel of the Intelligence Community shall perform such functions as the National Intelligence Director may prescribe.

On page 52, strike line 21 and all that follows through page 53, line 7, and insert the following:

SEC. 126. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF THE INTELLIGENCE COMMUNITY.

(a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF INTELLIGENCE COMMUNITY.—There is an Officer for Civil Rights and Civil Liberties of the Intelligence Community who shall be appointed by the President.

(b) SUPERVISION.—The Officer for Civil Rights and Civil Liberties of the Intelligence Community shall report directly to the National Intelligence Director.

(c) DUTIES.—The Officer for Civil Rights and Civil Liberties of the Intelligence Community shall—

On page 53, beginning on line 14, strike "National Intelligence Authority;" and insert "elements of the intelligence community; and".

On page 53, beginning on line 18, strike "within the National Intelligence Program".

On page 53, strike lines 20 through 24.

On page 54, line 1, strike "the Authority" and insert "the elements of the intelligence community".

On page 54, line 11, strike "the Authority" and insert "the elements of the intelligence community".

On page 55, strike lines 1 through 15 and insert the following:

SEC. 127. PRIVACY OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) PRIVACY OFFICER OF INTELLIGENCE COMMUNITY.—There is a Privacy Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—(1) The Privacy Officer of the Intelligence Community shall have primary responsibility for the privacy policy of the intelligence community, including in the relationships among the elements of the intelligence community.

On page 56, strike lines 9 through 16 and insert the following:

SEC. 128. CHIEF INFORMATION OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF INFORMATION OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Information Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Information Officer of the Intelligence Community shall—

On page 57, strike line 1 and all that follows through page 59, line 7, and insert the following:

SEC. 129. CHIEF HUMAN CAPITAL OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) CHIEF HUMAN CAPITAL OFFICER OF INTELLIGENCE COMMUNITY.—There is a Chief Human Capital Officer of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Human Capital Officer of the Intelligence Community shall—

(1) have the functions and authorities provided for Chief Human Capital Officers under sections 1401 and 1402 of title 5, United States Code, with respect to the elements of the intelligence community; and

(2) otherwise advise and assist the National Intelligence Director in exercising the authorities and responsibilities of the Director with respect to the workforce of the intelligence community.

SEC. 130. CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.

(a) Chief Financial Officer of Intelligence Community.—There is a Chief Financial Officer of the Intelligence Community who shall be designated by the President, in consultation with the National Intelligence Director.

(b) Designation Requirements.—The designation of an individual as Chief Financial Officer of the Intelligence Community shall be subject to applicable provisions of section 901(a) of title 31, United States Code.

(c) Authorities and Functions.—The Chief Financial Officer of the Intelligence Community shall have such authorities, and carry out such functions, with respect to the elements of the intelligence community as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law.

(d) Coordination With NIA Comptroller.—(1) The Chief Financial Officer of the Intelligence Community shall coordinate with the Comptroller of the National Intelligence Authority in exercising the authorities and performing the functions provided for the Chief Financial Officer under this section.

(2) The National Intelligence Director shall take such actions as are necessary to prevent duplication of effort by the Chief Financial Officer of the Intelligence Community and the Comptroller of the National Intelligence Authority.

(e) Integration of Financial Systems.—Subject to the supervision, direction, and control of the National Intelligence Director, the Chief Financial Officer of the Intelligence Community shall take appropriate actions to ensure the timely and effective integration of the financial systems of the elements of the intelligence community as soon as possible after the date of the enactment of this Act.

On page 60, strike lines 5 through 13 and insert the following:

SEC. 141. INSPECTOR GENERAL OF THE INTELLIGENCE COMMUNITY.

(a) Office of Inspector General of Intelligence Community.—There is within the National Intelligence Authority an Office of the Inspector General of the Intelligence Community.

(b) Purpose.—The purpose of the Office of the Inspector General of the Intelligence Community is to—

On page 60, line 19, insert "and" at the end.

On page 60, line 22, strike "and" at the end.

On page 60, strike line 23 and all that follows through page 61, line 2.

On page 62, strike lines 1 through 7 and insert the following:

(c) Inspector General of Intelligence Community.—(1) There is an Inspector General of the Intelligence Community, who shall be the head of the Office of the Inspector General of the Intelligence Community, who shall be appointed by the President, by and with the advice and consent of the Senate.

On page 62, beginning on line 12 strike "National Intelligence Authority" and insert "intelligence community".

On page 63, beginning on line 2, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 63, beginning on line 8, strike ", the relationships among" and all that follows through "the other elements of the intelligence community" and insert "and the relationships among the elements of the intelligence community".

On page 64, line 11, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 65, line 7, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 65, beginning on line 12, strike "the National Intelligence Authority, and of any other element of the intelligence community within the National Intelligence Program," and insert "any element of the intelligence community".

On page 66, line 2, strike "the National Intelligence Authority" and insert "an element of the intelligence community".

On page 67, beginning on line 9, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 68, line 9, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 69, line 3, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 69, line 22, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 70, line 1, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 70, beginning on line 12, strike "National Intelligence Authority" and insert "elements of the intelligence community".

On page 71, beginning on line 16, strike "the Authority" and insert "any element of the intelligence community".

On page 72, beginning on line 3, strike "the Authority" and all that follows through line 8 and insert "an element of the intelligence community or in a relationship between the elements of the intelligence community.".

On page 72, beginning on line 21, strike "Authority official who holds or held a position in the Authority" and insert "an official of an element of the intelligence community who holds or held in such element a position".

On page 73, strike line 24 and all that follows through page 74, line 5, and insert the following:

(5)(A) An employee of an element of the intelligence community, an employee of any entity other than an element of the intelligence community who is assigned or detailed to an element of the intelligence community, or an employee of a contractor of an element of the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such complaint or information to the Inspector General.

On page 77, beginning on line 17, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 77, strike line 19 and all that follows through page 78, line 2, and insert the following:

SEC. 142. OMBUDSMAN OF THE INTELLIGENCE COMMUNITY.

(a) Ombudsman of Intelligence Community.—There is within the National Intelligence Authority an Ombudsman of the Intelligence Community who shall be appointed by the National Intelligence Director.

(b) Duties.—The Ombudsman of the Intelligence Community shall—

On page 78, beginning on line 6, strike "the National Intelligence Authority" and all that follows through "National Intelligence Program," and insert "any element of the intelligence community".

On page 78, beginning on line 14, strike "the Authority" and all that follows through "National Intelligence Program," and insert "any element of the intelligence community".

On page 78, beginning on line 20, strike "the Authority" and all that follows through "National Intelligence Program," and insert "any element of the intelligence community".

On page 79, beginning on line 4, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 79, line 7, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 79, strike lines 18 through 25 and insert the following:

(B) The elements of the intelligence community, including the divisions, offices, programs, officers, and employees of such elements.

On page 80, line 8, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 80, beginning on line 14, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 80, beginning on line 20, strike "the National Intelligence Authority" and all that follows through "National Intelligence Program," and insert "any element of the intelligence community".

On page 81, beginning on line 9, strike "National Intelligence Authority" and insert "Intelligence Community".

On page 204, strike lines 1 through 3 and insert the following:

SEC. 312. CONFORMING AMENDMENT RELATING TO CHIEF FINANCIAL OFFICER OF THE INTELLIGENCE COMMUNITY.

SA 3760. Mr. SARBANES (for himself and Mr. Bingaman) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 158, line 5, strike "and".

On page 158, line 9, strike the period and insert "; and".

On page 158, insert between lines 9 and 10, the following:

(C) each proposal reviewed by the Board under subsection (d)(1) that—

(i) the Board advised against implementation; and

(ii) notwithstanding such advice, actions were taken to implement.

SA 3761. Mr. SPECTER (for himself and Mrs. Feinstein) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 10, between lines 16 and 17, insert the following:

(d) Term of Office; Removal.—(1) The term of service of the National Intelligence Director shall be ten years.

(2) An individual may not serve more than one term of service as National Intelligence Director.

(3) Paragraphs (1) and (2) shall apply with respect to any individual appointed as National Intelligence Director after the date of the enactment of this Act.

(4) If the individual serving as Director of Central Intelligence on the date of the enactment of this Act is the first person appointed as National Intelligence Director under this section, the date of appointment of such individual as National Intelligence Director shall be deemed to be the date of the commencement of the term of service of such individual as National Intelligence Director.

On page 10, line 17, strike "(d)" and insert "(e)".

On page 11, line 3, strike "(e)" and insert "(f)".

On page 11, line 5, strike "subsection (c)" and insert "subsection (e)".

SA 3762. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 97, between lines 18 and 19, insert the following:

(3) The National Intelligence Director shall establish formal mechanisms to ensure the regular sharing of information and analysis by national intelligence centers having adjacent geographic regions of intelligence responsibility or otherwise having significant connections in areas of intelligence responsibility.

SA 3763. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 117, strike line 1 and all that follows through page 118, line 7.

SA 3764. Mr. FITZGERALD submitted an amendment intended to be proposed by him to the bill S. 2806, making appropriations for the Departments of Transportation and Treasury, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 2005, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. STATE-BY-STATE COMPARISON OF HIGHWAY CONSTRUCTION COSTS.

(a) COLLECTION OF DATA.—

(1) IN GENERAL.—The Administrator of the Federal Highway Administration (referred to in this section as the "Administrator") shall collect from States any bid price data that is necessary to make State-by-State comparisons of highway construction costs.

(2) DATA REQUIRED.—In determining which data to collect and the procedures for collecting data, the Administrator shall take into account the data collection deficiencies identified in the report prepared by the Government Accountability Office numbered GAO-04-113R.

(b) REPORT.—

(1) IN GENERAL.—The Administrator shall submit to Congress an annual report on the bid price data collected under subsection (a).

(2) INCLUSIONS.—The report shall include—

(A) State-by-State comparisons of highway construction costs for the previous fiscal year (including the cost to construct a 1-mile road segment of a standard design, as determined by the Administrator); and

(B) a description of the competitive bidding procedures used in each State.

SA 3765. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. HOMELAND SECURITY GEOGRAPHIC INFORMATION.

(a) FINDINGS.—Congress finds that—

(1) geographic technologies and geographic data improve government capabilities to detect, plan, prepare, and respond to disasters in order to save lives and protect property;

(2) geographic data improves the ability of information technology applications and systems to enhance public security in a cost-effective manner; and

(3) geographic information preparedness in the United States, and specifically in the Department of Homeland Security, is insufficient because of—

(A) inadequate geographic data compatibility;

(B) insufficient geographic data sharing; and

(C) technology interoperability barriers.

(b) HOMELAND SECURITY GEOGRAPHIC INFORMATION.—Section 703 of the Homeland Security Act of 2002 (6 U.S.C. 343) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Chief Information"; and

(2) by adding at the end the following:

"(b) GEOGRAPHIC INFORMATION FUNCTIONS.—

"(1) DEFINITION.—In this subsection, the term 'geographic information' means the information systems that involve locational data, such as maps or other geospatial information resources.

"(2) OFFICE OF GEOSPATIAL MANAGEMENT.—

"(A) ESTABLISHMENT.—The Office of Geospatial Management is established within the Office of the Chief Information Officer.

"(B) GEOSPATIAL INFORMATION OFFICER.—

"(i) APPOINTMENT.—The Office of Geospatial Management shall be administered by the Geospatial Information Officer, who shall be appointed by the Secretary and serve under the direction of the Chief Information Officer.

"(ii) FUNCTIONS.—The Geospatial Information Officer shall assist the Chief Information Officer in carrying out all functions under this section and in coordinating the geographic information needs of the Department.

"(C) COORDINATION OF GEOGRAPHIC INFORMATION.—The Chief Information Officer shall establish and carry out a program to provide for the efficient use of geographic information, which shall include—

"(i) providing such geographic information as may be necessary to implement the critical infrastructure protection programs;

"(ii) providing leadership and coordination in meeting the geographic information requirements of those responsible for planning, prevention, mitigation, assessment and response to emergencies, critical infrastructure protection, and other functions of the Department; and

"(iii) coordinating with users of geographic information within the Department to assure interoperability and prevent unnecessary duplication.

"(D) RESPONSIBILITIES.—In carrying out this subsection, the responsibilities of the Chief Information Officer shall include—

"(i) coordinating the geographic information needs and activities of the Department;

"(ii) implementing standards, as adopted by the Director of the Office of Management and Budget under the processes established under section 216 of the E-Government Act of 2002 (44 U.S.C. 3501 note), to facilitate the interoperability of geographic information pertaining to homeland security among all users of such information within—

"(I) the Department;

"(II) State and local government; and

"(III) the private sector;

"(iii) coordinating with the Federal Geographic Data Committee and carrying out the responsibilities of the Department pursuant to Office of Management and Budget Circular A-16 and Executive Order 12906; and

"(iv) making recommendations to the Secretary and the Executive Director of the Office for State and Local Government Coordination and Preparedness on awarding grants to—

"(I) fund the creation of geographic data; and

"(II) execute information sharing agreements regarding geographic data with State, local, and tribal governments.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection for each fiscal year.".

SA 3766. Mr. MCCAIN proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE ____—PUBLIC SAFETY SPECTRUM

SEC. __01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Spectrum Availability for Emergency-Response and Law-Enforcement To Improve Vital Emergency Services Act" or the "SAVE LIVES Act".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. —01. Short title; table of contents.
Sec. —02. Findings.
Sec. —03. Setting a specific date for the availability of spectrum for public safety organizations and creating a deadline for the transition to digital television.
Sec. —04. Studies of communications capabilities and needs.
Sec. —05. Statutory authority for the Department of Homeland Security's "SAFECOM" program.
Sec. —06. Grant program to provide enhanced interoperability of communications for first responders.
Sec. —07. Digital transition public safety communications grant and consumer assistance fund.
Sec. —08. Digital transition program.

Sec. —09. Label requirement for analog television sets.
Sec. —10. Report on consumer education program requirements.
Sec. —11. FCC to issue decision in certain proceedings.
Sec. —12. Definitions.
Sec. —13. Effective date.

SEC. —02. FINDINGS.

The Congress finds the following:

(1) In its final report, the 9-11 Commission advocated that Congress pass legislation providing for the expedited and increased assignment of radio spectrum for public safety purposes. The 9-11 Commission stated that this spectrum was necessary to improve communications between local, State and Federal public safety organizations and public safety organizations operating in neighboring jurisdictions that may respond to an emergency in unison.

(2) Specifically, the 9-11 Commission report stated "The inability to communicate was a critical element at the World Trade Center, Pentagon and Somerset County, Pennsylvania, crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the local, State, and Federal levels remains an important problem.".

(3) In the Balanced Budget Act of 1997, the Congress directed the FCC to allocate spectrum currently being used by television broadcasters to public safety agencies to use for emergency communications. This spectrum has specific characteristics that make it an outstanding choice for emergency communications because signals sent over these frequencies are able to penetrate walls and travel great distances, and can assist multiple jurisdictions in deploying interoperable communications systems.

(4) This spectrum will not be fully available to public safety agencies until the completion of the digital television transition. The need for this spectrum is greater than ever. The nation cannot risk further loss of life due to public safety agencies' first responders' inability to communicate effectively in the event of another terrorist act or other crisis, such as a hurricane, tornado, flood, or earthquake.

(5) In the Balanced Budget Act of 1997, Congress set a date of December 31, 2006, for the termination of the digital television transition. Under current law, however, the deadline will be extended if fewer than 85 percent of the television households in a market are able to continue receiving local television broadcast signals.

(6) Federal Communications Commission Chairman Michael K. Powell testified at a hearing before the Senate Commerce, Science, and Transportation Committee on September 8, 2004, that, absent government action, this extension may allow the digital television transition to continue for "decades" or "multiples of decades".

(7) The Nation's public safety and welfare cannot be put off for "decades" or "multiples of decades". The Federal government should ensure that this spectrum is available for use by public safety organizations by January 1, 2009.

(8) Any plan to end the digital television transition would be incomplete if it did not ensure that consumers would be able to continue to enjoy over-the-air broadcast television with minimal disruption. If broadcasters air only a digital signal, some consumers may be unable to view digital transmissions using their analog-only television set. Local broadcasters are truly an important part of our homeland security and often an important communications vehicle in the event of a national emergency. Therefore, consumers who rely on over-the-air television, particularly those of limited economic means, should be assisted.

(9) The New America Foundation has testified before Congress that the cost to assist these 17.4 million exclusively over-the-air households to continue to view television is less than $1 billion dollars for equipment, which equates to roughly 3 percent of the Federal revenue likely from the auction of the analog television spectrum.

(10) Specifically, the New America Foundation has estimated that the Federal Government's auction of this spectrum could yield $30-to-$40 billion in revenue to the Treasury. Chairman Powell stated at the September 8, 2004, hearing that "estimates of the value of that spectrum run anywhere from $30 billion to $70 billion".

(11) Additionally, there will be societal benefits with the return of the analog broadcast spectrum. Former FCC Chairman Reed F. Hundt, at an April 28, 2004, hearing before the Senate Commerce, Science, and Transportation Committee, testified that this spectrum "should be the fit and proper home of wireless broadband". Mr. Hundt continued, "Quite literally, [with this spectrum] the more millions of people in rural America will be able to afford Big Broadband Internet access, the more hundreds of millions of people in the world will be able to afford joining the Internet community.".

(12) Due to the benefits that would flow to the Nation's citizens from the Federal Government reclaiming this analog television spectrum—including the safety of our Nation's first responders and those protected by first responders, additional revenues to the Federal treasury, millions of new jobs in the telecommunications sector of the economy, and increased wireless broadband availability to our Nation's rural citizens—Congress finds it necessary to set January 1, 2009, as a firm date for the return of this analog television spectrum.

SEC.—3. SETTING A SPECIFIC DATE FOR THE AVAILABILITY OF SPECTRUM FOR PUBLIC SAFETY ORGANIZATIONS AND CREATING A DEADLINE FOR THE TRANSITION TO DIGITAL TELEVISION.

(a) In General.—Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—

(1) by striking "2006." in subparagraph (A) and inserting "2008.";

(2) by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C);

(3) by striking "subparagraph (A) or (B)," in subparagraph (B), as redesignated, and inserting "subparagraph (A),";

(4) by striking "subparagraph (C)(i)," in subparagraph (C), as redesignated, and inserting "subparagraph (B)(i),"; and

(5) by adding at the end the following:

"(D) Acceleration of deadline for public safety use.—

"(i) Notwithstanding subparagraph (A), the Commission shall take all action necessary to complete by December 31, 2007—

"(I) the return of television station licenses operating on channels between 764 and 776 megaHertz and between 794 and 806 megaHertz; and

"(II) assignment of the electromagnetic spectrum between 764 and 776 megahertz, and between 794 and 806 megahertz, for public safety services.

"(ii) Notwithstanding subparagraph (A), the Commission may modify, reassign, or require the return of, the television station licenses assigned to frequencies between 758 and 764 megahertz, 776 and 782 megahertz, and 788 and 794 megahertz as necessary to permit operations by public safety services on frequencies between 764 and 776 megahertz and between 794 and 806 megahertz, after the date of enactment of the SAVES LIVES Act, but such modifications, reassignments, or returns may not take effect until after December 31, 2007.".

(b) Certain Commercial Use Spectrum.—The Commission shall assign the spectrum described in section 337(a)(2) of the Communications Act of 1934 (47 U.S.C. 337(a)(2)) allocated for commercial use by competitive bidding pursuant to section 309(j) of that Act (47 U.S.C. 309(j)) no later than 1 year after the Commission transmits the report required by section 4(a) to the Congress.

SEC. —04. STUDIES OF COMMUNICATIONS CAPABILITIES AND NEEDS.

(a) In General.—The Commission, in consultation with the Secretary of Homeland Security, shall conduct a study to assess strategies that may be used to meet public safety communications needs, including—

(1) the short-term and long-term need for additional spectrum allocation for Federal, State, and local first responders, including an additional allocation of spectrum in the 700 megaHertz band;

(2) the need for a nationwide interoperable broadband mobile communications network;

(3) the ability of public safety entities to utilize wireless broadband applications; and

(4) the communications capabilities of first receivers such as hospitals and health care workers, and current efforts to promote communications coordination and training among the first responders and the first receivers.

(b) Reallocation Study.—The Commission shall conduct a study to assess the advisability of reallocating any amount of spectrum in the 700 megaHertz band for unlicensed broadband uses. In the study, the Commission shall consider all other possible users of this spectrum, including public safety.

(c) Report.—The Commission shall report the results of the studies, together with any recommendations it may have, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce within 1 year after the date of enactment of this Act.

SEC. —05. STATUTORY AUTHORITY FOR THE DEPARTMENT OF HOMELAND SECURITY'S "SAFECOM" PROGRAM.

Section 302 of the Homeland Security Act of 2002 (6 U.S.C. 182) is amended—

(1) by inserting "(a) In General.—" before "The"; and

(2) by adding at the end the following:

"(b) SAFECOM Authorized.—

"(1) In general.—In carrying out subsection (a), the Under Secretary shall establish a program to address the interoperability of communications devices used by Federal, State, tribal, and local first responders, to be known as the Wireless Public Safety Interoperability Communications Program, or 'SAFECOM'. The Under Secretary shall coordinate the program with the Director of the Department of Justice's Office of Science and Technology and all other Federal programs engaging in communications interoperability research, development, and funding activities to ensure that the program takes into account, and does not duplicate, those programs or activities.

"(2) COMPONENTS.—The program established under paragraph (1) shall be designed—

"(A) to provide research on the development of a communications system architecture that would ensure the interoperability of communications devices among Federal, State, tribal, and local officials that would enhance the potential for a coordinated response to a national emergency;

"(B) to support the completion and promote the adoption of mutually compatible voluntary consensus standards developed by a standards development organization accredited by the American National Standards Institute to ensure such interoperability; and

"(C) to provide for the development of a model strategic plan that could be used by any State or region in developing its communications interoperability plan.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary to carry out this subsection—

"(A) $22,105,000 for fiscal year 2005;

"(B) $22,768,000 for fiscal year 2006;

"(C) $23,451,000 for fiscal year 2007;

"(D) $24,155,000 for fiscal year 2008; and

"(E) $24,879,000 for fiscal year 2009.

"(c) NATIONAL BASELINE STUDY OF PUBLIC SAFETY COMMUNICATIONS INTEROPERABILITY.—By December 31, 2005, the Under Secretary of Homeland Security for Science and Technology shall complete a study to develop a national baseline for communications interoperability and develop common grant guidance for all Federal grant programs that provide communications-related resources or assistance to State and local agencies, any Federal programs conducting demonstration projects, providing technical assistance, providing outreach services, providing standards development assistance, or conducting research and development with the public safety community with respect to wireless communications. The Under Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce containing the Under Secretary's findings, conclusions, and recommendations from the study.".

SEC. —06. GRANT PROGRAM TO PROVIDE ENHANCED INTEROPERABILITY OF COMMUNICATIONS FOR FIRST RESPONDERS.

(a) IN GENERAL.—The Secretary of Homeland Security shall establish a program to help State, local, tribal, and regional first responders acquire and deploy interoperable communications equipment, purchase such equipment, and train personnel in the use of such equipment. The Secretary, in cooperation with the heads of other Federal departments and agencies who administer programs that provide communications-related assistance programs to State, local, and tribal public safety organizations, shall develop and implement common standards to the greatest extent practicable.

(b) APPLICATIONS.—To be eligible for assistance under the program, a State, local, tribal, or regional first responder agency shall submit an application, at such time, in such form, and containing such information as the Under Secretary of Homeland Security for Science and Technology may require, including—

(1) a detailed explanation of how assistance received under the program would be used to improve local communications interoperability and ensure interoperability with other appropriate Federal, State, local, tribal, and regional agencies in a regional or national emergency;

(2) assurance that the equipment and system would—

(A) not be incompatible with the communications architecture developed under section 302(b)(2)(A) of the Homeland Security Act of 2002;

(B) would meet any voluntary consensus standards developed under section 302(b)(2)(B) of that Act; and

(C) be consistent with the common grant guidance established under section 302(b)(3) of the Homeland Security Act of 2002.

(c) GRANTS.—The Under Secretary shall review applications submitted under subsection (b). The Secretary, pursuant to an application approved by the Under Secretary, may make the assistance provided under the program available in the form of a single grant for a period of not more than 3 years.

SEC. —07. DIGITAL TRANSITION PUBLIC SAFETY COMMUNICATIONS GRANT AND CONSUMER ASSISTANCE FUND.

(a) IN GENERAL.—There is established on the books of the Treasury a separate fund to be known as the "Digital Transition Consumer Assistance Fund", which shall be administered by the Secretary, in consultation with the Assistant Secretary of Commerce for Communications and Information.

(b) CREDITING OF RECEIPTS.—The Fund shall be credited with the amount specified in section 309(j)(8)(D) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(D)).

(c) FUND AVAILABILITY.—

(1) APPROPRIATIONS.—

(A) CONSUMER ASSISTANCE PROGRAM.—There are appropriated to the Secretary from the Fund such sums, not to exceed $1,000,000,000, as are required to carry out the program established under section 8 of this Act.

(B) PSO GRANT PROGRAM.—To the extent that amounts available in the Fund exceed the amount required to carry out that program, there are authorized to be appropriated to the Secretary of Homeland Security, such sums as are required to carry out the program established under section 6 of this Act, not to exceed an amount, determined by the Director of the Office of Management and Budget, on the basis of the findings of the National Baseline Interoperability study conducted by the SAFECOM Office of the Department of Homeland Security.

(2) REVERSION OF UNUSED FUNDS.—Any auction proceeds in the Fund that are remaining after the date on which the programs under section 6 and 8 of this Act terminate, as determined by the Secretary of Homeland Security and the Secretary of Commerce respectively, shall revert to and be deposited in the general fund of the Treasury.

(d) DEPOSIT OF AUCTION PROCEEDS.—Paragraph (8) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) by inserting "or subparagraph (D)" in subparagraph (A) after "subparagraph (B)"; and

(2) by adding at the end the following new subparagraph:

"(D) DISPOSITION OF CASH PROCEEDS FROM AUCTION OF CHANNELS 52 THROUGH 69.—Cash proceeds attributable to the auction of any eligible frequencies between 698 and 806 megaHertz on the electromagnetic spectrum conducted after the date of enactment of the SAVE LIVES Act shall be deposited in the Digital Transition Consumer Assistance Fund established under section 7 of that Act.".

SEC. —08. DIGITAL TRANSITION PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Commission and the Director of the Office of Management and Budget, shall establish a program to assist households—

(1) in the purchase or other acquisition of digital-to-analog converter devices that will enable television sets that operate only with analog signal processing to continue to operate when receiving a digital signal;

(2) in the payment of a one-time installation fee (not in excess of the industry average fee for the date, locale, and structure involved, as determined by the Secretary) for installing the equipment required for residential reception of services provided by a multichannel video programming distributor (as defined in section 602(13) of the Communications Act of 1934 (47 U.S.C. 602(13)); or

(3) in the purchase of any other device that will enable the household to receive over-the-air digital television broadcast signals, but in an amount not in excess of the average per-household assistance provided under paragraphs (1) and (2).

(b) PROGRAM CRITERIA.—The Secretary shall ensure that the program established under subsection (a)—

(1) becomes publicly available no later than January 1, 2008;

(2) gives first priority to assisting lower income households (as determined by the Director of the Bureau of the Census for statistical reporting purposes) who rely exclusively on over-the-air television broadcasts;

(3) gives second priority to assisting other households who rely exclusively on over-the-air television broadcasts;

(4) is technologically neutral; and

(5) is conducted at the lowest feasible administrative cost.

SEC. —09. LABEL REQUIREMENT FOR ANALOG TELEVISION SETS.

(a) IN GENERAL.—Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end the following:

"(z) Require that any apparatus described in paragraph (s) sold or offered for sale in or affecting interstate commerce after September 30, 2005, that is incapable of receiving and displaying a digital television broadcast signal without the use of an external device that translates digital television broadcast signals into analog television broadcast signals have affixed to it and, if it is sold or offered for sale in a container, affixed to that container, a label that states that the apparatus will be incapable of displaying over-the-air television broadcast signals received after December 31, 2008, without the purchase of additional equipment.".

(b) SHIPMENT PROHIBITED.—Section 330 of the Communications Act of 1934 (47 U.S.C. 330) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) SHIPMENT OF UNLABELED OBSOLESCENT TELEVISION SETS.—No person shall ship in interstate commerce or manufacture in the United States any apparatus described in section 303(s) of this Act except in accordance with rules prescribed by the Commission under section 303(z) of this Act.".

(c) POINT OF SALE WARNING.—The Commission, in consultation with the Federal Trade Commission, shall require the display at, or in close proximity to, any commercial retail sales display of television sets described in section 303(z) of the Communications Act of 1934 (47 U.S.C. 303(z)) sold or offered for sale in or affecting interstate commerce after

September 30, 2005, of a printed notice that clearly and conspicuously states that the sets will be incapable of displaying over-the-air television broadcast signals received after December 31, 2008, without the purchase or lease of additional equipment.

SEC. —10. REPORT ON CONSUMER EDUCATION PROGRAM REQUIREMENTS.

Within 1 year after the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information, after consultation with the Commission, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce containing recommendations with respect to—

(1) an effective program to educate consumers about the transition to digital television broadcast signals and the impact of that transition on consumers' choices of equipment to receive such signals;

(2) the need, if any, for Federal funding for such a program;

(3) the date of commencement and duration of such a program; and

(4) what department or agency should have the lead responsibility for conducting such a program.

SEC. —11. FCC TO ISSUE DECISION IN CERTAIN PROCEEDINGS.

The Commission shall issue a final decision before—

(1) January 1, 2005, in the Matter of Carriage of Digital Television Broadcast Signals; Amendments to Part 76 of the Commission's Rules, CS Docket No. 98-120;

(2) January 1, 2005, in the Matter of Public Interest Obligations of TV Broadcast Licensees, MM Docket No. 99-360; and

(3) January 1, 2006, in the Implementation of the Satellite Home Viewer Improvement Act of 1999; Local Broadcast Signal Carriage Issues, CS Docket No. 00-96.

SEC. —12. DEFINITIONS.

In this title:

(1) Commission.—The term "Commission" means the Federal Communications Commission.

(2) Fund.—The term "Fund" means the Digital Transition Consumer Assistance Fund established by section 7.

(3) Secretary.—Except where otherwise expressly provided, the term "Secretary" means the Secretary of Commerce.

SEC. —13. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

SA 3767. Mr. LAUTENBERG proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 10, line 2, insert "(1)" after "Director.—".

On page 10, line 5, insert ", for a term of up to 5 years" after "Senate".

On page 10, after line 5, insert the following:

(2) The National Intelligence Director may be reappointed by the President for additional terms of up to 5 years each, by and with the consent of the Senate.

SA 3768. Mr. BAUCUS (for himself, Mr. Roberts, Mr. Craig, and Mr. Bingaman) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new section:

SEC. 353. ANNUAL REPORT ON THE ALLOCATION OF RESOURCES WITHIN THE OFFICE OF FOREIGN ASSETS CONTROL.

(a) Sense of Congress.—It is the sense of Congress that the Secretary of the Treasury should allocate the resources of the Office of Foreign Assets Control to enforce the economic and trade sanctions of the United States in a manner that enforcing such sanctions—

(1) against al Qaeda and groups affiliated with al Qaeda is the highest priority of the Office;

(2) against members of the insurgency in Iraq is the second highest priority of the Office; and

(3) against Iran is the third highest priority of the Office.

(b) Requirement for Annual Report.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury, in consultation with the National Intelligence Director, shall submit to Congress a report on the allocation of resources within the Office of Foreign Assets Control.

(c) Content of Annual Report.—An annual report required by subsection (b) shall include—

(1) a description of—

(A) the allocation of resources within the Office of Foreign Assets Control to enforce the economic and trade sanctions of the United States against terrorist organizations and targeted foreign countries during the fiscal year prior to the fiscal year in which such report is submitted; and

(B) the criteria on which such allocation is based;

(2) a description of any proposed modifications to such allocation; and

(3) an explanation for any such allocation that is not based on prioritization of threats determined using appropriate criteria, including the likelihood that—

(A) a terrorist organization or targeted foreign country—

(i) will sponsor or plan a direct attack against the United States or the interests of the United States; or

(ii) is participating in or maintaining a nuclear, biological, or chemical weapons development program; or

(B) a targeted foreign country—

(i) is financing, or allowing the financing, of a terrorist organization within such country; or

(ii) is providing safe haven to a terrorist organization within such country.

(d) Effective Date.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

SA 3769. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

CLARIFICATION OF PRIVATE RIGHT OF ACTION AGAINST TERRORIST STATES; DAMAGES.

(a) Right of Action.—Section 1605 of title 28, United States Code, is amended—

(1) in subsection (f), in the first sentence, by inserting "or (h)" after "subsection (a)(7)"; and

(2) by adding at the end the following:

"(h) Certain Actions Against Foreign States or Officials, Employees, or Agents of Foreign States—

"(1) Cause of action.—

"(A) Cause of action.—A foreign state designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371), or an official, employee, or agent of such a foreign state, shall be liable to a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) or the national's legal representative for personal injury or death caused by acts of that foreign state, or by that official, employee, or agent while acting within the scope of his or her office, employment, or agency, for which the courts of the United States may maintain jurisdiction under subsection (a)(7) for money damages. The removal of a foreign state from designation as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) shall not terminate this cause of action.

"(B) Discovery.—The provisions of subsection (g) apply to actions brought under subparagraph (A).

"(C) Nationality of claimant.—No action shall be maintained under subparagraph (A) arising from acts of a foreign state or an official, employee, or agent of a foreign state if neither the claimant nor the victim was a national of the United States (as that term is defined in section 101(a)(22) of the Immigration and Nationality Act) when such acts occurred.

"(2) Damages.—In an action brought under paragraph (1) against a foreign state or an official, employee, or agent of a foreign state, the foreign state, official, employee, or agent, as the case may be, may be held liable for money damages in such action, which may include economic damages, solatium, damages for pain and suffering, and, notwithstanding section 1606, punitive damages. In all actions brought under paragraph (1), a foreign state shall be vicariously liable for the actions of its officials, employees, or agents.

"(3) Appeals.—An appeal in the courts of the United States in an action brought under paragraph (1) may be made—

"(A) only from a final decision under section 1291 of this title, and then only if filed with the clerk of the district court within 30 days after the entry of such final decision; and

"(B) in the case of an appeal from an order denying the immunity of a foreign state, a political subdivision thereof, or an agency or instrumentality of a foreign state, only if filed under section 1292 of this title.".

(b) Conforming Amendment.—Section 589 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1997, as contained in section 101(a) of Division A of Public Law 104-208 (110 Stat. 3009-172; 28 U.S.C. 1605 note), is repealed.

PROPERTY SUBJECT TO ATTACHMENT EXECUTION.

Section 1610 of title 28, United States Code, is amended by adding at the end the following:

"(g) PROPERTY INTERESTS IN CERTAIN ACTIONS.—

"(1) IN GENERAL.—A property interest of a foreign state, or agency or instrumentality of a foreign state, against which a judgment is entered under section 1605(a)(7), including a property interest that is a separate juridical entity, is subject to execution upon that judgment as provided in this section, regardless of—

"(A) the level of economic control over the property interest by the government of the foreign state;

"(B) whether the profits of the property interest go to that government;

"(C) the degree to which officials of that government manage the property interest or otherwise have a hand in its daily affairs,

"(D) whether that government is the real beneficiary of the conduct of the property interest; or

"(E) whether establishing the property interest as a separate entity would entitle the foreign state to benefits in United States courts while avoiding its obligations.

"(2) U.S. SOVEREIGN IMMUNITY INAPPLICABLE.—Any property interest of a foreign state, or agency or instrumentality of a foreign state, to which paragraph (1) applies shall not be immune from execution upon a judgment entered under section 1605(a)(7) because the property interest is regulated by the United States Government by reason of action taken against that foreign state under the Trading With the Enemy Act or the International Emergency Economic Powers Act."

APPOINTMENT OF SPECIAL MASTERS.

(a) VICTIMS OF CRIME ACT.—Section 1404C(a)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603c(a)(3)) is amended by striking "December 21, 1988, with respect to which an investigation or" and inserting "October 23, 1983, with respect to which an investigation or civil or criminal".

(b) JUSTICE FOR MARINES.—The Attorney General of the United States is authorized and directed to transfer such Victims of Crime Act Funds to the Administrator of the US District Court for District of Columbia as may be required to carry out the Orders of United States District Judge Royce C. Lamberth appointing Special Masters in the matter of Peterson, et al v. The Islamic Republic of Iran, Case No 01CV02094 (RCL)"

LIS PENDENS.

(a) In every action filed in a United States Court in which jurisdiction is alleged under 28 U.S.C. §1605(a)(7) the filing of a "Notice of Pending Action Pursuant to 28 U.S.C. §1605(a)(7)" to which shall be attached a copy of the Complaint filed in the action, shall have the effect of establishing a lien of lis pendens upon any real property or tangible personal property located within that judicial district titled in the name of any defendant or titled in the name of any entity controlled by any such defendant, provided that such notice contains a statement of said entities controlled by any such defendant. A Notice of Pending Action Pursuant to 28 U.S.C. §1605(a)(7) shall be filed by the Clerk of the District Court in the same manner as any pending action and shall be indexed listing as defendants all named defendants and all entities listed as controlled by any defendant.

(b) Liens established as provided in this section shall be enforceable as provided by 28 U.S.C. Ch.111.

APPLICABILITY.

(a) IN GENERAL.—The amendments made by this Act apply to any claim for which a foreign state is not immune under section 1605(a)(7) of title 28, United States Code, arising before, on, or after the date of the enactment of this Act.

(b) Prior Causes of Action–In the case of any action that—

(1) was brought in a timely manner but was dismissed before the enactment of this Act for failure to state a cause of action, and

(2) would be cognizable by reason of the amendments made by this Act, the 10-year limitation period provided under section 1605(f) of title 28, United States Code, shall be tolled during the period beginning on the date on which the action was first brought and ending 60 days after the date of the enactment of this Act.

SA 3770. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new title:

TITLE IV—SAFE STORAGE OF RADIOLOGICAL MATERIALS

SECTION 401. DISPOSAL OF CERTAIN LOW-LEVEL RADIOACTIVE WASTE.

(a) FINDINGS.—Congress makes the following findings:

(1) According to the report of the National Commission on Terrorist Attacks Upon the United States, more than two dozen terrorist groups, including al Qaeda, are pursuing chemical, biological, radiological, and nuclear materials.

(2) According to the report of the National Commission on Terrorist Attacks Upon the United States, the United States is a prime target for weapons made with chemical, biological, radiological, and nuclear materials.

(3) The Department of Energy estimates that about 14,000 sealed sources of greater-than-Class C low-level radioactive waste (as defined in section 61.55 of title 10, Code of Federal Regulations) will become unwanted and will have to be disposed of through the Offsite Source Recovery Program by 2010.

(4) The Department of Energy—

(A) does not have the resources or storage facility to recover and store all unwanted sources of greater-than-Class C low-level radioactive waste; and

(B) has not identified a permanent disposal facility.

(5) A report by the Government Accountability Office entitled "Nuclear Proliferation: DOE Action Needed to Ensure Continued Recovery of Unwanted Sealed Radioactive Sources" states that "[t]he small size and portability of the sealed sources make them susceptible to misuse, improper disposal, and theft. If these sealed sources fell into the hands of terrorists, they could be used as simple and crude but potentially dangerous radiological weapons, commonly called dirty bombs."

(6) The Government Accountability Office report further states that "[c]ertain sealed sources are considered particularly attractive for potential use in producing dirty bombs because, among other things, they contain more concentrated amounts of nuclear material known as 'greater-than-Class-C material.'"

(b) DEPARTMENT OF ENERGY RESPONSIBILITIES.—

(1) DESIGNATION OF RESPONSIBILITY.—The Secretary of Energy shall designate an entity within the Department of Energy to have the responsibility of completing activities needed to develop a facility for safely disposing of all greater-than-Class C low-level radioactive waste.

(2) CONSULTATION WITH CONGRESS.—In developing a plan for a permanent disposal facility for greater-than-Class C low-level radioactive waste (including preparation of an environmental impact statement and issuance of a record of decision), the Secretary of Energy shall consult with Congress.

(c) REPORTS.—

(1) UPDATE OF 1987 REPORT.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Energy shall submit to Congress an update of the comprehensive report making recommendations for ensuring the safe disposal of all greater-than-Class C low-level radioactive waste that was submitted by the Secretary to Congress in February 1987.

(B) CONTENTS.—The update shall contain—

(i) an identification of the radioactive waste that is to be disposed of (including the source of the waste and the volume, concentration, and other relevant characteristics of the waste);

(ii) an identification of the Federal and non-Federal options for disposal of the waste;

(iii) a description of the actions proposed to ensure the safe disposal of the waste;

(iv) an estimate of the costs of the proposed actions;

(v) an identification of the options for ensuring that the beneficiaries of the activities resulting in the generation of the radioactive waste bear all reasonable costs of disposing of the waste;

(vi) an identification of any statutory authority required for disposal of the waste; and

(vii) in coordination with the Environmental Protection Agency and the Nuclear Regulatory Commission, an identification of any regulatory guidance needed for the disposal of the waste.

(2) REPORT ON PERMANENT DISPOSAL FACILITY.—

(A) REPORT ON COST AND SCHEDULE FOR COMPLETION OF EIS AND ROD.—Not later than 180 days after the date of submission of the update under paragraph (1), the Secretary of Energy shall submit to Congress a report containing an estimate of the cost and schedule to complete an environmental impact statement and record of decision for a permanent disposal facility for greater-than-Class C radioactive waste.

(B) REPORT ON ALTERNATIVES.—Before the Secretary of Energy makes a final decision on the disposal alternative to be implemented, the Secretary of Energy shall—

(i) submit to Congress a report that describes all alternatives under consideration; and

(ii) await action by Congress.

(3) REPORT ON SHORT-TERM PLAN.—

(A) IN GENERAL.—Not later than December 31, 2005, the Secretary of Energy shall submit to Congress a plan to ensure the continued recovery and storage of greater-than-Class C low-level radioactive waste until a permanent disposal facility is available.

(B) CONTENTS.—The plan shall contain estimated cost, resource, and facility needs.

SA 3771. Mr. BINGAMAN (for himself and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes: which was ordered to lie on the table; as follows:

On page 91, between lines 12 and 13, insert the following:

(C) Employees of Federally Funded Research and Development Centers (as that term is defined in part 35 of the Federal Acquisition Regulation), including employees of the Department of Energy national laboratories who are associated with field intelligence elements of the Department of Energy, shall be eligible to serve under contract or other mechanism with the National Counterterrorism Center under this paragraph.

On page 98, between lines 21 and 22, insert the following:

(C) Employees of Federally Funded Research and Development Centers (as that term is defined in part 35 of the Federal Acquisition Regulation), including employees of the Department of Energy national laboratories who are associated with field intelligence elements of the Department of Energy, shall be eligible to serve under contract or other mechanism with a national intelligence center under this paragraph.

SA 3772. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 45, between lines 10 and 11, insert the following:

(11) The Chief Scientist of the National Intelligence Authority.

On page 45, line 11, strike "(11)" and insert "(12)".

On page 45, line 14, strike "(12)" and insert "(13)".

On page 59, between lines 14 and 15, insert the following:

SEC. 131. CHIEF SCIENTIST OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF SCIENTIST OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Scientist of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) REQUIREMENT RELATING TO APPOINTMENT.—An individual appointed as Chief Scientist of the National Intelligence Authority shall have a professional background and experience appropriate for the duties of the Chief Scientist.

(c) DUTIES.—The Chief Scientist of the National Intelligence Authority shall—

(1) act as the chief representative of the National Intelligence Director for science and technology;

(2) chair the National Intelligence Authority Science and Technology Committee under subsection (d);

(3) assist the Director in formulating a long-term strategy for scientific advances in the field of intelligence;

(4) assist the Director on the science and technology elements of the budget of the National Intelligence Authority; and

(5) perform other such duties as may be prescribed by Director or by law.

(d) NATIONAL INTELLIGENCE AUTHORITY SCIENCE AND TECHNOLOGY COMMITTEE.—(1) There is within the Office of the Chief Scientist of the National Intelligence Authority a National Intelligence Authority Science and Technology Committee.

(2) The Committee shall be composed of composed of the principal science officers of the National Intelligence Program.

(3) The Committee shall—

(A) coordinate advances in research and development related to intelligence; and

(B) perform such other functions as the Chief Scientist of the National Intelligence Authority shall prescribe.

On page 59, line 15, strike "**131.**" and insert "**132.**".

On page 202, line 16, strike "131(b)" and insert "132(b)".

SA 3773. Mr. BURNS proposed an amendment to amendment SA 3766 proposed by Mr. MCCAIN to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

TITLE —PUBLIC SAFETY SPECTRUM

SEC. —01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Spectrum Availability for Emergency-Response and Law-Enforcement To Improve Vital Emergency Services Act" or the "SAVE LIVES Act".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. —01. Short title; table of contents.
Sec. —02. Findings.
Sec. —03. Setting a specific date for the availability of spectrum for public safety organizations and creating a deadline for the transition to digital television.
Sec. —04. Studies of communications capabilities and needs.
Sec. —05. Statutory authority for the Department of Homeland Security's "SAFECOM" program.
Sec. —06. Grant program to provide enhanced interoperability of communications for first responders.
Sec. —07. Digital transition public safety communications grant and consumer assistance fund.
Sec. —08. Digital transition program.
Sec. —09. FCC authority to require label requirement for analog television sets.
Sec. —10. Report on consumer education program requirements.
Sec. —11. FCC to issue decision in certain proceedings.
Sec. —12. Definitions.
Sec. —13. Effective date.

SEC. —02. FINDINGS.

The Congress finds the following:

(1) In its final report, the 9-11 Commission advocated that Congress pass legislation providing for the expedited and increased assignment of radio spectrum for public safety purposes. The 9-11 Commission stated that this spectrum was necessary to improve communications between local, State and Federal public safety organizations and public safety organizations operating in neighboring jurisdictions that may respond to an emergency in unison.

(2) Specifically, the 9-11 Commission report stated "The inability to communicate was a critical element at the World Trade Center, Pentagon and Somerset County, Pennsylvania, crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the local, State, and Federal levels remains an important problem.".

(3) In the Balanced Budget Act of 1997, the Congress directed the FCC to allocate spectrum currently being used by television broadcasters to public safety agencies to use for emergency communications. This spectrum has specific characteristics that make it an outstanding choice for emergency communications because signals sent over these frequencies are able to penetrate walls and travel great distances, and can assist multiple jurisdictions in deploying interoperable communications systems.

(4) This spectrum will not be fully available to public safety agencies until the completion of the digital television transition. The need for this spectrum is greater than ever. The nation cannot risk further loss of life due to public safety agencies' first responders' inability to communicate effectively in the event of another terrorist act or other crisis, such as a hurricane, tornado, flood, or earthquake.

(5) In the Balanced Budget Act of 1997, Congress set a date of December 31, 2006, for the termination of the digital television transition. Under current law, however, the deadline will be extended if fewer than 85 percent of the television households in a market are able to continue receiving local television broadcast signals.

(6) Federal Communications Commission Chairman Michael K. Powell testified at a hearing before the Senate Commerce, Science, and Transportation Committee on September 8, 2004, that, absent government action, this extension may allow the digital television transition to continue for "decades" or "multiples of decades".

(7) The Nation's public safety and welfare cannot be put off for "decades" or "multiples of decades". The Federal government should ensure that this spectrum is available for use by public safety organizations by January 1, 2009.

(8) Any plan to end the digital television transition would be incomplete if it did not ensure that consumers would be able to continue to enjoy over-the-air broadcast television with minimal disruption. If broadcasters air only a digital signal, some consumers may be unable to view digital transmissions using their analog-only television set. Local broadcasters are truly an important part of our homeland security and often an important communications vehicle in the event of a national emergency. Therefore, consumers who rely on over-the-air television, particularly those of limited economic means, should be assisted.

(9) The New America Foundation has testified before Congress that the cost to assist these 17.4 million exclusively over-the-air households to continue to view television is less than $1 billion dollars for equipment, which equates to roughly 3 percent of the Federal revenue likely from the auction of the analog television spectrum.

(10) Specifically, the New America Foundation has estimated that the Federal Government's auction of this spectrum could yield $30-to-$40 billion in revenue to the Treasury. Chairman Powell stated at the September 8, 2004, hearing that "estimates of the value of that spectrum run anywhere from $30 billion to $70 billion".

(11) Additionally, there will be societal benefits with the return of the analog broadcast spectrum. Former FCC Chairman Reed

F. Hundt, at an April 28, 2004, hearing before the Senate Commerce, Science, and Transportation Committee, testified that this spectrum "should be the fit and proper home of wireless broadband". Mr. Hundt continued, "Quite literally, [with this spectrum] the more millions of people in rural America will be able to afford Big Broadband Internet access, the more hundreds of millions of people in the world will be able to afford joining the Internet community.".

(12) Due to the benefits that would flow to the Nation's citizens from the Federal Government reclaiming this analog television spectrum—including the safety of our Nation's first responders and those protected by first responders, additional revenues to the Federal treasury, millions of new jobs in the telecommunications sector of the economy, and increased wireless broadband availability to our Nation's rural citizens—Congress finds it necessary to set January 1, 2009, as a firm date for the return of this analog television spectrum.

SEC. 3. SETTING A SPECIFIC DATE FOR THE AVAILABILITY OF SPECTRUM FOR PUBLIC SAFETY ORGANIZATIONS AND CREATING A DEADLINE FOR THE TRANSITION TO DIGITAL TELEVISION.

(a) In General.—Section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)) is amended—

(5) by adding at the end the following:

"(E) Acceleration of Deadline for Public Safety Use.—

"(i) Notwithstanding subparagraph (A) and (B), the Commission shall take all action necessary to complete by December 31, 2007—

"(I) the return of television station licenses operating on channels between 764 and 776 megaHertz and between 794 and 806 megaHertz; and

"(II) assignment of the electromagnetic spectrum between 764 and 776 megahertz, and between 794 and 806 megahertz, for public safety services.

"(ii) Notwithstanding subparagraphs (A) and (B), the Commission shall have the authority to modify, reassign, or require the return of, the television station licenses assigned to frequencies between 758 and 764 megahertz, 776 and 782 megahertz, and 788 and 794 megahertz as necessary to permit operations by public safety services on frequencies between 764 and 776 megahertz and between 794 and 806 megahertz, after the date of enactment of the this section, but such modifications, reassignments, or returns may not take effect until after December 31, 2007.".

(b) The FCC may waive the requirements of sections (i) and (ii) and such other rules as necessary:

(A) in the absence of a bona fide request from relevant first responders in the affected designated market area; and;

(B) to the extent necessary to avoid consumer disruption but only if all relevant public safety entities are able to use such frequencies free of interference by December 31, 2007, or are otherwise able to resolve interference issues with relevant broadcast licensee by mutual agreement."

SEC. —04. STUDIES OF COMMUNICATIONS CAPABILITIES AND NEEDS.

(a) In General.—The Commission, in consultation with the Secretary of Homeland Security, shall conduct a study to assess strategies that may be used to meet public safety communications needs, including—

(1) the short-term and long-term need for additional spectrum allocation for Federal, State, and local first responders, including an additional allocation of spectrum in the 700 megaHertz band;

(2) the need for a nationwide interoperable broadband mobile communications network;

(3) the ability of public safety entities to utilize wireless broadband applications; and

(4) the communications capabilities of first receivers such as hospitals and health care workers, and current efforts to promote communications coordination and training among the first responders and the first receivers.

(b) Reallocation Study.—The Commission shall conduct a study to assess the advisability of reallocating any amount of spectrum in the 700 megaHertz band for unlicensed broadband uses. In the study, the Commission shall consider all other possible users of this spectrum, including public safety.

(c) Report.—The Commission shall report the results of the studies, together with any recommendations it may have, to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce within 1 year after the date of enactment of this Act.

SEC. —05. STATUTORY AUTHORITY FOR THE DEPARTMENT OF HOMELAND SECURITY'S "SAFECOM" PROGRAM.

Section 302 of the Homeland Security Act of 2002 (6 U.S.C. 182) is amended—

(1) by inserting "(a) In General.—" before "The"; and

(2) by adding at the end the following:

"(b) SAFECOM Authorized.—

"(1) In general.—In carrying out subsection (a), the Under Secretary shall establish a program to address the interoperability of communications devices used by Federal, State, tribal, and local first responders, to be known as the Wireless Public Safety Interoperability Communications Program, or 'SAFECOM'. The Under Secretary shall coordinate the program with the Director of the Department of Justice's Office of Science and Technology and all other Federal programs engaging in communications interoperability research, development, and funding activities to ensure that the program takes into account, and does not duplicate, those programs or activities.

"(2) Components.—The program established under paragraph (1) shall be designed—

"(A) to provide research on the development of a communications system architecture that would ensure the interoperability of communications devices among Federal, State, tribal, and local officials that would enhance the potential for a coordinated response to a national emergency;

"(B) to support the completion and promote the adoption of mutually compatible voluntary consensus standards developed by a standards development organization accredited by the American National Standards Institute to ensure such interoperability; and

"(C) to provide for the development of a model strategic plan that could be used by any State or region in developing its communications interoperability plan.

"(3) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary to carry out this subsection—

"(A) $22,105,000 for fiscal year 2005;

"(B) $22,768,000 for fiscal year 2006;

"(C) $23,451,000 for fiscal year 2007;

"(D) $24,155,000 for fiscal year 2008; and

"(E) $24,879,000 for fiscal year 2009.

"(c) National Baseline Study of Public Safety Communications Interoperability.—By December 31, 2005, the Under Secretary of Homeland Security for Science and Technology shall complete a study to develop a national baseline for communications interoperability and develop common grant guidance for all Federal grant programs that provide communications-related resources or assistance to State and local agencies, any Federal programs conducting demonstration projects, providing technical assistance, providing outreach services, providing standards development assistance, or conducting research and development with the public safety community with respect to wireless communications. The Under Secretary shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce containing the Under Secretary's findings, conclusions, and recommendations from the study.".

SEC. —06. GRANT PROGRAM TO PROVIDE ENHANCED INTEROPERABILITY OF COMMUNICATIONS FOR FIRST RESPONDERS.

(a) In General.—The Secretary of Homeland Security shall establish a program to help State, local, tribal, and regional first responders acquire and deploy interoperable communications equipment, purchase such equipment, and train personnel in the use of such equipment. The Secretary, in cooperation with the heads of other Federal departments and agencies who administer programs that provide communications-related assistance programs to State, local, and tribal public safety organizations, shall develop and implement common standards to the greatest extent practicable.

(b) Applications.—To be eligible for assistance under the program, a State, local, tribal, or regional first responder agency shall submit an application, at such time, in such form, and containing such information as the Under Secretary of Homeland Security for Science and Technology may require, including—

(1) a detailed explanation of how assistance received under the program would be used to improve local communications interoperability and ensure interoperability with other appropriate Federal, State, local, tribal, and regional agencies in a regional or national emergency;

(2) assurance that the equipment and system would—

(A) not be incompatible with the communications architecture developed under section 302(b)(2)(A) of the Homeland Security Act of 2002;

(B) would meet any voluntary consensus standards developed under section 302(b)(2)(B) of that Act; and

(C) be consistent with the common grant guidance established under section 302(b)(3) of the Homeland Security Act of 2002.

(c) Grants.—The Under Secretary shall review applications submitted under subsection (b). The Secretary, pursuant to an application approved by the Under Secretary, may make the assistance provided under the program available in the form of a single grant for a period of not more than 3 years.

SEC. —07. DIGITAL TRANSITION PUBLIC SAFETY COMMUNICATIONS GRANT AND CONSUMER ASSISTANCE FUND.

(a) In General.—There is established on the books of the Treasury a separate fund to be known as the "Digital Transition Consumer Assistance Fund", which shall be administered by the Secretary, in consultation with the Assistant Secretary of Commerce for Communications and Information.

(b) Crediting of Receipts.—The Fund shall be credited with the amount specified in section 309(j)(8)(D) of the Communications Act of 1934 (47 U.S.C. 309(j)(8)(D)).

(c) FUND AVAILABILITY.—

(1) APPROPRIATIONS.—

(A) CONSUMER ASSISTANCE PROGRAM.—There are appropriated to the Secretary from the Fund such sums, not to exceed $1,000,000,000, as are required to carry out the program established under section 8 of this Act.

(B) PSO GRANT PROGRAM.—To the extent that amounts available in the Fund exceed the amount required to carry out that program, there are authorized to be appropriated to the Secretary of Homeland Security, such sums as are required to carry out the program established under section 6 of this Act, not to exceed an amount, determined by the Director of the Office of Management and Budget, on the basis of the findings of the National Baseline Interoperability study conducted by the SAFECOM Office of the Department of Homeland Security.

(2) REVERSION OF UNUSED FUNDS.—Any auction proceeds in the Fund that are remaining after the date on which the programs under section 6 and 8 of this Act terminate, as determined by the Secretary of Homeland Security and the Secretary of Commerce respectively, shall revert to and be deposited in the general fund of the Treasury.

(d) DEPOSIT OF AUCTION PROCEEDS.—Paragraph (8) of section 309(j) of the Communications Act of 1934 (47 U.S.C. 309(j)) is amended—

(1) by inserting "or subparagraph (D)" in subparagraph (A) after "subparagraph (B)"; and

(2) by adding at the end the following new subparagraph:

"(D) DISPOSITION OF CASH PROCEEDS FROM AUCTION OF CHANNELS 52 THROUGH 69.—Cash proceeds attributable to the auction of any eligible frequencies between 698 and 806 megaHertz on the electromagnetic spectrum conducted after the date of enactment of the SAVE LIVES Act shall be deposited in the Digital Transition Consumer Assistance Fund established under section 7 of that Act.".

SEC. —08. DIGITAL TRANSITION PROGRAM.

(a) IN GENERAL.—The Secretary, in consultation with the Commission and the Director of the Office of Management and Budget, shall establish a program to assist households—

(1) in the purchase or other acquisition of digital-to-analog converter devices that will enable television sets that operate only with analog signal processing to continue to operate when receiving a digital signal;

(2) in the payment of a one-time installation fee (not in excess of the industry average fee for the date, locale, and structure involved, as determined by the Secretary) for installing the equipment required for residential reception of services provided by a multichannel video programming distributor (as defined in section 602(13) of the Communications Act of 1934 (47 U.S.C. 602(13)); or

(3) in the purchase of any other device that will enable the household to receive over-the-air digital television broadcast signals, but in an amount not in excess of the average per-household assistance provided under paragraphs (1) and (2).

(b) PROGRAM CRITERIA.—The Secretary shall ensure that the program established under subsection (a)—

(1) becomes publicly available no later than January 1, 2008;

(2) gives first priority to assisting lower income households (as determined by the Director of the Bureau of the Census for statistical reporting purposes) who rely exclusively on over-the-air television broadcasts;

(3) gives second priority to assisting other households who rely exclusively on over-the-air television broadcasts;

(4) is technologically neutral; and

(5) is conducted at the lowest feasible administrative cost.

SEC. —09. FCC AUTHORITY TO REQUIRE LABEL REQUIREMENT FOR ANALOG TELEVISION SETS.

(a) IN GENERAL.—Section 303 of the Communications Act of 1934 (47 U.S.C. 303) is amended by adding at the end the following:

"(z) If the Commission acts to set a hard deadline for the return of analog spectrum pursuant to Section 309(j)(14), it shall have the authority to require that any apparatus described in paragraph (s) sold or offered for sale in or affecting interstate commerce that is incapable of receiving and displaying a digital television broadcast signal without the use of an external device that translates digital television broadcast signals into analog television broadcast signals have affixed to it and, if it is sold or offered for sale in a container, affixed to that container, a label that states that the apparatus will be incapable of displaying over-the-air television broadcast signals received after a date determined by the FCC, without the purchase of additional equipment.".

(c) POINT OF SALE WARNING.—If the Commission acts to set a hard deadline for the return of analog spectrum pursuant to Section 309 (j)(14), then the Commission, in consultation with the Federal Trade Commission, shall have the authority to require the display at, or in close proximity to, any commercial retail sales display of television sets described in section 303(z) of the Communications Act of 1934 (47 U.S.C. 303(z)) sold or offered for sale in or affecting interstate commerce after a date determined by the Commission, of a printed notice that clearly and conspicuously states that the sets will be incapable of displaying over-the-air television broadcast signals received after the hard deadline established by the Commission, without the purchase or lease of additional equipment.

SEC. —10. REPORT ON CONSUMER EDUCATION PROGRAM REQUIREMENTS.

Within 1 year after the date of enactment of this Act, the Assistant Secretary of Commerce for Communications and Information, after consultation with the Commission, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Energy and Commerce containing recommendations with respect to—

(1) an effective program to educate consumers about the transition to digital television broadcast signals and the impact of that transition on consumers' choices of equipment to receive such signals;

(2) the need, if any, for Federal funding for such a program;

(3) the date of commencement and duration of such a program; and

(4) what department or agency should have the lead responsibility for conducting such a program.

SEC. —11. FCC TO ISSUE DECISION IN CERTAIN PROCEEDINGS.

The Commission shall issue a final decision before—

(1) January 1, 2005, in the Matter of Carriage of Digital Television Broadcast Signals; Amendments to Part 76 of the Commission's Rules, CS Docket No. 98-120;

(2) January 1, 2005, in the Matter of Public Interest Obligations of TV Broadcast Licensees, MM Docket No. 99-360; and

(3) January 1, 2006, in the Implementation of the Satellite Home Viewer Improvement Act of 1999; Local Broadcast Signal Carriage Issues, CS Docket No. 00-96.

SEC. —12. DEFINITIONS.

In this title:

(1) COMMISSION.—The term "Commission" means the Federal Communications Commission.

(2) FUND.—The term "Fund" means the Digital Transition Consumer Assistance Fund established by section 7.

(3) SECRETARY.—Except where otherwise expressly provided, the term "Secretary" means the Secretary of Commerce.

SEC. —13. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

SA 3774. Mr. McCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE—NATIONAL PREPAREDNESS

SEC. —01. THE INCIDENT COMMAND SYSTEM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The attacks on September 11, 2001, demonstrated that even the most robust emergency response capabilities can be overwhelmed if an attack is large enough.

(2) Teamwork, collaboration, and cooperation at an incident site are critical to a successful response to a terrorist attack.

(3) Key decision makers who are represented at the incident command level help to ensure an effective response, the efficient use of resources, and responder safety.

(4) Regular joint training at all levels is essential to ensuring close coordination during an actual incident.

(5) Beginning with fiscal year 2005, the Department of Homeland Security is requiring that entities adopt the Incident Command System and other concepts of the National Incident Management System in order to qualify for funds distributed by the Office of State and Local Government Coordination and Preparedness.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) emergency response agencies nationwide should adopt the Incident Command System;

(2) when multiple agencies or multiple jurisdictions are involved, they should follow a unified command system; and

(3) the Secretary of Homeland Security should require, as a further condition of receiving homeland security preparedness funds from the Office of State and Local Government Coordination and Preparedness, that grant applicants document measures taken to fully and aggressively implement the Incident Command System and unified command procedures.

SEC. —02. NATIONAL CAPITAL REGION MUTUAL AID.

(a) DEFINITIONS.—In this section:

(1) AUTHORIZED REPRESENTATIVE OF THE FEDERAL GOVERNMENT.—The term "authorized representative of the Federal Government" means any individual or individuals designated by the President with respect to

the executive branch, the Chief Justice with respect to the Federal judiciary, or the President of the Senate and Speaker of the House of Representatives with respect to Congress, or their designees, to request assistance under a Mutual Aid Agreement for an emergency or public service event.

(2) CHIEF OPERATING OFFICER.—The term "chief operating officer" means the official designated by law to declare an emergency in and for the locality of that chief operating officer.

(3) EMERGENCY.—The term "emergency" means a major disaster or emergency declared by the President, or a state of emergency declared by the Mayor of the District of Columbia, the Governor of the State of Maryland or the Commonwealth of Virginia, or the declaration of a local emergency by the chief operating officer of a locality, or their designees, that triggers mutual aid under the terms of a Mutual Aid Agreement.

(4) EMPLOYEE.—The term "employee" means the employees of the party, including its agents or authorized volunteers, who are committed in a Mutual Aid Agreement to prepare for or who respond to an emergency or public service event.

(5) LOCALITY.—The term "locality" means a county, city, or town within the State of Maryland or the Commonwealth of Virginia and within the National Capital Region.

(6) MUTUAL AID AGREEMENT.—The term "Mutual Aid Agreement" means an agreement, authorized under subsection (b) for the provision of police, fire, rescue and other public safety and health or medical services to any party to the agreement during a public service event, an emergency, or preplanned training event.

(7) NATIONAL CAPITAL REGION OR REGION.—The term "National Capital Region" or "Region" means the area defined under section 2674(f)(2) of title 10, United States Code, and those counties with a border abutting that area and any municipalities therein.

(8) PARTY.—The term "party" means the State of Maryland, the Commonwealth of Virginia, the District of Columbia, and any of the localities duly executing a Mutual Aid Agreement under this section.

(9) PUBLIC SERVICE EVENT.—The term "public service event"

(A) means any undeclared emergency, incident or situation in preparation for or response to which the Mayor of the District of Columbia, an authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality in the National Capital Region, or their designees, requests or provides assistance under a Mutual Aid Agreement within the National Capital Region; and

(B) includes Presidential inaugurations, public gatherings, demonstrations and protests, and law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and other support that require human resources, equipment, facilities or services supplemental to or greater than the requesting jurisdiction can provide.

(10) STATE.—The term "State" means the State of Maryland, the Commonwealth of Virginia, and the District of Columbia.

(11) TRAINING.—The term "training" means emergency and public service event-related exercises, testing, or other activities using equipment and personnel to simulate performance of any aspect of the giving or receiving of aid by National Capital Region jurisdictions during emergencies or public service events, such actions occurring outside actual emergency or public service event periods.

(b) MUTUAL AID AUTHORIZED.—

(1) IN GENERAL.—The Mayor of the District of Columbia, any authorized representative of the Federal Government, the Governor of the State of Maryland, the Governor of the Commonwealth of Virginia, or the chief operating officer of a locality, or their designees, acting within his or her jurisdictional purview, may, subject to State law, enter into, request or provide assistance under Mutual Aid Agreements with localities, the Washington Metropolitan Area Transit Authority, the Metropolitan Washington Airports Authority, and any other governmental agency or authority for—

(A) law enforcement, fire, rescue, emergency health and medical services, transportation, communications, public works and engineering, mass care, and resource support in an emergency or public service event;

(B) preparing for, mitigating, managing, responding to or recovering from any emergency or public service event; and

(C) training for any of the activities described under subparagraphs (A) and (B).

(2) FACILITATING LOCALITIES.—The State of Maryland and the Commonwealth of Virginia are encouraged to facilitate the ability of localities to enter into interstate Mutual Aid Agreements in the National Capital Region under this section.

(3) APPLICATION AND EFFECT.—This section—

(A) does not apply to law enforcement security operations at special events of national significance under section 3056(e) of title 18, United States Code, or other law enforcement functions of the United States Secret Service;

(B) does not diminish any authorities, express or implied, of Federal agencies to enter into Mutual Aid Agreements in furtherance of their Federal missions; and

(C) does not—

(i) preclude any party from entering into supplementary Mutual Aid Agreements with fewer than all the parties, or with another party; or

(ii) affect any other agreement in effect before the date of enactment of this Act among the States and localities, including the Emergency Management Assistance Compact.

(4) RIGHTS DESCRIBED.—Other than as described in this section, the rights and responsibilities of the parties to a Mutual Aid Agreement entered into under this section shall be as described in the Mutual Aid Agreement.

(c) DISTRICT OF COLUMBIA.—

(1) IN GENERAL.—The District of Columbia may purchase liability and indemnification insurance or become self insured against claims arising under a Mutual Aid Agreement authorized under this section.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (1).

(d) LIABILITY AND ACTIONS AT LAW.—

(1) IN GENERAL.—Any responding party or its officers or employees rendering aid or failing to render aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a Mutual Aid Agreement authorized under this section, and any party or its officers or employees engaged in training activities with another party under such a Mutual Aid Agreement, shall be liable on account of any act or omission of its officers or employees while so engaged or on account of the maintenance or use of any related equipment, facilities, or supplies, but only to the extent permitted under the laws and procedures of the State of the party rendering aid.

(2) ACTIONS.—Any action brought against a party or its officers or employees on account of an act or omission in the rendering of aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, or failure to render such aid or on account of the maintenance or use of any related equipment, facilities, or supplies may be brought only under the laws and procedures of the State of the party rendering aid and only in the Federal or State courts located therein. Actions against the United States under this section may be brought only in Federal courts.

(3) GOOD FAITH EXCEPTION.—

(A) DEFINITION.—In this paragraph, the term "good faith" shall not include willful misconduct, gross negligence, or recklessness.

(B) EXCEPTION.—No State or locality, or its officers or employees, rendering aid to another party, or engaging in training, under a Mutual Aid Agreement shall be liable under Federal law on account of any act or omission performed in good faith while so engaged, or on account of the maintenance or use of any related equipment, facilities, or supplies performed in good faith.

(4) IMMUNITIES.—This section shall not abrogate any other immunities from liability that any party has under any other Federal or State law.

(d) WORKERS COMPENSATION.—

(1) COMPENSATION.—Each party shall provide for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a Mutual Aid Agreement, or engaged in training activities under a Mutual Aid Agreement, in the same manner and on the same terms as if the injury or death were sustained within their own jurisdiction.

(2) OTHER STATE LAW.—No party shall be liable under the law of any State other than its own for providing for the payment of compensation and death benefits to injured members of the emergency forces of that party and representatives of deceased members of such forces if such members sustain injuries or are killed while rendering aid to the District of Columbia, the Federal Government, the State of Maryland, the Commonwealth of Virginia, or a locality, under a Mutual Aid Agreement or engaged in training activities under a Mutual Aid Agreement.

(e) LICENSES AND PERMITS.—If any person holds a license, certificate, or other permit issued by any responding party evidencing the meeting of qualifications for professional, mechanical, or other skills and assistance is requested by a receiving jurisdiction, such person will be deemed licensed, certified, or permitted by the receiving jurisdiction to render aid involving such skill to meet a public service event, emergency or training for any such events.

SEC.—03. URBAN AREA COMMUNICATIONS CAPABILITIES.

(a) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

"SEC. 510. HIGH RISK URBAN AREA COMMUNICATIONS CAPABILITIES.

"The Secretary, in consultation with the Federal Communications Commission and the Secretary of Defense, and with appropriate governors, mayors, and other State and local government officials, shall encourage and support the establishment of consistent and effective communications capabilities in the event of an emergency in urban areas determined by the Secretary to be at consistently high levels of risk from terrorist attack. Such communications capabilities shall ensure the ability of all levels of government agencies, including military authorities, and of first responders, hospitals, and other organizations with emergency response capabilities to communicate with each other in the event of an emergency. Additionally, the Secretary, in conjunction with the Secretary of Defense, shall develop plans to provide back-up and additional communications support in the event of an emergency.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—Section 1(b) of that Act is amended by inserting after the item relating to section 509 the following:

"Sec. 510. High risk urban area communications capabilities."

SEC.—04. PRIVATE SECTOR PREPAREDNESS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Private sector organizations own 85 percent of the Nation's critical infrastructure and employ the vast majority of the Nation's workers.

(2) Unless a terrorist attack targets a military or other secure government facility, the first people called upon to respond will likely be civilians.

(3) Despite the exemplary efforts of some private entities, the private sector remains largely unprepared for a terrorist attack, due in part to the lack of a widely accepted standard for private sector preparedness.

(4) Preparedness in the private sector and public sector for rescue, restart and recovery of operations should include—

(A) a plan for evacuation;

(B) adequate communications capabilities; and

(C) a plan for continuity of operations.

(5) The American National Standards Institute recommends a voluntary national preparedness standard for the private sector based on the existing American National Standard on Disaster/Emergency Management and Business Continuity Programs (NFPA 1600), with appropriate modifications. This standard would establish a common set of criteria and terminology for preparedness, disaster management, emergency management, and business continuity programs.

(6) The mandate of the Department of Homeland Security extends to working with the private sector, as well as government entities.

(b) PRIVATE SECTOR PREPAREDNESS PROGRAM.—

(1) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.), as amended by section 805, is amended by adding at the end the following:

"SEC. 511. PRIVATE SECTOR PREPAREDNESS PROGRAM.

"The Secretary shall establish a program to promote private sector preparedness for terrorism and other emergencies, including promoting the adoption of a voluntary national preparedness standard such as the private sector preparedness standard developed by the American National Standards Institute and based on the National Fire Protection Association 1600 Standard on Disaster/Emergency Management and Business Continuity Programs.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—Section 1(b) of that Act, as amended by section 805, is amended by inserting after the item relating to section 510 the following:

"Sec. 511. Private sector preparedness program.".

(c) SENSE OF CONGRESS.—It is the sense of Congress that insurance and credit-rating industries should consider compliance with the voluntary national preparedness standard, the adoption of which is promoted by the Secretary of Homeland Security under section 511 of the Homeland Security Act of 2002, as added by subsection (b), in assessing insurability and credit worthiness.

SEC. —05. CRITICAL INFRASTRUCTURE AND READINESS ASSESSMENTS.

(a) FINDINGS.—Congress finds the following:

(1) Under section 201 of the Homeland Security Act of 2002 (6 U.S.C 121), the Department of Homeland Security, through the Under Secretary for Information Analysis and Infrastructure Protection, has the responsibility—

(A) to carry out comprehensive assessments of the vulnerabilities of the key resources and critical infrastructure of the United States, including the performance of risk assessments to determine the risks posed by particular types of terrorist attacks within the United States;

(B) to identify priorities for protective and supportive measures; and

(C) to develop a comprehensive national plan for securing the key resources and critical infrastructure of the United States.

(2) Under Homeland Security Presidential Directive 7, issued on December 17, 2003, the Secretary of Homeland Security was given 1 year to develop a comprehensive plan to identify, prioritize, and coordinate the protection of critical infrastructure and key resources.

(3) Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, the Secretary of Homeland Security should—

(A) identify those elements of the United States' transportation, energy, communications, financial, and other institutions that need to be protected;

(B) develop plans to protect that infrastructure; and

(C) exercise mechanisms to enhance preparedness.

(b) REPORTS ON RISK ASSESSMENT AND READINESS.—Not later than 180 days after the date of enactment of this Act and annually thereafter, the Secretary of Homeland Security shall submit a report to Congress on—

(1) the Department of Homeland Security's progress in completing vulnerability and risk assessments of the Nation's critical infrastructure;

(2) the adequacy of the Government's plans to protect such infrastructure; and

(3) the readiness of the Government to respond to threats against the United States.

SEC. —06. REPORT ON NORTHERN COMMAND AND DEFENSE OF THE UNITED STATES HOMELAND.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The Department of Defense has primary responsibility for the military defense of the United States.

(2) Prior to September 11, 2001, the North American Aerospace Defense Command (NORAD), which had responsibility for defending United States airspace, focused on threats coming from outside the borders of the United States.

(3) The United States Northern Command has been established to assume responsibility for the military defense of the United States, as well as to provide military support to civil authorities.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should regularly assess the adequacy of the plans and strategies of the United States Northern Command with a view to ensuring that the United States Northern Command is prepared to respond effectively to all threats within the United States, should it be called upon to do so by the President.

(c) ANNUAL REPORT.—

(1) REQUIREMENT FOR REPORT.—The Secretary of Defense shall submit to the Committee on Armed Servces of the Senate and the Committee on Armed Services of the House of Representatives an annual report describing the plans and strategies of the United States Northern Command to defend the United States against all threats within the United States, in the case that it is called upon to do so by the President.

(2) SUBMISSION OF REPORT.—The annual report required by paragraph (1) shall be submitted in conjunction with the submission of the President's budget request to Congress.

SEC. —07. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title takes effect on the date of the enactment of this Act.

SA 3775. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 5 through 16 and insert the following:

(2) The term "foreign intelligence" means information gathered, and activities conducted, relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term "counterintelligence" means—

(A) foreign intelligence gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities; and

(B) information gathered, and activities conducted, to prevent the interference by or disruption of foreign intelligence activities of the United States by foreign government or elements thereof, foreign organizations, or foreign persons, or international terrorists.

On page 6, line 12, strike "counterintelligence or".

On page 7, beginning on line 5, strike "the Office of Intelligence of the Federal Bureau of Investigation" and insert "the Directorate of Intelligence of the Federal Bureau of Investigation".

On page 8, between lines 6 and 7, insert the following:

(8) The term "counterespionage" means counterintelligence designed to detect, destroy, neutralize, exploit, or prevent espionage activities though identification, penetration, deception, and prosecution (in accordance with the criminal law) of individuals, groups, or organizations conducting, or suspected of conducting, espionage activities.

(9) The term "intelligence operation" means activities conducted to facilitate the gathering of foreign intelligence or the conduct of covert action (as that term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(10) The term "collection and analysis requirements" means any subject, whether general or specific, upon which there is a need for the collection of intelligence information or the production of intelligence.

(11) The term "collection and analysis tasking" means the assignment or direction of an individual or activity to perform in a specified way to achieve an intelligence objective or goal.

(12) The term "certified intelligence officer" means a professional employee of an element of the intelligence community engaged in intelligence activities who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike ", subject to the direction and control of the President,".

On page 123, between lines 6 and 7, insert the following:

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official as the Director of the Federal Bureau of Investigation designates as the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint direction, supervision, and control of the Attorney General and the National Intelligence Director.

(3) The Director of the Federal Bureau of Investigation shall report to both the Attorney General and the National Intelligence Director regarding the activities of the Federal Bureau of Investigation under subsections (b) through (d).

On page 123, line 7, strike "(e)" and insert "(f)".

On page 123, line 17, strike "(f)" and insert "(g)".

On page 126, between lines 20 and 21, insert the following:

SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as the Office of Intelligence as of the date of the enactment of this Act is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official within the Federal Bureau of Investigation as the Director of the Federal Bureau of Investigation shall designate.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) The discharge by the Federal Bureau of Investigation of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403-5b).

(3) The oversight of Bureau field intelligence operations.

(4) Human source development and management by the Bureau.

(5) Collection by the Bureau against nationally-determined intelligence requirements.

(6) Language services.

(7) Strategic analysis.

(8) Intelligence program and budget management.

(9) The intelligence workforce.

(10) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

SA 3776. Mr. BURNS (for himself and Mr. BUNNING) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, after line 12, insert the following:

TITLE IV—AVIATION SECURITY

SEC. 401. SHORT TITLE.

This title may be cited as the "Aviation Homeland Security Act of 2004".

SEC. 402. FEDERAL FLIGHT DECK OFFICERS.

(a) WEAPONS CARRIAGE.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall implement a program to allow pilots participating in the Federal flight deck officer program, established under section 44921 of title 49, United States Code, to transport their firearms on their persons.

(b) INTERNATIONAL AGREEMENTS TO ALLOW MAXIMUM DEPLOYMENT OF FEDERAL FLIGHT DECK OFFICERS.—The Secretary of State shall negotiate agreements with foreign governments to allow Federal flight deck officers to carry and possess firearms within the jurisdictions of such foreign governments for protection of international flights against hijackings or other terrorist acts. Any such agreement shall provide Federal flight deck officers the same rights and privileges accorded Federal air marshals by such foreign governments. The Secretary of Homeland Security may not refuse to train any eligible pilot operating in foreign air transportation as a Federal flight deck officer. The Secretary shall provide means for pilots previously refused training as a Federal flight deck officer to reapply for the program.

(c) CREDENTIALS.—Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall issue to each Federal flight deck officer standard Federal law enforcement credentials that are similar to the credentials issued to other Federal law enforcement officers, including a distinctive metal badge.

(d) DETERMINATION OF INELIGIBILITY AND APPEAL.—If the Secretary of Homeland Security determines that a pilot is ineligible to be a Federal flight deck officer, the Secretary shall provide the pilot with the reason for the determination of ineligibility and an opportunity to appeal the determination.

SA 3777. Ms. SNOWE (for herself, Mr. ROBERTS, Ms. MIKULSKI, and Mrs. FEINSTEIN) submitted an amendment to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, line 20, strike "the relationships among".

On page 63, line 8, strike "the relationships among".

On page 64, line 5, strike "and" at the end.

On page 64, between lines 5 and 6, insert the following:

(4) to evaluate the compliance of the National Intelligence Authority and the National Intelligence Program with any applicable United States law or regulation, including any applicable regulation, policy, or procedure issued under section 206, or with any regulation, policy, or procedure of the Director governing the sharing or dissemination of, or access to, intelligence information or products; and

On page 64, line 6, strike "(4)" and insert "(5)".

On page 65, strike lines 11 through 16 and insert the following:

(2)(A) The Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community whose testimony is needed for the performance of the duties of the Inspector General.

On page 66, beginning on line 1, strike "or contractor of the National Intelligence Authority" and insert ", or any employee of a contractor, of any element of the intelligence community".

On page 66, line 4, strike "Director" and insert "National Intelligence Director or other appropriate official of the intelligence community".

On page 69, between lines 20 and 21, insert the following:

(C) Each Inspector General of an element of the intelligence community shall comply fully with a request for information or assistance from the Inspector General of the National Intelligence Authority.

(D) The Inspector General of the National Intelligence Authority may, upon reasonable notice to the head of any element of the intelligence community, conduct, as authorized by this section, an investigation, inspection, or audit of such element and may enter into any place occupied by such element for purposes the performance of the duties of the Inspector General.

On page 70, line 13, strike "Authority" and insert "Program".

On page 71, line 1, strike "An assessment" and insert "In consultation with the Officer for Civil Rights and Civil Liberties of the National Intelligence Authority and the Privacy Officer of the National Intelligence Authority, an assessment".

On page 71, beginning on line 16, strike "Authority" and insert "Authority or the National Intelligence Program, or in the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community,".

On page 72, beginning on line 3, strike "a relationship between".

On page 72, strike lines 19 through 25 and insert the following:

(B) an investigation, inspection, review, or audit carried out by the Inspector General focuses on any current or former official of the intelligence community who—

(i) holds or held a position in an element of the intelligence community that is subject to appointment by the President, by and with the advice and consent of the Senate, including an appointment held on an acting basis; or

(ii) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the National Intelligence Director:

On page 73, strike line 24 and all that follows through page 74, line 5, and insert the following:

(5)(A) An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor of an element of the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such a complaint or information to the Inspector General.

On page 77, line 8, strike "the Authority" and insert "an element of the intelligence community".

On page 77, between lines 11 and 12, insert the following:

(i) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—The performance by the Inspector General of the National Intelligence Authority of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or effect the duties and responsibilities of any other Inspector General having duties or responsibilities relating to such element.

On page 77, line 12, strike "(i)" and insert "(j)".

SA 3778. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 113, between lines 17 and 18, insert the following:

(b) TERMINATION OF EMPLOYEES.—(1) Notwithstanding any other provision of law, the National Intelligence Director may, in the discretion of the Director, terminate the employment of any officer or employee of the National Intelligence Authority whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

(2) Any termination of employment of an officer or employee under paragraph (1) shall not affect the right of the officer or employee to seek or accept employment in any other department, agency, or element of the United States Government if declared eligible for such employment by the Office of Personnel Management.

On page 113, line 18, strike "(b) RIGHTS AND PROTECTIONS" and insert "(c) OTHER RIGHTS AND PROTECTIONS".

On page 113, after line 24, add the following:

(d) EXCLUSION FROM CERTAIN PERSONNEL MANAGEMENT REQUIREMENTS.—

(1) PERFORMANCE APPRAISALS.—Section 4301(1)(ii) of title 5, United States Code, is amended by inserting "the National Intelligence Authority," before "the Central Intelligence Agency,".

(2) LABOR-MANAGEMENT RELATIONS.—Section 7103(a)(3) of that title is amended—

(A) in subparagraph (G), by striking "or" at the end;

(B) in subparagraph (H), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(I) the National Intelligence Authority;

"(J) the Defense Intelligence Agency;

"(K) the National Geospatial-Intelligence Agency; or

"(L) any other Executive agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities.".

(e) REGULATIONS.—(1) In carrying out the responsibilities and authorities specified in sections 112 and 113 and this section (including the amendments made by this section), the National Intelligence Director shall prescribe regulations regarding the management of personnel of the National Intelligence Authority.

(2) The regulations shall include provisions relating to the following:

(A) The applicability to the personnel of the Authority of the authorities referred to in subsection (a).

(B) The exercise of the authority under subsection (b) to terminate officers and employees of the Authority.

SA 3779. Mr. DORGAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. CONTAINER SECURITY TRIALS.

(a) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary of Homeland Security in partnership with private industry and a land grant college with radio frequency identification (referred to in this section as "RFID") expertise shall conduct at least 2 large-scale cargo security trials, involving no fewer than 10,000 intermodal containers each, utilizing technologies such as radio frequency tracking or sensing technologies that provide seamless visibility throughout the entirety of the distribution chain from factory to retail.

(b) PROJECT FOCUS.—At least 1 project conducted under this section shall focus on United States-Sino trans-Pacific commerce with active RFID tag technology and 1 shall focus on the rural United States-Canadian border with battery assisted semi-passive sensor RFID tag technology.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 3780. Mr. ALLARD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, between lines 1 and 2, insert the following:

SEC. 207. MANAGEMENT OF CIVILIAN PERSONNEL CONDUCTING FOREIGN INTELLIGENCE AND COUNTERINTELLIGENCE ACTIVITIES.

(a) IN GENERAL.—In carrying out the responsibilities and authorities specified in sections 112 and 113, the National Intelligence Director may terminate the employment of civilian personnel of the elements of the intelligence community whose principle function is the conduct of foreign intelligence or counterintelligence activities if the Director considers such action to be in the interests of the United States.

(b) FINALITY.—A decision of the National Intelligence Director to terminate the employment of an employee under this section is final and may not be appealed or reviewed outside such elements of the intelligence community as the President shall designate.

(c) PRESERVATION OF RIGHT TO SEEK OTHER EMPLOYMENT.—Any termination of employment of an employee under this section shall not affect the right of the employee to seek or accept employment with any other department, agency, or element of the United States Government if the employee is declared eligible for such employment by the Director of the Office of Personnel Management.

(d) DELEGATION OF AUTHORITY.—The National Intelligence Director may delegate the authority under subsection (a).

SA 3781. Mr. WARNER (for himself and Mr. STEVENS) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 119, beginning on line 17, strike "upon the request of the National Intelligence Director.'." and insert "at least monthly and otherwise upon the request of the National Intelligence Director or another principal member of the Council.

"(e) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the National Intelligence Director to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

"(2) The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

"(f) RECOMMENDATIONS TO CONGRESS.—Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.".

SA 3782. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ALLOCATION OF FEDERAL HOMELAND SECURITY ASSISTANCE.

Any Federal funds appropriated to the Department of Homeland Security for grants or other assistance shall be allocated based strictly on an assessment of risks and vulnerabilities.

SA 3783. Mr. SESSIONS (for Mr. INOUYE) proposed an amendment to the bill S. 2436, to reauthorize the Native American Programs Act of 1974; as follows:

At the end, add the following:

SEC. 2. RESEARCH AND EDUCATIONAL ACTIVITIES.

Section 7205(a)(3) of the Native Hawaiian Education Act (20 U.S.C. 7515(a)(3)) is amended—

(1) by redesignating subparagraphs (K) and (L) as subparagraphs (L) and (M), respectively; and

(2) by inserting after subparagraph (J) the following:

“(K) research and educational activities relating to Native Hawaiian law;”.

SA 3784. Mr. SESSIONS (for Mr. CRAIG) proposed an amendment to the bill S. 2639, to reauthorize the Congressional Award Act; as follows:

After section 1, insert the following:

SEC. 2. FEDERAL FUNDS AND RESOURCES.

(a) TECHNICAL AMENDMENTS; CLARIFICATION OF ACCEPTANCE OF FEDERAL FUNDS AND RESOURCES.—Section 106 of the Congressional Award Act (2 U.S.C. 806) is amended—

(1) in subsection (a)(1), by striking “from sources other than the Federal Government”;

(2) in the heading of subsection (e), by striking “NON-FEDERAL FUNDS AND RESOURCES; INDIRECT RESOURCES” and inserting “FUNDS AND RESOURCES”;

(3) in subsection (e)—

(A) in paragraph (1), by striking “Subject to the provisions of paragraph (2), the” and inserting “The”; and

(B) by striking paragraph (2) and inserting the following:

“(2) The Board—

“(A) may benefit from in-kind and indirect resources provided by Offices of Members of Congress;

“(B) is not prohibited from receiving benefits from efforts or activities undertaken in collaboration with entities which receive Federal funds or resources; and

“(C) may not accept more than one-half of all funds accepted from Federal sources.”; and

(4) adding at the end the following:

“(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Board to carry out this Act $750,000 for each of fiscal years 2005, 2006, 2007, 2008, and 2009.”.

SA 3785. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. HOAXES RELATING TO TERRORIST OFFENSES.

(a) PROHIBITION ON HOAXES.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1037 the following:

“§ 1038. False information and hoaxes

“(a) CRIMINAL VIOLATION.—

“(1) IN GENERAL.—Whoever engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed, and where such information indicates that an activity has taken, is taking, or will take place that would constitute an offense listed under section 2332b(g)(5)(B) of this title—

“(A) be fined under this title or imprisoned not more than 5 years, or both;

“(B) if serious bodily injury (as defined in section 1365 of this title, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

“(C) if death results, shall be punished by death or imprisoned for any term of years or for life.

“(2) ARMED FORCES.—Whoever, without lawful authority, makes a false statement, with intent to convey false or misleading information, about the death, injury, capture, or disappearance of a member of the Armed Forces of the United States during a war or armed conflict in which the United States is engaged, shall—

“(A) be fined under this title or imprisoned not more than 5 years, or both;

“(B) if serious bodily injury (as defined in section 1365 of this title, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) results, be fined under this title or imprisoned not more than 25 years, or both; and

“(C) if death results, shall be punished by death or imprisoned for any term of years or for life.

“(b) CIVIL ACTION.—Whoever knowingly engages in any conduct with intent to convey false or misleading information under circumstances where such information may reasonably be believed and where such information indicates that an activity has taken, is taking, or will take place that would constitute a violation of chapter 2, 10, 11B, 39, 40, 44, 111, or 113B of this title, section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284), or section 46502, the second sentence of section 46504, section 46505 (b)(3) or (c), section 46506 if homicide or attempted homicide is involved, or section 60123(b) of title 49 is liable in a civil action to any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

“(c) REIMBURSEMENT.—

“(1) IN GENERAL.—The court, in imposing a sentence on a defendant who has been convicted of an offense under subsection (a), shall order the defendant to reimburse any party incurring expenses incident to any emergency or investigative response to that conduct, for those expenses.

“(2) LIABILITY.—A person ordered to make reimbursement under this subsection shall be jointly and severally liable for such expenses with each other person, if any, who is ordered to make reimbursement under this subsection for the same expenses.

“(3) CIVIL JUDGMENT.—An order of reimbursement under this subsection shall, for the purposes of enforcement, be treated as a civil judgment.

“(d) ACTIVITIES OF LAW ENFORCEMENT.—This section shall not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or political subdivision of a State, or of an intelligence agency of the United States.”.

(b) CLERICAL AMENDMENT.—The table of sections of chapter 47 of title 18, United States Code, is amended by adding after the item relating to section 1037 the following:

“1038. False information and hoaxes.”.

SEC. ___. INCREASED PENALTIES FOR OBSTRUCTION OF JUSTICE IN TERRORISM CASES.

(a) ENHANCED PENALTY.—Sections 1001(a) and 1505 of title 18, United States Code, are amended by striking “be fined under this title or imprisoned not more than 5 years, or both” and inserting “be fined under this title, imprisoned not more than 5 years or, if the matter relates to international or domestic terrorism (as defined in section 2331), imprisoned not more than 10 years, or both”.

(b) SENTENCING GUIDELINES.—Not later than 30 days after the date of enactment of this section, the United States Sentencing Commission shall amend the Sentencing Guidelines to provide for an increased offense level for an offense under sections 1001(a) and 1505 of title 18, United States Code, if the offense involves a matter relating to international or domestic terrorism, as defined in section 2331 of such title.

SA 3786. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. ADDING TERRORIST OFFENSES TO STATUTORY PRESUMPTION OF NO BAIL.

Section 3142 of title 18, United States Code, is amended—

(1) in the flush language at the end of subsection (e) by inserting before the period at the end the following: “, or an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or international terrorism as defined in section 2331 of title 18 of the United States Code”; and

(2) in subsections (f)(1)(A) and (g)(1), by inserting after “violence” the following: “or an offense listed in section 2332b(g)(5)(B) of title 18 of the United States Code, if the Attorney General certifies that the offense appears by its nature or context to be intended to intimidate or coerce a civilian population, to influence the policy of a government by intimidation or coercion, or to affect the conduct of a government by mass destruction, assassination, or kidnaping, or an offense involved in or related to domestic or

international terrorism as defined in section 2331 of title 18 of the United States Code,".

SEC. ___. MAKING TERRORISTS ELIGIBLE FOR LIFETIME POST-RELEASE SUPERVISION.

Section 3583(j) of title 18, United States Code, is amended by striking ", the commission" and all that follows through "person,".

SEC. . AUTOMATIC PERMISSION FOR EX PARTE REQUESTS FOR PROTECTION UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.

The second sentence of section 4 of the Classified Information Procedures Act (18 U.S.C. App. 3) is amended—

(1) by striking "may" and inserting "shall"; and

(2) by striking "a written statement to be inspected" and inserting "a statement to be considered".

SA 3787. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . UNIFORM STANDARDS FOR INFORMATION SHARING ACROSS FEDERAL AGENCIES.

(a) TELEPHONE RECORDS.—Section 2709(d) of title 18, United States Code, is amended by striking "for foreign" and all that follows through "such agency".

(b) CONSUMER INFORMATION UNDER 15 U.S.C. 1681u.—Section 625(f) of the Fair Credit Reporting Act (15 U.S.C. 1681u(f)) is amended to read as follows:

"(f) DISSEMINATION OF INFORMATION.—The Federal Bureau of Investigation may disseminate information obtained pursuant to this section only as provided in guidelines approved by the Attorney General.".

(c) CONSUMER INFORMATION UNDER 15 U.S.C. 1681v.—Section 626 of the Fair Credit Reporting Act (15 U.S.C. 1681v) is amended—

(1) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively; and

(2) by inserting after subsection (c) the following:

"(d) DISSEMINATION OF INFORMATION.—The Federal Bureau of Investigation may disseminate information obtained pursuant to this section only as provided in guidelines approved by the Attorney General.".

(d) FINANCIAL RECORDS.—Section 1114(a)(5)(B) of the Right to Financial Privacy Act (12 U.S.C. 3414(a)(5)(B)) is amended by striking "for foreign" and all that follows through "such agency".

(e) RECORDS CONCERNING CERTAIN GOVERNMENT EMPLOYEES.—Section 802(e) of the National Security Act of 1947 (50 U.S.C. 436(e)) is amended—

(1) by striking "An agency" and inserting the following: "The Federal Bureau of Investigation may disseminate records or information received pursuant to a request under this section only as provided in guidelines approved by the Attorney General. Any other agency"; and

(2) in paragraph (3), by striking "clearly".

SEC. . AUTHORIZATION TO SHARE NATIONAL-SECURITY AND GRAND-JURY INFORMATION WITH STATE AND LOCAL GOVERNMENTS.

(a) INFORMATION OBTAINED IN NATIONAL SECURITY INVESTIGATIONS.—Section 203(d) of the USA PATRIOT ACT (50 U.S.C. 403–5d) is amended—

(1) in paragraph (1), by striking "criminal investigation" each place it appears and inserting "criminal or national security investigation"; and

(2) by amending paragraph (2) to read as follows:

"(2) DEFINITIONS.—As used in this subsection—

"(A) the term 'foreign intelligence information' means—

"(i) information, whether or not concerning a United States person, that relates to the ability of the United States to protect against—

"(I) actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power;

"(II) sabotage or international terrorism by a foreign power or an agent of a foreign power; or

"(III) clandestine intelligence activities by an intelligence service or network of a foreign power or by an agent of a foreign power; or

"(ii) information, whether or not concerning a United States person, with respect to a foreign power or foreign territory that relates to—

"(I) the national defense or the security of the United States; or

"(II) the conduct of the foreign affairs of the United States; and

"(B) the term 'national security investigation'—

"(i) means any investigative activity to protect the national security; and

"(ii) includes—

"(I) counterintelligence and the collection of intelligence (as defined in section 3 of the National Security Act of 1947 (50 U.S.C. 401a)); and

"(II) the collection of foreign intelligence information.".

(b) RULE AMENDMENTS.—Rule 6(e) of the Federal Rules of Criminal Procedure is amended—

(1) in paragraph (3)—

(A) in subparagraph (A)(ii), by striking "or state subdivision or of an Indian tribe" and inserting ", state subdivision, Indian tribe, or foreign government";

(B) in subparagraph (D)—

(i) by inserting after the first sentence the following: "An attorney for the government may also disclose any grand-jury matter involving a threat of actual or potential attack or other grave hostile acts of a foreign power or an agent of a foreign power, domestic or international sabotage, domestic or international terrorism, or clandestine intelligence gathering activities by an intelligence service or network of a foreign power or by an agent of a foreign power, within the United States or elsewhere, to any appropriate Federal, State, state subdivision, Indian tribal, or foreign government official for the purpose of preventing or responding to such a threat."; and

(ii) in clause (i)—

(I) by striking "federal"; and

(II) by adding at the end the following: "Any State, state subdivision, Indian tribal, or foreign government official who receives information under Rule 6(e)(3)(D) may use the information only consistent with such guidelines as the Attorney General and Director of Central Intelligence shall jointly issue."; and

(C) in subparagraph (E)—

(i) by redesignating clauses (iii) and (iv) as clauses (iv) and (v), respectively;

(ii) by inserting after clause (ii) the following:

"(iii) at the request of the government, when sought by a foreign court or prosecutor for use in an official criminal investigation;"; and

(iii) in clause (iv), as redesignated—

(I) by striking "state or Indian tribal" and inserting "State, Indian tribal, or foreign"; and

(II) by striking "or Indian tribal official" and inserting "Indian tribal, or foreign government official"; and

(2) in paragraph (7), by inserting ", or of guidelines jointly issued by the Attorney General and Director of Central Intelligence pursuant to Rule 6," after "Rule 6".

(c) CONFORMING AMENDMENT.—Section 203(c) of the USA PATRIOT ACT (18 U.S.C. 2517 note) is amended by striking "Rule 6(e)(3)(C)(i)(V) and (VI)" and inserting "Rule 6(e)(3)(D)".

SA 3788. Mr. KYL submitted and amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FISA WARRANTS FOR LONE-WOLF TERRORISTS.

Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following:

"(C) engages in international terrorism or activities in preparation therefore; or".

SA 3789. Mr. KYL submitted and amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. USE OF FISA INFORMATION IN IMMIGRATION PROCEEDINGS.

The following provisions of the Foreign Intelligence Surveillance Act of 1978 are each amended by inserting "(other than in proceedings or other civil matters under the immigration laws (as that term is defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)))" after "authority of the United States":

(1) Subsections (c), (e), and (f) of section 106 (50 U.S.C. 1806).

(2) Subsections (d), (f), and (g) of Section 305 (50 U.S.C. 1825).

(3) Subsections (c), (e), and (f) of section 405 (50 U.S.C. 1845).

SA 3790. Mr. KYL submitted and amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . EXPANDED DEATH PENALTY FOR TERRORIST MURDERS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding at the end the following:

"§ 2339D. Terrorist offenses resulting in death

"(a) PENALTY.—A person who, in the course of committing a terrorist offense, engages in conduct that results in the death of a person, shall be punished by death, or imprisoned for any term of years or for life.

"(b) TERRORIST OFFENSE DEFINED.—In this section, the term 'terrorist offense' means—

"(1) international or domestic terrorism as defined in section 2331;

"(2) a Federal crime of terrorism as defined in section 2332b(g);

"(3) an offense under—

"(A) this chapter;

"(B) section 175, 175b, 229, or 831; or

"(C) section 236 of the Atomic Energy Act of 1954 (42 U.S.C. 2284); or

"(4) an attempt or conspiracy to commit an offense described in paragraph (1), (2), or (3).".

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

"2339D. Terrorist offenses resulting in death.".

(c) AGGRAVATING FACTORS.—

(1) IN GENERAL.—Section 3591(a)(1) of title 18, United States Code, is amended by striking "or section 2381" and inserting ", 2339D, or 2381".

(2) CONFORMING AMENDMENT.—Section 3592(b) of title 18, United States Code, is amended—

(A) in the section heading, by striking "AND TREASON" and inserting ", TREASON, AND TERRORISM"; and

(B) in paragraph (1)—

(i) in the section heading, by striking "OR TREASON" and inserting ", TREASON, OR TERRORISM"; and

(ii) by striking "or treason" and inserting ", treason, or terrorism".

(d) DEATH PENALTY IN CERTAIN AIR PIRACY CASES.—Section 60003(b) of the Violent Crime Control and Law Enforcement Act of 1994, (Public Law 103-322), is amended, as of the time of its enactment, by adding at the end the following:

"(2) DEATH PENALTY PROCEDURES FOR CERTAIN PREVIOUS AIRCRAFT PIRACY VIOLATIONS.—An individual convicted of violating section 46502 of title 49, United States Code, or its predecessor, may be sentenced to death in accordance with the procedures established in chapter 228 of title 18, United States Code, if for any offense committed before the enactment of the Violent Crime Control and Law Enforcement Act of 1994 (Public Law 103-322), but after the enactment of the Antihijacking Act of 1974 (Public Law 93-366), it is determined by the finder of fact, before consideration of the factors set forth in sections 3591(a)(2) and 3592(a) and (c) of title 18, United States Code, that one or more of the factors set forth in former section 46503(c)(2) of title 49, United States Code, or its predecessor, has been proven by the Government to exist, beyond a reasonable doubt, and that none of the factors set forth in former section 46503(c)(1) of title 49, United States Code, or its predecessor, has been proven by the defendant to exist, by a preponderance of the information. The meaning of the term 'especially heinous, cruel, or depraved', as used in the factor set forth in former section 46503(c)(2)(B)(iv) of title 49, United States Code, or its predecessor, shall be narrowed by adding the limiting language 'in that it involved torture or serious physical abuse to the victim', and shall be construed as when that term is used in section 3592(c)(6) of title 18, United States Code.".

SEC. ___. DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

"§ 2339E. Denial of Federal benefits to terrorists

"(a) IN GENERAL.—Any individual who is convicted of a Federal crime of terrorism (as defined in section 2332b(g)) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

"(b) FEDERAL BENEFIT DEFINED.—As used in this section, 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).".

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

"2339E. Denial of Federal benefits to terrorists.".

SEC. . PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) IN GENERAL.—Section 2339A(a) of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting the following:

"(1) IN GENERAL.—Any person who";

(2) by striking "A violation" and inserting the following:

"(3) PROSECUTION.—A violation";

(3) by inserting after paragraph (1) the following:

"(2) ADDITIONAL OFFENSE.—

"(A) IN GENERAL.—Any person who provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of international or domestic terrorism, or in the preparation for, or in carrying out, the concealment or escape from the commission of any such act, or attempts or conspires to do so, shall be punished as provided under paragraph (1) for an offense under that paragraph.

"(B) JURISDICTION.—There is Federal jurisdiction over an offense under this paragraph if—

"(i) the offense occurs in or affects interstate or foreign commerce;

"(ii) the act of terrorism is an act of international or domestic terrorism that violates the criminal law of the United States;

"(iii) the act of terrorism is an act of domestic terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government;

"(iv) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States or outside the territorial jurisdiction of the United States, is—

"(I) a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(II) an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

"(III) a stateless person whose habitual residence is in the United States;

"(v) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States, is an alien;

"(vi) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States, and an offender, acting outside the territorial jurisdiction of the United States, is an alien; or

"(vii) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under this paragraph or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under this paragraph."; and

(4) by inserting "act or" after "underlying".

(b) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended to read as follows—

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'material support or resources' means any property (tangible or intangible) or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

"(2) the term 'training' means instruction or teaching designed to impart a specific skill, rather than general knowledge; and

"(3) the term 'expert advice or assistance' means advice or assistance derived from scientific, technical, or other specialized knowledge.".

(c) MATERIAL SUPPORT TO FOREIGN TERRORIST ORGANIZATION.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking "Whoever, within the United States or subject to the jurisdiction of the United States," and inserting the following:

"(A) IN GENERAL.—Any person who"; and

(2) by adding at the end the following:

"(B) KNOWLEDGE REQUIREMENT.—A person cannot violate this paragraph unless the person has knowledge that the organization referred to in subparagraph (A)—

"(i) is a terrorist organization;

"(ii) has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

"(iii) has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).".

(d) JURISDICTION.—Section 2339B(d) of title 18, United States Code, is amended to read as follows:

"(d) JURISDICTION.—

"(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

"(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act);

"(B) an offender is a stateless person whose habitual residence is in the United States;

"(C) an offender is brought in or found in the United States after the conduct required for the offense occurs, even if such conduct occurs outside the United States;

"(D) the offense occurs in whole or in part within the United States;

"(E) the offense occurs in or affects interstate or foreign commerce; or

"(F) an offender aids or abets any person, over whom jurisdiction exists under this paragraph, in committing an offense under subsection (a) or conspires with any person, over whom jurisdiction exists under this paragraph, to commit an offense under subsection (a).

"(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.".

(e) PROVISION OF PERSONNEL.—Section 2339B of title 18, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by adding after subsection (f) the following:

"(g) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term 'personnel' unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include that person) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Any person who acts entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction or control.".

SEC. . RECEIVING MILITARY TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.

(a) PROHIBITION AS TO CITIZENS AND RESIDENTS.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2339E the following:

"§ 2339F. Receiving military-type training from a foreign terrorist organization

"(a) OFFENSE.—

"(1) IN GENERAL.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)) as a foreign terrorist organization, shall be fined under this title, imprisoned for ten years, or both.

"(2) KNOWLEDGE REQUIREMENT.—To violate paragraph (1), a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).

"(b) JURISDICTION.—

"(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

"(A) an offender is a national of the United States (as defined in 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

"(B) an offender is a stateless person whose habitual residence is in the United States;

"(C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

"(D) the offense occurs in whole or in part within the United States;

"(E) the offense occurs in or affects interstate or foreign commerce; and

"(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a), or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

"(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(c) DEFINITIONS.—In this section:

"(1) MILITARY-TYPE TRAINING.—The term 'military-type training' means training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2)).

"(2) SERIOUS BODILY INJURY.—The term 'serious bodily injury' has the meaning given that term in section 1365(h)(3).

"(3) CRITICAL INFRASTRUCTURE.—The term 'critical infrastructure' means systems and assets vital to national defense, national security, economic security, public health, or safety, including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned. Examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and air ports).

"(4) FOREIGN TERRORIST ORGANIZATION.—The term 'foreign terrorist organization' means an organization designated as a terrorist organization under section 219 (a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

"2339F. Receiving military-type training from a foreign terrorist organization.".

(b) INADMISSIBILITY OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) by striking "is inadmissable. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity."; and

(2) by inserting after subclause (VII) the following:

"(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi),

is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.".

(c) INADMISSIBILITY OF REPRESENTATIVES AND MEMBERS OF TERRORIST ORGANIZATIONS.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (IV), by striking item (aa) and inserting the following:

"(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi), or"; and

(2) by striking subclause (V) and inserting the following:

"(V) is a member of—

"(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi); or

"(bb) an organization which the alien knows or should have known is a terrorist organization,".

(d) DEPORTATION OF ALIENS WHO HAVE RECEIVED MILITARY-TYPE TRAINING FROM TERRORIST ORGANIZATIONS.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

"(E) RECIPIENT OF MILITARY-TYPE TRAINING.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi), is deportable.".

(e) RETROACTIVE APPLICATION.—The amendments made by subsections (b), (c), and (d) shall apply to the receipt of military training occuring before, on, or after the date of enactment of this Act.

Subtitle ___—Combating Money Laundering and Terrorist Financing Act

SEC. 01. SHORT TITLE.

This subtitle may be cited as the "Combating Money Laundering and Terrorist Financing Act of 2004".

SEC. ___02. SPECIFIED ACTIVITIES FOR MONEY LAUNDERING.

(a) RICO DEFINITIONS.—Section 1961(1) of title 18, United States Code, is amended—

(1) in subparagraph (A), by inserting "burglary, embezzlement," after "robbery,";

(2) in subparagraph (B), by—

(A) inserting "section 1960 (relating to illegal money transmitters)," before "sections 2251";

(B) striking "1591" and inserting "1592";

(C) inserting "and 1470" after "1461–1465"; and

(D) inserting "2252A," after "2252,";

(3) in subparagraph (D), by striking "fraud in the sale of securities" and inserting "fraud in the purchase or sale of securities"; and

(4) in subparagraph (F), by inserting "and 274A" after "274".

(b) MONETARY INVESTMENTS.—Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting ", or section 2339C (relating to financing of terrorism)" before "of this title"; and

(2) striking "or any felony violation of the Foreign Corrupt Practices Act" and inserting "any felony violation of the Foreign Corrupt Practices Act, or any violation of section 208 of the Social Security Act (42 U.S.C. 408) (relating to obtaining funds through misuse of a social security number)".

(c) CONFORMING AMENDMENTS.—

(1) MONETARY INSTRUMENTS.—Section 1956(e) of title 18, United States Code, is amended to read as follows:

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, with respect to the offenses over which the Social Security Administration has jurisdiction, as the Commissioner of Social Security may direct, and with respect to offenses over which the United States Postal Service has jurisdiction, as the Postmaster General may direct. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, the Postmaster General, and the Attorney General. Violations of this section involving offenses described in subsection (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.".

(2) Property from unlawful activity.—Section 1957(e) of title 18, United States Code, is amended to read as follows:

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postmaster General. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postmaster General, and the Attorney General.".

SEC. 03. ILLEGAL MONEY TRANSMITTING BUSINESSES.

(a) Technical Amendments.—Section 1960 of title 18, United States Code, is amended—

(1) in the caption by striking "unlicensed" and inserting "illegal";

(2) in subsection (a), by striking "unlicensed" and inserting "illegal";

(3) in subsection (b)(1), by striking "unlicensed" and inserting "illegal"; and

(4) in subsection (b)(1)(C), by striking "to be used to be used" and inserting "to be used".

(b) Prohibition of Unlicensed Money Transmitting Businesses.—Section 1960(b)(1)(B) of title 18, United States Code, is amended by inserting the following before the semicolon: ", whether or not the defendant knew that the operation was required to comply with such registration requirements".

(c) Authority To Investigate.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

"(c) Violations of this section may be investigated by the Attorney General, the Secretary of the Treasury, and the Secretary of the Department of Homeland Security.".

SEC. ___04. ASSETS OF PERSONS COMMITTING TERRORIST ACTS AGAINST FOREIGN COUNTRIES OR INTERNATIONAL ORGANIZATIONS.

Section 981(a)(1)(G) of title 18, United States Code, is amended by—

(1) striking "or" at the end of clause (ii);

(2) striking the period at the end of clause (iii) and inserting "; or"; and

(3) inserting after clause (iii) the following:

"(iv) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism (as defined in section 2331) against any international organization (as defined in section 209 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309(b))) or against any foreign government. Where the property sought for forfeiture is located beyond the territorial boundaries of the United States, an act in furtherance of such planning or perpetration must have occurred within the jurisdiction of the United States.".

SEC. 05. MONEY LAUNDERING THROUGH INFORMAL VALUE TRANSFER SYSTEMS.

Section 1956(a) of title 18, United States Code, is amended by adding at the end the following:

"(4) A transaction described in paragraph (1), or a transportation, transmission, or transfer described in paragraph (2) shall be deemed to involve the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer is part of a single plan or arrangement whose purpose is described in either of those paragraphs and one part of such plan or arrangement actually involves the proceeds of specified unlawful activity.".

SEC. 06. FINANCING OF TERRORISM.

(a) Concealment.—Section 2339C(c)(2) of title 18, United States Code, is amended to read as follows:

"(2) knowingly conceals or disguises the nature, location, source, ownership, or control of any material support, or resources, or any funds or proceeds of such funds—

"(A) knowing or intending that the support or resources are to be provided, or knowing that the support or resources were provided, in violation of section 2339B; or

"(B) knowing or intending that any such funds are to be provided or collected, or knowing that the funds were provided or collected, in violation of subsection (a),

shall be punished as prescribed in subsection (d)(2).".

(b) Definition.—Section 2339C(e) of title 18, United States Code, is amended—

(1) in paragraph (12), by striking "and" at the end;

(2) by redesignating paragraph (13) as paragraph (14); and

(3) by inserting after paragraph (12) the following:

"(13) the term 'material support or resources' has the same meaning as in section 2339B(g)(4); and".

SEC. 07. MISCELLANEOUS AND TECHNICAL AMENDMENTS.

(a) Criminal Forfeiture.—Section 982(b)(2) of title 18, United States Code, is amended, by striking "The substitution" and inserting "With respect to a forfeiture under subsection (a)(1), the substitution".

(b) Technical Amendments to Sections 1956 and 1957.—

(1) Unlawful activity.—Section 1956(c)(7)(F) of title 18, United States Code, is amended by inserting ", as defined in section 24" before the period.

(2) Property from unlawful activity.—Section 1957 of title 18, United States Code, is amended—

(A) in subsection (a), by striking "engages or attempts to engage in" and inserting "conducts or attempts to conduct"; and

(B) in subsection (f), by inserting the following after paragraph (3):

"(4) the term 'conducts' has the same meaning as it does for purposes of section 1956 of this title.".

(c) Obstruction of Justice.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by striking "or" the first time it appears and inserting ", a subpoena issued pursuant to section 1782 of title 28, or".

(d) International Terrorism.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting ")" after "2339C (relating to financing of terrorism)".

SA 3791. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. WEAPONS OF MASS DESTRUCTION.

(a) Expansion of Jurisdictional Bases and Scope.—Section 2332a of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking paragraph (2) and inserting the following:

"(2)(A) against any person or property within the United States; and

"(B)(i) the mail or any facility of interstate or foreign commerce is used in furtherance of the offense;

"(ii) such property is used in interstate or foreign commerce or in an activity that affects interstate or foreign commerce;

"(iii) any perpetrator travels in or causes another to travel in interstate or foreign commerce in furtherance of the offense; or

"(iv) the offense, or the results of the offense, affect interstate or foreign commerce, or, in the case of a threat, attempt, or conspiracy, would have affected interstate or foreign commerce;";

(B) in paragraph (3), by striking the comma at the end and inserting "; or"; and

(C) by adding at the end the following:

"(4) against any property within the United States that is owned, leased, or used by a foreign government,"; and

(2) in subsection (c)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) the term 'property' includes all real and personal property.".

(b) Restoration of the Coverage of Chemical Weapons.—

(1) In general.—Section 2332a of title 18, United States Code, as amended by this Act, is further amended by—

(A) in the section heading, by striking "CERTAIN";

(B) in subsection (a), by striking "(other than a chemical weapon as that term is defined in section 229F)"; and

(C) in subsection (b), by striking "(other than a chemical weapon (as that term is defined in section 229F))".

(2) Technical and conforming amendment.—The table of sections for chapter 113B of title 18, United States Code, is amended in the matter relating to section 2332a by striking "certain".

(c) Expansion of Categories of Restricted Persons Subject to Prohibitions Relating to Select Agents.—Section 175b(d)(2) of title 18, United States Code, is amended—

(1) in subparagraph (G)—

(A) by inserting "(i)" after "(G)";

(B) by striking "or" after the semicolon; and

(C) by adding at the end the following:

"(ii) acts for or on behalf of, or operates subject to the direction or control of, a government or official of a country described in this subparagraph;"; and

(2) in subparagraph (H), by striking the period and inserting "; or"; and

(3) by adding at the end the following:

"(I) is a member of, acts for or on behalf of, or operates subject to the direction or control of, a terrorist organization (as that term is defined under section 212(a)(3)B)(vi) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(vi)).".

(d) Conforming Amendment to Regulations.—

(1) In general.—Section 175b(a)(1) of title 18, United States Code, is amended by striking "as a select agent in Appendix A" and all that follows through the period and inserting "as a non-overlap or overlap select biological agent or toxin in sections 73.4 and 73.5 of title 42, Code of Federal Regulations, pursuant to section 351A of the Public Health Service Act, and is not excluded under sections 73.4 and 73.5 or exempted under section 73.6 of title 42, Code of Federal Regulations.".

(2) Effective date.—The amendment made by paragraph (1) shall take effect on the date that sections 73.4, 73.5, and 73.6 of title 42, Code of Federal Regulations, become effective.

SEC. ___. PARTICIPATION IN NUCLEAR AND WEAPONS OF MASS DESTRUCTION THREATS TO THE UNITED STATES.

(a) Atomic Energy Act.—Section 57(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2077(b)) is amended by striking "in the production of any special nuclear material" and inserting "or participate in the development or production of any special nuclear material or atomic weapon".

(b) Nuclear Weapon and WMD Threats.—

(1) In general.—Chapter 39 of title 18, United States Code, is amended by adding at the end the following:

"§ 838. Participation in nuclear and weapons of mass destruction threats to the United States

"(a) In General.—Whoever, within the United States, or subject to the jurisdiction of the United States, willfully participates in or provides material support or resources (as that term is defined under section 2339A) to a nuclear weapons program, or other weapons of mass destruction program of a foreign terrorist power, or attempts or conspires to do so, shall be imprisoned for not more than 20 years.

"(b) Jurisdiction.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(c) Definitions.—As used in this section—

"(1) Foreign terrorist power.—The term 'foreign terrorist power' means a terrorist organization designated under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189), or a state sponsor of terrorism designated under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405), or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371).

"(2) Nuclear weapon.—The term 'nuclear weapon' means any weapon that contains or uses nuclear material (as that term is defined under section 831(f)(1)).

"(3) Nuclear weapons program.—The term 'nuclear weapons program' means a program or plan for the development, acquisition, or production of any nuclear weapon or weapons.

"(4) Weapons of mass destruction program.—The term 'weapons of mass destruction program' means a program or plan for the development, acquisition, or production of any weapon or weapons of mass destruction (as that term is defined in section 2332a(c)).".

(2) Technical and conforming amendment.—The table of sections for chapter 39 of title 18, United States Code, is amended by adding at the end the following:

"Sec. 838. Participation in nuclear and weapons of mass destruction threats to the United States.".

(c) Act of Terrorism Transcending National Boundaries.—Section 2332b(g)(5)(B)(i) of title 18, United States Code, is amended by inserting "832 (relating to participation in nuclear and weapons of mass destruction threats to the United States)" after "nuclear materials),".

Subtitle ___—Prevention of Terrorist Access to Special Weapons Act

SEC. 01. SHORT TITLE.

This subtitle may be cited as the "Prevention of Terrorist Access to Special Weapons Act of 2004".

SEC. ___02. MISSILE SYSTEMS DESIGNED TO DESTROY AIRCRAFT.

(a) In General.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332g, as added by this Act, the following:

"§ 2332h. Missile systems designed to destroy aircraft

"(a) Unlawful Conduct.—

"(1) In general.—Except as provided in paragraph (3), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

"(A) an explosive or incendiary rocket or missile that is guided by any system designed to enable the rocket or missile to—

"(i) seek or proceed toward energy radiated or reflected from an aircraft or toward an image locating an aircraft; or

"(ii) otherwise direct or guide the rocket or missile to an aircraft;

"(B) any device designed or intended to launch or guide a rocket or missile described in subparagraph (A); or

"(C) any part or combination of parts designed or redesigned for use in assembling or fabricating a rocket, missile, or device described in subparagraph (A) or (B).

"(2) Nonweapon.—Paragraph (1)(A) does not apply to any device that is neither designed nor redesigned for use as a weapon.

"(3) Excluded conduct.—This subsection does not apply with respect to—

"(A) conduct by or under the authority of the United States or any department or agency thereof or of a State or any department or agency thereof; or

"(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof or with a State or any department or agency thereof.

"(b) Jurisdiction.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce;

"(2) the offense occurs outside of the United States and is committed by a national of the United States;

"(3) the offense is committed against a national of the United States while the national is outside the United States;

"(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

"(c) Criminal Penalties.—

"(1) In general.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

"(2) Life imprisonment.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

"(3) Death penalty.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.

"(d) Definition.—As used in this section, the term 'aircraft' has the definition set forth in section 40102(a)(6) of title 49, United States Code.".

(b) Chapter Analysis.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

"2332h. Missile systems designed to destroy aircraft.".

SEC. ___03. ATOMIC WEAPONS.

(a) Prohibitions.—Section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) is amended by—

(1) inserting at the beginning "a." before "It";

(2) inserting "knowingly" after "for any person to";

(3) striking "or" before "export";

(4) striking "transfer or receive in interstate or foreign commerce," before "manufacture";

(5) inserting "receive," after "acquire,";

(6) inserting ", or use, or possess and threaten to use," before "any atomic weapon";

(7) inserting at the end the following:

"b. Conduct prohibited by subsection a. is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce; the offense occurs outside of the United States and is committed by a national of the United States;

"(2) the offense is committed against a national of the United States while the national is outside the United States;

"(3) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(4) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.".

(b) VIOLATIONS.—Section 222 of the Atomic Energy Act of 1954 (42 U.S.C. 2272) is amended by—

(1) inserting at the beginning "a." before "Whoever";

(2) striking ", 92,"; and

(3) inserting at the end the following:

"b. Any person who violates, or attempts or conspires to violate, section 92 shall be fined not more than $2,000,000 and sentenced to a term of imprisonment not less than 30 years or to imprisonment for life. Any person who, in the course of a violation of section 92, uses, attempts or conspires to use, or possesses and threatens to use, any atomic weapon shall be fined not more than $2,000,000 and imprisoned for life. If the death of another results from a person's violation of section 92, the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.".

SEC. 04. RADIOLOGICAL DISPERSAL DEVICES.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2332h, as added by this Act, the following:

"§ 2332i. Radiological dispersal devices

"(a) UNLAWFUL CONDUCT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, construct, otherwise acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use—

"(A) any weapon that is designed or intended to release radiation or radioactivity at a level dangerous to human life; or

"(B) any device or other object that is capable of and designed or intended to endanger human life through the release of radiation or radioactivity.

"(2) EXCEPTION.—This subsection does not apply with respect to—

"(A) conduct by or under the authority of the United States or any department or agency thereof; or

"(B) conduct pursuant to the terms of a contract with the United States or any department or agency thereof.

"(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce;

"(2) the offense occurs outside of the United States and is committed by a national of the United States;

"(3) the offense is committed against a national of the United States while the national is outside the United States;

"(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

"(c) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

"(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

"(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.".

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

"2332i. Radiological dispersal devices.".

SEC. ___05. VARIOLA VIRUS.

(a) IN GENERAL.—Chapter 10 of title 18, United States Code, is amended by inserting after section 175b the following:

"§ 175c. Variola virus

"(a) UNLAWFUL CONDUCT.—

"(1) IN GENERAL.—Except as provided in paragraph (2), it shall be unlawful for any person to knowingly produce, engineer, synthesize, acquire, transfer directly or indirectly, receive, possess, import, export, or use, or possess and threaten to use, variola virus.

"(2) EXCEPTION.—This subsection does not apply to conduct by, or under the authority of, the Secretary of Health and Human Services.

"(b) JURISDICTION.—Conduct prohibited by subsection (a) is within the jurisdiction of the United States if—

"(1) the offense occurs in or affects interstate or foreign commerce;

"(2) the offense occurs outside of the United States and is committed by a national of the United States;

"(3) the offense is committed against a national of the United States while the national is outside the United States;

"(4) the offense is committed against any property that is owned, leased, or used by the United States or by any department or agency of the United States, whether the property is within or outside the United States; or

"(5) an offender aids or abets any person over whom jurisdiction exists under this subsection in committing an offense under this section or conspires with any person over whom jurisdiction exists under this subsection to commit an offense under this section.

"(c) CRIMINAL PENALTIES.—

"(1) IN GENERAL.—Any person who violates, or attempts or conspires to violate, subsection (a) shall be fined not more than $2,000,000 and shall be sentenced to a term of imprisonment not less than 30 years or to imprisonment for life.

"(2) LIFE IMPRISONMENT.—Any person who, in the course of a violation of subsection (a), uses, attempts or conspires to use, or possesses and threatens to use, any item or items described in subsection (a), shall be fined not more than $2,000,000 and imprisoned for life.

"(3) DEATH PENALTY.—If the death of another results from a person's violation of subsection (a), the person shall be fined not more than $2,000,000 and punished by death or imprisoned for life.

"(d) DEFINITION.—As used in this section, the term 'variola virus' means a virus that can cause human smallpox or any derivative of the variola major virus that contains more than 85 percent of the gene sequence of the variola major virus or the variola minor virus.".

(b) CHAPTER ANALYSIS.—The table of sections of chapter 10 of title 18, United States Code, is amended by inserting at the end the following:

"175c. Variola virus.".

SEC. 06. INTERCEPTION OF COMMUNICATIONS.

Section 2516(1) of title 18, United States Code, is amended—

(1) in paragraph (a), by inserting "2122 and" after "sections";

(2) in paragraph (c), by inserting "section 175c (relating to variola virus)," after "section 175 (relating to biological weapons),";

(3) in paragraph (q), by inserting "2332h, 2332i," after "2332f,"; and

(4) in paragraph (q), by striking "or 2339C" and inserting "2339C, or 2339E".

SEC. 07. AMENDMENTS TO SECTION 2332b(g)(5)(B) OF TITLE 18, UNITED STATES CODE.

Section 2332b(g)(5)(B) of title 18, United States Code, is amended—

(1) in clause (i)—

(A) by inserting before "2339 (relating to harboring terrorists)" the following: "2332h (relating to missile systems designed to destroy aircraft), 2332i (relating to radiological dispersal devices),";

(B) by inserting "175c (relating to variola virus)," after "175 or 175b (relating to biological weapons),"; and

(C) by inserting "2339E (receiving military-type training from a foreign terrorist organization)," after "2339C (relating to financing of terrorism),"; and

(2) in clause (ii)—

(A) by striking "section" and inserting "sections 92 (relating to prohibitions governing atomic weapons) or"; and

(B) by inserting "2122 or" before "2284".

SEC. 08. AMENDMENTS TO SECTION 1956(c)(7)(D) OF TITLE 18, UNITED STATES CODE.

Section 1956(c)(7)(D), title 18, United States Code, is amended—

(1) by inserting after "section 152 (relating to concealment of assets; false oaths and claims; bribery)," the following: "section 175c (relating to the variola virus),";

(2) by inserting after "section 2332(b) (relating to international terrorist acts transcending national boundaries)," the following: "section 2332h (relating to missile systems designed to destroy aircraft), section 2332i (relating to radiological dispersal devices),"; and

(3) striking "or" after "any felony violation of the Foreign Agents Registration Act of 1938," and after "any felony violation of the Foreign Corrupt Practices Act", striking ";" and inserting ", or section 92 of the Atomic Energy Act of 1954 (42 U.S.C. 2122) (relating to prohibitions governing atomic weapons)".

SEC. 09. EXPORT LICENSING PROCESS.

Section 38(g)(1)(A) of the Arms Export Control Act (22 U.S.C. 2778) is amended—

(1) by striking "or" before "(xi)"; and

(2) by inserting after clause (xi) the following: "or (xii) section 3, 4, 5, and 6 of the Prevention of Terrorist Access to Destructive Weapons Act of 2004, relating to missile systems designed to destroy aircraft (18 U.S.C. 2332g), prohibitions governing atomic weapons (42 U.S.C. 2122), radiological dispersal devices (18 U.S.C. 2332h), and variola virus (18 U.S.C. 175b);".

SA 3792. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . JUDICIALLY ENFORCEABLE SUBPOENAS IN TERRORISM INVESTIGATIONS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332f the following:

"§ 2332g. Judicially enforceable terrorism subpoenas

"(a) AUTHORIZATION OF USE.—

"(1) IN GENERAL.—In any investigation concerning a Federal crime of terrorism (as defined under section 2332b(g)(5)), the Attorney General may issue in writing and cause to be served a subpoena requiring the production of any records or other materials that the Attorney General finds relevant to the investigation, or requiring testimony by the custodian of the materials to be produced concerning the production and authenticity of those materials.

"(2) CONTENTS.—A subpoena issued under paragraph (1) shall describe the records or items required to be produced and prescribe a return date within a reasonable period of time within which the records or items can be assembled and made available.

"(3) ATTENDANCE OF WITNESSES AND PRODUCTION OF RECORDS.—

"(A) IN GENERAL.—The attendance of witnesses and the production of records may be required from any place in any State, or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

"(B) LIMITATION.—A witness shall not be required to appear at any hearing more than 500 miles distant from the place where he was served with a subpoena.

"(C) REIMBURSEMENT.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

"(b) SERVICE.—

"(1) IN GENERAL.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

"(2) SERVICE OF SUBPOENA.—

"(A) NATURAL PERSON.—Service of a subpoena upon a natural person may be made by personal delivery of the subpoena to that person, or by certified mail with return receipt requested.

"(B) BUSINESS ENTITIES AND ASSOCIATIONS.—Service of a subpoena may be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(C) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered by that person on a true copy thereof shall be sufficient proof of service.

"(c) ENFORCEMENT.—

"(1) IN GENERAL.—In the case of the contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or the subpoenaed person resides, carries on business, or may be found, to compel compliance with the subpoena.

"(2) ORDER.—A court of the United States described under paragraph (1) may issue an order requiring the subpoenaed person, in accordance with the subpoena, to produce records or other materials, or to give testimony concerning the production and authenticity of those materials. Any failure to obey the order of the court may be punished by the court as contempt thereof.

"(3) SERVICE OF PROCESS.—Any process under this subsection may be served in any judicial district in which the person may be found.

"(d) NONDISCLOSURE REQUIREMENT.—

"(1) IN GENERAL.—Notwithstanding any other provision of law, if the Attorney General certifies that otherwise there may result a danger to the national security of the United States, no person shall disclose to any other person that a subpoena was received or records were provided pursuant to this section, other than to—

"(A) those persons to whom such disclosure is necessary in order to comply with the subpoena;

"(B) an attorney to obtain legal advice with respect to testimony or the production of records in response to the subpoena; or

"(C) other persons as permitted by the Attorney General.

"(2) NOTICE OF NONDISCLOSURE REQUIREMENT.—The subpoena, or an officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed of the nondisclosure requirements under paragraph (1).

"(3) FURTHER APPLICABILITY OF NONDISCLOSURE REQUIREMENTS.—Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

"(4) ENFORCEMENT OF NONDISCLOSURE REQUIREMENT.—Whoever knowingly violates paragraph (1) or (3) shall be imprisoned for not more than 1 year, and if the violation is committed with the intent to obstruct an investigation or judicial proceeding, shall be imprisoned for not more than 5 years.

"(5) TERMINATION OF NONDISCLOSURE REQUIREMENT.—If the Attorney General concludes that a nondisclosure requirement no longer is justified by a danger to the national security of the United States, an officer, employee, or agency of the United States shall notify the relevant person that the prohibition of disclosure is no longer applicable.

"(e) JUDICIAL REVIEW.—

"(1) IN GENERAL.—At any time before the return date specified in a summons issued under this section, the person or entity summoned may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the summons.

"(2) MODIFICATION OF NONDISCLOSURE REQUIREMENT.—Any court described under paragraph (1) may modify or set aside a nondisclosure requirement imposed under subsection (d) at the request of a person to whom a subpoena has been directed, unless there is reason to believe that the nondisclosure requirement is justified because otherwise there may result a danger to the national security of the United States.

"(3) REVIEW OF GOVERNMENT SUBMISSIONS.—In all proceedings under this subsection, the court shall review the submission of the Federal Government, which may include classified information, ex parte and in camera.

"(f) IMMUNITY FROM CIVIL LIABILITY.—Any person, including officers, agents, and employees of a non-natural person, who in good faith produce the records or items requested in a subpoena, shall not be liable in any court of any State or the United States to any customer or other person for such production, or for nondisclosure of that production to the customer or other person.

"(g) REPORTING REQUIREMENT.—The Attorney General shall submit to the Select Committee on Intelligence of the Senate and the permanent Select Committee on Intelligence of the House of Representatives each year a report setting forth with respect to the 1-year period ending on the date of such report—

"(1) the aggregate number of subpoenas issued under this section; and

"(2) the circumstances under which each such subpoena was issued.

"(h) GUIDELINES.—The Attorney General shall, by rule, establish such guidelines as are necessary to ensure the effective implementation of this section.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332f the following:

"2332g. Judicially enforceable terrorism subpoenas.".

SA 3793. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —TRANSIT PROTECTION

Subtitle A—Railroad Carriers and Mass Transportation Protection Act

SEC. 01. SHORT TITLE.

This subtitle may be cited as the "Railroad Carriers and Mass Transportation Protection Act of 2004".

SEC. ___02. ATTACKS AGAINST RAILROAD CARRIERS, PASSENGER VESSELS, AND MASS TRANSPORTATION SYSTEMS.

(a) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

"§ 1992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air

"(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

"(1) wrecks, derails, sets fire to, or disables railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

"(2) with intent to endanger the safety of any passenger or employee of a railroad carrier, passenger vessel, or mass transportation provider, or with a reckless disregard for the safety of human life, and without previously obtaining the permission of the railroad carrier, mass transportation provider, or owner of the passenger vessel—

"(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment, a passenger vessel, or a mass transportation vehicle; or

"(B) releases a hazardous material or a biological agent or toxin on or near the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider;

"(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

"(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without previously obtaining the permission of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

"(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without previously obtaining the permission of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

"(C) structure, supply, or facility used in the operation of, or in the support of the operation of, a passenger vessel, without previously obtaining the permission of the owner of the passenger vessel, and with intent to, or knowing or having reason to know that such activity would likely disable or wreck a passenger vessel;

"(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the rail carrier or mass transportation provider;

"(5) with intent to endanger the safety of any passenger or employee of a railroad carrier, owner of a passenger vessel, or mass transportation provider or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

"(6) engages in conduct, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider that is used for railroad or mass transportation purposes;

"(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

"(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than 20 years, or both.

"(b) Aggravated Offense.—Whoever commits an offense under subsection (a) in a circumstance in which—

"(1) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

"(2) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

"(3) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

"(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

"(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

"(4) the offense results in the death of any person;

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2), the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4), the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

"(c) Crimes Against Public Safety Officer.—Whoever commits an offense under subsection (a) that results in death or serious bodily injury to a public safety officer while the public safety officer was engaged in the performance of official duties, or on account of the public safety officer's performance of official duties, shall be imprisoned for a term of not less than 20 years and, if death results, shall be imprisoned for life and be subject to the death penalty.

"(d) Circumstances Required for Offense.—A circumstance referred to in subsection (a) is any of the following:

"(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, owner of a passenger vessel, or railroad carrier engaged in or affecting interstate or foreign commerce.

"(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

"(e) Nonapplicability.—Subsection (a) does not apply to the conduct with respect to a destructive substance or destructive device that is also classified under chapter 51 of title 49 as a hazardous material in commerce if the conduct—

"(1) complies with chapter 51 of title 49 and regulations, exemptions, approvals, and orders issued under that chapter, or

"(2) constitutes a violation, other than a criminal violation, of chapter 51 of title 49 or a regulation or order issued under that chapter.

"(f) Definitions.—In this section—

"(1) the term 'biological agent' has the meaning given to that term in section 178(1);

"(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

"(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

"(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

"(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

"(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

"(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

"(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

"(9) the term 'public safety officer' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b);

"(10) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

"(11) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

"(12) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

"(13) the term 'serious bodily injury' has the meaning given to that term in section 1365;

"(14) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

"(15) the term 'State' has the meaning given to that term in section 2266;

"(16) the term 'toxin' has the meaning given to that term in section 178(2);

"(17) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air; and

"(18) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.".

(b) Conforming Amendments.—

(1) Table of sections.—The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking "**RAILROADS**" in the chapter heading and inserting "**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**";

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

"1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.".

(2) Table of chapters.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

"97. Railroad carriers and mass transportation systems on land, on water, or through the air .... 1991".

(3) Conforming amendments.—Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking "1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),";

(B) in section 2339A, by striking "1993,"; and

(C) in section 2516(1)(c) by striking "1992 (relating to wrecking trains)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),".

Subtitle B—Reducing Crime and Terrorism at America's Seaports Act

SEC. 11. SHORT TITLE.

This subtitle may be cited as the "Reducing Crime and Terrorism at America's Seaports Act of 2004".

SEC. ___12. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.

(a) IN GENERAL.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "or" at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) any secure or restricted area (as that term is defined under section 2285(c)) of any seaport; or";

(2) in subsection (b)(1), by striking "5" and inserting "10";

(3) in subsection (c)(1), by inserting ", captain of the seaport," after "airport authority"; and

(4) in the section heading, by inserting "or seaport" after "airport".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 47 of title 18 is amended by striking the matter relating to section 1036 and inserting the following:

"1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.".

(c) DEFINITION OF SEAPORT.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"§ 26. Definition of seaport

"As used in this title, the term 'seaport' means all piers, wharves, docks, and similar structures to which a vessel may be secured, areas of land, water, or land and water under and in immediate proximity to such structures, and buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.".

(d) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 25 the following:

"26. Definition of seaport.".

SEC. 13. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.

(a) OFFENSE.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information

"(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

"(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

"(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or

"(B) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is false.

"(b) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Undersecretary for Border and Transportation Security of the Department of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

"(c) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

"(d) In this section—

"(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

"(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

"(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)); and

"(4) the term 'vessel of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)).

"(e) Any person who intentionally violates the provisions of this section shall be fined under this title, imprisoned for not more than 5 years, or both.".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

"2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.".

SEC. 14. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.

(a) VIOLENCE AGAINST MARITIME NAVIGATION.—Section 2280(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (H), by striking "(G)" and inserting "(H)";

(B) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (G), (H), and (I), respectively; and

(C) by inserting after subparagraph (E) the following:

"(F) destroys, seriously damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship;"; and

(2) in paragraph (2) by striking "(C) or (E)" and inserting "(C), (E), or (F)".

(b) PLACEMENT OF DESTRUCTIVE DEVICES.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding after section 2280 the following:

"§ 2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce

"(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or substance which is likely to destroy or cause damage to a vessel or its cargo, or cause interference with the safe navigation of vessels, or interference with maritime commerce, such as by damaging or destroying marine terminals, facilities, and any other marine structure or entity used in maritime commerce, with the intent of causing such destruction or damage, or interference with the safe navigation of vessels or with maritime commerce, shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited under this subsection, may be punished by death.

"(b) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding after the item related to section 2280 the following:

"2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.".

(c) MALICIOUS DUMPING.—

(1) IN GENERAL.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"§ 2282. Knowing discharge or release

"(a) ENDANGERMENT OF HUMAN LIFE.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjoining shoreline with the intent to endanger human life, health, or welfare shall be fined under this title and imprisoned for any term of years or for life.

"(b) ENDANGERMENT OF MARINE ENVIRONMENT.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjacent shoreline with the intent to endanger the marine environment shall be fined under this title, imprisoned not more than 30 years, or both.

"(c) DEFINITIONS.—In this section:

"(1) DISCHARGE.—The term 'discharge' means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"(2) HAZARDOUS MATERIAL.—The term 'hazardous material' has the meaning given the term in section 2101(14) of title 46, United States Code.

"(3) MARINE ENVIRONMENT.—The term 'marine environment' has the meaning given the term in section 2101(15) of title 46, United States Code.

"(4) NAVIGABLE WATERS.—The term 'navigable waters' has the meaning given the term in section 1362(7) of title 33, and also includes the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

"(5) NOXIOUS LIQUID SUBSTANCE.—The term 'noxious liquid substance' has the meaning given the term in the MARPOL Protocol defined in section 2(1) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"2282. Knowing discharge or release.".

SEC. 15. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by this Act, is amended by adding at the end the following:

"§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials

"(a) IN GENERAL.—Any person who knowingly and willfully transports aboard any vessel within the United States, on the high seas, or having United States nationality, an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited by this subsection, may be punished by death.

"(b) DEFINITIONS.—In this section:

"(1) BIOLOGICAL AGENT.—The term 'biological agent' means any biological agent, toxin, or vector (as those terms are defined in section 178).

"(2) BY-PRODUCT MATERIAL.—The term 'by-product material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

"(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 229F.

"(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 232(5).

"(5) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(f)(1).

"(6) RADIOACTIVE MATERIAL.—The term 'radioactive material' means—

"(A) source material and special nuclear material, but does not include natural or depleted uranium;

"(B) nuclear by-product material;

"(C) material made radioactive by bombardment in an accelerator; or

"(D) all refined isotopes of radium.

"(7) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

"(8) SPECIAL NUCLEAR MATERIAL.—The term 'special nuclear material' has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

"§ 2284. Transportation of terrorists

"(a) IN GENERAL.—Any person who knowingly and willfully transports any terrorist aboard any vessel within the United States, on the high seas, or having United States nationality, knowing that the transported person is a terrorist, shall be fined under this title, imprisoned for any term of years or for life, or both.

"(b) DEFINED TERM.—In this section, the term 'terrorist' means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by this Act, is amended by adding at the end the following:

"2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials.
"2284. Transportation of terrorists.".

SEC. 16. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Part 1 of title 18, United States Code, is amended by inserting after chapter 111 the following:

"CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

"Sec.
"2290. Jurisdiction and scope.
"2291. Destruction of vessel or maritime facility.
"2292. Imparting or conveying false information.
"2293. Bar to prosecution.

"§ 2290. Jurisdiction and scope

"(a) JURISDICTION.—There is jurisdiction over an offense under this chapter if the prohibited activity takes place—

"(1) within the United States or within waters subject to the jurisdiction of the United States; or

"(2) outside United States and—

"(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(B) the activity involves a vessel in which a national of the United States was on board; or

"(C) the activity involves a vessel of the United States (as that term is defined under section 2(c) of the Maritime Drug Law Enforcement Act (42 App. U.S.C. 1903(c)).

"(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

"§ 2291. Destruction of vessel or maritime facility

"(a) OFFENSE.—Whoever willfully—

"(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

"(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), or destructive substance, as defined in section 13, in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

"(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any maritime facility, including but not limited to, any aid to navigation, lock, canal, or vessel traffic service facility or equipment, or interferes by force or violence with the operation of such facility, if such action is likely to endanger the safety of any vessel in navigation;

"(4) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

"(5) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

"(6) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365, in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

"(7) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

"(8) attempts or conspires to do anything prohibited under paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than 20 years, or both.

"(b) LIMITATION.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the lawful transportation of hazardous materials.

"(c) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under title 18, imprisoned for a term up to life, or both.

"(d) PENALTY WHEN DEATH RESULTS.—Whoever is convicted of any crime prohibited by subsection (a), which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

"(e) THREATS.—Whoever willfully imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title, imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

"§ 2292. Imparting or conveying false information

"(a) IN GENERAL.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

"(b) MALICIOUS CONDUCT.—Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—

"(1) In general.—Except as provided under paragraph (2), section 2290(a) shall not apply to any offense under this section.

"(2) Jurisdiction.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the crime prohibited by this chapter, or by chapter 2, 97, or 111 of this title, to which the imparted or conveyed false information relates, as applicable.

"§ 2293. Bar to prosecution

"(a) In General.—It is a bar to prosecution under this chapter if—

"(1) the conduct in question occurred within the United States in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed; or

"(2) such conduct is prohibited as a misdemeanor under the law of the State in which it was committed.

"(b) Definitions.—In this section:

"(1) Labor dispute.—The term 'labor dispute' has the same meaning given that term in section 113(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

"(2) State.—The term 'State' means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(b) Technical and Conforming Amendment.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

"111A. Destruction of, or interference with, vessels or maritime facilities .... 2290".

SEC. 17. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.

(a) Theft of Interstate or Foreign Shipments.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "trailer," after "motortruck,";

(B) by inserting "air cargo container," after "aircraft,"; and

(C) by inserting ", or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility," after "air navigation facility";

(2) in the fifth undesignated paragraph, by striking "one year" and inserting "3 years"; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: "For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transhipment or otherwise.".

(b) Stolen Vessels.—

(1) In general.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

"'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.".

(2) Transportation and sale of stolen vessels.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking "motor vehicle or aircraft" and inserting "motor vehicle, vessel, or aircraft".

(c) Review of Sentencing Guidelines.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this Act.

(d) Annual Report of Law Enforcement Activities.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this Act.

(e) Reporting of Cargo Theft.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by no later than December 31, 2005.

SEC. ___18. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.

(a) Reporting, Entry, Clearance Requirements.—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking "or aircraft pilot" and inserting ", aircraft pilot, operator, owner of such vessel, vehicle or aircraft or any other responsible party (including non-vessel operating common carriers)";

(2) striking "$5,000" and inserting "$10,000"; and

(3) striking "$10,000" and inserting "$25,000".

(b) Criminal Penalty.—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended by striking "$2,000" and inserting "$10,000".

(c) Falsity or Lack of Manifest.—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking "$1,000" in each place it occurs and inserting "$10,000".

SEC. ___19. STOWAWAYS ON VESSELS OR AIRCRAFT.

Section 2199 of title 18, United States Code, is amended by striking "Shall be fined under this title or imprisoned not more than one year, or both." and inserting the following:

"(1) shall be fined under this title, imprisoned not more than 5 years, or both;

"(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title, imprisoned not more than 20 years, or both; and

"(3) if an individual commits an act proscribed by this section, with the intent to cause death, and if the death of any person other than a participant occurs as a result of a violation of this section, shall be fined under this title, imprisoned for any number of years or for life, or both.".

SEC. 20. BRIBERY AFFECTING PORT SECURITY.

(a) In General.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"§ 226. Bribery affecting port security

"(a) In General.—Whoever knowingly—

"(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent—

"(A) to commit international or domestic terrorism (as that term is defined under section 2331);

"(B) to influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

"(C) to induce any official or person to do or omit to do any act in violation of the fiduciary duty of such official or person which affects any secure or restricted area or seaport; or

"(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

"(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

"(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism;

shall be fined under this title, imprisoned not more than 15 years, or both.

"(b) Definition.—In this section, the term 'secure or restricted area' has the meaning given that term in section 2285(c).".

(b) Technical and Conforming Amendment.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"226. Bribery affecting port security.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING AND URBAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on September 29, 2004, at 10 a.m., to conduct a hearing on "The 9/11 Commission and Efforts to Identify and Combat Terrorist Financing."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, September 29, 2004, at 3 p.m., to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, September 29, 2004, at 9:30 a.m. in room 216 of the Hart Senate Office Building to conduct a business meeting on pending Committee matters, to be followed immediately by an oversight hearing on Lobbying Practices Involving Indian Tribes regarding allegations of misconduct associated with lobbying and related activities.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands and Forests of the Committee on Energy and

Natural Resources be authorized to meet during the session of the Senate on Wednesday, September 29 at 2:30 p.m.

The purpose of the hearing is to receive testimony on the following bills: S. 2378, to provide for the conveyance of certain public land in Clark County, NV, for use as a heliport; S. 2410, to promote wildland firefighter safety; H.R. 1651, to provide for the exchange of land within the Sierra National Forest, California, and for other purposes; H.R. 2400, to amend the Organic Act of Guam for the purposes of clarifying the local judicial structure of Guam; H.R. 3874, to convey for public purposes certain Federal lands in Riverside County, CA, that have been identified for disposal; H.R. 4170, to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior; and Senate Resolution 387, a resolution commemorating the 40th anniversary of the Wilderness Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SCIENCE, TECHNOLOGY, AND SPACE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Science, Technology, and Space be authorized to meet on September 29, 2004, at 2 pm, on Embryonic Stem Cell Research: Exploring the Controversy.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Ms. COLLINS. Mr. President, I ask unanimous consent that Claude Berube, a legislative fellow in my office, be granted the privileges of the floor during the debate on S. 2845, the intelligence reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. Mr. President, I ask unanimous consent that Jack Livingston, a fellow on the Intelligence Committee staff, be granted floor privileges during the pendency of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HARKIN. Mr. President, I ask unanimous consent that privilege of the floor be granted to Sarah Helgen during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INOUYE. Mr. President, I ask unanimous consent that privilege of the floor be granted to Kate Kaufer, a detailee with the Defense Appropriations Subcommittee, during consideration of this legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I ask unanimous consent that John Shuhart, a detailee of the Governmental Affairs Committee, be accorded the privilege of the floor for the duration of the debate on S. 2845.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, on behalf of Senator DOLE, I ask unanimous consent that John Ulrich, a military fellow in her office, be granted floor privileges during the consideration of the intelligence reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT

Mr. SESSIONS. Mr. President, I ask unanimous consent that all first-degree amendments from the limited list to the pending legislation be filed at the desk no later than 4 p.m., Thursday, September 30; provided further that it be in order for the sponsor of any amendment to modify the filed amendment with consent of their respective leader.

The PRESIDING OFFICER. Is there objection?

The Democratic whip.

Mr. REID. I want to make sure the record reflects that a large number of Senators on both sides of the aisle filed relevant amendments. We want to make sure those amendments are allowed to be offered in keeping with the order that was previously entered in this matter that states all amendments be related to the subject matter of the bill. So "related" should do the trick.

Mr. SESSIONS. Mr. President, insofar as that is the agreement, and I understand it is, the Senator is correct.

Mr. REID. If the Senator will yield for just a brief comment, if Senators have already filed their amendments, do not do it again. All it does is confuse the staff. If Senators have filed the amendments, do not file them again. If there is some question, come and talk to the staff before sending over more amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATE LEGAL COUNSEL AUTHORIZATION

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 443, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 443) to authorize testimony, document production, and legal representation in United States versus Roberto Martin.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony, documents, and representation in a criminal action pending in Florida Federal District Court. In this action, the defendant is charged with impersonating an agent of the Central Intelligence Agency, conspiracy to impersonate a CIA agent, possession of a firearm after a felony conviction, and mail fraud. The indictment alleges that the defendant unjustly enriched himself by obtaining money from third parties upon the false representation that he was working with the CIA on a secret operation to obtain funds allegedly stolen from Cuban leader Fidel Castro. According to the prosecution, in furtherance of the alleged fraud, the defendant or his co-conspirators provided to third parties a fictitious letter purportedly signed by Senator GRAHAM.

The defendant's trial is scheduled to commence on or about November 1, 2004. The prosecution has requested testimony and the production of documents from a member of the Senator's staff who has evidence relevant to the charged offenses. Senator GRAHAM wishes to cooperate with the prosecution's request. Accordingly, the enclosed resolution authorizes that staff member, and any other employees of Senator GRAHAM's office from whom evidence may be required, to testify and produce documents in this action. The enclosed resolution also authorizes representation by the Senate legal counsel of Senator GRAHAM's staff in this action.

Mr. SESSIONS. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 443) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 443

Whereas, in the case of United States v. Roberto Martin, Crim. No. 04–CR–20075, pending in federal district court in the Southern District of Florida, testimony and documents have been requested from an employee in the office of Senator Bob Graham;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate may, by the judicial or administrative process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate may promote the administration of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That employees of Senator Graham's office from whom testimony or the production of documents may be required are authorized to testify and produce documents in the case of United States v. Roberto Martin, except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Senator Graham's staff in the action referenced in section one of this resolution.

MEASURES PLACED ON THE CALENDAR—S. 2852, H.R. 1084, AND H.R. 1787

Mr. SESSIONS. Mr. President, I understand there are three bills at the desk and due for a second reading. I ask unanimous consent that the clerk read the titles of the bills for a second time, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will read the bills by title for the second time.

The legislative clerk read as follows:

A bill (S. 2852) to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

A bill (H.R. 1084) to provide liability protection to nonprofit volunteer pilot organizations flying for public benefit and to the pilots and staff of such organizations.

A bill (H.R. 1787) to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

Mr. SESSIONS. I would object to any further consideration, en bloc.

The PRESIDING OFFICER. The objection is heard. The bills will be placed on the calendar.

MEASURE READ THE FIRST TIME—S. 2866

Mr. SESSIONS. Mr. President, I understand there is a bill at the desk, and I ask for its first reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the first time.

The legislative clerk read as follows:

A bill (S. 2866) to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

Mr. SESSIONS. I now ask for its second reading and, in order to place the bill on the calendar under the provisions of rule XIV, object to further proceedings on this matter.

The PRESIDING OFFICER. The bill will be read for the second time on the next legislative day.

TAX TREATMENT OF BONDS AND OTHER OBLIGATIONS ISSUED BY THE GOVERNMENT OF AMERICAN SAMOA

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 655, H.R. 982.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 982) to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 982) was read the third time and passed.

REAUTHORIZATION OF THE CONGRESSIONAL AWARD ACT

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 693, S. 2639, the Congressional Award Act Reauthorization bill.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2639) to reauthorize the Congressional Award Act.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. I ask unanimous consent the Craig amendment, which is at the desk, be agreed to, the bill as amended be read a third time and passed, the motion to reconsider be laid upon the table, and that any statement relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3784) was agreed to, as follows:

(Purpose: To clarify acceptance of Federal funds and resources)

After section 1, insert the following:

SEC. 2. FEDERAL FUNDS AND RESOURCES.

(a) TECHNICAL AMENDMENTS; CLARIFICATION OF ACCEPTANCE OF FEDERAL FUNDS AND RESOURCES.—Section 106 of the Congressional Award Act (2 U.S.C. 806) is amended—

(1) in subsection (a)(1), by striking "from sources other than the Federal Government";

(2) in the heading of subsection (e), by striking "NON-FEDERAL FUNDS AND RESOURCES; INDIRECT RESOURCES" and inserting "FUNDS AND RESOURCES";

(3) in subsection (e)—

(A) in paragraph (1), by striking "Subject to the provisions of paragraph (2), the" and inserting "The"; and

(B) by striking paragraph (2) and inserting the following:

"(2) The Board—

"(A) may benefit from in-kind and indirect resources provided by Offices of Members of Congress;

"(B) is not prohibited from receiving benefits from efforts or activities undertaken in collaboration with entities which receive Federal funds or resources; and

"(C) may not accept more than one-half of all funds accepted from Federal sources."; and

(4) adding at the end the following:

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Board to carry out this Act $750,000 for each of fiscal years 2005, 2006, 2007, 2008, and 2009.".

The bill (S. 2639), as amended, was read the third time and passed, as follows:

S. 2639

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF THE CONGRESSIONAL AWARD ACT.

(a) EXTENSION OF REQUIREMENTS REGARDING FINANCIAL OPERATIONS OF CONGRESSIONAL AWARD PROGRAM; NONCOMPLIANCE WITH REQUIREMENTS.—Section 104(c)(2)(A) of the Congressional Award Act (2 U.S.C. 804(c)(2)(A)) is amended by striking "and 2004" and inserting "2004, 2005, 2006, 2007, 2008, and 2009".

(b) TERMINATION.—Section 108 of the Congressional Award Act (2 U.S.C. 808) is amended by striking "October 1, 2004" and inserting "October 1, 2009".

(c) TECHNICAL AMENDMENTS.—The Congressional Award Act is amended—

(1) in section 103(b)(3)(B) (2 U.S.C. 803(b)(3)(B)), by striking "section" each place it appears and inserting "subsection"; and

(2) in section 104(c)(2)(A) (2 U.S.C. 804(c)(2)(A)), by inserting a comma after "1993".

SEC. 2. FEDERAL FUNDS AND RESOURCES.

(a) TECHNICAL AMENDMENTS; CLARIFICATION OF ACCEPTANCE OF FEDERAL FUNDS AND RESOURCES.—Section 106 of the Congressional Award Act (2 U.S.C. 806) is amended—

(1) in subsection (a)(1), by striking "from sources other than the Federal Government";

(2) in the heading of subsection (e), by striking "NON-FEDERAL FUNDS AND RESOURCES; INDIRECT RESOURCES" and inserting "FUNDS AND RESOURCES";

(3) in subsection (e)—

(A) in paragraph (1), by striking "Subject to the provisions of paragraph (2), the" and inserting "The"; and

(B) by striking paragraph (2) and inserting the following:

"(2) The Board—

"(A) may benefit from in-kind and indirect resources provided by Offices of Members of Congress;

"(B) is not prohibited from receiving benefits from efforts or activities undertaken in collaboration with entities which receive Federal funds or resources; and

"(C) may not accept more than one-half of all funds accepted from Federal sources."; and

(4) adding at the end the following:

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Board to carry out this Act $750,000 for each of fiscal years 2005, 2006, 2007, 2008, and 2009.".

DEPARTMENT OF HOMELAND SECURITY FINANCIAL ACCOUNTABILITY ACT

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Governmental Affairs Committee be discharged from further consideration of H.R. 4259, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4259) to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

HOMELAND SECURITY STRATEGY

Mr. LIEBERMAN. Mr. President, I rise to call attention to a critical piece of this legislation—the requirement in section 5 of H.R. 4259, the Department of Homeland Security Financial Accountability Act, for an annual homeland security strategy.

Before 9/11, we did not truly perceive the threat of terrorism on our own soil, and what homeland security efforts we did have underway were badly divided. Dozens of agencies responsible for pieces of our homeland security were scattered across the Federal Government, and were largely unconnected to State and local officials and first responders on the front lines in our nation's cities and towns. There were overlaps and, more critically, treacherous gaps. And because everyone was responsible for parts of the effort, no one was ultimately in charge.

We took one large step to remedy these weaknesses by creating the Department of Homeland Security, DHS. The Department brings more than two dozen of the Federal Government's critical homeland security agencies and programs under one roof, allowing for unprecedented coordination and cooperation. It also created a Cabinet Secretary charged with managing the budget and personnel of these agencies, and capable of providing a focal point for homeland programs and issues in the Cabinet and beyond.

But we knew that in addition to creating a better organization we would need to lay out a clear roadmap to galvanize our homeland defenses—at all levels of Government and the private sector. That is what many of us called for and, regretfully, it is something this Nation still sorely lacks.

The administration did produce a "National Strategy for Homeland Security" in July 2002 that correctly identified many of the challenges we face in preparing to meet the threat of terrorism. But that document predates the creation of the Department of Homeland Security and is already badly out of date.

More significantly, as the highly regarded Gilmore Commission on terrorism noted in its final report last December:

> Much is still required in order to achieve an effective, comprehensive, unified national strategy and to translate vision into action. Notably, absent is a clear prioritization for the use of scarce resources against a diffuse, unclear threat as part of the spectrum of threats—some significantly more common than terrorism. The panel has serious concerns about the current state of homeland security efforts along the full spectrum from awareness to recovery and is worried that efforts by the government may provide the perception of enhanced security that causes the nation to become complacent about the many critical actions still required.

It is true that the Department of Homeland Security is proceeding with some more targeted strategic regarding specific areas of concern, but these cannot replace a comprehensive strategy that sets the ultimate policies and priorities for our homeland effort.

That is why I am pleased that the legislation before us calls upon the administration to develop and update its homeland security strategy in connection with its budgeting process for the Department of Homeland Security. More specifically, the legislation requires that the Secretary for Homeland Security:

> . . . set forth the homeland security strategy of the department, which shall be developed and updated as appropriate annually . . .

and explain how that strategy relates to the Department's planned budgeting.

As it does so, the administration should adhere to the guiding principles laid out in the February 3, 2004 report by the General Accounting Office, GAO, now referred to as the Government Accountability Office, regarding the Nation's various strategies related to terrorism and homeland security. In that report, the GAO surveyed 7 existing Federal strategies related to terrorism—including the National Strategy for Homeland Security—and laid out guiding principles to improve these strategies. These principles stress accountability and prioritization as requirements for a sound strategy. The new strategy must employ risk assessment and analysis to help prioritize strategic goals, then indicate the specific activities needed to achieve those goals, as well as the likely costs and how such funds should be generated. In other words, the strategy must make real choices about priorities and resources. The current strategy identifies many goals, but rarely provides real deadlines for action, standards or performance measures to assess progress, or details on the resources required for stated initiatives.

The strategy should clearly spell out organizational roles and responsibilities, including the proper roles of State, local, private and international actors and the coordinating mechanisms to bring these actors together. Almost 3 years after 9/11, we still too often must ask "who is in charge?" of key pieces of our homeland security agenda. And, critically, the homeland security strategy must address how it relates to other Federal strategies regarding terrorist threats, and how the strategies will be integrated.

Such a strategy must also provide more leadership on critical components of our homeland effort, such as a thoroughgoing strategy to maximize information sharing related to homeland security throughout the Federal Government and with state and local officials and, where appropriate, the private sector. The strategy must look at preparing the public health sector to detect and respond to terrorist attacks, at integrating military capabilities into our homeland security planning, at building emergency preparedness throughout all levels of Government and the private sector, and securing our critical infrastructure, much of which is in private hands.

While the Department of Homeland Security is central to our effort to protect the homeland, many critical components of the homeland security effort nonetheless lie outside the Department. An effective strategy must address all key homeland security programs, and should involve the cooperation of the Homeland Security Council and the President's Special Assistant for Homeland Security to assist the Secretary in gathering appropriate input from throughout the Federal government.

The Department of Homeland Security has made important strides in improving our homeland defenses. But in the face of ongoing threats of terrorist attacks on our homeland, we cannot afford anything less than our best effort. Today, we still lack strong direction on critical aspects of our homeland security effort. A new and more forceful national strategy will energize and organize our resources—at all levels of Government and within the private sector—to better meet the threats ahead.

Ms. COLLINS. Mr. President, I thank my colleague for his comments on this important issue, and rise to add my own remarks on the critical importance of building a strong homeland security strategy. As members of the Governmental Affairs Committee labored over legislation to create the Department of Homeland Security, we became well acquainted with the daunting array of programs and policies that are part of our homeland security effort. In creating the Department, and through efforts we have undertaken since that time, the committee has worked to help supply the Department of Homeland Security with the tools it will need to be successful. Our oversight work has demonstrated the need to have a strong national strategy to guide our homeland efforts.

I agree with my colleague that GAO and others have identified ways in which our homeland security strategy could be strengthened and updated. This legislation will facilitate improvements by requiring that the administration lay out its homeland security strategy anew, and coordinate this strategy with its annual budget requests. This should bring out strategic vision into sharper view, and ensure that adequate resources are sought and secured to carry out homeland priorities.

FINANCIAL ACCOUNTABILITY

Mr. BINGAMAN. Mr. President, I would like to express my support for passage of H.R. 4259, the Department of Homeland Security Financial Accountability Act. This Act will apply the Chief Financial Officers Act of 1990 to the Department of Homeland Security, and will codify the existence of an Office of Program Analysis and Evaluation within the Department. This latter provision, which was not part of the Senate-passed companion bill, S. 1567, is an important one, and I would like to engage in a colloquy with the chair and ranking member of the Committee on Governmental Affairs to clarify what is and is not intended by this provision.

The Department of Homeland Security is charged with carrying out a wide range of activities related to our domestic security. In my view, it is probably the executive department with the broadest range of activities that need to be coordinated and reconciled from a programmatic standpoint. It is crucial that the Department have a robust programmatic coordination function at the highest level, and that this function have, at its base, a strong analytical capability for purposes of setting priorities among the disparate parts of the Department for purposes of budget formulation and execution. For this reason, the statutory creation of an Office of Program Analysis and Evaluation, and the mandate that it report no lower in the organization than directly to the new chief financial officer, is very sound.

There is another related function in the Department of Homeland Security that has been given a different placement by statute. That is the function of test and evaluation for developing homeland security priorities and for assessing specific technologies. Under section 302 of the Homeland Security Act of 2002, the Under Secretary for Science and Technology within the Department of Homeland Security was given statutory missions for, among other things, "assessing and testing homeland security vulnerabilities and possible threats," "testing and evaluation activities that are relevant to any or all elements of the Department" and "coordinating and integrating all research, development, testing, and evaluation activities of the Department." It is crucial that these testing and evaluation functions remain under the management of the Under Secretary for Science and Technology, because they need strong scientific management and focus. We cannot afford to spend constrained Federal funds for homeland security on approaches or technologies that are not technically sound, or that are not cost-effective compared to other technologies.

I do not believe that there is an inherent conflict between the new statutory office created by this bill and the existing statutory assignments in the Homeland Security Act. Offices like the proposed Office of Program Analysis and Evaluation exist in several executive departments, and are generally more focused on assessing programmatic directions, outcomes, resources, and priorities. The test and evaluation function, in contrast, focuses more specifically on technical issues and relative technical merits. In the Department of Defense, for example, both functions are in distinct organizations that work together where appropriate to complement the different strengths and missions that each brings to the table. It would be my assumption that this is the outcome that Congress wants to see in the case of the Department of Homeland Security.

With this as background, I would like to ascertain from my colleagues, the chair and ranking member of the Committee on Governmental Affairs, if they agree with my understanding that the statutory creation of the new Office of Program Analysis and Evaluation is not meant to supersede or alter the testing and evaluation function that Congress has previously assigned to the Under Secretary of Homeland Security for Science and Technology.

Ms. COLLINS. The Senator is correct.

Mr. LIEBERMAN. The Senator is correct.

Mr. BINGAMAN. I thank my colleagues.

Mr. SESSIONS. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4259) was read the third time and passed.

CONGRATULATING AND COMMENDING THE VETERANS OF FOREIGN WARS OF THE UNITED STATES AND ITS NATIONAL COMMANDER-IN-CHIEF, JOHN FURGESS OF TENNESSEE

Mr. SESSIONS. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 444, which was submitted earlier today by Senator FRIST.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 444) congratulating and commending the Veterans of Foreign Wars of the United States and its National Commander-in-Chief, John Furgess of Tennessee.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SESSIONS. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

Mr. REID. I ask the Senator from Nevada, Mr. REID, be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 444) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 444

Whereas the organization now known as the Veterans of Foreign Wars of the United States ("VFW") was founded in Columbus, Ohio, on September 29, 1899;

Whereas the VFW represents approximately 2,000,000 veterans of the Armed Forces who served overseas in World War I, World War II, Korea, Vietnam, the Persian Gulf War, Bosnia, Iraq, and Afghanistan; and

Whereas the VFW has, for the past 105 years, provided voluntary and unselfish service to the Armed Forces and to veterans, communities, States, and the United States, and has worked toward the betterment of veterans in general and society as a whole: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the historic significance of the 105th anniversary of the founding of the Veterans of Foreign Wars of the United States ("VFW");

(2) congratulates the VFW on achieving that milestone;

(3) commends the approximately 2,000,000 veterans who belong to the VFW and thanks them for their service to their fellow veterans and the United States; and

(4) recognizes the VFW's national Commander-in-Chief, John Furgess, for his service and dedication to the veterans of the United States.

BINDING ARBITRATION FOR SALT RIVER PIMA-MARICOPA INDIAN RESERVATION CONTRACTS

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the immediate consideration of Calendar No. 652, H.R. 4115.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4115) to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

There being no objection, the Senate proceeded to consider the bill.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 4115) was read the third time and passed.

INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION ACT OF 2003

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of Calendar No. 438, S. 1601.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1601) to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1601

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Indian Child Protection and Family Violence Prevention Reauthorization Act of 2003".

[SEC. 2. FINDINGS AND PURPOSE.

[Section 402 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3201) is amended—

[(1) in subsection (a)—

[(A) by striking paragraph (1) and inserting the following:

["(1) finds that—

["(A) Indian children are the most precious resource of Indian tribes and need special protection by the United States;

["(B) the number of reported incidences of child abuse on Indian reservations continues to rise at an alarming rate, but the reduction of such incidences is hindered by the lack of—

["(i) community awareness in identification and reporting methods;

["(ii) interagency coordination for reporting, investigating, and prosecuting; and

["(iii) tribal infrastructure for managing, preventing, and treating child abuse cases;

["(C) improvements are needed to combat the continuing child abuse on Indian reservations, including—

["(i) education to identify symptoms consistent with child abuse;

["(ii) extensive background investigations of Federal and tribal employees, volunteers, and contractors who care for, teach, or otherwise have regular contact with Indian children;

["(iii) strategies to ensure the safety of child protection workers; and

["(iv) support systems for the victims of child abuse and their families; and

["(D) funds spent by the United States on Indian reservations for the benefit of Indian victims of child abuse or family violence are inadequate to combat child abuse and to meet the growing needs for mental health treatment and counseling for those victims and their families.";

[(B) in paragraph (2)—

[(i) by striking "two" and inserting "the";

[(ii) in subparagraph (B)—

[(I) by inserting after "provide funds for" the following: "developing a comprehensive tribal child abuse and family violence program including training and technical assistance for identifying, addressing, and decreasing such incidents and for"; and

[(II) by striking the period at the end and inserting a semicolon; and

[(iii) by adding at the end the following:

["(C) implement strategies to increase the safety of child protection workers;

["(D) assist tribes in developing the necessary infrastructure to combat and reduce child abuse on Indian reservations; and

["(E) identify and remove impediments to the prevention and reduction of child abuse on Indian reservations, including elimination of existing barriers, such as difficulties in sharing information among agencies and differences between the values and treatment protocols of the different agencies."; and

[(2) in subsection (b)—

[(A) in paragraph (1), by striking "prevent further abuse" and inserting "prevent and prosecute child abuse";

[(B) in paragraph (2), by striking "authorize a study to determine the need for a central registry for reported incidents of abuse" and inserting "build tribal infrastructure needed to maintain and coordinate databases";

[(C) by striking paragraph (3);

[(D) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (3), (4), (5), and (6), respectively;

[(E) in paragraph (3) (as redesignated by subparagraph (D)), by striking "sexual";

[(F) in paragraph (5) (as redesignated by subparagraph (D)), by striking "Area" and inserting "Regional";

[(G) in paragraph (6) (as redesignated by subparagraph (D))—

[(i) by inserting "child abuse and" after "incidents of"; and

[(ii) by inserting "through tribally-operated programs" after "family violence";

[(H) by inserting after paragraph (6) (as redesignated by subparagraph (D)) the following:

["(7) conduct a study to identify the impediments to effective prevention, investigation, prosecution, and treatment of child abuse;"; and

[(I) by striking paragraph (8) and inserting the following:

["(8) develop strategies to protect the safety of the child protection workers while performing responsibilities under this title; and".

[SEC. 3. DEFINITIONS.

[Section 403(3) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(3)) is amended—

[(1) in subparagraph (A), by striking "and" at the end;

[(2) in subparagraph (B), by adding "and" at the end; and

[(3) by adding at the end the following:

["(C) any case in which a child is subjected to family violence;".

[SEC. 4. REPORTING PROCEDURES.

[Section 404(b) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3203(b)) is amended by adding at the end the following:

["(3) COOPERATIVE REPORTING.—If—

["(A) a report of abuse or family violence involves an alleged abuser who is a non-Indian; and

["(B) a preliminary inquiry indicates a criminal violation has occurred;

the local law enforcement agency (if other than the State law enforcement agency) shall immediately report the occurrence to the State law enforcement agency.".

[SEC. 5. CENTRAL REGISTRY.

[The Indian Child Protection and Family Violence Prevention Act is amended by striking section 405 (25 U.S.C. 3204) and inserting the following:

["SEC. 405. BARRIERS TO IMPLEMENTATION.

["(a) IN GENERAL.—The Secretary, in consultation with the Secretary of Health and Human Services and the Attorney General, shall conduct a study to identify impediments to the reduction of child abuse on Indian reservations.

["(b) MATTERS TO BE EVALUATED.—In conducting the study under subsection (a), the Secretary shall, at a minimum, evaluate the interagency and intergovernmental cooperation and jurisdictional impediments in investigations and prosecutions.

["(c) REPORT.—

["(1) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Secretary shall submit to Congress a report that describes the results of the study under subsection (a).

["(2) CONTENTS.—The report under paragraph (1) shall include—

["(A) any findings made in the study;

["(B) recommendations on ways to eliminate impediments described in subsection (a); and

["(C) cost estimates for implementing the recommendations.".

[SEC. 6. CHARACTER INVESTIGATIONS.

[Section 408 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3207) is amended—

[(1) in subsection (a)—

[(A) in paragraph (1), by inserting "(including contracted and volunteer positions)," after "authorized positions"; and

[(B) in paragraph (3), by striking the period at the end and inserting the following: ", which—

["(A) shall include a background check, based on a set of fingerprints of the employee, volunteer or contractor that may be conducted through the Federal Bureau of Investigation; and

["(B) may include a review of applicable State criminal history repositories."; and

[(2) in subsection (c)—

[(A) in paragraph (1), by inserting after "who is" the following: "a volunteer or contractor or is"; and

[(B) in paragraph (2), by striking "employ" and inserting "contract with, accept, or employ".

[SEC. 7. INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM.

[Section 409 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3208) is amended—

[(1) in subsection (a), by striking "sexual";

[(2) by redesignating subsection (e) as subsection (f);

[(3) by inserting after subsection (d) the following:

["(e) DEMONSTRATION PROJECT.—

[“(1) IN GENERAL.—The Secretary of Health and Human Services shall establish demonstration projects to facilitate the development of a culturally-sensitive traditional healing treatment program for child abuse and family violence to be operated by an Indian tribe, tribal organization, or inter-tribal consortium.

[“(2) APPLICATION.—

[“(A) IN GENERAL.—An Indian tribe, tribal organization, or inter-tribal consortium may submit an application to participate in a demonstration project in such form as the Secretary of Health and Human Services may prescribe.

[“(B) CONTENTS.—As part of an application under subparagraph (A), the Secretary of Health and Human Services shall require—

[“(i) the information described in subsection (b)(2)(C);

[“(ii) a proposal for development of educational materials and resources, to the extent culturally appropriate; and

[“(iii) proposed strategies to use and maintain the integrity of traditional healing methods.

[“(3) CONSIDERATIONS.—In selecting the participants in demonstration projects established under this subsection, the Secretary of Health and Human Services shall give special consideration to projects relating to behavioral and emotional effects of child abuse, elimination of abuse by parents, and reunification of the family.”; and

[(4) in subsection (f) (as redesignated by paragraph (2))—

[(A) by striking “there” and inserting “There”; and

[(B) by striking “$10,000,000 for each of the years 1992, 1993, 1994, 1995, 1996 and 1997” and inserting “such sums as are necessary to carry out this section for each of fiscal years 2005 through 2010, of which a specific sum shall be specifically set aside each year for the demonstration projects established under subsection (e).”.

[SEC. 8. INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.

[Section 410 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3209) is amended—

[(1) in subsection (a) by striking “area” and inserting “Regional”;

[(2) in subsection (b)—

[(A) by striking “Secretary and” and inserting “Secretary,”; and

[(B) by striking “Services” and inserting “Services, and the Attorney General”;

[(3) in subsection (d)(5), by striking “area” and inserting “Region”;

[(4) in subsection (f)—

[(A) in the second sentence, by striking “an area” and inserting “a Regional”; and

[(B) in the last sentence, by inserting “developing strategies,” after “Center in”;

[(5) in the second sentence of subsection (g)—

[(A) by striking “an area” and inserting “a Regional”; and

[(B) by striking “Juneau Area” and inserting “Alaska Region”; and

[(6) in subsection (h), by striking “$3,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, 1996 and 1997” and inserting “such sums as are necessary to carry out this section for each of fiscal years 2005 through 2010”.

[SEC. 9. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAM.

[Section 411 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3210) is amended—

[(1) in subsection (c)—

[(A) in paragraph (1), by inserting “coordination, reporting and” before “investigation”;

[(B) in paragraph (2) by inserting “child abuse and” after “incidents of”;

[(2) in subsection (d)—

[(A) in paragraph (1)(C), by inserting “and other related items” after “equipment”; and

[(B) in paragraph (3)—

[(i) in subparagraph (B), by striking “, and” at the end and inserting a semicolon;

[(ii) in subparagraph (C), by inserting after “responsibilities” the following: “and specify appropriate measures for ensuring child protection worker safety while performing responsibilities under this title”; and

[(iii) by adding at the end the following:

[“(D) provide for training programs or expenses for child protection services personnel, law enforcement personnel or judicial personnel to meet any certification requirements necessary to fulfill the responsibilities under any intergovernmental or interagency agreement; and

[“(E) develop and implement strategies designed to ensure the safety of child protection workers while performing responsibilities under this Act;”;

[(3) in paragraph (6), by striking “and” at the end;

[(4) by redesignating paragraph (7) as paragraph (8);

[(5) by inserting after paragraph (6) the following:

[“(7) infrastructure enhancements to improve tribal data systems to monitor the progress of families, evaluate service and treatment outcomes, and determine the most effective approaches and activities; and”

[(6) by redesignating subsections (f), (g), (h), and (i) as paragraphs (e), (f), (g), and (h), respectively;

[(7) in paragraph (1) of subsection (g) (as redesignated by paragraph (6)), by striking subparagraph (A) and inserting the following:

[“(A) evaluate the program for which the award is made, including examination of—

[“(i) the range and scope of training opportunities, including numbers and percentage of child protection workers engaged in the training programs;

[“(ii) the threats to child protection workers, if any, and the strategies used to address the safety of child protection workers; and

[“(iii) the community outreach and awareness programs including any strategies to increase the ability of the community to contact appropriate reporting officials regarding occurrences of child abuse.”; and

[(8) in subsection (h) (as redesignated by paragraph (6)), by striking “$30,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996 and 1997” and inserting “such sums as are necessary to carry out this section for each of fiscal years 2005 through 2010.”.]

SECTION 1. SHORT TITLE.

This Act may be cited as the “Indian Child Protection and Family Violence Prevention Reauthorization Act of 2004”.

SEC. 2. FINDINGS AND PURPOSE.

Section 402 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3201) is amended—

(1) in subsection (a)—

(A) by striking paragraph (1) and inserting the following:

“(1) finds that—

“(A) Indian children are the most precious resource of Indian tribes and need special protection by the United States;

“(B) the number of reported incidences of child abuse on Indian reservations continues to rise at an alarming rate, but the reduction of such incidences is hindered by the lack of—

“(i) community awareness in identification and reporting methods;

“(ii) interagency coordination for reporting, investigating, and prosecuting; and

“(iii) tribal infrastructure for managing, preventing, and treating child abuse cases;

“(C) improvements are needed to combat the continuing child abuse on Indian reservations, including—

“(i) education to identify symptoms consistent with child abuse;

“(ii) extensive background investigations of Federal and tribal employees, volunteers, and contractors who care for, teach, or otherwise have regular contact with Indian children;

“(iii) strategies to ensure the safety of child protection workers; and

“(iv) support systems for the victims of child abuse and their families; and

“(D) funds spent by the United States on Indian reservations for the benefit of Indian victims of child abuse or family violence are inadequate to combat child abuse and to meet the growing needs for mental health treatment and counseling for those victims and their families.”;

(B) in paragraph (2)—

(i) by striking “two” and inserting “the”;

(ii) in subparagraph (B)—

(I) by inserting after “provide funds for” the following: “developing a comprehensive tribal child abuse and family violence program including training and technical assistance for identifying, addressing, and decreasing such incidents and for”; and

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

“(C) implement strategies to increase the safety of child protection workers;

“(D) assist tribes in developing the necessary infrastructure to combat and reduce child abuse on Indian reservations; and

“(E) identify and remove impediments to the prevention and reduction of child abuse on Indian reservations, including elimination of existing barriers, such as difficulties in sharing information among agencies and differences between the values and treatment protocols of the different agencies.”; and

(2) in subsection (b)—

(A) in paragraph (1), by striking “prevent further abuse” and inserting “prevent and prosecute child abuse”;

(B) in paragraph (2), by striking “authorize a study to determine the need for a central registry for reported incidents of abuse” and inserting “build tribal infrastructure needed to maintain and coordinate databases”;

(C) by striking paragraph (3);

(D) by redesignating paragraphs (4), (5), (6), and (7) as paragraphs (3), (4), (5), and (6), respectively;

(E) in paragraph (3) (as redesignated by subparagraph (D)), by striking “sexual”;

(F) in paragraph (5) (as redesignated by subparagraph (D)), by striking “Area” and inserting “Regional”;

(G) in paragraph (6) (as redesignated by subparagraph (D))—

(i) by inserting “child abuse and” after “incidents of”; and

(ii) by inserting “through tribally-operated programs” after “family violence”;

(H) by inserting after paragraph (6) (as redesignated by subparagraph (D)) the following:

“(7) conduct a study to identify the impediments to effective prevention, investigation, prosecution, and treatment of child abuse;”; and

(I) by striking paragraph (8) and inserting the following:

“(8) develop strategies to protect the safety of the child protection workers while performing responsibilities under this title; and”.

SEC. 3. DEFINITIONS.

Section 403(3) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3202(3)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B), by adding "and" at the end; and

(3) by adding at the end the following:

"(C) any case in which a child is exposed to family violence;".

SEC. 4. REPORTING PROCEDURES.

Section 404(b) of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3203(b)) is amended by adding at the end the following:

"(3) Cooperative Reporting.—If—

"(A) a report of abuse or family violence involves an alleged abuser who is a non-Indian; and

"(B) a preliminary inquiry indicates a criminal violation has occurred;

the local law enforcement agency (if other than the State law enforcement agency) shall immediately report the occurrence to the State law enforcement agency.".

SEC. 5. BARRIERS TO REDUCING CHILD ABUSE.

The Indian Child Protection and Family Violence Prevention Act is amended by striking section 405 (25 U.S.C. 3204) and inserting the following:

"SEC. 405. BARRIERS TO REDUCING CHILD ABUSE.

"(a) In General.—The Secretary, in consultation with the Secretary of Health and Human Services and the Attorney General, shall conduct a study to identify impediments to the reduction of child abuse on Indian reservations.

"(b) Matters To Be Evaluated.—In conducting the study under subsection (a), the Secretary shall, at a minimum, evaluate the interagency and intergovernmental cooperation and jurisdictional impediments in investigations and prosecutions.

"(c) Report.—

"(1) In general.—Not later than 18 months after the date of enactment of this paragraph, the Secretary shall submit to Congress a report that describes the results of the study under subsection (a).

"(2) Contents.—The report under paragraph (1) shall include—

"(A) any findings made in the study;

"(B) any recommendations that the Secretary considers appropriate on ways to eliminate impediments described in subsection (a); and

"(C) cost estimates for implementing the recommendations.".

SEC. 6. CHARACTER INVESTIGATIONS.

Section 408 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3207) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting "(including contracted and volunteer positions)," after "authorized positions"; and

(B) in paragraph (3), by striking the period at the end and inserting the following: ", which—

"(A) shall include a background check, based on a set of fingerprints of the employee, volunteer or contractor that may be conducted through the Federal Bureau of Investigation; and

"(B) may include a review of applicable State and tribal criminal history repositories."; and

(2) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and indenting appropriately;

(B) by striking "Each" and inserting the following:

"(1) In general.—Each";

(C) in subparagraph (A) (as redesignated by subparagraph (A)), by inserting after "who is" the following: "a volunteer or contractor or is";

(D) in subparagraph (B) (as redesignated by subparagraph (A)), by striking "employ" and inserting "contract with, accept, or employ"; and

(E) by adding at the end the following:

"(2) Satisfaction of requirements.—

"(A) Investigations.—An investigation conducted under paragraph (1)(A) shall be considered to satisfy any requirement under any other Federal law for a background check in connection with the placement of an Indian child in a foster or adoptive home, or an institution.

"(B) Licensing or approval.—On certification by an Indian tribe that the Indian tribe is in compliance with paragraph (1), the licensing or approval of guardianships, foster or adoptive homes, or institutions by an Indian tribe in accordance with tribal law shall be considered to be equivalent to licensing or approval by a State for the purposes of any law that authorizes placement in or provides funding for guardianships, foster or adoptive homes, or institutions.".

SEC. 7. INDIAN CHILD ABUSE TREATMENT GRANT PROGRAM.

Section 409 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3208) is amended—

(1) in subsection (a), by striking "sexual";

(2) by redesignating subsection (e) as subsection (f);

(3) by inserting after subsection (d) the following:

"(e) Demonstration Project.—

"(1) In general.—The Secretary of Health and Human Services shall establish demonstration projects to facilitate the development of a culturally-sensitive traditional healing treatment program for child abuse and family violence to be operated by an Indian tribe, tribal organization, or inter-tribal consortium.

"(2) Application.—

"(A) In general.—An Indian tribe, tribal organization, or inter-tribal consortium may submit an application to participate in a demonstration project in such form as the Secretary of Health and Human Services may prescribe.

"(B) Contents.—As part of an application under subparagraph (A), the Secretary of Health and Human Services shall require—

"(i) the information described in subsection (b)(2)(C);

"(ii) a proposal for development of educational materials and resources, to the extent culturally appropriate; and

"(iii) proposed strategies to use and maintain the integrity of traditional healing methods.

"(3) Considerations.—In selecting the participants in demonstration projects established under this subsection, the Secretary of Health and Human Services shall give special consideration to projects relating to behavioral and emotional effects of child abuse, elimination of abuse by parents, and reunification of the family."; and

(4) in subsection (f) (as redesignated by paragraph (2))—

(A) by striking "there" and inserting "There"; and

(B) by striking "$10,000,000 for each of the years 1992, 1993, 1994, 1995, 1996 and 1997" and inserting "such sums as are necessary to carry out this section for each of fiscal years 2005 through 2010, of which a specific sum shall be specifically set aside each year for the demonstration projects established under subsection (e).".

SEC. 8. INDIAN CHILD RESOURCE AND FAMILY SERVICES CENTERS.

Section 410 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3209) is amended—

(1) in subsection (a) by striking "area" and inserting "Regional";

(2) in subsection (b)—

(A) by striking "Secretary and" and inserting "Secretary,"; and

(B) by striking "Services" and inserting "Services, and the Attorney General";

(3) in subsection (d)(5), by striking "area" and inserting "Region";

(4) in subsection (f)—

(A) in the second sentence, by striking "an area" and inserting "a Regional"; and

(B) in the last sentence, by inserting "developing strategies;" after "Center in";

(5) in the second sentence of subsection (g)—

(A) by striking "an area" and inserting "a Regional"; and

(B) by striking "Juneau Area" and inserting "Alaska Region"; and

(6) in subsection (h), by striking "$3,000,000 for each of the fiscal years 1992, 1993, 1994, 1995, 1996 and 1997" and inserting "such sums as are necessary to carry out this section for each of fiscal years 2005 through 2010".

SEC. 9. INDIAN CHILD PROTECTION AND FAMILY VIOLENCE PREVENTION PROGRAM.

Section 411 of the Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3210) is amended—

(1) in subsection (c)—

(A) in paragraph (1), by inserting "coordination, reporting and" before "investigation";

(B) in paragraph (2) by inserting "child abuse and" after "incidents of";

(2) in subsection (d)—

(A) in paragraph (1)(C), by inserting "and other related items" after "equipment"; and

(B) in paragraph (3)—

(i) in subparagraph (B), by striking ", and" at the end and inserting a semicolon;

(ii). in subparagraph (C), by inserting after "responsibilities" the following: "and specify appropriate measures for ensuring child protection worker safety while performing responsibilities under this title"; and

(iii) by adding at the end the following:

"(D) provide for training programs or expenses for child protection services personnel, law enforcement personnel or judicial personnel to meet any certification requirements necessary to fulfill the responsibilities under any intergovernmental or interagency agreement; and

"(E) develop and implement strategies designed to ensure the safety of child protection workers while performing responsibilities under this Act;";

(3) in paragraph (6), by striking "and" at the end;

(4) by redesignating paragraph (7) as paragraph (8);

(5) by inserting after paragraph (6) the following:

"(7) infrastructure enhancements to improve tribal data systems to monitor the progress of families, evaluate service and treatment outcomes, and determine the most effective approaches and activities; and"

(6) by redesignating subsections (f), (g), (h), and (i) as paragraphs (e), (f), (g), and (h), respectively;

(7) in paragraph (1) of subsection (g) (as redesignated by paragraph (6)), by striking subparagraph (A) and inserting the following:

"(A) evaluate the program for which the award is made, including examination of—

"(i) the range and scope of training opportunities, including numbers and percentage of child protection workers engaged in the training programs;

"(ii) the threats to child protection workers, if any, and the strategies used to address the safety of child protection workers; and

"(iii) the community outreach and awareness programs including any strategies to increase the ability of the community to contact appropriate reporting officials regarding occurrences of child abuse."; and

(8) in subsection (h) (as redesignated by paragraph (6)), by striking "$30,000,000 for each of fiscal years 1992, 1993, 1994, 1995, 1996 and 1997" and inserting "such sums as are necessary to carry out this section for each of fiscal years 2005 through 2010.".

SEC. 10. INTEGRATION OF SERVICES.

The Indian Child Protection and Family Violence Prevention Act (25 U.S.C. 3201 et seq.) is amended by adding at the end the following:

"SEC. 412. INTEGRATION OF SERVICES.

"(a) Demonstration Project.—In cooperation with the Secretary of Health and Human Services and Attorney General, the Secretary shall, on the receipt of a plan acceptable to the Secretary that is submitted by an Indian tribe, tribal organization, or inter-tribal consortium, authorize the Indian tribe, tribal organization, or inter-tribal consortium to carry out a demonstration project to coordinate, in accordance with the plan, its federally funded child abuse-related service programs in a manner that integrates the program services into a single coordinated, comprehensive program that reduces administrative costs by consolidating administrative functions.

"(b) Integration of Programs.—

"(1) In general.—Subject to paragraph (2), an Indian tribe, tribal organization, or inter-tribal consortium may integrate any program under which the Indian tribe, tribal organization, or inter-tribal consortium is eligible for receipt of funds under a statutory or administrative formula, competitive grant, or any other funding scheme for the purposes of addressing child abuse.

"(2) Competitive grant programs.—In the case of a competitive grant program, the consent of the funding agency shall be required for integration of the program under paragraph (1).

"(c) Plan Requirements.—A plan under subsection (a) shall—

"(1) identify the programs to be integrated;

"(2) be consistent with the purposes of this Act;

"(3) describe a comprehensive strategy that identifies the full range of existing and potential child abuse and family violence prevention, treatment, and service programs available on or near the service area of the Indian tribe;

"(4) describe the manner in which services are to be integrated and delivered and the results expected from the plan;

"(5) identify the projected expenditures under the plan in a single budget;

"(6) identify the agency or agencies of the tribal government to be involved in the delivery of the services integrated under the plan;

"(7) identify any statutory provisions, regulations, policies, or procedures that the tribal government believes need to be waived in order to implement its plan; and

"(8) be approved by the governing body of the affected Indian tribe or tribes.

"(d) Other Federal Agencies.—

"(1) Consultation.—On receipt of the plan from an Indian tribe, tribal organization, or inter-tribal consortium, the Secretary shall consult with—

"(A) the head of each Federal agency providing funds to be used to implement the plan; and

"(B) the Indian tribe, tribal orgànization, or inter-tribal consortium.

"(2) Waiver.—Notwithstanding any other provision of law, the Attorney General or appropriate Secretary shall waive any regulation, policy, or procedure promulgated by the agency identified in the plan, unless the waiver would be inconsistent with this Act or any statutory requirement applicable to the program to be integrated under the plan that is specifically applicable to Indian programs.

"(e) Approval or Disapproval.—

"(1) Notice.—Not later than 90 days after receipt of the plan, the Secretary shall notify the Indian tribe, tribal organization, or inter-tribal consortium, in writing, of the approval or disapproval of the plan.

"(2) Disapproval.—If the plan is disapproved—

"(A) the notice under paragraph (1) shall inform the Indian tribe, tribal organization, or inter-tribal consortium of the reasons for the disapproval; and

"(B) the Indian tribe, tribal organization, or inter-tribal consortium shall be given an opportunity to amend the plan or petition the Secretary to reconsider the disapproval.

"(f) Responsibilities of the Department of the Interior.—

"(1) In general.—Not later than 180 days after the date of enactment of this Act, the Secretary, the Secretary of Health and Human Services, and the Attorney General shall enter into a memorandum of agreement providing for the implementation of demonstration projects under this section.

"(2) Coordinating agency.—The coordinating agency in carrying out this section shall be the Bureau of Indian Affairs.

"(3) Responsibilities.—

"(A) In general.—The responsibilities of the coordinating agency shall include—

"(i) the development of a single report format which shall be used by the tribe, tribal organization, or inter-tribal consortium to report on all the plan activities and expenditures;

"(ii) the development of a single system of Federal oversight of demonstration projects, which shall be implemented by the coordinating agency; and

"(iii) the provision of, or arrangement for, technical assistance to an Indian tribe, tribal organization, or inter-tribal consortium.

"(B) Requirements.—The report form developed under subparagraph (A)(i) shall require disclosure of such information as the Secretary determines will—

"(i) allow a determination that the Indian tribe, tribal organization, or inter-tribal consortium has complied with the requirements incorporated in the approved plan of the Indian tribe; and

"(ii) provide assurances to each funding agency that the Indian tribe, tribal organization, or inter-tribal consortium has complied with all applicable statutory requirements that have not been waived.

"(g) No Reduction.—In no case shall the amount of Federal funds made available to any tribal government conducting a demonstration project be reduced by reason of the conduct of the demonstration project.

"(h) Transfer of Funds.—The Secretary, Secretary of Health and Human Services, or Attorney General, as appropriate, may take such action as is necessary to provide for an interagency transfer of funds otherwise available to an Indian tribe, tribal organization, or inter-tribal consortium to carry out this section immediately upon the request of the Indian tribe, tribal organization, or inter-tribal consortium.

"(i) Administration of Funds.—

"(1) In general.—The funds of programs that are integrated under this section shall be administered in such a manner as to allow for a determination that funds from specific programs (or an amount equal to the amount attracted from each program) are spent on allowable activities authorized under the program.

"(2) Separate records not required.—Nothing in this section requires an Indian tribe, tribal organization, or inter-tribal consortium to—

"(A) maintain separate records tracing any services or activities conducted under an approved plan to the individual programs under which funds were authorized; or

"(B) allocate expenditures among individual programs.

"(3) Administrative costs.—

"(A) Commingling.—All administrative costs under an approved plan may be commingled.

"(B) Entitlement to full amount.—An Indian tribe, tribal organization, or inter-tribal consortium shall be entitled to the full amount of funding of administrative costs in accordance with regulations applicable to each program.

"(C) Excess funds.—Any excess of funds available to pay administrative costs, shall not be counted for Federal audit purposes, if the funds are used for the purposes provided for under this title.

"(j) Fiscal Accountability.—Nothing in this section diminishes the duty of the Secretary to fulfill the responsibility of safeguarding Federal funds in accordance with chapter 75 of title 31, United States Code.

"(k) Report on Statutory Obstacles to Program Integration.—

"(1) Preliminary report.—Not later than 3 years after the date of enactment of this section, the Secretary shall submit to Congress a preliminary report on the status of the implementation of the demonstration program under this section.

"(2) Final report.—Not later than 6 years after the date of enactment of this section, the Secretary shall submit to Congress a report that—

"(A) describes the results of the implementation of this section; and

"(B) identifies statutory barriers to more effective integration of program services in a manner consistent with this section.".

SEC. 11. TRIBAL PARTNERSHIPS FOR AWARENESS AND RESPONSES.

(a) In General.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

"(d) Tribal Coalition Grants.—

"(1) Purpose.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

"(A) increasing awareness of domestic violence and sexual assault against Indian women;

"(B) enhancing the response to violence against Indian women at the Federal, State, and tribal levels; and

"(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence.

"(2) Grants to tribal coalitions.—The Attorney General shall award grants under paragraph (1) to—

"(A) established nonprofit, nongovernmental tribal coalitions that address domestic violence and sexual assault against Indian women; and

"(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against Indian women.

"(3) Eligibility for other grants.—Receipt of an award under this subsection by a tribal domestic violence and sexual assault coalition shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).".

(b) Funding.—Section 2007(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg–1(b)) is amended by striking paragraph (4) and inserting the following:

"(4) 1/54 shall be available for grants under section 2001(d);".

Mr. SESSIONS. Mr. President, I ask unanimous consent that the committee-reported substitute be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, en bloc, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1601), as amended, was passed.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

MAKING CONTINUING APPROPRIATIONS FOR THE FISCAL YEAR 2005

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of H.J. Res. 107, the continuing resolution which is at the desk; provided that the joint resolution be read the third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The joint resolution (H.J. Res. 107) was read the third time and passed.

REAUTHORIZING NATIVE AMERICAN PROGRAMS ACT OF 1974

Mr. SESSIONS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of calendar No. 634, S. 2436.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2436) to reauthorize the Native American Programs Act of 1974.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Indian Affairs with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 2436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIVE AMERICAN PROGRAMS ACT OF 1974.

(a) INTRA-DEPARTMENTAL COUNCIL ON NATIVE AMERICAN AFFAIRS.—Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b-2(d)(1)) is amended by striking "There" and all that follows and inserting the following: "There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner and the Director of the Indian Health Service shall serve as co-chairpersons of the Council. The co-chairpersons shall advise the Secretary on all matters affecting Native Americans that involve the Department.".

[(a) IN GENERAL.—] *(b) AUTHORIZATION OF APPROPRIATIONS.*—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking subsections (a) through (c) and inserting the following:

"(a) IN GENERAL.—There are authorized to be appropriated—

"(1) to carry out section 803(d), $8,000,000 for each of fiscal years 2005 through 2009; and

"(2) to carry out provisions of this title other than section 803(d) and any other provision having an express authorization of appropriations, such sums as are necessary for each of fiscal years 2005 through 2009.

"(b) LIMITATION.—Not less than 90 percent of the funds made available to carry out this title for a fiscal year (other than funds made available to carry out sections 803(d), 803A, 803C, and 804, and any other provision of this title having an express authorization of appropriations) shall be expended to carry out section 803(a).";

(2) by redesignating subsection (d) as subsection (c); and

(3) by striking subsection (e).

[(b)] *(c)* REPORTS.—Section 811A of the Native American Programs Act of 1974 (42 U.S.C. 2992-1) is amended—

(1) by striking the section heading and all that follows through "each year," and inserting the following:

"SEC. 811A. REPORTS.

"Every 5 years, the Secretary shall"; and

(2) by striking "an annual report" and inserting "a report".

Mr. SESSIONS. Mr. President, I ask unanimous consent that the committee-reported amendments be considered and agreed to. I understand Senator INOUYE has an amendment at the desk, and I ask unanimous consent that the amendment be considered and agreed to; the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table without intervening action or debate, and any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The amendment (No. 3783) was agreed to, as follows:

(Purpose: To authorize research and educational activities relating to Native Hawaiian law)

At the end, add the following:

SEC. 2. RESEARCH AND EDUCATIONAL ACTIVITIES.

Section 7205(a)(3) of the Native Hawaiian Education Act (20 U.S.C. 7515(a)(3)) is amended—

(1) by redesignating subparagraphs (K) and (L) as subparagraphs (L) and (M), respectively; and

(2) by inserting after subparagraph (J) the following:

"(K) research and educational activities relating to Native Hawaiian law;".

The bill (S. 2436), as amended, was read the third time and passed, as follows:

S. 2436

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIVE AMERICAN PROGRAMS ACT OF 1974.

(a) INTRA-DEPARTMENTAL COUNCIL ON NATIVE AMERICAN AFFAIRS.—Section 803B(d)(1) of the Native American Programs Act of 1974 (42 U.S.C. 2991b-2(d)(1)) is amended by striking "There" and all that follows and inserting the following: "There is established in the Office of the Secretary the Intra-Departmental Council on Native American Affairs. The Commissioner and the Director of the Indian Health Service shall serve as co-chairpersons of the Council. The co-chairpersons shall advise the Secretary on all matters affecting Native Americans that involve the Department.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 816 of the Native American Programs Act of 1974 (42 U.S.C. 2992d) is amended—

(1) by striking subsections (a) through (c) and inserting the following:

"(a) IN GENERAL.—There are authorized to be appropriated—

"(1) to carry out section 803(d), $8,000,000 for each of fiscal years 2005 through 2009; and

"(2) to carry out provisions of this title other than section 803(d) and any other provision having an express authorization of appropriations, such sums as are necessary for each of fiscal years 2005 through 2009.

"(b) LIMITATION.—Not less than 90 percent of the funds made available to carry out this title for a fiscal year (other than funds made available to carry out sections 803(d), 803A, 803C, and 804, and any other provision of this title having an express authorization of appropriations) shall be expended to carry out section 803(a).";

(2) by redesignating subsection (d) as subsection (c); and

(3) by striking subsection (e).

(c) REPORTS.—Section 811A of the Native American Programs Act of 1974 (42 U.S.C. 2992-1) is amended—

(1) by striking the section heading and all that follows through "each year," and inserting the following:

"SEC. 811A. REPORTS.

"Every 5 years, the Secretary shall"; and

(2) by striking "an annual report" and inserting "a report".

SEC. 2. RESEARCH AND EDUCATIONAL ACTIVITIES.

Section 7205(a)(3) of the Native Hawaiian Education Act (20 U.S.C. 7515(a)(3)) is amended—

(1) by redesignating subparagraphs (K) and (L) as subparagraphs (L) and (M), respectively; and

(2) by inserting after subparagraph (J) the following:

"(K) research and educational activities relating to Native Hawaiian law;".

ORDERS FOR THURSDAY, SEPTEMBER 30, 2004

Mr. SESSIONS. Mr. President, I ask unanimous consent that when the Senate adjourns today, it adjourn until 9:30 a.m. on Thursday, September 30; I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of S. 2845, the intelligence reform bill; provided that upon conclusion of the debate on the pending Warner amendment, Senator GRAHAM of Florida be recognized to offer the next amendment.

Mr. REID. Mr. President, I have spoken to the necessary parties. I ask that this request be modified to allow Senator BYRD to speak for up to 20 minutes following the first vote we have tomorrow.

The PRESIDING OFFICER. Does the Senator accept the modification?

Mr. SESSIONS. We have no objection.

Mr. REID. I have no objection to the request of the Senator from Alabama.

The PRESIDING OFFICER. Without objection, the request is modified as agreed to.

PROGRAM

Mr. SESSIONS. For the information of all Senators, tomorrow the Senate will resume consideration of the intelligence reform bill. We had good debate on the bill today, disposing of several amendments. In addition, we were able to lock in a final list of amendments and a filing deadline for tomorrow, as well, so that Members will be able to view actual legislative text for each amendment.

For the remainder of the day tomorrow we will continue working through amendments to the bill. The chairman and ranking member will be here to receive amendments. Again, we will complete action on the bill prior to adjourning. Senators who wish to offer amendments are encouraged to work with the managers to get their amendments pending. Senators should expect rollcall votes throughout the day.

I observe that when the Senate passed fiscal year 2005 Defense appropriations conference report, we adopted discretionary spending levels for all fiscal year 2005 appropriations of $821.9 billion. Unfortunately, the continuing resolution, H.J. Res. 107, authorized an annualized spending level of more than $840 billion because section 103 of the resolution allows billions in 2004 supplemental appropriations to continue into a new fiscal year. It is my understanding the House of Representatives will shortly pass a bill to correct this problem and eliminate funding in the CR for any one-time 2004 spending items. It also is my understanding that the majority leader and Chairman STEVENS will seek to have the Senate consider that correction whenever it becomes available. I believe it is essential we comply with the spending limits we previously adopted, and I look forward to working with my colleagues to ensure that we do.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SESSIONS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:36 p.m., adjourned until Thursday, September 30, 2004, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Wednesday, September 29, 2004*

The House met at 10 a.m.

The Reverend Bobby C. Dagnel, Pastor, First Baptist Church, Lubbock, Texas, offered the following prayer:

Our most gracious heavenly Father, we offer thanksgiving for this day of life and the opportunities it brings. We acknowledge that the freedoms afforded us by this great democracy creates within us not a license to do as we please, but a responsibility to act in a way that pleases You.

As this capable body of elected public servants entertain the multitude of issues before them, I pray they might have the wisdom of Solomon, who urged us to look neither right nor left but to keep our eyes fixed straight ahead; to do what is right; to do that which reflects the true spirit of democracy, giving consideration to and deeming of equal importance the rights and freedoms of every person, whether in the majority or the minority, of both the strong and the weak.

We remember, also, this day, those who stand in harm's way to protect and promote these very tenets of democracy we hold dear. In Your name we pray, O Lord, Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Florida (Ms. ROS-LEHTINEN) come forward and lead the House in the Pledge of Allegiance.

Ms. ROS-LEHTINEN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

HONORING THE REVEREND BOBBY DAGNEL

(Mr. NEUGEBAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEUGEBAUER. Mr. Speaker, I rise today to honor someone who is very important to me in my life, and that is my pastor, Bobby Dagnel.

Bobby Dagnel opened today's session of the United States House of Representatives with an invocation that should guide us throughout the day as we do the people's business in the halls of the United States Congress.

Pastor Dagnel began his senior pastorship at First Baptist Church in Lubbock on August 4, 2002. He completed his undergraduate work at the University of Texas at Tyler in 1985. And he went on to Southwest Baptist Theological Seminary where he received his Master's in Divinity in 1987. He is currently pursuing his Doctor of Ministry at George W. Truett Seminary.

As Pastor Dagnel has traveled down this path, he has become a man of steadfast faith. He understands personally what it means to transform one's life from one without direction to one that is full of purpose and meaning. Pastor Dagnel is a wonderful family man, a loving husband to his wife, Patti, and a father to his daughter, Courtney, who is 14, and to his son, Hunter, who is 12.

I want to thank Pastor Dagnel for answering the call to help others find their way and serving as an example for all that follow. God Bless Pastor Dagnel.

RESIGNATION AS MEMBER OF CERTAIN STANDING COMMITTEES OF THE HOUSE

The SPEAKER laid before the House the following resignation as a member of the Committee on Agriculture, the Committee on Government Reform, and the Committee on the Budget:

HOUSE OF REPRESENTATIVES,
Washington, DC, September 28, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House, The Capitol, Washington, DC.

DEAR MR. SPEAKER: I hereby resign from the House Agriculture, Government Reform and Budget Committees due to my appointment to the House Committee on Rules.

Sincerely,

ADAM H. PUTNAM,
Member of Congress.

The SPEAKER. Without objection, the resignations are accepted.

There was no objection.

ELECTION OF MEMBERS TO CERTAIN STANDING COMMITTEES OF THE HOUSE

Mr. PENCE. Mr. Speaker, I offer a resolution (H. Res. 806) and I ask unanimous consent for its immediate consideration in the House.

The SPEAKER. The Clerk will report the resolution.

The Clerk read as follows:

H. RES. 806

Resolved, That the following Members be and are hereby elected to the following standing committees of the House of Representatives:

Committee on Government Reform: Mr. Cantor.

Committee on Rules: Mr. Putnam.

The SPEAKER. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The resolution was agreed to.

A motion to reconsider was laid on the table.

THE WAR ON TERROR

(Mr. STEARNS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STEARNS. Mr. Speaker, whoever is elected President will face the prospect of another terrorist attack. The question is: Will we have the right policies in place to best protect our country?

George Bush has waged an aggressive war on terror by going on the offense. He has taken the fight to the terrorists rather than waiting to fight them in our cities and on our streets.

On the other hand, his critics have demonstrated, I believe, a fundamental misunderstanding of the war on terror, saying that by going on the offense, America has caused the creation of more terrorists. The critics fail to articulate how they would deal with the gathering threat and, if we are attacked again, what would be their strong response.

Mr. Speaker, as we wage the war on terror and determine which policy can best keep America safe, this is at the heart of our national debate and an important part of the choice that all Americans will have to make on November 2.

THE SITUATION IN IRAQ IS GETTING WORSE

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, today the Washington Post quotes a former CIA official who said, "People at the CIA are mad at the policy in Iraq because it's a disaster . . . The best we can hope for is a failed state hobbling along." But this view is widely shared

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

in every branch of government. The State Department official warning to travelers from September 17, "Iraq . . . remains very dangerous."

An army officer recently back from Iraq said, "It is getting worse . . . They have infiltrators conducting attacks in the Green Zone. That was not the case a year ago." A National Intelligence Estimate from July said that among the three possible scenarios for Iraq, the best case was merely "tenuous stability." A study by Kroll Security International shows that the number of daily attacks has increased from 40 per day to around 70 each day. On Meet the Press, General Abizaid said, "We will fight our way through the elections." "Through," not up to the elections.

And this weekend, Secretary of State Colin Powell said, "Yes," Iraq is "getting worse." It is getting worse, but we do not know it from the President's comments who says and sees Iraq as a success.

The President of the proud of the fact that he does not read the newspapers. Can somebody please arrange a briefing for the President?

RECOGNIZING THE CENTURY COUNCIL AND NICKELODEON

(Ms. ROS-LEHTINEN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to congratulate and recognize The Century Council and Nickelodeon for their creation of an innovative new program to educate middle-school-age students about the problems of underage drinking.

The Century Council is a national not-for-profit organization funded by America's leading distillers to develop and implement programs designed to stop drunk driving and underage drinking. Nickelodeon, the very popular children's TV network, has joined The Century Council on a creative multimedia program for middle-school-age kids and their parents called "Ask, Listen and Learn: Kids and Alcohol Don't Mix."

As a mother of two teenage daughters, I realize the critical role that parents play in the efforts to reduce and eliminate illegal underage drinking. I commend The Century Council and Nickelodeon for providing such a dynamic and valuable communications tool.

THE WAR IN IRAQ

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, since the Iraqi War started, nine soldiers have died in my district, all under the age of 30, and I attended some of their funerals.

As of to date, 1,051 servicemen and women have been killed in Iraq, and more than 7,500 have been injured.

Our servicemen and women are serving this Nation with honor and demonstrating great courage beyond our belief. Yet the actions of our President are not helping to ensure their safety and security. While their job is to fight, ours is to protect them.

The violence is not stopping. The streets are not safer. Our soldiers and Iraqi citizens continue to be at risk and are dying.

The U.S. had a plan to topple Baghdad, but it did not have a plan to adequately win and secure the peace. We need to secure the Nation. We need to equip it with the tools to protect and defend itself. And we need to establish peace.

What we need is new direction in Iraq. We need strong leadership and accountability, and we need to make sure that whatever this government provides in terms of funding is actually made available so that all our military on the ground has sufficient equipment and supplies that are needed.

IN SUPPORT OF THE DISTRICT OF COLUMBIA PERSONAL PROTECTION ACT

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, I rise in strong support of a measure we will consider today in the Congress authored by the gentleman from Indiana (Mr. SOUDER). It is the District of Columbia Personal Protection Act, and there will be much sound and fury throughout the day and perhaps this evening on this measure.

The measure actually overturns local District of Columbia laws that ban the sale and possession of hand guns, ammunition and certain types of semiautomatic weapons to law-abiding citizens in the District of Columbia.

I believe that guns in the hands of law-abiding Americans actually save lives, and there will be arguments and statistics on both sides of that debate. But I rise very briefly to begin the argument, specifically to refute what I believe will be the false federalism argument that many will employ today, to say that the District of Columbia has the right to pass its own gun laws even when, in so doing, they ban and discriminate against the blood-bought right to keep and bear arms that is enshrined in the Constitution.

Let us be clear on this point and this definition of federalism: No State has the right to legislate away the blood-bought constitutional right of every law-abiding American to protect their person, their family and their liberty.

□ 1015

CONSISTENTLY WRONG ON IRAQ

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, President Bush brags about how consistent he has been in his policy on Iraq. Unfortunately, Mr. Speaker, the President has been consistently wrong.

President Bush was wrong about weapons of mass destruction. He was wrong about any connection between Saddam Hussein and al Qaeda. He was wrong about not working to bring in our allies to join us in the war against Iraq. He was wrong about sending our troops into battle without the protective gear that they needed. He was wrong when he declared "mission accomplished," and wrong again when he challenged terrorists to "bring it on." Finally, He was wrong when he did not plan for the aftermath of the fall of Baghdad.

Mr. Speaker, President Bush has certainly been consistent about Iraq, but he has been consistently wrong.

INDONESIA HOLDS FIRST NATIONAL PRESIDENTIAL ELECTION

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, last week Indonesians voted directly for the first time to elect their new president. The Charleston Post and Courier reported this marked "a milestone on the road to democracy for the world's most populous Muslim nation." Both competing candidates were pro-American in the global war on terror.

This historic election is another nail in the coffin of the lie that Muslim nations cannot become democracies. India, the world's largest democracy, has over 200 million Muslims. In Afghanistan, 10 million have registered to vote, despite threats from remnants of the Taliban and al Qaeda. The same will happen in Iraq.

As Iraqi Prime Minister Ayad Allawi said to the defeatists last week in this room, "Above all, they risk underestimating the courage, determination of the Iraqi people to embrace democracy, peace and freedom, for the dreams of our families are the same as the families here in America and around the world."

Freedom and democracy are on the march throughout the Muslim world, and they are the greatest threat to the dark plans of terrorists who want to destroy American families.

In conclusion, may God bless our troops. We will never forget September 11.

PROVIDE ADEQUATE HUMANITARIAN ASSISTANCE TO THE CARIBBEAN

(Ms. LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LEE. Mr. Speaker, I rise today to call attention to this devastating hurricane season's effect on the Caribbean. I urge Members of this body to cosponsor H. Con. Res. 496, a bipartisan effort supporting adequate humanitarian assistance to our neighbors in the Caribbean.

Americans, especially Florida and Californians, know firsthand the suffering caused by natural disasters, hurricanes, fires, tornadoes and earthquakes. Four hurricanes in 5 weeks, over 1,700 dead, 441,000 individuals displaced. More than 15 Caribbean countries are devastated.

In Grenada, the schools will not open until 2005. The land is barren and countless homes are destroyed. Many other Caribbean countries are so focused on assisting their neighbors that they have not even had the time and opportunity to assess their own damage.

Economies are overwhelmed. The tourism industry just barely recovered from 9/11, and now more harsh blows. Primary crops, bananas, nutmeg and sugar, destroyed.

Mr. Speaker, we really do need to step up and lend a helping hand. We cannot sit back and wait as people suffer in Florida and in the Caribbean.

Please support H. Con. Res. 496. Again, this is a bipartisan effort to support humanitarian assistance to our neighbors in the Caribbean.

MARKING 150TH ANNIVERSARY OF FOUNDING OF REPUBLICAN PARTY

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, this year is the 150th anniversary of the founding of the Republican Party. Over a century and a half, from the abolition of slavery, to the enactment of women's suffrage, to the liberation of millions of people in the Soviet Union, Afghanistan and Iraq, the Republican Party has been the most effective political organization in the history of the world in advancing the cause of freedom.

So that all of us can learn more about the achievements of this fundamentally American institution in its 105th anniversary year, the Republican Policy Committee has produced this 2005 Republican Freedom Calendar, each day recording a milestone Republican achievement in advancing the civil rights of every American.

This past Sunday, 144 years ago, Republicans honored suffragist leaders Elizabeth Cady Stanton and Susan B. Anthony for their work in electing Republican candidates. Over Democratic opposition, Republicans in Congress enacted the women's suffrage amendment to the Constitution, giving women the right to vote. And even before voting for women was legalized, Susan B. Anthony cast a ballot, and when she was arrested for voting illegally, she bragged to the press, "I voted the Republican ticket straight."

Mr. Speaker, the 2005 Republican Freedom Calendar is available on the Internet at policy.house.gov.

AMERICA'S PRIORITIES IN SUSPENDED ANIMATION

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, I see the Republicans have planned a very busy week. The House passed nearly three dozen bills last night, all without debate. That has to sounds impressive. The House unanimously passed legislation on everything from naming a post office to snake control. It is known as the suspension calendar. It means its Republicans have placed the House in suspended animation until after the election.

Does a post office need a name? Sure. But America needs affordable health care first, and is not getting it; America needs consumer confidence, and the Republicans are not providing that; and America needs a plan to deal with the chaos in Iraq. But forget that under this administration. That is why they are changing the story of why we went to Iraq in the first place.

America's priorities have been in suspended animation for 4 years. But the wake-up call is coming on the 2nd of November.

OPPOSITION TO RELAXING GUN CONTROL LAWS IN THE DISTRICT OF COLUMBIA

(Mr. MORAN of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MORAN of Virginia. Mr. Speaker, I have one question for those who want to strip D.C.'s elected Mayor and City Council of any ability to regulate firearms in our Nation's Capital: Are you insane?

It is unbelievable that the House Republican leadership would push this kind of a bill. We are spending billions of dollars trying to protect our Nation's Capital from terrorists because we have the highest concentration of potential terrorist targets in our Nation's Capital, and you want to arm every D.C. resident with every firearm imaginable, from handguns to Uzis to AK-47s, and enable them to walk around our streets to go into churches, theaters, schools and public buildings?

This is unbelievably irresponsible. I cannot believe that the Republican leadership would promote this kind of a bill, just to give the NRA the kind of vote that asserts its dominance over this House.

Last year, the District of Columbia confiscated 1,982 firearms from criminals. This year, so far 1,400 have been taken from criminals because it is illegal to carry a gun here. Virtually all of them would be able to carry around those firearms without any regulation if this bill was passed.

This is not the Wild West of the 19th Century. This is our Nation's Capital in the 21st Century. Please do the decent thing and defeat this radical affront to the citizens of our Nation's Capital.

ADMINISTRATION UNHINGED FROM REALITY

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, today we see an administration in denial, a denial of problems here at home and abroad.

Today's Washington Post says an increasing number of career professionals within our own national security agencies believe that the situation in Iraq is much worse than is being expressed in public by top administration officials. It says, "The rebellion is deeper and more widespread than is being publicly acknowledged."

These are not the words of "pessimists and naysayers," as the President's spokesperson so glibly put it. These are not, as President Bush said last week, "guesses." These are the findings of those fighting the Iraqi insurgency and studying at CIA, the State Department, and within the Army officer corps.

Yet the administration insists that, "Freedom is on the march in Iraq." This comes on the heels of a New York Times piece that found 120,000 hours of terrorism-related recordings that have not even been translated by the FBI, this after this administration and the majority have repeatedly refused to appropriate the funds to hire the necessary translators.

We are seeing an administration unhinged from reality, with incompetence at the highest levels, incapable of prosecuting this war successfully. Their mistakes have put the lives of our valiant soldiers already serving in harm's way at even greater risk.

AMERICA NOT BEING MADE SAFER

(Mr. DeFAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DEFAZIO. Mr. Speaker, the administration says time and time again, as if that would make it so, that Americans are safer today. After all, they are spending $10 billion to deploy a defective Star Wars system that has not been tested and could not hit missiles that will not be launched against us, and that makes us safer.

Yet our ports are wide open. Three percent of the containers coming into America will be inspected this year. That is the most likely route of a weapon of mass destruction to the United States, and we are only inspecting 3 percent of them, and 2 percent of the trucks coming across the Mexican border?

No one is going to shoot a missile at us, but they darn well might smuggle it in a truck or container and bring it in and detonate it in a city in the United States. And they are doing nothing about it.

They are doing nothing about plastic explosives being carried on to airplanes, even after the incidents in Russia. We have been warning them for 2 years that they are likely to take planes down. They are still doing nothing to detect plastic explosives at passenger checkpoints or keep people who clean the planes from secreting bombs on to the plane.

America is safer today? Maybe it is safer in an undisclosed location where DICK CHENEY is hiding out, but if is not safer for average Americans.

PROVIDING FOR CONSIDERATION OF H.J. RES. 107, CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2005

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 802 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 802

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the joint resolution (H.J. Res. 107) making continuing appropriations for the fiscal year 2005, and for other purposes. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) one hour of debate on the joint resolution equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; and (2) one motion to recommit.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to my friend the gentleman from Texas (Mr. FROST), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 802 is a closed rule that provides for the consideration of H.J. Res. 107, a continuing resolution that will ensure ongoing appropriations for fiscal year 2005 until November 20, 2004, except for the Defense Department appropriations bill, which has already been enacted into law.

The rule provides for 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. The rule waives all points of order against consideration of the joint resolution and provides for one motion to recommit.

Mr. Speaker, tomorrow is the last day of fiscal year 2004. At this point in time, there are a total of 12 regular appropriations bills that have not been enacted into law. Approving this CR will allow the Federal Government to continue its activities and operations for an additional 7 weeks.

To its credit, the House has passed 12 of the 13 regular appropriations bills. Unfortunately, the other body has passed only 5 regular appropriations bills and we need to pass a continuing resolution to allow the Federal Government to remain open while the House and Senate leadership, the House and Senate Appropriations Committees, and the respective bodies work through the process of resolving their differences on the remaining 12 regular appropriations bills.

The underlying resolution, H.J. Res. 107, is designed to allow the many different Federal departments and agencies covered by those 12 outstanding bills to continue operating under the terms and conditions of their fiscal year 2004 appropriations bills, while generally not allowing for the initiation of new programs, activities or projects.

Mr. Speaker, I urge all of my colleagues in the House on both sides to join me in supporting this rule and the underlying CR.

Mr. Speaker, I reserve the balance of my time.

Mr. FROST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as my Republican friend and former colleague on the Committee on Rules, Porter Goss of Florida, once said about a continuing resolution, "Congress is failing to fulfill its obligation in a timely and responsible way, choosing to fall back on one CR after another instead of putting in the time to do our job." Or as he said on another occasion, "A continuing resolution erodes the credibility of the Congress."

Well, Mr. Speaker, I am not sure how much credibility this Republican Congress will have after we pass this continuing resolution and scurry off to our districts until November.

□ 1030

This Congress is unable to finish even its most basic duties, which is amazing, considering that the Republicans control both Chambers and the White House. Let us take a look at what we are leaving behind.

We have yet to pass a transportation bill to reduce congestion on our roads, reduce pollution in our air, or create new, good-paying jobs in our communities.

We have yet to pass legislation implementing the recommendations of the 9/11 Commission, to strengthen America's intelligence community, strengthen America's homeland security, and effectively fight terrorism around the globe.

We have yet to pass a higher education reauthorization bill to help students across America pursue a higher education.

And we have yet to pass the majority of our mandatory spending bills to fund the government for the next year. In fact, we have only passed one out of 13 appropriation bills through the entire Congress.

By refusing to stay in Washington and do our work our constituents sent us here to do, we are harming our economy, leaving our young students behind, and endangering the safety and security of this Nation.

Yesterday, Mr. Speaker, the House spent the entire day debating and passing 38 suspension bills, including passing a bill to rename a river basin in Colorado and a number of bills to name several post offices around the country; and it has been that way for months. We spend more time naming post offices than doing the people's business and doing the work they sent us here to do. Our constituents expect us to fund this Nation's government, they expect us to pass a higher education bill to give our students the opportunity to pursue a college degree, a transportation bill to keep our highways being developed, and they certainly expect us to implement the recommendations of the 9/11 Commission so that we can continue to wage the war on terror and keep our country safe.

But instead, Mr. Speaker, this Congress is taking the easy way out, leaving the hard work until after the election. I wonder, will this Congress be able to finish its work even then. Truly, this has been a do-nothing Congress.

Mr. Speaker, I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

STAND UP FOR THE SANCTITY OF MARRIAGE

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today to commend this House for having the courage to protect the sanctity of marriage.

In today's society, we find ourselves constantly fending off attacks aimed at the foundation of our Nation. Whether it is those that would take "in God we trust" off of our currency or "one Nation under God" out of our Pledge, we must stand up for the basic tenets on which this Nation was founded.

This week, Mr. Speaker, we continue our fight to defend one of the most basic institutions of our Nation: the traditional family.

It is true that the recognition of the family unit has traditionally been a State issue; but with the recent onslaught against the traditional family in our Nation, I believe it is now time for the Federal Government to act decisively.

As a cosponsor of H.J. Res. 106, I encourage my colleagues to stand up in defense of the traditional family and in defense of traditional marriage between one man and one woman.

PROVIDING FOR CONSIDERATION OF H.R. 3193, DISTRICT OF COLUMBIA PERSONAL PROTECTION ACT

Mr. HASTINGS of Washington. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 803 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 803

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 3193) to restore second amendment rights in the District of Columbia. The bill shall be considered as read for amendment. The amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. The previous question shall be considered as ordered on the bill, as amended, to final passage without intervening motion except: (1) one hour of debate on the bill, as amended, equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform; and (2) one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 803 is a closed rule providing for the consideration of H.R. 3193, the District of Columbia Personal Protection Act. The rule provides 1 hour of debate in the House, equally divided and controlled by the chairman and ranking minority member of the Committee on Government Reform.

The rule waives all points of order against consideration of the bill, and provides that the amendment printed in the report of the Committee on Rules accompanying this resolution shall be considered as adopted. Finally, the rule provides one motion to recommit, with or without instructions.

Mr. Speaker, H.R. 3193 is a bipartisan measure sponsored by the gentleman from Indiana (Mr. SOUDER). The bill has 228 cosponsors from across the country, including 44 Democrats.

The bill simply permits law-abiding citizens of the District of Columbia to own firearms, a right currently denied them by act of the D.C. City Council. The Nation's capital has the toughest laws and regulations in the country prohibiting gun ownership by citizens. This bill would repeal the most onerous of those laws, thereby permitting individuals to protect themselves and their families in their own homes and otherwise enjoy privileges of gun ownership comparable to those enjoyed by most American citizens.

This bill would not affect any laws currently aimed at criminals and would place strict penalties on criminals who use guns to commit crimes. In addition, all penalties are doubled for illegal possession of a firearm in a "gun-free zone" within 1,000 feet of a school, day care center, college, or various youth facilities such as swimming pools and video arcades. Possession or use of a firearm while committing a crime of violence would remain punishable by up to 30 years in prison with a minimum 5 years served before eligibility for parole or probation.

Mr. Speaker, some have suggested that passage of H.R. 3193 may lead to an increase in violent crime, but I have to say that the facts suggest otherwise. Before the D.C. City Council imposed a handgun and home-defense ban in 1976, D.C.'s homicide rate had been declining. After the ban was instituted, however, D.C.'s homicide rate rose by more than 200 percent by 1991, while during the same period, the national homicide rate rose by just 12 percent. It is clear that this misguided and overly restrictive gun ban has not only failed to decrease violent crime in the District of Columbia, but it may have contributed to its increase. We have a chance today to do something about that.

So accordingly, Mr. Speaker, I urge my colleagues to support both the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I thank the gentleman from Washington for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, I rise in opposition to the so-called District of Columbia Personal Protection Act and to this closed rule.

Mr. Speaker, today the Republican leadership is, once again, letting the American people down by considering the wrong bill at the wrong time under the wrong circumstances. Once again, we are considering legislation in the shadow of the November elections. With 5 weeks to go until Election Day, the Republican leadership has put the country's agenda on hold in order to force an unnecessary vote on a bad and stupid bill. Once again, the Republican leadership is catering to the special interests at the expense of the public good; and once again, the Republican leadership is squandering the House's very limited time with this foolish, misguided, election-year legislation.

Mr. Speaker, we are just one day away from the end of the fiscal year, and only one, and I repeat, one, appropriation bill has been sent to the White House. Not only are the remaining 12 appropriations bills left on the table, not only has the House failed to complete consideration of all of the appropriations bills, but the Republican leadership, which controls both Houses of Congress, cannot even agree upon a budget.

Mr. Speaker, the Republican leadership cannot get its act together on the highway bill, a bill that would create thousands of good-paying jobs. The Republican leadership cannot find the time to work on a bill to increase the minimum wage, even though wages are stagnant and over 4 million Americans have fallen out of the middle class and into poverty since George Bush became President. And the Republican leadership cannot even get its act together on the Department of Defense authorization or the FSC/ETI bill, each of which has languished in conference for months.

Mr. Speaker, as the House takes up this frivolous legislation today, the Republican leadership has yet to act on the recommendations of the 9/11 Commission report.

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Although the other body is working on legislation to implement the 9/11 report and the Democratic leader of this House has introduced legislation that addresses the report's recommendations, here we are today wasting precious time that could be used to debate the 9/11 report's recommendations. Will it take another September 11 anniversary before the Republican leadership will act? Will we see the Republican leaders' bill before the election? Will we have to wait until after November for the necessary reforms that will help make our country and our citizens safer against terror?

Mr. Speaker, if the American people want real leadership on real issues facing the Nation, they certainly should not look to this House of Representatives. Under this Republican leadership, this House has become a place where trivial issues are debated casually, and serious and important ones not at all.

In fact, today, we are debating H.R. 3193, a bill that would overturn Washington, D.C.'s laws and restrictions on the possession of firearms. Among its provisions, H.R. 3193 repeals the District's ban on semi-automatic assault weapons, its gun registration requirements and its ban on cop-killer ammunition.

That is right, Mr. Speaker, this bill puts cop-killer ammunition on the streets of our Nation's capital. Simply put, this legislation makes the Nation's capital a more dangerous place to be a police officer.

As D.C. Mayor Anthony Williams wrote to the congressional leadership, "It is unthinkable that, while the Nation's capital is under alert, Congress should take action to expose more than half a million residents, almost 200,000 Federal workers and 20 million tourists to greater danger."

It is unthinkable, Mr. Speaker, to put our officers at greater risk at a time when Capitol Police expect $20 million in additional unbudgeted expenditures to secure the Capitol Building for this year. The last thing they need to hear is that semi-automatic weapons can now be carried on the National Mall or cop-killer bullets are legal in the District of Columbia.

While the bill changes the law to allow District of Columbia residents to carry pistols, open or concealed, in their homes and places of business, it does not repeal another District of Columbia gun law. The law we will not repeal today is the provision outlawing people carrying or having readily access to firearms "upon the United States grounds or within the Capitol Buildings."

So we will vote to approve guns in another person's workplace in the District but not in our offices.

It is unthinkable that only 2 years after the Washington area was terrorized by snipers who killed ten people in the region and while the Nation's capital is still under terrorist alert, Congress would take action to expose more than half a million District residents, almost 200,000 Federal workers and 20 million tourists to greater danger.

This bill will make the District of Columbia a more dangerous place to live, to work and to study.

Although Members of this body may disagree on gun issues, surely, we can all agree that the citizens of the District of Columbia should not have to face fully-loaded assault weapons on their streets, in their neighborhoods and around their schools.

But, Mr. Speaker, this bill and this rule did not have to be so lousy. Last night, the Committee on Rules had the chance to make this a better bill and a better process. Instead, the leadership of the Committee on Rules decided to pass a rule that makes a mockery of the deliberative process Congress is supposed to follow when we consider bills.

First of all, the Republican leadership brought this bill to the floor without consideration by the committee of jurisdiction, the Committee on Government Reform. Then, last night, when members from both parties brought amendments to our committee, the Committee on Rules rejected them all. The rule does not make in order the gentlewoman from California's (Mrs. BONO) and the gentlewoman from New York's (Mrs. MCCARTHY) amendment addressing the fact that this bill repeals the ban on cop-killer bullets. This closed rule guarantees that this bill would emerge from this House with no real debate or consideration. This House floor has become a "legislation-free zone."

Mr. Speaker, this issue is about more than guns. This issue is about how the residents of Washington, D.C., are treated. Mr. Speaker, I do not believe that the Members of Congress from Indiana or Texas or Massachusetts have a monopoly on wisdom when it comes to local laws, and I would not presume to impose on the citizens and elected officials of the District of Columbia something that would never, never, never be allowed or accepted by my own city council or State legislature.

Mr. Speaker, not one constituent of any voting Member of Congress will benefit by today's action. As the Fort Wayne Journal Gazette stated in an editorial published just last week on September 21, 2004, "This page believes Washington should be able to set its own gun-control laws but acknowledges that honest people can disagree regarding the city's second amendment rights. But there is little doubt that, right now, Souder's bill is simply a waste of Congress' time and does nothing to improve good government or help his constituents in Indiana."

Mr. Speaker, let us follow what the Fort Wayne Journal Gazette wrote and address the real needs of our constituents.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 1½ minutes to the gentleman from Virginia (Mr. WOLF).

Mr. WOLF. Mr. Speaker, I thank the gentleman for the time.

I just wanted to speak on another issue, if I can just for a minute. An earlier speaker mentioned the FBI and funding, and I just wanted to make sure the record, since the CONGRESSIONAL RECORD is supposed to be a factual document, to let the Members know on both sides, since September 11, 2001, the Committee on Appropriations has supported the FBI's transformation, increasing the FBI's budget nearly 50 percent from $3.1 billion in fiscal year 2000 to $4.6 billion in fiscal year 2004.

These funding increases have allowed the FBI to increase the number of Joint Terrorism Task Forces to 100; create the Office of Intelligence; create the Terrorist Threat Integration Center, which the administration has done with FBI, CIA, Homeland Security, who meet together every day; the Foreign Terrorist Tracking Task Force; and the Terrorist Screening Center; hire thousands of new agents and analysts and support staff, including 620 additional linguists; create new training programs for agents and analysts; and upgrade the technology capabilities.

We have National Academy of Public Administration looking at the reformation of the FBI. The General Accounting Office, the Congressional Research Service, and the 9/11 Commission in its report referenced the work of the House Committee on Appropriations. It must have been a misunderstanding, but I just want the Members to know that, as we look in the record, this Congress, both sides, and this administration have increased the FBI budget by dramatic numbers.

Mr. MCGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, I never could have thought I would see it, a House that is run by a conservative majority that is bent on imposing its will on the minority.

We have seen it many times, but, Mr. Speaker, it is so interesting to see that, this morning, we are taking up an issue, we are enforcing our will upon the people of this District of Columbia. Whereas, we would not even allow any other State or this Congress to dictate its will against the interests of our own local communities, we are prepared to do that to the District of Columbia.

It should not be any surprise, I suppose, to our delegate, the gentlewoman from the District of Columbia (Ms. NORTON). She has seen it too many times where she represents a populace here in Washington, D.C., that does not have the vote, does not have the vote here in the Halls of Congress. It does have a vote, however, on the local management of the city, not until today.

Today, the Congress says, not only will you not have a vote in the Halls of the Congress, not only as United States citizens will you be denied the right to vote, but you will also be denied in your own local government to decide what is in the best interests of your people.

We look at Washington, D.C., and see one of the most murderous capitals in this country, where every single day mothers worry about whether their children are going to get home at the end of the day, whether their children are going to be killed in drive-by shootings, whether their children are going to be safe.

To the mothers in the District of Columbia, terrorism means drive-by shootings, not Osama bin Laden. To the people of Washington, D.C., terrorism is defined by semi-automatic weapons and unrestricted access to all kinds of guns.

Mr. Speaker, this rule and this bill says terrorism is all right. Terrorism for the people of this city, who now will have to wonder how many guns are staring them down when they go outside every single day of the week, are going to have to wonder, when they see all of the complement of anti-terrorist measures in this town and know that those anti-terrorist measures are for everyone else but them, the inhabitants of Washington, D.C.

Mr. Speaker, this rule and this bill eliminate all of those laws that the people of this city have determined are in their best interest in defending their people, and it says, no, we are going to make you an example to the NRA that, whatever they want, they will get. When it comes to the repeal of the assault weapons ban, not only will this President not have fallen through on his commitment, but furthermore, they will have retreated on their commitment to defend the people of this Capital City and the Capitol Police of this Capital City. They ought to be ashamed of themselves.

Mr. HASTINGS of Washington. Mr. Speaker, I am pleased to yield 4 minutes to the gentleman from Georgia (Mr. LINDER), the vice chairman of the Committee on Rules.

Mr. LINDER. Mr. Speaker, I thank my friend from the Committee on Rules, the gentleman from Washington (Mr. HASTINGS), for the time.

Mr. Speaker, I rise in support of H. Res. 803, a closed rule that provides for the consideration of H.R. 3193, the District of Columbia Personal Protection Act. This is an appropriate rule that will allow the House to work its will on the underlying legislation, and I urge my colleagues in the House to join me in voting for its approval.

Mr. Speaker, I can certainly appreciate the position of those who oppose the underlying legislation. As a consistent proponent of home rule, I believe that the Federal Government should be limited in its influence over State and local laws.

The crux of this debate, however, is not whether the Congress has the authority to repeal the District's prohibition of owning firearms. The Founders were explicit in their desire for congressional oversight and responsibility in the affairs and laws of the District of Columbia.

The heart of the matter before us today is whether the District of Columbia should continue to prevent its citizens from exercising their full rights under the Constitution. We do not get to pick and choose our amendments, and the second amendment was written with just as much force and meaning as the first and the fifth and the tenth.

In 1975, the District's government enacted measures to prevent citizens from owning certain firearms in an ill-advised effort to reduce its violent crime rate. My colleagues have just heard about that from the previous speaker. As many of my colleagues can attest, however, the District, despite these laws, continues to be known across the country as the "murder capital."

It is beyond me to understand how we can stand here in the well of this House and say this is the most violent city in the Nation, this is the murder capital of the world, people are being gunned down, please do not change anything; leave it as it is. Does it ever strike anybody that, perhaps, perhaps, there would be less violence if the bad guys who do get guns, who have guns, would think for a moment that the people they are approaching might have guns, too?

This is not the kind of wild west life we want to live, but it is a fact of life that, in those areas where we have concealed-carry laws, there is less violent gun crime because the bad guys who have an easy time getting guns are concerned that maybe they are approaching someone who has one, too. There are some nations or some jurisdictions in this Nation that actually require people to keep guns in their houses, and it is an uncomfortable fact for those who would like to get rid of guns, but it is a fact.

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They have less crime. They have far less crime.

So, Mr. Speaker, I urge my colleagues to support this rule and support the underlying law.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am a little bit baffled by the previous speaker to imply that somehow the passage of this bill would make the residents of D.C. safer. If this bill is enacted, the following weapons would be lawful to possess:

The AK-47, the Israeli Semiautomatic Uzi Carbine, the Bushmaster X-15, which was used by the D.C. area snipers to kill 10 people in 2002; the Barrett M82 A-1 50-caliber sniper weapon, which has the range of about 1 mile and is used by U.S. troops in Iraq and Afghanistan and worldwide to penetrate bunkers, to disable armored personnel carriers, and to take down enemy aircraft. This bill would allow fully-loaded assault weapons to be carried in public. This bill would allow armor-piercing ammunition, including cop-killing bullets. This bill would eliminate the District's registration program even for assault weapons. This bill would allow individuals to carry concealed hand guns in their places of business and property.

Mr. Speaker, I cannot believe that anybody can say with a straight face that this will make the residents of D.C. and this country safer.

Mr. Speaker, I yield 10 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, when this law was first introduced, it was simply regarded as another absurd piece of legislation. There are lots of them during a session of Congress. When we moved toward a vote on this law, it left the realm of the absurd and entered the realm of the truly reckless, particularly reckless and callous at a time when 16 of our children are dead from guns in this city, far more than in any recent year; and at a time when, to their credit, the mayor of the city and the police chief of the city have reduced adult homicides by 25 percent.

I am on the floor this morning largely because this repeal will largely affect kids in the District of Columbia, and I cannot believe that that is the will of the great majority of the people of this House. There could not be a more wrong time or a more wrong place, a more wrong city, a more wrong region. This region still has not recovered from the sniper attack of 2002, which left 10 people in Maryland, Virginia and the District of Columbia dead, 5 more injured from a Bushmaster assault weapon that would now be legal to have in your homes, to have in your businesses, to have in your workplaces in the District of Columbia, in the Nation's Capital, which is now under an orange alert.

This bill did not move anyplace, Mr. Speaker. It was referred to the Committee on Government Reform, on which the gentleman from Indiana (Mr. SOUDER) and I both serve. He is the primary sponsor of this bill. There was no interest in the committee in this bill. The committee is deep into matters affecting Iraq and Homeland Security and Federal reorganization in the DOD, in the Department of Homeland Security, and even in the Subcommittee on Criminal Justice, Drug Policy and Human Resources, which I am pleased to serve on with the gentleman from Indiana (Mr. SOUDER).

Of course, this bill had to leap over every subcommittee and leap over the committee, because it never got a hearing, because there was no interest and there was no view that this is the kind of bill, particularly after 9/11, that any self-respecting Member of Congress would want to bring to the floor of the

House. Yet here it has come, courtesy of the leadership of this House.

Moreover, this matter was considered a settled matter, if ever any matter is. The one group of local matters most prized as local in our country are criminal justice matters. And this matter has been settled by the people who will be overwhelmingly affected if you vote for repeal today. It has been settled by the people of the District of Columbia, who alone have the right to make decisions as to how to safeguard their lives.

Thank you very much, you of the paternalistic variety who are going to tell us how to safeguard our lives. I am not going to tell you I do not expect you to tell my mayor, I do not expect you to tell my unanimous city council, I do not expect you to tell me, that is to say, if you still believe this is a Federal Government and you believe that we are as much citizens of the United States as you are, and we are.

When this bill came to the floor, with no opportunity to make any changes, of course, the only thing you can do is to go to the Committee on Rules. There we found a hostile attitude toward amendments, except amendments from one Member. Members came forward from both sides. This is a matter of compelling interest to the entire country. And the only Member to in fact get an amendment in order was the sponsor of the bill. He happens to be a Republican. No partisanship there, of course.

Actually, that fact, the one amendment coming from the gentleman from Indiana (Mr. SOUDER), the sponsor, is the front end of the partisanship of this bill. This bill is not about whether it will pass or fail. It comes a month before election, for reasons that the Members have not even tried to deny: Close to the election, let us hold up the Democrats, especially the Democrats from rural areas, from southern areas, from western areas. Let us dare them to vote for home rule, as they usually do. Let us take them down with NRA ads if they do. Everybody gets it. That is the only reason Democrats are on this bill. They saw Democrats taken out by NRA distortions of their positions on weapons just a few years ago.

The Souder amendment is really an amendment to wipe the red off the sponsor's face because he had sent a Dear Colleague, advising that a previous Dear Colleague saying that the bill would allow fully-loaded assault weapons to be carried in public was a matter of scare tactics. I can understand why the gentleman from Indiana made the mistake. It is not his law, it is not his business, he does not know what he is talking about, and he made the kind of mistake I would make if I tried to mess in the business of his jurisdiction. I am not familiar with what they do. He made a straight-out error. He said, oh, no, we were wrong; he was right.

Then, of course, he comes forward with an amendment, which is a mea culpa that admits that he was wrong. Actually, his amendment does not help very much, because it assumes an assault weapon, a Bushmaster, a loaded handgun which you could keep in your home, in your business, that somehow they are going to be contained in your homes, in your businesses, in your workplaces. Everybody knows that once you have a gun there, it stays there. That is, unless you have the experience of running the District of Columbia or living in the District of Columbia. And as our police chief says, there would be a moment, a moment in time before weapons in people's homes would find their ways to the streets to settle domestic violence matters, acquaintance quarrels, kids settling matters among themselves.

And, Mr. Speaker, we have even seen some of that when guns have gotten into kids' hands. We know what would happen with those guns because we live here and we know our people. They would make their way into Ward Six, where I live, which is close to the Capitol, and they would surely make their way to the streets in the poorest wards of the city, across the Anacostia River, where most of the killings of residents, and particularly of children, have taken place.

The gentleman from Indiana (Mr. SOUDER) does not know any better, and I can forgive him that. What I cannot forgive him is introducing and pressing this bill at a time when we have child killings at a record we have not seen in many years. Why in the world would anybody want to make laws for somebody else's jurisdiction?

So I said, well, if I could do only one amendment, what would I do? Because I knew that you would not want to put in a great many amendments to a bill that was being put forward for transparently political reasons. And I said, I know the one I would do, because I know what I have heard from my police chief. I would put in an amendment to say at least if you are going to have ammunition, let there be no cop killers' ammunition. And I came forward with an amendment that was aimed chiefly at doing whatever little we could do to protect our police officers and our children, the two categories of people most vulnerable because they are the disproportionate victims.

This amendment, however, like every Democratic amendment, was not made in order. I think it goes without saying that most Members would prefer not to have armor-piercing incendiary ammunition floating around their districts. The fact is that the kind of ammunition that my amendment would bar are not barred by Federal law. In fact, Congress, in fiscal year 2001, fiscal year 2002, and fiscal year 2003, in the DOD appropriation, actually added to the appropriation language that barred armor-piercing incendiary ammunition being transferred from DOD to private parties.

In the name of my children and police officers, I thought maybe they will throw me this sop. There are no sops to be thrown here. This bill not only is brought forward for political purposes, this bill is brought forward in callous disregard of these children. Their parents have been to the Hill, begging to have this vote rescinded. Our mayor, our new superintendent of schools, and our police chief were here yesterday to say this is exactly what we do not need.

I ask you to respect the people who know best, the people who will have to pay the price, the people who have had to go to the funerals. I ask you to defeat this bill.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Washington State, the distinguished member of the Committee on Rules, for yielding me this time, and I want to thank my colleague, the gentleman from Indiana (Mr. SOUDER), for introducing legislation to restore our constitutionally protected right to keep and bear arms in the District of Columbia. H.R. 3193, the District of Columbia Personal Protection Act, would eliminate penalties for the legal possession of a firearm, and it would permit the storage of legal firearms in an individual's home or place of business.

This debate is fundamental in its nature. Americans should have the right to defend themselves against a violent assault. They should have the right to protect their own lives. In 2002, the District of Columbia earned the rare distinction of being the murder capital of America for 14 out of 15 years, yet all handguns have been banned in the District since 1976. This simple fact shows that firearm bans do not work to decrease crime. D.C. laws should not make it a criminal offense to possess a firearm and self-defense in one's own home or business.

Mr. Speaker, the Washington Times reported on December 14, 1994, that Rebecca Griffin heard her daughter screaming one night, only to find her bound and gagged by two potential kidnappers. With one carrying a knife, she was quick to end the attack after retrieving her 32-caliber revolver from the basement. Although her daughter was left cut and bleeding, by using a firearm to protect her family in her own home, she saved her daughter from abduction and, yes, possibly death.

It is interesting to note that crime was on the decline in Washington, D.C., before the gun ban was imposed. Yet in only the first 15 years of the ban, from 1976 to 1991, the homicide rate increased by more than 200 percent while the rest of the United States had only a 12 percent increase.

When Congress chose to delegate home rule in the 1970s, it specified that legislation by the District must be consistent with the Constitution of the United States, and I hope that the gentleman from Rhode Island and the gentlewoman from the District of Columbia, who previously spoke about the rights of D.C. citizens, are listening. However, the District of Columbia consistently violates the second amendment right to keep and bear arms. It violates the right to self-defense.

Mr. Speaker, I ask my colleagues to pass the rule for the District of Columbia Personal Protection Act and to restore second amendment rights to the law-abiding citizens of our Nation's Capital.

Mr. McGOVERN. Mr. Speaker, how much time remains on both sides?

The SPEAKER pro tempore (Mr. LATHAM). The gentleman from Massachusetts (Mr. McGOVERN) has 8 minutes remaining and the gentleman from Washington (Mr. HASTINGS) has 20 minutes remaining.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. SULLIVAN).

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Mr. SULLIVAN. Mr. Speaker, I rise in strong support of H.R. 3193, the District of Columbia Personal Protection Act. This is a commonsense piece of legislation that will rightfully restore the second amendment rights of Americans living in the District of Columbia.

Mr. Speaker, I know there are Members of this House who support gun control. The issue today, however, is not gun control but it is self-defense. The right to be able to protect yourself and your family is always important, but the right to do so in your home is the most important of all.

In America, we consider the home a special place and give greater weight to people's liberties in the home. The faulty bureaucratic logic of allowing District of Columbia residents to defend themselves is refuted by common sense. D.C. has some of the strongest gun laws in the Nation, and yet the recent FBI figures show that the District has regained its former title as the murder capital of the Nation for 14 of the last 15 years. Common sense and the love of life and liberty tells us that D.C. residents should have the right to defend themselves in their own home.

According to the FBI, the street and highway robbery rate has decreased by 59 percent, which is a greater decrease than other types of robbery, so the theory that gun-related street crimes will increase because of this bill is not supported by the facts nor by common sense. That leaves with us only one question really: Are law-abiding residents of this city entitled to the same rights as other Americans? I think our answer can be nothing other than a resounding yes.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I include for the RECORD a letter from Mayor Anthony Williams and a letter from the Chief of Police, Charles Ramsey, in strong opposition to this legislation.

We have heard from the gentleman from Oklahoma and we have heard from the gentleman from Georgia who think they know everything about what the people of the District of Columbia need and deserve; how about listening to the mayor of this city and to the police chief of this city who say this is a bad bill which will make the streets of this city more dangerous?

Washington, DC, September 16, 2004.

Hon. TOM DELAY,
Majority Leader, House of Representatives, Cannon House Office Building, Washington, DC.

DEAR REPRESENTATIVE DELAY: Princess Hansen. James Richardson. Chelsea Cromartie. Myesha Lowe. These are the names of four children who will never see adulthood. These are the names of four children whose parents are devastated by grief. These are the names of four children out of 14 who were killed by illegal guns in the District since January.

On behalf of the residents of the nation's capital, I am writing to express strong displeasure upon learning that federal legislation to repeal the city's gun control laws could shortly come to a vote in the House of Representatives. The District of Columbia Personal Protection Act of 2004 is not just a step back in our efforts to control crime—it is a couple of football fields back.

I take sharp exception to this wholly inappropriate intrusion into what is clearly a local matter. On behalf of the residents of the District of Columbia, I urgently ask you to take no further action on this legislation. It is unthinkable that while the nation's capital is under alert, Congress would take action to expose more than a half a million District residents, almost 200,000 federal workers and 20 million tourists to greater danger.

The District of Columbia has been governed by an elected Mayor and thirteen elected Council members since 1975. During the Council's first legislative session in 1976, the District passed legislation that restricted the possession, use and transfer of handguns and semiautomatic weapons. The courts have upheld the constitutionality of this law and no bill has been passed in the District to water down our gun-control laws since.

District leaders have enacted gun safety legislation based on our citizens' view that any increase in the number of guns in the District increases the likelihood that crimes will be committed with those guns. We have made significant progress in reducing crime, although we still have work to do. This year alone, District residents have witnessed a 24 percent reduction in homicides and a 13 percent decrease in overall crime. There is no way to argue that lifting our weapons bans will not jeopardize this progress. My administration has worked very hard to produce these results and I ask you to respect our efforts by leaving one of our most important anti-crime tools in place. My greatest frustration is that in spite of the significant reduction in homicides, 14 children, the largest number in five years, have been killed by guns this year. These killings, some by children, are reason enough to do no more harm by allowing more guns in our city.

Our residents know all too well the human costs exacted by guns and violence. Eighty percent of all homicides in the District last year were committed with guns, all of which were brought into the city illegally. Because of the porous nature of our borders, we can never rely on laws alone to keep guns out of our city, but these laws are indispensable local tools to combat crime. Our ability to reduce homicides would be severely compromised if—in addition to confiscating guns brought in from other jurisdictions—we were required to combat gun violence from weapons maintained, carried and bought within the District.

We are taking aggressive measures to further reduce homicides and violent crime in the city by increasing the number of sworn officers to 3,800, restructuring our Patrol Service Areas, strengthening our investigative capacity, and improving 911 response times.

For Princess Hansen. For James Richardson. For Chelsea Cromartie. For Myesha Lowe. I implore you to take no further action on the District of Columbia Personal Protection Act of 2004. The citizens of the District of Columbia want nothing more than other American citizens would demand and get—the right to make our own decisions about our public safety.

Sincerely yours,

ANTHONY A. WILLIAMS,
Mayor.

Washington, DC, February 25, 2004.

Hon. ELEANOR HOLMES NORTON,
House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN NORTON: I am writing to express my strong opposition to any efforts in Congress to eliminate or weaken current laws regulating handgun ownership and possession in the District of Columbia.

As a law enforcement officer with more than 35 years of experience, I know firsthand the devastation of handgun violence in our urban neighborhoods. One need look no farther than Ballou and Anacostia Senior High Schools in Southeast DC for recent examples of gun tragedies: two young student-athletes gunned down this school year, either inside or just outside their school building. Like these two killings, nearly 80 percent of the homicides in the District of Columbia are committed with a firearm, not to mention countless assaults, robberies and other crimes of violence.

The District is facing nothing short of a crisis when it comes to gun crime and gun violence. Every day, our residents—and our police officers—are confronted by far too many firearms, that are easily accessible to far too many people—including young people—who should not possess them. Last year alone, Metropolitan Police officers recovered nearly 2,000 firearms, and we are on track to increase that total this year. To somehow suggest that the District would be safer by introducing even more lethal firepower into our city is pure folly. To reduce crime and prevent more senseless tragedies like the recent killings at Anacostia and Ballou, we need fewer—not more—weapons on our streets. And we need to have strong laws that allow our police officers to identify and arrest criminals who carry guns in our city.

I appreciate your strong support of DC's gun laws, and I stand ready to assist in working to retain and, if necessary, strengthen those laws. You know, as I do, that tough and sensible gun laws help make our communities—and our police officers—safe. The District of Columbia cannot afford to go backwards when it comes to combating gun violence.

Sincerely,

CHARLES H. RAMSEY,
Chief of Police.

Mr. MCGOVERN. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. WYNN).

Mr. WYNN. Mr. Speaker, I rise in opposition to the rule; and more importantly, I rise in opposition to the underlying bill. When I looked at this bill, I was compelled to ask the question of the supporters of this legislation: What were they thinking?

Number one, we need less guns in the District of Columbia, not more guns.

Mr. Speaker, I represent the suburban districts in Prince George's County and Montgomery County, Maryland, just outside of Washington, D.C. The gun violence in D.C. bleeds over, excuse the expression, into our communities so I have a great concern that we not have more violence and more guns.

Let me talk for a moment about the question of rights and the rights of D.C. citizens. My colleagues on the other side who are sponsoring this legislation are the same folks who are saying we have to have democracy in Iraq, we need to let the Iraqis decide. They would have the Iraqis decide their fate, but they will not let the citizens of the District of Columbia decide their fate. That does not make sense.

The citizens of the District of Columbia have not asked for this bill. The mayor is opposed to it, the police chief is opposed to it, the elected Representative is opposed to it. That is the democratic position, that the citizens of the District of Columbia, under the concept of home rule, should be allowed to make this decision, not people from Indiana and Georgia.

It is appalling to think that this measure would repeal the District of Columbia's ban on the sale and possession of handguns and semiautomatic weapons and eliminates criminal penalties for possessing unregistered handguns.

Earlier a gentleman talked about the facts. Let us talk about the reality. The reality is that most if not all of these young people did not die as a result of burglaries in their home, they died on the streets. They died on the streets as a result of handgun violence, not as a result of handguns purchased in the District of Columbia, but from Virginia and Maryland and other places.

That is the problem we have here. There are already too many handguns, too many semiautomatic weapons, too much street crime, and the sponsor of this measure would allow for more.

It is very interesting, we are in a period in which there is a great deal of concern about terrorism. And of course here in the capital, we are greatly concerned for obvious reasons. Why would we want more handguns in the possession of individuals in the District of Columbia that might pose a terrorist threat, or semiautomatic weapons in the hands of the people of District of Columbia who might pose a terrorist threat? It just does not make any sense. What were they thinking?

Under this bill, if a crime is committed and the weapon is found because they eliminate the registration process, detectives could not determine whose gun it was. It just does not make any sense.

And then how could people in this body forget the fact that on July 24, 1998, a gunman came into this Capitol and fired a handgun, killing Jacob Chestnut, a United States Capitol Police Officer, and Special Agent John Gibson? How can we forget the effects of handgun use, not to mention the handgun that was used to shoot at President Ronald Reagan?

The issue is not well, there is crime in the District of Columbia; yes, that is true. There is crime in every city. The issue is, do we want more crime and more violence as weapons are more readily available under this bill? Again, it just does not make any sense. Let me tell Members about the reality of what actually happens. Thieves not only break into homes for cash and jewelry, they also break into homes for weapons, weapons that can be fenced and transferred and sold through other means, and those same weapons that exist in the homes are also the weapons that are used to commit crimes.

So while the gentleman presents one anecdote of somebody who protected their family with a handgun, there is a lot more information about people who were victimized on the streets by handguns and semiautomatic weapons.

My colleague from the District of Columbia made an impassioned plea on behalf of young people, all under the age of 17, who were the victims of gun violence. I join her in that plea. Let us have some common sense, let us defeat this rule and then defeat the underlying bill.

Mr. MCGOVERN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, let me begin by reading a "Dear Colleague" letter from the gentleman from California (Mr. WAXMAN), the ranking member, and the gentleman from Virginia (Chairman TOM DAVIS) entitled Please "Oppose H.R. 3193."

They write, "We are writing to urge you to oppose H.R. 3193, a bill that would make Washington, D.C. less safe. H.R. 3193 falls within the jurisdiction of the Committee on Government Reform, but was not considered by the committee."

They say this bill "repeals the D.C. laws that restrict the possession of firearms in the District of Columbia. Among the laws repealed are the ban on semiautomatic assault weapons, the ban on armor-piercing ammunition, and the gun registration requirements. Although one can debate the merits of some of D.C.'s gun laws, no one should question the importance of keeping fully-loaded assault weapons off the streets of the Nation's Capital city.

"Another problem with H.R. 3193 is its impact on home rule for the District of Columbia. Congress would never act to repeal the gun laws for communities in Northern Virginia or Southern California. Whether we agree or disagree with the District's laws, we should accord the mayor and District city council that same respect.

"Please join us in voting no on H.R. 3193." This letter was signed by the gentleman from Virginia (Chairman DAVIS) and the gentleman from California (Mr. WAXMAN).

A number of speakers have said D.C.'s gun laws violate the second amendment. They do not violate the second amendment. In a recent NRA-inspired lawsuit, D.C. citizens challenged the constitutionality of the city's gun laws. In a decision styled Seegers v. Ashcroft, a D.C. Federal court judge found that the D.C. gun laws did not violate the plaintiff's second amendment rights. In fact, because the second amendment specifically applies to State militias, the court held that the amendment cannot apply to the District of Columbia, which is not a State.

Mr. Speaker, this body considered this issue in 1999 when the gentleman from Virginia (Mr. GOODE) offered this repeal as an amendment to the gun show bill. That amendment was defeated by a vote of 175–250. This House has already spoken. Members defeated that awful idea then, and I hope they will defeat it again today when this bill comes to the floor.

I hope Members of this House will stand up to the NRA and will do the right thing, will do the right thing by the citizens of this city. How anybody can make the case that making more military-style assault weapons available on the streets of D.C. somehow is going to decrease crime is beyond me. It makes no sense at all.

This is an arrogant bill, where people who have no idea what is going on in this city are imposing their will on the people of the District of Columbia.

Mr. Speaker, I include for the RECORD two editorials, one from the Journal Gazette of Fort Wayne, Indiana, entitled "Where Are Souder's Priorities" and the other from "The Decatur Daily Democrat" entitled "Souder's Contempt."

I wish the gentleman who introduced this bill would have paid attention to the editorials from his home newspapers. They are right. D.C. has a right to determine its fate on these gun laws. Congress has no business repealing what the local leaders and legislators in D.C. have decided. I hope all Member of Congress do the right thing, will stand up for our kids, will stand up for our police. All of the police officers, the police chief, the police associations, are all against this bill. Let us do the right thing and defeat this bill.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, September 27, 2004.

PLEASE OPPOSE H.R. 3193

DEAR COLLEAGUE: We are writing to urge you to oppose H.R. 3193, a bill that would make Washington, D.C., less safe. H.R. 3193 falls within the jurisdiction of the Government Reform Committee, but was not considered by the Committee.

H.R. 3193 repeals the D.C. laws that restrict the possession of firearms in the District of Columbia. Among the laws repealed are the ban on semiautomatic assault weapons, the ban on armor-piercing ("cop-killer") ammunition, and the gun registration requirements. Although one can debate the merits of some of D.C.'s gun laws, no one should question the importance of keeping fully loaded assault weapons off the streets of the nation's capital city.

Another problem with H.R. 3193 is its impact on home rule for the District. Congress would never act to repeal the gun laws for communities in Northern Virginia or Southern California. Whether we agree or disagree with the District's laws, we should accord the Mayor and the D.C. City Council the same respect.

Please join us in voting "No" on H.R. 3193.

Sincerely,

TOM DAVIS,
Chairman.
HENRY A. WAXMAN,
Ranking Minority Member.

[From the Journal Gazette, Sept. 21, 2004]

EDITORIAL: WHERE ARE SOUDER'S PRIORITIES?

Northeast Indiana residents have good reason to question where Congressman Mark Souder's priorities lie.

Souder has been receiving national exposure, not for anything he's doing for his constituents but for his attempts to use the Federal government to overturn a local government decision.

Our congressman believes people in Washington D.C., should be able to carry assault rifles and handguns.

He believes that Washington police should not be able to jail anyone for having unregistered weapons.

He believes District of Columbia workers should face no criminal penalties for carrying a gun to work.

The District of Columbia has banned handguns, but Souder thinks the Federal government should step in and overturn this local decision because Souder knows what's better for residents of the District of Columbia than they do.

Congressional leaders have placed a priority on Souder's bill—cynically called the District of Columbia Personal Protection Act—mostly to force House Democrats to cast a vote on a gun control issue before Nov. 2.

This misplaced priority comes days before the fiscal year will begin with 12 of the 13 spending bills needed to keep the government running yet to be approved.

Many political observers believe Souder's legislation has little chance in the U.S. Senate, making the D.C. gun bill an exercise in political gamesmanship.

Souder must need the diversion, coming at the end of Congress' longest summer vacation since Harry Truman was in the White House.

In a statement that has become sadly characteristic of our congressman, Souder compared gun control to owning slaves, telling the Washington Post, "The fact is, we didn't allow the District to have home rule on the selling of slaves, either."

Souder's bill earned him attention in the Post and in the Sunday New York Times shortly after receiving some publicity in U.S. News & World Report for his action on another issue of vital importance to Hoosiers—lighthouses.

Souder railed against a North Carolina congressman for wanting the Homeland Security Department to audit the group that operates the North Carolina Currituck Beach Lighthouse.

During an unrelated hearing, Souder blasted the efforts as "one of the biggest travesties of justice I have ever seen."

Perhaps Souder is unaware of the 14 children who have been gunned down in Washington this year.

Perhaps he is unaware that the handgun ban helped D.C. police take nearly 2,000 guns away from criminal suspects last year and more than 1,300 so far this year.

Perhaps his beloved lighthouses and efforts to embarrass Democrats have become too important.

This page believes Washington should be able to set its own gun-control laws but acknowledges that honest people can disagree regarding the city's Second Amendment rights. But there is little doubt that right now, Souder's bill is simply a waste of Congress' time and does nothing to improve good government or help his constituents in Indiana.

[From the Decatur Daily Democrat, Sept. 20, 2004.]

SOUDER'S CONTEMPT

Rep. Mark Edward Souder is about as interested in the hopes, fears and aspirations of District of Columbia residents as a rock along the Maumee River in his northeast Indiana congressional district.

What does engage the Republican congressman's enthusiasm is the prospect of forcing House Democrats to vote on a gun control law in a hotly contested election year. That helps explain why Souder is pressing for a vote in his bill, which would remove the District's stringent ban on handguns, lift a restriction against semiautomatic weapons, end registration requirements for ammunition and other firearms, and cancel criminal penalties for possessing unregistered firearms and carrying a handgun in one's home or workplace.

Wasting no opportunity to thumb their noses at D.C. residents who strongly support the handgun bans—and to ingratiate themselves with gun rights groups—House Republican leaders have promised Souder a vote before the Nov. 2 election. A more contemptible display of cynicism would be hard to find.

Souder maintains that his bill is not an incursion on home rule but rather is based on the Second Amendment's guarantee of gun rights. He's wrong, of course. The District's authority to enact gun control laws has been successfully challenged in court. Likewise, if Congress adopts language that denies the city's elected leaders "authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms"—as proposed by Souder—what is that but a restriction on the city's self-governing powers? Besides, the District is hardly unique: Seven states also have their own bans on assault weapons. But it's not the Constitution that is at issue. Souder and the House GOP leadership are out to put Democrats on the defensive, especially those in competitive congressional races where the gun lobby might hold sway.

It matters not a bit to Souder and his gun allies that the D.C. police department has its hands full trying to keep deadly weapons off the streets. Last year D.C. police recovered 1,982 firearms from criminal suspects. As of Sept. 8, D.C. cops had already recovered 1,385 guns this year. Justifiable concerns that repeal of the city's gun laws would worsen violence on D.C. streets have fallen on deaf ears in the U.S. Capitol. House Republicans, if they have their way, would just as soon turn the nation's capital into a free-fire zone—and for cheap political reasons.

It is small comfort to observe, as some have, that the Souder bill would have dim prospects in the Senate this year. This offensive and opportunistic bill should not be allowed to see the light of day in the House of Representatives. But to say that is to hope that respect for the rights of District residents would rank above lust for partisan advantage.

Mr. HASTINGS of Washington. Mr. Speaker, I yield 8 minutes to the gentleman from Indiana (Mr. SOUDER), the sponsor of this measure.

Mr. SOUDER. Mr. Speaker, first I would like to thank the gentleman from Washington (Mr. HASTINGS) for bringing up a very good rule today. I rise in support of this rule, and would like to alert all of my colleagues, the vote for a rule is a vote for allowing debate on restoring the second amendment rights to the District of Columbia residents.

Members have heard much of the debate today that citizens are prevented from owning a handgun at all. My bill says even if citizens have a gun, let me first state this, even if you have a gun, you store a rifle or shotgun, you are prohibited from using them to defend your own life, family, and home. District law threatens honest people with imprisonment if they unlock, assemble, or load their guns even when under attack.

For this reason, I am bringing before the House a bill that this rule would make in order that would restore the second amendment rights of D.C. citizens. I think it is important to note that my bill would not repeal any provision of D.C. law that bans gun possession by criminals or that punishes violent crime.

The rule also makes two important changes to my bill which would clarify the original intent. There has been a misrepresentation in "Dear Colleagues" to this House that said we would allow concealed and open carrying of any firearm, loaded or unloaded, outside the owner's property. It did not. It said three times in the bill, property, home, business or other land, but this clarifies it. It also strengthens D.C. code by providing a more complete set of exemptions based on Maryland law to allow citizens to transport unloaded, cased firearms to and from lawful activities, such as hunting, target shooting, and firearm safety training.

I want to address a number of the things that have come up during debate. One is if someone has a gun in their home, could someone go in and rob? Of course they could. They can now. It is just the person defending their home cannot defend their home, but it is not loaded, it has to be encased and cannot be used. But if someone wants to steal the guns, they can do that now.

What happens if they go on the street with an illegal gun? Guess what: they are doing that now. That penalty stays in effect. If somebody steals the gun or goes off their property with the gun, it is already against the law. It will still be against the law, and all Members are arguing is the ineffectiveness of the law.

For years in the United States we have heard this rumor that if we ban guns, only the criminals would have guns. In D.C. that seems to have come true, because now what we are arguing is that people who follow the law are somehow going to turn into criminals. The people who are criminals are already making Washington, D.C. the murder capital of the United States 14 of the last 15 years. How can it get worse?

What we are doing is letting the people who are in the homes, as people have written in and stated, that when they told, even though the gun was illegal, when they said they had a gun inside, people left the attacking of their homes. This should increase property values in Washington, D.C. It should make people safer, and I think it is the right thing to do.

Another subject that came up was the so-called AK-47s and Uzis. They are constantly mentioned, but they are not legal to import now. Even though the assault weapon ban has expired, those and other foreign-made guns were prohibited under the Federal Firearm Importation Act in 1989, and they will still remain prohibited.

□ 1130

We heard about so-called "cop killer bullets." The fact is on the armor piercing ammunition bill, there was a bill passed in 1986 when the Democrats controlled this House. After several years of debate and discussion, Congress prohibited certain kinds of bullets that could be used in a handgun and which were capable of defeating the kinds of bullet-resistant vests that police officers wear for protection. Some wanted to ban all ammunition. That was defeated. It came up again.

In 1997, a study conducted by the Bureau of Alcohol, Tobacco and Firearms found that existing laws are working and no additional legislation regarding such laws is necessary. The study also found that no law enforcement officer had ever been killed or even injured because of these so-called bullets penetrating a bullet-resistant vest. It urged Congress to avoid any experimentation with police officer lives that could conceivably lead to numerous additional officer fatalities.

The problem here is all we are doing is making D.C. in conformance with the rest of the United States, which is a constitutional right to bear arms, and this rule would go forth and do that.

I include for printing in the CONGRESSIONAL RECORD the cosponsors of this bill.

COSPONSORS BY DATE OF H.R. 3193

Office	State	First Contact	R or D
Charles Stenholm	TX	5-Sep	D
Max Sandlin	TX	5-Sep	D
Chris John	LA	9-Sep	D
Colin Peterson	MN	10-Sep	D
Jim Matheson	UT	10-Sep	D
Brad Carson	OK	10-Sep	D
Marion Berry	AR	10-Sep	D
Lincoln Davis	TN	10-Sep	D
Jim Turner	TX	10-Sep	D
Bud Cramer	AL	10-Sep	D
Tim Holden	PA	10-Sep	D
Silvestre Reyes	TX	11-Sep	D
Gene Green	TX	11-Sep	D
Michael Michaud	ME	16-Sep	D
Sanford Bishop	GA	17-Sep	D
Jim Marshall	GA	17-Sep	D
Solomon Ortiz	TX	22-Sep	D
Rick Boucher	VA	24-Sep	D
Tim Ryan	OH	25-Sep	D
Mike McIntyre	NC	30-Sep	D
John Tanner	TN	30-Sep	D
Nick Rahall	WV	1-Oct	D
Joe Baca	CA	2-Oct	D
Gene Taylor	MS	2-Oct	D
Chet Edwards	TX	7-Oct	D
Ken Lucas	KY	8-Oct	D
Jerry Costello	IL	8-Oct	D
John Dingell	MI	8-Oct	D
Bart Gordon	TN	8-Oct	D
John Murtha	PA	21-Oct	D
Ciro Rodriguez	TX	23-Oct	D
Bart Stupak	MI	19-Nov	D
Ike Skelton	MO	11-Feb	D
Jim Cooper	TN	23-Feb	D
Alan Mollohan	WV	26-Apr	D
A.B. Chandler	KY	5-May	D
Allen Boyd	FL	4-Jun	D
Paul Kanjorski	PA	17-Jun	D
Leonard Boswell	IA	17-Jun	D
Dennis Cardoza	CA	17-Jun	D
Ted Strickland	OH	20-Jun	D
Mike Ross	AR		D
Stephanie Herseth			D
Earl Pomeroy			D
Jim DeMint	SC	3-Sep	R
Joe Wilson	SC	3-Sep	R
Tim Johnson	IL	3-Sep	R
Dan Burton	IN	4-Sep	R
Ed Schrock	VA	4-Sep	R
Jo Ann Davis	VA	4-Sep	R
Jeb Hensarling	TX	5-Sep	R
John Carter	TX	5-Sep	R
Kevin Brady	TX	5-Sep	R
Pete Sessions	TX	5-Sep	R
David Vitter	LA	9-Sep	R
Dennis Rehberg	MT	9-Sep	R
Lamar Smith	TX	9-Sep	R
Michael Burgess	TX	9-Sep	R
Ralph Hall	TX	9-Sep	R
Randy Neugebauer	TX	9-Sep	R
Sam Johnson	TX	9-Sep	R
Butch Otter	ID	10-Sep	R
Rodney Alexander	LA	10-Sep	R
Chris Cannon	UT	10-Sep	R
Ron Paul	TX	10-Sep	R
Terry Everett	AL	10-Sep	R
Adam Putnam	FL	11-Sep	R
Joe Barton	TX	11-Sep	R
Todd Platts	PA	11-Sep	R
Candice Miller	MI	12-Sep	R
Virgil Goode	VA	12-Sep	R
Barbara Cubin	WY	16-Sep	R
Phil Gingrey	GA	16-Sep	R
John Sullivan	OK	17-Sep	R
Ron Lewis	KY	17-Sep	R
Spencer Bachus	AL	22-Sep	R
John Duncan	TN	23-Sep	R
Marsha Blackburn	TN	23-Sep	R
Bill Janklow	SD	24-Sep	R
Bob Ney	OH	24-Sep	R
Ernest Istook	OK	24-Sep	R
John Mica	FL	24-Sep	R
Nathan Deal	GA	24-Sep	R
Bob Goodlatte	VA	25-Sep	R
Pat Toomey	PA	25-Sep	R
John Doolittle	CA	26-Sep	R
Mac Collins	GA	26-Sep	R
Mike Rogers (AL)	AL	26-Sep	R
Roscoe Bartlett	MD	26-Sep	R
Cass Ballenger	NC	29-Sep	R
Duke Cunningham	CA	29-Sep	R
Jeb Bradley	NH	29-Sep	R
Marilyn Musgrave	CO	29-Sep	R
Roger Wicker	MS	29-Sep	R
Steve King	IA	29-Sep	R
Thaddeus McCotter	MI	29-Sep	R
Wally Herger	CA	29-Sep	R
Chip Pickering	MS	30-Sep	R
Chris Chocola	IN	30-Sep	R
Eric Cantor	VA	30-Sep	R
Ginny Brown-Waite	FL	30-Sep	R
Gresham Barrett	SC	30-Sep	R
Jeff Miller	FL	30-Sep	R
Jim Gibbons	NV	30-Sep	R
Robin Hayes	NC	30-Sep	R
Sam Graves	MO	30-Sep	R
Steve Pearce	NM	30-Sep	R
Tom Feeney	FL	30-Sep	R
Trent Franks	AZ	30-Sep	R
Duncan Hunter	CA	1-Oct	R
Jo Bonner	AL	1-Oct	R
John Hostettler	IN	1-Oct	R
Todd Akin	MO	1-Oct	R
Henry Brown	SC	2-Oct	R
John Boozman	AR	2-Oct	R
John Culberson	TX	3-Oct	R
Roy Blunt	MO	3-Oct	R
John Kline	MN	6-Oct	R
Johnny Isakson	GA	6-Oct	R
Don Young	AK	7-Oct	R
Mike Simpson	ID	7-Oct	R
Rick Renzi	AZ	7-Oct	R
Bill Shuster	PA	8-Oct	R
Mike Pence	IN	8-Oct	R
Todd Tiahrt	KS	8-Oct	R
Donald Manzullo	IL	9-Oct	R
Jack Kingston	GA	9-Oct	R
Philip Crane	IL	9-Oct	R
Charlie Norwood	GA	10-Oct	R
Jim Ryun	KA	10-Oct	R
Richard Baker	LA	14-Oct	R
Rob Bishop	UT	14-Oct	R
Joseph Pitts	PA	15-Oct	R
Lee Terry	NE	15-Oct	R
Mike Rogers (MI)	MI	15-Oct	R
Zach Wamp	TN	17-Oct	R
Jerry Weller	IL	20-Oct	R
Jim McCrery	LA	20-Oct	R
Robert Aderholt	AL	20-Oct	R
Bob Beauprez	CO	21-Oct	R
Henry Bonilla	TX	21-Oct	R
Randy Forbes	VA	21-Oct	R
Thomas Petri	WI	21-Oct	R
Melissa Hart	PA	23-Oct	R
Billy Tauzin	LA	27-Oct	R
Steve Buyer	IN	28-Oct	R
Deborah Pryce	OH	29-Oct	R
Fred Upton	MI	29-Oct	R
Thomas Reynolds	NY	30-Oct	R
William Jenkins	TN	30-Oct	R
Steve Chabot	OH	31-Oct	R
Cliff Stearns	FL	3-Nov	R
William Thornberry	TX	3-Nov	R
Scott Garrett	NJ	5-Nov	R
Ken Calvert	CA	7-Nov	R
Phil English	PA	12-Nov	R
Devin Nunes	CA	18-Nov	R
Max Burns	GA	19-Nov	R
Tom Tancredo	CO	21-Nov	R
Jim Nussle	IA	24-Nov	R
Tom Cole	OK	1-Dec	R
Ric Keller	FL	9-Jan	R
Scott McInnis	CO	22-Jan	R
Walter Jones	NC	26-Jan	R
Sue Myrick	NC	28-Jan	R
Dana Rohrabacher	CA	29-Jan	R
John Peterson	PA	29-Jan	R
Mario Diaz-Balart	FL	29-Jan	R
Paul Ryan	Wisc	4-Feb	R
Joel Hefley	CO	9-Feb	R
Frank Lucas	OK	26-Feb	R
Nick Smith	MI	26-Feb	R
Darrell Issa	CA	9-Mar	R
Gary G. Miller	CA	11-Mar	R
Jeff Flake	AZ	12-Mar	R
Tom Latham	IA	22-Mar	R
Kenny Hulshof	MO	25-Mar	R
Nicholas Lampson	TX	31-Mar	R
Gary Miller	CA	1-Apr	R
Curt Weldon	PA	5-Apr	R
George Radanovich	CA	23-Apr	R
Sherwood Boehlert	NY	23-Apr	R
Charles Taylor	NC	26-Apr	R
Dave Weldon	FL	26-Apr	R
Greg Walden	OR	28-Apr	R
Jo Ann Emerson	MO	28-Apr	R
Shelley M. Capito	WV	4-May	R
Richard Pombo	CA	5-May	R

COSPONSORS BY DATE OF H.R. 3193—Continued

Office	State	First Contact	R or D
Harold Rogers	KY	12-May	R
Dave Camp	MI	17-May	R
Katherine Harris	FL	17-May	R
Gil Gutknecht	MN	19-May	R
Jim Gerlach	PA	19-May	R
Mark Kennedy	MN	1-Jun	R
Steven LaTourette	OH	2-Jun	R
Anne Northup	KY	4-Jun	R
Richard Burr	NC	4-Jun	R
Doc Hastings	WA	9-Jun	R
Don Sherwood	PA	9-Jun	R
George Nethercutt	WA	9-Jun	R
Howard McKeon	CA	9-Jun	R
John McHugh	NY	9-Jun	R
John Shimkus	IL	9-Jun	R
Jerry Moran	KS	14-Jun	R
Ed Whitfield	KY	15-Jun	R
Charles Bass	NH	16-Jun	R
John Linder	GA	16-Jun	R
Tom DeLay	TX	16-Jun	R
Ander Crenshaw	FL	17-Jun	R
Ed Royce	CA	17-Jun	R
John Boehner	OH	17-Jun	R
John Sweeney	NY	17-Jun	R
Kay Granger	TX	17-Jun	R
Patrick Tiberi	OH	17-Jun	R
Paul Gillmor	OH	18-Jun	R
Jerry Lewis	CA	20-Jun	R
Joseph Knollenberg	MI	20-Jun	R
Michael Bilirakis	FL	20-Jun	R
Elton Gallegly	CA	22-Jun	R
John Shadegg	AZ	22-Jun	R
Lincoln Diaz-Balart	FL	22-Jun	R
Ileana Ros-Lehtinen	FL	6-Jul	R
Michael Turner	OH	8-Jul	R
Howard Coble	NC	15-Jul	R
Hoekstra		21-Jul	R
Oxley		21-Jul	R
Jim Kolbe			R
Judy Biggert			R
Portman			R
Regula			R

There have been a number of statements made about jurisdiction, process and so on. I was put under a very tough standard and that was that a majority of this Congress had to back my bill before it would be allowed to come to the floor. That is a very tough standard. Then after we achieved that, we were told we had to have a majority of the Committee on Government Reform, which we have, a bipartisan majority of the Committee on Government Reform. The gentleman from Virginia (Mr. TOM DAVIS) has stated openly and consistently that he opposes this bill. At the same time he also made it clear to the Committee on Rules that he understood that a majority of the Committee on Government Reform, a bipartisan majority of the Committee on Government Reform, supported this bill and that he would approve of the Committee on Rules going ahead, in effect. He would still oppose the bill, still does oppose the bill and always will oppose the bill as he has done because he has been very consistent on this issue.

But there was also a statement made as though we were, "we" being the Republican leadership as well as outside groups, trying to intimidate these poor western Members in the United States who were afraid of ads.

First, the gentlewoman from South Dakota (Ms. HERSETH), the gentleman from North Dakota (Mr. POMEROY), the gentleman from Texas (Mr. EDWARDS), people in tough races, actually believe in gun rights. That is why they are on the bill. It is demeaning to have their colleagues undermine them on the House floor and imply that the only reason they got in the bill was for political purposes. That is things like people from our side would say about people from their side. Their own side should not be saying that. Furthermore, the last I saw, the gentleman from Michigan (Mr. DINGELL), the gentleman from Pennsylvania (Mr. MURTHA), the gentleman from Missouri (Mr. SKELTON), the gentleman from Pennsylvania (Mr. KANJORSKI), the gentleman from Texas (Mr. ORTIZ), the gentleman from Texas (Mr. REYES) are not in tough races and they are not intimidated by outside groups.

This bill has 45 Democratic cosponsors in addition to the majority of the Republican Party. When we talk about bipartisan legislation, this is bipartisan legislation. The D.C. handgun ban has failed. It has failed miserably. This bill is demanded by the people of the United States. They wrote into their Members. Members from both parties got on this bill. This is a good rule, and I hope Members will support and pass this rule and pass the bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is unfortunate that I am here today to fight a closed rule on what will be one of the more tragic pieces of legislation that we try to pass through the House of Representatives. We have very important interests that are being ignored by this closed rule.

Guns are disproportionately killing our children in our cities and this law has no basis to be here in front of us today. DC has its own rules regulating purchasing and owning a gun, and we do not need to create legislation to usurp their power and go against their interest.

We are drowned in rhetoric saying that a Member of Congress who does not think handguns should be floating freely on our streets is someone who is anti-gun and wants to take our hunting rifles away. That is not this bill before us. You can keep your hunting rifles, you can keep your loaded guns in your business, but you do need some semblance of order on the street, where a small, innocent mistake encounter can turn into a massive bloodbath once guns are used instead of words.

Right now, DC's local laws do not prevent law abiding citizens from owning a firearm. Since 1976, District residents have registered over 100,000 firearms (mostly rifles and shotguns) with the Metropolitan Police Department (MPD).

Study after study is showing that guns protect very few at home and result in thousands of Americans killed in family and acquaintance quarrels, domestic violence and suicides. Guns obtained legally end up as weapons in domestic or neighborhood quarrels. Is this what we want in our neighborhoods? What is wrong with the mentality that it takes guns to solve problems and make people feel safe?

As a member of the House Select Committee on Homeland Security, we need to be doing everything we can to keep the men and women who protect the nation's capital out of harm's way. The nation's capital is under an orange alert.

Placing more unregulated guns in the streets of DC undermines homeland security measures. Why must we compromise our own homeland security efforts by bringing more handguns to the streets? Where are our priorities?

I have been collaborating with my colleague and good friend from the District of Columbia, Congresswoman ELEANOR HOLMES NORTON. She can echo that DC's current firearm laws are working. 97% of all guns used in crimes in DC originate outside of DC and 59% of traceable guns were first purchased in Maryland and Virginia. In addition, 8% of traceable guns were bought in North Carolina, Florida, Georgia and South Carolina. It is a travesty that her concerns are being ignored, both by the House Rules committee and by the larger body.

As legislators, we must take our role in as decision makers very seriously. This includes knowing when we have overstepped our bounds. Please, listen to the people of DC to hear if they want guns on their streets.

Mr. HASTINGS of Washington. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

REMOVAL OF MEMBER AND APPOINTMENT OF MEMBER TO PERMANENT SELECT COMMITTEE ON INTELLIGENCE

The SPEAKER pro tempore (Mr. LATHAM). Pursuant to clause 11 of rule I, the Chair announces the Speaker's removal of the gentleman from New York (Mr. BOEHLERT) from the Permanent Select Committee on Intelligence and pursuant to clause 11 of rule X, clause 11 of rule I, and the order of the House of December 8, 2003, his appointment of the gentleman from Missouri (Mr. BLUNT) to fill the existing vacancy thereon.

APPOINTMENT OF CONFEREES ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

Mr. THOMAS. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4520) to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high-technology businesses and workers more competitive and productive both at home and abroad, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

MOTION TO INSTRUCT CONFEREES OFFERED BY MR. NEAL OF MASSACHUSETTS

Mr. NEAL of Massachusetts. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. Neal of Massachusetts moves that the managers on the part of the House, on the disagreeing votes of the two Houses to the Senate amendment to H.R. 4520, be instructed as follows:

1. The House conferees shall be instructed to include in the conference report an effective rate reduction for income from production activities in the United States, and such an effective rate reduction—

A) shall be provided in the form of a deduction as in the Senate amendment, and shall not be provided in the form of a corporate rate reduction, as in the House bill,

B) shall be available to all businesses (including farmers, farm co-operatives, subchapter S corporations, and other unincorporated businesses) engaged in U.S. production activity as in the Senate amendment,

C) shall include the provisions of the Senate amendment that adjust the size of the effective rate reduction based on the respective portions of the taxpayer's business in the United States and overseas in order to provide the largest effective rate reduction for businesses that have not moved operations offshore, and

D) shall include the provisions of the Senate amendment (not included in the House bill) that ensure that the rate reduction will not be available for income attributable to cost savings resulting from purchasing imported parts or outsourcing labor overseas.

2. To the maximum extent possible within the scope of conference, the House conferees shall be instructed to not include any increase in tax benefits for the overseas operations of multinationals.

3. The House conferees shall be instructed to develop a conference report that will not increase the federal deficit in either the short or long term. In doing so, the House conferees also shall be instructed:

A. To include in the conference report the provisions of the Senate amendment that eliminate tax benefits for companies that reincorporate overseas, and the provisions of the Senate amendment that restrict corporate tax avoidance transactions, including codification of the economic substance doctrine and the provisions directly targeted at transactions utilized by the Enron corporation, and

B. Shall drop the provision of the House bill that provides for private collection of Federal tax liabilities.

4. The House conferees shall, as soon as practicable after the adoption of this motion, meet in open session with the Senate conferees, and the House conferees shall file a conference report consistent with the preceding provisions of this instruction at a time permitting passage before the adjournment before the election.

Mr. NEAL of Massachusetts (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

The SPEAKER pro tempore. Under rule XXII, the gentleman from Massachusetts (Mr. NEAL) and the gentleman from California (Mr. THOMAS) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. NEAL).

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

I am pleased that the House Republican leadership has finally seen fit to appoint conferees to resolve the foreign sales corporation or extraterritorial income issue that the World Trade Organization found to be an illegal export subsidy. I note that the appointment of conferees today comes more than 2 months after the Senate appointed their conferees. This delay by the House Republican leadership has only resulted in more trade sanctions on many of our industries.

Today I am offering a motion to instruct that I believe should be the framework for the conference report. First, the motion to instruct offers a requirement that House conferees include an effective rate reduction for U.S. businesses manufacturing or producing goods in the United States. This benefit for U.S. producers is the appropriate replacement for today's export benefit which was enjoyed by U.S. manufacturers and producers. The replacement benefit should also apply to U.S. manufacturers and producers. This motion requires that all businesses, including farmers, farm cooperatives, subchapter S corporations, and other unincorporated small businesses should enjoy the benefit of the new rate reduction. I have never understood the opposition of the House Republican leadership to permitting small businesses to be eligible for the new benefit. I have always agreed with the gentleman from Illinois (Mr. MANZULLO), chairman of the Committee on Small Business, in his insistence that small businesses be eligible.

This motion also requires that businesses that are purely domestic receive the largest benefit, as included in the Senate amendment. We should reward companies for keeping their operations in the United States. This motion also requires the inclusion of Senate provisions to ensure that companies do not receive benefits for income attributable to cost savings from purchasing cheap imported parts or outsourcing labor. Again, I do not understand why the Republican House bill encouraged outsourcing of parts and labor offshore.

Second, this motion requires that the conference report not further increase tax incentives for companies to move operations offshore. We have had ample opportunity in this House for the better part of 3 years to do something about an issue that I think causes great concern to the American taxpayer and to the American worker. Our current tax laws already provide incentives for companies to invest and move operations offshore. There is no reason to provide additional tax benefits that could result in further U.S. job losses.

The Bermuda issue has never been debated vigorously in this House, and we should take that up perhaps as a separate issue down the road; but we sure could include it with this motion to instruct. We should be focused on increasing incentives for U.S. jobs, not incentives to create jobs overseas.

Third, this motion requires that the conference report be revenue neutral. We already are experiencing deficits of historic size, and there is no reason to further increase the deficit in this legislation. I would remind the consuming audience today that what began as a $4.5 billion problem now looks as though it will have a $130 billion solution. In making this bill revenue neutral, the motion also requires the House conferees to take the following specific actions:

First, the House conferees shall include the Senate provisions preventing corporations to avoid U.S. tax by merely reincorporating in a tax haven overseas. I have yet to meet anybody who believes that Tyco is a Bermuda-based company. I have never understood why House Republican leaders insist on defending companies that move to tax havens to avoid paying their fair share of tax, particularly at a time when we are engaged in combat overseas. Patriotism should never take a back seat to profits.

Second, the House shall include the Senate provisions addressing corporate tax avoidance transactions, including provisions targeting tax avoidance transactions utilized by the Enron Corporation. At one time we were prepared to give them, as we repealed the corporate alternative minimum tax, a $250 million tax break. These transactions are purely paper transactions that have no purpose other than tax avoidance. The House has resisted action in this area for years, permitting corporations to continue to avoid their responsibilities. It is time to close and stop those transactions.

Third, the House conferees should be instructed to drop the House provision that authorizes private collection of Federal tax liabilities. We debated that issue years ago in the Committee on Ways and Means, and I thought that the evidence that was presented would have offered substantial support for the position as outlined in our motion to instruct.

Finally, this motion requires that the conference meet in open session and file its report before the House leaves for the elections. There is no reason that this issue should have taken so long to resolve. The bill that the gentleman from Illinois (Mr. CRANE) and many of us introduced last year provided that it was possible to have a prompt bipartisan solution to the World Trade Organization decision. Instead, it has been decided to use this issue to provide more tax benefits overseas.

Essentially, it has been recommended that a tax increase on U.S. producers fund a tax decrease for offshore operations of U.S. multinationals. It is that decision and the decision to use this bill for narrowly targeted tax benefits that have caused trade sanctions to be imposed on some of our industries.

This motion to instruct essentially rejects those decisions and provides a reasonable framework for properly completing the conference on this bill. I also would suggest that this motion to instruct urges the House to instruct the conferees on behalf of U.S. workers.

It is pretty simple. We provide benefits to manufacturers, particularly small businesses. We do not provide more tax incentives to move jobs overseas. And our legislation is revenue neutral.

Mr. Speaker, I reserve the balance of my time.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Just as we began taking up going to conference in this motion to instruct, a number of Americans were not watching C-SPAN. They were watching other television programs which showed a private enterprise effort to go into space. Burt Rutan from Mojave in my district has built a spaceship called SpaceShipOne. It was launched earlier today. It reached an altitude unofficially, yet to be confirmed, of more than 100 kilometers, or 62 miles. It has returned safely and landed. The first private effort to enter space has succeeded. This is part of a competition stimulating private enterprise in an area that formerly was totally government-controlled.

He will now have a clock ticking in which 2 weeks will expire and prior to the second week, he will have refurbished SpaceShipOne, sent it back into space, achieved a second time an altitude of more than 100 kilometers; and, if he is successful in doing that, he will win the X Prize. It happens to be a $10 million reward for the first privately financed space vehicle to achieve those parameters.

I cannot help but see how striking this initial part of the achievement is to the reward that in part led Charles Lindbergh to fly across the Atlantic in 1927.

□ 1145

That achievement sparked the initial age of commercial aviation. This is the beginning of commercial space aviation, and I find it somewhat ironic that, while people are pushing the barriers of man's involvement with minimal or no government involvement, that we are here on a motion to instruct that plows old ground, that does not yield any harvestable crop other than pure political rhetoric.

The motion to instruct indicates that the conference, which we are all anxious to begin, and I accept any criticism about how long this has taken to achieve but we are now ready to go, and yet there will be continued delays based on political rhetoric that has no merit whatsoever. How can I make a sweeping statement like that? The gentleman indicated that the House bill contained international tax provisions which will send jobs overseas. A pretty inflammatory statement. But I think it might be worthwhile to examine those areas of the House-passed bill and the Senate-passed bill that are identical.

Interestingly enough, the single biggest area in which the House and the Senate bill are absolutely identical are the international tax provisions, the very provisions the gentleman from Massachusetts said drives jobs overseas. It might be useful to examine the way in which the Members of the Senate voted on this measure, which, if they supported it, would obviously mean they are also interested in driving jobs overseas.

This measure was presented in the Finance Committee, and a Member of the Finance Committee is the Senator from Massachusetts, Senator KERRY. Senator KERRY voted for the international corporate tax provisions. Following the logic of the gentleman from Massachusetts, his own Senator, the Democratic nominee for President, apparently supports sending jobs overseas, since those two provisions are identical in the House and the Senate bills.

Who else would support this outlandish position which we will hear repeated time after time after time on this motion to instruct? Let us see. On both the Graham amendment and the Hollings amendment, which were to remove these provisions which the gentleman from Massachusetts purports drives jobs overseas, willing to keep these measures in the bill on the Senate side was minority leader Senator DASCHLE, who voted in favor of keeping these provisions. Senator BAUCUS, who is the ranking Democrat on the Finance Committee, voted. I could obviously go down the list of Democratic Senators who apparently are interested in putting jobs overseas.

POINT OF ORDER

Mr. McDERMOTT. Mr. Speaker, point of order.

The SPEAKER pro tempore (Mr. ADERHOLT). The gentleman will state his point of order.

Mr. McDERMOTT. Mr. Speaker, is it appropriate to quote the votes of Senators in the other body in the midst of a speech?

The SPEAKER pro tempore. Under clause 1 of rule XVII, it is appropriate to quote Senate proceedings on matters under debate in the House of Representatives for the purpose of establishing legislative history on such matters.

Mr. McDERMOTT. In the other body, Mr. Speaker?

The SPEAKER pro tempore. If it is under debate here in the House of Representatives.

Mr. McDERMOTT. Mr. Speaker, so anything that has occurred in debate on an issue that is in the body here that has been debated in the Senate, we can bring in the Senate debate?

The SPEAKER pro tempore. Quotations from Senate procedures are permitted. Only quotations from the Senate proceedings for the purpose of making legislative history can be included.

Mr. McDERMOTT. Mr. Speaker, so if a speech has been made by a Senator on an issue that we are discussing here, we can use it verbatim from the Senate?

The SPEAKER pro tempore. For the purpose of making legislative history, quotations can be included.

Mr. McDERMOTT. I thank the Speaker for his answer.

Mr. THOMAS. Mr. Speaker, I thank the gentleman for his inquiry.

Obviously, what I am quoting is the voting record which was established in the Senate on this measure. I can understand why my colleagues on the other side would not want to hear the list of Democratic Senators who supported the international tax provisions because it pretty well demolishes their argument, and what they want to do is continue this fantasy argument that the provisions in the House bill ship jobs overseas.

These provisions, as I said, were identical in both the House and the Senate versions. In fact, the vote on the Graham amendment was, yes, let us eliminate the tax provisions, 22; no, 77. On the Hollings amendment, it was yes, 23; no, 74. By 75 percent or better, the Senate said, let us keep these international provisions. A significant number of those were members of the gentleman's own party, and, as I said in committee, his own party's nominee for President voted in favor of those provisions, and those are the provisions they are arguing they are shipping jobs overseas.

I would hope that that part of the argument on the side of my colleagues on the other side of the aisle would now end because it is pretty obvious they do not ship jobs overseas because the Democratic Senators would protect jobs here at home, and hopefully, they would vote to enhance jobs here at home. As a matter of fact, the rejection of the Graham and the Hollings amendments did just exactly that, i.e., they support the international tax provisions that are identical in both the House and the Senate bill. They do not ship jobs overseas. Senator KERRY would not vote for that. Senator DASCHLE would not vote for that. They voted to keep jobs here at home and strengthen America's economy. We should not hear another argument on the other side of the aisle about shipping jobs overseas.

Just let me say, if we do, one, it does not make any sense if one takes a look at what occurred in the other body in rejecting the attempt to remove these provisions; but, two, it does create an opportunity to sow seeds of dissent about the fact that, when we try to strengthen the private sector, create more jobs, it just does not fit their rhetorical pattern. So I think it is fairly ironic that, at the very time they are misrepresenting assisting private sector in enhancing the economy, that a private entrepreneur with private dollars has achieved for the first time reaching the edge of space. I would rather look with Burt Rutan up toward the stars and enhance our ability to create jobs at home than to argue a position which even members of their own party rejected on the Senate side and, wisely, the House rejected as well. Let us see if this argument is not made again during this debate. It should not be. Let us see if it is.

Mr. Speaker, I reserve the balance of my time.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would like to clarify that, while it is in order to include in debate quotations from Senate proceedings for the purpose of establishing legislative history on a matter currently under debate in the House, Members may not characterize Senate action, as by parsing votes of particular Senators.

Mr. NEAL of Massachusetts. Mr. Speaker, could the Speaker clarify that further? Was the gentleman from Washington (Mr. MCDERMOTT) correct in what he said?

The SPEAKER pro tempore. To the extent that remarks include Senators' quotations outside of Senate proceedings, they are not in order.

Mr. NEAL of Massachusetts. Mr. Speaker, I thank the Chair for the ruling.

Mr. THOMAS. Mr. Speaker, will the gentleman yield?

Mr. NEAL of Massachusetts. I yield to the gentleman from California.

Mr. THOMAS. Mr. Speaker, my understanding of that interpretation is that I am not permitted to characterize the vote, and I believe I did to a certain extent. And, therefore, what I would like to do is to simply emphasize that one of the votes was a rejection of 77 to 22 and the other one was a rejection of 74 to 23, and people can reach their own conclusion on those votes rather than my presenting a conclusion, which was, I thought they were overwhelmingly rejected. I am not allowed to say "overwhelmingly rejected," but 77 and 74 can be concluded by anyone on their own.

To that extent, Mr. Speaker, I certainly want to correct the record in emphasizing that it was overwhelming rather simply make sure that the vote of 77 and 74 noes is on the record.

Mr. NEAL of Massachusetts. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from California (Chairman THOMAS) for that clarification as well. I hardly think that it is inflammatory rhetoric, by the way, which sometimes we are not as good at as some people on the other side when it comes to addressing some of these issues, but I hardly think it is inflammatory rhetoric to stand in the well of this House and to ask the following question: How did a $4.5 billion problem become a $130 billion solution? That is really the point of much of the debate that is going to follow.

Mr. Speaker, I yield the balance of my time to the gentleman from Michigan (Mr. LEVIN), ranking member of the Trade Subcommittee of the Committee on Ways and Means, and I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

Mr. LEVIN. Mr. Speaker, I yield 5 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, it is rather amusing to hear the chairman of the Committee extolling the virtues of the other body. It is a very unusual occurrence here on the floor of the House in that we should always follow what the Senate does. That should not be, I think, our goal.

The gentleman from New York's (Mr. RANGEL's) motion is among the most important votes that this body will take this year. In fact, it may be the most important proposals that we have considered since the resolution that authorized the President to send people to war in Iraq.

The legislation that passed out of this House and will be taken up in the conference committee aims to raise taxes on domestic companies and lower taxes on firms that move oversees. Mr. Speaker, it is wrong to raise taxes on U.S. exporters and lower taxes on U.S. firms with overseas operations.

The gentleman from New York's (Mr. RANGEL's) motion will instruct our House negotiators to make certain that tax incentives that exist for corporations moving overseas are not increased. What is wrong with that? I mean what is wrong with that?

I am told, Mr. Speaker, that you instructed Republicans to vote against this proposal. You cannot be serious.

Our trade deficit reached an all-time high this year. Our country is selling fewer things to foreigners than we buy from them, which explains why the government data says we lost at least 1.5 million jobs due to foreign trade and outsourcing since Mr. Bush took office.

Why do the Republicans respond to this news by increasing tax incentives for U.S. firms to move overseas? I mean, I know that the President indicated that outsourcing is good, but does the Congress believe that? Does the House believe it? The Senate voted overwhelmingly. Well, that fixes it.

□ 1200

I guess we have got to go along with that. Get your rubber stamp, because if you vote against this motion, we are rubber-stamping the Bush outsourcing policy.

U.S. firms are continuing to set up overseas operations because our Tax Code and the Bush administration encourage it. Republicans would have us believe that high taxes, government regulation, and labor unions are making the United States a less attractive place to do business. That assertion is bogus.

First, the Congress's Joint Committee on Taxation says that the overall tax burden and the corporate tax burden in the United States are among the lowest in the developed world. Corporate U.S. income tax revenue as a percentage of GDP is smaller than nearly every other developed country on the planet, and it is the lowest level since the Second World War.

Now, although corporate profits surged last year, the corporations paid significantly less taxes. The United States is simply the tax haven of the developed world.

Second, the World Bank issued a report 3 weeks ago entitled "Doing Business: Benchmark Business Regulation." It compares how regulations affect businesses in different countries. The report shows that the ability to obtain credit, acquire capital, register property, hire and fire workers and enforce contracts, in other words, to start and maintain a successful business, is easier in the United States than any other developed country, including India and China.

But, nonetheless, Mr. Speaker, the U.S. firms are relocating overseas to save money. Why? It is simple. The Tax Code encourages it. It provides tax incentives to U.S. firms who set up any kind of operation, from establishing a mailbox in Bermuda or building a factory in China overseas.

Take, for example, the article that appeared in Tax Notes on Monday. It shows that companies are using the Tax Code to justify shifting profits offshore. The U.S. pharmaceutical industry, who we gave a huge bonanza to in this body, has alone, since Bush has taken office, their offshore profits have surged 35 percent. I hope the old folks are listening to that. But their offshore activities and assets did not really change.

What does this mean? It means that at a time when our country faces the challenge of our generation, at a time when the costs of war are mounting, the Republicans are protecting a Tax Code that rewards corporations for moving profits and jobs offshore.

You are not only protecting the current Tax Code, Mr. Speaker, but unless the House votes to adopt the motion offered by the gentleman from New York (Mr. RANGEL), the Republican Congress will worsen the Tax Code by making offshoring and outsourcing more lucrative.

Get out your clippers, Mr. Speaker, because this body is considering fleecing American workers and American firms that do business the old-fashioned way, that produce here to export overseas.

If JOHN KERRY were President, we could save us from this Congress. He has the plan to remove the tax incentives that reward companies that move overseas. If he were President, he would veto this legislation that this body proposes. But we have got to wait for another 34 or 35 days. I cannot wait until the 2nd of November.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, perhaps the gentleman from Washington knows his nominee better than I do, but the fact that he voted "yes" in Finance Committee and he suggests that he would veto it if he became President would certainly continue the pattern of first he voted yes, then he voted no. So I have no evidence to quarrel with him, that once again Senator KERRY will again be on both sides of the issue. It is just that he will change venues. The behavior does not change. Where he continually flip-flops, of course, would.

The gentleman from Washington also said that unless we pass the motion of the gentleman from New York's (Mr. RANGEL) motion to instruct, we will do something.

Oh, come on. Everybody knows motions to instruct are not binding. It has no influence whatsoever on the conference, unless the conference wants to.

Now, the measures that they are arguing, "Oh, by the way, did I tell you that, notwithstanding the fact the Senate supported overwhelmingly the international corporate provisions, and I assume that they believe that they will not ship jobs overseas or they would not have voted the way that they did, and they probably should not be mentioned again in this debate," but the very next speaker not only mentioned them, but made it the core arguments of his position, that if in fact there are 23 Senators, 10 of whom are Democrats, they are members of the Finance Committee, save for 2, which passed these provisions out of the Senate Finance Committee, 19 to 2. And I do not believe they have any intention of reversing their position, even if this ludicrous motion to instruct were to pass.

So, I just want you to forbear. We will go through, the time will be used up. We will vote down the motion to instruct, and we can then get on with the conference. And I can assure you, the senatorial members of the conference and a clear majority of the House members of the conference intend to support those provisions that will strengthen jobs here at home, and they will dismiss, for the obvious reasons, the argument that continues to be made by those individuals, even encompassing a denial of the Senate's minority leadership's decision-making ability indicating that we should not listen to them.

I happen to believe that you should take each issue on its merits and not dismiss them by stereotyping, and on this issue, I believe the Senate got it right, just as the House got it right.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ADERHOLT). The Chair would remind Members not to characterize positions of Senators.

Mr. THOMAS. Mr. Speaker, I would inquire of the Chair, characterizing a current Senator who is running for another office and what he would or would not do would fall under that same admonition?

The SPEAKER pro tempore. Senators who are nominated as candidates for President—

Mr. THOMAS. Who are still Senators, and how they would behave, does that fall under the same admonition?

The SPEAKER pro tempore. Nominated candidates for President are judged by the standards applicable to that office.

Mr. THOMAS. I will accept the nonresponsive answer.

Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Texas (Mr. BRADY), a member of the Committee on Ways and Means.

Mr. BRADY of Texas. Mr. Speaker, I thank the chairman for yielding me time.

Mr. Speaker, it is clear I think to the listeners today that we are nearing Election Day. This is one of those "scare America" type motions that is designed to appeal to voters in the hopes that perhaps they do not understand the issue and you can just scare them by yelling "outsource, outsource, outsource." But I think American voters are smarter than that.

What we have done here in the House, our frustration is that we have one of the greatest and most productive work forces in the world. But our Tax Code works against our companies and our workers and really forces people to have to compete somewhere else in the world.

We are convinced that we can create jobs here in America. So the approach we have taken is pretty simple and direct: We lower the tax rate for companies and workers that manufacture in America, and we keep a higher tax rate for companies that manufacture overseas. Lower if you produce in America; higher if you do it overseas. That way we encourage American companies and workers to keep the jobs right here.

For farmers and our agriculture community, we lower the rate if they produce here in America; we have a higher rate to tax them if they go overseas. That way we keep agriculture-producing income here in America.

For small businesses, rather than take money away from them and bring it up here to Washington, we want them to keep dollars back at home so they can create jobs and buy that new computer and do the things to keep small businesses in business these days in a competitive workplace.

That is what the American jobs bill does, and that commonsense approach is what the Senate, including majority and minority Members, overwhelmingly supported. They united to lower taxes if you produce here in America and have higher taxes if you produce overseas, a commonsense approach to American jobs here.

Let me say this, too. Our problem with trade is not so much that we are buying from overseas, it is the fact we are not selling enough products overseas. What this does is make our products far more competitive.

What we do is we do not chase American companies overseas anymore, and we get a chance, a real direct chance, to take out the job killers in our Tax Code and create American jobs here.

That is what this bill does, and I think every American who really studies it, and I think American voters are smart, will see that we want to encourage jobs here with a lower tax rate and a higher tax rate for companies that try to move overseas. That is what this bill does.

A final point: If you really want to tackle outsourcing, one of our problems is that we have so many job killers in our business climate. For example, lawsuit abuse is a huge cost to American businesses. It is a bigger cost annually than the cost of Iraq.

Lawsuit frivolous abuse, because we are the lawsuit capital of the world, we outsource our jobs, we drive up health care beyond reach, we chase good doctors out of practice. If you really want to stop shipping jobs overseas, I would invite my Democratic colleagues to join me in ending frivolous lawsuits that drive our jobs overseas, and instead work with us to keep them here in the United States.

Mr. LEVIN. Mr. Speaker, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. CARDIN), my colleague on the Committee on Ways and Means.

Mr. CARDIN. Mr. Speaker, I thank the gentleman from Michigan (Mr. LEVIN) for yielding me this time.

Mr. Speaker, there is a real question as to whether the legislation that has moved through this body would encourage the outsourcing of U.S. jobs and exporting of jobs or correct a problem in the Tax Code that needs to be corrected.

This is a very serious issue. The Foreign Sales Corporation Act that was enacted was an effort to level the playing field for U.S. producers versus our trading partners, particularly in Europe. For, you see, we have a different corporate tax structure than the Europeans have and the Foreign Sales Corporation Act was an effort to level the playing field.

The problem is that the World Trade Organization that we belong to declared that to be unlawful and opposed imposed retaliatory tariffs against U.S. exports. That tariff is now 11 percent. It will grow to 14 percent by the end of the year and 17 percent by next March.

Mr. Speaker, it is unconscionable that we have not corrected this situation prior to this time. We had a bipartisan proposal that would have fixed the problem. As my friend from Massachusetts pointed out, it was a relatively simple matter to fix the problem and to level the playing field for U.S. producers so that we can compete fairly internationally. But, instead, this legislation has become a Christmas tree for every conceivable tax provision, and it has been delayed and delayed and delayed. and our producers that manufacture products right here in America have paid a heavy price because of that delay.

The motion to instruct deals with the underlying issue. First, it asks for us to immediately resolve this issue, rather than further delays. Read the motion, paragraph 4.

It also says that the relief should be targeted to U.S. producers. That is the problem. The Foreign Sales Corporation Act was for U.S. producers who produce their products here in America. It is not for those who produce their products overseas. It should be targeted, because that is what the problem is.

That is what we are trying to do, is level the playing field. We are trying to respond to the World Trade Organization. It is right for us to target this relief to those who produce their products right here in America. That is the problem we are trying to deal with, and that is spelled out in the motion.

Then lastly, Mr. Speaker, we are saying that we should not be adding to the deficit of this country. We had a bipartisan solution that did not increase the national debt, but the legislation that passed this body certainly did that.

☐ 1215

Again, it was another opportunity to show that we can be fiscally irresponsible.

We should pay for our tax cuts, and we can so that we do not add to the deficit; and this motion urges us to do that.

Mr. Speaker, I urge my colleagues to support the motion.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Florida (Mr. SHAW), a senior member of the Committee on Ways and Means.

Mr. SHAW. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, first of all, I think people listening to this debate are somewhat totally confused. In reading the motion, I can understand why there is confusion on both sides of the aisle.

To begin with, the Democrat motion to instruct the conferees to strike provisions that move jobs overseas, this instruction is absolutely meaningless, because H.R. 4520 does not include any provision that would move jobs overseas. As a matter of fact, quite to the contrary. We lower rates for people or companies that manufacture here in the United States.

Let me just take one provision of the motion to instruct. It says: "shall include the provision of the Senate amendment not included in the House bill to ensure that the rate reduction will not be available to income attributed to cost savings resulting from purchasing imported parts for outsourcing labor overseas."

Now, how in the world are companies going to be able to operate in trying to segregate exactly what that means? Does that mean for the purchase of the agreement, the purchase of the parts? What if those parts are not even available here in the United States, and it is a question of just shopping the world market to find these parts? And then, is it going to include the effect of installation of those parts in the final product? It is totally unreasonable.

We need to fight in this Congress for simplified rules, simplified rules that are fair and understandable. And for us to adopt accounting procedures that are going to make compliance almost impossible does not bring credit upon this body.

What we need to do is to work forward and look in the mirror when we start saying, why are jobs moving overseas? Perhaps we are the problem. Perhaps the United States Congress and the Tax Code is the problem. We need to simplify the code. We need to move forward. We need to have a code that is friendly to those who would provide jobs in this country.

This motion to instruct does not make a bit of sense, and I would urge all of the Members to vote against it.

Mr. LEVIN. Mr. Speaker, it is my pleasure to yield 2½ minutes to the distinguished gentlewoman from Connecticut (Ms. DELAURO).

Ms. DELAURO. Mr. Speaker, I rise in strong support of this motion. It provides all American business enterprises, large and small, with an across-the-board rate reduction from income derived from work done here in the United States. To pay for it, it would curtail tax incentives that would encourage companies to move operations offshore.

With 2.5 million manufacturing jobs lost in the last 3 years, including nearly 40,000 in my State of Connecticut alone, many outsourced to other countries like China and Singapore, we all understand that steps must be taken to revive what is the very backbone of America's economy.

Let me just talk about what the business model of the Bush administration and the Republican leadership is, because government, in fact, is not in the business of creating jobs; but government is about creating an environment in which jobs can be created.

The business model is as follows: assisting companies in sending the jobs offshore, technology offshore and, in many instances, allowing companies not to pay their fair share of their taxes to the United States Government, and then these companies can come around and get Federal contracts. That is the business model for this administration; and, quite frankly, it does not create jobs here in the United States.

But by clinging to the idea that we should be rewarding companies who send jobs overseas, this majority has delayed action on this issue for more than a year. As a result, many manufacturers are now paying 11 percent tariffs on 1,600 American-made products, tariffs that could be as high as 14 percent by the end of the year.

What manufacturers need from this body is not more incentives to send jobs abroad; they need bold vision, recognizing that our Federal Tax Code could work for them, not against them, and by favoring those companies who keep their jobs here. That is exactly what my colleague's motion would do. American companies should not have to resort to transferring jobs to countries where workers make less and have fewer benefits to stay competitive.

Americans understand outsourcing. It is eroding our workforce; it has threatened every middle-class family in this country. It ought to end with helping our manufacturers here at home become more productive, more innovative; and if we want to boost sales, investment in modernization and employment, the House should pass the Rangel motion.

As I said, the American public understands outsourcing. I believe they are going to outsource some folks on November 2, people who do not understand what it means to have their jobs gone, to leave, when we could be providing this country's manufacturers with the opportunity to be able to stay here, invest in our technology, invest in our workers, and promote economic development in the United States.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am impressed with the gentlewoman's argument; and, in fact, her argument will be sustained if Members vote "no" on the motion to instruct and we can get on to conference.

Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Illinois (Mr. CRANE), the ranking Republican on the Committee on Ways and Means and the chairman of the Subcommittee on Trade.

Mr. CRANE. Mr. Speaker, I thank the gentleman for yielding me this time.

I would like to stress the fact that H.R. 4520 does not include any provisions that would move jobs overseas. It does contain provisions that would foster economic growth and create jobs here in the United States.

The bill reduces the corporate tax rate to 32 percent only for domestic producers, farmers, small corporations, and manufacturers' activities within the United States. Manufacturing that occurs overseas or offshore would not get the lower rate.

The bill extends enhanced section 179 expensing for small businesses and provides accelerated depreciation for leasehold improvements and offers other tax benefits for businesses. Companies with a lower tax burden have more resources to expand their business and to create jobs in the United States.

U.S. exporters are getting clobbered by penalty sanctions. Lower exports mean a smaller economy and less employment. H.R. 4520 will end the sanctions imposed on the exporters, allowing them to expand and hire more workers.

Mr. Speaker, I urge my colleagues to reject the motion to instruct.

Mr. LEVIN. Mr. Speaker, it is my pleasure to yield 5 minutes to the gentleman from California (Mr. BECERRA), a member of the Committee on Ways and Means.

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, what we are talking about in this motion to instruct is what we should do: send to President Bush a bill to try to help American companies create jobs. Secondly, we want to help American companies create jobs, some of us at least do, in America, not overseas.

What we are seeing today is a wholesale shipping-out of American jobs so that today, when you buy a product, if you look at your home and take a look underneath that dish or if you take a look at that chair, if you take a look at the curtains and find out what that label says about where it was made, chances are it will not say "made in America."

It used to be that toys were manufactured here. It used to be that your furniture was manufactured here. It used to be that just about everything in your home was made in America. Today, virtually nothing that you have in your home is made in America. Not only is it the case that what was manufactured is no longer made in America, but today, we are talking about all sorts of things from data entry, word processing, transcription, phoning services, product design, architecture, movie production. X-rays are being analyzed overseas for Americans who go to see a doctor to find out whether or not there is a particular condition or illness they are suffering from. X-rays are being exported for analysis today. That is where we are.

Is it bad? It sure is. Every hour America loses 127 manufacturing jobs overseas. That means that there are 3,200 jobs that will be lost today as we speak. At the end of the year, 1.2 million American jobs will have left.

My colleague, the gentleman from Texas (Mr. BRADY), said this is an effort to scare America. My God, if those figures and those facts do not scare America, then we are in trouble, because we have to wake up, wake up to the fact that we are losing jobs to others overseas, and we are giving incentives as a government for us to see American companies send those jobs overseas.

Now, every company has a right, and we should try to help every company make a profit; otherwise, they will not be around. But my God, if we have an opportunity to use the government to help incent companies to keep those jobs in America or create new jobs here in America for American workers, then let us do it.

So why are we here? The bill that stands before us would actually give $60 billion worth of incentives to companies who ship those jobs from America to overseas.

Let us change that. This motion to instruct simply says, you will get a tax break, you will get that incentive from the government, from the people, the 280 million Americans who pay taxes, if you create that job not in some other country, but here. That is pretty simple. And by the way, this also says, this motion to instruct also says, let us do this in a way that does not increase the size of the Federal deficit. We have a $440 billion deficit, the largest this country has ever known; and this is going to spend money to give incentives to companies, this bill will give money to companies through incentives to send jobs overseas. That is crazy at a time when we do not have money to begin with, and we are losing jobs by the hour.

If we are going to continue hemorrhaging jobs in America then, by God, we should be scared about what is going on. We should not hide the facts. We should not try to deceive Americans. We should do everything in our power to help the private sector create the jobs that we need.

The Bureau of Labor Statistics, the Bush administration Bureau of Labor Statistics recently revised its prediction on the growth of the number of high-tech jobs, white-collar jobs here in America that we would have, somewhere between 2002 to about 2012, over that 10-year period. They have revised that figure. Not up; they are not saying they are going to create more jobs; they are saying 70 percent fewer jobs. This is not some left-wing think tank saying we are going to lose jobs; this is the Bush administration's Bureau of Labor Statistics saying, folks, we made a mistake. When we told you a few years ago that we thought we would be expanding the number of high-tech, white-collar, good-paying, for the most part, $70,000-and-above-paying jobs, we were wrong. Today, guess what? We have to revise that figure down by about 70 percent.

Other analyses recently have told us that America is in jeopardy of losing a total of about 14 billion jobs into the future if we do not stop the hemorrhaging now. Between 300,000 and 500,000 jobs were lost in the U.S. since 2001, having gone overseas. That figure, by the way, did not come from another left-wing think tank; that came from none other than Goldman Sachs. You can go to Wall Street in New York and talk to them there, because those are the folks that told us that between 300,000 and 500,000 jobs have been lost, simply since 2001 overseas.

It is a crisis. Let us deal with it. It is not a scare tactic; it is real. Let us pass this motion to instruct.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would tell my friend, the gentleman from California, that I am a little concerned, because he has admitted that his own private purchasing choices are that he buys foreign products, but he is here on the floor trying to change the law of the U.S. to not allow that to happen. It seems to me that if you are going to be here expounding a position of not sending jobs overseas, that your purchase pattern should reinforce it.

A choice that people make in terms of their private purchasing is a choice that they control, and he did indicate that in his home there are a number of imported products. People have a choice. My hope would be that our private behavior corresponds to our public positions, because not only does the American Tax Code put us in the current position, which we are trying to correct with this legislation, but our own private behavior as well.

Mr. BECERRA. Mr. Speaker, will the gentleman yield on that point?

Mr. THOMAS. Not on my time. If the gentleman wishes to seek more time, I would certainly respond to him.

Mr. BECERRA. Mr. Speaker, I just want to mention that I have no choice, Americans do not have a choice. We cannot buy American products for our home.

Mr. THOMAS. Regular order. You always have a choice.

The SPEAKER pro tempore (Mr. ADERHOLT). The gentleman from California controls the time.

Mr. BECERRA. Show me the store that sells American products, and I will buy them. Show me the store that sells American products for my home, and I will buy them.

The SPEAKER pro tempore. The gentleman from California controls the time.

Mr. THOMAS. Mr. Speaker, perhaps it requires a little bit of endeavor and search, but that is what life is about.

□ 1230

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentleman from New York (Mr. HOUGHTON), an honored member of the committee.

Mr. HOUGHTON. Mr. Speaker, I thank the gentleman from California (Mr. THOMAS) for the time.

I have got to approach this issue from the standpoint of somebody who was in business for 35 years. This is a bill whose time has come. International commerce is always a balancing act, a balancing act between expanding markets overseas and protecting our job base. We did not ask for this fight. Europe did, and a man called Pascal Lamy forced it.

The concept in our tax situation, whether it was DSC or FSC or whatever, my colleagues want to call it, ETI, was to neutralize the differences in the tax system, the regional value-added tax versus our income tax, and it was accepted. We did a good job, and we flourished under this.

Then there were grumbles, and then, all of a sudden, Europe came back and challenged our position. We should have challenged theirs, but we did not, but then we tried to make an accommodation with the World Trade Organization, not once, not twice, but three times. It did not work.

So this is the only way it seems to me that we can accommodate the European community. It is a good bill. It is not perfect. It does not shift jobs abroad. It allows American companies to produce abroad as it allows people abroad to produce here in this country, but basically, it firms up our economy, and that means it firms up our job base.

I think it is something we ought to encourage, we ought to support, and we ought to defeat the motion to instruct.

Mr. LEVIN. Mr. Speaker, I yield 1½ minutes to the gentleman from California (Mr. BECERRA).

Mr. BECERRA. Mr. Speaker, I thank the gentleman for yielding me time, and I want to apologize to the chairman for trying to have him yield me some time.

I just want to make the case I am willing to stay on this floor if the gentleman can name me an American product from my home that I can purchase, I will look to buy it, but I have looked. Whether it is an electronic product, whether it is dishes, whether it is curtains, tell me, and I will look to buy it.

There is no reason why we cannot try to give incentives to American companies to be able to produce here at home. If it is a little bit more expensive, I guarantee my colleagues the American consumer would say, if I have to pay a little bit more for that product, but it is made by American hands, I will do so.

The difficulty is that we have no right using taxpayer dollars to help companies ship jobs abroad. That is my point. When we have an administration that has actually had a net job loss of the last 3 or 4 years of close to a million jobs; and by the way, if we did not include the government-sector jobs that have been created under a Republican administration, that would actually rise to over 1.5 million jobs that have been lost. Almost 3 million of those jobs that have been lost have been in the manufacturing sector. So if it were not for government jobs created, we would have a massive job loss. We do not even create today the number of jobs we need just to keep pace with the new people who are entering into the system.

So it becomes very difficult when we are trying to do something to see that we are spending $60 billion which will, for the most part, help companies who may be American companies, who may have some of their operations here, but are still sending jobs abroad. Again, they have got to remain competitive. That is not a battle we want to fight. What we want to fight, though, is to give incentives to companies who are willing to commit to Americans here.

Mr. THOMAS. Mr. Speaker, I yield myself such time as I might consume.

I suggest the gentleman take a trip to North Carolina, take a look at the furniture they have there, made in America, American products, American labor. Looking for curtains? There is still a cotton industry left. We produce flat goods. Carpets, you want to buy a carpet? They make them in Georgia. You want to buy cars? Take a look at American cars. You want to buy a radio or a CD player? An area where pretty obviously people say we do not have a choice. Bose makes an excellent quality American-made radio/CD. China? Glassware? I can go on and on.

There are products made in America. If you take the time to do it, you can help in your private life instead of arguing you are compelled to buy foreign products, and you come to the floor and demand that we change the laws to stop you from your private behavior.

Mr. Speaker, it is my pleasure to yield 2 minutes to the gentlewoman from Washington (Ms. DUNN), a member of the Committee on Ways and Means.

Ms. DUNN. Mr. Speaker, I thank the gentleman very much for the time.

Mr. Speaker, I rise in opposition to the motion to instruct, and I urge my colleagues to vote against it.

The jobs bill before us is urgently needed. We need it to remove the international sanctions put upon our United States products by the European Union that are hurting sales of U.S. goods overseas and are jeopardizing jobs here in the United States.

We need the jobs bill to help promote job creation here in the United States by reducing taxes on United States manufacturers.

We need the jobs bill to update provisions in the tax code that are decades old and penalize American companies and keep them from competing with foreign companies.

We need the jobs bill to move forward in the spirit of the bipartisan progress that has already occurred and has been made on these issues.

The provisions that some are contesting here on the floor right now won bipartisan support in the other body and also here on the House floor. This bill is not about moving jobs overseas. It is about creating incentives to keep jobs right here in the United States.

We need to move the jobs bill to conference, and we should do it without delay. For these reasons, I urge my colleagues to reject the motion to instruct, to support going to conference so that we can bring back a conference report that everybody can support.

Mr. LEVIN. Mr. Speaker, I think we have the right to close, and the gentleman from New York (Mr. RANGEL) is not here, and I am not sure he will be here. We would have divided the balance of the time. He is not here because of the memorial service for our distinguished, and if I might say, beloved former colleague Frank Horton. So, therefore, under those circumstances, I reserve the balance of the time and I will close.

Mr. THOMAS. Mr. Speaker, I thank the gentleman, and all of us who served with the gentleman from New York, Frank Horton, certainly feel saddened by his passing.

I will tell the gentleman from Michigan, I have two additional speakers, and he has the right to close. We will conclude, and the gentleman from Michigan can then close.

Mr. Speaker, it is my pleasure to yield 3 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON), the subcommittee chair of the Subcommittee on Health of the Committee on Ways and Means.

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the chairman for the time.

Let us look at this issue of outsourcing. Last year, foreign investment in America doubled. That means that other countries outsourced jobs to America at twice the rate they had the preceding year. We need them to keep doing that!

Next, in the 1980s, I worked hard with some of my colleagues on the other side of the aisle to force Japanese companies producing cars in America to buy American parts; not just hire American people, buy American parts. We forced them to do it because we did not want "screwdriver" plants.

Well, when we produce airplanes in other countries for those countries, when GE gets a contract to produce locomotives in Russia and rehabilitate all the Russian locomotives, do my colleagues not think Russia wants some of those jobs? Do my colleagues not think Russia wants some of those parts bought in Russia? Of course, they do, but expensive, high-value parts come from New York State and have kept our ability to produce locomotives as one of the foremost capabilities in the worldwide market.

So, yes, outsourcing is a worldwide phenomenon, and we are the beneficiaries far more often than we are the losers. In net, we are by far the winners.

Secondly, competitiveness, absolutely, top in communications, top in medical technologies. Take the Department of Commerce's list of the 18 top technologies, and we are the highest quality producer and the lowest cost producer in two-thirds of them. So, yes, we are driving the economic forces of America into the international market, but we must do more. We must help our companies compete.

We must pass this legislation to eliminate the retaliatory tariffs that have been put on American goods, thereby increasing their price abroad 10 percent and soon to be 15 percent.

We must reduce taxes on our manufacturers that compete internationally. We must do what we do in this bill, make it cheaper for them to invest in machinery and equipment and hire more people, and yes, we must go further.

We are going to have to do something to control and reduce health care costs so they can compete internationally. We are going to have to eliminate frivolous litigation and all the costs that that imposes on our industry and particularly on manufacturing, driven by pure greed.

So let us get with it. Let us pass this bill, and then let us go right down the agenda of the things we need to do to make American manufacturing more competitive in the international global market, but let us not pretend that outsourcing is the villain here. It is something we need to be able to do fairly and receive from other countries, and I urge opposition to this motion.

Mr. THOMAS. Mr. Speaker, how much time is left on my side?

The SPEAKER pro tempore (Mr. BASS). The gentleman from California (Mr. THOMAS) has 3½ minutes remaining.

Mr. THOMAS. Mr. Speaker, it is my pleasure to yield 3¼ minutes to the gentleman from Louisiana (Mr. MCCRERY), the chairman of the Subcommittee on Select Revenue Measures of the Committee on Ways and Means.

Mr. MCCRERY. Mr. Speaker, I thank the chairman for yielding me the time.

Mr. Speaker, this Democratic motion to instruct conferees reflects what is their increasingly obvious 19th century state of mind. One would think, listening to the comments of our colleagues on the left, that we are back in the industrial revolution, or maybe, they have moved forward to the first part of the 20th century, mid-20th century, maybe even right after World War II, when the United States was not only the biggest and baddest bear in the industrial woods but just about the only bear in the industrial woods. Those times have changed. This is the 21st century. The market has changed significantly.

One of my colleagues on the Committee on Ways and Means pointed out that he learned from Goldman Sachs that, over the last couple of years, we have seen 300,000 to 500,000 jobs outsourced, in other words, American companies creating 300,000 to 500,000 jobs off our shores in foreign countries. That is true.

But what he did not tell my colleagues and what he could have found out at Goldman Sachs or from our own Department of Commerce is that, during that same period of time, even more than 300,000 to 500,000 jobs were created here in the United States by foreign companies wanting to access our market. That is the 21st century market. No longer are we building infrastructure to transport American made goods from the east coast to the west coast like we did in the 19th century. Those were great days, but today, American companies have to build some of their things overseas to access those markets, to compete with the numerous companies that are in competition with them today, unlike the 19th century and mid-20th century.

In today's market, we dadgum better get over there and compete, or we will lose market share, and when we lose market share, we lose income, and when we lose income, we are not able to invest, and when we cannot invest, we cannot create jobs.

Get with it. This bill gets with it. It modernizes our tax code. It says to our American companies, we realize they have got to compete in the world market, not just in the United States market, and oh, by the way, if they do produce products here in the United States and sell them overseas or even here in the United States, we are going to give them a tax cut.

One of my other colleagues on the Committee on Ways and Means said we need to target this tax relief to American manufactured goods. Well, guess what, this bill does that. The tax rate cut for manufacturers only applies to income derived from the sale of goods manufactured here in the United States.

So this Democratic motion to instruct basically is a bunch of hyperbolic language thrown out to scare people, to try to make it seem like they are the defenders of American jobs when just the opposite is true. This bill, crafted by Republicans, wants to create jobs here in the United States, preserve jobs here in the United States.

□ 1245

Mr. THOMAS. Mr. Speaker, I yield myself the balance of my time.

In history, Mr. Speaker, there are those who opposed change, modernization. They were called Luddites. Please vote "no" on the motion to instruct. Do not be a Rangelite.

Mr. LEVIN. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. BASS). The gentleman from Michigan has 6½ minutes remaining.

Mr. LEVIN. Mr. Speaker, I yield myself the balance of my time.

Well, my Republican friend from Louisiana talks about the 21st century market and the chairman talks about modernization. So far, under those mantras, what has happened is more poverty in America, stagnant income for families in America under this administration, and millions of fewer jobs, almost 3 million fewer jobs in manufacturing. And if you call modernization their Republican tax bills, or if this is the 21st century market, just reading from the Detroit News, a rather conservative newspaper, summing up material from the CBO, in 2004 the average tax cut for the middle-income family is $1,090 and for the richest 1 percent it is $78,460.

I am for a 21st century market, Mr. Speaker, but not for that kind of a market. We are for modernization, but not for that kind of modernization. We cannot go backwards. We need to move forward. And here is what the bill did that came through here and is reflected in the dilemma that we have.

We had a $50 billion problem. The WTO ruled FSC inappropriate under WTO rules. What happened was, instead of passing a bill that was a bipartisan bill that addressed the manufacturing sector as FSC did, we ended up with about a $140 billion bill. Three times as large. And it is really larger than that because some of the provisions were to expire when they are unlikely to, and there was a delayed phase-in.

So, essentially, once again we are adding to a deficit because so much of this is not paid for. So we had a $50 billion problem. We now have a bill three times as large, and it is going to increase the deficit.

Now, let me point out quickly some of the provisions in this motion to instruct, because we need to look at the whole document. It says that we should accede to the Senate amendment so there is a deduction rather than a corporate rate reduction. That is of importance to many manufacturing companies in this country. The Senate bill is preferable.

Also, we say that this tax amendment should relate to all the businesses, not simply limited as in the House bill. We also indicate that we should accede to the Senate approach so that the rate reduction really reflects the amount of business done in the United States and not overseas.

And then we go on to provide a remedy for corporations that move their businesses in form overseas, called inversions, and say that we should accept the provisions in the Senate amendment. And we also say that we should drop the provision in the House bill that provides for private collection of Federal tax liabilities, a horrendous idea that I do not think most Americans will accept.

Now, let me say just a few words about the issue of outsourcing, of moving businesses overseas. The House bill had in it a number of provisions that will stimulate movement of operations overseas. One of them is not in the Senate bill. These are complicated provisions, but they have a simple clear-cut impact. The provision, for example, relating to tax credit baskets, the House would move it from 9 to 2. Essentially, this is going to stimulate the investment of companies in tax havens instead of bringing back the monies to the United States. It cost $8 billion. It is not in the Senate bill.

Then there are the so-called look-through provisions that are in both bills. Do not say that this will not stimulate movement of jobs overseas, because essentially, for a multinational, there will be encouragement instead of bringing the profits back here and investing them here to move those profits into a third country, often a tax haven country. That will stimulate the movement of jobs from here overseas.

When the Senate voted, they voted for this provision as part of a much larger bill that came to include a provision on overtime. So members of the Senate were faced with the dilemma of how we attack this problem of the elimination of FSC. And we need to do that, but focused on manufacturing. Do we look at the problem of overtime? And because they did not control the proceedings in the Senate, they were faced with a dilemma.

So let us be clear. You mentioned furniture. Go to North Carolina. Go there. China has been taking furniture business away from the United States unfairly. Overseas movement is a problem. Outsourcing is a problem. Vote for this motion to instruct.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Massachusetts (Mr. NEAL).

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. LEVIN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question are postponed.

The point of no quorum is considered withdrawn.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill and a concurrent resolution of the House of the following title:

H.R. 4654. An act to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes.

H. Con. Res. 475. Concurrent resolution encouraging the International Olympic Committee to select New York City as the site of the 2012 Olympic Games.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4011. An act to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

The message also announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 2742. An act to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court.

The message also announced that the Senate agrees to the amendment of the House to the bill (S. 1663) "An Act to replace certain Coastal Barrier Resources System maps.".

The message also announced that the Secretary be directed to request the return of the papers to accompany (S. 2589) "An Act to clarify the status of certain retirement plans and the organizations which maintain the plans.", in compliance with a request of the Senate for the return thereof.

DISTRICT OF COLUMBIA PERSONAL PROTECTION ACT

Mr. SOUDER. Mr. Speaker, pursuant to House Resolution 803, I call up the bill (H.R. 3193) to restore second amendment rights in the District of Columbia, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 803, the bill is considered read for amendment.

The text of H.R. 3193 is as follows:

H.R. 3193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Personal Protection Act".

SEC. 2. CONGRESSIONAL FINDINGS.

Congress finds the following:

(1) The Second Amendment to the United States Constitution provides that the right of the people to keep and bear arms shall not be infringed.

(2) The Second Amendment to the United States Constitution protects the rights of individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms.

(3) The law-abiding citizens of the District of Columbia are deprived by local laws of handguns, rifles, and shotguns that are commonly kept by law-abiding persons throughout the rest of the United States for sporting use and for lawful defense of persons, homes, and families.

(4) The District of Columbia has the highest per capita murder rate in the Nation, which may be attributed in part to local laws prohibiting possession of firearms by law-abiding persons who would otherwise be able to defend themselves and their loved ones in their own homes and businesses.

(5) The Federal Gun Control Act of 1968, as amended by the Firearms Owners' Protection Act of 1986, and the Brady Handgun Violence Prevention Act of 1993, provide comprehensive Federal regulations applicable in the District of Columbia as elsewhere. In addition, existing District of Columbia criminal laws punish possession and illegal use of firearms by violent criminals and felons. Consequently, there is no need for local laws which only disarm law-abiding citizens.

(6) Legislation is required to correct the District of Columbia's law in order to restore the rights of its citizens under the Second Amendment to the United States Constitution and thereby enhance public safety.

SEC. 3. REFORM D.C. COUNCIL'S AUTHORITY TO RESTRICT FIREARMS.

Section 4 of the Act entitled "An Act to prohibit the killing of wild birds and wild animals in the District of Columbia", approved June 30, 1906 (34 Stat. 809; sec. 1-303.43, D.C. Official Code) is amended by adding at the end the following: "This section shall not be construed to permit the Council, the Mayor, or any governmental or regulatory authority of the District of Columbia to prohibit, constructively prohibit, or unduly burden the ability of persons otherwise permitted to possess firearms under Federal law from acquiring, possessing in their homes or businesses, or using for sporting, self-protection or other lawful purposes, any firearm neither prohibited by Federal law nor regulated by the National Firearms Act. The District of Columbia shall not have authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms.".

SEC. 4. REPEAL D.C. SEMIAUTOMATIC BAN.

Section 101(10) of the Firearms Control Regulations Act of 1975 (sec. 7-2501.01(10), D.C. Official Code) is amended to read as follows:

"(10) Machine gun means any firearm which shoots, is designed to shoot, or can be readily converted or restored to shoot automatically, more than 1 shot by a single function of the trigger.".

SEC. 5. REPEAL REGISTRATION REQUIREMENT.

(a) IN GENERAL.—Section 201(a) of the Firearms Control Regulations Act of 1975 (sec. 7-2502.01(a), D.C. Official Code) is amended by striking "any firearm, unless" and all that follows through paragraph (3) and inserting the following: "any firearm described in subsection (c).".

(b) DESCRIPTION OF FIREARMS REMAINING ILLEGAL.—Section 201 of such Act (sec. 7-

2502.01, D.C. Official Code) is amended by adding at the end the following new subsection:

“(c) A firearm described in this subsection is any of the following:

“(1) A sawed-off shotgun.

“(2) A machine gun.

“(3) A short-barreled rifle.”.

SEC. 6. REPEAL HANDGUN AMMUNITION BAN.

Section 601 of the Firearms Control Regulations Act of 1975 (sec. 7-2506.01, D.C. Official Code) is repealed.

SEC. 7. RESTORE RIGHT OF SELF DEFENSE IN THE HOME.

Section 702 of the Firearms Control Regulations Act of 1975 (sec. 7–2507.02, D.C. Official Code) is repealed.

SEC. 8. ADDITIONAL REPEALS.

Sections 202 through 211 of the Firearms Control Regulations Act of 1975 (secs. 7–2502.02 through 7-2502.11, D.C. Official Code) are repealed.

SEC. 9. REMOVE CRIMINAL PENALTIES FOR POSSESSION OF UNREGISTERED FIREARMS.

(a) In General.—Section 706 of the Firearms Control Regulations Act of 1975 (sec. 7–2507.06, D.C. Official Code) is amended—

(1) by striking “that:” and all that follows through “(1) A” and inserting “that a”; and

(2) by striking paragraph (2).

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.

SEC. 10. REMOVE CRIMINAL PENALTIES FOR CARRYING A PISTOL IN ONE'S DWELLING OR OTHER PREMISES.

(a) In General.—Section 4(a) of the Act of July 8, 1932 (47 Stat. 651; sec. 22-4504(a), D.C. Official Code) is amended—

(1) in the matter before paragraph (1), by inserting “, except in his dwelling house or place of business or on other land possessed by that person, whether loaded or unloaded,” before “a pistol”; and

(2) by striking “except that:” and all that follows through “(2) If the violation” and inserting “except that if the violation”.

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to House Resolution 803, the amendment printed in House Report 108–707 is considered adopted.

The text of H.R. 3193, as amended pursuant to House Resolution 803, is as follows:

H.R. 3193

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “District of Columbia Personal Protection Act”.

SEC. 2. CONGRESSIONAL FINDINGS.

Congress finds the following:

(1) The Second Amendment to the United States Constitution provides that the right of the people to keep and bear arms shall not be infringed.

(2) The Second Amendment to the United States Constitution protects the rights of individuals, including those who are not members of a militia or engaged in military service or training, to keep and bear arms.

(3) The law-abiding citizens of the District of Columbia are deprived by local laws of handguns, rifles, and shotguns that are commonly kept by law-abiding persons throughout the rest of the United States for sporting use and for lawful defense of persons, homes, and families.

(4) The District of Columbia has the highest per capita murder rate in the Nation, which may be attributed in part to local laws prohibiting possession of firearms by law-abiding persons who would otherwise be able to defend themselves and their loved ones in their own homes and businesses.

(5) The Federal Gun Control Act of 1968, as amended by the Firearms Owners' Protection Act of 1986, and the Brady Handgun Violence Prevention Act of 1993, provide comprehensive Federal regulations applicable in the District of Columbia as elsewhere. In addition, existing District of Columbia criminal laws punish possession and illegal use of firearms by violent criminals and felons. Consequently, there is no need for local laws which only disarm law-abiding citizens.

(6) Legislation is required to correct the District of Columbia's law in order to restore the rights of its citizens under the Second Amendment to the United States Constitution and thereby enhance public safety.

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Section 4 of the Act entitled “An Act to prohibit the killing of wild birds and wild animals in the District of Columbia”, approved June 30, 1906 (34 Stat. 809; sec. 1-303.43, D.C. Official Code) is amended by adding at the end the following: “This section shall not be construed to permit the Council, the Mayor, or any governmental or regulatory authority of the District of Columbia to prohibit, constructively prohibit, or unduly burden the ability of persons otherwise permitted to possess firearms under Federal law from acquiring, possessing in their homes or businesses, or using for sporting, self-protection or other lawful purposes, any firearm neither prohibited by Federal law nor regulated by the National Firearms Act. The District of Columbia shall not have authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms.”.

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Section 101(10) of the Firearms Control Regulations Act of 1975 (sec. 7-2501.01(10), D.C. Official Code) is amended to read as follows:

“(10) Machine gun means any firearm which shoots, is designed to shoot, or can be readily converted or restored to shoot automatically, more than 1 shot by a single function of the trigger.”.

SEC. 5. REPEAL REGISTRATION REQUIREMENT.

(a) In General.—Section 201(a) of the Firearms Control Regulations Act of 1975 (sec. 7–2502.01(a), D.C. Official Code) is amended by striking “any firearm, unless” and all that follows through paragraph (3) and inserting the following: “any firearm described in subsection (c).”.

(b) Description of Firearms Remaining Illegal.—Section 201 of such Act (sec. 7–2502.01, D.C. Official Code) is amended by adding at the end the following new subsection:

“(c) A firearm described in this subsection is any of the following:

“(1) A sawed-off shotgun.

“(2) A machine gun.

“(3) A short-barreled rifle.”.

SEC. 6. REPEAL HANDGUN AMMUNITION BAN.

Section 601 of the Firearms Control Regulations Act of 1975 (sec. 7–2506.01, D.C. Official Code) is repealed.

SEC. 7. RESTORE RIGHT OF SELF DEFENSE IN THE HOME.

Section 702 of the Firearms Control Regulations Act of 1975 (sec. 7-2507.02, D.C. Official Code) is repealed.

SEC. 8. ADDITIONAL REPEALS.

Sections 202 through 211 of the Firearms Control Regulations Act of 1975 (secs. 7–2502.02 through 7–2502.11, D.C. Official Code) are repealed.

SEC. 9. REMOVE CRIMINAL PENALTIES FOR POSSESSION OF UNREGISTERED FIREARMS.

(a) In General.—Section 706 of the Firearms Control Regulations Act of 1975 (sec. 7–2507.06, D.C. Official Code) is amended—

(1) by striking “that:” and all that follows through “(1) A” and inserting “that a”; and

(2) by striking paragraph (2).

(b) Effective Date.—The amendments made by subsection (a) shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.

SEC. 10. REMOVE CRIMINAL PENALTIES FOR CARRYING A FIREARM IN ONE'S DWELLING OR OTHER PREMISES.

(a) In General.—Section 4(a) of the Act of July 8, 1932 (47 Stat. 651; sec. 22—4504(a), D.C. Official Code) is amended—

(1) in the matter before paragraph (1), by striking “a pistol,” and inserting the following: “except in his dwelling house or place of business or on other land possessed by that person, whether loaded or unloaded, a firearm,”; and

(2) by striking “except that:” and all that follows through “(2) If the violation” and inserting “except that if the violation”.

(b) Treatment of Certain Exceptions.—Section 5(a) of such Act (47 Stat. 651; sec. 22—4505(a), D.C. Official Code) is amended—

(1) by striking “pistol” each place it appears and inserting “firearm”; and

(2) by striking the period at the end and inserting the following: “, or to any person while carrying or transporting a firearm used in connection with an organized military activity, a target shoot, formal or informal target practice, sport shooting event, hunting, a firearms or hunter safety class, trapping, or a dog obedience training class or show, or the moving by a bona fide gun collector of part or all of the collector's gun collection from place to place for public or private exhibition while the person is engaged in, on the way to, or returning from that activity if each firearm is unloaded and carried in an enclosed case or an enclosed holster, or to any person carrying or transporting a firearm in compliance with sections 926A, 926B or 926C of title 18, United States Code.”.

(c) Effective Date.—The amendments made by this section shall apply with respect to violations occurring after the 60-day period which begins on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to House Resolution 803, the gentleman from Indiana (Mr. Souder) and the gentlewoman from the District of Columbia (Ms. Norton) each will control 30 minutes.

The Chair recognizes the gentleman from Indiana (Mr. Souder).

GENERAL LEAVE

Mr. SOUDER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3193, and to include extraneous material thereon.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

There was no objection.

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

Today, we will be debating a bill that will go a long way in protecting the constitutional rights of the residents of the District of Columbia.

As all may know, currently in Washington, D.C., citizens are prevented from owning any handgun at all. I am bringing before you today a bill that would restore the second amendment rights of D.C. citizens. I think it is important to note that my bill would not repeal any provision of D.C. law that bans gun possession by criminals, or that punishes violent crime.

In 1976, 2 years after Congress had granted the District of Columbia home rule, the D.C. City Council passed a bill which repealed the handgun ban in the District. The handgun ban actually arrested progress. In the 5 years before 1976, when the handgun ban was put into effect, the murder rate in the District of Columbia had fallen to 27 per 100.000 from 37 per 100.000, according to researchers at the American Enterprise Institute. Five years after the ban, the murders had climbed back to 35 for every 100,000 residents. From that point, it became worse.

In the 13 years between 1987 and 2000, D.C. earned the dubious distinction as the murder capital of the United States. In 2002, it once again had the highest murder rate per 100,000 residents, making it the murder capital of the United States 14 of the last 15 years.

There have been a lot of misunderstandings and miscommunication about what this bill does and does not do. So I will address the bill's provisions in the order in which they appear in the bill.

First, the bill prohibits the District from prohibiting residents from possessing a firearm that is legal for them to possess under Federal law, while still maintaining the Federal ban on private possession of any firearm regulated by the National Firearms Act.

Second, the bill would bring the District's definition of a machine gun into conformity with Federal law and the laws of the States. Currently, the District defines the term machine gun to include firearms that fire only one shot when the trigger is pulled. That is not what a machine gun is, of course. A machine gun fires repeatedly when the trigger is pulled and held back. The District's definition is simply factually incorrect, and this bill will perform the necessary correction.

Third, the bill eliminates the District's firearms registration requirement and, logically, eliminates the penalty for the possession of an unregistered firearm. This does not, however, in any way change the Federal requirement that firearm dealers maintain records of firearm sales. Dealers will still be required to maintain Federal forms which identify the purchasers of firearms by name, address, date and place of birth, and other factors.

Fourth, the bill eliminates the District's ban on private possession of handguns and handgun ammunition.

Fifth, the bill eliminates the District's ban on the use of firearms for protection at home. Currently, the District prohibits a person from having even a lawfully owned firearm at home, loaded and assembled, and unlocked.

While some States have laws designed to have people keep firearms secured in a similar fashion when they are unattended, the District's law requires people to keep firearms unloaded and disassembled or locked even if a violent criminal is attacking them in their homes.

The U.S. Constitution, the constitutions of 44 States, Federal law, and the laws of all 50 States, and the vast majority of Americans recognize the right to use firearms for personal protection. Only the District of Columbia prohibits a person from having a firearm assembled and loaded at home for the purpose of self-defense.

That is why 229 Members of this body are not supporters of the bill, they are cosponsors of this bill. Forty-four of the cosponsors are Democrats. This is truly bipartisan legislation that has come up from the demands of the American people.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am compelled to begin by noting the ludicrous logic on which this debate has already begun. The gentleman from Indiana (Mr. SOUDER), the prime sponsor, has just argued that gun safety laws cause murders by arguing the fallacious notion of causation. I am embarrassed for the statement.

Mr. Speaker, in my nearly 14 years in Congress, I have come to regard Members not only as colleagues but as friends. At the same time, I have seen various Members of Congress try to do some low-down, dirty, mean things to the people of the District of Columbia, all to promote their own political agendas against the will of the people who live here.

This bill to repeal the city's gun safety laws, when child gun killings have sharply increased, scrapes the bottom of the lowest level yet. As citizens, we in the District of Columbia do not take attacks on our all-American right to self-government lying down. I am grateful that these attacks occur less frequently today, and am particularly grateful to the appropriators who have discouraged the use of the D.C. appropriation for such attacks.

Congress has seen that we are prepared to fight and fight hard, with D.C. appropriation fights in the past sometimes lasting 8 to 10 hours, with vetoes of our appropriation that we encourage to compel changes. And Congress has seen that we are always prepared to take the fight to the home district of a Member to let his own constituents know that their Member is taking time from their concerns to mettle in the local business of a local jurisdiction far from home.

□ 1300

Notwithstanding prior fights on D.C. matters, the attempt to repeal our gun safety laws is a brand new low for this body. That we are here discussing this matter is yet a new low. Repeal shows special contempt for the people who live here because the city has sharply reduced its homicide rate, now at a 20-year low, down almost 25 percent this year alone, and down 55 percent since the assault weapon ban and the Brady bill were passed in 1994. At the same time, the city is heartbroken that 16 children have been killed by gunfire, more than in any recent year.

Repeal advocates claim they want guns here to help people protect themselves. Can repeal help the children killed by guns in increasing numbers here in the Nation's Capital to protect themselves?

Mr. Speaker, I include for the RECORD the 16 names of the children killed by gunfire this year, and an article on Chelsea Cromartie, the youngest of these children.

MORE GUNS MEAN MORE CHILDREN DYING

Robert Adams, 16; Chelsea Cromartie, 8; Devaun Drayton, 17; Javon Gaskins, 16; Timothy Hamilton, 15; Jahkema Hansen, 14; Antoine Holroyd, 16; Myesha Lowe, 15; David McMorris, 16; James Richardson, 17; Michael Simms, 17; Franklin Smith, 17; Wardell Smith, 17; Michael Swann, 13; Roderick Valentine, 16 and Ashley Walker, 16.

D.C. Homicides Down 24% this year but, more children slain by guns in the first 5 months of this year than in all of last year and more than in any recent years.

Save Our Children.

[From the Washington Post, May 16, 2004]

OUTRAGE SPEEDED PROBE OF KILLING

CHELSEA'S DEATH GALVANIZED POLICE

(By Del Quentin Wilber)

The killing of 8-year-old Chelsea Cromartie generated a powerful response from the D.C. police. While homicide investigators worked the streets, teams of officers passed out fliers and set up roadblocks in an exhaustive search for witnesses. Top officials appealed for help and boosted a reward for clues.

Aided by a tip, police identified two suspects within a week of the Northeast Washington shooting. The police work drew praise from neighborhood leaders and fulfilled a promise made by top officials that they would catch whoever fired the bullets that missed their targets and flew into the home that Chelsea was visiting May 3.

Not every homicide in the District commands so much attention. In a city that is struggling with one of the nation's highest homicide rates, police must make difficult decisions about how to deploy resources.

Witnesses frequently are difficult to locate and, even when found, sometimes refuse to give information. This year, police say, the homicide clearance rate is less than 60 percent.

Commanders and former top officers said they must assess a variety of factors after each killing—from the type of crime and the victim's history to how readily witnesses will help them. Although police insist that they investigate each homicide thoroughly, they said they often feel like battlefield surgeons performing triage.

The choices inevitably add to the grief of family members of victims whose crimes go unsolved.

Some D.C. Council members and victims' rights advocates said the department should use Chelsea's case as a model for future investigations by adding homicide detectives and offering bigger rewards. It is not fair, they said, that some slayings get more attention than others.

"Should one murder be more important than another murder?" asked Kenneth E. Barnes Sr., whose son was slain in September 2001. "I don't think so."

Barnes's son, Kenneth Barnes Jr., 37, was a well-known shop owner on U Street NW who was killed during an apparent robbery attempt. The killer was sentenced to prison in that case. Barnes has since attempted to aid the families of other victims by creating a nonprofit group called Reaching Out to Victims Together.

Kami Emanuel's fiance, Derrick Taylor, was killed about 6:45 a.m. May 9 in Northeast Washington. She said detectives appear to be working hard but wondered why they have not raised the reward, now up to $25,000, in the case.

"A murder is a murder," said Emanuel, 27.

Police Chief Charles H. Ramsey said the department takes every killing seriously. He said he did not hesitate to focus so heavily on Chelsea's case. The third-grader was shot in the head while watching television in her aunt's home, and her aunt was wounded by another of the stray shots that came through the living room window.

The community was outraged, Ramsey noted, with scores of people attending a candlelight vigil and dozens calling police with tips. The killing became the lead story on local television broadcasts and was front-page news. Ramsey said police believed that they had a solid chance at solving the case if they acted aggressively, and they did not want to let any leads slip past them.

"It was hot," Ramsey said. "Not every case generates that kind of interest."

The nature of the crime and Chelsea's age attracted community attention and sympathy that helped fuel the urgency to solve the case. Detectives and other officers also could imagine their own daughter dying in such a senseless way, police officials said.

"Some cases, you don't have to ask guys to come forward and work," said lawyer W. Louis Hennessy, former commander of the D.C. homicide unit. "These are unique cases. The guys take it upon themselves to go the extra mile."

Last summer, as the department was under pressure as homicides spiked, Ramsey raised the rewards offered in homicide cases from $10,000 to $25,000 per victim. In Chelsea's case, the department swiftly doubled it to $50,000. The amount eventually reached $75,000 after a private contribution.

The donation came from William E. Schuiling, a Michigan resident and chairman of Brown's Automotive Group, which has dealerships in the Washington area. He pledged $225,000 more to help police solve other slayings of children. "Nothing is more sickening or despicable to me as when someone kills an innocent child," he wrote in a letter to Ramsey.

Ramsey said officers and investigators were added to deal with the high volume of calls and leads about Chelsea's slaying. One crucial tip helped lead to the arrests of brothers Raashed and Ricardo Hall, who were charged with first-degree murder.

Community pressure and an all-out blitz by police are hardly guarantees that cases will be solved quickly. It took police nearly two years to solve the 1997 triple slaying at a Starbucks coffee shop in Georgetown. It took nearly a year to make arrests in the April 2003 slayings of three employees at Colonel Brooks' Tavern. And the slaying of former intern Chandra Levy remains unsolved three years after she disappeared.

Police received scores of tips in all three of those investigations. But such community interest in homicides—the city recorded 248 killings last year—is not common, detectives say.

Last year, Ramsey released a surveillance tape that showed a daylight killing at a Northeast Washington gas station—and witnesses doing nothing to report the crime or assist the victim. The killing of Allen E. Price remains unsolved.

Police detectives tell countless stories about uncooperative witnesses, even relatives who saw their loved ones killed but won't point out the killer. In some cases, witnesses fear they will be targeted. Police and prosecutors said that witness intimidation has been a long-standing obstacle to solving crimes.

Also, police said, friends of some victims would rather avenge killings on their own than help officials.

Investigators said they often identify suspects only to stumble when trying to persuade witnesses to come forward.

Two days before Chelsea was slain, D.C. police were called to investigate a midafternoon killing in a Southeast Washington housing complex. Detectives quickly discovered evidence that pointed to a gun battle: Shell casings from at least four weapons littered the street.

Scores of residents watched as technicians and detectives scouted for evidence, recalled Lt. Guy Middleton of the violent crime unit. Yet despite the public nature of the gunfight in the Barry Farm complex and detectives canvassing and recanvassing the neighborhood, no one came forward with information, Middleton said. The slaying of Antonio Blakely, 18, who lived in another part of town, remains unsolved.

"It's frustrating," said Middleton, a veteran homicide investigator and supervisor. "The people continued to stand there when the police arrived. All were out there when it happened."

D.C. Council member Kathy Patterson (D-Ward 3), chairman of the Judiciary Committee, said police could do more in solving homicides. She said officials should add more detectives and resources for investigations. "Every case should have the kind of tenacity and commitment" that the Chelsea case did, Patterson said.

But some former police officials said that certain killings—such as Chelsea's—demand more attention.

"There is something exceptional about this homicide," said Isaac Fulwood Jr., the District's police chief from 1989 to 1993, comparing the handling of the case to how officers work round-the-clock to solve the killing of fellow officers.

"You can't shoot 8-year-old girls sitting in their house watching television," Fulwood said. "Everybody was fired up by this little 8-year-old girl. I don't care what you have to stop doing, you have to get on this homicide. That is the reality of it."

Mr. Speaker, more guns in the Nation's Capital is a new low because it makes a mockery of our congressional obligation and of our actions to secure the Nation's Capital against terrorism. Only Washington, D.C. and New York City are under an orange alert. No car can travel on the streets approaching the Capitol without getting in checkpoint lines for police to inspect the inside of the car. So terrified were Capitol Police of possible terrorism that they rushed to put permanent 19th century approaches in place, including closing the only major street leading to the transportation hub of the region, Union Station.

Encouraging guns, including fully-loaded handguns and military-style assault weapons that will soon make their way to the Nation's Capital as we struggle under an orange alert would disgrace the Nation here and around the world. Creating a new and expanded gun culture here in the midst of an orange alert is an act of reckless irresponsibility.

If Members vote for H.R. 3193, Members are voting to repeal not only D.C.'s handgun ban, but also its ban on military-style assault weapons. Upon repeal, a loaded AK-47 or a Bushmaster, like the one used in this region in the infamous 2002 attack by the snipers that killed 10 residents in Virginia, Maryland, and D.C. and injured 5 others, this weapon could be kept here in homes, fully loaded, in workplaces, in businesses.

D.C. Police Chief Charles Ramsey warns that these guns would make their way so quickly to the streets they would not have enough men and women to confiscate them all, even though they have confiscated record numbers this year. And he said yesterday when he came here to specially plead against this bill that this bill would increase gunfires in the streets of the Nation's Capital and drive-by shootings.

Astonishing, if Members vote for H.R. 3193, Members will be voting to allow children under 18 years of age to own semiautomatic and assault weapons. This year, the very year that 16 children have died from gunfire, the year dominated in the local news by grieving for children killed by guns, Members will be voting to allow people to carry guns who have been declared by a court to be chronic alcoholics or to have negligently killed someone with a gun.

If Members vote for H.R. 3193, Members will be voting to repeal a requirement that gun owners notify police if guns have been stolen or lost. Surely at a time when guns are being used by kids to kill kids here, it should be a requirement of citizenship to at least warn the police that a gun has fallen into the hands of criminals.

A vote for repeal is a vote against the requirement that handguns and semiautomatic weapons be kept locked away from children. That is pathetic, Mr. Speaker. A vote for repeal is a vote for a provision in the bill that is an earmark of its extremism. Local officials would not be allowed to even discourage private ownership of handguns and assault weapons.

Although the present D.C. gun law has been held to be constitutional by Federal and local courts, the gentleman from Indiana (Mr. SOUDER) and his allies nevertheless persist in citing the second amendment as the raison d'etre for this bill. Therefore, I invite the gentleman from Indiana (Mr. SOUDER) and other proponents to divert some of their attention from the second amendment to the first. Despite their efforts, they will not be able to keep me, Mayor Williams, or School Superintendent Clifford Janey or other residents from discouraging the use and ownership of weapons.

The Constitution may allow the gentleman from Indiana (Mr. SOUDER) to deny me a vote this very day on this bill that affects only the people I represent in the District of Columbia, but the gentleman cannot silence me or anybody else in the District on the matter of guns or on any other matter. The insult to American principles of self-government and home rule is too obvious and painful to belabor.

This bill is the best argument for home rule. We see in this bill why local control is a core principle of American citizenship. As a people, we stand for the proposition that local matters are for local people. No matter is more local than public safety close to home. No one is in a better position to write laws about safety in the homes, the workplaces, the businesses and the streets of the local jurisdiction than those who must live under those laws 24–7.

This bill, we are told, has the paternalistic purpose of allowing the poor, ignorant, elected officials and people of the District of Columbia to protect themselves. Thank you very much, presumably because we are lesser beings who do not even have enough sense to figure out the most basic of principles concerning their own public safety. What we cannot figure out is how gun safety repeal would have enabled Chelsea Cromartie, 8 years old, a third grader, to have protected herself from the stray bullet that killed her, although she was inside in the living room of her own aunt.

This bill has gathered residents into a tight no-repeal coalition from businesses in the Greater Washington Board of Trade to parents whose kids were killed as bystanders near their schools. Trying to make the case for this bill on the basis of self-defense is to dance on the graves of Chelsea Cromartie and 15 other defenseless children killed by gunfire this year. We in the District of Columbia refuse to dance with you.

Mr. Speaker, in the name of the children of this city, who are at the greatest risk if this bill passes, we simply alert Members we will fight you now, we will fight you until the end, and then for this child and for other children in this city, we will get up and fight you some more.

Mr. Speaker, I reserve the balance of my time.

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, facts are stubborn things, and the fact is that today D.C.'s murder rate is still 8 times higher than the national average.

Mr. Speaker, I yield 2½ minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Mr. Speaker, I thank the gentleman for yielding me this time.

This is an emotionally charged issue and I can understand why. I think it is important, though, that we adhere to the facts. The gentlewoman from the District of Columbia (Ms. NORTON) used the words "fallacious" and "ludicrous." It is ludicrous to suggest that if we had a gun ban all across the country, that the bad guys would not have guns and that the good guys would then be better off. It is ludicrous to suggest that bad guys that do not honor the law are not going to always have guns in this society.

It is fallacious to insinuate to people that somehow they are going to be safer if you ban guns. There are no facts to back that up. Gun control does not work. I am not interfering in the District of Columbia, that is a fact everywhere in this country. Gun control does not work. There is no science to show that it works. As a matter of fact, what the truth is that when we control guns, the bad guys have plenty, and there is a gun culture, and the good guys cannot defend themselves.

In the State of Tennessee, my father-in-law has a right to carry, and our family is safer because he does. We are in a new world. The last time that 3,000 innocent American lives were lost on September 11, guns were not used. Airplanes and fuel was. It was the most destructive, violent act in our country's history in this homeland. Guns were not there. I do not know what is next, but I think people have a right to defend themselves, and gun control simply does not work. Public policy should not be based on emotion, and this is emotionally charged. It should be based on science, facts, logic, and the truth. The truth is this policy does not work.

I just came back from Africa. I was in Dar es Salaam and Johannesburg; dangerous cities. Interestingly, they remind me that the city I work in here is more dangerous than the cities there. Let us be honest about this, and let us rise above the emotion. Gun control does not work anywhere, including the District of Columbia.

Ms. NORTON. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. WAXMAN), the ranking member of the full committee with jurisdiction over this bill.

□ 1315

Mr. WAXMAN. Mr. Speaker, I rise in opposition to this bill. The other side would have you believe that they want to repeal legislation in the District of Columbia to stop handguns. But that is not what this bill does. This bill repeals the District's laws on assault weapons. I want to show a chart, if I might, because one of the assault weapons that would be made legal if this bill passes is a semiautomatic 50-caliber sniper weapon. This is its actual size. It is capable of taking out an armored limousine from a mile away. Can you imagine that in the District of Columbia someone could have this assault weapon and stick it out of a window on Pennsylvania Avenue? We have people coming in and out of this city who are very important to the functioning of our government, international visitors. Yet they could own and possess this weapon if the legislation before us passes.

We are spending millions of dollars to protect the Nation's capital from another terrorist attack, yet we are passing legislation today that would invite terrorists to bring assault weapons into the heart of the Nation's capital.

There is a real irony. There are committees that are meeting today to pass different parts of legislation based on the recommendations of the 9/11 Commission. Those recommendations were to make our Nation safe from terrorist attacks. Yet in this bill we are telling terrorists that it is okay for them to have assault weapons when they visit the Nation's capital.

We are under an orange alert because someone working with al Qaeda took photos of the World Bank, the IMF, and other buildings in D.C. Think of the damage that person could have done if he or she had a 50-caliber sniper weapon instead of a camera. Two years ago, this city, this whole region was gripped with fear when a sniper systematically stalked and killed 10 people. The gun he used was the Bushmaster XM-15 assault rifle. Along with AK-47s and Uzis, the Bushmaster assault rifle is one of the guns that this bill would legalize.

The vast majority of the people in this Nation support the Federal ban on assault weapons. Even the President said he supported the continuation of the assault weapons ban, but we could not even bring it up for a vote in the House of Representatives. Instead, the

Republican leadership in the House has brought up to the House floor legislation that makes assault weapons legal in the Nation's capital. I wonder if they are going to get around to mandating that each Member of Congress buy an assault weapon rather than ban it all around this Nation.

This bill is being rushed to the floor to score political points with the NRA. The bill is an abomination. I urge my colleagues to defeat it.

Mr. SOUDER. Mr. Speaker, it would be illegal to shoot such a weapon now, and it would continue to be illegal to shoot such a weapon at an armored truck or anybody else under my legislation.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. HOSTETTLER).

Mr. HOSTETTLER. I thank the gentleman for yielding me this time and commend him on his legislation that I am speaking in support of.

Mr. Speaker, those of us who have the honor of serving in Congress are in good hands. In the Capitol, in our office buildings, for several blocks in each direction, we enjoy the protection of the Capitol Police, the Park Police, the Secret Service and the Metropolitan Police. Though they represent different law enforcement agencies, these officers all have one thing in common, they all carry guns. So why is it that residents of Washington, D.C. are forbidden from protecting their families in this same fashion?

The D.C. police, though hardworking, do not have the resources to set up a perimeter around neighborhoods the way they do for us. In reality, D.C. police usually respond after a crime has been committed. Yet D.C. residents are forbidden by law from defending themselves.

As many residents of Indiana and Virginia and Texas and Florida and Vermont know, a firearm is an effective deterrent against crime. Even the threat of a firearm can frighten off a criminal. John Pena, born, raised and currently living with his family in southeast Washington, D.C., about 13 blocks from here, was at home recovering from eye surgery a couple of years ago when he heard a noise downstairs. Despite his severely blurred vision, he investigated and found a burglar in his living room. Mr. Pena is a Navy veteran and served in Vietnam, but he was in no condition to confront this criminal. So thinking quickly, Mr. Pena called upstairs to his retired father, "Dad, get the gun." Mr. Pena was bluffing and I do not want to suggest that he had then or has today a firearm in his residence. But at the mention of a gun, the thief turned and ran out the back door in such a hurry he neglected to open the storm door, cutting himself as he crashed through it.

Mr. Speaker, we feel secure here on the Capitol grounds knowing we are protected by men and women with guns. Tens of thousands of my constituents in Indiana also keep their families safe with the presence of a gun. It seems to me that a criminal's dream would be a city where law-abiding citizens are disarmed. Preventing these law-abiding citizens, our fellow Americans of Washington, D.C., from enjoying the same protections the rest of us enjoy is unsafe and unfair.

Ms. NORTON. Mr. Speaker, I take the gentleman's suggestion that we can scare criminals away by yelling "gun" but not that we have guns in our own homes fully assembled, loaded and ready to go.

Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Mr. Speaker, have we become unhinged in this House? The business that most of us are engaged in all day today and the business that we will be engaged in all next week is trying to pass responsible reforms to implement the recommendations of the 9/11 Commission, recommendations intended to make us safer. While we do this, hopefully on a bipartisan basis, we are debating today a wedge issue designed to make the people who live in the District of Columbia, the Members of Congress, and our families less safe.

Let us understand what we are talking about here. I am reading from the description of this bill. We are repealing the ban on semiautomatic weapons, we are eliminating criminal penalties for possessing an unregistered firearm, and we are amending Federal law to eliminate criminal penalties for carrying a pistol whether loaded or unloaded.

This is incredible, Mr. Speaker. I am astonished that this House would even spend 2 seconds on this issue. Maybe this is good rhetoric in somebody's campaign, but it is bad policy for the United States of America. Shame on this House for wasting time on this bill. I strongly oppose it.

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN), a distinguished member of the Subcommittee on Criminal Justice of the Committee on Government Reform.

Mrs. BLACKBURN. Mr. Speaker, I rise in support of the legislation that is offered by my colleague from Indiana. The gentlewoman from the District urged us to respect her and the District residents where the city's gun laws are concerned, and I trust that she will be pleased to know that is exactly what this bill proposes to do. This is because right now residents of the District do not have an option. The law prohibits them from using a firearm to defend themselves and their families in their own homes and it prohibits them from acquiring handguns and other guns whether for defensive, sporting, hunting, or recreational purposes. This bill will give them an option by taking those prohibitions away.

If anyone from the District does not want to have a gun in their home for protection, they will not be required to do so. If they do not want to use a gun for target practice, recreation, hunting sports, they are not required to do so. The only purpose of the bill is to give people an option, to let them decide whether to have a gun for protection or any other of the legitimate uses.

If no one in the city steps up to buy a gun, then that is fine, because it is their decision. I suspect, though, that many of my colleagues realize that there will be quite a few law-abiding Washingtonians who will want to exercise their individual right to arms and their right to engage in shooting sports and recreation as millions of Americans do. This bill protects their rights.

Ms. NORTON. Mr. Speaker, for the information of the gentlewoman, 100,000 guns are registered in the District of Columbia. We encourage people to use rifles for sports.

Mr. Speaker, I am pleased to yield 1½ minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. I thank my colleague from the District of Columbia for yielding me this time.

Mr. Speaker, I rise in strong opposition to this bill. Our troops are struggling in Iraq. The budget deficit is at an all-time high. The Republican-led Congress has failed to finish its work on the budget, on appropriations bills, the highway bill, all of the legislation vital to keeping our country going, and the response from the Republican leadership? Pass a bill repealing gun laws in the District of Columbia.

Mr. Speaker, this is a bad bill on its own merit and an affront to the citizens of Washington, D.C. The citizens of this District have the right to enact laws to make their neighborhoods safer without interference from the Congress and the NRA. This is election-year politics practiced at the expense of District residents who do not even have a vote in the House or the Senate.

Mr. Speaker, the fight against terrorism is a focus of this Presidential campaign, as it should be, and the fight against terrorism is a given in our daily lives. We live in a time of high alerts. Checkpoints now ring this Capitol. Yet passage of this bill into law would certainly not aid in our war against terrorism. It would in fact encourage proliferation of weapons in the immediate vicinity of the Capitol, the White House, the Supreme Court, and scores of Federal agencies and foreign embassies located throughout this city.

One would think that our congressional leadership would want us to support the policemen and -women who work to protect us and these institutions which are such national symbols, all of which present tempting targets for terrorists or the deranged.

But this legislation would undermine the efforts of our local law enforcement and put our police at even greater risk. It is an antipolice bill, abuse of congressional power, and an attempt to draw attention away from what we should be working on. I urge my colleagues to vote down this ill-conceived measure.

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Speaker, I rise in support of this legislation. I learned a long time ago serving in the Colorado State legislature that criminals do not care about the laws we pass. They do not know who their Congressman is. They do not know who their Senators are. They do not have respect for law or lawmakers.

Right here in Washington, D.C., there are many things that we are extremely proud of. One of the things, though, that really is a blot is the infamous distinction as the murder capital of the world. I think that we need to give criminals who would commit heinous crimes in this District of Columbia pause. I think we ought to make them wonder whether or not an individual that they would harm, whether or not they are going to harm a family or try to rape a woman or murder someone, give them pause, let these criminals wonder if that individual might be able to defend themselves.

It is important when we think that businesses in this District, business owners can have guns on the premises, but individuals cannot have guns that are ready to use in their homes to protect their family. All of us know that our family members are more important to us than any material possession that we have. We need to give individuals in the District a right to defend themselves and we need to give these criminals that make this the murder capital of the world a doubt in their mind as to whether or not someone will be able to defend themselves.

Ms. NORTON. Mr. Speaker, I am pleased to yield 1¾ minutes to the gentlewoman from Indiana (Ms. CARSON).

Ms. CARSON of Indiana. Mr. Speaker, let me say how much I appreciate the Delegate from the District of Columbia for carrying on the good fight. It is ironic that this bill proposes to implement constitutional rights to the District of Columbia when in fact this body has not allowed the District of Columbia to have a voting Member of the United States Congress and voting Members of the United States Senate. This is a cruel hoax under the guise of a constitutional amendment.

I watched some of the hearing yesterday, and it was ironic. This bill was introduced a year ago. Since it was introduced, I thought it had gone to the mortuary and that rigor mortis had actually set in on it, and I was applauding it. But then I found out yesterday that it was just in a calling period where people could come by the pew, sign the book until you got over 200 signatures on the book, and then you get it out.

This bill also came out after this House celebrated the life of Ronald Reagan who was shot in this city, the District of Columbia. And I apologize to Mr. Brady who is still paralyzed from a bullet shot in this District. The President said he wants more minorities to join the party of Lincoln because he was the Great Emancipator. Lest we forget, Abraham Lincoln was assassinated, too, by a bullet. He was a Republican. Garfield was a Republican. He was assassinated.

We are so patronizing. We know what is best for the District of Columbia. The chief of police said they do not want the bill. The Mayor says he does not want the bill. The council does not want the bill. The newspapers had an editorial against the bill, and we are going to impose this anyway.

As we speak today, we are memorializing a police officer who came from the gentleman's district, Fort Wayne, Indianapolis, and was killed last week by a bullet. A month before that, we memorialized another police officer that was killed by a bullet, and I bet nobody on this bill ever visited one of the families of the grandmothers that were killed in this District.

This bill is one of the worst pieces of legislation that I have seen as a Member of this House, and I apologize to the grieving families for it.

□ 1330

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

One would think that the District of Columbia has a good record rather than eight times the national average, leading the Nation 14 of the past 15 years in the murder rate. As a former mayor said, "Other than the killings, their crime rate is not too bad." "Other than the killings" is a relevant thing here. We are trying to make sure honest citizens can protect themselves, not just the criminals.

Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Texas (Mr. CARTER), a member of the Criminal Justice, Drug Policy and Human Resources Subcommittee, and a former judge.

Mr. CARTER. Mr. Speaker, I rise in support of this bill. I want to tell some stories. For 20 years, I tried cases. I tried felony criminal cases, drive-by shootings and other things which are the kind of stuff we read in the newspapers in D.C. every day, and I can say that the weapons that were used were acquired illegally and illegitimately, and the bad guys always had the chance to get their hands on guns. But the good guys that have guns deter crime.

We passed a right-to-carry permit in Texas after a deranged person walked into a Luby's Cafeteria in Texas and just began randomly shooting the diners in a crowded Luby's Cafeteria. As a result of that right-to-carry permit, which enhanced our laws in Texas, the amount of violent crime has fallen off about 40 percent with the use of handguns. And what is interesting, if that same person were to walk into a Luby's Cafeteria today, he would not know whether or not there might be anywhere from two to 15 armed persons in that place who could return fire, and it would deter him from doing so. And that is a proven fact.

The weapon that was shown today as an assault weapon, a semi-automatic rifle. I hunt with a semi-automatic rifle, and with the right cartridge, it will shoot through anything. But that is a perfectly legal and legitimate weapon. An automatic weapon that fires fully automatic is probably, as we speak, in the hands of someone who likes to do drive-by shootings in this town because the criminals will get their hands on fully automatic weapons, which are assault weapons and have been against the law in this country since the 1930s.

So the reality is, if we have a ban on guns, we ban those guns from the people who need to protect themselves.

Ms. NORTON. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Virginia (Mr. TOM DAVIS), chairman of the Committee on Government Reform.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today in opposition to H.R. 3193, and I respect the gentleman from Indiana's perspective on this issue. I think there is room in the House for disagreement. But my opposition is based on the legislation's blatant and potentially dangerous assault on home rule in the District of Columbia.

There is an appropriate place for debate on D.C.'s gun laws, and that place is the chambers of the District of Columbia Council, not the floor of the House of Representatives.

This bill repeals protections from gun violence that have been sought by the citizens of the District. It would end the city's ban on semi-automatic assault weapons, its ban on armor-piercing or "cop killing" ammunition, its requirement for gun registration. Even if we want to debate the merits of the gun laws, no one should question the importance of keeping fully loaded assault weapons off the streets of the Nation's capital.

Ninety-seven percent of all guns used in crimes in the District originate outside the District. Children in the Nation's capital are already at risk. This year, 21 young people in the District, all of them under 18 years of age, have been killed, most of them by gunshot. Our priority should be in reducing this disturbing rise in juvenile slayings, and I do not think this legislation helps.

The crime rate, by the way, in the city is going down. The police chief was quoted just last week as saying a 13 percent drop in overall crime this year, 24 percent reduction in homicides this year.

Proponents of this bill want to frame this debate in terms of the constitutionality of the District's law, but that is a straw man. Earlier this year, a U.S. District Court rejected constitutional challenge to the District's statute. This is a home rule fight. We do not allow the city a vote on the House floor, and now, we are taking away the rights of the Council and the elected mayor of the city to make decisions that they have made and will omit Oak Park, Chicago, Evanston, Illinois. We are not touching those areas that have representation in this body. We are just dealing with the Nation's capital. For our system of federalism and democracy to work, States and localities need to be able to make their own decisions on these sorts of matters, even if some of us think they are bad decisions.

We are only here today because of Congress's plenary power over the District. This is a constitutional authority that is unfortunately occasionally abused as it is in this case.

I urge my colleagues to join me in voting "no."

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, with all due respect to the chairman of the Committee on Government Reform, this is a constitutional argument, and I rise today to express my support for the D.C. Personal Protection Act, which would restore the second amendment rights for the residents of Washington, D.C.

This legislation will allow law-abiding citizens the right to own rifles, shotguns and handguns and permit the storage of these firearms in their homes. The District of Columbia, again, has been labeled the murder capital of America, and that is 14 of the past 15 years. And that is despite its current ban on guns. It is time we lift this ineffective law and bring back the constitutional rights of individuals who reside in our Nation's capital.

Under the current law, even legal handgun owners cannot carry them into their own homes or use illegal firearms to protect their life or property. In 2002, while this gun ban had been in effect for 25 years, Washington's homicide rate was five times higher than the national average. It is obvious the ban is not working.

The D.C. Personal Protection Act would eliminate criminal penalties for legal possession of firearms and repeal the ban on the possession of ammunition. If enacted, this legislation will simply afford residents the same self-defense as the rest of the country.

It is easy for my friends on the other side of the aisle and the editorial board of the Washington Post who live in affluent or safe neighborhoods to take aim at the personal freedoms of law-abiding citizens here in Washington, D.C., and many of them living in the southwest live in neighborhoods that have become battlegrounds where criminals run the streets. So it is time to give them the right to defend their lives, their personal property. Congress must take action and give that second amendment right back to the law-abiding citizens of Washington, D.C.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

My law-abiding citizens in the southeast and everywhere else in the District of Columbia have not elected this Member but only the Member before him. So I would appreciate the courtesy of his not telling me what the law-abiding citizens of the southeast want or need. They will get rid of me if I am doing the wrong thing today. They cannot touch him, unfortunately, if he does the wrong thing.

Mr. Speaker, I yield 1½ minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY of New York. Mr. Speaker, when I listen to this debate and I hear everyone talking about giving the people of D.C. the right to protect themselves, we have seen crime deterred here in the D.C. area. We are seeing less gun violence here in the D.C. area. But, again, last night in the Committee on Rules, we tried to at least ban assault weapons in the D.C. area, large-capacity clips, killer bullets. Unfortunately, all those amendments were turned down.

We heard earlier from the other side of the aisle that we have all the security of the Capitol Hill Police. We do, and we are very lucky on that. And now, we are going to put them all at risk because they are going to be allowed to have the guns back in the D.C. area.

This is absolutely crazy. Assault weapons coming into the D.C. area when our men out there and our women out there are there to protect us.

And, by the way, I happen to think by reducing gun violence there has to be several approaches: Enforce the laws on the books; make it harder for criminals to be able to get the guns; and why in God's name are we cutting out the COPS Program? We have seen, going on across this Nation and here in D.C., that it works. And yet we are going to take that program away. The people of D.C. have the right for home rule. They do not want the guns. I think they know better than those Members here in Congress who are not living in the D.C. area.

So, with that, I hope that we can defeat H.R. 3193. And it is not fair. This is not democracy, and reducing gun violence can happen. Over 30,000 people a year die on that. It costs this Nation a billion dollars in health care. We can do a better job.

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the distinguished gentlewoman from the State of Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, the second amendment to the Constitution clearly prohibits the Federal Government from denying law-abiding citizens, let me underline that, law-abiding citizens the right to own and bear arms. Yet the residents in our Nation's capital are deprived of this right. Full-time and part-time residents like Members of Congress are actually denied the right to defend themselves. This is the very city that is the home to America's experiment in democracy. It deprives its citizens of one of our most basic and sacred rights.

D.C. is a prime example of the failure of radical gun-control policies. The city has one of the most restrictive gun-control policies in the country, and yet D.C. is infamous for its exorbitant amount of violent crime. The city has gun-control but not very much crime control.

Since 1976, the residents of our Nation's capital have been deprived of the right to bear arms, the right to protect their homes and the right not to be victimized. For 28 years, D.C. families have been held hostage. D.C. communities and homes are no longer safe. Unfortunately, they have become targets for theft and violent crimes. Regrettably, individuals on my D.C. staff who live here have suffered the effects of poor crime control. In addition to my staff, I have personally experienced situations where I have felt threatened in and around my D.C. residence. I believe that I should be able to defend myself against assault, theft and other violent crimes in D.C., the same as I am able to do in the State of Florida because I have a carry permit. And I also have had training. I believe that the answer is tougher laws against criminal activities.

H.R. 3193 ends the tyrannical reign of D.C.'s repressive gun-control laws and returns to law-abiding citizens the right to protect themselves.

I urge my colleagues to also support this bill.

Ms. NORTON. Mr. Speaker, I yield 1 minute to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, I rise in opposition to this legislation which will turn the District of Columbia into a security nightmare. Just over 2 weeks ago, this body ignored the appeals of law enforcement and ignored overwhelming public opinion and allowed the ban on assault weapons to expire.

Now, Members of this body are trying to repeal every one of the District of Columbia's firearms laws. Since the 9/11 disaster, the Federal Government has directed billions of taxpayer dollars to make our Nation's capital safer for residents, commuters, tourists, public officials and the law enforcement professionals dedicated to public safety.

Today, security is the single overwhelming challenge facing our Nation. As I speak, the Capitol Hill Police are manning checkpoints around the perimeter of the Capitol, searching private automobiles and inspecting public buses. Law enforcement officials have bravely risen to this challenge of the terrorist threat that exploded in our skies.

Mr. Speaker, this bill makes a mockery out of law enforcement's commitment to safeguard the Nation's Capitol and to protect the Members of this Congress. This body should be ashamed to engage in such hypocrisy.

Mr. SOUDER. Mr. Speaker, I yield 7 minutes to the distinguished gentleman from Arkansas (Mr. ROSS), the lead Democratic cosponsor of this bill. We have 44 Democratic cosponsors, and I very much appreciate his leadership and help on this issue.

Mr. CARSON of Oklahoma. Mr. Speaker, will the gentleman yield?

Mr. ROSS. I yield to the gentleman from Oklahoma.

Mr. CARSON of Oklahoma. Mr. Speaker, I rise in strong support of H.R. 3193, the District of Columbia Personal Protection Act. To put it as simply as other speakers have, this bill restores constitutional self-defense rights to law-abiding citizens of the District of Columbia.

Currently, the District of Columbia has the strictest gun-control laws in the Nation. Honest, law-abiding citizens may not possess a handgun unless it was registered before 1977.

□ 1345

Legally owned rifles and shotguns must be kept unloaded and disassembled. These restrictions make it useless for District residents who wish to defend themselves against criminal attacks. This dangerous gun control law only infringes on the rights of those who obey the law and does nothing to reduce violent crime.

These laws have made Washington, D.C. the homicide capital of America and to those in my party who disagree, and I know there are those who do, I merely suggest that they consider the following facts: Prior to the enactment of the gun ban, the number of homicides had been declining in Washington, D.C. but increased after the ban was imposed. By 1991, Washington, D.C.'s homicide rate had risen more than 200 percent. By comparison, the national homicide rate rose 12 percent in the same period.

These statistics clearly show that the District's gun control experiment has failed. It is time the Congress restore the second amendment rights to the citizens of the District and allows them to protect their homes and families.

I respectfully ask my colleagues to vote yes on the District of Columbia Personal Protection Act.

Mr. ROSS. Mr. Speaker, reclaiming my time, I rise today and join 43 of my Democratic colleagues to voice my support for H.R. 3193, a bill that would allow citizens of the District of Columbia to own rifles, shotguns and handguns.

The second amendment of the Constitution of the United States of America specifically grants all Americans the right to bear arms in order to protect themselves and their families. Under this bill, Washington, D.C. citizens would simply have the same self-defense rights as residents of the 50 States of America do.

In a New York Sun editorial printed on Thursday, September 23 of this year, a D.C. resident expressed his concerns on not being able to legally protect his home from intruders. He stated, "The fact is, if you have an intruder come to your home, there is nothing you can do to protect yourself except wait for the police." This Washington, D.C. resident went on to describe an incident where he stared and waited as a man was attempting to break into his home.

This is absolutely inexcusable. No one, no one, should be forced to sit and wait while witnessing an intrusion upon their home, upon their family, possibly putting themselves and their family in danger.

Mr. Speaker, I stay in Washington, D.C. 3 or 4 nights most weeks, and I truly believe the police do a fine job in this city. But if someone were to break into my apartment, I would have to wait for them to arrive before any action to be taken.

If I were to have a gun, if I were to have gone through all the red tape, which includes taking an exam and paying money for fees and a license to have a shotgun in my home, I would have to take the time to assemble or unlock and load my gun. By that time, it could be too late to defend myself. No intruder is going to stand around and wait for me to assemble or unlock and load my gun, and they certainly are not going to wait for the police to arrive before completing the job they came to do.

Mr. Speaker, this is not just a matter of personal protection, it is a matter of constitutional freedom. The second amendment is a right bestowed upon us by our Founding Fathers. It is a right I have exercised my entire life in my home State of Arkansas.

Current Washington, D.C. law requires all guns to be registered with the Metropolitan Police Department. All handguns are banned unless they were registered before the gun ban was enacted, but, even so, Washington, D.C. citizens are prohibited from carrying their handguns in their homes, even those legal handgun owners. Rifles and shotguns can be legally registered and owned, but they must be stored unloaded and disassembled or locked.

The District of Columbia has some of the most restrictive gun laws in the Nation, but at the same time, the District has one of the highest murder rates in the United States of America. Prior to the enactment of the gun ban, homicide had been declining in Washington, D.C. but increased after the ban was imposed back in 1976. In 2002, the D.C. homicide rate was almost double the rate when the handgun ban took effect, and was five times higher than the national average.

H.R. 3193 simply allows law-abiding citizens to possess a firearm without going through the registration requirements and they would not suffer criminal penalties for such possession. This bill permits storage of armed firearms in one's home or place of business and repeals the ban on the possession of ammunition, allowing citizens to protect their home and family in times of danger within Washington, D.C., as families can do in all 50 States across America.

H.R. 3193 would not affect any law directed at true criminal conduct. This bill leaves in place strict penalties for gun possession by criminals and for those who commit a violent crime with a gun.

Any criminal interested in obtaining a gun for harm against another can easily do so right now. This bill simply ensures that law-abiding citizens of the District of Columbia are able to protect themselves by legally owning a firearm, just as the citizens of the 50 States of America can do.

Mr. Speaker, this is a piece of commonsense legislation, and I urge my colleagues to join the 44 Democratic cosponsors of this legislation and vote in favor of the bill.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in all deference to the gentleman from Arkansas, handguns in homes in this town are not used by people. Those guns, according to the police chief, quickly make their way to the streets and do not stay at home. At home, however, they are overwhelmingly used for domestic violence.

Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. FATTAH), the ranking member of the Subcommittee on the District of Columbia of the Committee on Appropriations.

Mr. FATTAH. Mr. Speaker, I thank the gentlewoman for yielding me time.

Mr. Speaker, you would not know by today's discussions that the President, the other candidate for President, Senator KERRY, and all of the Nation's leaders have been telling us that we are at war, that we are in this war on terrorism, because there has been no discussion about that today, even though on the front page yesterday of one of the Washington newspapers it says that our number one enemy, al Qaeda, is meeting with and making arrangements with local criminal gangs here in D.C., for whatever purposes.

You would not know that we are at war. You would not know this was on the front page of the papers yesterday. You would not know that because of all of this discussion here today about allowing people to have arms.

I am just trying to imagine the Inaugural parade next year here in the District, as people have now had this ability to go arm themselves to the teeth, even people who might have purposes that are untoward in terms of our activities.

I am going to just say that this is a new type of cowboy, where they take the stage coach, they get themselves in a gun-restricted area, and let the women and children and the God-fearing people of this city stay off.

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the gentleman from Missouri (Mr. GRAVES).

Mr. GRAVES. Mr. Speaker, while we ultimately are debating two different gun control bans in the District of Columbia. I am going to confine my comments to the District's ban on the acquisition or possession of a handgun. The evidence is clear that this handgun ban has not reduced crime.

Since the ban, the city's violent crime rates, particularly its murder rates, have increased. When the ban went into effect, the city's murder rate was twice the national rate. Today it is more than seven times the national rate.

Chicago is the other major American city that has a handgun ban, and it has been on the books almost as long as the District's. The Chicago ban went into effect in 1982, and within a decade murders with handguns doubled.

California banned so-called "assault weapons" in 1989. For the next 5 years, California's murder rate increased every year, 26 percent overall.

Of course, I am sure we are all familiar with the study that was conducted of the Federal assault weapons law, under Congress's mandate. That study found no hard evidence that the ban had any effect on crime. Among the reasons for this, the guns that were banned were rarely used in crime before the ban.

Many of our colleagues may also remember that several years ago we passed legislation prohibiting the Centers for Disease Control and Prevention from using Federal funds to pay for so-called studies designed from the outset to reach conclusions that political activists could use to promote gun control for policy purposes.

It was clear that there was a significant bias at the CDC in favor of gun control. And that bias remains. But even the CDC, in a study conducted last year, found no evidence that gun bans reduce crime. For that matter, the study found no evidence that any form of gun control reduces crime.

Around the same time, the Library of Congress studied the relationship of gun control to crime in 27 foreign countries, and it concluded there was no relationship between gun restrictions and crime.

Even though Americans buy about 5 million new guns a year, the Nation's violent crime rate has dropped every year since 1991 and it is now at a 27-year low; that is, if you base the counts on crimes reported to the police and the FBI. If you base the counts on the National Crime Victimization surveys, however, the Nation's violent crime is at a 30-year low.

Based upon crimes reported to the police and FBI, the Nation's murder rates the last few years have been lower than any time since the mid-1960s.

So, the gun control supporters' motto, "More guns means more crime," is demonstrably false.

These statistics from around the country and around the world cannot be expected to alter the thinking of people who are ideologically opposed to private ownership of guns. However, ideology has been proven false by hard facts and should not dictate the policies under which the rest of us should live.

Ms. NORTON. Mr. Speaker, I include for the RECORD an article on al Qaeda seeking ties to local gangs that appeared in the Washington Times.

[From the Washington Times, Sept. 28, 2004]

AL QAEDA SEEKS TIE TO LOCAL GANGS

(By Jerry Seper)

A top al Qaeda lieutenant has met with leaders of a violent Salvadoran criminal gang with roots in Mexico and the United States—including a stronghold in the Washington area—in an effort by the terrorist network to seek help infiltrating the U.S.-Mexico border, law enforcement authorities said.

Adnan G. El Shukrijumah, a key al Qaeda cell leader for whom the U.S. government has offered a $5 million reward, was spotted in July in Honduras meeting with leaders of El Salvador's notorious Mara Salvatrucha gang, which immigration officials said has smuggled hundreds of Central and South Americans—mostly gang members—into the United States.

Although they are actively involved in alien, drug and weapons smuggling, Mara Salvatrucha members in America also have been tied to numerous killings, robberies, burglaries, carjackings, extortions, rapes and aggravated assaults—including at least seven killings in Virginia and a machete attack on a 16-year-old in Alexandria that severely mutilated his hands.

The Salvadoran gang, known to law enforcement authorities as MS-13 because many members identify themselves with tattoos of the number 13, is thought to have established a major smuggling center in Matamoros, Mexico, just south of Brownsville, Texas, from where it has arranged to bring illegal aliens from countries other than Mexico into the United States.

Authorities said al Qaeda terrorists hope to take advantage of a lack of detention space within the Department of Homeland Security that has forced immigration officials to release non-Mexican illegal aliens back into the United States, rather than return them to their home countries.

Less than 15 percent of those released appear for immigration hearings. Nearly 60,000 illegal aliens designated as other-than-Mexican, or OTMs, were detained last year along the U.S.-Mexico border.

El Shukrijumah, born in Saudi Arabia but thought to be a Yemen national, was spotted in Tegucigalpa, Honduras, in July, having crossed the border illegally from Nicaragua after a stay in Panama. U.S. authorities said al Qaeda operatives have been in Tegucigalpa planning attacks against British, Spanish and U.S. embassies.

Known to carry passports from Saudi Arabia, Trinidad, Guyana and Canada, El Shukrijumah had sought meetings with the Mara Salvatrucha gang leaders who control alien-smuggling routes through Mexico and into the United States.

El Shukrijumah, 29, who authorities said was in Canada last year looking for nuclear material for a so-called "dirty bomb" and reportedly has family members in Guyana, was named in a March 2003 material-witness arrest warrant by federal prosecutors in Northern Virginia, where U.S. Attorney Paul J. McNulty said he is sought in connection with potential terrorist threats against the United States.

A former southern Florida resident and pilot thought to have helped plan the September 11 attacks, El Shukrijumah was among seven suspected al Qaeda operatives identified in May by Attorney General John Ashcroft as being involved in plans to strike new targets in the United States.

Citing "credible intelligence from multiple sources," Mr. Ashcroft said at the time that El Shukrijumah posed "a clear and present danger to America." In August, an FBI alert described him as "armed and dangerous" and a major threat to homeland security.

Earlier this month, Mr. Ashcroft confirmed that U.S. border agents and inspectors had ramped up efforts to find El Shukrijumah amid reports that the al Qaeda leader was thought to be seeking entry routes into the United States along the U.S.-Mexico border.

Mr. Ashcroft noted that increased enforcement efforts were under way in the wake of a rise of arrests of border jumpers from Afghanistan, Indonesia, Iran, Iraq, Jordan, Pakistan, the Philippines, Saudi Arabia and Syria.

Authorities said Mara Salvatrucha gang members moved into the Los Angeles area in the 1980s and developed a reputation for being organized and extremely violent. The gang since has expanded into the Washington area, including Virginia and Maryland, and into Oregon, Alaska, Texas, Nevada, Utah, Oklahoma, Illinois, Michigan, New York, Georgia and Florida.

More than 3,000 Mara Salvatrucha gang members are thought to be in the Washington area, with a major operation in Northern Virginia. Other gang centers, authorities said, include Montgomery and Prince George's counties and the Hispanic neighborhoods of Washington.

Mr. McNulty, whose office has prosecuted Mara Salvatrucha gang members, has described the organization as the "gang of greatest interest" to law enforcement authorities. He said gang members are recruited predominantly from Hispanic communities and typically among juveniles, some as young as 13. Recruits are "jumped" into the gang by being beaten by members while others count to 13, he said.

Gang rules, he said, are indoctrinated into new recruits and ruthlessly enforced. Those who cooperate with law enforcement are given the "green light," he said, meaning that the gang had approved their killing.

In March, the Los Angeles City Attorney's Office filed an injunction against Mara Salvatrucha, charging that the gang's criminal activity constituted a "public nuisance" based on the number of killings, robberies and drug crimes. The injunction requires gang members, under public nuisance statutes, to follow curfew rules and regulations and prohibits them from associating, driving or appearing together in designated areas of the city.

Ms. NORTON. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS), a member of the full committee.

Mr. DAVIS of Illinois. Mr. Speaker, a few minutes ago my colleague from New York said that this was absolutely crazy, and I will simply say that it is about as crazy as it can get without being absolute.

Every bit of information that we have available to us lets us know that gun violence is unnecessarily killing people. In 2001, 29,000 people in this country died from gun violence. Fifty percent of all the African American youngsters between the ages of 15 and 19 who die, die from gun violence.

We talk about the Constitution. Please be reminded that when this Constitution was enacted, my ancestors were counted as three-fifths of a person and women did not have the right to vote. The Constitution was created at a time when there was need for what it created itself for. This is a different era, a different time.

If you want to help the people of D.C., give the gentlewoman from the District of Columbia (Ms. NORTON) a vote on the floor of this House. Give them two Senators who can vote in the other Chamber. That is how you help the people in D.C.

Mr. SOUDER. Mr. Speaker, I include for the RECORD a series of stories of individuals who were terrified but defended themselves and could have been prosecuted under the D.C. law.

I will also include for the RECORD, what would the District of Columbia's gun laws look like after this law passes?

WHAT WOULD THE DISTRICT OF COLUMBIA'S GUN LAWS LOOK LIKE AFTER H.R. 3193?

Even if H.R. 3193 were signed into law in its present form, it would leave in place an extensive set of laws governing possession, sale and use of guns. District laws would still be far more restrictive than the laws of most states:

It would still be illegal to carry firearms outside one's own property, either openly or concealed. Violations would still be punishable by a fine of up to $1000 or imprisonment for not moire than one year for a first offense, and up to $10,000 and 10 years' imprisonment, or both, for a second offense or for any violation by a convicted felon. All penalties are doubled for illegal carry in a "gun free zone" within 1000 feet of a school, day care center, college, or various youth recreation facilities such as swimming pools and video arcades.

Possession or use of a firearm while committing a crime of violence would remain punishable by up to 30 years in prison, with a minimum of 5 years served before parole or probation.

Handgun possession would remain illegal for drug addicts, convicted felons, and persons convicted of various public order offenses such as vagrancy.

It would still be illegal to possess machineguns, sawed-off shotguns or short-barreled rifles. The definition of "sawed-off shotgun" is more restrictive than federal law.

It would still be illegal to manufacture firearms or ammunition in the District.

Vehicles used to illegally transport firearms would still be subject to seizure and forfeiture.

All these provisions are in addition to federal laws that extensively regulate commerce in firearms, and which provide strict penalties for gun possession by convicted felons and other "prohibited persons" and for use of firearms in violent crimes.

H.R. 3193 focuses entirely on restoring fundamental self-defense rights to honest citizens, by repealing the handgun ban, gun registration laws, and laws on carry and storage in the home that prevent people from exercising those rights.

SELF-DEFENSE STORIES

In each of these stories, D.C. residents used a handgun that was banned under D.C. law. However, if they had not used their banned weapon to defend themselves against crime, it is quite possible that many of them would not be alive today.

D.C. law should not make it a criminal offense to possess a firearm for self defense in one's own home or business. H.R. 3193 would decriminalize the ownership of handguns and restore 2nd Amendment rights to the residents of D.C.

SOURCE: WASHINGTON POST, WASHINGTON, DC, SEPT. 18, 2004

(Letter to the Editor)

It was shortly after midnight when my wife and I were awakened by pounding at our front door. When I went to the window, I saw a large man trying to kick down our door. I warned him to stop, but he started swearing, insisting that I give him money. He then started kicking the door again.

I called 911 and was put on hold. I waited for about 30 seconds and then realized that the man at my front door probably would be inside before the 911 operator answered. Despite the D.C. gun laws, I have a gun for just such a situation.

I took the gun from my closet, went to the window and pointed it at the man. I warned him that I would shoot if he came through my door. He stopped kicking and ran away.

Every few months, people are shot and killed within a block or two of our home. It is absurd for Washington to outlaw guns; it guarantees that only outlaws will have guns.

Citizens should be allowed to protect themselves, and, as a homicide detective once told me when I confessed to keeping a gun, "I would rather be judged by 12 of my peers than carried out by six of my friends."

I thank God that Congress has some power over the District's laws.

TONY SNESKO, *Washington*.

SOURCE: WASHINGTON TIMES, WASHINGTON, DC, 12/14/94

Rebecca Griffin awoke to the screams of her daughter, who was being bound and gagged by two kidnappers in her Washington, D.C., home. She confronted the men, one of whom was carrying a knife, and brought the attack to a quick halt when she was bale to break free and retrieve a .32-cal. revolver from the basement, shooting the knife-weilder four times. The other suspect fled. Griffin and one daughter were slashed during the attack. Some news accounts made no mention that the handgun that saved the Griffins is illegal in the District. (American Rifleman: March 1995)

SOURCE: WASHINGTON TIMES, WASHINGTON, DC, 5/5/93

In Washington, where armed criminals run rampant but honest citizens are denied the right to own handguns for personal protection, one city resident stood up for himself when he shot a man who tried to rob him in his home. The homeowner had given the thug a bucket of water, but when the bucket was returned, the good samaritan found himself looking down the barrel of a pistol. Raising his hands as ordered, he grabbed a pistol he had secreted on a shelf and shot the would-be robber. Police confiscated his gun, but the district commander said, "If the circumstances are as they seem, I don't think justice will be served if they charge this guy." (American Rifleman: July 1993)

SOURCE: WASHINGTON POST, WASHINGTON, DC, 3/19/88

Stabbed several times in a robbery attempt at a Washington, D.C., market, employee Cha Ma grabbed a gun and shot his assailant, who fled. A wounded suspect was arrest a short distance away and charged with assault with intent to rob while armed. Police said no charges had been filed against Ma. (American Rifleman: August 1988)

Mr. SOUDER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, as an original cosponsor of the District of Columbia Personal Protection Act, I urge my colleagues to join me and the citizens of Washington, D.C. to free them from a failed 27-year experiment with gun control policy.

One thing that we all do know for sure is that criminals have guns, and criminals are the people that are being described by folks on the other side of the aisle in this case. Criminals have guns, but hardworking, honest, law-abiding citizens are not allowed to have guns in the District of Columbia to defend themselves.

The statistics clearly show that the District's firearm restrictions have done nothing to combat crime, while crippling the right of every Washington, D.C. citizen to protect their homes and their families.

□ 1400

I hail from a State that respects the fundamental, individual rights to own firearms granted to us by the second amendment of the Constitution; but in the District of Columbia, it is a world upside down. Law-abiding citizens are left defenseless to face criminals. They live behind locked doors, and they walk city streets with one eye on their children and their other eye on the lookout for armed criminals.

I, and many more, realize that gun bans do not work against criminals, but they do endanger law-abiding citizens. This is no more evident than in this city which, in the past 2 decades, has become known as the murder capital of the United States.

With that, I urge my colleagues to support H.R. 3193 and allow the people of Washington, D.C. the right they are guaranteed, and that is to defend themselves and their families.

Ms. NORTON. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. VAN HOLLEN).

Mr. VAN HOLLEN. Mr. Speaker, I am proud to join today with my colleague, the gentlewoman from the neighboring congressional district, the District of Columbia (Ms. NORTON), in opposing this bill.

The District of Columbia's gun laws have already been upheld by the Federal courts as constitutional, so the second amendment argument in this context is just a bogus one.

This bill represents the height of arrogance. Members of this body have got to stop treating the District of Columbia and the people of the District of Columbia as their personal playground where they impose their will on people who did not elect them. The people of the District of Columbia elected the gentlewoman from the District of Columbia (Ms. NORTON). They elected the Mayor. They elected the D.C. Council. They elected the people who put these laws into effect.

This legislation is nothing more than a contemptible effort to placate certain special interests at the expense of the people of the District of Columbia.

We talk about a world upside down. The House leadership have prohibited this body from taking a vote on extending the ban on military-style assault weapons: and at the same time today we rush through a bill put at the top of the schedule to impose our will against the wishes of the people of the District of Columbia.

Mr. Speaker, I will insert for the RECORD a letter from the representatives of the business community of Washington, D.C., the Washington Board of Trade, opposing this legislation at this time.

SEPTEMBER 20, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives.
Hon. TOM DELAY,
Majority Leader, House of Representatives.

DEAR SPEAKER HASTERT AND MAJORITY LEADER DELAY: As the unified voice of business in Washington, DC, we are deeply troubled by efforts within the House Republican caucus to repeal the gun safety laws that exist for the protection of the families, workers and tourists of the District of Columbia.

If passed by Congress into law, The District of Columbia Personal Protection Act (H.R. 3193) would eliminate the ban on handguns in the District of Columbia, eliminate the ban on semiautomatic weapons, eliminate criminal penalties for possession of unregistered firearms and even eliminate registration requirements for ammunition and other firearms. The rollback of these fundamental public safety laws would have a significant, negative effect on the District's business climate, and could undermine the foundations of our city's economy and quality of life.

The leaders of this city are working hard every day to sustain the progress of recent years by making this an even more attractive destination for tourism, redevelopment and relocation. We have had to overcome the lingering perception that D.C. neighborhoods are especially unsafe, and that our city is uniquely susceptible to terrorist attack in the aftermath of 9/11.

To those ends, we have been very successful. Last year, more than six million people visited Downtown Washington. Large, international retailers have returned to the District, making this a regional shopping destination once again. The District's restaurant scene has never been more vibrant, as nearly 30 restaurants have opened in the downtown area since 1999 alone, while the District's hotel market has nearly returned to its pre-9/11 performance. Finally, the performance of our city's office market is the best in the nation—at this time, we are the only major downtown market in the United States with a vacancy rate under ten percent.

However, much of our progress could be undone by passage of this bill into law. This would fuel the harmful perception that the District is a haven for weapons that have no place in our society, and that visitors, employers and new residents should come here at their own risk. Given the continued efforts of the business community to sustain our economic recovery, and the extraordinary steps of our state and local governments to safeguard against terrorist attack, the District of Columbia Personal Protection Act is the last thing our city needs right now. We intend to pursue vigorous efforts to see this bill defeated, and we hope that you will not allow this bill to reach the floor of the House of Representatives for a vote.

Thank you in advance for your consideration.

Sincerely,

Robert A. Peck, President, Greater Washington Board of Trade.

Robert A. Malson, President, District of Columbia Hospital Association.

John Childers, President and CEO, Consortium of Universities of the Washington Metropolitan Area.

Barbara R. Lang, President and CEO, DC Chamber of Commerce.

William A. Hanbury, President and CEO, Washington, DC Convention and Tourism Corporation.

Lynne Breaux, Executive Director, Restaurant Association Metropolitan Washington.

Reba Pittman Walker, President, Hotel Association of Washington, DC.

Mr. SOUDER. Mr. Speaker, I reserve the right to close.

Ms. NORTON. Mr. Speaker, I yield 45 seconds to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, imagine living in a world where you believe owning weapons is the only way to feel safe, so you decide semiautomatic weapons which are made easily available to you are the weapon of your choice. But then you decide to buy handguns so you can keep that gun concealed on your body when you go to the store, or on your pillow at night, because you believe that the enemy could be lurking anywhere. You figure while you are beefing up your home artillery, you should also pick up some cop-killer bullets because you never know when your enemy might have a bullet-proof vest on.

I do not know about you folks, but this is my idea of a nightmare: a world made less safe, not safer, by this legislation.

This bill not only ignores D.C. voters' choice to ban assault weapons, it also makes certain that the city council cannot enact any further gun-owning restrictions.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

In closing, I would just like to give the Members a sense of what this bill would do. If it passes, it would allow someone to carry a 50-caliber sniper rifle in one hand, armor-piercing ammunition, and incendiary combination ammunition in the other, and go into our Metro, so long as he, and let me read this to my colleagues, Mr. Speaker, as long as he was on his way to an informal target practice or a dog obedience training class.

Mr. Speaker, this is sheer lunacy. Save yourself from embarrassment. Save our children. Save our Nation. Save this Congress from looking like idiots and fools in the middle of an orange alert by bringing more guns into the Nation's capital. Vote "no" on H.R. 3193.

Mr. Speaker, I yield back the balance of my time.

Mr. SOUDER. Mr. Speaker, I yield myself such time as I may consume.

In closing, I would just like to say that the citizens of D.C. have a right to defend themselves, a constitutional right to defend themselves. This has been the murder capital of the United States for 14 of the last 15 years, currently is eight times the national average. American citizens have a right to defend themselves.

The only people who have a right to guns right now are criminals. They will still be punished. Anybody who violates the law will still be punished. Anybody who uses the type of weapons we have heard described away from their property are still going to be punished.

The question is, can law-abiding citizens defend themselves in their homes and in their businesses?

Mr. Speaker, I will insert for the RECORD at this time a list of the 229 cosponsors of this bill, including 44 Democratic sponsors.

Office	State	Staff contact	First contact	R or D	Govt. reform
Tim Johnson	IL	Erik Woehrmann	3-Sep	R	
Jim DeMint	SC	Kara Borie	3-Sep	R	
Joe Wilson	SC	Laurin Groover	3-Sep	R	
Jo Ann Davis	VA	Jonathan Kidwell	4-Sep	R	X
Ed Schrock	VA	Cheryl Clark	4-Sep	R	X
Dan Burton	IN	Mary Valentino	4-Sep	R	X
Pete Sessions	TX	Tucker Anderson	5-Sep	R	
Jeb Hensarling	TX	Derek Baker	5-Sep	R	
John Carter	TX	Ryan Henery	5-Sep	R	X
Kevin Brady	TX	Gene Irisari	5-Sep	R	
Sam Johnson	TX	Spencer Ritchie	9-Sep	R	
Michael Burgess	TX	Stacey DeFino	9-Sep	R	
Dennis Rehberg	MT	Jay Martin	9-Sep	R	
Lamar Smith	TX	Allison Beach	9-Sep	R	
Randy Neugebauer	TX	Peter Andres	9-Sep	R	
David Vitter	LA	Greg Facchiano	9-Sep	R	
Ron Paul	TX	Anamarie Pratt	10-Sep	R	
Terry Everett	AL	Jeff Rabren	10-Sep	R	
Chris Cannon	UT	Trevor Kolego	10-Sep	R	X
Butch Otter	ID	Brandon Heiner	10-Sep	R	
Adam Putnam	FL	Casey Welch	11-Sep	R	X
Todd Platts	PA	Nate Sloan	11-Sep	R	X
Joe Barton	TX	Joby Fortson	11-Sep	R	
Candice Miller	MI	David Hemenway	12-Sep	R	X
Virgil Goode	VA	Ward Anderson	12-Sep	R	
Phil Gingrey	GA	Jonathan Osborne	16-Sep	R	
Barbara Cubin	WY	Brandi Ladd	16-Sep	R	
Ron Lewis	KY	Josh Nacey	17-Sep	R	X
John Sullivan	OK	John Rainbolt	17-Sep	R	X
Spencer Bachus	AL	Johanna Cole	22-Sep	R	
Marsha Blackburn	TN	Mike Platt	23-Sep	R	X
John Duncan	TN	Patra Stephen	23-Sep	R	X
Bill Janklow	SD	Marshall Damgard	24-Sep	R	X
Bob Ney	OH	Greg Mesack	24-Sep	R	
Nathan Deal	GA	Todd Smith	24-Sep	R	X
Ernest Istook	OK	John Albaugh	24-Sep	R	
John Mica	FL	Gary Burns	24-Sep	R	X
Pat Toomey	PA	Brain Wild	25-Sep	R	
Bob Goodlatte	VA	Branden Ritchie	25-Sep	R	
John Doolittle	CA	Kara Dougherty	26-Sep	R	
Roscoe Bartlett	MD	Chris Tontz	26-Sep	R	
Mac Collins	GA	Shawn Friesen	26-Sep	R	
Mike Rogers	AL	Amy Albro	26-Sep	R	
Jeb Bradley	NH	Brien Miller	29-Sep	R	
Wally Herger	CA	Dan MacLean	29-Sep	R	
Thaddeus McCotter	MI	Patrick Rothwell	29-Sep	R	
Steve King	IA	Brenna Findley	29-Sep	R	
Cass Ballenger	NC	Tim Linker	29-Sep	R	
Roger Wicker	MS	Susan Sweat	29-Sep	R	
Duke Cunningham	CA	Katie Hanvey	29-Sep	R	
Marilyn Musgrave	CO	Jacob Leis	29-Sep	R	
Ginny Brown-Waite	FL	Bob Honold	30-Sep	R	
Robin Hayes	NC	Jon Causey	30-Sep	R	
Sam Graves	MO	Paul Sass	30-Sep	R	
Trent Franks	AZ	John Graves	30-Sep	R	
Tom Feeney	FL	Ryan Visco	30-Sep	R	
Jim Gibbons	NV	Dan Waters	30-Sep	R	
Chip Pickering	MS	Mike Hurst	30-Sep	R	
Chris Chocola	IN	Rich Dunn	30-Sep	R	
Steve Pearce	NM	Matt Meagher	30-Sep	R	
Gresham Barrett	SC	Greg Thomas	30-Sep	R	
Eric Cantor	VA	Bill Doblow	30-Sep	R	
Jeff Miller	FL	Steve Holton	30-Sep	R	
John Hostettler	IN	Erin Berry	1-Oct	R	
Duncan Hunter	CA	Lorissa Bounds	1-Oct	R	
Todd Akin	MO	Franz Kohler	1-Oct	R	
Jo Bonner	AL		1-Oct	R	
Henry Brown	SC	Joe Gleboki	2-Oct	R	
John Boozman	AR	Brian Bullard	2-Oct	R	
John Culberson	TX	Ellie Essalih	3-Oct	R	
Roy Blunt	MO	Amy Field	3-Oct	R	
Johnny Isakson	GA	Tucker Shumack	6-Oct	R	
John Kline	MN	Jim McGuire	6-Oct	R	
Mike Simpson	ID	John Revier	7-Oct	R	
Rick Renzi	AZ	Joanne Keene	7-Oct	R	
Don Young	AK	Justin Sprinzen	7-Oct	R	
Todd Tiahrt	KS	AmyClair Brusch	8-Oct	R	
Bill Shuster	PA	Alex Mistri	8-Oct	R	
Mike Pence	IN	Trip Radtke	8-Oct	R	
Jack Kingston	GA	Stephen Anderson	9-Oct	R	
Donald Manzullo	IL	Conor Brown	9-Oct	R	
Philip Crane	IL	Andrew Wankum	9-Oct	R	
Charlie Norwood	GA	Jason Paluskiewiz	10-Oct	R	
Jim Ryun	KA	Marcus Friesen	10-Oct	R	
Rob Bishop	UT	Miriam Harmer	14-Oct	R	
Richard Baker	LA	Scott Kirkpatrick	14-Oct	R	
Joseph Pitts	PA	Cindy Diggs	15-Oct	R	
Lee Terry	NE	Robert Stein	15-Oct	R	
Mike Rogers	MI	Mike Ward	15-Oct	R	
Zach Wamp	TN	Alex Richard	17-Oct	R	
Robert Aderholt	AL	Brian Johnston	20-Oct	R	
Jerry Weller	IL	Troy Babson	20-Oct	R	
Jim McCrery	LA	Bob Brooks	20-Oct	R	
Bob Beauprez	CO	Bruce Miller	21-Oct	R	
Randy Forbes	VA	Andy Halataei	21-Oct	R	
Henry Bonilla	TX	Patrick Anderson	21-Oct	R	
Thomas Petri	WI	Elizabeth Foy	21-Oct	R	
Melissa Hart	PA	William Rys	23-Oct	R	
Billy Tauzin	LA	James White	27-Oct	R	
Steve Buyer	IN	Myrna Dugan	28-Oct	R	
Deborah Pryce	OH	Peter Freeman	29-Oct	R	
Fred Upton	MI	Charles Yessiaian	29-Oct	R	
Thomas Reynolds	NY	Tina Mufford	30-Oct	R	
William Jenkins	TN	Megan Caldwell	30-Oct	R	
Steve Chabot	OH	Kevin Fitzpatrick	31-Oct	R	
Wiliam Thornberry	TX	Trey Bahm	3-Nov	R	
Cliff Stearns	FL	Alan Hill	3-Nov	R	
Scott Garrett	NJ	Jay Fahrer	5-Nov	R	
Ken Calvert	CA	Deena Contreras	7-Nov	R	
Phil English	PA	Christine Rogala	12-Nov	R	

Office	State	Staff contact	First contact	R or D	Govt. reform
Devin Nunes	CA	Kedrin Simms	18-Nov	R	
Max Burns	GA	Zach Procter	19-Nov	R	
Tom Tancredo	CO	Mac Zimmerman	21-Nov	R	
Jim Nussle	IA	Luke	24-Nov	R	
Tom Cole	OK	Chris Arnold	1-Dec	R	
Rick Keller	FL	Mike Shutley	9-Jan	R	
Scott McInnis	CO	Jack Allen	22-Jan	R	
Walter Jones	NC	Anne Cassity	26-Jan	R	
Sue Myrick	NC	Matt Priest	28-Jan	R	
John Peterson	PA	Angela Ambrose	29-Jan	R	
Dana Rohrabacher	CA	Meredith Curcio	29-Jan	R	
Mario Diaz-Balart	FL	Charles Cooper	29-Jan	R	
Paul Ryan	WI	Ryan	4-Feb	R	
Joel Hefley	CO	Larry Hoja	9-Feb	R	
Nick Smith	MI	Alan Knapp	26-Feb	R	
Frank Lucas	OK	Marna Harris	26-Feb	R	
Darrell Issa	CA	Josh Brown	9-Mar	R	
Gary G. Miller	CA	Sandra	11-Mar	R	
Jeff Flake	AZ	Margaret Klessig	12-Mar	R	
Tom Latham	IA	Kevin Berents	22-Mar	R	
Kenny Hulshof	MO	Shaun Duignan	25-Mar	R	
Nicholas Lampson	TX	Aaron Schmidt	31-Mar	R	
Gary Miller	CA	John Rothrock	1-Apr	R	
Curt Weldon	PA	Mary	5-Apr	R	
George Radanovich	CA	Emma	23-Apr	R	
Sherwood Boehlert	NY	Sam	23-Apr	R	
Charles Taylor	NC	Adam Shepard	26-Apr	R	
Dave Weldon	FL	Eric	26-Apr	R	
Jo Ann Emerson	MO	Tony Eberhard	28-Apr	R	
Greg Walden	OR	Dallas	28-Apr	R	
Shelley M. Capito	WV	Adam	4-May	R	
Richard Pombo	CA	Josh Rolph	5-May	R	
Harold Rogers	KY	Ben	12-May	R	
Katherine Harris	FL	Stuart Mallory	17-May	R	X
Dave Camp	MI	Chris Wenk	17-May	R	
Jim Gerlach	PA	William Tighe	19-May	R	
Gil Gutknecht	MN	Ryan McLaughlin	19-May	R	
Mark Kennedy	MN	Tim Morrison	1-Jun	R	
Steven LaTourette	OH	Ryan	2-Jun	R	X
Anne Northup	KY	Brooken Smith	4-Jun	R	
Richard Burr	NC	Ricky Welborn	4-Jun	R	
John Shimkus	IL	Bill	9-Jun	R	
Howard McKeon	CA	Brandi	9-Jun	R	
George Nethercutt	WA	Rob	9-Jun	R	
Don Sherwood	PA	John Ormasa	9-Jun	R	
Doc Hastings	WA	Jenny Gorski	9-Jun	R	
John McHugh	NY	Melanie Turpin	9-Jun	R	X
Jerry Moran	KS	Jenny Guttery	14-Jun	R	
Ed Whitfield	KY	Benjamin Beaton	15-Jun	R	
Charles Bass	NH	Jennifer Warren	16-Jun	R	
Tom DeLay	TX	Elliot Burke	16-Jun	R	
John Linder	GA	Mike Swansburg	16-Jun	R	
John Boehner	OH	Gary	17-Jun	R	
John Sweeney	NY	Jim Christopolous	17-Jun	R	
Kay Granger	TX	Darin	17-Jun	R	
Patrick Tiberi	OH	Adam (LD)	17-Jun	R	X
Ed Royce	CA	Darin Schrader	17-Jun	R	
Ander Crenshaw	FL	Francis	17-Jun	R	
Paul Gillmor	OH	Andrew Beck	18-Jun	R	
Joseph Knollenberg	MI	Kelly Haskin	20-Jun	R	
Michael Bilirakis	FL	Jerry White	20-Jun	R	
Jerry Lewis	CA	Arlene	20-Jun	R	
Lincoln Diaz-Balart	FL	Ceaser Gonzo	22-Jun	R	
John Shadegg	AZ	Stephen Prather	22-Jun	R	
Elton Gallegly	CA-	Michelle M.	22-Jun	R	
Ileana Ros-Lehtinen	FL		6-Jul	R	X
Howard Coble	NC	Anna Sagley	15-Jul	R	
Jim Kolbe	AZ			R	
Judy Biggert	IL			R	
Micheal Turner	OH		8-Jul	R	X
Michael Oxley	OH		21-Jul	R	
Peter Hoekstra	MI		21-Jul	R	
Rob Portman	OH			R	
Ralph Regula	OH			R	

Mrs. CHRISTENSEN. Mr. Speaker, two weeks ago this House blocked consideration of legislation sponsored by my colleague from New York, Mrs. MCCARTHY, to extend the ban on the manufacture, transfer, or possession of semiautomatic assault weapons. The assault weapons ban is supported by the International Brotherhood of Police Officers, National Association of Police Organizations, American Nurses Association, American Psychiatric Association, American Public Health Association, American Academy of Pediatrics, Urban League, National Education Association, United Federation of Teachers, Children's Defense Fund, NAACP, Anti-Defamation League, and the National Coalition Against Domestic Violence.

The House instead today, voted to enact legislation which was introduced by a member from Indiana to get rid of the ban on firearms in the District of Columbia, against the wishes of elected Mayor, City Council, and U.S. Delegate to Congress. Federal courts have upheld the constitutionality of the DC ban.

These actions by this distinguished body distress me greatly because it was just a day ago that a 4-year-old boy was shot to death and a 7-year-old boy was injured in a shooting Monday night at the Kirwan Terrace housing community on St. Thomas in my District.

This heinous act has outraged my community which is seeking any and all assistance to prevent this kind of despicable crime, which apparently was perpetrated through the use of a high-powered firearm, from ever occurring again.

Mr. Speaker, gun violence is reaching epidemic proportions in all of our communities and this body should be doing all we can to reduce the number of guns that are available, not increasing them. I urge all my colleagues to support the Meehan discharge petition, H. Res. 769, to allow a vote on Representative CAROLYN MCCARTHY'S Assault Weapons Ban and Law Enforcement Protection Act, H.R. 2038.

We have a responsibility as leaders of our communities to do all that we can to keep our citizens safe from the ravages of crime—particularly gun violence, such as what tragically befell four year old Leon Bowery. May he rest in peace.

Mrs. MALONEY. Mr. Speaker, I rise today in strong opposition to this legislation.

Nearly thirty years ago, handguns were banned in Washington, D.C. by the will of the people. Yet here we are, once again, dictating to the citizens of the District of Columbia the laws that govern them when their own elected delegate will not even have the opportunity to vote on passage of this bill. Like any metropolitan area, Washington, D.C. has crime, much of which is because of guns. Therefore, I do not understand why the Majority thinks the solution to that problem is allowing more guns on the streets of this city. We should be reducing crime by preventing gun violence and by ensuring that there are enough policemen who have the necessary resources to do their jobs. At a time when citizens from across the nation have returned to D.C., despite their security concerns, to enjoy its attractions, we should not be passing legislation that sends the message that the city is unsafe.

I urge my colleagues to vote "no" on this legislation.

Mr. DINGELL. Mr. Speaker, I rise in strong support of H.R. 3193, the District of Columbia Personal Protection Act. This is a good bill. It is a sensible bill. This bill allows the citizens of the District of Columbia the right to protect their home and their families.

For almost three decades now, the District of Columbia has had some of the most extensive gun control laws in the nation. Despite this, the District is not only known as our nation's capital, but also the murder capital of the world. This is shameful.

Mr. Speaker, I stand before the full House to reiterate my strong support for the Second Amendment of the Constitution. I believe that all Americans have the right to own firearms. The citizens of Washington, D.C. should have the same rights as most other Americans.

Mr. Speaker, I urge my colleagues to vote for this sensible legislation and allow District of Columbia residents the means to protect themselves.

Ms. MCCARTHY of Missouri. I rise today in opposition to H.R. 3193, the District of Columbia Personal Protection Act, a bill that interferes with the District's gun registration law and puts semiautomatic weapons back in the hands of terrorists and criminals. Just two weeks ago the majority of this chamber allowed the national assault weapons ban to expire. Now the District of Columbia's gun regulations are in danger of repeal. As D.C. Mayor Anthony Williams noted in today's Washington Post, "The District knows what firearms regulations work best for its residents." As such, in 1975 District residents enacted the Firearms Control Regulations Act to protect residents of and visitors to our nation's capital. As a result the District is on pace to post its lowest homicide rate in 20 years.

The passage of this legislation would mean that as parts of this city remain under a code orange terrorism alert, it would become legal for an AK–47 or AR–15 to be carried down the street in the name of personal safety, making it more difficult for our federal and local law enforcement officers to do their jobs.

The current D.C. law works. The District's gun law does not prevent citizens in good standing from owning guns for legitimate needs. Since 1976, more than 100,000 firearms have been registered with District Police—most of these as rifles and shotguns for hunting purposes. I urge my colleagues to join me in opposing this unnecessary legislation that not only does nothing to keep the streets of our nation's capital safer, but also would make it easier for terrorists to strike at the seat of our government.

Mr. STARK. Mr. Speaker, I rise in outraged opposition to H.R. 3193, the so-called District of Columbia Personal Protection Act. This bill strips away gun safety laws passed by the City Council here in our Nation's capital. It allows people in DC to buy assault weapons and use "cop-killer" bullets. It overturns laws that ban criminals from owning guns.

Mr. Speaker, the internal contradictions and extremism of this bill say a lot about the Republican majority's desperation to please the National Rifle Association shortly before the election. In order to chock up a vote for the NRA scorecard, Republicans play lip service to States' rights and local control while nullifying laws passed by the elected leaders of DC.

Do the people of Washington, DC want their gun laws repealed? Not on you life.

Residents of DC will be less safe, but who cares say the Republicans. They've got to reward the NRA for millions in campaign contributions dumped into their reelection coffers. They have no shame.

Consider the parents of the 16 DC children killed by guns this year. They have to relive their nightmare every day and now the tragedy of more children murdered by guns and more parents mourning as assault weapons again rule the streets. Their wishes are being dishonored and stripped away today. Their calls for safe streets ignored. Their hope for safer neighborhoods—gone. All capriciously taken away by Republicans and the NRA.

I bet these parents, like any other parent in any community across this Nation, wish they had the same grip over their local gun laws as the National Rifle Association.

The 230 cosponsors of this legislation work in a building where guns are banned. Every visitor has to pass through a metal detector. Millions have been spent on Homeland Security upgrades in and around the Capitol. Yet, they foolishly think the Global War on Terror stops at the banks of the Potomac. Or maybe they figure they're safe behind the barricades and armed police so why worry about gun laws that protect other people who life in this city?

If you're worried about your safety in some of the most dangerous neighborhoods just blocks from the Capitol, here's the Republicans' message to you: buy an AK–47 and pray that you're a better shot than the other guy. Never mind studies published in the New England Journal of Medicine that conclude that guns kept in the home for self-protection triple the risk of homicide, and are 43 times more likely to kill a family member or friend than an intruder.

Any member of this body who feels safer because of the extensive gun control here in the Capitol Building has an obligation to vote against this bill so that the people of DC have the same right to control their personal safety. If you vote for a firearms free-for-all in Washington, DC, then you should have the decency to introduce legislation allowing assault weapons right here, in your own workplace, in this Capitol. Even Republicans know that would be wrong, but if that's really where you stand, then I stand with the citizens of DC who know what's best. Do what they'd do. Vote down this bill.

Mr. BARRETT of South Carolina. Mr. Speaker, as a father of three teenage children, I understand the importance of keeping our streets free of violence. And as a gun owner and sportsman, I also understand the importance of the rights afforded to Americans by the second amendment. The District of Columbia Personal Protection Act protects our citizens while also protecting the constitutional rights of the citizens of the District of Columbia to own rifles, shotguns, and handguns.

H.R. 3193 would not affect any law directed at true criminal conduct. As a matter of fact it would leave in place strict penalties for gun possession by criminals and for violent crime committed with guns. I firmly believe banning a firearm is not the answer to preventing crime. Interestingly enough, the District of Columbia has some of the most restrictive gun laws in our Nation. Yet, at the same time, recent FBI figures show that the District has regained its former title as the murder capital of the United States.

As a matter of fact, according to U.S. Justice Department figures, Washington, DC, has been the "murder capital of the country" for 14 of the last 15 years. And currently, the DC homicide rate is nearly five times greater than the national average. This escalating murder rate began only after the DC Council deprived law-abiding citizens of the right to defend themselves and their families by effectively banning handguns and other firearms in 1976. I believe it is only by strictly enforcing laws to prosecute those who misuse a gun in the commission of a crime that we can ensure our families remain safe from those who would prey on the innocent, and that the rights of law-abiding Americans are protected.

I urge my colleagues to support H.R. 3193 and allow law abiding people to use guns to protect their homes and families, essentially stating that DC citizens would enjoy the same self-defense rights as residents of the 50 States.

Mr. OTTER. Mr. Speaker, I always try to apply a personal "Three C" test to questions of public policy. First I ask myself whether it's constitutional. Then I consider whether it's something my constituents want. Finally, I examine my own conscience.

The District of Columbia Personal Protection Act passes that test with flying colors. What's more, the existing policy of denying basic second amendment rights to the people of the District of Columbia not only fails the "Three C" test, it also is offensive to the very principles on which our nation was founded.

The second amendment clearly states that "the right of the people to keep and bear Arms, shall not be infringed." It does not say the right to keep and bear arms applies only to people who live within the jurisdiction of a State. It does not say the right to keep and bear arms is subject to the wrong-headed whims of social engineers. And it does not say the right to keep and bear arms may be infringed in misguided response to violent crime.

The second amendment was designed to empower the people—the source of American sovereignty—to protect themselves, their families, and their homes. Instead, unreasonable restrictions and outright prohibitions on firearms in the District of Columbia have emboldened criminals to prey on innocent and unarmed citizens. The result is that America's Capital City has been consistently and needlessly turned into America's Murder Capital.

The record is clear: Twenty-eight years of keeping firearms out of the hands of law-abiding citizens in the District of Columbia has contributed to the most pervasive culture of violent crime in America. The American people are most secure and most confident in their personal safety when their constitutional rights are protected.

Mr. Speaker, just as it's my right as a citizen to protect my home and family, it is my responsibility as a Member of Congress to protect our citizens' constitutional rights. Let's focus our law enforcement efforts on preventing and punishing real violent crimes rather than denying second amendment rights to honest Americans—whether they're from Idaho or the District of Columbia.

Mr. LANGEVIN. Mr. Speaker, today I rise in strong opposition to H.R. 3193, legislation that would repeal Washington, DC's, self-enacted gun ban. For nearly 30 years, this ban has protected the citizens of Washington and the city's 20 million annual tourists. Over the last year, D.C. homicides are down 24 percent, and there have been 55 percent fewer murders since 1994. While the ban has not been perfect, there is no excuse for Congress making it easier for murderers and terrorists to get their hands on legal assault weapons. More guns will lead to more murders.

If enacted, H.R. 3193 would repeal the District's ban on handguns and semiautomatic firearms, including assault weapons, and end criminal penalties for failure to register a gun. This ban was enacted by an elected mayor and city council in 1976 and has never been eroded by legislation or court challenge. The House is now attempting to change the will of elected D.C. officials, but Washington does not even have a voting representative to voice the will of the people most affected by this legislation.

The dangers inherent in this bill are complicated by the recent expiration of the assault weapons ban. Should this bill become law, someone could purchase an Uzi or AK–47 and legally keep it at his or her home within sight of the White House, Capitol Building, or Supreme Court. During this time of unprecedented security, weakening gun laws will only make the job of law enforcement officers more difficult and more dangerous.

Unfortunately, the rule prevents all amendments, including those to ban assault weapons and cop-killer bullets. Without these lifesaving provisions, it is only a matter of time until a member of he Metropolitan Police Department, U.S. Capitol Police, Secret Service, or other law enforcement officer is outgunned with a legal assault weapon.

Washington, DC, has the right to determine its own laws, and those laws deserve our respect. As D.C. Police Chief Charles Ramsey recently stated, "We don't need a law that puts more assault weapons in circulation in D.C." I urge my colleagues to join me in opposing H.R. 3193.

Mr. UDALL of Colorado. Mr. Speaker, I cannot support this bill, which would repeal a number of local laws adopted by the District of Columbia City Council and would prohibit the passage of similar local laws in the future.

The laws in question deal with regulation of firearms. But that is not the reason for my opposition.

Instead, I oppose the bill because I think its enactment would be an abuse of our authority as Members of Congress. Its effect would be to reduce the right of self-government for one group of Americans—those who reside in Washington, DC.

I know the Constitution gives Congress the power "to exercise exclusive legislation in all cases whatsoever" over the District of Columbia—even though the residents of the district are not fully represented in either the House of Representatives or the U.S. Senate.

But Congress, through the Home Rule Act, has authorized the district's residents to elect a city council and mayor who will be immediately responsible for governing the city.

I am convinced this was the right thing to do. I support home rule for Washington, DC, because I think Americans who live in the district deserve to be able to govern themselves as much as possible consistent with the necessary functioning of the Federal Government. And this bill flies in the face of that principle.

It's true that the bill includes a "finding" that its enactment "is required to correct the District of Columbia's law in order to restore the rights of its citizens under the second amendment to the United States Constitution and thereby enhance public safety." But I don't think that settles the matter.

I take seriously my oath to uphold the Constitution. But I am not convinced that fidelity to that oath requires a vote to repeal these local laws—especially since as far as I know there has been no successful challenge to their constitutionality in all the years they have been on the books.

And I certainly don't think fidelity to my oath requires me to support a reduction in the authority of the D.C. City Council to pass similar laws in the future, as this bill would do.

Further, while there is plenty of room to debate whether repealing these particular laws would or would not enhance public safety—just as there is room to debate whether the laws themselves are desirable or effective—I think that debate should not take place here in Congress. The laws this bill would repeal were duly adopted by the elected government of the district and they have not interfered with the orderly functioning of the Federal Government. So, in my opinion, decisions about retaining, amending, or repealing these local laws should be made by the city council—a body that is elected by and accountable to the people who are subject to them.

Instead, by passing this bill Congress would substitute its judgment for that of the local elected government—in effect denying their constituents the right to govern themselves on this subject.

We cannot—and we should not—do that to the residents of Colorado or any other State. I do not think we should do it to the people who live here in Washington, DC. We may not think these local laws are well-designed. But I think we should allow those covered by the laws to decide that for themselves.

Mr. PAUL. Mr. Speaker, I rise in support of House Resolution 3193, the District of Columbia Personal Protection Act. I am a cosponsor of this legislation that ensures greater respect for the right to bear arms in Washington, DC.

H.R. 3193 repeals several of the more draconian citywide Washington, DC, gun restrictions enacted in 1976. Restrictions H.R. 3193 will repeal include the requirement that all firearms be registered. Gun registration in other countries has created government lists of who owns what guns. Such lists facilitate the harassment of gun owners and the confiscation of their guns. Also repealed are blanket bans on the possession of handguns and handgun ammunition as well as any semi-automatic guns. These bans exist despite the fact that handguns and semi-automatic guns are regularly used outside Washington, DC, for self-defense. Also repealed is the prohibition on carrying a gun on one's own property. It is hard to say a person is free if he is prohibited from using the means of protecting himself and his family even in his own home.

It is unfortunate that people in the federal capital city have for nearly 30 years faced some of the most restrictive gun control laws in the country. This fact is particularly unfortunate given Washington, DC's recent history as the murder capital of the United States. Ironically, the place where people most need to bear arms to defend themselves from violent crimes has been one of the places where the exercise of that right has been most restricted.

A strong case can be made that the high rate of violent crimes, including murders, in Washington, DC, is due in part to restrictions on the exercise of the right to bear arms. When potential victims are likely armed, criminals think twice about committing violent crimes; a gun in the hands of a law-abiding citizen is an excellent deterrent to crime. Across the Potomac River from Washington, DC, Virginia does not have this horrific crime and murder rate. Yet, people in Virginia can buy, own, and even carry guns in public.

I am hopeful that the House's consideration of H.R. 3193 indicates a new openness to legislation that will roll back other unconstitutional and dangerous restrictions on Americans' right to bear arms. For years, federal lawmakers have been passing gun control laws, even though they have no authority to do so. Crime control, the stated reason for passing gun control laws in the first place, is a function belonging to the states.

Enacting H.R. 3193 would be a good first step in adopting legislation to restore the Federal Government's respect for the right to bear arms throughout the United States. The Federal Government has trampled on gun rights nationwide—not just in Washington, DC. I have introduced several pieces of legislation this Congress that would help restore respect for the right to bear arms, including the Second Amendment Protection Act, H.R. 153, that would repeal the now-sunset semi-auto ban, repeal the 5-day waiting period and "instant" background check imposed on gun purchases, and delete the "sporting purposes" test that allows the Treasury Secretary to classify a firearm as a destructive device simply because the Secretary deems the gun to be "non-sporting." Additionally, Congress should consider my Right to Keep and Bear Arms Act, H.R. 3125, that prohibits U.S. taxpayers' dollars from being used to support or promote any United Nations actions that could infringe on the second amendment.

In 1976, I spoke on the floor of the House against the adoption of restrictions on the right to bear arms in Washington, DC, that H.R. 3193 seeks to repeal. Unfortunately, my argument then was ruled out of order, and the restrictions went into effect. While it has been too long in coming, I am glad that the House is finally considering this important issue. The District of Columbia Personal Protection Act would restore some much needed respect for the fundamental rights of people in Washington, DC.

Mr. BLUMENAUER. Mr. Speaker, I stand today in firm opposition to this legislation, which aims to repeal Washington, DC's local gun ban. I find it troubling and illogical that the House is repealing a ban on handguns and assault weapons in a city where the Federal Government has invested millions of dollars to increase and improve security. It is foolhardy for Congress to counter these actions by allowing loaded assault weapons to be carried around this city, putting officers as well as citizens and visitors in danger.

Washington, DC has made great strides to reduce its crime rate—homicide has decreased by 25 percent over the past year and it has decreased by 55 percent since the passage of the Brady Bill and the Assault Weapons Ban in 1994. Despite these improvements, violence remains a serious problem in the District of Columbia. Sixteen children have been killed by gunfire in DC so far this year. These numbers are not going to improve if we allow loaded assault weapons to be carried within the city.

Not only is this legislation ill conceived and dangerous, it is a local matter that should not be within Congress's jurisdiction. The District of Columbia City Council and Mayor passed this ban during its first session in 1976. No laws have been passed locally to repeal the law and the courts have maintained its constitutionality. Now, this body, which does not even grant over half a million United States citizens living in the District of Columbia voting representation in Congress, is trying to further strip rights to these citizens by taking away a self-imposed law to protect their safety.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am here today to join many of my colleagues to argue that guns are disproportionately killing our children in our cities and this law has no basis to be here in front of us today. We must act instantly to strike down both H.R. 3193 and S. 1414. DC has its own rules regulating purchasing and owning a gun, and we do not need to create legislation to usurp their power and go against their interest.

H.R. 3193 wants to repeal DC's handgun, semi-automatic, and ammunition bans, as well as the registration requirement. The bills will allow gun possession at home, work and on any property a person owns.

We are drowned in rhetoric saying that a Member of Congress who does not think handguns should be floating freely on our streets is someone who is anti-gun and wants to take your hunting rifles away. That is not this bill before us. You can keep your hunting rifles, you can keep your loaded guns in your business, but you do need some semblance of order on the street, where a small, innocent mistake encounter can turn into a massive bloodbath once guns are used instead of words.

Right now, DC's local laws do not prevent law abiding citizens from owning a firearm. Since 1976, District residents have registered over 100,000 firearms (mostly rifles and shotguns) with the Metropolitan Police Department (MPD).

Study after study is showing that guns protect very few at home and result in thousands of Americans killed in family and acquaintance quarrels, domestic violence and suicides. Guns obtained legally end up as weapons in domestic or neighborhood quarrels. Is this what we want in our neighborhoods? What is wrong with the mentality that it takes guns to solve problems and make people feel safe?

There is also the possibility of break-ins and thefts of guns. DC is on pace for a 20-year low in its homicide rate due in large part to DC police department's efforts at getting guns off the streets. It appalls me that Congress will sit here and enact measures to bring more guns back to the neighborhoods.

The homicide rate in DC is approaching a 20-year low, but the rate among juveniles is escalating. As chair of the Congressional Children's Caucus, and as a mother, I can tell you that providing troubled teens easier access to weapons is not the answer to lowering the rate of violent death among juveniles.

As a member of the House Select Committee on Homeland Security, we need to be doing everything we can to keep the men and women who protect the Nation's capitol out of harm's way. The Nation's capital is under an orange alert.

Placing more unregulated guns in the streets of DC undermines homeland security measures. Why must we compromise our own homeland security efforts by bring more handguns to the streets? Where are our priorities?

I have been collaborating with my colleague and good friend from the District of Columbia, Congresswoman ELEANOR HOLMES NORTON. She can echo that DC's current firearm laws are working. 97 percent of all guns used in crimes in DC originate outside of DC and 59 percent of traceable guns were first purchased in Maryland and Virginia. In addition, 8 percent of traceable guns were bought in North Carolina, Florida, Georgia and South Carolina.

In addition, H.R. 3193 violates state's rights. Its enactment would overturn the will of both DC elected officials and local residents. DC, like the 50 states, knows best what firearm regulations work for its residents. Firearm laws that work in Montana would not be perfect fit for a densely populated urban setting like DC. Both bills contain an especially odious provision forbidding the Council to enact any gun safety laws in the future.

It is a sad day for me to know that both H.R. 3193 and S. 1414 are driven by the NRA lobby and not by DC residents or Members of Congress who respect home rule. Neither H.R. 3193 nor S. 1414 is supported by local leaders, business groups or DC residents. These are the people who are most affected by its passage! Every major elected local official in DC along with business and labor groups, all the city's major community groups and civil groups have come out against any effort to overturn, modify or change the DC's gun safety laws.

As legislators, we must take our role in as decision makers very seriously. This includes knowing when we have overstepped our bounds. Please, listen to the people of DC to hear if they want guns on their streets.

Mr. DAVIS of Tennessee. Mr. Speaker, without a doubt, the provisions of the District of Columbia's gun laws that have the most adverse effect upon the largest number of law-abiding District residents, are the ban on using firearms to defend yourself at home, the handgun ban, and other measures that prevent or discourage the purchase of rifles and shotguns.

Much has already been said about those provisions of the District's gun laws, so I would like to address a provision that hasn't received the same amount of attention.

I refer to the section of the District's laws that define various types of firearms, particularly the definition of "machine gun."

As is fairly common knowledge, machine guns were invented in the late 1800s, and they are fundamentally the same today as they were then. They fire repeatedly as long as you hold the trigger down. They are the only firearms that operate in that way. And they all operate in that way.

Federal law defines a machine gun appropriately, as a gun that shoots—and I quote—"automatically more than one shot, without manual reloading, by a single function of the trigger." I know of no one who disagrees with that definition.

The problem is, the District also defines some semi-automatic firearms as machine guns.

Semi-automatic firearms were also invented in the late 1800s, but that is about where the similarity between them and machine gun ends.

Like a lever-action, bolt-action, or pump-action firearm, or a revolver, a semi-automatic firearm fires only once when you pull the trigger.

I realize that not everyone is clear on that point. "Gun control" supporters have gone to considerable lengths to suggest that a semi-automatic fires like a machine gun. For example, in the context of the "assault weapon" issue, "gun control" supporters often claim that semi-automatics "spray fire."

That does not change the facts, however. Thus, federal law correctly defines a semi-automatic firearm as one that, among other things—and I quote—"requires a separate pull of the trigger to fire each cartridge."

And so that no one misunderstands, let me be clear that conforming the District's definition to the Federal definition, does not change the law with respect to the ownership or possession of machine guns. Such guns are regulated under the National Firearms Act of 1934 and will remain regulated under that law.

Conforming the District's definition will mean only that District residents will not be prohibited from owning semi-automatic firearms that are legal to possess under federal law.

Mr. JACKSON of Illinois. Mr. Speaker, first. In addition to violating the Republicans' "sacred oath" to support "states' rights;" this body is violating the citizens of the District of Columbia's right to self-determination with respect to guns . . . just because it can. Congress, in 1993, denied American citizens the right to statehood and continues to deny them voting rights. DC's young people are fighting, dying and being wounded in Iraq and Afghanistan in the name of democracy and self-determination . . . something they don't have back home in DC! So Republicans in Congress exercise outside control over DC citizens, and DC citizens have limited means of fighting back, since they have no voting representation in Congress.

Second. The other side is forcing us to vote on this bill just to send a political message back home. The Senate has already rejected it, so we know it will not become law this year. They are doing it for political reasons just before the election on November 2—which they would never even think about doing to another state because the Americans they represent have a member in the House and two in the Senate. They are exploiting the politically impotent citizens of DC. It reminds me of the big bully in school picking on the littlest and weakest kid in the class. Let's be clear. They are forcing us to vote on this legislation in order to politicize the gun issue on the eve of the election in order to send a political message back home.

Third. In addition to all of that, let's look at the Republican flip-flop on the gun issue! What was the Republican Party saying about guns in 1968? And, I might add for context, in 1967–1968 our cities were in rebellion and our colleague, Congressman BOBBY RUSH, was a Black Panther, and the Panthers had guns?

But let's look at the Republican Platform language in 1968!

REPUBLICAN PARTY PLATFORM 1968

"We pledge an all-out federal-state-local crusade against crime, including enactment of legislation to control indiscriminate availability of firearms."

REPUBLICANS IN CONGRESS IN 2004

First, on September 13, Republicans let the assault weapons ban expire!

Now the "Republican District of Columbia Personal Protection Act"!

Sec. 3. Reform DC Council's authority to restrict firearms.

This section shall not be construed to permit the Council, the Mayor, or any governmental or regulatory authority of the District of Columbia to prohibit, constructively prohibit, or unduly burden the ability of persons otherwise permitted to possess firearms under Federal law from acquiring, possessing in their homes or businesses, or using for sporting, self-protection or other lawful purposes, any firearm neither prohibited by Federal law nor regulated by the National Firearms Act. The District of Columbia shall not have authority to enact laws or regulations that discourage or eliminate the private ownership or use of firearms.

Sec. 4. Repeal DC semiautomatic ban.

Sec. 5. Repeal registration requirement.

Sec. 6. Repeal handgun ammunition ban.

Sec. 8. Additional repeals.

Sec. 9. Remove criminal penalties for possession of unregistered firearms.

This bill is a waste of this body's time. It is wrongheaded. It is patently unfair. It is nakedly political. It is anti-democratic. And I urge its defeat.

Mr. MORAN of Virginia. Mr. Speaker, I rise today in opposition to legislation that has been introduced to usurp the District of Columbia's home rule and greatly exacerbate an already very serious gun violence problem here in our Nation's Capital.

I am baffled at what the so-called "District of Columbia Personal Protection Act" introduced by the gentleman from Indian, has to do with personally protecting anyone in Washington, DC. To the contrary, if enacted, this legislation would work to increase homicides and gun violence in a city that has a history of struggling to protect its citizens from crimes involving firearms.

Leaders in the District of Columbia have long recognized that they have a serious crime and gun violence problem. Therefore, since 1976 they have seen fit to enact strict gun control laws in the District.

Last year, DC police confiscated a whopping 1,982 firearms from criminal suspects. So far this year, 1,385 guns have been recovered. If the aforementioned legislation were in place, most of those guns would still be on the streets and in the hands of criminals looking to use them to do harm.

Even more disturbing, the gentleman from Indiana's legislation doesn't stop at just repealing important DC laws such as those preventing the sale of assault weapons. No, it even goes so far as to prevent DC elected officials from enacting any regulation addressing the ownership or use of a firearm. That would mean no restrictions in the District on carrying concealed firearms in churches, movie theaters or shopping centers, no local requirement for gun safety training and no ability whatsoever for local officials to take action that will help keep guns out of the hands of gang members, terrorists or criminals.

Public officials on the ground, working in the District, know the needs of their constituents and the best means to protect them from gun violence. This legislation is a total affront to the concept of "Home-Rule" and a slap in the face to the people of the District of Columbia. Coming on the heels of the repeal of the Assault Weapons Ban, the House is leading the charge to strip the District's ability to protect its citizens by repealing popular and life-saving gun control measures.

Mr. Speaker, we've got a war raging right now in Iraq. We don't need to open another front right here on the city streets of our Nation's Capital. I oppose this legislation and urge my colleagues to do the same.

Mr. BISHOP of Georgia. Mr. Speaker, all Americans know that gun control continues to be a serious subject of debate, right here in the District of Columbia, in the State of Georgia, which I represent, and across this Nation. It's an issue of personal safety and of constitutional rights embedded in the fabric of our Nation.

I agree with those who want to restrict criminal access to guns. However, this must be done without compromising the constitutional rights of our law-abiding citizens.

I strongly support the right of law-abiding adults to purchase and own firearms for the protection of their homes and families, collecting, target shooting, and hunting. That's why I have and will continue to oppose any proposal that threatens this basic second amendment right.

I realize the concerns of some Americans who, in the wake of school shootings and other heinous illegal acts, call for stricter gun control measures. I understand those concerns. That's why I fully support measures that call for tougher sentences for the illegal use of firearms, to get offenders off the streets and out of our communities. I support stiff sentences of juveniles who use firearms illegally, and I support increasing the maximum penalty for adults who illegally provide those juveniles with firearms. That's how we must keep our schools and communities safe.

Mr. Speaker, tougher gun laws should not infringe on the rights of law-abiding citizens, and Congress has both the authority and the responsibility to ensure that they do not. So, the question before us today is not whether Congress can repeal the District of Columbia's handgun and self-defense bans, it is whether Congress should do so. The U.S. Constitution, the constitutions of 44 States, Federal law, the laws of all 50 States, the vast majority Georgians and of Americans recognize the right for law-abiding citizens to use firearms for protection, and for other legal purposes. Only the District of Columbia prohibits a person from having a firearm assembled and loaded at home for the purpose of self-defense. I believe that that's wrong. Pass this bill and allow DC residents to protect themselves from crime.

Mr. HOLT. Mr. Speaker, I rise today to express my strong opposition to H.R. 3193, the so-called District of Columbia Personal Protection Act.

I do not agree with the premise that more hand guns and assault weapons in the District will mean less crime on the streets of our Nation's Capital. The experts don't either. The Mayor of the District, Anthony Williams, strongly opposes this bill. The District's Chief of Police, Charles Ramsey, recently said that "to reduce crime and prevent more senseless tragedies like the recent killings in Anacostia and Ballou, we need fewer—not more—weapons. . ." The District's Delegate in the Congress ELEANOR HOLMES NORTON, is strongly against this legislation, as is the City Council.

Why, Mr. Speaker, do all these District leaders oppose this effort to overturn their gun laws? Because, to cite just recent examples, they have seen their neighbors, their family, and their co-workers mourn the loss of 16 local children killed by guns this year. And yet, today in the House, a place secured from weapons by metal detectors at every entrance and protected by our own dedicated police force, we are voting on legislation that will overrule the District's own sensible gun laws.

Today, I have heard from a number of my colleagues who support this legislation that the District of Columbia is the murder capital of the United States and that the best way to solve this problem is to increase access to hand guns and assault weapons. But what I want to ask is why we are not actually helping the District with its real underlying problems. Why are we not doing more to support the police officers on the streets of the District? Why are we not doing more to support after-school programs to keep children off the streets and away from guns and crime? Why are we not providing funds for job training and other educational programs for the District's residents, who desperately want to end the cycle of crime that plagues many of their District's communities? The simple answer is that this legislation is based not on sound public policy or on a desire to end gun-related crimes; this is a politically motivated attempt to curry favor with the National Rifle Association and other opponents of reasonable gun safety.

Mr. Speaker, I cannot understand why those who, day after day, rail on the floor of the House about their support for federalism are now taking significant steps to trample the right of the District to decide its own affairs. If my colleagues who support this measure really feel that the District should repeal its gun registration laws, repeal its assault weapons ban, and allow "cop killer" bullets on the streets, then I recommend that they register to vote in the District and lobby their local councilmember for such a change. This is the appropriate way to change the laws of the District of Columbia.

The elected leaders of the District of Columbia do not want this legislation. The people of the District of Columbia do not want this legislation. If passed, this legislation will put more people at risk of being shot with assault weapons or handguns—particularly at risk are children and police officers. It's time to stand up to the gun lobby and oppose legislation that will make the District of Columbia less safe. I strongly urge my colleagues to vote no on H.R. 3193.

Ms. SLAUGHTER. Mr. Speaker, I rise in opposition to this rule and this bill. The rule before us is a closed rule allowing only 60 minutes of debate and prohibits consideration of all the Democratic amendments offered to the Rules Committee.

Mr. Speaker, this bill repeals District of Columbia's laws that ban the sale and possession of handguns and semiautomatic weapons that have been in effect for over three decades.

Our constituents expect us to work on issues of national concern.

They expect us to complete the annual appropriations process and avoid a government shutdown. Yet, today, with the end of the fiscal year 2 days away, Congress has only managed to complete one appropriation bill.

They expect us to continue to provide States with Federal assistance to build and maintain the Nation's highways. However, Congress has not acted to renew authorization for billions of dollars for critical surface transportation projects that expire on Friday. They expect us to take up the 9/11 Commission's recommendations to make America safer. They expect us to enact legislation to create new jobs and address the plight of the unemployed.

They do not expect us to waste the little time remaining on a bill that the chief sponsor in the other body has all but abandoned hope of getting to the President.

Why on earth is this body squandering the little time remaining in this session on this bill? One word. Politics. Brazen, election-year politics.

With only 7 legislative days left in this Congress, I know that my constituents sent me here to vote on bills of more importance to their lives.

H.R. 3193 repeals several District of Columbia firearms laws and limits the authority of the District to enact new firearms legislation.

Specifically, the bill repeals the District's ban on the sale and possession of handguns, handgun ammunition and semiautomatic weapons.

Mr. Speaker, I do not know where to begin in expressing my outrage about the legislation before us today.

The rule before us blocks consideration of meritorious amendments offered by my colleagues at Rules last night. These amendments would have reinstated the District's ban on semiautomatic assault weapons, reinstated the Federal ban on semiautomatic assault weapons, and reinstated the District's prohibition on the sale of armor-piercing bullets—the so-called "cop-killer" bullets.

I think the majority of our constituents would be appalled to learn that this bill exempts semiautomatic weapons that fire 12 or more shots without manual reload from the District's "machine gun" restrictions.

We should be here considering legislation to renew the national assault weapons ban that unceremoniously expired a couple of weeks ago—not making a mockery of DC's restrictions on semi-automatic weapons.

As DC Mayor Anthony Williams wrote to congressional leadership, "It is unthinkable that while the Nation's capital is under alert, Congress should take action to expose more than half a million residents, almost 200,000 federal workers and 20 million tourists to greater danger."

It is unthinkable to put our officers at greater risk at a time when Capitol Police—alone—are asking for $20 million to secure the Capitol Building for this year. The last thing they need to hear is that semi-automatic weapons can now be carried on the National Mall or cop-killer bullets are legal in the District.

It is worth pointing out the hypocrisy of my colleagues who support this bill by arguing that the District's gun laws infringe on DC citizens' second amendment right to bear arms.

While the bill changes the law to allow DC residents to carry pistols, open or concealed, in their homes and places of business, it does not repeal another DC gun law. The law we will not repeal today is the provision outlawing people from carrying or having readily access to a firearm "upon the United States Grounds or within the Capital Buildings."

So we will vote to approve guns in another person's workplace in DC, but not in our offices.

It is unthinkable that only 2 years after the Washington area was terrorized by snipers who killed 10 people in the region, and while the Nation's capital is still under a terrorist alert, Congress would take action on this bill.

We must not lose sight of the innocent victims of gun violence.

Yesterday, the front page of the Washington Post reported that a 13-year-old boy was fatally shot inside his apartment, the 21st child killed this year in DC.

When we voted on this same issue in the aftermath of the Columbine shootings, it failed by a vote of 175 to 250. I hope my colleagues remember their outrage to that senseless killing and recognize that this bill and the recent lapse of the 1994 Federal ban on semi-automatic weapons place our children in more danger.

So, Mr. Speaker, to recap, we are not considering bills to create jobs, we are not passing the budgets for Federal agencies and services, and we are not improving our homeland security. No, today we are debating legislation to allow more lethal guns and ammunition to be on the streets of our Nation's capital—in the hands of would-be terrorists, gang members, and other violent criminals.

Mr. Speaker, again, I strongly urge my colleagues to oppose this closed rule and to vote against the underlying bill.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise today in strong support of the DC Personal Protection Act.

This commonsense legislation will restore the constitutional right of DC citizens to lawfully protect themselves and their families from criminals.

The simple fact is that Washington, DC is one of the most dangerous cities in America.

Year after year, Washington, DC, is in the running for the disgraceful title of "the murder capital of the United States." FBI statistics released last year reveal that Washington, DC, has the highest per capita homicide rate of any big city in America.

Ironically Washington, DC, has the toughest gun control laws of any city in the Nation.

In 1976 the City Council banned handguns and required rifles and shotguns to be registered and stored disassembled.

What's really sad is that prior to the DC gun ban, the city's homicide rate was on the decline.

However in the 15 years between 1976 and 1991, the District's homicide rate skyrocketed 200 percent while the national homicide rate rose just 12 percent.

And as of 2002, DC's homicide rate was almost double the rate from when the gun ban took effect—nearly five times higher than the national average.

When will we learn that gun control does not make the public safer?

Criminals ignore gun bans while good citizens abide by them.

That's a recipe for disaster, just as we've seen in our Nation's capital.

For the sake of our constitutional right to bear arms and for the safety of law abiding DC citizens and their families, support this bill.

Mr. CUMMINGS. Mr. Speaker, I rise in opposition to the District of Columbia Personal Protection Act, H.R. 3193, an outrageous effort spearheaded by my friend Representative SOUDER of Indiana, to repeal the ban on the possession of firearms in the District of Columbia.

Mr. Speaker, I rise today to support Delegate ELEANOR HOLMES NORTON, the DC elected officials, Mayor Anthony Williams, business, labor and civil rights groups and most importantly the District's local residents, who have spoken out against repealing this ban. If this Congress passes H.R. 3193, we will ignore their urgent cries—to spare their communities from further gun violence.

I think I should point out to those Members who believe that the NRA interests should trump the interests of the District's citizens, let's remember the principles of DC home rule that were recently cemented by the Federal courts in Seegars v. Ashcroft. In Seegars, the court held that because the District of Columbia is not a State, then the second amendment did not apply and the ban was not unconstitutional. Congress should respect the court's decision and the District's right to home rule to allow the gun ban to remain in place.

Just ask the parents of 16-year-old Ashley Walker, killed Sunday, September 26, 2004, and the parents of 13-year-old Michael Swan, killed Monday, September 27, 2004, if they believe that more guns should be permitted in the District. These parents know all too well what it means to lose someone to gun violence. They know the importance of maintaining this ban and that creating an environment of proliferation of guns is antithetical to saving lives.

Yet despite these tragedies, Mr. Speaker, the homicide rate in DC is approaching a 20-year low. In fact, DC homicides are down by 24 percent from last year and 55 percent since 1994. It is clear that this ban saves lives.

In my own district in Maryland, there has been an overwhelming decline of assault pistols used in crimes since the Maryland Assault Pistol Ban in 1994.

The Baltimore City Police Department concluded that since the ban's enactment that 55 percent fewer assault pistols were used in crimes. These are real statistics from cities that had been plagued by violence in the past decade; but these cities are also evidence of the success that has sprung from banning assault weapons.

Once again Mr. Speaker, with statistics such as these, we cannot ignore the fact that this ban saves lives.

There are Members of this body who will argue that this bill will give DC residents a sense of protection and restore their second amendment rights. I argue just the opposite. First, under the current law, DC residents may currently own registered guns—in fact over 100,000 firearms have been registered since 1976. Secondly, lifting the ban would engender all sorts of travesties: fully loaded assault weapons—to be carried in public in some instances—acquisition of armor-piercing ammunition—including "cop-killer" bullets—elimination of the District's registration program—even for assault weapons—and issuance of permits to individuals to carry concealed handguns in their places of business. I and other reasonable-minded individuals agree that this legislation is a far cry from providing residents with a "sense of protection." We would argue that this legislation would only restore a culture of violence that the ban has significantly reduced.

Mr. Speaker, if H.R. 3193 is passed we will once again ignore the millions of Americans who have pleaded with the administration and this body to extend the ban in the District of Columbia and the national assault weapons ban, contained in H.R. 2038. We cannot fail the residents of the District like we failed the millions of Americans when we allowed the assault weapons ban to expire just weeks ago.

Mr. Speaker, we must listen to the residents of this District, citizens who do not have voting representation in Congress. I urge my colleagues to vote against repealing the DC gun ban—vote against H.R. 3193.

Mr. STUPAK. Mr. Speaker, I wanted to take a moment to discuss today's floor vote on H.R. 3193, to repeal the DC gun ban. I voted in favor of this bill. However, I am concerned with how this legislation came to the floor—without a hearing and without the opportunity to offer amendments. In addition, I am a strong supporter of local rule and this legislation, although I agree with the principle, blocks the local District of Columbia government from having any authority over the matter. Again, I support the legislation in general, I just don't believe appropriate procedure was followed on such a controversial issue.

Mr. SOUDER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOSSELLA). All time for debate has expired.

Pursuant to House Resolution 803, the previous question is ordered on the bill, as amended.

The question is on engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SOUDER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will now resume on questions postponed earlier today.

Votes will be taken in the following order: motion to instruct on H.R. 4520, de novo; passage of H.R. 3193, recorded vote.

The Chair will reduce to 5 minutes the time for the second electronic vote.

MOTION TO INSTRUCT CONFEREES ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

The SPEAKER pro tempore. The pending business is the question de novo of agreeing to the motion to instruct conferees on H.R. 4520 offered by the gentleman from Massachusetts (Mr. NEAL).

The Clerk will designate the motion.

The Clerk designated the motion.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Massachusetts (Mr. NEAL).

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. NORTON. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 215, not voting 12, as follows:

[Roll No. 476]

AYES—205

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOES—215

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Boehner
Bonner
Bono
Boozman
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter

Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—12

Blunt
Boehlert
Bonilla
Cannon
Gephardt
Hastings (FL)
Hoeffel
Meek (FL)
Nethercutt
Putnam
Tauzin
Weldon (FL)

☐ 14311

Mr. SIMPSON, Mr. BURGESS, Mrs. CUBIN and Mr. UPTON changed their vote from "aye" to "no."

So the motion to instruct was rejected.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DISTRICT OF COLUMBIA PERSONAL PROTECTION ACT

The SPEAKER pro tempore (Mr. FOSSELLA). The pending business is the question of passage of the bill, H.R. 3193, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill on which a recorded vote was ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 250, noes 171, answered "present" 1, not voting 10, as follows:

[Roll No. 477]

AYES—250

Aderholt
Akin
Alexander
Baca
Bachus
Baird
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Cardoza
Carson (OK)
Carter
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Doolittle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emerson
English
Everett
Feeney
Flake
Forbes
Ford
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinojosa
Hobson
Hoekstra
Holden
Hostettler
Hulshof
Hunter
Isakson
Issa
Istook
Jenkins
John
Johnson (IL)
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kind
King (IA)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Pryce (OH)
Radanovich
Rahall
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sandlin
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (TX)
Souder
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Turner (TX)
Upton
Vitter
Walden (OR)
Wamp
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Young (AK)

NOES—171

Abercrombie
Ackerman
Allen
Andrews
Baldwin
Becerra
Bell
Berkley
Berman
Bishop (NY)
Blumenauer
Bono
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Crowley
Cummings
Davis (CA)
Davis (FL)
Davis (IL)
Davis, Tom
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Doggett
Dooley (CA)
Doyle
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Ferguson
Filner
Foley
Frank (MA)
Frelinghuysen
Frost
Gilchrest
Gonzalez
Greenwood
Grijalva
Gutierrez
Harman
Hinchey
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hyde
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
King (NY)
Kirk
Kleczka
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meeks (NY)
Menendez
Millender-McDonald
Miller (NC)
Miller, George
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Olver
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Price (NC)
Quinn
Ramstad
Rangel
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Spratt
Stark
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Walsh
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wolf
Woolsey
Wu
Wynn
Young (FL)

ANSWERED "PRESENT"—1

Obey

NOT VOTING—10

Boehlert
Cannon
Gephardt
Hastings (FL)
Hoeffel
Meek (FL)
Nethercutt
Putnam
Tauzin
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). There are 2 minutes remaining in this vote.

☐ 1458

Mr. WALSH changed his vote from "aye" to "no."

Mr. FORD changed his vote from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PARLIAMENTARY INQUIRY

Mr. CONYERS. Mr. Speaker, parliamentary inquiry.

The SPEAKER pro tempore (Mr. FOSSELLA). The gentleman will state his parliamentary inquiry.

Mr. CONYERS. Mr. Speaker, under the provisions of the bill just passed, H.R. 3193, will the Members of the House of Representatives be allowed to bring concealed weapons to the floor of this body?

The SPEAKER pro tempore. The gentleman's question is not a proper parliamentary inquiry.

The rules of the House would govern that question as a matter of decorum.

APPOINTMENT OF CONFEREES ON H.R. 4520, AMERICAN JOBS CREATION ACT OF 2004

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on Ways and Means, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. THOMAS, CRANE, MCCRERY, RANGEL and LEVIN.

From the Committee on Agriculture, for consideration of title VII of the House bill, and subtitle B of title XI of the Senate amendment, and modifications committed to conference: Messrs. GOODLATTE, BOEHNER, and STENHOLM.

From the Committee on Education and the Workforce, for consideration of sections 489, 490, 616, 701, and 719 of the Senate amendment, and modifications committed to conference: Messrs. BOEHNER, SAM JOHNSON of Texas, and GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of section 662 and subtitle A of title XI of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, BURR and WAXMAN.

From the Committee on the Judiciary, for consideration of sections 422, 442, 1111, 1151 and 1161 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas and CONYERS.

For consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. DELAY.

There was no objection.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.J. Res. 107, and that I may include tabular material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2005

Mr. YOUNG of Florida. Mr. Speaker, pursuant to House Resolution 802, I call up the joint resolution (H.J. Res. 107) making continuing appropriations for the fiscal year 2005, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 107 is as follows:

H.J. RES. 107

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are hereby appropriated, out of any money in the Treasury not otherwise appropriated, and out of applicable corporate or other revenues, receipts, and funds, for the several departments, agencies, corporations, and other organizational units of Government for fiscal year 2005, and for other purposes, namely:

SEC. 101. Such amounts as may be necessary under the authority and conditions provided in the applicable appropriations Act for fiscal year 2004 for continuing projects or activities including the costs of direct loans and loan guarantees (not otherwise specifically provided for in this joint resolution) which were conducted in fiscal year 2004, at a rate for operations not exceeding the current rate, and for which appropriations, funds, or other authority was made available in the following appropriations Acts:

(1) The Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2004.

(2) The Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 2004, notwithstanding section 15 of the State Department Basic Authorities Act of 1956, section 313 of the Foreign Relations Authorization Act, Fiscal Years 1994 and 1995 (Public Law 103–236), and section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

(3) The District of Columbia Appropriations Act, 2004.

(4) The Energy and Water Development Appropriations Act, 2004, notwithstanding section 504(a)(1) of the National Security Act of 1947 (50 U.S.C. 414(a)(1)).

(5) The Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004, notwithstanding section 10 of Public Law 91–672 and section 15 of the State Department Basic Authorities Act of 1956.

(6) The Department of Homeland Security Appropriations Act, 2004.

(7) The Department of the Interior and Related Agencies Appropriations Act, 2004.

(8) The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2004.

(9) The Legislative Branch Appropriations Act, 2004.

(10) The Military Construction Appropriations Act, 2004.

(11) The Transportation, Treasury, and Independent Agencies Appropriations Act, 2004.

(12) The Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2004.

SEC. 102. Appropriations made by section 101 shall be available to the extent and in the manner which would be provided by the pertinent appropriations Act.

SEC. 103. The appropriations Acts listed in section 101 shall be deemed to include miscellaneous and supplemental appropriation laws enacted during fiscal year 2004.

SEC. 104. No appropriation or funds made available or authority granted pursuant to section 101 shall be used to initiate or resume any project or activity for which appropriations, funds, or other authority were not available during fiscal year 2004.

SEC. 105. Appropriations made and authority granted pursuant to this joint resolution shall cover all obligations or expenditures incurred for any program, project, or activity during the period for which funds or authority for such project or activity are available under this joint resolution.

SEC. 106. Activities authorized for 2004 by sections 1902(a)(10)(E)(iv) and 1933 of the Social Security Act shall continue through the date specified in section 107(c) of this joint resolution: *Provided*, That for purposes of the budget scoring guidance in effect for the Congress and the Executive branch respectively, and notwithstanding rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105–217, the provisions of this section shall be deemed to be direct spending.

SEC. 107. Unless otherwise provided for in this joint resolution or in the applicable appropriations Act, appropriations and funds made available and authority granted pursuant to this joint resolution shall be available until (a) enactment into law of an appropriation for any project or activity provided for in this joint resolution, or (b) the enactment into law of the applicable appropriations Act by both Houses without any provision for such project or activity, or (c) November 20, 2004, whichever first occurs.

SEC. 108. Expenditures made pursuant to this joint resolution shall be charged to the applicable appropriation, fund, or authorization whenever a bill in which such applicable appropriation, fund, or authorization is contained is enacted into law.

SEC. 109. Appropriations and funds made available by or authority granted pursuant to this joint resolution may be used without regard to the time limitations for submission and approval of apportionments set forth in section 1513 of title 31, United States Code, but nothing herein shall be construed to waive any other provision of law governing the apportionment of funds.

SEC. 110. Notwithstanding any other provision of this joint resolution, except section 107, for those programs that had high initial rates of operation or complete distribution of fiscal year 2004 appropriations at the beginning of that fiscal year because of distributions of funding to States, foreign countries, grantees or others, similar distributions of funds for fiscal year 2005 shall not be made and no grants shall be awarded for such programs funded by this resolution that would impinge on final funding prerogatives.

SEC. 111. This joint resolution shall be implemented so that only the most limited funding action of that permitted in the joint resolution shall be taken in order to provide for continuation of projects and activities.

SEC. 112. Activities authorized by section 403(f) of Public Law 103–356, as amended by section 632 of the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (Public Law 108–199, division F), and activities authorized under the heading "Treasury Franchise Fund" in the Treasury Department Appropriations Act, 1997 (Public Law 104–208, division A, section 101(f)), as amended by section 123 of the Treasury Department Appropriations Act, 2003 (Public Law 108–7, division J), may continue through the date specified in section 107(c) of this joint resolution.

SEC. 113. The authority provided by section 2808 of the Military Construction Authorization Act for Fiscal Year 2004 (division B of Public Law 108–136; 117 Stat. 1723) shall continue in effect through the date specified in section 107(c) of this joint resolution: *Provided*, That such authority shall not be available until after the date on which the Secretary of Defense submits all of the quarterly reports required for fiscal year 2004 under subsection (d) of such section 2808.

SEC. 114. Notwithstanding any other provision of this joint resolution, except sections 107 and 108, amounts are made available for the Strategic National Stockpile ("SNS") at a rate for operations not exceeding the lower of the amount which would be made available under H.R. 5006, as passed by the House of Representatives on September 9, 2004, or S. 2810, as reported by the Committee on Appropriations of the Senate on September 15, 2004: *Provided*, That no funds shall be made available for the SNS to the Department of Homeland Security under this joint resolution: *Provided further*, That amounts made available to the Department of Homeland Security under this joint resolution are reduced by the amount otherwise attributable to funding for the SNS: *Provided further*, That the terms and conditions of H.R. 5006 shall apply to funds made available under this section.

SEC. 115. Section 503(f) of the Small Business Investment Act of 1958 (15 U.S.C. 697(f)) shall be applied by substituting the date specified in section 107(c) of this joint resolution for "October 1, 2004".

SEC. 116. The authorities provided by sections 344, 1023, and 1306 of Public Law 108–136, sections 1318 and 1319 of Public Law 108–11, and section 302j(a) of title 37, United States Code, shall continue in effect through the date specified in section 107(c) of this joint resolution or the date of enactment into law of a defense authorization Act for fiscal year 2005, whichever is earlier.

SEC. 117. Section 6 of Public Law 107–57, as amended by section 2213 of Public Law 108–106, shall be applied by substituting the date specified in section 107(c) of this joint resolution for "October 1, 2004", and sections 508 and 512 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Public Law 108–199, division D), as made applicable to fiscal year 2005 by the provisions of this joint resolution, shall not apply with respect to Pakistan through the date specified in section 107(c) of this joint resolution.

SEC. 118. Programs, activities, eligibility requirements, and advisory committees authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) through fiscal year 2004, shall remain in effect through the date specified in section 107(c) of this joint resolution.

SEC. 119. (a) Section 616(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2004 (Public Law 108–199, division D) shall apply to funds made available by this joint resolution pursuant to section 619(a) of such Act: *Provided*, That for purposes of funds made available by this joint resolution that are used to carry out section 616(d) of such Act, a candidate country is a country that satisfies the requirements of subparagraphs (A) and (B) of section 606(a)(2) of such Act.

SEC. 120. Notwithstanding any other provision of this joint resolution, except section 107, the District of Columbia may expend local funds for programs and activities under the heading, "District of Columbia Funds—Operating Expenses" at the rate set forth for such programs and activities under title II of H.R. 4850 of the 108th Congress, as passed by the House of Representatives: *Provided*, That section 2302 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11) shall be applied by substituting the date specified in section 107(c) of this joint resolution for "September 30, 2004".

SEC. 121. Section 1302 of the Panama Canal Act of 1979 (22 U.S.C. 3712) is amended by adding the following new subsection at the end:

"(e)(1) The Panama Canal Commission and the Office of Transition Administration (described in section 3504 of Public Law 106–65) shall terminate on October 1, 2004.

"(2) Upon termination pursuant to paragraph (1), the Panama Canal Revolving Fund shall be transferred to the General Services Administration (GSA). GSA shall use the amounts in the Fund to make payments of any outstanding liabilities of the Commission, as well as any expenses associated with the termination of the Office of Transition Administration and the Commission. The fund shall be the exclusive source available for payment of any outstanding liabilities of the Commission.".

SEC. 122. (a) Notwithstanding any other provision of law or of this joint resolution, except section 107, such amounts as may be necessary for administrative expenses of the following operating administrations shall be available to the Secretary of Transportation out of the Highway Trust Fund (other than the Mass Transit Account) at a rate for operations not exceeding the current rate and for which authority was made available under the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004:

(1) Federal Highway Administration, for purposes described in 23 U.S.C. 104(a)(1)(A);

(2) Bureau of Transportation Statistics, in accordance with 49 U.S.C. 111;

(3) National Highway Traffic Safety Administration, in accordance with chapter 301 of title 49, United States Code, and part C of subtitle VI of title 49, United States Code;

(4) National Highway Traffic Safety Administration, in accordance with 23 U.S.C. 402, 403, 405, 410 and chapter 303 of title 49, United States Code; and

(5) Federal Motor Carrier Safety Administration, for purposes described in 23 U.S.C. 104(a)(1)(B):

Provided, That funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code: *Provided further*, That paragraphs (1), (2), and (3) of this subsection shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.

(b) Notwithstanding any other provision of law or of this joint resolution, except section 107, such amounts as may be necessary for administrative expenses of the Federal Transit Administration, in accordance with the Federal Transit Administration's programs authorized by chapter 53 of title 49, United States Code, shall be available to the Secretary of Transportation out of the Mass Transit Account of the Highway Trust Fund at a rate for operations not exceeding the current rate and for which authority was made available under the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004: *Provided*, That funds authorized under this subsection shall be available for obligation in the same manner provided under section 5338(g) of title 49, United States Code.

(c) Notwithstanding any other provision of law or of this joint resolution, except section 107, such amounts as may be necessary for the Federal Motor Carrier Safety Administration to make grants to and enter into contracts with States for personnel costs for implementation of 49 U.S.C. 31102, commercial driver's license program improvements, border enforcement operations, and section 210 of Public Law 106–159 shall be available to the Secretary of Transportation out of the Highway Trust Fund (other than the Mass Transit Account) at a rate not exceeding the current rate and for which authority was made available under the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004: *Provided*, That funds authorized under this subsection shall be available for obligation in the same manner as if the funds were apportioned under chapter 1 of title 23, United States Code and shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.

(d) For purposes of the budget scoring guidance in effect for the Congress and the Executive branch respectively, and notwithstanding rule 3 of the Budget Scorekeeping Guidelines set forth in the joint explanatory statement of the committee of conference accompanying Conference Report 105-217, the provisions of subsections (a), (b), and (c) with regard to contract authority shall be deemed to be direct spending.

(e) Notwithstanding any other provision of law, amounts shall continue to be appropriated or credited to the Highway Trust Fund after the date of any expenditure pursuant to this joint resolution.

SEC. 123. Notwithstanding any other provision of law, the Overseas Private Investment Corporation is authorized to undertake any program authorized by title IV of the Foreign Assistance Act of 1961 in Iraq, subject to the regular notification procedures of the Committees on Appropriations, through the date specified in section 107(c) of this joint resolution.

SEC. 124. Notwithstanding any other provision of this joint resolution, and notwithstanding the language in the paragraph under the heading "Housing for Persons With Disabilities" in title II of the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2004, the Secretary of Housing and Urban Development shall make $14,610,000 from amounts appropriated under such heading in fiscal year 2004 available for amendments to existing tenant-based assistance contracts entered into prior to fiscal year 2004 pursuant to section 811 of the Cranston-Gonzalez National Affordable Housing Act (with only one amendment authorized for any such contract).

SEC. 125. Section 402(b) of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1232(b)) shall be applied by substituting the date specified in section 107(c) of this joint resolution for "September 30, 2004".

SEC. 126. For entitlements and other mandatory payments whose budget authority was provided in appropriations Acts for fiscal year 2004, and for activities under the Food Stamp Act of 1977, activities shall be continued at the rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2004, to be continued through the date specified in section 107(c): *Provided*, That notwithstanding section 107, funds shall be available and obligations for mandatory payments due on or about November 1 and December 1, 2004, may continue to be made.

SEC. 127. Notwithstanding section 101 of this joint resolution, amounts are provided for "Special Supplemental Nutrition Program for Women, Infants and Children (WIC)," at a rate for operations not to exceed $5,087,000,000.

SEC. 128. Notwithstanding section 101 of this joint resolution, amounts are provided for "Election Assistance Commission—Salaries and Expenses", at a rate for operations not to exceed $7,800,000: *Provided*, That such amounts may be apportioned to reflect the agency activities associated with a Federal election.

SEC. 129. Funds available under this joint resolution for "Bureau of Indian Affairs—Indian Land and Water Claims Settlements and Miscellaneous Payments to Indians" shall be available for payments by the United States pursuant to the settlement of *Seneca Nation of Indians* v. *State of New York*.

SEC. 130. Amounts available under this joint resolution to carry out subtitle D of title XXXVI of Public Law 106–398 shall be deemed to include transfers of funds from other accounts made during fiscal year 2004 to carry out the purposes of the subtitle and the amounts available under this joint resolution for the accounts from which funds were transferred shall be adjusted for the transfer.

SEC. 131. For the purposes of the Ricky Ray Hemophilia Relief Fund Act of 1998 (Public Law 105–369), the term "expended" in section 101(d) of such Act and the term "payment" in section 103 of such Act shall mean "delivered orders-obligations unpaid" as defined in the United States Standard General Ledger Accounts and Definitions.

SEC. 132. Notwithstanding any other provision of this joint resolution, except section 108, for expenses necessary to carry out the Presidential Transition Act of 1963, $2,500,000.

SEC. 133. Title II of Public Law 108–106 is amended under the heading "Iraq Relief and Reconstruction Fund" by—

(1) striking "$3,243,000,000" and inserting "$5,090,000,000" for security and law enforcement;

(2) striking "$1,318,000,000" and inserting "$1,960,000,000" for justice, public safety infrastructure, and civil society;

(3) striking "$5,560,000,000" and inserting "$4,455,000,000" for the electric sector;

(4) striking "$1,890,000,000" and inserting "$1,723,000,000" for oil infrastructure;

(5) striking "$4,332,000,000" and inserting "$2,361,000,000" for water resources and sanitation;

(6) striking "$153,000,000" and inserting "$845,000,000" for private sector development; and

(7) striking "$280,000,000" and inserting "$342,000,000" for education, refugees, human rights and governance.

SEC. 134. Title II of Public Law 108–106 is amended under the heading "Iraq Relief and Reconstruction Fund"—

(1) in the sixth proviso, by striking "$29,000,000" and inserting "$119,000,000"; and

(2) in the seventh proviso by—

(A) striking "Coalition Provisional Authority" and inserting "United States Agency for International Development"; and

(B) striking "to fully pay for its" and inserting "for".

SEC. 135. Sections 569 and 574 of H.R. 4818, as passed by the House of Representatives on July 15, 2004, are hereby enacted into law: *Provided*, That not to exceed $360,000,000 of the funds made available by Public Law 108–106 under the heading "Iraq Relief and Reconstruction Fund" may be made available for the purposes of such section 569.

SEC. 136. During the portion of fiscal year 2005 covered by this joint resolution, the Corps of Engineers shall continue work on all uncompleted projects underway in fiscal year 2004, notwithstanding budget proposals to withhold funding for shore protection and certain construction projects, and shall not divert funds into any reserve fund not specifically authorized by an Act of Congress.

The SPEAKER pro tempore. Pursuant to House Resolution 802, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am doing something today that I had hoped throughout the year could have been avoided, and that is a continuing resolution because the Congress has not completed all of its appropriations bills. Before I get into that, though, I think it is important that I say just a brief word about the Committee on Appropriations in the House and the House of Representatives.

The House Committee on Appropriations reported every one of its bills by July 22. Today is September 29. The House has passed 12 of those bills, and all of those bills have been at a level within the budget resolution, the budget resolution which in fact we do not really have. We did not pass a budget resolution this year, and finally about 6 weeks after we should have passed it, we passed a deeming resolution that did allow us to set a 302(a) allocation and our 302(b) allocations.

□ 1500

The House has done a good job. Unfortunately, only one of those bills has actually become law because the House and the Senate must agree on legislation before it can be sent to the desk of the President for his signature. That has only happened on one bill, despite the fact the House has passed 12 appropriations bills and several supplementals.

This continuing resolution would keep the government functioning at existing levels until November 20, 2004. This will allow Congress to recess for a brief period of campaigning for the election which happens on November 2. But we will be back. We will be back the week of November 15 in order to conclude the balance of the appropriations bills.

The Senate has passed a total of six appropriations bills. We will have one of those in conference, hopefully tomorrow, the homeland security bill. There are four other bills that we believe we can conference and report to the House sometime next week before we adjourn for the election. In the meantime, an omnibus bill is going to be necessary. Between the October 8 recess and November 15, the appropriations committees in both Houses will work to conclude the work on an omnibus bill so the Members will have a chance to vote on it prior to sine die adjournment.

The CR includes a continuation of funding for all agencies except those included in the Defense appropriations bill because it has already been enacted into law. We are continuing to work on the other bills, as I mentioned.

Let me say something about what is included in this CR, because there are some anomalies that are time sensitive that must be taken care of. As I said, the CR will go to November 20. As in past continuing resolutions, it does not permit any new starts, and it restricts obligations on high initial spend-out programs so the annualized funding levels in this bill will not impinge on our final budget deliberations.

It includes provisions that allow for the continuation of programs and fee collections that would otherwise expire, such as entitlements under the food stamp program, Medicare part B premium assistance, certain child nutrition programs, the WIC program, and certain SBA loan programs.

The CR also allows for continuation of Department of Defense authorities that expire on September 30. We have worked with the Committee on Armed Services to ensure that these authorities are extended through the period of the CR, and they include something very important to the families of those of our military who were wounded in Iraq, Afghanistan and who are in hospitals or in VA hospitals getting treatment for their wounds. The authority to pay for travel and transportation benefits for those family members and clothing allowances for the military personnel injured during these operations would expire on September 30, tomorrow, at midnight. We provide a correction for that by extending that provision for the period of this CR.

We also extend the authority to provide prepaid phone cards to all of our troops in certain combat zones. Also authority for bonuses and special pay for certain military personnel is extended. Authority for DOD to use funds available for drug interdiction and counterdrug activities to provide assistance to the government of Colombia in support of ongoing counterterrorism efforts is extended. And also authority for a chemical weapons destruction facility in Russia is extended.

A provision is also included that reallocates funds provided under the Iraq Relief and Reconstruction Fund in response to the request submitted to the Congress by the Secretary of State on September 14, 2004, and through a reallocation of existing funds provides sufficient funding for operating costs of the Agency for International Development, continuation of oversight and Iraq debt forgiveness.

The CR also allows the District of Columbia to spend local funds through the period of the CR at the budget levels passed by the House. The CR ensures that funding is available to conduct administrative oversight and to pay certain Department of Transportation personnel managing surface programs in the absence of reauthorizations for such programs. It also ensures sufficient funding for the Election Assistance Commission and funding for Presidential transition staff, if necessary, to be available immediately following the Presidential election.

Mr. Speaker, I do not think this is a controversial CR at all, but it does include these important items that I mentioned. But it is important because tomorrow at midnight, the government runs out of money, so it is important to pass this continuing resolution, get it to the other body, and get it to the President. I hope we can pass this expeditiously.

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield 5½ minutes to the gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Speaker, I rise to express some concerns about the provisions in the continuing resolution allowing for the reprogramming of $3.46 billion in Iraq reconstruction funds.

I would first like to take a moment to express my appreciation and respect for all military, civilian, and contractor personnel stationed in Iraq today. They are working to bring democracy and stability to Iraq in an atmosphere of extreme danger, and I have great admiration for their courage. We owe them a great deal for their sacrifices.

This bill addresses the administration's request to shift $3.46 billion within the $18 billion Congress approved for the reconstruction of Iraq. This shift moves funds away from essential rebuilding efforts in the water and electricity sectors to deal with the deteriorating security situation in Iraq and the upcoming elections. The bill specifies new amounts for the various sectors of reconstruction assistance while retaining the underlying set of requirements for congressional notification and reporting.

I have great respect for General Petraeus and his staff who have put together this new plan. I am hopeful that the reprogramming will help address the dire security situation that has hindered much of our reconstruction work. But if we examine the facts, we find that since the start of combat operations in Iraq, 1,050 soldiers have been killed, 7,532 wounded; and since the end of major combat operations which the President declared on May 1, 2003, 909 have been killed and 6,990 wounded.

The statistics on the security situation are equally as staggering. In March of this year there were an average of 20 insurgent engagements per day. By September that number had increased more than fourfold, to 87 per day.

President Bush said earlier this month, and I quote, "What is critical is that the President of the United States speak clearly and consistently at this time of great threat in our world, and not change positions because of expediency or pressure." We have given the President what he requested because we need to move aggressively to address the security situation. However, the administration must be honest with the American people.

Before the war, we had the distinct impression from both the President and Vice President that the length of U.S. deployment and the cost of reconstruction would be minimal. Their assessments were hopelessly naive and ignored the lessons of history. Today, 1 year after Congress provided the $18 billion in reconstruction funds, only slightly more than $1 billion has been spent. The insecure environment has slowed the pace of reconstruction to a crawl. It has become crystal clear that we have no coherent plan to win the peace.

The administration claims that there are 100,000 Iraqi security forces trained and operating in Iraq today and that 145,000 will be trained by January. The facts are that 22,700 security personnel have received enough basic training to make them minimally effective at their tasks. Only 8,200 police have even received a basic 8-week training course. At the current pace of training, we will not have the current 90,000-man force trained until February 2006. Today, only 4,800 Iraqi Army personnel have been trained and equipped. By mid-October we may reach 8,000. Only eight of the 45 existing Iraqi National Guard battalions have reached initial operating capability. No border enforcement personnel have received centralized training.

Despite administration claims to the contrary, Iraq is becoming less secure. The difficulties in training and recruiting Iraqi security forces means even these modest goals will be difficult to attain. Holding elections in January has become a cornerstone of the President's plan to democratize Iraq and has been a critical factor in gaining support across Iraqi society for the interim government.

However, a stalemate between the Electoral Commission and the Ministry of Finance has meant that the commission has received only $7 million of the $232 million in Iraqi funds set aside for them. Many of the critical elements for conduct of the elections, such as procurement of vehicles, voting equipment and ballots are incomplete and voter lists have not even been created yet. No actual parties have formed. There is no process in place for that to happen. The U.N. has yet to deploy enough people to Iraq to supervise the process. We all know of the necessity of these promised elections, but many obstacles remain.

Beneath these numbers is the sad fact that overhead costs on all reconstruction activities in Iraq are now ranging between 30 and 50 percent. This means that for every dollar we appropriate for reconstruction, we only get 50 cents' worth.

We need to get this right. The battle for global stability and security is larger than Iraq. If American strategists cannot outsmart the terrorist insurgents, if we let them derail the bright future we have promised the Iraqi people, there will be serious consequences for U.S. national security objectives.

I hope that this shift in funds helps to win the peace in Iraq and that this plan will succeed where others have failed. I remain firmly committed to bringing stability to Iraq and fighting terror. American lives are at stake. But we must be honest with each other about the pace at which progress can occur and stop the deliberate distortions.

Mr. YOUNG of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. KOLBE), the distinguished chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for yielding me this time, and I do rise in support of House Joint Resolution 107 to provide continuing resolutions for the operations of the United States Government. A number of sections in this continuing resolution do apply to the foreign operations appropriations and many of these items have a direct bearing in our war on terrorism.

Section 117 allows Pakistan, our vital ally in the war on terror, to continue to be eligible for U.S. assistance during the period of the CR. As we know, Pakistan's active participation in the war on terror is critical to U.S. efforts in Afghanistan. Section 119 allows the Millennium Challenge Corporation to offer a limited assistance to those countries that meet some of the criteria for MCC assistance but cannot yet get over the threshold of the criteria that is required for that. The administration is working more slowly than I think a lot of us would like to establish which countries would be eligible for this additional special assistance.

Section 123 allows the Overseas Private Investment Corporation to follow through on transactions to promote the private sector and greater employment opportunities for Iraqis during the period of the CR. Ideally, these transactions will help create some of the preconditions for stability as Iraq moves towards elections in January.

The heart, Mr. Speaker, is section 133. This will enable the Secretary of State to rebalance the assistance in the Iraq Relief and Reconstruction Fund with a significantly greater amount, $1.8 billion, going to train and equip Iraq's security forces. The legislated change is necessary because the supplemental enacted last November allocated funding for specific sectors with flexibility for transfers between sectors. This sectoral allocation was intended to provide transparency and to improve oversight of the use of the funds.

However, due to circumstances that have developed on the ground, the flexibility in current law is insufficient to allow the State Department to provide significantly greater funding for security and employment activities, and I think we all understand that security must be the top priority.

□ 1515

Section 134 provides the Agency for International Development with the authority to use $90 million from within already appropriated amounts for the costs of operating its assistance programs in Iraq. Effective implementation of these programs is important if we are to help Iraq's economic and political systems evolve.

Finally, section 135 allows the U.S. to continue its leadership in pushing for reduction of Iraq's debt. It provides former Secretary of State James Baker with the tools for upcoming debt negotiations in the Paris Club this fall. It would enable the U.S. to forgive nearly $4 billion of debt owed by Iraq, thus spurring vastly greater amounts of debt forgiveness by Iraq's other creditors. This section also makes the modest technical changes to allow the Secretary of State to take responsibility for future reports to Congress on Iraq's reconstruction and to enable greater congressional oversight over the use of agency administrative expenses in Iraq.

On balance, I think this is a good bill and provides some important considerations to keep the foreign policy of the United States moving forward. I urge my colleagues to support this joint resolution.

Mr. OBEY. Mr. Speaker, I yield 6½ minutes to the distinguished gentleman from Maryland (Mr. HOYER), the distinguished minority whip.

Mr. HOYER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, today, our Republican friends are waving a white flag, announcing what has become so obvious to so many, that they have surrendered to their own intransigence, that they cannot get their work done.

The sad fact is that the gentleman presenting this bill is not responsible for this failure. In fact, his leadership of the committee was consistent with doing our work on time. But his colleagues did not assist him in that effort.

This continuing resolution is nothing less than an admission of failure by the House Republican leadership. But it is a fitting capstone to the least productive session of Congress that I have been a part of since I was elected to this body in 1981.

We are setting a record today, Mr. Speaker, but not a record that any of us can be proud of. So far, and all of my colleagues ought to listen to this, so far in this second session of the 108th Congress, we are on course to work fewer days, 93 as of today, than any other single session since 1948; 1948 was the famous "Do Nothing Congress." This Congress is doing even less than the "Do Nothing Congress."

Yet while this Republican Congress keeps banker's hours, it has failed to enact a budget. It has failed to enact a comprehensive energy bill. It has failed to enact intelligence reform. It has failed to enact a bill to eliminate European Union trade sanctions on American manufacturers. And it has failed to enact and pass a highway bill, a reauthorization which would create 42,000 American jobs for every $1 billion spent on repairing and building highways, repairing and building bridges, and fixing and providing for mass transit systems in America so that commerce and people could move effectively.

And now, now, this Republican leadership must pass this continuing resolution because it has enacted only one of 13 appropriation bills within the time frame established for it. This is the leadership that said in the Contract with America that we are going to bring efficiency and effectiveness to the management of the House of Representatives.

Joe Scarborough the other day said in an article, "We said all this and we lied." Joe Scarborough, conservative Republican from Florida.

I intend to vote, of course, Mr. Speaker, for this continuing resolution, as the chairman will, because it is necessary and responsible to do so. But let no one be mistaken, this CR is far more than a mere formality. The Republicans' failure to pass appropriation bills on time has real-world consequences to real people, to States, localities, municipalities and every individual.

Because they failed to enact the Homeland Security bill, critical funding for the SAFER program is not available, money to hire additional firefighters and emergency response teams. That means fire departments across the Nation will be delayed in their efforts to hire, recruit and retain firefighters.

Because they have failed to enact the Transportation-Treasury bill, nearly $1 billion in airport improvement grants is not available. That means airport security fencing and the construction of airport rescue and firefighting stations will be delayed. Because they failed to enact the Commerce, Justice, and State bill, $658 million in worldwide security upgrades at U.S. facilities, for instance, in Kabul, Afghanistan, are not available.

Mr. Speaker, the list goes on. The majority's failure to pass appropriation bills on time will delay funding for everything from construction at Veterans' Administration facilities to humanitarian assistance to the victims of genocide in Sudan, to additional funding for food safety inspections here at home.

Mr. Speaker, in February, former House majority leader, the majority leader in the last Congress, commented "Republicans own the town now." What he meant was Republicans control the presidency, the House and the Senate. Democrats cannot stop and, frankly, cannot get it to go so that the failure lies solely at the desk and feet of the Republican leadership in both Houses. But everyone can see today their record is not an enviable one, notwithstanding the fact that they own the town. It is an embarrassment. The American people deserve better.

Mr. Speaker, as I said, I will vote for this continuing resolution. It was originally scheduled to be until October 8. The gentleman from Texas (Mr. DELAY) and I have a colloquy at the end of every week, and in that colloquy last week, I asked the gentleman from Texas (Mr. DELAY) how long this CR was going to be. He said he did not know specifically but he thought October 8. But they have decided, no, it will be November 20, after the election, after the American people will be able to make a judgment on what they are really going to do. How sad. How failing in our responsibility to this institution, to the American people and to our Nation.

And I thank the gentleman for yielding me this time.

Mr. YOUNG of Florida. Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 8 minutes.

Mr. Speaker, the basic job of Congress is to pass the annual budget and appropriation bills in order to keep the government running and to fund the most important functions of government. To do that under our processes, we are first supposed to pass a budget resolution which sets the outline for spending for the coming year, and then we are supposed to follow that on by passing 13 appropriation bills which fill in the blanks in detail.

This continuing resolution is here because, on the domestic side of the budget, none of that has happened. We have passed only one of the 13 appropriation bills that were supposed to pass by the end of the fiscal year. That is for the Department of Defense. But even other national security bills have not been passed, and certainly, nothing has been passed that meets our obligations on the domestic side of the ledger.

The majority party controls this body by a very narrow margin. Ordinarily, if this institution were being run in a rational way, that would mean that the majority leadership would try to reach out, broaden its base of support for basic legislation by making an occasional compromise here and there so that we can broaden the number of people who are willing to support whatever products they bring to the floor. That has not happened either.

When I chaired this committee, we had a bipartisan allocation between the 13 subcommittees. Both parties agreed on how much should go into each of those 13 appropriation bills. That is why we were able that year to finish every single appropriation bill by the end of the fiscal year. The minority has not been afforded that opportunity this year because the majority leadership has been held captive by the most extreme members of the majority party caucus. As a result, they have produced highly ideological appropriation bills which have provided little incentive for other members of their own party to support those bills.

The domestic appropriations have been so stingy in the area of education, in the area of health care, in the area of veterans' health, in the area of law enforcement, and in the area of transportation that their Republican counterparts in the Senate have not wanted to pass those bills. If we take a look at the appropriation bills that have passed the Senate, those bills contain about $7 billion more on the domestic side of the ledger than the appropriation bills in this House. We could probably have reached bipartisan agreement if that $7 billion had been made available here. But oh, no, it was so necessary for the majority party to preserve every single dollar to provide $128,000 tax cuts for people who make a million bucks a year that they were not willing to provide additional funding in the area of health and education and the like.

So now we have what I call a duck-and-run approach to governance. The majority party does not want a vote on the level of veterans' health care funding, so the veterans' appropriation bill is not even coming to the floor. And the majority party is avoiding having to choose between the wishes on the Senate side and the wishes on the House side by simply going to a continuing resolution which ducks all of these questions until after the election. This strategy is being followed either by design or as the result of sheer incompetence, and I am not sure which.

I want to make it clear, as did the minority whip, that that does not apply to the gentleman who chairs the committee. He got every single bill out of his committee on time and passed them out of the House except for VA/HUD, and even though they were extremely short on necessary funding, on the minority side, we indicated that even though we strenuously objected to the stringent limitation of funding in a number of areas, we still procedurally cooperated with the majority party to toss those bills over to the Senate in the hopes that rationality would prevail and we would wind up with a product that could be supported when those bills came by the conference.

□ 1530

But at this point, I guess the bill that passed the House last week is a perfect metaphor for this session, because there was an internal triangular fight within the majority party in this House on that transportation bill, and, as a result, we passed a transportation bill that had been stripped of aid to states for highways, it had been stripped of the mass transit programs, it had been stripped of the funding for airport construction and development. So the only thing left in the transportation bill was the title of the bill.

If you take a look at other legislation, national parks, the President made a promise when he campaigned 4 years ago that he would send down a 5-year plan to attack the maintenance backlog in our national parks. Well, it is 4 years later, folks, and what has happened? The President and this Congress have provided only 12 percent of the funding needed to meet those backlog needs.

As the gentleman from Maryland indicated, we have done nothing to deal with the problems of 45 million Americans who have no health insurance. We have done nothing to expand Pell grants, even though the President in his spectacularly disingenuous performance at the Republican Convention told the world that we needed more money for Pell grants, even though his administration has blocked the increase in Pell grants for the last 2 years.

So, Mr. Speaker, the fact that this continuing resolution is here today is a monument to ideological zealotry. It is also a monument to institutional failure. This Congress is failing to meet even the most basic and minimal expectations that the country has for it by way of doing our routine business. This is governing in a pitiful way, and I wish that I could say something more positive about it, but, indeed, I cannot.

We have no choice but to vote for this resolution in order to keep the government functioning, but this is a pitiful way to run a railroad or a legislative body.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I think earlier my first comment was that I am doing something today that I am reluctant to do and I hoped I would not have to do it, and that is to ask the House to pass a continuing resolution inasmuch as the appropriations process has not been concluded.

There have been some criticisms of the majority party leadership in the House. It is easy to criticize anybody, but I would suggest that our leadership has done a pretty good job, considering the fact that we are a bicameral legislature. We have two bodies in this Congress, and one body cannot determine totally the legislative program, any more than the other one can. So as hard as our leaders have struggled to try to make the process work, they have had some difficulties with their counterparts in the other body.

I want to make sure that the Members know that the Committee on Appropriations, and I will repeat this from what I said earlier, completed all of its work, reported all of its bills, by the 22nd of July. That was quite a long time ago. We passed 12 of the appropriations bills, plus a supplemental. There is still one other appropriations bill remaining that has some difficulties that will be dealt with at a later time, probably in the omnibus bill.

And we have worked in a bipartisan fashion. We have tried to keep the minority party at the subcommittee level advised every step of the way. We have tried to make sure they knew what we were planning to do, and to get their input. We did not surprise anybody.

I think that good proof of that bipartisanship, Mr. Speaker, is that we have developed a pretty good record here in the committee and in the House. For example, our appropriations bill for Interior passed on June 17 with a vote of 334 to 86. The Homeland Security bill passed on June 18 with a vote of 400 to 5. On June 22 we passed the defense appropriations bill, 403 to 17. The conference report later was passed with a vote of 410 to 12. On June 25, the energy and water bill passed 370 to 16.

On the 8th of July the Commerce-Justice-State Department bill passed with a vote of 397 to 18. On July 12, the legislative branch bill passed with a vote of 327 to 43. The agriculture bill passed on the 13th of July, 389 to 31. On the 15th of July, the foreign ops bill passed 365 to 41. On the 20th of July, the District of Columbia bill passed 371 to 54. On the 22nd of July, the military construction bill passed 420 to 1.

We then passed on September 7 a supplemental to deal with Hurricane Charlie, which was devastating to certain parts of my State of Florida. We passed that on a voice vote. On the 9th of September we passed the Labor-HHS bill, 388 to 13. On the 22nd of September we passed the transportation appropriations bill, 397 to 12.

So I make the case that the House has worked together very well, majority party and minority party. The committee has worked together very well, majority party and minority party. But we are only half of the equation. We are the House of Representatives. We are the people's House. The other body, for whatever their reasons, did not pass these bills, and we cannot pass a bill in the House and send it to the President without having the other body agree to it, or at least go to conference and have an agreement on what that conference decides.

So, all in all, the criticisms of the House leadership I think are not really in order, but I understand that we are getting close to election time, so I am not offended by that. I just do not think that the criticisms really stand.

Our leadership has worked hard with us to pass these good bills with good votes. I do not like the fact that we did not complete our work. But I would say, again, the House Committee on Appropriations and the House of Representatives, we completed our work, except for one bill that will be held to become part of the omnibus appropriations bill. So, all in all, criticize if you like, but the House has done a really good job in getting its work done.

Now, because we have not concluded the bicameral work on these bills, it is important that we pass this continuing resolution. None of us want the government to shut down, and, without a CR, as of midnight tomorrow night the end of the fiscal year comes and goes, and without an appropriations bill, people would not be reporting to work on Friday.

So we are going to pass this CR now, the other body is going to pass this CR, and we are going to get it to the President in plenty of time so there will not be a government shutdown. We are just not going to do that anymore. We had an experience with that some years back. We are not going to do that again. That is not responsible, and it is important that we meet our responsibility.

Mr. Speaker, I would just appeal for a good strong vote on this continuing resolution. I ask for a "yes" vote.

Mr. Speaker, I yield back my time.

The SPEAKER pro tempore (Mr. FOLEY). All time for debate has expired.

The joint resolution is considered as having been read for amendment.

Pursuant to House Resolution 802, the previous question is ordered.

The question is on engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the joint resolution?

Mr. OBEY. For the moment I am, yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. OBEY moves to recommit the joint resolution, H. J. Res. 107, to the Committee on Appropriations with instructions to report the same back to the House promptly with the following amendments:

At the end of the bill, add the following new section:

"SEC. . Section 2883(g)(1) of title 10, United States Code, is amended by striking '$850,000,000' and inserting '$1,350,000,000'."

At the appropriate place in the bill, add the following new section:

"SEC. . Notwithstanding section 101 of this joint resolution, amounts provided to the Department of Veterans Affairs under the heading "Veterans Health Administration, Medical Services" in Public Law 108–199, in the first proviso, delete '$17,867,220,000' and insert '20,798,600,000'."

At the appropriate place in the bill, add the following new section:

"SEC. . Notwithstanding any other provision of law or of this joint resolution, the State Children's Health Insurance Program authorized under title XXI of the Social Security Act shall be implemented under the terms and conditions of H.R. 4936, the Children's Health Protection and Improvement Act of 2004."

At the appropriate place in the bill, add the following new section:

"SEC. . Special Allowance for Loans From the Proceeds of Tax Exempt Issues—Section 438(b)(2)(B) of the Higher Education Act (20 U.S.C. 1087–1(b)(2)(B)) is amended—

"(1) in clause (iv), by inserting 'or refunded on or after October 1, 2004 and before October 1, 2005,' after 'October 1, 1993'.; and

"(2) by adding at the end the following new clause:

"'(v) Notwithstanding clause (i) and (ii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, or paragraph (4), as the case may be, for loans—

"'(I) originated, transferred, or purchased between October 1, 2004 and October 1, 2005;

"'(II) financed by an obligation that has matured, been retired, or defeased on or after October 1, 2004 and on or before September 30, 2005;

"'(III) which the special allowance was determined under such paragraphs on or after October 1, 2004 and on or before September 30, 2005;

"'(IV) for which the maturity date of the obligation from which funds were obtained for such loans was extended on or after October 1, 2004 and on or before September 30, 2005; or

"'(V) sold or transferred to any other holder on or after October 1, 2004 and on or before September 30, 2005.'."

At the appropriate place in the bill, add the following new section:

"SEC. . Notwithstanding section 101 of this joint resolution, amounts provided to the Federal Bureau of Investigation for counterterrorism and counterintelligence activities shall be provided at a rate of operations which is the higher of the following:

"'H.R. 4754, as passed by the House on July 8, 2004; or

"'S. 2809 as passed by the Senate Committee on Appropriations on September 15, 2004.'."

At the appropriate place in the bill, add the following new section:

"SEC. . Notwithstanding section 101 of this joint resolution, amounts provided for education, health and other programs, projects and activities shall be continued at a rate of operations which is the higher of the amounts which would be made available under the following:

"'H.R. 5006, as passed by the House of Representatives on September 9, 2004; or

"'S. 2810 as reported by the Senate Committee on Appropriations on September 15, 2004.'."

At the appropriate place in the bill, add the following new section:

"SEC. . Public Law 108–217 shall be applied by substituting the date specified in section 107 of this joint resolution for 'September 30, 2004' each place it appears and by substituting the date specified in section 107 of this joint resolution for 'October 1, 2004' and the provisions of §6(a)(1) of Public Law 107–100 shall continue in effect through the date specified in section 107 of the joint resolution."

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. OBEY) is recognized for 5 minutes.

Mr. OBEY. Mr. Speaker, if Members oppose this motion to recommit, they will deny 28,165 renovated homes for military families throughout the military housing privatization initiative. If they oppose this motion to recommit, they will deny many of America's veterans access to VA health care, which ought to be their right. This motion would provide an additional $2.5 billion above the President's request to help cut waiting lists, renovate crumbling VA facilities and ensure timely quality health care for America's veterans.

The FBI is the Nation's lead agency for domestic counterterrorism, yet it is the only component of our national security apparatus that will not have its funding for fiscal year 2005 in place. The motion would ensure that the FBI gets its funding now, not later.

Failure to pass this motion to recommit would also shut down the Terrorist Threat Integration Center and the Terrorist Screening Center. Neither received funding in last year's spending bill, so neither would have their funding extended by the continuing resolution without this motion.

The motion to recommit, Mr. Speaker, would also eliminate the nearly $1 billion in special student loan subsidies being paid to lenders that instead could be put to better use by helping students and families afford a college education. This House passed that amendment earlier this month on the Labor-HHS bill in the form of the Kildee amendment.

Also, Mr. Speaker, failure to pass this motion to recommit would deny health insurance to 750,000 children who could be covered under the State Children's Health Insurance Program, or SCHIP. Currently $1.1 billion of SCHIP funds are available to States to provide health insurance to children. These funds were accumulated while the SCHIP programs were just being organized, but current law requires that these funds be returned to the Treasury if they are not used by October 1. With more than 8 million children lacking health coverage, it makes sense to give States more time to use these funds and enroll children in the SCHIP programs. We ought not be robbing these funds from children's health insurance programs because of an arbitrary deadline.

We also by this motion would provide additional funding for education and health care programs funded by the Labor-HHS-Education bill. We ask that in each case in the education and health area that this bill be adjusted to reflect the higher of the numbers between the House and the Senate bill. The result of that, for instance, would be to add $367 million to NIH to maintain momentum in research on diseases like cancer, Parkinson's, Alzheimer's, et cetera. We also would try to deal with the section 7 small business loan program that was dealt with by this House on a similar motion several weeks ago.

Mr. Speaker, I would urge support for the motion to recommit.

Mr. YOUNG of Florida. Mr. Speaker, I am opposed to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Florida is recognized for 5 minutes.

Mr. YOUNG of Florida. Mr. Speaker, this motion to recommit actually would be an appropriations bill. The continuing resolution merely extends existing appropriations. All of the issues in this motion are in the process of being considered on regular appropriations bills.

□ 1545

For example, I would remind the Members that we had the issue of the military housing cap in our appropriations bill that our committee strongly supported; but on a point of order raised by the Committee on the Budget, we lost that section of the military construction bill. But as we produce the military construction bill in conference, that provision will be in there.

The other issues in this motion are VA medical, children's health, higher education; all of these issues are being addressed as we address the balance of the appropriations bills.

So this motion to recommit, if it were successful, and I hope it will not be, would actually turn this into an appropriations bill that would likely require conferencing and probably would not be concluded by midnight tomorrow night, just because of the amount of time it takes to conference a bill and go to the other body and then come back here for conference, and then to appoint the conferees. We are running a deadline as of midnight tomorrow night.

So I would hope that while all of these are very important issues in this motion, and, frankly, I am supportive of all of the issues that the gentleman from Wisconsin (Mr. OBEY) would have in this motion to instruct, this is not the place to do it. This is a continuing resolution that has to be on the President's desk and signed before midnight tomorrow night. We just really do not have the time to deal with these issues on this bill. We will deal with all of those issues on the other bills that will be working through the Congress in the next few weeks.

So, Mr. Speaker, having said that, basically all I can say is that I would urge the Members to oppose this motion and to get on with the passage of the continuing resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. OBEY. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—yeas 200, nays 221, not voting 11, as follows:

[Roll No. 478]

YEAS—200

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meeks (NY)
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—221

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter

Walden (OR)
Walsh
Wamp
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—11

Boehlert
Cannon
Gephardt
Hastings (FL)
Hoeffel
Lewis (GA)
Meek (FL)
Nethercutt
Putnam
Tauzin
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1610

Mr. PETERSON of Pennsylvania changed his vote from "yea" to "nay."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the joint resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. OBEY. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This is a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 389, noes 32, not voting 11, as follows:

[Roll No. 479]

AYES—389

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barton (TX)
Bass
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Michaud
Millender-McDonald
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Pickering
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—32

Akin
Barrett (SC)
Bartlett (MD)
Beauprez
Chabot
Cooper
Cubin
Duncan
Feeney
Flake
Franks (AZ)
Garrett (NJ)
Green (WI)
Gutknecht
Hensarling
Hostettler
Jones (NC)
King (IA)
Manzullo
Miller (FL)
Myrick
Paul
Pence
Petri
Pitts
Royce
Ryan (WI)
Sensenbrenner
Shadegg
Smith (MI)
Stearns
Toomey

NOT VOTING—11

Boehlert
Brown-Waite, Ginny
Cannon
Gephardt
Hastings (FL)
Hoeffel
Meek (FL)
Nethercutt
Putnam
Tauzin
Weldon (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1619

Mr. DEMINT changed his vote from "no" to "aye."

So the joint resolution was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

WELFARE REFORM EXTENSION ACT, PART VIII

Mr. HERGER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5149) to reauthorize the Temporary Assistance For Needy Families block grant program through March 31, 2005, and for other purposes.

The Clerk read as follows:

H.R. 5149

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Welfare Reform Extension Act, Part VIII".

SEC. 2. EXTENSION OF THE TEMPORARY ASSISTANCE FOR NEEDY FAMILIES BLOCK GRANT PROGRAM THROUGH MARCH 31, 2005.

(a) IN GENERAL.—Activities authorized by part A of title IV of the Social Security Act, and by sections 510, 1108(b), and 1925 of such Act, shall continue through March 31, 2005, in the manner authorized for fiscal year 2004, notwithstanding section 1902(e)(1)(A) of such Act, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2005 at the level provided for such activities through the second quarter of fiscal year 2004.

(b) CONFORMING AMENDMENTS.—

(1) SUPPLEMENTAL GRANTS FOR POPULATION INCREASES IN CERTAIN STATES.—Section 403(a)(3)(H)(ii) of the Social Security Act (42 U.S.C. 603(a)(3)(H)(ii)) is amended by striking "September 30, 2004" and inserting "March 31, 2005".

(2) CONTINGENCY FUND.—Section 403(b)(3)(C)(ii) of such Act (42 U.S.C. 603(b)(3)(C)(ii)) is amended by striking "2004" and inserting "2005".

(3) MAINTENANCE OF EFFORT.—Section 409(a)(7) of such Act (42 U.S.C. 609(a)(7)) is amended—

(A) in subparagraph (A), by striking "or 2005" and inserting "2005, or 2006"; and

(B) in subparagraph (B)(ii), by striking "2004" and inserting "2005".

SEC. 3. EXTENSION OF THE NATIONAL RANDOM SAMPLE STUDY OF CHILD WELFARE AND CHILD WELFARE WAIVER AUTHORITY THROUGH MARCH 31, 2005.

Activities authorized by sections 429A and 1130(a) of the Social Security Act shall continue through March 31, 2005, in the manner authorized for fiscal year 2004, and out of any money in the Treasury of the United States not otherwise appropriated, there are hereby appropriated such sums as may be necessary for such purpose. Grants and payments may be made pursuant to this authority through the second quarter of fiscal year 2005 at the level provided for such activities through the second quarter of fiscal year 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HERGER) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume, and I rise today in support of H.R. 5149, the Welfare Reform Extension Act, Part VIII. Why Part VIII? Because, unfortunately, we are here again for the eighth time to pass short-term legislation that simply continues the status quo for one of our most important social assistance programs.

Mr. Speaker, this bill will continue funding for the Temporary Assistance For Needy Families program and other related programs that assist low-income families through March 31, 2005. I support this legislation, but as I have said before and will say again today, I wish we were here today to vote on comprehensive, forward-looking legislation like the House has already approved and the President has supported.

In his convention speech, President Bush said, "Because family and work are sources of stability and dignity, I support welfare reform that strengthens family and requires work." In his call for more work and stronger families. House Republicans stand with the President. That is why we approved comprehensive welfare reform legislation twice in the last 2 years, bills that promote more work and stronger families.

Unfortunately, the other body has not yet passed its own bill, and many on the other side of the aisle continue to oppose more welfare reforms designed to promote work and reduce dependence and poverty. Why do some continue to ignore the three overwhelming lessons of the 1996 welfare reform law?

Lesson one: Real welfare reform means more work, less dependence, and less poverty.

Lesson two: Real welfare reform means stronger families and more healthy marriages, improving children's prospects for the future.

Lesson three: Real welfare reform frees up money from welfare checks that is better spent on services like child care so families can support themselves.

Perhaps one reason for the Democrats' opposition to more welfare reform is that many on that side of the aisle opposed real welfare reform all along. Since Congress started voting on welfare reform bills in the mid-1990s, there have been eight major votes in this House. During that time, Democrats collectively registered 1,392 votes against welfare reform and only 188 votes for it. Eighty-eight percent of the time congressional Democrats have opposed welfare reform bills. Half of the Democrats even opposed the landmark 1996 welfare reform law. On those same votes, an overwhelming 98 percent of the Republicans supported welfare reform.

The debate in the past 2 years has been a reminder of what we saw in the mid-1990s. Whatever their reasons, whether it is because they oppose requiring a 40-hour work week of welfare recipients, like other American families, or they oppose promoting stronger families and healthy marriages, or insist on billions more in welfare spending despite the reduced caseload, some have consistently opposed meaningful updates to welfare reform. That is despite the obvious success of welfare reform since 1996, and despite the obvious need to make adjustments that would help the 2 million families still on welfare achieve independence and better lives.

That is precisely what the legislation passed by the House twice, and supported by the President, achieves. Those who oppose this legislation also continue to ignore letters from the States urging forward movement on a long-term authorization. Most recently, the State of New York sent a letter to their Members in the other body and said, "In these very difficult budget cycles, delaying TANF reauthorization until the next congressional session will certainly jeopardize the current block grant funding level of $16.5 billion currently maintained in both the House and Senate bills, and the Senate-passed $7 billion child care amendment, which will annually support over 70,000 additional children of New York's working parents."

Mr. Speaker, now is the time to act, but today we are here to pass yet another piece of short-term legislation that only maintains the status quo. Unfortunately, this placeholder does exactly what the States fear: places any reforms of additional funding in jeopardy.

Just yesterday, I heard from representatives from my own State of California that continued extensions are standing in the way of more welfare reform there. In short, States serving families on welfare are unable to take the next steps to help them achieve independence when there is not certainty of funding and clear goals are not established. Passing the legislation before us today is a necessary step, since we need to help States keep writing welfare checks to 2 million families.

What more we should be doing is obvious: expecting and supporting more work instead of simply supporting more welfare checks. House Republicans supported the President and have twice passed legislation designed to help more parents know the dignity of drawing a paycheck instead of a welfare check. Others who oppose that next step must explain why they continue to block forward movement.

Mr. Speaker, before I conclude, I would like to mention an individual who has been a tremendous asset in our efforts to reform these programs, Ms. Vee Burke. As my statement reflects, Ms. Burke will be retiring from the Congressional Research Service this year after more than 30 years of service to the Members and their staff. Ms. Burke joined CRS in 1970 as a recognized expert in the field of public welfare. For more than three decades she has worked diligently and professionally to assist us with our efforts. Her contributions and knowledge of these programs have had a direct, positive impact on the lives of millions of families and children. We will miss her and we wish her well and thank her for her many years of service.

Mr. Speaker, today I'd like to pay tribute to Vee Burke, a policy specialist in low-income programs at the Congressional Research Service. Ms. Burke joined CRS more than 30 years ago as a recognized expert in the field of public welfare. Much to the regret of many Members of Congress and their staff, Ms. Burke will retire at the end of November.

During her tenure at CRS, Ms. Burke became a leading expert on the history, evolution, and interaction of welfare and public assistance programs for low-income individuals and families. Over three decades, Ms. Burke has played a role in all major congressional deliberations affecting low-income individuals including the sweeping welfare reforms enacted in 1996. Largely considered the most significant social policy change in the past 60 years, Ms. Burke's in-depth knowledge of low-income programs and her tireless efforts to assist Members and their staff with this legislation were instrumental in our success.

Because of her stature as one of the leading authorities in the country in this policy area, Ms. Burke's advice and assistance has been regularly sought by the congressional committees with legislative jurisdiction. She has offered expert testimony and authored numerous reports that have served as the basis for legislation considered by Congress. Her most unique contribution is the series of CRS reports entitled Cash and Noncash Benefits for Persons with Limited Income that she began in 1976. This initially annual and more recently biennial report provides detailed and comprehensive information and statistics on program rules, participation and spending for some 80 means-tested Federal programs. Ms. Burke also has been a key contributor to the House Ways and Means Committee Green Book since that report's inception in 1981. Anyone who has used either of these resources understands the amount of time and effort that such significant undertakings require, but also appreciate the value and contributions they make to our efforts to assist low-income families.

Ms. Burke is respected and admired by congressional staff and Members, by her colleagues within CRS, and by the broader research and policy community. Her contributions have had direct impact on the lives of millions of Americans. I ask my colleagues to join me in thanking her for her service and I wish her all the best in her future endeavors.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, only in this body with Republican leadership can they blame everyone but themselves. Even though they control this body, the other body, and the White House, they seem to blame everybody else for the failure to enact the reauthorization of welfare. Only in this body.

And then my distinguished chairman says that our States want us to pass a long-term reauthorization. And the chairman is absolutely right, but they do not want us to pass the bill that passed this body because it would take us backwards in welfare rather than forward in reform.

I do appreciate the fact that the distinguished chairman at least had the title of the bill accurately reflect what we are doing here, and that is Welfare Reform Extension Act, Part VIII. Eight times in the last 2½ years we have had short-term extensions because of the failure of the Republican leadership to work for a bill that would build on the work that was done in 1996 to give our States the flexibility they need in order to implement welfare reform and give them the resources they need. Instead, we have a bill that passed this body that was anything but bipartisan. In fact, we never even had hearings in our committee. We had a markup, but no hearings in this Congress because of the failure to really reach out and try to do something that could be enacted into law.

So, Mr. Speaker, I am terribly disappointed that we are again looking at an extension. I support this bill, so my distinguished chairman and I are in agreement, we do not want to see this program lapse. It is an important program. It extends not only the TANF program but several related programs, including child care and development block grants and transitional Medicaid assistance for people leaving welfare to work.

I agree with those who say we should be doing more, much more. After all, over the last 3 years, the number of Americans in poverty has grown by 4.3 million. Last year alone, another 700,000 children fell into poverty.

□ 1630

Meanwhile, funding for several anti-poverty programs, including TANF, child care and social services block grant and job training through the Workforce Investment Act have declined by $1.7 billion in real terms over the last 3 years. In short, we are responding to rising poverty with declining assistance.

Regrettably, the long-term welfare authorization plan put forward by my Republican colleagues largely ignores this problem. Instead, they have suggested poverty is rising because welfare recipients are not working hard enough. However, this suggestion falls flat when we consider one basic fact: The welfare rolls have continued to decline even though our poverty rates have grown.

The problem is not the unwillingness of people on welfare to work; the problem is that too many of these people leaving welfare are not finding employment, or they are finding jobs which do not lift them out of poverty.

We could help by providing more child assistance and job training, but so far the majority and President Bush have resisted such reforms.

While obviously an imperfect response, temporarily extending TANF funds is certainly better than fundamentally dismantling the successful parts of the 1996 welfare reform law such as providing our States and communities with the flexibility to determine how to best move welfare recipients into the work force. Therefore, I support this legislation to maintain necessary funding for several poverty programs over the next 6 months in the hopes that we can pass a more comprehensive improvement next year.

One area that Congress must focus on next year is providing access to affordable child care, which is undoubtedly one of the biggest problems confronting low-income working families.

Mr. Speaker, the price of child care can easily range between $4,000 and $10,000 per year per child. It is no wonder that the Urban Institute found that families in poverty with day-care expenses spent almost a quarter of their earnings on child care. Unfortunately, many States have cut back on child care assistance because of recent budget shortfalls. This problem has been documented by the General Accounting Office and more recently in a report by the National Women's Law Center. Their study found that between 2001 and 2004, three-fifths of our States made child care eligibility more restrictive. Half the States raised their copayments on low-income families, waiting lists for those eligible for aid but not receiving it grew in more than a dozen States.

My own State of Maryland has frozen enrollment in child care for working families. In other words, the only way in Maryland that families can get child care assistance is to go on welfare. What a message.

Instead of helping to address this problem, the Federal Government has not even allowed child care funding to maintain the pace with inflation over the last 2 years. The long-term TANF reauthorization bill passed by this body earlier this session will simply continue this disturbing trend by reducing the real value of child care assistance. We can and should do better for America's struggling families.

Mr. Speaker, there is much work to be done, but in the meantime I urge support for this temporary extension of funding for several poverty-related programs for the eighth time in the last 2.5 years. Like the past seven extensions, this bill simply continues current law without including any new controversial policy changes.

Mr. Speaker, I reserve the balance of my time.

Mr. HERGER. Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. SHAW), the chairman of the subcommittee and author of the welfare reform legislation which has done such an incredible job of bettering families.

Mr. SHAW. Mr. Speaker, we are coming again to a crossroads, and why it is that we cannot move this bill ahead in an orderly fashion instead of bits and pieces and jumping all around absolutely escapes me.

The bill that my colleague from California has crafted which has passed this House now on several occasions increases the child care which is so necessary for the single moms struggling to go to work. We want to be sure their kids are taken care of and they are not in the street, and we have increased the funding substantially.

When we look at what we are spending on each welfare recipient, because of the amount of welfare recipients going down and the funding not going down, we are spending well over twice as much on each welfare recipient for job training to get them on their feet and to get them to be productive human beings.

This bill and the bill referred to by the gentleman from California (Mr. HERGER) and the Committee on Ways and Means which has passed this House on several occasions gets to the other side of the Capitol and it is blocked. The other body has constantly talked this bill down and has prevented a vote on the floor of the other body, which is too bad.

Mr. Speaker, we are seeing pre-1996 all over again. One of the proudest accomplishments of this body which I can remember so well culminated on August 22, 1996, when the President actually signed the bill. He opposed it and vetoed it twice, but when it got to him the third time, while the debate was going on in this Chamber, went on national television and indicated his support for this bill. And much to his credit, he signed it.

It was very controversial then. There were massive resignations within the White House in protest of President Clinton having signed this bill. Much to the credit of those who stayed on, including Ms. Shalala who is now President of the University of Miami where the debates are going to be tomorrow night, although she was opposed to it, she saw to it and did the best to see that it worked, and it did work.

It worked not only because we had faith in the human spirit, but also at the end, even though there was bitter partisan bickering to get it to the floor and to get the vote, in the end there was bipartisan support with a Democrat President signing a Republican bill.

We can do better. Let us pass this particular bill because we still have the other problem in the other body, but let us move ahead and let us in the next Congress come back and pass the next generation of welfare reform, and that is the bill that the gentleman from California (Mr. HERGER) has been cosponsoring and working on.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I listened to the gentleman from Florida (Mr. SHAW) and I agree with almost everything he said. In 1996 we were able to pass a bill by working together as Democrats and Republicans, and I am amazed that the bill that the Republican leadership has been advancing in this Congress would take us backwards, take away the discretion of our States to deal with the welfare programs. That presumes that some of our States are not capable of dealing with it. In 1996 we trusted our States, and it worked.

Mr. Speaker, I yield 6 minutes to the gentleman from Michigan (Mr. LEVIN), a senior member of the Committee on Ways and Means and a Member who has worked on welfare reform since he has been in Congress.

Mr. LEVIN. Mr. Speaker, I want to briefly review the history of welfare reform, not to finger point, but to have us understand what this is all about.

The gentleman from Florida (Mr. SHAW) said, pointing to 1996, that the third time around, the President agreed to it. What he forgot to say was that there were three bills and that they changed from bill to bill. Many Democrats worked to change those bills so that they would be acceptable. The third time around it was different because it included more adequate health care and also more adequate day care. Neither was taken care of appropriately in the first two times around. That is point one.

So it was a bipartisan product. The President, President Clinton, had kicked off the effort years before, and eventually we worked together to produce a product.

My next point, as the gentleman from Maryland (Mr. CARDIN) has so clearly pointed out, it has been different this time around in terms of this product that came through the House. It has not been a bipartisan product whatsoever. Instead, what the majority has been trying to do is really to rewrite the 1996 welfare reform bill, as the gentleman from Maryland (Mr. CARDIN) has pointed out, to turn the clock back on provisions of that bill, and to do so despite the fact that the research that has been undertaken since passage in 1996 indicates that what is in the House-passed bill is wrong in important respects, and that is why the Senate has failed to act.

First of all, in terms of people moving up the economic ladder, the evidence is clear that a majority of people who have moved from welfare to work earn less than 42 percent of the median average wage in their States. And also these studies make clear that the most successful programs focus on getting people better jobs and increasing their earnings. Former welfare recipients with higher starting wages were 40 percent more likely to still be working 2 years later and those with child assistance were twice as likely to work for 2 years.

So that is why the National Governors Association, when they canvassed the welfare directors, found that 40 of them said that the fundamental changes in the Republican bill were wrong; or to put it another way, that the Republican bill would force fundamental changes in the successful welfare programs. And the researcher who has done so much of the federally funded research on welfare-to-work strategies said that the House Bush administration plan would force the most successful programs to change substantially. So that is what this is all about.

We passed a bill that would, instead of emphasizing people moving off of welfare into work and as they moved, moved up the ladder, would emphasize people on welfare working. The whole point is to help people and get them to move off of welfare and to stay off of welfare.

So in our bill the Democrats proposed a very different approach than the Republicans here in the House. In our bill, States would be rewarded for helping recipients move off of welfare and to get into good-paying jobs, and also trying to fix the transitional Medicaid program, to try to get more health care available for people so when they moved off of welfare, they did not lose it, they would instead continue it for 6 months or a year. Also we proposed in our bill full funding to the social services block grant program.

Let me finish by saying I support the extension. It is better than a bad bill that passed the House, but on child care, the record should be straight: We proposed $11 billion more, the Senate $7 billion, and the House Republican bill won. If child care is not provided, it is going to be difficult for people to move off of welfare into productive work that will move them and help move up the ladder, and that is the true test of welfare reform, people moving off welfare out of poverty and into work.

□ 1645

The gentleman from Maryland has led the effort to emphasize that with the support of Democrats. I am proud to be part of that. We need a bipartisan effort in this House, not ramming or cramming through a bill without ever there being an effort within our subcommittee to produce a bipartisan product. There is hope, but not the Republican bill. Let us vote for the extension and do much better after November 2.

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume. I would just like to respond. We hear the other side, the Democrats, indicating, and I have heard them indicate this over and over, that somehow there was bipartisan support, that somehow the Democrats worked with the Republicans. But if we look at what the votes were, we find an entirely different result completely.

For example, in 1995 on our Committee on Ways and Means, zero votes came from Democrats the first bill that came through. The second bill coming through, again, zero Democrats on the Committee on Ways and Means supporting it. Again, where is this bipartisan support? Finally, the third bill that finally after President Clinton vetoed it twice, the third time around, the bill coming through the same Committee on Ways and Means, the first time through all the Democrats except one voted against it. Then the conference committee, over half of the Democrats on the Committee on Ways and Means still voted against it. And on the House floor the Democrats, over half of them voted against it.

So I am not quite sure where all this bipartisan support is. It seems that the Democrats came kicking and screaming all the way to having the welfare reform.

Let me also refer to this book. They indicate that there is not enough money. Let me quote from how a recent book by New York Times welfare reporter Jason DeParle puts it: "Falling caseloads brought one problem States welcomed. It left them rolling in dough. States literally had more money than they knew how to spend. Over 6 years, States collected $59 billion more than they could have under the previous system, when falling caseloads brought reduced Federal dollars. Having promised to do more with less, the Governors wound up with more, much more, than anyone imagined." That is on page 215 from this book. Again, the facts do not meet the reality of what we are hearing from the other side.

Mr. Speaker, I yield 5 minutes to the gentlewoman from Connecticut (Mrs. JOHNSON) who has been an active member of the committee on this legislation.

Mrs. JOHNSON of Connecticut. I thank the gentleman for yielding me this time.

Mr. Speaker, the goal of TANF, that is, welfare reform, was always twofold: first, it was to help women who had children and no means of support and therefore were dependent on welfare to regain their economic independence by entering the workforce. That goal was for the woman, so she could realize her greatest potential, she could gain control of her life by being economically self-sufficient. And then the second goal was to lift her and her children out of poverty, occasionally he and his children out of poverty.

Those twin goals of helping women on welfare to realize their skills, their potential, their capabilities to gain economic self-sufficiency and to raise children out of poverty were goals that we all shared, both sides of the aisle; but they were goals that were achieved by the structure of the bill that the Republicans crafted and passed and which at the time was extremely controversial.

But it did work. Two million children have been lifted out of poverty. According to the census, the poverty rate for African American children and the poverty rate for children living with single mothers hit a record low in 2001 and 2002. So then the question becomes, What happened during the years of recession since 2001 and 2002? We all know that a recession was in progress when this President was sworn into office and then the economy was terribly jolted by 9/11 and unemployment rates soared and so on.

Yet when we look back, these are the facts. First of all, starting from the overall understanding that poverty in a recession and child poverty in a recession does rise. Two years after the 1990–1991 recession, 15.7 million children were in poverty in 1993, or 22.7 percent of the children were in poverty in 1993. That was after the 1990–1991 recession. Two years after the 2001 recession, 12.9 million children were in poverty, or 17.6 percent were in poverty in 2003.

In other words, in this more recent recession, after welfare reform, yes, more children were in poverty. But far fewer were in poverty than had been in poverty 10 years earlier after the 1990 recession. In fact, 17.6 percent were in poverty in 2003, 22.7 percent had been in poverty in 1993. So there are 2.8 million fewer children in poverty now than there were in the preceding economic cycle.

While it is tragic to see poverty numbers go up, we need to put them in the context of this economy and of welfare reform because, in fact, welfare reform has been so successful in reducing child poverty that even with the rise in child poverty during this recent recession, it is still well below what it was 10 years ago.

Let me just add one other point and that is, it is really a shame that this is not the reauthorization rather than a 6-month extension. In the reauthorization, we do provide far better opportunity for women to get the education they need, not just to get into the workforce but to get up the career ladder.

Furthermore, in the reauthorization we recognize what has become a very real problem and that is that many of the women who are really stuck on welfare now are women who need to have better access to either drug treatment programs of a longer term sort or to mental health programs. Both of those kinds of treatment programs we count as work in the extension bill.

The next round of TANF reform will enable us to meet the challenge of improving the educational support and being more realistic about the health services necessary to help women become self-sufficient and their children to do better and the whole family to rise out of poverty. So it is unfortunate that we are not moving on reauthorization rather than extension, but extension certainly beats letting the current law expire because it has done wonderful things for women in America, allowing them to realize their potential and think about their skills and abilities with the help of supportive programs, and it has certainly lifted many children out of poverty. I urge support of this legislation.

Mr. CARDIN. Mr. Speaker, I yield 1 minute to the gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. Mr. Speaker, I want to say to the chairman of the subcommittee, if he persists in distorting the record, he is going to continue to make less likely improvement of welfare reform. I am sorry he is not listening, but I will say this for the record.

When welfare reform bills were considered, there were differences. But at important places we proposed alternatives and Democrats voted for them. March 24, 1995, 205 Democrats supported essentially a substitute that was proposed by someone who was then a member of the Democratic Caucus. That was March of 1995. Then if you go over to later on, there was in July 1996 when welfare reform was considered on the floor an alternative proposed by the gentleman from Tennessee (Mr. TANNER) and the gentleman from Delaware (Mr. CASTLE). It received 168 votes.

His attempt to really grab the welfare reform flag and deny the involvement of President Clinton who suggested we end welfare as we then knew it, I think he is now suggesting that we change welfare reform backwards. That effort of his I think only diminishes the chances that we can move welfare reform ahead. His trying to make this into a partisan issue instead of a chance for bipartisan working together is really antithetical to the needs of the people of this country for further welfare reform. I hope the next time around, he does not sing the same song.

Mr. CARDIN. Mr. Speaker, I am pleased to yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, here we go again. Instead of making this TANF law better, instead of giving welfare recipients the tools to move from welfare to self-sufficiency, we are once again renewing, for the eighth time renewing it, actually, a bill that continues moving families from welfare further into poverty.

Instead, we should be making education or training count as work so that that activity for welfare recipients will help them get ready for better educational opportunities and job training so they can have better opportunities for earning a salary that pays a livable wage. They will not get that unless they have education and training. Instead of again extending an outdated welfare bill, we should be providing quality child care, child care that includes more care for infants, child care that extends to parents who work weekends and evenings. That is what we need. That is what these parents need. That is what they need to help them get their jobs and become self-sufficient.

Let us face it, if parents do not have a safe, convenient place to leave their children, they cannot go to work. Believe me, I know, because over 30 years ago I was a single mother with three small children, abandoned by their father; and even though I was working full-time, I needed welfare, aid for dependent children at that time, to keep our lives together, to get my children the health care, the child care they needed. But eventually I worked my way out of poverty and started my own business before running for Congress. Of course, you have to know that I believe that others should have the same opportunities that I had.

While I support this short-term extension as necessary, I want us to begin to work to authorize a bill that will give workers the training and the education and the child care that they need so that they can be successful. They need the same kind of opportunities that I was afforded 30 years ago.

Mr. CARDIN. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, let me just rise and talk about how I on the other side am concerned about our situation now. We are concerned. The census reported just this month in August, 36 million Americans living in poverty, more than ever in recorded history. Forty-five million without access to health insurance. And we are saying we have a good program? This is the most powerful country in the world. Yet we find a large number that still reside in poverty. At the same time we are choosing to cut back in education. We are choosing to say no, when the administration shook hands on Leave No Child Behind.

That Republican compassionate conservatism is self-proclaimed compassionate conservatism because it is not one for allowing young people an opportunity to be able to further their education, to make sure they do not go onto welfare. During the last 4 years, we have lost more jobs than ever recorded. Those jobs that we have gained have been jobs that have paid much less than the ones that we have lost.

□ 1700

So the reality is that we have had an opportunity to make some things happen, and they failed to do that.

The SPEAKER pro tempore (Mr. SHIMKUS). The gentleman from Maryland (Mr. CARDIN) has 1½ minutes remaining.

Mr. CARDIN. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I use that 1½ minutes first to join the gentleman from California (Mr. HERGER) in recognizing the outstanding work that Vee Burke has provided for more than 30 years at the Congressional Research Service.

Vee has helped our committee conduct its work on poverty and public assistance issues by providing detailed and meticulously accurate information on program rules, participation and trends. Since 1981, she has been a regular and valued contributor to the Ways and Means Green Book, which is the key resource on poverty programs for Members of Congress and their staff.

Vee's expertise on welfare issues started during the Nixon administration and has continued through all major developments thereafter, including the 1996 welfare reform law and our current efforts to reauthorize that law. Her work has provided a foundation of understanding needed to improve our Nation's safety net programs.

We wish Vee well in her pending retirement, and we thank her for her contributions to improving social programs in our great Nation. Mr. Speaker, I can assure the Members that the gentleman from California (Mr. HERGER) and I are in complete agreement in regards to Vee Burke's contributions to this body and to this Nation and also urging our colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in February of 2003, this House passed long-term reauthorization legislation to encourage more work among welfare recipients and to provide more federal dollars for States to assist low-income families. The other body's unwillingness to work with us to move this legislation forward has resulted in lost resources to the States and 2 years of lost opportunity to provide more assistance so more low-income parents can make the transition from welfare to work.

I wish the legislation before us today were not needed. As I have said before, I wish we were here debating a long-term reauthorization bill. But we do need to pass this legislation. Therefore, I urge all of my colleagues to support this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the bill, H.R. 5149.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. CARDIN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. HERGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 5149, the bill just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. LINDER (during debate on H.R. 5149) from the Committee on Rules, submitted a privileged report (Rept. No. 108–709) on the resolution (H. Res. 807) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

VETERANS HEALTH PROGRAMS AND FACILITIES ENHANCEMENT ACT OF 2004

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4768) to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to enter into certain major medical facility leases, to authorize that Secretary to transfer real property subject to certain limitations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4768

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Health Programs and Facilities Enhancement Act of 2004".

(b) REFERENCES TO TITLE 38, UNITED STATES CODE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

(c) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; references to title 38, United States Code; table of contents.

TITLE I—MEDICAL FACILITIES MANAGEMENT

Sec. 101. Major medical facility leases.
Sec. 102. Department of Veterans Affairs Capital Asset Fund.
Sec. 103. Annual report to Congress on inventory of Department of Veterans Affairs historic properties.
Sec. 104. Authority to use project funds to construct or relocate surface parking incidental to a construction or nonrecurring maintenance project.
Sec. 105. Inapplicability of limitation on use of advance planning funds to authorized major medical facility projects.
Sec. 106. Improvement in enhanced-use lease authorities.
Sec. 107. Extension of authority to provide care under long-term care pilot programs.

TITLE II—OTHER MATTERS

Sec. 201. Inclusion of all enrolled veterans among persons eligible to use canteens operated by Veterans' Canteen Service.
Sec. 202. Enhancement of medical preparedness of Department.

TITLE I—MEDICAL FACILITIES MANAGEMENT

SEC. 101. MAJOR MEDICAL FACILITY LEASES.

(a) AUTHORIZED LEASES.—The Secretary of Veterans Affairs may enter into contracts for major medical facility leases at the following locations, in an amount for each facility lease not to exceed the amount shown for that location:

(1) Wilmington, North Carolina, Outpatient Clinic, $1,320,000.

(2) Greenville, North Carolina, Outpatient Clinic, $1,220,000.

(3) Norfolk, Virginia, Outpatient Clinic, $1,250,000.

(4) Summerfield, Florida, Marion County Outpatient Clinic, $1,230,000.

(5) Knoxville, Tennessee, Outpatient Clinic, $850,000.

(6) Toledo, Ohio, Outpatient Clinic, $1,200,000.

(7) Crown Point, Indiana, Outpatient Clinic, $850,000.

(8) Fort Worth, Texas, Tarrant County Outpatient Clinic, $3,900,000.

(9) Plano, Texas, Collin County Outpatient Clinic, $3,300,000.

(10) San Antonio, Texas, Northeast Central Bexar County Outpatient Clinic, $1,400,000.

(11) Corpus Christi, Texas, Outpatient Clinic, $1,200,000.

(12) Harlingen, Texas, Outpatient Clinic, $650,000.

(13) Denver, Colorado, Health Administration Center, $1,950,000.

(14) Oakland, California, Outpatient Clinic, $1,700,000.

(15) San Diego, California, North County Outpatient Clinic, $1,300,000.

(16) San Diego, California, South County, Outpatient Clinic, $1,100,000.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary of Veterans Affairs for fiscal year 2005 for the Medical Care account, $24,420,000 for the leases authorized in subsection (a).

(c) AUTHORITY FOR LEASE OF CERTAIN LANDS OF UNIVERSITY OF COLORADO.—Notwithstanding section 8103 of title 38, United States Code, the Secretary of Veterans Affairs may enter into a lease for real property located at the Fitzsimons Campus of the University of Colorado for a period up to 75 years.

SEC. 102. DEPARTMENT OF VETERANS AFFAIRS CAPITAL ASSET FUND.

(a) ESTABLISHMENT OF FUND.—(1) Subchapter I of chapter 81 is amended by adding at the end the following new section:

"§8118. Authority for transfer of real property; Capital Asset Fund

"(a)(1) The Secretary may transfer real property under the jurisdiction or control of the Secretary (including structures and equipment associated therewith) to another department or agency of the United States or to a State (or a political subdivision of a State) or to any public or private entity, including an Indian tribe. Such a transfer may be made only if the Secretary receives compensation of not less than the fair market value of the property, except that no compensation is required, or compensation at less than fair market value may be accepted, in the case of a transfer to a grant and per diem provider (as defined in section 2002 of this title). When a transfer is made to a grant and per diem provider for less than fair market value, the Secretary shall require in the terms of the conveyance that if the property transferred is used for any purpose other than a purpose under chapter 20 of this title, all right, title, and interest to the property shall revert to the United States.

"(2) The Secretary may exercise the authority provided by this section notwithstanding sections 521, 522 and 541–545 of title 40. Any such transfer shall be in accordance with this section and section 8122 of this title.

"(3) The authority provided by this section may not be used in a case to which section 8164 of this title applies.

"(4) The Secretary may enter into partnerships or agreements with public or private entities dedicated to historic preservation to facilitate the transfer, leasing, or adaptive use of structures or properties specified in subsection (b)(3)(D).

"(5) The authority of the Secretary under paragraph (1) expires on the date that is seven years after the date of the enactment of this section.

"(b)(1) There is established in the Treasury of the United States a revolving fund to be known as the Department of Veterans Affairs Capital Asset Fund (hereinafter in this section referred to as the 'Fund'). Amounts in the Fund shall remain available until expended.

"(2) Proceeds from the transfer of real property under this section shall be deposited into the Fund.

"(3) To the extent provided in advance in appropriations Acts, amounts in the Fund may be expended for the following purposes:

"(A) Costs associated with the transfer of real property under this section, including costs of demolition, environmental remediation, maintenance and repair, improvements to facilitate the transfer, and administrative expenses.

"(B) Costs, including costs specified in subparagraph (A), associated with future transfers of property under this section.

"(C) Costs associated with enhancing medical care services to veterans by improving, renovating, replacing, updating, and establishing patient care facilities through construction projects to be carried out for an amount less than the amount specified in 8104(a)(3)(A) for a major medical facility project.

"(D) Costs, including costs specified in subparagraph (A), associated with the transfer, lease or adaptive use of a structure or other property under the jurisdiction of the Secretary that is listed on the National Register of Historic Places.

"(c) The Secretary shall include in the budget justification materials submitted to Congress for any fiscal year in support of the President's budget for that year for the Department specification of the following:

"(1) The real property transfers to be undertaken in accordance with this section during that fiscal year.

"(2) All transfers completed under this section during the preceding fiscal year and completed and scheduled to be completed during the year during which the budget is submitted.

"(3) The deposits into, and expenditures from, the Fund that are incurred or projected for each of the preceding fiscal year, the current fiscal year, and the fiscal year covered by the budget.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8117 the following new item:

"8118. Authority for transfer of real property; Capital Asset Fund.".

(b) INITIAL AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Department of Veterans Affairs Capital Asset Fund established under section 8118 of title 38, United States Code (as added by subsection (a)), the amount of $10,000,000.

(c) TERMINATION OF NURSING HOME REVOLVING FUND.—(1) Section 8116 is repealed.

(2) The table of sections at the beginning of chapter 81 is amended by striking the item relating to section 8116.

(d) TRANSFER OF UNOBLIGATED BALANCES TO CAPITAL ASSET FUND.—Any unobligated balances in the nursing home revolving fund under section 8116 of title 38, United States Code, as of the date of the enactment of this Act shall be deposited in the Department of Veterans Affairs Capital Asset Fund established under section 8118 of title 38, United States Code (as added by subsection (a)).

(e) PROCEDURES APPLICABLE TO TRANSFERS.—(1) Paragraph (2) of section 8122(a) is amended to read as follows:

"(2) Except as provided in paragraph (3), the Secretary may not during any fiscal year transfer to any other department or agency of the United States or to any other entity real property that is owned by the United States and administered by the Secretary unless the proposed transfer is described in the budget submitted to Congress pursuant to section 1105 of title 31 for that fiscal year.".

(2) Section 8122(d) is amended—

(A) by inserting "(1)" before "Real property"; and

(B) by adding at the end the following new paragraph:

"(2) The Secretary may transfer real property under this section, or under section 8118 of this title if the Secretary—

"(A) places a notice in the real estate section of local newspapers and in the Federal Register of the Secretary's intent to transfer that real property (including land, structures, and equipment associated with the property);

"(B) holds a public hearing;

"(C) provides notice to the Administrator of General Services of the Secretary's intention to transfer that real property and waits for 30 days to elapse after providing that notice; and

"(D) after such 30-day period has elapsed, notifies the congressional veterans' affairs committees of the Secretary's intention to dispose of the property and waits for 60 days to elapse from the date of that notice.".

(3) Section 8164(a) is amended by inserting "8118 or" after "rather than under section".

(4) Section 8165(a)(2) is amended by striking "nursing home revolving fund" and inserting "Capital Asset Fund established under section 8118 of this title".

(f) CONTINGENT EFFECTIVENESS.—The amendments made by this section shall take effect at the end of the 30-day period beginning on the date on which the Secretary of Veterans Affairs certifies to Congress that the Secretary is in compliance with subsection (b) of section 1710B of title 38, United States Code. Such certification shall demonstrate a plan for, and commitment to, ongoing compliance with the requirements of that subsection.

(g) CONTINUING REPORTS.—Following a certification under subsection (f), the Secretary shall submit to Congress an update on that certification every six months until the certification is included in the Department's annual budget submission.

SEC. 103. ANNUAL REPORT TO CONGRESS ON INVENTORY OF DEPARTMENT OF VETERANS AFFAIRS HISTORIC PROPERTIES.

(a) IN GENERAL.—Not later than December 15 of 2005, 2006, and 2007, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the historic properties administered or controlled by the Secretary.

(b) INITIAL REPORT.—In the initial report under subsection (a), the Secretary shall set forth a complete inventory of the historic structures and property under the jurisdiction of the Secretary. The report shall include a description and classification of each such property based upon historical nature, current physical condition, and potential for transfer, leasing, or adaptive use.

(c) SUBSEQUENT REPORTS.—In reports under subsection (a) after the initial report, the Secretary shall provide an update of the status of each property identified in the initial report, with the proposed and actual disposition of each property. Each such report shall include any recommendation of the Secretary for legislation to enhance the transfer, leasing or adaptive use of such properties.

SEC. 104. AUTHORITY TO USE PROJECT FUNDS TO CONSTRUCT OR RELOCATE SURFACE PARKING INCIDENTAL TO A CONSTRUCTION OR NONRECURRING MAINTENANCE PROJECT.

Section 8109 is amended by adding at the end the following new subsection:

"(j) Funds in a construction account or capital account that are available for a construction project or a nonrecurring maintenance project may be used for the construction or relocation of a surface parking lot incidental to that project.".

SEC. 105. INAPPLICABILITY OF LIMITATION ON USE OF ADVANCE PLANNING FUNDS TO AUTHORIZED MAJOR MEDICAL FACILITY PROJECTS.

Section 8104 is amended by adding at the end the following new subsection:

"(g) The limitation in subsection (f) does not apply to a project for which funds have been authorized by law in accordance with subsection (a)(2).".

SEC. 106. IMPROVEMENT IN ENHANCED-USE LEASE AUTHORITIES.

Section 8166(a) is amended by inserting "land use," in the second sentence after "relating to".

SEC. 107. EXTENSION OF AUTHORITY TO PROVIDE CARE UNDER LONG-TERM CARE PILOT PROGRAMS.

Subsection (h) of section 102 of the Veterans Millennium Health Care and Benefits Act (38 U.S.C. 1710B note) is amended—

(1) by inserting "(1)" before "The authority of"; and

(2) by adding at the end the following new paragraph:

"(2) In the case of a veteran who is participating in a pilot program under this section as of the end of the three-year period applicable to that pilot program under paragraph (1), the Secretary may continue to provide to that veteran any of the services that could be provided under the pilot program. The authority to provide services to any veteran under the preceding sentence applies during the period beginning on the date specified in paragraph (1) with respect to that pilot program and ending on December 31, 2005.".

TITLE II—OTHER MATTERS

SEC. 201. INCLUSION OF ALL ENROLLED VETERANS AMONG PERSONS ELIGIBLE TO USE CANTEENS OPERATED BY VETERANS' CANTEEN SERVICE.

The text of section 7803 is amended to read as follows:

"(a) PRIMARY BENEFICIARIES.—Canteens operated by the Service shall be primarily for the use and benefit of—

"(1) veterans hospitalized or domiciled at the facilities at which canteen services are provided; and

"(2) other veterans who are enrolled under section 1705 of this title.

"(b) OTHER AUTHORIZED USERS.—Service at such canteens may also be furnished to—

"(1) personnel of the Department and recognized veterans' organizations who are employed at a facility at which canteen services are provided and to other persons so employed;

"(2) the families of persons referred to in paragraph (1) who reside at the facility; and

"(3) relatives and other persons while visiting a person specified in this section.".

SEC. 202. ENHANCEMENT OF MEDICAL PREPAREDNESS OF DEPARTMENT.

(a) PEER REVIEW PANEL.—In order to assist the Secretary of Veterans Affairs in selecting facilities of the Department of Veterans Affairs to serve as sites for centers under section 7327 of title 38, United States Code, as added by subsection (c), the Secretary shall establish a peer review panel to assess the scientific and clinical merit of proposals that are submitted to the Secretary for the selection of such facilities. The panel shall be established not later than 90 days after the date of the enactment of this Act and shall include experts in the fields of toxicological research, infectious diseases, radiology, clinical care of veterans exposed to such hazards, and other persons as determined appropriate by the Secretary. Members of the panel shall serve as consultants to the Department of Veterans Affairs. Amounts available to the Secretary for Medical Care may be used for purposes of carrying out this subsection. The panel shall not be subject to the Federal Advisory Committee Act (5 U.S.C. App.).

(b) PROPOSALS.—The Secretary shall solicit proposals for designation of facilities as described in subsection (a). The announcement of the solicitation of such proposals shall be issued not later than 60 days after the date of the enactment of this Act, and the deadline for the submission of proposals in response to such solicitation shall be not later than 90 days after the date of such announcement. The peer review panel established under subsection (a) shall complete its review of the proposals and submit its recommendations to the Secretary not later than 60 days after the date of the deadline for the submission of proposals. The Secretary shall then select the four sites for the location of such centers not later than 45 days after the date on which the peer review panel submits its recommendations to the Secretary.

(c) REVISED SECTION.—Subchapter II of chapter 73 is amended by adding at the end a new section with—

(1) a heading as follows:

"§ 7327. Medical preparedness centers";

and

(2) a text consisting of the text of subsections (a) through (h) of section 7325 of title 38, United States Code, and a subsection (i) at the end as follows:

"(i) FUNDING.—(1) There are authorized to be appropriated for the centers under this section $10,000,000 for each of fiscal years 2005 through 2007.

"(2) In addition to any amounts appropriated for a fiscal year specifically for the activities of the centers pursuant to paragraph (1), the Under Secretary for Health shall allocate to the centers from other funds appropriated for that fiscal year generally for the Department medical care account and the Department medical and prosthetics research account such amounts as the Under Secretary determines necessary in order to carry out the purposes of this section.".

(d) RULE OF CONSTRUCTION.—No provision of law may be construed to supersede or nullify this section, or an amendment made by this section, unless it specifically refers to this subsection and specifically states that it is enacted to supersede or nullify this section or a provision of this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in very strong support and urge colleagues to support and embrace H.R. 4768, the Veterans Health Programs and Facilities Enhancement Act of 2004. I want to thank the gentleman from Illinois (Mr. EVANS), ranking member, who has been a very strong partner in helping shape this legislation. And I particularly want to thank the gentleman from Connecticut (Mr. SIMMONS), chairman of the Health Subcommittee, who is the prime sponsor of this legislation, for his leadership. It has been extraordinary, and I do want to acknowledge that. I also want to thank the gentleman from Texas (Mr. RODRIGUEZ), who likewise has worked as a good partner in a bipartisan effort to craft this very important piece of legislation.

Mr. Speaker, this legislation will help address the need to modernize aging veterans health-care facilities, make better use of existing properties and dispose of unneeded VA properties over the next several years. The Veterans Health Care, Capital Asset, and Business Improvement Act of 2003 gave the Secretary of Veterans Affairs wide latitude to spend funds to improve, restore, or replace those VA health-care facilities most in need of such work. Congress instructed the Secretary to approve individual products based on recommendations of an independent capital investments board, and we placed a premium on projects to protect patient safety as well as privacy, improve seismic protection, and provide barrier-free accommodations. Moreover, we also put an emphasis on improving specialized-care facilities. Thus, even though the VA's budget request of $400 million for fiscal year 2005 to carry out approved modernization projects, the necessary authorization legislation is already enacted.

For the benefit of the many Members who are interested in the plans to improve VA health-care facilities, I will insert a summary of the capital projects which the Secretary listed as the VA's highest priorities when he announced his CARES decision in June of this year. The cost of the projects for fiscal year 2004 totals $623 million, while the projects listed for fiscal year 2005 total $401 million.

Mr. Speaker, after a multi-year drought in available funds to improve VA's extensive hospital and outpatient network, this long list of OMB-approved projects marks the beginning of a multi-year effort to modernize those facilities that will be needed to serve veterans in the first half of the 21st Century. VA Secretary Principi anticipates that the just-completed CARES process will require additional investment of approximately $1 billion per year for the next 5 years in order to bring the VA's infrastructure up to contemporary standards and meet veterans' expectations of accessible care.

In addition, it should be noted that the CARES process is not complete, and there will undoubtedly be further fiscal consequences when the VA has fully assessed its current and future obligation to veterans who need long-term care as well as mental health care. Honoring these commitments may well mean additional investments in the VA facilities which are not included in the Secretary's $5 billion figure.

This legislation, Mr. Speaker, authorizes major medical facility leases at 16 locations for community-based clinics at a cost of approximately $24.4 million in fiscal year 2005. Most of these leases are for replacement facilities, although some expansion into new locations is also proposed and approved by this bill.

This bill would also provide the Department authority to enter into a unique long-term lease for up to 75 years for the land to construct a new medical facility on the Fitzsimons Campus at the University of Colorado in Aurora, Colorado. It is anticipated that this new VA facility will share many services with the university and also provide services to Air Force beneficiaries. I want to recognize and thank the gentleman from Colorado (Mr. BEAUPREZ) for helping to identify the need to provide this authority to support the Fitzsimons project as well as the close attention he has given it as we have worked on this in the 108th Congress. And I thank the gentleman from Colorado (Mr. BEAUPREZ) so much for that.

This legislation, Mr. Speaker, will also facilitate the Secretary's authority to transfer unneeded real property currently in the VA's portfolio. The bill would require fair-market value for disposals, except when a property would be transferred to a provider of homeless veterans' services under a grant under section 2011 of title 38, U.S. Code.

This bill would also establish a new fund to be known as the Capital Asset Fund. The purpose of the new fund would be to defray VA's cost of transferring real property, including demolition, environmental restoration, maintenance, repair, historic preservation, and administrative expenses. This bill would authorize appropriations of $10 million in seed money to launch the fund and support the capital planning initiatives developed through the VA's capital planning process.

Mr. Speaker, VA controls the fourth largest inventory of owned, leased and operated federal real property. It is estimated that more than half of the VA's facilities are over 50 years old. Many structures date from the 19th Century, and many more were constructed in the late 1940s and early 1950s. Portions of the 24 VA medical center campuses are currently listed on the National Register of Historic Places. Another 61 sites have been determined eligible or potentiality eligible for this designation. Given this array of heritage assets, H.R. 4768 would also allow the Secretary to enter into partnerships or agreements with public or private entities dedicated to historic preservation and to use resources from the Capital Asset Fund to facilitate the transfer, leasing or adaptive uses of these historic properties that no longer serve useful purposes as health-care facilities.

The bill would also require an inventory and series of reports on the status of each historic property. The bill would also require the Department's annual budget submission to include information on each proposed and completed transfer of VA real property, including historic property, using this authority, as well to report deposits and expenditures from the new fund.

Mr. Speaker, the Millennium Health Care and Benefits Act requires the VA to maintain long-term care programs, sustain a defined number of nursing home beds, and enhance other long-term programs, such as geriatric evaluation, domiciliary, and adult day health care, and respite, palliative and hospice programs, in both institutional and noninstitutional settings. The Congress' interest in these programs is strong and ongoing, as evidenced by our decision last year to extend many of the provisions of the 1999 Millennium Health Care Act for another 5 years. Since VA has struggled to meet many of these requirements of the Act, this bill would make the new property transfer authority contingent on the Secretary's certification that the VA is maintaining the long-term-care facility required in that Act.

The bill also includes additional provisions endorsed by the administration, including one to clarify that the Veterans' Canteen Service can serve all enrolled veterans, not just hospitalized veterans. Congress established the Canteen Service in the late 1940s at a time when the VA health-care system was hospital-based and many patients were hospitalized for months at a time at facilities that were far from commercial centers. This restatement of the Canteen's mission is consistent with the shift of VA care over the past 10 years from hospital-based care to an outpatient-based health-care system. Veterans enrolled in the VA health care ought to be able to obtain the products and services available in VA canteens without any restrictions in law.

Below are the FY 2004 and 2005 projects for which VA is requesting authorization and appropriation approval from Congress to proceed.

SUMMARY OF CARES FY 2004 AND 2005 CAPITAL PROJECTS

Year	VISN	Location	Project title—brief description	Priority #	Budget request ($000)
2004	12	Chicago, IL	Bed Tower	*	$98,500
2004	12	North Chicago, IL	Joint VA and Dept of Navy Medical Project	*	13,000
2004	21	Palo Alto, CA	Seismic Corrections Bldg. 2	1	34,000
2004	10	Cleveland, OH	Cleveland-Brecksville Cons., Ph 1 Design	2	15,000
2004	4	Pittsburgh, PA	Consolidation of Campuses, Ph 1 Design	3	20,000
2004	23	Minneapolis, MN	SCI & SCD Center	4	20,500
2004	22	Las Vegas, NV	New Federal Medical Facility, Design and Land Purchase	6	60,000
2004	8	Gainesville, Fl	Correct Pt Privacy Def., Ph 1-Design	7	8,800
2004	11	Indianapolis, IN	7th & 8th Fl. Wards Modernization Addition	8	27,400
2004	18	Tucson, AZ	Mental Health Clinic	9	12,100
2004	19	Denver, CO	New Federal Medical Facility, Ph 1 Design	10	30,000
2004	17	San Antonio, TX	Ward Upgrades and Expansion	11	19,100
2004	8	Orlando, FL	Bed Tower, Phase 1 Design	12	25,000
2004	8	Tampa, FL	Upgrade Essential Electrical Dist. Systems	13	49,000
2004	10	Columbus, OH	Construction of Outpatient Clinic	14	94,800
2004	6	Durham, NC	Renovate Patient Wards	15	9,100
2004	22	Long Beach, CA	Seismic Corrections—Bldgs 7,126, Phase 1 Design	16	10,300
2004	20	Anchorage, AK	Outpt. Clinic/Regional Office, Ph 1 Design	18	11,760
2004		Various	Line Items		64,378
			Total		622,738
2005	8	Tampa, FL	SCI Expansion	**5	7,100
2005	16	Pensacola, Fl	Joint VA and Department of Navy OPC	***17	55,500
2005	17	Temple, TX	Blind Rehab and Psychiatric Beds	19	56,000
2005	8	San Juan, PR	Seismic Corrections—Bldg. 1, Ph 1 Design	20	15,000
2005	2	Syracuse, NY	Construct Addition for SCI Center	21	53,900
2005	7	Atlanta, GA	Modernize Patient Wards	22	20,700
2005	21	Menlo Park, CA	Seismic Corrections—Geropsych. NH Replacement (Bldg. 324)	23	33,239
2005	21	San Francisco, CA	Seismic Corrections—Bldg. 203	24	41,500
2005	22	Los Angeles, CA	Seismic Corrections—Bldgs. 500 & 501, Ph 1 Design	25	8,000
2005	8	Lee County, FL	Outpatient Clinic Land Purchase	26	6,510
2005	23	Des Moines, IA	Extended Care Building	27	25,000
2005	22	San Diego, CA	Seismic Corrections—Bldg. 1	***29	48,260
2005		Various	Line Items		*30,091
			Total		400,800

* Projects approved in the pilot CARES study for Network 12—Chicago/Wisconsin.
** Delayed pending results of further SCI study.

*** Priority numbers 17 and 18, and 28 and 29 are reversed to maximize the utilization of the funding as requested in the 2004 and 2005 budgets.

The non-CARES capital investment decision process resulted in the identification of the following highest priority non-CARES projects that were reviewed by the Senior Management Council and approved by the Secretary. They were included in the Department's FY 2005 budget submission and are currently being considered by the Congress.

SUMMARY OF NON-CARES FY 2005 CAPITAL PROJECTS

Year	Admin	Location	Project title—brief description	Priority	Budget request ($000)
			Acquisition Business Case Applications		
2005	NCA	Vacaville, CA	Sacramento Area New Cemetery Phase 1 Development	1	$21,600
2005	NCA	Bushnell, FL	Cemetery Expansion	2	20,000
2005	NCA	Rock Island, IL	Moline Cemetery Expansion	3	10,200
2005	VBA	Huntington, WV	New GSA Lease	4	3,700
2005	VBA	Reno, NV	VARO Reno GSA Lease	5	1,000
			Planning Business Case Applications (Requesting Design Funds)		
2005	NCA	San Diego, CA	Ft. Rosecrans Cemetery Annex at Miramar (Design)	1	1,000
2005	NCA	Riverside, CA	Cemetery Expansion (Design)	2	1,400
2005	NCA	Gustine, CA	San Joaquin Valley Cemetery Expansion (Design)	3	800

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me, first of all, take this opportunity to thank the gentleman from New Jersey (Chairman SMITH) for his efforts in this particular piece of legislation, and I want to thank him personally for his work in the Committee on Veterans' Affairs; as well as the gentleman from Connecticut (Mr. SIMMONS), the subcommittee chairman, for his work and his diligence and outreach to my side. I also want to take this opportunity to also thank the gentleman from Illinois (Mr. EVANS) for his work.

Mr. Speaker, I rise in support of H.R. 4768, the Veterans Health Programs and Facilities Enhancement Act of 2004. For the last 5 years, Mr. Speaker, the VA construction has essentially been nonexistent in large part to allow the completion of the CARES initiative. As the Members well know, the CARES initiative was an effort by the President to go out and look at facilities' utilizations, and so the fact is that we have not had an opportunity to improve on a lot of the facilities that are out there, and I am really pleased that this piece of legislation we have been able to bring forth. For the last 5 years, the VA health-care system has struggled to provide services with infrastructure that is in sore need of repair and upgrade.

H.R. 4768 will help the VA to develop and improve its properties, and under this bill, the Secretary of Veterans Affairs will have the authority to transfer unneeded properties and to retain the proceeds from those transfers.

In place of the Nursing Home Revolving Fund, the bill establishes a Capital Asset Fund, allowing the proceeds from the property transfers to be used for financing the cost of those transfers. The bill also authorizes $10 million to be appropriated to the Capital Asset Fund where it can be used for these purposes. Sixteen new major leases are authorized in this bill, including leases that I would like to mention in South Texas, where the gentleman from Texas' (Mr. ORTIZ) district has had a lack of services in the Corpus Christi area.

□ 1715

The gentleman from Texas (Mr. HINOJOSA), in the Harlingen area, and as well some services in the South Texas area, in San Antonio and others. So I am real pleased to have seen those areas, that even the CARES proposal that identified some areas of disparity that exists in terms of services for veterans.

Because many of the VA's important historic buildings are poorly maintained and are falling apart, I am also pleased that the Committee on Veterans' Affairs concluded that the VA should also use the capital asset fund to preserve historic properties. It is the committee's intent for VA to provide a series of reports to address its large inventory of historic assets.

In addition to the VA's construction, H.R. 4768 will include funds for four emergency preparedness centers we authorized in November of 2004. These centers will enhance medical preparedness for the VA and for the Nation. It is clear to me that as the Nation's largest health care provider, the VA has an important role to play in providing for attack or natural disasters. I have fought for funds to address the initiative costs of these centers, and I am pleased that the provisions are included.

This legislation would also extend the VA's authority to provide care to veterans participating in long-term care pilot programs. These programs were previously authorized in the Veterans Millennium Health Care and Benefits Act, and are set to expire in December of 2005. I am pleased to be an original cosponsor of the legislation, and I hope Members will support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield 4 minutes to my good friend and colleague, the gentleman from Florida (Mr. STEARNS), the prime sponsor of the Millennium Health Care Act referenced earlier in the debate.

Mr. STEARNS. Mr. Speaker, I thank the distinguished chairman, and I also thank the chairman of the Subcommittee on Health for his support and commend him for all his actions.

I rise in support of this bill, H.R. 4768. I am also pleased, as the chairman mentioned, to be an original cosponsor of this bill, which authorized projects which have been well analyzed by the CARES Commission. I think we all know what this is, the Capital Asset Realignment For Enhancement Services. It has been recommended to Secretary Principi.

Under CARES, the VA reviewed all of its facilities systematically, and I think that should be an assurance to all veterans, to consider where resources should be allocated for optimum services for the veterans, particularly as more veterans, as we know, relocate to the Southeast, particularly in Florida. It appears the VA has insufficient clinics down in the southeast portion, and so I am very pleased to see that they are looking at that.

Accordingly, the majority of the leases which the legislation would authorize are in the South. The aim has been to match assets with the veterans, and this bill does just that. Florida, as we know, has the second largest veterans population and the number one in terms of age.

Obviously, I am heartened to see a lease for a regional health care facility providing multiple specialties in South Marion County, Summerfield, Florida, in this legislation. The plans are for such a clinic to offer comprehensive services to veterans. These are comprehensive services you would not get in an outpatient clinic and they are complete. It also will have imaging service in its facility. It will be 75,000 square feet. It will provide more services and greater resources for veterans than existing outpatient VA clinics can currently provide.

Even better, Mr. Chairman, while this clinic is predicted to be open in the summer of 2007, appropriations willing, the generous resourceful people up in north central Florida have offered the VA use of a free space for an interim clinic. We have had the participation of local businesses to help out. So our ever increasing veterans population can see immediate relief for their long health care wait as early as this winter, and then the more comprehensive specialty clinic which the act authorizes in the long run.

So I have great enthusiasm for what we are doing. I am also proud to be the author of the millennium health care bill for veterans' long-term care, and I am pleased to help move this bill forward for outpatient care.

Lastly, let me say to my colleagues, this Congress and this President have delivered real results for the veterans health care system. The total VA budget has increased almost 50 percent, 50 percent, in just 4 years, and the budget for veterans medical care has increased 40 percent in 4 years.

So I say, a record number of veterans are receiving health care today, over 5 million, up 1.2 million from 4 years ago, and the number of veterans on medical waiting lists has dropped from over 300,000 in the year 2002 to just over 3,000 today.

This is America. This is something we should be very proud of, and I think all the veterans should realize this. So all we need to do now to complete this great track record is continue the clinics and, of course, pass H.R. 4768.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank the chairman for the bill, but I just had some concerns with the dialogue on the House floor.

We service about 4.7 million veterans in this country. There are 25 million veterans out there, and our veterans are reaching that age where we really need to reach out to them. So we do have a long way to go. But I am real pleased to have this bill before us.

Mr. Speaker, I would like for the record to show that the ranking member, the gentleman from Illinois (Mr. EVANS) wanted to be here to comment on this important bill, in which he has played a very important role and strategic role, but at the present time he is at the Committee on Armed Services meeting on the 9/11 legislation that is there before him. He does, however, intend to make comments available for the record.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, it is a pleasure and delight to yield such time as he may consume to the gentleman from Connecticut (Mr. SIMMONS), the prime sponsor of this bill and the chairman of our Subcommittee on Health.

Mr. SIMMONS. Mr. Speaker, I thank the gentleman for yielding me time. I also thank my colleague, the gentleman from Texas (Mr. RODRIGUEZ), the ranking member of the Subcommittee on Health of the Committee on Veterans' Affairs, for all of the hard work he has done over the last 2 years working with me in a bipartisan fashion to bring this and many other bills forward that benefit our veterans. Of course, our chairman, the gentleman from New Jersey (Chairman SMITH) and ranking member, the gentleman from Illinois (Mr. EVANS), have been stalwart advocates for our veterans, and I appreciate their leadership as well.

Mr. Speaker, several years ago the Government Accounting Office revealed that the Veterans Administration was losing millions of dollars because of the upkeep of underutilized facilities, and the VA has been moving to realign their capital assets, their real properties, so that this expenditure of funds is no longer excessive.

What this legislation tries to do is give the VA the appropriate tools to better manage their capital assets. This legislation would not only provide them with the funding authority to open 16 new outpatient clinics, it also provides a mechanism for the transfer of VA properties, to turn the proceeds from such transfers into additional revenues to support veterans health care.

It allows the VA to retain proceeds from the sale or leasing or transfer of excess property, and then these proceeds go into the new capital asset fund where then the VA could reappropriate them to provide delivery of health care to our veterans.

Furthermore, it would allow or require the VA to obtain fair market value for the transfer of any properties except those properties that might be transferred to providers of homeless services for our veterans.

Thirdly, the legislation recognizes that some VA properties have tremendous historic value, such as the Fitzsimons Hospital out in Colorado, which has a room that was used for President Dwight Eisenhower as he recovered from his heart attack. We do not want to destroy those properties that have historic value or that have rooms or bays in them that housed famous personalities.

So what we want to do, as we move the VA properties into the 21st century, we also want to preserve and protect numerous properties that have historic value, and this legislation allows the VA to adopt these historic properties to new uses.

I know my colleague from Colorado is here and that he will be speaking about the Fitzsimons Hospital. So I will pass over that and simply say that this legislation, again, was designed to allow the VA to be more effective in how it manages its capital assets so that as we sell, lease or transfer these properties, the VA can recover those dollars and then reallocate them to provide services for our veterans.

Mr. Speaker, I am proud to work with my colleagues across the aisle on this legislation.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me briefly just mention I am real pleased that in the piece of legislation, in 2002 we had passed the wordings for the emergency preparedness centers. One of the beauties of the VA is the fourth mission, and that is to respond to health care needs in case of emergencies, in case this country is ever hit, such as what happened on 9/11. It is one of the few systems that we have nationwide to respond.

We drafted legislation to establish four emergency preparedness centers, and I am real pleased the effort is there in this piece of legislation to try to make that happen and create that.

This is definitely an area where we really need to beef up on. I am hoping that the appropriators look at this seriously. I know that the discussions in the past have been that this should be a homeland security issue. The bottom line is that homeland security does not have access to health care, VA does, and emergency preparedness centers could provide that care.

So I think this is the appropriate area where we could respond through this legislation.

Let me just add once again on the CARES process, the CARES process also came up with some real good data that I think we also need to be concerned about, and this legislation begins to address some of those, but there are still some gaps there, and that is where it showed the disparities throughout the country.

Depending on where the veteran resides, depending on where he lives, determines basically the types of services that he gets or does not get, and that is one of the proposals and one of the recommendations that the CARES process has.

But one of the negative things that I would like to mention is that in the process of having this CARES and going throughout the country, I know the VA put out a letter asking the staff not to solicit, not to educate veterans about services. The letter even indicated that even where there were gaps and where utilization of facilities were not being utilized, not to bring in more additional veterans, to the point that the Vietnam Veterans of America got fed up with it and decided to file a lawsuit against the VA.

So I was very pleased to see that, and we need to continue to move forward.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield such time as he may consume to the gentleman from Colorado (Mr. BEAUPREZ), who was instrumental and really took the lead on this Fitzsimons Hospital. I congratulate him on his leadership.

Mr. BEAUPREZ. Mr. Speaker, I thank the chairman of the committee for yielding me time. He is to be commended for his vigilance on behalf of all of our veterans, and the gentleman from Illinois (Mr. EVANS) as well, our ranking member. I say to the subcommittee chairman, the gentleman from Connecticut (Mr. SIMMONS), it has been a pleasure to work with you on this legislation, as it has with the gentleman from Texas (Mr. RODRIGUEZ) on behalf of all of our veterans, and, I might add, on behalf of our taxpayers, because I think we are being good stewards of the taxpayers' money. I think that is a point worth making.

I know with the Fitzsimons project out in Colorado, which has already been mentioned, thank you very much, that I am going to talk about some more, I was convinced early on by the planners of this project that the operational savings of this new facility will more than pay for it as compared to maintaining and upgrading the aged 50-year-old facility we now have. So that makes sense, and we are delivering to our veterans health care in a network of facilities, especially the outpatient clinics, the way we deliver health care now in this 21st century. So it does make sense.

A word about Fitzsimons, if I might. Another word about Fitzsimons, if I might. We are so excited about this project, for many reasons. It will continue a 50-year-plus partnership with the University of Colorado Health Science Center and the VA. The University of Colorado maintains a teaching research hospital that now in the new Fitzsimons campus, the renovated Fitzsimons campus, is going to be an enhanced, expanded, state-of-the-art facility.

□ 1730

It is an absolute true state-of-the-art facility that will attract the best and brightest in the medical industry from all over the world.

Why is that key to our veterans? Because 90 percent of our VA docs have cross privileges, so we have the best talent right there available, yes, for our veterans. We are also going to be in partnership with the DOD. Buckley Air Force Base is right across the street. So we are going to have the most modern facility, a research teaching facility, the greatest staff from which to recruit and staff our hospital. We believe in this hospital creating a state-of-the-art, a new standard, elevating the standard for health care for all of our veterans.

Mr. Speaker, I thank all of the committee members, and I thank Secretary Principi for supporting this as well. It is an opportunity to do the right thing for those among our population who very much deserve the very best: our veterans.

Mr. ORTIZ. Mr. Speaker, this bill is good news for veterans around this great Nation, and it is particularly very good news for South Texas. It recognizes a fundamental truth: The population of veterans in the South Texas area is exploding and the services we currently offer simply are not enough to adequately serve veterans' needs in the 21st Century.

Veterans across South Texas have joined me in talking to DVA in forums and conferences around our area—that one-on-one illustration of how veterans were being served had a large impact on the legislation we are considering today.

I have hosted an annual South Texas Veterans' Fair for the last several years, bringing together South Texas veterans with concerns about the health services and the policy makers at DVA. Earlier this month was the most recent fair I hosted, in Corpus Christi. The most often-repeated concern, as always, was with how to address the lack of in-patient hospital services in South Texas.

Nothing will ever be enough for our veterans—and change can never come fast enough, but this bill, with specific directions on in-patient hospital care and funding for the Secretary to lease medical facilities, is a considerably better place to be than we were before.

Those who wear the uniform of the United States serve this Nation; it is our duty to serve them.

Mr. VISCLOSKY. Mr. Speaker, I rise in strong support of H.R 4768, the Veterans' Medical Facilities Management Act of 2004. I thank Congressman SIMMONS for introducing this important piece of legislation and the Veterans' Affairs Committee for giving it the immediate attention that it deserves. In keeping with our commitment to high-quality veterans' medical care, this measure authorizes $850,000 in funds for the Adam Benjamin Jr. VA outpatient medical facility in Crown Point, Indiana.

It is imperative that we support our Nation's veterans and ensure that their medical care is among our highest priorities. We owe a great debt of gratitude for those who have sacrificed on behalf of all Americans. That is why I strongly support this measure which provides for the consistent supply of quality health care to our veterans.

I urge passage of H.R 4768, an essential step in keeping our commitment to maintaining a strong VA health care service network. I want to recognize the important efforts of all of those who work at the Crown Point VA outpatient clinic, taking up the noble daily effort of caring for our Nation's veterans. And I am proud to honor the veterans of Northwest Indiana who have served our country with courage and distinction. I ask that you and my other colleagues join me in thanking these brave men and women, as well as our other former and current members of the United States military, for their bravery and valor in the face of danger. These men and women risked their lives in order to protect the freedoms that we enjoy each day, and they deserve all of our honor and respect. I am proud to represent them in Indiana's First Congressional District.

Mr. Speaker, I urge my colleagues to support this important legislation so that our brave veterans may continue to receive the health care they so deserve.

Mr. EVANS. Mr. Speaker, I join my colleagues in support of the Veterans Health Programs and Facilities Enhancement Act of 2004.

I'd like to thank both Congressman RODRIGUEZ, ranking member of the Health Subcommittee, and Congressman SIMMONS, chairman of the Health Subcommittee, for their hard work in developing this bill.

VA has requested many of the authorities in this bill, and the establishment of the Capital Asset Fund will help to renovate some of VA's underused facilities.

The VA needs to meet construction priorities in order to maintain a health care system infrastructure that will be called on increasingly as our service personnel return from Iraq with physical and psychological disabilities.

I also support the need to continue some pilot programs we authorized in the Millennium Health Care and Benefits Act of 1999.

I certainly agree that veterans who have been program beneficiaries should be able to continue receiving services.

Under this bill, VA's authority to care for veterans participating in long-term care pilots will be extended until December 2005.

Mr. RODRIGUEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, we likewise yield back the balance of our time, and ask for a "yea" vote.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4768, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title was amended so as to read: "A bill to authorize the Secretary of Veterans Affairs to enter into certain major medical facility leases, to authorize that Secretary to transfer real property subject to certain limitations, otherwise to improve management of medical facilities of the Department of Veterans Affairs, and for other purposes.".

A motion to reconsider was laid on the table.

DEPARTMENT OF VETERANS AFFAIRS NURSE RECRUITMENT AND RETENTION ACT OF 2004

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4231) to provide for a pilot program in the Department of Veterans Affairs to improve recruitment and retention of nurses, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4231

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Nurse Recruitment and Retention Act of 2004".

SEC. 2. PILOT PROGRAM TO STUDY INNOVATIVE RECRUITMENT TOOLS TO ADDRESS NURSING SHORTAGES AT DEPARTMENT OF VETERANS AFFAIRS HEALTH-CARE FACILITIES.

(a) Pilot.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Veterans Affairs shall designate a health-care service region, or a section within such a region, in which health-care facilities of the Department of Veterans Affairs are adversely affected by a shortage of qualified nurses.

(2) The Secretary shall conduct a pilot program in the region or section designated under paragraph (1) to determine the effectiveness of the use of innovative human-capital tools and techniques in the recruitment of qualified nurses for positions at Department health-care facilities and for the retention of nurses at such facilities. In carrying out the pilot program, the Secretary shall enter into a contract with a private-sector entity for services under the pilot program for recruitment of qualified nurses.

(b) Private-Sector Recruitment Practices.—For purposes of the pilot program under this section, the Secretary shall identify and use recruitment practices that have proven effective for placing qualified individuals in positions that are difficult to fill due to shortages of qualified individuals or other factors. Recruitment practices to be reviewed by the Secretary for use in the pilot program shall include—

(1) employer branding and interactive advertising strategies;

(2) Internet technologies and automated staffing systems; and

(3) the use of recruitment, advertising, and communication agencies.

(c) Streamlined Hiring Process.—In carrying out the pilot program under this section, the Secretary shall, at health-care facilities of the Department in the region or section in which the pilot program is conducted, revise procedures and systems for selecting and hiring qualified nurses to reduce the length of the hiring process. If the Secretary identifies measures to streamline and automate the hiring process that can only be implemented if authorized by law, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives recommendations for such changes in law as may be necessary to enable such measure to be implemented.

(d) Report.—Not later than one year after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the extent to which the pilot program achieved the goal of improving the recruitment and retention of nurses in Department of Veterans Affairs health-care facilities.

SEC. 3. ALTERNATE WORK SCHEDULES FOR NURSES.

(a) Enhanced Shift Flexibility.—Chapter 74 of title 38, United States Code, is amended by inserting after section 7456 the following new section:

"§ 7456a. Alternate work schedules

"(a) Applicability.—This section applies to registered nurses appointed under this chapter.

"(b) 36/40 Work Schedule.—(1) Subject to paragraph (2), if the Secretary determines it to be necessary in order to obtain or retain the services of registered nurses at a Department health-care facility, the Secretary may provide, in the case of registered nurses employed at that facility, that such a nurse who works three regularly scheduled 12-hour tours of duty within a workweek shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek. Such a schedule may be referred to as a '36/40 work schedule'.

"(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 40-hour basic workweek is subject to subparagraphs (B) and (C).

"(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 36-hour tour of duty within the workweek shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

"(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 36-hour tour of duty within a workweek is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of—

"(I) eight hours on a day other than a day on which such nurse's regularly scheduled 12-hour tour falls;

"(II) 12 hours for any day included in the regularly scheduled 36-hour tour of duty; and

"(III) 40 hours during an administrative workweek.

"(ii) Except as provided in clause (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

"(3) A nurse who works a 36/40 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for nine hours of absence.

"(c) 7/7 Work Schedule—(1) Subject to paragraph (2), if the Secretary determines it to be necessary in order to obtain or retain the services of registered nurses at a Department health-care facility, the Secretary may provide, in the case of registered nurses employed at such facility, that such a nurse who works seven regularly scheduled 10-hour tours of duty, with seven days off duty, within a two-week pay period, shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 80 hours for the pay period. Such a schedule may be referred to as a '7/7 work schedule'.

"(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 80-hour pay period is subject to subparagraphs (B) and (C).

"(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 70-hour tour of duty within the pay period shall be derived by dividing the nurse's annual rate of basic pay by 1,820.

"(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 70-hour tour of duty within a pay period is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of—

"(I) eight hours on a day other than a day on which such nurse's regularly scheduled 10-hour tour falls;

"(II) 10 hours for any day included in the regularly scheduled 70-hour tour of duty; and

"(III) 80 hours during a pay period.

"(ii) Except as provided in subparagraph (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 10-hour tour of duty.

"(3) A nurse who works a 7/7 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of eight hours of leave for seven hours of absence.

"(d) 9-Month Work Schedule.—The Secretary may authorize a registered nurse appointed under section 7405 of this title, with the nurse's written consent, to work full-time for nine months with three months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of that fiscal year. A nurse working on such a schedule for any fiscal year shall be considered a ¾ full-time equivalent employee for that fiscal year in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings. Service on such a schedule shall be considered to be part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

"(e) Regulations.—The Secretary shall prescribe regulations for the implementation of this section.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 74 of such title is amended by inserting after the item relating to section 7456 the following new item:

"7456a. Alternate work schedules:".

SEC. 4. TECHNICAL CORRECTION TO LISTING OF CERTAIN HYBRID POSITIONS IN VETERANS HEALTH ADMINISTRATION.

Section 7401(3) of title 38, United States Code, is amended—

(1) by striking "and dental technologists" and inserting "technologists, dental hygienists, dental assistants"; and

(2) by striking "technicians, therapeutic radiologic technicians, and social workers" and inserting "technologists, therapeutic radiologic technologists, social workers, blind rehabilitation specialists, and blind rehabilitation outpatient specialists".

SEC. 5. ASSISTANCE FOR HIRING AND RETENTION OF NURSES AT STATE VETERANS HOMES.

(a) In General.—(1) Chapter 17 of title 38, United States Code, is amended by inserting after section 1743 the following new section:

"§ 1744. Hiring and retention of nurses: payments to assist States

"(a) Payment Program.—The Secretary shall make payments to States under this section for the purpose of assisting State homes in the hiring and retention of nurses and the reduction of nursing shortages at State homes.

"(b) Eligible Recipients.—Payments to a State for a fiscal year under this section shall, subject to submission of an application, be made to any State that during that year—

"(1) receives per diem payments under this subchapter for that fiscal year; and

"(2) has in effect an employee incentive scholarship program or other employee incentive program at a State home designed to promote the hiring and retention of nursing staff and to reduce nursing shortages at that home.

"(c) Use of Funds Received.—A State may use an amount received under this section only to provide funds for a program described in subsection (b)(2). Any program shall meet such criteria as the Secretary may prescribe. In prescribing such criteria, the Secretary shall take into consideration the need for flexibility and innovation.

"(d) LIMITATIONS ON AMOUNT OF PAYMENT.—(1) A payment under this section may not be used to provide more than 50 percent of the costs for a fiscal year of the employee incentive scholarship or other incentive program for which the payment is made.

"(2) The amount of the payment to a State under this section for any fiscal year is, for each State home in that State with a program described in subsection (b)(2), the amount equal to 2 percent of the amount of payments estimated to be made to that State, for that State home, under section 1741 of this title for that fiscal year.

"(e) APPLICATIONS.—A payment under this section for any fiscal year with respect to any State home may only be made based upon an application submitted by the State seeking the payment with respect to that State home. Any such application shall describe the nursing shortage at the State home and the employee incentive scholarship program or other incentive program described in subsection (c) for which the payment is sought.

"(f) SOURCE OF FUNDS.—Payments under this section shall be made from funds available for other payments under this subchapter.

"(g) DISBURSEMENT.—Payments under this section to a State home shall be made as part of the disbursement of payments under section 1741 of this title with respect to that State home.

"(h) USE OF CERTAIN RECEIPTS.—The Secretary shall require as a condition of any payment under this section that, in any case in which the State home receives a refund payment made by an employee in breach of the terms of an agreement for employee assistance that used funds provided under this section, the payment shall be returned to the State home's incentive program account and credited as a non-Federal funding source.

"(i) ANNUAL REPORT FROM PAYMENT RECIPIENTS.—Any State home receiving a payment under this section for any fiscal year, shall, as a condition of the payment, be required to agree to provide to the Secretary a report setting forth in detail the use of funds received through the payment, including a descriptive analysis of how effective the incentive program has been on nurse staffing in the State home during that fiscal year. The report for any fiscal year shall be provided to the Secretary within 60 days of the close of the fiscal year and shall be subject to audit by the Secretary. Eligibility for a payment under this section for any later fiscal year is contingent upon the receipt by the Secretary of the annual report under this subsection for the previous year in accordance with this subsection.

"(j) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section. The regulations shall include the establishment of criteria for the award of payments under this section.".

(2) The table of sections at the beginning of such chapter is amended by inserting after section 1743 the following new item:

"1744. Hiring and retention of nurses: payments to assist States.".

(b) IMPLEMENTATION.—The Secretary of Veterans Affairs shall implement section 1744 of title 38, United States Code, as added by subsection (a), as expeditiously as possible. The Secretary shall establish such interim procedures as necessary so as to ensure that payments are made to eligible States under that section commencing not later than January 1, 2005, notwithstanding that regulations under subsection (j) of that section may not have become final.

SEC. 6. TECHNICAL CLARIFICATION.

Section 8111(d)(2) of title 38, United States Code, is amended by inserting before the period at the end of the last sentence the following: "and shall be available for any purpose authorized by this section".

SEC. 7. UNDER SECRETARY FOR HEALTH.

Section 305(a)(2) of title 38, United States Code, is amended—

(1) in the matter preceding subparagraph (A), by striking "shall be a doctor of medicine and"; and

(2) in subparagraph (A), by striking "and in health-care" and inserting "or in health-care".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

GENERAL LEAVE

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in very strong support of H.R. 4231, as amended, the Department of Veterans Affairs Nurse Recruitment and Retention Act of 2004. I want to thank the gentleman from Connecticut (Mr. SIMMONS), the chairman of our Subcommittee on Health, my friend and colleague, for introducing this legislation, and for his astute judgment and perseverance that was essential in bringing this bill before the House today. I also want to thank the gentleman from Texas (Mr. RODRIGUEZ), as well the gentleman from Illinois (Mr. EVANS), because, again, that partnership is so important in bringing these veterans bills to the floor; and I want to thank them for their leadership as well.

As amended, H.R. 4231 would authorize several new and innovative approaches to help the VA maintain the quality of its workforce in all VA health care facilities. The bill would establish a pilot program to use outside recruitment agencies with interactive and online technologies to improve VA recruitment of vital nursing personnel. It would also allow the VA to offer three alternative work schedules for nurses so that employment in VA can be more sensitive to family and personal needs for scheduling flexibility and career development.

It also contains a provision to aid State veterans homes which care for thousands of veterans in need of nursing home care each and every year.

One measure in the bill as reported deserves a moment of discussion, because it caused some concern for members of the committee and organizations whose members might be affected. As reported, the bill would have prohibited VA from denying employment to a State-licensed registered nurse whose educational preparation was other than a baccalaureate degree. There is a well-documented shortage, Mr. Speaker, of trained, registered nurses in the United States. Community colleges in every State have stepped forward to offer professional nursing careers through associate degree preparation. Their success in preparing their students is reflected in the rate at which associate degreed nurses pass required State registered nurse examinations.

Associate degree nurses are systematically and vigorously recruited in almost every health care institution in the United States. In the VA, there is a preference in hiring baccalaureate graduates and a policy of excluding associate degree nurses from internal VA promotions. At a time when nurses are in short supply and when community colleges are the primary source of new nursing graduates, should the VA be emphasizing baccalaureate degrees to the exclusion of others who are fully qualified as professional nurses? We think not.

The committee is concerned that these current VA hiring practices and the variation in these practices noted in the recent report of the VA's National Commission on VA Nursing discouraged nurses with associate degrees from even seeking VA employment. VA's practice of exclusion in the face of high demand and scarcity of nursing personnel discourages qualified nurses from seeking VA employment. This practice also adversely affects VA's ability to retain current nurses.

Following extensive discussions after this bill was ordered reported, the bill before the House today does not include section 4 of the bill as ordered reported. Section 4 was designed to keep the VA competitive with the private sector and to clarify that the lack of a baccalaureate degree could not be the basis to deny nurse employment in a VA facility. However, the aim of the provision was misread by some who believe that the best qualified nurses are those who have a bachelor's degree or some advanced degree in nursing.

Most of us who seek health care look to providers who are competent, compassionate, critical thinkers, good communicators, and who are dedicated to expanding their knowledge of human susceptibility to disease. None of those qualities are guaranteed to be present in a particular graduate of any health care profession from any school. In the case of nurses, competence is tested by

State licensing exams, and only those who pass the exam are licensed to practice in a State or in the VA. The other qualities I mentioned are acquired from associating with and learning from other professionals who possess them. There is no guarantee that any particular licensed professional possesses all of them.

Mr. Speaker, VA's own hiring policy requires that persons with associate degrees in nursing be considered at entry-level positions. The committee supports the underlying premise of this policy, and there should be no discrimination based against persons who demonstrate competence by passing a State examination. Unfortunately, the committee has gathered irrefutable evidence that some VA medical centers did violate VA's hiring policy and discriminated against prospective employees who possessed an associate degree in nursing.

The committee has recently received assurances, however, from the acting Under Secretary for Health that the VA will correct these improper practices. He has pledged that the VA will continue to adhere to its policy of considering appointment of licensed, registered nurses to entry-level positions without regard to the institution that granted them their nursing degree. In addition, the Under Secretary promised to undertake a number of significant steps to address any lingering effects from the improper recruiting practices which the committee discovered.

In light of this commitment and the VA's concern about the potential inadvertent effect of this language, the bill before us today does not contain the nursing qualification provision as ordered by the committee.

The committee looks forward to full reports on the execution of the several commitments made in a letter signed by Under Secretary on September 21 of this year, and I will include the letter at this point in the RECORD.

DEPARTMENT OF VETERANS AFFAIRS,
VETERANS HEALTH ADMINISTRATION.
Washington, DC, September 21, 2004.
Hon. CHRISTOPHER H. SMITH,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This letter provides the Veterans Health Administration (VHA) position regarding H.R. 4231, Section 4—Appointment of nurses who do not have Baccalaureate Degrees.

VHA is committed to hiring all levels of licensed nurses including Bachelors prepared and registered nurses who have associate degrees or diplomas. In calendar year 2000, VHA appointed 815 associate degree nurses; in calendar year 2004 to date, VHA has appointed 1,337 associate degree nurses. Given the national nursing shortage, VHA cannot afford to overlook associate degree nurses. We recognize and value their contributions.

In order to further enhance recruitment of associate degree nurses, VHA is taking the following actions:

1. Instruct Department of Veterans Affairs (VA) facility managers and human resources staff to no longer include in vacancy announcements language limiting applicants to those who hold a Bachelor of Science in Nursing (BSN) degree or convey a preference for a BSN for "Nurse I" positions.

2. Continue working with the American Association of Community Colleges (AACC) to augment our marketing and recruiting efforts to associate degree nursing graduates. The Office of Nursing Services in Washington, D.C., will meet with the AACC on a quarterly basis and will present a marketing and recruiting strategy to them. An acceptable plan, including a commitment of VA resources, shall be in place by June 30, 2005.

3. The Health Care Staff Development and Retention Office will visit at least one community college nursing program affiliated with the AACC in each Veterans Integrated Services Network (VISN) in the coming year, and VA will ensure local facilities conduct outreach to community college programs. VA will provide information regarding employment opportunities, promotion policies, and scholarship and loan repayment programs available from VA. The first cycle of visits will be completed by December 31, 2005. In addition, to accomplish this goal, VISN staff will conduct many of the visits in coordination with the Health Care Staff Development and Retention Office.

I hope this information is of assistance to you. Should you need additional information, a member of your staff may contact Nevin Weaver, Director, Management Support Office at 202-273-5805.

Sincerely,
JONATHAN B. PERLIN, MD,
PHD, MSHA, FACP,
Acting Under Secretary for Health.

The last provision in the amended bill I want to mention incorporates the provisions of a bill that I introduced earlier this year, H.R. 4020. That bill would direct the Secretary of Veterans Affairs to make increased grants to assist States in hiring and retaining their own nursing personnel at State-owned operating nursing homes for veterans. State homes that currently receive per diem payments from the VA and have established employee incentive programs would be eligible to apply for incentive assistance and could receive up to 50 percent of the annual cost of the incentive program.

Mr. Speaker, in the wake of the Civil War, State veterans homes began caring for veterans and are now the largest provider of long-term care to our Nation's veterans. Today, over 16,000 veterans are being cared for in 128 State veterans homes in 47 States in the key partnership between the States and the VA.

The Department of Health and Human Services in 2002 surveyed the 50 States and Puerto Rico to learn how States are responding to the needs of health care workers. Ninety percent reported a shortage of nursing staff as a major concern in their responses. In efforts to respond to these nursing and other health care worker shortages, 44 of the 50 States reporting established task forces and commissions to study and seek solutions. The focus of the task forces or commissions in 25 States was to study shortages in the long-term health care force.

I am aware of difficulties that the three New Jersey State veterans homes in Vineland, Paramus, and Menlo Park have faced over the past several years in recruiting and retaining nursing staff. We can address this effort with new Federal incentives that supplement and assist State initiatives in providing long-term care to veterans. I think this legislation provides a sound blending of authorities to help maintain quality nursing personnel for veterans cared for in both the VA and State-run facilities.

Mr. Speaker, I rise in strong support of H.R. 4231, as amended, the Department of Veterans Affairs Nurse Recruitment and Retention Act of 2004.

I want to thank the Chairman of our Subcommittee on Health, my friend the gentleman from Connecticut, Mr. SIMMONS, for introducing this legislation and for his astute judgment and perseverance that was essential to bringing this bill before the House today. I also want to thank Mr. EVANS, the ranking member of the full committee, and Mr. RODRIGUEZ, the ranking member of the Health Subcommittee for their leadership on this measure.

As amended, H.R. 4231 would authorize several new and innovative approaches to help the VA maintain the quality of its workforce in all VA health care facilities.

The bill would establish a pilot program to use outside recruitment agencies, with interactive and online technologies, to improve VA recruitment of vital nursing personnel. It would also allow VA to offer three new alternative work schedules for nurses so that employment in VA can be more sensitive to family and personal needs for scheduling flexibility and career development. It also contains a provision to aid State veterans homes which care for thousands of veterans in need of nursing home care each year.

One measure in the bill as reported deserves a moment of discussion because it caused some concern by Members of the Committee and organizations whose members might be affected. As reported, the bill would have prohibited VA from denying employment to a State-licensed registered nurse whose educational preparation was other than a baccalaureate degree.

There is a well-ducumented shortage of trained registered nurses in the United States. Community colleges in every state have stepped forward to offer professional nursing careers through associate degree preparation. Their success in preparing their students is reflected in the rate at which associate degree nurses pass required state registered nurse examinations. Associate degree nurses are systematically and vigorously recruited in almost every health care institution in the United States.

In the VA there is a preference in hiring for baccalaureate graduates, and a policy of excluding associate degree nurses from internal VA promotions. At a time when nurses are in short supply and when community colleges are the primary source of new nursing graduates, should VA be emphasizing baccalaureate graduates to the exclusion of others who are fully qualified as professional nurses? We think not.

The Committee is concerned that these current VA hiring practices, and the variation in these practices noted in the recent report of VA's National Commission on VA Nursing, discourage nurses with associate degrees from even seeking VA employment. VA's practice of exclusion in the face of high demand and scarcity of nursing personnel discourages qualified nurses from seeking VA employment. This practice also adversely affects VA's ability to retain current nurses.

Following extensive discussions after this bill was ordered reported, the bill before the House today does not include section 4 of the bill as ordered reported. Section 4 was designed to keep VA competitive with the private sector, and to clarify that the lack of a baccalaureate degree could not be the basis to deny that nurse employment in a VA facility. However, the aim of the provision was misread by some who believe that the best-qualified nurses are those who have a bachelor's degree or some advanced degree in nursing.

Most of us who seek health care look for providers who are competent, compassionate, critical thinkers, good communicators, and who are dedicated to expanding their knowledge of human susceptibility to disease. None of those qualities are guaranteed to be present in a particular graduate of any health professions school. In the case of nursing, competence is tested by State licensing exams, and only those who pass that exam are licensed to practice in a State or in the VA. The other qualities I mentioned are acquired from associating with and learning from other professionals who possess them. There is no guarantee that any particular licensed professional possesses all of them.

VA's own hiring policy requires that persons with associate degrees in nursing be considered for entry-level positions. The Committee supports the underlying premise of this policy—that there should be no discrimination against person who demonstrate competence by passing a State examination. Unfortunately, the Committee has gathered irrefutable evidence that some VA medical centers did violate VA's hiring policy and discriminated against prospective employees who possessed an associate degree in nursing.

The Committee has recently received assurance from the Acting Undersecretary for Health that VA will correct these improper practices; he has pledged that VA will continue to adhere to its policy of considering appointment of licensed registered nurses to entry-level positions without regard to the institution that granted them their nursing degree. In addition, the Under Secretary promised to undertake a number of significant steps to address any lingering effects from the improper recruiting practices which the Committee discovered. In light of this commitment, and the VA's concerns about the potential inadvertent effects of this language, the bill before the House today does not contain the nursing qualification provision as ordered reported by the Committee.

The Committee looks forward to full reports on the execution of the several commitments it made in a letter signed by the Under Secretary on September 21, 2004. I ask unanimous consent to insert a copy of that letter in the RECORD at this point.

The last provision in the amended bill I want to mention incorporates the provisions of a bill I introduced earlier this year, H.R. 4020. That bill would direct the Secretary of Veterans Affairs to make increased grants to assist States in hiring and retaining their own nursing personnel at State-operated nursing homes for veterans. State homes that currently receive per diem payments from VA and have established employee incentive programs would be eligible to apply for incentive assistance and could receive up to 50 percent of the annual cost of the incentive program.

In the wake of the Civil War, State veterans' homes began caring for veterans and are now the largest provider of long-term care to our Nation's veterans. Today, over 16,000 veterans are being cared for in 128 State veterans' homes in 47 States in a key partnership between the States and the VA.

The Department of Health and Human Services (HHS) in 2002 surveyed the 50 States and Puerto Rico to learn how States are responding to needs for health care workers. Ninety percent reported a shortage of nursing staff as a major concern in their responses. In efforts to respond to these nursing and other health workforce shortages, 44 of 50 States reported establishing task forces and commissions to study and seek solutions. The focus of the task forces or commissions in 25 States was to study shortages in the long-term care work force.

While the HHS study documented the extent of the problems nationally, I am aware of difficulties that the three New Jersey State veterans' homes in Vineland, Paramus and Menlo Park have faced over the past several years in recruiting and retaining quality nursing staff. We can address this effort with new Federal incentives that supplement and assist State initiatives.

State homes are important partners in providing long-term care to veterans. I think this legislation provides a sound blending of authorities to help maintain quality nursing personnel for veterans cared for in both VA and State-run facilities.

Finally, H.R. 4231 would reform the qualification requirements for candidates for the position of Under Secretary for Health. Current law requires the Under Secretary for Health to be a doctor of medicine, limiting the pool of candidates that VA may consider for this vital executive position. Executives in the American health care industry who present exceptional credentials and experience, but did not receive a medical degree as a part of their preparation, are excluded by law from consideration. In fact, of the 62 top hospital, health insurance and managed care organizations in the United States, only five CEOs hold the doctor of medicine degree. H.R. 4231 would repeal the requirement for VA's Under Secretary for health to be a doctor of medicine. This change would allow a future Administration to consider candidates from the widest spectrum of executive talents, including doctors of medicine, nurses, dentists, health academics, health economists, insurance executives and other qualified candidates with the demonstrated abilities to fill such a key leadership role in veterans' affairs.

Mr. Speaker, this is a carefully crafted bill that will advance measures that are important to providing our veterans with quality health care services.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4231, as amended, the Department of Veterans Affairs Nursing Recruitment and Retention Act of 2004. This act has a variety of innovative approaches designed to assist the VA in managing its nursing workforce. The VA nurses are significantly older, on average, than nurses in other sectors; and more than one-third of the VA nursing staffs would be eligible for retirement in the next 5 years. Those are substantial figures.

In the meantime, fewer students are training for careers in nursing care, while the need for those professions is growing. This will make the VA effort to retain and recruit nurses critical in ensuring that it is able to maintain high-quality and accessible services.

This bill contains provisions to address the projected nursing shortage, including a pilot project to examine the effectiveness of new recruiting techniques and, in addition, new flexible work schedules that may be attractive to nurses with young children or those who are interested in full-time employment with seasonable breaks. State veterans homes, an important partner to our veterans health system, may also offer new educational opportunities to their nurses.

I want to take this time, Mr. Speaker, to recognize the gentleman from New Jersey (Chairman SMITH) and thank him and acknowledge the leadership of the chairman of our Subcommittee on Health, the gentleman from Connecticut (Mr. SIMMONS), in his efforts. I want to thank him and his staff in drafting this piece of legislation and working with me and us and all of us together to consider improvements to this particular bill.

I also once again want to thank the gentleman from New Jersey (Chairman SMITH) and the gentleman from Illinois (Ranking Member EVANS), who continues to be at this present time in the Committee on Armed Services as we speak. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I ask unanimous consent that the remainder of our time be controlled by the gentleman from Connecticut (Mr. SIMMONS), the distinguished chairman of the Subcommittee on Health, and just say how grateful I am for his sponsorship of this very important piece of legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. SIMMONS. Mr. Speaker, I thank the gentleman for yielding me the time. I thank him for his leadership, and I thank the ranking member, the gentleman from Texas (Mr. RODRIGUEZ), for all of his hard work.

Mr. Speaker, I yield myself such time as I may consume. I just want to take a few moments to focus on a couple of points that the chairman raised with regard to this legislation. Since 1966, the number of patients treated annually by the VA has risen by 70 percent. During this same period of time of a growing demand for VA health services, the number of nursing program graduates nationwide began to fall. So at a time when the demand for services went up, the supply of nurses has been going down. The latest U.S. Health Resources and Services Administration report projects that the shortage of nurses this year will reach approximately 138,000 nurses.

We have received testimony before the Subcommittee on Health that the nurse vacancy rate at VA is currently at 9 percent and rising, in excess of 4,500 positions. In addition, the report found that the average VA nurse was nearly 49 years old, ahead of the national average for nurses, which is 42 years old. Now, while 49 years old may be young compared to my age and the age of some of my colleagues, I think that we have to see that there is a serious trend here when it comes to VA nurses. The VA is falling behind in its effort to staff these critical positions.

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This legislation before us today would establish a pilot program within the VA to study the use of outside recruitment, advertising and communications techniques. Online technologies that are currently being used by 100 percent of the Fortune 500 companies to attract people into Fortune 500 companies, well, it can attract people into VA nursing.

Furthermore, the legislation includes provisions that allow nurses to have more control over their schedules and their private lives so their work schedules are less inflexible and the working conditions that they have are more congenial.

Another important provision is that the VA will be allowed to assist State nursing homes, that is, veterans facilities managed by States, to reduce shortages at long-term-care facilities operating under the authority of the VA but managed by the State. For example, in my home State of Connecticut, the Rocky Hill Home for veterans is engaged in a major program with the Veterans Administration to provide long-term care. This will include the construction of a 250-bed long-term-care facility, but it also includes partnering between the VA and the Connecticut Department of Veterans' Affairs so that the cost of that long-term nursing care is distributed between the State and the Federal Government.

Mr. Speaker, I want to express my appreciation to our chairman, to our ranking member, the gentleman from Illinois (Mr. EVANS) and to our staffs on the majority and minority staff, and to my colleague, the gentleman from Texas (Mr. RODRIGUEZ), and all the members of the committee and subcommittee for operating in a bipartisan fashion to bring this legislation forward for the benefit of our veterans.

Mr. Speaker, I see that there are no further speakers on my side, and I would be prepared to yield back, but I will give my colleague the opportunity to speak.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. FILNER), my friend and fellow colleague, a member of the committee who has been a staunch supporter of veterans.

Mr. FILNER. Mr. Speaker, I thank the gentleman for the time, and Mr. Speaker, I also rise in support of this bill, H.R. 4231, to provide for nurse recruitment and retention for our Department of Veterans' Affairs.

We have heard that the VA is currently the largest employer of nurses in the United States, and with the growth in the number of veterans using the VA for their health care, the increase in the number of aging veterans and the projected national shortage of registered nurses, we must keep the VA competitive in the recruitment and retention of nurses.

So we have this bill, what we have heard described, establishing a pilot program that would study the use of outside recruitment, advertising and online technology to make the VA more competitive. We also know that the bill provides flexible work schedules to be more family-friendly and to allow nurses to take care of their family needs and personal needs and give them more control over their own schedules.

I thank very much the chairman of the committee for his strong statement on the provision that was in the original bill but is not now, but how we will go about making up for that: in the early drafts of the bill, an important provision clarified the status of nurses who meet the VA's qualification standards but do not have a baccalaureate degree. The National Council of State Boards of Nursing reports that the pass rates for licensing of nurses trained with associate and baccalaureate degrees are virtually identical. So to discriminate against nurses with 2-year degrees makes no sense and, of course, is counterproductive to our needs today.

As first drafted, H.R. 4231 committed to hiring nurses with associate degrees. It is not in the bill now, but as the chairman pointed out, a letter by the acting Under Secretary of Health at the VA, Mr. Perlin, and is now in the record to the Committee on Veterans Affairs' chairman and ranking member, outlined the plans of the VA to enhance the recruitment and hiring of associate-degree nurses. Committee on Veterans' Affairs members will be monitoring their progress.

Of course, the next step we need to take is to fix the promotion requirements for nurses in the VA so nurses with those associate degrees are eligible for promotions based on their competency, not their degree. This is a vital change that must be made in order to retain VA nurses, and I appreciate the gentleman from New Jersey's (Chairman SMITH's) strong statement of the need for competency-based promotion and not on the kind of degree.

All of us here today have made clear that health care for our Nation's veterans must be a high priority. This bill is a step forward in those efforts to provide the VA with the tools to recruit qualified nurses to care for our veterans, whether they are from World War II or to the present conflicts in Afghanistan and Iraq.

I urge support of H.R. 4231.

GENERAL LEAVE

Mr. SIMMONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4231, as amended.

The SPEAKER pro tempore (Mr. SHIMKUS). Is there objection to the request of the gentleman from Connecticut?

There was no objection.

Mr. SIMMONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill is responsible legislation that will advance quality health care for veterans, and I urge my colleagues to support H.R. 4231 as amended.

Mr. Speaker, I have no further requests for time, and I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Let me first of all take this opportunity to thank the chairman, the gentleman from Connecticut (Mr. SIMMONS) for his efforts on this particular piece of legislation, and one of the beauties of this particular piece of legislation also is that it sets a trend. There is no doubt that in this country, and just like the VA's having difficulty with nurses, the entire country is having difficulty in getting nurses.

In addition to that, in the area of health professions, there will be a need for us to look at doctors. I know that we have a large number of slots in the area of doctors in the VA that have also not been filled. For some reason, this country has not produced the number of doctors that we need. We continue to produce 12,000 to 15,000 and bring in about 5,000 from abroad each year. In fact, right prior to 9/11, we brought in some 300,000 professionals from abroad, of which, in that category, was a little less than 5,000 doctors.

So we need to really begin to look, especially in the health profession and how it impacts the VA and these other areas, both these specialties, as well as physicians and the other health professionals that are needed.

So, once again, I want to thank everyone.

Mr. Speaker, I yield back the balance of my time.

Mr. SIMMONS. Mr. Speaker, I yield myself such time as I may consume.

There may not be another opportunity with this session coming to a close to thank my colleague on the floor in the context of doing a bill for our veterans. His leadership in Veterans' Affairs has been extraordinary. The impact of his service on this committee will have a beneficial effect on millions and millions of veterans for many, many years to come, and I thank him for all of his hard work.

Mr. EVANS. Mr. Speaker, I rise in support of H.R. 4231.

It is a good bill that will give the Department of Veterans Affairs some new opportunities to meet the challenges of maintaining a strong nursing workforce during the severe nursing shortage projected for the near future.

I have said many times that nurses are the lifeblood of our medical care system.

VA should be looking at any and all feasible options for ensuring that it is able to satisfy the needs and expectations of these valuable employees.

I want to commend the chairman and ranking member of our Health Subcommittee for their work on this bill and urge Members to support it.

Mr. SIMMONS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4231, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SIMMONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

COMMENDING FESTIVAL OF CHILDREN FOUNDATION

Mr. OSBORNE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 759) commending the Festival of Children Foundation for its outstanding efforts on behalf of children and expressing the support of the House of Representatives for the designation of a "Child Awareness Month," as amended.

The Clerk read as follows:

H. Res. 759

Whereas children represent the Nation's future and numerous individuals and organizations across the United States devote precious time, energy, and resources to enrich that future by helping children advance their hopes and dreams and to realize their aspirations;

Whereas it is in the public interest to increase awareness of children's special needs and the demonstrably effective efforts of those making a real difference in children's lives, which in turn and over time will serve to strengthen the social fabric of our country;

Whereas the Festival of Children Foundation has been established in southern California (1) to showcase those non-profit groups performing exemplary works, so that they may through increased exposure secure and sustain the volunteer, leadership, and financial support necessary to be successful, (2) to provide a free resource to such groups so that they might more easily leverage scarce resources through creative, collaborative efforts to serve their shared constituencies for the betterment of the community at large, and (3) to provide a free and effective platform to facilitate such groups sharing lessons learned in bringing a results orientation to community mobilization, strategic planning, and overall best practices;

Whereas during the last two years more than 100 non-profit groups in southern California have benefited enormously from exposure they could not otherwise have received but for the Festival of Children Foundation, principally through programs and activities at partner organizations such as retail, commercial, and cultural centers;

Whereas September is a time, as children return to school, that families and the Nation as a whole are especially mindful of children and their special needs and opportunities; and

Whereas in September 2004 the Festival of Children Foundation, working with its partners, has invited 50 agencies and organizations that serve children throughout southern California to have a month of high profile exhibits along with another 50 such groups to participate in other programs and activities as part the Foundation's ongoing mission: Now, therefore, be it—

Resolved, That the House of Representatives commends the Festival of Children Foundation of southern California—

(1) for its outstanding efforts on behalf of children; and

(2) for the difference that it is making in the communities in which it is active and in the lives of children.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. OSBORNE) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. OSBORNE).

GENERAL LEAVE

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 759.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. OSBORNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Res. 759 offered by the gentleman from California (Mr. ROHRABACHER). This resolution honors the Festival of Children Foundation for its outstanding efforts on behalf of children.

Children represent the Nation's future, and numerous individuals and organizations across the United States devote precious time, energy and resources to enrich that future by helping children advance their hopes and dreams and to realize their aspirations.

The Festival of Children Foundation is one such organization that has experienced overwhelming success serving the needs of children in the Orange County community. Through collaboration with numerous charities, the foundation seeks to improve the lives of children and families living in the community by fostering education, community involvement and the arts. Instead of operating independently, charities are able to pool both their resources and ideas to better serve the children and families of southern California.

The Festival of Children Foundation expands the reach of the nonprofits in their community, and their efforts on behalf of children should be emulated. I would like to take this opportunity to commend their work on behalf of children and also their efforts to increase awareness of children's special needs.

I thank my colleague from California for introducing this resolution and urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, Walt Disney once said that "our greatest natural resource is the minds of our children."

Today, we honor the Festival of Children Foundation, an organization that improves the lives of children and families in Orange County, California, by collaborating with local children's charities to promote education, community involvement and the arts.

In the last 2 years, more than 100 nonprofit groups in southern California have benefited enormously from the exposure, partnership and assistance of the Festival of Children Foundation. In particular, the foundation has declared September 2004 as a month to "Celebrate the Magic of Childhood." It is working with 52 agencies and organizations to serve the children of southern California with high-profile exhibits to continue with the foundation's mission.

I would like to congratulate the foundation on its excellent work to strengthen their community and to benefit the lives of children, and I would like to thank the gentleman from California (Mr. ROHRABACHER) for introducing this meaningful legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. OSBORNE. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ROHRABACHER).

Mr. ROHRABACHER. Mr. Speaker, I thank the gentleman very much for the time.

Mr. Speaker, I rise in strong support for my own bill, H. Res. 759 commending the Festival of Children. Millions of good-hearted American volunteers donate their time, their talent and their personal treasure to help lost and needy children, but no matter how noble the cause, these wonderful charities and their volunteers must struggle just to let the community know what is available to those who are in need. Clearly, children's charities struggle to find private sources of money to sustain their benevolent programs.

Mr. Speaker, in Orange County, California, we are trying to do our best to do the best. Our needy children are put in this spotlight by a month-long event dedicated to assist organizations that are working with deprived and neglected children.

The Festival of Children Foundation hosts the activities of Child Awareness Month at South Coast Plaza in Costa Mesa, California, which is part of my district.

□ 1800

South Coast Plaza is a premier commercial and shopping location; yet with generosity and kindness, this center also becomes a center of love and caring for children.

There, among the upper crust and upper level stores and shops, you will find new ways during this month of helping children and helping those organizations that are designed to help children. Each year, during the month of September, scores of charities, like the Make-a-Wish Foundation and the Blind Children's Learning Center, are given tremendous support to come together under one roof, and not just one roof but under the roof of one of California's most visited shopping centers, to reach out to tens of thousands of families and then make a difference in the lives of multitudes of children.

Too often in our communities many families have not even been aware that certain charities exist; and at the same time, there are many who are willing to volunteer their energy and their resources to help these charities, yet they do not know these charities even exist. In the meantime, we see there are charities that spend much of their scarce resources that should be going directly to the children to overcome this gulf that separates them from both the donors and the needy.

Well, I take this problem very seriously, and I take caring for the children very seriously. I always have, but that has been brought home to me in a very special way, because yesterday marked the 5-month anniversary of the birth of my three children, my triplets, Amika, Christian, and Trestin. These are lovely little babies, but it certainly has impressed upon me that we need to care for all the babies. We need to make sure that all the children of this world can reach their potential and have a happy life.

And so I applaud those individuals who are engaged in this noble, noble effort. I especially applaud the individual initiative of Sandy Segerstrom Daniels, the founder of the Festival of Children. She took the initiative to form a private nonprofit organization bringing all of Orange County's children's charities together. She enlisted nationally known celebrities, like Arnold Schwarzenegger, Olivia Newton-John and Pat Riley, and others to boost the participation in the children's charities at the Festival of Children.

The effort has paid off. Hundreds of charities and thousands of families now look forward to the month of September when they can gather at the Festival of Children, there at the South Coast Plaza. I am pleased to see this example of a private initiative for a public charity is catching on and that the Festival of Children is expending into other States.

So with this pride in the accomplishment and the benevolence and the good hearts of some of my constituents, I ask my colleagues to join me in congratulating the Festival of Children.

Ms. WOOLSEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. LORETTA SANCHEZ).

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I thank the gentlewoman from California (Ms. WOOLSEY), and I rise today in strong support of H. Res. 759, a bill that recognizes and commends the important work of the Festival of Children Foundation.

The Festival of Children Foundation is an umbrella organization that helps foster collaboration between children's charities in the areas of education, community involvement, and arts appreciation. I want to acknowledge Sandy Segerstrom Daniels, who is here with us today, for her work with respect to this festival.

We in Congress need to increase the public awareness of children's special needs and to recognize our local organizations who lead the way in providing the services in a very local way, in a very humane way, in a very loving way in our own districts, particularly through private and voluntary efforts. That is why I am a cosponsor of this bill with my friend and colleague, the gentleman from California (Mr. ROHRABACHER), and why I would urge my colleagues to support and to vote for this.

Through its extensive network of community organizations, the Festival of Children Foundation offers resources, such as training and workshops, operation and technical support, and planning for conferences and special events to over 100 organizations. The highlight of all these activities is the Festival of Children, a month-long celebration of children, featuring the work of local children's charities.

Just last year, over 55 children's organizations from Orange County, as well as a select group from Los Angeles County, gathered at the South Coast Plaza retail center in Costa Mesa, California, for exhibits, for lectures, presentations, and lots of entertainment. The event was cosponsored by South Coast Plaza, and again I thank the Segerstrom family and Children's Hospital of Orange County, which actually sits in my district, and featured groups such as Elizabeth Glaser Pediatric AIDS Foundation, Juvenile Diabetes Research Foundation, Make-a-Wish Foundation, Special Olympics, and the list goes on and on of all the people who participated to help our special kids in Orange County..

Over one million people visited South Coast Plaza during the festival. Not only did we have the festival going on, but of course there is great shopping there too; and we are very proud of that in Orange County. But the charities really reaped the rewards of this great opportunity because they were able to market themselves to our community. I, for example, have a young adult student organization that is a task force from all the high schools in my area, and they participate in trying to get their young people to these volunteer organizations because they have time on their hands. They just need to know the information. This is a great way when we hold this at South Coast Plaza.

In addition, all the programs that were presented that day were free to the public. The Orange County Board of Supervisors and the California legislature have already commended officially the Festival of Children and even recognized the month of September as Child Awareness Month.

I join my colleagues here today in recognizing the Festival of Children as a model for organizing communities to provide for the needs of their children.

Mr. DAVIS of Illinois. Mr. Speaker, Walt Disney once said that "Our greatest natural resource is the minds of our children." Today we honor the Festival of Children Foundation, an organization with the specific purpose to improve the lives of children and families throughout Orange County, California by fostering education, community involvement, and the arts by collaborating with local children's charities.

Through their hard work and efforts, the Festival of Children Foundation has been able to showcase the work of non-profit groups as a way to increase exposure and sustain volunteer, leadership and financial support for these groups. The Foundation, being an umbrella organization, has made it possible to serve as a free recourse to these groups by encouraging collaborative efforts to serve the community as well as a place for groups to share ideas and lessons on community mobilization, planning and overall best practices. In the last two years, over 100 non-profit groups in southern California have benefited enormously from the exposure, partnership and assistance from the Festival of Children Foundation.

As another way to truly reach out and assist children, the Festival of Children Foundation had declared September 2004 as a month to "Celebrate the Magic of Childhood," working with 52 agencies and organizations to serve the children of southern California with high profile exhibits to continue with the Foundation's mission.

I would like to congratulate the Foundation on their excellent work and assisting to strengthen their community—most importantly, their efforts to benefit the lives of children.

Mr. BOEHNER. Mr. Speaker, I rise as Chairman of the Education and Workforce Committee to add my voice to my distinguished California colleagues in paying tribute to the Festival of Children Foundation.

I believe the exceptional contributions and services of the Festival Foundation—both to the community and to the State of California—deserves national recognition. The Festival is a good example of private, non-profit groups and charities coming together to serve the public interest—in this case for the benefit of children. Mr. Speaker, the Education committee is always looking for children's programs that are creative, voluntary and community based. Helping our young people—whether it be in the area of children's education, health care, personal development or special needs—should be our highest calling.

This month-long Festival will bring together over 50 private, charitable organizations all under one roof. The goal is to improve collaboration, provide free resources and offer a forum for issues ranging from children's health care to the arts. It has become an invaluable resource for children's charities in Orange County, California.

I commend Sandy Segerstrom Daniels for her leadership in founding the Festival and the Foundation. It is truly a model for other communities in our country to follow.

Mr. CALVERT. Mr. Speaker, I strongly support this Resolution and to recognize the Festival of Children Foundation for its valuable service to the Orange County and Southern California communities.

As my colleagues said, the Foundation is an umbrella group with the specific purpose to improve the lives of children and families. Sandy Segerstrom Daniels, the founder, has had the vision and commitment to create the Festival and the ability to bring together people and organizations devoted to children's issues.

Groups involved in the fields of health, education and the arts all collaborate in the Festival. Lectures, exhibits and information booths at South Coast Plaza take place for the entire month of September. I credit the Festival for increasing public awareness of children's issues and for providing opportunities for the public and non-profit organizations to donate their time and resources. I am told that over two million visitors have seen the Festival's exhibits in the past.

Because of the success of the Festival, the California State Assembly and the Orange County Board of Supervisors have taken official actions commending the Festival. I believe it is now fitting and timely for the U.S. Congress to also recognize the Festival of Children by this Resolution.

I encourage all my colleagues to support the Resolution and thank my colleague DANA ROHRABACHER for presenting the Resolution.

Mr. OSBORNE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BONNER). The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and agree to the resolution, H. Res. 759, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The title was amended so as to read: "A resolution commending the Festival of Children Foundation for its outstanding efforts on behalf of children".

A motion to reconsider was laid on the table.

COMMEMORATING THE 100TH ANNIVERSARY OF THE BIRTH OF WILLIAM "COUNT" BASIE AND ACKNOWLEDGING HIS CONTRIBUTIONS TO JAZZ AND SWING MUSIC

Mr. BURNS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 778) commemorating the 100th anniversary of the birth of William "Count" Basie and acknowledging his important contributions to jazz and swing music.

The Clerk read as follows:

H. RES. 778

Whereas on August 21, 1904, renowned pianist and bandleader William "Count" Basie was born in Red Bank, New Jersey;

Whereas in 1924, William "Count" Basie moved to New York City and, under the influence of James P. Johnson and Thomas "Fats" Waller, learned the style of piano known as stride piano, a contrasting constant beat from the left hand with a melodious right hand;

Whereas in 1927, William "Count" Basie's vibrant musical career took off when he moved to Kansas City, Missouri, and joined Walter Page's Blue Devils Band;

Whereas William "Count" Basie joined the Bennie Morton Band, and took over as bandleader in 1935, renaming the band "Count Basie and his Cherry Blossom Orchestra";

Whereas Count Basie and his Cherry Blossom Orchestra disbanded, but eventually reformed as the "Count Basie Orchestra";

Whereas the Count Basie Orchestra dominated the realms of jazz and swing for several decades;

Whereas the music of William "Count" Basie and the Count Basie Orchestra solidified the bond between the musical fashion of jazz and the mournful sounds of the blues;

Whereas William "Count" Basie and the Count Basie Orchestra established swing as a predominant force in the musical tastes of generations;

Whereas the music of William "Count" Basie maintained a lightness and precision that has set the tone for modern jazz accompanying styles;

Whereas William "Count" Basie perfected a style of piano known as comping, a syncopated and highly precise style of chords on the piano;

Whereas William "Count" Basie's most famous pieces included "One O'clock Jump", "Swingin' the Blues", "Jumpin' at the Woodside", "April in Paris", "Shiny Stockings", and "Every Day I Have the Blues";

Whereas in 1983, William "Count" Basie was awarded an American Jazz Masters Award by the National Endowment for the Arts;

Whereas in 1984, in honor of William "Count" Basie's accomplishments, an historic theater in his hometown of Red Bank, New Jersey, was renamed the "Count Basie Theatre";

Whereas in 1996, the United States Postal Service issued a commemorative postage stamp in honor of William "Count" Basie;

Whereas the National Academy of Recording Arts and Sciences awarded William "Count" Basie 9 Grammy Awards throughout his career, as well as the Grammy Trustees Award in 1981, and the Lifetime Achievement Award in 2002; and

Whereas William "Count" Basie passed away on April 26, 1984, leaving his music and the Count Basie Orchestra as vivid reminders of his brilliant talent and influential career: Now, therefore, be it

Resolved, That the House of Representatives—

(1) commemorates the 100th anniversary of the birth of William "Count" Basie; and

(2) acknowledges the important contributions of William "Count" Basie to jazz and swing music.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. BURNS) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BURNS).

GENERAL LEAVE

Mr. BURNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 778.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BURNS. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of House Resolution 778, offered by the gentleman from New Jersey (Mr. PALLONE), commemorating the 100th anniversary of the birth of

William "Count" Basie, and acknowledging his important contributions to jazz and swing music.

William "Count" Basie was born in Red Bank, New Jersey, on August 21, 1904. His vibrant musical career took off in 1927 when he moved to Kansas City, Missouri, and joined Walter Page's Blue Devils Band. From there, William "Count" Basie joined the Bennie Morton Band and took over as band leader in 1935, renaming the band the Count Basie and his Cherry Blossom Orchestra.

Count Basie and his Cherry Blossom Orchestra disbanded, but eventually reformed as the Count Basie Orchestra, which went on to dominate the realms of jazz and swing for several decades. The Count Basie Orchestra established swing as a predominant force in the musical taste of generations, and their music set the tone for modern jazz.

In 1983, William "Count" Basie was awarded an American Jazz Masters Award by the National Endowment for the Arts. A historic theater in his hometown of Red Bank, New Jersey, was renamed the Count Basie Theater in 1984, and the United States Postal Service issued a commemorative stamp in his honor in 1996.

Over the years, the National Academy of Recording Arts and Sciences awarded William "Count" Basie nine Grammy Awards, which led to a Lifetime Achievement Award in 2002.

House Resolution 778 commemorates the 100th anniversary of the birth of William "Count" Basie and acknowledges his important contributions to jazz and swing music. Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we celebrate the life of William "Count" Basie and his influence on jazz and swing music. Born in Red Bank, New Jersey, Count Basie began to learn the piano under his mother's direction. In 1924, he moved to New York City to perfect his talent and begin his remarkable career.

Throughout the years, he developed and advanced his own music style. In 1935, Count Basie formed his own nine-piece group called the Barons of Rhythm. The Barons of Rhythm's style was a powerful one. This earned Basie the nickname "Count." By the end of the 1930s, the band was one of the most popular in the world, with hits like "One O'clock Jump" and "Jumpin' At the Woodside."

Count Basie continued to share his talent with the world through the 1970s. In 1985, one year after his death, President Reagan awarded him the Presidential Medal of Freedom. In 1996, the U.S. Post Office honored him with a commemorative stamp.

Today, Mr. Speaker, we honor the 100th anniversary of the birth of Count Basie and acknowledge the tremendous impact he had on music. I congratulate our colleague, the gentleman from New Jersey (Mr. PALLONE), for this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BURNS. Mr. Speaker, I continue to reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I thank my colleague, the gentlewoman from California (Ms. WOOLSEY), for yielding me this time and for her role in bringing this resolution up on the suspension list today.

It is with distinct honor and pleasure that I stand before this Chamber today to speak in support of House Resolution 778. Count Basie was born in my district and spent the first 20 years or so of his life in my district, and I would like to kind of recount some of the events that occurred in my district during those early years.

This bill recognizes and celebrates the incredible contribution that William "Count" Basie has made to jazz and swing music. Furthermore, it is only fitting we acknowledge his pivotal role this year, marking the 100th anniversary of his birth.

He was born, as was stated previously by my colleagues, on August 21, 1904, in his parents' home on Mechanic Streets in Red Bank, New Jersey, which has been in my district the entire time I have been in Congress, and even prior to the time I represented the area. And Count Basie is highly regarded in our area, as well as obviously nationally, as one of the best and most influential musicians and composers of the last century.

The city of Red Bank, where he was born, gave the young William Basie his first exposure to music and the title of one of the most famous tunes associated with his band, "The Kid From Red Bank"; and it is evidence the city of Red Bank has had on his early musical development.

As a child, Basie would do chores at the Palace Theater in Red Bank so that he could get in free. One day when the Palace's house piano player was unable to travel from New York, Basie offered to fill in for him, but the manager declined the offer. Basie simply waited until the picture had started, then snuck into the pit and accompanied the film anyway on the piano. He was invited back to play the evening show.

Years later, Basie would trace his lifelong interest in the organ to his experiences at the Lyric Theater, another theater in Red Bank, New Jersey, where he would listen to the organ played by Henry La Ross.

Many are surprised to learn that William Basie's first love was not the piano, but rather the drums. However, his aspiration went towards a different direction when he met Sonny Greer, a young talented drummer from nearby Long Branch, New Jersey, which is actually my hometown. The young men quickly realized where their true respective talents really laid, and the drums and piano duo went on to win first place in an Asbury Park piano competition, one of the first of many honors bestowed upon Basie throughout his career.

Asbury Park is also in my district, Mr. Speaker, and some of my colleagues know that Asbury Park was made famous also by Bruce Springstein, another one of our constituents.

□ 1815

Count Basie was awarded with a total of nine Grammys throughout his career, including the Grammy Trustees Award from the National Academy of Recording Arts and Sciences in 1981. In addition, he was the recipient of an American Jazz Masters Award from the National Endowment of the Arts in 1983, and in 1996, he was bestowed the honor of a Commemorative Stamp by the United States Postal Office. And I assure Members myself and many others in my district have lots of those stamps.

Today, the Count Basie Theater in Red Bank, New Jersey stands as a testament to the life, career and accomplishments of this innovative and ingenious musician. In 1984, the historic theater, which first opened its doors in 1926, was renamed to honor Count Basie. Much of the theater has been preserved and remains true to its original appearance. The theater is now owned and operated by Count Basie Theater, Inc., a nonprofit corporation formed solely to operate the theater for the benefit of the community, and one cannot help but think this is exactly how the "Kid from Red Bank" would have liked it.

Mr. Speaker, once again I ask my colleagues to vote in favor of this resolution and pay tribute to the life and career of an individual who revolutionized the face of jazz music and to this day stands as a model for all those who have followed him.

Ms. WOOLSEY. Mr. Speaker, I yield back the balance of my time.

Mr. BURNS. Mr. Speaker, I thank the gentleman from New Jersey (Mr. PALLONE) for introducing H. Res. 778, and urge my colleagues to support this resolution.

Mr. HOLT. Mr. Speaker, today I rise to commemorate the 100th anniversary of the birth of William "Count" Basie, one of the leading figures of the swing era in jazz. Bandleader of the renowned Count Basie Orchestra, Basie was integral in establishing swing as the popular music of subsequent generations. His orchestra was a unique band during a unique time in the history of jazz and American music.

Born in Red Bank, New Jersey on August 24, 1904, William "Count" Basie took an interest in music at an early age. He honed his skills on both the piano and drums in local theatres in Red Bank before moving to New York in 1924, at the age of twenty. It was in New York where he was influenced by two of the greatest early jazz pianists, James P. Johnson and Thomas "Fats" Waller. In 1927, Basie moved to Kansas City, Missouri to capitalize on its nascent jazz scene. He first joined the Blue Devils Band, but soon after he became a member of the famed Benny Moten Orchestra. Basie later took over as bandleader of Moten's orchestra, which was renamed the Count Basie Orchestra.

In 1937, Basie and his orchestra moved to New York City and established their home base in Harlem, where they became one of the leading big bands of the era. Basie's orchestra was best known for its unique "Kansas City Sound," exemplified in such works as, "One O'clock Jump" and "Swingin' the Blues."

Throughout his career, "Count" Basie received nine Grammy awards as well as a Grammy Trustee award in 1981; he was also posthumously recognized for lifetime achievement in 2002. William "Count" Basie was an extremely talented and ambitious musician and bandleader; his influence has persisted throughout time and among many different generations. He made many important contributions to swing, jazz, and American music. Let us honor this great musician and man today. Central New Jerseyans are proud to say "such as he came from among us."

Ms. McCARTHY of Missouri. Mr. Speaker, I rise today in support of H. Res. 778, a resolution to commemorate the 100th anniversary of the birth of William "Count" Basie, one of America's premier swing musicians who rose to national prominence as a jazz pioneer while playing at the Club Reno in Kansas City.

Born an only child on August 21, 1904 in Red Bank, New Jersey, Basie moved to Harlem in 1920 to pursue a career in jazz music. An aspiring pianist, he soon met Thomas "Fats" Waller and developed a style of piano improvisation called "comping," where he would play a standard chord progression with his left hand, but improvise a melody with his right hand. He soon began touring the country with a variety show, "Gonzel White and the Big Jamboree."

In 1927, Basie was stranded in Kansas City when the tour went bust. After playing silent theatres, he joined Walter Paige's "Blue Devils," a well-known performance ensemble in the city. In 1929, he used his reputation and contacts to secure a spot as arranger and backup pianist with the Bennie Moten band, a local mainstay. During an internal dispute about an engagement at the Cherry Blossom club, the band voted to kick out Moten and install Basie as its new leader.

The new band called themselves "Count Basie and his Cherry Blossom Orchestra," marking the first time with Basie was billed as "Count." After a few months with his new orchestra, Basie reunited with Moten's new band, which he then took over in 1935 following Moten's death. Basie and saxophonist Buster Smith brought in former members of the Blue Devils and created a nine piece orchestra called "Count Basie and His Barons of Rhythm."

Under Basie, the band perfected a sound based on syncopated rhythms and simple musical themes. These arrangements produced light, straightforward and uncomplicated music that was a marked contrast to the style of many other jazz groups of the time, who tended to employ complicated melodies and layers of improvisation. That style of music became known as the "Kansas City Sound."

On the popularity of their new sound, Basie's band played a long engagement at the Club Reno in Kansas City, which turned out to be a critical turning point in Basie's career. Basie performed nightly from 8 p.m. to 4 a.m. The Club Reno performances were broadcast nationally over radio WXBY from 11:15 p.m. until midnight, offering exposure far beyond that of the nascent Kansas City jazz scene.

In Chicago, a young music writer and promoter named John Hammond heard the broadcast on shortwave radio and took an immediate interest in the Basie band. After writing several articles about the band, he traveled to Kansas City to meet Basie and a life long friendship was formed.

Hammond arranged for a national booking deal with MCA and a record deal with Decca Records, and by 1937 an enlarged thirteen piece band known as the Count Basie Orchestra had become one of the country's leading big bands. Over the next 13 years the band toured and recorded relentlessly, delivering the Kansas City jazz sound to all corners of the country. During this period, Basie and his orchestra were featured in five movies and headlined the famous "Spirituals to Swing" series from 1938 to 1939, one of the first Carnegie Hall productions to present African American performers to a predominantly white audience.

Later in his career, Basie performed with a number of famous performers, from saxophone player Lester Young to trumpeter Dizzy Gillespie to crooner Frank Sinatra. He received nine Grammy awards, the Grammy Trustee's Award and the American Jazz Masters Award in 1983 from the National Endowment for the Arts. His songs "One O'Clock Jump" and "Everyday I have the Blues" are included in the Grammy Hall of Fame.

Though Count Basie died from cancer on April 26, 1984, he is still considered one of the premier jazz greats. The Count Basie band was featured in famous Kansas City Filmmaker Robert Altman's movie "Jazz '34." Just 2 years ago in 2002, 18 years after his death, a tribute album entitled "Homage to Basie" won the Grammy award for Best Large Jazz Ensemble Album.

Over the course of a career that spanned seven decades, Basie's style of Kansas City swing became a prominent fixture in jazz repertoire. His legacy continues to inspire new generations of jazz musicians and remind new performers of the important role Kansas City played in American musical history.

This past August 21st, I had the honor of hearing two Kansas City jazz greats and former members of Basie's famous group, pianist Jay McShann and trumpeter Clark Terry. They joined Bobby Watson and the "18th and Vine Big Band" to perform a tribute that was broadcast worldwide on National Public Radio. Sponsored by Kansas City's American Jazz Museum, the live performance sold out Kansas City's historic Gem Theatre. For his contributions to American music, and his role in bringing the Kansas City jazz sound to the wider world, I join my colleagues in commemorating Count Basie's enduring legacy.

Mr. DAVIS of Illinois. Mr. Speaker, today we celebrate the life of William "Count" Basie and his influence on jazz and swing music. Born in Red Bank, New Jersey, William "Count" Basie began to learn the piano under his mother's direction. In 1924, he moved to New York City to perfect his talent and begin his remarkable career. In 1927, Count Basie began playing piano accompaniment to silent movies. He then joined Walter Page's Blue Devils and from there along with several other members joined Bernie Moten's Kansas City Band. Throughout the years, he was developing and advancing his own music style. In 1935, Basie formed his own 9 piece group, Barons of Rhythm, gaining much attention from live appearances. The Barons of Rhythm style was a powerful swing, intensified by Basie's frequent playing with the rhythm section alone using short phrases called "riffs" exchanged back and forth between sections, giving the band a unique sound and identity. This raised Basie's stature in the community onto an even keel with Duke Ellington, earning him the nickname "Count". By the end of the 1930s, the Basie band was one of the most popular in the world, with massive hits like "One O'clock Jump" and "Jumpin at the Woodside."

William "Count" Basie continued to share his talent with the world through the 1970s. One year after his death, on May 23, 1985, Basie was awarded the Presidential Medal of Freedom by President Ronald Reagan. He was also honored in 1996 with a United States Postal Service commemorative postage stamp. Mr. Speaker, we honor the 100th anniversary of the birth of Count Basie and acknowledge the tremendous impact he had on music.

Mr. BURNS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BONNER). The question is on the motion offered by the gentleman from Georgia (Mr. BURNS) that the House suspend the rules and agree to the resolution, H. Res. 778.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

HONORING LIFE AND WORK OF DUKE ELLINGTON

Mr. BURNS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 501) honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival.

The Clerk read as follows:

H. CON. RES. 501

Whereas jazz music is America's classical music and is an art form that is indigenous to the United States;

Whereas the influence of jazz has spread across the world and jazz truly incorporates and transcends differences of nationality, religion, language, culture, socioeconomic status, and race;

Whereas Edward Kennedy "Duke" Ellington, who was born on April 29, 1899 in Washington, D.C., and died on May 24, 1974 in New York City, was one of the pioneers of jazz music;

Whereas Duke Ellington formed his first band in 1917;

Whereas over the course of his 50-year musical career, Duke Ellington took jazz to the farthest corners of the world, performing in Europe, the Soviet Union, Japan, and Australia during the 1960's on diplomatic tours sponsored by the Department of State;

Whereas among his numerous other public honors, Duke Ellington was appointed to the National Council on the Arts in 1968, received the President's Gold Medal in 1966 from President Lyndon Johnson, and was awarded the Presidential Medal of Freedom, the highest honor a civilian can receive in the United States, in 1969;

Whereas Duke Ellington has also received many awards and honors from private entities, including 13 GRAMMY Awards from the National Academy of Recording Arts and Sciences over 40 years, the Pied Piper Award from the American Society of Composers, Authors, and Publishers in 1968, and honorary doctoral degrees from 16 institutions;

Whereas after the death of Duke Ellington, Western High School in Washington, D.C., was renamed the Duke Ellington School of the Arts and is celebrating its 30th anniversary this year;

Whereas the House of Representatives has declared that jazz is a rare and valuable national treasure that deserves attention, support, and resources to ensure that it is preserved, understood, and promulgated;

Whereas Washington, D.C., does not currently host its own jazz festival;

Whereas Charles Fishman, who was Dizzy Gillespie's personal manager and producer until his death and is highly regarded in the jazz world, has established the Duke Ellington Jazz Festival, a non-profit organization which will produce an annual Duke Ellington Jazz Festival in Washington, D.C., beginning in 2005;

Whereas Duke Ellington Jazz Festival will consist of events across Washington, D.C., over a number of days, most of which will be free of charge, and will culminate in 2 days of concerts on the National Mall;

Whereas the rich musical legacy, international character, and diverse community of Washington, D.C. make it the ideal city to host a world-class international jazz festival; and

Whereas the Duke Ellington Jazz Festival will soon become known as one of the leading jazz festivals in the world, showcasing the best in jazz music in the shadow of the United States Capitol: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) honors the life and work of Duke Ellington and his immortal contributions to American and world music;

(2) recognizes the Duke Ellington School of the Arts in Washington, D.C., on the occasion of its 30th anniversary; and

(3) supports the annual Duke Ellington Jazz Festival to be held in Washington, D.C., beginning in 2005.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. BURNS) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BURNS).

GENERAL LEAVE

Mr. BURNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 501.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BURNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 501 offered by the gentlewoman from the District of Columbia (Ms. NORTON) which honors the life and work of Duke Ellington, recognizes the 30th anniversary of the Duke Ellington School of the Arts and supports the annual Duke Ellington Jazz Festival.

Edward Kennedy "Duke" Ellington was born on April 29, 1899 in Washington, D.C., and formed his first band in 1917. Over the course of his 50-year musical career, Duke Ellington pioneered jazz music and took it to the farthest corners of the world, performing diplomatic tours in Europe, the Soviet Union, Japan and Australia.

Among his numerous other public honors, Duke Ellington was appointed to the National Council of the Arts in 1968, received the President's Gold Medal in 1966 from President Lyndon Johnson, and was awarded the Presidential Medal of Freedom, the highest honor a civilian can receive in the United States, in 1969 from President Nixon.

During his distinguished career, Duke Ellington received many awards and honors from private entities, including 13 Grammy Awards from the National Academy of Recording Arts and Sciences, the Pied Piper Award from the American Society of Composers, Authors and Publishers, and honorary doctoral degrees from 16 different institutions.

Sadly, Duke Ellington died on May 24, 1974 in New York City. After his death, Western High School in Washington, D.C. was renamed the Duke Ellington School of the Arts, home of the famous Hexagon Theater.

This school seeks to meet the needs of talented students who are considering careers in the arts by providing intensive arts instruction through arts programs of the highest quality, and strong academic programs that help each student meet the intellectual and artistic challenges of their future.

Unfortunately, Washington, D.C. does not currently host its own jazz festival. However, Charles Fishman, who was Dizzy Gillespie's personal manager and producer until his death, and is highly regarded in the jazz world, has established the Duke Ellington Jazz Festival, a nonprofit organization which will produce an annual Duke Ellington Jazz Festival in Washington, D.C. beginning in 2005.

Because of the District of Columbia's rich musical legacy, international character, and diverse community, it is an ideal city to host a world-class international jazz festival.

House Concurrent Resolution 501 does three things. First, it honors the life and work of Duke Ellington and his immortal contributions to American and world music. Second, it recognizes the Duke Ellington School of the Arts in Washington, D.C. on the occasion of its 30th anniversary. Finally, this resolution supports the annual Duke Ellington Jazz Festival to be held in Washington, D.C. beginning in 2005.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Duke Ellington has been called the "quintessential American composer" and is one of the greats of world music history. He brought a great deal of refinement and elegance to jazz.

His first piano lessons began around the age of 7, but it took seeing a few great live performances to cement his commitment to music. The Duke found piano playing jobs at clubs and cafes throughout the Washington, D.C. area. In late 1917, he formed his first group. By the late 1920s, his band became the most sought after band in the United States. Duke Ellington and his band played everywhere from New York to New Delhi, Chicago to Cairo, Los Angeles to London. Duke Ellington and his band played with Miles Davis, Cab Calloway, Dizzy Gillespie, Ella Fitzgerald, Tony Bennett, and Louis Armstrong, and entertained everyone from queens to Presidents.

Thirty years ago, Washington, D.C. honored the Duke by renaming a high school the Duke Ellington School of Arts. I am pleased that today we will again honor the Duke by passing this resolution which came to us through the gentlewoman from the District of Columbia (Ms. NORTON) who knows good music when she hears it. This resolution commemorates Duke Ellington's life and work, and supports the annual Duke Ellington Jazz Festival on the mall.

Mr. Speaker, I reserve the balance of my time.

Mr. BURNS. Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentlewoman for yielding me this time, and also for her help on this bill. I thank the gentleman from Georgia who is managing the bill for his excellent statement and for bringing the bill forward.

I also would like to begin by thanking my good friends who have taken a special interest in this bill, the gentleman from Michigan (Mr. CONYERS) and the gentleman from Virginia (Mr. TOM DAVIS), as well as the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), the ranking member, for scheduling this resolution.

I rise today to honor the 30th anniversary of the Duke Ellington High School named for the legendary composer and musician, the great Duke Ellington, a native son of the District of Columbia. The genius and artistry of Duke Ellington and his fabulous 50-year career are universally recognized. Many of today's musicians, from a variety of genres, but most especially jazz, look to Ellington as the world-class leader of the American classic, jazz.

I am pleased to recognize his achievements during the 30th year anniversary of the Duke Ellington School of the Arts, a nationally acclaimed high school that trains talented area students in a variety of arts such as dance, theater, instrumental music and the visual arts. The Duke Ellington School of the Arts operates in the tradition of Ellington excellence. It has a partnership with the John F. Kennedy Center for the Performing Arts and offers a college preparatory curriculum with advanced placement courses and professional artistic training. Students perform and work at professional-quality levels. Its graduates, such as the famous soprano, Denise Graves, have carried the Ellington tradition proudly into the arts. The work of students and graduates alike have shown that the high school is worthy of the Ellington name.

Duke Ellington was much celebrated during his glittering career. He was a recipient of the President's Gold Medal in 1966 and of the Presidential Medal of Freedom in 1969. He won 13 Grammy awards and numerous honors from organization all over the world. His music gave rise to the famed Cotton Club, which showcased jazz talent from Sarah Vaughn to Ella Fitzgerald to Dizzy Gillespie and Louis Armstrong.

The popularity of jazz music that he helped spread spawned the creation of Blue Note Records, the influential jazz recording label which is marking its 65th anniversary this year. Music critics have been writing about jazz in the equally important Downbeat Magazine which is celebrating its 70th anniversary.

Jazz is our much-celebrated unique American treasure, and Ellington was the leader of the band. We are particularly pleased to recognize the Duke Ellington Jazz Festival which will begin next fall. It will feature a number of artistic events culminating in 2 days of concerts on the National Mall. It is especially fitting this festival will take place here in the Nation's Capital, Duke Ellington's birthplace and the city that nurtured his talent on the 30th anniversary of the extraordinary high school named for the Duke.

Mr. Speaker, I urge my colleagues to vote for and support H. Con. Res. 501.

Ms. WOOLSEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BURNS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I thank the gentlewoman from California (Ms. WOOLSEY) and the gentlewoman from the District of Columbia (Ms. NORTON) for bringing H. Con. Res. 501 to the floor today. I urge my colleagues to support this measure. All of us have been impacted by the life and work of Duke Ellington.

Mr. DAVIS of Illinois. Mr. Speaker, he has been called the "quintessential American composer" and considered to be one of "great musicians along with Bach and Beethoven and Shoenberg." Duke Ellington brought a level of refinement and elegance to jazz.

The Duke's first piano lessons began around the age of seven—but like many youngsters—he was more interested in going to the Washington Senators baseball games than practicing. It took seeing a few great live performances, even sneaking out of school to seek out and listen to ragtime pianists in Washington and, during the summers, in Philadelphia or Atlantic City, where he and his mother vacationed. Duke was taken under the wings of Oliver "Doc" Perry and Louis Brown, who taught Duke how to read music and helped improve his overall piano playing skills. Duke found piano playing jobs at clubs and cafes throughout the Washington area.

In late 1917, Duke formed his first group: The Duke's Serenaders, which years later was renamed as The Washingtonians. By the late 1920s, Duke's band became the most sought-after band in the United States and even throughout the world. Duke Ellington and his band went on to play everywhere from New York to New Delhi, Chicago to Cairo, and Los Angeles to London. Ellington and his band played with such greats as Miles Davis, Cab Calloway, Dizzy Gillespie, Ella Fitzgerald, Tony Bennett and Louis Armstrong. They entertained everyone from Queen Elizabeth II to President Nixon.

Duke Ellington did not just make an impact on music to the world, but he made his hometown of Washington, DC, proud. Thirty years ago Washington, DC, honored him by renaming one high school the Duke Ellington School of the Arts. It only makes sense that in 2005, Washington, DC, will be able to honor The Duke of Jazz once again by hosting 2 days of concerts on the National Mall each year as the Duke Ellington Jazz Festival.

Mr. BURNS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. BURNS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 501.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. WOOLSEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

HONORING UNITED NEGRO COLLEGE FUND ON 60TH ANNIVERSARY

Mr. BURNS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 792) honoring the United Negro College Fund on the occasion of the Fund's 60th anniversary and the Fund's unflagging dedication to enhancing top-quality college opportunities to millions of students.

The Clerk read as follows:

H. Res. 792

Whereas the United Negro College Fund was founded on April 26, 1944, with 27 member colleges under the leadership of Dr. Frederick D. Patterson;

Whereas the United Negro College Fund is the Nation's largest, oldest, most successful, and most comprehensive minority higher education assistance organization;

Whereas the United Negro College Fund's mission is to enhance the quality of education by providing financial assistance to deserving students, raising operating funds for member colleges and universities, and increasing access to technology for students and faculty at historically black colleges and universities;

Whereas over 60 years, the United Negro College Fund has raised more than $2.3 billion to assist a total of more than 300,000 students attend college;

Whereas the United Negro College Fund administers more than 450 scholarships and fellowships for students and faculty, who attend more than 950 colleges and universities throughout the nation;

Whereas the United Negro College Fund has distributed more funds to help minorities attend school than any entity outside of the federal government;

Whereas the United Negro College Fund provides key support to historically black colleges and universities as a means to keep tuition down to a rate half that of tuition at comparable schools, while its member institutions provide a quality education to students, many of whom are the first in their families to attend college and are from low-income families;

Whereas both the Non-Profit Times and the Chronicle of Philanthropy rank the United Negro College Fund among the top ten charitable education organizations in the country, and Barron's ranks it as the number one educational charity in terms of efficiency in distributing funds raised;

Whereas the United Negro College Fund provides operational funds, technology enhancement services, and advanced training for faculty and administrators for its member institutions;

Whereas the United Negro College Fund's member institutions enroll seven percent of African American college students nationwide;

Whereas the United Negro College Fund's colleges and universities are the top producers of successful medical school applicants; and

Whereas the United Negro College Fund has contributed immeasurably to the nation by producing countless graduates who have contributed to our communities as nurses, teachers, civil servants, business leaders, doctors, lawyers, elected officials, and community leaders: Now, therefore, be it

Resolved, That the House of Representatives recognizes the United Negro College Fund, on the occasion of its 60th anniversary, for the Fund's outstanding commitment towards providing a quality education for minority and low-income students and towards strengthening our communities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. BURNS) and the gentlewoman from California (Ms. WOOLSEY) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. BURNS).

☐ 1830

GENERAL LEAVE

Mr. BURNS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Res. 792.

The SPEAKER pro tempore (Mr. BONNER). Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. BURNS. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H. Res. 792, honoring the United Negro College Fund on the occasion of the fund's 60th anniversary. I want to thank the gentleman from California (Mr. GEORGE MILLER), ranking member of the Committee on Education and the Workforce, for bringing this resolution to the floor of the House. All members on our committee recognize the important role that Historically Black Colleges and Universities play in the postsecondary education environment. Moreover, we recognize the dedication and commitment the United Negro College Fund has made to enhance top-quality college opportunities for millions of students.

In my home district, I have two historically black institutions, Paine College in Augusta, Georgia, and Savannah State University in Savannah, two of our State's leading institutions of higher education. The United Negro College Fund is the Nation's oldest and largest minority higher education assistance organization that has helped to raise more than $2.3 billion to assist over 300,000 students attend college.

Not only does the United Negro College Fund have a mission to enhance the quality of education by providing financial assistance to students but the organization raises operating funds for member colleges and universities and increases access to technology for students and faculty at HBCUs. Additionally, the United Negro College Fund ensures that first-generation college students have the resources and support they need to pursue the dream of a college education. The contributions made by the United Negro College Fund and its member institutions are undeniable. UNCF member institutions enroll 7 percent of African American college students nationwide and are responsible for producing a significant number of all bachelor's, master's and professional degrees earned by African Americans. In many instances, UNCF member institutions do not have access to the resources or endowment income that other institutions can draw upon. Despite this, with the assistance of UNCF, these institutions tend to keep their tuitions affordable in comparison with other institutions of higher education.

For over 60 years, the United Negro College Fund has made it possible for students to pursue the dream of higher education, and the organization has ensured that its member institutions have the resources and support to provide students with educational opportunities. I urge my colleagues to recognize and honor the important contributions that have been made by the United Negro College Fund, its member institutions, and their graduates and to vote "yes" on this worthy resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. WOOLSEY. Mr. Speaker, I yield myself such time as I may consume.

I rise in the place of the gentleman from California (Mr. GEORGE MILLER), our Education and Workforce ranking member, in strong support of this resolution and to honor the United Negro College Fund on the occasion of the fund's 60th anniversary. Founded in 1944 by Dr. Frederick Patterson, the United Negro College Fund is the Nation's largest, oldest, most successful and most comprehensive minority education assistance organization. The United Negro College Fund has long been a forerunner in recognizing the importance of a quality education for both individuals and for the greater good of society. Just as millions of students, particularly minority and low-income students, struggle to pay for a college education, the fund continues to enhance the quality of education by providing college aid to deserving students. In fact, the United Negro College Fund has raised over $2 billion towards helping more than 300,000 students attend college.

Over the past 60 years, the fund has distributed more funds to help minority students attend school than any other organization outside of the Federal Government. In addition, the fund continues to provide critical support to Historically Black Colleges and Universities as a means to keep tuition down to a rate that is about half that at comparable schools and to continue to provide a quality education. If not for their important work and investments, many students in my own district would be unable to attend college.

The United Negro College Fund is also dedicated to raising operating funds for Historically Black Colleges and Universities and to boosting access to technology for students and faculty at these institutions. These funds help to ensure that students have access to quality academic student support services and to new technologies necessary to prepare them for careers in science, medicine, and public safety. The United Negro College Fund has contributed immensely to the Nation by producing graduates who have given back to their communities as nurses, teachers, elected officials, civil servants, community leaders, and doctors.

I commend the United Negro College Fund on its 60th anniversary for its outstanding commitment toward providing a quality education for minority and low-income students and towards strengthening our communities.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-MCDONALD. Mr. Speaker, I thank the gentlewoman from California who is controlling this piece of legislation for yielding me this time.

Mr. Speaker, today I rise to congratulate the United Negro College Fund on its 60th anniversary. I would like to thank my colleague from California (Mr. GEORGE MILLER) for sponsoring this legislation.

Mr. Speaker, "A mind is a terrible thing to waste." These words have long been associated with the strength and commitment of the UNCF. In providing financial assistance to students, raising operating funds for Historically Black Colleges and Universities, and increasing access to technology at these schools, the UNCF has assured that a student with a dedicated mind will not be wasted. From its formation in 1944, UNCF has grown to become the Nation's oldest and most successful African American higher education assistance organization.

Currently, Mr. Speaker, of the 65,000 students UNCF supports at 1,000 colleges and universities, 60 percent are the first in their families to attend college and 62 percent have annual family incomes of less than $25,000. So it is evident that without this vital assistance, these students would be left out of sharing in the American Dream.

In administering over 450 scholarships and fellowships supporting students at the undergraduate, graduate and doctoral level, the United Negro

College Fund makes lasting contributions to our Nation. The funding provided to students builds successful careers in the many areas that are essential to increasing the competitiveness of the United States in the world community.

It is with the greatest honor that I list some of the alumni whom UNCF has trained to become some of our esteemed leaders:

Dr. Martin Luther King, Jr.;

The Honorable L. Douglas Wilder, the first African American Governor to be elected;

Dr. David Satcher, former U.S. Surgeon General and former director of the Centers for Disease Control and Prevention;

The Honorable Alexis Herman, former U.S. Secretary of Labor, along with some of our distinguished Members of this House: the distinguished gentlemen from Georgia, Congressman SANFORD BISHOP and Congressman JOHN LEWIS; the distinguished gentleman from Florida, Congressman ALCEE HASTINGS; the distinguished gentleman from New York, Congressman MAJOR OWENS; and the distinguished gentleman from Mississippi, Congressman BENNIE THOMPSON.

Congratulations to the United Negro College Fund on 60 years of excellence in leading the way for providing financial assistance and training to African Americans enabling them to obtain higher education and to find their role on the world stage.

Ms. WOOLSEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BURNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank Chairman BOEHNER, Ranking Member MILLER, the gentlewoman from California and others who have supported H. Res. 792. Mr. Speaker, this resolution honors the United Negro College Fund on its 60th anniversary. I urge my colleagues to vote "yes" on this resolution.

Mr. HOLT. Mr. Speaker, I rise today to honor the United Negro College Fund on its 60th anniversary of assistance in higher education. The United Negro College Fund (UNCF) was founded upon a mission to improve the quality of education through the provision of financial aid to deserving students, raising operation funds to assist member institutions, and increasing access to technology at historically black colleges and universities (HBCUs). Throughout the past six decades, the UNCF has raised over $2 billion, allowing the Fund to help over 300,000 students receive a higher education, thus designating the Fund as the largest contributor of funding, aside from the government, to help minorities attend school.

Today, the UNCF extends operational support through technological enhancement and financial assistance to 38 member colleges and universities, allowing these schools to maintain a tuition level 54 percent lower than that of similar schools. The UNCF also provides over 450 scholarships and fellowships that support deserving students through the doctorate level of education. Moreover, of the 65,000 students supported by the UNCF, 60 percent are the first in their families to attend college and 62 percent have annual family incomes of less than $25,000.

The Fund has also recently established Liberty Scholarships, which allow the children of the victims of the attacks of September 11, 2001—regardless of age, race or creed—to attend any of the UNCF's member institutions. Finally, through its efforts and philanthropic activities, the United Negro College Fund has produced innumerable graduates who have made lasting and significant contributions in fields such as politics, education, law, business, health care, and the arts.

In its 60 years of existence, the United Negro College Fund has undoubtedly changed the lives of hundreds of thousands of students, friends and families, and has thus changed the communities and the country in which we live. Therefore, I would like to honor the United Negro College Fund in recognition of these great achievements and contributions to our society.

Mr. CUMMINGS. Mr. Speaker, I rise today in support of H. Res. 792, honoring the United Negro College Fund, (UNCF), on the occasion of its 60th anniversary and the Fund's unflagging dedication to enhancing top quality college opportunities to millions of students.

Mr. Speaker, we know "the mind is a terrible thing to waste." And Mr. Speaker, we know that education is an unequaled blessing. Before Emancipation, slaves risked corporal punishment as they secretly gathered to read together. As a slave in Baltimore, Frederick Douglass tricked his white playmates into teaching him the alphabet, trading morsels of food for morsels of schooling. Throughout American history, African Americans possessed an unquenchable thirst to learn, finding innovative ways to educate each other.

Dr. Frederick Patterson was a key contributor to that history. One hundred and fifty years after Douglass's death, Dr. Patterson founded the UNCF in an effort to support Historically Black Colleges and Universities and make higher education more accessible to African Americans. In the last 60 years, through grants and scholarships, the UNCF has raised over $2 billion in aid and has helped over 300,000 students attain a college education. Sixty percent of the students UNCF supports are the first in their families to go to college. Many of these students come from families who make less than $25,000 a year.

The UNCF also extends its aid to students beyond the confines of college campus, providing internships at hundreds of Fortune 500 companies and supporting students in their doctoral and post-graduate study. Additionally, UNCF provides millions of dollars in technical and structural support to Historically Black Colleges and Universities by providing computers and training faculty.

I am grateful to the UNCF for its contributions to the education of many of my esteemed colleagues in Congress, including, to mention a few, Congressmen HASTINGS, LEWIS, OWENS, THOMPSON and BISHOP of GA. I know these men personally. I know how their education has contributed to their quest for justice and their tireless work for a better America. I have seen the fruits of their education as they harness their inquisitiveness and leadership to the most difficult challenges of governance.

Mr. Speaker, there are countless others I do not know personally who have received the immeasurable gift of education because of the UNCF. Let me share a few stories with you from the UNCF's 2003 Annual Report. When she was in high school, Gabrielle Brown maintained a part time job mowing lawns in public parks to help her family. The UNCF made Ms. Brown's dream of college a reality. At Johnson C. Smith University, Ms. Smith was on the honor roll and served as a Big Sister. She said, "the people and companies who give to the UNCF may not realize that their contribution is more than just money, it's hope for the future."

Another UNCF recipient, Theodore Wesby, spent much of his childhood homeless, sleeping in shelters and bus stations. When he could not afford to live in the dorms at Edward Waters College, the UNFC awarded him a scholarship to cover his expenses. The formerly homeless young man plans to pursue a career in real estate, helping others locate their homes, just like the UNCF helped him locate his. It is in the name, honor, and gratitude of these inspiring students that I express my appreciation to the UNCF for its contributions

W.E.B. DuBois, a graduate of the historically black Fisk University and Harvard University, wrote in The Souls of Black Folk:

"I sit with Shakespeare, and he winces not. Across the color line, I move arm and arm with Balzac and Dumas, where smiling men and welcoming women glide in gilded halls. From out of the caves of evening that swing between the strong-limbed Earth and the tracery of stars, I summon Aristotle and Aurelius and what soul I will, and they come all graciously with no scorn nor condescension. So, wed with Truth, I dwell above the veil."

Mr. Speaker, because of the United Negro College Fund, so many more of us have been able to sit above the veil of ignorance with Shakespeare and Balzac, with Einstein and Pythagoras, with Martin and Mandela. I thank the UNCF for the tremendously important work it does, and I urge my colleagues to accept this resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today to honor the United Negro College Fund for providing assistance to allow minority students the opportunity of achieving their dream of a college education for 60 years. The Fund is the nation's largest, oldest, most successful and most comprehensive minority higher education assistance organization. Over those 60 years, the United Negro College Fund has raised more than $2 billion to help a total of more than 300,000 students attend college and has distributed more funds to help minorities attend school than any entity outside of the government. UNCF administers over 450 scholarships and fellowships that support students at the undergraduate, graduate and doctoral level. Of those students UNCF helps, 60 percent are the first in their families to attend college and 62 percent have annual family incomes of less than $25,000—reinforcing the fact that without UNCF, those individuals may not have been able to finance their education.

It was the dream of Dr. Frederick D. Patterson in 1943 to raise money collectively with other black college presidents through an "appeal to the national conscience." His call was heard and answered by the Nation. UNCF does amazing work—but more students would get the opportunity of attending and graduating from college if the maximum amount for Pell grants were increased and students were relying less on student loans.

Mr. Speaker—the United Negro College Fund has proven its slogan to be fact—"a mind is a terrible thing to waste".

Mr. GREEN of Texas. Mr. Speaker and fellow members. I rise to support this resolution and commemorate the 60th anniversary of the United Negro College Fund.

As the oldest comprehensive minority higher education assistance organization, the United Negro College Fund has enhanced educational opportunities for hundreds of thousands of young men and women.

In today's times tuition increases are the rule, not the exception, many minority students rely on organizations like this to navigate financial aid applications and to get the financial help they need to pay for school.

The students who attend college through this organization often go on to become doctors, lawyers, teachers, and elected officials.

United Negro College Fund students don't just become graduates, they become productive citizens and I congratulate all the students back home in Houston and across America who have been helped by this program.

$2.3 billion has been invested in our future by this organization and I wish the United Negro College Fund continued success.

Mr. SCOTT of Virginia. Mr. Speaker, I rise today in honor of the 60th Anniversary of the United Negro College Fund. The United Negro College Fund is the nation's oldest, most successful and most comprehensive minority higher education assistance organization.

Over the past 60 years, UNCF has raised more than $2 billion to help a total of more than 300,000 students attend college. Today, of the approximately 65,000 students UNCF supports, 60 percent are the first in their families to attend college and 62 percent have annual family incomes of less than $25,000. UNCF doesn't just give students an opportunity to get a college education, but more of an opportunity to make a lasting contribution to our communities and nation by building successful careers.

We all know how important a college education is today. It is virtually impossible to compete in today's global economy without a college degree. Studies have shown that workers with a college degree earn 75 percent more than those with only a high school diploma. While there are many obstacles that deter students from going to college, finances by no means should be the deciding factor.

No one should be denied the opportunity to get an education and increase their earning potential based solely on their inability to pay for a college education. UNCF's founder, Dr. Frederick D. Patterson, president of what is now Tuskegee University, recognized that for many African-American students, lack of finances was the only thing standing in the way of their goal of getting a college education. In 1944, he issued a call to other black college presidents to raise money to help educate these qualified students. Now for the past 60 years UNCF has made sure that minority students at over 1,000 colleges and universities have the financial support they need.

Not only does UNCF support students, but also higher education institutions throughout the country. UNCF provides operating support to 38 member historically black colleges and universities (HBCUs), which help the member schools keep tuition down at a rate 54 percent lower than tuition at other comparable schools. UNCF also administers millions of dollars to help provide computers, technology integration training for faculty members and technological infrastructure support for HBCUs.

The fact that UNCF plays such a significant role in supporting our nation's HBCUs is important. HBCUs graduate far more than their share of African American professionals. While HBCUs represent just 3 percent of the nation's institutions of higher learning, they graduate nearly one-quarter of African Americans who earn undergraduate degrees. Nine of the top ten colleges that graduate the most African Americans who go on to earn Ph.D.s are HBCUs.

Mr. Speaker, I am proud to have two of UNCF's member institutions in my state—Virginia Union University and Saint Paul's College. And two other HBCUs in my district that benefit from UNCF funding and programs—Hampton University and Norfolk State University.

Graduates of UNCF institutions have indeed made lasting contributions in the fields of business, health care, the arts and even politics. In fact, several of my distinguished colleagues are UNCF alumni.

In 1972, UNCF introduced its now famous slogan: "A mind is a terrible thing to waste". And through the diligent efforts of all who work with UNCF, by donating financial resources, time and in the case of many celebrities—their good name, they have made sure that the meaning of that slogan resonates across America. Most importantly, they have made sure that every student who has the desire can attend college. I commend those involved with the United Negro College Fund for their hard work and congratulate them on 60 years of service.

Mr. BURNS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. BURNS) that the House suspend the rules and agree to the resolution, H. Res. 792.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. WOOLSEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

NATIONAL ESTUARY PROGRAM REAUTHORIZATION

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4731) to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program.

The Clerk read as follows:

H.R. 4731

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REAUTHORIZATION OF NATIONAL ESTUARY PROGRAM.

Section 320(i) of the Federal Water Pollution Control Act (33 U.S.C. 1330(i)) is amended by striking "2005" and inserting "2010".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume. I rise in strong support of H.R. 4731, to reauthorize the National Estuary Program. Estuaries are unique and highly productive waters that are important to the ecological and economic bases of our Nation. Fisheries, wildlife, recreation, and tourism are heavily dependent on healthy estuarine systems. Yet despite their value, most estuaries in the United States are experiencing stress from physical alteration and pollution, often resulting from development and rapid population growth in coastal areas.

In the 1980s, Congress recognized the importance of and the need to protect the natural functions of our Nation's estuaries. As a result, in 1987 Congress first authorized the National Estuary Program. Today this program, the National Estuary Program, is an ongoing nonregulatory program designed to support the collaborative, voluntary efforts of Federal, State, and local stakeholders to restore degraded estuaries. Currently all 29 estuaries in the National Estuary Program have developed and are implementing restoration plans. Under this program, $35 million a year is authorized to allow the EPA to help these State and local restoration efforts. The program's current authorization expires in 2005. Thus, the need for this legislation.

H.R. 4731 reauthorizes the National Estuary Program at the same level of funding for an additional 5 years. The bill contains no Federal mandates and imposes no costs on State or local governments. I certainly want to congratulate the gentleman from Pennsylvania (Mr. GERLACH) and the gentlewoman from California (Mrs. TAUSCHER) on sponsoring this bill and on the great leadership they have provided on this. I urge all my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my good friend from Tennessee (Mr. DUNCAN) for his leadership on this bill and rise in strong support of H.R. 4731, a bill to extend the authorization of the Environmental Protection Agency's National Estuary Program. This popular program provides Federal assistance to local stakeholders to implement locally designed management plans for the protection of the Nation's estuaries.

At the same time, the program serves as a national clearinghouse for successful management approaches, technologies and ideas, providing local communities with concrete examples of what works in addressing the unique needs of estuaries. This program authorizes funding for the development and implementation of comprehensive conservation and management plans for estuaries of national significance.

A comprehensive approach to addressing estuary health is particularly important as the stressors on the health of estuaries continue to expand. EPA's most recent water quality report indicated that 50 percent of estuary waters do not meet their designated uses. Programs such as this, coupled with significant additional resources for wastewater infrastructure, may allow for water quality in estuaries to improve and ecosystems to be restored.

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I strongly support authorization for the National Estuary Program. And I urge my colleagues to vote "aye" on H.R. 4731.

Mr. Speaker, I yield back the balance of my time

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. GERLACH), the author of this legislation.

Mr. GERLACH. Mr. Speaker, I rise in support of H.R. 4731, a bill I introduced to reauthorize the National Estuary Program. I would like to particularly thank the gentleman from Tennessee (Mr. DUNCAN) for his efforts on this bill and for his work as chairman of the Committee on Transportation and Infrastructure's Water Resources and Environment Subcommittee.

H.R. 4731 is a simple reauthorization of a highly respected and successful National Estuary Program. A program whose authorization will expire at the end of fiscal year 2005. Like the previous authorization, the bill will authorize $35 million annually for the program and will extend the authorization through fiscal year 2010.

Estuaries are coastal bays, harbors, sounds and lagoons, places where rivers meet the sea. Estuaries and the lands surrounding them are places of transition from land to sea and from fresh to saltwater. Up to 80 percent of the fish that we catch spend at least part of their lives in estuaries. EPA's National Estuary Program was established by Congress in 1987 to improve the quality of estuaries of national importance. Section 320 directs EPA to develop plans for attaining and maintaining water quality in an estuary. This includes protection of public water supplies and propagation of a balanced indigenous population of shellfish, fish and wildlife; allows for recreational activities on and in water; and requires control of point and nonpoint sources of pollution to supplement existing controls of pollution.

The National Estuary Program now boasts 28 estuaries in almost every coastal State around the country. Since 1987 the program has restored or protected 700,000 acres of coastal habitat. The EPA works with federal agencies, State and local governments, nonprofit institutions, industry, and citizens to address an estuary's environmental problems. The program is a watershed approach in which all affected interests participate in creating solutions that balance environmental objectives with competing issues.

Estuaries support many commercial and other activities. The shipping industry relies on estuaries and is a large source of employment and an integral part of the national economy. Estuaries also provide great opportunities for tourism and recreation. Finally, coastal populations depend on clean water drawn from an estuary's freshwater tributaries to support public infrastructure such as drinking water and water supplies for industrial facilities, wastewater treatment plants, and irrigation.

Much of my congressional district lies within the Delaware Estuary Study Area, so I am intimately familiar with the importance of protecting this particular estuary. The Delaware Estuary has sustained a human population for thousands of years, but by the end of the 19th Century, increased population and industrialization had transformed much of the upper Estuary watershed. Fisheries were in decline due to pollution, and drinking water supplies were contaminated by pollution which caused outbreaks of typhoid and other diseases in urban areas. Both the industrialization and pollution of the water led to a dramatic decrease in the recreational use of the Delaware River. And it became less of a regional focal point as fewer people had direct contact with it.

By the mid-20th Century, even more pollution flowed into the Delaware Estuary, and the urban reach of the Delaware was one of the most polluted stretches of river in the world, with essentially zero dissolved oxygen in the water during the warmer months of the year.

Throughout the 1960s and 1970s, increased State, interstate, federal and public interest led to dramatic improvements in the Estuary's water quality. Today, with the assistance of the Estuary Program, the Delaware Estuary is cleaner than at any time in the last century. Over 90 percent of the Estuary meets swimmable and fishable goals of the Clean Water Act. Public access to the Estuary is increased as a result of public parks.

Seeing the rebirth of the Delaware Estuary as a valuable natural resource is certainly encouraging, and I am encouraged not just by the progress made in the Delaware Estuary but in estuaries throughout the country. For this reason, I believe it is vitally important that we act quickly to reauthorize the National Estuary Program and allow this progress to continue.

Mr. Speaker, again, I would like to thank the gentleman from Tennessee (Mr. DUNCAN), the chairman of our subcommittee; and the gentleman from Alaska (Mr. YOUNG), chairman of our committee, for their efforts and their leadership, and I urge all Members to support this important bill.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Sometimes some of the best and most important legislation that this Congress does comes to the floor without much fanfare and does not receive a lot of attention because it is noncontroversial. This is such a bill. But I can tell the Members that it is a privilege for me, as chairman of the Water Resources and Environment Subcommittee, to bring such vital legislation to this floor and urge its passage.

I want to thank the gentleman from Pennsylvania (Mr. GERLACH), the sponsor, and I want to thank the gentlewoman from the District of Columbia (Ms. NORTON) for her assistance and cooperation on this, and I especially want to thank the staff that has worked on this very important bill. I urge passage of this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BONNER). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 4731.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill, H.R. 4731.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

AUTHORIZING BOARD OF REGENTS OF SMITHSONIAN INSTITUTION TO CARRY OUT CONSTRUCTION AND RELATED ACTIVITIES IN SUPPORT OF VERITAS ON KITT PEAK

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5105) to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

The Clerk read as follows:

H.R. 5105

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZING BOARD OF REGENTS OF SMITHSONIAN INSTITUTION TO CARRY OUT CONSTRUCTION AND RELATED ACTIVITIES IN SUPPORT OF VERITAS ASTROPHYSICAL OBSERVATORY PROJECT.

The Board of Regents of the Smithsonian Institution is authorized to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,000,000 for fiscal year 2005 to carry out section 1.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

I want to begin this evening by congratulating the gentlewoman from the District of Columbia on the impending return of Major League Baseball to the Washington, D.C., area. I would only ask if she could use her considerable clout to get the new team located in the American League, and I could watch the Cleveland Indians play here in the Nation's Capital.

Mr. Speaker, H.R. 5105, introduced by the gentleman from Ohio (Mr. NEY), my good friend, authorizes site development and construction of support facilities for the VERITAS project at Kitt Peak National Observatory in Arizona.

I want to pause for a minute because this particular piece of legislation has been sort of a tug of war with our good friends in the Parliamentarian's Office and our good friends in the Committee on House Administration, together with the Committee on Transportation and Infrastructure. And I want to commend the gentleman from Ohio (Mr. NEY), chairman of the Committee on House Administration, for working with us. Those of us who love and enjoy the jurisdiction of the Committee on Transportation and Infrastructure believe that this is a piece of legislation and this is a project that belongs solely within our jurisdiction. We have an artistic difference with some of our friends, and we have worked through that. So, again, I want to thank the parliamentarians and the gentleman from Ohio (Mr. NEY) for getting us to this point this evening.

This project, carried out by the Smithsonian Institution in conjunction with nearly a dozen universities from the United States, U.K., Canada, and Ireland, the new telescopic array will be able to see gamma rays, which are not visible from traditional earth-based telescopes.

The ability to view gamma-ray radiation will allow scientists to learn new things about the universe including shedding light on previously unseen parts of the universe. Gamma rays are only produced with high-energy galactic events such as exploding stars, pulsars, quasars and black holes. The new telescopic array will be able to view these gamma rays by observing the secondary radiation created when the gamma rays hit the earth's atmosphere.

The VERITAS telescope will increase the viewable power by a factor of ten, making it one of the most powerful gamma-ray telescopes on the planet. This is an important scientific project, and I encourage my colleagues to join me in supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Ohio for his graciousness and good wishes. And he knows I would do almost anything for him, but as he knows, baseball has been well beyond my jurisdiction for 33 years. We think we have rectified that with today's announcement. I may have a little more to say about it than I have had since I was a child and the Senators were here. I want him to know that some wise guy called in, when we said, what should we name the Senators? And they said, noting my status on this floor, why do we not call them the Delegates?

Mr. Speaker, H.R. 5105 authorizes the Board of Regents at the Smithsonian Institution to construct an astrophysical observatory located at Kitt Peak, Arizona, and to carry out related activities in support of the project. The bill was introduced by the gentleman from Ohio (Mr. NEY) and referred to the Committee on Transportation and Infrastructure.

This construction project will support the work of the Very Energetic Radiation Imaging Telescope Array System, or VERITAS, the project that deals with radiation imaging. The bill authorizes $1 million for the construction and related activities. The construction will involve an inexpensive metal building which will be approximately 4,500 square feet to include a repair area, meeting rooms, general storage and kitchen. The building will be fire-resistant.

The project is being conducted in partnership with the National Science Foundation and the Department of Energy. It is a very worthwhile project, and I urge passage of the bill.

Mr. LARSON of Connecticut. Mr. Speaker, as ranking minority member of the House Administration Committee, which has primary jurisdiction over the Smithsonian Institution, I urge passage of H.R. 5105, a bill to authorize $1 million for the Smithsonian for site development and construction in support of the VERITAS project, an international astrophysical research consortium in which the Smithsonian Astrophysical Observatory SAO plays a principal role.

VERITAS the Very Energetic Radiation Imaging Telescope Array System will be located on Kitt Peak near Tucson, Arizona.

The control building will house computers, electronics and other support required by astronomers to run the telescopes and cameras conducting the VERITAS observations and research, as well as a kitchen, storage space and meeting space for working astronomers. VERITAS is expected to come online in October 2006.

The funds authorized by this bill were contained in the President's budget request and are included in the FY 2005 Interior Department Appropriations bill, which funds the Smithsonian. A nearly identical bill, S. 2362, passed the Senate on June 14 by voice vote and was referred to our committee.

VERITAS is part of the continuing revolution in the science of astronomy. New discoveries, techniques and devices have dramatically reshaped our view of the universe, as well as the mechanics of studying it. Different types of phenomenon, and radiation from different portions of the spectrum are studied in unique ways, and astronomy has become increasingly specialized to facilitate such research.

VERITAS is intended to study gamma radiation from some of the most exotic, high energy sources in space, such as supernovas, black holes, quasars and pulsars. Gamma radiation is very difficult to detect from the Earth's surface and VERITAS will employ new scientific techniques to do so.

VERITAS is a collaboration of seven institutions in the U.S., including the Smithsonian Astrophysical Observatory, along with three institutions in Canada, the U.K. and Ireland, to build an array of four 40-foot diameter reflector which will give stereoscopic images of gamma rays.

It represents the next generation of telescopes studying gamma radiation, which the Smithsonian has done since 1968 at the Whipple Observatory. The Department of Energy and the National Science Foundation each will provide 40 percent of the costs of equipment and construction, with the Smithsonian and overseas collaborators supplying the rest. The total cost of VERITAS would be about $17 million, and this authorization bill is necessary to allow the Smithsonian to use $1 million in Federal funds to complete its financial contribution to the project.

The Smithsonian Astrophysical Observatory SAO, a bureau of the Smithsonian, is the world's premier facility in the exploration of astrophysical phenomena from Earth to the edge of the known universe, employing more than 300 scientists. It was funded in Washington, D.C. in 1890 initially to focus on studying the Sun. In 1955 it relocated to Cambridge, Massachusetts to join with the Harvard College Observatory and in 1973 an umbrella entity, the Harvard-Smithsonian Center for Astrophysics, was created.

Mr. Speaker, we can look forward to the significant advances which VERITAS will bring to our understanding of some of the most fascinating objects, and most powerful and mysterious forces, in the universe, and I urge approval of the bill.

Mr. NEY. Mr. Speaker, I rise today in support of H.R. 5105, which authorizes the Smithsonian Institution to construct an instrumentation support facility on Kitt Peak, Arizona.

The Smithsonian Institution requires this base facility to support the ongoing collaborative VERITAS project.

VERITAS, which is a high energy telescope research project, was listed as a priority for international ground and space research initiatives, in a report of the Astronomy and Astrophysics Survey Committee of the National Research Council.

The goals of the VERITAS project are to further develop the field of high-energy gamma-ray astronomy. This project expands on work done through the Smithsonian's Astrophysical Observatory or SAO, and will help to maintain the Smithsonian's goal of excellence in scientific research.

With the help of VERITAS, SAO astronomers will be able to produce the next levels of knowledge about gamma-ray astronomy, develop further scientific instrumentation to detect this highest energy form of light, and remain as one of the world's leading authorities on gamma-ray bursts.

The VERITAS project enables astronomers to explore solar flares, supernovae, neutron stars, black holes and active galaxies. By exploring gamma rays, the SAO astronomers will gain further knowledge into the origins of the universe, the rate at which it is expanding, and its current size.

This bill authorizes a total of $1 million for fiscal year 2005, for constructing a support facility and the necessary utilities and equipment housings.

The balance of the $17 million dollars will come from other non-Smithsonian sources, such as the U.S. Department of Energy, the National Science Foundation, and the international consortium, so the Smithsonian will get enormous value for its investment.

The Smithsonian has been a leader in scientific research, and this project will go a long way in furthering this worthwhile endeavor. I urge my colleagues to support H.R. 5105.

Mr. LATOURETTE. Mr. Speaker, I urge passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 5105.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

F.H. NEWELL BUILDING

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3124) to designate the facility of the United States Geological Survey and the United States Bureau of Reclamation located at 230 Collins Road, Boise, Idaho, as the "F.H. Newell Building".

The Clerk read as follows:

H.R. 3124

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The facility of the United States Geological Survey and the United States Bureau of Reclamation located at 230 Collins Road, Boise, Idaho, shall be known and designated as the "F.H. Newell Building".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in section 1 shall be deemed to be a reference to the "F.H. Newell Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

H.R. 3124, introduced by the gentleman from Idaho (Mr. OTTER), designates the facility of the U.S. Geological Survey and the U.S. Bureau of Reclamation located in Boise, Idaho, as the "F.H. Newell Building."

Fredrick Haynes Newell was born in Bradford, Pennsylvania, on March 5, 1862. He attended MIT where he studied mining engineering. Upon his graduation he went to work for the U.S. Geological Service, when he was tapped to head an irrigation survey team mapping sites of potential dams in the American West.

While doing his work, F.H. Newell developed several stream-gauging techniques and invented the instruments that are still in use today by the Geological Survey. Upon passage of the Reclamation Act of 1902, F.H. Newell was appointed as the first chief engineer and later the second director of what has now become the Bureau of Reclamation.

In his autobiography, President Teddy Roosevelt praised Newell for his "constructive imagination," leadership, and high character. After leaving federal service, F.H. Newell became an educator, being named head of the Department of Civil Engineering at the University of Illinois. He was also the author or co-author of seven books and a number of articles on engineering techniques.

This is a fitting tribute to a creative and dedicated public servant. I urge my colleagues to join me in supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3124 is a bill to designate the facility of the United States Geological Survey and the United States Bureau of Reclamation located at 230 Collins Road, Boise, Idaho, as the "F.H. Newell Building."

F.H. Newell was the first hydrographic engineer for the U.S. Geological Survey and a person who contributed significantly to the water development in Idaho and throughout the West. He appreciated the need for saving the forest and the soil as well as the need for irrigation.

Mr. Newell was single-mindedly devoted to the task of reclamation and protection of natural resources. He is described as having a constructive imagination, a forceful drive and dedication. President Roosevelt viewed him as the model public servant. It is very appropriate to acknowledge the significant career contributions of F.H. Newell with this designation. I urge passage of the bill.

Mr. Speaker, I yield back the balance of my time.

☐ 1900

Mr. LATOURETTE. Mr. Speaker, I urge passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BONNER). The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 3124.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GARZA-VELA UNITED STATES COURTHOUSE

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1402) to designate a United States courthouse in Brownsville, Texas, as the "Garza-Vela United States Courthouse," as amended.

The Clerk read as follows:

H.R. 1402

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at the corner of Seventh Street and East Jackson Street in Brownsville, Texas, shall be known and designated as the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the United States courthouse referred to in section 1 shall be deemed to be a reference to the "Reynaldo G. Garza and Filemon B. Vela United States Courthouse".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1402 introduced by the gentleman from Texas (Mr. ORTIZ) designates the United States courthouse located in Brownsville, Texas, as the Reynaldo G. Garza and Filemon B. Vela United States Courthouse.

This legislation honors two men who were pioneers, as well as judicial giants, yet at the same time two men who made time for family and community.

Reynaldo Guerra Garza was born in Brownsville, Texas in 1915 and spent his lifetime working in and serving that community as an attorney in the Army Air Corps and as a Federal judge committed to protecting the rights of legal immigrants.

President Kennedy appointed Judge Garza to the U.S. District Court for the Southern District of Texas in 1961. At that time, Judge Garza became the first Mexican American on any U.S. District Court. In 1979, when President Jimmy Carter appointed Judge Garza to the Fifth Circuit Court of Appeals, he became the first Mexican American to gain that honor as well.

Filemon Bartolome Vela was born in Arlington, Texas in 1936 and attended the Harlingen public schools. Like Judge Garza, he dedicated his life to South Texas, first as a State judge, and then as a Federal judge, taking over the seat vacated by Judge Garza upon his appointment to the circuit court of appeals.

Judge Vela is perhaps best known in the community for his work with the schools, speaking to children on career days and encouraging youth to get an education by supporting literacy programs.

Each of these gentleman succumbed to their illnesses in the past year. This naming is a fitting tribute to their dedicated service. I urge my colleagues to support this legislation.

I also want to recognize my colleague, the gentleman from Texas (Mr. ORTIZ), for his dedication in bringing this legislation to the floor. I thank him for ensuring that these men are recognized for their service.

Mr. Speaker, I reserve the balance of my time.

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join with Mr. ORTIZ of Brownsville, Texas, in supporting H.R. 1402, a bill to name the courthouse in Brownsville, Texas as the Reynaldo G. Garza—Filemon B. Vela United States Courthouse.

Mr. Speaker, this bill honors the life and works of two extraordinary Mexican-Americans. Judge Reynaldo Garza was born in Brownsville in 1915. He graduated from local elementary schools as well as Brownsville High School. After graduating from Brownsville Junior College he attended the University of Texas where he received a combined degree of Bachelor of Arts and Bachelor of Law.

Judge Garza served his country during World War II in the Air Force. After the war he returned to Brownsville to practice law.

In 1961 President Kennedy appointed Judge Garza to the District Court for the Southern District of Texas. In 1979 President Carter appointed him to the United States Court of Appeals for the Fifth Circuit.

In addition to his judicial duties Judge Garza has long been interested in education issues. He served former Governors John Connally and Governor Mark White on commissions to improve the quality of education in Texas. Judge Garza recognized the importance of education in judicial proceedings and his concern for the uneducated man at the mercy of unscrupulous people.

Judge Garza was very active in his church, and has served the Knights of Columbus in the Brownsville area for many years. Pope Pious XII twice decorated Judge Garza for his work in behalf of Catholic Charities. In 1989 Judge Garza was honored by the University of Texas with the Distinguished Alumnus award.

His record of public service includes work with the Rotary Club, the Latin-American Relation Committee of Brownsville, trustee at his law school, advisory council for the Boy Scouts, and he was elected as City Commissioner of the City of Brownsville.

It is fitting and proper to honor Judge Garza's outstanding, rich life, his commitment to excellence, and his numerous public contributions.

Judge Filemon Vela was also a native Texas and a veteran of the United States Army. He attended Texas Southmost College, and the University of Texas. His law degree is from St. Mary's School of Law in San Antonio.

Judge Vela served as a Commissioner of the City of Brownsville. He was an active member of the Judges Advisory Committee to the U.S. Sentencing Commission. Judge Vela is a former law instructor, and an attorney for the Cameron County Child Welfare Department.

His civil activities include being the charter President for the Esperanza Home for Boys, and co-sponsor of the Spanish Radio Program "Enrich your Life, Complete your Studies," Judge Vela's other civic activities include membership on the Independent School District Task Force, and membership in the General Assembly of the Texas Catholic Conference. He is also an active member of the Lions Club.

Judge Vela was nominated by President Carter for the Federal bench and was confirmed by the United States Senate in 1980.

Judge Vela's career was filled with successes, commitment to his family, devotion to his religion and his church, love for his work and respect for his colleagues. It is most fitting to honor Judge Vela with this designation.

I join Congressman ORTIZ in supporting H.R. 1402.

Mr. Speaker, in recognition of the hard work of the author of this bill who brought this bill forward, I yield such time as he may consume to my good friend the gentleman from Texas (Mr. ORTIZ).

Mr. ORTIZ. Mr. Speaker, I thank very much the gentleman from Ohio (Mr. LATOURETTE) for bringing this bill to the floor, as well as the gentlewoman from the District of Columbia (Ms. NORTON), the gentleman from Tennessee (Chairman DUNCAN), the gentleman from Alaska (Chairman YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR) and members of the staff for quickly bringing this bill to the floor.

I also want to thank the gentleman from Texas (Mr. HINOJOSA) and the gentleman from Texas (Mr. GONZALEZ) for also speaking on this matter.

Mr. Speaker, today we are passing long overdue legislation that names the United States Federal Courthouse in Brownsville, Texas, the Reynaldo G. Garza and Filemon B. Vela United States Courthouse. Earlier this year, Judge Vela sadly passed away, and 2 weeks ago Judge Garza also passed away, leaving behind two distinct and honorable legacies in South Texas.

These two men were judicial stalwarts. Individually, they were trailblazers, pioneers, and an inspiration for many Hispanics, particularly Mexican Americans from the Rio Grande Valley. Together they are an enormous wealth of riches we want to forever remember.

Mr. Speaker, I thank the House for their action on this bill, and ask that we pass it unanimously

Mr. Speaker, I provide the following for the RECORD:

QUORUM REPORT

BROWNSVILLE NATIVE DESCRIBED AS TRAILBLAZER, JUDICIAL LEGEND

Tributes have been pouring in for Judge Reynaldo Garza, the nation's first Hispanic federal judge. The Brownsville native and son of Mexican immigrants died Tuesday at the age of 89 after battling pneumonia.

President Kennedy appointed Garza to the federal judgeship in 1961. President Carter appointed him to the 5th U.S. Circuit Court of Appeals. In between, he turned down an opportunity to be Attorney General under President Johnson because he liked being a federal judge and did not want to be away from his family.

"Judge Garza was a trailblazer, a pioneer who set the stage for all those that followed," said state Sen. Eddie Lucio (D-Brownsville). "He was a man of great stature. He lived life as he preached it, as a devout Christian. He had a tremendous work ethic and was an inspirational speaker. He gave you a big grin that made you feel good. You just knew he cared."

Lucio said he knew Garza all his life. Garza officiated when Lucio took his oath of office as Cameron County Treasurer in 1971.

"I remember seeing him around the county courthouse when I was a young boy and he was still practicing law," Lucio recalled. "I am proud to say that he and my father were the two most influential men in my life. He preached Americanism and patriotism."

U.S. Rep. Solomon Ortiz (D–Corpus Christi) said South Texas has lost a friend, pioneer, hero and judicial legend with his passing.

"Judge Garza became a legend in the South Texas area by virtue of his commitment to education, community and family . . . and in the evenhandedness of how he dispensed justice," Ortiz said.

"Judge Garza's wit, workhorse energy, pointed candor, and razor sharp focus on questions of law won him an amazing number of fans in Washington and elsewhere in the legal/judicial establishment."

Ortiz said Garza's granddaughter had worked as an intern in his Capitol Hill office this summer. Ortiz said he was working in Congress to name the new federal courthouse in Brownsville partially in his honor.

"I have talked to members on the Committee where the bill is being held, appealing for them to move quickly to pass this bill. Its rapid passage would be a great tribute to Judge Garza's life work," Ortiz said.

Garza's funeral is scheduled for Saturday at the Fort Brown Memorial Center in Brownsville.

[From the Brownsville Herald, Sept. 15, 2004]

NATION'S FIRST MEXICAN-AMERICAN DISTRICT JUDGE DIES OF PNEUMONIA

(By Laura B. Martinez)

U.S. Circuit Judge Reynaldo G. Garza, the nation's first Mexican-American district judge, died Tuesday at a Brownsville hospital. He was 89.

Garza died at 9:40 a.m. at Valley Baptist Medical Center-Brownsville, formerly Brownsville Medical Center, surrounded by his family, according to his son Reynaldo G. Garza Jr. The judge died of pneumonia. He had been battling the illness since July 11.

"He had gone home for 10 days and had a relapse," Garza Jr. said.

"Pneumonia is a tough thing for an 89-year-old to beat and his body finally gave up."

As recently as Sunday, Judge Garza was still mentally alert, his son said.

Up until last month, Judge Garza's law clerks were still bringing work to his home and the hospital.

"He would read over the papers and sign whatever was necessary," Garza Jr. said, "He was sharp enough to still be working.

"He was physically in bad shape, but mentally he was still in very good shape."

Judge Garza is survived by his wife, Bertha Champion Garza; five children, Reynaldo G. Garza Jr., David C. Garza, Ygnacio P. Garza, Bertha Garza Elizondo and Monica Garza; 12 grandchildren and three great grandchildren.

He was nominated to the bench by President John F. Kennedy in March of 1961 and confirmed by the Senate in April 1961 for the Southern District of Texas. He was nominated to the U.S. Court of Appeals for the Fifth Circuit by President Carter in April 1979 and confirmed by the Senate in July 1979. He assumed senior status in July 1982.

In 1977, the Brownsville school district honored Garza by naming an elementary school after him. There's also a school in McAllen named for him as well.

In 2003, U.S. Rep. Solomon Ortiz, D-Corpus Christi, renewed his efforts to get the new federal courthouse partially named after Garza and the late senior U.S. District Judge Filemon B. Vela.

Vela died in April of stomach cancer. He was 68.

The bill is pending.

Former Brownsville Mayor Blanca S. Vela said Tuesday that Garza had been something of a father figure to her late husband.

When her husband Judge Vela died in April, Garza took the loss very hard. The two had been close friends, she said. "They were close with each other for years. He was in tears," Blanca Vela said. "I went to his house to console him.

"The judge was an inspiration to my husband. My husband though very much of him as a father," after his own father died more than 10 years ago, she said.

The two families had been friends for more than 30 years. The two met when Judge Vela was a practicing attorney and Judge Garza was on the bench.

"It's a loss in the field of law, for justice, fairness and equality and all those virtues that he had and was so supportive of," Blanca Vela said. "I'm saddened to hear about his death."

Garza touched many in the legal community, both professionally and personally.

Undeterred by his illness, he officiated the swearing in of U.S. District Judge Ricardo H. Hinojosa in McAllen as chairman of the federal sentencing commission. The ceremony was performed in Garza's hospital room in Brownsville on Aug. 3, Hinojosa said.

Hinojosa met Garza when he was on the bench at the federal courthouse in Brownsville. The two courtrooms were located on the same floor.

"Judge Garza was a great mentor and immediately made me feel at home . . . he was always ready to provide advice in counsel," Hinojosa said.

Hinojosa said he has admired Garza since he was a boy. He remembers attending naturalization ceremonies in Starr County, which Garza presided over.

"I remember sitting there and not realizing that someday I would be working on the same floor as he did," Hinjosa said. "He's an example of anything that is possible in this great country.

"The rest of us have come along after him because he opened doors for us. He opened doors that remain open for the rest of us."

Students and staff at Reynaldo G. Garza Elementary School were informed of the judge's death Tuesday afternoon.

"Judge Reynaldo G. Garza has been an incredibly positive role model for the students at Garza Elementary since the school's inception in 1977," Principal Cesar Martinez said.

"The entire administration, staff, student body and community have his family in their thoughts."

Judge Garza and his family were actively involved at the school, showing up on the campus to read to the students during National Reading month, and helping out with fund-raisers, Martinez said.

The school will have a remembrance ceremony for the judge on Sept. 24. Details are pending.

School officials had planned to have a TAKS or Texas Assessment of Knowledge and Skills testing rally on that date, but opted to change the rally to a service instead.

News of Garza's death brought Brownsville resident Joe C. Wolfe to tears Tuesday. Wolfe said Garza was a guest speaker at a Veterans for Foreign Wars event in 1990. Wolfe was the commander post captain in Brownsville at that time.

After watching a television news broadcast, Wolfe, 78, went outside and lowered the U.S. Flag posted in front of his home to half-staff.

"He's my hero," an emotional Wolfe said. "He'll go down in history. I'm proud, because of him."

Funeral services are under the direction of Darling Mouser Funeral Home. Preliminary plans include family visitations at 5 p.m. Friday at St. Mary's Catholic Church, 1914 Barnard Road, followed by a rosary at 7 p.m.

A funeral Mass is tentatively set for 10 a.m. Saturday at Jacob Brown Auditorium with burial to follow at Buena Vista Burial Park.

[From the Rio Grande Valley Bureau]

(By Mariano Castillo)

MCALLEN.—Reynaldo Garza, a senior judge on the U.S. Fifth Circuit Court of Appeals and the first Mexican American appointed to the federal bench, died Tuesday in a Brownsville hospital at 89.

A native of Brownsville, Garza was described as an inspiration for generations of Hispanics, particularly Mexican Americans from the Rio Grande Valley.

He'd been battling pneumonia for more than a month.

"He was truly one of the greats of the area," said U.S. District Judge Ricardo Hinojosa of McAllen, a longtime friend. "We followed his path after he was the first to walk through that door."

Hinojosa recalled the awe he felt when as a boy he watched Garza officiate at a naturalization ceremony. More than 20 years later, when he and Garza presided over similar ceremonies together, "it always took me back," he said.

But the judge said Garza's influence transcended race and region, adding: "He was a role model for all federal judges in this country."

President John F. Kennedy appointed Garza to the federal bench in 1961. In 1979, President Carter named him to the New Orleans-based appeals court, which has jurisdiction over federal cases in Texas, Louisiana and Mississippi.

People from all backgrounds respected Garza for being accessible yet sophisticated, U.S. District Judge George Kazan of Laredo said.

"He's one of those guys that you talk about that can be just at ease with a president as with an undocumented alien because he just had a good touch with people," Kazen said.

U.S. Rep. Solomon Ortiz, D-Corpus Christi, said he'd try once again to pass a bill to rename the federal courthouse in Brownsville in Garza's honor.

Garza recalled turning down an offer by Carter to be U.S. attorney general so he could remain in the Valley.

Garza's parents were from Matamoros, Mexico.

The sixth of eight children, Garza was born July 7, 1915, and attended junior college in Brownsville, graduating in 1935. He was a laborer for the Works Progress Administration to pay for his studies at the University of Texas at Austin, where he obtained a law degree. He started a law practice in Brownsville.

He ran for the school board and city commission. During World War II he served in the U.S. Army Air Corps. He was an established lawyer by the time Vice President Lyndon B. Johnson recommended him to Kennedy for the federal judgeship.

"I always said I hope I got the appointment because I was qualified, not because I'm Mexican American, but I knew I had to do a good job or else my actions would reflect not only on my ability, but also that of other Mexican Americans," Garza said in "All Rise," a biography written by Brownsville native Louise Ann Fisch.

Fisch, who now lives in Maryland, said Garza "never lost his small town origins and he could bridge the gap between the Anglo and Mexican cultures."

The cases he presided over as a federal judge in the 1960s and 1970s included several that contributed to the civil rights changes of the era, such as challenges to a racially segregated union and the suspension of a public school student for passing out anti-war leaflets during the Vietnam War.

Garza worked during his retirement years, and from his hospital bed, he administered the oath of office for Hinojosa to chair the U.S. Sentencing Commission as seven friends and witnesses crowded into the room Aug. 3.

"It is unfortunate in some respects that so few people, unless they were close to him, have a sense of what a pioneer and what a leader he was—not only in the legal field but in the community in terms of the charitable," said U.S. Ambassador to Mexico Tony Garza, who is not related to the judge. "He was there doing things when other folks were not even imagining them. He has, and it should be recognized, a huge legacy."

Visitation will be Friday at 5 p.m. at St. Mary's Catholic Church in Brownsville, with a rosary at 7 p.m.

The funeral is scheduled for Saturday at 10 a.m. at the Fort Brown Memorial Center in Brownsville. He'll be buried in Buena Vista Cemetery.

Garza is survived by his wife, Bertha; five children; 12 grandchildren; and three great-grandchildren.

[From the Brownsville Herald, Sept. 19, 2004]

JUDICIAL TRAILBLAZER: JUDGE GARZA LAID TO REST

(By Ildefonso Ortiz)

Hundreds gathered Saturday to bid farewell to a judicial pioneer.

U.S. Circuit Court Judge Reynaldo Garza, the nation's first Mexican-American district judge, was laid to rest Saturday as family, friends and colleagues wiped tears from their faces.

But even in their sorrow, mourners could not help but smile as they watched a video of Garza recalling some of his memorable moments from a legendary career on the bench.

"I had a young man from a well-known family in Donna and I sentenced him to five years. I was going to give him probate, but the poor lad fainted before I had the chance," Garza said, chuckling. "After they revived him I suspended the sentence and gave him probation."

Garza's chuckle lightened the mood—something he did countless times in life, according to his son Ignacio. Even in Garza's last days, he maintained his sense of humor.

"He began to plan," the son said. "He said, 'don't bury me for three or four days. I want to give time for my law clerks to be there.' If he ever figures out how to use a phone in heaven he will call those who didn't come."

Judging by the overflowing crowd at the Mass and burial, Garza won't have many phone calls to make.

Senators, federal judges and other well-wishers crammed inside Jacob Brown Auditorium for a morning Mass and paid their final respects to Garza at Buena Vista Cemetery.

President Bush also offered his condolences in a video message played after the Mass.

"Those of us who are from Texas are proud to say we are both Texans," Bush said. "We will honor his memory today."

Judge Garza died of pneumonia on Tuesday after battling the illness since July 11. He was 89.

Garza was appointed to the bench in March 1961 by President John F. Kennedy, who nominated him for the Southern District of Texas. Garza was nominated to the U.S. Court of Appeal for the Fifth Circuit by President Carter in March 1979 and the Senate confirmed the nomination in July. Three years later he assumed senior status.

During Saturday's Mass, Monsignor Gustavo Barrera took to the podium to talk about Garza's unbreakable faith, as Bishop Raymundo Peña sprinkled ritual incense throughout the altar.

"When he was able, he was at daily Mass," Barrera said as he looked at the sea of people holding back tears. "He was with his family, at the bench or at church."

Barrera said the judge had a gift to help those who needed it most.

"He had the light of Christ in him," he said, "and he could see the light of Christ in other people."

After Mass, dozens of vehicles lined the streets of Brownsville as they followed Garza to his final resting place at Buena Vista Cemetery. More than 40 law enforcement officers escorted the procession to the cemetery as a Border Patrol helicopter hovered above.

The mourners were greeted by dozens of flower arrangements, creating a 5-foot wall that served as a background for the burial ceremony.

There, they bid farewell to the judge.

"Judge Garza, he was a wonderful mentor to me and to many of my colleagues," said U.S. Circuit Court Judge Hilda Tagle. "He was devoted to his family and he was loved by all."

Juliet V. Garcia, president of the University of Texas at Brownsville and Texas Southmost College, said Garza was a good friend.

"He was a simple, man, he was a friend to all and we will miss him," she said.

Even those who had not met the judge attended the burial to pay respects.

"He was a good person, he did a lot of good for people," said Cervando Cardenas. "I lived a few blocks from the school with his name (Garza Elementary), my kids went there and I had to come say goodbye."

[From the Brownsville Herald, Apr. 14, 2004]

JUDGE FILEMON VELA LOSES BATTLE WITH STOMACH CANCER

Senior U.S. District Judge Filemon B. Vela, one of Brownsville's most notable figures, died Tuesday at a Harlingen hospital. He was 68.

Vela died at 12:33 p.m. in the emergency room at Valley Baptist Medical Center, said hospital spokesman Mike Swartz. The judge had been on an airplane Tuesday en route from Houston, where he had been undergoing treatment for stomach cancer at M.D. Anderson Cancer Center, said his son Filemon Vela Jr.

"My father fought a very courageous battle with cancer, and this morning, he was returning for further treatment, and after landing in this place that he loved so dearly, he passed away in peace," he said.

"On behalf of our father and our family, I would like to thank all of our friends for their phone calls, their visits, their thoughts and prayers."

Judge Vela was married to former Brownsville Mayor Blanca Sanchez Vela. They had three children.

Viewings will be held from 7 to 9 a.m. Thursday and Friday at the Brownsville Events Center on Paredes Line Road. A prayer service will follow Thursday's viewing; funeral services will begin at 9 a.m. Friday under the direction of Darling Mouser Funeral Home in Brownsville.

Vela, a Harlingen native, served as a federal judge from 1980 to 2000 when he retired and received senior status.

As a senior judge, Vela traveled through the Southern District of Texas Region relieving the load of district judges hearing cases in Brownsville, McAllen and Laredo.

"Judge Vela was a great man. That's something you hear about a lot of people, but it's really true with him," said U.S. Magistrate John William Black of Brownsville, who first met Vela in 1965 when both were practicing attorneys.

"He had a lot of people appear before him but he never let himself be jaded by the fact he had handled so many cases," Black said.

"He looked at people as people, not as numbers or statistics.

"He was truly a great man and will be missed."

Vela graduated from St. Mary's School of Law in San Antonio in 1962. He practiced law in Harlingen and Brownsville from 1962 to 1974.

He served on the Brownsville City Commission from 1971 to 1973. He was a state district judge in Cameron County from 1975 to 1980.

In 1980, he was a candidate for the federal bench. U.S. Sen. Lloyd Bentsen, D–Texas, and former President Jimmy Carter nominated him. At the same time he was confirmed by the Senate as U.S. district judge for the Southern District of Texas.

In 2000, Vela opted to take senior status instead of retiring at age 65.

News of Vela's death spread quickly through the Southern District of Texas' U.S. District and Bankruptcy Courts.

The region covers the area from Houston to Brownsville.

"It's a very big personal loss, because he was a very good friend and a teacher and aide with regards to my taking on the role as a judge 21 years ago," said U.S. District Judge Ricardo Hinojosa of McAllen.

Hinojosa worked with Vela for more than four years in Brownsville federal courts before transferring to the McAllen federal courthouse.

"He would often joke with people that he and I were appointed by presidents from different parties but that when it came to judging we were one, because our constitution and our laws don't have partisan flavor," Hinojosa said.

Former President Ronald Reagan appointed Hincjosa.

It was just two months ago Vela was handling cases in federal court, Hinojosa said.

"He was still offering help as he always did."

Black said Vela was instrumental in getting a new federal courthouse built in Brownsville.

"He was the one that carried all of the water and did all the things that needed to be done to get it to happen," Black said. The U.S. Courthouse and Federal Building at Sixth and East Harrison streets was opened in 2001.

In 2003, U.S. Rep. Solomon P. Ortiz, D-Corpus Christi, renewed his efforts to get the new federal courthouse partially named after Vela and U.S. District Judge Reynaldo Garza.

This bill is pending.

About five years ago, the bill passed in the House but stalled in the U.S. Senate.

"South Texas lost a legend today with the passing of Judge Filemon Vela,"Oritz said in a prepared statement. "He was my friend, he was a hero and he was a judicial giant in the Rio Grande Valley."

Federal public defender Roland Dahlin of Houston said attorneys in Houston were sadden by the news of the judge's death. Many had worked with him on federal cases.

Beside attending court, Judge Vela routinely visited area schools, encouraging children to continue their education and to stay away from drugs.

He often administered the oath of citizenship to new U.S. citizens at citizenship ceremonies held across the Valley.

"He touched everybody in this city in his own way," said Raul Besteiro, Port of Brownsville director and a former colleague of Vela's at The University of Texas at Austin.

"He was always available to do things for people. He had a heart that was bigger than anybody else," Besteiro said.

"He did a great job with his family and his kids. And he was very proud that his wife (Blanca S. Vela) was mayor of this community.

"All I can say, he's passed the baton to us, and we have to make sure you put that baton ahead."

Sen. Kay Bailey Hutchison, R-Texas, described Vela as "a steadfast advocate for the rule of law."

"His leadership will be missed along the border and across the state," she said.

In lieu of flowers the Vela family asks that donations be made to the Vela Middle School Scholarship Fund 4905 Paredes Line Road, Brownsville, Texas 78520.

[From the Brownsville Herald]

FAMILY, FRIENDS PAY RESPECT TO JUDGE VELA

(By Laura B. Martinez)

Carlos Vela stopped speaking in mid-sentence and listened to a student mariachi group play a tune.

Vela's eyes welled up. "That was his favorite song," he said. The song was "Laureles," a favorite of his brother, the late U.S. District Judge Filemon B. Vela.

Judge Vela died Tuesday, soon after arriving home from Houston where he was treated for stomach cancer. He was 68.

The University of Texas at Brownville and Texas Southmost College Mariachi Escorpion performed the melody Thursday at the Brownsville Events Center, where a viewing was held for Judge Vela's body. A funeral service and burial is set for today.

The music was overwhelming for Carlos Vela, who listened briefly then walked to the main room at the Events Center.

"All the Velas like mariachi music," he said before slowly walking away.

Hundreds of mourners filed into the center to pay respect to the judge who has been referred to as a South Texas legend.

Many of those who attended Thursday's service worked at the U.S. District Courthouse in Brownsville, where Vela held court.

"He was a wonderful man," said Bella Zepeda, who works for the U.S. Marshals Service in Brownsville. "He was so respected, and everybody looked up to him."

While many attending Thursday's prayer service knew him as Judge Vela, to his nieces and nephews he was "Tio Filo."

"He was my uncle, my godfather and most importantly, my friend," said Manny Vela, one of the judge's numerous nieces and nephews.

Manny Vela said his uncle did not care whether someone was rich or poor, the color of one's skin or if an individual had a title with his or her name.

"He treated people with the respect and dignity that they were due," he said.

"I was blessed to be raised among giants. All my life I've been surrounded by family members living larger than life—people who do the right thing for the right reasons."

Also speaking at Thursday's service was Chief District Judge Hayden W. Head Jr. of Corpus Christi.

Head said he met Judge Vela in 1981 and formed a close friendship with him.

"Judge Vela was a wise judge who knew the law and knew it well," Head said. "But there was more to the senior judge.

"He had that connection with people. . . . He was compassionate when compassion was required and firm when it was needed."

SOUTH TEXAS LOST A GOOD MAN WITH THE DEATH OF JUDGE FILEMON VELA

U.S. District Judge Filemon Vela died at noon Tuesday as his plane landed at Valley International Airport in Harlingen. Judge Vela was stricken with stomach cancer two months ago and had been in treatment at M.D. Anderson Hospital in Houston since that time.

Judge Vela was a fair but strict judge who enforced this country's laws and sent thousands of criminal defendants to prison during his 29 years on the bench.

He was born in Harlingen in 1935 and lived with his parents and brothers, Moises, Robert and Carlos and his sister, who helped raise him after the death of his mother. His father was a notary public and had his office in the same building where the family ran a small grocery. The Vela family lived in Fair Park on the west side of Harlingen.

Moises and Carlos are also attorneys and Moises is a former Cameron County Judge and Harlingen municipal judge. Moises' son, Manny, is Cameron County Democratic Party Chairman.

Judge Vela was no product of affirmative action. His character was molded by his father who insisted that his children get an education. When St. Anthony Catholic School opened, in 1948, Filemon and Carlos were among the first students signed up.

Filemon Vela graduated from Harlingen High School in 1954 and became a student at Texas Southmost College, Brownsville, where he was known for his quick wit and love of debate. He served in the U.S. Army from 1957 until 1959. After his army duty he enrolled in St. Mary's Law School, San Antonio, where he graduated in 1962. Although he didn't have the money to pay tuition he earned it by working in the cafeteria.

Upon graduation he practiced law in Harlingen for two years then moved to Brownsville where he practiced for 11 years, entering politics in 1971. Vela was a Brownsville City Commissioner from 1971–73 and was elected state district judge of the 107th court in 1975. In this capacity he presided over cases in Willacy County as well as in Cameron County.

In 1980 he was nominated by President Jimmy Carter to a federal judge seat in Brownsville being vacated by Judge Reynaldo Garza. He was confirmed by the Senate later that year and served until May 1, 2000 when he assumed senior status.

My family has known the Vela family since 1948. Judge Vela's brother, Moises, was my father's attorney and he was my mother's attorney. Judge Vela honored my family by swearing in my son, Dan, after he also graduated from St. Mary's Law School and passed the state bar exam. And while he was a student at St. Mary's, my son clerked for Judge Vela in Brownsville.

Some 50 years ago, my brothers and I camped with Filemon and Carlos Vela at Camp Perry, while in the Boy Scouts.

Recently Judge Vela hosted his 1949 St. Anthony School graduating class and gave his fellow classmates a tour of the new federal courthouse in Brownsville with dinner in Matamoros.

Filemon Vela was a good lawyer, a good judge, a Christian and a longtime friend. Our condolences go to his family, wife, Blanca, a daughter, and his son, Filemon, Jr., an attorney who practices in Corpus Christi.

The Editor

Ms. NORTON. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HINOJOSA)

Mr. HINOJOSA. Mr. Speaker, I rise today in strong support of H.R. 1402, the Garza-Vela United States Courthouse Designation Act offered by my good friend and colleague, the gentleman from Texas (Mr. ORTIZ).

This bill pays tribute to two great men, Federal Judge Reynaldo G. Garza and Federal Judge Filemon B. Vela, who were judicial legends in South Texas.

Judge Garza was the Nation's first Mexican American Federal district judge. Appointed to the Federal bench by President John F. Kennedy in 1961, Judge Reynaldo Garza served this Nation through the turbulent years of the civil rights movement. His decisions contributed to the changes that opened up many opportunities for minorities.

In 1976, President Carter asked him to serve as the Nation's Attorney General, but he declined because he did not want to leave his beloved South Texas and his service on the Federal bench.

He was committed to education, particularly in encouraging literacy, and he was known to all for the even-handed way in which he dispensed justice.

His last official act took place from his hospital bed when he officiated at the swearing-in of his protege, Judge Ricardo H. Hinojosa as the new chairman of the Federal Sentencing Commission. When he passed away a few weeks ago at the age of 89, I was privileged to join the thousands of mourners in paying tribute to this outstanding and extraordinary pioneer.

I offer his wife Bertha and all his children and grandchildren my heartfelt condolences.

Judge Vela was nominated to the Federal bench by President Carter in 1980 and worked tirelessly to design and have built the new courthouse in Brownsville. It is indeed fitting that his name will be on this new Federal Courthouse.

Judge Vela, like his good friend Judge Garza, was known for his impeccable integrity and fairness on the bench. He also was passionate about teaching children about the law and the criminal justice system in order to encourage them to make the right choices in life. He would bring inmates to school to tell children about the mistakes they had made and the consequences they suffered as a result.

Judge Vela was often heard on the radio giving advice and counsel to parents and students on the importance of education. Like Judge Garza, he was also a mentor to many others in his profession.

We lost Judge Vela earlier this year. He is survived by his beautiful wife Blanca, and his three children, Filemon, Jr., Rafael, and Sylvia.

Mr. Speaker, I urge my colleagues to support this legislation in and honor these two great Americans for their service to this Nation.

Ms. NORTON. Mr. Speaker, I am happy to yield such time as he may consume to my friend the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I thank the gentlewoman for yielding me time, and I thank my colleagues for their assistance in getting this piece of legislation to the floor, and I hope it will successfully pass with very little difficulty.

Mr. Speaker, I rise in strong support of the legislation, of course, but I do want to remind individuals, and I will be quick, because I know it has been a long evening and people have a lot of business, but I think Judges Vela and Garza deserve 1 minute of praise and recognition.

In 1961 when Judge Garza was first appointed, he was the first, as has already been pointed out, Mexican American Hispanic to be appointed to the Federal bench. It was the same year that my father was elected and he was the first Hispanic from Texas to have been elected to this House.

At that time, it was such a great celebration for all of us, but the truth was, we knew that they were the first, but we did not know they were not going to be the last. Things have not turned out that way, thank God.

But truly, to honor their legacies, I had the great benefit of being counseled and mentored and lectured to by both Judge Vela and Judge Garza when I was a State district judge in Texas, and I know the lessons that they imparted are still with me today, and they would reverberate today in this Chamber if they had an opportunity to meet with us, members of that other branch of government, the legislative branch, they would remind us of that incredible but very important balance and separation of powers. And their legacies will only be recognized and their contributions will only be recognized to the extent that the other two branches of government, the executive and the legislative, understand their service in the context of this wonderful, wonderful concept that we have here in the United States, in our democracy, three equal branches of government, checks and balances and separation of powers.

So I know if they were here today, they would say, "Charlie, let us do our job. Let us go ahead and review what needs to be reviewed."

It is the collective wisdom of that branch of government that really gives this Nation great guidance, as well as the leadership in this House and the leadership in the White House.

So to judges Vela and Garza, to their families, proper recognition tonight, but hopefully that in the future we honor their memory and their hard work by respecting the work that they did within the context of this wonderful framework called the United States of America.

Ms. NORTON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I urge our colleagues to support passage of the bill. I again want to congratulate the gentlewoman from the District of Columbia (Ms. NORTON), and look forward to sporting a new Washington Delegates baseball cap in the near future.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 1402, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to designate the United States courthouse located at the corner of Seventh Street and East Jackson Street in Brownsville, Texas, as the 'Reynaldo G. Garza and Filemon B. Vela United States Courthouse'."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5105, H.R. 3124 and H.R. 1402.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

COMMUNICATION FROM HON. NANCY PELOSI, DEMOCRATIC LEADER

The Speaker pro tempore laid before the House the following communication from the Honorable NANCY PELOSI, Democratic Leader:

HOUSE OF REPRESENTATIVES,
OFFICE OF THE DEMOCRATIC LEADER,
Washington, DC, September 28, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 1012(c)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 42 U.S.C. 242b note, I hereby appoint Mr. Thomas M. Priselac of Los Angeles, California, to the Commission On Systemic Interoperability.

Best regards,

NANCY PELOSI.

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SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BONNER). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

ENCOURAGING PROGRESS IN IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. OSBORNE) is recognized for 5 minutes.

Mr. OSBORNE. Mr. Speaker, this past weekend, several of my colleagues and I journeyed to Baghdad and returned, and I would just like to make a few observations. Obviously, this is a very intense time in Iraq as the elections approaches, but I had three observations that I think were somewhat meaningful.

Number one, we were tremendously impressed by the morale and the attitude of our soldiers. One would say, well, how in the world could that be? It is 110, 115 degrees every day, body armor, helmets, very difficult work, some danger, considerable distance from family. I guess the main reason that we felt we were observing this was there seemed to be a very strong sense of mission, a very strong sense of purpose and accomplishment.

One thing that I often heard from the soldiers was this: they said, you know, it seems like there are two wars over here. There is the one that we see on CNN: we see the IEDs, individual explosive devices; we see the car bombs; we see the beheadings.

But the part of the story that we think is meaningful is not being told. They said, the thing that we see is that in education, 2,500 schools have been renovated, 30,000 teachers have been trained, there is an 80 percent increase in attendance in schools, and most of that is girls who have not been going to school at all under Saddam Hussein. Health care, 240 hospitals operating, 1,000 clinics, 90 percent of the children are currently vaccinated, and this again is something that had not occurred before.

So health care has improved. Infrastructure is getting better. Water supply, power, sewage. It still needs improvement, but it is doing better, and of course the provisional government and the June 30 hand-off. So what they were saying is please make sure the people in the United States understand that there is more going on than what many times they are hearing about.

The second thing that I thought was somewhat optimistic is that the Iraqis are providing more and more security. The goal is to train 270,000 Iraqis; 135,000 police; 100,000 Army and National Guard; and then 32,000 border guards. Right now we are a little bit more than halfway there. We are making excellent progress.

So in Najef, not long ago, Iraqi troops led the charge and, along with Ayatola Sustani, calmed a very dangerous situation. So we see progressively more and more operations with Iraqis taking the lead.

The third thing that I would say that was very encouraging to me is that in talking to the Iraqis, they very much want the elections. If the Iraqis do not care or if they do not want elections, then obviously the whole thing that we are doing is for naught. I talked to an Iraqi woman today and I asked her, I said, are the Iraqis willing to line up and take the risk on Election Day, and she said, without question we will have a tremendous turnout.

So Prime Minister Allawi told us last week, and this was confirmed on our trip, that roughly 15 out of 18 provinces are sufficiently secure right now to maintain elections, and the other two or three are coming around. Splinter groups who have been primarily terrorist-oriented in the past are now becoming politically active. They are beginning to realize that if they do not become part of the political process, they are going to be left out. So a lot of things are changing very rapidly. Iraqi women will tell you this, that they see their future as being much brighter. So when there is hope, I think there is a good chance.

So if we pull out, as many are currently advising, we will tell the families of the 1,000 soldiers we have lost that they have died in vain, and I do not think we can afford to do that. Secondly, we will have broken our promise to the Iraqis. We have told them that we will absolutely not do that, and many of them have trusted us. So if we pull out now, literally tens of thousands of Iraqis are going to lose their lives and will be sacrificed because of our duplicity.

Thirdly, I think if we show vulnerability as a Nation; and if we show that we do not have resolve and that we will not see something through, and if terrorists can steer our agenda here, we become more and more vulnerable to terrorist activities. So I do not think that we can afford to do this.

So at this point, as I see it, and I think some of those who were on the trip would also say that the only viable exit strategy is to win. When we say to win, we mean that we will stay the course until the Iraqis themselves are able to secure their country and be able to govern their country. This is not going to be easy, but we think it is doable. We were encouraged by what we saw.

ORDER OF BUSINESS

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

SMART SECURITY AND IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, the Bush administration loves to tout George W. Bush's willingness to stay the course as the source of his strength as a President. Day after day, the President and his surrogates use this "resolve" to demonstrate why he should be reelected.

The sad truth is that President Bush's resolve amounts to little more than a campaign tool to disguise the fact that his administration's policies have increasingly made Americans far less safe in the world. The President's resolve is actually nothing more than his attempt to lead our Nation while wearing blinders.

President Bush failed to demonstrate resolve in fighting terrorism in the days before the September 11 terrorist attack. In fact, he vacationed at his ranch in Crawford, Texas, for the entire month of August in the year 2001, neglecting to act on his daily intelligence briefings which specifically warned against terrorists crashing planes into large city buildings.

Since September 11, President Bush has continued to fail in his resolve to fight international terrorism. Despite a promise to apprehend Osama bin Laden, dead or alive, President Bush actually pulled troops out of Afghanistan in the year 2002. This grave error allowed the al Qaeda leader to flee to the shadowy hinterlands between Afghanistan and Pakistan.

Early in 2002, with bin Laden still on the loose, President Bush turned his attention to Iraq. Citing the threat of Iraq's nuclear weapons program and Saddam Hussein's links to al Qaeda, Bush marshaled a war resolution through Congress.

Resolve, however, was not enough to win the support of the United Nations; so our President, determined to stop Iraq's supposed nuclear threat, went to Iraq with the support of only a loose and fragmented coalition of other countries.

Since the beginning of the war in Iraq, no weapons of mass destruction have been found and no evidence has ever linked Saddam Hussein to al Qaeda. Still, the President's handlers point to his resolve as a source of strength. Strength for whom? The terrorists who have escaped from America's grasp as we shamefully turned our attention to Iraq? The leaders of Iran and North Korea who continue to develop the deadliest weapons known to man? Resolve, as thousands of insurgents savagely attack our soldiers and Iraqi civilians? Resolve, as more than 1,000 American soldiers and at least 13,000 innocent Iraqi civilians are killed in Iraq? And let us not forget about the more than 7,000 U.S. soldiers who have been gravely wounded. Where is the resolve to protect our troops?

I, for one, am sick and tired of the White House calling it resolve when President Bush continues to focus on Iraq at the expense of other, more important issues.

Today the House voted to reallocate $3.4 billion of last year's $18.4 billion supplemental, using it for military purposes instead of for Iraq's reconstruction. So now we are forced to pilfer money that is supposed to pay for infrastructure needs for the Iraqi people.

This, after spending less than $2 billion of the $18.4 billion allocated for Iraq's reconstruction in the first place. I do not consider that resolve; I consider it malignant neglect of an entire country's needs.

There has to be a better way to handle the quagmire in Iraq. That is why I have introduced H. Con. Res. 392, a SMART security platform for the 21st century. SMART stands for Sensible Multilateral American Response to Terrorism.

SMART security treats war as an absolute last resort. It fights terrorism with stronger intelligence and multilateral partnerships, and it controls the spread of weapons of mass destruction with aggressive diplomacy, strong regional security arrangements, and vigorous inspection regimes.

If we had pursued a SMART security strategy in the first place, America would not be embroiled in this violent situation in Iraq. Let us not forget that Saddam Hussein did not have a nuclear weapons program and Iraq did not have ties to al Qaeda. Instead of blindly focusing our country's resources on a conflict that has nothing to do with American security, President Bush should take off his blinders and focus on the real threats to our country.

How can we be secure if our public schools are failing our children and 40 million Americans lack health insurance? How can we be secure when our President's shameful tax cuts force our children to repay America's debt for the next several decades?

THE JUDGES OF MADISON COUNTY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

Mr. NORWOOD. Madam Speaker, the previous speaker makes me want to spend my next few minutes talking about another subject. I guess what I need to do is just totally say that I am sorry to be in the same room with some of those remarks, but I will stay on my subject tonight, because I rise tonight to begin a discussion of the "number one Judicial Hellhole" for 2003, as named by the American Tort Reform Association.

A year ago, prior to a long list of complaints I received from Georgia companies, I had never heard of the place known as Madison County, Illinois. Now that has changed within the last year; and from the facts that I have heard, it seems that the judges of all people of Madison county regularly apply the civil laws in an unfair manner and violate the fundamental constitutional rights of defendants, particularly those that hail from other States. One might wonder why a person from Georgia would be complaining about judges in Illinois. Well, the reason is they are affecting my constituents and the citizens of my State.

Madam Speaker, I could not sit on these complaints from good Georgia companies any longer. I sent a letter to Attorney General Ashcroft on September 10 asking for a formal investigation of Madison County.

Little did I know that this letter would send the attorneys of Madison County into complete temper tantrums. It should. They are guilty of lining their pockets at the expense of their clients. Yes, at the expense of their clients. And perhaps, Madam Speaker, one of the most guilty is Randall Bono.

Mr. Bono's law firm, Simmons-Cooper, generated over $1 billion in settlements in 2003. Somewhere between 30 to 40 percent of those settlements were kept by that firm. The public service that Mr. Bono has offered in his career includes two lawsuits against Ameritech. He walked away with $16 million. His clients each got a $5 phone card.

Contrary to the comments Mr. Bono made during his tantrum, my only motivation is to protect the companies of Georgia from frivolous lawsuits. Not only do those frivolous lawsuits triple car insurance rates for the people living in and around Madison County, they also send doctors fleeing from the region and, of the greatest concern to me, they force American companies to close up shops and take good American jobs overseas to avoid such harassments.

□ 1930

These kind of illegal shenanigans do cause outsourcing of jobs. We are all suffering, and for what? To line the pockets of lawyers like Bono?

The letter I sent to Attorney General Ashcroft is five and a half pages full of cases where defendants' constitutional rights to due process have been violated. I can take all night reviewing them, and I will outline them over the coming weeks. However, what I want to outline here is a possible reason why Madison County has become such a judicial hellhole.

Between 1980 and 2002, 90 percent of the contributions made to Madison County judicial candidates came from plaintiffs' lawyers. Judges have received tens of thousands of dollars in contributions, even in the years that they are unopposed. Several plaintiffs' firms with no Madison County office have contributed money to Madison County judicial campaigns.

Madam Speaker, I have a strong belief that when Attorney General Ashcroft looks into the situation in Madison County, he is going to find that the cases I have outlined are just the tip of the iceberg.

I take it very personally when judges try to legislate from the bench. I take it even more personally when they overreach their power and steal from good companies in Georgia.

This will be an ongoing thing, Madam Speaker. I will report to my colleagues every night of how we are doing in the hellhole of the United States, Madison County, where the judges and plaintiffs' lawyers are stealing from the people.

NAMING POST OFFICES SHOULD NOT TAKE PRIORITY OVER BASIC CONGRESSIONAL RESPONSIBILITIES

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Madam Speaker, I would like to thank my colleague beforehand who spoke, and I am pleased to be here in the chamber when he did.

Yesterday, on the subject of the marriage amendment and D.C. gun-rights bill, the House majority leader said yesterday, "It is our job to make the laws in this country, and as easy as life would be for us if the most controversial bill we had to vote on was to rename a post office, that's not what we were elected to do."

I find the majority leader's comments almost ironic. I have done some research.

This Republican-led Congress, the 108th, the House and Senate, has been hard at work naming post offices. In fact, more post offices were named in this Congress than ever in the history of the Congress. In fact, under the Republican leadership, we have named an impressive 94 post offices, just three last night. We have also named 22 Federal buildings, passed 34 resolutions honoring athletic teams, introduced 35 resolutions creating commemorative postage stamps, recognized the Garden Club of America, recognized the importance of music education and authorized the use of the Capitol grounds for the soap box derby.

This is in stark contrast to when the Republicans first took control of the House in the 104th Congress. They only managed to name 12 post offices, compared to 94 this Congress. The 106th only squeaked out a pitiful three resolutions honoring sports achievements.

Without question, this Congress has proved that it is the most adept at naming post offices and Federal buildings, honoring sports achievements and conceiving of new postage stamps of any Congress in the history of the United States.

It takes a lot of time and effort to name a post office. First, you have to decide which post office to name. This is not an easy task. Then you have to pick a name, build support for it back home among your constituents and among your colleagues. The final test is to get a vote on the name, which is no small feat when you consider only one out of every 100 bills ever sees a floor vote.

However, in this Republican-led Congress, 80 percent of the post office naming bills introduced in the House have actually been passed. That is a record to be proud of.

But while we have spent all this time naming post offices, we could have been dealing with the problems some of the American people are facing.

While Congress worked on the backlog of nameless post offices, we have lost 1.7 million jobs here in America; median household incomes fell by more than $1,500; household bankruptcies have sky-rocketed by over a third in the last 2 years; and health care costs are rising at three times the rate of inflation; and 5 million more Americans find themselves without health insurance, for a record 44 million Americans.

More than 1,000 Americans have been killed in action in Iraq. Reconstruction has been pushed to the sidelines because of mounting violence, and we have not found any weapons of mass destruction or called oversight hearings in this Congress about why we went to war on that premise.

President Kennedy once said, "To govern is to choose." Unfortunately for us and unfortunately for the country, this Republican Congress has made some very tough choices.

Time after time, the Republican leadership has been forced to choose between naming post offices and using its control of the House, the Senate, the White House and the Supreme Court to improve the lives of millions of Americans. More often than not, they chose to name post offices.

Please do not misunderstand; I am not opposed to naming post offices. In fact, I have cosponsored a few pieces of resolutions naming post offices myself. Congress should do these things, but we should not do it at the expense of other activities and other responsibilities.

We should not use it as an excuse not to deal with the health care crisis in America; not to deal with the higher education crisis in America; not to deal with the stagnant wages and income in America; not to deal with a war for which we do not have an effective policy and a President who does not know it is a burning morass, as three Republican Senators said just last week; nor should we use them as excuses for failing at our most basic responsibilities.

It is now past 7 months before we passed a budget resolution, which is a responsibility of Congress. We have not done it. We have only passed one of the 13 appropriations bills we are required to pass. We have not passed a higher education reauthorization act required by law this year. We have failed to reauthorize a series of laws. We have not yet passed the highway and mass transit bill which employs billions of Americans in good paying jobs and guides this economy, and yet we have taken the responsibility with precious time that we are here to name 94 new post offices.

Our Nation and economy rely on the most basic functions of Congress. Yet, this Congress, the Republican Congress, has failed on both. We can do better. Congress can name post offices and keep our Nation moving forward.

Mr. Speaker, election day is only weeks away. I hope, when Americans go to the polls, they will reflect on what kind of job this Congress has done. Republican leadership has made their priorities clear, and that is for new post offices and the naming of new post offices in America.

ORDER OF BUSINESS

Mr. STUPAK. Madam Speaker, I ask unanimous consent to proceed out of order and address the House for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

THE NEED FOR MORE RESEARCH AND MANAGEMENT OF RISK OF ACCUTANE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Madam Speaker, I rise tonight to inform the American public on the safety concerns of Accutane. Accutane is a dangerous, powerful prescription drug approved by the Food and Drug Administration in 1982 to treat severe, recalcitrant, nodular acne that is unresponsive to conventional treatments, including antibiotics. Today, approximately 1.5 million prescriptions are written each year to hundreds of thousands of young people.

The horrific birth defects associated with Accutane are well-known and understood. The psychiatric effects associated with the drug, including depression, suicidal thoughts and behavior, suicide and aggression are less known and are denied by its manufacturer, drug company giant Hoffman-LaRoche.

Tonight, I want to share the results of a study that sheds light on these psychiatric effects. Dr. J.D. Bremner of Emory University recently completed a study which demonstrated that Accutane affects the metabolism of the orbitofrontal cortex, a brain area known to mediate symptoms of depression. If you look at this chart, Dr. Bremner had two PET scans, the baseline PET scan before the patient began Accutane therapy and 4 months into the Accutane therapy. Even my inexpert eyes can tell the difference, and Dr. Bremner will present his findings in November to a convention of psychiatrists studying this issue.

For every question Dr. Bremner's work may answer, there are other questions that need to be answered about the psychiatric effects of these drugs. These scans show the promise more research can hold.

If you take a look at these, you can see there is a 21 percent change in the metabolism of the front orbitofrontal cortex. These scans show the promise of more research, and Hoffman-LaRoche has always denied that Accutane affects the brain. We know this is not true, as the PET scans show. This person had a 21 percent change in their orbitofrontal cortex of the brain. Is this damage to the brain permanent? Only more research will answer this question.

I do not know why the FDA and Hoffman-LaRoche seem reluctant to look for these answers. The FDA has already determined that the link between Accutane and psychiatric events is strong enough to require a bold warning on the physician label and the packaging label for this drug.

The FDA should also re-examine previous studies submitted on Accutane. A 2001 review of three studies that were not disclosed by the drug company found the drug to cause an excessive serotonergic response and concludes that it should be noted that increased serotonergic function is presumed to be the mechanism of action of a major class of antidepressants or SSRIs, or selective serotonin re-uptake inhibitors. In other words, Accutane acts like antidepressants in the brain so it couldn't possibly cause psychiatric effects.

We all realize the uproar that has been caused by the FDA when they would not allow their own expert to testify that antidepressants used in young people were ineffective and increased suicidality. The British came to the same conclusion, and they banned the use of antidepressants in people under the age of 18.

Just 2 weeks ago, the FDA finally declared that there is an increased risk in suicidality in children who take SSRIs. It has created a firestorm of debate about how safe these drugs are and how they affect kids.

Yesterday's Wall Street Journal had a story about the possible reasons why there is an increase of suicidality of children who take antidepressants. The story says, "One hypothesis is that, in some patients, these drugs have a disinhibiting effect," says one Wayne Goodman, chairman of the FDA panel that examined the issue in young people. "Children are already a bit disinhibited because their brains aren't fully developed." Remember, in 2001, Accutane studies that the FDA reviewed concluded that Accutane was like the antidepressants with its SSRI function.

The FDA must demand a full accounting of how these drugs, both Accutane and antidepressants, affect our children and their developing brains.

There is no excuse for allowing Accutane to be prescribed to hundreds of thousands of kids without, at the very least, continuing to demand answers as to the effect of this drug on the brain.

At the very least, FDA can begin to address the "off label" use of this drug, but yet the FDA estimated in 2002 that 90 percent of the prescriptions were written for "off label," meaning they were not written to treat severe acne unresponsive to other antibiotics.

At the very least, FDA can finally approve a mandatory risk management plan to track Accutane's side effects and prevent thousands of pregnancy exposures, miscarriages and abortions each year. FDA advisory committees have called for stricter distribution of the drug and a registry of the patients to control the use of this drug. They have called for this twice in the last 4 years. Unfortunately, the FDA has ignored these recommendations, and the same failed policy and system is in place with this drug.

Last week, I and a few of my colleagues shared our concerns with the Secretary of Health and Human Services Tommy Thompson about the lack of action on implementing these advisory committee recommendations.

The birth defects caused by Accutane are similar to those of thalidomide. People of my generation and older remember vividly the thalidomide babies of the 1960s.

Over 1.5 million prescriptions for Accutane and its generics were written in 2003, and clearly, Accutane has the potential to do greater damage, so why do we not have the same controls as we do on thalidomide?

Madam Speaker, my time has expired, and I will insert the rest of my remarks at this point in the RECORD.

It's no secret that I am no fan of the FDA's handling of Accutane or the drug company, HLR's, constant denial that Accutane does not cause depression or affect the brain—we know with this PET Scan their denials are baseless! However, I am appalled at the FDA's inaction on this registry. That's why in June, I joined with colleagues on both sides of the aisle and introduced the Accutane Safety and Risk Management Act (H.R. 4598). The legislation would create a mandatory program to manage the drug, and includes provisions to protect the health of patients and their children. To make sure we do not allow our children and their developing brains to be destroyed.

History suggests that unless there is strong leadership from Congress on this issue, the Advisory recommendations to the FDA will end up collecting dust on a shelf.

I hope my colleagues on both sides of the aisle will join me in cosponsoring this important legislation to send a strong message to the FDA and HLR that we will not accept their inaction any longer.

SUPPRESSING THE COST ESTIMATE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. BROWN) is recognized for 5 minutes.

Mr. BROWN of Ohio. Madam Speaker, November 17 a year or so ago, just three weeks before the Medicare bill was signed into law, President Bush said this law would cost $400 billion. That is what he told the American public. That is what he told the Congress. Five months earlier, his actuaries in the center for Medicare/Medicaid services, the Medicare bureau, estimated the President's Medicare bill would cost $534 billion.

I am not saying that the President lied about this, but it is pretty clear the President's people knew this bill cost $134 billion more than it really did. Whether the President knew about it, whether his top aides told him, remains a question.

Now, the White House says, though, the bill will cost $576 billion. It is bad enough that the President and Republicans in Congress advertised one thing to this Congress and to the American people and sold them on another. What is worse is the deliberate nature of this deception and tactics used to achieve it.

□ 1945

But let us go back and look at this whole Medicare bill and how we ended up where we did, starting from the time the drug industry and the insurance industry met in the Oval Office with President Bush and wrote the bill. Starting with then and following through all the way until Labor Day weekend, 3 weeks ago, where the President announced a 17 percent, a record increase, 17.4 percent in Medicare premiums that seniors will be forced to pay.

First the bill was written with President Bush and Vice President CHENEY sitting down with the drug industry, sitting down with the insurance industry and writing a Medicare privatization bill. You know that it was written by the drug and insurance industry because the drug industry profits go up $180 billion under this bill, that is $180 billion with a "b," and you know the insurance industry was part of this because they benefit to the tune of billions of dollars in direct subsidies from seniors through increased premiums and taxpayers in increased dollar subsidies to the insurance industry.

Now, we also know that the passage of this bill was perhaps the most sordid spectacle we have seen in this Chamber of the House of Representatives in decades. The debate started at midnight, the votes started at 3 o'clock in the morning after most of the press had gone home and after most Americans had turned their televisions off. Normally, a vote takes about 20 minutes, but this took 2 hours and 55 minutes. There was arm-twisting on the House floor, when this bill was actually defeated, for the first 2 hours and 45 minutes. The bill was down 216 to 218. We also know that there was a Member of Congress from Michigan, Republican, who the next day told a radio station in Michigan that Republican leaders attempted to bribe him on the House floor with campaign money. We know all of that. And we know that as a result of this bill, we end up with a 17 percent premium increase.

So the vote was taken in the middle of the night when people were not paying attention, Members of Congress had their arms twisted and were made promises, with one Member of Congress reporting an attempted bribe, and we also know that come March, after this bill passed, that even though the drug benefit does not start until 2006, we find out that starting in March, the Federal Government and seniors whose premiums have gone up begin to pay a monthly payment to the Medicare HMOs.

In March 2004, Medicare HMOs were paid $229 billion by taxpayers. In April of 2004, the Medicare HMOs were paid by taxpayers and Medicare beneficiaries through a premium increase of $229 billion. In May, June, July, August, and September, every single month, taxpayers and Medicare beneficiaries have paid HMOs $229 billion. Next month, November, December, and all of next year, the government and seniors will pay $229 billion to the Medicare HMOs, and the drug benefit does not start until 2006.

There are 22 months of direct payments from seniors through an increased premium, and taxpayers, to the tune of billions of dollars, 22 months of $229 billion a month payments to the insurance industry, insurance company HMOs, from seniors and taxpayers, even though the drug benefit does not start until 2006.

Mr. Speaker, you can see the perfect circle here. You can see that the bill was written by the drug and insurance industry with the President and the Vice President and Republican leaders. The drug and insurance industry get huge subsidies, much bigger profits, direct subsidies, with seniors paying a 17.4 percent premium increase, and taxpayers paying billions of dollars in order to pay off the insurance industry and the drug industry. And the completed circle ends this way: with the President and Republican leaders of this Congress getting tens of millions of dollars in campaign contributions from the drug and insurance industry.

It is corrupt, it is shameful, and it is morally reprehensible.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman will refrain from improper references to the President and Vice President.

Mr. BROWN of Ohio. What was that, Madam Speaker?

Madam Speaker, I do not understand. I did not say the President. What did I say that was improper?

The SPEAKER pro tempore. Improper references to the President and Vice President, whether by accusation or innuendo are not in order.

Mr. BROWN of Ohio. Madam Speaker, I only said that the President and Vice President sat down with the drug and insurance industry and wrote this bill, and I never said the President did anything illegal. I questioned that it was the right thing to do. Am I not allowed to say that, Madam Speaker?

The SPEAKER pro tempore. The gentleman may not, even by innuendo, allege a quid pro quo between receipt of campaign contributions and public-policy decisions.

Mr. BROWN of Ohio. Madam Speaker, I really just want to make sure I understand. So if the President wrote a bill with the drug and insurance industry, then by my saying that the drug and insurance industry gave money to the President's campaign, that is improper to say?

The SPEAKER pro tempore. The gentleman's characterization of the process as corrupt conveyed the impression of undue influence.

Mr. BROWN of Ohio. Madam Speaker, I was talking about the leadership of this Congress being corrupt by passing a Medicare bill the way they did.

THE THREE Rs

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Madam Speaker, the three Rs used to stand for reading, writing and arithmetic. Now the three Rs stand for Republican rhetoric is not reality. Here is the proof.

Under this administration, Bermuda has become corporate America's favorite destination. And I am not talking about vacations. The Tax Code encourages and rewards U.S. companies to set up storefronts offshore to exploit their profits, with $75 billion last year alone, and avoid U.S. taxes.

And if the administration has its way, it will get even worse. The armored trucks, loaded with U.S. corporate profits, will be lining up at the docks waiting to transfer the money out of our country. It is made to work that way. Policies by the administration and approved by the Republican House are costing the American people between $10 billion and $20 billion a year in exported tax revenue, money that should go for health care, education, senior citizens, and worker retraining. The need is there but the revenue is somewhere else.

U.S. companies deserve to make a profit, but America deserves to have everyone pay their fair share to support the country that gave them the opportunity to make those profits. Indeed, the administration has put corporate interests ahead of America's interests. It is a double-edged sword and both sides are hurting the American people.

More corporate profits are being shifted offshore and more corporate expenses are being shifted on to the workers. Over the last 4 years, health care premiums paid by American workers have risen three times faster than the average earnings. Today, over 14 million Americans spend at least 25 percent of their earnings on health care costs.

And let me clarify something, Madam Speaker, before the Republican rhetoric kicks in. Those 14 million Americans, spending at least 25 percent of their earnings on health care, all of them are under the age of 65. It is the middle class, in other words, that is being struck under the burden of administration policies that put corporate interests ahead of America's interests.

Over the last 4 years, health care premiums in 26 States have risen more than 40 percent. What did the administration do in response? Reward the drug companies with more profits and renege on a promise to senior citizens. Americans today, old and young alike, are paying more and earning less. And Americans are going to be paying a lot more in the coming years.

When the administration exported the U.S. Treasury into the bank accounts of the rich, America was left holding an IOU that is a black hole on America's future. There is no way to see in it, through it, or out of it. Fully one-half of that massive deficit this year alone is a direct result of the administration's fiscal binge. They have created a mountain of debt and a mole hill of economic progress.

Despite the Republican rhetoric, the administration is short at least 100,000 jobs per month. Per month. Despite the Republican rhetoric, the American people know that. Consumer confidence was down again last month because people are not buying the administration's rhetoric. The number of consumers saying jobs are hard to come by went up. Consumers drive the U.S. economy. They are worried, and with good reason. The number of people living in poverty is up. The number of people without health care coverage is up. The number of people who have exhausted long-term employment benefits is dramatically up.

And then, Madam Speaker, there is Iraq. Escalating casualties, chaos, and crisis lead the President to conclude things are getting better. That must explain why over one-third of former soldiers called up this month and ordered to report for active duty in Iraq have not shown up.

Americans can tell the difference between a photo op in the Rose Garden and a reality check in Iraq. Things are not getting better. At every opportunity to talk straight to the American people, the administration has chosen to sacrifice credibility in hopes of perpetuating its story. Trouble is, the real story about Iraq is every night on the news. The administration can try and change the rhetoric, but the American people are not changing the channel. They know what they see and read. They know it is not what the administration claims. They know that only new leadership will solve the crisis in Iraq and revive the economy at home.

The administration had its chance, again and again and again and again. The rhetoric got better, even as the reality got worse, and even as we went further into debt, and even though the debt is the biggest we have ever had in our history in 1 year. That is the choice facing America. Believe the administration's rhetoric about Iraq and the economy, or elect JOHN KERRY to take care of reality.

UPCOMING ELECTIONS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Madam Speaker, last week, a number of members of the Congressional Black Caucus, myself included, addressed the issue of upcoming elections, with particular attention going to voter intimidation, oppression, and suppression. I congratulate the Congressional Black Caucus, and particularly the leadership of our chair, the gentleman from Maryland (Mr. CUMMINGS), for making Americans aware of this very serious issue.

The sad truth is that in every election since reconstruction, in every election since the Voting Rights Act passed in 1965, voters, and particularly African Americans and other minorities, have faced calculated and determined efforts at intimidation and suppression, both above and below the Mason-Dixon line, indeed throughout the Nation.

It appears that the upcoming national elections will not break that pattern. In an article on the op-ed page of Monday's Washington Post, former President Jimmy Carter states the following: "The disturbing fact is that a repetition of the problems of 2000 now seems likely, even as many other nations are conducting elections that are internationally certified to be transparent, honest, and fair."

President Carter cites two significant requirements for free and fair elections. First, standards that the State of Florida still fails to meet. The first is a nonpartisan electoral commission or a trusted and nonpartisan official who will be responsible for organizing and conducting the electoral process. And the second requirement is uniformity in voting procedures so that all citizens, regardless of their social or financial status, have equal assurance that their votes are cast in this same way and will be tabulated with equal accuracy.

Madam Speaker, as many of my colleagues know, President Carter is not speaking off the cuff when it comes to election monitoring. The world renowned Carter Center has monitored more than 50 elections around the world, many under difficult and dangerous circumstances. When it comes to certifying that elections are free and fair, the Carter Center is the gold standard. People listen and they take note.

They listen and take note, it appears, everywhere in the world but here in the United States.

President Carter is dead-on target in stating that "It is unconscionable to perpetuate fraudulent or biased electoral practices in any nation. It is especially objectionable among our Americans, who have prided ourselves on setting a global example for pure democracy."

That is why I introduced House Resolution 793, a sense of Congress resolution, condemning all efforts to suppress and intimidate voters in the United States and reaffirming that the right to vote is a fundamental right of all eligible United States citizens.

□ 2000

The resolution also urges States to replace decade-old election machinery with less error-prone equipment before the November 2004 national elections; calls upon all States to institute a moratorium on the erection of roadblocks or identity checkpoints designed to racially profile voters on Election Day, and calls upon the Attorney General to vigorously monitor all credible allegations of voter intimidation and suppression and to expeditiously prosecute all offenders to the full extent of the law.

Mr. Speaker, House Resolution 793 is a simple resolution that reaffirms the most basic right of every American, the right to vote and have their vote counted. This is not a partisan issue. It is not a Democrat or Republican issue, and I would note, however, that not one single Member on the other side of the aisle has cosponsored this resolution.

Can anyone take comfort in conducting elections under flawed circumstances that depart from the principles of fair and equal treatment? Can anyone condone an election that perpetuates fraudulent or biased electoral practices? I certainly hope that our Nation's noble experiment in democracy has not.

Madam Speaker, in closing, I want to briefly address another issue of voter inequity. This past weekend I held a voter awareness workshop in my congressional district for ex-offenders. It is a model for the rest of the Nation, and I would hope that we would look to letting ex-offenders exercise their right to vote after they have served their time and paid their debt to society.

Last week, a number of members of the Congressional Black Caucus, myself included, addressed the issue of the upcoming elections, with particular attention given to voter intimidation, oppression, and suppression. I congratulate the Congressional Black Caucus, and particularly the leadership of our Chair, Congressman ELIJAH CUMMINGS, for making Americans aware of this very serious issue.

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President Carter cites two significant requirements for free and fair elections—standards that the State of Florida still fails to meet: The first is "a nonpartisan electoral commission or a trusted and nonpartisan official who will be responsible for organizing and conducting the electoral process"; and, the second requirement is "uniformity in voting procedures, so that all citizens, regardless of their social or financial status, have equal assurance that their votes are cast in the same way and will be tabulated with equal accuracy."

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Mr. Speaker, in closing, I want to briefly address another issue of voter inequity. This past weekend I held a voter awareness workshop in my congressional district for ex-offenders. In many States around the nation, ex-offenders' right to vote is either restricted or banned. This week the Sentencing Project released a study showing that African American men in Atlanta were 11 times more likely than non-African American to be disenfranchised. Nationwide, an estimated 5 million Americans are affected by felony voting restrictions. African-American males account for about 8 percent of the U.S. population and 40 percent of the prison population.

The high numbers of disenfranchised African American males casts a pall on voting. Why should any State have the authority to restrict the right of persons to vote who have paid their debt to society? This is fundamentally unfair and unjust.

Mr. Speaker, the credibility of our Nation is under attack from around the world. We cannot afford to witness another election debacle like the one we experienced in 2000. It is time for the American public and this body to sit up and take note of a potentially serious crisis facing the United States.

MARRIAGE PROTECTION

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from New Mexico (Mr. PEARCE) is recognized for 60 minutes as the designee of the majority leader.

Mr. PEARCE. Madam Speaker, I thank the body for allowing us to speak tonight on this extremely important issue.

The state of a society is an ongoing process. We tend to want to think that we can pass along our values and the rights and freedoms that we have in a current age to those in the next generation. For instance, I just think that I can pass along the right to my daughter, who can pass along to our grandson and granddaughter the rights to own a business or the rights to a public education, or maybe even the right to understand exactly what society is about, the good parts and the bad parts.

Well, the Nation is involved right now in a discussion about what is best for America when it comes to marriage. The Massachusetts Supreme Court made a decision a couple of months ago that began to cause us all to think about what is the right definition for marriage, how should we change it, why should we change it, or should we change it.

We have several Members here on the floor tonight to help present this discussion to this body, and I yield to the gentlewoman from Colorado (Mrs. MUSGRAVE) who is the sponsor to the amendment to the Constitution that would declare marriage as simply between a traditional man and woman.

Madam Speaker, I yield to the gentlewoman to explain her ideas.

Mrs. MUSGRAVE. Madam Speaker, the best gauge of whether the American people want the definition of marriage to be a union of a man and a woman is to look at elections in recent activities in the States on this subject.

Madam Speaker, voters in 7 States have gone to the ballot box to enact either a State Defense of Marriage Act, to pass State marriage amendments, or to permit the State legislature to define marriage, thus preventing a State court from doing so. Each time the initiative passed overwhelmingly.

The people of Hawaii voted with 69 percent approval to pass a State marriage amendment. The people of Alaska voted with a 68 percent approval to pass a State marriage amendment. The people of California voted with 61 percent approval to pass a State defense of marriage statute. The people of Nebraska voted with 70 percent approval to pass a State marriage amendment. The people of Nevada voted with a 70 percent approval to pass a State marriage amendment. The people of Missouri voted with 71 percent approval to pass a State marriage amendment. The people of Louisiana voted with a 78 percent approval to pass a State marriage amendment.

Madam Speaker, 44 States have recently enacted laws that provide that marriage shall consist only of a union of a man and a woman. These 44 States constitute 88 percent of the States, well more than the three-fourths required to approve a constitutional amendment, and they include 86 percent of the United States population. The American people have spoken on this subject. It is time that Congress send to the States the marriage protection amendment so that States can decide for themselves whether to ratify the policy that marriage is the union of a man and a woman. Marriage is what really matters to the American people, to the American moms and dads, to the American children. It is just common sense.

Mr. PEARCE. Madam Speaker, I thank the gentlewoman from Colorado (Mrs. MUSGRAVE) for cosponsoring this amendments.

We hear a lot of discussion in this Nation about tolerance and about diversity and we should hear all sides of the discussion, but I will tell Members that the same people who shout loudest about tolerance and diversity have been the same people who have attacked the sponsor of this amendment to the Constitution. She has had threats made on her life. She has had slurs and insults thrown into her face, and she has tolerated abuse no one should have for simply speaking in America.

I worry in this same discussion about what the marriage is and what the family is and what it consists of. I worry that the opponents in this argument really do not want free speech, they do not want a public discussion. And that is what we are saying on this side of the aisle, that the discussion should be taken to the American people, that judges who are not elected should not make this decision; and that is exactly what is going to happen if we do not have the courage to make a stand and to identify what we think is the language which should amend the Constitution of the United States.

Madam Speaker, I thank the gentlewoman for having the courage to withstand the death threats from the people who disagree with her, and for standing tall and for defining the moment in American history that is before us right now.

Madam Speaker, I yield to the gentleman from Indiana (Mr. PENCE) to talk about this issue.

Mr. PENCE. Madam Speaker, I thank the gentleman from New Mexico (Mr. PEARCE) for leading this Special Order tonight. I thank him for his courageous leadership as a freshman.

Madam Speaker, I associate myself with the remarks about our previous speaker. While we address the Speaker, we are nonetheless cognizant at times many millions of Americans look into our deliberations on this floor, and I think it is altogether fitting to recognize that a freshman, the gentlewoman from Colorado (Mrs. MUSGRAVE), arrived in this institution and brought her support for traditional marriage to the floor of this Congress, and has turned her face like flint against the wind and has brought us to this point where we are on the eve of an enormously important vote in the life of our Nation, and I commend the gentlewoman for her tenacity and courage. To a lesser extent, I commend the people from Colorado for sending leaders like the gentlewoman to this institution.

That said, we are here tonight for the purpose of gathering thoughtful colleagues like the gentleman from New Mexico (Mr. PEARCE) and those that will follow to consider out loud what will no doubt be lost in sound and fury on this floor tomorrow when the Marriage Protection Act, a constitutional amendment that defines marriage in the traditional terms as a union between a man and a woman, is brought to the floor of the House of Representatives.

There are those, and it is almost understandable in a season where a national election is just around the corner, there are those who will say this is politics. The more initiated among us would use phrases like "wedge issues" to explain the value of tomorrow's vote. But I must say and I believe I speak for the heart of this President whose moral courage has brought us to this vote today, of the leadership of this majority, of Republicans and even many Democrats who will tomorrow stand for this constitutional amendment when I say this is not about politics. This is, as the gentleman from New Mexico (Mr. PEARCE) said, this is about who we are as a people. This is about the foundations of our society. It is about what it is we will hand on to our children and grandchildren.

In my judgment it all comes down to the simple belief, that is millenia old, that marriage matters. In one debate after another with some constituents in Indiana and in some national broadcast forums, I have allowed people who disagree with me on the need for a constitutional amendment. I have said if you do not think marriage matters to children, to communities, and thereby to the life of the Nation and to the vitality of our civil society, then I can understand why you would not be prepared to go to the necessary means of a constitutional amendment to defend it and define it in traditional terms.

But if you believe, as I do, and as survey after survey shows us, that the overwhelming majority of the American people do, that marriage matters, that far beyond the conviction that I share and that millions of Americans share that it first matters because it was ordained by God, we see it even beyond those terms as an institution upon which our society was founded. Rightly understood, marriage and the family is the first and original unit of government. It is the glue of the American family and it is the safest harbor for raising children.

None other than a predecessor who represented northeastern Indiana on this floor from 1976 to 1980, Dan Quayle, made this point when he was Vice President of the United States in 1992. Dan Quayle, against a withering assault, suggested in a national debate that the statistics proved that children who were raised, however imperfectly, in a two-parent home with a mother and father did significantly better in avoiding all types of social maladies than children, who for whatever reason, no fault of their own or their parents, found themselves in a different circumstance.

Dan Quayle's Murphy Brown speech became a national political joke, Madam Speaker, until after the election was over and the esteemed Atlantic Monthly Magazine pulled together a group of psychologists and sociologists and published in February 1993 that famous headline "Dan Quayle Was Right"; because what Vice President Quayle said is even more true today, that children that are raised in traditional two-parent homes find themselves, for whatever reason, but looking at the facts, find themselves able to avoid a host of social maladies that beset our children: teen pregnancy, sexually transmitted diseases, falling into gang violence or drugs, dropping out of school. Children raised in two-parent homes are significantly less likely to fall into those maladies.

That is not to say that single parents are less significant to our Nation. My wife was raised by a single mom, and we laid her to rest early this year, and I honor single moms maybe more than any other moms in our Nation because they bear such an extraordinary burden with such dignity and grace.

But in the development of social policy, you recognize good, better, and best, and the reality is the sociologists have spoken; the unflagging truth of western civilization and of modern American history is that marriage matters to kids and therefore is worth being preserved.

My second and only other point before I yield to my colleagues is much addressed to all of us who will consider this debate on this floor tomorrow. I am a conservative Republican Member of this Congress, and yet I have noted there are conservative colleagues of mine who are troubled that we are bringing an amendment to the Constitution every bit as much as there are liberal Democrat colleagues of mine.

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And so I wanted to take just a few more minutes to speak about why this Marriage Protection Act is necessary to amend the Constitution of the United States, because I truly believe that it is.

Let me say from my standpoint, the constitution of a nation rightly understood as the supreme law of the land of which it is a part is a document, yes; but as John Locke first described, it is part of a charter between the people. What I would offer today, the question is not whether our charter will be changed, or whether marriage will be defined one way or another in our social contract. Rather, it is whether that definition will be brought by the people in an orderly amendment process to the Constitution or whether this issue in a constitutional perspective will be decided by unelected Federal judges. That is it.

The point that I will make here in the few remaining minutes that I will take I hope, Madam Speaker, will make this point. This issue is coming to the fore. It is coming to our Federal courts. As I will prove in a few moments, the United States Supreme Court, which I venerate and respect, has in recent decisions signaled a willingness to extend the right of privacy to certain types of behavior which could very well, according to legal leading scholars, have laid the foundation to recognize gay marriage by a narrow majority of the Supreme Court.

Here is the record. Activist lawyers and their allies in the legal academy over the last decade have devised a strategy to override the public opinion that I described earlier which is, by one reckoning or another, by referendum in Missouri recently, 71 percent of the public affirmed the traditional definition of marriage, survey after survey shows the overwhelming majority of the American people support it, but there has been an effort to use the courts much in the same vein as in Roe v. Wade in 1973 to redefine the laws of all 50 States through judicial fiat.

They achieved their first success in 1999 when they convinced the Vermont Supreme Court that they should order the State legislature to legalize same sex marriage or create same sex civil unions. The legislature chose the latter despite strong public opposition. The activists won their second victory when they convinced the Massachusetts Supreme Judicial Court to force that State to give full marriage licenses to same sex couples. Even though citizens of that State opposed same sex marriage and no law had ever been passed to authorize it, same sex marriage in Massachusetts became a reality on 17 May 2004.

The activists have, Madam Speaker, literally plotted a State-by-State strategy to increase the number of judicial decisions mandating same sex marriage. The goal is to force the same sex marriage issue on the Nation piecemeal and then to demand the United States Supreme Court order the holdout States to accept and do the same. It is a fairly transparent and ingenious legal strategy. And the United States Supreme Court has provided potent ammunition for these activists when they decided the Lawrence v. Texas case of June 2003. In that case, dealing with same sex sodomy, the Supreme Court strongly signaled that a right to same sex marriage could be found in the number of the Bill of Rights, in the so-called right of privacy of the U.S. Constitution. This, Madam Speaker, is precisely the same right that the late Justice Blackmun derived the right for an abortion in 1973 in the infamous Roe v. Wade case.

Again I say, this Supreme Court in Lawrence v. Texas in June of 2003 signaled that a right to same sex marriage could be found in the U.S. Constitution. In fact, experts as varied as Laurence Tribe of Harvard and Justice Antonin Scalia agree that the court's decision points to the end of traditional marriage laws. Let me say it again. This is something of a consensus opinion when Justice Scalia on the right and the famed author and professor Laurence Tribe of Harvard on the left agree that the Texas case lays the foundation for essentially the redefinition of traditional marriage.

Activists are attempting to build on their successes as we speak. In Vermont, Massachusetts, and in the Supreme Court in the Lawrence case, same sex couples are now challenging marriage laws in my State of Indiana, California, Florida, New Jersey, New Mexico, New York, Oregon, Washington, and West Virginia. In addition, lawsuits have been filed in Alaska and Montana to force those States to grant particular marital benefits to same sex couples. And while I support the Defense of Marriage Act strongly, according to many experts it provides a weak defense to these lawsuits. State and Federal courts are poised to strike down that law under the Constitution's equal protection and due process clauses and force recognition of same sex marriage.

The only way, therefore, Madam Speaker, to prevent this core societal decision which, as the gentleman from New Mexico said, is central to who we are as a people, it is central to that which we would bequeath to our children and grandchildren, the only way to prevent this core societal decision from being made by unelected judges is to allow the people to speak on this issue through the constitutionally mandated amendment process. This process which requires, and we will attempt to achieve it tomorrow, two-thirds of the Congress and three-fourths of the States by votes of their legislature is the most dramatic grassroots political mechanism available to let the people speak.

Let me close and yield back to my colleague with that point. We are in the people's House. Our founding documents speak of we, the people. Abraham Lincoln, standing on what would become the graveyard at Gettysburg, spoke of a Nation of the people, by the people and for the people. Yet there are those, and we will hear it on this floor tomorrow, I suspect, Madam Speaker, who will make the case that rogue, unelected judges know better than the people of the United States and that somehow what we are doing on this floor tomorrow in an amendment to protect marriage as it is traditionally defined is somehow contrary to our best traditions.

I would offer to you as I close, our best tradition is that we are a government of the people, by the people and for the people. And when it comes to that institution which is marriage, which is so central to who we are, so necessary to the vitality of our society, we must hear from the people and that is what this majority will bring with our great leadership to the floor tomorrow for consideration.

I yield back my time with gratitude to the gentleman from New Mexico and my colleagues for being a part of this very important starting conversation about the Marriage Protection Act.

Mr. PEARCE. Madam Speaker, there are a lot of questions that I am given when I bring this subject up in the district that I represent and they are fair questions and they are good questions and I think that we have a responsibility to deal with some of those questions. Many people say, aren't you just infringing on the rights of the gays and lesbians? It does not appear that we are. What appears that we are trying to do is to say that gays and lesbians have the right to choose any life-style they want but what we are going to limit is their ability to redefine what marriage is.

Marriage is not defined by the Constitution. Marriage really is not even defined in law first. Marriage was defined in nature first. It is in nature that we find that men and women come together to have children and in the process of having the children, the sexual acts that caused the children create bonds that cause the couples to stay together. Those bonds create the family that sustain and nurture and raise and defend and protect our children. This argument is not about what is right for any class of people except children. When we move the children out of the central focus, we begin to stray away from the most vital, important part of this discussion because it is through the children that we have the next generation, the generation that will work and sustain us, the generation that will produce succeeding generations.

Those countries which have already admitted same sex marriages as a right and as a law, we find that in those societies that marriage is beginning to dissipate and disappear. Some would say, so what? So what is that the main structure, the main defense mechanism, the main way that children are born, raised and put onto the path in life that they should be put on is the family. So we cannot have a so-what attitude about it. We must understand that if we choose this, that it is going to radically affect our Nation and radically affect those things in society which keep our standards the way they are which make this Nation great.

If it is the decision of the majority of the American people to do that, it is one thing; but if it is the opinion of some activist judges who wish to redefine the American culture, then I think America is speaking out right now and we have an obligation to listen to what America is saying.

I would like to recognize another one of my colleagues, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) who is always involved in issues involving the family.

Mrs. JO ANN DAVIS of Virginia. Madam Speaker, I stand tonight in strong support of the Marriage Protection Amendment, and I consider this debate among the most important of my tenure in this House. I also want to make clear up front that this amendment is about reaffirming a national definition for one of our Nation's, and the world's, most important institutions, namely, marriage. This amendment does not, and I repeat, does not interfere with the right of State legislatures to change laws for their States, nor does it deny individuals the right to make sexual choices. The right to marriage will remain the same for everyone, that is, the right to marry another individual of the opposite sex.

I find it unfortunate that we must act today on something as seemingly clear as the definition of marriage, but activist judges have forced our hand in this important matter. You see, poll after poll and vote after vote at the State level have indicated that the American public overwhelmingly supports the definition of marriage as consisting of the union of one man and one woman. Indeed, 44 States have enacted laws affirming this very definition.

Moreover, in 1996, an institution no less than this very Congress and then President Clinton enacted the Defense of Marriage Act that defines marriage for Federal Government purposes as the union of one man and one woman. Contrary to what you may have heard elsewhere, the notion that marriage is the union of a man and a woman is not controversial. However, activists in the judiciary, as evidenced by the Massachusetts Supreme Judicial Court deciding that there is no rational reason for restricting the benefits of marriage to heterosexual couples, seem bent on redefining marriage for an entire Nation in direct opposition to the wishes of the vast majority of Americans and with a flagrant disregard for the millennia-old institution of marriage that has been responsible for the successful propagation of the human race.

Since ancient days in all corners of the globe, men and women have left their own families to join together and form new families for intimate companionship and, importantly, the rearing of children.

To those opponents of this amendment who contend that marriage in this country is broken already, citing statistics that half of marriages end in divorce, I must say that I agree with you. Admittedly, our debate today does not go to the heart of the problem, but rather addresses a symptom after years of degradation of the institution of marriage in America.

Certainly it is a great tragedy when men and women divorce and children are not raised by both a mother and a father. While there are millions of men and women in this country who bravely and lovingly raise children by themselves, social science and our everyday experiences teach us that children raised without a mother and a father experience more poverty, more welfare dependence, more substance abuse, more physical illness, higher infant mortality, more homicide, more premature and promiscuous sexuality, more early unwed pregnancy, more juvenile delinquency, more educational failure, more conduct disorders and more adult criminality.

It is also true that the future of marriage as a strong institution of America goes far beyond whether or not the Constitution is amended to reaffirm the definition of marriage as the union of one man and one woman.

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That fact, however, does not mean that the Marriage Protection Amendment is unimportant. Rather, it is exceedingly important. For as a society, we will have no hope of strengthening the bonds of marriage without a unified national definition of marriage, a definition consistent with the understanding of marriage as a union of one man and one woman.

Mr. PEARCE. Madam Speaker, I thank the gentlewoman for her comments. They address the issue in a very sensitive and appropriate way.

We have many people who say to me also, What does it matter? Gays can love each other. Should they not be allowed to marry?

And it is a very compelling question, one that we should look at. I will tell the Members that emotions are not the basis for raising children. They are not the basis of relationships. If emotions are the basis of relationships, if love is the question, two brothers can love each other. Would we allow them to marry? But when we bring that argument up, our opponents say, no, no, we do not want to go there. But I am sorry, that is where we go if we begin to say that love, that emotions are the basis of relationships. If love is the basis, two men can love two women. Why not all four get married? One man can love five women.

If we are going to do that, if we are going to allow emotions to determine that love is fine for the same-sex marriage, what we do is we give away the legal standing for prohibiting those things which become more onerous: incestuous marriage; the polygamists; polymorphism; or, even worse, the child-adult relationships that we have been able to keep so far as a thing that should not be approved in society. But once we give in to the rationalization that the marriage relationship is only about love, not about nature, we give up all the legal arguments that would keep us from moving into each one of those successively. One might say that is ridiculous, that no one would do that. But I will tell the Members that there are websites currently suggesting each one of those forms of relationships should be legalized, standardized and to be made public. So it is a very critical question here, what we are dealing with, and I think the Nation must be involved. We must not leave it to the decisions my friends say of the United States Supreme Court. My greater fear is that it is going to be one of the State Supreme Courts that makes the decision for the rest of the Nation, and I think that we see that potential time after time.

We are joined tonight by the gentleman from Texas (Mr. SMITH), chairman of the Committee on the Judiciary's Courts, the Internet, and Intellectual Property Subcommittee. I appreciate his willingness to talk about this issue and give his insights.

Madam Speaker, I yield to the gentleman from Texas (Mr. SMITH).

Mr. SMITH of Texas. Madam Speaker, I thank the gentleman from New Mexico (Mr. PEARCE) for yielding to me.

Madam Speaker, judicial activism in America has reached a crisis. Judges routinely overrule the will of the people, invent so-called rights and ignore traditional values. So far, judges have censored the Pledge of Allegiance in public schools, removed the Ten Commandments from public buildings and parks, banned the acknowledgment of God in public schools, imposed taxes, and now they have changed the definition of marriage.

Most Americans simply do not want judges to establish a new kind of marriage that is so different from the one that has served so many so well for so long. They want to protect marriage as we know it.

But what should citizens do and their elected representatives when a few judges impose their personal views on the American people? We have a choice. Either let judges decide or pass the Marriage Protection Amendment. Either we act in Congress or courts will continue to impose their definition of marriage on the country. Judges should interpret the Constitution, not promote a political agenda. The people and their representatives, not judges, should set social policy.

Madam Speaker, most Americans do not want to redefine marriage. Forty-four States already have enacted laws that provide that marriage shall consist only of the union of a man and a woman. The 44 States include 86 percent of the Nation's population.

We need to protect the right of the voters of these States to define marriage as they see it. This right is now threatened by activist judges who would overturn these States' policies. On behalf of the American people, we should vote for the Marriage Protection Amendment because it rightfully restrains judges who threaten our democracy.

We often hear opponents say that a constitutional amendment goes too far too fast. But amendment supporters were not the ones who, for example, ordered Massachusetts to legalize same-sex marriage. It was a panel of activist judges by a four-to-three vote. It is time to return this debate on society's core institution to the democratic decision-making process. Let us take this decision away from the courts and give it back to the American people where it belongs.

The constitutional amendment process is an integral part of our democratic process, requiring approval from two-thirds of each House of Congress and three-quarters of the States by votes of their State legislatures. Passing a constitutional amendment will place this debate back where it belongs, with the American people.

If we pass the marriage amendment, we will retain our understanding of marriage as the union of a husband and wife, ratified by the States. If we do not act now, the courts will redefine marriage. But it is the American people and their representatives who should determine how marriage is defined.

Madam Speaker, that is why we should support the Marriage Protection Act, as I hope all my colleagues will do tomorrow.

Mr. PEARCE. Madam Speaker, reclaiming my time, I thank the gentleman from Texas for his comments and appreciate his principled stand on so many issues.

Madam Speaker, we have to admit that marriage is universal. People ask me when I make the comment that nature has defined what marriage is first, law simply tries to capture it in language: What does it matter that nature describes what marriage is? Basically, there is a design to all things. There is an order to the universe. Marriage is universal. What the left is trying to do is to upset that order and to take order completely away because there will be no order once there are not restrictions on exactly the definition of marriage.

But beyond that, we must understand that when nature designs, any time we break a design, things just do not function as well. For instance, a car, that has a design to run on gasoline with oil in the engine. If we reverse the process and put oil in the gas tank and gasoline in the oil containment part of the vehicle, the design is not well served, and the machine simply does not work.

It is very true in nature, too. Our bodies are designed with blood to run through our veins, the heart pumping blood. But if we take the blood out and replace it with water, we find that the design simply quits working.

And it is the contention of many social scientists that marriage is one of the natural designs that simply will quit working if the design is not understood and adhered to.

So it is very critical, as we look at these things, to understand that marriage is far more than just a current-day definition. It is something where men and women have come together throughout history in all nations. All nations of different government types, tyranny, freedom, they all have one constant, that marriage is between a man and a woman and the family is better served, children are better served, when we have a clear definition of what marriage is. And children are the issue in this debate.

I have a gentleman here tonight from Iowa who is a good friend and whose views I often wait to hear.

Madam Speaker, I yield to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Madam Speaker, I thank the gentleman from New Mexico for be willing to come to the floor so regularly and stand up for the values that are so dear to this country, and I thank him for the opportunity to speak on this issue of marriage tonight.

I would point out that, tomorrow, we will bring the Marriage Protection Amendment to this floor, and we will debate this issue, and it will be debated intensely on both sides. There will be Members on both sides, Democrats and Republicans, who will vote for and against this amendment tomorrow. Those who vote for it will tell us that they do not believe we need to go to this drastic step in order to preserve marriage. What they are really saying when their vote goes up is they do not believe the people should have the opportunity to voice their will, their votes, within their own States in the process that is set up through ratification of our Constitution that is for a constitutional amendment.

The gentleman from Texas pointed out that the courts have overruled the will of the people. And a question I often ask is, how did we get here? What brought us to this point? We, the people of the United States, those of us who see these three different branches of government, those of us who view that they should be balanced branches of government, that it is the job of the people to establish social policy and that it is our job to reflect that here in this Congress and to promote that across this country, it is not the job of unelected, lifetime-appointed judges to direct the society that we live in, and we get into great trouble when we allow that to happen.

We have allowed it to happen for a long time, Madam Speaker, and that long time goes back, by my measure, 42 years, to 1962 when a Supreme Court case, Engel v. Vitale, was brought before the courts. And that is the famous case, Madalyn Murray O'Hair's name comes to mind, where the Supreme Court pulled prayer out of the public schools. I believe they misread our Constitution. The Constitution does not provide that there cannot be prayer in the public schools. It simply provides there cannot be an established religion. And how we got to this point of this separation between church and State being imposed upon pulling prayer out of the public schools is a complicated and convoluted legal argument that cannot be sustained by a reading of the Constitution.

A point was made in the Committee on the Judiciary the last couple of weeks, and I want to credit that to the gentleman from Indiana (Mr. HOSTETTLER), who said, when people on the other side are opposed to our amending the Constitution, saying leave it alone, do not amend it, leave it as it is, what they really mean is leave it alone and do not read it. When we read the Constitution, we have a whole different view of the document, that precious and sacred document, than we do when we read the news articles or listen to the arguments on the other side.

But in 1962, prayer was taken out of the public schools by the United States Supreme Court. Then 3 years later, 1965, came a case that we do not talk about very much. It is a case called Griswold v. Connecticut. And that was a case where the State legislature in Connecticut had passed laws that said that there would not be the selling of contraceptives in the drug stores in the streets of Connecticut. In that case, Griswold took it to the Supreme Court, and the Supreme Court found that there was a right to privacy. The first known sign of a discovered right to privacy supposedly in our Constitution, and that said that married people should have a right to go buy contraceptives and take them back to the privacy of their home and that the general assembly of Connecticut had no business sticking their nose into that privacy between two married people.

How in the world did we get from that right to privacy to where we are today? Incremental steps. The next incremental step was 1973, Roe v. Wade, where the Supreme Court found that this right to privacy was not just a right to go purchase contraceptives if they are married and bring them back to their home, but also a right to determine that that baby that was conceived would not be brought to term because the liberty of the pregnant female and the right to privacy superseded the right to life of that unborn child. An astonishing decision made by a Supreme Court to take that right to privacy and roll it into a right to abortion.

Now, I go to a couple of other cases. Stone v. Graham, 1980. 1962; 1965; 1973, Roe v. Wade; and let us leap to 1980, 7 years later, pulled the Ten Commandments out of our public schools. The gentleman from Texas (Mr. SMITH) spoke to that issue somewhat. Then, behind that came 1994, the case of Madsen v. Women's Health Center, Incorporated, and it removed the demonstration rights of people who were pro-life from demonstrating outside abortion clinics. Another right pulled away. It is okay to strike, and it is okay to demonstrate. It is just not okay to do it if it is not in a politically correct fashion, according to the courts.

Then there was a case in 1996, Romer v. Evans, where the Supreme Court overturned a constitutional amendment that was voted on with an overwhelming majority by the people of Colorado that said they will not impose special rights for certain classes of people at any level of political subdivision, and the Supreme Court said that the people of the State of Colorado had no business imposing their will on the political subdivisions.

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That had to do with special rights for sexual orientation and gender identity. It removed the right of the people of Colorado, suspended the tenth amendment, because they found another value there that I cannot quite discern. That is 1996.

2002, Newdow v. U.S., that was the ninth circuit, the infamous ninth circuit, that pulled "under God" out of our Pledge of Allegiance. That case correctly did not make it to the Supreme Court. The Supreme Court ruled that the gentleman who brought the case, Mr. Newdow, did not have standing.

I think there had to be some relief there, because I have stood in the Supreme Court chambers and I think about what that would be like to reference "under God" in our Pledge or what it would be like for the Supreme Court to rule on a decision on whether there would be the Ten Commandments in school. I do not know how they do that.

I stand in the Supreme Court chambers and I look up and I see Moses on the wall with the tablets. Maybe it does not seem so imposing to the Supreme Court, because the Ten Commandments on the tablets are in Hebrew, but we know what they mean. That was 2002.

2003, Lawrence v. Texas, where the Supreme Court found there was a right to sodomy, a right to homosexual relations. As I read through that decision, and I read it through four times, five times, maybe six times, and my margin notes are in different colored ink and they get heavier and heavier each time I read through there, and I get more chilled by the breathtaking decision of Lawrence v. Texas, not just the simple description I have given; but in that decision it says that the people elected by the citizens of Texas to represent them in the Texas legislature have no business imposing their moral values on the people that elected them.

The Lawrence decision, a six to three decision written by one of the Justices, really said "do not impose your moral values in any case whatsoever." If the Supreme Court does not approve of the values you bring to the legislative process, they might just throw it out on that basis alone. Breathtaking. It is not a constitutionally founded decision; it is a will-of-the-courts decision; it is a legislative type decision. And in fact that was 2003.

But I recall sitting in also in 2003, the date was April 19, 2003, Gratz v. Bollinger and Grutter v. Bollinger, the affirmative action cases at the University of Michigan. I went in and sat in on those two cases. For 2 hours and 30 minutes, I went to sit in the place where I could hear the most profound constitutional arguments, the United States Supreme Court. As I listened to those arguments, I heard legislative arguments.

I know what a legislative argument is. I have sat in on them for 8 years in my public life. We weigh unintended consequences. We weigh the result of a policy. But the Court's job is to weigh the constitutionality and the letter of the law and the congressional intent, not the result.

So the only constitutional argument I heard that day was from Justice Scalia, who said, "If we rule against you and it results in one minority in your school, 100 percent minorities in your school or no minorities, what possible constitutional difference can that make?" Thank God there is at least one Justice that asks a constitutional question. We are here with a constitutional question before this Congress tomorrow.

But the real question brought before us is under Goodridge v. Department of Public Health, Massachusetts Supreme Court, a four-to-three decision that imposed same sex marriage on the State of Massachusetts.

Now, anybody that has read Lawrence v. Texas and read the dissenting opinion that said "if this says it does not have to do with same sex marriage, do not believe it," would be an exact quote from the dissenting opinion. I did not believe it before I got to that point in reading that particular case; and I do not believe today that Lawrence v. Texas does not address same sex marriage.

I believe it set the stage. I believe they knew it was setting the stage. I believe that Goodrich v. Department of Public Health in Massachusetts that imposed same sex marriage in that State was a logical follow of Lawrence v. Texas. And we have 10 or so States or more that are bringing these cases through the courts working their way to the Supreme Court, where I believe the Supreme Court is poised to find a constitutional right to same sex marriage.

If that happens, we cannot put the toothpaste back in the tube. The courts will have taken us from removing prayer from the public school in 1962, right to privacy in 1965, right to abortion in 1973. I will read the rest of these years quickly: 1962, 1965, 1973, 1980, 1994, 1996, 2002, 2003, 2003, 2003, 2003. Do you get the pattern? This is accelerating on us.

This demise of our civilization is going far faster than it did for Rome. It took 200 to 300 years for Rome. I do not think it can take two to three generations in this country.

It is time for us to pass a constitutional amendment and slow down this activism of the courts and then save marriage, the very cornerstone of civilization. And then we can get to work with the hard work of winning back our schools, our educational institutions, and also our media in this country, so that we have good solid people grounded in solid constitutional values growing up in this country and taking over these roles that we are performing here tonight.

I thank the gentleman for yielding. I appreciate the opportunity to speak before this country.

Mr. PEARCE. Madam Speaker, reclaiming my time, I thank the gentleman for his comments.

Again, I would reiterate this question is about children. To those who would ask what about the gays and lesbians who are affected, no one would choose for them the lifestyle that they have chosen. But we do contend earnestly to defend the right of the people to continue to define marriage in the traditional sense as between a man and a woman.

There are those who would say, what gives you the right to limit the gays' and lesbians' freedoms? And the response is what gives us as a society the right to choose our desires over the needs of children? Because children are the question, and children are the objective of the marriages.

There are those who say that traditional marriage is plagued with divorce and should we not fix divorce if we are so concerned about the traditional marriage?

You would have to look at other arguments in the same vein. We all drive cars, and cars have crashes. Would crashes not argue against the use of cars? No, crashes simply tell us we should design better cars, we should drive more carefully, we should act with restraint, but they do not tell us we should not drive cars.

Neither does divorce, no matter how heinous it is, and it is a deep problem in our society, but it does not argue against the traditional marriage.

The people wonder who gets harmed if we make this change. If we redefine the marriage in society, who is harmed by that? I will tell you who gets harmed: the people of this Nation, who lose the right to define marriage as the union of a husband and wife get harmed, because even now in this country there are attempts to define and to codify and to put into law hate crimes legislation which would begin to chill the discussion about values that one family would like to pass on to their kids and to their grandkids.

If courts rule that same sex marriage is a civil right, then people like you and me who believe that children need moms and dads, we will be treated like bigots and racists. Religious groups like Catholic Charities or the Salvation Army may lose their tax exemption or be denied the use of parks and other public facilities unless they endorse gay marriage.

It gets to a point where in the classroom every description of families would have to include the whole universe of families, because we have already seen that happen. We have seen that the people on the liberal left would redefine even the way that we talk to our children.

Public schools will teach young children that two men being intimate is just the same as a husband and wife being intimate. That is not something that many of us feel comfortable with, and that is not something that I think should be forced on us by an activist Supreme Court.

If that is to be the way we are to govern and that is to be the way we live, it is right and proper that we would take that discussion to the American people. That discussion should be on every street corner, not in the closed chambers of the supreme court of some State, any State, or even the Supreme Court of the United States.

The Supreme Court has made decisions before about values, and we have had to amend the Constitution to change that. The most notable example is when the Supreme Court said in the Dred Scott decision that the will of the majority cannot be used to tyrannize the minority. It is almost the same rationale that was used in Lawrence v. Texas.

The will of the majority cannot be used to tyrannize minority, the court said, and we fought a civil war over it, because the will of the majority said slaves should be free and the Supreme Court said the slaves will not be free.

Not to have learned their lesson after the Civil War was fought and after we amended the Constitution, the Supreme Court came back 100 years later in the Plessy v. Ferguson case and said that if we could not have our way and mandate slavery, we, the Supreme Court, will mandate separate but equal facilities. Again, it took our society a long time to overcome those Supreme Court decisions.

It would be much simpler and much easier if we would recognize right now that the American people should be the ones to determine this issue; and I, for one, am supporting the attempt of the gentlewoman from Colorado (Mrs. MUSGRAVE) to amend the Constitution of the United States to declare in the minds of people for once and for all that marriage is a union between a man and a woman.

I will stand and fight for any one person's right to choose their life style, but I will also oppose their attempt to redefine for all of America exactly what marriage is.

Madam Speaker, I recognize that my colleague, the gentleman from Iowa (Mr. KING), would like to address this issue again, and would yield to him.

Mr. KING of Iowa. Madam Speaker, I appreciate the opportunity to pick up on some of the things that I did not address in my earlier talk.

I think we need to go back and look a little bit at the argument that there is a civil right or a constitutional right. I believe the courts are poised to either declare full faith and credit from the Massachusetts marriage to all 50 States in the Union; and, if they do not rule on that, I think they have got also a chance they could rule with the full faith and credit, but also the equal protection clause. Either one of those imposes same sex marriage on all the States, even though a vast majority of the States have passed marriage protection language, either in their constitutions or statutorily; and some of them have done both.

But a different way of thinking about this too is the argument is made that marriage is a civil right; therefore, you could not deny it to consenting adults.

I want to argue that marriage is not a civil right. It is not a civil right for a man and a woman, it is not a civil right for two consenting adults, and, in fact, it is not a right whatsoever. It is a privilege.

The reason I declare marriage to be a privilege is because we grant a marriage license. A license is something that gives you a permit. It is a permit to do that which is otherwise illegal.

So we grant a marriage license, or we grant a license to drive a car or to fish or hunt or whatever it might be, because we want to promote a certain kind of behavior and we want to regulate a certain kind of behavior. And certainly it is discriminatory in favor of those activities that we license.

So for the same reason, we grant a marriage license, a permit to do that which is otherwise illegal. It is not discriminatory, except that it is constructive because this cornerstone of civilization has been proven since the beginning of time to be the very element, that cornerstone of civilization through which we procreate, we pass along our religious values, our moral values, our work ethic, our very culture and civilization, all of the things that come through the marriage.

The children learn from a father and a mother. Say, for example, a little boy falls down and skins his knee, and he runs to his mom and she says, Come here, honey. I will kiss it and make it better. That is a mom's role in a case like that.

□ 2100

And the father says, oh, come on, son, you are going to have to be a man one day. You are going to have to tough this one out. That is the other message. They are not really conflicting messages; they are messages that need to come from the ideal circumstances between a man and a woman in holy matrimony.

Madam Speaker, so much of our history, so much of our culture, and so much of our civilization and our respect for our ancestors flows through marriage, and we know the things we learn there, because we revere our ancestors, we also want to be worthy of that respect from our descendants. Those values are taught through marriage, through the family, through the ideal way of raising children as a man and woman in the home, and that is the point I think is important to make, and I would be happy to conclude and yield back to the gentleman from New Mexico.

Mr. PEARCE. Madam Speaker, I thank the gentleman from Iowa. A couple more questions. People ask, is it fair? What about benefits? Are gay couples, if they cannot marry, denied benefits? If medical proxies are not working, let us fix that problem. If people need health care, let us fix that problem, but let us not mess with marriage.

Marriage is about children and it is about the best institution for raising children, and that is the issue. Kids are better off with a mother and father. The issue is not whether gays can be good parents or not; no one is talking about that. We are saying that children are generally better off with a loving mother and a loving father; and that is the role, that is the method, that is the paradigm that works best.

Madam Speaker, I would like to thank the people who have helped me present this case to this body.

IMPORTANT STRATEGIES FOR FIGHTING THE WAR ON TERROR

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from Texas (Mr. TURNER) is recognized for 60 minutes as the designee of the minority leader.

Mr. TURNER of Texas. Madam Speaker, I rise tonight to talk about what I believe to be the most difficult and the most important issue facing this Congress, a Congress that has the responsibility under the Constitution to provide for the common defense, and that problem is the threat of international terrorism.

It has been over 3 years now since the horrific attacks against our Nation occurred on September 11. Our world has changed in many respects since then. We know that we are engaged in a global war against terrorism. New security measures have been put in place at our ports, along our borders, and even along the roads leading to our Nation's capital. We know now that the circumstances in Arab and Muslim countries on the other side of the globe can affect the safety and security of all Americans right here at home.

With our national elections less than 5 weeks away, the American people are asking whether we are truly winning this war against our terrorist enemies. They want to know whether this government is taking the steps necessary to ensure that we are as safe as we need to be.

The members of the Select Committee on Homeland Security have been studying this issue closely for almost 2 years. We have visited our ports and our borders. We have heard testimony from hundreds of government officials and expert witnesses, and we have met with law enforcement and security professionals in our congressional districts. My colleagues and I are here tonight to say that, no, we are not as safe as we need to be. We say this reluctantly and regretfully, but it is our constitutional duty to be honest with our constituents and to tell the Nation how it really is.

Despite the rhetoric that we hear so often from this administration, the truth is that our government has not taken the steps necessary to provide genuine security from the threat of terrorism, and whether or not we are winning the war on terror has yet to be determined.

Indeed, 2 months ago, the 9/11 Commission, a bipartisan group appointed by this Congress in very important legislation, they drew the same conclusion that we draw tonight. That bipartisan report identified severe defects in the administration's policies to counteract terrorism, many of which were well-known years ago, but have not been adequately addressed. Indeed, the bipartisan 9/11 Commission Report and its recommendations are an indictment of this administration's efforts over the past 3 years to secure the homeland and to defeat our terrorist enemies.

The 9/11 Commission concluded, as we did in our report called "Winning the War on Terror," that we must engage on three fronts simultaneously. First, we need a more aggressive strategy to attack the terrorists directly by using our military and our other national security agencies wisely and cutting off the terrorists' source of funds. Such an aggressive strategy should ensure that we strengthen our intelligence capabilities to penetrate terrorist organizations and ensure that we translate and analyze all of the intelligence information that we collect in real-time.

Yesterday, the New York Times revealed in an article that the Justice Department's own Inspector General has determined that nearly a quarter of all ongoing FBI counterterrorism and counterintelligence wiretaps are not being monitored and that nearly 120,000 hours of wiretap recordings from terrorist investigations since September 11 have not even been translated.

This is unacceptable. This is the same problem that we had before 9/11. It was one of the key reasons that 9/11 occurred. If we are serious in our efforts to attack the terrorists, we must take full advantage of the information that is collected by our intelligence agencies. And to learn that 3 years after 9/11, our government has yet to get itself in a position to be able to translate the intelligence that we are collecting, to be able to have the linguists available to make those translations occur rapidly is totally unacceptable.

Additionally, we need to increase our special forces in our military to more aggressively attack our terrorist enemies. We must create greater numbers of small and light forces that have proved so successful in hunting down terrorist cells, and we must dry up the sources of funds for the terrorists and for their organizations. We must lead an effort to establish international financial standards to halt money laundering and to help other countries crack down on individuals and organizations who provide money to terrorist groups.

One may rightfully ask, why has this administration not done these things some 3 years after 9/11? The gap between the rhetoric on protecting the homeland and the reality of protecting the homeland is indeed very great.

In addition to attacking the terrorists directly, we need to protect our homeland by constructing and strengthening the layers of protective measures overseas, at our borders, at our airports, our seaports, and our critical infrastructures like the nuclear and chemical plants that are targeted by our terrorist enemies.

As an example, we must commit the necessary resources and take constructive steps with our allies to ensure that our dangerous nuclear and radiological materials are safe and secure overseas and do not threaten us here at home. We must ensure that we install the radiation portal detectors at our ports to ensure that a weapon of mass destruction cannot be shipped into our country on an 18-wheeler or in a cargo container coming off a ship at one of our seaports.

It is unacceptable that 3 years after 9/11 we still have not installed sufficient radiation portal detectors to know that this country is safe from our terrorist enemies bringing a nuclear bomb or a radiological device into our country. We must move much faster to protect our borders, to protect our ports, to secure our airports, our airplanes, and improve the capabilities of our Nation's first responders; and we must ensure that we can protect our citizens from the threat of bioterrorism, one of the most serious threats that we face today and increasingly will face in the years ahead.

As we aggressively fight our terrorist enemies, as we work to improve our homeland security, we must also engage in the third prong of making America safe as recommended by the 9/11 Commission. We must create a political, a social, and an economic strategy for this country to engage the Arab and

Muslim nations to prevent the rise of future terrorists. Many observers who have looked closely at the war on terror acknowledge very freely that we cannot win the war on terror with military power alone. It will take all the tools in our national arsenal to defeat al Qaeda and our terrorist enemies.

It is clear that we cannot coexist with our terrorist enemies. We cannot bridge over our differences with al Qaeda, but we must be aware of the nature of the current ideological struggle that is going on and is very much a part of the war on terror. We must know our enemies, we must understand what motivates them, and then we must support initiatives to rob them of that support.

To prevent the rise of future terrorists, we must first pursue policies that promote and support the voices of moderation in the Middle East and offer an alternative vision of hope for the millions of people, particularly young people, who today are appealed to by the message of bin Laden and al Qaeda.

Secondly, we must promote and support democratic institutions and practices worldwide, making it possible for democracy to rise in those places in the world where it does not currently exist. We must have the wisdom to recognize that democracy cannot be forced upon others; but it must be the result of people willingly, freely choosing liberty for themselves. We must launch an economic development partnership in the Arab and Muslim world that is in the spirit of the Marshall Plan that followed the Second World War. I would call this effort a renaissance partnership, for it would lead to a rebirth of prosperity and a new spirit of openness and tolerance in the Middle East. People without hope, people without the chance for a better way of life, they are the ones who respond to the ideology and to the message of the terrorists. We can change the world, but we must do so by engaging the world, by uniting with our allies in the rich Arab States to improve the conditions of the Muslim and Arab world.

All three of these tasks, going after the terrorists more aggressively, securing the homeland better than we are doing today, and preventing the rise of future terrorists, must be the principal focus of our national efforts to win the war on terror. Unfortunately, we do not have a comprehensive strategy in place today to deal with these elements in the war on terror, and that is why today we are not as safe as we need to be.

Tonight I will be joined by some of my colleagues on the Select Committee on Homeland Security and other Members who have played a leading role in homeland security issues in this House. We will discuss what we need to do to fight a smarter, a stronger, and a more effective war against terrorism. We will talk about the security gaps facing our Nation and our ideas for closing them.

We know that our terrorist enemies are not waiting. They continue to plot. They continue to scheme to attack America. We must have a sense of urgency, for the time to act is now; and we cannot wait any longer.

□ 2115

I am pleased to yield to the distinguished delegate from the Virgin Islands (Mrs. CHRISTENSEN), who has been a leader on the Select Committee on Homeland Security on the issues of bioterrorism and public health preparedness. Her background in the medical field has enabled her to have unique insights into what we need to be doing as a Nation to be better prepared to deal with the threats it faces.

Mrs. CHRISTENSEN. Mr. Speaker, I thank the gentleman from Texas (Mr. TURNER) for yielding, and I want to thank him for his leadership and for bringing us here this evening. I am pleased to join him and other Members of our committee to call attention to the glaring deficiencies in homeland security, which continue to exist now more than 3 years after the attacks of 9/11, and the failures of the administration in this regard.

I do not call attention to them to cause alarm but to continue to put pressure on the administration and the Department to address what every commission or task force has told us even before that fateful day, and what polls show is the primary concern of Americans, our safety and the safety of our children, our protection from terrorism.

I am going to focus on the area of bioterrorism, and we can all agree that the threat of biological attack is a very real one.

Indeed, we have seen biologic agents used in this very building against our colleagues and those who work here. We also witnessed the differences in public health response here and in our neighboring communities, especially communities of color where several people died.

At committee meeting after committee meeting, we called the attention of this administration and the department to the fact that our public health system is inadequate in many areas; that the disparities in health care reflect this; and that many, especially in the private sector of medicine, are not trained or prepared to respond adequately in the case of an attack. Yet we still lag behind in these critical areas.

First of all, the health sector is not yet as fully incorporated as it should be in all areas of planning, and the development of systems that are important to the protection of our citizens.

Just this morning, we heard from Dr. Joseph Barbera of the George Washington University Institute for Crisis, Disaster and Risk Management, at a subcommittee hearing on the National Incident Management System, the very core of our response.

In his statement, the fact that he saw it necessary to stress to us that "medical care necessary for a mass casualty event must be recognized as a public safety function and therefore as a governmental responsibility that is equal in importance to fire suppression, emergency medical services, public works and law enforcement," the fact that he had to tell us, that speaks volumes about where this expert sees our state of readiness in this critical area. It is not where it should be.

I can tell my colleagues that in too many instances, health, both public and private, are not included. This while 62 percent of emergency rooms are over capacity and public health laboratories are reportedly operating at an average of 75 percent above capacity.

The funding that this administration has supplied to address these deficiencies is far below the estimated $10 billion that is reportedly needed to bring just the public health sector to where it needs to be. We have not begun to scratch the surface.

Another aspect of bioterrorism preparedness which this administration and the Department has failed to adequately address is the need to develop the capacity to rapidly diagnose and develop treatments for any agents that might be used.

In May, the gentleman from Texas (Mr. TURNER) and I introduced the Rapid Cures Act which would promote technological advancements to reduce the time frame from several years to a few months at the most for the development of new medical countermeasures to treat or prevent disease caused by not only agents of bioterrorism but disease agents or toxins that have the potential to plague our communities today.

SARS has shown us that we cannot know or predict what will be used. In that respect, Project Bioshield is not helpful. This bill gets to the heart of the matter and develops capacity that is more of the all-hazards approach that Governor Gilmore and many others have so strongly recommended.

We need to have protection and treatment against dangerous biological agents that might be used in an attack quickly, not in the 10 or 15 years it is now estimated to take. That bill has not even had a hearing yet.

Lastly, the administration has pretty much ignored the role of the public. They have not been brought into the discussion or development of the systems to the extent they need to be.

In every town meeting that I have had, I have heard critiques of what has been promulgated, and I have been asked how they can participate in developing the preparedness and the response. We ignore them at the potential peril of all of us.

One of the most important things that is needed in a disaster or any emergency is for people to follow instructions. If they do not, they put themselves and all of us at risk.

Just in the last few weeks, we saw people who clearly knew what their instructions were out in the ocean or not evacuating their homes, and that was in a relatively familiar disaster.

To date, most of the public are unclear about what they are to do in the case of the different forms of possible terrorism attacks.

On September 14, the New York Academy of Medicine's Center for the Advancement of Collaborative Strategies in Health along with the Joint Center for Economic and Political Study released a groundbreaking report entitled Redefining Readiness: Terrorism Planning through the Eyes of the Public.

The New York Academy of Sciences found that only two-fifths of the American people would follow instructions to get vaccinated in the event of a smallpox outbreak. In addition, it stated that only three-fifths of the American people would shelter in place for as long as told in a dirty bomb explosion.

One reason for the lack of cooperation is that many people would be also worried about something other than what the planners are trying to protect them from. Three-fifths of the American people would have serious worries about the smallpox vaccine itself, and that is twice as many people as would be seriously worried about getting smallpox in the outbreak.

What we find in the case of the public is that the administration and the Department, as they have done too often in the case of first responders, have assumed that they knew what was best, or what was needed, instead of letting the people, in this case, speak for themselves, participate in the process of developing the strategies and the plan. On something this important, there must be a methodology in place to do this. Three years later, there is none.

First responders, all of them must be fully engaged in the process and so must the public.

This administration has spent too much time assembling a bureaucracy, one that does not even reflect the diversity of the country which it protects and too little time on putting the kinds of protections in place to be able to begin to claim the security high ground.

Two weeks ago, senators released a report card on this administration's progress in homeland security. While many other areas got a C to an F, bioterrorism actually got a B. The grade has to be much lower than that. Too much remains unaddressed. I would give them at best a C minus, and below average is not good enough for protecting us and our families. They have a lot more that needs to be done to ensure that we are as protected as we can be from a bioterrorism attack.

We know that there is no way to be 100 percent safe, but the White House has fought us, the Democrats particularly, on almost every step of the way to get to even where we are today. It has not provided the kind of leadership that is required, and it has certainly not lived up to its promises.

As a result, today, we are not as safe as we ought to be 3 years after that horrific wake-up call.

I thank the gentleman from Texas (Mr. TURNER) for yielding to me and giving me the opportunity to be included in this special order. I thank him again for his leadership on the committee.

Mr. TURNER of Texas. Mr. Speaker, I thank the gentlewoman very much. I thank her again for her leadership on this issue.

Next, I would like to yield to the gentlewoman from New York (Mrs. LOWEY), another member of the House Select Committee on Homeland Security, a lady who has shown not only leadership on our committee on behalf of homeland security but great leadership on the House Committee on Appropriations. She has also worked vigorously to protect her State from the threat of terrorism, the great State of New York. So it is a pleasure to yield to her.

Mrs. LOWEY. Madam Speaker, I want to thank my good friend from Texas for his leadership on this committee. He worked so hard and helped us put together a really outstanding plan. It is unfortunate that because of various interactivities of the Republican leadership that we have not been able to take this plan to the finish line, but I personally want to thank him for his important contributions in helping us work towards a plan that would help keep America safe. So I thank him so very much for his important leadership.

Mr. Speaker, it really amazes me that more than 3 years after September 11, we are still talking about gaps in our Nation's strategy to protect against and prepare for another terrorist attack.

Several of my colleagues from the Select Committee on Homeland Security have already highlighted ways in which we can improve port and rail security; how can we better prepare public health communities to deal with a biological attack; and how to protect and secure our borders. We all agree that more needs to be done and must be done and that Congress should not go home without addressing each of these critical issues.

In my judgment, this administration and this Congress need to beef up their efforts to provide for first responders. Local police, firefighters, EMS technicians need information. They need training. They need the life-saving equipment necessary to protect them from the dangers they face every day.

I was appalled when I read in yesterday's New York Times that more than 120,000 hours of potentially valuable terrorism-related recordings had not yet been translated by linguists at the FBI. This is outrageous and particularly dangerous, especially for the residents of my home State of New York, which is referenced in intelligence reports time and time again.

How can we expect first responders to be able to adequately prepare for an attack when the Federal Government does not even have the capability to analyze and share with them the intelligence information it has collected? We can and we must do better.

As I travel throughout my district and speak with first responders, like Chief John Kapica from the town of Greenburgh, Chief Robert Breen from the town of New Castle, Chief Robert D'Angelo from the town of North Castle and all the other chiefs with whom I have been working closely, they all tell me that implementing an interoperable communications system is one of their highest priorities and that they have not received nearly enough guidance, support or resources to achieve this goal.

The 9/11 Commission report confirms that, despite the heroic efforts and experience of first responders, communications deficiency and lack of interoperable systems among police, firefighters and other rescue agencies hindered their response at the World Trade Center.

Eight years ago, let me repeat, 8 years ago, the final report of the Federal Public Safety Wireless Advisory Committee concluded that, "unless immediate measures are taken to promote interoperability, public safety agencies will not be able to adequately discharge their obligation to protect life and property in a safe, efficient and cost-effective manner."

Now, forgive me if I sound impatient or even extraordinarily angry, but I am. With nearly every major study and report on homeland security concluding that lack of interoperability remains one of the most serious issues facing first responders in this country, I just simply cannot understand why this administration has done little more than pay lip service to the seriousness of this issue.

With estimates for implementing a nationwide interoperable communications infrastructure ranging anywhere from $7 billion to $18 billion, local governments and first-responder agencies cannot be expected to pick up the tab without significant help from the Federal Government.

Some of my colleagues may argue that current homeland security grants can be used to upgrade communications systems. While this may be true, the costs are so enormous, there simply is not enough money to go around. In my judgment, we are forcing our communities to make impossible decisions on how to use these funds.

□ 2130

That is why I joined with my colleague, the gentleman from Texas (Mr. TURNER), to introduce the CONNECT First Responders Act. This legislation establishes a Federal interoperability office and creates a new $5 billion DHS grant program dedicated to helping States and localities achieve communications interoperability.

I understand that Secretary Tom Ridge recently announced the creation of an Office of Interoperability and Compatibility, with similar goals to the office that we propose in the legislation. I am pleased that the Department has taken this important step, and I am glad that our legislation may have encouraged those efforts.

We have learned the hard way that, at best, gaps in communications hamper rescue efforts; and at worst, they can lead to the loss of life for emergency personnel and victims. Our communities should not have to wait 2 years or 5 years from now until another disaster strikes to get the help they need to close this glaring and unnecessary gap in our Nation's security. Our first responders served us with honor and distinction on September 11 and every day before and since, and they deserve better.

In closing, Madam Speaker, I want to once again thank my good colleague, the gentleman from Texas (Mr. TURNER), and my other colleagues on the committee, as well as the staff for all their work in putting together a plan that really can win the war on terror.

We are, in America, at risk. As the mother of three and the grandmother of six, I worry every day about the future of my community and about the future of this great country of ours. We are talking about a complete overhaul of our intelligence system. Yes, they may be part of it, but there are specific actions that we can take right now. Shame on us if we do not move forward on the recommendations that can be implemented as we speak.

Madam Speaker, I thank the gentleman from Texas again for his leadership.

Mr. TURNER of Texas. Madam Speaker, I thank the gentlewoman from New York for her comments and her leadership.

Next, Madam Speaker, I wish to yield the floor to the gentleman from Rhode Island (Mr. LANGEVIN), a distinguished Member of this House who has worked diligently on our committee, who not only is a good legislator but a fine gentleman and is very committed to implementing the third prong of the war on terror as recommended by the 9/11 Commission, which is preventing the rise of future terrorism.

Mr. LANGEVIN. Madam Speaker, I thank my friends and colleagues, the gentleman from Texas (Mr. TURNER) and the gentleman from Michigan (Mr. STUPAK), for leading this Special Order. I especially want to recognize the work of the gentleman from Texas as our ranking member on the Select Committee on Homeland Security. Your colleagues and all Americans owe you a great debt of gratitude for your consistent valiant efforts to keep these critical issues at the forefront of the national debate.

Madam Speaker, there is no question about the importance of our efforts here at home to improve domestic security and preparedness, but I want to spend my time this evening addressing a topic that I think deserves equal attention, mainly the need for a full-scale global effort to enhance the image of America in the world and prevent the rise in recruitment of future terrorists. I think we often overlook this aspect of Homeland Security, perhaps because it is not as tangible, or the path is not as clear-cut, or perhaps because success is harder to measure. But we do so at our own peril and at the peril of countless future generations.

Dr. Joe Nye, the former dean of the Kennedy School of Government at Harvard and former Assistant Secretary of Defense for International Security Affairs, has talked about the need to supplement our military might with soft power, efforts to win the world's hearts and minds with our values and culture. Successfully exercising this type of power requires that we pursue many fronts, including international diplomacy, democracy building, cultural exchanges, economic development, educational initiatives, and communication about our values and our ideals.

Now, most people do not give this strategy the attention it deserves, but I am pleased that the 9/11 Commission report recognized that soft power will be a critical component in our long-term efforts to stop the spread of Islamist terrorism.

It is easy to say that we were attacked on September 11 because the terrorists despise freedom and hate the American way of life, but the truth is much more complicated, and we do ourselves a disservice if we accept the simple answer.

To win the ideological battle being waged in the world today, we have to offer an alternative to the hopelessness and despair that the likes of Osama bin Laden and al Qaeda prey upon. Madam Speaker, there are millions of young people in the Islamic world who are hungry for hope and opportunity, and it is in our interest to show them that hope lies in freedom, liberty, and democracy, not in extremism and hate.

By pursuing policies abroad that promote voices of moderation, we can isolate the extremists and present a better vision of the future. By promoting democratic institutions, we can show that there is a better way, and we can offer a choice. By supporting economic development partnerships in the Arab world, we can help these nations become prosperous and self-sufficient. And by spearheading an international effort to offer educational alternatives to children in the Muslim world, we can provide the next generation with the tools to build a better future. These efforts will require significant resources, but the payoff will be immeasurable.

Perhaps most importantly, we must show the world what America and Americans truly stand for: tolerance, opportunity, hope, and freedom. And we must do it quickly, before an inaccurate image is indelibly emblazoned on the minds of millions. As the 9/11 Commission so eloquently put it, we need to defend our ideals abroad vigorously. If the U.S. does not act aggressively to define itself in the Islamic world, the extremists will gladly do the job for us.

Madam Speaker, in closing, let me again thank our ranking member, the gentleman from Texas (Mr. TURNER), and the gentleman from Michigan (Mr. STUPAK) for bringing us to the floor this evening to discuss these critical issues. September 11 should have made clear to all of us that we do not have the luxury of time when it comes to addressing our security at home and abroad. I urge the President and his administration to exercise strong leadership and provide the necessary resources to ensure the safety of our citizens and our Nation.

Mr. TURNER of Texas. Madam Speaker, next I would like to yield to the gentleman from Michigan (Mr. STUPAK), a gentleman who is most active on behalf of the first responders across our country or those on the front lines in the war on terror. He is a gentleman who serves on our Democratic Task Force on Homeland Security, a gentleman who is most respected by all of his colleagues in this House, and who has served here for many years with distinction.

Mr. STUPAK. Madam Speaker, I thank the gentleman from Texas for his efforts and for leading our intelligence task force in all the work we have been doing here under the gentleman's leadership on this issue, along with the gentlewoman from New York (Mrs. LOWEY), the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN), the gentleman from Rhode Island (Mr. LANGEVIN), and the gentlewoman from Texas (Ms. JACKSON-LEE), who we will hear from next.

Having been in law enforcement for many years, and having founded the

Congressional Law Enforcement Caucus here, we are now looking at the third anniversary of September 11, and the question on many Americans' minds is: Are we safer? Is America safer today than we were on 9/11? The current administration says we are safer. The Republican leadership in Congress says we are safer. But just because they say we are safer, does not make it so.

For instance, when we are talking about our northern border, I come from Michigan and I border Canada. President Bush said on January 25, 2002, "We are analyzing every aspect of the border and making sure that the effort is seamless, the communication is real, that the law enforcement is strong." He also said on February 2, one week later, "We are focusing on the heroic efforts of those first-time responders. That's why we want to spend money to make sure the equipment is there, strategies are there, communications are there to make sure that you have whatever it takes to respond."

The Bush administration has mastered the rhetoric. They talk a great game about homeland security, but the numbers reveal a stark reality. Here are a few points: we are 2,000 border patrol officers short along the northern border with Canada, and the President's budget request fails to include additional funding to make these border patrol officers a reality.

Only 5 percent of passenger planes are screened for explosives, according to the GAO. And the President wants to cut the number of air marshals by 20 percent this year.

Our maritime security efforts are severely understaffed and underfunded, allowing us to screen only 5 percent of the nearly 8 million seaborne containers entering the U.S. each year, and $7.5 billion is needed over the next 10 years in order to secure our ports and waterways. The Bush administration has distributed a mere $441 million for this purpose.

This year's budget is the first time the Bush administration has ever asked for any port security grant money. Without the Bush administration's support, Congress has provided only $587 million for port security since 2001. That is less than 10 percent of the money we need to do the job.

The President has cut overall funding for adequate protective gear and training for first responders. And this year is no different. He proposed more than a 20 percent cut in first responder training and State grants for training, equipment, and other homeland security needs. More than 40 percent of our Nation's firefighters have not received training for responding to nuclear, biological, or radiological attack.

Finally, national reports on the 9/11 emergency response found that the inability of our first responders from different agencies to talk to one another was a key factor in the deaths of at least 121 New York firefighters at the World Trade Center.

The independent 9/11 Commission report said "funding interoperable communications should be a Federal priority." Here is what they said, the 9/11 report says: "The inability to communicate was a critical element of the World Trade Center, Pentagon, and Somerset County, Pennsylvania, crash sites, where multiple agencies and multiple jurisdictions responded. The occurrence of this problem at three very different sites is strong evidence that compatible and adequate communications among public safety organizations at the State, local, and Federal levels remain an important problem. Federal funding for such interagency," interoperability as we call it, "units should be given high priority."

Here is what the President said: "It is important that we understand in the first minutes and hours after attack. That is the most hopeful time to save life, and that is why we are focusing on the heroic efforts of those first-time responders. That is why we want to spend money to make sure equipment is there, strategies are there, communications are there to make sure you have whatever you need to respond."

Strong language from the 9/11 Commission; strong language from the President. The reality is what it costs to get interoperability going in this country 3 years later is $18 billion. What has President Bush requested since 2003? He has requested $100 million.

The President even has zeroed out these accounts in the Department of Homeland Security budget over the past 2 years. At the rate we are going, according to the Department of Homeland Security officials, it will be another 20 years before our Nation's first responders are interoperable, where they can talk to each other, communicate with each other. Madam Speaker, we do not have 20 years to wait.

Earlier this year, on this floor, I asked how much in the formula grants provided for State homeland security has gone to interoperability. The Department of Homeland Security could not tell me. They committed to let Congress know the answer soon. We have recently found out that it is going to be about another year before we can even get an answer as to where the money has been spent, if it has been spent at all on interoperability. That does not say much about the oversight or planning in the Department of Homeland Security, and about where the billions of dollars of State grant formula money is going.

Madam Speaker, the problems I have outlined are occurring because of a lack of commitment on this administration to homeland security. Even the Department of Homeland Security still has not hired some 30 percent of the needed staff to properly run the agency. The homeland security challenges we face, whether it is border, airline, rail, or port security all require the same approach: real solutions instead of rhetoric, real resources and not political pronouncements.

Day after day we are told our Nation is better prepared against a terrorist attack than it was 3 years ago; but when only 4,000 Americans guard a border over 4,000 miles long, I cannot agree our Nation's northern border is secure. When our ports are not secured from the entry of a chemical, biological, or nuclear attack, I cannot take the word of anyone when they tell me my family and constituents are well protected.

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And there is no comfort in the fact that our first responders are no closer now than they were after 9/11 to be able to talk to each other in times of natural disaster or terrorist attack. So how safe are we? The administration points to the toppling of Saddam Hussein. That does not make it. How does that make us safer when he was not an imminent threat, when there were no weapons of mass destruction, and we have diverted so much of our military and intelligence operations to Iraq. Osama bin Laden is still out there. Iraq is now a haven for new terrorist groups. Our country internationally is hated more than ever. We have alienated our allies, so exactly, how are we safer?

In the meantime, the current administration and the Republican Congress refuse to give our local, State and Federal agencies what they need to protect our borders and our communities. We will not even give them the equipment to talk to each other. On these issues, sure the present administration has mastered the rhetoric, but when looking at facts, we are dangerously behind in securing our borders to help prevent another attack or be ready when one comes.

As head of the Congressional Law Enforcement Caucus, we are going to have a hearing next week on intra operability. There are technologies which could be implemented today where police officers, State, local, and Federal, could talk to each other because of software developed by some of these companies. It is there. We should not have to wait more than 3 years after 9/11 for something as simple as allowing people to talk to each other. We hope we do not have another terrorist attack, but if we do, maybe we can tell those brave first responders, say, with the second building at the World Trade Center, the building is about ready to come down, get out. We could have saved 120 lives if we had the ability to communicate. Having been involved with law enforcement for over 30 years, it is time to look at reality. This administration is not doing the job. We are not safer at home than we were before, at, during or after 9/11.

Madam Speaker, I thank the gentleman from Texas (Mr. TURNER) for heading up our homeland security task force in our committee, and I look forward to working together in the future. Maybe together we can convince this Congress and the American people something as simple as first responders being able to talk to each other would save so many lives if we only had a commitment. I thank the gentleman for his leadership.

Mr. TURNER of Texas. Madam Speaker, I thank the gentleman from Michigan (Mr. STUPAK) for his leadership and for his conviction.

I think many of us are dismayed by the lack of preparedness 3 years after 9/11 at a time when our government tells us every day that we are faced with another terrorist threat, even estimating that we may be attacked between now and the election or between now and the end of the year. These are deadly, serious matters. I thank the gentleman from Michigan (Mr. STUPAK) for his leadership and for his hard work on behalf of first responders and on behalf of the security of our country.

Madam Speaker, I am pleased to yield the floor to my friend, my fellow Texan, fellow member of the Committee on Homeland Security, from the great city of Houston, and I have seen the gentlewoman work on behalf of first responders in her great city. I have seen her talk to the many citizens who gather at her town meetings to discuss their concerns about security. I have seen her visit the port of Houston and the FBI office in Houston to talk about security. I know of her dedication and leadership, and it is a pleasure to yield to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the distinguished ranking member for gathering us today. In fact, let me add my accolades for the extensive work, the serious work that has been the defining track record of the gentleman's leadership as the ranking member of the Committee on Homeland Security, and certainly, it has been, as the staff you have guided, as you have guided us as members of that committee.

Madam Speaker, there could not be more appropriate timing for this Special Order to speak to our colleagues, and certainly to bring attention to this very serious issue to the American people because, as the gentleman knows, many of us spent a good part of the day marking up legislation that pretends to be the recommendations of the 9/11 Commission.

I think that if the wisdom of the gentleman's staff and leadership could have been exercised in the process, we would have had a full, comprehensive legislative initiative that would have addressed the concerns of the 9/11 Commission, the 9/11 families, and also put together a fair package that would have responded to some of the needs that have been addressed. I thank the gentleman from Texas (Mr. TURNER), and I would like to start by referring first of all to the document that was prepared, Transforming the Southern Border, Providing Security and Prosperity in the Post-9/11 World, done by the staff, mentioning the gentleman's leadership and that of the committee.

I would like to read directly out of it because this sets the tone for the remarks that I would like to make on the southern border, and I appreciate joining the gentleman from Rhode Island (Mr. LANGEVIN) and the gentlewoman from New York (Mrs. LOWEY) and the gentlewoman from the Virgin Islands (Ms. CHRISTENSEN) to talk about all of the issues, and the gentleman from Michigan (Mr. STUPAK) just mentioned the northern border, and I come to focus on the southern border, but I do so with the point that we have friends to the south. Mexico is a friend. Many Central American states are friends. South American states, our neighbors, are friends, and we speak about security in the context of friendship because I actually believe if we are going to be secure, it must be a collaborative effort.

Let me cite remarks on page 23: Infrastructure at the southern border ports of entry cannot effectively handle hundreds of millions of inspections annually. In addition, the southern border's infrastructure cannot support the implementation of new border security programs without harming the economies of border communities. There is a need to balance the competing tension between screening people and vehicles for terrorist weapons, contraband, smuggled immigrants and other prohibited items with the need to ensure an efficient flow of commerce.

Substantial investment in border infrastructure is needed to ensure national security while sustaining economic prosperity caused by increased cross-border trade over the last 10 years.

That is what we have been saying. The reason why these issues are so important is, we have not been able to balance the needs that are so very important, between free trade opportunities and the idea of security. There are 509 official ports of entry in the United States, including land, airports and seaports. Of these, 166 are land ports of entry, 43 of which are located on the southern border. These southern border ports are equipped with 86 pedestrian lanes, 216 passenger vehicle lanes and 70 cargo lanes. These ports of entry are generally large facilities with high volumes of vehicular and commercial traffic.

This lays out just a photographic story of the kinds of challenges we have at the length of the border, the kinds of challenges we have at the border, and what we need of course is to have the skilled technocrats and law enforcement that the U.S. Customs and Border Patrol agents allow us to do. It is important to recognize in balancing these issues that we must do something. What have we done, in the committee that we are members of, we have done not as much as we should. Homeland security will not work if local communities are not consulted on border security policies, their cooperation is not sought, or if implementation of border security programs is not coordinated. Homeland security will not work if we are force-feeding border security policies as opposed to collaborating with the community.

I joined the gentleman from Texas (Mr. TURNER) along with the gentleman from Texas (Mr. ORTIZ) to look at border control issues, and that was one of the main points addressed. That is to work with those local officials who live right on the border and let them tell us the kinds of concerns that they have. One was not only dealing with the lack of security measures there, in terms of the number of border patrol agents, but we also found out that there really is a need for changing policies and laws that allow some of those who have been detained to simply walk away because we do not have the legal procedures to hold them.

I want to make sure that all of the oversight issues are taken care of, such as making sure that there is judicial process; for these detainees to go through that process; making sure there are lawyers there to help with those processes and see that they are fair. But at the same time, we cannot have a secure border if we are allowing individuals to simply walk away because there is no place for them to be held. So more detainee facilities need to be there, adequately equipped, and the border patrol agents need to be well-trained.

The bottom line is that we must secure the borders by having the resources placed appropriately there. We also cannot ignore President Vicente Fox. Just 2 years ago, President Bush spoke about immigration reform and has done nothing to ensure that happening. That allows President Fox to talk about having the borders in the manner that he wants them in, and that certainly does not match the needs of this Nation. We must have collaboration, but we must have a fixed understanding of how we can continue to have cooperation but not have the kind of systems that other nations want us to have.

First, international cooperation is critical, as I indicated, to an effective border security, and that means working with President Fox and Mexico to make sure what we have works for all of us. We must work with our neighbors to the north and south. Many of the border solutions require the cooperation by neighbors to effectively implement. Second, we must ensure that security at the border is delivered in a manner that enhances and enforces our priorities. The foundations on which our security programs are built, how they are implemented and how the borders are staffed, all of these factors must be taken into account, along with the security and economic interests of those living in the border region.

We have U.S. customs. As I watched them go through the many ports of entry, not enough staff. Technology, not enough technology at the borders. We have just been able to secure the opportunities for children to be detained in other facilities, but again, large numbers of unaccompanied children coming into the United States, no real resources to handle them. So we are finding ourselves caught between what is a rock and a hard place.

We need, again, as I have mentioned over and over again, additional technology. We need to have the kind of ability to survey the various trucks that are coming in, and so we need to be able to use the new technology to be able to survey trucks without actually going into the trucks. We have seen that kind of technology at our various seaports.

Mr. Speaker, we are talking about doing something. That is what this Special Order has been. We are talking about the great needs of infrastructure. Let me also suggest that I hope this Special Order will argue for the continuation of the Committee on Homeland Security in the next Congress. The reason why we bring these matters to the attention of our colleagues is because we have heard over and over again from Secretary Ridge that he wants a focused authorizing body where he can address the concerns of homeland security in a fair and orderly way.

We have spoken about the ideas of first responders. We have talked about the need of medicine and emergency response, and the idea of dealing with the needs that will occur if there is a terrorist attack, and we have talked about intraoperability and then the question of border security. None of these issues have been fully addressed in the select committee because we have either not had the time or wherewithal by the majority to follow through. It is crucial that this committee continues, but it is more crucial that we do things, and the way that we must do things to adequately ensure the security of this country is we must do it in a very bipartisan manner.

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The number of legislative initiatives that the ranking member has helped us forge over the 2 years of the existence of this committee, I would hope that these items will find a place in the legislative history of this Congress. I hope they will be passed. I certainly hope the Secure Borders Act, which my colleague, Ranking Member Turner, introduced last week articulates a consensus approach to border security. I hope by some miracle that we might even pass it if not at the end of this session, in the lame duck that we are more than likely to have.

The idea is, Madam Speaker, that security is not a lonely task. It is a task that requires us to work together in an honest and open dialogue. It requires us to pay attention to the work that has already been done. Seven to 12 million illegal aliens enter into the United States. We can do this. We can make a difference. We can do this by passing border security legislation. We can do this by working with the Select Committee on Homeland Security.

My final point would be, we can do this recognizing we need complete immigration reform such that we deal with those illegal documents that are already here, by providing them earned access to legalization and family reunification. We can do that in a parallel track. I would only say, Madam Speaker, the question is why? Why have we not done this? Why have we not been able after the 9/11 tragedy to come together around concrete, effective, important legislative initiatives as offered by the ranking member and the Democrats on the Select Committee on Homeland Security. The question is why? The response should be if not now, then when? When are we going to address America's security needs? I hope that we will do it soon. I thank the distinguished gentleman for his time and effort.

SPECIAL ORDERS—BORDER SECURITY—MS. SHEILA JACKSON LEE

INTRODUCTION

As a Representative from Texas—a border State—I am deeply concerned about the state of homeland security at our land borders. My constituents—the good people of Texas—and those in border States across America—understand better than anyone in Washington what our unique challenges are along the land borders.

Living in isolation has never been an option for us. We all know the cost of shutting down that border—political, economic, social and cultural. We are all united in wanting to keep our borders working—to make sure that legitimate travelers and cargo are not held up but that we do not let in those who would harm us.

When there is a threat to our country, it is our constituents and businesses that are on the front-lines. Whatever comes into our country—be it a crate of bananas or weapons of mass destruction, be it a tourist come to spend some money in Houston or a terrorist seeking to do us harm—our constituents feel it first.

In the aftermath of September 11th, we all agree that security is and always must be our Nation's highest priority. There is no balancing act as some might suggest. Balancing involves competing interests and a give on all sides. We will and must not balance our Nation's security against competing interests. Rather, we must ensure that the border security solution that SECURES also serves to FACILITATE trade and travel.

Additionally, local and international buy in to border security solutions is critical if we want a system of border management that works. Hoemland security will not work if local communities are not consulted on border securities policies, if their cooperation is not sought, or if implementation of border security programs is not coordinated. Homeland security will not work if we are force feeding border security policies on the very communities that rely on the border for the economic livelihood.

The bottom line but the key to whether we successfully secure our borders is how we choose to go about doing it. It isn't just that we need to secure our country and our borders, but it's important how we deliver that security.

First, international cooperation is critical to effective border security. We must work with our neighbors to the north and south. Many of the border security solutions, such as US-VISIT, require the cooperation of our neighbors to effectively implement.

Second, we must ensure that security at the border is delivered in a manner that enhances and fosters other border and national priorities. How border security programs are designed, the foundations on which they are built, how they are implemented and how the borders are staffed—all of these factors must take into account the security and economic interests of those living in the border region. This is not about balancing competing interests, rather it means that the implementation of security at our borders must be done in a manner that fosters and enhances other border and national priorities.

Democrats believe that to secure our borders we must make a long term investment in our border communities.

We must make a substantial investment in infrastructure improvements at our ports of entry and to the transportation corridors that flow into those ports of entry. According to a report issued by the DHS's own Data Management Improvement Act Task Force, many approach highways and border inspection facilities were considered inadequate and overburdened prior to 9/11.

Additionally, with infrastructure expansion, we must add inspectors to our land ports of entry and ensure that they receive necessary training in foreign languages, fraudulent document detection and in interviewing techniques.

While technology is not a cure all, we must invest in technology that will both secure and facilitate the inspections process.

The Secure Borders Act which my colleagues and Introduced last week articulates a consensus approach to border security. While it was introduced by Democrats, it is a bill that everyone can and should support.

Lastly, what our Nation needs is a honest and open dialogue on comprehensive immigration reform—something Congress has been avoiding for years. As we invest in securing our borders, we must look at solving the issue of the estimated 7–12 million illegal aliens who call the U.S. home. After 9/11, having such a large number of people live in the shadows of society is even more unacceptable. We must review proposals that encourage these people to step forward. And we must at the same time enhance Federal enforcement of our immigration laws.

Section Summary—The SECURE Borders Act

The SECURE Border Act is designed to implement the recommendations of the report, Transforming the Southern Border, issued by Representative Jim Turner, the Ranking Member of the Select Committee on Homeland Security. The bill seeks to close the security gaps that exist on the Southern Border that were identified in the report.

TITLE I—SECURING OUR BORDERS

Subtitle A—Infrastructure Enhancements

Sec. 101—Creation of a Land Border Infrastructure Improvement Fund

This provision authorizes $1 billion for an infrastructure investment fund to enhance and facilitate security and commerce at our nation's ports of entry. The Secretary of Homeland Security is authorized to carry out infrastructure improvement projects recommended in the report submitted under Section 102.

Sec. 102—Requiring a Vulnerability Assessment of Land Border Ports of Entry

This provision requires an assessment of and a report on the vulnerability of our nation's ports of entry to terrorist attack, the infrastructure and technology improvements needed based on the level of risk posed by vulnerabilities at the ports of entry, and follow up assessments every two years to monitor progress in securing ports of entry. Funds authorized in Section 101 should be distributed based on assessed priority.

Sec. 103—Enhancing SENTRI, FAST and NEXUS Pre-Enrollment Programs

This provision expresses the Sense of Congress that pre-enrollment programs should be expanded to every major port of entry, and authorizes pre-enrollment programs, the creation of pre-enrollment centers away from the border, funds necessary to build infrastructure to effectively access pre-enrollment lanes, funds to reduce participation fee in order to increase participation and creates an appeals process for those whose participation has been terminated. Additionally, the provision requires a report detailing the cost of the program as well as enrollment and enforcement information.

Subtitle B—Enhancing Border Monitoring Technology

Sec. 111—Deployment of Surveillance Systems Along the US-Mexico Border

This provision requires the deployment of surveillance systems along the southern border, such as the integrated surveillance and intelligence system (ISIS), and ensure that the entire border is monitored 24/7.

Sec. 112—Deployment of Surveillance Systems Along the US-Canada Border

This provision requires that the development of a plan to deploy surveillance systems along the northern border and provide Congress with a cost estimate and deployment schedule by September 30, 2005.

Sec. 113—Level of K-9 Units Working on the Southern Border

This provision requires an increase in K-9 bomb detection units by 20%.

Sec. 114—Deploy Radiation Portal Monitors

This provision authorizes $49 million to install radiation portal monitors at all land border ports of entry by September 30, 2005.

Subtitle C—Ensuring Well Trained Personnel at Our Borders

Sec. 121—Double the Number of CBP Personnel

This provision authorizes the doubling of Customs and Border Protection personnel based on existing positions in FY 2004, and increasing the number of Border Patrol agents stationed between ports of entry by 3000 over FY 2005 and 2006.

Sec. 122—Assessing Staffing Needs at Our Borders

This provision requires DHS contract with an independent entity with human resource and staffing expertise to produce a study on staffing levels should be at ports of entry and between ports of entry in order for CBP to accomplish its border security mission. The study is due within one year of enactment.

Sec. 123—Additional and Continuous Training for Inspectors

This provision requires training for inspectors and where needed for associated support staff in new technologies. The section also requires that inspectors along the southern border be proficient in Spanish, and that appropriate language training be provided to inspectors and border patrol on the northern border. The provision also recommends the creation of a program to ensure the retention of customs and immigration expertise to supplement the One Face at the Border Initiative.

Sec. 124—Requiring a Report on the One Face at the Border Initiative

This provision requires the DHS to submit to Congress a report on the One Face at the Border initiative outlining the goals, strengths and weaknesses, and information relating to training and staffing. The GAO is required to provide Congress with an assessment of the report.

Subtitle D—Establishing a Comprehensive Border Security Strategy

Sec. 131—Border Security Strategy

This provision requires the development of a comprehensive inter-agency national Land Border Security Strategy to identify and fix security gaps along the land borders of the United States. The strategy is to review a variety of issues related to land border security including personnel, infrastructure, technology, coordination of intelligence among agencies, legal responsibilities, criminal statutes, apprehension goals, prosecutorial guidelines, economic impact and the flow of commerce. The report is due on year after enactment and a GAO assessment is due fifteen months after enactment.

Sec. 132—Improved Information Sharing

This provision requires that IDENT, a two fingerprint database, and IAFIS, a ten fingerprint database, be made interoperable by October 1, 2005.

Sec. 133—Creation of Northern and Southern Border Coordinators

This provision creates northern and southern land border coordinator, appointed by the Secretary who serve as the primary official of the department responsible for coordinating federal security activities along the border.

Sec. 134—Smart Border Accord Implementation

This provision requires the President to submit to Congress quarterly updates on the progress of the Smart Border Accord Working Groups.

Sec. 135—Sense of Congress on the Period of Admission for Border Crossing Card Holders

This provision expresses the Sense of Congress that citizens and nationals of Mexico and Canada should be treated with parity in establishing the periods of time that they are in the US. The provision directs that once US-VISIT is fully implemented that the period of admission for Mexicans using a border crossing card should be increased to 6 months.

Subtitle E—Enhancing Border Security Programs

Sec. 141—Creating a More Effective Entry-Exit System

This provision authorizes the creation of a US-VISIT Outreach Office to better inform border communities about the implementation of US-VISIT, reauthorizes the creation of the Data Management Improvement Act Task Force to study issues related to border security, and requires that information currently collected by the I-94 arrival departure form be collected by electronic means, namely US-VISIT.

Sec. 142—Transportation Worker Identification Card

This provision requires the submission of a report by December 31, 2004, on the development and distribution of the transportation worker identification card, including (1) information on how the card will be distributed, (2) the eligibility of Canadian and Mexican truck drivers who are certified under FAST, (3) selected biometric feature and (4) the cost and deployment schedule for card reading equipment.

Sec. 143—Standards and Verification Procedures for Inter-modal Cargo Containers

This provision requires that the DHS develop standards for container security 180 days after the enactment of this bill. It also requires the Department to develop a security verification process for container seals and evaluate container tracking technologies, cargo targeting data, and the inspection policy for empty containers.

Sec. 144—Sense of Congress on the Need for Additional Staff for the US Consulate General in Mexico

This provision expresses the Sense of Congress that the level of staffing for the US mission to Mexico has not kept pace with rising consular workloads and that a 25% increase in staff is necessary.

Subtitle F—Securing Our Tribal and Federal Lands and Territories

Sec. 151—Office of Tribal Security

This provision creates an Office of Tribal Security to coordinate relations between the federal government and Indian tribes on issues relating to homeland security.

Sec. 152—Transfer of "Shadow Wolves" from CBP to ICE

This provision transfers the Shadow Wolves unit from Customs and Border Protection to Immigration and Customs Enforcement.

Sec. 153—DHS and DOI Coordination on Border Security; Provision of Temporary Authority to DHS to Transfer Funds

This provision provides the Secretary of Homeland Security with temporary authority to transfer funds from the DHS to the Department of the Interior to compensate the DOI for border security activities. The DHS and DOI are instructed to enter into a Memorandum of Agreement establishing (1) criteria for DOI to receive such funding, (2) priorities among projects, and (3) scope of activities for such projects. The DHS is required to report the transfer of funds to the appropriate congressional committees and a copy of the Memorandum of Agreement must be submitted to Congress. This provision will expire on the completion and implementation of the National Land Border Security Plan in Section 131.

Mr. TURNER of Texas. I thank the gentlewoman from the great State of Texas.

THE NATIONAL ECONOMY

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. DREIER) is recognized for 60 minutes.

Mr. DREIER. Madam Speaker, as I look at the clock, I see it is 10 o'clock. At this time tomorrow evening, we will be two-thirds of the way through the debate that is scheduled to take place between President Bush and Senator KERRY, and I know that the focus of that debate is going to be on foreign policy issues. And so I have chosen this evening to talk about economic issues because that obviously will be down the road, but I think that as we get ready for the debate on foreign policy and we spend a great deal of time talking about that, I think it is also important for us to talk about very important economic issues.

Just a few weeks ago, Madam Speaker, most American kids headed back to school signaling what obviously was the end of summer. Kids had 3 months away from the classroom which is usually enough time for them to forget most of what they learned the year before. September is the time when teachers across the country settle down to the task of reviewing what was forgotten and maybe even tackle some new material.

Madam Speaker, I am standing here tonight because I believe that it is not just America's youth that spent the summer forgetting what they have already learned. Last spring I spent a lot of time standing here talking about our economy and debunking a number of the economic myths that were being propounded by so many, like the myth of the, quote-unquote, jobless recovery that is a familiar term. We have heard it so often. We were dealing with a jobless recovery. The myth that we have an economy similar to that of the Great Depression. And, of course, the ever-popular myth that all we have created are hamburger-flipping jobs.

Eventually we saw some sanity in the debate over the state of our economy. Overwhelmingly positive economic news managed to silence or at least quiet this economy's noisiest critics because we were getting very positive news. Strong growth, high consumer confidence, record homeownership, and robust job creation all made it quite clear that our 21st century economy is strong and very vibrant. And the economic policies of this Congress and this administration have been a tremendous success. That was sort of the word that was finally getting through to the American people and to our colleagues on both sides of the aisle before the summer.

Then a few misrepresented statistics this summer managed to convince a lot of pundits, talking heads and even some of my colleagues that our vibrant, dynamic economy was tanking. Once again they began to believe that no jobs were being created, or at least no good jobs were being created. Perhaps it is not just the youngsters that needed to go back to school. I would like to set the record straight on the true state of our economy and give this summer's data and figures a very much needed perspective.

Gross domestic product is perhaps the broadest measure of the economy's health. The growth in GDP. In the second quarter of this year, Madam Speaker, gross domestic product growth grew at a 3.3 percent annualized rate. This is a very healthy and solid pace. But initial GDP estimates were somewhat lower, first 3 percent, and they were later revised downward to 2.8 percent, just under that 3 percent growth. Even these numbers indicate a healthy rate of growth.

But because they were lower than predicted by most economists, the growth rate was widely reported as an alarming sign that our economy was in trouble. I think perhaps the media missed the point. The fact that economists incorrectly forecasted second-quarter growth may be interesting, but the big news here is that the U.S. economy has had 11 straight quarters of economic growth. Eleven straight quarters uninterrupted growth in this economy. Not only do we now know that it grew by 3.3 percent in the last quarter, but the first-quarter rate was revised upward from 3.9 percent to a 4.5 percent rate. This means that the average growth rate of our economy for the first half of 2004 was 3.9 percent, very robust by any standard and higher than the average during the much-heralded Clinton era where we had strong economic growth. The rate then was 3.7 percent on average. Again the first 6 months of this year saw a 3.9 percent GDP growth.

Another supposed cause for concern are the latest consumer confidence numbers. After steadily rising month after month, consumer confidence decreased somewhat in recent months. There is no doubt that constant headlines reporting rising oil prices caused Americans to wonder what impact they would have on the economy resulting in a modest dip in consumer confidence. But despite this blip on the screen, consumer confidence remains at a nearly 2-year high. Let me say that again, Madam Speaker. Consumer confidence, even with that dip with the increase in oil prices, it is at a nearly 2-year high.

Perhaps the more telling number, consumer spending, is also very healthy. Retail spending has grown 5 percent over the past year, a strong pace by historical standards. Excluding auto sales, retail sales have grown at a rate of 7 percent. Americans are clearly demonstrating their confidence in the strength of our economy. Madam Speaker, real earnings also continue to grow. Real average weekly earnings grew seven-tenths of 1 percent in the month of July, and they are up 1 percent during the Bush administration.

To give these numbers a little context, real average weekly earnings increased by just four-tenths of 1 percent during the first 4 years of the Clinton administration, less than half the growth that we are experiencing today. Real hourly compensation has grown four-tenths of 1 percent in the first half of this year and is up 5.2 percent since President Bush has been in office.

Again, in order to give some context, Madam Speaker, real hourly compensation fell four-tenths of 1 percent during the first 4 years of the Clinton administration. That is 5.2 percent growth that we have had during the Bush administration versus a four-tenths of 1 percent reduction in real hourly compensation.

Real disposable personal income is perhaps the best and broadest measure we have of an individual's wealth because it takes into account many forms of after-tax income. This measure also shows a steady, solid pace of growth. During the Bush administration, real per capita disposable income has increased by $1,521 versus the $1,332 increase of real per capita disposable income during the first 4 years of the Clinton administration. So we have actually seen a pretty dramatic increase in the 4 years of the Bush administration juxtaposed to the 4 years of the Clinton administration.

Again, the reason I make these comparisons is that we constantly hear about how we long for the days of the bold and strong and dynamic economic growth that we had during the Clinton administration; and, of course, we recall very well that Bill Clinton was running for reelection in 1996, running on that strong, bold and dynamic economy; and if you look at real per capita disposable income, it actually has increased more in the past 4 years of the Bush administration than it did during those first 4 years of the Clinton administration.

Industrial production continues to climb. Manufacturing output is stronger than ever. Let me underscore that again, Madam Speaker, because we have over the last few months been continuing to hear these lines about how the manufacturing sector of our economy is in the Dumpster. Manufacturing output is stronger than it has ever been.

Productivity. Remember how important productivity is. Constantly for decades we have really had a focus on productivity. Productivity is on a long, steady upward trend. Exports, one of the important things that this administration has focused on, prying open new markets for U.S. goods and services, exports are surging. Business investment is very healthy, growing nearly 9 percent in the last quarter, marking the fifth consecutive quarter of growth. This is particularly significant in light of the 2001 economic recession which was characterized by abysmally poor business investment.

Madam Speaker, today's robust investment demonstrates the strength and competitiveness of U.S. companies as well as a healthy climate in which firms are willing to take risks. Madam Speaker, on all fronts, the U.S. economy is vital and strong. Despite some misrepresentation, the recent economic data demonstrate a healthy and growing economy.

This is not just a temporary phenomenon. These positive indicators are part of a 2½-year trend of growth and a rising standard of living. Of course, we are not going to be satisfied until every single American who wants a job has a job, but as we hear these constant gloom-and-doom predictions and these outlines from so many of our colleagues that you would think that we were in a deep depression, the numbers as well as empirical evidence prove otherwise.

Of course, as I say, in any discussion of the economy, the issue of job creation is obviously the highest priority. On this front as well, the outlook is very bright and continues to be bright. But once again, as I say, some misrepresented numbers are leading to more rhetoric of doom and gloom that have come from so many naysayers.

In July, the new payroll jobs number, the payroll survey jobs number was 32,000. This was much lower than previous months' numbers and fell far short of expectations. Immediately when those numbers came out for the month of July of 32,000, we heard the naysayers, led by JOHN KERRY. They could be heard lamenting the end of our recovery and the start of a downward trend. That is what we continued to hear at midsummer. The announcement of 144,000 new payroll jobs in August has quieted some of the gloom-and-doom rhetoric, but JOHN KERRY & Company still claim that good new jobs are not being created.

But in order to understand what the payroll numbers mean, the payroll survey, there are several key points that we need to keep in mind. The first is that in spite of the July number, the payroll survey does in fact show a very strong job growth. This is the payroll survey, and I am going to talk about the difference between the payroll and the household surveys in a moment; but the payroll survey itself has shown 1.4 million new jobs created in this calendar year alone and almost 1.7 million new jobs created since August of last year.

The second point, Madam Speaker, to keep in mind is that the payroll survey is notoriously inadequate at accurately accounting for new job creation following an economic recession.

□ 2215

This survey showed a very weak job recovery following that recession in 1991. Quarter after quarter, the meager payroll survey numbers seem to suggest a jobless recovery. Sound familiar? Once more, complete data became available, and once we were able to look at more complete data, we realized that the job creation had, in fact, been very strong throughout 1992. The payroll numbers were revised upwards significantly. Most economists agree that this phenomenon is taking place again today and that the payroll numbers will once again be revised upward.

But the third and more fundamental point about the payroll survey is that it does not measure the entire workforce. Again, the payroll survey numbers that we regularly have come out on a monthly basis do not reflect the entire workforce of this country. This survey only counts jobs in established firms. It does not count self-employed workers. It does not count small-business owners, independent contractors and consultants, LLC partners, and it does not count farmers. The payroll survey, the numbers that we regularly look at, do not take all of those into consideration. Those innovative job creators out there are not taken into the mix.

Historically self-employed workers represented only a small slice of the entire labor force. That is one of the reasons people have relied on the payroll establishment survey as opposed to the household survey. But our economy is many years into a fundamental shift in the overall nature of job creation. Self-employment currently accounts for one-third of all new job creation. Self-employment accounts for one-third of all new job creation, Madam Speaker. That means that that is not taken into consideration in the payroll survey. The Internet and modern technology, especially digital technologies, are making the American dream of owning one's own business a much more accessible reality. Small business startups are booming. LLC partnerships are exploding, doubling the total number in just 3 years in some States. And these small merchants, empowered by the Internet age, are able to compete in the global market right alongside the multinational counterparts. And yet their work is not taken into consideration when the payroll survey is done.

Our 21st Century economy is giving a quickly growing number of Americans the flexibility to work independently and to be their own bosses. This is very good news for workers and, Madam Speaker, for families as well. But it means, as I say, that the payroll survey is increasingly inadequate for measuring this new dynamic 21st Century workforce because that innovation and creativity that is out there is not taken into the mix. It is not taken into the mix at all. Furthermore, the payroll survey numbers are highly susceptible to changing the rates in job turnover. When job turnover is high, a significant amount of double counting takes place as workers move from one employer to another during a short period of time. The result is an inflated payroll number during periods of high turnover. Subsequently, when turnover begins to ebb, the payroll number is artificially deflated.

A number of economists have long been pointing out this volatility in the payroll survey. Tim Kane, who is a very bright economist whom I know at the Heritage Foundation, estimates that high turnover could inflate the payroll jobs survey number by over a million jobs. As a result, there is huge potential for overstating job losses during points in the business cycle when turnover drops. The Bureau of Labor Statistics recently published its first assessment of this problem. Its report did not estimate the full potential for inflating payroll job numbers during high-turnover periods. But the Bureau of Labor Statistics did find that this turnover effect has led to an undercount of at least a quarter of a million, 250,000 jobs, during the period between March of 2001 and June of 2004, a period of low turnover and economic recovery.

Let me run through that problem again. High job turnover prior to the 2001 recession inflated the payroll number in the preceding years. The result has been that, over the past 3 years, while turnover has been low, the payroll survey has shown an artificially low number by at least 250,000 jobs. Based on Mr. Kane's estimate of a potential overstatement of 1 million jobs, the current undercount could be even greater than that quarter of a million. It could certainly be smaller.

Steven Braun at the Council of Economic Advisors estimates that the current undercount could be as low as 145,000. But the point is, there is simply no doubt that the payroll survey is vulnerable to distortion from the job-turnover effect.

So we know that the payroll survey has its shortcomings. But we have several measures of our labor force that, taken together, help to paint what is clearly a more accurate picture of job creation in this economy. The Bureau of Labor Statistics' household survey that I have been mentioning, for example, counts employed workers by going directly to households, directly to the households and counting the number of employed persons. Rather than surveying established businesses, the household survey counts all types of workers. This method makes it possible to account for the self-employed workers who are missed by the payroll survey.

As I have said, the self-employed historically accounted for a relatively small section of the workforce in years past. Because of this, the payroll and household surveys, while taking different approaches to assessing employment, came up at that time in the past with similar results. There were differences here and there, but the two surveys, because of the fact that self-employed made up such a small segment of the workforce in the past, the difference between the household and the payroll surveys, so-called establishment survey, trended together, and the differences were not that great, and they demonstrated a very similar sort of the same employment climate.

In the last few years, however, as I have been saying, an unprecedented divergence has taken place between the establishment payroll survey and the household survey. Since March of 2001, the two surveys have shown an incredible discrepancy in job creation. The gap currently stands at nearly 3 million jobs. That is a 3 million job spread in the disparity between the prediction of the establishment payroll survey, which simply takes into account those in companies that are actually employed, juxtaposed to looking at the household survey, which goes directly to the homes and asks if people are working there. And while the household survey measures 1.9 million new jobs created since 2001, the payroll data suggests a net job loss of a million over that same period of time.

This divergence shows no sign of correcting itself. In July, the household survey showed a net job creation of 629,000. Remember, as I said, the payroll survey, as I mentioned a few minutes ago, showed 32,000 jobs created. So by the antiquated way of determining jobs in the pre-21st Century economy, what we had was 32,000 jobs created, and yet with the household survey, the month of July showed 629,000 jobs created. There are likely a number of reasons contributing to that major divergence. The turnover factor, as I was mentioning earlier, has obviously had a big impact. And as I discussed, the payroll survey tends to undercount jobs in periods of recovery as was the case in the months following that 1991 recession.

But it is clear, Madam Speaker, that the fundamental changes in the nature of job creation that are taking place in our economy have led to a far greater slice of the labor force that is working independently. As this trend continues, the payroll survey will be increasingly incapable of accounting for all working Americans. I think it is already there myself if we look at the numbers. The household survey alone is not enough to see the complete picture, however. But if we look at all the numbers that are available to us, it is clear that the current household survey numbers are much more in line with other economic indicators than is that very antiquated payroll survey. Average weekly jobless claims have been dropping for 13 straight months. The unemployment rate has fallen to 5.4 percent, lower than the average for the past 3 decades. The ISM manufacturing employment index has shown gains for 15 straight months. The same index for nonmanufacturing employment has been showing gains for 11 straight months.

All of these employment figures are pointing in one direction, and that one direction is up. And yet Democratic presidential nominee JOHN KERRY tries to claim that the economic policies of the Bush administration and this Republican Congress have been an abysmal failure. He claims that no jobs are being created. We have heard that line over and over again: "George Bush is the first President since Herbert Hoover to preside over a net job loss." And yet faced with the evidence that thousands upon thousands of jobs are being created, JOHN KERRY says that they are only low-wage hamburger-flipping jobs that have been created.

Yet we can see from the overwhelmingly positive economic data that this is clearly not the case. Even the payroll survey, Madam Speaker, has shown 13 consecutive months of job creation. And these gains have been across virtually every single industry in our Nation. Gains have been especially strong in high-wage, high-skill industries like business and professional services. There is simply no denying the fact that job creation in this economy is strong and sustained. But the negative rhetoric just keeps on coming, and with it comes several new economic proposals.

JOHN KERRY says he would repeal the very tax cuts that halted a recession, revived business investment, gave Americans bigger paychecks, and produced all of the strong economic indicators that I have just been discussing, including $56 billion in unanticipated revenue to our Federal Treasury that came in because of the economic growth that followed our tax cuts.

In addition to raising taxes on individuals, the Senator from Massachusetts would increase the tax burden on U.S. companies, the job creators, who compete and invest in the worldwide market. He would also impose new labor regulations on these global leaders and create new restrictions.

For example, JOHN KERRY supports preventing globally engaged companies from competing for federal contracts. He is also a cosponsor of the so-called Jobs for Americans Act. Sounds great, but it would impose dramatic new restrictions and regulations on any company, large or small, that invests in growing overseas markets. JOHN KERRY would also bring our trade liberalization agenda to a standstill. He has proposed reopening the trade agreements that have removed barriers to U.S. goods and services, and we are all very proud of this Congress having in the past year passed agreements with Morocco and Chile and Singapore and Australia, very important; yes, small economies but very important market-opening opportunities. So he has proposed reopening the trade agreements that have removed barriers to U.S. goods and services and created new opportunities for American workers and provided quality, affordable choices for the American consumer, which is something we so often forget in the trade debate. He says he would put a moratorium on all negotiations currently in progress. And he has called for reinstating the Super 301 process, which would violate our commitments to the World Trade Organization. Remember, the WTO, often maligned, is an entity which has as its goal eliminating tariff barriers, and it would also, by taking the action that JOHN KERRY has proposed, open up an opportunity for retaliation by our trading partners in the world.

In short, JOHN KERRY's economic platform consists of claiming that our vibrant, growing economy is actually weak and then proposing to make innovators and job creators even less competitive than they are today.

Madam Speaker, several months ago I stood in this well and discussed many of the proposals that JOHN KERRY has made and pointed out that he has been advocating policies that countries like France and Germany have had in place for many years. For decades, Madam Speaker, the French and the Germans have saddled businesses with high taxes and heavy regulation all in the name of what? Protecting jobs. As I said a few months ago when I stood here, we do not have to wonder what the impact of the Kerry economic agenda would be. Why?

□ 2230

All we need to do is look at the economies of France and Germany and decide that that is what our economy would look like under the policy proposals that have been put forth by JOHN KERRY.

So let us look, Madam Speaker, at these numbers again. Since 1999, unemployment in France has been stuck right around 10 percent. At the end of 2002 it dipped as low as 9.1 percent, but it is now back up to 9.5 percent. The French unemployment rate is nearly double the 5.4 percent unemployment rate that we have here in the United States, and it continues to rise at a time when the overall unemployment rate for OECD countries is actually falling.

Remember, this increase is being led by falling unemployment in the United States. For the overall number of OECD countries, our economy is providing leadership. Unfortunately, the French economy, setting the example for the policies that JOHN KERRY has proposed, unfortunately is headed in the wrong direction.

Economic growth, overall economic growth in France has also been very disappointing. Last year GDP growth grew at a very paltry 1.8 percent. Remember, we have talked about it in excess of 3 percent growth here. Estimates for 2004 are that economic growth in France will be at 1.7 percent. Its finance ministry announced it is hopeful the economy could grow by as much as 2.5 percent next year. But even they admit that this relatively slow rate of growth will be difficult to achieve. Getting up to 2.5 percent will be tough for them.

This stagnation is not a recent or temporary situation in France. Average annual growth in gross domestic product throughout all the 1990s was less than 2 percent, Madam Speaker, just over half of the average growth of 3.4 percent that we have had here in the United States.

Germany has faced similar dismal jobs and growth numbers. Since the late 1990s, unemployment in Germany has remained just above 8 percent, and has steadily climbed over the past year. In 2003 it inched up from 9 percent to 9.2 percent; and unfortunately for the German people, it continues to climb.

At the same time, German GDP growth has been a very meager 1.7 percent for the last 2 years, and economic forecasters have downgraded their predictions of growth for 2004 from 1.8 to 1.6 percent.

Just like their neighbor to the West, Germany has experienced economic stagnation for many, many years. Throughout all the 1990s, economic growth averaged just 1.5 percent, an abysmal one-third of the U.S. growth that we have seen.

But perhaps the most telling numbers of all, Madam Speaker, are what I call the "innovation indicators," the innovation indicators, in terms of new patents, research and development, and venture capital. The United States far outpaces France, Germany, and the entire European Union. As a result, we are the world's leading innovator, right here in the United States.

Our level of innovation, which demonstrates the vitality and dynamism of an economy, together with factors like unemployment and growth in GDP, clearly show that our economy is creating far more and far better opportunities for workers.

Madam Speaker, the competitive edge has led to a significant brain drain from Western Europe to the United States. Over 100,000 European researchers currently work in the U.S. A recent European Commission survey found that more than 70 percent of European recipients of U.S. doctorates in the last decade plan to stay and work in America. This has the commission fretting that by the end of the decade Europe will have 700,000 fewer scientists and engineers than will be necessary to compete in the global economy.

This realization, along with years of flagging growth and rising unemployment, has served as a wake-up call to Europe that their economic policies have failed.

In fact, the policies that JOHN KERRY is advocating have performed so poorly in France, Germany, and throughout the euro-zone area that the Europeans are now proposing significant reforms. It is long overdue, but it is great to hear it. They are starting to move in precisely the opposite direction that JOHN KERRY is proposing to see the U.S. move in. The European Union has realized it is time for them to go back to school and learn what it takes to make sure that economies thrive.

The most sweeping changes are taking place within the European Commission, beginning with the appointment of Jose Manual Barroso of Portugal as the new president of the European Commission. France and Germany had supported the Belgium Prime Minister Guy Verhofstadt, who favors high taxes and heavy-handed government intervention. But EU member countries chose Portugal's Prime Minister, a staunch free market proponent with strong reform credentials.

Mr. Barroso has signaled his continued commitment to the principles of economic liberty in virtually every major appointment he has made for his team of commissioners. The competition portfolio is one that France in particular was interested in nabbing. But the job did not go to a French favorite. Instead, it went to Neelie Kroes-Smit of the Netherlands, a member of the free-market Liberal Party in the Netherlands. As transport minister in the 1980s, she supervised the privatization of key naturalized industries, such as the postal system and the telephone monopoly.

The trade post went to a Brit, Peter Mandelson, a close ally of Tony Blair and a strong proponent of aggressive trade liberalization. The internal market position went to Charlie McCreevy, that great supply-sider who cut Ireland's taxes to the lowest in the European Union and helped Ireland enjoy 8 percent, 8 percent, GDP growth. Latvia's Ingrida Udre was given the taxation portfolio in a clear signal of his support for lower taxes.

Madam Speaker, Latvia adopted a 25 percent flat tax 10 years ago, and has experienced growth rates averaging over 6 percent during the last 5 years.

Clearly, the European Union has witnessed the damaging effects of Franco-German policies of high taxes and high regulation which stifle innovation and entrepreneurship; and as a result of that, the new leadership is attempting to make a fundamental shift in the EU's economic and labor policies.

While France and Germany still seem to be lagging behind in this enthusiasm for change, there are signs that even they realize that their policies are not working. The German Chancellor, Gerhard Schroeder, has been struggling to institute new labor reforms that would significantly reduce the burdens of employers, particularly small business owners, in an attempt to jump-start job creation.

There have also been some surprising proposals in the area of tax cutting. Last month the influential advisory panel to Germany's Finance Ministry actually proposed a flat tax of 30 percent on both corporate and personal income. That is still a high rate by international comparisons. Russia's individual flat tax rate, for example, is 13 percent. But it would be a significant reduction, not to mention dramatic simplification, of the very, very complex system that they have in Germany.

German corporate profits are now taxed at 37 percent and individual rates as high as 45 percent. The tax burden is so formidable that a recent European Commission report estimates that the black market in Germany has grown to 6 percent of its GDP.

While much of Western Europe still has a very long way to go to undo the decades of burdensome labor regulations and protective tax policies, the seeds of change, I am happy to say, are being sown. But it is simply mind-boggling that at precisely the same time that the European Union is getting the message and beginning to deal with the very detrimental effects that they have had of years of bad economic policies, JOHN KERRY is proposing that we as Americans begin adopting those failed policies.

He wants to saddle employers with new regulations. He wants to burden U.S. companies that are global leaders and innovators with higher taxes. He wants to disrupt trade agreements that have created new opportunities for American workers, business and consumers. He wants to fundamentally alter the U.S. business environment that has made us the global economic leader and a magnet for the world's best and brightest.

It is hard to understand what JOHN KERRY could possibly be thinking, but at least he provides the American people with a very clear, distinct choice. On the one hand you have a President who cuts taxes, boosting the after-tax dollars of all Americans and making U.S. companies more competitive; a President who aggressively seeks to alleviate the burdens of unnecessary regulations and frivolous lawsuits on employers and job creaters, particularly small business owners; a President who tears down trade barriers that hurt U.S. manufacturers, service providers, farmers, investors and consumers; a President who has helped to lead our economy into the 21st century economy so it will continue to be the global standard bearer.

On the other hand you have a candidate who wants to stymie the freedom and flexibility that have allowed innovators to develop and harness new technologies; a candidate who wants to prevent our most competitive businesses from investing in the global market; a candidate who wants to burden employers and individuals with new taxes and new regulations; a candidate who looks at our dynamic, vibrant, growing, innovative economy and sees only an opportunity for more heavy-handed government intervention.

Madam Speaker, it sounds like JOHN KERRY could learn a few things from the very Europeans whom he proposes we emulate. Our economy is the global leader because the hard work and innovations of millions of Americans are not constrained by excessive government meddling. France and Germany are reluctantly learning this lesson.

I hope very much, Madam Speaker, that as he continues his career in the United States Senate after this November, that JOHN KERRY will learn those lessons as well.

Madam Speaker, I am very happy to yield to my friend the gentleman from San Diego (Mr. CUNNINGHAM).

A VISION OF PEACE IN THE MIDDLE EAST

Mr. CUNNINGHAM. Madam Speaker, I thank the gentleman from California for yielding. I applied for a 1-hour Special Order, but under the rules you are only allowed 2 hours; and thanks to the goodness of my friend, the gentleman from California (Mr. DREIER), I am able to speak for a few minutes.

Madam Speaker, my intent is to bring something different, something refreshing to a Special Order. As I listened to my colleagues on the other side, you would think that the White House and Republicans are mean-spirited, evil, and do not really care about the American public. I think it would be refreshing to listen to a Special Order that actually projects a vision. I wish it was my vision, Madam Speaker, but there are many great men that have tried to work on this, and the good news is that it is achievable.

Now, tonight I only have 20 minutes left to speak. On Monday night I will have a full hour and I will expand. But history has witnessed great men with a vision accomplishing some very difficult tasks, and that vision is a safe and secure Israel. That vision is a Palestine that lives in peace beside its neighbor, Israel. It is a vision that says that the Muslim world can be supportive of both Palestine and Israel. And to make this happen, I want to go through this vision.

I am just a Member of Congress. I do not have the power to bring this to fruition. But I think it is possible, and I think if all of us pull together on both sides of this aisle, it could be something that will change this world for the better, for Republicans, for Democrats, and all Americans.

Can you imagine a time of peace? I know in my life I thought there would never be peace in Ireland. I am of Irish descent. A Democrat went under the Clinton administration and I think worked wonders in that part of the world. He had a vision of bringing Ireland together in a time of peace. Are there differences today? Yes. But it is a lot better than it was.

That is what I want to talk about, and this is why I think it is possible, is to talk over this 20 minutes and then the hour on Monday night.

First, I want to tell why I think it is possible. This is coming from a pilot that flew in Vietnam and also flew in Israel in the 1970s. It comes from a Member of Congress that is a strong supporter of Israel, but yet sees the possibility of Palestine living side by side with Israel and peace in the Middle East.

I recently visited Saudi Arabia for a week.

□ 2245

I went there with a constituent of mine who is an American citizen and has been for many years. He is an American citizen first, but he also wants that vibrant feeling that used to exist between the United States and Saudi Arabia to be rekindled. Madam Speaker, I think that vision is possible, so much so that I am willing to lay out political capital to invest in this Special Order.

I would like to thank Minister Mohammed. He put together a difficult schedule in which I was able to speak to every minister in the council. I was able to talk to the Shura Council, which is like our Congress, to business leaders, to students, to families, to bankers. We even went to an orthopedic rehab center that is rivaled nowhere in the world that takes care of people with orthopedic problems.

Saudi Arabia is a leader, Madam Speaker, in the Muslim community. What happens in Saudi Arabia directs the rest of the feelings in the Muslim community itself. Both Mecca and Medina are looked upon by 1.3 billion Muslims many times a day and pray towards Saudi Arabia, Muslims that want peace, not their counterparts that are active terrorists and extremists.

On 9/11, Saudi Arabia saw many of the Saudi Arabians involved in the 9/11 attacks. They were shocked. And one of the reasons they were shocked is that it was purported that many of the people that were still walking around in Saudi Arabia had been linked to those aircraft crashing into our World Trade Centers, and they were not.

So they acted in disbelief that a nation that had been an ally of the United States, yes, they had problems. They had problems then and they still have problems now. But the majority of Saudi Arabians have a very strong friendship and belief with the United States itself. They thought that this terrible event, when it was confirmed, the Saudi leadership at first was slow to react in some areas; but in other areas, they stepped forward.

One example is they provided millions of barrels of oil right off the bat to stabilize the U.S. economy and to help us meet our needs to help New York, to help the rest of the community when jobs were being destroyed right and left. Madam Speaker, in many instances I will discuss tonight, Saudi Arabia has helped us over and over again.

I want to talk about some of the things I think that hurt us, that can take away from this vision. I look at the students before 9/11 from Saudi Arabia. When I spoke to the cabinet in Saudi Arabia and I spoke to the Shura Council, 75 percent of both the cabinet and Shura Council graduated from U.S. universities. Saudi Arabians that came to this country made personal investments in this country; and to a person, not a single one that had graduated said that they want to separate the ties with the United States. Quite on the contrary. They love the United States; they want to see those relationships rekindled. But, yet, they are angry at some of the things the United States is doing towards Saudi Arabia and the rhetoric that comes out of much of our newspapers that hurts that relationship.

If Osama bin Laden wanted to achieve a division with the United States and one of its best allies in the Middle East, it would try and drive a wedge between us. They feel that is exactly what Osama bin Laden did on 9/11 in using Saudis. He could have used anybody within the entire world.

Let me tell my colleagues about some of these students. I spoke to cabinet members that had graduated and, as a matter of fact, Madam Speaker, the majority of those students obtained Ph.D.s. These are the people who are now leading the Saudi government, both in the Shura Council and within the cabinet itself. But those who had just visited in the United States to a person said, we do not need the United States. I am going to send my son and my daughter to Australia, to England, to Austria, to New Zealand, to English-speaking schools, because they did not make that personal friendship bond with the United States.

My biggest concern, Madam Speaker, is the fact that if we lose that strong support for the United States, 30,000 students from Saudi Arabia prior to 9/

11, do we know how many we have today in U.S. universities? Two thousand Saudi students. There is a fine line between issuing visas and national security. Colin Powell is working desperately to change that and weigh the differences between making sure that those visas are offered only to people that are safe; but on the other hand, we are denying access to our universities and our schools, which people within 5 to 10 years, we are going to ask to support the United States, and that support is not going to be here. That is dangerous, Madam Speaker.

I will give a couple of significant issues as examples. When I talked to one of the students, one of the students who had been attending a United States university for many years had gone back and forth, a strong supporter of the United States even though he was a Saudi. When he checked in through INS, the INS agent looked at his passport and saw that he was from Saudi Arabia. The INS agent said, smile for me like a terrorist. These are the affronts that every single day Muslims in this country face, and the ignorance of some people on how it affects people.

I have a constituent that lives in San Diego. He has been an American citizen for many, many years. His brother is still in Saudi Arabia. His brother's son had been a student within the United States, again for many years. He stepped foot into the United States after traveling back and forth many times, was put into handcuffs, was shackled, his legs where he could just shuffle, and shipped back to Riyadh with no explanation. And guess what? When he got to Riyadh, our agency said, oh, it is a big mistake.

Now, when this constituent of mine goes to Saudi Arabia and speaks about how strong the love is that the United States has for Saudi Arabia, can we imagine what his brother purports to him about his son being shipped back without any reason and then it is proven wrong? And did the United States even offer to ship this man back? No, that is not the case.

When I talked to this young man, his name is Badar, and Badar was even allowed to go get a meal. He had handcuffs, his legs were in irons, he had a tray, and as he is walking to the little cafeteria, he looks over and sees the very agents that had secured him, and he looks and says, can I pick you up anything while I am on my way? I am on my way to do that; can I help you get anything? This is the attitude of many of these young men and women who attend our universities, and it is a shame. They give us support, and the problem is that we may do away with that support in the future.

Madam Speaker, I have heard over and over the media, and even some of our Members of Congress, purport that Saudi Arabia is evil. They have problems in Saudi Arabia. I sit on the Subcommittee on Defense of the Committee on Appropriations, and I also sit on the Permanent Select Committee on Intelligence. I will tell my colleagues directly, not rhetoric, not spin, but the Saudi Government is working with the United States intelligence service in which on Monday, I will purport and submit for the record reams and reams and pages of al Qaeda that they have captured, that they have killed of their own soldiers dying to help us and the rest of the world live in peace from these terrorists. Again, have they had problems in the past? Yes. Do they have problems now? Yes. But we need to help a nation that is trying to help us instead of bashing that nation. In trade, in oil, they have always been there.

Now, in the 1970s, when we had our oil shortage, Saudi did not help us. But since that time, under the first George Bush, under President Clinton, and now under George W. Bush, while the world is providing us oil at $50 a barrel, Saudi Arabia is working to give it to us at $38 a barrel. In the 1970s, when some of us were old enough to remember the gas lines, it was $72 and $73 a barrel. Yet, Saudi is pushing their own wells to make sure that the United States is taken care of, not just for Republicans, but for Democrat administrations as well. Colin Powell is working desperately to resolve this as well.

Let me get into one last issue before my time runs out. Some of my friends that I meet with regularly, and I meet with Jewish constituents, with Persian constituents, with Muslim and Arabic constituents, and they have told me, those who have served in Saudi Arabia, that the Saudi curriculum, education curriculum has not changed in 40 years. Eighty-five percent of that curriculum was okayed by U.S. standards. Fifteen percent was in a gray area. Five percent taught the Wahabiism, the antitolerance system. Well, guess what? Saudi not only supported the 85 percent that we support; they got rid of the 15 percent that was in a gray area. The 5 percent that taught intolerance; they fired those individuals, over 3,000 teachers that were teaching intolerance were eliminated, fired. And they actually have schools that go to purport a new curriculum to help not only not teach intolerance, but to help the Saudi education system itself. Many Americans do not recognize that, that they are trying to work in that direction.

So the students coming to the United States and establishing a bond, the curriculum that they have changed to make sure that it is a curriculum not of intolerance, but of tolerance for other nations and adhere to the United States standards. I think that is significant.

Madam Speaker, I am not sure how much time I have left, but I think it is a good start to set forth on Monday, when we talk about the issues and how do we get from this vision of having Palestine and Israel secure, yet to have a strong Middle East with support for a peaceful system in the viable future.

Madam Speaker, I will start by saying on Monday, I am going to talk about a controversial issue. The Crown Prince Abdullah purported U.N. resolutions and supported U.N. resolutions 338 and 442, and those resolutions were adopted by the United States. They were adopted by the U.N. and NATO and all of the Arab nations. And what that did is it established a Palestinian state, a Jewish state, and if anyone violated those resolutions, the Arab nations would come to the rescue of Israel and support it.

Now, I ask my colleagues, Madam Speaker, can we in today's environment continue the Israeli-Palestinian issue as it exists today? Every day people are losing their lives. I strongly feel before we ever have peace in Iraq and in Afghanistan and Egypt and Syria and Lebanon and other areas that the resolution between the Israeli and the Palestinian people has got to be fixed, and that is no easy issue. They have been fighting for a long time.

So on Monday I want to give my colleagues a vision, not my vision, but a vision that has already been adopted by the United Nations, by the United States, by all of the Arab world, and supported by Crown Prince Abdullah. That is the antithesis of the direction that I would like to go forward in on Monday and give examples of how Saudi Arabia has helped the United States and other nations in the war on terror and the directions that we can go to have peace in the Middle East.

□ 2300

IRAQ WATCH

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized for 60 minutes.

Mr. INSLEE. Madam Speaker, I come to the floor tonight and will be joined shortly by my colleagues who have been consistent in manning our stations in the Iraq Watch. Now, for several months, my colleagues and I in the Iraq Watch have been coming to the floor of the House of Representatives to discuss our policy in Iraq and to ask if we are on the right course in Iraq.

I am reminded why we have been doing that when just before I came to the floor in the cloakroom, watching the TV, I saw a tribute to another fallen American hero in Iraq. That is all too regular an occurrence recently and reminds us why we come here for the Iraq Watch, because we are dedicated to the proposition that the men and women who fall in Iraq should not be shuttled off to page 12 and 14 and forgotten by Americans and have this trial and tribulation in Iraq somehow become sort of a back-burner issue.

We who have participated in the Iraq Watch are committed to the proposition that we need to be diligent in asking hard questions of our government as to whether or not our government is doing the right thing or making mistakes in Iraq. This is important to do for a variety of reasons.

The Vice President of the United States has suggested that only Members of Congress should just act as good little Members of Congress and be silent about Iraq and simply defer to the administration. The Vice President has suggested, at least implicitly, that whatever the administration is doing must be right and that all good Americans must fall in line and be silent about the Iraq policy and to do otherwise would give somehow aid and comfort to the enemy.

Let me suggest that that would be the least patriotic thing for Americans to do, from the U.S. Congress all the way down to the voting booth on November 2, because the people in Iraq serving tonight deserve the right American policy. That is only going to happen if Americans stand up on their hind legs and speak their minds about what we should be doing in Iraq.

So we are doing that, and representing my 600,000 constituents, and I know I will not be alone in expressing some sentiments tonight, to suggest that this administration has not made the right decisions in Iraq and, in fact, has repeatedly made the wrong decisions in Iraq that have now been responsible for us being in this terrible situation that we are now in tonight in Iraq.

Before I yield to the gentleman from Ohio (Mr. STRICKLAND), I would suggest in our discussion tonight there will be two parts of our discussion. One, we will ask whether or not this administration has been right or wrong on a variety of decision-making in Iraq. That is the first part of our discussion. The second part of our discussion is what should we do now to get a fresh approach in Iraq to increase our chance of success in bringing our troops home in a reasonable fashion. Those are both important parts of our discussion.

I have some questions that I would like to pose to the administration, but before I do so, I would like to yield to my friend, the gentleman from Ohio (Mr. STRICKLAND), who has been a very stalwart member of the Iraq Watch to start our discussion this evening.

Mr. STRICKLAND. Madam Speaker, I thank my friend from Washington State for yielding.

Why do we stand here and talk about this subject late at night? The reason is because the people who have made the decisions which have brought us to this current situation, this mess that we face in Iraq, where we have lost well over 1,000 of our soldiers' lives, where approximately 7,000 of our American soldiers have been injured, these same people, and I am talking about from the President to the Vice President CHENEY on down to Secretary Rumsfeld, Paul Wolfowitz, Richard Perle and others, the so-called "neo cons," they have made the decisions which have led us to this place where we are tonight.

We are in a mess. We are in a quagmire in Iraq, and we talk about what has happened in the past because the same people who have brought us to this point want to remain in positions of decision-making. They want to remain in power, and they want to make decisions for what we do in the future.

I just a few moments ago left a dinner that I had with some of my friends from Ohio. These are people who have children and young relatives, and we were talking about the fact that we are in a situation in this country where our military is stretched so thinly that we are literally extending Reserve and National Guards persons well beyond any reasonable length of service in Iraq. They have been jerked out of their communities, away from their families, away from their jobs and professional responsibilities, and they find themselves now in Iraq.

We have a situation where we have instituted the so-called backdoor draft where those who had felt that they had long since fulfilled their military obligations to this country, some in their forties, even I believe many in their fifties, are being pulled out of their communities, away from their families, sent to Iraq.

We are taking our troops away from other really troubled spots in this world, and I would especially mention South Korea. We know that North Korea has stated they are going to go ahead and pursue their nuclear strategies. We are bringing troops away from South Korea simply because we cannot meet our military obligations.

We have got about 135,000 to 140,000 American troops in Iraq tonight. The next country that has a significant number of troops in Iraq is Great Britain. They have got somewhere in the vicinity of 6,500. We have got 135,000 to 140,000, and the reports are that even Great Britain is considering withdrawing up to one-third of their troops from Iraq.

So what do we have? We have a situation where every mother and father in this country should pay attention if they have a child and they do not want that child facing a military draft and being forced to go fight this war that George Bush has started in Iraq. I do not care if a parent's child is 10 years old or 14 years old or 18 years old. If they do not want that son or daughter to be subject to a military draft, they should be paying attention, because although the President says he has no intention of instituting a mandatory draft, if you look at the situation, you look at our manpower needs, you look at the fact that the National Guard is currently having difficulty recruiting sufficient numbers, that they are even taking people who are pre-enlisting, they may still be completing their education, for example, and will not actually be eligible to enter the military for another year or so, they are counting those people as new recruits in order to at least pretend that we are meeting our current manpower needs. That is happening right now.

Mr. INSLEE. Madam Speaker, I just want to add to the point backup for what you are saying.

I read in the last 3 days two very disturbing things. Number one, for the first time in 15 years, the National Guard has fallen over 5,000 people short in their recruiting, for obvious reasons, that we see the stretch that has resulted in a silent draft already of pulling people back repeatedly, and 50-year-old people who have gone to Iraq once for a year, come back for several months, now have to go back again, leaving their families and careers. Of course, the National Guard is going to fall short.

We already have a silent draft because now the Army's pulling people back who served 4- and 5-year terms already, who never understood that they could realistically thought they would be pulled back, and it is disturbing to show you how bad this is. I think something like 25 percent of those people have not appeared for duty. They are so upset about what has happened. This is a major problem in our military because the President planned so poorly about what was going to be involved in Iraq.

Mr. STRICKLAND. Madam Speaker, if the gentleman would yield, my understanding is that those people, those citizens out there, are now being considered deserters because they have not reported.

This is a serious matter. I think the President should be talking to the American people in a very straightforward way about how he intends to meet our military personnel manpower needs without a draft.

□ 2310

Just simply saying we are not going to have a draft is not an answer, because we have the need.

What happens, for example, if something were to break loose on the Korean peninsula? What happens? North Korea is basically thumbing their nose at this administration and basically saying, what are you going to do to us? You are bogged down there in Iraq. Your military is stretched thin. What are you going to do to us if we decide to continue to pursue our efforts to acquire nuclear weapons?

Then there is Iran. Iran is saying basically the same thing. Do they feel intimidated by us? Well, apparently not, because they are indicating they are going to go right ahead with their nuclear program. And we are bogged down in Iraq.

Now, the fact is that Iraq did not have a nuclear program. Iraq was not an imminent threat to this country. Iraq did not present a danger to the American people, but we have diverted our resources and our military capabilities to Iraq, and now we are bogged down there. It is a quagmire. The President wants to avoid that word, but when you have large geographic areas and huge cities in Iraq that are off limits, that are "no-go zones," where our soldiers cannot even enter, then you are living in a make-believe world to say things are going well; that we are going to have elections in January; that democracy is on the march. It is not.

We are not winning in Iraq. And it is not the fault of our soldiers. We honor the service of our soldiers, all of us in this chamber do. But we are just sick and tired of the lack of candor coming from this administration.

Mr. INSLEE. Reclaiming my time, Madam Speaker, I want the gentleman to know that it is not only our sort of hard military assets, when we think of soldiers and tanks and ships that have been pulled away from the real threats that we face, it is our intelligence services. Our intelligence services were pulled off of hunting Osama bin Laden to deal with Iraq.

They actually took the Predator aircraft that was searching for Osama bin Laden up in Afghanistan and moved it to Iraq. And we still have not found Osama bin Laden. We actually diverted intelligence sources that could have been used to find out what Iran is actually doing with their nuclear program, a real threat to this country, a real statement that Iran wants to develop fissionable material. But we moved it to Iraq.

Instead of having intelligence services in North Korea to find out what they are really doing, it is in Iraq. Our intelligence services have been malpositioned as a result of this.

Before we go on into a lot of detail, I would like to suggest ten questions that we in Congress have a duty to ask the administration, and I think the American people have a duty to ask the President of the United States. I think, during the next 5 weeks, this is a very important time to ask these ten questions, and I will posit these ten questions and maybe even hazard an answer about the President's performance in Iraq.

The President's performance is a life or death matter, and we have to ask whether the President's performance has been up to snuff or whether it has been something below expectations and whether it has cut the mustard.

Mr. STRICKLAND. Before the gentleman asks those questions, Madam Speaker, if he will continue to yield, I would like to make one further comment.

I would hope every parent in this country would ask themselves, as they contemplate this war and the situation in which we find ourselves, do they believe that this President's leadership is such that his wisdom, his maturity, his judgment is such that they would entrust their son or their daughter to go fight this war in Iraq?

And the reason I think that is a relevant question is because the President is asking no one to sacrifice for this war save the soldiers who are there risking their lives, in too many cases dying and being injured, and the people who love them back here at home. No one else is being asked to participate in this war.

We are not being asked to pay taxes to pay for the war. We are not being asked to in any way discipline ourselves by saving energy so that we are less reliant on the Middle East for oil and gasoline and such. The President is not sacrificing for this war. It has not touched his life in any direct way. Members of this House, our friends in the other body, by and large, are not sacrificing for this war. I believe there are maybe two Members of the 435 Members of the House and 100 Senators who actually have a child, a son or daughter, who is a part of the active military now.

So we are not sacrificing during this war. The American people generally are not being asked to sacrifice. Are we being asked to pay taxes so that the cost of this war will not be passed on to future generations? No. No. That is not happening.

So it seems appropriate that as we contemplate the fact that some moms and dads are sacrificing and have sacrificed, some husbands and wives have sacrificed, this very night they go to bed wondering whether or not their loved one is going to be safe, it seems that we should reflect upon what is happening here with regard to the fact that we have entered a war of choice.

Iraq did not attack us. Osama bin Laden attacked us. The al Qaeda network attacked us. Iraq was not an imminent threat, yet we find our sons and daughters fighting and dying in this war. So I think it is appropriate to pause and say to the mothers and fathers in this country, do you think this war is worth the sacrifice of your son or your daughter?

And if the people who are listening cannot answer that question in the affirmative, it seems to me then that they should start to question whether or not the sacrifice of some other moms' or dads' sons or daughters is worth the sacrifice.

Mr. INSLEE. Madam Speaker, this Congress needs to ask an additional question. Do we have the right people making the decisions that have exposed our sons and daughters to this life-and-death situation? It is certainly appropriate to ask at least ten hard questions in that regard to see whether this administration has been right or wrong in Iraq.

So I will ask quickly ten questions and posit an answer, and they all are very simple. Was the President right or wrong on various issues in Iraq? I will ask these ten questions, and then I have pretty clear answers that should be pretty obvious to anyone.

Question number one: Was the President right or wrong when he started a war under the statement clearly made to the American people that there is no doubt, no doubt, he said, that Iraq had weapons of mass destruction? Was he right or was he wrong on this life-or-death question?

The fact simply is, he was wrong. He was wrong not only in hindsight, which is easy, but in foresight, because we now have seen the intelligence, and we know there was lots of doubt. This President says there was no doubt, and he was wrong. Then when he made that statement, and over 1,000 Americans have died as a result of that misstatement. The President was not right. He was wrong.

Question number two: Was the President right or wrong when he led Americans to believe that Saddam Hussein was connected to the attack on America on September 11? Was he right or wrong when he led Members to believe that?

Mr. STRICKLAND. Madam Speaker, if the gentleman will yield, I would like to answer that question.

He was absolutely wrong. And in spite of all the evidence, the evidence, for example, that is coming from the 9/11 Commission, this bipartisan commission that found that there was no credible relationship between Saddam Hussein and the attack upon our country, in spite of that evidence, the Vice President continues to try to mislead the American people and to cause the American people to see a connection that did not exist between Saddam Hussein and the attack upon our Nation.

So the answer to the gentleman's second question is, the President was wrong.

Mr. INSLEE. Let us go to question number three: Was the President right or wrong when he led the American people to believe that we would be welcomed as liberators, with rose petals aplenty, with joy in the streets for months welcoming us, which would reduce the need for American troops? Was he right or wrong?

He was wrong, unfortunately. And he was wrong not just in hindsight but he was wrong in not listening to his own intelligence reports that we now know that he had. A report came out last week about the intelligence report he had at that time that predicted because of the ethnic tensions in Iraq that we would be seen as occupiers from day one. He was wrong.

□ 2320

Question number four: Was the President right or wrong in rejecting the advice from his own military personnel that we would need several hundred thousand troops in Iraq to provide security immediately after the collapse of the Iraqi Army or else loitering would run crazy and anarchy would run through the streets? Was he right or wrong when he sent out his hit men to defame General Shinseki, to say that General Shinseki did not know what he was talking about when he said we would need at least 300,000 or 400,000 troops to do this job?

Mr. STRICKLAND. Madam Speaker, he was wrong again. The fact is that this question points to the fact that the civilian leadership within this administration really discounted the professional military advice coming to us from the military folks who had given their lives to studying and having knowledge about these issues. The fact is that General Shinseki, they say he was not fired, but he was pushed aside. He was forced into retirement because they did not want to hear what he had to say. When he gave advice that they found inconsistent with their own predetermined notions of what they wanted to do, they forced General Shinseki into retirement. Once again, the President was wrong.

Mr. INSLEE. Madam Speaker, my fifth question: Was the President right or wrong when he said or the assumption was made that not all of our troops needed body armor and we did not need heavy armor in the streets of Baghdad because only the people in the front lines would be targets? He was wrong. Anyone who knows anything about insurgency should have reached that conclusion. The gentleman from Ohio (Mr. STRICKLAND) has done yeomen's service in fighting this administration to get that body armor to our people.

Mr. STRICKLAND. Madam Speaker, I know something about body armor. There have been accusations that one of the candidates for president voted against an $87 billion supplemental request, somehow deprived our soldiers of body armor. I know something about this because, early on in the conflict, a young constituent of mine, a graduate of West Point and a gung-ho Army guy, wrote to me and said, my men wonder why they do not have this body armor protection. The fact is I started writing letters to Secretary Rumsfeld and General Myers.

I got letters back, and basically, they said to me, we did not plan adequately, we do not have the materials that are necessary to provide this body armor.

So the truth is, in answer to the gentleman's question, the President was wrong because the President chose to send our young soldiers into battle without body armor. It took this administration an entire year from March of 2003 until March 2004 to protect all of our soldiers with individual body armor. And the body armor I am talking about is referred to as the interceptor vest. It costs about $1,500 a piece. It is composed of a vest made of Kevlar with pockets in the front and back for the insertion of ceramic plates. This vest is capable of stopping an AK 47 round. I believe to the core of my being that we have had soldiers lose their lives and be unnecessarily injured simply because this administration prematurely sent our soldiers into battle without this vital equipment. The President was wrong when he sent our troops into battle without adequate body armor.

Mr. INSLEE. Madam Speaker, the sixth question: Was the President right or wrong when he told Americans that, after the mission was accomplished and the President made his grandiose landing on the aircraft carrier in full regalia with the wonderful flight suit and helmet on, and stood in front of a banner that said "Mission Accomplished" and led Americans to believe it was going to be a decreased violent situation, was he right or wrong? And let me suggest that it was 800 lost American heroes ago. He was wrong sadly.

But the problem with this is this is a repeated circumstance with this administration. The administration said that after the Iraqi Army collapsed, things would get better. They got worse. The President said that when we had the turnover, the purported turnover to a provisional Iraqi government, things would get better. They have gotten worse. We are having an accelerated loss of men and women since the turnover.

The President says after the election, things will get better. The President simply has been wrong time and time again with his rose-colored glasses and not facing the truth of the situation in Iraq.

The seventh question: Was the President right or wrong when he decided that the way he was going to do the reconstruction of Iraq was not to hire Iraqis, not to hire Iraqi personnel to do the work, not to hire poor Iraqis which he might get off the street and reduce unemployment, but instead give the contracts to his friends at Halliburton so Halliburton could hire people from the Philippines with our taxpayer money? He was wrong in giving the money to Halliburton and the reason he was wrong is we know that every employed Iraqi is one less potential recruit for the insurgency, and we have been wasting billions of American taxpayer dollars, not using it effectively in the reconstruction of Iraq.

Madam Speaker, my final question, my eighth question is: Was the President right or wrong in saying now that we have done enough, at a proper rate of training the new Iraqi security force, was he right or wrong?

I am going to give Members one tidbit that I read today. Today, a year and a half after the invasion, this administration still has less than 40 percent of the infrastructure for the military necessary to train the Iraqi Army. So here we are with our GIs in harm's way and a year and a half later this administration has less than half of the people they need to do the training of the Iraqi Army, and they expect to have an election in 3 months.

Madam Speaker, I yield to the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. DELAHUNT. Madam Speaker, here we are again late at night asking questions.

Madam Speaker, it is a rare commodity, unfortunately, in Washington, D.C., when one speaks of courage. We witness courage all over America. We witness courage in terms of our men and women overseas risking their lives. We observe courage every day in our streets, particularly with our public safety officials. We clearly witnessed an extraordinary level of courage and heroism on September 11, but we seem to have a paucity of political courage because I believe and I think that most Americans share the view that political courage involves admitting that you are wrong when it is clear that you have made a mistake.

Madam Speaker, all of the questions that the gentleman from Washington (Mr. INSLEE) posed to the gentleman from Ohio (Mr. STRICKLAND) elicited an obvious answer, that the President was wrong.

□ 2330

But what I find most disturbing is the inability of this President to summon the political courage to acknowledge that he was wrong. It is certainly no disgrace to make a mistake, to be wrong. We have all done it. I do it every day. But what I think is particularly un-American, undemocratic, is a reluctance to be forthright and honest about your failures. We do not hear that from this President. That is sad. Because that kind of genuine leadership would be the earmark of genuine leadership, of leadership that would be embraced by all of us, irrespective of partisan differences. But it is so sorely lacking at this moment in our history.

We need a leader with political courage. I think it became clear to me last March when David Kay, the man who led this White House postwar effort to find the weapons of mass destruction that were purportedly in Iraq, called on the President to come clean with the American people. I think when he made that call, he felt that the President was receiving poor political advice and that what was necessary was to acknowledge that a mistake had been made. I know that the two of you remember his appearance before a committee in the other branch that appeared on the front page of, I think it was Time magazine, but it was eloquent in its courage when he said, "We were all wrong." It is not a sin to be wrong, but it is not being patriotic and American to lack the courage to admit a mistake was made.

David Kay said, and I am quoting from a story that appeared in the Guardian, a highly respected English magazine. He said that the administration's reluctance to make that admission was undermining its credibility at home and abroad. He called for a frank admission, even though it was embarrassing.

Not only are we losing our prestige, not only are we losing our claim to moral authority but because of this President's failure to admit he was wrong, let me suggest we are losing the war on terror, because we are losing allies every day and the American people should know that. Because when you review the hard evidence that shows that incidents of terror are increasing dramatically every day all over the world, particularly in Iraq and in Afghanistan. I fear that we are losing that war, a war that every American wants to win. I thank the gentleman from Washington for enumerating that list of mistakes. But I could even forgive this President if he could accept responsibility, but he cannot. That is a failure of courage.

Mr. INSLEE. I think the ninth question dovetails with what you are saying so eloquently that all of us can make mistakes. It is human. And these are difficult situations, obviously. But my ninth question, I think, goes to an issue that exposes why we are in such a difficult situation in Iraq. The ninth question is, Is the President right or wrong when he tells us, or leads us to believe that most of this violence against Americans in Iraq are outside forces of Iraq, sort of these outside terrorists who are coming into Iraq to commit this horrendous violence against us? The reason he has said this, I think, is he wants to believe that because he does not want to believe that the Iraqis themselves do not view us as liberators, because he always believed that apparently we would be greeted as liberators. He apparently cannot get out of that mind-set that some Iraqis view us as occupiers.

So was the President right or wrong when he says that most of the violence against Americans is caused by people from outside of Iraq? The President is wrong. The reason I know that is they finally did an evaluation of the people in custody in our prisons, Abu Ghraib where we obviously had a lack of leadership as far up as the Secretary of Defense; but what they found was of all the people we had in custody, less than 2 percent were from outside of Iraq. Less than one out of 50 of these people that we had in custody were from outside Iraq.

What does that tell you? That is bad news for us, because what it means is that 49 out of 50 of those people are Iraqis who are fighting, who are domestic and who live there. That means that the President's working assumption from day one that we would be seen as liberators simply is not the case, and he refuses to recognize that reality.

Mr. STRICKLAND. On this question, this ninth question, I think the President is partly right. I think he is mostly wrong because as my friend from Washington has indicated, the people in Iraq simply do not want us there. All the opinion polls indicate that. When you see the people dancing in the streets when one of our tanks has been exploded or something, oftentimes you see young Iraqi children. These are not foreigners that have invaded Iraq. But I will admit that the President is partly right, because some of the people in Iraq now are in fact terrorists from outside the country.

But that leads to another question. When did they come there, and why are they there? The evidence is that Iraq was not a country that was filled with al Qaeda terrorists prior to this war, but in fact since this war has started, now Iraq is becoming a haven for terrorists. Terrorists are in fact coming. Some of the Taliban, we are even being told, the former Taliban terrorists that were in Afghanistan are now finding some haven for themselves in Iraq. Some of the large cities in Iraq are havens for the terrorists. These are the so-called no-go zones where our troops cannot go and say they are places which are really breeding terrorists.

So I do think that we have created a mess in Iraq. We have taken a country that was not an imminent threat to us, we took a country that was controlled by an authoritarian, despicable dictator who abused his own people, that is true. That is Saddam Hussein. Are we glad he is gone? Absolutely. He was a terrible human being, a terrible person. But the fact is that does not cover the problem we have of justifying invading Iraq as the President indicated because they were connected to the attack on our country or they were somehow an imminent danger to us or were developing nuclear weapons or had weapons of mass destruction.

□ 2340

None of those things are true. So what I am trying to say to my friend in regard to his ninth question, which I think is a thoughtful question, we have created in Iraq, or this administration has created in Iraq, a breeding ground for terrorists, and many of those terrorists are homegrown Iraqis. Some of them are the result of outsiders seeing an opportunity now to go into Iraq because of all the chaos that exists there and join this effort against the United States.

Mr. INSLEE. Madam Speaker, I really think that is a perceptive comment, what he said, which I agree with, that while Iraq may not have presented a terrorist threat before this invasion, it does now. And I think that is a very perceptive thing to say and I agree.

Mr. STRICKLAND. Madam Speaker, if the gentleman will continue to yield, to make an effort just to clarify what I am saying, the President has made every attempt to convince the American people that the war in Iraq is the war against terror, and he has tried to blur the distinctions between Osama bin Laden and Saddam Hussein. He has tried to imply that al Qaeda, this terrorist network, was operative in Iraq.

The fact is that the American people know better. They know the war on terror is the war against Osama bin Laden and against those who attacked our country. And the fact is that when the President tries to blur that distinction, I think he is doing a disservice to the American people.

There is a war in Iraq, a preemptive war which we initiated. There is a war against terror, against those who were associated with Osama bin Laden and who are determined to once again strike our country. And I would just remind the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Washington (Mr. INSLEE) that the leader of the war against us in terms of a terrorist network is Osama bin Laden. And Osama bin Laden is alive and well somewhere. And this President spoke for 63 minutes at the Republican convention and never once mentioned his name.

Mr. INSLEE. Madam Speaker, reclaiming my time, I have heard it said that he is really "Osama been forgotten," and unfortunately that has some truth to it.

Let me ask my tenth question about whether the President has been right or wrong on these critical issues.

Was the President right or wrong when he told us that the American taxpayer would not have to pay for this effort because the Iraqi oil fields would be producing enough to essentially pay for this operation in the reconstruction of Iraq? Something Mr. Wolfowitz told I think every single Member, 435 Members of Congress, looked us in the eye and said not to worry, the Iraqi oil revenues will pay for this; the American taxpayers are not going to have to sacrifice a dime for this operation.

Madam Speaker, I yield to Mr. DELAHUNT to answer that question, was the President right or wrong in that regard?

Mr. DELAHUNT. Madam Speaker, not only was he wrong, but what the administration did, and we have heard much about $87 billion, and the White House attacks JOHN KERRY because he voted against the $87 billion, but what they failed to do was tell the other half of the story, like we all voted against the $87 billion also, because not only did he fail to tell the truth about the cost of reconstruction but rather insisted that the monies that were to be utilized in rebuilding Iraq were to be a gift, a giveaway. So all of those American taxpayers who are out there who were misled about the cost of the war being paid for by the Iraqis in the first instance, they should understand that all of the money we are pouring into Iraq is not a loan. It is a gift. It is a giveaway. It is welfare, if you will.

We heard today about welfare, welfare to work. We are providing welfare for the Iraqi people. We are building them 6,000 miles of roads. We cannot get a transportation bill through here to help build American roads and repair them. We are building schools in Iraq, and we are rehabilitating schools in Iraq, thousands of them. But there is no money to rebuild and rehab schools in America.

And do my colleagues know what else we are doing? We are building affordable housing, 25,000 units, for Iraqi people. In the United States, with our population, which is ten times that of Iraq, we are building 5,000. And do my colleagues know what? Mr. and Mrs. Taxpayer are not going to get a dime of it back. Sure, there are other nations that are giving something, nowhere near what we are, but their governments insisted it be a loan.

So, in short, Madam Speaker, we were misled, and the American taxpayer has been duped, and the American taxpayer is not going to get a dime back.

Mr. INSLEE. Madam Speaker, reclaiming my time, let me add insult to injury. The President has essentially wanted to fight this war on the cheap and not pay for it, the first time in American history where a President has done massive tax cuts in the middle of a war. And as a result of that, what this President has done has put the real cost of this war and the reconstruction of Iraq not on our generation. It is all deficit spending. The $200 billion-plus is all deficit spending because the President has not had the gumption to go to the American people and ask them to pay for this war. Winston Churchill said, "All I have to offer you is blood, sweat, toil, and tears." This President has not been willing to level with the American people to really say, I am asking them to buck up for the cost of this. And when one is not willing to be candid with the American people in that regard, how can we continue to maintain support for this operation? This deficit spending is wrong.

I just want to summarize before we go to the future and use our remaining time talking about where we go in the future. I just want to summarize our discussion. We have asked ten questions tonight, the ten critical questions about this President's performance in Iraq, was he right or wrong? Here is the summary of the answers:

He was wrong on WMD. He was wrong about al Qaeda's links. He was wrong about our being greeted as liberators with rose petals. He was wrong about the number of troops that we would need to maintain security in Iraq, despite the advice of his own generals. He was wrong about not saying that we needed body armor for everyone. He was wrong about saying, as soon as mission is accomplished and there is a new government, things would get better. He was wrong about saying it is better to give deals to his friends at Halliburton than it is to Iraqis working to get this work done. He was wrong about saying there would be a decrease in violence. He was wrong about saying that the majority of the people essentially are outside of Iraq. He was wrong about not providing enough trainers early enough to get an army of Iraqis up to face this threat. And, lastly, he was wrong in not facing the real cost of this operation and wrong in making this all deficit spending.

Those are ten very serious failures of leadership by this American President. And these are not peripheral issues. And it shows a pattern. And one thing the gentleman from Ohio (Mr. STRICKLAND) said and the gentleman from Massachusetts (Mr. DELAHUNT) both, these are difficult issues. We can all make mistakes. But this is a pattern of repeated failure that has now resulted in a terrible situation where things are getting worse rather than better in Iraq. There has been one person in the administration who has said that, and that is the Secretary of State. Exactly one person in the administration has recognized how dire this situation is. And now the American people are going to be called to ask, was this good enough performance in difficult situations? And that is a decision they will make in November.

I hope we can turn our discussion for our remaining time now about our suggestions about where we go from here, what we suggest we need to do because we are in this pickle together. Democrats and Republicans, we are all in the lifeboat together. Let me just make one quick suggestion I would make.

□ 2350

I believe it is important for the American President to make very clear to the Iraqi people that we are not going to be in Iraq forever. We are not going to be a permanent presence in Iraq. Unfortunately, he is sending different messages and building 14 permanent military bases in Iraq that obviously are going to be there for decades, the way they are under construction.

We need Iraqis to realize their destiny is in their hands, that they cannot rely on us. They need to get on their own two feet and shoulder these burdens. These groups we are putting in the army have to decide they might have to engage for their own benefit, they cannot rely on us as a crutch forever. We need to make that statement very clear to the Iraqis to encourage them to take responsibility for their own destiny.

I yield to the gentleman from Ohio.

Mr. STRICKLAND. Madam Speaker, I like that suggestion from my friend from Washington State, that we need to convey to Iraqis that we do not intend to stay there.

A second suggestion I would like to make is we need to convey to the world community that this is their problem, not just an American problem. Stability in the Middle East, access to the resources, the oil resources in the Middle East, is important for so many countries, not just us. But the fact is that this President and this administration really have stuck their thumbs in the eyes, figuratively speaking, of so many of our traditional allies.

The fact is that we had this administration announcing right off that the work to do the reconstruction in Iraq would only go to certain companies, Halliburton being the primary one, and no other countries could or would be involved. So we basically said we do not want you involved, because, as was said earlier, we thought it was going to be easy sailing. We would go in there, they would love us, democracy would bloom, we would have access to oil, and we did not want the help of other countries.

Now it has gotten pretty tough, and we find more and more of even the coalition partners pulling back, pulling away. Some countries have pulled out entirely. Even Great Britain, they are talking about the possibility of reducing their force in Iraq by one-third. So I believe we do need to internationalize the effort in Iraq.

We need to go to the UN, we need to go to NATO. We need to say this is a problem that is of importance to all of us, the solution must come from all of us, and the burden must be borne by all of us.

Now, can President Bush do that? I doubt if he can. I think he has so poisoned the water in terms of our international relationships that it is highly unlikely that we will ever be able to develop the kind of international cooperation and coalition that will enable us to extricate ourselves from Iraq in a timely manner with honor. So that is why I believe we need a change in administration.

Now, our traditional allies, and I am talking about the Europeans that have fought wars with us and been our partners, I do not think they like to be alienated from us. I do not think they like a division between our country and their country. I believe they would welcome an opportunity for a rapprochement, for a coming together, even to deal with this most difficult issue. But I do not think it will happen under the leadership of this President or this administration.

So my suggestion, in addition to the one I have heard from my colleague and friend from Washington State, is that we move forward with a renewed effort to internationalize the conflict in that part of the world, and I think it can be done, and I think it will be done under new presidential leadership.

Mr. INSLEE. Madam Speaker, I yield to the gentleman from Massachusetts (Mr. DELAHUNT) for a suggestion.

Mr. DELAHUNT. Madam Speaker, I would simply add to that is what we have now is the President in terms of world opinion that has very little credibility. Let us just state the truth, the reality: If we are going to internationalize, we have to have an administration that has credibility and respect throughout the world.

There was a recent survey of some nine Islamic countries, and in fact Secretary Powell just indicated that the magnitude of anti-Americanism throughout the world and specifically among Muslim nations is growing at a fearful rate. But the survey that was done of these nine countries indicated that the vast majority of those people in those nations believed that we went there for oil; for oil.

I would like to leave you with this question: Before September 11, according to an anecdote that was related in a book by the former Secretary of Treasury, a Republican, a conservative who served in the Reagan and the Nixon administrations, indicated that on February 26, 2001, months before our national tragedy, he saw a map. It was prepared by the Secretary of Defense, Secretary Rumsfeld, with markings for a super giant oil field and earmarked for production sharing and dividing the largely undeveloped southwest of the country into nine blocks for future exploration.

In other words, in February of 2001, according to Secretary of Treasury Paul O'Neill, the administration had a map, and the map is to my left. This was before any issue of weapons of mass destruction or links to al Qaeda came up.

Now, where did this map come from? Well, it was produced as a result of a lawsuit, a lawsuit by a group called Judicial Watch, which certainly is no fan or ally of partisan Democrats. They secured it as a result of discovery proceedings in a lawsuit against the vice president of the United States, DICK CHENEY, because of the secrecy surrounding his Energy Task Force. That is where it came out. And here is the map of Iraq.

We need some answers and the rest of the world needs some answers about this map, about Secretary O'Neill's reference to it, so that we can clarify, once and for all, what the real motive of our military intervention in Iraq was all about, because it is stories like this that lead the rest of the world to doubt our motives and our proclamation, Madam Speaker, that we are bringing democracy to the rest of the world.

Mr. INSLEE. Madam Speaker, reclaiming my time, the gentleman brings up the issue of our relationship with these contractors.

Let me make a third suggestion, and that is that this administration stop pouring money into Halliburton and start getting it to Iraqis so they can get to work rebuilding their own country.

There is no reason for us to be giving our taxpayer dollars to Halliburton so they can hire Filipinos and take, I don't know what the percentage is, but to skim profits off the top in this cost-plus kind of contract, no-bid contracts. That is wrong to taxpayers. But, more importantly, it is wrong in our effort to stop the insurgency in Iraq.

You have got thousands of idle young men in Iraq with no job, and yet we are paying our taxpayer money to hire Filipinos in Iraq? This makes no sense whatsoever. Whatever relationship the vice president had with Halliburton, it should not be driving bad decision making when it comes to contracting in Iraq. That has got to stop. That is my third suggestion.

Madam Speaker, I yield to the gentleman from Ohio (Mr. STRICKLAND).

Mr. STRICKLAND. Madam Speaker, I just want to thank my friend the gentleman from Washington (Mr. INSLEE) and my friend the gentleman from Massachusetts (Mr. DELAHUNT) for participating tonight. What we are talking about is quite serious, it involves life and death, it involves the future of our Nation, and the American people need to be paying attention, because this war could drag on for 50 years or more.

We have unleashed a hornet's nest in the Middle East and I see no plan to bring it under control. All we are promised by this administration basically is more of the same or something worse, out-and-out civil war, with our troops caught in the cross fire.

So it is important that we talk about these matters, it is important that the American people pay attention to these matters, because we are going to be making a decision in 32 days, or something like that, regarding the future of this Nation, and I believe under the current administration we will have nothing but more of the same.

Mr. INSLEE. Madam Speaker, reclaiming my time, we will note that we will continue our discussion about Iraq in the weeks to come. We owe this obligation to our men and women serving proudly tonight. We will not be intimidated into stopping to ask these hard questions of the Federal Government. Americans deserve these questions to be asked, and they will be answered.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MEEK of Florida (at the request of Ms. PELOSI) for today and September 30 on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Mr. PALLONE, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. FALEOMAVAEGA, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. VAN HOLLEN, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

(The following Members (at the request of Mr. NORWOOD) to revise and extend their remarks and include extraneous material:)

Mr. NORWOOD, for 5 minutes, today and September 30, October 4, 5, and 6.

Mr. HENSARLING, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today and September 30 and October 1.

SENATE BILL REFERRED

A bill of the Senate of the following title was taken from the Speaker's table and, under the rule, referred as follows:

S. 2742. An act to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 1308. An act to amend the Internal Revenue Code of 1986 to provide tax relief for working families, and for other purposes.

H.R. 3389. An act to amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations.

SENATE ENROLLED JOINT RESOLUTION SIGNED

The SPEAKER announced his signature to an enrolled joint resolution of the Senate of the following title:

S.J. Res. 41. A Joint Resolution Commemorating the opening of the National Museum of the American Indian.

ADJOURNMENT

Mr. DELAHUNT. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), the House adjourned until tomorrow, Thursday, September 30, 2004, at 10 a.m.

NOTICE OF PROPOSED RULEMAKING

U.S. CONGRESS,
OFFICE OF COMPLIANCE,
Washington, DC, September 29, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
The Capitol, Washington, DC.

DEAR MR. SPEAKER: Section 304(b)(1) of the Congressional Accountability Act of 1995 ("Act"), 2 U.S.C. 1384(b)(1), requires that, with regard to substantive rules under the Act, that "[t]he Board [of Directors of the Office of Compliance] shall publish a general notice of proposed rulemaking under section 553(b) of Title 5, United States Code . . . [by transmittal] to the Speaker of the House of Representatives and the President pro tempore of the Senate for publication in the Congressional Record on the first day on which both Houses are in session following such transmittal." Board of Directors of the Office of Compliance is transmitting herewith the enclosed Notice of Proposed Rules implementing certain substantive rights and protections of the Fair Labor Standards Act of 1938, for publication in both the House and Senate versions of the Congressional Record on the first day on which both Houses of Congress are in session following this transmittal.

Any inquiries regarding this Notice should be addressed to the Executive Director, Office of Compliance, 110 2nd Street, S.E., Room LA-200, Washington, DC 20540.

Sincerely,

SUSAN S. ROBFOGEL,
Chair of the Board of Directors.

FROM THE BOARD OF DIRECTORS OF THE OFFICE OF COMPLIANCE

Implementing Certain Substantive Rights and Protections of the Fair Labor Standards Act of 1938, as Required by Section 203 of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1313.

NOTICE OF PROPOSED RULEMAKING

Background: The purpose of this Notice is to initiate the process for replacing existing overtime pay eligibility regulations with new regulations which will substantially mirror the new overtime exemption regulations recently promulgated by the Secretary of Labor.

Do FLSA overtime pay requirements apply via the CAA to Legislative Branch employing offices? Yes. One of the regulatory statutes incorporated in part through the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1301 et seq., is the Fair Labor Standards Act of 1938 (FLSA), 29 U.S.C. 201 et seq. Section 203(a)(1) of the CAA states: "[t]he rights and protections established by subsections (a)(1) and (d) of section 6, section 7, and section 12(c) of the [FLSA] . . . (29 U.S.C. 206(a)(1), 207, 212(c)) shall apply to covered employees." Section 7 of the FLSA, 29 U.S.C. 207, includes the requirements regarding the payment of time and one half overtime pay to employees.

Are there existing overtime exemption regulations already in force under the CAA? Yes. In 1996, the Board of Directors of the Office of Compliance promulgated the existing CAA overtime exemption regulations based on the "old" 29 CFR Part 541 regulations which were in force until August 23, 2004. These regulations were adopted pursuant to the CAA section 304 procedure outlined herein below. Those regulations are found at Parts H541 (applicable to the House of Representatives), S541 (applicable to the Senate), and C541 (applicable to the other employing offices covered by section 203 of the CAA) of the FLSA Regulations of the Office of Compliance. These regulations remain in force until replaced by new regulations. Office of Compliance regulations can be accessed via our web site: www. compliance.gov.

Why is this Notice being issued? This Notice of Proposed Rulemaking is occasioned by the recent promulgation of new overtime exemption regulations by the Secretary of Labor at Vol. 69 of the Federal Register, No. 79, at pp. 22122 et seq., on August 23, 2004. The new regulations of the Secretary of Labor are set out at 29 U.S.C. Part 541, and replace the regulations which had been in effect prior to August 23, 2004. The Secretary of Labor's regulations do not apply to employing offices and employees covered by the CAA.

Why are there separate sets of existing FLSA regulations for the House of Representatives, the Senate, and the other employing offices covered by the CAA? Section 304(a)(2)(B) of the CAA, 2 U.S.C. 1384(a)(2)(B), requires that the substantive rules of the Board of Directors of the Office of Compliance "shall consist of 3 separate bodies of regulations, which shall apply, respectively, to—(i) the Senate and employees of the Senate; (ii) the House of Representatives and employees of the House of Representatives; and (iii) the other covered employees and employing offices." In 1996, the House of Representatives (H. Res. 400) and the Senate (S. Res. 242) each adopted by resolution the FLSA regulations applicable to each body. The Senate and House of Representatives adopted by concurrent resolution (S. Con. Res. 51) the regulations applicable to other employing offices and employees.

Are there substantive differences in the proposed regulations for the House of Representatives, the Senate, and the other employing offices? No. While there are some differences in other parts of the existing FLSA regulations applicable to the Senate, the House of Representatives, and the other employing offices (chiefly related to the mandate at section 203(c)(3) of the CAA, 2 U.S.C. 1313(c)(3), regarding "covered employees whose work schedules directly depend on the schedule of the House of Representatives or the Senate . . ."), the Board of Directors has identified no "good cause" for varying the text of these regulations. Therefore, if the proposed part 541 regulations are adopted, the prefixes "H", "S", and "C" will be affixed to each of the sets of regulations for the House, for the Senate, and for the other employing offices, but the text of the part 541 regulations will be identical.

How are substantive regulations proposed and approved under the CAA? Section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), requires that the Board of Directors propose substantive regulations implementing the FLSA overtime requirements which are "the same as substantive regulations promulgated by the Secretary of Labor to implement the statutory provisions . . . except insofar as the Board may determine, for good cause shown and stated together with the regulation, that a modification of such regulation would be more effective for the implementation of the rights and protections under this section." Pursuant to section 304 of the CAA, 2 U.S.C. 1384, the procedure for promulgating such substantive regulations requires that: (1) the Board of Directors adopt proposed substantive regulations and publish a general notice of proposed rulemaking in the Congressional Record; (2) there be a comment period of at least 30 days after the date of publication of the general notice of proposed rulemaking; (3) after consideration of comments by the Board of Directors, that the Board adopt regulations and transmit notice of such action together with the regulations and a recommendation regarding the method for Congressional approval of the regulations to the Speaker of the House and President pro tempore of the Senate for publication in the Congressional Record; (4) committee referral and action on the proposed regulations by resolution in each House, concurrent resolution, or by joint resolution; and (5) final publication of the approved regulations in the Congressional Record, with an effective date prescribed in the final publication. For more detail, please reference the text of 2 U.S.C. 1384. This Notice of Proposed Rulemaking is step (1) of the outline set forth above.

How does the Board of Directors recommend that Congress approve these proposed regulations? Pursuant to section 304(b)(4) of the CAA, 2 U.S.C. 1384(b)(4), the Board of Directors is required to "include a recommendation in the general notice of proposed rulemaking and in the regulations as to whether the regulations should be approved by resolution of the Senate, by resolution of the House of Representatives, by concurrent resolution, or by joint resolution." The Board of Directors recommends that the procedure used in 1996 be used to adopt these proposed overtime exemption regulations: the House of Representatives adopted the "H" version of the regulations by resolution; the Senate adopted the "S" version of the regulations by resolution; and the House and Senate adopted the "C" version of the regulations applied to the other employing offices by a concurrent resolution.

Are these proposed regulations also recommended by the Office of Compliance's Executive Director, the Deputy Executive Director for the House of Representatives, and the Deputy Executive Director for the Senate? Yes, as required by section 304(b)(1) of the CAA, 2 U.S.C. 1384(b)(1), the substance of these regulations is also recommended by the Executive Director and Deputy Executive Directors of the Office of Compliance.

How are the Secretary of Labor's new overtime exemption regulations different than the old Secretary of Labor regulations at 29 CFR Part 541? The Secretary of Labor has substantially rewritten Part 541. Much of the regulatory framework for determining whether a particular employee should or should not receive overtime pay at time and one-half of that employees's regular rate of pay has been restructured under the new Part 541. For the Secretary of Labor's explanation of the substance of the changes, see the Department of Labor's discussion of the new regulations found at: www.dol.gov/fairpay/.

How similar are the proposed CAA regulations with the new Secretary of Labor regulations? Except for certain required changes, which are shown in the accompanying proposed regulations, the Board of Directors has repeated the text of the regulations at 29 CFR Part 541. "Good cause" for modification of the existing regulations of the Secretary of Labor, as required by section 203(c)(2) of the CAA, 2 U.S.C. 1313(c)(2), consists of those changes needed to reflect the authority of the CAA as the enabling statute for these regulations, the requirement at section 225(d)(3) of the CAA, 2 U.S.C. 1361(d)(3), that the CAA "shall not be construed to authorize enforcement by the executive branch of this Act. . . .". If there is any additional good cause for a particular proposed variation from the Secretary of Labor's regulations, it is set out adjacent to that provision of the proposed regulation.

Are these proposed CAA regulations available to persons with disabilities in an alternate format? This Notice of Adoption of Amendments to the Procedural Rules is available on the Office of Compliance web site, www.compliance.gov which is compliant with section 508 of the Rehabilitation Act of 1973 as amended, 29 U.S.C. 794d. This Notice can also be made available in large print or Braille. Requests for this Notice in an alternative format should be made to: Alma Candelaria, Deputy Executive Director, Office of Compliance, 110 2nd Street, S.E., Room LA-200, Washington, D.C. 20540; 202-724-9225; TDD: 202-426-1912; FAX: 202-426-1913.

30-DAY COMMENT PERIOD REGARDING THE PROPOSED REGULATIONS

How can I submit comments regarding the proposed regulations? Comments regarding the proposed new overtime exemption regulations of the Office of Compliance set forth in this NOTICE are invited for a period of thirty (30) days following the date of the appearance of this NOTICE in the Congressional Record. In addition to being posted on the Office of Compliance's section 508 compliant web site (www.compliance.go) this NOTICE is also available in the following alternative formats: Large Print, Braille. Requests for this NOTICE in an alternative format should be made to: Bill Thompson, Executive Director, or Alma Candelaria, Deputy Executive Director, Office of Compliance, at 202-724-9250 (voice) or 202-426-1912 (TDD).

Submission of comments must be made in writing to the Executive Director, Office of Compliance, 110 Second Street, S.E., Room LA-200, Washington, D.C. 20540-1999. It is requested, but not required, that an electronic version of any comments be provided on an accompanying computer disk. Comments may also be submitted by facsimile to the Executive Director at 202-426-1913 (a non-toll-free number.) Those wishing to receive confirmation of the receipt of their comments must provide a self-addressed, stamped post card with their submission.

Copies of submitted comments will be available for review on the Office's web site at www.compliance.gov, and at the Office of Compliance, 110 Second Street, S.E., Washington, D.C. 20540-1999, on Monday through Friday (non-Federal holidays) between the hours of 9:30 a.m. and 4:30 p.m.

Supplementary Information: The Congressional Accountability Act of 1995 (CAA), PL 104-1, was enacted into law on January 23, 1995. The CAA applies the rights and protections of 12 federal labor and employment statutes to covered employees and employing offices within the Legislative Branch of Government. Section 301 of the CAA (2 U.S.C. 1381) establishes the Office of Compliance as an independent office within the Legislative Branch.

HOW TO READ THE PROPOSED AMENDMENTS

The text of the proposed amendments reproduces the text of the regulations promulgated on August 23, 2004 by the Secretary of Labor at 29 CFR Part 541, and shows changes proposed for the CAA version of these same regulations. Changes proposed by the Board of Directors of the Office of Compliance are shown as follows: *//deletions within italicized brackets//*, ***and added text in italicized bold***. Therefore, if these regulations are approved as proposed, *//bracketed text will disappear from the regulations//*, ***and added text will remain***. If these regulations are approved for the House of Representatives by resolution of the House, they will be promulgated with the prefix "H" appearing before each regulations section number. If these regulations are approved for the Senate by resolution of the Senate, they will be promulgated with the prefix "S" appearing before each regulations section number. If these regulations are approved for the other employing offices by joint or concurrent resolution of the House of Representatives and the Senate, they will be promulgated with the prefix "C" appearing before each regulations section number.

PROPOSED OVERTIME EXEMPTION REGULATIONS

PART 541—DEFINING AND DELIMITING THE EXEMPTIONS FOR EXECUTIVE, ADMINISTRATIVE, PROFESSIONAL, COMPUTER AND OUTSIDE SALES EMPLOYEES

Subpart A—General Regulations

Sec.
541.0 Introductory statement.
541.1 Terms used in regulations.
541.2 Job titles insufficient.
541.3 Scope of the section 13(a)(1) exemptions.
541.4 Other laws and collective bargaining agreements.

Subpart B—Executive Employees

541.100 General rule for executive employees.
541.101 Business owner.
541.102 Management.
541.103 Department or subdivision.
541.104 Two or more other employees.
541.105 Particular weight.
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Subpart C—Administrative Employees

541.200 General rule for administrative employees.
541.201 Directly related to management or general business operations.
541.202 Discretion and independent judgment.
541.203 Administrative exemption examples.
541.204 Educational establishments.

Subpart D—Professional Employees

541.300 General rule for professional employees.
541.301 Learned professionals.
541.302 Creative professionals.
541.303 Teachers.
541.304 Practice of law or medicine.

Subpart E—Computer Employees

541.400 General rule for computer employees.
541.401 Computer manufacture and repair.
541.402 Executive and administrative computer employees.

Subpart F—Outside Sales Employees

541.500 General rule for outside sales employees.
541.501 Making sales or obtaining orders.
541.502 Away from employer's place of business.
541.503 Promotion work.
541.504 Drivers who sell.

Subpart G—Salary Requirements

541.600 Amount of salary required.
541.601 Highly compensated employees.
541.602 Salary basis.
541.603 Effect of improper deductions from salary.
541.604 Minimum guarantee plus extras.
541.605 Fee basis.
541.606 Board, lodging or other facilities.

Subpart H—Definitions And Miscellaneous Provisions

541.700 Primary duty.
541.701 Customarily and regularly.
541.702 Exempt and nonexempt work.
541.703 Directly and closely related.
541.704 Use of manuals.
541.705 Trainees.
541.706 Emergencies.
541.707 Occasional tasks.
541.708 Combination exemptions.
541.709 Motion picture producing industry.
541.710 Employees of public agencies.

Authority: 29 U.S.C. 213; *//Public Law 101-583, 104 Stat. 2871//*; ***2 U.S.C. 203; 2 U.S.C. 304.*** *//Reorganization Plan No. 6 of 1950 (3 CFR 1945-53 Comp. p. 1004); Secretary's Order No. 4-2001 (66 FR 29656).//*

Subpart A—General Regulations

Sec. 541.0 Introductory statement. (a) Section 13(a)(1) of the Fair Labor Standards Act (Act), as amended, ***and as applied pursuant to section 203 of the Congressional Accountability Act of 1995, 2 U.S.C. 1313,*** provides an exemption from the Act's minimum wage and overtime requirements for any employee employed in a bona fide executive, administrative, or professional capacity (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee, *//as such terms are defined and delimited from time to time by regulations of the Secretary, subject to the provisions of the Administrative Procedure Act.//* Section 13(a)(17) of the Act provides an exemption from the minimum wage and overtime requirements for computer systems analysts, computer programmers, software engineers, and other similarly skilled computer employees. (b) The requirements for these exemptions are contained in this part as follows: executive employees, subpart B; administrative employees, subpart C; professional employees, subpart D; computer employees, subpart E; outside sales employees, subpart F. Subpart G contains regulations regarding salary requirements applicable to most of the exemptions, including salary levels and the salary basis test. Subpart G also contains a provision for exempting certain highly compensated employees. Subpart H contains definitions and other miscellaneous provisions applicable to all or several of the exemptions. (c) Effective July 1, 1972, the Fair Labor Standards Act was amended to include within the protection of the equal pay provisions those employees exempt from the minimum wage and overtime pay provisions as bona fide executive, administrative, and professional employees (including any employee employed in the capacity of academic administrative personnel or teacher in elementary or secondary schools), or in the capacity of an outside sales employee under section 13(a)(1) of the Act. The equal pay provisions in section 6(d) of the Fair Labor Standards Act are also administered and enforced by the //United States Equal Employment Opportunity Commission// ***Office of Compliance.***

Sec. 541.1 Terms used in regulations. Act means the Fair Labor Standards Act of 1938, as amended. //Administrator means the Administrator of the Wage and Hour Division, United States Department of Labor. The Secretary of Labor has delegated to the Administrator the functions vested in the Secretary under sections 13(a)(1) and 13(a)(17) of the Fair Labor Standards Act.// ***CAA means Congressional Accountability Act of 1995, as amended. Office means the Office of Compliance. Employee means a "covered employee" as defined in section 101(3) through (8) of the CAA, 2 U.S.C. 1301(3) through (8), but not an "intern" as defined in section 203(a)(2) of the CAA, 2 U.S.C. 1313(a)(2). Employer, company, business, or enterprise each mean an "employing office" as defined in section 101(9) of the CAA, 2 U.S.C. 1301(9).***

Sec. 541.2 Job titles insufficient. A job title alone is insufficient to establish the exempt status of an employee. The exempt or nonexempt status of any particular employee must be determined on the basis of whether the employee's salary and duties meet the requirements of the regulations in this part.

Sec. 541.3 Scope of the section 13(a)(1) exemptions.

(a) The section 13(a)(1) exemptions and the regulations in this part do not apply to manual laborers or other "blue collar" workers who perform work involving repetitive operations with their hands, physical skill and energy. Such nonexempt "blue collar" employees gain the skills and knowledge required for performance of their routine manual and physical work through apprenticeships and on-the-job training, not through the prolonged course of specialized intellectual instruction required for exempt learned professional employees such as medical doctors, architects and archeologists. Thus, for example, non-management production-line employees and non-management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers and laborers are entitled to minimum wage and overtime premium pay under the Fair Labor Standards Act, and are not exempt under the regulations in this part no matter how highly paid they might be.

(b)(1) The section 13(a)(1) exemptions and the regulations in this part also do not apply to police officers, detectives, deputy sheriffs, state troopers, highway patrol officers, investigators, inspectors, correctional officers, parole or probation officers, park rangers, fire fighters, paramedics, emergency medical technicians, ambulance personnel, rescue workers, hazardous materials workers and similar employees, regardless of rank or pay level, who perform work such as preventing, controlling or extinguishing fires of any type; rescuing fire, crime or accident victims; preventing or detecting crimes; conducting investigations or inspections for violations of law; performing surveillance; pursuing, restraining and apprehending suspects; detaining or supervising suspected and convicted criminals, including those on probation or parole; interviewing witnesses; interrogating and fingerprinting suspects; preparing investigative reports; or other similar work.

(2) Such employees do not qualify as exempt executive employees because their primary duty is not management of the enterprise in which the employee is employed or a customarily recognized department or subdivision thereof as required under Sec. 541.100. Thus, for example, a police officer or fire fighter whose primary duty is to investigate crimes or fight fires is not exempt under section 13(a)(1) of the Act merely because the police officer or fire fighter also directs the work of other employees in the conduct of an investigation or fighting a fire.

(3) Such employees do not qualify as exempt administrative employees because their primary duty is not the performance of work directly related to the management or general business operations of the employer or the employer's customers as required under Sec. 541.200.

(4) Such employees do not qualify as exempt professionals because their primary duty is not the performance of work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction or the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as required under Sec. 541.300. Although some police officers, fire fighters, paramedics, emergency medical technicians and similar employees have college degrees, a specialized academic degree is not a standard prerequisite for employment in such occupations.

Sec. 541.4 Other laws and collective bargaining agreements. The Fair Labor Standards Act provides minimum standards that may be exceeded, but cannot be waived or reduced. Employers must comply, for example, with any Federal, State or municipal laws, regulations or ordinances establishing a higher minimum wage or lower maximum workweek than those established under the Act. Similarly, employers, on their own initiative or under a collective bargaining agreement with a labor union, are not precluded by the Act from providing a wage higher than the statutory minimum, a shorter workweek than the statutory maximum, or a higher overtime premium (double time, for example) than provided by the Act. While collective bargaining agreements cannot waive or reduce the Act's protections, nothing in the Act or the regulations in this part relieves employers from their contractual obligations under collective bargaining agreements.

Subpart B—Executive Employees

Sec. 541.100 General rule for executive employees.

(a) The term "employee employed in a bona fide executive capacity" in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (2) Whose primary duty is management of the enterprise in which the employee is employed or of a customarily recognized department or subdivision thereof; (3) Who customarily and regularly directs the work of two or more other employees; and (4) Who has the authority to hire or fire other employees or whose suggestions and recommendations as to the hiring, firing, advancement, promotion or any other change of status of other employees are given particular weight.

(b) The phrase "salary basis" is defined at Sec. 541.602; "board, lodging or other facilities" is defined at Sec. 541.606; "primary duty" is defined at Sec. 541.700; and "customarily and regularly" is defined at Sec. 541.701.

Sec. 541.101 Business owner. The term "employee employed in a bona fide executive capacity" in section 13(a)(1) of the Act also includes any employee who owns at least a bona fide 20-percent percent equity interest in the enterprise in which the employee is employed, regardless of whether the business is a corporate or other type of organization, and who is actively engaged in its management. The term "management" is defined in Sec. 541.102. The requirements of Subpart G (salary requirements) of this part do not apply to the business owners described in this section.

Sec. 541.102 Management. Generally, "management" includes, but is not limited to, activities such as interviewing, selecting, and training of employees; setting and adjusting their rates of pay and hours of work; directing the work of employees; maintaining production or sales records for use in supervision or control; appraising employees' productivity and efficiency for the purpose of recommending promotions or other changes in status; handling employee complaints and grievances; disciplining employees; planning the work; determining the techniques to be used; apportioning the work among the employees; determining the type of materials, supplies, machinery, equipment or tools to be used or merchandise to be bought, stocked and sold; controlling the flow and distribution of materials or merchandise and supplies; providing for the safety and security of the employees or the property; planning and controlling the budget; and monitoring or implementing legal compliance measures.

Sec. 541.103 Department or subdivision. (a) The phrase "a customarily recognized department or subdivision" is intended to distinguish between a mere collection of employees assigned from time to time to a specific job or series of jobs and a unit with permanent status and function. A customarily recognized department or subdivision must have a permanent status and a continuing function. For example, a large employer's human resources department might have subdivisions for labor relations, pensions and other benefits, equal employment opportunity, and personnel management, each of which has a permanent status and function. (b) When an enterprise has more than one establishment, the employee in charge of each establishment may be considered in charge of a recognized subdivision of the enterprise. (c) A recognized department or subdivision need not be physically within the employer's establishment and may move from place to place. The mere fact that the employee works in more than one location does not invalidate the exemption if other factors show that the employee is actually in charge of a recognized unit with a continuing function in the organization. (d) Continuity of the same subordinate personnel is not essential to the existence of a recognized unit with a continuing function. An otherwise exempt employee will not lose the exemption merely because the employee draws and supervises workers from a pool or supervises a team of workers drawn from other recognized units, if other factors are present that indicate that the employee is in charge of a recognized unit with a continuing function.

Sec. 541.104 Two or more other employees. (a) To qualify as an exempt executive under

Sec. 541.100, the employee must customarily and regularly direct the work of two or more other employees. The phrase "two or more other employees" means two full-time employees or their equivalent. One full-time and two half-time employees, for example, are equivalent to two full-time employees. Four half-time employees are also equivalent. (b) The supervision can be distributed among two, three or more employees, but each such employee must customarily and regularly direct the work of two or more other full-time employees or the equivalent. Thus, for example, a department with five full-time nonexempt workers may have up to two exempt supervisors if each such supervisor customarily and regularly directs the work of two of those workers. (c) An employee who merely assists the manager of a particular department and supervises two or more employees only in the actual manager's absence does not meet this requirement. (d) Hours worked by an employee cannot be credited more than once for different executives. Thus, a shared responsibility for the supervision of the same two employees in the same department does not satisfy this requirement. However, a full-time employee who works four hours for one supervisor and four hours for a different supervisor, for example, can be credited as a half-time employee for both supervisors.

Sec. 541.105 Particular weight. To determine whether an employee's suggestions and recommendations are given "particular weight," factors to be considered include, but are not limited to, whether it is part of the employee's job duties to make such suggestions and recommendations; the frequency with which such suggestions and recommendations are made or requested; and the frequency with which the employee's suggestions and recommendations are relied upon. Generally, an executive's suggestions and recommendations must pertain to employees whom the executive customarily and regularly directs. It does not include an occasional suggestion with regard to the change in status of a co-worker. An employee's suggestions and recommendations may still be deemed to have "particular weight" even if a higher level manager's recommendation has more importance and even if the employee does not have authority to make the ultimate decision as to the employee's change in status.

Sec. 541.106 Concurrent duties.

(a) Concurrent performance of exempt and nonexempt work does not disqualify an employee from the executive exemption if the requirements of Sec. 541.100 are otherwise met. Whether an employee meets the requirements of Sec. 541.100 when the employee performs concurrent duties is determined on a case-by-case basis and based on the factors set forth in Sec. 541.700. Generally, exempt executives make the decision regarding when to perform nonexempt duties and remain responsible for the success or failure of business operations under their management while performing the nonexempt work. In contrast, the nonexempt employee generally is directed by a supervisor to perform the exempt work or performs the exempt work for defined time periods. An employee whose primary duty is ordinary production work or routine, recurrent or repetitive tasks cannot qualify for exemption as an executive.

(b) For example, an assistant manager in a retail establishment may perform work such as serving customers, cooking food, stocking shelves and cleaning the establishment, but performance of such nonexempt work does not preclude the exemption if the assistant manager's primary duty is management. An assistant manager can supervise employees and serve customers at the same time without losing the exemption. An exempt employee can also simultaneously direct the work of other employees and stock shelves.

(c) In contrast, a relief supervisor or working supervisor whose primary duty is performing nonexempt work on the production line in a manufacturing plant does not become exempt merely because the nonexempt production line employee occasionally has some responsibility for directing the work of other nonexempt production line employees when, for example, the exempt supervisor is unavailable. Similarly, an employee whose primary duty is to work as an electrician is not an exempt executive even if the employee also directs the work of other employees on the job site, orders parts and materials for the job, and handles requests from the prime contractor.

Subpart C—Administrative Employees

Sec. 541.200 General rule for administrative employees.

(a) The term "employee employed in a bona fide administrative capacity" in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities; (2) Whose primary duty is the performance of office or non-manual work directly related to the management or general business operations of the employer or the employer's customers; and (3) Whose primary duty includes the exercise of discretion and independent judgment with respect to matters of significance.

(b) The term "salary basis" is defined at Sec. 541.602; "fee basis" is defined at Sec. 541.605; "board, lodging or other facilities" is defined at Sec. 541.606; and "primary duty" is defined at Sec. 541.700.

Sec. 541.201 Directly related to management or general business operations.

(a) To qualify for the administrative exemption, an employee's primary duty must be the performance of work directly related to the management or general business operations of the employer or the employer's customers. The phrase "directly related to the management or general business operations" refers to the type of work performed by the employee. To meet this requirement, an employee must perform work directly related to assisting with the running or servicing of the business, as distinguished, for example, from working on a manufacturing production line or selling a product in a retail or service establishment.

(b) Work directly related to management or general business operations includes, but is not limited to, work in functional areas such as tax; finance; accounting; budgeting; auditing; insurance; quality control; purchasing; procurement; advertising; marketing; research; safety and health; personnel management; human resources; employee benefits; labor relations; public relations, government relations; computer network, internet and database administration; legal and regulatory compliance; and similar activities. Some of these activities may be performed by employees who also would qualify for another exemption.

(c) An employee may qualify for the administrative exemption if the employee's primary duty is the performance of work directly related to the management or general business operations of the employer's customers. Thus, for example, employees acting as advisers or consultants to their employer's clients or customers (as tax experts or financial consultants, for example) may be exempt.

Sec. 541.202 Discretion and independent judgment.

(a) To qualify for the administrative exemption, an employee's primary duty must include the exercise of discretion and independent judgment with respect to matters of significance. In general, the exercise of discretion and independent judgment involves the comparison and the evaluation of possible courses of conduct, and acting or making a decision after the various possibilities have been considered. The term "matters of significance" refers to the level of importance or consequence of the work performed.

(b) The phrase "discretion and independent judgment" must be applied in the light of all the facts involved in the particular employment situation in which the question arises. Factors to consider when determining whether an employee exercises discretion and independent judgment with respect to matters of significance include, but are not limited to: whether the employee has authority to formulate, affect, interpret, or implement management policies or operating practices; whether the employee carries out major assignments in conducting the operations of the business; whether the employee performs work that affects business operations to a substantial degree, even if the employee's assignments are related to operation of a particular segment of the business; whether the employee has authority to commit the employer in matters that have significant financial impact; whether the employee has authority to waive or deviate from established policies and procedures without prior approval; whether the employee has authority to negotiate and bind the company on significant matters; whether the employee provides consultation or expert advice to management; whether the employee is involved in planning long- or short-term business objectives; whether the employee investigates and resolves matters of significance on behalf of management; and whether the employee represents the company in handling complaints, arbitrating disputes or resolving grievances.

(c) The exercise of discretion and independent judgment implies that the employee has authority to make an independent choice, free from immediate direction or supervision. However, employees can exercise discretion and independent judgment even if their decisions or recommendations are reviewed at a higher level. Thus, the term "discretion and independent judgment" does not require that the decisions made by an employee have a finality that goes with unlimited authority and a complete absence of review. The decisions made as a result of the exercise of discretion and independent judgment may consist of recommendations for action rather than the actual taking of action. The fact that an employee's decision may be subject to review and that upon occasion the decisions are revised or reversed after review does not mean that the employee is not exercising discretion and independent judgment. For example, the policies formulated by the credit manager of a large corporation may be subject to review by higher company officials who may approve or disapprove these policies. The management consultant who has made a study of the operations of a business and who has drawn a proposed change in organization may have the plan reviewed or revised by superiors before it is submitted to the client.

(d) An employer's volume of business may make it necessary to employ a number of employees to perform the same or similar work. The fact that many employees perform identical work or work of the same relative importance does not mean that the work of each such employee does not involve the exercise of discretion and independent judgment with respect to matters of significance.

(e) The exercise of discretion and independent judgment must be more than the use of skill in applying well-established techniques, procedures or specific standards described in manuals or other sources. See also Sec. 541.704 regarding use of manuals. The exercise of discretion and independent judgment also does not include clerical or secretarial work, recording or tabulating data, or performing other mechanical, repetitive, recurrent or routine work. An employee who simply tabulates data is not exempt, even if labeled as a "statistician."

(f) An employee does not exercise discretion and independent judgment with respect to matters of significance merely because the employer will experience financial losses if the employee fails to perform the job properly. For example, a messenger who is entrusted with carrying large sums of money does not exercise discretion and independent judgment with respect to matters of significance even though serious consequences may flow from the employee's neglect. Similarly, an employee who operates very expensive equipment does not exercise discretion and independent judgment with respect to matters of significance merely because improper performance of the employee's duties may cause serious financial loss to the employer.

Sec. 541.203 Administrative exemption examples.

(a) Insurance claims adjusters generally meet the duties requirements for the administrative exemption, whether they work for an insurance company or other type of company, if their duties include activities such as interviewing insureds, witnesses and physicians; inspecting property damage; reviewing factual information to prepare damage estimates; evaluating and making recommendations regarding coverage of claims; determining liability and total value of a claim; negotiating settlements; and making recommendations regarding litigation.

(b) Employees in the financial services industry generally meet the duties requirements for the administrative exemption if their duties include work such as collecting and analyzing information regarding the customer's income, assets, investments or debts; determining which financial products best meet the customer's needs and financial circumstances; advising the customer regarding the advantages and disadvantages of different financial products; and marketing, servicing or promoting the employer's financial products. However, an employee whose primary duty is selling financial products does not qualify for the administrative exemption.

(c) An employee who leads a team of other employees assigned to complete major projects for the employer (such as purchasing, selling or closing all or part of the business, negotiating a real estate transaction or a collective bargaining agreement, or designing and implementing productivity improvements) generally meets the duties requirements for the administrative exemption, even if the employee does not have direct supervisory responsibility over the other employees on the team.

(d) An executive assistant or administrative assistant to a business owner or senior executive of a large business generally meets the duties requirements for the administrative exemption if such employee, without specific instructions or prescribed procedures, has been delegated authority regarding matters of significance.

(e) Human resources managers who formulate, interpret or implement employment policies and management consultants who study the operations of a business and propose changes in organization generally meet the duties requirements for the administrative exemption. However, personnel clerks who "screen" applicants to obtain data regarding their minimum qualifications and fitness for employment generally do not meet the duties requirements for the administrative exemption. Such personnel clerks typically will reject all applicants who do not meet minimum standards for the particular job or for employment by the company. The minimum standards are usually set by the exempt human resources manager or other company officials, and the decision to hire from the group of qualified applicants who do meet the minimum standards is similarly made by the exempt human resources manager or other company officials. Thus, when the interviewing and screening functions are performed by the human resources manager or personnel manager who makes the hiring decision or makes recommendations for hiring from the pool of qualified applicants, such duties constitute exempt work, even though routine, because this work is directly and closely related to the employee's exempt functions.

(f) Purchasing agents with authority to bind the company on significant purchases generally meet the duties requirements for the administrative exemption even if they must consult with top management officials when making a purchase commitment for raw materials in excess of the contemplated plant needs.

(g) Ordinary inspection work generally does not meet the duties requirements for the administrative exemption. Inspectors normally perform specialized work along standardized lines involving well-established techniques and procedures which may have been catalogued and described in manuals or other sources. Such inspectors rely on techniques and skills acquired by special training or experience. They have some leeway in the performance of their work but only within closely prescribed limits.

(h) Employees usually called examiners or graders, such as employees that grade lumber, generally do not meet the duties requirements for the administrative exemption. Such employees usually perform work involving the comparison of products with established standards which are frequently catalogued. Often, after continued reference to the written standards, or through experience, the employee acquires sufficient knowledge so that reference to written standards is unnecessary. The substitution of the employee's memory for a manual of standards does not convert the character of the work performed to exempt work requiring the exercise of discretion and independent judgment.

(i) Comparison shopping performed by an employee of a retail store who merely reports to the buyer the prices at a competitor's store does not qualify for the administrative exemption. However, the buyer who evaluates such reports on competitor prices to set the employer's prices generally meets the duties requirements for the administrative exemption.

(j) Public sector inspectors or investigators of various types, such as fire prevention or safety, building or construction, health or sanitation, environmental or soils specialists and similar employees, generally do not meet the duties requirements for the administrative exemption because their work typically does not involve work directly related to the management or general business operations of the employer. Such employees also do not qualify for the administrative exemption because their work involves the use of skills and technical abilities in gathering factual information, applying known standards or prescribed procedures, determining which procedure to follow, or determining whether prescribed standards or criteria are met.

Sec. 541.204 Educational establishments.

(a) The term "employee employed in a bona fide administrative capacity" in section 13(a)(1) of the Act also includes employees: (1) Compensated for services on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government) exclusive of board, lodging or other facilities, or on a salary basis which is at least equal to the entrance salary for teachers in the educational establishment by which employed; and (2) Whose primary duty is performing administrative functions directly related to academic instruction or training in an educational establishment or department or subdivision thereof.

(b) The term "educational establishment" means an elementary or secondary school system, an institution of higher education or other educational institution. Sections 3(v) and 3(w) of the Act define elementary and secondary schools as those day or residential schools that provide elementary or secondary education, as determined under State law. Under the laws of most States, such education includes the curriculums in grades 1 through 12; under many it includes also the introductory programs in kindergarten. Such education in some States may also include nursery school programs in elementary education and junior college curriculums in secondary education. The term "other educational establishment" includes special schools for mentally or physically disabled or gifted children, regardless of any classification of such schools as elementary, secondary or higher. Factors relevant in determining whether post-secondary career programs are educational institutions include whether the school is licensed by a state agency responsible for the state's educational system or accredited by a nationally recognized accrediting organization for career schools. Also, for purposes of the exemption, no distinction is drawn between public and private schools, or between those operated for profit and those that are not for profit.

(c) The phrase "performing administrative functions directly related to academic instruction or training" means work related to the academic operations and functions in a school rather than to administration along the lines of general business operations. Such academic administrative functions include operations directly in the field of education. Jobs relating to areas outside the educational field are not within the definition of academic administration.

(1) Employees engaged in academic administrative functions include: the superintendent or other head of an elementary or secondary school system, and any assistants, responsible for administration of such matters as curriculum, quality and methods of instructing, measuring and testing the learning potential and achievement of students,

establishing and maintaining academic and grading standards, and other aspects of the teaching program; the principal and any vice-principals responsible for the operation of an elementary or secondary school; department heads in institutions of higher education responsible for the administration of the mathematics department, the English department, the foreign language department, etc.; academic counselors who perform work such as administering school testing programs, assisting students with academic problems and advising students concerning degree requirements; and other employees with similar responsibilities.

(2) Jobs relating to building management and maintenance, jobs relating to the health of the students, and academic staff such as social workers, psychologists, lunch room managers or dietitians do not perform academic administrative functions. Although such work is not considered academic administration, such employees may qualify for exemption under Sec. 541.200 or under other sections of this part, provided the requirements for such exemptions are met.

Subpart D—Professional Employees

Sec. 541.300 General rule for professional employees.

(a) The term "employee employed in a bona fide professional capacity" in section 13(a)(1) of the Act shall mean any employee: (1) Compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging, or other facilities; and (2) Whose primary duty is the performance of work: (i) Requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction; or (ii) Requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor.

(b) The term "salary basis" is defined at Sec. 541.602; "fee basis" is defined at Sec. 541.605; "board, lodging or other facilities" is defined at Sec. 541.606; and "primary duty" is defined at Sec. 541.700.

Sec. 541.301 Learned professionals.

(a) To qualify for the learned professional exemption, an employee's primary duty must be the performance of work requiring advanced knowledge in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction. This primary duty test includes three elements: (1) The employee must perform work requiring advanced knowledge;

(2) The advanced knowledge must be in a field of science or learning; and (3) The advanced knowledge must be customarily acquired by a prolonged course of specialized intellectual instruction.

(b) The phrase "work requiring advanced knowledge" means work which is predominantly intellectual in character, and which includes work requiring the consistent exercise of discretion and judgment, as distinguished from performance of routine mental, manual, mechanical or physical work. An employee who performs work requiring advanced knowledge generally uses the advanced knowledge to analyze, interpret or make deductions from varying facts or circumstances. Advanced knowledge cannot be attained at the high school level.

(c) The phrase "field of science or learning" includes the traditional professions of law, medicine, theology, accounting, actuarial computation, engineering, architecture, teaching, various types of physical, chemical and biological sciences, pharmacy and other similar occupations that have a recognized professional status as distinguished from the mechanical arts or skilled trades where in some instances the knowledge is of a fairly advanced type, but is not in a field of science or learning.

(d) The phrase "customarily acquired by a prolonged course of specialized intellectual instruction" restricts the exemption to professions where specialized academic training is a standard prerequisite for entrance into the profession. The best prima facie evidence that an employee meets this requirement is possession of the appropriate academic degree. However, the word "customarily" means that the exemption is also available to employees in such professions who have substantially the same knowledge level and perform substantially the same work as the degreed employees, but who attained the advanced knowledge through a combination of work experience and intellectual instruction. Thus, for example, the learned professional exemption is available to the occasional lawyer who has not gone to law school, or the occasional chemist who is not the possessor of a degree in chemistry. However, the learned professional exemption is not available for occupations that customarily may be performed with only the general knowledge acquired by an academic degree in any field, with knowledge acquired through an apprenticeship, or with training in the performance of routine mental, manual, mechanical or physical processes. The learned professional exemption also does not apply to occupations in which most employees have acquired their skill by experience rather than by advanced specialized intellectual instruction.

(e)(1) Registered or certified medical technologists. Registered or certified medical technologists who have successfully completed three academic years of pre-professional study in an accredited college or university plus a fourth year of professional course work in a school of medical technology approved by the Council of Medical Education of the American Medical Association generally meet the duties requirements for the learned professional exemption. (2) Nurses. Registered nurses who are registered by the appropriate State examining board generally meet the duties requirements for the learned professional exemption. Licensed practical nurses and other similar health care employees, however, generally do not qualify as exempt learned professionals because possession of a specialized advanced academic degree is not a standard prerequisite for entry into such occupations. (3) Dental hygienists. Dental hygienists who have successfully completed four academic years of pre-professional and professional study in an accredited college or university approved by the Commission on Accreditation of Dental and Dental Auxiliary Educational Programs of the American Dental Association generally meet the duties requirements for the learned professional exemption. (4) Physician assistants. Physician assistants who have successfully completed four academic years of pre-professional and professional study, including graduation from a physician assistant program accredited by the Accreditation Review Commission on Education for the Physician Assistant, and who are certified by the National Commission on Certification of Physician Assistants generally meet the duties requirements for the learned professional exemption. (5) Accountants. Certified public accountants generally meet the duties requirements for the learned professional exemption. In addition, many other accountants who are not certified public accountants but perform similar job duties may qualify as exempt learned professionals. However, accounting clerks, bookkeepers and other employees who normally perform a great deal of routine work generally will not qualify as exempt professionals. (6) Chefs. Chefs, such as executive chefs and sous chefs, who have attained a four-year specialized academic degree in a culinary arts program, generally meet the duties requirements for the learned professional exemption. The learned professional exemption is not available to cooks who perform predominantly routine mental, manual, mechanical or physical work. (7) Paralegals. Paralegals and legal assistants generally do not qualify as exempt learned professionals because an advanced specialized academic degree is not a standard prerequisite for entry into the field. Although many paralegals possess general four-year advanced degrees, most specialized paralegal programs are two-year associate degree programs from a community college or equivalent institution. However, the learned professional exemption is available for paralegals who possess advanced specialized degrees in other professional fields and apply advanced knowledge in that field in the performance of their duties. For example, if a law firm hires an engineer as a paralegal to provide expert advice on product liability cases or to assist on patent matters, that engineer would qualify for exemption. (8) Athletic trainers. Athletic trainers who have successfully completed four academic years of pre-professional and professional study in a specialized curriculum accredited by the Commission on Accreditation of Allied Health Education Programs and who are certified by the Board of Certification of the National Athletic Trainers Association Board of Certification generally meet the duties requirements for the learned professional exemption. (9) Funeral directors or embalmers. Licensed funeral directors and embalmers who are licensed by and working in a state that requires successful completion of four academic years of pre-professional and professional study, including graduation from a college of mortuary science accredited by the American Board of Funeral Service Education, generally meet the duties requirements for the learned professional exemption.

(f) The areas in which the professional exemption may be available are expanding. As knowledge is developed, academic training is broadened and specialized degrees are offered in new and diverse fields, thus creating new specialists in particular fields of science or learning. When an advanced specialized degree has become a standard requirement for a particular occupation, that occupation may have acquired the characteristics of a learned profession. Accrediting and certifying organizations similar to those listed in paragraphs (e)(1), (e)(3), (e)(4), (e)(8) and (e)(9) of this section also may be created in the future. Such organizations may develop similar specialized curriculums and certification programs which, if a standard requirement for a particular occupation, may indicate that the occupation has acquired the characteristics of a learned profession.

Sec. 541.302 Creative professionals.

(a) To qualify for the creative professional exemption, an employee's primary duty must be the performance of work requiring invention, imagination, originality or talent in a recognized field of artistic or creative endeavor as opposed to routine mental, manual, mechanical or physical work. The exemption does not apply to work which can be produced by a person with general manual or intellectual ability and training.

(b) To qualify for exemption as a creative professional, the work performed must be "in a recognized field of artistic or creative endeavor." This includes such fields as music, writing, acting and the graphic arts.

(c) The requirement of "invention, imagination, originality or talent" distinguishes the creative professions from work that primarily depends on intelligence, diligence and accuracy. The duties of employees vary widely, and exemption as a creative professional depends on the extent of the invention, imagination, originality or talent exercised by the employee. Determination of exempt creative professional status, therefore, must be made on a case-by-case basis. This requirement generally is met by actors, musicians, composers, conductors, and soloists; painters who at most are given the subject matter of their painting; cartoonists who are merely told the title or underlying concept of a cartoon and must rely on their own creative ability to express the concept; essayists, novelists, short-story writers and screen-play writers who choose their own subjects and hand in a finished piece of work to their employers (the majority of such persons are, of course, not employees but self-employed); and persons holding the more responsible writing positions in advertising agencies. This requirement generally is not met by a person who is employed as a copyist, as an "animator" of motion-picture cartoons, or as a retoucher of photographs, since such work is not properly described as creative in character.

(d) Journalists may satisfy the duties requirements for the creative professional exemption if their primary duty is work requiring invention, imagination, originality or talent, as opposed to work which depends primarily on intelligence, diligence and accuracy. Employees of newspapers, magazines, television and other media are not exempt creative professionals if they only collect, organize and record information that is routine or already public, or if they do not contribute a unique interpretation or analysis to a news product. Thus, for example, newspaper reporters who merely rewrite press releases or who write standard recounts of public information by gathering facts on routine community events are not exempt creative professionals. Reporters also do not qualify as exempt creative professionals if their work product is subject to substantial control by the employer. However, journalists may qualify as exempt creative professionals if their primary duty is performing on the air in radio, television or other electronic media; conducting investigative interviews; analyzing or interpreting public events; writing editorials, opinion columns or other commentary; or acting as a narrator or commentator.

Sec. 541.303 Teachers.

(a) The term "employee employed in a bona fide professional capacity" in section 13(a)(1) of the Act also means any employee with a primary duty of teaching, tutoring, instructing or lecturing in the activity of imparting knowledge and who is employed and engaged in this activity as a teacher in an educational establishment by which the employee is employed. The term "educational establishment" is defined in Sec. 541.204(b).

(b) Exempt teachers include, but are not limited to: Regular academic teachers; teachers of kindergarten or nursery school pupils; teachers of gifted or disabled children; teachers of skilled and semi- skilled trades and occupations; teachers engaged in automobile driving instruction; aircraft flight instructors; home economics teachers; and vocal or instrumental music instructors. Those faculty members who are engaged as teachers but also spend a considerable amount of their time in extracurricular activities such as coaching athletic teams or acting as moderators or advisors in such areas as drama, speech, debate or journalism are engaged in teaching. Such activities are a recognized part of the schools' responsibility in contributing to the educational development of the student.

(c) The possession of an elementary or secondary teacher's certificate provides a clear means of identifying the individuals contemplated as being within the scope of the exemption for teaching professionals. Teachers who possess a teaching certificate qualify for the exemption regardless of the terminology (e.g., permanent, conditional, standard, provisional, temporary, emergency, or unlimited) used by the State to refer to different kinds of certificates. However, private schools and public schools are not uniform in requiring a certificate for employment as an elementary or secondary school teacher, and a teacher's certificate is not generally necessary for employment in institutions of higher education or other educational establishments. Therefore, a teacher who is not certified may be considered for exemption, provided that such individual is employed as a teacher by the employing school or school system.

(d) The requirements of Sec. 541.300 and Subpart G (salary requirements) of this part do not apply to the teaching professionals described in this section.

Sec. 541.304 Practice of law or medicine.

(a) The term "employee employed in a bona fide professional capacity" in section 13(a)(1) of the Act also shall mean: (1) Any employee who is the holder of a valid license or certificate permitting the practice of law or medicine or any of their branches and is actually engaged in the practice thereof; and (2) Any employee who is the holder of the requisite academic degree for the general practice of medicine and is engaged in an internship or resident program pursuant to the practice of the profession.

(b) In the case of medicine, the exemption applies to physicians and other practitioners licensed and practicing in the field of medical science and healing or any of the medical specialties practiced by physicians or practitioners. The term "physicians" includes medical doctors including general practitioners and specialists, osteopathic physicians (doctors of osteopathy), podiatrists, dentists (doctors of dental medicine), and optometrists (doctors of optometry or bachelors of science in optometry).

(c) Employees engaged in internship or resident programs, whether or not licensed to practice prior to commencement of the program, qualify as exempt professionals if they enter such internship or resident programs after the earning of the appropriate degree required for the general practice of their profession.

(d) The requirements of Sec. 541.300 and subpart G (salary requirements) of this part do not apply to the employees described in this section.

Subpart E—Computer Employees

Sec. 541.400 General rule for computer employees.

(a) Computer systems analysts, computer programmers, software engineers or other similarly skilled workers in the computer field are eligible for exemption as professionals under section 13(a)(1) of the Act and under section 13(a)(17) of the Act. Because job titles vary widely and change quickly in the computer industry, job titles are not determinative of the applicability of this exemption.

(b) The section 13(a)(1) exemption applies to any computer employee compensated on a salary or fee basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities, and the section 13(a)(17) exemption applies to any computer employee compensated on an hourly basis at a rate not less than $27.63 an hour. In addition, under either section 13(a)(1) or section 13(a)(17) of the Act, the exemptions apply only to computer employees whose primary duty consists of: (1) The application of systems analysis techniques and procedures, including consulting with users, to determine hardware, software or system functional specifications; (2) The design, development, documentation, analysis, creation, testing or modification of computer systems or programs, including prototypes, based on and related to user or system design specifications; (3) The design, documentation, testing, creation or modification of computer programs related to machine operating systems; or (4) A combination of the aforementioned duties, the performance of which requires the same level of skills.

(c) The term "salary basis" is defined at Sec. 541.602; "fee basis" is defined at Sec. 541.605; "board, lodging or other facilities" is defined at Sec. 541.606; and "primary duty" is defined at Sec. 541.700.

Sec. 541.401 Computer manufacture and repair. The exemption for employees in computer occupations does not include employees engaged in the manufacture or repair of computer hardware and related equipment. Employees whose work is highly dependent upon, or facilitated by, the use of computers and computer software programs (e.g., engineers, drafters and others skilled in computer-aided design software), but who are not primarily engaged in computer systems analysis and programming or other similarly skilled computer-related occupations identified in Sec. 541.400(b), are also not exempt computer professionals.

Sec. 541.402 Executive and administrative computer employees. Computer employees within the scope of this exemption, as well as those employees not within its scope, may also have executive and administrative duties which qualify the employees for exemption under subpart B or subpart C of this part. For example, systems analysts and computer programmers generally meet the duties requirements for the administrative exemption if their primary duty includes work such as planning, scheduling, and coordinating activities required to develop systems to solve complex business, scientific or engineering problems of the employer or the employer's customers. Similarly, a senior or lead computer programmer who manages the work of two or more other programmers in a customarily recognized department or subdivision of the employer, and whose recommendations as to the hiring, firing, advancement, promotion or other change of status of the other programmers are given particular weight, generally meets the duties requirements for the executive exemption.

Subpart F—Outside Sales Employees

Sec. 541.500 General rule for outside sales employees. (a) The term "employee employed in the capacity of outside salesman" in section 13(a)(1) of the Act shall mean any employee: (1) Whose primary duty is: (i) making sales within the meaning of section 3(k) of the Act, or (ii) obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer; and (2) Who is customarily and regularly engaged away from the employer's place or places of business in performing such primary duty.

(b) The term "primary duty" is defined at Sec. 541.700. In determining the primary duty of an outside sales employee, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including incidental deliveries and collections, shall be regarded as exempt outside sales work. Other work that furthers the employee's sales efforts also shall be regarded as exempt work including, for example, writing sales reports, updating or revising the employee's sales or display catalogue, planning itineraries and attending sales conferences.

(c) The requirements of subpart G (salary requirements) of this part do not apply to the outside sales employees described in this section.

Sec. 541.501 Making sales or obtaining orders.

(a) Section 541.500 requires that the employee be engaged in: (1) Making sales within the meaning of section 3(k) of the Act, or (2) Obtaining orders or contracts for services or for the use of facilities.

(b) Sales within the meaning of section 3(k) of the Act include the transfer of title to tangible property, and in certain cases, of tangible and valuable evidences of intangible property. Section 3(k) of the Act states that "sale" or "sell" includes any sale, exchange, contract to sell, consignment for sale, shipment for sale, or other disposition.

(c) Exempt outside sales work includes not only the sales of commodities, but also "obtaining orders or contracts for services or for the use of facilities for which a consideration will be paid by the client or customer." Obtaining orders for "the use of facilities" includes the selling of time on radio or television, the solicitation of advertising for newspapers and other periodicals, and the solicitation of freight for railroads and other transportation agencies.

(d) The word "services" extends the outside sales exemption to employees who sell or take orders for a service, which may be performed for the customer by someone other than the person taking the order.

Sec. 541.502 Away from employer's place of business. An outside sales employee must be customarily and regularly engaged "away from the employer's place or places of business." The outside sales employee is an employee who makes sales at the customer's place of business or, if selling door-to-door, at the customer's home. Outside sales does not include sales made by mail, telephone or the Internet unless such contact is used merely as an adjunct to personal calls. Thus, any fixed site, whether home or office, used by a salesperson as a headquarters or for telephonic solicitation of sales is considered one of the employer's places of business, even though the employer is not in any formal sense the owner or tenant of the property. However, an outside sales employee does not lose the exemption by displaying samples in hotel sample rooms during trips from city to city; these sample rooms should not be considered as the employer's places of business. Similarly, an outside sales employee does not lose the exemption by displaying the employer's products at a trade show. If selling actually occurs, rather than just sales promotion, trade shows of short duration (i.e., one or two weeks) should not be considered as the employer's place of business.

Sec. 541.503 Promotion work.

(a) Promotion work is one type of activity often performed by persons who make sales, which may or may not be exempt outside sales work, depending upon the circumstances under which it is performed. Promotional work that is actually performed incidental to and in conjunction with an employee's own outside sales or solicitations is exempt work. On the other hand, promotional work that is incidental to sales made, or to be made, by someone else is not exempt outside sales work. An employee who does not satisfy the requirements of this subpart may still qualify as an exempt employee under other subparts of this rule.

(b) A manufacturer's representative, for example, may perform various types of promotional activities such as putting up displays and posters, removing damaged or spoiled stock from the merchant's shelves or rearranging the merchandise. Such an employee can be considered an exempt outside sales employee if the employee's primary duty is making sales or contracts. Promotion activities directed toward consummation of the employee's own sales are exempt. Promotional activities designed to stimulate sales that will be made by someone else are not exempt outside sales work.

(c) Another example is a company representative who visits chain stores, arranges the merchandise on shelves, replenishes stock by replacing old with new merchandise, sets up displays and consults with the store manager when inventory runs low, but does not obtain a commitment for additional purchases. The arrangement of merchandise on the shelves or the replenishing of stock is not exempt work unless it is incidental to and in conjunction with the employee's own outside sales. Because the employee in this instance does not consummate the sale nor direct efforts toward the consummation of a sale, the work is not exempt outside sales work.

Sec. 541.504 Drivers who sell.

(a) Drivers who deliver products and also sell such products may qualify as exempt outside sales employees only if the employee has a primary duty of making sales. In determining the primary duty of drivers who sell, work performed incidental to and in conjunction with the employee's own outside sales or solicitations, including loading, driving or delivering products, shall be regarded as exempt outside sales work.

(b) Several factors should be considered in determining if a driver has a primary duty of making sales, including, but not limited to: a comparison of the driver's duties with those of other employees engaged as truck drivers and as salespersons; possession of a selling or solicitor's license when such license is required by law or ordinances; presence or absence of customary or contractual arrangements concerning amounts of products to be delivered; description of the employee's occupation in collective bargaining agreements; the employer's specifications as to qualifications for hiring; sales training; attendance at sales conferences; method of payment; and proportion of earnings directly attributable to sales.

(c) Drivers who may qualify as exempt outside sales employees include: (1) A driver who provides the only sales contact between the employer and the customers visited, who calls on customers and takes orders for products, who delivers products from stock in the employee's vehicle or procures and delivers the product to the customer on a later trip, and who receives compensation commensurate with the volume of products sold. (2) A driver who obtains or solicits orders for the employer's products from persons who have authority to commit the customer for purchases. (3) A driver who calls on new prospects for customers along the employee's route and attempts to convince them of the desirability of accepting regular delivery of goods. (4) A driver who calls on established customers along the route and persuades regular customers to accept delivery of increased amounts of goods or of new products, even though the initial sale or agreement for delivery was made by someone else.

(d) Drivers who generally would not qualify as exempt outside sales employees include: (1) A route driver whose primary duty is to transport products sold by the employer through vending machines and to keep such machines stocked, in good operating condition, and in good locations.

(2) A driver who often calls on established customers day after day or week after week, delivering a quantity of the employer's products at each call when the sale was not significantly affected by solicitations of the customer by the delivering driver or the amount of the sale is determined by the volume of the customer's sales since the previous delivery. (3) A driver primarily engaged in making deliveries to customers and performing activities intended to promote sales by customers (including placing point-of-sale and other advertising materials, price stamping commodities, arranging merchandise on shelves, in coolers or in cabinets, rotating stock according to date, and cleaning and otherwise servicing display cases), unless such work is in furtherance of the driver's own sales efforts.

Subpart G—Salary Requirements

Sec. 541.600 Amount of salary required.

(a) To qualify as an exempt executive, administrative or professional employee under section 13(a)(1) of the Act, an employee must be compensated on a salary basis at a rate of not less than $455 per week (or $380 per week, if employed in American Samoa by employers other than the Federal Government), exclusive of board, lodging or other facilities. Administrative and professional employees may also be paid on a fee basis, as defined in Sec. 541.605.

(b) The $455 a week may be translated into equivalent amounts for periods longer than one week. The requirement will be met if the employee is compensated biweekly on a salary basis of $910, semimonthly on a salary basis of $985.83, or monthly on a salary basis of $1,971.66. However, the shortest period of payment that will meet this compensation requirement is one week.

(c) In the case of academic administrative employees, the compensation requirement also may be met by compensation on a salary basis at a rate at least equal to the entrance salary for teachers in the educational establishment by which the employee is employed, as provided in Sec. 541. 204(a)(1).

(d) In the case of computer employees, the compensation requirement also may be met by compensation on an hourly basis at a rate not less than $27.63 an hour, as provided in Sec. 541. 400(b).

(e) In the case of professional employees, the compensation requirements in this section shall not apply to employees engaged as teachers (see Sec. 541.303); employees who hold a valid license or certificate permitting the practice of law or medicine or any of their branches and are actually engaged in the practice thereof (see Sec. 541.304); or to employees who hold the requisite academic degree for the general practice of medicine and are engaged in an internship or resident program pursuant to the practice of the profession (see Sec. 541.304). In the case of medical occupations, the exception from the salary or fee requirement does not apply to pharmacists, nurses, therapists, technologists, sanitarians, dietitians, social workers, psychologists, psychometrists, or other professions which service the medical profession.

Sec. 541.601 Highly compensated employees.

(a) An employee with total annual compensation of at least $100,000 is deemed exempt under section 13(a)(1) of the Act if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part.

(b) (1) "Total annual compensation" must include at least $455 per week paid on a salary or fee basis. Total annual compensation may also include commissions, nondiscretionary bonuses and other nondiscretionary compensation earned during a 52-week period. Total annual compensation does not include board, lodging and other facilities as defined in Sec. 541.606, and does not include payments for medical insurance, payments for life insurance, contributions to retirement plans and the cost of other fringe benefits. (2) If an employee's total annual compensation does not total at least the minimum amount established in paragraph (a) of this section by the last pay period of the 52-week period, the employer may, during the last pay period or within one month after the end of the 52-week period, make one final payment sufficient to achieve the required level. For example, an employee may earn $80,000 in base salary, and the employer may anticipate based upon past sales that the employee also will earn $20,000 in commissions. However, due to poor sales in the final quarter of the year, the employee actually only earns $10,000 in commissions. In this situation, the employer may within one month after the end of the year make a payment of at least $10,000 to the employee. Any such final payment made after the end of the 52-week period may count only toward the prior year's total annual compensation and not toward the total annual compensation in the year it was paid. If the employer fails to make such a payment, the employee does not qualify as a highly compensated employee, but may still qualify as exempt under subparts B, C or D of this part. (3) An employee who does not work a full year for the employer, either because the employee is newly hired after the beginning of the year or ends the employment before the end of the year, may qualify for exemption under this section if the employee receives a pro rata portion of the minimum amount established in paragraph (a) of this section, based upon the number of weeks that the employee will be or has been employed. An employer may make one final payment as under paragraph (b)(2) of this section within one month after the end of employment. (4) The employer may utilize any 52-week period as the year, such as a calendar year, a fiscal year, or an anniversary of hire year. If the employer does not identify some other year period in advance, the calendar year will apply.

(c) A high level of compensation is a strong indicator of an employee's exempt status, thus eliminating the need for a detailed analysis of the employee's job duties. Thus, a highly compensated employee will qualify for exemption if the employee customarily and regularly performs any one or more of the exempt duties or responsibilities of an executive, administrative or professional employee identified in subparts B, C or D of this part. An employee may qualify as a highly compensated executive employee, for example, if the employee customarily and regularly directs the work of two or more other employees, even though the employee does not meet all of the other requirements for the executive exemption under Sec. 541.100.

(d) This section applies only to employees whose primary duty includes performing office or non-manual work. Thus, for example, non-management production-line workers and non management employees in maintenance, construction and similar occupations such as carpenters, electricians, mechanics, plumbers, iron workers, craftsmen, operating engineers, longshoremen, construction workers, laborers and other employees who perform work involving repetitive operations with their hands, physical skill and energy are not exempt under this section no matter how highly paid they might be.

Sec. 541.602 Salary basis.

(a) General rule. An employee will be considered to be paid on a "salary basis" within the meaning of these regulations if the employee regularly receives each pay period on a weekly, or less frequent basis, a predetermined amount constituting all or part of the employee's compensation, which amount is not subject to reduction because of variations in the quality or quantity of the work performed. Subject to the exceptions provided in paragraph (b) of this section, an exempt employee must receive the full salary for any week in which the employee performs any work without regard to the number of days or hours worked. Exempt employees need not be paid for any workweek in which they perform no work. An employee is not paid on a salary basis if deductions from the employee's predetermined compensation are made for absences occasioned by the employer or by the operating requirements of the business. If the employee is ready, willing and able to work, deductions may not be made for time when work is not available.

(b) Exceptions. The prohibition against deductions from pay in the salary basis requirement is subject to the following exceptions: (1) Deductions from pay may be made when an exempt employee is absent from work for one or more full days for personal reasons, other than sickness or disability. Thus, if an employee is absent for two full days to handle personal affairs, the employee's salaried status will not be affected if deductions are made from the salary for two full day absences. However, if an exempt employee is absent for one and a half days for personal reasons, the employer can deduct only for the one full-day absence. (2) Deductions from pay may be made for absences of one or more full days occasioned by sickness or disability (including work-related accidents) if the deduction is made in accordance with a bona fide plan, policy or practice of providing compensation for loss of salary occasioned by such sickness or disability. The employer is not required to pay any portion of the employee's salary for full-day absences for which the employee receives compensation under the plan, policy or practice. Deductions for such full-day absences also may be made before the employee has qualified under the plan, policy or practice, and after the employee has exhausted the leave allowance thereunder. Thus, for example, if an employer maintains a short-term disability insurance plan providing salary replacement for 12 weeks starting on the fourth day of absence, the employer may make deductions from pay for the three days of absence before the employee qualifies for benefits under the plan; for the twelve weeks in which the employee receives salary replacement benefits under the plan; and for absences after the employee has exhausted the 12 weeks of salary replacement benefits. Similarly, an employer may make deductions from pay for absences of one or more full days if salary replacement benefits are provided under a State disability insurance law or under a State workers' compensation law. (3) While an employer cannot make deductions from pay for absences of an exempt employee occasioned by jury duty, attendance as a witness or temporary military leave, the employer can offset any amounts received by an employee as jury fees, witness fees or military pay for a particular week against the salary due for that particular week without loss of the exemption. (4) Deductions from pay of exempt employees may be made for penalties imposed in good faith for infractions of safety rules of major significance. Safety rules of major significance include those relating to the prevention of serious danger in the workplace or to other employees, such as rules prohibiting smoking in explosive plants, oil refineries and coal mines. (5) Deductions from pay of exempt employees may be made for unpaid disciplinary suspensions of one or more full days imposed in good faith for infractions of workplace conduct rules. Such suspensions must be imposed pursuant to a written policy applicable to all employees. Thus, for example, an employer may suspend an exempt employee without pay for three days for violating a generally applicable written policy prohibiting sexual harassment. Similarly, an employer may suspend an exempt employee without pay for twelve days for violating a generally applicable written policy prohibiting workplace violence. (6) An employer is not required to pay the full salary in the initial or terminal week of employment. Rather, an employer may pay a proportionate part of an employee's full salary for the time actually worked in the first and last week of employment. In such weeks, the payment of an hourly or daily equivalent of the employee's full salary for the time actually worked will meet the requirement. However, employees are not paid on a salary basis within the meaning of these regulations if they are employed occasionally for a few days, and the employer pays them a proportionate part of the weekly salary when so employed. (7) An employer is not required to pay the full salary for weeks in which an exempt employee takes unpaid leave under the Family and Medical Leave Act. Rather, when an exempt employee takes unpaid leave under the Family and Medical Leave Act, an employer may pay a proportionate part of the full salary for time actually worked. For example, if an employee who normally works 40 hours per week uses four hours of unpaid leave under the Family and Medical Leave Act, the employer could deduct 10 percent of the employee's normal salary that week.

(c) When calculating the amount of a deduction from pay allowed under paragraph (b) of this section, the employer may use the hourly or daily equivalent of the employee's full weekly salary or any other amount proportional to the time actually missed by the employee. A deduction from pay as a penalty for violations of major safety rules under paragraph (b)(4) of this section may be made in any amount.

Sec. 541.603 Effect of improper deductions from salary.

(a) An employer who makes improper deductions from salary shall lose the exemption if the facts demonstrate that the employer did not intend to pay employees on a salary basis. An actual practice of making improper deductions demonstrates that the employer did not intend to pay employees on a salary basis. The factors to consider when determining whether an employer has an actual practice of making improper deductions include, but are not limited to: the number of improper deductions, particularly as compared to the number of employee infractions warranting discipline; the time period during which the employer made improper deductions; the number and geographic location of employees whose salary was improperly reduced; the number and geographic location of managers responsible for taking the improper deductions; and whether the employer has a clearly communicated policy permitting or prohibiting improper deductions.

(b) If the facts demonstrate that the employer has an actual practice of making improper deductions, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. Employees in different job classifications or who work for different managers do not lose their status as exempt employees. Thus, for example, if a manager at a company facility routinely docks the pay of engineers at that facility for partial-day personal absences, then all engineers at that facility whose pay could have been improperly docked by the manager would lose the exemption; engineers at other facilities or working for other managers, however, would remain exempt.

(c) Improper deductions that are either isolated or inadvertent will not result in loss of the exemption for any employees subject to such improper deductions, if the employer reimburses the employees for such improper deductions.

(d) If an employer has a clearly communicated policy that prohibits the improper pay deductions specified in Sec. 541.602(a) and includes a complaint mechanism, reimburses employees for any improper deductions and makes a good faith commitment to comply in the future, such employer will not lose the exemption for any employees unless the employer willfully violates the policy by continuing to make improper deductions after receiving employee complaints. If an employer fails to reimburse employees for any improper deductions or continues to make improper deductions after receiving employee complaints, the exemption is lost during the time period in which the improper deductions were made for employees in the same job classification working for the same managers responsible for the actual improper deductions. The best evidence of a clearly communicated policy is a written policy that was distributed to employees prior to the improper pay deductions by, for example, providing a copy of the policy to employees at the time of hire, publishing the policy in an employee handbook or publishing the policy on the employer's Intranet.

(e) This section shall not be construed in an unduly technical manner so as to defeat the exemption.

Sec. 541.604 Minimum guarantee plus extras.

(a) An employer may provide an exempt employee with additional compensation without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly-required amount paid on a salary basis. Thus, for example, an exempt employee guaranteed at least $455 each week paid on a salary basis may also receive additional compensation of a one percent commission on sales. An exempt employee also may receive a percentage of the sales or profits of the employer if the employment arrangement also includes a guarantee of at least $455 each week paid on a salary basis. Similarly, the exemption is not lost if an exempt employee who is guaranteed at least $455 each week paid on a salary basis also receives additional compensation based on hours worked for work beyond the normal workweek. Such additional compensation may be paid on any basis (e.g., flat sum, bonus payment, straight-time hourly amount, time and one-half or any other basis), and may include paid time off.

(b) An exempt-employee's earnings may be computed on an hourly, a daily or a shift basis, without losing the exemption or violating the salary basis requirement, if the employment arrangement also includes a guarantee of at least the minimum weekly required amount paid on a salary basis regardless of the number of hours, days or shifts worked, and a reasonable relationship exists between the guaranteed amount and the amount actually earned. The reasonable relationship test will be met if the weekly guarantee is roughly equivalent to the employee's usual earnings at the assigned hourly, daily or shift rate for the employee's normal scheduled workweek. Thus, for example, an exempt employee guaranteed compensation of at least $500 for any week in which the employee performs any work, and who normally works four or five shifts each week, may be paid $150 per shift without violating the salary basis requirement. The reasonable relationship requirement applies only if the employee's pay is computed on an hourly, daily or shift basis. It does not apply, for example, to an exempt store manager paid a guaranteed salary of $650 per week who also receives a commission of one-half percent of all sales in the store or five percent of the store's profits, which in some weeks may total as much as, or even more than, the guaranteed salary.

Sec. 541.605 Fee basis.

(a) Administrative and professional employees may be paid on a fee basis, rather than on a salary basis. An employee will be considered to be paid on a "fee basis" within the meaning of these regulations if the employee is paid an agreed sum for a single job regardless of the time required for its completion. These payments resemble piecework payments with the important distinction that generally a "fee" is paid for the kind of job that is unique rather than for a series of jobs repeated an indefinite number of times and for which payment on an identical basis is made over and over again. Payments based on the number of hours or days worked and not on the accomplishment of a given single task are not considered payments on a fee basis.

(b) To determine whether the fee payment meets the minimum amount of salary required for exemption under these regulations, the amount paid to the employee will be tested by determining the time worked on the job and whether the fee payment is at a rate that would amount to at least $455 per week if the employee worked 40 hours. Thus, an artist paid $250 for a picture that took 20 hours to complete meets the minimum salary requirement for exemption since earnings at this rate would yield the artist $500 if 40 hours were worked.

Sec. 541.606 Board, lodging or other facilities.

(a) To qualify for exemption under section 13(a)(1) of the Act, an employee must earn the minimum salary amount set forth in Sec. 541.600, "exclusive of board, lodging or other facilities." The phrase "exclusive of board, lodging or other facilities" means "free and clear" or independent of any claimed credit for non-cash items of value that an employer may provide to an employee. Thus, the costs incurred by an employer to provide an employee with board, lodging or other facilities may not count towards the minimum salary amount required for exemption under this part 541. Such separate transactions are not prohibited between employers and their exempt employees, but the costs to employers associated with such transactions may not be considered when determining if an employee has received the full required minimum salary payment.

(b) Regulations defining what constitutes "board, lodging, or other facilities" are contained in 29 CFR part 531. As described in 29 CFR 531.32, the term "other facilities" refers to items similar to board and lodging, such as meals furnished at company restaurants or cafeterias or by hospitals, hotels, or restaurants to their employees; meals, dormitory rooms, and tuition furnished by a college to its student employees; merchandise furnished at company stores or commissaries, including articles of food, clothing, and household effects; housing furnished for dwelling purposes; and transportation furnished to employees for ordinary commuting between their homes and work. *//Good cause for the inclusion of subsection (b): The regulations referenced in this paragraph at 29 CFR 531.29 are not substantive regulations, but are "interpretive" regulations which were not incorporated in Part 531 of the CAA regulations adopted in 1996. However, the Board of Directors has determined that, since these particular interpretive regulations are incorporated by reference in the new substantive regulations, employing offices and employees may reference these particular interpretive regulations as part of the new substantive regulations as proposed here.//*

Subpart H—Definitions and Miscellaneous Provisions

Sec. 541.700 Primary duty.

(a) To qualify for exemption under this part, an employee's "primary duty" must be the performance of exempt work. The term "primary duty" means the principal, main, major or most important duty that the employee performs. Determination of an employee's primary duty must be based on all the facts in a particular case, with the major emphasis on the character of the employee's job as a whole. Factors to consider when determining the primary duty of an employee include, but are not limited to, the relative importance of the exempt duties as compared with other types of duties; the amount of time spent performing exempt work; the employee's relative freedom from direct supervision; and the relationship between the employee's salary and the wages paid to other employees for the kind of nonexempt work performed by the employee.

(b) The amount of time spent performing exempt work can be a useful guide in determining whether exempt work is the primary duty of an employee. Thus, employees who spend more than 50 percent of their time performing exempt work will generally satisfy the primary duty requirement. Time alone, however, is not the sole test, and nothing in this section requires that exempt employees spend more than 50 percent of their time performing exempt work. Employees who do not spend more than 50 percent of their time performing exempt duties may nonetheless meet the primary duty requirement if the other factors support such a conclusion.

(c) Thus, for example, assistant managers in a retail establishment who perform exempt executive work such as supervising and directing the work of other employees, ordering merchandise, managing the budget and authorizing payment of bills may have management as their primary duty even if the assistant managers spend more than 50 percent of the time performing nonexempt work such as running the cash register. However, if such assistant managers are closely supervised and earn little more than the nonexempt employees, the assistant managers generally would not satisfy the primary duty requirement.

Sec. 541.701 Customarily and regularly. The phrase "customarily and regularly" means a frequency that must be greater than occasional but which, of course, may be less than constant. Tasks or work performed "customarily and regularly" includes work normally and recurrently performed every workweek; it does not include isolated or one-time tasks.

Sec. 541.702 Exempt and nonexempt work. The term "exempt work" means all work described in Sec. 541.100, 541.101, 541.200, 541.300, 541.301, 541.302, 541.303, 541.304, 541.400 and 541.500, and the activities directly and closely related to such work. All other work is considered "nonexempt."

Sec. 541.703 Directly and closely related.

(a) Work that is "directly and closely related" to the performance of exempt work is also considered exempt work. The phrase "directly and closely related" means tasks that are related to exempt duties and that contribute to or facilitate performance of exempt work. Thus, "directly and closely related" work may include physical tasks and menial tasks that arise out of exempt duties, and the routine work without which the exempt employee's exempt work cannot be performed properly. Work "directly and closely related" to the performance of exempt duties may also include recordkeeping; monitoring and adjusting machinery; taking notes; using the computer to create documents or presentations; opening the mail for the purpose of reading it and making decisions; and using a photocopier or fax machine. Work is not "directly and closely related" if the work is remotely related or completely unrelated to exempt duties.

(b) The following examples further illustrate the type of work that is and is not normally considered as directly and closely related to exempt work: (1) Keeping time, production or sales records for subordinates is work directly and closely related to an exempt executive's function of managing a department and supervising employees. (2) The distribution of materials, merchandise or supplies to maintain control of the flow of and expenditures for such items is directly and closely related to the performance of exempt duties. (3) A supervisor who spot checks and examines the work of subordinates to determine whether they are performing their duties properly, and whether the product is satisfactory, is performing work which is directly and closely related to managerial and supervisory functions, so long as the checking is distinguishable from the work ordinarily performed by a nonexempt inspector. (4) A supervisor who sets up a machine may be engaged in exempt work, depending upon the nature of the industry and the operation. In some cases the setup work, or adjustment of the machine for a particular job, is typically performed by the same employees who operate the machine. Such setup work is part of the production operation and is not exempt. In other cases, the setting up of the work is a highly skilled operation which the ordinary production worker or machine tender typically does not perform. In large plants, non-supervisors may perform such work. However, particularly in small plants, such work may be a regular duty of the executive and is directly and closely related to the executive's responsibility for the work performance of subordinates and for the adequacy of the final product. Under such circumstances, it is exempt work. (5) A department manager in a retail or service establishment who walks about the sales floor observing the work of sales personnel under the employee's supervision to determine the effectiveness of their sales techniques, checks on the quality of customer service being given, or observes customer preferences is performing work which is directly and closely related to managerial and supervisory functions. (6) A business consultant may take extensive notes recording the flow of work and materials through the office or plant of the client; after returning to the office of the employer, the consultant may personally use the computer to type a report and create a proposed table of organization. Standing alone, or separated from the primary duty, such note-taking and typing would be routine in nature. However, because this work is necessary for analyzing the data and making recommendations, the work is directly and closely related to exempt work. While it is possible to assign note-taking and typing to nonexempt employees, and in fact it is frequently the practice to do so, delegating such routine tasks is not required as a condition of exemption. (7) A credit manager who makes and administers the credit policy of the employer, establishes credit limits for customers, authorizes the shipment of orders on credit, and makes decisions on whether to exceed credit limits would be performing work exempt under Sec. 541.200. Work that is directly and closely related to these exempt duties may include checking the status of accounts to determine whether the credit limit would be exceeded by the shipment of a new order, removing credit reports from the files for analysis, and writing letters giving credit data and experience to other employers or credit agencies. (8) A traffic manager in charge of planning a company's transportation, including the most economical and quickest routes for shipping merchandise to and from the plant, contracting for common-carrier and other transportation facilities, negotiating with carriers for adjustments for damages to merchandise, and making the necessary rearrangements resulting from delays, damages or irregularities in transit, is performing exempt work. If the employee also spends part of the day taking telephone orders for local deliveries, such order-taking is a routine function and is not directly and closely related to the exempt work. (9) An example of work directly and closely related to exempt professional duties is a chemist performing menial tasks such as cleaning a test tube in the middle of an original experiment, even though such menial tasks can be assigned to laboratory assistants. (10) A teacher performs work directly and closely related to exempt duties when, while taking students on a field trip, the teacher drives a school van or monitors the students' behavior in a restaurant.

Sec. 541.704 Use of manuals. The use of manuals, guidelines or other established procedures containing or relating to highly technical, scientific, legal, financial or other similarly complex matters that can be understood or interpreted only by those with advanced or specialized knowledge or skills does not preclude exemption under section 13(a)(1) of the Act or the regulations in this part. Such manuals and procedures provide guidance in addressing difficult or novel circumstances and thus use of such reference material would not affect an employee's exempt status. The section 13(a)(1) exemptions are not available, however, for employees who simply apply well-established techniques or procedures described in manuals or other sources within closely prescribed limits to determine the correct response to an inquiry or set of circumstances.

Sec. 541.705 Trainees. The executive, administrative, professional, outside sales and computer employee exemptions do not apply to employees training for employment in an executive, administrative, professional, outside sales or computer employee capacity who are not actually performing the duties of an executive, administrative, professional, outside sales or computer employee.

Sec. 541.706 Emergencies.

(a) An exempt employee will not lose the exemption by performing work of a normally nonexempt nature because of the existence of an emergency. Thus, when emergencies arise that threaten the safety of employees, a cessation of operations or serious damage to the employer's property, any work performed in an effort to prevent such results is considered exempt work.

(b) An "emergency" does not include occurrences that are not beyond control or for which the employer can reasonably provide in the normal course of business. Emergencies generally occur only rarely, and are events that the employer cannot reasonably anticipate.

(c) The following examples illustrate the distinction between emergency work considered exempt work and routine work that is not exempt work: (1) A mine superintendent who pitches in after an explosion and digs out workers who are trapped in the mine is still a bona fide executive. (2) Assisting nonexempt employees with their work during periods of heavy workload or to handle rush orders is not exempt work. (3) Replacing a nonexempt employee during the first day or partial day of an illness may be considered exempt emergency work depending on factors such as the size of the establishment and of the executive's department, the nature of the industry, the consequences that would flow from the failure to replace the ailing employee immediately, and the feasibility of filling the employee's place promptly. (4) Regular repair and cleaning of equipment is not emergency work, even when necessary to prevent fire or explosion; however, repairing equipment may be emergency work if the breakdown of or damage to the equipment was caused by accident or carelessness that the employer could not reasonably anticipate.

Sec. 541.707 Occasional tasks. Occasional, infrequently recurring tasks that cannot practicably be performed by nonexempt employees, but are the means for an exempt employee to properly carry out exempt functions and responsibilities, are considered exempt work. The following factors should be considered in determining whether such work is exempt work: Whether the same work is performed by any of the exempt employee's subordinates; practicability of delegating the work to a nonexempt employee; whether the exempt employee performs the task frequently or occasionally; and existence of an industry practice for the exempt employee to perform the task.

Sec. 541.708 Combination exemptions. Employees who perform a combination of exempt duties as set forth in the regulations in this part for executive, administrative, professional, outside sales and computer employees may qualify for exemption. Thus, for example, an employee whose primary duty involves a combination of exempt administrative and exempt executive work may qualify for exemption. In other words, work that is exempt under one section of this part will not defeat the exemption under any other section.

Sec. 541.709 Motion picture producing industry. The requirement that the employee be paid "on a salary basis" does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least $695 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under subparts B, C or D of this part, and who is employed at a base rate of at least $695 a week is exempt if paid a proportionate amount (based on a week of not more than 6 days) for any week in which the employee does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if the employee is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and the daily base rate would yield at least $695 if 6 days were worked; or (b) The employee is in a job category having a weekly base rate of at least $695 and the daily base rate is at least one-sixth of such weekly base rate.

Sec. 541.710 Employees of Public Agencies. (a) An employee of a public agency who otherwise meets the salary basis requirements of section 541.602 shall not be disqualified from exemption under sections 541.100, 541.200, 541.300 or 541.400 on the basis that such employee is paid according to a pay system established by statute, ordinance, or regulation, or by a policy or practice established pursuant to principles of public accountability, under which the employee accrues personal leave and sick leave and which requires the public agency employee's pay to be reduced or such employee to be placed on leave without pay for absences for personal reasons or because of illness or injury of less than one work-day when accrued leave is not used by an employee because: (1) Permission for its use has not been sought or has been sought or denied; (2) Accrued leave has been exhausted; (3) The employee chooses to use leave without pay. (b) Deductions from the pay of an employee of a public agency for absences due to a budget required furlough shall not disqualify the employee from being paid on a salary basis except on the workweek in which the furlough occurs and for which the employee's pay is accordingly reduced.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9847. A letter from the Director, Regulatory Review Group, Farm Service Agency, Department of Agriculture, transmitting the Department's final rule — Guaranteed Loans--Rescheduling Terms and Loan Subordinations (RIN: 0560-AG53) received August 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9848. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Folpet; Pesticide Tolerance [OPP-2004-0168; FRL-7369-1] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9849. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Flumioxazin; Pesticide Tolerances [OPP-2004-0212; FRL-7369-9] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9850. A letter from the Deputy Associate Administrator, , Environmental Protection Agency, transmitting the Agency's final rule — DCPA; Pesticide Tolerance [OPP-2004-0200; FRL-7673-6] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9851. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Pesticide Worker Protection Standard; Glove Liners, and Chemical-Resistant Glove Requirements of Agricultural Pilots [OPP-2003-0169; FRL-7352-3] (RIN: 2070-AC93) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9852. A communication from the President of the United States, transmitting requests for an emergency FY 2004 supplemental appropriations for the Departments of Agriculture, Commerce, Defense, Homeland Security, the Interior, Justice, Transportation, and Veterans Affairs; as well as the Corps of Engineers, International Assistance Programs, and the Small Business Administration; (H. Doc. No. 108-220); to the Committee on Appropriations and ordered to be printed.

9853. A letter from the Inspector General, Department of Defense, transmitting the results of an audit of undefinitized contractual actions that was conducted in response to Section 908(b) of the "Continuing Appropriations for Fiscal Year 1987," pursuant to Public Law 99-591, section 908(b)(2) (100 Stat. 3341-140); to the Committee on Armed Services.

9854. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7837] received August 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9855. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Romania pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

9856. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the Arizona State Implementation Plan, Arizona Department of Environmental Quality [AZ 126-0074a; FRL-7789-9] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9857. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — OMB Approvals Under the Paperwork Reduction Act; Final Rule [FRL-7803-6] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9858. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Primary Drinking Water Regulations: Analytical Method for Uranium [OW-2003-0067; FRL-7805-5] (RIN: 2040-AE62) received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9859. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Plans for Designated Facilities and Pollutants; State of Iowa [R07-OAR-2004-IA-0003; FRL-7805-4] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9860. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Missouri [R07-OAR-2004-MO-0002 FRL-7805-1] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9861. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Indiana: Revised Mobile Source Inventories and Motor Vehicle Emissions Budgets for 2005 and 2007 Using MOBILE6 [R05-OAR-2004-IN-0003; FRL-7806-5] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9862. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revision of Flow Control Date in Nitrogen Oxides Budget Trading Program [VA159-5083a; FRL-7805-7] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9863. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Antelope Valley Air Quality Management District and Mojave Desert Air Quality Management District [CA 207-0437; FRL-7804-1] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9864. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants: Solvent Extraction for Vegetable Oil Production [OAR-2004-0006, FRL-7808-4] (RIN: 2060-AK32) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9865. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; New Jersey; Revised Motor Vehicle Transportation Conformity Budgets [Region II Docket No. R02-OAR-2004-NJ-0002, FRL-7807-6] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9866. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule

— Approval and Promulgation of Implementation Plans; Washington [WA-04-002; FRL-7807-1] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9867. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Federally Enforceable State Operating Permit Program for Allegheny County [PA 138-4230; FRL-7807-3] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9868. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Changing the Ozone Monitoring Season in Idaho from April Through October to May Through September [Docket # ID-04-003a; FRL-7801-6] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9869. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to India (Transmittal No. DDTC 057-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9870. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Canada, Norway, Ireland, and the United Kingdom (Transmittal No. DDTC 073-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9871. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report on employment of U.S. citizens by certain international organizationsduring 2003, pursuant to 22 U.S.C. 276c–4; to the Committee on International Relations.

9872. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the sixth and final annual report on enforcement and monitoring of the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions of the Organization for Economic Cooperation and Development, pursuant to paragraph (c)(1) of the resolution of advice and consent, adopted by the United States Senate on July 31, 1998; to the Committee on International Relations.

9873. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule — Schedule of Fees for Consular Services, Department of State and Overseas Embassies and Consulates (RIN: 1400-AB94) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

9874. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Memorandum of Justification under section 451 of the Foreign Assistance Act of 1961, as amended to provide emergency assistance for Darfur, Sudan; to the Committee on International Relations.

9875. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of the Memorandum of Justification under Section 610 of the Foreign Assistance Act of 1961 regarding determination to transfer FY 2004 funds appropriated for International Organizations and Programs (IO&P) to the Economic Support Fund; to the Committee on International Relations.

9876. A letter from the Acting Director of Communications and Legislative Affairs, Equal Employment Opportunity Commission, transmitting the Commission's (EEOC's) Year 2004 Inventories of Commercial and Inherently Governmental Activities in accordance with the Federal Activities Inventory Reform (FAIR) Act of 1998; to the Committee on Government Reform.

9877. A letter from the Archivist, National Archives and Records Administration, transmitting the FY 2004 Commercial Activities Inventory and Inherently Governmental Inventory, as required by the FAIR Act and OMB Circular A-76; to the Committee on Government Reform.

9878. A letter from the Inspector General, Nuclear Regulatory Commission, transmitting a copy of the FY 2004 Commercial and Inherently Governmental Activities Inventories for the Commission as required by the Federal Activities Inventory Reform Act of 1998 and guidance issued by the OMB; to the Committee on Government Reform.

9879. A letter from the Secretary, Department of Agriculture, transmitting a draft bill "To designate certain National Forest System land in the State of Oregon as a component of the National Wilderness Preservation System"; to the Committee on Resources.

9880. A letter from the Director, Administrative Office of the United States Courts, transmitting a report on compliance within the time limitations established for deciding habeas corpus death penalty petitions under Title I of the Antiterrorism and Effective Death Penalty Act of 1996, pursuant to 28 U.S.C. 2266(b) and (c); to the Committee on the Judiciary.

9881. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the designation as "foreign terrorist organizations" pursuant to Section 219 of the Immigration and Nationality Act, pursuant to 8 U.S.C. 1189; to the Committee on the Judiciary.

9882. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft; Correction [Docket No. FAA-2001-11133; Amendment No. 91-282] (RIN: 2120-AA19) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9883. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Restricted Areas 5802C, D, and E; Fort Indiantown Gap, PA [Docket No. FAA-2003-13850; Airspace Docket No. 02-AEA-19] (RIN: 2120-AA66) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9884. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Amendment to Class E Airspace; La Junta, CO [Docket No. FAA-2003-16029; Airspace Docket No. 03-ANM-08] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9885. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Wayne, NE [Docket No. FAA-2004-17912; Airspace Docket No. 04-ACE-38] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9886. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; California City, CA [Docket No. FAA-2004-18609; Airspace Docket No. 03-AWP-15] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9887. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Northwood, ND [Docket No. FAA-2004-17094; Airspace Docket No. 04-AGL-03] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9888. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30419; Amdt. No. 3101] received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9889. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Fuel Tank Safety Compliance Extension (Final Rule) and (Request for Comments); Extension of Comment Period [Docket No. FAA-2004-17681; Amendment No. 91-283, 121-305, 125-46, 129-39] (RIN: 2120-AI20) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9890. A letter from the Attorney, Office of Aviation Enf. & Proceedings, Department of Transportation, transmitting the Department's final rule — Passenger Baggage Liability (RIN: 2105-AD42) received September 22, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9891. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled "The Superfund Innovative Technology Evaluation Program: Annual Report to Congress FY 2002"; to the Committee on Science.

9892. A letter from the Director, Regulations Management, Office of Regulation Policy and Management, Department of Veterans Affairs, transmitting the Department's final rule — Compensation for Certain Cases of Bilateral Deafness (RIN: 2900-AL59) received August 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Veterans' Affairs.

9893. A letter from the Chairman and Vice-Chairman, Advisory Committee for Trade Policy and Negotiations, transmitting the ACTPN's assessment of the World Trade Organization (WTO) Doha Round framework agreement reached in Geneva at the end of July, pursuant to 19 U.S.C. 2903; to the Committee on Ways and Means.

9894. A letter from the Secretary, Department of Health and Human Services, transmitting the final report on the Implementation of the Performance-Based Incentive System, submitted in compliance with Section 201 of the Child Support Performance and Incentive Act of 1998 (CSPIA); to the Committee on Ways and Means.

9895. A letter from the Chair of the Board of Directors, Office of Compliance, transmitting Notice of Proposed Rulemaking implementing certain substantive rights and protections of the Fair Labor Standards Act of

1938, as required by Section 203 of the Congressional Accountability Act of 1995 (CAA), 2 U.S.C. 1313, for publicationin the Congressional Record, pursuant to Public Law 104-1, section 303(b) (109 Stat. 28); jointly to the Committees on House Administration and Education and the Workforce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. SENSENBRENNER: Committee on the Judiciary. S. 878. An act to authorize an additional permanent judgeship in the District of Idaho, and for other purposes; with amendments (Rept. 108-708). Referred to the Committee of the Whole House on the State of the Union.

Mr. REYNOLDS: Committee on Rules. House Resolution 807. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108-709). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SHAYS (for himself, Mr. Lantos, and Ms. Eshoo):

H.R. 5162. A bill to provide for the safe and secure storage of explosive materials by State and local law enforcement agencies; to the Committee on the Judiciary.

By Mr. YOUNG of Alaska (for himself and Mr. Oberstar):

H.R. 5163. A bill to amend title 49, United States Code, to provide the Department of Transportation a more focused research organization with an emphasis on innovative technology, and for other purposes; to the Committee on Transportation and Infrastructure, and in addition to the Committees on Energy and Commerce, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LaTOURETTE (for himself, Ms. Norton, Mr. Young of Alaska, and Mr. Oberstar):

H.R. 5164. A bill to provide a site for construction of a national health museum, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. BLUNT (for himself, Mr. Ryan of Wisconsin, Mr. Sandlin, Mr. Green of Wisconsin, Mrs. Northup, Mr. Rogers of Michigan, Mr. Petri, Mr. Sensenbrenner, Mr. Kirk, Mr. Ney, Mr. Brady of Texas, Mr. English, Mr. Akin, Mr. Wicker, Mr. Duncan, Mr. Bonilla, Mr. Stenholm, Mr. Herger, and Mr. Shadegg):

H.R. 5165. A bill to amend the Clean Air Act to reduce the proliferation of boutique fuels, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SHAYS (for himself and Mr. Towns):

H.R. 5166. A bill to prohibit the Department of Defense from requiring members of the Armed Forces to receive the anthrax and smallpox immunizations without their consent, to correct the records of servicemembers previously punished for refusing to take these vaccines, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BALDWIN (for herself, Mr. Smith of Michigan, Mr. Michaud, Mr. Simpson, Mr. Otter, Mr. Gordon, Mr. Delahunt, Mr. Etheridge, Mr. LaHood, Mr. Holden, Mr. Kingston, Mr. Bishop of Georgia, and Ms. Kaptur):

H.R. 5167. A bill to extend for 18 months the period for which chapter 12 of title 11 of the United States Code is reenacted; to the Committee on the Judiciary.

By Mr. RENZI:

H.R. 5168. A bill to repeal the Bennett Freeze thus ending a gross treaty violation with the Navajo Nation and allowing the Navajo Nation to live in habitable dwellings and raise their living conditions, and for other purposes; to the Committee on Resources.

By Mr. NUSSLE (for himself, Mr. King of Iowa, Mr. Latham, and Mr. Leach):

H.R. 5169. A bill to amend the Internal Revenue Code of 1986 to provide tax relief for farmers and fishermen, and for other purposes; to the Committee on Ways and Means.

By Mr. KENNEDY of Minnesota (for himself, Mr. LaTourette, Mr. Boehner, Mr. Ramstad, Mr. Gillmor, Mr. Chabot, Ms. Kaptur, Mr. Regula, Mr. Oxley, Mrs. Jones of Ohio, Ms. Pryce of Ohio, Mr. Gutknecht, Mr. Tiberi, Mr. Johnson of Illinois, Mr. Portman, Mr. Turner of Ohio, Mr. McInnis, Mr. Strickland, Mr. Ryan of Ohio, Mr. Brown of Ohio, Mr. Kline, Mr. Ney, Mr. Shimkus, and Mr. LaHood):

H.R. 5170. A bill to require the Secretary of Transportation, in computing the estimated tax payments attributed to highway users for purposes of title 23, United States Code, to take into account any law that replaces the reduced rates of tax on gasohol with an excise tax credit; to the Committee on Transportation and Infrastructure.

By Mr. PEARCE:

H.R. 5171. A bill to amend the Help America Vote Act of 2002 to ensure the same requirements that apply to voters who register by mail also apply to voters who do not register in person with an officer or employee of a State or local government entity, and to provide for increased penalties for fraudulent registration in cases involving 10 or more violations; to the Committee on House Administration, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS (for himself, Mr. Portman, and Ms. Schakowsky):

H.R. 5172. A bill to direct the Consumer Product Safety Commission to declare Yo-Yo Waterball toys to be a banned hazardous products; to the Committee on Energy and Commerce.

By Mr. BEAUPREZ:

H.R. 5173. A bill to prohibit the sale of any alcohol without liquid machine without premarket approval, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CAPUANO (for himself, Mr. Kildee, Mr. Langevin, Mr. Hyde, Mr. Towns, Mr. Serrano, Mr. Frank of Massachusetts, and Mr. Van Hollen):

H.R. 5174. A bill to amend title 5 of the United States Code to increase the amount of additional compensation payable to an employee who is disabled and requires the services of an attendant, and for other purposes; to the Committee on Education and the Workforce.

By Mr. CARSON of Oklahoma:

H.R. 5175. A bill to amend title XVIII of the Social Security Act to stabilize the amount of the Medicare part B premium; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. DEGETTE:

H.R. 5176. A bill to amend the Rocky Mountain Arsenal National Wildlife Refuge Act of 1992 to rename the Rocky Mountain Arsenal National Wildlife Refuge as the Pat Schroeder National Wildlife Refuge; to the Committee on Resources.

By Mrs. LOWEY:

H.R. 5177. A bill to amend the Foreign Assistance Act of 1961 to provide assistance for developing countries to promote quality basic education and to establish the achievement of universal basic education in all developing countries as an objective of United States foreign assistance policy, and for other purposes; to the Committee on International Relations.

By Mr. MORAN of Virginia:

H.R. 5178. A bill to direct the Secretary of Transportation to carry out a pilot program to improve the security of State drivers' licenses and identification cards, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. OBEY:

H.R. 5179. A bill to amend title II of the Social Security Act and the Internal Revenue Code of 1986 to provide for modest adjustments necessary to restore the old-age, survivors, and disability insurance program to long-term actuarial balance; to the Committee on Ways and Means.

By Mr. PETERSON of Minnesota (for himself and Mr. Boswell):

H.R. 5180. A bill to extend the authority of the Livestock Mandatory Reporting Act of 1999 through October 22, 2005; to the Committee on Agriculture.

By Mr. PETRI (for himself and Mr. Andrews):

H.R. 5181. A bill to protect employees from invasion of privacy by employers by prohibiting certain video monitoring and audio monitoring of employees by their employers, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. THOMPSON of Mississippi (for himself, Mr. Turner of Texas, Mrs. Christensen, Ms. McCarthy of Missouri, Ms. Jackson-Lee of Texas, Ms. Norton, and Mr. Meek of Florida):

H.R. 5182. A bill to amend the Homeland Security Act of 2002 to clarify the mission and responsibilities of the Department of Homeland Security with respect to the protection of civil rights and civil liberties, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. LIPINSKI):

H.R. 5183. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Budget, Ways and Means, Resources, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. YOUNG of Alaska (for himself, Mr. OBERSTAR, Mr. PETRI, and Mr. LIPINSKI):

H.R. 5184. A bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century; to the Committee on Transportation and Infrastructure, and in addition to the Committees on the Budget, Ways and Means, Resources, and Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BOEHLERT (for himself, Mr. GORDON, Mr. COX, Mr. TURNER of Texas, Ms. LOFGREN, Mr. WAXMAN, and Mr. CLAY):

H. Con. Res. 502. Concurrent resolution expressing the sense of Congress with respect to raising awareness and enhancing the state of computer security in the United States, and supporting the goals and ideals of National Computer Security Awareness Month; to the Committee on Science.

By Mr. PALLONE:

H. Con. Res. 503. Concurrent resolution recognizing the 20th anniversary of the Bhopal disaster and expressing the commitment of Congress to work with the Government of India and others to ensure that Union Carbide provides environmental and medical rehabilitation of the affected area and is held responsible for its actions; to the Committee on International Relations.

By Mr. VITTER:

H. Con. Res. 504. Concurrent resolution supporting the observance of Breast Cancer Awareness Month, and for other purposes; to the Committee on Energy and Commerce.

By Mr. WILSON of South Carolina (for himself, Mr. SPRATT, Mr. CLYBURN, Mr. DEMINT, Mr. BROWN of South Carolina, and Mr. BARRETT of South Carolina):

H. Con. Res. 505. Concurrent resolution recognizing, commending, and supporting the efforts of the Celebrate Freedom Foundation; to the Committee on Armed Services.

By Mr. PENCE:

H. Res. 806. A resolution electing Members to certain standing committees of the House of Representatives; considered and agreed to.

By Mr. ISRAEL (for himself and Ms. DELAURO):

H. Res. 808. A resolution supporting the goals and ideals of National Ovarian Cancer Awareness Month; to the Committee on Government Reform.

By Mr. KILDEE:

H. Res. 809. A resolution supporting the goals and ideals of "Lights On Afterschool," a national celebration of after-school programs; to the Committee on Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 490: Mrs. JONES of Ohio.

H.R. 623: Mr. PLATTS.

H.R. 632: Mr. MICHAUD.

H.R. 677: Mr. LAHOOD.

H.R. 798: Mr. ANDREWS.

H.R. 918: Mr. WALDEN of Oregon, Mr. ROTHMAN, and Mr. DEAL of Georgia.

H.R. 1078: Mrs. JONES of Ohio.

H.R. 1205: Mr. HASTINGS of Florida.

H.R. 1294: Mr. PLATTS.

H.R. 1305: Mr. BISHOP of New York, Mr. BASS, Mr. HAYES, Mrs. CUBIN, and Mr. HEFLEY.

H.R. 1336: Mr. COSTELLO, Mr. DOYLE, Mrs. KELLY, Mr. BACHUS, and Mrs. CUBIN.

H.R. 1340: Mr. BACA.

H.R. 1359: Mr. PETERSON of Minnesota and Mrs. NAPOLITANO.

H.R. 1477: Ms. MILLENDER-MCDONALD and Mr. OWENS.

H.R. 1508: Mr. BERMAN.

H.R. 1523: Mr. CALVERT and Mr. CANNON.

H.R. 1631: Mr. MILLER of Florida.

H.R. 1633: Mr. MOORE.

H.R. 1639: Mr. ALLEN.

H.R. 1769: Ms. EDDIE BERNICE JOHNSON of Texas.

H.R. 1820: Mr. GILLMOR.

H.R. 1824: Mr. SHAYS.

H.R. 1859: Mr. ANDREWS.

H.R. 1873: Ms. ESHOO.

H.R. 2176: Mr. BILIRAKIS.

H.R. 2215: Mr. SMITH of Washington.

H.R. 2238: Mr. LAMPSON.

H.R. 2440: Mr. PASTOR.

H.R. 2680: Mr. BACHUS, Mr. FOLEY, Mr. LEWIS of California, Mr. LOBIONDO, Mr. MANZULLO, Mrs. MYRICK, Mr. PETRI, Mr. SMITH of New Jersey, Mrs. WILSON of New Mexico, Mr. YOUNG of Alaska, and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 2797: Mr. DEMINT.

H.R. 2848: Mr. KOLBE.

H.R. 2900: Mrs. BIGGERT.

H.R. 2959: Mr. EVANS and Mr. DOYLE.

H.R. 2971: Mr. SULLIVAN.

H.R. 3103: Mr. HALL, Mr. BOEHLERT, Mr. RYAN of Ohio, and Mrs. CAPITO.

H.R. 3242: Mr. CLYBURN, Mr. WAXMAN, Ms. ROYBAL-ALLARD, Mrs. DAVIS of California, Ms. HARMAN, Ms. MILLENDER-MCDONALD, Mrs. NAPOLITANO, Ms. PELOSI, Ms. LORETTA SANCHEZ of California, Mr. SCHIFF, Mr. SHERMAN, Ms. SOLIS, Ms. WATSON, Ms. LINDA T. SÁNCHEZ of California, and Mr. LANTOS.

H.R. 3403: Ms. ROS-LEHTINEN.

H.R. 3438: Mr. SWEENEY, Mr. GEORGE MILLER of California, Mr. JEFFERSON, and Ms. HERSETH.

H.R. 3558: Mrs. MCCARTHY of New York.

H.R. 3634: Mr. PASTOR.

H.R. 3858: Mr. COX.

H.R. 4067: Mr. ISRAEL.

H.R. 4094: Mr. OWENS and Mr. GORDON.

H.R. 4108: Mr. FRANK of Massachusetts.

H.R. 4249: Mr. JEFFERSON, Mr. MOORE, Ms. BORDALLO, Mr. CROWLEY, Ms. HARMAN, Mr. LARSEN of Washington, Ms. DELAURO, Mr. GREEN of Texas, Mr. DOYLE, Mr. DOOLEY of California, Mr. TIERNEY, Mr. OLVER, Mr. MENENDEZ, Mr. RODRIGUEZ, Mr. ANDREWS, Ms. LORETTA SANCHEZ of California, and Mr. CHANDLER.

H.R. 4283: Mr. SWEENEY.

H.R. 4351: Mr. OWENS.

H.R. 4357: Mr. MEEHAN.

H.R. 4374: Mr. OWENS.

H.R. 4391: Mr. DOOLITTLE.

H.R. 4392: Mrs. JO ANN DAVIS of Virginia.

H.R. 4395: Mr. BERRY.

H.R. 4488: Mr. ENGLISH, Mr. HERGER, and Mr. HAYWORTH.

H.R. 4595: Mr. FARR.

H.R. 4610: Mr. RAHALL.

H.R. 4616: Mr. PETERSON of Minnesota.

H.R. 4662: Mr. GREEN of Wisconsin.

H.R. 4686: Ms. BALDWIN.

H.R. 4730: Mr. RAHALL.

H.R. 4776: Mr. PLATTS.

H.R. 4782: Mr. COLE.

H.R. 4839: Mr. FROST.

H.R. 4849: Mr. LEWIS of Kentucky.

H.R. 4927: Mr. MCDERMOTT.

H.R. 4931: Mr. SOUDER.

H.R. 4936: Mr. SCHIFF, Mrs. LOWEY, Mr. STRICKLAND, Mr. DAVIS of Florida, Mrs. CAPITO, Mr. WICKER, Mr. MARSHALL, Mr. STARK, Ms. BALDWIN, Mr. EMANUEL, Ms. HERSETH, and Mr. ALLEN.

H.R. 4978: Mr. OWENS.

H.R. 5023: Mr. HINCHEY.

H.R. 5057: Mr. FILNER, Ms. BERKLEY, Mr. CONYERS, Mr. ORTIZ, Mr. HOSTETTLER, Mr. WILSON of South Carolina, Mrs. JO ANN DAVIS of Virginia, Mr. BURR, Mrs. LOWEY, and Mr. RODRIGUEZ.

H.R. 5061: Ms. SCHAKOWSKY, Mr. KENNEDY of Rhode Island, Mr. ACKERMAN, Mr. AKIN, Mr. JACKSON of Illinois, Mr. PASTOR, Mr. MCDERMOTT, Ms. MCCOLLUM, and Mr. BLUMENAUER.

H.R. 5068: Ms. MCCARTHY of Missouri, Mr. LAMPSON, and Mr. GIBBONS.

H.R. 5069: Mr. LAMPSON and Mr. GIBBONS.

H.R. 5126: Mr. FRANK of Massachusetts and Mr. EMANUEL.

H.R. 5144: Mr. FORD and Mr. ISAKSON.

H.R. 5150: Mr. BLUMENAUER, Mr. COOPER, Ms. HARMAN, Mr. SANDLIN, Mr. DOOLEY of California, Ms. MCCOLLUM, and Mr. KIND.

H.J. Res. 28: Mr. WYNN and Mr. BUTTERFIELD.

H.J. Res. 56: Mr. MCKEON and Mr. BISHOP of Georgia.

H.J. Res. 106: Mr. BARTON of Texas, Mr. BACHUS, Mr. BOEHNER, Ms. GINNY BROWN-WAITE of Florida, Mr. BURR, Mr. COLE, Mr. CANNON, Mr. CANTOR, Mr. COLLINS, Mr. DEAL of Georgia, Mr. DOOLITTLE, Mrs. EMERSON, Mr. FLAKE, Mr. HALL, Ms. HART, Mr. HERGER, Mr. HULSHOF, Mr. ISAKSON, Mr. KELLER, Mr. MILLER of Florida, Mrs. NORTHRUP, Mr. NEY, Mr. PEARCE, Mr. PETERSON of Minnesota, Mr. PICKERING, Mr. ROGERS of Kentucky, Mr. STENHOLM, and Mr. WAMP.

H. Con. Res. 239: Mr. VAN HOLLEN.

H. Con. Res. 285: Ms. KILPATRICK.

H. Con. Res. 330: Mr. SABO and Mr. ANDREWS.

H. Con. Res. 431: Mr. TANCREDO.

H. Con. Res. 476: Mr. RANGEL, Mr. CONYERS, and Ms. LEE.

H. Res. 550: Mr. UDALL of New Mexico.

H. Res. 601: Ms. JACKSON-LEE of Texas.

H. Res. 682: Mr. BELL and Mr. TERRY.

H. Res. 751: Mr. BERMAN, Mr. SHERMAN, Mr. ENGEL, Mr. ROHRABACHER, Mr. TANCREDO, and Mr. ISSA.

H. Res. 768: Mr. KUCINICH, Mr. VAN HOLLEN, and Mrs. MALONEY.

H. Res. 782: Ms. WOOLSEY, Mr. MCDERMOTT, Ms. SOLIS, Mr. MICHAUD, and Mr. STARK.

H. Res. 793: Mr. FROST and Mr. SHERMAN.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

115. The SPEAKER presented a petition of the Tobacco Task Force and the Committee on Agriculture and Small Business of the

General Assembly of the Commonwealth of Kentucky, relative to a resolution expressing full support for the implementation of a fair and equitable tobacco buyout program to compensate tobacco growers and quota owners for their loss; petitioning for the provision of an economic stimulus for the Commonwealth of Kentucky; and petitioning the President and Congress of the United States to support and enact legislation to establish such a buyout program for the tobacco industry; to the Committee on Agriculture.

116. Also, a petition of the City of Lauderdale Lakes Commission, Florida, relative to Resolution No. 04-107 petitioning the Congress of the United States to help cities protect children and animals by enacting legislation which requires the addition of the bittering agent known as denatonium benzoate to engine coolant and antifreeze compounds which contain ethylene glycol; to the Committee on Energy and Commerce.

EXTENSIONS OF REMARKS

S. 2634, THE GARRETT LEE SMITH ACT

HON. TAMMY BALDWIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. BALDWIN. Mr. Speaker, I rise to bring attention to a tragic issue that faces our country today: youth suicide. On September 9th, the House of Representatives passed, with my full support, S. 2634, the Garrett Lee Smith Act. The Act was named in honor of Senator GORDON SMITH's son who committed suicide last year. This legislation establishes grants for suicide prevention efforts directed at young people, authorizes the creation of a technical assistance center to help local and state providers of suicide prevention programs; and establishes a grant program for suicide prevention programs on college campuses. I am proud to support for this bill and confident that it will make a difference in the lives of countless young people in south central Wisconsin and across our Nation.

We must do all we can to nurture and support our Nation's greatest asset—our children. Suicide is currently the third leading cause of death among teenagers in the United States. Too many young people think they are facing lives that lack hope and promise. We must do everything we can to help our youth through difficult times and teach them that life is indeed worth living. The Garrett Lee Smith Act will go a long way to help in that effort.

Youth suicide is at epidemic proportions. All youth are at risk. But I want to speak about a group of youth who are sometimes invisible, ignored, or worse—condemned for simply being who they are. I am talking about America's gay, lesbian, bisexual and transgender youth.

Allow me to tell you a true story. When the people of Wisconsin first elected me to Congress, I received a letter from an 18 year-old from a small town in southern Illinois—population forty-four hundred. This young man had a passion for public service. He wrote, "I was president of my graduating class, treasurer of the student council, and senior board member on a local community service youth group . . ." Here was a young man who cared about others, and who was already a valuable, productive member of his community. But then I read the next lines of his letter, and was devastated. It read, "I was following my dreams, until I realized that I am gay. At that point, I gave up."

Luckily, this story has a happy ending. Surfing the internet one day, this young man read an article about my being the first out lesbian elected to Congress. Thankfully he realized that he could be honest about himself as an openly gay man and still devote his life to public service. But, he went on in his letter to explain the real reason he was writing me. He told me that by reading about my story, "You not only saved my hopes and dreams, you saved my life. I have never told anyone this. I was on the edge before I read that article. The pressures had built up in me to the point of suicide. I was going to give up, not only on my hopes and dreams, but on my life altogether." The pressures he was talking about were not only the difficulties that all American youth face today, but the steady drip, drip, drip of intolerance and discrimination he experienced as he tried to live his life honestly as a gay man.

That young man needed and did not have access to adequate suicide prevention services. According to the Massachusetts Youth Risk Behavior Survey, lesbian, gay, bisexual, and transgender youth are four times more likely to report attempting suicide than their heterosexual peers. Along with the growing acceptance of gay, lesbian, bisexual and transgender Americans, the Garrett Lee Smith Act will help ensure that all young people, including our LGBT youth, have access to high quality and effective suicide prevention services.

None of America's youth should consider suicide as an option to end pain in their lives. I am thankful for the passage of the Garrett Lee Smith Act, and am committed to doing all I can to combating youth suicide.

* * *

THANKING MS. MEMORY SHERARD FOR HER SERVICE TO THE HOUSE

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. NEY. Mr. Speaker, on the occasion of her retirement on September 30, 2004, we rise to thank Ms. Memory Sherard for outstanding service to the U.S. House of Representatives. For the past 28 years, Memory has served this great institution as a valuable employee of House Information Resources (HIR) within the Office of the Chief Administrative Officer.

While at HIR, Memory held many positions of increasing responsibility, requiring her to learn and support new and evolving computer technologies. Memory began her career in 1976 as a Production Control Specialist. She then progressed to Programmer Trainee, Coordinator for the Member Information Network (MIN) Support Team, and Messaging Systems Specialist.

As the House began to use personal computers, Memory supported the House community explaining the benefits of electronic mail and the Internet, and how these could be beneficial tools for Member and Committee offices. As technology evolved, so did Memory, mastering and supporting more than six different e-mail systems. Memory helped emplace the Federal Funding Report (FFR) in 1981, now in its 24th year as Web based service.

Since 1993, Memory has been an invaluable member of HIR's Information Management directorate where she had primary responsibility for Customer Support for the mission critical E-mail, Enterprise Fax, and BlackBerry services. Memory has displayed great passion for her work and has always kept customer satisfaction as her highest priority.

On behalf of the entire House community, we extend congratulations to Memory for her many years of dedication and outstanding contributions to the U.S. House of Representatives. We wish Memory many wonderful years in fulfilling her retirement dreams.

* * *

CONFERENCE REPORT ON H.R. 1308, WORKING FAMILIES TAX RELIEF ACT OF 2004

SPEECH OF

HON. JAMES R. LANGEVIN

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

Mr. LANGEVIN. Mr. Speaker, I rise today in support of the conference report for H.R. 1308, the Working Families Tax Relief Act. While I would have preferred a revenue neutral version of this bill that did not add to the national debt, this legislation does deliver continued tax relief for working families at a time when assistance is greatly needed.

Most importantly, this bill extends, through 2010, three family-friendly tax cuts scheduled to expire at the end of the year. These policies include continuation of the expanded 10 percent tax bracket, extension of marriage penalty relief, and expansion of the child tax credit. Without Congressional action, every American subject to the income tax, especially families with children, would face higher taxes next year. A tax increase is the last thing that my constituents need during these difficult economic times as Rhode Island's unemployment rate continues to hover above the national average.

This bill finally allows members of the military to use combat pay to qualify for the child tax credit. I have been pushing for this long overdue provision for more than a year, and I am pleased that Rhode Island servicemembers now will receive the credit they deserve while they risk their lives for us every day.

In addition, H.R. 1308 extends Alternative Minimum Tax relief, continues tax credits for renewable energy, and renews the Research and Development Tax Credit. These extenders serve a wide range of causes including promoting economic development and reducing our dependence on foreign oil.

The bill is far from perfect. Much of the cost of this legislation comes from the expansion of

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

the child tax credit to those who earn more than $200,000 per year. However, the 9.2 million children in families earning under $11,000 will still not receive the $1,000 child tax credit that almost every other wealthier family will receive. There is still time to include these families, and I urge my colleagues to support tax relief for all Americans.

I am committed to sensible tax relief for the middle class, but I am also concerned about our national debt. With a national debt of more than $7.3 trillion, each additional dollar the government spends or uses for a tax cut must be paid back by future generations. This bill adds nearly $150 billion to the debt over ten years. I would have preferred that these tax cut extenders be offset by either reducing the tax cuts for the tiny fractions of Americans who earn more than $1 million per year or by cutting federal spending. Unfortunately, the majority has done neither. This is not fiscal leadership, and this explains why a record surplus of just 4 years ago has turned into a record deficit today.

I encourage my colleagues to join me in supporting H.R. 1308, the Working Families Tax Relief Act to provide needed relief to Rhode Islanders. However, I also urge a more fiscally responsible approach when dealing with tax cuts and spending to ensure future generations are not left with the bill.

IN HONOR OF FIRST LIEUTENANT TYLER BROWN

HON. DENISE L. MAJETTE

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. MAJETTE. Mr. Speaker, it is with profound sadness that I rise today to honor a true patriot for his heroic courage under fire—Lieutenant Tyler Brown.

Lieutenant Brown, who was from Atlanta, Georgia, made the ultimate sacrifice on September 14, 2004, when he gave his life in service to our country while on duty with the United States Army in Iraq. His untimely and unfortunate passing serves as a reminder that freedom comes at a terrible cost, and that we all live in a free land because so many like Tyler have died to protect those cherished freedoms.

Although Lieutenant Brown was with us but for an all too brief time on this earth, he will forever remain in the hearts of the family and friends who so dearly loved him. The example he set by his service, by his devotion, and by his loyalty to his country will, like a beacon, shine a ray of light through the darkness to show the way for all those who follow in his footsteps.

I'm confident that, by answering his nation's call to service, Lt. Brown understood all too well that he, like so many other brave men and women, could be thrust into harm's way in the pursuit of peace and liberty and the protection of freedom. These are perilous times, and events taking place throughout the world, even within our own borders, have sharpened our focus on the grave dangers around us. Yes, Lt. Brown understood the nature of his service, and stepped forward proudly to represent the best that is within us. With great admiration and respect, we honor him today.

In spite of the tears that are flowing, and the sharp pain residing deep within us, may we be comforted by the knowledge that Tyler is now safely in God's hands, that he has been welcomed home with a warm, secure and loving embrace.

I offer my condolences to his family and friends. We all share your grief; we all mourn your loss. My prayers are with you.

JOE SKEEN FEDERAL BUILDING

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. BILIRAKIS. Mr. Speaker, last week the House approved H.R. 3734, which would designate the federal building located at Fifth and Richardson Avenues in Roswell, New Mexico, as the "Joe Skeen Federal Building." Naming this building after our late colleague would be a tremendous honor to his memory and his family, and I strongly support this legislation to accomplish that goal.

Representative Skeen was a dedicated patriot who answered the call of his country by joining the Navy and the Air Force Reserves. He built his life on helping people, serving his neighbors and fellow citizens in the New Mexico State Senate before being elected to the U.S. House of Representatives as a write-in candidate in 1980. He served in this venerable body for 22 years, the longest-serving Member of the House from New Mexico. He was respected by his colleagues and loved by his constituents for being honest, caring, and hard-working.

I had the privilege of serving with Joe for 20 years in Congress, and I am proud to have been his friend. I remember many conversations I had with Joe over the years. He spent much of his time on this floor sitting in the "Florida corner," delighting us with his wonderful sense of humor and thoughtful opinions. He is greatly missed.

Mr. Speaker, Joe's death from Parkinson's disease in December 2003 may have closed the book on a life characterized by unfailing public service, but it did not extinguish his memory, which lives on in the hearts of his family, his friends, and the Members of this body. The "Joe Skeen Federal Building" will stand as a testament to the great New Mexican who served his constituents and the people of the United States so tirelessly for many decades. I thank my colleagues for honoring Joe by approving H.R. 3734.

HONORING THE MEMORY OF CESAR HERNANDEZ

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mrs. WILSON of New Mexico. Mr. Speaker, I rise today to honor the memory of Cesar Hernandez.

Cesar died on July 5th of this year at age 61. His contribution to New Mexico lives on. Cesar was publisher of the Spanish language newspaper, La Razon.

With a circulation of 17,000 copies, Cesar's newspaper is a major source of news and information for the substantial Spanish-speaking population of New Mexico.

This newspaper's importance to the population it serves is difficult to over-emphasize. We live in an era of news up-to-the minute and always available, but to a person who reads or understands primarily Spanish, the sources of information are often rare or incomplete. La Razon fills that gap and offers its readers valuable, practical information for their day-to-day lives.

Cesar's family will never forget the day they became New Mexicans, because it was September 11, 2001. Cesar started his newspaper one week later. Cesar logged decades of experience in radio and newspaper, and got his start in Chicago, Illinois. Today, his work goes on in New Mexico under the direction of his wife, Antoinette, and his family.

In 3 years, Cesar contributed much to his adopted state, New Mexico. As his daughter Leslie put it, "My father loved the newspaper." We're proud to recognize Cesar Hernandez, and we honor his memory and contribution to New Mexico.

RECOGNIZING THE ACCOMPLISHMENTS OF WOMEN ATHLETES AT THE 2004 SUMMER OLYMPICS

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. SLAUGHTER. Mr. Speaker, I rise today on behalf of the Congressional Caucus for Women's Issues and its leaders, Congresswomen SHELLEY MOORE CAPITO, GINNY BROWN-WAITE and HILDA L. SOLIS and myself, to honor the amazing achievements of the women athletes at the 2004 Olympics in Athens, Greece. In particular, I want to celebrate the success of the United States Women's Soccer Team, who made us proud by winning a gold medal at the 2004 Olympics, beating Brazil 2–1 in overtime, on August 26, 2004.

I would especially like to recognize Julie Foudy and Brandi Chastain, our honored guests for a Congressional Caucus for Women's Issues reception today, Tuesday, September 28, 2004, celebrating the accomplishments of female U.S. Olympic athletes. As Captain and 16-year veteran of the U.S. Women's National Team, Julie Foudy is one of the most influential athletes in the United States. Through the end of 2003, she had started in 229 of the 239 games in which she appeared, including all six of the world championship events played by the U.S. women. And if that was not impressive enough, she scored in all four of the Women's World Cup tournaments. Her teammate, Brandi Chastain, another longstanding player on the U.S. Women's Soccer Team, provided one of the greatest moments in the history of sports with her penalty kick on the USA's fifth shot in the 1999 Women's World Cup Final at the Rose Bowl.

These women have become some of the most famous athletic role models on earth. They have taught our children that if you work hard and you believe in yourself, you can accomplish anything. Indeed, these women are helping to fundamentally change perceptions about athletics. It is no surprise that our little girls look up to these strong, motivated women for inspiration. But to also see little boys wearing jerseys emblazoned with the names of their favorite women players is a wonderful sight. The accomplishments of this generation of women athletes demonstrates the profound impact that Title IX has had on increasing opportunities in sports for women and girls. Title IX, part of the Education Amendments of 1972 requiring that public schools and colleges provide equal educational and athletic opportunities for girls and women, has unquestionably been a tremendous success. The members of the U.S. Women's Soccer team have been tireless advocates for Title IX. Their efforts have helped the Women's Caucus and our male colleagues to preserve and strengthen this historic law.

It is important for girls to have every opportunity to succeed, especially when it comes to athletics. That is why the leadership of the Congressional Caucus for Women's Issues has introduced H.R. 4994, the High School Athletics Accountability Act. This bill will require schools to report to the Department of Education basic data on the number of female and male students in their athletic programs and the expenditures made for their sports teams. Currently high schools are not required to disclose any data on equity in sports, making it difficult for schools and parents to ensure fairness in athletics programs. Better information can help high schools and parents of schoolchildren foster fairness in athletic opportunities for girls and boys.

As a testament to the power of these women, their fan appreciation tour, which kicks off in Rochester, on September 25, sold out all 14,000 seats in just minutes. I have introduced a bill in Congress, H. Res. 373, which supports the re-establishment of the Women's United Soccer Association (WUSA). Hopefully, some day the WUSA will return, to give every amazing female soccer player the professional athletic opportunities in the United States they so deeply deserve.

Thank you to all the women Olympic athletes for transforming the lives and attitudes of today's young women, and for those of generations to come. We all know that girls who compete in sports perform better in school, are physically healthier and have a stronger self-esteem. Our girls have learned that sweat is sexy, brawn is beautiful and a little dirt never hurt anyone. You have truly given us all a whole lot more to celebrate, work hard for and dream about.

HONORING LARRY AND MARIE DANNER, EXEMPLARY COMMUNITY ACTIVISTS

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. STARK. Mr. Speaker, I rise to honor two outstanding individuals, Larry and Marie Danner, for their outstanding civic contributions to Alameda County, California. They have been involved with their community work for over 35 years.

Larry Danner began his career in 1965 as a police officer with the Fremont Police Department where he worked for nine years before joining the Bay Area Rapid Transit (BART) Police Department. He retired in 1994 as a Commander and second in command of the BART Police Department. Larry was instrumental in the growth of BART's security system. The system developed into a full-fledged Police Department that required 90 college credits for employment.

Marie Danner is a California State Certified Trial Court Interpreter and has been sole proprietor of Contreras Court Interpreters for over 35 years in the San Francisco Bay Area.

Marie and Larry have been involved in numerous projects. They have worked together as well as single-handedly to make a difference in the lives of others. Marie is most proud of her work as a board member of the Hispanic Community Affairs Council of Alameda County, an organization that raises $100,000 in scholarships yearly for Hispanic students. For over twenty years, Marie was a commissioner for the Fremont Sister Cities Commission. She was one of the first women to join the Rotary Club and was one of the first women to serve on the Board of Directors of the Hispanic Chamber of Commerce. She is the former chair of the National Women's Political Caucus and the Hispanic Community Affairs Council Scholarship Fund.

Larry was among the founders of Fremont Babe Ruth Baseball, Inc. and helped with fundraising to build the Fremont Senior Center. He is former vice-president and current treasurer of the American G.I. Forum, and was the project director and designer for the U.S. flag monument at Fremont's Veterans Park.

On October 1, 2004, Larry and Marie Danner will be honored by SAVE (Shelter Against Violent Environments) for their outstanding work to raise domestic violence awareness in the community. Larry served on SAVE's board of directors for six years. Larry and Marie continue to work tirelessly to support SAVE and many other organizations in their community. Their many years of advocacy and service are exemplary and I join all who admire their good works in expressing appreciation for Marie and Larry Danner's contributions.

HONORING DIANE DEVALT AS SHE IS RECOGNIZED WITH THE USO'S 2004 SPIRIT OF HOPE AWARD

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. DELAURO. Mr. Speaker, I rise today to recognize one of my constituents, Diane Devalt of Stratford, CT. On Wednesday, September 17, Diane was awarded the USO's annual Spirit of Hope Award, which is named for the late actor-comedian Bob Hope. The Spirit of Hope Award was created by President Clinton in 1997, and its first recipient was Bob Hope, in whose name the award is given. With so many of our troops serving in harm's way, I believe that this award has special significance this year.

Diane earned this award for her service as key volunteer coordinator of the 1st Truck Platoon, Naval-Marine Corps Reserve Center in New Haven. It is a job she took in 2001 and took on new significance when her son, Corporal Daniel Gorton was deployed to Iraq for six months last year. Mr. Speaker, Diane is a full-time fifth-grade school teacher in Stratford. She took this task on in July 2001 with no formal training and immediately turned the program completely around. According to her citation, Diane took over a family readiness program that was virtually non-existent and made "significant contributions during a full-scale Mobilization, Activation and Deployment."

Among Diane's most important responsibilities as the unit's key volunteer coordinator was to train volunteers to serve as an emotional support system for the families of Marine reservists deployed overseas. She conducted pre-deployment briefs for Marines and their families, and organized Family Day events for families with loved ones serving in Iraq.

Over the past year, I have met with many families whose loved ones serve in the National Guard or Reserve Corps and are deployed in the war on terror or in Iraq. I can tell you that a strong network of emotional support for the families back home, makes it much easier for our troops abroad to do their work successfully.

Mr. Speaker, Diane is an extraordinary woman who has joined some extraordinary company. By earning this award, Diane joins the ranks of Walter Cronkite, former astronaut and U.S. Senator John Glenn, actress Ann Margret and former President George H.W. Bush. I congratulate her for receiving this award, and I thank her for outstanding work in support of our men and women in uniform.

HIGHLAND HIGH SCHOOL NATIONAL COMPETITION WINNERS, FIRST CONGRESSIONAL DISTRICT OF NEW MEXICO

HON. HEATHER WILSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mrs. WILSON of New Mexico. Mr. Speaker, the following students of Highland High School, with the aid of their teacher, Steve Seth, have received the Unite Five award at the national finals of the We the People: The Citizen and the Constitution program. This event took place in Washington, DC, where the students competed against classes from all over the country and achieved the highest award through their demonstration of a complete and comprehensive knowledge and understanding of the ideals and values of the American constitutional government.

Influencing over 26.5 million students from elementary to high school, the competition is a simulation of an actual congressional hearing, in which students have the opportunity to speak as constitutional experts before a panel of judges.

History does not happen in the past, we are experiencing it now. These students, by way of their knowledge and outstanding achievement, have demonstrated their knowledge and understanding of our Constitution and the important role our founders played in the structure of our government. They have a strong foundation for citizen involvement in my community and in our country.

I am both proud and honored to recognize these students and their teacher not only for their achievement, but for their hard work and dedication to something so important.

Highland High School Students: Michael Alberti, Celina Baca, Desirae Brown, Aaron Blackwell, Kenyon Bradley, Christina Davis, Rachel Fredman, Iris Garcia, Lucy Gilster, Kegan Godbey, Kori Higgins, Randall Holt, Kelsey Jackson, Samuel Martinez, Carri Pence, Roshoan Ross, Collin Joseph Spears, Deann Lynn Torres, Barbara Wilson, Cassandra Wilson, James Williams, and Ashlee Wright.

IN HONOR OF KATHERINE EISENBERGER KEOUGH

HON. LOUISE McINTOSH SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. SLAUGHTER. Mr. Speaker, I rise today to honor the life of Dr. Katherine Eisenberger Keough, who served with absolute distinction as President of St. John Fisher College in Pittsford, NY, and departed this life on September 25, 2004. American academia has lost one of its most dedicated leaders, and the communities of Pittsford and Rochester, NY, have lost an exemplary leader and friend.

Since assuming the presidency in 1996, Dr. Keough's tenure at St. John Fisher College was marked by progressive excellence and committed leadership. As the first woman president of a well respected college steeped in religious traditionalism, Katherine Keough ushered in a new and more prominent era at the college; one that will long speak for her, now that her own voice is silent.

Guided by Dr. Keough's expertise and leadership, St. John Fisher College has initiated 20 new graduate and undergraduate programs and a new business school. Student enrollment at the college at this time is very close to double the number of students enrolled at the time Dr. Keough took office. New buildings are currently under construction at the college, which will include Dr. Keough's envisioned School of Pharmacy, a new residence hall and a new student center. Plans for these initiatives were in process at the time of Dr. Keough's untimely demise.

While known for her stately and stoic persona, and widely respected for her strict adherence to personal and professional ethics, Dr. Keough also possessed a kind and generous spirit. Her family and friends will long remember her as an extraordinarily giving individual whose legacy will live on into infinity.

In the 1970's when Dr. Keough's husband, William, visited the American Embassy in Iran before his scheduled return to America from a business trip abroad, he was seized by Iranian rebels and detained as a hostage, along with other unsuspecting Americans. After consideration of all of the relatives associated with the then American hostages in Iran, Dr. Katherine Keough emerged as the individual who could best articulate the thoughts and feelings of American families of hostages to then President Jimmy Carter. Dr. Keough's presentation to President Carter was a poignant one that assisted the President with bringing the hostage situation to a peaceful and successful conclusion.

Mr. Speaker, today it is my great privilege to honor the life and profound works of Dr. Katherine Eisenberger Keough. I wish to extend my thoughts, prayers and deepest sympathy to Dr. Keough's son, Steven, her daughters, Kathryn and Alyssa, her six grandchildren and to her dear friends.

HONORING MARJORIE BURNS SHERRATT

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. STARK. Mr. Speaker, I rise to honor Marjorie Burns Sherratt for her dedicated service as an educator and advocate for students. Ms. Sherratt retired from her position as Principal of Alameda High School in Alameda, CA, on July 1, 2004, having served 4 years. Her retirement marks the culmination of an exemplary career in the field of education that spans 34 years.

Ms. Sherratt is a lifelong resident of Alameda, CA. She earned her B.A. from California State University, Chico, and a M.A. in School Counseling from the University of La Verne.

During her three decades of commitment to education and prior to her tenure as Principal of Alameda High School, Ms. Sherratt was a teacher at Wood Middle School, Paden Elementary, Washington Elementary, Lincoln Middle School and Chipman Middle School. She was a counselor at Wood Middle School, a Head Counselor at Alameda High School, District Coordinator of Regional Occupational Programs and Principal of Alameda High School. In addition to her years in the classroom and administrative duties, Ms. Sherratt has also served on numerous committees for youth and educational advancement.

She has also served on boards of civic and professional organizations, including Children's Hospital, Xanthos, Alameda Civic Light Opera, where she was president and on the Board of Directors during the Opera's founding years. Ms. Sherratt was honored by the P.T.A. with two outstanding service awards. She is also a member of the Alameda Boys and Girls Club and the Alameda Girls Club.

Countless young people in the community of Alameda have been guided, inspired, and encouraged by the care and concern shown them by Marjorie Sherratt. I join Ms. Sherratt's friends and admirers in commending her for her illustrious record of accomplishments during her career in the field of education and applaud her for her dedicated efforts.

TRIBUTE TO RANDY FRY (1954–2004)

HON. JIM SAXTON

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. SAXTON. Mr. Speaker, the recreational fishing community is mourning the loss of a dear friend, Randy Fry of Auburn, California, who died while free diving for abalone off the Mendocino coast as a result of an attack by a great white shark on August 15th. He had often said that if he had to go, he wanted to go in the water.

While the international media has focused on the awful details of this tragedy, his friends and fellow members of the Recreational Fishing Alliance (RFA) choose to remember him for his tireless dedication to the interests of West Coast fisheries and recreational anglers and divers everywhere. At the time of his death, he was working full-time as the West Coast Regional Director of the RFA.

Randy Fry grew up in the Fresno area and his dad, now deceased, was an insurance salesman. His mother, Velora, lives in Auburn. He leaves a brother and two sisters, an ex-wife, a grown son and Natalie, his girlfriend he wanted to marry.

He became involved in fisheries management issues when he became concerned about the diminished stocks of rockfish (sebastes) and other nearshore groundfish that are so important to recreational fishermen in California.

Randy took the bull by the horns and started getting people organized to fight recreational fishing closures. He seemed to know everybody, and if he didn't know them personally, he was buddies with someone who did. He was a former SCUBA diving instructor who led diving charters in the Philippines, and he became an avid free-diving spearfisherman who competed in club competitions. He was active in the NorCal Skindivers Club and the Central California Association of Dive Clubs (CENCAL).

He had the perfect personality for this work: he liked people, he was passionate about the ocean and he loved to talk fish politics. He was also always willing to make the sacrifices necessary to get the job done. He was truly one of a kind.

In 2003, Fry was appointed to a fishery management panel on groundfish, which included important species to the recreational nearshore fishery. Randy was also instrumental in building support for the appointment of Darrell Ticehurst, a private recreational angler, to the Pacific Fisheries Management Council (PFMC)—one of the eight regional fishery management councils. He was a champion for reasonable public access to public resources and fair and equitable regulation of recreational fishermen.

Randy went to bat for sportfishermen at scores of meetings of government agencies. Some of the issues Randy worked on include:

Building support for the "Freedom to Fish Act" to prevent the implementation of arbitrary no-fishing zones.

He bird-dogged the California Department of Fish & Game over the use of license fees and fishing tackle excise tax revenue, making sure it was used in the best interests of fishermen.

He worked to introduce a bill to make commercial-scale abalone poaching a felony in California.

Randy sheltered low-impact fishing opportunities, like bank angling and spearfishing, from seasonal closures designed to protect shelf rockfish species.

He worked to make "reasonable and satisfying" recreational fishing seasons a priority in California management decisions.

Worked toward improving recreational catch data systems, to replace the failures of the past.

Worked to keep the National Marine Sanctuaries out of fishing regulations.

On a personal level, Randy was a fun guy to be around. He was a storyteller and a jokester. He loved to fish for salmon, dive with a spear gun or go bird hunting. He was a realist, and one of his favorite phrases when he had to deliver bad news about next year's fishing regulations was, "I'm just tellin' ya how the cow eats the cabbage." He was an excellent public speaker who wasn't afraid to criticize the California Fish & Game Commission when necessary, but he always tried to turn his opponents into friends. He didn't have a mean bone in his body.

Randy was one of those all-American strivers who attended seminars on salesmanship and negotiating skills back when he was a real estate broker and contractor. He was an avid reader and was constantly honing his skills to be a more effective and knowledgeable representative. He brought many disparate fishing groups together in consultation on important decisions, yet he was able to take charge when necessary and show leadership in times of crisis.

A few days before the "Fish Fry for the RFA at Noyo Harbor," Randy's friend Jim Martin left a message on Randy's phone saying that he needed a pep talk because of some setbacks he had. A few minutes later he called back and said:

"Oh, Cowboy Up, Pardner."

Jim busted out laughing. It was perfect Randy: short, sweet and to the point. It was all the pep talk he needed. Four words, and Randy set him straight.

Randy Fry was a warrior, a champion for the ocean and fishermen everywhere. He is sorely missed by his family, friends and colleagues.

HONORING THE SWORMVILLE FIRE COMPANY AND THE DEDICATION OF THEIR NEW FIRE HALL

HON. THOMAS M. REYNOLDS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. REYNOLDS. Mr. Speaker, it is with great pleasure that I rise today to recognize the Swormville Fire Company on the occasion of the dedication of their new fire hall.

The Swormville Fire Company has bravely served the citizens of East Amherst, NY, since its incorporation in 1918. The company was founded by a local resident named William Smith, and originally consisted of fifteen members. In 1937, the company completed work on a fire hall, the fire hall that would serve as headquarters until earlier this year.

Today, sixty-seven years after that fire hall was built, the company boasts over one hundred members and a top-notch volunteer firefighting operation—so it is fitting that the company should have a new, top-notch fire hall from which to run their operations. Working towards this end, we were able to secure federal funding of more than $130,000 for the company last June. Swormville's brand new fire hall, erected on the same site as their previous one, will serve both the company and the community well. This new, 16,500 square foot facility includes five apparatus bays, an emergency communications room, a training facility, a records storage room, and even a weight room.

Since 1918, the Swormville Fire Company has provided a vital service to the community. East Amherst would clearly not be what it is without them. We owe them a debt for gratitude for all they have done over the years, and wish them all the best as they continue to selflessly serve the community in their new fire hall.

Mr. Speaker, I ask that this Congress join me in recognizing the Swormville Fire Company and celebrating the dedication of their new fire hall.

HONORING HURST MAYOR WILLIAM SOUDER

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. BURGESS. Mr. Speaker, I rise today to recognize Mr. William Souder, retiring Mayor of Hurst, Texas, for his outstanding service to the local community for the past 32 years.

Mayor Souder is a lifelong resident of Hurst and a direct-descendant of the city's founder, William L. Hurst. Like his relative, Mayor Souder has taken a decisive role in shaping the direction of the community for well over a quarter century.

Mr. Souder, a former banker, served as the first Postmaster to the city of Hurst. Prior to becoming Mayor he devoted 5 years serving as a city councilman. In 1980, Mr. Souder was elected Mayor of Hurst and has since served an impressive 12 consecutive terms.

As Mayor, Mr. William Souder has improved the lives of those living and working within the community. Under his leadership, 90 percent of the Hurst's facilities have been constructed or remodeled in a manner that allowed the city to incur zero debt. He has also played important roles in a whole host of progressive projects including the Northeast Mall renovation which has secured the city's financial security for many years into the future.

Mayor William Souder's positive impact has extended well beyond the immediate Hurst area through his involvement in the National League of Cities, Texas Municipal League, and U.S. Conference of Mayors.

It has been my distinguished honor to work alongside Mayor Souder for the improvement and development of Hurst, Texas. His leadership and kind heartedness will be missed. Bill, his wife Dodie, and the entire Souder family have my best wishes and prayers for the future.

PERSONAL EXPLANATION

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. KENNEDY of Rhode Island. Mr. Speaker, on the evening of September 13 and the morning of September 14, I was attending the funeral services of Richard Langevin, the father of our colleague Congressman JAMES LANGEVIN, and was unable to vote on rollcall votes 441–450.

I respectfully request the opportunity to record my position on rollcall votes Nos. 441, 442, 443, 444, 445, 446, 447, 448, 449, and 450.

It was my intention to vote "aye" on rollcall vote No. 441, "aye" on rollcall vote No. 442, "aye" on rollcall vote No. 443, "no" on rollcall vote No. 444, "no" on rollcall vote No. 445, "aye" on rollcall vote No. 446, "aye" on rollcall vote No. 447, "aye" on rollcall vote No. 448, "aye" on rollcall vote No. 449, and "no" on rollcall vote No. 450.

MOKELUMNE RIVER FEASIBILITY STUDY

SPEECH OF

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. POMBO. Mr. Speaker, I rise to speak in favor of H.R. 4045. In San Joaquin County, California, water supplies are being depleted. The region suffers from highly significant groundwater overdraft and saline intrusion. This bill provides a much needed solution to this growing problem.

H.R. 4045 authorizes $3 million in federal funding to complete studies that will examine additional surface water supplies, and improve water supply reliability and environmental protection for the Bay-Delta Region.

The project's multi-year evaluation would involve the participation and cooperation of a wide range of regional stakeholders and would provide information important to statewide water resource and environmental protection efforts.

Areas that will be aided by this bill include Stockton, Lodi, Lockeford, Clements, Waterloo, Farmington, Linden, Wallace, Camp Seco and Valley Springs.

A clean, safe water supply is essential to sustain our growing communities. Mr. Speaker, I urge my colleagues to support this important legislation.

NATIVE AMERICAN VETERANS HOME LOAN ACT OF 2004

HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. HERSETH. Mr. Speaker, today I am introducing the Native American Veterans Home Loan Act of 2004. This Act will extend the Native American veteran housing loan pilot program until December 31, 2008.

The VA pilot program provides direct home loans to eligible Native American veterans who wish to purchase, construct, or improve a home on Native American trust lands. This extension will allow more veterans living on trust lands to take advantage of this important benefit, which is scheduled to expire on December 31, 2005.

Since its inception of the pilot program in 1992, the VA has made more than 400 direct loans to Native American veterans, which can be used to purchase, construct, or improve a home on Native American trust land. The VA direct loans are generally limited to either the cost of the home or $80,000, depending on which is less.

For a veteran to be able to participate in this program, the veteran's tribe must have entered into a Memorandum of Understanding, MOU, with the VA. To date, the VA has entered into MOUs with a total of 68 Native American tribes and Native Groups throughout the country. VA field personnel have conducted outreach with the following tribes in South Dakota: Cheyenne River Sioux, Crow Creek Sioux, Lower Brule, Oglala Lakota Sioux, Rosebud Sioux, Sisseton-Wahpeton Sioux, Standing Rock, and the Yankton Sioux.

It is an honor for me to introduce this legislation and help Native American veterans achieve home ownership. I urge my colleagues to support this important legislation.

FOOD FINDERS 15TH ANNIVERSARY CELEBRATION

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I rise proudly today to congratulate Food Finders, a Long Beach community nonprofit that is dedicated to providing food for the impoverished and hungry people in our region.

Food Finders' specific mission is to offer an enhanced quality of life to those in need through a food rescue program. Volunteers collect and distribute food, along with other essential items, to missions, hospices, homeless shelters, treatment centers, senior centers and children's homes in both Los Angeles and Orange County, at no cost to the recipients. Food Finders provides approximately 42,000 meals a day through its services.

Food Finders is recognized in the City of Long Beach and throughout the region as a leading community-based organization. They are the link between donors, service agencies, and the people in need. Food Finders has inspired hundreds of merchants to donate food, which they then deliver free of charge to service agencies. This makes it possible for the agencies to run more effectively and therefore feed more people.

Food Finders is also a referral source for individuals, directing them to where they can receive help. Ninety-nine percent of food never comes through Food Finders' door. Volunteers pick up and deliver about 20,000 pounds of food to recipient agencies each day. The majority of Food Finders' efforts are spent on facilitating connections between donors and recipients. They operate 200 established delivery routes that are managed by 325 volunteers.

Food Finders was started in April of 1989 by Arlene Mercer, and was at one time operated out of her home. Food Finders has since grown from delivering 251,000 pounds of food in 1990 to delivering approximately 7,000,000 pounds of food in 2003. Throughout its existence, Food Finders has delivered over 30 million pounds of wholesome food. This is equal to approximately 35,000 meals per day, or over 11,000 people who receive three meals a day because of the dedication of Food Finders in improving their quality of life.

I look forward to working with Food Finders in the future for the betterment of our community.

TRIBUTE TO ARNOLD COHEN AND MARTY RESNICK

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to two leaders in the Baltimore Jewish Community. Arnold Cohen and Marty Resnick have been life-long friends who together and separately have worked to make our community and our world a better place.

Childhood friends since first grade, Arnold and Marty have a remarkable friendship that has lasted more than sixty years. As successful businessmen, they turned their attention to the benefit of others in Baltimore and Israel. They became leaders in the Mercantile Club, Israel Bond and The Cohen/Resnick Institute of the Diaspora Yeshiva in Jerusalem. Separately, Arnold devoted his efforts to Ner Tamid and Beth Tfiloh congregations, and Marty became active with Morgan State University.

On October 20, both will be honored by the Friends of Lubavitch as its 2004 Lamplighter Award recipients. In recent years, Arnold and Marty have turned their attention to the Lubavitch movement, helping Jews of all backgrounds learn more about their heritage. Both Arnold and Marty understand the importance of connections and of keeping Judaism alive for future generations.

I hope my colleagues in the U.S. House of Representatives will join me in thanking Arnold Cohen and Marty Resnick for their commitment and dedication to helping others. They understand that the world can be a better place through learning, knowledge and understanding.

TRIBUTE TO DR. LEONARD H. SHAMBERGER

HON. DONALD M. PAYNE

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. PAYNE. Mr. Speaker, I rise today to recognize and honor a distinguished member of my hometown of Newark, New Jersey, Dr. Leonard H. Shamberger, who will be retiring from the Pastorate of Emanuel Missionary Baptist Church on October 2, 2004.

Born in North Carolina in 1923, he honorably served this country as a Technical Sergeant in the U.S. Army, then pursued his education by attending the A&T State University in Greensboro, North Carolina, and later received his BA from the New York School of the Bible, an MA in Theology from the Bowles Bible Institute of Technicality, and a Doctorate of Divinity from Rankin's Theological Clinic.

Dr. Shamberger has established radio and prison ministries, the Mission to Haiti, the Food Pantry, Summer Vacation Bible School for children in our city, and many other ministries within the church and the surrounding community.

He has received many honors, including an Award for Religion for the Eugene and Barbara Byers Foundation, a Community Excellence Award, the Dr. Martin Luther King, Jr. Church Award, multiple Global Ministries Awards, the Municipal Council Resolution Award for 25 Years of Service from the Mayor's Office, and the First Family Award for 2003.

He is a Board Member of the Nellie Grier Senior Day Care Center, a Finance Committee member of the City Wide Revival Committee, and an Honorary Member of the Original Free Will Baptist Annual Conference of America. He is also a member of the General Baptist and the National Baptist Convention, USA, the Hampton University Ministers Conference, the Ordination Council of the New Hope Missionary Baptist Association, the North Jersey Committee of Black Churchmen, the Ministers Advisory Committee at the New Jersey Performing Arts Center, the Senior Citizen Partnership with Nelly Grier Adult Day Care, and the Baptist Ministers' Conference of Newark and Vicinity.

I am grateful for Dr. Shamberger's leadership in the community, and I value his commitment to meeting the needs of his brothers and sisters in Newark, the United States, and around the world.

Mr. Speaker, please join me in extending my thanks to Dr. Shamberger for his many years of pastoral ministry, and I invite my colleagues to join me in wishing him a restful and rewarding retirement, surrounded by the love of family, friends, and fellow believers.

HONORING ROBERT HARMAN

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. CAPITO. Mr. Speaker, I rise today to honor a great West Virginian, constituent and friend, Robert Harman. For the past forty years, Bob has served as the Chief Executive Officer and Administrator of Grant Memorial Hospital. His service makes him the longest-tenured hospital chief executive in our nation's history. Bob has worked tirelessly to ensure the citizens of Grant County, West Virginia have access to high quality health services. His shrewd fiscal management of the hospital has resulted in very few years where the hospital operated at a deficit; which is quite an accomplishment for an industry that has faced financial problems as a whole. He has often been on the leading edge of implementing new technologies to improve services and make the hospital more cost effective.

In addition to his service at Grant Memorial, Bob has been a leading advocate and expert on rural health issues. Over the past thirty years, Bob has served on numerous state and national committees, boards and task forces pertaining to the delivery of health care in rural areas. He has shared his experiences and advised members of the West Virginia Congressional delegation.

I am proud to call Bob a friend and fellow West Virginian and am honored to be able to share in this great accomplishment.

PAYING TRIBUTE TO TOM CVAR

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a truly dedicated public servant from Pueblo, Colorado. Tom Cvar has served as the Public Works Director for the city of Pueblo for over 20 years, and I would like to join my colleagues here today in recognizing his hard work and commitment before this body of Congress and this Nation.

In 1969, Tom graduated from the University of Colorado, and after working in the private sector was drafted into the Army. After fulfilling his military duty, Tom worked for two engineering firms before joining the Pueblo City Department of Public Works in 1980. Two years later he was appointed as the Director of Public Works.

As director, Tom was responsible for a staff of over 150 members, the oversight of 450 roads and 94 buildings, and the management of storm water and waste. In addition, he had oversight of an eighteen million dollar budget and final approval in all personnel, budget and organizational decisions. After his impressive stint at the department, Tom will be moving to Fort Collins, Colorado to work for a private engineering firm and to be closer to his family.

Mr. Speaker, it is a privilege to honor the service of Tom Cvar for his dedication to the city of Pueblo. His leadership will be missed, and I am proud to recognize him today before this body of Congress and this Nation. Thanks for your service, Tom, and good luck with all of your future endeavors.

HONORING MYRTLE McKENNA

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. LOFGREN. Mr. Speaker, I rise to congratulate Myrtle McKenna on the occasion of her 100th birthday.

Myrtle McKenna was born on November 3, 1904 and resides in San Jose, California.

She was married to Vincent "Mac" McKenna for 39 years until his death. Mac served as President of UAW Local 560 for many years. Myrtle has also been active in the UAW. She is currently the Financial Secretary of the UAW Women's Auxiliary, and she is also in charge of preparing food for the retiree's monthly meetings. Myrtle has never missed a meeting and drove herself to the meetings until she was 94.

Myrtle has been an active member of the Transfiguration Catholic Church for the past 45 years and she continues to volunteer there on a regular basis. She is an avid gardener, and is well known for growing beautiful tomatoes.

I want to thank Myrtle McKenna for her many years of service to our community and congratulate her on this milestone birthday. The city of San Jose is truly fortunate to have such a dynamic and caring resident.

HONORING MR. WILLIAM GRIGGS

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. KILPATRICK. Mr. Speaker, I rise today to honor one of the State of Michigan's longest serving public officials, Mr. William Griggs.

Born in Wyandotte on August 20, 1941, Bill is the youngest of four boys in the Griggs family. His father, Lloyd, was employed at National Steel, in Ecorse, Michigan, for 39 years.

In 1959, Bill was involved in a severe automobile accident which left him a paraplegic and confined to a wheelchair. He finished high school while recovering in the University of Michigan Hospital.

Graduating from Wayne State University with a bachelors degree in business administration in 1967, Bill went on to receive a Masters Degree in Recreation and Parks from Wayne State in 1975.

Bill is married to the former Judy Mierzewjewski and together they share the love of her children Lorrie McQuiston and Patrick McGrath. Lorrie resides in Trenton, MI and has two children, while Patrick resides in Chicago, IL and has four children.

Bill Griggs was elected City Clerk by the voters of Wyandotte in 1973 and has been reelected 13 times since—for a total of 31 years service to the citizens of Wyandotte, Michigan.

Bill was appointed to the Michigan Commission on the Employment of the Handicapped in 1976 by Governor William Milliken and served for three years. He was appointed, by Governor James Blanchard, to the Michigan Job Training Coordinating Council in 1985 and served for one year.

Bill represented the United States in eleven different International Wheelchair competitions, including those held in England, Israel, Argentina, Mexico, Canada and Peru.

Bill has been the President, Vice-President and Treasurer of the Michigan Wheelchair Athletic Committee and served as a member of the Board of Directors of the National Wheelchair Athletic Committee from 1971 to 1976.

Bill Griggs has received many honors over the years from numerous local clubs and organizations, including being named Outstanding Wheelchair Athletic of the year, based on a nationwide poll, in 1971; Outstanding Downriver Citizen by the Downriver Pennsylvania Club in 1974; Outstanding Young Man by the Wyandotte Jaycees in 1975; recipient of the Citation of Honor from the Veterans of Foreign Wars Auxiliary in 1975; Outstanding Government Official by the Michigan Rehabilitation Association in 1976; the 1986 Wyandotte Citizen of the Year award from the Wyandotte Service Clubs Council; elected to the Theodore Roosevelt High School Hall of Fame in 1991; inducted into the U.S. Wheelchair Sports Hall of Athletes with Disabilities Hall of Fame; and many more.

As you can see Mr. William Griggs is well deserving of our recognition for his many years of service to this community.

PAYING TRIBUTE TO WILLIAM GAYL BUCKLES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. MCINNIS. Mr. Speaker, it is with a sad heart that I rise to pay tribute to the passing of William Buckles, a great man from my district. Bill Buckles, an anthropologist from Pueblo, Colorado recently passed away after a long battle with cancer. I am honored today to bring his contributions to the attention of this body of Congress and this nation.

Bill was born on May 25, 1931 in Parco, Wyoming. He joined the Marines in 1951, and after fighting in the Korean War, was discharged in 1954. Bill then attended the University of Colorado where he obtained his bachelor's, master's and doctoral degrees in anthropology. After traveling to Egypt under the employment of the Smithsonian Institution, Bill returned to Pueblo, Colorado, and became the first full-time anthropology professor at Southern Colorado State College. He spent twenty-seven years as a professor at SCSC before retiring in 1992.

Bill will be remembered for his dedication in finding the original El Pueblo trading post. The trading post on the then Mexican-American border served as a meeting place for trappers and traders from all across North America before it was destroyed and forgotten in 1854. Bill began searching for the site in the early eighties and after finding the historical site, he helped insure that it was included as part of the El Pueblo Historical Museum. Bill also made great contributions the Fryingpan-Arkansas Water project, which provides safe drinking water to tens of thousands of residents in southwest Colorado.

Mr. Speaker, Bill Buckles was a dedicated man that selflessly served his community and country, and I am honored to pay tribute to such a respected citizen. His lifetime of achievements is an incredible model for America's youth. My thoughts and prayers go out to his family during this time of bereavement.

TRIBUTE TO LINDSAY TARPLEY

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to United States Olympic Women's Soccer player, Lindsay Tarpley, whose outstanding play helped the team bring home the gold in Athens. The grace and class that Lindsay and the entire women's soccer team demonstrated during their superb Olympic championship run is an inspiration to all of us.

In the 2004 Olympic gold medal game, millions of people around the world watched as Lindsay brilliantly scored the United States' first goal as the team went on to defeat Brazil 2–1. Her play throughout the tournament was marvelous and made the whole of southwest Michigan exceedingly proud.

Lindsay graduated from Portage Central High School in 2002 where she was twice an All-American, named the nation's top High School forward by Parade Magazine, was Michigan Gatorade Player of the Year, and led her team to win the MSHAA state title in 1999. Following her explosive career at Portage Central, Lindsay furthered her excellence at the University of North Carolina. Over the last two seasons at UNC, Lindsay continued in her dominance and after being named National Player of the Year by Soccer America in 2003, she was selected to the 2004 U.S. Olympic Team.

I could never adequately list or describe all of Lindsay's accomplishments on the soccer field, but perhaps her greatest accomplishment thus far is being a role-model for millions of youth players throughout our country. As a National and Olympic star, Lindsay has shown through her dedicated play and elegance in success, the true meaning of being a champion. Just like her own role model, Mia Hamm, Lindsay is a role model for countless girls throughout southwest Michigan and our nation as a whole.

On behalf of the Sixth District of Michigan, I would like to wish a very speedy recovery to Lindsay on her recent injury that she endured while playing at UNC. I extend my very best wishes to Lindsay's continued success on and off the field and congratulations on her Gold medal in the 2004 Olympics.

HONORING SERVICE EMPLOYEES INTERNATIONAL UNION 250

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. LEE. Mr. Speaker, I rise today to honor Service Employees International Union (SEIU) 250 for 70 years of invaluable service to the community.

SEIU 250 was chartered on September 13, 1934. On that date, the American Federation of Labor certified the local as the country's first health care union, which grew out of the struggle of a group of service workers who united to fight for better wages at San Francisco General Hospital. Since that time, the members of SEIU 250 have worked tirelessly to improve working conditions for all service employees in the health care profession, and in doing so, have dramatically improved the state of health care in California and across the country.

During the 70 years since its founding, SEIU 250 has achieved a number of remarkable milestones. In 1941, the local signed its first contract with the San Francisco Hospital Conference, an agreement that represented employees at eleven hospitals. A decade later, SEIU 250 signed its first contract with Kaiser Permanente, a partnership that continues today and represents over 20,000 caregivers. The local would go on to work even harder to meet the needs of its members by incorporating into its structure four additional divisions in the areas of homecare, convalescent care, hospitals and emergency medical services. In the decades that followed, SEIU 250's reach grew to encompass eleven districts spanning Northern California, with a membership of over 100,000.

As the local's membership has grown, so has the impact of its relentless efforts to promote just and equitable working conditions for health care employees. In 1998, SEIU 250 members created a Patient Healthcare Worker Defense Fund, a nonpartisan effort with the objective of giving health care workers a more powerful voice in government to advocate for issues such as universal access to quality care, a patients' bill of rights, nursing home reform, and strong enforcement of workplace health and safety laws. SEIU 250 has also contributed enormously to the community through initiatives such as the establishment of the Shirley Ware Education Center, which opened in 1999 to provide needed training for current health care workers and to train new workers in response to widespread health care staffing shortages.

On October 1, 2004, SEIU 250 will be celebrating its 70th anniversary in San Francisco, California. I would like to mark this occasion by commending this organization for the exceptional service it has provided to the community not only in its capacity as an advocate of health care workers' rights, but also for its consistent efforts to improve the nation's health care system. By remaining committed to the goals of safe and fair working conditions for caregivers, SEIU has contributed immeasurably not only to the well-being of its members, but also to the quality of health care they are subsequently able to provide. I salute and congratulate SEIU 250 for 70 remarkable years of service.

IN MEMORY OF SGT. THOMAS CHAD ROSENBAUM

HON. MIKE ROSS

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. ROSS. Mr. Speaker, I rise today to recognize the life and courageous spirit of U.S. Army Sgt. Thomas Chad Rosenbaum of Hope, AR. Sgt. Rosenbaum, just 25 years old, was killed in the line of duty in Iraq on September 18, 2004. I am deeply saddened by this tragedy. I wish to recognize his life and achievements.

Sgt. Rosenbaum attended my alma mater, Hope High School, where he participated in a number of extracurricular activities. He was a member of the Bobcat football team, the golf team, weight lifting team, Key Club, Future Business Leaders of America and took part in the FFA rodeo. After graduating from Hope High School in 1997, Sgt. Rosenbaum enlisted in the U.S. Army and was assigned to the 4th Battalion, 5th Air Defense Artillery, 1st Cavalry Division in Fort Hood, Texas.

Sgt. Rosenbaum was stationed in Iraq since March where he worked as a chemical specialist and trained Iraqis in the use of firearms. His exemplary service and dedication to our country did not go unnoticed. His long list of distinguished medals includes: the Bronze Star Medal, a Purple Heart Medal, the Army Commendation Medal, the Army Achievement Medal, two Good Conduct Medals, the National Defense Service Medal, the Global War on Terrorism Expeditionary Medal, the Global War on Terrorism Service Medal, two NCO Professional Medals, the Army Service Ribbon, the master parachutist Badge, the Air Assault Badge, the Weapon Qualification Badge, and the French Parachutist Wings.

America will be forever grateful for Sgt. Rosenbaum's service to our great country. He gave his life to serve our country and will forever be remembered as a terrific father, courageous son, and a hero. My deepest condolences go out to his son, Ty; his parents, Jackie and Donna Rosenbaum; and his brother, Zane. I know Sgt. Rosenbaum was proud of his service to the U.S. Army and to our country. He will be missed by his family, fellow soldiers, and all those who knew and counted him as a friend. I will continue to keep Sgt. Rosenbaum and his family in my thoughts and prayers.

PAYING TRIBUTE TO THE TOWN OF RICO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. McINNIS. Mr. Speaker, it is an honor to recognize the 125th anniversary of the incorporation of the Town of Rico, Colorado. This year marks the celebration of its Quasquicentennial, a rare and distinguished achievement. The story of Rico is one of a successful, booming mining town that thrived around the Rio Grande Southern Railroad route. As the town's residents celebrate their one hundred and twenty-fifth year anniversary, I would like to join my colleagues here today, before this body of Congress and this nation, in recognizing this impressive milestone.

Rico is Spanish for "rich", and the rich culture and history of Rico is one of its greatest charms. The wealth of Rico derives from its long history of mining. Trappers first came to the valley in 1832 to catch beaver and other fur bearing animals. Gold was discovered in 1866 by a Texan named Colonel Nash and fellow prospectors Sheldon Shafer and Joseph Fearheiler of Montana.

Rico reached its apex in 1892 with a population of five thousand, supporting several saloons, a few churches, a couple of newspapers, a theater and the Rico State Bank. In 1893, there was a silver panic that left only 811 people in Rico, but the town recovered and the mining industry rebounded in 1926. From 1953 to 1971, the mining industry then shifted its focus from silver to lead and zinc ore. Today Rico is unparalleled in its beautiful mountain scenery and outdoor recreation opportunities that include both fishing and hunting.

Mr. Speaker, after one hundred and twenty-five years, Rico, Colorado continues to experience success as a tight-knit community. The social institutions and economic infrastructure account for the town's longevity. Our nation was built upon the strong foundation of small communities like Rico. I congratulate the town of Rico, Colorado for this important anniversary and wish the community the best in the future.

HONORING CENTER FOR TRAINING AND CAREERS' WOMEN EMPOWERED TO MOVE AHEAD PROGRAM

HON. ZOE LOFGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. LOFGREN. Mr. Speaker, I rise today to commend the Center for Training and Careers (CTC) of San Jose for establishing the Women Empowered to Move Ahead (WEMA) collaborative program.

WEMA was created by CTC when they were approached by Pacific Gas & Electric (PG&E) to help train women for the Utility Worker and Apprentice Lineman divisions. At that time PG&E did not have any women in those positions. With CTC's extensive experience designing non-traditional programs for under-employed and unemployed women, a program was developed that focused the curriculum on the employment process of PG&E.

Students received 325 hours of instruction over a 13-week period, and special support services were provided for the participants. WEMA also met the requirements of the Silicon Valley Workforce Investment Network (SVWIN) that emphasize programs that respond to the special needs of the employer community. SVWIN committed Workforce Investment Act funds and provided referrals through its One Stop Employment Centers.

I am proud of the caring staff whose dedication has built the WEMA program. Because of their hard work, many women in San Jose will have a better and more optimistic future. I thank the CTC for their valuable service to our community.

HONORING MR. ANDREW SWIECKI

HON. CAROLYN C. KILPATRICK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. KILPATRICK. Mr. Speaker, I rise today to honor one of the State of Michigan's longest serving public officials Mr. Andrew Swiecki.

Andy was born on August 2, 1939 in the city of Wyandotte, the forth of five children of Andrew and Sophia Swiecki. He attended school in Wyandotte, and after graduating from Mt. Carmel High School he attended the University of Detroit and graduated with a degree in Industrial Relations in 1963.

He is married to the former Pat Prosniewski, and they are the parents of three children: Andrew Kenneth, Jeffrey Allen and Susan Nicole Swiecki-Radel. Andy, and his wife Pat, have three grandchildren and are expecting a fourth grandchild in 2005.

First elected to Wyandotte's City Council in 1967, Andy served on the Council for 12 years, being elected to six 2-year terms. He was then elected Wyandotte's City Treasurer in 1979 and has been re-elected to that position 10 times. Andy has served the citizens of Wyandotte for 37 years.

He is a member in good standing of many clubs and professional organizations, including: Wyandotte Goodfellows; Downriver YMCA Board; Wayne County Treasurers Association; Downriver Community Conference; Southeast Michigan Community Alliance; Municipal Treasures USA/Canada Association; Chairman of Wyandotte Employees Retirement Commission; the Polish Legion of American Veterans; St. Stanislaus Kostka Club 30; Our Lady of Mt. Carmel Church Ushers Club and Holy Name Society; Polish Roman Catholic Union; Knights of Columbus; and many others.

Andy was named Citizen of the Year by Wyandotte Service Clubs in 1990 and was honored as Volunteer of the Year by the YMCA in 2003.

As you can see Mr. Andrew Swiecki is well deserving of our recognition for his many years of service to his community.

PLEDGE PROTECTION ACT OF 2004

SPEECH OF

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 23, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 2028) to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance:

Mr. MOORE. Mr. Chairman, I rise today in opposition to H.R. 2028, the Pledge Protection Act of 2003.

The American flag is a symbol of liberty and justice, of freedom of speech and expression, as well as the other freedoms we cherish which are guaranteed in the Bill of Rights. But even more important than the symbol are the ideals and principles that the symbol represents. I believe the best way to honor the American flag is not to wrap ourselves in it, but to respect and honor the values for which it stands. That our nation can tolerate disrespect for our flag is proof of the enduring strength of our nation.

As a veteran who served in the U.S. Army and Army Reserves, I know how deeply our veterans love and revere our flag. I share those feelings for our flag and all that it represents.

Our democracy has withstood many tests over time, and has been strengthened as a result. There is no more important protection provided by the First Amendment than its protection of political speech and expression.

In a letter to Senator PATRICK LEAHY of Vermont dated May 18, 1999, now-Secretary of State (then General) Colin L. Powell wrote, to express his concerns regarding a constitutional amendment banning flag burning, "the First Amendment exists to insure that freedom of speech and expression applies not just to that with which we agree or disagree, but also that which we find outrageous. I would not amend that great shield of democracy to hammer a few miscreants. The flag will still be flying proudly long after they have slunk away."

I agree wholeheartedly with Secretary Powell's statement, and believe it applies here as well. The Pledge of Allegiance is an invaluable part of our national heritage, but we must also bear in mind the immeasurable significance of the First Amendment to the United States Constitution.

Finally, I have deep concerns about current efforts to deny the federal courts, including the Supreme Court, the ability to review the constitutionality of our federal laws. I believe preserving our three-branch system of government is in our nation's best interest.

PAYING TRIBUTE TO JAMES SULLIVAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to James Sullivan and thank him for his exceptional contributions to his community and the State of Colorado as a Douglas County Commissioner. A county commissioner since 1989, James is a dedicated public servant and leader in his community and I am honored to recognize his accomplishments before this body of Congress and this Nation today.

James is the president of the Douglas County Water Resource Authority, where he dedicates his time to preserving underground water supplies and building support for the use of renewable water resources. He is a past president of Colorado Counties, Inc., an active participant in the National Association of Counties, and has served as a commissioner on the national panel for the Joint Center for Sustainable Communities. James is also the first commissioner in 22 years to be placed on the Douglas County Fair Board. Some of the additional commissions and boards he served on include: the Board of Trustees for the Southeast Business Partnership, Colorado Governor Bill Owens' Commission on Saving Open Spaces, and the E–470 Public Highway Authority Board.

In 2002, Governor Owens appointed James to the Colorado Civil Rights Commission, where he will serve a 4-year term representing local government. In addition, the Governor also appointed him to the Great Outdoors Colorado Trust Fund Board of Directors, which uses State lottery proceeds to buy and improve recreation areas, parks, and wildlife habitats in Colorado.

Mr. Speaker, it is clear that James Sullivan has ceaselessly dedicated his time and efforts to serving his country and the people of Colorado as a Douglas County Commissioner. I am honored to bring his hard work and commitment to the attention of this body of Congress and this Nation today. Thank you for all your dedication and service, James. I wish you all the best in your future endeavors.

INTRODUCTION OF RESOLUTION COMMENDING NATIONAL GEOGRAPHIC BEE 2004 WINNER ANDREW WOJTANIK

HON. DENNIS MOORE

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. MOORE. Mr. Speaker, on behalf of his proud neighbors in Kansas' Third Congressional District, and particularly on behalf of the students and teachers at Lakewood Middle School in Overland Park, Kansas, I am honored today to introduce a resolution congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee. I have been joined in this effort by Representatives JIM RYUN and JERRY MORAN of Kansas, and by Representatives MAJOR OWENS, EARL BLUMENAUER, and MAX BURNS.

On May 26, 2004, Andrew won the 16th Annual National Geographic Bee when he correctly answered a question about the Khyber Pass in Northern Pakistan.

While Andrew's comprehensive knowledge of geography is an inspiration to students everywhere, studies suggest that most of Andrew's peers would be unable to find Pakistan on a map, let alone be aware of the significance of the Khyber Pass. Only 13 percent of young adults in the United States between the ages of 18 and 24 can correctly identify Iraq on a map of Asia and the Middle East. Year after year, American students are consistently outperformed in geographic literacy by students in Sweden, Germany, Italy, France, Japan, Great Britain, and Canada.

The truth is that many students in the United States receive only a minimal amount of geography education during their educational careers. In 2001, Congress acknowledged the importance of including geography education in school curriculums when it designated geography as a "core subject" in the No Child Left Behind Act; yet, geography remains the only core subject identified in that act without a federal program designed to improve educational performance.

Congress must honor its commitment to the children of the United States and address the need for improved geography education. As we have recognized in other areas of education, the only way to truly improve the educational system at a student-level is to help schools use the most effective teaching techniques to increase student knowledge and understanding. Geography education is no exception.

The National Geographic Society Alliance Program is an excellent example of current efforts to improve geography education at the state and local level. Alliances around the country provide teachers with intensive professional development opportunities in geography education, cultivating opportunities for teachers in state-level chapters to collaborate on geography education efforts and to participate in NGS professional development programs. And the success of the National Geographic Society Alliance Program is seen through the achievements of its students—students of teachers who have been involved in the Alliance program have statistically, higher levels of geographic literacy achievement than other students. Promoting proven, effective teaching techniques, such as those developed through the National Geographic Society Alliance Program, will be essential if Congress is to successfully foster greater geographic literacy among American students.

If we are to continue our efforts to develop the most educated citizenry in the world, we must closely examine how we educate our youngest citizens about the world. This resolution is the first step to refocusing attention on the need for geographic literacy and its important role in our children's education.

It is my hope that passage of this resolution will do more than just applaud Andrew Wojtanik's mastery of geography skills—this resolution will reaffirm Congress's commitment to geography and recognize a national public-private partnership dedicated to improving geographic literacy among American students. For these reasons, I urge my colleagues to join with me in sponsoring this important resolution.

TRIBUTE TO JIM GREGART

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to Kalamazoo County Prosecuting Attorney Jim Gregart, who is approaching the end of a long and distinguished career of public service. A dedicated and committed individual, Jim has served the communities and families of southwest Michigan for the last 35 years. Through his leadership and enthusiasm to his profession, Jim has helped to make our corner of Michigan an even better and safer place to live and grow.

Since coming to the city of Kalamazoo, Michigan, Jim has been widely known for his extensive charity and dedication to local individuals and the community as a whole. Over his inspiring career, Jim has been devoted to improving the lives of countless individuals who had the fortune of crossing his path. The area is forever in his debt. There is no question that Jim's ardor for the law and betterment of society will be greatly missed.

Jim has been involved in many faucets of our local and State community. His contribution to the improvement to our way of life has been immense. Whether he is dedicating his time and energy to the Kalamazoo Red Cross, Muscular Dystrophy Association, Boys and Girls Club, American Lung Association or Kalamazoo County Humane Society, Jim's work has always been inspirational.

Many words come to mind as one reflects upon Jim's public service to our community. He is selfless, generous, giving, caring, humble, the list goes on. His integrity is impeccable and has long been known as being the standard of fairness and equality. On behalf of the Sixth District of Michigan, I wish Jim and his family all the best in retirement—we are all better off because of his service.

HONORING AMEY STONE

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. LEE. Mr. Speaker, I rise today to honor the extraordinary contributions of Amey Stone, Trustee of the Peralta Community College District, on the occasion of her retirement from 17 years of dedicated service.

Amey has long been active in the areas of government affairs and civic leadership in the East Bay. A resident of Alameda, she has served the city not only as a Planning Commissioner, but also as City Councilwoman and Vice Mayor. Furthermore, she has served by Presidential appointment on a number of national committees specific to women's needs and affairs. In addition to her role as a leader in Alameda County, Amey has also been active in civic affairs in several other countries. Having lived on three continents throughout her lifetime, Amey has been recognized by the Presidents of France as well as Turkey for the contributions she made while living in those countries.

Amey has also led a long and distinguished career as a Trustee of the Peralta Community College District. Elected to her first 4-year term in 1987, Amey has consistently demonstrated her commitment to the improvement of the state of higher education in California. She served for many years not only on the California Community College Trustees' Education and Legislative Committees, but was also a member of the Alameda County School-to-Career Taskforce. Held in high regard by the students in her district, Amey has always been known for her receptive and respectful approach to student concerns and issues. She tirelessly served the District in this capacity for 17 years until her retirement on August 31, 2004.

On September 28, 2004, Amey will be honored in Oakland, California, by the Board of

Trustees of the Peralta Community College District. I would like to take this opportunity to commend her exceptional contributions not only to the advancement of higher education in California, but also for her role as a leader in the areas of women's issues and local government. By remaining active in and dedicated to these important areas, Amey has contributed immeasurably to Alameda County and the East Bay, and the 9th Congressional District salutes and congratulates her for her many years of invaluable service.

PAYING TRIBUTE TO JOHN SANKO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. McINNIS. Mr. Speaker, it is a privilege to rise and pay tribute to journalist John Sanko and thank him for his contributions to Colorado as a political correspondent for the Rocky Mountain News. The level of integrity and honesty that John has shown throughout his 41 years of reporting on Colorado politics is truly exceptional and worthy of recognition by this body of Congress. As John moves on to retirement, let it be known that the citizens of Colorado and I are eternally grateful for the outstanding work he has done covering Colorado politics.

John will be remembered most for the integrity with which he performed his job. He spent 21 years with United Press International before joining the Rocky Mountain News. During his 41 years covering Colorado politics from the Capitol dome, John developed a reputation as top-notch reporter. He was known for his hard work ethic, having never missed a day of work, never filing for overtime, and never taking vacation without some arm-twisting. He was an extremely productive journalist, submitting an average of two stories every workday. John simply loved being a journalist and his presence will be sorely missed.

Mr. Speaker, it is a privilege to commend journalist John Sanko for his unwavering commitment to the citizens of Colorado. The enthusiasm he brought to the job, and the contributions he made to the field of journalism, will never be forgotten. It is an honor to recognize him today before this body of Congress and this Nation. I have personally known John for many years, respect him tremendously, and will dearly miss him. Thanks for your service, John. I wish you the very best in your retirement.

PERSONAL EXPLANATION

HON. SANFORD D. BISHOP, JR.

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. BISHOP of Georgia. Mr. Speaker, I regret that I was unavoidably detained from September 20–24, 2004, due to the death of my mother, Mrs. Minnie S. Bishop. Although I received an excused absence during this period, I missed rollcall votes 457–472. Had I been here I'd have voted as follows:

Roll Nos. 457—"aye"; 458—"aye"; 459—"no"; 460—"aye"; 461—"aye"; 462—"aye"; 463—"aye"; 464—"aye"; 465—"aye"; 466—"no"; 467—"yea"; 468—"yea"; 469—"yea"; 470—"no"; 471—"no"; and 472—"aye."

THE EMERGENCY LOAN ABUSE PREVENTION ACT OF 2004

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. VAN HOLLEN. Mr. Speaker, I am pleased to join the Ranking Member of the Education and Workforce Committee, Mr. MILLER, and the Ranking Member of the 21st Century Competitiveness Subcommittee, Mr. KILDEE, in introducing the Emergency Loan Abuse Prevention Act of 2004.

A short time ago, this body voted 413–3 to stop the Department of Education from spending any of its fiscal year 2005 Appropriation to perpetuate the so-called "9.5 percent loophole" in the Federal student loan program. This antiquated and indefensible subsidy guarantees lenders a whopping 9.5 percent return on garden variety student loans while costing taxpayers nearly $1 billion this year. That's $1 billion that should be going to students and families trying to afford college—not to already profitable financial institutions.

The Emergency Loan Abuse Prevention Act of 2004 picks up where the Kildee-Van Hollen Labor-HHS Appropriations amendment left off by putting an end to the 9.5 percent loophole—permanently. Moreover, it directs the savings from this needed reform to the woefully underfunded Pell Grant program, which has lost half its purchasing power over the last 20 years. It's a win for taxpayers who expect us to spend their money wisely, and it's a win for students who—in this era of double digit tuition increases—deserve all the help we can give them as they pursue their dreams of a college education.

Mr. Speaker, in closing, I'd like to submit a copy of a recent Washington Post editorial on this issue for the record and note that the Government Accountability Office (GAO) yesterday released its final report detailing the urgent need to close this loophole immediately. I ask all of my colleagues on both sides of the aisle to work with us in the same bipartisan fashion as this House spoke a few weeks ago to pass the Emergency Loan Abuse Prevention Act of 2004 without delay. We have an obligation to our taxpayers and students to ensure that Federal education dollars are spent where they are needed most.

(From the Washington Post, Sept. 10, 2004)

STUDENT LOAN SCANDAL

There are bureaucratic errors, there is congressional negligence—and then there are bureaucratic errors and congressional negligence on a scale so vast that it is hard to believe they can be accidental. The hundreds of millions of dollars in unnecessary government payments to the student loan industry in the past 18 months amount to such a scandal. The loans in question, established in 1980, are guaranteed by the government at 9.5 percent. Yet most students are paying interest rates of 3.5 percent or less. The difference—all taxpayers' money—is pure profit for the companies that have taken advantage of a loophole in the law.

According to a recent report by the Institute for College Access and Success, a nonprofit education think tank, Congress had actually intended to end in 1993 the 9.5 percent loan guarantee, one of many programs that provide incentives for institutions to lend to students. In May 2003, one company, Nelnet Inc., wrote to the Education Department to confirm its intention to expand its holdings of old loans with the 9.5 percent interest rate. Nelnet received no answer from the department for a year, during which time the department continued paying the company. In June of this year, the department replied inconclusively—at which point the company's stock price climbed 20 percent. Although Nelnet is the largest holder of loans guaranteed at 9.5 percent—and its holdings of such loans have increased by 818 percent since January 2003—it is only one of many such lenders. According to a preliminary Government Accountability Office report, commissioned by Representatives Chris Van Hollen (D-Md.) and Dale E. Kildee (D-Mich.), 37 lenders receive payments for loans with guaranteed interest rates of 9.5 percent, at a government cost of $1 billion annually, and the volume of such loans is rising.

Why wasn't the loophole shut long ago? Education Department officials argue strenuously that only a two-year regulatory process could have done so, and they didn't initiate one, they say, because they thought Congress would deal with it. Congressional Republicans say they expected to deal with the problem in a comprehensive higher education bill, but that has failed to pass (and in any case the proposed language would not have ended all the payments). Yet, other solutions could have been found: In the wake of revelations about the scale of the payments, the House yesterday passed an amendment to an appropriations bill, offered by Mr. Van Hollen and Mr. Kildee, that would close the loophole completely, albeit temporarily. (Of course, there is no guarantee it will become law.) And one former Education Department general counsel has written to the secretary of education, Roderick R. Paige, arguing that the loophole could have been closed immediately if officials had wished to do so.

There could be other explanations for their reluctance. One is that the president of Nelnet, Don R. Bouc—who has called for the loophole to be shut and the money to be better used—is well-connected enough to have been appointed to Mr. Paige's advisory committee on student financial assistance. Here is another: According to a report in the Chronicle of Higher Education, Nelnet is the second-largest contributor to congressional campaigns in the student loan industry, beaten only by industry giant Sallie Mae. Over the past 18 months, the student loan industry has contributed about $750,000 to the 49 members of the House Committee on Education and the Workforce, of which $136,000 has gone to the committee chairman, Representative John A. Boehner (R-Ohio), and $175,000 to Representative Howard P. "Buck" McKeon (R–Calif.), chairman of the subcommittee on higher education. Mr. Boehner's spokesman vehemently denies any connection between the contributions and the issue and maintains that the committee's bill would have fixed the problem, which was mentioned in the president's latest budget. Still, it is difficult to understand, given the sums involved, why neither Mr. Paige nor Congress made this a higher priority.

For nearly a decade we have argued that Congress should reduce subsidies for banks that lend to students, and instead expand the direct-loan program, which provides about a quarter of student aid—or else reform the system to make it harder to manipulate. This scandal provides an excellent reason to look again at these questions.

PERSONAL EXPLANATION

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. GREEN of Texas. Mr. Speaker, on Thursday evening, September 23, 2004, I was unable to be present for the final three votes of the day, rollcall votes No. 470, No. 471, and No. 472, because I returned to my Congressional District in order to assist my constituents with the potential impact of Tropical Storm Ivan's imminent landfall on the Southeast Texas Coast.

On rollcall vote No. 470, to Order the Previous Question, I would have voted "no," so that we could fix the underlying bill (H.R. 1308) to pay for the tax cuts and avoid increasing the deficit. In addition, the bill should fix the combat pay problem for military families that denies the child tax credit and the earned income tax credit.

On rollcall vote No. 471, on H. Res. 794, the rule waiving points of order against the conference report to accompany the bill (H.R. 1308), I would have voted "no," due to the increase in the deficit and the failure of the bill to address military families.

On rollcall vote No. 472, on the conference report accompanying H.R. 1308, I would have voted "yea," because the legislation does provide significant tax relief to middle class families and provides important tax incentives to businesses. However, these tax cuts should have been paid for, and military families should have been included.

PAYING TRIBUTE TO RICHARD SHEEHAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. McINNIS. Mr. Speaker, I would like to take this opportunity to pay tribute to Richard Sheehan and thank him for his exceptional contributions to his community and the State of Colorado as a Jefferson County Commissioner. A commissioner since 1999, Richard is a dedicated public servant and leader in his community and I am honored to recognize his accomplishments before this body of Congress and this Nation today.

As a resident of South Jeffco, Richard has a long history of educational and vocational training. He has earned his Masters in Business Administration, his Certified Public Accountant's license, national certification as a Public Finance Officer and his teacher's certification in Social Studies. Richard's rigorous academic background and passion for public service led him to serve in the Colorado State Auditor's office and teach social studies at Aurora Public Schools. Additionally Richard served as a financial officer for Arapahoe County and taught financial reporting in the MBA program at Regis University. In the private sector, Richard has been employed as a financial analyst in the corporate offices of the Pace Membership Warehouse. In 1999, Richard was elected as a Commissioner for Jefferson County, and he has proven himself to be a great asset to the citizens he represents. This year Richard will additionally serve as the Chairman Pro Tem of the Board and the Law Enforcement Authority.

In addition to his work as a county commissioner, Richard also serves as the treasurer of Colorado Counties Inc., sits on the Denver Regional Council of Governments, the Jefferson Economic Council, and the State's Human Services Board. What little spare time that he has remaining is devoted to volunteer work for organizations such as the Governor's Place, and the Colorado Energy Science Center which promotes the use of renewable energy sources.

Mr. Speaker, it is clear that Richard Sheehan has ceaselessly dedicated his time and efforts to serving his country and the people of Colorado as a Jefferson County Commissioner. I am honored to bring his hard work and commitment to the attention of this body of Congress and this nation today. Thank you for all your service, Richard, and I wish you all the best in your future endeavors.

TRIBUTE TO LCPL STEVEN CHARLES TYLER CATES OF MT. JULIET, TN, WHO GAVE HIS LIFE IN SERVICE TO HIS NATION

HON. JIM COOPER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. COOPER. Mr. Speaker, the tragic events of September 11, 2001 will never in the history of our nation be forgotten. While much of the country stood paralyzed by shock and grief, the horrifying events of that day were, for others, a call to action. One of those who heeded this call was LCpl Steven Charles Tyler Cates of Mt. Juliet, TN. Just eight days after September 11th, Tyler Cates walked into his local military recruiting office and said he was there to serve. He became a Marine.

Long before that day, Tyler's belief in service to others had marked his life. An Eagle Scout, his family said he had always reached out to those around him when they needed some support. "He was a true Boy Scout," his stepfather, Philip Shaw told a reporter from the Tennessean last week. "He was trustworthy; he'd go an extra mile for his friends."

I am honored today to pay tribute to the extraordinary bravery and patriotism of this selfless young man. Lance Corporal Cates died in service to his country in Western Iraq last week. He was fighting to help those he recognized as less fortunate than himself, fighting to bring the freedom and liberty that he so treasured to others so far from his home in Middle Tennessee.

His mother said it was simply his nature to serve. When Tyler told her he had joined the Marines, Patricia Shaw said she was worried but not surprised. "He said, 'I need to do this, Mom,'" Mrs. Shaw said. "That boy brought such patriotism into my life like no one else. He touched everybody he came in contact with because of his charisma. He had a good heart."

His father, Steve Cates, described Tyler as his pal, his best friend and an inspiring patriot. "He loved America. He wanted to defend his country and wanted to go over and give them what we have."

Today, Mr. Speaker, I rise here in the U.S. Capitol—the symbol of freedom to so many around the world—to salute Lance Corporal Cates for his dedication to all this building and this country stand for. Even standing here, in this great chamber, nothing we say or do can adequately thank Tyler and his family for the sacrifice he made. My heart goes out to his wife Lisa, his mother and stepfather, his father, brother, three sisters and grandparents. He will be missed by each of them, as well as his many friends in Mt. Juliet and Middle Tennessee. Yet his sacrifice and love of country will not be forgotten. It will live on, inspiring us to recognize and protect the liberty that Tyler believed in, and each of us holds so dear.

IN RECOGNITION OF DAVID W. FLEMING

HON. BRAD SHERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. SHERMAN. Mr. Speaker, I rise today to pay tribute to David W. Fleming for his dedicated contributions to improving the economy, education, and health care for the residents of the San Fernando Valley. David Fleming, an attorney who has specialized in corporate law for over forty years, provides leadership which is instrumental to many organizations committed to improving the economic development of the San Fernando Valley.

Vital centers of economic activity benefit from David Fleming's hard work. He is the Chairman of the Economic Alliance of the San Fernando Valley, an influential business and industry collective formed after the Northridge earthquake, which brings investors to the San Fernando Valley in order to grow and sustain the economic base and improve the quality of life for all Valley residents. He is also a director of the Los Angeles Area Chamber of Commerce, an organization of 1,350 businesses, which helps small businesses grow and works for the prosperity for the Los Angeles region. Most recently, David Fleming completed a two year term as chairman of the Los Angeles Economic Development Corporation, the largest economic development organization in America.

David Fleming has worked to improve the region's infrastructure and to promote commercial development having served as the appointed Vice-chairman of the California Transportation Commission for three years, during which time he chaired the Public Transit Committee. Even the entertainment industry benefits from his expertise. He serves on the Board of the Technology Council of the Motion Picture and Television Industry.

David Fleming is an advocate for the future of San Fernando Valley children and the health of all Valley residents. He is a founding member and trustee of the Children's Planning Council of Los Angeles County, a unique collaboration of public and private sector leaders working hard to improve the integration, coordination, and accessibility of health and human services for children. He also serves as Chairman of the Board of Valley Presbyterian Hospital, the largest acute care hospital in the central San Fernando Valley. The 290–bed facility offers leading-edge technology and medical expertise in maternal and child health, cardiac care, orthopedics, and critical care services. Many Valley children benefit from free immunizations, health screenings, and seniors are able to receive free flu shots each fall at the hospital.

Local government also has benefited from David Fleming's knowledge and volunteerism. In 1997, he helped implement the city's charter reform movement. Two years later, the reform was overwhelmingly approved by voters, making it the first major city charter reform movement in 75 years. He also served on the City of Los Angeles Ethics Commission for two years from 2001 to 2002.

David Fleming's strong work ethic has been acknowledged by many, including President George W. Bush. In 2003, President Bush appointed him to the prestigious James Madison Foundation in Washington D.C., where he serves as one of only two private citizens appointed to the foundation.

Throughout his career, David Fleming dedicated over 60,000 hours in leadership roles for various non-profit organizations. Many organizations have recognized and honored David Fleming for his wide range of civic contributions including the American Jewish Committee, the Valley Bar Association, the Anti-Defamation League, the University of California at Los Angeles, the Interfaith Council, the California Junior Chamber of Commerce and the Jewish National Fund, as well as the City and County of Los Angeles, the California State Legislature and three California Governors. He was also the 1991 recipient of the Fernando Award, an exclusive honor awarded to individuals who have exemplified leadership, volunteerism and dedication.

David Fleming is a philanthropist who gives not only his time, but along with his wife Jean, has contributed millions of dollars to many Southern California charities including key donations to Valley Presbyterian Hospital and the University of California at Los Angeles Law Library.

Mr. Speaker, please join me in recognizing David W. Fleming, an altruistic man who has devoted much of his life to improving the well-being of the citizens of the San Fernando Valley.

PERSONAL EXPLANATION

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. MILLER of Florida. Mr. Speaker, I would like to offer a personal explanation of the reason I missed rollcall votes Nos. 457–472 on September 21, 2004, through September 24, 2004. These were amendment votes on H.R. 5025—Transportation and Treasury Appropriations Bill, H.R. 2028—The Pledge Protection Act, H.R. 1057—The Adoption Tax Relief Guarantee Act and H.R. 1308—The Conference Report on the All-American Tax Relief Act. At the time these votes were called, I was in my Congressional District in Pensacola, Florida, helping my constituents with the aftermath of Hurricane Ivan.

I respectfully request that it be entered into the CONGRESSIONAL RECORD that if present, I would have voted rollcall vote No. 457, on the Van Hollen Amendment, "nay"; rollcall vote No. 458, on the Sanders Amendment, "nay"; rollcall vote No. 459, on the Norton Amendment, "nay"; rollcall vote No. 460, on the Davis of Florida Amendment, "nay"; rollcall vote No. 461, on the Rangel Amendment, "nay"; rollcall vote No. 462, on the Olver Amendment, "nay"; rollcall vote No. 463, on the Stenholm Amendment, "nay"; rollcall vote No. 464, on the Motion to Recommit H.R. 5025, "nay"; rollcall vote No. 465, on final passage of H.R. 5025, the Transportation Treasury Appropriations Bill, "nay"; rollcall vote No. 466, on the Watt Amendment to the Pledge Protection Act, "nay"; rollcall vote No. 467, on final passage of the Pledge Protection Act, "aye"; rollcall vote No. 468, on the Adoption Tax Guarantee Relief Act, "aye"; rollcall vote No. 469, on Ordering the Previous Question on H. Res. 785, "aye"; rollcall vote No. 470, on Ordering the Previous Question on the Conference Report for the All American Tax Relief Act, "aye"; rollcall vote No. 471, on Agreeing to the Resolution, "aye"; and rollcall vote No. 472, on Final Passage of the All-American Tax Relief Act, "aye."

PAYING TRIBUTE TO CHIEF DISTRICT COURT JUDGE CHARLES BUSS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. MCINNIS. Mr. Speaker, I rise before this body of Congress today to recognize Charles Buss for his exemplary service as Chief District Court Judge for Mesa County, Colorado. For over 27 years, Judge Buss has served the people of Mesa County, and Colorado, with honor and distinction. I would like to join my colleagues here today in recognizing his commitment and dedication to our justice system.

Charles began his career as a private practice attorney before being appointed to the Mesa County Court by Governor Richard Lamm in 1977. In 1987, he was appointed Chief Judge where he was responsible for overseeing the Twenty-First Judicial District's administrative, budget, and personnel decisions during a time when the local caseload more than doubled. Judge Buss was also instrumental in the modernization of the district by bringing computer automation to the court system, and encouraging the construction of a new Justice Center.

As a community leader, Judge Buss served on the Colorado Juvenile Justice Council for 15 years. He was also a member of the Mesa County Partners' board and the Mesa County Community Corrections board. Currently, he is serving as a chairman of a court reform committee regarding dependency and neglect.

Mr. Speaker, I am honored to recognize Judge Charles Buss before this body of Congress and this Nation today. Judge Buss was an excellent trial judge and his dedication to the people of Mesa County, Colorado and the Justice System will be missed. It is a great pleasure to recognize his efforts and I wish him all the best in his retirement.

PAYING TRIBUTE TO THE ROYAL GORGE SUSPENSION BRIDGE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to a Colorado landmark, the Royal Gorge Bridge. Canon City is celebrating the Bridge's 75th anniversary this year, and I would like to join my colleagues here today in recognizing this tremendous engineering achievement before this body of Congress and this Nation.

Construction began on the Royal Gorge Bridge on June 5, 1929 and was completed in less than six months with no loss of life. Built using more than 100 tons of Colorado produced steel and 1,300 wooded planks, the bridge spans a record breaking 1,053 feet above the floor of the gorge. Since being dedicated on December 6, 1929, the bridge has seen more than 20 million visitors and has been the location for movie and commercial filming, and various recreational activities. Today the bridge is the center piece of a sprawling 360 acre theme park bordering the Arkansas River.

Mr. Speaker, it is a privilege to recognize the 75th anniversary of the Royal Gorge Bridge. The bridge is a symbol of American ingenuity and engineering, and has served the State of Colorado for over three quarters of a century. It is with great pleasure that I recognize this landmark before this body of Congress and this nation today.

A SALUTE TO MR. DONALD R. MANUEL

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. WOLF. Mr. Speaker, it is my pleasure today to recognize my constituent, Mr. Donald R. Manual, of Herndon, Virginia, on the occasion of his retirement after almost four decades of service to the United States Army.

Mr. Manuel received his commission as a second lieutenant, Field Artillery, in 1964 and quickly demonstrated expertise during his service at Fort Sill, Oklahoma, and the U.S. Army Engineer Supply Center in St. Louis, Missouri.

In 1968, Mr. Manuel began his career as a United States Army civilian employee as program manager for Value Engineering, Methods and Standards, and Commercial Activities. In 1980, he obtained the position of assistant for General Engineering in the Office of the Assistant Secretary of the Army (Installations and Housing). Mr. Manuel has become the Army's primary policy contact dealing with base closure and realignment actions.

Throughout his career, Mr. Manuel has provided outstanding leadership, advice and sound professional judgment on significant issues before Congress and the Army. His counsel was invaluable to Army leaders and members of Congress as policy implications were considered.

It is my pleasure to honor Mr. Manuel's distinguished record of public service and dedication to the United States Army. He has been a truly exceptional career civil servant and will be missed by the United States Army.

RECOGNIZING THE 175TH BIRTHDAY OF THE CITY OF CHESTER, IL

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. COSTELLO. Mr. Speaker, today I'd like my colleagues to join me in honoring one of the oldest and most historical communities in southwestern Illinois. The City of Chester is one hundred and seventy-five years old.

The town of Chester, also the county seat of Randolph County, traces its origins to its location as a river community along the bluffs of the Mississippi River. The river serves as the community's western boundary and has long been a critical part of Chester's history, development and growth.

The founding of Chester is traced to an early settler named Samuel Smith. Smith became associated with a small settlement otherwise known as Smith's landing, due to its proximity to a river ferry crossing and supporting business. In the summer of 1829 however, Smith erected a dwelling, established a ferry and began construction of a mill. His wife, a native of Chester, England, was named Jane Thomas. Thomas originally came to Illinois with the Swanwick family and bestowed the name of her home town on this new and growing settlement. Smith kept a hotel and ferried passengers across the river on a flatboat.

Chester's chief commodity back then was castor oil which was used as a lubricant; however Castor oil lost its importance as the petroleum industry developed. In production of this oil, Chester had the advantage over other surrounding communities in the region such as Pinckneyville and Frankfort, who also had castor oil presses, because of its close proximity to river transportation. Castor oil shipments from Chester were made to St. Louis, Philadelphia, New Orleans, and as far away as England. In 1830, Chester increased in size and an iron foundry, machine shop and several large stores were constructed on the riverfront. Steamboats did a brisk business at Chester.

In 1837, Nathan Cole began operating a small sawmill with a corn-grinding attachment. A few years later he converted this enterprise into a flourmill which became the Cole Milling Company, otherwise known as present day Con Agra. Cole Milling made use of one of the first electric generators, allowing its surplus power to be utilized for power to operate Chester's street lights. Chester actually became one of the first communities in the state to have electric street lights, even prior to their use in Chicago.

Samuel Clemens, otherwise known as Mark Twain, was a pilot on the Mississippi from 1857 to the Civil War and on several occasions stopped at Chester at the Cliff House, which was a river hotel.

In 1832–33, a cholera epidemic swept through the community which took many lives. South of the present site of the Con Agra Mill, a few stones on a hillside mark the burying place of those who died of the epidemic.

The Illinois State Penitentiary at Menard had its beginning during the Civil War when it was a repository for Confederate prisoners being transported to the Federal Prison on the Alton, Illinois riverfront. The original brick building is still standing inside the prison's yards.

After the capitol moved from Kaskaskia to Vandalia and later Springfield, Illinois the region had a disastrous flood in 1844. When the Randolph county seat was moved from Kaskaskia to Chester, records were stored in a schoolhouse which was the temporary courthouse until a new one was completed in 1848. The stone annex, now the Archives Building, was built in 1863 and serves today as a museum for Randolph County history. The new Randolph County Courthouse, built in 1975, stands today on the bluff overlooking the river.

The buildings along the river that were part of the original town of Chester have been razed. However, a number of the old homes which stood on the bluffs above the town overlooking the river still give evidence of the wealth and the architectural style of that period. Many riverboat captains and other patrons of the river settled to this riverboat row of homes with an impressive overlook of the river.

Chester has had a rich and varied history in the development of the state of Illinois and of the nation. Illinois' first Governor, Shadrach Bond, has his resting place in Chester. Bond, who had lived in nearby Kaskaskia, was elected Governor without opposition in 1814, when Illinois was founded. Chester is also home to the Gilster Mary Lee mills and operations, producing high quality baking products for use throughout the world.

Chester also counts several historic homes as part of its heritage and culture. The Pierre Menard home is the finest example of Southern French Colonial architecture in the central part of the Mississippi river valley. Menard was a busy trader, storekeeper and politician of his period. He served as Lt. Governor under Governor Bond.

Chester is also home to one of America's most beloved cartoon characters, Popeye. Popeye's creator, Elzie Segar, was born in Chester and spent much of his youth there. When Elzie was 12 years old, he worked at the Chester Opera House and during that time he did odd jobs, played the drums with the orchestra and became the theatre's projectionist. While films were re-wound, Popeye and many other characters were born as Elzie drew and showed them on glass slides before the local townspeople. Elize Segar and Popeye still have a place in Chester.

Chester today is a community of over 8500 people and boasts many hotels, restaurants and businesses. It continues to serve as a historic focal point for the development of southwestern and southern Illinois.

Mr. Speaker, I ask my colleagues to join me in honoring the community and people of Chester, Illinois and to recognize its role in the development of southwestern and southern Illinois.

HONORING FATHER JAVIER DE NICOLÓ

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. HONDA. Mr. Speaker, I rise today on my behalf and on behalf of Mr. LANE EVANS, Mr. SAM FARR, Mr. RAÚL M. GRIJALVA, Ms. SHEILA JACKSON-LEE, Mr. GERALD KLECZKA, Ms. BARBARA LEE, Mr. JAMES P. MCGOVERN, Mr. GREGORY MEEKS, and Mr. PETE STARK to honor the extraordinary contributions of Father Javier de Nicoló, a champion for the impoverished and forgotten children of Colombia. The methodology that he developed and instituted through the Bosconia Program, a child services program for children who live in the street without parents, serves as a model throughout the world.

Father Javier de Nicoló was born in Bari, Italy on April 29, 1928. At 18, shortly after the end of World War II, he decided to join the Salesian Community in Naples, which has a strong record for its work with the poor. In 1948, he emigrated to Agua de Dios in Colombia to treat patients with Hansen's disease. In the late 1960s, Father de Nicoló served as the chaplain of the Carcel de Menores, a prison in Bogotá for minors.

There, Father de Nicoló learned that children entering Bogotá's prisons were beaten, robbed, and raped. This experience hardened them, making it difficult to reintroduce them into society. Father de Nicoló recognized the need to provide structure and guidance in the lives of abandoned children who roamed the street—before they found themselves in prison. In 1970, with 20 children released from the Carcel de Menores on his personal recognizance, he organized Bosconia, a small, experimental learning community in the slums of Bogotá. Over time, Javier witnessed the transformation of hundreds of irresolute boys into confident and independent young adults through participation in his program.

In Bogotá, there are several thousand boys from ages 5 to 15 who live in anarchy. Death is a looming reality for Bogotá's street children. For many years, Colombia has experienced the highest child murder rate in the world. Vigilante groups engage in driveby shootings or "social cleansing" as they label it, which lead to the massacre of hundreds of children each year. Nearly all street children carry knives, which they use for protection and to intimidate others. Inevitably, some children kill each other in a scuffle that turns deadly. Dozens of children kill themselves by smoking highly addictive cocaine which can lead to paralysis. Child prostitutes contract AIDS and spread the disease.

What began as an experiment in the early 1970s has grown into an organization whose branches reach thousands of children in Bogotá, Cali, Medellín, and Buenaventura. The Bosconia Program is a mixture of vocational training and a boarding program designed to help the children ease themselves off the streets into a more traditional lifestyle. With only a handful of adult supervisors, it graduates a growing number of young adults into the workforce on a tight budget. Bosconia operates on the philosophy that the wit and spunk a child uses to survive in the street reflects an intelligence that the program's educators can redirect. In fact, the Bosconia Program has been replicated by many organizations in numerous countries. Nearly 20,000 youngsters from the street have been rescued by the Bosconia Program, saved from indifference and generalized violence, becoming elevated as individuals and members of society.

Programming at Bosconia strengthens the character of children who once lived in the streets of Colombia and provides them with the resources that they need to become active participants in society. Attracted to the promise of a better life, boys voluntarily enter the courtyard of Bosconia. The mark of those anarchic days of stealing, starving half-freezing, fear and bravado passes from their faces. They have learned to respect themselves because Father Javier de Nicoló, his associates, and the other boys had respected them.

Although graduates of Bosconia have the character and the will to engage in the Colombian workforce, the unemployment rate is steadily rising. Decades of violence that include murder, robbery, and kidnappings that has ravaged the countryside have brought millions of rural people into the country's cities. Those that graduate from Bosconia will need more than spiritual transformation if they hope to compete for jobs that will allow them to live with dignity. This cold reality has encouraged Javier de Nicoló to seek private funds to establish a program that will allow his pupils to receive on-the-job training, earn and save money, and gain experience in managing small enterprises.

Many social scientists believe that personalities rarely change after children reach their teenage years. To the contrary, Javier de Nicoló has taught us that the odds can be beaten and that we should never forfeit our children—our future—to the vices that plague our streets. We should nurture them, inspire them, and invigorate their minds with the dream of living healthy and fulfilling lives. The world can use more people with the compassion and motivation of Father Javier de Nicoló. The children of Colombia are truly blessed to have him as their guardian. We thank him for his work, his resolve to make a better life for destitute children, and we learn from the wisdom of his successful model, seeking opportunities to replicate this success globally.

By dedicating over three decades to rescuing and integrating lost children into society, Father de Nicoló inspires a call for global solidarity and responsibility—one that reaches beyond the geographic bounds of Colombia. He has developed a process to guide personal and social renovation, giving life to children who are waiting for an opportunity to rejoin their families and communities as well as exercise their citizenship without discrimination. We applaud this leader who is a tireless advocate for the human rights of all our world's children.

HONORING ROBERT MOSES FOR LIFELONG COMMITMENT TO EDUCATION

HON. MICHAEL E. CAPUANO

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. CAPUANO. Mr. Speaker, I rise today to congratulate Robert Moses who tonight will receive the prestigious Harold W. McGraw Jr. Prize in Education. Dr. Moses is a Civil Rights activist, math educator and creator of the highly acclaimed Algebra Project, which is located in Cambridge, Massachusetts.

Along with Dr. Moses, Geoffrey Canada, Cecelia Cunningham and Janet Lieberman are being honored during an awards ceremony at the New York Public Library. The four have been chosen to receive the prestigious 17th annual award for dedicating themselves to closing the achievement gap. These individuals have worked tirelessly and creatively to give children with few advantages the opportunity to achieve, both academically and ultimately professionally.

Dr. Moses believes that math literacy is the key to 21st Century citizenship. He created the Algebra Project to help middle school students make the conceptual shift from arithmetic to algebra so they can be prepared for algebra in the eighth grade, and thus a college preparatory math sequence in high school. Three decades later, the Algebra Project reaches approximately 9,000 students per year.

I salute Dr. Moses and the other honorees for their remarkable and untiring contributions to education. America's youth will reap the rewards of their selfless dedication. They are truly gifted educators who have made a tremendous difference in the lives of so many.

CONGRATULATING LANCE ARMSTRONG ON RECORD-SETTING VICTORY IN 2004 TOUR DE FRANCE

SPEECH OF

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 22, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I offer strong support for House Resolution 761 that honors Lance Armstrong on his record-setting victory in the 2004 Tour de France. In July, Lance Armstrong proved again that he remains the world's greatest cyclist by winning his sixth consecutive Tour de France, an all-time record. I was pleased to advance this resolution to the House floor from the Committee on Government Reform, which I am privileged to chair, and I strongly urge its adoption by the full House.

As someone who previously coped with two bouts of melanoma, I am particularly in awe of Lance's perseverance to outlast a pernicious form of testicular cancer. Incredibly, at just age 25, Lance learned that cancerous cells had spread to his abdomen, lungs and brain. Through extensive treatments provided by his outstanding doctors, Lance was pronounced cancer-free within a year of his diagnosis.

Lance's wonderful recovery was perhaps only topped by his astounding comeback. Winning the 1999 Tour de France highlighted his return to racing, just over two years after he beat cancer. He became only the second American to ever win the race. As we all know, Lance did not stop after one victory. He has returned to France each of the last five summers, and he has won the race five more times.

Lance Armstrong personifies hope for those suffering from cancer and other serious illnesses, and indeed, all Americans. Therefore I am pleased that the House is taking time to pay tribute to his tenacity, work ethic and patriotism.

Mr. Speaker, in closing, I congratulate Lance Armstrong on his awesome performance in the 2004 Tour de France and wish him the very best in his future pursuits.

NATIONAL PROSTATE CANCER AWARENESS MONTH

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mrs. MYRICK. Mr. Speaker, September is National Prostate Cancer Awareness Month. Education and advocacy are crucial in the fight against cancer. Imagine a disease that takes the lives of 30,000 U.S. men each year. Now imagine that disease ablated in just a few hours with minimal pain and side effects. Ultrasound is revolutionizing prostate cancer treatment and is well on its way to replacing traditional treatment models.

I am honored to have a company in my district that is making this revolutionary treatment a reality. U.S. HIFU is a development company dedicated to fighting cancer and preserving patient quality of life with noninvasive high intensity focused ultrasound technology. High Intensity Focused Ultrasound, HIFU, is a state-of-the-art acoustic ablation technique for prostate cancer treatment that utilizes the power of ultrasound to destroy deep seated tissue with pinpoint accuracy.

HIFU is noninvasive, non-ionizing and 88–99 percent of patients treated have a PSA (prostate specific antigen) of less than 1 after one year, which indicates no evidence of recurrence.

Equally important is that there has been minimal to no incidence of incontinence and only 7 percent erectile dysfunction.

It can be preformed in one to three hours on an outpatient basis with an epidural anesthetic. Unlike other treatments, HIFU patients are up and walking around within hours of being treated.

The Sonablate 500, the HIFU device, targets tissue in the prostate in the same way that sunrays entering a magnifying glass burn a leaf. When a magnifying glass is held above a leaf in the correct position on a sunny day the sunrays intersect below the lens and cause the leaf to burn at the point of intersection. The scientific principles at work in this example are the same as those with HIFU. The energy source is the only difference. Instead of light as the energy source, HIFU utilizes sound.

In basic terms, the technology allows the physicians to get a live image of the prostate and cancerous tumor, carefully target cells with custom treatment planning and kill the tumor with a beam of clean ultrasound energy effectively destroying the cancerous tissue, leaving surrounding healthy tissue untouched.

HIFU involves no incision, and it can be applied repeatedly without damaging other tissue, unlike radiation-based therapies. As many as one-third of patients who receive either external radiation therapy or brachytherapy have a recurrence of cancer; fortunately, HIFU can be a salvage technique for these recurrent failures.

Prostate cancer is the most common type of cancer found in American men and the second leading cause of death in men. The American Cancer Society estimates that there will be about 230,900 new cases of prostate cancer in the United States in the year 2004. About 29,900 men will die of this disease.

TRIBUTE TO MAYOR GEORGE HARVELL, JR.

HON. JOHN S. TANNER

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. TANNER. Mr. Speaker, I rise today to pay tribute to George Harvell, Jr., who, after 20 years as mayor of Millington, Tennessee, has decided not to seek reelection in November.

Mr. Harvell was born in Covington, Tennessee, but has lived in Millington since he was 3 years old. He was spurred to public service in 1968 after hearing an alderman dismiss the effects of U.S. Highway 51 going through the city because it would not affect him personally. Mr. Harvell ran for alderman that year and served 16 years before becoming mayor.

As mayor, Mr. Harvell dealt with a 1987 flood, paddling through town in a boat to check on residents. He also turned the 1993 closing of the town's Naval Training Station into a positive thing for Millington by building a subdivision to attract more upscale housing. He recently helped recruit the University of Memphis to Millington, where classes on a satellite campus began this fall.

Known for his cool demeanor and fierce integrity, Mr. Harvell will be missed when he adjourns his last meeting December 6. I know he is looking forward to traveling and hunting as well as spending more time with Virginia, his wife of 50 years. But his departure certainly will be a loss to Millington and to the 8th District.

Mr. Harvell has been more than a mayor. He has been a friend to his community. He has been a friend to me. Mr. Harvell also has been more than a public servant. He has been a public example of the impact a single person can have on his community when he sets his mind to it.

Mr. Harvell has been a great mayor. He continues to be a great man and a great friend. I applaud his success and appreciate the time he has given and the commitment he has shown to Millington.

RECOGNITION OF LTC WILLIAM BOWERS

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. SHIMKUS. Mr. Speaker, I rise today to recognize the life of fellow West Point graduate LTC (Ret.) William Bowers. LTC Bowers was recently killed in Iraq while traveling between meeting locations. His vehicle was hit by an RPG, and then followed by small arms fire. LTC Bowers was killed in action as a result of the ambush.

LTC Bowers was a graduate of the United States Military Academy, Class of 1979. He was originally from the Chicago area but after retiring from the Army he moved to Huntsville, Alabama where he had become a Vice President and Program Manager at the SEI Group, INC.

Through his military career he served in a variety of engineering, training and leadership assignments. These assignments include, but are not limited to, combat engineer command and staff positions with the 5th Infantry Division, the 25th Division, and the 2nd Engineer Group. In other assignments he worked as a reserve component advisor, military instructor, and observer-controller at the Army National Training Center. Not enough can be said about the great sacrifice this man made for his country, he made the ultimate sacrifice. He is survived by his wife, Evelyn, and his two children, Brian and Jennifer. My thoughts and prayers go out to his family and all of his loved ones.

LTC Bowers gave his life in an effort to improve the lives of others. This has been evident throughout his entire career and this sacrifice should never be forgotten. LTC Bowers, along with so many other brave men and women, put their lives on the line day in and day out. My sincere thanks go out to them all. God bless them, and may God continue to bless America.

RECOGNIZING JOSEPH E. BLANCH FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Joseph E. Blanch, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 418, and in earning the most prestigious award of Eagle Scout.

Joseph has been very active with his troop, participating in many Scout activities. Over the course of the years that Joseph has been involved with Scouting, he has earned numerous merit badges and served in a wide range of important positions.

For his Eagle Scout project, Joseph organized the production and installation of a much need kiosk information both Hodge Park's Living History Museum in Kansas City, Missouri. This was no small task, as the total hours involved in this project totaled in excess of 260.

Mr. Speaker, I proudly ask you to join me in commending Joseph E. Blanch for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

CONGRATULATING JACQUELINE NOONAN

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. LEVIN. Mr. Speaker, it gives me great pleasure to rise and congratulate a good friend and fellow public servant, Jacqueline Noonan, as she receives the 2004 Alexander Macomb "Woman of the Year" Award from the March of Dimes.

Jacqueline Noonan was raised in Avon Township, now Rochester Hills. She graduated from Rochester High School and graduated from Oakland University with a Bachelor's degree in Secondary Education. Jackie began teaching after graduating while continuing to work on her Master's degree at Oakland University. She and her husband, Jerry, became part of Utica, where they thoroughly enjoyed "small" town life with their five children: Christopher, Jbrome, Catherine, Melissa and Tracy.

In 1968, Jackie and Jerry turned their attention to owning and operating a family business, Noonan's Inc., which they did for 21 years. As their children entered Utica Community Schools, Jackie began her 24-year tenure as a volunteer in the school system and served in almost every imaginable position from Enrollment Advisory Board member to Picture Lady.

Jackie Noonan was elected to Utica's City Council in 1981 and was named Businesswoman of the Year by the Utica Business and Professional Women's Club. She also returned to Oakland University and earned a Master's Degree in Public Administration in 1988.

Jackie Noonan was elected to the position of Mayor of Utica in 1987. In Utica, a city of some 5000 residents, the Mayor is also the Chief Executive Officer and is ultimately responsible for all services and functions of city government. During her tenure, Ms. Noonan researched and developed the famous 425 agreement; this intergovernmental agreement saved Utica from dissolution and brought about a sharing of resources and services between several communities.

In 1989, Ms. Noonan assumed the role of spokesperson for Macomb County Traffic Safety Association's school level "Don't Drink and Drive" alcohol education program, and in 1991, she returned to the role of educator with the Utica Community Schools. Certified to teach all levels of French and social studies, she is currently a full time faculty member at Eisenhower High School.

Jackie Noonan is currently serving her ninth consecutive term as Mayor of Utica, is the past chair of the Macomb County Mayors' Association, and serves on a variety of boards and commissions locally and statewide.

Mr. Speaker, I ask my colleagues to join me in recognizing a terrific public servant, a wonderful community activist, Jackie Noonan, for her devotion to her community and her achievements as a positive and accomplished role model to her family, friends, and neighbors. It has been my pleasure to work with Mayor Noonan on numerous local issues, especially those related to M 59, and call her a friend.

RECOGNIZING 60TH ANNIVERSARY OF LIBERATION OF GUAM DURING WORLD WAR II

SPEECH OF

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. BORDALLO. Mr. Speaker, since the end of the Spanish-American War in 1898, the island of Guam, whose residents I have the privilege of representing here in Congress, has been a territory of the United States and a part of the American family. The Department of the Navy administered the U.S. Territory of Guam from the time the island was ceded to the United States under the terms of the Treaty of Paris until December 8, 1941, when, during World War II, Imperial Japanese military forces attacked, invaded and then occupied Guam. The attack on Guam occurred only hours following the December 7, 1941, Japanese bombing of Pearl Harbor in Hawaii, at the time also a territory of the United States; the different dates owing to the International Date Line.

The enemy occupation of Guam lasted approximately two-and-a-half years, from December 10, 1941 until July 21, 1944. The occupation was a time of tremendous hardship for the Chamorro people, the indigenous people of Guam. The people of Guam, who were U.S. nationals at the time, remained steadfastly loyal to the United States. Residents of the island, who numbered approximately 22,000, were subjected to forced labor, forced marches and deprivation at the hands of an enemy corroborating with the Axis forces. In the weeks prior to liberation, which came on July 21, 2004, the brutality of the occupying army increased with severe beatings and public executions. Groups of Chamorro men, women, and children were herded into caves on separate occasions and massacred. The entire population was forced to march to several internment camps in the southern part of the island.

On July 21, 1944, units of the 3rd Marine Division, 77th Army Infantry Division and 1st Marine Provisional Brigade, comprising a total force of roughly 55,000 service members, stormed the shores of Asan and Agat in southern Guam beginning the campaign to liberate the only American community to have been occupied by a foreign power since the War of 1812. Thirteen consecutive days of heavy naval and air bombardment preceded the landing of U.S. forces to weaken Japanese defense of the island.

Intense and fierce combat between the U.S. forces and the entrenched Japanese Army, which numbered 18,500 men, continued until August 10, 1944, when organized resistance ended and the U.S. forces seized control of the island. The Battle for Guam was marked by combat on difficult terrain against a well-prepared enemy. The Japanese defended the island from positions located in caves, tunnels, and from pillboxes situated on the beaches, cliffs, and hillsides overlooking the invasion beaches. Today, these beaches and many of these defensive positions are preserved within the War in the Pacific National Historical Park, established by Congress in 1978 (Public Law 95–348). This Park is the only site in the National Park System that honors the bravery and sacrifices of all individuals, service members and civilians, who experienced World War II in the Pacific Theater.

Over 1,100 Chamorros died as a result of the occupation of Guam, and every Chamorro endured one form or another of brutality, including personal injury, forced labor, forced march or internment during the occupation. Approximately 1,800 U.S. Marines, Soldiers, Sailors, Airmen and Coast Guardsmen were killed in action during the Battle for Guam. There were over 8,000 U.S. casualties. The Japanese suffered over 17,500 casualties, the large majority of which ended in death.

Today, Guam remains a territory of the United States. Congress extended U.S. citizenship to the people of Guam after World War II in 1950 (Public Law 81–630). Guam's current economy is largely tied to the Japanese economy given the proximity of the two and the importance of Japanese tourism to the island. The one million Japanese tourists the people of Guam welcome each year is a testament to the peace and friendship that has emerged between the United States and Japan since the end of World War II. The people of Guam remain an important part of this international friendship.

H. Res. 737 recognizes the Liberation of Guam on the occasion of the 60th Anniversary. In doing so, the resolution calls attention to the unique experience endured by the people of Guam and the extraordinary heroism displayed by the U.S. service members who took part in the battle to recapture Guam. The resolution further encourages the American people to commemorate the Liberation of Guam and to observe the anniversary of the battles of the Pacific Theater during World War II. Lastly, the resolution requests the Secretary of the Interior to establish commemorative programs honoring the liberators and the people of Guam at the War in the Pacific National Historical Park. These commemorations, which precede the commemorations next year of the 60th Anniversary of the end of the War in the Pacific, give context to the extensive and difficult Pacific campaign.

I believe this Congressional recognition of the Liberation of Guam will enhance public understanding of and appreciation for the occupation experience of the people of Guam and the heroism of the liberators who took part in the battle to recapture Guam. I want to draw attention to the commendable efforts of the National Park Service, and, specifically, the efforts led by the personnel at the War in the Pacific National Historical Park, that have been made to date in the development of programs to commemorate the Liberation of Guam. These efforts notably include the recent enhancement of the Park's official Web site that now provides Internet access to many historical publications and approximately 700 historical photographs. These efforts are important in the absence of a restored museum and visitor contact facility following Supertyphoon Pongsona, which damaged Park property in December 2002. I encourage the continuation and expansion of such efforts consistent with the Park's mission. I also encourage a concerted effort to seek input from residents of Guam and veterans of World War II in the development of these and future commemorative programs.

Today, the Liberation of Guam is one of the most important commemorations held annually on the island. Liberation Day on Guam is a time of remembrance and celebration. The people of Guam commemorate the sacrifices of those who endured the occupation and those who gave their lives to liberate the island, and we celebrate the triumph of our people over adversity and oppression. As we move forward from July 21, 2004 to the 61st Anniversary on July 21, 2005, it is my hope we all reflect on our freedom and remember the sacrifices of those that came before us. I know this House has long been reminded of the Guam story. My predecessors, Mr. Won Pat, Mr. Blaz, and Mr. Underwood, would often take to the floor to speak to this body about the significance of Guam's role in World War II, the greatest conflict of the last century. Through their efforts the story of Guam's occupation and liberation has found its place in the national history of World War II. I, like they, seek to protect this history, to educate our country about our experience, and to bring appropriate and due recognition for our people and our veterans.

IN RECOGNITION OF RICHARD HOPKINS

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ROGERS of Alabama. Mr. Speaker, on Sept. 11, 2004, teens from around the Third District gathered on the campus of Jacksonville State University to remember the events of 9/11, and to reflect on the impact of those events on their life today.

One of the speakers that day was Richard Hopkins, an eleventh grade student at the Donoho School in Anniston. In honor of his words and in recognition of his gift for writing, I am placing his entire speech in the CONGRESSIONAL RECORD so that others may have the opportunity to hear his thoughts about that fateful day.

The text of his speech is as follows. Thank you, Mr. Speaker, for the House's attention to this important matter.

"BEYOND THE SHEER LOSS OF LIFE, WHY WAS THIS SO IMPORTANT?"

(By Richard Hopkins)

"This portion of our program will focus on the importance, beyond the sheer loss of life, of the 9/11 attacks and their aftermath. There were a number of significant shifts in policy and attitude in several major areas of American life in response to the September 11th attacks. One of those areas concerns the American populace as a whole, and I will briefly talk about the changes and reactions amongst American citizens. I will begin by focusing first on the general population of Americans, and then moving on specifically to teenagers.

"In the wake of the September 11th attacks, America's emotional spectrum was a kaleidoscope of mixed and contrasting feelings. People were confused, angry, hurt, sad, lonely, shocked, and grim. At the same time, feelings like hope, brotherhood, community unity, and national pride began to come to the fore. Since the closing of the Cold War, a sort of Pax Americana had come into existence. Americans more or less felt safe and secure within their own borders, and unaware of any problems around the world. This is not saying that Americans were indifferent to what was happening abroad, merely that these events did not fully emerge into the everyday public consciousness. Instead, Americans began to focus inward in facing their own dilemmas and social issues. Foreign policy and the issues that stem from it became abstract considerations to the average American citizen. They would occasionally read something in the newspaper, watch something in the news, or hear something on the radio that briefly aroused their interest, but only in a displaced and quickly passing manner. Even when events directly involved the United States, Americans could not bring themselves to become too concerned, because they couldn't quite grasp how these happenings directly linked to themselves, their livelihoods, and impacted upon their everyday lives. They had no conscious awareness of why it should matter to them. This is not intended as an attack upon the American people, merely, it is an observation of how to them, everything might as well have been placed in a white and murky fog, because they had nothing tangible with which they could relate their lives to.

"What happened on September 11th changed all of that. No longer were Americans dealing with distant facts, of attacks and kidnappings happening elsewhere, far away. No longer did they have to consider something that they couldn't relate to their lives. No longer were the problems to be faced abroad, but instead, they were to be faced within our very own national borders. Instead, they were forced to confront ugly facts that affected their lives in every way. Not since the attack on Peal Harbor during World War II, or more recently, the Cuban Missile Crisis, has there been such a clear cut and direct threat to American lives and properties at home. Air travel has become increasingly restricted. Security at public and federal locations has been stepped up. New laws and regulations have been passed, while new organizations with new responsibilities have been created. The economy has fluctuated, and the prices of everyday goods and services have gone with it. Wherever one looks, one can see the direct impacts of what happened on September 11th. This is what caused the incredible turmoil in the post 9/11 environment. Individuals could clearly see the consequences of an action, and realize how it affected them, and therefore they were able to become passionate and care about it. It has given the average citizen a reason to become concerned and active in today's political environment.

"Now, let us consider teenagers specifically within this post 9/11 America. In many ways, a significant number of teens remain unaffected by what transpired three years ago today. This is because, unlike adults, many have not been greatly inconvenienced or exposed to the results of the attacks. Their parents handle travel arrangements, buy groceries, and generally manage all of the details of life that go unnoticed by teenagers, leaving the teens to their own, smaller worlds that still remain detached from the reality that everyone else experiences. However, a great many teenagers have been just as affected, if not more so, as their adult counterparts.

"Immediately after 9/11, news coverage showed grief and fear evidenced across the spectrum of American citizenry, including teenagers. Afterwards, however, once fear and grief were reined in, and determination and strength were in control, focus shifted to older subjects and viewers. This meant that teenagers were left behind, with the final images of their reactions displaying a time of vulnerability, with none of the strength and determination that followed for them. Teens have last been portrayed as afraid, or mourning, and have yet been given a chance to truly speak again and show how they have adjusted and thrived like adults have.

"9/11 has stirred passions on both ends of the political scale amongst teenagers. Because of the terrible events of that day, teens have put significant thought into what happened, why, how they feel about it, and what should be done. Teens have powerful feelings on a number of political issues, be it the new measures and laws that have been passed in the interest of Homeland Security, to the war on Iraq, and to the United States' Un-relations. Unfortunately, teens have not been given an opportunity to express these feelings and vent this pressure that builds up inside of them. As a result, it is easy for them to become resentful towards adults, who tell the teenagers how the world is and give little thought to asking them if they disagree, or if they would like to respond.

"As a result of these pent up emotions and the uncertain environment that was created, many teenagers, especially those that are already troubled, have had increasing emotional problems. Heightened aggression, changing lifestyle and habits, depression, paranoia, increasing isolation, anxiety, and more are symptoms of these problems.

"This is why it is so important for Americans to turn to the younger members of our society and ask them "How do you feel about this? What do you suggest? What would you like me to do?" This action will increase trust between teenagers and adults, as well as recognize the validity of teen opinions, and help them to express their inner feelings and feel like they are valued members of society. This is crucial, because many of those teenagers who witnessed the events of September 11th are now able to vote, and many more will soon be able to. It is important that they become recognized members of the political population, and not be devalued because they were never given a chance to express themselves or give voice to their beliefs. This attitude cannot be allowed to stand, because it would hamper the ability of future voters from fully forming their political identity, and fulfilling America's dream of a democratic government."

ARAPAHO AND ROOSEVELT NATIONAL FORESTS LAND EXCHANGE ACT OF 2004

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise in strong support of this bill, which would expedite an exchange of lands between the city of Golden, Colorado and the Federal Government.

The bill was introduced by Colorado's senior Senator, BEN NIGHTHORSE CAMPBELL. The House passed a similar measure last year. I joined my colleague from Colorado, Mr. BEAUPREZ, in introducing the House version.

Under the bill, the city of Golden will receive about 9.84 acres that now are part of the Arapaho and Roosevelt National Forests. The City needs the land to construct a short pipeline—about 125 feet long—to bring water into a storage facility where it will be held for use by the city and its residents.

In return, the City will transfer to the United States several parcels of land that are now inholdings within National Forest boundaries.

These inholdings include lands near Argentine Pass, which straddles the divide between Clear Creek County and Summit County and are crossed by the Continental Divide Trail. Adding those lands to the National Forest will reduce possible conflicts and increase public access to areas of high recreational value. So, this exchange is not only in the interests of the city of Golden and its residents, but in the public interest as well.

The bill also includes a provision under which the City would be authorized to start work on the pipeline while the exchange proceeds, and further provides that if for some reason the exchange cannot be completed, the city will buy the lands that are needed for the pipeline.

I want to thank the leadership of the Resources Committee, especially Chairman POMBO and Ranking Member RAHALL for making it possible for the bill to be on the House floor today.

It is a modest bill but one that is very important for the city of Golden and its residents. It is bipartisan and non-controversial, and I urge the House to agree to its passage so it can go to the president to be signed into law without further delay.

IN RECOGNITION OF THE 100TH ANNIVERSARY OF KUNDE ESTATE WINERY AND VINEYARDS

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. THOMPSON of California. Mr. Speaker, I rise today to pay tribute to four generations of a remarkable farming and winemaking family that has been producing award-winning California wines for 100 years.

Family patriarch Charles Louis Kunde immigrated to the United States from Germany in 1884, settling in Sonoma County, California. He grew Zinfandel grapes in Windsor for several years before acquiring the means to purchase the 650-acre Wildwood Ranch in Sonoma Valley in 1904. This site is the cornerstone of the family's current farming operation. Vines planted in 1882 on 28 acres of this initial purchase are still used to make the Kunde Century Vines Zinfandel.

The Kunde family won the first of many wine awards, including a gold medal for their estate Zinfandel, in 1915 at the Panama Pacific Exposition in San Francisco, the most prestigious pre-prohibition wine event in the country.

Arthur "Big Boy" Kunde took over operation of the winery and vineyards following his father's death in 1922. These were hard times for the family. Prohibition limited wine production to altar, sacramental and medicinal wines and the family had to diversify with a cattle ranching operation.

The original winery closed for good when Big Boy's two sons, Fred and Bob, were serving our country in World War II. The rest of the family continued to grow grapes and raise cattle to save the land.

After the war, the family continued to grow grapes and began to acquire land adjacent to their original ranch. Bob and Fred also began a meat cutting business on the ranch. They cut meat by night and planted vineyards by day.

By the mid 1980s the family had acquired nearly 2,000 acres of contiguous land surrounding the original purchase. The vineyards stretched from the floor of the Sonoma Valley to the Mayacamas Mountains. It was now time to rebuild the winery and Kunde Estate Winery opened its doors in 1990.

Today the winery produces 100,000 cases of wine annually. Ninety percent of the grapes are estate grown. There are 21 varietals and more than 100 clones grown on the estate property.

A new generation of winemakers, managers and growers: Kurt, Bill, Jeff, Keith and Marcia, the children of Bob and Fred, are carrying on the family tradition of fine wine making.

Mr. Speaker, the Kunde Estate Winery and Vineyards is celebrating its 100th Anniversary this year and it is appropriate that we honor them today.

HONORING THE TOWN OF CHATOM, ALABAMA, ON THE OCCASION OF ITS 100TH ANNIVERSARY

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. BONNER. Mr. Speaker, today I rise to honor the community of Chatom, Alabama, on the occasion of the 100th anniversary of its founding.

Founded on October 4, 1904, Chatom was named the county seat of Washington County three years later. During the past 100 years, the citizens and officials of this community have created a very rich and diverse history, and have worked tirelessly to provide the best benefits possible for themselves and their county.

As a result of efforts by many individuals and community organizations, the county's first high school was located in Chatom, providing more readily-available educational opportunities for the families in the town and the surrounding area. Between 1952 and 1956, the Washington County Hospital and Nursing Home and the county's public library were both opened in Chatom, providing greater access to healthcare and cultural resources.

During the past four decades, the citizens and leaders of Chatom have worked tirelessly to put into place recreational and infrastructure resources which could be used to attract outside industry and lead to an increase in the population base. These innovations have included the construction of the Roy Wilcox Airport in 1963, the opening of an 18-hole public golf course in 1995, and the establishment of the Chatom Community Center in 2000.

Mr. Speaker, the 1,205 residents of Chatom, Alabama, are firmly rooted in their proud past, and at the same time are keeping a careful and optimistic eye on the road ahead. The vision displayed by their community leaders during the past 100 years has led to the creation of a stable community and an anchor for all of Washington County, and I have no doubt that the continued inspired leadership and vision of today's residents and leaders will lead to even greater successes in the years ahead.

It is my hope the Town of Chatom continues its story of success for another one hundred years.

TRIBUTE TO DENVER DISTRICT ATTORNEY WILLIAM RITTER, JR.

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Ms. DEGETTE. Mr. Speaker, I rise to honor the notable accomplishments and extraordinary service of Denver District Attorney William (Bill) Ritter, Jr. This eminent public servant merits both our recognition and esteem as his impressive record of leadership and invaluable service has done much to improve the lives of our residents.

Bill Ritter's standing within our community is unrivaled. His tenure has been defined by not only the skills and faculties that distinguish district attorneys, but by a deep and abiding commitment to justice, high ethical standards and professionalism.

Bill Ritter was born on a farm in Colorado and is one of twelve children. He worked construction and used work-study programs to put himself through Colorado State University where he graduated with honors. He subsequently earned his Juris Doctor from the University of Colorado School of Law and served as a former Assistant United States Attorney and Chief Deputy District Attorney. Bill married Jeannie Lewis Ritter and they have raised a family of four: August (William), Abraham, Samuel and Natalie. In 1987, Bill interrupted his legal career to manage a food distribution and nutrition center in Zambia for three years.

Former Governor Roy Romer appointed Bill Ritter to serve as District Attorney for the Second Judicial District of Colorado in 1993 and he has since been reelected District Attorney three times by the people of Denver. Bill understands that he has a public trust of considerable magnitude and he has been resolute in his commitment to protect the safety and welfare of our citizens. He and his staff are responsible for the prosecution of more than 5,000 felony and 15,000 misdemeanor cases every year. But for Bill Ritter, protecting the integrity of the legal process matters and he has done much to bring greater transparency and innovation to the District Attorneys Office. Whether helping our senior citizens fight scams, cracking down on identity theft and check-fraud, advocating for reasonable gun laws, fighting for needed funding to place juvenile offenders in effective programs, or advocating for responsible domestic violence laws, Bill Ritter has provided serious and thoughtful leadership on issues of public consequence. He has created a number of forward-thinking programs including the Denver Drug Court, Victims Services, Community Prosecution, Juvenile Diversion and the Courtrooms to Classrooms program. Many of these programs serve as models for other judicial districts in the nation.

Bill Ritter is nationally recognized on issues ranging from community justice, juvenile diversion and white-collar crime. He has served as faculty for the National Institute of Trial Advocacy, The National District Attorneys Advocacy Center and the National Conference on Juvenile Justice. He is past president of the Colorado District Attorneys Association, Chairman of the Board of Project P.A.V.E. (Promoting Alternatives to Violence Through Education), President of the American Prosecutors Research Institute and is a board member of the National District Attorneys Association, the National Association of Drug Court Professionals and the Mile High United Way.

Bill Ritter has burnished a reputation as a powerful advocate for victims' rights and new approaches to both prevent and deter crime. But more importantly, he is a decent human being and his career has been defined by the courage to adopt new ideas and take the necessary risks to implement them. His efforts have made a real difference and under Bill Ritter's leadership, the Denver District Attorney's Office has made a positive impact on our justice system and improved the quality of life in our community.

Bill Ritter's tenure as Denver District Attorney is quickly drawing to a close. His leadership has been exemplary and he has labored diligently to preserve and improve the administration of justice. His contributions are rich in consequence and on behalf of the citizens of the 1st Congressional District, I wish to express our gratitude and look forward to his continued involvement in our civic life.

Please join me in commending William Ritter, Jr., a distinguished citizen and public servant. His character, leadership and accomplishments command our respect and serve to build a better future for all Americans.

HURRICANE RELIEF GOOD DEEDS

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. STEARNS. Mr. Speaker, in the wake of recent catastrophic events in Florida of four consecutive hurricanes, it would be easy to dwell on the thousands of tragic stories that have impacted almost all Floridians. Not only was power lost throughout millions of homes statewide, houses were leveled or left in shambles, and lives have been lost. It is certain that these dark stories overshadow our thoughts, but it is important to let people know that there are indeed uplifting stories, and to let people hear about those as well.

When it became apparent that Hurricane Charley would wreak havoc across the State, many companies sprang into action to help in their unique ways: Proctor & Gamble provided items such as Bounty paper towels, Mr. Clean, Always hygiene products, Pringles potato chips, and Iams pet food. Tyson delivered more than 110,000 pounds of pre-cooked chicken, and two trailer loads of ice that had been donated by Wal-Mart. Pfizer, donated prescription drugs to compensate for closed pharmacies, and Bristol Myers Squibb donated 150 cases of infant formula, 50 cases of water, 500 cases of Excedrin, 5,000 pairs of socks, and seven different prescription medicines. General Mills donated over 20,000 cases of food including soup, cereal snack bars and vegetables. General Motors gave three Hummer H2s, equipped with OnStar Satellite communications. And this is just products: companies, including their employees personally, from Johnson & Johnson to Home Depot to Goldman Sachs have donated tens of thousands of dollars.

Countless meals and snacks have been served for going on 6 weeks now, to hurricane-damaged counties in Florida, with thousands more available from Federal, local and private agencies. Emergency housing, clothing and other aid is also being provided. We have organizations set up for the purpose of collecting donations for the Florida Hurricane Relief Fund. One such organization consists of members of the Business Roundtable.

After Hurricanes Charley and Frances steamrolled through Florida, Ivan followed in their paths. CIGNA Pharmacy Management announced soon after that its Florida members would be able to obtain refills on their prescriptions ahead of schedule. "We know that one of the important steps our members need to take to prepare for a severe weather situation such as Hurricane Ivan is to be sure they have an adequate supply of any needed prescription drug on hand," said James Bryant, President of CIGNA Pharmacy Management. "That's why we want to make it as easy as possible for members to get prescriptions filled in advance." CIGNA emphasized that members who are taking life-sustaining medications, or one that require regular administration, fill up on their prescriptions as soon as possible.

And Floridians haven't just jumped in with tangible supplies and money, but with their own blood, sweat and tears. The Florida Hospital Association communicated efficiently and frequently on hospital updates. FHA also organized a rapidly deployable network of help from all hospitals throughout Florida to make sure that all areas have received invaluable medical and nursing manpower. It has not been uncommon that nurses, med techs, and doctors have sacrificially left their own damaged homes to go care for others.

Finally, here is an excellent display of private-public collaboration and flexibility. Right before Hurricane Frances, the Florida Bankers Association, the U.S. Treasury, the U.S. Postal Service and the Social Security Administration sprang into action together. Social Security checks were scheduled to be either deposited into bank accounts electronically, or mailed out hard copy, on Friday, September 3, the day Frances was scheduled to touch down. Due to the imminent approach and anticipated disruption, the Treasury Department asked banks to make available a day early—September 2—electronic funds transfers (EFT) of the monthly checks that retirees and the disabled depend upon. And, the Post Office made every effort to deliver all checks, and where mail was undeliverable, set up areas for beneficiary pick up of checks. Talk about flexible and cooperative service, I even had one Post Office employee in my district go above and beyond and wait Thursday evening after closing for a worried family to pick up their check. Leland Adams of the Post Office in Bell made himself available for this family after hours, in case they decided to evacuate town before the P.O. would open in the morning of September 3rd.

It is this spirit of cooperation, community-mindedness, corporate and public goodwill and personal fortitude that has gotten Floridians through the past 6 weeks. Mother Nature may slow Floridians down, but there's no stopping us. We will get through this.

RECOGNIZING BRIAN LAND FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Brian Land of Kansas City, Missouri, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, and in earning the most prestigious award of Eagle Scout.

Brian has been very active with his troop, participating in many scout activities. Over the many years Brian has been involved with scouting, he has not only earned numerous merit badges, but the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Brian Land for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, September 30, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 5

9:30 a.m.

Foreign Relations

To hold hearings to examine the progress of the Millennium Challenge Corporation.

SD-419

10 a.m.

Finance

To hold hearings to examine redesigning the social security disability process.

SD-215

Health, Education, Labor, and Pensions

To hold hearings to examine public-private partnerships to improve nutrition and increase physical activity in children.

SD-430

Judiciary

To hold hearings to examine opening the presidency to naturalized Americans.

SD-226

Governmental Affairs

Oversight of Government Management, the Federal Workforce, and the District of Columbia Subcommittee

To hold hearings to examine the nomination of Gregory E. Jackson, to be an Associate Judge of the Superior Court of the District of Columbia.

SD-342

OCTOBER 6

9:30 a.m.

Foreign Relations

To hold hearings to examine the impact of current visa policy on international students and researchers.

SD–419

10 a.m.

Health, Education, Labor, and Pensions

Judiciary

To hold joint hearings to examine responding to an ever-changing threat relating to BioShield II.

SH–216

2:30 p.m.

Armed Services

To hold hearings to examine the report of the Special Advisor to the Director of Central Intelligence for Strategy Regarding Iraqi Weapons of Mass Destruction Programs.

SH–216

HOUSE OF REPRESENTATIVES—*Thursday, September 30, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. MILLER of Florida).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
September 30, 2004.

I hereby appoint the Honorable JEFF MILLER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend William G. Alvey, Pastor, Park United Methodist Church, Madison, Ohio, offered the following prayer:

Our Most Gracious Heavenly Father, we ask Your blessings to rest upon these very special people who represent all the people of this great country. Help them not to just represent all the people, but also be responsible to the needs of all the people.

As they diligently listen to and discuss the proposals presented to them, help them to discern Your will, not their will, in the decisions they are called upon to make.

We are grateful for the freedoms that this country affords to us, that we may participate in the governing of ourselves and especially our future.

With this great responsibility we ask that Your Spirit might give the Members of Congress guidance and leadership in all their deliberations both today and every day.

These blessings we ask in Your name which is above every name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Wisconsin (Mr. KIND) come forward and lead the House in the Pledge of Allegiance.

Mr. KIND led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills and a joint resolution of the House of the following titles:

H.R. 982. An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

H.R. 4115. An act to amend the act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

H.R. 4259. An act to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

H.J. Res. 107. Joint resolution making continuing appropriations for the fiscal year 2005, and for other purposes.

The message also announced that the Senate has passed bills and a concurrent resolution of the following titles in which the concurrence of the House is requested:

S. 1601. An act to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, and for other purposes.

S. 2639. An act to reauthorize the Congressional Award Act.

S. Con. Res. 110. Concurrent resolution expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence.

WELCOMING THE REVEREND WILLIAM ALVEY

(Mr. LATOURETTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LATOURETTE. Mr. Speaker, the guest chaplain today is the Reverend William Alvey from the Park United Methodist Church in Madison, Ohio.

His appearance here today started out last Memorial Day. He was giving the invocation at the J. Wilson VFW Post on Memorial Day and indicated that he was thinking about retiring in the near future, and one of the things that he would like to do was give the opening prayer at the House of Representatives.

I am honored to have known Reverend Alvey for nearly a decade. I want to welcome him and 47 people who rode up on a bus from Madison, Ohio, to be with Reverend Alvey today and who have joined us this morning. Reverend Alvey is in his 41st year with the United Methodist Church, and has been at the Madison Park United Methodist Church since 1995. Reverend Alvey is a fixture in the Madison community, and I want to thank him for his distinguished service to the church and to our community, and it is my pleasure to welcome him here this morning.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will enterertain 10 one-minute speeches per side.

HOPE IN IRAQ

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, on September 29, an article in the Centralia Sentinel reads, "Former Centralia policeman finds hope in Iraq."

Joe Phoenix ended his 11-year career in February to join 1,000 other law enforcement officers from the U.S. hired by the Federal Government to train Iraqi police officers. In a brief visit home he states about the Iraqi people, "They are good people with good hearts and they love working with Americans," he said. "They consider it such an honor that we come over here and that we leave home and work with them. I have had nothing but cooperation from the people I am working with."

About the current challenges he states, "We are trying to get people trained and fortified so they can stand their ground. We need to get the Iraqi police in a better position to fight these guys."

And about the future, "Right now it is dangerous and it is probably going to get worse between now and January. They are going to try and stop the elections and show people we are not in control, but that is not going to happen. After the elections, I think things will slow down and get better."

Mr. Speaker, I thank Officer Phoenix for his service. God bless him, and God bless the United States of America.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

AMERICA NEEDS COMMANDER IN CHIEF, NOT CHEERLEADER IN CHIEF

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, a former CIA official recently said "The best we can hope for in Iraq is a failed state hobbling along." The State Department's official travel warnings says, "Iraq remains very dangerous." The national intelligence estimate from July said the best case scenario for Iraq was merely "tenuous stability."

A Kroll Security International study shows the number of attacks has increased from 40 per day to around 70 per day. Republican Senator CHUCK HAGEL said, "I do not think we are winning. We are in deep trouble in Iraq." Secretary of State Colin Powell said, "It is getting worse."

I know that the President is proud of the fact that he does not read newspapers, but can somebody please brief the President of the United States?

Today in the Washington Post, with all of the horrific news, there is a report that the administration is embarking on a new propaganda campaign "designed to be uplifting, with good news messages about Iraq."

Mr. Speaker, the American people need the truth about Iraq. The American people can handle the truth; the question is, can the President?

MARRIAGE PROTECTION AMENDMENT

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, much has been said about the need to protect the definition of marriage for the future. While I wholeheartedly agree, I would like to offer a perspective from the past on the importance of marriage in America.

Alexis de Tocqueville perhaps provided the most comprehensive analysis of American society in the 1830s. He observed that there is certainly no country in the world where the tie of marriage is more respected than in America.

In 1885 the United States Supreme Court added its opinion stating, "Certainly no legislation can be supposed more wholesome and necessary in the founding of a free, self-governing commonwealth than that which establishes it on the idea of the family, consisting of the union for life of one man and one woman in the holy estate of matrimony; the family is the sure foundation of all that is stable and noble in our civilization."

Historically, marriage between one man and one woman has been the cornerstone of stable families. The marriage protection amendment will ensure that the definition of marriage in America does not change based upon the whim of an activist judge. It will protect the rights of each State and the will of the people. I urge Members to support the marriage protection amendment. It is necessary for the preservation of the historic institution of the family.

RUBEN MARTINEZ AWARDED MACARTHUR FELLOWSHIP

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise this morning to congratulate a very good friend of mine, Ruben Martinez, owner of Libreria Martinez Books and Art Gallery in Santa Ana, California, for being named a 2004 MacArthur Fellow.

How appropriate that during Hispanic Heritage Month, I have the opportunity to recognize such a successful Hispanic from my own district on this great honor. For more than 30 years, Ruben has been getting the youth of Orange County engaged in books and politics. What began as a haircutting venture, accompanied by political discussions with his clients, turned into a lifelong passion for selling books in both Spanish and English.

Today Libreria Martinez is one of the largest commercial sellers of Spanish-language books in the Nation. Authors and community members, both young and old alike, have made this shop a home.

The MacArthur Fellowship has been dubbed the "genius award" by some, and I can think of no one more deserving than Ruben. I thank him for his tireless work and his dedication in promoting readings and education in my hometown.

MARRIAGE PROTECTION AMENDMENT

(Mr. BARRETT of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARRETT of South Carolina. Mr. Speaker, this afternoon we will debate and vote on the marriage protection amendment. Let us be clear, the debate today is not about denying anyone's rights. This is about ensuring the will of the people and protecting it. Forty-four States have already enacted laws defining marriage as the union between a man and a woman. South Carolina is one of these 44 States. The people of my State have already decided how they would like for marriage to be defined. So as a Representative I am wondering why the will of my constituents and that of over 70 percent of Americans nationwide should be tossed aside because of a few activist judges because they disagree.

Unfortunately, a handful of judges have already begun to amend our Constitution. They have circumvented the democratic process with their rulings. Therefore, the decision we are left with now is not whether the Constitution will be amended but who will amend it: activist judges or the American people.

Mr. Speaker, I hope my colleagues will join me today in supporting the marriage protection amendment. It is time we get the debate back where it belongs, with the American people.

GLOBAL WARMING

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLUMENAUER. Mr. Speaker, as the damage, pain, and suffering of the recent hurricanes slowly recede in the memories of most Americans, we would do well to remember that this is but a small taste of what is likely to occur given the increase in global warming.

A recent study by the Commerce Department's Geophysical Fluid Dynamic Lab in Princeton University, the most extensive to date, indicated that global warming is going to make it a lot worse. The typical hurricane is going to be one-half step greater on the 5-step scale, rainfall up to 60 miles away will be up to 20 percent more intense, and even if the number of storms remains the same, which is not at all clear, there will be much increased potential for damage, and the rising sea levels will create more flooding from the storm surges.

It is time for the United States to work with other developed countries to recognize the threat of global climate warming, to cooperate on solutions to reduce greenhouse gases. Future generations will be grateful.

MARRIAGE PROTECTION AMENDMENT

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, today we will debate and vote on an issue of critical importance to our society: marriage.

The issue is whether we will stand idly by as a few unelected judges redefine the family for us, or if we will take a stand and say enough is enough. The best home for kids is with their mom and dad. Children cannot do better than that, and we should not try to redefine marriage.

Unfortunately, some claim that this is an issue for the States. Indeed, it is if that is what was happening. It is not. Activist courts are circumventing the

States in order to make this happen. We would never debate it. The States would never debate it. The American people would never debate. That is how the activist groups and the activist judges want it. States rights are meaningless if judges ultimately make the decisions.

Mr. Speaker, this House should pass the marriage protection amendment and send it to the State legislatures for their ratification so the courts do not become the final maker of family policy. Kids do best with a mom and dad.

CHENEY HAD IT RIGHT FIRST TIME

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous material.)

Mr. McDERMOTT. Mr. Speaker, the Vice President had it right on Iraq the first time, and now we know that because of the Seattle Post-Intelligencer newspaper columnist Joe Connelly.

The Vice President was Defense Secretary during the first Gulf War. Mr. CHENEY told a Seattle audience in 1992 that it was folly to spill American blood to try to get Saddam or try to govern Iraq. This column ought to be required reading before the Presidential debates.

These are DICK CHENEY's exact words in defending the first President Bush's decision to leave Iraq and Saddam Hussein: "And the question in my mind is how many additional American casualties is Saddam worth? And the answer is not that damned many. So I think we got it right, both when we decided to expel him from Kuwait, but also when the President made the decision that we had achieved our objectives and we were not going to get bogged down in the problems of trying to take over and govern Iraq."

I am entering Mr. Connelly's column in the RECORD. It is seattlepi.com. Read it.

Mr. Speaker, they may call it swagger in Texas, but we call it truth in Washington State.

[From the Seattle Post-Intelligencer, Sept. 29, 2004]

IN THE NORTHWEST: BUSH-CHENEY FLIP-FLOPS COST AMERICA IN BLOOD

(By Joel Connelly)

As George W. Bush has lately shown, the tactic of successfully defining your opponent is to political conflict what occupying the high ground is to waging war.

The Bush-Cheney campaign has gleefully labeled John Kerry a flip-flopper. But what of Bush-Cheney flip-flops? They're getting a lot less ink, but America is paying a price in blood.

Little noticed, and worthy of lengthy consideration, is a speech delivered by then-Defense Secretary Dick Cheney in 1992 to the Discovery Institute in Seattle.

The words of our future vice president—defending the decision to end Gulf War I without occupying Iraq—eerily foretell today's morass. Here is what Cheney said in '92:

"I would guess if we had gone in there, I would still have forces in Baghdad today. We'd be running the country. We would not have been able to get everybody out and bring everybody home.

"And the final point that I think needs to be made is this question of casaualties. I don't think you could have done all of that without significant additional U.S. casualties. And while everybody was tremendously impressed with the low cost of the (1991) conflict, for the 146 Americans who were killed in action and for their families, it wasn't a cheap war.

"And the question in my mind is how many additional American casualties is Saddam (Hussein) worth? And the answer is not that damned many. So, I think we got it right, both when we decided to expel him from Kuwait, but also when the president made the decision that we'd achieved our objectives and we were not going to get bogged down in the problems of trying to take over and govern Iraq."

How—given what he said then—does Cheney get off challenging the judgment and strength of those who argue that we are bogged down and shedding blood today?

Is Sadddam worth the lives of 1,046 (at last count) dead Americans, and 7,000 injured Americans?

Dick Cheney posed the hard-nosed questions that should be asked by a president in time of war. George Bush is out on the campaign trail boasting he's hard-nosed because he didn't ask how a "Mission Accomplished!" could unravel.

Kerry is taking a pounding from the relentless Republican machine. A GOP TV ad shows Kerry windsurfing, with Strauss' "Blue Danube" waltz playing in the background, as the voice-over claims the nominee has shifted positions "whichever way the wind blows."

In case the "mainstream" media are interested, or Fox News wants to balance its reporting to furnish a few moments of fairness, here are a few Bush flip-flops that might be put before the voters:

Nation-Building: As a candidate, Dubya traveled the land in 2000 denouncing the Clinton administration for using U.S. troops in what he called "nation-building."

"I'm worried about an opponent who uses nation-building and the military in the same sentence," he told a rally. "My view of the military is for our military to be properly prepared to fight and win wars—therefore, (to) prevent war from happening in the first place."

What are we doing in Iraq if not "nation-building?" Enmeshed in Iraq, are we properly prepared to fight such crazies as the nuclear weapon-equipped "Great Leader" of North Korea, Kim Jong Il?

Our Real Enemy: Two days after 9/11, President Bush declared: "The most important thing is for us to find Osama bin Laden. It is our No. 1 priority, and we will not rest until we find him."

Six months later, laying political groundwork for the Iraq war, the President said: "I don't know where he is. I have no idea and I really don't care. It's not that important. It's not our priority."

The 9/11 Commission: The White House initially opposed creation of an independent commission to investigate causes of the 9/11 atrocities. A July 2002 statement read: "The administration would oppose an amendment that would create a new commission to conduct a similar review (to Congress' investigation)."

The administration reversed course five months later. The bipartisan commission, including former Sen. Slade Gorton, R-WA, distinguished itself at hearings and in its findings and recommendations.

Homeland Security: In the fall of 2001 Sens. JOHN MCCAIN, R-AZ, and JOE LIEBERMAN, D-CT, proposed creating a Cabinet-level Department of Homeland Security.

White House press secretary Ari Fleischer outlined the administration's opposition in October 2001, saying Congress did not need to make the director's job "a statutory post" and that "every agency of the government has security concerns."

A year later, the Bush administration was flaying Sen. MAX CLELAND, D–GA—a Vietnam triple amputee—for allegedly being an obstacle to creation of the department. Anti-Cleland ads showing Osama bin Laden and Saddam Hussein flashed across the TV screens of Georgia.

Such are this administration's major national security flip-flops. But other flips bear on our safety.

During the 2000 campaign, candidate Bush pledged to limit carbon dioxide emissions into the atmosphere. It didn't happen. The President promised to support—or at least sign—renewal of Congress' 1994 ban on military-style assault weapons. The Bush administration didn't lift a finger to extend the ban, which recently expired.

Out here on America's "Left Coast," candidate George Bush proclaimed himself a steadfast free trader. Even today, Republican State Chairman Chris Vance hammers Kerry as a flip-flopper on trade.

How, then, to explain the President's 2002 decision to slap tariffs of 8 to 30 percent on steel imports to the United States? (The tariffs were lifted after 21 months.)

Answer: The steel-producing states of Pennsylvania, Ohio and West Virginia have 46 fought-over electoral votes in this year's election.

□ 1015

HISTORIC MEETING BETWEEN INDIA AND PAKISTAN LEADERS OFFERS HOPE

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, a historic meeting took place this past Friday in New York City between Indian Prime Minister Singh and Pakistani President Musharraf. This was an important step toward bringing about a peaceful ending to disputes over Kashmir and fears of nuclear conflict in the region.

Both India and Pakistan have been strong allies of the United States in the war on terror and Secretary of State Colin Powell should be thanked for playing a significant role in bringing these leaders together. This is the latest example of positive progress in South Asia and the Middle East, thanks to the leadership and support of President George W. Bush and his administration.

This month the world's largest Muslim nation, Indonesia, had its first direct democratic election of a president, and earlier this year Libya voluntarily gave up its program to develop weapons of mass destruction. Additionally, millions of Muslims have been liberated by coalition forces from brutal regimes in Afghanistan and Iraq and now will build a civil society which protects American families.

In conclusion, may God bless our troops and we will never forget September 11.

TONIGHT'S PRESIDENTIAL DEBATE

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, I briefly rise, as well, to join my colleague in acknowledging the meeting between the Prime Minister of India and, of course, the President of Pakistan asking for their fellow countrymen and -women to understand the importance of aspiring for peace for their people.

But I rise today, Mr. Speaker, to really ask my colleagues and the American people what tonight's debate should really be about. This debate has been almost poised as a contest between two warriors. In fact, I believe this is a debate for the American people. The question should be asked, why were the American people told that we needed to go to war for the weapons of mass destruction that did not exist? Why have some thousand-plus of our young men and women and family members died in Iraq when there was no basis for this war? Why did the President not seek a constitutional vote for this war? Why are there thousands of wounded lying in our hospitals and we do not even know if the veterans hospitals will remain open?

The question is, who can lead us forward, and the answer is JOHN KERRY. That is what this debate is about, what will the American people want for their future and I can assure you it is not and should not be a litany of untruths from their national government; they simply want the truth.

DROUGHT RELIEF

(Mrs. MUSGRAVE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MUSGRAVE. Mr. Speaker, as we approach the end of this legislative session and I near the end of my freshman term, I am amazed by the power this body has when it wants to act quickly. The speed at which recent emergency funding for hurricane victims passed just goes to show what can be accomplished in Congress and how quickly.

Serving my rural district in Colorado, I come to the floor this morning to urge action on funding for victims of another major natural disaster, our 6-year drought, which has devastated farmers and ranchers throughout the West. This is a matter of importance that is not being reported on the 24-hour cable news networks or capturing front-page headlines across the Nation because it is not a sudden, horrific force like hurricanes; but it is very critical nonetheless.

When I am at home on the weekends, I see the devastation firsthand. I see the worry and the anxiety. I see the detriment this natural disaster is imposing on the local small town economies. Recently, the other body included $3 billion for drought relief in the Department of Homeland Security bill.

To my colleagues here in the House, I urge support of this funding for drought relief. Floridians boarded up before their natural disasters. Let us make sure rural Colorado does not after theirs.

IRAQ

(Ms. DELAURO asked and was given permission to address the House for 1 minute.)

Ms. DELAURO. Mr. Speaker, today's Washington Post tells us that the administration recently curtailed the distribution of reports by contractor Kroll Security International that show increasing violence in Iraq. The article goes on to say that the Pentagon is sponsoring a group of Iraqi Americans to speak at military bases throughout the United States to provide "a firsthand account of events in Iraq." That is to say, the administration is sending Iraqi exiles, mostly people who may not have been to the country in years, to tell our troops just back from Iraq the "good news" about how things are going there.

I imagine some of these exiles are the same people who told Deputy Defense Secretary Wolfowitz that we would be greeted as liberators upon arriving in Iraq. These are two more examples of an administration in denial of what is actually going on in Iraq, an administration unhinged from reality. If these emissaries of the administration were going to tell our troops the truth about Iraq, they would say that the international coalition is getting smaller, that our burden is getting larger, and our casualties are rising at an alarming rate.

That is the reality in Iraq, the reality that our dedicated troops deserve to be told by those sending them into harm's way. The American public needs to know what is happening in Iraq. This administration is failing to do that.

MESSAGE FROM THE SENATE

The Speaker pro tempore (Mr. MILLER of Florida) laid before the House the following privileged message from the Senate:

In the Senate of the United States, September 20, 2004.

Ordered, That the Secretary be directed to request the return of (H.R. 4567) entitled "An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes.", in compliance with a request of the Senate for the return thereof.

Attest:

EMILY J. REYNOLDS,
Secretary.

The SPEAKER pro tempore. Without objection, the request of the Senate is agreed to, and H.R. 4567 will be returned to the Senate.

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5183, SURFACE TRANSPORTATION EXTENSION ACT OF 2004, PART V

Mr. REYNOLDS, from the Committee on Rules, submitted a privileged report (Rept. No. 108-710) on the resolution (H. Res. 811) providing for consideration of the bill (H.R. 5183) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century, which was referred to the House Calendar and ordered to be printed.

WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 807 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 807

Resolved, That the requirement of clause 6(a) of rule XIII for a two-thirds vote to consider a report from the Committee on Rules on the same day it is presented to the House is waived with respect to any resolution reported on the legislative day of September 30, 2004, providing for consideration of a bill to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. McGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 807 is a same-day rule that provides for consideration of the rule to accompany H.R. 5183, the Surface Transportation Extension Act of 2004. The rule waives clause 6(a) of rule XIII requiring a two-thirds vote to consider a rule on the same day it is reported from the Committee on Rules.

Mr. Speaker, the current extension of the highway bill ends at midnight tonight. The Congress must therefore act immediately to ensure that there is no termination in projects or jobs while we continue to formulate the package that will reauthorize the Transportation Equity Act for another 6 years. The legislation must be moved forward today in order to continue funding for highway, highway safety, motor carrier safety, transit and other programs at the levels approved in the fiscal year 2004 budget resolution.

Mr. Speaker, I urge my colleagues to support this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I thank the gentleman from New York for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, the transportation bill is one of the most strongly supported, popular, and bipartisan measures to be considered in the House. The programs authorized in this bill touch every American and affect their lives every single day. There are probably only a handful of Members who do not want to see the transportation bill reauthorized for another 6 years.

But it appears that the Republican leadership and the administration are stonewalling this process by their refusal to work in good faith with the other body. Let us look at the facts. Republicans are in charge of the White House, the Senate, and the House of Representatives. But, instead of providing real leadership, the Republican leadership and the President have let the conferees dangle in the wind while we continue to pass short-term extension after short-term extension of these important programs.

By my count, Mr. Speaker, this is the sixth temporary extension to be considered and sent to the President. Do not get me wrong. I strongly support these programs. I understand that the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Illinois (Mr. LIPINSKI) and others are doing their best given the draconian allocation set by the Republican leadership. I support these extensions because we cannot afford to let these programs expire. But it is important to know that the Republican leadership and the Bush administration have not done all they can to ensure that the full reauthorization is completed and signed before the programs expire.

Mr. Speaker, the President is the leader of his party. Yet the President has shown a lack of leadership on this issue. The transportation bill will provide every American with roads and bridges that they need. It will provide economic stimulus across the country with the various projects that are written into it. Most importantly, this bill will create new jobs at a time when the new jobs are desperately needed. But instead of looking out for the American public, the President and the Republican leadership in this body have held onto their ideology to the detriment of this country.

Mr. Speaker, I want to say again that I support this extension. While I am concerned anytime the Republican leadership proposes a martial law rule, I also want to express my support for this particular rule that will allow us to consider this sixth extension and send it to the President before these programs expire. But I am disappointed and discouraged by the way the President and the Republican leadership have mismanaged this process, and I hope we can do better next year.

Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

SURFACE TRANSPORTATION EXTENSION ACT OF 2004, PART V

Mr. REYNOLDS. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 811 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 811

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5183) to provide an extension of highway, safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure; and (2) one motion to recommit.

The SPEAKER pro tempore. The gentleman from New York (Mr. REYNOLDS) is recognized for 1 hour.

Mr. REYNOLDS. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. McGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 811 is a closed rule that provides for consideration of H.R. 5183, the Surface Transportation Act of 2004. The rule waives all points of order against consideration of the bill and provides 1 hour of debate in the House equally divided and controlled by the chairman and ranking minority member of the Committee on Transportation and Infrastructure. The rule further provides one motion to recommit.

Mr. Speaker, the Committee on Transportation and Infrastructure currently has under its consideration the multiyear reauthorization of the Transportation Equity Act. The current authorization expires at midnight tonight and the bill before us today provides funding for essential programs for an additional 8 months, through May 31, 2005. This extension is necessary to give the authorizing conferees additional time to agree on a larger reauthorization bill.

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This Congress recognizes the many needs of our Nation and is answering the call by diligently working through its process to produce a bill that deals with the Nation's priorities in a whole host of areas.

The final authorization bill will ensure that we have a reliable and stable transportation infrastructure from Federal highways and highway safety to public transportation and motor-carrier safety programs.

In the meantime, the extension before us today authorizes $24.5 billion for the Federal Aid Highway program for highway and bridge construction and safety-related infrastructure improvements. Mr. Speaker, $5.2 billion is authorized for the Federal Transit Administration for grants to State and local transit agencies to reduce congestion and ensure mobility for all Americans in urban and rural areas.

Additionally, the bill authorizes $200 million for highway safety programs, including programs to encourage seatbelt use and prevent drunk driving. The $287 million is authorized for the Federal Motor Carrier Safety Administration for truck and bus-related safety programs.

Mr. Speaker, the underlying bill also releases the final portion of contract authority and obligation authority for the highway program in fiscal year 2004. This funding was reserved until the end of the fiscal year and is now being used to ensure that States receive at least a 90.5 percent minimum guaranteed rate of return on their Highway Trust Fund contributions.

Without our action today, vital programs and projects under the jurisdiction of the Department of Transportation will be put on hold. States will not be reimbursed with the Federal share of projects. Safety grants will not be provided to States, and transit construction will be halted, all of which puts jobs at risk.

Mr. Speaker, we simply cannot allow States and transportation projects to suffer. I urge my colleagues to support this rule and the underlying extension.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I thank the gentleman from New York (Mr. REYNOLDS), my good friend, for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, this rule and the underlying bill are for an 8-month extension of the Transportation Equity Act for the 21st century, TEA 21. It marks the sixth extension of that landmark legislation since it expired last year and reveals, once again, the rank and utter incompetence of the Republican leadership to get a transportation reauthorization bill. This extension, while absolutely necessary to keep the Nation's highway and transportation agencies running is, simply stated, another glaring failure of the Republican leadership in this session of Congress.

Mr. Speaker, let us pause for a moment to remind everyone of the facts. They are in charge of the White House. They are in charge of the Senate, and they are in charge of the House of Representatives. The transportation reauthorization bill is one of the most strongly supported, popular and bipartisan measures to be considered in the House. The programs authorized in this bill touch every American and affect their lives every single day. There are probably only a handful of Members who do not want to see a transportation bill reauthorized for another 6 years. Nevertheless, this President and the Republican leadership, which have presided over a historic loss of more than 2 million American jobs, are stonewalling a transportation bill which will create 47,000 new jobs for every $1 billion of investment.

The refusal of this leadership to work in good faith with the other body is costing our economy precious jobs, while the condition of our roads and bridges continue to deteriorate. Instead of providing real leadership, the majority party and the President have let the conferees twist in the wind while we continue to pass short-term extension after short-term extension of these important programs. The States, which we were elected to represent, are left to guess at when we will have a transportation bill, as they endeavor to undertake critically important public works projects. According to the American Association of State Highway Transportation officials, 33 States say that a short-term extension rather than enactment of a 6-year bill will mean $2.1 billion in project delays and the loss of over 90,000 jobs.

Now, I understand that the gentleman from Alaska (Chairman YOUNG) and the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI) and everybody on the committee are doing the best they can given the Draconian allocations set by the Republican leadership. The members of that committee, the bipartisan cooperation of that committee deserves to be praised by all of us, and it should be an example to the rest of this body. I support these extensions because we cannot afford to let these programs expire. But it is important to know that the leadership of this House and the administration have not done all they can to ensure that the full reauthorization is completed and signed before the programs expire.

Mr. Speaker, as I said before, the President is the leader of his party. Where is the leadership? The transportation bill will provide every American with the roads and bridges that they need. It will provide economic stimulus across the country with various projects that are written into it. And, most importantly, this bill will create new jobs at a time when new jobs are desperately needed. But instead of looking out for the American public, the leadership and the President have held on to their ideology to the detriment of this country.

So, Mr. Speaker, I want to say again that while I support this extension, I am disappointed and discouraged by the way the leadership has so profoundly mismanaged this process, and I hope that we can do better next year.

Mr. Speaker, I reserve the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

It is now almost October 1, and we are getting into the election season. I expect the gentleman from Massachusetts to have some finger-pointing going on. But I was here, as he was, when the debate occurred on transportation, and I would say that the authorizers had some pretty good, wholehearted debate that seemed to almost be on the same page between Republicans and Democrats, the majority and the minority of this House.

I would remind all of us that while we had some harmony passing that legislation in the House and apparently in the other body, they had some harmony on what they passed, we have, as we well know as students of government, to pass an identical piece of legislation in the House, in the Senate and the President to sign it, or if he vetoes it, it would require a two-thirds vote in both of the bodies of Congress.

Now, what we have seen, because the other body has publicly debated some of their positions, is that we have disagreements between the House and the other body and we have some from the White House on just what the spending will be. But while we are in an election year, we need to make sure we also get some of the facts back here. And that is that my understanding of this extender, is that the 2005 authorization is using the 2004 levels, and there is absolutely zero loss of anything, that each State will have their money. As a matter of fact, in the underlying legislation, it is my understanding that we will see that the $2 billion that Members on both sides of the aisle worked hard to achieve for their districts will also be distributed to those States under the current formula.

Now, I cannot speak for Massachusetts, but I know, in New York, number one, that is going to be fair and equitable money. Number two, it is still a jobs bill that is keeping my people working across my State and, quite frankly, I think across the 50 States. So when we look at this, we also need to come to terms with a funding level of transportation authorization in a future 6-year bill that is equitable for all of us. And we know that different regions of the country have different viewpoints, and we know that non-mass-transit States have different views than those who are in high-growth States looking to develop further road infrastructure in their communities. It is not an easy bill to put together to get a 6-year consensus in this body, let alone between the House, the Senate, and the White House.

But the important thing that is to be noted today as we preserve those jobs, those jobs are working, and a "yes" vote today keeps these projects moving forward and protects those jobs. A "no" vote puts people out of work. I will willing to predict, Mr. Speaker, that we will have strong bipartisan support for the extension over the next 8 months.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume. I thank my colleague, the gentleman from New York, for his comments. I always enjoy listening to his interesting spin on things.

The fact of the matter is, the problem is not with the authorizers. The authorizers have done a great job. As I said, we need to praise, in a bipartisan way, the members of the Committee on Transportation and Infrastructure. But the problem is with the leadership, and the problem is with the White House who is insisting on unbelievably low numbers for the reauthorization of this bill.

As a result of not having a 6-year bill, there are a number of States that have put projects on hold, and that means that these projects are not being built. They are not going forward. The jobs are not being created. We should have done better.

We are all going to support this extension. We have to. We have no choice. This is the right thing to do. I am just lamenting the fact that we should have had a 6-year bill, and I regret that the White House and the leadership were not able to get together and make this a priority, especially at a time when there is record job loss.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER), a member of the Committee on Transportation and Infrastructure.

Mr. BLUMENAUER. Mr. Speaker, I listened to the explanation of my friend, the gentleman from New York, and I agree with a number of the things he said. There will be a large, bipartisan majority supporting this extension, but the notion that somehow there are not problems associated with the repeated failure of Congress to pass, despite what my friend from New York says, what should be one of the easiest bills. We can take the bill that passed the Senate and put it on the floor of the House, and I am quite confident that it would pass with an overwhelming majority. It passed the other body with some 72 or 73 votes. The Committee on Transportation and Infrastructure offered up an approach to the Floor of the House that was substantially above that level. We have assembled the broadest coalition in the history of infrastructure legislation. We have interests ranging from the Sierra Club to the Chamber of Commerce, from the Women's Federation Garden Club of America to the cyclists, to the people who put down asphalt, who all agree on the basic structure of this legislation.

There has been a lot of hard work on behalf of the gentleman from Alaska and the gentleman from Minnesota to try and craft a piece of legislation that is acceptable. I see on the floor here my friends, the gentleman from Wisconsin and the gentleman from Illinois, who have been working, chairing the subcommittee, trying to put something forward underneath these artificial restrictions.

But the point is that it is not a failure of agreement between the Members of the two bodies of Congress. We are substantially in agreement, and we are in agreement with the vast majority of the American public. And the failure to allow that agreement to be fully and fairly debated on this floor and enacted means that we are holding in suspense important transportation priorities.

Yes, we are going to allow the spigot to be opened, or rather, we will avoid slamming the spigot closed at midnight tonight. I do not think anybody in their right mind thinks that we would or should do that. But that does not mean that there are not negative problems associated with it. We have projects in the Pacific Northwest that were slated to go forward that are multiyear in nature, and because of the uncertainty, these are on hold; significant problems that speak to economic development, that speak to environmental protection, to reducing congestion. And it is not just in the northwest. It is New York. It is in Massachusetts. It is Florida and Texas.

If we talk to any of the transportation officials, they will tell us that we are not well served having to repeatedly come to the floor with a short-term extension. But I am going to argue in support of this 8-month extension because, frankly, it is better to kick the can down the road past the election. We have shown that we are not really capable of doing that in an election year. With a new Congress, maybe with a new administration, without the pre-election posturing, I think we will, in fact, have a better piece of legislation. Were we to enact a flawed piece of legislation, it would not just be a problem for today or tomorrow; we would be crippling our transportation initiatives for the entire 6-year period of the authorization, and it would establish an artificially low standard for subsequent reauthorizations. We would be severely penalizing transportation for a generation to come.

I hope that, in the course of the next 8 months, but particularly in the course of the next 5 weeks, the American public takes the time to pin down the politicians in the House, in the Senate, running for President, about where they stand on transportation infrastructure. This is the most important transportation piece of legislation for the next 6 years. It is also the most important economic development legislation, and done right, it is the most important environmental legislation.

This should have been the easiest piece of legislation for this Congress to pass. Sadly, we are seeing today that it has proven that we are not up to the challenge. I hope we can take these next 8 months and do better by the American public.

□ 1045

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I respect the gentleman and what his view is, but I come from a State that has some complex transportation, from new to old aging infrastructure, to mass transit, to ports, to motor carriers, to dealing with buses and transit systems.

As I look at this, if we keep this moving forward by passing this extender, we are going to keep those projects moving forward to protect jobs. A "no" vote puts people out of work. It stops transit.

I have taken great care to listen to the transportation experts, and they assure me of the following. We came here with such great spirit in the House to pass this legislation, and it was bipartisan work. We certainly lauded both the chairman of the full Committee of Transportation and Infrastructure and the subcommittee chairs who put together this complex bill and in a bipartisan fashion. Yes, there certainly are differences of agreement to different aspects of what I see in the other body just from public statements of negotiation. We have also seen that the White House and Department of Transportation has some of their opinions on this bill as well.

I accept the fact that we are getting into the election season, and we are going to have all sorts of consumption going on back home as to what this means. But what my transportation experts of New York say, as well as talking to experts in this body, they tell me that if we do this extension, it is going to maintain the spending in the 2005 authorization and 2004 funding levels and that basically no one will lose any money at all in any of our States or, for the most part, in our districts unless some of the Members do not have a relationship with their State transportation people on some of the priorities that they might be looking for in their State.

It is important to understand, for those who are listening to this debate, that this maintains the spending of a multiyear plan in the extension of 8 months, and it does in the 2005 authorization as well as looking at the 2004 funding levels that are currently available.

My local folks in New York, the State commissioner and his people, tell me that we will be able to continue in the continuity of a complex transportation system by being able to count on this extension and the funding to continue the multiyear projects.

So I do not quite understand the gentleman's aspect of where it starts and stops maybe as he sees the view, because I have been assured that we have continuity of transportation services in a multiyear fashion by extending this.

Again, I must say to my colleagues, a "yes" vote today keeps those projects moving forward and protects jobs and protects the work and plans that are in our respective States, and a "no" vote just plain stops that or puts people out of work.

Mr. BLUMENAUER. Mr. Speaker, will the gentleman yield for a question?

Mr. REYNOLDS. I yield to the gentleman from Oregon for a question.

Mr. BLUMENAUER. Mr. Speaker, I appreciate the gentleman's notion about having the funds flow.

Mr. REYNOLDS. I said I yield for a question. I do not want to hear the gentleman's debate on my time.

Mr. BLUMENAUER. Mr. Speaker, I am seeking not to debate. I was just trying to establish a context for a question.

Is it not true that, in both the House and the Senate version of the transportation reauthorization, there are a vast number of specific projects, new starts, that are multiyear in nature and that cannot proceed in the absence of their being reauthorized, and that this extension has no bearing on those longer-term, complex, important projects in the gentleman's State and in mine?

Mr. REYNOLDS. I thank the gentleman for his question, and what I understand is as follows. Sure, I have projects; I think most Members of this body have specific projects earmarked in our legislation. It is my understanding that the other body would not consider earmarks that we would like to begin in the 2005 project year. Therefore, the compromise of extension, because we have had disagreements between the two bodies and we also have the White House in consideration of getting a final bill, was that we would take $2 billion of funding of Member-earmarked items of 2004 and roll them into our respective States on the existing formulas. That is what makes the States content to have that money back into their aspect of continuing in the projects.

The gentleman's influence, as a member of the Oregon delegation, might put an opportunity where the gentleman could talk to the DOT commissioner and begin their projects based on some of the monies they will receive.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Let me be clear to everybody here, because the gentleman from New York keeps on talking about this in terms of a "yes" or "no" vote. We are all going to vote for it because there is no other choice. Nobody is opposing the extension here. What we are simply saying is they have mismanaged this process.

He talks about jobs that could be maintained. Well, we want to not only maintain jobs, we want to create them.

Let me repeat to him, according to the American Association of State Highway Transportation Officials, 33 States say that a short-term extension rather than enactment of a 6-year bill will mean $2.1 billion in project delays and the loss of over 90,000 jobs. If we did our job right in this House, then this would not be the case. There would be more jobs coming.

I would remind the gentleman, again, I am pretty sure that one party, one party, controls the House and controls the Senate and controls the White House. Contrary to what the gentleman says, this is not about finger-pointing to point out that you guys cannot get your act together.

Mr. Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for the time.

October 1, 2003: What is important about that date? That is the date that the last highway bill expired. Here we are, almost a year later, legislation that sets the course of all spending on roads, bridges, highways, mass transit in the United States of America has been in suspended animation working under a 7-year-old law for the last 11 months.

I guess if the Republicans controlled things, things would not be like that; that is the kind of thing we hear around here all the time. They control the White House, the Department of Transportation, the House and the Senate. The White House is low-balling the number and underinvesting in America. They only want to spend $259 billion. They want to take our gas tax money and spend it on other things instead of transportation.

The House did a little better, $283 billion, not enough, but they did better. But they do not want to confront the President in an election year. We could roll them easily. It would be embarrassing, though, just before the election for him to be against jobs and investment in America and spending gas taxes on the purposes for which it was collected. The Senate did a lot better yet, $318 billion.

Then, of course, there was the unanimous bipartisan vote of the Committee on Transportation and Infrastructure, on which I serve, where we voted unanimously for $379 billion, $120 billion more than the President is willing to spend, because that is what the President's Department of Transportation said is necessary to take care of the problems in New York and other States. We need another $120 billion over what the President's asking for to deal with those problems.

It is disingenuous to get up here and say, oh, if we follow these lower numbers, nothing is being hurt. We are foregoing new starts. We are foregoing new investments. We are foregoing additional investments that the President's own Department of Transportation says is necessary. Why? Why are we doing that? We collect gas taxes from each and every American every time they fill up their car, a bunch of them, and that money is supposed to be spent on roads, bridges and highways. We have seen the potholes. I have got failing bridges in my district. We could put hundreds of thousands of people to work tomorrow if we had more investment and more spending.

I cannot understand why they will not spend our gas tax money to put people to work and meet needed investment in our infrastructure. So I stand here saying we should be doing more than just this continuing resolution, obviously. We should have sometime in the last 11 months. The Republicans should have been able to get their act together and agree on a highway bill. That has not happened. Well, if we cannot do that, at least let us put a little more money in there, put a few more people back to work, begin to address some of these problems that are out there, begin to take care of some of the new starts that New York has asked for that cannot go forward under this legislation.

My colleagues cannot say, oh, the transportation experts in New York say this is going to take care of all the problems. It is not. It is not even beginning to address the backlog of problems of failing roads and bridges.

Another interesting statistic from the President's own Department of Transportation is that, for every $1 billion we spend on roads, bridges, highways, mass transit, we create 47,500 jobs; not just construction jobs, but those are good jobs and good wage jobs. And guess what? They cannot be outsourced to another country. That is a really good thing about those jobs, but what it also does is it spills over into communities and small businesses. The suppliers, the contractors, the equipment operators, they are all local. They are locally based. It helps our local communities who need more jobs and investment. It helps small businesses, 47,500 jobs.

So, that means by walking away from the higher numbers proposed by the Senate, that is $318 billion, that we are foregoing $34 billion of investment that is needed to repair our failing bridges, roads, highways and our mass transit inadequacies, new starts in New York and other States. I cannot do the math quite here, but 34 times 47 sounds like a heck of a lot of jobs to me, somewhere around 1.5 million jobs. This country could use another 1.5 million jobs. In fact, if the President would sign a bill at that higher number, then he could say he delivered on his promise of creating 2 million jobs during his presidency. Right now, he is kind of short on that.

This is at best an absolutely minimal stopgap that is not meeting the real needs of Americans, that is not putting people back to work, that is not spending their gas tax money in the manner in which it was intended when it was collected and extracted from them, when they bought gas at the pump.

I would say we have apparently no alternative but to support this inadequate level of funding, but the American people should be aware it is inadequate. It does mean no new starts. It does mean that we are not going to address a whole bunch of problems all around the country, and we can do better.

Mr. REYNOLDS. Mr. Speaker, I yield myself such time as I may consume.

It is a well-known fact in the House that the Committee on Transportation and Infrastructure is probably the largest of membership in our great body. It amazes me when I look at the members of the committee, that might share from the other side of the aisle, kind of going back and forth between an extension and the 6-year bill, kind of mixing it up.

I just want to make sure we have the record straight, although I have said it so many times in this debate already. The extension does not prejudice the 6-year bill. It actually keeps a continuity of funding levels at the authorization of our budget resolution.

The gentleman is actually continuing, as previous speakers have, to go back and forth between a simple extension that guarantees all States their money and some planning purposes over the next 8 months versus trying to get to a 6-year bill.

I am used to a situation where legislation does not come to the floor as fast as some Members would want, that there is finger-pointing. I also acknowledge that we have disagreements between the other body, the White House and this on getting a conclusion of a 6-year bill.

But the Chairman of the Committee on Transportation and Infrastructure has made sure, with his subcommittee chairmen, that we have an 8-month extension that guarantees each State their money so they can continue in their planning purposes. As I have said before, it clearly says a "yes" vote today keeps those projects moving forward and protects jobs. A "no" vote puts people out of work and brings that construction to an end.

I also want to make sure that some of these alarmist accusations, that there is clear, on-the-record information so that they do not get caught up without a response. As the previous gentleman talked about the fact of money going all over the place, this bill includes an extension of the budgetary firewalls and spending guarantees for the highway category and transit category. These firewalls and guarantees protect the integrity of the Highway Trust Fund to ensure the highway user-related fees are used exclusively for highway transit and highway safety programs.

I want to just let America know that we extend those protections in this extension of 8 months, just as it was in underlying legislation in the past.

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Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. DAVIS).

Mr. DAVIS of Tennessee. Mr. Speaker, as I look at this particular road bill, the reauthorization, I think of comments made back home, where it is called road kill. In essence, what is happening with this legislation and the reauthorization, quite frankly our folks back home will call it road kill; and let me explain why.

We have individuals this morning that got up in my district and districts throughout this country and they have traveled to work at the factory or at their workplace, and in many cases in my district, on unsafe roads. So this legislation will provide, if enacted, as it should have been, will provide a safe way for working moms and dads to go to work and return to their families later that afternoon, and in many cases working at low-wage jobs.

We have also heard that maybe we can pass this legislation in a lame duck session. Well, that obviously is not going to happen. But I submit to you that is what we have been doing the past year and a half; we have been having a lame duck session. And quite frankly with the lame duck session we have been having concerning transportation needs, we have provided an avenue for many of our folks back home to be sitting ducks, sitting ducks that unless we pass this legislation and fully fund it, as many of us on this side of the Chamber have asked for, it may bring about a situation where the American public and the jobs that we have will bring about an economy that will create a dead duck scenario.

It is my hope that we realize, as we engage in the next 8 months, and I am sure that is what is going to happen, that for the American public and the safety of the American public and the American workers, that we pass an adequately funded reauthorization bill that will help build roads to many of our rural areas; that will help the inner cities with mass transit; and will bring about safe traveling as well as providing an economic boost.

Many years ago, Mr. Speaker, when our interstate systems were built, it helped bring about what we called "just-in-time manufacturing." Small rural areas could in fact become the suppliers for the assembly lines of American manufacturers. As a result of that, we were able to move from small rural areas the products being built there, or that portion of it, to the larger manufacturing companies and create jobs in rural areas. We, in fact, by languishing and not fulfilling our responsibilities are bringing about a situation and circumstance for many of our workers and many of our families and our economy that will not be able to compete should, say, China decide to do as we did in the 1950s and the 1960s.

Mr. REYNOLDS. Mr. Speaker, will the gentleman yield?

Mr. DAVIS of Tennessee. I yield to the gentleman from New York.

Mr. REYNOLDS. Mr. Speaker, I was listening carefully to the comments of the gentleman, but I was at the point where I wondered if the gentleman intends to vote for the extension or not to vote for the extension, based on your remarks.

Mr. DAVIS of Tennessee. Mr. Speaker, reclaiming my time, I would say to the gentleman from New York that my intention is to vote for a reauthorization bill adequately funded. Unfortunately, we do not have that option.

Mr. Speaker, my hope is that we do what is right and that we put first the safety of the American public and pass the reauthorization bill at the level it should be.

Mr. McGOVERN. Mr. Speaker, I yield myself the balance of my time, and let me just conclude for our side here by saying that this debate is not about whether or not we are going to support this extension. We are all going to support it. That is not the issue.

What we are expressing here is a frustration that we do not have a 6-year bill. And contrary to what the gentleman from New York says, most transportation planners that I have talked to, and I am sure he has talked to, if he has listened to them, would tell him that a 6-year bill is better than an 8-month extension for this reason: that many transportation programs require long-term planning. It is not a quick one-time investment. With an 8-month extension there is not the certainty of what happens after 8 months.

My point earlier was simply that this is another missed opportunity by this leadership. The Republicans control the House, they control the Senate, and they control the White House. Surely, surely they could have worked out a deal. Surely they could have helped accomplish a 6-year extension. That is what the frustration is on this side.

Our Governors and our mayors and our town managers and our city planners are all looking for a long-term guarantee of funding, and they are not going to get that. They are going to get an 8-month extension. And, yes, that is better than nothing. We need to keep this funding going. But the fact is they cannot plan long term; and as a result of that, we are not going to create as many jobs. The future for some of the economic development that we all hoped for that will come from some of these projects will have to be put on hold, and I think that is a shame.

So I want to commend the Committee on Transportation and Infrastructure, the chairman, the gentleman from Alaska (Mr. YOUNG), and the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), and all the Members who have worked hard in a bipartisan way. I only wish that their spirit of cooperation would have translated to the leadership of this House and the other body and the White House. We should be doing so much better than this. We should be passing a 6-year extension right now.

So I urge my colleagues to vote for the rule, and I urge them to vote for the extension; and, hopefully, we will, sooner rather than later, get a 6-year bill.

Mr. Speaker, I yield back the balance of my time.

Mr. REYNOLDS. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, my colleague said it well, we should vote for this rule and then the underlying legislation. As I opened my remarks, I commented that I understand it is the election season. So many of us have to get up and try to say something for back home on whatever that may be.

I have talked to planners in my years of service, and some planners I know would like to have an exact fund for the entire length of their career in planning. But the reality is that this bill is going to provide an extension and continuity in both planning and money to our respective States. My State, as I outlined earlier, has a complex transportation network and understands that this extension keeps the funding levels the same as it has been. As a matter of fact, the opportunity of all States will have the same funding levels. So we have continuity of our programmatic services and dollars to the States and for them to also distribute as they see fit the monies that will come in this 8-month extension.

It is not easy to formulate an agreement of an extension, and I laud Chairman YOUNG of the Committee on Transportation and Infrastructure and his subcommittee chairman in working with the other body to get a compromise of extension that works so well for our States as we continue this continuity of transportation projects and creating and maintaining the jobs that these construction opportunities exist through the transportation bill. But as we also look here, it is an opportunity for us to continue to get an agreement that both bodies and the White House will look to be a 6-year plan following the extension that is here.

My colleague, the gentleman from Massachusetts (Mr. MCGOVERN), has been clear. A "yes" vote today keeps the projects moving and keeps and protects jobs. A "no" vote puts people out of work. The extension will do the job and we can continue in having a multiyear plan of the future based on the results of our actions today. So I call upon my colleagues to support this rule and the underlying extension.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Mr. YOUNG of Alaska. Mr. Speaker, pursuant to House Resolution 811, I call up the bill (H.R. 5183) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century, and ask for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore (Mr. MILLER of Florida). Pursuant to House Resolution 811, the bill shall be considered as read for amendment:

The text of H.R. 5183 is as follows:

H.R. 5183

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Surface Transportation Extension Act of 2004, Part V".

SEC. 2. ADVANCES.

(a) IN GENERAL.—

(1) APPORTIONMENT RATIO.—Except as provided in paragraph (2), the Secretary of Transportation shall apportion funds made available under section 1101(1) of the Transportation Equity Act for the 21st Century (112 Stat. 111; 118 Stat. 876), as amended by this section, to each State in the ratio that—

(A) the State's total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program; bears to

(B) all States' total fiscal year 2004 obligation authority for funds apportioned for the Federal-aid highway program.

(2) EXCEPTION.—The ratios determined under this subsection shall be subject to the same adjustments as the adjustments made under section 105(f) of title 23, United States Code.

(b) PROGRAMMATIC DISTRIBUTIONS.—

(1) PROGRAMS.—Of the funds to be apportioned to each State under subsection (a), the Secretary shall ensure that the State is apportioned an amount of the funds, determined under paragraph (2), for the Interstate maintenance program, the National Highway System program, the bridge program, the surface transportation program, the congestion mitigation and air quality improvement program, the recreational trails program, the Appalachian development highway system program, and the minimum guarantee.

(2) IN GENERAL.—The amount that each State shall be apportioned under this subsection for each item referred to in paragraph (1) shall be determined by multiplying—

(A) the amount apportioned to the State under subsection (a); by

(B) the ratio that—

(i) the amount of funds apportioned for the item to the State for fiscal year 2004; bears to

(ii) the total of the amount of funds apportioned for the items to the State for fiscal year 2004.

(3) ADMINISTRATION OF FUNDS.—Funds authorized by the amendment made under subsection (d) shall be administered as if the funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code; except that the deductions and set-asides in the following sections of such title shall not apply to such funds: sections 104(a)(1)(A), 104(a)(1)(B), 104(b)(1)(A), 104(d)(1), 104(d)(2), 104(f)(1), 104(h)(1), 118(c)(1), 140(b), 140(c), and 144(g)(1).

(4) SPECIAL RULES FOR MINIMUM GUARANTEE.—In carrying out the minimum guarantee under section 105(c) of title 23, United States Code, with funds apportioned under this section for the minimum guarantee, the $2,800,000,000 set forth in paragraph (1) of such section 105(c) shall be treated as being $1,866,666,667 and the aggregate of amounts apportioned to the States under this section for the minimum guarantee shall be treated, for purposes of such section 105(c), as amounts made available under section 105 of such title.

(5) EXTENSION OF OFF-SYSTEM BRIDGE SET-ASIDE.—Section 144(g)(3) of title 23, United States Code, is amended by inserting after "2004" the following: "and in the period of October 1, 2004, through May 31, 2005,".

(c) REPAYMENT FROM FUTURE APPORTIONMENTS.—

(1) IN GENERAL.—The Secretary shall reduce the amount that would be apportioned, but for this section, to a State for programs under chapter 1 of title 23, United States Code, for fiscal year 2005, under a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act by the amount that is apportioned to each State under subsection (a) and section 5(c) for each such program.

(2) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds apportioned under subsection (a) for a program category for which funds are not authorized under a law described in paragraph (1) may be restored to the Federal-aid highway program.

(d) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1101 of the Transportation Equity Act for the 21st Century (112 Stat. 111–115; 117 Stat. 1118; 118 Stat. 876) is amended by adding at the end the following:

"(l) ADVANCE AUTHORIZATION FOR FISCAL YEAR 2005.—

"(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 2(a) of the Surface Transportation Extension Act of 2004, Part V $21,311,774,667 for the period of October 1, 2004, through May 31, 2005.

"(2) SPECIAL RULE.—Funds apportioned under section 2(a) of the Surface Transportation Extension Act of 2004, Part V shall be subject to a limitation on obligations for Federal-aid highways and highway safety construction programs.

"(3) CONTRACT AUTHORITY.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.".

(e) LIMITATION ON OBLIGATIONS.—

(1) IN GENERAL.—Subject to paragraph (2), upon enactment of an Act making appropriations for the Department of Transportation for fiscal year 2005 (other than an Act or resolution making continuing appropriations), the Secretary shall distribute $\frac{8}{12}$ of the obligation limitation for Federal-aid highways and highway safety construction programs provided by such Act according to the provisions of such Act.

(2) EXCEPTIONS.—

(A) DETERMINATION OF AMOUNTS.—Any instruction in such Act that would require the distribution or reservation of obligation limitation prior to distributing the remainder of the obligation limitation to the States shall be executed as if the program, project, or activity for which obligation limitation is so distributed or reserved was authorized at an amount equivalent to the greater of—

(i) the amount authorized for such program, project, or activity in this Act; or

(ii) $\frac{8}{12}$ of the amount provided for or limitation set on such program, project, or activity in the Act making appropriations for the Department of Transportation for fiscal year 2005.

(B) MINIMUM GUARANTEE.—Obligations for the period October 1, 2004, through May 31, 2005, shall not exceed the obligation limitation distributed by this subsection, except that this limitation shall not apply to $426,000,000 in obligations for minimum guarantee for such period.

(3) TIME PERIOD FOR OBLIGATIONS.—After May 31, 2005, no funds shall be obligated for any Federal-aid highway program project until the date of enactment of a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act.

(4) TREATMENT OF OBLIGATIONS.—Any obligation of obligation authority distributed under this subsection shall be considered to be an obligation for Federal-aid highways and highway safety construction programs for fiscal year 2005 for the purposes of any obligation limitation set in an Act making appropriations for the Department of Transportation for fiscal year 2005.

SEC. 3. TRANSFERS OF UNOBLIGATED APPORTIONMENTS.

(a) IN GENERAL.—In addition to any other authority of a State to transfer funds, for fiscal year 2005, a State may transfer any funds apportioned to the State for any program under section 104(b) (including amounts apportioned under section 104(b)(3) or set aside, made available, or suballocated under section 133(d)) or section 144 of title 23, United States Code, before, on, or after the date of enactment of this Act, that are subject to any limitation on obligations, and that are not obligated, to any other of those programs.

(b) TREATMENT OF TRANSFERRED FUNDS.—Any funds transferred to another program under subsection (a) shall be subject to the provisions of the program to which the funds are transferred, except that funds transferred to a program under section 133 (other than subsections (d)(1) and (d)(2)) of title 23, United States Code, shall not be subject to section 133(d) of that title.

(c) RESTORATION OF APPORTIONMENTS.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act, the Secretary of Transportation shall restore any funds that a State transferred under subsection (a) for any project not eligible for the funds but for this section to the program category from which the funds were transferred.

(2) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds transferred under subsection (a) from a program category for which funds are not authorized may be restored to the Federal-aid highway program.

(3) LIMITATION ON STATUTORY CONSTRUCTION.—No provision of law, except a statute enacted after the date of enactment of this Act that expressly limits the application of this subsection, shall impair the authority of the Secretary to restore funds pursuant to this subsection.

(d) GUIDANCE.—The Secretary may issue guidance for use in carrying out this section.

(e) PROHIBITION OF TRANSFERS.—Notwithstanding any other provision of this section, no funds may be transferred by a State under subsection (a)—

(1) from amounts apportioned to the State for the congestion mitigation and air quality improvement program; and

(2) from amounts apportioned to the State for the surface transportation program and that are subject to any of paragraphs (1), (2), and (3)(A)(i) of section 133(d) of title 23, United States Code.

SEC. 4. ADMINISTRATIVE EXPENSES.

(a) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for administrative expenses of the Federal-aid highway program $234,682,667 for fiscal year 2005.

(b) CONTRACT AUTHORITY.—Funds made available by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, and shall be subject to a limitation on obligations for Federal-aid highways and highway safety construction programs; except that such funds shall remain available until expended.

SEC. 5. OTHER FEDERAL-AID HIGHWAY PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE I OF TEA21.—

(1) FEDERAL LANDS HIGHWAYS.—

(A) INDIAN RESERVATION ROADS.—Section 1101(a)(8)(A) of the Transportation Equity Act for the 21st Century (112 Stat. 112; 118 Stat. 877) is amended—

(i) by inserting before the period at the end the following: "and $183,333,333 for the period of October 1, 2004, through May 31, 2005"; and

(ii) by adding at the end the following: "The minimum amount made available for such period that the Secretary, in cooperation with the Secretary of the Interior, shall reserve for Indian reservation road bridges under section 202(d)(4) of title 23, United States Code, shall be $8,666,667 instead of $13,000,000.".

(B) PUBLIC LANDS HIGHWAYS.—Section 1101(a)(8)(B) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $164,000,000 for the period of October 1, 2004, through May 31, 2005".

(C) PARK ROADS AND PARKWAYS.—Section 1101(a)(8)(C) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $110,000,000 for the period of October 1, 2004, through May 31, 2005".

(D) REFUGE ROADS.—Section 1101(a)(8)(D) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $13,333,333 for the period of October 1, 2004, through May 31, 2005".

(2) NATIONAL CORRIDOR PLANNING AND DEVELOPMENT AND COORDINATED BORDER INFRASTRUCTURE PROGRAMS.—Section 1101(a)(9) of such Act (112 Stat. 112; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $93,333,333 for the period of October 1, 2004, through May 31, 2005".

(3) CONSTRUCTION OF FERRY BOATS AND FERRY TERMINAL FACILITIES.—

(A) IN GENERAL.—Section 1101(a)(10) of such Act (112 Stat. 113; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $25,333,333 for the period of October 1, 2004, through May 31, 2005".

(B) SET ASIDE FOR ALASKA, NEW JERSEY, AND WASHINGTON.—To carry out section 1064 of the Intermodal Surface Transportation Efficiency Act of 1991 (23 U.S.C. 129 note; 105 Stat. 2005; 112 Stat. 185; 118 Stat. 878), of funds made available by the amendment made by subparagraph (A)—

(i) $6,666,667 shall be available for section 1064(d)(2);

(ii) $3,333,333 shall be available for section 1064(d)(3); and

(iii) $3,333,333 shall be available for section 1064(d)(4).

(4) NATIONAL SCENIC BYWAYS PROGRAM.—Section 1101(a)(11) of the Transportation Equity Act for the 21st Century (112 Stat. 113; 118 Stat. 878) is amended—

(A) by striking "and" the last place it appears; and

(B) by inserting before the period at the end the following: ", and $17,666,667 for the period of October 1, 2004, through May 31, 2005".

(5) VALUE PRICING PILOT PROGRAM.—Section 1101(a)(12) of such Act (112 Stat. 113; 118 Stat. 878) is amended by inserting before the period at the end the following: ", and $7,333,333 for the period of October 1, 2004, through May 31, 2005".

(6) HIGHWAY USE TAX EVASION PROJECTS.—Section 1101(a)(14) of such Act (112 Stat. 113; 118 Stat. 878) is amended by inserting before the period at the end the following: "and $3,333,333 for the period of October 1, 2004, through May 31, 2005".

(7) COMMONWEALTH OF PUERTO RICO HIGHWAY PROGRAM.—

(A) IN GENERAL.—Section 1101(a)(15) of such Act (112 Stat. 113; 118 Stat. 879) is amended by inserting before the period at the end the following: "and $73,333,333 for the period of October 1, 2004, through May 31, 2005".

(B) CONFORMING AMENDMENT.—Section 1214(r)(1) of such Act (112 Stat. 209; 117 Stat. 1114) is amended by striking "2004" and inserting "2005".

(8) SAFETY GRANTS.—Section 1212(i)(1)(D) of such Act (23 U.S.C. 402 note; 112 Stat. 196; 112 Stat. 840; 118 Stat. 879) is amended by inserting before the period at the end the following: "and $333,333 for the period of October 1, 2004, through May 31, 2005".

(9) TRANSPORTATION AND COMMUNITY AND SYSTEM PRESERVATION PILOT PROGRAM.—Section 1221(e)(1) of such Act (23 U.S.C. 101 note; 112 Stat. 223; 118 Stat. 879) is amended by inserting before the period at the end the following: "and $16,666,667 for the period of October 1, 2004, through May 31, 2005".

(10) TRANSPORTATION INFRASTRUCTURE FINANCE AND INNOVATION.—Section 188 of title 23, United States Code, is amended—

(A) in subsection (a)(1)—

(i) by striking "and" at the end of subparagraph (E);

(ii) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(iii) by adding at the end the following:

"(G) $86,666,667 for the period of October 1, 2004, through May 31, 2005.";

(B) in subsection (a)(2) by inserting after "2004" the following: "and $1,333,333 for the period of October 1, 2004, through May 31, 2005"; and

(C) in subsection (c)—

(i) by striking "2004" and inserting "2005"; and

(ii) by striking the period at the end of the table and inserting the following:

"2005 .... $1,733,333,333.".

(11) NATIONAL SCENIC BYWAYS CLEARINGHOUSE.—Section 1215(b)(3) of the Transportation Equity Act of the 21st Century (112 Stat. 210) is amended by inserting before the period at the end "and $1,000,000 for the period of October 1, 2004, through May 31, 2005".

(b) AUTHORIZATION OF APPROPRIATIONS UNDER TITLE V OF TEA21.—

(1) SURFACE TRANSPORTATION RESEARCH.—Section 5001(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 419; 118 Stat. 879) is amended—

(A) by striking "2003, and" and inserting "2003,"; and

(B) by inserting after "2004" the following: ", and $68,666,667 for the period of October 1, 2004, through May 31, 2005".

(2) TECHNOLOGY DEPLOYMENT PROGRAM.—Section 5001(a)(2) of such Act (112 Stat. 419; 118 Stat. 879) is amended—

(A) by striking "2003, and" and inserting "2003,"; and

(B) by inserting after "2004" the following: ", and $33,333,333 for the period of October 1, 2004, through May 31, 2005".

(3) TRAINING AND EDUCATION.—Section 5001(a)(3) of such Act (112 Stat. 420; 118 Stat. 879) is amended—

(A) by striking "2003, and" and inserting "2003,"; and

(B) by inserting after "2004" the following: ", and $13,333,333 for the period of October 1, 2004, through May 31, 2005".

(4) BUREAU OF TRANSPORTATION STATISTICS.—Section 5001(a)(4) of such Act (112 Stat. 420; 118 Stat. 879) is amended by inserting before the period at the end the following: ", and $20,666,667 for the period of October 1, 2004, through May 31, 2005".

(5) ITS STANDARDS, RESEARCH, OPERATIONAL TESTS, AND DEVELOPMENT.—Section 5001(a)(5) of such Act (112 Stat. 420; 118 Stat. 879) is amended—

(A) by striking "2003, and" and inserting "2003,"; and

(B) by inserting after "2004" the following: ", and $73,333,333 for the period of October 1, 2004, through May 31, 2005".

(6) ITS DEPLOYMENT.—Section 5001(a)(6) of such Act (112 Stat. 420; 118 Stat. 880) is amended—

(A) by striking "2003, and" and inserting "2003,"; and

(B) by inserting after "2004" the following: ", and $81,333,333 for the period of October 1, 2004, through May 31, 2005".

(7) UNIVERSITY TRANSPORTATION RESEARCH.—Section 5001(a)(7) of such Act (112 Stat. 420; 118 Stat. 880) is amended—

(A) by striking "2003, and" and inserting "2003,"; and

(B) by inserting after "2004" the following: ", and $17,666,667 for the period of October 1, 2004, through May 31, 2005".

(c) METROPOLITAN PLANNING.—

(1) AUTHORIZATION OF CONTRACT AUTHORITY.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) to carry out section 134 of title 23, United States Code, $145,000,000 for the period of October 1, 2004, through May 31, 2005.

(2) DISTRIBUTION OF FUNDS.—The Secretary shall distribute funds made available by this subsection to the States in accordance with section 104(f)(2) of title 23, United States Code.

(3) CONTRACT AUTHORITY.—Funds made available by this subsection shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code, and shall be subject to a limitation on obligations for Federal-aid highways and highway safety construction programs.

(d) TERRITORIES.—Section 1101(d)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 111–115; 117 Stat. 1116; 118 Stat. 880) is amended by inserting after "2004" the following: "and $24,266,667 for the period of October 1, 2004, through May 31, 2005".

(e) ALASKA HIGHWAY.—Section 1101(e)(1) of such Act (117 Stat. 1116; 118 Stat. 880) is amended by inserting after "2004" the following: "and $12,533,333 for the period of October 1, 2004, through May 31, 2005".

(f) OPERATION LIFESAVER.—Section 1101(f)(1) of such Act (117 Stat. 1117; 118 Stat. 880) is amended by inserting after "2004" the following: "and $333,333 for the period of October 1, 2004, through May 31, 2005".

(g) BRIDGE DISCRETIONARY.—Section 1101(g)(1) of such Act (117 Stat. 1117; 118 Stat. 880) is amended by inserting after "2004" the following: "and $66,666,667 for the period of October 1, 2004, through May 31, 2005".

(h) INTERSTATE MAINTENANCE.—Section 1101(h)(1) of such Act (117 Stat. 1117; 118 Stat. 880) is amended by inserting after "2004" the following: "and $66,666,667 for the period of October 1, 2004, through May 31, 2005".

(i) RECREATIONAL TRAILS ADMINISTRATIVE COSTS.—Section 1101(i)(1) of such Act (117 Stat. 1117; 118 Stat. 880) is amended by inserting after "2004" the following: "and $500,000 for the period of October 1, 2004, through May 31, 2005".

(j) RAILWAY-HIGHWAY CROSSING HAZARD ELIMINATION IN HIGH SPEED RAIL CORRIDORS.—Section 1101(j)(1) of such Act (117 Stat. 1118; 118 Stat. 881) is amended—

(1) by inserting before "; except" the following: "and $3,500,000 for the period of October 1, 2004, through May 31, 2005"; and

(2) by inserting before "for eligible" the following: "and not less than $166,667 instead of $250,000 shall be available for the period of October 1, 2004, through May 31, 2005,".

(k) NONDISCRIMINATION.—Section 1101(k) of such Act (117 Stat. 1118; 118 Stat. 881) is amended—

(1) in paragraph (1) by inserting after "2004" the following: "and $6,666,667 for the period of October 1, 2004, through May 31, 2005"; and

(2) in paragraph (2) by inserting after "2004" the following: "and $6,666,667 for the period of October 1, 2004, through May 31, 2005".

(l) ADMINISTRATION OF FUNDS.—Funds authorized by the amendments made by this section shall be administered as if the funds had been apportioned, allocated, deducted, or set aside, as the case may be, under title 23, United States Code, except that the deductions under sections 104(a)(1)(A) and 104(a)(1)(B) of such title shall not apply to funds made available by the amendment made by subsection (a)(1) of this section.

(m) REDUCTION OF ALLOCATED PROGRAMS.—The Secretary of Transportation shall reduce the amount that would be made available, but for this section, for fiscal year 2005 for allocation under a program, that is continued both by a multiyear law reauthorizing such program enacted after the date of enactment of this Act and by this section, by the amount made available for such program by this section.

(n) PROGRAM CATEGORY RECONCILIATION.—The Secretary may establish procedures under which funds allocated under this section for fiscal year 2005 for a program category for which funds are not authorized for fiscal year 2005 under a multiyear law reauthorizing the Federal-aid highway program enacted after the date of enactment of this Act may be restored to the Federal-aid highway program.

SEC. 6. EXTENSION OF HIGHWAY SAFETY PROGRAMS.

(a) CHAPTER 1 HIGHWAY SAFETY PROGRAMS.—

(1) SEAT BELT SAFETY INCENTIVE GRANTS.—Section 157 of title 23, United States Code, is amended—

(A) in subsection (a)(3) by striking "2002" and inserting "2003";

(B) in subsection (a)(8)(B) by striking "2002" and inserting "2003";

(C) in subsection (b) by striking "2003" and inserting "2005";

(D) in subsection (c)(1) by striking "2003" and inserting "2004";

(E) in subsection (c)(2) by striking "2003" and inserting "2004";

(F) in subsection (f)(4) by striking "2003" and inserting "2004";

(G) in subsection (g)(1)—

(i) by striking "and"; and

(ii) by inserting before the period at the end the following: ", and $74,666,667 for the period of October 1, 2004, through May 31, 2005";

(H) in the heading to subsection (g)(3)(B) by striking "2004" and inserting "2005"; and

(I) in subsection (g)(3)(B) by striking "2004" and inserting "2005".

(2) PREVENTION OF INTOXICATED DRIVER INCENTIVE GRANTS.—Section 163(e)(1) of such title is amended—

(A) by striking "and"; and

(B) by inserting before the period at the end the following: ", and $73,333,333 for the period of October 1, 2004, through May 31, 2005".

(b) CHAPTER 4 HIGHWAY SAFETY PROGRAMS.—Section 2009(a)(1) of the Transportation Equity Act for the 21st Century (112 Stat. 337; 118 Stat. 886) is amended—

(1) by striking "and"; and

(2) by inserting before the period at the end the following: ", and $110,000,000 for the period of October 1, 2004, through May 31, 2005".

(c) HIGHWAY SAFETY RESEARCH AND DEVELOPMENT.—Section 2009(a)(2) of such Act (112 Stat. 337; 118 Stat. 886) is amended by inserting after "2004" the following: ", and $48,000,000 for the period of October 1, 2004, through May 31, 2005".

(d) OCCUPANT PROTECTION INCENTIVE GRANTS.—Section 2009(a)(3) of such Act (112 Stat. 337; 118 Stat. 886) is amended—

(1) by striking "and" the last place it appears; and

(2) by inserting before the period at the end the following: ", and $13,333,333 for the period of October 1, 2004, through May 31, 2005".

(e) ALCOHOL-IMPAIRED DRIVING COUNTERMEASURES INCENTIVE GRANTS.—

(1) EXTENSION OF PROGRAM.—Section 410 of title 23, United States Code, is amended—

(A) in subsection (a)(3) by striking "7" and inserting "8"; and

(B) in subsection (a)(4)(C) by striking "and seventh" and inserting ", seventh, and eighth".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 2009(a)(4) of such Act (112 Stat. 337; 118 Stat. 886) is amended—

(A) by striking "and" the last place it appears; and

(B) by inserting before the period at the end the following: ", and $26,666,667 for the period of October 1, 2004, through May 31, 2005".

(f) NATIONAL DRIVER REGISTER.—Section 2009(a)(6) of such Act (112 Stat. 338; 118 Stat. 886) is amended by inserting after "2004" the following: ", and $2,400,000 for the period of October 1, 2004, through May 31, 2005".

(g) ALLOCATIONS.—Section 2009(b) of such Act (112 Stat. 338) is amended—

(1) in paragraph (1) by striking "2004" and inserting "2005"; and

(2) in paragraph (2) by striking "2004" and inserting "2005".

(h) APPLICABILITY OF TITLE 23.—Section 2009(c) of such Act (112 Stat. 338) is amended by striking "2004" and inserting "2005".

SEC. 7. EXTENSION OF MOTOR CARRIER SAFETY ADMINISTRATION PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—

(1) IN GENERAL.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Secretary of Transportation to pay administrative expenses of the Federal Motor Carrier Safety Administration $160,552,536 for the period of October 1, 2004, through May 31, 2005.

(2) USE OF FUNDS.—Funds authorized by this subsection may be used for personnel costs; administrative infrastructure; rent; information technology; and programs for research and technology, regulatory development, and other operating expenses and similar matters. Such funds available may also be used to make grants to, or enter into

contracts with States, local governments, or other persons for implementation of the Commercial Driver's License Improvement Grants and the Border Enforcement Grants programs.

(b) Motor Carrier Safety Assistance Program.—Section 31104(a) of title 49, United States Code, is amended by adding at the end the following:

"(8) Not more than $112,512,329 for the period of October 1, 2004, through May 31, 2005.".

(c) Information Systems and Commercial Driver's License Grants.—

(1) Authorization of appropriation.—Section 31107(a) of such title is amended—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by adding at the end the following:

"(6) $13,315,068 for the period of October 1, 2004 through May 31, 2005.".

(2) Emergency CDL grants. From amounts made available by section 31107(a) of title 49, United States Code, for the period of October 1, 2004 through May 31, 2005, the Secretary of Transportation may make grants of up to $665,753 to a State whose commercial driver's license program may fail to meet the compliance requirements of section 31311(a) of such title.

(d) Crash Causation Study.—There shall be available from the Highway Trust Fund (other than the Mass Transit Account) for the Federal Motor Carrier Safety Administration to continue the crash causation study required by section 224 of the Motor Carrier Safety Improvement Act of 1999 (49 U.S.C. 31100 note; 113 Stat. 1770–1771), $665,753 for the period of October 1, 2004 through May 31, 2005.

(e) Contract Authority. Funds made available by this section shall be available for obligation in the same manner as if such funds were apportioned under chapter 1 of title 23, United States Code.

(f) Rule Stay.—The hours-of-service regulations applicable to property-carrying commercial drivers contained in the Final Rule published on April 28, 2003 (68 Fed. Reg. 22456-22517), as amended on September 30, 2003 (68 Fed. Reg. 56208-56212), and made applicable to motor carriers and drivers on January 4, 2004, shall be in effect until the earlier of—

(1) the effective date of a new final rule addressing the issues raised by the July 16, 2004, decision of the United States Court of Appeals for the District of Columbia in Public Citizen, et al. v. Federal Motor Carrier Safety Administration (No. 03-1165); or

(2) September 30, 2005.

SEC. 8. EXTENSION OF FEDERAL TRANSIT PROGRAMS.

(a) Allocating Amounts.—Section 5309(m) of title 49, United States Code, is amended—

(1) in the matter preceding subparagraph (A) of paragraph (1) by inserting "and for the period of October 1, 2004, through May 31, 2005" after "2004";

(2) in paragraph (2)(B) by inserting after clause (ii) the following:

"(iii) October 1, 2004 through May 31, 2005.—Of the amounts made available under paragraph (1)(B), $6,933,333 shall be available for the period of October 1, 2004, through May 31, 2005, for capital projects described in clause (i).";

(3) in paragraph (3)(B) by inserting after "2004" the following: "(and $2,000,000 shall be available for the period October 1, 2004, through May 31, 2005)"; and

(4) in paragraph (3)(C) by inserting after "2004)" the following: ", and $33,333,333 shall be available for the period October 1, 2004, through May 31, 2005,".

(b) Apportionment of Appropriations for Fixed Guideway Modernization.—The Secretary of Transportation shall determine the amount that each urbanized area is to be apportioned for fixed guideway modernization under section 5337 of title 49, United States Code, on a pro rata basis to reflect the partial fiscal year 2005 funding made available by sections 5338(b)(2)(A)(vii) and 5338(b)(2)(B)(vii) of such title.

(c) Formula Grants Authorizations.—Section 5338(a) of such title is amended—

(1) in the heading to paragraph (2) by inserting "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "2004";

(2) by striking "and" at the end of paragraphs (2)(A)(v) and (2)(B)(v);

(3) by striking the period at the end of paragraphs (2)(A)(vi) and (2)(B)(vi) and inserting "; and";

(4) by adding at the end of paragraph (2)(A) the following:

"(vii) $2,201,760,000 for the period of October 1, 2004, through May 31, 2005.";

(5) by adding at the end in paragraph (2)(B) the following:

"(vii) $550,440,000 for the period of October 1, 2004, through May 31, 2005."; and

(6) in paragraph (2)(C) by striking "2003" and inserting the following: "2005 (other than for the period of October 1, 2004, through May 31, 2005)".

(d) Allocation of Formula Grant Funds for October 1, 2004, Through May 31, 2005.—Of the aggregate of amounts made available by and appropriated under section 5338(a)(2) of title 49, United States Code, for the period of October 1, 2004, through May 31, 2005—

(1) $3,233,300 shall be available to the Alaska Railroad for improvements to its passenger operations under section 5307 of such title;

(2) $33,333,333 shall be available for clean fuels formula grants under section 5308 of such title;

(3) $65,064,001 shall be available to provide transportation services to elderly individuals and individuals with disabilities under section 5310 of such title;

(4) $172,690,702 shall be available to provide financial assistance for other than urbanized areas under section 5311 of such title;

(5) $4,633,333 shall be available to provide financial assistance in accordance with section 3038(g) of the Transportation Equity Act for the 21st Century; and

(6) $2,473,245,331 shall be available to provide financial assistance for urbanized areas under section 5307 of such title.

(e) Capital Program Authorizations.—Section 5338(b) of such title is amended—

(1) in the heading to paragraph (2) by inserting "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "2004";

(2) by striking "and" at the end of paragraphs (2)(A)(v) and (2)(B)(v);

(3) by striking the period at the end of paragraphs (2)(A)(vi) and (2)(B)(vi) and inserting "; and";

(4) by adding at the end of paragraph (2)(A) the following:

"(vii) $1,740,960,000 for the period of October 1, 2004, through May 31, 2005."; and

(5) by adding at the end of paragraph (2)(B) the following:

"(vii) $435,240,000 for the period of October 1, 2004, through May 31, 2005.".

(f) Planning Authorizations and Allocations.—Section 5338(c) is amended—

(1) in the heading to paragraph (2) by inserting "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "2004";

(2) by striking "and" at the end of paragraphs (2)(A)(v) and (2)(B)(v);

(3) by striking the period at the end of paragraphs (2)(A)(vi) and (2)(B)(vi) and inserting "; and";

(4) by adding at the end of paragraph (2)(A) the following:

"(vii) $41,813,334 for the period of October 1, 2004, through May 31, 2005.";

(5) by adding at the end of paragraph (2)(B) the following:

"(vii) $10,453,333 for the period of October 1, 2004, through May 31, 2005."; and

(6) in paragraph (2)(C) by inserting "or any portion of a fiscal year" after "fiscal year".

(g) Research Authorizations.—Section 5338(d) of such title is amended—

(1) in the heading to paragraph (2) by inserting "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "2004";

(2) by striking "and" at the end of paragraphs (2)(A)(v) and (2)(B)(v);

(3) by striking the period at the end of paragraphs (2)(A)(vi) and (2)(B)(vi) and inserting "; and";

(4) by adding at the end of paragraph (2)(A) the following:

"(vii) $28,266,667 for the period of October 1, 2004, through May 31, 2005.";

(5) by adding at the end of paragraph (2)(B) the following:

"(vii) $7,066,667 for the period of October 1, 2004, through May 31, 2005."; and

(6) in paragraph (2)(C) by inserting after "a fiscal year" the following: "(other than for the period of October 1, 2004, through May 31, 2005)".

(h) Allocation of Research Funds for October 1, 2004, Through May 31, 2005.—Of the funds made available by or appropriated under section 5338(d)(2) of title 49, United States Code, for the period of October 1, 2004, through May 31, 2005—

(1) not less than $3,500,000 shall be available for providing rural transportation assistance under section 5311(b)(2) of such title;

(2) not less than $5,500,000 shall be available for carrying out transit cooperative research programs under section 5313(a) of such title;

(3) not less than $2,666,667 shall be available to carry out programs under the National Transit Institute under section 5315 of such title, including not more than $666,667 shall be available to carry out section 5315(a)(16) of such title; and

(4) any amounts not made available under paragraphs (1) through (3) shall be available for carrying out national planning and research programs under sections 5311(b)(2), 5312, 5313(a), 5314, and 5322 of such title.

(i) University Transportation Research Authorizations.—Section 5338(e) of such title is amended—

(1) in the heading to paragraph (2) by inserting "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "2004";

(2) in paragraph (2)(A) by inserting after "2004" the following: "and $3,200,000 for the period of October 1, 2004, through May 31, 2005";

(3) in paragraph (2)(B) by inserting after "2004" the following: "and $800,000 for the period of October 1, 2004, through May 31, 2005"; and

(4) in paragraphs (2)(C)(i) and (2)(C)(iii) by inserting after "fiscal year" the following: "(other than for the period of October 1, 2004, through May 31, 2005)".

(j) Allocation of University Transportation Research Funds.—

(1) In general.—Of the amounts made available under section 5338(e)(2)(A) of title 49, United States Code, for the period October 1, 2004, through May 31, 2005—

(A) $1,333,333 shall be available for the center identified in section 5505(j)(4)(A) of such title; and

(B) $1,333,333 shall be available for the center identified in section 5505(j)(4)(F) of such title.

(2) Training and Curriculum Development.—Notwithstanding section 5338(e)(2) of such title, any amounts made available under such section for the period October 1, 2004, through May 31, 2005, that remain after distribution under paragraph (1), shall be available for the purposes identified in section 3015(d) of the Transportation Equity Act for the 21st Century (112 Stat. 857).

(3) Conforming Amendment.—Section 3015(d)(2) of the Transportation Equity Act for the 21st Century (112 Stat. 857; 118 Stat. 884) is amended by inserting "or in the period October 1, 2004, through May 31, 2005" after "2004".

(k) Administration Authorizations.—Section 5338(f) of such title is amended—

(1) in the heading to paragraph (2) by inserting "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "2004";

(2) by striking "and" at the end of paragraphs (2)(A)(v) and (2)(B)(v);

(3) by striking the period at the end of paragraphs (2)(A)(vi) and (2)(B)(vi) and inserting "; and";

(4) by adding at the end of paragraph (2)(A) the following:

"(vii) $41,600,000 for the period of October 1, 2004, through May 31, 2005."; and

(5) by adding at the end of paragraph (2)(B) the following:

"(vii) $10,400,000 for the period of October 1, 2004, through May 31, 2005.".

(l) Job Access and Reverse Commute Program.—Section 3037(l) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5309 note; 112 Stat. 391-392; 118 Stat. 884) is amended—

(1) by striking "and" at the end of paragraphs (1)(A)(v) and (1)(B)(v);

(2) by striking the period at the end of paragraphs (1)(A)(vi) and (1)(B)(vi) and inserting "; and";

(3) by adding at the end of paragraph (1)(A) the following:

"(vii) $80,000,000 for the period of October 1, 2004, through May 31, 2005.";

(4) by adding at the end of paragraph (1)(B) the following:

"(vii) $20,000,000 for the period of October 1, 2004, through May 31, 2005."; and

(5) by inserting before the period at the end of paragraph (2) the following: "; except that in the period of October 1, 2004, through May 31, 2005, not more than $6,666,667 shall be used for such projects".

(m) Rural Transportation Accessibility Incentive Program.—Section 3038(g) of such Act (49 U.S.C. 5310 note; 112 Stat. 393; 118 Stat. 885) is amended—

(1) by adding at the end of paragraph (1) the following:

"(G) $3,500,000 for the period of October 1, 2004, through May 31, 2005."; and

(2) in paragraph (2) by inserting after "2004" the following: "(and $1,133,333 shall be available for the period of October 1, 2004, through May 31, 2005)".

(n) Urbanized Area Formula Grants.—Section 5307(b) of title 49, United States Code, is amended—

(1) in the heading to paragraph (2) by inserting "AND FOR THE PERIOD OF OCTOBER 1, 2004, THROUGH MAY 31, 2005" after "2004"; and

(2) in paragraph (2)(A) by inserting "and for the period of October 1, 2004, through May 31, 2005" after "2004,".

(o) Obligation Ceiling.—Section 3040 of the Transportation Equity Act for the 21st Century (112 Stat. 394; 118 Stat. 885) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) $5,172,000,000 for the period of October 1, 2004, through May 31, 2005.".

(p) Fuel Cell Bus and Bus Facilities Program.—Section 3015(b) of such Act (112 Stat. 361; 118 Stat. 885) is amended by inserting "(or, in the case of the period of October 1, 2004, through May 31, 2005, $3,233,333)" after "$4,850,000".

(q) Advanced Technology Pilot Project.—Section 3015(c)(2) of such Act (49 U.S.C. 322 note; 112 Stat. 361; 118 Stat. 885) is amended—

(1) by inserting "and for the period of October 1, 2004, through May 31, 2005," after "2004,"; and

(2) by inserting "and $3,333,333 for such period" after "$5,000,000 per fiscal year".

(r) Projects for New Fixed Guideway Systems and Extensions to Existing Systems.—Section 3030 of such Act (112 Stat. 373-381; 118 Stat. 885) is amended—

(1) in subsections (a) and (b) by inserting "and for the period of October 1, 2004, through May 31, 2005," after "2004"; and

(2) in subsection (c)(1) by inserting "and for the period of October 1, 2004, through May 31, 2005" after "2004".

(s) New Jersey Urban Core Project.—Subparagraphs (A), (B), and (C) of section 3031(a)(3) of the Intermodal Surface Transportation Efficiency Act of 1991 (105 Stat. 2122; 112 Stat. 379; 118 Stat. 885) are amended by inserting "and for the period of October 1, 2004, through May 31, 2005," after "2004,".

(t) Treatment of Funds.—Amounts made available under the amendments made by this section shall be treated for purposes of section 1101(b) of the Transportation Equity Act for the 21st Century (23 U.S.C. 101 note) as amounts made available for programs under title III of such Act.

(u) Local Share.—Section 3011(a) of the Transportation Equity Act for the 21st Century (49 U.S.C. 5307 note; 118 Stat. 637; 118 Stat. 708; 118 Stat. 886) is amended by inserting "and for the period of October 1, 2004, through May 31, 2005" after "2004".

SEC. 9. SPORT FISHING AND BOATING SAFETY.

(a) Funding for National Outreach and Communications Program.—Section 4(c) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(c)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by inserting "and" after the semicolon at the end of paragraph (6); and

(3) by inserting after paragraph (6) the following:

"(7) $6,666,664 for the period of October 1, 2004, through May 31, 2005;".

(b) Clean Vessel Act Funding.—Section 4(b) of such Act (16 U.S.C. 777c(b)) is amended—

(1) in paragraph (4) by striking the paragraph heading and inserting "FISCAL YEAR 2004";

(2) by redesignating paragraph (5) as paragraph (6); and

(3) by inserting after paragraph (4) the following:

"(5) First 8 Months of Fiscal Year 2005.—For the period of October 1, 2004, through May 31, 2005, of the balance of each annual appropriation remaining after making the distribution under subsection (a), an amount equal to $54,666,664, reduced by 82 percent of the amount appropriated for that fiscal year from the Boat Safety Account of the Aquatic Resources Trust Fund established by section 9504 of the Internal Revenue Code of 1986 to carry out the purposes of section 13106(a) of title 46, United States Code, shall be used as follows:

"(A) $6,666,664 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 5604(c) of the Clean Vessel Act of 1992 (33 U.S.C. 1322 note).

"(B) $5,333,334 shall be available to the Secretary of the Interior for 3 fiscal years for obligation for qualified projects under section 7404(d) of the Sportfishing and Boating Safety Act of 1998 (16 U.S.C. 777g-1(d)).

"(C) The balance remaining after the application of subparagraphs (A) and (B) shall be transferred to the Secretary of Transportation and shall be expended for State recreational boating safety programs under section 13106 of title 46, United States Code.".

(c) Boat Safety Funds.—Section 13106(c) of title 46, United States Code, is amended to read as follows:

"(c)(1) Of the amount transferred to the Secretary of Transportation under paragraph (5)(C) of section 4(b) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(b)), $3,333,336 is available to the Secretary for payment of expenses of the Coast Guard for personnel and activities directly related to coordinating and carrying out the national recreational boating safety program under this title, of which $1,333,336 shall be available to the Secretary only to ensure compliance with chapter 43 of this title.

"(2) No funds available to the Secretary under this subsection may be used to replace funding traditionally provided through general appropriations, nor for any purposes except those purposes authorized by this section.

"(3) Amounts made available by this subsection shall remain available until expended.

"(4) The Secretary shall publish annually in the Federal Register a detailed accounting of the projects, programs, and activities funded under this subsection.".

SEC. 10. BUDGET LIMITATIONS.

(a) Adjustments to Annualized Discretionary Spending Limits.—In the matter that precedes subparagraph (A) of section 251(b)(2) of the Balanced Budget and Emergency Deficit Control Act of 1985, strike "through 2002".

(b) Discretionary Spending Limits.—Section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended as follows:

(1) Strike paragraphs (1) through (7) and redesignate paragraph (8) (which relates to fiscal year 2005) as paragraph (1) and in such redesignated paragraph strike "(1) with respect to fiscal year 2005", redesignate the remaining matter as subparagraph (C), and before such redesignated matter insert the following:

"(1) with respect to fiscal year 2005—

"(A) for the highway category: $31,113,000,000 in outlays;

"(B) for the mass transit category: $1,453,000,000 in new budget authority and $6,535,000,000 in outlays; and".

(2) Redesignate paragraphs (9) through (16) as paragraphs (2) through (9).

(c) Category Defined.—Section 250(c)(4) of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended—

(1) in subparagraph (B) by inserting after "Century" the following: "and the Surface Transportation Extension Act of 2004, Part V"; and

(2) in subparagraph (C)—

(A) by inserting after "Century" the first place it appears the following: "and the Surface Transportation Extension Act of 2004, Part V"; and

(B) by striking "that Act" and inserting "those Acts".

(d) CONFORMANCE WITH THE CONCURRENT RESOLUTION ON THE BUDGET FOR FISCAL YEAR 2005.—Notwithstanding any other provision of law, all adjustments made pursuant to section 110(a)(2) of title 23, United States Code, to sums authorized to be appropriated from the Highway Trust Fund (other than the Mass Transit Account) to carry out each of the Federal-aid highway and highway safety construction programs (other than emergency relief) in fiscal year 2005 shall be deemed to be zero.

(e) SENSE OF CONGRESS ON ADJUSTMENT TO ALIGN HIGHWAY SPENDING WITH REVENUES.—It is the sense of Congress that, in any multiyear reauthorization of the Federal-aid highway program, the alignment of highway spending with revenues under section 251(b)(1)(B)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 should be restructured to minimize year-to-year fluctuations in highway spending levels and to ensure the uniform enforcement of such levels.

(f) SENSE OF CONGRESS ON FULLY GUARANTEED FUNDING.—It is the sense of Congress—

(1) in any multiyear law reauthorizing of the Federal-aid highway program enacted after the date of the enactment of this Act, the level of obligation limitations for fiscal year 2005 under the highway category and the mass transit category in section 8103 of the Transportation Equity Act for the 21st Century (2 U.S.C. 901 note), as amended and extended, should equal the obligation limitations for such categories authorized in such multiyear law;

(2) the highway account category obligation limitation level for fiscal year 2005 should be equal to the sum of the Federal Highway Administration, National Highway Safety Administration, and Federal Motor Carrier Safety Administration obligation limitations for fiscal year 2005 in such multiyear law; and

(3) the mass transit category obligation limitation level for fiscal year 2005 should be equal to the sum of budget authority and obligation limitation authorizations for Federal Transit Administration programs for fiscal year 2005 in such multiyear reauthorization.

SEC. 11. LEVEL OF OBLIGATION LIMITATIONS.

(a) HIGHWAY CATEGORY.—Section 8103(a) of the Transportation Equity Act for the 21st Century (2 U.S.C. 901 note; 112 Stat. 492; 117 Stat. 1128) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) for fiscal year 2005, $35,392,000,000.".

(b) MASS TRANSIT CATEGORY.—Section 8103(b) of such Act (2 U.S.C. 901 note; 112 Stat. 492; 117 Stat. 1128) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following:

"(7) for fiscal year 2005, $7,265,000,000.".

(c) TREATMENT OF FUNDS.—Notwithstanding any other provision of law, funds made available under this Act, including the amendments made by this Act, shall be deemed to be zero for the purposes of section 110 of the title 23, United States Code.

SEC. 12. EXTENSION OF HIGHWAY PROGRAMS THROUGH END OF FISCAL YEAR 2004.

(a) ADVANCES.—Section 2(a) of the Surface Transportation Extension Act of 2003 (23 U.S.C. 104 note; 117 Stat. 1110; 118 Stat. 876) is amended by striking "and the Surface Transportation Extension Act of 2004, Part IV" and inserting "the Surface Transportation Extension Act of 2004, Part IV, and the Surface Transportation Extension Act of 2004, Part V".

(b) AUTHORIZATION OF CONTRACT AUTHORITY.—Section 1101(c)(1) of the Transportation Equity Act for the 21st Century (117 Stat. 1111; 118 Stat. 876) is amended by striking "the period of October 1, 2003, through September 24," and inserting "fiscal year".

(c) LIMITATION ON OBLIGATIONS.—Section 2(e) of the Surface Transportation Extension Act of 2003 (117 Stat. 1111; 118 Stat. 478; 118 Stat. 876) is amended—

(1) by striking paragraphs (1) through (4) and inserting:

"(1) DISTRIBUTION OF OBLIGATION AUTHORITY.—For the fiscal year 2004, the Secretary shall distribute the obligation limitation made available for Federal-aid highways and highway safety construction programs under the heading 'Federal-aid highways' in the Transportation, Treasury, and Independent Agencies Appropriations Act, 2004 (division F of Public Law 108-199; 118 Stat. 291; 118 Stat. 1013), in accordance with section 110 of such Act."; and

(2) by redesignating paragraph (5) as paragraph (2).

(d) PERIOD OF AVAILABILITY.—Obligation authority made available for fiscal year 2004 under section 2 of the Surface Transportation Extension Act of 2003 as a result of the amendments made by this section, that is in addition to obligation authority previously made available for fiscal year 2004 under section 2 of such Act (117 Stat. 1110; 118 Stat. 478; 118 Stat. 627; 118 Stat. 698; 118 Stat. 876), shall remain available for obligation during fiscal years 2004 and 2005, or for additional fiscal years if so made available in a law enacted before the date of enactment of this Act.

(e) PAYMENT FROM FUTURE APPORTIONMENTS.—The Surface Transportation Extension Act of 2003 (117 Stat. 1110) is amended—

(1) by striking section 2(c) (117 Stat. 1111; 118 Stat. 877);

(2) by striking section 3(c)(1) (117 Stat. 1112) and inserting the following:

"(1) IN GENERAL.—As soon as practicable after the date of enactment of the Surface Transportation Extension Act of 2004, Part V, the Secretary of Transportation shall restore any funds that a State transferred under subsection (a)."; and

(3) by striking section 5(n) (117 Stat. 1119; 118 Stat. 483; 118 Stat. 632; 118 Stat. 703; 118 Stat. 881).

(f) SUPPLEMENTAL MINIMUM GUARANTEE.—

(1) GENERAL RULE.—For fiscal year 2004, the Secretary shall allocate among the States amounts sufficient to ensure that each State's percentage of the total apportionments for such fiscal year pursuant to sections 2(a) and 5(c) of the Surface Transportation Extension Act of 2003 and amounts apportioned under this section shall equal the percentage listed for each State in section 105(b) of title 23, United States Code. The shares in such section shall be adjusted in accordance with section 105(f) of such title. The minimum amount allocated to a State under this subsection for the fiscal year shall be $1,000,000.

(2) AUTHORIZATION.—There are authorized to be appropriated out of the Highway Trust Fund (other than the Mass Transit Account) such sums as may be necessary to carry out this subsection for fiscal year 2004.

(3) ADMINISTRATION OF FUNDS.—Funds apportioned to a State under this subsection—

(A) shall be available for obligation in the same manner as if such funds were apportioned to the State under chapter 1 of title 23, United States Code;

(B) shall be combined with funds apportioned to the State for the minimum guarantee program under section 2(a) of the Surface Transportation Extension Act of 2003; and

(C) shall be administered in the same manner as funds apportioned under section 105 of such title.

(4) OBLIGATION LIMITATION.—Funds apportioned under this subsection shall be subject to any limitation on obligations for Federal-aid highways and highway safety construction programs.

(g) CALCULATION OF ESTIMATED TRUST FUND CONTRIBUTIONS.—The amendment made by section 13(c) of this Act shall have no effect on the estimates of tax payments attributable to highway users in each State paid into the Highway Trust Fund for purposes of apportioning funds to States in fiscal year 2004 until enactment of a multiyear law reauthorizing surface transportation programs.

SEC. 13. EXTENSION OF AUTHORIZATION FOR USE OF TRUST FUNDS FOR OBLIGATIONS UNDER TEA–21.

(a) HIGHWAY TRUST FUND.—

(1) IN GENERAL.—Paragraph (1) of section 9503(c) of the Internal Revenue Code of 1986 is amended—

(A) in the matter before subparagraph (A), by striking "October 1, 2004" and inserting "June 1, 2005",

(B) by striking "or" at the end of subparagraph (I),

(C) by striking the period at the end of subparagraph (J) and inserting ", or",

(D) by inserting after subparagraph (J) the following new subparagraph:

"(K) authorized to be paid out of the Highway Trust Fund under the Surface Transportation Extension Act of 2004, Part V.", and

(E) in the matter after subparagraph (K), as added by this paragraph, by striking "Surface Transportation Extension Act of 2004, Part IV" and inserting "Surface Transportation Extension Act of 2004, Part V".

(2) MASS TRANSIT ACCOUNT.—Paragraph (3) of section 9503(e) of such Code is amended—

(A) in the matter before subparagraph (A), by striking "October 1, 2004" and inserting "June 1, 2005",

(B) in subparagraph (G), by striking "or" at the end of such subparagraph,

(C) in subparagraph (H), by inserting "or" at the end of such subparagraph,

(D) by inserting after subparagraph (H) the following new subparagraph:

"(I) the Surface Transportation Extension Act of 2004, Part V,", and

(E) in the matter after subparagraph (I), as added by this paragraph, by striking "Surface Transportation Extension Act of 2004, Part IV" and inserting "Surface Transportation Extension Act of 2004, Part V".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Subparagraph (B) of section 9503(b)(5) of such Code is amended by striking "October 1, 2004" and inserting "June 1, 2005".

(4) CONFORMING AMENDMENT.—Subsection (a) of section 10 of the Surface Transportation Extension Act of 2004, Part IV is amended by striking paragraph (4).

(b) AQUATIC RESOURCES TRUST FUND.—

(1) SPORT FISH RESTORATION ACCOUNT.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking "Surface Transportation Extension Act of 2004, Part IV" each place it appears and inserting "Surface Transportation Extension Act of 2004, Part V".

(2) BOAT SAFETY ACCOUNT.—Subsection (c) of section 9504 of such Code is amended—

(A) by striking "October 1, 2004" and inserting "June 1, 2005", and

(B) by striking "Surface Transportation Extension Act of 2004, Part IV" and inserting "Surface Transportation Extension Act of 2004, Part V".

(3) EXCEPTION TO LIMITATION ON TRANSFERS.—Paragraph (2) of section 9504(d) of such Code is amended by striking "October 1, 2004" and inserting "June 1, 2005".

(c) ALL ALCOHOL FUEL TAXES TRANSFERRED TO HIGHWAY TRUST FUND FOR FISCAL YEAR 2004.—Subparagraphs (E) and (F) of section 9503(b)(4) (relating to certain taxes not transferred to Highway Trust Fund) are each amended by inserting "before October 1, 2003, and for the period beginning after September 30, 2004, and" before "before October 1, 2005".

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) TRANSFERS TO HIGHWAY TRUST FUND.—The amendments made by subsection (c) shall apply to taxes imposed after September 30, 2003.

(e) TEMPORARY RULE REGARDING ADJUSTMENTS.—During the period beginning on the date of the enactment of the Surface Transportation Extension Act of 2003 and ending on May 31, 2005, for purposes of making any estimate under section 9503(d) of the Internal Revenue Code of 1986 of receipts of the Highway Trust Fund, the Secretary of the Treasury shall treat—

(1) each expiring provision of paragraphs (1) through (4) of section 9503(b) of such Code which is related to appropriations or transfers to such Fund to have been extended through the end of the 24-month period referred to in section 9503(d)(1)(B) of such Code, and

(2) with respect to each tax imposed under the sections referred to in section 9503(b)(1) of such Code, the rate of such tax during the 24-month period referred to in section 9503(d)(1)(B) of such Code to be the same as the rate of such tax as in effect on the date of the enactment of the Surface Transportation Extension Act of 2003.

(f) APPORTIONMENT OF HIGHWAY TRUST FUNDS FOR FISCAL YEAR 2004.—Section 9503(d)(3) of the Internal Revenue Code of 1986 shall not apply to any apportionment to the States of the amounts authorized to be appropriated from the Highway Trust Fund for the fiscal year ending September 30, 2004.

The SPEAKER pro tempore. Pursuant to House Resolution 811, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Illinois (Mr. LIPINSKI) each will control 30 minutes.

The Chair recognizes the gentleman from Alaska (Mr. YOUNG).

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, much has been said during the rule about the obvious need for this extension, and I will agree with those who say we need a finalization of the 6-year bill; but this extension gives us time to allow the States to go forth with their construction, with their projects that are necessary, and to keep some stability in our continued efforts to improve the transportation system in this great Nation of ours.

I truly believe this will be the last extension. I have endeavored and will continue to work until we sine die to try to make a finalization of the 6-year bill. I want to make sure everybody understands that just because this is an 8-month extension, it does not mean we have to wait 8 months to get it done. If I can get it done next week, we are going to get it done. If I can get it done the week after that, if we are not here, I cannot do that, but if we can get it done during the lame duck, we can do it then. Or we can do it in February, March, April, May, June, July, or in that period of time. Whatever we have to do, we will do to continue to improve our transportation system in our great Nation.

May I suggest, respectfully, since some have spoken on this bill about the reauthorization, our committee has done its work. The gentleman from Illinois (Mr. LIPINSKI), I see, is managing the bill today instead of the gentleman from Minnesota (Mr. OBERSTAR). We are going to miss him. He is no longer going to be with us next year, but he has done his work as the ranking member of the Subcommittee on Highways, Transit and Pipelines. The gentleman from Minnesota (Mr. OBERSTAR) has done his work; the gentleman from Wisconsin (Mr. PETRI) has done his work. We have done our work, and we have passed this legislation over to the other body.

Now, we can point a lot of fingers and we can say this guy, that person, this other person in the other body did not do it; but in reality there is a difference of philosophies. I personally will say that when we passed this bill in the House, I had $375 billion. That is the number I would like to have. Well, a lot of us would like to have some things which we cannot achieve. We have agreed and we have worked with the other body, and we did reach a number that, to me, was a great victory, $299 billion of contractual authority, $284.3 as obligated dollars, real dollars, with policies and philosophies in the bill. We reached those agreements. But, unfortunately, on both sides of the aisle there are some people in the other body that desire more, and we were unable to reach that agreement because it was not there.

I would have liked to have had what we agreed to, because I think it was the appropriate way to go. It did not mean it would be the final number, but we did not and were not able to achieve that. Consequently, we are here for this extension. As they said in the rules debate, this extension is badly needed to continue the stability of our transportation system.

But I will commit to this House and to this Nation that this committee will continue to work to finish this job and to work with the other body to arrive at a conclusion that I think is long overdue.

In closing, Mr. Speaker, I would suggest to this body that we are on the cusp of a disaster in transportation if we do not act soon. We are gathering in population more each day. We are importing more each day, we are exporting more each day, and we are becoming more congested each day. I am hoping that my State Governors, my State legislators, my State department of transportation and my mayors, all those people understand they too have to participate in solving this problem. It just cannot come from this body. They too must participate with ambitious and visionary ideas in helping to solve our transportation problems.

We all must work together. If we do not, we do not leave the appropriate legacy behind us so this country can continue to grow. I will say, Mr. Speaker, there are some in this country that do not want to improve the transportation system, because they realize if they do not improve upon it, then our ability to be competitive and to be the leaders of the free world will not occur. So I suggest to this body we must awaken the people and make sure they understand the effect upon them and they must respond and ask us, and, yes, their local legislators, their Governors, their mayors, and those people who lead them to say yes to participate together with us so we can solve this problem.

Mr. Speaker, this extension is necessary, and I urge passage of the extension.

Mr. Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I rise in support of the legislation before us.

H.R. 5183, the Surface Transportation Extension Act of 2004, part V, continues the highway construction, highway safety, transit, motor carrier, and surface transportation research programs for 8 months of fiscal year 2005, expiring on May 31, 2005. Fiscal year 2004 is completed in this extension as well. The transportation programs under all previous extensions will be continued under this extension.

This is, we hope, the final short-term extension of the surface transportation programs' authorization. We have gotten extremely close to a fair and broadly accepted conclusion to the House-Senate conference on our multiyear authorization bill, but a stopgap measure is needed, once again, to give us time to finalize this deal.

This short-term extension is a "must-pass" bill. If Congress does not pass a bill and send it to the President today, new highway projects will be shelved, safety grants will not be provided to states, transit construction will be halted, and Federal enforcement of motor carrier safety regulations on the highways and at the borders will end.

H.R. 5183 provides more than $30 billion in new funding authority, which reflects 8 months' worth—or two-thirds of the funding authorization levels the House approved for fiscal year 2005 in TEA LU, H.R. 3550.

I urge my colleagues to support the passage of H.R. 5183 today. It is vitally important that this bill be passed by both the House and senate today, delivered to the President—the bill must be flown down to Florida—and signed before midnight tonight. Our economy cannot withstand the shutdown of the national surface transportation programs.

Mr. LIPINSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on September 29, the bipartisan leadership of the Committee on Transportation and Infrastructure introduced H.R. 5183, the Surface Transportation Extension Act of 2004. H.R. 5183 would extend our Nation's surface transportation programs for an additional 8 months, through May 31, 2005. While I fully support this extension, I am certainly not pleased that we need to consider such a measure once again. This is the fifth such extension we are considering since our highway and transit programs expired exactly 1 year ago.

Earlier this year, my colleagues in this body labored long and very hard to pass H.R. 3550. In writing TEA–LU, our committee considered the interests and needs of almost every single Member of this body.

□ 1115

We held dozens of hearings and we heard from many Members. We heard about their needs in their districts that they represent. Most importantly, we listened. We tried to accommodate the needs of every Member within the $275 billion bill. All in all, I think that the gentleman from Alaska (Chairman YOUNG), the ranking member, the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Wisconsin (Mr. PETRI) and myself on the Committee on Transportation and the Infrastructure did a good job. I believe we wrote a good bipartisan bill.

This body passed TEA–LU by a vote of 357–65. But now many, many months later, this measure is stalled in conference. Let me be clear, the leadership in this body has worked long and hard to negotiate an increase in the funding level from $275 billion to $299 billion. I believe that this is a good funding level. We would all like to have more, but democracy is compromise and we have all had to compromise.

My understanding is that most of my colleagues in this Chamber will accept the $299 billion funding for this bill. The leadership of this body should be commended for their efforts. Unfortunately, the conference is still stalled due to opposition from some Members of the other body.

We simply cannot continue to allow our highway and transit programs to limp along, extension after extension. States and localities are bearing the brunt of this inaction. State DOTs are flatlining their capital budgets. Critical transportation projects are not getting completed. Congestion problems are getting worse.

However, hope springs eternal. I, for one, believe we can get it done. Much like Ronald Wilson Reagan, I am an eternal optimist. I also have faith in our democratic process, and I have faith in our leadership on the committee and in this body. We still have an opportunity to finish negotiations on the highway conference, but to do so I would urge the other body to put aside partisan differences and think about the Nation, and we simply need to get this job done. But for now I urge my colleagues to support the extension.

Mr. Speaker, I reserve the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I reserve the balance of my time.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me this time. First of all, I want to say nothing but kudos to the leadership of this committee, the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), and the subcommittee leadership. This committee has worked together as well as any committee in Congress, particularly during these hard times, on a bill that was entirely responsive to other Members and entirely responsive to the needs of the country.

We can keep extending bills. The problem is we cannot extend the need. The need just gets worse. Many of us are close to desperation now. We have done our work. Our leadership has tried desperately to get this bill out, and we are left with what looks like the sixth extension. The highway bill is about extensions, not bills. This is the first time that I have ever seen a White House that did not want a highway bill, that wanted to go into an election without a highway bill.

Members recognize we had some concerns here and we tried to work them out. I was a conferee, and I understand what those concerns were. My problem with the extension is we are extending with funding from 6 years ago. The problem with that is the need has grown larger and people want this bill because they want whatever new amounts the committees and the Congress can give them.

I will be frank; most of the money that comes to the District of Columbia does not have anything to do with the 600,000 residents of the District of Columbia. My desperation comes because the highway money for my district could just as well be put in the homeland security budget because it is going to go for tunnels and bridges which will get people out of here in the case of an event, and for well-traveled Federal roads which are used by literally millions of commuters and visitors every year. So operating at levels from 6 years ago puts us in a real trick bag. I ask that we finally get this bill out before the end of the year.

Mr. LIPINSKI. Mr. Speaker, I yield 3½ minutes to the gentleman from Oregon (Mr. DEFAZIO).

Mr. DEFAZIO. Mr. Speaker, I would like to thank the gentleman from Illinois (Mr. LIPINSKI) for his tireless work because this will be his last action on this legislation. I would like to thank my colleagues on the committee and the chairman of the committee for their work. If we ran things, we would have already completed a much more robust investment in our roads, bridges, highways and mass transit here in the United States, putting millions of people to work and beginning to deal with the backlog of projects.

Unfortunately, we not only have to deal with the House, the other body, the Senate and the White House; in this case the White House has been the big problem. What we are doing here today will mean no increase. This will be the second year in a row with no increase in transportation infrastructure spending, even with the accelerating rate of deterioration of our bridges, even with growing congestion, no new starts. This does not get anywhere near what we would consider a good push toward dealing with those problems and putting people back to work. But the White House has chosen this extraordinarily low number, $256 billion. They would essentially underspend the highway trust fund. They collect gas tax from Americans and they would divert some of that money to other purposes by borrowing from it instead of fully investing it in roads, bridges, highways and mass transit. That means we are walking away from a lot of jobs. For every $1 billion we invest in transportation, the estimates are that we create 47,500 jobs, not just direct construction jobs which are good jobs which cannot be outsourced out of the United States, but also spill over into communities, small businesses, equipment providers, suppliers; all those people would benefit dramatically.

If we were to adopt the numbers proposed by the Senate at $318 billion, we would create nearly another 2 million jobs. We could use those jobs. It would also help the President, who is dragging his feet on this, to deliver on his promise of creating 2 million jobs, which he has not done yet and is unlikely to be able to accomplish before November except with the stroke of a pen and signing a bill and showing that he will create them in the future. But he is refusing to do that.

Unfortunately, there is hesitation with going forward with a more robust level and challenging the President.

Someone spoke earlier about how the system works, and we have to deal with the Senate and White House, but we have the power to send something to the White House, allow him to veto it, and then override. The first vote I cast in the United States Congress was to override a much more popular President's veto of a highway bill, Ronald Reagan.

This is not only good for the transportation infrastructure, the economy, just-in-time delivery, small businesses, construction workers, it would be of tremendous benefit to the entire economy.

In closing, I want to thank the gentleman from Illinois (Mr. LIPINSKI). He has been a great mentor and friend to me. I will miss him. I am sure that we will take care of him when we do the highway bill next year. Although we do not know how much money we will have, but if we have lots of money, he will still do well, I am sure, and his State will do well.

Mr. LIPINSKI. Mr. Speaker, I yield 2 minutes to the gentlewoman from Florida (Ms. CORRINE BROWN).

Ms. CORRINE BROWN of Florida. Mr. Speaker, first of all I thank the gentleman from Alaska (Mr. YOUNG) and the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. LIPINSKI) for their hard work in pushing for the highest amount possible for our Nation's transportation system. I want to particularly thank the gentleman from Illinois (Mr. LIPINSKI) who I have enjoyed working with over the past 12 years. I thank the gentleman for his leadership.

American transportation infrastructure is in need of sufficient additional funding, particularly as we struggle to finance the security upgrades needed to protect our transportation system from terrorist attack. Transportation projects are also a natural economic development tool which this Nation sorely needs. Department of Transportation statistics show that every $1 billion invested in transportation infrastructure creates 42,000 jobs and $2.1 million in economic activity. It also saves the lives of 1,400 people. We cannot ignore those numbers. Transportation funding is a win/win for everyone involved. States get to improve their transportation infrastructure which creates economic development, puts people back to work, enhances safety and improves local communities.

Unfortunately, we were unable to add a rail title to the bill, but that does not mean that our rail infrastructure is taken care of. We have dangerously underfunded rail security. It is surprising after what happened in Madrid that rail is not a priority in this administration.

By delaying the passage of much-needed legislation, we are doing a disservice to the driving population and the Nation as a whole. The States who are battling red ink want to see a bill passed. Construction companies laying off employees want to see a bill passed, and citizens waiting in traffic jams want to see a bill passed. If this Congress fails to pass a bill funding transportation, shame on us.

Mr. LIPINSKI. Mr. Speaker, I yield 4 minutes to the gentleman from New Jersey (Mr. PASCRELL).

Mr. PASCRELL. Mr. Speaker, the fact is that the importance of infrastructure investments to my home State of New Jersey and our Nation cannot be overstated. More resources are desperately required to satisfy unmet needs, to improve livability, to alleviate congestion, to build safer roads, to upgrade and expand our mass transit system, to facilitate commerce, and create good-paying local construction jobs. Every $1 billion invested in Federal highway and transit spending means over 40,000 jobs are created or sustained.

□ 1130

Why do we only have an extension on the floor today rather than a good 6-year bill, a full 6-year bill that can benefit all of our States? The administration has been one of the biggest roadblocks in our path. For months, the administration would stonewall on supporting the funding necessary to get a right-sized bill. Their original proposal actively ignored new needs, choosing to keep the status quo. They did not want to make the tough choices in an election year to do what is right. The gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Illinois (Mr. LIPINSKI), the gentleman from Wisconsin (Mr. PETRI), et cetera know what is right. They put a lot of hours into this legislation. Both sides of the aisle.

The President has been deafening in his silence on the importance of a highway bill. They choose to hold the highway bill hostage as a credit to their ideology of fiscal responsibility. That is a laugh. It is a joke. Everybody knows it is. This ignores the reality that we are running up record deficits. It ignores the reality that the interest we are paying on the debt, $300 billion this year, is equal to the entire government outlay in 1974.

So it cannot really be an issue of fiscal responsibility. It is just politics, plain and simple. I support the extension because we need to keep the funding flowing to the States, or we will stop those projects right in their tracks. Chairman YOUNG and Ranking Member OBERSTAR understand that we need to keep our States working. They have understood it too well. Our committee to its credit always works in a bipartisan manner. At one point, 74 members of our committee supported a bill which actually provided the level of funding that our own Department of Transportation recommended. Imagine that, actually passing a bill based on need, not politics.

We need to keep up with aging roads and bridges and transit systems. Rather than sitting in traffic, we need to get parents home after work on time to take care of their families. But leadership has held down the investment and is holding back trust fund dollars which would alleviate congestion. Folks are paying gas taxes, user fees, and not spending that money as we should. 1998 was a long way off, the last time we passed this legislation. This is terrible. But we need to do this to keep the projects that are in the ground already working.

I welcome and congratulate the gentleman from Illinois (Mr. LIPINSKI) for the fantastic job that he has done, not on our side of the aisle but for the United States Congress, not only for the people in his district but for all Americans; and we thank him today.

Mr. LIPINSKI. I thank the gentleman from New Jersey very much.

Mr. Speaker, I yield such time as he may consume to the gentleman from Minnesota (Mr. OBERSTAR), the ranking member of the full committee.

Mr. OBERSTAR. Mr. Speaker, I thank the gentleman for yielding me this time.

Here we are again doing an extension. In the famous words of President Reagan, there you go again, doing another extension. But, frankly, you might just call this a no-fault divorce. We tried. The other body tried. The two parties in the other body tried. They could not come to a meeting of the minds. They could not come to a meeting of the minds with the White House. The only body that has its act together is this body. The only group that has its act together is this Committee on Transportation and Infrastructure. We have worked shoulder to shoulder and, may I say, kneecap to kneecap across the table to fashion a bill that is good for America, to move transportation ahead, that would address congestion and safety and mobility of all things in America.

We introduced that bill a year ago at a time when gasoline prices were $1.34 a gallon. They are now consistently well over $2 a gallon all across the country and that 70-plus cents of increase in fuel price, about 60 percent of it, 70 percent of it, is going overseas to OPEC. We are not getting any transportation benefit of that increase in fuel price. Not a penny of that increase in fuel price is going to fill pot holes, build new bridges, improve safety on our highways, build more bicycle lanes.

Incidentally, I must say to the chairman of our committee and ranking member, I thank the ranking member of the subcommittee for managing this bill. It is his last hurrah, if you will, on the House floor in a management position. But I was out on my bicycle doing what I thought was going to be a 20-mile ride this morning, and I got the message that this bill was being called up. It seems the leadership over here just sort of all of a sudden decides in a big rush, this is the time to do this thing without any advance notice. That is not particularly useful. In fact, I was dodging pot holes, cursing the road conditions as most travelers are doing.

But we need to do this. I want to take this opportunity to express my great appreciation to the gentleman from Illinois for his 2-decade tenure in this House, for the partnership that we have had, on aviation, on surface transportation, on railroads, on water resource issues, everything that has affected this committee. He has really devoted his career to the work of this committee. The gentleman has absorbed the subject matter and made it a core of his service in the Congress. He has not only served his district well and his State well; he has served the Nation well. I salute the gentleman from Illinois on this, his last opportunity to manage a major transportation bill.

Perhaps there may be another opportunity. We never know. But it may be the last. One never knows what happens in this body. Winds blow. Conditions change. The barometer rises. The barometer falls. Something happens. It can all happen in the blink of an eye, and we could have a major bill back on the House floor yet before this Congress adjourns.

I regret, frankly, that we are here with an extension, that we are not here doing the TEA-LU bill that the chairman of the full committee and I and the gentleman from Wisconsin (Mr. PETRI) and the gentleman from Illinois (Mr. LIPINSKI) and our committee staff and members have worked so hard to fashion, because we know that at $375 billion, that is the level of investment America needs to move this country ahead, at a time when global mobility at home is a cornerstone of our global presence in international competition in the marketplace.

About 6 months ago, I visited China to speak at an aviation conference and traveled to the city of Laiwu, which is the home of a steel mill which is a part owner in an iron ore mine in my district. I traveled from Jinan 2 hours to Laiwu. Jinan is a city of 6 million people. Laiwu is a city of 1.2 million people. They have a six-lane divided, controlled-access superhighway connecting these two cities, the vanguard of the equivalent of our interstate highway system which China is planning to build in the next 15 years to invest well over $200 billion in improving their mobility, their ability to move goods to market and people to their destinations; and they are doing it with the savings of the Chinese people who have a savings rate of over 60 percent.

They are investing $200 billion in modernizing their ports, they are halfway through a $100 billion airport modernization plan, and we are sitting here, standing here, advancing the cause of transportation by taking the 6-year-old TEA-21 and moving it incrementally forward and saying, sorry, folks, this is the best we can do. That is not right. This committee knows what is right.

Members of this committee have worked hard. They understand transportation problems. They understand what America needs. They understand the needs of mobility. They understand the needs of safety and investment in America. Yet because of ideological hard-and-fast positions by the White House and divisiveness over in the other body, we cannot move the agenda ahead.

I say, let us pass this bill. Let us inch forward. Let us come back after this Congress has concluded its business and into the next Congress and do the right thing for America. Make the right investments. Let us move America ahead in the way we know it needs to move, keep our mobility, keep our marketplace production and productivity and reduce the cost of moving people and goods in America.

Exactly 1 year ago today we ended an era: The era in which our Nation's transportation policy was governed by legislation establishing a multiyear plan with the funding needed to implement the plan.

During the past year, our national transportation policy has gone forward in fits and starts, by extensions of a month or two.

Just over a year ago, on September 24, 2003, when this House was considering the first surface transportation extension bill, I stated: "I am afraid . . . we will be back here on this floor once again pleading for another extension of time to keep transportation programs from once again expiring. . . . I do not want to be back on this floor saying again what I said 6 years ago, time is running out." What I predicted then has repeatedly proven correct—we have had 5 additional extensions since that day. And here we are today pleading once again for a temporary extension of authorization for highway construction, highway safety, and public transportation funding.

Our inability to enact legislation to reauthorization surface transportation programs is caused by an administration guided by ideology rather than good transportation policy and by the unwillingness of the Republican leadership in Congress to let the people's branch of government work its will.

Analysis by the U.S. Department of Transportation shows that we need to invest $375 billion to maintain and improve our aging infrastructure. On November 19, 2003, the Committee on Transportation and Infrastructure introduced H.R. 3550, authorizing that same amount—$375 billion for the highway, transit, and transportation safety programs for the next 6 years. The T&L Committee marked up that legislation and unanimously voted it favorably to the House, but the Republican leadership blocked its consideration because of objections from the administration to the funding level. But that funding level was derived from the administration's own analysis, and the bill, included proposals to fully fund the investments. Nevertheless, our committee was prevented from moving the bill through the legislative process.

That 1-year delay has been costly to our Nation. AASHTO, the American Association of State Highway and Transportation Officials, estimated when the first extension was about to expire early this year that failure to enact a long-term reauthorization would mean a $2.1 billion increase in project costs and a loss of more than 90,000 jobs that could have been created a long-term authorization bill.

Today, we continue our muddling through, debating on a measure that would temporarily extend funding authorization for another 8 months before the current extension expires at midnight. This is no way to do business, especially when we are dealing with costly, multiyear transportation projects that require long-term certainty in planning, development, and financing. I can only imagine what further damage we have now done, and at what new financial cost due to another year of inadequate funding levels.

The extension bill now before us provides some modest increase in the investment levels of a number of the highway and transit programs, other programs are less fortunate. Their funding is held constant at the FY 2003 levels. Moreover, the insistence on passing "clean" extension bills, Congress has not been able to modify or update current surface transportation programs and policies that are in need of such adjustment.

Overall, this bill would provide $24.5 billion in contract authority for the 8 months ending on May 31, 2005, for highway programs. This is based on $36.76 billion for the entire fiscal year 2005. Of these amounts, $21.3 billion for 8 months is guaranteed. For transit programs, this bill would provide $5.17 billion guaranteed funding for 8 months.

Despite the fact that the funding levels included in our original bill were derived from the Department of Transportation's highway and transit needs report, the administration has strongly opposed additional infrastructure investment. The President's budget to Congress flat-lined the highway and transit programs. The President's bill did not include one additional dollar for highway and transit investment, nor would it produce one additional job in the transportation construction sector, over the next 6 years.

But what's worse is the mess we have created in the last year. The lack of vision, the lack of a clear plan, the continual struggle to give States scraps from the table. We should do better.

Mr. LIPINSKI. Mr. Speaker, I thank the gentleman from Minnesota for those words, particularly those kind words about myself.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON).

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, allow me to thank the great leadership we have on this committee and the diligence with which they have led us and with which we have worked. The gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Mr. OBERSTAR), the gentleman from Wisconsin (Mr. PETRI), and the gentleman from Illinois (Mr. LIPINSKI), the members of the committee respect and honor their leadership. It makes for a very good committee.

Three in four Americans now believe that the Nation is facing a transportation capacity crisis. Our infrastructure desperately needs attention. There are 17 bridges in my district alone that are currently in critical condition. Yet in spite of this, we stand poised to shortchange the American people with another short-term highway extension.

If you poll any local, State, or transportation industry representatives, they will tell you that the transportation needs of this country will only be met by passing a fully funded 6-year bill, $376 billion, but no less than $319 billion. We did not pull these numbers out of the air. They are numbers from the administration's own Department of Transportation's research and assessment. Our leaders in this committee traveled this country looking at conditions to verify what we have been told by the administration.

It is ironic that the current argument is over funding levels. Yet the longer we delay in enacting a fully funded transportation bill, the costs associated with addressing our Nation's infrastructure will continue to rise. So just neglecting going through and doing what is right, we are going to cause ourselves to spend more money.

If the Republican administration can find time to place such a great emphasis on the reconstruction of other countries, surely priority should be given to our Nation's crumbling infrastructure and bringing the needed jobs. Our constituents are counting on us to do the right thing and we really should not let them down. We have cars collapsing on bridges. The highways are so bad until accidents are being caused. It is time for us to stand up and pass this bill and do something for our Nation and bring about good jobs.

Mr. LIPINSKI. Mr. Speaker, I yield myself the balance of my time.

First of all, I want to once again say that I appreciate the kind words the gentleman from Minnesota had to say about me. I would like to say that I learned a great deal from him over the course of my time here in the House of Representatives. Oftentimes I refer to him as Mr. Transportation, and I sincerely mean that. He probably knows more about transportation than anyone I have met in the 22 years I have been in the House of Representatives and he has certainly been enormously helpful to me in my career here. I also want to thank Chairman YOUNG and Chairman PETRI for including me as much as they have in the deliberations on this bill, through the subcommittee, the full committee, the House floor, and in the conference committee. I have really felt like a partner in this legislation. If I had been in the majority, I do not think that I could have been treated any better than I was by Chairman YOUNG and Chairman PETRI, and I sincerely appreciate that.

It has been very enjoyable working on this bill. I have been very pleased, as I say, with the participation that we have been given by the majority. There has been a lot of talk here today about this bill not becoming law and us not getting out of conference. I simply want to say, and I will preface this for the benefit of the few people who do not know, the Speaker of the House and I have a very good relationship and we have had for a long time. So I say that because I want to say that no one has worked harder to get this bill passed into law than DENNY HASTERT. I know that Chairman YOUNG has had many, many meetings with him.

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I know that the Speaker has gone to the White House on countless occasions. I know he has talked to the Senators, the Senate conference committee members. I know that the gentleman from Alaska (Chairman YOUNG); the gentleman from Minnesota (Mr. OBERSTAR), ranking member; the gentleman from Wisconsin (Mr. PETRI) have worked very hard on this bill. But I do not think they worked any harder on getting this bill passed than the gentleman from Illinois (Speaker HASTERT) has, and I want to make sure everyone understands that in this body. Yes, we have problems. Yes, the Republicans control the White House, the Senate, and the House. But as I know from Illinois, where the Democrats control the governorship, the Senate, and the House, sometimes when one party controls everything, they do not quite get along as well as they would have if they were in the minority. So I appreciate that. I understand that.

I would also like to say in conclusion that there have been people who have helped our staff and helped the Democratic side considerably. That is, people from the House Legislative Counsel, Dave, Curt, and Rosemary; from DOT, Megan, Brigham, Jim, Gary; from NHTSA, Scott, Brian, Marlene; from FTA, William, Kris, Rita; from FHWA, Ross, Sue, Carolyn, and Susan. And certainly, David and Ward on our staff here have put an awful lot of work into this bill.

I am still hopeful that when we get back from our recess during the course of the election period of time that we will be able to pass this bill so that I will still be here in the House of Representatives when this bill becomes law. I am for the extension. Let us move on it. Let us get back to work trying to be bring this bill to conference.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield myself such time as I may consume.

In closing, this is a time that is always difficult for someone who has served with something for so long, but I will tell the gentleman from Illinois (Mr. LIPINSKI) we are going to miss him. We are going to probably see him. But as Members leave this body that have contributed to not only their districts but the Nation, it is a loss. We know that. I know he knows that. But I also respect his desire to go and do bigger and greater things. But I look forward to seeing him back on the Hill during this period of time in the near future so that we can communicate and work together on a cause that he has great feeling for, and that is transportation. And he can be assured that I will always be there to hear his wisdom, and he can be sure that I and the gentleman from Minnesota (Mr. OBERSTAR) are going to accomplish the goals along with our subcommittee chairman on this transportation bill, I hope in the near future. If we cannot, it will be, not in the far future, but in the close future. So, again, I wish him Godspeed and be well on his travels. We will miss him.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today in support of the Surface Transportation Extension Act, which extends funding for vital highway and transit programs for eight months, through May 31, 2005. I want to thank Chairman YOUNG and Ranking Member OBERSTAR for working to pass an extension that is fair and equitable. They have had to deal with the truly difficult task of coming to agreement on a multi-year transportation agreement and I commend them on the job they have done so far.

I am pleased to hear that this current extension has been made much more fair and equitable to all states through the use of current gas tax contribution data instead of the proposed use of outdated data. The use of outdated data would have meant that a number of states led by Texas would not have received the proper amount of funding due to them. This extension is now in line with the funding formula structure of the Federal-Aid Highway program as stipulated by TEA 21's Minimum Guarantee program that provides all states at least a 90.5 percent rate of return from each state's federal gas tax contributions through the core highway formula programs and High Priority Projects.

Had the outdated gas tax contribution data been used Texas would have stood to lose $115.8 million in contract authority. Clearly, this simple issue of using current data could have been devastating to transportation projects in the state of Texas and would have been inequitable considering Texas's increased contribution to the federal Highway

Trust Fund. Again, I commend Chairman YOUNG and Ranking Member OBERSTAR for having the foresight to correct this inequity and ensure that states that contribute to the federal Highway Trust Fund are given a proper rate of return.

This extension provides an advance of $21.3 billion in contract authority for federal-aid highway programs for the eight-month period. It also sets an obligation limit of $^{8}/_{12}$ of the obligation limit in the FY 2005 Transportation-Treasury appropriations measure, which should provide about $24.5 billion over the eight-month period. This money is necessary as we continue vital highway construction projects that will benefit the American people.

This extension also suspends the Harry Byrd Rule, which prevents highway spending from exceeding gas-tax revenues. This year, the estimated receipts for the trust fund fell, which may have triggered a reduction in the apportionments to the states. By suspending the Harry Byrd Rule, the extension prevents states from receiving reduced allocations at a time when most states are in dire need of additional transportation funding.

As a body we must insist on a proper agreement for a long term transportation agreement because it is of such vital interest to our Nation. Investments in our Nation's surface transportation infrastructure create millions of family-wage jobs and billions of dollars of economic activity. Each $1 billion of Federal funds creates 47,500 jobs and $6.1 billion in economic activity. In addition, this investment in transportation infrastructure will increase business productivity by reducing the costs of producing goods in virtually all industrial sectors of the economy. Increased productivity results in increased demand for labor, capital, and raw materials and generally leads to lower product prices and increased sales.

Because so much is literally riding on a transportation agreement for the 21st Century we must insist on a balanced surface transportation program that serves the mobility needs of our country in a manner consistent with key Democratic principles, including: economic growth, intermodalism, security, safety, continuity, equal opportunity, protecting our human and natural environment, rebuilding our transit and highway systems, encouraging alternative transportation, encouraging smart growth, encouraging advanced technology solutions, and protecting the rights of workers in transportation industries. While I am satisfied with this current extension I look forward to the day when we can pass a comprehensive and equitable transportation agreement that serves the 21st Century transportation needs of the American people.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MILLER of Florida). All time for debate has expired.

Pursuant to House Resolution 811, the bill is considered read for the amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. DEFAZIO

Mr. DEFAZIO. Mr. Speaker, I offer motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. DEFAZIO. I am, Mr. Speaker, in its present form.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. DEFAZIO moves to recommit the bill H.R. 5183 to the Committee on Transportation and Infrastructure with instructions to report the same back to the House promptly with an amendment increasing each number in the bill by 12.8485 percent.

Mr. DEFAZIO (during the reading). Mr. Speaker, I ask unanimous consent that the motion to recommit be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes in support to his motion.

Mr. DEFAZIO. Mr. Speaker, this is a straightforward motion within the parliamentary constraints of the House. Some might say, because we would ask the bill to be sent back promptly, that we are dooming it to death.

We have been waiting 11 months for a highway bill, 11 months since the last one expired. Give us 2 hours, and we will give them a lot more investment and a lot more jobs. We can deliver this bill back within 2 hours. The House could pass a bill at the Senate levels this evening.

All across America that would make a big difference. Across the entire country, that would mean that we would have, if we adopted that level ultimately for 6 years, an increase of $37 billion in spending. That is 1.7 million jobs; 1.7 million jobs could be created. We could begin to deal with the 161,000 bridges in this country that are structurally deficient, one in four. My own little State has a $4.7 billion bridge problem.

We are trying to do our own part, as the chairman asked. We have raised registration and other fees. But we need a little bit of help because this is Interstate 5, the federal highway that goes between Canada, Mexico and includes Oregon, Washington, and California. There is some federal obligation, I believe, to help maintain that highway.

This has been a maddening process for those of us who care about transportation, who care about our failing bridges and the potholes and our congestion and the lack of new starts and mass transit, all those things. If we had our way, we would have significantly more investment, according to a unanimous vote of the committee on which I serve, bipartisan. We voted for the number which has been outlined by the President's own Department of Transportation, $375 billion over 6 years. And even that would not take care of all the problems, but it would sure be a lot more to address them. But the President has taken a hard line at $259 billion, far below the number passed by the House, way below the number passed by the Senate, and about one-third below the number recommended by his own experts. This is inexplicable. This is investment. This is paid for out of gas taxes, which each and every American pays every time they tank up their car. We owe them an obligation to make this investment, not to stick with the levels of that are now 6 years out of date under the old legislation but to look at something that will spend more, begin to deal more with the backlog, put more people to work. We could help the President deliver on his own promise. This would create 1.7 million jobs. The President could sign a bill which we could have back and have ready for consideration by five o'clock tonight. He could sign it tomorrow in the Rose Garden, and he could refute the claims of his opponent that he had lost 1.7 million jobs because he would just have signed a bill to create 1.7 million jobs.

For the life of me, I do not understand the reluctance at the White House to invest the people's tax dollars paid for every time they tank up their car in investment in the people's infrastructure, the infrastructure that will benefit not only individuals but businesses all across America who depend upon just-in-time delivery. Just-in-time delivery is pretty hard when they have got to detour a truck over the Cascade Mountains in Oregon, down the far side and then back down again to I-5 because of failed bridges. And that is unique. That kind of thing takes place all across America. Trucks are detouring hundreds of miles out of their way, wasting fuel, wasting time, making us less efficient because the Federal Government says we do not have the money to catch up with this backlog on bridges.

Well, we do have the money. We are taxing the people. We should adopt a more robust level. We should deal with some of the problems and the disparities among the States, the whole issue that States give a whole bunch more in than they get back. But we cannot do that unless we have higher levels of funding. It is impossible.

And that is what this amendment does, very simply. It would bring the bill back later this evening, spending at the levels of the Senate bill, which would put over 6 years, if finally adopted, 1.7 million people to work, 20,000 people in my State, and begin to defray that backlog.

I would hope that we will pass this motion unanimously and make the investment that we need. And I think the

President will sign it. I doubt very much he will see fit to veto the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Alaska. Mr. Speaker, I yield 1½ minutes to the gentleman from Wisconsin (Mr. PETRI).

Mr. PETRI. Mr. Speaker, I thank the chairman for yielding me this time.

I would hope that we not pass this motion immediately. I understand the point that is being made, and it is perfectly reasonable. But the fact is that we are currently operating under a continuing resolution. It expires at midnight tonight, and if we do not get this measure through the Senate and to the President, who is down in Florida on other business, before that time, some of the money that would otherwise be spent on transportation, some of the jobs that would otherwise exist in the transportation sector will be lost.

And the motion is very short. It simply changes the numbers in the bill by 12 and a fraction percent. But, in fact, trying to figure out how that would work in practice and the consequences of it, it would be anything but short. This would endanger the ability to continue our transportation programs.

Mr. DEFAZIO. Mr. Speaker, will the gentleman yield?

Mr. PETRI. I yield to the gentleman from Oregon.

Mr. DEFAZIO. Mr. Speaker, I thank the gentleman for yielding to me.

My staff says that they can do the computer runs and have the numbers within 2 hours, which would give us ample time to get the bill faxed before the President for signature before midnight tonight.

Mr. PETRI. Mr. Speaker, reclaiming my time, I am not talking about the mechanics of running the numbers. I am talking about the mechanics of operating the political machinery in order to get something that, in fact, would be passed by the Senate and signed by the President.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in opposition to the motion to recommit.

I know my good friend from Oregon is a good soldier, and I understand what he is trying to do, but I hope no one takes it too seriously because this would kill this legislation that we have today for an extension of our highway program which would cost us about 150,000 immediate jobs, disrupt all State programs, all projects in districts and, in fact, create chaos. And there is a time problem because the reality is that this has to be signed by the President tonight or it does come to a halt. And so what we have to do now is pass this legislation, vote against this motion to recommit, pass this legislation and send it over to the Senate. And I am not speaking too broadly about the Senate because we do not control it, and I know I am not supposed to mention it. But the other body must also act. And then it has to get on an airplane and be flown to Florida because there is the big debate tonight. And he has to sign it. I am sure it is not a big deal with the President, but it is necessary for highway projects.

And just tongue in cheek, to the gentleman from Oregon, the way his motion to recommit is that each number in the bill would have to be raised 12.84, 12.85 percent, and that means that H.R. 5183 would no longer be H.R. 5183, it would be, I guess, 52.6 or something, and all the numbers in the bill, instead of section 22, it would have to be section 22.8 and on down the line.

I understand the reasoning why, but I do urge my colleagues to think very seriously about it. Let us keep the course. Vote against the motion to recommit and then pass this legislation so we can continue our transportation needs in this country, not to the degree we want but what is necessary at this time.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

Mr. DEFAZIO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on the motion to recommit will be followed by 5-minute votes on passage of H.R. 5183, if ordered; the motion to suspend the rules on H.R. 5149; and the motion to suspend the rules on H.R. 4231.

The vote was taken by electronic device, and there were—yeas 199, nays 218, not voting 15, as follows:

[Roll No. 480]

YEAS—199

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gephardt
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Herseth
Hill
Hinchey
Hinojosa
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
John
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Menendez
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NAYS—218

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul

Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—15

Boehlert
Brown, Corrine
Cannon
Davis (IL)
Diaz-Balart, L.
Diaz-Balart, M.
Harman
Harris
Hastings (FL)
Meek (FL)
Meeks (NY)
Nethercutt
Ros-Lehtinen
Tauzin
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1223

Mr. MORAN of Virginia changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. DEFAZIO. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 409, noes 8, not voting 15, as follows:

[Roll No. 481]

AYES—409

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOES—8

Flake
Franks (AZ)
Hensarling
Jones (NC)
Oxley
Paul
Stearns
Toomey

NOT VOTING—15

Boehlert
Brown, Corrine
Cannon
Davis (IL)
Diaz-Balart, L.
Diaz-Balart, M.
Harman
Harris
Hastings (FL)
Meek (FL)
Meeks (NY)
Nethercutt
Ros-Lehtinen
Saxton
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1230

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5183.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Alaska?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, 5-minute voting will resume.

There was no objection.

WELFARE REFORM EXTENSION ACT, PART VIII

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 5149.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the bill, H.R. 5149, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 416, nays 0, not voting 16, as follows:

[Roll No. 482]

YEAS—416

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—16

Boehlert
Brady (TX)
Brown, Corrine
Cannon
Davis (IL)
Diaz-Balart, L.
Diaz-Balart, M.
Gephardt
Harman
Harris
Hastings (FL)
Meek (FL)
Meeks (NY)
Nethercutt
Ros-Lehtinen
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1239

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

DEPARTMENT OF VETERANS AFFAIRS NURSE RECRUITMENT AND RETENTION ACT OF 2004

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and passing the bill, H.R. 4231, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4231, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 411, nays 1, not voting 20, as follows:

[Roll No. 483]

YEAS—411

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moran (KS)
Moran (VA)

Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Smith (MI)

NOT VOTING—20

Allen
Boehlert
Brown, Corrine
Cannon
Davis (IL)
Diaz-Balart, L.
Diaz-Balart, M.
Eshoo
Gephardt
Harman
Harris
Hastings (FL)
Meek (FL)
Meeks (NY)
Moore
Nethercutt
Pence
Ros-Lehtinen
Tauzin
Turner (TX)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 2 minutes remain in this vote.

□ 1247

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Ms. HARRIS. Mr. Speaker, due to unavoidable circumstances this morning, I was unable to participate in the first series of votes in the House of Representatives. Had I been present, the following affirms my voting intent: On rollcall vote No. 480: "No." On rollcall vote No. 481: "Aye." On rollcall vote No. 482: "Aye." On rollcall vote No. 483: "Aye."

□ 1245

PROVIDING FOR CONSIDERATION OF H.J. RES. 106, MARRIAGE PROTECTION AMENDMENT

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 801 and ask for its immediate consideration.

The Clerk read the resolution as follows:

H. RES. 801

Resolved, That upon the adoption of this resolution it shall be in order to consider in the House the joint resolution (H.J. Res. 106) proposing an amendment to the Constitution of the United States relating to marriage. The joint resolution shall be considered as read for amendment. The previous question shall be considered as ordered on the joint resolution to final passage without intervening motion except: (1) two hours and 30 minutes of debate on the joint resolution equally divided and controlled by the Majority Leader and the Minority Leader or their designees; and (2) one motion to recommit.

SEC. 2. During consideration of H.J. Res. 106 pursuant to this resolution, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the joint resolution to a time designated by the Speaker.

The SPEAKER pro tempore (Mr. SIMPSON). The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, on Tuesday, the Committee on Rules met and granted a closed rule for H.R. 106, the marriage protection amendment. The rule provides 2 hours and 30 minutes of debate, equally divided and controlled by the majority leader and the minority leader or their designees.

H.J. Res. 106 proposes an amendment to the Constitution of the United States relating to marriage. The amendment states that "Marriage in the United States shall consist solely of the union of a man and a woman. Neither this constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than a man and a woman."

The constitutional amendment process is the most democratic process in our Federal system, and it requires approval from two-thirds of each House of Congress and three-quarters of the States by votes of their State legislators.

This bill has come up because same-sex marriage advocates have been using the courts and even local officials who have intentionally violated the law to circumvent the democratic process. Passing a constitutional amendment will place the debate where it belongs, with the American people.

Forty-four States have already enacted laws that provide that marriage shall consist only of the union of a man and a woman. Those forty-four States represent 88 percent of all the States and 86 percent of the population.

As President Bush said in his State of the Union address, if judges insist on forcing their arbitrary will upon the people, the only alternative left to the people would be the constitutional process. To that end, I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCGOVERN. Mr. Speaker, I thank the gentlewoman from North Carolina (Mrs. MYRICK) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, this is another sad day for the House of Representatives and for the people that we serve. Once again, some in the leadership of this House, including and especially the majority leader, have brought a divisive, unnecessary, and just plain mean-spirited bill to the floor in order to advance their own partisan political interests.

Once again, they have decided to ignore unemployment, ignore the health care crisis, ignore record deficits, ignore national security, in short to ignore the real concerns of the American people. Why?

You can find the answer just by looking at the calendar. We are 5 weeks from an election and there are some, not all, but some Members on the other side of the aisle who have chosen to put aside the important work we need to do.

By today, the 13 appropriation bills should have been signed into law. So far, only one has the President's signature. Where is the Homeland Security appropriation bill? Can anyone really say with a straight face that a constitutional amendment beating up on gay people is more important than funding our Homeland Security needs? How about the recommendations of the bipartisan 9/11 Commission, or the transportation bill? How about funding for schools and hospitals and veterans? They are nowhere to be found. Instead, we get legislative gay bashing. Another sad day.

Today, we are being asked to consider H.J. Res. 106, which would amend the United States Constitution to ban gay marriage, to ban civil unions, and to abolish the ability of States to interpret their own State constitutions. So this is no small matter.

It is important to note at the outset that the Constitution clearly prohibits the government from interfering with the marriages performed by religious institutions. Our Founding Fathers were very clear about this. The government cannot force any church or synagogue or mosque to perform a religious marriage. That will not change, no matter what happens today.

Now, there are several fundamental problems with this amendment. First, it has long been the tradition in this country that States, not the Federal Government, have the right to regulate marriage and other issues of family law. And States are already addressing same-sex marriage. When the Hawaii Supreme Court held that denying same-sex couples the right to marriage violated the Hawaii constitution, the voters of Hawaii passed a constitutional amendment allowing the State legislature to limit marriage to different-sex couples.

The people of Alaska amended their constitution to define marriage as a union between one man and one woman after an Alaskan trial court held denying the right of marriage to same-sex couples violated the Alaskan constitution.

States all across the country are moving in similar directions, but that is not good enough for the supporters of this amendment. They believe that the only way to address this issue is to add discrimination to the United States Constitution.

Of course, the irony in all of this is that the Defense of Marriage Act, or DOMA, was signed by President Clinton and is already the law of the land. Under DOMA, States can already refuse to recognize marriages from States with different policies.

I guess that fact does not make for very good press releases or 30-second political attack ads.

Second, if this amendment becomes the law of the land, civil union and domestic partnership laws all across the country will be thrown out the window. Things like hospital visitation rights, family medical leave, and inheritance rights can be taken away.

According to the Coalition Against Discrimination in the Constitution, an organization of civil-rights groups, labor unions, and religious organizations, this constitutional amendment would likely prevent the civil unions enacted by the States of Vermont and California.

Now, we will hear a lot of talk from people on the other side of the debate today about Massachusetts, so let me talk about my home State. Our State Supreme Court decided in favor of same-sex marriage last year. And right now there is a legislative process underway in which the people of Massachusetts will have the opportunity to change our own State constitution to prohibit same-sex marriage, if they so choose.

The interesting thing is that I doubt that it will succeed in Massachusetts. Starting on May 17, 2004, gay men and women in Massachusetts got married, and guess what? The world kept spinning on its axis, the sun came up the next day, people went to work, sent their kids to school and cheered for the Red Sox. So we are doing just fine in Massachusetts, thank you very much. And we certainly do not need anyone from Colorado or Georgia or Texas telling us how to handle the marriage issue in our own State.

The impeccably conservative Vice President of the United States, DICK CHENEY, said it well in 2000, and I have his words right here, and I quote, "The fact of the matter is that we live in a free society, and freedom means freedom for everybody. And I think that means that people should be free to enter into any kind of relationship they want to enter into. It's really no one else's business in terms of trying to regulate or prohibit behaviors in that regard. I think different States are likely to come to different conclusions, and that's appropriate. I don't think there should necessarily be a Federal policy in that area."

And those are the words of the Vice President of the United States, DICK CHENEY. The Vice President speaks from very personal experience. He loves someone who is gay, not because she chose to be gay but because that is just who she is.

Mr. Speaker, if this amendment passes, discrimination against a group of people will be written into the Constitution of the United States. If this amendment passes, we will be taking a step backward in our march toward equal protection under the law. All of us take an oath to uphold and defend the Constitution not to use it as a political weapon.

There are some who say that this is about protecting future generations, our kids. Well, let me tell you in this chamber today. I have two beautiful children, a 6-year-old son and a 3-year-old daughter, who I love more than anything, and I do not want them to grow up in a country where an entire group of people is treated as second class citizens.

To those, like the gentlewoman from Colorado (Ms. MUSGRAVE), who say this is about protecting marriage, let me ask, just whose marriage are you trying to protect? I am happily married, and I do not need Members of Congress to protect my marriage. Please do not use my marriage to promote homophobia and discrimination.

Mr. Speaker, this amendment is wrong. And to those of my colleagues who support this amendment today, let me state clearly that you are on the wrong side of history. It is wrong to tarnish our most sacred document, our Constitution, with discrimination. It is wrong to take a beautiful institution like marriage and use it as an instrument of division and hostility.

Mr. Speaker, I urge my colleagues to do the right thing. Help secure the blessings of liberty for all Americans. Vote "no" on this amendment.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield myself such time as I may consume to say that the gentleman from Massachusetts is aware that the Homeland Security bill, a very complicated bill, is going through, I believe, five committees, and it is in that committee process this week and we are going to have it on the floor next week. So it is not that the Homeland Security bill is not going to be dealt with.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. DELAY), the majority leader.

Mr. DELAY. Mr. Speaker, I thank the gentlewoman for yielding me this time, and I rise in support of the rule before us and in support of the marriage protection amendment itself.

I am well aware that this is not a day many of us in this House relish. Many of us who support the marriage protection amendment are saddened that the need for this amendment exists at all. The definition of marriage seems to us, and the vast majority of the American people, as a matter of common sense and social reality. And many who oppose the amendment, most I would say, see the movement to protect marriage as mean spirited and unnecessary. In either case, most of us in this House would prefer not to have this debate. We would prefer to live in a society in which such debates were unnecessary, but, unfortunately, we do not.

The question of the future of marriage in America has been forced upon us by activist judges trying to legislate from the bench and forced upon us in such a way that the only remaining answer is to amend the Constitution of the United States. These are the facts, Mr. Speaker. The majority of the American people want to protect traditional marriage for reasons ranging from the political to the religious to the practical. But a minority of our citizens, a vocal and sincere minority, wish to alter the definition of marriage to include relationships outside the union of one man and one woman.

In response to this minority opinion, the American people asserted their consensus in 1996 when a Republican Congress and a Democrat President worked together to enact the Defense of Marriage Act. Its support was and remains bipartisan and overwhelming across the country.

DOMA says two things: First, that for the purposes of Federal law, the term marriage describes a union between one man and one woman. And, second, it says that no State, including Massachusetts, can force their will on the rest of us. And no State under its own laws can be required to recognize homosexual unions licensed in other States.

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That is the law as it currently stands: fair, straightforward, and representative of an overwhelming consensus among the American people.

One would think this would be the end of the story, but it is not. DOMA is under an incessant and coordinated constitutional attack in the Federal courts. Despite DOMA's obvious constitutionality, those activist judges, who feel a greater responsibility to their own political ideology than the Constitution, seem not to care. Indeed, inventing rights out of whole cloth, in direct violation of the will of the people, too often seems to be the coin of the realm on the Federal bench these days.

In such an environment, it is no surprise to me that legal scholars on both sides of this issue, from Lawrence Tribe to Robert Bork, all but concede DOMA will eventually be struck down because it contradicts the tortured jurisprudence of activist judges.

Mr. Speaker, in other words, the definition of marriage will be a matter of constitutional law one day very soon. The question before us is whether that definition will be radical and arbitrary, or based on the experience of human civilization dating back to the origin of our species; whether that definition will be written by individual judges imposing their political biases on the Nation or written by the people of the United States through their elected Representatives in Congress and State legislatures.

DOMA passed with broad bipartisan support. To date, 44 States have defined marriage as the union between a man and a woman. Consensus exists today. And yet the runaway courts keep coming, bent on replacing Congress as the legislative authority of the United States. Let me be plain: The status quo is not an option. Avoiding this issue is not an option, not anymore, not since the Supreme Judicial Court of Massachusetts invented a right to homosexual marriage out of thin air, and not since a State court judge invented a similar right in Washington State, not since 11 States face court challenges to their marriage laws. This issue is not going away.

Those who know me know I am not a fan of constitutional amendments in general. And at first I resisted this amendment in particular. But the fact can no longer be denied. If marriage is to be protected in this country, it can only be protected by a constitutional amendment. The timing, substance and necessity of the marriage protection amendment have been forced by the courts and their refusal to be bound by the clear and absolute limits of their constitutional authority to interpret the law. This amendment is the only way marriage will be protected.

Now I know it is a difficult issue, and I know it is an emotional issue for people across the political spectrum and across this country, but it is an issue that has been forced. The people must be heard. Congress must assume its responsibility and must respond. This debate today will begin with that response, and, I hope, do so as it should, with civility, respect and sensitivity to all points of view.

Mr. McGOVERN. Mr. Speaker, I yield 5 minutes to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, to begin as the majority leader leaves, I must say when he says that the timing of this, 1 month before an election when the issue has been pending all year, when he says the timing was forced upon him and is not effected by political considerations, he violates what I would recommend to the gentleman is an important rule of political debate: No matter how advantageous one thinks it is, try hard to believe something no one believes; it does not really help your cause.

Beyond that, we have the most seriously misdescribed constitutional amendment I have ever seen. Actually if the Republicans go forward with their proposal, having created the largest deficits in our history, to require a balanced budget some time in the far distant future, that may be an even greater one at variance with reality. But here is the problem: They describe an amendment very different than the one they bring forward.

We have heard the gentlewoman from North Carolina and the gentleman from Texas say this is aimed at preventing judges from forcing one State to do what another State does. It does far more than that. At its core what it does is say that no State, by whatever process it chooses, may find that two women being willing to commit themselves to each other legally as well as emotionally is a good thing and not a bad thing, because that is the core of the issue.

In the State of Massachusetts, it is true we began with a court decision. Since then, it has been debated in our legislature. The legislature of Massachusetts very narrowly approved an amendment that would have said no to same-sex marriages but would have mandated full civil unions, which may also be thrown out by this amendment. That amendment will now be debated next year.

An election is going on in Massachusetts today in which how people voted on this is a major issue. We just had a change in the leadership of the Massachusetts House. A speaker who opposed same-sex marriage has been replaced by a speaker elected by the House of Representatives of Massachusetts, in turn elected by the people, who support same-sex marriage.

I think the question is very much in doubt, but the point is undeniable; the political process in Massachusetts, the democratic process in Massachusetts, is now deciding whether or not to allow same-sex marriage.

Mr. Speaker, the other side comes with an amendment that would cancel any decision made on this that they do not like by the people of Massachusetts. This is not an amendment that says one State cannot do something to another State. There would be an amendment possible. I would not be for it, but if that is really what is meant, then we would have an amendment that took DOMA and made it a constitutional principle. Such an amendment would be possible. I think it would be a mistake. I do not think it would be a good idea to freeze that, because then we would have some real difficulties, but it would be at least in accordance with what the other side is saying because this amendment does far more than has been described.

It has been a rule that I have found when people in political debate will not be completely open about what they are trying to do, it is because they really know it is not defensible. Why do you not acknowledge that this amendment would cancel a democratic decision by the people of Massachusetts? Indeed, if the legislature decides to get rid of this, there will be a referendum. If the legislature does not decide to get rid of it, then a fairly small number of people can force a referendum and we will have a referendum, very likely, in 2008.

We will have had by that time the benefit of 4 years in which same-sex marriages happened. I understand why the opponents of same-sex marriage are so upset. They have made a number of predictions about what will come after same-sex marriage, none of which will be proven true, so they are desperately trying to cut this off before it happens. We have already had nearly 5 months of same-sex marriage. None of their predictions were proven true, as none of their predictions were proven true when they talked about the chaos in Vermont.

But let us understand what the House is being asked to do. If the concern was to say judges could not decide this, if the concern was to say full faith and credit does not apply, there would be amendments that could be narrowly drafted to deal with that, although I would not support them. But that is not what is here. This amendment says no State, Vermont, Massachusetts, by whatever process, by referendum, by vote of the legislature, by whatever process, can decide that it would like to have same-sex marriage for its own citizens.

I will say that on behalf of the citizens of Massachusetts, who do not share the distaste for love that is expressed in a way in which you do not disapprove that Members of the majority have, please do not impose your views on the people of Massachusetts. If your concern is genuinely to prevent one State from forcing another, deal with that. But this is an undemocratic effort to say no State may differ in this intimate matter of public policy with your views.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I rise in strong support of the rule and of the underlying Marriage Protection Act, and consider this to be an extremely important day in the life of this institution and the life of this Nation.

Let me say to the gentleman from Massachusetts (Mr. FRANK) who just spoke, who I respect greatly as the national leader that he is, although I am a conservative and although I support a constitutional amendment to define marriage in the terms which the overwhelming majority of the American people wish to continue to define it. I have no distaste for love; and neither is it my desire to impose views or attack any individual or anyone in a relationship in America.

I am from south of Highway 40 in Indiana, but I do know the difference between defending and attacking. And the truth is, as legal scholars and millions of Americans know, the institution of marriage is under attack by activist judges; and it brings us, as the majority leader said so eloquently, to this place, by necessity, where a constitutional amendment is the only way we can express the will of 3 out of 4 or more Americans who desire to continue to have this fundamental institution of marriage defined as it has been throughout the millennia.

Activist judges have had successes since 1999 when they convinced the Vermont Supreme Court that they should order the State legislature to legalize same-sex marriage. A second major victory came when they convinced the Massachusetts Supreme Judicial Court to force that State to give full marriage licenses.

The activists have literally plotted a State-by-State strategy to increase the number of judicial decisions mandating same-sex marriage, and the U.S. Supreme Court provided potent ammunition to activists when they decided the Lawrence v. Texas case in June of last year. In that case dealing with same-sex sodomy, the court strongly signaled that a right to same-sex marriage could be found in the Constitution. Scholars ranging from Supreme Court Justice Scalia all the way to Harvard liberal scholar and author Lawrence Tribe agree that the Lawrence v. Texas case paves the way for this Supreme Court in this Nation's Capital to recognize same-sex marriage. Same-sex couples are now challenging marriage laws in States across the Union, including my own little State of Indiana.

So we come here not to attack but, rather, in a spirit of civility to defend an institution that is cherished and is so essential to the American people in the life of our Nation.

In closing, we are here today because marriage matters; because, like millions of Americans, I believe it was ordained by God, instituted in the law, it is the glue of the American people, and the safest harbor to raise children. Let us adopt the rule, defend the institution of marriage, and ensure that our society's most cherished social institution is defined by we the people and not unelected judges.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, before I yield to the next speaker, I would like to point out one thing which I find particularly interesting, and that is at the recent Republican National Convention in New York City, all of the featured prime-time speakers that the party decided to put on display for us, Rudy Giuliani and George Pataki and Arnold Schwarzenegger, all oppose what is trying to be done today. They all oppose this constitutional amendment.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, today we stand on the floor of the people's body, the United States House of Representatives, with the intention of writing discrimination into the U.S. Constitution for the first time in our Nation's history.

It is not so troubling that this is politically driven, what is so troubling is the mean-spirited nature of this legislation. The marriage protection amendment; what a cruel joke. It does not do anything to protect marriage in this country. It does not suggest to individuals the importance of communication in a successful relationship. It does not reduce promiscuity or stop unwanted pregnancies. It does not strengthen people's resolve to work through the difficulties that always come within a marriage. It does not do any of that.

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What it does do is to single out one group of people for discrimination, declaring them forever unworthy of the same legal protection that all other Americans enjoy. Further, this amendment would usurp the will of the people in States that have used their traditional States rights authority to define civil marriage and civil union laws. State laws passed by elected representatives in places like Vermont will be wiped clean off the books. In situations where a loved one is sick in the hospital, same-sex couples will once again lose the right to sit bedside and help nurse their partner back to health. These couples' ability to plan their financial future together and to share health care benefits will also be forever taken away.

Mr. Speaker, we already have sufficient legislation to allow individual States the ability to retain and structure marriage laws the way they see fit. I opposed and continue to oppose the Defense of Marriage Act which passed the House back in 1996, but this law is still fully functional and in effect. No State in the Union has to accept any other State's laws with respect to same-sex marriage. Since the bill's enactment 8 years ago, it has not been successfully challenged in any court anywhere in the country.

Why, then, do we need to preemptively amend our Constitution? Our Constitution was meant to be a sacred document by which we protect and expand individual rights, not to take them away, not to restrict them. That is not what our country is about, and thus that is not what the Constitution is about. That is why we ought to stand in opposition to this crass attempt to politically divide the American public in an election year. We ought to vote against this. We ought to vote for the Constitution. We ought to uphold the vision of our forefathers and expand the Constitution, use it as a document to protect individual rights, not to restrict and destroy them.

Mrs. MYRICK. Mr. Speaker, I yield 3½ minutes to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Speaker, I am pleased to rise today in support of the Marriage Protection Amendment rule. We did not ask for this debate. It was brought on us by activist judges who have chosen to impose on the will of the people this redefinition of marriage.

Sociologists, psychologists, and other experts can give us all sorts of technical explanations, but we all know from experience that kids are best off when they have a mom and a dad. And kids are what this debate is all about. It is not about civil rights or the rights of same-sex couples. Same-sex couples are free to live as they choose. This amendment does not change that. Instead, this amendment simply defines what marriage is, the union of one man and one woman.

There are some here that would claim that traditional marriage is discriminating. But my question is this: Did 342 Members of this House and former President Clinton in their support of the Defense of Marriage Act discriminate when they voted that marriage is between one man and one woman? Are we saying that 70 percent of the voters of my State that just said that marriage is between one man and one woman, are they discriminating? How about 80 percent of the voters of Louisiana, are they discriminating? I do not think so.

Activist judges are trying to institutionalize a lie, that marriage is just about big people's relationships. But they forget the little people, about the children, the whole generation of kids who will struggle because of the terrible precedent set by changing the institution of marriage.

We do not have to look very far to see the results of family deterioration.

Whole cities have suffered terrible poverty and crime because the model of traditional families has been weakened. Should we now stand idly by while a mere handful of activist judges seek to institutionalize the lie that marriage is disconnected from child rearing? Certainly the experience in the Netherlands would tell us that we should not. When they changed the definition of marriage, they had many more children born out of wedlock.

The other night I went to dinner, and there was a beautiful little 16-year-old girl there. She had never had a family. She said that there was one thing that she had wanted all of her life and there was only one thing she had ever wanted and that was she wanted a family. Her heart was telling her the truth. Think about what she had lost. Have you ever been completely lonely? No mom? No dad? Nobody to turn to? Think about what a family provides: the love, the affection, the security when you have a bad dream at night, self-discipline and obedience and the grace of forgiveness and sharing as opposed to selfishness.

I remember as a kid riding a bicycle. I was trying to learn. My dad ran along beside. He was so big and strong. I got it to go a ways and crashed into a bush. I came up all crying and scratched. He put me back on the bike and taught me something about persevering.

That is what this whole story is about. It is about little people and whether they are going to have a mother and a father. The real discrimination here is the activist judges who would deny children the rich advantages of a mom and a dad. If this Congress does not act to protect families, it is a gross dereliction of our duty.

Vote to protect our children and vote to protect marriage.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

Let me first say to the gentleman who just spoke, I guess I must obviously have more confidence in our State legislatures across this country than he does because State legislatures all across this country are acting on this issue. I think they are closer to the people of the States than in many respects we are. It seems to me that this process is working. When he says that we are forced to be here, that we cannot talk about getting a real highway bill, that we cannot talk about health care, that we cannot talk about national security issues or veterans benefits or education, but we have to be here and debate this right now, the fact of the matter is this debate is going on all across this country, and we should let that process make its way through.

Mr. Speaker, I yield 3 minutes to the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Speaker, I rise in strong opposition to this rule and to the underlying amendment.

Mr. Speaker, soldiers and innocent civilians are dying every single day in Iraq, 45 million Americans are without health insurance, over 35 million Americans are living in poverty, and 8 million are unemployed and looking for work. Yet with only 10 days until recess, the leadership of this House wastes time on a constitutional amendment that does nothing to stop the deaths of our courageous young people in Iraq, nothing to implement the recommendations of the 9/11 Commission, nothing to address the health care crisis in this country, and nothing to create jobs for unemployed workers and our growing population.

Instead, they bring forward a constitutional amendment which, if ratified, would enshrine discrimination in the United States Constitution, this country's most treasured document. Our Constitution has never been amended to discriminate against a particular group of Americans.

Gay and lesbian Americans deserve the same rights, responsibilities, and protections as other citizens. This amendment would deny same-sex couples the right to make medical decisions for a sick spouse, to share health insurance, to collect Social Security death benefits, all rights that married couples take for granted. We all have family members or friends whose hopes and dreams this amendment would shatter, good people whose lives should not be used as an election-year tactic to distract attention from the incompetence of the Bush administration's planning for and the conduct of the dismal, dismal aftermath of President Bush's war on Iraq and to distract attention from 4 years of deteriorating fiscal stability here at home, with record yearly deficits, exploding national debt, and puny job growth.

Mr. Speaker, we should reject this rule and this divisive, discriminatory amendment.

Mrs. MYRICK. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT).

Mr. CHABOT. I thank the gentlewoman for yielding me this time.

Mr. Speaker, my comments would be generally around an article which appeared by one of my colleagues whom I greatly respect, the gentleman from California (Mr. COX), who spoke out against this amendment. I generally agree with the gentleman from California (Mr. COX), but I have to respectfully disagree with him on this particular item.

Traditional marriage, let us face it, is under attack for the very reasons that my colleague from California (Mr. COX) had cited in that article. We need a constitutional amendment to protect traditional marriage from the courts. For the reasons cited by the Massachusetts Supreme Court and the logic of the U.S. Supreme Court in Lawrence v. Texas, we cannot trust the courts to interpret the law as it was intended.

As the gentleman from California (Mr. COX) cited in the article: "The judicial imagination continues to thrive." While I believe that rights under the 14th amendment should evolve, there must be checks. The Marriage Protection Amendment will check this imagination and protect marriage as it was intended.

The need for a Federal marriage amendment is simple. The traditional institution of marriage is under Federal constitutional attack in the courts. Legal experts across the political spectrum agree that the only way to guarantee and preserve the status quo, and the traditional institution of marriage, is a Federal constitutional amendment.

Immediately after the U.S. Supreme Court announced its decision in Lawrence v. Texas in June of 2003, legal experts predicted that courts would begin to strike down traditional marriage laws around the country. Indeed, one justice, Ruth Bader Ginsburg, has already written, while serving as general counsel to the American Civil Liberties Union, that traditional marriage laws such as anti-bigamy laws are unconstitutional and must be struck down by the courts.

A State constitutional amendment cannot solve this problem. Just ask Nebraska, whose State constitutional amendment is currently under Federal constitutional attack. And as the gentleman from California (Mr. COX) had acknowledged, even the Massachusetts Supreme Judicial Court relied on the 14th amendment, a Federal constitutional provision, to invalidate traditional marriage laws in that State.

At least six Federal constitutional challenges to the Federal Defense of Marriage Act, DOMA, are now pending in four States: Florida, Minnesota, Washington, and California. A representative of the Lambda Legal organization, a champion of the nationwide litigation campaign to abolish traditional marriage laws in every State, recently stated, "We won't stop until we have same-sex marriage nationwide."

The only way to stop the lawsuits and to ensure the protection of traditional marriage is a constitutional amendment.

Mr. McGOVERN. Mr. Speaker, the Log Cabin Republicans, which is a very well-known group to all of us here in the Congress, a group that voted to endorse Bob Dole in 1996 and George Bush again in 2000, has issued a statement entitled "Log Cabin Republicans Vote to Withhold Their Endorsement from President Bush."

The statement says that it is impossible to overstate the depth of anger and disappointment caused by the President's support for an anti-family constitutional amendment. It goes on to say that using gays and lesbians as wedge issues in an election year is unacceptable to Log Cabin, and they conclude by saying that this year they will withhold their endorsement of President Bush.

The text of the article is as follows:

Log Cabin Republicans Vote To Withhold Endorsement From President Bush

WASHINGTON, Sept. 8.—Log Cabin Republicans are withholding their endorsement from President Bush for 2004. "Log Cabin's National Board has voted to withhold a Presidential endorsement and shift our financial and political resources to defeating the radical right and supporting inclusive Republican candidates for the U.S. Senate and House of Representatives," said Log Cabin Board Chairman William Brownson of Ohio. The Log Cabin Board of Directors voted 22 to 2 not to endorse the President's re-election.

"Certain moments in history require that a belief in fairness and equality not be sacrificed in the name of partisan politics; this is one of those moments. The national board's vote empowers Log Cabin to maintain its integrity while furthering our goal of building a more inclusive Republican Party. Log Cabin is more committed than ever to its core mission to build a stronger and more inclusive Republican Party. There is a battle for the heart and soul of the Republican party, and that fight is bigger than one platform, one convention, or even one President," said Log Cabin Republicans Executive Director Patrick Guerriero.

The vote by Log Cabin's 25 member national board marks the first time since the organization opened a national office in Washington, DC in 1993 that the organization has not endorsed the Republican nominee for President. Log Cabin endorsed Bob Dole in 1996 and George W. Bush in 2000.

Log Cabin will devote its financial and political resources to elect fair-minded Republican allies to local, state and federal offices. Log Cabin will endorse more than 50 GOP candidates for the U.S. House and Senate. "Every victory by fair-minded Republicans is a victory for the future of our party. We have made it clear that we can either be the party of Arnold Schwarzenegger and Rudy Giuliani or we can be the party of Alan Keyes and Rick Santorum," continued Guerriero.

"Log Cabin has proudly supported the President's firm leadership in the war on terror. As principled Republicans, we believe in our Party's commitment to a strong national defense and a confident foreign policy. We especially applaud the President's leadership in cutting taxes for American families and small businesses, his belief in free market principles and his compassionate and historic leadership in the global fight against HIV/AIDS," continued Guerriero.

"At the same time, it is impossible to overstate the depth of anger and disappointment caused by the President's support for an anti-family Constitutional Amendment. This amendment would not only ban gay marriage, it would also jeopardize civil unions and domestic partnerships. For six months, the President has made it clear what he opposes. He opposes civil marriage equality; however he has failed to articulate clearly what he supports. Does he support federal civil unions? Does he support domestic partnerships? Does he support tax fairness for gay and lesbian couples? Does he support employment non-discrimination? Does he support hate crimes legislation? Does he support allowing gay and lesbian service members to serve openly and honestly?" asked Log Cabin Political Director Chris Barron. "An organization's endorsement means nothing if it does not have to be earned."

"Some will accuse us of being disloyal. However, it was actually the White House who was disloyal to the 1,000,000 gay and lesbian Americans who supported him four years ago. Log Cabin's decision was made in response to the White House's strategic political decision to pursue a re-election strategy catered to the radical right. The President's use of the bully pulpit, stump speeches and radio addresses to support a Constitutional amendment has encouraged the passage of discriminatory laws and state constitutional amendments across America. Using gays and lesbians as wedge issues in an election year is unacceptable to Log Cabin," continued Guerriero.

"At the same time that we saw record numbers of gay and lesbian delegates at the Republican National Convention, and at the same convention where we saw hundreds of fair-minded Republicans gather to support Log Cabin and our allies, our party's platform adopted vicious and mean-spirited language that marginalizes gay and lesbian Americans."

Log Cabin's 2000 endorsement of the Bush/Cheney ticket came during an election where the Republican nominee ran a compassionate conservative campaign that avoided culture war issues. After meeting with gay Republicans in 2000, Mr. Bush declared "I am a better man," and welcomed gays and lesbians as valued parts of the American family. The early days of the Bush administration were marked by significant victories—maintaining existing anti-discrimination protections for federal employees, appointing openly gay employees throughout the Administration, a continuing dialogue with our organization, and the extension of survivor benefits to gay and lesbian partners who lost loved ones on 9/11.

Unfortunately these early successes were short-lived. "Last year, a dramatic and disappointing shift occurred rooted in Karl Rove's public acknowledgment that the 2004 re-election campaign would focus on turning out four million more evangelicals who he believed stayed home in 2000," said Guerriero. The President's initial reluctance to amend the Constitution became full-fledged support on February 24th of this year.

Log Cabin has spent most of the year fighting the anti-family Federal Marriage Amendment. This fight culminated with a July victory in the Senate when a growing chorus of Republican opposition of the amendment forced the pro-amendment faction to play procedural games to avoid an embarrassing loss. As many as a dozen or more Republican Senators were prepared to oppose the FMA on its merits.

"During the fight over the anti-family FMA, we sadly watched as the President and his Administration leaned on Republican members of the House and Senate to support this divisive and unnecessary amendment. We watched as the President's support for this anti-family amendment emboldened the forces of fear and exclusion to push anti-gay ballot initiatives and legislation on the state and local level. We watched as the radical right works to defeat fair-minded Republicans across the nation. We watched as the Republican Party Platform rejected our Party Unity Plan and included language opposing not only civil marriage but also civil unions, domestic partnerships or indeed any basic benefits for same-sex couples. At a time when courageous gay and lesbian military personnel are helping to win the war on terror, the platform outrageously claims 'homosexuality is incompatible with military service'," continued Guerriero. The GOP platform language continues to target gays and lesbians and fails to present a positive agenda to ensure basic fairness for millions of gay Americans, who pay taxes, serve in the military, enhance communities, and serve in government.

Throughout this challenging year Log Cabin has doubled in size and launched new chapters were none existed. Log Cabin successfully led the fight against the Federal Marriage Amendment with its first ever television advertising campaign, worked with 18 GOP lawmakers in passing hate crimes legislation in the Senate, and continued supporting and educating state and local officials. Log Cabin was proud to be the only gay and lesbian organization to endorse Arnold Schwarzenegger's campaign for Governor of California. Log Cabin also was proud to see many of its closest allies speaking in primetime at the Republican National Convention. "It is not surprising to anyone at Log Cabin that the President's first real bounce in the polls came after a convention that highlighted inclusive Republicans and focused on unifying issues such as winning the war on terror. Log Cabin knows that the 2006 and 2008 elections will highlight a new generation of inclusive Republican leaders," said Guerriero.

Log Cabin calls on both major parties to return to the issues that unite the American family instead of fueling an unnecessary culture war. Log Cabin also denounces the continued flip-flops on gay and lesbian issues from Democratic nominee John Kerry. Senator Kerry has repeatedly made clear his opposition to civil marriage equality and has supported discriminatory constitutional amendments in Massachusetts and Missouri.

Log Cabin is firmly committed to seeing inclusive Republicans elected in 2004. Log Cabin will continue to oppose and expose any efforts to marginalize gays and lesbians. We also will continue to make it clear that the only way the GOP can continue as the majority party is to reach out to all Americans. Log Cabin also will continue to make it clear that the gay and lesbian community can realize full equality only if it works on building new alliances with conservative and centrist Americans.

"The battle for the heart and soul of the Republican Party has just begun. We are confident that the politics of inclusion and hope will prevail over the politics of exclusion and fear. History, fairness and common decency are on our side," concluded Guerriero.

Last week, Log Cabin launched a new television advertising campaign to take this fight for the GOP'S future directly to the American people. The ad makes it clear that the party has a choice. We can be the party of hope, in the best tradition of Ronald Reagan, by uniting around issues that bring Republicans together, like winning the war on terror; or the party can divide Americans with the politics of intolerance and fear that only lead to hate.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2½ minutes to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, there seems to be some confusion as to what constitutes marriage. In the Christian community, and we are a Christian Nation, you can affirm that by going back to our Founding Fathers and their belief in how we started, among Christians, marriage is generally recognized as having started in the Garden of Eden. You may go back to Genesis to find that and you will note there that God created Adam and Eve. He did not create Adam and Steve. A union between other than a man and a woman may be something legally, but it just cannot be a marriage, because marriage through 5,000 years of recorded history has always been a relationship between a man and a woman.

□ 1330

More than just Christian societies have marriage. And why would every recorded society through 5,000 years of recorded history, why would they all have marriage as a union between a man and a woman? It is because societies, one and all, have recognized that marriage is a very important institution. And why is it important? It is because the usual product of marriage is children. And the state, or the tribe or whatever the organization is, all through history recognized that there is a responsibility for the assurance that the children brought into the world as a result of marriage are going to be cared for, which is why all of these societies have recognized that children should not be born out of that relationship, and that relationship is fundamentally there to make sure that their society is going to be perpetuated because children are going to be cared for, if not by the parents, then by the society that has recognized this relationship.

I think that a society is at risk when the institution of marriage, so fundamental to the stability of society, is put at risk.

So I am in strong support of this rule and the bill that follows.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would just point out to the gentleman who just spoke that there is no law in this country that forces any given religion to recognize any particular marriage. Religions are separate from what we are talking about here today. I just want to remind the gentleman that there are non-Christians who live in this Nation as well, and I would hope that he would believe that this country is equally theirs as well.

Mrs. MYRICK. Mr. Speaker, I yield 1 minute to the gentleman from Maryland (Mr. BARTLETT).

Mr. BARTLETT of Maryland. Mr. Speaker, I would note that I had mentioned that not only Christian nations but every society through 5,000 years of recorded history has recognized the institution of marriage as being essential to the stability of their society. We are a Christian society, but I recognize that every other society, no matter what their origin, has certified that marriage is important to the stability of their society. It is to ours. It was to theirs.

I support the rule, and I support the bill.

Mr. McGOVERN. Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FEENEY).

Mr. FEENEY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I have to tell the Members I cannot imagine a more important debate, sadly, that we must have. The question is whether or not the United States House of Representatives is going to sit idly by and be silent while activist radical judges unravel the very fabric of our society by undoing the basic building block that has made this and every civilization that has ever been successful a success.

What we have got to recognize is that we have an obligation as a Congress here. Yes, there are three separate and equal branches of government in the United States under our wonderful Constitution given to us from the Founders. However, it is unfortunate that all too often lately, the judicial branch has essentially forced legislature into drafting reactions to what they have invaded, which is the territory of the Congress in making laws for the country. And thus this constitutional amendment is absolutely necessary.

Of course, a healthy jealousy between the three branches is always a good thing. It was designed by Madison and the Framers in order to have a give and take between the three branches. But it is emphatically within the province of the Congress to make laws that affect the people of the United States of America, and all too often courts are trying to do that for us.

Today, we are here to protect the very definition of marriage. The American people have spoken very clearly time after time about the importance of defending the traditional view of marriage. This amendment does not prohibit any consensual behavior between any two American citizens. It does not prevent any two people from behaving however they would like. What it does do is to defend for our children, for our posterity, the traditional, historic definition of marriage.

It is unfortunate that the will of the people increasingly is being violated by activist judges so that they can impose like philosopher-kings their view of a better way to do things, and they have certainly come up with a better way to do traditional family life. And they are going to, as they did in Massachusetts, try to impose it on all Americans.

Thomas Jefferson, near the end of his life, wrote in a letter to Edward Livingston on March 25, 1825: "One single object . . . will merit the endless gratitude of society: that of restraining the judges from usurping legislation."

Mr. Speaker, with that, I beg Congress to protect marriage, protect our children, protect our future. Vote for this amendment.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would like to read a Q and A between Vice President DICK CHENEY and a questioner in Davenport, Iowa, on August 24, 2004, because I think it helps to kind of put this in perspective, and maybe some of my colleagues should listen to this.

The question was: "We have a battle here on this land as well. And I would like to know, sir, from your heart. I don't want to know what your advisors say or even what your top advisor thinks, but I need to know, what do you think about homosexual marriages?"

And the Vice President responded: "Well, the question has come up obviously in the past with respect to the question of gay marriage. Lynn and I have a gay daughter, so it's an issue that our family is very familiar with. We have two daughters, and we have enormous pride in both of them. They're both fine young women. They do a superb job, frankly, of supporting us. And we are blessed with both our daughters.

"With respect to the question of relationships, my general view is that freedom means freedom for everyone. People ought to be able to be free, ought to be free to enter into any kind of relationship they want to. The question that comes up with respect to the issue of marriage is what kind of official sanction or approval is going to be granted by government, if you will, to particular relationships. Historically, that's been a relationship that has been handled by the States. The States have made that basic fundamental decision in terms of defining what constitutes a marriage. I made clear 4 years ago, when I ran and this question came up in the debate I had with JOE LIEBERMAN, that my view was that that's appropriately a matter for the States to decide and that's how it ought to be best handled."

I very rarely agree with the Vice President of the United States, but I think he makes an awful lot of sense on this issue, and I think he makes a compelling case why we should not be moving forward with a constitutional amendment.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. Mr. Speaker, I thank the gentlewoman for yielding me this time.

Mr. Speaker, this afternoon, we will debate and vote on the Marriage Protection Amendment. And let us be clear. This debate today is not about denying anyone rights. This is ensuring that the will of the people is protected.

My home State of South Carolina is one of 44 States that has already enacted laws defining marriage as a union between a man and a woman. They voted, and they decided how marriage should be defined. So I stand here today as their representative, wondering why that will and that the will of over 70 percent of Americans nationwide should be tossed aside because a few activist judges disagree.

Unfortunately, as we stand here today, we are faced with the fact that a handful of these judges have taken it upon themselves to hand down rulings that in effect amend the Constitution of the United States. They have circumvented the democratic process with their rulings. Therefore, the decision we are now left with is not whether the Constitution will be amended but who will amend it, activist judges or the American people.

Every American should have the opportunity to vote on this important issue. The institution of marriage deserves protection. It is our most basic social institution for protecting children. Preserving it sends a message to our children about marriage and traditional family life and values.

Mr. Speaker, I hope my colleagues will join me today in supporting the marriage protection amendment. It is time to get the debate back where it belongs, with the American people.

Mr. McGOVERN. Mr. Speaker, I yield myself such time as I may consume.

I would just like to read a couple of other quotes here which I think are enlightening. One from JOHN MCCAIN, Republican Senator from Arizona where he said: "The constitutional amendment we're debating today strikes me as antithetical in every way to the core philosophy of Republicans." He added, the amendment "usurps from the States a fundamental authority they have always possessed and imposes a federal remedy for a problem that most States do not believe confronts them."

Let me read one other quote here. "It seems to me that the power to regulate 'commerce' can by no means encompass authority over mere gun possession any more than it empowers the Federal Government to regulate marriage, littering, or cruelty to animals throughout the 50 States. Our Constitution quite properly leaves such matters to the individual States." And that is from the words of Supreme Court Justice Clarence Thomas in U.S. v. Lopez.

Mr. Speaker, today, we have the opportunity to do the right thing. We have the opportunity to reject the politics of division and discrimination. We have the opportunity to protect the Constitution of the United States, to stay on the path toward equal protection under the law for every single American. We have the opportunity to act in a way that reflects well on this institution and the people we are elected to serve.

I am encouraged, Mr. Speaker, by the number of Republicans who will vote "no" on this misguided constitutional amendment today. And I am proud to stand with them.

We will hear a lot about Massachusetts today. A son of our State named John F. Kennedy once said, "The heart of the question is whether all Americans are to be afforded equal opportunities, whether we are going to treat our fellow Americans as we want to be treated." Mr. Speaker, that is indeed the heart of the question.

I urge my colleagues to seize this opportunity, vote "no" on this constitutional amendment.

Mr. Speaker, I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DELAY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.J. Res. 106.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MARRIAGE PROTECTION AMENDMENT

Mr. DELAY. Mr. Speaker, pursuant to House Resolution 801, I call up the joint resolution (H.J. Res. 106) proposing an amendment to the Constitution of the United States relating to marriage, and ask for its immediate consideration.

The Clerk read the title of the joint resolution.

The text of House Joint Resolution 106 is as follows:

H.J. RES. 106

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"ARTICLE —

"SECTION 1. SHORT TITLE.

"This Article may be cited as the 'Marriage Protection Amendment'.

"SECTION 2. MARRIAGE AMENDMENT.

"Marriage in the United States shall consist solely of the union of a man and a woman. Neither this Constitution, nor the constitution of any State, shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman.".

The SPEAKER pro tempore. Pursuant to House Resolution 801, the Chair at any time may postpone further consideration of the joint resolution until a time designated by the Speaker.

The gentleman from Texas (Mr. DELAY) and the gentleman from Michigan (Mr. CONYERS) each will control 1 hour and 15 minutes.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I yield 7 minutes to the distinguished gentlewoman from Colorado (Mrs. MUSGRAVE), the author of this amendment.

Mrs. MUSGRAVE. Mr. Speaker, I rise to speak in favor of the proposed marriage protection amendment to the Constitution of the United States of America.

Before addressing the merits of the marriage protection amendment, I want to thank the gentleman from Illinois (Speaker HASTERT) and the gentleman from Texas (Mr. DELAY) for bringing this bill up.

I know there are some in Congress and the media who do not believe traditional marriage rises to the level of importance to be considered on the floor today.

The American people disagree with them. This bill is about protecting the institution of marriage, which, as the Supreme Court said many years ago, is "the foundation of the family and of society, without which there would be neither civilization nor progress."

□ 1345

Since Labor Day, this Congress has spent time renaming post offices and Federal buildings, Mr. Speaker. If we have enough time to rename post offices and Federal buildings, surely we have enough time to spend an afternoon considering whether the very foundation of traditional marriage will endure another 200 years.

On one matter, however, I do agree with the opponents of this bill: We should not lightly undertake to amend the Constitution. In the 213 years since the Bill of Rights was adopted, the Constitution has been amended only 17 times, an average of once every 12½ years.

As a conservative I understand, perhaps better than most, the national consensus that the Constitution should be amended only rarely. Indeed, I wish we could leave the Constitution alone and this amendment was unnecessary, and if there was any other way to protect marriage, I would be the first to support it. Unfortunately, this is not the case. The matter has been forced upon us, and, whether we like it or not, the Constitution is about to be amended.

Let me say that again: The choice before us is not whether to amend the

Constitution or leave it unamended. One way or another, the Constitution will be amended, and the only choice we have is whether to act now and accomplish the amendment through the procedures specified in the Constitution itself, or fail to act, in which case the amendment would be accomplished de facto by activist courts bent on imposing by judicial fiat a transformation of traditional marriage that is unsought and unwanted by the American people.

How do I know what the American people want? Simple. When the people are given a voice in this matter, they support traditional marriage by overwhelming margins. Last month, for example, the people of Missouri approved a marriage protection amendment to their State constitution by a margin of 70.8 percent, and 2 weeks ago the people of Louisiana approved a similar amendment by a margin of 78 percent. Yet the people's will does not seem to count with the courts.

Last year, Justice Scalia warned us in their Lawrence decision that the Supreme Court was paving the way for activist judges to redefine traditional marriage. Even after Justice Scalia's warning, few of us were prepared for the breathtaking speed with which events would overtake us. Only months later, the Massachusetts Supreme Judicial Court decreed that for the first time in the history of this Nation, a State would be required to issue marriage licenses to same-sex couples.

The Massachusetts courts are not alone. Only last month, courts in Washington struck down as unconstitutional that State's Defense of Marriage Act in cases concerning the recognition of same-sex marriages.

Even in the face of this judicial onslaught, some argue that we should wait to act until after the Supreme Court has ruled on the constitutionality of the Federal Defense of Marriage Act. Does anyone else see the irony here? Many of those who spoke the loudest that DOMA was unconstitutional when it was enacted in 1996 are the very same ones who now say we ought to presume DOMA is constitutional until the courts tell us otherwise.

I say if we could place our confidence in the Supreme Court, there would be no need for the marriage protection amendment in the first place. But in Lawrence, Justice O'Connor wrote a concurring opinion in which she specifically stated that she believed preserving the traditional institution of marriage would be a sufficient basis for upholding a State marriage law. The five members of the Lawrence majority had an obvious opportunity to join Justice O'Connor's position and thus reassure us on this issue. Instead, they chose to remain silent. Let me suggest their silence speaks volumes.

No, we must not wait. The trajectory of the courts' decisions is unmistakable, and we must act now to preserve traditional marriage. We have already seen that even one State's misadventure in this area has had egregious nationwide consequences, as activists file lawsuit after lawsuit seeking to export same-sex marriages to other States. Ironically, it will take an amendment to the Federal Constitution to force this issue out of the courts and back to State legislatures, where it has always been and where it properly should be.

Mr. Speaker, some people have opposed the marriage protection amendment on the grounds that it discriminates. But it is not the marriage protection amendment that discriminates against homosexuals. Rather, the institution of marriage, as it has been understood for millennia, by its very nature is reserved exclusively for persons of the opposite sex. Moreover, society has always limited the pool of persons available for marriage by age, blood ties, mental capacity, and other considerations.

The limitations of traditional marriage rest not on an intent to discriminate, but on what is most beneficial for society and children, as evidenced by volumes of social science research. Traditional marriage is worth preserving because the nuclear family is far and away the best environment in which to raise children. Every child deserves both a father and a mother.

Yes, traditional marriage has had its problems. The high divorce rate, infidelity, and domestic violence are a national scandal, but far from undermining my point, these trends reinforce it because we are dismayed by these trends for the very reason that they lead to the break-up of traditional families, which leads to more and more children being deprived of the tremendous benefit of having both their mom and dad around to raise them.

In conclusion, Mr. Speaker, let me say I wish traditional marriage was not under attack, but it is. I wish we did not have to deal with this problem now, but we do. Like it or not, the courts have thrust this burden on us and we must not fail to shoulder it.

We as Members of Congress have a responsibility to restrain activist judges who think they can, without devastating consequences to our society, simply jettison the collective wisdom of thousands of years without the input or consent of the American public or their elected Representatives.

Mr. Speaker, I encourage my colleagues to support the marriage protection amendment.

I submit the following letter for the RECORD.

Congresswoman MARILYN MUSGRAVE,
Longworth House Office Building,
Washington, DC.

DEAR REPRESENTATIVE MUSGRAVE: The United States House of Representatives is considering whether or not to send a constitutional amendment protecting marriage to the States for their consideration. Contrary to recent arguments and assertions, I believe that this amendment is consistent with—and increasingly necessary to uphold—the principles of federalism so important to our constitutional government.

The Framers rightly left marriage policy, as so many other things, with the States. But the definition of marriage is not mere policy issue. It strikes at the very integrity and meaning of one of the primary elements of civil society.

In a free society, certain questions must be settled for the good of that society. States can't impair the obligation of contracts, or coin their own money, or experiment with forms of non-republican government. We learned the hard way that the nation could not endure half slave and half free.

As marriage is a fundamental social institution, it is not only reasonable but also obligatory that it be preferred and defended in the law. Activist judges forcing the redefinition of marriage make it necessary to protect the institution in the U.S. Constitution.

This doesn't mean that marriage must be completely nationalized or should become the regulatory responsibility of the federal government. Policy decisions concerning questions such as degrees of consanguinity, the age of consent, and the rules of divorce should remain with the States.

The wisdom of extending certain benefits that stop well short of marriage—that don't undermine the distinctive status of marriage—are policy questions that should be the responsibility of State legislatures.

A Constitutional amendment that defines marriage and blocks the actions of overzealous judges would protect the States's capacity to regulate marriage by protecting the integrity of the institution as such.

In order to guard the States' liberty to determine marriage policy in accord with the principles of federalism, society as a whole must prevent the institution itself from being judicially redefined out of existence.

The constitutional amendment process is neither an exclusively federal nor an exclusively State action: It is a shared responsibility of both Congress and the States representing the American people. By intention, it is a very difficult process.

Constitutional amendments ought to be rare and should be pursued only after careful and serious consideration, when it is necessary to address an issue of great national magnitude and when there is broad-based support among the American people throughout the States, as there is concerning marriage.

Is marriage sufficiently important to protect in the United States Constitution?

Despite our reluctance to amend our most sacred law—despite the significance of the endeavor and awesome task involved—recent and impending judicial activism justifies this course of action.

Thank you for considering and sharing these concerns with other Members of Congress.

Sincerely,

EDWIN MEESE, III,
Chairman, Center for Legal & Judicial Studies, The Heritage Foundation.

TESTIMONY OF REVEREND RICHARD RICHARDSON, ST. PAUL AFRICAN METHODIST EPISCOPAL (AME) CHURCH, THE BLACK MINISTERIAL ALLIANCE OF GREATER BOSTON, CHILDREN'S SERVICES OF ROXBURY, INC., BOSTON, MA

(Before the Senate Judiciary Constitution Subcommittee—March 3, 2004)

Chairman Cornyn, Ranking Member Feingold, and other distinguished members of the subcommittee, thank you for the opportunity to come before you today.

My name is Richard W. Richardson. I am an Ordained Minister in the African Methodist Episcopal Church in Boston, Massachusetts. I am also President and CEO of Children's Services of Roxbury, a child welfare agency. I've worked in the field of child welfare for almost 50 years. In addition, I have been a foster parent myself for 25 years.

Finally, I serve as chairman of the Political Affairs Committee of the Black Ministerial Alliance of Greater Boston. The BMA has a membership of 80 churches from within the greater Boston area, whose primary members are African American, and number over 30,000 individuals and families. I am here today to offer testimony on behalf of the BMA as well as myself.

The BMA strongly supports the traditional institution of marriage, as the union of one man and one woman. That institution plays a critical role in ensuring the progress and prosperity of the black family and the black community at large. That's why the BMA strongly supports a federal constitutional amendment defining marriage as the union of one man and one woman, and why the BMA is joined in that effort by the Cambridge Black Pastor's Conference and the Ten Point Coalition.

The BMA didn't come at this conclusion lightly. I never thought that I would be here in Washington, testifying before this distinguished subcommittee, on the subject of defending traditional marriage by a constitutional amendment. As members of the BMA, we are faced with many problems in our communities, and we want to be spending all of our energies working hard on those problems. We certainly didn't ask for a nationwide debate on whether the traditional institution of marriage should be invalidated by judges.

But the recent decision of four judges of the highest court in my state, threatening traditional marriage laws around the country, gives us no choice but to engage in this debate. The family and the traditional institution of marriage are fundamental to progress and hope for a better tomorrow for the African-American community. And so, much as we at the BMA would like to be focusing on other issues, we realize that traditional marriage—as well as our democratic system of government—is now under attack. Without traditional marriage, it is hard to see how our community will be able to thrive.

I would like to spend some time explaining why the definition of marriage as the union of one man and one woman is so important—not just to the African-American community, but to people of all religions and cultures around the world.

To put it simply: We firmly believe that children do best when raised by a mother and a father. My experience in the field of child welfare indicates that, when given a choice, children prefer a home that consists of their mother and father. Society has described the "ideal" family as being a mother, father, 2.5 children and a dog. Children are raised expecting to have a biological mother and father. It is not just society—it is biology, it is basic human instinct. We alter those expectations and basic human instincts at our peril, and at the peril of our communities.

The dilution of the ideal—of procreation and child-rearing within the marriage of one man and one woman—has already had a devastating effect on our community. We need to be strengthening the institution of marriage, not diluting it. Marriage is about children, not about adult love. As a minister to a large church with a diverse population, I can tell you that I love and respect all relationships. This discussion about marriage is not about adult love. It is about finding the best arrangement for raising children, and as history, tradition, biology, sociology, and just plain common sense tells us, children are raised best by their biological mother and father.

Let me be clear about something. As a reverend, I am not just a religious leader. I am also a family counselor. And I am deeply familiar with the fact that many children today are raised in nontraditional environments. Foster parents. Adoptive parents. Single parents. Children raised by grandparents, uncles, aunts. I don't disparage any of these arrangements. Of course I don't. People are working hard and doing the best job they can to raise children. That doesn't change the fact that there is an ideal. There is a dream that we have and should have for all children—and that is a mom and dad for every child, back or white.

I don't disparage other arrangements. I certainly don't disparage myself. As a foster parent to more than 50 children, a grandparent of seven adopted grandchildren, and almost 50 years of working with children who have been separated from their biological parent(s) and are living in a foster home, been adopted, or in any other type of nontraditional setting, I can attest that children will go to no end to seek out their biological family. It is instinct—it is a part of who we are as human beings, and no law can change that. As much as my wife and I shared our love with our foster children, and still have a lasting relationship with many of them, it did not fill that void that they experienced.

I want to spend my last few moments talking about discrimination. I want to state something very clearly, without equivocation, hesitation, or doubt. The defense of marriage is not about discrimination. As an African-American, I know something about discrimination. The institution of slavery was about the oppression of an entire people. The institution of segregation was about discrimination. The institution of Jim Crow laws, including laws against interracial marriage, was about discrimination.

The traditional institution of marriage is not discrimination. And I find it offensive to call it that. Marriage was not created to oppress people. It was created for children. It boggles my mind that people would compare the traditional institution of marriage to slavery. From what I can tell, every U.S. Senator—both Democrat and Republican—who has talked about marriage has said that they support traditional marriage laws and oppose what the Massachusetts court did. Are they all guilty of discrimination?

Finally, I want to mention something about the process. I know that the Massachusetts legislature is currently considering this issue, and I hope that they do. The court has told us that we cannot have traditional marriage and democracy until 2006 at the earliest. That is wrong, that is antidemocratic, that is offensive, and that is dangerous to black families and the black community.

But importantly, a state constitutional amendment will not be enough. I know that the Attorney General of Nebraska is here, and I am honored to share the panel with him. I am not a lawyer. But I know the lawyers who have been fighting to abolish traditional marriage laws in Massachusetts. I have been in the courtrooms and seen them argue. They are good people, and well meaning. But I can tell you this—they are tenacious, they are aggressive, and they will not stop until every marriage law in this nation is struck down under our U.S. Constitution. And every schoolchild learns in civics class knows that the only way to stop the courts from changing the U.S. Constitution is a federal constitutional amendment.

The defense of marriage should be a bipartisan effort. I am a proud member of the Democratic Party. And I am so pleased that the first constitutional amendment protecting marriage was introduced by a Democrat in the last Congress. I am honored to have been invited here to testify in front of this subcommittee of both Republicans and Democrats. I hope that each and everyone of you will keep the issue of defending the traditional institution of marriage as a bipartisan issue.

Mr. Chairman, thank you for giving me the opportunity to represent the Black Ministerial Alliance of Greater Boston, the Cambridge Black Pastor's Conference, and the Ten Point Coalition, in reaffirming our support for a Federal Constitutional Amendment to define marriage as the union between a man and a woman. I would be pleased to take any questions.

TESTIMONY OF PASTOR DANIEL DE LEON, SR., ALIANZA DE MINISTERIOS EVANGELICOS NACIONALES (AMEN), PASTOR, TEMPLO CALVARIO, SANTA ANA, CALIFORNIA, GENERAL PRESBYTER, ASSEMBLIES OF GOD

(Before the Senate Judiciary Constitution -Subcommittee—March 3, 2004)

Thank you, Mr. Chairman, members of the committee, ladies and gentlemen.

My name is Pastor Daniel de Leon, and I am here to represent the largest Hispanic Evangelical organization in the country, AMEN (Association Evangelica de Ministerios Nacionales). AMEN is comprised of over 8,000,000 members, representing 27 denominations and 22 Latino nations. I am also the Pastor of the largest Hispanic Evangelical Church in America, Templo Calvario, in Santa Ana, California.

AMEN is a leading advocate on issues that concern the Hispanic community. On many issues, we work closely with our Catholic brethren. We are certainly working together on the issue we are discussing today—the institution of marriage, understood throughout history and across diverse religions and cultures as the union of one man and one woman. We have been a member of the Alliance for Marriage since its inception.

When I turned on my television a few weeks ago, and saw what was happening in San Francisco, I couldn't believe my eyes. As I sat there, several things came to mind.

First, I could not understand how an elected official could ignore and violate the laws of our state, and get away with it. I also could not understand why the courts would not stop this—why they would refuse to require an elected official to comply with the law of his state, and to respect the will of the people as expressed in our laws.

Second, it wasn't just that officials and judges were ignoring the law. It was much worse than that. They were ignoring a law that is so fundamental to society—and in particular, of great importance to my community, to the people who I counsel. They were ignoring the importance of the institution of marriage, as the union of one man and one woman.

Just a few years ago, Californians voted to reaffirm that marriage in the state of California is between a man and a woman only. Hispanics in particular voted overwhelmingly to uphold the traditional institution of marriage. This is one institution, even though imperfect, that has withstood the test of time and has proven to bring a sense of stability to society for time immemorial.

The institution of marriage is designed for children, not for adult love. Adults can love in many ways—between brother and sister, between grandparents, uncles, aunts, between friends and loved ones. But marriage is for children. I am so saddened that we have forgotten that. And I am even more saddened that marriage is drifting further and further from what it is supposed to be all about—children. Adults seem to care more and more about one thing, themselves. This is one of the reasons why 50% of marriages wind up in divorce. We must strengthen marriage—not weaken it. And I fear that, if we start to abolish marriage laws in our nation, we will go further down the path of teaching people that marriage does not matter for the well-being of children, it only matters for the pleasure of adults.

I am not here because I want to be here. There are many problems in my community, and I should be there working on them, not here far away in Washington, D.C. But I have flown all the way here from California, because I need to be here, to defend the most basic institution of society for the good of all, on behalf of my community. Because without marriage, we have no hope of solving the other problems we are facing back home.

I live every day in the front-lines of Urban America, where the ills of society are magnified greatly. People like myself, who provide a service to our community, are often the ones that have to "pick up the pieces" when marriages and families fail. In my 30 years of counseling, I have often dealt with grown children that still harbor hurts and deep seated frustrations because they did not have a mother and a father.

I know that there are good people trying to raise children without a mother and a father. Perhaps it is the single parent. Or the grandparent or aunt and uncle. Or the foster parent. They do their best, and we admire and respect them for that. But at the same time, we want the very best for children—and that is a mother and father, and an institution that encourages people to give children both a mother and father.

I want to say something about civil rights and discrimination. My people know something about discrimination. The institution of marriage was not created to discriminate against people. It was created to protect children and to give them the best home possible—a home with a mother and father.

Some people talk about interracial marriage. Laws forbidding interracial marriage are about racism. Laws protecting traditional marriage are about children.

To us in the Hispanic community, marriage is more than a sexual relationship. It is a nurturing, caring and loving relationship between a man and a woman that is to remain intact "until death do us part." Children are born into this loving relationship with a great sense of anticipation. We love our children and we love children as you can tell by the numbers!

Marriage between a man and a woman is the standard. A child is like a twig that is planted in the soil of our society that requires two poles to have the best chance of growing strong and healthy. Those two poles, if you will, are the parents, Dad and Mom. Very different and at a times even opposites but necessary for a balanced form of living.

Furthermore, marriage is a moral and spiritual incubator for future generations. Our children learn from their parents not only how to make a living but more importantly, how to live their life. This is not readily learned by a simple form of transference of knowledge but rather through the experience of daily living. Children learn from observation. As the home goes, so goes society.

I believe that we need to send a positive message to our children and their children. That we cared enough about the most basic institution of our society, marriage between a man and a woman, that we passed a Constitutional Amendment to preserve it for future generations. This is not, and must not be, about party politics. This must be seen as our struggle as a social family to bring stability to a divided house.

The President is right when he said that, "On a matter of such importance, the voice of the people must be heard . . . if we are to prevent the meaning of marriage from being changed forever, our nation must enact a Constitutional Amendment to protect marriage in America."

Thank you very much.

Mr. CONYERS. Mr. Speaker, I am very pleased to begin this discussion with the members of the Committee on the Judiciary and others that are joining us asking for time. Before I recognize the ranking member of the Subcommittee on the Constitution of the Committee on the Judiciary, I yield myself such time as I may consume.

Mr. Speaker, I merely want to begin our discussion by observing how unnecessary consideration of this matter is at this point. No one in the Chamber is unaware of the fact that the obvious ploy by some is to play upon the worst fears of our citizens, who are deep into an election year, to deal extensively with a subject, a constitutional amendment, which every Member on this floor knows is going nowhere. The reason? Because it has already been defeated by the other body. The only conceivable point of this amendment is to energize the conservative political base.

Well, we are not buying into that, Mr. Speaker. We know that this is the reason that it is being done, because our distinguished majority leader only recently told us that we could not take up the assault weapons ban because we did not have the votes to pass it.

Well, do we have the votes to pass this amendment, a two-thirds requirement, while we are here on the floor less than 45 days before the election? I think that we know the answer to that.

We know that the States are fully capable of dealing with the issue of the same-sex relationship on their own. Our Nation has a long tradition of leaving questions relating to civil marriage to the States, and for more than 228 years the States have dealt with these issues, with marriage age limits, with miscegenation and divorce. Let us leave it with the States.

Mr. Speaker, I reserve the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). Pursuant to House Resolution 801, further proceedings on H.J. Res. 106 will be postponed.

DIRECTING CLERK TO MAKE CHANGE IN ENGROSSMENT OF H.R. 5183, SURFACE TRANSPORTATION EXTENSION ACT OF 2004, PART V

Mr. YOUNG of Alaska. Mr. Speaker, I ask unanimous consent that the Clerk be directed to make the change in the engrossment of H.R. 5183 that I have placed at the desk.

The SPEAKER pro tempore. The Clerk will report the change.

The Clerk read as follows:

In subsection (l)(1) that is proposed to be added at the end of section 1101 of the Transportation Act of the 21st Century by section 2(d) of the bill (H.R. 5183), strike "$21,311,774,667" and insert "$22,685,936,000".

The SPEAKER pro tempore. Without objection, the change is agreed to.

There was no objection.

MARRIAGE PROTECTION AMENDMENT

The SPEAKER pro tempore. Pursuant to House Resolution 801, proceedings will now resume on the joint resolution (H.J. Res. 106) proposing an amendment to the Constitution of the United States relating to marriage.

The Clerk read the title of the joint resolution.

The SPEAKER pro tempore. When proceedings were postponed earlier today, the gentleman from Texas (Mr. DELAY) had 68 minutes remaining and the gentleman from Michigan (Mr. CONYERS) had 72 minutes remaining.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I yield 5 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution of the Committee on the Judiciary.

Mr. CHABOT. Mr. Speaker, I thank the gentleman for yielding me time, and I want to thank the gentlewoman from Colorado (Mrs. MUSGRAVE) for having the courage to bring this forth.

Our Constitution is one of our country's most sacred documents. It is the fulfillment of the promises made in the Declaration of Independence, and it is the backbone of our system of government. It identifies our rights as citizens, the roles and responsibilities of each branch of government, and identifies the limits that prevent government overreaching. It also ensures that our system of government remains a democratic system, whereby the people, through their elected Representatives and officials, make laws. This means a form of government under which laws are passed by the duly elected Representatives of the people, not by judges.

Amending our Constitution is the most democratic process in our Federal system of government, requiring two-thirds of each House of Congress and three-quarters of the State legislatures in order to pass a constitutional amendment. But it has been done and should only be done when principles for governing and for existing in society need to be stated.

The best example of this is the Bill of Rights. The first ten amendments were added to the Constitution to ensure that principles that were so important, that were fundamental for governing and living, were explicitly referenced in the Constitution in advance of any adverse judicial ruling.

We find ourselves in a similar situation today. There should be no disagreement that traditional marriage, as defined throughout our history, is under attack by liberal activists and rogue judges. The only real question at hand is how to protect this important cornerstone of our society.

This issue was first raised with me when I became chairman of the Subcommittee on the Constitution in the 107th Congress. At that time I clearly stated my preference to consider all possible legislative options before pursuing a constitutional amendment. I also felt that we should wait to learn the results of ongoing litigation. My hope had been that the courts would not attempt to alter our social fabric and, instead, leave the issue where it belongs, before Congress and the State legislatures. Obviously, that has not been the case.

In response to judicial decisions and the attempt by elected officials in several communities to approve same-sex marriages in violation of their own State laws, I called for a series of hearings to consider different options for maintaining marriage as a union between a man and a woman. During those hearings, we heard from many experts that provided us with extensive information on legal and social issues. Perhaps most important to this debate we reviewed the status of DOMA, the Defense of Marriage Act, and the consequences that would result from a judge striking down that important legislation.

DOMA's status is at risk. Judge Robert Bork, for example, one of the witnesses, stated in testimony before the Subcommittee on the Constitution during the hearing on the amendment, "I think DOMA is absolutely a dead letter constitutionally; not because it would be under the original Constitution, but because it is the way this Supreme Court is behaving."

Professor Lawrence Tribe of Harvard Law School has stated, "Same-sex marriage is bound to follow. It is only a question of time."

□ 1400

As a result, our national definition of marriage and the important role that marriage plays in our society more than likely will be changed forever, and it will not be for the better. Once that change is made and forced on every State in our Union, it will be virtually impossible to reverse.

Mr. Speaker, marriage is an institution, not a right. The hearings confirm this. Congress is obligated to support the means that best protect this institution that has been a part of our history. The marriage protection amendment states as follows: "Marriage in the United States shall consist solely of a union of a man and a woman. Neither this Constitution nor the Constitution of any State shall be construed to require that marriage or the legal incidents thereof be conferred upon any union other than the union of a man and a woman." That is what it states.

The first sentence of this amendment ensures that a common definition of marriage, that between a man and a woman, exists for the entire Nation. This will preclude attempts by the judiciary or State legislatures to determine otherwise.

The second sentence will prevent the courts from interpreting the Federal Constitution or State constitution to require a legislative body or an executive agency to enact or recognize marriage and its benefits on a civil union or domestic partnership. The second sentence also ensures that State legislatures are able to define for themselves the status of civil unions and domestic partnerships and the resulting benefits.

One way or another, we know that the Constitution will be amended. The question is, is it done the appropriate way, or is it done by unelected, activist judges?

Mr. CONYERS. Mr. Speaker, I am very pleased to yield 6 minutes to the gentleman from New York (Mr. NADLER), the ranking member of the Subcommittee on the Constitution, who has in this Congress found himself busier than almost every other subcommittee that we have. We have a long history of court-stripping attempts, constitutional amendments that were of high dubious legal question, and he has worked tirelessly with a staff I think that is second to none on our committee.

Mr. NADLER. Mr. Speaker, I thank the distinguished ranking member for yielding me this time, and I thank him for those kind words.

Mr. Speaker, today the drumbeat of political demagoguery has reached its crescendo as the House prepared to consider an amendment to the U.S. Constitution banning marriage between persons of the same gender. This amendment does not belong in our Constitution. It is unworthy of this great Nation, and the Senate could not even muster a simple majority to consider it, much less the requisite two-thirds to adopt it.

We have amended the Constitution only 27 times in our history. Constitutional amendments have been used to enhance and expand the rights of citizens, not to take them away.

The Constitution was amended to add the Bill of Rights, protecting freedom of religion, freedom of speech, freedom of assembly, the right to be secure in our homes; 10 amendments for protection of individual rights and liberties. We amended the Constitution to wipe away permanently the stain of slavery, to expand the right to vote, to expand the right of citizenship, to allow for the direct election of Senators, and to allow for the income tax.

Now we are being asked to amend the Constitution again to single out a single unpopular group and say permanently, you cannot even attempt to convince the legislature of your State to give you the right to marry. We have certainly never amended the Constitution on the mere speculation that a court might rule a law unconstitutional. No court has struck down as unconstitutional the Defense of Marriage Act that we passed 8 years ago. There is not even a case pending before any appellate court in this country today. There has not been a single trial-level court decision holding the Defense of Marriage Act unconstitutional; and yet we are told this necessity is imposed upon us. We must protect marriage now. What an imaginary threat.

In fact, the amendment before us is a new version of the amendment. It was not introduced until the end of last week. Although this issue has been the subject of four hearings before the Committee on the Judiciary, this proposed amendment and its potential impact on State marriage laws, historically a right of the States, has not.

When the sponsor of the amendment appeared before the Subcommittee on the Constitution, she was not prepared to comment on a similar version or any version other than the one she had introduced, which is not the one today before us.

The Committee on the Judiciary has not marked up this amendment, either in subcommittee or full committee, although the designation of the oak tree as the national tree has merited such careful deliberation. That is a first. My Republican friends, as amendment-happy as they are, have never previously skipped over committee consideration to bring a just-introduced constitutional amendment to the floor. But I understand them. What is the Constitution between friends? Why should we consider it carefully?

As the ranking member of the Subcommittee on the Constitution, I am normally called upon to explain proposed constitutional amendments. Explaining this one requires some extra effort. From what, precisely, would the so-called marriage protection amendment protect marriage? From no-fault divorce? From legalized fornication? From the failure of States to incarcerate adulterers, perhaps? No. Evidently, the threat to marriage, so-called, is the fact that there are thousands of people in this country who very much believe in marriage, who very much want to marry, who may not marry under the laws of the various States of this country, but whose fellow citizens may conceivably one day permit them to do so; and that we must prevent.

I have been searching in vain for some indication of what might happen to my marriage or to the marriage of anyone in this room if loving couples, including couples who have had children for years, are permitted to enjoy the blessings of matrimony. If there is a Member of this House who believes that his or her own marriage would be destabilized or destroyed by a same-sex marriage somewhere in America, I would welcome an explanation as to what you think would happen to your marriage and why. Any takers?

The overheated rhetoric we have been hearing is reminiscent of the bellicose fearmongering that followed the Supreme Court's 1967 Loving v. Virginia, which struck down State prohibitions against interracial marriage. The Supreme Court had overstepped its authority, we were told. The Supreme Court had overridden the democratic will of the majority. The Supreme Court had signed a death warrant for all that is good and pure in this Nation.

Fortunately, we have survived as a Nation; and we are the better for it.

In the not-too-distant future, people will look back on these debates with the same incredulity we now view the segregationist debates of years past.

This amendment does more than it purports to do. It would preempt any State law or legislature from passing a law allowing people of the same gender to marry, even if that law was approved by the legislature or, for that matter, by referendum of the people. This is not to protect the States; this is to protect a notion against the democratic will of the majority of the people in the States. Read the first sentence: any such marriage would be unconstitutional.

Proponents of this amendment have already tried to use a similar prohibition against same-sex marriage to attack domestic partner benefits in courts. So do not tell me this is only about marriage. I do not believe it. It says nothing in this amendment about recognition of marriages from one State to another. If you want to allow democratic majorities to have their way within their own borders, this amendment will do the exact opposite.

There are many loving families who deserve the benefits and protections of the law. They do not live just in New York or San Francisco or Boston. They live in every one of the 435 congressional districts in the United States. They are not from outer space, they are not a public menace, and they do not threaten anyone. They are our neighbors, our coworkers, our friends, our siblings, our parents, and our children. They deserve to be treated fairly. They deserve to have the rights of any other family.

I regret that this House is being so demeaned by this debate. It saddens me that this great institution would sink to these depths even on the eve of an election. We know this is not going anywhere. We know it is merely a political exercise. Shame on this House for playing politics with bigotry.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Florida (Mr. FEENEY), a member of the Committee on the Judiciary.

Mr. FEENEY. Mr. Speaker, I thank the distinguished majority leader for his leadership on this issue, especially, along with the gentlewoman from Colorado (Mrs. MUSGRAVE) and her brave leadership.

Mr. Speaker, the fact of the matter is, the Constitution is going to be amended. Either radical, unelected judges are going to amend the Constitution from the bench to redefine the traditional view of marriage, or the people's Representatives here in this House and across in the other body are going to act to amend the Constitution to preserve the traditional, historic definition of marriage. I notice that none of the opponents yet of this amendment have said that he or she will do whatever it takes to defend marriage when the time comes, but the action is unnecessary. If they are willing to commit to do whatever it takes to defend marriage, that is another matter; but that is not what they are saying.

Mr. Speaker, we have already seen the Massachusetts Supreme Court undo over 400 years of history in Massachusetts, undo a Constitution which is older than the United States Constitution, and find some new right. In doing so, in establishing same-sex marriage, what the Massachusetts court did is to belittle the traditional definition of marriage and all of the States that actually believe that. They said that there was no logical reason to preserve the benefits of a marriage between a man and a woman.

Even the liberal Washington Post Editorial Board was shocked by the Massachusetts judge's decision, stating in their editorial, "We are skeptical that American society will come to formally recognize gay relationships as a result of judicial fiats." That is exactly what we are here to prevent, the judicial fiat that will undo the traditional definition of marriage which has protected and been the building block of this country forever. None of the States, not one of the State legislatures has ever tried to redefine marriage, but we have had courts in Vermont, in Hawaii, and in Massachusetts now attempt to do that very thing.

What we are here to do is to remind people that under the fourth article to the United States Constitution full faith and credit clause, when one State establishes a marriage as something other than a man and a woman, eventually all other 49 States will be forced, despite DOMA, which we have heard is going to be struck as unconstitutional, both liberal and conservative scholars agree, 49 States will have the definition that Massachusetts has imposed by the bench on their people imposed on us unless we act today.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentleman from Ohio (Mr. KUCINICH), a gentleman who has followed the civil rights struggle and the struggle for women in this country for many years.

Mr. KUCINICH. Mr. Speaker, the 14th amendment of the U.S. Constitution guarantees the same rights to all people under the law, all people. It is what keeps us a United States. We call ourselves one Nation under God. Surely we know from the Bible that a city, a house, or a nation divided against itself cannot stand.

This amendment divides our Nation. This amendment creates two classes of people based on sexual orientation. It creates a second-class citizenship. In America, every individual is entitled to equal protection of the law. We could not remain a United States, half slave, half free. We could not remain a United States if a woman's right to vote or to choice were denied, and we cannot remain united if our brothers and sisters are denied equal protection of the law because of their sexual orientation.

In America, we work to eradicate discrimination. In America, we work to create a more just and equal society. In America, our Constitution should further that goal. In America, our Constitution should give rights, not take them away. In America, we must continue to fight for equality and justice. Here we must always be the land of the free, the home of the brave, where the rights of all people are protected, regardless of race, color, creed, or sexual orientation.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

This is not about discrimination. It is about marriage and judicial activism, but the timing is really important. I would just quote, since we are doing a lot of quoting around here, Paul Kates, director of Public Education for the American Civil Liberties Union's Lesbian and Gay Rights project, who said, "Once more States agree with Massachusetts. We think it is more likely that we will win in the Federal courts," in which case same-sex marriage policies can be imposed across multiple States and even nationwide. It is a concerted strategy to go this route.

Mr. Speaker, I yield 3 minutes to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I rise in support of this amendment, and I would like to highlight two basic principles in support of the amendment.

The first is this, and everyone should understand this, including my friend, the gentleman from Ohio who preceded me in the well of this House. Same-sex couples have the right to live as they choose, but neither they nor a handful of activist judges have the right to redefine marriage for our entire Nation.

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The second point again goes with what my friend from Ohio said and I take issue with. Marriage is not about excluding a group of people. Marriage is about what is best for our children and our society.

To the first principle, I wish this were not an issue that needed at long last constitutional protection via an amendment, but unfortunately, activist lawyers and judges have been working across our Nation to undermine marriage and impose a new national marriage standard without a public debate. Thousands of same-sex couples from at least 46 States have received marriage licenses in California and Oregon, then return to their home States. This is a national issue, and regardless of the months on the calendar and the so-called political season, the American people have a right to know where their representatives stand.

Mr. Speaker, to those who believe that marriage protection and that this marriage protection amendment is discriminatory, I would ask them this: Do my colleagues truly believe that marriage, the traditional and foundational union between a man and a woman, is discrimination? Mr. Speaker, once we start treating a child's need for a mother and father as discrimination, it becomes impossible for the institution of marriage to do its work. If it is discriminatory to restrict marriage to a man and a woman, then why not have three parents or four or more? Even groups of single people are now protesting that their exclusion from the benefits of marriage is discriminatory.

Now to the second point. Marriage is not about exclusion. It is about inclusion and an inclusive foundation for children and society. Whether a couple is a man and a woman has everything to do with the meaning of marriage. Marriage encourages the men and women who together create life to unite in a bond for the protection of children. That is not discrimination. It is the building block on which our society is based.

Now, Mr. Speaker, failed marriages between individuals does not mean that the institution of marriage itself is failing, but Mr. Speaker, we will fail in our responsibilities to our Nation if we fail to neglect and fail to protect this basic institution in our society.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 7 minutes to the gentlewoman from Wisconsin (Ms. BALDWIN), from the Committee on the Judiciary, a very distinguished lawyer in her third term who has served with us from the time she arrived here.

Ms. BALDWIN. Mr. Speaker, amending the Constitution is a radical action which should only be undertaken when absolutely necessary. Preemptively amending the Constitution to prevent something that has yet to happen is a dangerous principle that this Congress should not endorse. We must always remember what President Calvin Coolidge once said, "The Constitution is the sole source and guaranty of national freedom."

Mr. Speaker, our Constitution has been amended only 17 times since the Bill of Rights, and with the exception of prohibition, which was promptly repealed, the amendments to our Constitution have always been used to secure greater rights and liberties for the American penal system. We have amended the Constitution to make our union more perfect, to ensure all Americans are free to secure the blessings of liberty, that all Americans may achieve the American dream of life, liberty and the pursuit of happiness. Never in our history have we used our most sacred governing document to deny the rights of any group of Americans, nor should we do so today.

This debate today is not simply a theoretical debate. It has a real impact on millions of Americans. I believe that the institution of marriage enhances our social fabric in many positive ways. I think we all agree that loving, supportive marriages provide strong environments for raising children.

Children with two-parent families who are actively engaged in their lives typically have greater financial and emotional stability during the time they grow up than those who are able to only rely on a single parent.

Marriage's role in protecting children is about providing sustenance. It is about teaching. It is about sharing cultures and beliefs. It is about transmitting a family's values. It is about providing love and emotional support. These are all important components of marriage, and none of them are exclusive to a couple consisting of a man and a woman.

Marriage laws in the United States provide important rights, responsibilities, privileges and obligations. In each State, literally thousands of rights, responsibilities, privileges and obligations are conferred upon the receipt of a State marriage license. Likewise, there are more than 1,000 Federal rights that benefit married persons, among them: the right to make decisions on a spouse's behalf in a medical emergency; the right to take the benefits of the Family Medical and Leave Act for an ill spouse or ill parent of a spouse; the right to petition for spouses to immigrate; the right to assume parenting rights for children who are brought in to a family through birth, adoption, surrogacy or other means; family-related Social Security benefits, income and estate tax benefits, disability benefits, family-related military and veterans benefits and other important benefits; the right to inherit property from a spouse in the absence of a will; the right to purchase continued health coverage for a spouse after the loss of a job.

When making this point, many times I have heard opponents say that these rights can be obtained in other ways besides marriage. Some of them can, at a cost, with enough legal help, but many cannot.

I want to return briefly to the role of marriage in protecting children because, contrary to the opponents of same-sex marriage and civil unions, I believe that this is a powerful argument in favor of marriage recognition for same-sex relationships. There are over 1 million children being raised in gay and lesbian families in the United States. These children do not have the same legal protections as children of opposite-sex married couples have, and their parents have significantly increased financial burdens in providing for them.

The rights of gay and lesbian and transgendered Americans have been at the center of a national debate for the past decade and more. Attitudes have changed dramatically, as more and more Americans have discovered that their friends, their neighbors, their coworkers, family members are gay or lesbian and that they are just like other Americans, with the same hopes, dreams, fears, the same challenges. I believe our country has taken major steps forward toward the American ideal that all people are created equal.

Mr. Speaker, change is never easy. Some people push for change with all their might, while others struggle to maintain the status quo. Most of the others are somewhere in between, trying to apply their competing values to assess the merits of change. Our political leaders can try to facilitate this debate and discussion and work towards consensus or they can exploit those tensions and fears to divide America.

I firmly believe that too many of our leaders have decided to use this issue to polarize Americans in order to win this election, and this is wrong. Today, we must reject this attempt to use the Constitution of the United States simply as a wedge issue to win an election.

Bringing this issue to the forefront now, five weeks before the election, with no chance to pass it in this House, accomplishes only one thing. It distracts the American people from the urgent issues and immediate policy decisions that are at the heart of this election.

Each hour this Congress spends on a constitutional amendment that will divide America, we are not working to help provide health care to the 45 million Americans who have no health insurance. Each hour this Congress spends on a constitutional amendment that will divide America, we are not working to help the millions of unemployed and underemployed Americans.

These must be our priorities, not writing discrimination into the Constitution of the United States.

I implore my colleagues to vote "no."

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I appreciate the opportunity to address this issue.

Is it a blatant attempt by Republicans to score political points in a political season? I am sorry, but it was not the Republicans who brought up the Massachusetts Supreme Court decision on May 17. We have very little influence in that particular matter.

From my friends on the other side of the aisle who declare to us that amending the Constitution is just the extension of rights, I would remind them that the Dred Scott decision that said that slavery is correct and proper for these United States was, in fact, turned around in a very similar situation that we are facing today.

A Supreme Court is positioning itself to declare a certain thing which is in opposition to the will of the majority of the people, and we are simply going to turn that around with a constitutional amendment, the same as the Thirteenth Amendment turned around the Dred Scott decision of the Supreme Court.

Now for the discussion about what this is really about. Once we leave the discussion of what is right for children as the heart of the discussion, we begin to get confused about what is right. When we talk about the fact that there are loving, gay couples who would like to raise their children, we seem to depart from the facts because only one out of three lesbians living in the same household are actually raising children, and among gay men, only one out of five.

This issue is not about the right to raise children. This issue is about their rights to redefine marriage for the entire Nation, and I will disagree with my friends on the other side of the aisle that it is worth fighting for right now. It is worth fighting for in this House, and it is worth fighting for on the streets of America so that we have this national public discussion to determine what is most effective for our children.

If we want examples, we can look to Scandinavia where more than 60 percent now of the children are born out of wedlock, just a few short years after they have taken the same step that we are taking here.

This discussion is about what is right for children. It has nothing to do with what is right for adults. How can we say that the rights of adults to choose their desire is more important than what is necessary to correctly and properly raise our children? What is right for our children is a discussion.

Mr. CONYERS. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. LOFGREN) who has been of immeasurable assistance on constitutional questions in our committee.

Ms. LOFGREN. Madam Speaker, the Republican leadership has put us on notice that Congress will probably adjourn next week until after the November elections. We should have done so much more this year. Yet, this week, Republican leaders have decided to bring to the floor a constitutional amendment banning gay marriage and a bill to repeal gun laws in the District of Columbia. Are these really the most important issues facing the Nation?

Earlier this month, the Republican leader, the gentleman from Texas (Mr. DELAY), said that he would not allow a vote to continue the assault weapons ban because it did not have the votes. When asked about scheduling a vote, he said the following, "If the President asked me, it would still be no . . . because we don't have the votes to pass an assault weapons ban, and it will expire Monday and that's that."

Despite the overwhelming support of Americans everywhere, he let the assault weapons ban expire.

Apparently, the gentleman from Texas (Mr. DELAY) only brings things to a vote when he has the votes. But wait, this week the gentleman from Texas (Mr. DELAY) has taken a different position on what he brings to the floor.

In Roll Call, he acknowledged he does not have the votes to pass the marriage amendment. This amendment will not pass the House, and it did not even a get a simple majority in the Senate earlier this year. This amendment is going nowhere.

Let us be clear. The only reason this bill is being considered today is to score political points a month before the election. I am not surprised in the least that the Republicans would put politics before solutions. What is shocking is that we would waste time on these political games when they have accomplished so very little this year.

Earlier this month, the CBO released its update and confirmed that the 2004 deficit will be the largest in history, $422 billion. This $818 billion deterioration from the $397 billion surplus that they inherited when President Bush took office is just a shame.

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And what have the Republicans done to bring the deficit under control? Absolutely nothing. As a result of their policies, and for the third time in 3 years, Republicans need to increase the debt limit once again. What have Republicans done about this, the national debt? Nothing. The list goes on and on.

The Republicans never passed a 2004 budget. The fiscal year ends tomorrow, yet we have only done one of our 13 appropriation bills. The 9/11 Commission report was released in July. It has been 71 days, and the House and Senate have still not voted on its recommendations.

We have not passed a transportation reauthorization bill since January 2001. We have lost 1.7 million private-sector jobs. And for the third year in a row, the number of Americans without health insurance has gone up. Medicare premiums are as high as they have ever been. We have more people in poverty this year than we did when Bush assumed the Presidency.

The Republicans control the White House, they control the House of Representatives, and they control the Senate. They control everything in Washington. Despite all these advantages, all of this power, they have no accomplishments. All they can do is play political games to hide their truly abysmal record and hope that the American people do not notice.

The House Republicans have controlled Congress for a decade. On January 4, 1995, the day I was first sworn in, moments before being sworn in, then Speaker Newt Gingrich told the Members of the House that we were hired to do a job, and we have to start today to prove we will do it. Well, the Republicans have had 10 years, and just look at the dismal record. They have proven they just cannot do this job. It is time for a change. House Democrats are ready to get to work.

Mr. DELAY. Mr. Speaker, may I inquire as to the time on each side?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Texas (Mr. DELAY) has 55 minutes remaining and the gentleman from Michigan (Mr. CONYERS) has 53 minutes remaining.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. CARTER), a former judge.

Mr. CARTER. Mr. Speaker, today, we gather in this honorable chamber, and as we gather, there is an attack taking place on the basic building blocks of our society, the traditional family. Since the dawn of civilization, a family has consisted of a union between a man and a woman. In a civilized society, that union has historically been joined through a legal process we call marriage.

Mr. Speaker, you can go anywhere on this earth or here in the United States and wake somebody up from a dead sleep and ask them to define marriage, and they will tell you that it is a union between a man and a woman. Yet, today, we are dealing with living with a court ruling by the Supreme Judicial

Court of Massachusetts which tosses aside the history of traditional marriage.

This judicial activism, better called social engineering, flies in the face of legal precedent, and as The Washington Post shockingly stated, "is done by judicial fiat." Not a single State of the 50 States in this union have any legislation or a constitutional amendment which changes the definition of marriage. This assault on traditional marriage continues as legal challenges are joined in most all the States of this Nation.

Mr. Speaker, I have had the dubious distinction of having presided over the dissolution of 20,000 marriages in my career of public service. I would venture to say that is more than anyone else in this House. I have listened to thousands of hours of testimony about the damage that can be done by the breakup of marriage to the children of our Nation. It is a shame that we have to go through this attack on marriage, but to add a further attack on marriage by redefining the definition of marriage would be an abomination to our children.

For those who say, let the States choose, I would point out that the amendment will be required to pass three-fourths of the States, so it is up for debate in the States of this union. The Bill of Rights amendments were ratified precisely to make sure that fundamental principles were explicitly laid out in our constitution. The marriage protection amendment would explicitly protect the institution of marriage before the courts so that we will not be socially engineered out of our rights as American citizens and to destroy traditional marriage.

Mr. CONYERS. Mr. Speaker, 4½ minutes to the gentleman from New York (Mr. WEINER), the honorable Member who serves on the Committee on the Judiciary with great skill and distinction.

Mr. FRANK of Massachusetts. Mr. Speaker, will the gentleman yield?

Mr. WEINER. I yield to the gentleman from Massachusetts.

Mr. FRANK of Massachusetts. Mr. Speaker, I wanted to ask the previous speaker, who said he had presided over the dissolution of 20,000 marriages. I just wonder, in how many of those was the cause of the dissolution some gay relationship?

I mean, I am prepared to own up when I am at fault. Am I responsible, as a gay man, for any of those 20,000 dissolutions? The gentleman said there were 20,000 dissolutions. Would he tell us in how many of those 20,000 dissolutions was the existence of a gay marriage or gay civil union the cause?

Mr. CARTER. Mr. Speaker, will the gentleman yield?

Mr. WEINER. I yield to the gentleman from Texas for a response.

Mr. CARTER. About a half a dozen. But that was not the issue I was talking about.

Mr. FRANK of Massachusetts. A half a dozen out of 20,000.

Mr. CARTER. If I have the floor, and I might speak, my point was the damage that the dissolution of marriage causes to the children of this marriage. I said nothing about gay marriages in my speech whatsoever.

Mr. FRANK of Massachusetts. I apologize. If the gentleman would continue to yield briefly.

Mr. WEINER. I continue to yield to the gentleman from Massachusetts, Mr. Speaker.

Mr. FRANK of Massachusetts. I apologize for assuming that the gentleman was referring to gay marriage. This is a debate about gay marriage. So when the gentleman talked about the dissolution of 20,000 marriages, I made, apparently, the incorrect inference that there was some relationship between what the gentleman was saying and the subject under suggestion. I withdraw the inference.

Mr. CARTER. Mr. Speaker, if the gentleman will continue to yield.

Mr. WEINER. Mr. Speaker, I am going to reclaim my time, since the gentleman is not referring to gay marriage, and that is what this very important debate is about.

Mr. Speaker, I have heard a great deal on this floor about the message we send our children, and we have different interpretations about what this debate means to our children. One thing I would urge my colleagues on the other side not to do is not to tell your children you are being conservative by supporting this. Conservative values, as I understand them, means not taking government and sticking it into every relationship and into every corner of someone's personal life, like you seek to do with a woman's right to reproductive freedom and like you seek to do with the most intimate of relationships today.

Certainly, do not tell them that you are passing laws in this body to protect them. That you should not tell the children when you have passed laws to weaken water standards, weaken clean-air standards and to underfund education. So when you are talking to your children, do not tell them that.

Certainly, do not tell them that you are being consistent, because many of the folks on the floor here are the strongest supporters of the Defense of Marriage Act, yet in the Committee on the Judiciary and on this floor over and over, when challenged as to its constitutionality, say, oh, absolutely; absolutely, it is constitutional. It has not even been struck down and already you are running away from your interpretation of DOMA. So do not tell them you are being consistent.

And certainly, do not tell them that you are being honest, because if you were being honest, you would not lie to them and tell them that you are doing anything to amend the Constitution today. The Senate has already defeated this. If you are going to be honest with them, you are going to have to tell them what you are doing is simply posturing. So, certainly, do not tell them you are being honest.

What you are doing is teaching them to hate. You are teaching them that the Constitution is the place you remove rights, not protect them. That, I think, has been a consistent theme of this year's session. So, perhaps, in that case, you are being consistent in using the Constitution that way.

And I have to tell my colleagues, there are so many people who hang their heads today when talking about their grandparents who served in this august body. They hang their heads when they talk about their grandfather who stood up on the floor of the well and argued in favor of slavery. They are embarrassed by that.

There are so many who hang their head when they talk about their grandfather who served in this august body and fought for denying the rights of women. They are embarrassed by that.

Why is it that you think your grandchildren will not some day grow up and be telling their children about granddad or grandmom and have to be embarrassed about this debate; have to be embarrassed and ashamed by the idea that you, their grandparents, God willing, they are able to tell the story and how embarrassed they will be? Will they be embarrassed like those who have to talk about their grandparents who voted to support slavery or voted in support of rounding up Americans and putting them in internment camps?

I hope that that is not the case. If you are concerned about what you will tell your grandkids, be more concerned about what they will tell their grandkids about you.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume to just mention that we are talking about marriage. I know some think this is a debate or a constitutional amendment on gay marriage and same-sex marriage. No, we are talking about marriage and the definition of marriage. That is what this debate is about.

Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I am not embarrassed to say I stand here on behalf of tens of thousands of families in the Eighth Congressional District in strong support of the marriage protection amendment.

I believe the institution of marriage is a sacred union. It predates Congress and the constitution. Marriage is not simply a legal contract. For all its flaws, it is a covenant that truly binds individuals and families to each other and has, for centuries, provided social stability, not only for our country but for our culture.

Marriage matters. It matters to the American people. It matters to our children, and it matters to our Nation's future. Because strong families foster strong morals and a strong Nation to go with it.

As for those who say this is no business of Congress, I strongly disagree. Our Founding Fathers and mothers may never have imagined this debate today, but they created the thoughtful process for the American people to decide such matters of importance.

And make no mistake, the definition of marriage will be defined. The only question today we are debating is by whom, the unelected justices of the Federal courts or the American people? So you decide, who do you trust to decide this nation-changing decision? I have faith in the American people.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from Oakland, California (Ms. LEE), who replaced our good colleague Ron Dellums, an activist in domestic and international matters.

Ms. LEE. Mr. Speaker, I want to thank the gentleman for yielding me this time and for his tireless efforts on behalf of civil liberties and civil rights for all Americans.

This is a very mean-spirited and divisive constitutional amendment, and it is just plain wrong. It would take everything this Nation stands for, as a beacon of hope, as a land of opportunity and a tolerant Democratic society, and really just turn it all on its head. Government should not be in the business of passing constitutional amendments to discriminate against anyone.

In an election year, with so much at stake, this amendment is clearly a ploy to divide the country's focus from the real issues, and I say, do not be fooled. There are far more important issues facing our Nation this year that this administration and Republican-controlled Congress refuse to debate and which have far greater impact on our country than this issue of a constitutional amendment.

In my district, the Ninth Congressional District of California, six members of the clergy, six members of the African-American clergy, led by a great religious leader, the Reverend J. Alfred Smith, Sr., Senior Pastor of the Allen Temple Baptist Church, addressed this very issue. In this open letter, published in the Oakland Tribune, they characterized the intent of this amendment to disrupt the peace and good will of many in both the secular and religious communities.

They continued, "whatever your personal opinion is regarding same-sex marriages, ask yourself this litany of questions." They said: "Can America survive if she continues unilateral warmaking in a time that calls for international peace-seeking collaboration?" "Can the American common people, whom we serve as clergy, survive the diminishing resources for public education and health care?" They ask the question: "Can the American image survive the rejection of global treaties and environmental controls?" They said: "Is it liberty and justice for all Americans when preferential treatment is given to the wealthy and select corporations?"

Mr. Speaker, the answer to all of these questions is no. So I strongly urge my colleagues to vote "no" on this cynical and divisive attempt to legitimize discrimination in our most important secular, mind you, our most important secular, not religious, document, the Constitution.

Mr. Speaker, I submit for the RECORD the open letter published in the Oakland Tribune, which I earlier referred to:

HERE WE STAND

In a democracy each citizen is given freedom of speech. No one is to be condemned for being Democratic or Republican, conservative, moderate, or liberal. Most recently, twenty African American Clergy exercised freedom of speech at a press conference. These ministers stated that they were working to elect President George W. Bush for a second term of office as President. These Pastors spoke not for their Churches but they as individuals exercised their American privilege and democratic right as citizens.

As a result of their exercise of free speech, conflict and controversy have disrupted the peace and goodwill of many in both the secular and religious communities. There are those who believe that there would have been no hatred and hostility if those Ministers would have not stated that their reasons for supporting electing Mr. Bush to a second term was not tied to the divisive issue of same sex marriages. The AIDS activists responded to the press conference by saying the Ministers have harmed future funding for the fight against the spread of AIDS.

We are calling all of us to relate to each other with mutual respect for each other so as to allow us to differ logically and humanely on the issues. A Caring and compassionate number of African American clergy do not support President George W. Bush for re-election, but they support traditional family values while promoting ministries to decrease and spread of AIDS. These Pastors teach and preach against racism, sexism, ageism, classism, and homophobia. No one can place all African American Ministers into a single theological, ideological or political camp.

We encourage you to investigate the larger and more far reaching implications of the upcoming presidential race. In addition to whatever your personal opinion is regarding same sex marriages, ask yourself this litany of questions. Can America survive if she continues unilateral war making in a time that calls for international peace-seeking collaboration? Can the economic infrastructure of city, county, state and the nation survive continuous lavish investment in the military? Can the American common people whom we serve as clergy persons survive the diminishing of resources for public education and health care? Can the American image survive our rejection of global treaties and environmental controls? Is it liberty and justice for all Americans when preferential treatment is given to the wealthy and select corporations? Should not all Americans seek an administration that will protect our freedoms against punitive patriot legislation while defending America from our enemies? Last, but not least, we do not give our souls to any imperfect human made political system. When the Kingdom of God comes, we do not believe it will arrive on the wings of Air Force One. We are committed to the principles of compassion, courage, and critical thinking in leading a People whose purpose driven lives elevate principles of ethics far above the perils of political expediency.

Bishop Bob Jackson, Acts Full Gospel; Bishop Ernestine Reems, Center of Hope; Reverend Joseph Smith, Pastor, Good Hope Baptist Church and President, Bay Cities; Baptist Minister's Union; Reverend Lloyd Farr, Pastor, New Bethel Missionary Baptist Church, and President, Baptist Minister's Union; Dr. Frank Pinkard, Pastor, Evergreen Baptist Church; Dr. J. Alfred Smith, Sr., Senior Pastor, Allen Temple Baptist Church.

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I appreciate the opportunity to rise today in support of the marriage protection amendment, which is before the House today. Over the past several years, the traditional family has been under attack. The survival of the American family is of crucial importance because it serves as the backbone to our Nation as the primary protector and educator of our children.

Studies overwhelmingly suggest that children have a greater chance at success in life when a mother and a father are both present in the home. It is true that the recognition of the family unit has been traditionally a State issue. In fact, in my home State of Georgia, we will have a direct voice this November 2. In Georgia, we will vote yea or nay on a constitutional amendment banning so-called same-sex marriages.

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However, with the recent onslaught against the traditional family in the courts, I believe it is now time for the Federal Government to act decisively as well.

Mr. Speaker, 44 out of 50 United States have already enacted laws that identify marriage as a union of a man and a woman, mother and father. Yet activist judges who look to enforce their own personal views continue to strike down laws passed by State legislatures and approved by our constituents. In fact, over 60 percent of the American people agree we need a Federal constitutional amendment. The citizens of the United States, our constituents, want us to support traditional marriage between one man and one woman. They do not want a court to decide the definition of marriage.

Therefore, if we do not pass a constitutional amendment on the Federal level, federally appointed judges will make their own definition without a single vote by the American people or their representatives. I believe this body has an important decision to make, a decision that is obviously a major concern to the majority of the American public.

To illustrate this, as of this morning, over 2,600 constituents from Georgia's 11th Congressional District have written to me in favor of this amendment. They have voiced their concerns to me, and I believe they are right, and I strongly urge Congress to pass the marriage protection amendment.

As far as the gentleman from the other side of the aisle who questioned what our grandchildren will think of their grandparents some day, my four grandchildren will say thank God their granddad stood up for their moms and dads for the passage of this constitutional amendment.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON). The Chair would admonish guests in the gallery that they are here as guests of the House, and are not to show approval or disapproval for remarks on the floor.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE) who has worked on civil rights and constitutional matters with great skill ever since she has come to this Congress

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished ranking member for his continued service to America.

I thought I would take just a moment to move this debate to the document which we are attempting to amend, and that is the Constitution. As I arrived on the floor of the House, I was listening to one of the speakers mention that the concept of marriage is embedded in the Constitution of the United States. I took a moment, as I listened and reflected on the various voices that have been raised, because this is a constitutional debate that heretofore would take numbers of days because we would be serious about amending the Constitution.

But I came upon article IV that talks about full faith and credit shall be given in each State by the public acts, records, and the judicial proceedings of every other State, and so I do not understand the argument that is being made by my friends on the other side of the aisle, and I take issue in that because there will be different voices raised from both sides of the aisle. This is a constitutional question. This is a debate for all America, no matter what political hat one may be wearing.

But I come upon the first amendment that clearly distinguishes and says that Congress shall make no law respecting an establishment of religion or prohibiting the free exercise thereof.

I stand before Members to respect and acknowledge the faith community and the definitions they may give to unions of human beings and people in the United States. But I again remind my colleagues that this again is a secular Nation. Embedded in the Constitution is our right to freedom of religion, but it indicates very specifically that we are to designate no particular religion for this Nation.

As a southerner coming from the State of Texas, I stand before you with great jeopardy because the predominant individuals in my community do speak as others have already spoken; however, I would be incensed if anyone was to define the gentlewoman from Texas (Ms. JACKSON-LEE) or any of us who hold this Constitution dear, as someone who would fall over to the comfort zone where you would be patted on the back and praised and given all kinds of accolades because you decided to stand against a justice system that allows people to be human and dignified and equal in this country. I refuse to do that.

I might offer to Members that I spent some time finding myself on the wrong side of the majority of the people of the United States of America. The good news is that those of us who have done that wake up every morning feeling good because we have slept well. The impeachment we went through in 1998, I am reminded of that room when everybody thought this was the way we should go, and I frankly believed, as many of my colleagues who joined us believed, that the Constitution at the time must prevail.

So let me share some words during a very difficult time in America, and that was the civil rights movement first, but the Civil War in the 1800s when this country was divided both in terms of individual family members and States. It was a time when people were trying to find some way to preserve the Union. Daniel Webster stood on the floor of the United States Senate and stated, "Mr. President, I wish to speak today not as a Massachusetts man, not as a northern man, but as an American and a Member of the Senate of the United States. I speak today for the preservation of the Union."

So I speak today for the preservation of the Constitution of the United States of America. It troubles me that even though we can find ways to divide over many, many issues, it troubles me that we do not embrace the respect and the understanding of the freedom of the religion.

I also offer to say that Daniel Webster made it very clear that we must work in order to preserve not only this Union, and he said "Instead of dwelling in those caverns of darkness, let us enjoy the fresh air of liberty and union."

Let us enjoy the fresh air of liberty and the understanding that this constitutional document would protect any American who would fall on the minority side of a cause. If it is not you today, it may be you tomorrow.

For us to have a constitutional amendment that takes this document and make mockery of it, it has served us well. There is not a page or line or sentence in this document that undermines the human dignity of anyone. I welcome the clergy, and I would go to pray and sit with them and discuss with them their beliefs as I respect them, as I respect all of our beliefs. But who are we as a Nation if we are promoting democracy in the very bottom of the insurgency of Iraq and Baghdad, and we would stand today to deny the constitutional understanding that says we all are created equal. This document stands to the living testament that whoever you are in this Nation, you have freedom under this Constitution.

Mr. Speaker, I ask my colleagues to defeat this amendment because it is unjust and it is not befitting of these United States of America and those of us who desire to preserve the Union and the Constitution, realize that this amendment does not promote freedom of religion or the sanctity of our Constitution.

Mr. Speaker, this resolution is the symbol of misplaced priorities. As my colleague from California eloquently enunciated during a Judiciary Committee markup of the "9/11 Recommendations Implementation Act," H.R. 10 yesterday, it is unfathomable that we rushed through the consideration of that very important legislation so that we could debate this unnecessary proposal. Whether same-sex unions negatively affect our traditional notions of marriage will not make a difference to the families of 9/11 victims. Our first responders will not get the needed funding to prepare for imminent attacks as a result of swift passage of the Federal Marriage Amendment. This debate is ridiculous and will not help the American people.

I oppose this bill, H.J. Res. 106, the "Federal Marriage Amendment," proposes to assert Congress' opinion on the lives of all Americans on matters that concern their personal lives, their family relations, and their very identity.

This Constitutional amendment is not necessary and therefore should not be transmitted to the Committee of the Whole with a rule that restricts the voices of the members who function as one of the few voices that the Nation will have on its future.

TENTH AMENDMENT

The 10th Amendment states: "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people." This amendment was the basis of the doctrine of states' rights that became the antebellum rallying cry of the southern states, which sought to restrict the ever-growing powers of the federal government. The principle of states' rights and state sovereignty eventually led the southern states to secede from the central government that they believed had failed to honor the covenant that had originally bound the states together.

In this case, the individual states need to have the ability to differ with the federal government in an area that relates to what goes on in the homes of individuals.

FULL FAITH AND CREDIT

In 1887 the court told us that "Without doubt the constitutional requirement, Art. IV, § 1, that 'full faith and credit shall be given in each State to the public acts, records, and judicial proceedings of every other State,' implies that the public acts of every State shall be given the same effect by the courts of another State that they have by law and usage at home." *Chicago & Alton R.R. v. Wiggins Ferry Co.*, 119 U.S. 615, 622 (1887).

The proposal in H.J. Res. 106 will overturn Wiggins Ferry, and all other supreme court jurisprudence that have pronounced what the Framers of the U.S. Constitution intended in drafting Article IV, § 1.

EQUAL PROTECTION OF THE LAW

Gay and lesbian Americans are American citizens who pay taxes and protect our communities as fire fighters, police officers, and by serving in the military, and therefore desire the same rights and protections as other Americans.

Denying gay and lesbian couples the right to engage in a union equals a federal taking—legal rights in pensions, health insurance, hospital visitations, and inheritance that other long-term committed couples enjoy.

As Members of Congress with the authorities vested in us as a body, we have a responsibility to deal with issues that need attention. There is no emergent need relating to individual well-being, national security, or any other government interest that warrants a constitutional amendment for this purpose. This is a waste of the taxpayer's dollars. This amendment takes away existing legal protections, under State and local laws, for committed, long-term couples, such as hospital visitation rights, inheritance rights, pension benefits, and health insurance coverage among others.

Under current law, marriage is a decision of the State. As marriage was initially tied to property rights, this has historically always been a local issue. The State gives us a marriage license, determines a couples' tax bracket and authorizes its divorce. It does not need additional control over the situation. Religious conceptions of marriage are sacrosanct and should remain so, but how a State decides to dole out hospital visitation rights or insurance benefits should be a matter of State law. As legal relationships change, laws adapt accordingly.

Matters of great importance, such as marriage, need to reflect the will of the people and be resolved within the democratic process. By having Congress give the States restrictions initially, we are denying them the chance to let their constituents decide what is best for them. We cannot use the Constitution as a bullhorn to dictate social policy from Washington.

We are fighting global war on terrorism, we are still recovering from the greatest attack on American soil and we are working to create alliances around the world. We have men and women overseas who are giving their lives to see freedom in Iraq. We have troops in Afghanistan that are still trying to set up a functioning democracy in Kabul. Why are we wasting time on the house floor, in our legislative offices and with our valuable staff to handle this ludicrous amendment?

This proposed amendment will forever write discrimination into the U.S. Constitution rather than focusing on the crucial problems and challenges that affect the lives of all of us. At a time of record high unemployment, diminishing job prospects, a ballooning budget deficit that is choking our economy and crucial social service programs, a public school system that is in great need of attention and a health care system that is failing over 43 million Americans that remain uninsured over the past 3 years. This discriminatory constitutional amendment is nothing more than a political distraction for the country to divert attention from the overabundance of real problems and our tremendous lack of effective solutions.

VIOLATION OF PRIVACY

Our civil liberties are based upon the fundamental premise that each individual has a right to privacy, to be free from governmental interference in the most personal, private areas of one's life. Deciding when and whether to have children is one of those areas. Marriage is another.

In 1965 the Supreme Court ruled in Griswold v. Connecticut that a married couple had the right to use birth control. In doing so, the Court recognized a "zone of privacy" implicit in various provisions of the Constitution. Most recently, the Supreme Court struck down a law criminalizing sex between same-sex couples in Lawrence v. Texas based upon these same principles.

Indeed, Lawrence relied principally on Griswold, Eisenstadt and Roe v. Wade. Collectively, these decisions recognize the fundamental principle that the Constitution protects individuals' decisions about marriage, procreation, contraception and family relationships. The issues are inextricably linked—in law as well as policy.

THERE IS NO VALID NEED TO AMEND THE CONSTITUTION

Amending the Constitution is a radical act that should only be undertaken to address great public-policy needs. Since the adoption of the Bill of Rights in 1791, the Constitution has been amended only 17 times. Moreover, the Constitution should be amended only to protect and expand, not limit, individual freedoms. By contrast, the Federal Marriage Amendment is an attempt to restrict liberties, and on a discriminatory basis.

DEFENSE OF MARRIAGE ACT ALREADY EXISTS

The Defense of Marriage Act, which President Bill Clinton signed into law in 1996, already exists and recognizes marriage as a heterosexual union for purposes of federal law only. DOMA was designed to provide individual states individual autonomy in deciding how to recognize marriage and other unions within their borders. This allowed legislators the latitude to decide how to deal with marriage rights themselves, while simultaneously stating that no state could force another to recognize marriage of same sex couples. For those who want to take a stance on marriage alone, DOMA should quell their fears. We do not need additional, far reaching legislation.

FMA WILL NOT CHANGE VIEWS ON SAME SEX MARRIAGE

The Federal government cannot use its influence to change people's minds about a social issue. it did not work in the 1920s with the 18th amendment declared alcohol to be illegal and it did not work in the 1960s when interracial marriage was still considered a crime. This amendment will not change the lives of those who want to live as a married couple, all it will do is take away their license to do so.

THIS WILL CLOG THE JUDICIAL SYSTEM

The FMA is a lawyer's dream and a judge's nightmare. The number of cases that will flood the system will be outlandish. Does the FMA retroactively invalidate all marriages that have occurred in the interim? If a spouse has died, how does the retroactive annulment affect custody of the children, or property rights? There will be a litany of case law brought to deal with these questions, and our judicial system will be filled with cases trying to sort out the lasting effects of the FMA.

THIS IS LIKELY TO FAIL

Amending the constitution is not a simple thing, and should be done with care and caution over a long period of time. Our haste in this matter will be the tragic flaw of FMA's journey. Recent polls show that a majority of people who oppose gay marriage also oppose amending the constitution to ban them. Even if the Bush administration can whip enough votes to pass this through both chambers, it is highly unlikely that 35 states would approve it.

FMA DOES NOT HELP FAMILIES

Many of my colleagues are arguing that FMA is here to protect the family. Spending time and resources to amend the constitution to prevent gay marriages is not helping a single family. Divorce, abuse, unwed motherhood and unemployment are doing far more harm to millions of families everywhere. To those who are taking up the cause to protect American families, perhaps your attention could be focused elsewhere on the problems which are truly plaguing them.

The vocal proponents of the FMA show their strong and willful hatred of the gay and lesbian community. This egregious amendment would enshrine discrimination against a specific group of citizens and intolerance of specific religious beliefs into our Nation's most sacred document. The fight for equality is uniquely woven into our Nation's history. From the suffrage movement, to the civil rights movement, to the gay rights movement, minorities in this country have worked tirelessly to achieve the equal rights guaranteed.

THE LEGAL INCIDENT OF MARRIAGE WARRANTS A LICENSE

There are a multitude of critical protections needed for same sex couples and their children. These legal incidents include rights related to group insurance, victim's compensation, worker's compensation, durable powers of attorney, family leave benefits and a joint tax return. These benefits are necessary for families to function. Legal status is truly a license that extends rights, it should not be denied to one group of people—otherwise, this body will be guilty of legislating in violation of the Equal Protections Clause of the Constitution.

Mr. Speaker, again, I urge my colleagues to defeat this resolution, and I urge this body to preserve the Constitution for the document of equality that it is—vote "no."

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Speaker, I rise today in strong support of the marriage protection amendment. This bill could also be called the family protection amendment. It could be called the child protection amendment because it is the best environment for our children's future. It is one that arises out of a marriage between one man and one woman.

It is unfortunate that we have come to this point where Congress must step up and amend the United States Constitution in order to protect marriage in our country. However, the circumstances presented to us today leave us no choice but to do so. I want to ensure that the citizens of our Nation make this decision directly through their elected officials and their vote, and not by unelected Federal judges. I want my fellow Texans, not a Federal court, to decide what marriage is in our State.

In 2003, the Texas legislature passed a law defining marriage as a union between a man and a woman. The 1996 Defense of Marriage Act does not compel Texas to recognize same-sex marriages authorized by other States, and I support that law. However, the law does not keep same-sex couples with marriage licenses issued in other States from moving to Texas and suing to have their union recognized as a marriage in Texas.

Would a Federal court or a Supreme Court uphold DOMA in this case? We do not know that. But what we do know based on recent history, the indication is that it is a safe bet that appointed judges and not the American people may make that decision. The situation I just described is not an imagined one. It is a reality in 11 States that are currently facing legal challenges in their States. Judges in these cases, not the people, will be able to define marriage. Mr. Speaker, this is not how our system of government was designed to work.

To date, people across 44 States have spoken. They have sent the message that they believe marriage should consist of a union of a man and a woman. This represents 88 percent of our States.

Mr. Speaker, in closing, it is not just what I am saying, but the children also know what the definition of marriage is.

Mr. CONYERS. Mr. Speaker, I yield 5 minutes to the gentleman from Maryland (Mr. HOYER), a longtime civil rights and human rights advocate.

Mr. HOYER. Mr. Speaker, let me say that I support the traditional definition of marriage as a union between a man and a woman. I voted for the Defense of Marriage Act in 1996, but I believe, like Vice President CHENEY, that this is an issue that should be regulated by the States, as it has been throughout the history of this great Nation.

In fact, Mr. Speaker, the chair of the House Republican Policy Committee, the gentleman from California (Mr. COX) stated on Tuesday in the Wall Street Journal and I quote, "The Federal marriage amendment would do more harm than good were it to be enshrined in our charter." That is the statement of the chairman of their policy committee.

Through their legislatures and courts, the States have proven quite capable of determining the legal definition of marriage. I believe the proper venue to consider decisions affecting this issue is in State courts and legislatures, and yes, with the people of the individual States. Thus, I oppose this constitutional amendment which is, at its core, based on intolerance and is a patently obvious effort to energize a part of the Republican Party's base and inflame the passions of others.

None of us should ignore the Republican majority's real intent here today. This constitutional amendment represents the perfect marriage of raw political cynicism and distraction. Everyone in this Chamber understands that this amendment is not going to pass. In fact, the gentleman from California (Mr. COX) said again in the Wall Street Journal, "The Federal marriage amendment is more symbol than substance given the near impossibility of a two-thirds vote."

Even the majority leader himself acknowledged as much this week, telling Congress Daily, "I think it is really important to put Members on the record, particularly before an election." Orval Faubus would have agreed with that; George Wallace would have agreed with that; Lester Maddox would have agreed with that.

The majority leader's decision to move this amendment to the floor just 7 months after stating that it was unlikely to be considered this year is more than ironic, it is patently political. The purpose in bringing this amendment to the floor today, just 4 weeks before the election, is to create the fodder for a demagogic political ad that appeals to voters' worst fears and prejudices rather than, as we should do, to their best instincts.

Finally, Mr. Speaker, given that this amendment is not going to pass, it is nothing short of amazing and irresponsible that we are spending time debating this issue on the floor today.

□ 1500

Again as our colleague from California (Mr. COX) pointed out, there have been more than 130 amendments to the Constitution proposed in our history regarding marriage. The gentleman from California pointed out not one of those amendments has ever been voted on in either House because the leadership in those houses over those years thought those 130 amendments did not belong on the floor. How sad it is that we do not have that kind of leadership today.

At midnight tonight, my colleagues, the new fiscal year begins. How many of 13 must-pass appropriation bills have passed? One. Mr. Speaker, the Republican majority's legislative malfeasance is on full display today. The appropriations process is in meltdown. This Republican Congress has failed to enact a budget, failed to enact intelligence reform, failed to enact energy reform, failed to enact the reauthorization of the highway bill, failed to enact the reauthorization of the Higher Education Act. The list goes on and on. Yet with all that outstanding legislation, with all of America's business bottled up and pending, we consider a constitutional amendment that the chairman of the policy committee on the Republican side says will not pass. How patently political today is.

Mr. Speaker, this Republican majority has failed. The American people deserve better. I urge my colleagues to vote against this amendment.

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I want to thank our majority leader for his leadership on this issue. It is an honor for me to stand here with my colleagues today to protect marriage. To my colleagues who oppose this amendment, they want to argue that marriage is a right that should be extended to relationships beyond those of one man and one woman. They want to claim that the effort to protect marriage is about discrimination.

Mr. Speaker, I have a statement I want to enter into the RECORD. It is from one of Boston's most respected African American leaders, Reverend Richard Richardson of the St. Paul African Methodist Episcopal Church, standing in support of marriage, working to help protect marriage.

The statement is as follows:

> "As an African-American, I know something about discrimination. . . . The traditional institution of marriage is not discrimination. And I find it offensive to call it that. Marriage was not created to oppress people. It was created for children. It boggles my mind that people would compare the traditional institution of marriage to slavery. From what I can tell, every U.S. Senator—both Democrat and Republican—who has talked about marriage has said that they support traditional marriage laws and oppose what the Massachusetts court did. Are they all guilty of discrimination?"

Mr. Speaker, there is an emotional appeal to their arguments, but we are not here to legislate on emotion, and this is not comparable to the civil rights movement. We are here today, Mr. Speaker, because logic, because reason, because experience tell us that marriage is something that is worth preserving and protecting. Despite what some of my colleagues will say, we are not here for malicious purposes. We are here to ensure that our marriage laws protect an institution that is part of the bedrock fiber of our society.

To determine whether or not a law is discriminatory, you have got to have an understanding about something of the purposes of that law. Is Social Security age discrimination because only people of retirement age are affected by that? Of course not. Similarly, common sense, experience, and social science will tell us that the purposes of our marriage laws are neither ugly nor invidious.

Marriage is a social institution. Individuals freely decide to enter marriage, but they do not have a right to redefine its basic nature because they disagree with our shared American understanding of what marriage is. They do not have that right any more than an individual can privately redefine the meaning of other basic social terms like "property" or "democracy" or "church" or "corporation."

A vote for this amendment is a vote to preserve and protect an institution that is critical to the well-being of American families and children. Mr. Speaker, today we are going to stand with a basic element of our society. We have an obligation to preserve it.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 4½ minutes to the gentleman from Massachusetts (Mr. FRANK), a distinguished member of the Committee on the Judiciary now on leave.

Mr. FRANK of Massachusetts. Mr. Speaker, consistently proponents of this amendment have tried to hide what it does. Yes, there is a question about what one State could be compelled to do by the Federal courts to respect another. If that were the problem, an amendment could come forward aimed narrowly at that. I would not support it. But an amendment that said the full faith and credit clause does not apply could have come forward. This amendment goes far beyond that. But the proponents of it apparently understand how indefensible it is in the very democratic terms which they use, and therefore they conceal it from the people, speaker after speaker after speaker.

I hope the majority leader will tell us why he will not be straightforward about this element of it and here is what it is: this does not simply say that judges cannot decide the question. And it does not say that one State cannot compel another. It also says, and its major impact, if it were to pass, would be to say to the voters of Massachusetts, no matter what you say in a referendum, no matter how you, the democratic electorate of Massachusetts, choose to define marriage, we the Federal Government overrule you.

What justification have you for that? You say the people of Texas, the people of Tennessee want to decide. Why not the people of Massachusetts? Why did you not draft an amendment that would have honored the right of a State's electorate to make a decision? Our legislature is now in charge of this issue. The legislature will decide and the referendum will decide; and this amendment undeniably, but silently, says that no matter what any State does, it will be overruled. Vermont's civil union law originally came from the courts, but it has since been accepted by the political electorate. There have been votes in Vermont over this. Elections. This would also be overturned.

But now let me turn to the merits. We heard one gentleman say that he was not talking about same-sex marriage. He just noted that he had presided over the dissolution of 20,000 marriages. I am a gay man and I have presided over the dissolution of none. So I guess I do not feel quite as guilty about assaulting marriage as some of you would like me to feel. I am sorry Rush Limbaugh has been divorced three times, but it ain't my fault; and it is not the fault of any of my friends. That is the issue.

We are not assaulting marriage. Since when is it an assault on something for people to say, you know what, we have been excluded from this institution. We are also human beings and we feel love. We feel it in a way different than you. We feel it for someone of the same sex, male or female. And we look at your institution of marriage, and we see the joy it brings. We see the stability it brings to society. How does it hurt you if we share in it? That is the core issue I have not heard understood. What is it about the fact that two women in love in Massachusetts want to be legally as well as morally responsible for each other and live together and keep their home? Why is that an assault on you?

What a case of blaming the victim. You are defending yourselves against two loving people whose failure is to love each other and to want not simply to be free floating but to be committed? What is it you are protecting yourselves against? How do we threaten you? What about the love of two men so disturbs you that it would dissolve marriages? There are apparently, what, men and women happily married all over the country and they will learn that in Massachusetts the legislature allowed same-sex marriage to continue and they will get a divorce, they will call the gentleman from Texas and he can make it 20,001.

The gentleman from Texas, the majority leader, says this is not about gay marriage. Yes. And God didn't make little green apples and it don't rain in Indianapolis in the summertime. This is a political effort and it comes up a month before the election when it has been an issue since May of this year at least and before, a month before the election, an amendment that has no chance to pass, demonizes same-sex couples.

I say demonize for this reason. You say, we do not have anything against these people. Then why do you change my love into a weapon? Why if I have the same feelings that you do towards another human being does that somehow become the only weapon of mass destruction you have ever been able to find?

I urge the House to turn this down, let the people of Massachusetts make their own choices, and let loving men and loving women live in peace.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

I have the utmost respect for the gentleman from Massachusetts. I respect his feelings. No one is attacking his feelings or his relationships. There are many loving relationships between adults. But, Mr. Speaker, what we are saying and what this amendment is about is children, having children, raising children, and the ideal of marriage between one man and one woman raising those children.

Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. FORBES).

Mr. FORBES. Mr. Speaker, one thing that both sides of the aisle, I think, can agree on today is that we should not be here today debating this amendment. I was thinking as I was sitting here, if we could go back in time to the days when they were laying the very foundation of this building that we are in today and we could ask the individuals laying that foundation, people walking the streets in D.C., what is the definition in America of marriage, they would have looked at us in bewilderment and they would have said without question, it is the relationship between one man and one woman.

Mr. Speaker, if I had dared to tell them that there would come a day when I would stand in this Chamber and people would point their finger at me and they would yell and they would scream and they would call me names because I dared to stand up here to defend that definition of marriage, they would have been just awestruck.

Mr. Speaker, our friends on the other side of the aisle always talk about representing the people in this country; but when their definition of marriage was challenged, 78 percent of them in Louisiana stood up and said that they believed that marriage should be between a man and a woman; 71 percent of them stood up in Missouri; 70 percent in Nebraska; 69 percent in Hawaii; 61 percent in California.

Mr. Speaker, what we are facing today is an assault by a few individuals on that basic traditional definition of marriage between a man and a woman. The problem we had is that when this Congress stood up with the people in this country and said we want to protect that definition for you and they passed the Defense of Marriage Act, they realized that that act is currently under attack in Nebraska alone where 70 percent of the voters amended the Nebraska constitution to define marriage as the union of one man and one woman, that is being attacked and trying to be overturned now.

Mr. Speaker, before our subcommittees we have heard testimony after testimony by leading scholars of the courts that tell us that when that act comes before the courts, it will be declared unconstitutional, not because that was the original Constitution but because of the way a few handful of judges are interpreting that Constitution today.

Mr. Speaker, the question for us is very simple. There are some of our friends who say that the protection of marriage is not worth amending the Constitution. I think it is worth that, Mr. Speaker; and I hope we will pass this amendment so we can stand with all the people across this country who believe very strongly that marriage should be between a man and a woman for the protection of the children in that marriage.

Mr. CONYERS. Mr. Speaker, I am pleased now to reach across the aisle and yield 3½ minutes to the distinguished gentleman from Arizona (Mr. KOLBE).

Mr. NADLER. Mr. Speaker, will the gentleman yield?

Mr. KOLBE. I yield to the gentleman from New York.

Mr. NADLER. I thank the gentleman for yielding.

Mr. Speaker, the distinguished majority leader said that this amendment is about protecting children. With all due respect, it has nothing to do with protecting children. Gay people, lesbian people raise children today. They have children. They raise them. The laws of many States permit them to adopt children and they do. What this amendment is aimed at doing is aimed at preventing any State from bringing some stability to the lives of those children by allowing their lesbian or gay couples who have legal custody of those children, who are raising those children, to be able to get married. And this amendment says never mind what the electorate says, never mind what the legislature says, we do no want those parents to be able to be married.

So do not tell us this is about protecting children. Whatever it is about, it is not about that.

Mr. KOLBE. Mr. Speaker, I thank the gentleman for his comments. I thank the gentleman from Michigan for yielding me this time. I wish I could seek time from my side of the aisle to speak today for basic human rights.

□ 1515

Unfortunately, the misguided effort to enshrine family law into the Constitution of the United States comes from this side of the aisle. So I am grateful to the minority for yielding me this time.

Mr. Speaker, the very process by which this bill is brought before us today is an affront to this institution. It was not considered by any committee of the House. It is not brought to the floor by the chairman of that committee. Rather, it is brought by the Republican leadership, who decided to take upon themselves to do the work of the committees and their chairmen. Moreover, this very same legislation was considered in the Senate and did not even achieve a majority vote, much less the required two-thirds for a constitutional amendment. Why then are we rushing to judgment here today? What is the compelling reason to consider this now?

Eleven States have proposed constitutional amendments on the ballot this November which would define marriage in their own States as being between a man and a woman. While I might disagree with the actions of the voters in my State or any State considering such an amendment to their constitution, that is their prerogative. For better than 200 years, family law has exclusively been the domain of the States. And that is where it should remain. Vice President CHENEY said exactly this, and I agree with him. The chief crafter of the Defense of Marriage Act in 1996, former Representative Bob Barr, has said as much. And I agree with him. Marriage and divorce, inheritance and adoption, child custody, these are matters which correctly belong with our States. It certainly does not belong in the Constitution of the United States.

Many of the States considering amendments to their own constitutions would permit their legislatures to enact provisions for civil unions between two people of the same sex. This amendment would prohibit that. But that is the genius of our federal system. To allow States to find solutions to issues such as family law which work uniquely for them.

Amending the Constitution is, thankfully, a difficult task. That cumbersome process has saved us from making ill-advised changes during these past 215 years. It will save us from ourselves again this day.

Never in our history have we used the amending process to limit the rights of citizens. From the first amendment to the fourteenth, the framers and the Congresses which followed have sought to expand and protect the rights of citizens. This would be a unique amendment in that it takes away rights from one group while specifically conferring it upon another. Try to find another provision in the Constitution that does this. They will look in vain.

Mr. Speaker, this Congress and those before it should be about protecting rights and expanding rights. This proposed amendment to our Constitution is about discrimination. It is unnecessary. It is unwarranted. It should be soundly defeated.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have been here before. Abortion was up to the States, and it was supposed to be up to the States. Unfortunately, those who wanted more abortions in the States and the States were not doing what they wanted had a concerted strategy to use the courts to get abortion. And they worked over the years, went to the Supreme Court, and they got their abortions. And we have abortions.

The same thing is happening now on marriage. They are trying to get marriage redefined in this country, so we know that we will end up in the Supreme Court.

Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BISHOP).

Mr. BISHOP of Georgia. Mr. Speaker, I am glad that Congress has moved this important legislation to the floor of the House for a vote today. My office has received literally thousands of letters and e-mails, personal visits and phone calls from constituents urging me to support the institution of traditional marriage. And I want them to know today that I have heard them.

I realize that reasonable men can differ on whether to allow nontraditional marriages in the United States. But I am clear on this issue because the values I share with the people of the Second Congressional District of Georgia are deeply held for God, country, work, and family. Moreover, these families' values are those of the traditional family based in our Judeo-Christian principles. That is why I have cosponsored and will vote for this important constitutional amendment, H.J. Res. 106, in order to protect the institution of marriage by defining marriage in the United States as the union between a man and a woman.

I also voted for the Defense of Marriage Act in 1996, which prohibits federal recognition of same-sex marriages and allows individual States to refuse to recognize such marriages.

Mr. Speaker, only by having a uniform definition of marriage established in the Constitution and interpreted by the federal courts can this most basic unit of society be protected.

God, country, work, family, marriage between one man and one woman, to these we must pledge our sacred honor.

Mr. CONYERS. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY), who has worked with us on civil rights, human rights and international issues throughout her career.

Ms. WOOLSEY. Mr. Speaker, here we go again. With all the important legislation we should be working on with just 1 week left in our session, we are writing discrimination into the Constitution for the first time in our country's history.

Whether one supports or opposes gay marriages, there is no reason to threaten the democratic values set forth in our Constitution. Not now, not ever.

Of course, Republicans are getting a lot of political mileage out of this debate today from their right-wing fundamental supporters. And they get a lot of mileage out of being on the side of what we they call "family values." They have offered programs like their Marriage Initiative, where $1.5 billion has been funded to help the poor acquire interpersonal and conflict management skills to promote and strengthen marriage.

The people I talk with, however, do not want the government to be their family therapist. They do not want the government to be in their bedroom. They want a government that helps create good jobs with good benefits, flexible workplaces, universal health coverage, affordable child care, safe after-school programs and much more. They know what real family values are.

And let me read a letter I just received from a family that knows about family values. The woman writing, her name is Casey. She is from Santa Rosa, California. She writes: "I was in a very long relationship with my partner until her death on April 17, 2000. Although I wanted very badly to, we could not legally marry, and my partner refused to marry me until our marriage would be legal. Hence, we were never able to marry even though we raised two children, who, by the way, are both heterosexual.

"Shortly after her terminal diagnosis after 18 months of a valiant fight against cancer, she asked me to marry her brother. This would accomplish three goals: I would be afforded health insurance through his work. As I have several debilitating chronic conditions, it is vital that I have health coverage." Second, "if and when he becomes ill from his HIV or Hepatitis C, he will have someone to care for him." And, third, "our youngest child would have two parents for the rest of her childhood, another 3 years.

"Three weeks to the day after her brother and I were married, the love of my life died in my arms at the age of 37. If we had been allowed to marry, we would have felt that we were full citizens in our State and in our country. As it was, she died a second-class citizen. Please do not let any more Americans die as second-class citizens. Sincerely Casey McChesney."

Mr. CONYERS. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Speaker, I rise in opposition to the so-called Marriage Protection Amendment.

During the Civil Rights movement there was great public turmoil over whether or not white and black children should go to the same schools; whether people of different races should eat in the same areas of restaurants, drink from the same water fountains, sleep in the same hotels; even whether consenting adults of different races should be allowed to marry each other. After years of struggle and public discourse, the minority went to our country's highest court and to its elected representatives in Congress, and at long last, in their quest for equality, our government realized that Black Americans are Americans.

Today, only 40 years later, these questions seem preposterous. To children learning about that time in school, it seem unreal. Listening to the debate today, I have to wonder if we will ever learn from the lessons of our history. Today we're talking about an amendment to the Constitution—the document that assures all Americans that they are equal. We're asked to amend the Constitution in a way that will say all Americans are equal, except for this one group. What we're really talking about today is one question. Are Gay and Lesbian Americans, Americans?

I hear those who support this amendment saying we have to amend the Constitution to protect us from activist judges who are not upholding the notions of family that existed when the country was founded. If the authors of this amendment had served in Congress during the Civil Rights movement, we could have heard them argue to defend segregation with an "Education Protection Amendment" after the Supreme Court's activist decision in the Brown v. Board decision. After the Loving v. Virginia decision they would have reacted to the judicial activism with a "Racial Purity Protection Amendment."

I don't believe that the proponents of this amendment, or for that matter the majority of the American people, truly believe that a gay couple living down the street in a committed relationship is a threat to their own marriages or to other marriages in their community. I don't think they really believe it because such a belief would be completely nonsensical.

The proponents of this amendment argue that two women who fall in love and want to marry will eventually be the downfall of all families in the United States. They say it will lead to the breakdown of the family. I want the people in favor of this amendment to look at the more than one million children of gay and lesbian parents in this country today one million children of gay and lesbian parents in this country today and tell them that you're here fighting to protect the rest of the country from their family.

The Members who support this amendment claim they want to protect marriage. Open your eyes and look around. There are plenty of threats to marriages today—adultery, divorce, just the challenge of two adults making it through life's struggle together. Two people falling in love is not a threat to marriage—it's the basis of marriage.

If the other side were sincere about wanting to protect marriage, we'd have an amendment on the floor today constitutionally banning divorce. If they really wanted to protect children from the dangers of being raised without a father and mother, we'd be banning single parenthood. But we aren't.

Each Member of this Congress took a vow to defend the Constitution when we took office. The Marriage Protection Act would defile our Constitution, and we should uphold our duty today by opposing it.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Iowa (Mr. KING), a member of the Committee on the Judiciary.

Mr. KING of Iowa. Mr. Speaker, I thank the majority leader for yielding me this time.

A lot has been said about this Constitution. I will just take my colleagues to article I, section 1. It says "All legislative powers herein granted shall be vested in a Congress." That is what the courts have taken over from us, legislative powers.

So I want to say this about families: There is only one institution that is as old as humanity itself. There is only one institution that we know is right for raising children. There is only one institution that we know is best to teach our children our values of faith, our moral values; only one proven institution to transfer our work ethic to the next generation. There is only one institution that transfers all that we are as a people to our children and grandchildren and only one relationship between people that ensures the survival of the human race.

All of human history, all that we were, all that we are and all that we are ever going to be is built upon one institution, the cornerstone of civilization. And that institution, Mr. Speaker, is marriage.

Mr. Speaker, we owe too much to our Creator, too much to posterity and too much to our children to throw away marriage, redefine marriage for no more reason than to demonstrate tolerance.

The active effort on the part of four unelected Massachusetts judges to impose same-sex marriage on all of America without the consent of the people is judicial tyranny. And if we believe in ourselves, and we do, and if we believe the Constitution is a sacred covenant that provides the best hope for all of humanity, then we have no other alternative but to amend the Constitution to protect our posterity from those who would forever alter or abolish our way of life and to do so without thought given to the price that would be paid by all future generations.

We cannot put the Genie or the Gina or the Jimmy or the Joey back in the bottle. If same-sex marriage were something that was an experiment that, if it did not pan out, we could simply change it back, I would not be so emphatic here today. Mr. Speaker, we will not get a "do-over" on marriage. We will not get a second chance to get it right again; not in this country, not in this civilization and not in this generation of man.

I support the constitutional amendment.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SMITH), a member of the Committee on the Judiciary and subcommittee chairman.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Texas, majority leader, for yielding me this time.

Mr. Speaker, however we feel about the subject of marriage, we can still support the Marriage Protection Amendment. That is because judicial activism in America has reached a crisis.

Judges routinely overrule the will of the people, invent so-called rights and ignore traditional values. Recently, judges have even changed the definition of marriage. Most Americans simply do not want judges to dictate a new kind of marriage that is so different from the one that has served so many so well for so long. They want to protect marriage as we know it.

Eleven States have proposed to alter their constitutions or statutes to protect traditional marriage through ballot initiatives. Five States have already done so, with an average of over 70 percent of the voters wanting to protect marriage.

To prevent judges from overruling these popular initiatives, we must pass the Marriage Protection Amendment. Either we act in Congress or a few judges will redefine marriage and impose their personal views on the country.

The constitutional amendment process is an integral part of our democratic system, requiring approval from two-thirds of each House of Congress and three-quarters of the States by votes of their State legislatures. Passing a constitutional amendment places this debate back where it belongs, and that is with the American people. It is the American people and their representatives who should determine how marriage is defined. That is why we should support the Marriage Protection Amendment.

Finally, Mr. Speaker, I want to say, we have heard two arguments time and time again today by the opposition that they have used to cite to oppose the Marriage Protection Amendment. The first is some variation of "all people are created equal," that somehow this is about equal rights. But, Mr. Speaker, just because all people are created equal does not mean that all kinds of marriages are equal, just like it does not mean that all kinds of flags are equal or all kinds of governments are equal.

The second argument we have heard today over and over again is that somehow this is a political issue being used to win elections. I do not mind that argument, Mr. Speaker, because that concedes that a majority of the American people agree with us that we want to protect marriage as we know it.

☐ 1530

Mr. DELAY. Mr. Speaker, I yield 3 minutes to the gentleman from Missouri (Mr. AKIN).

Mr. AKIN. Mr. Speaker, I am pleased to rise today in support of the Marriage Protection Amendment.

There have been references to the Constitution. Mine starts out "we the people," not "we the judges." We did not ask for this debate. It has been brought on us by activist judges who have chosen to ignore the will of the people and instead redefine marriage for all Americans.

Sociologists, psychologists, and other experts can give us all sorts of technical explanations, but we all know from experience that kids are best off when they have a mom and a dad.

And kids is what this debate is all about. It is not about civil rights or the rights of same-sex couples. Same-sex couples are free to live as they choose. This amendment does not change that. Instead, this amendment simply defines what marriage is, the union of one man and one woman.

Now, some have used the word "discrimination" or "discriminating." You know, 342 Members of this House, along with the President, signed the Defense of Marriage Act. Does that mean they were discriminating? How about the 70 percent of the voters in of my State of Missouri or 80 percent in the State of Louisiana? Are they discriminating? I think not.

Activist judges are trying to institutionalize a lie that marriage is just about big people relationships, but they forget the little people, the whole generation of kids who will struggle with this terrible precedent.

We do not have to look very far to see the results of family deterioration. Whole cities have suffered terrible poverty and crime because the model of traditional families has been weakened. Should we now stand idly by while a mere handful of activist judges seek to institutionalize the lie that marriage is disconnected from child rearing?

It has been tried before. It has been tried in the Netherlands, and the result is a tremendous increase in the number of little children who are born without any families.

The other night I went to a dinner, there was a 16-year-old little girl, and she said that ever since she could remember being alive she had only one wish: She wished that she had a family.

Do you know what it is like to be lonely, to be really lonely, to have no mom and to have no dad? Do you realize what you miss when you do not have a family, about the love and the affection? When you wake up in a bed and dream at night and there is someone there to give you a hug? The self-sacrifice and self-discipline and grace, forgiveness, all these things that families teach us?

I remember when I was a little kid trying to learn to ride a bicycle. I finally got it going and ran it smack into a bush. I was all bruised and scratched and in tears; and my dad, my big strong dad, came over and he picked it up and he said to me, "It is time to get back and try again." See, those are the kinds of things that moms and dads provide.

So this thing is about the little people. It is whether kids are going to have a mom and a dad. The real discrimination here is by activist judges who are trying to deny children the advantages of a simple family. If this Congress does not act, then it is a gross dereliction of duty if we do not protect our children and protect our marriages.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. TOOMEY).

Mr. TOOMEY. Mr. Speaker, I thank the majority leader for yielding me time.

Mr. Speaker, I rise in strong support of the Marriage Protection Amendment. This amendment is about recognizing a simple, important, and fundamental truth, and that is just that the marriage of one man and one woman is a unique, special and, in fact, an indispensable relationship that deserves the special recognition we have given it for millennia.

We have got many kinds of important relationships in life. We all know those. Siblings, friends, cousins, in-laws, neighbors, there are lots of important relationships. But only one relationship, the marriage of one man and one woman, can provide the optimal environment for raising children. And that is why the family with a married husband and wife at the center has always been the most important building block of society. And that is why we are here today, to ensure that that unique and vital and important relationship be recognized, preserved, and protected.

Let me reaffirm something that the majority leader said earlier. The fact is the definition of marriage is going to be written at the Federal level. The question here today is whether that is going to be done by nine men and women wearing black robes or whether it is going to be done by the American people through their elected Representatives in Congress and the 50 States through a very democratic process. Put me squarely on the side of those who believe that the American people should make this decision.

We in Congress have stood by and watched the courts usurp more and more power from the American people for decades, and I think we have abrogated our responsibility to the American people by tolerating judicial activists for too long. It is finally time to draw the line and let the American people affirm the definition of marriage by passing this amendment.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. ADERHOLT).

Mr. ADERHOLT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, I rise today in strong support of the Marriage Protection Amendment. I am proud to be counted among the cosponsors of this constitutional amendment this afternoon.

In the history of our country, I do not believe anyone has ever said that our system of democracy would be easy. Our Constitution was designed to set us on a path, but it also gave us the ability to change that path when it became necessary. Our Founding Fathers wanted to ensure that we took that process very seriously. They set the bar very high.

Today, many of us here in this body believe that the time has come to change paths, and many people in our country agree. It is time that their voices are heard in this debate.

Today on the floor we have heard a litany of questions about why we are considering this issue. Yes, there are important bills that need to be considered: health care, homeland security, education, jobs. All of them need to be addressed, and no one would argue with that.

But how could anyone say that protecting marriage and the future of the American family is not a top priority? Marriage and the family is the very foundation of our society. It is the activist judges in Massachusetts and Oregon that have compelled the Congress to act, not the other way around.

Mr. Speaker, I urge my colleagues to support this legislation this afternoon as we support the marriage between a man and a woman.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, why are we standing here today, wasting taxpayer dollars in an attempt to, for the first time in our history, amend our Constitution to deny a specific group equal rights? Why do we not leave it to the States, as our Constitution provides?

Frankly, I fail to understand why gay marriage threatens my wife's and my 24 years of marriage, or anybody else's marriage, or why it would undermine the Republic.

Gay and lesbian Americans want their secular government to legally recognize their committed relationships. They want their secular government to provide equal benefits in tax law, access to health care, Social Security, and death benefits. They want the same benefits as other Americans.

Some of my friends on the other side of the aisle are being disingenuous by saying they simply only want to define the institution of marriage. If that is their only motive, then why do they also oppose domestic partnerships and civil unions, which would give gays and lesbians the same rights as other Americans?

Why are we even dealing with this now? The Senate has defeated it. Could it be an attempt to divert attention from the failings of the Congress to do its work on appropriations and transportation; to divert attention from the war in Iraq, from a poor economy or from skyrocketing deficits; to force a blatantly political vote in this House; to whip up a frenzy in a specific group of voters one month before an election?

Let us stop playing political games. Vote down this amendment. We should not be dealing with something that is best being left to the States.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Mr. Speaker, marriage is a universal human institution. It always has been in all societies. But marriage in the United States has been under attack in recent years. And the future of marriage really does matter.

Regardless of where we look, we have seen a gradual weakening of the institution of family that historically we have relied on to raise kids. And while marriage has taken a beating from divorce and other factors, the statistics still show that the best home for kids is still with a mom and a dad who are married.

This debate is really about what is best for our children. Children living with their mom and dad are safer, children living with their mom and dad are less likely to be abused or neglected, and children living with their mom and dad have fewer health problems and engage in fewer risky behaviors than their peers. These children are more likely to do well in school. They are better off economically and display increased ability to adapt to changing circumstances than peers not living with their mom and dad.

Data shows children who do not have the benefit of mom and dad have unique challenges they would not face if their parents were married and living at home.

And do not try to tell me that people who believe children need moms and dads are bigots. Do not try to tell me that people who believe in moral absolutes are guilty of moral bigotry. We are here to protect our kids. We are here because marriage is healthy for our children.

When marriage ceases to be seen as a means to bring people together for the sake of children, marriage suffers; and when marriage suffers, children pay the price.

Marriage is important because kids need a mom and a dad. History shows that when one aspect of marriage is damaged, the entire institution suffers.

We need to protect marriage by passing this amendment.

Mr. CONYERS. Mr. Speaker, I am proud to yield 2 minutes to the gentlewoman from New York (Mrs. MALONEY), the leader of the equal rights amendment.

Mrs. MALONEY. Mr. Speaker, the Constitution of the United States is the single greatest foundation of law in history. It serves as a model for democracies around the world. Therefore, we should approach amending it with great caution and reverence.

For 215 years the U.S. Constitution has protected the rights of the American people; the right to assemble, the right to worship, the right to speak freely, and we ought to pass a constitutional amendment that gives equal rights to women. Instead, today we are debating a constitutional amendment that would curtail a right. Our predecessors tried this once in the 20th century. Fourteen years later they had to unamend the Constitution by rolling back prohibition.

Our Constitution is silent on marriage, and that is good, because the American people's definition of what is an acceptable marriage has evolved over the years. A marriage once signified that a woman had no legal identity apart from her husband. Within the last 100 years, over a dozen States prohibited marriages between those of a European and Asian decent, and the Supreme Court overruled laws barring interracial marriage less than four decades ago.

No constitutional amendment stood in the way of those changes. Laws governing families and marriage have always been determined by State governments. Dozens of States are already dealing with this issue. It is federalism in action. Many of this constitutional amendment's supporters have preached the virtues of federalism on other issues. You cannot be a federalist except when federalism is inconvenient.

This is not governing on principle, it is practicing the politics of expedience and divisiveness right before a major election, and we should know better than to play politics with the United States Constitution.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me time. More to the point, I thank the majority leader, the gentleman from Texas (Mr. DELAY), for his extraordinary moral courage in leading this critical issue to the floor of this Congress and leading the debate today.

I also congratulate the original author of this legislation (Mrs. MUSGRAVE), who even as a freshman has left already an indelible imprint on the national debate in this legislation.

I rise today in support of the Marriage Protection Act because I believe, as the overwhelming majority of the American people have ever believed, that marriage matters; that it was ordained by God, established in the law; that it is the glue of the American family and the safest harbor to raise children.

We have heard again and again throughout this afternoon that marriage is under attack by judicial advocates. But I rise today to say that marriage matters to children. And we need not look to the theoretical. Marriage in Scandinavia and in Holland is dying since the advent of same-sex marriage over the last decade in those countries.

□ 1545

As a result, a majority of children in Sweden and Norway are now born out of wedlock. In some parts of Norway, as many as 80 percent of first-born children and two-thirds of subsequent children are now born out of wedlock. And we know ever since my colleague from Indiana, Dan Quayle, first said it, marriage matters to children. Children born out of wedlock have statistically been proven to be more than twice as likely to be poor, to give birth outside of marriage themselves, to have behavioral or psychological problems, and fall into every form of social malady that besets our children.

Marriage matters to children.

I rise today to say against this extraordinary phalanx of legal attacks in virtually every jurisdiction of the country that I commend the leadership of this Congress and, to no less extent, the President of the United States of America for saying that marriage matters enough to find space in the Supreme Court of our land to defend it.

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from Colorado (Ms. DEGETTE), a distinguished lawyer in her own right.

Ms. DEGETTE. Mr. Speaker, one of the most glaringly absurd aspects of this debate is that marriage has never been and should not be now a Federal issue. Marriage is quintessentially a State issue. States have always had the ability to determine what constitutes marriage and the protections that it affords the will of the citizens.

Not only does this proposed amendment turn the notion of Federalism on its head, though. It is antithetical to the spirit of our Constitution. This amendment would enshrine discrimination in our Constitution and be the only amendment that actually takes away a group's rights. It would not only take away the right to marriage, but also the right to provide basic fundamental rights, such as the right to visit a partner or child in the hospital.

And to those who say it will help children, I have this question: Why should we not instead ban divorce? Approximately 1 million children, the product of heterosexual marriages, are living in single-parent homes in this country. Fifty percent of heterosexual marriages will end in divorce. If a State allowed same-sex marriage, I do not think it would affect my own heterosexual marriage. We are proud of the fact that this body represents America.

So I would ask those who are divorced or those who have committed adultery, search in your soul and ask yourself, are you really ready to stand here today, today in this body, and cast the first stone?

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I want everyone to keep in mind in the midst of this debate that a primary benefit of marriage is that it provides children with a mother and father from whom they can learn and be protected. What we are talking about today is whether or not we as a Nation will work to reaffirm an institution that provides profound benefits for children.

It is correct that there are millions of men and women in this country who bravely raise children as single parents, and I applaud them for that. But there is an ideal for our children. Social science and everyday experiences teach us that children raised without the presence of both a mother and a father experience more poverty, more substance abuse, a higher rate of educational failure, and much more. Given the importance of marriage in the presence of a mother and father for our children's general welfare, this institution must remain strong.

As a wife and a mother of two sons, I know the importance of children having both a mother and father. When our boys were growing up, my presence was important and irreplaceable. Studies have shown that young men raised by both a mother and father have more positive attitudes toward women, children, and family life. This is exceedingly important, as our society benefits when boys grow up to be men who take raising children seriously. My husband also played an equally important role in the lives of our boys, the role of father, a role that I could never play.

It is true the future of marriage as a strong institution goes far beyond whether or not the Constitution is amended to reaffirm the definition of marriage as the union of one man and one woman. This does not mean that the Marriage Protection Amendment is unimportant. As a society, we will have no hope of strengthening the bonds of marriage without a unified, national definition of marriage that promotes the ideal for our children, that of being raised by both a mother and a father.

As an original cosponsor of this amendment for the last 3 years, I stand in strong support of the Marriage Protection Amendment, and I urge its passage.

Mr. CONYERS. Mr. Speaker, I yield to the gentleman from Massachusetts (Mr. FRANK) for the purpose of making a unanimous-consent request.

Mr. FRANK of Massachusetts. Mr. Speaker, I insert into the RECORD answers I gave to the Committee on the Judiciary and some further material which rebut the preposterous conclusion of Stanley Krutz, which was quoted here, that somehow, same-sex marriage resulted in a decline in heterosexual marriages elsewhere.

JUDICIARY COMMITTEE, CONSTITUTION SUBCOMMITTEE,
Rayburn House Office Building,
Washington, DC.

Answers to the questions from Jerrold Nadler:

When I was asked about Stanley Kurtz's research by Congresswoman Hart at the hearing, I had not read any of his work. I now have and I can say that I believe his interpretation is entirely without intellectual merit.

As I recall Ms. Hart's question, she asked me to accept Mr. Kurtz's factual assertion that a recognition of same-sex marriage had been followed in various European countries by a decline in heterosexual marriage, and asked if I could think of any possible explanation other than that the former had caused the latter.

I was reluctant to answer the question before reading the data lest I be validating premises and assumptions which I would later find to be invalid. This turns out to be the case. In fact, Mr. Kurtz does not himself argue that same-sex marriage recognition preceded a decline in heterosexual marriage. In every country he discusses, and his selection is surprisingly sparse, a point to which I'll return, a decline in heterosexual marriage and childrearing in heterosexual marriages preceded by a significant period of years any recognition of same-sex marriages.

But even on the narrow—and inaccurate—statement of Mr. Kurtz's position that Ms. Hart put forward, the alternative explanation to the assertion that same-sex marriage causes a deterioration in heterosexual marriage is a simple one: They may both be effects of the same or similar social causes. Indeed, as Ms. Hart put the question to me, it can serve as a dictionary example of the logical fallacy known as "post hoc ergo propterhoc." That is, the fallacy that believes that if something happened after something else, it must necessarily have been caused by it.

The key point again to stress is that Mr. Kurtz himself does not argue that same-sex marriage recognition preceded the deterioration in opposite-sex marriage.

In fact, Mr. Kurtz himself argues essentially that the primary relationship of same-sex marriage and a decline in heterosexual marriage is that they are both cause by the same set of social phenomena. A fundamental flaw in his reasoning of course is that he does virtually no analysis of any of the European countries in which there has not been some form of recognition of same-sex relationships. In other words, there is zero comparative analysis in his work. Have significant deteriorations in the incidence of heterosexual marriages happened in other European countries which have not in fact recognized same-sex relationships. The answer is almost certainly yes but we will never know that from reading Mr. Kurtz, who carefully avoids even posing that question, obviously lest his hypothesis be endangered. He does refer to England as a country where there has been a significant deterioration in the number of heterosexual marriages, but fails to note that this undercuts his argument about the relationship between this and recognizing same-sex relationships since England had not done that at the time of his analysis.

The second point to be stressed is that Mr. Kurtz is not talking about same-sex marriage in most cases, but rather of various forms of recognition of same-sex relationships, akin to domestic partnerships or civil unions. This is relevant because some of those who questioned me who are supporters of a Constitutional amendment asserted that they were talking only about the unique nature of marriage, and seemed to think that Mr. Kurtz supported them. Of course he does not since he conflates marriage and other forms of recognition throughout his analysis. Thus, the distinction that one Constitutional amendment draws between marriage and other forms of same-sex relationships does not appear to be at all supported by Mr. Kurtz's analysis.

I have read both his testimony and his article in the Weekly Standard carefully and I am unable to find any coherent argument that says that recognizing same-sex relationships reinforced—he does not claim that they are the primary cause—a decline in heterosexual marriage. His exact statement is "there is good reason to believe that same-sex marriage and marriage-like same-sex registered partnerships are both an effect and a reinforcing cause of the Scandinavian trend towards unmarried parenthood." The primary cause of the "marital decline in Scandinavia" according to Mr. Kurtz, incidentally, are "contraception, abortion, women in the workforce, cultural individualism, secularism and the welfare state." That is, all of these have by Mr. Kurtz's own analysis more of a responsibility for the decline of heterosexual marriage and same-sex-marriage. This of course reinforces my earlier point—namely that Mr. Kurtz scrupulously in his analysis avoids looking at the statistics in countries which have not recognized same-sex marriage, since virtually all of them in Western Europe are affected by these other factors. And it does appear that to Mr. Kurtz, even if we abolish same-sex relationship recognition, we would have to ban or severely restrict contraception, abortion, women in the workforce, cultural individualism, secularism and the welfare state if we were to save marriage. I recognize that there are members of the Judiciary Committee who are attracted by the notion of restricting some or all of these, and I commend their discretion in not being more explicit about this wish.

When it comes to causality, the only effort to establish a causal relationship between recognizing same-sex unions and the decline in heterosexual marriage comes in his testimony when Mr. Kurtz says that "same-sex partnerships in Scandinavia have furthered the cultural separation of marriage and parenthood in at least two ways." He then says that "first, the debate over same-sex partnerships has split the Norwegian Church," and he argues that this weakening of the traditionals within the Norwegian Lutheran Church is a cause of an increase in same-sex relationships. I have tried very hard to find the second causal factor but a very close reading of the text produces no second. So we are left with one assertion of causality—namely that the fact that "clergy who preach against homosexual behavior are banned" from preaching in parts of Norway means that their advocacy of heterosexual marriage is no longer heard. This reinforces my view that whatever is or is not happening in Scandinavia in this regard has virtually no relevance to the United States.

I am aware of no religious denomination that has banned clergy from the pulpit if they are against same-sex marriages. There are some denominations that allow this to be performed, but there should be no analogy between the United States, where the great majority of religious groups do not recognize same-sex marriages, and Mr. Kurtz's view of parts of Norway where virtually all clergy who oppose same-sex marriage are banned. To be explicit, if the causality that links a recognition of same-sex relationships to a decline in heterosexual marriage rests entirely on the fact that anti-same-sex relationship clergy are being marginalized and in some cases silenced, it has no relevance to the United States where nothing of that sort has happened or is likely to happen.

This leads me to my final point—namely that reading Mr. Kurtz makes it even clearer than it was to me before that the most relevant experience to draw on in predicting what impact recognizing same-sex relationships will have on American society comes from Vermont. Some have argued that the Vermont experience is not relevant because it has only been in effect for four years or so. But Mr. Kurtz himself has an important section in his testimony on the Netherlands, where "formal same-sex marriage . . . took effect in 2001," and "marriage-like registered partnerships" dates from 1998. In other words, the Vermont experience is roughly comparable in time to that of the Netherlands, and if Mr. Kurtz is right in judging an impact based on the Netherlands, Vermont should be equally relevant from the chronological standpoint—and, as a part of the United States, far more relevant culturally.

We have one set of experiences with legal recognition of same-sex relationships in the United States—that of Vermont. It shows none of the negative effects that opponents of same-sex marriage have predicted. Mr. Kurtz advances a correlation in the continued decline of marriage in various European countries—where that decline long predated any recognition of same-sex relationships—and the recognition of same-sex relationships. But he carefully confines his analysis only to those countries where same-sex relationships have been recognized, so we have no way of telling whether or not the decline in marriage that he attributes to same-sex relationships has been equally great in countries where there is no such recognition. And the only specific causal point he advances is that this silencing or intimidation of Norwegian Lutheran clergy who oppose same-sex marriage has diminished their ability to preach in favor of heterosexual marriage. I am very certain in my view that the experience in Vermont is far more relevant to gauging the impact of a recognition of same-sex relationships in the United States than is the experience in a couple of Norwegian counties where the clergy opposed to same-sex relationships have been silenced.

BARNEY FRANK.

WILL PROVIDING MARRIAGE RIGHTS TO SAME-SEX COUPLES UNDERMINE HETEROSEXUAL MARRIAGE?

Since the November 2003 court ruling allowing same-sex couples to marry in Massachusetts, a new debate on expanding the right to marry has exploded across the United States. While the debate involves many issues, one particularly controversial question is whether heterosexual people would change their marriage behavior if same-sex couples were given the same marital rights and obligations.

As a way to understand what might happen, some writers have looked to the experience of those Scandinavian countries that have pioneered giving a marriage-like status to gay and lesbian couples. Denmark adopted such a "registered partnership" law in 1989, Norway in 1993, Sweden in 1994, and Iceland in 1996. Same-sex couples who register as partners in those countries receive most of the rights and responsibilities of marriage. Since then, three other countries (France, Germany, and Finland) have also created a new status for same-sex couples, and two (the Netherlands and Belgium) opened marriage to same-sex couples.

What can we learn from the experience of these countries about how giving gay couples the right to marry affects heterosexual marriage patterns? On the one hand, the fact that Danish marriage rates increased slightly after the passage of partner recognition laws has led some observers to conclude that gay couples are saving the institution of marriage.

On the other hand, Stanley Kurtz of the Hoover Institution claims that allowing gay couples to marry or have marital rights has undermined the institution of marriage in Scandinavia and the Netherlands. This second argument has been widely reprinted and quoted around the country. However, the claim that giving marital rights to gay couples will undermine heterosexual marriage is based on the consistent misuse and misinterpretation of data.

The argument that same-sex partnerships undermine heterosexual marriage rests on four claims:

1. In the European countries that allow same-sex couples to register as partners, marriage and parenthood have become separated, and married parenthood has become a minority occurrence.
2. The separation of marriage and parenthood in those countries is disastrous for children because of higher rates of break-up among cohabitors.
3. Allowing gay marriage accelerates the separation of parenthood and marriage.
4. If the U.S. allows gay couples to marry, heterosexual people in the U.S. will adopt European-style family dynamics.

In fact, none of these claims fits the actual evidence of the Scandinavian and Dutch experience and the U.S. context. A closer look at the data reveals a very different picture:

Divorce rates have not risen since the passage of partnership laws, and marriage rates have remained stable or actually increased.

The majority of parents are married. The average Scandinavian child spends more than 80% of his or her youth living with both parents—more time than the average American child.

Non-marital birth rates have not risen faster in Scandinavia or the Netherlands since the passage of partnership laws. Although there has been a long-term trend toward the separation of sex, reproduction, and marriage in the industrialized west, this trend is unrelated to the legal recognition of same-sex couples. Non-marital birth rates changed just as much in countries without partnership laws as in countries that legally recognize same-sex couples' partnerships.

MARRIED PARENTS ARE STILL THE MAJORITY IN SCANDINAVIA

Marriage and child-bearing have become less directly connected over time in many European countries, including Scandinavia. But as we shall see, this separation hardly qualifies as the death of marriage, and it cannot be blamed on the passage of same-sex partner laws.

In fact, Denmark's longterm decline in marriage rates turned around in the early 1980's, and the upward trend has continued since the 1989 passage of the registered partner law. Now the Danish heterosexual marriage rates are now the highest they have been since the early 1970's. The most recent marriage rates in Sweden, Norway, and Iceland are also higher today than they were in the years before the partnership laws were passed. The slight dip in marriage rates in the Netherlands since 2001 is the result of a recession-induced cutback on weddings, according to Dutch demographers, and the actual number of marriages has gone up and down in the last few years, even before the legalization of same-sex marriage.

No research suggests that recognizing same-sex couples' relationships caused the increase in marriage rates. But heterosexual couples in those countries were clearly not deterred from marrying by the legalization of same-sex couples' rights.

Divorce rates also show no evidence of harm to heterosexual marriage from partnership laws. Scandinavian divorce rates have not changed much in Scandinavia in the last two decades. Danish demographers have even found that marriages in the early 1990's appear to be more stable than those in the 1980's.

Cohabitation rates are indeed on the rise, though, as is the likelihood that an unmarried cohabiting couple will have children. In Denmark, the number of cohabiting couples with children rose by 25% in the 1990s. Roughly half of all births in Norway, Sweden, and Denmark, and almost 2/3 in Iceland, are to parents who are not married. From these figures, Kurtz concludes that "married parenthood has become a minority phenomenon."

In fact, however, the majority of families with children in Scandinavia and the Netherlands are still headed by married parents. In 2000, for instance, 78% of Danish couples with children were married couples. If we also include single parent families in the calculation, almost two-thirds of families with children were headed by a married couple. In Norway, 77% of couples with children are married, and 61% of all families with children are headed by married parents. And 75% of Dutch families with children include married couples. By comparison, 72% of families with children are headed by married couples in the United States.

How can this fact coexist with high nonmarital birth rates and cohabitation rates? The main reason is that in Scandinavia and the Netherlands most cohabiting couples marry after they start having children. In Sweden, for instance, 70% of cohabiters marry after the birth of the first child, most of them within five years. In the Netherlands, while 30% of children are born outside of marriage, only 21% of children under one live with unmarried parents, and by age five, only 11% live with unmarried parents. As a result, high rates of married couple parenting and rising marriage rates in Scandinavia are not incompatible with high nonmarital birth rates.

THE IMPACT ON CHILDREN

Kurtz claims that the rise in nonmarital births will hurt children since unmarried couples are more likely to break-up than married couples. And it is true that unmarried cohabiters' unions are more likely to dissolve in Scandinavia than are marriages, even when children are present. But when cohabiting parents marry in Scandinavian countries, as most eventually do, they are not more likely to divorce than are couples who were married when they had their children.

As a result, children in Scandinavian countries still spend most of their lives with their parents living together. In fact, they spend more time than kids in the U.S. do! Gunnar Andersson has calculated how much time the average child spent living with both parents in the same household in the 1980's, the most recent period that allows comparisons across countries. Of the countries he examines, the lowest average is in the United States, where the time spent with both parents is 67%. The highest is in Italy, where it is 97%. In Sweden the average is 81%, in Norway it is 89%, and in Finland it is 88%. In other words, combining the time that parents are cohabiting and married demonstrates that children are spending the vast majority of their young lives with their parents in the Scandinavian countries.

DID GAY MARRIAGE WIDEN THE SPLIT BETWEEN PARENTHOOD AND MARRIAGE?

No one would argue that marriage plays the same role in Scandinavia and in other parts of Europe that it once did. And to his credit, Kurtz himself recognizes that changes in marriage in Scandinavia were in many ways cause rather than effect of the legal recognition extended to gay couples. Kurtz acknowledges that high rates of cohabitation and the changing role of marriage in Scandinavia probably made it more likely that those countries would be the innovators in giving marriage-like rights to gay people. The decline of religious practice and belief, the rise of the welfare state, advances in contraception and abortion, and the improving economic status of women—all long-term trends in Scandinavia and the Netherlands—probably contributed both to the rise in cohabitation and to the equalizing of rights for gay and lesbian people.

In a recent study, I compared the cohabitation rates (and other variables) in the nine countries that recognize same-sex partners with other European and North American countries that do not. Cohabitation rates were higher in the partner recognition countries before the passage of same-sex partner laws. Since higher cohabitation rates came first, it would be inappropriate to blame partnership laws for more cohabitation.

But Kurtz also makes the subtler claim that registered partnerships "further undermined the institution" (his emphasis) and that "gay marriage has widened the separation" between marriage and parenthood. In other words, things were already bad but gay marriage made it worse.

However, this argument does not hold up, either, since the nonmarital birth rate began rising in the 1970's, long before any legal recognition of same-sex couples, and it has actually slowed down in Scandinavia in recent years. From 1970 to 1980, the Danish nonmarital birth rate tripled, rising from 11% to 33%. It rose again in the following decade, but by a much smaller amount, to 46% in 1990, before ending its climb. Denmark's nonmarital birth rate did not increase at all when the Danish partnership law was passed in 1989. In fact, it actually decreased a bit after that date!

Norway's big surge in non-marital births also occurred well before the passage of its registered partnership law in 1993. In the 1980's, the percentage of births to unmarried parents rose from 16% to 39%. In first half of the 1990's, the nonmarital birth rate rose more slowly, leveling off at 50% in the mid-1990s.

Kurtz argues that the main impact of partner registration laws in Norway was to discourage couples from marrying after the birth of their first child. But the data on second, third, and later babies born to unmarried parents tell the same story as the overall trend. In 1985, 10% of second and later babies had unmarried parents, a number that tripled to 31% by 1993. From 1994 to 2003, though, the number only rose to 41% where it appears to be leveling off. If the partnership law had "further" encouraged nonmarital births of first or later children, these rates should have increased faster after 1993, but in fact the increase slowed down (for second and later births) or stopped (for first births).

The Netherlands show a slightly different pattern, but here, too, there is no correlation between recognition of same-sex partnerships and rising rates of non-marital births. Despite high rates of cohabitation, the Dutch have traditionally been much less likely than Scandinavians to have babies before marriage, with fewer than one in ten births to unmarried parents until 1988. Kurtz argues that legal recognition for same-sex couples kicked Holland into the Scandinavian league with respect to nonmarital parenting. It is true that the Dutch nonmarital birth rate has been rising steadily since the 1980's, and sometime in the early 1990's the nonmarital birth rate started increasing at a somewhat faster rate. But that acceleration began well before the Netherlands implemented registered partnerships in 1998 and gave same-sex couples the right to marry in 2001.

Another helpful perspective is to compare the trends of countries that have a partner registration law with those that do not. I recognizing gay couples contributed to the increase in nonmarital births, then we should see a bigger change in countries with those laws than in countries without them. Data from Eurostat shows that in the 1990's, the eight countries that recognized registered partners at some point in that decade saw an increase in the average nonmarital birth rate from 36% in 1991 to 44% in 2000, for an eight percentage point increase. In the EU countries (plus Switzerland) that didn't recognize partners, the average rate rose from 15% to 23%—also an eight percentage point increase. The change in rates was exactly the same, demonstrating that partner registration laws did not cause the nonmarital birth rate trends.

Even if we distinguish two kinds of countries—separating out those like the Netherlands with traditionally low nonmarital birth rates from those like Norway with traditionally high rates—we see that there is no connection between partnership recognition and the growth in nonmarital births. The same rapid rise in nonmarital births that that we see in the Netherlands in the 1990s also occurred in other European countries that initially had low nonmarital birth rates. Nonmarital birth rates have soared in in Ireland, Luxembourg, Hungary, Lithuania, and several other eastern European countries—all countries that do not allow same-sex couples to marry or register.

Only one piece of evidence supports Kurtz's argument that partnership created a new wedge between parenthood and marriage, and that piece of evidence directly contradicts Kurtz's ideas about the cause of such a separation. Contrary to what many observers believe, Scandinavian parliaments did not give same-sex couples the exact same rights as heterosexual couples. Quite deliberately, the various Scandinavian parliaments chose to provide legal ties for same-sex couples through a special new legal relationship, not by the simpler path of extending the right to marry to same-sex couples. And the parliaments denied same-sex couples the right to adopt children (including their nonbiological children raised from birth) or to gain access to reproductive technologies. Thus Scandinavian governments did create a wedge between marriage and reproduction, but they did so by design and they did so only for same-sex couples. Despite some loosening of those prohibitions over time, registered partners who want to have children still face legal hurdles that heterosexual married couples do not.

THE IMPACT OF GAY MARRIAGE IN THE U.S.

In the end, the Scandinavian and Dutch experience suggests that there is little reason to worry that heterosexual people will flee marriage if gay and lesbian couples get the same rights. This conclusion is even stronger when looking at the United States, where couples have many more tangible incentives to marry. Scholars of social welfare programs have noted that the U.S. relies heavily on the labor market and families to provide income and support for individuals. In the United States, unlike Scandinavia, marriage is often the only route to survivor coverage in pensions and social security, and many people have access to health care only through their spouse's employment. Scandinavian states, on the other hand, are much more financially supportive of families and individuals, regardless of their family or marital status.

The lack of support alternatives plus the tangible benefits of marriage all lead to one conclusion: if and when same-sex couples are allowed to marry, heterosexual couples will continue to marry in the United States.

CONCLUSION

Overall, there is no evidence that giving partnership rights to same-sex couples had any impact on heterosexual marriage in Scandinavian countries and the Netherlands. Marriage rates, divorce rates, and nonmarital birth rates have been changing in Scandinavia, Europe, and the United States for the past thirty years. But those changes have occurred in all countries, regardless of whether or not they adopted same-sex partnership laws, and these trends were underway well before the passage of laws that gave same-sex couples rights.

Furthermore, the legal and cultural context in the United States gives many more incentives for heterosexual couples to marry than in Europe, and those incentives will still exist even if same-sex couples can marry. Giving same-sex couples marriage or marriage-like rights has not undermined heterosexual marriage in Europe, and it is not likely to do so in the United States.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from New Jersey (Mr. PALLONE).

Mr. PALLONE. Mr. Speaker, I want to thank our ranking member for yielding me this time.

Mr. Speaker, I oppose this constitutional amendment because it would write discrimination against gays and lesbians into our Nation's Constitution. This amendment not only prevents gays and lesbians from marrying; it also restricts civil unions. Over the last couple of years, polls in New Jersey have shown the majority of the State's residents strongly support civil unions.

This amendment is nothing more than red meat for the conservative right 1 month before an election. They know it is not going anywhere. The Senate could not even get a simple majority to bring an amendment to the floor. Here in the House, the majority leader, the gentleman from Texas (Mr. DELAY), recently admitted that he did not believe the amendment would pass. Yet here we are today spending 2½ hours debating an amendment that we all know is going nowhere.

There was a lot of talk on the Republican side today about the Founding Fathers. Well, since our Nation's infancy, family law has been left to the States. It was our Founding Fathers' belief that issues of intense local concern should be debated and resolved at the local level. We should keep it that way and defeat this amendment.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Oklahoma (Mr. ISTOOK).

Mr. ISTOOK. Mr. Speaker, I am here to speak in favor of the Marriage Protection Amendment, in favor of limiting marriage to the union of a man and a woman, in favor of the overwhelming opinion of the American people, and against the unelected judges that want to reshape our country, even if they destroy democracy in the process.

Families and children deserve the protection of the Marriage Protection Amendment; the best home for kids is one with a mom and a dad. Single parents work valiantly to raise their children, but it is a struggle whenever a child does not have both a mom and a dad at home.

Our laws should recognize and promote stability in our homes.

But when judges usurp the work of legislators, when they twist State and Federal constitutions, as they have on this issue, then they are attacking more than marriage. They are attacking the principles of democracy and undermining our republican form of government. They are attacking the people's ability to govern ourselves. No wonder it is hard to raise children to respect and obey the law when our judges do not.

Those who do not respect the law should never be appointed as judges, and judges who do not respect the law should be impeached.

But today, we have the opportunity to stand up, both for marriage and for the people's right to govern themselves. It is sad that a constitutional amendment is necessary; but without it, we will be under endless assault by those who want to destroy traditional marriage even if they destroy the rule of law in the process.

Even if you do not respect the institution of marriage, I hope the Members of this body will respect the principle of government of the people, for the people, and by the people. This amendment preserves what has always been the law of this land, and it preserves the principle of government by elected representatives, not by unelected activist judges. I urge every Member to vote for the Marriage Protection Amendment.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New York (Mr. ISRAEL).

Mr. ISRAEL. Mr. Speaker, as some of my colleagues have said, this is about protecting our children.

Do my colleagues know what I want my children to be protected from? From Osama bin Laden. We still do not know whether he is dead or alive. From the anthrax mailer, whom we still have not found. From the 6 million containers that come into our country every year, of which only 5 percent are inspected. From missiles that are being developed in Iran. From missiles that are being developed in North Korea. I want to protect children of parents who today are fighting in Iraq and Afghanistan, some of whom still do not have the protective gear that they need.

Mr. Speaker, I will go home tonight and say to my two children, thank God, we have kept you safe from same-sex marriages; but we have not kept you safe from other threats in the world.

Mr. Speaker, some of us want to make the world safe for democracy; others want to make this world safe for hypocrisy. This resolution is not an act of Congress. It is an act of hypocrisy. It is divisive and should be defeated.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Mr. Speaker, I rise today in full support of this body's effort to preserve the sacred institution of marriage.

Children are best served when they are raised and influenced by a mom and a dad, and marriage must continue to be the institution to best raise children and not simply for the desires of adults.

Mr. Speaker, I am the youngest of four boys who feel we were blessed to have a mom that we could look to for her loving and nurturing ways, and a dad to be there, well, when boys will be boys, to know that we had a dad.

And now I am a dad today with a wife and two young girls of my own, two young girls who are blessed to know that they can look to their mom when they need a mom, and they know that they can look to have a dad there when they need a male influence in their lives.

Marriage exists for the well-being of children. It is the only institution that gives kids a mom and a dad. Where do grownups get the right to give their own desires higher priority?

If we redefine marriage, it will harm everyone, especially the children. It will legally repudiate the idea that marriage has anything to do with a family, and will legally embrace the idea that marriage is just an arrangement for the convenience of the grownups.

Now, I am here today to support what is best for the kids. The ideal situation for a child is to grow up with a mom and a dad in a loving, committed marriage. Mothers are better able to provide certain lessons than fathers can, and fathers in turn can provide role models in ways that moms simply cannot.

I think it is time that we rip away all the rhetoric that we have heard and know that this debate comes down to this: it is a choice of being what is in the best interests of our children over the choice of what is in the best interests of a select few adults. The choice is clear. I urge all Members to support our children by supporting the Marriage Protection Amendment.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the gentleman from Washington (Mr. INSLEE), a very distinguished supporter of civil rights and human rights.

Mr. INSLEE. Mr. Speaker, have my colleagues ever noticed how reverential, how worshipful people are when they go over to the archives and they file in front of the Constitution? Have my colleagues seen what is in their eyes? Absolute worship of the U.S. Constitution. I think there is one reason for that, because they understand the Constitution does not belong just to us: it belongs to the ages. They realize for that reason they want us to be cautious and conservative about locking into the Constitution something for a fluid America. There are some lessons in history that show that is the right attitude.

In 1912, Jack Johnson, an African American heavyweight boxing champion, had the temerity to marry a white woman. That offended the vast majority of Americans at the time. And as a result, a Congressman came down to this Chamber, and he introduced a constitutional amendment to make it illegal for States to allow an African American to marry a white person. And Congressman Seaborn Anderson Roddenbery stood where I am standing and said in 1912: "Intermarriage between whites and blacks is repulsive and averse to every sentiment of pure American spirit. It is abhorrent and repugnant to the very principles of a pure Saxon government."

Now that statement seems a bit unbelievable in 2004, but it was the majority opinion in 1912.

Now, I am not suggesting that these issues are equivalent, but I am suggesting that we ought to be real slow before we put discrimination to prevent States to make their own decisions about employment and retirement benefits for themselves into the Constitution. Where would this country have been if majority sentiment had prevailed in 1912 and discrimination had been put permanently in the United States Constitution?

But there is a more commonsense reason for rejecting this amendment. Anybody who is thinking about voting for this amendment, I would ask you to come down to the well and look at the five words that are carved on the rostrum of the House of Representatives.

□ 1600

There are five words that are carved here, and of all the words that we could have chosen to carve on to the rostrum, do my colleagues know what those five words are? Union, liberty, peace, justice, and the fifth one may surprise some of my colleagues.

The fifth value is tolerance. Tolerance is the value that was selected to put on here, and tolerance is as American as apple pie. Tolerance is carved into the rostrum of the U.S. House of Representatives and intolerance should not be carved into the U.S. Constitution.

Reject this injury to the Constitution. Reject this amendment.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. SAM JOHNSON).

Mr. SAM JOHNSON of Texas. Mr. Speaker, I rise in strong support of the marriage protection amendment. It is sad even having this debate. Amending the Constitution, we all agree, should only be considered in the rarest of circumstances. However, we are being forced to.

What makes America strong is the American family. What makes American families strong is marriage.

This bill reinforces what marriage has meant since our country's founding. Simply stated, marriage consists of one man and one woman.

The primary responsibility of marriage in the family is parenting. Children need a father. They need a mother for healthy and proper development. Men and women were created to complement each other, and that is most obvious in successful parenting.

Congress cannot allow unelected judges to redefine marriage and the American family, and that is why we are here today. We have got to put the decision about marriage back into the hands of the American people.

The people of Texas have spoken loud and clear. Texas passed a law which recognizes marriage between a man and a woman, regardless of what the other States might do. Citizens of the Lone Star State do not want people from other States telling them how to live, and they definitely do not want some judge telling them what marriage is.

Back home, we have a popular slogan, "Don't mess with Texas." Well, I have got one for this debate, "Don't mess with marriage."

Mr. CONYERS. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I thank my colleague for yielding me the time.

Mr. Speaker, I rise in strong opposition to this proposed constitutional amendment. As lawmakers, our responsibility is to preserve the rights and dignity of all Americans. That leaves me to oppose this constitutional amendment that would ban gay marriage.

I support the right of a State or local jurisdiction to give gay and lesbian couples equal marriage rights under the law. This proposal is an unnecessary and divisive attack on the gay and lesbian community. It would dictate that communities deny the equal provision of rights, benefits and responsibilities of partnership for gay and lesbian couples.

This is an unparalleled attempt to force discrimination against a group of Americans. It is antithetical to other constitutional amendments that expand rights for women and African-Americans.

Mr. Speaker, the Constitution exists to protect our rights, not to take them away. This amendment would be the first, and only, amendment to set aside one group of Americans, giving them fewer rights than other Americans. Additionally, it would strip them of rights currently given them by several States.

Gay and lesbian couples deserve to have their commitment honored with the same rights to insurance, health care authority and visitation, adoption and other benefits granted to committed couples.

I thought the days of enshrining discrimination in our laws were long behind us. A century ago, women were unable to file for divorce and could not have owned property. What if we had enshrined that discrimination for all time? Within the last 40 years, interracial marriages were outlawed. Imagine if that had been formalized in the Constitution.

This complete disregard for human rights is not necessary to protect religious freedom in our country either. No church or other house of worship is required to marry couples of the same gender.

The role of the Federal Government in defining the institution of marriage has historically been a limited one, deferring to States and religious organizations. So this is a cruel and callous attempt to disenfranchise a group of Americans for political gain. It calls for the discrimination of a group in a document almost exclusively devoted to protecting and expanding the rights of Americans.

I urge my colleagues to reject this amendment and this attempt to insert bigotry into our Constitution.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

I would just point out that I have here hundreds of letters from Hispanic pastors, churches, leaders, civil rights leaders; African-Americans, civil rights leaders, pastors, from all over the country. They do not say that the marriage protection amendment is discrimination. In fact, they say just the opposite: It is discriminating to undermine the definition of marriage by judicial fiat.

Mr. Speaker, I yield 2 minutes to the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I thank the majority leader for the time.

Mr. Speaker, I rise today because my constituents are fearful that appointed judges will destroy the institution of marriage. I share their fear and speak with them today in strong support of H.J. Res. 106, the Marriage Protection Amendment, and I thank my friend the gentlewoman from Colorado (Mrs. MUSGRAVE) for her outstanding leadership on this critical issue.

Marriage has always been and will always be a covenant between one man and one woman. Marriage is a fundamental building block of society, and it is special. It has been from the beginning of time about procreation and the rearing of children.

I wish that this fight here today was not necessary, and we did not ask for it, but because a handful of activist judges launched an all-out attack on the bedrock of Western civilization, the people of the eighth district of North Carolina, in a completely bipartisan way, have overwhelmingly asked me to stand here today and defend our Constitution and to protect marriage.

Mr. Speaker, I believe in the Constitution. I have read it and studied it. We do not amend this lightly, but with activist judges writing law from the bench with their so-called interpretations, I can think of no better reason nor venue for the American people to be heard on whether the institution of marriage will stand or fall.

Do not be fooled. Same-sex marriage and this debate is not about hospital visitation rights, joint bank accounts or inheritance rights. It is about marriage and children.

Marriage between one man and one woman is associated with a broad array of positive outcomes.

Americans have spoken clearly, and it is not about politics. It is about their desire to protect marriage from unelected judges who are appointed for life. I urge my colleagues to stand with nearly 2,000 of my constituents who have contacted my office over the past few months and protect the institution of marriage.

Mr. Speaker, I represent folks from both sides of the aisle in the eighth district of North Carolina. They do not see it as an issue for one political party. They want to defend our institution of marriage.

Mr. Speaker, I appreciate the time. I urge my colleagues to stand and protect marriage today.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from Massachusetts (Mr. CAPUANO).

Mr. CAPUANO. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for the time.

I am standing here as living proof. I live in a district. I have been married for 30 years. I have two wonderful children. I now have the honor of representing, I do not know how many, married gay couples, and not once, not once has my wife and I had a discussion now that we have to split up because we have gay couples living near us. Not once have I had a single discussion by a single constituent who said, you know what, I am not going to get married because we can have gay marriage. Not once have I had a single child come to see me and say, oh, my God, save me, save me from having gay couples next door.

Yet I have had people, heterosexual couples, come to me and try to help them bring children from around the world so that they can enjoy the company and the love that they can share with children. I know gay couples, both married and not married gay couples, who are raising children. Some of those children are theirs. Some of those children are adopted. Some of those children are the children of their family members who have passed away.

I am not aware of any that are somehow being twisted; society is coming to an end. I am living proof; you will be okay. We will survive this, and all that will happen is that a few people, a few of all of our constituents, will have some joy in their life.

I am not threatened. My wife is not threatened. My children are not threatened. My world is not threatened, and it will not be. It is not threatened in Canada.

As a few points of information, these judicial activists, these terrible, horrendous people who have the audacity to interpret the Constitution of Massachusetts, happen to be appointed by Republican governors. Terrible.

As a final point of information, the people of Massachusetts will most likely have the opportunity to vote on this in a few years. Let them speak as well.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I thank the gentleman for the time and rise in support of the Marriage Protection Amendment.

There, again, needs to be the general statement that gays and lesbians have a right to live as they choose, and I will work to support that right, but they do not have the right to define marriage for all of us.

As far as the question of bigotry and civil rights, 60 percent of African-Americans oppose same-sex marriage. Are they bigots? I do not think so.

Shelby Steele, an African-American scholar, said properly, "Gay marriage is simply not a civil rights issue. It is not a struggle for freedom. It is a struggle of already free people for complete social acceptance. Black leaders . . . have distanced themselves from the gay marriage issue."

We have had a little lecture on tolerance, and yet it is the side of the people who are arguing against this marriage act who have called death threats in to the original sponsor. It is those people who e-mail daily hateful comments. I wonder where the question of tolerance is at this point when someone dares to differ with them.

There is a question of, who gets harmed from same-sex marriage? When we approve same-sex marriage, we are going to be required to teach that it is okay. In fact, it is going to be wrong to teach against it. If we think that that is not going to happen, look at what has happened to the Boy Scouts of America who dared to take a stance. The all-out assault on the institution of the Boy Scouts of America has been unending, trying to get them to change their stance, simply saying, we want to teach our values.

Religious groups like Catholic Charities or Salvation Army may lose their non-profit status and other facilities unless they endorse gay marriage. Is that what we want? Do we want common, decent, God-fearing people to be declared as bigots, to be declared as speakers of hate speech?

That is where this discussion is going, Mr. Speaker. I urge my colleagues to support this amendment.

Mr. CONYERS. Mr. Speaker, no one has been closer in this Congress to Dr. Martin Luther King than he has, and I proudly yield $2\frac{1}{2}$ minutes to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my colleague for yielding me the time.

Ms. WOOLSEY. Mr. Speaker, will the gentleman yield?

Mr. LEWIS of Georgia. I yield to the gentlewoman from California.

Ms. WOOLSEY. Mr. Speaker, I thank the gentleman from Georgia for yielding.

For those of my colleagues who are so worried about unelected judges making the decision of marriage, I want to remind them: it was unelected judges that picked their President.

Mr. LEWIS of Georgia. Mr. Speaker, over the years, this Nation has worked hard to take discrimination out of the Constitution, and today, we want to put it back in.

I can recall just a few short years ago that there were laws inscribed in some State constitutions saying that blacks and whites could not marry. We changed that.

Today, we look back on those days, and we laugh. There will come a time when generations yet unborn will look back on this Congress, look back on this debate, and laugh at us. This is not a good day in America. This is a sad day in the House of the people.

For one who faced death, who was beaten and left bloody and unconscious at the Greyhound bus station in Montgomery, Alabama, in May of 1961: for one who had a concussion at the bridge in Selma on March 7, 1965, demonstrating, trying to end discrimination, segregation and separation, this is not the way.

This is unbelievable. It is unreal. I thought as a Nation and as a people we had moved so far down the road toward one family, one House, one America. To pass this legislation would be a step backward.

The institution of marriage is not begging this Congress for protection. No one is running through the halls of Congress. No one is running around this building saying protect us.

□ 1615

Whose marriage is threatened? Whose marriage is in danger if two people, in the privacy of their own hearts, decide they want to be committed to each other? Whose marriage is threatened? Whose marriage is in danger if we decide to recognize the dignity, the worth and humanity of all human beings?

The Constitution is a sacred document. It defines who we are as a Nation and as a people. Over the years, we have tried to make it more and more inclusive. We cannot turn back. We do not want to go back. We want to go forward. Today it is gay marriage; tomorrow it will be something else.

Forget about the politics; vote your conscience. Vote with your heart, vote with your soul, vote with your gut. Do what is right and defeat this amendment.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume to say that there were people running around the halls screaming "protect marriage." In fact, there were 50 African American pastors trying to meet with the Congressional Black Caucus, who refused to meet with them. So I am going to bring up one letter out of hundreds of thousands of letters that I have from particular pastors.

From this particular pastor, Dr. Creflo A. Dollar of the World Changes Ministries at College Park, Georgia, and I will not read the letter, but I will quote him, because he says that this is not a civil rights issue. This is an African American pastor from an African American church. Dr. Dollar says, "This is not a civil rights issue, as many would have you believe, and attempts to frame it as such are an insult to the millions of Americans who have been the victims of actual discrimination in the past."

Mr. Speaker, I submit for the RECORD Dr. Dollar's letter.

It is a privilege for me to voice my enthusiastic support for the Federal Marriage Protection Amendment currently pending before Congress. The institution of marriage is a fundamental building block of the American way of life, and we are here today to say that it must not be allowed to be redefined or reconstituted. The American family is under attack—we are in the middle of a character crisis that threatens the very foundations of our society—and our message this morning is clear. There is only one kind of marriage, and that is between a man and a woman. Any attempt to deviate from that standard by any means—be it legislative, judicial or executive—is equivalent to spiritual treason. The sacred covenant of marriage was created by God Himself and is not subject to interpretation by anyone.

Our support for this amendment should not be viewed as homophobic, exclusionary or discriminatory. The ministries represented here today extend the love of God to all people, including those who exemplify lifestyles that we don't agree with, and our doors are open to everyone. To attempt to categorize our collective stance in any other way is both irresponsible and inaccurate. This is not a Civil rights issue, as many would have you believe, and attempts to frame it as such are an insult to the millions of Americans who have been the victims of actual discrimination in the past. Part of what makes America the greatest country in the world is the freedoms that our citizens enjoy to make whatever religious, social, professional and lifestyle choices they desire, within the reasonable boundaries of a civil society. However, for America to redefine herself for every movement that comes along would weaken who we are as a nation, not to mention the profound negative impact such a change would have on our children. We speak as one voice for the millions of Americans in our congregations and all over the country who can all be heard making the same plea today—please don't begin a process of de-stabilizing the United States of America by changing the rules for all of us in order to accommodate a few of us. For mainstream Americans, this issue is not negotiable.

We urge the members of Congress to approve this amendment and to do it swiftly. Part of the responsibility of an elected official is to represent the best interests of his or her constituency, and we affirm today that the Federal Marriage Protection Amendment is the right thing to do for America. We wholeheartedly support President Bush and his stance on this vital issue. We must seize this opportunity to make a lasting statement to all who would alter the fundamental institution on which our society is based. I shudder to think about the America my grandchildren will inherit tomorrow, if we don't take decisive action to protect our heritage today. We are confident that the members of Congress will stand up for what is right, and not allow themselves to be bullied by a noisy minority. Our future as a nation hangs in the balance. Thank you and God bless you . . .

Mr. Speaker, I yield 1½ minutes to the gentlewoman from Wyoming (Mrs. CUBIN).

Mrs. CUBIN. Mr. Speaker, I stand before you today on behalf of the over 100,000 married couples in Wyoming in defense of traditional marriage. I do not judge those who have chosen a different life-style than I have chosen, but marriage is an institution cherished by the American people, as shown by the 44 States that have enacted laws defining marriage as between a man and a woman. This same institution is now under attack in our courtrooms, an assault we can defend only by passing the Marriage Protection Amendment.

In the marriage debate, we have a case of political correctness going too far and costing too much. As we all work to be an inclusive society, we simply cannot forget the time-honored family values, the bedrock of our culture that have made America what it is today. These are the values that gave the early homesteaders in Wyoming the strength to brave the vast plains and the harsh winters. And these same values help today's families face newfound challenges in a modern society.

Tradition gives our children roots, a base of strength from which to operate when facing politically correct pressures to abandon their values, whether it be God, their country, or, yes, even marriage.

We know in our hearts what is right. We know logically and we know personally that marriage is a union between a man and a woman, and we need to protect the traditional family structure.

Mr. Speaker, I ask everyone's support in favor of the Marriage Protection Amendment.

Mr. CONYERS. Mr. Speaker, I yield 15 seconds to the gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time. I just want to set the record straight here. Some of these so-called black ministers and so-called civil rights leaders never supported civil rights. They never marched for one day. They never put their bodies on the line for the cause of civil rights.

Coretta Scott King, the widow of Martin Luther King, Jr. is opposed to this amendment.

Mr. CONYERS. Mr. Speaker, I yield 2½ minutes to the very courageous gentleman from Connecticut (Mr. SHAYS), a distinguished member of this body.

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me this time. Today, we are debating a constitutional amendment drafted not to protect my marriage or my family. I see no reasonable way to argue it would, but rather to explicitly deny a portion of our society the right to marry and the benefits that accompany that kind of partnership.

I do not advocate the legalization of gay marriage, but our constitution is simply not the proper place to set this kind of social policy. I believed back in 1996, when I voted for the Defense of Marriage Act, and I still believe today, the decision about whether to recognize gay marriage should be left to the States.

I cannot help but wonder why are we doing this. What are we so afraid of? Gay men and women pass through our lives every day. They are wonderful teachers and leaders and role models who happen to be gay. And sometimes we do not even know they are gay.

I would not be a Member of Congress today if it were not for an extraordinary teacher I had in high school, 40 years ago. I learned years later he was gay and that he had commuted from Connecticut to Washington, D.C., every weekend in part to protect his privacy and his job.

When I went to college, my understanding of gay people was impacted again by my wife's best friend. One day she told us she too had found the love of her life. We were eager to meet the boyfriend she was so madly in love with, but we soon learned her love was not a "he" but a "she." Once we got over our surprise and our way of thinking about relationships, we were able to sincerely rejoice in the joy they brought each other because we knew what a dear and good person our friend is.

My perception of gay people evolved further during my first campaign for Congress, when I worked with a magnificent young man named Carl Brown. He became my friend, and he gave me another gay face to know. Carl has since passed away, but I remember him as a person of exceptional dignity and grace.

My teacher, my wife's best friend, and Carl helped me understand their lives and I think helped make me a better person in the process.

The Constitution of the United States, which established our government, grants us free speech, and gives all citizens the right to vote, should not be dishonored by this effort to write into the Constitution discrimination.

I am sensitive to some of my colleagues' concerns about potential biblical and social implications of legalizing same-sex marriage, but I oppose this proposed amendment because I believe the Constitution is not the proper instrument to set or reject such policy. That debate should happen in our State legislatures.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Indiana (Mr. PENCE) to answer the gentleman from Connecticut's question about what is the harm, and his other question being why the harm of redefining marriage to include other lifestyles.

Mr. PENCE. Mr. Speaker, I thank the gentleman for yielding me this time, and I rise in the wake of, I think, a very important question by my friend and colleague, the gentleman from Connecticut (Mr. SHAYS): What are we afraid of? And the gentleman from Connecticut knows that I admire him and have great affection for him and the integrity with which he does his work, but I would like to answer that.

My colleague, we are afraid of the decline of marriage. We are afraid that what has happened in the last 15 years in the Netherlands since the advent of same-sex marriage is going to happen in America, and that our children and our society will be harmed as a result. As Dan Quayle first said on the national stage some 14 years ago, we know that marriage matters to children. Children born outside of wedlock are more than two times more likely to fall into every form of social malady that besets our kids.

The experience in the Netherlands is undeniable. Since the advent of same-sex marriage in the Netherlands and in Holland, the decline of marriage has been from 95,000 to 82,000. As Dutch academics wrote in their newspapers there recently: "Over the past 15 years, the number of marriages has declined substantially. The same period also witnessed a spectacular rise in the number of out-of-wedlock births. In 1989, one in 10 children were born out of wedlock, roughly 11 percent; by 2003 that number had risen to almost one in three children."

That is what we are afraid of, Mr. Speaker. We are afraid of the decline of marriage and the attendant harm to the American family that will undeniably follow. Marriage matters. And we come into this hallowed place today to stand by that institution knowing that we are informed by our core values that it matters and that it is central to our society, but also knowing the experience of our neighbors in Europe has been that when we change the definition of marriage, we begin the decline and ultimately the abolition of marriage as we know it.

Mr. CONYERS. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, the previous remarks are drawn from the research of a man named Stanley Kurtz, research that is of a very low level of intellectual activity. It would make some of the debate here today seem scintillating.

In fact, I have submitted information that makes it very clear that as far as the Netherlands are concerned, the trends involved predate same-sex marriage. As a matter of fact, there were same-sex civil unions first, then same-sex marriage. What has happened in the Netherlands predates that. The main author himself states that these are probably effects of the same cause.

Now, let us look to the United States. Vermont has had full civil unions, which most of the Members over there disagree with, since 2001, with zero, no negative effects, the same period of time as the Netherlands has had.

Mr. CONYERS. Mr. Speaker, I am pleased to yield 1 minute to the gentlewoman from Minnesota (Ms. MCCOLLUM).

Ms. MCCOLLUM. Mr. Speaker, the men and women targeted by this constitutional amendment are Americans, loved and respected by their parents, grandparents, sisters, brothers, children and grandchildren, neighbors, friends, coworkers, and this Member of Congress. Collectively, we believe in equal justice and strive to defeat discrimination and absolutely reject the State-sponsored hatred before the Congress today.

The Constitution belongs to all Americans to protect and extend equality and justice for all. Our constitution must never be soiled by this type of bigotry and hate-filled amendment.

My faith teaches me to believe in a loving God, and it is in this spirit that I proudly stand with millions of Americans, and especially with my gay and lesbian friends, neighbors, colleagues, constituents, and coworkers to oppose this constitutional amendment.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. SHUSTER).

Mr. SHUSTER. Mr. Speaker, I thank the majority leader for yielding me this time, and I want to make a correction for the record.

The gentleman from Massachusetts was talking about the predating the same-sex marriage. Well, in fact, when same-sex marriage was approved in the Netherlands, the rate of births out of wedlock doubled. So that information was incorrect.

Mr. Speaker, I rise in support of the Marriage Protection Amendment. It is becoming increasingly common to see activist judges legislating from the bench on this important issue. Today, a handful of judges are poised to destroy the traditional marriage definition, which is the cornerstone of civilization itself.

The institution of a husband and wife, of mother and father, have served our society well; and it is this foundation that makes our families and communities strong. Passage of this amendment today is overwhelmingly supported by the citizens of this country. Nearly three-fourths of Americans believe that marriage should be a union between one man and one woman.

Today, 44 States have enacted laws that define marriage as between a man and a woman; and without action today, the will of the American people will be ignored with the strike of a gavel by a few activist judges.

To ensure the will of the American people is done today, I urge my colleagues to vote "yes" on this amendment.

Mr. CONYERS. Mr. Speaker, I yield 10 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Mr. Speaker, I would just ask the gentleman from Pennsylvania, before he leaves, because he is so certain about the Netherlands, and I will yield him my remaining time, when does he believe that same-sex marriages began in the Netherlands and what was the rate? What is the date?

Would the gentleman from Pennsylvania answer me? When did the same-sex marriages start in the Netherlands?

The SPEAKER pro tempore (Mr. SIMPSON). The time of the gentleman from Massachusetts has expired.

Mr. SHUSTER. Mr. Speaker, if the gentleman will yield to the gentleman from Indiana.

Mr. FRANK of Massachusetts. Well, you made the statement. You do not know?

Mr. SHUSTER. 1989.

Mr. FRANK of Massachusetts. No, they started in 2001.

The SPEAKER pro tempore. The gentleman's time has expired.

Mr. SHUSTER. That is what the facts show.

The SPEAKER pro tempore. The gentlemen will suspend.

Mr. CONYERS. Mr. Speaker, I yield 5 seconds to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. The gentleman gets the date wrong. He said since 1989. Same-sex marriage started in the Netherlands in 2001.

When Members are giving statistics, they ought to know what they mean.

□ 1630

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from New York (Mr. CROWLEY).

Mr. CROWLEY. Mr. Speaker, when the other body defeated this amendment early this summer, someone one of the Senators on the majority, said gay marriage is "the greatest threat to America as we know it." Coming from New York City, I think America saw what the greatest threat to this country is on September 11, 2001. But instead of capturing those responsible for that event, Osama bin Laden, Mullah Omar, and the al Qaeda network, instead of passing a homeland security bill here in the House, instead of reforming our national intelligence system to prevent another 9/11, we are here talking about an issue that the Senate has already defeated; and because they have defeated it, it will not come up again. This is purely political machinations.

This Congress and this President are pushing for a constitutional amendment to limit the rights of particular Americans. Why are they doing that? The answer is easy but it is still awful: because today in America, it is still okay to hate gays and lesbians in this country. Gays and lesbians represent the last minority group in this country that it is still publicly acceptable to hate. This legislation has no place in this body. It demeans the body, our Constitution, and the values of this country.

Mr. DELAY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman obviously has not been watching the debate because no one has said anything about hate or the quotes the gentleman stated in this body. This is about marriage.

Mr. Speaker, I yield 1 minute to the gentleman from Alabama (Mr. BACHUS).

Mr. BACHUS. Mr. Speaker, the gentleman from Georgia said what he wanted to do, he wanted to establish a homosexual marriage as a fundamental constitutional right that the Federal Government would have to not only secure but to protect. That is what he wants to do. When he does that, here is why we are opposed to that. When he does that, he undermines, he not just expands marriage, he alters it to the core. He totally severs it from its whole purpose, and that is the relationship between a man, a woman, and a child.

Marriage is one of the most fundamental institutions of a civil society. That would simply cripple it. We are not talking about expanding a right, extending rights or benefits. We are talking about destroying an institution which has preserved and protected us.

Our decision today will define us as a Nation. It will define us as a people. It will be a predictor of our future and where our future would be. The only responsible thing for us to do today is to defend the institution of marriage and send this amendment to the States for ratification.

A concerted legal and political effort, lead by activist judges, is attempting to affirm homosexual marriage as a fundamental civil right that the Federal Government has a constitutional obligation to secure and protect.

In doing so, they are undermining one of the most basic and sacred institutions that exist in an orderly, stable civil society—marriage.

What is happening is not a slight change in degree that merely extends benefit or rights to a larger class, but a substantive change in the essence of the institution. It does not expand marriage; it alters its core meaning, for to redefine marriage so that it is not intrinsically related to the relationship between fathers, mothers, and children would sever the institution from its nature and its purposes.

In response, the most important and responsible step Congress can take to reserve marriage is to send a constitutional amendment that protects the institution of marriage to the States for ratification.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, we have heard this afternoon about children and activist judges, because that is how the focus groups suggest this debate should be framed.

My children have been raised around people in committed same-sex marriages, relationships in some cases which have included children. They, and most of us, have seen neighbors, relatives, and friends in dysfunctional heterosexual marriages. It is not their sexual orientation, it is people's behavior. My children and most American young people know that marriage is not under attack, and activist judges do not prevent citizens in States from making their own decisions, like we will in Oregon in November.

It is shameful to play politics with the personal lives of millions of Americans who are not just gay, but elderly, and for whatever reason are not married but are in a committed relationship. Luckily, because my children and the vast majority of America's youth disagree with the world view of the supporters of this amendment, it will not only fail today, but it certainly does not represent the future.

Mr. DELAY. Mr. Speaker, I yield 2 minutes to the gentleman from Georgia (Mr. BURNS).

Mr. BURNS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, we have an obligation to the people of America to settle this debate over whether a handful of political activists are allowed to use the Federal courts to impose their moral view on the unwilling majority of the country.

The overwhelming majority of the people of the 12th Congressional District of Georgia oppose legalized same-sex marriage. They do not want to play semantic games about the issue.

The people in my district and State believe that legal marriage, and the benefits associated with the institution, should be reserved for those whom the benefits were intended, the union of a man and a woman, period.

Georgia has placed a referendum for a State constitutional amendment to that effect on this November's ballot lot. That is how it should be. As a Georgia voter, I will support the amendment with my vote, as will the majority of my State.

The Federal amendment we consider today will allow those State decisions to determine this issue, as they have since our Nation's founding, rather than allowing a small minority to dictate their opinions on an unwilling majority.

We need to speak plainly here today. A vote against this legislation is a vote for legalized same-sex marriage to be forced on an unwilling America. Such a calamity would not just be morally reprehensible to the majority of Americans, it would provide a chilling precedent for undermining our system of self-government. We will pay for inaction on this issue with the loss of government by the people on all issues.

I urge my friends on both sides of the aisle to support the amendment to restore the protections of the Constitution and self rule.

Mr. CONYERS. Mr. Speaker, I yield 1 minute to the gentleman from Virginia (Mr. MORAN).

Mr. MORAN of Virginia. Mr. Speaker, in a few minutes this body is going to vote on this amendment. There will be women voting as well as men. There will be the grandsons and granddaughters of slaves; and, yes, there will be several gay people voting because in our diversity, we are representative of this great society.

But there is one thing we all have in common, we are here to fulfill the spirit of our Constitution. That is a sacred, generous document whose purpose was to protect and to expand the individual rights and liberties of its citizens. It was never intended to be a mean-spirited tool to punish people who happen not to be in the majority. To legalize committed, caring relationships between people who love each other is consistent with the spirit of that Constitution. This amendment is not, and that is why it should be defeated.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Oklahoma (Mr. SULLIVAN).

Mr. SULLIVAN. Mr. Speaker, I rise in strong support of House Resolution 106. Today, public support for protecting marriage is strong. Forty-four States have enacted laws that provide that marriage shall consist of a union between a man and a woman. These States constitute more than 75 percent of States required to approve a constitutional amendment and they include 86 percent of the U.S. population.

Today, Federal courts are being used by activist judges to redefine marriage for the American people, completely apart from public debate among those that the American people have elected to represent them.

More than 200 years of American law and thousands of years of human experience should not be arbitrarily changed by a handful of unelected judges. The issue of marriage is too important to be decided by judicial fiat.

Our society relies on strong family structure. As trends challenge the family, we need to do all we can to strengthen it and oppose trends that weaken this ideal. Redefining marriage hurts our children because it hurts the institution we rely on to raise our children. We certainly do not want judges changing the definition of marriage for us today and for our children tomorrow.

Mr. CONYERS. Mr. Speaker, I yield 45 seconds to the gentlewoman from New York (Ms. VELÁZQUEZ).

Ms. VELAZQUEZ. Mr. Speaker, there are many reasons to oppose this bill: It is a diversion from the urgent issues facing our Nation; that today's vote is a cheap election-year tactic of the Republican leadership to rally its right-wing base; and that we should respect States rights on the principles of federalism, which Republicans continue to ignore to suit their political purpose.

Mr. Speaker, each of these concerns is a compelling reason to oppose this measure, but I want to make this perfectly clear: This bill should be defeated because it is wrong, it is discriminatory, and it is unAmerican.

Mr. Speaker, how can we export democracy across the globe when we are abandoning its fundamental principles here at home? Writing discrimination into our Constitution will do nothing to protect marriage, but it will taint this sacred document and sacrifice State rights based on certain ideological beliefs, and I urge my colleagues to defeat this mean-spirited, misguided bill.

Mr. DELAY. Mr. Speaker, I yield 1 minute to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, the Marriage Protection Amendment would not prevent any State from enacting civil union laws, but would protect marriage in all 50 States. ,

Recently, I went to a friend, Mr. Sage Brown, who is a distinguished attorney and civil rights leader in Savannah, Georgia. Indeed, he is featured at the Gilbert Civil Rights Museum as a man who was on the frontlines of integration and did so much for the African American community. I asked him. Is this a civil rights-type issue, to which he said no, the relationship of marriage is the most sacred building block of our society. Marriage is sacred and protected and has nothing to do with violating our civil rights.

If we change the definition of marriage to be more inclusive, then is it logical to argue that we should broaden the definition so we do not exclude anybody? If marriage violated the civil rights of two men or two women who wanted to be married to each other, then it would also violate the civil rights of a polygamist, somebody else who wants to have a different marriage than that between a man and a woman.

Mr. Brown raised a number of good points which I am going to submit for the RECORD. I wish there was more time to have debate on it, but I wanted to bring up something from his point of view.

Mr. Speaker, the Marriage Protection Amendment would not prevent States from enacting civil union laws but would protect marriage in all 50 States. It would state that "marriage in the United States shall consist only of the union of a man and a woman." When I hear my distinguished colleagues from the other side say that marriage should be redefined because it is discriminatory, I respectfully disagree. Moreover, I believe that a great majority of Americans disagree.

I've spoken with many minority men and women in my district who have experienced civil rights abuses first hand. Recently, I spoke with Mr. Sage Brown, a distinguished African American civil rights leader from my district who said and I quote:

> The relationship of marriage is a most sacred building block of our society. Marriage is sacred and protected and has nothing to do with violating our civil rights. It is not a question of whether or not a person can enter into a relationship such as a civil union. Our country was formed by a group of people who were persecuted for believing certain fundamental things. They looked at their creator in terms of the defining foundation for our families . . . and this foundation included the marriage of a man and a woman. The installation of marriage was wholly designed for the production, reproduction and propagation of the family.

Our marriage laws—defining marriage as the union of a man and a woman—were designed to be a blessing to children and society. There is a certain element of complementarity between men and women that is biological by nature.

If marriage violated the civil rights of two men and two women who want to be married, then it also violates the civil rights of polygamists, and of single adults who want to marry themselves. If our distinguished colleagues believe it is a civil rights issue, then do they also believe it discriminates against people who believe in polygamy. Does it also discriminate against three men who want to marry? What about four women? What about single people who don't want to marry another person? Should they be excluded?

If we change the definition of marriage to be more inclusive, then it is logical to argue that we should broaden the definition so that won't exclude anyone.

Marriage is an institution fits in perfect harmony with the laws of nature; whereas systems of slavery and segregation were designed to brutally oppress people and thereby violated the laws of nature. By contrast, marriage is designed to help children by keeping their mothers and fathers together. Slavery and segregation were meant to exploit and degrade. There is a fundamental difference.

Skin color has nothing to do with marriage. That's why it's wrong to forbid interracial marriage and that's why overturning these laws was a legitimate civil rights issue. But whether a couple is a man and a woman has everything to do with the meaning of marriage. Marriage encourages the men and women who together create life to unite in a bond for the protection of children. That is not discrimination. It is the building block on which society is based.

Marriege was not created to place people in bondage. It was created for having children, and to propagate the human race from one generation to the next.

The union of a man and woman is the most enduring human institution—which has been around since the origin of mankind. It is honored and encouraged in all cultures and by every religious faith.

Ages of experience have taught humanity that the commitment of a husband and wife to love and to serve one another promotes the welfare of children and the stability of society. Marriage cannot be severed from its cultural, religious and natural roots without weakening the good influence of society. Government, by recognizing and protecting marriage, serves the interests of all.

Moreover, it would prevent the judicial chaos we are beginning to see with recent rulings whereas gay couples are suing in States that do not recognize same sex marriage. Recently, Oregon conducted over 3,000 same sex marriages consisting of couples who live in over 30 States.

Lawless local officials have ignored the law and issued same-sex licenses in California, New Jersey, New York, New Mexico, Oregon and Washington. This issue is Federal, not State or local. The States' rights issue is meaningless if judges are the ultimate rulers.

We are headed for a proliferation of court cases in all 50 States if we do not act now.

So far, 44 States, or 88 percent of the States, have enacted laws providing that marriage shall consist of a union between a man and a woman. Only 75 percent of the States are required to approve a constitutional amendment.

Mr. CONYERS. Mr. Speaker, I yield 45 seconds to the gentlewoman from Ohio (Mrs. JONES).

Mrs. JONES of Ohio. Mr. Speaker, 2½ hours for a debate on amending the Constitution. It is so important that we contemplate that ministers, rabbis, priests can marry anybody they choose to. They can deny marriage to the opposite sex. But the reality is what about amending the Constitution to guarantee quality education to every child in this country; what about amending the Constitution to guarantee health care to every person in this country; what about amending the Constitution so that our colleagues around here could not spend this time talking about a moral issue instead of giving people jobs and giving them an opportunity to protect marriage? Marriages fall apart because people do not have work.

What about amending the Constitution so we can guarantee all kinds of rights to all people? Give me a break.

Mr. Speaker, I rise in strong opposition to H.J. Res. 106, the constitutional amendment on same sex marriage.

African-American voters are deeply divided on the issue of gay marriage and increasingly suspicious of Republican motives around the issue. Currently, 46 percent favor the amendment, while 46 percent oppose. Gay marriage should not be used as a wedge issue to divide any community, especially the African-American community. And guess what? In a June Gallup poll, issues related to the gay community were cited by 2 percent as the most important problem facing the U.S.—compared to other issues, such as the war in Iraq which was cited by 27 percent of the public.

The current administration's policies have devastated our communities. With unemployment in the African-American community double the national average, crime on the rise, and working families struggling to feed and keep their families together, we can't afford to lose focus and be bamboozled by Republicans who want to change the subject. Mr. Speaker, as of September 24 the gross Federal debt is $7.348 trillion. I submit to you that we cannot afford a whole host of things.

The American public wants Congress to focus on real issues facing our Nation—the economy, health care, protecting our homeland and education. To date, Congress has approved only 1 of 13 appropriations bills, despite the fact that a new fiscal year begins tomorrow.

We must focus our energy on good jobs—3 million lost in the last 3 years; better education; improved healthcare since 41 million don't have it; sound transportation funding; and turning around our communities—not about gay marriage.

Mr. Speaker, the administration has indeed captured the Nation's religious leaders on this issue because it does mirror concepts in various scriptures of their religious doctrines. Notwithstanding, it is precisely for that reason that we, in this august body, must resist the temptation to have the State engage in a religious battle. Separation of church and state is the basic principle of this Nation and it exempts us from this unnecessary action. Separation of church and state gives ministers, rabbis, imams, priests, reverends—you get my drift—the freedom to practice their faith and choose to marry, or more importantly not marry, any two people before them.

In these times of spreading war and hate, people of faith must reject politicians who say they are acting out of faith: But are they really? When one wears the cloak of one's faith on your sleeve, it almost automatically calls in question your motives. People who talk about right, justice, compassion and religion are in fact using those sentiments to contradict or undo the very teachings of their faith.

Mr. Speaker, this is not compassionate; it is not tolerant; it is not charitable; it is not inclusive. This is nothing short of divisive and political. Instead of dividing us, our leaders should make redemption, understanding and love the foundation of their policies because we are all sinners.

I believe it's time to start bringing people together to work on the real issues of faith and moral commitment that confront our communities like poverty and homelessness instead of changing the Constitution to deny equal rights to the gay community.

With record high unemployment, crime on the rise, and working families struggling to keep their families together, it's time to bring people together to turn our communities around.

We need to focus on real policies.

Amending the Constitution is the most far-reaching step that legislators can take in governing the citizens of this country, and it is my belief that the Constitution should be the instrument that protects and guarantees the rights of individuals; it should not be used to limit the rights of individuals. The defeat of this legislation is tantamount to the preservation of human rights in this country.

Mr. Speaker, I vehemently oppose H.J. Res. 106 and I will continue to do so until it is defeated.

Mr. CONYERS. Mr. Speaker, I yield the balance of my time to the gentlewoman from California (Ms. PELOSI) to close.

Ms. PELOSI. Mr. Speaker, I thank the gentleman from Michigan (Mr. CONYERS) for yielding me this time, our distinguished ranking member on the Committee on the Judiciary. I thank him for his leadership in promoting freedom in our country and protecting our civil liberties.

Mr. Speaker, I have been married for over 41 years. I want to hear some applause for that. I am glad to see my Republican colleagues appreciate that wonderful accomplishment. I certainly respect the institution of marriage. As the mother of five and the grandmother of five, I appreciate the value of family.

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My husband and I value family in our community as a source of strength to our country and a source of comfort to the people. What constitutes that family is an individual and personal decision. But it is for all a place where people find love and support. As for me, I agree with Vice President CHENEY when he said, "With respect to the question of relationships, my general view is that freedom means freedom for everyone. People ought to be free to enter into any kind of relationship they want to." That would be Vice President DICK CHENEY, August 24, 2004.

Mr. Speaker, in the closing days of this Congress, we should be addressing the urgent needs of the American people, to be secure against the clear and present danger of terrorism, to protect our men and women in uniform whose lives are in the battle in Iraq, and to bring economic prosperity and health care to the American people. Instead, we are meeting here today about tarnishing our cherished Constitution with an amendment that purports to protect marriage but is one that benefits no one and actually limits the rights of millions of Americans.

Our Constitution, to which we all take an oath of office, is an enduring and living document that throughout our history expanded rights, not diminished them, to live up to the ideals of our Founding Fathers, that all are created equal and endowed by their Creator with inalienable rights to life, liberty and the pursuit of happiness. As that great defender of the Constitution, the late Congresswoman Barbara Jordan whose legacy graces this House, noted, "We promised liberty, freedom and equality to everyone. No one was to be excluded from the blessings of liberty."

As a result, this Nation abolished slavery, established equal protection under the law, extended the right to vote to women and ended the poll tax. Today, we consider an amendment that runs counter to that inclusiveness that underlies our history: one Nation under God, indivisible; and e pluribus unum, from many, one; and in the words of the Constitution, to form a more perfect Union.

This amendment has been brought with the full knowledge that it failed in the other body with no prospects of success, either now or in the foreseeable future, in this body. This is a partisan exercise to distract the American people from the Republicans' record of failure. And it is unworthy of a party that claims to be associated with President Lincoln, one of the greatest Presidents of the United States.

The consideration of this amendment does not call upon the better angels of our nature that President Lincoln spoke of in his first inaugural address. It calls upon the worst impulses of politics by attempting to enshrine discrimination into the Constitution and to single out a group of American citizens. And it is unworthy of a party that claims to be associated with

President Lincoln once again who said in his second inaugural address, which I consider to be Lincoln's greatest speech, "With malice toward none, with charity for all, with firmness in the right as God gives us to see the right, let us strive to finish the work we are in, to bind up the Nation's wounds."

This amendment is malicious and is not charitable toward anyone. It is motivated by animus towards lesbians and gays. It is a sad moment that those clinging to power want to use to divide the American people for what they perceive to be an electoral advantage. I will vote against this amendment because it is counter to the noble ideals of our Nation.

On substance, the amendment is far reaching to deny all matters of rights, even beyond marriage. The proponents have disingenuously claimed that this amendment would not preclude civil unions or domestic partnerships. At the same time, organizations supporting this amendment are now using similarly worded State laws to challenge recognition of domestic partnerships in several States. And we know these organizations, which the Republican leadership is beholden to, will not stop there. Because this amendment is not limited to governmental action and would apply to all private contracts, existing rights enjoyed by same-sex couples, such as hospital visitation, inheritance rights and health care benefits would be at risk if this amendment were to pass. This amendment is dangerous, and it does not belong in our Constitution.

Throughout our careers, many of us in Congress on both sides of the aisle have fought against discrimination in every form and sought to bring people together. I will vote again against this amendment because again it is counter to the noble ideals of our Nation and of the principle of ending discrimination and unifying our country. Whatever one's view of same-sex marriage, and I know that that is a difficult issue for some, I understand that, amending the Constitution is not the place to address this issue. Let us not defile our Constitution with an amendment designed to demean a group of American citizens. Let us not use our Constitution as a political tool to divide us. We are a better country than that and that is why this amendment will fail today.

The American people will see through the motivations behind this amendment. It is to distract the American people from the record of failure of this Republican Congress, a record that has been, according to editorials today, marked by "shambling to the end of one of the lightest workloads in decades without a hint of embarrassment" and "failing at the most demanding obligations of government."

Mr. Speaker, let us strive to unite people, to seek the best in ourselves, and to attend to the grave and great issues now before us. Let us honor our Constitution, let us honor our children, let us honor all God's children. Let us follow our better angels and reject this amendment.

Mr. DELAY. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I know some wanted to pick a fight here today, trying to get us to talk about same-sex marriage, about homosexuality and all those kinds of things. We did not talk about them because that is not what this is about. What this is about is the family and the definition of family, so I will define it for you: a family is a man and a woman that can create children. Peter and Paul cannot create children. Mary and Jane cannot create children. It is about regenerating and re-energizing our population by being able to create children.

But more than that, it is about responsibility. A family is a man and a woman that can create children and rear them. It is how we create communities. It is how we transfer our values to our children, because if you destroy marriage and people do not get married, several things happen: first of all, men are let off the hook. Men can have the sex but not the responsibility of raising the children. That has happened in our society and societies in Europe and others. If you take away the responsibility, why should a man get married? But if he has a commitment with the woman, the mother of his child, then he realizes the responsibility of trying to raise that child. He also provides something more than Mary and Jane can provide. Mary and Jane can be great mothers and there are many of them that are great mothers. Peter and Paul can be great fathers. But Peter and Paul cannot be a mother. And Mary and Jane cannot be a father. The reason that one man and one woman is necessary to rear children is so that they can receive the benefits that a man can give them and that a woman can give them. They can see the commitment between a man and a woman, the trust that is committed between the two, the love. But more important than that, it is how that man and that woman transfer their values to their children.

It is also how each family can transfer its values by families coming together as communities and transferring those values to those communities. So when you ask the question, what harm is it, the harm is if nobody gets married and they are having children out of wedlock, which has already been said, children born out of wedlock are more likely to have all the maladies of societal ills, whether it be quicker on drugs, dropouts. We know. Every social ill can come down on these children. If that happens, then we are not transferring our values to communities and from communities to States. Our values as a Nation start with one man, one woman having children. That is what is at stake here. That is what is harmful.

You say, well, I am married. I am married for 37 years. I am very proud to be married. I have a daughter and a grandson. The point is that these breakups of marriage, and it is showing in the Netherlands and in Scandinavia, it is showing right here with all the pressures against marriage over the last 40 or 50 years, whether it be welfare or divorce. Divorce is a pressure against marriage. And when we take the responsibility for a marriage and do no-fault divorces, you are undermining marriage and making it easy to undermine marriage.

All the results of that we have seen. The welfare system was a great experiment. What we saw was fathers not marrying the mothers of their children, just having many children by many mothers and not responsible for raising these children, leaving these children to mothers and grandmothers and aunts to raise. And then we see the deterioration of their lives because they are raising themselves because their mothers and aunts and grandmothers have to work in order to raise them to pay for the family, so they are raising themselves, no values, nothing. Gangs form because of that. Gangs become the substitute for families. Everybody knows that. If you get busted by a gang or mugged by a gang, that is the result of undermining marriage.

That is the problem. It is nothing about same-sex marriage, or single moms or any other kind of marriage. Those are wonderful. There are wonderful families being raised by gay people. There are wonderful families by single moms. But they are not the ideal. The ideal is established in our Constitution and in our society. We want the ideal.

So when the Massachusetts Supreme Court redefines marriage based upon not law, based on thin air, because we have these activist judges coming in to impose their definition of marriage on our society, we get a little concerned, because we have seen it before.

We did not stand up before and there have been 45 million children killed, unborn children killed, because we did not stand up to activist judges responding to a strategy of using the courts to legislate. Every leader of the groups that are opposing this legislation has announced to the world that they are going to take this to the U.S. Supreme Court. They are already doing it. There are 11 court cases right now. Nebraska has been overturned. Washington State, Massachusetts. There is a huge, huge effort in every State in this Union, even though 44 States in this Union have protected the definition of marriage.

They are after those State constitutions; and when they get at those, or using the full faith and credit clause, they can go to the Federal courts and then it begins. Then DOMA comes down. Then the United States Supreme Court, who has already signaled that they are going to, through Lawrence v. Texas, redefine marriage in this country, will amend the Constitution and redefine marriage.

We are starting the effort today. Yes, it may not pass today. I wish it would. It may not pass today. This is only the beginning, I am telling you, because this Nation will protect marriage.

☐ 1700

This Nation knows, this Nation knows, that, if you destroy marriage as the definition of one man and one woman creating children so that we can transfer our values to those children and they can be raised in an ideal home, this country will go down.

So, believe me, everybody in this country is going to know how you voted today. And they are going to know how you stood on the fundamental protection of marriage and the definition of marriage. And we will take it from here, and we will be back. And we will be back. And we will be back. We will never give up. We will protect marriage in this country.

Mrs. LOWEY. Mr. Speaker, I rise in opposition to this amendment.

I am opposed to a constitutional amendment that would discriminate against any American. In more than 200 years of American history, the U.S. Constitution has been amended only 17 times since the Bill of Rights—and in each instance, it was to extend the rights and liberties of the American people, not restrict them.

The Federal Marriage Amendment could deny gay and lesbian couples and their children basic rights, protections, and benefits like hospital visitations and inheritance. It could also overturn civil unions and domestic partnership rights already enacted by some state and local governments. This amendment runs counter to my strong belief that all people should be entitled to equal protection under the law, regardless of ethnicity, gender, religion, or sexual orientation.

I urge my colleagues to let this debate unfold where it should: in our homes, in our synagogues and churches, in our courts, and in our hearts. I urge my colleagues to vote against this amendment.

Mr. MARKEY. Mr. Speaker, oil prices are approaching $50 a barrel, more than 1,000 young American men and women dead in Iraq, 6,000 wounded.

What are we debating here on the floor of Congress? We are talking up a bill to inject discrimination into the Constitution of the United States of America. Apparently, the Republican Congress believes that the fact that some States want to recognize the loving relationships of gay and lesbian couples is such a threat to our country that they are prepared to take the extreme measure of amending the Constitution.

Conservative activist Paul Weyrich shed some light on the current thinking in Republican circles which explains why this bill is really on the floor today. Here is what Mr. Weyrich had to say:

> The President has bet the farm on Iraq. Right or wrong, he has done it. Even if you disagree with the decision, you have to admire the President for putting it on the line and staying the course despite overwhelmingly bad news for months now.
>
> Therefore, Iraq will be an unavoidable topic of discussion in this campaign. The problem is that events in Iraq are out of the control of the President.

Mr. Weyrich writes, "There is only one alternative to this situation: Change the subject." He dismisses the option of taking up oil prices or the economy. Apparently, even he does not think those are winners for the President.

"No," he concludes, "what I have in mind to change the subject is a winner for the President. The Federal Marriage Amendment." The gay marriage issue, he gleefully advises, "will cause Senator KERRY no end of problems."

So that is what it is really all about. Republican leaders in Washington are running scared. They look at the polls on Iraq, on the economy, on jobs and they fear that the voters are going to rise up in November and toss them out of office, and as a result they bring up a resolution to alter the most sacred document in the land.

The Constitution was written to ensure that all Americans are treated equally. This provision will undermine that principle and tarnish the Constitution. I believe that any State should have the right, if it so chooses, to grant same-sex couples or unmarried couples the same legal rights as those conferred to heterosexual couples. This is the same policy supported by Vice President DICK CHENEY who stated during the 2000 Presidential election that same-sex marriages should remain a State issue and the Federal Government should recognize those State laws.

Vote "no" on this bill. It is a disgrace against the United States Constitution.

Mr. WEXLER. Mr. Speaker, this amendment would not only ban same-sex marriages but also civil unions, and I cannot support such a divisive and extreme measure. A majority of Americans rightfully recognize that same-sex couples who are committed to a lifelong relationship should enjoy all of the civil benefits that come with marriage. Being able to make medical decisions for an incapacitated partner, inherit property without large tax penalties and receive Social Security survivor benefits are examples of the civil aspect of marriage that are denied to same sex couples but are wholly unrelated to religious concerns.

Not only does this amendment completely disregard these basic liberties but it actually erodes the religious freedom upon which our great nation was founded. I am not alone in this grave concern. A coalition of 25 national religious groups—from the American Jewish Committee to the Alliance of Baptists, from the Episcopal Church to the Conference of American Rabbis—all believe that this amendment does more to erode religious freedom than preserve it.

An amendment restricting marriage to certain couples would be the first time in history that rights were denied solely to one group of Americans. Mandating discrimination in the Constitution would set a terrible precedent. Everyone in America should be concerned about who will be next.

Mr. MCDERMOTT. Mr. Speaker, today shame looms over this body. Today you place legislation before us to amend the Constitution to ensure that same sex marriages can never occur in any State in this country.

This legislation is all about politics. You know that you do not have the votes to pass this proposal. You have said so publicly. This proposal already failed in the Senate earlier this year. You know you do not have the time to spend on this proposal: the new fiscal year begins tomorrow and the Republican leadership has only managed to get 1 of 13 required appropriations bills passed. But you're going to make time for one reason: to get material for TV commercials.

You want TV commercials to run against Democrats. You think that they'll go nicely alongside the Republican National Committee's mailings saying Democrats want to ban the Bible and the ads that say that decorated war veterans are un-American traitors if they oppose the policies of the present occupant of the White House.

This vote is about hurting Democrats running for reelection. You want to hurt those of us opposed to amending the Constitution to deny gays and lesbians the rights that the rest of us enjoy, but the real hurt is unleashed on some of our nation's families: the millions of gay couples and lesbian couples, and their children.

People on both sides of this issue have sincere and deep feelings that deserve to be taken seriously. But today's vote mocks their concerns: they think you are out here on the floor to discuss who will be allowed to be a family in America, when you are really out here to work on who will be a Member of Congress after the election.

Today's vote is about Republicans toying with the emotions of a nation that genuinely cares about commitment, about families, and about the institution of marriage. To the Republicans, our Nation's emotions—our fear and our worries—are to be employed and manipulated for their reelection campaigns.

The House of Representatives's rules are governed by the Jefferson Manual, and the majority has the right under our rules to bring this measure to the floor. But Jefferson's greatest manual was the Declaration of Independence, which reads in part, "We hold these truths to be self-evident, that all men are created equal, that they are endowed by their Creator with certain unalienable rights, that among these are life, liberty and the pursuit of happiness." Exactly how that part of our Nation's creed will play out as our citizens grapple with notions of domestic partnerships, civil unions and same sex marriages is yet to be seen. It will certainly not be decided today.

Nowhere in the Declaration does it say that these rights are only for white, heterosexual men.

Jefferson opened the doors of liberty to all of us, Mr. Speaker. It's a disgrace that this body is using Jefferson rules to attempt to undo Jefferson's and the Western World's most profound achievement—acknowledge that we are all equal.

Mrs. BONO. Mr. Speaker, I rise today in opposition of H.J. Res. 106, "the Marriage Protection Amendment," which would amend the United States Constitution, regarding the issue of gay marriage. As someone who has consistently revered the United States Constitution, I am very cautious of any efforts to amend this precious document and hold a high standard on what is worthy of this extensive process.

H.J. Res. 106 defines marriage within the United States as "the union of a man and a woman," and I believe in this core philosophy. However, it is imperative that we preserve the integrity of the United States Constitution and do not dilute it with our political agendas and preferences. Although I do not support gay marriage, I do not feel that this issue renders the need to amend the United States Constitution. Neither would I support an amendment to the constitution that would give gay couples the right to be married.

Moreover, if enacted, the Marriage Protection Amendment would severely limit State rights. It precludes States from granting marital status or the "legal incidents thereof" to unmarried couples. The Federal Government should respect the rights of individual States, and should not be in the business of deciding whether States may grant the benefits of marriage to unmarried couples. It is the prerogative of States to make their own decision on whether to take on the burden of providing such benefits.

For all these reasons, I oppose this constitutional amendment.

Mrs. DAVIS of California. Mr. Speaker, I am disappointed that we are here today to debate this amendment.

As a strong supporter of civil rights protections, I am extremely concerned about the devastating implications of this legislation.

I am concerned because I believe that every individual deserves to be treated with respect, and our Nation's laws should be used to promote civil rights, not limit them.

In addition, the United States Constitution should be modified only in the most rare and necessary of circumstances, and those circumstances simply do not exist here today.

Amending this sacred document that has governed us for centuries has only been done 17 times in our Nation's history—and those changes have served to protect our rights as Americans.

Now is not the time to depart from that tradition by threatening the basic principle of equal treatment under the law.

And speaking of tradition, Mr. Speaker, we have heard a lot today about the value we should place only upon "traditional" marriage.

I would ask those who support this amendment so strongly to talk to the countless special needs children of this country, who have been adopted by caring and nurturing same-sex couples, what "traditional" means to them.

Although special needs children are a special gift to this world and to any family, it is often same-sex couples who are most willing to welcome these children into their homes.

If not for these couples, many of these children would never experience the value of a loving, stable home and the unconditional support of a family.

I am willing to venture that if any one of us asked any one of these special needs children if they would prefer two mothers—or two fathers—or no family at all, that choice would be simple.

And that is because there is no exact formula for creating a loving family. The only thing you need for certain is love.

Are we really challenging whether or not that love can exist in a home with two mothers or two fathers? I certainly hope not.

Mr. Speaker, we are still trying to bring peace and stability to Iraq and are losing more and more American lives in this process every day. Our economy is struggling under a $400 billion deficit. And we have a long way to go to get American workers back into meaningful work and to continue improving the education of our children.

It is regrettable that we have decided to overlook these pressing national needs to take up an amendment that I believe threatens healthy American families in our country today.

If it is truly our hope to protect the best interests of our children, we will join together to oppose this dangerous and unnecessary amendment.

Mr. VAN HOLLEN. Mr. Speaker, the question facing this Congress today is simple and straightforward. Should we amend the Constitution of this great Nation to restrict the rights and limit the freedoms of citizens of the United States. Our Constitution has been used to protect the rights of the minority against the sometimes discriminatory impulses of the majority. We must not today write discrimination into the very Constitution that has stood as a bulwark against discrimination. We must not enshrine injustice into a document meant to serve justice.

I don't often agree with Vice President CHENEY, but on this issue he is right. This issue should be left to our State legislatures.

This Nation confronts many pressing challenges—the war on terrorism, jobs and the economy, and the many other issues that demand our attention. We should not be spending our time on a divisive, politically motivated issue that responds to a non-existent problem.

Mr. HOLT. Mr. Speaker, I rise to express my strong opposition to H.J. Res. 106, the Marriage Protection Amendment.

Freedom. Equality. Inalienable rights. These notions are so enshrined in our national psyche that it becomes easy to think that they are just words, that we have attained these ideals, that there is no need for action, that all the battles for freedom and against discrimination have been fought and won.

But measures like the one we are considering today bring us back to reality and remind us how far we must go to achieve acceptance and fully equality under the law. Some in this Nation refuse to view this amendment as a blight on our democracy or as a measure that is in direct opposition to the ideals put forth by our Founders. They ignore that this amendment denies a minority population certain basic freedoms and continue to purport that our Nation's values and the institution of marriage is being threatened.

I certainly agree that the institution of marriage and a cohesive family unit are vital to the health of our communities and the success of our society. I strongly support initiatives such as TANF, which assist families and better our communities. Unfortunately, the amendment we are debating today does nothing to strengthen the bonds of matrimony, nor does it strengthen families or enhance or communities. In fact, it divides our communities, and sends a message of hate and contempt to a minority population and informs them that their government considers them to be second class citizens.

No one should be denied the opportunity to choose his or her life partner. It is a basic human right. It is a deeply personal decision. Throughout history, we have only moved forward when society has distinguished between traditional values and valueless traditions. Attacking gay couples who want to share lifelong obligations and responsibilities undermines the spirit of love and commitment and sends the wrong message to society.

In addition to the misguided policy of legislating a sensitive moral issue, this amendment is a misuse of the Constitution. The Constitution has been amended only 27 times in its more than 200 years. With the exception of the Eighteenth Amendment, which was later repealed, these amendments have reaffirmed and expanded individual freedoms and the specific mechanisms that allow our self-government to function. The amendment that we are considering today opposes this spirit of progress and reverses our movement towards extinguishing institutional discrimination that has harmed minority populations throughout our history.

I hope my colleagues will consider the cost this amendment will have on our democracy and more importantly the message it sends to those that are being judged by their government. I urge my colleagues to vote against this amendment.

Ms. KILPATRICK. Mr. Speaker, I rise today in opposition to H.J. Res. 106, the Marriage Protection Amendment under consideration by the House, and stand in support of the Constitution.

My opposition to this amendment is based on my fundamental support for the Constitution, which has been amended only 17 times to broaden as opposed to limiting the rights of Americans. When I took my oath of office, I committed to uphold the Constitution. Today's debate and consideration of this bill is a concerted and direct assault on the beloved Constitution. We are in effect debating and voting on a bill that will do absolutely nothing to promote the institution of marriage. Our deliberation will not ensure that our most precious resource, children, the fruit of marriages between men and women, will be protected by passing this legislation.

Our efforts today are nothing more than a symbolic act that will not result in any appreciable change in current law. The Republican majority knows that this House will not pass this measure with the two-thirds majority vote necessary for it to be enacted. Previously, the Senate defeated a similar measure. Finally, there is absolutely no change that three-quarters of the states would pass a law to support amending the Constitution on this subject.

A federal amendment would intrude on the jurisdiction of state courts to establish rules for marriage. States rights are the philosophical and procedural cornerstone of the judicial framework utilized by state courts. If we pass this amendment in the House, we will be undermining the authority of state courts, and enabling the federal government to override the jurisdiction of those states.

This measure will not ensure that marriage couples will protect our children from abuse or ensure that marriages between men and women will endure and not end in divorce. It is for the reasons outlined, that I cast a no vote against this amendment, and a vote to continue to support the Constitution.

Mr. ORTIZ. Mr. Speaker, I rise in support of the "Marriage Protection" Constitutional amendment.

In the past, I have supported legislation that defines marriage, and keeps the control of the institution of marriage within each State in the Union. I don't believe in gay marriage, and supported the Federal statute Congress passed in 1996 making sure one State does not have to accept a marriage license not issued in their State.

Amending the Constitution is a grave matter, given it's only been amended 27 times in the history of this Republic, actually, 17 times excluding the Bill of Rights, the first 10 amendments to the Constitution were adopted along with the original Constitution.

I am opposed to amending the Constitution generally, and remain concerned about the repercussions of opening up our precious founding document to amendments about social issues.

But I have heard from thousands of my constituents in south Texas who believe the matter of marriage raises to the importance of including this definition as the 28th Amendment of the Constitution. I have heard the voices of south Texans on this matter.

We can never legislate the way people are born or the way they will live their lives. But we can make a statement today on the importance of marriage by passing this amendment and urging the Senate and three-fifths of the States to do the same.

I urge my colleagues to support the amendment as well.

Mr. HOSTETTLER. Mr. Speaker, I rise in opposition to this proposed Amendment to the Constitution of the United States.

Marriage is designed to be between a man and a woman, period. It is not for two women, nor for two men. It was for this reason that I authored the Marriage Protection Act, which passed in the House in July.

Nevertheless, I cannot in good conscience support this amendment.

I have two primary concerns.

The first is the potential this amendment has to federalize domestic relations law, that is the law of families, parents, custody, etc., all of which are now handled in the States.

Let me say at the outset that I am not among those who believe that marriage cannot be defined in our Constitution under principles of federalism.

But I am deeply concerned that we may unintentionally be doing far more than simply defining marriage.

By setting forth marriage in the Constitution will we also set forth the basis upon which some future Federal court claims the ability to enter into all forms of domestic relations law now reserved to the States? I say it is very plausible.

In fact, I thought it so plausible that I offered an amendment in the Committee on Rules this week to address this issue. My amendment would have added the following new section to all text:

> Nothing in this amendment grants any new legislative authority to the Congress of the United States or any new judicial power to the Supreme Court of the United States or any court created by Congress.

This amendment was not made in order.

Without some limitation, I fear a future where the entire realm of domestic relations law, be it marriage, divorce, child custody, paternity determination, adoption—you name it—will become fair game for a future Supreme Court.

Without some limitation on Federal power to assume all family law, I simply cannot support the present text.

The second problem with the current amendment arises out of my concern over the nature of marriage and what we are truly trying to protect in this amendment.

The supporters of this amendment contend that they have three goals: prohibit same-sex marriage; stop courts from granting the benefits of marriage to same-sex couples; and, allow State legislatures to enact civil unions or domestic partnerships if they so desire.

Regarding the second goal, that is prohibiting the courts from granting the incidents of marriage to unmarried couples, presumably those in civil unions or domestic partnerships, I contend that here they have simply failed.

They have failed because in introducing H.J. Res. 106, they have only restricted the courts from improperly construing State or Federal constitutions.

Unlike the original H.J. Res. 56, they have dropped the requirement that courts refrain from construing State or Federal law in the granting of the incidents of marriage to same-sex couples.

Hence, under this amendment any court, for any reason short of a constitutional one, may simply grant the incidents of marriage to unmarried couples and this amendment will not stop them.

At this point, one might say, shouldn't we match our amendment to that voted upon in the Senate in July? I say why? That amendment did not even obtain a majority of votes for cloture. My friends, it is dead.

As I said, the authors of this Amendment had three goals concerning the incidents of marriage. The third goal was to allow, yes allow, the legislatures in the States to enact civil unions or domestic partnership laws.

I ask those of you from California or Vermont what this Amendment does for you? The answer is nothing. Your domestic partner law in California and your civil union law in Vermont are unaffected.

This Amendment may actually, by restricting the courts' ability to grant the incidents of marriage but remaining silent as to the legislatures, provide a constitutional basis for civil unions. I cannot support this result.

I offered amendments to the Committee on Rules to address both these issues. Again, my amendments were not made in order.

I have not yet addressed the first goal of this amendment, that is to protect marriage.

I suppose that to the extent that marriage is not a mere word, I will concede that the authors met their goal.

But is the goal sufficient?

Let me conclude.

Simply protecting the term "marriage" is not enough. Marriage by any name is marriage, whether we call it "civil unions," "domestic partnerships" or any other label that may be conjured up.

Marriage is too important to be only about semantics.

We must also be cognizant that while we may today be talking about same-sex marriage, someday in the future we may be laying the groundwork for all marriage issues to become federal.

I submit that given the makeup of the House this Amendment cannot pass. I suggest that if we really care about marriage, that we focus on the other constitutional tools that our founders gave to Congress. Let us remove the federal courts' jurisdiction in this area. Let us cut off the funding of the enforcement of unconstitutional decisions.

All of these means are sufficient to control the judiciary. In fact, by specifically addressing the power of the courts to construe constitutions we are actually giving support to the myth that the courts are already the final arbiters of the constitutions.

We must now allow this to happen. I respectfully urge my colleagues to consider what they are doing here today, including all of the ramifications of this Amendment.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise tonight to oppose this blatant attempt to hijack the Constitution of the United States for political gains.

On July 12, 1996 this House of Representatives voted for, and I supported the Defense of Marriage Act. On September 21, 1996 this bill became the Law of the Land as Public Law 104–199.

The Defense of Marriage Act states that "No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any other State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising fro such relationship".

I do not support a constitutional amendment to prohibit gay marriage. Historically, amendments to the Constitution have been utilized as a tool to protect or defend the rights and liberties of American citizens. Two prominent examples include the 13th Amendment abolishing slavery and the 19th Amendment giving women the right to vote.

Marriage has historically been in the domain of the States to regulate.

There is no Federal marriage certificate or license needed to be married; however, the State determines how and when a license is necessary.

I am opposed to this Amendment. I do not feel that the Constitution of the United States should ever be used to limit the rights of citizens. States currently have jurisdiction over marriage, and can outlaw the act of same sex marriage if they choose.

This amendment does nothing to improve the major problems facing marriages today, particularly the Nation's extremely high divorce rate, 50 percent.

The reasons for this vote are politically motivated. At a time when 12 of the 13 appropriations bills, a budget, and transportation funding for the states have not been passed, why are we spending valuable floor time on a bill that has already failed in the Senate?

Do not support this amendment and let us get back to the people's business.

Mr. UDALL of Colorado. Mr. Speaker, I cannot support changing the Constitution along the lines of this proposal—so I will not vote for this resolution.

Under our federal system, there are many matters where the states have broad latitude to shape their laws and policies in ways their residents think fit, subject to the constitution's provisions that protect the rights of individual citizens.

One of those areas has been family law, including the regulation of marriage and divorce—but this amendment would change that.

Adoption of this amendment would for the first time impose a constitutional restriction on the ability of a state to define marriage. And it would do so in a way that would restrict, not protect, individual rights that now are protected by at least some state constitutions.

In my opinion, this is neither necessary nor appropriate.

Some of the resolution's supporters say it is needed so a state whose laws ban same-sex marriages or civil unions will not be forced to recognize such marriages or unions established under another state's laws.

They say this could happen because Article IV of the Constitution requires each state to give "full faith and credit" to another state's "public acts, records, and judicial proceedings."

But my understanding is that this part of the constitution has not required states to recognize the validity of all marriages of people from other states. In fact, over the years various states have refused to recognize some out-of-state marriages—and the "full faith and credit" clause has not been used to validate marriages because marriages are not "judgments" but "civil contracts" that a state may choose to recognize as a matter of comity, not as a constitutional requirement.

As if this were not enough, in 1996 Congress passed and President Clinton signed into law the "Defense of Marriage Act." That law says "No State, territory, or possession of the United States, or Indian tribe, shall be required to give effect to any public act, record, or judicial proceeding of any State, territory, possession, or tribe respecting a relationship between persons of the same sex that is treated as a marriage under the laws of such other State, territory, possession, or tribe, or a right or claim arising from such relationship."

Not everyone thinks this was a good thing for Congress to do—I myself am not sure that it was. But the fact is that this law is on the books and has not been successfully challenged.

Given this history, I am not convinced that this constitutional amendment is necessary to prevent the "full faith and credit" clause being used to compel a state to recognize a same-sex marriage.

Moreover, when you focus on the language of the proposed amendment it becomes clear that protecting states is not its real purpose.

That purpose could be achieved by an amendment to the "full faith and credit" clause—perhaps by putting language along the lines of the "Defense of Marriage Act" into the constitution itself. But that is not what is being proposed here.

Instead, this amendment would restrict states, by establishing a single definition of marriage—the only definition that any state could recognize.

And unlike other constitutional amendments, it would not protect individuals either. It would write into the constitution a new limit on what legal rights they could hope to have protected by a state or the federal government. If adopted, this amendment would restrict individual liberties instead of expanding them. I think it is clear the real purpose of this amendment is to lay a foundation for discrimination against some Americans on the basis of their sexual orientation. In good conscience, I cannot support this.

Mr. Speaker, no proposed constitutional amendment should be taken lightly. On the contrary, I think such proposals require very careful scrutiny and should not be adopted unless there we are convinced that a change in our fundamental law is essential. I do not think this resolution meets that test, and so I will vote against it.

Mr. SERRANO. Mr. Speaker, I rise in strong opposition to the proposed amendment to the Constitution of the United States that would enshrine discrimination in one of our Nation's founding documents and insinuate the Federal government into an area of law and policy that has traditionally been left to the States.

Since the Bill of Rights was adopted, the Constitution has been amended only 17 times. That demonstrates the profoundly conservative approach the American people and their representatives in Congress have taken to changing the Constitution. Polls show that that approach continues today. Even among those who oppose gay marriage, a majority oppose using a constitutional amendment to ban it.

For my part, I believe that a committed couple, regardless of gender, should have the right to participate in a state-recognized marriage or civil union and to enjoy the rights and responsibilities conveyed by that legal relationship. It is in our society's interest that committed couples, whether in "traditional" or same-sex unions, be not only allowed but encouraged to form households, have families, and contribute to the health and stability of their neighborhoods and communities.

What religious bodies choose to recognize, sanction, or bless as marriage should be entirely up to them.

There are much more important issues we could be spending this time on. The American people have much higher priorities than this—the misguided effort to bring democracy to Iraq; the faltering economy; the loss of good jobs; the half-hearted, underfunded war on terrorism; the high price of gas; the millions of Americans without health insurance; and so on.

Mr. Speaker, this waste of an afternoon in an effort to pollute our Constitution with language requiring discrimination against a particular group of people, in violation of basic principles of federalism, is just wrong, and I urge my colleagues to show they share my disdain for this charade by voting "no."

Mr. OXLEY. Mr. Speaker, today, I stand in support of H.J. Res. 106, the Marriage Protection Amendment. I believe there are strong cultural, historic, and societal reasons for reaffirming the definition of marriage. For centuries, our society has been built upon the tradition that marriage consists of one man and one woman. The institution of marriage is not one made to discriminate, but was created to advocate an ideal home for children. This enduring and cherished institution is the healthiest way to raise strong families. We have to ask ourselves why we would want to change the institution of marriage after it has served human civilization so well over the course of time.

My home state of Ohio has spoken very strongly on this. The state legislature has passed its own Defense of Marriage Act, and I have received hundreds of letters on the issue from my constituents in the Fourth District. I believe there is a strong majority consensus in Ohio for the traditional definition of marriage. It now appears that proponents have received enough signatures through petitions to put this issue on the ballot on Election Day.

I do not take amending the U.S. Constitution lightly. But because of the decision made by activist judges in states like Massachusetts, there is no assurance that existing federal and state defense of marriage acts can remain intact. The American people deserve to be heard through their elected representatives, and that is why it is proper for the House to pass the Marriage Protection Amendment.

Mr. MEEK of Florida. Mr. Speaker, I rise in strong opposition to H.J. Res. 106 before the House of Representatives today.

The Constitution has never been amended to mandate discrimination. It is historically served to expand liberty and equality. This proposed constitutional amendment, if passed, would set a precedent at odds with the values and freedoms upon which the nation was founded. Further, it is an attack on the United States Constitution and the system of government that has made this country so great and has served us so well. Supporters of this resolution complain loudly about the decisions of "unelected judges," but it is important to remember that those very unelected judges are a key part of our system of government—it is how the authors of the Constitution saw fit to protect the rights of minorities.

By trying to amend the Constitution, conservatives are trying to cut off the emerging national debate on same-sex marriage. Amending the Constitution has only been done 27 times before in our history. It is something that is traditionally done only when there are no other options, but the country has only just begun to try to work through this issue.

Even for people who, like myself, believe that marriage is between a man and a woman, this measure does nothing to strengthen or protect those bonds. It seems to me that if a threat exists to marriage, it is that too many of them fail. For every two marriages that occurred in the 1990s, one ended in divorce. The stresses on marriages today are great, but they don't have to do with the jurisdiction of the federal courts. This bill does nothing to deal with problems like affordable housing, quality education and training, daycare for young children, high costs of gasoline, electricity and food, high unemployment rates and underemployment, and the lack of health care coverage and other benefits that place severe strains on many families.

Today, the very nature of the typical American family is changing. Just as families headed by only one adult were rare only a few decades ago but are common today, non-traditional couples are now a widespread fact of American society. Nearly 200 Fortune-500 companies and numerous municipalities and organizations have already recognized this fact on their own and provide benefits to same sex couples. In addition, several municipalities have adopted local ordinances prohibiting discrimination based on sexual orientation in housing and employment.

This proposed constitutional amendment is heavy-handed and unnecessary. The companion amendment in the United States Senate not only failed to meet the required two-thirds vote for adoption, but it failed to even receive a simple majority of the membership, failing 48–50. At best, it is bad policy that does not get to the core of the problems that face American families today. At worst, it is a ruinous attack at the very foundation of this great country—A Constitution that protects the rights of the individual over the tyranny of the majority.

No matter one's individual beliefs, there can be no excuse to putting limitations on one person's rights for another person's beliefs in a document under which we all live—the Constitution of the United States of America. I hope that my colleagues will join me in opposing this ill-advised, unnecessary, and bad precedent-setting amendment.

Mr. DINGELL. Mr. Speaker, I rise in strong opposition to H.J. Res. 106, the so called federal marriage amendment. This bill would turn over 200 years of state jurisprudence on its head, attempting to federalize marriage.

This resolution is another attempt to mandate one definition of marriage upon the states. I ask my colleagues if we take away this right from the states, what's next? Where does it stop? Take away local decisions for education or child custody issues. Between the consideration of this bill and the court stripping bills that have passed this House, it leads me to believe, Mr. Speaker, this is just another cynical political ploy by the majority during an election year.

Like Vice President CHENEY and former Representative Bob Barr, I believe the voters of each state should decide for themselves who can and cannot marry. It has always been a state function. It should remain so. To take away that right of the state to decide this issue, we endanger basic principles of the federal system in which we live. As our Constitution so eloquently states in the Tenth Amendment of our federal Constitution, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

Mr. Speaker, amendment of our Constitution has happened only 17 times since the Bill of Rights was passed. Some of those amendments do not look so good today. Many of those not adopted now look worse. We should not lightly tamper with the perfection, beauty and majesty of our great Constitution. This bill was filed only last Friday, rushed through the Rules Committee on Tuesday night, and voted on today.

There have been no Committee hearings, no time to look at different amendment proposals, and no opportunity to have the important deliberations that should take place when amending the Constitution. We have heard nothing from our concerned citizens and from our Constitutional scholars.

The issue before us today is not whether you are for or against gay marriage. It is whether or not we should federalize marriage and take away the right of the states to define marriage.

Now Mr. Speaker, I supported the Defense of Marriage Act and continue to do so. At this point, the Defense of Marriage Act remains the law of the land. It works. Nothing yet threatens this law.

Those proposing this amendment rely on hypothetical dangers to try and push through a dramatic, but mischievous change to our Constitution. I am opposed to taking away the right of each state to have its citizenry decide how to define marriage. It seems to me too many people are meddling in this matter for political reasons. Let the states continue to decide sound public policy on this subject.

We must never rush to amend our Constitution. Mr. Speaker, I oppose this bill and ask for my colleagues to vote against this iniquitous, politically inspired, and destructive legislation.

Mr. PAUL. Mr. Speaker, while I oppose federal efforts to redefine marriage as something other than a union between one man and one woman, I do not believe a constitutional amendment is either a necessary or proper way to defend marriage.

While marriage is licensed and otherwise regulated by the states, government did not create the institution of marriage. In fact, the institution of marriage most likely pre-dates the institution of government! Government regulation of marriage is based on state recognition of the practices and customs formulated by private individuals interacting in civil society. Many people associate their wedding day with completing the rituals and other requirements of their faith, thus being joined in the eyes of their church and their creator, not with receiving their marriage license, thus being joined in the eyes of the state.

If I were in Congress in 1996, I would have voted for the Defense of Marriage Act, which used Congress's constitutional authority to define what official state documents other states have to recognize under the Full Faith and Credit Clause, to ensure that no state would be forced to recognize a "same sex" marriage license issued in another state. This Congress, I was an original cosponsor of the Marriage Protection Act. H.R. 3313, that removes challenges to the Defense of Marriage Act from federal courts' jurisdiction. If I were a member of the Texas legislature, I would do all I could to oppose any attempt by rogue judges to impose a new definition of marriage on the people of my state.

Having studied this issue and consulted with leading legal scholars, including an attorney who helped defend the Boy Scouts against attempts to force the organization to allow gay men to serve as scoutmasters, I am convinced that both the Defense or Marriage Act and the Marriage Protection Act can survive legal challenges and ensure that no state is forced by a federal court's or another state's actions to recognize same sex marriage. Therefore, while I am sympathetic to those who feel only a constitutional amendment will sufficiently address this issue, I respectfully disagree. I am also concerned that the proposed amendment, by telling the people of the individual states how their state constitutions are to be interpreted, is a major usurpation of the states' power. The division of power between the federal government and the states is one of the virtues of the American political system. Altering that balance endangers self-government and individual liberty. However, if federal judges wrongly interfere and attempt to compel a state to recognize the marriage licenses of another state, that would be proper time for me to consider new legislative or constitutional approaches.

Conservatives, in particular, should be leery of anything that increases federal power, since centralized government power is traditionally the enemy of conservative values. I agree with the assessment of former Congressman Bob Barr, who authored the Defense of Marriage Act:

"The very fact that the FMA [Federal Marriage Amendment] was introduced said that conservatives believed it was okay to amend the Constitution to take power from the states and give it to Washington. That is hardly a basic principle of conservatism as we used to know it. It is entirely likely the left will boomerang that assertion into a future proposed amendment that would weaken gun rights or mandate income redistribution."

Passing a constitutional amendment is a long, drawn-out process. The fact that the marriage amendment already failed to gather the necessary two-thirds support in the Senate means that, even if two-thirds of House members support the amendment, it will not be sent to states for ratification this year. Even if the amendment gathers the necessary two-thirds support in both Houses of Congress, it still must go through the time-consuming process of state ratification. This process requires three-quarters of the states' legislatures to approve the amendment before it can become effective. Those who believe that immediate action to protect the traditional definition of marriage is necessary should consider that the Equal Rights Amendment easily passed both Houses of Congress and was quickly ratified by a number of states. Yet, that amendment remains unratified today. Proponents of this marriage amendment should also consider that efforts to amend the Constitution to address flag burning and require the federal government to balance the budget have been ongoing for years, without any success.

Ironically, social engineers who wish to use federal government power to redefine marriage will be able to point to the defense of traditional marriage through a constitutional amendment as proof that they have the legitimate authority to redefine marriage. I am unwilling either to cede to the federal courts the authority to redefine marriage or to deny a state's ability to preserve the traditional definition of marriage. Instead, I believe it is time for Congress and state legislatures to reassert their authority as a co-equal branch of government by refusing to enforce judicial usurpations of power.

In contrast to a constitutional amendment, the Marriage Protection Act requires only a majority vote of both Houses of Congress and the President's signature to become law. The bill has already passed the House of Representatives; at least 51 Senators would vote for it; and the President would sign this legislation given his commitment to protecting the traditional definition of marriage. Therefore, those who believe Congress needs to take immediate action to protect marriage this year should be focusing on passing the Marriage Protection Act.

Because of the dangers to liberty and traditional values posed by the unexpected consequences of amending the Constitution to strip power from the states and the people and further empower Washington, I cannot in good conscience support the marriage amendment to the United States Constitution. Instead, I plan to continue to work to enact the Marriage Protection Act and protect each state's right not to be forced to recognize a same sex marriage.

Mr. KIND. Mr. Speaker, I rise to express my disappointment that this body has brought the Federal Marriage Protection to the Floor at a time when only one of the thirteen appropriations bills has been passed into law and other important legislation, such as the transportation reauthorization bill and intelligence reform have not yet become law.

This is not to say that I believe the issue of gay marriage to be unworthy of discussion. I understand that some people firmly regard gay marriage as a civil right while others find it antithetical to their religious or moral beliefs. Reasonable people can disagree on this issue, and it is a subject which our country must continue to discuss. In America, however, the authority to grant legal status to a marriage has been a function reserved for the states, and different states have different laws regarding issues ranging from blood-testing to waiting periods before marriage.

Some, including the proponents of this bill, will argue that an amendment to the U.S. Constitution is necessary to keep one state from forcing another to accept same-sex marriages. In fact, this is not necessary because of the 1996 Defense of Marriage Law, which provides that states, U.S. territories, or Indian tribes do not have to recognize same-sex marriages granted by other states. Further, the Act defines marriage, for the purpose of federal benefits and rules, as the legal union between one man and one woman. Therefore, the Wisconsin law which recognizes marriage as a relationship between a husband and wife is protected.

Mr. Speaker, when it comes to amending the United States Constitution, I am very conservative. Like Republican Senator CHUCK HAGEL, conservative columnist George F. Will, and the Republican author of the Defense of Marriage Act, Bob Barr, I am opposed to amending the Constitution for the purpose of outlawing gay marriage. In its 215-year history, the Constitution has been amended only 27 times, and we must not add amendments limiting rights rather than expanding them.

DICK CHENEY has stated "With respect to my views on the issue, I stated those during the course of the 2000 campaign, that I thought when it came to the question of whether or not some sort of legal status or legal sanction were granted to a same-sex relationship that that was a matter best left to the states. That was my view then. That's my view now." (Scripps Howard New Service, January 9, 2004). As recently as August, 2004, Vice President DICK CHENEY, speaking of gay marriage, affirmed that, "marriage has historically been a relationship that has been handled by the states." Like Vice President CHENEY, I do not believe the U.S. Congress needs to intrude on this state issue. Because of my great respect for the Constitution, and for the federal nature of the government which the document dictates, I will vote against this resolution, and I urge my colleagues on both sides of the aisle to do the same.

Mr. CARDIN. Mr. Speaker, I rise in opposition to H.J. Res. 106, a constitutional amendment regarding marriage.

I personally believe that marriage is the union of a man and a woman. In 1996, I voted in favor of the Defense of Marriage Act (DOMA), which became law with President Clinton's signature. The Act defined marriage for federal purposes as a legal union between one man and one woman. The bill also protected states from being compelled to honor another state's law or judicial proceeding that recognizes marriage between persons of the same sex. DOMA is current federal law.

I am therefore puzzled as to why the House leadership has chosen to schedule this matter for a vote in such a hasty manner, without the benefit of a markup in the Judiciary Committee, just one month before Election Day. In July of this year, the Senate rejected this amendment by a vote of 48–50, short of even a majority vote, and much less than the two-thirds vote required to send the amendment to the states for ratification.

This amendment is unnecessary. DOMA is the law of the land which both defines marriage at the federal level and protects states from having to change their own definitions of marriage by recognizing other states' same-sex marriage licenses. DOMA has never been invalidated by any court, and many states have properly used DOMA to refuse to recognize same-sex marriages performed in other states. The decision of the citizens of Massachusetts to authorize same-sex marriages in their state in no way requires the citizens of the state of Maryland to do so.

I am also concerned about the unnecessarily broad scope of the amendment, which states that Federal or State constitutions shall not be construed "to require that marriage *or the legal incidents thereof* be conferred upon any union other than the union of a man and woman." (emphasis supplied). Many State, county and local governments currently provide either domestic partner benefits or civil union benefits to gays and lesbians in their jurisdictions. Such benefits include visiting each other in the hospital, sharing health insurance plans, and rights of inheritance. These benefits—again, decided by local governments and citizens—could be called into question by this Federal constitutional amendment if they are considered "legal incidents" of marriage. As compared to a Federal statute, a constitutional amendment limits the ability of Congress to make future changes.

The first sentence of the amendment does not even require State action, which means that private parties—such as religious institutions and private businesses—could be bound by the Federal Government's definition of "marriage." The amendment could therefore call into question the benefits that many companies provide to same-sex partners. I note that a broad array of both civil rights, religious, and business organizations are opposed to the amendment.

Finally, Congress should only adopt a constitutional amendment as a matter of last resort when a statutory approach is ineffective. In this case, that standard has not been met. We have only amended our Constitution seventeen times since the adoption of the Bill of Rights in 1791.

I have consistently supported legislation to protect the civil rights of all Americans, regardless of their sexual orientation. For example, I believe that Congress should make it illegal to terminate an employee solely on the basis of sexual orientation. I believe this amendment is inconsistent with the civil rights currently enjoyed by many gays and lesbians as a result of State and local laws. This constitutional amendment could inadvertently sanction discrimination based on sexual orientation beyond the legal status of marriage.

Mr. CRANE. Mr. Speaker, the institution of marriage is a sacred union between a man and a woman, and with God and the community. That is why I voted for and strongly supported the 1996 Defense of Marriage Act (DOMA), which was passed by Congress by an overwhelming bipartisan margin and signed into law by President Clinton. The Defense of Marriage Act defines marriage as being between one man and one woman, and also provides that no State shall be required to accept a same-sex marriage license granted in another State.

Opponents of this amendment say we are voting too early on this amendment. They say that traditional marriage is protected by DOMA. However, I know that unless this amendment passes, State and Federal judges will overturn laws protecting traditional marriage after this year's election, just as I know tonight the sun will set.

Left-wing activists in at least twelve other States have filed lawsuits like the one that imposed same-sex marriage in Massachusetts. Without a constitutional amendment, judges and local officials will continue to attempt to redefine marriages in their States. A handful of judges are doing the work of a liberal few and forcing us to act to protect what should be a settled matter of law. These judges can strike down the Defense of Marriage Act just as four judges in Massachusetts did earlier this year.

The only way to ensure that the people's voice to be heard is an amendment to the Constitution—the only law a court cannot overturn. The future of marriage in America should be decided through the democratic constitutional amendment process. By passing the Marriage Protection Amendment, the American people will have the final say on marriage in the United States, not a group of judges.

Mr. Speaker, I urge my colleagues to trust the judgment of the American people and allow them to make the final decision on marriage by voting for the Marriage Protection Amendment.

Mr. DELAHUNT. Mr. Speaker, here's the choice. On one hand, a rich constitutional tradition. On the other hand, the politics of divisiveness. What a despicable choice it is.

With just days left before hitting the campaign trail, this Congress sets a remarkable record today. Since January of this year, the Republicans had the House in session for 93 days. Fewer days than any other single Session since 1948.

The Republicans control the House, the Senate and the White House. Here's the tally: No votes on energy reform. No action on the assault weapons ban. No criminal justice reform. No Homeland Security bill. And no action on minimum wage and unemployment benefits.

We can't pass a budget. Only one of 13 annual appropriations bills got done on time this year. And in Iraq, the violence continues. Yesterday, a car bomb explosion killed over 30 people—injuring over 100. We have lost over one thousand American soldiers in this war.

So which of these enormous challenges do we take on today? None of them. Instead, we're debating a constitutional amendment on marriage that is not going anywhere—it has already failed miserably in the Senate. We are just going through the motions here. The Majority is placating its base. For partisan advantage and with total disregard for our constitutional history and the core conservative value of federalism and defense to the State.

Just last month the Vice President said: "people ought to be able to be free." Well, Mr. Vice President, to my surprise, we actually agree on something. People should be free to love who they want. And free to marry who they love. And live in a state where they have equal rights and opportunities, and equal access to government.

But State rights are under attack—from the self-styled conservatives no less, the same folks who are crusading to preempt State gun safety laws, get rid of consumer protection provisions, to eliminate fair lending laws. Why not abolish the 10th Amendment too?

I agree with our former colleague Bob Barr—one of the stronget supporters of States' rights ever to serve in this body. There are three reasons why a constitutional amendment is the wrong choice.

First, marriage is a state issue. Each state should be able to decide on its own how to define marriage for its citizens. Federalism means state sovereignty. We hear a lot of talk about my home state. Let me tell you something—Massachusetts is not forcing other states to take up this issue. Marriage is a matter that has always been left to the states. And each state should be allowed to address this issue in its own due course.

Second, once we start messing with the Constitution, where will it end? With this precedent, the Republicans show a willingness to change the Constitution for ideology. What's next? A Constitutional Amendment on tax cuts? Corporate welfare? The draft?

Finally, Federal constitutional amendment on marriage is unnecessary, irresponsible and irrational. It is wrong.

The House Majority is pitting the Constitution against a craven political calculus. This is election year pandering at its worst. This is a meaningless and demeaning gesture, and insult to those holding sincere beliefs on this issue, all at the expense of our constitutional heritage.

I urge my colleagues to reject this despicable posturing.

Mr. RANGEL. Mr. Speaker, I rise in opposition to H.J. Res. 106, the Marriage Protection Amendment.

This amendment should be more rightfully called the Republican Incumbency Protection Amendment. Like the bill we debated on this floor yesterday to abrogate gun laws in the District of Columbia, this amendment is nothing more than an election year wedge issue. Already defeated in the Senate last July, it is another attempt to create a campaign issue to use against Democrats. It is a shame that the People's House should be diminished in this way.

Even more so, this is an affront to our great Constitution. It reverses the constitutional tradition of protecting individual freedoms by attempting to limit those rights to millions of people. This is a cynical and dangerous violation of everything we have come to expect from that great document. This is no time to start rolling back freedom.

What a great contradiction we are witnessing today at that party, which professes the sanctity of individual rights and privacy of the individual, seeks a blanket intrusion into the lives of a group of people under the guise of protecting marriage, the most private of institutions.

While it was President Bush who initiated this bill with his call for a Constitutional amendment last February, I would hope that some members of his party would agree with the position of Vice President CHENEY that this issue should be left to the states and not enshrined in our national constitution.

Mr. STARK. Mr. Speaker, I rise in strong opposition to House Joint Resolution 106, the so-called Marriage Protection Amendment, which proposes an amendment to the U.S. Constitution to ban same-sex couples from getting married or receiving any of the rights of marriage. The right-wing political machine is churning out divisive legislation at a record pace as we get close to the election, but this is a new low. They would, for the first time ever, target a specific group of Americans in our most sacred document, and permanently ban them from having equal rights under the law. This proposed amendment not only bans marriage, but any of the "legal incidents thereof," meaning that the supporter of this amendment think our founding document should keep gay and lesbian couples from filing a joint tax return, inheriting property, or visiting their partners in the hospital.

It's one thing for the Republicans to claim that banning flag burning will make us more patriotic or to propose a balanced budget amendment when they're running the highest deficits in history, but to play their political games with millions of Americans is beneath contempt. Apparently, there are a lot of things the supporters of this amendment don't understand about our government:

The Constitution has always defined the limitations of government and liberties of people, not the other way around.

Citizens of the United States are guaranteed equal treatment under the law, even if they aren't popular.

For people who choose a religion, there are two separate marriages: a civil contract and a religious ceremony. That religious ceremony has nothing to do with our laws. A church can marry whomever it wants and refuse to marry whomever it wants. For example, Churches in Massachusetts don't have to marry gay people even though the State does.

The civil contract part of marriage is enforced by a set of laws that affect property, children, health care and other responsibilities and rights. In the U.S. we are required by the Constitution to divorce these laws from any religious influence.

Passing this amendment would take us down a dangerous path of trying to make civil and religious marriage one in the same. If we're going to bring our civil marriage system in line with religious marriage, then we also need to pass an amendment banning Catholics from getting divorced.

The fact that Massachusetts is marrying same-sex couples doesn't mean that other States have to do the same. Already, 44 States have specifically banned gay marriage, and the Constitution guarantees their right to set their own policies on State issues.

Constitutional amendments have to be passed by two-thirds of both the House and Senate before being submitted to the States for ratification. This amendment has already failed in the Senate, so today's vote is all a cynical, hateful political game.

Mr. HOEKSTRA. Mr. Speaker, I rise in support of the Marriage Protection Amendment and urge my colleagues to vote in favor of this important legislation.

Marriage as the union of one man and one woman is our most basic and fundamental social institution. It is so central to the well-being of our society that, until recently, it was difficult to imagine that marriage itself would need explicit constitutional protection.

However, recent court rulings and the actions of some local officials have forced the debate upon us. In an ongoing effort to redefine marriage for all of American society, the judgment of the American people is in danger of being overruled by a handful of activist judges.

The Marriage Protection Amendment will protect marriage as the union of one man and one woman and ensure that the democratic process is followed on questions relating to this fundamental social institution.

Some will question the need for a constitutional amendment, but let's be realistic. The U.S. Constitution will be changed whether the Marriage Protection Amendment is approved or not.

Either activist judges will impose a new definition of marriage on the entire country, or the American people, through their elected representatives, will have the opportunity to determine what marriage will be.

There is a broad consensus among the American people that marriage is uniquely and essentially the union of one man and one woman. Congress needs to act today and give voice to the majority of Americans who want traditional marriage protected.

The record is clear. Whenever the American people have had the opportunity to vote directly on the issue, they have overwhelmingly voted in favor of traditional marriage.

The state of marriage and the American family is a matter of crucial importance, and I trust the judgment of the American people on this matter.

The future of marriage should be decided by the American people, not by activist courts. Vote in favor of the Marriage Protection Act, protect traditional marriage and ensure that the American people will have a say in the future of marriage.

Mr. MEEHAN. Mr. Speaker, I rise in strong opposition to the Federal Marriage Amendment.

Today in America: 8 million people are out of work—2.7 million have exhausted their unemployment benefits; 45 million people don't have access to health care; our classrooms are underfunded by $25 billion; gasoline prices have reached $50 per barrel one-third of the intercepts from al Qaeda have not been translated into English; and, more than 1,000 Americans have been killed in a foreign quagmire with no end in sight.

It's time for bold and honest leadership, and for all Americans to unite in confronting these urgent challenges. Yet with precious few days left in the legislative session, the leadership in Congress has decided that our time is best spent trying to divide Americans for political reasons. And the device they are using to divide us is the most sacred document of all—the Constitution of the United States.

The Constitution has always united Americans behind a shared set of ideals. In our history, the Constitution has been amended only to protect and expand our rights. Since the Bill of Rights, our Nation has passed constitutional amendments to abolish slavery, to give all Americans equal protection under the laws, and to extend the right to vote to former slaves, women, and young Americans.

Never in our history has a constitutional amendment been used to take rights away. The Federal Marriage Amendment destroys that tradition simply to pander to the political base of the Republican Party 5 weeks before an election. This amendment has little to do with defending the institution of marriage.

With the strains on today's families and the incidence of divorce and broken homes, I fail to see how we strengthen the institution of marriage by forever excluding couples willing to enter into a lifelong commitment.

Our society encourages and values a commitment to long-term monogamous relationships—and we honor that commitment through the legal institution of marriage.

Same-sex couples are not asking for special rights or special favors. They are asking for the opportunity to make a commitment to one another—to share in a conservative institution and the rights and responsibilities it entails.

I understand that this is an issue where good people may disagree, and where many diverse faith traditions are brought to bear. But let's be clear—if we leave the Constitution intact, every church, every community, and every State will still be free to define marriage as they choose.

There is simply no Federal issue here and no need for a Federal solution. The Supreme Judicial Court of my State of Massachusetts has found that our State law violates our State constitution. It's a State matter, and we are handling it in Massachusetts.

I have confidence in the people of Massachusetts that we will arrive at a solution based on our laws and our values. The outcome will have no effect on the laws of other States.

My Republican colleagues have decried heavy-handed solutions from Washington and defended States' rights. Vice President CHENEY has asserted that this is an issue for the States to decide. So did Texas Governor George Bush before he came to Washington and flip-flopped.

I would plead with my colleagues who pride themselves as ardent defenders of States' rights and local control—we don't need Federal interference in Massachusetts.

We should be honest with our constituents that the Federal Marriage Amendment on the House floor today has no chance of passage. It has already been rejected by the Senate.

Today's vote is nothing more than a transparent political gimmick. It's a shameful assault on millions of hard-working, law-abiding Americans.

And it's a shameless attempt to divide all Americans at a time when unity is needed like never before.

I urge my colleagues to protect the Constitution, not degrade it for political reasons. Vote "no" on the Federal Marriage Amendment.

Mr. STEARNS. Mr. Speaker, I rise today in support of the rule and this amendment.

We did not seek this debate, but it was thrust upon us. A handful of judicial activists have sought to change the traditional definition of marriage through judicial decree.

Supporters of same-sex marriage are vocal, tireless, and well-funded. They are eager to attack the traditional meaning of marriage through whatever court is willing to listen. They are determined to force this revolutionary and destructive view of marriage down the American people's throats.

But there is hope for the millions of Americans who value the traditional definition of marriage. Their hope is the democratic process and this amendment. Supporters of same-sex marriage cannot win through the democratic process. Again and again, when the issue has been put forth in the court of public opinion, they have lost miserably.

Mr. Speaker, this vote today is what our democracy is all about. The response of my constituents and Americans throughout the country has been overwhelming and impressive. The vast majority of Americans have risen to the defense of traditional marriage. Today, the voice of the American people will be heard.

Ms. HARMAN. Mr. Speaker, September 13 was an important date for Congress. It marked the expiration of the decade-old Assault Weapons Ban. Police Chiefs across the country strongly encouraged the extension of this ban. President Bush even announced he would sign an extension if Congress presented him with the opportunity. Unfortunately, the Republican leadership did not deem the ban fit for a vote.

Instead, Congress squanders valuable time voting on matters that either have no bearing on the real work at hand or are designed as divisive wedge issues.

Just yesterday the House voted to repeal the District of Columbia's 28-year-old assault weapons ban and to prohibit the DC Government from enacting such laws in the future.

That was yesterday, Mr. Speaker. Today, the House, in another profile in courage, will devote valuable time to one of the most divisive of wedge issues—a vote on a constitutional amendment to ban gay marriage.

Are these the most pressing issues of the day for Congress? For the American people? Of course not. Al Qaeda will not stop at the borders of Washington, DC, in fear of our newly armed city, but tourists and other visitors might. And DC residents, Members of Congress and their families will be at greater risk.

Nor will our ports, railways, airports, and other critical infrastructure be more secure because we waste time on what is certain to be a failed Federal effort to ban gay marriage.

States have long regulated marriage and I do not believe that America has suffered from this practice. I believe State legislatures and courts are the proper arbiters of questions of community values. On this issue there is bipartisan agreement. Indeed, four of the featured speakers at the recent Republican convention oppose this amendment, including Vice President CHENEY and California Governor Schwarzenegger.

We have traditionally amended the Constitution to grant a broader range of rights to Americans. Why, in the 21st century, are we breaking from this 200-year-old tradition? In my view, the Constitution should be amended rarely, dispassionately, and only in the interest of codifying or expanding rights and liberties. This proposed amendment fails to meet that test, is divisive, and distracts from more urgent priorities.

If America is hit by terrorists again, I fear that history will look back at us with a scathing and sorrowful eye. There will be anger at our misplaced priorities, and sadness that we fell victim to the passions of those whose vision for America's future is clouded by fear and intolerance.

I oppose H.J. Res. 106 and urge my colleagues on both sides of the aisle to oppose it. We need to put this shameful vote behind us and focus on problems that all Americans agree need to be addressed, such as jobs, health care and, most of all, national security.

Ms. ROS-LEHTINEN. Mr. Speaker, although I will not be present when the House convenes on Thursday, September 30, 2004, for consideration of the H.J. Res 106, the Marriage Protection Amendment. I oppose it, just like Vice President DICK CHENEY, because it undermines the principles of federalism espoused by most Republicans and interferes with the rights of States that have been recognized since the founding of our country.

Furthermore, we should not change the Constitution for the purpose of singling out one group for discrimination. A constitutional marriage amendment is also unnecessary given that the Defense of Marriage Act already defines marriage as a union between one man and one woman.

Finally, the argument that the Marriage Protection Amendment is needed to stop activist judges and courts from forcing the American people to accept gay marriage is unfounded, a fact evidenced by the numerous marriage-related bills—both in favor of and against same-sex marriage—currently pending in more than two dozen State legislatures around the country.

That is why, if I were present, during the vote for H.J. Res. 106, I would have voted against the Marriage Protection Amendment. In light of the fact that the first Presidential Debate is being held in my congressional district on Thursday, I must remain in Florida.

Mr. HONDA. Mr. Speaker, I rise today in strong opposition to H.J. Res. 106, the so-called Marriage Protection Amendment. This measure seeks to amend the United States Constitution and define marriage as the union between a man and a woman, denying gays and lesbians the right to marriage and the legal benefits that come with it.

In the 200-year history of this great Nation, our Constitution has been amended a mere 17 times since our Founders drafted the original 10 amendments.

This amendment would be the first ever to strip a specific group of constitutional rights, directly contravening our history of expanding civil rights and liberties to the previously disenfranchised.

This amendment appeals to many Americans' deeply held belief that marriage is a religious covenant only between a man and a woman.

But marriage is also a legal contract, and the fundamental principal of equal protection dictates that all citizens have access to the benefits of such contracts.

The legal right to marry—be it man-to-woman or same-sex—is and must remain separate from the religious one.

This amendment will exclude some Americans from the full range of human experience to which they are entitled under the full protection of the law. Therefore, I believe that this measure must be defeated.

Mr. VITTER. Mr. Speaker, today I rise in support of the constitutional amendment to protect marriage as between one man and one woman. This is a very important issue for congress to address, and I am glad to have been part of the movement to bring this legislation to the House floor.

Marriage is a core institution of societies throughout the world and throughout history. It's something that has provided permanence and stability for our very social structure. Today, statistics clearly show that couples who are married are happier and better off economically, and that children who are raised in homes with a traditional, two-person married couple are better off. The societal benefits to protecting and promoting traditional marriage are, in fact, numerous.

In my home state of Louisiana, we voted just recently on a statewide constitutional amendment to define marriage in the traditional sense as between one man and one woman. The amendment passed with 78 percent, which clearly shows that an overwhelming majority of Louisianians want to see this legislation passed today.

Some opponents of this measure claim that states should decide. I strongly believe in letting states decide issues for themselves, and Congress tried this approach in 1996 with the Defense of Marriage Act. It passed and was signed into law, but today that law, and with it the clear will of the American people, is being chiseled away by opponents.

States—and more importantly, the people—will soon have their rights to decide this issue taken from them, by judges from some other part of the country. Not one state has decided by either popular referendum or legislative action to agree to anything other than marriage as between a man and a woman.

So I encourage and implore my colleagues today to support and vote for this measure, so that our states and our citizens can decide these matters for themselves.

Mr. SOUDER. Mr. Speaker, this afternoon, during debate on the Marriage Protection Amendment, the Minority Leader referenced the "Party of Lincoln" and it support for the freedom of all people, including slaves. She made reference to Lincoln and his party in an effort to criticize the Republican Party for its stand in support of marriage as solely between one man and one woman.

Mr. Speaker, I'd like to insert an article into the RECORD that documents the Republican Party's historical support—even at its beginning—for the institution of marriage. The article by Robert P. George and William L. Saunders entitled, "Republicans and the Relics of Barbarism: Moral Conviction made the GOP the GOP," discusses the moral debates that defined the Republican Party in the 1800s. The issues of polygamy and slavery were at the center of those debates.

Slaveholders clamored for their "right" to own another human being, thereby destroying the worth of that human being, while polygamists claimed it to be their "religious freedom" to engage in plural marriage, at the expense of their children and society.

When the Supreme Court usurped congressional power in the Dred Scott decision, claiming that the Constitution contained a "right" to own a slave, the Republican Party, led by President Lincoln, steadfastly challenged the decision. It is known that President Lincoln defeated at least one candidate who favored a pro-choice position in regard to the issue of slavery. In addition, the Republicans made Utah statehood contingent upon their inclusion of a prohibition of polygamy in their State constitution.

These "archaic" moral disputes are unchanged in modern debates.

Today, proponents of abortion, embryonic stem-cell research and cloning assert their "right" to create and destroy another human being at will, and thereby destroy the worth of that human being. In addition, the pervasive philosophy of moral and sexual liberation seeks to devalue the traditional, foundational role of marriage, at the expense of children and society.

The defense of traditional marriage and the protection of all life as equal and of intrinsic worth in the eyes of our Creator, are inherent, core beliefs of the Republican Party. We would do well to recall this truth, and to bring it to bear on our modern topics of discussion. We must defend the sanctity of life by opposing abortion and embryo-destructive research, and we must defend marriage as the permanent union between one man and one women, in order to maintain the moral and structural stability of our Nation.

Mr. Speaker, I am pleased to stand in support of marriage today in the tradition of the Party of Lincoln—the Republican Party. I urge my colleagues of both parties to do the same and vote in support of H.J. Res. 106, the Marriage Protection Amendment.

[From National Review on Line, Aug. 30, 2004]

REPUBLICANS AND THE RELICS OF BARBARISM: MORAL CONVICTION MADE THE GOP THE GOP

(By Robert P. George and William L. Saunders)

In the middle of the 19th century, a new political party emerged dedicated to two great moral struggles. The Republican party pledged to fight the "twin relics of barbarism": slavery and polygamy.

By then, slavery was deeply entrenched in the culture of the American south. What some had regarded as "necessary evil" that would gradually die out had been given a new lease on life by technological developments, and by the emergence of profitable overseas markets for cotton. An entire social and economic system was built on slavery. No longer was it reasonable to hope that the "peculiar institution," and with it the moral controversy convulsing the nation, would quietly fade away. Powerful interests had a stake not only in maintaining the slave system, but in extending it into the western territories of the United States.

So the Republicans faced a daunting challenge. Pro-slavery Democrats condemned them as "fanatics" and "zealots" who sought to impose their religious scruples and moral values on others. Slaveholders demanded that they "mind their own business" and stay out of the "domestic" and "private" affairs of others. Defenders of a "right" to own slaves pointedly invited northern abolitionists to redirect their moral outrage towards the "wage slave" system in the north. "If you are against slavery," they in effect said, "then don't own a slave."

By the mid-1850s, polygamy, which had originally been the largely secret practice of the Mormon elite, had come out of the closet. Polygamists claimed that attacks on "plural marriage" were violations of their right to religious freedom. Later, some would bring lawsuits asking judges to invalidate laws against polygamy as unconstitutional. One of these cases would make it all the way to the Supreme Court. Apologists for polygamy denied that plural marriage was harmful to children, and challenged supporters of the ban on polygamy to prove that the existence of polygamous families in American society harmed their own monogamous marriages. They insisted that they merely wanted the right to be married in their own way and left alone.

But the Republicans stood their ground, refusing to be intimidated by the invective being hurled against them. They knew that polygamy and slavery were morally wrong and socially corrosive. And they were prepared to act on their moral convictions.

For the Republicans, the idea that human beings could be reduced to the status of mere "objects" to be bought and sold and exploited for the benefit of others was a profound violation of the intrinsic dignity of creatures made in the image and likeness of God. Similarly, the idea that marriage could be redefined to accommodate a man's desire for multiple sexual partners was, as they saw it, deeply contrary to the meaning of marriage as joining a man and a woman in a permanent and exclusive bond.

In the great moral struggles of the 19th century, the Republicans sought advantage in every morally legitimate and available way. When appropriate, they would accept strategic compromises on the road to victory; but they would not compromise away their principles.

When in the Dred Scott decision the Supreme Court of the United States announced its discovery of what amounted to a constitutional right of slaveholding, Lincoln and other leading Republicans refused to treat the case as a binding precedent. They would not bow to judicial usurpation. When Utah sought admission as a state, the Republican-controlled Congress made statehood conditional upon incorporation of a prohibition of polygamy into the state constitution.

As Republicans gather in New York this week, they would do well to remember their moral heritage. The twin relics of barbarism have returned in distinctively modern garb. Abortion and embryo-destructive research are premised on the proposition that some human beings—those in the embryonic and fetal stages of development—may legitimately be reduced to objects that can be created and destroyed for the benefit of others. At the same time, the ideology of sexual liberationism threatens to undercut the traditional understanding of marriage as the permanent and exclusive union of one and one woman.

A familiar mantra of "pro-choice" politicians is that abortion should be "safe, legal, and rare." Now, however, they seek to validate and fund a massive industry that would create human beings for the precise purpose of destroying them during the embryonic stage of development in biomedical research. What happened with slavery is now happening with embryo-killing: The people who use to define it as a "necessary evil" to be resisted or lessened by means other than legal prohibition now promote it as a social good—something that law and government should not only tolerate but embrace and even promote.

At the same time, the sexual-liberationist movement seeks to undermine traditional understandings of the meaning and significance of human sexuality. The attempt to abolish the legal concept of marriage as the one-flesh union of a man and a woman is part of a larger effort to "liberate" people from what the cultural-political Left regards as outmoded and repressive ideas about the centrality of procreation and the moral requirement of fidelity in human sexual relationships. Even some leading "conservative" advocates of "same-sex marriage" have announced their moral acceptance of promiscuity; one has gone so far as to proclaim the "spiritual value" of "anonymous sex." Increasingly, critics of traditional morality are willing explicitly to invoke the authority of ancient pagan civilizations in which practices (including abortion, infanticide, and homosexual conduct) condemned by the Judeo-Christian ethic sometimes flourished.

Critics of the Republican stand in defense of marriage and the sanctity of human life—including some within the party—echo the arguments of 19th-century apologists for the relics of barbarism. They accuse pro-life and pro-family Republicans of being "religious fanatics" who disrespect people's liberty and seek to "impose their values" on others. "If you are against abortion," they say, "then don't have an abortion." They maintain—often disingenuously—that legal recognition of the "marriages" of same-sex partners will not harm or weaken traditional marriages.

These arguments fare no better as defenses of human-embryo killing and the redefinition of marriage than they did of slavery and polygamy. Justice requires that all human beings irrespective of race or color, but also irrespective of age, or size, or stage of development, be afforded the protection of the laws. The common good requires that the laws reflect and promote a sound understanding of marriage as uniting one man and one woman in a bond founded upon the bodily communion made possible by their reproductive complementarity.

An influential minority in the Republican Party proposes abandoning, or at least soft-pedaling, the Party's commitments to the sanctity of human life and the dignity of marriage and the family. They say that social issues are "too divisive." They suppose that the easy road to Republican electoral success is as the party of low taxes and low morals. They counsel capitulation to judges who usurp the constitutional authority of the American people and their elected representatives.

Let Republicans be mindful of their heritage. It was moral conviction—and the courage to act on moral conviction—that gave birth to the Republican party and made it grand. Now it is old, but need not be any less grand. By summoning the moral courage that enabled their Party to stand proudly against the twin relics of barbarism in the 19th century, Republicans can bring honor upon themselves in the great moral struggles of our own day.

Mrs. BIGGERT. Mr. Speaker, I rise in opposition to H.J. Res. 106, the Marriage Protection Amendment. Passage of this resolution will not protect marriage, and I am concerned it will create the opposite effect of what its proponents seek to accomplish.

Let me first state that I believe that marriage is a sacred union between one man and one woman. I strongly support the federal Defense of Marriage Act (DOMA) passed by Congress and signed into law in 1996.

Second, marriage is an issue that our Founding Fathers wisely left to the states. The Tenth Amendment to the Constitution states, "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."

No Congress ever has seen fit to amend the Constitution to address any issue related to marriage. No Constitutional Amendment was needed to ban polygamy or bigamy, nor was a Constitutional Amendment needed to set a uniform age of majority to ban child marriages.

So why do proponents argue that we must take this unprecedented step now to ban same-sex marriages?

They claim that without the Amendment, states will be forced to recognize same-sex marriage performed in other states. Yet the Defense of Marriage Act not only prohibits federal recognition of same-sex marriages, it allows individual states to refuse to recognize such unions performed in other states. And in the eight years that have passed since its enactment, DOMA never has been invalidated in any court in the country. The authors of DOMA took the greatest pains to write a law that is constitutional and will withstand judicial challenges.

Proponents also claim that amending the Constitution is the only way to prevent so-called "activist judges" from legislating matters of same-sex marriage. Yet amending the Constitution to address marriage could invite federal judicial review not only of marriage, but of divorce, child custody, inheritance, adoption, and other issues of family law. Not only would this violate the principles of federalism, it would create very bad public policy.

Mr. Speaker, no legislature in the country has established same-sex marriage in statute. In fact, 39 states, including Illinois, have adopted laws limiting marriage to one man and one woman.

I urge my colleagues to have faith in our system of government, keep marriage out of the Constitution, and allow the states to continue to exercise what is best left to them.

The SPEAKER pro tempore (Mr. SIMPSON). All time for debate has expired.

Pursuant to House Resolution 801, the joint resolution is considered read for amendment, and the previous question is ordered.

The question is on the engrossment and third reading of the joint resolution.

The joint resolution was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the joint resolution.

The question was taken.

Mr. FRANK of Massachusetts. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clauses 8 and 9 of rule XX, this 15-minute vote on House Joint Resolution 106 will be followed by 5-minute votes on motions to suspend the rules on House Concurrent Resolution 501 and House Resolution 792.

The vote was taken by electronic device, and there were—yeas 227, nays 186, not voting 20, as follows:

[Roll No. 484]

YEAS—227

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Berry
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carson (OK)
Carter
Chabot
Chandler
Chocola
Coble
Cole
Collins
Cooper
Costello
Cramer
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (AL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
DeMint
Doolittle
Duncan
Edwards
Ehlers
Emerson
English
Etheridge
Everett
Feeney
Ferguson
Flake
Forbes
Ford
Fossella
Franks (AZ)
Gallegly
Garrett (NJ)
Gillmor
Gingrey
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hoekstra
Holden
Hulshof
Hyde
Isakson
Issa
Istook
Jefferson
Jenkins
John
Johnson (IL)
Johnson, Sam

Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
LaHood
Lampson
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (KY)
Lucas (OK)
Manzullo
Marshall
Matheson
McCotter
McCrery
McHugh
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle

Ortiz
Osborne
Otter
Oxley
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw

Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Spratt
Stearns
Stenholm
Sullivan
Tancredo
Tanner
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—186

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Bass
Becerra
Bell
Berkley
Berman
Biggert
Bishop (NY)
Blumenauer
Bono
Boswell
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Castle
Clay
Clyburn
Conyers
Cox
Crowley
Cummings
Davis (CA)
Davis (FL)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Dreier
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner

Foley
Frank (MA)
Frelinghuysen
Frost
Gephardt
Gerlach
Gibbons
Gilchrest
Gonzalez
Green (TX)
Greenwood
Grijalva
Gutierrez
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson (CT)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kirk
Kleczka
Knollenberg
Kolbe
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren

Lowey
Lynch
Majette
Maloney
Markey
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McInnis
McNulty
Meehan
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Nadler
Napolitano
Neal (MA)
Obey
Olver
Ose
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pelosi
Pomeroy
Price (NC)
Pryce (OH)
Rodriguez
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (VA)
Serrano

Shays
Sherman
Simmons
Slaughter
Smith (WA)
Snyder
Solis
Stark
Strickland
Stupak

Sweeney
Tauscher
Thompson (CA)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez

Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—20

Boehlert
Brown, Corrine
Cannon
Davis (IL)
Diaz-Balart, L.
Diaz-Balart, M.
Dunn

Harman
Hastings (FL)
Hunter
Meek (FL)
Meeks (NY)
Menendez
Murtha

Nethercutt
Oberstar
Rangel
Reyes
Ros-Lehtinen
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised 2 minutes remain in this vote.

□ 1725

Mr. NADLER changed his vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the joint resolution was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING LIFE AND WORK OF DUKE ELLINGTON

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 501.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. BURNS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 501 on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 391, nays 0, not voting 42, as follows:

[Roll No. 485]

YEAS—391

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)

Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp

Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane

Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Hall
Harris
Hart
Hastert
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa

Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley

Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey

Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—42

Ackerman
Bachus
Boehlert
Boswell
Brady (TX)
Brown, Corrine
Cannon
Davis (IL)
Davis, Tom
Deal (GA)
Diaz-Balart, L.
Diaz-Balart, M.
Dunn
Emanuel
Greenwood
Gutknecht
Harman
Hastings (FL)
Hayes
Hunter
Istook
Johnson (CT)
Kilpatrick
King (NY)
Lipinski
Lucas (KY)
McCollum
Meek (FL)
Meeks (NY)
Menendez
Miller, Gary
Murtha
Myrick
Nethercutt
Oberstar
Olver
Rangel
Reyes
Ros-Lehtinen
Shimkus
Stark
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. SIMPSON) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1732

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

HONORING UNITED NEGRO COLLEGE FUND ON 60TH ANNIVERSARY

The SPEAKER pro tempore. The unfinished business is the question of suspending the rules and agreeing to the resolution, H. Res. 792.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. BURNS) that the House suspend the rules and agree to the resolution, H. Res. 792, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 386, nays 0, not voting 46, as follows:

[Roll No. 486]

YEAS—386

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (TN)
Davis, Jo Ann
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gephardt
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Gobdlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Hall
Harris
Hart
Hastings (WA)
Hayworth
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rohrabacher
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—46

Ackerman
Ballenger
Boehlert
Boswell
Brady (TX)
Brown, Corrine
Cannon
Capps
Davis (IL)
Davis, Tom
Deal (GA)
Diaz-Balart, L.
Diaz-Balart, M.
Dunn
Emanuel
Foley
Greenwood
Gutknecht
Harman
Hastings (FL)
Hayes
Hefley
Hunter
Johnson (CT)
Kilpatrick
King (NY)
Lipinski
Lucas (KY)
McCollum
Meek (FL)
Meeks (NY)
Menendez
Miller, Gary
Murtha
Nethercutt
Oberstar
Olver
Peterson (PA)
Rangel
Reyes
Rogers (MI)
Ros-Lehtinen
Shimkus
Stark
Sullivan
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1740

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I would be glad to yield to my friend, the gentleman from Texas (Mr. DELAY), the majority leader, for the purpose of informing us of the schedule for next week.

Mr. DELAY. Mr. Speaker, I thank the gentleman from Maryland for yielding to me.

Mr. Speaker, next week the House will convene on Monday at 12:30 p.m. for morning hour and 2 p.m. for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to Members' offices by the end of this week. We may also consider one or more motions to go to conference. Any votes called on those measures will be rolled until 6:30 p.m.

On Tuesday and the balance of the week, it is likely that we will consider additional legislation under suspension of the rules. We also expect to consider three bills under a rule: S. 878, the Bankruptcy Judgeship Act; H.R. 5107, the Justice For All Act; and H.R. 10, the 9/11 Commission Implementation Act.

In addition, there are a number of potential conference reports that we are working through, including several appropriations bills, the American Jobs Creation Act, and the Department of Defense Authorization bill. Members should be aware that these conference reports may be brought to the floor at any time next week.

Finally, I would like to note, Mr. Speaker, that we are expecting to consider a second supplemental request for disaster relief sometime next week. We may have additional requests resulting from Hurricane Jeanne, so we are working through these requests and trying to figure out how best to address these needs.

Obviously, we are expecting a very busy week. Members should expect to work some late nights and possibly into Friday evening or Saturday as we resolve these important pieces of legislation.

I thank the gentleman for yielding, and I will be happy to answer any questions he may have.

Mr. HOYER. Mr. Speaker, I thank the majority leader for the information. I want to assure the leader, as he says we ought to be, that the Members on this side are, in fact, prepared to spend the time necessary to address the important issues, as the leader requests. And I want to assure the leader of our cooperation in being ready to do our work.

Mr. Leader, initially, may I ask, the motions to instruct, can the gentleman give us a time when those might occur, and will they occur relatively close to the votes, the suspension votes at the end of the day? I yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. As the gentleman knows, we have three appropriations bills that are out there that are eligible for motions to instruct. I do not know of any others. They are available when those Members want to bring a motion to instruct, and we are trying to fit them in as best we can during the week.

Mr. HOYER. I thank the leader for that information.

Mr. Leader, as all of us know, today is the end of the current fiscal year, and 12 of the 13 2005 appropriation bills have not been passed. We do not have a budget. The new fiscal year starts tomorrow. The highway program is still pending. We extended that for 8 months. The FSC bill, which is subjecting businesses in the country doing business in Europe to an additional 11 percent tariff is still not passed. The energy bill, obviously we have not gotten to at this point in time. We have not enacted legislation on the intelligence apparatus, although I understand the 9/11 Commission Implementation Act that the gentleman speaks to.

Mr. Leader, on that, might I ask this question: there is a bill in the Senate and there is a bill that has been introduced in the House that mirrors essentially the 9/11 Commission report. Is that the bill to which the gentleman is referring, or the bill that is in the process apparently of being marked up and, apparently, at some point in time, will be put together to come to the floor? Which of those three alternatives does the gentleman refer to? I yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman yielding. The gentleman touched on many issues; I will take the 9/11 Commission Implementation Act first.

I do not agree with the gentleman's characterization of the Senate bill, because what I have seen in the Senate and what they are debating nowhere mirrors the 9/11 Commission Report or all of its recommendations.

☐ 1745

The bill being marked up by the House all of this week does mirror every recommendation by the 9/11 Commission in one way or another, and that is why it has taken us longer to get it through all our 12 committees. It is going to take us a little longer to get it to the floor. I expect that, looking at all the work that needs to be done in order to bring that bill to the floor, we would have to pass that bill sometime next week, probably at the end of the week. I believe there is a good chance that the Senate could pass their version even this week.

Assuming that both bodies pass next week, I would expect that we could appoint conferees next week and work towards completing a conference report as soon as possible. In planning their schedules, Members should know that a conference report could be completed later in October, and that if it was completed, the House would certainly come back and vote on it.

Mr. HOYER. Reclaiming my time, on that last point, I have heard a rumor or discussion about the possibility of coming back on November 1, the day before the election to vote on the conference report. Can the majority leader tell me whether there is any merit to that speculation? I yield to my friend.

Mr. DELAY. Mr. Speaker, I appreciate the gentleman informing me of rumors, but that is a rumor that I have not yet heard nor has anyone discussed such a thing. I would hope that the conference committee could go to work immediately and complete this as soon as possible. It is important.

The conference report, as it comes out, I am sure will have many reforms that need to be implemented to keep the American people and American families safer, and we want to get it out as quickly as possible.

Mr. HOYER. Reclaiming my time, I appreciate the leader's assertion of wanting to keep America safe, and I think that he speaks for 435 of us in that regard. He certainly speaks for me, but I think he speaks for all of us.

In that vein, as I indicated to the gentleman from California (Mr. DREIER) two weeks ago, as I indicated to the gentleman last week, while we apparently have a difference of opinion on the Senate bill, which is introduced here in a bipartisan fashion on this side of the Capitol, I believe that we have overwhelming support on this side for that proposition. In light of the fact that we are interested, as the gentleman says, in protecting America and implementing this legislation in as timely a fashion as possible, might it not be in pursuit of that objective advisable to allow that bill to be on the floor either in lieu of the bill that, frankly, has been marked up by my colleague's party exclusively?

I have talked to all of our ranking members on the committees that the gentleman talked to. All of them believe they have been informed of what was going on, but they were not participants in the drafting of the legislation. As a result, there may be greater contention than would be hopefully called for if, in fact, we want to pass the legislation as quickly as possible.

In addition, it is my understanding that there are substantial differences between the Senate bill and the House bill, which may require a very long conference, rather than short conference, if we do not pass something that is relatively compatible in the first instance.

I would be glad to yield to my friend.

Mr. DELAY. Mr. Speaker, the gentleman brings up many issues.

First and foremost, I do not know if the gentleman has been advised, but I would refer the gentleman to the votes of the committees that have been marking up this bill. If I do recall exactly what the vote was, it was a very bipartisan effort. I think and I hope that the bill that is coming to the House floor is very strongly supported by both sides.

In the Permanent Select Committee on Intelligence, for instance, I think there was a 17-to-2 vote in passing that bill out. Now, 17 to two tells me that most of the Democrats and most of the Republicans voted for that bill. So I am very encouraged by the markups that we are having and the kind of support that the Democrats and Republicans are showing for the product that is being put together.

Having said that, the gentleman may support the bill that came out of the Senate committee. I looked at it. I think it is woefully lacking in sufficient reforms, particularly in immigration policy, border security, law enforcement. It basically is a bill that creates a national intelligence director and a counterterrorism center. There is more to protecting the American people than creating a new bureaucracy and keeping our borders safe, giving our law enforcement officials more tools to go after terrorists. There are many things that we need to be doing.

Having said that, the bill the gentleman refers to may not be the bill that comes out of the Senate because I have been informed that there are over 100 amendments, 100 amendments, filed for the debate in the other body. So who knows what that bill is going to look like when it comes out of the other body, and I think it would be highly irresponsible for this House to pick up something that came out of the Senate committee and bring it down here on the floor, unseen by most Members and not worked on by our committees, and just vote on it, up and down. I do not think that keeps the American people safer.

Mr. HOYER. Mr. Speaker, I thank the gentleman. I will simply observe that although the votes may have been bipartisan, and I will tell my colleague very honestly, there is no confusion over here on the timing of this bill. The gentleman expects Democrats to either vote for it or to be attacked about being against protecting the American people if they vote against it. We went through the creation of a bureaucracy, the Homeland Security Department. I voted against it. I think it was not what was needed. What was needed was the coordination of information. I said that at the time.

The commission in a bipartisan way has said that is what is needed. We still know that there is not the kind of coordination of information gathering, analysis and recommendation for implementation of action based upon the information gathered that we would like to have. The 9/11 Commission found that.

Furthermore, the 9/11 Commission, as I understand it, has indicated support of the Senate bill as it came out of committee.

Now, there are obviously a lot of other things that need to be dealt with, including items that are either in the PATRIOT Act or could have been in, the PATRIOT Act. Those items in some respects are very controversial. One of the problems, very frankly, that we have found in getting legislation passed, as the gentleman knows, in a relatively short period of time has been the addition of very controversial items, not necessarily related directly to what the 9/11 Commission had recommended, and because of the controversial nature of those additions, as it has occurred in other legislation, will slow that legislation down.

Mr. DELAY. Mr. Speaker, if the gentleman would yield, the gentleman obviously did not read the 9/11 Commission recommendations because many of those recommendations were very general in nature, very unspecific. Yet, we took their recommendations in those areas and did actual detailed pieces of legislation, much beyond what the 9/11 Commission even envisioned because they did not have the expertise to recommend specific items.

It is unfortunate the gentleman questions my motive, but I must tell the gentleman that ever since the 9/11 Commission has come out we have reached out to any Democrat who is willing to work on this issue. Those Democrats that have been willing to work on those issues, we have been working with them, and I have not been privy to every discussion or every meeting on this issue, particularly within the committees, but I think if my colleague will go back and check with his ranking members, those who wanted to work on the legislation were more than just informed. They have a very big part to play, particularly in the Committee on Armed Services, the Committee on International Relations. So we worked with the willing Democrats that wanted to work on this issue rather than to have a political issue, and they had a very big part to play in it. I think that is reflected in the kinds of votes we are getting coming out of committee.

Mr. HOYER. Mr. Speaker, reclaiming my time, I thank the gentleman for his response, and let me assure the gentleman I did not think I questioned the gentleman's motives. I may question the results of actions we take, but I do not intend to question the majority leader's motives in any event. I do not think that would be appropriate nor do I do it, and if the gentleman took it to be that, I apologize because I do not question. I may have different motives of my own and I may not agree with him, but I do not question his motives. I may question his judgment. I may question that which is for or against but not his motives.

I am not going to prolong the discussion on this because we are going to have discussion about this next week, but I would like to make one example of something that we feel strongly about that the 9/11 Commission felt strongly about, which the bill at least that we have seen does not deal with.

One of the concerns which the Commission had was that we are not moving quickly enough or effectively enough to identify and to secure materials which could be used for the production of or creation of nuclear weapons, even dirty bombs. The Commission spoke to that directly. The Senate bill speaks to that, and the bill introduced in the House speaks to that, at least at the point yesterday, and I am not sure whether markups have occurred in committees. I guess, some committees, the answer to that is yes; some no, but that was not addressed. So, at least in that one instance, and I have got about 15 others but I am not going to prolong and go through those, that was not addressed in the gentleman's bill, while some other things that the commission did not deal with are addressed, and I understand my colleague's observation.

Mr. DELAY. Mr. Speaker, if the gentleman would yield, first of all, I do not think this is a proper forum to debate the bill, and I am not prepared to debate the bill.

I have not personally been able to go over the volumes of work that has been done by 12 committees. So the provision that the gentleman may be speaking to, all I can tell him is that I remember in the list of things that were presented to me a day or so ago, it did address that very issue. I can go back and look at it, but the gentleman will have plenty of opportunity during the debate of this bill to debate the bill up or down, to amend it, to substitute for it, and the gentleman knows he can go before the Committee on Rules and ask for that kind of action.

Mr. HOYER. Mr. Speaker, I appreciate the leader's advice that I have the opportunity to go before the Committee on Rules. I always enjoy the opportunity to go and testify before the gentleman from California (Mr. DREIER) and his committee.

Let me move on to some other legislation. I mentioned a number of pieces that we have not done. Defense Department authorization, I mentioned, and the Higher Education Act. My question, does the gentleman anticipate that we will leave next Friday or Saturday having accomplished some or all of those pieces of legislation?

Mr. DELAY. Mr. Speaker, if the gentleman would yield and repeat all the legislation he is talking about?

Mr. HOYER. Sure. We have 12 of the 13 appropriation bills we have not passed. We have not passed a budget. Highway program has not passed. The FSC bill has not passed, resulting in 11 percent additional tariffs to people. The energy bill has not passed. The Intelligence bill, we have been talking about. Defense authorization and the Higher Education Act. None of those have been done to this point.

Mr. DELAY. Mr. Speaker, if the gentleman would yield.

Mr. HOYER. I would be glad to yield to my friend.

Mr. DELAY. I think I addressed in my opening remarks the Defense authorization conference. We are hoping to get that out.

The highway bill I think has been debated or talked about a lot on this floor in the last couple of days. The House is ready to go. The House is ready to negotiate with the Senate, and the House has cleaned out a lot of the brush, but it seems that the Senate is going to have a very hard time getting their members in the conference committee to support a highway bill. So that is why we did the extension today on 8 months to give them more time to work.

The FSC/jobs bill, the conferees met on that bill last night. It was a very good conference. Democrats were certainly included, and we have scheduled another meeting for next Tuesday. I believe there is a good chance that a conference report could be ready for the House to vote on later at the end of next week.

□ 1800

The appropriations process, the gentleman being on the Committee on Appropriations, knows very well, as he stated, that we passed 12 of the 13 bills. The thirteenth bill has problems. We know there is going to be an omnibus bill, and we will solve those problems in an omnibus bill, but the problem is in the other body. They are passing as many bills as they can get done, and we will go to conference on every one of those bills to try to get them done before the end of next week. That would include Homeland Security appropriation, MilCon, Foreign Ops, the Legislative Branch, and D.C., which are the only ones I know of that the Senate has passed so far.

The rest, as the gentleman knows, we did a continuing resolution until November 20. We have instructed our committees, and the Senate leadership has instructed their committees to work on those as best they can so that, when we get back in November, the Members can vote on those bills up or down.

The higher education bill, right now, I am not advised where it is, so I cannot answer the gentleman on that one.

Mr. HOYER. Reclaiming my time once again, Mr. Speaker, I appreciate, A. the majority leader's taking the time to go through those and letting us know where he thinks they may be and whether we will address them next week.

Additionally, when we leave next Friday or Saturday, can the leader tell us, for scheduling purposes, and I know we are going to have the leader's organizational meeting, I think we will schedule our organizational meeting the same week, but is it your view that we will have a lame duck session on November 15 or November 16 and days thereafter?

I yield to my colleague.

Mr. DELAY. Mr. Speaker, that is still hard to say. I can answer that question better at the end of next week. I am still hoping, against all odds, that the appropriations process could be done. Willing people coming together can get a lot of things done in a very short period of time around here. It is just a matter of finding the willing people to get it done, and we are still working on it. It could happen. Lightning could strike. And if it does, then we would not have to come back in a lame duck.

Obviously, the appropriations process is the most important. And if we cannot get all the appropriations done, then I would anticipate having a lame duck sometime in that week that both parties are organizing.

Mr. HOYER. Reclaiming my time, Mr. Speaker, I think the leader is right. I think for that to happen lightning is going to have to strike.

Lastly, Mr. Leader, we talked about the intelligence bill being on the floor next week. Can the minority be assured that we will have a substitute for that bill? The gentleman indicated there are 100 amendments pending on the Senate floor. This is a very important piece of legislation, obviously. The bipartisan commission has spoken to this.

I have read the report, by the way. I think it is an excellent report. We are very hopeful that we not only will have the opportunity to amend any and all sections of the bill, but that we will have the opportunity to offer a substitute, not just simply a motion to recommit, but a substitute at the appropriate time. I would hope that the leader, given the importance of this legislation, would assure the minority that we would have that opportunity.

Mr. Speaker, I continue to yield to my friend.

Mr. DELAY. Mr. Speaker, I thank the gentleman for yielding. As the gentleman knows, the chairman of the Committee on Rules is sitting here. I think he is going to make an announcement about amendments and substitutes.

Mr. DREIER. Mr. Speaker, will the gentleman yield?

Mr. HOYER. I yield to the gentleman from California.

Mr. DREIER. Mr. Speaker, I thank my friend for yielding, and I appreciate his request. The announcement I am going to be making in just a few minutes, as soon as the colloquy between the distinguished minority whip and the distinguished majority leader is completed, is one which will call for the establishment of new Federal judgeships.

At this juncture, probably on Monday, we will likely be making an announcement as we anticipate the work product that will be emerging on the 9/11 report.

Mr. HOYER. Reclaiming my time, Mr. Speaker, I thank the gentleman for those comments.

Mr. Speaker, I would say to the majority leader and to the chairman of the Committee on Rules, this legislation was introduced less than a week ago. It has been marked up this week. It will be on the floor next week. That is a very rapid progression.

I think, Mr. Leader, respectfully, that that calls for even greater opportunity for Members to work their will on the floor, with the ability to offer such amendments as they deem to be appropriate and would include the opportunity to offer an entire package in the form of a substitute. I would hope that that would happen.

ADJOURNMENT FROM THURSDAY, SEPTEMBER 30, 2004, TO MONDAY, OCTOBER 4, 2004

Mr. DELAY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 12:30 p.m. on Monday next for morning hour debates.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Texas?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY COMMITTEE ON RULES REGARDING AMENDMENTS TO S. 878, ADDITIONAL PERMANENT JUDGESHIP IN THE DISTRICT OF IDAHO

Mr. DREIER. Mr. Speaker, the Committee on Rules may meet the week of October 4, as I was just saying, to grant a rule which could limit the amendment process for floor consideration of S. 878, a bill to create additional Federal court judgeships. The Committee on the Judiciary ordered the bill reported on September 9, 2004, and filed its report with the House on September 29, 2004.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Committee on Rules in room H-312 of the Capitol by 2 p.m. on Monday, October 4. Members should draft their amendments to the text of the bill as reported by the Committee on the Judiciary, which is available for their review on the Web sites of both the Committee on the Judiciary and the Committee on Rules.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be sure their amendments comply with the rules of the House.

CONGRATULATIONS TO LINDA THEIL ON HER RETIREMENT

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Linda Theil on her retirement from 33 years of public service as a staff member in the House of Representatives.

When I was just starting my first term in Congress in 1993, Linda came to my staff. Her expertise and vast knowledge of education policy have been invaluable to me as a Member of the House Committee on Education and the Workforce. She has worked on legislation, including the Child Nutrition Act, the School Breakfast Pilot Program, Head Start, the Balancing Act, and Welfare Reform, to name only a few.

Mr. Speaker, Linda Theil is the role model for what every single staff member should be, dedicated, hardworking, caring and devoted. Her presence will be missed but not forgotten.

Thank you, congratulations, and best wishes, Linda.

GLOBAL WARMING

(Mr. INSLEE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INSLEE. Mr. Speaker, there are two very significant things which happened today regarding global warming. The first is that the U.S. Department of Commerce's Geophysical Fluid Dynamics Laboratory in Princeton, New Jersey, announced that they had completed the largest computer simulation of what will happen in global warming and how it will affect hurricanes. They concluded that the seas being warmed by rising atmospheric concentration of gases will result in a typical hurricane intensity increasing about an extra half step on the five-step scale.

This is not good news, Mr. Speaker, particularly since our Nation, under this administration, is not doing anything significant to deal with global warming.

In contrast, interestingly, today, Russia and their parliament indicated that it is likely they will join the Kyoto Protocol to deal with global warming. This is a difficulty for our businesses if this becomes a worldwide regime and we are not part of the international effort.

We hope tonight there will be some discussion of this. And if not, one way or another, this November, Americans will vote for a president who will decide to take some action on global warming.

SPECIAL ORDERS

The SPEAKER pro tempore (Mrs. MILLER of Michigan). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

SMART SECURITY AND GLOBAL CHANGE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, in the days and weeks after September 11, 2001, Americans pulled together to restore our country after the worst terrorist attack in United States history. For the rest of September that year, there were no Democrats, there were no Republicans, there were only Americans.

In those trying times in the fall of the year 2001, I believe that no American would have hesitated to make a substantial sacrifice for the good of the country, just as Americans have done in other times of need, like during World War II and the 1979 energy crisis.

If President Bush had asked America in the days after September 11 to cut down on the use of fossil fuels in order to reduce our dependence on Middle East oil, America would have responded. Sadly, the President did not ask us to do any such thing.

Instead of asking Americans to sacrifice, President Bush irresponsibly gave the top 1 percent of Americans a huge tax cut, leaving our children and their children to pick up the tab for the unnecessary war in Iraq, a cost already over $200 billion. Because nothing endangers America's security more than our reliance on Mideast oil, instead of promoting these reckless tax cuts, the Bush administration should have advocated immediate development of sustainable and renewable energy alternatives.

I am not the only one who realizes this. Just ask the good people at Physicians for Social Responsibility, the Friends Committee on National Legislation, and Women's Action For New Direction. These groups understand that our dependence on unsustainable energy sources, like Mideast oil, undermines America's security and our health.

And speaking about health, 50 years from now, our children will ask us how we allowed starvation, poverty, and diseases like HIV and AIDS and tuberculosis to flourish in other countries while the citizens of wealthy nations who have so much were not inflicted as greatly. That is why any attempt to fight terrorism must also include providing humanitarian aid to the poorest nations. Humanitarian aid in the form of food and medical supplies would restore hope to the world's poorest people. Nothing breeds terrorism like the hopelessness and despair brought about by starvation, disease and poverty.

For sure, the United States needs to lead the rest of the world when it comes to fighting terrorism, but the U.S., the strongest and richest country in the world, must lead by example rather than through invading other nations and killing thousands of innocent civilians in the process.

Throwing our weight around will not gain the support of other nations. Instead, we must meet our obligations under the Nuclear Nonproliferation Treaty, the Comprehensive Test Ban Treaty, the Biological Weapons Convention, and the Chemical Weapons Convention. There has to be a better way to respond to the threats America faces. That is why I have introduced H. Con. Res. 392, a SMART security platform for the 21st century. SMART stands for Sensible Multilateral American Response to Terrorism.

SMART security treats war as an absolute last resort. It fights terrorism with stronger intelligence and multilateral partnerships, and it controls the spread of weapons of mass destruction with aggressive diplomacy, strong regional security arrangements and vigorous inspection regimes. SMART security defends America by relying on the very best of America, not our nuclear capabilities but our capacity for multinational leadership and our commitment to peace and freedom around the world.

Madam Speaker, the true moral test of our government is not how many wars we win, it is our compassion, our compassion for those in the world who are less fortunate than we are. It is how we treat these individuals that determines the true moral quality of America. Physicians for Social Responsibility, the Friends Committee on National Legislation, Women's Action For New Direction, and many Americans understand this.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 5149. An act to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

H.R. 5183. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The message also announced that the Senate has passed a bill of the following title in which concurrence of the House is requested:

S. 2436. An act to reauthorize the Native American Programs Act of 1974.

□ 1815

EXCHANGE OF SPECIAL ORDER TIME

Mr. NORWOOD. Madam Speaker, I ask unanimous consent to claim the Special Order time of the gentleman from Indiana (Mr. BURTON) at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

JUDGES OF MADISON COUNTY, PART 2

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

Mr. NORWOOD. Mr. Speaker, I come to the floor to once again discuss the judges of Madison County, Illinois, Part 2. It sounds like a book. Maybe it will be; maybe it should be.

Last night I rose to address what the American Tort Reform Association calls America's number one judicial hellhole, also known as Madison County, Illinois. As I promised then, I am back to shine a little more light into that hole. There is absolutely no doubt the ripple effect of frivolous civil lawsuits has been felt in every corner of this great country. When greedy trial lawyers get together to brainstorm which companies they can sue for millions and millions of dollars and put no less than 40 percent of their winnings in their own pocket, everyone loses; everyone, that is, except the trial lawyers. And one greedy trial lawyer who makes darn sure he never loses when it comes to lining his own pockets is Randall Bono from Madison County.

Mr. Bono has made a fair living doing business in this judicial hellhole on the backs of hardworking men and women. In fact, he was able to retire at the age of 42 from the millions of dollars that he won in asbestos civil lawsuits.

Madam Speaker, I may never know how Mr. Bono or other trial lawyers sleep at night knowing they have made their fortunes because of civil injustice being doled out in Madison County, Illinois, but I know as long as this hellhole remains open for business and scoundrels like Mr. Bono use it to take hard-earned money away from working folks, I will be in the well night after night in this House to stand up to say enough is enough.

I rise tonight specifically to address the first amendment violations of the courts of Madison County, Illinois. That is right; with the court's authority in Madison County, trial lawyers have violated or at least chilled the exercise of first amendment rights held by members of the media and civil defendants.

I admit, Madam Speaker, it is a rare occasion for me to stand up and defend the media, but I simply cannot and will not let the courts of Madison County trash the rights our forefathers worked so hard to ensure for everybody. If Members think the media or anyone else is safe from the wrath of Madison County, think again, Madam Speaker. Consider just a few of the cases outlined in my letter to Attorney General Ashcroft requesting a formal investigation of Madison County, Illinois and all their shenanigans.

In one effort to trash somebody's first amendment rights in Madison County, a plaintiff's law firm made legal maneuvers in June 2004 to try and force defendants to share and discuss any associations with or support of groups promoting tort reform. At least one of these groups has filed a motion for protective order with the court because their feelings about tort reform have absolutely nothing to do with the case before them, and forcing them to share this information is an infringement of their first amendment rights.

The Wall Street Journal editorialized that the plaintiff firm's requests have no legal merit and their purpose is simply to intimidate and coerce these folks.

In June 2003, the presidents of several major tort reform associations got slapped with subpoenas only after they appeared at a press conference to speak out against the outrageous litigation abuse in Madison County, Illinois. The subpoenas demanded that two of the individuals travel halfway across the country a month later to appear for a deposition in a product liability case. Once again, the clear purpose of these subpoenas was to harass and intimidate.

At an April 2004 public forum hosted by Washington University Law School in St. Louis, former U.S. Attorney General and former U.S. Court of Appeals Judge Griffin Bell said that counties like Madison County that are known for treating civil defendants unfairly are a stain on our system. Judge Bell called for a Federal investigation into the administration of civil injustice in Madison County, but again the wrath of the judicial hellhole was felt the very next day. A Madison County judge retaliated by barring Judge Bell and his firm from appearing in their courtroom.

Madam Speaker, we will continue this discussion every night until somebody looks into the injustices of Madison County, Illinois.

ORDER OF BUSINESS

Mr. STUPAK. Madam Speaker, I ask to proceed out of order and take the time of my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ACCUTANE'S IMPACT ON BRAIN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. STUPAK) is recognized for 5 minutes.

Mr. STUPAK. Madam Speaker, last night I spoke on the floor about the troubling new information about the effects of Accutane. I will continue to speak out and advise Americans about the dangers of Accutane until the FDA does its job.

Next to me is a PET scan taken from a study completed by Dr. J.D. Bremner from Emory University. It is a brain scan of a patient who took Accutane. The first scan on the far right is the baseline scan before the patient even began Accutane. On my left here is a scan after 4 months of Accutane treatment. Dr. Bremner studied 30 patients, 15 on Accutane and 15 on antibiotics.

His research found that Accutane affects the metabolism of the orbitofrontal cortex, a brain area known to mediate depression in the front part of the brain. Four months after the baseline PET scan was taken, he found that with antibiotics, they had no changes in the brain. Accutane patients, those who complained of headaches, had a change in the front of the brain.

Even an untrained eye can see there is a difference in this PET scan. There is a 21 percent difference in the brain after 4 months of Accutane.

Dr. Bremner will present the findings of his study in November at a neuroscience conference. I will share those complete findings at that time. For now, his abstract is found on the Internet and we can see that Accutane causes changes in brain function.

Why is this important? Here is an e-mail I received from a family in North Carolina. "On July 12, 2004, our precious 17-year-old son, Nicholas, took his life by a gunshot to his head. He had been taking the drug Accutane. I have read about what happened with your son, and certainly understand what you and your family are feeling. Like your son, Nicholas was a star athlete and honor student. Please send us any information you think would be of help. We are overcome with grief and still have a hard time realizing that he could take himself away from us and his four siblings."

I receive an e-mail like this on average once a week or so. As of 2004, according to reports received by the FDA, there have been 235 suicides associated with Accutane. The FDA admits they are receiving only 1 of 10 percent of the actual events being reported. If 235 suicides represents 10 percent of the total, that would mean there are actually 2,350 suicides associated with this drug. If 235 suicides have been reported and it represents 1 percent of the total, that would mean there are actually 23,500 suicides associated with this drug.

Still, the drug manufacturer, Hoffmann-LaRoche, Roche Pharmaceuticals, continues to deny that Accutane affects the brain. Just look at this scan. It does. FDA believes there is a link. That is why there is a bold warning on its label. "Accutane may cause depression, psychosis, and, rarely, suicide ideation, suicide attempts, suicide, and aggressive and/or violent behaviors."

However, the FDA says they do not know the reason for this link. They need to look at these PET scans. They need to demand research, they need to demand answers. The bottom line: 235 young people have taken their life while on Accutane, including our son, B.J., who died in May of 2000.

Some patients never recover from their adverse effects to the drug. There is damage to the brain. I am constantly receiving e-mails like this one from Michigan. "Dear Congressman, Just a note to thank you for your ongoing effort to educate the public about the dangers of Accutane. I am a psychiatric social worker in a hospital emergency room, and whenever I meet an adolescent patient who is depressed and taking Accutane, it raises a red flag. I make sure that the other social workers are informed about its link with depression and suicide, as I have a personal connection with it.

"My son Eric was an outgoing, happy kid and a respected leader in his school. He began taking Accutane at age 16 and, a few months later, began having difficulty keeping up in school. He failed to turn in homework and his grades took a nose-dive. To make a long story short, he became deeply depressed and he began talking about ending his life. That is when we knew this was not the run-of-the-mill ups and downs that teenagers sometimes have. We did manage to get help for him, but it was a long journey through a dark tunnel of despair. He is now 23 and still has a bright, articulate mind, but he is forever marked by the depression that stole his joy during adolescence. It is because of his journey that I have added an MSW degree to my high school teaching credentials, so I can be more educated to help young people who are at risk."

As we can see, there is damage done to the brain. Why the FDA allows Roche to continue to market this drug is beyond me. We should not leave this drug out there until these questions are answered. Questions such as, is this damage to the brain permanent? For more than 20 years, the FDA has done little to address the adverse effects caused by Accutane. We know Accutane affects the brain. It is time for the FDA to pull this drug from the market until all of the questions surrounding Accutane are fully addressed.

TRUTH ABOUT IRAQ

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. INSLEE) is recognized for 5 minutes.

Mr. INSLEE. Madam Speaker, I heard a very disturbing report today. While we are engaging in a very important and legitimate debate about our strategy in Iraq, one thing for sure we ought to be united on, and that is Americans ought to have access to the truth and not to be the subject of spin by their own government and should not have their own government suppressing the truth about Iraq. Things are difficult enough about Iraq without the Federal Government suppressing the truth about Iraq.

Unfortunately, that appears to be what is going on in this administration. Today in the Washington Post an article related that the USAID ordered the restriction of preventing distribution of reports by the contractor Kroll Security International which had previously shown that the number of daily attacks by insurgents in Iraq had increased significantly. In response to the news that these insurgent attacks are increasing, about 5 weeks before this election, this administration decided apparently to suppress that information and the agency ordered that this information no longer be disseminated to the American public.

This is information generated with U.S. American taxpayer dollars that this administration, 5 weeks before the election, does not want the American people to hear about.

□ 1830

The article in The Washington Post says: "The Kroll reports suggest a broad and intensifying campaign of insurgent violence." In response to that bad news, the agency official at USAID sent an e-mail to congressional aides stating, "This is the last Kroll report to come in. After The Washington Post story, they shut it down in order to regroup. I'll let you know when it restarts."

There is no excuse for this administration shielding information about Iraq and the fact that we have great difficulties there from the American people. We have a legitimate right to know this information. We have an important debate in our national body politic to figure out the right strategy in Iraq, and it is wrong to suppress this information.

We cannot decide the right decision in Iraq by looking through rose-colored glasses anymore. Hope is not a strategy. Simply saying we are going to have the same old, same old in Iraq and shield and hide the ball from the American people just will not cut it. Tonight it would be nice if the administration and the President admitted that we have some difficulties in Iraq and admitted we need to make some changes in strategy or we are going to have deep trouble.

But this is not the only symptom of an administration that is refusing to face reality in Iraq. In that same story in The Washington Post, I read that Secretary of Defense Donald Rumsfeld's office is now sponsoring a sort of happy talk, good news tour through our bases and that we are using taxpayers' money to bring Iraqis to spread the good news of Iraq to our military bases here in this country. The memo disclosing this tour paid for by taxpayer dollars says it is "designed to be uplifting accounts with good news messages." Rumsfeld's office, which will pay for the tour, recommends that the installations seek local news coverage, noting that "these events and presentations are positive public relations opportunities." We do not need a public relations campaign. We need a campaign for success in bringing our troops home in Iraq. We are not getting that from this administration.

The memo went on to suggest that the commanders at each base "are in the best position on how to market this voluntary attendance program effectively." We do not need a marketing campaign. We need an honest discussion of how to get a strategy to bring our troops home after success. But that is not what we are getting from this administration. Instead of recognizing and coming clean with the American people about their failures to find weapons of mass destruction, their failures to tell the accurate situation about connections with al Qaeda, their failures to have enough troops on the ground, their failures to have enough body armor, they have given us a marketing technique protocol paid for with taxpayer dollars. It is wrong. We need a strategy, not a marketing campaign.

9/11 COMMISSION LEGISLATION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Madam Speaker, we have spent a number of hours on the floor of the House discussing issues that hold a great deal of emotion for many people around this Nation. With that said, I offer my respect for the different views that were expressed on the floor of the House, driven with emotion and passion, driven by your personal faith, and others as myself driven by the sanctity of our Constitution and the desire to preserve this Union.

It is interesting that the Republican majority would offer this debate at this time. There is no doubt that voices of the American people must be heard. But at the same time, an enormous responsibility of ensuring the safety and the protection of the American people by passing the 9/11 Commission recommendations through the Collins-Lieberman-McCain bill along with the House provision of the Shays-Maloney bill goes unattended. So what we have is a mishmash of provisions that have really nothing to do with the security of this Nation.

When we found that the CIA had, in fact, provided intelligence to this administration that if we went to war the insurgent aftermath, the efforts of the insurgents, the violence that would be perpetrated after any battle or war would be claimed over would be almost insurmountable. Yet because of the meshing of those disciplines, if you will, the complete glove-and-hand relationship between the CIA director, apparently that intelligence was ignored, and maybe because the CIA director failed to understand that his allegiance was really to the American people and not, in fact, to a single head of government.

The American people should have known that this intelligence ultimately was going to undermine any victory that was given or had by our brave men and women who were on the front lines for us, Reservists, National Guard, enlisted personnel, already doomed because of the fact that intelligence said that it was the insurgent action that was going to undermine peace and security and freedom in Iraq.

And lo and behold, here we are today with an insurgent movement, a terrorist movement that has overtaken Baghdad and Iraq. Yet this administration has no policy, has no exit strategy, has no relief, not only for the Iraqi people but for the American people. And while Baghdad is burning, we are refusing to take up the 9/11 Commission report.

All day yesterday in the Committee on the Judiciary, all we had was extraneous law enforcement matters that could be defended and could be promoted and argued and promoted at another time, extraneous immigration policies that had no place in a bill that is dealing with the safety and security of the United States of America, the immediacy of the 9/11 report.

And what was it? It was to establish a new structure of intelligence, to provide the leader of the intelligence community with budgetary authority. And what did our friends in the 9/11 legislation do? They argued against giving budgetary authority. With no budgetary authority, you have no authority because you cannot move intelligence resources where they are needed. And here we are ignoring the families of the 9/11 victims who have waited for 3 years for us to move forward with the necessary security.

Do you know why intelligence is so important, Madam Speaker? Because it was the FBI who had information already on their desk in the Midwest that told them that there were individuals in this country taking flying lessons, learning to take off but not learning to land; and the information never got off the desk into Washington, D.C. That is why the tragedy of 9/11 occurred.

Those individuals came into this country illegally. We have fixed that problem. We have worked to fix and improve the technology. The State Department has put in new criteria where visas are issued. We are working to stop terrorists before they come into our homeland. But unfortunately we have a debate as to whether the Select Committee on Homeland Security should even continue, when we know that Secretary Ridge said he wants a steady, organized, focused committee to deal with homeland security issues rather than the tens of tens that he has to go to. Is that securing America?

But on the politics of this Republican government, President, Senate, House, rather than deal with the serious issues, we are now taking away rights of Americans, trying to pass the PATRIOT Act, trying to pass in the bill that is supposed to be the 9/11 Commission report something that was never raised by the 9/11 Commission. We are now giving employers the right to call the Department of Justice on people's backgrounds. We are now putting that into place. Not just security officers, which I perfectly support, but anybody that is trying to cook hamburgers at McDonald's. That is not a function of the Department of Justice massively as it is. Yes, single isolated cases in circumstances where the necessity of knowing the background may be the requirement of the employment, but this is an outrage.

Then, of course, as I close, Madam Speaker, they then want to obliterate the Constitution and the very values of this country by sending individuals who are barely charged with ideas of terrorism into places where they might be tortured, not even convicted but maybe speculated that they may be associated with such and we are going to obliterate our values and send them home or send them someplace to be tortured.

This is what we have done this week, Madam Speaker, and I would just argue that we can do better. I would ask that the homeland security 9/11 Commission recommendations be placed into law by this body.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. DAVIS of Illinois (at the request of Ms. PELOSI) for today on account of a death in the family.

Mr. HASTINGS of Florida (at the request of Ms. PELOSI) for the week of September 28 on account of official business.

Mr. REYES (at the request of Ms. PELOSI) for today after 4:00 p.m. on account of a family commitment.

Mr. GUTKNECHT (at the request of Mr. DELAY) for today after 4:00 p.m. on account of attending his daughter's wedding.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mr. CONYERS, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. INSLEE, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

SENATE BILLS REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S 1601. An act to amend the Indian Child Protection and Family Violence Prevention Act to provide for the reporting and reduction of child abuse and family violence incidences on Indian reservations, and for other purposes; to the Committee on Resources; in addition to the Committee on the Judiciary for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. 2436. An act to reauthorize the Native American Programs Act of 1974; to the Committee on Education and the Workforce.

S. 2639. An act to reauthorize the Congressional Award Act; to the Committee on Education and the Workforce.

S. Con. Res. 110. Concurrent resolution expressing the sense of Congress in support of the ongoing work of the Organization for Security and Cooperation in Europe (OSCE) in combating anti-Semitism, racism, xenophobia, discrimination, intolerance, and related violence; to the Committee on International Relations.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 4654. An act to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes.

H.R. 5149. An act to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

H.R. 5183. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

H.J. Res. 107. Joint Resolution making continuing appropriations for the fiscal year 2005, and for other purposes.

ADJOURNMENT

Ms. JACKSON-LEE of Texas. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 42 minutes p.m.), under its previous order, the House adjourned until Monday, October 4, 2004, at 12:30 p.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9896. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determination — received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9897. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-P-7636] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9898. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9899. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — National Flood Insurance Program (NFIP); Assistance to Private Sector Property Insurers (RIN: 1660-AA28) received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9900. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9901. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7839] received August 30, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9902. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-D-7561] received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9903. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9904. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-B-7448] received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9905. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9906. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9907. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9908. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9909. A letter from the Acting General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received September 7, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

9910. A letter from the Chief Administrative Officer, transmitting the quarterly report of receipts and expenditures of appropriations and other funds for the period July 1, 2004 through September 30, 2004 as compiled by the Chief Administrative Officer, pursuant to 2 U.S.C. 104a Public Law 88-454; (H. Doc. No. 108-221); to the Committee on House Administration and ordered to be printed.

9911. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zones; Charleston Harbor, Cooper River, S.C. [COTP Charleston-04-100] (RIN: 1625-AA87) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9912. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Suisun Bay, Concord, California [COTP San Francisco Bay 04-020] (RIN: 1625-AA87) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9913. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Potomac River, Washington, D.C. [CGD05-04-151] (RIN: 1625-AA87) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9914. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Potomac River, Washington, D.C. and Arlington and Firfax Counties, VA [CGD05-04-148] (RIN: 1625-AA87) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9915. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Cleveland Harbor, Cleveland, Ohio [CGD09-04-095] (RIN: 1625-AA87) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9916. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Manasquan River, NJ [CGD05-04-146] (RIN: 1625-AA09) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9917. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Terrebonne Bayou, Houma, LA [CGD08-04-028] (RIN: 1625-AA09) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9918. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regualtions: Newton Creek, Dutch Kills, English Kills, and their tributaries, NY [CGD01-04-095] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9919. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Manasquan River, Manasquan Inlet and Atlantic Ocean, Point Pleasant Beach to Bay Head, NJ [CGD05-04-139] (RIN: 1625-AA08) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9920. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Pamlico River, Washington, NC [CGD05-04-133] (RIN: 1625-AA08) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9921. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Fireworks Display, Potomac River, Charles County, MD [CGD05-04-137] (RIN: 1625-AA00) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9922. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Lake Eustis, Eustis, FL [COTP Jacksonville 04-096] (RIN: 1625-AA00) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9923. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Carriage of Navigation Equipment for Ships on International Voyages [USCG-2002-13057] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9924. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Enforcemnt of

SOLAS Requirements [USCG-2004-17615] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9925. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Wearing of Personal Flotation Devices (PFDs) by Certain Children Aboard Recreational Vessels [USCG-2000-8589] (RIN: 1625-AA62; Formerly 2115-AG04) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9926. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation: Anacostia River, Washington, DC [CGD05-04-028] (RIN: 1625-AA09) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

9927. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Three Mile Island Generating Station, Susquehanna River, Dauphin County, PA [CGD05-03-116] (RIN: 1625-AA87; Formerly 1625-AA00) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. REYNOLDS: Committee on Rules. House Resolution 811. Resolution providing for the consideration of the bill (H.R. 5183) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century (Rept. 108–710). Referred to the House Calendar.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 5107. A bill to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes (Rept. 108–711). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. S. 551. An act to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes (Rept. 108–712, Pt. 1). Ordered to be printed.

Mr. POMBO: Committee on Resources. H.R. 1630. A bill to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes; with an amendment (Rept. 108–713). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4817. A bill to facilitate the resolution of a minor boundary encroachment on lands of the Union Pacific Railroad Company in Tipton, California, which were originally conveyed by the United States as part of the right-of-way granted for the construction of transcontinental railroads; with an amendment (Rept. 108–714). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 3982. A bill to direct the Secretary of the Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah, and for other purposes (Rept. 108–715). Referred to the Committee of the Whole House on the State of the Union.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Agriculture discharged from further consideration. S. 144 referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BOEHNER (for himself and Mr. McKeon):

H.R. 5185. A bill to temporarily extend the programs under the Higher Education Act of 1965; to the Committee on Education and the Workforce.

By Mr. BOEHNER (for himself, Mr. McKeon, and Mr. Wilson of South Carolina):

H.R. 5186. A bill to reduce certain special allowance payments and provide additional teacher loan forgiveness on Federal student loans; to the Committee on Education and the Workforce.

By Mrs. BLACKBURN (for herself, Mr. Cooper, Mr. Davis of Tennessee, Mr. Duncan, Mr. Ford, Mr. Gordon, Mr. Jenkins, Mr. Tanner, and Mr. Wamp):

H.R. 5187. A bill to amend the International Air Transportation Competition Act of 1979 to modify restrictions on the provisions of air transportation to and from Love Field, Texas; to the Committee on Transportation and Infrastructure.

By Mr. BLUNT:

H.R. 5188. A bill to respond to the illegal production, distribution, and use of methamphetamines in the United States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ISRAEL (for himself, Mr. Ackerman, Mr. Bishop of New York, Mrs. McCarthy of New York, Mr. King of New York, and Mrs. Lowey):

H.R. 5189. A bill to amend title XIX of the Social Security Act to extend Medicare cost-sharing for the Medicare part B premium for qualifying individuals through September 2005; to the Committee on Energy and Commerce.

By Mrs. KELLY:

H.R. 5190. A bill to amend the National Dam Safety Program Act to establish a program to provide grant assistance to States for the rehabilitation and repair of deficient dams; to the Committee on Transportation and Infrastructure.

By Mr. PRICE of North Carolina:

H.R. 5191. A bill to amend title 3, United States Code, to extend the date provided for the meeting of electors of the President and Vice President in the States, and the date provided for the joint session of Congress held for the counting of electoral votes, in the event of an unresolved controversy or contest relating to the counting of votes in any State, and for other purposes; to the Committee on House Administration.

By Mr. RENZI:

H.R. 5192. A bill to modify the boundary of the Casa Grande Ruins National Monument, and for other purposes; to the Committee on Resources.

By Ms. ROS-LEHTINEN (for herself, Mr. Lantos, Mr. Berman, and Mr. Chabot):

H.R. 5193. A bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran; to the Committee on International Relations.

By Mr. SIMPSON (for himself, Mr. Otter, Mr. Peterson of Minnesota, and Mr. Jenkins):

H.R. 5194. A bill to clarify that service marks, collective marks, and certification marks are entitled to the same protections, rights, and privileges of trademarks; to the Committee on the Judiciary.

By Mr. SMITH of Michigan (for himself, Ms. Baldwin, and Mr. Bishop of Georgia):

H.R. 5195. A bill to permanently reenact chapter 12 of title 11 of the United States Code, relating to family farmers; to the Committee on the Judiciary.

By Mr. STENHOLM (for himself, Mr. Rodriguez, Mr. Frost, Mr. Lampson, Mr. Hall, Mr. Bell, Mr. Green of Texas, Mr. Turner of Texas, Mr. Gonzalez, Ms. Jackson-Lee of Texas, Mr. Hinojosa, Mr. Doggett, Mr. Hensarling, Mr. Brady of Texas, Mr. Thornberry, Mr. Ortiz, Mr. Neugebauer, Mr. Edwards, Mr. Carter, Mr. Burgess, Ms. Eddie Bernice Johnson of Texas, Mr. Reyes, Mr. Barton of Texas, Mr. Sandlin, and Mr. Sam Johnson of Texas):

H.R. 5196. A bill to designate the facility of the United States Postal Service located at 115 South Swenson Street in Stamford, Texas, as the "Gordon Wood Post Office Building"; to the Committee on Government Reform.

By Mr. TERRY (for himself and Mrs. Capps):

H.R. 5197. A bill to amend title XIX of the Social Security Act to provide funds to States to enable them to increase the wages paid to targeted direct support professionals in providing services to individuals with disabilities under the Medicaid program; to the Committee on Energy and Commerce.

By Mr. UDALL of New Mexico (for himself and Mr. Pearce):

H.R. 5198. A bill to clarify issues of criminal jurisdiction within the exterior boundaries of Pueblo lands; to the Committee on Resources.

By Mr. UDALL of New Mexico:

H.R. 5199. A bill to amend the Family and Medical Leave Act of 1993 and title 5, United States Code, to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces who is serving on active duty in support of a contingency operation or who is notified of an impending call or order to active duty in support of a contingency operation, and for other purposes; to the Committee on Education and the Workforce, and in addition to the Committees on Government Reform, and House Administration, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WU:

H.R. 5200. A bill to improve the accountability provisions of the part A of title I of the Elementary and Secondary Education Act of 1965, and for other purposes; to the Committee on Education and the Workforce.

By Mr. EMANUEL (for himself, Mr. TURNER of Texas, Mr. JONES of North Carolina, and Mr. BAIRD):

H. Con. Res. 506. Concurrent resolution directing the Architect of the Capitol to establish a temporary exhibit in the rotunda of the Capitol to honor the memory of members of the United States Armed Forces who have lost their lives in Operation Iraqi Freedom and Operation Enduring Freedom; to the Committee on House Administration.

By Mr. KINGSTON (for himself, Mr. WHITFIELD, Mr. BURNS, Mrs. MCCARTHY of New York, Mrs. BONO, Mr. NORWOOD, Mr. BISHOP of Georgia, Mr. GORDON, Mr. SWEENEY, Mr. CHANDLER, Mr. ISAKSON, Mr. FORD, Ms. KILPATRICK, Mr. JONES of North Carolina, Mr. GOODE, Mr. LEWIS of California, Mr. LEWIS of Kentucky, Mr. DEAL of Georgia, Mr. BURGESS, Mr. LUCAS of Kentucky, Mr. HALL, Mr. SPRATT, and Mr. HEFLEY):

H. Con. Res. 507. Concurrent resolution encouraging citizens to be mindful of the contribution of horses to the economy, history, and character of the United States and expressing the sense of Congress that a National Day of the Horse should be established; to the Committee on Government Reform.

By Mr. OWENS:

H. Res. 810. A resolution expressing the sense of the House of Representatives that the Secretary of Homeland Security should designate Haiti, Grenada, Jamaica, the Dominican Republic, and the Bahamas under section 244 of the Immigration and Nationality Act to make nationals of those countries eligible for temporary protected status under that section; to the Committee on the Judiciary.

By Ms. EDDIE BERNICE JOHNSON of Texas (for herself, Mr. MEEKS of New York, Mrs. JONES of Ohio, Ms. JACKSON-LEE of Texas, Mr. LANTOS, Mr. CONYERS, Ms. MCCOLLUM, Ms. LEE, Mr. SCOTT of Georgia, Mr. HONDA, and Mr. BURTON of Indiana):

H. Res. 812. A resolution recognizing the commencement of Ramadan, the Islamic holy month of fasting and spiritual renewal, and commending Muslims in the United States and throughout the world for their faith; to the Committee on International Relations.

By Mr. GEORGE MILLER of California (for himself, Mr. PAYNE, Mr. RANGEL, Mr. BISHOP of New York, Mr. WATT, Mr. WYNN, Mr. LANTOS, Mr. FILNER, Ms. KILPATRICK, Mrs. MCCARTHY of New York, Mr. EVANS, Mrs. DAVIS of California, Mr. GRIJALVA, Mr. MEEKS of New York, Ms. LOFGREN, Mr. CLAY, Ms. NORTON, Mr. CLYBURN, Mr. FALEOMAVAEGA, and Ms. KAPTUR):

H. Res. 813. A resolution recognizing the 60th anniversary of the explosion at the Port Chicago (California) Naval Magazine on July 17, 1944, and those who served and lost their lives in that tragedy; to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 97: Mr. LAMPSON.

H.R. 129: Mrs. LOWEY.

H.R. 296: Mr. MICHAUD.

H.R. 676: Mr. ENGEL, MR. WEINER, and Mr. OLVER.

H.R. 775: Mr. ROGERS of Alabama.

H.R. 808: Mr. COLE.

H.R. 870: Mrs. EMERSON and Ms. HERSETH.

H.R. 876: Mr. REYNOLDS and Mr. HASTINGS of Washington.

H.R. 879: Ms. HERSETH.

H.R. 918: Mr. GONZALEZ.

H.R. 1002: Mr. CUMMINGS.

H.R. 1093: Mr. BOSWELL.

H.R. 1212: Mr. FOLEY.

H.R. 1502: Mrs. JONES of Ohio.

H.R. 1582: Mrs. CHRISTENSEN.

H.R. 1666: Mr. ANDREWS.

H.R. 1726: Ms. HERSETH.

H.R. 1859: Mr. PETERSON of Minnesota.

H.R. 1886: Mr. PLATTS.

H.R. 2107: Mr. MILLER of North Carolina and Mrs. JONES of Ohio.

H.R. 2256: Mr. PRICE of North Carolina and Mr. WELDON of Pennsylvania.

H.R. 2354: Mr. BRADLEY of New Hampshire.

H.R. 2426: Mr. LARSEN of Washington.

H.R. 2541: Mr. VAN HOLLEN.

H.R. 2560: Mr. BRADLEY of New Hampshire.

H.R. 2680: Mr. GEPHARDT, Mr. QUINN, Mr. ALLEN, Mr. BOYD, Mr. ACKERMAN, Mr. SANDERS, Mr. BACA, Mr. DOLLEY of California, Ms. GRANGER, Mr. WELDON of Florida, Mr. SESSIONS, Mr. NUSSLE, Mr. KING OF NEW YORK, Mr. LUCAS of Kentucky, Mr. BOUCHER, and Mr. LIPINSKI.

H.R. 2699: Mr. NETHERCUTT, Mr. CANNON, Mrs. NORTHUP, Mr. MANZULLO, Mr. BISHOP of Utah, Mr. DOOLEY of California, and Mrs. BLACKBURN.

H.R. 2899: Mr. WALSH.

H.R. 2950: Mr. LAHOOD.

H.R. 3009: Ms. MCCARTHY of Missouri and Mr. NADLER.

H.R. 3103: Mr. CHABOT and Mr. WEXLER.

H.R. 3111: Mrs. NAPOLITANO, Mr. DOYLE, Ms. WOOLSEY, and Mr. WEXLER.

H.R. 3242: Mr. BERMAN, Mr. BECERRA, and Mr. BUTTERFIELD.

H.R. 3299: Mr. NADLER.

H.R. 3438: Mrs. CAPITO, Ms. CARSON of Indiana, Mr. SCHROCK, Mr. HALL, and Mr. WELDON of Pennsylvania.

H.R. 3455: Mr. CUMMINGS.

H.R. 3579: Mr. CANNON and Mr. BISHOP of Utah.

H.R. 3716: Mr. GREEN of Wisconsin.

H.R. 3767: Mr. STENHOLM.

H.R. 3847: Mr. LEVIN.

H.R. 3858: Mr. PICKERING.

H.R. 3859: Mr. MENENDEZ, Ms. KAPTUR, Ms. DEGETTE, Mr. MEEHAN, Mr. SCOTT of Georgia, and Mr. MILLER of North Carolina.

H.R. 4016: Mr. ACEVEDO-VILÁ.

H.R. 4026: Mr. ABERCROMBIE.

H.R. 4064: Mr. GOODLATTE and Mr. HAYWORTH.

H.R. 4065: Ms. HERSETH.

H.R. 4100: Mr. SMITH of Washington.

H.R. 4169: Mr. LEACH, Mr. BISHOP of New York, and Ms. NORTON.

H.R. 4204: Mr. KIRK.

H.R. 4343: Mr. HAYWORTH.

H.R. 4348: Ms. SCHAKOWSKY.

H.R. 4420: Mr. LEWIS of Kentucky and Mrs. CUBIN.

H.R. 4453: Mr. TURNER of Texas, Mr. STENHOLM, Mr. FROST, Ms. JACKSON-LEE of Texas, and Mr. POMEROY.

H.R. 4491: Mr. ENGLISH, Mr. OTTER, Mr. OLVER, Mr. BERRY, Mr. GILLMOR, Ms. ESHOO, Mr. STRICKLAND, Mr. TOWNS, Mr. ETHERIDGE, Mr. JOHN, Mr. QUINN, Mr. FOSSELLA, Mr. OXLEY, Mr. REGULA, and Mr. ORTIZ.

H.R. 4502: Mr. SESSIONS and Mr. BEAUPREZ.

H.R. 4521: Mr. GORDON.

H.R. 4578: Mr. JOHNSON of Illinois, Ms. LOFGREN, Mr. UDALL of Colorado, and Mrs. BIGGERT.

H.R. 4597: Ms. DELAURO.

H.R. 4616: Mrs. MALONEY.

H.R. 4628: Mr. KUCINICH and Mr. PRICE of North Carolina.

H.R. 4662: Mr. SOUDER and Mr. KENNEDY of Minnesota.

H.R. 4669: Mr. SESSIONS and Mr. CULBERSON.

H.R. 4674: Mrs. DAVIS of California.

H.R. 4682: Mr. DINGELL, Ms. LOFGREN, Mr. DAVIS of Alabama, Mr. BUTTERFIELD, Mr. CARDIN, Mr. MENENDEZ, and Mr. UDALL of New Mexico.

H.R. 4687: Mr. PETERSON of Minnesota.

H.R. 4706: Mr. KIND.

H.R. 4718: Mr. BERRY.

H.R. 4724: Mr. TAYLOR of North Carolina.

H.R. 4736: Mr. LYNCH.

H.R. 4776: Mr. PRICE of North Carolina.

H.R. 4792: Mr. NADLER.

H.R. 4832: Ms. SLAUGHTER.

H.R. 4866: Mr. ISSA, Mr. RENZI, and Mr. LINCOLN DIAZ-BALART of Florida.

H.R. 4875: Ms. MCCOLLUM.

H.R. 4899: Mr. DEFAZIO.

H.R. 4923: Mr. BOEHLERT.

H.R. 4927: Mr. SHUSTER, Mr. INSLEE, and Ms. LOFGREN.

H.R. 4928: Mr. ABERCROMBIE.

H.R. 4936: Mr. GONZALEZ, Ms. GINNY BROWN-WAITE of Florida, Mr. BLUMENAUER, Mr. MILLER of North Carolina, and Ms. SOLIS.

H.R. 4940: Mr. PLATTS and Mr. WOLF.

H.R. 4978: Mr. SANDERS.

H.R. 4983: Mr. MEEHAN, Ms. BORDALLO, and Mr. CAPUANO.

H.R. 4985: Mr. GREENWOOD.

H.R. 5011: Mr. RYUN of Kansas.

H.R. 5022: Mr. BALLENGER and Mr. MEEKS of New York.

H.R. 5023: Mr. MEEKS of New York.

H.R. 5055: Mr. HOUGHTON, Mr. KOLBE, Mr. SCOTT of Georgia, Mr. NETHERCUTT, Mr. ALLEN, Mr. SANDLIN, Mr. GONZALEZ, Mr. UPTON, Mr. BURTON of Indiana, Mr. BOOZMAN, Mr. RADANOVICH, Mr. JOHNSON of Illinois, Mrs. KELLY, Mr. GILLMOR, Mr. WEXLER, Mr. WHITFIELD, Mr. LANGEVIN, Mr. MANZULLO, Mr. JENKINS, and Mr. PICKERING.

H.R. 5061: Mrs. BLACKBURN.

H.R. 5068: Mr. ETHERIDGE.

H.R. 5090: Mr. TERRY.

H.R. 5107: Ms. LINDA T. SÁNCHEZ of California, Mr. GOODLATTE, and Mr. BERMAN.

H.R. 5111: Mr. CUNNINGHAM.

H.R. 5113: Mr. GRIJALVA, Mr. HOEFFEL, Mr. WEINER, Mr. TIERNEY, Mrs. DAVIS of California, Mr. MCDERMOTT, Mr. RYAN of Ohio, Mr. KUCINICH, Mr. DEFAZIO, Ms. MAJETTE, Mr. DAVIS of Illinois, Mr. HINOJOSA, Mrs. MCCARTHY of New York, Mr. ANDREWS, Ms. WOOLSEY, Mr. OWENS, Mr. BISHOP of New York, Mr. HOLT, Mr. CASE, Mr. PAYNE, and Mr. KIND.

H.R. 5114: Mr. PETERSON of Minnesota, Mr. LEACH, and Mr. ENGLISH.

H.R. 5120: Mr. SMITH of Michigan.

H.R. 5144: Mr. ROGERS of Alabama, Mr. MARSHALL, Mr. BONNER, and Mr. VAN HOLLEN.

H.R. 5167: Mr. McHugh.

H.R. 5176: Mr. Udall of Colorado.

H.J. Res. 62: Mr. Weldon of Pennsylvania.

H.J. Res. 106: Mr. Bonilla, Mr. Duncan, Mr. Goodlatte, Mr. Sam Johnson of Texas, Mr. Lucas of Oklahoma, Mr. McCotter, Mrs. Miller of Michigan, Mr. Norwood, Mr. Sandlin, Mr. Tauzin, Mr. Taylor of North Carolina, Mr. Culberson, Mr. Putnam, Mr. Turner of Ohio, Mr. Lewis of Kentucky, Mr. McIntyre, and Mr. Cunningham.

H. Con. Res. 99: Mr. Moran of Virginia.

H. Con. Res. 431: Mr. Crowley.

H. Con. Res. 490: Mr. Wynn, Ms. Watson, Mr. Meeks of New York, Mr. Farr, Mr. Serrano, and Ms. Jackson-Lee of Texas.

H. Con. Res. 496: Mr. Cummings.

H. Res. 751: Mr. Shays, Mr. Wexler, Mr. Weller, Mr. Rothman, and Mr. Jackson of Illinois.

H. Res. 782: Mr. Serrano and Mr. Filner.

DISCHARGE PETITIONS

Under clause 2 of rule XV, the following discharge petitions were filed:

Petition 12, September 28, 2004, by Mr. MEEHAN on House Resolution 769 was signed by the following Members: Martin T. Meehan, James P. Moran, Jim McDermott, Bob Filner, David E. Price, John Conyers, Jr., Hilda L. Solis, Raul M. Grijalva, Wm. Lacy Clay, Steven R. Rothman, Joseph Crowley, Edolphus Towns, Jose E. Serrano, Charles B. Rangle, Robert A. Brady, Carolyn McCarthy, Rosa L. Delauro, Louise McIntosh Slaughter, Lois Capps, Adam B. Schiff, Nydia M. Velazquez, Chris Van Hollen, Xavier Becerra, Tom Lantos, and Rush D. Holt.

Petition 13, September 30, 2004, by Mr. EDWARDS on House Resolution 773 was signed by the following Members: Chet Edwards, Marion Berry, Diane E. Watson, Eddie Bernice Johnson, David E. Price, Adam B. Schiff, Hilda L. Solis, Raul M. Grijalva, Wm. Lacy Clay, Steven R. Rothman, Joseph Crowley, Edolphus Towns, Ruben Hinojosa, Robert Menendez, Dale L. Kildee, Jose E. Serrano, Charles B. Rangel, Julia Carson, Robert A. Brady, Benjamin L. Cardin, Leonard L. Boswell, Joe Baca, Tim Holden, Denise L. Majette, Carolyn McCarthy, Louise McIntosh Slaughter, Lois Capps, Charles W. Stenholm, James P. McGovern, Nydia M. Velazquez, Charles A. Gonzalez, Chris Van Hollen, Karen McCarty, Bart Stupak, Xavier Becerra, Robert E. Andrews, Tom Lantos, Rush D. HOlt, Allen Boyd, Frank Pallone, Jr., Peter A. DeFazio, Michael R. McNulty, and Susan A. Davis.

DISCHARGE PETITIONS—ADDITIONS OR DELETIONS

The following Members added their names to the following discharge petitions:

Petition 11 by Ms. LEE on House Resolution 748: Tom Udall, Earl Blumenauer, Eliot L. Engel, Jim Davis, Dennis A. Cardoza, Joseph Crowley, Luis V. Gutierrez, Mark Udall, Adam Smith, Brad Miller, Chaka Fattah, James P. Moran, Robert Menendez, Baron P. Hill, Dennis Moore, Jose E. Serrano, David Wu, and Allen Boyd.

SENATE—*Thursday, September 30, 2004*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by the Very Reverend Matthew William Searfoorce of the Nativity of the Holy Virgin Mary Orthodox Church in Waterbury, CT.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

O Lord God of hosts, God of our salvation, bless this legislative body with wisdom. Bless our Nation, and guide us in Your path to righteousness. Fill the hearts of these Senators with Your goodness and wisdom, and may they always follow Your path in life, and do good work for our country.

Let the words spoken by Moses to the Israelite people be applied to us: "Be bold, stand fast, and see the salvation which is from God. The Lord will fight for you." O God, You are our hope, our strength, and our protection.

Let us always keep Your prayer in our hearts. "O Lord and Master of our lives! Take away from us the spirit of laziness, despair, lust of power and idle talk;

but give rather to us the spirit of moderation, humility, patience, and love;

Yea O Lord and King, grant that we may see our own transgressions, and judge not our brothers, for blessed are You unto the ages of ages." Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, we will return to the consideration of the intelligence reform legislation. Yesterday, in addition to disposing of a number of amendments, we were able to reach an agreement that all first-degree amendments must be filed at the desk by 4 p.m. today. I thank all Senators for allowing us to take this important step toward completion of this bill.

I also continue to encourage all Senators who still desire to offer amendments to contact the bill managers this morning in order to set up a queue for their consideration. I also hope Members will be reasonable with their time requests on their respective amendments. Unfortunately, I anticipate that a large number of amendments will be filed, although we are not encouraging Members to do so.

As the Democratic leader and I mentioned yesterday, and indicated on the floor, we will be closely monitoring the progress of the bill over the next several days because we will be departing October 8. We have a large number of issues to discuss and to address, as we always do at the end of a session. Thus, we must bring this bill to closure and have a final vote on this bill in the next couple of days.

I know there are a lot of colleagues who want to come to the floor and discuss and talk on the bill and discuss their amendments, and we ask them to do so today and tomorrow. Both today and tomorrow must be very full and productive days.

As we discussed on the floor yesterday, if it looks as though we are not making adequate progress—again, we come to the floor again and again to make sure people understand we need to move this bill expeditiously—if it looks as though we are not bringing it to appropriate closure, we will consider filing cloture at the appropriate time. Again, that will allow us to continue to work on the bill and offer and debate germane amendments, but it would be just an effort to give further focus on the bill. This is clearly not a threat at all. It is just a plea in many ways for people to come to the floor now, this morning, today, to work with the managers so their amendments can be considered.

This is an extremely important bill. It is a bill that we absolutely will finish as well as the internal reorganization and oversight of this body before we leave on October 8. We do want the Senate to work its will on this bill. I know there are caucus meetings and a lot of conferences going on off the floor on the bill and bringing people up to speed with all the ramifications of the bill. We want to continue to encourage that, but the process on the floor we need to continue to move in an efficient way.

With respect to votes on Friday and Monday, the Democratic leader and I have not made announcements as to whether we will be voting. We certainly will be voting on Monday. But as to Friday, we will make announcements later today. But we need to make progress.

What we would like to do is have a number of amendments tomorrow, we hope as many as 10 amendments considered over the course of the day tomorrow—the managers will work with that as a focus—but as many amendments today and tomorrow as possible. We will have more to say on this later today. After the filing deadline is reached, we will look at the amendments we have before us, and then we will talk further about scheduling.

THANKING THE GUEST CHAPLAIN

Mr. FRIST. Mr. President, very briefly, I want to take a moment to thank the Very Reverend Matthew William Searfoorce, who is with us this morning, for a truly wonderful and inspiring opening prayer.

Reverend Searfoorce comes to us from the great State of Connecticut, where he has served for the past 33 years in the One Holy Catholic and Apostolic Church there. He is currently rector at the Holy Virgin Mary Orthodox Church.

I had the opportunity to meet him through a very close personal friend of mine, Ed O'Lear, and his wonderful mother, whom I have known for the past, I guess, 34 years. It has been a tremendous friendship between me and the O'Lear family, including Ed's dad, who passed away, and his mom and Ed.

Ed has, in effect, become a member of our family and us a member of his family. So it is through that friendship that I have had the opportunity to meet the Very Reverend Searfoorce, whose prayer we very much appreciate today.

With that, Mr. President, I yield the floor and look forward to a good day and will likely be back over the course of the day as we talk about further scheduling.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The Democratic leader is recognized.

COMPLETING THE INTELLIGENCE REFORM LEGISLATION

Mr. DASCHLE. Mr. President, as we have now done several days in a row, both the majority leader and I have felt the need to impress upon our colleagues the urgency of completing our work on this bill. It is important that we maximize the next 2 days. I think my advice to the majority leader will

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

be that we have votes on Friday unless we can specifically enumerate at least 10 amendments that can be offered and debated and considered tomorrow.

There is absolutely no reason this body, with 100 Senators, if we are serious about completing our work, cannot find the time and the effort to use tomorrow to its fullest. So I am very hopeful Senators will come to us throughout the day to volunteer their willingness to come to the floor tomorrow to offer these amendments. If that does not happen, then our only other recourse will, of course, be to have votes tomorrow and force our colleagues to use the day that otherwise will be lost.

So please let either our managers know or leadership know your intent regarding these amendments. As the majority leader noted, you have until 4 o'clock this afternoon to file your amendments. As we noted yesterday, because of the backlog of legislative counsel, we appreciate the logistical challenge this may require, but we are going to be understanding and flexible with regard to your ability to refine your amendment at that time when it is considered. We have done that before. It is important we accommodate Senators' needs to do that again this time. So I ask, on behalf of leadership in particular, that we have the cooperation of all Senators.

We had a reasonably good day yesterday, but a lot more needs to be done. We have about 300 amendments pending. Senators are going to have to be more realistic about their expectations with regard to offering amendments. It is my hope that over the course of the next several days we can find a more realistic appreciation of how many amendments there really are and what kind of time will need to be allocated to consider those amendments in the coming days.

FARM SUPPORT PROGRAMS

Mr. DASCHLE. Mr. President, before we left for the August recess, I came to the Senate floor to express my serious concerns about this administration's policies towards rural America.

On several critical issues, including disaster aid, renewable fuels, and market concentration, the decisions the President has made have been right for a very few large corporations, but wrong for the large majority of rural Americans.

And now it appears the administration will once again stand against farmers and ranchers by opposing the bipartisan disaster aid approved by the Senate 2 weeks ago. I am hopeful that given the extent of disaster all across the nation and the large bipartisan support for this aid, the administration will withdraw its opposition and agree that farmers and ranchers who are impacted by natural disasters should not be treated differently than others who are victims of hurricanes, tornadoes or floods.

Unfortunately, the pattern of neglect for rural residents has continued as the administration has made yet another decision that diminishes the importance of family farmers and ranchers.

As part of the ongoing negotiations being held by the World Trade Organization, the Bush administration has agreed to a 20-percent cut in the allowable level of farm support and safety net programs for American producers of corn, soybeans, wheat, and other crops.

Remarkably, the administration made this concession without receiving any assurances from our trading partners that American producers will get increased access to foreign markets in return. In other words, the administration has agreed to unilaterally disarm our nation's farmers.

For the owners of large corporate agribusinesses, this deal may mean increased profits. But for thousands of family farmers and ranchers, this decision deepens their insecurity, and could lead to devastating consequences the next time we enter a period of low prices.

The last time we confronted an extended period of low prices, in 1999 and 2000, our domestic support and safety net programs played a key role in helping our rural communities weather the storm.

But if the deal that the Bush administration cut had been in effect then, the consequences could have been even more devastating. We could have fallen billions of dollars short of what was necessary to provide an adequate safety net for our Nation's farmers and ranchers.

In my home State of South Dakota alone, we could have fallen short by tens of millions of dollars, cuts that could have had a crippling impact on my State's No. 1 industry, and the overall health of our rural economy.

One of the specific programs put at risk by the Bush administration's proposed cuts is the new countercyclical farm program.

Many States, including South Dakota, were pleased with this program, which pays producers when prices are low but allows no payments when prices are high. It uses a formula that updates bases and yields to the greatest extent possible, and that was a big improvement for many States. But this important countercyclical program could now be in jeopardy because of the administration's framework agreement.

For producers in South Dakota who have seen years of drought and have now suffered a large production loss due to an early frost, the President's trade negotiators have once again called into question whether this administration is willing to back up its rhetorical support of farmers, ranchers, and rural Americans with the policies that will actually make a difference for our rural economy.

South Dakotans understand the benefits of free trade, but they also understand that free trade must be fair if we are going to avoid a destructive race to the bottom. And right now, the situation confronting American producers is anything but fair.

The average worldwide tariff facing American producers is now 62 percent, while the average U.S. tariff on imported goods is only 12 percent.

With the playing field already so slanted, it is inexplicable to me that we would do anything to further tip the scales against American producers. But that is exactly what the Bush administration has done by agreeing to cut domestic farm support without getting anything concrete in return.

Even worse, the President's top agricultural negotiator has already indicated that the administration may agree to further reductions, and he has actually told the media that the cuts to domestic support programs could be as high as 50 percent.

This is no way to conduct negotiations on behalf of America's farmers and ranchers. We should be demanding mutual concessions from our trading partners, not giving up vital safety-net programs based on some vague hope that other countries might open their markets in the future.

When I spoke about the challenges facing our rural communities back in July, I said we had a moral obligation to do right by our family farmers and ranchers. That should be our standard whenever we make decisions on agricultural policy: Are we doing right by rural America?

The administration's proposal to cut farm support and safety-net programs fails that basic test. Like so many other decisions this administration has made, it puts the interests of large agribusinesses ahead of farmers and consumers, and it threatens the future health of our rural communities.

In short, the administration's proposal does wrong by rural America.

Last month, I wrote a letter to President Bush asking him to rescind his administration's offer to cut farm support programs. Much to my disappointment, the President's top trade negotiator, Ambassador Zoellick, responded by saying that my concerns were outside the "mainstream of American agriculture."

Well, I have some news: In South Dakota and across rural America, selling out farmers and ranchers for the benefit of big agribusiness is not part of the mainstream.

I am also not reassured by Ambassador Zoellick's claim that, somehow, the 20-percent cuts will not actually impact our support and safety net programs.

Ambassador Zoellick has already touted these cuts as "concessions" that brought other nations back to the table.

So, which is it, are they concessions or not? Who is being fooled, the other 146 nations or American farmers and ranchers?

The administration can't have it both ways. Either the concessions mean something and that is what brought the negotiators to the table, or the administration fooled all our trading partners. Neither is good policy.

My experience with this administration—an administration which opposed a robust farm bill—tells me that if there is a trade deal that is bad for agriculture but good for other segments of our economy, agriculture will lose out, whether that means a 20-percent cut, or even a 50-percent cut.

And at that point, States like South Dakota, and all of rural America, will be on the short end of the stick. That is simply unacceptable.

We can do better. We can return mainstream values to our agricultural policies, and we can do right by America's heartland. It is not too late to reverse the administration's misguided agricultural and rural policies. The WTO negotiators are going back to the negotiating table early next month. They can ensure that we do not give up important safety-net programs without getting anything in return.

Those of us who stand with America's farmers and ranchers will continue to fight to ensure that they are once again treated with the dignity and respect that they not only deserve but are entitled to as the anchors of so many of our Nation's communities, and a vital part of our Nation's economy.

I yield the floor.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and intelligence and intelligence-related activities of the United States Government, and for other purposes.

Pending:

Collins Amendment No. 3705, to provide for homeland security grant coordination and simplification.

Lautenberg Amendment No. 3767, to specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each.

Warner/Stevens Amendment No. 3781, to modify the requirements and authorities of the Joint Intelligence Community Council.

The PRESIDENT pro tempore. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I note that the Senator from Massachusetts is in the Chamber. I wonder if I could inquire of the Senator from Massachusetts whether he is going to be seeking recognition to speak on the bill or on another issue?

The PRESIDENT pro tempore. The Senator from Massachusetts.

Mr. KENNEDY. The subject matter on which I will address the Senate is related to the substance of the bill, but it is not directly going to be on the bill itself. It is related to the substance of the bill.

Ms. COLLINS. Mr. President, I would like to propound a unanimous consent request that the Senator from Massachusetts be recognized for 10 minutes, to be followed by the Senator from Oregon, Mr. SMITH, to be recognized for 10 minutes.

The PRESIDENT pro tempore. The Chair points out that under the Pastore rule, it does take unanimous consent to speak on matters other than the bill for the first 2 hours.

Mr. KENNEDY. Mr. President, I will be glad to debate that issue if the Chair is going to make a ruling on it. I maintain that the substance on which I am speaking is related to intelligence issues. If there is going to be a point of order made on substance under the Pastore rule, I would be glad to have the Chair rule and we will let the Senate vote on it.

The PRESIDENT pro tempore. There is a unanimous consent request pending before the Senate. Is there objection? Is there objection to the request of the Senator from Maine for 10 minutes for the Senator from Massachusetts and 10 minutes for the Senator from Oregon?

Without objection, it is so ordered.

The Senator from Massachusetts is recognized.

IRAQ—SHIFTING RATIONALE

Mr. KENNEDY. Mr. President, with tonight's Presidential debate coming up, the whole Nation will be watching JOHN KERRY and George Bush debate the all important issue of why America went to war in Iraq, when Iraq was not an imminent threat, had no nuclear weapons, no persuasive links to al-Qaida, no connection to the terrorist attacks of September 11th, and no stockpiles of weapons of mass destruction.

It is now clear that from the very moment President Bush took office, Iraq was his highest priority as unfinished business from the first Bush administration.

His agenda was clear: find a rationale to get rid of Saddam.

Then came 9/11. In the months that followed, the war in Afghanistan and the hunt for Osama bin Laden had obvious priority, because al-Qaida was clearly the greatest threat to our national security.

Despite all the clear and consistent warnings about al-Qaida, President Bush treated it as a distraction from his obsession with Saddam. By the summer of 2002, President Bush was restless for war with Iraq. The war in Afghanistan was no longer in the headlines or at the center of attention. Bin Laden was hard to find, the economy was in trouble, and so was the President's approval ratings in the polls.

Karl Rove had tipped his hand earlier by stating that the war on terrorism could bring political benefits as well. The President's undeniable goal was to convince the American people that war was necessary with Iraq—and necessary right away—because Saddam was a bigger threat.

That conclusion was not supported by the facts or the intelligence, but they could be retrofitted to support it. Senior administration officials kept suggesting the threat from Iraq was imminent.

At a roundtable discussion with European journalists last month, Secretary Rumsfeld insisted: "I never said imminent threat."

In fact, Secretary Rumsfeld had told the House Armed Services Committee on September 18, 2002, ". . . Some have argued that the nuclear threat from Iraq is not imminent—that Saddam is at least 5-7 years away from having nuclear weapons. I would not be so certain."

In May 2003, White spokesman Ari Fleischer was asked whether he went to war "because we said WMD were a direct and imminent threat to the United States." Fleischer responded, "Absolutely."

What else could National Security Adviser Condoleezza Rice have been suggesting, other than an imminent threat—an extremely imminent threat—when she said on September 8, 2002, "We don't want the smoking gun to be a mushroom cloud."

President Bush himself may not have used the word "imminent", but he carefully chose strong and loaded words about the nature of the threat—words that the intelligence community never used—to persuade and prepare the Nation to go to war against Iraq.

In the Rose Garden on October 2, 2002, as Congress was preparing to vote on authorizing the war, the President said the Iraqi regime "is a threat of unique urgency."

In a speech in Cincinnati on October 7 that year, President Bush echoed Condoleezza Rice's image of nuclear devastation: "Facing clear evidence of peril, we cannot wait for the final proof—the smoking gun—that could come in the form of a mushroom cloud." He says he did not use the word "imminent." What could be more imminent than talk like that?

At a political appearance in New Mexico on October 28, 2002, after Congress had voted to authorize war, and a week before the election, President Bush said Iraq was a "real and dangerous threat."

At a NATO summit on November 20, 2002, President Bush said Iraq posed a "unique and urgent threat."

In Fort Hood, TX, on January 3, 2003, President Bush called the Iraqi regime a "grave threat."

Nuclear weapons. Mushroom cloud. Unique and urgent threat. Real and dangerous threat. Grave threat. This was the administration's rallying cry for war.

When he was Secretary of Defense during the first Gulf War, Vice President CHENEY said, "We were not going to get bogged down in the problems of trying to take over and govern Iraq."

As Senator EDWARDS has said, Secretary CHENEY was against getting bogged down in Iraq before he was for it.

Here is another quote from the New York Times in 1991, by Secretary CHENEY:

> If you are going to go in and topple Saddam Hussein, you have to go to Baghdad. Once you've got Baghdad, it's not clear what you're going to do with it. It's not clear what kind of government you would put in place. How much credibility is that government going to have if it is set up by the United States military when it is there? How long does the United States military have to protect the people that sign on for that government? What happens to it once we leave?

That was Secretary CHENEY, his words. He was against the war, too, before he was for it.

But, it was Vice President CHENEY who first laid out the trumped up argument for war with Iraq to an unsuspecting public. In a speech on August 26, 2002, to the Veterans of Foreign Wars, he asserted: ". . . We now know that Saddam has resumed his efforts to acquire nuclear weapons . . . Many of us are convinced that Saddam will acquire nuclear weapons fairly soon." As we now know, the intelligence community was far from certain. Yet the Vice President had no doubt.

On September 8, 2002, CHENEY was even more emphatic about Saddam. He said, "[We] do know, with absolute certainty, that he is using his procurement system to acquire the equipment he needs in order to enrich uranium to build a nuclear weapon." The intelligence community was deeply divided about the aluminum tubes, but CHENEY was absolutely certain.

One month later, on the eve of the watershed vote by Congress to authorize the war, President Bush said it even more vividly. He said, "Iraq has attempted to purchase high-strength aluminum tubes . . . which are used to enrich uranium for nuclear weapons. If the Iraqi regime is able to produce, buy, or steal an amount of highly enriched uranium a little larger than a single softball, it could have a nuclear weapon in less than a year. And if we allow that to happen, a terrible line would be crossed . . . Saddam Hussein would be in a position to pass nuclear technology to terrorists."

In fact, as we now know, the intelligence community was far from united on Iraq's nuclear threat. The administration attempted to conceal the disagreement from the public by classifying the information and the dissents by the intelligence community until after the war, even while making dramatic and excessive public statements about the immediacy of the danger.

The second major claim in the administration's case for war was the linkage between Saddam Hussein and al-Qaida.

The National Intelligence Estimate found no cooperative relationship between Saddam and al-Qaida. On the contrary, it stated only that such a relationship might happen if Saddam were "sufficiently desperate"—in other words, if America went to war. But the intelligence estimate placed "low confidence" that, even in desperation, Saddam would give weapons of mass destruction to al-Qaida.

President Bush ignored all that. He was relentless in raising America's fears about Saddam after the devastating 9/11 tragedy. He drew a clear link—and drew it repeatedly—between al-Qaida and Saddam.

In a September 25, 2002, statement at the White House, President Bush flatly declared: "You can't distinguish between al-Qaida and Saddam when you talk about the war on terror." How could any President make a preposterous statement like that?

He kept piling it on. In his State of the Union Address in January 2003, President Bush said, "Evidence from intelligence sources, secret communications, and statements by people now in custody reveal that Saddam Hussein aids and protects terrorists, including members of al-Qaida." He said Saddam could provide "lethal viruses" to a "shadowy terrorist network."

Two weeks later, in his radio address to the Nation, a month before the war began, President Bush described the ties in detail, saying "Saddam Hussein has longstanding, direct and continuing ties to terrorist networks..."

He said: "Senior members of Iraqi intelligence and al-Qaida have met at least eight times since the early 1990s. Iraq has sent bomb making and document-forgery experts to work with al-Qaida. Iraq has also provided al-Qaida with chemical and biological weapons training. An al-Qaida operative was sent to Iraq several times in the late 1990s for help in acquiring poisons and gases. We also know that Iraq is harboring a terrorist network headed by a senior al-Qaida terrorist planner. This network runs a poison and explosive training camp in northeast Iraq, and many of its leaders are known to be in Baghdad."

In fact, there was no operational link and no clear and persuasive pattern of ties between the Iraq and al-Qaida. That fact should have been abundantly clear to President Bush, since Iraq and al-Qaida had diametrically opposite views of the world.

Al-Qaida and its religious fanatics detested Saddam, because Saddam was a secular dictator. Yet, President Bush had more than half the country believing that Saddam and al-Qaida were in cahoots on 9/11.

Secretary of State Colin Powell now agrees that there was no link between 9/11 and Saddam's regime. So does Secretary of Defense Donald Rumsfeld.

A bipartisan 9/11 Commission Staff Statement put it plainly: "Two senior bin Laden associates have adamantly denied that any ties existed between al-Qaida and Iraq. We have no credible evidence that Iraq and al-Qaida cooperated on attacks against the United States."

The bipartisan 9/11 Commission report stated clearly that there was no evidence of a collaborative "operational" connection between Saddam and al-Qaida. The report said there was no evidence "indicating that Iraq cooperated with al-Qaida in developing or carrying out any attacks against the United States."

This past July, the Senate Intelligence Committee issued a bipartisan report whose title was, "Prewar Intelligence Regarding Iraq Weapons of Mass Destruction and Links to Terrorism." The report said there was not "an established formal relationship" between al-Qaida and Saddam Hussein.

But in his march to war, President Bush exaggerated the threat anyway. It was not subtle. It was not nuanced. It was pure, unadulterated fear mongering, based on a devious strategy to convince the American people that Saddam had helped commit 9/11 and had the ability to provide nuclear weapons to al-Qaida, so that immediate war was necessary.

America went to war in Iraq because President Bush insisted that nuclear weapons in the hands of Saddam Hussein and his ties to al-Qaida were too dangerous to ignore. None of that was true, so all that President Bush says now is that Saddam was a brutal dictator and that America and the world are better off without him. Talk about flip-flops.

How dare President Bush accuse JOHN KERRY of flip-flops on Iraq. My response is "Physician, heal thyself." President Bush is the all-time world-record-holder for flip-flops. Nothing JOHN KERRY has said remotely compares with President Bush's gigantic flip-flops on the reasons he went to war.

The war in Iraq itself has not made America safer and has not made the world safer. None of the President's post war rationalizations are sufficient to justify war.

Almost every week, President Bush tries a new rationale for the war. He's said our goal was "sovereignty" for Iraq, "dignity" for Iraq's culture, and "for every Iraqi citizen, the opportunity for a better life."

On April 30, 2004, he suggested the war was about human rights, saying "there are no longer torture chambers or rape rooms or mass graves in Iraq."

He's suggested the war was for freedom and democracy.

He's said, "The rise of a free and self-governing Iraq will deny terrorists a base of operation, discredit their narrow ideology, and give momentum to reformers across the region."

He has said the war was "a victory for the security of America and the civilized world."

None of this rationale is an adequate justification for war, and the President did not even try to make them a justification until long after the war began and all the other plausible justifications had proven false.

Saddam was not an imminent threat. The war in Iraq was a perilous distraction from the real war on terrorism—the war against al-Qaida. President Bush got it exactly wrong. To him, the war in Afghanistan was a distraction from the war he wanted against Saddam.

The war on in Iraq has clearly made America more hated in the world, especially in the Islamic world, and it has made Americans more vulnerable to terrorist attacks both here at home and overseas.

We'll hear much more about this issue in tonight's Presidential debate, and the debate will go in Congress and in communities across the country between now and the election. The most important decision any President ever makes is the decision on war or peace. No President who misleads the country on the need for war deserves to be re-elected. Any President who does so must be held accountable, and November 2 is the chance to do it.

Mr. President, we know that some defenders of the President are desperate to support him. They say any dissent is only helping the terrorists. They even claim that al-Qaida wants JOHN KERRY to win this election.

It's despicable to make charges like that. It is not unpatriotic to tell the truth to the American people about the war in Iraq. In this grave moment of our country, to use the words of Thomas Jefferson, "Dissent is the highest form of patriotism."

The PRESIDING OFFICER (Ms. MURKOWSKI.) The Senator from Oregon is now recognized for 10 minutes.

SENATOR KERRY AND IRAQ

Mr. SMITH. Madam President, I have been privileged on a number of occasions to be in that chair when Senator KENNEDY was speaking. I say this with affection and admiration. Senator KENNEDY has been clear from the beginning of this conflict that he is against the war in Iraq, and I respect his clarity. But it is interesting that while the senior Senator from Massachusetts has been entirely clear and entirely consistent, the junior Senator from Massachusetts, the Democratic nominee, could not have been in more confusion, leaving the American people in a greater sense of chaos than words could make possible.

It is amazing, interesting, that we have in Senator KERRY a decorated Vietnam veteran, and yet we have in Senator KERRY a man who now is falling in the polls who faces tonight an opportunity to clarify for the American people his position on Iraq. With plummeting poll numbers, it has to be asked, why has his fortunes as a war hero and veteran been so reversed?

I find the answer in the Good Book in a verse where Paul says:

> For if the trumpet give an uncertain sound, who shall prepare himself to the battle?

I do not know that there is a more certain sound than Senator KENNEDY. I cannot imagine a more uncertain sound than Senator KERRY.

Let's review the record. Whether you are for or against the war, those are positions one can argue, as I have done on the side of the war on terrorism that includes Iraq, or as Senator KENNEDY has against Iraq as a part of the war on terrorism, but let's review what Senator KERRY has said to the American people.

Did going to war in Iraq make us more secure or less secure? Apparently, Senator KERRY is not sure. He is saying now that we traded a dictator for chaos in Iraq. That has made us less secure. But during the primary season, he ravaged Howard Dean by saying:

> Those who doubted whether Iraq or the world would be better off without Saddam Hussein and those who believe we are not safer with his capture don't have the judgment to be President or the credibility to be elected President.

Yet those are two diametrically opposed positions.

Yesterday on ABC's "Good Morning America," Diane Sawyer asked him this very question. He said: We won't know until we know whether this has been successful or not. Thank Heavens President Roosevelt did not have that position after Corregidor or President Lincoln after Antietam. I think JOHN KERRY was right: People who cannot make up their minds should not be President of the United States.

But which is it? If, indeed, as Senator KERRY has claimed, we are less secure, then it seems that he is lacking a serious component of judgment.

Can Senator KERRY, by virtue of bringing a new face to the Presidency, convince some of our reluctant allies to participate more vigorously to bringing democracy in Iraq? He believes he can, despite the fact that both the French and German governments have said time and again, repeatedly, no matter the outcome of the American election, they will not do more to help in Iraq.

So it seems to me that Senator KERRY is playing a rather false hand to the American people. It is an illusory promise. It just will not happen.

I have heard the Senator complain that we do not have enough troops, and now he wants to pull the troops home. So the question is, Should we increase the number of American troops or should we bring them home and leave Iraq to the Iraqis? This is a question about which reasonable people can disagree, but Senator KERRY's statements indicate he disagrees again with himself.

First he says we should do what the military leaders say, even if that means deploying more troops to Iraq. Then he said he intends to get all Americans troops home in his first term. Then last week he said he does not intend to increase troops at all. Specifically he said:

> I believe as a new President, with new credibility, with a fresh start, that I have the ability to be able to change the dynamics on the ground.

I agree with him; he would certainly change the dynamics on the ground. The enemies of freedom in Iraq would feel emboldened to wait it out until the United States leaves, rather than recognize the democratic process is irreversible. That is not the kind of dynamic I want to see or the American people deserve to see.

When the Senate voted to give President Bush the authority to go to war, did we mean he could actually start a war? This is a question that I, as a Senator, take very seriously. Senator KERRY voted for the authorization, just as I did, but is now saying:

> The authority was the authority to do the inspections. The authority is the authority to build an alliance. The authority was necessary because it was the only way to make inspections happen so that you could hold Saddam Hussein accountable.

And that the Senate also gave the President the "authority not to go to war." End of quote from JOHN KERRY.

Yet what did the resolution actually say, Madam President? It could not be clearer. You heard what JOHN KERRY said, what he thought it said, but he should have read it. It says: "Joint Resolution to authorize the use of the United States Armed Forces against Iraq." If my colleague read nothing else in the resolution but that first line, he would still have known what this resolution was designed to do.

Later in the text, in case anyone missed the intent, it states:

> The Congress declares that this section—

Which authorizes the use of the Armed Forces—

> is intended to constitute specific statutory authorization within the meaning of 5(b) of the War Powers resolution.

There is no room for disagreement about what we are doing with this resolution. He voted for it. I did. An overwhelming majority did. And it does not say what Senator KERRY now says it said.

I take responsibility for voting on matters of war and peace very seriously, but we cannot have it both ways. We cannot expect to have credibility in the world, that Senator KERRY so consistently states he would bring, if we squander our words in meaning in such a way as he now does on matters as important as authorizing war and peace.

What do we do going forward, Madam President? On September 20, Senator KERRY gave a speech outlining his latest plan for Iraq. He had four main points.

The first: The President must get international support so American troops do not have to "go it alone."

The fact is, 32 countries are contributing 25,000 soldiers to the coalition effort in Iraq.

The second part of his plan: The President must get serious about training Iraqi forces.

Yet there are currently almost 100,000 fully trained Iraqi soldiers, police officers, and other security personnel out of the 164,000 Iraqis out there on the front lines defending their freedom and protecting their country. An additional 75,000 Iraqis have received some form of security training to guard important facilities.

The third point: The President must carry out a reconstruction plan that brings tangible benefits to the Iraqi people.

Yet the United States has already spent more than a billion dollars on urgent reconstruction projects in areas threatened by the insurgency. In the next several months, over $9 billion will be spent on contracts that will help Iraqis rebuild schools, hospitals, bridges, as well as upgrade the electricity grid and modernize the communications system.

This point is actually particularly laughable, given that Senator KERRY, who now says we have to do this, voted against the money to do this. He voted against the $87 billion before he says he voted for it that included nearly $20 billion in vital reconstruction for Iraq. Again, the uncertainty.

His final point: The President must take immediate steps to guarantee elections in Iraq will be held next year.

Yet an Iraqi electoral commission is now up and running and has already hired personnel and is making key decisions about electoral procedures. The commission launched a public education campaign to inform Iraqis about the process and encourage them to become voters, and United Nation's electoral advisers are on the ground in Iraq.

What is particularly interesting about this is that on May 24, 2004, nearly 4 months before Senator KERRY's speech in New York, President Bush laid out a five-step plan for helping Iraq achieve democracy and freedom. Everything Senator KERRY proposed was part of the President's plan he announced in May, and the administration has been implementing it.

In conclusion, at the present time, Senator KERRY issued a press release stating that the President's speech laid out general principles—and this is laughable—"most of which we've heard before" because they are part and parcel of the President's plan.

So if the trumpet gives an uncertain sound, no one will prepare to battle, and that, I believe, is the reason for Senator KERRY's plummeting in the opinion polls of the United States.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, we are now going to resume consideration of S. 2845. Senator LIEBERMAN and I, along with the two leaders, encourage Members to come forward with their amendments. The leaders are determined that we will finish this bill very early next week. In order to do so, we need the cooperation of all Senators who have filed amendments, and we encourage them to bring them forward.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 3797

Mr. GRAHAM of Florida. Madam President, I rise today to speak on what I consider to be one of the most important areas of intelligence reform, and then I will offer an amendment to help advance that position.

Over the last several weeks, I have been making a series of statements on various aspects of intelligence reform. In my recent statements, I have discussed the history of the U.S. intelligence community, the community's failure to adapt to changing conditions since the end of the Cold War, the unfortunate reluctance of both the Congress and the administration to tackle these much needed and long-reported necessary reforms, the shape that I believe our reform should take, and the danger that excessive Government secrecy poses to our national security.

I have also expressed my gratitude to the independent 9/11 Commission and its predecessors for the work they have done in analyzing the strengths and weaknesses of the American intelligence community and offering recommendations as to how these weaknesses can be remedied.

Today, I also thank several of my colleagues for the work they have done in providing the groundwork for this legislation and moving it substantially toward fruition. Senators COLLINS and LIEBERMAN have put a substantial amount of work into crafting meaningful bipartisan intelligence reform legislation that seeks to correct current failings. They and their staffs should be commended for that effort.

In addition, Senators MCCAIN and ROBERTS have stepped forward with very thoughtful proposals for reform, and as we work to fine-tune the Collins-Lieberman bill, their proposals will be an excellent source of ideas and alternatives.

We all owe our gratitude to the other members of the Governmental Affairs and Intelligence Committees, especially Vice Chairman ROCKEFELLER on the Intelligence Committee, and their respective staff members for all the contributions they have made to the debate over the direction of intelligence reform.

I spoke last week about the direction in which I thought we should move with these reforms and the shape these reforms should take. I would now like to discuss in more detail how we might accomplish that within this legislation.

I will offer an amendment which I hope will be a contribution to achieving these goals. First some background.

Our national intelligence community currently resembles our military as it looked prior to 1947. It is made up of a number of agencies that originated at different times and with different structures, with shared common goals, but frequently found they had difficulty working with one another because of their different histories, different cultures, different bureaucratic structures, and different priorities. That would have also been a definition for the American military pre-1947.

In that year, at the urging of President Harry Truman, Congress passed the National Security Act, which brought together all of the components of the military. There had been a Secretary of the Navy, there had been a Secretary of War, sometimes referred to as the Secretary of the Army, and there certainly would have been a Secretary of the Air Force had the National Security Act not intervened. This new legislation created for the first time a civilian leader at the top and uniformed service chiefs reporting to that leader.

This was an important reform, but it did not end all the rivalries and competition for actions and spending resources within the military. There were a series of events that occurred in the late 1970s and early 1980s which dramatized these continuing weaknesses. We were unable to rescue hostages who had been taken in Tehran. We were unable to avoid the massacre of over 200 American marines in barracks in Beirut by Hezbollah, and there were a series of missteps on the small island of Grenada. Reviewing all of these issues, in 1986, it was becoming apparent that though all the services reported to a single departmental head, they still had many problems communicating with one another and working effectively together.

As it had in 1947, Congress again stepped forward with the Goldwater-Nichols Act, which decentralized the military establishment. Control over military operations moved from the Pentagon to several joint commands, each responsible for a different geographic area of the world. As a result, the U.S. military has become more effective than ever before.

Given that our international intelligence community is currently in a pre-1947 state, our challenge now is to enact both the equivalence of the National Security Act of 1947 and the Goldwater-Nichols Act of 1986 at the same time. In other words, we must centralize authority and then immediately commence the process of decentralizing the bureaucracy.

We waited 39 years between the National Security Act and Goldwater-Nichols. We cannot afford to wait 39 years between the action we will hopefully take this year and the time we will begin to decentralize the intelligence bureaucracies. It is essential that this legislation create a strong director of national intelligence and also lay out the best possible structure for intelligence collection and analysis.

In my view and in the view of many others, our intelligence community would be most effective if it were organized around the mission-based model that brings personnel from different agencies and specialties together to focus on whatever intelligence missions the national director deems to be most important.

In a recent publication called "Intelligence Matters," I state:

> This may seem counterintuitive, but for us to deal with this decentralization, we must first centralize. Since their inception, the agencies that make up our foreign intelligence community have focused on assignments like the collection of signals or visual images. While each agency focuses on its own responsibilities, the larger realities—like the changed nature of the enemy—go unattended. They are nobody's business.

The structure we have before us today gives us an opportunity to place those large issues of adaptation to new threats in an appropriate structure.

The director will be responsible for giving the centers their missions and assigning them the personnel and resources they need to do their job.

He or she can then be held accountable for the centers' performance and accomplishments.

This model was previously suggested by the 9/11 Commission.

In the conclusion of its report, it discusses the structural problems that currently plague our intelligence community, and suggest that significant changes must be made in order to achieve unity of effort among the community's various agencies.

The Commission report recommends that a national center for counterterrorism be established, and I am pleased that President Bush has endorsed the creation of such a center, and it is contained in the legislation before us today.

This center will bring together personnel from a variety of disciplines and specialties from across the intelligence community to focus on the problem of international terrorism.

By bringing them all together and placing them on the same staff, we can overcome the bureaucratic and sociological barriers that have sometimes prevented them from being effective.

This will also help us use our intelligence resources more efficiently by ensuring that different agencies are not doing redundant work on the same threat.

In addition to a national counterterrorism center, the Commission also recommends that other centers be created to focus on different global challenges, such as nuclear proliferation, international drug trafficking, or particular rogue states such as North Korea, and Iran.

These centers would be able to bring together personnel in the same manner as the Counterterrorism Center, allowing us to be more efficient and effective in intelligence gathering and analysis.

The Commission recommended that management of these centers should be one of the director's primary responsibilities. Their recommendation states:

> The current position of Director of Central Intelligence should be replaced by a National Intelligence Director with two main areas of responsibility: (1) to oversee national intelligence centers on specific subjects of interests across the U.S. government and (2) to manage the national intelligence program and oversee the agencies that contribute to it.

The national director must be given the flexibility to create, reorganize or even disband these centers as needed, just as the Secretary of Defense has the authority to shift the responsibility of the unified commands.

For instance, Syria and Lebanon were once included in the European Command, but as the international situation changed, it became more appropriate to move them to Central Command, which already included their Middle Eastern neighbors.

A second instance is the Caribbean region, which was previously included in the Atlantic Command and has since been moved to the Southern Command, which includes the rest of Latin America.

Congress had empowered the Secretary of Defense to make these decisions while maintaining its constitutional responsibility for oversight and appropriations.

This wise allocation of authority has enabled the Department of Defense to do what the intelligence community has been unable to do; that is to respond to changing conditions in a swift and decisive manner.

The authors of Goldwater-Nichols gave the Secretary of Defense the necessary level of flexibility and adaptability by not writing into law which commands should be created and what countries they should include.

Instead, we empowered the Secretary to establish or alter the unified commands as circumstances dictate.

The current version of the Collins-Lieberman bill includes language to establish national intelligence centers, in accordance with the 9/11 Commission's recommendations.

This is obviously a significant step in the right direction.

However, I believe that is necessary to make some modifications to the language in order to clarify the purpose of the centers and to ensure that the national intelligence director has the authority needed to manage them effectively.

Some of the provisions that we need to be aware of and include in the final version of this legislation as it relates to national intelligence centers are these:

First, we should include language making clear that the mission of the national intelligence centers is to focus on specific threats.

In keeping with the Commission's recommendation, this would mean that some centers might focus on specific countries or regions, while others would focus on global problems such as nuclear proliferation.

Second, we must make the national intelligence centers the focal point of intelligence gathering and analysis for their particular area of focus.

The centers should develop a strategy for the collection and analysis of intelligence regarding their area of focus and draw upon the resources of the various intelligence agencies to implement this strategy.

To give an example of how this might work, imagine that the national director believes that we need a focus on counterproliferation of nuclear weapons, and surely we do.

In a very important recent book, "Nuclear Terrorism," by Graham Allison, it is pointed out that there are two important truths as it relates to nuclear terrorism. The first is that it is inevitable that nuclear weapons will come into the hands of terrorists who will use them against us. The second truth is that inevitability is preventable.

Professor Allison points out a number of steps that must be taken in order to avoid the inevitable. Many of those relate to the intelligence community's role. Professor Allison makes a number of suggestions as to what reforms are required in order to avoid a nuclear weapon in the hands of a terrorist who is destined to use it against the people of the United States.

Just to summarize his points:

First, American intelligence must move beyond its Cold War mindset. This legislation will help us achieve that goal.

Second, the United States must cultivate long-term strategic relationships with foreign intelligence agencies. I believe having a strong director of national intelligence will contribute to that objective.

Third, the American intelligence community must enhance its data-mining efforts to process, analyze, and disseminate open sources of intelligence. This legislation provides a heightened awareness of the value and the credibility of open source information, that is information that is available, other than through clandestine means.

Finally and above all, intelligence assessments must be credible.

I believe this provision for the establishment of national intelligence centers will make a dramatic contribution toward enhancing the credibility of U.S. intelligence.

The fact that we are creating within this legislation one national intelligence center, that for counterterrorism, and leaving the creation of the other centers up to the discretion of the national intelligence director is essentially an accident of history. The 9/11 attacks were the use of conventional weapons—fire and gasoline—in a nonconventional manner—large airplanes flying into large buildings.

If the attacks of 9/11 had taken another form, such as a cargo container which was loaded at a distant point and arrived in the Port of New York and was unloaded, and a week later found itself in downtown Chicago, and because that container, in addition to its commercial cargo, also carried a dirty nuclear bomb, and that bomb, were it to be detonated, we would have had an event multiple times of what, in fact, happened on 9/11. And I can assure you that the center would have been written into this legislation and would have been the center on the avoidance of the proliferation of nuclear weapons.

We are about to give that authority to the director of intelligence. I believe we should give it to him with as close as possible the same authority and the same capability as we are statutorily giving to the center on terrorism. That is what this amendment attempts to do.

Finally, we must ensure that our national intelligence community is constantly adapting in response to changes in the world around us. Unfortunately, our intelligence community, since its inception in that same National Security Act of 1947, has had difficulty adapting to changed circumstances. It had that difficulty in the 1950s. It has had that difficulty since the last of the Soviet Union in the late 1980s through the early 1990s. Our intelligence agencies were slow in shifting their focus from the Soviet Union to the more diffuse threat such as terrorism, weapons proliferation, and rogue states.

As former CIA Director James Woolsey put it:

> It was as if we had been struggling with a dragon for 45 years and finally defeated it . . . and then found ourselves in the jungle with a lot of poisonous snakes. The snakes were harder to keep track of than the dragon.

The national director should be required to frequently review the mission and areas of responsibility of the intelligence centers, so that we do not waste time staring at the dragon which we have already slain.

He must also have the ability to create new centers rapidly, so that they are not slow to react to the appearance of snakes.

The amendment I am offering would modify the very instructive policies in the Collins-Lieberman bill to lay the groundwork for reforms recommended by the 9/11 Commission, and ensure that the national director has sufficient authority to carry them out.

Madam President and colleagues, I draw your attention to the fact that I have discussed this amendment with Governor Kean and with former Congressman Lee Hamilton, the distinguished Chair of the 9/11 Commission. And I am pleased they have responded enthusiastically.

I have received a letter from Governor Kean and Congressman Hamilton which includes this statement:

> The importance of integrated, all-source analysis cannot be overstated. Without it, it is not possible to "connect the dots." No one competent today holds all of the relevant information. Our view is it is imperative to have unity of effort across the intelligence community.
>
> Therefore, we strongly endorse the creation of national intelligence centers on specific subjects of interest across the U.S. Government. Clearly, with regard to the high priority of counterterrorism, the centers should be the intelligence entity inside the national counterterrorism center . . . we have proposed. Other national intelligence centers—for instance, on counterproliferation, crime and narcotics, the Middle East, Russia and China—could be created based on the President and National Security Council's determination of need.

The letter concludes:

> A true sharing of all relevant information among analysts, and the creation of national intelligence centers offering the best advice and analysis to the President—together with the continued independence of State, Treasury, Energy and Defense Department analytical units—provides a better way to foster competitive analysis than does the status quo.
>
> To keep the country secure, we believe the government must build the intelligence capabilities it will need for the broad range of national security challenges in the decades ahead.

We have the opportunity to take a step which will fundamentally enhance the security of the people of America not only against the threat that we know today, not only against the dragons with which we are currently grappling, but with those poisonous snakes that may not be so obvious, the poisonous snakes which may be hiding just beyond the horizon.

The national intelligence centers will be a key to our ability to do for intelligence what Goldwater-Nichols did in 1986 for our military.

I urge my colleagues to seriously consider and to adopt these amendments to the excellent legislation which is before us today.

I ask unanimous consent that the letter from Governor Kean and Congressman Hamilton be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 27, 2004.

Hon. BOB GRAHAM.

DEAR SENATOR GRAHAM: Thank you for your question about the 9/11 Commission's proposal to establish national intelligence centers. The Commission made 41 recommendations that we believe will significantly improve the security and safety of all Americans. All of the recommendations are, in our estimation, important.

We see a particular need for creating national intelligence centers. We have reviewed your suggest amendment on the topic of national intelligence centers. The language seems constructive, and consistent with our proposed approach. As far as how to proceed, we leave the tactics of floor consideration to you and the bill managers.

In our investigation of the 9/11 attacks, we learned that the national security institutions of the U.S. government are still the institutions constructed to fight the Cold War. National intelligence is still organized around the collection disciplines of the home agencies, not the joint mission.

The importance of integrated, all-source analysis cannot be overstated. Without it, it is not possible to "connect the dots." No one component today holds all the relevant information. Our view is that it is imperative to have unity of effort across the intelligence community.

Therefore, we strongly endorse the creation of national intelligence centers on specific subjects of interest across the U.S. Government. Clearly, with regard to the high priority of counterterrorism, the center—should be the intelligence entity (formerly the Terrorist Threat Integration Center) inside the National Counterterrorism Center we have proposed. Other national intelligence centers—for instance, on counterproliferation, crime and narcotics, the Middle East, Russia, and China—could be created based on the President and National Security Council's determination of need. These centers will draw from the talent of the individual agencies and become truly national intelligence centers on their respective issues.

The National Intelligence Director that we have proposed would oversee the national intelligence centers to provide all-source analysis and plan intelligence operations for the whole government on major problems. Under our proposals, the National Intelligence Director would retain the present Director of Central Intelligence's role as the principal intelligence adviser to the president. We hope the president will come to look directly to the directors of the national intelligence centers to provide all-source analysis in their areas of responsibility.

A true sharing of all relevant information among analysts, and the creation of national intelligence centers offering their best advice and analysis to the president—together with the continued independence of State, Treasury, Energy and Defense Department analytical units—provides a better way to foster competitive analysis than does the status quo.

To keep the country secure, we believe the government must build the intelligence capabilities it will need for the broad range of national security challenges in the decades ahead. National intelligence centers should be among those capabilities.

We deeply appreciate your interest in the Commission's recommendations, and we look forward to working with you on the national intelligence centers proposal, as well as on our other recommendations.

Very respectfully,

TOM KEAN.
LEE HAMILTON.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. LIEBERMAN. Madam President, I wonder if I could, through you, ask the distinguished Senator from Arkansas if he is going to comment on Senator GRAHAM's amendment.

Mr. PRYOR. No. I was going to comment on an amendment that we adopted.

Mr. LIEBERMAN. Madam President, after Senator PRYOR comments, I will be glad to speak for Senator GRAHAM.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Madam President, I rise today with a note of encouragement; that is, one of the things I have noticed through the committee process, and certainly on the Senate floor, is how bipartisan—or maybe in a better sense of the word, nonpartisan—this debate has been. I think the Senate is very committed to following up on the 9/11 recommendations in the 9/11 report. I think we are approaching this in a way that is very constructive and very positive, and which we all hope and pray in the long term is very effective for our national security and for our intelligence.

I know there are a number of amendments that we have still pending. I don't know exactly what is going to be offered or what will be agreed to, but my plan is to listen very carefully to all of those amendments. I think they all have value. I may vote against some of them; nonetheless, I think it is important that we have this discussion, have this debate, and show our leadership for this Nation on this very issue.

There are two Members, two really great leaders, I wish to commend; that is, Senator COLLINS and Senator LIEBERMAN. They have done a fantastic job and have demonstrated the patience of Job through this process in their determination and commitment. They are a prime example of how this Senate can work and should work and how great things can be accomplished by working together.

I think it is incumbent for us as a Senate and as a Congress to provide the tools and the structure that we need in our intelligence community to connect the dots.

I think the 9/11 Commission said this in a number of ways in a number of cases. But at one point, the 9/11 Commission report said:

> Of all our recommendations, strengthening congressional oversight may be among the most difficult and important.

I know because I have talked to many of my colleagues on both sides of the aisle that this body is committed to reforming itself when it comes to intelligence issues.

Let me read, if I may, from the report one short paragraph found on page 105 of the 9/11 Commission Report. It says:

> Fourth, the oversight function of Congress has diminished over time. In recent years, traditional review of the administration of programs and the implementation of laws has been replaced by "a focus on personal investigations, possible scandals, and issues designed to generate media attention." The unglamorous but essential work of oversight has been neglected, and few members past or present believe it is performed well. DCI Tenet told us: "We ran from threat to threat to threat. . . . [T]here was not a system in place to say, 'You got to go back and do this and this and this.' " Not just the DCI but the entire executive branch needed help from Congress in addressing the questions of counterterrorism strategy and policy, looking past day-to-day concerns. Members of Congress, however, also found their time spent on such everyday matters, or in looking back to investigate mistakes, and often missed the big questions—as did the executive branch. Staff tended as well to focus on parochial considerations, seeking to add or cut funding for individual (often small) programs, instead of emphasizing comprehensive oversight projects.

Madam President, my hope is when we finish this bill—it looks as though next week, realistically at this point—we will then turn to the work of reforming congressional oversight. Members on both sides of the aisle are very committed to doing that.

Let me speak for a moment or two about an amendment I was able to tack on in committee. Again, I thank the leadership in the committee but also thank the entire committee because in the end, after we explained this and worked through this and walked through this, we decided this was an amendment that should be added to the bill, and it currently is in the proposed legislation.

Basically, one thing the 9/11 Commission Report said is we need to have a way to evaluate our intelligence structures. It is important as we pass this reform legislation, the most significant reform of intelligence since 1947, to build into it some sort of look-back provision. That is what we have tried to do with my amendment. I am glad the committee has agreed with this and has been able to go along with this.

Basically, it requires the GAO to give a report in 2 years, an independent objective look at what we have done—have we been successful? Have we failed? Do we need to take away a little bit here or add a little bit there? But an independent evaluation, nonpartisan look at exactly what we have done to make sure it is working. It is too important to not get it right the first time.

For example, the 9/11 Commission found a need-to-know culture of information protection rather than a need-to-share culture of integration. The GAO review can indicate whether adequate mechanisms have been put in place to change this culture and be more productive and better, long term, for U.S. intelligence.

I thank the committee for its hard work. I thank the two leaders for their hard work. I thank this entire body for approaching this challenge in a very nonpartisan way.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I commend the Senator from Arkansas for the diligence with which he approached the hearings throughout the August recess and the writing of this important legislation. I very much appreciate the comments of the Senator from Arkansas. He is always generous to me, as well as to the ranking member. We would be remiss if we did not thank him for his contributions to this bill. He was terrific about redoing his schedule throughout the August recess to participate in our numerous hearings. He was instrumental in drafting provisions of the bill including the requirement for the GAO report. I recognize his hard work and leadership and thank him for his kind comments.

The PRESIDING OFFICER. The Senator from Florida.

AMENDMENT NO. 3797

Mr. GRAHAM. Madam President, I send to the desk the amendment consistent with the statement I have just made and ask for its immediate consideration.

The PRESIDING OFFICER. The pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Florida [Mr. GRAHAM] proposes an amendment numbered 3797.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the authorities with respect to the national intelligence centers)

On page 94, line 14, insert before the period the following: ", whether expressed in terms of geographic region, in terms of function, or in other terms".

On page 95, line 3, insert after the period the following: "Each notice on a center shall set forth the mission of such center, the area of intelligence responsibility of such center, and the proposed structure of such center.".

On page 96, line 7, insert "of the center and the personnel of the center" after "control".

On page 96, between lines 8 and 9, insert the following:

(5) If the Director of a national intelligence center determines at any time that the authority, direction, and control of the Director over the center is insufficient to accomplish the mission of the center, the Director shall promptly notify the National Intelligence Director of that determination.

On page 97, between lines 2 and 3, insert the following:

(5) develop and unify strategy for the collection and analysis of all-source intelligence;

(6) integrate intelligence collection and analysis, both inside and outside the United States;

(7) at the discretion of the NID develop interagency plans for the collection of all-source intelligence, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agencies intelligence collection activities, recommendations for intelligence collection plans, and assignment of departmental or agency responsibilities;

(4) ensure that the collection of all-source intelligence and the conduct of operations are informed by the analysis of all-source intelligence; and

. On page 99, between lines 20 and 21, insert the following:

(g) REVIEW AND MODIFICATION OF CENTERS.—(1) Not less often than once each year, the National Intelligence Director shall review the area of intelligence responsibility assigned to each national intelligence center under this section in order to determine whether or not such area of responsibility continues to meet intelligence priorities established by the National Security Council.

(2) Not less often than once each year, the National Intelligence Director shall review the staffing and management of each national intelligence center under this section in order to determine whether or not such staffing or management remains appropriate for the accomplishment of the mission of such center.

(3) The National Intelligence Director may at any time recommend to the President a modification of the area of intelligence responsibility assigned to a national intelligence center under this section. The National Intelligence Director shall make any such recommendation through, and with the approval of, the National Security Council.

(h) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate line item for each national intelligence center under this section.

On page 99, line 21, strike "(g)" and insert "(i)".

Ms. COLLINS. Madam President, I thank our distinguished colleague from Florida, Senator GRAHAM, for introducing this amendment that clarifies the role of the national intelligence centers that the NID is empowered to create under our bill.

Senator GRAHAM, as former chair of the Intelligence Committee, and having just published a book on intelligence, provides this body with a very important perspective in this debate. His amendment strengthens the role of the national intelligence centers by placing them on par with the National Counterterrorism Center. This amendment provides much needed flexibility to the national intelligence director in establishing the centers. It allows the director to establish criteria for the centers to focus on vital areas of expertise.

The amendment also directs the national intelligence director to provide an annual report to Congress on the responsibilities of each of the centers that are created. This is an important aspect of this amendment. We can no longer afford to maintain the same percentage of Russian linguists today, for example, as we had during the Cold War. We have new wars, new challenges, new threats, and they demand new capabilities and responses as the 9/11 Commission Report indicated.

This amendment is well within the intent of the 9/11 Commission Report and recommendations as is evident by the letter that the Senator has from the chairman and vice chairman of the committee. I endorse the amendment on my side. I am happy to accept it. I thank the Senator for working closely with us.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I rise to support the amendment, as well, and to thank Senator GRAHAM for the characteristic thoughtfulness he brought to this matter and the very constructive additions this amendment makes to the bill and to clarify the authority and the importance of these centers.

This is one of the central contributions of this legislation and derivatively of the 9/11 Commission Report. It grows out of the outrageous failure to share information prior to September 11 that the 9/11 Commission Report documents in riveting detail.

As the Chair knows, we would establish on the passage of this, a national counter terrorism center to focus all of our efforts from all agencies—unity of effort, joint command operations, et cetera—in the fight against terrorism. We also take this basic idea and say to the national intelligence director, you can set up other centers to deal with other particular problems—maybe a specific threat like weapons of mass destruction or nuclear proliferation specifically or a country or subgroup that may be threatening—the United States, set up a center on North Korea or Iran—and you would guarantee, thereby, in these other centers that all the arms of our Government would know what the others would be doing, would be sharing intelligence and analysis of intelligence through these centers, being able to plan joint operations for the collection of intelligence, very critically important to inform the President and the officers of our Government how to deal with these crisis. Senator GRAHAM's amendment makes clear how important these centers are that the NID can create.

I stress, also, the centers are not permanent. They are part of the vision that comes out of the 9/11 Commission Report. The Collins-Lieberman bill before the Senate now is about modern management, 21st century management. If there is a problem, create a center with all your best people around the table planning how to collect and analyze intelligence about the problem, advise the President, Secretary of State, Secretary of Defense, whomever. Once that problem is resolved, that center can and should be terminated. That is the kind of flexibility involved.

Senator GRAHAM, as Senator COLLINS has said, is building on an extraordinary record of experience and very constructive leadership, outspoken, appropriately outspoken leadership in the area of intelligence, and has given us the benefit of that experience with this amendment. I thank him for it. I am happy to accept the amendment on our side.

The PRESIDING OFFICER (Mr. ENSIGN). The Senator from Maine.

Ms. COLLINS. Mr. President, I know of no further debate on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3797) was agreed to.

Mr. GRAHAM of Florida. Mr. President, I extend my deepest gratitude to Senator COLLINS and Senator LIEBERMAN and also my appreciation for the Senators' kind remarks.

Mr. LIEBERMAN. It is deserved.

I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KYL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3801

Mr. KYL. Mr. President, I ask unanimous consent that we lay aside the pending business so I may offer an amendment which is at the desk.

Before I finish, I want to say this on behalf of Senator CHAMBLISS and myself. My intention is to speak on it now, then come back to it—pursuant to an agreement that will be worked out with the managers of the bill—sometime early tomorrow afternoon, and people who are opposed to it will have been able to come to the floor and debate it. So we will talk on it right now for a little while, but the purpose for proceeding now is to get it pending so we can later reach an agreement and set it for debate at a later time.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself, Mr. CHAMBLISS, and Mr. DOMENICI, proposes an amendment numbered 3801.

The amendment is as follows:

(Purpose: To modify the privacy and civil liberties oversight)

On page 52, strike beginning with line 21 through page 56, line 8.

On page 154, strike beginning with line 8 through page 160, line 11 and insert the following:

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g); and

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall periodically submit, not less than semiannually, reports—

(A)(i) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) to the President; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee; and

(C) request information or assistance from any State, tribal, or local government.

(2) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board may submit a request directly to the head of the department, agency, or element concerned.

On page 164, strike beginning with line 21 through page 170, line 8.

Mr. KYL. Mr. President, neither the 9/11 Commission nor the Senate Intelligence Committee, nor anyone else that I am aware of, has said the problem leading up to the attack of 9/11 was due to too much intelligence. The problem, obviously, arose because we didn't have enough intelligence. We could not gather enough information in a timely way to put together all of the possibilities—some say connect the dots—in order to predict that a particular kind of attack was going to occur on that day.

We have had a lot of good, constructive suggestions from the 9/11 Commission, from the Senate Intelligence Committee, from the administration, from the work of the Governmental Affairs Committee, and from other commissions in trying to understand why we didn't have enough intelligence and why we could not put all of this together. Many of the recommendations of the Commission and the legislative solutions in the proposed bill try to correct that problem of not having enough good intelligence.

None of the problems identified suggested that we had too much intelligence and the problem was that people's civil liberties were somehow being jeopardized, or that their privacy rights were being jeopardized. Nobody has ever said that was a problem.

Subsequent to 9/11, we passed the PATRIOT Act. It has been signed into law and most law enforcement officials, the administration, and others argue persuasively, I think, that it has done a lot to help them win the war on terror by collecting additional intelligence. Some have concerns about some of the provisions of the PATRIOT Act with respect to civil liberties or privacy rights. But those are issues that have come up subsequent to 9/11.

My point is that the problem before 9/11 was not having too much intelligence and that jeopardized people's privacy or civil rights. Therefore, it comes as a great surprise to me that there is such a huge emphasis in the committee bill on privacy, civil rights, on having an ombudsman to protect people's rights, on having such an emphasis within the national intelligence directorate on these subjects, having a special board that would look into it, with subpoena powers, outside the intelligence community, and so on. It is my considered judgment, having served on the committee for 8 years, and having heard testimony from a great many people, including Richard Clark, by the way, who testified that risk aversion was one of the key problems leading up to 9/11—it is my judgment that the overkill of all of these provisions in the bill is a fatal flaw in this legislation, which must be corrected, or else what we would have done is to rearrange the bureaucracy here, putting a person in charge as the national intelligence director and making some other changes but crippling his effort and the efforts of the intelligence collection gatherers, analysts, and others in their ability to protect us by gathering intelligence.

Risk aversion, which is a big problem today, will be a huge problem in the future because, in addition to the people today who are looking over the shoulders of the intelligence community, we will have a whole array of new entities with great powers looking over their shoulder; and all of the effort that we are going through to try to begin saying that people should think outside the box, should be bold, innovative, and imaginative, that we need more human intelligence, and that those human intelligence agents are going to do things to gather more intelligence—we should have people who are willing to think outside the box. All of that is going to be significantly jeopardized because of the risk aversion that will be blanketed over all of the community with all of these different entities saying, wait a minute, we understand you are trying to collect intelligence, but we have people's civil rights and privacy rights and all the rest to be concerned about as well.

Of course those are legitimate concerns. That is why we have entities today that help to ensure that privacy and civil rights are not jeopardized. It is enough. This bill creates so many new opportunities for people who object to intelligence gathering and analysis in the way we know it needs to be done that they are going to be able to ball up forever any ability to get meaningful intelligence if we are not careful about how we construct this bill.

Let me tell you a little bit about what I am talking about. Here is a bit of background. Risk aversion—we understand what it means. It was testified to by people such as Richard Clark and others before the Intelligence Committee as the mindset which exists if you do anything out of the ordinary, if you go against the grain, if you collect by unorthodox measures, if you analyze intelligence in a way that might be contrary to the superiors above you in the organization, or to what somebody in Congress or somebody else wants to see, or if the actions that you take have some degree of risk associated with them—either political risk or legal risk, or certainly operational risk in terms of casualties and the like—therefore, because of all of these things there is an aversion to taking those risks.

Government employees who have a career, who have their retirement in mind, and who want to continue to work with the agency want to be sure they are able to continue their careers, do their jobs, and not, because they perhaps work outside of the box, be penalized for doing that.

Agent Rowling of the FBI talked about this in her inability to get the FBI to act on a warrant request she sought to look into Zacarias Moussaoui's computers. One of the reasons they didn't act was out of a "political correctness"—their term, not mine—that concerned them about the view that it would look like they were going after somebody on the basis of racial profiling, or some kind of profiling, rather than because they were under suspicion of committing a crime.

This is the kind of risk aversion that everybody agreed was part of the problem with the intelligence gathering and analysis prior to September 11. How do you make that situation worse? You do it by adding new layers of people who are second-guessing these intelligence agents and analysts. There are enough people second-guessing them already, imposing the legal and political layer or filter of approval of the actions of the people in the field. But what the bill does is to create whole new layers.

First, it follows a recommendation of the 9/11 Commission to create some kind of outside board, but goes far beyond the 9/11 Commission recommendations in empowering this board with subpoena power, literally the authority of this outside board, that is not within the intelligence community at all, a citizen board, to haul in any agent anywhere in the world and grill him about what he did or did not do or what he concluded or did not conclude, with no guidance whatsoever. This is a recipe for disaster.

In addition, as if that were not enough, of the six assistant directors of the national intelligence directorate, fully a third of them, two out of the six, have nothing to do with intelligence collection or analysis; they are the privacy and civil rights division.

First, one wonders why those are not the same thing and, second, why you would have to have two out of the six directorates specifically charged with this responsibility. We already have an inspector general whose responsibilities include any situation in which an agent or agency went beyond legal authority or beyond other appropriate authority in the conduct of his or her business. But in addition to the inspector general, in addition to the officers who currently exist in each of the agencies of the intelligence community—virtually all of them—to deal with privacy and civil rights concerns—these already exist—we create two new directorates with this legislation: this outside civilian board and an ombudsman.

In looking through the ombudsman's responsibilities, for example, pity the poor intelligence agent who raises a question that causes this ombudsman to have to question him.

This is not even to get into the congressional oversight which we want to enhance. Our working group, which is developing the improvements to the Intelligence Committee operation, will be soon, I think, be making a recommendation to the body, either in conjunction with the underlying bill or as an amendment to it, that will also fold in enhanced congressional oversight.

We want enhanced congressional oversight, but it is a double-edged sword because it has been abused in the past and can be abused in the future.

When Members have not intelligence as their first priority but questioning somebody within the intelligence community, they can be pretty hard on the intelligence community. We can go all the way to the Church Commission in 1976 to see what kind of damage that can do. So we need to be careful about this congressional oversight, but it is going to be enhanced. We are going to improve our ability to oversee the intelligence community.

In addition to the offices that exist today, and in addition to the inspector general, and in addition to the enhanced congressional oversight, we are creating two more directorates, an outside board, and an ombudsman, all of whom have essentially the same general responsibility of questioning whether the intelligence agents, agencies, analysts, and others are doing their job properly. Then we will ask ourselves why we could not get anybody to think outside the box, to be forward leaning, to try to be aggressive in collecting intelligence, why everybody was meekly following a very single straight line.

The fact that we are creating a national intelligence director creates a bit of a problem in this regard in the first place because instead of having a wider array of entities involved, each with their own points of view, sort of the devil's advocate concept recommended by many, including the 9/11 Commission, to get out of a single-channel orientation group-think, we are making the problem worse, in my view, by creating this single national intelligence director.

If you want a career in the agency, you better not run afoul of what the director wants and what his views are. That is the reality of bureaucracy, and it exists in every agency of the Government, not just the intelligence community. But in the intelligence community, it is particularly important because we want people who are willing to question, to go against the grain, to disagree with their boss, to take a risk.

If we look back at President Clinton's directives to the intelligence community, he tried to be forward leaning, especially with regard to al-Qaida and Osama bin Laden. To paraphrase, in effect what he said is we have to do everything we can to try to get these guys. Repeatedly, efforts were made to bring to his attention operations that would either improve our intelligence or operationally deal with al-Qaida and Osama bin Laden. They were shot down by the Pentagon, by the Secretary of State, by the National Security Adviser, by the lawyers, by the intelligence community itself, the Director of the CIA. Every time we tried to do something, almost, somebody said this is too risky; we cannot do it. That was why the 9/11 Commission, the Senate Intelligence Committee, and many other observers have said we have to get out of this stultifying risk-aversion environment where people are afraid that somebody is looking over their shoulder and is going to jump on them if they do anything that is the least bit out of the ordinary or risky. We have to have the out of the ordinary and risky if we are ever going to defeat this very unconventional enemy.

What does the bill do? It does not try to solve the problem; it makes it far worse. The purpose of our amendment is to say we will follow the 9/11 Commission recommendation and set up this outside commission, but for Heaven's sake, let's not give it the kind of subpoena power—Congress already has that, the inspector general already has the ability to look into all of these things. We do not need an outside board of five, or whatever, people accountable to nobody with the ability to totally disrupt what the intelligence community is doing.

It is fine to report to Congress, to analyze what they think the situation is and let us know what their concerns are. But that is far different from operationally getting right down into the bowels of the organization with hands that can extract anything, classified or not, subpoena anybody, whether in Afghanistan or Langley or wherever, and publicly question what is being done.

That is the first part of the amendment.

The second part of the amendment is to say we do not need all these new entities given the fact we already have existing civil rights and privacy controls. I do not want to be misunderstood. It would be very easy to characterize or mischaracterize what we are trying to do by saying these are people who do not care anything about civil rights; these are people who want the agency to run roughshod over American civil rights, and people can get pretty revved up about that very quickly.

Nothing could be further from the truth. The folks who are understandably going to put a high priority on protecting civil rights need to balance their legitimate concerns about civil rights with a concern about the lives of American citizens, to balance the legislation that is supposed to help fix the problem in such a way that we do not put so many constraints on our intelligence community that it can't do its job.

One of the biggest problems identified, this problem of risk aversion, will be horribly exacerbated if we simply blindly follow the recommendation of those who brought this bill to the floor—and I understand there were a lot of compromises made in order to get unanimous approval out of the committee, but sometimes getting unanimous approval is the wrong goal. Sometimes you need to make tough choices and you need to reject proposals that are offered by people who then agree to vote for the overall bill if they get their amendment in the bill. That is what happened with this bill, and there are too many little amendments that got in which, when added up, are going to create a huge problem with our intelligence community with respect to this issue of risk aversion.

I cannot stress strongly enough, and this will be my final point, our goal ought to be to improve our intelligence collection, to improve human intelligence, to improve analysis, to foster a sense within this community that they do not have to just follow the narrow channel of group-think that was criticized so strongly by the 9/11 Commission, that they do not have to feel risk averse, that they can take a chance sometimes because we need people to be imaginative and innovative and think about possibilities that before 9/11 we could not have even dreamed of.

I know now some people like to go back and ask: Why did you not think up the fact that people could fly planes into these buildings? Well, one reason was because as soon as one starts thinking about those kinds of things, somebody is going to come down on them like a ton of bricks and say: Get back to your job and stay within the channel here. We do not have time for that kind of fantasizing. You are living in a fantasy world.

We have to have people who are willing to ask these tough questions and think in ways that they are not going to get slapped down when they do. The sure recipe, the prescription for that occurring is by piling on layer upon layer of outside groups, ombudsmen, civil rights, privacy divisions, all of these groups that are duplicative of what we already have, to call into question what our agents and analysts are doing.

There is simply no need to have so many people performing the same task, which, in any event, does not add to intelligence, but, by its very nature, is designed to restrict intelligence activity. Surely, we can protect civil liberties and privacy without setting up a situation in which it is going to be incredibly difficult for the intelligence community to effectively perform its mission.

After all, our chief objective is to make it easier to predict and prevent a terrorist attack, not more difficult.

Excessive oversight will result in our intelligence officers being more cautious than they should be, and deter them from taking the risks that may be necessary to keep our country safe.

Indeed, an aversion to taking risks, even when they should be taken, already plagues our intelligence community. Time and time again, this has contributed to intelligence failures, most recently, of course, 9/11 and the intelligence community's claims about Saddam's weapons of mass destruction.

There are numerous reasons for this culture of risk aversion—unclear authorities, legal restrictions, and excessive oversight are among them.

The deterioration of our intelligence community's clandestine service offers a good example.

According to the 9/11 Commission's report, James Pavitt, the head of the CIA's Directorate of Operations, recalled that covert action had gotten the clandestine service into trouble in the past, and he had no desire to see it happen again.

The "trouble" he referred to was at least partly the result of the 1973 Church Committee hearings in Congress. Added to that were the restrictive guidelines promulgated by then-CIA Director John Deutch in 1995, which severely limited the ability of CIA case officers to meet with and recruit foreign nationals who may have been involved in dubious activities or have blood on their hands.

The end result was out intelligence community's inability to penetrate al-Qaida's command structure. Before 9/11, we had not one source inside that command structure. Unclear authorities, excessive oversight, and burdensome restrictions prevented our people on the ground from being effective.

I recognize that privacy and civil liberties are substantively entirely different matters. However, the end result of unnecessary bureaucracy, restrictions, and excessive oversight will be the same. We will cultivate a culture within the intelligence community that makes it less likely that people will be willing to do the jobs we are asking them to do, and more likely that they will want to "play it safe."

My amendment would very simply delete sections 126 and 127, which require officers for privacy and civil liberties with the National Intelligence Authority; it would strike section 212, requiring privacy and civil liberties officers with a long list of Executive Branch departments and agencies; and it would modify the Privacy and Civil Liberties Oversight Board established by section 211.

The National Intelligence Authority does not need three individuals assigned to the same task. The IG of the National Intelligence Authority will be in place to ensure privacy and civil liberties receive adequate attention and oversight.

Similarly, it is redundant to require privacy and civil liberties officers within almost every national-security related department and agency.

My amendment would retain the Privacy and Civil Liberties Oversight Board, as the 9/11 Commission recommended. However, it would limit Board's ability to interfere in the activities of relevant departments and agencies.

I hope that Members will support this amendment. It follows the 9/11 Commission's recommendations with respect to privacy and civil liberties, and ensures adequate oversight and protections, but does so without hamstringing the community.

I urge my colleagues when we debate this amendment further tomorrow to please read the bill, look at the relevant portions of the 9/11 Commission recommendations, look at the testimony of those who have raised this kind of question and ask whether the bill as presented is not a little bit out of balance—I contend a great deal out of balance.

I do not cast any aspersions on the people who worked so hard to bring this bill to the Senate floor. There are not enough compliments for the Senator from Maine and the Senator from Connecticut for the hard work they have done and all of the others who have worked so hard on it. This is not in any way meant as personal criticism, but I fear if we do not very carefully analyze this and try to correct it—and remember, that was part of what this was all about: let's get the bill to the floor; we can always make corrections here. This is the time to do it. We have not written a bill on the floor for a long time, but this is too important not to take the time to do right.

I urge my colleagues, let us not make the mistake of rushing forward with this, putting a rubberstamp on the committee's bill because we have to do something before we leave on October 8. We will spend years ruing the day we took this kind of action if we are not careful about what we do.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I ask unanimous consent that the pending amendment of Senator KYL be laid aside for purposes of proposing additional amendments.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3806

Mr. McCAIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, and Mr. LIEBERMAN, proposes an amendment numbered 3806.

Mr. McCAIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the transition between Presidential administrations)

At the end of the bill, add the following:

TITLE —PRESIDENTIAL TRANSITION

SEC. ___01. PRESIDENTIAL TRANSITION.

(a) SERVICES PROVIDED PRESIDENT-ELECT.—Section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by adding after subsection (a)(8)(A)(iv) the following:

"(v) Activities under this paragraph shall include the preparation of a detailed classified, compartmented summary by the relevant outgoing executive branch officials of specific operational threats to national security; major military or covert operations; and pending decisions on possible uses of military force. This summary shall be provided to the President-elect as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by adding after subsection (e) the following:

"(f)(1) The President-elect should submit to the Federal Bureau of Investigation or other appropriate agency and then, upon taking effect and designation, to the agency designated by the President under section 115(b) of the National Intelligence Reform Act of 2004, the names of candidates for high level national security positions through the level of undersecretary of cabinet departments as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

"(2) The responsible agency or agencies shall undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.".

(b) SENSE OF THE SENATE REGARDING EXPEDITED CONSIDERATION OF NATIONAL SECURITY NOMINEES.—It is the sense of the Senate that—

(1) the President-elect should submit the nominations of candidates for high-level national security positions, through the level of undersecretary of cabinet departments, to the Senate by the date of the inauguration of the President-elect as President; and

(2) for all such national security nominees received by the date of inauguration, the Senate committees to which these nominations are referred should, to the fullest extent possible, complete their consideration of these nominations, and, if such nominations are reported by the committees, the full Senate should vote to confirm or reject these nominations, within 30 days of their submission.

(c) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—

(1) DEFINITION.—In this section, the term "major party" shall have the meaning given under section 9002(6) of the Internal Revenue Code of 1986.

(2) IN GENERAL.—Each major party candidate for President may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

(3) COMPLETION DATE.—Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general election.

(d) EFFECTIVE DATE.—Notwithstanding section 341, this section and the amendments made by this section shall take effect on the date of enactment of this Act.

Mr. McCAIN. Mr. President, as I believe most of my colleagues know, Senator LIEBERMAN and I made a commitment to the families and the 9/11 Commission that we would ensure that all of their 41 recommendations were considered one way or another in this legislation. Because of the lack of scope of the Governmental Affairs Committee, there were several recommendations which were not considered.

Senator LIEBERMAN and I have already proposed and had adopted several amendments addressing the recommendations of the 9/11 Commission. There are three remaining issues. One of them is noncontroversial, which I will be proposing at this time and would hope would be voice voted since it is noncontroversial. Then there are two additional amendments concerning two additional recommendations of the 9/11 Commission. Both of those are controversial, so I would propose those amendments and then ask that they be set aside after they are placed for consideration. Then they would be disposed of after debate, discussion, or however the managers would like to dispose of those additional two amendments.

I hope I made myself somewhat coherent in that explanation.

The amendment that is at the desk addresses the 9/11 Commission's recommendation to improve the transitions between administrations. It is nearly identical to title IV of the 9/11 Commission Report Implementation Act, which we introduced on September 7, except that it does not include the security clearance-related provisions that were adopted by the Governmental Affairs Committee and are already in the underlying bill, S. 2845.

The Commission report states:

> Since a catastrophic attack could occur with little or no notice, we should minimize as much as possible the disruption of national security policymaking during the change of administrations by accelerating the process for national security appointments. We think the process could be improved significantly so transitions can work more effectively and allow new officials to assume their new responsibilities as quickly as possible.

As recommended by the Commission, this amendment is designed to help ensure an incoming President-elect has his or her national security team in place during a transition between administrations. The amendment would direct the outgoing administration to provide the President-elect, as soon as possible after the general election, a detailed, highly classified summary of current threats to the national security, major military and covert operations, and pending decisions on possible uses of military force.

It also provides that the President-elect should submit to the agency responsible for background checks the names of possible candidates for high-level national security positions as soon as possible after the date of the Presidential election. In turn, it requires that agency to undertake and complete, to the fullest extent possible, the background investigations necessary to provide appropriate security clearances to these individuals by the date of inauguration.

Finally, it urges the Senate to consider the nominations of top national security appointees as soon as possible, preferably within 30 days of the submission of a nominee.

As the chairman of a committee which has responsibility for the confirmation of many Presidential nominees, I assure my colleagues that I consider the Senate's advise and consent responsibilities to be very important. This amendment is not proposing that we shirk our duties in any way but that we act in the most efficient manner possible to thoroughly review the nominees to national security-related positions and allow for their confirmation so they can carry out the very important duties to which they are charged.

I recognize that some, including administration officials, would prefer that we go further. It has been suggested and I believe the House bill even proposes that if the Senate has not voted to confirm a nominee within 30 days after the nominee's name has been submitted, the President alone should have the power to make that appointment. I, for one, cannot support such a proposal, and I doubt that it would have the support of the majority of Members in this body.

Let me also point out that this amendment does not include the Commission's recommendations that the Senate should not require confirmation of such national security executive appointees below executive level 3. One of the reasons our amendment does not address that particular proposal is that upon review of such positions, we learned that it would eliminate the Senate's advise and consent duties for many important security positions that we believe merit the Senate's action. Executive level 4 includes all of the Assistant Secretary positions, many of which one would argue are important national security-related positions. Examples of these positions include the Assistant Secretary of Defense for Strategy and Threat Reduction, the Assistant Secretary of Defense for International Security Affairs, the Assistant Secretary of Defense for Force Management Policy, and others.

We believe that instead of removing the Senate's advise and consent obligations, a better approach would be for the Senate to fulfill its obligation in as expeditious a manner as possible. We hope this body will make a greater effort to hold confirmation hearings and report those national security-related nominations to the full Senate for swift consideration. To help spur swift Senate consideration, this amendment includes a sense of the Senate urging the President-elect to submit the nominations for high-level national security positions to the Senate by the date of the inauguration. It also calls for Senate committees to hold nomination hearings and consider these nominations to the fullest extent within 30 days of their submission.

The amendment before the Senate is but one proposal that we need to move forward. The more critical proposal which we still need to act on is congressional reorganization and oversight over intelligence and homeland security. As the Commission very directly pointed out, not only are Government agency reforms needed, so too are institutional reforms within Congress. The Commission went so far as to call congressional oversight as "dysfunctional."

I remain hopeful that the bipartisan working group tasked by the leadership to develop a proposal for congressional restructuring will be successful. We owe it to the American public to fulfill our collective responsibilities. These are not normal times. We are at war.

I just want to say again, as a member of the Armed Services Committee, I have seen particularly the Defense Department, as well as other national-security-related positions, literally vacant for months and months and months. This is really not an acceptable situation, and it has grown worse and worse. Background security checks have lengthened in their time. The Senate doesn't get moving until a couple of months after we are in session. It is not fair. It is not fair to the nominees, it is not fair to the country, it certainly is not fair to the Departments that are deprived of the services of a new President's team. So I hope we will support this amendment.

I do not believe there is any controversy, so I ask for a voice vote before I move to a second amendment.

The PRESIDING OFFICER. Is there further debate on the amendment? The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am proud to be a cosponsor of this amendment with Senator McCAIN. This, again, is part of our attempt to implement through legislation as many of the recommendations of the 9/11 Commission Report as we possibly can.

This is a critical one. The Commission made a finding not usually focused on, as part of its work, that there is a danger because of the slowness of the transition from one administration to the next that America will be vulnerable. We have an enemy out there, a terrorist enemy, that follows this kind of information. I don't make a causal statement now, but the fact is that it was in 1993, the first year of the Clinton administration, when the World Trade Center was first attacked by terrorists with a truck bomb. And it was 2001, of course, when the Twin Towers and the Pentagon and other targets were attacked, in the first year of the Bush administration.

These are very good recommendations. I do want to point out simply that the underlying bill incorporates a related recommendation by the Commission to consolidate security clearance investigations in one agency and encourage reciprocity among agencies with respect to those clearances, which should help streamline what is now a frustratingly Balkanized system for determining who can have access to sensitive information.

This is very constructive. I do not believe it is controversial at all.

To reiterate, this amendment will help ensure that our vital national security capabilities do not suffer undue disruption during a presidential transition.

The 9/11 Commission recommended several measures to provide a swift hand-off between incoming and outgoing national security teams during a change in presidential administrations, and this amendment reflects those recommendations.

First, it directs the outgoing administration to provide the President-elect with a detailed, classified summary of critical operational threats, including major military or covert operations and pending decisions on the use of military force. The most important member of the national security apparatus is the Commander in Chief. This provision will help the President-elect begin focusing on these issues, and considering any imminent high stakes decisions that might need to be made, well in advance of the day he or she takes office.

The amendment also includes several measures to help assure that the President-elect will have a qualified team of national security advisors in place early in the new administration and who are able to hit the ground running.

It calls on the President-Elect to submit the names of likely high level national security personnel for security clearances as soon as possible after the election, and directs the appropriate Federal agency or agencies to complete the necessary investigations for those clearances as quickly as possible, preferably before the inauguration.

The amendment also urges the administration to submit nominees for the top national security positions by Inauguration Day and, if it does so, urges the Senate to act on those nominations within 30 days wherever possible. I think this language is a useful reminder to both the executive branch and the Senate that we should act to fill these positions with all deliberate speed—mindful that delay has costs, but dedicated as well to careful selection and review of nominees for these sensitive positions.

Finally, the amendment would allow major party candidates to seek security clearances for prospective transaction team members prior to the election, with the goal of having those clearances available the day after the election.

I should note that the underlying bill already incorporates a related recommendation by the Commission to consolidate security clearance investigations in one agency and encourage reciprocity among agencies with respect to clearances. This should help streamline what is now a frustratingly balkanized system for determining who can have access to sensitive information.

We do not include the Commission's recommendation to eliminate Senate confirmation for national security nominees below the Executive Schedule III pay grade. This category would include many Assistant Secretaries with critical policymaking responsibilities. Given the need for strong Congressional oversight of the intelligence community and other national security operations, it does not seem wise to remove this important layer of Congressional review and accountability.

I believe this amendment helps ensure that we do not loosen our footing in the war on terrorism at moments of presidential transition. I urge my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I join Senator LIEBERMAN in commending Senator McCAIN for offering this amendment. It would make several changes to the Presidential transition process, changes that are consistent with the recommendations of the 9/11 Commission.

The Governmental Affairs Subcommittee, chaired by Senator VOINOVICH, held a hearing on this issue at which two of the Commissioners, Fred Fielding and Jamie Gorelick, discussed how the current transition process does not serve our country well in the handing over, the transitioning of important national security decisions from one administration to another. One reason is that it is such a slow process to get the new administration's team in place.

I believe this amendment would greatly improve the process. I know of no opposition to it. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate on amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 3806) was agreed to.

The PRESIDING OFFICER. The Senator from Arizona.

AMENDMENT NO. 3807

Mr. McCAIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The bill clerk read as follows:

> The Senator from Arizona [Mr. McCAIN] proposes an amendment numbered 3807.

Mr. McCAIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in Today's RECORD under "Text of Amendments.")

Mr. McCAIN. Mr. President, this amendment may be subject to more debate and discussion and may require a recorded vote. I intend to propose this amendment, discuss it, and recognize that there will be further discussion about this amendment.

This amendment addresses the terrorist travel and screening sections of the 9/11 Commission report. Contained in this amendment are the recommendations found on pages 383–390 of the 9/11 Commission report. The text of this amendment is nearly identical to Title VI of S. 2774, which was introduced September 7.

In addition to working with the Commission on this amendment, Senator LIEBERMAN and I have sought the advice and counsel from as broad a range of interested parties as possible. Meetings have been held to address the concerns of many of the interested groups. While some may prefer that we do not address these provisions, that is simply not an option. We must act one way or the other on all of the recommendations in the Commission report.

Despite the hard work by the people at the Department of Homeland Security, it is apparent that our Government has just begun to carry out some of the reforms necessary to prevent terrorists from entering our country. Much remains to be done to target terrorist travel, combine our multiple screening systems and ensure that identification documents used to enter this country or to be used as feeder documents are trustworthy.

Additionally, more must be done to improve the training we provide to our immigration and consular officers. These people represent the first line of defense in the security of our borders. We must ensure that these officers have access to the best training, technology and information available.

According to the Commission Report:

> Better technology and training to detect terrorist travel documents are the most important immediate steps to reduce America's vulnerability to clandestine entry.

By restricting terrorist access to travel documents, we increase the difficulty to travel into the United States. Our legislation aims to address this pressing issue by requiring the Secretary of Homeland Security to work with multiple Government agencies to develop a unified strategy for combining terrorist travel intelligence, operations and law enforcement into a cohesive effort to intercept terrorists, find terrorist facilitators, and constrain terrorist mobility domestically and internationally. All agencies responsible for guarding our Nation against terrorist attack must be on the same page in our approach to keeping terrorists out.

In order to efficiently screen those entering the United States, the multiple terrorist screening systems already in place must be integrated. Our legislation would require the Secretary of Homeland Security to develop a comprehensive screening system that brings together an integrated network of screening points that includes the Nation's border security systems, transportation system, and critical infrastructure and facilities. The Department of Homeland Security will begin to address this issue as they carry out the orders given in HSPD-11; however, our amendment represents a more comprehensive approach to uniting our various screening systems.

Fundamental to increasing the security of our borders is the quick and full implementation of US VISIT. I, like many of my colleagues, have been troubled by the pace in which this system has been rolled out. This legislation requires the Department of Homeland Security to develop and implement a plan for the accelerated and full implementation of the US VISIT system. Additionally, the amendment directs the Secretary of Homeland Security to implement a single, consolidated program designed to expedite the travel of previously screened travelers across the borders of the United States.

Lastly, this amendment would implement 9/11 Commission's recommendation that the Federal Government set standards for the issuance of birth certificates, driver's licenses, and other sources of identification. It has been well documented that many of the hijackers and their associates used counterfeit social security numbers and other fraudulent documents to obtain legal driver's licenses or State-issued ID cards—or were able to simply but fake ID's—which they then used to open bank accounts, rent cars, board airplanes, and attend flight schools. The ease with which these basic documents of American life can be counterfeited or obtained fraudulently is clearly a gaping hole in homeland security.

Since the September 11, 2001, terrorist attacks, at least half the States have passed legislation to tighten up their eligibility requirements and procedures for issuing driver's licenses and State ID cards. These initiatives are commendable and have improved security, but the report of the 9/11 Commission, and numerous reports by Federal agencies and other organizations have all concluded that additional measures must be taken to improve the security of driver's licenses and other forms of identification.

One study deserves special note. Over a 10-month period in 2002 and 2003, the Government Accountability Office—GAO—conducted an undercover investigation of State driver's license practices and procedures, visiting seven States—Arizona, New York, Michigan, South Carolina, Virginia, Maryland, California and the District of Columbia. In every jurisdiction, GAO investigators were able to obtain a driver's license or State-issued ID using fraudulent documents, including fake birth certificates and fake licenses from other States.

Our amendment would require birth certificates and driver's licenses to meet new minimum Federal standards in order to be accepted by a Federal agency for any official purpose. Minimum standards would be established for proof and verification of identity by the applicant, and to make the documents themselves more resistant to counterfeiting and tampering. The amendment also would require minimum standards for the processing of applications to address a widely recognized and growing problem of fraud within the offices that issue licenses and birth certificates, including the Arizona Department of Transportation's Motor Vehicle Division. The amendment would authorize grants to the States to assist them in meeting the new standards and to help States computerize and match their birth and death records.

To improve the security of social security numbers, the amendment would restrict the number of replacement cards that can be issued to an individual; require verification of records used to obtain an original social security card; and add death, fraud, and work authorization indicators to the social security number verification system. DHS and the Social Security Administration would also be tasked to take other steps to safeguard social security cards from counterfeiting and tampering, and increase enforcement against the fraudulent use of social security cards.

Today, incredibly, the Social Security Administration will issue any individual up to 52 replacement cards a year, a practice GAO has cited as increasing the potential for misuse and fraud. Roughly two-thirds of the 12.4 million social security cards issued by SSA in 2002 were replacement cards. I am also incredulous that the system SSA uses to verify social security numbers does not include notations for death, fraud, or work authorization. Employers often use the system to verify the social security number of new employees. Because there is no notation on the records for death, a social security number for a decreased individual used fraudulently by another person will be verified as valid.

This amendment would not mandate a national ID card. It would not infringe upon the right of the States to determine who can get a driver's license. It would not establish a national database with information on all drivers. And it would prohibit the establishment of a single design for driver's licenses and birth certificates. We believe it fulfills the recommendation of the 9/11 Commission without trampling on States' rights, privacy, or civil liberties.

We must face the fact, however, that rightly or wrongly, the driver's license is the basic form of ID in the United States. We use it to board airplanes, to purchase alcohol and cigarettes, to cash checks, and for a host of other purposes. We cannot ignore that the security of driver's licenses and State-issued ID cards affect homeland security. And we cannot ignore that driver's licenses can and indeed have been used as an enabler for terrorism. There is a legitimate Federal role in establishing minimum standards for these documents.

As the 9/11 Commission noted in its report, "At many entry points to vulnerable facilities, including gates for boarding aircraft, sources of identification are the last opportunity to ensure that people are who they say they are and to check whether they are terrorists.". Making these documents more secure will help make our country more secure, and help prevent another terrorist attack on our country.

In closing, this amendment was carefully crafted to translate the commission recommendations into legislative language. I applaud the work of the commission and fully believe that the reforms they suggest in this section of their report will go a long way towards increasing the security and safety of all Americans.

The Commission released their report in late July. Their recommendations are taking on a life of their own. The Commission report is the No. 1 nonfiction bestseller on both the New York Times and the Washington Post bestsellers list. The public is taking their recommendations very seriously, and so too should we. The people will hold us accountable for our failure if we don't enact these recommendations.

I would like to point out a couple of additional facts.

Today, each State has a different set of requirements for driver's licenses. Some States allow more than 30 different documents to be used by applicants as proof of identity. How in the world can an employee at the department of motor vehicles be expected to verify the authenticity of the applicant?

I am amazed what some States will accept as proof of identity in supporting documents. For example, one State allows a picture from a high school yearbook to be used as one form of identification. Another State allows the school report card to be used as long as it is less than 1 year old. A third allows a snowmobile permit to be used as a form of identification. Several States allow permits for concealed weapons to be used in getting a driver's license. One State still has licenses without a photograph of the license holder.

I recognize that we are on very interesting ground on this issue. On the one hand, we are trying to balance people's civil liberties. We are trying to make sure everyone has a right to privacy. We are trying to make sure there is no national database which would be used to follow people around the country. At the same time, if someone can fraudulently obtain a driver's license and that driver's license is used in obtaining access to places where acts of terror can be committed, we have to try to see that does not happen.

What we have done with this amendment is try to carefully balance the requirement for some better way of assuring identity and at the same time not infringe on Americans' civil liberties. That is why I believe this amendment probably will be the subject of some debate and discussion and will probably require a recorded vote.

If somebody has a better idea, I would like very much to hear it, but I do not know that there is a better idea. We have done extensive research, have had extensive discussions and an extensive amount of investigation building on the 9/11 Commission's findings and recommendations.

It seems to me that this is a reasonable approach. But to have the status quo in America where people can easily and fraudulently acquire identification which allows them then to be able to commit acts of sabotage, espionage, or terror and risk the lives of others is not a status quo by which I think we can abide.

I thank my colleagues for their consideration. I look forward to the debate.

If the distinguished manager would perhaps illuminate as to how she would like to handle this particular amendment, I would be agreeable to whatever the manager's procedure would be.

Ms. COLLINS. Mr. President, once again, I thank the Senator from Arizona for bringing up another series of recommendations made by the 9/11 Commission.

This is a very broad amendment. There is much in it which I support, and I agree with the Senator that there is a significant problem with fraudulent documents, including driver's licenses. Nevertheless, several groups, including the National Governors Association, the National Council of State Legislatures, and the American Civil Liberties Union, have expressed concerns regarding the degree to which some of the provisions in this amendment would infringe on the powers traditionally exercised by the States to set standards in the area of driver's licenses, for example. Therefore, I would like to suggest to the Senator that we continue working on these issues to see if we can resolve some of these concerns and that we set this amendment aside for the time being to allow for that.

Mr. McCAIN. I thank the manager. At this time I will not be proposing a further amendment.

Mr. REID. Mr. President, if I could get the attention of the manager of the bill.

The PRESIDING OFFICER. Does the Senator from Maine yield the floor?

Ms. COLLINS. I yield the floor temporarily.

Mr. REID. Mr. President, we have a number of Members in and out of the Chamber who want to know when they can offer amendments and/or speak. Senator CORNYN is here, Senator FEINSTEIN, Senator LAUTENBERG is here. I wonder if at least for these three can we get a queue set up so they will know when they can be expected to speak.

Ms. COLLINS. Mr. President, I suggest, based on the conversations I have had with all who are present in the Senate now, we first yield to the Senator from California, who is going to discuss her proposal while we are continuing to work at the staff level on the language of her amendment; that we then go to the Senator from Texas, who has two amendments he would like to discuss—again, we are still working with the Senator from Texas—and we then proceed to the amendment Senator LAUTENBERG has proposed.

Mr. REID. If I could be recognized to further this dialog, I wonder if we could then have a consent agreement that the Senator from California be recognized for 10 minutes, the Senator from Texas be recognized on his two amendments for no more than 15 minutes, and the Senator from New Jersey would be recognized after that.

I ask unanimous consent that the Senator from California be recognized for 10 minutes; following that, the Senator from Texas be recognized for 15 minutes; and Senator LAUTENBERG be recognized for 15 minutes to offer his amendment.

Ms. COLLINS. Mr. President, that unanimous consent agreement would work well from my perspective.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. We will now then go to the Senator from California.

The PRESIDING OFFICER. The Senator from California.

AMENDMENT NO. 3718

Mrs. FEINSTEIN. Mr. President, I thank the chairman and ranking member of the committee. I have indicated I am withdrawing one amendment, No. 3719, which clarifies the tactical intelligence part of the bill. I don't believe that is necessary. It has been withdrawn. I am also withdrawing amendment No. 3715 to strike the prohibition on co-location.

At this time I call up and then set aside amendment No. 3718.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from California [Mrs. FEINSTEIN] proposes an amendment numbered 3718.

Mrs. FEINSTEIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the intelligence functions of the Federal Bureau of Investigation)

On page 4, line 4, insert "foreign intelligence" after "means".

On page 4, strike lines 5 through 16 and insert the following:

(2) The term "foreign intelligence" means information gathered, and activities conducted, relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term "counterintelligence" means—

(A) foreign intelligence gathered, and activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities; and

(B) information gathered, and activities conducted, to prevent the interference by or disruption of foreign intelligence activities of the United States by foreign government or elements thereof, foreign organizations, or foreign persons, or international terrorists.

On page 6, line 12, strike "counterintelligence or".

On page 7, beginning on line 5, strike "the Office of Intelligence of the Federal Bureau of Investigation" and insert "the Directorate of Intelligence of the Federal Bureau of Investigation".

On page 8, between lines 6 and 7, insert the following:

(8) The term "counterespionage" means counterintelligence designed to detect, destroy, neutralize, exploit, or prevent espionage activities though identification, penetration, deception, and prosecution (in accordance with the criminal law) of individuals, groups, oı organizations conducting, or suspected of conducting, espionage activities.

(9) The term "intelligence operation" means activities conducted to facilitate the gathering of foreign intelligence or the conduct of covert action (as that term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(10) The term "collection and analysis requirements" means any subject, whether general or specific, upon which there is a need for the collection of intelligence information or the production of intelligence.

(11) The term "collection and analysis tasking" means the assignment or direction of an individual or activity to perform in a specified way to achieve an intelligence objective or goal.

(12) The term "certified intelligence officer" means a professional employee of an element of the intelligence community engaged in intelligence activities who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike ", subject to the direction and control of the President,".

On page 123, between lines 6 and 7, insert the following:

(e) DISCHARGE OF IMPROVEMENTS.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official as the Director of the Federal Bureau of Investigation designates as the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint direction, supervision, and control of the Attorney General and the National Intelligence Director.

(3) The Director of the Federal Bureau of Investigation shall report to both the Attorney General and the National Intelligence Director regarding the activities of the Federal Bureau of Investigation under subsections (b) through (d).

On page 123, line 7, strike "(e)" and insert "(f)".

On page 123, line 17, strike "(f)" and insert "(g)".

On page 126, between lines 20 and 21, insert the following:

SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) DIRECTORATE OF INTELLIGENCE OF FEDERAL BUREAU OF INVESTIGATION.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) HEAD OF DIRECTORATE.—The head of the Directorate of Intelligence shall be the Executive Assistant Director of the Federal Bureau of Investigation for Intelligence or such other official within the Federal Bureau of Investigation as the Director of the Federal Bureau of Investigation shall designate.

(c) RESPONSIBILITIES.—The Directorate of Intelligence shall be responsible for the following:

(1) The discharge by the Federal Bureau of Investigation of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Human source development and management by the Bureau.

(5) Collection by the Bureau against nationally-determined intelligence requirements.

(6) Language services.

(7) Strategic analysis.

(8) Intelligence program and budget management.

(9) The intelligence workforce.

(10) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) STAFF.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

Mrs. FEINSTEIN. I reiterate my strong support for this bill and the balance that has been struck by the committee in the drafting of this bill. It strikes the right balance. I am pleased to be an original cosponsor.

In my remarks on Monday, I mentioned I was going to be submitting an amendment concerning the relationship between the FBI foreign intelligence functions and the national intelligence director. I thank both the majority and the ranking member staff for working with my staff to work out this amendment. It will be worked out and it will be the chairman's intent to present this amendment for unanimous consent.

However, I will clearly state the intent of the amendment. The FBI functions as part of the intelligence community in the gathering, analyzing, and disseminating of information about the plans, intentions, and capabilities of our foreign enemies, including, most importantly, counter-terrorists. That effort, in my view, should be under the overall supervision of the national intelligence director.

Let me be clear, though, this amendment does not mean the national intelligence director should run or control operations inside the United States. When the FBI, under the operational control of the FBI director and the Attorney General, works as a foreign intelligence agency, it should do so as part of that community under the general guidance of the national intelligence director.

An excellent example of this issue is now part of the extensive record of structural intelligence failure prior to the September 11 attacks, the way the intelligence community handled, or I should say mishandled, the so-called Phoenix document information and the Moussaoui information. Here we had in two different places FBI agents acquiring factual information which is of clear foreign intelligence value: that foreign individuals, associated with foreign terrorist organizations, may have been learning to fly passenger planes. At the very same time, the rest of the intelligence community had information that al-Qaida was preparing to strike against the United States and also that there had been past consideration of the use of airplanes in an attack methodology.

Putting together these two disparate pieces of information is the business of an effective intelligence community. But it did not happen, in part, I believe, because the FBI part of the communication was not linked up with the Central Intelligence Agency and the National Security Agency parts of the community.

The bill before the Senate goes far toward remedying this by placing the FBI foreign intelligence elements under the overall supervision of the national intelligence director. I am concerned the bill presently contains ambiguities that, if left in, will cause confusion in the future. That is because the bill incorporates, with no change, current law which defines the role of the FBI intelligence activities. However, that law is confusing, it is internally inconsistent, and I believe it is the source of many of the problems which beset the FBI as part of the intelligence community.

This amendment does three basic things to fix this. I want the record to reflect that. It clarifies critical definitions in the law. It makes a small alteration in the current law to make clear that the term of art "counterintelligence" is a subset of foreign intelligence, not an alternative to foreign intelligence.

Second, it makes clear that when the FBI is engaged in law enforcement, it is not part of the national intelligence program or under the NID supervision, but removes the word "counterintelligence" from this so-called carve-out language. This is critical because this language in existing law was the confusing foundation upon which much of the wall between the FBI and the rest of the intelligence community was built.

This amendment creates a directorate of intelligence in the FBI. As written presently, the bill places the activities of the Office of Intelligence of the FBI clearly within the national intelligence program. This is good, but because the Office of Intelligence has no statutory basis, it could be rendered useless in the future if that office is removed or changed by a future FBI director.

This amendment renames the office the Directorate of Intelligence and gives it a clear basis in law.

Finally, this amendment introduces some clarifying language to ensure that the section governing "FBI improvements" is read to ensure that these improvements come as part of a larger, coordinated effort, led by the national intelligence director to improve the standards and practices of the entire intelligence community.

It does this by ensuring that the FBI Director's improvement program is guided by the national intelligence director. And it defines a "certified intelligence officer"—that is a term introduced for the first time in the underlying bill—to make sure that "certification" means meeting intelligence community standards, developed by the national intelligence director.

The bottom line is that the FBI's intelligence functions must be part of a larger effort, guided by a strong leader, and linked carefully with all the other agencies and Departments in the intelligence community.

There are still two parts of this amendment that are being worked out by staff. I appreciate their hard work very much and thank them. I also would like to thank the chair and the ranking member for their cooperation. I am very hopeful this amendment can later be adopted by unanimous consent.

I thank the Chair.

Mr. President, I ask unanimous consent that amendment No. 3718 be set aside for the present time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. CORNYN. Mr. President, I thank both managers of the bill, the chairman of the Governmental Affairs Committee and the ranking member, Senator LIEBERMAN, for the great work they are doing on this bill. I know it is not easy, but it is vital that we achieve the kinds of reforms the 9/11 Commission and the Senate Select Committee on Intelligence and others, over the years, have said would help make our Nation stronger.

Yesterday, I proposed an amendment to this bill which dealt with a relatively narrow area but one I think is certainly relevant to what the 9/11 Commission recommended and, indeed, to the ultimate purpose of making America a safer place. Unfortunately, it is one that tends to be overlooked. That does not have to do with our physical security, potential cause of death and injury to the American people on our own soil but, rather, a body blow to our economic security.

Indeed, one of the consequences of 9/11 was not just the terrible loss of life and injury but also the disruption to our economy, which resulted in chaos and many people being laid off work because of the economic disruption.

This amendment had to do with cyber-security. I know it is something we do not think about very much but, indeed, now that we are so dependent upon computers for our way of life, to enhance our productivity, to communicate with one another, to do business, we somehow perhaps take for granted that they will always be secure. And particularly when it comes to our water utilities, our communications systems, our transportation systems, and financial networks, there is a very real danger that cyber-terrorists, those who would try to attack and dismantle and disrupt our financial, transportation, communications, and utility networks could wreak a terrible blow to the American economy.

Now, my interest in this subject dates back several years to when I convened a panel in Texas, the State Infrastructure Protection Advisory Committee, as attorney general. We met hundreds of hours with both private and public sector participants, as well as people in the academic community, to try to figure out what we could do, No. 1, to identify what the problem was, and what we could do to make it better.

Well, what we found is that in many instances because of liability concerns, because of concerns about trying to achieve and maintain public confidence in one's business or product, that the private sector was much better prepared than the Government was for cyber-attacks.

I am pleased to say that Congress has begun to work to address this critical need for security in our computer networks by passing the Federal Information Security Management Act, or FISMA. Its purpose is to improve the information security of our computer networks and support Federal agencies by requiring top-to-bottom agency planning for information security and compliance with mandatory standards and benchmarks developed by the National Institute of Standards and Technology.

FISMA also requires Federal agencies to conduct an annual evaluation of their computer security programs and to submit an effectiveness report to the Office of Management and Budget, the OMB.

For several years, the House Government Reform Subcommittee, chaired by Congressman ADAM PUTNAM, the Technology, Information Policy, Intergovernmental Relations and the Census Subcommittee, has been working with the General Accounting Office to produce a report card for 24 Federal agencies to see how well they are complying with congressional intent as expressed in FISMA, the Federal Information Security Management Act.

What I would like to show you, Mr. President and my colleagues, is the report card that has been generated because I think it is indicative of the problems we have had and, indeed, the problems we still have, and how modest our improvement has been.

Indeed, you can see from this chart showing the Federal computer security report card, issued on December 9, 2003, that overall Governmentwide, Government agencies, when it came to security of their computer systems, got a D, not a grade any one of us would be proud to take home. But I must say, as bad as a D is, in 2003, it is better than the F that many agencies got in 2002, before Congress began to get involved in trying to upgrade the security of our computer networks.

But you can see, some of these agencies have improved from an F to a D. Indeed, the Department of Defense in 2002 had an F. In 2003, it got a D. The Small Business Administration went from an F to a C−. But we have some—the Department of the Interior, the Department of Agriculture, the Department of Housing and Urban Development, the Department of State—that in 2002 got an F and in 2003 got an F.

So I am not sure Congress is as successful as we should be or as we would like to be in getting the attention of the people who work in those agencies and who should be committed to carrying out this information security provision and protecting our Government computer systems from the potential of cyber-attack and the potential disruption to our economy.

But I want to say in conclusion on that matter how much I appreciate the willingness of the Senator from Maine, the distinguished chair of the Governmental Affairs Committee, and the Senator from Connecticut, the distinguished ranking member of that committee, to work with us and consider this amendment and, indeed, to agree that the amendment should go forward because I think this is an easily overlooked but, nevertheless, a very important part of our security.

Mr. President, I have two other amendments that have not yet been filed that I will obviously not call up but I would like to just preview for my colleagues. I have talked, also, to the chairman of the bill and the ranking member. We are going to continue to work with them and their staffs to try to make sure these matters can be worked out, if that is at all possible, much in the same manner we worked out this cyber-security provision.

These matters have to do with other recommendations of the 9/11 Commission. Here again, the job that is before us is vast, indeed, as reflected by the 41 different recommendations of the 9/11 Commission and the need for intelligence reform reflected in the bill before us.

But perhaps it is because of the perspective I have as a Senator from the State of Texas, which has the longest border of any State with the country of Mexico—and, of course, beyond Mexico on to Central America and South America—the source of many concerns relative to human smuggling and to enforcement of our immigration and other laws related to those issues.

First, we intend to offer an amendment to increase the penalties that can be assessed upon a successful prosecution for the crime of human smuggling. As the 9/11 Commission said: There is evidence to suggest that, since 1999, human smugglers have facilitated the travel of terrorists associated with more than a dozen extremist groups and that human smugglers clearly have the credentials necessary to aid terrorist travel. They also noted that many countries, because of their lack of security, make human smuggling an attractive avenue for terrorists in need of travel facilitation.

In terms of our southern border, Under Secretary of the Department of Homeland Security Asa Hutchinson has told me and others that there is no documented instance of a terrorist actually coming across our southern border, but the truth is, it is very porous. If the motivation is high enough and the price is right, the same person who can be smuggled across the border for economic reasons because they want to come to work in this country outside of our laws, someone from a country other than Mexico, perhaps an Islamic extremist, somebody who wanted to take advantage of that porous border would, indeed, hire a human smuggler to bring them across our southern border into the United States and do us harm.

It is important that our Federal policy and our criminal laws reflect both the strongest possible concern about this issue and express the will of Congress that human smugglers will be punished in a way commensurate with the threat they pose to the American people.

The truth is, we cannot ignore this issue and believe that it is just related to people who want to come here and work. Money talks. And where human smugglers exist, they will go to the highest bidder to deliver their services in a way that could indeed deliver terrorists on to our soil. That relates to one amendment on which we will continue to work with the distinguished chairman and ranking member and their staffs to see if we can work out an agreement.

The next amendment relates to another provision in the 9/11 Commission report. The Commission, under the subheading "Immigration Law and Enforcement," said:

> There is a growing role for state and local law enforcement agencies. They need more training and work with federal agencies so they can cooperate more effectively with those federal authorities in identifying terrorist suspects.

Again, on page 383 of the 9/11 Commission report, the Commission said:

> The challenge for national security in an age of terrorism is to prevent the very few people who may pose overwhelming risks from entering or remaining in the United States undetected.

This amendment, which we intend to file and call up later—and we will continue to work with the managers of the bill on it—has to do with the authority of State and local law enforcement authorities to detain a certain narrow class of persons who are illegally in the country. Those relate to what I would think are three noncontroversial categories: Those who are absconders—in other words, 80,000 felons who are in the country illegally and running from justice. We don't have the capacity to know exactly where they are now because we have, unfortunately, ignored the crisis in our immigration enforcement for many years.

Indeed, more than that, there are approximately, according to some guesses, between 300,000 and 400,000 people under final orders of deportation in the United States, and we simply don't have the Federal authorities sufficient to locate them and enforce final orders of deportation.

This bill would narrowly address those who are under final orders of removal, those who have signed voluntary departure agreements, and those who have revoked visas. It would not, as some previous legislation that has been filed both here and in the House, offer an opportunity for local and State law enforcement officials to enforce a whole broad range of our immigration laws. This relates to a narrow group who are absconders from justice, including convicted felons and others, and reaffirms the authority of State and local law enforcement both to enforce those violations in the normal course of carrying out their duties and will make sure that we get the army of additional law enforcement authorities to assist the current Federal authorities who are mainly located along our border region when it comes to our border security and homeland security interests.

Finally, this bill would direct the Department of Homeland Security to take custody within 48 hours of these persons so detained by State or local officials or else pay the locality to detain these particular class of aliens. Currently, the process is that once someone has been identified and perhaps detained for a violation of one of a host of our immigration laws, the common practice is to tell them to come back for a future hearing for deportation. It is no surprise to any of us that about 90 percent of them melt into the landscape and are never heard from again.

Simply put, we need to have law enforcement authorities at all levels—national, State, and local—join forces, as the 9/11 Commission recommended, to deal with this certain narrow class of people who are under final orders of deportation from our country, those who have signed voluntary departure agreements, and those who have had their visas revoked. These are people who have exercised any right they may have to due process and should have no further recourse.

I look forward to working with the manager and the ranking member and their staffs to try to see if we can work this out.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Texas for his comments. We look forward to working with him on his two additional amendments. We were pleased to be able to pass his first amendment to this bill last night. We appreciate his cooperation.

In consultation with the Senator from Nevada, the Democratic whip, I ask unanimous consent that the consent request previously entered into be altered so that Senator BYRD would be recognized for up to 25 minutes prior to Senator LAUTENBERG offering his amendment.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, Senator BYRD likely will not use that much time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

PEOPLE DESERVE THE TRUTH

Mr. BYRD. I thank the Chair. I also thank the distinguished Senator, Ms. COLLINS, and our distinguished whip, Mr. REID, who is always to be found on the floor or near it, always ready to assist us, any of us on both sides of the aisle. I thank the distinguished manager of the bill on this side of the aisle for his diligence, for his hard work always in his committee and outside his committee. He is ever ready.

Mr. President, I take the floor on a point of personal privilege on behalf of the people of West Virginia.

Growing up, we all heard the legend—which was probably mythical—of young George Washington. As the story goes, his father, after seeing a tree chopped down on their land, approached young George and asked if he was responsible. The story continues that the boy responded: "Father, I cannot tell a lie. I cut down that cherry tree."

The boy who grew up to be President knew the value of truth. Unfortunately, however, when it comes to Presidential politics these days, telling the truth is seriously out of style.

That point was brought home sharply to me last weekend when I traveled to West Virginia, where I learned of a scurrilous campaign being waged in West Virginia to scare voters—think of it—to scare West Virginia voters into registering and voting Republican. Incredibly, the weapon being brandished is the Holy Bible itself. If ever there were one book that should never be used for political gain, if ever there were one book that should never be the subject of lies and deception, it is the Bible, which I hold in my hand.

Over my 52 years of serving in the Congress, there have been occasions—few in number—when I brought the Holy Bible on the floor of the body in which I have spoken. I don't claim to be a minister. I would not be worthy of that title. But this is the Holy Bible. It is the King James version, first published in 1611 under the reign of King James I. I will only read this Bible at my house; I don't read any other Bible. Again I say, if ever there were a book that should never, ever be used for political gain, that should not be the subject of deception on the part of politicians, or anybody else, it is the Bible. Yet that is exactly what is happening today. I found, last weekend, that it was happening in West Virginia. I read somewhere that it was also happening in Arkansas.

Two weeks ago, the Republican National Committee sent a mass mailing to West Virginia suggesting that liberals—in other words, everyone but Republicans, I suppose—are out to ban the Bible. Get that: Out to ban the Bible. Can you imagine? They are out to ban the Bible. What a ridiculous claim. It is foolish on its face; it is absolutely ridiculous on its face. It is a flatout, no-doubt-about-it, silly, juvenile, sophomoric charge. The Republican National Committee is spreading this tripe—it is putrid, this tripe—to smear Democrats. The President ought to demand that the Republican National Committee apologize to the people of West Virginia.

The hypocrisy of the Republican National Committee's desperation tactic is an insult—an insult—to the intelligence of voters in my State. The ninth of the Ten Commandments, passed down from God to Moses, states:

> Thou shalt not bear false witness against thy neighbor.

What could be more false? What could be more false than an advertisement implying that so-called liberals want to ban the Bible? I never knew I was a liberal. When I came to this Senate, I was to the right of Barry Goldwater, and I always considered myself to be a conservative in most things—certainly most things, other than matters affecting the economy. The political hacks behind that blasphemous flyer should be required to reread the Book of Exodus. There is no free pass from the Commandments in an election year. They are still there. There is no waiving of the Commandments in an election year.

All West Virginians, from the northern tip of the State to the southern tip, from the east to the west, should be insulted by such dirty tricks on the part of the Republican National Committee. Paid henchmen who talk about Democratic politicians who are eager to ban the Bible obviously must think that West Virginians are gullible, ignorant fools. They must think that West Virginians just bounced off the turnip truck. They must think that spreading nonsense about banning the Bible is a sure-fire way to get votes in an election year. But the people of West Virginia are smarter than that. We are not country bumpkins who will swallow whatever garbage some high-priced political consultant makes up. West Virginians are smarter than that, and they deserve an apology from the Republican National Committee for this insulting mailing.

Here it is. Take a look at this. Those of you who are viewing this Senate floor through those electronic lenses, look at this: "The Bible, banned. This will be West Virginia."

I suppose the same flyer was used in Arkansas, with a few words changed from West Virginia. Here it is again: "If you don't vote—if you stay away from the polls—the Bible, banned."

Such tripe. That is what West Virginians think of that. As a Senator, I am appalled by the Republican National Committee's utter ignorance of the Constitution.

I am appalled, let me say it again, by the Republican National Committee's utter ignorance of this Constitution, the Constitution of the United States, which I hold in my hand. Our Constitution—let me say to the people of West Virginia and the people of Arkansas—our Constitution protects this Bible. So never fear, never fear that the Bible will be banned.

The first amendment begins:

> Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof. . . .

And yet this flier, paid for by the Republican National Committee, features a picture of the Bible, just as I have shown Senators—let me show it again—with the word "banned" across its cover. The people of West Virginia should not have to put up with such trash. It is a crass insult to the people and to their faith.

IRAQ

But false claims seem to be the modus operandi in politics these days. The truth gets tailored to fit the occasion. Nowhere is this more evident than on the subject of Iraq. Whether it be weapons of mass destruction or an imminent threat or mushroom clouds, the reason for the war changes faster than the weather. Talk about flip-flops. There you have it.

The White House said that our troops would be welcomed with flowers, and yet our soldiers saw mortar attacks and suicide bombings. The White House said the world would be with us in the war and the reconstruction in Iraq, but the coalition of the willing was never that large and has become the coalition of the wilting. How can the American people trust a White House that cannot get its stories straight? The flipping and the flopping from this slippery fish crowd is a sight to behold.

Even now, the White House is trying desperately to portray Iraq as a nation that is getting back on its feet. Listen to the September 29 Washington Post. The headline: "Growing Pessimism on Iraq. Doubts Increase Within U.S. Security Agencies."

Let me read just the first few paragraphs:

> A growing number of career professionals within national security agencies believe that the situation in Iraq is much worse, and the path to success much more tenuous, than is being expressed in public by top Bush administration officials, according to former and current government officials and assessments over the past year by intelligence officials at the CIA and the Departments of State and Defense.
>
> While President Bush, Defense Secretary Donald H. Rumsfeld and others have delivered optimistic public appraisals, officials who fight the Iraqi insurgency and study it at the CIA and the State Department and within the Army officer corps believe the rebellion is deeper and more widespread than is being publicly acknowledged, officials say.
>
> People at the CIA "are mad at the policy in Iraq because it's a disaster, and they're digging the hole deeper and deeper and deeper," said one former intelligence officer who maintains contact with CIA officials. "There's no obvious way to fix it. The best we can hope for is a semi-failed state hobbling along with terrorists and a succession of weak governments."

Yesterday's New York Times reports—what I just read was from yesterday's Washington Post—yesterday's New York Times reports that there have been 2,300 attacks by insurgents. They have been directed against civilians and military targets in Iraq in a pattern that sprawls over nearly every major population center outside the Kurdish north.

So there you have it—an average of 80 attacks against our forces each day. The situation in Iraq is far more dire and the future far more uncertain than White House officials are ever going to admit, and so the lives of America's sons and daughters are on the line in Iraq, and still we hear happy talk about success right over the horizon.

Misleading scenarios about Iraq or ludicrous nonsense about banning the Bible insult the values and the intelligence of West Virginians and the millions of other Americans who share the beliefs of West Virginians. Such stuff must not be tolerated. The people of this country know about honesty, and they must start demanding it from their leaders.

Mr. President, I yield the floor.

Mrs. LINCOLN. Mr. President, I thank the distinguished Senator from West Virginia for his remarks today. I have tremendous respect for his belief and his knowledge of the Constitution. I share that belief and I only hope my knowledge can at some time reach the level his is in terms of understanding and being able to expound on the Constitution that is such a treasure and a blessing for this country.

More importantly, I share in his belief and his execution in the teachings of the Bible. Like the Senator from West Virginia, I try very hard each and every day to follow the Ten Commandments, which are a cornerstone in the faith that we both practice in our Christian religion. I try hard to witness my faith each and every day in my actions and in my words. Among the Commandments, "thou shalt not bear false witness" is one I work desperately on. In our modern language, we know it as "do not tell lies," something we were taught by our parents and we were taught by our faith.

Now, I have not been in public service nearly as long as the Senator from West Virginia, but I have been around long enough to know that people say things in campaigns that come awfully close to breaking that Commandment. I have learned to turn the other cheek and brush aside the little white lies of political commercials and direct mail pieces. I do not know if brushing aside and turning that cheek at this juncture is the most appropriate thing to do, because I think we find ourselves at a time when that has definitely been taken to the extreme.

The mailing the Republican National Committee sent to the people living in my home State of Arkansas, as well as those in the State of West Virginia, goes beyond any political smear I have witnessed. I hope my colleagues in this great body, as members of that committee, would denounce such abusive action because I think it is completely inappropriate. To insinuate that members of the Democratic Party, simply because they are Democrats, would ban the Bible is absolutely absurd. It is outrageous, and it is outrageous that we in this Nation would stand for that.

I am a Democrat. I was raised in a Democratic family. But I also grew up with the opportunity and encouragement to find my own belief and to reach out and find out, Who am I? What do I stand for? What is it that I want to contribute to this great world?

I realized, not only as a Democrat but at a very early age, that I was first and foremost a Christian. I take that very seriously. I take my witness and my commitment to my faith as a part of my everyday walk. I try hard to walk my talk each and every day. I fight hard, both personally and professionally, every day to fulfill my witness to my faith, to care for those who are less fortunate than I am, to reach out and be kind to those who need kindness, to be able to look beyond the cover of what I might see in someone and look for the best of what God created in that human being as well.

I know that we are all a part of God's creation on this Earth. I know that my God is a loving God, one who believes in me and who wants everyone in this body to reach their potential. But I also know, through my faith, that reaching that potential means being able to have that same kind of unconditional Christian love for my fellow man.

It is amazing to me that we would see such action, such assumption, and such disregard for the intelligence of the people of our States.

My faith has always been an important part of my life because I was raised in a Christian family, with parents who had strong principles, who had tremendous love, and continue to, and an ability to share with me what that love could produce in my life if I, too, were willing to share it with others.

I worked as a youth group director while I was in college. I taught Sunday school while I worked here on the Hill as a staffer—in Washington, DC. I contribute time to homeless shelters here in DC, and at home, working with the Red Cross through many kinds of devastating natural disasters in my home State—finding incredible opportunities where I could provide that love and that assistance to my fellow man.

My husband Steve and I make sure our family is regularly at church, whether we are here in the Washington area or at home in Arkansas with our family. There is rarely a meal that goes by in my home where we don't all join hands and say a prayer of thanksgiving and gratefulness for all of the many blessings in our life. We end each day saying prayers with our boys when they are tucked into bed. We talk about the day's events and how, through those prayers, we can ask for the assistance for others and to improve ourselves and provide the unbelievable talents God has given us to be a great part of making this world a better place.

I am not the only one, as a member of my political party, whose faith is important to them. There are other members of my political party who are of other faiths who take their faith very seriously. There are other Christians in my political party who take their faith very seriously and act it as a real part of their everyday life.

It is unbelievable to me that the Republican Party would try to claim that members of my party would want to ban the Bible. What do they base that on? Where is their credibility to say that? What evidence is there that would lead them to say that and to use that in such an important part of what we stand for in this Nation, the political process of being able to elect our leaders? I don't know. I don't know where that comes from.

The Senator from Massachusetts, who is running for President, has told the American people that his faith is important to him as well. He says he is a man of God, and I believe him. Unlike some other political candidates, he has not sought to gain political advantage by boasting of his faith or wearing it on his sleeve, but I do believe his actions in defending so many of his fellow men, children, low-income families, the elderly, are certainly clear examples of how important his responsibility to his faith is to him.

Maybe he was raised in a region of the country where people are not so outspoken about their faith, just as they are more reserved in most other aspects of their lives. I was raised in the South where we love to talk about it, where it is an important part of who we are and we want to talk about it, where we like to hug and we like to be close. There is no doubt that there are differences in the regions of our country in how we express things. Sometimes my colleagues say I even need a translator because my accent is so thick. There is nothing wrong with the differences in the regions of this country. There is nothing wrong in the different ways we choose to show our faith. But there is something deeply wrong with people using the political process to accuse people of not being true to their faith.

The man from Massachusetts, maybe he is quiet, but less visible expressions of faith do not warrant such judgmental political statements from the Republican Party. I hope, I hope deeply, that the Republican Party, which has produced this pamphlet that was so well described by my colleague from West Virginia—I hope there will be an apology for their claims that Democrats want to ban the Bible and the inferences that Democrats, for some reason, cannot have a faith as close or as deeply held as the other party. I find that to be the pit, the absolute bottom of what is wrong in the political process.

I thank you, Mr. President, for the opportunity to come to the Senate floor and, even as a southerner, express something that maybe I am not as well equipped to express as others, but I promise you, it is not less heartfelt than any other Christian Member of this body.

I yield the floor.

Mr. LIEBERMAN. Mr. President, I thank the distinguished Senator from Arkansas and tell her, I, No. 1, never have any trouble understanding her, and, No. 2, I always enjoy giving her a hug.

Mrs. LINCOLN. I thank my colleague.

The PRESIDING OFFICER. Under the previous order, the Senator from New Jersey is recognized for 15 minutes.

Mr. LAUTENBERG. I thank the Chair.

Mr. President, I thank our esteemed friend and colleague, the Senator from West Virginia, for his words—always words of wisdom and words of rage when he sees such an affront to the basic tenets of our society.

Mr. BYRD. Mr. President, I thank the distinguished Senator.

Mr. LAUTENBERG. Mr. President, what is the pending question? Do we have an amendment pending?

The PRESIDING OFFICER. There is an amendment pending.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to lay aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3802

Mr. LAUTENBERG. Mr. President, I call up amendment No. 3802 and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The senior assistant bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG], for himself, Mrs. CLINTON, Mr. FEINGOLD, and Mr. CORZINE, proposes an amendment numbered 3802.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To stop corporations from financing terrorism)

At the appropriate place, insert the following:

SEC. . TERRORIST FINANCING.

(a) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to prohibit a United States person from engaging in transactions with a foreign country, where a determination has been made by the Secretary of State that the government of that country has repeatedly provided support for acts of international terrorism, such action shall apply to any foreign subsidiaries or affiliate, including any permanent foreign establishment of that United States person, that is controlled in fact by that United States person.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED IN FACT.—The term "is controlled in fact" includes—

(A) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(B) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(2) UNITED STATES PERSON.—The term "United States person" includes any United States citizen, permanent resident alien, entity organized under the law of the United States (including foreign branches), wherever located, or any other person in the United States.

(c) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. . NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) NOTIFICATION REQUIREMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

"Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.".

"The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.".

Mr. LAUTENBERG. Mr. President, I offer an amendment to this intelligence reform bill because I think it is consistent with the mission of that bill. There has been a lot of work and a lot of debate about the bill, and I personally am supporting it, but I offer an amendment to do something we very much intend to have happen, and that is to shut down the source of revenue for terrorist organizations.

The 9/11 Commission report talks about the critical issue of terrorist financing because as President Bush has said, money is the lifeblood of terrorist operations.

Amazingly, some of our very own corporations help provide revenue indirectly to terrorists by doing business with state sponsors of terrorism. My amendment would close the loophole in the law that allows this to happen, thereby cutting off a major source of revenue for terrorists.

As the 9/11 Commission stated:

> Vigorous efforts to track terrorists' financing must remain front and center in the U.S. counterterrorism efforts.

We took pains to check with the Parliamentarian about the germaneness, the relevance of our amendment, and it was confirmed that this would be relevant.

We need to starve the terrorists at the source and that is why our sanctions program in law is so critical, but now we know a loophole in the law exists that enables companies to do business with Iran, which openly boasts about its support for Hamas and Islamic jihad.

Iran also funded the 1983 terror attack in Beirut that killed 241 U.S. Marines; 241 of our finest young people killed by Iranian terror, and yet we are permitting U.S. corporations to provide revenue flows to the Iranian Government. We have to put a stop to it as quickly as we can.

How do companies get around terrorist sanction laws? It is a fairly simple process. They simply establish a foreign subsidiary and run their Iranian operations. It is demonstrated on this chart which says that U.S. corporations have subsidiaries all over the place and that is common in our economic and business structure. Once a foreign subsidiary is created, then people can do business with Iran or other rogue nations, people who are determined to kill our citizens, can do business with them and provide services—intentionally, I do not believe—but nevertheless to people like Hamas and Hezbollah. It is a terrible thing to recognize that American companies can be providing sustenance to countries that support terrorism actively.

Our American sanctions law prohibits American companies from doing business with Iran, but the law does not mention an American company's foreign subsidiaries. As long as a loophole like this is in place, our terrorist sanction laws are considerably diminished in their force.

After brutally murdering 241 of our young marines in their sleep in Beirut in 1983, an Iranian-backed terrorist killed two American women whom we show in these photos. Look at these young faces. They are people at the dawn of life. Sara Duker was a constituent of mine, a 22-year-old from the town of Teaneck, NJ. She was a summa cum laude graduate of Barnard College. Sara was killed with her fiance when the bus she was riding in in Jerusalem in 1996 was blown up by Hamas. An American court confirmed that Iran was responsible and assets were seized to try and provide compensation to the families.

Hamas receives its funding and support from the Iranian Government and that is why this attempt to sequester assets was done.

Last year, Abigail Litle, a 14-year-old Christian missionary originally from New Hampshire, was riding home from school in Haifa, Israel, when her bus exploded as a result of a suicide bomb. That attack killed 15 people and was directly linked to terrorists funded by Syria and Iran.

I was in Iran with several other Senators and we talked to the President of the country about supporting terrorism. He denied any suggestion that they might be operating out of his country, but the Israelis last week apparently took an action to eliminate the head of one of the terrorist organizations who was clearly functioning there.

We have to worry about these countries and we cannot give them any latitude, any encouragement to continue with their killing ways. We also have to worry about providing revenue to Iran because of its well-known desire to build a nuclear bomb and other weapons of mass destruction.

The 9/11 Commission concluded:

> Preventing the proliferation of [WMD] warrants a maximum effort.

Certainly, "maximum" includes providing funding for some of these firms. So allowing U.S. companies to provide revenue to rogue WMD programs is clearly not a maximum effort.

Some people think this is an isolated problem, but it is not. According to a report by the Center for Security Policy, there are large numbers of companies doing business with Iran and other sponsors of terror.

Iran sponsors terrorism, period. The terror they help fund has killed hundreds of Americans. Iran is seeking to develop nuclear weapons and yet U.S. companies are using a loophole in the law in order to do business with the Iranian Government. It is wrong. It is not illegal yet, but this amendment would change it. I am sure when my colleagues examine what we are talking about, they will consider joining us, I hope, enthusiastically.

It is inexcusable for American companies to engage in any business that provides revenue, any business practice that provides revenues to terrorism. We have to stop it. We have a chance to do that with this amendment. I remind our distinguished colleague, the chairperson of the committee, that she supported this amendment before and I hope she will once again support the amendment and let all of us close the terror funding loophole.

I yield the floor.

Mr. REED. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. REED. Mr. President, we are today, in this country, convulsed by the situation in Iraq. It is an extraordinary crisis. It is taxing our men and women in uniform, and it is certainly taxing our resolve.

I think one of the problems is that the administration has not focused on the reality on the ground, what is really happening on the ground. They are hoping, but hope is not a substitute for planning; hope is not a substitute for a very candid and hard look at the situation on the ground. The reality is that there is widespread violence and instability throughout Iraq.

Yesterday, the New York Times reported that

> over the past 30 days more than 2,300 attacks by insurgents have been directed against civilians and military targets in Iraq in a pattern that sprawls over nearly every major population center outside the Kurdish north, according to the comprehensive data compiled by a private security company with access to military intelligence reports and its own network of Iraqi informants.

You would think, given this information, that the administration would begin to reflect on the difficult circumstances on the ground, but that is not the case. They continue to pursue both policies and rhetoric which suggest that all is not well yet it is quickly getting there.

But there is something else they have done which I think is startling, and that is in a related story in the Washington Post, information such as what I just quoted, that data from private security companies is not being recognized and evaluated. It is being suppressed.

According to today's Washington Post, the

> USAID said this week that it would restrict distribution of reports by Kroll Security International showing the number of daily attacks by insurgents in Iraq has increased.
>
> On Monday, the Washington Post published a front-page story saying that the Kroll report suggests a broad and intensifying campaign of insurgent violence. A USAID official sent an e-mail to congressional aides stating: This is the last Kroll report to come in. After the Washington Post story, they shut it down in order to regrpup. I will let you know when it restarts.

If we don't have accurate information, if we are not able to tell difficult truth one to another, we will never be able to effectively design a policy for Iraq.

It is concerning to me that the administration would try to respond to the facts by suppressing the facts, but that is just one example of what is going on.

I know this. The country, with some exception, is wracked by violence. The Kurds in the north have had a semiautonomous region for many years. It is under our informal protection and formal protection. That is a part of the country where there is a certain stability, but there is political tension building there because the Kurdish sense of autonomy will invariably clash with the need to create a central government in Iraq.

The focal point of that clash could be the oil around Kirkuk, which is the second biggest source of oil for the country of Iraq. Those oil fields could be in jeopardy as a pawn, if you will, in a struggle between the Kurds asserting their autonomy and the central government trying to maintain its authority.

We also understand clearly that Sunni provinces have "no-enter zones"—areas in which the United States cannot even send its troops today successfully. One of these areas is Ramadi.

According, again, to a story in the Los Angeles Times on September 28:

> The erosion of order in Ramadi illustrates the success of the insurgents' methods and the serious problems facing the interim government and its U.S. backers in maintaining stability in Iraq. It also threatens to thwart plans for a national election in January. . . . An election that omits key population centers in the so-called Sunni Triangle region would have greatly diminished credibility.

In Fallujah, there are similar situations where there are areas we cannot enter. In the Shia South, there is the instability principally generated by Sadr, the young cleric who has defied the central government and also the U.S. repeatedly.

We generally see the violence in Iraq as a function of attacks against our troops, but when we do that we miss a very important reality; that is, this violence is only a small portion of the violence that the Iraqi people feel each day—not from terrorists but from robbers, burglars, rapists, and murderers.

In June, a poll was conducted. They asked the Iraqi people to list their top three priorities. Fighting crime represented one of the top three priorities of 92.8 percent of the people of Iraq. Stopping attacks on coalition forces represented a top priority of 17.5 percent of the people of Iraq. On a daily basis, we are seeing not just attacks against coalition forces and security forces of Iraq, we are seeing a situation in many places which is beyond chaotic to the point which the Iraqi people are quickly beginning to assume that we not only are occupying but we are inept occupiers. We cannot even provide the level of stability that they enjoyed previously. They have already decided we are occupiers. They have decided we must go.

The struggle now politically, I think, is you have to recognize that in this type of conflict it is essentially a political struggle. We can win tactical victories one after another—and we will—but unless we create a political dynamic which will coalesce support around the new Iraqi Government and coalesce cooperation with us, our efforts tactically will be marginal.

What is happening, though, politically in Iraq now is the fact that each of these groups and subgroups have one eye on the current situation, our presence there, but their other focus is on what happens when we go. Will they be in power? Will they survive? Will they succeed? That creates a dynamic that is very difficult for us and very difficult for stability in Iraq.

How did we get there?

It is in some respects a triumph, as I said before, of hope over history, of ideology, of political calculation, arrogance in some cases, ignorance that has led us to enter the country ill prepared.

There is a litany of mistakes that are quite obvious: No real plans for stabilization and reconstruction in Iraq. We should have sensed that.

I can recall in the fall of 2003 and in succeeding days and months leading up to the attack last year where we had a situation where we were trying to get information about stabilization. We didn't have that. We did not have that information.

In addition, there were insufficient forces to stabilize Iraq and we were left unprotected for weeks and months, which today has led to a proliferation of weapons in Iraq, IEDs particularly, the improvised explosive devices that are bedeviling our forces. We cannot secure those. We could not secure the borders. We need more troops.

There was a failure to secure multinational support, not only in the sense of getting the good will, good wishes, and support of the international community, but particular failures.

We were not able to convince the Turkish Government to allow the use of Turkey as a point of entry into Iraq. The Fourth Infantry Division, poised to move through Turkey, to attack in the north, to roll up and envelop all of the Iraqi forces to the north, was rerouted to the south because of that lack of cooperation. The consequence on the ground was literally thousands of Iraqi soldiers were never effectively contested. They gave up, they disappeared, and apparently reformed as insurgents. That is another example of the lack of international cooperation that could have materially assisted us.

We made a significant error in disbanding the Iraqi Army. Rather than disbanding the army, we should have marched them back to their barracks and tried at that point to see if we could, through some type of vetting of officers and senior enlisted people, or some procedure, get them to be part of the solution rather than part of the problem. They are part of the problem today. Many of these insurgent leaders, I believe, have roots going back to the army and the military force structure, the security forces of Iraq.

Then we conducted a de-Baathification program that applied across the board. We put that in the hands of Chalabi and others who had no real legitimacy in the country. As a result, for months and months and months we prevented teachers and professionals from working. It did not help in terms of getting schools going quickly. It certainly created this atmosphere among the Sunni community that they were going to effectively be marginalized as people and as citizens of Iraq. That process was a mistake.

Part of that, as I mentioned, was putting misplaced reliance on Chalabi and his colleagues. I recall he sat as a guest of the First Lady at this year's State of the Union speech, yet today is accused of cooperating and perhaps spying for the Iranians. That has been a mistake.

The CPA, Coalition Provisional Authority, turned out to be not up to the great task with which they were entrusted. The administration rejected the traditional agencies of the State Department and their divisions who have experience in stabilization operations in terms of political governments, reconstruction, economic development, and put together an ad hoc group of people who were the architects of what was a lost year of progress that we should have been making with respect to Iraq.

And, of course, there was the failure to recognize this insurgency. We all recall Secretary Rumsfeld's remarks about a few dead-enders. It was much more than a few dead-enders. It has metastasized into a virulent and effective force attacking our troops on a daily basis and attacking the citizens of Iraq.

There was a failure then simply to read the intelligence. We are debating this intelligence bill today because we have to create—indeed, it is necessary to create—an intelligence system that is more effective. Let me point to an intelligence success. This was the national intelligence estimate. According to a report in the New York Times,

> The estimate came in two classified reports prepared for President Bush in January 2003 by the National Intelligence Council, an independent group that advises the Director of Central Intelligence. The assessments predicted that an American-led invasion of Iraq would increase support for political Islam and would result in a deeply divided Iraqi society prone to violent internal conflict.

Very perceptive. It was disregarded by the administration, and I think disregarded for several reasons. They had a view, which was not substantiated by the facts, that we would be greeted with open arms. Principals in the administration said that.

As we debate this intelligence reform, we also have to understand it is not just producing good intelligence; it is having leaders who understand and use that intelligence wisely.

Then one of the most critical issues is that we have wasted a year to train Iraqi security forces. I can recall, as many of my colleagues recall, being briefed over the past many months. It seemed each briefing would contain another pie chart showing the growing,

growing Iraqi security forces and the diminishing United States involvement. All of that was an illusion. These forces were untrained, ill equipped, unprepared. It took us a year to recognize that and we are only beginning now to recognize what we have to do to ensure that Iraqi security forces can, in fact, provide for the security of their country.

Part of it was a result of the notion that we could do it ourselves, that this was just a few diehards, as Secretary Rumsfeld said, that we could root them out and we could deal with them with the coalition forces. Then it was reluctance to develop an Iraqi security force because of the fear that they would become another power player in the very complicated politics of Iraq where it seems the only institutions that have any type of strength and coherence are the mosques or the militias, and they sometimes overlap. So for all these reasons, despite the evidence of growing instability, despite the proliferation of crime, we have just gotten down to begin to train an effective Iraqi security force of police, army, national guard, and special operations. That is a year wasted, a year that should not have been wasted. The signs were quite clear.

Indeed, even as we focus on this, there have been reports in the press that General Petraeus, who has been put in charge of this operation, has not yet received his full complement of American personnel to help, another example of a delayed reaction, a reaction based upon hopes that did not materialize. While those hopes were bandied about here in Washington, the situation got much worse.

All of this leads to an Iraq today that is imposing extraordinary costs on this country. One of the most obvious and poignant costs is the loss from American fighting men and women in battle: 1,054 soldiers have been killed and 7,532 soldiers wounded, who have served this country with great fidelity and great courage. Their families deserve our profound respect. We owe them, and we owe their colleagues who still fight, more wisdom and more truth.

That is why it is particularly frustrating to see this example of a reaction where, when the facts are uncomfortable, those facts are suppressed. That is not appropriate given the sacrifices we have seen.

The costs to our Army, particularly, are significant. Personnel costs. We all understand there were misgivings about the full size of the force being deployed. When General Shinseki was asked, he did not volunteer, about the size of the force needed, he said, "something on the order of several hundred thousand soldiers," and was immediately castigated by Secretary Rumsfeld, saying this estimate was "far from the mark," and Secretary Wolfowitz, who called the estimate "outlandish."

Then in his few remaining days in the Army, General Shinseki was personally shunned by the leadership and made to feel entirely uncomfortable—and I am being very polite. He did not deserve that. This is a professional soldier who was asked his honest opinion and he gave it. I wish there were more folks like him in uniform. Certainly the comments of Secretary Wolfowitz and Secretary Rumsfeld were very far off the mark. We have over 100,000 troops in place. They probably will be there for years. There is a strong sign that we need more.

This is a great stress on our military, 17 months after President Bush declared the end of major combat operations, with over 138,000 troops still stationed in Iraq. They are there because of a patchwork of different policies the Department of Defense has had to undertake because they do not have sufficient soldiers. Approximately 16,000 active-duty soldiers have already had two tours in Iraq and if they stay in the service longer, they will have another. In order to keep the strength up, they have resorted to stop-loss orders, essentially telling a soldier, once your unit has been alerted, you are there until the unit returns home, even if you can leave the service in that interim. In the words of some, it is a "backdoor draft."

Since September 11, DOD has announced six stop-loss policies for the Army, two for the Navy, five for the Air Force, and two for the Marine Corps. Only the Army still has a stop-loss policy in place. That is another way in which to create soldiers by means other than a strictly voluntary approach.

One of the greatest burdens falls on the Guard and Reserves. Today, we cannot continue our mission without the brave men and women of our Army and Air Force Guard and Reserve units. We are asking them to go way above and beyond the call of duty.

Since September 11, 2001, 422,950 members of the Reserve component have been mobilized; 51 percent of the Army Guard and 31 percent of the Air Guard. The average duty days have climbed as a result. Guard and Reserve men and women are now serving, on average, about 120 days a year. In fact, back in 2002, it was only 80, and before that it was much less.

We are looking at a situation which the GAO described as fraught with consequences. In their words:

> DOD policies were not developed within the context of an overall strategic framework. . . . Consequently the policies underwent numerous changes as DOD strove to meet current requirements. These policy changes created uncertainties for reserve component members concerning the likelihood of their mobilization, the length of their overseas rotations and the types of missions that they would be asked to perform. It remains to be seen how these uncertainties will affect recruiting, retention and the long term viability of the reserve components.

We have already seen the National Guard report that they have not been able to meet their recruiting objectives for the most current year. So the evidence is beginning to accumulate.

This operation tempo will mean more and more pressure on the military forces, particularly land forces, and, as a result, you will see the stress even more, in recruiting and retention, challenging our military leaders. We need more troops, I believe, as an initial response to the situation in Iraq, Afghanistan, and around the world. We should do that honestly and directly. We should not rely upon supplemental appropriations. We should not rely on emergency authorizations for additional troops. We should increase the end strength of the Army and provide for the payment of that end strength through the regular budget process, not by supplementals.

Senator HAGEL and I offered an amendment to do this last October. In March, again, Senator HAGEL, joined by Senator McCAIN and I, introduced a bill that would increase the Army end strength by 30,000 troops. In May, we together offered an amendment to the fiscal year 2005 Defense authorization bill to increase the size of the Army by 20,000 personnel, a figure the Army says it could absorb in an efficient way in 1 year. This was accepted by the Senate, and it is now in conference with the House.

One point I should make, though, is that, once again, the administration insisted—even though they oppose the end strength—if it was to be put in the bill, it still had to be paid for by emergency funds. That is not the right way to do this. We have to make sure we have a suitably sized Army.

This is not a spike. This is not a temporary situation. Every time the President speaks, he talks about staying the course, our long-term commitment to Iraq. That is not a temporary promise, I do not think. I think that requires a permanent fix to the size of our Army and to our Marine Corps.

Now, one of the things that has happened since our debate on the floor is that the Defense Science Board, a panel of experts appointed by Secretary Rumsfeld himself, stated: "Current and projected force structure will not sustain our current and projected global stabilization commitments." There are "inadequate total numbers" of troops and a "lack of long term endurance."

That is the conclusion of experts who have studied this issue, who have looked at all the things the Army is doing through modularity, through technical improvements and technological innovations to minimize the need for additional troops, and they have concluded, as a result of the study requested by the Secretary of Defense, that we need more troops.

It is not only troops. We also need equipment. The Army has sustained $2.439 billion in equipment battle losses in Iraq and Afghanistan. Presently, the Army has an unfunded requirement for $1.322 billion for munitions.

Last year, the Army spent $4 billion on equipment reconstitution—resetting it, repairing it, and getting it ready to go again.

The Marine Corps expects to need over $1 billion to reconstitute equipment next year.

The GAO reports that since September 11, the Army Guard has transferred 22,000 pieces of equipment from nondeploying units to units deployed in Iraq. What we have is a huge reshuffling going on, as units back in the United States take their equipment and give it out to units that are deploying forward. It leaves these units back in the United States without equipment. If they are called upon to perform a mission, another international mission, a homeland security mission, or a mission involving a natural disaster, where are they going to get the equipment they deployed overseas? How are they going to be affected?

In addition to the National Guard and Reserves, the Active Army is resetting itself under new battle formations, modularity, which is a concept that I think is ingenious, a concept that should be supported. But as they are doing this, they too are shuffling equipment about. There are some units that are not yet up to speed with all their equipment. They will have it, I am sure, before they are deployed overseas, but it is another example of the turmoil in terms of equipment we are seeing within the military.

In order to respond accurately, correctly, and directly to the situation in Iraq, we have to increase our Army, I believe, and make sure they have the resources to have the equipment they need to do the job.

Now, the funding for our operations in Iraq has been primarily through supplementals. In the past 17 months, President Bush has requested and Congress has appropriated $187 billion for the wars in Iraq and Afghanistan. For comparison, the budgets for the Department of Labor, the Department of Health and Human Services, the Department of Education, and the Department of Interior total $163 billion. So we have been spending in Iraq more money than we allow for discretionary spending for the Departments of Labor, Health and Human Services, Education, and Interior.

The last supplemental, for $25 billion, was passed in May 2004. At that time, the administration said they would not need the funding until January or February of next year, 2005. Yet it has been reported this week that $2 billion of this fund has already been used, showing the huge, huge pressure, the huge cost of our operations in Iraq and Afghanistan.

Last week, President Bush announced he plans to divert nearly $3.5 billion from Iraqi water, power, and other reconstruction projects to security, another indication, I think, that the security situation is in very difficult circumstances.

We have been funding these operations with supplementals. But we cannot continue to do that because there will be a point, I believe, at which the American people will be very concerned, when each year we are forced to vote on $60, $70, $80 billion of supplemental funding for Iraq and Afghanistan. We know this effort is going to take many, many years. People talk about it as a generational struggle, and I think that is right. We have to prepare for that struggle, but we cannot do it in ad hoc supplemental budgeting.

We also have seen, of course, the terrible incidents of abuse in Abu Ghraib, with too few troops in that prison to do the job, ill-trained troops in that prison to do the job, but it is not just those troops. I think it is wrong simply to single out people we know from photographs who have done despicable things. They will be punished. They are being punished. We have a responsibility to look not only at the young soldiers, but the leadership, the chain of command, the policies they adopted or did not adopt, the confusion they created and did not resolve. We have had several investigations so far. Each one goes a little bit down the road but then seems to stop.

We waited, frankly, for months for the report of General Fay and General Jones, thinking this would be the final authoritative report that would look from the level of three star and four star all the way down. It turns out that for one of the most significant issues, the issue of ghost detainees—those individuals who were not properly recorded by the authorities when they came into our custody—General Jones and Fay had no real answers because they didn't get any cooperation from the Central Intelligence Agency. Now we have another investigation presumably conducted by the IG and the Department of Defense. This is not the way to get to the core of what happened. It might be an effective way of postponing real review and investigation, but it is not the way to get the answers.

These answers are important, not simply because of individual culpability of soldiers up and down the ranks, but because we have to have a military force that understands that they are subject to the laws, that it is not optional for leaders to ignore some or modify them at will. This is the very challenging situation, but it is an example, once again, of the lack of preparedness, the lack of sufficient personnel, and the lack of clear guidance that has plagued our operations in Iraq from the beginning.

I have spent a great deal of time talking about Iraq. The interesting thing in some respects is what we are not talking about. We are not talking about North Korea. But just this week on Monday, at the United Nations, Vice Foreign Minister Choe Su Hon said North Korea had been left with "no other option but to possess a nuclear deterrent" because of U.S. policies that he said were designed to eliminate his country. He stated:

> We have already made clear that we have already reprocessed 8,000 wasted fuel rods and transformed them into arms.

Reprocessing 8,000 rods would extract enough plutonium for as many as eight nuclear warheads. Here is a situation where, as we focused on Iraq, we have sat by as the North Koreans blatantly and boldly opened up the cans in which IAEA sealed the rods and, according to their comments, have reprocessed this material into nuclear weapons. One of the worst possible situations, a nuclear-armed North Korea, may have evolved. We are at this point taking troops out of South Korea to fulfill our requirements in Iraq. What signal does that send to the North Koreans?

It is not a question of deterrence. We have the capability of deterring the North Koreans from coming south. But it certainly is not aiding us in what ultimately must be our objective of disarming North Korea, hopefully through peaceful means and through negotiations, not just our efforts alone but the world community, because the great fear that we all have, that transcends the current struggle in Iraq, is that terrorists will obtain nuclear material and nuclear weapons.

Here we have a situation where over the last several months the North Koreans have finally said: We have them. Part of our lack of response is an internal debate within the administration that has been going on for months, if not years: Do you negotiate, which means some type of arrangement between the world and North Korea, or do you once again embark on a regime change operation? The difference over the last several months is the growing realization that Iraq has put so much stress on our military forces, that in the event of a need to disarm North Korea, there would be far fewer forces to draw on. So that is another huge cost of our involvement in Iraq.

Then add another development: The Iranians continue to insist they have every right to a full, complete nuclear fuel cycle. Of course, the concern—not just of the United States but the international community—is that if they achieve that cycle, they will be able to obtain material with which to construct a nuclear weapon.

Despite their protestations that that is not their objective, there is a growing suggestion, if not conclusive evidence, that certainly that possibility might exist. And once again, what are we doing? Why have we not focused attention on Iran in a more meaningful and decisive way?

One has to question a strategy that has led us into Iraq, to the instability, to the costs, to the lost opportunity, when there appear to be much more serious threats abroad.

We have an opportunity to be much more candid, much more truthful about what is going on. That is an opportunity I would hope the administration would embrace because unless we operate with the facts and unless we operate with the reality of the situation, there will be no way we can effectively plan to deal with the threats we face.

I yield the floor.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, before initiating my remarks, let me express the admiration and respect I have for the chairman of this committee, Senator COLLINS of Maine, as well as the ranking Democrat, Senator LIEBERMAN of Connecticut. What they have presented to the Senate is an extraordinary work product, if one considers the fact that we first received the 9/11 Commission report on July 22, and a mere 8 or 9 weeks later we are on the floor of the Senate considering landmark legislation. The first reaction of anyone who listens to those dates would be that they must be acting in haste.

The fact is that no sooner did Senator COLLINS and Senator LIEBERMAN receive this report than they announced they would take it extremely seriously and they would do some things unprecedented around this institution to try to move the legislation on a timely basis. It meant asking Senators to return in the month of August, a month when we are usually either back in our States or vacationing with our families, to come back and to have a series of hearings, starting with Governor Kean and Congressman Hamilton, Chair and Vice Chair of the Commission, and then a long series of many scores of witnesses who came and talked to us about aspects of this report.

They followed those hearings in August and early September with a markup last week which I attended as a member of the committee, a markup which considered 33 different amendments. Those were serious amendments, complicated amendments. Each one of them tested us to think long and hard about the 9/11 Commission report as well as the bill that is before us.

The interesting thing about the amendments that were considered is that when all was said and done—some had been adopted, some had been defeated—not a single amendment passed or was defeated on a partisan rollcall. It wasn't Republicans versus Democrats. That is a good sign. It shows we took to this task in a bipartisan fashion and made concessions to try to find solutions.

I, frankly, do not disparage debate on the Senate floor. It is an important part of what we do. Even heated debate I find informative and sometimes entertaining. But this morning at the town meeting which I had with Senator FITZGERALD, a constituent from Illinois came up and said: Why do you argue so much? Why don't you just get together, the two political parties, and solve the problems?

I understand that sentiment. And though our arguments and debate may sound adolescent or a waste of time, they are, in fact, the noise of democracy. The debate in our committee, the Governmental Affairs Committee, which led to the adoption of some amendments and rejection of some amendments, led to a good bipartisan work product which we bring to the Senate floor today. I am proud to support it and proud to be a cosponsor.

There are two parts of it in which I take particular pride. One relates to the civil liberties board. The civil liberties board was an idea of the 9/11 Commission. They understood, as I think all of us do, that historically when the United States was concerned about security issues and safety issues, those were the moments when our Government asked for more power to protect America, usually at the expense of individual rights and liberties. It is a delicate balance and delicate negotiation between security and liberty.

Again, after 9/11, the first invasion in the continental United States since the British stormed this building in the War of 1812, after that our Government came and asked for more authority to go after the terrorists and to protect our Nation. On a bipartisan basis we gave that authority to the Government.

We understood that it was a risky decision. We were enacting the PATRIOT Act at a time of high emotion, when we were still very mindful of the tragedy of 9/11 and the thousands of innocent Americans killed, as well as their families who were grieving. We gave that authority to our Government and said we will put a time limit on some of these new powers and we will revisit them in the future to see if we have gone too far.

At every step of the way, we want to balance the security of this country and the liberty of Americans, and not to go too far in giving powers to Government at the expense of the rights and freedoms that we enjoy and which make us America. This civil liberties board, proposed by the 9/11 Commission, was consistent with that value. On a bipartisan basis, the Commission came and said, create within the executive branch a civil liberties board; this civil liberties board will be a guardian, if you will, of the basic rights of Americans. It will measure the policies and activities of our intelligence community and report regularly, on a public basis, as to whether there has been a Government effort that has gone too far.

I am not sure there is another board like this in any other part of our Government, but I applaud the 9/11 Commission for suggesting it. I certainly applaud Chairman COLLINS and Senator LIEBERMAN for incorporating the original civil liberties board in this legislation and accepting several amendments that I offered, which I think make the board even more independent and worthy of the duties that are entrusted to it.

Senator KYL of Arizona came to the floor this morning and suggested amendment No. 3801. It is an amendment to the civil liberties board section. In my estimation, it would really undermine the effectiveness of this civil liberties board.

The Senator from Arizona said Chairman COLLINS and Senator LIEBERMAN failed to make tough choices, in his words, because they were trying to win unanimous approval of the bill. It is true the bill was reported unanimously from the committee; despite reservations of some members, we all came together to report it out. I disagree with the Senator's premise that this unanimous vote was at the expense of making hard choices. Trust me, hard choices were made on almost every page of this lengthy legislation. There is nothing wrong with trying to work together in a bipartisan fashion. I think Senator COLLINS and Senator LIEBERMAN did just that. They made some of the toughest choices.

This legislation would authorize the most significant reorganization of our intelligence community in 50 years. I believe this legislation will save lives.

In his remarks on the amendment, Senator KYL of Arizona suggested those who were concerned about our fundamental constitutional rights need to balance our concerns with concerns about the lives of American citizens. If that is the premise of his position, I don't quarrel with it. It is always a balance. If you give the Government too much authority to make us safe and take away from individuals the basic rights of our country, then what do we have left? When it is all over, those unique American values have not been protected. Rather, they have been taken by the Government. So we always want to make sure we have enough authority in the Government to protect us, but not too much. That is what this legislation does.

One of the issues we weighed heavily was how to fight the war on terrorism, while protecting basic liberties. The American people expect no less.

Let me quote from the 9/11 Commission when they addressed this issue:

> While protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task, but we must constantly strive to keep it right.

The 9/11 Commission recommended this board and, following their recommendation, the legislation included it.

In fact, the Commission has already endorsed the board created by this bill. Commissioner Slade Gorton, a former Republican Senator from the State of Washington, and a member of the 9/11 Commission, and Richard Ben-Veniste, a Democratic appointee to the Commission, told the House Government Reform Committee:

> A civil liberties board of the kind we recommend can be found in the Collins-Lieberman bill in the Senate.

Those were the words of two commissioners. If nothing else, it is a seal of approval of what we offer on the floor today.

I am not surprised that there is some opposition to the board, as there is some opposition to other provisions in the bill. The board is a new entity, and many of us are trying to understand exactly what it would do. But I urge my colleagues to read carefully what we have achieved with this board. It is an integral part of intelligence reform. It is independent. Those who serve on the board will be nominated by the President, confirmed by the Senate, and have fixed terms.

In addition, there is a requirement for public reporting. So what the board discovers will not be kept deep in some file or on some computer in an intelligence agency, but will be reported to the public through Members of Congress and their committees.

The board will help to ensure that a powerful consolidated intelligence community does not violate privacy and civil liberties. I am afraid the Kyl amendment will upset this delicate balance. I want to speak about three problems associated with that amendment.

Number one, very wisely, Senator COLLINS and Senator LIEBERMAN included in their bill a standard of review for the civil liberties board. I think you need to give the board guidelines as they review government actions. The board is to determine, under current language, whether Government power actually materially enhances security, whether there is adequate supervision of the use of the power to ensure protection of civil liberties, and whether there are adequate guidelines and oversight to properly confine its use.

Where did we find this particular approach? We found it in the 9/11 Commission report.

Frankly, I cannot understand Senator KYL's amendment on this issue. He wants to take out the 9/11 Commission's standard of review. Should Congress not give this guidance to the board? Shouldn't the members of the civil liberties board understand their charge and responsibility? Can it be stated more simply and clearly than in the language I just read from the 9/11 Commission report? Taking away the standard of review is to leave the board with no guidance from Congress. That is an abdication of responsibility.

Secondly, the bill gives the board the authority to obtain the information they need to determine whether the Government is violating civil liberties. If somebody outside the Government refuses to provide information, the board would have the power to issue a subpoena to obtain it.

That is common sense. An investigative body doesn't have much authority in this society if it cannot, in compelling circumstances, subpoena materials it needs.

It is not unusual to give this subpoena authority to a federal commission or board. Let me name a few of the Federal agencies with similar authority: National Labor Relations Board, Equal Employment Opportunity Commission, Federal Trade Commission, and Federal Energy Regulatory Commission.

The Senator from Arizona, in speaking to his amendment this morning, suggested this subpoena authority would give the power to the board to "haul in any agent anywhere in the world and drill him." I am afraid that statement is not accurate. The subpoena authority in this bill is a narrow one. It only applies to people outside the Government. So for the Senator from Arizona to argue that we are going to call in an intelligence agent before the board and drill him is to overlook the obvious: The subpoena authority in the bill only applies outside of the Government.

The obvious question is, why do you need subpoena authority outside of the Government? Here are two specific examples: First, the Abu Ghraib prison scandal. Implicated in that scandal were private contractors hired by our Government to interrogate prisoners. Information they generated might be the domain and property of these private companies. If the civil liberties board wanted to look into prisoner abuse and the companies refused to provide that information voluntarily, they would need a subpoena. That is why this subpoena power is in the bill.

In addition, if our Government engages in a cooperative agreement to obtain data from a private company to protect America from a terrorist attack, materials possessed by that private company would not be reviewable, except on a voluntary basis, by the civil liberties board, unless they had subpoena power. Senator KYL wants to take away that subpoena power. In doing that, he will tie the hands of this board when it comes to gathering the necessary information to meet its responsibility.

The other thing the Kyl amendment addresses is the section of the bill entitled "Informing the Public," which requires this civil liberties board to share information about its work with the public. This is a good thing, from my point of view. It is a healthy aspect of the bill. We make provisions so that if the Board is dealing with classified information, there is no requirement to disclose it. Otherwise, we say the civil liberties board should inform the public about their work.

So if the Government has gone too far, there is a public report that could be reviewed to understand how the civil liberties board reached its conclusion.

The Kyl amendment would delete this section from the bill so that the board would not be required to inform the public about its activities. This directly contradicts the recommendations of the 9/11 Commission. As Commissioners Gordon and Ben-Veniste told the House Government Reform Committee:

> Such a board should be transparent, making regular reports to Congress and the American public.

I think sunshine is a great disinfectant, and I think the fact that this information will be made public is a further incentive for those in our Government not to abuse their power. In the name of protecting America, they should not destroy America's values and America's freedoms in a way that jeopardizes what is truly the character of this Nation.

I think the Kyl amendment, in those three instances, not only violates the spirit of the 9/11 Commission Report but directly violates language in the 9/11 Commission Report that has guided this committee in the creation of this bill.

I urge my colleagues to oppose the amendment.

In addition, Mr. President, I wish to speak for a moment to another provision in this bill that is near and dear to me. As I mentioned earlier, when we went through the lengthy hearings on this legislation, there were many things that motivated us—this great Commission report on a bipartisan basis, the need to protect America as effectively as possible and as quickly as possible—but there was another factor.

At many of our hearings, in fact, even appearing as witnesses, were the survivors in the 9/11 families, the men and women who lost a loved one in the tragedy of 9/11. I want to take a moment and salute them. They gave of their time and their lives. They made a commitment to make certain that those they love did not die in vain. They came to this committee and asked us to do our part, and we did. I think this committee was faithful to its charge: to follow the 9/11 Commission and to come up with a reasonable change in reforming our intelligence community.

Why is reform necessary? It almost goes without saying. We found in the 9/11 Commission Report ample evidence that our intelligence community failed us before September 11. In the Senate Intelligence Committee on which I serve, we took a review of the intelligence leading up to the invasion of Iraq. As hard as it is to believe, with the millions of dollars and thousands of conscientious people involved, the intelligence gathering before the invasion of Iraq was in many respects just plain wrong.

The American people, and many Members of Congress, were convinced that we needed to invade Iraq because of charges that there were weapons of mass destruction, nuclear weapons programs, linkage with al-Qaida—things that turned out to be patently wrong. The intelligence failed us.

In one celebrated book, an author wrote that the head of the Central Intelligence Agency, in response to the President's question, Are you sure there are weapons of mass destruction in Iraq? is reported to have said: It's a slam dunk. He said with some certainty the weapons of mass destruction were there. When we arrived, they could not be found.

We understand the gravity of the threat of terrorism. Those of us who remember 9/11 and understand the seriousness of this threat want to get it right, and intelligence is truly our first line of defense. But I have to tell my colleagues that the 9/11 Commission Report kept returning to one basic and recurring theme when it came to improving intelligence and making America safe.

Let me show my colleagues what they said because I think it demonstrates in a few words why this section of the bill is so important to me and why I am glad it is part of our work effort.

The 9/11 Commission Report said:

> The biggest impediment to all-source analysis—to a greater likelihood of connecting the dots—is the human or systemic resistance to sharing information.

And that turned out to be a major obstacle.

We have a weak system for processing and using the information that we need to make America safe, and the Commission pointed that out. I have said this before on the Senate floor, and it bears repeating, that those who think our information technology was adequate to the task on 9/11 should consider the following.

The computer system at the FBI, the premier law enforcement agency in America on 9/11/2001, did not have e-mail within their system, had no access to the Internet, was unable to sort and trace by more than a one-word reference, and when they finally came up with the photographs of the 19 terrorists on September 11, the computer system of the FBI was incapable of sending a photograph over its computer system. They had to overnight the photographs to their regional offices.

That, to me, is as solid a condemnation of the computer system at the FBI as anything I read. That is a fact. And if you wonder why we failed to gather information, to process it, analyze it, and use it effectively, that is what it comes down to.

On July 10, 2001, an FBI agent in the Phoenix field office sent a memo to FBI headquarters and to two agents on the international terrorism squads in the New York field office advising of the "possibility of a coordinated effort by Osama bin Laden" to send students to the United States to attend civil aviation schools. The date of that memo is July 10, 2001. The agent based his theory on the "inordinate number of individuals of investigative interest" attending such schools in Arizona.

The agent made four recommendations to the FBI. The agent recommended that we compile a list of civil aviation schools, establish a liaison with those schools, discuss the theories about bin Laden with the intelligence community, and seek authority to obtain visa information on persons applying to flight schools. This was July 10, 2001. Those were the recommendations in the FBI memo.

The flare went off. The notice was there. Something needed to be done. His memo was forwarded to one field office. Managers of the bin Laden unit and the radical fundamentalist unit at FBI headquarters were addressees but did not even see the memo until after September 11. No managers at headquarters saw the memo before September 11. The New York field office took no action. It was not shared outside the FBI.

As its author told the 9/11 Commission, the Phoenix memo was not an alert about suicide pilots. His worry was more about a Pan Am 103 scenario in which explosives were placed on aircraft. Because it was not shared, because it was not processed, we find ourselves in situations more vulnerable.

Mr. President, let me give another illustration of why this information sharing is so important.

The 9/11 Commission Report tells us that on August 15, 2001, the Minneapolis FBI field office initiated an intelligence investigation of Zacarias Moussaoui, a name well known to us now. This man entered the country on February 23, 2001, began flight lessons at a flight school in Oklahoma City, and began flight training at Pan American flight training school in Minneapolis on August 13. Mr. Moussaoui had none of the usual qualifications for flight training on Pan Am's Boeing 747 flight simulators.

Contrary to popular belief, he did not say he was not interested in learning how to take off or land. Instead, he stood out because, with little knowledge of flying, he wanted to learn how to take off and land a Boeing 747. The FBI agent who handled the case in conjunction with the INS representative on the Minneapolis Joint Terrorism Task Force suspected Moussaoui of wanting to hijack airplanes. This is August 15, 2001.

If these respective agencies had the benefit of the Phoenix memo, brought it together with this information about Mr. Moussaoui, wheels would have started to turn and dots would have been connected. But, sadly, that information was not shared.

I can go through other illustrations about why we need to share information when it comes to ships coming into the United States using the Great Lakes, which are near and dear to me as a Senator representing the great State of Illinois, and the city of Chicago, and how we can use existing information technology to link up facts and draw good conclusions to protect America.

Sadly, what we have found, despite the passage of 3 years since 9/11, is we still have not figured out how to make critical information in our Government computers and other systems of records compatible and combat terrorism with that new information.

In a statement before the House Government Reform Committee last month, James Dempsey, executive director for the Center for Democracy and Technology, a nonprofit public interest group, validated my concern. He wrote:

> To date, however, the government still does not have a dynamic, decentralized network for sharing and analysis of information.

He goes on with a much longer statement, but to think that 3 years after 9/11, after the omissions, errors, and shortcomings which I have pointed out, we still do not have a dynamic decentralized method for sharing and analyzing information, which is one of the key elements in the 9/11 Commission Report.

A case in point I frequently cite is the chronic delays in integrating FBI and Border Patrol fingerprint databases. This problem goes back at least 6 years, where the agencies have been unable to work out the transfer of information. In March of this year, the Justice Department's Inspector General reported it will take at least 4 more years to combine fingerprint systems. In other words, fingerprints collected at the border cannot be checked against fingerprints at the FBI in an integrated fashion so that a suspect at the border can be found to have been someone with a criminal record or a history which gives us caution and pause. How can we be any safer if that basic technology cannot be in place? Six years we failed to come up with it.

The estimate is another 4 years is needed before it might happen.'

The FBI fingerprint database contains about 43 million ten-finger sets of known criminals' prints; the Border Patrol's separate fingerprint system, about 6 million two-finger sets of prints. One has to ask, at some point in time, did anyone think that both agencies should collect the same number of fingerprints from each person? Today it is much different. They did not integrate their effort because they were not going to integrate their information. Not integrating that information does not make us any safer.

For well over 2 years I have urged that we do something significant and historic to address this failure of our information-sharing system. I refer back to GEN Leslie Groves, who was authorized and empowered by President Franklin Roosevelt after Pearl Harbor to start what was then known as the Manhattan Project.

General Groves understood the possibilities of an atom bomb. At that point, there had been a cursory and casual inquiry into how it might be weaponized. After Pearl Harbor, President Roosevelt said: We need to get serious. We need to develop these atom bombs. He said to General Groves: Turn to the private sector, turn to Government, turn to academia, bring them all together, and do it in a hurry. We may need this atom bomb to end this war.

That is how the Manhattan Project was born. I have argued for quite some time now that if General Groves could accomplish that historic task in 1,000 days, we can in even less time see dramatic progress in developing the information technology we need as a Nation. I am sad to remind my colleagues in the Senate, it has been over 1,000 days since September 11, and reports from agencies across the board tell us we have not done that.

The Commission offers two key recommendations for achieving this unity of effort in sharing information. First, information procedures should provide incentives for sharing to restore a better balance between security and shared knowledge. Second, the President should lead the Governmentwide effort to bring the major national security institutions into the information revolution.

This is from the 9/11 Commission Report:

> He should coordinate the resolution of the legal, policy and technical issues across the agencies to create a "trusted information network."

We understand that without this sharing of information we cannot be safer as a nation. No agency can do this alone. They have to cooperate with one another. Throughout the eight hearings of the Governmental Affairs Committee conducted over the past 9 weeks, I have urged that we make revolutionary change in information sharing an essential element.

I will tell my colleagues what section 206 of this bill, which comprises a large portion of the bill, does. We set forth precise and prudent directives for implementing a trusted information-sharing network. The President is directed to establish this network. The network is to be an environment consisting of policies and technology designed to facilitate and promote sharing. It is modeled on the comprehensive proposal by the Markle Foundation Task Force on National Security in the Information Age, which I would like to salute as another major factor in the development of this section of the bill, as well as the 9/11 Commission Report.

The network must have certain attributes. This network of information must be a decentralized, distributed, and coordinated environment; built upon existing systems' capabilities currently in use across the Government; utilize the industry's best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible. I want to dwell on this for one moment.

Some of the critics have the wrong notion that we are trying to create a massive Government database. That is not what this bill sets out to do. What it sets out to do is to share the information to solve problems, to alert America to threats to our security. It is not a massive Government database.

Employ an information access management approach that controls access to data rather than just networks; facilitate sharing of information; provide directory services for locating information; and incorporate protections for privacy and civil liberties. This is another one that is absolutely essential. We want to have this information collected, processed, analyzed, and shared every step of the way.

Through the civil liberties board and express language in this legislation, we are mindful that we do not want to compromise the liberties and freedoms of Americans unless there is an absolute need to protect our lives and our security.

Guidelines must be issued. Requirements satisfying governing the collection, sharing, and use of information have to be made known so that this will be an item that is followed very closely.

Let me say what the network is not. Describing what the network is is only half of the issue. First and foremost, the network called for in this bill is not a centralized, consolidated system or database. Furthermore, it is not a mere network; it is a capability. It does not move data from current systems. It does not require all new systems. It is a means to make information in existing legacy systems sharable to authorized users. It is not based on any one architecture or platform. It does not require one encryption standard. It does not contemplate or require broad distribution of personally identifiable information. It does not remove authorization and access control from existing processes. It is not limited to supporting just the IC. It does not require next-generation technology to implement.

I see other Members have come to the floor of the Senate to address aspect of this bill, and I have spoken for a little over 30 minutes. I want to give them a chance to express their feelings. I will return to this issue next week.

I hope colleagues on both sides of the aisle will understand that this historic bill includes in it what I consider to be some of the most important weapons and important tools for protecting America against another terrorist attack. We have to be creative, which the 9/11 Commission Report admonishes us to do, but we also have to use information in sensible, thoughtful ways to make us safer.

A large section of this bill is directed towards that information sharing. I tried to engage the Senate in this debate when we created the Department of Homeland Security, but the time was not right. Everybody nodded in agreement, but I could not get anything done on the bill. Thank goodness this bill on the future of the intelligence community is different, and thank goodness on a bipartisan basis we have come to understand and believe that if we follow the 9/11 Commission Report, with trusted information sharing, America will be safer.

I thank Chairman COLLINS and Senator LIEBERMAN for providing this section in the bill. I look forward to working with them on the passage of this important legislation.

Mr. President, I ask unanimous consent to print in the RECORD an additional illustration on information sharing.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ILLUSTRATION NO. 3 SHIP IN U.S. WATERS

Of course, representing Chicago and Lake Michigan, I understand the importance of port security. Take a ship entering the U.S. waters that comes down the St. Lawrence Seaway. It comes into the Great Lakes.

What happens? Four agencies of the Federal Government collect information on that ship. One agency determines whether the ship is carrying contraband. Another Federal agency checks whether the ship has paid its tariffs and fees. Another agency determines whether the ship and its crew comply with immigration law. And another agency checks for adherence to health and safety regulations. One ship, four different Federal agencies.

Much of this information will end up in separate data systems. One of those, a $1.3 billion Customs Services project known as the automated commercial environment, is an import processing system. Another, the student exchange and visitor information system, is being developed by the Bureau of Immigration and Customs Enforcement within Homeland Security. Other border protection is held on databases held by the Coast Guard and by the Department of Agriculture.

The Transportation Security Administration also will collect and hold relevant information in its systems. Consider how many different agencies are concerned about the one ship that we might fear may be bringing the wrong people with the wrong cargo to threaten the United States.

None of these information systems are designed to communicate with one another. How in the world can we assure the American people of their safety when we are ignoring the most basic requirement—that these agencies—both people and technology—work together and share information? Don't we want to make certain that the FBI and the CIA had access to that information? In addition, the NSA, DoD, Department of Defense, State Department, State and local officials, all of them could benefit by having access to that information.

Observation: The information sharing environment of the Network would facilitate full and timely information access and exchange of the disparate information housed in each of the data systems. The Network would allow information to remain where it is created, but using standards, guidelines, and rules to be developed, make it share-able and accessible to authorized Network participants.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Illinois for his terrific contributions to this bill. He was the individual who brought to the committee's attention the woefully deficient information systems that have hindered the war against terrorism.

I remember how shocked I was at our first hearing, when the Senator from Illinois described the FBI being unable to transmit pictures of the 9/11 terrorists to its field offices. He also told us the FBI did not have the capacity to transmit fingerprints to the Border Patrol. Those underscored, in a way that few have been able to do, the lack of an adequate, integrated communications network within the Federal Government.

We worked very closely with the Senator from Illinois on this section of the bill. It incorporates his thoughts, his language, and it is his leadership that is behind those important provisions. So I salute him for being out in front on this issue and helping us come up with provisions that I think are going to make a real difference.

I salute and thank the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, even I want to thank the Senator from Illinois, a dear friend, a great colleague. He has made a very substantial contribution to this bill.

Senator DURBIN has a quality of service in the Senate that I have noted in some of the best colleagues with whom I have had the honor to serve. He thinks about matters, focuses on a problem, comes up with a solution, and he doesn't let it go until he gets it done. He saw a real problem here which others have seen but, frankly, have not focused on or grabbed ahold of as much, which is the woeful, outrageous, infuriating inability, up until this time, of our Government to put the best information technology at the disposal of those who are working to protect us.

The terrorists have figured this out. We all know about the opportunities for cyberterrorism. If you look at the number of hits that are made on even Defense Department sites, you can see the potential. We are beginning to have a very good capacity to launch our own offensives here, but this is about something else. This is just taking information, which is a key to protecting ourselves in the age of terrorism, and moving it quickly to the places it can do the most good. Talk about connecting the dots.

Anyway, Senator DURBIN is really singlehandedly responsible for this substantial title of the bill. I thank him very much for his contribution. It is part of why this bill is going to make a real difference in protecting the security of the American people.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3823

Ms. COLLINS. I know Senator CONRAD is waiting to have a colloquy with the managers of the bill. I do have an amendment that I think I can dispose of very quickly. I ask unanimous consent that the pending amendment be set aside. On behalf of Senator VOINOVICH, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine (Ms. COLLINS), for Mr. VOINOVICH, proposes an amendment numbered 3823.

Ms. COLLINS. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the financial disclosure process under the Ethics in Government Act of 1978)

At the appropriate place insert the following:

SEC. ___. FINANCIAL DISCLOSURE AND RECORDS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Office of Government Ethics shall submit to Congress a report—

(1) evaluating the financial disclosure process for employees of the executive branch of Government; and

(2) making recommendations for improving that process.

(b) TRANSMITTAL OF RECORD RELATING TO PRESIDENTIALLY APPOINTED POSITIONS TO PRESIDENTIAL CANDIDATES.—

(1) DEFINITION.—In this section, the term "major party" has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

(2) TRANSMITTAL.—

(A) IN GENERAL.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(B) OTHER CANDIDATES.—After making transmittals under subparagraph (A), the Office of Personnel Management may transmit an electronic record on Presidentially appointed positions to any other candidate for President.

(3) CONTENT.—The record transmitted under this subsection shall provide—

(A) all positions which are appointed by the President, including the title and description of the duties of each position;

(B) the name of each person holding a position described under subparagraph (A);

(C) any vacancy in the positions described under subparagraph (A), and the period of time any such position has been vacant;

(D) the date on which an appointment made after the applicable Presidential election for any position described under subparagraph (A) is necessary to ensure effective operation of the Government; and

(E) any other information that the Office of Personnel Management determines is useful in making appointments.

(c) REDUCTION OF POSITIONS REQUIRING APPOINTMENT WITH SENATE CONFIRMATION.—

(1) DEFINITION.—In this subsection, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(2) REDUCTION PLAN.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

(i) the President;

(ii) the Committee on Governmental Affairs of the Senate; and

(iii) the Committee on Government Reform of the House of Representatives.

(B) CONTENT.—The plan under this paragraph shall provide for the reduction of—

(i) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(ii) the number of levels of such positions within that agency.

(d) OFFICE OF GOVERNMENT ETHICS REVIEW OF CONFLICT OF INTEREST LAW.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of interest laws relating to Federal employment and submit a report to—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate;

(C) the Committee on the Judiciary of the Senate;

(D) the Committee on Government Reform of the House of Representatives; and

(E) the Committee on the Judiciary of the House of Representatives.

(2) CONTENT.—The report under this subsection shall—

(A) examine all Federal criminal conflict of interest laws relating to Federal employment, including the relevant provisions of chapter 11 of title 18, United States Code; and

(B) related civil conflict of interest laws, including regulations promulgated under section 402 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

Ms. COLLINS. Mr. President, I know the Presiding Officer has a great interest in the issue that we are about to briefly discuss. The amendment of Senator VOINOVICH would require the Office of Government Ethics to report to Congress on recommendations for streamlining the financial disclosure forms for the executive branch. In addition, the amendment would require each executive branch agency to examine the number of positions requiring Senate confirmation. It would ask the Office of Government Ethics to conduct a comprehensive review of the Government's conflict of interest laws, and it would require the Office of Personnel Management to provide Presidential candidates with a list of all appointed positions within 15 days of their party's nomination. This amendment is based on legislation that was favorably reported by the committee during the last Congress.

The 9/11 Commission recommended that the Senate should not require confirmation of appointees within the national security team below level 3 of the executive schedule. The Voinovich amendment lays the groundwork for this recommendation by requiring the executive branch to identify which positions could be eliminated from the confirmation process.

Review of that information by all Senate committees will help those of us in the Senate make a more informed and thoughtful decision on reducing specific positions that now require confirmation.

The financial disclosure requirements have been in effect for almost 25 years. Unfortunately, in some cases, they have deterred very good people from serving in the Federal Government. I hope this will lead to more effective, more efficient, and simpler requirements so it no longer will deter potential nominees from serving, or force them to go through great expense in order to comply with overly burdensome laws and regulations.

Again, this proposal is very consistent with the recommendations made by the 9/11 Commission and I urge acceptance of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am pleased to join the chairman of our committee in urging acceptance of this amendment. I thank Senator VOINOVICH and the occupant of the chair, the distinguished Senator from Tennessee, for their work on this issue.

This is a topic we have been talking about in the Congress for a long time. The occupant of the chair, having been vetted, considered, and confirmed for a Cabinet position in the past, knows the difficulties he and others have faced in fulfilling all those obligations, well beyond what most would deem to be reasonable.

What motivates this now is an extra dimension of concern. The September 11 Commission made it very clear that a catastrophic attack might well be more likely to occur during the transition from one administration to the other. Therefore, the Commission recommended that we should do anything we could reasonably think of that would speed up the process of filling national security positions in our Government.

Earlier today, I am pleased to say, the Senate adopted an amendment that Senator McCAIN and I and others introduced to accomplish some of those specific recommendations of the 9/11 Commission. This amendment builds on that, goes beyond it, and makes the bill stronger by helping an incoming administration fill a wide range of its appointive positions more promptly, in some cases, doing what is just plain logical: requiring the OPM, Office of Personnel Management, to send information to Presidential candidates 15 days after they are nominated; describing positions that must be filled in the new administration. This would not only allow time to prepare it, it would create a sense of optimism and fantasy in the minds of candidates nominated as to what they would do when they were elected. The amendment also calls for reports that will help us and the President to consider ways to further improve and streamline the process of getting officials appointed and put into place.

It is a very good amendment. It builds on some substantial contributions Senator VOINOVICH made to the bill in committee. I am pleased to urge its adoption.

The PRESIDING OFFICER. Is there further debate on the amendment?

If there is no further debate, without objection the amendment is agreed to.

The amendment (No. 3823) was agreed to.

Ms. COLLINS. Mr. President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. CONRAD. Mr. President, I come to the floor to ask a number of questions of my colleagues who are managing the bill. I have very high regard for the chairperson, Senator COLLINS. I have worked with her on other matters and found that she is an extremely able and diligent Member. I admire the way she has handled this legislation. I have watched the process as it went through the committee. I am not on the committee but I watched as it was being televised. I thought it was a very professional process.

I also have very high regard for the Senator from Connecticut, Mr. LIEBERMAN. I am not on the relevant committees. I am not on the Intelligence Committee. I am not on the Defense Committee. I am on the Budget Committee and the Finance Committee and deal with these issues from a budget point of view and financing point of view.

With that said, I come to the floor to ask a series of questions. I want to indicate that I have with me charts that were prepared by the office of Senator LIEBERMAN to talk about what the structure currently is and what this legislation would do to change it and to raise a number of concerns that I have about that change.

First, I think we should indicate the problem we are confronting with the American intelligence community, where there is a lack of coordination and communication, which has been clearly outlined in a series of hearings and a series of reports, including the report by the 9/11 Commission, including the report by the Intelligence Committee, including the work of the very able chairman, the Senator from Maine, all that has been laid across the record very clearly.

This chart from the office of Senator LIEBERMAN shows the organization of the intelligence community as it is, with the President and the National Security Council overseeing the various agencies of Government, including the Director of Central Intelligence, the Secretary of Defense, but has within it the National Security Agency, the National Geospacial-Intelligence Agency, the National Reconnaissance Office, the Defense Intelligence Agency, and the Military Services and Combatant Commands. The large majority of the funding of the intelligence community is in the Department of Defense.

I think maybe that is too little understood by the general public. But that is fact. The large majority of the funding is not at the Central Intelligence Agency. I think people in the United States probably assume that is the case; it is not. The vast majority of the funding for intelligence operations is within the Department of Defense.

Other agencies that have a significant role, of course, are the Attorney General's office, because he oversees the FBI, and the FBI has responsibility for intelligence operations within the United States.

Then we have the Secretary of Homeland Security within which we have the Information, Analysis and Infrastructure Protection Director and the Coast Guard intelligence. The Secretary of State has the Bureau of Intelligence and Research, and the Secretary of Treasury has an intelligence branch, as does the Secretary of Energy.

The problem with this structure, which has been pointed out repeatedly, is that these are a series of stovepipes, basically leading only to the White House. There is nobody that is in overall coordination and direction of these various intelligence agencies. And the idea has been to have a national intelligence director that would have responsibility to coordinate and communicate with respect to these various agencies.

So the proposal before us is to create a national intelligence director with these other various agencies already existing reporting to the national intelligence director, so there is someone in a position to coordinate and ultimately communicate what intelligence agencies are finding.

Let me just say that I thought that what was going to happen with the national intelligence director is that funds were going to be brought together and we would not have the continuing existence of all of these other agencies.

That is really what I want to ask the managers about. The concern that I have is if we have a failure of communication and coordination, especially between the FBI and the CIA, how does adding another entity, how does adding another player improve the chances for coordination and communication?

Let me say that I was trained in business management. My career before I came here was to manage organizations. My experience has been the more layers, the less communication, the more inefficient the communication.

When this was first outlined and I found out that the CIA is still going to exist, I must say I was taken aback. I was surprised by that. I thought the Central Intelligence Agency would become the new intelligence, with a new national intelligence director. Therefore, we wouldn't be adding another player to the mix, but we would be putting somebody in a position of authority so that we could hold them accountable.

The concern I have is instead of that, we have maintained a Central Intelligence Agency and all of the other intelligence agencies we had before, and added a national intelligence director.

The fundamental concern I have and the question I have is, Why has the committee concluded that this is the right way to proceed? Why wouldn't it be better by joining the function, reducing the number of players, reducing the number of boxes on the organizational chart, instead of adding a layer?

I would be quick to say I think you need to have a national intelligence director, somebody who is in overall coordination and control because before we did not have that.

That is really the question I came to the floor this afternoon to query the chairman and ranking member about.

I would be happy to yield so they might respond.

Mr. LIEBERMAN. Mr. President, I thank the Senator from North Dakota for his questions. I want to assure him, first, there will be no rental charges for the charts that were a joint product of Senator COLLINS's and my office.

To very briefly give the background, most immediately from the 9/11 Commission Report, when we said here repeatedly, and Lee Hamilton said during the course of our hearings during the investigation about how 9/11 happened, the Commissioners very often would say, Who is in charge? The answer more often than not was: No one. They concluded it was an organization without a head. That explained why the CIA would have information and not share it with the Immigration and Naturalization Service about people they would want to keep out of the country, or the FBI would have information and not share it with the CIA.

The result was we are athletes—a homelier analogy—that the American intelligence community is like a football team with a lot of very good players but no quarterback. So they are kind of doing their own thing; some of them sometimes seem to be in another stadium and we are not getting the benefit of the billions of dollars that we are investing.

The Commission recommended that we put someone in charge as a national intelligence director.

Right now, the President is at the top on the chart. The President can't exercise day-to-day control over the intelligence community.

Incidentally, this was the report of the 9/11 Commission. Most immediately, it was essentially the recommendation of the Joint Intelligence Committee of the Congress, and in the recent past created a national intelligence director. The Scowcroft report—though we have not seen it—everybody knows that it says there has to be a national intelligence director. In fact, these recommendations go way back to 1947 when the National Security Act was passed post-Second World War and the CIA was officially created. Here is part of the problem. This is part of what I want to answer about the question.

Part of the problem that all of these groups found was that the Director of Central Intelligence—as that position exists today, which was the same person as the Director of the Central Intelligence Agency—effectively became only the Director of the Central Intelligence Agency. That is part of why nobody was really directly overhead.

As we can see in the first chart, the director of the Central Intelligence Agency is over the CIA. The major recommendation was we have to separate those two, have a separate CIA Director, and then the national intelligence director who will be over all those stovepipes.

How will he or she break them up? Two things. First, and this goes on from Colin Powell and others, we said the existing DCI was supposed to oversee the whole intelligence operation. We gave them some power but did not get them budget power. As my friend from North Dakota said, 80 percent of the budget for intelligence goes through the Department of Defense..

In an episode that Senator COLLINS and I were struck by in the 9/11 report, Director of Central Intelligence George Tenet, in 1998, after a series of al-Qaida attacks, sends out a directive—then classified, now public—to the agencies under him and says, war has been declared against us by these terrorists: They hit the World Trade Center in 1993 with the bomb, they went after the embassies in Africa, et cetera. This is a declaration of war by us and the American intelligence community against al-Qaida, a war on terrorism. And no one responded. No one did anything because he is a general without authority.

It is the old biblical line, at the sound of the trumpet, be uncertain who will follow into battle and, unfortunately, here, one of the elements of a certain trumpet in the Washington bureaucracy is money, budget authority. So no one did anything.

When the Commission asked one of the heads of the boxes on the chart, Why didn't you respond to George Tenet, he said, We didn't think we had to; we thought that was a memo.

Separate CIA from the Director so he is not responsible only for that agency but everyone in the community, with the budget authority to enforce decisions, with transfer authority for personnel within the intelligence community and, one of the most important, form the budget. Do not let other agencies do it. Actually do the budget.

The Senator from North Dakota is one of the Senate's experts on budgeting, one who worries most about whether we are getting taxpayers their money's worth. Billions of dollars—it is a classified number, so I cannot state it—but billions go into intelligence every year.

One of my hopes, because we do not talk about it much, we talk about connecting the dot, the national intelligence director will, one, be a tough budget official; two, make sure we get our money's worth; and third, more budget authority and oversight over the constituents. And, too, maybe decide this box under me is getting more money in terms of the current threat to America than it should, but this one is not getting enough; I have to move this money around.

One more point. A critical element under the national intelligence director to help him or her connect the dots is the National Counterterrorist Center. The other centers he can create for separate problems such as nuclear proliferation or separate geographic public areas like Iran and North Korea. This is the place where he will bring together as never before all the constituent parts of the intelligence community. They will sit down. He can transfer people to those centers. He can give them assignments. Most of all, he can make sure they will pool their collection of intelligence, their analysis of intelligence and, very importantly, since they are around the table—they are talking with one another, they see the problem, they have an idea from the best intelligence, signal intelligence, imagery from the satellites we have, human intelligence from people on the ground—they will do some joint operational planning as to how to deal with the problem. How do we get bin Laden? Or if there is a terrorist cell in America, what is the best way to pool our resources to get them? We put somebody in charge and we give them real authority.

Incidentally, there will be amendments introduced, or already have been, that will come to a vote in the next 2 or 3 days aimed at cutting away at that power. I say, with all respect, probably folks worried about the Department of Defense losing some authority—Senator COLLINS and I are both on the Armed Services Committee. We have a deep commitment to the warfighters. We are confident this structure will actually give better intelligence to the warfighters.

That is my answer to your question.

Mr. CONRAD. Might I ask a followup question, because the Senator referenced these earlier reports going all the way back from 50 years ago. I fully support the concept of a national intelligence director. My concern is how we are implementing it. Did the earlier reports, including the most recent from the Intelligence Committees, from the 9/11 Commission, contemplate with the creation of a national intelligence director we would still have a Central Intelligence Agency?

Mr. LIEBERMAN. They did. Interesting question. As a matter of fact, this was a real priority for the 9/11 Commission, that we separate the CIA from the national intelligence director. The point is that the CIA is only one element of the remarkable assets we have in our intelligence community, including the so-called signal intelligence, the imagery from the satellites we have, the work coordinating domestic and foreign. Because the terrorists do not separate between domestic and foreign, now for the FBI it is made statutory under the bill creating a new directorate of intelligence, counterterrorism, working with the CIA under the national intelligence director. So the answer is yes.

In fact, my understanding of the original proposal for the National Security Act post-World War II was there be a separate national intelligence director overlooking a whole community and a separate CIA. Folks in the military community were able to blend the two and diminish—here in Congress we were worried about this—and diminish and separate the power of the DCI. We look back now, and the 9/11 Commission certainly did, and say that was part of the problem. They created the vulnerabilities and weaknesses and openings the terrorists took advantage of on September 11.

Mr. CONRAD. One additional question, if I could, on the budget authority inherent in this plan. I indicated the vast majority of resources actually go to the Department of Defense and the various intelligence operations within the Department of Defense. The Senator from Connecticut indicated it was as much as 80 percent.

In terms of management of an operation, are we going to be left with a circumstance in which 80 percent of the funding is at the Department of Defense? And if so, how do we avoid a circumstance in which the tail is wagging the dog? That is, typically one finds in organizations that initiative and power follows money. If there is at the top a relatively weak national intelligence director, with most of the functions and resources in a subordinate agency, that creates its own management challenges.

I am interested to know what the concept is with respect to budget authority. Who will have that overall authority over resources?

Mr. LIEBERMAN. I thank the Senator from North Dakota. He is absolutely right in his statement.

We heard from witness after witness in our committee's deliberations in August and into September that probably worse than the status quo—which is bad, without leadership—would be to create a national intelligence director and not give him the power to direct. This may be an old quote my friend is familiar with, but former CIA Director Jim Woolsey said: In Washington, there is a different definition of the golden rule. He who has the gold makes the rules.

We are making sure the national intelligence director has the gold, which is to say the budget authority, both to formulate the budget for this entire community of national intelligence—the so-called tactical military intelligence budget—that stays with the Department of Defense.

But while I cannot say the specific percentage, I will tell you under our proposal—again this is classified, but well over 50 percent of the budget authority will now go from the Department of Defense to the national intelligence director. So that position will have that budget authority in two ways. The first is to formulate the budget. Again, this is a very important colloquy because we are going to see some amendments that are intended to reduce the authority of the national intelligence director over budget to say he basically has to accept the budget proposals of the constituent agencies. That is not so in our bill.

The second very important point: Right now the budget for the intelligence agencies goes to the Department of Defense. Even for the CIA it goes to the Department of Defense, then to the CIA. In our proposal, the money goes to the national intelligence director and then that position parcels it out to the others.

Mr. CONRAD. Might I just conclude on that point, and then I am finished. I know there are other Senators waiting. I waited to have this opportunity because I think this is very important. These are questions I am getting.

Mr. LIEBERMAN. Sure.

Mr. CONRAD. In my position on the Budget Committee, people are asking me, how is this money going to be controlled? People are given responsibility. Do they have authority?

The final question I have with respect to the Department of Defense is, we heard the other day from the Secretary of Defense, Secretary Rumsfeld, who has a very strong management background. He expressed great concern, and I think it is a concern that absolutely deserves full consideration. His great concern, as I heard it the other day in our briefing, was that he is going to have a separation of responsibility from authority; that is, resources that are currently under his control and direction are going to move up the line to the national intelligence director. He and the warfighters have a fundamental responsibility and need for intelligence. He is concerned, with the separation of these resources—as the Senator describes, much of the budget moving from the Department of Defense level up to the national intelligence director—that he not be shortchanged and that his combatant commanders not be shortchanged of the resources they need to make tactical and strategic decisions.

This is my final question: What is the response of the leadership of the committee to his concerns?

Mr. LIEBERMAN. I thank the Senator from North Dakota.

Mr. President, I will begin, and if the Senator from Maine wants to get into this, I would welcome her doing so.

First, I would say, again, Senator COLLINS and I are members of the Armed Services Committee of the Senate. If we felt there was the remotest possibility this proposal of ours would shortchange the warfighters, we would not make it. And believe me, it does not.

A couple things to say: First, we make a distinction in this bill between the tactical military budget on one hand and the national intelligence budget on the other. The tactical military budget—intelligence officials who are working for individual services;

Army, Navy, combatant commanders working on joint programs within the military for more than one service—that money all stays with the Department of Defense. But the national intelligence assets, which are used, let's say, for satellites—which are clearly used by the military but also provide information that is critically important for the Department of Homeland Security or the State Department in advising the President on critical foreign policy decisions—that is under the national intelligence director, as it should be.

The fact is, a lot of this is worked out in a consulting, consensus way. But we want to just raise that national interest here. The military will always be a priority customer of the intelligence community, but it is not the only customer. The President of the United States is the most important recipient of intelligence. The Secretary of State is very important; now the Secretary of Homeland Security.

I believe we have struck exactly a balance here in making sure the warfighter is well supported. We had very interesting testimony, which I can share with my friend, from two generals who are heads of two of the constituent national intelligence agencies. They said to us they believe this proposal establishing a national intelligence director would be an improvement and be an improvement from the point of view of their agencies because it ended the ambiguity that exists now which they think is not good for their agencies and ultimately not good for the military.

I wonder if the Senator from Maine wants to get into this and answer some of the very good questions my friend from North Dakota has asked.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, first of all, I thank the Senator from North Dakota for the thought he has given to this issue. I know he has a great interest in management structures, in making sure we have the most efficient structure possible to serve the taxpayers. So I very much appreciate the spirit with which he has raised these questions.

I want to make three concluding points to emphasize some of the points already made by my colleague from Connecticut.

First, it was evident as we studied this issue and read the 9/11 Commission Report that the current system does not foster the kind of communication and cooperation we desperately need. It is a series of stovepipes with no one having the ability to make the final decisions, to resolve conflicts, to move resources and people where they are most needed. You cannot go to the President of the United States on everything.

I have seen that firsthand in the staffing of the Terrorist Threat Integration Center where the Director feels he needs more resources, other decisions have been made by various agency heads, and there is no one to step in and set the priorities, move the people, and direct the resources. I think our bill really changes that.

Like Senator LIEBERMAN, I was struck by Director Tenet's 12/98 memo in which he does this call to be at war and that all resources should be marshaled, and virtually nothing happened. That will change under our structure. There will be accountability under our structure because people will know who is in charge and whose call it is, and that is the national intelligence director. Our organization enhances accountability, cooperation, coordination, communication, and, most of all, results.

Second, the 9/11 Commission considered doing the kind of structure you have raised questions about. Essentially, that would be creating a department of intelligence. You would take all of these units out of the other agencies and do a brandnew department. And it felt—and I agree—that would be too disruptive, particularly at a time when we are at war; that it would be expensive, it would be complicated, it would take a long time to put into effect.

We have seen that with the Department of Homeland Security. That has been a massive undertaking. I am very proud of the leadership of Secretary Ridge and Admiral Loy, but it has not been without its growing pains. We just could not afford that kind of disruption right now.

Third would be the reaction of DOD if we took all of those entities out and put them in a new department. There was testimony of a former head of the Defense Intelligence Agency at a hearing on the House side in August. He said if you pulled those agencies, like the National Security Agency, the DIA, the NGA, the NRO—those that serve DOD and other consumers—if you pulled them out, you would see DOD re-creating within the Department new entities to replace those if you severed that link and transferred them. To quote William Odom, "You're just going to end up with a big mess" if you do that. That is why we came up with this structure.

Mr. CONRAD. The last reference of winding up "with a big mess," whose quote is that?

Ms. COLLINS. William Odom, who is a former head of DIA. So we felt the case was very persuasive for the kind of organizational structure we came up with. That was recommended by the 9/11 Commission.

Having said that, I am sure it is not perfect. I am sure we are going to learn from it. That is why we have reports required back to Congress after a year's time and by the General Accounting Office Accountability Office in 2 year's time, because we want to make sure we get this right.

I think we have struck the right balance in the organizational structure we propose.

Mr. CONRAD. Let me conclude on this note: The thing I am most concerned about is having an entirely separate Central Intelligence Agency and an office of national intelligence director. The thing that I have a difficult time understanding is how that is not going to create its own turf battles, its own communications problems. I hope I am proved wrong by this, but it is the one thing I looked at and I was surprised by and, I must say, I wondered about.

I read the reports on the difficulties we had with the coordination between the CIA and the FBI and their turf battles and their unwillingness to share information. When we preserve the Central Intelligence Agency and create an office of national intelligence director and we still have, of course, the FBI's Office of Intelligence, I wonder whether we don't wind up with more turf battles. I know the intention is to avoid that and to appropriately create a place that will coordinate all the work of the intelligence community.

My great management concern is that we will wind up with additional turf battles. I hope that is not the case. I am glad the reviews are built in because I think that is important. I wanted to express these concerns publicly. I wanted to raise these issues and have a chance for the managers to fully respond.

I very much thank the chairman and the Senator from Connecticut.

Ms. COLLINS. I thank the Senator from North Dakota.

Mr. CONRAD. I yield the floor.

The PRESIDING OFFICER (Mr. CRAPO). The Senator from Maine.

Ms. COLLINS. Mr. President, I know Members are eager for us to vote on Senator LAUTENBERG's amendment, which I believe is the pending amendment. I hope to conclude the debate on that shortly and move to table his amendment. Senator STEVENS is in the Chamber and would like to lay down a couple of amendments. I will delay the debate on the Lautenberg amendment until after Senator STEVENS.

I ask unanimous consent that the pending amendment be set aside so Senator STEVENS may offer his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

AMENDMENT NO. 3839

(Purpose: To strike section 201, relating to public disclosure of intelligence funding)

Mr. STEVENS. Mr. President, I have filed a series of amendments. I would like to address the one on disclosure of intelligence funding.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. WARNER, and Mr. INOUYE, proposes an amendment numbered 3839.

On page 115, strike line 13 and all that follows through page 116, line 23.

Mr. STEVENS. Mr. President, I direct the attention of the Senate to page 115. This is title II. It pertains to the amounts to be disclosed. It deals with amounts authorized and appropriated in each fiscal year.

My amendment follows the recommendation of the administration and, I might add, the intelligence community to think twice before we do this. It may be that we will want to do this after the NID comes into being and we all have a better knowledge of how these funds are going to be handled.

This amendment would require a further study of the disclosure of funds that are provided for intelligence programs. The basic need for this amendment rests on the testimony of the Acting Director of Central Intelligence John McLaughlin before the Governmental Affairs Committee. He said:

> I would not go so far as to declassify the numbers for the individual agencies. I think that gives too much opportunity for adversaries to understand how we are moving our money from year to year from technical programs to human source collection and to other objectives.

In the administration's statement of policy, the administration is also concerned that the committee bill mandates disclosure of sensitive information about the intelligence budget. The legislation should not compel disclosure, including to the Nation's enemies in war, of the amounts requested by the President and the amounts provided for the conduct of the Nation's intelligence activities.

I understand that the committee intends to comply with the recommendations of the 9/11 Commission with regard to this. But I think it is time we slow down a little bit and respond at least in part to some of the comments of those people who have spent their lifetimes now in our intelligence service.

I can tell you that I have not spent my whole lifetime there, but I have spent some 30 years now in terms of watching over the Defense Appropriations Committee and being part of it at least. In terms of being chairman and ranking member, it has been now 23 years. This concerns me greatly because one of the problems of the appropriators is to find ways to have an honest budget but to put the money where the enemies of this country, those who want to do us harm, do not know what our emphasis is way out into the future.

I remember when we started transitioning to electronic intelligence and how we traveled from place to place to look at these new satellites and the things they were going to do and got briefings on capacities. Those were developed over a series of years, and they got more complicated as they went along. But the money that was involved was substantial.

To have a disclosure of "we are engaging in an entirely new effort in intelligence" would be highly unwise.

I quote from the second page of the administration statement:

> The Administration is also concerned that the Committee bill mandates disclosure of sensitive information about the intelligence budget. The legislation should not compel disclosure, including to the Nation's enemies in war, of the amounts requested by the President, and provided by the Congress, for the conduct of the Nation's intelligence activities.

I am deeply concerned about some of the problems of how we find a way to maintain the secrets of this country with regard to what we are doing in terms of human intelligence. We are building up human intelligence at the same time as we are changing the utilization of the electronic concept of intelligence. And while I believe the time may come when we can find a way to disclose certain portions of the budget, I have a real resistance to this proposal that says:

> Congress shall disclose . . . for each fiscal year after fiscal year 2005 the aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated by Congress for such fiscal year for the National Intelligence Program.

Then it directs the study of disclosure of additional information. We are certainly not opposed to the study. It is the mandate beginning in 2005. We are going to start, for the fiscal year 2006, disclosing these amounts at a time when there is great change in the intelligence community. The whole structure of the intelligence community will be changed by this bill. To start disclosing where money is going is to tell the enemies of this country where our emphasis for the future is. It is the future I am concerned about in terms of disclosure.

In the future we set up reserve accounts, and I will be talking about some of those soon. But if we set up reserve accounts, the reserves are classified as reserves because that is where they get the money for innovation and new developments. We don't have to disclose it. We don't have to tell them: Yes, we are going to build new satellites or we are going to build other devices that can listen to transmissions in the air and on the land and under sea.

We have a lot of secrets in this country. They are all related to intelligence. Let me repeat that. Every one of our secrets is related to intelligence. They are highly classified. Many of them are known only to the President and a close circle. Part of that circle includes Members of Congress who deal with the very high-level, classified programs of the intelligence services.

I urge that the Senate listen to us and listen to the administration and to those who have been involved in these activities. Again, I call to the attention of the Senate that when we returned and found there were a whole series of people who had not been heard on their viewpoints—they wanted to express their concerns—we held a hearing and listened to the intelligence people, who had great, distinguished records in the past. We listened to Secretary Kissinger and a whole series of people who wore our uniform and have been the top officers of our military. To a person, they do not believe we should move this fast on this disclosure item.

Let us have the study. We are entirely in favor of the study. But to mandate the disclosure in the bill we will prepare in 2005, I think, is much too early, in view of the changes taking place in the area of intelligence. This is where we are going to start to see if there is any reaction to those who have had experience in the area, to the President, and to those who have reviewed the whole thing. Is the Senate going to listen to these people with some experience and say, OK, let's study it, but not make the judgment first and then study it?

This disclosure in the next fiscal year is wrong, until we know what the policies of the NID are and what are going to be the policies of Congress and how we are going to handle this appropriation. It appears to me that the result of this bill will be to fractionalize the intelligence appropriation, anyway. Part of it is going to go to the Department of Defense; part will be split up into several agencies within the NID.

I think we ought to know first what we are doing before we decide what we are going to disclose so we can maintain the secrecy that is required in order to prepare for the future. This is not something to correct mistakes of the past; this is something to prevent making mistakes in the future.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I have enormous respect for the Senator from Alaska. He is an extraordinary Senator, with many years of experience. I do want to assure the Senator from Alaska that, contrary to the implication in his statement, the committee did not adopt the recommendation of the 9/11 Commission to declassify the aggregate budget totals of all the agencies that make up the national intelligence program. We did not adopt that recommendation of the 9/11 Commission because, based on our hearings and the testimony of our witnesses, we concluded that that goes too far and might well reveal information that would be helpful to those who would do us harm.

The only declassification in the Collins-Lieberman bill is the top line aggregate amount for the entire national intelligence program. It does not declassify the specific appropriations amount distributed to agencies such as the National Security Agency, or the Defense Intelligence Agency, or the CIA, even though the 9/11 Commission recommended declassification at that level.

Declassification, the top line, only that aggregate figure which has been estimated in the newspapers many, many times, I believe, will improve congressional and public oversight of the intelligence budget. It will help us with better decisionmaking on resource distribution, and it will make the structure and the management of the intelligence community more transparent.

We asked our witnesses, including the Acting Director of the CIA, John McLaughlin, his views. And he, like most of our other expert witnesses, told us that as long as the specifics of the intelligence budget remain classified, there was no harm to national security to declassify just that top line aggregate amount.

I think we struck the right balance in this regard. What we did is we included a study asking the national intelligence director to report back to us—to the Congress—on whether further declassification was appropriate. But the only step we took was that top line aggregate amount. If you don't declassify that in order to have a separate appropriation, then you end up, I fear, with the status quo—the money going through DOD accounts once again. That greatly weakens the budget authority of the national intelligence director.

Again, I have enormous respect for the Senator from Alaska. I wanted to make clear what our bill does and what it doesn't do, because I think we have reached the right decision.

Mr. STEVENS. Will the chairman yield for a question?

Ms. COLLINS. Yes.

Mr. STEVENS. I am looking at the bill. The bill says the President shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of funds authorized and appropriated for the national intelligence program. Then I go back to the page 6 for the definition of national intelligence programs. It says:

> Refers to all national intelligence programs, projects, and activities of the elements of the intelligence community;
>
> Includes all programs, projects, and activities (whether or not pertaining to national intelligence) of the National Intelligence Authority, the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the Office of Intelligence of the Federal Bureau of Investigation, and the Office of Information Analysis of the Department of Homeland Security.

That involves five different bills in the appropriations process. We currently put in any one of those five bills a portion of the clandestine activities we are financing with these moneys. So what you are going to tell us is, we no longer can use any portion of those because we are going to disclose the whole amount in every one of those bills.

Listen to me. You have not lived with how we have financed the intelligence community. The money is not disclosed. It is put in parts of the budget and you don't know where it is. It rests with Senator INOUYE and me, to be honest about it, and we make sure that is what it is. Maybe four people in the House and Senate know where this is. You are telling us to disclose it, without regard to where we put that money—disclose the money that is in each account and it goes into five separate bills. I say that is wrong. Wait until the NID comes into office and have him tell us how we can disclose what should be disclosed to the public. The public should not ask us to disclose this very classified, secret information to protect the future of the country through clandestine activities and acquisitions.

I ask the question, does the Senator understand what her bill does? It will disclose the aggregate amount of funds—disclose them all, including the very, very top secret items, which probably three or four people in the White House, a few people in the CIA, or the DIA, and maybe eight people in the Congress would know.

Ms. COLLINS. Mr. President, I direct the attention of the Senator from Alaska to line 16 on page 115, which clearly says that:

> The President shall disclose to the public for each fiscal year after fiscal year 2005 the aggregate amount of appropriations requested . . . for the National Intelligence Program.

It does not say that we are requiring disclosure of the appropriations for the elements that make up the national intelligence program.

Mr. STEVENS. It says:

> The aggregate amount of funds authorized to be appropriated, and the aggregate amount of funds appropriated, by Congress for each fiscal year for each element of the intelligence community.

Both authorized and appropriated. That is on page 116, line 9.

Ms. COLLINS. Mr. President, I say respectfully to the Senator from Alaska that that refers to the study on whether there should be further declassification. It does not refer to the disclosure. The disclosure is only—and it is very clearly stated—of the aggregate amount of the appropriations for the national intelligence program.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, this is a very important discussion about another critical part of this bill. Obviously, the Senator from Alaska has had an extraordinary record of leadership in this and so many areas of the Senate. He knows the subject matter. He has lived with it a long time. I understand what we are proposing represents change. He is quite sincerely concerned about it from the point of view of our national security interests.

I most of all want to assure him we spent a lot of time thinking about this. We did not just go for the 9/11 Commission recommendation. The 9/11 Commission recommended that we disclose not only the bottom line of the national intelligence budget but, in fact, the budget of every single agency.

Their argument, as I am sure the Senator from Alaska knows, was that, one, the public has a right to know. Of course, we have to balance it—what we disclose to our enemies—against national security, but if the budgets of those constituent agencies were out in the public, then maybe over the years the public and more Members of Congress might have decided we were not putting enough money into human intelligence, CIA, et cetera, and that we were putting too much into signal intelligence and that we would not have had the shortfall many people think we have now.

In our committee, Senator COLLINS and I decided we were not ready to make that leap of disclosing the budgets of the 15 constituent agencies of the intelligence community because we thought there was some risk involved about signaling the movement of our resources to those who wish us ill.

Incidentally, there were some members of the Commission who felt very strongly about the disclosure of the budgets of all the agencies, including some former Members of this Chamber who really feel this was at the heart of it. We did not think so, and that is why we called for the study.

We think we have, however, achieved something for asking for the disclosure of the bottom line because at least that tells the taxpayers and all the Members of Congress how much money we are spending for intelligence.

In the course of this investigation, I asked some specific questions, obviously in closed settings, about the amount of money we are spending overall and for each individual agency. I was surprised at the answers I got. I think maybe more Members of Congress should ask those questions.

But this is what I think we do achieve by having the bottom line disclosed. We are fulfilling a responsibility to the taxpayers to let them know how much money we are spending on intelligence because it is just the bottom line, without giving any particular guidance to our enemies as to where we are putting that money.

The second point is, one result of this might be when more Members of Congress and the public see what we are spending on intelligence, which is so critical in the war on terrorism—intelligence is always critical in warfare and even more critical today because of the nature of this enemy which strikes at undefended targets, innocent civilians, and is crazy enough to blow themselves up.

So the more we can see and hear and know what they are planning, the more likely we are going to be able to stop them.

One conclusion, I say to my friend from Alaska, might be that Members of Congress and the public might conclude we are not spending enough on intelligence if they see the bottom line.

Mr. STEVENS. Will the Senator yield?

Mr. LIEBERMAN. Yes.

Mr. STEVENS. The problem is not that, from my point of view. My problem is we are going through a transition and saying for the very first year we are going to be asked to disclose the full amounts appropriated to the whole intelligence community.

My amendment strikes all of section 201, in effect. I urge, at the very least, that we strike that provision that requires disclosure in 2005. Let's have the study. I hope the NID will be able to make studies and get back to us sometime next year. But why put on us the requirement that we must collate and take all the moneys going to the intelligence community in 2006 when we are going to be working on that and, at the same time, he is making his adjustments in the whole community?

My effort is to protect the clandestine amounts, protect the amounts that are necessary for security. Why can we not at least agree to make it just the study? We all agree on the study. Maybe the Commission is right, and the Senator from Connecticut is wrong and I am wrong. Why don't we have the study and find out what the NID people think is right and then let us act on 2006?

Mr. LIEBERMAN. Mr. President, I say to my friend from Alaska, it is impossible that he and I can both be wrong.

Mr. STEVENS. We have been there before.

Mr. LIEBERMAN. We have been there before.

Listen, because of who you are and what you stand for, Senator COLLINS and I will certainly think about this. We think we have struck a good balance in just asking for disclosure of the bottom line, no details, beginning public consideration of what we are spending on intelligence, and this study we ask for in 180 days, 6 months, and then we can make some judgments beyond that.

I yield the floor. I thank the Senator. This is an important discussion.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I believe I am a cosponsor of the amendment.

Mr. STEVENS. Yes, Mr. President, the Senator is, along with Senator INOUYE.

Mr. WARNER. This is a debate we had many years on the floor of the Senate. It has been a debate we have talked about so many times, and there has been a consistency in the voting in the Senate to recognize the wisdom not to release the budgets.

As yet, with all due respect to our managers and others, I have not heard an absolutely convincing argument to turn back at least several decades that this has been an issue of debate on this floor. What is it in the public interest or, most importantly, our national security interests that requires us at this time to reverse positions that have been taken by this Chamber, together with the other body, over the period of several decades that I have been privileged to serve here?

My concern is that this world today is so rapidly changing, and with the advancement of electronics and so many devices to determine what we in an open society are doing, why put the roadmap on the table for all to begin to search?

It has been my experience that if you put out half a loaf, it will be followed by a request to get the other half of the loaf. Were this provision to prevail, we would be back here in a very short time, some colleagues with the best of intentions, saying: Why don't you put it all out? Why should we have any of it secret? That, coupled with the fact I have in my lifetime never seen a period where there is greater uncertainty about the security of this country—because of the progression of weapons of mass destruction, because of the progression of terrorism, and the proliferation of individuals who are willing to give up their lives to do harm in this country and other parts of the world—I just do not think at this point in time, without following, I think, the sage advice of our distinguished President pro tempore, we need to reverse what this Chamber has considered and decided upon year after year that I have been here.

So I urge colleagues to support the amendment of the senior Senator from Alaska. I intend to strongly do so.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I heard the last part of the comments of the Senator from Connecticut. I suggest we put this aside and see if we can come to some conclusion.

The Senator makes a good suggestion of putting a time limit on the study and getting us to the point where we might be able to follow this suggestion by the fiscal year 2006 bill. That bill will, in all probability, move through the Congress, I would say, by the May, June, and July timeframe. With the 180 days, I am afraid the Senator may be referring to the start of the fiscal year. That bill goes through the House and Senate. These are the first bills—Defense and Homeland Security, and Intelligence. Obviously; It is going to be in the first three without any question.

So the 180 days is going to be June, and this bill will be moving through the House before that time.

We probably could catch it before they finish in terms of if there is a recommendation we need, but I would urge my colleagues to consider repealing the requirement for disclosure and say that we urge the NID to give us the earliest possible date for that disclosure, when it could be done in the national interest.

We are putting a lot of control and power in this person. Let's have him tell us when and if it should happen rather than direct it now. Make the study and leave it up to him to recommend to us, at least to what extent we should disclose, commencing in fiscal year 2006.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I want to read a few sentences from the 9/11 Commission Report on page 416 which I think are relevant. It says:

> . . . Opponents of declassification argue that America's enemies could learn about intelligence capabilities by tracking the top-line appropriations figure. Yet the top-line figure by itself provides little insight into U.S. intelligence sources and methods. . . .

Here is a point that one of the members of the Commission, again a former member of this body, made from the 9/11 Commission Report.

> The U.S. Government readily provides copious information about spending on its military forces, including military intelligence. The intelligence community should not be subject to that much disclosure. But when even aggregate categorical numbers remain hidden, it is hard to judge priorities and foster accountability.

That is in defense of disclosing the 15 individual agency budgets.

I say to the Senator from Alaska, who knows this better than I—and I am honored to serve on the authorizing Armed Services Committee—we give a fair amount of detail of the budget in terms of military programs.

Mr. STEVENS. Will the Senator yield?

Mr. LIEBERMAN. Yes.

Mr. STEVENS. Unfortunately, that is not a part of the report. That is a comment after the recommendation. It sort of demonstrates the extent of the knowledge they had about what they were dealing with in the recommendations, because that is not true. We do not disclose the amount we appropriate for defense intelligence. We disclose the amount in the budget that we support defense intelligence agencies with pay, facilities, and offices, but the amounts of their programs are not disclosed.

What I am saying to the Senator is, as we approach this, I think there is a growing desire to know how much money we are spending. The Senator may be right. Maybe people want us to spend more. I have wanted to spend more for a long time.

Mr. LIEBERMAN. I know that is true.

Mr. STEVENS. The problem is people ought to know what they are talking about before they change the system. In these budgets are both moneys for acquisition and for salaries, and somewhere in there is some money that everybody knows, in the intelligence community, where it is and what it is for.

In the Defense authorization bill there is a classified portion of that budget.

Mr. LIEBERMAN. Sure.

Mr. STEVENS. I am not even sure, other than the chairman and ranking member, if the Senator knows what is in there. I am saying so apologetically, but the system that requires secrecy in this country on some things is kept secret. This disclosure prematurely might trigger someone saying "watch that" in answering the question, and that would be bad because if they answer the question about what they knew was in there, that would disclose what they did not know was in there.

Mr. LIEBERMAN. A final response on this point. The Senator from Alaska says correctly if one looks at the overall budget of a given military agency, it does not tell what they are spending on different programs. So I want to assure the Senator from Alaska that under the committee's proposal, not only do we not talk about what is being spent on specific programs and specific intelligence agencies, we do not talk about what is being spent in those agencies. We talk about the one number, the conglomerate bottom line or top-line number, and I think that only gives a general idea of what we are investing in intelligence, far from any specific information about what we are investing in particular kinds of intelligence, signal, human, image, let alone specific programs.

I would not do this if I thought it would jeopardize our national security. In fact, that is why we did not call, as the Commission requested, for disclosure of individual agency budgets because we worried it might, and that is why we are asking for a report from the national intelligence director.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I will quote Acting CIA Director John McLaughlin from our September 8 hearing on this very issue. He said:

> If there is a separate appropriation for the foreign intelligence program, the national intelligence program, as distinct from the current arrangement where that appropriation is buried in the larger Defense Department bill, I think it would make some sense to declassify the overall number for the foreign intelligence program.

That was typical of our witnesses.

I also note that the top line has been made public on occasion in the past. It was made public in 1997 and 1998 by the DCI.

At this point there are numerous Senators who are asking what the plan is for today and who are trying to catch planes. I ask for the regular order with respect to Lautenberg amendment No. 3802, and I ask unanimous consent that there be 2 minutes on each side prior to a motion to table the amendment. I further ask for the yeas and nays.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Reserving the right to object, it is my understanding that that would set aside the pending amendment and take up that procedure. We would come back to this amendment. Or is there another amendment in the queue by regular order?

The PRESIDING OFFICER. There is no other amendment in the queue by regular order.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. HOLLINGS. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I ask unanimous consent the pending amendment be set aside so I can call up my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3795

Mr. HOLLINGS. I call up my amendment numbered 3795.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. HOLLINGS] proposes an amendment numbered 3795.

Mr. HOLLINGS. I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To propose a substitute.)

Strike all after the enacting clause and insert the following:

SECTION 1. NATIONAL INTELLIGENCE COORDINATOR.

(a) NATIONAL INTELLIGENCE COORDINATOR.—There is a National Intelligence Coordinator who shall be appointed by the President.

(b) RESPONSIBILITY.—Subject to the direction and control of the President, the National Intelligence Coordinator shall have the responsibility for coordinating the performance of all intelligence and intelligence-related activities of the United States Government, whether such activities are foreign or domestic.

(c) AVAILABILITY OF FUNDS.—Funds shall be available to the National Intelligence Coordinator for the performance of the responsibility of the Coordinator under subsection (b) in the manner provided by law or as directed by the President.

(d) MEMBERSHIP ON NATIONAL SECURITY COUNCIL.—The National Intelligence Coordinator shall be a member of the National Security Council.

(e) SUPPORT.—(1) Any official, office, program, project, or activity of the Central Intelligence Agency as of the date of the enactment of this Act that supports the Director of Central Intelligence in the performance of responsibilities and authorities as the head of the intelligence community shall, after that date, support the National Intelligence Coordination in the performance of the responsibility of the Coordinator under subsection (b).

(2) Any powers and authorities of the Director of Central Intelligence under statute, Executive order, regulation, or otherwise as of the date of the enactment of this Act that relate to the performance by the Director of responsibilities and authorities as the head of the intelligence community shall, after that date, have no further force and effect.

(f) ACCOUNTABILITY.—The National Intelligence Coordinator shall report directly to the President regarding the performance of the responsibility of the Coordinator under subsection (b), and shall be accountable to the President regarding the performance of such responsibility.

Mr. HOLLINGS. Mr. President, I support the Hollings-Stevens amendment, numbered 3795. My amendment strikes and replaces the underlying bill with language creating a national intelligence coordinator, or NIC. Important work since September 11th of the 9/11 Commission, numerous Senate committees and others has convinced all of us that we must enact intelligence reform. I am impressed by the efforts of my friends Senators COLLINS and LIEBERMAN, and others, who have used their considerable skills to implement most of the recommendations of the 9/11 Commission. But I worry that the Senate is moving ahead with enormous restructuring, when we could address the main problem more immediately. 9/11 was clearly an intelligence failure, and we must act now to fix the most glaring problem—the lack of an intelligence coordinator.

My amendment fixes this most obvious, most severe problem with our intelligence structure by creating a national intelligence coordinator, or NIC. It will be the NIC's responsibility to sift through the work of all of our intelligence entities, both foreign, domestic and military and keep the President abreast of the intelligence community's findings in a coordinated, complete way. As it exists, the intelligence community's communications with the President cannot help but be haphazard. The President needs to have the huge volumes of intelligence information coordinated by someone he trusts, so he can make informed policy judgments. Thus, my amendment allows the President to select an intelligence coordinator as a member of the

National Security Council, not subject to Senate approval. Just as President Bush has Karl Rove, whom he trusts and who coordinates the political intelligence throughout this Administration, the President needs a Karl Rove for national security intelligence.

This NIC will need sufficient staff and resources. So my amendment assigns to the NIC in his or her role as coordinator of intelligence activities, the staff and resources currently assigned to the Director of Central Intelligence, or DCI, that is now employed in the performance of his role as coordinator of the intelligence community, which he is not doing.

Many of the dozens of provisions in Collins-Lieberman would likely improve our system of intelligence. The Senate should study each of these provisions carefully, and enact the best of these provisions after such consideration. My amendment fixes the main problem in the meantime—the lack of a coordinator.

Collins-Lieberman creates a National Intelligence Director, or NID, and gives that person considerable power over budgets and personnel. The NID will control a new national counterterrorism center, and generally manage the intelligence community. The bill is problematic because the NID will wield unheard of influence over work of the intelligence entities, before that work even gets done. This is groupthink—personnel from 15 agencies work to get the Director the answers they know he wants. Personnel will neglect intelligence that takes them in directions they know the NID opposes. Reform should encourage more creativity, not less; more diversity within the intelligence community, not less. These agencies each do different things well—we need to take advantage of differentiation, not squelch it under the NID.

The national intelligence coordinator created by my amendment is unlikely to lead to this problem of Groupthink. The NIC will not control personnel and budget decisions. He will not have the power to fire people in other agencies that he disagrees with, or promote only people who share his worldview. He will not be able to manipulate policy direction of intelligence agencies and centers we may create. The NIC will coordinate, not meddle in the work itself. The 9/11 Commission decided that part of the reason the 9/11 plot was successful is the lack of creativity in our intelligence community. Stopping complicated terror plots before they happen requires flourishing intelligence diversity, and Collins-Lieberman will undermine diversity by concentrating intelligence output in one manager—the NID. We don't need a Director of Intelligence. We need a coordinator. We need to change the NID to NIC, the "D" to "C".

I would like to address concerns I have with the underlying bill related to Defense. In deciding what to do with the Department of Defense's control over most intelligence dollars, Collins-Lieberman splits the baby. The bill transfers control over the budgets and some personnel decisions of the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office, from the Secretary of Defense to the NID without transferring control of the agencies themselves to the NID. The NID will develop and present the President with an annual budget request for these and other intelligence programs. It is unclear whether the Secretary of Defense or the NID will control the actual payroll. Under Collins-Lieberman, "tactical" military intelligence and the Defense Intelligence Agency will remain under the DOD. But the bill does not define "tactical." Obviously, DOD will seek to define that term broadly, and the NID will seek to define it narrowly. I understand Senator FEINSTEIN may offer an amendment that would define "tactical" and provide some clarity, but even if that amendment is enacted, the battle will be waged over how to interpret the Feinstein definition of "tactical." My friends Senators SPECTER, ROBERTS, SHELBY, DEWINE, BOND, WYDEN, BAYH and others already think the NID should have even more control over agencies currently within the DOD than the Collins-Lieberman bill would allow, but their amendment failed.

In short, there is confusion over what Collins-Lieberman transfers from the DOD to the NID and what it does not transfer. There is confusion over what ought to be placed underneath the NID, and what stays with the DOD. There is confusion over how budget, personnel and other types of authority can be bifurcated and trifurcated. This is a time for clarity, not confusion. The NID will also receive the appropriation for these and other intelligence programs, and in Collins-Lieberman the NID can transfer funds from one office to another as the Director sees fit. If the underlying bill is enacted as it is currently written, I forecast open warfare between the Secretary of Defense and the NID. Especially during a time of war, DOD will insist on funding defense/military-related intelligence work its way. This kind of turf war is bad for the country, and we should not enact intelligence that we can see is likely to pit the Secretary of Defense against the NID. If this painful transition needs to occur, we should at least consider waiting until after combat operations in Iraq have ended.

I am also concerned about some potential problems with the underlying bill's blurring of domestic and foreign intelligence. While I support the concept of fusing foreign and domestic intelligence, because that is what modern investigating and technology requires, this is a very sensitive and tricky area. Our Nation's history of domestic covert governmental operations shows the need to be careful here. Collins-Lieberman places the FBI's domestic counterterrorism activities and those of the CIA and DOD under the NID. But it does not address problems with locating domestic covert operations outside the FBI. The NID would have the power to ask the CIA or DOD to engage in such covert domestic operations. Our current governmental arrangements keep the CIA from participating in domestic intelligence activities, yet none of this would apply to the NID. Who is to say that the NID will not begin using the CIA to conduct extensive covert domestic activities? This new role for the CIA may actually be appropriate, but we have to be careful to draw rules for CIA domestic conduct that respect our Bill of Rights and other basic traditions. Using agencies other than the FBI for these domestic tasks also removes the Attorney General from its supervisory function. The Department of Justice is qualified to make difficult Bill of Rights judgments, but these other agencies may not be. These other agencies may not even be inclined to exercise restraint when they are investigating Americans. We could ruin cases against suspected domestic terrorists, because our intelligence operatives do not conduct their investigations according to constitutional requirements, and the cases get thrown out. And unless the stovepipes we hear so much about are eradicated immediately under this bill, which seems unrealistic, we may even have multiple agencies conducting duplicate investigations against American citizens, trampling all over each other and the law.

Collins-Lieberman also enacts the largest ever surveillance intelligence network, which can be data-mined by personnel in various levels of government. Senator STEVENS and others point out that we do not even have the technology to meld all this intelligence in one database. While coordinating information among agencies is laudable, it is unclear that Collins-Lieberman addresses dangerous side effects of a new network database. Collins-Lieberman directs the White House to violate privacy protections, but of the three branches, the executive branch has the least incentive to balance individual rights concerns. Congress never held any hearings to address the civil liberties problems with such a network, or with turning over to the White House power to write privacy guidelines. Administration guidelines and a civil liberties board, contained in the bill, are not as likely to strike the correct balance over privacy issues as Congressional oversight and public debate would. At the very least, we need committee hearings to consider the consequences to our civil liberties of enacting a national network database.

At this time I would like to say a few words about this underlying bill's possible impact on a couple of our intelligence agencies. Because of the bill's considerable scope, I will only raise a few of the potential problems with the bill's agency reforms. The bill hampers the FBI Director's ability to manage the FBI. The bill creates conflicting reporting requirements for the FBI's Executive Assistant Director for Intelligence, making her responsible to the FBI Director and the NID. She will support not only the FBI's counterterrorism and counterintelligence programs, under the NID, but also the FBI's criminal and cyber missions, which are not under the NID. The bill provides no clear way to separate FBI criminal investigations from its intelligence work. I would not want to be the Executive Assistant Director of Intelligence under this structure—with dueling bosses and duplicative reporting requirements. Also, will the National Security Council's role be weakened by the creation of a separate board chaired by the NID? Will the NID be allowed to deny the Secretary of State and other cabinet-level Secretaries personnel decision-making over their own subordinates? I understand Collins-Lieberman will give the NID authority over analysis. Where does this leave CIA analysts? The bill does not address what the new role for CIA analysts will be. Have these matters been worked out, or even discussed in a public forum? I have focused on several agencies I am particularly acquainted with through my experience on the Commerce, Justice, State Appropriations Subcommittee. I am sure my colleagues are raising similar problems with reforming the agencies under their Committees' jurisdictions, and I encourage them to come forward and help us understand these important issues.

Mr. President, I'd like to say a few words about policy too. This administration is extremely reticent to spend money in Afghanistan, and it was trying to funnel to Iraq funds Congress allocated for Afghanistan long before the President started the Iraq war. Collins-Lieberman empowers the NID to transfer funds and personnel directed by Congress from one agency to another. For example, this body may substantially increase U.S. assistance to Afghanistan—I understand Senators MCCAIN and LIEBERMAN have advocated just such an increase. If we add funds for Afghanistan onto this bill, the NID could scrap the funds for Afghanistan and transfer them to fund a new operation in Syria or Iran. The NID would have a responsibility to inform Congress that he had moved this money, but these funds would be moved nonetheless. It is Congress's duty to allocate such funds. Empowering the NID to override Congress's funding priorities is bound to lead the NID to undermine Congress's powers, and instead use shift funds allocated by Congress to advance the administration's agenda.

As we consider this bill under great political pressure and with the election looming, we have considerable analogous precedent to reference. Recent hasty Congressional enactments of Homeland Security legislation and the Patriot Act show the need for more measured action. Collins-Lieberman is thrown together in a matter of weeks. Surely most of us agree that at least some of its provisions are problematic. Much of the conversation I have heard on the floor this week sounds more like campaigning than legislating. The White House identifies problems throughout Collins-Lieberman—will the House version appeal more to the White House? A hastily thrown together conference resolving differences in the House and Senate versions will not be conducive to finding and fixing these inevitable problems. My friend Senator STEVENS says, "Do no harm". Whatever comes back from conference will have a tremendous head of steam behind it. By acting too fast on Collins-Lieberman, the Senate may get stuck with House provisions in a conference report that are unpalatable. Once reform is enacted, fixing missteps is extremely difficult. Experiences of homeland security legislation, passed right before an election, and the Patriot Act, prove that hasty restructuring results in confusion, mistakes and paralysis.

I conclude by asking my colleagues to support my amendment. Let's act now and enact my amendment, which fixes the main problem of the lack of a coordinator, and then let's continue to act as we learn. Let's sift through the litany of approaches being advanced by my colleagues in the underlying bill, and the rival approaches being advocated by others both within this body and outside it. My amendment starts us on the right track to improving our intelligence structure, and it avoids the potential to start us on the wrong track.

I appreciate the outstanding work Senator COLLINS and Senator LIEBERMAN have done and thank them for that. They met over the break in August and worked around the clock to produce a product so we could get something done before we leave in time for the elections in November.

However, in those pressures of time, they have come out with a product that needs many more hearings, more deliberation, and more consideration. In essence, they have a national intelligence director who directs and manages. Immediately that raised the red flag for this particular Senator.

When I say "raised the red flag for this particular Senator," let me tell of an experience. It was 50 years ago we had the Hoover Commission Task Force investigating the intelligence activities of this Nation. We had the McCarthy days, McCarthy charging there were Communist spies and agents within the State Department, within the Defense Department, within the executive branch, and everywhere throughout the Government. President Eisenhower appointed the Doolittle Commission and they came out with what was considered generally in the Congress as a whitewash. The White House and Congress got together and agreed efforts should be conducted to reorganize the executive branch, thus, President Hoover's commission came to be.

A task force was headed by General Mark Clark. I served as one of those members of the task force investigating the CIA, the FBI, the Army, Navy, air intelligence, Secret Service, Q clearance, atomic energy intelligence, and on down the list. We spent some 2 years. After hearings and consideration of the generally speaking minute intelligence information at that time—I say "minute" for the simple reason that the intelligence information now correlated by the various entities and departments and agencies is like drinking water out of a fire hydrant. You have much, much greater volume. But even then we found the need for a coordinator.

I can see Allen Dulles of the Central Intelligence Agency. Director Dulles of the CIA said, I have my hands full trying to get the work done properly of the CIA, much less as the head of intelligence activities in the Government, namely the coordinator of all intelligence, the centralizer of all intelligence. That is why it was called the Central Intelligence Agency. He said, I have too much work to do. What we need is one single intelligence coordinator to coordinate all of it—my work, the FBI, Defense Department, military.

In those days all we had was foreign intelligence and military to bother with. We did not have terrorism threats and counterterrorism within the continental limits. Now we have heaped upon the responsibilities of the intelligence community all kinds of duties that need further deliberation and estimation because, as I say, the director of the national intelligence, when they said "direct," when they said "manage," I said heavens above, here is a flaw of September 11 intelligence. It was directed. It was managed. Everyone knows that now after the hearings.

The Vice President had his own little cabal in that Department of Defense. They had met with the head of the Defense Advisory Council, Richard Perle, and Scooter Libby and that group. They had submitted to the country of Israel in 1996—Benjamin Netanyahu was coming in as Prime Minister, and they submitted at that time that Saddam ought to be replaced with the Hashemite rule and they wanted to democratize Iraq back in 1996.

When Netanyahu refused doing that, they came back and organized themselves into the Project for the New American Century and they have been pressing forward ever since.

So when you direct and when you manage intelligence, you have a flawed product. We need coordination. You need to take the best of the best from the CIA, from the FBI, from the National Security Agency, from the National Reconnaissance Organization, and all these other entities and coordinate into a product to give to the President.

Suppose you were President in the next 10 minutes and you heard about a terrorist threat, not only foreign but domestic. What you would want in line, you would want a Karl Rove on intelligence. Now, the President has a Karl Rove on political intelligence. Karl Rove can tell you for any section of the country what is going on in any particular State. He has pollsters. He can give a consummate judgment or alternative to the President to make a judgment. That is fine business. We have that without legislation.

We need just that in security intelligence—not only foreign, not only domestic, not only military, but all three—security intelligence coordinator.

So when I say the national intelligence director directing and managing, I am saying, here is a flaw of September 11. You know the groupthink policy of the President. If you are directing and managing intelligence, what you do is go immediately and give that intelligence to the folks making the Presidential policy and you develop a group-think and a flawed product.

We do not want, necessarily, a director, certainly with all the duties that this particular director is burdened with but, rather, we want a coordinator. He should be or she should be in the National Security Council, appointed by the President, without confirmation by the Senate. You have to have your own person in there. And you have to not have him or her running over to several committees in the Senate and several committees in the House testifying about this management, this direction, this decision, this or that policy. He will have his hands full just with what the President wants.

Necessarily, we transfer those coordination responsibilities from the CIA over to this national intelligence coordinator. This is a short, two-page amendment by Senator STEVENS, Senator INOUYE, Senator COCHRAN, and myself. This was worked out this afternoon. I was trying to listen to the debate, and the more I listened, the more it impressed me that we needed much more deliberate work and consideration, and not the crunch of a national election to get all of us out of town and do something. So we are trying to respond to that edict of "don't just stand there, do something." I am afraid we are going to enact the "Alka Seltzer" intelligence bill: I don't believe we passed the whole thing.

Look what it does. It directs and manages, but what intelligence is under the Department of Defense and what intelligence is under the national intelligence director. I searched and I found conflicts throughout the particular Collins-Lieberman measure, especially during a time of war. I can tell you, you are going to find all kinds of conflicts there. There are conflicts going on right now with the war in Iraq and the Secretary of Defense saying he is not going to stand for it. The national intelligence director has the defense intelligence budget, but then the secretary of intelligence has the defense intelligence function and responsibility. And the Secretary of Defense does not have budget control over what he has responsibility. And then there is the "ying" and the "yang" of defense intelligence versus tactical intelligence. And I have listened to some, the distinguished Senator from California and others, on what they consider tactical intelligence.

On civil liberties, there are real grave concerns there because there is within the Federal Bureau of Investigation, that investigates crimes and protects civil liberties, a culture, a paradigm, and a discipline. The Justice Department has developed that over the years of different FBI Directors. Now, with respect to the national intelligence director, he can direct covert activity to be taken on by the FBI with none of that discipline and none of those checks and balances.

You have heard the distinguished Senator from Alaska with respect to the national intelligence director's transfer of funds, not only the reporting of funds. I can tell you now that will never happen where you can transfer funds because the Appropriations Committee has that responsibility.

I can go down the different disclosure of funds and various other things. What I want to emphasize is that I am not trying to disparage any of the wonderful work being done by our Governmental Operations Committee. They have a product out here now that we can develop and work upon and iron out the differences. But it should not be under the pressure that we are in and having passed ipso facto the Collins-Lieberman bill. You would not satisfy the problem of 9/11, and that is coordination.

You need the President's man or woman in that National Security Council, auditing, gaining, and getting. And mind you me, don't worry about getting it, now that you have a coordinator sitting there with the President. For example, that Arizona flight school information that did not get through the FBI to the coordinator, because they did not have one, is excused. That Minnesota terrorist who did not want to land the plane, all he wanted to do was fly it into a building; that came to the CIA but did not get to the White House. Known terrorists came into the country, passed the Immigration department, and the Naturalization Service. That did not get to the Director.

But mind you me, if you have a coordinator, and the information of that importance does not get through to that coordinator, the opposite is going to be true. Rather than the old days when you held within your particular department or agency your intelligence and your information, and you did not tell the FBI, and the FBI did not tell the CIA, here you are going to try to regurgitate and spit up and throw out and report to that coordinator. Because if he does not get it at the White House level, heads are going to roll.

So we have changed the culture and discipline by having one coordinator. That is all you need. We can go home and know that the job is done. The FBI is working. The CIA is working. The National Security Agency now knows not to wait until tomorrow to translate their go signal. As they went into the World Trade Towers, they were a day late in translating documents.

We can go home and know that the President is equipped with a coordinator. And immediately, if I am running the CIA or FBI, I am going to start getting my information out rather than hiding it. That is the real difficulty: The dots were there, but the dots were not joined. With the Collins-Lieberman bill what you are instituting and legislating into law is the flaw of 9/11. You have a director of intelligence. You have a manager of intelligence. And that is how they got into the World Trade towers and into the Pentagon. It was managed.

I can see the President on October 7, 2002, in Cincinnati. "Facing clear evidence of peril, we cannot wait until the smoking gun is a mushroom cloud," he said. Seven days later I voted for the authority to go to the war when the President asked—I did not sit on the Intelligence Committee. When my Commander in Chief says: "Facing clear evidence of peril, we cannot wait until the smoking gun is a mushroom cloud," I voted aye. Then I found out there weren't no smoking guns, there were no mushroom clouds, there were no facilities, there were no weapons, there were no terrorist threats. But that is another argument.

I am trying to get something done where we in good conscience can protect our national security, protect us against domestic terrorism. And we can fix this bill.

Now, let me add one little thing. I don't know whether Senator STEVENS, my dear colleague, or Senator INOUYE or Senator COCHRAN wants to talk. But I would agree, I don't need, unless I am questioned, another 10 minutes. And I know they have amendments of their own. So I would agree to a time limit on either side if the distinguished managers of the bill are trying to get to a vote.

Ms. COLLINS. How much more time does the Senator from South Carolina believe he would require?

Mr. HOLLINGS. Let me reserve 10 minutes. I don't know if I will use it.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from South Carolina be accorded up to 10 minutes more for his debate, and then that Senator LIEBERMAN and I have up to 10 minutes for us to use in opposition to the Hollings amendment. Then it is my intention to move to table.

The PRESIDING OFFICER (Mr. SMITH). Without objection, it is so ordered.

Mr. HOLLINGS. Mr. President, I will use just 1 minute for the Hollings-Stevens-Inouye-Cochran amendment. It is my policy, and it is not to be treated casually. It is to be treated seriously because what we are going through is this exercise here. And if you had the Collins-Lieberman bill up, I would vote to get it to the House and let them try to hammer it out. They don't have the coordinator.

I was just about to say, the reason they didn't have that coordinator is that the 9/11 Commission is even Stephen, Republican-Democrat. And they wanted to have a unanimous report, and I agree with that. So they didn't hammer and zero in or bull's-eye the real need and the real fault of 9/11. They didn't join the dots. They didn't have a coordinator. And if they were going to come out on that unanimously, they would have found fault at the White House level. It is just as simple as that.

I know another time in the history of this Government where we knew full well that President Reagan knew about the Contras, at least I was convinced so. But you couldn't report it. You couldn't say it. You couldn't do it for the simple reason that these so-called commissions that are now sanctified are really politically balanced, and they leave out the necessary one. In this particular instance, we need a coordinator. You can get all of the directors. You can get all of the budgets. You can get all hammered out about the Defense Department. Just leave it all alone or put it all through. And you haven't satisfied and gotten a coordinator at the National Security Council.

We had that amendment early on last year, and the vote was 49 to 48. We put him on. I had that amendment up. It was a partisan vote.

Now I have worked yesterday and today to explain it to colleagues on the other side of the aisle, and it is bipartisan by the most responsible of Senators other than myself. I hope we don't treat it casually as something to be tabled and walk away and say: Let's have another amendment. We don't want to vote on Friday. Let's get some votes.

We are all thinking about procedure and not thinking about the country. We are all thinking about the campaign and not the country.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the amendment offered by the Senator from South Carolina eviscerates the underlying bill. I want to be very clear about that. His amendment takes a radically different approach to intelligence reform. The Hollings amendment creates a national intelligence coordinator and transfers to this individual the responsibility and authority that the Director of Central Intelligence now has as head of the intelligence community. The DCI would remain as head of the CIA and principal adviser to the President.

This approach is completely contrary to the recommendations of the 9/11 Commission. It is completely contrary to the report of the congressional joint inquiry. It is completely contrary to numerous government and private sector reports over the past five decades.

The Hollings amendment gives the national intelligence coordinator the responsibility to manage the intelligence community but does not give that individual any additional authority to allow him to accomplish that task. The Hollings amendment also provides that except as otherwise provided by law, the national intelligence coordinator shall not be accountable to Congress regarding the performance of the responsibility of the coordinator. It is difficult to imagine why we would establish such a position with a list of legally defined responsibilities and authorities currently in the National Security Act of 1947, very important responsibilities and authorities which affected the security and the liberty of the American people, and then specifically provide that this individual is not accountable to Congress.

I am strongly opposed to this amendment. It guts the entire Collins-Lieberman bill. I urge my colleagues to defeat it.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to oppose the Hollings amendment. The Senator from South Carolina raised a question: Who cares about the country? Who is putting the country's interests and security first?

I assure him that Senator COLLINS and I, the members of our committee from both parties, care about the country, care about the security of the country, worry about the imminence of a terrorist attack, read the reports, came in in July and August and September, worked real hard to produce this proposal.

Talk about treating something casually, the amendment of the Senator from South Carolina would casually eliminate all our work and that of the 9/11 Commission and a series of commissions going back to 1947, when the National Security Act was adopted, recommending a strong national intelligence director.

What you are doing is creating a position that is cosmetic, that has no teeth to it, and will not be able to do what we need to do. It will bring us back to where we were before September 11, with no one in charge and, even worse, the appearance of someone in charge.

Witness after witness—people no one would treat casually, Secretaries of State, heads of the intelligence community, the past three or four of those people said: The worst thing you can do is to create a position and not give that position the authority to direct the intelligence community.

With all respect, that is what the amendment of the Senator from South Carolina is doing.

Secretary Powell said to us on September 13 of this year at a hearing:

> A [Director of Central Intelligence] was there before, but the DCI did not have that kind of authority. And in this town, it's budget authority that counts. Can you move the money? Can you set standards for people? The [national intelligence director]—

The one created in our bill—

> will have all of that, and so I think this is a far more powerful player. And that will help the State Department.

Stansfield Turner, CIA Director under President Carter, told us on August 16:

> I think it's empowering somebody to run a $40 billion a year . . . operation. And we just don't have that. And we need to have a CEO. So the real issue is just how much authority to give that CEO and still protect the Department of Defense. And I, as a military officer, would err on the side of giving it to the national intelligence director.

That is what we do.

With all respect, not casually, we have built in a lot of time and effort that this committee put in over a period of time on a totally bipartisan basis. This amendment would take us back to where we were when we were struck on September 11, 2001. I don't want to go back there, and that is why I oppose this amendment.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. Well, two points quickly: I don't go back to 1947, but I go back to 1953 and 1954 under the Hoover Commission. And I would refer you to that report. They ask for a national intelligence coordinator. Allen Dulles would say—he was directing Central Intelligence—you can run the National

Security Agency, you over at the Department of Defense, and you can direct and manage military intelligence and these different departments. But take those cold turkey facts of intelligence and information and have them coordinated—not superduper $40 billion. It sounds pretty on paper, but I can tell you right now, that is what was wrong with 9/11. The intelligence was directed, was managed.

Why do you think the head of the CIA hammered and slammed his fist on the desk of the President and said, Slam dunk, Mr. President, we got all the information you need on weapons of mass destruction, when he didn't even have an agent in downtown Baghdad. We were about to invade Iraq, and we had not an agent. That was the same director who was the staff director before Gulf Storm and Senator Bill Cohen and I came back to be briefed on Iraq and Baghdad, against Saddam. And George Tenet, the staff director at that time, said: Gentlemen, we don't have an agent in Baghdad. We don't have one in Iraq. We will have to call over to the Defense Department. Here, 11 years later, we still don't have somebody down there. Now we have operative agents and everything else trying to manage elections and what have you. So the idea is to coordinate impartial, objective intelligence facts, not manage intelligence.

Secondly, the Congress stays out of it, Senator COLLINS, most respectfully. The Congress stays out of the affairs of Condoleezza Rice. She is the National Security Adviser. We don't call her up willy-nilly before 15 different committees here on the Hill and say testify here and there. You don't want that. If you are the President, you want it coordinated subject to you. That is what you need. You don't call Karl Rove up here and ask him about political intelligence; you have him working around the clock. He has us Democrats on the run.

I want the same kind of job done in domestic intelligence, foreign intelligence, and military intelligence. I want it coordinated for the President so the buck doesn't stop here because the dots were not joined. Now we are about to join the dots in this amendment. Of all people, they say let's don't join them, let's just manage; and we have $40 billion or $30 billion, whatever it is, and we are going to manage indirectly and we are going to screw up the Defense Department, the FBI, civil rights, and everything else, in the head-on rush we have here this afternoon.

I yield back the remainder of my time.

Ms. COLLINS. Mr. President, I move to table the Hollings amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. KYL), and the Senator from Arizona (Mr. MCCAIN) are necessarily absent.

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Georgia (Mr. MILLER), and the Senator from Florida (Mr. NELSON), are necessarily absent.

The PRESIDING OFFICER (Mr. CHAFEE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 7, as follows:

[Rollcall Vote No. 193 Leg.]

YEAS—82

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Breaux
Brownback
Bunning
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McConnell
Mikulski
Murkowski
Murray
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—7

Burns
Byrd
Cochran
Hollings
Inouye
Sessions
Stevens

NOT VOTING—11

Akaka
Biden
Boxer
Domenici
Edwards
Graham (FL)
Kerry
Kyl
McCain
Miller
Nelson (FL)

The motion was agreed to.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator from Maine.

AMENDMENT NO. 3802

Ms. COLLINS. Mr. President, I move to table the Lautenberg amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from New Mexico (Mr. DOMENICI), the Senator from Arizona (Mr. KYL), the Senator from Arizona (Mr. MCCAIN) and the Senator from Kansas (Mr. BROWNBACK) are necessarily absent.

I further announce that if present and voting the Senator from Kansas (Mr. BROWNBACK) would vote "yea."

Mr. REID: I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from Illinois (Mr. DURBIN), the Senator from North Carolina (Mr. EDWARDS), the Senator from Massachusetts (Mr. KERRY) and the Senator from Florida (Mr. NELSON) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 41, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—47

Alexander
Allard
Allen
Bennett
Bond
Bunning
Burns
Campbell
Chafee
Chambliss
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeWine
Dole
Ensign
Enzi
Fitzgerald
Frist
Graham (SC)
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Lieberman
Lott
Lugar
McConnell
Miller
Murkowski
Nickles
Roberts
Santorum
Sessions
Shelby
Smith
Stevens
Sununu
Talent
Thomas
Voinovich
Warner

NAYS—41

Baucus
Bayh
Bingaman
Breaux
Byrd
Cantwell
Carper
Clinton
Conrad
Corzine
Daschle
Dayton
Dodd
Dorgan
Feingold
Feinstein
Harkin
Hollings
Inouye
Jeffords
Johnson
Kennedy
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (NE)
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Snowe
Specter
Stabenow
Wyden

NOT VOTING—12

Akaka
Biden
Boxer
Brownback
Domenici
Durbin
Edwards
Graham (FL)
Kerry
Kyl
McCain
Nelson (FL)

The motion was agreed to.

Ms. COLLINS. I move to reconsider the vote.

Mr. SANTORUM. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 3819

Mr. ENSIGN. Mr. President, I ask unanimous consent to lay the pending business aside and call up amendment No. 3819.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN], for himself, Mr. KYL, Mr. CHAMBLISS, Mr. CORNYN, Mr. GRASSLEY, and Mr. SESSIONS, proposes an amendment numbered 3819.

Mr. ENSIGN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators)

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: "All immigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section is amended by adding at the end the following: "All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: "As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.".

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) PLACEMENT OF SPECIALIST.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify 100 of such posts that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall place in each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 2,000 the number of positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were allotted for the preceding fiscal year. At least half of these additional investigators shall be designated to investigate potential violations of section 274A of the Immigration and Nationality Act (8 U.S.C 25 1324a). Each State shall be allotted at least 3 of these additional investigators.

Mr. ENSIGN. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

AMENDMENT NO. 3815

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the pending amendment be laid aside and call up amendment No. 3815, which is at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from West Virginia [Mr. ROCKEFELLER], for himself, Mrs. HUTCHISON, Mr. ROBERTS, and Ms. MIKULSKI, proposes an amendment numbered 3815.

The amendment is as follows:

(Purpose: To improve and provide for the review of intelligence estimate and products)

On page 17, between lines 19 and 20, insert the following:

(11) direct an element or elements of the intelligence community to conduct competitive analysis of analytic products, particularly products having national importance;

(12) implement policies and procedures to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community and to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

On page 17, line 20, strike "(11)" and insert "(13)".

On page 17, line 22, strike "(12)" and insert "(14)".

On page 18, line 1, strike "(13)" and insert "(15)".

On page 18, line 4, strike "(14)" and insert "(16)".

On page 18, line 7, strike "(15)" and insert "(17)".

On page 18, line 14, strike "(16)" and insert "(18)".

On page 18, line 17, strike "(17)" and insert "(19)".

On page 18, line 20, strike "(18)" and insert "(20)".

On page 19, line 5, strike "(19)" and insert "(21)".

On page 19, line 7, strike "(20)" and insert "(22)".

On page 31, line 1, strike "112(a)(16)" and insert "112(a)(18)".

On page 49, line 13, insert ", and each other National Intelligence Council product" after "paragraph (1)".

On page 49, line 15, insert "or product" after "estimate".

On page 49, line 17, insert "or product" after "estimate".

On page 49, line 19, insert "or product" after "estimate".

On page 49, line 22, strike "such estimate and such estimate" and insert "such estimate or product and such estimate or product, as the case may be".

On page 49, line 24, insert "or product" after "estimate".

On page 51, between lines 5 and 6, insert the following:

(i) NATIONAL INTELLIGENCE COUNCIL PRODUCT.—For purposes of this section, the term "National Intelligence Council product" includes a National Intelligence Estimate and any other intelligence community assessment that sets forth the judgment of the intelligence community as a whole on a matter covered by such product.

On page 56, line 20, strike "(15) and (16)" and insert "(17) and (18)".

On page 87, line 16, strike "and" at the end.

On page 87, between lines 16 and 17, insert the following:

(D) conduct, or recomend to the National Intelligence Director to direct an element or elements of the intelligence community to conduct, competitive analyses of intelligence products relating to suspected terrorists, their organizations, and their capabilities, plans, and intentions, particularly products having national importance;

(E) implement policies and procedures to encourage coordination by all elements of the intelligence community that conduct analysis of intelligence regarding terrorism of all Directorate products of national importance and, as appropriate, other products, before their final dissemination; and

On page 87, line 17, strike "(D)" and insert "(F)".

On page 96, line 16, strike "foreign".

On page 100, between lines 3 and 4, insert the following:

SEC. 145. OFFICE OF ALTERNATIVE ANALYSIS.

(a) OFFICE OF ALTERNATIVE ANALYSIS.—There is within the National Intelligence Authority an Office of Alternative Analysis.

(b) HEAD OF OFFICE.—The National Intelligence Director shall appoint the head of the Office of Alternative Analysis.

(c) INDEPENDENCE OF OFFICE.—The National Intelligence Director shall take appropriate actions to ensure the independence of the Office of Alternative Analysis in its activities under this section.

(d) FUNCTION OF OFFICE.—(1) The Office of Alternative Analysis shall subject each National Intelligence Estimate (NIE), before the completion of such estimate, to a thorough examination of all facts, assumptions, analytic methods, and judgments utilized in or underlying any analysis, estimate, plan, evaluation, or recommendation contained in such estimate.

(2)(A) The Office may also subject any other intelligence estimate, brief, survey, assessment, or report designated by the National Intelligence Director to a thorough examination as described in paragraph (1).

(B) Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees a report on the estimates, briefs, surveys, assessments or reports, if any, designated by the Director under subparagraph (A).

(3)(A) The purpose of an evaluation of an estimate or document under this subsection shall be to provide an independent analysis of any underlying facts, assumptions, and recommendations contained in such estimate or document and to present alternative conclusions, if any, arising from such facts or assumptions or with respect to such recommendations.

(B) In order to meet the purpose set forth in subparagraph (A), the Office shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community and such other reports and information as the Director considers appropriate.

(4) The evaluation of an estimate or document under this subsection shall be known as a "OAA analysis" of such estimate or document.

(5) Each estimate or document covered by an evaluation under this subsection shall include an appendix that contains the findings and conclusions of the Office with respect to the estimate or document, as the case may be, based upon the evaluation of the estimate or document, as the case may be, by the Office under this subsection.

(6) The results of each evaluation of an estimate or document under this subsection shall be submitted to the congressional intelligence committees.

On page 194, line 9, strike "112(a)(11)" and insert "112(a)(14)".

On page 195, line 16, strike "112(a)(11)" and insert "112(a)(14)".

On page 195, line 23, strike "112(a)(11)" and insert "112(a)(14)".

On page 196, line 7, strike "112(a)(11)" and insert "112(a)(14)".

Mr. ROCKEFELLER. Mr. President, I rise to offer, along with Senator HUTCHISON, and also Senator ROBERTS and Senator MIKULSKI, this amendment. I will explain it in further detail. But the main objective of our amendment is to institutionalize much needed reform, based upon our recent experience, which is, namely, the practice of alternative analysis, or, as we say, "red teaming," in the production of significant intelligence assessments.

As to this Rockefeller-Hutchison amendment, I am very pleased to say I believe the distinguished chair and ranking member of the Committee on Governmental Affairs have indicated their support for this amendment—that is my hope—and that, therefore, the amendment will be accepted by them and supported, obviously, by our colleagues without the need for a vote.

Section 123 of the Collins-Lieberman bill provides for placement of the National Intelligence Council within the office of the national intelligence director. The Council is currently under the Director of Central Intelligence.

As the Senate Intelligence Committee report on prewar intelligence on Iraq explains, National Intelligence Estimates are the intelligence community's most authoritative written judgments—they are the golden standard—on national security issues.

The Collins-Lieberman bill reforms the work of the National Intelligence Council, based in significant part on the findings of the Intelligence Committee's Iraq review.

Importantly, it requires the National Intelligence Estimates to distinguish between the intelligence underlying estimates and the judgments of analysts about the intelligence itself. The bill also requires that the estimates describe the quality and reliability of the intelligence underlying the analytical judgments, present and explain alternative conclusions, and characterize any uncertainties. Our amendment builds upon this important reform in two ways.

First, our amendment applies these reforms not only to National Intelligence Estimates, to which they are currently limited, but also to other analytical products of the National Intelligence Council, which is the senior group made up of intelligence people and people from public and private sectors—the senior group.

Second, our amendment will institutionalize a method of ensuring that an alternative analysis is used in the preparation of National Intelligence Estimates and is available to policymakers reviewing the estimates so they get the full picture.

It does this by providing for the establishment within the national intelligence authority of an office of alternative analysis, whose head will be appointed by the national intelligence director. The national intelligence director is required to ensure the independence of the office of alternative analysis. The unit is directed to review every National Intelligence Estimate, and any other intelligence report designated pursuant to guidelines established by the director.

The important purpose of the Rockefeller-Hutchison bill is the following: To thoroughly examine all facts, all assumptions, analytical methods, and judgments used in the estimate—in other words, the ability to question, to be a contrarian, to dig deeper, to ask questions that otherwise and heretofore have not been asked. To make sure that the alternative analysis is available to policymakers, our amendment also requires that each National Intelligence Estimate or other product that is subject to an alternative analysis include the alternative analysis in its appendix.

While our Intelligence Committee's Iraq review did not include committee recommendations, I can assure our colleagues of the widespread support within our committee of the importance of alternative analysis or "red teaming" as it is called informally. It remains important for the body of the National Intelligence Estimate to state dissent from within the intelligence community. But beyond that, it is vital for a dedicated group of analysts to examine all aspects of an estimate—data, assumptions, analytic methods, and judgments.

The ultimate objective is to enable the National Intelligence Council personnel, the national intelligence director, and the executive and legislative branch policymakers to appraise the intelligence community's analysis on matters central to our national security.

I would like to express my special appreciation to Senator HUTCHISON who has been working on this for a long time and had a similar amendment. Our staffs worked flawlessly together. Senator ROBERTS, chairman of the full Intelligence Committee, also had a related amendment making it clear that the national intelligence director is responsible for ensuring competitive analysis throughout the intelligence community. I thank both Senators for their contribution.

I also wish to express my appreciation to Congresswoman JANE HARMAN for developing in the House an alternative analysis proposal from which we have benefited preparing this amendment.

I hope the Rockefeller-Hutchison amendment is acceptable.

I yield to the distinguished Senator from the State of Texas.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank Senator ROCKEFELLER for working with me on this amendment. We had very similar amendments that both of us filed independently and our staffs got together with the distinguished chairman of the Governmental Affairs Committee, Senator COLLINS, and the ranking member, Senator LIEBERMAN, and I think we have come up with a comprehensive approach to competitive analysis. It is something the majority of people who have served on the Intelligence Committee know is desperately needed. Particularly as we are consolidating agencies and trying to make our agencies mesh better together. It is very important that we keep the competition of ideas, challenge assumptions, and ensure a forum is provided for alternative ideas and recommendations. The end result is an office which will perform what many refer to as "red teaming" that is so important to an effective intelligence network.

When Dr. Henry Kissinger testified before the Appropriations Committee, of which I am a member, he said, particularly with the consolidation of intelligence oversight, you have to make sure that you have some way of finding out if there were different conclusions reached with the same or even other extraneous material.

We had the challenge of making sure that the competition of ideas was not lost. I believe the Rockefeller-Hutchison amendment does exactly that.

I thank the Senator from West Virginia, Mr. ROCKEFELLER. I appreciate

Senator ROBERTS also working with us on this, and Senator MIKULSKI. Senator KYL was interested in this as well. Everyone came together, and I think the result will be an office which is able to quickly adapt to terrorist threats. It will be an office of alternative intelligence analysis that will be able to challenge the assumptions and make sure that our highest policymakers, including the President of the United States, have access to this alternative analysis so that he will be able to make the very best decisions.

I thank the distinguished chairman and ranking member of the committee. I thank Senator ROCKEFELLER. I think we have a wonderful approach, a wonderful amendment that will add greatly to the bill and the goal we are all trying to reach of a quality intelligence product with which our President and our Secretary of State, Secretary of Defense can make decisions.

I yield the floor and urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I commend Senator ROCKEFELLER and Senator HUTCHISON for their amendment to improve the quality of intelligence analysis by creating a red team. Both of them talked to me very early on about the need for this improvement in our bill. Senator ROBERTS and Senator MIKULSKI have also been very interested in this issue. I am very pleased they have been able to come together. They have produced an excellent amendment that will improve the quality of intelligence analysis.

I also urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank our colleagues from West Virginia, Texas, and Kansas for this amendment. It has been a priority of our focus. Senator COLLINS and mine and the committee, to make sure that intelligence is not only coordinated by the national intelligence director and the dots are connected, but that intelligence be high quality and objective and subjected to the competition of ideas. This amendment makes that basic approach even stronger.

I thank our friends for all they have done. Senator ROCKEFELLER, again, if I haven't said it on the floor, has been a tremendous contributor to our effort. I thank him for all the support he has given.

The PRESIDING OFFICER. Is there further debate on amendment No. 3815? If not, without objection, the amendment is agreed to.

The amendment (No. 3815) was agreed to.

AMENDMENT NO. 3942

Mr. LIEBERMAN. Mr. President, I have an amendment which I send to the desk at this time.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

Without objection, the amendment is in order, and the clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Connecticut [Mr. LIEBERMAN], for himself, Mr. MCCAIN, and Mr. BAYH, proposes an amendment numbered 3942.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. LIEBERMAN. Mr. President, I rise with Senator MCCAIN to offer this amendment that takes the fight against terrorism right to where they live—right to their front lines.

This amendment says we will identify terrorist havens and—working with our allies—we will break them up and keep them on the run.

They will have no peace, no rest, no time to settle in and plot destruction.

This amendment also says we will attack and cut their most vital supply line—the disaffected young who serve as recruits.

We will do this by showing the Muslim world—especially the young—that we believe in and can help them achieve their dreams of living in a 21st century world that still respects the tenets of Islam.

These goals are a challenge. But if we succeed—and we must—this generation will see the calls to jihad fade and the global chorus celebrating our shared humanity and peaceful futures grow.

Let us start with the challenge of eliminating terrorist sanctuaries and their sense of safety.

As the 9/11 Commission reported, terrorist cells stretch from Afghanistan right into the major cities of Europe. And as 9/11 proved, into the United States as well.

To fight and win this war, we need to identify these pockets of terrorist sanctuaries and, working with other nations, develop strategies that in the words of the Commission:

> Keep possible terrorists insecure and on the run using all instruments of national power.

The Commission did identify specific countries where we should concentrate our immediate efforts and I would like to focus on two of them.

One is Afghanistan. This almost goes without saying.

This is where al-Qaida trained its killers. This is where the 9/11 plot was hatched. This is where the tyrannical Taliban rulers enslaved an entire nation except for those who plotted global destruction.

This amendment says that Congress needs to authorize the aid and support necessary for the entire Afghan nation to finally realize its freedom, which is so close but still so fragile.

At this stage, half measures in Afghanistan are the same as throwing a five-foot rope to someone drowning 10 feet away. We can't let that happen.

Another country identified by the Commission was Pakistan.

In the immediate aftermath of 9/11, the Pakistani government made the choice to stand with us in the fight against terrorism at great risk to the stability of the nation and the lives of its leaders.

We have no choice but to stand by them.

Pakistan may be an imperfect ally at times. But they have been a loyal ally—committing troops on their own frontiers to hunt down al-Qaida fighters and denying them safe bases.

This amendment says we not only need to maintain our current financial support of Pakistan, but let the Pakistanis know we are making a long-term commitment to the future of their nation.

They need to know they have our support for as long as they remain true to their goals of defeating domestic extremists, promoting a civil society and preserving the hope of Pakistani democracy that can become another beacon for the Muslin world in the years to come.

Just imagine if one of the outcomes of the global war against terrorism was stable democracies in Afghanistan, Pakistan, and Iraq.

This goal is within our grasp. It is within our means. Only our vision can fail us now.

And vision—long-term vision—is what we will need to fulfill the second part of the strategy outlined in this amendment.

We must win over the minds of the Muslim world, especially the young, by reaching out and talking to them in ways we never have before.

Let me pose a question the 9/11 Commission asked.

How can a man hiding in a cave be communicating more effectively with the Muslim world than the nation that invented mass media and the Internet?

The 9/11 Commission report said:

> To Muslim parents, terrorists like bin Laden have nothing to offer their children but visions of violence and death.
>
> America and its friends have a crucial advantage. We can offer these parents a vision that gives their children a better future.

But it doesn't matter if we don't effectively communicate that vision.

This amendment says we must improve our mass communications efforts with the Muslim world through sustained and well-funded broadcast efforts on satellite television and radio.

That is a good start. But this can't just be an air war. Minds are won over more by actions than words.

And this amendment looks to engage the minds of Muslim youth by rebuilding scholarship, student exchange and library programs.

It also calls for establishing an International Youth Opportunity Fund—that other nations would be asked to contribute to—that would help build and operate primary and secondary schools in Muslim nations committed to public education.

Why do this? Because most of these nations are too poor to pay for public education.

Instead, students attend Madrassahs that far too often are classrooms where hatred is taught and bigotry affirmed.

Consider this: In Karachi, Pakistan, 200,000 students attend Madrassahs; 200,000 in one city alone. Multiply that over the entire Muslim world. We can't possibly keep up with those numbers year after year.

The challenges ahead of us are daunting. But with this amendment we say that we are ready and willing to go to the front lines of the terrorist world and take away the sanctuaries where they hide—and take back the minds that they steal.

This is another in a series of amendments that Senator McCAIN and I have offered to carry out the recommendations of the 9/11 Commission. This one has to do with recommendations they have made with regard to foreign policy. It has been cleared on both sides. I urge its adoption.

The PRESIDING OFFICER. Is there further debate?

If not, without objection, the amendment is agreed to.

The amendment (No. 3942) was agreed to.

Mr. LIEBERMAN. I thank the Chair.

AMENDMENT NO. 3781, AS MODIFIED

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask the Senate to turn to the consideration of amendment No. 3781 which is pending at the desk.

The PRESIDING OFFICER. Without objection, it will be the pending business.

Mr. WARNER. Mr. President, I send to the desk a modification of the amendment.

The PRESIDING OFFICER. Is there objection to the modification or has the modification been cleared by the leader?

Mr. WARNER. My understanding is the modification is accepted by the managers.

The PRESIDING OFFICER. The amendment is so modified.

The amendment, as modified, is as follows:

On page 119, strike lines 16 through 18 and insert: "The National Intelligence Director shall convene regular meetings of the Joint Intelligence Community Council.".

"(e) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—(1) A member of the Joint Intelligence Community Council (other than the Chairman) may submit to the Chairman advice or an opinion in disagreement with, or advice or an opinion in addition to, the advice presented by the National Intelligence Director to the President or the National Security Council, in the role of the Chairman as Chairman of the Joint Intelligence Community Council. If a member submits such advice or opinion, the Chairman shall present the advice or opinion of such member at the same time the Chairman presents the advice of the Chairman to the President or the National Security Council, as the case may be.

"(2) The Chairman shall establish procedures to ensure that the presentation of the advice of the Chairman to the President or the National Security Council is not unduly delayed by reason of the submission of the individual advice or opinion of another member of the Council.

"(f) RECOMMENDATIONS TO CONGRESS.—Any member of the Joint Intelligence Community Council may make such recommendations to Congress relating to the intelligence community as such member considers appropriate.".

Mr. WARNER. Let me explain the modification. The original text required that the national intelligence director, in his capacity as chairman of the to-be-created joint intelligence community council that was part of the President's message, originally I had it that he would have monthly meetings of the council or meetings upon the request of the members of the council. But I think it more appropriate that that be modified, which has now been done, such that the amendment will read: Strike that paragraph and in its place put the national intelligence director shall convene regular meetings of the joint intelligence community council. And then I will address the balance of the amendment.

It has been my concern, and I think from a fair reading of the 9/11 Commission report, that we have to keep the views of those individuals primarily responsible for the collection, dissemination, and analysis of intelligence, those individuals who are on, incidentally, the council, who are your principal Cabinet officers—and that is the Secretaries of State, Defense, Homeland Security, Energy, Treasury, and the Attorney General—those individuals from time to time could develop positions regarding an intelligence issue which are at variance with the national intelligence director.

That collection of Cabinet officers is a vast array of individuals who will be working on issues of intelligence, collaborating with other agencies. From time to time, I am of the opinion that one or more of the members of the council might well have opinions that are at variance with the national intelligence director, and that when the national intelligence director goes to brief the President, there should be an obligation in law—I feel that strongly about it—that those opinions at variance with the national intelligence director must be given to the President and such others who may be in attendance at the time the national intelligence director presents his or, as the case may be, her viewpoint.

The strength of our intelligence system has to be predicated on competition of thinking. I have always liked the word that the 9/11 Commission seized upon, "imagination." It seems to me that type of competition and imagination is likely to develop better if we have the certainty that the viewpoints the President receives from the national intelligence director are not held by one or more of the members of that council, but that the President will receive the benefit of the other viewpoints. I think that system has to be made and put into law. It is so vitally important because, for example, as a member of the Intelligence Committee, when we examined, in extensive hearings conducted by Chairman ROBERTS and Vice Chairman ROCKEFELLER, the issue of weapons of mass destruction—and the conclusion that is being reached is that there was a substantial variance between the intelligence opinions and what is evolving as the actual, factual situation—it appears that the caveats were not given the proper emphasis by people, from the President on down, as they reviewed the work of the various intelligence-collecting agencies.

For example, the CIA had its position. From time to time, the Department of Energy had opinions at variance with the CIA. At times, there were opinions of the DIA, the Defense Intelligence Agency, which were at variance with the opinions of other departments and agencies. I think it is essential. Those caveats, in the case of weapons of mass destruction—I will use the phrase that they were not given the emphasis that was needed. That is a whole chapter. It is all laid out in a very extensive report developed by the Intelligence Committee, which is now public record.

This amendment, hopefully, will go a long way to ensure that diverse opinions will be given to our President. That is the thrust of it. It is patterned after the Goldwater-Nichols Act—a piece of legislation on which I was privileged to have a very active role, enacted by the Congress in the late 1980s—which organized some elements of the Department of Defense and, most specifically, the joint staff.

Mr. President, the act said that when the Chairman of the Joint Staff meets with the President of the United States, if there were members of the Joint Chiefs—i.e., Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps—who held opinions at variance with the Chairman, the Chairman was obligated under law to share those opinions with the President and such others as the Chairman of the Joint Chiefs of Staff was addressing. That has been a very effective piece of legislation.

This amendment is patterned almost verbatim after, and consistent with, the Goldwater-Nichols Act. Frequently, the 9/11 Commission, quite properly, paid a great deal of respect to that piece of legislation.

In concluding my remarks—and I have worked on this, but I have not found a solution yet—this Senator is concerned about the future of the Central Intelligence Agency as an organization and the role of the head of that agency—now our former distinguished former colleague, Porter Goss. Therein resides an enormous wealth of professional people in all the nations of the world, in one way or another, who have come up through the ranks, training and taking risks, often commensurate with the risks the men and women of the Armed Forces take, often with long separations from their families in some of the more difficult posts in the world. All of that infrastructure is going to remain under the Director of the CIA, who will now report no longer directly to the President but to the concept of the new national intelligence director. That has been decided.

I may eventually come up with the solution. I am trying to figure out how, if the Director of the CIA has a view that is held strongly, and it is at variance with the viewpoint of the national intelligence director, how that view can be properly emphasized and given to the President and such other persons as the NID will be addressing.

Mr. STEVENS. Will the Senator from Virginia yield for a question?

Mr. WARNER. Yes.

Mr. STEVENS. Mr. President, I am a cosponsor of this amendment. As I listen to the Senator from Virginia, I wonder, I don't see anything in this bill that allows the separate agencies to communicate with the Congress, as they have in the past, such as the CIA and the NRO. They have all come directly to us. Would your amendment preserve the right of the people who would disagree with the NID to communicate with the Congress, as well as the Executive?

Mr. WARNER. Yes. My last section, recommendations to Congress, says:

> Any member of the Joint Intelligence Community Council may make such recommendation to Congress relating to the intelligence community as such member considers appropriate.

So in this particular law is specific authority for those Cabinet officers and others to come directly to the Congress. I am glad my colleague brought that up.

Mr. STEVENS. Will the Senator yield for another question?

Mr. WARNER. Yes.

Mr. STEVENS. The Senator from Virginia and I both served for a while in the executive branch. We know Cabinet officers often put down in the law about who can contact Congress on what. I don't know if it happened on your watch. It happened on mine.

Mr. WARNER. It happened on mine when I was in the Department of Defense.

Mr. STEVENS. Some people don't believe this language is necessary. Would the Senator agree if there is going to be the right to communicate, to go up the line toward the President or to the Congress, it has to be in the law? People's rights have to be protected to contact us?

(Mr. CORNYN assumed the Chair.)

Mr. WARNER. Mr. President, I think it does, and that is why I have put in this paragraph, which is very explicit. This paragraph relates to the members of the Joint Intelligence Community Council, which I enumerated before as the several Cabinet officers—Secretaries of State, Defense, Homeland Security, Energy, and the Attorney General.

Mr. STEVENS. Mr. President, if the Senator will yield once more, I sort of feel we have to put some meat on the bones of this commission a little bit as we go along to allow the Secretaries of the whole community to participate in the process—budget, management, and oversight. Will not the amendment of the Senator from Virginia strengthen oversight by giving the people involved in oversight the chance to hear the dissenting opinions as well as the opinion of the NID?

Mr. WARNER. The Senator is correct, Mr. President.

Mr. STEVENS. I thank the Senator.

Mr. WARNER. The Senator is correct.

I yield the floor for a moment for the purpose of receiving the distinguished chairman's views on this matter.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, let me begin by saying that I very much appreciate the distinguished Senator from Virginia, the chairman of the Senate Armed Services Committee, working with Senator LIEBERMAN and me to modify his amendment so that it is consistent with the goals of our legislation.

The JICC was suggested by the White House when we drafted our bill. I view it as an important component of the Collins-Lieberman bill because it provides a forum for the national intelligence director to solicit the views of and to receive advice from key Cabinet members on a wide variety of issues.

It is important for the members of the JICC—the Secretaries of State, Defense, Homeland Security, and the Attorney General, and other Departments, Treasury as well—to see the council as a way to communicate their views freely to the NID to help the NID reach the right decisions and to be a forum for a wide variety of issues.

It is also important for the NID to remain firmly in control as chairman of the council, and I believe the modification makes clear that it is the NID who is the chairman and who will regularly convene this council.

Senator WARNER's amendment, as modified, meets both those goals. It strengthens the bill. I can speak on behalf of the ranking member of the committee in urging its adoption. I thank the Senator again for working with us.

Mr. WARNER. Mr. President, I thank my distinguished friend and colleague, the manager. Might I solicit her views on the concern I have—and I have not figured out how to do it. The views of the Secretaries of State and Defense are very important because they have their own internal intelligence functions and they are subjected to this, particularly those two Cabinet officers, on a daily basis.

The Director of the CIA will report to the national intelligence director. The national intelligence director—I do not know quite what the infrastructure will be. It is conceived, as the Senator from Maine said earlier today and several times, that she is not creating a whole new department. But the CIA Director will remain in charge of what I say is the most magnificent reservoir of professionals to be found anywhere in the world. I cannot give, because of classification, the numbers, but it is in the tens of thousands of these individuals all over the world. The CIA Director has instantaneous contact with them and personal association as he travels—or she, as the case may be—worldwide. It is a network of these intelligence people who have knowledge that comes back up to the Director. He is hands on. The NID will not have that hands-on experience, cannot possibly because he has so much to manage.

One of the reasons for this legislation is to split off the functions of the former head of the CIA, the Director of the whole Central Intelligence, and to give those responsibilities, as it relates to the national collection of the intelligence program, portions of it to the NID to operate now, leaving the Director of the CIA to manage primarily that agency.

Supposing the Director of the CIA has a strongly held opinion and viewpoint which is at variance with the national intelligence director, but when the national intelligence director goes in to brief the President and the Security Council, in all likelihood the Director of the CIA will be at Langley. I am not certain how that varying opinion is given to the President and the other structure at the White House and the other Cabinet officers who may be present—for instance, at the meetings of the council, how that opinion can be expressed. I have not thought of it. Maybe the chairman and I can work on this in the few days remaining on this bill. But I am concerned about it.

Ms. COLLINS. Mr. President, I would be happy to consult further with the Senator about his concern in this area. I note that the 9/11 Commission and numerous other commissions have determined that the CIA Director has too many roles right now; that he has three roles. He is the principal adviser to the President for intelligence, he is the head of the CIA, and he is the manager of the intelligence community. There is widespread consensus that is too much for the CIA Director to have, so our legislation alters those roles.

The CIA Director would run the CIA. The national intelligence director would not run the day-to-day operations of the CIA, but the national intelligence director would become the principal adviser to the President on intelligence. The national intelligence director would also be the manager of the national intelligence programs. So we have defined those roles in that manner, but we have not altered the fact that the CIA Director would still be a Presidential appointee, he would still be confirmed by the Senate, and he would still have lots of access, in my view, just as Cabinet members are always going to be able to get their views to the President.

I think the structure the Senator has improved, the joint intelligence community council, strengthens that flow of communication, but that structure is there. I do not believe that is going to be a problem.

I also point out to the Senator that the Senator made an excellent point earlier when he was talking about the need for competitive analysis for a variety of viewpoints to be presented to the President and that we did not see that work as well as it should have in recent cases.

We have put in extensive language in our bill due to amendments authored by Senator LEVIN, as well as the work Senator LIEBERMAN and I and others have done, that makes very clear, for example, that when a National Intelligence Estimate is produced, that it has to highlight dissenting views. That does not happen now sufficiently. Often those dissenting views are hidden away in a footnote when they really should be up front for us to be aware that there are dissenting views and who has those dissenting views.

Another example: We require these estimates to have a confidence level attached to the prevailing view so we will know how much support that prevailing view has.

So throughout our bill there are requirements to make sure that dissenting views are heard. Indeed, the Rockefeller-Hutchinson amendment we just adopted also strengthens that by having the office of alternative analysis. So I think there are numerous safeguards to make sure that all voices are heard; that competitive analysis is strengthened; that dissenting views are highlighted.

Mr. WARNER. Mr. President, all along I have expressed complete concurrence in what the Senator has done in this bill to the extent the Senator and I have looked at various sections. I may have reservations about others and tomorrow I hope to engage with the Senator on a number of amendments.

As to the basic charter that the Senator outlined in her opening remarks, I am not going to at this time in any way indicate an objection. I just wanted to focus on this one individual, the CIA Director, who, as the Senator knows, under previous Presidents, and certainly President Bush, was in his office one way or another almost every day of the week working with him.

The CIA Director had this—I understand all of these responsibilities may be too much for one individual and I am not arguing about shifting that at the moment, but I am talking about this magnificent collection of individuals—and he is the boss—who take all of these risks together, collect and analyze and develop opinions and it comes up to him and he may form a view which is totally opposite to the NID, and the NID goes into the President. I have guaranteed here that the Cabinet officers have the right to have their views presented simultaneously, one view after another, to the President, but I am not satisfied yet that the views of the CIA Director, which could well be different than the analysis and conclusion of the NID, would be given to the President with the weight and sufficiency I think they merit.

Ms. COLLINS. I am certainly open to working with the distinguished Senator to address his concerns. I believe it would work similarly to how the views of the head of the NSA, the NRO, the NGA, and DIA get to the President now through the Secretary of Defense.

Under our bill, the CIA Director clearly reports to the NID, much as the head of the NSA reports to the Secretary of Defense. Nothing prevents the CIA Director or the NSA Director from going to the President, but we have changed the structure.

We are making the NID the principal adviser to the President for intelligence, but I cannot conceive of a situation where the NID would not be relying very heavily on the CIA Director for the advice that he is giving to the President. It would be foolhardy for him not to.

Mr. WARNER. I see the Senator's point. The Senator put out a very clear example of the NRO, the NSA, the old mapping agency, they report to the SECDEF—we have just given the SECDEF the right to have his views presented simultaneously if they are at variance with the NID at the time he meets with the President. That is not present in the Central Intelligence Agency. If those views vary, there is no obligation under the law to see that they are presented simultaneously.

The Senator says she cannot envision how they would not be. Well, it depends on the human factor, that these two individuals would get along and have a mutual respect. I can remember in my first term on the Intelligence Committee, there was a very colorful Director of the CIA, Mr. Casey. He was an extraordinary man. I remember he used to come in and testify before the committee. All the members would lean up like this because they could not understand him, to be honest. He spoke in a rather unusual way. I think he did that to get through his testimony pretty quickly and get out of that hearing room. I am trying to put a note of humor into some serious things, but let us hope the Senator is right that as this law goes forward those individuals entrusted, the NID and CIA Director, can have a mutual respect and a mutual professional bond that will enable the views of the CIA Director to be given to the President if they are at variance with the NID. That is left up to the human quotient. This amendment, if adopted, puts it in law, not for the CIA Director but for the other members.

Ms. COLLINS. I say to the distinguished Senator that I think the analogy is very similar. The Secretary of Defense is not required to present the views of the NSA to the President. I think this works in a more collaborative way than we are giving the system credit for.

We have to be careful, while we put in all of these safeguards—and I support the chairman's amendment—that we do not create a situation where it is unclear who is the principal adviser to the President. And that, under our bill, is the national intelligence director.

Mr. WARNER. In no way do I wish to in any way diminish the significance of the NID that is now being created presumably by law in the future. I think we have had a healthy discussion. I appreciate the distinguished manager accepting this amendment, and I will continue to work on the Director of the CIA issue which I continue to be concerned about. Maybe as a consequence of this colloquy, those who might be following it could come up with an idea. I hope they would communicate it to me or to the distinguished chairman.

If there is no further debate, I ask that the amendment be agreed to.

I ask unanimous consent that the following Senators be added as cosponsors to the amendment: Senators STEVENS, INOUYE, TALENT, ALLARD, DOLE, CHAMBLISS, CORNYN, ENSIGN, and INHOFE.

The PRESIDING OFFICER. Without objection, it is so ordered.

Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 3781, as modified.

The amendment (No. 3781), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. I wish to express my appreciation to the distinguished manager. I look forward to rejoining her tomorrow. Let us hope that those amendments that I bring forward largely with my colleague Mr. STEVENS will add to the strength of this bill.

Ms. COLLINS. I thank the Senator from Virginia for his contributions. It is always a pleasure to work with him, particularly on an issue that is so important to our Nation's security.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, we are still on the bill being managed by Senators LIEBERMAN and COLLINS?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent to lay aside any pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. On behalf of Senator SCHUMER, I ask unanimous consent it be in order to call up eight amendments, and after their reporting, they be set aside. Senator SCHUMER understands these can be acted upon in different ways, but we offer those on his behalf. He indicated to me that a number of these he thinks will be accepted. This gives the staff a chance to look at them and the manager can tell Senator SCHUMER which of those will not be accepted and he can come and debate those.

Ms. COLLINS. Mr. President, reserving the right to object, I ask the Democratic whip that those amendments be interspersed with Republican amendments.

Mr. REID. That is appropriate. I modify my request that that be the case.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3887 THROUGH 3894, EN BLOC

Mr. REID. I call up amendments numbered 3887 to 3894, en bloc.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Nevada [Mr. REID] for Mr. SCHUMER, proposes amendments numbered 3887 through 3894, en bloc.

The amendments are as follows:

AMENDMENT NO. 3887

(Purpose: To amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group)

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS TO FISA.

(a) TREATMENT OF NON-UNITED STATES PERSONS WHO ENGAGE IN INTERNATIONAL TERRORISM WITHOUT AFFILIATION WITH INTERNATIONAL TERRORIST GROUPS.—

(1) IN GENERAL.—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

"(C) engages in international terrorism or activities in preparation therefor; or".

(2) SUNSET.—The amendment made by paragraph (1) shall expire on the date that is 5 years after the date of enactment of this section.

(b) ADDITIONAL ANNUAL REPORTING REQUIREMENTS UNDER THE FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.—

(1) ADDITIONAL REPORTING REQUIREMENTS.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(A) by redesignating—

(i) title VI as title VII; and

(ii) section 601 as section 701; and

(B) by inserting after title V the following new title VI:

"TITLE VI—REPORTING REQUIREMENT

"ANNUAL REPORT OF THE ATTORNEY GENERAL

"SEC. 601. (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

"(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

"(A) electronic surveillance under section 105;

"(B) physical searches under section 304;

"(C) pen registers under section 402; and

"(D) access to records under section 501;

"(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

"(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

"(4) in a manner consistent with the protection of the national security of the United States—

"(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted;

"(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

"(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Act. Subsequent reports under this section shall be submitted annually thereafter.

"(c) In this section, the term 'appropriate committees of Congress' means—

"(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

"(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.".

(2) CLERICAL AMENDMENT.—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items:

"TITLE VI—REPORTING REQUIREMENT

"Sec. 601. Annual report of the Attorney General.

"TITLE VII—EFFECTIVE DATE

"Sec. 701. Effective date.".

AMENDMENT NO. 3888

(Purpose: To establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies)

At the appropriate place, insert the following:

SEC. ___. U.S. HOMELAND SECURITY SIGNAL CORPS.

(a) SHORT TITLE.—This section may be cited as the "U.S. Homeland Security Signal Act of 2004".

(b) HOMELAND SECURITY SIGNAL CORPS.—

(1) IN GENERAL.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

"SEC. 510. HOMELAND SECURITY SIGNAL CORPS.

"(a) ESTABLISHMENT.—There is established, within the Directorate of Emergency Preparedness and Response, a Homeland Security Signal Corps (referred to in this section as the 'Signal Corps').

"(b) PERSONNEL.—The Signal Corps shall be comprised of specially trained police officers, firefighters, emergency medical technicians, and other emergency personnel.

"(c) RESPONSIBILITIES.—The Signal Corps shall—

"(1) ensure that first responders can communicate with one another, mobile command centers, headquarters, and the public at disaster sites or in the event of a terrorist attack or a national crisis;

"(2) provide sufficient training and equipment for fire, police, and medical units to enable those units to deal with all threats and contingencies in any environment; and

"(3) secure joint-use equipment, such as telecommunications trucks, that can access surviving telephone land lines to supplement communications access.

"(d) NATIONAL SIGNAL CORPS STANDARDS.—The Signal Corps shall establish a set of standard operating procedures, to be followed by signal corps throughout the United States, that will ensure that first responders from each Federal, State, and local agency have the methods and means to communicate with, or substitute for, first responders from other agencies in the event of a multi-state terrorist attack or a national crisis.

"(e) DEMONSTRATION SIGNAL CORPS.—"

"(1) IN GENERAL.—The Secretary shall establish demonstration signal corps in New York City, and in the District of Columbia, consisting of specially trained law enforcement and other personnel. The New York City Signal Demonstration Corps shall consist of personnel from the New York Police Department, the Fire Department of New York, the Port Authority of New York and New Jersey, and other appropriate Federal, State, regional, or local personnel. The District of Columbia Signal Corps shall consist of specially trained personnel from all appropriate Federal, State, regional, and local law enforcement personnel in Washington, D.C., including from the Metropolitan Police Department.

"(2) RESPONSIBILITIES.—The demonstration signal corps established under this subsection shall—

"(A) ensure that 'best of breed' military communications technology is identified and secured for first responders;

"(B) ensure communications connectivity between the New York Police Department, the Fire Department of New York, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan New York City area;

"(C) identify the means of communication that work best in New York's tunnels, skyscrapers, and subways to maintain communications redundancy;

"(D) ensure communications connectivity between the Capitol Police, the Metropolitan Police Department, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan Washington, D.C. area;

"(E) identify the means of communication that work best in Washington, D.C.'s office buildings, tunnels, and subway system to maintain communications redundancy; and

"(F) serve as models for other major metropolitan areas across the Nation.

"(3) Team Captains.—The mayor of New York City and the District of Columbia shall appoint team captains to command communications companies drawn from the personnel described in paragraph (1).

"(4) Technical Assistance.—The Signal Corps Headquarters, located in Fort Monmouth, New Jersey, shall provide technical assistance to the New York City Demonstration Signal Corps.

"(f) Reporting Requirement.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Secretary shall submit a report, to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives, which outlines the progress of the Signal Corps in the preceding year and describes any problems, issues, or other impediments to effective communication between first responders in the event of a terrorist attack or a national crisis.

"(g) Authorization of Appropriations.—

"(1) Demonstration Signal Corps.—There are authorized to be appropriated $50,000,000 for fiscal year 2005 to carry out subsection (e).

"(2) Fiscal Years 2006 Through 2009.—There are authorized to be appropriated $100,000,000 for each of the fiscal years 2006 through 2008—

"(A) to create signal corps in high terrorism threat areas throughout the United States; and

"(B) to carry out the mission of the Signal Corps to assist Federal, State, and local law enforcement agencies to effectively communicate with each other during a terrorism event or a national crisis.".

(2) Technical Amendment.—Section 1(b) of the Homeland Security Act of 2002 (Public Law 107-296) is amended by inserting after the item relating to section 509 the following:

"Sec. 510. Homeland Security Signal Corps.".

AMENDMENT NO. 3889

(Purpose: To establish a National Commission on the United States-Saudi Arabia Relationship)

At the appropriate place, insert the following new section:

SEC. ___. COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) Findings.—Congress makes the following findings:

(1) Despite improvements in counterterrorism cooperation between the Governments of the United States and Saudi Arabia following the terrorist attacks in Riyadh, Saudi Arabia on May 12, 2003, the relationship between the United States and Saudi Arabia continues to be problematic in regard to combating Islamic extremism.

(2) The Government of Saudi Arabia has not always responded promptly and fully to United States requests for assistance in the global war on Islamist terrorism. Examples of this lack of cooperation have included an unwillingness to provide the United States Government with access to individuals wanted for questioning in relation to terrorist acts and to assist in investigations of terrorist activities.

(3) The state religion of Saudi Arabia, a militant and exclusionary form of Islam known as Wahhabism, preaches violence against nonbelievers or infidels and serves as the religious basis for Osama Bin Laden and al Qaeda. Through support for madrassas, mosques, cultural centers, and other entities Saudi Arabia has actively supported the spread of this religious sect.

(4) The Secretary of State designated Saudi Arabia a country of particular concern under section 402(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1)(A)) because the Government of Saudi Arabia has engaged in or tolerated systematic, ongoing, and egregious violations of religious freedom.

(5) The Department of State's International Religious Freedom Report for 2004 concluded that religious freedom does not exist in Saudi Arabia.

(6) The Ambassador-at-large for International Religious Freedom expressed concern about Saudi Arabia's export of religious extremism and intolerance to other countries where religious freedom for Muslims is respected.

(7) Historically, the Government of Saudi Arabia has allowed financiers of terrorism to operate within its borders.

(8) The Government of Saudi Arabia stated in February 2004 that it would establish a national commission to combat terrorist financing within Saudi Arabia, however, it has not fulfilled that promise.

(9) There have been no reports of the Government of Saudi Arabia pursuing the arrest, trial, or punishment of individuals who have provided financial support for terrorist activities. The laws of Saudi Arabia to combat terrorist financing have not been fully implemented.

(b) Commission on the United States-Saudi Arabia Relationship.—

(1) Establishment.—There is established, within the legislative branch, the National Commission on the United States-Saudi Arabia Relationship (in this section referred to as the "Commission").

(2) Purposes.—The purposes of the Commission are to investigate, evaluate, and report on—

(A) the current status and activities of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(B) the degree of cooperation exhibited by the Government of Saudi Arabia toward the Government of the United States in relation to intelligence, security cooperation, and the fight against Islamist terrorism;

(C) the status of the support provided by the Government of Saudi Arabia to promote the dissemination of Wahabbism; and

(D) the efforts of the Government of Saudi Arabia to enact domestic measures to curtail terrorist financing.

(3) Authority.—The Commission is authorized to carry out purposes described in paragraph (2).

(c) Composition of Commission.—The Commission shall be composed of 10 members, as follows:

(1) Two members appointed by the President, one of whom the President shall designate as the chairman of the Commission.

(2) Two members appointed by the Speaker of the House of Representatives.

(3) Two members appointed by the minority leader of the House of Representatives.

(4) Two members appointed by the majority leader of the Senate.

(5) Two members appointed by the minority leader of the Senate.

(d) Report.—Not later that 270 days after the date of the enactment of this Act, the Commission shall submit to the President and Congress a report on the relationship between the United States and Saudi Arabia. The report shall include the recommendations of the Commission to—

(1) increase the transparency of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(2) improve cooperation between Government of the United States and the Government of Saudi Arabia in efforts to share intelligence information related to the war on terror;

(3) curtail the support and dissemination of Wahabbism by the Government of Saudi Arabia;

(4) enhance the efforts of the Government of Saudi Arabia to combat terrorist financing;

(5) create a foreign policy strategy for the United States to improve cooperation with the Government of Saudi Arabia in the war on terror, including any recommendations regarding the use of sanctions or other diplomatic measures;

(6) curtail the support or toleration of violations of religious freedom by the Government of Saudi Arabia; and

(7) encourage the Government of Saudi Arabia to improve the human rights conditions in Saudi Arabia that have been identified as poor by the Department of State.

(e) Effective Date.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

AMENDMENT NO. 3890

(Purpose: To improve the security of hazardous materials transported by truck)

At the end, add the following new title:

TITLE IV—SECURITY OF TRUCKS TRANSPORTING HAZARDOUS MATERIALS

SEC. 401. IMPROVEMENTS TO SECURITY OF HAZARDOUS MATERIALS TRANSPORTED BY TRUCK.

(a) Plan for Improving Security of Hazardous Materials.—

(1) In general.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall develop a plan for improving the security of hazardous materials transported by truck.

(2) Content.—The plan under paragraph (1) shall include—

(A) a plan for tracking such hazardous materials;

(B) a strategy for preventing hijackings of trucks carrying such materials; and

(C) a proposed mechanism for recovering lost or stolen trucks carrying such materials.

(b) Increased Inspection of Trucks.—

(1) In general.—The Secretary of Homeland Security shall require that the number

of trucks entering the United States that are manually searched and screened in fiscal year 2005 is at least twice the number of trucks manually searched and screened in fiscal year 2004.

(2) WAIT TIMES AT INSPECTIONS.—In carrying out this section, the Secretary shall ensure that the average wait time for trucks entering the United States does not increase.

(c) BACKGROUND CHECKS.—Beginning not later than 3 years after the date of the enactment of this Act, the Secretary of Homeland Security shall require background checks of all truck drivers with certifications to transport hazardous materials.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3891

(Purpose: To improve rail security)

At the end, add the following new title:

TITLE IV—RAIL SECURITY

SEC. 401. IMPROVEMENTS TO RAIL SECURITY.

(a) PROTECTION OF PASSENGER AREAS IN RAIL STATIONS.—The Secretary of Homeland Security shall require that, not later than 2 years after the date of the enactment of this Act, each of the 30 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a sufficient number of wall-mounted and ceiling-mounted radiological, biological, chemical, and explosive detectors to provide coverage of the entire passenger area of such station.

(b) USE OF THREAT DETECTORS REQUIRED ON CERTAIN TRAINS.—The Secretary of Homeland Security shall require that, not later than 3 years after the date of the enactment of this Act, each train traveling through any of the 10 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a radiological, biological, chemical, and explosive detector.

(c) REPORT ON SAFETY OF PASSENGER RAIL TUNNELS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall—

(A) review the safety and security of all passenger rail tunnels, including in particular the access and egress points of such tunnels; and

(B) submit to Congress a report on needs for improving the safety and security of passenger rail tunnels.

(2) CONTENT.—The report under paragraph (1) shall include recommendations regarding the funding necessary to eliminate security deficiencies at, and upgrade the safety of, passenger rail tunnels.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3892

(Purpose: To strengthen border security)

At the end, add the following new title:

TITLE IV—STRENGTHENING BORDER SECURITY

SEC. 401. TECHNOLOGY STANDARDS TO CONFIRM IDENTITY.

Section 403(c)(1) of the USA PATRIOT ACT (8 U.S.C. 1379(1)) is amended to read as follows:

"(1) IN GENERAL.—The Attorney General, the Secretary of State, and the Secretary of Homeland Security jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of the Treasury and other Federal law enforcement and intelligence agencies that the Attorney General, Secretary of State, and the Secretary of Homeland Security deem appropriate and in consultation with Congress, shall prior to October 26, 2005, develop and certify a technology standard, including appropriate biometric identifier standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, that can be used to verify the identity of persons applying for a United States visa or such persons seeking to enter the United States pursuant to a visa for the purposes of conducting background checks, confirming identity, and ensuring that a person has not received a visa under a different name.".

SEC. 402. REQUIREMENTS FOR ENTRY AND EXIT DOCUMENTS.

(a) IN GENERAL.—Paragraph (1) of section 303(b) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(b)) is amended to read as follows:

"(1) IN GENERAL.—Not later than October 25, 2005, the Attorney General, the Secretary of State, and the Secretary of Homeland Security shall issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers for multiple immutable characteristics, such as fingerprints and eye retinas. The Attorney General, the Secretary of State, and the Secretary of Homeland Security shall jointly establish biometric and document identification standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, to be employed on such visas and other travel and entry documents.".

(b) CONSULTATION REQUIREMENTS.—Such section is further amended—

(1) in paragraph (2)(A), by striking "in consultation with the Secretary of State" and inserting "in consultation with the Secretary of State and the Secretary of Homeland Security"; and

(2) in paragraph (2)(B) in the matter preceding clause (i), by striking "in consultation with the Secretary of State" and inserting "in consultation with the Secretary of State and the Secretary of Homeland Security".

(c) USE OF READERS AND SCANNERS.—Paragraph (2)(B) of such section, as amended by subsection (b), is further amended—

(1) by redesignating clauses (i), (ii), and (iii) as (ii), (iii), and (iv), respectively; and

(2) by inserting before clause (ii), as redesignated by paragraph (1), the following:

"(i) can authenticate biometric identifiers of multiple immutable physical characteristics, as such fingerprints and eye retinas;".

(d) CERTIFICATION REQUIREMENTS.—Subsection (c) of such section is amended to read as follows:

"(1) IN GENERAL.—Not later than October 26, 2005, the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) shall certify, as a condition of designation or a continuation of that designation, that it has a program to issue to its nationals machine-readable passports that are tamper-resistant and incorporate biometric and authentication identifiers of multiple immutable physical characteristics, such as fingerprints and eye retina scans. This paragraph shall not be construed to rescind the requirement of subsections (a)(3) and (c)(2)(B)(i) of section 217 of the Immigration and Nationality Act.".

AMENDMENT NO. 3893

(Purpose: To require inspection of cargo at ports in the United States)

At the end, add the following new title:

TITLE IV—OTHER MATTERS

SEC. 401. CARGO INSPECTION.

(a) MANUAL INSPECTION.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers manually inspected at ports in the United States is not less than 10 percent of the total number of containers off-loaded at such ports.

(b) INSPECTION FOR NUCLEAR MATERIALS.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers screened for nuclear or radiological materials is not less than 100 percent of the total number of containers off-loaded at ports in the United States.

(c) INSPECTION FOR CHEMICAL, BIOLOGICAL, AND EXPLOSIVE MATERIALS.—Not later than 4 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the 10 ports in the United States that off-load the highest number of containers have the capability to screen not less than 10 percent of the total number of containers off-loaded at each such port for chemical, biological, and explosive materials.

(d) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on port security technology. Such report shall include—

(1) a description of the progress made in the research and development of port security technologies;

(2) a comprehensive schedule detailing the amount of time necessary to test and install appropriate port security technologies; and

(3) the total amount of funds necessary to develop, produce, and install appropriate port security technologies.

(e) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

AMENDMENT NO. 3894

(Purpose: To amend the Homeland Security Act of 2002 to enhance cybersecurity, and for other purposes)

At the appropriate place, insert the following:

SEC. . ENHANCING CYBERSECURITY.

(a) SHORT TITLE.—This section may be cited as the "Department of Homeland Security Cybersecurity Enhancement Act of 2004".

(b) ASSISTANT SECRETARY FOR CYBERSECURITY.—

(1) IN GENERAL.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

"SEC. 203. ASSISTANT SECRETARY FOR CYBERSECURITY.

"(a) IN GENERAL.—There shall be in the Directorate for Information Analysis and Infrastructure Protection a National Cybersecurity Office headed by an Assistant Secretary for Cybersecurity (in this section referred to as the 'Assistant Secretary'), who shall assist the Secretary in promoting cybersecurity for the Nation.

"(b) GENERAL AUTHORITY.—The Assistant Secretary, subject to the direction and control of the Secretary, shall have primary authority within the Department for all cybersecurity-related critical infrastructure protection programs of the Department, including with respect to policy formulation and program management.

"(c) RESPONSIBILITIES.—The responsibilities of the Assistant Secretary shall include the following:

"(1) To establish and manage—

"(A) a national cybersecurity response system that includes the ability to—

"(i) analyze the effect of cybersecurity threat information on national critical infrastructure; and

"(ii) aid in the detection and warning of attacks on, and in the restoration of, cybersecurity infrastructure in the aftermath of such attacks;

"(B) a national cybersecurity threat and vulnerability reduction program that identifies cybersecurity vulnerabilities that would have a national effect on critical infrastructure, performs vulnerability assessments on information technologies, and coordinates the mitigation of such vulnerabilities;

"(C) a national cybersecurity awareness and training program that promotes cybersecurity awareness among the public and the private sectors and promotes cybersecurity training and education programs;

"(D) a government cybersecurity program to coordinate and consult with Federal, State, and local governments to enhance their cybersecurity programs; and

"(E) a national security and international cybersecurity cooperation program to help foster Federal efforts to enhance international cybersecurity awareness and cooperation.

"(2) To coordinate with the private sector on the program under paragraph (1) as appropriate, and to promote cybersecurity information sharing, vulnerability assessment, and threat warning regarding critical infrastructure.

"(3) To coordinate with other directorates and offices within the Department on the cybersecurity aspects of their missions.

"(4) To coordinate with the Under Secretary for Emergency Preparedness and Response to ensure that the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)) includes appropriate measures for the recovery of the cybersecurity elements of critical infrastructure.

"(5) To develop processes for information sharing with the private sector, consistent with section 214, that—

"(A) promote voluntary cybersecurity best practices, standards, and benchmarks that are responsive to rapid technology changes and to the security needs of critical infrastructure; and

"(B) consider roles of Federal, State, local, and foreign governments and the private sector, including the insurance industry and auditors.

"(6) To coordinate with the Chief Information Officer of the Department in establishing a secure information sharing architecture and information sharing processes, including with respect to the Department's operation centers.

"(7) To consult with the Electronic Crimes Task Force of the United States Secret Service on private sector outreach and information activities.

"(8) To consult with the Office for Domestic Preparedness to ensure that realistic cybersecurity scenarios are incorporated into tabletop and recovery exercises.

"(9) To consult and coordinate, as appropriate, with other Federal agencies on cybersecurity-related programs, policies, and operations.

"(10) To consult and coordinate within the Department and, where appropriate, with other relevant Federal agencies, on security of digital control systems, such as Supervisory Control and Data Acquisition (SCADA) systems.

"(d) AUTHORITY OVER THE NATIONAL COMMUNICATIONS SYSTEM.—The Assistant Secretary shall have primary authority within the Department over the National Communications System.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to subtitle A of title II the following:

"203. Assistant Secretary for Cybersecurity.".

(c) CYBERSECURITY DEFINED.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by adding at the end the following:

"(17)(A) The term 'cybersecurity' means the prevention of damage to, the protection of, and the restoration of computers, electronic communications systems, electronic communication services, wire communication, and electronic communication, including information contained therein, to ensure its availability, integrity, authentication, confidentiality, and nonrepudiation.

"(B) In this paragraph—

"(i) each of the terms 'damage' and 'computer' has the meaning that term has in section 1030 of title 18, United States Code; and

"(ii) each of the terms 'electronic communications system', 'electronic communication service', 'wire communication', and 'electronic communication' has the meaning that term has in section 2510 of title 18, United States Code.".

Mr. REID. While I have the floor, we have a lot more amendments filed than I ever dreamed. Everyone should understand there will have to be significant movement on this bill in the next 24 hours in the way of offering amendments. I hope people offer amendments tomorrow. It will be terribly embarrassing to the leaders if Monday we have nothing to vote on. I think that will not be the case, but I think we are to the point where there may have to be something done to move this along more quickly than it has been. That may include filing cloture in the next 24 hours.

Ms. COLLINS. Mr. President, I appreciate the assistance of the assistant Democratic leader. I echo his hope that Members will come to the Chamber tomorrow to offer and debate their amendments. We will delay the votes on those amendments until Monday, but we have an awful lot of work to be done. Senator LIEBERMAN and I will be here tomorrow ready to engage on these amendments. I ask my colleagues to be here as well and help make progress on this very important bill. We are making some progress, but we are not making enough progress and we need to pick up the pace. We need to whittle down that amendment list. We need to have some of those amendments simply go away. I hope that will happen.

Mr. LEAHY. Mr. President, I rise today to address one of the most timely and sensitive recommendations of the 9/11 Commission, the creation of a civil liberties board to provide checks and balances against the "enormous authority" granted the government by the people. Critically, the 9/11 Commission concluded: "We must find ways of reconciling security with liberty, since the success of one helps protect the other."

There is no doubt that such a board is needed given the heightened civil liberty tensions created by the realities of terrorism and modern warfare. The tools of the information age include precise data-gathering, networked databases, and tracking and sensing technologies impervious to the common eye. As Vice Chairman Hamilton noted, in a recent Judiciary Committee hearing, as he commented about the security steps and the technology that are quickly becoming ubiquitous in our post-9/11 world, these developments are "an astounding intrusion in the lives of ordinary Americans that (are) routine today in government." With such powerful tools come heightened responsibility.

We have an obligation to ensure that there are mechanisms in place that will see to it that this power is subject to appropriate checks and balances and Congressional oversight. An effective civil liberties board can provide those checks and contribute to preserving both liberty and security.

We need a civil liberties board that can think critically and independently about the policies we implement as a nation and about how they affect our fundamental rights. The board must be able to participate in the policymaking process, review technology choices and options, peer into various agencies and assess actions, review classified materials and investigate concerns. This board must have the versatility to work closely with government officials, but at the same time it must be sufficiently independent to assess those government policies without fear, favor or compromise. Given these significant responsibilities, it is equally important that the board be accountable to Congress and the American people.

The civil liberties board outlined in the Collins-Lieberman bill makes great strides in meeting these goals. It represents a true bipartisan effort from conception to introduction. I was pleased to work with these Senators along with Senator DURBIN to make this civil liberties board the kind of board that would honor the 9/11 Commission's intent.

It establishes a bipartisan board that would have access to the documents and information needed to assess our counterterrorism policies that affect the vital civil liberties of the American people. It provides a mechanism for them to work closely with administration officials, including working with a network of newly created department-level privacy and civil liberty officers, whose proximity to decision makers will ensure that these concerns are considered from the earliest stages of policy formation. It requires the board to report to Congress on a regular basis, and without compromising classified information, inform the public about policies that impact their vital liberties.

Unfortunately, Senator KYL's amendment No. 3801 attempts to gut the carefully crafted, bipartisan civil liberty and privacy provisions that are the hallmark of the Collins-Lieberman bill. It is inconsistent with the recommendations of the 9/11 Commission and would undermine the civil liberties that we cherish.

First, Senator KYL's amendment attempts to cut off the information flow that would ensure that the board could accurately, reliably and effectively advise on the impact of policies on privacy and civil liberties. It would also eliminate the board's ability to subpoena people outside of the government who may have important information, such as private sector data collectors working on behalf of the government. It would also eliminate the privacy officers, as well as public hearings and reports to the public.

It is clear that the commission intended for the board to have access to the information that it needed in order to effectively assess policy. In a recent House Judiciary Committee hearing, Vice Chairman Hamilton said, "The key requirement is that government agencies must be required to respond to the board." He went on to note that the commission itself had subpoena power, and "if we had not had it, our job would have been much, much more difficult." I would note that the Collins-Lieberman bill does not go as far as to mandate subpoena power over government officials, but rather only over relevant non-government persons.

Given the secrecy and civil liberty concerns that have been pervasive in this administration, we should be enhancing information flow and dialogue, not eliminating it. It is ironic that at the same time that the administration has been making it more difficult for the public to learn what government agencies are up to, the government and its private sector partners have been quietly building more and more databases to learn and store more information about the American people.

Second, Senator KYL's amendment would eliminate a provision that gives the board important guidance on how to review requests by the government for new and enhanced powers. This is a critical omission. In order to balance liberty and security, we need to ensure that the board will be looking at policies through a prism that would allow for heightened security protection, while also ensuring that intrusions are not disproportionate to benefits, or that they would unduly undermine privacy and civil liberties.

Contrary to assertions that this would be a "citizen board" gone wild that would "haul any agent in anywhere in the world and grill him," this board would consist of highly accomplished members who have the appropriate clearance to access classified information, who have extensive professional expertise on civil liberty and privacy issues, and who have the knowledge of how to view these concerns in the context of important antiterrorism objectives.

It simply cannot be that the government can create and implement policies that impinge on our liberties without having to account to anyone. While that may make things convenient or easy, it certainly does not preserve the ideals of the country we are fighting to protect.

Senator KYL's amendment is just the latest of recent attempts to undermine the 9/11 Commission's clear recommendations for an effective board. The administration recently issued an executive order that attempted to foist upon us an anemic civil liberties board. I and several of my colleagues noted in a letter to the President that the board was not a bipartisan or independent entity. It had no authority to access information and no accountability. It was housed in the Department of Justice, and comprised solely of administration officials from the law enforcement and intelligence communities, precisely the communities that the board would have an obligation to oversee. It was the proverbial case of the fox guarding the henhouse. This would not have resulted in a vigorous consideration of policy that the Commission intended.

As the Commission noted, the "burden of proof for retaining a particular governmental power should be on the Executive, to explain (a) that the power actually materially enhances security and (b) that there is adequate supervision of the Executive's use of the powers to ensure protection of civil liberties. If the power is granted, there must be adequate guidelines and oversight to properly confine its use."

We should be looking for ways to ensure that this burden of proof will be met, rather than weakening oversight and accountability.

As the 9/11 Commission noted, when it comes to security and civil liberties, "while protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task, but we must constantly strive to keep it right."

Senator KYL's amendment fails to "keep it right," and I urge that the Senate honor the spirit of the recommendations of the 9/11 Commission, and reject it.

Mr. DURBIN. Mr. President, in 1957, when America was caught off guard by the Soviet Union's launch of a satellite named Sputnik, Congress passed a massive education bill, the National Defense Education Act, which poured federal funds into the study of math, science and strategic languages like Russian. Thirty-two years later, the Soviet Union fell. Following the 9/11 attacks and the Commission's report, we need to rise to the challenge once again. We must intensify the study of strategic foreign languages, like Arabic, Pashto and Korean.

According to the Department of Education, only 22 of the 1.8 million American students who graduated from college last year earned degrees in Arabic. This figure has remained about the same over the last decade. And as the 9/11 Commission reported, and the Washington Post and the New York Times reiterated on Tuesday, the lack of qualified personnel has left hundreds of thousands of pages of intercepted terrorist communication untranslated.

On page 77 of the Commission's report, the Commission notes the FBI "lacked sufficient translators proficient in Arabic and other key languages, resulting in a significant backlog of untranslated intercepts." On page 92, the report adds, "Very few American colleges and universities offered programs in Middle Eastern languages or Islamic studies." The 9/11 report also calls for both the CIA and the FBI to strengthen their language programs and for the FBI to improve ability to attract candidates with technological skills.

At a hearing of the Senate Governmental Affairs Oversight of Government Management Subcommittee on September 14, 9/11 Commissioner Fred Fielding described the lack of language skills at intelligence agencies as: "embarrassing." FBI Assistant Director for Administrative Services Mark Bullock testified that while the agency is receiving thousands of applicants, the agency has found it "difficult hiring agents with language skills, skills in the right languages."

We can do better.

The bill we are considering today does address education, but not completely. This bill calls for better coordination of joint training among the intelligence agencies and authorizes, but does not direct, the National Intelligence Director to collaborate with the intelligence agencies to establish a scholarship program, in which students agree to work for an agency in exchange for financial assistance with their education. I commend the managers of the bill for including this innovative education subsidy-for-service approach. This is an important mechanism to put in place, although we need to do more to expand instruction in critical foreign language, particularly in the area of science and technology. If no one is teaching the classes we need; we can't improve the pool of qualified applicants from which the intelligence community can recruit.

The amendment my colleagues from Florida and Hawaii and I sponsored will expand targeted educational opportunities to promote integration of intelligence collection and analysis and to prepare intelligence personnel to work with other agencies.

We ask the National Intelligence Director to assess the current needs of the intelligence community with respect to language skills; determine whether the community's needs for critical foreign language skills and understanding science and technology terms in those languages are being met; and report to Congress recommendations for programs to help meet those needs.

In developing its report, the NID is directed to take into account existing education grant programs through the Departments of Education and Defense. The first report is due to Congress within one year of enactment, and then again each year after that.

I thank the Senators from Florida and Hawaii for their willingness to work together in developing language to strengthen the critical language education component of the reorganized intelligence community. And I thank my colleagues from Maine and Connecticut for their leadership in crafting and managing this important piece of legislation, which now includes this additional focus on strengthening necessary language skills in this country.

Mr. McCAIN. Mr. President, as I noted on the floor yesterday, the Senate is now engaged in perhaps the most important debate of the 108th Congress. Increasing the security of our country against terrorist attack requires new strategies, new ways of thinking, and new ways of organizing our Government. That is what this legislative debate is all about.

Earlier this month, I joined with Senator LIEBERMAN and others in introducing comprehensive legislation to implement all the 9/11 Commission recommendations. Along with Senator LIEBERMAN, I pledged that the Commission's recommendations—including the ones not already addressed in the underlying bill—would be fully debated. Yesterday, we offered an amendment that was designed to address the Commission's transportation security-related recommendations. Now we will offer an amendment that encompasses the Commission's diplomacy, foreign aid, and military-related recommendations.

I send an amendment to the desk on behalf of myself, Senator LIEBERMAN, and Senator BAYH, and ask for its immediate consideration.

This amendment is very similar to Title V of S. 2774, the 9/11 Commission Report Implementation Act of 2004, which we introduced earlier this month. In drafting this amendment, we have worked with the Senate Foreign Relations Committee to develop consensus language concerning areas of their jurisdiction, and with the Senate Armed Services and Banking Committees to develop language for other provisions.

As the Commission report observed, there were many deficiencies that led to the terrorist attacks of September 11. Not the least was the failure of the United States to adapt its foreign policy to address the changed realities of the post-cold war era. In hindsight, it is evident that we did not do enough to prevent the creation of terrorist sanctuaries, encourage the democratization of the Greater Middle East, and engage countries such as Pakistan, Afghanistan and Saudi Arabia in their battles against fundamentalism.

In light of this realization, the Commission found that no single set of strategies is sufficient to prevent future terrorist attacks. The United States must use all of the instruments at our disposal to counter the short- and long-term threats posed by international terrorism. For this reason, it is critical to pay due attention to the role of diplomacy, foreign aid, and the military.

Consistent with the Commission's recommendations, this amendment requires the executive branch to develop a strategy to address and, where possible, eliminate terrorist sanctuaries. It renews the U.S. commitment to Pakistan's future, in light of the critical role that country plays in the war on terror, and authorizes assistance to Afghanistan—aid that many of us believe must be increased. The amendment addresses our relations with Saudi Arabia and suggests establishing an international contact group to develop a multilateral counterterrorism strategy.

Our amendment also calls on the U.S. Government to work with our coalition partners to develop a common approach to the treatment of detainees, and reiterates standards for the humane treatment of enemy detainees—standards that our soldiers and officials should have been following all along. Most of this language was taken directly from the Senate-passed version of the Department of Defense Authorization bill, which is now pending in conference. The Senate has already spoken on this issue once; however, it has yet to be enacted. We must continue pressing to ensure that America treats individuals in its custody humanely, as the Commission rightly advocates. As the 9/11 Commission rightly pointed out, allowing torture of prisoners only makes it more difficult to build the alliances and support we need to defeat terrorism. Portrayals of inhumane treatment of captured terrorists hinder our ability to engage in the wider struggle against them.

Other provisions in this amendment are designed to enhance America's ability to fight the war of ideas by promoting universal values of democracy, tolerance, and openness. It authorizes funding for U.S. broadcasts to Muslim countries, and authorizes an increase in our education and exchange programs. In addition, it establishes an International Youth Opportunity Fund that will provide financial assistance for the improvement of public education in the Middle East. Finally, the amendment notes that the proliferation of weapons of mass destruction is a grave and gathering threat to this country, and requires the executive branch to develop a strategy to expand and strengthen our nonproliferation programs.

This amendment is the next step in fulfilling the mandate of the 9/11 Commission recommendations and ensuring that we orient our diplomacy, foreign aid, and military programs toward combating terrorist threats, in both the short and long terms. The provisions in our amendment are not the only steps that are needed, and there are a number of other important actions that the executive branch should undertake in order to fully implement the Commission's recommendations. But I believe that passing this amendment is a vital and necessary step.

I urge my colleagues to support this amendment.

AMENDMENT NO. 3771

Mr. BINGAMAN. Mr. President, since the Manhattan project, national laboratory scientists have performed an inherently unique governmental function of not only designing and producing nuclear weapons, but analyzing intelligence on foreign nuclear weapons and nuclear technology.

In performing this governmental function, the national laboratory scientists have staffed the Joint Atomic Intelligence Committee, which produces strategic assessments on foreign nuclear weapons programs, helped produce technical assessments of foreign nuclear weapons, and provided critical technical support in disabling improvised nuclear devices, which in today's post-9/11 environment is one of our greatest fears. In many cases these functions are performed through rotational assignments to the intelligence community staff.

The amendment I have offered today, and cosponsored by my colleague Senator DOMENICI, preserves this rotational capability in the intelligence reforms proposed by Senators COLLINS and LIEBERMAN.

Typically, national laboratory personnel can be detailed to the intelligence community, or any Federal agency, through the Intergovernmental Personnel Act. This act permits employees of federally funded research and development centers, FFRDCs, to act for set periods of time, as staff of a Government agency.

This amendment does not alter the authorities under the act. What this amendment does is reinforce the congressional intent, that in addition to the authorities granted to the National Intelligence Authority to staff its centers with personnel from other branches of the Government, that it continue to be able to utilize the unique capabilities of Department of Energy staff and other FFRDCs.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent there be a period of morning business, with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. I ask unanimous consent to proceed for 17 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

GOLDEN GAVEL AWARD

Mr. FRIST. Mr. President, today I have the pleasure to announce that Senator GORDON SMITH is the latest recipient of the Senate's Golden Gavel Award, marking his 100th hour of presiding over the Senate.

The Golden Gavel Award has long served as a symbol of appreciation for the time that Senators contribute to presiding over the Senate—a privileged and important duty. Since the 1960s, Senators who preside for 100 hours have been recognized with this coveted award.

On behalf of the Senate, I extend our sincere appreciation to *Senator Smith* for presiding during the 108th Congress.

HONORING OUR ARMED FORCES

PRIVATE FIRST CLASS KEVIN OTT

Mr. DEWINE. Mr. President, I come to the Senate this evening to pay tribute to a fellow Ohioan, a brave soldier who lost his life while making our own safer. Army PFC Kevin Ott disappeared north of Baghdad, Iraq, on June 25th, 2003. Three days later, on June 28th, everyone's worst fears were realized. The military personnel found Kevin's body following a very exhaustive search. Kevin Ott was only 27 years of age.

When I think about the loss of young soldiers, I am reminded of something that President John F. Kennedy said to the 1st Armored Division in Fort Stewart, GA, as they were prepared to deploy to Cuba. In 1962 this is what President Kennedy said:

> Many years ago, according to a story there was found in a sentry box in Gibraltar, a poem which said:
>
> God and the soldier all men adore
> In time of danger and not before
> When the danger is past and all things righted
> God is forgotten and the soldier slighted.

President Kennedy continued:

> This country does not forget God or the soldier.
>
> Upon both we depend.

President Kennedy said it so well. We depend on our service men and women. We depended on Kevin Ott. We will not forget him. We will never forget him.

I rise this evening to remember Kevin, to remember him as he was and will forever remain, a devoted son, supportive brother, and patriotic soldier. Kevin Ott grew up in Orient, OH, son of loving parents Alma and Charles Ott. He and his sisters and brothers were close and would remain so throughout their lives. Kevin went to Westfall High School. He was on the basketball team and enjoyed spending time with friends. He graduated in 1993 and then attended Bluffton College where he was a sports lover and played defensive end on the football team.

While Kevin's love of sports certainly ran deep, his passion also was for motorcycles. He certainly loved that bike. His sister Pam remembers how Kevin took her for a ride one afternoon. She said:

> I was afraid because I knew he loved to go really fast. But, to my surprise, he went slowly because he knew I was scared.

Kevin was a good brother, son, and friend. He was deeply devoted to his family, and with their love and guidance he became devoted to his church and his faith. Throughout his entire life Kevin was a strongly spiritual person. He was active in his church from the time he was 4 years old. His parents fondly remember how his faith guided their son's decisions and how it directed his life.

At the Southwest Community Church of the Nazarene, Kevin worked with the youth group, sang in the choir, and went on a mission trip to Mexico where he helped build houses.

These experiences taught him to see the hand of God in all things. It increased his faith, the faith that would see him through the difficult times in his life.

The tragic events of September 11 changed the course of Kevin's life as it changed the course of so many people's lives. It was then that he decided he wanted to join the military. He wanted to prevent such a tragedy ever happening again.

Kevin left his job as a machinist with J.W. Groves and Sons to enlist in the Army in January 2002. He immediately excelled. His comrades remembered him as a capable soldier, someone they could always count on.

Kevin's brother-in-law Jim Pack recalled that Kevin loved the military. He said that he had found his calling in life. Kevin was assigned to Battery B, 3rd Battalion, 18th Field Artillery Regiment, based out of Fort Sill, OK. While in Iraq, Kevin was in charge of guarding an ammunitions depot. He wrote home often, and his parents could tell their son was proud of his service. They saved Kevin's postcards and looked forward to any contact they had with him. They recognized that their son loved Army life and knew that he believed in what he was doing.

Though the news of Kevin's death was, of course, devastating to the Ott family. Charles said his son was at peace with his faith and was not afraid to die. His faith saw him through and took him to his final resting place.

When we lost Kevin Ott, our Nation mourned. Charles and Alma lost their loving son. Pam, Julie, Joyce, Diane, and Doug lost their loyal brother. They miss his joking nature, his love of sports and motorcycles. They miss him coaching his nephew's Little League team. But most of all they just miss spending time with him.

So, as President Kennedy said, over 40 years ago: "This country does not forget . . . the soldier." This country will not forget Kevin Ott.

OHIO FLOODING

Mr. DEWINE. Mr. President, we are all well aware of the horrible devastation that has been caused by the four hurricanes that have hit the United States and have hit other countries so far this season: Charley, Frances, Ivan, and Jeanne. We have seen pictures of the damaged homes. We have seen the victims interviewed on TV. We have seen the floodwaters that have drowned many towns and villages.

My home State of Ohio has also suffered damage from these storms, damage that has warranted the classification of 30 of our counties as Federal disaster areas. These counties include: Athens, Belmont, Carroll, Columbiana, Gallia, Guernsey, Harrison, Jefferson, Mahoning, Meigs, Monroe, Morgan, Muskingum, Noble, Perry, Stark, Trumbull, Tuscarawas, Vinton, and Washington.

Last Friday, when I was home, it was my privilege to tour some of the flooded areas in Ohio and to talk to some of the people who are victims. I must say, while I have seen floods before, been along the Ohio Valley before, and seen what floods can do, I was, again, overwhelmed at what I saw. Some areas looked like a war zone.

The power of water never ceases to amaze me, whether it is the Ohio River when it comes up, or in creeks and streams a long way from the Ohio River when flash floods come up and do unbelievable damage and homes are literally ripped apart and trailers are ripped apart. I saw this when I was home.

At its highest, the floodwaters in Marietta, along the Ohio River, covered the first floor of many buildings. From this picture, a photo taken by the Washington County Sheriff's Office in Marietta, you can get some idea of what Marietta looked like when the river came up—absolutely unbelievable. People used boats to get around as they surveyed what they lost and what they could possibly save.

In other areas, trucks were washed away, mobile homes stood on their sides, and debris was everywhere. There was garbage strewn clear up into the trees.

Many businesses were, of course, forced to close, as owners went out to salvage what was left. As you can see from this picture, it did not look like this Wendy's restaurant—after this picture was taken—would be serving Wendy's hamburgers very soon.

But we do know that people are resilient. When I got there, it had been 5 or 6 days since the peak of the water, which you are seeing in these pictures. People were already getting back into business. Businesses were opening. People are unbelievably resilient.

This picture of Wendy's is absolutely unbelievable at the height of the flood.

Belmont County and the village of Neffs, which I visited, experienced severe flash flooding—a different kind of water damage, a different type of flooding, but unbelievably devastating as well. I toured Neffs, and water was freely flowing in and out of houses as the long cleanup process began—again, another picture of what this looked like, not when I was there, but during the height of the storm.

Twenty Ohio counties are like this—20. Already, nearly 4,000 individuals in the disaster-declared counties have called to apply for assistance.

Part of the tragedy of the floods is that so many residents simply did not have the warning that they needed.

Senator VOINOVICH and I and Congressman STRICKLAND and Congressman NEY and others are asking the National Weather Service to give us an explanation for what happened because when I was in Marietta a number of people told us that night they received a flood warning, but then the National Weather Service took that warning off. People went to bed. Yet during the night the flood warning was put back on. Many businesspeople and homeowners, for example, whom I talked to simply were not prepared. The floodwater came up during the night and did tremendous damage. People were not prepared for that.

So our question to the Weather Service is, why was that mistake made? Why was the flood warning on, then off, and then back on again? It was very misleading to people, and we want to know exactly what the explanation is. We have written to the Weather Service and we want a full explanation about that.

One of the most heartening things, though—you see this, and I have seen it before in Ohio; I know we have seen it across the country—is the number of people who help neighbors, who come out and do unbelievable work. They come out of nowhere and volunteer. I saw amazing displays of human kindness, generosity of the human spirit, neighbors helping each other get their lives back together. As they have done so many times before, Ohioans have pulled together as part of a community effort to reclaim their houses and businesses from the floodwaters.

I met a woman, for example, who is originally from Neffs, the town I was talking about, but now lives in Columbus and works at Ohio State. She asked for 4 days of vacation time—it was granted—so she could go back home, back to Neffs and help with the cleanup. She joined several other volunteers to help serve meals in the basement of one of the local churches, a place I had the occasion to visit.

It is that kind of spirit we see. This is one of the countless acts of generosity exhibited by people that I saw.

I saw a business, for example, in Marietta. The woman who was cleaning up—it was horrible; all her inventory had mud all over it; it was a mess—she said: Senator, come in the back. I want to show you something. I went back with her, and clear in the back through her business, back in the back alley. And she said: Look. There were people there who came in to volunteer, and they had an assembly line, and they were washing the inventory she had, these little toys, these little different things.

It was an amazing thing to see. These were all volunteers, all people who came in. They had some adults and some younger kids who were in there who were volunteering and helping her.

I saw another man in Marietta. He was cleaning up his business. He took me back and showed me where there was a piano. He said: You will not believe this story. He said: The flood kept coming up and coming up and coming up. We were up in the second story of our house. He said: I kept taking pictures and posting them on the Internet. All of a sudden my phone rang. I couldn't figure out who was calling me.

He said the person who called on the phone said: Are you—and the person said his name. He answered: Yes, this is such-and-such business.

He said: We are outside.

He said: You can't be outside. There is nothing but water outside.

He said: Well, look outside.

So he went to his window on the second story and there were a couple guys in a row boat. And they said: We are here to help you. And they had come in from the countryside, rode their boat into Marietta, and they had some cement blocks they had brought because they had heard that his piano was getting soaked and he couldn't do anything about it. It was getting ruined. So they brought that boat in, landed the boat in his place of business, tied the boat up, unloaded the cement blocks, lifted the piano up, put the cement blocks under the piano so the piano would not get wet.

He said: I had never seen those guys before. They left and I still don't know who they are. But I had tears coming out of my eyes when they left because I couldn't believe it, that someone would do that for me.

That is the type of thing you see, in spite of all the horror, replicated not only in Ohio but across this country.

I must also say, I was so impressed by the work of the men and women of the Ohio National Guard—they always do a great job—the Ohio Emergency Management Agency, the great professionals who are always there; FEMA; the county directors, their staffs, countless other volunteers who have worked tirelessly to help bring food, clean water to the area. They have already distributed almost $5 million in disaster assistance and continue to work as we speak tonight. We appreciate their efforts and thank them.

It is going to take months before these flood-ravaged communities return to normal. We must make sure to employ every resource available to make sure Ohioans can get back in their homes and back to their jobs, the day-to-day business, as soon as possible. It has been rough going for so many different people in Ohio.

I, again, thank all those who have volunteered and assisted in the cleanup and rebuilding. I know what I saw in Ohio with our flood damage has been replicated in so many other States, not just in this country but in other countries. There are many other people hurting.

I came to the floor tonight to share with my colleagues what I saw as I traveled around my State last week. It is so heartening to see how people fight back. I know this Congress will continue to be of assistance and of help to them as we reach out to all the victims of the hurricanes and we give them a hand up and help them through this crisis.

My experience has been that in the immediate days after the hurricanes and flooding, it is always tough. But the weeks and months even beyond that are tough as well. We are not going to forget them. I know my colleagues in the Senate will not forget them, and the Federal Government will not forget them. We need to let them know we are still going to be there with them through the Federal agencies and be of assistance.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Oklahoma.

COMMERCIAL SPACE LAUNCH ACT

Mr. INHOFE. Mr. President, I have had the honor for almost 50 years now of being active in aviation. I have had occasion to fly almost every kind of airplane that is up there, and it is an experience that not many people get a chance to have in their normal lives. Something is on the horizon right now that is an opportunity for people to do, things that they never dreamed possible; that is, to feel and to experience the thrill of flight into space.

Yesterday marked a very significant day in history. Today, the SpaceShipOne, designed by Burt Rutan, who happens to be a friend of mine, and piloted by Mike Melvill, who is a 62-year-old pilot, made the first flight of the two required flights to claim the $10 million Ansari X-Prize for carrying three people, or an equivalent weight, to space twice within 2 weeks.

The brilliant concept of the Ansari X Prize exemplifies the excellence that can be achieved through an incentivized approach rather than a governmental mandate of punitive approach. To incentivize and safely get government out of the way is the philosophy of the Commercial Space Launch Amendments Act of 2004, H.R. 3752. Tempt not only the pocketbook but also the vision of anyone who has the creativity and imagination to pursue it.

Space programs originally sprang to life in the face of international competition. The realities of the cold war stimulated creativity, and innovation in a dramatic new way. This government and NASA responded with successes that dazzled even the most optimistic dreamer.

Since then, space advances have gone through the same channels with the same motivation, but without the urgency and vision of "The Space Race."

The Ansari X Prize is a refreshing new appeal to anyone who has the faith and vision to respond. It is an appeal that looks for the likes of Charles Lindberg—people who will think within the restraints of practicality but without the restraints of a rutted concept of how it is supposed to be done.

I am grateful that this competition is doing what it was designed to do: spur a budding industry in commercial human space flight. Today's flight paves the way for making space flight available to the public, a long-time dream of many. Just imagine, ordinary people will be able to experience the thrill of flying in space. But despite the existing technology to make this dream possible, there are some obstacles.

One such barrier stems from this body. The text of my bill, S. 2772, the Space CHASE Act, should pass the Senate right now as an amendment to H.R. 3752. H.R. 3752 readily passed the House of Representatives in March by a vote of 402 to 1. The House of Representatives and the Federal Aviation Administration have agreed to the improvements embodied in my Space CHASE Act, so it is better than the bill that passed the House by 402 to 1. However, some Democrats are blocking this legislation that is vital to the fledgling commercial space industry.

The legislation would define FAA licensing rules for suborbital flights, as well as require passengers to sign waivers of legal liability. Without such a waiver, the investors fear excessive lawsuits by trial lawyers. Without investors, many of these fledgling entrepreneurial space companies will not be able to get off the ground, both literally and figuratively.

Unfortunately, some Democrats want to cater to the trial lawyers who want the ability to file frivolous lawsuits and collect millions of dollars should something go wrong on a flight. Perhaps even more frustrating is that they will not explain exactly why they are objecting.

Aviation Week is a magazine I have subscribed to for many years. It is a publication I have grown to respect. I have read it with frequency over the years. It has an excellent article in its September 27, 2004, edition. It states:

> One or more Democrats on the Senate Commerce Committee are holding up this bill, and, maddeningly, no one will say publicly what they object to.

They are holding it up, and they won't say why they are holding it up.

> If they do not pass it, part of their legacy may be that of having strangled an infant industry in the crib.

I compliment the chairman of the committee, Senator MCCAIN. He has been very helpful. But there are some Democrats we can't identify, as the Aviation Week publication states.

I ask unanimous consent that these four pages of Aviation Week be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. INHOFE. Mr. President, I also want to call to the attention of the Senate a letter from nine discrete enterprises that are on the cutting edge of this burgeoning industry. They all endorse the text of my Space CHASE Act and call for the immediate passage of my legislation as a substitute language for a thus-perfected H.R. 3752.

I commend these entrepreneurs by name: Jeff Greason, XCOR Aerospace; John Carmack, Armadilla Aerospace; Elon Musk, Space X; George French, Rocketplane, Ltd.; Eric Anderson, Space Adventures; Honorable Andrea Seastrand, California Space Authority; Bill Khourie, Oklahoma Space Industry Development Authority; Brian Chase, Space Foundation; Greg Allison, Chairman, Executive Committee, National Space Society.

I ask unanimous consent that their letter also be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 2.)

Mr. INHOFE. Mr. President, it is a shame when we pander to trial lawyers and allow them to kill an industry before it is able to get off the ground.

I urge these Democrats to stop the obstruction and pass this important legislation that will let the American people have the freedom to experience space, the final frontier.

EXHIBIT 1

[From Aviation Week & Space Technology, September, 2004]

COMMERCIAL SPACE—AT A TIPPING POINT

"I have such faith in the private sector that I've dreamed of the day that government monopoly would be replaced by commercialization or at least some form of partnership." Those words, on the prospects of private manned spacecraft and industrial space stations, were penned by President Ronald Reagan in a letter to Aviation Week & Space Technology's publisher in March 1985.

It has taken two decades, but now there are tangible indications that such a dream could indeed become a reality. Many of them are detailed in this week's cover story (see p. 54) and in the lead article of our World News and Analysis section (see p. 26) But one of the most visible indications is yet to come.

This week, Scaled Composites' SpaceShipOne is set to make the first of the two required flights to claim the $10 million Ansari X-Prize far hauling three people (or an equivalent mass) to the edge of space twice within two weeks. The prize could be won as early as next week. Designer Burt Rutan and/or the team's backer, Microsoft billionaire Paul Allen, may even climb in for the ride.

Should Rutan's crew stumble, there are others fast on their heels. A half-dozen or more serious competitors have spent many times the prize money in developing their vehicles. That is exactly what Peter Diamandis had in mind when he organized the X-Prize Foundation a decade ago to seed a private human spaceflight industry, and our hat is off to him.

Dating even further back, there were entrepreneurs saying that making human spaceflight both reliable and affordable was possible with existing technology. The problems, they said, were not technical but financial and political, even psychological.

Unintentionally, NASA made it hard for these pioneers to attract capital. First, the agency was a competitor because it operated its own expensive vehicle, the space shuttle. Then, when NASA tried to develop a new, cheaper-to-operate reusable vehicle, it opted to include challenging cutting-edge technologies, making program execution difficult and expensive. As one might expect, when entrepreneurs went looking on Wall Street for money for their simpler projects, they were rebuffed by potential investors who believed human spaceflight was inherently costly, dangerous and prone to failure.

On top of that was a chicken-and-egg problem of economics. To drastically lower the costs of spaceflight, a vehicle needs to fly frequently. But to find enough customers to fly frequently, one needs to have low prices, and that requires low costs. The solution seemed to lie in new markets, and the one many believed could jump-start the private sector was "space tourism."

When the Russians began selling spare seats on Soyuz spacecraft to dot.com zillionaires and rock stars, it became harder to posit the economic impossibility of space tourism. But it was the first suborbital flight of SpaceShipOne to 100 km. altitude, back in June, that removed the giggle factor from discussions of space tourism. Pictures of pilot Mike Melvill sitting atop his privately financed craft and waving victoriously made the front pages of newspapers aroung the world.

Meanwhile, things had changed in the government. Many in Congress "got religion" on commercial space (more about that later). NASA began working seriously with startups such as Bigelow Aerospace on manned spacecraft. And Adminstrator Sean O'Keefe bought into the prize paradigm, seeing to it that the agency itself would sponsor some of these fledgling enterprises.

This week, Robert T. Bigelow will make some news on that front. He plans to announce a $50-million "America's Space Prize," an orbital analog to the X-Prize. To be sure, taking humans into orbit and bringing them back safely is orders of magnitude more difficult than taking them on a suborbital ride, but don't dismiss the salutary effects of $50 million.

Prizes have an important and glorious place in the history of flight, dating to the days of the Wrights, Curtiss and Santos-Dumont. The revolution in public understanding of the practicality and possibilities of aviation that Charles A. Lindbergh wrought in laying claim to the $25,000 Orteig Prize in 1927 is widely seen as having been a necessary ingredient for the growth of an airline industry.

We might now be poised at a tipping point in public understanding of the commercial possibilities of human spaceflight. But if the X-Prize is to be remembered as something more than a stunt, there must be a legal framework in place for market-based spaceflight to grow.

There is a measure pending in Congress that would go a long way to providing that framework—the Commercial Space Launch Amendments Act of 2004 (H.R. 3752)—but it has been stalled in the Senate for months. It would spell but FAA licensing rules for suborbital flights. Most critically, the bill would make it clear that paying passengers are "spaceflight participants" who understand the risks. And it would require them to sign waivers of legal liability. Without this provision, the prospect of relatives of passengers suing and collecting millions in damages following an accident would likely scare off investors. And without outside investors, many of today's space entrepreneurs will go out of business in the not-too-distant future.

This bill is not some wild-eyed libertarian scheme. It passed the House in March by a vote of 402-1. Science Committee Chairman Sherwood Boehlert of New York, perhaps the "greenest" Republican in the House, even went along with a provision that would exempt these launchers from some environmental regulations. Admitting he first thought the legislation "flighty," Boehlert says he came to see it as essential: "This is about a lot more than 'joy rides' in space, although there's nothing wrong with such an enterprise. This is about the future of the U.S. aerospace industry."

One or more Democrats on the Senate Commerce Committee are holding up this bill, and, maddeningly, no one will say publicly what they object to. Democrats say they want the job growth the Bush administration has failed to deliver. If they do, they ought to pass this bill. If they do not pass it, part of their legacy may be that of having strangled an infant industry in the crib.

SHOW TIME

(By Craig Covault)

The Scaled Composites SpaceShipOne suborbital vehicle that will attempt this week and next to twice rocket above 100 km. to claim the $10-million Ansari X-Prize highlights a major new wave of commercial space activity taking stride into early October.

The initiatives include the planned announcement this week of a new, much larger $50-million "America's Space Prize" to spur private development of an orbital space transport that by 2010 could carry 5-7 astronauts to an orbiting station.

The new America's Space Prize is being initiated by millionaire developer Robert T. Bigelow who wants a low-cost manned transport to take crews to Bigelow Aerospace inflatable space modules under development in North Las Vegas, Nev. (see cover and p. 54).

Until recently, individual commercial space "wannabes" struggled for technical competence and respectability.

But a more business-like approach by commercial space company managers coupled with their innovative use of technology is enabling them to capture bigger government contracts, such as the $42 million just awarded by the Defense Advanced Research Projects Agency (Darpa) for quick reaction launch developments.

The new commercial companies are also increasingly "breaking down the hidebound bureaucracies" of NASA and the larger aerospace companies, says Courtney Stadd, NASA's former chief of staff. He says commercial space is beginning to do this with a more diverse, and increasingly capable base of dynamic new companies, staffed with younger engineers more representative of the future than the past.

They are forming in effect "a new national incubator for technology and talent" that aerospace industry can draw upon for major innovation, says Stadd, who has long been affiliated with commercial space start-ups.

Private/commercial ventures like SpaceShipOne carry an inherent high-risk of failure, including the risk of a fatal accident. But the new commercial space industry is far more steeled to accept and recover from failure than it was earlier, Stadd said.

Several new commercial space milestones have just occurred or will occur by early October. They include:

SpaceShipOne X-Prize flights. The flights to capture the X-Prize are set for Sept. 29 and Oct. 4. at Mojave, Calif. Propulsion subcontractor SpaceDev of Poway, Calif., itself a small commercial space company, has delivered to the Burt Rutan team three new SpaceShipOne systems carrying more synthetic rubber fuel and nitrous oxide oxidizer than used during the demonstration flight June 21 (AWST June 28, p. 28).

This is to provide more performance earlier in the profile when the vehicle is in the lower, more dense, atmospheric phase of flight. More performance at lower altitude is necessary so the engine can more assuredly propel the slightly heavier X-Prize configured vehicle higher than 62 mi. altitude.

Canadian Da Vinci X-Prize attempt. The Canadian Da Vinci Project plans to make its first try for the X-Prize with launch of a manned rocket from a balloon 80,000 ft. over Kindersley, Saskatchewan, as early as Oct. 2.

SpaceDev's "Dream Chaser" manned vehicle. In a major new development, SpaceDev has just signed an agreement with the NASA Ames Research Center for technology collaboration in the design of what initially would be a new higher-performance commercial manned suborbital vehicle capable of carrying 3-5 people to about 100 mi. altitude. This compares with about 62 mi. for the 1-3-person SpaceShipOne.

The new vehicle will be designed using the basic aerodynamic shape of the Orbital Sciences/U.S Air Force X-34 demonstrator that never flew before cancellation. The X-34 concept, but not the original hardware, will be redesigned for manned vertical launch on suborbital flights as early as 2008, depending upon the flow of commercial or government funding for the program, said Jim Benson, SpaceDev chairman and CEO. SpaceDev and Ames will work on potential utilization of the vehicle by NASA, USAF or the private sector. Benson's ultimate objective is to scale the Dream Chaser design to an orbital vehicle.

SpaceX Falcon 1 to Vandenberg. The first privately developed low-cost Falcon 1 unmanned orbital launch vehicle has been completed by SpaceX at its El Segundo plant and is to be taken late this week or early next to its launch pad at Vandenberg AFB, Calif. This major milestone could lead to the first launch by late November, if a static firing on the pad can be completed before the Western Range closes for upgrades throughout December, says Elon Musk, CEO of Space Exploration Technologies (SpaceX).

Musk told Aviation Week & Space Technology he now has four firm contracts with deposits for Falcon missions, including one just signed with the Malaysian Space Agency. Two others are from the U.S. government and one from Bigelow Aerospace for launch of a Genesis one-third scale inflatable module.

Commercial Zero-G flights. Amerijet International of Fort Lauderdale, Fla., has just become the first commercial airline ever to receive FAA certification for commercial parabolic weightless flight operations. The flights are to begin Oct. 9, at about $3,000 per person. The project will use a Boeing 727-200 to conduct parabolic tourist flights out of the Fort Lauderdale/Hollywood, Fla., International Airport in connection with the Zero-6 Corp.

NASA Commercial Transportation Call. NASA has just issued a comprehensive "request for information" sounding out the aerospace industry for new concepts in commercial space transportation services related to the agency's new exploration initiative. It is the single most comprehensive call for commercial space transportation concepts ever made by the agency. Responses, on which new contracting can be based, are due back next September.

Darpa/USAF Rapid Launch Awards. Nearly $42 million in development contracts are just being awarded to four companies, mostly commercial space start-ups, as Phase II in the Darpa/USAF Falcon Small Launch Vehicle (SLV) program. The effort is designed to lead to a much more rapid launch capability for 1,000-lb. critical U.S. military satellites for less than $5 million per mission.

Except for Lockheed Martin, which received $11.6 million, all of the winners are small start-up companies. Lockheed's concept builds on its Michoud, La., development of a hybrid powered system burning nontoxic fuel and liquid oxygen (AWST Feb. 3, 2003, p. 54).

There is a range of innovative launch concepts among the commercial start-up companies that won, but only AirLaunch would deploy its two-stage "QuickReach" liquid propellant booster from a C-17 that could be staged from literally any friendly airfield around the world.

It won $11.3 million to explore the concept that could provide great launch flexibility.

Several small commercial space companies including Space Vector Inc. of Chatsworth, Calif., and Universal Space Lines of Newport Beach, Calif., are part of the AirLaunch team.

Another winner was Microcosm of El Segundo, Calif., that is developing the simple liquid oxygen/kerosene pressure-fed "Scorpius" engine system. Microcosm won $10.4 million to further develop its 52-ft.-long Sprite launcher using a six-barrel cluster of the engines to provide 120,000 lb. of liftoff thrust.

SpaceX, also based in El Segundo, won $8 million for its Falcon launcher. The project, by coincidence, has the same name as the overall Air Force/Darpa program.

All of the selected companies are to conduct 10-month preliminary design studies toward a downselect to one or more competitors that will perform an actual launch in 2007.

But since SpaceX is more advanced in hardware fabrication than the other competitors, Darpa and USAF have asked it to perform an "Early Responsive Launch Test" with a Falcon 1 launch about July 2005. Musk said the objective will be to cut the Falcon's launch pad time by 50%—to just one week.

This Aviation Week & Space Technology editor recently saw the first Falcon flight vehicle in final assembly at the SpaceX plant in El Segundo.

It is being readied this week for the trip to Vandenberg AFB and mounting on its launch pad.

The flight engines have completed their final pre-integration qualification tests at SpaceX test facilities near McGregor, Tex., and development engines and components continue to be tested at the site. Earlier turbopump problems have been solved. But some other engine components, earlier made of aluminum, have been switched to Inconel because of a hairline crack found in one several weeks ago.

The Falcon 1 first stage will likely end up weighing less than its specification weight—a highly positive factor. This is because earlier delays allowed the program enough time to switch a composite interstage for a heavier aluminum structure, saving about 150 lb. Also switching the overall thrust frame from steel to titanium has saved another 100 lb. These improvements will be especially helpful when the vehicle eventually begins to launch heavier payloads, Musk said.

EXHIBIT 2

SEPTEMBER 21, 2004.

Senator JOHN MCCAIN,
Chair, Committee on Commerce, Science, & Transportation, 241 Russell Building, Washington, DC.

Senator SAM BROWNBACK,
Chair, Subcommittee on Science Technology, & Space, 303 Hart Building, Washington, DC.

Senator ERNEST HOLLINGS,
Ranking Member, Committee on Commerce, Science, & Transportation, 125 Russell Building, Washington, DC.

Senator JOHN BREAUX,
Chair, Subcommittee on Science Technology, & Space, 503 Hart Building, Washington, DC.

DEAR SIRS, we are writing to respectfully urge that the Senate Committee on Commerce, Science and Transportation quickly report out and secure Senate passage of a perfected H.R. 3752, the Commercial Space Launch Amendments Act of 2004.

As you know, the U.S. commercial expendable launch vehicle industry is challenged by a highly competitive international market, and NASA's recent orbital reusable launch vehicle development programs have not been successful. Fortunately, the recent emergence of a suborbital reusable launch vehicle industry demonstrates that American entrepreneurs are bringing new private resources and ideas to bear on the vital goal of advancing U.S. space transportation capabilities and competitiveness, largely to pursue new commercial human spaceflight markets.

The Commercial Space Launch Act of 1984 (CSLA) as amended (49 U.S.C. 70101 et seq.) gives the Secretary of Transportation sole regulatory authority over commercial space transportation, which has been delegated to the FAA's Office of the Associate Administrator for Commercial Space Transportation (ASST). That jurisdiction includes launches of a 'suborbital rocket' on a 'suborbital trajectory,' but unfortunately those terms were never defined in law. Furthermore, the CSLA is silent on the issue of whether such vehicles might carry persons. Therefore, confusion has developed as to whether some of these suborbital RLVs might be regulated as a rocket or an airplane, or worse still, as both. Last summer a joint hearing of the Senate Science, Technology, and Space Subcommittee and the House Space & Aeronautics Subcommittee heard strong and unanimous testimony that this regulatory uncertainty was a real and unnecessary barrier to private investment in, and therefore the success of, this new suborbital RLV industry, and that Congress needed to fill in the "legislative gap" in the CSLA.

To address this issue, the House Science Committee crafted H.R. 3752 after holding an additional public hearing, a private forum, and extensive individual consultations with a broad range of interested and disinterested parties. The legislation not only creates the regulatory clarity needed by industry, but strikes an important balance among competing public policy objectives.

For example, the legislation continues the CSLA's priority of protecting the safety of the uninvolved public, and also affirms FAA/AST's authority to set safety-related requirements for crew in these new vehicles. H.R. 3752 and its committee report also directs FAA to promulgate regulations requiring the full disclosure of the safety records of human spaceflight vehicles and their operating companies to all prospective customers, giving them informed consent. (This is very different from the laissez faire approach which existed during the barnstorming days of aviation.)

The bill also creates a new, streamlined experimental permit regime that allows for expedited review of non-revenue flight test of vehicles so that companies can demonstrate safe operating records before proceeding to revenue flight. It should be noted that flights under experimental permits would not be eligible to receive federal indemnification against third party claims, and even during revenue flight the spaceflight participants would not be eligible to receive indemnification.

For all of these reasons, H.R. 3752 was sponsored by the committee's bipartisan leadership, and passed the House of Representatives by the overwhelming vote of 402 to 1 in March of this year.

In recent months, Congressional staff, the FAA, and various industry participants have developed compromise language that would provide greater clarity over regulatory jurisdiction of so-called hybrid suborbital rockets. With these changes, which are attached to this letter, H.R. 3752 is ready for final consideration in and passage by the Committee on Commerce, Science, and Transportation Committee and the full Senate.

We, the undersigned leaders of this industry and supporting public policy organizations, therefore respectfully urge you to support this consensus amendment and send a perfected H.R. 3752 to the Senate floor this month for passage by unanimous consent so it can be reconsidered by the House and enacted into law before the November election.

Truly yours,

Jeff Greason, XCOR Aerospace; Elon Musk, Space X; Eric Anderson, Space Adventures; Bill Khourie, Oklahoma Space Industry Development Authority; Greg Allison, Chairman, Executive Committee National Space Society; John Carmack, Armadillo Aerospace; George French, Rocketplane, Ltd; Hon. Andrea Seastrand, California Space Authority; Brian Chase, Space Foundation.

Mr. INHOFE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROMOTION OF COLONEL ROBERT T. HERBERT

Mr. REID. Mr. President, in our closing tonight, we are going to advance a number of military officers who have been reported out of the Armed Services Committee today.

It was with a special pleasure today that I spoke to Senator LEVIN and he told me that COL Robert T. Herbert had been reported out of the Armed Services Committee. Robert T. Herbert runs my Las Vegas office. Seventy-two percent of the people in the State of Nevada live in the Metropolitan Las Vegas area. He has an extremely important, responsible job for the people of the State of Nevada to make sure that what goes on in Nevada—especially on a Federal level—is something that he is aware of and I am aware of. He does a wonderful job. He is such a good person. Tonight, he will be no longer a Lieutenant Colonel but will become a full Colonel in the Nevada Army National Guard.

My friend, Bob Herbert, grew up as the son of a military man, retired Master Sergeant Robert W. Herbert. Bob, my employee, decided at an early age that he wanted to become a military pilot. So even before he graduated from high school, he joined the Army. Of course, he is well educated. He did graduate from high school. He now has a master's degree from George Washington University. He worked very hard to get that. He graduated from high school in Slinger, WI, and went to basic training, and then on to flight school. He was immediately thereafter assigned to Germany where he flew patrols along the borders between East and West Germany. This, as we all know, were the front lines of the Cold War.

After he was reassigned from Germany, Colonel Herbert completed his undergraduate work at Embry-Riddle Aeronautical University. He then went to test pilot school and became an Army test pilot.

As a test pilot, he flew helicopters which, as we all know, are so important not only in modern military missions but also for important jobs at home, such as fighting fires and the emergency transport of accident victims.

I just finished a telephone conversation with my friend Don Phillips—my friend of longstanding who lives in Lincoln County, NV, in Caliente actually, 145 miles from Las Vegas—and a helicopter took his wife Dorothy to a hospital in Las Vegas where she is very ill. Helicopters are important for all kinds of uses.

All these years, Bob has been moving around from place to place, and he wanted someplace to settle down. One of his fellow test pilots was a man named Randy Sayre who was from Fallon, NV. He told Colonel Herbert what hundreds of thousands of other people have discovered—that Nevada is a great place to live.

So when Bob got out of the Army, he moved to Reno and joined the Nevada Army National Guard. About that time, as a member of the Appropriations Defense Subcommittee, I learned that Bob Herbert was really good. He is someone whom I met. He had connections in the military circles in Nevada. I had heard about Bob, that he was not only good with military matters but also good with numbers.

At my request, he arranged to come to Washington and work in Washington as a fellow with the Brookings Institution. He was assigned to me. During that time, I had the privilege of pinning Bob with his Lieutenant Colonel insignia when he made that rank.

I also grew to depend on his judgment and advice, not just about military matters but about many other issues. He was able to make decisions and had a lot of common sense.

When his fellowship was finished, he joined my staff here in Washington. He worked on military and veterans affairs, and transportation and technology issues. He came to work here in my Washington office while continuing to serve his Guard unit in Nevada.

As I mentioned earlier, he also earned a master's degree in public administration from George Washington University, my alma mater, working full time when he was doing this.

He worked for me 4 years back here, and I asked him if he would return to Nevada. He is not from Las Vegas. He is from northern Nevada, Reno, but being the good soldier he is, he agreed to do this.

He has done a tremendous job in this very demanding position, and during all this, he continues to fulfill all his duties in the Army National Guard.

Colonel Herbert now has 29 years of service, which you would never believe if you met him because he looks so young. He is the State Army Aviation Officer, meaning he is in charge of all the Army aviation guard in Nevada.

He has more than 7,000 hours as a pilot, and that time is split about half with helicopters and half with airplanes.

In the Nevada Army National Guard, they mostly fly helicopters. They have the OH-58, which is used in counterdrug trafficking and the Blackhawk, which is an air ambulance unit, and the Chinook, which is used for heavy lifting and is especially useful for fighting fires. They also have a KingAir airplane.

We all trust people who work for us. We trust their judgment, and we rely on their experience and skill, but I literally trust Bob Herbert with my life, as he has flown me to various places around the State of Nevada.

I am very proud of this man, the way he represents me, the State of Nevada, and the Senate. I know all Nevadans are proud not only of Colonel Herbert but all the brave men and women who are serving our State and our Nation today.

REMOVAL OF COSPONSORSHIP

Mr. DOMENICI. Mr. President, I ask unanimous consent that I be removed as a cosponsor from amendment No. 3801 to the National Intelligence Reform Act of 2004, S. 2845. There has been a misunderstanding. That is the reason I ask that this request be granted.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIONAL DOMESTIC VIOLENCE AWARENESS MONTH

Mr. BIDEN. Mr. President, tomorrow marks the beginning of October, celebrated nationally as National Domestic Violence Awareness Month. Earlier this week, this body unanimously passed a resolution that commemorates National Domestic Violence Awareness Month and renews the Senate's commitment to raise awareness about domestic violence and its devastating impact on families. While the Violence Against Women Act has been law for 10 years, none of us can afford to stop talking about domestic violence and encouraging victims to come forward and seek help.

Throughout the month, cities, organizations, businesses, religious institutions, and many others are organizing events to commemorate National Domestic Violence Awareness Month. For instance, Marie Claire magazine and Liz Claiborne Inc. have joined forces to create "Its Time to Talk" Day on October 14 to encourage greater public dialogue about domestic violence. Around the country, media personalities, governmental officials, domestic violence advocates, businesses and the public-at-large will be taking a moment—or more—to talk openly about this "dirty little secret" that affects nearly one in three women in this country.

The health care community has designated October 13 as Health Care Cares About Domestic Violence Day to raise awareness, and encourage doctors and nurses to screen for domestic violence while delivering routine and emergency care. On October 7, Marshall's will donate a percentage of that day's sales from all of its stores to organizations fighting domestic violence. Many communities, from Morrisville, VT to Lake Charles, LA, are holding candlelight vigils to remember and honor victims of domestic violence.

I cannot overestimate the importance of these local and national events that spotlight domestic violence and enlist the whole community to get involved. While much progress has been made at the local, State and Federal level to hold batterers accountable with serious consequences and treat victims with dignity, the scourge of domestic violence is far from over. Progress is not mission accomplished.

Tragic statistics reveal the stark truth that we cannot turn our attention away from fighting domestic violence. On average, each day more than three women are murdered by this husbands or boyfriends. Nearly one in three women experience at least one physical assault by a partner during her lifetime. In a recent poll, nine in ten women said that ending domestic violence was their number one priority. One in five adolescent girls becomes a victim of physical or sexual abuse, or both, in a dating relationship. In addition to the incalculable human costs of domestic violence, the Centers for Disease Control and Prevention recently found that violence against women costs our country in excess of $5.8 billion each year.

As resolute police chiefs retire, State task forces reorganize or committed district attorneys are replaced by newly elected leaders, we must ensure that the messages, protocols, policies, and dialogues fostered by the Violence Against Women Act become institutionalized across the country. We need to usher the Act into the 21st century and implement it with the next generation—recent police academy graduates who want to be trained on handling family violence, newly elected state legislators who want to update State laws on stalking, and the next generation of children who must be taught that abuse will not be tolerated.

Next year the Senate will have the opportunity to reauthorize the Violence Against Women Act which may make improvements to core programs, tighten criminal penalties and create new solutions to challenges facing battered women. Some of the initiatives suggested include school-based programs to treat the millions of children who witness domestic violence, home visitation programs to prevent family violence, targeted training and education about domestic violence for health professionals, and greater transitional housing resources. I look forward to working with my colleagues to craft a comprehensive and balanced Violence Against Women Act of 2005.

In the meantime, I thank the countless men and women working tirelessly in their hometowns to end domestic violence. As I have said before, these advocates, lawyers, service providers, judges, police, nurses, shelter directors and many more, are saving lives, one woman at a time. During National Domestic Violence Awareness Month, we have a chance to acknowledge their hard work, talk loud and clear about domestic violence and support the courageous women escaping violent homes.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I today speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On November 29, 2001 in Santa Rosa, CA, three teenagers were charged with battery, conspiracy and a hate crime for allegedly assaulting a student they believed was gay.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. By passing this legislation and changing current law, we can change hearts and minds as well.

VOTE EXPLANATION

Mr. NELSON of Florida. Mr. President, I was necessarily absent from rollcall vote No. 193. On the motion to table amendment No. 3795, to S. 2845, I would have voted "aye." This would not change the outcome of the vote.

I was necessarily absent from rollcall vote No. 194. On the motion to table amendment No. 3802, to S. 2845, I would have noted "no." This would not change the outcome of the vote.

HIS EXCELLENCY BADER OMAR AL-DAFA, AMBASSADOR OF QATAR TO THE UNITED STATES

Ms. STABENOW. Mr. President, I would like to take a moment to recognize His Excellency Bader Omar Al-Dafa, a distinguished diplomat, current Ambassador of the State of Qatar to the United States, and alumni of Western Michigan University. In 1975, Ambassador Al-Dafa, earned his bachelor's degree in political science from Western Michigan University, and I am pleased that on October 15, 2004, he will receive the prestigious Alumni Achievement Award in Political Science from Western Michigan University.

Ambassador Al-Dafa's long and distinguished career began in 1976 as a diplomatic attaché at the Ministry of Foreign Affairs, Doha. He has since served as ambassador in numerous posts, most recently as ambassador to the Russian Federation. Prior to this assignment, he served as non-resident ambassador to Finland, Latvia, Lithuania, and Estonia; ambassador to France and non-resident ambassador to Greece; ambassador to Egypt; and ambassador to Spain. While serving in Cairo, Ambassador Al-Dafa was his country's permanent representative to the Arab League. Prior to serving as ambassador to the United States, Ambassador Al-Dafa served as the director of European and American affairs at the Ministry of Foreign Affairs, Doha.

As ambassador to the United States, Bader Omar Al-Dafa's solid understanding of America and over 25 years of diplomatic experience strengthens the warm relationship between our two countries. His efforts to build relationships and foster understanding between America, Qatar and the Arab world through his work and his support for initiatives in the Arab-American community have earned him the respect and admiration of my colleagues in Congress and the citizens of Michigan.

I know my colleagues join me in congratulating Ambassador Al-Dafa for his distinguished service and the prestigious honor that Western Michigan University will confer on him. I extend to him my hopes for continued success and for an enduring relationship between our two countries. I also extend my best wishes to Ambassador Al-Dafa's wife, Awatef Mohamed Al-Dafa, and their three children.

A REAL THREAT TO SATELLITE TELEVISION SERVICE

Mr. LEAHY. Mr. President, in 1998 and 1999 over 2 million families were faced with the prospect of losing the ability to receive one or more of their satellite television network stations. Back then, Congress acted and not only protected access to those stations but also expanded consumer opportunities to receive more programming options.

This time around the story may not have such a happy ending. As we near the end of the session, I grow more concerned that Congress will not have time to pass a reauthorization of the Satellite Home Viewer Act. This is especially disappointing because many members of the other body and many Senators have worked diligently to craft legislative language that would be a boon to public television, the satellite industry, the movie, music and television industries, and to satellite dish owners throughout America.

Indeed, families who own satellite dishes may end up being the big losers if provisions of that act are not extended. Many midwestern and Rocky Mountain States have vast areas where satellite dish owners receive imported network stations such as ABC, NBC, CBS or Fox. Thousands of these families do not have any other choices. They do not have access to TV stations over-the-air because of mountain terrain or distance from the broadcast towers. They do not have access to cable because of the rough terrain or the lack of population density which makes it economically impossible for cable companies to invest. Without access to network stations via satellite, over-the-air, or cable those families will no longer be able to receive national news programming or other network TV programming.

If Congress does not reauthorize provisions of current law by December 31, 2004, hundreds of thousands of households will lose satellite access to network TV stations. Since information about subscribers is proprietary it is difficult for me to tell you exactly how many families will be affected by this, but I assure you it is not a small number.

The Senate Judiciary Committee got its job done in June. We reported a great bill out of Committee without a single amendment and without a single nay vote. That bill does far more than just protect satellite dish owners from losing signals. At the time I pointed out that the new satellite bill "protects subscribers in every State, expands viewing choices for most dish owners, promotes access to local programming, and increases direct, head-to-head, competition between cable and satellite providers."

I continued by saying that, "easily, this bill will benefit 21 million satellite television dish owners throughout the nation, and I am happy to note that over 85,000 of those subscribers are in Vermont."

The Senate and House Judiciary Committee-reported bills go far beyond protecting what current subscribers receive. The bills allow additional programming via satellite through adoption of the so-call "significantly viewed" test now used for cable, but not satellite subscribers. That test means that, in general, if a person in a cable service area that historically received over-the-air TV reception from "nearby" stations outside that area, those cable operators could offer those station signals in that person's cable service area. In other words, if you were in an area in which most families in the past had received TV signals using a regular roof-top antenna then you could be offered that same signal TV via cable. By having similar rules, satellite carriers will be able to directly compete with cable providers who already operate under the significantly viewed test. This gives home dish owners more choices of programming.

In the past, Congress got the job done. Congress worked well together in 1998 and 1999 when we developed a major satellite law that transformed the industry by allowing local television stations to be carried by satellite and beamed back down to the local communities served by those stations. This marked the first time that thousands of TV owners were able to get the full complement of local network stations. In 1997 we found a way to avoid cutoffs of satellite TV service to millions of homes and to protect the local affiliate broadcast system. The following year we forged an alliance behind a strong satellite bill to permit local stations to be offered by satellite, thus increasing competition between cable and satellite providers.

We also worked with the Public Broadcasting System so they could offer a national feed as they transitioned to having their local programming beamed up to satellites and then beamed back down to much larger audiences.

Because of those efforts, in Vermont and most other States, dish owners are able to watch their local stations instead of getting signals from distant stations. Such a service allows television watchers to be more easily connected to their communities as well as providing access to necessary emergency signals, news and broadcasts.

I hope we are able to work together to finish this important satellite television bill in the few remaining days of this Congress.

A SOLEMN ANNIVERSARY

Mr. LEVIN. Mr. President, this fall marks a solemn 2nd anniversary of the sniper attacks which terrorized the Washington, DC area and the country for 3 weeks in 2002. In October of that year, John Allen Mohammad, who was sentenced to death, and John Lee Malvo who was sentenced to life imprisonment, indiscriminately shot 13 innocent people, killing ten.

In a settlement that marked victory for the 2002 sniper shooting victims, Bushmaster Firearms, manufacturer of the XM-15 assault rifle used in the attacks, agreed to pay $550,000 in damages for negligence leading to criminal violence in connection with the shooting spree.

According to reports, Bushmaster continued to sell firearms, including the XM-15 assault rifle used in the sniper shootings, to Bull's Eye Shooter Supply in Tacoma, WA, even after several ATF audits documented the dealer's inability to responsibly account for its inventory of weapons. Reports indicate that 238 guns had gone missing from Bull's Eye's inventory and over 50 had been traced to criminal acts since 1997. As part of the settlement with victims, Bull's Eye has agreed to pay $2 million for its negligence in failing to account for the assault rifle that ended up in the hands of the snipers.

Earlier this year, I voted with 89 of my colleagues to defeat S. 1805, the Protection of Lawful Commerce in Arms Act. That bill would have weakened the legal rights of gun violence victims by terminating a wide range of pending and prospective civil cases against members of the gun industry. The victims of the sniper shootings would have lost their ability to sue Bushmaster Firearms and Bull's Eye Shooter Supply had S. 1805 become law.

For the families and victims impacted by the 2002 sniper attacks, no amount of money will replace their loss and suffering. However, we should continue to pursue sensible gun safety legislation, including reinstating the expired assault weapons ban, to help prevent future gun crimes and improve the security of communities across our Nation.

STUDENT LOAN ABUSE PREVENTION ACT

Mr. DURBIN. Mr. President, I rise to speak on behalf of the Student Loan Abuse Prevention Act. I am pleased to join Senator MURRAY as a cosponsor of the measure. This bill would amend the Higher Education Act of 1965 to end the siphoning of taxpayer dollars to pay exorbitant interest rates on student loans.

A special class of student loans, financed by tax-exempt bonds issued before October 1993, has become a goldmine for the companies that hold them. In the 1980s, Congress created the Guaranteed Student Loan Program, now known as the Federal Family Education Loan Program, or FFELP, to keep college loans accessible and affordable for students. Facing high interest rates, the program guaranteed lenders an interest rate of 9.5 percent to entice them to join the program.

Congress intended to end the special treatment of tax-exempt bonds with the Omnibus Budget Reconciliation Act of 1993. But the way in which the grandfather clause for pre-existing bonds was drafted has had the opposite effect. Two loopholes have allowed student loan companies to profit widely as they recycle old tax exempt bonds to produce new subsidies. The first loophole has extended the life of these bonds. If the lender refinances an old bond, it is still treated as an old bond but with a longer life. The second loophole allows for the volume of loans receiving this excessive subsidy to grow. Even if a tax-exempt bond finances a loan only temporarily, that loan is permanently treated as if it was financed by a tax-exempt bond.

The serial refinancing of loans is an accounting trick that ratchets up the subsidies the Government must pay. In fiscal year 2001, the 9.5 percent guarantee cost American taxpayers approximately $200 million. Now GAO and others have estimated that the cost is nearly five times greater this year. That is a billion dollars in unnecessary subsidies. This windfall has a secondary effect. U.S. News & World Report credits this "obscure loophole in federal law" with giving private lenders the financial latitude to lure colleges and universities away from the direct loan process.

Old loans are very much alive and multiplying in plain sight of Federal regulators. Lenders use the 9.5 percent bond funds to finance a set of loans for as little as one day and that new loan earns a 9.5-percent guaranteed return for life. Nelnet, the Nebraska based National Education Loan Network, is the lender that has exploited 9.5 percent loans more aggressively than any other, increasing its 9.5 percent holdings nearly tenfold in the last 18 months.

These subsidies have already consumed a disproportionate share of the Nation's financial dollars. Although loans carrying the 9.5 percent subsidy rate account for no more than 8 percent of the FFEL Program, they have soaked up 78 percent of all subsidies paid to lenders under the program in the current fiscal year. We need to halt and reverse the explosive growth of 9.5-percent loans. Each day of delay allows more loans to be converted to 9.5-percent loans, enriching lenders and undermining the direct loan program.

I urge my colleagues to support the bill to end this outdated subsidy.

BUTLER UNIVERSITY POLICE OFFICER JAMES L. DAVIS

Mr. BAYH. Mr. President, I rise today to pay tribute to and honor the life of James Davis, a Butler University Police Officer who was killed in the line of duty on September 24, 2004. Officer Davis was shot down by a gunman while investigating reports of a suspicious person inside Hinkle Fieldhouse, the campus arena.

On Friday morning, Officer Davis left his patrol car to seek out a man who had refused to exit Hinkle Fieldhouse where students were practicing basketball. A member of Butler's police force since January 2003, Officer Davis, a 31-year-old husband and father of three had his entire life before him when he confronted the suspect, a selfless act that would cost him his life.

Officer Davis graduated from Indiana University in 1995 with a double major in criminal justice and Afro-American studies before entering his career of service. After retiring from the Army as a military policeman, Officer Davis spent a year supervising juvenile offenders as a youth service officer for the Indiana Department of Transportation. He also worked as a drill instructor for troubled youth in a program called Project Impact.

Above all, Officer Davis was a devoted family man who relished his time with loved ones. He dedicated his life to the noblest of causes; his family, his job and keeping others safe. Officer Davis leaves behind his wife, Veleeda and his three young children, Josiah, 8, Jarren, 3, and Jaedyn, who will be two in December. May his children grow up knowing that their father was a brave, hard-working and loving man.

In the wake of his death, friends, neighbors and fellow officers came together to remember and celebrate the life of Officer Davis. Butler Police Chief David Selby described Officer Davis to the Indianapolis Star as "an outstanding officer . . . and a very good friend to all of us," adding that he would be missed by many. Those who knew him well recall Officer Davis' dedication to his job and his efforts to help troubled teens. A friend remembered Officer Davis' strong belief that there were "no bad children, just children who made bad decisions or came from a bad environment."

Throughout his career, Officer Davis distinguished himself as a policeman who genuinely cared about the students he was working to protect. Students recall him as someone who could be counted on for a safe ride home from class if he spotted them walking alone in the dark and by fellow officers as a devoted member of their team. His brave and caring actions leave behind an unforgettable impression of the kind of man he was.

It is my sad duty to enter the name of James L. Davis into the United States CONGRESSIONAL RECORD. As Officer Davis rests with God in eternal peace, let us never forget the courage and sacrifice he displayed when he laid down his life on September 24, 2004.

ADDITIONAL STATEMENTS

GEORGE WASHINGTON UNIVERSITY

• Mr. CONRAD. Mr. President, I would like to recognize and congratulate both the George Washington University and its Graduate School of Education and Human Development on achieving centennial milestones this month. George Washington University, which is 183 years old and was created by an act of Congress in 1821, commemorates 100 years of its name change from Columbian University to the George Washington University.

As an alumnus of GW, I am honored to offer congratulations for this internationally recognized institution of higher education.

The university's Graduate School of Education and Human Development celebrates 100 years of providing professional development.

The Graduate School of Education and Human Development's partnerships on major national projects have impacted educational reform, increased technological opportunities, and continues to assist and impact the quality of life for people in the United States.

Over the past century, students and alumni of the university have participated in groundbreaking research, championed political causes, and contributed to the community of Washington, DC, and the American people. Over the past 100 years, several high-profile graduates from the fields of government, business, education, and law have obtained degrees from GW.

GW has awarded honorary degrees to eight U.S. Presidents, which included Theodore Roosevelt, Herbert Hoover, Warren Harding, Calvin Coolidge, Harry Truman, John F. Kennedy, Dwight Eisenhower, and Ronald Reagan; eight Supreme Court Justices; and Alexander Graham Bell, just to name a few.

In closing, I would like to congratulate the George Washington University president, Stephen Joel Trachtenberg, and the Graduate School of Education and Human Development dean, Mary Hartwood Futrell. I know if President George Washington was here today, he would be proud that his dream of a national university has not only been realized, but that the university bearing his name will continue to enrich the lives of students from around the globe for centuries to come.•

KATHERINE GOTTLIEB

• Ms. MURKOWSKI. Mr. President, earlier this week the John D. and Catherine T. MacArthur Foundation selected an outstanding Alaskan, Katherine Gottlieb, as one of 23 distinguished Americans who have been designated MacArthur Foundation Fellows for 2004. The MacArthur Fellowship is better known as the "Genius Award" and that term aptly describes my friend, Katherine Gottlieb.

Katherine, who is of Aleut and Filipino descent, is the Chief Executive Officer of Southcentral Foundation, which provides primary health care services to some 40,000 Alaska Natives in Anchorage and Southcentral Alaska. Southcentral Foundation is also a partner in the management and operation of the cutting edge Alaska Native Medical Center.

Notwithstanding her lofty title, Katherine is no "corner office" executive. Her first job at Southcentral Foundation's headquarters in Anchorage was receptionist. She took the job while undertaking undergraduate work at Alaska Pacific University. She worked her way up the ranks at Southcentral Foundation and went on to earn an MBA at Alaska Pacific University.

But Katherine didn't go to school in Anchorage to prepare for a career in healthcare. By the time she arrived in Anchorage, she had already demonstrated her commitment to the wellbeing of her Native people. Katherine began her healthcare career as a community health aide in her hometown of Seldovia, AK, a community of about 306 people which is not connected by road to the rest of Alaska, much less the continental United States.

In the roadless villages of rural Alaska, community health aides provide the link between the patient and medical resources available in the larger communities. Alaska's Community Health Aides are the front line health providers in our last frontier.

Perhaps it was this formative experience that led Katherine to champion the implementation of a patient centered healthcare delivery model at Southcentral Foundation. The MacArthur Foundation does not officially explain which qualities led them to select a particular nominee as a fellow. They explain that the fellowship is an investment in a person's originality, insight and potential.

But their announcement offers some clues about what led the foundation to select Katherine. The announcement observes that Katherine, by championing this patient centered delivery model, has transformed health care and related health programs in her Alaska Native community.

On February 10, 2003, Dr. Douglas Eby, Southcentral Foundation's Vice President for Medical Services, accepted the Indian Health Service Physician Leader of the Year Award. In his acceptance address he described the genesis of the patient centered delivery system as follows:

> The Native community and Southcentral Foundation asked for a primary care system that was truly centered on the needs and wants of the patient and family, that was built on the foundational strengths and values already present in the Native community, that fully partnered with the patient and family, providing them with the information and tools they needed in their journey toward wellness, that provided optimal quality and access to every single Alaska Native and American Indian eligible for services . . . What we did was to take the best pieces of programs we could find nationally and internationally that supported the vision of the Anchorage Native community and Southcentral Foundation leadership and created our own system of care.
>
> This system allows over 40,000 individuals and families to choose their primary care provider, enter into a long-term trusting relationship with them, have same day access

for any reason, and fully partner in their journey toward wellness. It has resulted in these primary care patients decreasing their daytime use of the Urgent Care Center and Emergency Room by about 50%, use of specialty clinics by over 30% and total primary care visits by about 20%. Quality of care measures such as immunization rates, cancer screening rates, depression screening/treatment, chronic pain screening/treatment, etc. have all maintained or significantly improved. Patient satisfaction measures have been very positive. Support systems such as health education, nutrition, and social services have been fully integrated into the system.

Dr. Eby pointed out in that acceptance address that the patient centered health care model would not have been implemented without the visionary leadership of Katherine Gottlieb. In Dr. Eby's words, "This journey was going to happen. Katherine Gottlieb would accept nothing less."

The patient centered health care initiative is one of Katherine's many contributions. The MacArthur Foundation also took note of Katherine's creation of the Family Wellness Warriors Initiative, which seeks to revitalize the traditional role of Alaska Native men as protectors and providers, making them less inclined to fall into a pattern of domestic abuse.

They acknowledged Katherine's leadership with respect to the Dena A Coy Residential Treatment Center, which is the first residential facility for pregnant women in the United States focusing on prevention of fetal alcohol disorders and Pathway Home, a transitional living center which addresses the challenges of substance abuse, violence and suicide among Native teenagers.

These are just a few of the 75 medical, behavioral health and community services that moved the MacArthur Foundation to conclude, "Under Katherine Gottlieb's leadership, the Southcentral Foundation network has demonstrated that high-quality health care and effective preventive services are possible, even in communities facing obstacles of poverty and geographic isolation."

Alaska has known for many years what a treasure we have in Katherine Gottlieb. Now the Nation knows too. But Katherine is not one to rest on her laurels. An innovator and an entrepreneur, I have no doubt that this recognition will spur Katherine to even greater heights. But one thing is for sure. Katherine Gottlieb will never forget where she came from. She is anchored by the strength of her faith and her values and grounded by her Native heritage.

I join with all Alaskans in congratulating Katherine Gottlieb on this extraordinary accomplishment.●

MESSAGES FROM THE HOUSE

At 9:39 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill (H.R. 4520) entitled "An Act to amend the Internal Revenue Code of 1986 to remove impediments in such Code and make our manufacturing, service, and high technology businesses and workers more competitive and productive both at home and abroad", and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members of the conference on the part of the House:

From the Committee on Ways and Means, for consideration of the House bill and the Senate amendment, and modifications committed to conference: Messrs. THOMAS, CRANE, McCRERY, RANGEL, and LEVIN.

From the Committee on Agriculture, for consideration of title VIII of the House bill, and subtitle B of title XI of the Senate amendment, and modifications committed to conference: Messrs. GOODLATTE, BOEHNER, and STENHOLM.

From the Committee on Education and the Workforce, for consideration of sections 489, 490, 616, 701, and 719 of the Senate amendment, and modifications committed to conference: Messrs. BOEHNER, SAM JOHNSON of Texas, and GEORGE MILLER of California.

From the Committee on Energy and Commerce, for consideration of section 662 and subtitle A of title XI of the Senate amendment, and modifications committed to conference: Messrs. BARTON of Texas, BURR, and WAXMAN.

From the Committee on the Judiciary, for consideration of sections 422, 442, 1111, 1151, and 1161 of the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, SMITH of Texas, and CONYERS.

For consideration of the House bill and Senate amendment, and modifications committed to conference: Mr. DELAY.

ENROLLED JOINT RESOLUTION AND BILL SIGNED

At 12:34 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.J. Res. 107. Joint resolution making continuing appropriations for the fiscal year 2005, and for other purposes.

H.R. 4654. An act to reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes.

The enrolled bill and joint resolution were signed subsequently by the President pro tempore (Mr. STEVENS).

At 12:51 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that pursuant to the request of September 20, 2004, the House returned the act (H.R. 4567) making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes to the Senate.

The message further announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1402. An act to designate the United States courthouse located at the corner of Seventh Street and East Jackson Street in Brownsville, Texas, as the "Reynoldo G. Garza and Filemon B. Vela United States Courthouse".

H.R. 3124. An act to designate the facility of the United States Geological Survey and the United States Bureau of Reclamation located at 230 Collins Road, Boise, Idaho, as the "F.H. Newell Building".

H.R. 3193. An act to restore second amendment rights in the District of Columbia.

H.R. 4731. An act to amend the Federal Water Pollution Control Act to reauthorize the National Estuary Program.

H.R. 4768. An act to authorize the Secretary of Veterans Affairs to enter into certain major medical facility leases, to authorize that Secretary to transfer real property subject to certain limitations, otherwise to improve management of medical facilities of the Department of Veterans Affairs, and for other purposes.

H.R. 5105. An act to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

H.R. 5149. An act to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

At 2:29 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 5183. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

At 6:36 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4231. An act to provide for a pilot program in the Department of Veterans Affairs to improve recruitment and retention of nurses, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 501. Concurrent resolution honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival.

The message further announced that pursuant to section 1012(c)(1) of the

Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 242b note), the Minority Leader appoints Mr. Thomas M. Priselac of Los Angeles, California, to the Commission on Systemic Interoperability.

ENROLLED BILLS SIGNED

The message also announced that the Speaker has signed the following enrolled bills:

H.R. 5149. An act to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

H.R. 5183. An act to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2866. A bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

The following resolution was discharged from the Committee on Rules and Administration, and ordered placed on the calendar:

S. Res. 360. Resolution expressing the sense of the Senate that legislative information shall be publicly available through the Internet.

MEASURES READ THE FIRST TIME

The following bills were read the first time:

H.R. 4596. An act to amend Public Law 97-435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009.

H.R. 4606. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. HATCH, from the Committee on the Judiciary, without amendment and with a preamble:

S. Res. 424. A resolution designating October 2004 as "Protecting Older Americans From Fraud Month".

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 2195. A bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors..

By Mr. CAMPBELL, from the Committee on Indian Affairs, with amendments:

S. 2843. A bill to make technical corrections to laws relating to Native Americans, and for other purposes.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

*Peter Cyril Wyche Flory, of Virginia, to be an Assistant Secretary of Defense.

Air Force nomination of Lt. Gen. Bruce A. Carlson.

Air Force nomination of Maj. Gen. Dennis R. Larsen.

Air Force nomination of Maj. Gen. William M. Fraser III.

Air Force nomination of Lt. Gen. Carrol H. Chandler.

Air Force nomination of Maj. Gen. Stephen G. Wood.

Air Force nomination of Colonel Robert A. Knauff.

Air Force nomination of Col. Dana H. Born.

Air Force nomination of Col. Marshall K. Sabol.

Army nomination of Lt. Gen. Benjamin S. Griffin.

Army nomination of Maj. Gen. Kevin C. Kiley.

Army nomination of Lt. Gen. James J. Lovelace, Jr.

Army nomination of Maj. Gen. James M. Dubik.

Army nomination of Maj. Gen. Robert T. Dail.

Army nomination of Maj. Gen. David F. Melcher.

Army nomination of Maj. Gen. R. Steven Whitcomb.

Army nomination of Lt. Gen. David D. McKiernan.

Army nominations beginning Brig. Gen. James E. Archer and ending Col. Gregory A. Schumacher, which nominations were received by the Senate and appeared in the Congressional Record on September 7, 2004.

Army nomination of Colonel Karl R. Horst.

Army nomination of Col. Dana D. Batey.

Army nomination of Col. Michael B. Cates.

Marine Corps nomination of Maj. Gen. James N. Mattis.

Marine Corps nomination of Lt. Gen. Edward Hanlon, Jr.

Navy nomination of Vice Adm. Kirkland H. Donald.

Navy nomination of Rear Adm. Charles L. Munns.

Navy nomination of Rear Adm. James K. Moran.

Navy nomination of Rear Adm. Joseph A. Sestak, Jr.

Navy nomination of Rear Adm. Mark P. Fitzgerald.

Navy nomination of Vice Adm. Gary Roughead.

Navy nomination of Rear Adm. Lewis W. Crenshaw, Jr.

Navy nomination of Capt. Bruce E. MacDonald.

Navy nomination of Rear Adm. James E. McPherson.

Navy nomination of Capt. Norton C. Joerg.

Navy nomination beginning Captain Gerald R. Beaman and ending Captain Richard B. Wren, which nominations were received by the Senate and appeared in the Congressional Record on March 23, 2004.

Navy nomination of Capt. Christiné S. Hunter.

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORDS on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nomination of Marjorie B. Medina.

Air Force nomination of Henry Lee Einsel, Jr.

Air Force nomination of Robert L. Munson.

Air Force nomination of James Miller.

Air Force nominations beginning Michael M. Harting and ending Joel C. Wright, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Air Force nomination of Dana J. Nelson.

Air Force nomination of William E. Lindsey.

Air Force nomination of Martin S. Fass.

Air Force nomination of Frank A. Posey.

Air Force nomination of Tracey R. *Rockenbach.

Air Force nominations beginning Shannon D. *Hailes and ending Michael F. Lamb, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Air Force nominations beginning Tommy D. *Boule and ending Jennifer L. *Luce, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Air Force nominations beginning Noel D. Montgomery and ending Alexander V. *Servino, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Air Force nominations beginning Kathleen Harrington and ending Paul E. Pirog, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2004.

Air Force nomination of George J. Krakie.

Air Force nominations beginning David A. Lujan and ending Michael C. Schramm, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2004.

Air Force nominations beginning Douglas A. Haberman and ending Matthew S. Warner, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2004.

Air Force nomination of Martin J. Towey.

Army nominations beginning Juan H. Banks and ending Lisa N. Yarbrough, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Army nominations beginning Michael J. Blachura and ending Ronald P. Welch, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004

Army nominations beginning Scott A. Ayres and ending Gerald I. Walter, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Mark A. Cosgrove and ending Ronnie J. Westman, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Steven H. Bullock and ending John M. Stang, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Michael N. Albertson and ending William S. Woessner, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning John W. Amberg II and ending Richaed G. Zoller, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Gilbert Adams and ending Scott W. Zurschmit, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Celethia M. Abner and ending Cherub I. *Williamson, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nominations beginning Thomas L. *Adams, Jr. and ending Kathryn M. *Zambonicutter, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Army nomination of Raymond L. Naworol.

Army nomination of Keith A. George.

Army nomination of Curtis L. Beck.

Army nomination of Rex A. Harrison.

Army nominations beginning Kevin Hammond and ending Michael Knippel, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nominations beginning Jaime B. * Anderson and ending Joseph G. * Williamson, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nominations beginning James R. Andrews and ending Shanda M. Zugner, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nominations beginning Michael C. Aaron and ending X4130, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nominations beginning Christopher W. * Abbott and ending X3181, which nominations were by the Senate and appeared in the Congressional Record on September 13, 2004.

Army nomination of John R. Peloquin.

Marine Corps nomination of John T. Brower.

Marine Corps nomination of John M. Sessoms.

Marine Corps nomination of Randy O. Carter.

Navy nomination beginning Andrew M Archila and ending Richard G Zeber, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Ray A Bailey and ending David A Stroud, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Raymond Alexander and ending Mark A Ziegler, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Steven W Ashton and ending Jason D Zeda, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Tammera L Ackiss and ending Kathleen L Yuhas, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Ik J Ahn and ending Sara B Zimmer, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nominations beginning Kerry L Abramson and ending Andru E Wall, which nominations were received by the Senate and appeared in the Congressional Record on September 8, 2004.

Navy nomination of Arthur B. Short.

Navy nomination of Scott Drayton.

Navy nomination Cipriano Pineda, Jr.

Navy nominations beginning Michael P Amstutz, Jr. and ending James J Wojtowicz, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Jerry L Alexander and ending Lori C Works, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Patrick L Bennett and ending Ernest C Woodward, Jr., which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Claude W Arnold, Jr. and ending Steven M Wendlin, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Christopher L Bowen and ending William L Wood, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Julie M Alfieri and ending Donna I Yacovoni, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Marianie O Balolong and ending Karen M Wingeart, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Thomas G Alford and ending Kendal T Zamzow, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Ryan D Aaron and ending David G Zook, which nominations were received by the Senate and appeared in the Congressional Record on September 10, 2004.

Navy nominations beginning Glenn A Jett and ending Matthew Williams, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Navy nominations beginning Richard S Adcook and ending Jeffrey G Zeller, which nominations were received by the Senate and appeared in the Congressional Record on September 13, 2004.

Navy nomination of Daniel C Ritenburg.

Navy nomination of Dwayne Banks.

Navy nominations beginning Bill R Davis and ending William H. Speaks, which nominations were received by the Senate and appeared in the Congressional Record on September 21, 2004.

By Mr. HATCH for the Committee on the Judiciary.

Raymond L. Finch, of the Virgin Islands, to be Judge for the District Court of the Virgin Islands for a term of ten years.

Micaela Alvarez, of Texas to be United States District Judge for Southern District of Texas.

Keith Starrett, of Mississippi, to be United States District Judge for the Southern District of Mississippi.

Lisa Godbey Wood, of Georgia, to be United States District Attorney for the Southern District of Georgia for the term of four years.

David E. Nahmias, of Georgia, to be United States Attorney for the Northern District of Georgia for the term of four years.

Richard B. Roper III, of Texas, to be United States Attorney for the Northern District of Texas for the term of four years.

Ricardo H. Hinojosa, of Texas, to be Chair of the United States Sentencing Commission.

Michael O'Neill, of Maryland, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2009.

Ruben Castillo, of Illinois, to be a Member of the United States Sentencing Commission for a term expiring October 31, 2009.

William Sanchez, of Florida, to be Special Counsel of Immigration-Related Unfair Practices for a term of four years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations with an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. HAGEL:

S. 2867. A bill to amend title 10, United States Code, to increase the amount of the military death gratuity from $12,000 to $50,000; to the Committee on Armed Services.

By Mr. SARBANES (for himself, Mr. CORZINE, Mrs. CLINTON, Mr. AKAKA, Mr. BINGAMAN, Mr. SCHUMER, Mr. DODD, Mrs. BOXER, and Ms. MIKULSKI):

S. 2868. A bill to amend the Electronic Fund Transfer Act to extend certain consumer protections to international remittance transfers of funds originating in the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. TALENT:

S. 2869. A bill to respond to the illegal production, distribution, and use of methamphetamines in the United States, and for other purposes; to the Committee on the Judiciary.

By Ms. SNOWE:

S. 2870. A bill to authorize the Secretary of Transportation to issue certificates of documentation with appropriate endorsements for employment in the coastwise trade for the vessels LOBSTAR and SARA BELLE; to the Committee on Commerce, Science, and Transportation.

By Mr. GRAHAM of South Carolina (for himself and Mr. CORNYN):

S. 2871. A bill to provide for enhanced criminal penalties for crimes related to slavery and alien smuggling; to the Committee on the Judiciary.

By Mr. BUNNING (for himself and Mr. NELSON of Nebraska):

S. 2872. A bill to amend the Internal Revenue Code of 1986 to provide a credit to certain agriculture-related businesses for the cost of protecting certain chemicals; to the Committee on Finance.

By Mr. GRASSLEY:

S. 2873. A bill to extend the authority of the United States District Court for the Southern District of Iowa to hold court in Rock Island, Illinois; to the Committee on the Judiciary.

By Mr. BIDEN:

S. 2874. A bill to authorize appropriations for international broadcasting operations and capital improvements, and for other purposes; to the Committee on Foreign Relations.

By Mr. BOND:

S. 2875. A bill to extend trade benefits to certain tents imported into the United States; to the Committee on Finance.

By Mrs. HUTCHISON (for herself, Mr. BAYH, and Mr. KENNEDY):

S. 2876. A bill to amend title XVIII of the Social Security Act to eliminate reductions in payments to hospitals for the indirect costs of medical education; to the Committee on Finance.

By Mr. GREGG (for himself, Mr. BOND, and Mr. GRAHAM of South Carolina):

S. 2877. A bill to reduce the special allowance for loans from the proceeds of tax exempt issues, and to provide additional loan forgiveness for teachers who teach mathematics, science, or special education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. CAMPBELL:

S. 2878. A bill to amend the Hoopa-Yurok Settlement Act to provide for the acquisition of land for the Yurok Reservation and an increase in economic development beneficial to the Hoopa Valley Tribe and the Yurok Tribe, and for other purposes; to the Committee on Indian Affairs.

By Mr. CAMPBELL:

S. 2879. A bill to restore recognition to the Winnemem Wintu Indian Tribe of California; to the Committee on Indian Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LAUTENBERG:

S. Con. Res. 139. A concurrent resolution directing the Architect of the Capitol to establish a temporary exhibit in the rotunda of the Capitol to honor the memory of members of the United States Armed Forces who have lost their lives in Operation Iraqi Freedom and Operation Enduring Freedom; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 540

At the request of Mr. INHOFE, the names of the Senator from North Dakota (Mr. CONRAD), the Senator from Nevada (Mr. ENSIGN), and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 540, a bill to authorize the presentation of gold medals on behalf of Congress to Native Americans who served as Code Talkers during foreign conflicts in which the United States was involved during the 20th Century in recognition of the service of those Native Americans to the United States.

S. 641

At the request of Mrs. LINCOLN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 641, a bill to amend title 10, United States Code, to support the Federal Excess Personal Property program of the Forest Service by making it a priority of the Department of Defense to transfer to the Forest Service excess personal property of the Department of Defense that is suitable to be loaned to rural fire departments.

S. 847

At the request of Mr. SMITH, the name of the Senator from North Carolina (Mr. EDWARDS) was added as a cosponsor of S. 847, a bill to amend title XIX of the Social Security Act to permit States the option to provide medicaid coverage for low income individuals infected with HIV.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1635

At the request of Mrs. FEINSTEIN, her name was added as a cosponsor of S. 1635, a bill to amend the Immigration and Nationality Act to ensure the integrity of the L-1 visa for intracompany transferees.

At the request of Mr. GRAHAM of South Carolina, his name was added as a cosponsor of S. 1635, supra.

S. 1831

At the request of Mr. SMITH, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 1831, a bill to amend the Internal Revenue Code of 1986 to expand income averaging to include the trade or business of fishing.

S. 1888

At the request of Mr. SPECTER, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1888, a bill to halt Saudi support for institutions that fund, train, incite, encourage, or in any other way aid and abet terrorism, and to secure full Saudi cooperation in the investigation of terrorist incidents.

S. 2094

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2094, a bill to protect United States workers from competition of foreign workforces for performance of Federal and State services contracts.

S. 2155

At the request of Mr. SPECTER, his name was added as a cosponsor of S. 2155, a bill to amend the Internal Revenue Code of 1986 to provide for a manufacturer's jobs credit, and for other purposes.

S. 2302

At the request of Mr. CONRAD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2302, a bill to improve access to physicians in medically underserved areas.

S. 2336

At the request of Mr. REID, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2336, a bill to expand access to preventive health care services and education programs that help reduce unintended pregnancy, reduce infection with sexually transmitted disease, and reduce the number of abortions.

S. 2395

At the request of Mr. CONRAD, the names of the Senator from South Dakota (Mr. JOHNSON), the Senator from Vermont (Mr. JEFFORDS) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 2435

At the request of Mr. LEAHY, the name of the Senator from Utah (Mr. HATCH) was added as a cosponsor of S. 2435, a bill to permit Inspectors General to authorize staff to provide assistance to the National Center for Missing and Exploited Children, and for other purposes.

S. 2437

At the request of Mr. ENSIGN, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of S. 2437, a bill to amend the Help America Vote Act of 2002 to require a voter-verified permanent record or hardcopy under title III of such Act, and for other purposes.

S. 2553

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 2553, a bill to amend title XVIII of the Social Security Act to provide for coverage of screening ultrasound for abdominal aortic aneurysms under part B of the medicare program.

S. 2568

At the request of Mr. BIDEN, the names of the Senator from Massachusetts (Mr. KERRY), the Senator from Kentucky (Mr. BUNNING), the Senator from North Carolina (Mr. EDWARDS) and the Senator from Michigan (Mr. LEVIN) were added as cosponsors of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2659

At the request of Ms. COLLINS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2659, a bill to extend the temporary increase in payments under the medicare program for home health services furnished in a rural area.

S. 2759

At the request of Mr. ROCKEFELLER, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. BAYH), the Senator from Washington (Ms. CANTWELL), the Senator from Delaware (Mr. CARPER), the Senator from New York (Mrs. CLINTON), the Senator from Mississippi (Mr. COCHRAN), the Senator from Illinois (Mr. DURBIN), the Senator from California (Mrs. FEINSTEIN), the Senator from Florida (Mr. GRAHAM), the Senator from Iowa (Mr. HARKIN), the Senator from Arkansas (Mrs. LINCOLN), the Senator from Washington (Mrs. MURRAY), the Senator from Nebraska (Mr. NELSON), the Senator from Arkansas (Mr. PRYOR), the Senator from New York (Mr. SCHUMER), the Senator from Michigan (Ms. STABENOW) and the Senator from Ohio (Mr. VOINOVICH) were added as cosponsors of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2770

At the request of Mr. DASCHLE, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 2770, a bill to establish a National Commission on American Indian Trust Holdings.

S. 2789

At the request of Mr. BROWNBACK, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. 2789, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 2805

At the request of Ms. CANTWELL, the name of the Senator from Washington (Mrs. MURRAY) was added as a cosponsor of S. 2805, a bill to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University.

S. 2834

At the request of Ms. SNOWE, the name of the Senator from Missouri (Mr. BOND) was added as a cosponsor of S. 2834, a bill to enhance compliance assistance for small business.

S. 2845

At the request of Mr. ROCKEFELLER, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

S. 2866

At the request of Mr. DASCHLE, his name was added as a cosponsor of S. 2866, a bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

S.J. RES. 37

At the request of Mr. BROWNBACK, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S.J. Res. 37, a joint resolution to acknowledge a long history of official depredations and ill-conceived policies by the United States Government regarding Indian Tribes and offer an apology to all Native Peoples on behalf of the United States.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from South Dakota (Mr. DASCHLE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in may each year as "National Visiting Nurse Association Week".

S. CON. RES. 136

At the request of Mr. CONRAD, the names of the Senator from Hawaii (Mr. INOUYE) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 430

At the request of Mr. HATCH, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from Illinois (Mr. DURBIN) were added as cosponsors of S. Res. 430, a resolution designating November 2004 as "National Runaway Prevention Month".

AMENDMENT NO. 3711

At the request of Mrs. HUTCHISON, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of amendment No. 3711 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3714

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3714 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3715

At the request of Mrs. FEINSTEIN, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of amendment No. 3715 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3716

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3716 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3719

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3719 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3756

At the request of Mr. GRAHAM of Florida, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of amendment No. 3756 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3765

At the request of Mr. ALLARD, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of amendment No. 3765 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3781

At the request of Mr. WARNER, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Missouri (Mr. TALENT), the Senator from Colorado (Mr. ALLARD), the Senator from North Carolina (Mrs. DOLE), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from Nevada (Mr. ENSIGN) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of amendment No. 3781 proposed to S.

2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HAGEL:

S. 2867. A bill to amend title 10, United States Code, to increase the amount of the military death gratuity from $12,000 to $50,000; to the Committee on Armed Services.

Mr. HAGEL. Mr. President, I rise today to introduce the "Military Death Gratuity Improvement Act of 2004." This legislation would raise the military death gratuity paid to the families of military personnel killed while on active duty from $12,000 to $50,000. This increase would also be applied retroactively to all service members on active duty who have died since September 11, 2001.

The military death gratuity is money provided within 72 hours to families of service members who are killed while on active duty. These funds assist next-of-kin with their immediate financial needs.

As we face the challenges of the 21st Century, servicemen and women sacrificing for their country in a time of war should be assured that their families will be taken care of. The loss of a loved one is a tremendous emotional hardship for families. Congress must do what it can to ensure that it does not cause devastating financial hardship as well.

This bill will help alleviate some of the financial hardships faced by the families of our brave servicemen and women who give their lives in service to our country. It will send a message to our brave young men and women and their families that their Nation appreciates their service and sacrifice. I urge my colleagues in the Senate to join me in cosponsoring this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2867

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN DEATH GRATUITY PAYABLE WITH RESPECT TO MEMBERS OF THE ARMED FORCES.

(a) AMOUNT OF DEATH GRATUITY.—Section 1478(a) of title 10, United States Code, is amended by striking "$12,000" and inserting "$50,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to deaths occurring on or after September 11, 2001.

(c) OFFSET.—The Secretary of Defense shall derive funds for amounts payable during fiscal year 2005 by reason of the amendment made by subsection (a) from amounts available for that fiscal year for travel for personnel assigned to, or employed in, the Office of the Secretary of Defense. Amounts for such purpose shall be transferred to the appropriate accounts of the Department of Defense available for such payments, and amounts so transferred shall not be counted for purposes of any limitation on the amount of transfers of Department of Defense funds during that fiscal year.

By Mr. SARBANES (for himself, Mr. CORZINE, Mrs. CLINTON, Mr. AKAKA, Mr. BINGAMAN, Mr. SCHUMER, Mr. DODD, Mrs. BOXER, and Ms. MIKULSKI):

S. 2868. A bill to amend the Electronic Fund Transfer Act to extend certain consumer protections to international remittance transfers of funds originating in the United States, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. SARBANES. Mr. President, I rise today to introduce the International Remittance Consumer Protection Act of 2004. This legislation extends basic consumer protection rights to those who send remittances, and it creates new avenues and incentives for federally insured financial institutions to provide remittance and basic banking services to those who currently do not use such institutions to send remittances.

The practice of sending remittances is not new. Immigrants to the United States traditionally have used remittances to provide financial assistance to family members who remained in their country of origin, but the practice has been largely overlooked; it has not been systematically studied and its implications have not been fully understood. The 2000 census shows that 30 million people in this country are foreign-born—the largest number in our Nation's history and the vast majority of them—22 million—are citizens or legal residents. More than 40 percent of our Nation's foreign-born population immigrated to the United States in the 1990s, and some 15.4 million, or more than half the immigrant community, have come from Latin American countries. Immigrants make a vital contribution to the economic and social life of our Nation.

In a recent study, Sending Money Home: Remittances to Latin America from the US, 2004, the Inter-American Development Bank (IADB) found that nationwide over 60 percent of Latin American immigrants send remittances. On average, each immigrant sends $240 at a time, 12 times per year. Although these individual transactions are not large, they have constituted an aggregate amount of over $30 billion from America to our Latin American neighbors in this year alone.

In my State of Maryland, we have 175,000 immigrants from Latin America and the vast majority send remittances back home. According to the IADB's study 80 percent of Maryland's immigrants from Latin America send remittances. The typical sender remits an average of $245, 14 times per year—in other words, remittances are a monthly matter, with special gifts for Christmas and Mother's Day.

The subject of remittances has been a major interest of mine for some time. As chairman of the Banking Committee, in February, 2002, during the 107th Congress, I chaired what I understand was the first congressional hearing devoted exclusively to the subject. Dr. Manuel Orozco, a leading researcher on remittances at the Inter-American Dialogue, told the committee that remittances from the U.S. to Latin America had grown substantially—at that point to an estimated $20 billion in 2001—and that between 15 to 20 percent—$3-$4 billion—was being lost in fees and other transaction costs. Since Dr. Orozco testified, remittances to Latin America have grown by $10 billion, 50 percent, in just 3 years, and continued growth is expected.

That an estimated 15 percent to 20 percent of the money sent in remittances is diverted to fees and other transaction costs, often hidden from the remittance sender, is evidence of the abusive practices that exist in the remittance market. There are two primary factors that account for this abuse. First, studies have shown that people who send remittances tend to be relatively low-wage earners, with modest formal education and relatively little experience in dealing with this country's complex system of financial institutions. As a result they are susceptible to unscrupulous actors who can take advantage of them by charging all sorts of exorbitant fees, which are often hidden or misrepresented. The exchange rate conversion is often the mechanism for this abusive practice.

Second, remittances are currently not subject to the requirements set by Federal consumer protection law, including the disclosure of fees. There is no requirement that a remittance transfer provider disclose to the consumer the exchange rate fee that will be applied in the transaction. Without knowing the exchange rate fee that the company is charging, a consumer has little ability to gauge accurately the full cost of sending a remittance. As Sergio Bendixen, a leading researcher of public opinion and behavior, with a specialty among Hispanic consumers, testified before the Banking Committee: "an overwhelming majority of Hispanic immigrants are unaware that their families in Latin America receive less money than what they send from the United States." Further, a remittance sender cannot effectively shop between remittance transfer providers. The lack of basic information limits the amount of competition in this market.

The legislation I am introducing today extends basic consumer rights to those who send remittances. Further, by requiring clear and understandable disclosures to the remittance sender of the cost of the remittance, thus presenting to the consumer the full cost of sending money, the legislation will enhance competition, which in turn should lead to an overall decrease in the cost of sending remittances. As Sergio Bendixen testified to the Banking Committee, "Full disclosure should unleash market forces that, hopefully, will result in a significant reduction in the cost of sending cash remittances."

This legislation amends the Electronic Fund Transfer Act (EFTA), which is the primary vehicle for providing basic protections to most persons who engage in electronic transactions, to cover remittances, and to provide the basic rights associated with EFTA to remittance transactions. The two most important components of EFTA are the requirement of full disclosure of fees and the establishment of a process for the resolution of transactional errors. These rights have been an integral part of the regulations that govern our banking infrastructure since EFTA's enactment in 1978. The new legislation will build upon the success of EFTA by extending these basic rights to remittance senders.

The cornerstone of this legislation is the requirement that remittance transfer providers make three key disclosures to their consumers: (1) The total cost of the remittance, represented in a single dollar amount; (2) the total amount of currency that will be sent to the designated recipient, and (3) the promised date of delivery for the remittance. These disclosures follow the core recommendations of the Inter-American Development Bank, which in its publication, Remittances to Latin America and the Caribbean: Goals and Recommendations, states: "Remittance institutions should disclose in a fully transparent manner, complete information on total costs and transfer conditions, including all commissions and fees, foreign exchange rates applied and execution time."

The total cost disclosure will include the cost of the exchange rate conversion as well as all up-front fees. This single item will both give consumers a more accurate representation of the cost of the remittance transaction and allow consumers to more effectively compare costs between remittance transfer providers.

In order to calculate the cost of the exchange rate conversion, which is part of the total cost, the legislation requires that the Treasury Department post on its website, on a daily basis, the exchange rate for all currencies. At present the Treasury receives this information on a daily basis, but posts it only on a quarterly basis on the Treasury website. By posting the information daily, the Treasury could create a uniform and credible source for exchange rate information.

To calculate the cost to the consumer of the exchange rate differential, remittance transfer providers will use the difference between the previous business day's exchange rate, as posted on the Treasury website, and the exchange rate that the remittance transfer provider offers. Using the exchange rate posted by the Treasury will ensure that the exchange rate cost is calculated on a uniform basis. When the exchange rate cost is disclosed to the consumer as part of the total cost of the remittance transfer, the consumer will be better able to understand the full cost of the transaction and to shop between different remittance transfer providers.

In addition to fee disclosure requirements, this legislation establishes an error resolution mechanism so that consumers whose remittance transactions experience an error have a fair, open, and expedient process through which they may resolve those errors with the institution that conducted the flawed transaction. This basic right is already afforded to consumers who are protected by EFTA, and now this right will be extended to cover consumers who send remittances as well. Further, the legislation establishes an error resolution mechanism for remittance transfer errors that is responsive to the different types of errors that can occur in a remittance transaction and is reflective of the unique characteristics of the remittance market and its participants.

Under this legislation, a consumer has 1 year from the date that the remittance transfer company promised to deliver the money to notify the company that an error has occurred. The company is then required to resolve the error within 90 days. To resolve the error, the company must either (1) refund the full amount of the remittance that was not properly transferred, (2) resend that amount at no additional cost to the consumer or the designated recipient, or (3) demonstrate to the consumer that there was no error. The Federal Reserve Board is also granted the authority to establish additional remedies for specific situations that cannot be addressed by the three specific remedies that are described in the legislation.

It is urgent that we continue to encourage efforts to bring those who send remittances into the financial mainstream. In his testimony to the Banking Committee, Dr. Orozco pointed out that, "About two-thirds of immigrants cash their salary checks in check cashing stores that charge exorbitant fees. Many of these same immigrants then use what remains of their income to send remittances back home. In this common scenario, immigrants are penalized in both receiving and sending their earnings." In order to further bank those who are currently unbanked, the legislation that I am introducing today requires that the Federal banking agencies and the National Credit Union Administration provide guidelines to financial institutions regarding the offering of low-cost remittance transfers and no-cost or low-cost basic consumer amounts. This legislation also amends the Federal Credit Union Act to allow credit unions to offer remittances and to cash checks for persons who are in their field of membership but are not credit union members. The guidelines set out in the legislation will help educate the financial services industry about the importance and potential profitability of providing these services.

The sending of remittances in a fair and scrupulous manner is likely to be profitable for the institution that provides the remittance service, and indeed we have begun to see aggressive moves into the remittance market by many of the largest banking institutions. Individuals who send remittances but are currently unbanked represent an expanded and profitable customer base for financial institutions.

By its very nature, remittances is an issue that involves both the United States and other nations. As Professor Susan Martin of Georgetown University, who also testified at our hearing, told the Banking Committee: "Until relatively recently, researchers and policy makers tended to dismiss the importance of remittances or emphasize only their negative aspects . . . but recent work on remittances show a far more complex and promising picture. . . Experts now recognize that remittances have far greater positive impact on communities in developing countries than previously acknowledged." In fact, the size of the remittance market is such that for six Central American and Caribbean nations—Nicaragua, Haiti, El Salvador, Honduras, Guyana and Jamaica—remittances constitute more than 10 percent of GDP; Haiti and Jamaica receive more in remittances than in revenues from trade. The World Bank estimates that Mexico receives more in remittances than it does in foreign direct investment. Reducing the costs of remittances is in the interest of both the United States and the countries that receive them.

Given the growing importance of annual remittance flows, we must work to increase their efficiency. One mechanism for accomplishing this objective, and for increasing the ability of financial institutions to offer remittances is linking our banking infrastructure with the banking infrastructures of other nations. The Federal Reserve operates an international automated clearing house system (ACH) that is currently linked to seven countries, of which the vast majority are highly developed trading partners that receive relatively low levels of remittances. The ACHi was recently connected to Mexico, however, which will allow financial institutions throughout the United States, especially those institutions of smaller size, to provide remittance services more easily and cheaply to Mexico. This legislation directs the Fed to take into account the importance of remittance flows to other countries as it continues to expand the ACHi system. Linking the ACHi to countries that receive significant remittances has the potential to result in great benefits to consumers who send remittances from America as well as to those who receive the remittances around the world.

Finally, I am acutely aware of the need for better and more broadly available financial literacy and education for all Americans. I am pleased to report that in the last Congress, as part of the reauthorization of the Fair Credit Reporting Act, we established a Presidential Financial Literacy and Education Commission, which is charged with developing a national strategy to promote financial literacy and education. The Act addresses the issue of remittances by including in the commission's work a focus on increasing the "awareness of the particular financial needs and financial transactions, such as the sending of remittances of consumers who are targeted in multilingual financial literacy and education programs and improve the development and distribution of multilingual financial literacy and education materials." The legislation that I am introducing today builds on that framework by instructing the bank and credit union regulators to work with the commission to specifically increase the financial education efforts that target those persons who send remittances.

Millions of Americans send remittances to family members around the world, for a total far exceeding the $30 billion that goes to Latin America alone. Yet almost all of these transactions take place without the basic consumer rights and protections that apply to other electronic transfers. Consumers who send remittances are often immigrants and workers who earn modest wages, who are not aware of the full costs of each remittance, as a practical matter have no way of finding out and, as a consequence, in the aggregate pay billions of dollars in costs and hidden fees. They do not have available to them an established procedure for resolving transactional errors. This legislation rectifies this situation by extending to remittances the basic consumer rights established in EFTA. The bill also contains provisions that, when implemented, will allow more insured financial institutions to provide remittance services—and potentially at lower costs to consumers. The bill contains important provisions to help bring the unbanked—men and women without an account at a bank or credit union—into the financial mainstream. Taken together, these measures will increase transparency, competition and efficiency in the remittance market, while helping to bring more Americans into the financial mainstream.

A broad range of community, civil rights, and consumer groups have endorsed this legislation including the National Council of La Raza, the Mexican American Legal Defense and Educational Fund, the League of United Latin American Citizens, the Leadership Conference on Civil Rights, United Farm Workers of America, the Farmworker Justice Fund, the NAACP, Casa de Maryland, the National Federation of Filipino American Associations, the Asian Pacific American Labor Alliance, National Asian Pacific American Legal Consortium, Consumers Union, Consumer Federation of America, the National Consumer Law Center, the National Community Reinvestment Coalition, the Center for Responsible Lending, U.S. PIRG, ACORN, Woodstock Institute, and the National Association of Consumer Advocates.

I ask unanimous consent that the text of the International Remittance Consumer Protection Act be printed in the RECORD, together with letters in support of the bill from the National Council of La Raza, the Mexican American Legal Defense and Educational Fund, the Leadership Conference on Civil Rights, Casa de Maryland, and a letter from Consumers Union, Consumer Federation of America, National Consumer Law Center, and U.S. PIRG.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 2868

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "International Remittance Consumer Protection Act of 2004".

SEC. 2. TREATMENT OF REMITTANCE TRANSFERS.

(a) IN GENERAL.—The Electronic Fund Transfer Act (15 U.S.C. 1693 et seq.) is amended—

(1) in section 902(b), by inserting "and remittance" after "electronic fund";

(2) by redesignating sections 918, 919, 920, and 921 as sections 919, 920, 921, and 922, respectively; and

(3) by inserting after section 917 the following:

"SEC. 918. REMITTANCE TRANSFERS.

"(a) DISCLOSURES REQUIRED FOR REMITTANCE TRANSFERS.—

"(1) IN GENERAL.—Each remittance transfer provider shall make disclosures to consumers, as specified by this section and augmented by regulation of the Board.

"(2) SPECIFIC DISCLOSURES.—In addition to any other disclosures applicable under this title, a remittance transfer provider shall clearly and conspicuously disclose, in writing and in a form that the consumer may keep, to each consumer requesting a remittance transfer—

"(A) at the time at which the consumer makes the request, and prior to the consumer making any payment in connection with the transfer—

"(i) the total amount of currency that will be required to be tendered by the consumer in connection with the remittance transfer;

"(ii) the amount of currency that will be sent to the designated recipient of the remittance transfer, using the values of the currency into which the funds will be exchanged;

"(iii) the total remittance transfer cost, identified as the 'Total Cost'; and

"(iv) an itemization of the charges included in clause (iii), as determined necessary by the Board; and

"(B) at the time at which the consumer makes payment in connection with the remittance transfer, if any—

"(i) a receipt showing—

"(I) the information described in subparagraph (A);

"(II) the promised date of delivery;

"(III) the name and telephone number or address of the designated recipient; and

"(ii) a notice containing—

"(I) information about the rights of the consumer under this section to resolve errors; and

"(II) appropriate contact information for the remittance transfer provider and its State licensing authority and Federal or State regulator, as applicable.

"(3) EXEMPTION AUTHORITY.—The Board may, by rule, and subject to subsection (d)(3), permit a remittance transfer provider—

"(A) to satisfy the requirements of paragraph (2)(A) orally if the transaction is conducted entirely by telephone;

"(B) to satisfy the requirements of paragraph (2)(B) by mailing the documents required under such paragraph to the consumer not later than 1 business day after the date on which the transaction is conducted, if the transaction is conducted entirely by telephone; and

"(C) to satisfy the requirements of subparagraphs (A) and (B) of paragraph (2) with 1 written disclosure, but only to the extent that the information provided in accordance with paragraph (2)(A) is accurate at the time at which payment is made in connection with the subject remittance transfer.

"(b) FOREIGN LANGUAGE DISCLOSURES.—The disclosures required under this section shall be made in English and in the same languages principally used by the remittance transfer provider, or any of its agents, to advertise, solicit, or market, either orally or in writing, at that office, if other than English.

"(c) REMITTANCE TRANSFER ERRORS.—

"(1) ERROR RESOLUTION.—

"(A) IN GENERAL.—If a remittance transfer provider receives oral or written notice from the consumer within 365 days of the promised date of delivery that an error occurred with respect to a remittance transfer, including that the full amount of the funds to be remitted was not made available to the designated recipient in the foreign country, the remittance transfer provider shall resolve the error pursuant to this subsection.

"(B) REMEDIES.—Not later than 90 days after the date of receipt of a notice from the consumer pursuant to subparagraph (A), the remittance transfer provider shall, as applicable to the error and as designated by the consumer—

"(i) refund to the consumer the total amount of funds tendered by the consumer in connection with the remittance transfer which was not properly transmitted;

"(ii) make available to the designated recipient, without additional cost to the designated recipient or to the consumer, the amount appropriate to resolve the error;

"(iii) provide such other remedy, as determined appropriate by rule of the Board for the protection of consumers; or

"(iv) demonstrate to the consumer that there was no error.

"(2) Rules.—The Board shall establish, by rule, clear and appropriate standards for remittance transfer providers with respect to error resolution relating to remittance transfers, to protect consumers from such errors.

"(d) Applicability of Other Provisions of Law.—

"(1) Applicability of title 18 and title 31 provisions.—A remittance transfer provider may only provide remittance transfers if such provider is in compliance with the requirements of section 5330 of title 31, United States Code, and section 1960 of title 18, United States Code, as applicable.

"(2) Applicability of this title.—A remittance transfer that is not an electronic fund transfer, as defined in section 903, shall not be subject to any of sections 905 through 913. A remittance transfer that is an electronic fund transfer, as defined in section 903, shall be subject to all provisions of this title that are otherwise applicable to electronic fund transfers under this title.

"(3) Rule of construction.—Nothing in this section shall be construed—

"(A) to affect the application to any transaction, to any remittance provider, or to any other person of any of the provisions of subchapter II of chapter 53 of title 31, United States Code, section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b), or chapter 2 of title I of Public Law 91-508 (12 U.S.C. 1951-1959), or any regulations promulgated thereunder; or

"(B) to cause any fund transfer that would not otherwise be treated as such under paragraph (2) to be treated as an electronic fund transfer, or as otherwise subject to this title, for the purposes of any of the provisions referred to in subparagraph (A) or any regulations promulgated thereunder.

"(e) Publication of Exchange Rates.—The Secretary of the Treasury shall make available to the public in electronic form, not later than noon on each business day, the dollar exchange rate for all foreign currencies, using any methodology that the Secretary determines appropriate, which may include the methodology used pursuant to section 613(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2363(b)).

"(f) Agents and Subsidiaries.—A remittance transfer provider shall be liable for any violation of this section by any agent or subsidiary of that remittance transfer provider.

"(g) Definitions.—As used in this section—

"(1) the term 'exchange rate fee' means the difference between the total dollar amount transferred, valued at the exchange rate offered by the remittance transfer provider, and the total dollar amount transferred, valued at the exchange rate posted by the Secretary of the Treasury in accordance with subsection (e) on the business day prior to the initiation of the subject remittance transfer;

"(2) the term 'remittance transfer' means the electronic (as defined in section 106(2) of the Electronic Signatures in Global and National Commerce Act (15 U.S.C. 7006(2))) transfer of funds at the request of a consumer located in any State to a person in another country that is initiated by a remittance transfer provider, whether or not the consumer is an account holder of the remittance transfer provider or whether or not the remittance transfer is also an electronic fund transfer, as defined in section 903;

"(3) the term 'remittance transfer provider' means any person or financial institution that provides remittance transfers on behalf of consumers in the normal course of its business, whether or not the consumer is an account holder of that person or financial institution;

"(4) the term 'State' means any of the several States, the Commonwealth of Puerto Rico, the District of Columbia, and any territory or possession of the United States; and

"(5) the term 'total remittance transfer cost' means the total cost of a remittance transfer expressed in dollars, including all fees charged by the remittance transfer provider, including the exchange rate fee.".

(b) Effect on State Laws.—Section 919 of the Electronic Fund Transfer Act (12 U.S.C. 1693q) is amended—

(1) in the first sentence, by inserting "or remittance transfers (as defined in section 918)" after "transfers"; and

(2) in the fourth sentence, by inserting ", or remittance transfer providers (as defined in section 918), in the case of remittance transfers," after "financial institutions".

SEC. 3. FEDERAL CREDIT UNION ACT AMENDMENT.

Paragraph (12) of section 107 of the Federal Credit Union Act (12 U.S.C. 1757(12)) is amended to read as follows:

"(12) in accordance with regulations prescribed by the Board—

"(A) to provide remittance transfers, as defined in section 918(h) of the Electronic Fund Transfer Act, to persons in the field of membership; and

"(B) to cash checks and money orders for persons in the field of membership for a fee;".

SEC. 4. AUTOMATED CLEARINGHOUSE SYSTEM.

(a) Expansion of System.—The Board of Governors of the Federal Reserve System shall work with the Federal reserve banks to expand the use of the automated clearinghouse system for remittance transfers to foreign countries, with a focus on countries that receive significant remittance transfers from the United States, based on—

(1) the number, volume, and sizes of such transfers;

(2) the significance of the volume of such transfers, relative to the external financial flows of the receiving country; and

(3) the feasibility of such an expansion.

(b) Report to Congress.—Not later than 180 days after the date of enactment of this Act, and on April 30 biannually thereafter, the Board of Governors of the Federal Reserve System shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the status of the automated clearinghouse system and its progress in complying with the requirements of this section.

SEC. 5. EXPANSION OF FINANCIAL INSTITUTION PROVISION OF REMITTANCE TRANSFERS.

(a) Provision of Guidelines to Institutions.—Each of the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) and the National Credit Union Administration shall provide guidelines to financial institutions under the jurisdiction of the agency regarding the offering of low-cost remittance transfers and no-cost or low-cost basic consumer accounts, as well as agency services to remittance transfer providers.

(b) Content of Guidelines.—Guidelines provided to financial institutions under this section shall include—

(1) information as to the methods of providing remittance transfer services;

(2) the potential economic opportunities in providing low-cost remittance transfers; and

(3) the potential value to financial institutions of broadening their financial bases to include persons that use remittance transfers.

(c) Assistance to Financial Literacy Commission.—The Secretary of the Treasury and each agency referred to in subsection (a) shall, as part of their duties as members of the Financial Literacy and Education Commission, assist that Commission in improving the financial literacy and education of consumers who send remittances.

SEC. 6. STUDY AND REPORT ON REMITTANCES.

(a) Study.—The Comptroller General of the United States shall conduct a study and analysis of the remittance transfer system, including an analysis of its impact on consumers.

(b) Areas of Consideration.—The study conducted under this section shall include, to the extent that information is available—

(1) an estimate of the total amount, in dollars, transmitted from individuals in the United States to other countries, including per country data, historical data, and any available projections concerning future remittance levels;

(2) a comparison of the amount of remittance funds, in total and per country, to the amount of foreign trade, bilateral assistance, and multi-development bank programs involving each of the subject countries;

(3) an analysis of the methods used to remit the funds, with estimates of the amounts remitted through each method and descriptive statistics for each method, such as market share, median transaction size, and cost per transaction, including through—

(A) depository institutions;

(B) postal money orders and other money orders;

(C) automatic teller machines;

(D) wire transfer services; and

(E) personal delivery services;

(4) an analysis of advantages and disadvantages of each remitting method listed in subparagraphs (A) through (E) of paragraph (3);

(5) an analysis of the types and specificity of disclosures made by various types of remittance transaction providers to consumers who send remittances; and

(6) if reliable data are unavailable, recommendations concerning options for Congress to consider to improve the state of information on remittances from the United States.

(c) Report to Congress.—Not later than 1 year after the date of enactment of this Act, the Comptroller General shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Financial Services of the House of Representatives on the results of the study conducted under this section.

National Council of La Raza,
Washington, DC, Sept. 30, 2004.

Hon. Paul Sarbanes,
Ranking Member, U.S. Senate Committee on Banking, Housing, and Urban Affairs, Washington, DC.

Dear Senator Sarbanes: On behalf of the National Council of La Raza (NCLR), the largest national Hispanic constituency-based organization, I write to express our support for your proposed legislation, the International Remittance Consumer Protection Act of 2004.

As you know very well, the cost of sending remittances to Latin America can be very high—as much as 12 percent per transaction. Lack of competition in the remittance business, which is dominated by a small number of companies that charge higher fees than financial institutions, has kept prices high. In addition to fees, consumers are often subject to poor monetary exchange rates that are not fully disclosed. These exorbitant fees and hidden charges adversely affect many Latinos who send money regularly to Latin America. Many of these remitters are working poor, and nearly half (43 percent) do not have basic banking accounts to conduct simple transactions.

For these reasons, we appreciated the opportunity to meet with your staff and provide input regarding several issues that affect Latino remittance senders. Specifically, we support provisions in your bill that require disclosing upfront all fees and exchange rates to consumers, most of whom are immigrant and/or English language learners (ELL), in languages and formats accessible to them; allow credit unions to offer remittance and check cashing services to nonmembers in the field of membership, which will connect remitters to low-cost financial services facilitating their entry into the financial mainstream; and assist the Federal Financial Literacy Commission in informing remitters of new consumer rights relating to remittance transactions via wire transfers.

Again, thank you for soliciting our feedback on the International Remittance Consumer Protection Act and for your continued support of Latino and immigrant communities. We look forward to working with you to ensure that immigrants have access to information and make fully-informed choices when wiring money to family members abroad. In the end, we hope such legislative measures will provide remitters greater access to mainstream banking tools and services to improve their long-term financial security. We hope to work with you to achieve these goals. Please do not hesitate to contact me if I can be of assistance to you.

Sincerely,

RAUL YZAGUIRRE,
President/CEO.

[Sept. 30, 2004]

MALDEF APPLAUDS SARBANES BILL TO REGULATE REMITTANCES AND PROTECT LATINOS' CONSUMER RIGHTS

(By MALDEF President and General Counsel Ann Marie Tallman)

MALDEF applauds Senator Paul Sarbanes' (D-MD) introduction of the International Remittance Consumer Protection Act of 2004. We believe this bill is the first step in the right direction to improve Latino immigrants' access to banks, and to protect their rights as consumers. This bill is long overdue. MALDEF urges Congress to pass it into law and protect Latino consumer rights.

Senator Sarbanes' International Remittance Consumer Protection Act would bring remittance transfers under the umbrella of protection of U.S. financial services laws. It would make remittance transfers subject to the same set of laws to which any other money transaction in the U.S. is subject. Senator Sarbanes' bill would provide for basic consumer protections for the millions of Latinos and the billions of dollars they send through remittances, by requiring full disclosure of all transfer fees, and a receipt with such full disclosure in the language used by the consumer. It would also provide for error resolutions and reimbursements when family members overseas do not receive the full amount of funds sent. The bill would also: (1) permit credit unions to offer remittance and check cashing services; (2) direct the Federal Reserve Board to provide guidelines to encourage U.S. financial institutions to offer low-cost remittance services and tap into this market; (3) assist the Federal Financial Literacy Commission in improving "financial literacy" of consumers who send remittances; and (4) direct the General Accounting Office to study the remittance market and report to Congress with its findings.

Latino immigrants' remittances represent the most important source of "development aid" to most Latin American countries. Hard-working Latino immigrants are making essential contributions to the U.S. economy, and U.S. financial institutions have benefited greatly from Latino immigrants' money transfers or "remittances." In keeping with the tradition of American immigrants, more than 60 percent of Latin American born adults generously send money to their extended families in Latin America on a regular basis. The volume is staggering—the International Monetary Fund reported that over $30 billion in remittances are expected to be sent from the United States to Latin America in 2004. The Hispanic Association of Corporate Responsibility reported that Mexico is the second-largest recipient, just behind India, and that nearly 12 percent of remittances worldwide go to Mexico. This market is unregulated, leaving Latinos vulnerable to excessive processing fees imposed by some remittance transfer agencies. As the PEW Hispanic Center has reported, the fees have been inappropriately high, reaching up to 20 percent. Even worse, some Latinos have had their hard-earned money never reach their intended recipients, or portions of their transfers have been skimmed by unscrupulous agents.

For all these reasons, MALDEF thanks Senator Sarbanes for the introduction of the International Remittance Consumer Protection Act, and urges the Congress to enact this essential piece of legislation as soon as possible, in order to protect Latino consumer rights.

LEADERSHIP CONFERENCE ON
CIVIL RIGHTS,
Washington, DC, Sept. 30, 2004.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of the Leadership Conference on Civil Rights (LCCR), the nation's oldest, largest and most diverse civil and human rights coalition, we write to express our strong support for the "International Remittance Consumer Protection Act of 2004." LCCR greatly appreciates your efforts to strengthen the rights of consumers who send money overseas.

This important legislation will, for the first time, bring remittances under the framework of federal consumer protection law, and will encourage transparency and competition in the remittance market. There are three key components to the bill:

First, it establishes clear disclosure requirements for remittance transfer companies, including the requirement that the cost of the exchange rate conversion be included in the total cost of the transfer. This cost is, at present, a hidden fee through which consumers are unwittingly charged excessive and abusive additional costs. The bill also takes an innovate approach to calculating the exchange rate fee, so consumers will be able to shop among different remittance companies with the full knowledge of each company's prices.

Second, it creates an open and fair error resolution process for remittance transfer errors. Currently, consumers who send remittances do not have any guaranteed recourse to recover money if a remittance transfer company fails to deliver on its promises. The bill establishes an error resolution mechanism for remittance transfer errors that is responsive to the different types of errors that can occur in a remittance transaction, and is reflective of the unique characteristics of the remittance market and its participants.

Finally, it requires Federal bank and credit union regulators to encourage federally-insured financial institutions to offer low-cost remittance services and no-cost or low-cost basic consumer bank accounts. It is estimated that half of all remittance senders do not have a bank account, and only one in ten consumers use banks to send remittances. This requirement on the Federal regulators will further encourage competition in the market and will assist in the critical effort to bank the unbanked.

We greatly appreciate your leadership on this issue, and we look forward to working with you to enact the International Remittance Consumer Protection Act of 2004. If we can be of any help, please feel free to contact Rob Randhava, LCCR Policy Analyst, at (202) 466-6058.

Sincerely,

WADE HENDERSON,
Executive Director.
NANCY ZIRKIN,
Deputy Director.

CASA OF MARYLAND, INC.,
Takoma Park, Md.

Hon. PAUL SARBANES,
U.S. Senate,
Washington, DC.

DEAR SENATOR SARBANES: On behalf of CASA of Maryland, Inc., the largest Latino service and advocacy organization in Maryland, I write to offer strong support for the "International Remittance Consumer Protection Act of 2004." CASA greatly appreciates your efforts to strengthen the rights of consumers who send money overseas.

CASA of Maryland, Inc. provides high quality and affordable remittances services for the Latino community in Maryland. We witness every day the abuses that this legislation will prevent.

This historic legislation brings remittances under the framework of federal consumer protection law, and will encourage transparency and competition in the remittance market. There are three components to the bill:

First, it establishes clear disclosure requirements for remittance transfer companies, including the requirement that the cost of the exchange rate conversion be included in the total cost of the transfer. This cost is, at present, a hidden fee through which consumers are unwittingly charged excessive and abusive additional costs. The bill also takes an innovate approach to calculating the exchange rate fee, so consumers will be able to shop among different remittance companies with the full knowledge of each company's prices.

Second, it creates an open and fair error resolution process for remittance transfer errors. Currently, consumers who send remittances do not have any guaranteed recourse to recover money if a remittance transfer company fails to deliver on its promises. The bill establishes an error resolution mechanism for remittance transfer errors that is responsive to the different types of errors that can occur in a remittance transaction, and is reflective of the unique characteristics of the remittance market and its participants.

Finally, it requires Federal bank and credit union regulators to encourage federally-insured financial institutions to offer low-cost remittance services and no-cost or low-cost basic consumer bank accounts. It is estimated that half of all remittance senders do not have a bank account, and only one in ten consumers use banks to send remittances. This requirement on the Federal regulators will further encourage competition in the market and will assist in the critical effort to bank the unbanked.

On behalf of the immigrant community throughout Maryland, I congratulate you on your leadership with this issue, and we look forward to working with you to enact the International Remittance Consumer Protection Act of 2004. If I can be of any assistance, please feel free to contact me at 301-270-0419.

Sincerely,

GUSTAVO TORRES,
Executive Director.

CONSUMERS UNION
WEST COAST OFFICE,
San Francisco, CA, September 30, 2004.

Senator PAUL SARBANES,
U.S. Senate.

DEAR SENATOR SARBANES: Consumers Union, the nonprofit publisher of Consumer Reports, the Consumer Federation of America, the National Consumer Law Center on behalf of its low income clients, and U.S. PIRG are pleased to express our strong support the International Remittance Consumer Protection Act of 2004, as introduced today. This bill will provide essential information and consumer protections to hardworking people who send money to family members in other countries, very significantly improving the operation of the money transmission marketplace for consumers.

Consumers in the U.S. send a significant dollar volume of international remittances using both financial institutions and non-financial institutions. Money sent to family members outside the U.S. represents hard-earned family income. As the Inter-American Development Bank has said: "The dramatic growth of international remittances is testimony to the hard work and commitment of migrant workers seeking better lives for themselves and their families." Money transmission costs, disclosures, and consumer rights are not an issue that extends beyond recent immigrants. Consumers who are U.S. citizens or longstanding residents also send money to family members outside of the U.S.

U.S consumers sent $13.2 billion to Mexico in 2003, usually in amounts of about $500 per transmission, according to a report by the Pew Hispanic Center. According to the Inter-American Development Bank, U.S. consumers send $38 billion a year to Latin America and the Caribbean, often in amounts of $200 to $300 per transmission. U.S. workers also send money to India, the Philippines, and other countries.

Consumers who transmit funds internationally need the protections that would be provided by the International Remittance Consumer Protection Act of 2004. These protections include plain disclosures before sending the money such as the amount of foreign currency that will actually be sent to the recipient in another country and the total cost of the money transmission. The bill will require that this information to be given before the transaction starts, which is the time that pricing information is most useful to the consumer. Consumers who are informed about the true amount of funds that will be sent, and about the full cost of the money transmission transaction, can shop around much more effectively for the best rates and fees.

The bill will also require that the consumer be given a receipt with this important pricing information and with the date when the money is to be delivered. In addition, the bill will protect persons in the U.S. who send money out of the country if that money is not received in the other country, or if the wrong amount is received. These error resolution provisions are designed specifically for money transmission, but are based on the same principles as existing protections that consumers enjoy when they make payments domestically using an electronic fund transfer from a bank account. Money that is sent to family members outside the country often is essential to the economic survival of those family members. It is important that the funds arrive as promised. This bill would require money transmitters to tell the sender when the money should arrive and would also create a mechanism for a refund if there is a problem with the sending of the funds.

Finally, the bill would encourage more federally insured financial institutions to offer low cost remittance services. Since some consumers who send remittances do not have bank accounts, this could be a way for federally insured financial institutions to serve new markets. According to an extensive study by the Pew Hispanic Center, financial institutions current have only about 3% of the international remittance market.

For these reasons, we are pleased to express our very strong support for the International Remittance Consumer Protection Act of 2004.

Very truly yours,

GAIL HILLEBRAND,
Consumers Union of U.S., Inc.
JEAN ANN FOX,
Consumer Federation of America.
MARGOT SAUNDERS,
National Consumer Law Center.
ED MIERZWINSKY,
U.S. PIRG.

By Mr. GRAHAM of South Carolina (for himself and Mr. CORNYN):

S. 2871. A bill to provide for enhanced criminal penalties for crimes related to slavery and alien smuggling; to the Committee on the Judiciary.

Mr. GRAHAM of South Carolina. Mr. President, as we all know, people from all over the world want to come to America to pursue a better life for themselves and their families.

Unfortunately, however, some people entrust their lives to some very dangerous people in their effort to gain our shores. And, tragically, some people are brought here against their will and kept as human chattel, enslaved in horrible conditions, in the midst of our freedom.

After hearing of the horrible deaths of aliens smuggled into the country and inhumanely abandoned along a Texas highway last year, I wanted to examine whether we are doing all we can to combat these horrible crimes.

In talking with various law enforcement officials and victims, I heard of alien smugglers and traffickers who, through unabashed acts of profiteering, endanger the lives of countless aliens while compromising the integrity of our immigration laws at the same time. Make no mistake, the incentives for human smugglers are enormous. According to the Department of State, human smuggling around the globe generates an estimated $9.5 billion a year.

The commodities involved in this illicit trade are men, women, and children who, for the smuggler, represent substantial profits. The State Department estimates that more than a million women and children are trafficked around the world each year, generally for the purpose of domestic servitude, sweatshop labor, or sexual exploitation. At any given time, the Department estimates that thousands of people are in the smuggling pipeline, with the United States being the primary target. Smugglers deliver some 50,000 aliens here each year. Alien smuggling is a global problem which requires a systematic and coordinated response. We should do all we can within our criminal laws to combat this terrible problem.

Given the risks associated with these crimes every time they are carried out, the punishment should be appropriate to deter future smuggling or trafficking, and to sufficiently sanction those who are caught. Currently, Title 8 smuggling provisions provide that a person found guilty of alien smuggling where death results is subject to the full range of punishments, including the death penalty. However, if death results from a Title 18 trafficking offense, where the victims are arguably more vulnerable, the defendant is not subjected to the death penalty.

In my opinion, an important component of criminal justice prosecutions is to serve as a deterrent to others who may be disposed to commit a crime. We should ensure that the punishments for smuggling and trafficking crimes are such that the risks of apprehension, prosecution and punishment far outweigh the payday at their delivery point. And, we need to be diligent in making certain that notice of these penalties is conveyed to those who are engaged in this enterprise, up and down the smuggling and trafficking organizational chain. Obviously, in my opinion, the best way to do that is the vigorous prosecution and harsh punishment of those we do catch.

I also want to say a word about the goal of this legislation. Clearly, the smuggling and trafficking problem impacts a host of immigration issues.

While we are engaged in the nationwide debate surrounding immigration, we must also ensure that the crimes related to smuggling and trafficking are punished appropriately. We should not wait for the conclusion of debate on the overall issue.

Whatever your feelings are regarding immigration policy, I think everyone can agree that we must not allow otherwise innocent men, women, and children to be abused and killed by those who seek to profit from the desperation of others.

By Mr. BUNNING (for himself and Mr. NELSON of Nebraska):

S. 2872. A bill to amend the Internal Revenue Code of 1986 to provide a credit to certain agriculture-related businesses for the cost of protecting certain chemicals; to the Committee on Finance.

Mr. BUNNING. Mr. President, I rise today to introduce the Agricultural Business Security Investment Tax Credit Act of 2004. I am pleased to join with my colleague from Nebraska, Senator NELSON, in supporting this important legislation.

Security at our agricultural facilities has regrettably become a national concern in the last decade. While we saw agricultural products used for destruction in Oklahoma City in 1995, our concerns have only been compounded by the tragedies of September 11 and the threat of terrorism. The Senate recognized this growing concern when we considered agricultural products in the Federal hazardous materials lists in the USA Patriot Act of 2001.

The American agricultural industry has already recognized some of the dangers on its own and has made significant strides in improving security. Shops throughout the country have started to invest in security measures to keep their chemicals and fertilizers from being used illegally. In 2003, the Agricultural Retailers Association published a web-based, security-vulnerability assessment tool and has cooperated with the USDA to secure farmers and ranchers.

But vulnerability assessments often require as much as $50,000 to $100,000 in capital investment. Meeting these pressing security needs is not feasible for many of the more than 9,000 retail facilities with fertilizer and chemicals stocks in the United States.

That is why it is important we enact this tax credit. The credit would equal 50 percent of the cost of eligible security upgrades at agricultural retail businesses and is capped at $50,000 during any 5 year period. This money can be used for many different security programs, such as employee background checks, locking equipment and even the latest chemical additives that can render fertilizer unfit for illegal purposes.

In my home State of Kentucky, fertilizer theft has become a serious problem and is contributing to a dangerous rise in the illegal drug trade. One common fertilizer, anhydrous ammonia, is stolen in large quantities and is a fundamental part of the production of some forms of methamphetamine. This problem is especially bad in rural areas where police officers in Kentucky are try to curb the problem by distributing locks to farmers and training them to identify the signs of a methamphetamine label.

But these efforts are not enough. This legislation is an important step to ensure that America's agricultural facilities are secure. Without our action, many of the facilities throughout our country would simply be unable to fund security improvements. We cannot risk fertilizers and chemicals falling into the wrong hands and facilitating illegal drug manufacturing or terrorist bomb makers. I hope my colleagues will join Senator NELSON and me in supporting this important legislation.

By Mr. GRASSLEY:

S. 2873. A bill to extend the authority of the United States District Court for the Southern District of Iowa to hold court in Rock Island, Illinois; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2873

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HOLDING OF COURT FOR THE SOUTHERN DISTRICT OF IOWA.

Section 11029 of the 21st Century Department of Justice Appropriations Authorization Act (28 U.S.C. 95 note; Public Law 107-273; 116 Stat. 1836) is amended by striking "July 1, 2005" and inserting "July 1, 2006".

By Mr. BIDEN:

S. 2874. A bill to authorize appropriations for international broadcasting operations and capital improvements, and for other purposes; to the Committee on Foreign Relations.

Mr. BIDEN. Mr. President, today I introduce legislation to significantly expand our international broadcasting to the Muslim world.

The United States currently broadcasts news and information in over 60 languages to nations in every region of the world. Through both radio and TV, we tell America's story to the world—with news and information programming about not only U.S. Government policy, but life and culture in the United States. We also bring the world to overseas audiences, providing them local, regional and world news that they often may not receive, especially in closed societies. Such broadcasts have been an important foreign policy tool for six decades, since Voice of America broadcasts were initiated during the Second World War. During the Cold War, Radio Free Europe and Radio Liberty broadcasts behind the Iron Curtain were a literal information lifeline for millions trapped under Soviet misrule.

Since the attacks of September 11, 2001, the Broadcasting Board of Governors, the Federal agency responsible for these broadcasts, has significantly expanded our outreach to the Muslim world. At the direction of Congress, it reestablished Radio Free Afghanistan broadcasts, which had been curtailed in the 1990s. It initiated a new Arabic-language service to the Middle East—Radio Sawa—featuring a new format of both music and news and information programming designed to reach younger audiences. It started a new Persian service, Radio Farda, broadcast to Iran. And it launched a satellite television station, Alhurra, which is transmitted across the Arab world in an effort to compete with other pan-Arab television outlets like Al Jazeera and Al Arabiya.

We have seen dramatic results. In several cities in the Middle East, Radio Sawa is now the leading international broadcaster, and is competitive with local stations. A survey conducted in Morocco earlier this year shows that, in Casablanca and Rabat, Radio Sawa is the No. 1 station among all listeners over age 15. Some 88 percent of people in those cities under the age of 30 listen weekly, and 64 percent of those over age 30 do so. The listener audience is not as high in other countries—ranging from a low of 2 percent in Lebanon to 7 percent in Egypt to 42 percent in the UAE to 45 percent in Kuwait. But these data are phenomenal for international broadcasting, where you are doing well if you are attracting five percent of the audience weekly.

Although Alhurra television programming has only been on the air for 7 months, it is already attracting an important audience share. Recent data indicate that some 33 percent watch it weekly in Kuwait, 20 percent watch it weekly in Saudi Arabia, and 19 percent watch it weekly in Jordan and the United Arab Emirates. That's not as high as Al Jazeera and Al Arabiya, other pan-Arab satellite networks that are more dominant, but after 7 months, we are in the game.

We can and should build on these successes, by expanding our broadcasting efforts to other nations with large Muslim populations—from Southeast Asia to Central and South Asia to the African continent. The bill that I introduce today authorizes such an expansion, and would provide for new or expanded services, in both radio and television, to all of these regions. This would not involve a one-sized-fits-all approach, but a targeted effort based on analysis of each individual market.

I do not want to imply that this will provide an immediate impact. It will be a significant challenge. It will require additional resources and personnel. It will require diplomatic efforts—to obtain permission for construction relay stations and to procure local broadcast licenses. But we cannot afford not to try.

Around the globe, there are some 1.2 billion Muslims. Polling data indicate that favorable attitudes toward the United States and U.S. policy have declined considerably in the last few years. One report, prepared by the Pew organization in June 2003, stated that "the bottom has fallen out of support for America in most of the Muslim world. Negative views of the U.S. among Muslims, which had been largely limited to countries in the Middle East, have spread to Muslim populations in Indonesia and Nigeria." The negative image of America is perhaps the natural result of our status as a global superpower. It also stems from disagreements in foreign nations with U.S. policy. But it is also the result of a failure to explain U.S. policy, and a failure to engage in a dialogue with foreign audiences.

The negative opinion in the world about the United States and U.S. policy is a national security challenge of the first order. We must deal with this simple fact: most foreign governments, even non-democratic ones, are constrained in their ability to support American policy if their own people oppose the United States and its policies. We must, therefore, greatly expand our efforts to engage foreign audiences, not in a one-way monologue, but in a dialogue. International broadcasting is just one means of conducting that dialogue. We have to explain who we are, what we stand for, and what our motives are. If we don't, we will have ceded the field to people who will misrepresent our policies or our motives.

International broadcasting is one of several public diplomacy programs—such as international exchanges and information programs—that have been underfunded and understaffed for too long. This legislation I introduce today only addresses international broadcasting. We should make similar investments in our other public diplomacy programs, and I will continue to work to ensure that we do so.

The 9/11 Commission recognized the lack of adequate funding for these programs, and called on Congress and the administration to invest in them. Among other things, the Commission specifically recommended that we increase funding for international broadcasting:

> Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.

The 9/11 Commission did not recommend a specific budget amount, or provide a detailed plan. This proposal does both. It is based on a thoroughly-researched plan. It provides significant resources—$222 million in one-time costs, and annual costs of $345 million. This represents about a 60 percent increase over the current annual budget of $570 million for such broadcasting. Relative to other national security programs, I believe it is a bargain—and an investment that is well worth the price.

I urge my colleagues to support this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2874

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Initiative 911 Act".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) Open communication of information and ideas among peoples of the world contributes to international peace and stability, and that the promotion of such communication is important to the national security of the United States.

(2) The United States needs to improve its communication of information and ideas to people in foreign countries, particularly in countries with significant Muslim populations.

(3) A significant expansion of United States international broadcasting would provide a cost-effective means of improving communication with countries with significant Muslim populations by providing news, information, and analysis, as well as cultural programming, through both radio and television broadcasts.

(4) The report of the National Commission on Terrorist Attacks Upon the United States stated that, "Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.".

SEC. 3. SPECIAL AUTHORITY FOR SURGE CAPACITY.

The United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.) is amended by adding at the end the following new section:

"SEC. 316. SPECIAL AUTHORITY FOR SURGE CAPACITY.

"(a) EMERGENCY AUTHORITY.—

"(1) IN GENERAL.—Whenever the President determines it to be important to the national interests of the United States and so certifies to the appropriate congressional committees, the President, on such terms and conditions as the President may determine, is authorized to direct any department, agency, or other entity of the United States to furnish the Broadcasting Board of Governors with such assistance as may be necessary to provide international broadcasting activities of the United States with a surge capacity to support United States foreign policy objectives during a crisis abroad.

"(2) SUPERSEDES EXISTING LAW.—The authority of paragraph (1) supersedes any other provision of law.

"(3) SURGE CAPACITY DEFINED.—In this subsection, the term 'surge capacity' means the financial and technical resources necessary to carry out broadcasting activities in a geographical area during a crisis.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Effective October 1, 2004, there are authorized to be appropriated to the President such amounts as may be necessary for the President to carry out this section, except that no such amount may be appropriated which, when added to amounts previously appropriated for such purpose but not yet obligated, would cause such amounts to exceed $25,000,000.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection are authorized to remain available until expended.

"(3) DESIGNATION OF APPROPRIATIONS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection may be referred to as the 'United States International Broadcasting Surge Capacity Fund'.".

SEC. 4. REPORT.

In each annual report submitted under section 305(a)(9) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6204(a)(9)) after the date of enactment of this Act, the Broadcasting Board of Governors shall give special attention to reporting on the activities carried out under this Act.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division of G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 107-277), and this Act, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL BROADCASTING OPERATIONS.—For "International Broadcasting Operations", $497,000,000 for the fiscal year 2005.

(2) BROADCASTING CAPITAL IMPROVEMENTS.—For "Broadcasting Capital Improvements", $70,000,000 for the fiscal year 2005.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this section are authorized to remain available until expended.

By Mrs. HUTCHISON (for herself, Mr. BAYH, and Mr. KENNEDY):

S. 2876. A bill to amend title XVIII of the Social Security Act to eliminate reductions in payments to hospitals for the indirect costs of medical education; to the Committee on Finance.

Mrs. HUTCHISON. Mr. President, I am pleased to introduce legislation today to restore Medicare reimbursement to hospitals. I introduce the American Hospital Preservation Act with my colleague, Senator BAYH, to restore reimbursement for indirect medical education (IME) payments to teaching hospitals. IME payments give teaching hospitals an additional Medicare reimbursement due to their higher costs of inpatient care. The Medicare Modernization Act restored the reimbursement rate to 6 percent for fiscal year 2004. However this payment update expires today. Over the next 3 years, reimbursements to teaching hospitals will decrease, making it more difficult to care for our sick and to train our future health care providers. The American Hospital Preservation Act would fix the reimbursement rate at 6.0 and will ensure our hospitals are compensated for the invaluable care they provide to our patients.

Hospital admissions have risen from 31 million patients in 1990 to 33 million in 2000, and the number of days in the hospital is rising as well. Increased admissions, rising liability premiums, and the cost of advanced technology have forced hospitals to cut back on services. The cost of a pint of blood increased 31 percent in 2001, an additional $920 million burden to hospitals. Such costs are continuing to rise, yet Medicare reimbursements to hospitals are not keeping pace with inflation and their margins are slowly shrinking. Fifty-eight percent of hospitals are losing money on the Medicare patients they treat.

Teaching hospitals have higher costs due to their critical role in educating tomorrow's physicians. They run more tests, utilize newer technology and require more staff because they are training our future health professionals. Preserving this reimbursement rate is vital to continuing this training. Although only 23 percent of all hospitals are teaching hospitals, they deliver over two-thirds of charity care. Many patients rely on these hospitals for their health, which make-up 78 percent of all trauma centers and 80 percent of all burn beds. Further, a disproportionate percentage of the most seriously ill and injured patients are treated and convalesce in teaching hospitals. Emergency rooms are increasingly used as a primary care clinic because patients cannot find a physician who accepts Medicare, and they treat more individuals who are uninsured. In 2000, hospitals provided $21.6 billion in uncompensated care.

Lower reimbursement rates coupled with bioterrorism risks and a workforce shortage make our hospitals a time bomb waiting to go off. It is our responsibility to ensure they have adequate resources.

I look forward to working with my colleagues to pass the American Hospital Preservation Act.

By Mr. GREGG (for himself, Mr. BOND, and Mr. GRAHAM of South Carolina):

S. 2877. A bill to reduce the special allowance for loans from the proceeds of tax exempt issues, and to provide additional loan forgiveness for teachers who teach mathematics, science, or special education; to the Committee on Health, Education, Labor, and Pensions.

Mr. GREGG. Mr. President, in recent days, much ink has been spilled and much rhetoric bandied about on the subject of the 8.5 percent interest rate on student loans the Federal Government guarantees to a handful of lenders. We all agree that this loophole, which results in windfall profits to some lenders and banks, should be ended.

Only recently have my colleagues on the other side of the aisle even acknowledged that this was a problem. It should be noted, that Democrats not only created and protected this flawed policy during the Clinton administration they failed to correct the problem when they were in the majority.

Republicans have repeatedly demonstrated a commitment to ending the exploitation of the 9.5 percent interest rate guarantee. The President submitted a budget in February that closed the loophole. House Republicans introduced a higher education bill in May that also would close the loophole. But Democrats showed no interest in moving either of those pieces of legislation. Instead, they have recently offered a series of misguided, ineffectual attempts to close the loophole. The Kildee amendment that passed the House did not close the loophole—a fact even Senate Democrats acknowledge. That amendment prohibited discretionary funds from being used to administer the 9.5 percent payments or for the payments themselves. The fact that such payments are made with mandatory funds under the Higher Education Act renders the amendment powerless.

Similarly, Senator MURRAY's amendment that was rejected at the Labor-HHS-Education markup failed to close the loophole for several reasons. Her amendment would have allowed lenders to transfer loans within their portfolio to continue to receive the 9.5 percent guarantee, a practice explicitly criticized in the GAO report on this issue. Worse, her amendment would have spent more money than it generated by converting savings that accrue over 10 years into discretionary expenditures to be spent in a single year, 2005.

Senator MURRAY's amendment would also have jeopardized student benefits nationwide by preventing nonprofit lenders, which are required to pour any extra Federal funds they receive back into the student loan program, from legitimately receiving the guarantee. In other words, her amendment would have led to increased interest rates and origination fees for student borrowers, and the elimination of loan forgiveness programs for nurses, teachers, and public safety officers.

The potential damage did not end there. Because Senator MURRAY's amendment would have disrupted contractual obligations between the Federal Government and lenders and note holders, it could have exposed the Department of Education to costly litigation and risk a court order requiring the payments to be restored.

Clearly, efforts to end the loophole have been unproductive or worse thus far. Today, I hope to transform the debate by introducing the Taxpayer-Teacher Protection Act of 2004, along with my colleagues, Senators BOND and GRAHAM, and Representative BOEHNER in the House. This legislation will close the loophole for one year and direct the resulting savings toward the expansion of teacher loan forgiveness programs for math, science and special education teachers in schools with large numbers of disadvantaged students, without cutting student benefits enjoyed by borrowers who receive loans from nonprofit lenders.

Specifically, the bill would protect taxpayers by shutting down the loophole in 2005 in a way that immediately halts the high subsidies for refunding, transfers of loans from tax-exempt to taxable bonds and other related transactions. It puts lenders and note holders on notice that Congress will permanently and quickly phase out all other aspects of the 9.5 percent guarantee without putting the federal government in jeopardy of costly litigation. The bill protects student benefits provided by non-profit lenders, including 0 percent interest rate student loans for on-time completion, lower interest rates for certain students and loan forgiveness for teachers, nurses and public safety personnel.

The bill invests the related savings to more than triple teacher loan forgiveness to $17,500 for teachers of math, science, and special education—disciplines where there are widespread shortages, particularly in the inner city and rural communities—who teach in high-need schools districts for five years, and who meet the No Child Left Behind definition of a highly qualified teacher. Such loan forgiveness provides an important recruiting tool for local districts to fill teacher shortages, and rewards teachers who teach disadvantaged children and children with disabilities, while preparing the students in the areas of math and science that are so critical to our security and prosperity as a nation.

The President recently sent us a letter reiterating his desire that Congress act quickly to enact legislation to close the loophole. I urge my colleagues who are serious about ending this loophole to join me in supporting the Taxpayer-Teacher Protection Act of 2004, so that we can send it to the President's desk without delay, and send our dollars where they belong—benefiting students.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2877

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taxpayer-Teacher Protection Act of 2004".

SEC. 2. REDUCTION OF THE SPECIAL ALLOWANCE FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT ISSUES.

Section 438(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1087-1(b)(2)(B)) is amended—

(1) in clause (i), by striking "this division" and inserting "this clause";

(2) in clause (ii), by striking "division (i) of this subparagraph" and inserting "clause (i) of this subparagraph";

(3) in clause (iv), by inserting "or refunded on or after October 1, 2004 and before October 1, 2005," after "October 1, 1993,"; and

(4) by adding at the end the following new clause:

"(v) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, or paragraph (4), as the case may be, for a holder of loans that—

"(I) were made or purchased with funds—

"(aa) obtained from the issuance of obligations the income from which is excluded from gross income under the Internal Revenue Code of 1986 and which obligations were originally issued before October 1, 1993; or

"(bb) obtained from collections or default reimbursements on, or interests or other income pertaining to, eligible loans made or purchased with funds described in division (aa), or from income on the investment of such funds; and

"(II) were—

"(aa) financed by such an obligation that has matured, or been retired or defeased;

"(bb) refinanced on or after October 1, 2004 and before October 1, 2005, with funds obtained from a source other than funds described in subclause (I) of this clause; or

"(cc) sold or transferred to any other holder on or after October 1, 2004 and before October 1, 2005.".

SEC. 3. LOAN FORGIVENESS FOR TEACHERS.

(a) Implementing Highly Qualified Teacher Requirements.—

(1) Amendments.—

(A) FFEL loans.—Section 428J(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-10(b)(1)) is amended—

(i) in subparagraph (A), by inserting "and" after the semicolon; and

(ii) by striking subparagraphs (B) and (C) and inserting the following:

"(B) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 of the Elementary Secondary Education Act of 1965; and".

(B) Direct loans.—Section 460(b)(1)(A) of the Higher Education Act of 1965 (20 U.S.C. 1087j(b)(1)(A)) is amended—

(i) in clause (i), by inserting "and" after the semicolon; and

(ii) by striking clauses (ii) and (iii) and inserting the following:

"(ii) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 of the Elementary and Secondary Education Act of 1965; and".

(2) Transition rule.—

(A) Rule.—The amendments made by paragraph (1) of this subsection to sections 428J(b)(1) and 460(b)(1)(A) of the Higher Education Act of 1965 shall not be applied to disqualify any individual who, before the date of enactment of this Act, commenced service that met and continues to meet the requirements of such sections as such sections were in effect on the day before the date of enactment of this Act.

(B) Rule not applicable to increased qualified loan amounts.—Subparagraph (A) of this paragraph shall not apply for purposes of obtaining increased qualified loan amounts under sections 428J(c)(3) and 460(c)(3) of the Higher Education Act of 1965 as added by subsection (b) of this section.

(b) Additional Amounts Eligible to Be Repaid.—

(1) FFEL loans.—Section 428J(c) of the Higher Education Act of 1965 (20 U.S.C. 1078-10(c)) is amended by adding at the end the following:

"(3) Additional amounts for teachers in mathematics, science, or special education.—Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall repay under this section shall be not more than $17,500 in the case of—

"(A) a secondary school teacher—

"(i) who meets the requirements of subsection (b); and

"(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

"(B) an elementary school or secondary school teacher—

"(i) who meets the requirements of subsection (b);

"(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 602 of the Individuals with Disabilities Education Act); and

"(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, is teaching children with disabilities that corresponds with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.".

(2) Direct loans.—Section 460(c) of the Higher Education Act of 1965 (20 U.S.C. 1087j(c)) is amended by adding at the end the following:

"(3) Additional amounts for teachers in mathematics, science, or special education.—Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall cancel under this section shall be not more than $17,500 in the case of—

"(A) a secondary school teacher—

"(i) who meets the requirements of subsection (b)(1); and

"(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

"(B) an elementary school or secondary school teacher—

"(i) who meets the requirements of subsection (b)(1);

"(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 602 of the Individuals with Disabilities Education Act); and

"(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, is teaching children with disabilities that corresponds with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.".

(3) Effective date.—The amendments made by this subsection shall apply only with respect to eligible individuals who are new borrowers on or after October 1, 1998, and before October 1, 2005.

By Mr. CAMPBELL:

S. 2878. A bill to amend the Hoopa-Yurok Settlement Act to provide for the acquisition of land for the Yurok Reservation and an increase in economic development beneficial to the Hoopa Valley Tribe and the Yurok Tribe, and for other purposes; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce The Hoopa-Yurok Settlement Amendment Act of 2004, a bill that would provide for the acquisition of land for the Yurok Reservation and an increase in economic development beneficial to the Hoopa Valley Tribe and Yurok Tribe in the State of California. This bill is introduced at the request of the Hoopa Valley Tribe and the Yurok Tribe, and is for discussion purposes only.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Hoopa-Yurok Settlement Amendment Act of 2004".

SEC. 2. ACQUISITION OF LAND FOR THE YUROK RESERVATION.

Section 2(c) of the Hoopa-Yurok Settlement Act (25 U.S.C. 1300i-1(c)) is amended by adding at the end the following:

"(5) Land acquisition.—

"(A) In general.—Not later than 1 year after the date of enactment of this paragraph, the Secretary and the Secretary of Agriculture shall—

"(i) in consultation with the Yurok Tribe, identify Federal and private land available from willing sellers within and adjacent to or in close proximity to the Yurok Reservation in the aboriginal territory of the Yurok Tribe (excluding any land within the Hoopa Valley Reservation) as land that may be considered for inclusion in the Yurok Reservation;

"(ii) negotiate with the Yurok Tribe to determine, from the land identified under clause (i), a land base for an expanded Yurok Reservation that will be adequate for economic self-sufficiency and the maintenance of religious and cultural practices;

"(iii) jointly with the Yurok Tribe, provide for consultation with local governments, and other parties whose interests are directly affected, concerning the potential sale or other transfer of land to the Yurok Tribe under this Act;

"(iv) submit to Congress a report identifying any parcels of land within their respective jurisdictions that are determined to be within the land base negotiated under clause (ii); and

"(v) not less than 60 days after the date of submission of the report under clause (iv), convey to the Secretary in trust for the Yurok Tribe the parcels of land within their respective jurisdictions that are within that land base.

"(B) Acceptance in trust.—The Secretary shall—

"(i) accept in trust for the Yurok Tribe the conveyance of such private land as the Yurok Tribe, or the United States on behalf of the Yurok Tribe, may acquire from willing sellers, by exchange or purchase; and

"(ii) provide for the expansion of the Yurok Reservation boundaries to reflect the conveyances.

"(C) Funding.—Notwithstanding any other provision of law, from funds made available to carry out this Act, the Secretary may use $2,500,000 to pay the costs of appraisals, surveys, title reports, and other requirements relating to the acquisition by the Yurok Tribe of private land under this Act (excluding land within the boundaries of the Hoopa Valley Reservation).

"(D) Report.—

"(i) In general.—Not later than 90 days after the date of submission of the report under subparagraph (A)(iv), the Secretary, in consultation with the Secretary of Agriculture relative to the establishment of an adequate land base for the Yurok Tribe, shall submit to Congress a report that describes—

"(I) the establishment of an adequate land base for the Yurok Tribe and implementation of subparagraph (A);

"(II) the sources of funds remaining in the Settlement Fund, including the statutory authority for such deposits and the activities, including environmental consequences, if any, that gave rise to those deposits; and

"(III) disbursements made from the Settlement Fund;

"(IV) the provision of resources, reservation land, trust land, and income-producing assets including, to the extent data are available (including data available from the Hoopa Valley Tribe and the Yurok Tribe), the environmental condition of the land and income-producing assets, infrastructure, and other valuable assets; and

"(V) to the extent data are available (including data available from the Hoopa Valley Tribe and the Yurok Tribe), the unmet economic, infrastructure, and land needs of each of the Hoopa Valley Tribe and the Yurok Tribe.

"(ii) Limitation.—No expenditures for any purpose shall be made from the Settlement Fund before the date on which, after receiving the report under clause (i), Congress enacts a law authorizing such expenditures, except as the Hoopa Valley Tribe and Yurok Tribes may agree pursuant to their respective constitutional requirements.

"(6) Claims.—

"(A) In general.—The Court of Federal Claims shall hear and determine all claims of the Yurok Tribe or a member of the Yurok Tribe against the United States asserting that the alienation, transfer, lease, use, or management of land or natural resources located within the Yurok Reservation violates the Constitution, laws, treaties, Executive orders, regulations, or express or implied contracts of the United States.

"(B) Conditions.—A claim under subparagraph (A) shall be heard and determined—

"(i) notwithstanding any statute of limitations (subject to subparagraph (C)) or any claim of laches; and

"(ii) without application of any setoff or other claim reduction based on a judgment or settlement under the Act of May 18, 1928 (25 U.S.C. 651 et seq.) or other laws of the United States.

"(C) Limitation.—A claim under subparagraph (A) shall be brought not later than 10 years after the date of enactment of this paragraph.".

SEC. 3. JURISDICTION.

(a) Law Enforcement and Tribal Court Funds and Programs.—Section 2(f) of the Hoopla-Yurok Settlement Act (25 U.S.C. 1300i–1(f)) is amended—

(1) by striking "The Hoopa" and inserting the following:

"(1) In general.—The Hoopa";

(2) by striking the semicolon after "Code" the first place it appears and inserting a comma; and

(3) by adding at the end the following:

"(2) Law enforcement and tribal court funds and programs.—

"(A) In general.—Notwithstanding paragraph (1), Federal law enforcement and tribal court funds and programs shall be made available to the Hoopa Valley Tribe and Yurok Tribe on the same basis as the funds and programs are available to Indian tribes that are not subject to the provisions of law referred to in paragraph (1).

"(B) Authorization of appropriations.—There is authorized to be appropriated for Yurok law enforcement and tribal court programs $1,000,000 for each fiscal year.".

(b) Recognition of the Yurok Tribe.—Section 9 of the Hoopa-Yurok Settlement Act (25 U.S.C. 1300i–8) is amended by adding at the end the following:

"(f) Recognition of the Yurok Tribe.—The authority of the Yurok Tribe over its territories as provided in the constitution of the Yurok Tribe as of the date of enactment of this subsection are ratified and confirmed insofar as that authority relates to the jurisdiction of the Yurok Tribe over persons and land within the boundaries of the Yurok Reservation.".

(c) Yurok Reservation Resources.—Section 12 of the Hoopa Yurok Settlement Act (102 Stat. 2935) is amended by adding at the end the following:

"(c) Klamath River Basin Fisheries.—

"(1) In general.—The Secretary and the Secretary of Agriculture shall enter into stewardship agreements with the Yurok Tribe with respect to management of Klamath River Basin fisheries and water resources.

"(2) Effect of paragraph.—Nothing in paragraph (1) provides the Yurok Tribe with any jurisdiction within the Hoopa Valley Reservation.

"(d) Management Authority.—

"(1) Definition of comanangement authority.—In this subsection, the term 'management authority' means the right to make decisions jointly with the Secretary or the Secretary of Agriculture, as the case may be, with respect to the natural resources and sacred and cultural sites described in paragraph (2).

"(2) Grant of management authority.—There is granted to the Yurok Tribe management authority over all natural resources, and over all sacred and cultural sites of the Yurok Tribe within their usual and accustomed places, that are on land remaining under the jurisdiction of the National Park Service, Forest Service, or Bureau of Land Management within the aboriginal territory of the Yurok Tribe.

"(e) Subsistence.—

"(1) In general.—There is granted access for subsistence hunting, fishing, and gathering rights for members of the Yurok Tribe over all land and water within the aboriginal territory of the Yurok Tribe that remain under the jurisdiction of the Yurok Tribe or the United States, excluding any land within the Hoopa Valley Reservation.

"(2) Condition.—All subsistence-related activities under paragraph (1) shall be conducted in accordance with management plans developed by the Yurok Tribe.".

SEC. 4. BASE FUNDING.

From amounts made available to the Secretary for new tribes funding, the Secretary shall make an adjustment in the base funding for the Yurok Tribe based on the enrollment of the Yurok Tribe as of the date of enactment of this Act.

SEC. 5. YUROK INFRASTRUCTURE DEVELOPMENT.

(a) In General.—There are authorized to be appropriated—

(1) $20,000,000 for the upgrade and construction of Bureau of Indian Affairs and tribal roads on the Yurok Reservation;

(2) for each fiscal year, $500,000 for the operation of a road maintenance program for the Yurok Tribe;

(3) $3,500,000 for purchase of equipment and supplies for the Yurok Tribe road maintenance program;

(4) $7,600,000 for the electrification of the Yurok Reservation;

(5) $2,500,000 for telecommunication needs on the Yurok Reservation;

(6) $18,000,000 for the improvement and development of water and wastewater treatment systems on the Yurok Reservation;

(7) $6,000,000 for the development and construction of a residential care, drug and alcohol rehabilitation, and recreational complex near Weitchpec;

(8) $7,000,000 for the construction of a cultural center for the Yurok Tribe;

(9) $4,000,000 for the construction of a tribal court, law enforcement, and detention facility in Klamath;

(10) $10,000,000 for the acquisition or construction of at least 50 homes for Yurok Tribe elders;

(11) $3,200,000 for the development and initial startup cost for a Yurok School District; and

(12) $800,000 to supplement Yurok Tribe higher education need.

(b) Priority.—Congress—

(1) recognizes the unsafe and inadequate condition of roads and major transportation routes on and to the Yurok Reservation; and

(2) identifies as a priority that those roads and major transportation routes be upgraded and brought up to the same standards as transportation systems throughout the State of California.

SEC. 6. YUROK ECONOMIC DEVELOPMENT.

There are authorized to be appropriated—

(1) $20,000,000 for the construction of an ecolodge and associated costs;

(2) $1,500,000 for the purchase of equipment to establish a gravel operation; and

(3) $6,000,000 for the purchase and improvement of recreational and fishing resorts on the Yurok Reservation.

SEC. 7. BLM LAND.

(a) Conveyance to the Yurok Tribe.—The following parcels of Bureau of Land Management land within the aboriginal territory of the Yurok Tribe are conveyed in trust status to the Yurok Tribe:

(1) T. 9N., R. 4E, HUM, sec. 1.
(2) T. 9N., R. 4E, sec. 7.
(3) T. 9N., R. 4E., sec. 8, lot 3.
(4) T. 9N., R. 4E., sec. 9, lots 19 and 20.
(5) T. 9N., R. 4E., sec. 17, lots 3 through 6.
(6) T. 9N., R. 4E., sec. 18, lots 7 and 10.
(7) T. 9N., R. 3E., sec. 13, lots 8 and 12.
(8) T. 9N., R. 3E, sec. 14, lot 6.

(b) Conveyance to the Hoopa Valley Tribe.—The following parcels of Bureau of Land Management land along the western boundaries of the Hoopa Valley Reservation are conveyed in trust status to the Hoopa Valley Tribe:

(1) T. 9N, R. 3E., sec. 23, lots 7 and 8.
(2) T. 9N., R. 3E., sec. 26, lots 1 through 3.
(3) T. 7N., R. 3E., sec. 7, lots 1 and 6.
(4) T. 7N., R. 3E., sec. 1.

SEC. 8. REPEAL OF OBSOLETE PROVISIONS.

Section 2(c)(4) of the Hoopa-Yurok Settlement Act (25 U.S.C. 1300i-1(c)(4)) is amended by striking "The—" and all that follows through "shall not be" and inserting "The apportionment of funds to the Yurok Tribe under sections 4 and 7 shall not be".

SEC. 9. VOTING MEMBER.

Section 3(c) of the Klamath River Basin Fisheries Restoration Act (16 U.S.C. 460ss-2(c)) is amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6); and

(2) by striking paragraph (3) and inserting the following:

"(3) A representative of the Yurok Tribe who shall be appointed by the Yurok Tribal Council.

"(4) A representative of the Department of the Interior who shall be appointed by the Secretary.".

SEC. 10. ECONOMIC SELF-SUFFICIENCY.

Section 10 of the Hoopa-Yurok Settlement Act (25 U.S.C. 1300i-9) is amended by striking subsection (a) and inserting the following:

"(a) Plan for Economic Self-Sufficiency.—

"(1) Negotiations.—Not later than 30 days after the date of enactment of the Hoopa-Yurok Settlement Amendment Act of 2004, the Secretary shall enter into negotiations with the Yurok Tribe to establish a plan for the economic self-sufficiency of the Yurok Tribe, which shall be completed not later than 18 months after the date of enactment of the Hoopa-Yurok Settlement Amendment Act of 2004.

"(2) Submission to congress.—On the approval of the plan by the Yurok Tribe, the Secretary shall submit the plan to Congress.

"(3) Authorization of appropriations.—There is authorized to be appropriated $3,000,000 to establish the Yurok Tribe Self-Sufficiency Plan.".

SEC. 11. EFFECT OF ACT.

Nothing in this Act or any amendment made by this Act limits the existing rights of the Hoopa Valley Tribe or the Yurok Tribe Tribe.

By Mr. CAMPBELL:

S. 2879. A bill to restore recognition to the Winnemem Wintu Indian Tribe of California; to the Committee on Indian Affairs.

Mr. CAMPBELL. Mr. President, today I am pleased to introduce "The Winnemem Wintu Tribe Clarification and Restoration Act," a bill that would clarify the status of the Winnemem Wintu Tribe of northern California. I am introducing this bill, at the request of the tribe, primarily to initiate a discussion of the tribe's status among all the interested parties, including the tribe, local communities, and the tribe's congressional delegation.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2879

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Winnemem Wintu Tribe Clarification and Restoration Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Winnemem Wintu Indian Tribe was entitled to have been included in the 1979 acknowledgement process that created a list of federally recognized California tribes;

(2) in addition to its continuous historic relationship with the Federal Government, the trust status of the Tribe was reaffirmed by the provisions of the Act of July 30, 1941 (55 Stat. 612, chapter 334), which granted to the United States all tribal and allotted Indian land within the area embraced by the Central Valley Project;

(3) under that Act, the Secretary, acting through the Commissioner of Reclamation, on January 5, 1942, created the Shasta Reservoir Indian Cemetery, which contains Winnemem Wintu remains, markers, and other appurtenances held in trust by the United States;

(4) Winnemem Wintu remains were removed to that cemetery from the traditional cemetery of the Tribe in the McCloud River valley that was flooded by the Shasta Reservoir;

(5) the Bureau of Reclamation informed the Area Director of the Indian Service in writing on December 22, 1942, of the new cemetery and its status as Federal trust land;

(6) the Secretary, through an administrative oversight or inaction of the Indian Service, overlooked the trust status of the Tribe, which was reaffirmed by the making of partial restitution by the Secretary for the taking of tribal land and the 1941 relocation of the remains of tribal members, which remain interred in the Shasta Reservoir Indian Cemetery;

(7) the ongoing trust relationship of the Tribe with the Federal Government should have been recognized by the Secretary, and the Tribe should have been included in the 1979 listing of federally recognized California tribes; and

(8) the Tribe, as a matter of sovereign choice, has determined that the conduct of gaming by the Tribe would be detrimental to the maintenance of its traditional tribal culture.

SEC. 3. DEFINITIONS.

In this Act:

(1) Secretary.—The term "Secretary" means the Secretary of the Interior.

(2) Service area.—The term "service area" means the counties of Shasta and Siskiyou, California.

(3) Tribe.—The term "Tribe" means the Indians of the Winnemem Wintu Tribe of northern California.

SEC. 4. CLARIFICATION OF FEDERAL STATUS AND RESTORATION OF FEDERAL RIGHTS AND PRIVILEGES.

(a) Federal Status.—Federal status is restored to the Tribe.

(b) Applicable Law.—Except as otherwise provided in this Act, all laws (including regulations) of general applicability to Indians and nations, tribes, or bands of Indians that are not inconsistent with any provision of this Act shall be applicable to the Tribe and members of the Tribe.

(c) Restorations of Rights and Privileges.—Except as provided in subsection (d), all rights and privileges of the Tribe and members of the Tribe under any Federal treaty, Executive order, agreement, or statute, or under any other authority that were diminished or lost under Public Law 85-671 (72 Stat. 619) are restored, and that Act shall be inapplicable to the Tribe or members of the Tribe after the date of enactment of this Act.

(d) Federal Services and Benefits.—

(1) Eligibility.—

(A) In general.—Without regard to the existence of a reservation, the Tribe and its members shall be eligible, on and after the date of enactment of this Act, for all Federal services and benefits furnished to federally recognized Indian tribes or their members.

(B) Residing on a reservation.—For the purposes of Federal services and benefits available to members of federally recognized Indian tribes residing on a reservation, members of the Tribe residing in the service area shall be deemed to be residing on a reservation.

(2) Relation to other laws.—The eligibility for or receipt of services and benefits under paragraph (1) by the Tribe or a member of the Tribe shall not be considered as income, resources, or otherwise when determining the eligibility for or computation of any payment or other benefit to the Tribe or member under—

(A) any financial aid program of the United States, (including grants and contracts under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.); or

(B) any other benefit to which the Tribe or member would otherwise be entitled under any Federal or federally assisted program.

(e) Hunting, Fishing, Trapping, Gathering, and Water Rights.—Nothing in this Act expands, reduces, or otherwise affects in any manner any hunting, fishing, trapping, gathering, or water rights of the Tribe and members of the Tribe.

(f) Certain Rights Not Altered.—Except as specifically provided in this Act, nothing in this Act alters any property right or obligation, any contractual right or obligation, or any obligation for taxes levied.

SEC. 5. RESERVATION OF THE TRIBE.

Not later than 1 year after the date of enactment of this Act, the Secretary shall take the 42.5-acre site presently occupied by the Tribe into trust for the benefit of the Tribe, and that land shall be the reservation of the Tribe.

SEC. 6. GAMING.

The Tribe shall not have the right to conduct gaming (within the meaning of the Indian Gaming Regulatory Act (25 U.S.C. 2701 et seq.)).

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 139—DIRECTING THE ARCHITECT OF THE CAPITOL TO ESTABLISH A TEMPORARY EXHIBIT IN THE ROTUNDA OF THE CAPITOL TO HONOR THE MEMORY OF MEMBERS OF THE UNITED STATES ARMED FORCES WHO HAVE LOST THIR LIVES IN OPERATION IRAQI FREEDOM AND OPERATION ENDURING FREEDOM

Mr. LAUTENBERG submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 139

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. EXHIBIT IN ROTUNDA OF THE CAPITOL IN HONOR OF MEMBERS OF ARMED FORCES KILLED IN IRAQ AND AFGHANISTAN.

(a) ESTABLISHMENT OF TEMPORARY EXHIBIT.—During the period beginning on October 1, 2004, and ending on November 30, 2004, the Architect of the Capitol shall display in the rotunda of the Capitol an exhibit to honor the memory of members of the United States Armed Forces who have lost their lives in Operation Iraqi Freedom and Operation Enduring Freedom.

(b) FORM OF EXHIBIT.—The exhibit displayed under this section shall be in such form and contain such material as the Architect may select, so long as—

(1) the exhibit displays the name, photograph, and biographical information with respect to each individual member of the United States Armed Forces who has lost his or her life in the Operations referred to in subsection (a); and

(2) the exhibit provides an opportunity for visitors to write messages of support and sympathy to the families of the individuals represented in the exhibit and to have those messages transmitted to the families.

Mr. LAUTENBERG. Mr. President, I rise today to submit a concurrent resolution that allows for a temporary display in the Capitol Rotunda memorializing the soldiers lost in Iraq and Afghanistan. I can think of no greater tribute to the families of those who died for our country than to honor their memories right here in the Capitol Building.

This temporary memorial would provide pictures and biographical information for each serviceman and servicewoman who has died in Operation Iraqi Freedom and Operation Enduring Freedom. Also, it would include space for people visiting the Capitol to write notes and tributes to be shared with the families so they know that their loved ones will always be in our thoughts and prayers.

To date, the United States has lost 1,409 soldiers in Iraq, and 138 in Afghanistan. There are currently 150,500 active duty and reserve forces in Iraq and Afghanistan combined—135,000 in Iraq and 15,500 in Afghanistan—including 3,709 from New Jersey.

The Capitol Rotunda is the symbolic heart of the United States Capitol and our Nation's democracy, and it is visited by thousands of people each day. The Rotunda has long been considered an ideal setting for important ceremonial events, including state funerals for presidents from Abraham Lincoln to Lyndon Johnson, distinguished Members of Congress, military heroes, and eminent citizens. The Rotunda is filled with portraits and sculptures reminding Americans of past battles and more modern achievements. Eight framed niches hold large historical paintings—four revolutionary period scenes and four scenes of early exploration.

There is precedence for a memorial to fallen heroes in the Capitol Rotunda. Beginning in 1921, the Capitol Rotunda was used to honor the Unknown Soldier who lost his life serving in World War I. Memorials to the Unknown Soldier from World War II, the Korean War, and the Vietnam War followed. In addition, in 1989, an official POW/MIA flag was installed in the U.S. Capitol Rotunda, where it remains today, as a result of legislation passed overwhelmingly during the 100th Congress.

This memorial builds upon congressional action of the past and presents an opportunity for the United States Congress to thank our fallen soldiers and their families. I urge my colleagues to join me in this endeavor.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3794. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3795. Mr. HOLLINGS (for himself, Mr. STEVENS, Mr. INOUYE, and Mr. COCHRAN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3796. Mr. KYL (for himself, Mr. CHAMBLISS, and Mr. DOMENICI) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3797. Mr. GRAHAM, of Florida proposed an amendment to the bill S. 2845, supra.

SA 3798. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3799. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3800. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3801. Mr. KYL (for himself and Mr. CHAMBLISS) proposed an amendment to the bill S. 2845, supra.

SA 3802. Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. FEINGOLD, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3803. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3804. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3805. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3806. Mr. MCCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, supra.

SA 3807. Mr. MCCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, supra.

SA 3808. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3809. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3810. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3811. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3812. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3813. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3814. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3815. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. ROBERTS, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3816. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3817. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1728, to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107-42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. *Cole* on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; which was referred to the Committee on the Judiciary.

SA 3818. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA 3819. Mr. ENSIGN (for himself, Mr. KYL, Mr. CHAMBLISS, Mr. CORNYN, Mr. GRASSLEY, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3820. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3821. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3822. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3823. Ms. COLLINS (for Mr. Voinovich) proposed an amendment to the bill S. 2845, supra.

SA 3824. Mr. BIDEN (for himself, Mr. Specter, and Mr. Kyl) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3825. Mr. LEVIN (for himself and Mr. Alexander) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3826. Mr. STEVENS (for himself, Mr. Warner, and Mr. Inouye) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3827. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3828. Mr. STEVENS (for himself, Mr. Inouye, and Mr. Warner) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3829. Mr. STEVENS (for himself, Mr. Warner, and Mr. Inouye) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3830. Mr. STEVENS (for himself, Mr. Warner, and Mr. Inouye) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3831. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3832. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3833. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3834. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3835. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3836. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3837. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3838. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3839. Mr. STEVENS (for himself, Mr. Warner, and Mr. Inouye) proposed an amendment to the bill S. 2845, supra.

SA 3840. Mr. STEVENS (for himself, Mr. Warner, and Mr. Inouye) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3841. Mr. NELSON, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3842. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3843. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3844. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3845. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3846. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3847. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3848. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3849. Mr. CORZINE (for himself and Mr. Lautenberg) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3850. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3851. Mr. GRASSLEY (for himself, Mr. Chambliss, and Mr. Kyl) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3852. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3853. Mr. GRASSLEY (for himself and Mr. Leahy) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3854. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3855. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3856. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3857. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. Collins (for herself, Mr. Carper, and Mr. Lieberman) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3858. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. Collins (for herself, Mr. Carper, and Mr. Lieberman) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3859. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3860. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3861. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3862. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3863. Mr. McCAIN (for himself, Mr. Breaux, Mr. Lautenberg, Mr. Biden, Mr. Schumer, Ms. Snowe, Mr. Hollings, Mr. Carper, Mrs. Boxer, Mrs. Clinton, Mr. Rockefeller, and Mr. Dorgan) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3864. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3865. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3866. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3867. Mr. LEVIN (for himself and Mr. Coleman) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3868. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3869. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3870. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3871. Mr. SESSIONS (for himself, Mr. Cornyn, Mr. Miller, and Mr. Ensign) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3872. Mr. SESSIONS (for himself and Mr. Ensign) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3873. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3874. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3875. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3876. Mr. WARNER (for himself, Mr. Stevens, and Mr. Inouye) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3877. Mr. WARNER (for himself, Mr. Stevens, and Mr. Inouye) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3878. Mr. WARNER (for himself, Mr. Stevens, and Mr. Inouye) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3879. Mr. WARNER (for himself, Mr. Stevens, and Mr. Inouye) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3880. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3881. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3882. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3883. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3884. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3885. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3886. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3887. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3888. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3889. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3890. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3891. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3892. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3893. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3894. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, supra.

SA 3895. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3896. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3897. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3898. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3899. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3900. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3901. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3902. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3903. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3904. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3905. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3906. Mr. McCAIN (for himself, Mr. LIEBERMAN, and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3907. Mr. REID (for Mr. LAUTENBERG) submitted an amendment intended to be proposed by Mr. REID to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3908. Mr. REED (for himself, Mr. SARBANES, Mr. SCHUMER, Mrs. BOXER, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3909. Ms. SNOWE (for herself, Mr. ROBERTS, Ms. MIKULSKI, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3910. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3911. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3912. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3913. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3914. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3915. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3916. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3917. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3918. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3919. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3920. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3921. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3922. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3923. Mr. DURBIN (for himself, Mr. LEAHY, and Mr. SARBANES) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3924. Mr. ROBERTS (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3925. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3926. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3927. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3928. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3929. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3930. Mr. McCONNELL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3931. Mr. McCONNELL (for himself, Mr. SANTORUM, and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3932. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3933. Ms. CANTWELL (for herself, Mr. SESSIONS, Mr. SCHUMER, and Mr. KYL) submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3934. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3935. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3936. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3937. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3938. Mr. HATCH (for himself and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3939. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3940. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3941. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3942. Mr. LIEBERMAN (for Mr. McCain (for himself, Mr. Lieberman, and Mr. Bayh)) proposed an amendment to the bill S. 2845, supra.

SA 3943. Mr. INHOFE (for Mr. Gregg (for himself, Mr. Harkin, Mr. Kennedy, Mr. Enzi, Mr. Reed, Mr. DeWine, Mrs. Clinton, Mr. Roberts, Mr. Bingaman, Mrs. Murray, Mr. Daschle, and Mr. Dodd)) submitted an amendment intended to be proposed by Mr. Inhofe to the bill H.R. 4278, to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

SA 3944. Mr. INHOFE (for Mr. Leahy (for himself and Mr. Hatch)) proposed an amendment to the bill H.R. 2714, to reauthorize the State Justice Institute.

TEXT OF AMENDMENTS

SA 3794. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, line 14, insert before the period the following: ", whether expressed in terms of geographic region, in terms of function, or in other terms".

On page 95, line 3, insert after the period the following: "Each notice on a center shall set forth the mission of such center, the area of intelligence responsibility of such center, and the proposed structure of such center.".

On page 96, line 7, insert "of the center and the personnel of the center" after "control".

On page 96, between lines 8 and 9, insert the following:

(5) If the Director of a national intelligence center determines at any time that the authority, direction, and control of the Director over the center is insufficient to accomplish the mission of the center, the Director shall promptly notify the National Intelligence Director of that determination.

On page 96, strike line 15 and all that follows through page 97, line 2, and insert the following:

(1) develop and unify a strategy for the collection and analysis of all-source intelligence;

(2) integrate intelligence collection and analysis, both inside and outside the United States;

(3) develop interagency plans for the integration of the collection and analysis of all-source intelligence, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, coordination of agencies operational activities, parameters for such courses of action, recommendations for operational plans, and assignment of departmental or agency responsibilities;

(4) ensure that the collection of all-source intelligence and the conduct of operations are informed by the analysis of all-source intelligence; and

On page 99, between lines 20 and 21, insert the following:

(g) Review and Modification of Centers.—(1) Not less often than once each year, the National Intelligence Director shall review the area of intelligence responsibility assigned to each national intelligence center under this section in order to determine whether or not such area of responsibility continues to meet intelligence priorities established by the National Security Council.

(2) Not less often than once each year, the National Intelligence Director shall review the staffing and management of each national intelligence center under this section in order to determine whether or not such staffing or management remains appropriate for the accomplishment of the mission of such center.

(3) The National Intelligence Director may at any time recommend to the President a modification of the area of intelligence responsibility assigned to a national intelligence center under this section. The National Intelligence Director shall make any such recommendation through, and with the approval of, the National Security Council.

(h) Separate Budget Account.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate account for each national intelligence center under this section.

On page 99, line 21, strike "(g)" and insert "(i)".

SA 3795. Mr. HOLLINGS (for himself, Mr. Stevens, Mr. Inouye, and Mr. Cochran) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. NATIONAL INTELLIGENCE COORDINATOR.

(a) National Intelligence Coordinator.—There is a National Intelligence Coordinator who shall be appointed by the President.

(b) Responsibility.—Subject to the direction and control of the President, the National Intelligence Coordinator shall have the responsibility for coordinating the performance of all intelligence and intelligence-related activities of the United States Government, whether such activities are foreign or domestic.

(c) Availability of Funds.—Funds shall be available to the National Intelligence Coordinator for the performance of the responsibility of the Coordinator under subsection (b) in the manner provided by law or as directed by the President.

(d) Membership on National Security Council.—The National Intelligence Coordinator shall be a member of the National Security Council.

(e) Support.—(1) Any official, office, program, project, or activity of the Central Intelligence Agency as of the date of the enactment of this Act that supports the Director of Central Intelligence in the performance of responsibilities and authorities as the head of the intelligence community shall, after that date, support the National Intelligence Coordination in the performance of the responsibility of the Coordinator under subsection (b).

(2) Any powers and authorities of the Director of Central Intelligence under statute, Executive order, regulation, or otherwise as of the date of the enactment of this Act that relate to the performance by the Director of responsibilities and authorities as the head of the intelligence community shall, after that date, have no further force and effect.

(f) Accountability.—The National Intelligence Coordinator shall report directly to the President regarding the performance of the responsibility of the Coordinator under subsection (b), and shall be accountable to the President regarding the performance of such responsibility.

SA 3796. Mr. KYL (for himself, Mr. Chambliss, and Mr. Domenici) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 52, strike beginning with line 21 through page 56, line 8.

On page 154, strike beginning with line 8 through page 160, line 11 and insert the following:

(d) Functions.—

(1) Advice and counsel on policy development and implementation.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g); and

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines.

(2) Oversight.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall periodically submit, not less than semiannually, reports—

(A)(i) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) to the President; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee; and

(C) request information or assistance from any State, tribal, or local government.

(2) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board may submit a request directly to the head of the department, agency, or element concerned.

On page 164, strike beginning with line 21 through page 170, line 8.

SA 3797. Mr. GRAHAM of Florida proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 94, line 14, insert before the period the following: ", whether expressed in terms of geographic region, in terms of function, or in other terms".

On page 95, line 3, insert after the period the following: "Each notice on a center shall set forth the mission of such center, the area of intelligence responsibility of such center, and the proposed structure of such center.".

On page 96, line 7, insert "of the center and the personnel of the center" after "control".

On page 96, between lines 8 and 9, insert the following:

(5) If the Director of a national intelligence center determines at any time that the authority, direction, and control of the Director over the center is insufficient to accomplish the mission of the center, the Director shall promptly notify the National Intelligence Director of that determination.

On page 97, between lines 2 and 3 insert the following:

(5) develop and unify strategy for the collection and analysis of all-source intelligence;

(6) integrate intelligence collection and analysis, both inside and outside the United States;

(7) at the discretion of the NID develop interagency plans for the collection of all-source intelligence, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agencies intelligence collection activities, recommendations for intelligence collection plans, and assignment of departmental or agency responsibilities;

(4) ensure that the collection of all-source intelligence and the conduct of operations are informed by the analysis of all-source intelligence; and

On page 99, between lines 20 and 21, insert the following:

(g) REVIEW AND MODIFICATION OF CENTERS.—(1) Not less often than once each year, the National Intelligence Director shall review the area of intelligence responsibility assigned to each national intelligence center under this section in order to determine whether or not such area of responsibility continues to meet intelligence priorities established by the National Security Council.

(2) Not less often than once each year, the National Intelligence Director shall review the staffing and management of each national intelligence center under this section in order to determine whether or not such staffing or management remains appropriate for the accomplishment of the mission of such center.

(3) The National Intelligence Director may at any time recommend to the President a modification of the area of intelligence responsibility assigned to a national intelligence center under this section. The National Intelligence Director shall make any such recommendation through, and with the approval of, the National Security Council.

(h) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with the congressional intelligence committees, include in the National Intelligence Program budget a separate line item for each national intelligence center under this section.

On page 99, line 21, strike "(g)" and insert "(i)".

SA 3798. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. URBAN AREA COMMUNICATIONS CAPABILITIES.

Section 510 of the Homeland Security Act of 2002, as added by this Act, is amended by inserting ", and shall have appropriate and timely access to the Information Sharing Network described in section 206(c) of the National Intelligence Reform Act of 2004" after "each other in the event of an emergency".

SA 3799. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 137, line 20, strike "and" and all that follows through "(9)" on line 21, and insert the following:

(9) an estimate of training requirements needed to ensure that the Network will be adequately implemented and property utilized;

(10) an analysis of the cost to State, tribal, and local governments and private sector entities for equipment and training needed to effectively utilize the Network; and

(11)

SA 3800. Mr. COLEMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

Congress makes the following finding: (1) The United States needs to implement the recommendations of the National Commission on Terrorist Attacks Upon the United States to adopt a unified incident command system and significantly enhance communications connectivity between and among civilian authorities, local first responders, and the National Guard. The unified incident command system should enable emergency managers and first responders to manage, generate, receive, evaluate, share, and use information in the event of a terrorist attack or a significant national disaster.

SA 3801. Mr. KYL (for himself and Mr. CHAMBLISS) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 52, strike beginning with line 21 through page 56, line 8.

On page 154, strike beginning with line 8 through page 160, line 11 and insert the following:

(d) FUNCTIONS.—

(1) ADVICE AND COUNSEL ON POLICY DEVELOPMENT AND IMPLEMENTATION.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g); and

(C) advise the President and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines.

(2) OVERSIGHT.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) TESTIMONY.—The Members of the Board shall appear and testify before Congress upon request.

(e) REPORTS.—

(1) IN GENERAL.—The Board shall periodically submit, not less than semiannually, reports—

(A)(i) to the appropriate committees of Congress, including the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(ii) to the President; and

(B) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) CONTENTS.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) ACCESS TO INFORMATION.—

(1) AUTHORIZATION.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee; and

(C) request information or assistance from any State, tribal, or local government.

(2) AGENCY COOPERATION.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board may submit a request directly to the head of the department, agency, or element concerned.

On page 164, strike beginning with line 21 through page 170, line 8.

SA 3802. Mr. LAUTENBERG (for himself, Mrs. CLINTON, Mr. FEINGOLD, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. TERRORIST FINANCING.

(a) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to prohibit a United States person from engaging in transactions with a foreign country, where a determination has been made by the Secretary of State that the government of that country has repeatedly provided support for acts of international terrorism, such action shall apply to any foreign subsidiaries or affiliate, including any permanent foreign establishment of that United States person, that is controlled in fact by that United States person.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED IN FACT.—The term "is controlled in fact" includes—

(A) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(B) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(2) UNITED STATES PERSON.—The term "United States person" includes any United States citizen, permanent resident alien, entity organized under the law of the United States (including foreign branches), wherever located, or any other person in the United States.

(c) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. ___. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) NOTIFICATION REQUIREMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

"Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.".

"The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.".

SA 3803. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following:

TITLE IV—HUMAN SMUGGLING PENALTY ENHANCEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the "Human Smuggling Penalty Enhancement Act of 2004".

SEC. 402. ENHANCED PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking "knowing that a person is an alien, brings" and inserting "knowing or in reckless disregard of the fact that a person is an alien, brings";

(II) by striking "Commissioner" and inserting "Under Secretary for Border and Transportation Security"; and

(III) by inserting "and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law" before the semicolon;

(ii) in clause (iv), by striking "or" at the end;

(iii) in clause (v)—

(I) in subclause (I), by striking ", or" and inserting a semicolon;

(II) in subclause (II), by striking the comma and inserting "; or"; and

(III) by inserting after subclause (II) the following:

"(III) attempts to commit any of the preceding acts; or"; and

(iv) by inserting after clause (v) the following:

"(vi) knowing or in reckless disregard of the fact that a person is an alien, causes or attempts to cause such alien to be transported or moved across an international boundary, knowing that such transportation or moving is part of such alien's effort to enter or attempt to enter the United States without prior official authorization;"; and

(B) in subparagraph (B)—

(i) in clause (i)—

(I) by striking "or (v)(I)" and inserting ", (v)(I), or (vi)"; and

(II) by striking "10 years" and inserting "20 years";

(ii) in clause (ii), by striking "5 years" and inserting "10 years"; and

(iii) in clause (iii), by striking "20 years" and inserting "35 years";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting ", or facilitates or attempts to facilitate the bringing or transporting," after "attempts to bring"; and

(ii) by inserting "and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law," after "with respect to such alien"; and

(B) in subparagraph (B)—

(i) in clause (ii), by striking ", or" and inserting a semicolon;

(ii) in clause (iii), by striking the comma at the end and inserting "; or";

(iii) by inserting after clause (iii), the following:

"(iv) an offense committed with knowledge or reason to believe that the alien unlawfully brought to or into the United States has engaged in or intends to engage in terrorist activity (as defined in section 212(a)(3)(B)(iv)),"; and

(iv) in the matter following clause (iv), as added by this subparagraph, by striking "3 nor more than 10 years" and inserting "5 years nor more than 20 years"; and

(3) in paragraph (3)(A), by striking "5 years" and inserting "10 years".

SEC. 403. AMENDMENT TO SENTENCING GUIDELINES RELATING TO ALIEN SMUGGLING OFFENSES.

(a) DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the Sentencing Guidelines and Policy Statements reflect—

(A) the serious nature of the offenses and penalties referred to in this title;

(B) the growing incidence of alien smuggling offenses; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Sentencing Guidelines and Policy Statements adequately address whether the guideline offense levels and enhancements for violations of the sections amended by this title—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this title;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the Sentencing Guidelines; and

(6) ensure that the Sentencing Guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

SA 3804. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 100, between lines 3 and 4, insert the following:

SEC. 145. OFFICE OF COMPETITIVE ANALYSIS.

(a) OFFICE OF COMPETITIVE ANALYSIS.—There is within the National Intelligence Authority an Office of Competitive Analysis.

(b) DIRECTOR OF OFFICE OF COMPETITIVE ANALYSIS.—(1) There is a Director of the Office of Competitive Analysis, who shall be the head of the Office of Competitive Analysis, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as Director of the Office of Competitive Analysis shall have significant expertise in matters relating to United States foreign and defense policy and in matters relating to terrorism that threatens the national security of the United States.

(3) An individual serving as Director of the Office of Competitive Analysis may not, while so serving, serve in any capacity in any other element of the intelligence community.

(c) MISSION.—The primary mission of the Office of Competitive Analysis shall be as follows:

(1) To conduct detailed competitive evaluations of intelligence analysis (focusing on priorities identified by the National Intelligence Director, in consultation with the President) of—

(A) the National Intelligence Council;

(B) the elements of the intelligence community within the National Intelligence Program; and

(C) to the extent involving the analysis of national intelligence, other elements of the intelligence community.

(2) To conduct such additional competitive analysis as the Director of the Office of Competitive Analysis considers appropriate.

(d) STAFF.—(1) To assist the Director of the Office of Competitive Analysis in fulfilling the duties and responsibilities of the Director under this section, the National Intelligence Director shall employ in the Office of Competitive Analysis a professional staff having an expertise in matters relating to such duties and responsibilities.

(2) In providing for a professional staff for the Office under paragraph (1), the National Intelligence Director may establish as positions in the excepted service such positions in the Office as the National Intelligence Director considers appropriate.

(3) The National Intelligence Director shall ensure that the analytical staff of the Office is comprised primarily of experts from elements in the intelligence community and from the private sector as he deems appropriate.

(e) ACCESS TO INFORMATION.—In order to carry out the duties under this section, the Office of Competitive Analysis shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community.

(f) REPORTS.—Not later than January 31 each year, the Director of the Office of Competitive Analysis shall submit to the National Intelligence Director and the congressional intelligence committees on an annual basis a report that sets forth the results of its competitive evaluations of intelligence analysis under this section during the preceding year.

On page 172, line 2, insert "**AND OFFICE OF COMPETITIVE ANALYSIS**" before the period.

On page 172, line 5, insert "or the Director of the Office of Competitive Analysis" after "National Counterterrorism Center".

On page 172, beginning on line 23, strike "and the Director of a national intelligence center" and insert "the Director of a national intelligence center, and the Director of the Office of Competitive Analysis".

SA 3805. Mrs. CLINTON submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. TREATMENT OF ACCELERATOR-PRODUCED AND OTHER RADIOACTIVE MATERIAL AS BYPRODUCT MATERIAL.

(a) DEFINITION OF BYPRODUCT MATERIAL.—Section 11e. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)) is amended—

(1) by striking "means (1) any radioactive" and inserting "means—

"(1) any radioactive";

(2) by striking "material, and (2) the tailings" and inserting "material;

"(2) the tailings"; and

(3) by striking "content." and inserting "content;

"(3)(A) any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph, for use in a commercial, medical, or research activity; or

"(B) any material that—

"(i) has been made radioactive by use of a particle accelerator; and

"(ii) is produced, extracted, or converted after extraction, before, on, or after the date of enactment of this paragraph, for use in a commercial, medical, or research activity; and

"(4) any discrete source of naturally occurring radioactive material, other than source material that—

"(A) the Nuclear Regulatory Commission determines (after consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate Federal agency), would pose a threat similar to that posed by a discrete source of radium-226 to the public health and safety or the common defense and security; and

"(B) before, on, or after the date of enactment of this paragraph, is extracted or converted after extraction, for use in a commercial, medical, or research activity.".

(b) AGREEMENTS.—Section 274b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following:

"(3) byproduct materials (as defined in section 11e.(3));

"(4) byproduct materials (as defined in section 11e.(4));".

(c) REGULATIONS.—

(1) IN GENERAL.—Not later than the effective date of this section, the Nuclear Regulatory Commission shall promulgate final regulations establishing such requirements and standards as the Commission considers necessary for the acquisition, possession, transfer, use, or disposal of byproduct material (as defined in paragraphs (3) and (4) of section 11e. of the Atomic Energy Act of 1954 (as added by subsection (a))).

(2) COOPERATION.—The Commission shall cooperate with the States in formulating the regulations under paragraph (1).

(3) TRANSITION.—To ensure an orderly transition of regulatory authority with respect

to byproduct material as defined in paragraphs (3) and (4) of section 11e. of the Atomic Energy Act of 1954 (as added by subsection (a)), not later than 180 days before the effective date of this section, the Nuclear Regulatory Commission shall prepare and provide public notice of a transition plan developed in coordination with States that—

(A) have not, before the effective date of this section, entered into an agreement with the Commission under section 274b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)); or

(B) in the case of a State that has entered into such an agreement, has not, before the effective date of this section, applied for an amendment to the agreement that would permit assumption by the State of regulatory responsibility for such byproduct material.

(d) WASTE DISPOSAL.—

(1) DEFINITION OF BYPRODUCT MATERIAL.—In this subsection, the term "byproduct material" has the meaning given the term in paragraphs (3) and (4) of section 11e. of the Atomic Energy Act of 1954 (as added by subsection (a)).

(2) IN GENERAL.—Beginning on the date of enactment of this Act, except as provided in paragraph (3), byproduct material may be transferred to and disposed of—

(A) in a disposal facility licensed by the Commission, if the disposal facility meets the requirements of the Commission; or

(B) in a disposal facility licensed by a State that has entered into an agreement with the Commission under section 274b. of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)), if the disposal facility meets requirements of the State that are equivalent to the requirements of the Commission.

(3) RCRA.—Byproduct material may be disposed of in accordance with the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.) to the same extent as the byproduct material was subject to that Act before the date of enactment of this section.

(4) NOT CONSIDERED LOW-LEVEL RADIOACTIVE WASTE.—Byproduct material shall not be considered low-level radioactive waste—

(A) as defined in section 2 of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b); or

(B) in implementing any Compact—

(i) entered into in accordance with the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021b et seq.); and

(ii) approved by Congress.

(e) EFFECTIVE DATE.—Except with respect to matters that the Nuclear Regulatory Commission determines are required to be addressed earlier to protect the public health and safety or to promote the common defense and security, the amendments made by this section take effect on the date that is—

(1) with respect to imports and exports, 1 year after the date of enactment of this Act; and

(2) with respect to domestic matters, 4 years after the date of enactment of this Act.

SA 3806. Mr. MCCAIN (for himself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end of the bill, add the following:

TITLE —PRESIDENTIAL TRANSITION

SEC. 01. PRESIDENTIAL TRANSITION.

(a) SERVICES PROVIDED PRESIDENT-ELECT.—Section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by adding after subsection (a)(8)(A)(iv) the following:

"(v) Activities under this paragraph shall include the preparation of a detailed classified, compartmented summary by the relevant outgoing executive branch officials of specific operational threats to national security; major military or covert operations; and pending decisions on possible uses of military force. This summary shall be provided to the President-elect as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.";

(2) by redesignating subsection (f) as subsection (g); and

(3) by adding after subsection (e) the following:

"(f)(1) The President-elect should submit to the Federal Bureau of Investigation or other appropriate agency and then, upon taking effect and designation, to the agency designated by the President under section 115(b) of the National Intelligence Reform Act of 2004, the names of candidates for high level national security positions through the level of undersecretary of cabinet departments as soon as possible after the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code.

"(2) The responsible agency or agencies shall undertake and complete as expeditiously as possible the background investigations necessary to provide appropriate security clearances to the individuals who are candidates described under paragraph (1) before the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.".

(b) SENSE OF THE SENATE REGARDING EXPEDITED CONSIDERATION OF NATIONAL SECURITY NOMINEES.—It is the sense of the Senate that—

(1) the President-elect should submit the nominations of candidates for high-level national security positions, through the level of undersecretary of cabinet departments, to the Senate by the date of the inauguration of the President-elect as President; and

(2) for all such national security nominees received by the date of inauguration, the Senate committees to which these nominations are referred should, to the fullest extent possible, complete their consideration of these nominations, and, if such nominations are reported by the committees, the full Senate should vote to confirm or reject these nominations, within 30 days of their submission.

(c) SECURITY CLEARANCES FOR TRANSITION TEAM MEMBERS.—

(1) DEFINITION.—In this section, the term "major party" shall have the meaning given under section 9002(6) of the Internal Revenue Code of 1986.

(2) IN GENERAL.—Each major party candidate for President may submit, before the date of the general election, requests for security clearances for prospective transition team members who will have a need for access to classified information to carry out their responsibilities as members of the President-elect's transition team.

(3) COMPLETION DATE.—Necessary background investigations and eligibility determinations to permit appropriate prospective transition team members to have access to classified information shall be completed, to the fullest extent practicable, by the day after the date of the general election.

(d) EFFECTIVE DATE.—Notwithstanding section 341, this section and the amendments made by this section shall take effect on the date of enactment of this Act.

SA 3807. Mr. MCCAIN (for himself and Mr. LEIBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE —TERRORIST TRAVEL AND EFFECTIVE SCREENING

SEC. 01. COUNTERTERRORIST TRAVEL INTELLIGENCE.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Travel documents are as important to terrorists as weapons since terrorists must travel clandestinely to meet, train, plan, case targets, and gain access to attack sites.

(2) International travel is dangerous for terrorists because they must surface to pass through regulated channels, present themselves to border security officials, or attempt to circumvent inspection points.

(3) Terrorists use evasive, but detectable, methods to travel, such as altered and counterfeit passports and visas, specific travel methods and routes, liaisons with corrupt government officials, human smuggling networks, supportive travel agencies, and immigration and identity fraud.

(4) Before September 11, 2001, no Federal agency systematically analyzed terrorist travel strategies. If an agency had done so, the agency could have discovered the ways in which the terrorist predecessors to al Qaeda had been systematically, but detectably, exploiting weaknesses in our border security since the early 1990s.

(5) Many of the hijackers were potentially vulnerable to interception by border authorities. Analyzing their characteristic travel documents and travel patterns could have allowed authorities to intercept some of the hijackers and a more effective use of information available in Government databases could have identified some of the hijackers.

(6) The routine operations of our immigration laws and the aspects of those laws not specifically aimed at protecting against terrorism inevitably shaped al Qaeda's planning and opportunities.

(7) New insights into terrorist travel gained since September 11, 2001, have not been adequately integrated into the front lines of border security.

(8) The small classified terrorist travel intelligence collection and analysis program currently in place has produced useful results and should be expanded.

(b) STRATEGY.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress unclassified and classified versions of a strategy for combining terrorist travel intelligence, operations, and law enforcement into a cohesive effort to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility domestically and internationally. The report to Congress

should include a description of the actions taken to implement the strategy.

(2) Accountability.—The strategy submitted under paragraph (1) shall—

(A) describe a program for collecting, analyzing, disseminating, and utilizing information and intelligence regarding terrorist travel tactics and methods; and

(B) outline which Federal intelligence, diplomatic, and law enforcement agencies will be held accountable for implementing each element of the strategy.

(3) Coordination.—The strategy shall be developed in coordination with all relevant Federal agencies, including—

(A) the National Counterterrorism Center;

(B) the Department of Transportation;

(C) the Department of State;

(D) the Department of the Treasury;

(E) the Department of Justice;

(F) the Department of Defense;

(G) the Federal Bureau of Investigation;

(H) the Drug Enforcement Agency; and

(I) the agencies that comprise the intelligence community.

(4) Contents.—The strategy shall address—

(A) the intelligence and law enforcement collection, analysis, operations, and reporting required to identify and disrupt terrorist travel practices and trends, and the terrorist travel facilitators, document forgers, human smugglers, travel agencies, and corrupt border and transportation officials who assist terrorists;

(B) the initial and ongoing training and training materials required by consular, border, and immigration officials to effectively detect and disrupt terrorist travel described under subsection (c)(3);

(C) the new procedures required and actions to be taken to integrate existing counterterrorist travel and mobility intelligence into border security processes, including consular, port of entry, border patrol, maritime, immigration benefits, and related law enforcement activities;

(D) the actions required to integrate current terrorist mobility intelligence into military force protection measures;

(E) the additional assistance to be given to the interagency Human Smuggling and Trafficking Center for purposes of combatting terrorist travel, including further developing and expanding enforcement and operational capabilities that address terrorist travel;

(F) the additional resources to be given to the Department of Homeland Security to aid in the sharing of information between the frontline border agencies of the Department of Homeland Security, the Department of State, and classified and unclassified sources of counterterrorist travel intelligence and information elsewhere in the Federal Government, including the Human Smuggling and Trafficking Center;

(G) the development and implementation of procedures to enable the Human Smuggling and Trafficking Center to timely receive terrorist travel intelligence and documentation obtained at consulates and ports of entry, and by law enforcement officers and military personnel;

(H) the use of foreign and technical assistance to advance border security measures and law enforcement operations against terrorist travel facilitators;

(I) the development of a program to provide each consular, port of entry, and immigration benefits office with a counterterrorist travel expert trained and authorized to use the relevant authentication technologies and cleared to access all appropriate immigration, law enforcement, and intelligence databases;

(J) the feasibility of digitally transmitting passport information to a central cadre of specialists until such time as experts described under subparagraph (I) are available at consular, port of entry, and immigration benefits offices; and

(K) granting consular officers and immigration adjudicators, as appropriate, the security clearances necessary to access law enforcement sensitive and intelligence databases.

(c) Frontline Counterterrorist Travel Technology and Training.—

(1) Technology acquisition and dissemination plan.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in conjunction with the Secretary of State, shall submit to Congress a plan describing how the Department of Homeland Security and the Department of State can acquire and deploy, to all consulates, ports of entry, and immigration benefits offices, technologies that facilitate document authentication and the detection of potential terrorist indicators on travel documents.

(2) Contents of plan.—The plan submitted under paragraph (1) shall—

(A) outline the timetable needed to acquire and deploy the authentication technologies;

(B) identify the resources required to—

(i) fully disseminate these technologies; and

(ii) train personnel on use of these technologies; and

(C) address the feasibility of using these technologies to screen every passport or other documentation described in section 04(b) submitted for identification purposes to a United States consular, border, or immigration official.

(3) Training program.—

(A) In general.—The Secretary of Homeland Security and the Secretary of State shall develop and implement initial and ongoing annual training programs for consular, border, and immigration officials who encounter or work with travel or immigration documents as part of their duties to teach such officials how to effectively detect and disrupt terrorist travel.

(B) Terrorist travel intelligence.—The Secretary may assist State, local, and tribal governments, and private industry, in establishing training programs related to terrorist travel intelligence.

(C) Training topics.—The training developed under this paragraph shall include training in—

(i) methods for identifying fraudulent documents;

(ii) detecting terrorist indicators on travel documents;

(iii) recognizing travel patterns, tactics, and behaviors exhibited by terrorists;

(iv) the use of information contained in available databases and data systems and procedures to maintain the accuracy and integrity of such systems; and

(v) other topics determined necessary by the Secretary of Homeland Security and the Secretary of State.

(D) Certification.—Not later than 1 year after the date of enactment of this Act—

(i) the Secretary of Homeland Security shall certify to Congress that all border and immigration officials who encounter or work with travel or immigration documents as part of their duties have received training under this paragraph; and

(ii) the Secretary of State shall certify to Congress that all consular officers who encounter or work with travel or immigration documents as part of their duties have received training under this paragraph.

(4) Authorization of appropriations.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out the provisions of this subsection.

(d) Enhancing Classified Counterterrorist Travel Efforts.—

(1) In general.—The National Intelligence Director shall significantly increase resources and personnel to the small classified program that collects and analyzes intelligence on terrorist travel.

(2) Authorization of appropriations.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this subsection.

SEC. ___02. INTEGRATED SCREENING SYSTEM.

(a) In General.—The Secretary of Homeland Security shall develop a plan for a comprehensive integrated screening system.

(b) Design.—The system planned under subsection (a) shall be designed to—

(1) encompass an integrated network of screening points that includes the Nation's border security system, transportation system, and critical infrastructure or facilities that the Secretary determines need to be protected against terrorist attack;

(2) build upon existing border enforcement and security activities, and to the extent practicable, private sector security initiatives, in a manner that will enable the utilization of a range of security check points in a continuous and consistent manner throughout the Nation's screening system;

(3) allow access to government databases to detect terrorists; and

(4) utilize biometric identifiers that the Secretary determines to be appropriate, feasible, and if practicable, compatible with the biometric entry and exit data system described in section ___03.

(c) Standards for Screening Procedures.—

(1) Authorization.—The Secretary may promulgate standards for screening procedures for—

(A) entering and leaving the United States;

(B) accessing Federal facilities that the Secretary determines need to be protected against terrorist attack;

(C) accessing critical infrastructure that the Secretary determines need to be protected against terrorist attack; and

(D) accessing modes of transportation that the Secretary determines need to be protected against terrorist attack.

(2) Scope.—Standards prescribed under this subsection may address a range of factors, including technologies required to be used in screening and requirements for secure identification.

(3) Requirements.—In promulgating standards for screening procedures, the Secretary shall—

(A) consider and incorporate appropriate civil liberties and privacy protections;

(B) comply with the Administrative Procedure Act; and

(C) consult with other Federal, State, local, and tribal governments, private parties, and other interested parties, as appropriate.

(4) Limitation.—This section does not confer to the Secretary new statutory authority, or alter existing authorities, over systems, critical infrastructure, and facilities.

(5) Notification.—If the Secretary determines that additional regulatory authority is needed to fully implement the plan for an integrated screening system, the Secretary shall immediately notify Congress.

(d) COMPLIANCE.—The Secretary may issue regulations to ensure compliance with the standards promulgated under this section.

(e) CONSULTATION.—For those systems, critical infrastructure, and facilities that the Secretary determines need to be protected against terrorist attack, the Secretary shall consult with other Federal agencies, State, local, and tribal governments, and the private sector to ensure the development of consistent standards and consistent implementation of the integrated screening system.

(f) BIOMETRIC IDENTIFIERS.—In carrying out this section, the Secretary shall continue to review biometric technologies and existing Federal and State programs using biometric identifiers. Such review shall consider the accuracy rate of available technologies.

(g) MAINTAINING ACCURACY AND INTEGRITY OF THE INTEGRATED SCREENING SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the integrated screening system that ensure the accuracy and integrity of the data.

(2) DATA MAINTENANCE PROCEDURES.—Each head of a Federal agency that has databases and data systems linked to the integrated screening system shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, such databases or data systems that ensure the accuracy and integrity of the data.

(3) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under this subsection shall—

(A) incorporate a simple and timely method for—

(i) correcting errors;

(ii) determining which government agency or entity provided data so that the accuracy of the data can be ascertained; and

(iii) clarifying information known to cause false hits or misidentification errors; and

(B) include procedures for individuals to—

(i) seek corrections of data contained in the databases or data systems; and

(ii) appeal decisions concerning data contained in the databases or data systems.

(h) IMPLEMENTATION.—

(1) PHASE I.—The Secretary shall—

(A) develop plans for, and begin implementation of, a single program for registered travelers to expedite travel across the border, as required under section ___03(g);

(B) continue the implementation of a biometric exit and entry data system that links to relevant databases and data systems, as required by subsections (c) through (f) of section ___03 and other existing authorities;

(C) centralize the "no-fly" and "automatic-selectee" lists, making use of improved terrorists watch lists, as required by section ___03;

(D) develop plans, in consultation with other relevant agencies, for the sharing of terrorist information with trusted governments, as required by section ___05;

(E) initiate any other action determined appropriate by the Secretary to facilitate the implementation of this paragraph; and

(F) report to Congress on the implementation of phase I, including—

(i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and

(ii) plans for the development and implementation of phases II and III.

(2) PHASE II.—The Secretary shall—

(A) complete the implementation of a single program for registered travelers to expedite travel across the border, as required by section ___03(g);

(B) complete the implementation of a biometric entry and exit data system that links to relevant databases and data systems, as required by subsections (c) through (f) of section ___03, and other existing authorities;

(C) in cooperation with other relevant agencies, engage in dialogue with foreign governments to develop plans for the use of common screening standards;

(D) initiate any other action determined appropriate by the Secretary to facilitate the implementation of this paragraph; and

(E) report to Congress on the implementation of phase II, including—

(i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and

(ii) the plans for the development and implementation of phase III.

(3) PHASE III.—The Secretary shall—

(A) finalize and deploy the integrated screening system required by subsection (a);

(B) in cooperation with other relevant agencies, promote the implementation of common screening standards by foreign governments; and

(C) report to Congress on the implementation of Phase III, including—

(i) the effectiveness of actions taken, the efficacy of resources expended, compliance with statutory provisions, and safeguards for privacy and civil liberties; and

(ii) the plans for the ongoing operation of the integrated screening system.

(i) REPORT.—After phase III has been implemented, the Secretary shall submit a report to Congress every 3 years that describes the ongoing operation of the integrated screening system, including its effectiveness, efficient use of resources, compliance with statutory provisions, and safeguards for privacy and civil liberties.

(j) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

SEC. ___03. BIOMETRIC ENTRY AND EXIT DATA SYSTEM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that completing a biometric entry and exit data system as expeditiously as possible is an essential investment in efforts to protect the United States by preventing the entry of terrorists.

(b) DEFINITION.—In this section, the term "entry and exit data system" means the entry and exit system required by applicable sections of—

(1) the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (Public Law 104-208);

(2) the Immigration and Naturalization Service Data Management Improvement Act of 2000 (Public Law 106-205);

(3) the Visa Waiver Permanent Program Act (Public Law 106-396);

(4) the Enhanced Border Security and Visa Entry Reform Act of 2002 (Public Law 107-173); and

(5) the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT ACT) Act of 2001 (Public Law 107-56).

(c) PLAN AND REPORT.—

(1) DEVELOPMENT OF PLAN.—The Secretary of Homeland Security shall develop a plan to accelerate the full implementation of an automated biometric entry and exit data system.

(2) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit a report to Congress on the plan developed under paragraph (1), which shall contain—

(A) a description of the current functionality of the entry and exit data system, including—

(i) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric entry data systems in use and whether such screening systems are located at primary or secondary inspection areas;

(ii) a listing of ports of entry and other Department of Homeland Security and Department of State locations with biometric exit data systems in use;

(iii) a listing of databases and data systems with which the entry and exit data system are interoperable;

(iv) a description of—

(I) identified deficiencies concerning the accuracy or integrity of the information contained in the entry and exit data system;

(II) identified deficiencies concerning technology associated with processing individuals through the system; and

(III) programs or policies planned or implemented to correct problems identified in subclause (I) or (II); and

(v) an assessment of the effectiveness of the entry and exit data system in fulfilling its intended purposes, including preventing terrorists from entering the United States;

(B) a description of factors relevant to the accelerated implementation of the biometric entry and exit data system, including—

(i) the earliest date on which the Secretary estimates that full implementation of the biometric entry and exit data system can be completed;

(ii) the actions the Secretary will take to accelerate the full implementation of the biometric entry and exit data system at all ports of entry through which all aliens must pass that are legally required to do so; and

(iii) the resources and authorities required to enable the Secretary to meet the implementation date described in clause (i);

(C) a description of any improvements needed in the information technology employed for the biometric entry and exit data system;

(D) a description of plans for improved or added interoperability with any other databases or data systems; and

(E) a description of the manner in which the Department of Homeland Security's US-VISIT program—

(i) meets the goals of a comprehensive entry and exit screening system, including both entry and exit biometric; and

(ii) fulfills the statutory obligations under subsection (b).

(d) COLLECTION OF BIOMETRIC EXIT DATA.—The entry and exit data system shall include a requirement for the collection of biometric exit data for all categories of individuals who are required to provide biometric entry data, regardless of the port of entry where such categories of individuals entered the United States.

(e) INTEGRATION AND INTEROPERABILITY.—

(1) INTEGRATION OF DATA SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully integrate all databases and data systems that process or contain information on aliens, which are maintained by—

(A) the Department of Homeland Security, at—

(i) the United States Immigration and Customs Enforcement;

(ii) the United States Customs and Border Protection; and

(iii) the United States Citizenship and Immigration Services;

(B) the Department of Justice, at the Executive Office for Immigration Review; and

(C) the Department of State, at the Bureau of Consular Affairs.

(2) INTEROPERABLE COMPONENT.—The fully integrated data system under paragraph (1) shall be an interoperable component of the entry and exit data system.

(3) INTEROPERABLE DATA SYSTEM.—Not later than 2 years after the date of enactment of this Act, the Secretary shall fully implement an interoperable electronic data system, as required by section 202 of the Enhanced Border Security and Visa Entry Reform Act (8 U.S.C. 1722) to provide current and immediate access to information in the databases of Federal law enforcement agencies and the intelligence community that is relevant to determine—

(A) whether to issue a visa; or

(B) the admissibility or deportability of an alien.

(f) MAINTAINING ACCURACY AND INTEGRITY OF ENTRY AND EXIT DATA SYSTEM.—

(1) IN GENERAL.—The Secretary shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, the entry and exit data system that ensure the accuracy and integrity of the data.

(2) DATA MAINTENANCE PROCEDURES.—Heads of agencies that have databases or data systems linked to the entry and exit data system shall establish rules, guidelines, policies, and operating and auditing procedures for collecting, removing, and updating data maintained in, and adding information to, such databases or data systems that ensure the accuracy and integrity of the data.

(3) REQUIREMENTS.—The rules, guidelines, policies, and procedures established under this subsection shall—

(A) incorporate a simple and timely method for—

(i) correcting errors;

(ii) determining which government agency or entity provided data so that the accuracy of the data can be ascertained; and

(iii) clarifying information known to cause false hits or misidentification errors; and

(B) include procedures for individuals to—

(i) seek corrections of data contained in the databases or data systems; and

(ii) appeal decisions concerning data contained in the databases or data systems.

(g) EXPEDITING REGISTERED TRAVELERS ACROSS INTERNATIONAL BORDERS.—

(1) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(A) expediting the travel of previously screened and known travelers across the borders of the United States should be a high priority; and

(B) the process of expediting known travelers across the borders of the United States can permit inspectors to better focus on identifying terrorists attempting to enter the United States.

(2) DEFINITION.—In this subsection, the term "registered traveler program" means any program designed to expedite the travel of previously screened and known travelers across the borders of the United States.

(3) REGISTERED TRAVEL PROGRAM.—

(A) IN GENERAL.—As soon as is practicable, the Secretary shall develop and implement a registered traveler program to expedite the processing of registered travelers who enter and exit the United States.

(B) PARTICIPATION.—The registered traveler program shall include as many participants as practicable by—

(i) minimizing the cost of enrollment;

(ii) making program enrollment convenient and easily accessible; and

(iii) providing applicants with clear and consistent eligibility guidelines.

(C) INTEGRATION.—The registered traveler program shall be integrated into the automated biometric entry and exit data system described in this section.

(D) REVIEW AND EVALUATION.—In developing the registered traveler program, the Secretary shall—

(i) review existing programs or pilot projects designed to expedite the travel of registered travelers across the borders of the United States;

(ii) evaluate the effectiveness of the programs described in clause (i), the costs associated with such programs, and the costs to travelers to join such programs;

(iii) increase research and development efforts to accelerate the development and implementation of a single registered traveler program; and

(iv) review the feasibility of allowing participants to enroll in the registered traveler program at consular offices.

(4) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to Congress a report describing the Department's progress on the development and implementation of the registered traveler program.

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary, for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out the provisions of this section.

SEC. 04. TRAVEL DOCUMENTS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(1) existing procedures allow many individuals to enter the United States by showing minimal identification or without showing any identification;

(2) the planning for the terrorist attacks of September 11, 2001, demonstrates that terrorists study and exploit United States vulnerabilities; and

(3) additional safeguards are needed to ensure that terrorists cannot enter the United States.

(b) BIOMETRIC PASSPORTS.—

(1) DEVELOPMENT OF PLAN.—The Secretary of State, in consultation with the Secretary of Homeland Security, shall develop and implement a plan as expeditiously as possible to require biometric passports or other identification deemed by the Secretary of State to be at least as secure as a biometric passport, for all travel into the United States by United States citizens and by categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(d)(4)(B)).

(2) REQUIREMENT TO PRODUCE DOCUMENTATION.—The plan developed under paragraph (1) shall require all United States citizens, and categories of individuals for whom documentation requirements have previously been waived under section 212(d)(4)(B) of such Act, to carry and produce the documentation described in paragraph (1) when traveling from foreign countries into the United States.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—After the complete implementation of the plan described in subsection (b)—

(1) neither the Secretary of State nor the Secretary of Homeland Security may exercise discretion under section 212(d)(4)(B) of such Act to waive documentary requirements for travel into the United States; and

(2) the President may not exercise discretion under section 215(b) of such Act (8 U.S.C. 1185(b)) to waive documentary requirements for United States citizens departing from or entering, or attempting to depart from or enter, the United States except—

(A) where the Secretary of State, in consultation with the Secretary of Homeland Security, determines that the alternative documentation that is the basis for the waiver of the documentary requirement is at least as secure as a biometric passport;

(B) in the case of an unforeseen emergency in individual cases; or

(C) in the case of humanitarian or national interest reasons in individual cases.

(d) TRANSIT WITHOUT VISA PROGRAM.—The Secretary of State shall not use any authorities granted under section 212(d)(4)(C) of such Act until the Secretary, in conjunction with the Secretary of Homeland Security, completely implements a security plan to fully ensure secure transit passage areas to prevent aliens proceeding in immediate and continuous transit through the United States from illegally entering the United States.

SEC. 06. EXCHANGE OF TERRORIST INFORMATION AND INCREASED PREINSPECTION AT FOREIGN AIRPORTS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that—

(1) the exchange of terrorist information with other countries, consistent with privacy requirements, along with listings of lost and stolen passports, will have immediate security benefits; and

(2) the further away from the borders of the United States that screening occurs, the more security benefits the United States will gain.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Government should exchange terrorist information with trusted allies;

(2) the United States Government should move toward real-time verification of passports with issuing authorities;

(3) where practicable the United States Government should conduct screening before a passenger departs on a flight destined for the United States;

(4) the United States Government should work with other countries to ensure effective inspection regimes at all airports;

(5) the United States Government should work with other countries to improve passport standards and provide foreign assistance to countries that need help making the transition to the global standard for identification; and

(6) the Department of Homeland Security, in coordination with the Department of State and other agencies, should implement the initiatives called for in this subsection.

(c) REPORT REGARDING THE EXCHANGE OF TERRORIST INFORMATION.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary of State and the Secretary of Homeland Security, working with other agencies, shall submit to the appropriate

committees of Congress a report on Federal efforts to collaborate with allies of the United States in the exchange of terrorist information.

(2) Contents.—The report shall outline—

(A) strategies for increasing such collaboration and cooperation;

(B) progress made in screening passengers before their departure to the United States; and

(C) efforts to work with other countries to accomplish the goals described under this section.

(d) Preinspection at Foreign Airports.—

(1) In general.—Section 235A(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1225a(a)(4)) is amended to read as follows:

"(4) Subject to paragraph (5), not later than January 1, 2008, the Secretary of Homeland Security, in consultation with the Secretary of State, shall establish preinspection stations in at least 25 additional foreign airports, which the Secretary of Homeland Security, in consultation with the Secretary of State, determines, based on the data compiled under paragraph (3) and such other information as may be available, would most effectively facilitate the travel of admissible aliens and reduce the number of inadmissible aliens, especially aliens who are potential terrorists, who arrive from abroad by air at points of entry within the United States. Such preinspection stations shall be in addition to those established prior to September 30, 1996, or pursuant to paragraph (1).".

(2) Report.—Not later than June 30, 2006, the Secretary of Homeland Security and the Secretary of State shall submit a report on the progress being made in implementing the amendment made by paragraph (1) to—

(A) the Committee on the Judiciary of the Senate;

(B) the Committee on the Judiciary of the House of Representatives;

(C) the Committee on Foreign Relations of the Senate; and

(D) the Committee on International Relations of the House of Representatives.

SEC. 06. MINIMUM STANDARDS FOR BIRTH CERTIFICATES.

(a) Definition.—In this section, the term 'birth certificate' means a certificate of birth—

(1) for an individual (regardless of where born)—

(A) who is a citizen or national of the United States at birth; and

(B) whose birth is registered in the United States; and

(2) that—

(A) is issued by a Federal, State, or local government agency or authorized custodian of record and produced from birth records maintained by such agency or custodian of record; or

(B) is an authenticated copy, issued by a Federal, State, or local government agency or authorized custodian of record, of an original certificate of birth issued by such agency or custodian of record.

(b) Standards for Acceptance by Federal Agencies.—

(1) In general.—Beginning 2 years after the promulgation of minimum standards under paragraph (3), no Federal agency may accept a birth certificate for any official purpose unless the certificate conforms to such standards.

(2) State certification.—

(A) In general.—Each State shall certify to the Secretary of Health and Human Services that the State is in compliance with the requirements of this section.

(B) Frequency.—Certifications under subparagraph (A) shall be made at such intervals and in such a manner as the Secretary of Health and Human Services, with the concurrence of the Secretary of Homeland Security and the Commissioner of Social Security, may prescribe by regulation.

(C) Compliance.—Each State shall ensure that units of local government and other authorized custodians of records in the State comply with this section.

(D) Audits.—The Secretary of Health and Human Services may conduct periodic audits of each State's compliance with the requirements of this section.

(3) Minimum standards.—Not later than 1 year after the date of enactment of this Act, the Secretary of Health and Human Services shall by regulation establish minimum standards for birth certificates for use by Federal agencies for official purposes that—

(A) at a minimum, shall require certification of the birth certificate by the State or local government custodian of record that issued the certificate, and shall require the use of safety paper or an alternative, equally secure medium, the seal of the issuing custodian of record, and other features designed to prevent tampering, counterfeiting, or otherwise duplicating the birth certificate for fraudulent purposes;

(B) shall establish requirements for proof and verification of identity as a condition of issuance of a birth certificate, with additional security measures for the issuance of a birth certificate for a person who is not the applicant;

(C) shall establish standards for the processing of birth certificate applications to prevent fraud;

(D) may not require a single design to which birth certificates issued by all States must conform; and

(E) shall accommodate the differences between the States in the manner and form in which birth records are stored and birth certificates are produced from such records.

(4) Consultation with government agencies.—In promulgating the standards required under paragraph (3), the Secretary of Health and Human Services shall consult with—

(A) the Secretary of Homeland Security;

(B) the Commissioner of Social Security;

(C) State vital statistics offices; and

(D) other appropriate Federal agencies.

(5) Extension of effective date.—The Secretary of Health and Human Services may extend the date specified under paragraph (1) for up to 2 years for birth certificates issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under paragraph (1) but was unable to do so.

(c) Grants to States.—

(1) Assistance in meeting federal standards.—

(A) In general.—Beginning on the date a final regulation is promulgated under subsection (b)(3), the Secretary of Health and Human Services shall award grants to States to assist them in conforming to the minimum standards for birth certificates set forth in the regulation.

(B) Allocation of grants.—The Secretary shall award grants to States under this paragraph based on the proportion that the estimated average annual number of birth certificates issued by a State applying for a grant bears to the estimated average annual number of birth certificates issued by all States.

(C) Minimum allocation.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(2) Assistance in matching birth and death records.—

(A) In general.—The Secretary of Health and Human Services, in coordination with the Commissioner of Social Security and other appropriate Federal agencies, shall award grants to States, under criteria established by the Secretary, to assist States in—

(i) computerizing their birth and death records;

(ii) developing the capability to match birth and death records within each State and among the States; and

(iii) noting the fact of death on the birth certificates of deceased persons.

(B) Allocation of grants.—The Secretary shall award grants to qualifying States under this paragraph based on the proportion that the estimated annual average number of birth and death records created by a State applying for a grant bears to the estimated annual average number of birth and death records originated by all States.

(C) Minimum allocation.—Notwithstanding subparagraph (B), each State shall receive not less than 0.5 percent of the grant funds made available under this paragraph.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out this section.

(e) Technical and Conforming Amendments.—Section 656 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (5 U.S.C. 301 note) is repealed.

SEC. 07. DRIVER'S LICENSES AND PERSONAL IDENTIFICATION CARDS.

(a) Definitions.—In this section:

(1) Driver's license.—The term 'driver's license' means a motor vehicle operator's license as defined in section 30301(5) of title 49, United States Code.

(2) Personal identification card.—The term 'personal identification card' means an identification document (as defined in section 1028(d)(3) of title 18, United States Code) issued by a State.

(b) Standards for Acceptance by Federal Agencies.—

(1) In general.—

(A) Limitation on acceptance.—No Federal agency may accept, for any official purpose, a driver's license or personal identification card newly issued by a State more than 2 years after the promulgation of the minimum standards under paragraph (2) unless the driver's license or personal identification card conforms to such minimum standards.

(B) Date for conformance.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall establish a date after which no driver's license or personal identification card shall be accepted by a Federal agency for any official purpose unless such driver's license or personal identification card conforms to the minimum standards established under paragraph (2). The date shall be as early as the Secretary determines it is practicable for the States to comply with such date with reasonable efforts.

(C) State certification.—

(i) In general.—Each State shall certify to the Secretary of Transportation that the State is in compliance with the requirements of this section.

(ii) Frequency.—Certifications under clause (i) shall be made at such intervals and in such a manner as the Secretary of Transportation, with the concurrence of the Secretary of Homeland Security, may prescribe by regulation.

(iii) Audits.—The Secretary of Transportation may conduct periodic audits of each

State's compliance with the requirements of this section.

(2) MINIMUM STANDARDS.—Not later than 18 months after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Secretary of Homeland Security, shall by regulation, establish minimum standards for driver's licenses or personal identification cards issued by a State for use by Federal agencies for identification purposes that shall include—

(A) standards for documentation required as proof of identity of an applicant for a driver's license or personal identification card;

(B) standards for the verifiability of documents used to obtain a driver's license or personal identification card;

(C) standards for the processing of applications for driver's licenses and personal identification cards to prevent fraud;

(D) security standards to ensure that driver's licenses and personal identification cards are—

(i) resistant to tampering, alteration, or counterfeiting; and

(ii) capable of accommodating and ensuring the security of a digital photograph or other unique identifier; and

(E) a requirement that a State confiscate a driver's license or personal identification card if any component or security feature of the license or identification card is compromised.

(3) CONTENT OF REGULATIONS.—The regulations required by paragraph (2)—

(A) shall facilitate communication between the chief driver licensing official of a State, an appropriate official of a Federal agency and other relevant officials, to verify the authenticity of documents, as appropriate, issued by such Federal agency or entity and presented to prove the identity of an individual;

(B) may not infringe on a State's power to set criteria concerning what categories of individuals are eligible to obtain a driver's license or personal identification card from that State;

(C) may not require a State to comply with any such regulation that conflicts with or otherwise interferes with the full enforcement of State criteria concerning the categories of individuals that are eligible to obtain a driver's license or personal identification card from that State;

(D) may not require a single design to which driver's licenses or personal identification cards issued by all States must conform; and

(E) shall include procedures and requirements to protect the privacy and civil and due process rights of individuals who apply for and hold driver's licenses and personal identification cards.

(4) NEGOTIATED RULEMAKING.—

(A) IN GENERAL.—Before publishing the proposed regulations required by paragraph (2) to carry out this title, the Secretary of Transportation shall establish a negotiated rulemaking process pursuant to subchapter IV of chapter 5 of title 5, United States Code (5 U.S.C. 581 et seq.).

(B) REPRESENTATION ON NEGOTIATED RULEMAKING COMMITTEE.—Any negotiated rulemaking committee established by the Secretary of Transportation pursuant to subparagraph (A) shall include representatives from—

(i) among State offices that issue driver's licenses or personal identification cards;

(ii) among State elected officials;

(iii) the Department of Homeland Security; and

(iv) among interested parties, including organizations with technological and operational expertise in document security and organizations that represent the interests of applicants for such licenses or identification cards.

(C) TIME REQUIREMENT.—The process described in subparagraph (A) shall be conducted in a timely manner to ensure that—

(i) any recommendation for a proposed rule or report is provided to the Secretary of Transportation not later than 9 months after the date of enactment of this Act and may include an assessment of the benefits and costs of the recommendations; and

(ii) a final rule is promulgated not later than 18 months after the date of enactment of this Act.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary of Transportation shall award grants to States to assist them in conforming to the minimum standards for driver's licenses and personal identification cards set forth in the regulation.

(2) ALLOCATION OF GRANTS.—The Secretary of Transportation shall award grants to States under this subsection based on the proportion that the estimated average annual number of driver's licenses and personal identification cards issued by a State applying for a grant bears to the average annual number of such documents issued by all States.

(3) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), each State shall receive not less than 0.5 percent of the grant funds made available under this subsection.

(d) EXTENSION OF EFFECTIVE DATE.—The Secretary of Transportation may extend the date specified under subsection (b)(1)(A) for up to 2 years for driver's licenses issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under such subsection but was unable to do so.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. 08. SOCIAL SECURITY CARDS.

(a) SECURITY ENHANCEMENTS.—The Commissioner of Social Security shall—

(1) not later than 180 days after the date of enactment of this section, issue regulations to restrict the issuance of multiple replacement social security cards to any individual to minimize fraud;

(2) within 1 year after the date of enactment of this section, require independent verification of all records provided by an applicant for an original social security card, other than for purposes of enumeration at birth; and

(3) within 18 months after the date of enactment of this section, add death, fraud, and work authorization indicators to the social security number verification system.

(b) INTERAGENCY SECURITY TASK FORCE.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Not later than 1 year after the date of enactment of this section, the task force shall establish security requirements, including—

(1) standards for safeguarding social security cards from counterfeiting, tampering, alteration, and theft;

(2) requirements for verifying documents submitted for the issuance of replacement cards; and

(3) actions to increase enforcement against the fraudulent use or issuance of social security numbers and cards.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commissioner of Social Security for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. ___9. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this title shall take effect on the date of enactment of this Act.

SA 3808. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 14, line 2, strike "community," and insert "community following receipt of intelligence needs and requirements from the consumers of national intelligence,".

On page 14, line 8, insert before the semicolon the following: ", while ensuring that the elements of the intelligence community are able to conduct independent analyses so as to achieve, to the maximum extent practicable, competitive analyses".

SA 3809. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 17, strike "or" at the end.

On page 28, line 19, strike the period and insert "; and".

On page 28, between lines 19 and 20, insert the following:

(D) the personnel involved are not military personnel and the funds were not appropriated to military personnel appropriations, except that the Director may make a transfer of such personnel or funds if the Secretary of Defense does not object to such transfer.

On page 91, between lines 12 and 13, insert the following:

(C) Nothing in this subsection shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

On page 98, between lines 21 and 22, insert the following:

(C) Nothing in this subsection shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

On page 98, between lines 21 and 22, insert the following:

(C) Nothing in this subsection shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

SA 3810. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, beginning on line 20, strike "that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act".

SA 3811. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . **SENSE OF THE SENATE ON IMPORTANCE OF ATTENDANCE OF SELECT COMMITTEE ON INTELLIGENCE MEETINGS.**

(a) Findings.—It is the sense of the Senate that—

(1) the 9/11 Commission concluded that informed and knowledgeable congressional oversight of the intelligence community is crucial to ensure the effective functioning of the Nation's intelligence services;

(2) to ensure that Representatives and Senators who serve on a congressional Committee on Intelligence develop relevant expertise about the functioning of the intelligence community, the 9/11 Commission recommended, for example, that Congress abolish term limits for Members who serve on these committees;

(3) it is difficult for Senators who serve on the Select Committee on Intelligence to become informed and knowledgeable about the intelligence field, and thereby develop the requisite expertise in that area, if they do not regularly attend hearings held by the Select Committee on Intelligence; and

(4) because Senators who are Members of the Select Committee on Intelligence yet do not regularly attend hearings held by the Select Committee on Intelligence are not informed and knowledgeable about the intelligence field, and do not develop the requisite expertise in that area, those Senators fail to discharge their responsibility to oversee the intelligence community.

(b) Sense of the Senate.—It is the sense of the Senate that those Senators who serve on the Select Committee on Intelligence and who, for a given Congress, miss more than 75 percent of the hearings held by the Select Committee on Intelligence, should be ineligible to continue to serve on that committee.

SA 3812. Mr. MCCONNELL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. **SENSE OF THE SENATE THAT THE UNITED STATES IS SAFER.**

(a) Findings.—It is the sense of the Senate that—

(1) as recognized by the 9/11 Commission in its report, since September 11th, 2001, the United States of America and its allies have killed or captured a majority of al Qaeda's leadership; toppled the Taliban, which gave al Qaeda sanctuary in Afghanistan; and severely damaged the organization; and

(2) since September 11, 2001 Congress has—

(A) passed, and the President has signed into law, the PATRIOT Act;

(B) created the Department of Homeland security;

(C) created the Terrorist Threat Integration Center;

(D) created the Transportation Safety Administration;

(E) reorganized the Federal Bureau of Investigation; and

(F) signed the Smart Border Declaration, just to name 6 offensive measures, all with the goal of making America safer and protecting our citizens in this global war on terrorism.

(b) Sense of the Senate.—It is the sense of the Senate that the 9/11 Commission Report was correct in its assessment that the United States of America is safer today than it was before the terrorist attacks of September 11, 2001.

SA 3813. Mr. REED submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. **LIQUEFIED NATURAL GAS MARINE TERMINALS.**

Congress finds that plans developed by the Department of Homeland Security to protect critical energy infrastructure should include risk assessments and protective measures for existing and proposed liquefied natural gas marine terminals.

SA 3814. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page ___, between lines ___ and ___, insert the following:

(2) regions of specific concern where United States foreign assistance should be targeted to assist governments in efforts to prevent the use of such regions as terrorist sanctuaries are South Asia, Southeast Asia, West Africa, the Horn of Africa, North and North Central Africa, the Arabian peninsula, Central and Eastern Europe, and South America;

SA 3815. Mr. ROCKEFELLER (for himself, Mrs. HUTCHISON, Mr. ROBERTS, and Ms. MIKULSKI) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 17, between lines 19 and 20, insert the following:

(11) direct an element or elements of the intelligence community to conduct competitive analysis of analytic products, particularly products having national importance;

(12) implement policies and procedures to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community and to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

On page 17, line 20, strike "(11)" and insert "(13)".

On page 17, line 22, strike "(12)" and insert "(14)".

On page 18, line 1, strike "(13)" and insert "(15)".

On page 18, line 4, strike "(14)" and insert "(16)".

On page 18, line 7, strike "(15)" and insert "(17)".

On page 18, line 14, strike "(16)" and insert "(18)".

On page 18, line 17, strike "(17)" and insert "(19)".

On page 18, line 20, strike "(18)" and insert "(20)".

On page 19, line 5, strike "(19)" and insert "(21)".

On page 19, line 7, strike "(20)" and insert "(22)".

On page 31, line 1, strike "112(a)(16)" and insert "112(a)(18)".

On page 49, line 13, insert ", and each other National Intelligence Council product" after "paragraph (1)".

On page 49, line 15, insert "or product" after "estimate".

On page 49, line 17, insert "or product" after "estimate".

On page 49, line 19, insert "or product" after "estimate".

On page 49, line 22, strike "such estimate and such estimate" and insert "such estimate or product and such estimate or product, as the case may be".

On page 49, line 24, insert "or product" after "estimate".

On page 51, between lines 5 and 6, insert the following:

(i) National Intelligence Council Product.—For purposes of this section, the term "National Intelligence Council product" includes a National Intelligence Estimate and any other intelligence community assessment that sets forth the judgment of the intelligence community as a whole on a matter covered by such product.

On page 56, line 20, strike "(15) and (16)" and insert "(17) and (18)".

On page 87, line 16, strike "and" at the end.

On page 87, between lines 16 and 17, insert the following:

(D) conduct, or recommend to the National Intelligence Director to direct an element or elements of the intelligence community to conduct, competitive analyses of intelligence products relating to suspected terrorists, their organizations, and their capabilities, plans, and intentions, particularly products having national importance;

(E) implement policies and procedures to encourage coordination by all elements of the intelligence community that conduct analysis of intelligence regarding terrorism of all Directorate products of national importance and, as appropriate, other products, before their final dissemination; and

On page 87, line 17, strike "(D)" and insert "(F)".

On page 96, line 16, strike "foreign".

On page 100, between lines 3 and 4, insert the following:

SEC. 145. OFFICE OF ALTERNATIVE ANALYSIS.

(a) Office of Alternative Analysis.—There is within the National Intelligence Authority an Office of Alternative Analysis.

(b) Head of Office.—The National Intelligence Director shall appoint the head of the Office of Alternative Analysis.

(c) Independence of Office.—The National Intelligence Director shall take appropriate actions to ensure the independence of the Office of Alternative Analysis in its activities under this section.

(d) Function of Office.—(1) The Office of Alternative Analysis shall subject each National Intelligence Estimate (NIE), before the completion of such estimate, to a thorough examination of all facts, assumptions, analytic methods, and judgments utilized in or underlying any analysis, estimation, plan, evaluation, or recommendation contained in such estimate.

(2)(A) The Office may also subject any other intelligence estimate, brief, survey, assessment, or report designated by the National Intelligence Director to a thorough examination as described in paragraph (1).

(B) Not later than 180 days after the date of the enactment of this Act, the Director shall submit to the congressional intelligence committees a report on the estimates, briefs, surveys, assessments or reports, if any, designated by the Director under subparagraph (A).

(3)(A) The purpose of an evaluation of an estimate or document under this subsection shall be to provide an independent analysis of any underlying facts, assumptions, and recommendations contained in such estimate or document and to present alternative conclusions, if any, arising from such facts or assumptions or with respect to such recommendations.

(B) In order to meet the purpose set forth in subparagraph (A), the Office shall, unless otherwise directed by the President, have access to all analytic products, field reports, and raw intelligence of any element of the intelligence community and such other reports and information as the Director considers appropriate.

(4) The evaluation of an estimate or document under this subsection shall be known as a "OAA analysis" of such estimate or document.

(5) Each estimate or document covered by an evaluation under this subsection shall include an appendix that contains the findings and conclusions of the Office with respect to the estimate or document, as the case may be, based upon the evaluation of the estimate or document, as the case may be, by the Office under this subsection.

(6) The results of each evaluation of an estimate or document under this subsection shall be submitted to the congressional intelligence committees.

On page 194, line 9, strike "112(a)(11)" and insert "112(a)(14)".

On page 195, line 16, strike "112(a)(11)" and insert "112(a)(14)".

On page 195, line 23, strike "112(a)(11)" and insert "112(a)(14)".

On page 196, line 7, strike "112(a)(11)" and insert "112(a)(14)".

SA 3816. Mr. BINGAMAN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 155, on line 24, strike "information" and insert "information use, collection, storage, disclosure, or".

On page 158, between lines 9 and 10, insert the following:

(C) any legislation, regulation, or policy reviewed by the Board under subsection (d)(1) if—

(i) the Board advised against the implementation of such legislation, regulation, or policy; and

(ii) the legislation, regulation, or policy was implemented; and

(D) a description of—

(i) any instance in which the Board was unable to access information under the authority in subsection (g); and

(ii) the general level of cooperation between the Board and the heads of departments, agencies, or elements of the executive branch in carrying out such authority.

SA 3817. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 1728, to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. *Cole* on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001; which was referred to the Committee on the Judiciary; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Terrorism Victim Compensation Equity Act".

SEC. 2. REFERENCES.

Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered a reference to the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note).

SEC. 3. COMPENSATION FOR VICTIMS OF TERRORIST ACTS.

(a) Definitions.—Section 402(4) is amended by inserting " or related to the attack on the U.S.S. Cole on October 12, 2000" before the period.

(b) Purpose.—Section 403 is amended by inserting " or killed as a result of the attack on the U.S.S. Cole on October 12, 2000" before the period.

(c) Determination of Eligibility for Compensation.—

(1) Claim form contents.—Section 405(a)(2)(B) is amended—

(A) in clause (i), by inserting "or the attack on the U.S.S. Cole on October 12, 2000" before the semicolon;

(B) in clause (ii), by inserting "or attack" before the semicolon; and

(C) in clause (iii), by inserting "or attack" before the period.

(2) Limitation.—Section 405(a)(3) is amended by striking "2 years" and inserting "4 years".

(3) Collateral compensation.—Section 405(b)(6) is amended by inserting "or the attack on the U.S.S. Cole on October 12, 2000" before the period.

(4) Eligibility.—

(A) Individuals.—Section 405(c)(2)(A) is amended—

(i) in clause (i), by inserting "or was on the U.S.S. Cole on October 12, 2000" before the semicolon; and

(ii) by striking clause (ii) and inserting the following:

"(ii) suffered death as a result of such an air crash or suffered death as a result of such an attack;".

(B) Requirements.—Section 405(c)(3) is amended—

(i) in the heading for subparagraph (B) by inserting "RELATING TO SEPTEMBER 11TH TERRORIST ACTS" before the period; and

(ii) by adding at the end the following:

"(C) Limitation on civil action relating to other terrorist acts.—

"(i) In general.—Upon the submission of a claim under this title, the claimant involved waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained by the claimant as a result of the attack on the U.S.S. Cole on October 12, 2000. The preceding sentence does not apply to a civil action to recover any collateral source obligation based on contract, or to a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

"(ii) Pending actions.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 4 of the Terrorism Victim Compensation Equity Act.

"(D) Individuals with prior compensation.—

"(i) In general.—Subject to clause (ii), an individual is not an eligible individual for purposes of this subsection if the individual, or the estate of that individual, has received any compensation from a civil action or settlement based on tort related to the attack on the U.S.S. Cole on October 12, 2000.

"(ii) Exception.—Clause (i) shall not apply to compensation received from a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

"(E) Victims of attack.—An individual who suffered death as a result of an attack described in subparagraph (C)(i) shall not be an eligible individual by reason of that attack, unless that individual is or was a United States citizen.".

(C) Ineligibility of participants and conspirators.—Section 405(c) is amended by adding at the end the following:

"(4) Ineligibility of participants and conspirators.—An individual, or a representative of that individual, shall not be eligible to receive compensation under this title if that individual is identified by the Attorney General to have been a participant or conspirator in the attack on the U.S.S. Cole on October 12, 2000.".

(D) Eligibility of members of the uniformed services.—Section 405(c) (as amended by subparagraph (C)) is further amended by adding at the end the following:

"(5) ELIGIBILITY OF MEMBERS OF THE UNIFORMED SERVICES.—An individual who is a member of the uniformed services shall not be excluded from being an eligible individual by reason of being such a member.".

SEC. 4. REGULATIONS.

Not later than 90 days after the date of enactment of this Act, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out the amendments made by this Act, including regulations with respect to—

(1) forms to be used in submitting claims under this Act;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing and pursuing claims under this Act; and

(5) other matters determined appropriate by the Attorney General.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect as if enacted as part of the September 11th Victims Compensation Fund of 2001 (Public Law 107-42; 49 U.S.C. 40101 note).

SA 3818. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NATIONWIDE INTEROPERABLE BROADBAND MOBILE COMMUNICATIONS NETWORK.

(a) IN GENERAL.—Not later than June 1, 2005, the Secretary of Homeland Security shall develop technical and operational specifications and protocols for a nationwide interoperable broadband mobile communications network (referred to in this section as the "Network") to be used by Federal, State, and local public safety and homeland security personnel.

(b) CONSULTATION AND USE OF EXISTING TECHNOLOGIES.—In developing the Network, the Secretary of Homeland Security shall—

(1) seek input from representatives of the user communities regarding the operation and administration of the Network; and

(2) make use of existing commercial wireless technologies to the greatest extent practicable.

(c) SPECTRUM ALLOCATION.—The Assistant Secretary for Communications and Information, acting as the Administrator of the National Telecommunications and Information Administration (referred to in this section as the "Administrator"), in cooperation with the Federal Communications Commission, other Federal agencies with responsibility for managing radio frequency spectrum, and the Secretary of Homeland Security, shall develop, not later than June 1, 2005, a plan to dedicate sufficient radio frequency spectrum for the Network.

(d) REPORTING REQUIREMENT.—Not later than January 31, 2005, the Administrator, in consultation with the Secretary of Homeland Security, shall submit a report to Congress that—

(1) describes any statutory changes that are necessary to deploy the Network;

(2) identifies the required spectrum allocation for the Network; and

(3) describes the progress made in carrying out the provisions of this section.

SA 3819. Mr. ENSIGN (for himself, Mr. KYL, Mr. CHAMBLISS, Mr. CORNYN, Mr. GRASSLEY, and Mr. SESSIONS) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: "All immigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section is amended by adding at the end the following: "All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: "As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.".

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) PLACEMENT OF SPECIALIST.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify 100 of such posts that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall place in each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 2,000 the number of positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were allotted for the preceding fiscal year.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

The Secretary of Homeland Security, in each of fiscal years 2006 through 2010, shall increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were allotted for the preceding fiscal year. At least half of these additional investigators shall be designated to investigate potential violations of section 274A of the Immigration and Nationality Act (8 U.S.C 25 1324a). Each State shall be allotted at least 3 of these additional investigators.

SA 3820. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. DENIAL OF FEDERAL BENEFITS TO CONVICTED TERRORISTS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, as amended by this Act, is further amended by adding at the end the following:

"§2339E. Denial of Federal benefits to terrorists

"(a) IN GENERAL.—Any individual who is convicted of a Federal crime of terrorism (as defined in section 2332b(g)) shall, as provided by the court on motion of the Government, be ineligible for any or all Federal benefits for any term of years or for life.

"(b) FEDERAL BENEFIT DEFINED.—As used in this section, 'Federal benefit' has the meaning given that term in section 421(d) of the Controlled Substances Act (21 U.S.C. 862(d)).".

(b) CHAPTER ANALYSIS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting at the end the following:

"2339E. Denial of Federal benefits to terrorists.".

SEC. ___. PROVIDING MATERIAL SUPPORT TO TERRORISM.

(a) IN GENERAL.—Section 2339A(a) of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting the following:

"(1) IN GENERAL.—Any person who";

(2) by striking "A violation" and inserting the following:

"(3) PROSECUTION.—A violation";

(3) by inserting after paragraph (1) the following:

"(2) ADDITIONAL OFFENSE.—

"(A) IN GENERAL.—Any person who provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, an act of international or domestic terrorism, or in the preparation for, or in carrying out, the concealment or escape from the commission of any such act, or attempts or conspires to do so, shall be punished as provided under paragraph (1) for an offense under that paragraph.

"(B) JURISDICTION.—There is Federal jurisdiction over an offense under this paragraph if—

"(i) the offense occurs in or affects interstate or foreign commerce;

"(ii) the act of terrorism is an act of international or domestic terrorism that violates the criminal law of the United States;

"(iii) the act of terrorism is an act of domestic terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government;

"(iv) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States or outside the territorial jurisdiction of the United States, is—

"(I) a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(II) an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act); or

"(III) a stateless person whose habitual residence is in the United States;

"(v) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States or a foreign government, and an offender, acting within the United States, is an alien;

"(vi) the act of terrorism is an act of international terrorism that appears to be intended to influence the policy, or affect the conduct, of the Government of the United States, and an offender, acting outside the territorial jurisdiction of the United States, is an alien; or

"(vii) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under this paragraph or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under this paragraph."; and

(4) by inserting "act or" after "underlying".

(b) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended to read as follows—

"(b) DEFINITIONS.—As used in this section—

"(1) the term 'material support or resources' means any property (tangible or intangible) or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials;

"(2) the term 'training' means instruction or teaching designed to impart a specific skill, rather than general knowledge; and

"(3) the term 'expert advice or assistance' means advice or assistance derived from scientific, technical, or other specialized knowledge.".

(c) MATERIAL SUPPORT TO FOREIGN TERRORIST ORGANIZATION.—Section 2339B(a)(1) of title 18, United States Code, is amended—

(1) by striking "Whoever, within the United States or subject to the jurisdiction of the United States," and inserting the following:

"(A) IN GENERAL.—Any person who"; and

(2) by adding at the end the following:

"(B) KNOWLEDGE REQUIREMENT.—A person cannot violate this paragraph unless the person has knowledge that the organization referred to in subparagraph (A)—

"(i) is a terrorist organization;

"(ii) has engaged or engages in terrorist activity (as defined in section 212(a)(3)(B) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)); or

"(iii) has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).".

(d) JURISDICTION.—Section 2339B(d) of title 18, United States Code, is amended to read as follows:

"(d) JURISDICTION.—

"(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

"(A) an offender is a national of the United States (as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of such Act);

"(B) an offender is a stateless person whose habitual residence is in the United States;

"(C) an offender is brought in or found in the United States after the conduct required for the offense occurs, even if such conduct occurs outside the United States;

"(D) the offense occurs in whole or in part within the United States;

"(E) the offense occurs in or affects interstate or foreign commerce; or

"(F) an offender aids or abets any person, over whom jurisdiction exists under this paragraph, in committing an offense under subsection (a) or conspires with any person, over whom jurisdiction exists under this paragraph, to commit an offense under subsection (a).

"(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.".

(e) PROVISION OF PERSONNEL.—Section 2339B of title 18, United States Code, is amended—

(1) by redesignating subsection (g) as subsection (h); and

(2) by adding after subsection (f) the following:

"(g) PROVISION OF PERSONNEL.—No person may be prosecuted under this section in connection with the term 'personnel' unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include that person) to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Any person who acts entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction or control.".

SEC. . RECEIVING MILITARY TYPE TRAINING FROM A FOREIGN TERRORIST ORGANIZATION.

(a) PROHIBITION AS TO CITIZENS AND RESIDENTS.—

(1) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by adding after section 2339E the following:

"§ 2339F. Receiving military-type training from a foreign terrorist organization

"(a) OFFENSE.—

"(1) IN GENERAL.—Whoever knowingly receives military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under section 219(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)) as a foreign terrorist organization, shall be fined under this title, imprisoned for ten years, or both.

"(2) KNOWLEDGE REQUIREMENT.—To violate paragraph (1), a person must have knowledge that the organization is a designated terrorist organization (as defined in subsection (c)(4)), that the organization has engaged or engages in terrorist activity (as defined in section 212 of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)), or that the organization has engaged or engages in terrorism (as defined in section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (22 U.S.C. 2656f(d)(2)).

"(b) JURISDICTION.—

"(1) IN GENERAL.—There is jurisdiction over an offense under subsection (a) if—

"(A) an offender is a national of the United States (as defined in 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)), or an alien lawfully admitted for permanent residence in the United States (as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

"(B) an offender is a stateless person whose habitual residence is in the United States;

"(C) after the conduct required for the offense occurs an offender is brought into or found in the United States, even if the conduct required for the offense occurs outside the United States;

"(D) the offense occurs in whole or in part within the United States;

"(E) the offense occurs in or affects interstate or foreign commerce; and

"(F) an offender aids or abets any person over whom jurisdiction exists under this paragraph in committing an offense under subsection (a), or conspires with any person over whom jurisdiction exists under this paragraph to commit an offense under subsection (a).

"(2) EXTRATERRITORIAL JURISDICTION.—There is extraterritorial Federal jurisdiction over an offense under this section.

"(c) DEFINITIONS.—In this section:

"(1) MILITARY-TYPE TRAINING.—The term 'military-type training' means training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm or other weapon, including any weapon of mass destruction (as defined in section 2232a(c)(2)).

"(2) SERIOUS BODILY INJURY.—The term 'serious bodily injury' has the meaning given that term in section 1365(h)(3).

"(3) CRITICAL INFRASTRUCTURE.—The term 'critical infrastructure' means systems and assets vital to national defense, national security, economic security, public health, or safety, including both regional and national infrastructure. Critical infrastructure may be publicly or privately owned. Examples of critical infrastructure include gas and oil production, storage, or delivery systems, water supply systems, telecommunications networks, electrical power generation or delivery systems, financing and banking systems, emergency services (including medical, police, fire, and rescue services), and transportation systems and services (including highways, mass transit, airlines, and airports).

"(4) FOREIGN TERRORIST ORGANIZATION.—The term 'foreign terrorist organization' means an organization designated as a terrorist organization under section 219 (a)(1) of the Immigration and Nationality Act (8 U.S.C. 1189(a)(1)).".

(2) Technical and Conforming Amendment.—The table of sections for chapter 113B of title 18, United States Code, is amended by adding at the end the following:

"2339F. Receiving military-type training from a foreign terrorist organization.".

(b) Inadmissibility of Aliens Who Have Received Military-Type Training From Terrorist Organizations.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) by striking "is inadmissable. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity."; and

(2) by inserting after subclause (VII) the following:

"(VIII) has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi),

is inadmissible. An alien who is an officer, official, representative, or spokesman of the Palestine Liberation Organization is considered, for purposes of this chapter, to be engaged in a terrorist activity.".

(c) Inadmissibility of Representatives and Members of Terrorist Organizations.—Section 212(a)(3)(B)(i) of the Immigration and Nationality Act (8 U.S.C. 1182(a)(3)(B)(i)) is amended—

(1) in subclause (IV), by striking item (aa) and inserting the following:

"(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi), or"; and

(2) by striking subclause (V) and inserting the following:

"(V) is a member of—

"(aa) a terrorist organization as defined under section 212(a)(3)(B)(vi); or

"(bb) an organization which the alien knows or should have known is a terrorist organization,".

(d) Deportation of Aliens Who Have Received Military-Type Training From Terrorist Organizations.—Section 237(a)(4) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(4)) is amended by adding at the end the following:

"(E) Recipient of military-type training.—Any alien who has received military-type training (as defined in section 2339D(c)(1) of title 18, United States Code) from or on behalf of any organization that, at the time the training was received, was a terrorist organization under section 212(a)(3)(B)(vi), is deportable.".

(e) Retroactive Application.—The amendments made by subsections (b), (c), and (d) shall apply to the receipt of military training occuring before, on, or after the date of enactment of this Act.

SA 3821. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 158, line 9, strike the period and insert ", including information regarding privacy and civil liberties violations, which are made by departments, agencies, or elements of the executive branch, of regulations, policies, or guidelines concerning information sharing and information collection; and".

On page 158, between lines 9 and 10 insert the following:

(C) the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

On page 160, line 6, insert "and the National Intelligence Director and committees of Congress described under subsection (e)(1)(B)(i)(I)," after "concerned".

SA 3822. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 154, lines 12 and 13, strike ", regulations,", and insert "and approve regulations".

On page 154, strike line 16 and insert "and information collection guidelines under section 206;".

On page 154, line 21, strike "205(g)" and insert "206".

On page 156, line 4, strike "205(g)" and insert "206".

On page 156, line 6, strike "and" after the semicolon.

On page 156, between lines 6 and 7, insert the following:

(C) the practices of the departments, agencies, and elements of the executive branch in acquiring access to the information stored and used by non-governmental entities; and

On page 156, line 7, strike "(C)" and insert "(D)".

SA 3823. Ms. COLLINS (for Mr. Voinovich) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place insert the following:

SEC. . FINANCIAL DISCLOSURE AND RECORDS.

(a) Study.—Not later than 180 days after the date of enactment of this Act, the Office of Government Ethics shall submit to Congress a report—

(1) evaluating the financial disclosure process for employees of the executive branch of Government; and

(2) making recommendations for improving that process.

(b) Transmittal of Record Relating to Presidentially Appointed Positions to Presidential Candidates.—

(1) Definition.—In this section, the term "major party" has the meaning given that term under section 9002(6) of the Internal Revenue Code of 1986.

(2) Transmittal.—

(A) In general.—Not later than 15 days after the date on which a major party nominates a candidate for President, the Office of Personnel Management shall transmit an electronic record to that candidate on Presidentially appointed positions.

(B) Other candidates.—After making transmittals under subparagraph (A), the Office of Personnel Management may transmit an electronic record on Presidentially appointed positions to any other candidate for President.

(3) Content.—The record transmitted under this subsection shall provide—

(A) all positions which are appointed by the President, including the title and description of the duties of each position;

(B) the name of each person holding a position described under subparagraph (A);

(C) any vacancy in the positions described under subparagraph (A), and the period of time any such position has been vacant;

(D) the date on which an appointment made after the applicable Presidential election for any position described under subparagraph (A) is necessary to ensure effective operation of the Government; and

(E) any other information that the Office of Personnel Management determines is useful in making appointments.

(c) Reduction of Positions Requiring Appointment With Senate Confirmation.—

(1) Definition.—In this subsection, the term "agency" means an Executive agency as defined under section 105 of title 5, United States Code.

(2) Reduction plan.—

(A) In general.—Not later than 180 days after the date of enactment of this Act, the head of each agency shall submit a Presidential appointment reduction plan to—

(i) the President;

(ii) the Committee on Governmental Affairs of the Senate; and

(iii) the Committee on Government Reform of the House of Representatives.

(B) Content.—The plan under this paragraph shall provide for the reduction of—

(i) the number of positions within that agency that require an appointment by the President, by and with the advice and consent of the Senate; and

(ii) the number of levels of such positions within that agency.

(d) Office of Government Ethics Review of Conflict of Interest Law.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, the Director of the Office of Government Ethics, in consultation with the Attorney General of the United States, shall conduct a comprehensive review of conflict of interest laws relating to Federal employment and submit a report to—

(A) the President;

(B) the Committee on Governmental Affairs of the Senate;

(C) the Committee on the Judiciary of the Senate;

(D) the Committee on Government Reform of the House of Representatives; and

(E) the Committee on the Judiciary of the House of Representatives.

(2) Content.—The report under this subsection shall—

(A) examine all Federal criminal conflict of interest laws relating to Federal employment, including the relevant provisions of chapter 11 of title 18, United States Code; and

(B) related civil conflict of interest laws, including regulations promulgated under section 402 of the Ethics in Government Act of 1978 (5 U.S.C. App.).

SA 3824. Mr. BIDEN (for himself and Mr. Specter, and Mr. Kyl) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following new title:

TITLE ___—REDUCING CRIME AND TERRORISM AT AMERICA'S SEAPORTS

SEC. ___01. SHORT TITLE.

This title may be cited as the "Reducing Crime and Terrorism at America's Seaports Act of 2004".

SEC. ___02. ENTRY BY FALSE PRETENSES TO ANY SEAPORT.

(a) In General.—Section 1036 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (2), by striking "or" at the end;

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) any secure or restricted area (as that term is defined under section 2285(c)) of any seaport; or";

(2) in subsection (b)(1), by striking "5" and inserting "10";

(3) in subsection (c)(1), by inserting ", captain of the seaport," after "airport authority"; and

(4) in the section heading, by inserting "**or seaport**" after "**airport**".

(b) Technical and Conforming Amendment.—The table of sections for chapter 47 of title 18, United States Code, is amended by striking the matter relating to section 1036 and inserting the following:

"1036. Entry by false pretenses to any real property, vessel, or aircraft of the United States or secure area of any airport or seaport.".

(c) Definition of Seaport.—Chapter 1 of title 18, United States Code, is amended by adding at the end the following:

"§ 25. Definition of seaport

"As used in this title, the term 'seaport' means all piers, wharves, docks, and similar structures to which a vessel may be secured, areas of land, water, or land and water under and in immediate proximity to such structures, buildings on or contiguous to such structures, and the equipment and materials on such structures or in such buildings.".

(d) Technical and Conforming Amendment.—The table of sections for chapter 1 of title 18 is amended by inserting after the matter relating to section 24 the following:

"25. Definition of seaport.".

SEC. ___03. CRIMINAL SANCTIONS FOR FAILURE TO HEAVE TO, OBSTRUCTION OF BOARDING, OR PROVIDING FALSE INFORMATION.

(a) Offense.—Chapter 109 of title 18, United States Code, is amended by adding at the end the following:

"§ 2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information

"(a)(1) It shall be unlawful for the master, operator, or person in charge of a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to knowingly fail to obey an order by an authorized Federal law enforcement officer to heave to that vessel.

"(2) It shall be unlawful for any person on board a vessel of the United States, or a vessel subject to the jurisdiction of the United States, to—

"(A) forcibly resist, oppose, prevent, impede, intimidate, or interfere with a boarding or other law enforcement action authorized by any Federal law, or to resist a lawful arrest; or

"(B) provide information to a Federal law enforcement officer during a boarding of a vessel regarding the vessel's destination, origin, ownership, registration, nationality, cargo, or crew, which that person knows is false.

"(b) This section does not limit the authority of a customs officer under section 581 of the Tariff Act of 1930 (19 U.S.C. 1581), or any other provision of law enforced or administered by the Secretary of the Treasury or the Undersecretary for Border and Transportation Security of the Department of Homeland Security, or the authority of any Federal law enforcement officer under any law of the United States, to order a vessel to stop or heave to.

"(c) A foreign nation may consent or waive objection to the enforcement of United States law by the United States under this section by radio, telephone, or similar oral or electronic means. Consent or waiver may be proven by certification of the Secretary of State or the designee of the Secretary of State.

"(d) In this section—

"(1) the term 'Federal law enforcement officer' has the meaning given the term in section 115(c);

"(2) the term 'heave to' means to cause a vessel to slow, come to a stop, or adjust its course or speed to account for the weather conditions and sea state to facilitate a law enforcement boarding;

"(3) the term 'vessel subject to the jurisdiction of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)); and

"(4) the term 'vessel of the United States' has the meaning given the term in section 2(c) of the Maritime Drug Law Enforcement Act (46 App. U.S.C. 1903(b)).

"(e) Any person who intentionally violates the provisions of this section shall be fined under this title, imprisoned for not more than 5 years, or both.".

(b) Technical and Conforming Amendment.—The table of sections for chapter 109, title 18, United States Code, is amended by inserting after the item for section 2236 the following:

"2237. Criminal sanctions for failure to heave to, obstruction of boarding, or providing false information.".

SEC. ___04. USE OF A DANGEROUS WEAPON OR EXPLOSIVE ON A PASSENGER VESSEL.

Section 1993 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) in paragraph (1), by inserting ", passenger vessel," after "transportation vehicle";

(B) in paragraphs (2)—

(i) by inserting ", passenger vessel," after "transportation vehicle"; and

(ii) by inserting "or owner of the passenger vessel" after "transportation provider" each place that term appears;

(C) in paragraph (3)—

(i) by inserting ", passenger vessel," after "transportation vehicle" each place that term appears; and

(ii) by inserting "or owner of the passenger vessel" after "transportation provider" each place that term appears;

(D) in paragraph (5)—

(i) by inserting ", passenger vessel," after "transportation vehicle"; and

(ii) by inserting "or owner of the passenger vessel" after "transportation provider"; and

(E) in paragraph (6), by inserting "or owner of a passenger vessel" after "transportation provider" each place that term appears;

(2) in subsection (b)(1), by inserting ", passenger vessel," after "transportation vehicle"; and

(3) in subsection (c)—

(A) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9) respectively; and

(B) by inserting after paragraph (5) the following:

"(6) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.".

SEC. ___05. CRIMINAL SANCTIONS FOR VIOLENCE AGAINST MARITIME NAVIGATION, PLACEMENT OF DESTRUCTIVE DEVICES, AND MALICIOUS DUMPING.

(a) Violence Against Maritime Navigation.—Section 2280(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) in subparagraph (H), by striking "(G)" and inserting "(H)";

(B) by redesignating subparagraphs (F), (G), and (H) as subparagraphs (G), (H), and (I), respectively; and

(C) by inserting after subparagraph (E) the following:

"(F) destroys, seriously damages, alters, moves, or tampers with any aid to maritime navigation maintained by the Saint Lawrence Seaway Development Corporation under the authority of section 4 of the Act of May 13, 1954 (33 U.S.C. 984), by the Coast Guard pursuant to section 81 of title 14, United States Code, or lawfully maintained under authority granted by the Coast Guard pursuant to section 83 of title 14, United States Code, if such act endangers or is likely to endanger the safe navigation of a ship;"; and

(2) in paragraph (2) by striking "(C) or (E)" and inserting "(C), (E), or (F)".

(b) Placement of Destructive Devices.—

(1) In General.—Chapter 111 of title 18, United States Code, is amended by adding after section 2280 the following:

"§ 2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce

"(a) A person who knowingly places, or causes to be placed, in navigable waters of the United States, by any means, a device or substance which is likely to destroy or cause damage to a vessel or its cargo, or cause interference with the safe navigation of vessels, or interference with maritime commerce, such as by damaging or destroying marine terminals, facilities, and any other marine structure or entity used in maritime commerce, with the intent of causing such destruction or damage, or interference with the safe navigation of vessels or with maritime commerce, shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited under this subsection, may be punished by death.

"(b) Nothing in this section shall be construed to apply to otherwise lawfully authorized and conducted activities of the United States Government.".

(2) Technical and Conforming Amendment.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding after the item related to section 2280 the following:

"2280A. Devices or substances in waters of the United States likely to destroy or damage ships or to interfere with maritime commerce.".

(c) Malicious Dumping.—

(1) In General.—Chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"§ 2282. Knowing discharge or release

"(a) ENDANGERMENT OF HUMAN LIFE.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjoining shoreline with the intent to endanger human life, health, or welfare shall be fined under this title and imprisoned for any term of years or for life.

"(b) ENDANGERMENT OF MARINE ENVIRONMENT.—Any person who knowingly discharges or releases oil, a hazardous material, a noxious liquid substance, or any other dangerous substance into the navigable waters of the United States or the adjacent shoreline with the intent to endanger the marine environment shall be fined under this title, imprisoned not more than 30 years, or both.

"(c) DEFINITIONS.—In this section:

"(1) DISCHARGE.—The term 'discharge' means any spilling, leaking, pumping, pouring, emitting, emptying, or dumping.

"(2) HAZARDOUS MATERIAL.—The term 'hazardous material' has the meaning given the term in section 2101(14) of title 46, United States Code.

"(3) MARINE ENVIRONMENT.—The term 'marine environment' has the meaning given the term in section 2101(15) of title 46, United States Code.

"(4) NAVIGABLE WATERS.—The term 'navigable waters' has the meaning given the term in section 1362(7) of title 33, and also includes the territorial sea of the United States as described in Presidential Proclamation 5928 of December 27, 1988.

"(5) NOXIOUS LIQUID SUBSTANCE.—The term 'noxious liquid substance' has the meaning given the term in the MARPOL Protocol defined in section 2(1) of the Act to Prevent Pollution from Ships (33 U.S.C. 1901(a)(3)).".

(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, is amended by adding at the end the following:

"2282. Knowing discharge or release.".

SEC. ___06. TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.

(a) TRANSPORTATION OF DANGEROUS MATERIALS AND TERRORISTS.—Chapter 111 of title 18, as amended by this title, is amended by adding at the end the following:

"§ 2283. Transportation of explosive, biological, chemical, or radioactive or nuclear materials

"(a) IN GENERAL.—Any person who knowingly and willfully transports aboard any vessel within the United States, on the high seas, or having United States nationality, an explosive or incendiary device, biological agent, chemical weapon, or radioactive or nuclear material, knowing that any such item is intended to be used to commit an offense listed under section 2332b(g)(5)(B), shall be fined under this title, imprisoned for any term of years or for life, or both; and if the death of any person results from conduct prohibited by this subsection, may be punished by death.

"(b) DEFINITIONS.—In this section:

"(1) BIOLOGICAL AGENT.—The term 'biological agent' means any biological agent, toxin, or vector (as those terms are defined in section 178).

"(2) BY-PRODUCT MATERIAL.—The term 'by-product material' has the meaning given that term in section 11(e) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(e)).

"(3) CHEMICAL WEAPON.—The term 'chemical weapon' has the meaning given that term in section 229F.

"(4) EXPLOSIVE OR INCENDIARY DEVICE.—The term 'explosive or incendiary device' has the meaning given the term in section 232(5).

"(5) NUCLEAR MATERIAL.—The term 'nuclear material' has the meaning given that term in section 831(f)(1).

"(6) RADIOACTIVE MATERIAL.—The term 'radioactive material' means—

"(A) source material and special nuclear material, but does not include natural or depleted uranium;

"(B) nuclear by-product material;

"(C) material made radioactive by bombardment in an accelerator; or

"(D) all refined isotopes of radium.

"(7) SOURCE MATERIAL.—The term 'source material' has the meaning given that term in section 11(z) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(z)).

"(8) SPECIAL NUCLEAR MATERIAL.—The term 'special nuclear material' has the meaning given that term in section 11(aa) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(aa)).

"§ 2284. Transportation of terrorists

"(a) IN GENERAL.—Any person who knowingly and willfully transports any terrorist aboard any vessel within the United States, on the high seas, or having United States nationality, knowing that the transported person is a terrorist, shall be fined under this title, imprisoned for any term of years or for life, or both.

"(b) DEFINED TERM.—In this section, the term 'terrorist' means any person who intends to commit, or is avoiding apprehension after having committed, an offense listed under section 2332b(g)(5)(B).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 111 of title 18, United States Code, as amended by this title, is amended by adding at the end the following:

"2283. Transportation of explosive, chemical, biological, or radioactive or nuclear materials.
"2284. Transportation of terrorists.".

SEC. ___07. DESTRUCTION OR INTERFERENCE WITH VESSELS OR MARITIME FACILITIES.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after chapter 111 the following:

"CHAPTER 111A—DESTRUCTION OF, OR INTERFERENCE WITH, VESSELS OR MARITIME FACILITIES

"Sec.
"2290. Jurisdiction and scope.
"2291. Destruction of vessel or maritime facility.
"2292. Imparting or conveying false information.
"2293. Bar to prosecution.

"§ 2290. Jurisdiction and scope

"(a) JURISDICTION.—There is jurisdiction over an offense under this chapter if the prohibited activity takes place—

"(1) within the United States or within waters subject to the jurisdiction of the United States; or

"(2) outside United States and—

"(A) an offender or a victim is a national of the United States (as that term is defined under section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22));

"(B) the activity involves a vessel in which a national of the United States was on board; or

"(C) the activity involves a vessel of the United States (as that term is defined under section 2(c) of the Maritime Drug Law Enforcement Act (42 App. U.S.C. 1903(c)).

"(b) SCOPE.—Nothing in this chapter shall apply to otherwise lawful activities carried out by or at the direction of the United States Government.

"§ 2291. Destruction of vessel or maritime facility

"(a) OFFENSE.—Whoever willfully—

"(1) sets fire to, damages, destroys, disables, or wrecks any vessel;

"(2) places or causes to be placed a destructive device, as defined in section 921(a)(4), or destructive substance, as defined in section 13, in, upon, or in proximity to, or otherwise makes or causes to be made unworkable or unusable or hazardous to work or use, any vessel, or any part or other materials used or intended to be used in connection with the operation of a vessel;

"(3) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any maritime facility, including but not limited to, any aid to navigation, lock, canal, or vessel traffic service facility or equipment, or interferes by force or violence with the operation of such facility, if such action is likely to endanger the safety of any vessel in navigation;

"(4) sets fire to, damages, destroys, or disables or places a destructive device or substance in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

"(5) performs an act of violence against or incapacitates any individual on any vessel, if such act of violence or incapacitation is likely to endanger the safety of the vessel or those on board;

"(6) performs an act of violence against a person that causes or is likely to cause serious bodily injury, as defined in section 1365, in, upon, or in proximity to, any appliance, structure, property, machine, or apparatus, or any facility or other material used, or intended to be used, in connection with the operation, maintenance, loading, unloading, or storage of any vessel or any passenger or cargo carried or intended to be carried on any vessel;

"(7) communicates information, knowing the information to be false and under circumstances in which such information may reasonably be believed, thereby endangering the safety of any vessel in navigation; or

"(8) attempts or conspires to do anything prohibited under paragraphs (1) through (7); shall be fined under this title or imprisoned not more than 20 years, or both.

"(b) LIMITATION.—Subsection (a) shall not apply to any person that is engaging in otherwise lawful activity, such as normal repair and salvage activities, and the lawful transportation of hazardous materials.

"(c) PENALTY.—Whoever is fined or imprisoned under subsection (a) as a result of an act involving a vessel that, at the time of the violation, carried high-level radioactive waste (as that term is defined in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12)) or spent nuclear fuel (as that term is defined in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23)), shall be fined under title 18, imprisoned for a term up to life, or both.

"(d) PENALTY WHEN DEATH RESULTS.—Whoever is convicted of any crime prohibited by subsection (a), which has resulted in the death of any person, shall be subject also to the death penalty or to imprisonment for life.

"(e) THREATS.—Whoever willfully imparts or conveys any threat to do an act which would violate this chapter, with an apparent determination and will to carry the threat into execution, shall be fined under this title, imprisoned not more than 5 years, or both, and is liable for all costs incurred as a result of such threat.

"§2292. Imparting or conveying false information

"(a) IN GENERAL.—Whoever imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be subject to a civil penalty of not more than $5,000, which shall be recoverable in a civil action brought in the name of the United States.

"(b) MALICIOUS CONDUCT.—Whoever willfully and maliciously, or with reckless disregard for the safety of human life, imparts or conveys or causes to be imparted or conveyed false information, knowing the information to be false, concerning an attempt or alleged attempt to do any act which would be a crime prohibited by this chapter or by chapter 111 of this title, shall be fined under this title, imprisoned not more than 5 years, or both.

"(c) JURISDICTION.—

"(1) IN GENERAL.—Except as provided under paragraph (2), section 2290(a) shall not apply to any offense under this section.

"(2) JURISDICTION.—Jurisdiction over an offense under this section shall be determined in accordance with the provisions applicable to the crime prohibited by this chapter, or by chapter 2, 97, or 111 of this title, to which the imparted or conveyed false information relates, as applicable.

"§2293. Bar to prosecution

"(a) IN GENERAL.—It is a bar to prosecution under this chapter if—

"(1) the conduct in question occurred within the United States in relation to a labor dispute, and such conduct is prohibited as a felony under the law of the State in which it was committed; or

"(2) such conduct is prohibited as a misdemeanor under the law of the State in which it was committed.

"(b) DEFINITIONS.—In this section:

"(1) LABOR DISPUTE.—The term "labor dispute" has the same meaning given that term in section 113(c) of the Norris-LaGuardia Act (29 U.S.C. 113(c)).

"(2) STATE.—The term "State" means a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.".

(c) TECHNICAL AND CONFORMING AMENDMENT.—The table of chapters at the beginning of title 18, United States Code, is amended by inserting after the item for chapter 111 the following:

"111A. Destruction of, or interference with, vessels or maritime facilities .... 2290".

SEC. ___08. THEFT OF INTERSTATE OR FOREIGN SHIPMENTS OR VESSELS.

(a) THEFT OF INTERSTATE OR FOREIGN SHIPMENTS.—Section 659 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph—

(A) by inserting "trailer," after "motortruck,";

(B) by inserting "air cargo container," after "aircraft,"; and

(C) by inserting ", or from any intermodal container, trailer, container freight station, warehouse, or freight consolidation facility," after "air navigation facility";

(2) in the fifth undesignated paragraph, by striking "one year" and inserting "3 years"; and

(3) by inserting after the first sentence in the eighth undesignated paragraph the following: "For purposes of this section, goods and chattel shall be construed to be moving as an interstate or foreign shipment at all points between the point of origin and the final destination (as evidenced by the waybill or other shipping document of the shipment), regardless of any temporary stop while awaiting transshipment or otherwise.".

(b) STOLEN VESSELS.—

(1) IN GENERAL.—Section 2311 of title 18, United States Code, is amended by adding at the end the following:

"'Vessel' means any watercraft or other contrivance used or designed for transportation or navigation on, under, or immediately above, water.".

(2) TRANSPORTATION AND SALE OF STOLEN VESSELS.—Sections 2312 and 2313 of title 18, United States Code, are each amended by striking "motor vehicle or aircraft" each place that term appears and inserting "motor vehicle, vessel, or aircraft".

(c) REVIEW OF SENTENCING GUIDELINES.—Pursuant to section 994 of title 28, United States Code, the United States Sentencing Commission shall review the Federal Sentencing Guidelines to determine whether sentencing enhancement is appropriate for any offense under section 659 or 2311 of title 18, United States Code, as amended by this title.

(d) ANNUAL REPORT OF LAW ENFORCEMENT ACTIVITIES.—The Attorney General shall annually submit to Congress a report, which shall include an evaluation of law enforcement activities relating to the investigation and prosecution of offenses under section 659 of title 18, United States Code, as amended by this title.

(e) REPORTING OF CARGO THEFT.—The Attorney General shall take the steps necessary to ensure that reports of cargo theft collected by Federal, State, and local officials are reflected as a separate category in the Uniform Crime Reporting System, or any successor system, by not later than December 31, 2005.

SEC. ___09. INCREASED PENALTIES FOR NONCOMPLIANCE WITH MANIFEST REQUIREMENTS.

(a) REPORTING, ENTRY, CLEARANCE REQUIREMENTS.—Section 436(b) of the Tariff Act of 1930 (19 U.S.C. 1436(b)) is amended by—

(1) striking "or aircraft pilot" and inserting ", aircraft pilot, operator, owner of such vessel, vehicle or aircraft or any other responsible party (including non-vessel operating common carriers)";

(2) striking "$5,000" and inserting "$10,000"; and

(3) striking "$10,000" and inserting "$25,000".

(b) CRIMINAL PENALTY.—Section 436(c) of the Tariff Act of 1930 (19 U.S.C. 1436(c)) is amended by striking "$2,000" and inserting "$10,000".

(c) FALSITY OR LACK OF MANIFEST.—Section 584(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(1)) is amended by striking "$1,000" in each place it occurs and inserting "$10,000".

SEC. ___10. STOWAWAYS ON VESSELS OR AIRCRAFT.

Section 2199 of title 18, United States Code, is amended by striking "Shall be fined under this title or imprisoned not more than one year, or both." and inserting the following:

"(1) shall be fined under this title, imprisoned not more than 5 years, or both;

"(2) if the person commits an act proscribed by this section, with the intent to commit serious bodily injury, and serious bodily injury occurs (as defined under section 1365, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242) to any person other than a participant as a result of a violation of this section, shall be fined under this title, imprisoned not more than 20 years, or both; and

"(3) if an individual commits an act proscribed by this section, with the intent to cause death, and if the death of any person other than a participant occurs as a result of a violation of this section, shall be fined under this title, imprisoned for any number of years or for life, or both.".

SEC. ___11. BRIBERY AFFECTING PORT SECURITY.

(a) IN GENERAL.—Chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"§226. Bribery affecting port security

"(a) IN GENERAL.—Whoever knowingly—

"(1) directly or indirectly, corruptly gives, offers, or promises anything of value to any public or private person, with intent—

"(A) to commit international or domestic terrorism (as that term is defined under section 2331);

"(B) to influence any action or any person to commit or aid in committing, or collude in, or allow, any fraud, or make opportunity for the commission of any fraud affecting any secure or restricted area or seaport; or

"(C) to induce any official or person to do or omit to do any act in violation of the fiduciary duty of such official or person which affects any secure or restricted area or seaport; or

"(2) directly or indirectly, corruptly demands, seeks, receives, accepts, or agrees to receive or accept anything of value personally or for any other person or entity in return for—

"(A) being influenced in the performance of any official act affecting any secure or restricted area or seaport; and

"(B) knowing that such influence will be used to commit, or plan to commit, international or domestic terrorism

"shall be fined under this title, imprisoned not more than 15 years, or both.

"(b) DEFINITION.—In this section, the term 'secure or restricted area' has the meaning given that term in section 2285(c).".

(b) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 11 of title 18, United States Code, is amended by adding at the end the following:

"226. Bribery affecting port security.".

SA 3825. Mr. LEVIN (for himself and Mr. ALEXANDER) submitted an amendment intended to be propsed by him to the bill S. 2845, to reform the intelligence community and the intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PRIVATE SECURITY OFFICER EMPLOYMENT AUTHORIZATION ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the "Private Security Officer Employment Authorization Act of 2004".

(b) FINDINGS.—Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public

law enforcement by, among other things, helping to protect critical infrastructure, including hospitals, manufacturing facilities, defense and aerospace contractors, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, and others;

(3) the 9-11 Commission Report says that "Private sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world. It is ignored at a tremendous potential cost in lives, money, and national security" and endorsed adoption of the American National Standards Institute's standard for private preparedness;

(4) part of improving private sector preparedness is mitigating the risks of terrorist attack on critical infrastructure by ensuring that private security officers who protect those facilities are properly screened to determine their suitability;

(5) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(6) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

(c) Definitions.—In this section:

(1) Employee.—The term "employee" includes both a current employee and an applicant for employment as a private security officer.

(2) Authorized employer.—The term "authorized employer" means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

(3) Private security officer.—The term "private security officer"—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full- or part-time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this section if the Attorney General determines by regulation that such exclusion would serve the public interest); but

(B) does not include—

(i) employees whose duties are primarily internal audit or credit functions;

(ii) employees of electronic security system companies acting as technicians or monitors; or

(iii) employees whose duties primarily involve the secure movement of prisoners.

(4) Security services.—The term "security services" means acts to protect people or property as defined by regulations promulgated by the Attorney General.

(5) State identification bureau.—The term "State identification bureau" means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

(d) Criminal History Record Information Search.—

(1) In general.—

(A) Submission of fingerprints.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this section.

(B) Employee rights.—

(i) Permission.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of a participating State the request to search the criminal history record information of the employee under this section.

(ii) Access.—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this section.

(C) Providing information to the State identification bureau.—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this section, submitted through the State identification bureau of a participating State, the Attorney General shall—

(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(D) Use of information.—

(i) In general.—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

(ii) Terms.—In the case of—

(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been—

(aa) convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

(bb) charged with a criminal felony for which there has been no resolution during the preceding 365 days; or

(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this section in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(E) Frequency of requests.—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

(2) Regulations.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this section, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and recordkeeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) Criminal penalties for use of information.—Whoever knowingly and intentionally uses any information obtained pursuant to this section other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) User fees.—

(A) In general.—The Director of the Federal Bureau of Investigation may—

(i) collect fees to process background checks provided for by this section; and

(ii) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) Limitations.—Any fee collected under this subsection—

(i) shall, consistent with Public Law 101-515 and Public Law 104-99, be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in subparagraph (A);

(ii) shall be available for expenditure only to pay the costs of such activities and services; and

(iii) shall remain available until expended.

(C) State costs.—Nothing in this section shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this section.

(5) State opt out.—A State may decline to participate in the background check system authorized by this section by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this paragraph.

SA 3826. Mr. STEVENS (for himself, Mr. Warner, and Mr. Inouye) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 84, beginning on line 8, strike "joint operations" and insert "strategic planning".

SA 3827. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 130, strike line 20 and all that follows through page 153, line 2.

SA 3828. Mr. STEVENS (for himself, Mr. Inouye, and Mr. Warner) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 12, strike "unless" and all that follows through line 15 and insert "which the National Intelligence Director and the head of the department, agency, and element concerned agree to; but".

On page 12, line 22, strike "consultation" and insert "coordination".

On page 13, line 6, insert before the semicolon the following: "as agreed to in accordance with section 2(6)(A)(iii)".

On page 13, beginning on line 9, strike "the military intelligence" and all that follows through line 11 and insert "the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities programs;".

On page 21, beginning on line 20, strike "military intelligence" and all that follows through line 22 and insert "the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities programs;".

On page 22, strike lines 1 and 2 and insert the following:

heads of departments that contain elements of the intelligence community; and

On page 22, line 3, insert ", in coordination with the heads of the departments concerned," after "overseeing".

On page 23, line 13, insert before the period the following: "as agreed to in accordance with section 2(6)(A)(iii)".

SA 3829. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 212, strike lines 3 through 6, and insert the following:

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect one year after the date of the enactment of this Act, except that—

(1) subsections (a) and (b) of section 102 (relating to the establishment of the position of National Intelligence Director) shall take effect 90 days after the date of the enactment of this Act, and the President shall prescribe the duties of the position of National Intelligence Director that are to apply before subsections (d) and (e) of such section take effect;

(2) section 143 (relating to the establishment and operation of the National Counterterrorism Center) shall take effect 90 days after the date of the enactment of this Act, and the National Counterterrorism Center shall be operated without reference to its status under section 143(a) as an entity within the National Intelligence Authority until the National Intelligence Authority is established when section 101 takes effect;

(3) section 331 and the amendments made by such section shall take effect 90 days after the date of the enactment of this Act; and

(4) a provision of this Act shall take effect on any earlier date that the President specifies for such provision in an exercise of the authority provided in subsection (b).

SA 3830. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, beginning on line 16, strike "of the National Intelligence Director".

On page 43, beginning on line 1, strike "**OF THE NATIONAL INTELLIGENCE DIRECTOR**".

On page 43, beginning on line 5, strike "of the National Intelligence Director" and insert "for the National Intelligence Director and the Director of the Central Intelligence Agency".

On page 43, beginning on line 17, strike "of the National Intelligence Director".

On page 141, between lines 16 and 17, insert the following:

(H) the Director of the Central Intelligence Agency or his designee;

On page 141, line 16, strike "(H)" and insert "(I)".

On page 141, line 18, strike "(I)" and insert "(J)".

On page 141, line 21, strike "(J)" and insert "(K)".

On page 179, beginning on line 21, strike "and coordination of" and all that follows through "elements of" beginning on line 23 and insert ", and coordinate outside the United States, the collection of national intelligence through human sources by agencies and organizations within".

On page 194, beginning on line 23, strike "of the National Intelligence Director".

SA 3831. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 59, line 14, strike "shall" and insert "may".

SA 3832. Mr. JEFFORDS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMMUNICATIONS INTEROPERABILITY.

(a) DEFINITION.—As used in this section, the term "interoperability" means the ability of public safety service and support providers to talk with each other via voice and data on demand, in real time, when needed, and when authorized.

(b) NATIONAL INTEROPERABILITY STANDARDS.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with appropriate representatives of Federal, State, and local government and first responders, shall adopt, by regulation, national interoperability goals and standards that—

(1) set short-term, mid-term, and long-term means and minimum performance standards for Federal agencies, States, and local governments;

(2) recognize—

(A) the value, life cycle, and technical capabilities of existing communications infrastructure;

(B) the need for cross-border interoperability between States and nations;

(C) the unique needs of small, rural communities; and

(D) the interoperability needs for daily operations and catastrophic events.

(c) NATIONAL INTEROPERABILITY IMPLEMENTATION PLAN.—

(1) DEVELOPMENT.—Not later 180 days of the completion of the development of goals and standards under subsection (b), the Secretary of Homeland Security shall develop an implementation plan that—

(A) outlines the responsibilities of the Department of Homeland Security; and

(B) focuses on providing technical and financial assistance to States and local governments for interoperability planning and implementation.

(2) EXECUTION.—The Secretary shall execute the plan developed under this subsection as soon as practicable.

(3) REPORTS.—

(A) INITIAL REPORT.—Upon the completion of the plan under subsection (c), the Secretary shall submit a report that describes such plan to—

(i) the Committee on Governmental Affairs of the Senate;

(ii) the Committee on Environment and Public Works of the Senate; and

(iii) the Select Committee on Homeland Security of the House of Representatives.

(B) ANNUAL REPORT.—Not later than 1 year after the submission of the report under subparagraph (A), and annually thereafter, the Secretary shall submit a report to the committees referred to in subparagraph (A) that describes the progress made in implementing the plan developed under this subsection.

(d) INTERNATIONAL INTEROPERABILITY.—Not later than 1 year after the date of enactment of this Act, the President shall establish a mechanism for coordinating cross-border interoperability issues between—

(1) the United States and Canada; and

(2) the United States and Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009—

(1) such sums as may be necessary to carry out subsection (b);

(2) such sums as may be necessary to carry out subsection (c); and

(3) such sums as may be necessary to carry out subsection (d).

SA 3833. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill insert the following:

SEC. .

Reported by the Secretary of Defense on Implementation of Recommendations by the Defense Science Board on Preventing and Defending Against Clandestine Nuclear Attack.

(A) FINDINGS.—A report of the Defense Science Board Task Force on Preventing and Defending Against Clandestine Nuclear Attack of June 2004—

(1) found that "little has actually been done against the threat of clandestine nuclear attack";

(2) found that nuclear weapons "are spreading to places and regions where the prospects for effective control to prevent their loss and stem their continued spread are highly uncertain"; and

(3) called for the Department of Defense to lead an interagency task force to "develop a multi-element, layered, global, civil/military system of systems and capabilities that would greatly reduce the likelihood of a successful clandestine nuclear attack."

(B) REPORT.—No later than 3 months following the date of enactment of this act, the

Secretary of Defense shall submit a report to the Congress describing the steps it has taken to address the recommendations of the Defense Science Board Task force on Preventing and Defending Against Clandestine Nuclear Attack.

SA 3834. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. MANDATORY IMPRISONMENT FOR FRAUD IN CONNECTION WITH INTERNATIONAL TERRORISM.

Section 1028(b)(4) of title 18, United States Code, is amended by striking "or imprisonment for not more than 25 years, or both," and inserting "and imprisonment for not more than 25 years".

SA 3835. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for othr purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMMUNICATION SYSTEM GRANTS.

(a) IN GENERAL.—The Secretary of Homeland Security may award grants, on a competitive basis, to States, local governments, local law enforcement agencies, and local fire departments to—

(1) improve communication systems to allow for real time, interoperable communication between State and local first responders; or

(2) purchase communication systems that allow for real time, interoperable communication between State and local first responders.

(b) APPLICATION.—Any State, local government, local law enforcement agency, or local fire department desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $300,000,000 for each of the fiscal years 2005 through 2009 to carry out the provisions of this section.

SA 3836. Mrs. BOXER submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMMUNICATION SYSTEM GRANTS.

(a) IN GENERAL.—The Secretary of Homeland Security may award grants, on a competitive basis, to States, local governments, local law enforcement agencies, and local fire departments to—

(1) improve communication systems to allow for real time, interoperable communication between State and local first responders; or

(2) purchase communication systems that allow for real time, interoperable communication between State and local first responders.

(b) APPLICATION.—Any State, local government, local law enforcement agency, or local fire department desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as necessary for each of the fiscal years 2005 through 2009 to carry out the provisions of this section.

SA 3837. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IV—ADVANCED TECHNOLOGY NORTHERN BORDER SECURITY PILOT PROGRAM

SEC. 401. ESTABLISHMENT.

The Secretary of Homeland Security shall carry out a pilot program to test various advanced technologies that will improve border security between ports of entry along the northern border of the United States.

SEC. 402. PROGRAM REQUIREMENTS.

(a) REQUIRED FEATURES.—The Secretary of Homeland Security shall design the pilot program under this title to have the following features:

(1) Use of advanced technological systems, including sensors, video, and unmanned aerial vehicles, for border surveillance.

(2) Use of advanced computing and decision integration software for—

(A) evaluation of data indicating border incursions;

(B) assessment of threat potential; and

(C) rapid real-time communication, monitoring, intelligence gathering, deployment, and response.

(3) Testing of advanced technology systems and software to determine best and most cost-effective uses of advanced technology to improve border security.

(4) Operation of the program in remote stretches of border lands with long distances between 24-hour ports of entry where the terrain is varied, the climatological and other environmental conditions vary over wide ranges between severe extremes, and the usual number of United States Border Patrol officers on regular patrol (as measured on the basis of average number per mile) is low.

(5) Capability to expand the program upon a determination by the Secretary that expansion would be an appropriate and cost-effective means of improving border security.

(b) COORDINATION WITH OTHER AGENCIES.—The Secretary of Homeland Security shall ensure that the operation of the pilot program under this title—

(1) is coordinated among United States, State and local, and Canadian law enforcement and border security agencies; and

(2) includes ongoing communication among such agencies.

SEC. 403. ADMINISTRATIVE PROVISIONS.

(a) PROCUREMENT OF ADVANCED TECHNOLOGY.—The Secretary of Homeland Security may enter into contracts for the procurement or use of such advanced technologies as the Secretary determines appropriate for the pilot program under this title.

(b) PROGRAM PARTNERSHIPS.—In carrying out the pilot program, the Secretary of Homeland Security may provide for the establishment of cooperative arrangements for participation in the pilot program by such participants as the Armed Forces, law enforcement and border security agencies referred to in section 402(b), institutions of higher education, and private sector entities.

SEC. 404. REPORT.

(a) REQUIREMENT FOR REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the pilot program under this title.

(b) CONTENT.—The report under subsection (a) shall include the following matters:

(1) A discussion of the implementation of the pilot program, including the experience under the pilot program.

(2) A recommendation regarding expansion of the pilot program along the entire northern border of the United States and a timeline for the implementation of the expansion.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the pilot program under this title.

SA 3838. Mr. CONRAD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. NATIONAL EMERGENCY TELEMEDICAL COMMUNICATIONS.

(a) TELEHEALTH TASK FORCE.—

(1) ESTABLISHMENT.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human Services, shall establish a task force to be known as the "National Emergency Telehealth Network Task Force" (referred to in this subsection as the "Task Force") to advise the Secretary of Commerce on the use of telehealth technologies to prepare for, monitor, respond to, and manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies.

(2) FUNCTIONS.—The Task Force shall—

(A) conduct an inventory of existing telehealth initiatives, including—

(i) the specific location of network components;

(ii) the medical, technological, and communications capabilities of such components; and

(iii) the functionality of such components;

(B) make recommendations for use by the Secretary of Commerce in establishing standards for regional interoperating and overlapping information and operational capability response grids in order to achieve coordinated capabilities based on responses among Federal, State, and local responders;

(C) recommend any changes necessary to integrate technology and clinical practices;

(D) recommend to the Secretary of Commerce acceptable standard clinical information that could be uniformly applied and available throughout a national telemedical network and tested in the regional networks;

(E) research, develop, test, and evaluate administrative, physical, and technical guidelines for protecting the confidentiality, integrity, and availability of regional networks and all associated information and advise the Secretary of Commerce on issues of patient data security, and compliance with all applicable regulations;

(F) in consultation and coordination with the regional telehealth networks established under subsection (b), test such networks for their ability to provide support for the existing and planned efforts of State and local law enforcement, fire departments, health care facilities, and Federal and State public health agencies to prepare for, monitor, respond rapidly to, or manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies with respect to each of the functions listed in subparagraphs (A) through (H) of subsection (b)(3); and

(G) facilitate the development of training programs for responders and a mechanism for training via enhanced advanced distributive learning.

(3) MEMBERSHIP.—The Task Force shall include representation from—

(A) relevant Federal agencies;

(B) relevant State and local government agencies including public health officials;

(C) professional associations specializing in health care; and

(D) other relevant private sector organizations, including public health and national telehealth organizations and representatives of academic and corporate information management and information technology organizations.

(4) MEETINGS AND REPORTS.—

(A) MEETINGS.—The Task Force shall meet as the Secretary of Commerce may direct.

(B) REPORT.—

(i) IN GENERAL.—Not later than 3 years after the date of enactment of this Act the Task Force shall prepare and submit a report to Congress regarding the activities of the Task Force.

(ii) CONTENTS.—The report described in clause (i) shall recommend, based on the information obtained from the regional telehealth networks established under subsection (b), whether and how to build on existing telehealth networks to develop a National Emergency Telehealth Network.

(5) IMPLEMENTATION.—The Task Force may carry out activities under this subsection in cooperation with other entities, including national telehealth organizations.

(6) TERMINATION.—The Task Force shall terminate upon submission of the final report required under paragraph (4)(B).

(b) ESTABLISHMENT OF STATE AND REGIONAL TELEHEALTH NETWORKS.—

(1) PROGRAM AUTHORIZED.—

(A) IN GENERAL.—The Secretary of Commerce, in consultation with the Secretary of Homeland Security and the Secretary of Health and Human Services, is authorized to award grants to 3 regional consortia of States to carry out pilot programs for the development of statewide and regional telehealth network testbeds that build on, enhance, and securely link existing State and local telehealth programs.

(B) DURATION.—The Secretary of Commerce shall award grants under this subsection for a period not to exceed 3 years. Such grants may be renewed.

(C) STATE CONSORTIUM PLANS.—Each regional consortium of States desiring to receive a grant under subparagraph (A) shall submit to the Secretary of Commerce a plan that describes how such consortium shall—

(i) interconnect existing telehealth systems in a functional and seamless fashion to enhance the ability of the States in the region to prepare for, monitor, respond to, and manage the events of a biological, chemical, or nuclear terrorist attack or other public health emergencies; and

(ii) link to other participating States in the region via a standard interoperable connection using standard information.

(D) PRIORITY.—In making grants under this subsection, the Secretary of Commerce shall give priority to regional consortia of States that demonstrate—

(i) the interest and participation of a broad cross section of relevant entities, including public health offices, emergency preparedness offices, and health care providers;

(ii) the ability to connect major population centers as well as isolated border, rural, and frontier communities within the region to provide medical, public health, and emergency services in response to a biological, chemical, or nuclear terrorist attack or other public health emergencies;

(iii) an existing telehealth and telecommunications infrastructure that connects relevant State agencies, health care providers, universities, and relevant Federal agencies; and

(iv) the ability to quickly complete development of a region-wide interoperable emergency telemedical network to expand communications and service capabilities and facilitate coordination among multiple medical, public health, and emergency response agencies, and the ability to test recommendations of the task force established under subsection (a) within 3 years.

(2) REGIONAL NETWORKS.—A consortium of States awarded a grant under paragraph (1) shall develop a regional telehealth network to support emergency response activities and provide medical services by linking established telehealth initiatives within the region to and with the following:

(A) First responders, such as police, firefighters, and emergency medical service providers.

(B) Front line health care providers, including hospitals, emergency medical centers, medical centers of the Department of Defense and the Department of Veterans Affairs, and public, private, community, rural, and Indian Health Service clinics.

(C) State and local public health departments, offices of rural health, and relevant Federal agencies.

(D) Experts on public health, bioterrorism, nuclear safety, chemical weapons and other relevant disciplines.

(E) Other relevant entities as determined appropriate by such consortium.

(3) FUNCTIONS OF THE NETWORKS.—Once established, a regional telehealth network under this subsection shall test the feasibility of recommendations (including recommendations relating to standard clinical information, operational capability, and associated technology and information standards) described in subparagraphs (B) through (E) of subsection (a)(2), and provide reports to the task force established under subsection (a), on such network's ability, in preparation of and in response to a biological, chemical, or nuclear terrorist attack or other public health emergencies, to support each of the following functions:

(A) Rapid emergency response and coordination.

(B) Real-time data collection for information dissemination.

(C) Environmental monitoring.

(D) Early identification and monitoring of biological, chemical, or nuclear exposures.

(E) Situationally relevant expert consultative services for patient care and front-line responders.

(F) Training of responders.

(G) Development of an advanced distributive learning network.

(H) Distance learning for the purposes of medical and clinical education, and simulation scenarios for ongoing training.

(4) REQUIREMENTS.—In awarding a grant under paragraph (1), the Secretary of Commerce shall—

(A) require that each regional network adopt common administrative, physical, and technical approaches for seamless interoperability and to protect the network's confidentiality, integrity, and availability, taking into consideration guidelines developed by the task force established under subsection (a); and

(B) require that each regional network inventory and report to the task force established under subsection (a), the technology and technical infrastructure available to such network.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to carry out this section $150,000,000 for fiscal years 2005, 2006, and 2007. Amounts made available under this paragraph shall remain available until expended.

(2) LIMIT ON ADMINISTRATIVE EXPENSES.—Not more than 5 percent of the amount made available for each fiscal year under paragraph (1) shall be used for Task Force administrative costs.

SA 3839. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 115, strike line 13 and all that follows through page 116, line 23.

SA 3840. Mr. STEVENS (for himself, Mr. WARNER, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 109, strike line 4 and all that follows through page 113, line 3.

On page 113, line 4, strike "**163.**" and insert "**162.**".

On page 114, line 1, strike "**164.**" and insert "**163.**".

SA 3841. Mr. NELSON of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new title:

TITLE IV—TRANSPORTATION SECURITY

SEC. 401. WATCHLISTS FOR PASSENGERS ABOARD VESSELS.

(a) IN GENERAL.—As soon as practicable but not later than 180 days after the date of the enactment of this Act, the Secretary of Homeland Security shall—

(1) implement a procedure under which the Department of Homeland Security compares information about passengers who are to be carried aboard a cruise ship with a comprehensive, consolidated database containing information about known or suspected terrorists and their associates; and

(2) use the information obtained by comparing the passenger information with the information in the database to prevent known or suspected terrorists and their associates from boarding such vessels or to subject them to specific additional security scrutiny, through the use of "no transport" and "automatic selectee" lists or other means.

(b) COOPERATION FROM OPERATORS OF PASSENGER VESSELS.—The Secretary of Homeland Security shall by order require operators of cruise ships to provide the passenger information necessary to implement the procedure required by subsection (a).

(c) MAINTAINING THE ACCURACY AND INTEGRITY OF THE "NO TRANSPORT" AND "AUTOMATIC SELECTEE" LISTS.—

(1) WATCHLIST DATABASE.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigations, shall design guidelines, policies, and operating procedures for the collection, removal, and updating of data maintained, or to be maintained, in the watchlist database described in subsection (a)(1) that are designed to ensure the accuracy and integrity of the databases.

(2) ACCURACY OF ENTRIES.—In developing the "no transport" and "automatic selectee" lists under subsection (a)(1), the Secretary of Homeland Security shall establish a simple and timely method for correcting erroneous entries, for clarifying information known to cause false hits or misidentification errors, and for updating relevant information that is dispositive in the passenger screening process. The Secretary shall also establish a process to provide an individual whose name is confused with, or similar to, a name in the watchlist database with a means of demonstrating that such individual is not the person named in the database.

(d) CRUISE SHIP DEFINED.—In this section, the term "cruise ship"—

(1) means any vessel (except one described in paragraph (2)) that—

(A) weighs over 100 gross register tons;

(B) carries more than 200 passengers for hire;

(C) makes voyages lasting more than 24 hours, of which any part is on the high seas; and

(D) carries passengers who embark and disembark in the United States or its territories or possessions; and

(2) does not mean a ferry that—

(A) holds a Coast Guard Certificate of Inspection endorsed for "Lakes, Bays, and Sounds"; and

(B) transits international waters for only short periods of time on frequent schedules.

SA 3842. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 69, line 12, insert "In carrying out the duties and responsibilities specified in this Act, the Inspector General shall give particular regard to the activities of the internal audit, inspection, and investigative units of the Inspectors General of the elements of the intelligence community with a view toward avoiding duplication and ensuring effective coordination and cooperation." after the period.

SA 3843. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . REFORM OF SENATE OVERSIGHT OF INTELLIGENCE AND HOMELAND SECURITY.

(a) ESTABLISHING A PERMANENT COMMITTEE ON INTELLIGENCE.—

(1) IN GENERAL.—There is established in the Senate a Committee on Intelligence (referred to in this subsection as the "committee") with majority party's representation on the committee never exceeding that of the minority party by more than one.

(2) MEMBERSHIP.—Four of the members of the committee shall be members of one of the following committees: Armed Services, Judiciary, Foreign Relations, and the Defense Appropriations Subcommittee on the Committee of Appropriations.

(3) TERM LIMITS.—Members shall serve on the committee without term limits.

(4) SUBPOENA AUTHORITY.—The committee shall have subpoena authority.

(5) STAFF AND SUBCOMMITTEE.—The committee shall have—

(A) subcommittees with at least a one subcommittee with operational oversight of the National Intelligence Program;

(B) responsibilities other than budget development; and

(C) staff appropriately sized to meet the mission of the committee.

(6) JURISDICTION.—The committee shall have sole jurisdiction over the authorization and appropriation for all programs in the National Intelligence Program.

(b) ESTABLISHING A SINGLE POINT OF JURISDICTION FOR THE DEPARTMENT OF HOMELAND SECURITY.—

(1) IN GENERAL.—There is established in the Senate a Committee on Homeland Security (referred to in this subsection as the "committee") with jurisdiction for the Department of Homeland Security and its duties.

(2) STAFF.—The committee shall be a permanent standing committee with a nonpartisan staff.

(3) OTHER COMMITTEES.—The jurisdiction of the committee shall supersede the jurisdiction of any other committee of the Senate.

(c) REPEAL.—S. Res. 400 (94th Congress) is repealed.

(d) EFFECTIVE DATE.—This section shall take effect on the convening of the 109th Congress.

SA 3844. Mr. BAYH submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. GUARANTEED HOMELAND SECURITY GRANT FUNDING.

The Secretary of Homeland Security shall ensure that each State receives an amount of grant funding in fiscal year 2005, and each subsequent fiscal year, under the State Homeland Security Grant Program, the Urban Area Security Initiative, and the Law Enforcement Terrorism Prevention Program that is not less than the amount received by such State for such programs in fiscal year 2004.

SA 3845. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, between lines 16 and 17, insert the following:

(d) REMOVAL.—The National Intelligence Director may be removed from office by the President. The President shall communicate to each House of Congress the reasons for the removal of a National Intelligence Director from office.

On page 10, line 17, strike "(d)" and insert "(e)".

On page 11, line 3, strike "(e)" and insert "(f)".

On page 11, line 5, strike "subsection (c)" and insert "subsection (e)".

On page 22, line 11, strike "(f) and (g)" and insert "(e), (f), and (g)".

On page 24, beginning on line 1, strike ", pursuant to subsection (e),".

On page 24, strike line 8 and all that follows through age 25, line 20.

On page 25, line 21, strike "(f)" and insert "(e)".

On page 27, strike line 1 and all that follows through page 30, line 22, and insert the following:

(f) ROLE OF NATIONAL INTELLIGENCE DIRECTOR IN REPROGRAMMING.—(1) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the National Intelligence Director, except in accordance with procedures prescribed by the National Intelligence Director.

(2) The Secretary of Defense shall consult with the National Intelligence Director before transferring or reprogramming funds made available under the Joint Military Intelligence Program.

(g) TRANSFER OF FUNDS OR PERSONNEL WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1) In addition to any other authorities available under law for such purposes, the National Intelligence Director, with the approval of the Director of the Office of Management and Budget—

(A) may transfer funds appropriated for a program within the National Intelligence Program to another such program; and

(B) in accordance with procedures to be developed by the National Intelligence Director, the heads of the departments and agencies concerned may transfer personnel authorized for an element of the intelligence community to another such element for periods up to one year.

(2) The amounts available for transfer in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers, are subject to the provisions of annual appropriations Acts and this subsection.

(3)(A) A transfer of funds or personnel may be made under this subsection only if—

(i) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(ii) the need for funds or personnel for such activity is based on unforeseen requirements;

(iii) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the National Intelligence Director;

(iv) in the case of a transfer of funds, the transfer results in a cumulative transfer of funds out of any department, agency, or element, as appropriate, funded in the National Intelligence Program in a single fiscal year—

(I) that is less than $100,000,000; and

(II) that is less than 5 percent of amounts available to such department, agency, or element; and

(v) the transfer does not terminate a program.

(B) A transfer may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department, agency, or element concerned. The authority to provide such concurrence may only be delegated by the head of the department, agency, or element concerned to the deputy of such officer.

(4) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

(5) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this subsection.

(6)(A) The National Intelligence Director shall promptly submit a report on any transfer of personnel under this subsection to—

(i) the congressional intelligence committees;

(ii) the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives;

(iii) in the case of the transfer of personnel to or from the Department of Defense, the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

(iv) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(B) The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

On page 47, line 19, insert before the period the following ", by and with the advice and consent of the Senate".

On page 53, line 2, insert before the period the following ", by and with the advice and consent of the Senate".

On page 55, beginning on line 5, strike "the National Intelligence Director" and insert "the President, by and with the advice and consent of the Senate".

On page 60, beginning on line 14, strike "appropriately".

On page 61, line 11, insert "and Congress" after "Director".

On page 61, line 21, strike "significant".

On page 63, line 16, insert "and the congressional intelligence committees" after "National Intelligence Director".

On page 138, beginning on line 21, strike "and to Congress" and insert ", to the Select Committee on Intelligence and the Committees on Appropriations and Governmental Affairs of the Senate, and to the Permanent Select Committee on Intelligence and the Committees on Appropriations and Government Reform of the House of Representatives".

On page 140, strike lines 5 through 14 and insert the following:

(2) Deputy Director of Management and Budget for Information Sharing.—There is within the Office of Management and Budget a Deputy Director of Management and Budget for Information Sharing who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Director shall carry out the day-to-day duties of the Director specified in this section. The Deputy Director shall report directly to the Director of the Office of Management and Budget. The Deputy Director shall be paid at

On page 174, strike lines 14 through 22.

SA 3846. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 47, strike line 16 and all that follows through page 63, line 16, and insert the following:

(b) Deputy National Intelligence Directors.—(1) There may be not more than four Deputy National Intelligence Directors who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) In the event of a vacancy in any position of Deputy National Intelligence Director established under this subsection, the National Intelligence Director shall recommend to the President an individual for appointment to such position.

(3) Each Deputy National Intelligence Director appointed under this subsection shall have such duties, responsibilities, and authorities as the National Intelligence Director may assign or are specified by law.

SEC. 123. NATIONAL INTELLIGENCE COUNCIL.

(a) National Intelligence Council.—There is a National Intelligence Council.

(b) Composition.—(1) The National Intelligence Council shall be composed of senior analysts within the intelligence community and substantive experts from the public and private sector, who shall be appointed by, report to, and serve at the pleasure of, the National Intelligence Director.

(2) The Director shall prescribe appropriate security requirements for personnel appointed from the private sector as a condition of service on the Council, or as contractors of the Council or employees of such contractors, to ensure the protection of intelligence sources and methods while avoiding, wherever possible, unduly intrusive requirements which the Director considers to be unnecessary for this purpose.

(c) Duties and Responsibilities.—(1) The National Intelligence Council shall—

(A) produce national intelligence estimates for the United States Government, including alternative views held by elements of the intelligence community and other information as specified in paragraph (2);

(B) evaluate community-wide collection and production of intelligence by the intelligence community and the requirements and resources of such collection and production; and

(C) otherwise assist the National Intelligence Director in carrying out the responsibilities of the Director under section 111.

(2) The National Intelligence Director shall ensure that the Council satisfies the needs of policymakers and other consumers of intelligence by ensuring that each national intelligence estimate under paragraph (1)—

(A) states separately, and distinguishes between, the intelligence underlying such estimate and the assumptions and judgments of analysts with respect to such intelligence and such estimate;

(B) describes the quality and reliability of the intelligence underlying such estimate;

(C) presents and explains alternative conclusions, if any, with respect to the intelligence underlying such estimate and such estimate; and

(D) characterizes the uncertainties, if any, and confidence in such estimate.

(d) Service as Senior Intelligence Advisers.—Within their respective areas of expertise and under the direction of the National Intelligence Director, the members of the National Intelligence Council shall constitute the senior intelligence advisers of the intelligence community for purposes of representing the views of the intelligence community within the United States Government.

(e) Authority To Contract.—Subject to the direction and control of the National Intelligence Director, the National Intelligence Council may carry out its responsibilities under this section by contract, including contracts for substantive experts necessary to assist the Council with particular assessments under this section.

(f) Staff.—The National Intelligence Director shall make available to the National Intelligence Council such staff as may be necessary to permit the Council to carry out its responsibilities under this section.

(g) Availability of Council and Staff.—(1) The National Intelligence Director shall take appropriate measures to ensure that the National Intelligence Council and its staff satisfy the needs of policymaking officials and other consumers of intelligence.

(2) The Council shall be readily accessible to policymaking officials and other appropriate individuals not otherwise associated with the intelligence community.

(h) Support.—The heads of the elements of the intelligence community shall, as appropriate, furnish such support to the National Intelligence Council, including the preparation of intelligence analyses, as may be required by the National Intelligence Director.

SEC. 124. GENERAL COUNSEL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) General Counsel of National Intelligence Authority.—There is a General Counsel of the National Intelligence Authority who shall be appointed from civilian life by the President, by and with the advice and consent of the Senate.

(b) Prohibition on Dual Service as General Counsel of Another Agency.—The individual serving in the position of General Counsel of the National Intelligence Authority may not, while so serving, also serve as the General Counsel of any other department, agency, or element of the United States Government.

(c) Scope of Position.—The General Counsel of the National Intelligence Authority is the chief legal officer of the National Intelligence Authority.

(d) FUNCTIONS.—The General Counsel of the National Intelligence Authority shall perform such functions as the National Intelligence Director may prescribe.

SEC. 125. INTELLIGENCE COMPTROLLER.

(a) INTELLIGENCE COMPTROLLER.—There is an Intelligence Comptroller who shall be appointed from civilian life by the National Intelligence Director.

(b) SUPERVISION.—The Intelligence Comptroller shall report directly to the National Intelligence Director.

(c) DUTIES.—The Intelligence Comptroller shall—

(1) assist the National Intelligence Director in the preparation and execution of the budget of the elements of the intelligence community within the National Intelligence Program;

(2) assist the Director in participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the National Intelligence Program;

(3) provide unfettered access to the Director to financial information under the National Intelligence Program;

(4) perform such other duties as may be prescribed by the Director or specified by law.

SEC. 126. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES OF NATIONAL INTELLIGENCE AUTHORITY.—There is an Officer for Civil Rights and Civil Liberties of the National Intelligence Authority who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) SUPERVISION.—The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority shall report directly to the National Intelligence Director.

(c) DUTIES.—The Officer for Civil Rights and Civil Liberties of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in ensuring that the protection of civil rights and civil liberties, as provided in the Constitution, laws, regulations, and Executive orders of the United States, is appropriately incorporated in—

(A) the policies and procedures developed for and implemented by the National Intelligence Authority;

(B) the policies and procedures regarding the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the policies and procedures regarding the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) oversee compliance by the Authority, and in the relationships described in paragraph (1), with requirements under the Constitution and all laws, regulations, Executive orders, and implementing guidelines relating to civil rights and civil liberties;

(3) review, investigate, and assess complaints and other information indicating possible abuses of civil rights or civil liberties, as provided in the Constitution, laws, regulations, and Executive orders of the United States, in the administration of the programs and operations of the Authority, and in the relationships described in paragraph (1), unless, in the determination of the Inspector General of the National Intelligence Authority, the review, investigation, or assessment of a particular complaint or information can better be conducted by the Inspector General;

(4) coordinate with the Privacy Officer of the National Intelligence Authority to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

(5) perform such other duties as may be prescribed by the Director or specified by law.

SEC. 127. PRIVACY OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) PRIVACY OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Privacy Officer of the National Intelligence Authority who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) DUTIES.—(1) The Privacy Officer of the National Intelligence Authority shall have primary responsibility for the privacy policy of the National Intelligence Authority (including in the relationships among the elements of the intelligence community within the National Intelligence Program and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community).

(2) In discharging the responsibility under paragraph (1), the Privacy Officer shall—

(A) assure that the use of technologies sustain, and do not erode, privacy protections relating to the use, collection, and disclosure of personal information;

(B) assure that personal information contained in Privacy Act systems of records is handled in full compliance with fair information practices as set out in the Privacy Act of 1974;

(C) conduct privacy impact assessments when appropriate or as required by law; and

(D) coordinate with the Officer for Civil Rights and Civil Liberties of the National Intelligence Authority to ensure that programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner.

SEC. 128. CHIEF INFORMATION OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF INFORMATION OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Information Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Information Officer of the National Intelligence Authority shall—

(1) assist the National Intelligence Director in implementing the responsibilities and executing the authorities related to information technology under paragraphs (15) and (16) of section 112(a) and section 113(h); and

(2) perform such other duties as may be prescribed by the Director or specified by law.

SEC. 129. CHIEF HUMAN CAPITAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF HUMAN CAPITAL OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Human Capital Officer of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) DUTIES.—The Chief Human Capital Officer of the National Intelligence Authority shall—

(1) have the functions and authorities provided for Chief Human Capital Officers under sections 1401 and 1402 of title 5, United States Code, with respect to the National Intelligence Authority; and

(2) advise and assist the National Intelligence Director in exercising the authorities and responsibilities of the Director with respect to the workforce of the intelligence community as a whole.

SEC. 130. CHIEF FINANCIAL OFFICER OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF FINANCIAL OFFICER OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Financial Officer of the National Intelligence Authority who shall be designated by the President, in consultation with the National Intelligence Director.

(b) DESIGNATION REQUIREMENTS.—The designation of an individual as Chief Financial Officer of the National Intelligence Authority shall be subject to applicable provisions of section 901(a) of title 31, United States Code.

(c) AUTHORITIES AND FUNCTIONS.—The Chief Financial Officer of the National Intelligence Authority shall have such authorities, and carry out such functions, with respect to the National Intelligence Authority as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law.

(d) COORDINATION WITH NIA COMPTROLLER.—(1) The Chief Financial Officer of the National Intelligence Authority shall coordinate with the Comptroller of the National Intelligence Authority in exercising the authorities and performing the functions provided for the Chief Financial Officer under this section.

(2) The National Intelligence Director shall take such actions as are necessary to prevent duplication of effort by the Chief Financial Officer of the National Intelligence Authority and the Comptroller of the National Intelligence Authority.

(e) INTEGRATION OF FINANCIAL SYSTEMS.—Subject to the supervision, direction, and control of the National Intelligence Director, the Chief Financial Officer of the National Intelligence Authority shall take appropriate actions to ensure the timely and effective integration of the financial systems of the National Intelligence Authority (including any elements or components transferred to the Authority by this Act), and of the financial systems of the Authority with applicable portions of the financial systems of the other elements of the intelligence community, as soon as possible after the date of the enactment of this Act.

(f) PROTECTION OF ANNUAL FINANCIAL STATEMENT FROM DISCLOSURE.—The annual financial statement of the National Intelligence Authority required under section 3515 of title 31, United States Code—

(1) shall be submitted in classified form; and

(2) notwithstanding any other provision of law, shall be withheld from public disclosure.

SEC. 131. NATIONAL COUNTERINTELLIGENCE EXECUTIVE.

(a) NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—The National Counterintelligence Executive under section 902 of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 50 U.S.C. 402b et seq.), as amended by section 309 of this Act, is a component of the Office of the National Intelligence Director.

(b) DUTIES.—The National Counterintelligence Executive shall perform the duties provided in the Counterintelligence Enhancement Act of 2002, as so amended, and such other duties as may be prescribed by the National Intelligence Director or specified by law.

Subtitle D—Additional Elements of National Intelligence Authority

SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) Office of Inspector General of National Intelligence Authority.—There is within the National Intelligence Authority an Office of the Inspector General of the National Intelligence Authority.

(b) Purpose.—The purpose of the Office of the Inspector General of the National Intelligence Authority is to—

(1) create an objective and effective office, accountable to Congress, to initiate and conduct independently investigations, inspections, and audits relating to—

(A) the programs and operations of the National Intelligence Authority;

(B) the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) recommend policies designed—

(A) to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and in such relationships; and

(B) to prevent and detect fraud and abuse in such programs, operations, and relationships;

(3) provide a means for keeping the National Intelligence Director and Congress fully and currently informed about—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept similarly informed of—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions.

(c) Inspector General of National Intelligence Authority.—(1) There is an Inspector General of the National Intelligence Authority, who shall be the head of the Office of the Inspector General of the National Intelligence Authority, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) The nomination of an individual for appointment as Inspector General shall be made—

(A) without regard to political affiliation;

(B) solely on the basis of integrity, compliance with the security standards of the National Intelligence Authority, and prior experience in the field of intelligence or national security; and

(C) on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, public administration, or auditing.

(3) The Inspector General shall report directly to and be under the general supervision of the National Intelligence Director.

(4) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the congressional intelligence committees the reasons for the removal of any individual from the position of Inspector General.

(d) Duties and Responsibilities.—It shall be the duty and responsibility of the Inspector General of the National Intelligence Authority—

(1) to provide policy direction for, and to plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to the programs and operations of the National Intelligence Authority, the relationships among the elements of the intelligence community within the National Intelligence Program, and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) to keep the National Intelligence Director and the congressional intelligence committees

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SA 3847. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 24, strike line 1 and all that follows through page 30, line 22, and insert the following:

appropriated to the National Intelligence Authority and under the direct jurisdiction of the National Intelligence Director.

(2) The Director shall manage and oversee the execution by each element of the intelligence community of any amounts appropriated or otherwise made available to such element under the National Intelligence Program.

(e) Role in Reprogramming or Transfer of NIP Funds by Elements of Intelligence Community.—(1) No funds made available under the National Intelligence Program may be reprogrammed or transferred by any agency or element of the intelligence community without the prior approval of the National Intelligence Director except in accordance with procedures issued by the Director.

(2) The head of the department concerned shall consult with the Director before reprogramming or transferring funds appropriated or otherwise made available to an agency or element of the intelligence community that does not have any program, project, or activity within the National Intelligence Program.

(3) The Director shall, before reprogramming funds appropriated or otherwise made available for an element of the intelligence community within the National Intelligence Program, consult with the head of the department or agency having jurisdiction over such element regarding such reprogramming.

(4)(A) The Director shall consult with the appropriate committees of Congress regarding modifications of existing procedures to expedite the reprogramming of funds within the National Intelligence Program.

(B) Any modification of procedures under subparagraph (A) shall include procedures for the notification of the appropriate committees of Congress of any objection raised by the head of a department or agency to a reprogramming proposed by the Director as a result of consultations under paragraph (3).

(f) Role of National Intelligence Director in Reprogramming.—(1) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the National Intelligence Director, except in accordance with procedures prescribed by the National Intelligence Director.

(2) The Secretary of Defense shall consult with the National Intelligence Director before transferring or reprogramming funds made available under the Joint Military Intelligence Program.

(g) Transfer of Funds or Personnel Within National Intelligence Program.—(1) In addition to any other authorities available under law for such purposes, the National Intelligence Director, with the approval of the Director of the Office of Management and Budget—

(A) may transfer funds appropriated for a program within the National Intelligence Program to another such program; and

(B) in accordance with procedures to be developed by the National Intelligence Director, the heads of the departments and agencies concerned may transfer personnel authorized for an element of the intelligence community to another such element for periods up to one year.

(2) The amounts available for transfer in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers, are subject to the provisions of annual appropriations Acts and this subsection.

(3)(A) A transfer of funds or personnel may be made under this subsection only if—

(i) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(ii) the need for funds or personnel for such activity is based on unforeseen requirements;

(iii) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the National Intelligence Director;

(iv) in the case of a transfer of funds, the transfer results in a cumulative transfer of funds out of any department, agency, or element, as appropriate, funded in the National Intelligence Program in a single fiscal year—

(I) that is less than $100,000,000; and

(II) that is less than 5 percent of amounts available to such department, agency, or element; and

(v) the transfer does not terminate a program.

(B) A transfer may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department, agency, or element concerned. The authority to provide such concurrence may only be delegated by the head of the department, agency, or element concerned to the deputy of such officer.

(4) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

(5) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this subsection.

(6)(A) The National Intelligence Director shall promptly submit a report on any transfer of personnel under this subsection to—

(i) the congressional intelligence committees;

(ii) the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives;

(iii) in the case of the transfer of personnel to or from the Department of Defense, the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

(iv) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(B) The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

SA 3848. Mr. BYRD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, strike line 5 and all that follows through page 164, line 15, and insert the following:

SEC. 211. PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD.

(a) In General.—There is established as an independent establishment within the executive branch a Privacy and Civil Liberties Oversight Board (referred to in this subtitle as the "Board").

(b) Findings.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) In conducting the war on terrorism, the Government may need additional powers and may need to enhance the use of its existing powers.

(2) This shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life and to ensure that the Government uses its powers for the purposes for which the powers were given.

(c) Purpose.—The Board shall—

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism; and

(2) ensure that liberty concerns are appropriately considered in the development and implementation of laws, regulations, and policies related to efforts to protect the Nation against terrorism.

(d) Functions.—

(1) Advice and counsel on policy development and implementation.—The Board shall—

(A) review proposed legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the development and adoption of information sharing guidelines under section 205(g);

(B) review the implementation of new and existing legislation, regulations, and policies related to efforts to protect the Nation from terrorism, including the implementation of information sharing guidelines under section 205(g);

(C) advise the President, Congress, and the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are appropriately considered in the development and implementation of such legislation, regulations, policies, and guidelines; and

(D) in providing advice on proposals to retain or enhance a particular governmental power, consider whether the department, agency, or element of the executive branch has explained—

(i) that the power actually materially enhances security;

(ii) that there is adequate supervision of the use by the executive branch of the power to ensure protection of privacy and civil liberties; and

(iii) that there are adequate guidelines and oversight to properly confine its use.

(2) Oversight.—The Board shall continually review—

(A) the regulations, policies, and procedures, and the implementation of the regulations, policies, and procedures, of the departments, agencies, and elements of the executive branch to ensure that privacy and civil liberties are protected;

(B) the information sharing practices of the departments, agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties and adhere to the information sharing guidelines prescribed under section 205(g) and to other governing laws, regulations, and policies regarding privacy and civil liberties; and

(C) other actions by the executive branch related to efforts to protect the Nation from terrorism to determine whether such actions—

(i) appropriately protect privacy and civil liberties; and

(ii) are consistent with governing laws, regulations, and policies regarding privacy and civil liberties.

(3) Relationship with privacy and civil liberties officers.—The Board shall—

(A) review and assess reports and other information from privacy officers and civil liberties officers described in section 212;

(B) when appropriate, make recommendations to such privacy officers and civil liberties officers regarding their activities; and

(C) when appropriate, coordinate the activities of such privacy officers and civil liberties officers on relevant interagency matters.

(4) Testimony.—The Members of the Board shall appear and testify before Congress upon request.

(e) Reports.—

(1) In general.—The Board shall—

(A) receive and review reports from privacy officers and civil liberties officers described in section 212; and

(B) periodically submit, not less than semiannually, reports—

(i)(I) to the appropriate committees of Congress, including the Committees on Appropriations of the Senate and the House of Representatives, the Committees on the Judiciary of the Senate and the House of Representatives, the Committee on Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, the Select Committee on Intelligence of the Senate, and the Permanent Select Committee on Intelligence of the House of Representatives; and

(II) to the President; and

(ii) which shall be in unclassified form to the greatest extent possible, with a classified annex where necessary.

(2) Contents.—Not less than 2 reports submitted each year under paragraph (1)(B) shall include—

(A) a description of the major activities of the Board during the preceding period; and

(B) information on the findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

(f) Informing the Public.—The Board shall—

(1) make its reports, including its reports to Congress, available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(2) hold public hearings and otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(g) Access To Information.—

(1) Authorization.—If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to—

(A) have access from any department, agency, or element of the executive branch, or any Federal officer or employee, to all relevant records, reports, audits, reviews, documents, papers, recommendations, or other relevant material, including classified information consistent with applicable law;

(B) interview, take statements from, or take public testimony from personnel of any department, agency, or element of the executive branch, or any Federal officer or employee;

(C) request information or assistance from any State, tribal, or local government; and

(D) require, by subpoena issued at the direction of a majority of the members of the Board, persons (other than departments, agencies, and elements of the executive branch, the legislative branch, and the judicial branch) to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

(2) Enforcement of subpoena.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to produce the evidence required by such subpoena.

(3) Agency cooperation.—Whenever information or assistance requested under subparagraph (A) or (B) of paragraph (1) is, in the judgment of the Board, unreasonably refused or not provided, the Board shall report the circumstances to the head of the department, agency, or element concerned without delay. The head of the department, agency, or element concerned shall ensure that the Board is given access to the information, assistance, material, or personnel the Board determines to be necessary to carry out its functions.

(h) Membership.—

(1) Members.—The Board shall be composed of a chair, a vice chair, and five additional members, who shall be appointed by the President, by and with the advice and consent of the Senate. The President shall designate the members of the Board who shall serve as the chair and vice chair of the Board. The vice chair of the Board shall serve as the chair of the Board in the absence of the chair of the Board.

(2) Qualifications.—Members of the Board shall be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, and relevant experience, and without regard to political affiliation, but in no event shall more than 3 members of the Board be members of the same political party.

(3) Incompatible office.—An individual appointed to the Board may not, while serving on the Board, be an elected official, officer, or employee of the Federal Government, other than in the capacity as a member of the Board.

(4) Term.—Each member of the Board shall serve a term of six years, except that—

(A) a member appointed to a term of office after the commencement of such term may serve under such appointment only for the remainder of such term;

(B) upon the expiration of the term of office of a member, the member shall continue to serve until the member's successor has been appointed and qualified, except that no member may serve under this subparagraph—

(i) for more than 60 days when Congress is in session unless a nomination to fill the vacancy shall have been submitted to the Senate; or

(ii) after the adjournment sine die of the session of the Senate in which such nomination is submitted; and

(C) of the members initially appointed under this subsection, two shall serve terms of two years, two shall serve terms of four years, and two shall serve terms of six years, with such terms to be allotted among such members by the President.

(5) Quorum and Meetings.—After its initial meeting, the Board shall meet upon the call of the chairman or a majority of its members. Three members of the Board shall constitute a quorum.

(6) Removal.—The President may remove a member of the Board from service on the Board only for neglect of duty or malfeasance. The President shall immediately communicate to Congress notice of the removal of a member of the Board, together with a justification for the removal of the member.

(i) Compensation and Travel Expenses.—

(1) Compensation.—

(A) Chairman.—The chairman shall be compensated at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(B) Members.—Each member of the Board shall be compensated at a rate of pay payable for a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day during which that member is engaged in the actual performance of the duties of the Board.

(2) Travel expenses.—Members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for persons employed intermittently by the Government under section 5703(b) of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Board.

(j) Staff.—

(1) Appointment and compensation.—The Chairman, in accordance with rules agreed upon by the Board, shall appoint and fix the compensation of a full-time executive director and such other personnel as may be necessary to enable the Board to carry out its functions, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no rate of pay fixed under this subsection may exceed the equivalent of that payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) Detailees.—Any Federal employee may be detailed to the Board without reimbursement from the Board, and such detailee shall retain the rights, status, and privileges of the detailee's regular employment without interruption.

(3) Consultant services.—The Board may procure the temporary or intermittent services of experts and consultants in accordance with section 3109 of title 5, United States Code, at rates that do not exceed the daily rate paid a person occupying a position at level IV of the Executive Schedule under section 5315 of such title.

(k) Security Clearances.—The appropriate departments, agencies, and elements of the executive branch shall cooperate with the Board to expeditiously provide the Board members and staff with appropriate security clearances to the extent possible under existing procedures and requirements.

(l) Transmittal of Certain Matters.—

(1) Budgets.—Whenever the Board submits to the Director of the Office of Management and Budget an estimate or request regarding the budget of the Board, the Board shall concurrently submit such estimate or request to Congress.

(2) Proposals or comments on legislation.—

(B) Prohibition on interference.—No officer of the executive branch may require the Board to submit a proposal for legislation, or recommendations, comments, or testimony on a proposal for legislation, to such officer for the comment, review, or approval of such officer before its submittal to Congress under subparagraph (A).

(m) Treatment as Agency, Not as Advisory Committee.—The Board—

SA 3849. Mr. CORZINE (for himself and Mr. Lautenberg) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—CHEMICAL FACILITIES SECURITY

SEC. ___01. SHORT TITLE.

This title may be cited as the "Chemical Facilities Security Act of 2004".

SEC. ___02. DEFINITIONS.

In this title:

(1) Alternative approaches.—The term "alternative approaches" means ways of reducing the threat of a terrorist release and the consequences of a terrorist release from a chemical source by such means as—

(A) the use of smaller quantities of substances of concern;

(B) replacement of a substance of concern with a less hazardous substance; or

(C) the use of less hazardous processes.

(2) Chemical source.—

(A) In general.—The term "chemical source" means a stationary source (as defined in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2))) for which—

(i) the owner or operator is required to complete a risk management plan in accordance with section 112(r)(7)(B)(ii) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)(ii)); and

(ii) the Secretary is required to promulgate implementing regulations under section ___03(a) of this title.

(B) Exclusions.—The term "chemical source" does not include—

(i) any facility owned and operated by the Department of Defense or the Department of Energy; or

(ii) any facility that uses ammonia as fertilizer as an end user or holds ammonia for sale as a fertilizer at a retail facility, unless the Secretary determines that a terrorist release from the facility would pose potential harm to more than 10,000 people.

(3) Consideration of alternative approaches.—The term "consideration of alternative approaches" includes—

(A) an analysis of alternative approaches, including the benefits and risks of such approaches;

(B) the potential of the alternative approaches to prevent or reduce the threat or consequences of a terrorist release;

(C) the cost and technical feasibility of alternative approaches; and

(D) the effect of alternative approaches on product quality, product cost, and employee safety.

(4) Department.—The term "Department" means the Department of Homeland Security.

(5) Environment.—The term "environment" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(6) Owner or operator.—The term "owner or operator" has the meaning given the term in section 112(a) of the Clean Air Act (42 U.S.C. 7412(a)).

(7) Person.—The term "person" includes—

(A) the Federal Government; and

(B) a State or local government.

(8) Release.—The term "release" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(9) Secretary.—The term "Secretary" means the Secretary of Homeland Security.

(10) Security measure.—

(A) In general.—The term "security measure" means an action carried out to ensure or enhance the security of a chemical source.

(B) Inclusions.—The term "security measure", with respect to a chemical source, includes measures such as—

(i) employee training and background and identification authentication checks;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) the protection of the perimeter of the chemical source;

(iv) the installation and operation of intrusion detection sensors;

(v) the implementation of measures to increase computer or computer network security;

(vi) the implementation of other security-related measures to protect against or reduce the threat of—

(I) a terrorist attack on the chemical source; or

(II) the theft of a substance of concern for offsite release in furtherance of an act of terrorism;

(vii) the installation of measures and controls to protect against or reduce the consequences of a terrorist attack; and

(viii) the conduct of any similar security-related activity, as determined by the Secretary.

(11) Substance of concern.—The term "substance of concern" means—

(A) a chemical substance present at a chemical source in quantities equal to or exceeding the threshold quantities for the chemical substance, as defined in or established under paragraphs (3) and (5) of section

112(r) of the Clean Air Act (42 U.S.C. 7412(r)); and

(B) such other chemical substance as the Secretary may designate under section 03(g).

(12) TERRORISM.—The term "terrorism" has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(13) TERRORIST RELEASE.—The term "terrorist release" means—

(A) a release from a chemical source into the environment of a substance of concern that is caused by an act of terrorism; and

(B) the theft of a substance of concern by a person for off-site release in furtherance of an act of terrorism.

SEC. 03. VULNERABILITY ASSESSMENTS AND SITE SECURITY PLANS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require the owner or operator of each chemical source included on the list described in subsection (f)—

(A) to conduct an assessment of the vulnerability of the chemical source to a terrorist release, including identifying hazards that may result from a terrorist release; and

(B) to prepare and implement a site security plan that addresses the results of the vulnerability assessment.

(2) CONTENTS OF SITE SECURITY PLAN.—A site security plan required under the regulations promulgated under paragraph (1) or any other plan determined to be substantially equivalent by the Secretary under subsection (c)—

(A) shall include security measures to significantly reduce the vulnerability of the chemical source covered by the plan to a terrorist release;

(B) shall describe, at a minimum, particular equipment, plans, and procedures that could be implemented or used by or at the chemical source in the event of a terrorist release; and

(C) shall include consideration of alternative approaches and, where practicable in the judgment of the owner or operator of the chemical source, implementation of options to reduce the threat of a terrorist release through the use of alternative approaches.

(3) IMPLEMENTATION OF ALTERNATIVE APPROACHES AT HIGHEST RISK FACILITIES.—

(A) IN GENERAL.—A chemical source described in subparagraph (B) shall implement options to significantly reduce or eliminate the threat or consequences of a terrorist release through the use of alternative approaches that would not create an equal or greater risk to human health or the environment.

(B) APPLICABILITY.—This subparagraph applies to a chemical source if the chemical source is 1 of the 123 facilities that the Secretary determines would pose a risk of harm to the greatest number of people in the event of a terrorist release, unless the owner or operator of the chemical source can demonstrate to the Secretary through an assessment of alternative approaches that available alternative approaches—

(i) would not significantly reduce the number of people at risk of death, injury, or serious adverse effects resulting from a terrorist release;

(ii) cannot practicably be incorporated into the operation of the chemical source; or

(iii) would significantly and demonstrably impair the ability of the owner or operator of the chemical source to continue its business.

(4) GUIDANCE TO CHEMICAL SOURCES.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish guidance to assist owners and operators of chemical sources in complying with this title, including advice on aspects of compliance with this title that may be unique to small businesses (including completion of analyses of alternative approaches).

(5) THREAT INFORMATION.—To the maximum extent practicable under applicable authority and in the interests of national security, the Secretary shall provide to an owner or operator of a chemical source required to prepare a vulnerability assessment and site security plan threat information that is relevant to the chemical source.

(6) COORDINATED ASSESSMENTS AND PLANS.—The regulations promulgated under paragraph (1) shall permit the development and implementation of coordinated vulnerability assessments and site security plans in any case in which more than 1 chemical source is operating at a single location or at contiguous locations, including cases in which a chemical source is under the control of more than 1 owner or operator.

(b) CERTIFICATION AND SUBMISSION.—

(1) IN GENERAL.—Each owner or operator of a chemical source shall certify in writing to the Secretary that the owner or operator has completed a vulnerability assessment and has developed and implemented or is implementing a site security plan in accordance with this title, including—

(A) regulations promulgated under subsection (a)(1); and

(B) any applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(2) SUBMISSION.—Not later than 18 months after the date of promulgation of regulations under subsection (a)(1), an owner or operator of a chemical source shall provide to the Secretary copies of the vulnerability assessment and site security plan of the chemical source for review.

(3) REVIEW BY THE SECRETARY.—The Secretary shall review the assessments and plans submitted by the owner or operator of a chemical source under paragraph (2) to determine whether the chemical source is in compliance with—

(A) this title (including regulations promulgated under subsection (a)(1)); and

(B) other applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(4) TIMELINE.—

(A) IN GENERAL.—The Secretary shall—

(i) conduct the review and determine compliance under this title for not fewer than 20 percent of the chemical sources required to submit assessments and response plans in each year following the submission deadline under paragraph (2); and

(ii) complete the review and determination of compliance with this title for all such facilities not later than 5 years after the deadline.

(B) SUBSEQUENT REVIEW.—After conducting reviews and determining compliance under this title for all chemical sources, the Secretary may subsequently conduct a review and determine compliance under this title for a chemical source.

(C) REVIEW OF ADDED CHEMICAL SOURCES AND UPDATED ASSESSMENTS AND PLANS.—The Secretary shall review and determine compliance under this title not later than 3 years after the date of submission of assessments and response plans for chemical sources that—

(i) update their vulnerability assessments or response plans under this paragraph or subsection (h); or

(ii) are added under subsection (f)(3).

(5) CERTIFICATE.—

(A) FACILITIES DETERMINED TO BE IN COMPLIANCE.—If the Secretary completes a review under paragraph (3) and determines that the vulnerability assessment and site security plan of a chemical source are in compliance with the requirements of this title, the Secretary shall provide to the chemical source and make available for public inspection a certificate of approval that contains the following statement (in which the first bracketed space shall contain the name of the chemical source and the second bracketed space shall contain the Public Law number assigned to this Act):

"The Secretary of Homeland Security certifies that the Department of Homeland Security has reviewed and approved the vulnerability assessment and site security plan submitted by [ ] under the Chemical Facilities Security Act of 2004 (Public Law [ ]).".

(B) FACILITIES AWAITING REVIEW.—If a person requests a certificate of approval for a chemical source the vulnerability assessment and site security plan of which have not yet been reviewed for compliance with this title, the Secretary shall make available for public inspection a certificate that contains the following statement (in which the first bracketed space shall contain the name of the chemical source and the second bracketed space shall include the Public Law number assigned to this Act):

"The Secretary of Homeland Security's review of the vulnerability assessment and site security plan submitted by [ ] under the Chemical Facilities Security Act of 2004 (Public Law [ ]) is pending.".

(6) DETERMINATION OF NONCOMPLIANCE.—If the Secretary determines under paragraph (3) that a chemical source is not in compliance with the requirements of this title (including regulations promulgated under this title) the Secretary shall exercise the authority provided in section 04.

(7) SUBMISSION OF CHANGES.—The owner or operator of a chemical source shall—

(A) not later than 90 days after the date on which any significant change is made to the vulnerability assessment or site security plan required for the chemical source under this section, provide to the Secretary a description of the change; and

(B) update the certification of the vulnerability assessment or site security plan.

(c) SPECIFIED STANDARDS.—

(1) EXISTING PROCEDURES, PROTOCOLS, AND STANDARDS.—On submission of a petition by any person to the Secretary, the Secretary may initiate a rulemaking to—

(A) endorse or recognize procedures, protocols, and standards—

(i) that are established by—

(I) industry;

(II) State or local authorities; or

(III) other applicable law; and

(ii) the requirements of which the Secretary determines to be—

(I) substantially equivalent to each of subparagraphs (A) and (B) of subsection (a)(1) and subparagraphs (A), (B), and (C) of subsection (a)(2); and

(II) in effect on or after the date of enactment of this Act; and

(B) require that a vulnerability assessment and site security plan address a particular threat or type of threat.

(2) NOTIFICATION OF SUBSTANTIAL EQUIVALENCY.—If the Secretary endorses or recognizes procedures, protocols, and standards

under paragraph (1)(A), the Secretary shall provide notice to the person that submitted the petition.

(3) NO ACTION BY SECRETARY.—If the Secretary does not endorse or recognize existing procedures, protocols, and standards under paragraph (1)(A), the Secretary shall provide to each person that submitted a petition under paragraph (1) a written notification that includes a clear explanation of the reasons why the endorsement or recognition was not made.

(d) PREPARATION OF ASSESSMENTS AND PLANS.—As of the date of endorsement or recognition by the Secretary of a particular procedure, protocol, or standard under subsection (c)(1)(A), any vulnerability assessment or site security plan that is prepared by the owner or operator of a chemical source before, on, or after the date of endorsement or recognition of, and in accordance with, that procedure, protocol, or standard, shall, for the purposes of subsection (b)(3) and section 04, be judged by the Secretary against that procedure, protocol, or standard rather than the relevant regulations promulgated under subsection (a)(1) (including such a vulnerability assessment or site security plan prepared before, on, or after the date of enactment of this Act).

(e) REGULATORY CRITERIA.—In exercising the authority under subsections (a) and (c) with respect to a chemical source, the Secretary shall consider—

(1) the likelihood that a chemical source will be the target of terrorism;

(2) the nature and quantity of the substances of concern present at a chemical source;

(3) the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release;

(4) the potential harm to critical infrastructure and national security from a terrorist release;

(5) cost and technical feasibility;

(6) scale of operations; and

(7) such other security-related factors as the Secretary determines to be appropriate and necessary to protect the public health and welfare, critical infrastructure, and national security.

(f) LIST OF CHEMICAL SOURCES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a list of chemical sources in existence as of that date.

(2) CONSIDERATIONS.—In developing the list under paragraph (1), the Secretary shall consider the criteria specified in subsection (e).

(3) FUTURE DETERMINATIONS.—Not later than 3 years after the date of promulgation of regulations under subsection (a)(1) and every 3 years thereafter, the Secretary shall, after considering the criteria described in subsection (e)—

(A) determine whether additional stationary sources (including, as of the date of the determination, facilities that are operational and facilities that will become operational in the future) shall be considered to be chemical sources under this title;

(B) determine whether any chemical source identified on the most recent list under paragraph (1) no longer presents a risk sufficient to justify retention of classification as a chemical source under this title; and

(C) update the list as appropriate.

(4) REGULATIONS.—The Secretary may make a determination under this subsection in regulations promulgated under subsection (a)(1).

(g) DESIGNATION, EXEMPTION, AND ADJUSTMENT OF THRESHOLD QUANTITIES OF SUBSTANCES OF CONCERN.—

(1) IN GENERAL.—The Secretary may, by regulation—

(A) designate certain chemical substances in particular threshold quantities as substances of concern under this title;

(B) exempt certain chemical substances from designation as substances of concern under this title; and

(C) adjust the threshold quantity of a chemical substance for purposes of this title.

(2) CONSIDERATIONS.—In designating or exempting a chemical substance or adjusting the threshold quantity of a chemical substance under paragraph (1), the Secretary shall consider the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release of the chemical substance.

(3) REGULATIONS.—The Secretary may make a designation, exemption, or adjustment in regulations promulgated under subsection (a)(1).

(h) 5-YEAR REVIEW.—Not later than 5 years after the date of certification of a vulnerability assessment and a site security plan under subsection (b)(1), and not less often than every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), the owner or operator of the chemical source covered by the vulnerability assessment or site security plan shall—

(1) review the adequacy of the vulnerability assessment and site security plan; and

(2)(A) certify to the Secretary that the chemical source has completed the review and implemented any modifications to the site security plan; and

(B) submit to the Secretary a description of any changes to the vulnerability assessment or site security plan.

(i) NO PRIVATE RIGHT OF ACTION.—Nothing in this title—

(1) confers on any private person a right of action against an owner or operator of a chemical source to enforce any provision of this title;

(2) creates any liability on the part of an owner or operator of a chemical source arising out of any event that could not reasonably have been foreseen by the owner or operator; or

(3) affects any other remedies or defenses available under Federal or State law.

SEC. ___04. ENFORCEMENT.

(a) FAILURE TO COMPLY.—If an owner or operator of a chemical source fails to certify or submit a vulnerability assessment or site security plan in accordance with this title, the Secretary may issue an order requiring the certification and submission of a vulnerability assessment or site security plan in accordance with section 03(b).

(b) DISAPPROVAL.—The Secretary may disapprove a vulnerability assessment or site security plan submitted under section ___03(b) if the Secretary determines that—

(1) the vulnerability assessment or site security plan does not comply with—

(A) a regulation promulgated under section 03(a)(1); or

(B) a procedure, protocol, or standard endorsed or recognized under section ___03(c); or

(2) the site security plan, or the implementation of the site security plan, is insufficient to address—

(A) the results of a vulnerability assessment of a chemical source; or

(B) a threat or consequence of a terrorist release.

(c) COMPLIANCE.—If the Secretary disapproves a vulnerability assessment or site security plan of a chemical source under subsection (b), the Secretary shall—

(1) provide the owner or operator of the chemical source a written notification of the determination that includes a clear explanation of deficiencies in the vulnerability assessment, site security plan, or implementation of the assessment or plan;

(2) consult with the owner or operator of the chemical source to identify appropriate steps to achieve compliance; and

(3) if, following that consultation, the owner or operator of the chemical source does not achieve compliance by such date as the Secretary determines to be appropriate under the circumstances, issue an order requiring the owner or operator to correct specified deficiencies.

(d) EMERGENCY POWERS.—

(1) DEFINITION OF EMERGENCY THREAT.—In this subsection, the term "emergency threat" means a threat of a terrorist act that could result in a terrorist release at a chemical source—

(A) that is beyond the scope of the site security plan as implemented at the chemical source;

(B) the likelihood of the immediate occurrence of which is high;

(C) the consequences of which would be severe; and

(D) based on the factors described in subparagraphs (A) through (C), would not be appropriately and reasonably addressed, or addressed in a timely manner, by the Secretary under subsections (a) through (c).

(2) INITIATION OF ACTION.—

(A) IN GENERAL.—If the Secretary (in consultation with State and local law enforcement officials) determines that an emergency threat exists, the Secretary may bring a civil action on behalf of the United States in United States district court to immediately require each chemical source potentially subject to the emergency threat to take such actions as are necessary to respond to the emergency threat.

(B) NOTICE AND PARTICIPATION.—The Secretary shall provide to each chemical source that is the subject of a civil action under subparagraph (A)—

(i) notice of any injunctive relief to compel compliance with this subsection that is being sought; and

(ii) an opportunity to participate in any proceedings relating to the civil action.

(3) EMERGENCY ORDERS.—

(A) IN GENERAL.—If the Secretary determines that it is not practicable to ensure prompt action to protect public safety from an emergency threat by bringing a civil action under paragraph (2), the Secretary may issue such orders as are necessary to ensure public safety.

(B) CONSULTATION.—Before issuing an order under subparagraph (A), the Secretary shall—

(i) consult with State and local law enforcement officials; and

(ii) attempt to confirm the accuracy of the information on which the action proposed to be taken is based.

(C) EFFECTIVENESS OF ORDERS.—

(i) IN GENERAL.—An order issued by the Secretary under this paragraph shall be effective for the 60-day period beginning on the date of issuance of the order unless the Secretary brings a civil action under paragraph (2) before the expiration of that period.

(ii) EXTENSION OF EFFECTIVE PERIOD.—With respect to an order issued under this paragraph, the Secretary may bring a civil action before the end of the 60-day period described in clause (i) to extend the effective period of the order for—

(I) 14 days; or

(II) such longer period as the court in which the civil action is brought may authorize.

(e) PROTECTION OF INFORMATION.—Any determination of disapproval or order made or issued under this section shall be exempt from disclosure—

(1) under section 552 of title 5, United States Code;

(2) under any State or local law providing for public access to information; and

(3) except as provided in section ___08(d), in any Federal or State civil or administrative proceeding.

SEC. ___05. INTERAGENCY TECHNICAL SUPPORT AND COOPERATION.

The Secretary—

(1) may request other Federal agencies to provide technical and analytical support (other than field work) in carrying out this title;

(2) may provide reimbursement for such technical and analytical support received as the Secretary determines to be appropriate; and

(3) shall, in consultation with other relevant Federal agencies, take steps to minimize any duplicative administrative burdens on, or requirements of, any owner or operator of a chemical facility that are imposed by this Act and—

(A) the Maritime Transportation Security Act of 2002 (116 Stat. 2064) and the amendments made by that Act;

(B) the Public Health Security Preparedness and Bioterrorism and Response Act of 2002 (116 Stat. 594) and the amendments made by that Act; or

(C) any other Federal law.

SEC. ___06. RECORDKEEPING; SITE INSPECTIONS; PRODUCTION OF INFORMATION.

(a) RECORDKEEPING.—The owner or operator of a chemical source that is required to prepare a vulnerability assessment or site security plan under section 03(a) shall maintain a current copy of those documents.

(b) RIGHT OF ENTRY.—In carrying out this title, the Secretary (or a designee), on presentation of credentials, shall have a right of entry to, on, or through—

(1) any premises of an owner or operator of a chemical source described in subsection (a); and

(2) any premises on which any record required to be maintained under subsection (a) is located.

(c) REQUESTS FOR RECORDS.—In carrying out this title, the Secretary (or a designee) may require the submission of, or, on presentation of credentials, may at reasonable times seek access to and copy—

(1) any records, reports, or other information described in subsection (a); and

(2) any other documentation necessary for—

(A) review or analysis of a vulnerability assessment or site security plan; or

(B) implementation of a site security plan.

(d) COMPLIANCE.—If the Secretary determines that an owner or operator of a chemical source is not maintaining, producing, or permitting access to records as required by this section, the Secretary may issue an order requiring compliance with the relevant provisions of this section.

SEC. ___07. PENALTIES.

(a) ADMINISTRATIVE PENALTIES.—

(1) PENALTY ORDERS.—The Secretary may impose an administrative penalty of not more than $250,000 for failure to comply with an order issued by the Secretary under this title.

(B) NOTICE AND HEARING.—Before issuing an order under subparagraph (A), the Secretary shall provide to the person against which the penalty is to be assessed—

(i) written notice of the proposed order; and

(ii) the opportunity to request, not later than 30 days after the date on which the person receives the notice, a hearing on the proposed order.

(3) PROCEDURES.—The Secretary may promulgate regulations establishing procedures for administrative hearings and appropriate review, including necessary deadlines.

(b) CIVIL PENALTIES.—Any owner or operator of a chemical source that violates or fails to comply with any order issued by the Secretary under this title or site security plan submitted to the Secretary under this title may, in a civil action brought in United States district court, be subject, for each day on which the violation occurs or the failure to comply continues, to—

(1) an order for injunctive relief; or

(2) a civil penalty of not more than $50,000.

(c) CRIMINAL PENALTIES.—An owner or operator of a chemical source that knowingly violates any order issued by the Secretary under this title or knowingly fails to comply with a site security plan submitted to the Secretary under this title shall be fined not more than $50,000 for each day of violation, imprisoned not more than 2 years, or both.

SEC. ___08. PROTECTION OF INFORMATION.

(a) DEFINITION OF PROTECTED INFORMATION.—

(1) IN GENERAL.—In this section, the term "protected information" means—

(A) a vulnerability assessment or site security plan required by subsection (a) or (b) of section 03;

(B) any study, analysis, or other document generated by the owner or operator of a chemical source primarily for the purpose of preparing a vulnerability assessment or site security plan (including any alternative approach analysis); and

(C) any other information provided to or obtained or obtainable by the Secretary solely for the purposes of this title from the owner or operator of a chemical source that, if released, is reasonably likely to increase the probability or consequences of a terrorist release.

(2) OTHER OBLIGATIONS UNAFFECTED.—Nothing in this section affects—

(A) the handling, treatment, or disclosure of information obtained from a chemical source under any other law;

(B) any obligation of the owner or operator of a chemical source to submit or make available information to a Federal, State, or local government agency under, or otherwise to comply with, any other law; or

(C) the public disclosure of information derived from protected information, so long as the information disclosed—

(i) would not divulge methods or processes entitled to protection as trade secrets in accordance with the purposes of section 1905 of title 18, United States Code;

(ii) does not identify any particular chemical source; and

(iii) is not reasonably likely to increase the probability or consequences of a terrorist release,

even if the same information is also contained in a document referred to in paragraph (1).

(b) DISCLOSURE EXEMPTION.—Except with respect to certifications specified in paragraphs (1) and (5) of subsection (b) and subsection (h)(2)(A) of section 03, protected information shall be exempt from disclosure under—

(1) section 552 of title 5, United States Code; and

(2) any State or local law providing for public access to information.

(c) DEVELOPMENT OF PROTOCOLS.—

(1) IN GENERAL.—The Secretary, in consultation with the Director of the Office of Management and Budget and appropriate Federal law enforcement and intelligence officials, and in a manner consistent with protections for sensitive or classified information, shall by regulation establish confidentiality protocols for maintenance and use of protected information.

(2) REQUIREMENTS FOR PROTOCOLS.—A protocol established under paragraph (1) shall ensure that—

(A) protected information shall be maintained in a secure location; and

(B) except as provided in subsection (e)(2), or as necessary for enforcement of this title or any law, in either case consistent with subsection (d), access to protected information shall be limited to persons designated by the Secretary, including State or local law enforcement officers or other officials (including first responders) to the extent disclosure is needed to carry out the purposes of this title or to further the investigation of a potential violation of any law.

(d) TREATMENT OF PROTECTED INFORMATION IN FEDERAL OR STATE ADMINISTRATIVE OR JUDICIAL PROCEEDINGS.—

(1) ADMINISTRATIVE PROCEEDINGS.—

(A) IN GENERAL.—In an administrative proceeding in which a person seeks to compel the disclosure of protected information or to offer protected information into evidence, the person to which the discovery request is directed, the person seeking to offer evidence, or the owner or operator of a chemical source shall provide written notice of the request to—

(i) the United States Attorney for the district in which the administrative entity conducting the proceeding is located;

(ii) the Secretary; and

(iii) the administrative entity conducting the proceeding.

(B) CONTENTS.—A notice under subparagraph (A) shall include a brief description of the protected information.

(C) RESPONSE BY THE SECRETARY.—

(i) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a notice under subparagraph (A), the Secretary shall issue to each entity described in that subparagraph a response to the notice.

(ii) DETERMINATION OF THREAT.—If the Secretary determines that disclosure of protected information covered by a notice under subparagraph (A) would pose a threat to public security or endanger the life or safety of any person, the Secretary shall have the authority to request from the administrative entity any prohibitions or restrictions on disclosure of the protected information necessary to avert such threat or danger.

(D) PROHIBITION.—

(i) IN GENERAL.—No party to an administrative proceeding may disclose protected information except consistently with any restrictions established by the administrative entity regarding that information.

(ii) NO RESPONSE.—If an administrative entity has not received a response from the Secretary by the date that is 60 days after the date of receipt by the Secretary of a notice under subparagraph (A), an administrative entity—

(I) shall determine whether the information covered by the notice qualifies as protected information that would pose a threat to public security or endanger the life or safety of a person if the information were publicly disclosed; and

(II) shall consider imposing any prohibitions or restrictions on disclosure of the protected information necessary to avert such threat or danger.

(2) JUDICIAL PROCEEDINGS.—

(A) IN GENERAL.—In a judicial proceeding in which a person seeks to compel the disclosure of protected information, or to offer protected information into evidence, the person to which the discovery request is directed, the person seeking to offer evidence, or the owner or operator of a chemical source shall provide written notice of the request to—

(i) the United States Attorney for the district in which the court conducting the proceeding is located;

(ii) the Secretary; and

(iii) the court of jurisdiction.

(B) CONTENTS.—A notice under subparagraph (A) shall include a brief description of the protected information.

(C) RESPONSE BY SECRETARY.—

(i) IN GENERAL.—Not later than 60 days after the date on which the Secretary receives a notice under subparagraph (A), the Secretary shall issue to each entity described in that subparagraph a response to the notice.

(ii) DETERMINATION OF THREAT.—If the Secretary determines that disclosure of protected information covered by a notice under subparagraph (A) would pose a threat to public security or endanger the life or safety of any person, the Secretary shall have the authority to request from the court of jurisdiction any prohibitions or restrictions on disclosure of the protected information necessary to avert such threat or danger.

(D) PROHIBITION.—

(i) IN GENERAL.—No party to a judicial proceeding may disclose protected information except consistently with any restrictions established by the judge regarding that information.

(ii) NO RESPONSE.—If a court of jurisdiction has not received a response from the Secretary by the date that is 60 days after the date of receipt by the Secretary of a notice under subparagraph (A), the court—

(I) shall determine whether the information qualifies as protected information that would pose a threat to public security or endanger the life or safety of a person if the information were publicly disclosed; and

(II) shall consider imposing any prohibitions or restrictions on disclosure of the protected information necessary to avert such a threat or danger.

(e) PENALTIES FOR UNAUTHORIZED DISCLOSURE.—

(1) IN GENERAL.—Except as provided in paragraph (2), any person referred to in subsection (c)(2)(B) that acquires any protected information, and that knowingly or recklessly discloses the protected information, shall—

(A) be imprisoned not more than 1 year, fined under title 18, United States Code (applicable to class A misdemeanors), or both; and

(B) if the person is a Federal officer or employee, be removed from Federal office or employment.

(2) EXCEPTIONS.—

(A) IN GENERAL.—Paragraph (1) shall not apply to a person described in that subparagraph that discloses protected information—

(i) to a person designated by the Secretary under subsection (c)(2)(B);

(ii) for the purpose of section 6; or

(iii) consistent with subsection (d), for use in any administrative or judicial proceeding to enforce, or to impose a penalty for failure to comply with, a requirement of this title.

(B) LAW ENFORCEMENT OFFICIALS AND FIRST RESPONDERS.—Notwithstanding paragraph (1), a person referred to in subsection (c)(2)(B) that is an officer or employee of the United States may disclose to a State or local law enforcement official or other official (including a first responder) the contents of a vulnerability assessment or site security plan, or other information described in that subsection, to the extent disclosure is necessary to carry out this title.

(f) CONGRESSIONAL ACCESS TO INFORMATION.—Nothing in this section authorizes the withholding of information from Congress.

SEC. ___09. PROVISION OF TRAINING AND OTHER ASSISTANCE.

(a) TRAINING.—The Secretary may provide training to State and local officials and owners and operators in furtherance of the purposes of this title.

(b) OTHER ASSISTANCE.—The Secretary shall provide assistance to facilities exempt from this Act under section ___02(B)(ii) to help the facilities develop voluntary measures to enhance the security of the facilities, including the prevention of theft.

SEC. ___10. JUDICIAL REVIEW.

(a) REGULATIONS.—Not later than 60 days after the date of promulgation of a regulation under this title, any person may file a petition for judicial review relating to the regulation with—

(1) the United States Court of Appeals for the District of Columbia; or

(2) with the United States circuit court—

(A) having jurisdiction over the State in which the person resides; or

(B) for the circuit in which the principal place of business of the person is located.

(b) FINAL AGENCY ACTIONS OR ORDERS.—Not later than 60 days after the date on which a chemical source receives notice of an action or order of the Secretary under this title with respect to the chemical source, the chemical source may file a petition for judicial review of the action or order with the United States district court for the district in which—

(1) the chemical source is located; or

(2) the owner or operator of the chemical source has a principal place of business.

(c) STANDARD OF REVIEW.—

(1) IN GENERAL.—On the filing of a petition under subsection (a) or (b), the court shall review the regulation or other final action or order that is the subject of the petition in accordance with chapter 7 of title 5, United States Code.

(2) BASIS.—

(A) IN GENERAL.—Judicial review of a regulation, or of a final agency action or order described in paragraph (1) that is based on an administrative hearing held on the record, shall be based on the record of the proceedings, comments, and other information that the Secretary considered in promulgating the regulation, taking the action, or issuing the order being reviewed.

(B) OTHER ACTIONS AND ORDERS.—Judicial review of a final agency action or order described in paragraph (1) that is not described in subparagraph (A) shall be based on any submissions to the Secretary relating to the action or order and any other information that the Secretary considered in taking the action or issuing the order.

SEC. ___11. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

(a) IN GENERAL.—Except as provided in section ___08, nothing in this title affects any duty or other requirement imposed under any other Federal or State law.

(b) OTHER FEDERAL LAW.—

(1) IN GENERAL.—Notwithstanding subsection (a), an owner or operator of a chemical source that is required to prepare a site vulnerability assessment and implement a site security plan under any another Federal law may petition the Secretary to be subject to the other Federal law in lieu of this title.

(2) DETERMINATION OF SUBSTANTIAL EQUIVALENCE.—If the Secretary determines by rulemaking that a Federal law covered by a petition submitted by a chemical source under paragraph (1) is substantially equivalent to this title (including the requirements regarding alternative approaches under section ___03(a))—

(A) the Secretary may grant the petition; and

(B) the chemical source shall be subject to the other Federal law in lieu of this title.

SEC. ___12. AGRICULTURAL BUSINESS SECURITY GRANT PROGRAM.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means a retail or production agricultural business (including a business that is engaged in the production or processing of seafood) that employs not more than such number of individuals at a chemical source included in the list described in section ___03(f) as shall be determined by the Secretary, in consultation with the Administrator of the Small Business Administration and the Secretary of Agriculture.

(b) GRANTS.—The Secretary shall provide grants to an eligible entity that is a chemical source included in the list described in section ___03(f) selected under this section to enable the eligible entity at the chemical source—

(1) to improve security measures; and

(2) to protect against or reduce the consequence of a terrorist attack.

(c) CRITERIA.—In establishing criteria for the selection of, or in otherwise selecting, eligible entities to receive a grant under this section, the Secretary shall—

(1) consider on an individual, location-by-location basis, each applicant for a grant; and

(2) require each eligible entity that receives a grant to use funds from the grant only for the purposes described in subsection (b) in accordance with guidance of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 3850. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, after line 12 insert the following:

TITLE IV—OTHER MATTERS

SEC. 401. INCLUSION OF VISA REVOCATIONS IN THE NATIONAL CRIME AND INFORMATION CENTER DATABASE.

(a) PROVISION OF INFORMATION TO NCIC.—

(1) IN GENERAL.—The Secretary of State, in consultation with the Secretary of Homeland

Security, shall submit to the National Crime Information Center of the Department of Justice information regarding the revocation of an alien's visa and any other appropriate information regarding such alien. Such information shall be submitted regardless of whether the alien has been removed from the United States.

(2) INITIAL SUBMISSION OF INFORMATION.—Not later than 60 days after the date of enactment of this Act, the Secretary of State, in consultation with the Secretary of Homeland Security, shall submit to the National Crime Information Center the information described in paragraph (1) for any alien whose visa was revoked prior to the date of enactment of this Act.

(b) AUTHORITY TO RECEIVE INFORMATION.—

(1) IN GENERAL.—Section 534(a) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States.".

(2) CONFORMING AMENDMENTS.—Such section, as amended by paragraph (1), is further amended—

(A) in paragraph (3), by striking "and" at the end; and

(B) in paragraph (4), by striking the period at the end and inserting a semicolon and "and".

(c) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section and the amendments made by this section shall take effect on the date of the enactment of this Act.

SA 3851. Mr. GRASSLEY (for himself, Mr. CHAMBLISS, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, strike line 12 and insert the following:

carry out this Act and the amendments made by this Act.

TITLE IV—OTHER MATTERS

SEC. 401. VISA REVOCATION.

(a) LIMITATION ON REVIEW.—Section 221(i) of the Immigration and Nationality Act (8 U.S.C. 1201(i)) is amended by adding at the end the following: "There shall be no means of administrative or judicial review of a revocation under this subsection, and no court or other person otherwise shall have jurisdiction to consider any claim challenging the validity of such a revocation.".

(b) CLASSES OF DEPORTABLE ALIENS.—Section 237(a)(1)(B) of the Immigration and Nationality Act (8 U.S.C. 1227(a)(1)(B)) is amended by striking "United States is" and inserting the following: "United States, or whose visa (or other documentation authorizing admission into the United States) has been revoked under section 221(i), is".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to revocations under section 221(i) of the Immigration and Nationality Act made before, on, or after such date.

SA 3852. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new title:

TITLE IV—INTERVIEWS OF VISA APPLICANTS

SEC. 401. REQUIREMENT OF PERSONAL INTERVIEWS OF VISA APPLICANTS.

Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of this Act, each consular officer shall—

"(1) with respect to an alien who is at least 16 years of age and not more than 60 years of age and who is applying for a nonimmigrant visa, require the alien to submit to a personal interview in accordance with such regulations as may be prescribed unless

"(A) such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

"(B) such alien is applying for a visa—

"(i) not more than 12 months after the date on which the alien's prior visa expired;

"(ii) for the classification under section 101(a)(15) for which such prior visa was issued; and

"(iii) from the consular post located near the alien's usual residence; or

"(C) the consular officer determines that it is in the national interest of the United States to waive the personal interview of such alien and properly documents the justification for such waiver;

"(2) with respect to an alien who is at least 14 years of age and not more than 80 years of age and who is applying for a nonimmigrant visa, require the alien to appear in person for the purpose of providing biometric data, including electronic fingerscans, in accordance with such regulations as may be prescribed unless such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

"(3) with respect to an alien who is applying for an immigrant or a nonimmigrant visa who is a national of a country officially designated by the Secretary of State as a state sponsor of terrorism, require the alien to submit to a personal interview in accordance with such regulations as may be prescribed.".

SA 3853. Mr. GRASSLEY (for himself and Mr. LEAHY) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, add the following new title:

TITLE IV—FEDERAL BUREAU OF INVESTIGATION REFORM

SEC. 401. SHORT TITLE.

This title may be cited as the "Federal Bureau of Investigation Reform Act of 2004".

Subtitle A—Whistleblower Protection

SEC. 411. INCREASING PROTECTIONS FOR FBI WHISTLEBLOWERS.

Section 2303 of title 5, United States Code, is amended to read as follows:

"§ 2303. Prohibited personnel practices in the Federal Bureau of Investigation

"(a) DEFINITION.—In this section, the term 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2)(A).

"(b) PROHIBITED PRACTICES.—Any employee of the Federal Bureau of Investigation who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau or because of—

"(1) any disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose), a supervisor of the employee, the Inspector General for the Department of Justice, or a Member of Congress that the employee reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

"(2) any disclosure of information by the employee to the Special Counsel of information that the employee reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(c) INDIVIDUAL RIGHT OF ACTION.—Chapter 12 of this title shall apply to an employee of the Federal Bureau of Investigation who claims that a personnel action has been taken under this section against the employee as a reprisal for any disclosure of information described in subsection (b)(2).

"(d) REGULATIONS.—The Attorney General shall prescribe regulations to ensure that a personnel action under this section shall not be taken against an employee of the Federal Bureau of Investigation as a reprisal for any disclosure of information described in subsection (b)(1), and shall provide for the enforcement of such regulations in a manner consistent with applicable provisions of sections 1214 and 1221, and in accordance with the procedures set forth in sections 554 through 557 and 701 through 706.".

Subtitle B—FBI Security Career Program

SEC. 421. SECURITY MANAGEMENT POLICIES.

The Attorney General shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in security positions in the Federal Bureau of Investigation.

SEC. 422. DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) IN GENERAL.—Subject to the authority, direction, and control of the Attorney General, the Director of the Federal Bureau of Investigation (referred to in this title as the "Director") shall carry out all powers, functions, and duties of the Attorney General with respect to the security workforce in the Federal Bureau of Investigation.

(b) POLICY IMPLEMENTATION.—The Director shall ensure that the policies of the Attorney General established in accordance with this title are implemented throughout the Federal Bureau of Investigation at both the headquarters and field office levels.

SEC. 423. DIRECTOR OF SECURITY.

The Director shall appoint a Director of Security, or such other title as the Director may determine, to assist the Director in the performance of the duties of the Director under this title.

SEC. 424. SECURITY CAREER PROGRAM BOARDS.

(a) ESTABLISHMENT.—The Director acting through the Director of Security shall establish a security career program board to advise the Director in managing the hiring, training, education, and career development of personnel in the security workforce of the Federal Bureau of Investigation.

(b) COMPOSITION OF BOARD.—The security career program board shall include—

(1) the Director of Security (or a representative of the Director of Security);

(2) the senior officials, as designated by the Director, with responsibility for personnel management;

(3) the senior officials, as designated by the Director, with responsibility for information management;

(4) the senior officials, as designated by the Director, with responsibility for training and career development in the various security disciplines; and

(5) such other senior officials for the intelligence community as the Director may designate.

(c) CHAIRPERSON.—The Director of Security (or a representative of the Director of Security) shall be the chairperson of the board.

(d) SUBORDINATE BOARDS.—The Director of Security may establish a subordinate board structure to which functions of the security career program board may be delegated.

SEC. 425. DESIGNATION OF SECURITY POSITIONS.

(a) DESIGNATION.—The Director shall designate, by regulation, those positions in the Federal Bureau of Investigation that are security positions for purposes of this title.

(b) REQUIRED POSITIONS.—In designating security positions under subsection (a), the Director shall include, at a minimum, all security-related positions in the areas of—

(1) personnel security and access control;

(2) information systems security and information assurance;

(3) physical security and technical surveillance countermeasures;

(4) operational, program, and industrial security; and

(5) information security and classification management.

SEC. 426. CAREER DEVELOPMENT.

(a) CAREER PATHS.—The Director shall ensure that appropriate career paths for personnel who wish to pursue careers in security are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior security positions and shall make available published information on those career paths.

(b) LIMITATION ON PREFERENCE FOR SPECIAL AGENTS.—

(1) IN GENERAL.—Except as provided in the policy established under paragraph (2), the Attorney General shall ensure that no requirement or preference for a Special Agent of the Federal Bureau of Investigation (referred to in this title as a "Special Agent") is used in the consideration of persons for security positions.

(2) POLICY.—The Attorney General shall establish a policy that permits a particular security position to be specified as available only to Special Agents, if a determination is made, under criteria specified in the policy, that a Special Agent—

(A) is required for that position by law;

(B) is essential for performance of the duties of the position; or

(C) is necessary for another compelling reason.

(3) REPORT.—Not later than December 15 of each year, the Director shall submit to the Attorney General a report that lists—

(A) each security position that is restricted to Special Agents under the policy established under paragraph (2); and

(B) the recommendation of the Director as to whether each restricted security position should remain restricted.

(c) OPPORTUNITIES TO QUALIFY.—The Attorney General shall ensure that all personnel, including Special Agents, are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior security positions.

(d) BEST QUALIFIED.—The Attorney General shall ensure that the policies established under this title are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

(e) ASSIGNMENTS POLICY.—The Attorney General shall establish a policy for assigning Special Agents to security positions that provides for a balance between—

(1) the need for personnel to serve in career enhancing positions; and

(2) the need for requiring service in each such position for sufficient time to provide the stability necessary to carry out effectively the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(f) LENGTH OF ASSIGNMENT.—In implementing the policy established under subsection (b)(2), the Director shall provide, as appropriate, for longer lengths of assignments to security positions than assignments to other positions.

(g) PERFORMANCE APPRAISALS.—The Director shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in a security position by a person serving in a security position in the same security career field.

(h) BALANCED WORKFORCE POLICY.—In the development of security workforce policies under this title with respect to any employees or applicants for employment, the Attorney General shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

SEC. 427. GENERAL EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS.

(a) IN GENERAL.—The Director shall establish education, training, and experience requirements for each security position, based on the level of complexity of duties carried out in the position.

(b) QUALIFICATION REQUIREMENTS.—Before being assigned to a position as a program manager or deputy program manager of a significant security program, a person—

(1) must have completed a security program management course that is accredited by the Intelligence Community-Department of Defense Joint Security Training Consortium or is determined to be comparable by the Director; and

(2) must have not less than 6 years experience in security, of which not less than 2 years were performed in a similar program office or organization.

SEC. 428. EDUCATION AND TRAINING PROGRAMS.

(a) IN GENERAL.—The Director, in consultation with the Director of Central Intelligence and the Secretary of Defense, shall establish and implement education and training programs for persons serving in security positions in the Federal Bureau of Investigation.

(b) OTHER PROGRAMS.—The Director shall ensure that programs established under subsection (a) are established and implemented, to the maximum extent practicable, uniformly with the programs of the Intelligence Community and the Department of Defense.

SEC. 429. OFFICE OF PERSONNEL MANAGEMENT APPROVAL.

(a) IN GENERAL.—The Attorney General shall submit any requirement that is established under section 207 to the Director of the Office of Personnel Management for approval.

(b) FINAL APPROVAL.—If the Director does not disapprove the requirements established under section 207 within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director of the Office of Personnel Management.

Subtitle C—FBI Counterintelligence Polygraph Program

SEC. 431. DEFINITIONS.

In this title:

(1) POLYGRAPH PROGRAM.—The term "polygraph program" means the counterintelligence screening polygraph program established under section 302.

(2) POLYGRAPH REVIEW.—The term "Polygraph Review" means the review of the scientific validity of the polygraph for counterintelligence screening purposes conducted by the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

SEC. 432. ESTABLISHMENT OF PROGRAM.

Not later than 6 months after the date of enactment of this Act, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation and the Director of Security of the Federal Bureau of Investigation, shall establish a counterintelligence screening polygraph program for the Federal Bureau of Investigation that consists of periodic polygraph examinations of employees, or contractor employees of the Federal Bureau of Investigation who are in positions specified by the Director of the Federal Bureau of Investigation as exceptionally sensitive in order to minimize the potential for unauthorized release or disclosure of exceptionally sensitive information.

SEC. 433. REGULATIONS.

(a) IN GENERAL.—The Attorney General shall prescribe regulations for the polygraph program in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(b) CONSIDERATIONS.—In prescribing regulations under subsection (a), the Attorney General shall—

(1) take into account the results of the Polygraph Review; and

(2) include procedures for—

(A) identifying and addressing false positive results of polygraph examinations;

(B) ensuring that adverse personnel actions are not taken against an individual solely by reason of the physiological reaction of the individual to a question in a polygraph examination, unless—

(i) reasonable efforts are first made independently to determine through alternative means, the veracity of the response of the individual to the question; and

(ii) the Director of the Federal Bureau of Investigation determines personally that the personnel action is justified;

(C) ensuring quality assurance and quality control in accordance with any guidance provided by the Department of Defense Polygraph Institute and the Director of Central Intelligence; and

(D) allowing any employee or contractor who is the subject of a counterintelligence screening polygraph examination under the polygraph program, upon written request, to have prompt access to any unclassified reports regarding an examination that relates to any adverse personnel action taken with respect to the individual.

SEC. 434. REPORT ON FURTHER ENHANCEMENT OF FBI PERSONNEL SECURITY PROGRAM.

(a) In General.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report setting forth recommendations for any legislative action that the Director considers appropriate in order to enhance the personnel security program of the Federal Bureau of Investigation.

(b) Polygraph Review Results.—Any recommendation under subsection (a) regarding the use of polygraphs shall take into account the results of the Polygraph Review.

Subtitle D—Reports

SEC. 441. REPORT ON LEGAL AUTHORITY FOR FBI PROGRAMS AND ACTIVITIES.

(a) In General.—Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report describing the statutory and other legal authority for all programs and activities of the Federal Bureau of Investigation.

(b) Contents.—The report submitted under subsection (a) shall describe—

(1) the titles within the United States Code and the statutes for which the Federal Bureau of Investigation exercises investigative responsibility;

(2) each program or activity of the Federal Bureau of Investigation that has express statutory authority and the statute which provides that authority; and

(3) each program or activity of the Federal Bureau of Investigation that does not have express statutory authority, and the source of the legal authority for that program or activity.

(c) Recommendations.—The report submitted under subsection (a) shall recommend whether—

(1) the Federal Bureau of Investigation should continue to have investigative responsibility for each statute for which the Federal Bureau of Investigation currently has investigative responsibility;

(2) the legal authority for any program or activity of the Federal Bureau of Investigation should be modified or repealed;

(3) the Federal Bureau of Investigation should have express statutory authority for any program or activity of the Federal Bureau of Investigation for which the Federal Bureau of Investigation does not currently have express statutory authority; and

(4) the Federal Bureau of Investigation should—

(A) have authority for any new program or activity; and

(B) express statutory authority with respect to any new programs or activities.

Subtitle E—Ending the Double Standard

SEC. 451. ALLOWING DISCIPLINARY SUSPENSIONS OF MEMBERS OF THE SENIOR EXECUTIVE SERVICE FOR 14 DAYS OR LESS.

Section 7542 of title 5, United States Code, is amended by striking "for more than 14 days".

SEC. 452. SUBMITTING OFFICE OF PROFESSIONAL RESPONSIBILITY REPORTS TO CONGRESSIONAL COMMITTEES.

(a) In General.—For each of the 5 years following the date of enactment of this Act, the Office of the Inspector General shall submit to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives an annual report to be completed by the Federal Bureau of Investigation, Office of Professional Responsibility and provided to the Inspector General, which sets forth—

(1) basic information on each investigation completed by that Office;

(2) the findings and recommendations of that Office for disciplinary action; and

(3) what, if any, action was taken by the Director of the Federal Bureau of Investigation or the designee of the Director based on any such recommendation.

(b) Contents.—In addition to all matters already included in the annual report described in subsection (a), the report shall also include an analysis of—

(1) whether senior Federal Bureau of Investigation employees and lower level Federal Bureau of Investigation personnel are being disciplined and investigated similarly; and

(2) whether any double standard is being employed to more senior employees with respect to allegations of misconduct.

Subtitle F—Enhancing Security at the Department of Justice

SEC. 461. REPORT ON THE PROTECTION OF SECURITY AND INFORMATION AT THE DEPARTMENT OF JUSTICE.

Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the manner in which the Security and Emergency Planning Staff, the Office of Intelligence Policy and Review, and the Chief Information Officer of the Department of Justice plan to improve the protection of security and information at the Department of Justice, including a plan to establish secure electronic communications between the Federal Bureau of Investigation and the Office of Intelligence Policy and Review for processing information related to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. 462. AUTHORIZATION FOR INCREASED RESOURCES TO PROTECT SECURITY AND INFORMATION.

There are authorized to be appropriated to the Department of Justice for the activities of the Security and Emergency Planning Staff to meet the increased demands to provide personnel, physical, information, technical, and litigation security for the Department of Justice, to prepare for terrorist threats and other emergencies, and to review security compliance by components of the Department of Justice—

(1) $13,000,000 for fiscal years 2005 and 2006;

(2) $17,000,000 for fiscal year 2007; and

(3) $22,000,000 for fiscal year 2008.

SEC. 463. AUTHORIZATION FOR INCREASED RESOURCES TO FULFILL NATIONAL SECURITY MISSION OF THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for the activities of the Office of Intelligence Policy and Review to help meet the increased personnel demands to combat terrorism, process applications to the Foreign Intelligence Surveillance Court, participate effectively in counterespionage investigations, provide policy analysis and oversight on national security matters, and enhance secure computer and telecommunications facilities—

(1) $7,000,000 for fiscal years 2005 and 2006;

(2) $7,500,000 for fiscal year 2007; and

(3) $8,000,000 for fiscal year 2008.

SA 3854. Mr. TALENT submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. STATE REPROGRAMMING OF GRANT FUNDS.

Subtitle A of title VIII of the Homeland Security Act of 2002 (6 U.S.C. 361 et seq.) is amended by adding at the end the following:

"SEC. 802. STATE REPROGRAMMING OF GRANT FUNDS.

"(a) Authorization.—The Director of the Office for State and Local Government Coordination and Preparedness may approve requests from the senior official responsible for emergency preparedness and response in each State to reprogram funds appropriated for the State Homeland Security Grant Program of the Office for State and Local Government Coordination and Preparedness to address specific security requirements that are based on credible threat assessments, particularly threats that arise after the State has submitted an application describing its intended use of such grant funds.

"(b) Limitation.—For each State, the amount of funds reprogrammed under this section shall not exceed 10 percent of the total annual allocation for such State under the State Homeland Security Grant Program; and

"(c) Consultation.—Before reprogramming funds under this section, a State official described in subsection (a) shall consult with relevant local officials.".

SA 3855. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. COMBATTING TERRORIST FINANCING.

(a) Specified Activities for Money Laundering.—

(1) RICO Definitions.—Section 1961(1) of title 18, United States Code, is amended—

(A) in subparagraph (A), by inserting "burglary, embezzlement," after "robbery,";

(B) in subparagraph (B), by—

(i) inserting "section 1960 (relating to illegal money transmitters)," before "sections 2251";

(ii) striking "1588" and inserting "1592";

(iii) inserting "and 1470" after "1461-1465"; and

(iv) inserting "2252A," after "2252,";

(C) in subparagraph (D), by striking "fraud in the sale of securities" and inserting "fraud in the purchase or sale of securities"; and

(D) in subparagraph (F), by inserting "and 274A" after "274".

(2) Monetary Investments.—Section 1956(c)(7)(D) of title 18, United States Code, is amended—

(A) by inserting ", or section 2339C (relating to financing of terrorism)" before "of this title"; and

(B) by striking "or any felony violation of the Foreign Corrupt Practices Act" and inserting "any felony violation of the Foreign Corrupt Practices Act, or any violation of section 208 of the Social Security Act (42 U.S.C. 408) (relating to obtaining funds through misuse of a social security number)".

(3) CONFORMING AMENDMENTS.—

(A) MONETARY INSTRUMENTS.—Section 1956(e) of title 18, United States Code, is amended to read as follows:

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, with respect to the offenses over which the Social Security Administration has jurisdiction, as the Commissioner of Social Security may direct, and with respect to offenses over which the United States Postal Service has jurisdiction, as the Postmaster General may direct. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Commissioner of Social Security, the Postmaster General, and the Attorney General. Violations of this section involving offenses described in subsection (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.".

(B) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957(e) of title 18, United States Code, is amended to read as follows:

"(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate, and, with respect to offenses over which the Department of Homeland Security has jurisdiction, by such components of the Department of Homeland Security as the Secretary of Homeland Security may direct, and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postmaster General. The authority under this subsection of the Secretary of the Treasury, the Secretary of Homeland Security, and the Postmaster General shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Secretary of Homeland Security, the Postmaster General, and the Attorney General.".

(b) ILLEGAL MONEY TRANSMITTING BUSINESSES.—

(1) TECHNICAL AMENDMENTS.—Section 1960 of title 18, United States Code, is amended—

(A) in the caption by striking "unlicensed" and inserting "illegal";

(B) in subsection (a), by striking "unlicensed" and inserting "illegal";

(C) in subsection (b)(1), by striking "unlicensed" and inserting "illegal"; and

(D) in subsection (b)(1)(C), by striking "to be used to be used" and inserting "to be used".

(2) PROHIBITION ON UNLICENSED MONEY TRANSMITTING BUSINESSES.—Section 1960(b)(1)(B) of title 18, United States Code, is amended by inserting the following before the semicolon: ", whether or not the defendant knew that the operation was required to comply with such registration requirements".

(3) AUTHORITY TO INVESTIGATE.—Section 1960 of title 18, United States Code, is amended by adding at the end the following:

"(c) Investigations of violations of this section shall be coordinated by the Secretary of the Treasury, and may be conducted by the Attorney General, the Secretary of the Treasury, and the Secretary of the Department of Homeland Security.".

(c) ASSETS OF PERSONS COMMITTING TERRORIST ACTS AGAINST FOREIGN COUNTRIES OR INTERNATIONAL ORGANIZATIONS.—Section 981(a)(1)(G) of title 18, United States Code, is amended—

(1) by striking "or" at the end of clause (ii);

(2) by striking the period at the end of clause (iii) and inserting "; or"; and

(3) by inserting after clause (iii) the following:

"(iv) of any individual, entity, or organization engaged in planning or perpetrating any act of international terrorism (as defined in section 2331) against any international organization (as defined in section 209 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4309(b))) or against any foreign government. Where the property sought for forfeiture is located beyond the territorial boundaries of the United States, an act in furtherance of such planning or perpetration must have occurred within the jurisdiction of the United States.".

(d) MONEY LAUNDERING THROUGH INFORMAL VALUE TRANSFER SYSTEMS.—Section 1956(a) of title 18, United States Code, is amended by adding at the end the following:

"(4) A transaction described in paragraph (1) or a transportation, transmission, or transfer described in paragraph (2) shall be deemed to involve the proceeds of specified unlawful activity, if the transaction, transportation, transmission, or transfer is part of a single plan or arrangement whose purpose is described in either of those paragraphs and one part of such plan or arrangement actually involves the proceeds of specified unlawful activity.".

(e) TECHNICAL CORRECTIONS TO FINANCING OF TERRORISM STATUTE.—

(1) CONCEALMENT.—Section 2339C(c)(2) of title 18, United States Code, is amended—

(A) by striking "resources, or funds" and inserting "resources, or any funds or proceeds of such funds";

(B) in subparagraph (A), by striking "were provided" and inserting "are to be provided, or knowing that the support or resources were provided,"; and

(C) in subparagraph (B)—

(i) by striking "or any proceeds of such funds"; and

(ii) by striking "were provided or collected" and inserting "are to be provided or collected, or knowing that the funds were provided or collected,".

(2) DEFINITIONS.—Section 2339C(e) of title 18, United States Code, is amended—

(A) by striking "and" at the end of paragraph (12);

(B) redesignating paragraph (13) as paragraph (14); and

(C) inserting after paragraph (12) the following new paragraph:

"(13) the term 'material support or resources' has the same meaning as in section 2339A(b) of this title; and".

(3) INTERNATIONAL TERRORISM.—Section 2332b(g)(5)(B) of title 18, United States Code, is amended by inserting ")" after "2339C (relating to financing of terrorism".

(f) MISCELLANEOUS AND TECHNICAL AMENDMENTS.—

(1) CRIMINAL FORFEITURE.—Section 982(b) of title 18, United States Code, is amended in subsection (b)(2), by striking "The substitution" and inserting "With respect to a forfeiture under subsection (a)(1), the substitution".

(2) TECHNICAL AMENDMENTS TO SECTIONS 1956 AND 1957.—

(A) UNLAWFUL ACTIVITY.—Section 1956(c)(7)(F) of title 18, United States Code, is amended by inserting ", as defined in section 24" before the period.

(B) PROPERTY FROM UNLAWFUL ACTIVITY.—Section 1957 of title 18, United States Code, is amended—

(i) in subsection (a), by striking "engages or attempts to engage in" and inserting "conducts or attempts to conduct"; and

(ii) in subsection (f), by inserting the following after paragraph (3):

"(4) the term 'conducts' has the same meaning as it does for purposes of section 1956 of this title.".

(3) OBSTRUCTION OF JUSTICE.—Section 1510(b)(3)(B) of title 18, United States Code, is amended by striking "or" the first time it appears and inserting ", a subpoena issued pursuant to section 1782 of title 28, or".

(g) EXTENSION OF MONEY LAUNDERING AND FINANCIAL CRIMES STRATEGY ACT OF 1998.—

(1) TRANSMITTAL TO CONGRESS.—Section 5341(a)(2) of title 31, United States Code, is amended by striking "and 2003" and inserting "2003, 2005, 2006, and 2007".

(2) AUTHORIZATION OF APPROPRIATIONS.—Section 5355 of title 31, United States Code, is amended by adding at the end the following:

"2005	$15,000,000
"2006	$15,000,000
"2007	$15,000,000.".

SEC. ___. INCREASED PENALTIES FOR SMUGGLING GOODS.

(a) INCREASED PENALTY.—The third undesignated paragraph of section 545, United States Code, is amended by striking "five years" and inserting "20 years".

(b) ENHANCED PENALTY FOR CAUSING DEATH.—

(1) AMENDMENT OF FEDERAL SENTENCING GUIDELINES.—Pursuant to its authority under section 994 of title 28, United States Code, the United States Sentencing Commission shall amend the Federal sentencing guidelines to provide sentencing enhancements for an offense under section 545 of title 18, United States Code, as amended by this Act, that results in the death of a person.

(2) CONSISTENCY WITH OTHER GUIDELINES.—In carrying out this section, the United States Sentencing Commission shall—

(A) ensure that there is reasonable consistency with other Federal sentencing guidelines; and

(B) avoid duplicative punishments for substantially the same offense.

SA 3856. Mr. GRASSLEY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. UNITED STATES INTERDICTION COORDINATOR.

(a) In General.—Section 704 of the Office of National Drug Control Policy Reauthorization Act of 1998 (21 U.S.C. 1703), as enforced in law notwithstanding repeal, is amended by adding at the end the following:

"(I) United States Interdiction Coordinator.—

"(1) In general.—There shall be a United States Interdiction Coordinator, who shall be designated by the Director and who shall be responsible for the coordination of interdiction operations among National Drug Control Program Agencies to prevent and reduce the illegal importation of drugs into the United States.

"(2) Responsibilities.—The United States Interdiction Coordinator shall be responsible to the Director for—

"(A) coordinating the interdiction of the National Drug Control Program Agencies activities to ensure consistency with the National Drug Control Strategy;

"(B) developing a National Drug Control Interdiction plan to ensure consistency with the National Drug Control Strategy;

"(C) assessing the sufficiency of assets of the National Drug Control Program Agencies committed to illicit drug interdiction; and

"(D) advising the Director on the efforts of each National Drug Control Program Agency to implement the National Drug Control Interdiction plan.".

(b) Amendment to Homeland Security Act of 2002.—Section 878 of the Homeland Security Act of 2002 (6 U.S.C. 458) is amended by striking "shall—" through paragraph (2) and inserting "shall ensure the adequacy of resources within the Department for illicit drug interdiction.".

SA 3857. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. Collins (for herself, Mr. Carper, and Mr. Lieberman) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, strike lines 9 through 15, and insert the following:

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(9) managing the Homeland Security Information Clearinghouse established under section 801(d); and

"(10) managing the Noble Training Center in Fort McClellan, Alabama, through the Center for Domestic Preparedness.";

SA 3858. Mr. SHELBY submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. Collins (for herself, Mr. Carper, and Mr. Lieberman) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, strike line 20 and all that follows through page 11, line 7, and insert the following:

"(d) Designation.—The Center for Domestic Preparedness shall be designated as the National First Responder Training Center within the Office for Domestic Preparedness.".

SA 3859. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 94, between lines 14 and 15, insert the following:

(3) There may be established under this subsection a separate national intelligence center having an area of intelligence responsibility for each of the following:

(A) The nuclear terrorism threats confronting the United States.

(B) The chemical terrorism threats confronting,the United States.

(C) The biological terrorism threats confronting the United States.

On page 94, line 15, strike "(3)" and insert "(4)".

SA 3860. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. INTELLIGENCE COMMUNITY USE OF NISAC CAPABILITIES.

The National Intelligence Director shall establish a formal relationship, including information sharing, between the intelligence community and the National Infrastructure Simulation and Analysis Center. Through this relationship, the intelligence community shall take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center, particularly vulnerability and consequence analysis, for real time response to reported threats and long term planning for projected threats.

SA 3861. Mr. DOMENICI submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. BORDER SURVEILLANCE.

(a) In General.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the President and the appropriate committees of Congress a comprehensive plan for the systematic surveillance of the Southwest border of the United States by remotely piloted aircraft.

(b) Contents.—The plan submitted under subsection (a) shall include—

(1) recommendations for establishing command and control centers, operations sites, infrastructure, maintenance, and procurement;

(2) cost estimates for the implementation of the plan and ongoing operations;

(3) recommendations for the appropriate agent within the Department of Homeland Security to be the executive agency for remotely piloted aircraft operations;

(4) the number of remotely piloted aircraft required for the plan;

(5) the types of missions the plan would undertake, including—

(A) protecting the lives of people seeking illegal entry into the United States;

(B) interdicting illegal movement of people, weapons, and other contraband across the border;

(C) providing investigative support to assist in the dismantling of smuggling and criminal networks along the border;

(D) using remotely piloted aircraft to serve as platforms for the collection of intelligence against smugglers and criminal networks along the border; and

(E) further validating and testing of remotely piloted aircraft for airspace security missions; and

(6) the equipment necessary to carry out the plan.

(c) Implementation.—The Secretary of Homeland Security shall implement the plan submitted under subsection (a) as soon as sufficient funds are appropriated and available for this purpose.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

SA 3862. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new title:

TITLE IV—OTHER MATTERS.

SEC. 401. INFORMATION-BASED IDENTITY AUTHENTICATION OF DRIVER'S LICENSES.

(a) New Requirements.—

(1) Redesignation.—Chapter 303 of title 49, United States Code, is amended—

(A) by striking section 30308; and

(B) by redesignating sections 30306 and 30307 as sections 30307 and 30308, respectively.

(2) Identification requirements.—Chapter 303 of such title is further amended by inserting after section 30305 the following new section:

"§ 30306. Requirement for information-based identity authentication

"(a) Identification Authentication Standards.—The Secretary of Transportation, in consultation with the Secretary of Homeland Security and the Administrator of the Federal Motor Carrier Safety Administration, shall prescribe regulations that set forth minimum standards for the use by a State of a system of information-based identity authentication in determining the identity of an applicant for a motor vehicle operator's license prior to the issuance, renewal, transfer, or upgrading of a motor vehicle operator's license.

"(b) Content of Regulations.—The regulations required under subsection (a) shall require a State to use a system of information-based identity authentication that—

"(1) utilizes multiple sources of information related to the identity of the applicant for a motor vehicle operator's license, including government records and publicly available information;

"(2) enables the measurement of the accuracy of the determination of the identity of the applicant;

"(3) provides for the continuous auditing of the compliance of such system with applicable laws, policies, and practices governing the collection, use, and distribution of information in the operation of the system; and

"(4) incorporates industry best practices in the protection of privacy interests related to such information and the safeguarding of the storage of such information.

"(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the Secretary of Transportation or the head of any other Federal agency to create a new database for States to use in connection with information-based identity authentication.".

(3) INFORMATION-BASED IDENTITY AUTHENTICATION DEFINED.—Section 30301 of such title is amended by adding at the end the following new paragraph:

"(9) 'information-based identity authentication' means the validation and verification of the information provided by an individual for the purpose of determining the identity of such individual through the use of other information pertaining to the individual that is obtained from reliable sources of information available in the public and private sectors.".

(4) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 303 of title 49, United States Code, is amended by striking the items relating to sections 30306, 30307, and 30308 and inserting the following items:

"30306. Requirement for information-based identity authentication.
"30307. National Driver Registry Advisory Committee.
"30308. Criminal penalties.".

(b) FINAL REGULATIONS.—The Secretary of Transportation shall issue final regulations under section 30306(a) of title 49, United States Code (as added by subsection (a)(2)), not later than 180 days after the date of the enactment of this Act.

(c) RULE OF CONSTRUCTION.—Nothing in this section shall be construed to authorize the Secretary of Transportation or the head of any other Federal agency to create a new database for States to use in connection with information-based identity authentication (as that term is defined in section 30301(9) of title 49, United States Code (as added by subsection (a)(2)).

SA 3863. Mr. MCCAIN (for himself, Mr. BREAUX, Mr. LAUTENBERG, Mr. BIDEN, Mr. SCHUMER, Ms. SNOWE, Mr. HOLLINGS, Mr. CARPER, Mrs. BOXER, Mrs. CLINTON, Mr. ROCKEFELLER, and Mr. DORGAN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —RAIL SECURITY

SEC. —01. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Rail Security Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. —01. Short title; table of contents.
Sec. —02. Rail transportation security risk assessment.
Sec. —03. Rail security.
Sec. —04. Study of foreign rail transport security programs.
Sec. —05. Passenger, baggage, and cargo screening.
Sec. —06. Certain personnel limitations not to apply.
Sec. —07. Fire and life-safety improvements.
Sec. —08. Memorandum of agreement.
Sec. —09. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. —10. Systemwide Amtrak security upgrades.
Sec. —11. Freight and passenger rail security upgrades.
Sec. —12. Oversight and grant procedures.
Sec. —13. Rail security research and development.
Sec. —14. Welded rail and tank car safety improvements.
Sec. —15. Northern Border rail passenger report.
Sec. —16. Report regarding impact on security of train travel in communities without grade separation.
Sec. —17. Whistleblower protection program.
Sec. —18. Effective date.

SEC. —02. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security), and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Under Secretary may submit the report in both classified and redacted formats if the Under Secretary determines that such action is appropriate or necessary.

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2005 for the purpose of carrying out this section.

SEC. —03. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking "the rail carrier" each place it appears and inserting "any rail carrier".

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. —04. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2004, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) Report.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. —05. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) Requirement for Study and Report.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) Pilot Program.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to give preference to locations at the highest risk of terrorist attack and achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2005.

SEC. —06. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this title.

SEC. —07. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) Life-safety Needs.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2005;

(B) $100,000,000 for fiscal year 2006;

(C) $100,000,000 for fiscal year 2007;

(D) $100,000,000 for fiscal year 2008; and

(E) $170,000,000 for fiscal year 2009.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2005;

(B) $10,000,000 for fiscal year 2006;

(C) $10,000,000 for fiscal year 2007;

(D) $10,000,000 for fiscal year 2008; and

(E) $17,000,000 for fiscal year 2009.

(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2005;

(B) $8,000,000 for fiscal year 2006;

(C) $8,000,000 for fiscal year 2007;

(D) $8,000,000 for fiscal year 2008; and

(E) $8,000,000 for fiscal year 2009.

(c) Infrastructure Upgrades.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2005 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) Availability of Appropriated Funds.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) Plans Required.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matters the Secretary deems appropriate.

(f) Review of Plans.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) Financial Contribution From Other Tunnel Users.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels, if feasible.

SEC. —08. MEMORANDUM OF AGREEMENT.

(a) Memorandum of Agreement.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) Rail Safety Regulations.—Section 20103(a) of title 49, United States Code, is amended by striking “safety” the first place it appears, and inserting “safety, including security,”.

SEC. —09. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) In General.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

“§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

“(a) Submission of Plan.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2004, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

“(b) Contents of Plans.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

“(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

“(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

“(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

"(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

"(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

"(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

"(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

"(c) Use of Information.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

"(d) Limitation on Liability.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

"(e) Limitation on Statutory Construction.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

"(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2005 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.".

(b) Conforming Amendment.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"Sec.
"24316. Plan to assist families of passengers involved in rail passenger accidents".

SEC. —10. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) In General.—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) Conditions.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and, for capital projects, meet the requirements of section —07(e)(2). The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) Equitable Geographic Allocation.—The Under Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) Availability of Funds.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $63,500,000 for fiscal year 2005 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. —11. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) Security Improvement Grants.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section —02, including infrastructure, facilities, and equipment upgrades.

(b) Accountability.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Under Secretary.

(c) Equitable Allocation.—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) Conditions.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section —10(b) of this title.

(e) Allocation Between Railroads and Others.—Unless as a result of the assessment required by section —02 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $350,000,000 for fiscal year 2005 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(g) High Hazard Materials Defined.—In this section, the term "high hazard materials" means poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia.

SEC. —12. OVERSIGHT AND GRANT PROCEDURES.

(a) Secretarial Oversight.—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2004 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) Use of Funds.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

(c) Procedures for Grant Award.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. —13. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) Establishment of Research and Development Program.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment; and

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section —11(g) of this title;

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety;

(6) other projects recommended in the report required by section —02.

(b) Coordination With Other Research Initiatives.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation. The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability the would be useful in carrying out the project.

(c) Accountability.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this title and the priorities and other criteria developed by the Under Secretary.

(d) Authorization of Appropriations.—There are authorized to appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2005 and 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. —14. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) Track Standards.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) Tank Car Standards.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) Older Tank Car Impact Resistance Analysis and Report.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. —15. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in "The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America", dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the "Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States", dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security.

SEC. —16. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) Study.—The Secretary of Homeland Security shall, in consultation with State and local government officials, conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response.

SEC. —17. WHISTLEBLOWER PROTECTION PROGRAM.

(a) In General.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:

"§ 20116. Whistleblower protection for rail security matters

"(a) Discrimination Against Employee.—No rail carrier engaged interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

"(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

"(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

"(b) Dispute Resolution.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

"(c) Procedural Requirements.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

"(d) Election of Remedies.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

"(e) Disclosure of Identity.—

"(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

"(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.".

(b) Conforming Amendment.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:

"20116. Whistleblower protection for rail security matters".

SEC. —18. EFFECTIVE DATE.

This title takes effect on the date of enactment of this Act.

SA 3864. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert the following:

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking "more than" and all that follows through "after" and inserting "more than 48 months after".

SA 3865. Mr. AKAKA submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 77, insert between lines 18 and 19, the following:

(j) Sense of Congress Relating to Adoption of Standards of Review.—It is the sense of Congress that the Inspector General of the National Intelligence Authority, in consultation with other inspectors general in the intelligence community and the President's Council on Integrity and Efficiency, should adopt standards for review and related precedent that is generally used by the intelligence community for reviewing whistleblower reprisal complaints made under this section.

SA 3866. Mr. SPECTER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —RACIAL PROFILING

SEC. ___01. DEFINITIONS.

As used in this section:

(1) Racial profiling.—The term "racial profiling" means the practice of a law enforcement agent relying, to any degree, on race, ethnicity, religion, or national origin in selecting which individuals to subject to routine or spontaneous investigatory activities, or in deciding upon the scope and substance of law enforcement activity following the initial investigatory procedure, except when there is trustworthy information, relevant to the locality and timeframe, that links persons of a particular race, ethnicity, religion, or national origin to an identified criminal incident or scheme.

(2) Routine or spontaneous investigatory activities.—The term "routine or spontaneous investigatory activities" means the following activities by law enforcement agents:

(A) Interviews.

(B) Traffic stops.

(C) Pedestrian stops.

(D) Frisks and other types of body searches.

(E) Consensual or nonconsensual searches of the persons or possessions (including vehicles) of motorists or pedestrians.

(F) Inspections and interviews of entrants into the United States that are more extensive than those customarily carried out.

(G) Immigration related workplace investigations.

(H) Other types of law enforcement encounters compiled by the Federal Bureau of Investigations or the Bureau of Justice Statistics.

SEC. 2. POLICIES TO ELIMINATE RACIAL PROFILING BY FEDERAL LAW ENFORCEMENT.

(a) In General.—Federal law enforcement agencies shall—

(1) maintain adequate policies and procedures designed to eliminate racial profiling; and

(2) cease existing practices that encourage racial profiling.

(b) Policies and Procedures.—The policies and procedures maintained under subsection (a)(1) shall include—

(1) a prohibition on racial profiling;

(2) independent procedures for receiving, investigating, and responding meaningfully to complaints alleging racial profiling by law enforcement agents of the agency;

(3) procedures to discipline law enforcement agents who engage in racial profiling; and

(4) such other policies or procedures that the Attorney General, in consultation with the Secretary of Homeland Security, determines necessary to eliminate racial profiling.

(c) Intent.—Nothing in this title is intended to impede the ability of Federal law enforcement to protect the country and its people from any threat, be it foreign or domestic.

SEC. 03. REPORTS ON RACIAL PROFILING IN THE UNITED STATES.

(a) Annual Report.—Not later than 2 years after the date of enactment of this Act, and each year thereafter, the Attorney General, in consultation with the Secretary of Homeland Security, shall submit to Congress a report on efforts to combat racial profiling in the United States.

(b) Contents.—Each report under subsection (a) shall include, for the 1-year period ending on the date of such report—

(1) the status of the adoption and implementation of policies and procedures by Federal law enforcement agencies pursuant to section ___02; and

(2) a description of any other policies and procedures that the Attorney General, in consultation with the Secretary of Homeland Security, believes would facilitate the elimination of racial profiling, including best practices utilized by Federal, State, or local law enforcement agencies.

SA 3867. Mr. LEVIN (for himself and Mr. Coleman) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TERRORISM FINANCING.

(a) Report on Terrorist Financing.—

(1) In general.—Not later than 180 days after the date of the enactment of this Act, the President, acting through the Secretary of the Treasury, shall submit to Congress a report evaluating the current state of United States efforts to curtail the international financing of terrorism.

(2) Contents.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness and efficiency of current United States governmental efforts and methods to detect, track, disrupt, and stop terrorist financing;

(B) the relationship between terrorist financing and money laundering, including how the laundering of proceeds related to illegal narcotics or foreign political corruption may contribute to terrorism or terrorist financing;

(C) the nature, effectiveness, and efficiency of current efforts to coordinate intelligence and agency operations within the United States Government to detect, track, disrupt, and stop terrorist financing, including identifying who, if anyone, has primary responsibility for developing priorities, assigning tasks to agencies, and monitoring the implementation of policy and operations; and

(D) ways to improve the setting of priorities and coordination of United States efforts to detect, track, disrupt, and stop terrorist financing, including recommendations for changes in executive branch organization or procedures, legislative reforms, or use of appropriated funds.

(b) Postemployment Restriction for Certain Bank and Thrift Examiners.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

"(k) One-Year Restrictions on Federal Examiners of Financial Institutions.—

"(1) In general.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (6) of this subsection shall apply to any person who—

"(A) was an officer or employee (including any special Government employee) of a Federal banking agency or a Federal reserve bank;

"(B) served 2 or more months during the final 12 months of his or her employment with such agency or entity as the senior examiner (or a functionally equivalent position) of a depository institution or depository institution holding company with continuing, broad responsibility for the examination (or inspection) and supervision of that depository institution or depository institution holding company on behalf of the relevant agency or Federal reserve bank; and

"(C) within 1 year after the termination date of his or her service or employment with such agency or entity, knowingly accepts compensation as an employee, officer, director, or consultant from—

"(i) such depository institution, any depository institution holding company that controls such depository institution, or any other company that controls such depository institution; or

"(ii) such depository institution holding company or any depository institution that is controlled by such depository institution holding company.

"(2) Definitions.—For purposes of this subsection—

"(A) the term 'depository institution' includes an uninsured branch or agency of a foreign bank, if such branch or agency is located in any State; and

"(B) the term 'depository institution holding company' includes any foreign bank or company described in section 8(a) of the International Banking Act of 1978.

"(3) Rules of construction.—For purposes of this subsection, a foreign bank shall be deemed to control any branch or agency of the foreign bank, and a person shall be deemed to act as a consultant for a depository institution, depository institution holding company, or other company, only if such person directly works on matters for, or on behalf of, such depository institution, depository institution holding company, or other company.

"(4) Regulations.—

"(A) In general.—Each Federal banking agency shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

"(B) Consultation required.—The Federal banking agencies shall consult with each other for the purpose of assuring that the rules and regulations issued by the agencies under subparagraph (A) are, to the extent possible, consistent and comparable and practicable, taking into account any differences in the supervisory programs utilized by the agencies for the supervision of depository institutions and depository institution holding companies.

"(5) Waiver.—

"(A) Agency authority.—A Federal banking agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of that agency, and the Board of Governors of the Federal Reserve System may grant a waiver of the restriction imposed by this subsection to any officer or employee of a Federal reserve bank, if the head of such agency certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the relevant Federal banking agency.

"(B) Definition.—For purposes of this paragraph, the head of an agency is—

"(i) the Comptroller of the Currency, in the case of the Office of the Comptroller of the Currency;

"(ii) the Chairman of the Board of Governors of the Federal Reserve System, in the case of the Board of Governors of the Federal Reserve System;

"(iii) the Chairperson of the Board of Directors, in the case of the Corporation; and

"(iv) the Director of the Office of Thrift Supervision, in the case of the Office of Thrift Supervision.

"(6) Penalties.—

"(A) Violators subject to industry-wide prohibition order.—In addition to any other penalty that may apply, whenever a Federal banking agency determines that a person subject to paragraph (1) has violated paragraph (1) by becoming associated, in the manner described in paragraph (1)(C), with a depository institution, depository institution holding company, or other company for which such agency serves as the appropriate Federal banking agency, the agency shall serve a written notice or order, in accordance with and subject to the provisions of section 8(e)(4) for written notices or orders under paragraphs (1) or (2) of section 8(e), upon such person of the intention of the agency—

"(i) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the depository institution, depository institution holding company, or other company for a period of up to 5 years; and

"(ii) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured depository institution for a period of up to 5 years.

"(B) Scope of prohibition order.—Any person subject to an order issued under this subsection shall be subject to paragraphs (6) and (7) of section 8(e) in the same manner and to the same extent as a person subject to an order issued under such section.

"(C) Additional criminal and civil penalties.—In addition to the civil penalties provided for in this paragraph, any person who violates this subsection shall be punished as provided in section 216 of title 18, United States Code.

"(D) Definitions.—Solely for purposes of this paragraph, the 'appropriate Federal banking agency' for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency on whose behalf the person described in paragraph (1) performed the functions described in paragraph (1)(B).".

(c) Postemployment Restriction for Certain Credit Union Examiners.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following:

"(w) One-year Restrictions on Federal Examiners of Insured Credit Unions.—

"(1) In general.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (5) of this subsection shall apply to any person who—

"(A) was an officer or employee (including any special Government employee) of the Administration;

"(B) served 2 or more months during the final 12 months of his or her employment with the Administration as the senior examiner (or a functionally equivalent position) of an insured credit union with continuing, broad responsibility for the examination (or inspection) and supervision of that insured credit union on behalf of the Administration; and

"(C) within 1 year after the termination date of his or her service or employment with the Administration, knowingly accepts compensation as an employee, officer, director, or consultant from such insured credit union.

"(2) Rule of construction.—For purposes of this subsection, a person shall be deemed to act as a consultant for an insured credit union only if such person directly works on matters for, or on behalf of, such insured credit union.

"(3) Regulations.—

"(A) In general.—The Board shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

"(B) Consultation.—In prescribing rules or regulations under this paragraph, the Board shall, to the extent it deems necessary, consult with the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) on regulations issued by such agencies in carrying out section 10(k) of the Federal Deposit Insurance Act.

"(4) Waiver.—

"(A) Agency authority.—The Board may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of the Administration if the Chairman certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the Administration.

"(5) Penalties.—

"(A) Violators subject to industry-wide prohibition order.—In addition to any other penalty that may apply, whenever the Board determines that a person subject to paragraph (1) has violated paragraph (1) by becoming associated, in the manner described in paragraph (1)(C), with an insured credit union, the Board shall serve written notice, in accordance with and subject to the provisions of subsection (g)(4) for written notices under paragraphs (1) or (2) of subsection (g), upon such person of the intention of the Board—

"(i) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the insured credit union for a period of up to 5 years; and

"(ii) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured credit union for a period of up to 5 years.

"(B) Scope of prohibition order.—Any person subject to an order issued under this subsection shall be subject to paragraphs (5) and (7) of subsection (g) in the same manner and to the same extent as a person subject to an order issued under subsection (g).

"(C) Additional criminal and civil penalties.—In addition to the civil penalties provided for in this paragraph, any person who violates this subsection shall be punished as provided in section 216 of title 18, United States Code.".

(d) Effective Date.—Notwithstanding section 341, subsection (a) shall become effective on the date of enactment of this Act, and the amendments made by subsections (b) and (c) shall become effective at the end of the 12-month period beginning on the date of enactment of this Act, whether or not final regulations are issued in accordance with the amendments made by this section as of that date of enactment.

SA 3868. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 52, strike line 21 and all that follows through page 56, line 8.

Beginning on page 60, strike line 5 and all that follows though page 81, line 14.

Beginning on page 153, strike line 5 and all that follows through page 170, line 8 and insert the following:

SEC. 211. BOARD ON SAFEGUARDING AMERICANS' CIVIL LIBERTIES.

(a) Policy.—The United States Government has a solemn obligation, and shall continue fully, to protect the legal rights of all Americans, including freedoms, civil liberties, and information privacy guaranteed by Federal law, in the effective performance of national security and homeland security functions.

(b) Establishment of Board.—To advance the policy set out in subsection (a), there is established the President's Board on Safeguarding Americans' Civil Liberties (hereinafter referred to as the "Board"). The Board shall be part of the Department of Justice for administrative purposes.

(c) Functions.—The Board shall—

(1) advise the President on effective means to implement the policy set out in subsection (a);

(2) keep the President informed of the implementation of such policy;

(3) periodically request reports from Federal departments and agencies relating to policies and procedures that ensure implementation of the policy set out in subsection (a);

(4) recommend to the President policies, guidelines, and other administrative actions, technologies, and legislation, as necessary to implement the such policy;

(5) at the request of the head of any Federal department or agency, unless the Chair of the Board, after consultation with the Vice Chair, declines the request, promptly review and provide advice on a policy or action of that department or agency that implicates the policy set out in subsection (a);

(6) obtain information and advice relating to such policy from representatives of entities or individuals outside the executive branch of the Federal Government in a manner that seeks their individual advice and does not involve collective judgment or consensus advice or deliberation;

(7) refer, consistent with section 535 of title 28, United States Code, credible information pertaining to possible violations of law relating to the Policy by any Federal employee or official to the appropriate office for prompt investigation;

(8) take steps to enhance cooperation and coordination among Federal departments and agencies in the implementation of the Policy, including but not limited to working with the Director of the Office of Management and Budget and other officers of the United States to review and assist in the coordination of guidelines and policies concerning national security and homeland security efforts, such as information collection and sharing; and

(9) undertake other efforts to protect the legal rights of all Americans, including freedoms, civil liberties, and information privacy guaranteed by Federal law, as the President may direct;

(d) Advisory Committees.—Upon the recommendation of the Board, the Attorney General or the Secretary of Homeland Security may establish one or more committees that include individuals from outside the executive branch of the Federal Government, in accordance with applicable law, to advise the Board on specific issues relating to the policy set out in subsection (a). Any such committee shall carry out its functions separately from the Board.

(e) Membership and Operation.—The Board shall consist exclusively of the following:

(1) the Deputy Attorney General, who shall serve as Chair;

(2) the Under Secretary for Border and Transportation Security, Department of Homeland Security, who shall serve as Vice Chair;

(3) the Assistant Attorney General, Civil Rights Division;

(4) the Assistant Attorney General, Office of Legal Policy;

(5) the Counsel for Intelligence Policy, Department of Justice;

(6) the Chair of the Privacy Council, Federal Bureau of Investigation;

(7) the Assistant Secretary for Information Analysis, Department of Homeland Security;

(8) the Assistant Secretary, Policy, Directorate of Border and Transportation Security, Department of Homeland Security;

(9) the Officer for Civil Rights and Civil Liberties, Department of Homeland Security;

(10) the Privacy Officer, Department of Homeland Security;

(11) the Under Secretary for Enforcement, Department of the Treasury;

(12) the Assistant Secretary (Terrorist Financing), Department of the Treasury;

(13) the General Counsel, Office of Management and Budget;

(14) the Deputy Director of Central Intelligence for Community Management;

(15) the General Counsel, Central Intelligence Agency;

(16) the General Counsel, National Security Agency;

(17) the Under Secretary of Defense for Intelligence;

(18) the General Counsel of the Department of Defense;

(19) the Legal Adviser, Department of State;

(20) the Director, Terrorist Threat Integration Center; and

(21) such other officers of the United States as the Deputy Attorney General may from time to time designate.

(f) Delegation.—A member of the Board may designate, to perform the Board or Board subgroup functions of the member, any person who is part of such member's department or agency and who is either an officer of the United States appointed by the President, or a member of the Senior Executive Service or the Senior Intelligence Service.

(g) Administrative Matters.—The Chair, after consultation with the Vice Chair, shall convene and preside at meetings of the Board, determine its agenda, direct its work, and, as appropriate to deal with particular subject matters, establish and direct subgroups of the Board that shall consist exclusively of members of the Board. The Chair may invite, in his discretion, officers or employees of other departments or agencies to participate in the work of the Board. The Chair shall convene the first meeting of the Board within 20 days after the date of the enactment of this Act and shall thereafter convene meetings of the Board at such times as the Chair, after consultation with the Vice Chair, deems appropriate. The Deputy Attorney General shall designate an official of the Department of Justice to serve as the Executive Director of the Board.

(h) Cooperation.—To the extent permitted by law, all Federal departments and agencies shall cooperate with the Board and provide the Board with such information, support, and assistance as the Board, through the Chair, may request.

(i) Administration.— Consistent with applicable law and subject to the availability of appropriations, the Department of Justice shall provide the funding and administrative support for the Board necessary to implement this section.

(j) General Provisions.—

(1) Relationship to other authority.—The provisions of this section shall not be construed to impair or otherwise affect the authorities of any department, agency, instrumentality, officer, or employee of the United States under applicable law, including the functions of the Director of the Office of Management and Budget relating to budget, administrative, or legislative proposals.

(2) Relationship to other laws.—The provisions of this section shall be implemented in a manner consistent with applicable laws and Executive Orders concerning protection of information, including those for the protection of intelligence sources and methods, law enforcement information, and classified national security information, and the Privacy Act of 1974 (5 U.S.C. 552a).

(3) Internal management.—The provisions of this section are intended only to improve the internal management of the Federal Government and is not intended to, and do not, create any right or benefit, substantive or procedural, enforceable at law or in equity, by a party against the United States, or any of its departments, agencies, instrumentalities, entities, officers, employees, or agents, or any other person.

SA 3869. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Beginning on page 52, strike line 21 and all that follows through page 56, line 8.

Beginning on page 60, strike line 5 and all that follows though page 81, line 14.

Beginning on page 153, strike line 3 and all that follows through page 170, line 8.

SA 3870. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC.   . PERMANENT INFORMATION SHARING.

Section 224 of the USA PATRIOT ACT (Public Law 107-56) is amended by—

(1) striking "203(a), 203(c)" and inserting "203"; and

(2) inserting "218," after "216,".

SA 3871. Mr. SESSIONS (for himself, Mr. Cornyn, Mr. Miller, and Mr. Ensign) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, after line 12, add the following:

TITLE IV—IMMIGRATION ENFORCEMENT

SEC. 401. FEDERAL AFFIRMATION OF STATE AND LOCAL ASSISTANCE IN ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) In General.—Notwithstanding any other provision of law and reaffirming the existing inherent authority of States, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), in the course of carrying out their routine duties for the purpose of assisting in the enforcement of the immigration laws of the United States.

(b) Construction.—Nothing in this section shall be construed to require law enforcement officers of a State or political subdivision of a State to—

(1) report the identity of victims of, or witnesses to, a criminal offense to the Secretary of Homeland Security; or

(2) arrest such victims or witnesses for immigration violations.

SEC. 402. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) Provision of Information to NCIC.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, and continually thereafter, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Under Secretary may have on—

(A) all aliens against whom a final order of removal has been issued;

(B) all aliens who have signed a voluntary departure agreement; and

(C) all aliens whose visas have been revoked.

(2) Circumstances.—The information described in paragraph (1) shall be provided to the National Crime Information Center regardless of whether—

(A) the alien received notice of a final order of removal; or

(B) the alien has already been removed.

(b) Inclusion of Information in NCIC Database.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

"(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and".

(c) Permission To Depart Voluntarily.—Section 240B(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1229c(a)(2)(A)) is amended by striking "120" and inserting "30".

SEC. 403. FEDERAL CUSTODY OF ILLEGAL ALIENS APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.

(a) In General.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1231) is amended by adding at the end the following:

"(j) Custody of Illegal Aliens.—

"(1) In general.—If the chief executive officer of a State or, if appropriate, a political subdivision of the State, exercising authority with respect to the apprehension of an illegal alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

"(A) shall—

"(i) not later than 48 hours after the conclusion of the State charging process or dismissal process, or if no State charging or dismissal process is required, not later than 48 hours after the illegal alien is apprehended, take the illegal alien into the custody of the Federal Government and incarcerate the alien; or

"(ii) request that the relevant State or local law enforcement agency temporarily incarcerate or transport the illegal alien for transfer to Federal custody; and

"(B) shall designate at least 1 Federal, State, or local prison or jail, or a private contracted prison or detention facility, within each State as the central facility for that State to transfer custody of the criminal or illegal alien to the Secretary of Homeland Security.

"(2) Reimbursement.—

"(A) In general.—The Department of Homeland Security shall reimburse States and political subdivisions for all reasonable expenses, as determined by the Secretary of Homeland Security, incurred by a State or political subdivision in the incarceration and transportation of an illegal alien as described in subparagraphs (A) and (B) of paragraph (1).

"(B) Cost computation.—Compensation provided for costs incurred under subparagraphs (A) and (B) of paragraph (1) shall be the sum of—

"(i)(I) the average cost of incarceration of a prisoner per day in the relevant State, as determined by the chief executive officer of a State, or, as appropriate, a political subdivision of the State; multiplied by

"(II) the number of days that the alien was in the custody of the State or political subdivision; and

"(ii) the cost of transporting the criminal or illegal alien—

"(I) from the point of apprehension to the place of detention; and

"(II) if the place of detention and place of custody are different, to the custody transfer point.

"(3) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (2).".

SA 3872. Mr. SESSIONS (for himself and Mr. Ensign) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. BIOMETRIC STANDARDS FOR PASSPORTS.

(a) Findings.—Congress finds the following:

(1) The 9/11 Commission Report made clear that the incapacity to establish the authenticity of United States passports through a biometric identifier is a major gap in homeland security when it stated, "Americans should not be exempt from carrying biometric passports or otherwise enabling their identities to be securely verified when they enter the United States; nor should Canadians or Mexicans".

(2) The Enhanced Border Security and Visa Entry Reform Act of 2002 requires Visa Waiver Program countries to conform to a biometric standard negotiated through the International Civil Aviation Organization, rather than requiring a specific type of biometric identifier. The standard agreed upon by the international community is facial recognition, consisting of a picture with a computer chip embedded in the passport to verify the picture.

(3) Facial recognition biometric technology remains inferior to fingerprint biometric technology for the purpose of one-to-many matches and is not consistent with the biometric information that the United States collects from visa applicants through its visa issuance process. Consequently, individuals from Visa Waiver Program countries who do not go through visa applications and interviews at the point of origin are admitted into the United States with only a facial biometric identifier contained in their passport.

(4) In order to be eligible for the Visa Waiver Program, Visa Waiver Program countries should issue visas and passports that conform with the same biometric standard as travel documents issued by the United States.

(5) Because the United Sates must set an example in the establishment of an international travel document biometric identification standard, and must ensure that United States issued passports are not used by non-United States citizens to fraudulently gain entrance into the United States, the United States should not only comply with the standards set by the International Civil Aviation Organization, but should include fingerprints as a second additional biometric identifier on the passports it issues to its citizens.

(b) Fingerprints on United States Passports.—

(1) In general.—The Secretary of State shall ensure that each passport issued by the United States after the effective date of this subsection—

(A) contains the index fingerprints of the person to whom such passport was issued; and

(B) complies with the additional biometric standard established by the International Civil Aviation Organization.

(2) Authorization of appropriations.—

(A) In general.—There are authorized to be appropriated a total of $1,000,000,000 for fiscal years 2005 and 2006 to carry out the provisions of paragraph (1).

(B) Availability.—Any amounts appropriated pursuant to subparagraph (A) shall remain available until expended.

(3) Effective date.—This subsection shall take effect on the date which is 1 year after the date of enactment of this Act.

(c) Biometric Standard for Passports Issued by Visa Waiver Program Countries.—

(1) In general.—Section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) is amended—

(A) in subsection (a)(3)(A), by striking "satisfies the internationally accepted standard for machine readability." and inserting the following:

"(i) satisfies the internationally accepted standard for machine readability; and

"(ii) contains fingerprint biometric identifiers of the alien."; and

(B) in subsection (c)(2)(B)(i), by striking "satisfy the internationally accepted standard for machine readability." and inserting the following:

"(i) satisfy the internationally accepted standard for machine readability; and "(ii) contain fingerprint biometric identifiers of such citizens.".

(2) Effective Date.—The amendments made by paragraph (1) shall take effect on the date which is 1 year after the date on which the Secretary of State begins to issue passports in accordance with subsection (b)(1).

SA 3873. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

SEC. ___. RAILROAD CARRIERS AND MASS TRANSPORTATION PROTECTION ACT OF 2004.

(a) Short Title.—This section may be cited as the "Railroad Carriers and Mass Transportation Protection Act of 2004".

(b) In General.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

"§1992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air

"(a) General Prohibitions.—Whoever, in a circumstance described in subsection (c), knowingly—

"(1) wrecks, derails, sets fire to, or disables railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

"(2) with intent to endanger the safety of any passenger or employee of a railroad carrier, passenger vessel, or mass transportation provider, or with a reckless disregard for the safety of human life, and without previously obtaining the permission of the railroad carrier, mass transportation provider, or owner of the passenger vessel—

"(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment, a passenger vessel, or a mass transportation vehicle; or

"(B) releases a hazardous material or a biological agent or toxin on or near the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider;

"(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

"(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without previously obtaining the permission of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

"(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without previously obtaining the permission of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

"(C) structure, supply, or facility used in the operation of, or in the support of the operation of, a passenger vessel, without previously obtaining the permission of the owner of the passenger vessel, and with intent to, or knowing or having reason to know that such activity would likely disable or wreck a passenger vessel;

"(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the rail carrier or mass transportation provider;

"(5) with intent to endanger the safety of any passenger or employee of a railroad carrier, owner of a passenger vessel, or mass transportation provider or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

"(6) engages in conduct, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider that is used for railroad or mass transportation purposes;

"(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

"(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than 20 years, or both.

"(b) Aggravated Offense.—Whoever commits an offense under subsection (a) in a circumstance in which—

"(1) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

"(2) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

"(3) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

"(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

"(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

"(4) the offense results in the death of any person;

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2), the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4), the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

"(c) Crimes Against Public Safety Officer.—Whoever commits an offense under subsection (a) that results in death or serious bodily injury to a public safety officer while the public safety officer was engaged in the performance of official duties, or on account of the public safety officer's performance of official duties, shall be imprisoned for a term of not less than 20 years and, if death results, shall be imprisoned for life and be subject to the death penalty.

"(d) Circumstances Required for Offense.—A circumstance referred to in subsection (a) is any of the following:

"(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, owner of a passenger vessel, or railroad carrier engaged in or affecting interstate or foreign commerce.

"(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

"(e) Nonapplicability.—Subsection (a) does not apply to the conduct with respect to a destructive substance or destructive device that is also classified under chapter 51 of title 49 as a hazardous material in commerce if the conduct—

"(1) complies with chapter 51 of title 49 and regulations, exemptions, approvals, and orders issued under that chapter, or

"(2) constitutes a violation, other than a criminal violation, of chapter 51 of title 49 or a regulation or order issued under that chapter.

"(f) Definitions.—In this section—

"(1) the term 'biological agent' has the meaning given to that term in section 178(1);

"(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

"(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

"(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

"(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

"(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

"(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

"(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

"(9) the term 'public safety officer' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b);

"(10) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

"(11) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

"(12) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

"(13) the term 'serious bodily injury' has the meaning given to that term in section 1365;

"(14) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

"(15) the term 'State' has the meaning given to that term in section 2266;

"(16) the term 'toxin' has the meaning given to that term in section 178(2);

"(17) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air; and

"(18) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.".

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking "**RAILROADS**" in the chapter heading and inserting "**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**";

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

"1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.".

(2) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

"97. Railroad carriers and mass transportation systems on land, on water, or through the air .... 1991".

(3) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking "1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),";

(B) in section 2339A, by striking "1993,"; and

(C) in section 2516(1)(c) by striking "1992 (relating to wrecking trains)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),".

SA 3874. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 211, after line 22, add the following:

SEC. 337. RETENTION OF CURRENT PROGRAMS, PROJECTS, AND ACTIVITIES WITHIN JOINT MILITARY INTELLIGENCE PROGRAM AND TACTICAL INTELLIGENCE AND RELATED ACTIVITIES PROGRAMS PENDING REVIEW.

(a) RETENTION WITHIN CURRENT PROGRAMS.—Notwithstanding any other provision of law, all programs, projects, and activities contained within the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program as of the date of the enactment of this Act shall remain within such programs until a thorough review of such programs is completed.

(b) REMOVAL FROM CURRENT PROGRAMS.—A program, project, or activity referred to in subsection (a) may be removed from the Joint Military Intelligence Program or the Tactical Intelligence and Related Activities programs only if agreed to by the National Intelligence Director and the Secretary of Defense.

SA 3875. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 6, strike line 24 and all that follows through page 7, line 2, and insert the following:

(ii) includes all programs, projects, and activities of the National Foreign Intelligence Program as of the date of the enactment of this Act, including the Central Intelligence Agency, the

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SA 3876. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, insert after line 8, the following:

SEC. 352. PRESERVATION OF AUTHORITY AND ACCOUNTABILITY.

Nothing in this Act, or the amendments made by this Act, shall be construed to impair and otherwise affect the authority of—

(1) the Director of the Office of Management and Budget; or

(2) the principal officers of the executive departments as heads of their respective departments, including, but not limited to—

(A) the authority of the Secretary of State under section 199 of the Revised Statutes (22 U.S.C. 2651) and the State Department Basic Authorities Act;

(B) the authority of the Secretary of Energy under title II of the Department of Energy Organization Act (42 U.S.C. 7131);

(C) the authority of the Secretary of Homeland Security under section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a));

(D) the authority of the Secretary of Defense under sections 113(b) and 162(b) of title 10, United States Code;

(E) the authority of the Secretary of the Treasury under section 301(b) of title 31, United States Code;

(F) the authority of the Attorney General under section 503 of title 28, United States Code; and

(G) the authority of the heads of executive departments under section 301 of title 5, United States Code.

On page 213, line 9, strike "**352.**" and insert "**353.**".

SA 3877. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 40, strike line 18 and all that follows through page 41, line 4, and insert the following:

(b) CONCURRENCE OF NID IN CERTAIN APPOINTMENTS RECOMMENDED BY SECRETARY OF DEFENSE.—(1) In the event of a vacancy in a position referred to in paragraph (2), the Secretary of Defense shall obtain the concurrence of the National Intelligence Director before recommending to the President an individual for nomination to fill such vacancy. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the concurrence of the Director, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

On page 41, line 12, strike "CONCURRENCE OF" and insert "CONSULTATION WITH".

On page 41, beginning on line 15, strike "obtain the concurrence of" and insert "consult with".

SA 3878. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 21, insert after "Program" the following: "(other than the Directorate for Intelligence (J2) of the Joint Staff)".

SA 3879. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, between lines 6 and 7, insert the following:

(8) The term "personal", except as otherwise expressly provided, means civilian personnel of the United States Government.

SA 3880. Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 15, line 5, strike "consultation" and insert "coordination".

SA 3881. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE —SCOTT CAMPBELL, STEPHANIE ROPER, WENDY PRESTON, LOARNA GILLIS, AND NILA LYNNE CRIME VICTIMS' RIGHTS ACT

SEC. 01. SHORT TITLE.

This title may be cited as the "Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act".

SEC. 02. CRIME VICTIMS' RIGHTS.

(a) Amendment to Title 18.—Part II of title 18, United States Code, is amended by adding at the end the following:

"CHAPTER 237—CRIME VICTIMS' RIGHTS

"Sec.

"3771. Crime victims' rights.

"§ 3771. Crime victims' rights

"(a) Rights of Crime Victims.—A crime victim has the following rights:

"(1) The right to be reasonably protected from the accused.

"(2) The right to reasonable, accurate, and timely notice of any public proceeding involving the crime or of any release or escape of the accused.

"(3) The right not to be excluded from any such public proceeding.

"(4) The right to be reasonably heard at any public proceeding involving release, plea, or sentencing.

"(5) The right to confer with the attorney for the Government in the case.

"(6) The right to full and timely restitution as provided in law.

"(7) The right to proceedings free from unreasonable delay.

"(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

"(b) Rights Afforded.—In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

"(c) Best Efforts To Accord Rights.—

"(1) Government.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

"(2) Conflict.—In the event of any material conflict of interest between the prosecutor and the crime victim, the prosecutor shall advise the crime victim of the conflict and take reasonable steps to direct the crime victim to the appropriate legal referral, legal assistance, or legal aid agency.

"(3) Notice.—Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

"(d) Enforcement and Limitations.—

"(1) Rights.—The crime victim, the crime victim's lawful representative, and the attorney for the Government may assert the rights established in this chapter. A person accused of the crime may not obtain any form of relief under this chapter.

"(2) Multiple crime victims.—In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights contained in this chapter, the court shall fashion a procedure to give effect to this chapter.

"(3) Writ of mandamus.—If a Federal court denies any right of a crime victim under this chapter or under the Federal Rules of Criminal Procedure, the Government or the crime victim may apply for a writ of mandamus to the appropriate court of appeals. The court of appeals shall take up and decide such application forthwith and shall order such relief as may be necessary to protect the crime victim's ability to exercise the rights.

"(4) Error.—In any appeal in a criminal case, the Government may assert as error the district court's denial of any crime victim's right in the proceeding to which the appeal relates.

"(5) New trial.—In no case shall a failure to afford a right under this chapter provide grounds for a new trial.

"(6) No cause of action.—Nothing in this chapter shall be construed to authorize a cause of action for damages.

"(e) Crime Victim.—In this chapter, the term 'crime victim' means a person directly and proximately harmed as a result of the commission of an offense listed in 2332b(g)(5)(B) of this title.

"(f) Procedures To Promote Compliance.—

"(1) Regulations.—Not later than 1 year after the date of enactment of this chapter, the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

"(2) Contents.—The regulations promulgated under paragraph (1) shall—

"(A) establish an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

"(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

"(C) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and

"(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.".

(b) Table of Chapters.—The table of chapters for part II of title 18, United States Code, is amended by inserting at the end the following:

"237. Crime victims' rights .... 3771".

SEC. ___03. INCREASED RESOURCES FOR ENFORCEMENT OF CRIME VICTIMS' RIGHTS.

(a) Crime Victims Legal Assistance Grants.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404C the following:

"SEC. 1404D. CRIME VICTIMS LEGAL ASSISTANCE GRANTS.

"(a) In General.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public and private entities, to develop, establish, and maintain programs for the enforcement of crime victims' rights as provided in law.

"(b) False Claims Act.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.".

(b) Authorization of Appropriations.—In addition to funds made available under section 1402(d) of the Victims of Crime Act of 1984, there are authorized to be appropriated to carry out this Act—

(1) $2,000,000 for fiscal year 2005 and $5,000,000 for each of fiscal years 2006, 2007, 2008, and 2009 to United States Attorneys Offices for Victim/Witnesses Assistance Programs;

(2) $2,000,000 for fiscal year 2005 and $5,000,000 in each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for enhancement of the Victim Notification System;

(3) $300,000 in fiscal year 2005 and $500,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for staff to administer the appropriation for the support of the National Crime Victim Law Institute or other organizations as designated under paragraph (4);

(4) $7,000,000 for fiscal year 2005 and $11,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice, for the support of—

(A) the National Crime Victim Law Institute and the establishment and operation of the Institute's programs to provide counsel for victims in criminal cases for the enforcement of crime victims' rights in Federal jurisdictions, and in States and tribal governments that have laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code; or

(B) other organizations substantially similar to that organization as determined by the Director of the Office for Victims of Crime.

(c) Increased Resources To Develop State-of-the-Art Systems for Notifying Crime Victims of Important Dates and Developments.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404D the following:

"SEC. 1404E. CRIME VICTIMS NOTIFICATION GRANTS.

"(a) In General.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public or private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important dates and developments relating to the criminal proceedings at issue in a timely and efficient manner, provided that the jurisdiction has laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code. .

"(b) INTEGRATION OF SYSTEMS.—Systems developed and implemented under this section may be integrated with existing case management systems operated by the recipient of the grant.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under section 1402(d), there are authorized to be appropriated to carry out this section—

"(1) $5,000,000 for fiscal year 2005; and

"(2) $5,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009.

"(d) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.".

SEC. 04. REPORTS.

(a) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Administrative Office of the United States Courts, for each Federal court, shall report to Congress the number of times that a right established in chapter 237 of title 18, United States Code, is asserted in a criminal case and the relief requested is denied and, with respect to each such denial, the reason for such denial, as well as the number of times a mandamus action is brought pursuant to chapter 237 of title 18, and the result reached.

(b) GENERAL ACCOUNTING OFFICE.—

(1) STUDY.—The Comptroller General shall conduct a study that evaluates the effect and efficacy of the implementation of the amendments made by this Act on the treatment of crime victims in the Federal system.

(2) REPORT.—Not later than 3 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees a report containing the results of the study conducted under paragraph (1).

SA 3882. Mr. STEVENS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, strike line 5 and all that follows through page 77, line 18, and insert the following:

SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OFFICE OF INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—There is within the National Intelligence Authority an Office of the Inspector General of the National Intelligence Authority.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the National Intelligence Authority is to—

(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, and audits relating to—

(A) the programs and operations of the National Intelligence Authority;

(B) the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) recommend policies designed—

(A) to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and in such relationships; and

(B) to prevent and detect fraud and abuse in such programs, operations, and relationships;

(3) provide a means for keeping the National Intelligence Director fully and currently informed about—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept similarly informed of—

(A) significant problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions.

(c) INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—(1) There is an Inspector General of the National Intelligence Authority, who shall be the head of the Office of the Inspector General of the National Intelligence Authority, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as Inspector General of the National Intelligence Authority shall have significant prior experience in the fields of intelligence and national security.

(d) DUTIES AND RESPONSIBILITIES.—(1) The Inspector General of the National Intelligence Authority shall have the duties and responsibilities set forth in applicable provisions of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) In addition to the duties and responsibilities provided for in paragraph (1), the Inspector General shall—

(1) provide policy direction for, and plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to the programs and operations of the National Intelligence Authority, the relationships among the elements of the intelligence community within the National Intelligence Program, and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) keep the National Intelligence Director fully and currently informed concerning violations of law and regulations, violations of civil liberties and privacy, and fraud and other serious problems, abuses, and deficiencies that may occur in such programs and operations, and in such relationships, and to report the progress made in implementing corrective action;

(3) take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

(4) in the execution of the duties and responsibilities under this section, comply with generally accepted government auditing standards.

(e) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—(1) The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) by redesignating section 8J as section 8K; and

(B) by inserting after section 8I the following new section:

"SPECIAL PROVISIONS CONCERNING THE NATIONAL INTELLIGENCE AUTHORITY

"SEC. 8J. (a) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the National Intelligence Authority shall be under the authority, direction, and control of the National Intelligence Director with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning intelligence or counterintelligence matters the disclosure of which would constitute a serious threat to national security. With respect to such information, the Director may prohibit the Inspector General from initiating, carrying out, or completing any investigation, inspection, or audit if the Director determines that such prohibition is necessary to preserve the vital national security interests of the United States.

"(b) If the National Intelligence Director exercises the authority under subsection (a), the Director shall submit to the congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority within seven days.

"(c) The National Intelligence Director shall advise the Inspector General of the National Intelligence Authority at the time a report under subsection (a) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such report.

"(d) The Inspector General of the National Intelligence Authority may submit to the congressional intelligence committees any comments on a report of which the Inspector General has notice under subsection (c) that the Inspector General considers appropriate.

"(e) In this section, the term 'congressional intelligence committees' means—

"(1) the Select Committee on Intelligence of the Senate; and

"(2) the Permanent Select Committee on Intelligence of the House of Representatives.".

(2) Section 8H(a)(1)(A) of that Act is amended by inserting "National Intelligence Authority," before "Defense Intelligence Agency".

(3) Section 11 of that Act is amended—

(1) in paragraph (1), by inserting "the National Intelligence Director;" after "the Office of Personnel Management;"; and

(2) in paragraph (2), by inserting "the National Intelligence Authority," after "the Office of Personnel Management,".

SA 3883. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3705 by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, strike line 20 and all that follows through page 11, line 7, and insert the following:

"(d) TRAINING AND EXERCISES OFFICE WITHIN THE OFFICE OF STATE AND LOCAL GOVERNMENT COORDINATION AND PREPAREDNESS.—

"(1) IN GENERAL.—The Secretary shall create within the Office for State and Local Government Coordination and Preparedness an internal office that shall be the proponent for all national domestic preparedness, training, education, and exercises within the Office for Domestic Preparedness.

"(2) OFFICE HEAD.—The Secretary shall select an individual with recognized expertise in first-responder training and exercises to head the office, and such person shall report directly to the Director of the Office for State and Local Government Coordination and Preparedness.".

SA 3884. Mr. SESSIONS submitted an amendment intended to be proposed to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 10, line 17, strike the semicolon and all that follows through page 11, line 7, and insert a period.

SA 3885. Mr. BIDEN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new title:

TITLE IV—INTERNATIONAL BROADCASTING ACTIVITIES

SEC. 401. SHORT TITLE.

This title may be cited as the "Initiative 911 Act".

SEC. 402. FINDINGS.

Congress makes the following findings:

(1) Open communication of information and ideas among peoples of the world contributes to international peace and stability, and that the promotion of such communication is important to the national security of the United States.

(2) The United States needs to improve its communication of information and ideas to people in foreign countries, particularly in countries with significant Muslim populations.

(3) A significant expansion of United States international broadcasting would provide a cost-effective means of improving communication with countries with significant Muslim populations by providing news, information, and analysis, as well as cultural programming, through both radio and television broadcasts.

(4) The report of the National Commission on Terrorist Attacks Upon the United States stated that, "Recognizing that Arab and Muslim audiences rely on satellite television and radio, the government has begun some promising initiatives in television and ràdio broadcasting to the Arab world, Iran, and Afghanistan. These efforts are beginning to reach large audiences. The Broadcasting Board of Governors has asked for much larger resources. It should get them.".

SEC. 403. SPECIAL AUTHORITY FOR SURGE CAPACITY.

The United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.) is amended by adding at the end the following new section:

"SEC. 316. SPECIAL AUTHORITY FOR SURGE CAPACITY.

"(a) EMERGENCY AUTHORITY.—

"(1) IN GENERAL.—Whenever the President determines it to be important to the national interests of the United States and so certifies to the appropriate congressional committees, the President, on such terms and conditions as the President may determine, is authorized to direct any department, agency, or other entity of the United States to furnish the Broadcasting Board of Governors with such assistance as may be necessary to provide international broadcasting activities of the United States with a surge capacity to support United States foreign policy objectives during a crisis abroad.

"(2) SUPERSEDES EXISTING LAW.—The authority of paragraph (1) supersedes any other provision of law.

"(3) SURGE CAPACITY DEFINED.—In this subsection, the term 'surge capacity' means the financial and technical resources necessary to carry out broadcasting activities in a geographical area during a crisis.

"(b) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Effective October 1, 2004, there are authorized to be appropriated to the President such amounts as may be necessary for the President to carry out this section, except that no such amount may be appropriated which, when added to amounts previously appropriated for such purpose but not yet obligated, would cause such amounts to exceed $25,000,000.

"(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection are authorized to remain available until expended.

"(3) DESIGNATION OF APPROPRIATIONS.—Amounts appropriated pursuant to the authorization of appropriations in this subsection may be referred to as the 'United States International Broadcasting Surge Capacity Fund'.".

SEC. 404. REPORT.

In each annual report submitted under section 305(a)(9) of the United States International Broadcasting Act of 1994 (22 U.S.C. 6204(a)(9)) after the date of enactment of this title, the Broadcasting Board of Governors shall give special attention to reporting on the activities carried out under this title.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—In addition to amounts otherwise available for such purposes, the following amounts are authorized to be appropriated to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), the Foreign Affairs Reform and Restructuring Act of 1998 (as enacted in division of G of the Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999; Public Law 107–277), and this title, and to carry out other authorities in law consistent with such purposes:

(1) INTERNATIONAL BROADCASTING OPERATIONS.—For "International Broadcasting Operations", $497,000,000 for the fiscal year 2005.

(2) BROADCASTING CAPITAL IMPROVEMENTS.—For "Broadcasting Capital Improvements", $70,000,000 for the fiscal year 2005.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations in this section are authorized to remain available until expended.

SEC. 406. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall become effective on the date of enactment of this Act.

SA 3886. Mr. FEINGOLD submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . TERRORIST SCREENING CENTER.

(a) CRITERIA FOR WATCHLIST.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigation, shall define and report to Congress the criteria for placing individuals on the Terrorist Screening Center consolidated screening watch list, including reliability thresholds, minimum standards for identifying information, specific designations of the certainty and level of threat the individual poses, and specific instructions about the consequences that apply to the individual if located. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(b) SAFEGUARDS AGAINST ERRONEOUS LISTINGS.—The Secretary of Homeland Security, in consultation with the Director of the Federal Bureau of Investigation, shall establish a process for individuals to challenge "Automatic Selectee" or "No Fly" designations on the consolidated screening watch list and have their names removed from such lists, if erroneously present.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Privacy and Civil Liberties Oversight Board shall submit a report assessing the impact of the "No Fly" and "Automatic Selectee" lists on privacy and civil liberties to the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on the Judiciary, the Committee on Government Reform, and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effects of such lists on privacy, discrimination, due process and other civil liberties, as well as the implications of applying those lists to other modes of transportation. The Comptroller General of the United States shall cooperate with the Privacy and Civil Liberties Board in the preparation of the report. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall become effective on the date of enactment of this Act.

SA 3887. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. AMENDMENTS TO FISA.

(a) Treatment of Non-United States Persons Who Engage in International Terrorism Without Affiliation With International Terrorist Groups.—

(1) In general.—Section 101(b)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801(b)(1)) is amended by adding at the end the following new subparagraph:

"(C) engages in international terrorism or activities in preparation therefor; or".

(2) Sunset.—The amendment made by paragraph (1) shall expire on the date that is 5 years after the date of enactment of this section.

(b) Additional Annual Reporting Requirements Under the Foreign Intelligence Surveillance Act of 1978.—

(1) Additional reporting requirements.—The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is amended—

(A) by redesignating—

(i) title VI as title VII; and

(ii) section 601 as section 701; and

(B) by inserting after title V the following new title VI:

"TITLE VI—REPORTING REQUIREMENT

"ANNUAL REPORT OF THE ATTORNEY GENERAL

"Sec. 601. (a) In addition to the reports required by sections 107, 108, 306, 406, and 502 in April each year, the Attorney General shall submit to the appropriate committees of Congress each year a report setting forth with respect to the one-year period ending on the date of such report—

"(1) the aggregate number of non-United States persons targeted for orders issued under this Act, including a break-down of those targeted for—

"(A) electronic surveillance under section 105;

"(B) physical searches under section 304;

"(C) pen registers under section 402; and

"(D) access to records under section 501.

"(2) the number of individuals covered by an order issued under this Act who were determined pursuant to activities authorized by this Act to have acted wholly alone in the activities covered by such order;

"(3) the number of times that the Attorney General has authorized that information obtained under this Act may be used in a criminal proceeding or any information derived therefrom may be used in a criminal proceeding; and

"(4) in a manner consistent with the protection of the national security of the United States—

"(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted;

"(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act, not including the facts of any particular matter, which may be redacted.

"(b) The first report under this section shall be submitted not later than six months after the date of the enactment of this Act. Subsequent reports under this section shall be submitted annually thereafter.

"(c) In this section, the term 'appropriate committees of Congress' means—

"(1) the Select Committee on Intelligence and the Committee on the Judiciary of the Senate; and

"(2) the Permanent Select Committee on Intelligence and the Committee on the Judiciary of the House of Representatives.".

(2) Clerical amendment.—The table of contents for that Act is amended by striking the items relating to title VI and inserting the following new items:

"TITLE VI—REPORTING REQUIREMENT

"Sec. 601. Annual report of the Attorney General.

"TITLE VII—EFFECTIVE DATE

"Sec. 701. Effective date.".

SA 3888. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. U.S. HOMELAND SECURITY SIGNAL CORPS.

(a) Short Title.—This section may be cited as the "U.S. Homeland Security Signal Act of 2004".

(b) Homeland Security Signal Corps.—

(1) In general.—Title V of the Homeland Security Act of 2002 (6 U.S.C. 311 et seq.) is amended by adding at the end the following:

"SEC. 510. HOMELAND SECURITY SIGNAL CORPS.

"(a) Establishment.—There is established, within the Directorate of Emergency Preparedness and Response, a Homeland Security Signal Corps (referred to in this section as the 'Signal Corps').

"(b) Personnel.—The Signal Corps shall be comprised of specially trained police officers, firefighters, emergency medical technicians, and other emergency personnel.

"(c) Responsibilities.—The Signal Corps shall—

"(1) ensure that first responders can communicate with one another, mobile command centers, headquarters, and the public at disaster sites or in the event of a terrorist attack or a national crisis;

"(2) provide sufficient training and equipment for fire, police, and medical units to enable those units to deal with all threats and contingencies in any environment; and

"(3) secure joint-use equipment, such as telecommunications trucks, that can access surviving telephone land lines to supplement communications access.

"(d) National Signal Corps Standards.—The Signal Corps shall establish a set of standard operating procedures, to be followed by signal corps throughout the United States, that will ensure that first responders from each Federal, State, and local agency have the methods and means to communicate with, or substitute for, first responders from other agencies in the event of a multi-state terrorist attack or a national crisis.

"(e) Demonstration Signal Corps.—

"(1) In general.—The Secretary shall establish demonstration signal corps in New York City, and in the District of Columbia, consisting of specially trained law enforcement and other personnel. The New York City Signal Demonstration Corps shall consist of personnel from the New York Police Department, the Fire Department of New York, the Port Authority of New York and New Jersey, and other appropriate Federal, State, regional, or local personnel. The District of Columbia Signal Corps shall consist of specially trained personnel from all appropriate Federal, State, regional, and local law enforcement personnel in Washington, D.C., including from the Metropolitan Police Department.

"(2) Responsibilities.—The demonstration signal corps established under this subsection shall—

"(A) ensure that 'best of breed' military communications technology is identified and secured for first responders;

"(B) ensure communications connectivity between the New York Police Department, the Fire Department of New York, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan New York City area;

"(C) identify the means of communication that work best in New York's tunnels, skyscrapers, and subways to maintain communications redundancy;

"(D) ensure communications connectivity between the Capitol Police, the Metropolitan Police Department, and other appropriate Federal, State, regional, and local law enforcement personnel in the metropolitan Washington, D.C. area;

"(E) identify the means of communication that work best in Washington, D.C.'s office buildings, tunnels, and subway system to maintain communications redundancy; and

"(F) serve as models for other major metropolitan areas across the Nation.

"(3) Team captains.—The mayor of New York City and the District of Columbia shall appoint team captains to command communications companies drawn from the personnel described in paragraph (1).

"(4) Technical assistance.—The Signal Corps Headquarters, located in Fort Monmouth, New Jersey, shall provide technical assistance to the New York City Demonstration Signal Corps.

"(f) Reporting Requirement.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Secretary shall submit a report, to the Committee on the Judiciary and the Select Committee on Intelligence of the Senate and the Committee on the Judiciary and the Permanent Select Committee on Intelligence of the House of Representatives, which outlines the progress of the Signal Corps in the preceding year and describes any problems, issues, or other impediments to effective communication between first responders in the event of a terrorist attack or a national crisis.

"(g) Authorization of Appropriations.—

"(1) Demonstration signal corps.—There are authorized to be appropriated $50,000,000 for fiscal year 2005 to carry out subsection (e).

"(2) Fiscal years 2006 through 2009.—There are authorized to be appropriated $100,000,000 for each of the fiscal years 2006 through 2008—

"(A) to create signal corps in high terrorism threat areas throughout the United States; and

"(B) to carry out the mission of the Signal Corps to assist Federal, State, and local law enforcement agencies to effectively communicate with each other during a terrorism event or a national crisis.".

(2) Technical amendment.—Section 1(b) of the Homeland Security Act of 2002 (Public Law 107-296) is amended by inserting after the item relating to section 509 the following:

"Sec. 510. Homeland Security Signal Corps.".

SA 3889. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following new section:

SEC. ___. COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) FINDINGS.—Congress makes the following findings:

(1) Despite improvements in counterterrorism cooperation between the Governments of the United States and Saudi Arabia following the terrorist attacks in Riyadh, Saudi Arabia on May 12, 2003, the relationship between the United States and Saudi Arabia continues to be problematic in regard to combating Islamic extremism.

(2) The Government of Saudi Arabia has not always responded promptly and fully to United States requests for assistance in the global war on Islamist terrorism. Examples of this lack of cooperation have included an unwillingness to provide the United States Government with access to individuals wanted for questioning in relation to terrorist acts and to assist in investigations of terrorist activities.

(3) The state religion of Saudi Arabia, a militant and exclusionary form of Islam known as Wahhabism, preaches violence against nonbelievers or infidels and serves as the religious basis for Osama Bin Laden and al Qaeda. Through support for madrassas, mosques, cultural centers, and other entities Saudi Arabia has actively supported the spread of this religious sect.

(4) The Secretary of State designated Saudi Arabia a country of particular concern under section 402(b)(1)(A) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)(1)(A)) because the Government of Saudi Arabia has engaged in or tolerated systematic, ongoing, and egregious violations of religious freedom.

(5) The Department of State's International Religious Freedom Report for 2004 concluded that religious freedom does not exist in Saudi Arabia.

(6) The Ambassador-at-large for International Religious Freedom expressed concern about Saudi Arabia's export of religious extremism and intolerance to other countries where religious freedom for Muslims is respected.

(7) Historically, the Government of Saudi Arabia has allowed financiers of terrorism to operate within its borders.

(8) The Government of Saudi Arabia stated in February 2004 that it would establish a national commission to combat terrorist financing within Saudi Arabia, however, it has not fulfilled that promise.

(9) There have been no reports of the Government of Saudi Arabia pursuing the arrest, trial, or punishment of individuals who have provided financial support for terrorist activities. The laws of Saudi Arabia to combat terrorist financing have not been fully implemented.

(b) COMMISSION ON THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.—

(1) ESTABLISHMENT.—There is established, within the legislative branch, the National Commission on the United States-Saudi Arabia Relationship (in this section referred to as the "Commission").

(2) PURPOSES.—The purposes of the Commission are to investigate, evaluate, and report on—

(A) the current status and activities of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(B) the degree of cooperation exhibited by the Government of Saudi Arabia toward the Government of the United States in relation to intelligence, security cooperation, and the fight against Islamist terrorism;

(C) the status of the support provided by the Government of Saudi Arabia to promote the dissemination of Wahabbism; and

(D) the efforts of the Government of Saudi Arabia to enact domestic measures to curtail terrorist financing.

(3) AUTHORITY.—The Commission is authorized to carry out purposes described in paragraph (2).

(c) COMPOSITION OF COMMISSION.—The Commission shall be composed of 10 members, as follows:

(1) Two members appointed by the President, one of whom the President shall designate as the chairman of the Commission.

(2) Two members appointed by the Speaker of the House of Representatives.

(3) Two members appointed by the minority leader of the House of Representatives.

(4) Two members appointed by the majority leader of the Senate.

(5) Two members appointed by the minority leader of the Senate.

(d) REPORT.—Not later that 270 days after the date of the enactment of this Act, the Commission shall submit to the President and Congress a report on the relationship between the United States and Saudi Arabia. The report shall include the recommendations of the Commission to—

(1) increase the transparency of diplomatic relations between the Government of the United States and the Government of Saudi Arabia;

(2) improve cooperation between Government of the United States and the Government of Saudi Arabia in efforts to share intelligence information related to the war on terror;

(3) curtail the support and dissemination of Wahabbism by the Government of Saudi Arabia;

(4) enhance the efforts of the Government of Saudi Arabia to combat terrorist financing;

(5) create a foreign policy strategy for the United States to improve cooperation with the Government of Saudi Arabia in the war on terror, including any recommendations regarding the use of sanctions or other diplomatic measures;

(6) curtail the support or toleration of violations of religious freedom by the Government of Saudi Arabia; and

(7) encourage the Government of Saudi Arabia to improve the human rights conditions in Saudi Arabia that have been identified as poor by the Department of State.

(e) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

SA 3890. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following new title:

TITLE IV—SECURITY OF TRUCKS TRANSPORTING HAZARDOUS MATERIALS

SEC. 401. IMPROVEMENTS TO SECURITY OF HAZARDOUS MATERIALS TRANSPORTED BY TRUCK.

(a) PLAN FOR IMPROVING SECURITY OF HAZARDOUS MATERIALS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Homeland Security shall develop a plan for improving the security of hazardous materials transported by truck.

(2) CONTENT.—The plan under paragraph (1) shall include—

(A) a plan for tracking such hazardous materials;

(B) a strategy for preventing hijackings of trucks carrying such materials; and

(C) a proposed mechanism for recovering lost or stolen trucks carrying such materials.

(b) INCREASED INSPECTION OF TRUCKS.—

(1) IN GENERAL.—The Secretary of Homeland Security shall require that the number of trucks entering the United States that are manually searched and screened in fiscal year 2005 is at least twice the number of trucks manually searched and screened in fiscal year 2004.

(2) WAIT TIMES AT INSPECTIONS.—In carrying out this section, the Secretary shall ensure that the average wait time for trucks entering the United States does not increase.

(c) BACKGROUND CHECKS.—Beginning not later than 3 years after the date of the enactment of this Act, the Secretary of Homeland Security shall require background checks of all truck drivers with certifications to transport hazardous materials.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

SA 3891. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following new title:

TITLE IV—RAIL SECURITY

SEC. 401. IMPROVEMENTS TO RAIL SECURITY.

(a) PROTECTION OF PASSENGER AREAS IN RAIL STATIONS.—The Secretary of Homeland Security shall require that, not later than 2 years after the date of the enactment of this Act, each of the 30 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a sufficient number of wall-mounted and ceiling-mounted radiological, biological, chemical, and explosive detectors to provide coverage of the entire passenger area of such station.

(b) USE OF THREAT DETECTORS REQUIRED ON CERTAIN TRAINS.—The Secretary of Homeland Security shall require that, not later than 3 years after the date of the enactment of this Act, each train traveling through any of the 10 rail stations in the United States with the highest daily rate of passenger traffic be equipped with a radiological, biological, chemical, and explosive detector.

(c) REPORT ON SAFETY OF PASSENGER RAIL TUNNELS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall—

(A) review the safety and security of all passenger rail tunnels, including in particular the access and egress points of such tunnels; and

(B) submit to Congress a report on needs for improving the safety and security of passenger rail tunnels.

(2) Content.—The report under paragraph (1) shall include recommendations regarding the funding necessary to eliminate security deficiencies at, and upgrade the safety of, passenger rail tunnels.

(d) Effective Date.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

SA 3892. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following new title:

TITLE IV—STRENGTHENING BORDER SECURITY

SEC. 401. TECHNOLOGY STANDARDS TO CONFIRM IDENTITY.

Section 403(c)(1) of the USA PATRIOT ACT (8 U.S.C. 1379(1)) is amended to read as follows:

"(1) In general.—The Attorney General, the Secretary of State, and the Secretary of Homeland Security jointly, through the National Institute of Standards and Technology (NIST), and in consultation with the Secretary of the Treasury and other Federal law enforcement and intelligence agencies that the Attorney General, Secretary of State, and the Secretary of Homeland Security deem appropriate and in consultation with Congress, shall prior to October 26, 2005, develop and certify a technology standard, including appropriate biometric identifier standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, that can be used to verify the identity of persons applying for a United States visa or such persons seeking to enter the United States pursuant to a visa for the purposes of conducting background checks, confirming identity, and ensuring that a person has not received a visa under a different name.".

SEC. 402. REQUIREMENTS FOR ENTRY AND EXIT DOCUMENTS.

(a) In General.—Paragraph (1) of section 303(b) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(b)) is amended to read as follows:

"(1) In general.—Not later than October 25, 2005, the Attorney General, the Secretary of State, and the Secretary of Homeland Security shall issue to aliens only machine-readable, tamper-resistant visas and other travel and entry documents that use biometric identifiers for multiple immutable characteristics, such as fingerprints and eye retinas. The Attorney General, the Secretary of State, and the Secretary of Homeland Security shall jointly establish biometric and document identification standards for multiple immutable physical characteristics, such as fingerprints and eye retinas, to be employed on such visas and other travel and entry documents.".

(b) Consultation Requirements.—Such section is further amended—

(1) in paragraph (2)(A), by striking "in consultation with the Secretary of State" and inserting "in consultation with the Secretary of State and the Secretary of Homeland Security"; and

(2) in paragraph (2)(B) in the matter preceding clause (i), by striking "in consultation with the Secretary of State" and inserting "in consultation with the Secretary of State and the Secretary of Homeland Security".

(c) Use of Readers and Scanners.—Paragraph (2)(B) of such section, as amended by subsection (b), is further amended—

(1) by redesignating clauses (i), (ii), and (iii) as (ii), (iii), and (iv), respectively; and

(2) by inserting before clause (ii), as redesignated by paragraph (1), the following:

"(i) can authenticate biometric identifiers of multiple immutable physical characteristics, as such fingerprints and eye retinas;".

(d) Certification Requirements.—Subsection (c) of such section is amended to read as follows:

"(1) In general.—Not later than October 26, 2005, the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) shall certify, as a condition of designation or a continuation of that designation, that it has a program to issue to its nationals machine-readable passports that are tamper-resistant and incorporate biometric and authentication identifiers of multiple immutable physical characteristics, such as fingerprints and eye retina scans. This paragraph shall not be construed to rescind the requirement of subsections (a)(3) and (c)(2)(B)(i) of section 217 of the Immigration and Nationality Act.".

SA 3893. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following new title:

TITLE IV—OTHER MATTERS

SEC. 401. CARGO INSPECTION.

(a) Manual Inspection.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers manually inspected at ports in the United States is not less than 10 percent of the total number of containers off-loaded at such ports.

(b) Inspection for Nuclear Materials.—Not later than 2 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the number of containers screened for nuclear or radiological materials is not less than 100 percent of the total number of containers off-loaded at ports in the United States.

(c) Inspection for Chemical, Biological, and Explosive Materials.—Not later than 4 years after the date of enactment of this Act, the Secretary of Homeland Security shall require that the 10 ports in the United States that off-load the highest number of containers have the capability to screen not less than 10 percent of the total number of containers off-loaded at each such port for chemical, biological, and explosive materials.

(d) Report.—Not later than 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on port security technology. Such report shall include—

(1) a description of the progress made in the research and development of port security technologies;

(2) a comprehensive schedule detailing the amount of time necessary to test and install appropriate port security technologies; and

(3) the total amount of funds necessary to develop, produce, and install appropriate port security technologies.

(e) Effective Date.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of enactment of this Act.

SA 3894. Mr. SCHUMER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. ENHANCING CYBERSECURITY.

(a) Short Title.—This section may be cited as the "Department of Homeland Security Cybersecurity Enhancement Act of 2004".

(b) Assistant Secretary for Cybersecurity.—

(1) In general.—Subtitle A of title II of the Homeland Security Act of 2002 (6 U.S.C. 121 et seq.) is amended by adding at the end the following:

"SEC. 203. ASSISTANT SECRETARY FOR CYBERSECURITY.

"(a) In General.—There shall be in the Directorate for Information Analysis and Infrastructure Protection a National Cybersecurity Office headed by an Assistant Secretary for Cybersecurity (in this section referred to as the 'Assistant Secretary'), who shall assist the Secretary in promoting cybersecurity for the Nation.

"(b) General Authority.—The Assistant Secretary, subject to the direction and control of the Secretary, shall have primary authority within the Department for all cybersecurity-related critical infrastructure protection programs of the Department, including with respect to policy formulation and program management.

"(c) Responsibilities.—The responsibilities of the Assistant Secretary shall include the following:

"(1) To establish and manage—

"(A) a national cybersecurity response system that includes the ability to—

"(i) analyze the effect of cybersecurity threat information on national critical infrastructure; and

"(ii) aid in the detection and warning of attacks on, and in the restoration of, cybersecurity infrastructure in the aftermath of such attacks;

"(B) a national cybersecurity threat and vulnerability reduction program that identifies cybersecurity vulnerabilities that would have a national effect on critical infrastructure, performs vulnerability assessments on information technologies, and coordinates the mitigation of such vulnerabilities;

"(C) a national cybersecurity awareness and training program that promotes cybersecurity awareness among the public and the private sectors and promotes cybersecurity training and education programs;

"(D) a government cybersecurity program to coordinate and consult with Federal, State, and local governments to enhance their cybersecurity programs; and

"(E) a national security and international cybersecurity cooperation program to help foster Federal efforts to enhance international cybersecurity awareness and cooperation.

"(2) To coordinate with the private sector on the program under paragraph (1) as appropriate, and to promote cybersecurity information sharing, vulnerability assessment, and threat warning regarding critical infrastructure.

"(3) To coordinate with other directorates and offices within the Department on the cybersecurity aspects of their missions.

"(4) To coordinate with the Under Secretary for Emergency Preparedness and Response to ensure that the National Response Plan developed pursuant to section 502(6) of the Homeland Security Act of 2002 (6 U.S.C. 312(6)) includes appropriate measures for the recovery of the cybersecurity elements of critical infrastructure.

"(5) To develop processes for information sharing with the private sector, consistent with section 214, that—

"(A) promote voluntary cybersecurity best practices, standards, and benchmarks that are responsive to rapid technology changes and to the security needs of critical infrastructure; and

"(B) consider roles of Federal, State, local, and foreign governments and the private sector, including the insurance industry and auditors.

"(6) To coordinate with the Chief Information Officer of the Department in establishing a secure information sharing architecture and information sharing processes, including with respect to the Department's operation centers.

"(7) To consult with the Electronic Crimes Task Force of the United States Secret Service on private sector outreach and information activities.

"(8) To consult with the Office for Domestic Preparedness to ensure that realistic cybersecurity scenarios are incorporated into tabletop and recovery exercises.

"(9) To consult and coordinate, as appropriate, with other Federal agencies on cybersecurity-related programs, policies, and operations.

"(10) To consult and coordinate within the Department and, where appropriate, with other relevant Federal agencies, on security of digital control systems, such as Supervisory Control and Data Acquisition (SCADA) systems.

"(d) AUTHORITY OVER THE NATIONAL COMMUNICATIONS SYSTEM.—The Assistant Secretary shall have primary authority within the Department over the National Communications System.".

(2) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by adding at the end of the items relating to subtitle A of title II the following:

"203. Assistant Secretary for Cybersecurity.".

(c) CYBERSECURITY DEFINED.—Section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101) is amended by adding at the end the following:

"(17)(A) The term 'cybersecurity' means the prevention of damage to, the protection of, and the restoration of computers, electronic communications systems, electronic communication services, wire communication, and electronic communication, including information contained therein, to ensure its availability, integrity, authentication, confidentiality, and nonrepudiation.

"(B) In this paragraph—

"(i) each of the terms 'damage' and 'computer' has the meaning that term has in section 1030 of title 18, United States Code; and

"(ii) each of the terms 'electronic communications system', 'electronic communication service', 'wire communication', and 'electronic communication' has the meaning that term has in section 2510 of title 18, United States Code.".

SA 3895. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 9, line 10, insert ", the National Counterproliferation Center," after "Center".

On page 14, beginning on line 14, strike "and establish" and all that follows through line 16 and insert "manage and oversee the National Counterproliferation Center under section 144, and establish, manage, and oversee national intelligence centers under section 145;".

On page 15, beginning on line 12, strike "to national intelligence centers under section 144," and insert "to the National Counterproliferation Center under section 144, to national intelligence centers under section 145,".

On page 94, strike line 5 and insert the following:

SEC. 144. NATIONAL COUNTERPROLIFERATION CENTER.

(a) NATIONAL COUNTERPROLIFERATION CENTER.—(1) There is within the National Intelligence Authority a National Counterproliferation Center.

(2) The purpose of the Center is to develop, direct, and coordinate the efforts and activities of the United States Government to deter, prevent, halt, and rollback the pursuit, acquisition, development, and trafficking of weapons of mass destruction, related materials and technologies, and their delivery systems to terrorists, terrorist organizations, other non-state actors of concern, and state actors of concern.

(b) DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—(1) There is a Director of the National Counterproliferation Center, who shall be the head of the National Counterproliferation Center, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as the Director of the National Counterproliferation Center shall have significant expertise in matters relating to the national security of the United States and matters relating to the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies that threaten the national security of the United States, its interests, and allies.

(3) The individual serving as the Director of the National Counterproliferation Center may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Director of the National Counterproliferation Center is doing so in an acting capacity.

(c) SUPERVISION.—(1) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the budget, personnel, activities, and programs of the National Counterproliferation Center.

(2) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the activities of the Directorate of Intelligence of the National Counterproliferation Center under subsection (g).

(3) The Director of the National Counterproliferation Center shall report to the President and the National Intelligence Director on the planning and progress of counterproliferation programs, operations, and activities.

(d) PRIMARY MISSIONS.—The primary missions of the National Counterproliferation Center shall be as follows:

(1) To develop and unify strategy for the counterproliferation efforts (including law enforcement, economic, diplomatic, intelligence, and military efforts) of the United States Government.

(2) To make recommendations to the National Intelligence Director with regard to the collection and analysis requirements and priorities of the National Counterproliferation Center.

(3) To integrate counterproliferation intelligence activities of the United States Government, both inside and outside the United States, and with other governments.

(4) To develop multilateral and United States Government counterproliferation plans, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President) of the United States Government; and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency operational activities, recommendations for operational plans, and assignment of national, departmental, or agency responsibilities.

(5) To ensure that the collection, analysis, and utilization of counterproliferation intelligence, and the conduct of counterproliferation operations, by the United States Government are informed by the analysis of all-source intelligence.

(e) DUTIES AND RESPONSIBILITIES OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—Notwithstanding any other provision of law, at the direction of the President, the National Security Council, and the National Intelligence Director, the Director of the National Counterproliferation Center shall—

(1) serve as the principal adviser to the President and the National Intelligence Director on intelligence and operations relating to counterproliferation;

(2) provide unified strategic direction for the counterproliferation efforts of the United States Government and for the effective integration and deconfliction of counterproliferation intelligence collection, analysis, and operations across agency boundaries, both inside and outside the United States, and with foreign governments;

(3) advise the President and the National Intelligence Director on the extent to which the counterproliferation program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the policies and priorities established by the President and the National Security Council;

(4) in accordance with subsection (f), concur in, or advise the President on, the selections of personnel to head the nonmilitary operating entities of the United States Government with principal missions relating to counterproliferation;

(5) serve as the principal representative of the United States Government to multilateral and bilateral organizations, forums, events, and activities related to counterproliferation;

(6) advise the President and the National Intelligence Director on the science and

technology research and development requirements and priorities of the counterproliferation programs and activities of the United States Government; and

(7) perform such other duties as the National Intelligence Director may prescribe or are prescribed by law;

(f) ROLE OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in the most senior position of such non-military operating entities of the United States Government having principal missions relating to counterproliferation as the President may designate, the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of the National Counterproliferation Center before appointing an individual to fill the vacancy or recommending to the President an individual for nomination to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in the appointment or recommendation (as the case may be).

(2) The President shall notify Congress of the designation of an operating entity of the United States Government under paragraph (1) not later than 30 days after the date of such designation.

(g) DIRECTORATE OF INTELLIGENCE.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Intelligence.

(2) The Directorate shall have primary responsibility within the United States Government for the collection and analysis of information regarding proliferators (including individuals, entities, organizations, companies, and states) and their networks, from all sources of intelligence, whether collected inside or outside the United States, or by foreign governments.

(3) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected proliferators, their networks, their activities, and their capabilities;

(B) propose intelligence collection and analysis requirements and priorities for action by elements of the intelligence community inside and outside the United States, and by friendly foreign governments;

(C) have primary responsibility within the United States Government for net assessments and warnings about weapons of mass destruction proliferation threats, which assessments and warnings shall be based on a comparison of the intentions and capabilities of proliferators with assessed national vulnerabilities and countermeasures;

(D) conduct through a separate, independent office independent analyses (commonly referred to as "red teaming") of intelligence collected and analyzed with respect to proliferation; and

(E) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(h) DIRECTORATE OF PLANNING.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for developing counterproliferation plans, as described in subsection (d)(3).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter proliferation activities based on policy objectives and priorities established by the National Security Council;

(B) develop plans under subparagraph (A) utilizing input from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to counterproliferation;

(C) assign responsibilities for counterproliferation operations to the departments and agencies of the United States Government (including the Department of Defense, the Department of State, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government), consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the performance of the departments, agencies, and elements of the United States with the plans developed under subparagraph (A); and

(F) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(i) STAFF.—(1) The National Intelligence Director may appoint deputy directors of the National Counterproliferation Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist the Director of the National Counterproliferation Center in fulfilling the duties and responsibilities of the Director of the National Counterproliferation Center under this section, the National Intelligence Director shall employ in the National Counterproliferation Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterproliferation Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterproliferation Center is comprised primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to the National Counterproliferation Center from any other non-Department of Defense element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government and not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterproliferation Center under this subsection shall be under the authority, direction, and control of the Director of the National Counterproliferation Center on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterproliferation Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterproliferation Center may, with the approval of the National Intelligence Director, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director may delegate to the Director of the National Counterproliferation Center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (8).

(10) The National Intelligence Director shall ensure that the staff of the National Counterproliferation Center has access to all databases and information maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(j) SUPPORT AND COOPERATION OF OTHER AGENCIES.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterproliferation Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterproliferation Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (h)(4);

(B) cooperative work with the Director of the National Counterproliferation Center to ensure that ongoing operations of such department, agency, or element do not conflict with operations planned by the Center;

(C) reports, upon request, to the Director of the National Counterproliferation Center on the performance of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterproliferation Center electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterproliferation Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the President of the necessity of resolving the disagreement.

(k) DEFINITIONS.—In this section:

(1) The term "counterproliferation" means—

(A) activities, programs and measures for interdicting (including deterring, preventing, halting, and rolling back) the transfer or transport (whether by air, land or sea) of weapons of mass destruction, their delivery systems, and related materials and technologies to and from states and non-state actors (especially terrorists and terrorist organizations) of proliferation concern;

(B) enhanced law enforcement activities and cooperation to deter, prevent, halt, and rollback proliferation-related networks, activities, organizations, and individuals, and bring those involved to justice; and

(C) activities, programs, and measures for identifying, collecting, and analyzing information and intelligence related to the transfer or transport of weapons, systems, materials, and technologies as described in subparagraph (A).

(2) The term "states and non-state actors of proliferation concern" refers to countries or entities (including individuals, entities, organizations, companies, and networks) that should be subject to counterproliferation activities because of their actions or intent to engage in proliferation through—

(A) efforts to develop or acquire chemical, biological, or nuclear weapons and associated delivery systems; or

(B) transfers (either selling, receiving, or facilitating) of weapons of mass destruction, their delivery systems, or related materials.

SEC. 145. NATIONAL INTELLIGENCE CENTERS.

On page 207, strike line 16 and insert the following:

Center.

"Director of the National Counterproliferation Center.".

SA 3896. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 8, strike lines 3 and 4 and insert the following:

(A) the Select Committee on Intelligence of the Senate;

(B) the Permanent Select Committee on Intelligence of the House of Representatives;

(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(D) the Majority Leader and the Minority Leader of the Senate.

On page 172, beginning on line 24, strike "the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives," and insert "the committees and Members of Congress specified in subsection (c),".

On page 173, beginning on line 17, strike "the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives," and insert "the committees and Members of Congress specified in subsection (c),".

On page 174, beginning on line 7, strike "Representatives" and all that follows through line 13 and insert "Representatives, the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives, and the Majority Leader and the Minority Leader of the Senate. Upon making a report covered by this paragraph—

"(A) the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such a committee shall notify the other of the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such committee of such request;

"(B) the Speaker of the House of Representatives and the Majority Leader of the House of Representatives or the Minority Leader of the House of Representatives shall notify the other or others, as the case may be, of such request; and

"(C) the Majority Leader and Minority Leader of the Senate shall notify the other of such request.

On page 174, between lines 22 and 23, insert the following:

(c) COMMITTEES AND MEMBERS OF CONGRESS.—The committees and Members of Congress specified in this subsection are—

(1) the Select Committee on Intelligence of the Senate;

(2) the Permanent Select Committee on Intelligence of the House of Representatives;

(3) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(4) the Majority Leader and the Minority Leader of the Senate.

On page 176, between lines 3 and 4, insert the following:

(iii) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives;

(iv) the Majority Leader and the Minority Leader of the Senate;

On page 176, line 4, strike "(ii)" and insert "(v)".

On page 176, line 7, strike "(iii)" and insert "(vi)".

On page 200, between lines 4 and 5, insert the following:

SEC. 307. MODIFICATION OF DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES UNDER NATIONAL SECURITY ACT OF 1947.

(a) IN GENERAL.—Paragraph (7) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

"(7) The term 'congressional intelligence committees' means—

"(A) the Select Committee on Intelligence of the Senate;

"(B) the Permanent Select Committee on Intelligence of the House of Representatives;

"(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

"(D) the Majority Leader and the Minority Leader of the Senate.".

(b) FUNDING OF INTELLIGENCE ACTIVITIES.—Paragraph (2) of section 504(e) of that Act (50 U.S.C. 414(e)) is amended to read as follows:

"(2) the term 'appropriate congressional committees' means—

"(A) the Select Committee on Intelligence and the Committee on Appropriations of the Senate;

"(B) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives;

"(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

"(D) the Majority Leader and the Minority Leader of the Senate;".

On page 200, line 5, strike "**307.**" and insert "**308.**".

On page 200, line 12, strike "**308.**" and insert "**309.**".

On page 200, line 19, strike "**309.**" and insert "**310.**".

On page 201, line 11, strike "**310.**" and insert "**311.**".

On page 203, line 9, strike "**311.**" and insert "**312.**".

On page 204, line 1, strike "**312.**" and insert "**313.**".

SA 3897. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 78, line 18, strike "and" at the end.

On page 79, line 2, strike the period and insert "; and".

On page 79, between lines 2 and 3, insert the following:

(4) monitor the effectiveness of measures taken to prevent and prohibit the involvement by intelligence community personnel in policy matters, including the development or advancement of policy proposals, options, initiatives, or recommendations, or the offering of views or commentary thereon.

SA 3898. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 171, after line 21, add the following:

SEC. 223. INDEPENDENCE OF POLICY FROM INTELLIGENCE.

(a) PROHIBITIONS ON PARTICIPATION OF INTELLIGENCE COMMUNITY PERSONNEL IN POLICY MATTERS.—To further prevent the politicization of intelligence, covered officers and employees of the intelligence community shall not—

(1) participate in policy matters, including the development of policy, debating of policy issues, offering and advancement of policy views and proposals, and voting in interagency forums on policy issues; or

(2) serve in a policy position in any branch of the United States Government, or in any position in which the person assigned to such position may be asked or required to participate in activities prohibited under paragraph (1).

(b) IMPLEMENTATION OF PROHIBITIONS.—The National Intelligence Director, the National Intelligence Council, the Inspector General of the National Intelligence Authority, the Director of the National Counterterrorism Center, and the Directors of the national intelligence centers shall each take appropriate actions to ensure the strict adherence of covered officers and employees of the intelligence community to the prohibitions set forth in subsection (a).

(c) Annual Reports.—The National Intelligence Director shall submit to the congressional intelligence committees each year a report that sets forth—

(1) a description of the actions taken during the preceding year to ensure the strict adherence of covered officers and employees of the intelligence community to the prohibitions set forth in subsection (a); and

(2) an assessment of the effectiveness of such actions in ensuring the strict adherence of covered officers and employees of the intelligence community to such prohibitions.

(d) Covered Officers and Employees of the Intelligence Community Defined.—In this section, the term "covered officers and employees of the intelligence community" means any officer or employee of an element of the intelligence community, other than an officer serving in a position to which appointed by the President, by and with the advice and consent of the Senate.

On page 172, line 1, strike "**223.**" and insert "**224.**".

On page 172, line 18, strike "**224.**" and insert "**225.**".

On page 174, line 23, strike "**225.**" and insert "**226.**".

SA 3899. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, between lines 2 and 3, insert the following:

SEC. 207. JOINT PROCEDURES FOR OPERATIONAL COORDINATION BETWEEN DEPARTMENT OF DEFENSE AND CENTRAL INTELLIGENCE AGENCY.

(a) Development of Procedures.—The National Intelligence Director, in consultation with the Secretary of Defense and the Director of the Central Intelligence Agency, shall develop joint procedures to be used by the Department of Defense and the Central Intelligence Agency to improve the coordination and deconfliction of operations that involve elements of both the Armed Forces and the Central Intelligence Agency consistent with national security and the protection of human intelligence sources and methods. Those procedures shall, at a minimum, provide the following:

(1) Methods by which the Director of the Central Intelligence Agency and the Secretary of Defense can improve communication and coordination in the planning, execution, and sustainment of operations, including, as a minimum—

(A) information exchange between senior officials of the Central Intelligence Agency and senior officers and officials of the Department of Defense when planning for such an operation commences by either organization; and

(B) exchange of information between the Secretary and the Director to ensure that senior operational officials in both the Department of Defense and the Central Intelligence Agency have knowledge of the existence of the ongoing operations of the other.

(2) When appropriate, in cases where the Department of Defense and the Central Intelligence Agency are conducting separate missions in the same geographical area, mutual agreement on the tactical and strategic objectives for the region and a clear delineation of operational responsibilities to prevent conflict and duplication of effort.

(b) Implementation Report.—Not later than 180 days after the date of the enactment of the Act, the National Intelligence Director shall submit to the congressional defense committees (as defined in section 101 of title 10, United States Code) and the congressional intelligence committees a report describing the procedures established pursuant to subsection (a) and the status of the implementation of those procedures.

SEC. 208. SUPPORT OF MILITARY OPERATIONS TO COMBAT TERRORISM.

(a) Authority.—The Secretary of Defense may expend up to **$25,000,000** during any fiscal year to provide support to foreign forces, irregular forces, groups, or individuals engaged in supporting or facilitating ongoing military operations by United States special operations forces to combat terrorism.

(b) Intelligence Activities.—This section does not constitute authority to conduct a covert action, as such term is defined in section 503(e) of the National Security Act of 1947 (50 U.S.C. 413b(e)).

(c) Annual Report.—Not later than 30 days after the end of each fiscal year, the Secretary shall submit to the congressional defense committees a report on support provided under this section during such fiscal year. Each such report shall describe the support provided, including a statement of the recipient of the support and the amount obligated to provide the support.

(d) Fiscal Year 2005 Limitation.—Support may be provided under subsection (a) during fiscal year 2005 only from funds made available for the Department of Defense for operations and maintenance for that fiscal year.

(e) Notice to Congress.—The Secretary shall notify the congressional defense committees of each exercise of the authority in subsection (a) not later than 30 days after the exercise of such authority.

(f) Notice to Central Intelligence Agency.—Before each exercise of the authority in subsection, or as soon thereafter as is practicable, the Secretary shall notify the Director of the Central Intelligence Agency of such exercise of such authority.

SA 3900. Mr. FRIST submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, after line 12, add the following:

TITLE IV—COUNTERTERRORISM CAPABILITIES OF THE UNITED STATES

SEC. 401. COMMISSION TO ASSESS THE OPERATIONAL COUNTERTERRORISM CAPABILITIES OF THE UNITED STATES.

(a) Establishment.—There is hereby established a commission to be known as the "Commission to Assess the Operational Counterterrorism Capabilities of the United States" (hereafter in this title referred to as the "Commission").

(b) Composition.—The Commission shall be composed of 9 members appointed as follows:

(1) The Speaker of the House of Representatives shall appoint 2 members of the Commission.

(2) The majority leader of the Senate shall appoint 3 members of the Commission.

(3) The minority leader of the House of Representatives shall appoint 2 members of the Commission.

(4) The minority leader of the Senate shall appoint 2 members of the Commission.

(c) Qualifications.—Members of the Commission shall be appointed from among United States citizens with knowledge and expertise in the military, paramilitary, covert, and clandestine aspects of counterterrorism operations.

(d) Chairman and Vice Chairman.—The members of the Commission shall select a Chairman and Vice Chairman of the Commission from among the members of the Commission.

(e) Period of Appointment; Vacancies.—Members shall be appointed for the life of the Commission. Any vacancy in the Commission shall be filled in the same manner as the original appointment.

(f) Security Clearances.—All members of the Commission shall hold appropriate security clearances.

(g) Initial Organization Requirements.—(1) All appointments to the Commission shall be made not later than 45 days after the date of the enactment of this Act.

(2) The Commission shall convene its first meeting not later than 30 days after the date as of which all members of the Commission have been appointed.

SEC. 402. DUTIES.

(a) In General.—The Commission shall assess the organization, structure, authorities, and capabilities of the operational counterterrorism capabilities of the Department of Defense and the Central Intelligence Agency, including—

(1) the capability of each of the Department of Defense and the Central Intelligence Agency to deter, defend against, and defeat terrorists, terrorist organizations, and terrorist activities, both independently and in a joint manner; and

(2) the cooperation and coordination between the tactical, operational, and strategic counterterrorism elements and components of the Department of Defense and the Central Intelligence Agency.

(b) Recommendations.—(1) The Commission shall—

(A) identify problems and impediments to the improved effectiveness of the Department of Defense and the Central Intelligence Agency in combating terrorism, when working both independently and jointly; and

(B) make such recommendations, including recommendations for legislative and administrative action, as the Commission considers appropriate to address the problems and impediments identified under subparagraph (A) and to improve the effectiveness of each of the Department of Defense and the Central Intelligence Agency in combatting terrorism when working both independently and jointly.

(2) The recommendations under paragraph (1)(B) shall include recommendations on modifications in funding, authorities, organization, training, doctrine, resources to improve the independent and joint effectiveness of the operational elements and activities of the Department of Defense and of the Central Intelligence Agency regarding counterterrorism.

(c) Reports.—(1) Not later than 12 months after the date of the enactment of this Act, the Commission shall submit to Congress an interim report on the findings and conclusions of the Commission as of the date of such report as a result of the assessment required by subsection (a).

(2) Not later than 18 months after the date of the enactment of this Act, the Commission shall submit to Congress a final report containing a detailed statement of the findings and conclusions of the Commission as a

result of the assessment required by subsection (a), together with the recommendations of the Commission under subsection (b).

(3) Each report under this subsection shall be submitted in unclassified form, but may include a classified annex.

SEC. 403. POWERS.

(a) HEARINGS.—The Commission or, at its direction, any panel or member of the Commission, may, for the purpose of carrying out the provisions of this title, hold hearings, sit and act at times and places, take testimony, receive evidence, and administer oaths to the extent that the Commission or any panel or member considers advisable.

(b) INFORMATION.—The Commission may secure directly from the Department of Defense, the Central Intelligence Agency, and any other department, agency, or element of the United States Government information that the Commission considers necessary to enable the Commission to carry out its responsibilities under this title.

(c) COOPERATION OF GOVERNMENT OFFICIALS.—For purposes of carrying out its duties, the Commission shall receive the full and timely cooperation of the Secretary of Defense, the Director of the Central Intelligence Agency, the National Intelligence Director, and any other official of the United States Government that the Commission considers appropriate.

SEC. 404. PROCEDURES.

(a) MEETINGS.—The Commission shall meet at the call of the Chairman.

(b) QUORUM.—(1) Five members of the Commission shall constitute a quorum other than for the purpose of holding hearings.

(2) The Commission shall act by resolution agreed to by a majority of the members of the Commission.

(c) COMMISSION.—The Commission may establish panels composed of less than full membership of the Commission for the purpose of carrying out the duties of the Commission. The actions of each such panel shall be subject to the review and control of the Commission. Any findings and determinations made by such a panel shall not be considered the findings and determinations of the Commission unless approved by the Commission.

(d) AUTHORITY OF INDIVIDUALS TO ACT FOR COMMISSION.—Any member or agent of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take under this title.

SEC. 405. PERSONNEL MATTERS.

(a) PAY OF MEMBERS.—Members of the Commission shall serve without pay by reason of their work on the Commission.

(b) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(c) STAFF.—(1) The Chairman of the Commission may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, appoint a staff director and such additional personnel as may be necessary to enable the Commission to perform its duties. The appointment of a staff director shall be subject to the approval of the Commission.

(2) The Chairman of the Commission may fix the pay of the staff director and other personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code, relating to classification of positions and General Schedule pay rates, except that the rate of pay fixed under this paragraph for the staff director may not exceed the rate payable for level V of the Executive Schedule under section 5316 of such title and the rate of pay for other personnel may not exceed the maximum rate payable for grade GS-15 of the General Schedule.

(d) DETAIL OF GOVERNMENT EMPLOYEES.—Upon request of the Chairman of the Commission, the head of any department, agency, or element of the United States Government may detail, on a nonreimbursable basis, any personnel of such department, agency, or element to the Commission to assist it in carrying out its duties.

(e) PROCUREMENT OF TEMPORARY AND INTERMITTENT SERVICES.—The Chairman of the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals which do not exceed the daily equivalent of the annual rate of basic pay payable for level V of the Executive Schedule under section 5316 of such title.

SEC. 406. MISCELLANEOUS ADMINISTRATIVE PROVISIONS.

(a) POSTAL AND PRINTING SERVICES.—The Commission may use the United States mails and obtain printing and binding services in the same manner and under the same conditions as other departments and agencies of the United States Government.

(b) MISCELLANEOUS ADMINISTRATIVE AND SUPPORT SERVICES.—The Director of the Central Intelligence Agency shall furnish the Commission, on a reimbursable basis, any administrative and support services requested by the Commission.

SEC. 407. FUNDING.

(a) AVAILABILITY OF FUNDS.—Funds for the activities of the Commission shall be derived from amounts authorized to be appropriated for the Department of Defense for operation and maintenance for defense-wide activities for fiscal year 2005.

(b) DISBURSAL.—Upon receipt of a written certification from the Chairman of the Commission specifying the funds required for the activities of the Commission, the Secretary of Defense shall promptly disburse to the Commission, from amounts referred to in subsection (a), the funds required by the Commission as stated in such certification.

SEC. 408. TERMINATION.

The Commission shall terminate 60 days after the date of the submittal to Congress of its final report under section 402(c).

SA 3901. Mr. HOLLINGS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. _____. DEADLINE FOR COMPLETION OF CERTAIN PLANS, REPORTS, AND ASSESSMENTS.

(a) STRATEGIC PLAN REPORTS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Congress—

(1) a report on the status of the National Maritime Transportation Security Plan required by section 70103(a) of title 46, United States Code, which may be submitted in classified and redacted format;

(2) a comprehensive program management plan that identifies specific tasks to be completed and deadlines for completion for the transportation security card program under section 70105 of title 46, United States Code that incorporates best practices for communicating, coordinating, and collaborating with the relevant stakeholders to resolve relevant issues, such as background checks;

(3) a report on the status of negotiations under section 103 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70111 note);

(4) the report required by section 107(b) of the Maritime Transportation Security Act of 2002 (33 U.S.C. 1226 note); and

(5) a report on the status of the development of the system and program mandated by section 111 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70116 note).

(b) OTHER REPORTS.—Within 90 days after the date of enactment of this Act—

(1) the Secretary of Homeland Security shall transmit to the Congress—

(A) a report on the establishment of the National Maritime Security Advisory Committee appointed under section 70112 of title 46, United States Code; and

(B) a report on the status of the program established under section 70116 of title 46, United States Code, to evaluate and certify secure systems of international intermodal transportation;

(2) the Secretary of Transportation shall transmit to the Congress the annual report required by section 905 of the International Maritime and Port Security Act (46 U.S.C. App. 1802) that includes information that should have been included in the last preceding annual report that was due under that section; and

(3) the Commandant of the United States Coast Guard shall transmit to Congress the report required by section 110(b) of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note).

(d) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, this section takes effect on the date of enactment of this Act.

SA 3902. Mr. CARPER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new title:

TITLE IV—RAIL SECURITY

SECTION 401. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This title may be cited as the "Rail Security Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this title is as follows:

Sec. 401. Short title; table of contents.
Sec. 402. Rail transportation security risk assessment.
Sec. 403. Rail security.
Sec. 404. Study of foreign rail transport security programs.
Sec. 405. Passenger baggage, and cargo screening.
Sec. 406. Certain personnel limitations not to apply.
Sec. 407. Fire and life-safety improvements.
Sec. 408. Memorandum of agreement.
Sec. 409. Amtrak plan to assist families of passengers involved in rail passenger accidents.

Sec. 410. Systemwide Amtrak security upgrades.
Sec. 411. Freight and passenger rail security upgrades.
Sec. 412. Oversight and grant procedures.
Sec. 413. Rail security research and development.
Sec. 414. Welded rail and tank car safety improvements.
Sec. 415. Northern Border rail passenger report.
Sec. 416. Report regarding impact on security of train travel in communities without grade separation.
Sec. 417. Whistleblower protection program.

SEC. 402. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) In General.—

(1) Vulnerability assessment.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) Existing private and public sector efforts.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) Recommendations.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(4) Plans.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) Consultation; Use of Existing Resources.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security), and other relevant parties.

(c) Report.—

(1) Contents.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) Format.—The Under Secretary may submit the report in both classified and redacted formats if the Under Secretary determines that such action is appropriate or necessary.

(d) 2-Year Updates.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) Authorization of Appropriations.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2005 for the purpose of carrying out this section.

SEC. 403. RAIL SECURITY.

(a) Rail Police Officers.—Section 28101 of title 49, United States Code, is amended by striking "the rail carrier" each place it appears and inserting "any rail carrier".

(b) Review of Rail Regulations.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 404. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) Requirement for Study.—Within one year after the date of enactment of the Rail Security Act of 2004, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) Purpose.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) Report.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 405. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) Requirement for Study and Report.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) Pilot Program.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to give preference to locations at the highest risk of terrorist attack and achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) Authorization of Appropriations.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2005.

SEC. 406. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

SEC. 407. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) Life-safety Needs.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2005;
(B) $100,000,000 for fiscal year 2006;
(C) $100,000,000 for fiscal year 2007;
(D) $100,000,000 for fiscal year 2008; and
(E) $170,000,000 for fiscal year 2009.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2005;
(B) $10,000,000 for fiscal year 2006;
(C) $10,000,000 for fiscal year 2007;
(D) $10,000,000 for fiscal year 2008; and
(E) $17,000,000 for fiscal year 2009.

(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2005;
(B) $8,000,000 for fiscal year 2006;
(C) $8,000,000 for fiscal year 2007;
(D) $8,000,000 for fiscal year 2008; and
(E) $8,000,000 for fiscal year 2009.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2005 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matters the Secretary deems appropriate.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels, if feasible.

SEC. 408. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking "safety" the first place it appears, and inserting "safety, including security,".

SEC. 409. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

"(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2004, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

"(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

"(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

"(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

"(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

"(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

"(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

"(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

"(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

"(c) USE OF INFORMATION.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

"(d) LIMITATION ON LIABILITY.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

"(e) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

"(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2005 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"24316. Plan to assist families of passengers involved in rail passenger accidents.".

SEC. 410. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) IN GENERAL—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) CONDITIONS.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and, for capital projects, meet the requirements of section 407(e)(2). The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) Equitable Geographic Allocation.—The Under Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) Availability of Funds.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $63,500,000 for fiscal year 2005 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 411. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) Security Improvement Grants.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section 402, including infrastructure, facilities, and equipment upgrades.

(b) Accountability.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(c) Equitable Allocation.—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) Conditions.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 410(b) of this Act.

(e) Allocation Between Railroads and Others.—Unless as a result of the assessment required by section 402 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $350,000,000 for fiscal year 2005 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(g) High Hazard Materials Defined.—In this section, the term "high hazard materials" means poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia.

SEC. 412. OVERSIGHT AND GRANT PROCEDURES.

(a) Secretarial Oversight.—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2004 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) Use of Funds.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

(c) Procedures for Grant Award.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this Act, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. 413. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) Establishment of Research and Development Program.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment;

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 411(g) of this Act; and

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety; and

(6) other projects recommended in the report required by section 402.

(b) Coordination With Other Research Initiatives.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation. The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) Accountability.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2005 and 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 414. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) Track Standards.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the

frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) TANK CAR STANDARDS.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) OLDER TANK CAR IMPACT RESISTANCE ANALYSIS AND REPORT.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. 415. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in "The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America", dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the "Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States", dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security.

SEC. 416. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) STUDY.—The Secretary of Homeland Security shall, in consultation with State and local government officials, conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response.

SEC. 417. WHISTLEBLOWER PROTECTION PROGRAM.

(a) IN GENERAL.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:

"§ 20116. Whistleblower protection for rail security matters

"(a) DISCRIMINATION AGAINST EMPLOYEE.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

"(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

"(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

"(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

"(b) DISPUTE RESOLUTION.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

"(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

"(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

"(e) DISCLOSURE OF IDENTITY.—

"(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

"(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:

"20116. Whistleblower protection for rail security matters.".

SA 3903. Mr. STEVENS (for himself, Mr. INOUYE, and Mr. WARNER) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 115, strike line 15 and all that follows through page 115, line 25.

SA 3904. Mr. STEVENS (for himself and Mr. INOUYE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Strike all after the enacting clause, and insert the following:

SECTION 1. NATIONAL INTELLIGENCE DIRECTOR.

(a) INDEPENDENT ESTABLISHMENT.—There is a National Intelligence Director who shall be appointed by the President, by and with the advice and consent of the Senate.

(b) INDIVIDUALS ELIGIBLE FOR NOMINATION.—Any individual nominated for appointment as National Intelligence Director shall have extensive national security expertise.

(c) PRINCIPAL DUTIES AND RESPONSIBILITIES.—The National Intelligence Director shall be the head of the National Counterterrorism Center and the coordinator of counterterrorism activities for programs and projects within the National Foreign Intelligence Program.

(d) SUPERVISION.—The National Intelligence Director shall report to the National Security Advisor on—

(1) the budget and programs of the National Counterterrorism Center;

(2) the activities of the Directorate of Intelligence of the National Counterterrorism Center under subsection (e);

(3) the planning and progress of joint counter-terrorism operations; and

(4) the coordination of activities across the National Foreign Intelligence Program on Counterterrorism activities.

(e) PRIMARY MISSIONS.—The primary missions of the National Counterterrorism Center shall be as follows:

(1) To develop and unify strategy for the civilian and military counterterrorism efforts of the United States Government.

(2) To integrate counterterrorism intelligence activities of the United States Government, both inside and outside the United States.

(3) To develop interagency counterterrorism plans, each of which shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President); and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency strategic planning, recommendations for strategic planning, and assignment of departmental or agency responsibilities.

(4) To ensure that the collection of counterterrorism intelligence, and the conduct of counterterrorism operations, by the United States Government are informed by the analysis of all-source intelligence.

(f) Duties and Responsibilities of National Intelligence Director.—Notwithstanding any other provision of law, at the direction of the President and the National Security Council, the National Intelligence Director shall—

(1) provide unified strategic direction for the civilian and military counterterrorism efforts of the United States Government and for the effective integration and deconfliction of counterterrorism intelligence and operations across agency boundaries, both inside and outside the United States;

(2) advise on the extent to which the counterterrorism program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the priorities established by the President and the National Security Council; and

(3) perform such other duties as the President or National Security Advisor may prescribe or are prescribed by law.

(g) Role of Director of National Counterterrorism Center in Certain Appointments.—(1) In the event of a vacancy in a position referred to in paragraph (2), the head of the department or agency having jurisdiction over the position shall consult with the National Intelligence Director before appointing an individual to fill the vacancy or recommending to the President an individual for nomination to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in the appointment or recommendation (as the case may be).

(2) Paragraph (1) applies to the following positions:

(A) The Director of the Counterterrorist Center of the Central Intelligence Agency.

(B) The Assistant Director of the Federal Bureau of Investigation in charge of the Counterterrorism Division.

(C) The Coordinator for Counterterrorism of the Department of State.

(h) Directorate of Intelligence.—(1) The National Director of Intelligence shall establish and maintain within the National Counterterrorism Center a Directorate of Intelligence.

(2) The Directorate shall utilize the capabilities of the Terrorist Threat Integration Center and such other capabilities as the he considers appropriate.

(3) The Directorate shall have primary responsibility within the United States Government for analysis of terrorism and terrorist organizations from all sources of intelligence, whether collected inside or outside the United States.

(4) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected terrorists, their organizations, and their capabilities;

(B) propose intelligence collection requirements for action by elements of the intelligence community inside and outside the United States;

(C) have primary responsibility within the United States Government for net assessments and warnings about terrorist threats, which assessments and warnings shall be based on a comparison of terrorist intentions and capabilities with assessed national vulnerabilities and countermeasures; and

(D) perform such other duties and functions as the Director of the National Counterterrorism Center may prescribe.

(i) Directorate of Planning.—(1) The National Intelligence Director shall establish and maintain within the National Counterterrorism Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for developing interagency counterterrorism plans described in subsection (e)(3).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter terrorist activities based on policy objectives and priorities established by the National Security Council;

(B) develop interagency plans under subparagraph (A) utilizing information and recommendations obtained from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to counterterrorism;

(C) assign responsibilities for counterterrorism operations to the Department of Defense, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government, consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the compliance of the departments, agencies, and elements of the United States with the plans developed under subparagraph (A); and

(F) perform such other duties and functions as the President or the National Security Advisor may prescribe.

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(j) Staff.—(1) The National Intelligence Director may appoint deputy directors of the National Counterterrorism Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist in fulfilling the duties and responsibilities under this section, the National Intelligence Director shall employ in the National Counterterrorism Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterterrorism Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterterrorism Center is composed primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of civilian personnel funded within the National Foreign Intelligence Program to the National Counterterrorism Center from any other element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of civilian personnel from a department, agency, or element of the United States Government and not funded within the National Foreign Intelligence Program, request the transfer, assignment, or detail of such civilian personnel from the department, agency, or other element concerned.

(B) The head of an element of the intelligence community shall promptly effectuate any transfer, assignment, or detail of civilian personnel specified by the National Intelligence Director under subparagraph (A)(i).

(C) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of civilian personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterterrorism Center under this subsection shall be under the authority, direction, and control of the National Intelligence Director on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterterrorism Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterterrorism Center may, with the approval of the National Intelligence Director, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director shall ensure that the staff of the National Counterterrorism Center has access to all databases maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(k) Support and Cooperation of Other Agencies.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterterrorism Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterterrorism Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (i)(4);

(B) cooperative work with the National Intelligence Director of the National Counterterrorism Center to ensure that ongoing operations of such department, agency, or element do not conflict with joint operations planned by the Center;

(C) reports, upon request, to the National Intelligence Director on the progress of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterterrorism Center of electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterterrorism Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the National Security Advisor of the necessity of resolving the disagreement.

SEC. 2. NATIONAL INTELLIGENCE CENTERS.

(a) National Intelligence Centers.—(1) The National Intelligence Director may establish one or more centers, at the direction of the President and with the concurrence of the Congress to address intelligence priorities established by the National Security Council. Each such center shall be known as a "national intelligence center".

(2) Each national intelligence center shall be assigned an area of intelligence responsibility.

(3) National intelligence centers shall be established at the direction of the President, as prescribed by law, or upon the initiative of the National Intelligence Director.

(b) Establishment of Centers.—(1) In establishing a national intelligence center, the National Intelligence Director shall assign lead responsibility for administrative support for such center to an element of the intelligence community selected by the Director for that purpose.

(2) The Director shall determine the structure and size of each national intelligence center.

(3) The Director shall notify Congress of the establishment of each national intelligence center before the date of the establishment of such center.

(c) Directors of Centers.—(1) Each national intelligence center shall have as its head a Director who shall be appointed by the National Intelligence Director for that purpose.

(2) The Director of a national intelligence center shall serve as the principal adviser to the National Intelligence Director on intelligence matters with respect to the area of intelligence responsibility assigned to the center.

(3) In carrying out duties under paragraph (2), the Director of a national intelligence center shall—

(A) manage the operations of the center;

(B) coordinate the provision of administration and support by the element of the intelligence community with lead responsibility for the center under subsection (b)(1);

(C) submit budget and personnel requests for the center to the National Intelligence Director;

(D) seek such assistance from other departments, agencies, and elements of the United States Government as is needed to fulfill the mission of the center; and

(E) advise the National Intelligence Director of the information technology, personnel, and other requirements of the center for the performance of its mission.

(4) The National Intelligence Director shall ensure that the Director of a national intelligence center has sufficient authority, direction, and control to effectively accomplish the mission of the center.

(d) Mission of Centers.—Pursuant to the direction of the National Intelligence Director, the Director of a national intelligence center shall, in the area of intelligence responsibility assigned to the center by the Director pursuant to intelligence priorities established by the National Security Council—

(1) have primary responsibility for providing all-source analysis of intelligence based upon foreign intelligence gathered both abroad and domestically;

(2) have primary responsibility for identifying and proposing to the National Intelligence Director intelligence collection and analysis requirements;

(3) have primary responsibility for net assessments and warnings;

(4) ensure that appropriate officials of the United States Government and other appropriate officials have access to a variety of intelligence assessments and analytical views; and

(5) perform such other duties as the National Intelligence Director shall specify.

(e) Information Sharing.—(1) The National Intelligence Director shall ensure that the Directors of the national intelligence centers and the other elements of the intelligence community undertake appropriate sharing of intelligence analysis and plans for operations in order to facilitate the activities of the centers.

(2) In order to facilitate information sharing under paragraph (1), the Directors of the national intelligence centers shall report directly to the National Intelligence Director regarding their activities under this section.

(f) Staff.—(1) In providing for a professional staff for a national intelligence center, the National Intelligence Director may establish as positions in the excepted service such positions in the center as the National Intelligence Director considers appropriate.

(2)(A) The National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of civilian personnel funded within the National Foreign Intelligence Program to a national intelligence center from any other element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of civilian personnel from a department, agency, or element of the United States Government not funded within the National Foreign Intelligence Program, request the transfer, assignment, or detail of such civilian personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effectuate any transfer, assignment, or detail of civilian personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of civilian personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(3) Civilian personnel employed in or assigned or detailed to a national intelligence center under this subsection shall be under the authority, direction, and control of the Director of the center on all matters for which the center has been assigned responsibility and for all matters related to the accomplishment of the mission of the center.

(4) Performance evaluations of personnel assigned or detailed to a national intelligence center under this subsection shall be undertaken by the supervisors of such civilian personnel at the center.

(5) The supervisors of the staff of a national center may, with the approval of the National Intelligence Director, reward the staff of the center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(6) The National Intelligence Director may delegate to the Director of a national intelligence center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (5).

(7) The Director of a national intelligence center may recommend to the National Intelligence Director the reassignment to the home element concerned of any personnel previously assigned or detailed to the center from another element of the intelligence community.

(g) Termination.—The National Intelligence Director, in coordination with the President and Congress, may terminate a national intelligence center if it is determined that the center is no longer required to meet an intelligence priority established by the National Security Council.

SEC. 3. TRANSFER OF TERRORIST THREAT INTEGRATION CENTER.

The Terrorist Threat Integration Center is transferred to the National Counterterrorism Center. All functions and activities discharged by the Terrorist Threat Integration Center as of the date of the enactment of this Act are transferred to the National Counterterrorism Center.

SEC. 4. FUTURE ACTIVITIES.

The President shall submit to the Congress, not later than 180 days after the date of the enactment of this Act, recommended legislation for further reforming the intelligence community. The recommended legislation may provide additional responsibilities for the National Intelligence Director.

SA 3905. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —MARITIME TRANSPORTATION SECURITY

SEC. —01. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This title may be cited as the "Maritime Transportation Security Act of 2004".

(b) Table of Contents.—The table of contents for this title is as follows:

Sec. —01. Short title; table of contents
Sec. —02. Enforcement; pier and wharf security costs.
Sec. —03. Security at foreign ports.
Sec. —04. Federal and State commercial maritime transportation training.
Sec. —05. Transportation worker background investigation programs.
Sec. —06. Report on cruise ship security.
Sec. —07. Maritime transportation security plan grants.

Sec. —08. Report on design of maritime security grant programs.
Sec. —09. Effective date.

SEC. —02. ENFORCEMENT; PIER AND WHARF SECURITY COSTS.

(a) IN GENERAL.—Chapter 701 of title 46, United States Code, is amended—

(1) by redesignating the second section 70118 (relating to firearms, arrests, and seizure of property), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70119;

(2) by redesignating the first section 70119 (relating to enforcement by State and local officers), as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004, as section 70120;

(3) by redesignating the second section 70119 (relating to civil penalty), as redesignated by section 802(a)(1) of the Coast Guard and Maritime Transportation Act of 2004, as section 70123; and

(4) by inserting after section 70120 the following:

"§ 70121. Enforcement by injunction or withholding of clearance

"(a) INJUNCTION.—The United States district courts shall have jurisdiction to restrain violations of this chapter or of regulations issued hereunder, for cause shown.

"(b) WITHHOLDING OF CLEARANCE.—

"(1) If any owner, agent, master, officer, or person in charge of a vessel is liable for a penalty or fine under section 70119, or if reasonable cause exists to believe that the owner, agent, master, officer, or person in charge may be subject to a penalty under section 70119, the Secretary may, with respect to such vessel, refuse or revoke any clearance required by section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91).

"(2) Clearance refused or revoked under this subsection may be granted upon filing of a bond or other surety satisfactory to the Secretary.

"§ 70122. Security of piers and wharfs

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall require imported merchandise, excluding merchandise entered temporarily under bond, remaining on the wharf or pier onto which it was unladen for more than 7 calendar days without entry being made to be removed from the wharf or pier and deposited in the public stores, a general order warehouse, or a centralized examination station where it shall be inspected for determination of contents, and thereafter a permit for its delivery may be granted.

"(b) PENALTY.—The Secretary may impose an administrative penalty of $5,000 on the importer for each bill of lading for general order merchandise remaining on a wharf or pier in violation of subsection (a), except that no penalty shall be imposed if the violation was a result of force majeure.".

(b) CONFORMING AMENDMENTS.—

(1) The chapter analysis for chapter 701 of title 46, United States Code, is amended by striking the items following the item relating to section 70116 and inserting the following:

"70117. In rem liability for civil penalties and certain costs
"70118. Withholding of clearance
"70119. Firearms, arrests, and seizure of property
"70120. Enforcement by State and local officers
"70121. Enforcement by injunction or withholding of clearance
"70122. Security of piers and wharfs
"70123. Civil penalty".

(2) Section 70117(a) of title 46, United States Code, is amended by striking "section 70120" and inserting "section 70123".

(3) Section 70118(a) of such title is amended by striking "under section 70120," and inserting "under that section,".

SEC. —03. SECURITY AT FOREIGN PORTS.

(a) IN GENERAL.—Section 70109 of title 46, United States Code, is amended—

(1) by striking "The Secretary," in subsection (b) and inserting "The Administrator of the Maritime Administration,"; and

(2) by adding at the end the following:

"(c) FOREIGN ASSISTANCE PROGRAMS.—The Administrator of the Maritime Administration, in coordination with the Secretary of State, shall identify foreign assistance programs that could facilitate implementation of port security antiterrorism measures in foreign countries. The Administrator and the Secretary shall establish a program to utilize those programs that are capable of implementing port security antiterrorism measures at ports in foreign countries that the Secretary finds, under section 70108, to lack effective antiterrorism measures.".

(b) REPORT ON SECURITY AT PORTS IN THE CARIBBEAN BASIN.—Not later than 60 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Committee on Commerce, Science, and Transportation of the Senate and Committee on Transportation and Infrastructure of the House of Representatives a report on the security of ports in the Caribbean Basin. The report shall include the following:

(1) An assessment of the effectiveness of the measures employed to improve security at ports in the Caribbean Basin and recommendations for any additional measures to improve such security.

(2) An estimate of the number of ports in the Caribbean Basin that will not be secured by July 2004, and an estimate of the financial impact in the United States of any action taken pursuant to section 70110 of title 46, United States Code, that affects trade between such ports and the United States.

(3) An assessment of the additional resources and program changes that are necessary to maximize security at ports in the Caribbean Basin.

SEC. —04. FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.

Section 109 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note) is amended—

(1) by redesignating subsections (c) through (f) as subsections (d) through (g), respectively; and

(2) by inserting after subsection (b) the following:

"(c) FEDERAL AND STATE COMMERCIAL MARITIME TRANSPORTATION TRAINING.—The Secretary of Transportation shall establish a curriculum, to be incorporated into the curriculum developed under subsection (a)(1), to educate and instruct Federal and State officials on commercial maritime and intermodal transportation. The curriculum shall be designed to familiarize those officials with commercial maritime transportation in order to facilitate performance of their commercial maritime and intermodal transportation security responsibilities. In developing the standards for the curriculum, the Secretary shall consult with each agency in the Department of Homeland Security with maritime security responsibilities to determine areas of educational need. The Secretary shall also coordinate with the Federal Law Enforcement Training Center in the development of the curriculum and the provision of training opportunities for Federal and State law enforcement officials at appropriate law enforcement training facilities.".

SEC. —05. TRANSPORTATION WORKER BACKGROUND INVESTIGATION PROGRAMS.

Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Secretary of Transportation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure—

(1) making recommendations (including legislative recommendations, if appropriate or necessary) for harmonizing, combining, or coordinating requirements, procedures, and programs for conducting background checks under section 70105 of title 46, United States Code, section 5103a(c) of title 49, United States Code, section 44936 of title 49, United States Code, and other provisions of Federal law or regulations requiring background checks for individuals engaged in transportation or transportation-related activities;

(2) setting forth a detailed timeline for implementation of such harmonization, combination, or coordination;

(3) setting forth a plan with a detailed timeline for the implementation of the Transportation Worker Identification Credential in seaports;

(4) making recommendations for a waiver and appeals process for issuing a transportation security card to an individual found otherwise ineligible for such a card under section 70105(c)(2) and (3) of title 46, United States Code, along with recommendations on the appropriate level of funding for such a process; and

(5) making recommendations for how information collected through the Transportation Worker Identification Credential program may be shared with port officials, terminal operators, and other officials responsible for maintaining access control while also protecting workers' privacy.

SEC. —06. REPORT ON CRUISE SHIP SECURITY.

(a) IN GENERAL.—Not later than 120 days after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the security of ships and facilities used in the cruise line industry.

(b) CONTENT.—The report required by subsection (a) shall include an assessment of security measures employed by the cruise line industry, including the following:

(1) An assessment of the security of cruise ships that originate at ports in foreign countries.

(2) An assessment of the security of ports utilized for cruise ship docking.

(3) The costs incurred by the cruise line industry to carry out the measures required by the Maritime Transportation Security Act of 2002 (Public Law 107–295; 116 Stat. 2064) and the amendments made by that Act.

(4) The costs of employing canine units and hand-held explosive detection wands at ports, including the costs of screening passengers and baggage with such methods.

(5) An assessment of security measures taken by the Secretary of Homeland Security to increase the security of the cruise line industry and the costs incurred to carry out such security measures.

(6) A description of the need for and the feasibility of deploying explosive detection

systems and canine units at ports used by cruise ships and an assessment of the cost of such deployment.

(7) A summary of the fees paid by passengers of cruise ships that are used for inspections and the feasibility of creating a dedicated passenger vessel security fund from such fees.

(8) The recommendations of the Secretary, if any, for measures that should be carried out to improve security of cruise ships that originate at ports in foreign countries.

(9) The recommendations of the Secretary, if any, on the deployment of further measures to improve the security of cruise ships, including explosive detection systems, canine units, and the use of technology to improve baggage screening, and an assessment of the cost of implementing such measures.

SEC. —07. MARITIME TRANSPORTATION SECURITY PLAN GRANTS.

Section 70107(a) of title 46, United States Code, is amended to read as follows:

"(a) IN GENERAL.—The Under Secretary of Homeland Security for Border and Transportation Security shall establish a grant program for making a fair and equitable allocation of funds to implement Area Maritime Transportation Security Plans and to help fund compliance with Federal security plans among port authorities, facility operators, and State and local agencies required to provide security services. Grants shall be made on the basis of threat-based risk assessments, consistent with the national strategy for transportation security, subject to review and comment by the appropriate Federal Maritime Security Coordinators and the Maritime Administration. The grant program shall take into account national economic and strategic defense concerns and shall be coordinated with the Director of the Office of Domestic Preparedness to ensure that the grant process is consistent with other Department of Homeland Security grant programs.".

SEC. —08. REPORT ON DESIGN OF MARITIME SECURITY GRANT PROGRAMS.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the design of maritime security grant programs that includes recommendations on—

(1) whether the grant programs should be discretionary or formula based and why;

(2) requirements for ensuring that Federal funds will not be substituted for grantee funds;

(3) targeting requirements to ensure that funding is directed in a manner that reflects a national, risk-based perspective on priority needs, the fiscal capacity of recipients to fund the improvements without grant funds, and an explicit analysis of the impact of minimum funding to small ports that could affect funding available for the most strategic or economically important ports;

(4) matching requirements to ensure that Federal funds provide an incentive to grantees for the investment of their own funds in the improvements financed in part by Federal funds; and

(5) the need for multiple year funding to provide funds for multiple year grant agreements.

SEC. —09. EFFECTIVE DATE.

Notwithstanding any other provision of this Act, this title takes effect on the date of enactment of this Act.

SA 3906. Mr. MCCAIN (for himself, Mr. LIEBERMAN, and Mr. BAYH) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —THE ROLE OF DIPLOMACY, FOREIGN AID, AND THE MILITARY IN THE WAR ON TERRORISM

SEC. ___01. FINDINGS.

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Long-term success in the war on terrorism demands the use of all elements of national power, including diplomacy, military action, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense.

(2) To win the war on terrorism, the United States must assign to economic and diplomatic capabilities the same strategic priority that is assigned to military capabilities.

(3) The legislative and executive branches of the Government of the United States must commit to robust, long-term investments in all of the tools necessary for the foreign policy of the United States to successfully accomplish the goals of the United States.

(4) The investments referred to in paragraph (3) will require increased funding to United States foreign affairs programs in general, and to priority areas as described in this title in particular.

SEC. ___02. TERRORIST SANCTUARIES.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Complex terrorist operations require locations that provide such operations sanctuary from interference by government or law enforcement personnel.

(2) A terrorist sanctuary existed in Afghanistan before September 11, 2001.

(3) The terrorist sanctuary in Afghanistan provided direct and indirect value to members of al Qaeda who participated in the terrorist attacks on the United States on September 11, 2001, and in other terrorist operations.

(4) Terrorist organizations have fled to some of the least governed and most lawless places in the world to find sanctuary.

(5) During the 21st century, terrorists are focusing on remote regions and failing states as locations to seek sanctuary.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States Government should identify and prioritize locations that are or that could be used as terrorist sanctuaries;

(2) the United States Government should have a realistic strategy that includes the use of all elements of national power to keep possible terrorists from using a location as a sanctuary; and

(3) the United States Government should reach out, listen to, and work with countries in bilateral and multilateral fora to prevent locations from becoming sanctuaries and to prevent terrorists from using locations as sanctuaries.

SEC. ___03. ROLE OF PAKISTAN IN COUNTERING TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The Government of Pakistan has a critical role to perform in the struggle against Islamist terrorism.

(2) The endemic poverty, widespread corruption, and frequent ineffectiveness of government in Pakistan create opportunities for Islamist recruitment.

(3) The poor quality of education in Pakistan is particularly worrying, as millions of families send their children to madrassahs, some of which have been used as incubators for violent extremism.

(4) The vast unpoliced regions in Pakistan make the country attractive to extremists seeking refuge and recruits and also provide a base for operations against coalition forces in Afghanistan.

(5) A stable Pakistan, with a moderate, responsible government that serves as a voice of tolerance in the Muslim world, is critical to stability in the region.

(6) There is a widespread belief among the people of Pakistan that the United States has long treated them as allies of convenience.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States should make a long-term commitment to fostering a stable and secure future in Pakistan, as long as its leaders remain committed to combatting extremists and extremism, ending the proliferation of weapons of mass destruction, securing its borders, and gaining internal control of all its territory while pursuing policies that strengthen civil society, promote moderation and advance socio-economic progress;

(2) Pakistan should make sincere efforts to transition to democracy, enhanced rule of law, and robust civil institutions, and United States policy toward Pakistan should promote such a transition;

(3) the United States assistance to Pakistan should be maintained at the overall levels requested by the President for fiscal year 2005;

(4) the United States should support the Government of Pakistan with a comprehensive effort that extends from military aid to support for better education;

(5) the United States Government should devote particular attention and resources to assisting in the improvement of the quality of education in Pakistan; and

(6) the Government of Pakistan should devote additional resources of such Government to expanding and improving modern public education in Pakistan.

SEC. ___04. AID TO AFGHANISTAN.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The United States and its allies in the international community have made progress in promoting economic and political reform within Afghanistan, including the establishment of a central government with a democratic constitution, a new currency, and a new army, the increase of personal freedom, and the elevation of the standard of living of many Afghans.

(2) A number of significant obstacles must be overcome if Afghanistan is to become a secure and prosperous democracy, and such a transition depends in particular upon—

(A) improving security throughout the country;

(B) disarming and demobilizing militias;

(C) curtailing the rule of the warlords;

(D) promoting equitable economic development;

(E) protecting the human rights of the people of Afghanistan;

(F) holding elections for public office; and

(G) ending the cultivation and trafficking of narcotics.

(3) The United States and the international community must make a long-term commitment to addressing the deteriorating security situation in Afghanistan and the burgeoning narcotics trade, endemic poverty, and other serious problems in Afghanistan in order to prevent that country from relapsing into a sanctuary for international terrorism.

(b) SENSE OF CONGRESS.—

(1) ACTIONS FOR AFGHANISTAN.—It is the sense of Congress that the Government of the United States should take, with respect to Afghanistan, the following actions:

(A) Working with other nations to obtain long-term security, political, and financial commitments and fulfillment of pledges to the Government of Afghanistan to accomplish the objectives of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.), especially to ensure a secure, democratic, and prosperous Afghanistan that respects the rights of its citizens and is free of international terrorist organizations.

(B) Using the voice and vote of the United States in relevant international organizations, including the North Atlantic Treaty Organization and the United Nations Security Council, to strengthen international commitments to assist the Government of Afghanistan in enhancing security, building national police and military forces, increasing counter-narcotics efforts, and expanding infrastructure and public services throughout the country.

(C) Taking appropriate steps to increase the assistance provided under programs of the Department of State and the United States Agency for International Development throughout Afghanistan and to increase the number of personnel of those agencies in Afghanistan as necessary to support the increased assistance.

(2) REVISION OF AFGHANISTAN FREEDOM SUPPORT ACT OF 2002.—It is the sense of Congress that Congress should, in consultation with the President, update and revise, as appropriate, the Afghanistan Freedom Support Act of 2002.

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to provide assistance for Afghanistan, unless otherwise authorized by Congress, for the following purposes:

(A) For development assistance under sections 103, 105, and 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a, 2151c, and 2151d).

(B) For children's health programs under the Child Survival and Health Program Fund under section 104 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b).

(C) For economic assistance under the Economic Support Fund under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.).

(D) For international narcotics and law enforcement under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291).

(E) For nonproliferation, anti-terrorism, demining, and related programs.

(F) For international military education and training under section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347).

(G) For Foreign Military Financing Program grants under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(H) For peacekeeping operations under section 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348).

(2) CONDITIONS FOR ASSISTANCE.—Assistance provided by the President under this subsection—

(A) shall be consistent with the Afghanistan Freedom Support Act of 2002; and

(B) shall be provided with reference to the "Securing Afghanistan's Future" document published by the Government of Afghanistan.

SEC. ___05. THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Despite a long history of friendly relations with the United States, Saudi Arabia has been a problematic ally in combating Islamist extremism.

(2) Cooperation between the Governments of the United States and Saudi Arabia has traditionally been carried out in private.

(3) Counterterrorism cooperation between the Governments of the United States and Saudi Arabia has improved significantly since the terrorist bombing attacks in Riyadh, Saudi Arabia, on May 12, 2003, especially cooperation to combat terror groups operating inside Saudi Arabia.

(4) The Government of Saudi Arabia is now pursuing al Qaeda within Saudi Arabia and has begun to take some modest steps toward internal reform.

(5) Nonetheless, the Government of Saudi Arabia has been at times unresponsive to United States requests for assistance in the global war on Islamist terrorism.

(6) The Government of Saudi Arabia has not done all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the problems in the relationship between the United States and Saudi Arabia must be confronted openly, and the opportunities for cooperation between the countries must be pursued openly by those governments;

(2) both governments must build a relationship that they can publicly defend and that is based on other national interests in addition to their national interests in oil;

(3) this relationship should include a shared commitment to political and economic reform in Saudi Arabia;

(4) this relationship should also include a shared interest in greater tolerance and respect for other cultures in Saudi Arabia and a commitment to fight the violent extremists who foment hatred in the Middle East; and

(5) the Government of Saudi Arabia must do all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

SEC. ___06. EFFORTS TO COMBAT ISLAMIST TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While support for the United States has plummeted in the Islamic world, many negative views are uninformed, at best, and, at worst, are informed by coarse stereotypes and caricatures.

(2) Local newspapers in Islamic countries and influential broadcasters who reach Islamic audiences through satellite television often reinforce the idea that the people and Government of the United States are anti-Muslim.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of the United States should offer an example of moral leadership in the world that includes a commitment to treat all people humanely, abide by the rule of law, and be generous to the people and governments of other countries;

(2) the United States should cooperate with governments of Islamic countries to foster agreement on respect for human dignity and opportunity, and to offer a vision of a better future that includes stressing life over death, individual educational and economic opportunity, widespread political participation, contempt for indiscriminate violence, respect for the rule of law, openness in discussing differences, and tolerance for opposing points of view;

(3) the United States should encourage reform, freedom, democracy, and opportunity for Arabs and Muslims and promote moderation in the Islamic world; and

(4) the United States should work to defeat extremist ideology in the Islamic world by providing assistance to moderate Arabs and Muslims to combat extremist ideas.

SEC. ___07. UNITED STATES POLICY TOWARD DICTATORSHIPS.

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that short-term gains enjoyed by the United States through cooperation with repressive dictatorships have often been outweighed by long-term setbacks for the stature and interests of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States foreign policy should promote the value of life and the importance of individual educational and economic opportunity, encourage widespread political participation, condemn indiscriminate violence, and promote respect for the rule of law, openness in discussing differences among people, and tolerance for opposing points of view; and

(2) the United States Government must prevail upon the governments of all predominantly Muslim countries, including those that are friends and allies of the United States, to condemn indiscriminate violence, promote the value of life, respect and promote the principles of individual education and economic opportunity, encourage widespread political participation, and promote the rule of law, openness in discussing differences among people, and tolerance for opposing points of view.

SEC. 08. PROMOTION OF UNITED STATES VALUES THROUGH BROADCAST MEDIA.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Although the United States has demonstrated and promoted its values in defending Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq, this message is not always clearly presented and understood in the Islamic world.

(2) If the United States does not act to vigorously define its message in the Islamic world, the image of the United States will be defined by Islamic extremists who seek to demonize the United States.

(3) Recognizing that many Arab and Muslim audiences rely on satellite television and

radio, the United States Government has launched promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States must do more to defend and promote its values and ideals to the broadest possible audience in the Islamic world;

(2) United States efforts to defend and promote these values and ideals are beginning to ensure that accurate expressions of these values reach large audiences in the Islamic world and should be robustly supported;

(3) the United States Government could and should do more to engage the Muslim world in the struggle of ideas; and

(4) the United States Government should more intensively employ existing broadcast media in the Islamic world as part of this engagement.

(c) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6501 et seq.), and to carry out other activities under this section consistent with the purposes of such Acts, unless otherwise authorized by Congress.

SEC. 09. EXPANSION OF UNITED STATES SCHOLARSHIP AND EXCHANGE PROGRAMS IN THE ISLAMIC WORLD.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Exchange, scholarship, and library programs are effective ways for the United States Government to promote internationally the values and ideals of the United States.

(2) Exchange, scholarship, and library programs can expose young people from other countries to United States values and offer them knowledge and hope.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should expand its exchange, scholarship, and library programs, especially those that benefit people in the Arab and Muslim worlds.

(c) AUTHORITY TO EXPAND EDUCATIONAL AND CULTURAL EXCHANGES.—The President is authorized to substantially expand the exchange, scholarship, and library programs of the United States, especially such programs that benefit people in the Arab and Muslim worlds.

(d) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated for educational and cultural exchange programs in each of the fiscal years 2005 through 2009, there is authorized to be made available to the Secretary of State such sums as may be necessary to carry out programs under this section, unless otherwise authorized by Congress.

SEC. 10. INTERNATIONAL YOUTH OPPORTUNITY FUND.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamist terrorism.

(2) Education in the Middle East about the world outside that region is weak.

(3) The United Nations has rightly equated literacy with freedom.

(4) The international community is moving toward setting a concrete goal of reducing by half the illiteracy rate in the Middle East by 2010, through the implementation of education programs targeting women and girls and programs for adult literacy, and by other means.

(5) To be effective, efforts to improve education in the Middle East must also include—

(A) support for the provision of basic education tools, such as textbooks that translate more of the world's knowledge into local languages and local libraries to house such materials; and

(B) more vocational education in trades and business skills.

(6) The Middle East can benefit from some of the same programs to bridge the digital divide that already have been developed for other regions of the world.

(b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

(1) ESTABLISHMENT.—The President shall establish an International Youth Opportunity Fund to provide financial assistance for the improvement of public education in the Middle East.

(2) INTERNATIONAL PARTICIPATION.—The President shall seek the cooperation of the international community in establishing and generously supporting the Fund.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for the establishment of the International Youth Opportunity Fund, in addition to any amounts otherwise available for such purpose, such sums as may be necessary for each of the fiscal years 2005 through 2009, unless otherwise authorized by Congress.

SEC. 11. THE USE OF ECONOMIC POLICIES TO COMBAT TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While terrorism is not caused by poverty, breeding grounds for terrorism are created by backward economic policies and repressive political regimes.

(2) Policies that support economic development and reform also have political implications, as economic and political liberties are often linked.

(3) The United States is working toward creating a Middle East Free Trade Area by 2013 and implementing a free trade agreement with Bahrain, and free trade agreements exist between the United States and Israel and the United States and Jordan.

(4) Existing and proposed free trade agreements between the United States and Islamic countries are drawing interest from other countries in the Middle East region, and Islamic countries can become full participants in the rules-based global trading system, as the United States considers lowering its barriers to trade with the poorest Arab countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a comprehensive United States strategy to counter terrorism should include economic policies that encourage development, open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future;

(2) one element of such a strategy should encompass the lowering of trade barriers with the poorest countries that have a significant population of Arab or Muslim individuals;

(3) another element of such a strategy should encompass United States efforts to promote economic reform in countries that have a significant population of Arab or Muslim individuals, including efforts to integrate such countries into the global trading system; and

(4) given the importance of the rule of law in promoting economic development and attracting investment, the United States should devote an increased proportion of its assistance to countries in the Middle East to the promotion of the rule of law.

SEC. 12. MIDDLE EAST PARTNERSHIP INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary for the Middle East Partnership Initiative, unless otherwise authorized by Congress.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, given the importance of the rule of law and economic reform to development in the Middle East, a significant portion of the funds authorized to be appropriated under subsection (a) should be made available to promote the rule of law in the Middle East.

SEC. 13. COMPREHENSIVE COALITION STRATEGY FOR FIGHTING TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Almost every aspect of the counterterrorism strategy of the United States relies on international cooperation.

(2) Since September 11, 2001, the number and scope of United States Government contacts with foreign governments concerning counterterrorism have expanded significantly, but such contacts have often been ad hoc and not integrated as a comprehensive and unified approach.

(b) INTERNATIONAL CONTACT GROUP ON COUNTERTERRORISM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President—

(A) should seek to engage the leaders of the governments of other countries in a process of advancing beyond separate and uncoordinated national counterterrorism strategies to develop with those other governments a comprehensive coalition strategy to fight Islamist terrorism; and

(B) to that end, should seek to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies by the participating governments.

(2) AUTHORITY.—The President is authorized to establish an international counterterrorism policy contact group with the leaders of governments referred to in paragraph (1) for purposes as follows:

(A) To develop in common with such other countries important policies and a strategy that address the various components of international prosecution of the war on terrorism, including policies and a strategy that address military issues, law enforcement, the collection, analysis, and dissemination of intelligence, issues relating to interdiction of travel by terrorists, counterterrorism-related customs issues, financial issues, and issues relating to terrorist sanctuaries.

(B) To address, to the extent (if any) that the President and leaders of other participating governments determine appropriate, such long-term issues as economic and political reforms that can contribute to strengthening stability and security in the Middle East.

SEC. 14. TREATMENT OF FOREIGN PRISONERS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Carrying out the global war on terrorism requires the development of policies with respect to the detention and treatment of captured international terrorists that are adhered to by all coalition forces.

(2) Article 3 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316) was specifically designed for cases in which the usual rules of war do not apply, and the minimum standards of treatment pursuant to such Article are generally accepted throughout the world as customary international law.

(b) POLICY.—The policy of the United States is as follows:

(1) It is the policy of the United States to treat all foreign persons captured, detained, interned or otherwise held in the custody of the United States (hereinafter "prisoners") humanely and in accordance with standards that the United States would consider legal if perpetrated by the enemy against an American prisoner.

(2) It is the policy of the United States that all officials of the United States are bound both in wartime and in peacetime by the legal prohibition against torture, cruel, inhuman or degrading treatment.

(3) If there is any doubt as to whether prisoners are entitled to the protections afforded by the Geneva Conventions, such prisoners shall enjoy the protections of the Geneva Conventions until such time as their status can be determined pursuant to the procedures authorized by Army Regulation 190-8, Section 1-6.

(4) It is the policy of the United States to expeditiously prosecute cases of terrorism or other criminal acts alleged to haye been committed by prisoners in the custody of the United States Armed Forces at Guantanamo Bay, Cuba, in order to avoid the indefinite detention of prisoners, which is contrary to the legal principles and security interests of the United States.

(c) REPORTING.—The Department of Defense shall submit to the appropriate congressional committees:

(1) A quarterly report providing the number of prisoners who were denied Prisoner of War (POW) status under the Geneva Conventions and the basis for denying POW status to each such prisoner.

(2) A report setting forth—

(A) the proposed schedule for military commissions to be held at Guantanamo Bay, Cuba; and

(B) the number of individuals currently held at Guantanamo Bay, Cuba, the number of such individuals who are unlikely to face a military commission in the next six months, and each reason for not bringing such individuals before a military commission.

(3) All International Committee of the Red Cross reports, completed prior to the enactment of this Act, concerning the treatment of prisoners in United States custody at Guantanamo Bay, Cuba, Iraq, and Afghanistan. Such ICRC reports should be provided, in classified form, not later than 15 days after enactment of this Act.

(4) A report setting forth all prisoner interrogation techniques approved by officials of the United States.

(d) ANNUAL TRAINING REQUIREMENT.—The Department of Defense shall certify that all Federal employees and civilian contractors engaged in the handling or interrogating of prisoners have fulfilled an annual training requirement on the laws of war, the Geneva Conventions and the obligations of the United States under international humanitarian law.

(e) PROHIBITION ON TORTURE OR CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No prisoner shall be subject to torture or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) RELATIONSHIP TO GENEVA CONVENTIONS.—Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(f) RULES, REGULATIONS, AND GUIDELINES.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary and the Director shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibition in subsection (e)(1) by all personnel of the United States Government and by any person providing services to the United States Government on a contract basis.

(2) REPORT TO CONGRESS.—The Secretary and the Director shall submit to Congress the rules, regulations, or guidelines prescribed under paragraph (1), and any modifications to such rules, regulations, or guidelines—

(A) not later than 30 days after the effective date of such rules, regulations, guidelines, or modifications; and

(B) in a manner and form that will protect the national security interests of the United States.

(g) REPORTS ON POSSIBLE VIOLATIONS.—

(1) REQUIREMENT.—The Secretary and the Director shall each submit, on a timely basis and not less than twice each year, a report to Congress on the circumstances surrounding any investigation of a possible violation of the prohibition in subsection (e)(1) by United States Government personnel or by a person providing services to the United States Government on a contract basis.

(2) FORM OF REPORT.—A report required under paragraph (1) shall be submitted in a manner and form that—

(A) will protect the national security interests of the United States; and

(B) will not prejudice any prosecution of an individual involved in, or responsible for, a violation of the prohibition in subsection (e)(1).

(h) REPORT ON A COALITION APPROACH TOWARD THE DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report describing the efforts of the United States Government to develop an approach toward the detention and humane treatment of captured international terrorists that will be adhered to by all countries that are members of the coalition against terrorism.

(i) DEFINITIONS.—In this section:

(1) CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—The term "cruel, inhumane, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution.

(2) DIRECTOR.—The term "Director" means the National Intelligence Director.

(3) GENEVA CONVENTIONS.—The term "Geneva Conventions" means—

(A) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(B) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(C) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(4) SECRETARY.—The term "Secretary" means the Secretary of Defense.

(5) TORTURE.—The term "torture" has the meaning given that term in section 2340 of title 18, United States Code.

SEC. 15. PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Al Qaeda and other terror groups have tried to acquire or make weapons of mass destruction since 1994 or earlier.

(2) The United States doubtless would be a prime target for use of any such weapon by al Qaeda.

(3) Although the United States Government has supported the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, nonproliferation experts continue to express deep concern about the adequacy of such efforts to secure weapons of mass destruction and related materials that still exist in Russia other countries of the former Soviet Union, and around the world.

(4) The cost of increased investment in the prevention of proliferation of weapons of mass destruction and related materials is greatly outweighed by the potentially catastrophic cost to the United States of the use of such weapons by terrorists.

(5) The Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs are the United States primary method of preventing the proliferation of weapons of mass destruction and related materials from Russia and the states of the former Soviet Union, but require further expansion, improvement, and resources.

(6) Better coordination is needed within the executive branch of government for the budget development, oversight, and implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, and critical elements of such programs are operated by the Departments of Defense, Energy, and State.

(7) The effective implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs in the countries of

the former Soviet Union is hampered by Russian behavior and conditions on the provision of assistance under such programs that are unrelated to bilateral cooperation on weapons dismantlement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) maximum effort to prevent the proliferation of weapons of mass destruction and related materials, wherever such proliferation may occur, is warranted;

(2) the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs should be expanded, improved, accelerated, and better funded to address the global dimensions of the proliferation threat; and

(3) the Proliferation Security Initiative is an important counterproliferation program that should be expanded to include additional partners.

(c) COOPERATIVE THREAT REDUCTION, GLOBAL THREAT REDUCTION INITIATIVE, AND OTHER NONPROLIFERATION ASSISTANCE PROGRAMS.—In this section, the term "Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs" includes—

(1) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104–201; 50 U.S.C. 2362 note);

(2) the activities for which appropriations are authorized by section 3101(a)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1742);

(3) the Department of State program of assistance to science centers;

(4) the Global Threat Reduction Initiative of the Department of Energy; and

(5) a program of any agency of the Federal Government having the purpose of assisting any foreign government in preventing nuclear weapons, plutonium, highly enriched uranium, or other materials capable of sustaining an explosive nuclear chain reaction, or nuclear weapons technology from becoming available to terrorist organizations.

(d) STRATEGY AND PLAN.—

(1) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress—

(A) a comprehensive strategy for expanding and strengthening the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs; and

(B) an estimate of the funding necessary to execute such strategy.

(2) PLAN.—The strategy required by paragraph (1) shall include a plan for securing the nuclear weapons and related materials that are the most likely to be acquired or sought by, and susceptible to becoming available to, terrorist organizations, including—

(A) a prioritized list of the most dangerous and vulnerable sites;

(B) measurable milestones for improving United States nonproliferation assistance programs;

(C) a schedule for achieving such milestones; and

(D) initial estimates of the resources necessary to achieve such milestones under such schedule.

SEC. 16. FINANCING OF TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While efforts to designate and freeze the assets of terrorist financiers have been relatively unsuccessful, efforts to target the relatively small number of al Qaeda financial facilitators have been valuable and successful.

(2) The death or capture of several important financial facilitators has decreased the amount of money available to al Qaeda, and has made it more difficult for al Qaeda to raise and move money.

(3) The capture of al Qaeda financial facilitators has provided a windfall of intelligence that can be used to continue the cycle of disruption.

(4) The United States Government has rightly recognized that information about terrorist money helps in understanding terror networks, searching them out, and disrupting their operations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a critical weapon in the effort to stop terrorist financing should be the targeting of terrorist financial facilitators by intelligence and law enforcement agencies; and

(2) efforts to track terrorist financing must be paramount in United States counter-terrorism efforts.

(c) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report evaluating the effectiveness of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness of efforts and methods to the identification and tracking of terrorist financing;

(B) ways to improve multinational and international governmental cooperation in this effort;

(C) ways to improve the effectiveness of financial institutions in this effort;

(D) the adequacy of agency coordination, nationally and internationally, including international treaties and compacts, in this effort and ways to improve that coordination; and

(E) recommendations for changes in law and additional resources required to improve this effort.

SEC. ___17. REPORT TO CONGRESS.

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the activities of the Government of the United States to carry out the provisions of this title.

(b) CONTENT.—The report required under this section shall include the following:

(1) TERRORIST SANCTUARIES.—A description of the strategy of the United States to address and, where possible, eliminate terrorist sanctuaries, including—

(A) a description of actual and potential terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries;

(B) an outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries;

(C) a description of efforts by the United States Government to work with other countries in bilateral and multilateral fora to address or eliminate actual or potential terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries; and

(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries, such as supporting and strengthening host governments, reducing poverty, increasing economic development, strengthening civil society, securing borders, strengthening internal security forces, and disrupting logistics and communications networks of terrorist groups.

(2) SUPPORT FOR PAKISTAN.—A description of the efforts of the United States Government to support Pakistan and encourage moderation in that country, including—

(A) an examination of the desirability of establishing a Pakistan Education Fund to direct resources toward improving the quality of secondary schools in Pakistan, and an examination of the efforts of the Government of Pakistan to fund modern public education;

(B) recommendations on the funding necessary to provide various levels of educational support;

(C) an examination of the current composition and levels of United States military aid to Pakistan, together with any recommendations for changes in such levels and composition that the President considers appropriate; and

(D) an examination of other major types of United States financial support to Pakistan, together with any recommendations for changes in the levels and composition of such support that the President considers appropriate.

(3) SUPPORT FOR AFGHANISTAN.—

(A) SPECIFIC OBJECTIVES.—A description of the strategy of the United States to provide aid to Afghanistan during the 5-year period beginning on the date of enactment of this Act, including a description of the resources necessary during the next 5 years to achieve specific objectives in Afghanistan in the following areas:

(i) Fostering economic development.

(ii) Curtailing the cultivation of opium.

(iii) Achieving internal security and stability.

(iv) Eliminating terrorist sanctuaries.

(v) Increasing governmental capabilities.

(vi) Improving essential infrastructure and public services.

(vii) Improving public health services.

(viii) Establishing a broad-based educational system.

(ix) Promoting democracy and the rule of law.

(x) Building national police and military forces.

(B) PROGRESS.—A description of—

(i) the progress made toward achieving the objectives described in clauses (i) through (x) of subparagraph (A); and

(ii) any shortfalls in meeting such objectives and the resources needed to fully achieve such objectives.

(4) COLLABORATION WITH SAUDI ARABIA.—A description of the strategy of the United States for expanding collaboration with the Government of Saudi Arabia on subjects of mutual interest and of importance to the United States, including a description of—

(A) the utility of the President undertaking a periodic, formal, and visible high-level dialogue between senior United States Government officials of cabinet level or higher rank and their counterparts in the Government of Saudi Arabia to address challenges in the relationship between the two governments and to identify areas and mechanisms for cooperation;

(B) intelligence and security cooperation between the United States and Saudi Arabia in the fight against Islamist terrorism;

(C) ways to advance Saudi Arabia's contribution to the Middle East peace process;

(D) political and economic reform in Saudi Arabia and throughout the Middle East;

(E) ways to promote greater tolerance and respect for cultural and religious diversity in

Saudi Arabia and throughout the Middle East; and

(F) ways to assist the Government of Saudi Arabia in preventing nationals of Saudi Arabia from funding and supporting extremist groups in Saudi Arabia and other countries.

(5) STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.—A description of a cohesive, long-term strategy of the United States to help win the struggle of ideas in the Islamic world, including the following:

(A) A description of specific goals related to winning this struggle of ideas.

(B) A description of the range of tools available to the United States Government to accomplish such goals and the manner in which such tools will be employed.

(C) A list of benchmarks for measuring success and a plan for linking resources to the accomplishment of such goals.

(D) A description of any additional resources that may be necessary to help win this struggle of ideas.

(E) Any recommendations for the creation of, and United States participation in, international institutions for the promotion of democracy and economic diversification in the Islamic world, and intraregional trade in the Middle East.

(F) An estimate of the level of United States financial assistance that would be sufficient to convince United States allies and people in the Islamic world that engaging in the struggle of ideas in the Islamic world is a top priority of the United States and that the United States intends to make a substantial and sustained commitment toward winning this struggle.

(6) OUTREACH THROUGH BROADCAST MEDIA.—A description of a cohesive, long-term strategy of the United States to expand its outreach to foreign Muslim audiences through broadcast media, including the following:

(A) The initiatives of the Broadcasting Board of Governors with respect to outreach to foreign Muslim audiences.

(B) An outline of recommended actions that the United States Government should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with sizable Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.

(C) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in the Muslim world in order to present those programs to a much broader Muslim audience than is currently reached.

(D) Any recommendations the President may have for additional funding and legislation necessary to achieve the objectives of the strategy.

(7) VISAS FOR PARTICIPANTS IN UNITED STATES PROGRAMS.—A description of—

(A) any recommendations for expediting the issuance of visas to individuals who are entering the United States for the purpose of participating in a scholarship, exchange, or visitor program described in subsection (c) of section ____09 without compromising the security of the United States; and

(B) a proposed schedule for implementing any recommendations described in subparagraph (A).

(8) BASIC EDUCATION IN MUSLIM COUNTRIES.—A description of a strategy, that was developed after consultation with nongovernmental organizations and individuals involved in education assistance programs in developing countries, to promote free universal basic education in the countries of the Middle East and in other countries with significant Muslim populations designated by the President. The strategy shall include the following elements:

(A) A description of the manner in which the resources of the United States and the international community shall be used to help achieve free universal basic education in such countries, including—

(i) efforts of the United states to coordinate an international effort;

(ii) activities of the United States to leverage contributions from members of the Group of Eight or other donors; and

(iii) assistance provided by the United States to leverage contributions from the private sector and civil society organizations.

(B) A description of the efforts of the United States to coordinate with other donors to reduce duplication and waste at the global and country levels and to ensure efficient coördination among all relevant departments and agencies of the Government of the United States.

(C) A description of the strategy of the United States to assist efforts to overcome challenges to achieving free universal basic education in such countries, including strategies to target hard to reach populations to promote education.

(D) A listing of countries that the President determines are eligible for assistance under the International Youth Opportunity Fund described in section ____10 and related programs.

(E) A description of the efforts of the United States to encourage countries in the Middle East and other countries with significant Muslim populations designated by the President to develop and implement a national education plan.

(F) A description of activities carried out as part of the International Youth Opportunity Fund to help close the digital divide and expand vocational and business skills in such countries.

(G) An estimate of the funds needed to achieve free universal basic education by 2015 in each country described in subparagraph (D), and an estimate of the amount that has been expended by the United States and by each such country during the previous fiscal year.

(H) A description of the United States strategy for garnering programmatic and financial support from countries in the Middle East and other countries with significant Muslim populations designated by the President, international organizations, and other countries that share the objectives of the International Youth and Opportunity Fund.

(9) ECONOMIC REFORM.—A description of the efforts of the United States Government to encourage development and promote economic reform in countries that have a significant population of Arab or Muslim individuals, including a description of—

(A) efforts to integrate countries with significant populations of Arab or Muslim individuals into the global trading system; and

(B) actions that the United States Government, acting alone and in partnership with governments in the Middle East, can take to promote intraregional trade and the rule of law in the region.

SEC. ____18. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect on the date of the enactment of this Act.

SA 3907. Mr. REID (for Mr. LAUTENBERG) submitted an amendment intended to be proposed by Mr. REID to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ____. TERRORIST FINANCING.

(a) CLARIFICATION OF CERTAIN ACTIONS UNDER IEEPA.—In any case in which the President takes action under the International Emergency Economic Powers Act (50 U.S.C. 1701 et seq.) to prohibit a United States person from engaging in transactions with a foreign country, where a determination has been made by the Secretary of State that the government of that country has repeatedly provided support for acts of international terrorism, such action shall apply to any foreign subsidiaries or affiliate, including any permanent foreign establishment of that United States person, that is controlled in fact by that United States person.

(b) DEFINITIONS.—In this section:

(1) CONTROLLED IN FACT.—The term "is controlled in fact" includes—

(A) in the case of a corporation, holds at least 50 percent (by vote or value) of the capital structure of the corporation; and

(B) in the case of any other kind of legal entity, holds interests representing at least 50 percent of the capital structure of the entity.

(2) UNITED STATES PERSON.—The term "United States person" includes any United States citizen, permanent resident alien, entity organized under the law of the United States (including foreign branches), wherever located, or any other person in the United States.

(c) APPLICABILITY.—

(1) IN GENERAL.—In any case in which the President has taken action under the International Emergency Economic Powers Act and such action is in effect on the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 100 days after the date of enactment of this Act.

(2) ACTIONS AFTER DATE OF ENACTMENT.—In any case in which the President takes action under the International Emergency Economic Powers Act on or after the date of enactment of this Act, the provisions of subsection (a) shall not apply to a United States person (or other person) if such person divests or terminates its business with the government or person identified by such action within 90 days after the date of such action.

SEC. ____. NOTIFICATION OF CONGRESS OF TERMINATION OF INVESTIGATION BY OFFICE OF FOREIGN ASSETS CONTROL.

(a) NOTIFICATION REQUIREMENT.—The Office of Federal Procurement Policy Act (41 U.S.C. 403 et seq.) is amended by adding at the end the following new section:

"Sec. 42. Notification of Congress of termination of investigation by Office of Foreign Assets Control.".

"The Director of the Office of Foreign Assets Control shall notify Congress upon the termination of any investigation by the Office of Foreign Assets Control of the Department of the Treasury if any sanction is imposed by the Director of such office as a result of the investigation.".

SA 3908. Mr. REED (for himself, Mr. SARBANES, Mr. SCHUMER, Mrs. BOXER, and Mr. CORZINE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 213, after line 12, add the following:

TITLE IV—PUBLIC TRANSPORTATION TERRORISM PREVENTION

SEC. 401. SHORT TITLE.

This title may be cited as the "Public Transportation Terrorism Prevention Act of 2004".

SEC. 402. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) throughout the world, public transportation systems have been a primary target of terrorist attacks, causing countless death and injuries;

(2) 6,000 public transportation agencies operate in the United States;

(3) 14,000,000 people in the United States ride public transportation each work day;

(4) safe and secure public transportation systems are essential to the Nation's economy and for significant national and international public events;

(5) the Federal Transit Administration has invested $68,700,000,000 since 1992 for construction and improvements to the Nation's public transportation systems;

(6) the Federal Government appropriately invested $11,000,000,000 in fiscal years 2002 and 2003 to protect our Nation's aviation system and its 1,800,000 daily passengers;

(7) the Federal Government invested $115,000,000 in fiscal years 2003 and 2004 to protect public transportation systems in the United States;

(8) the Federal Government has invested $9.16 in aviation security improvements per passenger, but only $0.006 in public transportation security improvements per passenger;

(9) the General Accounting Office, the Mineta Institute for Surface Transportation Policy Studies, the American Public Transportation Association, and other experts have reported an urgent need for significant investment in transit security improvements; and

(10) the Federal Government has a duty to deter and mitigate, to the greatest extent practicable, threats against the Nation's public transportation systems.

SEC. 403. MEMORANDUM OF UNDERSTANDING.

(a) IN GENERAL.—Not later than 45 days after the date of enactment of this Act, the Secretary of Transportation shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective public transportation security roles and responsibilities of the Department of Transportation and the Department of Homeland Security.

(b) CONTENTS.—The memorandum of understanding described in subsection (a) shall—

(1) establish a process to develop security standards for public transportation agencies;

(2) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

(3) create a method of direct coordination with public transportation agencies on security matters;

(4) address any other issues determined to be appropriate by the Secretary of Transportation and the Secretary of Homeland Security; and

(5) include a formal and permanent mechanism to ensure coordination and involvement by the Department of Transportation, as appropriate, in public transportation security.

SEC. 404. SECURITY ASSESSMENTS.

(a) PUBLIC TRANSPORTATION SECURITY ASSESSMENTS.—

(1) SUBMISSION.—Not later than 30 days after the date of enactment of this Act, the Federal Transit Administration of the Department of Transportation shall submit all public transportation security assessments and all other relevant information to the Department of Homeland Security.

(2) REVIEW.—The Secretary of Homeland Security shall review and augment the security assessments received under paragraph (1).

(3) ALLOCATIONS.—The assessments described in paragraph (1) shall be used as the basis for allocating grant funds under section 405, unless the Secretary of Homeland Security determines that an adjustment is necessary to respond to an urgent threat or other significant factors, after notification to the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) SECURITY IMPROVEMENT PRIORITIES.—The Secretary of Homeland Security shall establish security improvement priorities, in consultation with the management and employee representatives of each public transportation system receiving an assessment that will be used by public transportation agencies for any funding provided under section 405.

(5) UPDATES.—The Secretary of Homeland Security shall annually update the assessments referred to in this subsection and conduct assessments of all transit agencies considered to be at greatest risk of a terrorist attack.

(b) USE OF ASSESSMENT INFORMATION.—The Secretary of Homeland Security shall use the information collected under subsection (a)—

(1) to establish the process for developing security guidelines for public transportation security;

(2) to design a security improvement strategy that minimizes terrorist threats to public transportation systems; and

(3) to design a security improvement strategy that maximizes the efforts of public transportation systems to mitigate damage from terrorist attacks.

(c) BUS PUBLIC TRANSPORTATION SYSTEMS.—The Secretary of Homeland Security shall conduct assessments of local bus-only public transportation systems to determine the specific needs of this form of public transportation that are appropriate to the size and nature of the bus system.

(d) RURAL PUBLIC TRANSPORTATION SYSTEMS.—The Secretary of Homeland Security shall conduct assessments of selected public transportation systems that receive funds under section 5311 of title 49, United States Code, to determine the specific needs of this form of public transportation that are appropriate to the size and nature of the system.

SEC. 405. SECURITY ASSISTANCE GRANTS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable capital security improvements based on the priorities established under section 404(a)(4).

(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—

(A) tunnel protection systems;

(B) perimeter protection systems;

(C) redundant critical operations control systems;

(D) chemical, biological, radiological, or explosive detection systems;

(E) surveillance equipment;

(F) communications equipment;

(G) emergency response equipment;

(H) fire suppression and decontamination equipment;

(I) global positioning or automated vehicle locator type system equipment;

(J) evacuation improvements; and

(K) other capital security improvements.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—

(1) IN GENERAL.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable operational security improvements based on the priorities established under section 404(a)(4).

(2) ALLOWABLE USE OF FUNDS.—Grants awarded under paragraph (1) may be used for—

(A) security training for transit employees, including bus and rail operators, mechanics, customer service, maintenance employees, transit police, and security personnel;

(B) live or simulated drills;

(C) public awareness campaigns for enhanced public transportation security;

(D) canine patrols for chemical, biological, or explosives detection;

(E) overtime reimbursement for enhanced security personnel during significant national and international public events, consistent with the priorities established under section 404(a)(4); and

(F) other appropriate security improvements identified under section 404(a)(4), excluding routine, ongoing personnel costs.

(c) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before any grant is awarded under this section, the Secretary of Homeland Security shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate of the intent to award such grant.

(d) TRANSIT AGENCY RESPONSIBILITIES.—Each public transportation agency that receives a grant under this section shall—

(1) identify a security coordinator to coordinate security improvements;

(2) develop a comprehensive plan that demonstrates the agency's capacity for operating and maintaining the equipment purchased under this subsection; and

(3) report annually to the Department of Homeland Security on the use of grant funds received under this section.

(e) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified for that grant under this section, the grantee shall return any amount so used to the Treasury of the United States.

SEC. 406. INTELLIGENCE SHARING.

(a) INTELLIGENCE SHARING.—The Secretary of Homeland Security shall ensure that the Department of Transportation receives appropriate and timely notification of all credible terrorist threats against public transportation assets in the United States.

(b) INFORMATION SHARING ANALYSIS CENTER.—

(1) ESTABLISHMENT.—The Department of Homeland Security shall fund the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (referred to in this subsection as the "ISAC") established pursuant to Presidential Directive 63 to protect critical infrastructure.

(2) PUBLIC TRANSPORTATION AGENCY PARTICIPATION.—The Secretary of Homeland Security—

(A) shall require those public transportation agencies that the Secretary determines to be at significant risk of terrorist attack to participate in the ISAC;

(B) shall encourage all other public transportation agencies to participate in the ISAC; and

(C) shall not charge any public transportation agency a fee for participation in the ISAC.

SEC. 407. RESEARCH, DEVELOPMENT, AND DEMONSTRATION GRANTS.

(a) GRANTS AUTHORIZED.—The Secretary of Homeland Security, in consultation with the Federal Transit Administration, shall award grants to public or private entities to conduct research into, and demonstration of, technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) researching chemical, biological, radiological, or explosive detection systems that do not significantly impede passenger access;

(2) researching imaging technologies;

(3) conducting product evaluations and testing; and

(4) researching other technologies or methods for reducing or deterring terrorist attacks against public transportation systems, or mitigating damage from such attacks.

(c) REPORTING REQUIREMENT.—Each entity that receives a grant under this section shall report annually to the Department of Homeland Security on the use of grant funds received under this section.

(d) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified under subsection (b), the grantee shall return any amount so used to the Treasury of the United States.

SEC. 408. REPORTING REQUIREMENTS.

(a) ANNUAL REPORT TO CONGRESS.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit a report, which describes the implementation of sections 404 through 407, and the state of public transportation security in the United States, to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(2) the Committee on Governmental Affairs of the Senate; and

(3) the Committee on Appropriations of the Senate.

(b) ANNUAL REPORT TO GOVERNORS.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit a report to the governor of each State in which a transit agency that has received a grant under this title is operating that specifies the amount of grant funds distributed to each such transit agency and the use of such grant funds.

SEC. 409. AUTHORIZATION OF APPROPRIATIONS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated $2,370,000,000 for fiscal year 2005 to carry out the provisions of section 405(a), which shall remain available until expended.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out the provisions of section 405(b)—

(1) $534,000,000 for fiscal year 2005;

(2) $333,000,000 for fiscal year 2006; and

(3) $133,000,000 for fiscal year 2007.

(c) INTELLIGENCE.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 406.

(d) RESEARCH.—There are authorized to be appropriated $130,000,000 for fiscal year 2005 to carry out the provisions of section 407, which shall remain available until expended.

SEC. 410. EFFECTIVE DATE; SUNSET PROVISION.

(a) EFFECTIVE DATE.—Notwithstanding section 341, this title, and the amendments made by this title, shall take effect on the date of enactment of this Act.

(b) SUNSET PROVISION.—This title is repealed on October 1, 2007.

SA 3909. Ms. SNOWE (for herself, Mr. ROBERTS, Ms. MIKULSKI, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 60, line 20, strike "the relationships among".

On page 63, line 8, strike "the relationships among".

On page 64, line 5, strike "and" at the end.

On page 64, between lines 5 and 6, insert the following:

(4) to evaluate the compliance of the National Intelligence Authority and the National Intelligence Program with any applicable United States law or regulation, including any applicable regulation, policy, or procedure issued under section 206, or with any regulation, policy, or procedure of the Director governing the sharing or dissemination of, or access to, intelligence information or products; and

On page 64, line 6, strike "(4)" and insert "(5)".

On page 65, strike lines 11 through 16 and insert the following:

(2)(A) The Inspector General shall have access to any employee, or any employee of a contractor, of any element of the intelligence community whose testimony is needed for the performance of the duties of the Inspector General.

On page 66, beginning on line 1, strike "or contractor of the National Intelligence Authority" and insert ", or any employee of a contractor, of any element of the intelligence community".

On page 66, line 4, strike "Director" and insert "National Intelligence Director or other appropriate official of the intelligence community".

On page 68, between lines 7 and 8, insert the following:

(g) COORDINATION AMONG INSPECTORS GENERAL WITHIN NATIONAL INTELLIGENCE PROGRAM.—(1) In the event of a matter within the jurisdiction of the Inspector General of the National Intelligence Authority that may be subject to an investigation, inspection, or audit by both the Inspector General of the National Intelligence Authority and an Inspector General, whether statutory or administrative, with oversight responsibility for an element or elements of the intelligence community, the Inspector General of the National Intelligence Authority and such other Inspector or Inspectors General shall expeditiously resolve which Inspector General shall conduct such investigation, inspection, or audit. The Inspector General of the National Intelligence Authority shall make the final decision on the resolution of such jurisdiction.

(2) The Inspector General conducting an investigation, inspection, or audit covered by paragraph (1) shall submit the results of such investigation, inspection, or audit to any other Inspector General with jurisdiction to conduct such investigation, inspection, or audit who did not conduct such investigation, inspection, or audit.

(3) If an investigation, inspection, or audit covered by paragraph (1) is conducted by an Inspector General other than the Inspector General of the National Intelligence Authority, the Inspector General of the National Intelligence Authority may, upon completion of such investigation, inspection, or audit by such Inspector General, conduct a separate investigation, inspection, or audit of the matter concerned under this section.

On page 68, line 8, strike "(g)" and insert "(h)".

On page 69, between lines 20 and 21, insert the following:

(C) Each Inspector General of an element of the intelligence community shall comply fully with a request for information or assistance from the Inspector General of the National Intelligence Authority.

(D) The Inspector General of the National Intelligence Authority may, upon reasonable notice to the head of any element of the intelligence community, conduct, as authorized by this section, an investigation, inspection, or audit of such element and may enter into any place occupied by such element for purposes of the performance of the duties of the Inspector General.

On page 69, line 21, strike "(h)" and insert "(i)".

On page 70, line 13, strike "Authority" and insert "Program".

On page 71, line 1, strike "An assessment" and insert "In consultation with the Officer for Civil Rights and Civil Liberties of the National Intelligence Authority and the Privacy Officer of the National Intelligence Authority, an assessment".

On page 71, beginning on line 16, strike "Authority" and insert "Authority or the National Intelligence Program, or in the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community,".

On page 72, beginning on line 3, strike "a relationship between".

On page 72, strike lines 19 through 25 and insert the following:

(B) an investigation, inspection, review, or audit carried out by the Inspector General focuses on any current or former official of the intelligence community who—

(i) holds or held a position in an element of the intelligence community that is subject to appointment by the President, by and with the advice and consent of the Senate, including an appointment held on an acting basis; or

(ii) holds or held a position in an element of the intelligence community, including a position held on an acting basis, that is appointed by the National Intelligence Director;

On page 73, strike line 24 and all that follows through page 74, line 5, and insert the following:

(5)(A) An employee of an element of the intelligence community, an employee assigned or detailed to an element of the intelligence community, or an employee of a contractor of an element of the intelligence community who intends to report to Congress a complaint or information with respect to an urgent concern may report such a complaint or information to the Inspector General.

On page 77, line 8, strike "the Authority" and insert "an element of the intelligence community".

On page 77, between lines 11 and 12, insert the following:

(j) CONSTRUCTION OF DUTIES REGARDING ELEMENTS OF INTELLIGENCE COMMUNITY.—Except as resolved pursuant to subsection (g), the performance by the Inspector General of the National Intelligence Authority of any duty, responsibility, or function regarding an element of the intelligence community shall not be construed to modify or effect the duties and responsibilities of any other Inspector General having duties or responsibilities relating to such element.

On page 77, line 12, strike "(i)" and insert "(k)".

SA 3910. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. REPORT ON INTERNATIONAL AIR CARGO THREATS.

(a) REPORT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Defense and the Administrator of the Federal Aviation Administration, shall submit a report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives that contains the following:

(1) A description of the current procedures in place to address the threat of an inbound all-cargo aircraft from outside the United States that intelligence sources indicate could carry explosive, incendiary, chemical, biological or nuclear devices.

(2) An analysis of the potential for establishing secure facilities along established international aviation routes for the purposes of diverting and securing aircraft described in paragraph (1).

(b) REPORT FORMAT.—The Secretary may submit all, or part, of the report required by this section in classified and redacted form if the Secretary determines that it is appropriate or necessary.

SA 3911. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 210, between lines 22 and 23, insert the following:

SEC. 336. NATIONAL INTELLIGENCE COUNCIL REPORT ON METHODOLOGIES UTILIZED FOR NATIONAL INTELLIGENCE ESTIMATES.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the National Intelligence Council shall submit to Congress a report that includes the following:

(1) The methodologies utilized for the initiation, drafting, publication, coordination, and dissemination of the results of National Intelligence Estimates (NIEs).

(2) Such recommendations as the Council considers appropriate regarding improvements of the methodologies utilized for National Intelligence Estimates in order to ensure the timeliness of such Estimates and ensure that such Estimates address the national security and intelligence priorities and objectives of the President and the National Intelligence Director.

(b) FORM.—The report under subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

On page 210, line 23, strike "**336.**" and insert "**337.**".

SA 3912. Mr. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 210, between lines 22 and 23, insert the following:

SEC. 336. NATIONAL INTELLIGENCE DIRECTOR REPORT ON NATIONAL COUNTERTERRORISM CENTER.

(a) REPORT.—Not later than one year after the date of the establishment of the National Counterterrorism Center under section 143, the National Intelligence Director shall submit to Congress a report evaluating the effectiveness of the Center in achieving its primary missions under subsection (d) of that section.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An assessment of the effectiveness of the National Counterterrorism Center in achieving its primary missions.

(2) An assessment of the effectiveness of the authorities of the Center in contributing to the achievement of its primary missions, including authorities relating to personnel and staffing, funding, information sharing, and technology.

(3) An assessment of the relationships between the Center and the other elements and components of the intelligence community.

(4) An assessment of the extent to which the Center provides an appropriate model for the establishment of national intelligence centers under section 144.

(c) FORM.—The report under subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

SA 3913. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 159, strike lines 19 through 25 and insert the following:

"(2) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), either the Board or the Attorney General of the United States may seek an order to require such person to produce the evidence required by such subpoena from the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found.".

SA 3914. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . PRIVACY AND PASSENGER IDENTIFICATION VERIFICATION TECHNOLOGIES.

(a) IN GENERAL.—The Secretary of Homeland Security shall consult with the Privacy and Civil Liberties Oversight Board in the development of any program to use passenger identification verification technologies.

(b) REPORT REQUIREMENT.—

(1) IN GENERAL.—Notwithstanding any other provision of law, no Federal program for passenger verification identification technologies shall begin until after the Secretary of Homeland Security has submitted a report to Congress and to the Privacy and Civil Liberties Oversight Board about the program.

(2) REPORT CONTENTS.—The report shall address the privacy and civil liberty implications of the program, including the accuracy and reliability of the technologies used, and whether the program incorporates the necessary architectural, operational, technological, and procedural safeguards to protect privacy and civil liberties.

SA 3915. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . TERRORIST SCREENING CENTER.

(a) CRITERIA FOR WATCH LIST.—The Secretary of Homeland Security shall report to Congress the criteria for placing individuals on the Terrorist Screening Center consolidated screening watch list, including minimum standards for reliability and accuracy of identifying information, the certainty and level of threat that the individual poses, and the consequences that apply to the person if located. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(b) SAFEGUARDS AGAINST ERRONEOUS LISTINGS.—The Secretary of Homeland Security shall establish a process for individuals to challenge "Automatic Selectee" or "No Fly" designations on the consolidated screening watch list and have their names removed from such lists, if erroneously present.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Privacy and Civil Liberties Oversight Board shall submit a report assessing the impact of the "No Fly" and "Automatic Selectee" lists on privacy and civil liberties to the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Commerce, Science and Transportation of the Senate, and the Committee on the Judiciary, the Committee on Government Reform, and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effects of such lists on privacy, discrimination, due process and other civil liberties, as well as the implications of applying those lists to other modes of transportation. The Comptroller General of the United States shall cooperate with the Privacy and Civil Liberties Board in the preparation of the report. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(d) Effective Date.—Notwithstanding section 341 or any other provision of this Act, this section shall become effective on the date of enactment of this Act.

SA 3916. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 132, line 23, strike "and".

On page 133, line 3, strike the period and insert "; and".

On page 133, between lines 3 and 4, insert the following:

(L) utilizing privacy-enhancing technologies that minimize the dissemination and disclosure of personally identifiable information.

On page 153, between lines 2 and 3, insert the following:

(o) Limitation on Funds.—Notwithstanding any other provision of this section, none of the funds provided pursuant to subsection (n) may be obligated for deployment or implementation of the Network under subsection (f) unless—

(1) the guidelines and requirements under subsection (e) are submitted to Congress; and

(2) the Privacy and Civil Liberties Oversight Board submits to Congress an assessment of whether those guidelines and requirements incorporate the necessary architectural, operational, technological, and procedural safeguards to protect privacy and civil liberties.

SA 3917. Mr. LEAHY (for himself and Mr. Grassley) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FBI TRANSLATOR REPORTING REQUIREMENT.

Section 205(c) of Public Law 107-56 (28 U.S.C. 532 note, 115 Stat. 282) is amended to read as follows:

"(c) Report.—Not later than 30 days after the date of enactment of the National Intelligence Reform Act of 2004, and annually thereafter, the Attorney General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that contains, with respect to each preceding 12-month period—

"(1) the number of translators employed, or contracted for, by the Federal Bureau of Investigation or other components of the Department of Justice;

"(2) any legal or practical impediments to using translators employed by other Federal, State, or local agencies on a full, part-time, or shared basis;

"(3) the needs of the Federal Bureau of Investigation for the specific translation services in certain languages, and recommendations for meeting those needs;

"(4) the status of any automated statistical reporting system, including implementation and future viability;

"(5) the storage capabilities of the digital collection system or systems utilized;

"(6) a description of the establishment and compliance with audio retention policies that satisfy the investigative and intelligence goals of the Federal Bureau of Investigation;

"(7) a description of the implementation of quality control procedures and mechanisms for monitoring compliance with quality control procedures; and

"(8) the current counterterrorism and counterintelligence audio backlog and recommendations for alleviating any backlog.".

SA 3918. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. WHISTLEBLOWER PROTECTION.

(a) Short Title.—This section may be cited as the "Congressional Right to Know Act".

(b) Findings.—Congress adopts herein specified findings of the National Commission on Terrorist Attacks Upon the United States ("9-11 Commission") contained in the "9-11 Commission Report" issued on July 22, 2004, and makes further findings as follows:

(1) Prior to September 11, 2001, there were warnings of whistleblowers at the Federal Bureau of Investigation, and other national security professionals about security breakdowns in air security, border control and emergency planning.

(2) Whistleblowers throughout the Executive branch who lawfully exercised the freedom to warn were subjected to retaliation without effective legal defense.

(3) Safe communications channels that effectively protect the freedom to warn serve Congress' right to know and are the lifeline for the Commission's "most difficult and important" goal of "strengthening congressional oversight to improve quality and accountability".

(4) Effectively protecting whistleblowers' freedom to warn is the necessary foundation to implement and enforce 9-11 Commission reforms over entrenched institutional resistance, so that the pattern of announced reforms not effecting the necessary institutional and cultural changes does not happen again.

(5) Whistleblowers lawfully exercising the freedom to warn personify the 9-11 Commission's conclusion that the "choice between security and liberty is a false choice" because they use freedom to strengthen America's security.

(6) Whistleblowers exercising the freedom to warn are indispensable for "an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life" by acting as sentinels who defend the principle that "if our liberties are curtailed, we lose the values that we are struggling to defend".

(7) Effective whistleblower protection is a cornerstone principle necessary for the Commission's institutional goal that "[g]ood people" should not have to "overcome bad structures".

(8) Effectively protecting the individual employee's freedom to warn is a prerequisite to strengthen national security by replacing the "need to know" culture of excessive agency compartmentalization with a "need to share" culture promoting a "duty to the information" and the American taxpayers.

(9) Creating a safe channel to effectively exercise the freedom to warn implements the 9-11 Commission's goal for policies "that simultaneously empower and constrain officials, telling them clearly what is and what is not permitted".

(10) Creating a safe channel to effectively exercise the freedom to warn of breaches in professional security standards serves the 9-11 Commission's premise that professional expertise should have priority over institutional concerns.

(c) Jurisdiction.—This section shall apply to any Federal employee, including the Federal Bureau of Investigation, the Central Intelligence Agency, the Defense Intelligence Agency, the National Imagery and Mapping Agency, the National Security Agency, the Department of Homeland Security, the Transportation Security Administration, or any other employee of the United States, as defined by section 2105 of title 5, United States Code, and to any employee or agent of an entity subject to liability under sections 3729 et. seq. of title 5, United States Code, the False Claims Act.

(d) Prohibited Discrimination.—No person covered by subsection (c) may be discharged, demoted, suspended, threatened, harassed, investigated other than any ministerial or nondiscretionary fact finding activities necessary for the agency to perform its mission, or in any other manner discriminated against, including denial, suspension, revocation, or other determination relating to a security clearance or any other access determination because the person—

(1) is about to or provides information, causes information to be provided, or otherwise communicates with any Member of Congress or any committee of Congress as provided by section 7211 of title 5, United States Code, the Lloyd LaFollette Act of 1912, including disclosure of protected information under Public Law 105-272, the Intelligence Community Whistleblower Protection Act;

(2)(A) is about to, or communicates or provides information whose disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs, cause such information to be communicated or provided, or otherwise assists in any lawful investigation of other action to carry out the government's responsibilities regarding any conduct which the person reasonably believes is evidence of any violation of any law, rule or regulation, gross waste, gross mismanagement, abuse of authority, or a substantial and specific danger to public health or safety when the information or assistance is provided to or the investigation is conducted by—

(i) the President or the President's authorized representative;

(ii) a Federal regulatory or law enforcement agency;

(iii) any Member of Congress or any committee of Congress; or

(iv) a witness, coworker, or person with supervisory authority over the person (or such other person who has the authority to investigate, discover, or terminate misconduct); or

(B) if communication of otherwise-covered information is specifically prohibited by law and if such information is required by Executive Order to be kept secret in the interest of national defense or the conduct of foreign affairs, it may be communicated to Congress pursuant to paragraph (1), the Special Counsel, the Inspector General of an agency, or another employee designated by the head of the agency to receive such disclosures;

(3) is about to or files, causes to be filed, testify, participate in, or otherwise assist in a proceeding or action filed or about to be filed relating to a violation of any law, rule, or regulation, or take any other lawful action to assist in carrying out the purposes of the law, rule, or regulation;

(4) is about to or refuses to violate or assist in the violation of any law, rule, or regulation;

(5) is about to or communicates or provides information protected by this subsection or cause such information to be provided or otherwise communicated, notwithstanding any nondisclosure policy, form, or agreement, if such policy, form, or agreement does not contain the following statement, with an additional reference to this Act: "These provisions are consistent with and do not supersede, conflict with, or otherwise alter the employee obligations, rights, or liabilities created by Executive order No. 12958, section 7211 of title 5, United States Code, United States Code (governing disclosures to Congress), section 1034 of title 10, United States Code (governing disclosure to Congress by members of the military), section 2302(b)(8) of title 5, United States Code (governing disclosures of illegality, waste, fraud, abuse, or public health or safety threats), the Intelligence Identities Protection Act of 1982 (50 U.S.C. 421 et seq.) (governing disclosures that could expose confidential Government agents), and the statutes which protect against disclosures that could compromise national security, including sections 641, 793, 794, 798, and 952 of title 18, United States Code, and section 4(b) of the Subversive Activities Control Act of 1950 (50 U.S.C. 783(b)). The definitions, requirements, obligations, rights, sanctions, and liabilities created by such Executive order and such statutory provisions are incorporated into this agreement and are controlling.";

(e) Clarification of Whistleblower Rights for Critical Infrastructure Information.—Section 214(c) of the Homeland Security Act of 2002 (Public Law 107-296) is amended by adding at the end the following: "For purposes of this section a permissible use of independently obtained information includes the disclosure of such information under section 7211 of title 5, United States Code, and section 2302(b)(8) of title 5, United States Code and the provisions of this Act.".

(f) Protected Activities.—Activities protected by this section is covered without restriction to time, place, form, motive, context, policy or prior disclosure made to any person by an employee or applicant, including a disclosure made in the ordinary course of an employee's duties;

(g) Presumptions.—For purposes of this section, any presumption relating to the performance of a duty by an employee who has authority to take, direct others to take, recommend, or approve any personnel action may be rebutted by substantial evidence.

(h) Determinations.—For purposes of subsection (d)(2), a determination as to whether an employee or applicant reasonably believes that they have provided or otherwise communicated information that evidences any violation of law, rule, regulation, gross mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety shall be made by determining whether a disinterested observer with knowledge of the essential facts known to and readily ascertainable by the employee would reasonably conclude that the actions evidence such violations, mismanagement, waste, abuse, or danger.

(i) Enforcement Action.—

(1) In general.—A person who alleges discharge or other discrimination by any person in violation of this section may seek relief under this subsection, by—

(A) filing a complaint with the Merit Systems Protection Board for a violation of sections 2302(b)(8), 2302(b)(9), or 2302(b)(11) of title 5, United States Code; or

(B) if the Board has not issued a final decision within 180 days of the filing of the complaint and there is no showing that such delay is due to the bad faith of the claimant, bringing an action at law or equity for de novo review in the appropriate district court of the United States, which shall have jurisdiction over such an action without regard to the amount in controversy.

(2) Procedure.—

(A) Burdens of proof.—An action brought under this section shall be governed by the legal burdens of proof set forth in sections 1214 and 1221 of title 5, United States Code.

(B) Statute of limitations.—An action under paragraph (1) shall be commenced not later than 1 year after the date on which the violation occurs.

(j) Rights Retained by Person.—Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any person under any Federal or State law, or under any collective bargaining agreement.

(k) Remedies.—

(1) In general.—A person prevailing in any action under subsection (i) shall be entitled to all relief necessary to make the person whole.

(2) Damages.—Relief for any action under paragraph (1) shall include—

(A) reinstatement or transfer to the first available position for which the person is qualified with the same seniority status that the person would have had, but for the discrimination;

(B) the amount of any back pay, with interest; and

(C) compensation for any compensatory, consequential or special damages sustained as a result of the discrimination, including litigation costs, expert witness fees, and reasonable attorney fees.

SA 3919. Mr. LEAHY (for himself and Mr. Grassley) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Add at the end the following:

TITLE IV—REFORM OF FEDERAL BUREAU OF INVESTIGATION

SEC. 401. SHORT TITLE.

This title may be cited as the "Federal Bureau of Investigation Reform Act of 2004".

Subtitle A—Whistleblower Protection

SEC. 411. INCREASING PROTECTIONS FOR FBI WHISTLEBLOWERS.

Section 2303 of title 5, United States Code, is amended to read as follows:

"§2303. Prohibited personnel practices in the Federal Bureau of Investigation

"(a) Definition.—In this section, the term 'personnel action' means any action described in clauses (i) through (x) of section 2302(a)(2)(A).

"(b) Prohibited Practices.—Any employee of the Federal Bureau of Investigation who has the authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority, take or fail to take a personnel action with respect to any employee of the Bureau or because of—

"(1) any disclosure of information by the employee to the Attorney General (or an employee designated by the Attorney General for such purpose), a supervisor of the employee, the Inspector General for the Department of Justice, or a Member of Congress that the employee reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety; or

"(2) any disclosure of information by the employee to the Special Counsel of information that the employee reasonably believes evidences—

"(A) a violation of any law, rule, or regulation; or

"(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety,

if such disclosure is not specifically prohibited by law and if such information is not specifically required by Executive order to be kept secret in the interest of national defense or the conduct of foreign affairs.

"(c) Individual Right of Action.—Chapter 12 of this title shall apply to an employee of the Federal Bureau of Investigation who claims that a personnel action has been taken under this section against the employee as a reprisal for any disclosure of information described in subsection (b)(2).

"(d) Regulations.—The Attorney General shall prescribe regulations to ensure that a personnel action under this section shall not be taken against an employee of the Federal Bureau of Investigation as a reprisal for any disclosure of information described in subsection (b)(1), and shall provide for the enforcement of such regulations in a manner consistent with applicable provisions of sections 1214 and 1221, and in accordance with the procedures set forth in sections 554 through 557 and 701 through 706.".

Subtitle B—FBI Security Career Program

SEC. 421. SECURITY MANAGEMENT POLICIES.

The Attorney General shall establish policies and procedures for the effective management (including accession, education, training, and career development) of persons serving in security positions in the Federal Bureau of Investigation.

SEC. 422. DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) In General.—Subject to the authority, direction, and control of the Attorney General, the Director of the Federal Bureau of Investigation (referred to in this subtitle as the "Director") shall carry out all powers, functions, and duties of the Attorney General with respect to the security workforce in the Federal Bureau of Investigation.

(b) Policy Implementation.—The Director shall ensure that the policies of the Attorney General established in accordance with this title are implemented throughout the Federal Bureau of Investigation at both the headquarters and field office levels.

SEC. 423. DIRECTOR OF SECURITY.

The Director shall appoint a Director of Security, or such other title as the Director may determine, to assist the Director in the performance of the duties of the Director under this title.

SEC. 424. SECURITY CAREER PROGRAM BOARDS.

(a) Establishment.—The Director acting through the Director of Security shall establish a security career program board to advise the Director in managing the hiring, training, education, and career development of personnel in the security workforce of the Federal Bureau of Investigation.

(b) Composition of Board.—The security career program board shall include—

(1) the Director of Security (or a representative of the Director of Security);

(2) the senior officials, as designated by the Director, with responsibility for personnel management;

(3) the senior officials, as designated by the Director, with responsibility for information management;

(4) the senior officials, as designated by the Director, with responsibility for training and career development in the various security disciplines; and

(5) such other senior officials for the intelligence community as the Director may designate.

(c) Chairperson.—The Director of Security (or a representative of the Director of Security) shall be the chairperson of the board.

(d) Subordinate Boards.—The Director of Security may establish a subordinate board structure to which functions of the security career program board may be delegated.

SEC. 425. DESIGNATION OF SECURITY POSITIONS.

(a) Designation.—The Director shall designate, by regulation, those positions in the Federal Bureau of Investigation that are security positions for purposes of this title.

(b) Required Positions.—In designating security positions under subsection (a), the Director shall include, at a minimum, all security-related positions in the areas of—

(1) personnel security and access control;

(2) information systems security and information assurance;

(3) physical security and technical surveillance countermeasures;

(4) operational, program, and industrial security; and

(5) information security and classification management.

SEC. 426. CAREER DEVELOPMENT.

(a) Career Paths.—The Director shall ensure that appropriate career paths for personnel who wish to pursue careers in security are identified in terms of the education, training, experience, and assignments necessary for career progression to the most senior security positions and shall make available published information on those career paths.

(b) Limitation on Preference for Special Agents.—

(1) In general.—Except as provided in the policy established under paragraph (2), the Attorney General shall ensure that no requirement or preference for a Special Agent of the Federal Bureau of Investigation (referred to in this subtitle as a "Special Agent") is used in the consideration of persons for security positions.

(2) Policy.—The Attorney General shall establish a policy that permits a particular security position to be specified as available only to Special Agents, if a determination is made, under criteria specified in the policy, that a Special Agent—

(A) is required for that position by law;

(B) is essential for performance of the duties of the position; or

(C) is necessary for another compelling reason.

(3) Report.—Not later than December 15 of each year, the Director shall submit to the Attorney General a report that lists—

(A) each security position that is restricted to Special Agents under the policy established under paragraph (2); and

(B) the recommendation of the Director as to whether each restricted security position should remain restricted.

(c) Opportunities To Qualify.—The Attorney General shall ensure that all personnel, including Special Agents, are provided the opportunity to acquire the education, training, and experience necessary to qualify for senior security positions.

(d) Best Qualified.—The Attorney General shall ensure that the policies established under this title are designed to provide for the selection of the best qualified individual for a position, consistent with other applicable law.

(e) Assignments Policy.—The Attorney General shall establish a policy for assigning Special Agents to security positions that provides for a balance between—

(1) the need for personnel to serve in career enhancing positions; and

(2) the need for requiring service in each such position for sufficient time to provide the stability necessary to carry out effectively the duties of the position and to allow for the establishment of responsibility and accountability for actions taken in the position.

(f) Length of Assignment.—In implementing the policy established under subsection (b)(2), the Director shall provide, as appropriate, for longer lengths of assignments to security positions than assignments to other positions.

(g) Performance Appraisals.—The Director shall provide an opportunity for review and inclusion of any comments on any appraisal of the performance of a person serving in a security position by a person serving in a security position in the same security career field.

(h) Balanced Workforce Policy.—In the development of security workforce policies under this Act with respect to any employees or applicants for employment, the Attorney General shall, consistent with the merit system principles set out in paragraphs (1) and (2) of section 2301(b) of title 5, United States Code, take into consideration the need to maintain a balanced workforce in which women and members of racial and ethnic minority groups are appropriately represented in Government service.

SEC. 427. GENERAL EDUCATION, TRAINING, AND EXPERIENCE REQUIREMENTS.

(a) In General.—The Director shall establish education, training, and experience requirements for each security position, based on the level of complexity of duties carried out in the position.

(b) Qualification Requirements.—Before being assigned to a position as a program manager or deputy program manager of a significant security program, a person—

(1) must have completed a security program management course that is accredited by the Intelligence Community-Department of Defense Joint Security Training Consortium or is determined to be comparable by the Director; and

(2) must have not less than 6 years experience in security, of which not less than 2 years were performed in a similar program office or organization.

SEC. 428. EDUCATION AND TRAINING PROGRAMS.

(a) In General.—The Director, in consultation with the Director of Central Intelligence and the Secretary of Defense, shall establish and implement education and training programs for persons serving in security positions in the Federal Bureau of Investigation.

(b) Other Programs.—The Director shall ensure that programs established under subsection (a) are established and implemented, to the maximum extent practicable, uniformly with the programs of the Intelligence Community and the Department of Defense.

SEC. 429. OFFICE OF PERSONNEL MANAGEMENT APPROVAL.

(a) In General.—The Attorney General shall submit any requirement that is established under section 427 to the Director of the Office of Personnel Management for approval.

(b) Final Approval.—If the Director does not disapprove the requirements established under section 427 within 30 days after the date on which the Director receives the requirement, the requirement is deemed to be approved by the Director of the Office of Personnel Management.

Subtitle C—FBI Counterintelligence Polygraph Program

SEC. 431. DEFINITIONS.

In this subtitle:

(1) Polygraph program.—The term "polygraph program" means the counterintelligence screening polygraph program established under section 432.

(2) Polygraph review.—The term "Polygraph Review" means the review of the scientific validity of the polygraph for counterintelligence screening purposes conducted by the Committee to Review the Scientific Evidence on the Polygraph of the National Academy of Sciences.

SEC. 432. ESTABLISHMENT OF PROGRAM.

Not later than 6 months after the date of enactment of this Act, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation and the Director of Security of the Federal Bureau of Investigation, shall establish a counterintelligence screening polygraph program for the Federal Bureau of Investigation that consists of periodic polygraph examinations of employees, or contractor employees of the Federal Bureau of Investigation who are in positions specified by the Director of the Federal Bureau of Investigation as exceptionally sensitive in order to minimize the potential for unauthorized release or disclosure of exceptionally sensitive information.

SEC. 433. REGULATIONS.

(a) In General.—The Attorney General shall prescribe regulations for the polygraph program in accordance with subchapter II of chapter 5 of title 5, United States Code (commonly referred to as the Administrative Procedures Act).

(b) Considerations.—In prescribing regulations under subsection (a), the Attorney General shall—

(1) take into account the results of the Polygraph Review; and

(2) include procedures for—

(A) identifying and addressing false positive results of polygraph examinations;

(B) ensuring that adverse personnel actions are not taken against an individual solely by reason of the physiological reaction of the individual to a question in a polygraph examination, unless—

(i) reasonable efforts are first made independently to determine through alternative means, the veracity of the response of the individual to the question; and

(ii) the Director of the Federal Bureau of Investigation determines personally that the personnel action is justified;

(C) ensuring quality assurance and quality control in accordance with any guidance provided by the Department of Defense Polygraph Institute and the Director of Central Intelligence; and

(D) allowing any employee or contractor who is the subject of a counterintelligence screening polygraph examination under the polygraph program, upon written request, to have prompt access to any unclassified reports regarding an examination that relates to any adverse personnel action taken with respect to the individual.

SEC. 434. REPORT ON FURTHER ENHANCEMENT OF FBI PERSONNEL SECURITY PROGRAM.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Director of the Federal Bureau of Investigation shall submit to Congress a report setting forth recommendations for any legislative action that the Director considers appropriate in order to enhance the personnel security program of the Federal Bureau of Investigation.

(b) POLYGRAPH REVIEW RESULTS.—Any recommendation under subsection (a) regarding the use of polygraphs shall take into account the results of the Polygraph Review.

Subtitle D—Reports

SEC. 441. REPORT ON LEGAL AUTHORITY FOR FBI PROGRAMS AND ACTIVITIES.

(a) IN GENERAL.—Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report describing the statutory and other legal authority for all programs and activities of the Federal Bureau of Investigation.

(b) CONTENTS.—The report submitted under subsection (a) shall describe—

(1) the titles within the United States Code and the statutes for which the Federal Bureau of Investigation exercises investigative responsibility;

(2) each program or activity of the Federal Bureau of Investigation that has express statutory authority and the statute which provides that authority; and

(3) each program or activity of the Federal Bureau of Investigation that does not have express statutory authority, and the source of the legal authority for that program or activity.

(c) RECOMMENDATIONS.—The report submitted under subsection (a) shall recommend whether—

(1) the Federal Bureau of Investigation should continue to have investigative responsibility for each statute for which the Federal Bureau of Investigation currently has investigative responsibility;

(2) the legal authority for any program or activity of the Federal Bureau of Investigation should be modified or repealed;

(3) the Federal Bureau of Investigation should have express statutory authority for any program or activity of the Federal Bureau of Investigation for which the Federal Bureau of Investigation does not currently have express statutory authority; and

(4) the Federal Bureau of Investigation should—

(A) have authority for any new program or activity; and

(B) express statutory authority with respect to any new programs or activities.

Subtitle E—Ending the Double Standard

SEC. 451. ALLOWING DISCIPLINARY SUSPENSIONS OF MEMBERS OF THE SENIOR EXECUTIVE SERVICE FOR 14 DAYS OR LESS.

Section 7542 of title 5, United States Code, is amended by striking "for more than 14 days".

SEC. 452. SUBMITTING OFFICE OF PROFESSIONAL RESPONSIBILITY REPORTS TO CONGRESSIONAL COMMITTEES.

(a) IN GENERAL.—For each of the 5 years following the date of enactment of this Act, the Office of the Inspector General shall submit to the chairperson and ranking member of the Committees on the Judiciary of the Senate and the House of Representatives an annual report to be completed by the Federal Bureau of Investigation, Office of Professional Responsibility and provided to the Inspector General, which sets forth—

(1) basic information on each investigation completed by that Office;

(2) the findings and recommendations of that Office for disciplinary action; and

(3) what, if any, action was taken by the Director of the Federal Bureau of Investigation or the designee of the Director based on any such recommendation.

(b) CONTENTS.—In addition to all matters already included in the annual report described in subsection (a), the report shall also include an analysis of—

(1) whether senior Federal Bureau of Investigation employees and lower level Federal Bureau of Investigation personnel are being disciplined and investigated similarly; and

(2) whether any double standard is being employed to more senior employees with respect to allegations of misconduct.

Subtitle F—Enhancing Security at the Department of Justice

SEC. 461. REPORT ON THE PROTECTION OF SECURITY AND INFORMATION AT THE DEPARTMENT OF JUSTICE.

Not later than 9 months after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the manner in which the Security and Emergency Planning Staff, the Office of Intelligence Policy and Review, and the Chief Information Officer of the Department of Justice plan to improve the protection of security and information at the Department of Justice, including a plan to establish secure electronic communications between the Federal Bureau of Investigation and the Office of Intelligence Policy and Review for processing information related to the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.).

SEC. 462. AUTHORIZATION FOR INCREASED RESOURCES TO PROTECT SECURITY AND INFORMATION.

There are authorized to be appropriated to the Department of Justice for the activities of the Security and Emergency Planning Staff to meet the increased demands to provide personnel, physical, information, technical, and litigation security for the Department of Justice, to prepare for terrorist threats and other emergencies, and to review security compliance by components of the Department of Justice—

(1) $13,000,000 for fiscal years 2004 and 2005;

(2) $17,000,000 for fiscal year 2006; and

(3) $22,000,000 for fiscal year 2007.

SEC. 463. AUTHORIZATION FOR INCREASED RESOURCES TO FULFILL NATIONAL SECURITY MISSION OF THE DEPARTMENT OF JUSTICE.

There are authorized to be appropriated to the Department of Justice for the activities of the Office of Intelligence Policy and Review to help meet the increased personnel demands to combat terrorism, process applications to the Foreign Intelligence Surveillance Court, participate effectively in counterespionage investigations, provide policy analysis and oversight on national security matters, and enhance secure computer and telecommunications facilities—

(1) $7,000,000 for fiscal years 2004 and 2005;

(2) $7,500,000 for fiscal year 2006; and

(3) $8,000,000 for fiscal year 2007.

SA 3920. Mr. LEAHY (for himself and Mr. GRASSLEY) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 177, after line 17, add the following:

Subtitle D—Foreign Intelligence Surveillance

SEC. 231. SHORT TITLE.

This subtitle may be cited as the "Domestic Surveillance Oversight Act of 2004".

SEC. 232. IMPROVEMENTS TO FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) RULES AND PROCEDURES FOR FISA COURTS.—Section 103 of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1803) is amended by adding at the end the following new subsection:

"(e)(1) The courts established pursuant to subsections (a) and (b) may establish such rules and procedures, and take such actions, as are reasonably necessary to administer their responsibilities under this Act.

"(2) The rules and procedures established under paragraph (1), and any modifications of such rules and procedures, shall be recorded, and shall be transmitted to the following:

"(A) All of the judges on the court established pursuant to subsection (a).

"(B) All of the judges on the court of review established pursuant to subsection (b).

"(C) The Chief Justice of the United States.

"(D) The Committee on the Judiciary of the Senate.

"(E) The Select Committee on Intelligence of the Senate.

"(F) The Committee on the Judiciary of the House of Representatives.

"(G) The Permanent Select Committee on Intelligence of the House of Representatives.".

(b) REPORTING REQUIREMENTS.—(1) The Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1801 et seq.) is further amended—

(A) by redesignating title VI as title VII, and section 601 as section 701, respectively; and

(B) by inserting after title V the following new title:

"TITLE VI—PUBLIC REPORTING REQUIREMENT

"PUBLIC REPORT OF THE ATTORNEY GENERAL

"SEC. 601. In addition to the reports required by sections 107, 108, 306, 406, and 502, in April of each year, the Attorney General shall issue a public report setting forth with respect to the preceding calendar year—

"(1) the aggregate number of United States persons targeted for orders issued under this Act, including those targeted for—

"(A) electronic surveillance under section 105;

"(B) physical searches under section 304;

"(C) pen registers under section 402; and

"(D) access to records under section 501;

"(2) the number of times that the Attorney General has authorized that information obtained under such sections or any information derived therefrom may be used in a criminal proceeding;

"(3) the number of times that a statement was completed pursuant to section 106(b), 305(c), or 405(b) to accompany a disclosure of information acquired under this Act for law enforcement purposes; and

"(4) in a manner consistent with the protection of the national security of the United States—

"(A) the portions of the documents and applications filed with the courts established under section 103 that include significant construction or interpretation of the provisions of this Act or any provision of the United States Constitution, not including the facts of any particular matter, which may be redacted;

"(B) the portions of the opinions and orders of the courts established under section 103 that include significant construction or interpretation of the provisions of this Act or any provision of the United States Constitution, not including the facts of any particular matter, which may be redacted; and

"(C) in the first report submitted under this section, the matters specified in subparagraphs (A) and (B) for all documents and applications filed with the courts established under section 103, and all otherwise unpublished opinions and orders of that court, for the 4 years before the preceding calendar year in addition to that year.".

(2) The table of contents for that Act is amended by striking the items for title VI and inserting the following new items:

"TITLE VI—PUBLIC REPORTING REQUIREMENT

"Sec. 601. Public report of the Attorney General.

"TITLE VII—EFFECTIVE DATE

"Sec. 701. Effective date.".

SEC. 233. ADDITIONAL IMPROVEMENTS OF CONGRESSIONAL OVERSIGHT OF SURVEILLANCE ACTIVITIES.

(a) Title 18, United States Code.—Section 2709(e) of title 18, United States Code, is amended by adding at the end the following new sentence: "The information shall include a separate statement of all such requests made of institutions operating as public libraries or serving as libraries of secondary schools or institutions of higher education.".

(b) Right to Financial Privacy Act of 1978.—Section 1114(a)(5)(C) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3414(a)(5)(C)) is amended to read as follows:

"(C)(i) On a semiannual basis the Attorney General shall fully inform the congressional intelligence committees, the Committee on the Judiciary of the House of Representatives, and the Committee on the Judiciary of the Senate concerning all requests made pursuant to this paragraph.

"(ii) In the case of the semiannual reports required to be submitted under clause (i) to the congressional intelligence committees, the submittal dates for such reports shall be as provided in section 507 of the National Security Act of 1947.

"(iii) In this subparagraph, the term 'congressional intelligence committees' has the meaning given that term in section 3 of the National Security Act of 1947 (50 U.S.C. 401a).".

(c) Fair Credit Reporting Act.—Section 625(h)(1) of the Fair Credit Reporting Act (15 U.S.C. 1681u(h)(1)), as amended by section 811(b)(8)(B) of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306), is further amended—

(1) by striking "and the Committee on Banking, Finance and Urban Affairs of the House of Representatives" and inserting ", the Committee on Financial Services, and the Committee on the Judiciary of the House of Representatives"; and

(2) by striking "and the Committee on Banking, Housing, and Urban Affairs of the Senate" and inserting ", the Committee on Banking, Housing, and Urban Affairs, and the Committee on the Judiciary of the Senate".

SA 3921. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . ANTHRAX VICTIMS FUND.

(a) References.—Except as otherwise expressly provided, wherever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered a reference to the September 11th Victim Compensation Fund of 2001 (Public Law 107–42; 49 U.S.C. 40101 note).

(b) Compensation for Victims of Terrorist Acts.—

(1) Definitions.—Section 402(6) is amended by inserting "or related to a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001" before the period.

(2) Purpose.—Section 403 is amended by inserting "or as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001" before the period.

(3) Determination of eligibility for compensation.—

(A) Claim form contents.—Section 405(a)(2)(B) is amended—

(i) in clause (i), by inserting "or as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001" before the semicolon;

(ii) in clause (ii), by inserting "or terrorist-related laboratory-confirmed anthrax infection" before the semicolon; and

(iii) in clause (iii), by inserting "or terrorist-related laboratory-confirmed anthrax infection" before the period.

(B) Limitation.—Section 405(a)(3) is amended by striking "2 years" and inserting "3 years".

(C) Collateral compensation.—Section 405(b)(6) is amended by inserting "or as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001" before the period.

(D) Eligibility.—

(i) Individuals.—Section 405(c)(2) is amended—

(I) in subparagraph (B), by striking "or" after the semicolon;

(II) in subparagraph (C)—

(aa) by striking "or (B)" and inserting ", (B), or (C)"; and

(bb) striking "(C)" and inserting "(D)"; and

(III) by inserting after subparagraph (B) the following:

"(C) an individual who suffered physical harm or death as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001; or ".

(ii) Requirements.—Section 405(c)(3) is amended—

(I) in the heading for subparagraph (B) by inserting "RELATING TO SEPTEMBER 11TH TERRORIST ACTS" before the period; and

(II) by adding at the end the following:

"(C) Limitation on civil action relating to other terrorist acts.—

"(i) In general.—Upon the submission of a claim under this title, the claimant waives the right to file a civil action (or to be a party to an action) in any Federal or State court for damages sustained as a result of a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001. The preceding sentence does not apply to a civil action to recover any collateral source obligation based on contract, or to a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.

"(ii) Pending actions.—In the case of an individual who is a party to a civil action described in clause (i), such individual may not submit a claim under this title unless such individual withdraws from such action by the date that is 90 days after the date on which regulations are promulgated under section 4 of the Anthrax Victims Fund Fairness Act of 2003.

"(D) Individuals with prior compensation.—

"(i) In general.—Subject to clause (ii), an individual is not an eligible individual for purposes of this subsection if that individual, or the estate of that individual, has received any compensation from a civil action or settlement based on tort related to a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001.

"(ii) Exception.—Clause (i) shall not apply to compensation received from a civil action against any person who is a knowing participant in any conspiracy to commit any terrorist act.".

(iii) Ineligibility of participants and conspirators.—Section 405(c) is amended by adding at the end the following:

"(4) Ineligibility of participants and conspirators.—An individual, or a representative of that individual, shall not be eligible to receive compensation under this title if that individual is identified by the Attorney General to have been a participant or conspirator in a terrorist-related laboratory-confirmed anthrax infection in the United States during the period beginning on September 13, 2001, through November 30, 2001.".

(c) Regulations.—Not later than 90 days after the date of enactment of this section, the Attorney General, in consultation with the Special Master, shall promulgate regulations to carry out the amendments made by this section, including regulations with respect to—

(1) forms to be used in submitting claims under this Act;

(2) the information to be included in such forms;

(3) procedures for hearing and the presentation of evidence;

(4) procedures to assist an individual in filing and pursuing claims under this section; and

(5) other matters determined appropriate by the Attorney General.

SA 3922. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE —SAFE ACT

SEC. __01. SHORT TITLE.

This title may be cited as the "Security and Freedom Ensured Act of 2004" or the "SAFE Act".

SEC. __02. LIMITATION ON ROVING WIRETAPS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

Section 105(c) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1805(c)) is amended—

(1) in paragraph (1), by striking subparagraphs (A) and (B) and inserting the following:

"(A)(i) the identity of the target of electronic surveillance, if known; or

"(ii) if the identity of the target is not known, a description of the target and the nature and location of the facilities and places at which the electronic surveillance will be directed;

"(B)(i) the nature and location of each of the facilities or places at which the electronic surveillance will be directed, if known; and

"(ii) if any of the facilities or places are unknown, the identity of the target;"; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(B) by inserting after subparagraph (A), the following:

"(B) in cases where the facility or place at which the surveillance will be directed is not known at the time the order is issued, that the surveillance be conducted only when the presence of the target at a particular facility or place is ascertained by the person conducting the surveillance;".

SEC. __03. LIMITATION ON AUTHORITY TO DELAY NOTICE OF SEARCH WARRANTS.

(a) IN GENERAL.—Section 3103a of title 18, United States Code, is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking "may have an adverse result (as defined in section 2705)" and inserting "will—

"(A) endanger the life or physical safety of an individual;

"(B) result in flight from prosecution; or

"(C) result in the destruction of, or tampering with, the evidence sought under the warrant"; and

(B) in paragraph (3), by striking "within a reasonable period" and all that follows and inserting "not later than 7 days after the execution of the warrant, which period may be extended by the court for an additional period of not more than 7 days each time the court finds reasonable cause to believe, pursuant to a request by the Attorney General, the Deputy Attorney General, or an Associate Attorney General, that notice of the execution of the warrant will—

"(A) endanger the life or physical safety of an individual;

"(B) result in flight from prosecution; or

"(C) result in the destruction of, or tampering with, the evidence sought under the warrant."; and

(2) by adding at the end the following:

"(c) REPORTS.—

"(1) IN GENERAL.—Every 6 months, the Attorney General shall submit a report to Congress summarizing, with respect to warrants under subsection (b), the requests made by the Department of Justice for delays of notice and extensions of delays of notice during the previous 6-month period.

"(2) CONTENTS.—Each report submitted under paragraph (1) shall include, for the preceding 6-month period—

"(A) the number of requests for delays of notice with respect to warrants under subsection (b), categorized as granted, denied, or pending; and

"(B) for each request for delayed notice that was granted, the number of requests for extensions of the delay of notice, categorized as granted, denied, or pending.

"(3) PUBLIC AVAILABILITY.—The Attorney General shall make the report submitted under paragraph (1) available to the public.".

(b) SUNSET PROVISION.—

(1) IN GENERAL.—Subsections (b) and (c) of section 3103a of title 18, United States Code, shall cease to have effect on December 31, 2005.

(2) EXCEPTION.—With respect to any particular foreign intelligence investigation that began before the date on which the provisions referred to in paragraph (1) cease to have effect, or with respect to any particular offense or potential offense that began or occurred before the date on which the provisions referred to in paragraph (1) cease to have effect, such provisions shall continue in effect.

SEC. __04. PRIVACY PROTECTIONS FOR LIBRARY, BOOKSELLER, AND OTHER PERSONAL RECORDS UNDER FOREIGN INTELLIGENCE SURVEILLANCE ACT OF 1978.

(a) APPLICATIONS FOR ORDERS.—Section 501(b)(2) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(b)(2)) is amended—

(1) by striking "shall specify that the records" and inserting "shall specify that—

"(A) the records"; and

(2) by striking the period at the end and inserting the following: "; and

"(B) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power.".

(b) ORDERS.—Section 501(c)(1) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1861(c)(1)) is amended by striking "finds that" and all that follows and inserting "finds that—

"(A) there are specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or an agent of a foreign power; and

"(B) the application meets the other requirements of this section.".

(c) OVERSIGHT OF REQUESTS FOR PRODUCTION OF RECORDS.—Section 502(a) of the Foreign Intelligence Surveillance Act of 1978 (50 U.S.C. 1862) is amended to read as follows:

"(a) On a semiannual basis, the Attorney General shall, with respect to all requests for the production of tangible things under section 501, fully inform—

"(1) the Select Committee on Intelligence of the Senate;

"(2) the Committee on the Judiciary of the Senate;

"(3) the Permanent Select Committee on Intelligence of the House of Representatives; and

"(4) the Committee on the Judiciary of the House of Representatives.".

SEC. __05. PRIVACY PROTECTIONS FOR COMPUTER USERS AT LIBRARIES UNDER NATIONAL SECURITY AUTHORITY.

Section 2709 of title 18, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "A wire" and inserting the following:

"(1) IN GENERAL.—A wire"; and

(B) by adding at the end the following:

"(2) EXCEPTION.—A library shall not be treated as a wire or electronic communication service provider for purposes of this section."; and

(2) by adding at the end the following:

"(f) DEFINED TERM.—In this section, the term 'library' means a library (as that term is defined in section 213(2) of the Library Services and Technology Act (20 U.S.C. 9122(2)) whose services include access to the Internet, books, journals, magazines, newspapers, or other similar forms of communication in print or digitally to patrons for their use, review, examination, or circulation.".

SEC. __06. EXTENSION OF PATRIOT SUNSET PROVISION.

Section 224(a) of the USA PATRIOT ACT (18 U.S.C. 2510 note) is amended—

(1) by striking "213, 216, 219,"; and

(2) by inserting "and section 505" after "by those sections)".

SA 3923. Mr. DURBIN (for himself, Mr. LEAHY, and Mr. SARBANES) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 154, strike lines 1 through 3 and insert the following:

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and

On page 155, line 6 strike beginning with "has" through line 9 and insert the following: "has established—

"(1) that the need for the power is balanced with the need to protect privacy and civil liberties;".

On page 166, strike lines 4 through 6 and insert the following: "element has established—

"(1) that the need for the power is balanced with the need to protect privacy and civil liberties;".

SA 3924. Mr. ROBERTS (for himself and Mr. DEWINE) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 124, after line 12, insert the following:

(g) ENTERPRISE ARCHITECTURE.—(1) The Director of the Federal Bureau of Investigation shall—

(A) maintain an up to date enterprise architecture or computer needs blueprint; and

(B) report annually to Congress on this enterprise architecture and whether the Federal Bureau of Investigation is complying with the architecture.

(2) If the Director of the Federal Bureau of Investigation determines that the Federal Bureau of Investigation will not be able to comply with the architecture within any 3-month period—

(A) the Director shall make an interim report to Congress on why there was a failure to comply; and

(B) if the reason is substantially related to resources, the Director shall submit with the interim notice a request for additional funding that would resolve the problem or a request to reprogram funds that would resolve the problem.

SA 3925. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the bill, insert the following:

TITLE ___—SOCIAL SECURITY PROTECTION

SEC. ___01. AMENDMENTS TO THE SOCIAL SECURITY ACT RELATING TO IDENTIFICATION OF INDIVIDUALS.

(a) ANTIFRAUD MEASURES FOR SOCIAL SECURITY CARDS.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended—

(1) by inserting "(i)" after "(G)";

(2) by striking "banknote paper" and inserting "durable plastic or similar material"; and

(3) by adding at the end the following new clauses:

"(ii) Each Social security card issued under this subparagraph shall include an encrypted electronic identification strip which shall be unique to the individual to whom the card is issued and such biometric information as is determined by the Commissioner and the Secretary of Homeland Security to be necessary for identifying the person to whom to the card is issued. The Commissioner shall develop such electronic identification strip in consultation with the Secretary of Homeland Security, so as to enable employers to use such strip in accordance with section ___03(b) of the National Intelligence Reform Act of 2004 to obtain access to the Employment Eligibility Database established by such Secretary pursuant to section ___02 of such Act with respect to the individual to whom the card is issued.

"(iii) The Commissioner shall provide for the issuance (or reissuance) to each individual who—

"(I) has been assigned a Social Security account number under subparagraph (B),

"(II) has attained the minimum age applicable, in the jurisdiction in which such individual engages in employment, for legally engaging in such employment, and

"(III) files application for such card under this clause in such form and manner as shall be prescribed by the Commissioner,

a social security card which meets the preceding requirements of this subparagraph.

"(iv) The Commissioner shall maintain an ongoing effort to develop measures in relation to the social security card and the issuance thereof to preclude fraudulent use thereof.".

(b) SHARING OF INFORMATION WITH THE SECRETARY OF HOMELAND SECURITY.—Section 205(c)(2) of such Act is amended by adding at the end the following new subparagraph:

"(I) Upon the issuance of a Social Security account number under subparagraph (B) to any individual or the issuance of a social security card under subparagraph (G) to any individual, the Commissioner of Social Security shall transmit to the Secretary of Homeland Security such information received by the Commissioner in the individual's application for such number or such card as such Secretary determines necessary and appropriate for administration of the National Intelligence Reform Act of 2004.".

(c) PROGRAM TO ENSURE VERACITY OF APPLICATION INFORMATION.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall develop a program to ensure the accuracy and veracity of the information and evidence supplied to the Commissioner under section 205(c)(2)(B)(ii) of the Social Security Act (42 U.S.C. 405(c)(2)(B)(ii)) in connection with an application for a social security number.

(d) EFFECTIVE DATES.—The amendment made by subsection (a) shall apply with respect to social security cards issued after 2 years after the date of the enactment of this Act. The amendment made by subsection (b) shall apply with respect to the issuance of Social Security account numbers and social security cards after 2 years after the date of the enactment of this Act.

SEC. ___02. EMPLOYMENT ELIGIBILITY DATABASE.

(a) IN GENERAL.—The Secretary of Homeland Security (hereinafter in this title referred to as "the Secretary") shall establish and maintain an Employment Eligibility Database. The Database shall include data comprised of the citizenship status of individuals and the work and residency eligibility information (including expiration dates) with respect to individuals who are not citizens or nationals of the United States but are authorized to work in the United States. Such data shall include all such data maintained by the Department of Homeland Security as of the date of the establishment of such database and information obtained from the Commissioner of Social Security pursuant to section 205(c)(2)(I) of the Social Security Act. The Secretary shall maintain ongoing consultations with the Commissioner to ensure efficient and effective operation of the Database.

(b) INCORPORATION OF ONGOING PILOT PROGRAMS.—To the extent that the Secretary determines appropriate in furthering the purposes of subsection (a), the Secretary may incorporate the information, processes, and procedures employed in connection with the Citizen Attestation Verification Pilot Program and the Basic Pilot Program into the operation and maintenance of the Database under subsection (a).

(c) CONFIDENTIALITY.—No officer or employee of the Department of Homeland Security shall have access to any information contained in the Database for any purpose other than the establishment of a system of records necessary for the effective administration of this title or for national security related purposes (as determined by the Commissioner of Social Security in consultation with the Secretary of State and the Secretary of Homeland Security). The Secretary shall restrict access to such information to officers and employees of the United States whose duties or responsibilities require access for the administration or enforcement of the provisions of this title or for national security related purposes (as determined under the preceding sentence). The Secretary shall provide such other safeguards as the Secretary determines to be necessary or appropriate to protect the confidentiality of information contained in the Database.

(d) DEADLINE FOR MEETING REQUIREMENTS.—The Secretary shall complete the establishment of the Database and provide for the efficient and effective operation of the Database in accordance with this section not later than 2 years after the date of the enactment of this Act.

SEC. ___03. REQUIREMENTS RELATING TO INDIVIDUALS COMMENCING WORK IN THE UNITED STATES.

(a) REQUIREMENTS FOR EMPLOYEES.—No individual may commence employment with an employer in the United States unless such individual has—

(1) obtained a social security card issued by the Commissioner of Social Security meeting the requirements of section 205(c)(2)(G)(iii) of the Social Security Act, and

(2) displayed such card to the employer pursuant to the employer's request for purposes of the verification required under subsection (b).

(b) REQUIREMENTS FOR EMPLOYERS.—

(1) IN GENERAL.—No employer may employ an individual in the United States in any capacity if, as soon as practical after such individual has been hired, such individual has not been verified by the employer to have a social security card issued to such individual pursuant to section 205(c)(2)(G) of the Social Security Act and to be authorized to work in the United States in such capacity. Such verification shall be made in accordance with procedures prescribed by the Secretary for the purposes of ensuring against fraudulent use of the card and accurate and prompt verification of the authorization of such individual to work in the United States in such capacity.

(2) VERIFICATION PROCEDURES.—Such procedures shall include use of a card-reader device approved by the Secretary that is capable of reading the electronic identification strip borne by the card and the biometric information included on the card so as to verify the identity of the card holder and the card holder's authorization to work.

(3) ACCESS TO DATABASE.—The Secretary shall ensure that—

(A) by means of such procedures, the employer will have such access to the Employment Eligibility Database maintained by the Secretary so as to enable the employer to obtain information, relating to the identification, citizenship, residency, and work eligibility of the individual seeking employment by the employer in any capacity, which is necessary to inform the employer as to whether the individual is authorized to work for the employer in the United States in such capacity, and

(B) the procedures described in paragraph (2) impose a minimal financial burden on the employer.

(c) EFFECTIVE DATE.—The requirements of this section shall apply with respect to the employment of any individual in any capacity commencing after 2 years after the date of the enactment of this Act.

SEC. ___04. ENFORCEMENT.

(a) CIVIL PENALTIES.—The Secretary may assess a penalty, payable to the Secretary, against any employer who—

(1) continues to employ an individual in the United States in any capacity who is known by the employer not to be authorized to work in the United States in such capacity, or

(2) fails to comply with the procedures prescribed by the Secretary pursuant to section ___03 in connection with the employment of any individual.

Such penalty shall not exceed **$50,000** for each occurrence of a violation described in paragraph (1) or (2) with respect to the individual, plus, in the event of the removal or deportation of such individual from the United States based on findings developed in connection with the assessment or collection of such penalty, the costs incurred by the Federal Government in connection with such removal or deportation.

(b) ACTIONS BY THE SECRETARY.—If any person is assessed under subsection (a) and fails to pay the assessment when due, or any person otherwise fails to meet any requirement of this title, the Secretary may bring a civil action in any district court of the United States within the jurisdiction of which such person's assets are located or in which such person resides or is found for the recovery of the amount of the assessment or for appropriate equitable relief to redress the violation or enforce the provisions of this section, and process may be served in any other district. The district courts of the United States shall have jurisdiction over actions brought under this section by the Secretary without regard to the amount in controversy.

(c) CRIMINAL PENALTY.—Any person who—

(1) continues to employ an individual in the United States in any capacity who such person knows not to be authorized to work in the United States in such capacity, or

(2) hires for employment any individual in the United States and fails to comply with the procedures prescribed by the Secretary pursuant to section ___03(b) in connection with the hiring of such individual.

shall upon conviction be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

SEC. ___05. AUTHORIZATIONS OF APPROPRIATIONS.

(a) DEPARTMENT OF HOMELAND SECURITY.—There are authorized to be appropriated to the Department of Homeland Security for each fiscal year beginning on or after October 1, 2004, such sums as are necessary to carry out the provisions of this title.

(b) SOCIAL SECURITY ADMINISTRATION.—There are authorized to be appropriated to the Social Security Administration for each fiscal year beginning on or after October 1, 2004, such sums as are necessary to carry out the amendments made by section ___01.

SEC. ___06. INTEGRATION OF FINGERPRINTING DATABASES.

The Secretary of Homeland Security and the Attorney General of the United States shall jointly undertake to integrate the border-patrol fingerprinting identification system maintained by the Department of Homeland Security with the fingerprint database maintained by the Federal Bureau of Investigation. The integration of databases pursuant to this section shall be completed not later than 2 years after the date of the enactment of this Act.

SEC. ___07. USE OF CARD; RULE OF CONSTRUCTION.

Nothing in this title or the amendments made by this title shall be construed to establish a national identification card, and it is the policy of the United States that the social security card shall not be used as a national identification card and shall only be used for verification of an individual's employment status after an offer of employment has been made and for national security related purposes of the United States (as determined by the Commissioner of Social Security in consultation with the Secretary of State and the Secretary of Homeland Security).

SA 3926. Mr. KYL submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following new title:

TITLE IV—VISA REQUIREMENTS

SEC. 401. FINDINGS.

Congress makes the following findings:

(1) Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) governs the admission of nonimmigrants to the United States and sets forth the process for that admission.

(2) Section 214(b) of the Immigration and Nationality Act places the burden of proof on a visa applicant to establish "to the satisfaction of the consular officer, at the time of the application for a visa . . . that he is entitled to a nonimmigrant status".

(3) The report of the National Commission on Terrorist Attacks Upon the United States included a recommendation that the United States "combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists . . . and constrain terrorist mobility".

(4) Fifteen of the 19 individuals who participated in the aircraft hijackings on September 11, 2001, were nationals of Saudi Arabia who legally entered the United States after securing nonimmigrant visas despite the fact that they did not adequately meet the burden of proof required by section 214(b) of the Immigration and Nationality Act.

(5) Prior to September 11, 2001, the Department of State allowed consular officers to approve nonimmigrant visa applications that were incomplete, and without conducting face-to-face interviews of many applicants.

(6) Each of the 15 individuals from Saudi Arabia who participated in the aircraft hijackings on September 11, 2001, filed a visa application that contained inaccuracies and omissions that should have prevented such individual from obtaining a visa.

(7) Only one of the hijackers listed an actual address on his visa application. The other hijackers simply wrote answers such as "California", "New York", or "Hotel" when asked to provide a destination inside the United States on the visa application.

(8) Only 3 of the individuals from Saudi Arabia who participated in the aircraft hijackings on September 11, 2001, provided any information in the section of the visa application that requests the name and address of an employer or school in the United States.

(9) The 2002 General Accounting Office report entitled "Border Security: Visa Process Should Be Strengthened as Antiterrorism Tool" outlined the written guidelines and practices of the Department of State related to visa issuance and stated that the Department of State allowed for widespread discretion among consular officers in adhering to the burden of proof requirements under section 214(b) of the Immigration and Nationality Act.

(10) The General Accounting Office report further stated that the "Consular Best Practices Handbook" of the Department of State gave consular managers and staff the discretion to "waive personal appearance and interviews for certain nonimmigrant visa applicants".

(11) Only 2 of the 15 individuals from Saudi Arabia who participated in the aircraft hijackings on September 11, 2001, were interviewed by Department of State consular officers.

(12) If the Department of State had required all consular officers to implement section 214(b) of the Immigration and Nationality Act, conduct face-to-face interviews, and require that visa applications be completely and accurately filled out, those who participated in the aircraft hijackings on September 11, 2001, may have been denied nonimmigrant visas and the tragedy of September 11, 2001, could have been prevented.

SEC. 402. IN PERSON INTERVIEWS OF VISA APPLICANTS.

(a) REQUIREMENT FOR INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a nonimmigrant visa—

"(1) who is at least 12 years of age and not more than 65 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

"(A) by a consular official and such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

"(B) by a consular official and such alien is applying for a visa—

"(i) not more than 12 months after the date on which the alien's prior visa expired;

"(ii) for the classification under section 101(a)(15) for which such prior visa was issued;

"(iii) from the consular post located in the country in which the alien is a national; and

"(iv) the consular officer has no indication that the alien has not complied with the immigration laws and regulations of the United States; or

"(C) by the Secretary of State if the Secretary determines that such waiver is—

"(i) in the national interest of the United States; or

"(ii) necessary as a result of unusual circumstances; and

"(2) notwithstanding paragraph (1), to submit to an in person interview with a consular officer if such alien—

"(A) is not a national of the country in which the alien is applying for a visa;

"(B) was previously refused a visa, unless such refusal was overcome or a waiver of ineligibility has been obtained;

"(C) is listed in the Consular Lookout and Support System (or successor system at the Department of State);

"(D) may not obtain a visa until a security advisory opinion or other Department of State clearance is issued unless such alien is—

"(i) within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

"(ii) not a national of a country that is officially designated by the Secretary of State as a state sponsor of terrorism; or

"(E) is identified as a member of a group or sector that the Secretary of State determines—

"(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

"(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

"(iii) poses a security threat to the United States.".

(b) CONDUCT DURING INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(i) A consular officer who is conducting an in person interview with an alien applying for a visa or other documentation shall—

"(1) make every effort to conduct such interview fairly;

"(2) employ high professional standards during such interview;

"(3) use best interviewing techniques to elicit pertinent information to assess the alien's qualifications, including techniques to identify any potential security concerns posed by the alien;

"(4) provide the alien with an adequate opportunity to present evidence establishing the accuracy of the information in the alien's application; and

"(5) make a careful record of the interview to document the basis for the final action on the alien's application, if appropriate.".

SEC. 403. VISA APPLICATION REQUIREMENTS.

Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting "The alien shall provide complete and accurate information in response to any request for information contained in the application." after the second sentence.

SEC. 404. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect 90 days after date of the enactment of this Act.

SA 3927. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

Insert the following in the appropriate place:

TITLE ___—CHEMICAL FACILITIES SECURITY

SEC. ___01. SHORT TITLE.

This title may be cited as the "Chemical Facilities Security Act of 2004".

SEC. ___02. DEFINITIONS.

In this title:

(1) ALTERNATIVE APPROACHES.—The term "alternative approaches" means ways of reducing the threat of a terrorist release, as well as reducing the consequences of a terrorist release from a chemical source, including approaches that—

(A) use smaller quantities of substances of concern;

(B) replace a substance of concern with a less hazardous substance; or

(C) use less hazardous processes.

(2) CHEMICAL SOURCE.—The term "chemical source" means a non-Federal stationary source (as defined in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2))) for which—

(A) the owner or operator is required to complete a risk management plan in accordance with section 112(r)(7)(B)(ii) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)(ii)); and

(B) the Secretary is required to promulgate implementing regulations under section ___03(a) of this title.

(3) CONSIDERATION.—The term "consideration" includes—

(A) an analysis of alternative approaches, including the benefits and risks of such approaches;

(B) the potential of the alternative approaches to prevent or reduce the threat or consequences of a terrorist release;

(C) the cost and technical feasibility of alternative approaches; and

(D) the effect of alternative approaches on product quality, product cost, and employee safety.

(4) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(5) ENVIRONMENT.—The term "environment" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(6) OWNER OR OPERATOR.—The term "owner or operator" has the meaning given the term in section 112(a) of the Clean Air Act (42 U.S.C. 7412(a)).

(7) RELEASE.—The term "release" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(8) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(9) SECURITY MEASURE.—

(A) IN GENERAL.—The term "security measure" means an action carried out to ensure or enhance the security of a chemical source.

(B) INCLUSIONS.—The term "security measure", with respect to a chemical source, includes measures such as—

(i) an employee training and background check;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) the protection of the perimeter of the chemical source;

(iv) the installation and operation of intrusion detection sensors;

(v) the implementation of measures to increase computer or computer network security;

(vi) the implementation of other security-related measures to protect against or reduce the threat of—

(I) a terrorist attack on the chemical source; or

(II) the theft of a substance of concern for offsite release in furtherance of an act of terrorism;

(vii) the installation of measures and controls to protect against or reduce the consequences of a terrorist attack; and

(viii) the conduct of any similar security-related activity, as determined by the Secretary.

(10) SUBSTANCE OF CONCERN.—The term "substance of concern" means—

(A) a chemical substance present at a chemical source in quantities equal to or exceeding the threshold quantities for the chemical substance, as defined in or established under paragraphs (3) and (5) of section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)); and

(B) such other chemical substance as the Secretary may designate under section ___03(g).

(11) TERRORISM.—The term "terrorism" has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(12) TERRORIST RELEASE.—The term "terrorist release" means—

(A) a release from a chemical source into the environment of a substance of concern that is caused by an act of terrorism; and

(B) the theft of a substance of concern by a person for off-site release in furtherance of an act of terrorism.

SEC. ___03. VULNERABILITY ASSESSMENTS AND SITE SECURITY PLANS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require the owner or operator of each chemical source included on the list described in subsection (f)(1)—

(A) to conduct an assessment of the vulnerability of the chemical source to a terrorist release, including identifying hazards that may result from a terrorist release; and

(B) to prepare and implement a site security plan that addresses the results of the vulnerability assessment.

(2) CONTENTS OF SITE SECURITY PLAN.—A site security plan required under the regulations promulgated under paragraph (1) or any other plan determined to be substantially equivalent by the Secretary under subsection (c)—

(A) shall include security measures to significantly reduce the vulnerability of the chemical source covered by the plan to a terrorist release;

(B) shall describe, at a minimum, particular equipment, plans, and procedures that could be implemented or used by or at the chemical source in the event of a terrorist release; and

(C) shall include consideration and, where practicable in the judgment of the owner or operator of the chemical source, implementation of options to reduce the threat of a terrorist release through the use of alternative approaches.

(3) PROMULGATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations establishing procedures, protocols, regulations, and standards for vulnerability assessments and site security plans.

(4) GUIDANCE TO SMALL ENTITIES.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish guidance to assist small entities in complying with paragraph (2)(C).

(5) THREAT INFORMATION.—To the maximum extent practicable under applicable authority and in the interests of national security, the Secretary shall provide to an owner or operator of a chemical source required to prepare a vulnerability assessment and site security plan threat information that is relevant to the chemical source.

(6) COORDINATED ASSESSMENTS AND PLANS.—The regulations promulgated under paragraphs (1) and (3) shall permit the development and implementation of coordinated vulnerability assessments and site security plans in any case in which more than 1 chemical source is operating at a single location or at contiguous locations, including cases in which a chemical source is under the control of more than 1 owner or operator.

(b) CERTIFICATION AND SUBMISSION.—

(1) IN GENERAL.—Each owner or operator of a chemical source shall certify in writing to

the Secretary that the owner or operator has completed a vulnerability assessment and has developed and implemented or is implementing a site security plan in accordance with this title, including—

(A) regulations promulgated under paragraphs (1) and (3) of subsection (a); and

(B) any applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(2) SUBMISSION.—Not later than 18 months after the date of promulgation of regulations under paragraphs (1) and (3) of subsection (a), an owner or operator of a chemical source shall provide to the Secretary copies of the vulnerability assessment and site security plan of the chemical source for review.

(3) OVERSIGHT.—The Secretary shall, at such times and places as the Secretary determines to be appropriate, conduct or require the conduct of vulnerability assessments and other activities (including third-party audits) to ensure and evaluate compliance with—

(A) this title (including regulations promulgated under paragraphs (1) and (3) of subsection (a)); and

(B) other applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(4) SUBMISSION OF CHANGES.—The owner or operator of a chemical source shall—

(A) provide to the Secretary a description of any significant change that is made to the vulnerability assessment or site security plan required for the chemical source under this section, not later than 90 days after the date the change is made; and

(B) update the certification of the vulnerability assessment or site security plan.

(c) SPECIFIED STANDARDS.—

(1) EXISTING PROCEDURES, PROTOCOLS, AND STANDARDS.—Upon submission of a petition by any person to the Secretary, and after receipt by that person of a written response from the Secretary, any procedures, protocols, and standards established by the Secretary under regulations promulgated under subsection (a)(3) may—

(A) endorse or recognize procedures, protocols, regulations, and standards—

(i) that are established by—

(I) industry;

(II) State or local authorities; or

(III) other applicable law; and

(ii) the requirements of which the Secretary determines to be—

(I) substantially equivalent to the requirements under subsections (a)(1), (a)(2), and (a)(3); and

(II) in effect on or after the date of enactment of this Act; and

(B) require that a vulnerability assessment and site security plan address a particular threat or type of threat.

(2) NOTIFICATION OF SUBSTANTIAL EQUIVALENCY.—If the Secretary endorses or recognizes existing procedures, protocols, regulations, and standards described in paragraph (1)(A), the Secretary shall provide to the person that submitted the petition a notice that the procedures, protocols, regulations, and standards are substantially equivalent to the requirements of paragraph (1) and paragraphs (1) and (3) of subsection (a).

(3) NO ACTION BY SECRETARY.—If the Secretary does not endorse or recognize existing procedures, protocols, and standards described in paragraph (1)(A), the Secretary shall provide to each person that submitted a petition under paragraph (1) a written notification that includes a clear explanation of the reasons why the endorsement or recognition was not made.

(d) PREPARATION OF ASSESSMENTS AND PLANS.—As of the date of endorsement or recognition by the Secretary of a particular procedure, protocol, or standard under subsection (c)(1)(A), any vulnerability assessment or site security plan that is prepared by a chemical source before, on, or after the date of endorsement or recognition of, and in accordance with, that procedure, protocol, or standard, shall, for the purposes of subsection (b)(3) and section ____04, be judged by the Secretary against that procedure, protocol, or standard rather than the relevant regulations promulgated under subsection (c) and paragraphs (1) and (3) of subsection (a) (including such a vulnerability assessment or site security plan prepared before, on, or after the date of enactment of this Act).

(e) REGULATORY CRITERIA.—In exercising the authority under subsections (a) and (c) with respect to a chemical source, the Secretary shall consider—

(1) the likelihood that a chemical source will be the target of terrorism;

(2) the nature and quantity of the substances of concern present at a chemical source;

(3) the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release;

(4) the potential harm to critical infrastructure and national security from a terrorist release;

(5) cost and technical feasibility;

(6) scale of operations; and

(7) such other security-related factors as the Secretary determines to be appropriate and necessary to protect the public health and welfare, critical infrastructure, and national security.

(f) LIST OF CHEMICAL SOURCES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a list of chemical sources in existence as of that date.

(2) CONSIDERATIONS.—In developing the list under paragraph (1), the Secretary shall consider the criteria specified in subsection (e).

(3) FUTURE DETERMINATIONS.—Not later than 3 years after the date of promulgation of regulations under subsection (c) and paragraphs (1) and (3) of subsection (a), and every 3 years thereafter, the Secretary shall, after considering the criteria described in subsection (e)—

(A) determine whether additional facilities (including, as of the date of the determination, facilities that are operational and facilities that will become operational in the future) shall be considered to be a chemical source under this title;

(B) determine whether any chemical source identified on the most recent list under paragraph (1) no longer presents a risk sufficient to justify retention of classification as a chemical source under this title; and

(C) update the list as appropriate.

(4) REGULATIONS.—The Secretary may make a determination under this subsection in regulations promulgated under paragraphs (1) and (3) of subsection (a).

(g) DESIGNATION, EXEMPTION, AND ADJUSTMENT OF THRESHOLD QUANTITIES OF SUBSTANCES OF CONCERN.—

(1) IN GENERAL.—The Secretary may, by regulation—

(A) designate certain chemical substances in particular threshold quantities as substances of concerns under this title;

(B) exempt certain chemical substances from designation as substances of concern under this title; and

(C) adjust the threshold quantity of a chemical substance.

(2) CONSIDERATIONS.—In designating or exempting a chemical substance or adjusting the threshold quantity of a chemical substance under paragraph (1), the Secretary shall consider the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release of the chemical substance.

(3) REGULATIONS.—The Secretary may make a designation, exemption, or adjustment under paragraph (1) in regulations promulgated under paragraphs (1) and (3) of subsection (a).

(h) 5-YEAR REVIEW.—Not later than 5 years after the date of certification of a vulnerability assessment and a site security plan under subsection (b)(1), and not less often than every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), the owner or operator of the chemical source covered by the vulnerability assessment or site security plan shall—

(1) review the adequacy of the vulnerability assessment and site security plan; and

(2)(A) certify to the Secretary that the chemical source has completed the review and implemented any modifications to the site security plan; and

(B) submit to the Secretary a description of any changes to the vulnerability assessment or site security plan.

(i) PROTECTION OF INFORMATION.—

(1) DISCLOSURE EXEMPTION.—Except with respect to certifications specified in subsections (b)(1)(A) and (h)(2)(A), vulnerability assessments and site security plans obtained in accordance with this title, and materials developed or produced exclusively in preparation of those documents (including information shared with Federal, State, and local government entities under paragraphs (3) through (5)), shall be exempt from disclosure under—

(A) section 552 of title 5, United States Code; or

(B) any State or local law providing for public access to information.

(2) NO EFFECT ON OTHER DISCLOSURE.—Nothing in this title affects the handling, treatment, or disclosure of information obtained from chemical sources under any other law.

(3) DEVELOPMENT OF PROTOCOLS.—

(A) IN GENERAL.—The Secretary, in consultation with the Director of the Office of Management and Budget and appropriate Federal law enforcement and intelligence officials, and in a manner consistent with existing protections for sensitive or classified information, shall, by regulation, establish confidentiality protocols for maintenance and use of information that is obtained from owners or operators of chemical sources and provided to the Secretary under this title.

(B) REQUIREMENTS FOR PROTOCOLS.—A protocol established under subparagraph (A) shall ensure that—

(i) each copy of a vulnerability assessment or site security plan submitted to the Secretary, all information contained in or derived from that assessment or plan, and other information obtained under section ____06, is maintained in a secure location; and

(ii) except as provided in paragraph (5)(B), or as necessary for judicial enforcement, access to the copies of the vulnerability assessments and site security plans submitted to the Secretary, and other information obtained under section 06, shall be limited to persons designated by the Secretary.

(4) DISCLOSURE IN CIVIL PROCEEDINGS.—In any Federal or State civil or administrative proceeding in which a person seeks to compel the disclosure or the submission as evidence of sensitive information contained in a vulnerability assessment or security plan required by subsection (a) or (b) and is not otherwise subject to disclosure under other provisions of law—

(A) the information sought may be submitted to the court under seal; and

(B) the court, or any other person, shall not disclose the information to any person until the court, in consultation with the Secretary, determines that the disclosure of the information does not pose a threat to public security or endanger the life or safety of any person.

(5) PENALTIES FOR UNAUTHORIZED DISCLOSURE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any individual referred to in paragraph (3)(B)(ii) who acquires any information described in paragraph (3)(A) (including any reproduction of that information or any information derived from that information), and who knowingly or recklessly discloses the information, shall—

(i) be imprisoned not more than 1 year, fined in accordance with chapter 227 of title 18, United States Code (applicable to class A misdemeanors), or both; and

(ii) be removed from Federal office or employment.

(B) EXCEPTIONS.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to a person described in that subparagraph that discloses information described in paragraph (3)(A)—

(I) to an individual designated by the Secretary under paragraph (3)(B)(ii);

(II) for the purpose of section 06; or

(III) for use in any administrative or judicial proceeding to impose a penalty for failure to comply with a requirement of this title.

(ii) LAW ENFORCEMENT OFFICIALS AND FIRST RESPONDERS.—Notwithstanding subparagraph (A), an individual referred to in paragraph (3)(B)(ii) who is an officer or employee of the United States may share with a State or local law enforcement or other official (including a first responder) the contents of a vulnerability assessment or site security plan, or other information described in that paragraph, to the extent disclosure is necessary to carry out this title.

SEC. 04. ENFORCEMENT.

(a) FAILURE TO COMPLY.—If an owner or operator of a chemical source fails to certify or submit a vulnerability assessment or site security plan in accordance with this title, the Secretary may issue an order requiring the certification and submission of a vulnerability assessment or site security plan in accordance with section 03(b).

(b) DISAPPROVAL.—The Secretary may disapprove under subsection (a) a vulnerability assessment or site security plan submitted under section ___03(b) if the Secretary determines that—

(1) the vulnerability assessment or site security plan does not comply with regulations promulgated under paragraph (1) and (3) of subsection (a) or the procedure, protocol, or standard endorsed or recognized under section 03(c); or

(2) the site security plan, or the implementation of the site security plan, is insufficient to address—

(A) the results of a vulnerability assessment of a chemical source; or

(B) a threat of a terrorist release.

(c) COMPLIANCE.—If the Secretary disapproves a vulnerability assessment or site security plan of a chemical source under subsection (b), the Secretary shall—

(1) provide the owner or operator of the chemical source a written notification of the determination that includes a clear explanation of deficiencies in the vulnerability assessment, site security plan, or implementation of the assessment or plan;

(2) consult with the owner or operator of the chemical source to identify appropriate steps to achieve compliance; and

(3) if, following that consultation, the owner or operator of the chemical source does not achieve compliance in accordance by such date as the Secretary determines to be appropriate under the circumstances, issue an order requiring the owner or operator to correct specified deficiencies.

(d) EMERGENCY POWERS.—

(1) DEFINITION OF EMERGENCY THREAT.—The term "emergency threat" means a threat of a terrorist act that could result in a terrorist release at a chemical source—

(A) that is beyond the scope of the site security plan as implemented at the chemical source;

(B) the likelihood of the immediate occurrence of which is high;

(C) the consequences of which would be severe; and

(D) based on the factors described in subparagraphs (A) through (C), would not be appropriately and reasonably addressed, or addressed in a timely manner, by the Secretary under subsections (a) through (c).

(2) INITIATION OF ACTION.—

(A) IN GENERAL.—If the Secretary (in consultation with State and local law enforcement officials) determines that an emergency threat exists, the Secretary may bring a civil action on behalf of the United States in United States district court to immediately require each covered source potentially subject to the emergency threat to take such actions as are necessary to respond to the emergency threat.

(B) NOTICE AND PARTICIPATION.—The Secretary shall provide to each covered source that is the subject of a civil action under subparagraph (A)—

(i) notice of any injunctive relief to compel compliance with this subsection that is being sought; and

(ii) an opportunity to participate in any proceedings relating to the civil action.

(3) EMERGENCY ORDERS.—

(A) IN GENERAL.—If the Secretary determines that it is not practicable to ensure prompt action to protect public safety from an emergency threat by commencing a civil action under paragraph (2), the Secretary may issue such orders as are necessary to ensure public safety.

(B) CONSULTATION.—Before issuing an order under subparagraph (A), the Secretary shall—

(i) consult with State and local law enforcement officials; and

(ii) attempt to confirm the accuracy of the information on which the action proposed to be taken is based.

(C) EFFECTIVENESS OF ORDERS.—

(i) IN GENERAL.—An order issued by the Secretary under this paragraph shall be effective for the 60-day period beginning on the date of issuance of the order unless the Secretary files a civil action under paragraph (2) before the expiration of that period.

(ii) EXTENSION OF EFFECTIVE PERIOD.—With respect to an order issued under this paragraph, the Secretary may file a civil action before the end of the 60-day period described in clause (i) to extend the effective period of the order for—

(I) 14 days; or

(II) such longer period as the court in which the civil action is filed may authorize.

(e) PROTECTION OF INFORMATION.—Any determination of disapproval or order made or issued under this section shall be exempt from disclosure—

(1) under section 552 of title 5, United States Code;

(2) under any State or local law providing for public access to information; and

(3) except as provided in section ___03(i)(4), in any Federal or State civil or administrative proceeding.

SEC. ___05. INTERAGENCY TECHNICAL SUPPORT AND COOPERATION.

The Secretary—

(1) may request other Federal agencies to provide technical and analytical support (other than field work) in implementing this title; and

(2) may provide reimbursement for such technical and analytical support received as the Secretary determines to be appropriate.

SEC. ___06. RECORDKEEPING; SITE INSPECTIONS; PRODUCTION OF INFORMATION.

(a) RECORDKEEPING.—The owner or operator of a chemical source that is required to prepare a vulnerability assessment or site security plan under section 03(a) shall maintain a current copy of those documents.

(b) RIGHT OF ENTRY.—In carrying out this title, the Secretary (or a designee), on presentation of credentials, shall have a right of entry to, on, or through—

(1) any premises of an owner or operator of a chemical source described in subsection (a); and

(2) any premises on which any record required to be maintained under subsection (a) is located.

(c) REQUESTS FOR RECORDS.—In carrying out this title, the Secretary (or a designee) may require the submission of, or, on presentation of credentials, may at reasonable times seek access to and copy—

(1) any records, reports, or other information described in subsection (a); and

(2) any other documentation necessary for—

(A) review or analysis of a vulnerability assessment or site security plan; or

(B) implementation of a site security plan.

(d) COMPLIANCE.—If the Secretary determines that an owner or operator of a chemical source is not maintaining, producing, or permitting access to records as required by this section, the Secretary may issue an order requiring compliance with the relevant provisions of this section.

SEC. ___0 7. PENALTIES.

(a) JUDICIAL RELIEF.—Any owner or operator of a chemical source that violates or fails to comply with any order issued by the Secretary under this title or a site security plan submitted to the Secretary under this title (or, in the case of an exemption described in section 03(d), a procedure, protocol, or standard endorsed or recognized by the Secretary under section ___03(c)) may, in a civil action brought in United States district court, be subject, for each day on which the violation occurs or the failure to comply continues, to—

(1) an order for injunctive relief; or

(2) a civil penalty of not more than $50,000.

(b) ADMINISTRATIVE PENALTIES.—

(1) PENALTY ORDERS.—The Secretary may issue an administrative penalty of not more than $250,000 for failure to comply with an order issued by the Secretary under this title.

(2) NOTICE AND HEARING.—Before issuing an order described in paragraph (1), the Secretary shall provide to the person against which the penalty is to be assessed—

(A) written notice of the proposed order; and

(B) the opportunity to request, not later than 30 days after the date on which the person receives the notice, a hearing on the proposed order.

(3) PROCEDURES.—The Secretary may promulgate regulations outlining the procedures for administrative hearings and appropriate review, including necessary deadlines.

(c) TREATMENT OF INFORMATION IN JUDICIAL PROCEEDINGS.—Information submitted or obtained by the Secretary, information derived from that information, and information submitted by the Secretary under this title (except under section 011) shall be treated in any judicial or administrative action as if the information were classified material.

SEC. 08. PROVISION OF TRAINING.

The Secretary may provide training to State and local officials and owners and operators in furtherance of the purposes of this title.

SEC. 09. JUDICIAL REVIEW.

(a) REGULATIONS.—Not later than 60 days after the date of promulgation of a regulation under this title, any person may file a petition for judicial review relating to the regulation with—

(1) the United States Court of Appeals for the District of Columbia; or

(2) with the United States circuit court—

(A) having jurisdiction over the State in which the person resides; or

(B) for the circuit in which the principal place of business of the person is located.

(b) FINAL AGENCY ACTIONS OR ORDERS.—Not later than 60 days after the date on which a covered source receives notice of an action or order of the Secretary under this title with respect to the chemical source, the chemical source may file a petition for judicial review of the action or order with the United States district court for the district in which—

(1) the chemical source is located; or

(2) the owner or operator of the chemical source has a principal place of business.

(c) STANDARD OF REVIEW.—

(1) IN GENERAL.—On the filing of a petition under subsection (a) or (b), the court of jurisdiction shall review the regulation or other final action or order that is the subject of the petition in accordance with chapter 7 of title 5, United States Code.

(2) BASIS.—

(A) IN GENERAL.—Judicial review of a regulation, or of a final agency action or order described in paragraph (1) that is based on an administrative hearing held on the record, shall be based on the record of the proceedings, comments, and other information that the Secretary considered in promulgating the regulation, taking the action, or issuing the order being reviewed.

(B) OTHER ACTIONS AND ORDERS.—Judicial review of a final agency action or order described in paragraph (1) that is not described in subparagraph (A) shall be based on any submissions to the Secretary relating to the action or order, and any other information, that the Secretary considered in taking the action or issuing the order.

SEC. ___10. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

(a) IN GENERAL.—Except as provided in section ___03(i), nothing in this title affects any duty or other requirement imposed under any other Federal or State law.

(b) OTHER FEDERAL LAW.—

(1) IN GENERAL.—Notwithstanding subsection (a), a chemical source that is required to prepare a facility vulnerability assessment and implement a facility security plan under any another Federal law may petition the Secretary to be subject to the other Federal law in lieu of this title.

(2) DETERMINATION OF SUBSTANTIAL EQUIVALENCE.—If the Secretary determines that a Federal law covered by a petition submitted by a chemical source under paragraph (1) is substantially equivalent to this title—

(A) the Secretary may grant the petition; and

(B) the chemical source shall be subject to the other Federal law in lieu of this title.

SEC. 11. AGRICULTURAL BUSINESS SECURITY GRANT PROGRAM.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means a retail or production agricultural business (including a business that is engaged in the production or processing of seafood) that employs not more than such number of individuals at a chemical source included in the list described in section ___03(f)(1) as shall be determined by the Secretary, in consultation with the Administrator of the Small Business Administration and the Secretary of Agriculture.

(b) GRANTS.—The Secretary shall provide grants to an eligible entity that is a chemical source included in the list described in section ___03(f)(1) selected under this section to enable the eligible entity at the chemical source—

(1) to improve security measures; and

(2) to protect against or reduce the consequence of a terrorist attack.

(c) CRITERIA.—In establishing criteria for the selection of, or in otherwise selecting, eligible entities to receive a grant under this section, the Secretary shall—

(1) consider on an individual, location-by-location basis, each applicant for a grant; and

(2) require each eligible entity that receives a grant to use funds from the grant only for the purposes described in subsection (b) in accordance with guidance of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 3928. Mr. SESSIONS submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end add the following new title:

TITLE IV—OTHER MATTERS

SEC. 401. VISA REQUIREMENTS.

Section 222 of the Immigration and Nationality Act (22 U.S.C. 1202) is amended by adding at the end the following new subsection:

"(h) Every alien applying for a nonimmigrant visa shall, prior to obtaining such visa, swear or affirm an oath stating that—

"(1) while in the United States, the alien shall, adhere to the laws and to the Constitution of the United States;

"(2) while in the United States, the alien will not attempt to develop information for the purpose of threatening the national security of the United States or to bring harm to any citizen of the United States;

"(3) the alien is not associated with a terrorist organization;

"(4) the alien has not and will not receive any funds or other support to visit the United States from a terrorist organization;

"(5) all documents submitted to support the alien's application are valid and contain truthful information;

"(6) while in the United States, the alien will inform the appropriate authorities if the alien is approached or contacted by a member of a terrorist organization; and

"(7) the alien understands that the alien's visa shall be revoked and the alien shall be removed from the United States if the alien is found—

"(A) to have acted in a manner that is inconsistent with this oath; or

"(B) provided fraudulent information in order to obtain a visa.".

SA 3929. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; follows:

At the appropriate place, insert the following:

SEC. . RESTRICTION ON ISSUANCE OF MULTIPLE REPLACEMENT SOCIAL SECURITY CARDS.

(a) IN GENERAL.—Section 205(c)(2)(G) of the Social Security Act (42 U.S.C. 405(c)(2)(G)) is amended by adding at the end the following: "The Commissioner shall restrict the issuance of multiple replacement social security cards to any individual to not more than 3 per year and not more than 10 for the life of the individual, except in any case in which the Commissioner determines there is minimal opportunity for fraud.".

(b) RULEMAKING.—The Commissioner of Social Security shall issue regulations to carry out the amendment made by subsection (a) not later than 1 year after the date of enactment of this Act.

(c) EFFECTIVE DATE.—Systems controls developed by the Commissioner of Social Security pursuant to the amendment made by subsection (a) shall take effect upon the earlier of—

(1) the date of issuance of regulations under subsection (b); or

(2) the end of the 1-year period beginning on the date of enactment of this Act.

SA 3930. Mr. MCCONNELL (for himself and Mr. CORNYN) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. FIRST RESPONDER CITIZEN VOLUNTEER PROTECTION ACT.

(a) SHORT TITLE.—This section may be cited as the "First Responder Citizen Volunteer Protection Act".

(b) IMPORTANCE OF VOLUNTEERS.—Section 2(a) of the Volunteer Protection Act of 1997 (42 U.S.C. 14501(a)) is amended—

(1) in paragraph (6), by striking "and" after the semicolon;

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following:

"(7) since the attacks of September 11, 2001, the Federal Government has encouraged Americans to serve their country as citizen volunteers for programs such as the Volunteers in Police Service (VIPS), Medical Reserve Corps (MRC), Community Emergency Response Team (CERT), Neighborhood Watch, and Fire Corps, which help increase our homeland security preparedness and response, and which provide assistance to our fire, police, health, and medical personnel, and fellow citizens in the event of a natural or manmade disaster, terrorist attack, or act of war; and".

(c) Citizen Volunteer Program.—Section 6 of the Volunteer Protection Act of 1997 (42 U.S.C. 14505) is amended by adding at the end the following:

"(7) Governmental entity.—The term 'government entity' means for purposes of this Act—

"(A) Federal or State Government, including any political subdivision or agency thereof; and

"(B) a federally-established or funded citizen volunteer program, including those coordinated by the USA Freedom Corps established by Executive order 13254 (February 1, 2002), and the program's components and State and local affiliates.

SA 3931. Mr. McCONNELL (for himself, Mr. Santorum, and Mr. Cornyn) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___. VOLUNTEER FIREFIGHTER ASSISTANCE

SEC. 01. SHORT TITLE.

This title may be cited as the "Good Samaritan Volunteer Firefighter Assistance Act of 2004".

SEC. ___02. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) Liability Protection.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death proximately caused by the equipment after the donation.

(b) Exceptions.—Subsection (a) shall not apply to a person if—

(1) the person's act or omission proximately causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) Preemption.—This title preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this title shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) Definitions.—In this section:

(1) Person.—The term "person" includes any governmental or other entity.

(2) Fire control or rescue equipment.—The term "fire control or fire rescue equipment" includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) State.—The term "State" includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) Volunteer fire company.—The term "volunteer fire company" means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) Effective Date.—This title applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of enactment of this Act.

SEC. 3. STATE-BY-STATE REVIEW OF DONATION OF FIREFIGHTER EQUIPMENT.

(a) Review.—The Attorney General of the United States shall conduct a State-by-State review of the donation of firefighter equipment to volunteer firefighter companies during the 5-year period ending on the date of enactment of this Act.

(b) Report.

(1) In general.—Not later than 6 months after the date of enactment of this Act, the Attorney General of the United States shall publish and submit to Congress a report on the results of the review conducted under subsection (a).

(2) Contents.—The report published and submitted under paragraph (1) shall include, for each State—

(A) the most effective way to fund firefighter companies;

(B) whether first responder funding is sufficient to respond to the Nation's needs; and

(C) the best method to ensure that the equipment donated to volunteer firefighter companies is in usable condition.

SA 3932. Ms. SNOWE submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 153, between lines 2 and 3, insert the following:

SEC. 207. ALTERNATIVE ANALYSES OF INTELLIGENCE BY THE INTELLIGENCE COMMUNITY.

(a) Sense of Congress.—It is the sense of Congress that the National Intelligence Director should consider the advisability of establishing for each element of the intelligence community an element, office, or component whose purpose is the alternative analysis (commonly referred to as a "red-team analysis") of the information and conclusions in the intelligence products of such element of the intelligence community.

(b) Report.—(1) Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to Congress a report on the actions taken to establish for each element of the intelligence community an element, office, or component described in subsection (a).

(2) The report shall be submitted in an unclassified form, but may include a classified annex.

SA 3933. Ms. CANTWELL (for herself, Mr. Sessions, Mr. Schumer, and Mr. Kyl) submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . BIOMETRIC STANDARD FOR VISA APPLICATIONS.

(a) Short Title.—This section may be cited as the "Biometric Visa Standard Distant Borders Act".

(b) Technology Standard for Visa Waiver Participants.—Section 303(c) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(c)) is amended to read as follows:

"(c) Technology Standard for Visa Waiver Participants.—

"(1) In general.—Not later than October 26, 2005, the government of each country that is designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) shall certify, as a condition for designation or continuation of that designation, that the country has a program to issue to individuals seeking to enter that country pursuant to a visa issued by that country, a machine readable visa document that is tamper-resistant and incorporates biometric identification information that is verifiable at its port of entry, and compatible with the biometric identifiers collected by the United States Visitor and Immigrant Status Indicator Technology Program (US-VISIT).

"(2) Savings clause.—This subsection shall not be construed to rescind the requirement of section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)).".

SA 3934. Mr. GREGG submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, line 25, strike the period and insert "; and".

On page 7, after line 25, add the following:

(C) does not refer to the Office of Intelligence Policy and Review of the Department of Justice or to any program, project, or activity of the Federal Bureau of Investigation that is not under the direct control of the Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

On page 41, line 12, strike "Concurrence of" and insert "Consultation With".

On page 41, beginning on line 15, strike "obtain the concurrence of" and insert "consult with".

On page 41, beginning on line 19, strike "If the Director" and all that follows through line 25.

On page 42, strike line 10 and all that follows through line 25.

On page 85, beginning on line 10, strike "obtain the concurrence of" and insert "consult with".

On page 85, beginning on line 14, strike "If the Director" and all that follows through line 20.

On page 120, beginning on line 17, strike ", subject to the direction and control of the President,".

On page 121, line 13, strike "and analysts" and insert ", analysts, and related personnel".

On page 121, line 17, strike "and analysts" and insert ", analysts, and related personnel".

On page 121, line 19, strike "and analysts" and insert ", analysts, and related personnel".

On page 123, beginning on line 8, strike ", in consultation with the Director of the Office of Management and Budget, modify the" and insert "establish a".

On page 123, line 11, strike "in order to organize the budget according to" and insert "to reflect".

On page 123, strike line 4 through line 8.

SA 3935. Mr. WARNER submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

"(a) On page 209, after line 14, insert the following:

"(b) Not later than 180 days after the date of the enactment of this Act, the National Intelligence Director, in consultation with heads of departments containing elements of the intelligence community, shall submit to Congress an Implementation Plan for Intelligence Community Reform. The Implementation Plan shall include the following:

"(1) A detailed plan for how the authorities set forth in Title I Section 113 of this Act for the National Intelligence Program Budget and resources will be implemented, including but not limited to (a) the process for development of budgets, allocation of resources, transfer of personnel and reprogramming; (b) specific lines of authority and reporting that will be used in these processes; and (c) identification of potential obstacles or legal issues with implementation;

"(2) A detailed description of how the National Intelligence Director and the National Intelligence Authority will interact with the Secretary of Defense and Department of Defense on intelligence issues. In particular this shall describe what elements of the DoD will be subject to the authority that this Act provides the National Intelligence Director, how that authority will be exercised, and how disagreements about the exercise of that authority will be resolved. In addition, this shall describe how the National Intelligence Director will assure that combat forces will continue to receive optimal intelligence support under the new structure established by this Act.

"(3) A detailed description of how the National Intelligence Director and the National Intelligence Authority will interact with the Attorney General, the Director of the FBI, and the FBI on intelligence issues. In particular this shall describe what elements of the FBI will be subject to the authority that this Act provides the National Intelligence Director, how that authority will be exercised, and how disagreements about the exercise of that authority will be resolved. In addition, this shall describe how the authority that this Act provides the National Intelligence Director will be exercised consistent with the responsibility of the Attorney General to oversee activities of the FBI.

"(4) A detailed description of precisely how the authorities and responsibilities of the new National Counterterrorism Center established by this Act are being implemented, including mechanisms for merging domestic and foreign information and authorities for tasking or direction of intelligence collection and how those mechanisms protect the civil liberties of U.S. Persons.

"(5) A detailed description of steps the National Intelligence Director will take to address the quality and independence of analysis within the new structure established by this Act.

"(6) A detailed description of the roles of the National Intelligence Authority staff officers created in Title I Sections 124–131 of this Act and how those officers interact with each other and other government departments and agencies.

"The National Intelligence Director shall submit the Implementation Plan to the Congress.".

"(b) Insert "(a)" before "Not later" in line 7 of page 209.

SA 3936. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 125, between lines 13 and 14, insert the following:

(c) Establishment of Senior Intelligence Service.—

(1) In general.—The Director of the Federal Bureau of Investigation, in consultation with the Director of the Office of Personnel Management, may—

(A) establish a Senior Intelligence Service within the Federal Bureau of Investigation in order to meet the intelligence obligations of the Federal Bureau of Investigation; and

(B) appoint individuals to positions in the Senior Intelligence Service.

(2) Regulations.—The Director of the Federal Bureau of Investigation shall prescribe regulations for purposes of paragraph (1), which regulations shall be consistent with personnel authorities and practices established pursuant to section 3151 of title 5, United States Code.

(d) Establishment of Intelligence Senior Level Positions.—The Director of the Federal Bureau of Investigation, in consultation with the Director of the Office of Personnel Management, may—

(1) establish Intelligence Senior Level positions within the Federal Bureau of Investigation in order to meet the intelligence obligations of the Federal Bureau of Investigation, which positions may be classified to rates of pay payable for grades above grade GS–15 of the General Schedule; and

(2) appoint individuals to such Intelligence Senior Level positions.

On page 125, line 14, strike "(c)" and insert "(e)".

On page 126, line 5, strike "(d)" and insert "(f)".

SA 3937. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, insert the following new title:

TITLE IV—IMMIGRATION

SEC. 401. JUDICIAL REVIEW OF ORDERS OF REMOVAL.

(a) In General.—Section 242 of the Immigration and Nationality Act (8 U.S.C. 1252) is amended—

(1) in subsection (a)—

(A) in paragraph (2)—

(i) in subparagraphs (A), (B), and (C), by inserting "(statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code" after "Notwithstanding any other provision of law"; and

(ii) by adding at the end the following:

"(D) Judicial review of certain legal claims.—Nothing in this paragraph shall be construed as precluding consideration by the circuit courts of appeals of constitutional claims or pure questions of law raised upon petitions for review filed in accordance with this section. Notwithstanding any other provision of law (statutory and nonstatutory), including section 2241 of title 28, United States Code, or, except as provided in subsection (e), any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, such petitions for review shall be the sole and exclusive means of raising any and all claims with respect to orders of removal entered or issued under any provision of this Act."; and

(B) by adding at the end the following:

"(4) Claims under the United Nations Convention.—Notwithstanding any other provision of law (statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections 1361 and 1651 of title 28, United States Code, a petition for review by the circuit courts of appeals filed in accordance with this section is the sole and exclusive means of judicial review of claims arising under the United Nations Convention Against Torture and Other Forms of Cruel, Inhuman, or Degrading Treatment or Punishment.

"(5) Exclusive means of review.—The judicial review specified in this subsection shall be the sole and exclusive means for review by any court of an order of removal entered or issued under any provision of this Act. For purposes of this title, in every provision that limits or eliminates judicial review or jurisdiction to review, the terms 'judicial review' and 'jurisdiction to review' include habeas corpus review pursuant to section 2241 of title 28, United States Code, or any other habeas corpus provision, sections 1361 and 1651 of title 28, United States Code, and review pursuant to any other provision of law.";

(2) in subsection (b)—

(A) in paragraph (3)(B), by inserting "pursuant to subsection (f)" after "unless"; and

(B) in paragraph (9), by adding at the end the following: "Except as otherwise provided in this subsection, no court shall have jurisdiction, by habeas corpus under section 2241 of title 28, United States Code, or any other habeas corpus provision, by section 1361 or 1651 of title 28, United States Code, or by any other provision of law (statutory or nonstatutory), to hear any cause or claim subject to these consolidation provisions.";

(3) in subsection (f)(2), by inserting "or stay, by temporary or permanent order, including stays pending judicial review," after "no court shall enjoin"; and

(4) in subsection (g), by inserting "(statutory and nonstatutory), including section 2241 of title 28, United States Code, or any other habeas corpus provision, and sections

1361 and 1651 of title 28, United States Code" after "notwithstanding any other provision of law".

(b) Applicability.—The amendments made by subsection (a) shall apply only to an alien who has been convicted of an offense that is related to terrorism and that is described in section 2332b(g)(5)(B) of title 18, United States Code.

(c) Effective Date.—Notwithstanding section 341 or any other provision of this Act, this section and the amendments made by this section shall take effect on the date of the enactment of this Act and shall apply to cases in which the final administrative removal order was issued before, on, or after the date of enactment of this Act.

SEC. 402. ADDITIONAL REMOVAL AUTHORITIES.

(a) In General.—Section 241(b) of the Immigration and Nationality Act (8 U.S.C. 1231(b)) is amended—

(1) in paragraph (1)—

(A) in each of subparagraphs (A) and (B), by striking the period at the end and inserting "unless, in the opinion of the Secretary of Homeland Security, removing the alien to such country would be prejudicial to the United States."; and

(B) by amending subparagraph (C) to read as follows:

"(C) Alternative countries.—If the alien is not removed to a country designated in subparagraph (A) or (B), the Secretary of Homeland Security shall remove the alien to—

"(i) the country of which the alien is a citizen, subject, or national, where the alien was born, or where the alien has a residence, unless the country physically prevents the alien from entering the country upon the alien's removal there; or

"(ii) any country whose government will accept the alien into that country."; and

(2) in paragraph (2)—

(A) by striking "Attorney General" each place such term appears and inserting "Secretary of Homeland Security";

(B) by amending subparagraph (D) to read as follows:

"(D) Alternative countries.—If the alien is not removed to a country designated under subparagraph (A)(i), the Secretary of Homeland Security shall remove the alien to a country of which the alien is a subject, national, or citizen, where the alien was born, or where the alien has a residence, unless—

"(i) such country physically prevents the alien from entering the country upon the alien's removal there; or

"(ii) in the opinion of the Secretary of Homeland Security, removing the alien to the country would be prejudicial to the United States."; and

(C) by amending subparagraph (E)(vii) to read as follows:

"(vii) Any country whose government will accept the alien into that country.".

(b) Applicability.—The amendments made by subsection (a) shall apply only to a case involving an alien who has been convicted of an offense that is related to terrorism and that is described in section 2332b(g)(5)(B) of title 18, United States Code.

(c) Effective Date.—Notwithstanding section 341 or any other provision of this Act, the amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall apply to any deportation, exclusion, or removal on or after such date pursuant to any deportation, exclusion, or removal order, regardless of whether such order is administratively final before, on, or after such date.

SEC. 403. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect on the date of the enactment of this Act.

SA 3938. Mr. HATCH (for himself and Mr. Kyl) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. . FEDERAL COLLATERAL REVIEW OF CONVICTIONS FOR KILLING PUBLIC SAFETY OFFICER.

(a) Short Title.—This section may be cited as the "Public Safety Officers' Defense Act".

(b) Substantive Limits.—Section 2254 of title 28, United States Code, is amended by adding at the end the following:

"(j) Crimes Against Public Safety Officer.—

"(1) Definition of public safety officer.—In this subsection, the term 'public safety officer' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b).

"(2) In general.—A court, justice, or judge shall not have jurisdiction to consider any claim relating to the judgment or sentence in an application described under paragraph (3), unless the applicant shows that the claim qualifies for consideration on the grounds described in subsection (e)(2). Any such application that is presented to a court, justice, or judge other than a district court shall be transferred to the appropriate district court for consideration or dismissal in conformity with this subsection, except that a court of appeals panel must authorize any second or successive application in conformity with section 2244 prior to any consideration by the district court.

"(3) Application of subsection.—This subsection shall apply to an application for a writ of habeas corpus on behalf of a person in custody pursuant to the judgment of a State court for a crime that involved the killing of a public safety officer while the public safety officer was engaged in the performance of official duties, or on account of the public safety officer's performance of official duties.".

(c) Time Limits.—Section 2254(j) of title 28, United States Code, as added by subsection (b), is amended by adding at the end the following:

"(4) Time limits in district court.—For any application described under paragraph (3), in the district court the following shall apply:

"(A) Any motion by either party for an evidentiary hearing shall be filed and served not later than 90 days after the State files its answer or, if no timely answer is filed, the date on which such answer is due.

"(B) Any motion for an evidentiary hearing shall be granted or denied not later than 30 days after the date on which the party opposing such motion files a pleading in opposition to such motion or, if no timely pleading in opposition is filed, the date on which such pleading in opposition is due.

"(C) Any evidentiary hearing shall be—

"(i) convened not less than 60 days after the order granting such hearing; and

"(ii) completed not more than 150 days after the order granting such hearing.

"(D) A district court shall enter a final order, granting or denying the application for a writ of habeas corpus, not later than 15 months after the date on which the State files its answer or, if no timely answer is filed, the date on which such answer is due, or not later than 60 days after the case is submitted for decision, whichever is earlier.

"(E) If the district court fails to comply with the requirements of this paragraph, the State may petition the court of appeals for a writ of mandamus to enforce the requirements. The court of appeals shall grant or deny the petition for a writ of mandamus not later than 30 days after such petition is filed with the court.

"(5) Time limits in court of appeals.—For any application described under paragraph (3), in the court of appeals the following shall apply:

"(A) A timely filed notice of appeal from an order issuing a writ of habeas corpus shall operate as a stay of that order pending final disposition of the appeal.

"(B) The court of appeals shall decide the appeal from an order granting or denying a writ of habeas corpus—

"(i) not later than 120 days after the date on which the brief of the appellee is filed or, if no timely brief is filed, the date on which such brief is due; or

"(ii) if a cross-appeal is filed, not later than 120 days after the date on which the appellant files a brief in response to the issues presented by the cross-appeal or, if no timely brief is filed, the date on which such brief is due.

"(C)(i) Following a decision by a panel of the court of appeals under subparagraph (B), a petition for panel rehearing is not allowed, but rehearing by the court of appeals en banc may be requested. The court of appeals shall decide whether to grant a petition for rehearing en banc not later than 30 days after the date on which the petition is filed, unless a response is required, in which case the court shall decide whether to grant the petition not later than 30 days after the date on which the response is filed or, if no timely response is filed, the date on which the response is due.

"(ii) If rehearing en banc is granted, the court of appeals shall make a final determination of the appeal not later than 120 days after the date on which the order granting rehearing en banc is entered.

"(D) If the court of appeals fails to comply with the requirements of this paragraph, the State may petition the Supreme Court or a justice thereof for a writ of mandamus to enforce the requirements.

"(6) Application of time limits.—

"(A) In general.—The time limitations under paragraphs (4) and (5) shall apply to an initial application described under paragraph (3), any second or successive application described under paragraph (3), and any redetermination of an application described under paragraph (3) or related appeal following a remand by the court of appeals or the Supreme Court for further proceedings.

"(B) Remand in district court.—In proceedings following remand in the district court, time limits running from the time the State files its answer under paragraph (4) shall run from the date the remand is ordered if further briefing is not required in the district court. If there is further briefing following remand in the district court, such time limits shall run from the date on which a responsive brief is filed or, if no timely responsive brief is filed, the date on which such brief is due.

"(C) Remand in Court of Appeals.—In proceedings following remand in the court of appeals, the time limit specified in paragraph (5)(B) shall run from the date the remand is ordered if further briefing is not required in the court of appeals. If there is further briefing in the court of appeals, the time limit specified in paragraph (5)(B) shall run from the date on which a responsive brief is filed or, if no timely responsive brief is filed, from the date on which such brief is due.

"(7) Failure to comply.—The failure of a court to meet or comply with a time limitation under this subsection shall not be a ground for granting relief from a judgment of conviction or sentence, nor shall the time limitations under this subsection be construed to entitle a capital applicant to a stay of execution, to which the applicant would otherwise not be entitled, for the purpose of litigating any application or appeal.".

(d) Application to Pending Cases.—

(1) In general.—The amendments made by this section shall apply to cases pending on or after the date of enactment of this Act.

(2) Time limits.—In a case pending on the date of enactment of this Act, if the amendments made by this section provide that a time limit runs from an event or time that has occurred prior to such date of enactment, the time limit shall run instead from such date of enactment.

SA 3939. Mr. HARKIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place in the bill, add:

It is the Sense of the Senate that the United States should support and uphold the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment.

SA 3940. Mr. HATCH submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PENALTIES FOR STOWAWAYS.

Section 2199 of title 18, United States Code, is amended by striking "Shall be fined under this title or imprisoned not more than one year or both." and inserting the following:

"Shall be fined under this title or imprisoned not more than 5 years or both;

"If serious bodily injury occurs (as defined in section 1365 of this title, including any conduct that, if the conduct occurred in the special maritime and territorial jurisdiction of the United States, would violate section 2241 or 2242 of this title) to any person other than a participant as a result of a violation of this section, be fined under this title or imprisoned not more than 20 years, or both; and

"If death to any person other than a participant occurs as a result of a violation of this section, be fined under this title or imprisoned for any number of years up to life, or both.".

SA 3941. Mr. GRAHAM of Florida submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

28 U.S.C. §1605(A): A foreign state shall not be immune from the jurisdiction of courts of the United States or of the States in any case—

2. * * *

(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act or the act is related to Case Number 1:00CV03110(EGS) in the United States District Court for the District of Columbia or to the September 11, 2001 terrorist attacks against the World Trade Center, the Pentagon and other targets in the United States;

* * *

18 U.S.C. §2332f(e). As used in this section, the term—

(2) "national of the United States" (i) has the meaning given that term in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)) and (ii) means an organization which is incorporated or chartered or has its principal place of business in the United States;

SA 3942. Mr. LIEBERMAN (for Mr. McCain (for himself, and Mr. Lieberman, and Mr. Bayh,)) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE —THE ROLE OF DIPLOMACY, FOREIGN AID, AND THE MILITARY IN THE WAR ON TERRORISM

SEC. 01. FINDINGS.

Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Long-term success in the war on terrorism demands the use of all elements of national power, including diplomacy, military action, intelligence, covert action, law enforcement, economic policy, foreign aid, public diplomacy, and homeland defense.

(2) To win the war on terrorism, the United States must assign to economic and diplomatic capabilities the same strategic priority that is assigned to military capabilities.

(3) The legislative and executive branches of the Government of the United States must commit to robust, long-term investments in all of the tools necessary for the foreign policy of the United States to successfully accomplish the goals of the United States.

(4) The investments referred to in paragraph (3) will require increased funding to United States foreign affairs programs in general, and to priority areas as described in this title in particular.

SEC. 02. TERRORIST SANCTUARIES.

(a) Findings.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Complex terrorist operations require locations that provide such operations sanctuary from interference by government or law enforcement personnel.

(2) A terrorist sanctuary existed in Afghanistan before September 11, 2001.

(3) The terrorist sanctuary in Afghanistan provided direct and indirect value to members of al Qaeda who participated in the terrorist attacks on the United States on September 11, 2001, and in other terrorist operations.

(4) Terrorist organizations have fled to some of the least governed and most lawless places in the world to find sanctuary.

(5) During the 21st century, terrorists are focusing on remote regions and failing states as locations to seek sanctuary.

(b) Sense of Congress.—It is the sense of Congress that—

(1) the United States Government should identify and prioritize locations that are or that could be used as terrorist sanctuaries;

(2) the United States Government should have a realistic strategy that includes the use of all elements of national power to keep possible terrorists from using a location as a sanctuary; and

(3) the United States Government should reach out, listen to, and work with countries in bilateral and multilateral fora to prevent locations from becoming sanctuaries and to prevent terrorists from using locations as sanctuaries.

SEC. ___03. ROLE OF PAKISTAN IN COUNTERING TERRORISM.

(a) Findings.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The Government of Pakistan has a critical role to perform in the struggle against Islamist terrorism.

(2) The endemic poverty, widespread corruption, and frequent ineffectiveness of government in Pakistan create opportunities for Islamist recruitment.

(3) The poor quality of-education in Pakistan is particularly worrying, as millions-of families send their children to madrassahs, some of which have been used as incubators for violent extremism.

(4) The vast unpoliced regions in Pakistan make the country attractive to extremists seeking refuge and recruits and also provide a base for operations against coalition forces in Afghanistan.

(5) A stable Pakistan, with a moderate, responsible government that serves as a voice of tolerance in the Muslim world, is critical to stability in the region.

(6) There is a widespread belief among the people of Pakistan that the United States has long treated them as allies of convenience.

(b) Sense of Congress.—It is the sense of Congress that—

(1) the United States should make a long-term commitment to fostering a stable and

secure future in Pakistan, as long as its leaders remain committed to combatting extremists and extremism, ending the proliferation of weapons of mass destruction, securing its borders, and gaining internal control of all its territory while pursuing policies that strengthen civil society, promote moderation and advance socio-economic progress;

(2) Pakistan should make sincere efforts to transition to democracy, enhanced rule of law, and robust civil institutions, and United States policy toward Pakistan should promote such a transition;

(3) the United States assistance to Pakistan should be maintained at the overall levels requested by the President for fiscal year 2005;

(4) the United States should support the Government of Pakistan with a comprehensive effort that extends from military aid to support for better education;

(5) the United States Government should devote particular attention and resources to assisting in the improvement of the quality of education in Pakistan; and

(6) the Government of Pakistan should devote additional resources of such Government to expanding and improving modern public education in Pakistan.

SEC. 04. AID TO AFGHANISTAN.

(a) Findings.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) The United States and its allies in the international community have made progress in promoting economic and political reform within Afghanistan, including the establishment of a central government with a democratic constitution, a new currency, and a new army, the increase of personal freedom, and the elevation of the standard of living of many Afghans.

(2) A number of significant obstacles must be overcome if Afghanistan is to become a secure and prosperous democracy, and such a transition depends in particular upon—

(A) improving security throughout the country;

(B) disarming and demobilizing militias;

(C) curtailing the rule of the warlords;

(D) promoting equitable economic development;

(E) protecting the human rights of the people of Afghanistan;

(F) holding elections for public office; and

(G) ending the cultivation and trafficking of narcotics.

(3) The United States and the international community must make a long-term commitment to addressing the deteriorating security situation in Afghanistan and the burgeoning narcotics trade, endemic poverty, and other serious problems in Afghanistan in order to prevent that country from relapsing into a sanctuary for international terrorism.

(b) Sense of Congress.—

(1) Actions for Afghanistan.—It is the sense of Congress that the Government of the United States should take, with respect to Afghanistan, the following actions:

(A) Working with other nations to obtain long-term security, political, and financial commitments and fulfillment of pledges to the Government of Afghanistan to accomplish the objectives of the Afghanistan Freedom Support Act of 2002 (22 U.S.C. 7501 et seq.), especially to ensure a secure, democratic, and prosperous Afghanistan that respects the rights of its citizens and is free of international terrorist organizations.

(B) Using the voice and vote of the United States in relevant international organizations, including the North Atlantic Treaty Organization and the United Nations Security Council, to strengthen international commitments to assist the Government of Afghanistan in enhancing security, building national police and military forces, increasing counter-narcotics efforts, and expanding infrastructure and public services throughout the country.

(C) Taking appropriate steps to increase the assistance provided under programs of the Department of State and the United States Agency for International Development throughout Afghanistan and to increase the number of personnel of those agencies in Afghanistan as necessary to support the increased assistance.

(2) Revision of Afghanistan Freedom Support Act of 2002.—It is the sense of Congress that Congress should, in consultation with the President, update and revise, as appropriate, the Afghanistan Freedom Support Act of 2002.

(c) Authorization of Appropriations.—

(1) In general.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to provide assistance for Afghanistan, unless otherwise authorized by Congress, for the following purposes:

(A) For development assistance under sections 103, 105, and 106 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151a, 2151c, and 2151d).

(B) For children's health programs under the Child Survival and Health Program Fund under section 104 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151b).

(C) For economic assistance under the Economic Support Fund under chapter 4 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2346 et seq.).

(D) For international narcotics and law enforcement under section 481 of the Foreign Assistance Act of 1961 (22 U.S.C. 2291).

(E) For nonproliferation, anti-terrorism, demining, and related programs.

(F) For international military education and training under section 541 of the Foreign Assistance Act of 1961 (22 U.S.C. 2347).

(G) For Foreign Military Financing Program grants under section 23 of the Arms Export Control Act (22 U.S.C. 2763).

(H) For peacekeeping operations under section 551 of the Foreign Assistance Act of 1961 (22 U.S.C. 2348).

(2) Conditions for assistance.—Assistance provided by the President under this subsection—

(A) shall be consistent with the Afghanistan Freedom Support Act of 2002; and

(B) shall be provided with reference to the "Securing Afghanistan's Future" document published by the Government of Afghanistan.

SEC. 05. THE UNITED STATES-SAUDI ARABIA RELATIONSHIP.

(a) Findings.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Despite a long history of friendly relations with the United States, Saudi Arabia has been a problematic ally in combating Islamist extremism.

(2) Cooperation between the Governments of the United States and Saudi Arabia has traditionally been carried out in private.

(3) Counterterrorism cooperation between the Governments of the United States and Saudi Arabia has improved significantly since the terrorist bombing attacks in Riyadh, Saudi Arabia, on May 12, 2003, especially cooperation to combat terror groups operating inside Saudi Arabia.

(4) The Government of Saudi Arabia is now pursuing al Qaeda within Saudi Arabia and has begun to take some modest steps toward internal reform.

(5) Nonetheless, the Government of Saudi Arabia has been at times unresponsive to United States requests for assistance in the global war on Islamist terrorism.

(6) The Government of Saudi Arabia has not done all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

(b) Sense of Congress.—It is the sense of Congress that—

(1) the problems in the relationship between the United States and Saudi Arabia must be confronted openly, and the opportunities for cooperation between the countries must be pursued openly by those governments;

(2) both governments must build a relationship that they can publicly defend and that is based on other national interests in addition to their national interests in oil;

(3) this relationship should include a shared commitment to political and economic reform in Saudi Arabia;

(4) this relationship should also include a shared interest in greater tolerance and respect for other cultures in Saudi Arabia and a commitment to fight the violent extremists who foment hatred in the Middle East; and

(5) the Government of Saudi Arabia must do all it can to prevent nationals of Saudi Arabia from funding and supporting extremist organizations in Saudi Arabia and other countries.

SEC. 06. EFFORTS TO COMBAT ISLAMIST TERRORISM.

(a) Findings.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While support for the United States has plummeted in the Islamic world, many negative views are uninformed, at best, and, at worst, are informed by coarse stereotypes and caricatures.

(2) Local newspapers in Islamic countries and influential broadcasters who reach Islamic audiences through satellite television often reinforce the idea that the people and Government of the United States are anti-Muslim.

(b) Sense of Congress.—It is the sense of Congress that—

(1) the Government of the United States should offer an example of moral leadership in the world that includes a commitment to treat all people humanely, abide by the rule of law, and be generous to the people and governments of other countries;

(2) the United States should cooperate with governments of Islamic countries to foster agreement on respect for human dignity and opportunity, and to offer a vision of a better future that includes stressing life over death, individual educational and economic opportunity, widespread political participation, contempt for indiscriminate violence, respect for the rule of law, openness in discussing differences, and tolerance for opposing points of view;

(3) the United States should encourage reform, freedom, democracy, and opportunity for Arabs and Muslims and promote moderation in the Islamic world; and

(4) the United States should work to defeat extremist ideology in the Islamic world by providing assistance to moderate Arabs and Muslims to combat extremist ideas.

SEC. ___07. UNITED STATES POLICY TOWARD DICTATORSHIPS.

(a) FINDING.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress finds that short-term gains enjoyed by the United States through cooperation with repressive dictatorships have often been outweighed by long-term setbacks for the stature and interests of the United States.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) United States foreign policy should promote the value of life and the importance of individual educational and economic opportunity, encourage widespread political participation, condemn indiscriminate violence, and promote respect for the rule of law, openness in discussing differences among people, and tolerance for opposing points of view; and

(2) the United States Government must prevail upon the governments of all predominantly Muslim countries, including those that are friends and allies of the United States, to condemn indiscriminate violence, promote the value of life, respect and promote the principles of individual education and economic opportunity, encourage widespread political participation, and promote the rule of law, openness in discussing differences among people, and tolerance for opposing points of view.

SEC. ___08. PROMOTION OF UNITED STATES VALUES THROUGH BROADCAST MEDIA.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Although the United States has demonstrated and promoted its values in defending Muslims against tyrants and criminals in Somalia, Bosnia, Kosovo, Afghanistan, and Iraq, this message is not always clearly presented and understood in the Islamic world.

(2) If the United States does not act to vigorously define its message in the Islamic world, the image of the United States will be defined by Islamic extremists who seek to demonize the United States.

(3) Recognizing that many Arab and Muslim audiences rely on satellite television and radio, the United States Government has launched promising initiatives in television and radio broadcasting to the Arab world, Iran, and Afghanistan.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the United States must do more to defend and promote its values and ideals to the broadest possible audience in the Islamic world;

(2) United States efforts to defend and promote these values and ideals are beginning to ensure that accurate expressions of these values reach large audiences in the Islamic world and should be robustly supported;

(3) the United States Government could and should do more to engage the Muslim world in the struggle of ideas; and

(4) the United States Government should more intensively employ existing broadcast media in the Islamic world as part of this engagement.

(c) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to the President for each of the fiscal years 2005 through 2009 such sums as may be necessary to carry out United States Government broadcasting activities under the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.), the United States International Broadcasting Act of 1994 (22 U.S.C. 6201 et seq.), and the Foreign Affairs Reform and Restructuring Act of 1998 (22 U.S.C. 6501 et seq.), and to carry out other activities under this section consistent with the purposes of such Acts, unless otherwise authorized by Congress.

SEC. ___09. EXPANSION OF UNITED STATES SCHOLARSHIP AND EXCHANGE PROGRAMS IN THE ISLAMIC WORLD.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Exchange, scholarship, and library programs are effective ways for the United States Government to promote internationally the values and ideals of the United States.

(2) Exchange, scholarship, and library programs can expose young people from other countries to United States values and offer them knowledge and hope.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States should expand its exchange, scholarship, and library programs, especially those that benefit people in the Arab and Muslim worlds.

(c) AUTHORITY TO EXPAND EDUCATIONAL AND CULTURAL EXCHANGES.—The President is authorized to substantially expand the exchange, scholarship, and library programs of the United States, especially such programs that benefit people in the Arab and Muslim worlds.

(d) AVAILABILITY OF FUNDS.—Of the amounts authorized to be appropriated for educational and cultural exchange programs in each of the fiscal years 2005 through 2009, there is authorized to be made available to the Secretary of State such sums as may be necessary to carry out programs under this section, unless otherwise authorized by Congress.

SEC. ___10. INTERNATIONAL YOUTH OPPORTUNITY FUND.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Education that teaches tolerance, the dignity and value of each individual, and respect for different beliefs is a key element in any global strategy to eliminate Islamist terrorism.

(2) Education in the Middle East about the world outside that region is weak.

(3) The United Nations has rightly equated literacy with freedom.

(4) The international community is moving toward setting a concrete goal of reducing by half the illiteracy rate in the Middle East by 2010, through the implementation of education programs targeting women and girls and programs for adult literacy, and by other means.

(5) To be effective, efforts to improve education in the Middle East must also include—

(A) support for the provision of basic education tools, such as textbooks that translate more of the world's knowledge into local languages and local libraries to house such materials; and

(B) more vocational education in trades and business skills.

(6) The Middle East can benefit from some of the same programs to bridge the digital divide that already have been developed for other regions of the world.

(b) INTERNATIONAL YOUTH OPPORTUNITY FUND.—

(1) ESTABLISHMENT.—The President shall establish an International Youth Opportunity Fund to provide financial assistance for the improvement of public education in the Middle East.

(2) INTERNATIONAL PARTICIPATION.—The President shall seek the cooperation of the international community in establishing and generously supporting the Fund.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the President for the establishment of the International Youth Opportunity Fund, in addition to any amounts otherwise available for such purpose, such sums as may be necessary for each of the fiscal years 2005 through 2009, unless otherwise authorized by Congress.

SEC. ___11. THE USE OF ECONOMIC POLICIES TO COMBAT TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While terrorism is not caused by poverty, breeding grounds for terrorism are created by backward economic policies and repressive political regimes.

(2) Policies that support economic development and reform also have political implications, as economic and political liberties are often linked.

(3) The United States is working toward creating a Middle East Free Trade Area by 2013 and implementing a free trade agreement with Bahrain, and free trade agreements exist between the United States and Israel and the United States and Jordan.

(4) Existing and proposed free trade agreements between the United States and Islamic countries are drawing interest from other countries in the Middle East region, and Islamic countries can become full participants in the rules-based global trading system, as the United States considers lowering its barriers to trade with the poorest Arab countries.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a comprehensive United States strategy to counter terrorism should include economic policies that encourage development, open societies, and opportunities for people to improve the lives of their families and to enhance prospects for their children's future;

(2) one element of such a strategy should encompass the lowering of trade barriers with the poorest countries that have a significant population of Arab or Muslim individuals;

(3) another element of such a strategy should encompass United States efforts to promote economic reform in countries that have a significant population of Arab or Muslim individuals, including efforts to integrate such countries into the global trading system; and

(4) given the importance of the rule of law in promoting economic development and attracting investment, the United States should devote an increased proportion of its assistance to countries in the Middle East to the promotion of the rule of law.

SEC. ___12. MIDDLE EAST PARTNERSHIP INITIATIVE.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for each of the fiscal years 2005 through 2009 such sums as may be necessary for the Middle East Partnership Initiative, unless otherwise authorized by Congress.

(b) SENSE OF CONGRESS.—It is the sense of Congress that, given the importance of the rule of law and economic reform to development in the Middle East, a significant portion of the funds authorized to be appropriated under subsection (a) should be made available to promote the rule of law in the Middle East.

SEC. 13. COMPREHENSIVE COALITION STRATEGY FOR FIGHTING TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Almost every aspect of the counterterrorism strategy of the United States relies on international cooperation.

(2) Since September 11, 2001, the number and scope of United States Government contacts with foreign governments concerning counterterrorism have expanded significantly, but such contacts have often been ad hoc and not integrated as a comprehensive and unified approach.

(b) INTERNATIONAL CONTACT GROUP ON COUNTERTERRORISM.—

(1) SENSE OF CONGRESS.—It is the sense of Congress that the President—

(A) should seek to engage the leaders of the governments of other countries in a process of advancing beyond separate and uncoordinated national counterterrorism strategies to develop with those other governments a comprehensive coalition strategy to fight Islamist terrorism; and

(B) to that end, should seek to establish an international counterterrorism policy contact group with the leaders of governments providing leadership in global counterterrorism efforts and governments of countries with sizable Muslim populations, to be used as a ready and flexible international means for discussing and coordinating the development of important counterterrorism policies by the participating governments.

(2) AUTHORITY.—The President is authorized to establish an international counterterrorism policy contact group with the leaders of governments referred to in paragraph (1) for purposes as follows:

(A) To develop in common with such other countries important policies and a strategy that address the various components of international prosecution of the war on terrorism, including policies and a strategy that address military issues, law enforcement, the collection, analysis, and dissemination of intelligence, issues relating to interdiction of travel by terrorists, counterterrorism-related customs issues, financial issues, and issues relating to terrorist sanctuaries.

(B) To address, to the extent (if any) that the President and leaders of other participating governments determine appropriate, such long-term issues as economic and political reforms that can contribute to strengthening stability and security in the Middle East.

SEC. 14. TREATMENT OF FOREIGN PRISONERS.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Carrying out the global war on terrorism requires the development of policies with respect to the detention and treatment of captured international terrorists that are adhered to by all coalition forces.

(2) Article 3 of the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316) was specifically designed for cases in which the usual rules of war do not apply, and the minimum standards of treatment pursuant to such Article are generally accepted throughout the world as customary international law.

(b) POLICY.—The policy of the United States is as follows:

(1) It is the policy of the United States to treat all foreign persons captured, detained, interned or otherwise held in the custody of the United States (hereinafter "prisoners") humanely and in accordance with standards that the United States would consider legal if perpetrated by the enemy against an American prisoner.

(2) It is the policy of the United States that all officials of the United States are bound both in wartime and in peacetime by the legal prohibition against torture, cruel, inhuman or degrading treatment.

(3) If there is any doubt as to whether prisoners are entitled to the protections afforded by the Geneva Conventions, such prisoners shall enjoy the protections of the Geneva Conventions until such time as their status can be determined pursuant to the procedures authorized by Army Regulation 190-8, Section 1-6.

(4) It is the policy of the United States to expeditiously prosecute cases of terrorism or other criminal acts alleged to have been committed by prisoners in the custody of the United States Armed Forces at Guantanamo Bay, Cuba, in order to avoid the indefinite detention of prisoners, which is contrary to the legal principles and security interests of the United States.

(c) REPORTING.—The Department of Defense shall submit to the appropriate congressional committees:

(1) A quarterly report providing the number of prisoners who were denied Prisoner of War (POW) status under the Geneva Conventions and the basis for denying POW status to each such prisoner.

(2) A report setting forth—

(A) the proposed schedule for military commissions to be held at Guantanamo Bay, Cuba; and

(B) the number of individuals currently held at Guantanamo Bay, Cuba, the number of such individuals who are unlikely to face a military commission in the next six months, and each reason for not bringing such individuals before a military commission.

(3) All International Committee of the Red Cross reports, completed prior to the enactment of this Act, concerning the treatment of prisoners in United States custody at Guantanamo Bay, Cuba, Iraq, and Afghanistan. Such ICRC reports should be provided, in classified form, not later than 15 days after enactment of this Act.

(4) A report setting forth all prisoner interrogation techniques approved by officials of the United States.

(d) ANNUAL TRAINING REQUIREMENT.—The Department of Defense shall certify that all Federal employees and civilian contractors engaged in the handling or interrogating of prisoners have fulfilled an annual training requirement on the laws of war, the Geneva Conventions and the obligations of the United States under international humanitarian law.

(e) PROHIBITION ON TORTURE OR CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—

(1) IN GENERAL.—No prisoner shall be subject to torture or cruel, inhumane, or degrading treatment or punishment that is prohibited by the Constitution, laws, or treaties of the United States.

(2) RELATIONSHIP TO GENEVA CONVENTIONS.—Nothing in this section shall affect the status of any person under the Geneva Conventions or whether any person is entitled to the protections of the Geneva Conventions.

(f) RULES, REGULATIONS, AND GUIDELINES.—

(1) REQUIREMENT.—Not later than 180 days after the date of the enactment of this Act, the Secretary and the Director shall prescribe the rules, regulations, or guidelines necessary to ensure compliance with the prohibition in subsection (e)(1) by all personnel of the United States Government and by any person providing services to the United States Government on a contract basis.

(2) REPORT TO CONGRESS.—The Secretary and the Director shall submit to Congress the rules, regulations, or guidelines prescribed under paragraph (1), and any modifications to such rules, regulations, or guidelines—

(A) not later than 30 days after the effective date of such rules, regulations, guidelines, or modifications; and

(B) in a manner and form that will protect the national security interests of the United States.

(g) REPORTS ON POSSIBLE VIOLATIONS.—

(1) REQUIREMENT.—The Secretary and the Director shall each submit, on a timely basis and not less than twice each year, a report to Congress on the circumstances surrounding any investigation of a possible violation of the prohibition in subsection (e)(1) by United States Government personnel or by a person providing services to the United States Government on a contract basis.

(2) FORM OF REPORT.—A report required under paragraph (1) shall be submitted in a manner and form that—

(A) will protect the national security interests of the United States; and

(B) will not prejudice any prosecution of an individual involved in, or responsible for, a violation of the prohibition in subsection (e)(1).

(h) REPORT ON A COALITION APPROACH TOWARD THE DETENTION AND HUMANE TREATMENT OF CAPTURED TERRORISTS.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report describing the efforts of the United States Government to develop an approach toward the detention and humane treatment of captured international terrorists that will be adhered to by all countries that are members of the coalition against terrorism.

(i) DEFINITIONS.—In this section:

(1) CRUEL, INHUMANE, OR DEGRADING TREATMENT OR PUNISHMENT.—The term "cruel, inhumane, or degrading treatment or punishment" means the cruel, unusual, and inhumane treatment or punishment prohibited by the fifth amendment, eighth amendment, or fourteenth amendment to the Constitution.

(2) DIRECTOR.—The term "Director" means the National Intelligence Director.

(3) GENEVA CONVENTIONS.—The term "Geneva Conventions" means—

(A) the Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field, done at Geneva August 12, 1949 (6 UST 3114);

(B) the Convention for the Amelioration of the Condition of the Wounded, Sick, and Shipwrecked Members of Armed Forces at Sea, done at Geneva August 12, 1949 (6 UST 3217);

(C) the Convention Relative to the Treatment of Prisoners of War, done at Geneva August 12, 1949 (6 UST 3316); and

(D) the Convention Relative to the Protection of Civilian Persons in Time of War, done at Geneva August 12, 1949 (6 UST 3516).

(4) SECRETARY.—The term "Secretary" means the Secretary of Defense.

(5) TORTURE.—The term "torture" has the meaning given that term in section 2340 of title 18, United States Code.

SEC. ___15. PROLIFERATION OF WEAPONS OF MASS DESTRUCTION.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) Al Qaeda and other terror groups have tried to acquire or make weapons of mass destruction since 1994 or earlier.

(2) The United States doubtless would be a prime target for use of any such weapon by al Qaeda.

(3) Although the United States Government has supported the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, nonproliferation experts continue to express deep concern about the adequacy of such efforts to secure weapons of mass destruction and related materials that still exist in Russia other countries of the former Soviet Union, and around the world.

(4) The cost of increased investment in the prevention of proliferation of weapons of mass destruction and related materials is greatly outweighed by the potentially catastrophic cost to the United States of the use of such weapons by terrorists.

(5) The Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs are the United States primary method of preventing the proliferation of weapons of mass destruction and related materials from Russia and the states of the former Soviet Union, but require further expansion, improvement, and resources.

(6) Better coordination is needed within the executive branch of government for the budget development, oversight, and implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs, and critical elements of such programs are operated by the Departments of Defense, Energy, and State.

(7) The effective implementation of the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs in the countries of the former Soviet Union is hampered by Russian behavior and conditions on the provision of assistance under such programs that are unrelated to bilateral cooperation on weapons dismantlement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) maximum effort to prevent the proliferation of weapons of mass destruction and related materials, wherever such proliferation may occur, is warranted;

(2) the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs should be expanded, improved, accelerated, and better funded to address the global dimensions of the proliferation threat; and

(3) the Proliferation Security Initiative is an important counterproliferation program that should be expanded to include additional partners.

(c) COOPERATIVE THREAT REDUCTION, GLOBAL THREAT REDUCTION INITIATIVE, AND OTHER NONPROLIFERATION ASSISTANCE PROGRAMS.—In this section, the term "Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs" includes—

(1) the programs specified in section 1501(b) of the National Defense Authorization Act for Fiscal Year 1997 (Public Law 104-201; 50 U.S.C. 2362 note);

(2) the activities for which appropriations are authorized by section 3101(a)(2) of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1742);

(3) the Department of State program of assistance to science centers;

(4) the Global Threat Reduction Initiative of the Department of Energy; and

(5) a program of any agency of the Federal Government having the purpose of assisting any foreign government in preventing nuclear weapons, plutonium, highly enriched uranium, or other materials capable of sustaining an explosive nuclear chain reaction, or nuclear weapons technology from becoming available to terrorist organizations.

(d) STRATEGY AND PLAN.—

(1) STRATEGY.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress—

(A) a comprehensive strategy for expanding and strengthening the Cooperative Threat Reduction, Global Threat Reduction Initiative, and other nonproliferation assistance programs; and

(B) an estimate of the funding necessary to execute such strategy.

(2) PLAN.—The strategy required by paragraph (1) shall include a plan for securing the nuclear weapons and related materials that are the most likely to be acquired or sought by, and susceptible to becoming available to, terrorist organizations, including—

(A) a prioritized list of the most dangerous and vulnerable sites;

(B) measurable milestones for improving United States nonproliferation assistance programs;

(C) a schedule for achieving such milestones; and

(D) initial estimates of the resources necessary to achieve such milestones under such schedule.

SEC. ___16. FINANCING OF TERRORISM.

(a) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks Upon the United States, Congress makes the following findings:

(1) While efforts to designate and freeze the assets of terrorist financiers have been relatively unsuccessful, efforts to target the relatively small number of al Qaeda financial facilitators have been valuable and successful.

(2) The death or capture of several important financial facilitators has decreased the amount of money available to al Qaeda, and has made it more difficult for al Qaeda to raise and move money.

(3) The capture of al Qaeda financial facilitators has provided a windfall of intelligence that can be used to continue the cycle of disruption.

(4) The United States Government has rightly recognized that information about terrorist money helps in understanding terror networks, searching them out, and disrupting their operations.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) a critical weapon in the effort to stop terrorist financing should be the targeting of terrorist financial facilitators by intelligence and law enforcement agencies; and

(2) efforts to track terrorist financing must be paramount in United States counter-terrorism efforts.

(c) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report evaluating the effectiveness of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness of efforts and methods to the identification and tracking of terrorist financing;

(B) ways to improve multinational and international governmental cooperation in this effort;

(C) ways to improve the effectiveness of financial institutions in this effort;

(D) the adequacy of agency coordination, nationally and internationally, including international treaties and compacts, in this effort and ways to improve that coordination; and

(E) recommendations for changes in law and additional resources required to improve this effort.

SEC. 17. REPORT TO CONGRESS.

(a) REQUIREMENT FOR REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the activities of the Government of the United States to carry out the provisions of this title.

(b) CONTENT.—The report required under this section shall include the following:

(1) TERRORIST SANCTUARIES.—A description of the strategy of the United States to address and, where possible, eliminate terrorist sanctuaries, including—

(A) a description of actual and potential terrorist sanctuaries, together with an assessment of the priorities of addressing and eliminating such sanctuaries;

(B) an outline of strategies for disrupting or eliminating the security provided to terrorists by such sanctuaries;

(C) a description of efforts by the United States Government to work with other countries in bilateral and multilateral fora to address or eliminate actual or potential terrorist sanctuaries and disrupt or eliminate the security provided to terrorists by such sanctuaries; and

(D) a description of long-term goals and actions designed to reduce the conditions that allow the formation of terrorist sanctuaries, such as supporting and strengthening host governments, reducing poverty, increasing economic development, strengthening civil society, securing borders, strengthening internal security forces, and disrupting logistics and communications networks of terrorist groups.

(2) SUPPORT FOR PAKISTAN.—A description of the efforts of the United States Government to support Pakistan and encourage moderation in that country, including—

(A) an examination of the desirability of establishing a Pakistan Education Fund to direct resources toward improving the quality of secondary schools in Pakistan, and an examination of the efforts of the Government of Pakistan to fund modern public education;

(B) recommendations on the funding necessary to provide various levels of educational support;

(C) an examination of the current composition and levels of United States military aid to Pakistan, together with any recommendations for changes in such levels and composition that the President considers appropriate; and

(D) an examination of other major types of United States financial support to Pakistan, together with any recommendations for changes in the levels and composition of such support that the President considers appropriate.

(3) SUPPORT FOR AFGHANISTAN.—

(A) SPECIFIC OBJECTIVES.—A description of the strategy of the United States to provide aid to Afghanistan during the [illegible] year period beginning on the date of enactment of this

Act, including a description of the resources necessary during the next 5 years to achieve specific objectives in Afghanistan in the following areas:

(i) Fostering economic development.

(ii) Curtailing the cultivation of opium.

(iii) Achieving internal security and stability.

(iv) Eliminating terrorist sanctuaries.

(v) Increasing governmental capabilities.

(vi) Improving essential infrastructure and public services.

(vii) Improving public health services.

(viii) Establishing a broad-based educational system.

(ix) Promoting democracy and the rule of law.

(x) Building national police and military forces.

(B) PROGRESS.—A description of—

(i) the progress made toward achieving the objectives described in clauses (i) through (x) of subparagraph (A); and

(ii) any shortfalls in meeting such objectives and the resources needed to fully achieve such objectives.

(4) COLLABORATION WITH SAUDI ARABIA.—A description of the strategy of the United States for expanding collaboration with the Government of Saudi Arabia on subjects of mutual interest and of importance to the United States, including a description of—

(A) the utility of the President undertaking a periodic, formal, and visible high-level dialogue between senior United States Government officials of cabinet level or higher rank and their counterparts in the Government of Saudi Arabia to address challenges in the relationship between the two governments and to identify areas and mechanisms for cooperation;

(B) intelligence and security cooperation between the United States and Saudi Arabia in the fight against Islamist terrorism;

(C) ways to advance Saudi Arabia's contribution to the Middle East peace process;

(D) political and economic reform in Saudi Arabia and throughout the Middle East;

(E) ways to promote greater tolerance and respect for cultural and religious diversity in Saudi Arabia and throughout the Middle East; and

(F) ways to assist the Government of Saudi Arabia in preventing nationals of Saudi Arabia from funding and supporting extremist groups in Saudi Arabia and other countries.

(5) STRUGGLE OF IDEAS IN THE ISLAMIC WORLD.—A description of a cohesive, long-term strategy of the United States to help win the struggle of ideas in the Islamic world, including the following:

(A) A description of specific goals related to winning this struggle of ideas.

(B) A description of the range of tools available to the United States Government to accomplish such goals and the manner in which such tools will be employed.

(C) A list of benchmarks for measuring success and a plan for linking resources to the accomplishment of such goals.

(D) A description of any additional resources that may be necessary to help win this struggle of ideas.

(E) Any recommendations for the creation of, and United States participation in, international institutions for the promotion of democracy and economic diversification in the Islamic world, and intraregional trade in the Middle East.

(F) An estimate of the level of United States financial assistance that would be sufficient to convince United States allies and people in the Islamic world that engaging in the struggle of ideas in the Islamic world is a top priority of the United States and that the United States intends to make a substantial and sustained commitment toward winning this struggle.

(6) OUTREACH THROUGH BROADCAST MEDIA.—A description of a cohesive, long-term strategy of the United States to expand its outreach to foreign Muslim audiences through broadcast media, including the following:

(A) The initiatives of the Broadcasting Board of Governors with respect to outreach to foreign Muslim audiences.

(B) An outline of recommended actions that the United States Government should take to more regularly and comprehensively present a United States point of view through indigenous broadcast media in countries with sizable Muslim populations, including increasing appearances by United States Government officials, experts, and citizens.

(C) An assessment of potential incentives for, and costs associated with, encouraging United States broadcasters to dub or subtitle into Arabic and other relevant languages their news and public affairs programs broadcast in the Muslim world in order to present those programs to a much broader Muslim audience than is currently reached.

(D) Any recommendations the President may have for additional funding and legislation necessary to achieve the objectives of the strategy.

(7) VISAS FOR PARTICIPANTS IN UNITED STATES PROGRAMS.—A description of—

(A) any recommendations for expediting the issuance of visas to individuals who are entering the United States for the purpose of participating in a scholarship, exchange, or visitor program described in subsection (c) of section ___09 without compromising the security of the United States; and

(B) a proposed schedule for implementing any recommendations described in subparagraph (A).

(8) BASIC EDUCATION IN MUSLIM COUNTRIES.—A description of a strategy, that was developed after consultation with nongovernmental organizations and individuals involved in education assistance programs in developing countries, to promote free universal basic education in the countries of the Middle East and in other countries with significant Muslim populations designated by the President. The strategy shall include the following elements:

(A) A description of the manner in which the resources of the United States and the international community shall be used to help achieve free universal basic education in such countries, including—

(i) efforts of the United states to coordinate an international effort;

(ii) activities of the United States to leverage contributions from members of the Group of Eight or other donors; and

(iii) assistance provided by the United States to leverage contributions from the private sector and civil society organizations.

(B) A description of the efforts of the United States to coordinate with other donors to reduce duplication and waste at the global and country levels and to ensure efficient coordination among all relevant departments and agencies of the Government of the United States.

(C) A description of the strategy of the United States to assist efforts to overcome challenges to achieving free universal basic education in such countries, including strategies to target hard to reach populations to promote education.

(D) A listing of countries that the President determines are eligible for assistance under the International Youth Opportunity Fund described in section 10 and related programs.

(E) A description of the efforts of the United States to encourage countries in the Middle East and other countries with significant Muslim populations designated by the President to develop and implement a national education plan.

(F) A description of activities carried out as part of the International Youth Opportunity Fund to help close the digital divide and expand vocational and business skills in such countries.

(G) An estimate of the funds needed to achieve free universal basic education by 2015 in each country described in subparagraph (D), and an estimate of the amount that has been expended by the United States and by each such country during the previous fiscal year.

(H) A description of the United States strategy for garnering programmatic and financial support from countries in the Middle East and other countries with significant Muslim populations designated by the President, international organizations, and other countries that share the objectives of the International Youth and Opportunity Fund.

(9) ECONOMIC REFORM.—A description of the efforts of the United States Government to encourage development and promote economic reform in countries that have a significant population of Arab or Muslim individuals, including a description of—

(A) efforts to integrate countries with significant populations of Arab or Muslim individuals into the global trading system; and

(B) actions that the United States Government, acting alone and in partnership with governments in the Middle East, can take to promote intraregional trade and the rule of law in the region.

SEC. ___18. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect on the date of the enactment of this Act.

SA 3943. Mr. INOFE (for Mr. GREGG (for himself, Mr. HARKIN, Mr. KENNEDY, Mr. ENZI, Mr. REED, Mr. DEWINE, Mrs. CLINTON, MR. ROBERTS, Mr. BINGAMAN, Mrs. MURRAY, Mr. DASCHLE, and Mr. DODD)) submitted an amendment intended to be proposed by Mr. INHOFE to the bill H.R. 4278, to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Assistive Technology Act of 2004".

SEC. 2. AMENDMENT TO THE ASSISTIVE TECHNOLOGY ACT OF 1998.

The Assistive Technology Act of 1998 (29 U.S.C. 3001 et seq.) is amended to read as follows:

"SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Assistive Technology Act of 1998'.

"(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

"Sec. 1. Short title; table of contents.
"Sec. 2. Findings and purposes.
"Sec. 3. Definitions.
"Sec. 4. State grants for assistive technology.

"Sec. 5. State grants for protection and advocacy services related to assistive technology.
"Sec. 6. National activities.
"Sec. 7. Administrative provisions.
"Sec. 8. Authorization of appropriations.

"**SEC. 2. FINDINGS AND PURPOSES.**

"(a) FINDINGS.—Congress finds the following:

"(1) Over 54,000,000 individuals in the United States have disabilities, with almost half experiencing severe disabilities that affect their ability to see, hear, communicate, reason, walk, or perform other basic life functions.

"(2) Disability is a natural part of the human experience and in no way diminishes the right of individuals to—

"(A) live independently;

"(B) enjoy self-determination and make choices;

"(C) benefit from an education;

"(D) pursue meaningful careers; and

"(E) enjoy full inclusion and integration in the economic, political, social, cultural, and educational mainstream of society in the United States.

"(3) Technology is one of the primary engines for economic activity, education, and innovation in the Nation, and throughout the world. The commitment of the United States to the development and utilization of technology is one of the main factors underlying the strength and vibrancy of the economy of the United States.

"(4) As technology has come to play an increasingly important role in the lives of all persons in the United States, in the conduct of business, in the functioning of government, in the fostering of communication, in the conduct of commerce, and in the provision of education, its impact upon the lives of individuals with disabilities in the United States has been comparable to its impact upon the remainder of the citizens of the United States. Any development in mainstream technology will have profound implications for individuals with disabilities in the United States.

"(5) Substantial progress has been made in the development of assistive technology devices, including adaptations to existing devices that facilitate activities of daily living that significantly benefit individuals with disabilities of all ages. These devices, including adaptations, increase involvement in, and reduce expenditures associated with, programs and activities that facilitate communication, ensure independent functioning, enable early childhood development, support educational achievement, provide and enhance employment options, and enable full participation in community living for individuals with disabilities. Access to such devices can also reduce expenditures associated with early childhood intervention, education, rehabilitation and training, health care, employment, residential living, independent living, recreation opportunities, and other aspects of daily living.

"(6) Over the last 15 years, the Federal Government has invested in the development of comprehensive statewide programs of technology-related assistance, which have proven effective in assisting individuals with disabilities in accessing assistive technology devices and assistive technology services. This partnership between the Federal Government and the States provided an important service to individuals with disabilities by strengthening the capacity of each State to assist individuals with disabilities of all ages meet their assistive technology needs.

"(7) Despite the success of the Federal-State partnership in providing access to assistive technology devices and assistive technology services, there is a continued need to provide information about the availability of assistive technology, advances in improving accessibility and functionality of assistive technology, and appropriate methods to secure and utilize assistive technology in order to maximize the independence and participation of individuals with disabilities in society.

"(8) The combination of significant recent changes in Federal policy (including changes to section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d), accessibility provisions of the Help America Vote Act of 2002 (42 U.S.C. 15301 et seq.), and the amendments made to the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.) by the No Child Left Behind Act of 2001) and the rapid and unending evolution of technology require a Federal-State investment in State assistive technology systems to continue to ensure that individuals with disabilities reap the benefits of the technological revolution and participate fully in life in their communities.

"(b) PURPOSES.—The purposes of this Act are—

"(1) to support State efforts to improve the provision of assistive technology to individuals with disabilities through comprehensive statewide programs of technology-related assistance, for individuals with disabilities of all ages, that are designed to—

"(A) increase the availability of, funding for, access to, provision of, and training about assistive technology devices and assistive technology services;

"(B) increase the ability of individuals with disabilities of all ages to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by educational or human service agencies or between settings of daily living (for example, between home and work);

"(C) increase the capacity of public agencies and private entities to provide and pay for assistive technology devices and assistive technology services on a statewide basis for individuals with disabilities of all ages;

"(D) increase the involvement of individuals with disabilities and, if appropriate, their family members, guardians, advocates, and authorized representatives, in decisions related to the provision of assistive technology devices and assistive technology services;

"(E) increase and promote coordination among State agencies, between State and local agencies, among local agencies, and between State and local agencies and private entities (such as managed care providers), that are involved or are eligible to be involved in carrying out activities under this Act;

"(F) increase the awareness and facilitate the change of laws, regulations, policies, practices, procedures, and organizational structures, that facilitate the availability or provision of assistive technology devices and assistive technology services; and

"(G) increase awareness and knowledge of the benefits of assistive technology devices and assistive technology services among targeted individuals and entities and the general population; and

"(2) to provide States with financial assistance that supports programs designed to maximize the ability of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to obtain assistive technology devices and assistive technology services.

"**SEC. 3. DEFINITIONS.**

"In this Act:

"(1) ADULT SERVICE PROGRAM.—The term 'adult service program' means a program that provides services to, or is otherwise substantially involved with the major life functions of, individuals with disabilities. Such term includes—

"(A) a program providing residential, supportive, or employment services, or employment-related services, to individuals with disabilities;

"(B) a program carried out by a center for independent living, such as a center described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.);

"(C) a program carried out by an employment support agency connected to adult vocational rehabilitation, such as a one-stop partner, as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801); and

"(D) a program carried out by another organization or vender licensed or registered by the designated State agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705).

"(2) AMERICAN INDIAN CONSORTIUM.—The term 'American Indian consortium' means an entity that is an American Indian Consortium (as defined in section 102 of Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15002)), and that is established to provide protection and advocacy services for purposes of receiving funding under subtitle C of title I of such Act (42 U.S.C. 15041 et seq.).

"(3) ASSISTIVE TECHNOLOGY.—The term 'assistive technology' means technology designed to be utilized in an assistive technology device or assistive technology service.

"(4) ASSISTIVE TECHNOLOGY DEVICE.—The term 'assistive technology device' means any item, piece of equipment, or product system, whether acquired commercially, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

"(5) ASSISTIVE TECHNOLOGY SERVICE.—The term 'assistive technology service' means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

"(A) the evaluation of the assistive technology needs of an individual with a disability, including a functional evaluation of the impact of the provision of appropriate assistive technology and appropriate services to the individual in the customary environment of the individual;

"(B) a service consisting of purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

"(C) a service consisting of selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, replacing, or donating assistive technology devices;

"(D) coordination and use of necessary therapies, interventions, or services with assistive technology devices, such as therapies, interventions, or services associated with education and rehabilitation plans and programs;

"(E) training or technical assistance for an individual with a disability or, where appropriate, the family members, guardians, advocates, or authorized representatives of such an individual;

"(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services and entities that manufacture or sell assistive technology devices), employers, providers of employment and training services, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities; and

"(G) a service consisting of expanding the availability of access to technology, including electronic and information technology, to individuals with disabilities.

"(6) CAPACITY BUILDING AND ADVOCACY ACTIVITIES.—The term 'capacity building and advocacy activities' means efforts that—

"(A) result in laws, regulations, policies, practices, procedures, or organizational structures that promote consumer-responsive programs or entities; and

"(B) facilitate and increase access to, provision of, and funding for, assistive technology devices and assistive technology services, in order to empower individuals with disabilities to achieve greater independence, productivity, and integration and inclusion within the community and the workforce.

"(7) COMPREHENSIVE STATEWIDE PROGRAM OF TECHNOLOGY-RELATED ASSISTANCE.—The term 'comprehensive statewide program of technology-related assistance' means a consumer-responsive program of technology-related assistance for individuals with disabilities, implemented by a State, and equally available to all individuals with disabilities residing in the State, regardless of their type of disability, age, income level, or location of residence in the State, or the type of assistive technology device or assistive technology service required.

"(8) CONSUMER-RESPONSIVE.—The term 'consumer-responsive'—

"(A) with regard to policies, means that the policies are consistent with the principles of—

"(i) respect for individual dignity, personal responsibility, self-determination, and pursuit of meaningful careers, based on informed choice, of individuals with disabilities;

"(ii) respect for the privacy, rights, and equal access (including the use of accessible formats) of such individuals;

"(iii) inclusion, integration, and full participation of such individuals in society;

"(iv) support for the involvement in decisions of a family member, a guardian, an advocate, or an authorized representative, if an individual with a disability requests, desires, or needs such involvement; and

"(v) support for individual and systems advocacy and community involvement; and

"(B) with respect to an entity, program, or activity, means that the entity, program, or activity—

"(i) is easily accessible to, and usable by, individuals with disabilities and, when appropriate, their family members, guardians, advocates, or authorized representatives;

"(ii) responds to the needs of individuals with disabilities in a timely and appropriate manner; and

"(iii) facilitates the full and meaningful participation of individuals with disabilities (including individuals from underrepresented populations and rural populations) and their family members, guardians, advocates, and authorized representatives, in—

"(I) decisions relating to the provision of assistive technology devices and assistive technology services to such individuals; and

"(II) decisions related to the maintenance, improvement, and evaluation of the comprehensive statewide program of technology-related assistance, including decisions that affect capacity building and advocacy activities.

"(9) DISABILITY.—The term 'disability' means a condition of an individual that is considered to be a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides.

"(10) INDIVIDUAL WITH A DISABILITY; INDIVIDUALS WITH DISABILITIES.—

"(A) INDIVIDUAL WITH A DISABILITY.—The term 'individual with a disability' means any individual of any age, race, or ethnicity—

"(i) who has a disability; and

"(ii) who is or would be enabled by an assistive technology device or an assistive technology service to minimize deterioration in functioning, to maintain a level of functioning, or to achieve a greater level of functioning in any major life activity.

"(B) INDIVIDUALS WITH DISABILITIES.—The term 'individuals with disabilities' means more than 1 individual with a disability.

"(11) INSTITUTION OF HIGHER EDUCATION.—The term 'institution of higher education' has the meaning given such term in section 101(a) of the Higher Education Act of 1965 (20 U.S.C. 1001(a)), and includes a community college receiving funding under the Tribally Controlled College or University Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

"(12) PROTECTION AND ADVOCACY SERVICES.—The term 'protection and advocacy services' means services that—

"(A) are described in subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.), the Protection and Advocacy for Individuals with Mental Illness Act (42 U.S.C. 10801 et seq.), or section 509 of the Rehabilitation Act of 1973 (29 U.S.C. 794e); and

"(B) assist individuals with disabilities with respect to assistive technology devices and assistive technology services.

"(13) SECRETARY.—The term 'Secretary' means the Secretary of Education.

"(14) STATE.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'State' means each of the 50 States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(B) OUTLYING AREAS.—In section 4(b):

"(i) OUTLYING AREA.—The term 'outlying area' means the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(ii) STATE.—The term 'State' does not include the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

"(15) STATE ASSISTIVE TECHNOLOGY PROGRAM.—The term 'State assistive technology program' means a program authorized under section 4.

"(16) TARGETED INDIVIDUALS AND ENTITIES.—The term 'targeted individuals and entities' means—

"(A) individuals with disabilities of all ages and their family members, guardians, advocates, and authorized representatives;

"(B) underrepresented populations, including the aging workforce;

"(C) individuals who work for public or private entities (including centers for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.), insurers, or managed care providers) that have contact, or provide services to, with individuals with disabilities;

"(D) educators at all levels (including providers of early intervention services, elementary schools, secondary schools, community colleges, and vocational and other institutions of higher education) and related services personnel;

"(E) technology experts (including web designers and procurement officials);

"(F) health, allied health, and rehabilitation professionals and hospital employees (including discharge planners);

"(G) employers, especially small business employers, and providers of employment and training services;

"(H) entities that manufacture or sell assistive technology devices;

"(I) entities that carry out community programs designed to develop essential community services in rural and urban areas; and

"(J) other appropriate individuals and entities, as determined for a State by the State.

"(17) TECHNOLOGY-RELATED ASSISTANCE.—The term 'technology-related assistance' means assistance provided through capacity building and advocacy activities that accomplish the purposes described in section 2(b).

"(18) UNDERREPRESENTED POPULATION.—The term 'underrepresented population' means a population that is typically underrepresented in service provision, and includes populations such as persons who have low-incidence disabilities, persons who are minorities, poor persons, persons with limited English proficiency, older individuals, or persons from rural areas.

"(19) UNIVERSAL DESIGN.—The term 'universal design' means a concept or philosophy for designing and delivering products and services that are usable by people with the widest possible range of functional capabilities, which include products and services that are directly accessible (without requiring assistive technologies) and products and services that are interoperable with assistive technologies.

"SEC. 4. STATE GRANTS FOR ASSISTIVE TECHNOLOGY.

"(a) GRANTS TO STATES.—The Secretary shall award grants under subsection (b) to States to maintain comprehensive statewide programs of technology-related assistance to support programs that are designed to maximize the ability of individuals with disabilities across the human lifespan and across the wide array of disabilities, and their family members, guardians, advocates, and authorized representatives, to obtain assistive technology, and that are designed to increase access to assistive technology.

"(b) AMOUNT OF FINANCIAL ASSISTANCE.—

"(1) IN GENERAL.—From funds made available to carry out this section, the Secretary shall award a grant to each eligible State and eligible outlying area from an allotment determined in accordance with paragraph (2).

"(2) CALCULATION OF STATE GRANTS.—

"(A) BASE YEAR.—Except as provided in subparagraphs (B) and (C), the Secretary shall allot to each State and outlying area for a fiscal year an amount that is not less than the amount the State or outlying area received under the grants provided under section 101 of this Act (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004) for fiscal year 2004.

"(B) RATABLE REDUCTION.—

"(i) IN GENERAL.—If funds made available to carry out this section for any fiscal year are insufficient to make the allotments required for each State and outlying area under subparagraph (A) for such fiscal year, the Secretary shall ratably reduce the allotments for such fiscal year.

"(ii) ADDITIONAL FUNDS.—If, after the Secretary makes the reductions described in clause (i), additional funds become available to carry out this section for the fiscal year, the Secretary shall ratably increase the allotments, until the Secretary has allotted the entire base year amount.

"(C) HIGHER APPROPRIATION YEARS.—Except as provided in subparagraph (D), for a fiscal year for which the amount of funds made available to carry out this section is greater than the base year amount, the Secretary shall—

"(i) make the allotments described in subparagraph (A);

"(ii) from a portion of the remainder of the funds after the Secretary makes the allotments described in clause (i), the Secretary shall—

"(I) from 50 percent of the portion, allot to each State or outlying area an equal amount; and

"(II) from 50 percent of the portion, allot to each State or outlying area an amount that bears the same relationship to such 50 percent as the population of the State or outlying area bears to the population of all States and outlying areas,

until each State has received an allotment of not less than $410,000 and each outlying area has received an allotment of $125,000 under clause (i) and this clause;

"(iii) from the remainder of the funds after the Secretary makes the allotments described in clause (ii), the Secretary shall—

"(I) from 80 percent of the remainder allot to each State an amount that bears the same relationship to such 80 percent as the population of the State bears to the population of all States; and

"(II) from 20 percent of the remainder, allot to each State an equal amount.

"(D) SPECIAL RULE FOR FISCAL YEAR 2005.—Notwithstanding subparagraph (C), if the amount of funds made available to carry out this section for fiscal year 2005 is greater than the base year amount, the Secretary may award grants on a competitive basis for periods of 1 year to States or outlying areas in accordance with the requirements of title III of this Act (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004) to develop, support, expand, or administer an alternative financing program.

"(E) BASE YEAR AMOUNT.—In this paragraph, the term 'base year amount' means the total amount received by all States and outlying areas under the grants described in subparagraph (A) for fiscal year 2004.

"(c) LEAD AGENCY, IMPLEMENTING ENTITY, AND ADVISORY COUNCIL.—

"(1) LEAD AGENCY AND IMPLEMENTING ENTITY.—

"(A) LEAD AGENCY.—

"(i) IN GENERAL.—The Governor of a State shall designate a public agency as a lead agency—

"(I) to control and administer the funds made available through the grant awarded to the State under this section; and

"(II) to submit the application described in subsection (d) on behalf of the State, to ensure conformance with Federal and State accounting requirements.

"(ii) DUTIES.—The duties of the lead agency shall include—

"(I) preparing the application described in subsection (d) and carrying out State activities described in that application, including making programmatic and resource allocation decisions necessary to implement the comprehensive statewide program of technology-related assistance;

"(II) coordinating the activities of the comprehensive statewide program of technology-related assistance among public and private entities, including coordinating efforts related to entering into interagency agreements, and maintaining and evaluating the program; and

"(III) coordinating efforts related to the active, timely, and meaningful participation by individuals with disabilities and their family members, guardians, advocates, or authorized representatives, and other appropriate individuals, with respect to activities carried out through the grant.

"(B) IMPLEMENTING ENTITY.—The Governor may designate an agency, office, or other entity to carry out State activities under this section (referred to in this section as the 'implementing entity'), if such implementing entity is different from the lead agency. The implementing agency shall carry out responsibilities under this Act through a subcontract or another administrative agreement with the lead agency.

"(C) CHANGE IN AGENCY OR ENTITY.—

"(i) IN GENERAL.—On obtaining the approval of the Secretary, the Governor may redesignate the lead agency, or the implementing entity, if the Governor shows to the Secretary good cause why the entity designated as the lead agency, or the implementing entity, respectively, should not serve as that agency or entity, respectively. The Governor shall make the showing in the application described in subsection (d).

"(ii) CONSTRUCTION.—Nothing in this paragraph shall be construed to require the Governor of a State to change the lead agency or implementing entity of the State to an agency other than the lead agency or implementing entity of such State as of the date of enactment of the Assistive Technology Act of 2004.

"(2) ADVISORY COUNCIL.—

"(A) IN GENERAL.—There shall be established an advisory council to provide consumer-responsive, consumer-driven advice to the State for, planning of, implementation of, and evaluation of the activities carried out through the grant, including setting the measurable goals described in subsection (d)(3).

"(B) COMPOSITION AND REPRESENTATION.—

"(i) COMPOSITION.—The advisory council shall be composed of—

"(I) individuals with disabilities that use assistive technology or the family members or guardians of the individuals;

"(II) a representative of the designated State agency, as defined in section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 705) and the State agency for individuals who are blind (within the meaning of section 101 of that Act (29 U.S.C. 721)), if such agency is separate;

"(III) a representative of a State center for independent living described in part C of title VII of the Rehabilitation Act of 1973 (29 U.S.C. 796f et seq.);

"(IV) a representative of the State workforce investment board established under section 111 of the Workforce Investment Act of 1998 (29 U.S.C. 2821);

"(V) a representative of the State educational agency, as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801); and

"(VI) representatives of other State agencies, public agencies, or private organizations, as determined by the State.

"(ii) MAJORITY.—

"(I) IN GENERAL.—A majority, not less than 51 percent, of the members of the advisory council, shall be members appointed under clause (i)(I).

"(II) REPRESENTATIVES OF AGENCIES.—Members appointed under subclauses (II) through (VI) of clause (i) shall not count toward the majority membership requirement established in subclause (I).

"(iii) REPRESENTATION.—The advisory council shall be geographically representative of the State and reflect the diversity of the State with respect to race, ethnicity, types of disabilities across the age span, and users of types of services that an individual with a disability may receive.

"(C) EXPENSES.—The members of the advisory council shall receive no compensation for their service on the advisory council, but shall be reimbursed for reasonable and necessary expenses actually incurred in the performance of official duties for the advisory council.

"(D) PERIOD.—The members of the State advisory council shall be appointed not later than 120 days after the date of enactment of the Assistive Technology Act of 2004.

"(E) IMPACT ON EXISTING STATUTES, RULES, OR POLICIES.—Nothing in this paragraph shall be construed to affect State statutes, rules, or official policies relating to advisory bodies for State assistive technology programs or require changes to governing bodies of incorporated agencies who carry out State assistive technology programs.

"(d) APPLICATION.—

"(1) IN GENERAL.—Any State that desires to receive a grant under this section shall submit an application to the Secretary, at such time, in such manner, and containing such information as the Secretary may require.

"(2) LEAD AGENCY AND IMPLEMENTING ENTITY.—The application shall contain information identifying and describing the lead agency referred to in subsection (c)(1)(A). The application shall contain information identifying and describing the implementing entity referred to in subsection (c)(1)(B), if the Governor of the State designates such an entity.

"(3) MEASURABLE GOALS.—The application shall include—

"(A) measurable goals, and a timeline for meeting the goals, that the State has set for addressing the assistive technology needs of individuals with disabilities in the State related to—

"(i) education, including goals involving the provision of assistive technology to individuals with disabilities who receive services under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.);

"(ii) employment, including goals involving the State vocational rehabilitation program carried out under title I of the Rehabilitation Act of 1973 (29 U.S.C. 720 et seq.);

"(iii) telecommunication and information technology; and

"(iv) community living; and

"(B) information describing how the State will quantifiably measure the goals to determine whether the goals have been achieved.

"(4) INVOLVEMENT OF PUBLIC AND PRIVATE ENTITIES.—The application shall describe how various public and private entities were involved in the development of the application and will be involved in the implementation of the activities to be carried out through the grant, including—

"(A) in cases determined to be appropriate by the State, a description of the nature and extent of resources that will be committed by public and private collaborators to assist in accomplishing identified goals; and

"(B) a description of the mechanisms established to ensure coordination of activities and collaboration between the implementing entity, if any, and the State.

"(5) IMPLEMENTATION.—The application shall include a description of—

"(A) how the State will implement each of the required activities described in subsection (e), except as provided in subsection (e)(6)(A); and

"(B) how the State will allocate and utilize grant funds to implement the activities, including describing proposed budget allocations and planned procedures for tracking expenditures for activities described in paragraphs (2) and (3) of subsection (e).

"(6) ASSURANCES.—The application shall include assurances that—

"(A) the State will annually collect data related to the required activities implemented by the State under this section in order to prepare the progress reports required under subsection (f);

"(B) funds received through the grant—

"(i) will be expended in accordance with this section; and

"(ii) will be used to supplement, and not supplant, funds available from other sources for technology-related assistance, including the provision of assistive technology devices and assistive technology services;

"(C) the lead agency will control and administer the funds received through the grant;

"(D) the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for the funds received through the grant;

"(E) the physical facility of the lead agency and implementing entity, if any, meets the requirements of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) regarding accessibility for individuals with disabilities;

"(F) a public agency or an individual with a disability holds title to any property purchased with funds received under the grant and administers that property;

"(G) activities carried out in the State that are authorized under this Act, and supported by Federal funds received under this Act, will comply with the standards established by the Architectural and Transportation Barriers Compliance Board under section 508 of the Rehabilitation Act of 1973 (20 U.S.C. 794d); and

"(H) the State will—

"(i) prepare reports to the Secretary in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this Act; and

"(ii) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this subparagraph.

"(7) STATE SUPPORT.—The application shall include a description of the activities described in paragraphs (2) and (3) of subsection (e) that the State will support with State funds.

"(e) USE OF FUNDS.—

"(1) IN GENERAL.—

"(A) REQUIRED ACTIVITIES.—Except as provided in subparagraph (B) and paragraph (6), any State that receives a grant under this section shall use a portion of the funds made available through the grant to carry out activities described in paragraphs (2) and (3).

"(B) STATE OR NON-FEDERAL FINANCIAL SUPPORT.—A State shall not be required to use a portion of the funds made available through the grant to carry out the category of activities described in subparagraph (A), (B), (C), or (D) of paragraph (2) if, in that State—

"(i) financial support is provided from State or other non-Federal resources or entities for that category of activities; and

"(ii) the amount of the financial support is comparable to, or greater than, the amount of the portion of the funds made available through the grant that the State would have expended for that category of activities, in the absence of this subparagraph.

"(2) STATE-LEVEL ACTIVITIES.—

"(A) STATE FINANCING ACTIVITIES.—The State shall support State financing activities to increase access to, and funding for, assistive technology devices and assistive technology services (which shall not include direct payment for such a device or service for an individual with a disability but may include support and administration of a program to provide such payment), including development of systems to provide and pay for such devices and services, for targeted individuals and entities described in section 3(16)(A), including—

"(i) support for the development of systems for the purchase, lease, or other acquisition of, or payment for, assistive technology devices and assistive technology services; or

"(ii) support for the development of State-financed or privately financed alternative financing systems of subsidies (which may include conducting an initial 1-year feasibility study of, improving, administering, operating, providing capital for, or collaborating with an entity with respect to, such a system) for the provision of assistive technology devices, such as—

"(I) a low-interest loan fund;

"(II) an interest buy-down program;

"(III) a revolving loan fund;

"(IV) a loan guarantee or insurance program;

"(V) a program providing for the purchase, lease, or other acquisition of assistive technology devices or assistive technology services; or

"(VI) another mechanism that is approved by the Secretary.

"(B) DEVICE REUTILIZATION PROGRAMS.—The State shall directly, or in collaboration with public or private entities, carry out assistive technology device reutilization programs that provide for the exchange, repair, recycling, or other reutilization of assistive technology devices, which may include redistribution through device sales, loans, rentals, or donations.

"(C) DEVICE LOAN PROGRAMS.—The State shall directly, or in collaboration with public or private entities, carry out device loan programs that provide short-term loans of assistive technology devices to individuals, employers, public agencies, or others seeking to meet the needs of targeted individuals and entities, including others seeking to comply with the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.), and section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794).

"(D) DEVICE DEMONSTRATIONS.—

"(i) IN GENERAL.—The State shall directly, or in collaboration with public and private entities, such as one-stop partners, as defined in section 101 of the Workforce Investment Act of 1998 (29 U.S.C. 2801), demonstrate a variety of assistive technology devices and assistive technology services (including assisting individuals in making informed choices regarding, and providing experiences with, the devices and services), using personnel who are familiar with such devices and services and their applications.

"(ii) COMPREHENSIVE INFORMATION.—The State shall directly, or through referrals, provide to individuals, to the extent practicable, comprehensive information about State and local assistive technology venders, providers, and repair services.

"(3) STATE LEADERSHIP ACTIVITIES.—

"(A) IN GENERAL.—A State that receives a grant under this section shall use a portion of not more than 40 percent of the funds made available through the grant to carry out the activities described in subparagraph (B). From that portion, the State shall use at least 5 percent of the portion for activities described in subparagraph (B)(i)(III).

"(B) REQUIRED ACTIVITIES.—

"(i) TRAINING AND TECHNICAL ASSISTANCE.—

"(I) IN GENERAL.—The State shall directly, or provide support to public or private entities with demonstrated expertise in collaborating with public or private agencies that serve individuals with disabilities, to develop and disseminate training materials, conduct training, and provide technical assistance, for individuals from local settings statewide, including representatives of State and local educational agencies, other State and local agencies, early intervention programs, adult service programs, hospitals and other health care facilities, institutions of higher education, and businesses.

"(II) AUTHORIZED ACTIVITIES.—In carrying out activities under subclause (I), the State shall carry out activities that enhance the knowledge, skills, and competencies of individuals from local settings described in subclause (I), which may include—

"(aa) general awareness training on the benefits of assistive technology and the Federal, State, and private funding sources available to assist targeted individuals and entities in acquiring assistive technology;

"(bb) skills-development training in assessing the need for assistive technology devices and assistive technology services;

"(cc) training to ensure the appropriate application and use of assistive technology devices, assistive technology services, and accessible technology for e-government functions;

"(dd) training in the importance of multiple approaches to assessment and implementation necessary to meet the individualized needs of individuals with disabilities; and

"(ee) technical training on integrating assistive technology into the development and implementation of service plans, including any education, health, discharge, Olmstead, employment, or other plan required under Federal or State law.

"(III) TRANSITION ASSISTANCE TO INDIVIDUALS WITH DISABILITIES.—The State shall directly, or provide support to public or private entities to, develop and disseminate training materials, conduct training, facilitate access to assistive technology, and provide technical assistance, to assist—

"(aa) students with disabilities, within the meaning of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), that receive transition services; and

"(bb) adults who are individuals with disabilities maintaining or transitioning to community living.

"(ii) PUBLIC-AWARENESS ACTIVITIES.—

"(I) IN GENERAL.—The State shall conduct public-awareness activities designed to provide information to targeted individuals and entities relating to the availability, benefits, appropriateness, and costs of assistive technology devices and assistive technology services, including—

"(aa) the development of procedures for providing direct communication between providers of assistive technology and targeted individuals and entities, which may include partnerships with entities in the statewide and local workforce investment systems established under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.), State vocational rehabilitation centers, public and private employers, or elementary and secondary public schools;

"(bb) the development and dissemination, to targeted individuals and entities, of information about State efforts related to assistive technology; and

"(cc) the distribution of materials to appropriate public and private agencies that provide social, medical, educational, employment, and transportation services to individuals with disabilities.

"(II) COLLABORATION.—The State shall collaborate with entities that receive awards under paragraphs (1) and (3) of section 6(b) to carry out public-awareness activities focusing on infants, toddlers, children, transition-age youth, employment-age adults, seniors, and employers.

"(III) STATEWIDE INFORMATION AND REFERRAL SYSTEM.—

"(aa) IN GENERAL.—The State shall directly, or in collaboration with public or private (such as nonprofit) entities, provide for the continuation and enhancement of a statewide information and referral system designed to meet the needs of targeted individuals and entities.

"(bb) CONTENT.—The system shall deliver information on assistive technology devices, assistive technology services (with specific data regarding provider availability within the State), and the availability of resources, including funding through public and private sources, to obtain assistive technology devices and assistive technology services. The system shall also deliver information on the benefits of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities of all ages to perform activities of daily living.

"(iii) COORDINATION AND COLLABORATION.—The State shall coordinate activities described in paragraph (2) and this paragraph, among public and private entities that are responsible for policies, procedures, or funding for the provision of assistive technology devices and assistive technology services to individuals with disabilities, service providers, and others to improve access to assistive technology devices and assistive technology services for individuals with disabilities of all ages in the State.

"(4) INDIRECT COSTS.—Not more than 10 percent of the funds made available through a grant to a State under this section may be used for indirect costs.

"(5) PROHIBITION.—Funds made available through a grant to a State under this section shall not be used for direct payment for an assistive technology device for an individual with a disability.

"(6) STATE FLEXIBILITY.—

"(A) IN GENERAL.—Notwithstanding paragraph (1)(A) and subject to subparagraph (B), a State may use funds that the State receives under a grant awarded under this section to carry out any 2 or more of the activities described in paragraph (2).

"(B) SPECIAL RULE.—Notwithstanding paragraph (3)(A), any State that exercises its authority under subparagraph (A)—

"(i) shall carry out each of the required activities described in paragraph (3)(B); and

"(ii) shall use not more than 30 percent of the funds made available through the grant to carry out the activities described in paragraph (3)(B).

"(f) ANNUAL PROGRESS REPORTS.—

"(1) DATA COLLECTION.—States shall participate in data collection as required by law, including data collection required for preparation of the reports described in paragraph (2).

"(2) REPORTS.—

"(A) IN GENERAL.—Each State shall prepare and submit to the Secretary an annual progress report on the activities funded under this Act, at such time, and in such manner, as the Secretary may require.

"(B) CONTENTS.—The report shall include data collected pursuant to this section. The report shall document, with respect to activities carried out under this section in the State—

"(i) the type of State financing activities described in subsection (e)(2)(A) used by the State;

"(ii) the amount and type of assistance given to consumers of the State financing activities described in subsection (e)(2)(A) (who shall be classified by type of assistive technology device or assistive technology service financed through the State financing activities, and geographic distribution within the State), including—

"(I) the number of applications for assistance received;

"(II) the number of applications approved and rejected;

"(III) the default rate for the financing activities;

"(IV) the range and average interest rate for the financing activities;

"(V) the range and average income of approved applicants for the financing activities; and

"(VI) the types and dollar amounts of assistive technology financed;

"(iii) the number, type, and length of time of loans of assistive technology devices provided to individuals with disabilities, employers, public agencies, or public accommodations through the device loan program described in subsection (e)(2)(C), and an analysis of the individuals with disabilities who have benefited from the device loan program;

"(iv) the number, type, estimated value, and scope of assistive technology devices exchanged, repaired, recycled, or reutilized (including redistributed through device sales, loans, rentals, or donations) through the device reutilization program described in subsection (e)(2)(B), and an analysis of the individuals with disabilities that have benefited from the device reutilization program;

"(v) the number and type of device demonstrations and referrals provided under subsection (e)(2)(D), and an analysis of individuals with disabilities who have benefited from the demonstrations and referrals;

"(vi)(I) the number and general characteristics of individuals who participated in training under subsection (e)(3)(B)(i) (such as individuals with disabilities, parents, educators, employers, providers of employment services, health care workers, counselors, other service providers, or vendors) and the topics of such training; and

"(II) to the extent practicable, the geographic distribution of individuals who participated in the training;

"(vii) the frequency of provision and nature of technical assistance provided to State and local agencies and other entities;

"(viii) the number of individuals assisted through the public-awareness activities and statewide information and referral system described in subsection (e)(3)(B)(ii);

"(ix) the outcomes of any improvement initiatives carried out by the State as a result of activities funded under this section, including a description of any written policies, practices, and procedures that the State has developed and implemented regarding access to, provision of, and funding for, assistive technology devices, and assistive technology services, in the contexts of education, health care, employment, community living, and information technology and telecommunications, including e-government;

"(x) the source of leveraged funding or other contributed resources, including resources provided through subcontracts or other collaborative resource-sharing agreements, from and with public and private entities to carry out State activities described in subsection (e)(3)(B)(iii), the number of individuals served with the contributed resources for which information is not reported under clauses (i) through (ix) or clause (xi) or (xii), and other outcomes accomplished as a result of such activities carried out with the contributed resources; and

"(xi) the level of customer satisfaction with the services provided.

"SEC. 5. STATE GRANTS FOR PROTECTION AND ADVOCACY SERVICES RELATED TO ASSISTIVE TECHNOLOGY.

"(a) GRANTS.—

"(1) IN GENERAL.—The Secretary shall make grants under subsection (b) to protection and advocacy systems in each State for the purpose of enabling such systems to assist in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services for individuals with disabilities.

"(2) GENERAL AUTHORITIES.—In providing such assistance, protection and advocacy systems shall have the same general authorities as the systems are afforded under subtitle C of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15041 et seq.), as determined by the Secretary.

"(b) GRANTS.—

"(1) RESERVATION.—For each fiscal year, the Secretary shall reserve such sums as may be necessary to carry out paragraph (4).

"(2) POPULATION BASIS.—From the funds appropriated under section 8(b) for a fiscal year and remaining after the reservation required by paragraph (1) has been made, the Secretary shall make a grant to a protection and advocacy system within each State in an amount bearing the same ratio to the remaining funds as the population of the State bears to the population of all States.

"(3) MINIMUMS.—Subject to the availability of appropriations, the amount of a grant to a protection and advocacy system under paragraph (2) for a fiscal year shall—

"(A) in the case of a protection and advocacy system located in American Samoa, Guam, the United States Virgin Islands, or the Commonwealth of the Northern Mariana Islands, not be less than $30,000; and

"(B) in the case of a protection and advocacy system located in a State not described in subparagraph (A), not be less than $50,000.

"(4) PAYMENT TO THE SYSTEM SERVING THE AMERICAN INDIAN CONSORTIUM.—

"(A) IN GENERAL.—The Secretary shall make grants to the protection and advocacy system serving the American Indian Consortium to provide services in accordance with this section.

"(B) AMOUNT OF GRANTS.—The amount of such grants shall be the same as the amount provided under paragraph (3)(A).

"(c) DIRECT PAYMENT.—Notwithstanding any other provision of law, the Secretary shall pay directly to any protection and advocacy system that complies with this section, the total amount of the grant made for such system under this section, unless the system provides otherwise for payment of the grant amount.

"(d) Certain States.—

"(1) Grant to lead agency.—Notwithstanding any other provision of this section, with respect to a State that, on November 12, 1998, was described in section 102(f)(1) of the Technology-Related Assistance for Individuals With Disabilities Act of 1988, the Secretary shall pay the amount of the grant described in subsection (a), and made under subsection (b), to the lead agency designated under section 4(c)(1) for the State.

"(2) Distribution of funds.—A lead agency to which a grant amount is paid under paragraph (1) shall determine the manner in which funds made available through the grant will be allocated among the entities that were providing protection and advocacy services in that State on the date described in such paragraph, and shall distribute funds to such entities. In distributing such funds, the lead agency shall not establish any additional eligibility or procedural requirements for an entity in the State that supports protection and advocacy services through a protection and advocacy system. Such an entity shall comply with the same requirements (including reporting and enforcement requirements) as any other entity that receives funding under this section.

"(3) Application of provisions.—Except as provided in this subsection, the provisions of this section shall apply to the grant in the same manner, and to the same extent, as the provisions apply to a grant to a system.

"(e) Carryover.—Any amount paid to an eligible system for a fiscal year under this section that remains unobligated at the end of such fiscal year shall remain available to such system for obligation during the subsequent fiscal year. Program income generated from such amount shall remain available for 2 additional fiscal years after the year in which such amount was paid to an eligible system and may only be used to improve the awareness of individuals with disabilities about the accessibility of assistive technology and assist such individuals in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services.

"(f) Report to Secretary.—An entity that receives a grant under this section shall annually prepare and submit to the Secretary a report that contains such information as the Secretary may require, including documentation of the progress of the entity in—

"(1) conducting consumer-responsive activities, including activities that will lead to increased access, for individuals with disabilities, to funding for assistive technology devices and assistive technology services;

"(2) engaging in informal advocacy to assist in securing assistive technology devices and assistive technology services for individuals with disabilities;

"(3) engaging in formal representation for individuals with disabilities to secure systems change, and in advocacy activities to secure assistive technology devices and assistive technology services for individuals with disabilities;

"(4) developing and implementing strategies to enhance the long-term abilities of individuals with disabilities and their family members, guardians, advocates, and authorized representatives to advocate the provision of assistive technology devices and assistive technology services to which the individuals with disabilities are entitled under law other than this Act;

"(5) coordinating activities with protection and advocacy services funded through sources other than this Act, and coordinating activities with the capacity building and advocacy activities carried out by the lead agency; and

"(6) effectively allocating funds made available under this section to improve the awareness of individuals with disabilities about the accessibility of assistive technology and assist such individuals in the acquisition, utilization, or maintenance of assistive technology devices or assistive technology services.

"(g) Reports and Updates to State Agencies.—An entity that receives a grant under this section shall prepare and submit to the lead agency of the State designated under section 4(c)(1) the report described in subsection (f) and quarterly updates concerning the activities described in subsection (f).

"(h) Coordination.—On making a grant under this section to an entity in a State, the Secretary shall solicit and consider the opinions of the lead agency of the State with respect to efforts at coordination of activities, collaboration, and promoting outcomes between the lead agency and the entity that receives the grant under this section.

"SEC. 6. NATIONAL ACTIVITIES.

"(a) In General.—In order to support activities designed to improve the administration of this Act, the Secretary, under subsection (b)—

"(1) may award, on a competitive basis, grants, contracts, and cooperative agreements to entities to support activities described in paragraphs (1) and (2) of subsection (b); and

"(2) shall award, on a competitive basis, grants, contracts, and cooperative agreements to entities to support activities described in paragraphs (3), (4), and (5) of subsection (b).

"(b) Authorized Activities.—

"(1) National public-awareness toolkit.—

"(A) National public-awareness toolkit.—The Secretary may award a 1-time grant, contract, or cooperative agreement to an eligible entity to support a training and technical assistance program that—

"(i) expands public-awareness efforts to reach targeted individuals and entities;

"(ii) contains appropriate accessible multimedia materials to reach targeted individuals and entities, for dissemination to State assistive technology programs; and

"(iii) in coordination with State assistive technology programs, provides meaningful and up-to-date information to targeted individuals and entities about the availability of assistive technology devices and assistive technology services.

"(B) Eligible entity.—To be eligible to receive the grant, contract, or cooperative agreement, an entity shall develop a partnership that—

"(i) shall consist of—

"(I) a lead agency or implementing entity for a State assistive technology program or an organization or association that represents implementing entities for State assistive technology programs;

"(II) a private or public entity from the media industry;

"(III) a private entity from the assistive technology industry; and

"(IV) a private employer or an organization or association that represents private employers;

"(ii) may include other entities determined by the Secretary to be necessary; and

"(iii) may include other entities determined by the applicant to be appropriate.

"(2) Research and development.—

"(A) In general.—The Secretary may award grants, contracts, or cooperative agreements to eligible entities to carry out research and development of assistive technology that consists of—

"(i) developing standards for reliability and accessibility of assistive technology, and standards for interoperability (including open standards) of assistive technology with information technology, telecommunications products, and other assistive technology; or

"(ii) developing assistive technology that benefits individuals with disabilities or developing technologies or practices that result in the adaptation, maintenance, servicing, or improvement of assistive technology devices.

"(B) Eligible entities.—Entities eligible to receive a grant, contract, or cooperative agreement under this paragraph shall include—

"(i) providers of assistive technology services and assistive technology devices;

"(ii) institutions of higher education, including University Centers for Excellence in Developmental Disabilities Education, Research, and Service authorized under subtitle D of title I of the Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15061 et seq.), or such institutions offering rehabilitation engineering programs, computer science programs, or information technology programs;

"(iii) manufacturers of assistive technology devices; and

"(iv) professionals, individuals, organizations, and agencies providing services or employment to individuals with disabilities.

"(C) Collaboration.—An entity that receives a grant, contract, or cooperative agreement under this paragraph shall, in developing and implementing the project carried out through the grant, contract, or cooperative agreement coordinate activities with the lead agency for the State assistive technology program (or a national organization that represents such programs) and the State advisory council described in section 4(c)(2) (or a national organization that represents such councils).

"(3) State training and technical assistance.—

"(A) Training and technical assistance efforts.—The Secretary shall award a grant, contract, or cooperative agreement to an entity to support a training and technical assistance program that—

"(i) addresses State-specific information requests concerning assistive technology from entities funded under this Act and public entities not funded under this Act, including—

"(I) requests for information on effective approaches to Federal-State coordination of programs for individuals with disabilities, related to improving funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages;

"(II) requests for state-of-the-art, or model, Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services;

"(III) requests for information on effective approaches to developing, implementing, evaluating, and sustaining activities described in sections 4 and 5 and related to improving funding for or access to assistive technology devices and assistive technology services for individuals with disabilities of all ages, and requests for assistance in developing corrective action plans;

"(IV) requests for examples of policies, practices, procedures, regulations, or judicial decisions that have enhanced or may enhance access to funding for assistive technology devices and assistive technology services for individuals with disabilities;

"(V) requests for information on effective approaches to the development of consumer-controlled systems that increase access to, funding for, and awareness of, assistive technology devices and assistive technology services; and

"(VI) other requests for training and technical assistance from entities funded under this Act and public and private entities not funded under this Act;

"(ii) assists targeted individuals and entities by disseminating information about—

"(I) Federal, State, and local laws, regulations, policies, practices, procedures, and organizational structures, that facilitate, and overcome barriers to, funding for, and access to, assistive technology devices and assistive technology services, to promote fuller independence, productivity, and inclusion in society for individuals with disabilities of all ages; and

"(II) technical assistance activities undertaken under clause (i);

"(iii) provides State-specific, regional, and national training and technical assistance concerning assistive technology to entities funded under this Act, other entities funded under this Act, and public and private entities not funded under this Act, including—

"(I) annually providing a forum for exchanging information concerning, and promoting program and policy improvements in, required activities of the State assistive technology programs;

"(II) facilitating onsite and electronic information sharing using state-of-the-art Internet technologies such as real-time online discussions, multipoint video conferencing, and web-based audio/video broadcasts, on emerging topics that affect State assistive technology programs;

"(III) convening experts from State assistive technology programs to discuss and make recommendations with regard to national emerging issues of importance to individuals with assistive technology needs;

"(IV) sharing best practice and evidence-based practices among State assistive technology programs;

"(V) maintaining an accessible website that includes a link to State assistive technology programs, appropriate Federal departments and agencies, and private associations and developing a national toll-free number that links callers from a State with the State assistive technology program in their State;

"(VI) developing or utilizing existing (as of the date of the award involved) model cooperative volume-purchasing mechanisms designed to reduce the financial costs of purchasing assistive technology for required and discretionary activities identified in section 4, and reducing duplication of activities among State assistive technology programs; and

"(VII) providing access to experts in the areas of banking, microlending, and finance, for entities funded under this Act, through site visits, teleconferences, and other means, to ensure access to information for entities that are carrying out new programs or programs that are not making progress in achieving the objectives of the programs; and

"(iv) includes such other activities as the Secretary may require.

"(B) ELIGIBLE ENTITIES.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall have (directly or through grant or contract)—

"(i) experience and expertise in administering programs, including developing, implementing, and administering the required and discretionary activities described in sections 4 and 5, and providing technical assistance; and

"(ii) documented experience in and knowledge about banking, finance, and microlending.

"(C) COLLABORATION.—In developing and providing training and technical assistance under this paragraph, including activities identified as priorities, a recipient of a grant, contract, or cooperative agreement under this paragraph shall collaborate with other organizations, in particular—

"(i) organizations representing individuals with disabilities;

"(ii) national organizations representing State assistive technology programs;

"(iii) organizations representing State officials and agencies engaged in the delivery of assistive technology;

"(iv) the data-collection and reporting providers described in paragraph (5); and

"(v) other providers of national programs or programs of national significance funded under this Act.

"(4) NATIONAL INFORMATION INTERNET SYSTEM.—

"(A) IN GENERAL.—The Secretary shall award a grant, contract, or cooperative agreement to an entity to renovate, update, and maintain the National Public Internet Site established under this Act (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004).

"(B) FEATURES OF INTERNET SITE.—The National Public Internet Site shall contain the following features:

"(i) AVAILABILITY OF INFORMATION AT ANY TIME.—The site shall be designed so that any member of the public may obtain information posted on the site at any time.

"(ii) INNOVATIVE AUTOMATED INTELLIGENT AGENT.—The site shall be constructed with an innovative automated intelligent agent that is a diagnostic tool for assisting users in problem definition and the selection of appropriate assistive technology devices and assistive technology services resources.

"(iii) RESOURCES.—

"(I) LIBRARY ON ASSISTIVE TECHNOLOGY.—The site shall include access to a comprehensive working library on assistive technology for all environments, including home, workplace, transportation, and other environments.

"(II) INFORMATION ON ACCOMMODATING INDIVIDUALS WITH DISABILITIES.—The site shall include access to evidence-based research and best practices concerning how assistive technology can be used to accommodate individuals with disabilities in the areas of education, employment, health care, community living, and telecommunications and information technology.

"(III) RESOURCES FOR A NUMBER OF DISABILITIES.—The site shall include resources relating to the largest possible number of disabilities, including resources relating to low-level reading skills.

"(iv) LINKS TO PRIVATE-SECTOR RESOURCES AND INFORMATION.—To the extent feasible, the site shall be linked to relevant private-sector resources and information, under agreements developed between the recipient of the grant, contract, or cooperative agreement and cooperating private-sector entities.

"(v) LINKS TO PUBLIC-SECTOR RESOURCES AND INFORMATION.—To the extent feasible, the site shall be linked to relevant public-sector resources and information, such as the Internet sites of the Office of Special Education and Rehabilitation Services of the Department of Education, the Office of Disability Employment Policy of the Department of Labor, the Small Business Administration, the Architectural and Transportation Barriers Compliance Board, the Technology Administration of the Department of Commerce, the Jobs Accommodation Network funded by the Office of Disability Employment Policy of the Department of Labor, and other relevant sites.

"(vi) MINIMUM LIBRARY COMPONENTS.—At a minimum, the site shall maintain updated information on—

"(I) State assistive technology program demonstration sites where individuals may try out assistive technology devices;

"(II) State assistive technology program device loan program sites where individuals may borrow assistive technology devices;

"(III) State assistive technology program device reutilization program sites;

"(IV) alternative financing programs or State financing systems operated through, or independently of, State assistive technology programs, and other sources of funding for assistive technology devices; and

"(V) various programs, including programs with tax credits, available to employers for hiring or accommodating employees who are individuals with disabilities.

"(C) ELIGIBLE ENTITY.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall be a nonprofit organization, for-profit organization, or institution of higher education, that—

"(i) emphasizes research and engineering;

"(ii) has a multidisciplinary research center; and

"(iii) has demonstrated expertise in—

"(I) working with assistive technology and intelligent agent interactive information dissemination systems;

"(II) managing libraries of assistive technology and disability-related resources;

"(III) delivering to individuals with disabilities education, information, and referral services, including technology-based curriculum-development services for adults with low-level reading skills;

"(IV) developing cooperative partnerships with the private sector, particularly with private-sector computer software, hardware, and Internet services entities; and

"(V) developing and designing advanced Internet sites.

"(5) DATA-COLLECTION AND REPORTING ASSISTANCE.—

"(A) IN GENERAL.—The Secretary shall award grants, contracts, and cooperative agreements to entities to assist the entities in carrying out State assistive technology programs in developing and implementing effective data-collection and reporting systems that—

"(i) focus on quantitative and qualitative data elements;

"(ii) measure the outcomes of the required activities described in section 4 that are implemented by the States and the progress of the States toward achieving the measurable goals described in section 4(d)(3);

"(iii) provide States with the necessary information required under this Act or by the Secretary for reports described in section 4(f)(2); and

"(iv) help measure the accrued benefits of the activities to individuals who need assistive technology.

"(B) Eligible entities.—To be eligible to receive a grant, contract, or cooperative agreement under this paragraph, an entity shall have personnel with—

"(i) documented experience and expertise in administering State assistive technology programs;

"(ii) experience in collecting and analyzing data associated with implementing required and discretionary activities;

"(iii) expertise necessary to identify additional data elements needed to provide comprehensive reporting of State activities and outcomes; and

"(iv) experience in utilizing data to provide annual reports to State policymakers.

"(c) Application.—To be eligible to receive a grant, contract, or cooperative agreement under this section, an entity shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(d) Input.—With respect to the activities described in subsection (b) to be funded under this section, including the national and regionally based training and technical assistance efforts carried out through the activities, in designing the activities the Secretary shall consider, and in providing the activities providers shall include, input of the directors of comprehensive statewide programs of technology-related assistance, directors of alternative financing programs, and other individuals the Secretary determines to be appropriate, especially—

"(1) individuals with disabilities who use assistive technology and understand the barriers to the acquisition of such technology and assistive technology services;

"(2) family members, guardians, advocates, and authorized representatives of such individuals;

"(3) individuals employed by protection and advocacy systems funded under section 5;

"(4) relevant employees from Federal departments and agencies, other than the Department of Education;

"(5) representatives of businesses; and

"(6) venders and public and private researchers and developers.

"SEC. 7. ADMINISTRATIVE PROVISIONS.

"(a) General Administration.—

"(1) In general.—Notwithstanding any other provision of law, the Assistant Secretary for Special Education and Rehabilitative Services of the Department of Education, acting through the Rehabilitation Services Administration, shall be responsible for the administration of this Act.

"(2) Collaboration.—The Assistant Secretary for Special Education and Rehabilitative Services shall consult with the Office of Special Education Programs, the Rehabilitation Services Administration, and the National Institute on Disability and Rehabilitation Research in the Office of Special Education and Rehabilitative Services, and appropriate Federal entities in the administration of this Act.

"(3) Administration.—In administering this Act, the Rehabilitation Services Administration shall ensure that programs funded under this Act will address the needs of individuals with disabilities of all ages, whether the individuals will use the assistive technology to obtain or maintain employment, to obtain education, or for other reasons.

"(4) Orderly transition.—

"(A) In general.—The Secretary shall take such steps as the Secretary determines to be appropriate to provide for the orderly transition to, and implementation of, programs authorized by this Act, from programs authorized by the Assistive Technology Act of 1998, as in effect on the day before the date of enactment of the Assistive Technology Act of 2004.

"(B) Cessation of effectiveness.—Subparagraph (A) ceases to be effective on the date that is 6 months after the date of enactment of the Assistive Technology Act of 2004.

"(b) Review of Participating Entities.—

"(1) In general.—The Secretary shall assess the extent to which entities that receive grants under this Act are complying with the applicable requirements of this Act and achieving measurable goals that are consistent with the requirements of the grant programs under which the entities received the grants.

"(2) Provision of information.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information, including the information required under subsection (d).

"(c) Corrective Action and Sanctions.—

"(1) Corrective action.—If the Secretary determines that an entity that receives a grant under this Act fails to substantially comply with the applicable requirements of this Act, or to make substantial progress toward achieving the measurable goals described in subsection (b)(1) with respect to the grant program, the Secretary shall assist the entity, through technical assistance funded under section 6 or other means, within 90 days after such determination, to develop a corrective action plan.

"(2) Sanctions.—If the entity fails to develop and comply with a corrective action plan described in paragraph (1) during a fiscal year, the entity shall be subject to 1 of the following corrective actions selected by the Secretary:

"(A) Partial or complete termination of funding under the grant program, until the entity develops and complies with such a plan.

"(B) Ineligibility to participate in the grant program in the following year.

"(C) Reduction in the amount of funding that may be used for indirect costs under section 4 for the following year.

"(D) Required redesignation of the lead agency designated under section 4(c)(1) or an entity responsible for administering the grant program.

"(3) Appeals procedures.—The Secretary shall establish appeals procedures for entities that are determined to be in noncompliance with the applicable requirements of this Act, or have not made substantial progress toward achieving the measurable goals described in subsection (b)(1).

"(4) Secretarial action.—As part of the annual report required under subsection (d), the Secretary shall describe each such action taken under paragraph (1) or (2) and the outcomes of each such action.

"(5) Public notification.—The Secretary shall notify the public, by posting on the Internet website of the Department of Education, of each action taken by the Secretary under paragraph (1) or (2). As a part of such notification, the Secretary shall describe each such action taken under paragraph (1) or (2) and the outcomes of each such action.

"(d) Annual Report to Congress.—

"(1) In general.—Not later than December 31 of each year, the Secretary shall prepare, and submit to the President and to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate, a report on the activities funded under this Act to improve the access of individuals with disabilities to assistive technology devices and assistive technology services.

"(2) Contents.—Such report shall include—

"(A) a compilation and summary of the information provided by the States in annual progress reports submitted under section 4(f); and

"(B) a summary of the State applications described in section 4(d) and an analysis of the progress of the States in meeting the measurable goals established in State applications under section 4(d)(3).

"(e) Construction.—Nothing in this section shall be construed to affect the enforcement authority of the Secretary, another Federal officer, or a court under part D of the General Education Provisions Act (20 U.S.C. 1234 et seq.) or other applicable law.

"(f) Effect on Other Assistance.—This Act may not be construed as authorizing a Federal or State agency to reduce medical or other assistance available, or to alter eligibility for a benefit or service, under any other Federal law.

"(g) Rule.—The Assistive Technology Act of 1998 (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004) shall apply to funds appropriated under the Assistive Technology Act of 1998 for fiscal year 2004.

"SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

"(a) State Grants for Assistive Technology and National Activities.—

"(1) In general.—There are authorized to be appropriated to carry out sections 4 and 6 such sums as may be necessary for each of fiscal years 2005 through 2010.

"(2) Reservation.—

"(A) Definition.—In this paragraph, the term 'higher appropriation year' means a fiscal year for which the amount appropriated under paragraph (1) and made available to carry out section 4 is at least $665,000 greater than the amount that—

"(i) was appropriated under section 105 of this Act (as in effect on October 1, 2003) for fiscal year 2004; and

"(ii) was not reserved for grants under section 102 or 104 of this Act (as in effect on such date) for fiscal year 2004.

"(B) Amount reserved for national activities.—Of the amount appropriated under paragraph (1) for a fiscal year—

"(i) not more than $1,235,000 may be reserved to carry out section 6, except as provided in clause (ii); and

"(ii) for a higher appropriation year—

"(I) not more than $1,900,000 may be reserved to carry out section 6; and

"(II) of the amount so reserved, the portion exceeding $1,235,000 shall be used to carry out paragraphs (1) and (2) of section 6(b).

"(b) State Grants for Protection and Advocacy Services Related to Assistive Technology.—There are authorized to be appropriated to carry out section 5 $4,419,000 for fiscal year 2005 and such sums as may be necessary for each of fiscal years 2006 through 2010.".

SEC. 3. CONFORMING AMENDMENTS.

(a) Developmental Disabilities Assistance and Bill of Rights Act of 2000.—The Developmental Disabilities Assistance and Bill of Rights Act of 2000 (42 U.S.C. 15001 et seq.) is amended—

(1) in section 124(c)(3)(B), by striking "section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012)" and inserting "section 4 or 5 of the Assistive Technology Act of 1998";

(2) in section 125(c)(5)(G)(i), by striking "section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012)" and inserting "section 4 or 5 of the Assistive Technology Act of 1998";

(3) in section 143(a)(2)(D)(ii), by striking "section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012)" and inserting "section 4 or 5 of the Assistive Technology Act of 1998"; and

(4) in section 154(a)(3)(E)(ii)(VI), by striking "section 101 or 102 of the Assistive Technology Act of 1998 (29 U.S.C. 3011, 3012)" and inserting "section 4 or 5 of the Assistive Technology Act of 1998".

(b) REHABILITATION ACT OF 1973.—The Rehabilitation Act of 1973 (29 U.S.C. 701 et seq.) is amended—

(1) in section 203, by striking subsection (e) and inserting the following:

"(e) In this section—

"(1) the terms 'assistive technology' and 'universal design' have the meanings given the terms in section 3 of the Assistive Technology Act of 1998; and

"(2) the term 'targeted individuals' has the meaning given the term 'targeted individuals and entities' in section 3 of the Assistive Technology Act of 1998.";

(2) in section 401(c)(2), by striking "targeted individuals" and inserting "targeted individuals and entities"; and

(3) in section 502(d), by striking "targeted individuals" and inserting "targeted individuals and entities".

SA 3944. Mr. INHOFE (for Mr. LEAHY (for himself and Mr. HATCH)) proposed an amendment to the bill H.R. 2714, to reauthorize the State Justice Institute; as follows:

On page 3, after line 5, add the following:

SEC. 4. LAW ENFORCEMENT ARMOR VESTS.

Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking "2004" and inserting "2007".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, September 30 at 10:30 a.m. to receive testimony regarding issues relating to low level radioactive waste.

THE PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to continue its markup on Thursday, September 30, 2004 at 9:30 a.m. in Dirksen Senate Office Building Room 226.

Agenda

I. Nominations

Claude A. Allen, to be U.S. Circuit Judge for the Fourth Circuit; Susan B. Neilson, to be United States Circuit Judge for the Sixth Circuit; Micaela Alvarez, to be United States District Judge for the Southern District of Texas; Keith Starrett, to be United States District Judge for the Southern District of Mississippi; Christopher Boyko, to be United States District Judge for the Northern District of Ohio; Raymond L. Finch, to be Judge for the District Court of the Virgin Islands for a term of ten years, reappointment; David E. Nahmias, to be United States Attorney for the Northern District of Georgia; Richard B. Roper, to be United States Attorney for the Northern District of Texas for the term of four years; Lisa Wood, to be United States Attorney for the Southern District of Georgia for the term of four years; Ricardo H. Hinojosa, to be Chair of the United States Sentencing Commission; Michael O'Neill, to be a Member of the United States Sentencing Commission; Ruben Castillo, to be a Member of the United States Sentencing Commission; Beryl Alaine Howell, to be a Member of the United States Sentencing Commission; and William Sanchez, to be Special Counsel for Immigration-Related Unfair Employment Practice.

II. Legislation

S. 1635, L-1 Visa (Intracompany Transferee) Reform Act of 2003, Chambliss;

S. 2396, Federal Courts Improvement Act of 2004, Hatch, Leahy, Chambliss, Durbin, Schumer;

S. 2204, A bill to provide criminal penalties for false information and hoaxes relating to terrorism Act of 2004, Hatch, Schumer, Cornyn, Feinstein, DeWine;

S. 1860, A bill to reauthorize the Office of National Drug Control Policy Act of 2003, Hatch, Biden, Grassley;

S. 2195, A bill to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors Act of 2004, Biden, Hatch, Grassely, Feinstein;

S. 2560, A bill to amend chapter 5 of title 17, United States Code, relating to inducement of copyright infringement, and for other purposes Act of 2004, Hatch, Leahy, Graham;

S.J. Res. 23, A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated Act of 2003, Cornyn, Chambliss;

S. 2373, A bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names, Domenici, Graham, Sessions;

S. 1784, A bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine Act of 2003, Feinstein, Grassley, Kohl, Biden, Kyl, Schumer;

S. ___, A bill to reauthorize the Department of Justice, Hatch;

H.R. 2391, To amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises Act of 2003, Smith-TX;

S. 2760, A bill to limit and expedite Federal collateral review of convictions for killing a public safety officer Act of 2004, Kyl, Hatch, Craig, Cornyn, Sessions, Chambliss;

S. 115, Private Bill; A bill for the relief of Richi James Lesley Act of 2004, Cochran;

S. 2331, A bill for the relief of Fereshteh Sani Act of 2004, Allen;

S. 1042, Private Bill; A bill for the relief of Tchisou Tho Act of 2003, Coleman;

S. 2314, A bill for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan Act of 2004, Durbin;

S. 353, Private Bill; A bill for the relief of Denes and Gyorgyi Fulop Act of 2003, Feinstein;

H.R. 867, Private Bill; For the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan Act of 2003, Holt-NJ;

S. 989, A bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes Act of 2003, Enzi, Reid;

S. 1728, Terrorism Victim Compensation Equity Act of 2003, Specter, Leahy, Schumer;

S. 549, A bill to amend the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107-42) to provide compensation for victims killed in the bombing of the World Trade Center in 1993, and for other purposes Act of 2003, Schumer;

S. 1740, Anthrax Victims Fund Fairness Act of 2003, Leahy, Feingold; and

S. Res. 424, A resolution designating October 2004 as "Protecting Older Americans From Fraud Month" Act of 2004, Craig, DeWine, Feinstein, Kohl, Sessions, Hatch.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, September 30, 2004, to consider the nominations of Mary J. Schoelen and William A. Moorman to be Judges, U.S. Court of Appeals for Veterans' Claims, and Robert Allen Pittman to be Assistant Secretary of Human Resources and Administration, Department of Veterans Affairs. The hearing will take place in room 418 of the Russell Senate Office Building at 2:00 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMMUNICATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Communications be authorized to meet on September 30, 2004, at 2:30 pm. on ICANN Oversight/Security of Internet Root Servers and the Domain Name System (DNS).

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FINANCIAL MANAGEMENT, THE BUDGET, AND INTERNATIONAL SECURITY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs' Subcommittee on Financial Management, the Budget, and International Security be authorized to meet on Thursday, September 30, 2004 at 10:30 a.m. for a hearing entitled, "Oversight Hearing on Section 529 College Savings Plans: High Fees, Inadequate Disclosure, Disparate State Tax Treatment and Questionable Broker Sales Practices."

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that Dr. Jonathan Epstein, who is a legislative fellow in Senator BINGAMAN's office, be granted the privilege of the floor during the pendency of S. 2845 and any votes thereon.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to executive session to consider the following nominations on the Executive Calendar, and for the information of Members, these are uniformed military promotions that were reported today by the Armed Services Committee: 867 through 900, and all nominations on the Secretary's desk in the Air Force, Army, Marine Corps, and Navy.

I further ask unanimous consent that the nominations be confirmed, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations were considered and confirmed, as follows:

IN THE AIR FORCE

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Bruce A. Carlson, 4082

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Dennis R. Larsen, 3094

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. William M. Fraser, III, 9314

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Carrol H. Chandler, 9115

The following named officer for appointment in the United States Air Force to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Stephen G. Wood, 7553

The following Air National Guard of the United States officers for appointment in the Reserve of the Air Force to the grades indicated under title 10, U.S.C., section 12203:

To be brigadier general

Colonel Robert A. Knauff, 5052

The following named officer for appointment to the grade indicated in the United States Air Force under title 10, United States Code, section 9335:

To be brigadier general

Col. Dana H. Born, 3051

The following named officer for appointment in the United States Air Force to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Marshall K. Sabol, 5866

IN THE ARMY

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be general

Lt. Gen. Benjamin S. Griffin, 5044

The following named officer for appointment as The Surgeon General, United States Army, and appointment to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., sections 601 and 3036:

To be lieutenant general

Maj. Gen. Kevin C. Kiley, 4471

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. James J. Lovelace, Jr., 0304

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. James M. Dubik, 1344

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. Robert T. Dail, 5056

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. David F. Melcher, 8170

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. R. Steven Whitcomb, 7058

The following named officer for appointment in the United States Army to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. David D. McKiernan, 8864

The following named officer for appointment in the Reserve of the Army to the grades indicated under title 10, U.S.C., section 12203:

To be major general

Brig. Gen. James E. Archer, 6923
Brig. Gen. Steven P. Best, 7173
Brig. Gen. Jack C. Stultz, 5861

To be brigadier general

Col. Edward L. Arntson, II, 5208
Col. Gregory A. Schumacher, 9676
Col. Maynard J. Sanders, 3264
Col. Jack F. Nevin, 0497
Col. Adolph McQueen, Jr., 8120
Col. Glenn J. Lesniak, 8435
Col. Margrit M. Farmer, 0260
Col. Norman H. Andersson, 9151

To be major general

Brig. Gen. Peter S. Cooke, 6590

The following named officer for appointment in the United States Army to the grade indicated under title 10, U.S.C., section 624:

To be brigadier general

Col. Karl R. Horst, 5501

The following Army National Guard of the United States officer for appointment in the Reserve of the Army to the grade indicated under title 10, U.S.C., section 12203:

To be brigadier general

Col. Dana D. Batey, 5013

The following named officer for appointment to the grade indicated in the United States Army Veterinary Corps under title 10, U.S.C., sections 3064 and 3084:

To be brigadier general

Col. Michael B. Cates, 7519

IN THE MARINE CORPS

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Maj. Gen. James N. Mattis, 7981

The following named officer for appointment in the United States Marine Corps to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be lieutenant general

Lt. Gen. Edward Hanlon, Jr., 2430

IN THE NAVY

The following named officer for appointment to the grade of Admiral in the United States Navy while assigned to a position of importance and responsibility under title 10, U.S.C., section 601 and title 50, U.S.C., section 2406:

To be admiral

Vice Adm. Kirkland H. Donald, 3953

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Charles L. Munns, 9043

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. James K. Moran, 5752

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Joseph A. Sestak, Jr., 0962

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Mark P. Fitzgerald, 2694

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Vice Adm. Gary Roughead, 6126

The following named officer for appointment in the United States Navy to the grade indicated while assigned to a position of importance and responsibility under title 10, U.S.C., section 601:

To be vice admiral

Rear Adm. Lewis W. Crenshaw, Jr., 4960

The following named officer for appointment as Deputy Judge Advocate General of the Navy in the grade indicated under title 10, U.S.C., section 5149:

To be rear admiral

Capt. Bruce E. MacDonald, 9816

The following named officer for appointment as Judge Advocate General of the Navy in the grade indicated under title 10, U.S.C., section 5149:

To be rear admiral

Rear Adm. James E. McPherson, 8989

The following named officer for appointment in the United States Naval Reserve to the grade indicated under title 10, U.S.C., section 12203:

To be rear admiral (lower half)

Capt. Norton C. Joerg, 2309

The following named officers for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be rear admiral (lower half)

Captain Gerald R. Beaman, 7819
Captain Mark S. Boensel, 9146
Captain John H. Bowling, II, 9693
Captain Mark H. Buzby, 9492
Captain Dan W. Davenport, 4237
Captain William E. Gortney, 9997
Captain Michael R. Groothousen, 1183
Captain Victor Guillory, 1980
Captain Cecil E. Haney, 0815
Captain Harry B. Harris, Jr., 2998
Captain James M. Hart, 6484
Captain Ronald H. Henderson, Jr., 8595
Captain Joseph D. Kernan, 3385
Captain Raymond M. Klein, 5016
Captain Charles J. Leidig, Jr., 4367
Captain Archer M. Macy, Jr., 7023
Captain Michael K. Mahon, 3439
Captain Chalres W. Martoglio, 2785
Captain Walter M. Skinner, 1667
Captain Scott R. Vanbuskirk, 0831
Captain Michael C. Vitale, 7437
Captain Richard B. Wren, 0911

The following named officer for appointment in the United States Navy to the grade indicated under title 10, U.S.C., section 624:

To be read admiral (lower half)

Capt. Christine S. Hunter, 9053

NOMINATIONS PLACED ON THE SECRETARY'S DESK

IN THE AIR FORCE

PN1848 AIR FORCE nomination of Marjorie B. Medina, which was received by the Senate and appeared in the Congressional Record of July 22, 2004.

PN1849 AIR FORCE nomination of Henry Lee Einsel Jr., which was received by the Senate and appeared in the Congressional Record of July 22, 2004.

PN1850 AIR FORCE nomination of Robert L. Munson, which was received by the Senate and appeared in the Congressional Record of July 22, 2004.

PN1882 AIR FORCE nomination of James Miller, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1883 AIR FORCE nomination (9) beginning MICHAEL M. HARTING, and ending JOEL C. WRIGHT, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1884 AIR FORCE nomination of Dana J. Nelson, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1885 AIR FORCE nomination of William E. Lindsey, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1886 AIR FORCE nomination of Martin S. Fass, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1923 AIR FORCE nomination of Frank A. Posey, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1924 AIR FORCE nomination of Tracey R.* Rockenbach, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1925 AIR FORCE nominations (2) beginning SHANNON D.* HAILES, and ending MICHAEL F. LAMB, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1926 AIR FORCE nominations (4) beginning TOMMY D.* BOUIE, and ending JENNIFER L.* LUCE, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1954 AIR FORCE nominations (3) beginning NOEL D. MONTGOMERY and ending ALEXANDER V.* SERVINO, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1981 AIR FORCE nominations (2) beginning KATHLEEN HARRINGTON, and ending PAUL E. PIROG, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1982 AIR FORCE nomination of George J. Krakie, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1983 AIR FORCE nominations (2) beginning DAVID A. LUJAN, and ending MICHAEL C. SCHRAMM, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1984 AIR FORCE nominations (5) beginning DOUGLAS A. HABERMAN, and ending MATTHEW S. WARNER, which nominations were received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1985 AIR FORCE nomination of Martin J. Towey, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

IN THE ARMY

PN1887 ARMY nominations (34) beginning JUAN H. BANKS, and ending LISA N. YARBROUGH, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1927 ARMY nominations (9) beginning MICHAEL J. BLACHURA, and ending RONALD P. WELCH, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1928 ARMY nominations (6) beginning SCOTT A. AYRES, and ending GERALD I. WALTER, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1929 ARMY nominations (6) beginning MARK A. COSGROVE, and ending RONNIE J. WESTMAN, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1930 ARMY nominations (11) beginning STEVEN H. BULLOCK, and ending JOHN M. STANG, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1931 ARMY nominations (119) beginning MICHAEL N. ALBERTSON, and ending WILLIAM S. WOESSNER, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1932 ARMY nominations (91) beginning JOHN W. AMBERG II, and ending RICHARD G. ZOLLER, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1933 ARMY nominations (176) beginning GILBERT ADAMS, and ending SCOTT W. ZURSCHMIT, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1934 ARMY nominations (75) beginning CELETHIA M. ABNER, and ending CHERUB I. * WILLIAMSON, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1936 ARMY nominations (292) beginning THOMAS L. * ADAMS JR., and ending KATHRYN M. * ZAMBONICUTTER, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1955 ARMY nomination of Raymond L. Naworol, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1956 ARMY nomination of Keith A. George, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1957 ARMY nomination of Curtis L. Beck, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1958 ARMY nomination of Rex A. Harrison, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1959 ARMY nominations (2) beginning KEVIN HAMMOND, and ending MICHAEL KNIPPEL, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1960 ARMY nominations (14) beginning JAIME B. * ANDERSON, and ending JOSEPH G. * WILLIAMSON, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1961 ARMY nominations (102) beginning JAMES R. ANDREWS, and ending SHANDA M. ZUGNER, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1962 ARMY nominations (880) beginning MICHAEL C. AARON, and ending X4130, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1963 ARMY nominations (1830) beginning CHRISTOPHER W. * ABBOTT, and ending X3181, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1986 ARMY nomination of John R. Peloquin, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

IN THE MARINE CORPS

PN1361 MARINE CORPS nomination of John T. Brower, which was received by the Senate and appeared in the Congressional Record of February 11, 2004.

PN1888 MARINE CORPS nomination of John M. Sessoms, which was received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1987 MARINE CORPS nomination of Randy O. Carter, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

IN THE NAVY

PN1889 NAVY nominations (146) beginning ANDREW M ARCHILA, and ending RICHARD G ZEBER, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1890 NAVY nominations (22) beginning RAY A BAILEY, and ending DAVID A STROUD, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1891 NAVY nominations (87) beginning RAYMOND ALEXANDER, and ending MARK A ZIEGLER, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1892 NAVY nominations (52) beginning STEVEN W ASHTON, and ending JASON D ZEDA, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1893 NAVY nominations (140) beginning TAMMERA L ACKISS, and ending KATHLEEN L YUHAS, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1894 NAVY nominations (243) beginning IK J AHN, and ending SARA B ZIMMER, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1895 NAVY nominations (40) beginning KERRY L ABRAMSON, and ending ANDRUE E WALL, which nominations were received by the Senate and appeared in the Congressional Record of September 8, 2004.

PN1937 NAVY nomination of Arthur B. Short, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1938 NAVY nomination of Scott Drayton, which was received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1939 NAVY nomination of Cipriano Pineda Jr., which was received' received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1940 NAVY nominations (25) beginning MICHAEL P AMSTUTZ JR, and ending JAMES J WOJTOWICZ, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1941 NAVY nominations (31) beginning JERRY L ALEXANDER, and ending LORI C WORKS, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1942 NAVY nominations (41) beginning PATRICK L BENNETT, and ending ERNEST C WOODWARD, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1943 NAVY nominations (19) beginning CLAUDE W ARNOLD JR, and ending STEVEN M WENDELIN, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1944 NAVY nominations (31) beginning CHRISTOPHER L BOWEN, and ending WILLIAM L WOOD, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1945 NAVY nominations (63) beginning JULIE M ALFIERI, and ending DONNA I YACOVONI, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1946 NAVY nominations (21) beginning MARIANIE O BALOLONG, and ending KAREN M WINGEART, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1947 NAVY nominations (239) beginning THOMAS G ALFORD, and ending KENDAL T ZAMZOW, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1948 NAVY nominations (809) beginning RYAN D AARON, and ending DAVID G ZOOK, which nominations were received by the Senate and appeared in the Congressional Record of September 10, 2004.

PN1964 NAVY nominations (5) beginning GLENN A. JETT, and ending MATTHEW WILLIAMS, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1965 NAVY nominations (65) beginning RICHARD S ADCOOK, and ending JEFFREY G ZELLER, which nominations were received by the Senate and appeared in the Congressional Record of September 13, 2004

PN1966 NAVY nomination of Daniel C. Ritenburg, which was received by the Senate and appeared in the Congressional Record of September 13, 2004.

PN1988 NAVY nomination of Dwayne Banks, which was received by the Senate and appeared in the Congressional Record of September 21, 2004.

PN1989 NAVY nominations (8) beginning BILLY R. DAVIS, and ending WILLIAM H. SPEAKS, which nominations were received by the Senate and appeared in the Congressional Record of September 21, 2004.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

WELFARE REFORM EXTENSION ACT, PART VIII

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to consideration of H.R. 5149, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 5149) to reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GRASSLEY. Mr. President, the state of children's health insurance program, or SCHIP, is one of the largest and most successful expansion of public health insurance for children since the creation of Medicaid. This vitally important program was created through a bipartisan commitment to expanding health coverage for children. Because today is the last day of the fiscal year for the Federal Government, $1.1 billion in unspent SCHIP funds are set to expire. These are funds that have been reallocated and then subsequently have had their availability extended several times over the past few years. In addition approximately $660 million in unspent 2002 state allotments are available to Secretary Thompson to redistribute to states that have spent their 2002 allotments.

I want to go on the record to say that I am absolutely committed to finding a bipartisan solution that will keep the $1.1 billion in the SCHIP program. Congress can, and should, address this issue before recessing in October, but if not, certainly before the close of the session. I want to work together with my colleagues in both parties toward a productive approach. The SCHIP program was created when people reached across the aisle and joined together to do the right thing to get kids health coverage. Today we need to move forward with this same spirit of cooperation and commitment.

We can also improve the SCHIP program to get more kids covered. In 2003, SCHIP covered 5.8 million targeted low-income individuals. However, a substantial number of children who are eligible for health coverage through SCHIP are not enrolled. This is a serious issue that deserves our thoughtful attention. We can do better.

The Federal Government should commit itself to getting more of these kids enrolled. They are entitled to health coverage under this vitally important program, yet billions of SCHIP dollars lie unspent. These unspent dollars are not helping any children today. I would hope that we can work out a plan to target a portion of the $1.1 billion in expiring SCHIP funding towards a coordinated SCHIP outreach plan so that as many eligible children as possible receive the coverage they deserve.

Of course, I am aware that there are fiscal concerns from states that can impede their ability to use State dollars to match Federal SCHIP dollars. Some are also concerned that increased enrollment will place a burden on states already struggling with the rising cost of health care. I really believe, however, that we can find a way to get more kids covered and provide states incentives to do so.

The fact that these funds are expiring does not mean that the SCHIP program is in danger of imminent collapse. That is not the case. While I am informed by CMS that six States face potential SCHIP shortfalls in FY05, Secretary Thompson has indicated that, unless Congress passes legislation to address these shortfalls, he will redistribute the approximately $660 million in 2002 allotments, which is more than enough to make up for these shortfalls in 2005.

Working together, Congress can reallocate the expiring $1.1 billion after tomorrow with no impact on the SCHIP program. In fact, in the past, Congress has acted months later to reallocate expired SCHIP funds back into the program. So it is not the case that September 30th is the "drop dead date" for action. In fact, when the FY1998 and FY1999 reallocations expired at the close of FY2002, Congress acted in 2003 to "reinstate" these funds through September 30, 2004. So, even if Congress acts in November to reallocate these funds, this is how Congress has dealt with the issue in the past and it can be done again.

We can work together to get the job done. I am committed to working with members on both sides of the aisle to reach a bipartisan agreement so that we can keep the $1.1 billion in the SCHIP program, address the projected 6-state shortfall and get as many kids as possible the health care coverage for which they are entitled. I believe we can do it if we all commit ourselves to putting kids first and moving ahead together.

Mr. HATCH. Mr. President, as one of the original authors of the CHIP program, I rise to share my strong support for the Children's Health Insurance Program, CHIP. Many are very worried about unspent CHIP dollars for fiscal year 2002 going back to the Treasury after today. I share those concerns. I want that $1.1 billion to remain available so it can be used to pay for health coverage for children. So does the President. So do my colleagues in both the Senate and the House of Representatives. There is no disagreement on that issue. Let me assure you that this will be resolved.

Regardless of what happens on October 1, every State will receive its new CHIP money for fiscal year 2005. Simply put, all States will be given the funds to cover their CHIP expenses while Congress continues to work on ways to use the unspent CHIP money from fiscal year 2002. It is important to remember that Congress has the power to restore these unspent CHIP funds to states once the new fiscal year has begun. In fact, just last year, Congress acted to restore unspent CHIP funds from fiscal years 1998 and 1999 to states several months after these funds went back to the Treasury. And, let me emphasize, once again, the fiscal year 2002 CHIP funds are not needed by any State for its 2005 CHIP program. No child is in danger of losing his or her CHIP coverage.

CHIP has been, for the most part, a great success. Today, there are 5.8 million children enrolled in the CHIP program. We have made good progress in providing health insurance to uninsured children. We have had great successes with the CHIP program since 1997, when it was first created.

However, important issues concerning the program still must be addressed. I believe that the No. 1 issue is reaching out to CHIP-eligible children who currently are not covered by the program. While many States have been successful with their outreach efforts, that is not the case in all States. I am particularly troubled by the difficulties faced by Native American children. Outreach must be addressed by Congress—my primary goal when we were drafting the original CHIP legislation in 1997 was to ensure that CHIP was available for all eligible children.

My biggest concern with one approach for spending the unspent fiscal year 2002 funds is contained in S. 2759, authored by Senators ROCKEFELLER, CHAFEE, KENNEDY and SNOWE, is that it does not directly help enroll the millions of uninsured children who are eligible for CHIP program. I have reviewed the Rockefeller-Kennedy bill and I am not convinced that it does anything to increase CHIP enrollment. Providing health insurance coverage under CHIP to uninsured children should be our top priority, not redistributing CHIP funding to states. Congress has redistributed leftover CHIP funds to states more than once and I am sure that the legislation has made a significant difference in increasing CHIP enrollment of uninsured, CHIP-eligible children.

That is why I am advocating a different approach and placing a higher priority on outreach to these uninsured children. I strongly support the President's goal to have a broad outreach effort through community-based entities such as hospitals, schools, Indian Health Service hospitals and clinics, tribes and tribal organizations, nonprofit community organizations, and Federally-qualified health centers. I also support performance-based grants for states that are successful in enrolling and covering children. These states should be rewarded for their successes in covering more children, instead of facing higher state costs.

While today marks the end of the fiscal year, it does not mark the end of the CHIP program. It does not mean that the CHIP program is going to lose money. It does not mean that states are going to run out of CHIP funds tomorrow. We all agree that these funds should remain in the CHIP program—we just have different ideas on how that money should be spent. Regardless, I am convinced that we will be able to work together on a solution regarding this important issue. I urge all of my colleagues to work to ensure that all eligible children are covered under the Children's Health Insurance Program.

Mr. BINGAMAN. Mr. President, I come to the floor today to express my dismay that the administration and the Congress have failed to prevent almost $1.1 billion in money that has been previous allocated to the State Children's Health Insurance Program, or SCHIP, from expiring. Families USA points out that the loss of these funds approximate the annual cost of providing health coverage to almost 750,000 children. That failure is unacceptable for a nation such as ours.

However, I am pleased to report that both Finance Committee Chairman GRASSLEY and Senator BAUCUS are moving quickly to pull together a bipartisan group together to resolve this problem as soon as possible. Considering that the chairman is the author of important pieces of legislation, such as the Family Opportunity Act, to improve the health of our Nation's children with special health care needs, it should come as no surprise that he is working to bridge the gap between legislation introduced by Senators ROCKEFELLER and CHAFEE that would preserve and reallocate the $1.1 billion in SCHIP funds and the administration's stated position to preserve the funding but take those dollars currently dedicated to health insurance coverage and use them instead "to enroll more children who remain uninsured despite being eligible for coverage."

In light of the chairman's dedication to the issue and commitment to a bipartisan solution, I am hopeful that we will get this resolved, and I urge all parties to work toward a compromise as soon as possible.

What is at stake here? According to data from a Kaiser Commission on Medicaid and the Uninsured report that was released on Monday, there were over 9.1 million children who were uninsured in our country in 2003. There have been important strides made in reducing the number of uninsured children since the passage of SCHIP, as the number of uninsured has dropped from 9.4 million uninsured in 2000 to the 9.1 million in 2003. The uninsured rate would have increased dramatically if not for SCHIP. In fact, the uninsured rate for adults during this same time-period increased from 30.2 million to 35.5 million.

Regardless of the improvement in children's health, the fact that over 9 million children remain uninsured is absolutely unacceptable for a nation such as ours.

In fact, if every single child living in the 21 States of Alaska, Arkansas, Delaware, Hawaii, Idaho, Iowa, Kansas, Maine, Mississippi, Montana, Nebraska, Nevada, New Hampshire, New Mexico, North Dakota, Rhode Island, South Dakota, Utah, Vermont, West Virginia, Wyoming, and the District of Columbia were uninsured, that would still be less than 9 million children. In other words, the number of children without health insurance in our nation exceeds the number of all children living in 21 states and the District of Columbia combined.

That is not something anybody in the administration or this chamber should find acceptable. We should be doing everything in our power to, at the very least, preclude the loss of over $1 billion that could be used to reduce that uninsured rate.

In New Mexico, the loss of this money is coupled with the loss of an expiring provision that is very important to our State and 10 others. The Center on Budget and Policy Priorities estimates that New Mexico will lose at least $20 million over the next few years in money for children's health if the administration and Congress fails to act.

Moreover, there was a very important provision that was included in the last redistribution effort that allows the 11 States, including New Mexico, Connecticut, Hawaii, Maryland, Minnesota, New Hampshire, Rhode Island, Tennessee, Vermont, Washington, and Wisconsin, to use up to 20 percent of allotted and retained funds by our States on children who are enrolled in Medicaid with income above 150 percent of poverty. This provision was included to recognize that our 11 States had enacted health care expansions for children prior to the enactment of SCHIP and were being effectively penalized financially for having done the right thing for children prior to 1997. The reason is that children in the other 39 States are able to receive an enhanced matching rate for children as low as 100 percent of poverty while children in states such as Washington cannot receive an enhanced matching rate until a child lives in a family with income above 200 percent of poverty.

This important compromise, which significantly reduces the inequity among the States, was achieved in large part due to the hard and dedicated work of Senators MURRAY, CANTWELL, JEFFORDS, LEAHY, CHAFEE, REED of Rhode Island, DOMENICI, and FRIST.

Unfortunately, that critically important provision will also effectively expire tonight. This will have a detrimental impact on the health and well-being of the children in these States, as this has been funding that our states have counted on for the delivery of children's health services in both Medicaid and SCHIP for fiscal year 2005.

In Secretary THOMPSON's letter to Senator GRASSLEY on Tuesday and the majority Leader's letter to Senator CHAFEE on September 24, 2004, they both failed to recognize this issue. It is for that reason I raise it here again in the Senate to remind my colleagues and the administration that it is an important issue to our 11 States, including that of the Majority Leader, and that, just as we must find a solution to restoring the $1.1 billion in expiring funding for SCHIP, we must also get this other issue resolved as soon as possible.

I strongly urge the administration to reconsider its position that the $1.1 billion should be completely diverted from health coverage to outreach and enrollment. If implemented as proposed, it would result in over 20 percent of SCHIP dollars in 2005 going to outreach and enrollment. While I am a strong supporter of outreach and enrollment in SCHIP, this proposal is both extreme and excessive. In fact, it should be noted that beginning in fiscal year 2002 that expenditures of federal SCHIP funds have begun to exceed federal SCHIP allotments. Therefore, keeping as much funding in actual health coverage is critically important to continue to reduce the number of uninsured children in our nation.

On the other hand, as the sponsor of legislation with the Congressional Hispanic Caucus that authorizes the use of $50 million of SCHIP funding for outreach and enrollment that was subsequently picked up by the majority leader in legislation he introduced, I firmly believe setting aside a limited portion of the $1.1 billion for outreach and enrollment is both necessary to reach a compromise and would also result in better health coverage for children.

In fact, of the 9.1 million uninsured, according to data from the Kaiser Commission on Medicaid and the Uninsured, 6.8 million live in households that have incomes below 200 percent of poverty, which is the level at which most States provide a combination of coverage for children through either their Medicaid or State Children's Health Insurance Programs. While some of these children would not be eligible for either Medicaid or SCHIP due to their immigration status, it is clear from a variety of studies that somewhere between 60 to 85 percent of uninsured children are eligible for but not enrolled in either Medicaid or SCHIP.

Princeton University's publication entitled The Future of Children dedicated much of one issue to looking at successful efforts to improve outreach and enrollment. As one of its articles notes, "Most important to reducing the uninsurance problem facing children is raising participation in Medicaid and SCHIP, as 76 percent of uninsured children are already eligible for coverage under SCHIP and Medicaid, but are not enrolled. A continued focus on simple and convenient enrollment and renewal systems, as well as proactive outreach and educational efforts, will be key to reaching these children. Special efforts will be needed to enroll Latino and other minority children, children in immigrant families (families in which at least one member is an immigrant), and adolescents. Children in these groups are all over-represented in the ranks of the eligible, but uninsured."

In New Mexico, we have our own special program along the U.S.-Mexico border that has been funded by the Bureau of Primary Health Care called Border VISION Fornteriza. The program funds the recruitment and training of community health workers or promotoras that have over the years successfully assisted in the enrollment of thousands of children into health coverage through Medicaid and SCHIP. The program was honored as a model program by the U.S.-Mexico Border Commission and it is precisely this type of program that should be encouraged in whatever agreement is reached.

As a point of comparison, when Congress passed the Medicare prescription drug bill last year, hundreds of millions of dollars was dedicated to doing outreach and enrollment to senior citizens and people with disabilities about the prescription drug cards and the pending drug coverage. In contrast, while States can spend some of their administrative dollars in SCHIP on outreach and enrollment, there are no federal funds exclusively dedicated to conduct outreach and enrollment efforts in either Medicaid or SCHIP.

That should change, and I hope my colleagues will closely review the language introduced by me as part of S. 1159 and in S. 2091 introduced by the majority leader on providing outreach and enrollment funding for children's health.

And finally, I am also hopeful that the Senate will consider legislation by Senator LUGAR and me that would streamline enrollment of children in either Medicaid or SCHIP. Just as we know that low-income senior citizens and the disabled enrolled in Medicare Savings Programs are clearly income eligible for the new Medicare prescription drug card and its $600 annual subsidy, I had introduced legislation with Senator LINCOLN to auto-enroll those Medicare beneficiaries into the drug card to get the $600 subsidy.

Dr. Mark McClellan, Administrator of the Centers for Medicare and Medicaid Services, or CMS, worked hard and has agreed that those beneficiaries should be presumed income-eligible and sent the card for them to activate. Over 1 million low-income senior citizens and people with disabilities will now be getting access to the drug card subsidy that would not have otherwise received those funds.

The same type of mechanism should be applied to children' health. The Children's Partnership and the Kaiser Family Foundation recently released a report on what they call "Express Lane Eligibility." This concept is encompassed in Senator LUGAR's legislation by employing "two common-sense strategies to find and enroll these nearly seven million 'eligible but uninsured' children in health insurance coverage. . . ."

Those common-sense strategies are: No. 1, it targets large numbers of eligible children where they can be found: in other public benefit programs like school lunch and food stamps. More than 70 percent of low-income uninsured children are already receiving other public assistance benefits of some kind; and No. 2 it expedites children's enrollment in health coverage by using information already submitted by parents when they enrolled their children in other benefit programs.

Again, I urge the Congress to also closely look at this successful model to improve enrollment of children into health insurance coverage.

I am terribly disappointed that the expiring SCHIP funds were not retained in a timely manner, but am hopeful that under the leadership of both Senators GRASSLEY and BAUCUS that we will quickly come to a resolution of this issue in which all the $1.1 billion in restored and retained for children's health. Furthermore, I am hopeful that a portion of that funding will be allocated to outreach and enrollment of children and for streamlining enrollment mechanisms into the program.

Mr. SMITH. Mr. President, as we approach the end of the fiscal year, there are many important issues that require our attention. Not the least among them is the extension of $1.1 billion in unspent S-CHIP funding that will revert to the Treasury if Congress does not take action. This is a vitally important program to the State of Oregon, and to America's children. We must take action to protect this funding.

The State Children's Health Insurance Program, created in 1997, has always had bi-partisan support. Shortly after being elected to the United States Senate in 1996, I strongly supported the creation of this program. I knew that Congress had an opportunity to reach out to millions of low-income children and provide health care coverage. Working with my colleagues and friends, including Senators ORRIN HATCH and EDWARD KENNEDY, in the development of the bipartisan proposal was a pleasure.

Since 1997, we have all continued to work together, members from both sides of the aisle, to extend funding and make improvements to the program. This year should be no different. I know it is an election year, a presidential election year in fact, and that often creates a dynamic where politics can overwhelm policy. However, I am hopeful that we can once again triumph over partisanship and pass legislation that will intervene and prevent the expiration of $1.1 billion in unspent S-CHIP funding. I am confident that if both sides are reasonable and willing to work together we can accomplish this goal by the time Congress recesses on October 8.

As we prepare to take action on a bill, we need to consider that no one member or group of members have all of the answers; that nobody has a monopoly on protecting America's children. We all work every day to protect our Nation's children and ensure that those who come from low-income families receive the nutritional, housing, education and health care assistance that they need. This time should be no different.

I look forward to working with Senators HATCH and KENNEDY, the creators of this remarkable program; President Bush, a strong advocate for our nation's children; Leader FRIST, Chairman GRASSLEY and others to extend funding for this important program.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5149) was read the third time and passed.

TO PROVIDE AN EXTENSION OF HIGHWAY, HIGHWAY SAFETY, MOTOR CARRIER SAFETY, TRANSIT, AND OTHER PROGRAMS FUNDED OUT OF THE HIGHWAY TRUST FUND PENDING ENACTMENT OF A LAW REAUTHORIZING THE TRANSPORTATION EQUITY ACT FOR THE 21ST CENTURY

Mr. FRIST. I ask unanimous consent that the Senate now proceed to consideration of H.R. 5183, which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 5183) to provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

There being no objection, the Senate proceeded with the consideration of the bill.

TRANSPORTATION REAUTHORIZATION BILL

Mr. HATCH. Mr. President, today is a disappointing day in the history of Congress. Exactly one year ago, Congress missed the deadline for passing a full transportation reauthorization bill that would fund the Federal portion of highway, transit, and safety projects around the country for the next six-years. The fact that we missed this self-imposed, legislative deadline will come as no surprise to those who follow progress on Capitol Hill, but it is deeply troubling.

Because of the unwillingness of several of my colleagues, Congress is once again forced to use a temporary extension of last year's funding as an inadequate short-term fix to a very real problem. This is an unacceptable outcome and I hope my colleagues will agree we need to pass a fully-funded 6-year bill immediately.

Just as national defense and judicial review are core functions performed by the United States Government to ensure security and fairness for all citizens, transportation infrastructure funding is one of the primary responsibilities of the Federal Government. Adequate transportation infrastructure that is safe and affordable helps facilitate intrastate and interstate trade and provides the physical backbone of our economy. This is certainly a burden that the Federal Government needs to bear on behalf of its citizens. While it was extremely disappointing that Congress allowed the September 30, 2003 deadline to pass without a resolution to this problem, it is simply inexcusable for us to have not successfully addressed this critical need for over a year. I ask my colleagues to commit to coming together before this year's end to pass a six-year reauthorization bill.

I am not naive, I understand that there are always reasons behind the inability for Congress to pass important legislation. And this case is no exception. Over the last year, I have heard the excuses from the legislative and executive branches of government, both Republicans and Democrats. Some argue the transportation funding proposals being debated cost too much; others say they don't provide enough funding to States; still others say the formulas being used to distribute the money are inherently flawed and do not return as much of the Highway Trust Fund proceeds as their State contributes. All of these excuses have merit and need to be worked out to the satisfaction of lawmakers prior to enactment, but it is rational for a person to believe, as I do, that given the high priority transportation funding plays in each and every State, Congress should have reached a compromise by now two years after work on this reauthorization initially began.

As I travel throughout Utah, meeting with the good citizens of my home State, the most frequently-requested issue I am asked to address is the issue of transportation. Every week, Utahns remind me of the constant need we have to maintain our roadways, increase our transit capacity, and provide alternative routes along main arteries in the cities. I certainly understand why this issue is so important to my constituents. Over the last ten years, Utah has seen a dramatic increase in the number of residents who call "The Beehive State" home. In fact, there are only three states in the United States who have had larger proportional increases in their populations over the past ten years and all of them border the State of Utah. There is tremendous population growth all over the West, underscoring the critical need we have for a steady increase in transportation funding right now.

The State of Utah receives over $200 million per year in highway funding which goes toward the planning and execution of highway expansion projects. Under the Senate-proposed version of this bill, that number would go to nearly $300 million per year. That increase goes a long way, not all the way, but a long way toward making several important transportation projects a reality. Projects that otherwise might not come to fruition without a federal commitment.

In stating the amount of funding Utah receives, I do not want to give the impression that this Federal funding comes to States without them having to do their part. All of the Federal funds in this bill have a State matching component as well. States spend millions, even billions, of State dollars on transportation every year. Demand for more and better transportation alternatives in the State of Utah have become so severe that State lawmakers are now seriously considering raising the State fuel tax in order to pay for their portion of these projects. Although I hate to see any tax increases, I applaud the efforts of local lawmakers to deal with our transportation problems with real solutions and adequate funding.

The Utah Department of Transportation—UDOT—has several aggressive highway projects around the State which have been planned for years, budgeted in the State's annual budgeting process, and now only require a federal commitment to help them proceed. I refer to projects like the ongoing reconstruction of I–15 which connects some of the most populous portions of the State from North to South. New I–15 interchanges in Ogden, Layton, and Provo are desperately needed to catch up with the large growth these cities are experiencing. Also, highway projects in Emery County on US–6, a railroad replacement bridge on US–89 in Pleasant Grove, widening of State road 92 in Lehi, and the building of the Northern Corridor in St. George are all projects which suffer terrible setbacks each time Congress cannot come together and pass a transportation reauthorization bill. And there are many, many more projects throughout the State I don't have time to name here, but that are equally as important.

On the transit side, with the recent addition of light rail and rapid bus service to several sections of downtown Salt Lake City, the citizens of Utah have grown to rely heavily on transit as a primary means of transportation. The Utah Transit Authority—UTA—has aggressive plans for projects in the pipeline that will greatly benefit the entire population of Utah. The recent announcement of the Utah Regional Commuter Rail project, which would bring rapid commuter rail service from as far away as Ogden all the way down to Provo, is encouraging and has many residents excited for the future of transit service around the state. As well, the expansions of the light rail lines from downtown Salt Lake to the airport and South Jordan are highly supported by commuters.

UTA receives $70 million to $80 million per year from Federal transit funding projects which not only provide financing for large portions of the light rail and commuter rail projects, but also provide statewide bus service and improvements to a majority of the State's population. Intermodal hubs, intelligent transportation systems, and other advances have forever improved the ease and convenience of commuting in the State of Utah and these programs depend heavily on the transportation reauthorization bill stalled in Congress. Extensions of current law, which have been going on for over a year now, get us nowhere closer to funding these important projects. The size and scope of these projects are so large that they require a long term commitment from the Federal Transit Administration—FTA—in order to get started. However, in the absence of congressional approval of a full six-year bill, the FTA is unable to make the long-term commitments required for local transit authorities to go out and secure their funding. This leaves transit projects in an eternal holding pattern, waiting for someone to commit to their future. This is unacceptable and a terrible way to address the ever growing commuting needs of citizens.

One aspect of this bill that is extremely important to citizens around the State of Utah is the fact that much of the funding for transportation safety and bike path projects comes from Federal sources. The State of Utah combines several million dollars a year with the Federal money provided by this bill to build safer crosswalks, walking bridges, bike paths, and railroad crossings throughout the State. These projects save lives and make enjoying the outdoors a safer activity. Without a Federal commitment to safety and outdoor recreation, these projects would certainly be lost in the difficult budgetary times States are facing.

This past February, when the Senate Finance Committee was considering the "pay for" sections of this bill, we faced a daunting task. How do you provide a substantial increase in transportation funding in the face of shrinking fuel tax revenues, without raising taxes or increasing the deficit? This is a difficult question and one the members of the Finance Committee had to deal with in very short order. However, to Senator GRASSLEY's credit, we found a way to provide the substantial increase. It was not easy. There were a lot of tough decisions we had to make. Many ingenious methods were used to increase revenues coming into the Highway Trust Fund, like cracking down on fraud and covering the cost of fuel tax credits currently in the tax code. But when all was said and done, we did it. We provided a 20 percent increase to transportation funding and we didn't raise fuel taxes or create a large deficit that future generations will have to pay off. Was it a sustainable fix that we will be able to deploy every six-years to keep the highway trust fund afloat? No, only a fuel tax increase or a large upswing in the demand for fuel will do that. But, was it a good six-year fix for a difficult problem that was already months overdue? Yes, I believe it was a good short-term fix. In short, the bill was paid for.

As I stated before, the work to reauthorize Federal transportation funding began some two-years ago when aides met to discuss the general structure of a bill. I cannot believe that the State of Utah is the only State which depends heavily on Federal transportation funding to keep up with the demands of maintaining an adequate infrastructure.

Therefore, it simply puzzles me as to why we have not been able to negotiate an acceptable bill in a two-year period. As a conferee appointed to negotiate a final bill, I can tell you first hand, that some Congressional leaders have tried very hard to come to agreement on the specifics of a bill. The efforts of Chairman INHOFE have been extraordinary. He has worked tirelessly to find compromise with leaders who appear unyielding in their particular criticisms of the bill. He has shown his willingness to compromise on his own bill and work with others. I know he does not want to pass a bill with lower funding amounts than the Senate bill, but despite that belief. I applaud him for his willingness to compromise and work toward a productive solution.

As Chairman INHOFE, I have indicated my willingness to compromise on many points in order to get a bill moving. I have made calls to colleagues, I have asked those who have indicated their unwillingness to move to please join the effort and move a bill forward. I have done my part for the citizens of Utah and will continue to do all I can.

More contentious bills than this get negotiated and passed by both houses every year. I know money is tight right now. I know we would all like to see the funding formulas be more favorable for our home States. I know each of us would like to have more funding for our home States than we currently do. But I call on each of my colleagues on both sides of the aisle to please put down your arguments and get back to the negotiating table and finish the transportation reauthorization bill before year's end. Time is short and I realize we must pass a temporary extension bill in order to keep some Federal highway funds flowing. However, I encourage my colleagues to take advantage of the remaining days left in the 108th Congress and come together to pass one of the most important bills before Congress this year. Successful passage of the transportation reauthorization bill will have positive, long-lasting effects on each and every State and I implore my colleagues not to let this opportunity pass.

Frankly, I am disappointed that we have failed to produce a six-year transportation reauthorization bill which fully funds the highway, transit, and safety programs for our States. As I mentioned earlier, the temporary extensions we have been using do not adequately address the transportation needs or our citizens. Temporary extensions frustrate the planning of these large projects, significantly delay the delivery, and make it impossible for States to raise the money necessary to fund their portions of the projects. Capital markets turn a deaf ear to project specific financing when there is no long-term Federal commitment. Only we can rectify this problem and I know we will find the solution. Let's do it sooner rather than later. Let's not wait for this problem to get even more out of hand. Let's do the right thing and come together with an adequately funded compromise. I pledge my efforts in this cause and hope my colleagues will do the same.

Mr. SARBANES. Mr. President, the Transportation Equity Act for the 21st Century, which authorized the Federal highway, transit, and safety programs, expired 1 year ago today. Although both the Senate and the House have passed comprehensive, multiyear legislation to reauthorize those programs, a conference agreement still has not been worked out. As a result, today the Senate is passing an 8-month extension, the sixth short-term extension since TEA-21 expired. The inherent uncertainty of short-term extensions has made it difficult for State and local governments and transit agencies to make decisions regarding construction, maintenance, and operations.

I want to speak for a moment about the transit program, which falls under the jurisdiction of the Senate Banking Committee. In the Banking Committee's reauthorization hearings, we heard extensive testimony on the critical role of transit in reducing congestion, strengthening our national economy, and improving our quality of life. Transit ridership is at record levels, a testament to Americans' growing need for safe, reliable transportation choices. The same can be said for the other modes as well: demand is increasing along our entire transportation network.

Increased investment is essential if we are to keep up with this demand. The U.S. Department of Transportation has estimated that an average of $127 billion per year is needed over the next two decades to maintain and improve the condition of our highways, bridges, and transit systems. Other estimates show an even greater need. I believe that failure to make the needed investment will result in the continued deterioration of our existing infrastructure, threatening our future mobility and economic strength. Such investment would also have a positive impact in the near term: according to the U.S. Chamber of Commerce, each $1 billion invested in transportation infrastructure creates 47,500 jobs.

In an effort to begin addressing these needs, the Banking Committee passed a reauthorization of the Federal transit program in February of this year. That bill authorized $56.5 billion over 6 years for transit, a substantial increase over TEA-21. As a result of Banking Committee Chairman SHELBY's leadership in developing that piece of legislation, the Federal Public Transportation Act of 2004 was reported out of the Banking Committee unanimously. The Banking Committee bill was incorporated into S. 1072, the Safe, Accountable, Flexible, and Efficient Transportation Equity Act, a 6-year multimodal reauthorization bill, which passed through the Senate with overwhelming bipartisan support.

Notwithstanding the passage in both the Senate and the House of reauthorization bills calling for substantially increased investment, the administration has not been willing to support the kind of investment needed to meet our pressing transit and highway needs. Without a serious commitment from the administration to make such investments, it has been impossible to move forward in the conference process.

Until that process is completed, it is essential that our States and local communities be able to continue to operate and maintain our Nation's roads, bridges, and transit systems. The legislation considered by the Senate today would allow Federal assistance to continue through May 31, 2005, and provides that once a multiyear reauthorization bill is completed, the budgetary firewalls protecting highway and transit spending will be extended around the total amounts authorized for fiscal year 2005 in that multiyear bill. I hope that in the next 8 months the Administration will work cooperatively with the Congress to produce a comprehensive reauthorization bill that will provide the needed resources to address the Nation's urgent transportation needs.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

Mr. REID. Mr. President, this could not have been done without Senator BYRD and Senator STEVENS. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5183) was read the third time and passed.

MEASURES READ THE FIRST TIME—H.R. 4596 AND H.R. 4606

Mr. INHOFE. Mr. President, I understand there are two bills at the desk, and I ask for their first reading, en bloc.

The PRESIDING OFFICER. The clerk will report the bills by title.

The legislative clerk read as follows:

A bill (H.R. 4596) to amend Public Law 97-435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to the Eastern Washington University until December 31, 2009.

A bill (H.R. 4606) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

Mr. INHOFE. Mr. President, I ask for its second reading and, in order to place the bills on the calendar under the provisions of rule XIV, I object to my own request, en bloc.

The PRESIDING OFFICER. The bills will have their second reading on the next legislative day.

MEASURE PLACED ON THE CALENDAR—S. 2866

Mr. INHOFE. Mr. President, I understand that there is a bill at the desk and due for its second reading.

The PRESIDING OFFICER. The clerk will read the bill by title for the second time.

The legislative clerk read as follows:

A bill (S. 2866) to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

Mr. INHOFE. In order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. The objection having been heard, the bill will be placed on the calendar.

AMENDMENT TO SAFE DRINKING WATER ACT

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 502, H.R. 2771.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2771) to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program.

There being no objection, the Senate proceeded to consider the bill.

Mr. INHOFE. I ask unanimous consent that the bill be read the third time and passed; that the motion to reconsider be laid upon the table; and that any statements relating thereto be printed in the RECORD, without further intervening or action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2771) was read the third time and passed.

LIMITATIONS AND EXTENSION FOR CERTAIN COASTAL WETLAND CONSERVATION PROJECTS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 670, S. 2495.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2495) to strike limitations on funding and extend the period of authorization for certain coastal wetland conservation projects.

There being no objection, the Senate proceeded to consider the bill.

Mr. INHOFE. I ask unanimous consent that the bill be read a third time and passed; the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2495) was read the third time and passed, as follows:

S. 2495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COASTAL WETLAND CONSERVATION PROJECT FUNDING.

(a) FUNDING.—Section 306 of the Coastal Wetlands Planning, Protection, and Restoration Act (16 U.S.C. 3955) is amended—

(1) in subsection (a), by striking ", not to exceed $70,000,000,";

(2) in subsection (b), by striking ", not to exceed $15,000,000"; and

(3) in subsection (c), by striking ", not to exceed $15,000,000,".

(b) PERIOD OF AUTHORIZATION.—Section 4(a) of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c(a)) is amended in the second sentence by striking "2009" and inserting "2019".

AMENDING FISH AND WILDLIFE ACT OF 1956

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 673, H.R. 2408.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2408) to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. INHOFE. I ask unanimous consent that the bill be read a third time and passed; the motion to reconsider be laid upon the table; and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2408) was read the third time and passed.

IMPROVING ACCESS TO ASSISTIVE TECHNOLOGY FOR INDIVIDUALS WITH DISABILITIES ACT OF 2004

Mr. INHOFE. Mr. President, I ask unanimous consent that the HELP Committee be discharged from further consideration of H.R. 4278, the assistive technology bill, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 4278) to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. GREGG. Mr. President, today, I join my colleague, the Senator from Iowa, Mr. HARKINS, and other Members, in seeking final passage of the Assistive Technology Act of 2004.

Senator HARKIN and I were determined to make the reauthorization of this piece of legislation a bipartisan process from the beginning. We have worked closely with the House of Representatives, Departments of Education, Labor, and Commerce, and the Small Business Administration as well as the, business, and research and development communities, the Assistive Technology Act Projects, the Alternative Financing Programs, and the disability community. Together we have successfully crafted a bipartisan and bicameral bill that we are all proud of. This bill follows the administration's lead, and the goals that President Bush set forth in the New Freedom Initiative. We are confident that the bill will be overwhelmingly supported by the President and increase access to assistive technologies for thousands of individuals with disabilities. I am also submitting several letters of support for the bill, from various groups, for the RECORD.

On February 1, 2001, President Bush announced the New Freedom Initiative—a comprehensive program to promote the full participation of people with disabilities in all areas of society by expanding education and employment opportunities, promoting increased access into daily community life, and increasing access to assistive and universally designed technologies. By the Senate finally naming conferees for the Individuals with Disabilities Education Act earlier this month, and by seeking passage of the Assistive Technology Act of 2004 today, we are helping the President fulfill America's promise of "tearing down the barriers to equality that face many of the 54 million Americans with disabilities."

One quarter of the President's New Freedom Initiative focuses on technology, and the technology objective is comprised of two key components.

The first is to expand Federal investment in assistive technology research and development by increasing the budgets of the Rehabilitative Engineering Research Centers' for assistive technologies, creating a new fund to help bring assistive technologies to market, and better coordinate the Federal effort in prioritizing immediate assistive and universally designed technology needs in the disability community.

The second is to enhance access to assistive technology by reducing costs associated with purchasing assistive technology and funding for low-interest loan programs to purchase assistive technologies.

The Assistive Technology Act of 2004 before us today is designed to strengthen and build upon these two components. Our efforts focus on enhancing access to technology, reducing the costs associated with purchasing such devices, and increasing technical assistance to entities that serve students with disabilities that receive transition services, adults with disabilities maintaining or transitioning to community living and to employers. Specifically, we accomplish these goals by: reducing bureaucracy; fostering private/public sector relationships; and coordinating Federal initiatives.

Current law focuses on system change activities, and providing information and referral services to people with disabilities and their families. Systems change efforts and information and referral services are important, as people are being born with or acquiring disabilities daily. However, according to several Federal agencies, an individual with a disability may be considered eligible for, and could benefit from, more than 20 Federal programs that directly or indirectly provide assistive technology. Additionally, there are over 25 Federal laws on the financing of assistive technology, all of which impacts local access to such technology.

Considering the number of Federal and State laws that a person has to navigate in order to access services, how long will it take for systems change efforts to remove barriers for accessing assistive technologies for a person with a disability living in Lincoln, NH? Systems change efforts, while worthwhile, do not immediately impact and help a person with a disability obtain assistive technology that he or she may need today. Therefore, this bill modifies the current list of authorized activities by expanding the authority of the State Assistive Technology Act projects to increase the ability of persons with disabilities to experience or obtain assistive technology. Our bill provides the State projects with a tangible set of activities, yet at the same time provides State flexibility to address emerging State needs.

Under this bill, States will provide citizens with access to device loan, reutilization, and financing programs, and equipment demonstration centers by developing such programs, or collaborating with other entities in the State currently operating such programs. In public forums that were held with the disability community, we consistently heard about the abandonment of equipment by persons with disabilities simply because the purchaser did not have an opportunity to try it out or see it demonstrated prior to purchasing the devise. The purpose of device loan and reutilization programs, and equipment demonstration centers is to provide individuals with disabilities the opportunity to receive proper assessments and evaluations for assistive technology, test and obtain information about various devices, and borrow devices and equipment before it is purchased. The financing programs provide access to low interest loans allowing an individual to purchase the device for him or herself or a family member, without having to wait for, rely on, or navigate through the red tape created by our bureaucratic Government systems. Each of these new requirements will help make the most of limited public resources in an environment that emphasizes consumer choice in and control of assistive technology services and funding.

Another major theme of this reauthorization is the reduction of costs associated with assistive technologies and to enhance research and development opportunities in this area. In December of 2003, we began meeting with individuals within the disability community, the State Assistive Technology Act projects, large and small technology companies, trade associations, and research, development and marketing entities to learn about costs associated with developing assistive technology, and what could be done within this reauthorization to assist with this issue. We learned that many companies, most of which are small businesses, that produce assistive technologies develop products that benefit people that have a specific disability, or a low incidence disability, such as a visual impairment, a hearing loss, or a significant cognitive impairment. Because of the limited number of people that can benefit from these valuable and life-altering devices, the cost of the product remains high. Furthermore, the costs associated with creating a device are high. On the other side, prices for such devices are so expensive that people that need them cannot afford to buy them, and often go without, therefore creating a vicious cycle.

We also learned that numerous companies have product ideas that are "on the drawing board," but the company does not have the funds necessary to develop products and send them to market in a timely fashion. Additionally, we learned that industry has not created their own standards to which assistive technology should be designed. As an example, companies create products that have their own operating systems and/or ports. This is a benefit for the proprietor, as no one else knows exactly what is in the operating system code, no one else can modify it, and people have to purchase the proprietors cord or other item to go with the device. The downside is that an individual with multiple pieces of technology cannot be assured that the various products he or she has can or will work together. Using a Braille Notetaker, for example, the notetaker does not use standard software, and therefore cannot be connected to a computer using an ordinary, over-the-counter cable. Instead, the user must buy the cord separately or purchase additional software, often leaving people unable to work using versions of software that their colleagues use; all of which increases the number of dollars the consumer must spend in order to function in today's society.

To address these concerns, the bill strengthens relationships between federally funded programs, the disability community, private-sector employers, and assistive technology vendors and researchers. It encourages market-based solutions and approaches to developing standards and increasing the number of products and the speed in which products go to market. This will, in-turn, make assistive technologies more affordable. The bill authorizes the Office of Special Education and Rehabilitation Services at the Department of Education to make grants available to for-profit and nonprofit entities resulting in two specific results. The first grant promotes the development of new or improved commercially available assistive technologies that are quick to reach the consumer market and easier for individuals with disabilities to learn to use, customize, fix or update. The second is to encourage the development of innovative and efficient technical practices and strategies for assistive technology products so that they will more reliably interact with the latest and future mainstream information technology, telecommunications products, and other assistive technology such as computer software and hardware.

The final major theme of this reauthorization is providing technical assistance to entities that serve students with disabilities that receive transition services, adults with disabilities maintaining or transitioning to community living, and to employers. We do not want, nor expect States to duplicate programs by creating additional financial loan, equipment loan, reutilization programs and demonstration centers for these populations. That would be a foolish use of federal dollars and would be in violation of a duplication clause in the bill. Our intent is for the State assistive technology projects to inform these specific groups about the beneficial aspects of assistive technology.

The bill accomplishes this task by strengthening relationships between federally funded programs, such as the Assistive Technology Act projects, and private-sector employers by directing the Office of Special Education and Rehabilitation Services at the Department of Education to make a grant available to for-profit and nonprofit entities to enhance public/private partnerships. This grant opportunity supports the development of public service announcements, which can be modified for regional use, to reach out to small businesses, the aging population, and people with disabilities about the benefits of assistive technology.

On July 23 of this year, the U.S. Access Board issued its first comprehensive revision of the Americans with Disabilities Act Accessibility Guidelines, ADAAG, since publishing the original ADAAG in 1991. Among other things, the new ADAAG contains changes to the requirements for employee work areas that will affect many employers once these requirements are issued as regulations by the

Department of Justice. Many employers are not aware of the extent to which the Americans with Disabilities Act may require them to make their workplaces accessible. The newly issued ADA Accessibility Guidelines have toughened these requirements, making it more important than ever for employers to know what their obligations are, and to plan accordingly. This bill aggressively engages businesses, especially small businesses, by providing them with greater access to technical assistance and technology so that they can accommodate employees with disabilities and adhere to ADAAG. Additionally, we place an emphasis on the State projects to provide technical assistance that meets the needs of aging workers that are acquiring disabilities and who may need assistive technology to maintain their current level of productivity.

In developing this bill, we have learned from the progressive thinking of the President and the resourcefulness of our Federal agencies and have taken measures to complement their actions. During the Bush administration, funding for special education has increased by more than $3.7 billion for the Part B State Grants program. In fiscal year 2004, nearly $10.1 billion is available for this program, which represents an increase of 59 percent since 2001. Additionally, the Senate version of the Individuals with Disabilities Education Act promotes the involvement of the State vocational rehabilitation system with students with disabilities while still in secondary school. Title IV of the Workforce Investment Act, the “Rehabilitation Act,” which passed the Senate in November of last year contains similar conforming language.

In 1999, the Supreme Court handed down the Olmstead decision, which affirmed the right of individuals with disabilities to live in the community, rather than in institutions. However, it was not until President Bush was sworn into office that that decision was implemented on the Federal level. President Bush realized that making the promise of full integration a reality for people with disabilities does not only mean changing existing practices that favor institutionalization over community-based treatment. It also means providing the affordable housing, transportation, and access to assistive technology and State and local government programs and activities that make community life possible. On July 18, 2001, President Bush issued Executive Order 13217, requiring coordination among numerous Federal agencies that administer programs affecting access to the community for people with disabilities of all ages.

The Executive Order has prompted various branches of the Federal Government to make disability issues a priority. In the fiscal year 2001 Department of Labor appropriation, Congress approved an Office of Disability Employment Policy, ODEP, to be headed by an Assistant Secretary. ODEP's mission is to provide leadership to increase employment opportunities for adults and youth with disabilities. The Secretary of Health and Human Services created the Office of Disability in October 2002. The Director of the Office reports to the Secretary and serves as an advisor on HHS activities relating to disabilities. The Office on Disability oversees the implementation and coordination of disability programs, policies and special initiatives for 54 million persons with disabilities. In July of 2003, the Department of Commerce unveiled an initiative to support the development of assistive technologies and to promote the U.S. assistive technology industry.

Moreover, in December of 2003, leaders from the Department of Labor, DOL, and the Small Business Administration, SBA, signed a Strategic Alliance Memo. This document formalized an agreement between the two entities to implement a coordinated, interagency initiative to improve opportunities for people with disabilities to be employed by small businesses, for people acquiring disabilities due to the aging process and wanting to maintain employment, or for people with disabilities to become small business owners. Finally, a little over 6 weeks ago, the Rehabilitation Services Administration at the Department of Education hosted a National Employment Conference. The conference focused on State vocational rehabilitation staff creating and maintaining employer development, business relations, large-scale job placement, and developing of vocational rehabilitation's national network that provides qualified job candidates and employment services to business.

Individuals with disabilities were not a priority in a Presidential administration's domestic policy goals and objects since 1993. This changed when President Bush became President of the United States in 2001, and he signed the Olmstead Executive Order and announced the New Freedom Initiative. The current administration recognizes and believes in the full participation of people with disabilities in all areas of society. This belief has been put into action in numerous ways that I have previously explained. Through this bill, Congress is continuing and enhancing the administration's efforts by increasing access to assistive and universally designed technologies, expanding educational and employment opportunities, promoting increased access into daily community life, and helping members of this misunderstood and underutilized group of citizens achieve and succeed.

Although this reauthorization focuses on three major objectives, the bill takes an important step forward by establishing a grant to the American Indian Consortium for a Protection and Advocacy for Assistive Technology program, PAAT. The Native American Protection & Advocacy Project was established in 1994 to carry out protection and advocacy system programs. The Consortium encompasses 25,351 square miles in Arizona, New Mexico, and Utah and it provides legal representation to Native Americans with disabilities and serves the Navajo Nation, the Hopi Nation and five smaller tribes. We were pleased to make some modifications to the PAAT program as it is a major force in ensuring that children and adults with disabilities can get access to critically needed assistive technology in a variety of settings—school, home, and at work.

Additionally, we stabilized funding for the State programs by supporting State efforts to improve the provision of assistive technology for individuals with disabilities. To ensure that the Federal commitment to independent living and the full participation of individuals with disabilities in society guaranteed through the President's New Freedom Initiative is upheld, the bill removes the sunset provision in the 1998 Act, therefore creating a typical reauthorization cycle. The bill also sets a minimum State allotment of $410,000 per year in order to offset the costs for the additional requirements placed on States to maintain the comprehensive Statewide programs of technology-related assistance for individuals with disabilities of all ages. However, Congress expects States to take ownership of and expand upon the comprehensive Statewide programs of technology-related assistance.

I thank Senator HARKIN, and his staff, particularly Mary Giliberti, for their hard work and dedication in putting together a bipartisan bill that will assist thousands of individuals with disabilities access services and devices that they so desperately need. Next, I would also like to thank my staff, Denzel McGuire and Aaron Bishop, for their hard work in helping put together a bipartisan and bicameral bill. I also thank Senators ROBERTS, DEWINE, WARNER, ENSIGN, ENZI, KENNEDY, REED, MCCAIN, and SPECTER, and their staff members, Jennifer Swenson, Mary Beth Luna, John Robinson, Lindsay Lovlien, Scott Fleming, Michelle Dirst, Connie Garner, Kent Mitchell, Elyse Wasch, Seth Gerson, Ken Lasala, Mark Laisch, and Jennifer Castagna for their tireless effort through this bipartisan process. Next, I would like to thank Congressmen BOEHNER, and KILDEE, and their respective staff, David Cleary and Alex Nock for their willingness ability to negotiate a bipartisan and bicameral bill that will affect the lives of thousands of individuals with disabilities.

Additionally, I thank the various entities that provided Senate staff with invaluable technical assistance. This includes: Liz King, assistant council for the Senate's Office of Legislative Counsel for working with our staff and drafting this legislation, and the research of Sidath Panangala, policy analyst for Congressional Record Service. I also thank members of various Federal Departments that were instrumental in providing us technical assistance while putting this bill together. From the Department of Education: Dr. Troy Justesen, the Assistant Secretary of the Office of Special Education and Rehabilitative Services, OSERS, at the Department of Education, and Carol Cichoswski, and Wava Gregory staff of the Budget Office, and Eric Shulz in Office of Legislation and Congressional Affairs. From the Department of Commerce: Phillip J. Bond, Under Secretary of Commerce for Technology, Ben Wu, Deputy Under Secretary of Commerce for Technology, and Angela Ewell-Madison, Director of the Office of Congressional Affairs. From the Department of Labor: W. Roy Grizzard, Jr., Ed.D., Assistant Secretary of the Office for Disability Employment Policy at the Department of Labor, his chief of staff, J. Kim Cook, Brian Parsons, supervisory policy advisor, and Blake Hanlon, Office of Congressional and Intergovernmental Affairs. Finally, I thank the fine team at the Small Business Administration: Porter Montgomery, associate administrator for policy and planning, Geoff Green, senior analyst, and Michael Berkholtz, assistant administrator for congressional affairs.

Finally, I thank the State Assistive Technology Act projects, and especially the New Hampshire Technology Partnership Project, for providing us with information as we developed this bill. Additionally, I thank the research and development industry, businesses and employers, service providers, and the various and multiple members of the disability community that worked tirelessly, helping us develop an excellent piece of legislation.

Mr. President, I look forward to the final passage of this bill.

I ask unanimous consent letters of support for the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEPTEMBER 30, 2004.

Hon. JUDD GREGG,
Chairman, Senate Committee on Health, Education, Labor and Pensions, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN GREGG: On behalf of Microsoft Corporation, I am writing in strong support of legislation at the desk, H.R. 4278, which would reauthorize the Assistive Technology (AT) Act of 1998. The bill would provide critical federal funding for state grant programs that increase access to assistive and accessible technology and related services. The AT Act expires today and without enactment of the reauthorization bill, access to assistive technology for Americans with disabilities could be severely compromised.

Attached is an op-ed piece that appeared in The Hill on July 6, 2004 that discusses the importance of the reauthorization legislation. We urge Congress to act today.

Sincerely,

LAURA RUBY,
Regulatory & Industry Affairs,
Microsoft—Accessible Technology Group.

Attachment.

GIVE AMERICA'S DISABLED THE TECHNOLOGY THEY NEED

(By Laura Ruby)

Will America keep its promise to provide equal access to information, education and employment to millions of people with disabilities? If so, then Congress must act quickly to reauthorize the Assistive Technology (AT) Act, which provides federal funding for state grant programs that increase access to assistive and accessible technology and related services.

Ensuring accessibility for people with disabilities is not just a matter of curb cuts, ramps and elevators to eliminate architectural barriers to public buildings and places of employment. Today, it is just as important to provide technology that enables people with disabilities to use personal computers and the Internet, such as devices that read computer text aloud to people who are blind or enable people who can't move their arms to type and issue computer commands using only their breath or eye movements.

Assistive and accessible technology (AT) can help people of all abilities realize their full potential, but for people with disabilities there is no middle ground. According to the National Council on Disability, "For Americans without disabilities, technology makes things easier. For Americans with disabilities, technology makes things possible." The goal of the AT Act is to ensure that people have access to the technology they need.

On June 23, the Senate, led by Sens. Judd Gregg (R-N.H.) and Tom Harkin (D-Iowa), introduced its bill S. 2595 to reauthorize the AT Act. Earlier this year, Reps. Howard McKeon (R-Calif.), John Boehner (R-Ohio) and Dale Kildee (D-Mich.) shepherded the House bill for AT Act reauthorization (H.R. 4278) through floor passage. The Senate and House must now work together to ensure reauthorization of the act before the end of the current session.

Both bills would strengthen state AT programs. These programs and services are critical, because they ensure technology will be available where people need it—in schools, on the job and in their communities. The AT Act also funds research and development projects, information-system improvements, loan and reutilization programs, and demonstrations that teach people what kind of AT devices are available and how to use them.

Critics may argue that after 15 years of federal investment in this program, people who need assistive technology products and services—along with service providers, school personnel, and employers should already be aware of them. The population that needs AT is not static, however, and it is growing.

A 2003 research study commissioned by Microsoft and conducted by Forrester Data found that 57 percent of working-age computer users could benefit from accessible technology. As the U.S. work force continues to age, the need for AT as a mainstream business resource will increase even more. By 2010, more than half the U.S. population will be 45 or older, age-related impairments will affect more people, and employers will need resources to help workers maintain peak performance.

As the need for AT increases, it will be vital to establish a seamless network of resources and training that can meet people's evolving needs at every stage of life and ensure that all Americans have the help they need with education, employment and independent living. The AT Act helps to do just that by aligning its priorities and provisions with those set forth in other federal legislation, including the Individuals with Disabilities Education Act, the Workforce Investment Act and the Americans with Disabilities integration mandate in Olmstead.

The AT Act will expire on Sept. 30. Without enactment of a reauthorization bill, access to assistive technology for Americans with disabilities could be severely compromised.

Congress now has a chance to remedy this situation, so that Americans with disabilities will know that the services they need will continue to support them in their efforts to work, learn and participate in their communities.

The Senate and House should quickly negotiate a compromise bill and send it to the president for signature. As we approach the 14th anniversary of the Americans with Disabilities Act—signed into law by the first President Bush—Americans need to know our representatives in Congress will not turn their backs on citizens with disabilities. By putting this issue above politics, and re-authorizing the AT Act this year, Congress can deliver on America's promise.

SOCIETY FOR
HUMAN RESOURCE MANAGEMENT,
Alexandria, VA, September 30, 2004.

Hon. JUDD GREGG,
U.S. Senate, Chairman, Senate Health, Education, Labor, and Pensions Committee, Russell Senate Office Building, Washington, DC.

DEAR CHAIRMAN GREGG: On behalf of the more than 190,000 human resource professionals of the Society for Human Resource Management (SHRM), I am writing to express our support and enthusiastic endorsement of H.R. 4278, the Improving Access to Assistive Technology (AT) for Individuals with Disabilities Act of 2004. SHRM implores the U.S. Senate to swiftly pass this legislation which will re-authorize this vitally important program.

The human resource professional is the architect of fair policies and practices ensuring a fair and equitable employment process and workplace. Human resource professionals also play a critical role in responding to requests for workplace accommodations for employees with disabilities. If enacted, H.R. 4278 will help human resource professionals and their organizations seek sound solutions in accommodating prospective and current employees with assistive technology devices. Programs such as these support the creation and promotion of workplace diversity and represent a win-win situation for employers and employees alike. SHRM values diversity as an investment in business excellence. We believe that the workplace environment promotes the inclusion of individual similarities and differences that enhance efficiency and success.

Employment rates of persons with disabilities have always been lower than those of individuals without disabilities. H.R. 4278 authorizes federal funds to provide states, and their respective AT programs, with federal block grants that support activities that provide assistive technology devices to employees with disabilities. SHRM believes that reauthorization of the AT programs represents an important continued commitment to ensure that people with disabilities have access to technology that assists them in seeking and gaining full employment, participation, and accommodation in the workplace.

In addition, H.R. 4278 makes several program improvements that build upon current state activities. For example, the legislation would create a competitive grant for development of a national public awareness toolkit. The goal of the national toolkit is to provide a resource for each state project to expand public awareness of the AT program to targeted individuals and entities such as local media representatives, employer groups, and employee organizations. SHRM believes this provision of H.R. 4278 is of vital importance because it will serve as a tool to reach across broader communities to provide information and resources on how to access the state programs and their various benefits.

H.R. 4278 also establishes grants for research, development and evaluation, as well as alternative financing systems. The first program provides federal and state governments the opportunity to gain access to cutting edge research that analyzes the effectiveness of assistive technology devices and the state projects that administer related AT programs. The development of alternative financing systems would give states flexibility in offering competitive device loan programs, such as: revolving loan funds; loan guarantees or insurance programs; purchase, lease, or acquisition programs; and low interest loan funds. This allows the state AT projects to offer different avenues to gain access to AT devices, which affords the disability community choices in determining which AT device is most effective for their needs. These programs are crucial tools for human resource professionals in meeting the needs of employees with disabilities in the workforce.

HR professionals will continue to play a critical role in the development and execution of workplace policies and procedures in our nation's workplaces. It is vitally important that the federal government enact legislative proposals such as H.R. 4278 that contribute to and promote the successful employment of people with disabilities. Once again, I would like to underscore our strong support for H.R. 4278 and urge quick action by this body on this important measure.

Sincerely,

KATHRON COMPTON,
Chief External Affairs Officer.

THE ARC OF THE UNITED STATES,
Washington, DC, September 30, 2004.

Hon. JUDD GREGG,
Chairman, Senate HELP Committee,
U.S. Senate, Washington, DC.
Hon. EDWARD KENNEDY,
Ranking Member, Senate HELP Committee,
U.S. Senate, Washington, DC.

DEAR CHAIRMAN GREGG AND SENATOR KENNEDY: The Arc of the United States, the nation's largest national organization representing children and adults with cognitive and other developmental disabilities, would like to thank you for your remarkable bipartisan work on HR 4278, the reauthorization of the Assistive Technology Act. The bill before you today makes important strides forward for the AT Act and, ultimately, for the people with cognitive and other disabilities who will be able to go to work, to school and out into their communities. Their increased access to assistive technologies will make it possible for them to participate more fully in every aspect of daily life.

The Arc appreciates the hard work that has gone into every phase of the process of developing and negotiating this vital legislation. We are especially pleased that the bill clearly delineates the authorization of appropriations so that state grants will have defined and equitable minimum allotment levels. We also appreciate the fact that the bill provides flexibility to states to design locally responsive programs while still assuring a focus on activities that will get assistive technology into the hands of the people that need it. We are pleased, as well, that the bill establishes a grant to the American Indian Consortium for a Protection and Advocacy for Assistive Technology (PAAT) program and has enhanced provisions for Research and Development efforts.

We urge you to pass HR 4278 now, and we look forward to working with you as you continue to work to ensure that the future holds nothing but enhancements of the programs and services authorized by this legislation.

Thank you for your support of people with disabilities and their families who will now see increased benefits from the vast technological advances the 21st century will bring. Thank you again for your bipartisan work and your leadership.

Sincerely,

STEVE EIDELMAN,
Executive Director.

EASTER SEALS,
OFFICE OF PUBLIC AFFAIRS,
Washington, DC, September 30, 2004.

Hon. JUDD GREGG,
Chairman, Committee on Health, Education, Labor and Pensions, U.S. Senate, Washington, DC.

DEAR SENATOR GREGG: On behalf of Easter Seals, I am writing to express our support for passage of the Assistive Technology Act of 2004. We are pleased that we have reached this bipartisan solution to supporting the assistive technology needs of individuals with disabilities.

In order for this bill to reach its main objective, truly increasing access to assistive technology for people with disabilities, we will be working to make sure that adequate funding is provided to support all aspects of the bill, the state projects, existing strong alternative financing programs, protection and advocacy services, projects of national significance on research and development. We look forward to working with you to achieve this goal.

Thank you for your efforts to support assistive technology.

Sincerely,

JENNIFER DEXTER,
Senior Government Relations Specialist.

Mr. KENNEDY. Mr. President, I am proud to join my colleagues in support of final passage of this important bill. The Assistive Technology Act of 2004 will continue and expand the Nation's effort to improve access to assistive technology for all who need it.

Technology is one of the great equalizing forces in our society. A computer can provide a child with insight and access to a world of information they would otherwise never have, and make the ideal of the American dream a reality for many more.

For people with disabilities of all ages, technology is especially important. It can mean the difference between being immobile in the home and becoming a mobile and contributing member of their community. It can mean the difference between being paralyzed by an inability to communicate and communicating at a level previously thought impossible. Technology breaks down barriers to education, employment, health care, community living, civic participation and countless other activities of daily life that we so often take for granted. It allows people with disabilities to reach their full potential.

Since 1988, the Assistive Technology Act has funded projects in every State and territory to raise awareness about the enormous potential of such technology, give individuals an opportunity to test products, and offer low-cost options for purchasing them. Each project has a different focus, but all are providing these core services, and providing them well.

In Massachusetts, the Assistive Technology Project trains individuals with disabilities to be self-advocates. They monitor implementation of State and Federal laws, and operate an Equipment Exchange Trading Post for individuals to exchange or sell assistive technology products. They deserve great credit, and so do the other projects across the Nation.

The Assistive Technology Act of 2004 makes a commitment to continue these projects, in recognition of all the effective work they have done so far. It also asks them to refocus their efforts on the core objective of getting technology into the hands of people with disabilities. It asks them to perform device demonstrations, equipment loans, and device refurbishment, and to provide financing systems such as low-cost loan programs.

In addition to these important activities, it asks State projects to continue their work of educating people with disabilities, agencies that serve them, and employers, about the doors of opportunity that technology can open. It asks them to train personnel who work with people with disabilities to assess whether technology is needed and then how to obtain it. It asks them to integrate technology into education, employment and other service plans, and it improves coordination between agencies that serve people with disabilities.

In particular, it asks State projects to focus on a population that needs technology, but often does not get it—students under the Individuals with Disabilities Education Act in transition from school to work or continuing education. For these students, assistive technology is vitally important. It can mean the difference between living independent and productive lives when they leave school, and being left out of their community and unable to contribute. The legislation asks State projects to better facilitate access to technology for this population. It's a big task, but one I know the projects are able to handle, and it will make a world of difference for thousands of students who make the transition every year from the schoolhouse to home, college, or the workplace.

In addition to focusing the projects on new activities, we take steps to provide resources to make it happen. The act sets a minimum allotment of $410,000 for each State project. This higher minimum will give many smaller States the resources they need to expand and create quality programs. For larger States, any resources above this level will be largely dedicated to helping them meet the increased need they face. We in Congress must do everything we can to see that this legislation receives the funding we know is necessary to implement quality and effective programs State-wide.

This legislation also shifts the authority for administering, monitoring and reporting on the program to the Republican Services Administration. The projects focus on people with disabilities of all ages and on their school, work and basic health and living needs. The RSA is well-equipped to provide the kind of leadership that will allow us to effectively assess their accomplishments, and is required to partner with the Office of Special Education Programs, the National Institute on Disability Research and Rehabilitation and other Federal agencies. I am confident the projects will receive the attention and focus they deserve.

In this legislation, we also continue and expand the work of the protection and advocacy systems that have done so much over the years to make good on the promise of assistive technology.

I commend Senators JUDD GREGG and TOM HARKIN and Representatives JOHN BOEHNER, GEORGE MILLER and BUCK MCKEON for their excellent bipartisan work on this legislation. I also commend Senator JACK REED, Senator JOHN WARNER, Senator PAT ROBERTS and all of my colleagues on the Health, Education, Labor and Pensions Committee for their excellent work. Senator REED deserves special credit for his focus on improving training of local personnel and expanding research and development on new technologies.

Several staff members deserve particular thanks—Aaron Bishop with Senator GREGG, Mary Giliberti with Senator HARKIN, Elyse Wasch and Erica Swanson with Senator REED, David Cleary with Representative BOEHNER and Alex Nock with Representative MILLER. Without their hard work and the hard work of the disability advocates and project directors and staffs in the states, this legislation would not have been possible.

Mr. HARKIN. Mr. President, today the Senate will pass legislation that is critically important to individuals with disabilities and elderly Americans: the Assistive Technology Act of 2004.

I am delighted that we are completing this bill, which will also shortly be passed in the House. I want to thank Senators GREGG, KENNEDY, ROBERTS, REED, and DEWINE, and Representatives BOEHNER and MILLER, among others, for their excellent bipartisan work to get this accomplished.

Assistive technology is absolutely critical to the lives of people with disabilities. According to an NOD/Harris poll earlier this year, 35 percent of individuals with disabilities say that they would not be able to live independently or take care of themselves at home without assistive technology.

Assistive technology also opens up opportunities in education, employment and civic participation that would not otherwise be available to many individuals with disabilities.

As the National Council on Disability puts it: "For Americans without disabilities, technology makes things easier. For Americans with disabilities, technology makes things possible."

The bill that we are reauthorizing today builds on the successes of the Assistive Technology Act dating back to 1988. The State Assistive Technology programs have been highly effective in providing information, training, and technical assistance to a wide array of individuals, including people with disabilities, their families, educators, health care professionals and others.

Let me give you an example from my own State of Iowa. Ben Moore, owner of Moore Construction in Iowa City, learned about universal design—the practice of building homes so that people with and without disabilities can get around in them—because of the work of the Iowa Program for Assistive Technology. He went on to build a universally designed home for two Iowans with disabilities. Now he is encouraging other contractors to use universal design to build beautiful homes that Iowans can remain in as they grow old. Given Iowa's aging population, this is very important work.

Joy Crimmins from Dubuque, IA, has benefited from the advocacy services funded through the act. She has a newly accessible bedroom and bathroom in her home because the assistive technology program provided legal advocacy to her family to get their home modified.

This wonderful work is not happening just in Iowa. The most recent data available, for Fiscal Year 2002, indicates that these programs are making a substantial difference nationally. In 2002, 92,000 equipment demonstrations were provided; 38,000 AT devices were loaned to individuals with disabilities; and more than 6,000 devices were exchanged or recycled. Also, more than 6 million dollars was loaned to individuals with disabilities so they could purchase assistive technology, ranging from a hearing device to an accessible van. The AT programs also provided timely information to Americans, answering 151,000 requests for assistance, and training more than 172,000 people.

Despite all of these successes, we recognize that there is much more to be done. The NOD/Harris poll indicates that 17 percent of individuals with disabilities still do not have the assistive technology device or equipment that they need. And the biggest barrier is cost. In this reauthorization, we emphasize programs that will improve access to assistive technology devices by providing loans, leases or other financing programs as well as recycled equipment.

While there are many important initiatives in this bill, I will highlight a few of the most significant.

First, the bill for the first time authorizes a $410,000 State minimum for each of the State projects to ensure that each state has the funds necessary to carry out the requirements of the act.

The bill also provides that the majority of the Federal funds will be spent on activities designed to provide direct access to assistive technology, including equipment loan, device reutilization, device demonstration, and financing systems.

States will continue their successful public awareness and coordination activities. States will also continue to provide technical assistance, with a new focus on individuals with disabilities who are going through transition periods and need assistive technology to be successful. This is particularly important for students with disabilities who are receiving IDEA services and transitioning to higher education, employment and independent living. It is also critical to adults with disabilities and older Americans who need help maintaining independent living or transitioning from a nursing home or institution to the community.

The Senate recently passed the Individuals with Disabilities Act, and we continue to be concerned about implementation of the ADA and the Olmstead decision. This effort aligns the Assistive Technology Act with these other initiatives.

Because individuals with disabilities still are afforded significantly fewer employment opportunities than individuals without disabilities, the bill places an emphasis on educating employers and employees. One of the projects of national significance authorized in the bill includes development of public service announcements and other means of reaching out to employers, giving them information regarding assistive technology.

The other project of national significance promotes research and development so we can have come up with assistive technologies that can open up more doors for individuals with disabilities.

This reauthorization recognizes the ongoing contribution of protection and advocacy services in making assistive technology available to individuals with disabilities. And it adds the Native American Protection and Advocacy System to those receiving funds under the act. Iowa's successful advocacy program will also be continued under this bill.

These are just a few of the many significant issues addressed in this bill. It is a very comprehensive effort, made possible by the hard work of the many stakeholders that participated.

I want to thank my colleague, Senator GREGG, and his staff, particularly Aaron Bishop and Denzel McGuire, for their excellent work on this bipartisan initiative. I also want to recognize the work of Senators KENNEDY, ROBERTS, REED and DEWINE and their staff members, Kent Mitchell, Connie Garner, Jennifer Swenson, Elyse Wasch, Erica Swanson, and MaryBeth Luna. And I'd like to recognize Congressman BOEHNER and MILLER and their staff members, David Cleary and Alex Nock, for working on this bipartisan, bicameral bill.

As part of this reauthorization process, committee staff have had extensive bipartisan briefings and met with a very wide array of stakeholders. Stakeholders also participated in work groups designed to forge consensus on many of the issues addressed in this bill. As a result, I believe we are passing a very strong bill. I want to thank the many individuals with disabilities, family members, assistive technology programs, vendors, members of the information technology industry, the financial and business community, service providers, advocates, educators and others who gave generously of their time and worked so hard on this bill.

This bill continues the tradition of bipartisan cooperation that has marked every significant disability bill that has been passed by Congress. Just as the ADA, IDEA and other bills have been bipartisan, so is this Assistive Technology Act of 2004. We can all be proud to see it enacted into law.

Mr. REED. Mr. President, I strongly support final passage of H.R. 4278, the Assistive Technology Reauthorization Act of 2004.

This important legislation, the product of bipartisan and bicameral negotiations, reauthorizes the Assistive Technology Act of 1998 and provides individuals with disabilities increased access to critical assistive technology devices and services, focusing on where they are needed most—in schools, on the job, and in the community. These devices and services afford individuals with disabilities a greater opportunity to participate in educational programs, employment prospects, and community activities and thereby, assist them in leading more full, productive, and independent lives.

As an original cosponsor of the Senate version of this bill, I am pleased that some of its provisions on training and research and development which I authored have been included in the final version of the bill before us today. The bill requires states to carry out training activities to enhance the knowledge, skills, and competencies of individuals in local settings statewide, including educators, early intervention, adult service, and health care providers, and others who work with individuals with disabilities. These provisions ensure that local communities will have trained personnel available to meet the specific assistive technology needs of individuals with disabilities.

The bill also establishes a new authority for competitive grants for research and development of new assistive technology devices and for the adaptation; maintenance, servicing and improvement of those assistive technology devices already in existence, an issue of great interest to colleges in my State. As such, among the eligible recipients for this research and development funding are institutions of higher education, including the nationally recognized University Centers for Excellence in Developmental Disabilities Education, Research, and Service and the engineering programs of such institutions. Regrettably, the compromise restricts the potential funding of this program to a small level that is not sufficient to solve the large and growing need for assistive technology devices, particularly as our population ages. This is a good start, but we must do more to help individuals with disabilities forge ahead and reach their ultimate potential, and so I hope we can grow this funding in the future.

There are other highlights as well. The bill increases the minimum allotment for each State assistive technology program to $410,000 which could mean an increase of nearly $110,000 in funding for Rhode Island as appropriations rise, and it repeals the sunset provision included in the Assistive Technology Act of 1998 so that States can continue to be eligible for funding. The bill also shifts emphasis toward getting assistive technology directly into the hands of individuals with disabilities through programs to provide device demonstration, equipment loan, device reutilization/recycling and financing systems such as low-interest loans for the purchase or lease of assistive technology equipment.

I thank my colleagues, in particular, Chairman GREGG, Senator KENNEDY, Senator HARKIN, and their staffs, for their hard work in producing a bipartisan piece of legislation and moving it toward final passage.

A special thanks is also due to Regina Connor, the Project Director of the Rhode Island Assistive Technology Access Partnership, ATAP, which is Rhode Island's Assistive Technology Act Project, and Tony Antosh, Director of the Paul V. Sherlock Center on Disabilities, for their input and recommendations throughout the legislative process and ensuring that the act contained provisions important to Rhode Island assistive technology users, providers, and advocates.

This is significant legislation for people in Rhode Island and across the Nation, and I am pleased to support it. I look forward to the President quickly signing this bill into law which will hopefully signal a turnaround in his support for assistive technology funding to provide individuals with disabilities the increased support they need and deserve.

Mr. INHOFE. I ask unanimous consent that the substitute amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3943) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H.R. 4278), as amended, was read the third time and passed.

HONORING THE LIFE AND WORK OF DUKE ELLINGTON

Mr. INHOFE. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 501.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 501) honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival.

There being no objection, the Senate proceeded to the consideration of the concurrent resolution.

Mr. INHOFE. I ask unanimous consent that the concurrent resolution be agreed to, the motion to reconsider be laid upon the table, and any statement relating to the matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 501) was agreed to.

STATE JUSTICE INSTITUTE REAUTHORIZATION ACT OF 2004

Mr. INHOFE. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of H.R. 2714 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2714) to reauthorize the State Justice Institute.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased the Senate will take up the Leahy-Hatch amendment to reauthorize the highly successful Department of Justice Bulletproof Vest Partnership Grant Program. I thank the Chairman of the Senate Judiciary Committee, Senator HATCH, for joining me on this amendment.

This amendment contains the same legislative language as the Campbell-Leahy-Hatch Bulletproof Vest Partnership Grant Act of 2003, S. 764. The Bulletproof Vest Partnership Grant Act passed the Senate by unanimous consent on July 15, 2003, and has been awaiting consideration by the House of Representatives since then.

This measure marks the third time that I have had the privilege of teaming with my friend and colleague Senator CAMPBELL to work on the Bulletproof Vest Partnership Grant Program. We authored the Bulletproof Vest Grant Partnership Act of 1998, which responded to the tragic Carl Drega shootout in 1997 on the Vermont-New Hampshire border, in which two state troopers who did not have bulletproof vests were killed. The Federal officers who responded to the scenes of the shooting spree were equipped with life-saving body armor, but the state and local law enforcement officers lacked protective vests because of the cost.

Two years later, we successfully passed the Bulletproof Vest Partnership Grant Act of 2000, and I hope we will go 3-for-3 this time around. Senator CAMPBELL brings to our effort invaluable experience in this area and during his time in the Senate he has been a leader in the area of law enforcement. As a former deputy sheriff, he knows the dangers law enforcement officers face when out on patrol. I am pleased that we have been joined in this effort by 12 other Senate cosponsors, including Senator HATCH.

Our bipartisan legislation will save the lives of law enforcement officers across the country by providing more help to State and local law enforcement agencies to purchase body armor. Since its inception in 1999, this highly successful Department of Justice program has provided law enforcement officers in 16,000 jurisdictions Nationwide with nearly 350,000 new bulletproof vests. In Vermont, 60 municipalities have been fortunate to receive to receive funding for the purchase of 1,905 vests.

The Bulletproof Vest Partnership Grant Act of 2003 will further the success of the Bulletproof Vest Partnership Grant Program by re-authorizing the program through fiscal year 2007. Our legislation would continue the Federal-State partnership by authorizing up to $50 million per year for matching grants to State and local law enforcement agencies and Indian tribes at the Department of Justice to buy body armor.

We know that body armor saves lives, but the cost has put these vests out of the reach of many of the officers who need them. This program makes it more affordable for police departments of all sizes. Few things mean more to me than when I meet Vermont police officers and they tell me that the protective vests they wear were made possible because of this program. This is the least we should do for the officers on the front lines who put themselves in danger for us every day. I want to make sure that every police officer who needs a bulletproof vest gets one.

Mr. INHOFE. I ask unanimous consent that the Leahy-Hatch amendment, which is at the desk, be agreed to, the bill as amended be read a third time and passed, the motions to reconsider be laid upon the table with no intervening action or debate, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3944) was agreed to, as follows:

(Purpose: To extend the authorization of the Bulletproof Vest Partnership Grant Program)

On page 3, after line 5, add the following:

SEC. 4. LAW ENFORCEMENT ARMOR VESTS.

Section 1001(a)(23) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(23)) is amended by striking "2004" and inserting "2007".

The amendment was ordered to be engrossed and the bill was read the third time and passed.

ORDERS FOR FRIDAY, OCTOBER 1, 2004

Mr. INHOFE. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Friday, October 1. I further ask unanimous consent that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then resume consideration of S. 2845, the intelligence reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be vitiated.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURE PLACED ON THE CALENDER—S. RES. 360

Mr. INHOFE. I ask unanimous consent the Rules Committee be discharged from further consideration of S. Res. 360, and it be placed directly on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. INHOFE. Mr. President, for the information of all Senators, tomorrow the Senate will resume consideration of the intelligence reform bill. As announced earlier, there will be no rollcall votes tomorrow. Senators will be here to offer and debate amendments, and any votes ordered on the amendments will be stacked to occur Monday afternoon. It is the intention of the leader to begin those rollcall votes on amendments as early as 3 p.m. on Monday, and Senators should make the appropriate scheduling considerations.

The majority leader will have more to say on this week's schedule tomorrow.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. INHOFE. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:33 p.m., adjourned until Friday, October 1, 2004, at 9:30 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate September 30, 2004:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. BRUCE A. CARLSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DENNIS R. LARSEN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. WILLIAM M. FRASER III

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. CARROL H. CHANDLER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. STEPHEN G. WOOD

THE FOLLOWING AIR NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE AIR FORCE TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COLONEL ROBERT A. KNAUFF

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, UNITED STATES CODE, SECTION 9335:

To be brigadier general

COL. DANA H. BORN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COL. MARSHALL K. SABOL

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. BENJAMIN S. GRIFFIN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS THE SURGEON GENERAL, UNITED STATES ARMY, AND APPOINTMENT TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTIONS 601 AND 3036:

To be lieutenant general

MAJ. GEN. KEVIN C. KILEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. JAMES J. LOVELACE, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES M. DUBIK

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. ROBERT T. DAIL

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. DAVID F. MELCHER

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. R. STEVEN WHITCOMB

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. DAVID D. MCKIERNAN

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADES INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. JAMES E. ARCHER
BRIG. GEN. STEVEN P. BEST
BRIG. GEN. PETER S. COOKE
BRIG. GEN. JACK C. STULTZ

To be brigadier general

COL. NORMAN H. ANDERSSON
COL. EDWARD L. ARNTSON II
COL. MARGRIT M. FARMER
COL. GLENN J. LESNIAK
COL. ADOLPH MCQUEEN, JR.
COL. JACK F. NEVIN
COL. MAYNARD J. SANDERS
COL. GREGORY A. SCHUMACHER

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be brigadier general

COLONEL KARL R. HORST

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be brigadier general

COL. DANA D. BATEY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY VETERINARY CORPS UNDER TITLE 10, U.S.C., SECTIONS 3064 AND 3084:

To be brigadier general

COL. MICHAEL B. CATES

IN THE MARINE CORPS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JAMES N. MATTIS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES MARINE CORPS TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. EDWARD HANLON, JR.

IN THE NAVY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE OF ADMIRAL IN THE UNITED STATES NAVY WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601 AND TITLE 50, U.S.C., SECTION 2406:

To be director, naval nuclear propulsion program

To be admiral

VICE ADM. KIRKLAND H. DONALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. CHARLES L. MUNNS

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JAMES K. MORAN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. JOSEPH A. SESTAK, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. MARK P. FITZGERALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

VICE ADM. GARY ROUGHEAD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be vice admiral

REAR ADM. LEWIS W. CRENSHAW, JR.

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS DEPUTY JUDGE ADVOCATE GENERAL OF THE NAVY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5149:

To be rear admiral

CAPT. BRUCE E. MACDONALD

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT AS JUDGE ADVOCATE GENERAL OF THE NAVY IN THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 5148:

To be rear admiral

REAR ADM. JAMES E. MCPHERSON

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVAL RESERVE TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be rear admiral (lower half)

CAPT. NORTON C. JOERG

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPTAIN GERALD R. BEAMAN
CAPTAIN MARK S. BOENSEL
CAPTAIN JOHN H. BOWLING III
CAPTAIN MARK H. BUZBY
CAPTAIN DAN W. DAVENPORT
CAPTAIN WILLIAM E. GORTNEY
CAPTAIN MICHAEL R. GROOTHOUSEN
CAPTAIN VICTOR GUILLORY
CAPTAIN CECIL E. HANEY
CAPTAIN HARRY B. HARRIS, JR.
CAPTAIN JAMES M. HART
CAPTAIN RONALD H. HENDERSON, JR.
CAPTAIN JOSEPH D. KERNAN
CAPTAIN RAYMOND M. KLEIN
CAPTAIN CHARLES J. LEIDIG, JR.
CAPTAIN ARCHER M. MACY, JR.
CAPTAIN MICHAEL K. MAHON
CAPTAIN CHARLES W. MARTOGLIO
CAPTAIN WALTER M. SKINNER
CAPTAIN SCOTT R. VANBUSKIRK
CAPTAIN MICHAEL C. VITALE
CAPTAIN RICHARD B. WREN

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES NAVY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 624:

To be rear admiral (lower half)

CAPT. CHRISTINE S. HUNTER

AIR FORCE NOMINATION OF MARJORIE B. MEDINA.

AIR FORCE NOMINATION OF HENRY LEE EINSEL, JR.

AIR FORCE NOMINATION OF ROBERT L. MUNSON.

AIR FORCE NOMINATION OF JAMES MILLER.

AIR FORCE NOMINATIONS BEGINNING MICHAEL M HARTING AND ENDING JOEL C. WRIGHT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.

AIR FORCE NOMINATION OF DANA J. NELSON.

AIR FORCE NOMINATION OF WILLIAM E. LINDSEY.

AIR FORCE NOMINATION OF MARTIN S. FASS.

AIR FORCE NOMINATION OF FRANK A. POSEY.

AIR FORCE NOMINATION OF TRACEY R. * ROCKENBACH.

AIR FORCE NOMINATIONS BEGINNING SHANNON D. * HAILES AND ENDING MICHAEL F. LAMB, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

AIR FORCE NOMINATIONS BEGINNING TOMMY D. * BOUIE AND ENDING JENNIFER L. * LUCE, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

AIR FORCE NOMINATIONS BEGINNING NOEL D. MONTGOMERY AND ENDING ALEXANDER V. * SERVINO, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

AIR FORCE NOMINATIONS BEGINNING KATHLEEN HARRINGTON AND ENDING PAUL E. PIROG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2004.

AIR FORCE NOMINATION OF GEORGE J. KRAKIE.

AIR FORCE NOMINATIONS BEGINNING DAVID A. LUJAN AND ENDING MICHAEL C. SCHRAMM, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2004.

AIR FORCE NOMINATIONS BEGINNING DOUGLAS A. HABERMAN AND ENDING MATTHEW S. WARNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2004.

AIR FORCE NOMINATION OF MARTIN J. TOWEY.

ARMY NOMINATIONS BEGINNING JUAN H. BANKS AND ENDING LISA N. YARBROUGH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.

ARMY NOMINATIONS BEGINNING MICHAEL J. BLACHURA AND ENDING RONALD P. WELCH, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

ARMY NOMINATIONS BEGINNING SCOTT A. AYRES AND ENDING GERALD I. WALTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

ARMY NOMINATIONS BEGINNING MARK A. COSGROVE AND ENDING RONNIE J. WESTMAN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

ARMY NOMINATIONS BEGINNING STEVEN H. BULLOCK AND ENDING JOHN M. STANG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

ARMY NOMINATIONS BEGINNING MICHAEL N. ALBERTSON AND ENDING WILLIAM S. WOESSNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

ARMY NOMINATIONS BEGINNING JOHN W. AMBERG II AND ENDING RICHARD G. ZOLLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

ARMY NOMINATIONS BEGINNING GILBERT ADAMS AND ENDING SCOTT W. ZURSCHMIT, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

ARMY NOMINATIONS BEGINNING CELETHIA M. ABNER AND ENDING CHERUB I. * WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

ARMY NOMINATIONS BEGINNING THOMAS L. * ADAMS, JR. AND ENDING KATHRYN M. * ZAMBONICUTTER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

ARMY NOMINATION OF RAYMOND L. NAWOROL.

ARMY NOMINATION OF KEITH A. GEORGE.

ARMY NOMINATION OF CURITS L. BECK.

ARMY NOMINATION OF REX A. HARRISON.

ARMY NOMINATIONS BEGINNING KEVIN HAMMOND AND ENDING MICHAEL KNIPPEL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

ARMY NOMINATIONS BEGINNING JAIME B. * ANDERSON AND ENDING JOSEPH G. * WILLIAMSON, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

ARMY NOMINATIONS BEGINNING JAMES R. ANDREWS AND ENDING SHANDA M. ZUGNER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

ARMY NOMINATIONS BEGINNING MICHAEL C. AARON AND ENDING X4130, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

ARMY NOMINATIONS BEGINNING CHRISTOPHER W. * ABBOTT AND ENDING X3181, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

ARMY NOMINATION OF JOHN R. PELOQUIN.

MARINE CORPS NOMINATION OF JOHN T. BROWER.

MARINE CORPS NOMINATION OF JOHN M. SESSOMS.

MARINE CORPS NOMINATION OF RANDY O. CARTER.

NAVY NOMINATIONS BEGINNING ANDREW M ARCHILA AND ENDING RICHARD G ZEBER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.

NAVY NOMINATIONS BEGINNING RAY A BAILEY AND ENDING DAVID A STROUD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.

NAVY NOMINATIONS BEGINNING RAYMOND ALEXANDER AND ENDING MARK A ZIEGLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.

NAVY NOMINATIONS BEGINNING STEVEN W ASHTON AND ENDING JASON D ZEDA, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.

NAVY NOMINATIONS BEGINNING TAMMERA L ACKISS AND ENDING KATHLEEN L YUHAS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.

NAVY NOMINATIONS BEGINNING IK J AHN AND ENDING SARA B ZIMMER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.

NAVY NOMINATIONS BEGINNING KERRY L ABRAMSON AND ENDING ANDRU E WALL, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 8, 2004.

NAVY NOMINATION OF ARTHUR B. SHORT.

NAVY NOMINATION OF SCOTT DRAYTON.

NAVY NOMINATION OF CIPRIANO PINEDA, JR.

NAVY NOMINATIONS BEGINNING MICHAEL P AMSTUTZ, JR. AND ENDING JAMES J WOJTOWICZ, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING JERRY L ALEXANDER AND ENDING LORI C WORKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING PATRICK L BENNETT AND ENDING ERNEST C WOODWARD, JR., WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING CLAUDE W ARNOLD, JR. AND ENDING STEVEN M WENDELIN, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING CHRISTOPHER L BOWEN AND ENDING WILLIAM L WOOD, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING JULIE M ALFIERI AND ENDING DONNA I YACOVONI, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING MARIANIE O BALOLONG AND ENDING KAREN M WINGEART, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING THOMAS G ALFORD AND ENDING KENDAL T ZAMZOW, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING RYAN D AARON AND ENDING DAVID G ZOOK, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 10, 2004.

NAVY NOMINATIONS BEGINNING GLENN A. JETT AND ENDING MATTHEW WILLIAMS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

NAVY NOMINATIONS BEGINNING RICHARD S ADCOOK AND ENDING JEFFREY G ZELLER, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

NAVY NOMINATION OF DANIEL C. RITENBURG.

NAVY NOMINATION OF DWAYNE BANKS.

NAVY NOMINATIONS BEGINNING BILLY R. DAVIS AND ENDING WILLIAM H. SPEAKS, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 21, 2004.

EXTENSIONS OF REMARKS

CONGRATULATING THE MOSCONE FAMILY

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. LEVIN. Mr. Speaker, I rise to congratulate the Moscone family, as they receive the 2004 Donna Greco Issa "Family of the Year" Award from the March of Dimes. The Moscone Family continues the distinguished tradition of strong and passionate enthusiasm for family, friends, and community that has been a hallmark of this award.

Serafino Moscone was born in 1930; Iolanda Vitelli in 1934, both from the little town of Casalvieri, Italy. The two met as children and were married in 1949. Surrounded by family in Detroit, they began their new life together. Being blessed with two children; Antonio and Onorio, the young couple realized the value of family. Serafino worked three jobs to help provide a better life for his wife and sons. In the 1960s, he started a construction company that helped to instill a strong and devoted work ethic in their children. Today, due largely to the virtues of discipline and hardwork passed along to them by their parents, they have become one of Macomb County's leading developers and builders. Antonio and his wife Iolanda have three children. Sam, 25, graduated from Michigan State University with a Bachelor's degree in Finance. Michelle, 23, graduated from Wayne State with her Bachelor's degree in Science of Dance and Christina, 20, is on the Dean's List at Wayne State with plans of pursuing an Education degree. Onorio and his wife Carla have two children. Nino, 13, has started at De La Salle this fall and Michael, 10, is currently attending St. Lawrence School.

The families continually support numerous charities and foundations such as St. Joseph's Mercy of Macomb Hospital, Italian American Delegates, Children's Charities at Adios, and the Italian Chamber of Commerce. The Moscone's devotion to their community has a broad impact on individuals and organizations throughout the County.

Mr. Speaker, I ask my colleagues to join me in recognizing the Moscone family for their extraordinary commitment to their family, their friends, and their community. They are well deserving of the Donna Greco Issa Family of the Year Award.

RECOGNIZING 60TH ANNIVERSARY OF BATTLE OF PELELIU

SPEECH OF

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. BORDALLO. Mr. Speaker, I am pleased to rise in support of this resolution, of which I am an original cosponsor. I too commend the gentleman from Arizona (Mr. FLAKE) and the gentleman from American Samoa (Mr. FALEOMAVAEGA) for introducing this measure to bring appropriate Congressional recognition to the 60th Anniversary of the Battle of Peleliu.

The Battle of Peleliu was one of the fiercest fought in the Pacific theater during the greatest war of the last century. The fall of Japan's first line of defense in New Guinea, the Marshalls and the Marianas in 1944 precipitated the Allied advance to the strongholds in Japan's second defense line. Located within this line was the Palau island chain. U.S. Army General Douglas MacArthur, wanting to free Palau from enemy control before beginning operations in the Philippines, convinced President Franklin Roosevelt to approve his strategy to win the war in the Pacific. What followed would be a ferocious battle on the island of Peleliu and Angaur in the Palau island chain lasting more than two months and costing thousands of lives.

Earlier this month, we marked the 60th Anniversary of D-Day on Peleliu, on September 15th. On that day in 1944, the Marines of the 1st Marine Division landed on the western beaches of Peleliu to free the Palauan people from control by the Axis powers and to advance the cause of freedom against tyranny. The costs of the battle were high, the conflict intense. The Army's 81st Infantry Division was later called upon to relieve the 1st Marine Division. Of the nineteen Medals of Honor awarded to Marines of the 1st Division in the Pacific, eight were won on Peleliu. U.S. Forces endured over 10,000 casualties; over 12,000 Japanese soldiers were killed in action; and many innocent Palauan lives were caught and lost in the conflict.

Today, the Battle of Peleliu is recognized as one of World War II's most important campaigns. The Republic of Palau today is an independent nation that maintains a special relationship with the United States, embodied in a Compact of Free Association that is a testament to the shared principles of freedom and peace. This resolution is a strong and timely tribute to the veterans of the Battle of Peleliu. Passage of this resolution will bring appropriate Congressional recognition to the friendship between the Republic of Palau and the United States, and serve as an expression of support for the Department of the Interior's cooperative work with the people of Palau to protect the historic sites of the Peleliu Battlefield.

IN RECOGNITION OF MATA BURKE

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ROGERS of Alabama. Mr. Speaker, on Sept. 11, 2004, teens from around the Third District gathered the campus of Jacksonville State University to remember the events of 9/11, and to reflect on the impact of those events on their life today.

One of the speakers that day was Mata Burke, an eleventh grade student at the Donoho School in Anniston. In honor of Mata's words and in recognition of her gift for writing, I am placing her entire speech in the CONGRESSIONAL RECORD so that others may have the opportunity to hear her thoughts about that fateful day.

The text of her speech is as follows. Thank you, Mr. Speaker, for the House's attention to this important matter on this important day.

"WHO DID THIS TO US?"

(By Mata Burke)

"Now, as we are looking back and remembering the events of that day, it's hard to believe that three years have already gone by since it happened. The memory is still fresh in our minds, and perhaps, that is due to the fact that it's changed our everyday lives even now; whether it be by new security measures, constant bomb threats, or rising terror alerts. However, there is one thing that many people do tend to forget when remembering that day . . . and that is, "why did it happen?" "What were the motives?" and "who exactly was involved?"

Most everyone knows that the September 11th attacks were directly linked to Al Qa'ida and Osama bin Laden. But many may not know what exactly Al Qai'da is and who Osama bin Laden is.

There are many people who think that the terrorists who attacked on September 11th were simply evil people who hated everything America and freedom stand for. But this is a generalization that overlooks many of the true motives behind the attacks. To really understand why these attacks happened, we must look into the past at the beginnings of Al Qai'da and at previous terrorist attacks across the world.

Al Qa'ida is an international terrorist network that was founded and led by Osama bin Laden. Al-Qa'ida first began to take shape after the 1979 Soviet invasion of Afghanistan. It was at that time that bin Laden and a Palestinian religious scholar, Abdullah Azzam, began recruiting, training, and financing thousands of mujahedeen, or holy warriors, from more than 50 different countries. Although they were originally fighting to rid Afghanistan of the Soviet invaders, bin Laden urged these holy warriors to continue their fight beyond Afghanistan. And thus, in 1988, he officially founded the terrorist group known as Al-Qa'ida, a name that is now familiar to people across the world.

Currently, there is not a specific place from which Al-Qai'da operates. Previous

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

headquarters, such as Sudan and Afghanistan were removed by force, and now, it is thought that leaders are trying to regroup inside Pakistan, near the Afghan border. Still, it is important to realize that Al-Qa'ida operatives are not just located in the Middle East. They are spread throughout many countries across the world; including Italy, France, Spain, Germany, the United Kingdom and the United States. Despite the distances that separate them, all of the members of this terrorist organization share one major thing in common: Sunni Muslim fundamentalist views. In essence, there are three main objectives of the Al-Qa'ida Jihad, or holy war based on these fundamentalist views. The first is to establish the complete rule of God on Earth. Second is to attain martyrdom in the cause of God, meaning to suffer and/or die in the hopes of doing God's will. And lastly is to purify Islam and get rid of what they see as moral corruption within their religion's followers. By doing this, they hope to unite all pure Muslims to live under one government. It is important to note that their goal is not to convert all non-believers to Islam, but rather they will not let the non-believers dominate, meaning they won't let non-Muslims push Muslim heritage out.

Even though Al-Qa'ida was originally formed to be a religious fundamentalist group wishing to protect and purify Islam, the motives for the terrorist attacks are not solely religious. Although religion is a major part of it, and indeed, has aided in the recruitment of terrorist group members, other motives lie deep within the history of U.S. involvement in the Middle East. In fact, Osama bin Laden, along with other Al-Qa'ida leaders have made direct statements explaining why they targeted the United States. Most of these statements refer to U.S. foreign policy in the Middle East; such as the stationing of U.S. troops in and around holy sites, and especially the American support of Israel. In October of 2001, Osama bin Laden made the following statement: "We swore that America wouldn't live in security until we live it truly in Palestine. This showed the reality of America, which puts Israel's interest above its own people's interest. America won't get out of this crisis until it gets out of the Arabian Peninsula, and until it stops its support of Israel." A few years earlier, bin Laden had made another statement describing the oppression he saw of Muslims in Palestine: "For over half a century, Muslims in Palestine have been slaughtered and assaulted and robbed of their honor and of their property. Their houses have been blasted, their crops destroyed. And the strange thing is that any act on their part to avenge themselves or to lift the injustice befalling them causes great agitation in the United Nations which hastens to call for an emergency meeting only to convict the victim and to censure the wronged and the tyrannized whose children have been killed and whose crops have been destroyed and whose farms have been pulverized." In these statements, bin Laden is clearly describing how he feels Israeli attacks in Palestine have caused great oppression of the Muslims living there. Thus, he sees the United States' support of Israel as a direct threat to Muslims and something he must retaliate against.

Although the United States is being targeted by Al-Qa'ida, it is only one of many different countries that the terrorists have attacked to further their cause. Osama bin Laden, maintains a strong grudge against Muslim countries in the Middle East that have allowed western infiltration and have begun buying into westernization. Countries such as Saudi Arabia, Egypt, Jordan, and Malaysia are seen as traitorous and abandoning their Muslim heritage.

The September 11th attacks were not the first terrorist acts against the United States. There have been many, many attacks against Americans in countries all around the world. There was an explosion in Riyadh, Saudi Arabia in 1995 that killed four Americans. There was an explosion in Al-Khobar that killed 19 Americans and wounded more than 400. There were attacks in east Africa, the destruction of the U.S.S. Cole, previous attempted World Trade Center bombings, and many more. Still, the September 11th attacks set a new standard. Never before had there been such a large scale terrorist attack on civilians on U.S. land. And although I have discussed with you the probable motives of the terrorists, there can never be justification for the events that occurred on 9/11."

TRAIL RESPONSIBILITY AND ACCOUNTABILITY FOR THE IMPROVEMENT OF LANDS ACT

SPEECH OF

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. UDALL of Colorado. Mr. Speaker, I rise in support of this bill, and congratulate my Colorado colleague, Mr. TANCREDO, for his leadership in introducing it.

I joined as a cosponsor of this bill because I also want to improve the ability of the land-managing agencies to adequately enforce the rules that apply to uses of the Federal lands.

That is also why I also introduced a related bill—H.R. 751, the Responsible Off-road Vehicle Enforcement and Response Act, or "ROVER." My bill is narrow. It deals only with enforcement of the regulations for use of vehicles on National Forest lands and public lands managed by BLM. This bill goes much further. In addition to the forests and BLM lands, it also applies to lands managed by the National Park Service and the refuges managed by the Fish and Wildlife Service. And it addresses the enforcement of all regulations, not just those related to use of vehicles.

In the Resources Committee, Mr. TANCREDO and I worked with Chairman POMBO, Ranking Member RAHALL, and other Members, to develop a substitute that included a number of improvements in the bill.

After the Resources Committee completed its work, the measure was reviewed by the Judiciary Committee, and the bill now before the House reflects changes made in that committee. It also includes the provisions of H.R. 1038, the Public Lands Fire Regulations Enforcement Act of 2003—also approved by the Resources and Judiciary Committees last year—which would increase the maximum fine for violations of regulations related to campfires. I also cosponsored that measure.

As I said, I do support the legislation before us. I hope the House will approve it, because legislation for better and more consistent enforcement of regulations is needed. However, we need to recognize that it is only one part of a bigger picture.

Even more than new legislation, it seems to me, the land-managing agencies need more resources—more money and more people—if we want them to do a better job.

As approved by the Resources Committee, H.R. 3247 would have helped with that, too, by allowing the agencies to use money from fines to help pay for some of the restoration work caused by violations of regulations, as well as for offsetting the administrative costs involved in enforcement of those regulations. Unfortunately, the Judiciary Committee evidently had some concerns about that part of the legislation, and so the bill now before us does not include those provisions.

This is something that I think should be addressed in the future, and I will seek to work with other Members to do that. Today, however, we can take an important step forward by passing this bill, and I urge the House to approve it.

HONORING DR. MILTON J. BOYD

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Milton J. Boyd, Ph.D., Chair and Professor of Zoology in the Department of Biological Sciences at Humboldt State University, Arcata, California who is being honored for his contribution to one of our nation's most precious rights—participation in the political system. The Humboldt County Democratic Central Committee is recognizing Milt Boyd as "Democrat of the Year, 2004." His commitment to the preservation of our political liberty is worthy of appreciation and recognition.

Professor Boyd, who received his Bachelor's Degree from the University of California at Berkeley in 1964 and his doctorate from the University of California at Davis in 1972, has taught over 3000 students during his 30 years at Humboldt State University. He has served as Faculty Advisor to student clubs for undergraduates and graduate students, including the Democrats of Humboldt State. He has been Faculty Advisor since 1992 to the Veteran's Office at the university and has assisted veterans in the Upward Bound program and the Math and Science Center, one of only two such programs funded in the United States.

During his tenure at Humboldt State University, Dr. Boyd has conducted numerous research projects involving the marine ecological resources of Northwestern California. The projects have broadly influenced marine resource management practices in Humboldt Bay and beyond.

Dr. Boyd has served two terms as HSU Chapter President of the California Faculty Association, has a statewide service role on the CFA Board of Directors and is a member of the CFA Political Action and Legislation Committee. He is a faculty representative on numerous University committees including the Academic Senate, the President's Advisory Search Committee and the Strategic Plan Steering Committee.

Milton Boyd served our nation in the United States Army. He was Commissioned 2nd Lieutenant, Field Artillery, May 1964 and was assigned to Battery "B" 1st Battalion, 6th Artillery Regiment, 1st Armored Division and Battalion Staff, 1964–1965. He served as Officer Instructor, U.S. Army Artillery School, Ft. Sill, Oklahoma, 1965–1966, and instructor for Field Artillery Officer Basic Course and Officer Candidate School. He was promoted to 1st Lieutenant in 1965 and completed his service in 1970.

He has served the community since 1983 on the Board of Directors of the Arcata Community Recycling Center. He has been a member of the Humboldt County Democratic Central Committee since 1994 and has demonstrated a special commitment to college age students by engaging their interest in the democratic process.

Mr. Speaker, it is appropriate at this time that we recognize Milton J. Boyd for his contributions and service to the people of our country.

IN HONOR AND IN MEMORY OF SERGEANT FOSTER L. HARRINGTON OF MOBILE, ALABAMA

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. BONNER. Mr. Speaker, just over one week ago, the First Congressional District of Alabama and indeed, our entire State and Nation, said goodbye to another casualty of the war in Iraq.

Marine Sergeant Foster L. Harrington, a native of New York and longtime resident of Fort Worth, Texas, moved to Mobile, Alabama 18 months ago. Twelve years ago, he had joined the Marine Corps Reserve and was most recently assigned to an elite reserve unit, the 3rd Force Reconnaissance Company, based in Mobile.

In June of this year, Sergeant Harrington's unit was activated and, following a pre-deployment stop in Camp Lejeune, North Carolina, was sent to Iraq. His company was stationed in the Al Anbar Province of Iraq and it was in that region that, on September 20, 2004, the unit came into contact with members of the Iraqi insurgency. During an exchange of fire between the company and the insurgents, Sergeant Harrington was killed.

During his career in the Marine Corps Reserve, Sergeant Harrington set a standard of excellence and displayed the qualities of discipline, devotion, and dedication to country that are the hallmarks of men and women throughout the long and distinguished history of the American military.

Sergeant Harrington also displayed an active and deep concern for his neighbors in the Mobile area, serving as a firefighter and medic with the Seven Hills Volunteer Fire Department prior to his deployment to Iraq. A telling story of his concern for others came just days before he died. Even with the difficult situation he and his comrades were facing in Iraq, Sergeant Harrington's first concern was for his many friends and colleagues in the Mobile area who were awaiting the arrival of Hurricane Ivan. For several days prior to his death, including the Sunday before the attack which claimed his life, Sergeant Harrington telephoned his fiancée to check on her and her family and made sure they were out of harm's way.

It is appropriate for us to pause and give thanks to God that there are still young men like Foster L. Harrington. His life and actions personified the very best America has to offer.

Mr. Speaker, as you can imagine, south Alabama is truly mourning the loss of this fine young man. I urge my colleagues to take a moment and pay tribute to Sergeant Foster L. Harrington and his selfless devotion to not only our country and the freedom we enjoy, but to a people who are but now in the infant stages of a new life—a new freedom—in their own land.

We should also remember his fiancée, Fran Poston, and his many friends and colleagues in Mobile, Alabama. Our prayer is that God will give them all the strength and courage that only He can provide to sustain them during the difficult days ahead.

TRIBUTE TO PANAGIOTIS TAKIS DADIOTIS

HON. DIANA DeGETTE

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Ms. DEGETTE. Mr. Speaker, I rise to honor the extraordinary life and notable accomplishments of Panagiotis Takis Dadiotis. This remarkable gentleman merits both our recognition and esteem as his community leadership and invaluable service have improved the lives of our people.

Taki Dadiotis was born in Greece in the town of Aegion where, in his early years, he worked with his father, a fruit vendor. His story is not unlike those of other Greek Americans who came to this country with little more than their optimism and a desire to build a better life. Taki arrived in the United States in 1966 and first lived in Pensacola, Florida, where he sold toothbrushes door-to-door to raise the fare to travel to Denver. When he arrived, he worked three jobs at the same time—at Samsonite making suitcases, at King Soopers bagging groceries and tending bar at the Picadilly Restaurant—to build the nest egg needed to open his first restaurant with his brothers Sam and Pete. He became a proud family man, and he and his wife Vasiliki, raised two wonderful children, Jim and Theoni.

More restaurants followed including the well-known Greek Town Cafe on East Colfax. But Taki had a passion for politics and always found time to be involved in public life. His restaurant became a gathering place for elected officials and influential politicos as well as the site for countless State, local and national fundraising events. Taki had an irrepressible zest for life and no one was a stranger. He was open and genuine and possessed a refreshing lack of artifice. When people would try to put one over on him, he would simply mention that although he lacked a formal higher education, he did, in fact, graduate from the "University of Colfax" and they all got the drift.

Taki was immensely proud of his Greek heritage and preserving the ideals and traditions of Hellenism had great meaning for him. He understood that his native Hellas and his adopted homeland shared common values and that the greatness of America flowed from our fidelity to the Hellenic precept that government derives its authority from the people. Becoming a citizen of the United States was one of the greatest honors of Taki's life. His son Jim recalled how he instilled in his children a sense of civic responsibility and the fundamental importance of voting. Taki once remarked that America stands for the fair treatment of all people, and that providing the opportunity to be successful makes our country better and stronger. Taki loved this country and he wanted to participate in the American experience. He wanted to help make our country better because it gave him the opportunity to live the American Dream.

But Taki never forgot who he was or where he came from. And although he achieved financial success, he always wanted to help, not only Greek immigrants, but all those who were disadvantaged. He didn't want people that were somehow limited or didn't have access to civic leaders and community resources to be forgotten, left out or lost in the shuffle. Taki not only had a big heart, but he was well-grounded and possessed a clear sense of what mattered.

Taki Dadiotis loved his family, his friends his country, his faith and lived a life that is rich in consequence. Truly, we are all diminished by the passing of this remarkable person. There is an old Greek saying that "the passion for freedom never dies." And while Taki has left our ranks, his passion for the American ideal endures in us. Please join me in paying tribute to the life of Panagiotis Takis Dadiotis, a distinguished citizen. It is the values, leadership and commitment he exhibited during his life that serves to build a better future for all Americans.

APPOINTMENT OF CONFEREES ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

SPEECH OF

HON. CLIFF STEARNS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. STEARNS. Mr. Speaker, I rise today in opposition to the Motion to Instruct Conferees on the FY05 National Defense Authorization Act.

There are many reasons to oppose this Motion.

First, the argument could certainly be made that "hate crimes" do not belong on a National Defense Authorization bill. This is incredibly important legislation, and it does not deserve to get bogged down over such a controversial and non-germane provision.

I also oppose the notion of "hate crimes" in general, especially at the federal level. The fact of the matter is that a crime is a crime no matter what motivates it. If two men are brutally murdered, one for his race and the other for his money, are we telling the latter's family that their father's death, or their husband's death, or their son's death, is somehow worth less in the eyes of the law?

I would also contend that the very concept of "hate crimes" is divisive and tends to Balkanize America. During the Civil Rights movement, black Americans strove to be treated the same as white Americans. Theirs was a noble cause. Yet "hate crimes" betray the cause of those who fought against segregation by emphasizing our differences, rather than our common concerns.

I am also concerned that if we have laws which punish more severely offenders who are motivated by certain beliefs, it increases the risk that we will try to criminalize the actual beliefs themselves.

There is no need for "hate crime" legislation. Federal "hate crimes" prosecute property crimes, assault and battery and murder against the special victims. Yet all of these underlying offenses are already illegal in all 50 states and they are already prosecuted by the states with great effectiveness. I am not aware of any of these types of offenses being inadequately investigated or negligently prosecuted. And let's face it: few criminals are likely to be deterred by an additional penalty for a crime that is already unlawful.

Another reason why I oppose federal hate crimes in general and this Motion specifically is because the prosecution of crimes has largely always been an issue left to the states. The continued federalization of criminal law requires a tremendous expansion in the size and scope of Federal law enforcement, Federal prosecutors, and frankly, Federal power. For too long, Congress has used the Constitution's Commerce Clause to expand the Federal government's reach in what was traditionally the jurisdiction of the states. However, the U.S. Supreme Court recently struck down two federal statutes in U.S. v. Lopez (1995) and U.S. v. Morrison (2000) because they violated our traditional constitutional divisions of authority. I would not be surprised if the Court one day declared unconstitutional other far-reaching Federal crime measures, including Federal "hate crimes."

There is another constitutional problem with giving "sexual orientation" special treatment. Current characteristics which are classified as hate crimes under federal law include race, ethnicity, sex, national origin, religion, and disability. All of these characteristics—except religion—are what the Supreme Court has called "immutable." That is, if a person is black, or a woman, or from Pakistan, or paralyzed from the waist down, it is not of their choice. It is beyond their control, they cannot change. Therefore, if their characteristic is immutable it cannot, for lack of a better description, be held against them.

Now, good people can disagree about this issue, but the fact remains that homosexuality is not necessarily a trait with which someone is born. In other words, this type of "sexual orientation" is not immutable, but to a large degree it is chosen. The Supreme Court has certainly never considered "sexual orientation" to be an immutable characteristic. Why should we?

Mr. Speaker, I believe that violent crimes against any American are despicable. They should be punished swiftly and severely, to the fullest extent of the law. But we should not give special treatment to certain victims, we should not penalize citizens for their beliefs, and we should not federalize "hate crimes."

I urge my colleagues to vote against this Motion.

RECOGNIZING QUENTIN TEMPLETON FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Quentin Templeton of Kearney, Missouri, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 397, and in earning the most prestigious award of Eagle Scout. A recognition ceremony will be held in honor of Quentin on October 9th at Community Coventry Church in Kearney.

Quentin has been very active with his troop, participating in many scout activities. Over the many years Quentin has been involved with scouting, he has not only earned numerous merit badges, but the respect of his family, peers, and community.

Mr. Speaker, I proudly ask you to join me in commending Quentin Templeton for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

CONGRATULATING BOB MILEWSKI

HON. SANDER M. LEVIN

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. LEVIN. Mr. Speaker, I rise to congratulate Mr. Bob Milewski, as he receives the 2004 Alexander Macomb "Man of the Year" Award from the March of Dimes.

Bob Milewski's business card reads: President and CEO, Mount Clemens General Hospital. Yet his influence stretches even further beyond the hospital campus, and his title doesn't capture his devotion to Macomb County and its citizens. For Bob Milewski, his vocation is an opportunity to serve the community he loves.

Bob Milewski was born and raised in Center Line, Michigan. He married his high school sweetheart, Nancy, and they have been married for 33 years. All three of their children, Amy, Jeff and Amanda, were born at Mount Clemens General. They are the proud grandparents of Gavin, Garrett, and Grant.

Bob Milewski has worked at both Children's Hospital of Michigan and Beaumont Hospital in Royal Oak. He came to Mount Clemens General as Chief Operating Office (COO) in September, 1993 and was promoted to Chief Executive Officer (CEO) in September, 1997.

Since 1997, Bob Milewski has strongly and enthusiastically led Mount Clemens General, which has seen a 50 percent growth in inpatient admissions and 300 percent growth in outpatient activity during his tenure. Of course, Mr. Milewski would say that those numbers only have meaning if you know the people behind the statistics: his neighbors, church members, professionals, associates, friends and family who have long trusted Mount Clemens General for their healthcare.

Community linkage is of the utmost importance to Bob Milewski. Not only does he believe the hospital should offer outstanding healthcare to its residents, but that it should support the community by having its staff involved in community organizations. Mr. Milewski himself is heavily involved in many local organizations, including Leadership Macomb, Mount Clemens Lions Club, Rockpointe Community Church, Selfridge Air National Guard Base Council, Greater Detroit Area Health Council, Michigan Healthcare Executive Group and Associates, Michigan Health and Hospital Association, American College of Healthcare Executives, and the American Osteopathic Association.

Mr. Speaker, I ask my colleagues to join me in recognizing a terrific individual, an outstanding leader, and a worthy recipient of this annual Macomb County recognition by the March of Dimes.

BROWN TREE SNAKE CONTROL AND ERADICATION ACT OF 2004

SPEECH OF

HON. MADELEINE Z. BORDALLO

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Ms. BORDALLO. Mr. Speaker, H.R. 3479 was introduced to provide a more coordinated and consistent approach in dealing with the brown tree snake, which has decimated native bird populations in Guam since its accidental introduction following World War II. Today, the brown tree snake poses a direct threat to the environment and economies of the Mariana Islands and the Hawaiian Islands, and to a lesser extent, Coastal California, the Gulf States, and the Caribbean. If not effectively contained in Guam, the brown tree snake could prove to be devastating should it make its way further outside its native and historic range. The brown tree snake, whose scientific name is Boiga irregularis, is especially prone to tropical climate and with no natural predators can virtually destroy an ecosystem. This invasive species has already irrevocably harmed Guam's environment.

With the level of military and commercial air and sea traffic between Guam and points in the Pacific Region, including Saipan and Honolulu, increasing on an almost daily basis, the need for effective control of the brown tree snake correspondingly rises. For over a decade, a Federal partnership has existed with the Government of Guam and the State of Hawaii in preventing the brown tree snake's transport off Guam. This partnership emerged following the introduction of the first legislation in Congress dealing with the brown tree snake. That measure was H.R. 4804 in the 101st Congress, introduced by former Congresswoman Patricia Saiki (Hawaii) and former Congressman Ben Blaz (Guam), whose purpose was eventually incorporated into and enacted as part of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990. H.R. 3479 builds upon this law by providing more programmatic authorization and direction for the Federal elements of the overall partnership to combat the brown tree snake.

The legislation provides funding authority for eleven specific authorized activities relating to control, interdiction, research and eradication. It authorizes appropriations for five offices and agencies under the Department of Agriculture and the Department of the Interior to support and coordinate the different elements of this overall work. Apart from these two cabinet level agencies, it is expected that strong support and cooperation will continue to come from the Department of Defense, who has a major stake in reducing brown tree snake populations on military installations in Guam and in preventing the accidental or incidental transport of the brown tree snake off Guam.

The Animal and Plant Health Inspection Service (APHIS) has been at the center of this partnership, with its Wildlife Services operating a program to screen outbound cargo at the airport and seaport for brown tree snakes. This partnership has proven effective at interdicting snakes, although stands to gain much more Federal backing and resources in order to ultimately succeed in its mission. In recent years the program has struggled to keep up with the pace of outbound flights and surface cargo. H.R. 3479 would provide for specific authorization levels to maintain strong and consistent Federal funding for this program. From this perspective, I believe H.R. 3479 is a cost-saving measure for the Federal Government in the long run. If our guard is let down, and the program becomes inevitably unable to keep up with the demand of increased inspections, the value of all the inspections conducted to date and the value of all Federal resources invested to date lessens and becomes jeopardized in its entirety. Should the snake ever become established in Hawaii, the responsibility and need to control for it in yet another location would ensue, causing the expenditure of additional Federal funds. The costs of the adverse impact to the economy of any local community hit by the introduction of the brown tree snake would be beyond estimating and difficult to bear.

Apart from the concern over consistent and adequate year-to-year Federal funding for interdiction, is the larger, more long-term concern about controlling for the snake to restore and protect Guam's environment. To date, efforts have largely focused, with limited and inconsistent resources, on interdiction. I believe more can and should be devoted towards protecting Guam's environment and native species. I believe brown tree snake control work carried out on Guam should be tied to, consistent with, and made an integral component of species recovery efforts. In this regard, I am pleased H.R. 3479 provides a specific authorization of appropriations for the Fish and Wildlife Service to participate in this partnership. I would also note that this legislation provides for research authorization with the long-term goal of eradication and with the near-term focus on large-scale reduction.

H.R. 3479 also provides important direction and purpose for the Brown Tree Snake Technical Working Group that has convened over the years to provide a forum for the partners across the levels of government to coordinate their efforts. The legislation outlines specific duties and activities for the working group, including the evaluation of Federal activity and funding. It is hoped that the working group's evaluation and reporting would provide Congress with authoritative and useful information to consider in the appropriations process. Furthermore, I believe the five-year authorization period contained within the legislation can yield a process by which we are able to evaluate the progress of the work. Without the direction and authorization embodied in this legislation, I am concerned that the Federal Government will forever be engaged in an effort to prevent the brown tree snake from leaving Guam, and will likely prove unsuccessful in the long run. Without this legislation, I am also concerned that future efforts will be focused on interdiction and interdiction alone at the expense of Guam's environmental and economic interests.

Although, not all provisions of the bill as introduced have been retained in the version before the House today, I am pleased that we have been able to craft a product that I believe will encourage more direction, coordination and consistency in year-to-year funding for brown tree snake interdiction, control, research, and eradication efforts. I look forward to continuing to work with the leadership of the committees with jurisdiction to enact this legislation.

IN RECOGNITION OF SABRINA USSERY

HON. MIKE ROGERS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ROGERS of Alabama. Mr. Speaker, on September 11, 2004, teens from around the Third District gathered on the campus of Jacksonville State University to remember the events of 9/11, and to reflect on the impact of those events on their life today.

One of the speakers that day was Sabrina Ussery, a twelfth grade student at Lanett High School in Lanett, Alabama. In honor of her words and in recognition of her gift for writing, I am placing her entire speech in the CONGRESSIONAL RECORD so that others may have the opportunity to hear her thoughts about that fateful day.

The text of her speech is as follows. Thank you, Mr. Speaker, for the House's attention to this important matter on this important day.

ARMY JUNIOR ROTC: MOTIVATING YOUNG PEOPLE TO BE BETTER CITIZENS

As freshmen, we entered Lanett's JROTC program without knowledge of how to serve ourselves, let alone our country. Also, being fourteen at the time of the 9/11 occurrences, fear, above all other responses, was the primary expression brought forth by the announcement made over our intercom that morning. Terrified as we were, we looked to our Army Instructors for answers. This is where our lives and experiences as well-rounded cadets began.

The core curriculum of the Army JROTC program at Lanett High School emphasizes the importance of a citizen's involvement in today's world at the local, state, and national levels. This curriculum teaches adolescents the responsibilities of being a citizen and offers opportunities for them to experience, first handedly, the reward of being informed. In an attempt to keep us up to date with our current events, classroom debates and/or discussions were held both in and out of class. These discussions sparked interests and opinions in our young minds as we began to ponder the idea of being, for the first time, independent minded individuals.

Our Army Instructors also encouraged us on a daily basis to volunteer and take part in community events: Color guard presentations, dedications of the flag, memorial services, etc. At this point, the instructors understood something we didn't. In our minds, the ideals and practices of patriotism and participation were nothing more than routines. It wasn't until the morning of 9/11 that we began to realize the purpose, meaning, and emotion behind being a cadet.

It was 9:52 A.M. when the intercom came on, and we expected a fellow cadet to recite the pledge as a part of our daily routine. To our surprise, it was our librarian reporting to the school the events of the morning. Out of confusion, our eyes fell upon Major McQueen, our Senior Army Instructor. Behind his common readjustment of his glasses, we saw tears beginning to roll down his cheeks. He then turned towards our classroom flag and saluted.

The temperature seemed to suddenly drop, and we were all frightened. As we stood and watched our hero, our teacher, our friend cry over such an announcement, we realized the importance and devastation behind the occurrences of the morning. We knew something wasn't right. It was then that maturity fell upon our shoulders.

As time passed, those students who were cadets during the time of 9/11 attacks became key leaders throughout the school and community in both deed and speech.

Now, not only do they hold their heads higher and walk with a prouder step, the Panther Battalion as a whole has taken it upon itself to become more involved in the community. We are now co-volunteers with current Junior Achievement participants in teaching elementary students the importance of their family, community, country, and world. In addition, the JROTC program at Lanett High has had the School Board of Education for Chambers County pass a mandatory requirement for incoming freshmen to complete and pass a minimum of one semester of the class. This has and will continue to aid in the raising up of well informed, active citizens in tomorrow's America.

THE CADET CREED:

I am an Army Junior ROTC cadet.

I will always conduct myself to bring credit to my family, country, school, and the corps of cadets.

I am loyal and patriotic. I am the future of the United States of America.

I do not lie, cheat, or steal and will always be held accountable for my actions and deeds.

I will always practice good citizenship and patriotism.

I will work hard to improve my mind and strengthen my body.

I will seek the mantle of leadership and stand prepared to uphold the Constitution and the American way of life.

May God grant me the strength to always live by this creed."

MONTANA WATER CONTRACTS EXTENSION ACT OF 2004

SPEECH OF

HON. DENNIS R. REHBERG

OF MONTANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. REHBERG. Mr. Speaker, today the House will consider H.R. 5009, legislation to extend water service contracts between the United States and specific water users in Montana.

The bill is non-controversial and the House Resources Committee unanimously passed H.R. 5009 on September 22, 2004.

My legislation affects 5 water entities in central and southwest Montana, including the City of Helena and 4 specific irrigation contractors. It permits the Bureau of Reclamation and these local water entities to extend their existing long-term water service contracts for up to another 2 years, so that the parties may negotiate new long-term contracts.

This bill is a legislative fix to a bureaucratic situation. Most of the contracts addressed in my legislation are due to expire on December 31, 2004. Contract renewal negotiations between these local water districts and the Bureau of Reclamation have been delayed by Missouri River Endangered Species Act studies and other issues. Without this legislation, the water service contracts would expire at the end of the year and the local entities would lose significant water service. The contract extensions will maintain the current water supply for the specified areas under the current terms and conditions during the renegotiation process.

I urge my colleagues to support this important measure and vote in favor of maintaining water supply in Montana.

HONORING THE LIFE OF PETTY OFFICER 3RD CLASS NATHAN BRUCKENTHAL

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ISRAEL. Mr. Speaker, I rise today to honor the life of Nathan B. Bruckenthal, a life that he gave for his country. P03 Bruckenthal, U.S. Coast Guard, was killed in action at the Khawr Al Amay Oil Terminal off the coast of Iraq on 24 April 2004 in a terrorist-suicide bombing. DC3 Bruckenthal became the first Coast Guardsman to lose his life in combat since Vietnam.

P03 Bruckenthal was born on July 17, 1979. Growing up in Stony Brook, Long Island, he had a strong sense of service from his earliest years. A member of the Junior ROTC while in high school and later a volunteer firefighter in Ridgefield, Connecticut, Bruckenthal later returned home to Long Island where he joined the Coast Guard.

Bruckenthal went on to serve at Coast Guard stations in Montauk, New York; Yorktown, Pennsylvania; and Neah Bay, Washington. Having volunteered to become a damage control officer, Bruckenthal made an even greater commitment to continued service by reenlisting, a decision he made with his new wife Pattie whom he had met while serving in Washington. Bruckenthal was subsequently selected for the elite Coast Guard tactical law enforcement program and assigned to TACLET South, housed at the Coast Guard's Miami Air Station.

Lauded for his leadership by his commanding officers and continually decorated for his achievements, P03 Bruckenthal was selected for deployment to Iraq where he would work not only with the Coast Guard but with the Navy and numerous foreign services. His dedication to service was needed in what would soon be a war zone; his leadership was needed to make working with so many disparate services a success. P03 Bruckenthal went on to work in and around the critical Iraqi port of Um Qasar before being redeployed to the United States. But one tour of duty was not enough for a man who always sought greater service. He volunteered to go back to Iraq.

While serving on his second tour, Bruckenthal learned his wife was carrying his unborn child. Still he soldiered on. While patrolling in the Persian Gulf and training two Navy seamen on intercept operations, P03 Bruckenthal noticed a suspicious vessel. When the vessel would not heed his commands, Bruckenthal moved with his crew to intercept the vessel. The vessel exploded and P03 Bruckenthal and his two crewmates were killed. Their selfless action saved the U.S.S. *Firebolt* and its sailors as well as the off shore oil platform and terminal at Khawr Al Amaya. P03 Nathan Bruckenthal had now made the ultimate sacrifice for his country: he gave his life.

P03 Bruckenthal had been well decorated during his career, earning the USCG Marksmanship Ribbon, the Unit Commendation Award, the Coast Guard Sea Service Ribbon, National Defense Service Medal, the Coast Guard Merit Team Commendation and the Combat Action Medal. He will not know of his final two decorations but they speak directly to his characteristics of selflessness, leadership and sacrifice. For his heroic intercept of the suicide vessel, P03 Bruckenthal was posthumously awarded the Bronze Star with Valor and the Purple Heart.

Words do not easily capture the greatness of a young man like Nathan Bruckenthal nor can they do justice to his sacrifice or to the deep loss of his family. However, it is our duty to ensure that the legacy of this great American, like that of many who have fallen with him, is known and honored. Tom Brokaw wrote not so long ago about what he termed "The Greatest Generation." He illustrated that they were people who knew there was a need for service and then quietly answered that call. They were people who sacrificed so much but complained very little. They were people who labored far away while penning letters to loved ones at home speaking only of happiness, their love and their future. Nathan Bruckenthal may not have served with the men and women who are part of that WWII generation, but I can tell you he would be right at home with them.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. SHAYS. Mr. Speaker, on September 28, inclement weather delayed the train I was riding back to Washington and, therefore, I missed three recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted "yes" on recorded vote number 473, "yes" on recorded vote 474, and "yes" on recorded vote 475.

BHOPAL RESOLUTION

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. PALLONE. Mr. Speaker, I introduced a resolution today in recognition of the 20th anniversary of the Union Carbide Corporation gas leak that took place in Bhopal, India, in December 2004. This 1984 Bhopal Gas Leak Disaster is widely regarded as the worst peacetime environmental catastrophe in world history, and this important resolution expresses the commitment of the United States Congress to work with the Government of India and others to ensure that Union Carbide provides environmental and medical rehabilitation in Bhopal and is held responsible for its actions.

On the night of December 2, 1984, 27 tons of poisonous gas including methyl isocyanate leaked from a storage tank at the Union Carbide Corporation's pesticide plant in Bhopal and quickly spread to the surrounding residential areas. Official estimates indicate a death toll of 3,000 lives in the aftermath of the disaster, with unofficial estimates putting the toll much higher at 8,000. To date, the death toll has climbed to more than 20,000 lives.

Although it is now 20 years since the disaster, approximately 10–30 people continue to die every month in Bhopal from toxic exposure and 150,000 people continue to suffer long-term health consequences from the disaster. The effects of the toxic gases also appear to be harming the next generation, as more overwhelming evidence is surfacing that points to higher incidence of health effects and birth-defects among children born to gas-affected people.

A host of international organizations and independent investigators have concluded that Union Carbide's inadequate technology, double standards in safety and emergency-preparedness compounded by a reckless cost-cutting drive at the plant were the principal causes of the disaster. Based on these investigations and other evidence, the authorities in India brought criminal charges against Union Carbide, its Indian subsidiary as well as local managers in 1987 for criminal negligence and reckless indifference leading to death.

In 1989, Union Carbide negotiated a settlement of $470 million with the Indian government that was based on inaccurate statistics about the scale and magnitude of the disaster in addition to being widely condemned by the media and responsible jurists in India as insufficient, even when compared to compensation awards provided for under Indian law. The Supreme Court of India in its judicial review of the settlement in October 1991 held that the criminal charges could not be overturned or dismissed based on the civil settlement and directed that the criminal prosecution against Union Carbide and the Indian accused must proceed in the courts of India.

When Union Carbide was served with a summons in the criminal case by the Bhopal District Court in 1992, and a notice to appear for trial was published in the Washington Post, Union Carbide's spokesmen responded with a public statement that the company was not subject to the jurisdiction of India's courts in disregard of universally accepted international law regarding criminal jurisdiction acknowledged by both the United States and India. Based on its refusal to appear to face criminal charges against it, the Bhopal District Court issued non-bailable arrest warrants for Union Carbide, ordered that its remaining properties in India be attached to secure its appearance and declared that the company was a "proclaimed absconder" or fugitive from justice.

Union Carbide has recently become a wholly-owned subsidiary of The Dow Chemical Corporation, which made the decision to acquire the company with full knowledge, according to its own public statements, of the criminal charges pending against it and Union Carbide's status as an absconder or fugitive from justice. Despite repeated public requests and protests around the world, Dow Chemical has refused to make its new subsidiary appear before the Bhopal District Court to face the criminal charges pending against it for the disaster.

Like Union Carbide before it, Dow Chemical has, to date, continued to refuse to release all scientific research on the leaked gas, claiming that this information constitutes a commercial "trade secret". Like Union Carbide before it, Dow Chemical has also continued to refuse to release all of its own medical research on the toxicology of the leaked chemicals and gases to date. The lack of information on the gas has not only hindered the study of the long-term health and medical effects of exposure, but has left doctors with few options besides symptomatic treatment of the hundreds of thousands of gas-affected individuals and children. The devastating health effects of the gas, the birth defects of their children and inability to work because of illness have forced many Bhopali families in desperate need of medical help into insurmountable debt.

Since 1999, at least three independent environmental surveys, including one conducted by state authorities in India, have shown that the former Union Carbide plant has badly polluted the soil and groundwater aquifer beneath it resulting in severe contamination of the drinking water supply of as many as 20,000 people living in residential colonies near the plant. One study found the presence of a large number of highly toxic pollutants in drinking water samples tested by the University of Exeter in the U.K. that were matched with chemicals found in soil samples from the Bhopal plant, including one carcinogenic chemical whose presence in the drinking water exceeded by 1,705 times the maximum limit allowed by the World Health Organization.

Another environmental survey was able to trace chemicals from the former Union Carbide plant in the breast milk of mothers living in the residential areas in the vicinity of the badly polluted site, which continues to leach pollutants into the groundwater aquifer to date. The land for the plant was leased from the State of Madhya Pradesh in India which stipulated that, upon termination, the land would be returned to the State in the condition that it was first leased and suitable for the use prescribed by the zoning regulations. The State discovered that clean-up of the site until 1998 had been insufficient leaving thousands of metric tons of toxic wastes, chemical by-products, effluents, and other hazardous materials both above-ground on the premises of the factory and below ground in burial pits and landfills, all of which posed a grave threat to the surrounding population.

At least 10 residential areas in the vicinity of the former Union Carbide plant were found to have severely polluted drinking water according to these environmental studies and no substantive effort has been undertaken for environmental remediation of the area leaving water that has high levels of mercury, dichlorobenzenes, chloroform, carbon tetrachloride, and other pollutants, toxins, and heavy metals. Soil samples from the area have found abnormal amounts of lead, nickel, copper, chromium, hexachlorocyclohexane, and chlorobenzenes. Tainted water and the generally toxic living environments have lead to premature cancer, deformities, chromosomal aberrations, and other disorders for Bhopali children.

There is a "polluter pays" principle enshrined in the domestic laws of both India and the United States as well as both domestic and international law which states that the polluter rather than the public agencies or taxpayers should be held responsible for its environmental pollution in its entirety. International trade and ethical practices compel Dow Chemical to treat this matter very seriously and ensure that equitable treatment be afforded to the victims and their progeny.

Mr. Speaker, India is the largest democratic country in the world and enjoys a close and mutual friendship with the United States based on common values and common interests, and as a result, our countries should come together to recognize the gravity of the Bhopal disaster and the ongoing environmental problems in Bhopal caused by Union Carbide's policies and practices.

I encourage my colleagues in the U.S. Congress to support this resolution and commit to working together with the Indian government, Dow Chemical Corporation, and the victims to ensure that Union Carbide provides complete medical, social, and economic rehabilitation to the victims of the disaster. In addition, we should work together to ensure that Union Carbide undertakes a complete environmental remediation that restores the badly polluted plant site affected by this disaster to a habitable condition and fully remediates the drinking water supply of affected residential communities. Lastly, we need to ensure that Union Carbide appears before the Bhopal District Court for prosecution on the criminal charges pending against it there, in accordance with principles of international law regarding criminal jurisdiction accepted by the world community including India and the United States.

HONORING IRVING B. HARRIS

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. EMANUEL. Mr. Speaker, I rise today to mark the passing of one of Chicago's greatest philanthropists and most successful businessmen, Irving B. Harris. Since the creation of his first nonprofit foundation, Irving Harris' generosity touched the lives of the people, and particularly the children, of Chicago for nearly 60 years.

As co-owners of Toni Home Permanent Company, Irving Harris and his brother Neison were pioneers in the at-home hair wave craze of the mid–20th century. By 1948, the Harris' company had become so successful as to sell it to Gillette for $20 million. Irving went on to become the chairman of Pittway Corporation, a multi-billion dollar corporation his family ran until 2000.

But as Irving's wife Joan said "He liked business, and he was good at it. But I think in the end, what really yanked his chain was his work with the not-for-profits." Chicago's cultural and education scene was forever changed by this love.

During Irving Harris' lifetime, his foundations and generosity led to the creation and development of several noteworthy Chicago institutions charged with early childhood development. These include the Erikson Institute for Advanced Study in Child Development, the Ounce of Prevention Fund, Illinois' first public-private partnership to develop and monitor programs aimed at preventing family dysfunction, and the Beethoven project, which provides assistance and help to at-risk families in Chicago's most disadvantaged neighborhoods.

Irving Harris was also very committed during his lifetime to higher education. The University of Chicago opened the doors on the Irving B. Harris School of Public Policy in 1988, committed to shaping and understanding public life by conducting policy relevant research and preparing talented individuals to become leaders and agents of social change.

Right until the end of his life, Irving Harris left his mark on the city he loved. A Centerpiece of Chicago's grand new Millennium Park is the Joan W. and Irving B. Harris Music and Dance Theater, which was made possible by Irving's tremendous donation of $39 million toward the $52 million cost.

Mr. Speaker, on behalf of the people of Chicago, I am privileged to honor the memory of Irving B. Harris, one of Chicago's greatest humanitarians. My family and I would like to express our deepest condolences to Irving's wife Joan, his sister, June Barrows, his 6 children, 10 grandchildren, and 26 great grandchildren.

FOURTH ANNIVERSARY OF THE PALESTINIAN INTIFADA

HON. JOSEPH CROWLEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. CROWLEY. Mr. Speaker, on the fourth anniversary of the Palestinian Intifada, I would like to send my condolences to all the families that have lost a loved one or suffered from a terrorist attack.

These have been a long four years of violence since the Palestinian Intifada began on September 28, 2000. Today, on the fourth anniversary of this terrorist war waged against our ally Israel, I believe it is important for us all to reflect on these past 4 years.

What has this terrorist war achieved—the answer to that question is only blood shed.

Since the start of the Intifada, 940 innocent Israelis have been murdered and thousands more injured by terrorist attacks. Even with all the blood on the hands of these terrorists, they have been unable to come close to achieving their goal of destroying the state of Israel or creating a Palestinian state. The only thing these terrorists have achieved is the murder of so many and causing pain to their own people.

A state for the Palestinian people will never be achieved while terrorists continue to strike Israel. Whether they come from territory controlled by the Palestinian Authority, through Lebanon, Syria, or Iran peace can never be achieved while extremists wage this terrorist war on Israel.

It is time for the governments of the Middle East to step up and work with the Palestinian leadership to end all support for terrorism and assist a Palestinian government that can provide the security that is needed to realize their dream of a state. The first step toward achieving this goal is for Palestinian Prime Minister Ahmed Qurie to crack down on terrorists who continue to strike Israel. To do this Yassir Arafat must be removed from any position of power and control of the security forces must be centralized.

Mr. Speaker, this anniversary is something I hope we do not have to recognize at this time next year. I hope that peace can be achieved but until then we must continue our support of Israel and her fight against these extremist elements.

A TRIBUTE TO THE LIFE OF JAMES O. PAGE

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. WELDON of Pennsylvania. Mr. Speaker, on behalf of the Congressional Fire Services Caucus and the Congressional Fire Services Institute, I would like to take this opportunity to celebrate the life of James O. Page, a dear friend of mine who suddenly passed away on September 4, 2004. The founder of JEMS Communication, Chief Jim Page was highly regarded as the father of modern emergency medical services (EMS).

In 1957, Jim began his fire service career with the Los Angeles County Fire Department. He served in numerous locations and roles while working his way through the ranks and completing undergraduate and law degrees at night. In 1971, he was assigned by his department to coordinate the countywide implementation of paramedic rescue services. At the same time, he served as technical consultant and writer for the hit television series "Emergency." Jim later served as Chief of EMS for the State of North Carolina and Fire Chief for the City of Monterey Park, CA.

In 1979, Jim launched JEMS and turned it into one of the world's most respected sources of information for emergency services. In addition, he oversaw the launch of FireRescue Magazine, for which he wrote the highly regarded Burning Issues column. In 2001, he retired from JEMS Communication and was named Publisher Emeritus. A prolific writer, Jim published five books, wrote more than 400 magazine articles and editorials, and presented more than 800 public speeches.

In recent years, Jim has been traveling the country visiting the 100 "best small towns" in America to profile each town's fire department. To date, his journey had taken him to 30 departments. At the conclusion of his travels, I was hoping to have him testify on Capitol Hill. I looked forward to hearing him share his experience—lessons learned and lessons that could be applied to how the Federal Government could better address the needs of local first responders.

In 1987, I formed the Congressional Fire Services Caucus to bring a greater awareness of the fire and emergency services to Capitol Hill. Since day one, Chief Page was a believer in the Caucus and helped to form the Congressional Fire Services Institute. The success of both the Caucus and Institute was achieved through the wisdom and knowledge of those individuals beholden to the missions of these organizations. Jim was with us since day one and was always willing to offer his support to strengthen our missions.

Jim strived for a better fire and emergency services. A fitness advocate, he challenged the fire and emergency services to take better care of their own. He earned many accolades along the way, all of which were well deserved. In 1995, the International Association of Fire Chiefs created an annual award in his name, the James O. Page Award of Excellence. In 2000, Fire Chief Magazine recognized him as one of the 20 most influential fire chiefs of the 20th century. In 2002, JEMS Communication created the annual "James O. Page" EMS Award.

To his mother Marion, wife Jane and their four children, I would like to say thanks for allowing Jim the liberty and opportunity to share his talents and passion with the fire and emergency services. He has left an indelible mark on public safety. When those who knew Jim best describe him, they say that he was a brilliant leader, and then they invariably add that he was always a gentleman and a genuinely nice person. We will miss him, yet never forget the legacy he leaves behind to the fire and emergency services and to this great Nation.

PERSONAL EXPLANATION

HON. HAROLD ROGERS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ROGERS of Kentucky. Mr. Speaker, on Tuesday, September 28, I had prior commitments and was not present for rollcall votes Nos. 473, 474 and 475. The votes were on a Pelosi motion to instruct conferees on H.R. 4200, a motion to close portions of the conference on H.R. 4200, and S. 2363. Had I been present, I would have voted "nay" on rollcall No. 473, and "yea" on rollcall Nos. 474 and 475.

CONGRESSIONAL BIRTHDAY TRIBUTE TO PHARMACIST CHARLES NIXON ON OCCASION OF HIS 70TH BIRTHDAY

HON. DONNA M. CHRISTENSEN

OF THE VIRGIN ISLANDS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to recognize the contributions of a quiet, family man who served the community of my home island of St. Croix, U.S. Virgin Islands for over 30 years and who will celebrate his 70th birthday on October 2nd. Mr. Speaker, Charles Elvis Nixon came to St. Croix with his family in 1970 and has contributed to its health and well being as a pharmacist, small businessman and good friend and neighbor.

Mr. Speaker, from 1970 through 1985, Charles Nixon owned and managed a small chain of drugstores, namely the Center Pharmacy, Island Pharmacy and Corner Drugs, which were the main centers that met pharmaceutical as well as other needs for the people of St. Croix. His Corner Drug Store was right down the hall from my family practice. More than just professional neighbors, we became friends and he was a sounding board for my early political ideas. We raised our children together.

During that time, Mr. Nixon also co-owned the Caribbean Medical Supply Company with his late wife, Laura and the St. Croix Surgical Center, the island's first privately owned ambulatory surgical service.

Since 1985, he has served the people of St. Croix as a pharmacist at various locations-including Gore Pharmacy in Gallows Bay, D&D Apothecary in Frederiksted and Drug World Pharmacy in Sion Farm. He also worked for the Virgin Islands Department of Health from 1993 to 2000 as the pharmacist for the Medical Assistance Program at the Frederiksted Health Center.

Mr. Speaker, one of the greatest tributes to Mr. Nixon, who is lovingly referred to as "Doc Nixon" by the many people who he served over the years, is the success of his four children who are all Ivy-League educated and successful as businessmen and women. Mark, his eldest son, is a marketing executive, Tracy, his oldest daughter is an entrepreneur, Jennifer is an obstetrician and gynecologist and Alison is a conference coordinator. Mark, Tracy and Allison are married with families of their own.

Mr. Nixon was born and raised in Smithfield, North Carolina in 1934. He earned his Bachelor Degree in Science and Pharmacy at Texas University. Drafted to serve his country in 1959, he served two years at Ft. Gordon in Augusta, Georgia.

Mr. Speaker, Mr. Nixon had an old fashioned country pharmacist approach to helping people. When his children asked him what he liked most about being a pharmacist on St. Croix, he said he liked meeting and helping people and being a part of the health care team for the island. His children remember that after St. Croix was devastated by Hurricane Hugo in 1989, how Charles Nixon worked long hours to provide as many people as possible with their much needed medication and in some instances, he personally delivered the medication to their homes after work.

His children remember that after their mother's death, the local newspaper mentioned the urgent need for a substitute pharmacist since its only pharmacist, their dad, was out on bereavement leave. This "mention" illustrated for them just how many lives a pharmacist touches and how many people depend on them always being there.

Mr. Speaker, on the eve of his 70th birthday, Mr. Nixon continues his work as a pharmacist on St. Croix at the Kmart Pharmacy in Frederiksted. I never go there without stopping to visit with him and catch up on old times and the latest accomplishments of his children. He has re-married to the former Lucille Jacobs and spends his free time playing golf, traveling and visiting with his three granddaughters. I am proud and honored to be able to call Charles Nixon my friend.

Charles Nixon's friendliness, willingness to listen and help, his professionalism, his dedication to his work, his integrity and success as a father and husband, his success as an entrepreneur, his adoption of St. Croix as home and his belief in the power of God's love makes him eminently worthy of this recognition on behalf of the people of St. Croix, the entire Virgin Islands and our Nation.

IN HONOR OF ARMY RESERVE PRIVATE FIRST CLASS NATHAN STAHL

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. VISCLOSKY. Mr. Speaker, it is with great pride and respect that I wish to commend Army Reserve Private First Class Nathan Stahl for his bravery in the field of battle and his willingness to fight for his country. In January 2004 Private Stahl was assigned to the 2nd Battalion, 75th Ranger Regiment from Fort Lewis, Washington. Private First Class Stahl lost his life on Tuesday, September 21, 2004 in central Iraq when his vehicle was struck by an explosive device. His sacrifice will be remembered at funeral services on Friday, October 1, 2004 by a community that has been struck hard by the devastating loss of one of its own.

A native of Highland, Indiana, Private Nathan E. Stahl graduated from Highland High School. Private Stahl loved documentary-style war movies and dreamed of becoming a United States Army Ranger. As a teen, he joined the Civil Air Patrol Air Force Academy. Private Stahl enlisted in the army before his high school graduation, and the experience he gained from the Civil Air Patrol immediately earned him the rank of Private First Class out of basic training.

It came as no surprise to those who knew Private Stahl that he would serve his country. A true patriot, his love for his country was evident from the time that he was a child. He wanted to help make a difference in the world. At the age of 13 he insisted he and his mother talk with Army recruiters. He left for basic training at 19. Private Stahl wanted to be a hero. Despite the danger, Private Stahl's mother signed her son's release papers because she knew it was what he wanted. He was initially sent to the airborne infantry for training but they found an opening for him in the United States Army Rangers and he was ecstatic. Private Stahl felt tremendous pride for his country, and he was willing to endanger his own life to protect the lives of his fellow citizens. His courage and heroism will always be remembered, and his sacrifice will forever live in the hearts and minds of those for whom he battled. He gave his life so that the freedoms and values that he treasured could be enjoyed by those around the world.

Although he loved his unit and his country, Private Stahl treasured his family above all else. He is survived by his mother and stepfather, Towina and Rodney Nightingale, his father and stepmother, Max and Virginia Stahl, and two sisters, Nicole and Abigail. Private Stahl will also be deeply missed by his fiancée Tiffany Metzler, who is currently serving in the United States Army. These individuals were the heroes to a man that we will forever call a hero, and we should honor them in this tumultuous moment as well.

Mr. Speaker, at this time I ask that you and my other distinguished colleagues join me in honoring a fallen hero, United States Army Reserve Private First Class Nathan E. Stahl. He will forever remain a hero in the eyes of his family, his community, and his country. Let us never forget the sacrifice he made to preserve the ideals of freedom and democracy.

ON THE DEATH OF FORMER CONGRESSMAN BILL FORD

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. DINGELL. Mr. Speaker, I rise with great sadness this evening to announce the death of our former colleague, Congressman William D. Ford. Mr. Ford died August 14th while the House was adjourned. Congressman Ford spent three decades serving the Nation as part of the U.S. House of Representatives. He was a great champion for the causes that concerned so many Michiganders. He worked every day of his life to be the champion of the working poor and the middle class.

Bill Ford was a Member of the House from 1965 to 1995 representing Michigan's 15th and 13th Congressional Districts. During his thirty-year tenure, he served as Chairman of the House Committee on Post Office and Civil Service and as Chairman of the House Committee on Education and Labor.

He was the oldest child of immigrant Scottish parents and the first member of his family to attend college. Following his service in the U.S. Navy, he attended the University of Denver on the GI Bill.

He was the author of the Middle Income Student Assistance Act, the Plant Closing Act and orchestrated the passage of the Family Medical Leave Act, the first law signed by President Bill Clinton in 1993. In 1994 The Federal Direct Student Loan program was named for him in recognition of his efforts to expand educational opportunities for students and lower the cost of education for them.

A champion of federal compensatory education programs to serve educationally disadvantaged children; he was an original sponsor of the Elementary and Secondary Education Act of 1965. He had a special interest in programs serving students from migrant farm worker families.

His father's death in a factory accident led to a lifelong commitment to protect the health and safety of employees in the workplace.

Prior to serving in Congress, he was a delegate to the Michigan Constitutional Convention and a member of the Michigan State Senate. He also served as city attorney of Melvindale, Michigan; as attorney and as justice of the peace of Taylor Township, Michigan.

He is survived by three children, William D. Ford Jr., Margaret Ford VanVleet and John Ford; three grandchildren, a sister, Janet Ford, and a brother, Robert Ford. A memorial service will be held tomorrow here in Washington.

Michigan is a better place because of the work and dedication of William D. Ford. His life left its mark on our state, his death is a tremendous loss. Our sympathies go out to his loved ones, many friends and his dedicated former staffers in Washington and Michigan.

INTRODUCTION OF THE EMPLOYEE FREEDOM FROM INVASION OF PRIVACY ACT

HON. THOMAS E. PETRI

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. PETRI. Mr. Speaker, today, with my colleague, Congressman ROB ANDREWS, I am introducing the Employee Freedom from Invasion of Privacy Act.

This legislation would prohibit the video or audio monitoring of an employee in any area on an employer's premises where an employee changes clothing.

Unfortunately, there have been a number of cases where employers have been caught engaging in secret surveillance via video or audio equipment of their employees in these situations on the job site.

For example, the Wall Street Journal reported that 19 locomotive engineers sued their employer in Oakland County Michigan Circuit

Court, charging that their employer had hidden a camera in a locker-room exit sign. A worker at a state college was shocked to discover that her employer had secretly videotaped her changing her clothes in her office after work. A waitress at a restaurant was spied on in the employee changing room when she got dressed for work.

Mr. Speaker, these are just a few examples of the conduct that the legislation Congressman ANDREWS and I are introducing today is intended to prevent. The Employee Freedom from Invasion of Privacy Act would help ensure that workers can go to work without wondering whether their employer has hidden a video camera in the bathroom or a microphone in the office ceiling.

Under the Employee Freedom from Invasion of Privacy Act, an employer who violates the prohibition against video or audio monitoring of any area on an employer's premises where workers change clothing would be liable to the United States Government for a civil penalty of up to $10,000 for each violation.

The bill also authorizes the Secretary of Labor to seek injunctive relief against an employer so as to stop future violations of the prohibitions contained in the legislation.

Enactment of the Employee Freedom from Invasion of Privacy Act would strengthen the right to privacy at a time when the growing use of surveillance technologies at the workplace has endangered this most fundamental of American values.

BENNETT FREEZE REHABILITATION ACT OF 2004

HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. RENZI. Mr. Speaker, I rise today to introduce the Bennett Freeze Rehabilitation Act of 2004.

The Navajo Nation is the largest Native American reservation in the United States with some of the poorest living conditions in the world. Currently, more than 8,000 people are living in an area called the Bennett Freeze. Only 10 percent of those living in the Bennett Freeze have running water and only 3 percent have electricity.

In 1966, former Bureau of Indian Affairs Commissioner Robert Bennett administratively issued the Bennett Freeze to restrict the Navajo Nation from constructing and repairing their dwellings on land that was subject to a land dispute with the Hopi Tribe.

In 1992, the Bennett Freeze was temporarily lifted. At this time, more than $20 million was proposed to rehabilitate the Bennett Freeze area. Shortly after the Bennett Freeze was lifted, however, a Federal judge reinstated the Freeze.

In the last few years, the Navajo Nation and the Hopi Tribe have been involved in extensive settlement negotiations. I am hopeful that the hard work by both the Navajo Nation and the Hopi Tribe will result in an end to the Bennett Freeze. I commend the work of President Joe Shirley and Hopi Chairman Wayne Taylor for their leadership on this issue.

Mr. Speaker, the Bennett Freeze Rehabilitation Act of 2004 will repeal the Bennett Freeze and ensure that a source of funding is available to assist the families living in the Bennett Freeze area.

The Bennett Freeze Rehabilitation Act of 2004 creates a program to provide reconstruction and rehabilitation money for the Bennett Freeze area. This includes housing construction and renovation, infrastructure improvements and economic development initiatives.

Mr. Speaker, I urge my colleagues to support the Bennett Freeze Rehabilitation Act of 2004. It is time that Congress corrects a true injustice to the Navajo people living in the Bennett Freeze area.

PERSONAL EXPLANATION

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, yesterday I was unavoidably detained and missed rollcall votes Nos. 473, 474, and 475. Had I been present, I would have voted: "Aye" on rollcall No. 473, the motion instructs conferees on H.R. 4200 to adopt the bipartisan Senate-passed provisions on hate crimes, "aye" on rollcall No. 474, the motion to close portions of the Department of Defense Conference Report, and "aye" on rollcall No. 475 for S. 2363, to revise and extend the Boys and Girls Club of America.

PERSONAL EXPLANATION

HON. TODD TIAHRT

OF KANSAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. TIAHRT. Mr. Speaker, on September 28th, I was unavoidably detained and missed rollcall vote No. 473. Rollcall vote No. 473 was Representative PELOSI's Motion to Instruct Conferees on the DOD Authorization Act. Had I been present, I would have voted "no" on the motion to instruct. I would ask that my statement appear in the appropriate location in the CONGRESSIONAL RECORD.

HONORING G. PIERCE WOOD, JR.

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of G. Pierce Wood, Jr., who through his countless contributions to the Tampa Bay community has served as a role model for us all.

A fifth generation Floridian, Pierce never shied from service. After attending the U.S. Naval Academy, he served a tour of duty in the Korean War. Pierce went on to serve TECO Energy for 34 years, retiring as Senior Vice President in 1988 to form his own government relations consulting firm.

Pierce, however, will be best remembered for his many community activities and tireless support for a host of charitable causes. Throughout his lifetime of service, Pierce was chairman of the Committee of 100 of the Greater Tampa Chamber of Commerce and chairman of the Board of Fellows of the University of Tampa. He was president and chairman of the MacDonald Training Center Foundation and president and campaign manager of the United Way of Greater Tampa.

Pierce served as director of the Tampa Museum of Art and the Tampa Philharmonic, first chairman of the capital cabinet of the new Lowry Park Zoo, president of the Gold Triangle and a member of the event advisory committee of the Tampa Sports Authority and many other civic and charitable organizations. All the while, he was active in the Rotary Club of Tampa, the Sertoma Club and St. Andrew's Episcopal Church.

Those who knew Pierce well remember him as "a true Southern gentleman" and "a giant among men." On behalf of the Tampa Bay community, I would like to honor G. Pierce Wood, Jr. for his dedication to serving others and extend my deepest sympathies to his many loved ones.

REVISING AND EXTENDING BOYS AND GIRLS CLUBS OF AMERICA

SPEECH OF

HON. RON KIND

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. KIND. Mr. Speaker, I rise today in support of S. 2363, legislation to further the support of the Boys and Girls Clubs of America. As a former participant of the Boys and Girls Clubs, I know first hand how successful it is in giving young people a sense of usefulness, belonging, and influence. Today, my two little boys, Johnny and Matthew, participate in this organization's flag football, baseball, and basketball leagues. I have seen that it provides young people with a safe place to learn, establish strong relationships, and build good character.

The Boys and Girls Clubs of America has been ranked number one among youth organizations for the tenth straight year, and has been listed as 15th among all nonprofit organizations. It is the nation's fastest-growing youth development organization with a primary focus on young people from disadvantaged backgrounds.

It serves more than 4 million boys and girls through 3,400 club locations, which are located in all 50 states, Puerto Rico, the Virgin Islands, and both domestic and international military bases. Sixty-five percent of the children that participate in the Boys and Girls Clubs are from minority backgrounds. The wide reach of this organization helps all types of children develop creativity through the arts, a healthy lifestyle through fitness activities, and a career through educational, character, and leadership programs.

Having served on the Board of Directors for the La Crosse Boys and Girls Clubs, I know the amount of time and hard work that goes into operating this organization. I would like to thank Terry Erickson, the current director of the La Crosse Boys and Girls Clubs, who has served since I was a participant. Terry has taken the La Crosse Club to heights never before imaginable. He has become synonymous with the Club and a role model to everyone involved.

I would also like to thank Natalie Carlise for providing the enthusiasm at the relatively new Boys and Girls Clubs of Sparta. Terry, Natalie, and their staff provide a safe and nurturing atmosphere for the children of western Wisconsin. Their commitment to the Boys and Girls Clubs is greatly appreciated by volunteers, parents, and especially the children at the Clubs. I cannot thank them enough for their selfless giving of time, and love for our children.

Mr. Speaker, I am pleased to support this legislation on the floor today, to extend the authorization of this important program for our children who represent the future of our country.

PERSONAL EXPLANATION

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following votes due to a personal matter. If I had been present, I would have voted as follows:

September 23, 2004: Rollcall vote 469, on H. Res. 785, on ordering the Previous Questions, I would have voted "yes." Rollcall vote 470, on H. Res. 794, on ordering the Previous Question, I would have voted "yes." Rollcall vote 471, on H. Res. 794, on Agreeing to the Resolution, I would have voted "yes." Rollcall vote 472, on agreeing to the conference report for the Relief for Working Families Tax Act of 2003, I would have voted "yes."

PIRACY DETERRENCE AND EDUCATION ACT OF 2004

SPEECH OF

HON. BOB GOODLATTE

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. GOODLATTE. Mr. Speaker, I rise today to urge my colleagues to support legislation I introduced to designate the oak as America's national tree.

During a four-month-long online election, with almost a half million votes logged, the American people chose the oak tree as America's national tree. To make official what the American people have already chosen, I introduced H.R. 1775 last April, which will officially designate the oak as America's national tree.

As a member of Congress representing a heavily forested district in Virginia, I know firsthand how trees add to our quality of life. As Chairman of the House Agriculture Committee, I appreciate how trees and forests enhance the environment, add recreational opportunities and provide for the livelihoods of millions of individuals in the forest industry. Whether enjoying a product generated from a forest, or the simple satisfaction of lying under a shaded giant, trees contribute to all Americans.

The strong and stately oak tree is of particular importance in America's history and culture. Not only is this majestic tree an aesthetic beauty that characterizes the landscape of much of our great Nation, it also provides us with wood products in our homes, our offices and our places of gathering. Present in all 50 states, the oak has played a huge role in America's history as a valuable resource. It helped our founding fathers establish a new Nation, supplying building materials for the ever-expanding 13 original colonies. It served as a familiar sight to pioneers as they forged across the new republic to the west coast. And to this day it has remained an enduring, valuable, and highly-prized raw material from which beautifully crafted furniture, sturdy door and window framing, ornate flooring and paneling, and the like, are made. This enduring and mighty tree, which has long been a part of our national heritage and strength, fully merits the distinction as America's national tree.

The oak tree has also played a key role in many specific historic moments in our Nation's history. Abraham Lincoln found his way across a river near Homer, Illinois, using the Salt River Ford Oak as a marker. When King James II attempted to revoke Connecticut's charter, the "Charter White Oak" is said to have been the hiding place for the historic document. Andrew Jackson took shelter under Louisiana's Sunnybrook Oaks on his way to the Battle of New Orleans. And "Old Ironsides," the USS *Constitution*, earned its nickname from the strength of its live oak hull, famous for easily repelling British cannonballs.

Chosen by the people in a broad-based election, the oak tree represents the fundamental characteristics of the great nation: strength, endurance, and beauty. I urge each of my colleagues to make official what we have known for many years . . . that the oak tree is America's national tree.

IN HONOR OF ST. MARY, STAR OF THE SEA SCHOOL

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor St. Mary, Star of the Sea School, which will be celebrating its 125th Anniversary on October 2, 2004, in Bayonne, New Jersey.

Throughout the years, St. Mary's School, with the help of the Sisters of St. Joseph of Chestnut Hill, has provided the children of its parish with an excellent education and a strong spiritual foundation. More than 300 students from pre-school through eighth grade thrive at St. Mary's, and an additional 350 children participate in its Sunday school religious program. The long-standing tradition of quality at the school is mirrored by St. Mary's parish, which has diligently served the Bayonne community for 143 years.

Today, I ask my colleagues to join me in honoring St. Mary, Star of the Sea School for its outstanding spiritual leadership and 125 years of excellence in education in Bayonne, New Jersey.

FREEDOM FOR OMAR MOISÉS RUIZ HERNÁNDEZ

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about Omar Moisés Ruiz Hernández, a political prisoner in totalitarian Cuba.

Mr. Ruiz Hernández is a peaceful pro-democracy activist in totalitarian Cuba. He is an independent journalist for the Decoro Working Group and was vice delegate of the Democratic Solidarity Party. The son of a reverend, his religious conviction and belief in freedom has made him a target of the dictatorship's thugs. According to Amnesty International, Mr. Ruiz Hernández was arrested in January and March 1996, interrogated in October 1997, and subject to ongoing harassment as he carried out his activities.

As an independent journalist, Mr. Ruiz Hernández has written about the nightmare that is the Castro regime. His articles have appeared on the CubaNet website. According to Reporters Without Borders, Mr. Ruiz Hernández has been harassed for his reporting on the malfunctioning of Cuban society under the totalitarian regime as far back as 1992.

In March, 2003, as part of the dictator's condemnable crackdown on peaceful pro democracy activists, Mr. Ruiz Hernández was arrested because of his belief in truth and liberty over propaganda and repression. In a sham trial, he was "sentenced" to 18 years in the inhuman, totalitarian gulag.

Mr. Ruiz Hernández is suffering from extreme abuse in the gulag. According to Reporters Without Borders, he has been held in "maximum harshness" including isolation in a 1.9 by 4 meter cell, as well as transferred to a cell with common prisoners. Mr. Ruiz Hernández is also ailing from diseases caused by the heinous conditions of the gulag.

Mr. Speaker, Mr. Ruiz Hernández is suffering in a grotesque gulag because he believes in truth and freedom. My Colleagues, it is absolutely unacceptable that peaceful prodemocracy activists are languishing in the depraved prisons of tyrants. We must demand immediate freedom for Omar Moisés Ruiz Hernández and every prisoner of conscience in totalitarian Cuba.

CENTENNIAL SAM VOLPENTEST

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. DICKS. Mr. Speaker, last Friday night in Pasco, Washington several members of the

Washington State Congressional Delegation attended an unusual event: the celebration of the 100th Birthday of a man who may be the world's oldest active lobbyist and one of the most successful and accomplished economic development leaders in the United States. Sam Volpentest, who was born on September 24, 1904 has been a real leader of the business community in the Tri-Cities community of central Washington state since the early 1960s. The cities of Pasco, Kennewick and Richland grew and developed around the Hanford Nuclear site following World War II, and Sam moved to the area in the late 1940s. His business interests led to his involvement in local economic development efforts, and in 1960 he began to lead the area's efforts to expand its energy-related work for the federal government and to diversify the regional economy. My earliest recollections of Sam were when I served on Senator Warren Magnuson's staff. Sam and the publisher of the local paper, Glenn Lee, would meet with the Senator, setting him in motion on another project, another building, another highway—always something that meant bringing more jobs to the area and always helping to make the Tri-Cities community economically stronger. There was the work on the N-Reactor, the FFTF—The Fast Flux Test Facility—and the FMEF—the Fuels and Materials Examination Facility. When I was elected to Congress from the 6th District, I was obviously enlisted in the cause, and since then have worked with all of the Congressmen from the 4th Congressional District—including Doc Hastings today—on important national security and energy research activities. We have worked on the cleanup of nuclear waste and on new missions for DOE-Hanford, on EMSL and, of course, the Volpentest Hazardous Materials and Emergency Response Training Center, named in honor of Sam. Along the way, Sam and I had countless discussions about dozens and dozens of other ideas he had over the years to diversify the region's economy and to keep the standard of living in the Tri-Cities as remarkably high as it is today.

Sam is truly a remarkable man who continues today—beyond his 100th birthday—to work on behalf of TRIDEC, the economic development authority in the Tri-Cities community. I would like my colleagues to read the tribute that was published on his birthday in the local newspaper. Following is an article that was published in the Tri-City Herald.

[From the Tri-City Herald]

CELEBRATING A CENTURY OF SAM

(By John Trumbo, Herald staff writer)

The Tri-Cities' most celebrated birthday boy is having a party tonight at the Pasco Red Lion. The event includes just his family and a few friends, about 700 of them at last count.

Volpentest is pleased.

"I'd like to see everybody happy and have a good time," he said earlier this week from his office at the Tri-Cities Industrial Development Council in Kennewick.

Volpentest is looking forward to seeing some of his old friends, such as former Gov. Albert D. Rosellini, 94.

Volpentest and Rosellini go back more than three-quarters of a century when they were both members of an athletic club called the Italian Club in Seattle.

"I joined in 1933 at the age of 29. He was 23," recalled Volpentest.

A quarter of a century later, Rosellini was elected governor of Washington, and Volpentest was cutting political deals in the Tri-Cities for national lawmakers representing the Evergreen State. In Volpentest's world, friendships count a lot.

These days, Volpentest, who insists he is not retired despite doctor's orders to take it easier, comes into his office Monday through Friday. He continues to keep his hand in the game at TRIDEC on behalf of the Tri-Cities, calling in favors and calling on politicians in Washington, D.C., just like he has for nearly half a century.

Volpentest's track record for bringing home the bacon is legendary, and perhaps the main reason his birthday parties attract so many grateful well-wishers.

Just this week he received the 2004 Edward DeLuca lifetime achievement award from the International Economic Development Council in Washington, D.C., recognizing "his unfailing commitment and endless accomplishments," said Steven Budd, council chairman.

Volpentest accepted the accolade with well-rehearsed ado. Dozens of awards, plaques and commendations have come his way in the past four decades. Those not displayed on his office walls are in his home or stored in his garage, he said.

Reaching the century mark is remarkable, but for Volpentest, it is a good deal more.

"The doctor gave me a month to live in 1957," he says, recalling those frightening days when cancer of the jaw nearly took his life.

A lot has happened since then. Volpentest helped found what is now TRIDEC, got deep into state and national politics, and along the way helped bring millions of dollars of development and infrastructure to the Tri-Cities.

Buildings, freeways, research laboratories, bridges, a hotel and a training center for emergency response teams all have the touch of Volpentest on them to some degree.

And he says he's not done yet.

"We need more money for the HAMMER training facility. It's proven itself as a world class facility. We need more classrooms out there," he said.

Volpentest also is fully aware that Hanford's budget hasn't been approved by Congress, and that Battelle needs to have support for the new campus in north Richland.

"They (Battelle) are the foundation for the growth of this area," Volpentest said.

The centenarian says he's seen so much growth in the Tri-Cities that he's concerned the region might grow too fast.

"We can have steady growth, but not too many people too fast," he said.

His birthday wish for the Tri-Cities is that the communities would start working together. "Teamwork is the most important word to me," he said, adding that politics today seems to be more unfriendly than it used to be.

Volpentest's birthday wish for himself is "to have a few more years."

He has no secrets to share about how to reach the century milestone.

"How would I know? Got good genes, I guess. Just work hard and stay active," Volpentest said.

Tonight's party isn't all there is for the birthday boy. The Seattle Seahawks have invited him to bring out the game ball for Sunday's home game with the San Francisco 49ers.

"I just hope they don't expect me to run with it," he said with a gleam in his eye.

RECOGNIZING TARIK YAMEEN FOR ACHIEVING THE RANK OF EAGLE SCOUT

HON. SAM GRAVES

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. GRAVES. Mr. Speaker, I proudly pause to recognize Tarik Yameen, a very special young man who has exemplified the finest qualities of citizenship and leadership by taking an active part in the Boy Scouts of America, Troop 376, and in earning the most prestigious award of Eagle Scout.

Tarik has been very active with his troop, participating in many Scout activities. Over the course of the years Tarik has been involved with Scouting, he has earned 33 merit badges and has held numerous leadership positions, serving as Patrol Leader, Den Chief, Quartermaster, Senior Patrol Leader, Troop Guide, and OA Troop Representative. He has earned the 12 Month Camper Award, 100 Nights Camper Award, BSA 50 miler, the Interpreter Strip, and is BSA Lifeguard certified. Tarik is a Warrior in the Tribe of Mic-O-Say and is an Ordeal Member of The Order of the Arrow.

Tarik's Eagle Scout project consisted of designing and leading a group of Boy Scouts to build shelving for hand bell boxes, a shelf/moveable cart for the hand bell table with accessories, and also a cart for the sound equipment and miscellaneous items for church services. This was done for his church, Liberty Christian Church.

Mr. Speaker, I proudly ask you to join me in commending Tarik Yameen for his accomplishments with the Boy Scouts of America and for his efforts put forth in achieving the highest distinction of Eagle Scout.

HONORING MILFORD PUBLIC LIBRARY

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. MCCOTTER. Mr. Speaker, I rise today to acknowledge and honor the Milford Public Library, which is celebrating 75 years of service to the Milford, Michigan community.

On April 1, 1929, by a vote of 326 to 174, citizens approved the establishment of a free public library by levying a half-mill tax. However, the real beginnings of the Milford Library can be traced back to the 1890s. In March of 1895, the Milford Times reported about the beginnings of a new organization, the "Ladies' Library Association." The goal of this fledgling group was to "establish a library of high-class literature, sufficiently varied to suit the different tastes," and to which the members will have access. Later that month, the Times reported on the success of the organization, which had already attracted 52 members.

The members felt "the need of something in the way of a public library has long been felt, and many hail with delight this project whereby at a small cost they can have access to the best of current literature." The Association imposed a $1.00 fee on members, which allowed them to draw one book from the collection each week.

Between the dissolution of the Association and the beginnings of the Public Library, the Milford Monday Literary Club sponsored a reading room for 15 years. The Club's collection of material was transferred to the new public library.

Mr. Speaker, for over 75 years the citizens of Milford, Michigan have continued to support the vision of the Ladies' Library Association and the Milford Public Library. I hope my colleagues will join me in thanking the citizens of Milford, Library Board Members and employees of the Milford Public Library for their outstanding service to the people of Michigan, and wish them well in the next 75 years.

SUPPORT OF THE AMERICAN ISRAEL PUBLIC AFFAIRS COMMITTEE

HON. ROBERT E. ANDREWS

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ANDREWS. Mr. Speaker, I rise today in strong support of the American Israel Public Affairs Committee AIPAC. For over fifty years, AIPAC, acknowledging that the security interests of Israel and the United States are intertwined, has worked diligently to strengthen the relationship between Israel and the United States. They have educated members of Congress and the public alike on the issues that Israel faces in its quest to remain a stable, democratic ally to the United States in a part of the world where such nations are scarce. Even in the face of the ongoing unrest in Israel, AIPAC continues to work tirelessly towards an end to terrorism, and an achievement of peace and security in the region.

In recent weeks, our friends at AIPAC have been the subject of allegations that question their dedication to the preservation of national security within the United States. Accusations such as these, which lack substantial credible proof behind them, have no positive effect. These baseless claims make it impossible for AIPAC to defend themselves, and uphold the favorable reputation that they have earned through their efforts. In this case, such charges also threaten to intensify the plague of anti-Semitism that AIPAC has tried to fight throughout its history. It has been my experience that AIPAC and its members care deeply about the collective security interests of the United States and Israel, and I continue to stand by them in their noble efforts.

PERSONAL EXPLANATION

HON. DENISE L. MAJETTE

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Ms. MAJETTE. Mr. Speaker, I was unavoidably detained for a number of rollcall votes. Had I been present I would have cast my votes as follows: "Yes" on rollcall No. 457, "Yes" on rollcall No. 458, "No" on rollcall No. 459, "Yes" on rollcall No. 460, and "No" on rollcall No. 470.

HEALTH PROTECTIONS FOR OUR SERVICE PERSONNEL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. TOWNS. Mr. Speaker, today the gentleman from Connecticut, Mr. SHAYS and I have joined to introduce H.R. 5166, The Armed Forces Voluntary Immunization and Health Justice Act of 2004.

In the 104th Congress, Mr. SHAYS and I joined in holding several oversight hearings on the cases of Persian Gulf Syndrome that were affecting our military men and women returning from the first Persian Gulf War. Those hearings served as the impetus for causing the Department of Defense to seriously re-examine and re-vamp its system of diagnosis, treatment and compensation for Persian Gulf War veterans. I know that the work we did on that issue made a difference in the lives of those service members who agreed to risk their lives for us.

However, our concerns about the health of veterans and active duty military members did not end with those hearings. We have worked together to craft a bi-partisan solution to provide members of the military with the ability to make informed decisions about immunization for anthrax and smallpox. The right to informed consent is enjoyed by every citizen, except those in the military. If enacted, this bill would prohibit the Department of Defense from mandating immunization against anthrax and/or smallpox if a soldier believes that the risk to his or her health status outweighs the benefit of immunization.

Service members have experienced adverse health effects from these vaccines including heart, respiratory, and skin problems. In one well-known case, a soldier died from the adverse effects of a vaccine. Despite the known risks, many soldiers have been required to take these vaccines. As a result, many have decided to leave the service rather than run the risk of vaccination. Unfortunately, many honorable soldiers have been punished solely for refusing to accept these vaccines. Our legislation would assure that soldiers who want to serve are not faced with this agonizing choice.

Mr. Speaker, I urge my colleagues to cosponsor this bill and join us in assuring that members of our military have the ability to determine whether or not to take these vaccines.

RECOGNIZING TOM KISTLER

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Ms. HOOLEY of Oregon. Mr. Speaker, today I want to recognize and remember the life of a local hero: Tom Kistler.

Although it has been over a year, it is still hard for those affected by this humble, quiet man to believe he's gone. The residents of Polk County, Oregon, know their neighbors—and they look up to the firefighters who serve them.

Killed on his way to drill on March 29, 2003, Tom Kistler died in the same way he lived—in the service of others.

Captain Kistler was a volunteer firefighter for twenty-five years. He was proud of his time with the Independence (Oregon) Fire Department and Polk County Fire District #1.

It was Tom that led the effort in fielding a water rescue/recovery team; it was Tom that brought his peers together to raise funds for the annual Firefighter's Christmas program for the local children; and it was Tom that was always "there" keeping his community safe.

As if his service in the fire department wasn't enough—and it would have been—Tom was also a thirty-year veteran of the Oregon National Guard.

For Tom Kistler, being a citizen meant action. It meant doing things. Citizenship was a verb.

This week, brothers and sisters in service will remember his life and his sacrifice during a special ceremony at the National Fire Academy.

Today, let us take a moment and reflect upon Tom Kistler and many like him that serve our communities and our Nation, the folks that make the personal sacrifices every day, not because they have to but because they choose to. They are the volunteers that make our Nation strong, the people that make our communities special.

America is still the land of the free and the home of the brave—Tom Kistler helped make it so.

EDITORIAL FROM THE BECKLEY REGISTER-HERALD

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. RAHALL. Mr. Speaker, Congress was supposed to reauthorize the major surface transportation and jobs bill, the successor to TEA 21, a year ago.

Now, because of the indifference of the Bush Administration and the Republican Leadership in Congress, we are about to embark on the sixth extension of TEA 21, rather than completing work on a bill that would address our current and future infrastructure needs as well as providing sorely needed jobs and economic stimulus.

The House and Senate versions of transportation and jobs bill passed both houses by margins larger than is required in Congress for amendments to the Constitution. But the bill is on a road to nowhere because the Cheney-Bush reelection bunch wants to make up for their Medicare debacle by trying to appear tough on spending. Meanwhile, we have the votes in both the House and the Senate to override a threatened presidential veto and pass a meaningful bill, but the Republican House and Senate leadership are just caving into the Bush Administration's reelection efforts. In so doing, they're failing to uphold the Constitutional obligation of Congress.

Although Americans are crying out loud and clear for the need to reinvest in our country, the Bush Administration and the Republican leadership don't bother to listen. As an example of what I'm talking about, I have an editorial from a widely-read newspaper in my district, the Beckley Register-Herald, which I would like to submit for the record to accompany my remarks. Yesterday, in response to Congressional inaction on the transportation and jobs bill, the Register-Herald ran the editorial appearing below:

[From the Beckley Register-Herald]

HIGHWAY BILL

While politicians play election-year politics, W.Va. suffers.

Heard the latest? A multiyear highway spending bill, crucial to progress here in southern West Virginia, appears to be off until after the election.

The existing six-year highway and mass transit spending bill, funded at $218 billion, ran out a year ago and has had to be prolonged by several short-term extensions because of differences over spending levels between Congress and the White House.

The White House, citing the need for fiscal restraint, recommended $256 billion and threatened to veto any bill that would add to the deficit.

The Senate approved a $318 billion package. The House originally came in at $284 billion, and recently the two chambers united around a figure of $284 billion in guaranteed contracts plus another $15 billion in contracts that have yet to be carried out.

But politicians are playing election-year politics, and, of course, nothing of substance is getting done.

As we pointed out a few days ago, no one can accuse this Congress of overwork—it's only been in session roughly one day out of every three.

Sadly, lawmakers sent to the president only a fraction of the 13 spending bills necessary to fund the government for the fiscal year that starts Friday. That includes the transportation bill to fund highway and transit projects for the next six years—vitally important to southern West Virginia.

The Mountain State faces unique challenges when it comes to building highways. It can cost up to $20 million to build one mile of a highway here.

This state relies heavily on the federal program to build highways. A total of $2.2 billion was secured for West Virginia in the House version of the bill, $2 billion of which are projects in southern West Virginia.

Interstate links developed here in recent years have brought new jobs and the potential for attracting new businesses. These roads provide modern access and position West Virginia as a crossroads for business developers looking for locations in the East. They provide our families a safer means of getting to and from school and work.

Ordinary West Virginians can't afford to see these opportunities go by the wayside, or even delayed. We suffer while Congress engages in gridlock.

Enough is enough. Congress and the Bush administration need to get in gear and produce a highway spending package that's adequately financed.

SERGEANT RIAYAN A. TEJEDA POST OFFICE

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. RANGEL. Mr. Speaker, I rise to speak in support of H.R. 4046, calling for the United States Postal Service located at 555 West 180th Street in New York, New York, to be hereby named the "Sergeant Riayan A. Tejeda Post Office."

Staff Sergeant Riayan A. Tejeda of the 3rd Battalion, 5th Marine Regiment was killed during combat operations in northeast Baghdad on April 11, 2003; he was 26 years of age. A New York City resident, he lived in my district of Washington Heights on 180th Street until graduation from Fashion Industries High School in the Garment District, thereafter joining the Marine Corps at the age of 18. I introduced this legislation because Sgt. Tejeda was a hero in every sense of the word, a man born in the Dominican Republic who made the ultimate sacrifice for the United States.

After spending formative teen years meeting the challenge of growing up in the tough streets of Washington Heights, Sergeant Tejeda joined the military with his hopes and dreams of the future on the horizon. He joined the military to better himself and to serve our country, later reenlisting after his initial term of duty had elapsed.

Sergeant Tejeda was the first Dominican killed in Iraq, a fact that history will rightfully record but in itself will not and cannot appreciate the pain of his loss to his two young daughters and mourning family.

At the time of his death, while the fatality count was still in its early stages, minorities constituted as high as 35 percent of the fatalities in the line of duty. Latinos, who comprise 8 percent of the total fighting force in Iraq, have incurred 16 percent of all intensive fighting deaths and 12 percent of the total fatalities during Operation Iraqi Freedom. These numbers are clear evidence of the disproportionate sacrifice being made in Iraq by Latinos and point out the level of their loyalty to their chosen country.

Riayan Tejeda was an outstanding young man with limitless potential, known for his studious nature and gentlemanly demeanor. He was a brave, selfless man of great conviction who fought and died for a nation of immigrants that today does not always appreciate the contributions and sacrifices made by new generations of outsiders pursuing better lives. Sergeant Tejeda, who had served in the Marine Corps for 8 years, was awarded U.S. citizenship only after his death and received the Silver Star for his valor in the line of fire. He proudly served our Nation in Thailand, South Korea, the Philippines, Australia, East Timor and Iraq. Sergeant Tejeda was the finest marksman in his regiment.

The naming of the U.S. Post Office in Washington Heights for Sergeant Tejeda will be received by the community with great pride and satisfaction. It is the least our country can do to honor the memory of Sergeant Tejeda's short and heroic life.

I extend my appreciation and sympathies to his parents Julio Cesar Tejeda and Carmen Rafaela Lora, his daughters Loriana and Miranda and his brothers Angel and Andre. I thank my colleagues for their support on this legislation.

TRANSPORTATION, TREASURY, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2005

SPEECH OF

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

The House in Committee of the Whole House on the State of the Union had under consideration the bill (H.R. 5025) making appropriations for the Departments of Transportation and Treasury, and Independent agencies for the fiscal year ending September 30, 2005, and for other purposes.

Mr. POMEROY. Mr. Chairman, I rise today to say that I will be voting for H.R. 5025, the Fiscal Year 2005 Transportation, Treasury, and Independent Agencies Appropriations Bill in the hopes that this bill's serious problems can be fixed in conference negotiations with the Senate.

Unfortunately, the House and Senate Transportation Conferees have been unable to reach a deal on a transportation reauthorization bill. As a result, appropriated funds for unauthorized programs were struck from the proposed Fiscal Year 2005 Transportation, Treasury, and Independent Agencies Appropriations bill. Doing so made this bill woefully inadequate in terms of funding levels for various transportation agencies and programs including the Federal Highway Administration, the Federal Motor Carrier Safety Administration, the National Highway Traffic Safety Administration, Amtrak, the Federal Transit Administration and the Surface Transportation Board.

However, I am going to vote for the bill based on the assurances of the Chairman and Ranking Member of the Transportation, Treasury and Independent Agencies Appropriations Subcommittee that funding for these critical accounts will be reinstated in conference. I hope that by furthering this bill, we can ensure that funding for North Dakota's significant transportation needs is secured.

I rise as well to express my opposition to the authorization of an automatic cost-of-living (COLA) pay increase for Members of Congress contained within H.R. 5025. A fiscally responsible Congress should have the opportunity to consider a pay raise independently of funding for important transportation projects in their districts. That is why I voted against the previous question on the rule to allow consideration of H.R. 5025 separate from this provision. It is my hope that Congress will take steps to ensure separate consideration for any increases in the future.

PERSONAL EXPLANATION

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. HONDA. Mr. Speaker, on Tuesday, September 28, I was unavoidably detained for rollcall votes that day.

Had I been present I would have voted the following:

Rollcall 473, on the Motion to Instruct Conferees on H.R. 4200—Defense Authorization Act for fiscal year 2005, instructing conferees to adopt the bipartisan Senate-passed provisions on hate crimes, I would have voted "yea";

Rollcall 474, on the Motion to close portions of the Defense Authorization Act Conference from the public for national security reasons, I would have voted "yea"; and on

Rollcall 475, on S. 2363, to revise and extend the Boys and Girls Clubs of America, I would have voted "yea."

PERSONAL EXPLANATION

HON. J. GRESHAM BARRETT

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. BARRETT of South Carolina. Mr. Speaker, I was delayed in my district yesterday in order to attend services for Staff Sergeant Tony B. Oleas, a soldier from Westminster, South Carolina who was killed while fighting for our country in Afghanistan on September 20th, and I unfortunately missed 3 recorded votes on the House floor.

I ask that the RECORD reflect that had I not been detained in my district, I would have voted "no" on rollcall vote No. 473 (Pelosi motion to instruct conferees to H.R. 4200, the Defense Authorization bill); "yes" on rollcall vote No. 474 (motion to close portions of the conference on H.R. 4200, the Defense Authorization bill); and "no" on rollcall vote No. 475 (S. 2363 to revise and extend the Boys and Girls Club of America).

HONORING OLYMPIC GOLD MEDALIST OTIS HARRIS, JR.

HON. BENNIE G. THOMPSON

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. THOMPSON of Mississippi. Mr. Speaker, I would like to recognize Edwards, Mississippi native, Olympic gold and silver medalist, Otis Harris, Jr. At this year's 2004 Olympic Games held in Athens, Greece, the track and field standout showcased his world class speed on the world's biggest stage.

Edwards, Mississippi's hometown hero, the son of Otis, Sr. and Cheryl Harris, began his track career at high school track powerhouse, Hinds Agricultural High School in Raymond, Mississippi. As Harris helped lead his high school team to three consecutive Class 2A State Championships, and in 1999 winning the 100m, 200m, and 400m State Championships respectively, he accumulated dozens of individual accolades leading to his acceptance of a track scholarship from the University of South Carolina.

Running his way through both the Gamecock and Southeastern Conference (SEC) record books in 2003, Otis took claim of SEC track titles in the 400m dash, as well as the 4 X 400m relay team, making these his signature events. Harris was deemed academically ineligible to participate in athletics during the 2004 collegiate season, causing him to briefly disappear from the Olympic track radar screen.

As Harris stunned many by qualifying for the Olympics in July 2004 in the 400m dash, he remained unfaltering as his dreams became realistic. On Monday, August 23, 2004, Otis settled into his familiar stance, only this time Olympic medals were up for grabs. Running the fastest time of his life (44.16), Otis garnered the Olympic silver medal in the 400m dash.

While still overwhelmed with the excitement of his first Olympic feat, Harris took the stage again five days later. This time Harris was starring in his other signature event, the 4 X 400m relay team which was favored to win the gold. Harris teamed with Derrick Brew (400m bronze), Jeremy Wariner (400m gold) and Darold Williamson. Harris ran the fastest leg of the four Americans, turning in a time of 43.28; the team ran 2:55.91, the best time in the world this year, bringing home the gold medals.

I commend Mr. Otis Harris, Jr. for his valiant triumphs at this year's Olympic Games. His efforts are buttressed by his resiliency through the seemingly unsteady foreign relations climate leading into the Games. Harris, as well as all of our Olympic athletes, showed true professionalism in serving as ambassadors and representing our nation on the global stage. May Otis continue to represent our nation with professionalism and may he continue to excel in his career.

REVISING AND EXTENDING BOYS AND GIRLS CLUBS OF AMERICA

SPEECH OF

HON. ANDER CRENSHAW

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. CRENSHAW. Mr. Speaker, I rise today to pay tribute to the Boys and Girls Club of America and to support extending their Charter to meet future goals. As the saying goes, to the world you may be one person. But to one person, you may be their entire world. I think this applies especially to all of the good people involved with the Boys and Girls Club of America.

To me and to millions of children, Boys and Girls Clubs are not just buildings. These clubs are not just places where kids meet other kids. These clubs are the bedrock foundation for a number of young people who face an otherwise rapidly changing, and sometimes unstable, world.

These clubs are a point of stability, an area where young people learn responsibility. These clubs are places where boys and girls learn about teamwork, leadership, and values.

Back in 1860, several women in Hartford, Connecticut believed that boys roaming the street should have a positive alternative. They formed what would become the first Boys Club. In 1906, Boys Clubs started to affiliate and by 1956, the Boys Club of America received a Congressional Charter. Reflecting the times, Girls were added to the official name of the organization and its Charter in 1990.

But Boys and Girls Clubs are more than their history; these clubs are their volunteers, the people who operate these clubs, and the club sponsors. Each individual's contribution is reflected in the success and longevity of this organization. One of the issues I follow closely, support, and promote every chance I get is mentoring. I think this falls directly in line with what the Boys and Girls Club is all about.

Some of my friends might remember a discussion I began several years ago concerning "problems of the soul." My focus was the erosion of moral values in our country and what we might do on a personal level, a community level, and even on a governmental level, to reverse the decline.

Much has occurred in the years since I began talking about problems of the soul. Much of what has happened is positive. Our nation places high value and respect on the family. We are a nation that rushes to the aid of those in need. The people of this country hold in reverence those who sacrifice their work, time with family, even their life for their country.

Despite the best of efforts, long-established vices continue to claw at our society. Plus, our world faces an even deeper evil, one rooted in radical extremism, one that finds its way to our society through terrorism. So clearly, there is still a need to focus on problems of the soul, and a need to find role models willing to give of their time and resources so that our young people have the opportunity to grow, learn, and accept responsibility.

Mentoring is a very worthwhile and much needed cause. Mentors serve as a guiding light, a benchmark, and a valuable asset for the many young people in America who might not otherwise have access to such a role model.

For many young people, mentors set an example of civility and stability. Mentors promote education and community respect. Mentors teach young people that there are benefits to contributing to selfless efforts such as charity drives, neighborhood cleanups, and serving in soup kitchens.

As a mentor, I personally know the satisfaction it brings to offer advice and guidance to a young person. I have known my mentee, Derek Williams for many years. Over that period we have become good friends. Today I am proud to say that he is in college, furthering his education, and building a strong foundation for his future.

There are numerous studies documenting that mentors help young people to augment social skills, enhance emotional well-being, improve cognitive skills, and to plan for the future. It also recognizes that for some children, having a caring adult mentor to turn to for guidance and encouragement can make the crucial difference between success and failure in life.

So it is incumbent on each and every one of us to offer our time and energy and love to children to provide positive role models and influences to young people to give them guidance and hope.

Currently, 17.6 million young people, nearly half the youth population, want or need mentors to help them reach their full potential. Only two-and-a-half million youth are in formal mentoring relationships, leaving 15 million young people still in need of mentors.

Earlier this year I asked Congress to adopt a resolution designating January 2004 as National Mentoring Month. My hope was that this month-long celebration of mentoring would encourage more adults to volunteer their time as mentors for young people and enlist the involvement of nonprofit organizations, schools, businesses, faith communities, and government agencies in the mentoring movement. I think that effort was successful, but we have more to do.

The Boys and Girls Clubs are to be congratulated for working to make a positive difference in our society.

HONORING THE 30TH ANNIVERSARY OF TRI-VALLEY NOW

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. STARK. Mr. Speaker, Ms. TAUSCHER and I rise today to pay tribute to the 30th Anniversary of the Tri-Valley Chapter of the National Organization for Women (NOW). The Tri-Valley Chapter represents the cities of Pleasanton, Dublin, and Livermore, California.

Attendees at the Third National Conference of the Commission on the Status of Women established the National Organization for Women on June 30, 1966 in Washington, DC. The Commission on the Status of Women reported in 1963, that despite having won the right to vote, women in the United States were still discriminated against in virtually every aspect of life. In 1974, eight years following the Commission's report, Tri-Valley NOW was founded during a national surge in women's activism.

The year 1974 was a time of upheaval and change. President Nixon resigned and Vice President Gerald Ford was sworn in as President. That year's number one television show, "All in the Family," was a controversial reflection of the social struggles of the time. Title IX, the federal law aimed at providing equal educational opportunities, was in its infancy.

Local women in the Tri-Valley area, such as Dorris Lee, Denise Gordon and Jean Félton could not sit on the sidelines during this stage of change. They took action and, with encouragement from Contra Costa NOW, they planned the Tri-Valley NOW's first meeting in 1974, which featured guest speakers from East Bay NOW.

Since that first meeting of a handful of like-minded feminists in a Livermore, California office, NOW's Tri-Valley chapter has grown to more than 150 members, both women and men.

For 30 years, Tri-Valley NOW has taken action to achieve equality for women. Its members have actively supported women candidates for public office, battled for equal rights and opportunities in the workplace and classroom, written hundreds of letters to editors and legislators, endured the struggle to pass the Equal Rights Amendment and staged countless demonstrations for positive social change.

Tri-Valley NOW looks back on the last 30 years with great pride in their achievements and deep appreciation for their founding mothers. We agree with their statement that "there is much work to be done and we will continue to strive for NOW's goal of equality for all women." NOW has our full support to help achieve this goal.

INTRODUCTION OF H.R. 5162, THE LAW ENFORCEMENT EXPLOSIVE STORAGE ENHANCEMENT ACT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. LANTOS. Mr. Speaker, sometimes it takes a barely averted catastrophe awaken us to potential dangers. Recently, more than 140 pounds of explosive materials were stolen from a law enforcement storage facility in San Mateo, California. This is enough to destroy a small office building or to blow a hole in the Golden Gate Bridge.

Thankfully, police quickly caught the suspects and recovered all of the explosives. However, we cannot and should not be forced to rely on capturing criminals after a theft to keep our communities safe. After learning what happened I immediately contacted my good friend, and Chairman of the House Government Reform Committee Subcommittee on National Security, Emerging Threats and International Relations, CHRIS SHAYS, to hold a hearing in San Mateo. Chairman SHAYS recognized right away the seriousness of this problem and graciously agreed to hold a Subcommittee field hearing on August 2, 2004.

During the course of the hearing, we heard from representatives of law enforcement at the federal, state and local levels, as well as members of the explosives industry. Mr. Speaker, I can honestly say that in the 20-plus years I have been a member of the House of Representatives, this hearing was clearly one of the most informative that I had ever been a part of.

However, I was shocked at the abysmal performance by the Bureau of Alcohol, Tobacco and Firearms (ATF), which is tasked with the responsibility of regulating the sale of explosives in our country. During the hearing, it became quite clear that ATF had absolutely no idea of how many explosive storage sites there are in this country. Given the fact that our country uses about 2.5 million metric tons of explosives every year, the idea of any of it being unaccounted for should concern all of us. Equally troubling was the revelation that there is minimal regulation—and zero enforcement—of the storage of equally, or even more hazardous explosive material by law enforcement agencies, which means that communities across this country face a menace that we need to address right away: large caches of high explosives are being kept in countless locations, with nobody held accountable for their safe-keeping.

Mr. Speaker, this is a September 10th standard for a September 12th world, and it is simply unacceptable. We need uniform federal standards that will be uniformly enforced across the country. I am pleased to report to my colleagues that the Shays-Lantos legislation that we are introducing today creates such standards.

There are obvious and logical reasons for local law enforcement agencies to have explosive materials. For example, a police agency that maintains a bomb squad unit, as many larger departments do, needs a ready supply of material for training purposes. Other legitimate uses include training bomb-sniffing dogs or holding confiscated contraband for evidentiary purposes. No one doubts the legitimate need for local law enforcement agencies to maintain storage facilities, but the lack of any clear guidelines on the manner of storage is very troubling.

At a time when explosives are the preferred weapon of choice of international terrorists, it was alarming to learn of a facility, located just a few miles from the heart of a major metropolitan area, that was as undefended and unprotected as the facility in San Mateo. The stolen materials could have been sold to the highest bidder and used against any target, near or far away. And the same can be said for storage locations nationwide.

To address this shortcoming the Shays-Lantos legislation, H.R. 5162, the Law Enforcement Explosive Storage Enhancement Act, requires every state to submit a list to the Attorney General reporting how many locations are in their respective states. The legislation further requires an inventory to be kept so that the Attorney General is aware of how much explosive material is being stored at these facilities around the country. These changes will allow better monitoring of these dangerous materials.

In addition the Shays-Legislation to create uniform federal regulations to ensure that all local law enforcement agencies are storing their explosives in a safe and secure manner. This includes requiring law enforcement facilities to have a security system that, at a minimum, will include either a video surveillance camera or an alarm system capable of notifying the agency of an unauthorized entry. Mr. Speaker, Chairman SHAYS and I are cognizant of the fact that many of our local police chiefs are facing the tightest budgets they have ever dealt with, and that this requirement could produce a major burden for many local officers. That is why we included a matching grant program to assist law enforcement agencies cover the costs associated with improving their security at their explosive storage sites. However much the cost of improving security at these facilities may be, I can assure you that it is less than the cost of allowing these types of explosive materials to fall into the hands of terrorists.

Mr. Speaker, after listening to the testimony from all of the witnesses, it became increasingly apparent that it would make no sense for the federal government to require law enforcement agencies to have licenses to store high explosives, as private-sector entities are required to do. When private-sector entities that sells high explosives are told to improve storage security or face the prospect of losing their licenses, they will shape up—or else they lose access to the explosives. But law enforcement agencies have no such economic incentives; we're not going to take these materials away from them. So some other form of financial incentive, under federal government control, is called for.

The H.R. 5162 ensures compliance from local jurisdictions by using the enormous power of the Congressional purse. This legislation tasks the Attorney General with inspecting law enforcement storage facilities, and if a facility is found to be in non-compliance with federal regulations, our bill requires the Attorney General to reduce that law enforcement agency's Department of Justice grants by 10%.

Mr. Speaker, Chairman SHAYS and I are introducing this legislation because we want to ensure the safety of this country. The tragedy of September 11, 2001 destroyed the innocence of our nation and opened our eyes to the true threat of terrorism. That awful day revealed that the United States was confronting a "Guns of Singapore" phenomenon. As our colleagues undoubtedly know, during the Second World War, the guns of Singapore, a mighty array of armaments, were fixed in place aiming out to the ocean, defending the island from the expected threat. Instead, the true threat, the actual invasion and the eventual occupation of Singapore, came from the land—and the massive guns were never fired in battle. Likewise, prior to September 11, the United States had not directed its enormous power in the proper direction.

Mr. Speaker, there are many fronts in the international struggle against terrorism. Passage of the H.R. 5162, the Law Enforcement Explosive Storage Enhancement Act, will be a crucial step in this battle, as it will prevent potential terrorists from easily accessing explosive materials stored throughout the country. I urge all of my colleagues to join me in calling for its immediate passage.

HONORING THE PEGGY NOTEBAERT NATURE MUSEUM

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. EMANUEL. Mr. Speaker, I rise to acknowledge the tremendous work being done at one of Chicago's greatest institutions, the Peggy Notebaert Nature Museum, on the occasion of the opening of several exciting new exhibits.

Since its beautiful building opened in Lincoln Park in 1999, the Notebaert Museum has served as a cornerstone for innovative scientific learning and environmental programs, and allowed thousands of visitors to come and see exhibits on the wonders of nature and our environment. And with the opening of "Mysteries of the Marsh," "Istock Family Look-in Animal Lab," "RiverWorks," and "Rooftop Stop and the Nature Museum Greening Project," the numerous educational opportunities the museum provides will be greatly enhanced.

The Peggy Notebaert Nature Museum grew out of the Chicago Academy of Sciences, founded by Robert Kennicott in 1857 as Chicago's first museum. The Great Chicago Fire destroyed many of the original collections, but by 1893 the Matthew Laflin building was constructed which housed the museum's collections for over 100 years. The museum's new building located along the northern Chicago lakefront is an architectural masterpiece worthy of the treasures located within.

Today the Notebaert Museum continues the same tradition of education and enjoyment of the environment that was its original mission. The opening of these new exhibits will, no doubt, be a tremendous success.

Mr. Speaker, I join with the people of the 5th district, indeed all of Chicago, in congratulating the Peggy Notebaert Nature Museum on its continued importance to Chicago and the environmental community. I thank the staff and trustees of the museum for their diligent work and dedication toward making the museum one of the elite learning institutions in the country.

BETHUNE-COOKMAN COLLEGE CENTENNIAL

HON. JOHN L. MICA

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. MICA. Mr. Speaker, I rise today on the 100th anniversary of the founding of the Bethune-Cookman College in Daytona Beach, Florida.

On October 4 , 1904, Dr. Mary McLeod Bethune opened the Daytona Literary and Industrial School for Training Negro Girls in Daytona Beach with 5 pupils, $1.50 in capital and an unwavering faith in God.

Today, that initial investment has grown into a diverse student body of nearly 3,000, an annual budget of $50 million and an endowment of $26 million.

Today, the Bethune-Cookman College Board of Trustees is comprised of national corporate leaders, educators and religious leaders.

In 1923 the school begun by Dr. Bethune merged with the Cookman Institute of Jacksonville, Florida and 1 year later it became affiliated with the United Methodist Church. Today Bethune-Cookman College enjoys and flourishes in its relationship with the Board of Higher Education and Ministry of the United Methodist Church.

In 1931 the school evolved into a junior college and became known as it is today, Bethune-Cookman College.

In its 100-year history the College has had only four presidents: Dr. Mary McLeod Bethune; Dr. James E. Colston; Dr. Richard V. Moore, Sr.; and Dr. Oswald P. Bronson, Sr. In this 100th year since its founding, Dr. Trudie Kibbe Reed has been appointed by the Board of Trustees to lead Bethune-Cookman College into its second century as the fifth overall and the second female to serve as president.

During this century of service Bethune-Cookman College has earned and maintained institutional and programmatic accreditation. Such adherence to high standards has earned Bethune-Cookman College a world-wide reputation for academic excellence and compassionate service.

Bethune-Cookman College now matriculates students in 37 major areas through six academic schools: business, education, humanities, nursing, science and mathematics, and social sciences. In its 63-year service as a 4-year baccalaureate-degree-granting liberal arts college, more than 12,000 students have graduated to assume leadership roles in their communities and in the global workplace.

Mr. Speaker, as a member of the U.S. House of Representatives representing Florida's 7th Congressional District, I am pleased to honor Bethune-Cookman College on the occasion of Centennial Founder's Day. Today, I join many others in congratulating Bethune-Cookman College on its 100th year since the founding of Dr. Mary McLeod Bethune's vision that has become a great legacy for all of us to share.

LEE RULES OUT ASSASSINATION IN SHOOTING INVESTIGATION

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. TOWNS. Mr. Speaker, I submit the following article for the RECORD:

[From the Taiwan News, Aug. 30, 2004]

LEE RULES OUT ASSASSINATION IN SHOOTING INVESTIGATION

U.S.-based forensic expert Dr. Henry Lee who was investigating the March 19 shooting of President Chen Shui-bian has concluded that the incident was not an assassination attempt.

Lee, who handed his analysis to a Taiwan government official in the U.S. early yesterday, said that he was unable to issue a conclusive report, but advised that his findings in examining the forensic evidence could help criminal investigators in their own probe.

"An important finding on the bullets, one made of copper and the other of lead, is that they both have clear barrel marks," Lee said to reporters in New York after he submitted his 130-page report and a CD containing 150 photos to Andrew Hsia, director general of Taipei Economic and Cultural Office in New York, Saturday morning local time.

"This means a chance for clearing up the case, as long as (criminal investigators) can find out the right (gun) barrel," Lee said. "This case was not a political assassination because (in such a case) a more powerful weapon than a homemade pistol would have been used," he told reporters.

He further advised that criminal investigators in Taiwan should crackdown on illegal firearms and "check (the barrel marks) of all seized firearms to find the gun."

His findings could also help in locating the factory at which the illegal gun was made, the forensic expert said, adding that he was still uncertain whether or not the two bullets were fired from a single gun or from two guns with the same make of barrel.

The analysis Lee presented in New York yesterday was the final report following four months of advanced scientific examinations carried out by him and his colleagues.

According to Lee, his analysis of the evidence had helped him to reach a more precise conclusion regarding the location of the "hot zone" area from which the shots were fired.

He acknowledged that on his trip to Taiwan earlier this year he had had difficulty solving the case because of the shooter's use of a homemade handgun. The chance of clearing the case would be improved once criminal investigation agents could find the gun, Lee said at the time.

Lee made a three-day trip to Taiwan in April at the invitation of State Public Prosecutor General Lu Ren-fa, who had hoped to solve the case before his retirement in September.

Speaking with reporters in New York, Lee stressed that his investigation was free of any political influence. "We'll let the evidence speak (for itself)," he said. "The report is presented according to evidence and has nothing to do with political disputes or (the shooter's) motive, neither is it involved with the ongoing criminal investigation," he said.

He further noted that it would be better if the details of his analysis were published by Lu or by the Taiwan criminal investigative authorities.

Lee sealed the report before presenting it to Hsia, who is responsible for delivering it to Taipei. Prosecutor General Lu is anticipating that he would receive the document today.

Commenting on the "truth commission" proposed by the opposition parties in Taiwan to conduct an independent probe into the incident, Lee said that he hopes "the committee will examine the truth (found by forensic evidence) and give the criminal investigators more room to solve the case."

DEFENDING BOEING

HON. NORMAN D. DICKS

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. DICKS. Mr. Speaker, among the many economic challenges our Nation faces at this time is the impact of unfair foreign trading practices, and I would like to speak today about the direct and substantial subsidies that continue to be provided to the European consortium, Airbus Industrie, costing more and more American manufacturing jobs every year.

The time has come for the American government to recognize the damage that has occurred to our economy, and to take firm action to curtail what I believe is both unfair and illegal foreign competition.

These subsidies from four European governments, which include aircraft launch assistance, capital injections, and debt forgiveness, have enabled Airbus to develop and market a range of commercial airliners at well below cost. Unless this practice is checked, I am afraid that it will drive the Boeing Company, Airbus' only remaining worldwide competitor and our largest net-exporter, out of the commercial airline manufacturing business altogether.

Most Americans are familiar with the Boeing Company, but I would like to remind my colleagues that Boeing employs more than 150,000 American workers, including about 54,000 in the civil aircraft industry. Last year it purchased about $24 billion in supplies and services from more than 26,000 U.S. companies located in all 50 States. It is one of the largest employers in the country and our Nation's largest single exporter of manufactured goods by value.

But you may not be as familiar with the background of Airbus. Over 30 years ago, Airbus was founded by a European consortium of French, German, and later Spanish and British companies to compete in the large commercial aircraft industry with U.S. companies. Unable to secure commercial funding for the venture, European governments stepped up to provide about $1 billion in loans and aid to establish the company.

More than 20 years later, in 1992, Airbus had grown to take about one-fifth of the commercial airplane market. But despite its significant growth and share of the market, European governments continued to provide enormous subsidies to the company to ensure it had an edge against the remaining U.S. competitors, Boeing and McDonnell Douglas.

In an attempt to address these subsidies, an agreement was signed in 1992 between the United States and the European Union on trade in large civil aircraft. This agreement limits direct government support of new aircraft to no more than one-third of the total development costs, with the further agreement that these subsidies would be reduced over time.

Yet over the last 12 years, the European Union has used this one-third limit as its base figure for determining how much of a subsidy to provide rather than to reduce the amount of the subsidy they provide.

As a result, Airbus has grown to dominate the large commercial aircraft industry, outdelivering Boeing for the first time in history in 2003. As recently as 1999, Boeing delivered 67 percent of new planes; in 2003, that figure dropped to 47.5 percent. And the comparative value of the planes ordered has dwindled even more significantly. In 2003, the value of Airbus's orders was more than twice as much as Boeing's.

The effect has been disastrous on U.S. workers and the American economy. More than 60,000 jobs have been lost in the commercial aviation industry in the United States since 1999. Many thousands of these jobs were lost in the Pacific Northwest, but the effects have been felt by suppliers and facilities throughout the country.

What has been responsible for the meteoric rise of Airbus? Their ability to provide a good product at below-market prices because of the generous subsidies they continue to receive from European governments.

These subsidies take several forms. One is through direct capital injections from European governments. Between 1987 and 1994, for example, the French government provided $4.5 billion in fresh capital to Aerospatiale, a member of EADS which owns 80 percent of Airbus, to offset continuing losses. As recently as 1998, the French government transferred its 46 percent share of Dassault Aviation, worth approximately 880 million euros, to Aerospatiale.

My colleagues, can you imagine the U.S. Congress giving the Boeing Company $4.5 billion outright to offset commercial failures? Boeing has never received this kind of cash payout from our government.

Another form of subsidy commonly used by European governments is to forgive the debt on loans provided by member governments. Between 1987 and 1989, the German government settled more than two-thirds of Deutsche Airbus's state-guaranteed loans, worth approximately 3 billion deutschmarks at the time. Between 1997 and 1998, the German government completely forgave 7.4 billion deutschmarks in outstanding launch aid and other debt granted to Airbus. That is more than 4 billion U.S. dollars in debt the German government forgave.

What venture could possibly fail when so much debt is just written off? Boeing has never received such outrageously generous treatment by its creditors, nor do I expect that it ever will.

Although these two kinds of subsidies I have described are very serious, they pale in comparison to the launch aid that Airbus received to design and produce new aircraft products. During the past 30 years, European governments have provided more than $15 billion in the form of low- and no-cost loans to Airbus for the specific purpose of developing new aircraft lines. If you applied a commercial rate of interest over time to these "loans", the commercial value would be some $40 billion. Airbus' parent companies do carry $5 billion in debt on their books. The "missing" $35 billion is the value of the government subsidy.

Public documents from the French Senate provide the best explanation that I have seen of what is particularly nefarious about launch aid:

> Launch aid is only repaid if development and production lead to commercial success. If the project fails, agreement provides that no reimbursement is owed. Indeed the government lender assumes the opportunity costs of launch aid for a period of time that varies, but depends mainly on the project's commercial success and timetable.

The bottom line is that Airbus only has to pay back these multi-billion dollar loans if their product turns a profit. Should an airplane design fail to gain support in the marketplace, which has happened often in the past, Airbus doesn't have to pay back one euro that it has borrowed.

Had Airbus been forced to seek these funds from commercial lenders, as Boeing does when it seeks to design and produce a new model, it would have cost them $35 billion more.

The Europeans do not even try to hide just how critical this launch aid subsidy is to Airbus. In 2003, British Prime Minister Tony Blair told the House of Commons, "As a result of launch aid, Airbus is today in a position where it can take over the leadership of the large aircraft market from Boeing in the United States."

In 1999, the European Commission noted just how heavily Airbus relies on launch aid, stating:

> Aerospatiale could not finance the costs connected with the development of the Airbus A340-500/600 by itself or with the help of bank loans . . . Accordingly, if it were to finance the development costs of the A340-500/

600 solely from its own capital (or through bank loans), it would seriously weaken the financial structure of the company.

The 1992 agreement limits the amount of launch aid to 33 percent of the total costs of design and production. But although the agreement was intended to lead to a reduction in launch aid, the Europeans have used it as a justification to provide exactly 33 percent of the funding to all new aircraft designs over the past 12 years.

Contrarily, Boeing has not received even one dollar in aid from the U.S. government to design and produce a new model of aircraft. When Boeing wants to launch a new plane, it must either come up with its own cash or borrow the money from a commercial lender.

Airbus's newest project, the A380, is an excellent example of how their system works. The A380 is one of the riskiest ventures in the history of civil aviation. Scheduled for completion in 2006, the A380 will carry up to 555 people and have a range of 8,000 nautical miles. But significant questions surround how well this super-jumbo aircraft will be accepted by the airlines. Some analysts have questioned whether the A380 will fit into a marketplace that is trending away from the traditional hub-and-spoke model, which relies on large aircraft, to more point-to-point flights, which utilize smaller, longer-ranged planes.

Regardless of the risk, European governments have committed $3.7 billion in launch aid to the A380. So, should Airbus's assumptions about the market prove to be off the mark, it will not be required to pay back the money.

Further, Airbus will also receive more than $1.7 billion in A380–infrastructure-related production support. France, Germany, Spain, and the United Kingdom are funding major upgrades of existing facilities or new construction projects at almost all of these sites. For example, the City of Hamburg drained part of the river Elbe so that Airbus could expand its existing facilities to accommodate A380 assembly and production. In Toulouse, the government financed the construction of a huge, new assembly site. There are several other examples, but I think it is enough to say that the federal and local governments in Europe are offering significant benefits to the A380 project.

My colleagues may be aware of Airbus's ongoing media blitz, which is spreading considerable disinformation about the level of their subsidization and calling into question whether Boeing profits from the same sort of program.

The first red herring I would like to address is Airbus's faulty claim that Boeing's commercial aviation division benefits unfairly from research and development contracts it receives from the Department of Defense. I have served on the Defense Appropriations Subcommittee for 26 years, and I can tell you that the amount of R&D benefits transferred from defense research to the commercial side is minimal. Indeed, in my experience the benefits travel in the other direction.

And even if there were benefits accrued, Airbus and its parent companies—EADS and BAE Systems—get just as much as Boeing. Last year, Boeing received defense R&D contracts worth about $4.6 billion. Comparatively, Airbus, EADS, and BAE systems received $4.3 billion from U.S. and European governments for defense R&D, a negligible difference.

Airbus also likes to claim that my home State of Washington is providing "launch aid" in the form of a $3.2 billion tax program for the Boeing Company's newest project, the 7E7. This claim couldn't be further from the truth. The tax break is in the form of a reduction in the State's business and occupation tax, which is charged against the sale of a product. As we know, launch aid provided to Airbus is an upfront loan the company receives before the pencil is even put to paper; conversely, this tax benefit only comes when a plane is actually sold and payment received. In no way can this tax benefit be considered the equivalent of launch aid.

Further, this tax benefit is not specific to any company or product, unlike the loans and infrastructure improvements funded by the Europeans. Suppliers to both Boeing and Airbus will qualify for some for the tax cuts provided by the Washington State Legislature. Airbus, itself, could qualify for the tax cut should it place a facility in Washington State. I do not think Boeing would receive the same subsidized loans, debt forgiveness, or capital infusions should it put a plant in France, Spain, or Germany.

The final myth I wish to dispel is Airbus' claim that it has a major industrial presence in the United States. Last year, Airbus produced a brochure that claimed that more than 40 percent of the content of its planes was from the U.S. and that it had more than 800 U.S. suppliers and sustained 100,000 jobs.

This brochure was nothing more than a piece of marketing fiction. The U.S. Department of Commerce analyzed this brochure and other data and found that the number of U.S. suppliers is likely closer to 250, and further found that the number of jobs claimed was impossible to justify. In fact, Commerce found that the only concrete number that it could verify was the number of Airbus employees in the U.S.: less than 500.

Conversely, Boeing really is an American company. No one argues that it employs 150,000 American workers and has thousands of suppliers and vendors from every State in the Union. And Boeing assembles most of its components and all of its aircraft here in the United States. The same cannot be said for Airbus.

European Commissioners have already expressed their intent to continue to provide enormous subsidies to Airbus for the foreseeable future, driving down prices and taking more and more market share from Boeing. We cannot let this continue. The future of the commercial aircraft industry is at stake, as are the jobs of 54,000 Boeing commercial aircraft employees and 26,000 suppliers.

This week, United States Trade Representative Robert Zoellick is meeting here in Washington with European Trade Commissioner Pascal Lamy. A key issue on the table will be launch aid and the other subsidies that Airbus receives from European governments.

Should the EU not agree to proceed with discussions to end these subsidies, I believe that the United States should file a trade case with the World Trade Organization to end them. Airbus and the Europeans claim that the U.S. and the State of Washington provide similar subsidies—let them file their case. In my judgment, the law is clear, and we will win in the WTO.

Regardless of the outcome of this meeting between Ambassador Zoellick and Commissioner Lamy, I believe the United States should immediately withdraw from the 1992 Agreement on Trade in Large Civil Aircraft. This agreement was designed to allow Airbus to compete with larger and more establish U.S. companies; now that Airbus is the top dog, this agreement has run its course. It should no longer be allowed to serve as a legal justification for European launch aid.

I urge my colleagues to help me defend one of the largest employers in the United States and the largest exporter in the Nation from what I believe to be Airbus' true agenda—the elimination of commercial aircraft production in the United States. We must not allow this to happen.

HONORING THE APPOINTMENT OF JIM MORGO AS SUFFOLK COUNTY COMMISSIONER OF ECONOMIC DEVELOPMENT

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. ISRAEL. Mr. Speaker, I rise today to honor Jim Morgo, who has exceptionally served the people of Long Island, as an affordable housing advocate. I also wish to congratulate him on his appointment as the Commissioner of Economic Development for Suffolk County. Jim has served as the President of the Long Island Housing Partnership for over 17 years. During this time, he has become Long Island's leading voice in support of both the preservation and production of housing for our region's working families.

The Long Island Housing Partnership LIHP is a private, not-for-profit organization created by Long Island's business, religious, educational and professional leaders to address the region's growing housing crisis. This partnership is dedicated to providing housing opportunities for those who could not otherwise afford decent and safe housing. The LIHP realizes its purpose through mortgage counseling, housing development, and promotion of affordable ownership and rental units for low and moderate income Long Islanders. Created in 1988, Jim Morgo was it's first President and he played a critical role in placing the LIHP at the forefront of all of the area's debates affecting affordable housing and community development.

It is impossible to measure the number of families Jim Morgo has helped and lives he has touched as he worked to develop affordable homes, and create new and innovative ways to enable working families to achieve the dream of homeownership.

I am sure that in his new role, Commissioner Morgo will continue to find creative means to help low-income families achieve the dream of homeownership, help our young families purchase their first home in the neighborhood where they grew up, and expand community development opportunities for the entire Suffolk County Community. I congratulate him on his appointment, thank him for his service, and look forward to working with him in the years to come.

APPOINTMENT OF CONFEREES ON H.R. 4200, NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2005

SPEECH OF

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. REYES. Mr. Speaker, I submit for the RECORD the text of the Ortiz amendment as agreed to by the House Armed Services Committee on May 12, 2004 and as was to be printed in the House record as agreed to by a colloquy between Representative HUNTER and myself on May 20, 2004. The text of the Ortiz amendment follows:

> The committee understands that the Secretary of Defense purchases 'bio-chem protective suits' from the National Center for Employment of the Disabled. It is also the committee's understanding that the NCED is an entity recognized under the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c), as an entity that creates jobs and training opportunities for people who are blind or who have other severe disabilities.

IN SUPPORT OF THE DRIVER'S LICENSE IMPROVEMENT AND SECURITY ACT OF 2004

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. MORAN of Virginia. Mr. Speaker, today we are pleased to introduce the Driver's License Improvement and Security Act of 2004, or DLISA, which will create a six state pilot project to standardize and modernize state-issued driver's licenses and identification cards. Two years ago I joined my colleague, TOM DAVIS, in sponsoring legislation to create nationwide standards for driver's licenses and identification cards.

Our previous attempt to address fundamental flaws in the driver's license system may have been rather ambitious, but existing vulnerabilities in our identification system present a clear threat to our Nation's security and allow criminals to subvert our laws. A pilot project will allow the Secretary of Transportation and participants in the program to work out interoperability and logistical concerns on a smaller and more manageable scale.

Today's legislation is the product of several years of hard work, input and research by state motor vehicle authorities, policy, technology, and identification security experts. As my colleagues prepare to consider comprehensive legislation to overhaul our national intelligence institutions, I strongly urge them to consider the following question: Why has it taken so long for us to repair a gaping hole in our identification system that leaves us vulnerable to criminals and terrorists? Reform should begin with the obvious—basic vulnerability issues.

I agree with the 9/11 Commission's conclusion that institutional national intelligence reform is necessary, but I am dismayed by the lack of attention being paid to chronic and correctable shortcomings in our driver's license and ID card system. The legislative solution we are proposing today retains traditional state authority over non-commercial driver's licenses, but recognizes that disparate standards, outmoded technologies and inadequate security features create risks that are national in scope and therefore justify Federal resources and technical assistance.

A driver's license is a dangerous tool in the hands of a criminal. It allows them to easily travel on our roads, open bank accounts, rent vehicles, and take domestic flights. The driver's license has come to represent more than authorization to operate a motor vehicle; it imparts a stamp of legitimacy and is often taken as unquestionable proof of identity. Possession of a driver's license allows criminals to easily travel and blend into the population.

Problems in our identification system were evident before 9/11. A thriving criminal enterprise learned to exploit the lack of standardization, the hodgepodge of loosely enforced rules, and antiquated security features, to serve a growing demand for fake licenses. The black market in fake licenses was, and remains, quite lucrative, commonly yielding $2,000 for a single fake license.

Many of the 9/11 hijackers used black market "brokers" to illegally obtain driver's licenses. 13 of the 19 hijackers were able to obtain driver's licenses or non-driver ID cards. Like illegal gun dealers, those who profit from this illicit racket ask few questions and care little about the consequences of their actions.

Since we first introduced legislation to remedy this problem, two reputable commissions have called for Federal government action. The Markle Foundation Task Force on National Security in the Information Age and the 9/11 Commission recommended that the Federal government should take action to standardize and improve the integrity of our driver's license and ID card system. Since the 9/11 commission's report was released, other legislative proposals have been unveiled, but none of them would fully implement the biometric and smart card technologies recommended by the Markle Task force and 9/11 Commission. Our bill takes full advantage of available technologies and addresses specific logistical, interoperability and policy concerns revealed by countless studies and reports on the subject over a number of years. DLISA draws upon these findings and balances some outstanding concerns about privacy, states' rights and the need for greater uniformity.

The technology embraced in our bill is far from nascent. Private companies and government agencies currently utilize smart card and biometric technologies in their ID cards. Smart cards have been in use for years in the military with the Common Access Card, or CAC. Congress sanctioned the use of smart card biometric technology in the USVISIT visa program.

DLISA will not create a national ID card. Instead, it preserves state authority and takes advantage of the existing state motor vehicle infrastructure and system of linked networks. In fact, DLISA is a step back from earlier congressional legislation. Congress created uniform standards for commercial licenses when it passed the Commercial Motor Vehicle Safety Act of 1986, paving the way for the Commercial Driver's License Information System, or CDLIS. Congress has also recognized the need to assist state licensing authorities in a non-commercial context when it created the National Driver Register; which, like this bill, was implemented first as a pilot program. DLISA is entirely voluntary, only states that wish to participate in the pilot project must adhere to the guidelines. In setting the authorization amount, we relied on the states own cost projections. States will not incur any expense under DLISA.

Of course there are many out there who fear change. Civil libertarians, conspiracy theorists and absolutists will attempt to characterize DLISA as a threat to individual privacy. In fact the opposite is true. By reducing identity theft (clearly a privacy concern), controlling access to personal data through encryption and proper regulations, and making it easier to create a digital paper trail on government employees who access your data, smart cards will actually reduce privacy violations.

Nor will my bill adversely harm immigrants. Congress has long been trying to improve the system to verify worker eligibility, and smart driver's licenses will make a quantum leap in the efficiency of that system, which will in turn make it harder for illegal aliens to get jobs with honest employers. Many people consider this an undesirable side effect of improving the driver's licensing system; after all, the vast majority of immigrants are hard-working people trying to make better lives for their families. The solution, however, is to change the rules governing immigration, not to preserve the fraud in the ID system.

Finally, DLISA does not allow the government to track people's movements. Smart cards do not work with satellites to track your movements. The best government could do in tracking your movements is maintain records of where and when you are asked to show your license, something it already does by writing down your driver's license number. For example, when you enter a government building for a meeting, the security guard may record your information in a log.

It is difficult to completely allay the concerns of civil libertarians and privacy advocates, lest we do away with all forms of identification. But this legislation will not create invasion of privacy risks that do not already exist today. It will, however, significantly reduce the risk of identity theft, and correct current widespread abuses in the system. As an added benefit, the technology will make it easier for law enforcement officials to do their job by eliminating wasted time filling out tickets and paperwork, but it will not magically transform every law enforcement officer or civil servant into a voyeur or jackbooted thug bent on harassing you at every turn.

Taken as a whole, the potential benefits of smart licenses far outweigh the potential risks. The vast majority of Americans understand that privacy is a tradeoff rather than an absolute, and will accept the risks in exchange for the benefit—added security.

I urge my colleagues to cosponsor this bill, and give this issue the urgent attention required to correct serious flaws in our driver's licensing and ID card system.

SENATE—*Friday, October 1, 2004*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS.)

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O, God, who sends showers to soften the soil and cause plants to sprout, You are the source of all life. You have challenged us to number our days, not our weeks, months, or years. Give us wisdom to comprehend the brevity and uncertainty of our life's journey. Forgive us when we boast about tomorrow, forgetting that our times are in Your hands.

Today, bless our lawmakers and their staffs. Remind them that they belong to You and that You will order their steps. As they wrestle with complex issues, help them seek Your wisdom and guidance. Empower them as stewards of Your bounty, as You make them faithful in the vocation to which You have called them.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, good morning to everyone.

Today, we once again will return to the intelligence reform legislation sponsored by Senators COLLINS and LIEBERMAN. This week, we have made steady progress. As we set out, we will be completing this bill in the near future, but we have a number of amendments. I thank both of the managers for their patience and willingness to work through a maze of amendments.

We had all amendments submitted 2 days ago and all the language for the amendments as of yesterday. The managers and staff and Senators have been working hard over the course of the night to look at the amendments, to address them, and to establish an order to which they can be addressed over today and Monday.

As announced last night, there will be no rollcall votes today. We will have a full day of debate with a number of people speaking on their individual amendments. We will continue to move forward. A number of Senators have committed to being present today to offer their amendments. I thank them in advance for their participation. I encourage them to talk to the managers as to roughly when we will be discussing each of those amendments.

Monday, the plans are to stack the votes. We will have a series of votes, probably beginning around 3 o'clock Monday. There will be a series of rollcall votes beginning midafternoon. The specific time we will announce a little bit later today.

The Democratic leader and I have come to the Senate floor regularly over the course of the last week to comment on the progress being made on the bill. We will continue to monitor the progress. The bill itself is being discussed after full hearings in August and months and months of work, so the objective of completing this bill in the near future, both the internal organization, reorganization, and external by the time we depart, is the goal we hope to accomplish. We need to continue with the deliberative process, but we do need to bring the bill to a conclusion; therefore, there is a sense of urgency to have Members come to the Chamber and discuss their amendments.

We had, as of 4 o'clock yesterday, 233 filed amendments. The Senate has considered 34 amendments thus far, and 15 have been adopted, 5 tabled, and 14 are still pending.

Having said that, cloture may be a necessary tool. Again, the Democrat leader and I have been in consultation. We first mentioned cloture a couple days ago. It is a tool we might use. I point out that amendments that have been filed that are ready to be considered right now and even after cloture will remain, and we have 30 hours and could consider, of course, at that point all germane amendments.

I will be in consultation with the Democratic leader over the course of the day. We will have a full day today. I appreciate everyone's consideration.

We are also—not on the Senate floor but in a task force—considering the Senate's oversight of intelligence and homeland security. A number of people are asking: What is the appropriate vehicle? We are concentrating through the Collins-Lieberman bill on the external relationships, but what about the internal relationships? The appropriate vehicle and the vehicle that has been set up by the Democratic leader and myself is through Senate resolution where specific changes to the Senate Select Committee on Intelligence would be entertained and where we would deal with the changes in the Senate results, especially as it applies to committee jurisdictions.

It is my hope we can come to final agreement on this package by next Friday. The Democratic leader and I await the specific recommendations from the task force we appointed about a month ago.

We have had a long week, a very productive week. We have accomplished a great deal. The task before the Senate is in reforming the intelligence community's responsibility and oversight. It is a huge but an essential task. We learned on 9/11 how our enemies are working day and night to visit terror on our soil. That is what we have learned since September 11. They dream of ever more catastrophic attacks. They plot and they plan in the false belief that they will elude capture. They are absolutely wrong.

The work we do this week and next week in the Senate will strengthen our defenses and it will improve our ability to gather data, to analyze data, and to defeat our enemies. It will help us find them and to stop them and bring them to justice. When we are done, America will be safer and more secure.

DARFUR

Mr. FRIST. Mr. President, I will comment briefly on a topic that we will not be addressing in the Senate, and therefore, before we dive into the bill, I will mention the issue of the Sudan.

Just to update my colleagues because on occasion it has been on the front page, but we have not heard as much about it over the last several weeks, yet what is occurring, what we have called genocide in this body and in the House of Representatives, indeed, continues to occur.

Two and a half weeks ago, the U.N. Security Council passed a second resolution on the Sudan. This resolution holds out the threat of sanctions on Sudan's leaders and its oil industry if the Government fails to act, fails to curb the ethnic violence in Darfur.

The Darfur region is in western Sudan. The Darfur region is about the size of France. Around 50,000 people have died in that region in the last several months, with hundreds of thousands more at risk.

I am very pleased by the action of the United Nations, even though, despite the best efforts of the United States, I believe the resolution should have been a lot tougher and it would have had a much greater impact. It is no surprise some countries do not share our outrage and determination to end those atrocities.

Even after making modifications, the vote on the Security Council was 11 to 0, with Algeria, China, Pakistan, and Russia abstaining.

The measure calls upon Secretary General Kofi Annan to create an international commission to determine if the campaign by marauding Arab militias—that Jinjaweed—against the villagers of Darfur in western Sudan has reached the level of genocide.

The resolution also reinforces the role of the 53-member African Union in taking the lead in calming the situation in Darfur and calls on other nations and the Government of Sudan to help it expand its presence there with thousands of additional troops.

As the international community knows, the Congress made this determination in late July. It was no secret then, nor is it now, that the Jinjaweed are supported and directed by Khartoum; that is, by the Government of Sudan, which has a sovereign responsibility to not do that but protect its people, not to kill them.

The Jinjaweed have killed or participated in the deaths of up to about 50,000 people in Darfur. They have engaged in mass rape of women and girls and destroyed crops and polluted water supplies. They have forced over 1.2 million people to leave their homes, leave their villages, once pillaged.

Last month, as I mentioned on the floor of the Senate, I had the opportunity to travel through a refugee camp called Tulum, which is right on the border, about 30 kilometers from the border in Chad, where many people have fled over the border. I had an opportunity to talk to women in little makeshift tents, women who had lost their husbands, killed by the Jinjaweed, who were separated from their children, lost as they had to flee their burning villages.

It is wrong. We have spoken on this floor. We need to continue to speak and to act and to encourage the United Nations to act.

The United States, under President Bush's leadership, has led the way globally on this issue from the beginning. It does, once again, show the importance of the United States acting even if the world community is slow to react, as we saw in the abstention of the resolution the other day by Algeria, China, Pakistan, and Russia.

The United States has supplied well over 70 percent of the humanitarian effort and other supplies going to survivors now in Darfur and in that eastern part of Chad, and we have been providing assistance there for years. So we need to be very proud as a nation. In parts of the Darfur region, we are providing 90 to 95 percent of all the world aid going in to assist the people in those regions.

We need to do a lot more. We need to work with and encourage the international community to do its share, especially the countries of the European Union and Arab League.

This month, Secretary of State Colin Powell came before the Senate Foreign Relations Committee and declared that the State Department's studied judgment is that genocide has indeed occurred. Last night, in the debates, we heard both Senator KERRY, from this floor, and the President of the United States call what is occurring in Darfur genocide. It is now time for the international community to act.

Multiple sources are reporting from the region that attacks by both the Jinjaweed and Government forces—again, it is the Government forces who are, through direct and indirect aid, supporting this militia called the Jinjaweed—are still occurring despite the U.N.'s passage of Resolution 1556 last month that, among other things, called for a halt to such actions.

I am pleased by the passage of this latest U.N. resolution, but I am not optimistic. I am pleased but not optimistic. Khartoum did not live up to the requirements set forth in the U.N.'s July 30 resolution, so why do we believe they will now?

Khartoum will not end its genocide until it has either completed it or until it faces stiff international actions that compel it to stop. We need the international community to stand up. The United States is standing up. We need the international community to stand up.

This body has unanimously passed, since that time, a second resolution urging the Secretary of State to take appropriate actions within the U.N. to "suspend" Sudan's membership on the U.N. Human Rights Commission. Such an action would be consistent with our obligations under the 1948 Genocide Convention and help preserve the integrity of this commission; that is, the United Nations Human Rights Commission. Failure to take this action, I believe, mocks the principles and purpose for which the commission was formed; that is, human rights. Yet in Sudan we have what we have called, and with the ravaging of villages we have seen, genocide.

Further, our resolution passed on this floor calls upon the Secretary of State to pursue Sudan's permanent removal from the U.N. Human Rights Commission if the U.N. determines, as it should, that genocide has been committed in the Darfur and that Khartoum is responsible.

The U.N. cannot continue to pass resolution after resolution nor can the international community stand idly by while thousands die monthly in these remote regions of Sudan and eastern Chad. Our failure to act is not just another failure of the U.N., it is a failure of our own humanity.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDENT pro tempore. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Pending:

Collins Amendment No. 3705, to provide for homeland security grant coordination and simplification.

Lautenberg Amendment No. 3767, to specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each.

Kyl Amendment No. 3801, to modify the privacy and civil liberties oversight.

McCain Lieberman Amendment No. 3807, to develop a strategy for combining terrorist travel intelligence, operations, and law enforcement.

Feinstein Amendment No. 3718, to improve the intelligence functions of the Federal Bureau of Investigation.

Stevens Amendment No. 3839, to strike section 201, relating to public disclosure of intelligence funding.

Ensign Amendment No. 3819, to require the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators.

Reid (for Schumer) Amendment No. 3887, to amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group.

Reid (for Schumer) Amendment No. 3888, to establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies.

Reid (for Schumer) Amendment No. 3889, to establish a National Commission on the United States-Saudi Arabia Relationship.

Reid (for Schumer) Amendment No. 3890, to improve the security of hazardous materials transported by truck.

Reid (for Schumer) Amendment No. 3891, to improve rail security.

Reid (for Schumer) Amendment No. 3892, to strengthen border security.

Reid (for Schumer) Amendment No. 3893, to require inspection of cargo at ports in the United States.

Reid (for Schumer) Amendment No. 3894, to amend the Homeland Security Act of 2002 to enhance cybersecurity.

The PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

AMENDMENT NO. 3765

Mr. ALLARD. Mr. President, my understanding is that there is a pending amendment before the Senate; is that correct?

The PRESIDENT pro tempore. The Senator is correct. There are several.

Mr. ALLARD. I ask unanimous consent that the pending amendments be set aside, and I call up amendment No. 3765.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 3765.

Mr. ALLARD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for additional responsibilities for the Chief Information Officer of the Department of Homeland Security relating to geographic information)

At the appropriate place, insert the following:

SEC. . HOMELAND SECURITY GEOGRAPHIC INFORMATION.

(a) FINDINGS.—Congress finds that—

(1) geographic technologies and geographic data improve government capabilities to detect, plan, prepare, and respond to disasters in order to save lives and protect property;

(2) geographic data improves the ability of information technology applications and systems to enhance public security in a cost-effective manner; and

(3) geographic information preparedness in the United States, and specifically in the Department of Homeland Security, is insufficient because of—

(A) inadequate geographic data compatibility;

(B) insufficient geographic data sharing; and

(C) technology interoperability barriers.

(b) HOMELAND SECURITY GEOGRAPHIC INFORMATION.—Section 703 of the Homeland Security Act of 2002 (6 U.S.C. 343) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Chief Information"; and

(2) by adding at the end the following:

"(b) GEOGRAPHIC INFORMATION FUNCTIONS.—

"(1) DEFINITION.—In this subsection, the term 'geographic information' means the information systems that involve locational data, such as maps or other geospatial information resources.

"(2) OFFICE OF GEOSPATIAL MANAGEMENT.—

"(A) ESTABLISHMENT.—The Office of Geospatial Management is established within the Office of the Chief Information Officer.

"(B) GEOSPATIAL INFORMATION OFFICER.—

"(i) APPOINTMENT.—The Office of Geospatial Management shall be administered by the Geospatial Information Officer, who shall be appointed by the Secretary and serve under the direction of the Chief Information Officer.

"(ii) FUNCTIONS.—The Geospatial Information Officer shall assist the Chief Information Officer in carrying out all functions under this section and in coordinating the geographic information needs of the Department.

"(C) COORDINATION OF GEOGRAPHIC INFORMATION.—The Chief Information Officer shall establish and carry out a program to provide for the efficient use of geographic information, which shall include—

"(i) providing such geographic information as may be necessary to implement the critical infrastructure protection programs;

"(ii) providing leadership and coordination in meeting the geographic information requirements of those responsible for planning, prevention, mitigation, assessment and response to emergencies, critical infrastructure protection, and other functions of the Department; and

"(iii) coordinating with users of geographic information within the Department to assure interoperability and prevent unnecessary duplication.

"(D) RESPONSIBILITIES.—In carrying out this subsection, the responsibilities of the Chief Information Officer shall include—

"(i) coordinating the geographic information needs and activities of the Department;

"(ii) implementing standards, as adopted by the Director of the Office of Management and Budget under the processes established under section 216 of the E-Government Act of 2002 (44 U.S.C. 3501 note), to facilitate the interoperability of geographic information pertaining to homeland security among all users of such information within—

"(I) the Department;

"(II) State and local government; and

"(III) the private sector;

"(iii) coordinating with the Federal Geographic Data Committee and carrying out the responsibilities of the Department pursuant to Office of Management and Budget Circular A–16 and Executive Order 12906; and

"(iv) making recommendations to the Secretary and the Executive Director of the Office for State and Local Government Coordination and Preparedness on awarding grants to—

"(I) fund the creation of geographic data; and

"(II) execute information sharing agreements regarding geographic data with State, local, and tribal governments.

"(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this subsection for each fiscal year.".

Mr. ALLARD. Mr. President, to briefly explain the amendment, it provides additional responsibilities for the Chief Information Officer, Department of Homeland Security, relating to geographic information. This amendment has been discussed by both managers, the Senator from Maine and the Senator from Connecticut. My understanding is the amendment has been agreed to.

The PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, I commend the Senator from Colorado for the work that he has done in coordinating the geospatial information needs of the Department of Homeland Security. He first introduced a bill on this issue last year. He has been a leader in pushing for improvements in how this information is handled. This legislation was recently reported as a separate bill by the Governmental Affairs Committee. It is acceptable and cleared on both sides. I urge adoption of the amendment.

The PRESIDENT pro tempore. Is there further debate? Without objection, the amendment is agreed to.

The amendment (No. 3765) was agreed to.

The PRESIDENT pro tempore. The Senator from Colorado.

Mr. ALLARD. Mr. President, I rise today to discuss the Collins-Lieberman bill. Later I will have another amendment that I will offer.

First, I thank the managers of the bill, Senator COLLINS and Senator LIEBERMAN, for their efforts in getting at least one of my amendments accepted. The other is pending. One involves the Department of Homeland Security and its ability to detect, plan, and prepare for disaster by better utilizing geospatial data throughout the U.S. Government. I thank both of them for that support.

The other amendment assures that the national intelligence director will take action to ensure that commercial satellite imagery is used to fulfill the imagery information requirements of the intelligence community. Both are important to the ongoing safety and security of the country. I am pleased to see the adoption of one, and further consideration of the other.

In a moment I would like to offer a third amendment to strengthen the bill regarding management of the intelligence community workforce. Before I offer my amendment, I would like to talk generally about the overall intelligence reform legislation.

September 11, 2001, was a day that none of us will forget in our lifetimes. Mr. President, 9/11 was a harsh wake-up call for our country. That catastrophic day forced us to recognize new threats and to energize our Government to rise up and eliminate terror threats and modernize our national security institutions. Our Government has moved quickly and comprehensively to implement a significant body of governmental reforms.

It is a fact that through hard work and strong leadership, President Bush's administration has already implemented planning of significant improvements to our Government's intelligence planning and operations. Of the 39 recommendations from the 9/11 Commission that the President could legally implement through Executive order, only three remain to be addressed. It is a good idea, as we consider reforms to our intelligence community, to review again what the 9/11 Commission concluded.

The 9/11 Commission primarily found that, first, we were slow to respond to a clear and emerging threat. For far too long we stood still while extremist radical Muslims hijacked religion to stir up hatred, hijacked a country to operate their base camps from, and hijacked our airliners to murder more than 3,000 of our fellow Americans.

Second, we had inadequate human intelligence assets around the world to observe such threats and effectively warn us of impending dangers.

Third, for the intelligence we did get, we lacked an effective bureaucracy to integrate disparate but related pieces of information, and we lacked a strong quarterback to coordinate intelligence programs against emerging threats, to plan long-term strategies, or to steer a change of course when the situation dictated.

Fourth, our military was not adequately prepared to deal with the threat that day. And last and maybe most importantly, we need new tools and strategies for our diplomatic corps to reach out and lead troubled regions of the world against terrorism's misguided principles and cowardly acts. We need transformational military improvements to engage where and when our diplomacy does not succeed.

The 9/11 Commission also fashioned more than three dozen recommendations to address these national security shortfalls. I applaud the effort of the chairman and ranking member of the Governmental Affairs Committee in developing the proposals before us today. I agree with the majority of the initiatives in the intelligence reform legislation. The Collins-Lieberman bill will improve our ability to develop actionable intelligence and increase our Government's coordination and responsiveness. Elevating the roles and responsibilities of today's Director of Central Intelligence to the level of a national intelligence director, including the robust planning and budgeting authority, is prudent and much needed. Establishment of strategic intelligence planning and fusion centers such as the national counterterrorism center will also greatly strengthen our national security team's ability to connect the dots. We need to identify trends, anticipate threats, and develop coordinated plans to attack threats prior to their realization.

However, I am not convinced we are effectively matching solutions to identify problems in all cases. My concerns are heightened because today we are a nation at war. Our men and women of the Armed Forces and the intelligence community are in harm's way. I am just not certain that we have thought through adequately the management changes or the unintended consequences relative to Defense Department operations. I will follow closely the remainder of the debate to understand better the potential adverse effects prior to voting to support them.

I am pleased to see the attention focused by the 9/11 Commission Report and the Collins-Lieberman bill on the topic of personnel management policies and practices across the intelligence community. Both panels recognize that in order to effect such a magnitude of change in our Federal Government, uniform personnel standards and training are needed to align individual mindsets with the desired objectives.

Our national security requirements demand that we recruit and retain the best and the brightest defense and intelligence personnel our country has to offer.

We need to ensure the National Intelligence Director is armed with both authority and flexibility to enforce only the highest performance and ethical standards across the intelligence community. This requires modern personnel management policies and regulations that incorporate competitive compensation, incentives, and supervisory flexibility.

To keep pace with the dynamic work environment of the intelligence community, these same supervisors require streamlined dismissal or termination mechanisms for personnel failing to satisfy standards.

The bill before us today directs specific authorities and changes to performance compensation and incentives across the national intelligence program. Section 163 explicitly grants the National Intelligence Director authorities governing new National Intelligence Authority employees that mirror the authority held by the Director of Central Intelligence Agency relative to CIA employees.

In section 301, the bill goes on to amplify the CIA Director's authority to terminate employees ". . . whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States."

This is clear, unequivocal, and prudent authority that will bolster our intelligence leaders' personnel management capabilities. But I believe we need to go further.

AMENDMENT NO. 3778

Mr. President, at this time, I ask unanimous consent that we lay aside the pending amendment and that the clerk report amendment No. 3778, which is at the desk.

The PRESIDENT pro tempore. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. ALLARD] proposes an amendment numbered 3778.

The amendment is as follows:

(Purpose: To improve the management of the personnel of the National Intelligence Authority)

On page 113, between lines 17 and 18, insert the following:

(b) TERMINATION OF EMPLOYEES.—(1) Notwithstanding any other provision of law, the National Intelligence Director may, in the discretion of the Director, terminate the employment of any officer or employee of the National Intelligence Authority whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

(2) Any termination of employment of an officer or employee under paragraph (1) shall not affect the right of the officer or employee to seek or accept employment in any other department, agency, or element of the United States Government if declared eligible for such employment by the Office of Personnel Management.

On page 113, line 18, strike "(b) RIGHTS AND PROTECTIONS" and insert "(c) OTHER RIGHTS AND PROTECTIONS".

On page 113, after line 24, add the following:

(d) EXCLUSION FROM CERTAIN PERSONNEL MANAGEMENT REQUIREMENTS.—

(1) PERFORMANCE APPRAISALS.—Section 4301(1)(ii) of title 5, United States Code, is amended by inserting "the National Intelligence Authority," before "the Central Intelligence Agency,".

(2) LABOR-MANAGEMENT RELATIONS.—Section 7103(a)(3) of that title is amended—

(A) in subparagraph (G), by striking "or" at the end;

(B) in subparagraph (H), by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new subparagraphs:

"(I) the National Intelligence Authority;

"(J) the Defense Intelligence Agency;

"(K) the National Geospatial-Intelligence Agency; or

"(L) any other Executive agency or unit thereof which is designated by the President and the principal function of which is the conduct of foreign intelligence or counterintelligence activities.".

(e) REGULATIONS.—(1) In carrying out the responsibilities and authorities specified in sections 112 and 113 and this section (including the amendments made by this section), the National Intelligence Director shall prescribe regulations regarding the management of personnel of the National Intelligence Authority.

(2) The regulations shall include provisions relating to the following:

(A) The applicability to the personnel of the Authority of the authorities referred to in subsection (a).

(B) The exercise of the authority under subsection (b) to terminate officers and employees of the Authority.

Mr. ALLARD. Mr. President, my amendment will accomplish the following: first, expressly grant this termination authority to the National Intelligence Director in the statute; and second, direct the National Intelligence Director to prescribe regulations specifying the exercise of this termination authority.

Notwithstanding this broad authority already in place today, the Director of Central Intelligence maintains regulations that are inefficient, not appropriate for today's security environment, and are out of sync with his broad authority. For example, an intelligence supervisor who deems an officer or employee as unsuitable is often required to maintain that employee in sensitive positions while adverse personnel action is initiated.

After a final termination decision is rendered by the agency, the employee can engage in a lengthy appeals process, both internal and external to the agency, that could last at least a year. In my opinion, this practice is not in the best interest of the United States, and indeed presents a clear security risk.

With regulations requiring streamlined employee termination practices, I believe we can improve national security and fiscal responsibility across the National Intelligence Authority. My amendment would enhance this responsibility, and I urge my colleagues to support my amendment.

Mr. President, the Chair and Ranking Members, indeed all Members of the Government Affairs Committee, have served our country well. The Collins-Lieberman bill for intelligence reform brings forth bold and sweeping changes to our critical national security institutions. Accordingly, it is essential that we get this right. More is at stake than simply moving boxes around on an organization chart. The decisions we make over the next several days will be far-reaching and have significant consequences. Our Armed Forces are not only the largest provider of intelligence information, they are also the largest consumer. Our Nation's military, the most powerful and proficient ever assembled in the history of the world, hinges on a seamless and unbroken flow of intelligence information—regardless of whether that intelligence information is "national" or "tactical."

As we consider the Collins-Lieberman intelligence reform bill, let us redouble our efforts to ensure we're matching solutions to identified problems. As long as we keep this perspective, I am confident this body will do the right thing.

Mr. President, I yield floor.

The PRESIDENT pro tempore. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I thank the Senator from Colorado for his generous comments. I very much enjoy working with him on the Armed Services Committee. He brings a great deal of expertise to this debate.

The amendment he has proposed this morning is one that our staffs are starting to look at. I suggest that it be set aside so that we can do more analysis of it, but I appreciate the spirit in which it was offered.

The PRESIDENT pro tempore. Is there objection to setting aside this amendment? The amendment is set aside.

Who seeks recognition?

Mr. LIEBERMAN. Mr. President, I thank the Senator for his statements about the Collins-Lieberman legislation and also thank him for the amendment. This looks to be exactly like the legislation the Senator and Senator AKAKA introduced, which came out of our committee. This is the right moment, and it strengthens the bill. I thank him for his persistence in offering it. I am glad we added it.

I yield the floor.

Mr. ALLARD. I thank the managers for their kind comments.

The PRESIDENT pro tempore. The Senator from Tennessee is recognized.

Mr. ALEXANDER. Mr. President, this morning, I want to take a few minutes to talk about an amendment that was adopted yesterday. It was sponsored by the Senator from Ohio, Mr. VOINOVICH.

The amendment is about the 3,361 Presidential appointees and how they are confirmed. I am glad to see that as I am speaking the President pro tempore is here because he has been a Presidential appointee in an earlier administration. I am glad to see both the chairman and ranking member of the Governmental Affairs Committee here because their committee deals with this issue. This is the kind of issue that never makes the front page and is always on the back burner. But it has a major practical effect on how our Government works.

The 9/11 Commission has reminded us, once again, of the problem we have. What the 9/11 Commission recommended, and what Senator VOINOVICH's amendment would do—an amendment that I was glad to cosponsor—is to, in the words of the 9/11 Commission—"speed up the nomination, financial reporting, security clearances, and confirmation process for national security officials at the start of an administration."

In other words, in plain English, to make it possible, if President Bush reorganizes his administration in a second term, or if Senator KERRY is the new President, they have 3,361 appointments to make. I think it would come as a great shock to many of the voters who are voting for one of them, and it will come as a shock, no doubt, to some of the people they nominate to know that if, for example, a President Bush or a President KERRY picks a new Secretary of HHS or Secretary of Education or Secretary of Defense, to begin with, that person is not allowed to go to the office of the Secretary of Defense or the Secretary of HHS or the Secretary of Education until he or she is confirmed by the Senate.

In other words, here we are in a war on terror. The President says he has a new appointment requiring Presidential confirmation, let's say for Secretary of State. That person is not allowed, out of courtesy to this body, to go into the office of the Secretary of State until we confirm them. One might say, well, there is nothing so wrong about that. That should not take more than a few days, with the kind of well-known person the President would probably pick—someone, for example, of the stature of Colin Powell.

I will give you an example of why it takes longer than a few days. The Presiding Officer, the Senator from Connecticut, the Senator from Maine, all of us remember and know well Senator Howard Baker, who was the majority leader of this body. Senator Baker, at one time, if memory serves me correctly, was selected as the most admired Senator in a poll participated in by both Democratic Senators and Republican Senators. He is known pretty well. He is today the Ambassador to Japan, nominated by President Bush. The Japanese consider that to be a great compliment to the country, to have someone of such stature.

However, Howard Baker reminded me this week when I called him that when he was nominated by the President to be Ambassador to Japan, it took him weeks to fill out the forms to be approved by the FBI, approved by the Government Ethics Office, nominated by the President, and confirmed by the Senate. He told me specifically that he spent more money hiring people to help him fill out his forms accurately so he would not go to jail by making a mistake than he made in his first year as Ambassador to Japan.

Let's think of that. Here is a highly respected individual, at the time 75 or 76 years old. He has been filling out forms for 18 years as a Member of this body. He has run for President. He has been White House Chief of Staff. He is the most admired Senator. Yet by our requirements it takes several weeks of his time, and he spends more money hiring people to fill out his forms than he made in his first year in his Government job.

That is preposterous. That is a preposterous result.

He further told me he had another little issue with the Government Ethics Office. Senator Baker is now married to former Senator Nancy Kassebaum. It is the second marriage for both. When they became married, they wanted to keep their estates separate. They jointly owned 25 head of cattle. This tied up Senator Baker's nomination for some time in the Government Ethics Office because the question was jointly owning 25 head of cattle would require—just that single fact—Senator Kassebaum to have to go through this week-long, very expensive process of disclosing everything once more about herself and filling out all those forms.

Finally, in exasperation, Senator Baker simply gave his half interest in the 25 head of cattle to Senator Kassebaum, and that settled that problem.

This is not so unusual. Senator Baker and Senator Kassebaum are not the only Presidential nominees to go through the expense and delay of being appointed to a Presidential position.

I was nominated by the first President Bush as his Education Secretary. I was nominated in December of 1990. I was confirmed in I believe it was April of 1991. In the meantime, I was not allowed to go to the Office of the Secretary of Education.

During that time, 60 percent of American college students were going to colleges and universities followed by a Federal grant or a loan. That is supposed to be supervised by the Secretary of Education of a President who said he wanted to be the education President. Yet his nominee is not allowed to go to the office, out of courtesy to this body.

Then, of course, there is the matter of recruiting a team. I asked President Bush at that time: Mr. President, may I come up with a plan? May I then recruit a team, subject to your approval, of course? So I went to recruit David Kearns, the former head of Xerox, and Diane Ravage, one of the most distinguished historians in America, Carolyn Reed Wallace, the vice chancellor of the City University of New York.

All of them, of course, were not allowed to go to their office. Once the President nominates and before they are confirmed, they must fill out all these forms, maybe not spend as much money as Senator Baker did, but the same forms. They must go through this elaborate FBI check. They must go through the President's political process, and then they come over here. And if there is a divided body—for example, we have a Republican President and a Democratic Senate—it takes a little longer.

What is the point of all this? The point of all this is we cannot get our work done. The voters all tune in to a Presidential debate, such as we saw last night—two distinguished competitors, both doing pretty well, I thought—they take off in January and say: Let's go this way and what happens? There is nobody to work for them. They cannot even go to their offices. They are all down here filling out forms that are going to cost them more than they make in their first year.

This is a problem. Who is at fault? A lot of places are at fault. Partisan politics is sometimes at fault. When I was going through confirmation, I went around to see another former Member of this body, Senator Warren Rudman. He told me what happened in 1976. He was nominated by President Ford to the Federal Communications Commission, I believe, and a Senator from New Hampshire put a hold on his nomination.

It went along that way until the people of New Hampshire said: What is wrong with Warren Rudman? He must be a crook, he must have stolen something or else the Senate would be acting on his nomination. Out of embarrassment, Warren Rudman, a private citizen, asked President Ford to withdraw his name from consideration in the Senate. Then Senator Rudman ran against the Senator who put a hold on his name, defeated him, and served in this body.

I am not sure we can pass any law or change any rule that will prevent that kind of partisan politics, but we should be aware that is part of the problem.

Senator VOINOVICH's amendment does address some areas we can fix. One is there may be too many jobs subject to this kind of intensive review. Mr. President, 3,361 is a lot of Presidential appointments to have to go through that time-consuming, weeks-long process. It is too many jobs to leave vacant at the beginning of a new administration when we all expect a new President to come in and say: Let's go in this direction. It is too many jobs to leave vacant, the 9/11 Commission said, especially when we are dealing with the national security of the United States, and a great many of those men and women are people we are relying upon to protect us.

The FBI review takes a long time. Maybe that could be simplified. If they are doing 3,361 FBI reviews at one time and the FBI's major goal is supposed to be counterterrorism, maybe that is something we should be looking at as well.

Then we get busy. An example exists today, and this is in no way criticism, but it is an example of how we get busy. The President on May 20 nominated Edwin Williamson to be Director of the Office of Ethics for our Government. This is the very office that contributes to a lot of the questions and reviews that slow down the process. That was May 20. His hearing before the full committee is next week.

Everyone in the Senate can understand the Governmental Affairs Committee has been busy the last 8 weeks, but, nevertheless, we have a process that when we get busy, sometimes we contribute to the delay.

So the Voinovich amendment does not by itself solve the problem. It sets in motion a series of reviews and studies and discussions that might help solve the problem.

The reason for my coming to the floor today is to say to the distinguished Senator from Connecticut and to the distinguished Senator from Maine, and the President pro tempore, I hope we keep this high enough on our agenda that it does not slip to the back page again. Former Senator Fred Thompson prepared legislation on this issue. This is a lot like many of the issues that have come up with national intelligence reform. There have been about 30 or so reviews since World War II on national intelligence reform, and they often slip to the back pages, to the back burner, and we do not get it done.

This time we are getting it done. We have also taken steps on another so-called back-burner issue, as the 9/11 Commission put it and that is, speeding up the nomination—financial reporting, security clearances, and confirmation process for officials nominated by the President at the start of an administration. It is my hope that over the next year, the reviews mentioned in the Voinovich amendment will go forward, that we will simplify the process. Of course, for the national security officials, we can all see the urgent need for that.

Of course, we do not want them sitting outside their offices next February out of courtesy to us when there is some attack on the United States that they might have helped prevent, but at the same time we do not want students going to college with some Secretary of Education sitting outside his office not allowed to go in. We do not want Head Start dollars being spent with some Secretary of Health and Human Services sitting outside her offices not allowed to go in. We need to have firm deadlines and firm dates, simplified forms, out of respect to the people the President nominates, out of respect to the voters who expect a President to be able to act, and out of respect to ourselves.

There will occasionally be a nominee—we are not talking about judicial nominees—there will occasionally be one of the 3,361 executive nominations where this is a problem, that requires an extended debate—and we are fully capable of doing that in the Senate—but the rest of the nominations ought to speed through on a fairly automatic, simplified review, allowing the executive branch to be in a position to see urgent needs, develop a strategy, and try to persuade half of us that he is right, which is the job of the President.

I thank the managers of the bill for this time. I applaud them for their bipartisan action on this bill and their work on the committee. I am glad they adopted the amendment yesterday, and I look forward to working with them over the next several months to see that it does not slide back to the back burner and get lost so that men of the stature of Howard Baker have to spend more than they earn in their first year in Government filling out the forms we require of them even though we have known them and known everything about them for 25 years.

I yield the floor.

The PRESIDENT pro tempore. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise first to thank the Senator from Tennessee for taking the time to come to the Senate floor to express his thoughts, which he has talked to Senator COLLINS and me about earlier. I admire his focus on this area as well as the work and focus of the Senator from Ohio, Mr. VOINOVICH.

The fact is that this is one of those aspects of governmental process and procedure that never gets much public attention but has great consequences for the public, and in this case it is relevant to the underlying bill for national security. There is not much political plus in making this a matter one focuses on in the sense that it does not get headlines, but it is a critically important matter because, as the Senator says so well and eloquently, the delay caused in confirming the nominees has an effect on the quality of public service, in fact has an effect on the content of national security if people cannot be put into the positions where they are needed early enough.

So I thank the Senator. I encourage the Senator—although I probably do not have to—to stay aggressive, to make sure that not only the amendment the Senator from Tennessee and the Senator from Ohio sponsored yesterday that was adopted on the bill is put into place but, more generally, to make sure we fix this.

The Senator from Tennessee has some great anecdotes, too. It is pretty startling to have heard that Howard Baker, a great former Member of this body, spent more time filling out the forms, hiring people to help him fill out the forms, to be Ambassador to Japan than he was going to receive as a salary for the first year of his service. That ought not to happen. Obviously, one of the things that also does, which the Senator knows and has spoken to, is discourage people who may not have the resources to pay for that kind of consultation from going into public service where we need them.

I thank my friend from Tennessee.

I rise briefly to speak in support of the—Mr. President, I am going to hold this statement, which is of a timeless nature, so I can deliver it. I am sure, at any point in the day where there may be a lull. This time was devoted to Senator Byrd to offer an amendment. I did not realize he was here. I welcome him to the Chamber and look forward to hearing his statement.

The PRESIDENT pro tempore. The Senator from West Virginia.

Mr. BYRD. Mr. President, I ask unanimous consent to offer an amendment that affects the bill in more than one place. I have cleared this with the two managers.

The PRESIDENT pro tempore. Is there objection to the request?

Without objection, it is so ordered

AMENDMENT NO. 3845

Mr. BYRD. Mr. President, I call up amendment No. 3845.

The PRESIDENT pro tempore. Without objection, the pending amendment is set aside.

The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from West Virginia [Mr. Byrd], for himself, Mr. Stevens, Mr. Inouye, Mr. Warner, Mr. Harkin and Mr. Johnson, proposes an amendment numbered 3845.

Mr. BYRD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To enhance the role of Congress in the oversight of the intelligence and intelligence-related activities of the United States Government)

On page 10, between lines 16 and 17, insert the following:

(d) Removal.—The National Intelligence Director may be removed from office by the President. The President shall communicate to each House of Congress the reasons for the removal of a National Intelligence Director from office.

On page 10, line 17, strike "(d)" and insert "(e)".

On page 11, line 3, strike "(e)" and insert "(f)".

On page 11, line 5, strike "subsection (c)" and insert "subsection (e)".

On page 22, line 11, strike "(f) and (g)" and insert "(e), (f), and (g)".

On page 24, beginning on line 1, strike ", pursuant to subsection (e),".

On page 24, strike line 8 and all that follows through age 25, line 20.

On page 25, line 21, strike "(f)" and insert "(e)".

On page 27, strike line 1 and all that follows through page 30, line 22, and insert the following:

(f) Role of National Intelligence Director in Reprogramming.—(1) No funds made available under the National Intelligence Program may be transferred or reprogrammed without the prior approval of the National Intelligence Director, except in accordance with procedures prescribed by the National Intelligence Director.

(2) The Secretary of Defense shall consult with the National Intelligence Director before transferring or reprogramming funds made available under the Joint Military Intelligence Program.

(g) Transfer of Funds or Personnel Within National Intelligence Program.—(1) In addition to any other authorities available under law for such purposes, the National Intelligence Director, with the approval of the Director of the Office of Management and Budget—

(A) may transfer funds appropriated for a program within the National Intelligence Program to another such program; and

(B) in accordance with procedures to be developed by the National Intelligence Director, the heads of the departments and agencies concerned may transfer personnel authorized for an element of the intelligence community to another such element for periods up to one year.

(2) The amounts available for transfer in the National Intelligence Program in any given fiscal year, and the terms and conditions governing such transfers, are subject to the provisions of annual appropriations Acts and this subsection.

(3)(A) A transfer of funds or personnel may be made under this subsection only if—

(i) the funds or personnel are being transferred to an activity that is a higher priority intelligence activity;

(ii) the need for funds or personnel for such activity is based on unforeseen requirements;

(iii) the transfer does not involve a transfer of funds to the Reserve for Contingencies of the National Intelligence Director;

(iv) in the case of a transfer of funds, the transfer results in a cumulative transfer of funds out of any department, agency, or element, as appropriate, funded in the National Intelligence Program in a single fiscal year—

(I) that is less than $100,000,000; and

(II) that is less than 5 percent of amounts available to such department, agency, or element; and

(v) the transfer does not terminate a program.

(B) A transfer may be made without regard to a limitation set forth in clause (iv) or (v) of subparagraph (A) if the transfer has the concurrence of the head of the department, agency, or element concerned. The authority to provide such concurrence may only be delegated by the head of the department, agency, or element concerned to the deputy of such officer.

(4) Funds transferred under this subsection shall remain available for the same period as the appropriations account to which transferred.

(5) Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees. Any proposed transfer for which notice is given to the appropriate congressional committees shall be accompanied by a report explaining the nature of the proposed transfer and how it satisfies the requirements of this subsection. In addition, the congressional intelligence committees shall be promptly notified of any transfer of funds made pursuant to this subsection in any case in which the transfer would not have otherwise required reprogramming notification under procedures in effect as of the date of the enactment of this subsection.

(6)(A) The National Intelligence Director shall promptly submit a report on any transfer of personnel under this subsection to—

(i) the congressional intelligence committees;

(ii) the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives;

(iii) in the case of the transfer of personnel to or from the Department of Defense, the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives; and

(iv) in the case of the transfer of personnel to or from the Department of Justice, to the Committees on the Judiciary of the Senate and the House of Representatives.

(B) The Director shall include in any such report an explanation of the nature of the transfer and how it satisfies the requirements of this subsection.

On page 47, line 19, insert before the period the following ", by and with the advice and consent of the Senate".

On page 53, line 2, insert before the period the following ", by and with the advice and consent of the Senate".

On page 55, beginning on line 5, strike "the National Intelligence Director" and insert "the President, by and with the advice and consent of the Senate".

On page 60, beginning on line 14, strike "appropriately".

On page 61, line 11, insert "and Congress" after "Director".

On page 61, line 21, strike "significant".

On page 63, line 16, insert "and the congressional intelligence committees" after "National Intelligence Director".

On page 138, beginning on line 21, strike "and to Congress" and insert ", to the Select Committee on Intelligence and the Committees on Appropriations and Governmental Affairs of the Senate, and to the Permanent Select Committee on Intelligence and the Committees on Appropriations and Government Reform of the House of Representatives".

On page 140, strike lines 5 through 14 and insert the following:

(2) Deputy Director of Management and Budget for Information Sharing.—There is within the Office of Management and Budget a Deputy Director of Management and Budget for Information Sharing who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy

Director shall carry out the day-to-day duties of the Director specified in this section. The Deputy Director shall report directly to the Director of the Office of Management and Budget. The Deputy Director shall be paid at

On page 174, strike lines 14 through 22.

Mr. BYRD. Mr. President, I ask unanimous consent that the following Senators be added as cosponsors of my amendment: Senators STEVENS, INOUYE, WARNER, HARKIN, and JOHNSON.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, first, I express my appreciation to the two managers for their courtesies that they never fail to extend. I also want to express my appreciation to the distinguished President pro tempore who is in the chair this morning, Senator STEVENS, my soulmate on the Appropriations Committee.

In 2001, we witnessed the failure of our Government to utilize its intelligence capabilities to protect our Nation against a terrorist attack. For too long, the Congress has deferred to the executive branch on intelligence matters. Congress has failed to vigorously discharge its constitutional oversight responsibilities. I do not say that by way of finding fault with any Senator.

The 9/11 Commission illustrated the dangers of this practice. The consequence has been foreign policy failures, prison scandals, politicized intelligence that has led not only to a desperate state of affairs in Iraq but has also left our Nation vulnerable to further terrorist attacks. It is painfully clear that there are dire consequences when the Congress abdicates its constitutional duties to oversee the intelligence agencies within the executive branch.

Senators need to be reminded—I need to be reminded as well—that the Congress is a consumer of intelligence. Senators must have access to good intelligence to make informed decisions about our military, about our foreign policy, about the solemn charge to authorize war, and that remains a constitutional function, authorization of war.

I am sorry to say I did not hear anybody in last night's debate on either side mention the Constitution of the United States, not once. The Constitution gives Congress alone the power to declare war or authorize war. The Congress must ensure that it is fully and currently informed of all matters that may bear on the exercise of that constitutional authority. Senators ought to be cautious about intelligence reforms and ensure that the role of the Congress in intelligence matters is not undermined. Reform means fixing what has gone wrong, not giving the executive branch more authority to conduct end runs around the Congress.

When I speak of the executive branch, I speak generically, both when it is under Democratic control and Republican control. We must ensure that the top national security officials specified in this bill are subject to Senate confirmation so that they are held accountable to the elected representatives of the people.

The first three words in the preamble of the Constitution are, "We the people. . . ." "We the people. . . ." And yet, I say, that Constitution was not mentioned once last night.

We must ensure that Senators have access to information necessary to fulfill their Constitutional duties. We must ensure that the Congress does not codify loopholes through which the executive can deny the Congress relevant information. Perhaps most importantly, we must ensure that funds appropriated by the Congress cannot be rerouted without the consent of the people's representatives in Congress.

The Governmental Affairs Committee has ensured accountability to the Congress in many of these areas, but I believe more can be done.

This is an amendment which I have proposed, along with Senators STEVENS, INOUYE, WARNER, HARKIN, and JOHNSON to remove the qualifiers on Congressional access to information, to ensure that the Congress's role in intelligence matters is preserved, and to ensure that the American people are protected.

This amendment requires Senate confirmation of the following positions within the National Intelligence Authority and the Office of Management and Budget: four deputy national intelligence directors, the Officer for Civil Rights and Liberties, the Privacy Officer, and the Deputy Director of OMB for Information Sharing. It is vital that the Congress have access to these officials and be able to hold them accountable for their decisions, particularly in the area of civil liberties.

To further that goal, my amendment requires that the Inspector General of the National Intelligence Authority keep the congressional intelligence committees fully and currently informed of violations of law and civil liberties.

However, the greatest protection against abuse within the intelligence agencies is to monitor closely their budgets. The Congress should jealously guard its power of the purse, and, to do that, I have worked with Senators STEVENS and INOUYE to ensure that the authorities granted to the national intelligence director to transfer personnel and funding within the National Intelligence Program closely reflect current law.

Our amendment strikes language authorizing the Treasury Secretary to establish new budget accounts for the use of the national intelligence director. This is a function of the Congress, which has the authority to determine how accounts should be constructed to fund our national intelligence.

My amendment allows the national intelligence director, with the approval of the OMB Director, to transfer appropriated funds within the National Intelligence Program, and the heads of the departments and agencies to transfer personnel within the intelligence community for periods up to 1 year, under the following conditions:

A transfer of funds or personnel may be made only to an activity that is a higher priority; and unforeseen requirement; but not to the Reserve for Contingencies of the national intelligence director. The cumulative transfer in a single fiscal year must be less than $100 million and less than 5 percent of amounts available to such department, agency, or element; and the transfer of funds cannot terminate a program.

A transfer may be made without regard to the $100 million and 5 percent limitation if the transfer has the concurrence of the head of the department, agency, or entity concerned—provided, always, that the transfer conforms with the strict limitations set by the Congress each year in its annual appropriations acts.

Funds transferred shall remain available for the same period as the appropriations account to which transferred; and any transfer of funds or personnel shall be reported to the appropriate congressional committees, such as Appropriations, Judiciary, Armed Services, and Intelligence.

I am confident that if these qualifications are adhered to, the power of the purse will continue to rest safely in the hands of the people's elected representatives.

In addition, Senators should take note of Section 224(b)(3) of the pending bill, which would permit the national intelligence director, the Director of the National Counterterrorism Center, or the Director of a national intelligence center to withhold information requested by the Congress if the President certifies that such information will not be provided because the President is asserting a privilege pursuant to the United States Constitution.

It is unclear exactly which privilege the President would invoke, but, given the vague language contained in this provision, a bold and impulsive administration, much like the one currently inhabiting the White House, could concoct nearly any excuse to invoke a so-called "privilege" to withhold documents requested by the Congress. Giving any administration an unrestrained green light to trump any and all forthcoming Congressional requests for information, based on some undefined and nefarious assertion of executive privilege as described in this provision, would be an unmitigated disaster. My amendment strikes that egregious language.

It is my hope, as well as the hope of my colleagues who cosponsored this measure with me, that this amendment will ensure that the Congress's Constitutional role in intelligence and foreign policy matters is safeguarded.

However, Senators should understand that the statutory authority to oversee our intelligence community means very little if it is not utilized. We must be vigilant in our oversight. We must be aggressive in our inquiries. We must not abdicate our Constitutional duties.

I urge the adoption of my amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. CHAMBLISS). The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, needless to say, I thank the Senator from West Virginia, whom, as does everyone in the Chamber, I greatly admire. He is a real authority on this matter, so I speak both with respect and a certain sense of humility.

This recommendation that Senator COLLINS and I and our committee brought before the Senate rose out of reality. And the reality is that we have an intelligence community with a lot of extraordinary people and technological assets but, as the 9/11 Commission said, there is no one in charge. I repeat, it is like a football team with great players but no quarterback. In fact, some of the players, as great as they are, are playing in a different stadium than the one where the game is.

The 9/11 Commission has said to us that its foremost goal, the most urgent recommendation it makes to the Congress for what to do if we want to believe that we have done everything we can to prevent a terrorist attack of the scope of 9/11 from happening in this country again, is to create—establish a strong national intelligence director, a leader where there is no leader, a quarterback where there is no quarterback. That is what Senator COLLINS and I have done in our proposal.

A strong national director—but what is the element of strength? It is budget authority. It is the power to bring together the agencies under the director for a unity of effort, like the joint commands in our military which grew out of Goldwater-Nichols, after a period of time and a lot of opposition when they were first considered on the floor, not dissimilar to some of the opposition and anxiety that has been expressed about the national intelligence director in our time. They worked extremely well.

So we have created a strong director with budget authority to formulate budgets, to receive funds, to allocate them—with justification, not wantonly; to transfer budget, transfer funds to meet an emergency; to transfer personnel to achieve a national purpose.

In our deliberations in the Governmental Affairs Committee we see warning after warning that if you are going to do this right, you have to give this national intelligence director real power.

In this morning's paper, the Washington Post, Friday, October 1, an article by Charles Babington quotes from a press conference I presume by the Chair and Cochair of the 9/11 Commission, Governor Kean, former Republican Governor of New Jersey, and Congressman Hamilton, former Democratic Congressman from Indiana. Governor Kean says at one point, the story says:

> Governor Kean meanwhile spoke sharply against House provisions and proposed Senate amendments that would limit the national intelligence director's authority over spending and personnel decisions in agencies under them.

It goes on to say:

> The House bill will keep more of that power in the Pentagon.

Then Governor Kean says:

> On behalf of the nonpartisan commission, this is not an area where one can compromise. If you are not going to create a strong national intelligence director with powers both appointive and over the budget, don't do it.

I repeat:

> If you are not going to create a strong national intelligence director with powers both appointive and over the budget, don't do it.

That is the advice we heard over and over again from former Directors of Central Intelligence, from experts in the field, from members of the Commission.

I say respectfully that the amendment which Senator BYRD and the distinguished list of cosponsors put before us this morning would have the effect of weakening the authority of the national intelligence director and, therefore, bring us back to the place where we were, where there wasn't a strong quarterback, where there wasn't a strong general, if you will, of our intelligence forces in the war against terrorism.

As I read it, it strikes the section that establishes accounts for the national intelligence program funds under the jurisdiction of the national intelligence director, and the national intelligence director would control the management, including the allotment of appropriated funds to the elements of the intelligence community.

I would like to have some discussion on this. But as I read one of the two parts of this which strike me as most troubling, it is the part that seems to say that our attempt in this bill—our clear intention stated in the bill—is to make sure that strange situation we have where 80 percent of the funding for intelligence, billions and billions of dollars, goes not to the intelligence community first but to the Department of Defense. The Department of Defense is a critical—in some sense, the largest—customer of intelligence, but it is not the only customer. The President of the United States is the No. 1 customer. The Department of State, the Department of Homeland Security, FBI—one could go on and on—they are also important users of intelligence.

We have said that the funds of the national intelligence program budget should go to the national intelligence director and give that person the authority that comes with the money to allocate those funds throughout the agencies underneath him, and give him thereby some clout to create unity of effort, to bring people together, to overcome the weaknesses.

As the 9/11 Commission Report describes it—and Senator COLLINS and I keep telling the story—George Tenet, former Director of Central Intelligence, in 1998, after a series of al-Qaida attacks on Americans and American targets abroad, declares war on terrorism. It was a classified document within the intelligence community and it is now public. It states the case very strongly. It says we have to devote all of our resources to it, and nothing happened.

Senator BYRD is a great student of the Bible. I so appreciate it. He brought it with him to the Senate floor yesterday. I take this opportunity to quote from the Bible. Perhaps it was from Corinthians. "If the sound of the trumpet be uncertain, who will follow into battle?"

My worry here is that in this case, the trumpet is money. If the authority of the national intelligence director over the funds is uncertain, then I worry that the troops are not going to follow them into battle just as they didn't follow George Tenet when they declared war or terrorists and terrorism in 1998. We might have even been better off and maybe even have avoided 9/11 if something had happened in response to that.

This amendment seems to say that the money we want to go to the national intelligence director can't because in our attempt to establish accounts, we now, in this act of Congress—Senator BYRD is absolutely right, this is a congressional decision, but we are offering our colleagues that decision, which is to set up those accounts in the Treasury Department for the national intelligence director so that director can receive the funds and then allocate them.

Second, the two elements of authority for the national intelligence director as the general of our intelligence forces are to transfer personnel and funds. I appreciate the fact that this amendment does not take away that authority, and when Senator COLLINS and I started out, we worried people would resist that authority altogether in the national intelligence director. So I appreciate that. But it does limit the authority of the director to transfer personnel and money in a way that

I think weakens the director and undercuts the purpose we want and the reasons we want them to be powerful, to give this intelligence force the flexibility to focus, the agility to respond to realities in the world.

These terrorists are not only brutal, not only inhumane, not only don't value human life, not only convince themselves zealously that they are doing God's work by killing God's children wantonly, but they are agile. They will look for weaknesses in the system and move to attack. That is why the national intelligence director has to have the ability to move money quickly. It may be that there is a crisis area somewhere or a new kind of threat to the United States and the director decides he has to move funds to meet that threat.

This is not an authority that is unlimited or even beyond the control of the law today. Our bill makes sure that there is congressional oversight on the transfer of the funds. The amendment would limit the transfer of funds. It would have to be less than $100 million and less than 5 percent of the budget of the entity from which the money is being transferred unless the relevant department head concurs in the transfer.

I want to assure the Chamber and Senator BYRD that our amendment, though it does not put those limits on the transfer because we don't know what kind of threat may emerge and where the national intelligence director may feel in the national interest he wants to move those funds, makes sure there is congressional oversight. It provides that any transfer of funds by the national intelligence director must be carried out in accordance with the existing congressional notification procedures. Congress still has the right to approve.

Moreover, the national intelligence director is required to submit a report to the appropriate committees of Congress explaining the nature of the transfer and how it meets the relevant statutory requirements.

Finally, our bill also requires that any transfer of funds or personnel not exceed applicable ceilings established in law for such.

This means that while we are setting the standard for the national intelligence director, Congress each year as it adopts the budget reserves the right to put instructions in that. I might oppose it, but it includes the possibility of limiting the transfers, as has happened in the past. We wanted to make sure—in some sense to reassure ourselves and our appropriators—that this bill says that any transfer of funds or personnel would not exceed applicable ceilings established in law for such transfers.

We want to provide the national intelligence director with the necessary flexibility and force to respond with speed to a crisis, and not establish, therefore, permanent caps on this legislation that might hinder the director's ability to make those changes that are necessary.

Under the current system, the DCI lacks budget power. DOD controls 80 percent of the intelligence budget, whereas the director of central intelligence effectively only controls a budget of one agency, the CIA.

Secretary Powell commented on this current reality at our hearing on September 13, 2004, by saying:

> The DCI was there before but the DCI did not have that kind of authority, and in this town it's budget authority that counts.

Chairman Kean and Vice Chairman Hamilton said in their testimony at our first hearing on July 30:

> The national intelligence director would not be like other czars who get the title but have no meaningful authority. He will control national intelligence program purse strings.

For those reasons, respectfully, this amendment would seriously weaken the authority of the national intelligence director, and therefore, I believe, the director's ability to protect our national security in an age of terrorism.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, before I comment on the specifics of the amendment of the Senator from West Virginia, let me join Senator LIEBERMAN in expressing the utmost respect that I have for the Senator from West Virginia. His devotion to the Constitution, to the Senate, to the country, and to his family is truly legendary. I have learned so much just from watching the Senator from West Virginia. In fact, he inspired me to get a copy of the Constitution, and while I don't carry it with me as he does, I have it in my briefcase. It was his example that inspired me to do that.

Like Senator LIEBERMAN, I have, nevertheless, many concerns about the pending amendment. In drafting our bill, we made very clear the authority that the new national intelligence director would have. We did not want to simply create another layer of bureaucracy. What we wanted to do is to empower the NID with significant budget personnel, standard-setting authority, so that this individual could make a difference.

I remember in the testimony before our committee the consensus among the witnesses was that in order for the NID to be effective, strong authority was absolutely critical. Indeed, the assistant DCI for community management said it very forthrightly. He testified as follows:

> We must be flexible in shifting people and money to respond to emerging priorities. Today's intelligence budget system does not meet this criteria.

Senator BYRD's amendment imposes significant restrictions on the ability of NID to transfer personnel and to transfer funds. That concerns me greatly.

Under the Collins-Lieberman bill, with OMB approval, the NID may transfer or reprogram funds appropriated for a program within the national intelligence budget to another program. The NID is required to consult with the heads of the affected agencies prior to implementing such a reprogramming or transfer, but our bill does not require their approval. We make very clear that the reprogramming and transferring approvals and restrictions as far as congressional authority are included in our bill, as well.

If we require the concurrence of the agency heads before personnel or money can be moved around, we essentially have made no improvement in the current system. That is not progress. In fact, it is exactly the problem the 9/11 Commission identified over and over again as a major flaw in the current system.

The NID needs to be able to marshal the people, the funds, and the resources necessary to counter the threats we face. That is the bottom line.

The current authorities for the DCI are insufficient because they permit agencies to prevent the DCI from transferring funds or people simply by objective. That is what we need to change.

I am also concerned about making additional positions created by this bill subject to Senate confirmation. The privacy and civil rights officers at the Department of Homeland Security are not Senate-confirmed positions. I see no reason for treating the privacy and civil rights officers that would be created by this bill any differently.

There is another point that I make about the restrictions in the Senator's amendments on reprogramming and transfer authority. That is, if we are going to impose these kinds of restrictions, we are not improving the system in any significant way, and we are allowing the long delays that plague the current system to continue.

Acting CIA Director John McLaughlin told me it can take as long as 5 months for him to reprogram funds. In the threat environment we face today, we cannot afford a 5-month delay in transferring urgently needed funds to counter the threat we face.

The amendment of the Senator from West Virginia would represent a significant weakening of the authority in this bill, and I urge my colleagues to oppose it.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from West Virginia.

Mr. BYRD. Walt Whitman said:

> A man is a great thing upon the Earth, and through eternity—but every jot of greatness of man is unfolded out of woman.

So let me pay tribute to our Presiding Officer at this moment.

Madam President, I have the utmost respect for the two managers of this bill. I have the utmost respect for their dedication and for the knowledge which they bring to bear upon this subject. I am not a member of the committee that has jurisdiction over the legislation before the Senate. So I salute them and tip my hat to them and bow to them.

So what I say is certainly in no fashion, in no way or form any criticism of them. They are doing the best they can do.

But the Constitution of the United States still lives. It still governs. Let's read this paragraph from section 9 of the U.S. Constitution:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

Let these words sink in:

> . . . and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

We have to keep that provision in mind.

The amendment I have offered today simply ensures that the national intelligence director spends money in accordance with the annual appropriations bills. It provides the flexibility that the director may require but limits that flexibility to the laws passed by Congress and to the knowledge that there is this provision:

> . . . a regular Statement and Account of the Receipts and Expenditures of all public money—

"All public money."

> . . . all public money shall be published from time to time.

We cannot allow this national intelligence director to spend the people's tax dollars without restraint, without some limitation, without some restraint. A $40 billion blank check? We cannot allow the national intelligence director to spend money without regard to Congress. There must be some limitations on his spending authority.

Without this amendment, the intelligence director, and not the Congress, will determine how certain appropriated moneys are spent. We must not remove all limitations on this new intelligence director. If we yield the power of the purse to this new intelligence director, then we have only limited means to rein him in if there are abuses of power.

My amendment limits the transfer of appropriations to $100 million and even allows the Department heads to waive that limitation as long as it is consistent with appropriations law. That, it seems to me, should be more than enough flexibility. We must retain some limitation. The intelligence director must not be allowed to write his own appropriations bill. That would elevate him above the Congress. That will elevate him, an intelligence director, above the people's elected representatives in Congress.

We talk about the trumpet that gives an uncertain sound. Yes. How can we be certain as to what we are doing when we are rushed and pressured into passing legislation as major as this legislation in such a limited time, which is hours? We are being pressured to pass this legislation before we adjourn sine die. This is massive legislation. It is far-reaching legislation. The Congress should not have to operate under a hammer, as we are being driven here.

Henry Kissinger came before the Appropriations Committee when Senator STEVENS held those hearings. I compliment my chairman, Mr. STEVENS, on having those hearings. Henry Kissinger, a man with vast experience, vast knowledge, advised us not to pass this gargantuan measure in such a hurry and under such pressure and during a Presidential campaign.

I say to my colleagues, we ought not bend to the lash of the whip on the part of the leadership, on the part of the administration, on the part of anyone else. We should take more time. We do not know what we are doing here. I am seeking to protect the people's representatives and the Congress from making what could be a major mistake.

We were rushed into passing legislation creating a Department of Homeland Security, were we not? I tried to get more time. I tried to get the leadership on both sides to listen. They would not listen. Now we find that there are major problems with that Department.

On that fateful occasion on October 11, when the Senate voted to shift the constitutional power to declare war from the Congress—not just one body of Congress, but both bodies of Congress—to one man, oh, what a terrible mistake that was, what a terrible error. We were told: Let's get it behind us. Let's get it behind us. Let's get it behind us. The idea was to get that legislation passed before that election. So the Senate passed that legislation in a hurry, on October 11 of that year.

Oh, we will always rue that day that the Senate bent to the urgings of the leadership, which said: Let's get it behind us. We have not gotten it behind us. We did not get it behind us. I said at the time we would not get it behind us. I said at the time that the President, Mr. Bush, would not let us get it behind us. That was what he wanted. He wanted the Senate to bend in that critical hour before an election so that the Senators who voted on that measure would be somehow conscious that there was an election down the road, and particularly those who were running would be under the whiplash of an election.

Oh, what a terrible mistake. I felt so ashamed. For the first time in my 46 years in this Senate, I felt ashamed that the Senate was knuckling under to the executive branch and making a mistake which is rued to this day and will be rued to the end of time. That blotch upon the escutcheon of this great body, the first time in my 46 years that I was ashamed, this Senate stood mute. It stood bowed. It was intimidated.

And we can make another mistake if we go and rush in too big a hurry. We are doing a big thing here. I do not set myself up as anyone who has the vast knowledge that Mr. LIEBERMAN has or that Ms. COLLINS has over this subject matter. I am not on that committee. But I do know when we are being pressured to act in too big a hurry. This is a big bill. Why can't we wait until after the first of the year? Why can't we wait until a new Congress, perhaps with a new President—who knows?—a new Chief Executive? Why can't we wait and do the job right? This is a job that we ought to do right and not do it under the gun.

I do not know what is in this bill. I am not on the committee. I do not know what is in this bill. I do not claim to know what is in the bill. But I tell you, we must not remove all limitations on this new intelligence director. Why, this man is going to be God when it comes to appropriations and legislation and matters affecting the people.

This is the perfect example of how we are rushing through this intelligence bill without fully understanding what we are doing. I do not understand what we are doing, and I need to understand what we are doing. To properly represent the people from West Virginia, I need to understand what we are doing.

Now, fortunately, I have a good colleague on the Intelligence Committee, Senator ROCKEFELLER. But I tell you, we are dealing with matters that go to the heart—the heart—of a free government.

Englishmen spilled their blood for centuries to wield the power of the purse away from monarchs in England. They shed their blood, yes, going all the way back to the Magna Carta, the great charter, in 1215. It was signed on the banks of the Thames River.

I think we ought to go a little slower. This is a perfect example of how we are rushing through this intelligence bill. I say it with all due respect to Senator LIEBERMAN and Senator COLLINS. I admire them, but I admire the Constitution also. I think we ought to stop, look, and listen, and slow down a little bit here.

Without this amendment, the Congress will cede its power of the purse just as it ceded the authority to declare war 2 years ago. We owe it to the 9/11 families to get this right. I say to my staff all the time: If you don't do the job right, how are you going to find time to do it over? That applies in this instance, too. I say that with all due respect.

There is nothing to keep my colleague—my cherished friend, for whom I have great admiration—from coming back next year, from sitting in the driver's seat and doing this thing and doing it perhaps better than he has done it in the first instance. I have no doubt that he would go at it with a will.

In the long run, the victims of 9/11 will not forgive us if we give away the power of the purse. And don't forget, it is not just that first sentence. There is more to it than the first sentence:

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all—

Not just some, all—

> public Money shall be published from time to time.

Better ponder that bit of verbiage before we get in too big a hurry here.

We will have some opportunities to talk further about this amendment. In sitting down, let me again pay homage to my friend, a public servant whom I long have admired, and this fine lady. I tell you, she is a stalwart. But God save the Constitution. God save it. Let's don't be in too big a hurry. Take a little more time and do it right.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, let me first thank the Senator from West Virginia for his kind words. The truth is, these are critically important matters we are debating. I feel a sense of responsibility and honor in having the opportunity to speak to them. But I must say, to be involved in a debate such as this with the Senator from West Virginia is in itself an honor.

We disagree on this particular amendment, but I so respect the core of his values that motivate him and guide him every day. I know he only wishes the best for our country and for our Congress. I don't say it lightly. I hope he understands these are not reflexive words and praise. It is an honor to be involved in this kind of debate with the Senator from West Virginia, who is a very vital Member of the Senate today but a part of Senate and American history. I thank him very much for caring enough about what we are doing to come here this morning and offer this amendment.

Of course, he is the man who carries the Constitution right by his heart and reminds us of what it requires of us. It is a founding document. It is in many ways a sacred document to all of us Americans. I assure him, with regard to the sections of the Constitution he read about the appropriate allocation of responsibility of the Congress and the executive branch regarding fiscal decisions, there is nothing in this bill Senator COLLINS and I bring to the Senate that would alter that balance in any way. I will speak to that in a bit.

There is an alteration of authority and power in this proposal Senator COLLINS and I have made, but it is not altering the existing, constitutionally based power relationship between Congress and the executive. It does alter the allocation of authority and money and, therefore, power between various agencies of the executive branch. But there is no change in the congressional-executive relationship.

Yes, there are some necessary changes in the relationship between the Department of Defense, CIA, FBI, and a new national intelligence director who gains power here. So some may have to give up a little bit, but that is in the national interest. That is the first point I want to assure the Senator on.

Senator COLLINS and I are not only devoted to the Constitution, we are devoted to the critical role the Constitution gives Congress in these matters. I want to assure the Senator, again, that we have done nothing to alter the authority of Congress.

I will read from page 28 of our bill, section (4). This is the section that goes to the transfer authority of the national intelligence director. On line 23, it reads:

> Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for the appropriate congressional committees.

Then it goes on:

> The National Intelligence Director shall promptly submit to the appropriate committees of Congress a report on any transfer of personnel made pursuant to this subsection.

Of course, there is a section in here that "requires any transfer of funds or personnel not exceed applicable ceilings established in law for such transfers." So any succeeding Congress reserves the right to establish such limits in law, and they will not be altered by the Collins-Lieberman proposal.

The second thing to say is the authority we give the national intelligence director—that we believe so strongly that director needs—is not without control. No one is going to confuse this director with a god, even a god of intelligence. He will be a director of intelligence but he will be limited.

For instance, transfers of personnel and budget will be subject to the approval of the Office of Management and Budget.

So ultimately what does that mean? It means the Commander in Chief has to approve. If there is a fear that this national intelligence director may do some things that, let's say, the Secretary of Defense doesn't like, the Secretary of Defense can go right to the President and say I don't like this and please get the OMB director not to approve these transfers. The final responsibility for the decision goes to where it should be ultimately in our system, which is to the President.

We also require consultation with department heads before transfers of budget or money or personnel are made. We require that the transfers only be made for what we call a higher priority intelligence activity. We don't expect this to be done wantonly. We are not allowing it to be done wantonly, to override the appropriations of Congress. We are saying we want that director, though, to have the ability, if there is a crisis, to move money like a general moving troops to the point where the Army is being attacked. As I said earlier, the transfers have to occur within applicable ceilings established by law.

So I say this, finally, to my dear friend and respected colleague from West Virginia. There is an urgency here, which is the urgency of the terrorist threat that we face. The 9/11 Commission has been clear about this. They believe we are in a situation where still, today, no one is in charge of our intelligence community. We had testimony before our committee in terms of Osama bin Laden, that evil person who concocted and directed, or conceived and directed the attack against America on 9/11/01, killing almost 3,000 innocent civilians. Obviously, he is the No. 1 target for us today. In the hunt for Osama bin Laden, there is no one in charge. We have two or three agencies of our Government going at this, but there is no one in charge. The national intelligence director will put somebody in charge. That is the urgency, that we remain at war and we are not organized as well as we should be. The urgency is the urgency that a general in combat would feel is clear if the enemy is taking advantage of a particular vulnerability in his forces. He would move quickly to shore up that vulnerability. That is what we are doing as well.

In closing, families of the victims of September 11 have formed a group to advocate, in some ways, in the memory of their husbands, wives, fathers, mothers, and children who were lost on September 11, to make sure we do what they think we ought to do to protect other families from suffering. They sent a letter to Members of Congress a week or two ago in which they said:

> Sufficient information necessary to make a decision as to a new, improved structure for the Nation's intelligence community is currently available to all Members of Congress. Opinions may differ as to how improvements are best accomplished, but those differences can be addressed within the framework of the legislation being proposed. There is no excuse for deferring decision-making, given the wealth of information available.

Again, that is from families of the victims of September 11. I promised that would be the last word, but this will be the last word. I say to the Senator from West Virginia that the very introduction of this amendment and the discussion it engenders today between yourself, Senator COLLINS, and me, and hopefully other Members listening and involved is part of the process, similar to what we went through in our Committee. I think a lot of Members came to the Committee hearings and deliberations, and we went on for two days of markup. We had almost 50 amendments. We conducted a very open discussion. We listened and, in some cases, we altered language in the mark we laid down because we thought Members made good points. In other cases, we said it hurts the purpose of what is required. In the end, because everybody felt we worked together and learned a lot, we were very pleased to say the bill was reported out unanimously. I must say that one of the members, when the roll was called, gave an answer that I had never heard before. Instead of saying yea or nay, he said "barely yea." We got him just over the threshold.

My hope is that as a result of the discussion on this amendment, we get to a point at the end of the day, or next week, that we can have a similarly strong vote that will reflect a confidence that we have all together learned, that we have protected our values, constitutionally speaking, and our security, and done the best we could and will adopt this with a real sense of confidence.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Madam President, as we have indicated, the legislation before the Senate is the product of a concerted effort by the Governmental Affairs Committee to reflect the testimony of more than two dozen witnesses at eight hearings. It reflects the recommendations of other committees who gave us input into the legislation, and it builds upon the work of the 9/11 Commission. But it is important to know that the 9/11 Commission did not start from scratch, either. Its work takes into account nearly a half century of studies on intelligence reform, dating back to the Eisenhower administration. Indeed, the calls for reform go back 50 years. For nearly 2 years, the 9/11 Commission conducted an investigation of unprecedented depth. They interviewed more than 1,200 witnesses in 10 countries, yet we hear again those who counsel: Not yet; we are going too fast; we should wait; we need more information; under the current threat of terrorism, the time isn't right; the highly charged political atmosphere of a Presidential campaign creates an environment that is not right for such an important decision.

I ask, what more information do we need? If you look at the list of witnesses who testified before the 9/11 Commission, before the Governmental Affairs Committee, before the Armed Services and Intelligence Appropriations Committee, I would say, what point of view has not been heard? What area of expertise was not explored? What more compelling evidence do we need? I ask, if the time isn't right to act now, when will the right time ever come? When will there be no threats? When will we be at peace?

The war against terrorism is likely to have to continue for many years. I believe we will have failed the American people if we do not act on an issue that is so important to the security of our country.

I think the chairman of the 9/11 Commission, Thomas Kean, said it best when he spoke at our very first committee hearing on July 30 of the urgent need to move forward with these reforms. This is what he said:

> These people are planning to attack us again, and trying to attack us sooner rather than later. Every delay that we have in changing structures to make that less likely is a delay that the American people can't tolerate.

I think he said it well. The stakes are too high. The matter before us is too compelling. Even as we debate this legislation, we know that terrorists are planning to attack our country. We know that we are at an increased risk of terrorist attack. We see it all around this Capitol at the intersections and with the increased security. How can we not act? What more do we need to know?

If we do not act, I think we will have failed to respond to an urgent threat, and we will have failed in our responsibility to do everything we can to make our citizens safer.

Now is not the time to delay. Now is the time to move forward, and to move forward with a bill that makes a difference, not a bill that tinkers around the edges or makes a few cosmetic changes but, rather, with a bill that makes fundamental reforms to respond to deficiencies, inadequacies, and flaws that have been identified time and time again over 50 years.

I thank the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, I have no intention of belaboring this today. I understand we are going to vote next week, on Monday at 3. I hope we will have an opportunity to debate this further on Monday.

The distinguished Senator, Ms. COLLINS, has said: What more do we need? What other witnesses do we need to hear? Let me name some witnesses who are represented by the distinguished Henry Kissinger when he appeared before the Appropriations Committee. What an impressive bipartisan array of national security experts pleading with Congress not to rush these reforms. The list is a list of stars from both sides of the aisle, as it were: David Boren, Bill Bradley, Frank Carlucci, William Cohen, Robert Gates, John Hamre, Gary Hart, Sam Nunn, Warren Rudman, George Shultz, as I have already mentioned, Henry Kissinger.

These men from both sides, both political parties, men who have held preeminent positions in this Government, Republicans and Democrats, appeared before the Appropriations Committee and said: Wait, don't act in too great a hurry. They have decades of knowledge and experience, and yet we stand ready to dismiss their concerns out of hand.

Let us not be rushed into this. I am not opposed to a national intelligence director. I am not opposed to that. Elections are a perfect time for a debate but a terrible time for decisionmaking. When it comes to intelligence reform, Americans should not settle for adjustments that are driven by the calendar instead of by common sense. They deserve a thoughtful, comprehensive approach to these critical issues.

I am not saying the distinguished members of that committee were not thoughtful. They were. But if, as seems likely, Congress considers it is essential to act now on certain structural reforms, we believe it has an obligation—I do—to return to this issue early next year in the 109th Congress to address these issues more comprehensively. It would seem to me that—let me say again—such a list, a list of stars, as former members of the Government are concerned: David Boren, Bill Bradley, Frank Carlucci, William Cohen—so you see, we have former Secretaries of Defense here—Roberts Gates, John Hamre, Gary Hart, Henry Kissinger, Sam Nunn, Warren Rudman, and George Shultz. These luminaries are asking for more time. These witnesses testified before the Appropriations Committee, and all of them said: Go slow; go slow.

Let me tell you who these people are. Dr. John Hamre is the CEO at the Center for Strategic and International Studies. The others have services and titles that speak for themselves. I will not go into these. But I am simply saying we need to talk some more about this next week. I hope we will ponder carefully. I am not opposed to a national intelligence director, but I simply say we should have more time.

We saw, Madam President, the unwisdom of being in a hurry when it came to the invasion of Iraq. Our Government invaded. It won a short war, but it had not given proper thought to what would come after, had not given proper thought, it had not planned properly and carefully for a postwar Iraq. And now look at what is happening. Look at the terrible cost, the terrible price this Government is paying—paying with the blood of the sons and daughters of our country. Think of it.

Let's don't be in such a big hurry. Let's take more time.

Madam President, I shall have more to say at a later time. I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the Senator from West Virginia.

I note the distinguished chairman of the Senate Armed Services Committee is now on the floor, and I would like him to proceed whenever he wishes.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I thank the managers of the bill. Before I commence, I wonder if I might comment on the presentation of the distinguished Senator from West Virginia, which I was privileged, as many others were, to listen to very carefully. It was prepared in his usual very thorough style, magnificently delivered. I am going to take a close look at it. I thank the Senator for his contribution to this effort.

Mr. BYRD. Madam President, will the distinguished Senator yield?

Mr. WARNER. Yes.

Mr. BYRD. Plato thanked the gods for having been born a man. He thanked the gods for having been born a Greek. He thanked the gods for having let him live in the same age as Sophocles. And so I thank the benign hand of destiny for allowing me to live at a time and to serve at a time when the great Appropriations Committee of the Senate was chaired by the very distinguished Senator from the great State that is the mother of Presidents, the State of Virginia, a state from which comes the first President of this country, the first Commander in Chief of the Nation, George Washington.

I have always admired Senator WARNER. He is a gentleman, first of all, and that goes a long way in this body. I thank him for his comments. I thank him for his cosponsorship of 'this amendment, and I look forward to what he has to say.

Right now, I should go to the Hart Building, where a woman who has been my wife for 67 years, 4 months, and 2 days, is waiting to see me. We are going to have lunch together, thank the Good Lord. So if all Senators will allow me to leave the Chamber now, I shall go.

Mr. WARNER. Madam President, not until I make the following observation: First, I thank the Senator for his comments. They are undeserved but I appreciate them. I remember how many times on this floor the Senator has recounted the importance of his wife's role in his career, but the one I always remember—I have only been here a mere 26 years as compared to my senior colleague—was during my first couple of years, and we were going well into the night. The Senator paused to say how he used to go to night law school, and although he was a Member of Congress and burdened with the duties, she would come with a little lunch bag with a carton of milk and a sandwich to tide him over until he left the Chamber, whether it was the House or the Senate, and go to night law school to get his degree. I always remembered that.

Give her my warmest regards.

Mr. BYRD. If the Senator will yield, I thank him for his magnificent encomium to my better half, a woman who has guided me and who has served her country and her State so well. I thank the Senator for what he has just said.

AMENDMENT NO. 3877

Mr. WARNER. Madam President, I thank the distinguished managers of this bill. I rise now for the purpose of sending an amendment to the desk and ask for its immediate consideration. I note that Senator STEVENS and Senator INOUYE are cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. STEVENS and Mr. INOUYE, proposes an amendment numbered 3877.

Mr. WARNER. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the requirements for the concurrence of the National Intelligence Director in certain appointments)

On page 40, strike line 18 and all that follows through page 41, line 4, and insert the following:

(b) CONCURRENCE OF NID IN CERTAIN APPOINTMENTS RECOMMENDED BY SECRETARY OF DEFENSE.—(1) In the event of a vacancy in a position referred to in paragraph (2), the Secretary of Defense shall obtain the concurrence of the National Intelligence Director before recommending to the President an individual for nomination to fill such vacancy. If the Director does not concur in the recommendation, the Secretary may make the recommendation to the President without the concurrence of the Director, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

On page 41, line 12, strike "CONCURRENCE OF" and insert "CONSULTATION WITH".

On page 41, beginning on line 15, strike "obtain the concurrence of" and insert "consult with".

Mr. WARNER. Madam President, this amendment is for the purpose of bringing into realignment what I believe is the proper balance of the authorities of the new NID together with the respective Cabinet officers, each of whom has some portion of intelligence responsibilities remaining, as well as the Director of the FBI.

I will read the amendment briefly so that colleagues can follow exactly what I am trying to do. The amendment says:

Concurrence of NID in certain appointments recommended by Secretary of Defense. (1) In the event of a vacancy and a position referred to in paragraph (2), the Secretary of Defense shall obtain the concurrence of the National Intelligence Director before recommending to the President an individual for nomination to fill such vacancy. If the Director does not concur in the recommendation; the Secretary may make the recommendation to the President without the concurrence of the Director, but shall include in the recommendation a statement that the Director does not concur in the recommendation.

It is just to bring into balance the fact that according to my research, each of the other departments and agencies that have an intelligence role get to recommend, with the concurrence of the Cabinet officer or the head of the FBI. This is the one instance with regard to these combat agencies where it should be brought in alignment with the other methodology and procedures adopted for these important personnel selections.

I draw the attention of the managers to section 117(b) of the bill before us. It gives the national intelligence director responsibility and authority to recommend appointments for several agencies that hopefully will continue to be retained within the Department of Defense: The National Security Agency, the National Reconnaissance Office, the National Geospatial-Intelligence Agency.

I say hopefully because we have thus far withstood the very significant amendment by the distinguished colleague from Pennsylvania, coauthored by the distinguished colleague from Kansas, Mr. ROBERTS, and others. The Senate addressed that and by an overwhelming majority literally rejected the taking of these three combat agencies and putting them under the direct jurisdiction of the NID.

Now, that is a concept that was hard fought, decided, and as a consequence, hopefully it will remain as it is in the managers' bill.

The purpose of the amendment was to dislodge the managers' section with regard to that. That was rejected by the Senate very resoundingly. I believe, therefore, it is appropriate at this time to bring into alignment with the other departments and agencies the authority for the Secretary of Defense over these three entities which remain in his department to make the recommendation to the President with the concurrence of the NID, and in those instances where there is nonconcurrence the President then would have the benefit of that diversity of viewpoints. That is the purpose of this amendment.

We must remind ourselves that these are combat support agencies in the Department of Defense. Under the bill, as of this moment, the agencies remain under the authority of the Secretary of Defense.

Then the interesting aspect of this, which is important to my amendment is that in the case of the NSA, this is normally a military promotion from two stars to three stars to take on this important position of the Director of NSA, and that Director of NSA also serves in the position of Deputy Commander U.S. Strategic Command for Information, Operations, Planning and Integration, a very critical warfighting post. Consequently, these are matters that the Secretary of Defense, who is accountable to the President and who has direct line authority from the President to the SECDEF to the combat commanders, that are important to maintain.

In the case of the NRO, this is a civilian appointment, to direct the activities of the National Reconnaissance Office but is an appointment as the Under Secretary of the Air Force. He is dual hatted, again, an individual who serves not only in the important post of the intelligence NRO but as an Under Secretary of the Air Force in the Department of Defense. It is imperative that the Secretary of Defense have the authority to make the recommendation together with the concurrence of the NID.

In the case of the NGA, this can be a military appointment similar to the NSA. One primary function of the NGA is to meet the mapping needs of our military forces. I repeat, the military forces are highly dependent upon this agency for the tactical maps that are needed wherever they are in the world today facing the challenges and the threats to our country.

These three appointments, I say most respectfully to the managers, I feel ever so strongly should be initiated by the Secretary of Defense with a recommendation, and then the statute, if my amendment is adopted, will give the concurrence of the NID as an essential part of the process.

Current law provides for the Secretary of Defense to recommend appointment of these individuals with the concurrence of the DCI. We have clear evidence for many years this system has worked and worked well. There are examples where the DCI nonconcurred and the Secretary revised the nomination in a manner consistent with gaining the concurrence of the Director of the CIA.

The President has said he does not want anything we do in the area of intelligence reform to blur the lines of authority, responsibility, and accountability between him and the heads of the departments. I feel my amendment will meet that criterion as set forth by the President. I strongly urge my colleagues to examine the current provision, examine the practice with respect to other departments and agencies in the Government, and hopefully I will gain the support of the managers as well as of my colleagues and that this amendment will be adopted.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, for the national intelligence director to be truly accountable for the intelligence community, the director must have the authority to have a real say in the selection of the heads of the principal agencies of the intelligence community. The 9/11 Commission said that the ability to hire the senior managers is one of the key authorities, critical to the success of the national intelligence director. It is critical to the success of any leader, but particularly it is important for the head of the intelligence community. The 9/11 Commission cited the DCI's current lack of this power as one of the key flaws in the DCI's authorities.

Under the Collins-Lieberman bill, the NID will recommend to the President nominees to be the directors of the National Security Agency, the National Reconnaissance Office, and the National Geospatial-Intelligence Agency—the agencies known better as NSA, NGA, and NRO. The NID is required to obtain the concurrence of the Secretary of Defense before recommending the nominees to the President, and if the Secretary of Defense does not agree with the recommendations of the NID, the director must make that fact known to the President.

The distinguished chairman of the Armed Services Committee and the managers of this bill each agree that these three critical agencies should remain within the Department of Defense because of the dual role these agencies play. For that reason, we joined forces to oppose the amendment offered by the Senator from Pennsylvania that would have severed the link between these agencies and the Secretary of Defense, the reporting link.

In our bill, I believe we have taken the right approach. We have left these three agencies within the Department of Defense, but we have made it clear that there is an important reporting responsibility to the national intelligence director and that the national intelligence director will choose the individuals to lead these agencies with the concurrence of the Secretary of Defense. It is actually the President's nomination, but the recommendations would go from the NID with the concurrence of the Secretary of Defense.

Why did we do that? We struck that balance not only because it was recommended by the 9/11 Commission, and strongly recommended, but because we recognize that these three agencies do not just serve the Department of Defense; they are national intelligence assets. They provide vital intelligence information throughout the intelligence community. In fact, when Senator LIEBERMAN and I met with the head of the NSA, he told us he was on the phone far more often with the Director of the CIA than he is with the Secretary of Defense.

These agencies provide critical information to the CIA, to the Secretary of State, to the Secretary of Energy, to the Secretary of the Treasury—to all those 15 agencies across our Government that vitally need intelligence information. That is why we have the heads of these agencies recommended by the national intelligence director with the concurrence of the Secretary of Defense.

I point out that if we were to adopt the amendment offered by the Senator from Virginia, we are essentially making no change in current law. Under current law, the Secretary of Defense recommends the appointment of these individuals to the President, and it is the Director of Central Intelligence who concurs in the choice. So essentially the Senator from Virginia is simply restating current law. Current law is not adequate, and we know that that higher authority is a key authority. If we are going to hold the national intelligence director accountable for the intelligence community, we have to give him the authorities he needs to do his job.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank my friend from Virginia, the chairman of the Senate Armed Services Committee whom I so respect and for whom I have such a feeling of personal affection. I probably should not say this for the record, Senator WARNER, but my wife probably wouldn't be happy to hear that I was opposing you. She has all too much regard for your judgment and opinions. But nonetheless, I go forward.

Let me put this amendment in context. In response to the 9/11 Commission Report, Senator FRIST and Senator DASCHLE sent it to our Governmental Affairs Committee to consider and then recommend, on the basis of that report, action to the Senate—which we have done. Senator COLLINS and I and the members of the committee essentially built a structure, a national intelligence director, a leader for our intelligence community where there is none now—what I called a quarterback for our intelligence team—where there is no quarterback, a general for our intelligence service.

There have been two amendments put forward, in now this fifth day of debate on the bill, that went at the architecture of the structure we have recommended. One was by Senator SPECTER, which would have dramatically altered, gone well beyond, what we had. Senator WARNER knows, because he was good enough to come and speak against the amendment; it would have had the new NID in line control of all of these intelligence agencies, including those that are housed and will continue to be housed in the Defense Department. That was overwhelmingly rejected by the Senate.

Yesterday, there was a different kind of assault on the structure we are proposing from our committee in the amendment offered by the Senator from South Carolina which I believe and represent would have created in name a national intelligence coordinator but given that person no authority, no power. It would have been the status quo because it would have looked as if we had done something, but we would not have done anything.

That amendment was overwhelmingly defeated.

I am grateful for both of those votes.

The amendment which the Senator from Virginia proposes, as in some sense the amendment the Senator from West Virginia proposed earlier today, does not knock off the structure we have proposed but alters it in ways that I fear—certainly cumulatively—would weaken the structure and not allow the national intelligence director to play the role the 9/11 Commission and our committee wants it to play. Is it a big difference? No. But one element of strengthening this position of national intelligence director is to make the influence of the director over our national intelligence agencies—the National Security Agency, which deals with signal intelligence and communications that are heard in the interest of our national security, the National Reconnaissance Organization, which puts satellites up in the air, and the National Geospatial Agency, which has all of these remarkable capacities technologically to see ground imagery and help our military and other intelligence services to do what they have to do to protect us.

Here is the point: Those are national assets. Of course, they are used every day by the military, by the Department of Defense. The DOD is a very important customer, maybe the most active customer, but not the only customer of these assets—of signal intelligence, image intelligence, and human intelligence.

The CIA, as Senator COLLINS indicated, depends on these satellites and the other systems for important intelligence. So does the State Department. So does now the Department of Homeland Security, even the FBI.

We are trying to say that these national assets ought to report to the national intelligence director, and part of that is to give the director the opportunity to start the process for nominating the heads of these agencies. That is a change. Now that is done. As Senator COLLINS indicated, with the Secretary of Defense, we want to make a slight change. The Secretary of Defense has the right to concur or oppose. In most cases this will be worked out between the national intelligence director and the Secretary of Defense. Lord knows, they and their deputies are working out 100 decisions every day right now. But if it is not worked out, the dissent will go to the President, and ultimately the President will decide.

It is a only a difference. The Secretary of Defense will begin the process of who is going to head the national agency or the NID. Ultimately, the President will decide. Why is that different under our bill for these three agencies as opposed to the head of a counterterrorism division in the FBI, or that information analysis, intelligence, and for infrastructure protection division of Homeland Security? Because these three are uniquely national assets. The NSA, NRO, and NGA serve all of the community and they ought to be under the director of the community, and he or she ought to have the first say in who fills that position.

That is why this is an important part of our structure, and why I respectfully oppose the amendment, because it would weaken the structure by pulling out a couple of the boards.

Mr. WARNER. Madam President, will the Senator yield?

Mr. LIEBERMAN. I certainly will.

Mr. WARNER. I want to pick up on the last point. I find there is no effort to change the authority of the Secretary of State in the selection of his people to do the work. But I feel strongly that the work done by the Department of State serves the whole community. It isn't exclusive to the Secretary of State.

I bring to the Senator's attention the fact that the Department of State had some thoughts at variance with the Central Intelligence Agency as related to the aspect of the critical issues relating to the weapons of mass destruction. Does the Senator recall that?

Mr. LIEBERMAN. Through the Chair, the Senator from Virginia is absolutely right. I do recall it.

Mr. WARNER. Therefore, they serve the whole community. And perhaps if a caveat on some of that had been brought to the forefront in a more strengthened fashion, who knows what the outcome might have been.

I do not believe the Senator can tell me that the person in the FBI who has responsibility isn't serving the entire community. I think the Senator ought to go back and reexamine that representation. I do not find it strengthened by making an exception for the Secretary of Defense as relates to these three individuals.

For example, I draw on my experience as Secretary of the Navy. There was quite a competition when vacancies of the NRO and NSA came up. The service Secretaries were invited to make nominations to the Secretary of Defense for the offices. In the capacity of a service Secretary, you get to know these individuals as they work their way up through the ranks and are promoted. You have a special knowledge of their capabilities and their strengths. You can advocate that to the Secretary of Defense, who then in turn makes the decision with regard to who should be selected to head the NRO based on the cumulative advice of the several service Secretaries. Those positions are often rotated between the Air Force, the Army, and the Navy, and they are extremely important assignments.

With all due respect to the NID, he has so much to be done that he cannot possibly have the knowledge about the achievements of all of the various individuals to make a recommendation. He can, of course, come in after study and concur or not. But you are holding the Secretary of Defense saying you have all the responsibility with regard to this agency. In many respects personnelwise, you are reducing the Secretary of Defense to a payroll clerk when you do not allow him to make the selections of the people he thinks are best qualified. In the case of the NRO, he serves as an under secretary of the Air Force with duties related to the NRO and duties related to the entire space program in the Department of the Air Force. The Secretary of Defense should make the appointment of the people who serve his Department.

I cannot accept the Senator's distinction about how you leave the State of Department alone, the FBI alone, the Energy Department alone, let those Secretaries make their recommendation and decisions with regard to personnel, and then in almost a demeaning way say to the Secretary of Defense, Oh, no, when it comes to your people, you have the right to concur or not.

Mr. LIEBERMAN. Mr. President, if I may briefly respond to the Senator from Virginia, the case cited of the INR, the intelligence division at the State Department, is an interesting one. They came to a different opinion than some other constituent agencies of the American intelligence community with regard to, for instance, prewar WMD in Iraq. But that was a matter of analysis primarily, not collection. They looked at the data. Incidentally, some of the data they looked at were data they got from these three agencies. These are the three largest collection agencies and they are unique in that they serve the whole community.

There is certainly no intention to diminish the Secretary of Defense. The Secretary of Defense has a very powerful position and Senator COLLINS and I want to have the Secretary remain that powerful. We had very interesting testimony before our committee by a witness who said—he had been in the Department of Defense and stepped out to work with a think tank where he watches all of this—over the years when there were conflicts or disagreements between the Secretary of Defense and the Director of Central Intelligence, the Secretary of Defense always wins because the Secretary of Defense has so much muscle. And that is the reality.

We are not trying to undercut the authority of the Secretary of Defense, and we are certainly not trying to alter the chain of command, but we are trying to give a little more authority to the national intelligence director so that director can really be in charge. One small piece of that is saying, Mr. Intelligence Director, you can, in consultation with the Secretary of Defense, make the suggestion for who ought to head these three agencies which, unlike any other intelligence agency within our Government, serve the entire community.

The Secretary of Defense, as I said before, is an important customer of what these three agencies produce—"user" may be a better term than customer.

It was of great interest when General Hayden, head of the NSA, said he spends more time on the phone with the Director of the CIA than with the Secretary of Defense. We want to reflect that in this small movement of authority.

Mr. WARNER. Mr. President, it is obvious the managers at the moment are somewhat entrenched in their views. I hope we will have an opportunity to appeal to the broader and hopefully more open minds of the collective Senate as a whole.

Could the managers advise those Members who have deferred other plans, with the importance of being here today to advocate amendments, what will be the procedure when this will be laid aside? There will be a record when we return Monday. I presume it would be scheduled in some order, at the discretion of the managers, together with the leaders of the Senate, as to the vote.

Do I get 2 minutes, 3 minutes, 4 minutes at the time the amendment is brought up? I would like to weigh in a little bit now given that I have not thus far persuaded my two distinguished colleagues, both members of the Armed Services Committee, who are interfering, in my judgment, with the direct chain of command between the President and his combatant commanders and principal civilian appointees.

Ms. COLLINS. Mr. President, to respond to the question raised by the Senator from Virginia, it is the leader's intention to convene perhaps at 10 or 11 o'clock on Monday morning, allow for some further debate, and then stack votes beginning at 3 p.m. There will be 2 minutes equally divided before each vote, but knowing of the Senator's desire to have further debate on Monday, we are going to convene early enough on Monday to allow that to occur. We expect a great many stacked votes to begin at approximately 3 o'clock Monday. Thus, we are not going to have time for extensive debate between those votes.

Mr. WARNER. I thank my distinguished colleague. I shall certainly be here. As a matter of fact, I will preside for a period of time. Maybe when I get in the chair and have the gavel, I can do something about this amendment.

In any event, I am appreciative of the courtesies that have been extended to Members of the Senate deliberating on this bill. This is an important matter.

Hopefully, in the interim, I can persuade not only the Senate but the White House to indicate its position on this amendment.

I thank the Chair. I thank my distinguished colleagues. I will be available for further amendments as the managers decide to have them scheduled during the course of the day.

This amendment will now be laid aside?

The PRESIDING OFFICER. Yes.

Ms. COLLINS. I ask that the amendment be laid aside. The Senator from Vermont is next. I wonder if the Senator could withhold for a couple of moments to allow consultation among the three of us before he sends up his amendment.

Mr. LEAHY. Of course. The distinguished chairman and ranking Member have always been very courteous. I know, having managed a lot of bills, how it is. It is a reasonable request.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAMBLISS). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEAHY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3945

Mr. LEAHY. Mr. President, I ask it be in order for me to send to the desk an amendment on behalf of myself and Mr. GRASSLEY.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

Mr. LEAHY. I understand there may be a question regarding my amendment. While this is being worked on by counsel, let me proceed to discuss it and we can go back to the amendment if there is no objection.

Mr. President, three years after thousands of Americans were killed in the worst terrorist attack on U.S. soil, there have been some troubling doubts about the effectiveness of a major investigative tool in our antiterrorism arsenal.

On Monday, the Office of Inspector General of the Department of Justice released an unclassified version of its audit of the FBI's Foreign Language Program and the Translation of Counterterrorism and Counterintelligence Foreign Language Material. The results were unsettling. They deserve our immediate attention and action.

The report shows that despite concerns expressed for years by those in Congress and by former FBI contractors, among others, and despite an influx of tens of millions of dollars Congress has appropriated in a bipartisan effort to hire new linguists, the FBI foreign language translation unit is saddled with problems across the board, including growing backlogs, systemic difficulties, security problems, too few qualified staff, and an astounding lack of organization. It is almost as though the Department of Justice does not take this question of translation seriously.

The question the Department of Justice must be asked is: What is the use of taping thousands of hours of conversations of intelligence targets in foreign languages if, after we have taped it all, we cannot translate it promptly, securely, accurately, and efficiently? The translation mess at the Department of Justice is a chronic problem that has obvious and severe implications for our national security. We all want America to be secure, Republicans and Democrats alike. But the administration has shirked its responsibility to resolve these problems. It has dodged its own accountability to the public and to Congress for this enormous failure. I believe the administration owes Congress and the American public an explanation as to why it has repeatedly failed to take the necessary steps to fix these serious intelligence failings. We need to know, once and for all—and sooner rather than later—what steps will be taken to get this job done.

Now, to expedite this process, I will offer the Translator Reports Act of 2004. I am proud to be joined in this effort by Senator GRASSLEY, my friend from Iowa. He has been ever-vigilant on FBI oversight issues, whether it has been a Democratic administration or a Republican administration. Our act clarifies and expands upon an important reporting requirement currently in law that has yet to be implemented by the Department of Justice.

The Attorney General is required by law—by law—to report to the Senate and House Judiciary Committees about the number of translators employed by the FBI; the legal and practical impediments to using translators employed by other Federal, State, or local agencies, on a full, part-time, or shared basis; and the needs of the FBI for specific translation services in certain languages and recommendations for meeting those needs. We saw this as such a high priority that we included this requirement in law. The President signed it into law.

You would think if anybody is going to follow the law, it would be the Attorney General. To date, he has not. He has not made the report required by this law. Now, maybe he needs another deadline. We thought it was pretty clear already. The President thought it was pretty clear. Republicans and Democrats thought it was pretty clear. But this amendment provides an ironclad deadline.

I believe we have to prod the Department of Justice to get this information on a timely basis. It is somewhat like pulling teeth. This amendment is the extraction tool for the teeth of the foreign translation program. It fills the gap in current law by legally requiring the Attorney General to report "not later than 30 days after the date of enactment" and "annually thereafter."

The bill also expands that reporting requirement in several critical ways and in direct response to the Office of Inspector General's Audit. This is in keeping with the 9/11 Commission's directive that Congress exercise greater oversight over the counterintelligence and counterterrorism needs of the executive branch. In its report, the 9/11 Commission noted that, "Even as the FBI has increased its language services cadre, the demand for translation services has also greatly increased. Thus, the FBI must not only continue to bring on board more linguists, it must also continue to take advantage of technology and best practices to prioritize its workflow, enhance its capabilities and ensure compliance with its quality control program."

Well, I could not agree more.

The FBI in the past has drawn a distinction between contract linguists and full-time employees when discussing hiring issues. But for the purpose of getting the job done, this is a distinction without a difference. We in Congress want to know the status of hiring overall because it is the entire picture that we are concerned with. The amendment makes clear that the Department of Justice must report on linguists employed by and contracted for by the FBI.

Our amendment adds further reporting requirements that will be crucial to understanding whether or not the FBI is capable of fixing, and has fixed, the problems outlined by the Inspector General.

If enacted into law, the Attorney General will have to provide Congress with current information regarding: (1) the status of any automated statistical reporting system so that we can ensure the FBI is monitoring workflow properly; (2) the storage capabilities of the digital collection system or systems utilized so that important data is not lost for technological reasons; (3) a description of the FBI's establishment and compliance with audio retention policies that satisfy the investigative and intelligence goals of the FBI; (4) a description of the implementation of quality control procedures and mechanisms for monitoring compliance with quality control procedures; and (5) the current counterterrorism and counterintelligence audio backlog and recommendations for alleviating any such backlog.

These reporting requirements are in addition to what is currently required: hiring numbers and recommendations regarding the FBI's future needs and the viability of using translators from other agencies and sources. This more detailed information will give Congress a better view and ultimately greater insight into how the FBI is handling this critical investigative tool. With FISA wiretaps at an annual figure of more than 1,700, the FBI has a lot of catching up to do. And so does Congress in its oversight of this translation program. With this amendment, the information we will need to most effectively employ this important investigative tool will be at our fingertips.

We know our intelligence services have the ability to pick up conversations throughout the world. But you have to translate what you pick up. On September 10, according to press reports, the Administration picked up a very clear warning that we were going to be hit on September 11. They did not translate the warning until sometime after September 11. This is like being warned that a bomb is going off in 5 minutes, and responding that we will translate and look at that warning in 5 months.

For my security and the security of all of us, I want our law enforcement and intelligence services to know immediately. As a former prosecutor, I know that if you are using a wiretap or an intercept, it is valuable if you have the information immediately, especially if they are talking about a terrible act or a crime that is going to take place very soon. It does you very little good to finally look at it long after the fact. The only reason we do these intercepts, the only reason we do these wiretaps, the only reason we do this electronic information gathering is so we will know where we are.

Mr. President, I understand my amendment is at the desk and I request it be reported.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY], for himself and Mr. GRASSLEY, proposes an amendment numbered 3945.

Mr. LEAHY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require Congressional oversight of translators employed and contracted for by the Federal Bureau of Investigation)

At the appropriate place insert the following:

SECTION 1. CONGRESSIONAL OVERSIGHT OF FBI USE OF TRANSLATORS.

Not later than 30 days after the date of enactment of this Act, and annually thereafter, the Attorney General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that contains, with respect to each preceding 12-month period—

(1) the number of translators employed, or contracted for, by the Federal Bureau of Investigation or other components of the Department of Justice;

(2) any legal or practical impediments to using translators employed by the Federal, State, or local agencies on a full-time, part-time, or shared basis;

(3) the needs of the Federal Bureau of Investigation for the specific translation services in certain languages, and recommendations for meeting those needs;

(4) the status of any automated statistical reporting system, including implementation and future viability;

(5) the storage capabilities of the digital collection system or systems utilized;

(6) a description of the establishment and compliance with audio retention policies that satisfy the investigative and intelligence goals of the Federal Bureau of Investigation; and

(7) a description of the implementation of quality control procedures and mechanisms for monitoring compliance with quality control procedures.

Mr. LEAHY. Mr. President, I know the distinguished chairman of the committee and the distinguished ranking member of the committee want to look at this amendment. Because I am suppose to be at several places, I am not shackled to my desk on the floor as they are. I did want to get the amendment offered. I thank them for their courtesy in giving me time to do so. I urge the Senate to support this important oversight and reporting amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I appreciate the Senator from Vermont bringing his amendment forward. We are going to discuss it further with him.

Mr. President, I ask unanimous consent that the amendment be laid aside temporarily and that the Senator from Rhode Island be recognized to offer an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendment is laid aside.

The Senator from Rhode Island.

AMENDMENT NO. 3908

(Purpose: To authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security, and for other purposes)

Mr. REED. Mr. President, I call up amendment No. 3908.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Rhode Island [Mr. REED], for himself, Mr. SARBANES, Mr. SCHUMER, Mrs. BOXER, and Mr. CORZINE, proposes an amendment numbered 3908.

Mr. REED. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Thursday, September 30, 2004, under "Text of Amendments.")

Mr. REED. Mr. President, I offer this amendment along with Senators SARBANES, SCHUMER, BOXER, and CORZINE.

This amendment is, in essence, the text of S. 2453, which the Banking Committee reported out unanimously on May 6 and placed on the calendar on May 20.

Since that time, we have sought to pass the bill along with the Commerce Committee's similar rail security bill by unanimous consent, but an objection has, to date, blocked the Senate from passing this bipartisan transit security legislation. Therefore, I rise with my colleagues today to continue this effort to improve the security and safety of our transit systems in the United States which on a daily basis transport 14 million Americans.

Our amendment is straightforward and meets the 9/11 Commission's recommendation on page 391 for improved transportation security, which states in part:

> The U.S. government should identify and evaluate the transportation assets that need to be protected, set risk-based priorities for defending them, select the most practical and cost-effective ways of doing so, and then develop a plan, budget, and funding to implement the effort. The plan should assign roles and missions to the relevant authorities (federal, state, regional, and local) and to private stakeholders. In measuring effectiveness, perfection is unattainable. But terrorists should perceive that potential targets are defended. They may be deterred by a significant chance of failure.

In essence, the 9/11 Commission has called for three steps: first, clear responsibility; second, risk-based policies; and third, resources to meet these threats. Our amendment corresponds to these recommendations by the Commission.

First, our amendment would require the Department of Homeland Security to clearly accept responsibility for transit security by signing a memorandum of understanding with the Federal Transit Administration. Unfortunately, this is something that the Department of Homeland Security has failed to do, even after numerous Senate inquiries and the passage of a Senate amendment requiring it to do so.

Second, our amendment embodies the kind of risk-based priorities that the Commission recommended by requiring the Department of Homeland Security to review the security assessments conducted by the Federal Transit Administration. DHS would then use these risk-based assessments as the basis for allocating any funds. The Department would also have to annually update these assessments.

Third, our amendment would authorize real resources over 3 years that are still a fraction of our investment in aviation security for a wide variety of known capital and operating security needs, including surveillance technologies, tunnel protection, chemical, biological, radiological, and explosive detection systems, perimeter protection, training, and other security improvements approved by the Department.

In sum, our amendment is not overly prescriptive and relies on the wisdom of the Nation's intelligence systems and the Department of Homeland Security to identify the threats, develop solid plans, and invest in those initiatives which will do the most to make our transit systems more secure.

Fourteen million Americans each day rely on transit systems. We only have to recall the horrible and tragic incident in Spain a few months ago to understand that these individuals are the potential targets for terrorist acts. It is incumbent upon us to take these steps today to protect the transit systems for the people of America as we go forward.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland.

Mr. SARBANES. Mr. President, I commend my colleague, the very able Senator from Rhode Island, Mr. REED, for offering this amendment. I am pleased to join with him as a cosponsor.

Senator REED has played a leading role in the Congress on the issue of transit security. In fact, in the last Congress he held a series of hearings on transit issues, and a good deal of the focus of those hearings was on the transit security challenges we face.

This is a vitally important amendment needed to better protect the American people. I observe to my colleagues that throughout the world, public transportation systems have been a target of terrorist attacks. A terrorist attack against a passenger train in Madrid, attacks against transit systems in both Moscow and South Korea demonstrate that transit and rail systems are a target of terrorists worldwide.

Despite the significant threat which obviously exists to transit and rail systems, security funding has been grossly inadequate. As a result, our Nation's transit and rail systems have been unable to implement necessary security improvements, in many instances even those that have been identified as necessary by the Department of Homeland Security.

To take one example, Washington Metro's greatest security need at the moment is a backup operations control center. This need was identified by the Federal Transit Administration in its initial security assessment, and then identified again by the Department of Homeland Security in its subsequent security assessment. Regrettably, this critical need remains unaddressed because of a lack of funding.

Last March, I, along with Senators MIKULSKI, WARNER, and ALLEN, wrote to Secretary Ridge urging funding for this and other critical needs such as chemical detection and decontamination systems, but the money is not there and the needs remain.

In May of this year, the Banking Committee undertook to address these issues on a national basis. My colleague from Rhode Island played an instrumental role in considering this issue in the committee. The committee, on a bipartisan basis, with a unanimous vote, passed the Public Transportation Terrorism Prevention Act. Regrettably, we have not yet been able to move that legislation forward on the Senate floor. This amendment tracks many of the provisions of that legislation. It addresses the need for increased transit security by providing for grants along the lines of the bill that was reported out of the committee.

I note in that regard that Banking Committee Chairman SHELBY took a keen interest in this issue and we appreciate his recognition of the need to increase transit security and his support for the legislation that was brought from the committee.

I might note that the House Transportation and Infrastructure Committee recently took action with respect to transit security that is similar to what is proposed in this amendment.

In the last Congress, Senator REED and I requested the GAO to conduct a study of the security needs of transit systems. In its report the GAO found that, in analyzing the needs of eight transit systems, that they required $711 million for security purposes just for those eight systems. There are 6,000 public transit agencies throughout our Nation. The need is very great. The challenge is very real.

We know that transit and rail systems are serious potential targets for terrorist attacks. We obviously know the vital role that these systems play in our Nation's economic and security infrastructure. We must address the vulnerabilities that have already been identified in security assessments which have already been conducted.

The funding to do this is just not there. We need to harden tunnels, to provide detection teams, to train frontline employees, to update infrastructure so that a transit system can continue to function even if attacked. The list of security needs goes on and on and on.

I strongly commend to my colleagues the amendment that my able colleague from Rhode Island has put forward. I am pleased to join with him as a cosponsor. I urge support of the amendment. This is a very real need, with very important implications for our national security and for the functioning of our economy. I urge my colleagues to support the amendment. I thank the Senator from Rhode Island for his leadership.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, it is my understanding, based on the tentative schedule that we worked out last night, that Senator LEVIN is to be recognized next to offer amendments, followed by Senator ROBERTS, followed by Senator STEVENS, followed by Senator KYL. I see the Senator from North Dakota is here to make a comment. My concern is how that fits in with the amendment schedule worked out last night.

Mr. CONRAD. I would be happy to yield to Senators for their amendments.

Ms. COLLINS. I appreciate that.

Mr. President, the pending amendment raises several questions. It has very worthy goals. We have previously adopted a McCain-Lieberman amendment dealing with some of the same issues. We need to have a discussion with the sponsors of the amendment, Senators REED and SARBANES and others, to see how their amendment interacts with the legislation previously adopted, the McCain-Lieberman amendment.

I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, if I may speak on the amendment briefly, I thank the Senators from Rhode Island and Maryland for coming forward with the amendment. It certainly speaks directly to a critical national homeland security need. I want to take a little time to look at it and see how it fits into the overall picture with regard to the bill. I know this was reported out unanimously from the relevant committee. It has been held up perhaps only by one Senator as a result of an objection.

I don't want to have the underlying bill, which is so urgently needed, get caught in that kind of situation. But I would like to work with the sponsors of the amendment and perhaps with whoever is objecting to see if we can't find a way to put these together. This speaks to a real national need. It is consistent with other amendments that have been adopted on the underlying bill or were part of the bill initially and, of course, consistent with vulnerabilities that the 9/11 Commission spoke to.

I thank the sponsors and I look forward to working with them to see if we can work it out.

I yield the floor.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

JUSTIFYING THE WAR IN IRAQ

Mr. CONRAD. Mr. President, in watching the Presidential debate last night, again, I think President Bush confused who attacked the United States on September 11. President Bush, last night, in justifying the war with Iraq, said they attacked us. Senator KERRY was quick to point out that Iraq did not attack us. It was al-Qaida, led by Osama bin Laden, that attacked us. This basic fact is absolutely essential to understanding what occurred and where we are headed.

I think it is helpful, perhaps, to review the record. Here is the report of the 9/11 Commission:

> The intelligence reports describe friendly contacts and indicate some common themes in both side's hatred of the United States [referring to Iraq and al-Qaida], but to date we have seen no evidence that these or the earlier contacts ever developed into a collaborative operational relationship. Nor have we seen evidence indicating that Iraq cooperated with al-Qaida in developing or carrying out any attacks against the United States.

Mr. President, it is not just the 9/11 Commission that tells us these basic relationships; it is also our own Intelligence Committee. Their conclusions in their July 7 report included conclusion 96:

> The Central Intelligence Agency's assessment that to date there was no evidence providing Iraqi complicity or assistance in an al-Qaida attack was reasonable and objective. No additional information has emerged to suggest otherwise.

Conclusion 93:

> The Central Intelligence Agency reasonably assessed that there were likely several instances of contacts between Iraq and al-Qaida throughout the 1990s, but that these contacts did not add up to an established, formal relationship.

Mr. President, one month after the dreadful September 11 attack, the State Department had on their Web site a list of countries where al-Qaida has operated. This is a month after the September 11 attack. If you look down this list—Bahrain, Bangladesh, France, Germany, Iran, and others—there is no mention of Iraq.

The Secretary of State has said as recently as September 13, just last month, appearing on NBC's "Meet the Press," that he had seen nothing that makes a direct connection between Saddam Hussein and his awful regime and what happened on 9/11.

The President himself has previously said, on September 18 of last year, that he saw no evidence of Hussein being tied to 9/11. Yet over and over, the Vice President and the President have left an impression with the American people that somehow Iraq was behind the attacks of September 11. It was not. Al-Qaida, led by Osama bin Laden, was behind the attacks of September 11. Those are the folks we need to hold to account. They are the ones we need to bring to justice. That is not for a moment to say that Saddam Hussein didn't run a dreadful regime. He did. I think the world is better off without Saddam Hussein in power. The question is, What were the priorities of the United States in responding to those horrific attacks on our country?

My belief at the time we were preparing to go to war with Iraq was that it was a diversion from our attention in going after al-Qaida, led by Osama bin Laden. My own strong belief at the time was that ought to have been our top priority and focus.

I graduated from an American Air Force base in Tripoli, Libya, in North Africa. I lived in the Arab world. I learned something about the Arab world in living there. It is very clear to me that we have to be very focused in going after those who attacked us. If we are going to be successful against the terrorists, we have to go after the people who attacked us. We have to go after those who are planning to attack us again. We cannot go off and go after every bad regime in the world. That will swamp our ability to respond.

There has been some suggestion that Saddam Hussein was going to arm terrorists. Go back to what the intelligence told us, November 16, 2003:

> The CIA's search for weapons of mass destruction in Iraq has found no evidence that former President Saddam Hussein tried to transfer chemical or biological technology or weapons to terrorists, according to a military intelligence expert.

Mr. President, what happened was that our focus on getting those who attacked us was diverted by launching the attack on Iraq. This is from USA Today, March 29, this year:

> In 2002, troops from the 5th special forces group, who specialize in the Middle East, were pulled out of the hunt for Osama bin Laden in Afghanistan to prepare for their next assignment: Iraq. Their replacements were troops with expertise in Spanish cultures.

Mr. President, what sense does this make? We took people who were experts in the culture of those who attacked us and we took them out of the hunt for Osama bin Laden and shifted them over to Iraq in the hunt for Saddam Hussein. And we replaced them with experts in Spanish culture. No wonder, over a thousand days after the attacks of September 11, we still have not held to account Osama bin Laden, his top assistant, and the rest of their criminal group.

This story says:

> The CIA, meanwhile, was stretched badly in its capacity to collect, translate, and analyze information coming from Afghanistan. When the White House raised a new priority, it took specialists away from the Afghanistan effort to ensure Iraq was covered.

I believe history is going to prove that was a serious mistake. Again, Iraq did not attack us; al-Qaida, led by

Osama bin Laden, attacked us. They are the ones we need to hunt down as our top priority.

Last year, in The Philadelphia Inquirer, this story ran, saying:

> Some senior officials concede that the Iraq war also diverted resources from two problems that could prove to be even more pressing than Iraq was: rooting out the remnants of Osama bin Laden's al-Qaida terrorism network and confronting Iran. A senior intelligence official, who spoke on condition of anonymity, said the CIA reassigned to Iraq more than half the operatives tracking al-Qaida fugitives in Afghanistan and Pakistan. As a result, he said, U.S. forces were not able to pursue bin Laden and other al-Qaida leaders as aggressively.

This is a case of misplaced priorities by this administration. Our top priority should have been nailing Osama bin Laden and al-Qaida. Instead, this President and this administration diverted resources from that hunt and shifted them to Iraq. Again, as dreadful a regime as Iraq had, they were not the ones who attacked us. Al-Qaida did.

This goes on to say:

> Al-Qaida's continuing threat was shown when the Department of Homeland Security raised its terrorism alert level Tuesday, after bombings in Saudi Arabia and Morocco.

This is what the President said right after the attacks of September 11, on September 15:

> There is no question about it, this act will not stand; we will find those who did it. We will smoke them out of their holes; we will get them running and we will bring them to justice.

I agree, absolutely, with the President's statement. He had the priority right at the time. Then something happened. I don't know why. I have never been able to decipher why the President's focus shifted. Here is what he said on March 13, 2002:

> You know, I just don't spend that much time on him [Osama bin Laden] . . . I don't know where he is . . . I truly am not that concerned about him.

How can he not be that concerned about the man who was the architect of these attacks on the United States? How can that be? How can our President not be that concerned about Osama bin Laden, who is out there plotting, even now, to launch even more attacks on the United States?

The former Secretary of the Navy in the Reagan administration, James Webb, made these comments this year in a USAToday op-ed piece:

> Bush arguably has committed the greatest strategic blunder in modern memory. To put it bluntly, he attacked the wrong target. . . . Our military is being forced to trade away its maneuverability in the wider war against terrorism while being placed on the defensive in a single country that never will fully accept its presence.

That is the conclusion of the Secretary of the Navy in the Reagan administration, that this President attacked the wrong target. Instead of focusing on al-Qaida, he launched a preemptive attack on Iraq.

Mr. Webb, in that same opinion piece, said this:

> There is no historical precedent for taking such action when our country was not being directly threatened. The reckless course that Bush and his advisers have set will affect the economic and military energy of our Nation for decades.

This is the man who ought to be our top priority. This is the man who organized the September 11 attacks against the United States. This is the man who is plotting even now to attack the United States again. This is Osama bin Laden. It is not Saddam Hussein. We cannot get confused about who the primary threat is to the United States of America. The top threat, the top priority for our military and intelligence services has to be to bring Osama bin Laden and al-Qaida to justice. They are the ones who attacked us. They are the ones plotting to attack us again.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I certainly am happy to be here today and that I was—I do not know if happy is the right word—able to hear the Senator from North Dakota, who did such a good job. Not only is he articulate in his views, but he always has facts and figures to back them up.

We have come to know Senator CONRAD as someone in the Senate who knows the numbers better than anyone else. In addition to that, he obviously is aware of other issues going on, such as his presentation today, which is a presentation I heard developed previously. I want the Senator to know how much I appreciate his very clear and concise statement. I appreciate it.

AMENDMENT NO. 3849

(Purpose: To protect human health and the environment from the release of hazardous substances by acts of terrorism)

Mr. REID. Mr. President, on behalf of Senator CORZINE, I ask that the pending amendment be set aside, and I call up the Corzine amendment No. 3849.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Nevada [Mr. REID], for Mr. CORZINE, for himself and Mr. LAUTENBERG, proposes an amendment numbered 3849.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Thursday, September 30, 2004, under "Text of Amendments.")

AMENDMENTS NOS. 3782 AND 3905

Mr. REID. Mr. President, on behalf of Senator LAUTENBERG, I call up amendment Nos. 3782 and 3905 to be considered at this time.

The PRESIDING OFFICER. The clerk will report the amendments.

The assistant legislative clerk read as follows:

> The Senator from Nevada [Mr. REID], for Mr. LAUTENBERG, proposes amendments numbered 3782 and 3905, en bloc.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3782) is as follows:

(Purpose: To require that any Federal funds appropriated to the Department of Homeland Security for grants or other assistance be allocated based strictly on an assessment of risks and vulnerabilities)

At the appropriate place, insert the following:

SEC. ___. ALLOCATION OF FEDERAL HOMELAND SECURITY ASSISTANCE.

Any Federal funds appropriated to the Department of Homeland Security for grants or other assistance shall be allocated based strictly on an assessment of risks and vulnerabilities.

(The amendment (No. 3905) is printed in the RECORD of Thursday, September 30, 2004, under "Text of Amendments.")

AMENDMENT NO. 3821

Mr. REID. Mr. President, I ask that the pending amendments be set aside, and I call to the Senate's attention amendment No. 3821 offered on behalf of Senator HARKIN.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

> The Senator from Nevada [Mr. REID], for Mr. HARKIN, proposes an amendment numbered 3821.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the functions of the Privacy and Civil Liberties Oversight Board, and for other purposes)

On page 158, line 9, strike the period and insert ", including information regarding privacy and civil liberties violations, which are made by departments, agencies, or elements of the executive branch, of regulations, policies, or guidelines concerning information sharing and information collection; and".

On page 158, between lines 9 and 10 insert the following:

(C) the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

On page 160, line 6, insert "and the National Intelligence Director and committees of Congress described under subsection (e)(1)(B)(i)(I)," after "concerned".

Mr. REID. Mr. President, on behalf of Senator HARKIN, I recognize his amendment would do three things. It first requires the privacy and civil liberties board established by this bill to include as part of its findings any privacy or civil liberties violations made by the intelligence community or other elements of the executive branch in its semiannual reports to Congress.

Second, it allows minority conclusions or recommendations to be sent to Congress.

Finally, the amendment would require the board to report an agency's failure to cooperate with its requests for information or assistance to the national intelligence director and appropriate committees of Congress.

This amendment strengthens the credibility of the board and improves the board's ability to get the information it needs in the conduct of its duties.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALLARD). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I do want to indicate that we have several other Senators who told us they would be coming over to the floor today to offer amendments: Senator LEVIN, Senator ROBERTS, Senator KYL, and Senator STEVENS. I urge them to come over as soon as is possible. We are open for business, and there is time available. The sooner the debates occur, the sooner we will be able to set these matters for votes on Monday.

AMENDMENT NO. 3807

Mr. LIEBERMAN. In the meantime, Mr. President, I would like to take this opportunity to say a word about amendment No. 3807 which Senator MCCAIN and I offered yesterday. This is another of the elements of the 9/11 Commission report that was part of legislation Senator MCCAIN and I introduced the day after Labor Day as a way to guarantee that all elements of the 9/11 report would be before the Senate.

This one has to do with effective screening to keep terrorists out of America and away from vital infrastructure in America. It is a comment on the age in which we live, something we have taken for granted in America but has been a great asset of ours, and that is the size of our country, the size of our borders, and the welcome mat we generally have put out for people visiting our country.

That openness has been exploited—it certainly was prior to the attacks of September 11—exploited by those who, as someone else has said, hate us more than they love their own lives. They come in here and are prepared to blow themselves up to kill Americans. That demands that we not try to put a wall around America—we can never do that—but that we be aggressive and smart about raising our guard and requiring some standards of personal identification from people coming into America, something we have not required before.

We can do that without compromising unduly, unnecessarily, the openness of our country and the welcome we put out to both those who want to emigrate here and those who just plain want to visit.

The amendment Senator MCCAIN and I offered has several parts to it. One is to simply help us obtain better information about the way in which terrorists move around, the way in which they intend to exploit our transportation systems, our existing laws, to do damage to us and our people. We want to better screen for terrorists in foreign countries long before they can reach our borders. We want to better train border personnel. We want to use the most sophisticated computer imaging equipment to detect fraudulent travel documents. We want to better screen at the borders and at points of access, as I say, to critical infrastructure, transportation particularly, and we want to do more to protect against identity fraud and identity theft because so often these terrorists will assume new identities as a way to gain access to the country and access to places where they can inflict damage on us.

What it means to defend America has changed. In a different age, the age of serious conflict, it meant having the strongest military we could, having the most sophisticated weapons we could, to deter enemy attack, to be prepared to go to the battlefield, to deploy our forces to meet the enemy and defeat the enemy. Today, it involves homeland security in a way it never has before in our history, and this amendment would enable us to raise our homeland security in the best way possible.

In its analysis of the events leading up to September 11, 2001, the 9/11 Commission concluded that the terrorists are as reliant on travel documents as they ultimately are on weapons. To succeed, they have to travel clandestinely to meet, train, plan, case targets, look at targets, and gain access to sites they want to attack. They rely on networks of people to facilitate their travel, people they place within this country. Commonly, their travel documents have been tampered with.

The 9/11 Commission found that as many as 15 of the 19 9/11 hijackers could have been intercepted at the borders. Two of them actually entered the United States even though they were known as terrorists by at least one agency in the intelligence community of the United States. They were on a terrorist watch list. They had been heard at a meeting in Kuala Lumpur, kind of a world conference of terrorists, al-Qaida largely, where we now believe the attacks of 9/11 were planned. Two of them met that standard.

The point is we have to address the multiple opportunities to identify and stop the terrorists at every point along their travel routes long before they reach our entry points, at our border crossings. Once inside the country, we have to find ways to detect them.

The first thing this amendment does is seek to improve our intelligence about how terrorists travel. Before 9/11 and even today, there is no agency within the Federal Government that has the responsibility to consider this question. The Department of Homeland Security, therefore, would be directed by the amendment to work with the appropriate intelligence and law enforcement agencies in a coordinated effort to detect methods and patterns of travel, such as the use of specific routes. They would look for those who assist terrorists, be they human smugglers or corrupt government officials.

There is information—and I can describe it because it was mentioned in a newspaper; I saw it in the Washington Times earlier this week—about terrorist elements, al-Qaida working with certain gangs, drug groups, who customarily smuggle people across our southern border to work with them to smuggle in terrorists. We cannot sit back and let that happen.

This amendment would also expand screening for terrorists long before they reach our borders. Federal agencies would be required to develop a plan for working with foreign countries to share information on terrorists and increase inspection at foreign airports, not just U.S. airports. The amendment would increase investment in new technologies that can detect false travel documents or those with certain indicators that are consistent with terrorist use based on patterns of what we know now, and would require both the Department of Homeland Security and the State Department to provide training about terrorist travel to our frontline border officials so they may better spot forged passports or other subtle clues that warrant further scrutiny.

The best available technology should also be provided to our embassies and consulates to detect doctored passports or other forms of false identification before the applicant is issued a visa, set up a kind of technological wall of identification, most specifically at visa-granting points around the world for visas to come to the United States. To improve screening at our borders, the 9/11 Commission recognized the need for a robust entry and exit system based on the use of biometric information. A system of this sort has been under development for over a year now, but it needs to be improved and accelerated. Our amendment requires the Department of Homeland Security to do just that.

The 9/11 Commission also recommended that we close the gaping hole in our border security created by policies allowing easy passage into the United States from Canada, Mexico, and the Caribbean; logical enough in years past, the natural neighborly tendency of the United States of America and Americans generally, but unfortunately it is a policy of openness that has been exploited and continues to be exploited by the terrorists.

Our lenient border policies with our neighbors to the north and south today constitute a vulnerability. Travelers may now cross these borders with no other proof of U.S. citizenship than a verbal statement. Individuals claiming to be Canadians enter our country from Canada without showing a passport. The policies are evidence of our good relations with our neighbors, but in the age of terrorism, that friendship must allow for better security for the benefit of both.

Our amendment would require biometric passports, or an identification document just as secure, for everyone crossing into the United States, even U.S. citizens and our closest neighbors.

As we make our borders more secure, we must not forsake the principles of openness and freedom that define us as a nation. This amendment therefore requires that the Department of Homeland Security consolidate and improve a registered travel program that allows previously screened and trusted travelers to go quickly across our borders so that officials may focus on those who might do us harm.

Finally, this amendment improves the way we issue key identification documents, such as driver's licenses, birth certificates, or personal identification cards that may be required before boarding a commercial airliner or requested by a law enforcement officer who has grounds to be suspicious. It would require minimum security standards for these documents and directs the Federal Government to work with the States to establish minimum standards for both the security features embedded in these documents and for the way in which the documents are issued.

By the way, a similar program is already in effect for issuing commercial driver's licenses. In this regard, I want to thank my cosponsor on this amendment, Senator MCCAIN, and the Senator from Illinois, Mr. DURBIN, for their long work together in the interest of establishing not a national identity card but minimum uniform standards for personal identification documents in the United States of America. We have no intention of usurping the State's role here, their capacity to design their own identification documents. The amendment specifies that the States retain the full authority to decide who qualifies, for example, for a driver's license. We would, in addition, provide grants to the States to help them implement these new standards.

For several decades, study after study has told us how easy it is to obtain a false identity in this country. As recently as 2002, GAO investigators used fraudulent identification made by commercially available computer software to obtain driver's licenses in several States. Of course, the driver's license is an entry card to a personal identification and clearance throughout the system.

We have known about this problem for decades, but after September 11 we can't wait any longer—and we are still waiting, since September 11, to do anything about it. This bill will push us forward.

The 9/11 Commission described a variety of loopholes and flaws and inadequacies in our current border security personal identity system. We must close and repair those; close those loopholes, repair those flaws, and put to an end, as best we can, to the terrorists' ability to continually reinvent themselves and escape detection. We are up to this. We are technologically up to this. The question is whether we have the will and the common sense to do so.

This amendment would help our border and law enforcement officials accomplish exactly that. For the sake of the safety of all Americans, I ask my colleagues to support this amendment.

I note with gratitude the presence on the floor of Senator LEVIN. I yield the floor to him at this time for the purpose of offering an amendment.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 3808

Mr. LEVIN. I thank my good friend from Connecticut. I thank him and Senator COLLINS, again, for their leadership on this very critically important bill, one that is surely needed, one that surely must be done right. I think we are all determined to do both—to get this bill passed, but to get it passed in a form which not just improves our intelligence capability but also addresses an issue which I have been very much concerned about, which is the shaping of intelligence, the exaggeration of intelligence, the distortion of intelligence to support particular policy purposes.

Unhappily, this is not new. We saw the same problem in the Gulf of Tonkin resolution, with a distortion of the intelligence that was used in order to obtain passage of a resolution which would support the expansion of a war in Vietnam.

We saw the same problem with the Iran-contra matter, where intelligence was distorted, shaped, and misused in order to support a particular policy position.

We recently saw, before Iraq, that intelligence was shaped and exaggerated and distorted inside the intelligence community, in my judgment, after it was received by the policymakers. But even before they got it, it was shaped in a way that pointed, in every single instance where there is an error in omission, toward a more imminent threat, a stronger threat, which thereby supported the position of the policymakers.

I believe in a stronger national intelligence director. We need a stronger national intelligence director, but we also want a director who is going to exercise that power in a way which will not produce intelligence aimed at supporting policy. We need intelligence which is aimed at providing facts—unvarnished, objective, independently arrived at.

While supporting a more powerful director, I do not want to support a stronger "yes" man or simply to support a stronger political arm of the White House. Here, when I say that, I am referring to any administration, not just this administration. I don't want national intelligence directors to be shaping intelligence to support the policy of any administration. I want them to be providing information which is critically important to policymakers but information which must be right, must be accurate, must be objective, must be independently arrived at. That is what my goal has been.

The Senator from Connecticut and the Senator from Maine, who are leading this effort, and the Governmental Affairs Committee have willingly added a number of provisions which have furthered that goal. There are a number of other provisions which I believe should be added here on the floor.

I will be offering one today. I have not personally been able to talk to the Senator from Connecticut, but I understand that this first amendment of mine may have been cleared now. I want to describe it, in any event.

I ask unanimous consent we set aside the pending amendment and that amendment No. 3808 be called up.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan (Mr. LEVIN) proposes an amendment numbered 3808.

Mr. LEVIN. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To enhance customer focus on intelligence and to ensure independent intelligence analyses)

On page 14, line 2, strike "community," and insert "community following receipt of intelligence needs and requirements from the consumers of national intelligence,".

On page 14, line 8, insert before the semicolon the following: ", while ensuring that the elements of the intelligence community are able to conduct independent analyses so as to achieve, to the maximum extent practicable, competitive analyses".

Mr. LEVIN. Mr. President, the 9/11 Commission, in addition to recommending a number of ways in which we could strengthen the national intelligence director and that office and produce more coordinated and helpful intelligence reports where we have all the information necessary to connect the dots and where agencies share information with each other, also reminded us on page 414 of their report that:

> In managing the whole community, the National Intelligence Director is still providing a service function. With the partial exception of his or her responsibilities for overseeing the NCTC [the National Counterterrorism Center] the National Intelligence Director should support the consumers of national intelligence—the president and policymaking advisers, such as secretaries of state, defense and homeland security, and the Attorney General.

The consumers of intelligence are the ones who need to set forth and lay out their needs. What do they need by way of collection? What is it that they and their agencies—whether it is the State Department or Homeland Security Department or the Treasury Department or any other department—what kind of satellite capabilities do they need? Where do they need the electronics to be used? They need to tell that new national intelligence director and the NCTC what it is they need for their purposes. They are in the best position to know what are the requirements of their agency.

When all these requirements and needs are put together, we are then in a situation where the needs and the requirements of the agencies will probably exceed the resources that we have available to meet those needs. At that point, you need somebody to arbitrate. You need somebody to decide: We have this many needs, but we have only this many resources. How do we allocate limited resources—or at least not unlimited resources—among a very finite package of needs which frequently will exceed the resources we have?

Who is going to arbitrate that problem? If the State Department says we have to have satellite coverage here, and another department says, no, we have to have that coverage here, who is going to make that decision?

The answer which this bill provides, and I think rightly so, is that the national intelligence director needs to make the decision as to what needs are going to be met if we can't meet all of them. But in terms of what those needs are, in terms of setting forth the requirements of the agency, that has to be something which the agency head sets up. There is no way that the NID can decide what the State Department needs and what the Defense Department needs and what the Treasury Department needs. Those agencies and others have to lay out what their requirements are, what their needs are.

Where the NID comes in is deciding among those needs which ones have the top priority. That is why the language in the bill which says that the NID will establish the collection and analysis priorities and manage collection tasking is, in my judgment, correct.

I want to make it clear that this amendment is truly intended to clarify what I believe is the intent of the sponsors of this bill. There are other amendments I will be offering which differ on the substance, where there is something I would do differently from the sponsors of the bill. But this amendment is intended to clarify what I believe not only is but should be and must be the intent of the sponsors of this legislation in two ways.

First, as I have just described, and as the 9/11 Commission described, one of the purposes of the national intelligence director is to support the consumers of national intelligence. It is the consumers who must set forth and lay out their needs. When those needs exceed the resources or can't be met for whatever reason, you need an arbiter. That is where the NID should come in. Sorry, we can't meet that department's need; or, Sorry we can't meet the Treasury Department needs because this Homeland Security need has to take priority. You need someone who will make that decision and who can make it quickly. That, I believe, is the intent.

No one is in a position to determine the needs of 15 intelligence agencies with intelligence operations except those agencies themselves. But when you aggregate those needs and they exceed the resources, at that point you have to have a national intelligence director who says, That has priority and we are tasking that particular satellite; we are tasking an agency that has satellite capability to accomplish that particular goal and meet that need rather than their other needs which cannot be met.

That is one part of the amendment.

The other clarification has to do with the analyses, the so-called competitive analyses, which are welcome.

Everybody who testified in front of us—Secretary Powell, Secretary Ridge, the chairman of our committee and the ranking member said this at hearings—"We don't want group-think." We want independent analyses. We want analyses which are competitive. We want to encourage that. We don't want to discourage it.

We want to make it clear in the bill that by giving power to the national intelligence director to direct that a competitive analysis be achieved, it is not exclusive. We are still urging all of the intelligence agencies on their own initiative to provide independently arrived at and competitive analysis. We want agencies to tell us those aluminum tubes have two purposes, not just one. We want agencies on their own initiative—not waiting for a direction by the NID but on their own initiative, should they determine that is what they wish to do—to tell us, No, those unmanned aerial vehicles do not have a purpose of delivering biological weapons; they are more suited for a legitimate purpose.

We want agencies, in other words, to give us those competitive analyses which is what is the great antidote to group-think and which the chairman, the ranking member, and every single witness, I think, who came in front of us said should be encouraged. We have language in the bill now which gives the power to the NID to direct a competitive analysis, which is fine. He or she ought to have that power.

We want to encourage independent or competitive analysis, and that means we don't want any agency to think they have to wait for a direction, but they on their own will be encouraged by the NID to engage in those kinds of independent analyses.

I want to assure my dear friend from Connecticut, the ranking member, that this particular amendment does have that purpose. I believe it is a very commonsense amendment which is complimentary to everything that is in the bill.

I will be offering amendments perhaps on Monday which I think are very modest amendments which do, though, make substantive changes to the bill. This would carry out what I hope the intention is of the sponsors of the bill and which has been stated by the sponsors of the bill to be something they deeply believe in.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend from Michigan, the distinguished member of our Governmental Affairs Committee, who has played a characteristically active, thoughtful, and constructive part in the markup of and consideration of the committee through the hearings, drafting, and markup of the bill last week, and he continues to with this amendment, an amendment somewhat like the one which the committee didn't agree on. We have worked together. This whole bill has had so many moments where I felt we were legislating, we were reasoning together and coming to agreements that will make the system we want established better. This is one of them. It is totally consistent with the intention Senator COLLINS and I have had in putting the bill together with the intention, in my opinion, of the September 11 Commission, which is to put somebody in charge of the intelligence community where there is not someone in charge now; to not simply encourage but to the best of their ability mandate collaboration among the component agencies of the intelligence community and make sure that one result of collaboration is not so-called group-think; that there is independent, competitive analysis going on.

The amendment of the Senator from Michigan, which is focused, does exactly that. It adds language to make clear that the national intelligence director shall establish collection and analysis requirements for the intelligence community based on input from consumers of that national intelligence which reflect their estimate of their need and requirements. That is plain common sense.

The director would also establish collection analysis requirements based on the needs of intelligence consumers in order to produce timely and relevant products, which is what this is all about.

Senator LEVIN's amendment also makes clear the director has the responsibility in setting analysis priorities to ensure that the elements of the intelligence community are able to conduct, as he has said, "independent analyses so as to achieve to the maximum extent practicable competitive analysis."

That, too, is not only sensible, but it is in the interest of our national security.

I thank the Senator from Michigan. I certainly support the amendment. I believe it has been cleared on both sides. But the Senator from Maine is not able to be on the floor right now. As soon as she can, I guess she will want to speak on this and we should adopt this by consent.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me thank my dear friend from Connecticut.

I ask unanimous consent that Senator INOUYE be added as a cosponsor to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, I don't know whether the Senator from Connecticut at this point wants to have a voice vote or wait for the Senator from Maine.

Mr. LIEBERMAN. Mr. President, the Senator from Maine is on her way to the floor to speak about the amendment. I wonder if we might go into a quorum call for a moment until she does.

I note the presence of the very distinguished chairman of the Intelligence Committee. He will go next after we agree to this amendment.

In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I support the amendment proposed by Senator LEVIN. I thank him for offering it and for all of his hard work. It reflects not only the Senator's unique experience as a member of the Intelligence Committee, the Armed Services Committee, and the Governmental Affairs Committee, but also it reflects his usual care and attention to detail, which is unparalleled in this body.

The Levin amendment makes clear that the NID will establish collection and analysis requirements for the intelligence community following input from the consumers of intelligence. With these authorities, the NID will be able to manage collection activities across the intelligence community to ensure that defense, homeland security, and diplomatic needs are prioritized and satisfied. Similarly, a strong NID will ensure robust and competitive analysis of intelligence, prioritized to meet our most pressing needs.

Senator LEVIN's amendment will clarify that the consumers of national intelligence should set the requirements for collection and analysis. It would also emphasize that independent and comparative analyses are critical to an effective intelligence community.

I thank the Senator from Michigan for his contribution. I urge agreement of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the Levin amendment.

The amendment (No. 3808) was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3748

Mr. ROBERTS. Mr. President, I ask unanimous consent to call up amendment No. 3748 entitled "The Analytic Review Unit," which probably should be entitled "The Accountability Amendment."

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes an amendment numbered 3748.

Mr. ROBERTS. I ask unanimous consent that reading of the amendment be dispensed with.

The amendment is as follows:

(Purpose: To clarify the duties and responsibilities of the Ombudsman of the National Intelligence Authority and of the Analytic Review Unit within the Office of the Ombudsman)

On page 78, line 19, insert "regular and detailed" before "reviews".

On page 79, strike lines 1 and 2 and insert the following:

political considerations, based upon all sources available to the intelligence community, and performed in a manner consistent with sound analytic methods and tradecraft, including reviews for purposes of determining whether or not—

(A) such product or products state separately, and distinguish between, the intelligence underlying such product or products and the assumptions and judgments of analysts with respect to the intelligence and such product or products;

(B) such product or products describe the quality and reliability of the intelligence underlying such product or products;

(C) such product or products present and explain alternative conclusions, if any, with respect to the intelligence underlying such product or products;

(D) such product or products characterizes the uncertainties, if any, and the confidence in such product or products; and

(E) the analyst or analysts responsible for such product or products had appropriate access to intelligence information from all sources, regardless of the source of the information, the method of collection of the information, the elements of the intelligence community that collected the information, or the location of such collection.

On page 80, line 1, insert "(A)" after "(5)".

On page 80, line 3, strike ", upon request,".

On page 80, between lines 5 and 6, insert the following:

(B) The results of the evaluations under paragraph (4) shall also be distributed as appropriate throughout the intelligence community as a method for training intelligence community analysts and promoting the development of sound analytic methods and tradecraft. To ensure the widest possible distribution of the evaluations, the Analytic Review Unit shall, when appropriate, produce evaluations at multiple classification levels.

(6) Upon completion of the evaluations under paragraph (4), the Ombudsman may make recommendations to the National Intelligence Director, and to the heads of the elements of the intelligence community, for such personnel actions as the Ombudsman considers appropriate in light of the evaluations, including awards, commendations, reprimands, additional training, or disciplinary action.

On page 80, line 6, strike "INFORMATION.—" and insert "INFORMATION AND PERSONNEL.—(1)".

On page 80, line 8, insert ", the Analytic Review Unit, and other staff of the Office of the Ombudsman of the National Intelligence Authority" after "Authority".

On page 80, line 10, insert "operational and" before "field reports".

On page 80, between lines 13 and 14, insert the following:

(2) The Ombudsman, the Analytic Review Unit, and other staff of the Office shall have access to any employee, or any employee of a contractor, of the intelligence community whose testimony is needed for the performance of the duties of the Ombudsman.

Mr. ROBERTS. This amendment clarifies the role of the analytical review unit that the Collins and Lieberman bill creates within the Office of the Ombudsman of the National Intelligence Authority. The amendment specifies that the unit will evaluate the quality of the analysis of our national intelligence agency and, where appropriate, issue nonbinding—and I underline "nonbinding"—recommendations for present personnel actions to include additional training, commendations, and also any action that would be disciplinary.

This quality control mechanism will help instill accountability—we have heard that word over and over again in regard to intelligence reform, independence, leadership, and accountability—in the intelligence community's analytical effort in an effort to guard against analytical failures such as prewar intelligence assessment concerning Iraq's weapons of mass destruction programs by providing regular quality control audits of the intelligence community's analysis.

I am extremely hopeful the managers can find a way to include this important amendment in the bill.

I ask unanimous consent to set aside the amendment at this time.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3739 AND 3750, EN BLOC

Mr. ROBERTS. Mr. President, I ask unanimous consent to call up en bloc amendments 3739 and 3750 and ask that they be considered separately.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes amendments numbered 3739 and 3750, en bloc.

Mr. ROBERTS. I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3739

(Purpose: To ensure the sharing of intelligence information in a manner that promotes all-sources analysis and to assign responsibility for competitive analysis)

On page 17, between lines 19 and 20, insert the following:

(11) direct an element or elements of the intelligence community to conduct competitive analysis of analytic productions, particularly products having national importance;

(12) implement policies and procedures to encourage sound analytic methods and tradecraft throughout the elements of the intelligence community and to ensure that the elements of the intelligence community regularly conduct competitive analysis of analytic products, whether such products are produced by or disseminated to such elements;

On page 17, line 20, strike "(11)" and insert "(13)".

On page 17, line 22, strike "(12)" and insert "(14)".

On page 18, line 1, strike "(13)" and insert "(15)".

On page 18, between lines 3 and 4, insert the following:

(16) ensure that intelligence (including unevaluated intelligence), the source of such intelligence, and the method used to collect such intelligence is disseminated in a timely and efficient manner that promotes comprehensive all-source analysis by appropriately cleared officers and employees of the United States Government, notwithstanding the element of the intelligence community that collected such intelligence or the location of such collection;

On page 18, line 4, strike "(14)" and insert "(17)".

On page 18, line 7, strike "(15)" and insert "(18)".

On page 18, line 14, strike "(16)" and insert "(19)".

On page 18, line 17, strike "(17)" and insert "(20)".

On page 18, line 20, strike "(18)" and insert "(21)".

On page 19, line 5, strike "(19)" and insert "(22)".

On page 19, line 7, strike "(20)" and insert "(23)".

On page 20, strike lines 12 through 14 and insert the following:

shall have access to all intelligence and, consistent with subsection (k), any other information which is collected by, possessed by, or under the control of any department, agency, or other element of the United States Government when necessary to carry out the duties and responsibilities of the Director under this Act or any other provision of law.

On page 31, line 1, strike "112(a)(16)" and insert "112(a)(19)".

On page 31, strike line 22 and insert the following:

ensures information-sharing, including direct, continuous, and automated access to unevaluated intelligence data in its earliest understandable form.

On page 32, beginning on line 3, strike "information-sharing" and all that follows through line 4 and insert "information-sharing, including direct, continuous, and automated access to unevaluated intelligence data in its earliest understandable form.".

On page 32, line 16, insert "AND ANALYSIS" after "COLLECTION".

On page 32, line 19, insert "and analysis" after "collection".

On page 32, beginning on line 21, strike "the head of each element of the intelligence community" and insert "the head of any department, agency, or element of the United States Government, and the components and programs thereof,".

On page 56, line 20, strike "(15) and (16)" and insert "(18) and (19)".

On page 194, line 9, strike "112(a)(11)" and insert "112(a)(13)".

On page 195, line 16, strike "112(a)(11)" and insert "112(a)(13)".

On page 195, line 23, strike "112(a)(11)" and insert "112(a)(13)".

On page 196, line 7, strike "112(a)(11)" and insert "112(a)(13)".

AMENDMENT NO. 3750

(Purpose: To clarify the responsibilities of the Directorate of Intelligence of the National Counterterrorism Center for information-sharing and intelligence analysis)

On page 87, line 16, strike "and" at the end.

On page 87 between lines 16 and 17, insert the following:

(D) ensure that intelligence (including unevaluated intelligence) concerning suspected terrorists, their organizations, and their capabilities, plans, and intentions, the source of such intelligence, and the method used to collect such intelligence is disseminated in a timely and efficient manner that promotes comprehensive all-source analysis with the Directorate and by appropriately cleared officers and employees of the United States Government, notwithstanding the element of the intelligence community that collected such intelligence or the location of such collection;

(E) conduct, or direct through the National Intelligence Director an element or elements of the intelligence community to conduct, competitive analyses of intelligence products relating to suspected terrorists, their organizations, and their capabilities, plans, and intentions, particularly products having national importance;

(F) implement policies and procedures to encourage coordination by all elements of the intelligence community that conduct analysis of intelligence regarding terrorism of all Directorate products of national importance and, as appropriate, other products, before their final dissemination;

(G) ensure the dissemination of Directorate intelligence products to the President, to Congress, to the heads of other departments and agencies of the executive branch, to the Chairman of the Joint Chiefs of Staff and senior military commanders, and to such other persons or entities as the President shall direct; and

On page 87, line 17, strike "(D)" and insert "(H)".

On page 96, line 16, strike "foreign".

Mr. ROBERTS. This amendment clarifies that a primary mission of National Intelligence Authority is the elimination of barriers that impede any coordination of all intelligence activities, not merely counterterrorism activities.

Three years after 9/11, information sharing still remains, unfortunately, a serious problem. As recently as last week—as recently as last week—the Senate Intelligence Committee received a disturbing briefing in closed session that clearly demonstrated that even on matters related to the current terrorist threat to our homeland, the intelligence agencies still stubbornly refuse to adequately share information.

The National Security Act of 1947 clearly stipulates that a primary mission of the head of the intelligence community is to protect sources and methods. The current language of the Collins-Lieberman bill wisely balances this with the need to also ensure that intelligence concerning terrorism is certainly shared with those who need it.

This amendment seeks to broaden that responsibility to include all intelligence threats, such as the proliferation of weapons of mass destruction, North Korea, and other intelligence threats, not just terrorism. Terrorism is a serious threat, but it is not the last threat that we will face.

This amendment, which would build on the Collins-Lieberman bill and their already strong provisions for a "trusted information network," also stipulates that the national intelligence director is responsible for ensuring that the information-sharing process be automated to allow intelligence analysts to "pull" information from databases rather than waiting for somebody to push it to them. Currently, much of the information sharing that does occur in the intelligence community happens only through phones and fax machines, which is very inefficient, and also it is unreliable.

I am hopeful the managers can find a way to include this important amendment in the bill. I ask unanimous consent that the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3747

Mr. ROBERTS. Mr. President, I ask unanimous consent to call up amendment No. 3747.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes an amendment numbered 3747.

Mr. ROBERTS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide the National Intelligence Director with flexible administrative authority with respect to the National Intelligence Authority)

On page 43, after line 20, add the following:

SEC. 119. ADMINISTRATIVE AUTHORITIES.

(a) EXERCISE OF ADMINISTRATIVE AUTHORITIES.—Notwithstanding any other provision of law, the National Intelligence Director may exercise with respect to the National Intelligence Authority any authority of the Director of the Central Intelligence Agency with respect to the Central Intelligence Agency under a provision of the Central Intelligence Agency Act of 1949 specified in subsection (c).

(b) DELEGATION OF ADMINISTRATIVE AUTHORITIES.—Notwithstanding any other provision of law, the National Intelligence Director may delegate to the head of any other element of the intelligence community with a program, project, or activity within the National Intelligence Program for purposes of such program, project or activity any authority of the Director of the Central Intelligence Agency with respect to the Central Intelligence Agency under a provision of the Central Intelligence Agency Act of 1949 specified in subsection (c).

(c) SPECIFIED AUTHORITIES.—The authorities of the Director of the Central Intelligence Agency specified in this subsection are the authorities under the Central Intelligence Agency Act of 1949 as follows:

(1) Section 3 (50 U.S.C. 403c), relating to procurement.

(2) Section 4 (50 U.S.C. 403e), relating to travel allowances and related expenses.

(3) Section 5 (50 U.S.C. 403f), relating to administration of funds.

(4) Section 6 (50 U.S.C. 403g), relating to exemptions from certain information disclosure requirements.

(5) Section 8 (50 U.S.C. 403j), relating to availability of appropriations.

(6) Section 11 (50 U.S.C. 403k), relating to payment of death gratuities.

(7) Section 12 (50 U.S.C. 403l), relating to acceptance of gifts, devises, and bequests.

(8) Section 21 (50 U.S.C. 403u), relating to operation of a central services program.

(d) EXERCISE OF DELEGATED AUTHORITY.—Notwithstanding any other provision of law, the head of an element of the intelligence community delegated an authority under subsection (b) with respect to a program, project, or activity may exercise such authority with respect to such program, project, or activity to the same extent that the Director of the Central Intelligence Agency may exercise such authority with respect to the Central Intelligence Agency.

On page 108, line 12, strike "(1)".

On page 108, line 19, strike "(2)" and insert "(b) DEPOSIT OF PROCEEDS.—".

On page 108, strike line 23 and all that follows through page 109, line 3.

Mr. ROBERTS. Mr. President, this amendment would provide the national intelligence director with certain specified authorities already provided to the Central Intelligence Agency. These provisions include flexible acquisition, spending, personnel, and management authorities. As I have indicated, the national intelligence director already has these authorities. In addition, the amendment permits the national intelligence director to delegate any of the specified authorities to the head of an element of the intelligence community for use by that element.

Under the National Security Act of 1947, the CIA has a range of authorities in matters such as acquisition, spending, personnel, and management that do not exist anywhere else in Government. These sorts of authorities are often required to effectively conduct intelligence operations in a very timely way. This amendment seeks to empower the national intelligence director by allowing him to exercise these authorities anywhere in the intelligence community that he sees fit, not just at the CIA.

I am extremely hopeful that the managers can find a way to include this very important amendment in the bill.

Mr. President, I ask unanimous consent to set aside the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3742

Mr. ROBERTS. Mr. President, I ask unanimous consent to call up amendment No. 3742.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes an amendment numbered 3742.

Mr. ROBERTS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To clarify the continuing applicability of section 504 of the National Security Act of 1947 to the obligation and expenditure of funds appropriated for the intelligence and intelligence-related activities of the United States)

On page 28, line 17, strike "or" and insert "and".

On page 33, between lines 2 and 3, insert the following:

SEC. 114. FUNDING OF INTELLIGENCE ACTIVITIES.

(a) FUNDING OF ACTIVITIES.—(1) Notwithstanding any other provision of law, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(A) those funds were specifically authorized by the Congress for use for such activities;

(B) in the case of funds from the Reserve for Contingencies of the National Intelligence Director, and consistent with the provisions of section 503 of the National Security Act of 1947 (50 U.S.C. 413b) concerning any significant anticipated intelligence activity, the National Intelligence Director has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(C) in the case of funds specifically authorized by the Congress for a different activity—

(i) the activity to be funded is a higher priority intelligence or intelligence-related activity; and

(ii) the National Intelligence Director, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity.

(2) Nothing in this subsection prohibits the obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.

(b) APPLICABILITY OF OTHER AUTHORITIES.—Notwithstanding any other provision of this Act, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence, intelligence-related, or other activity only if such obligation or expenditure is consistent with subsections (b), (c), and (d) of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

(c) DEFINITIONS.—In this section:

(1) The term "intelligence agency" means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities.

(2) The term "appropriate congressional committees" means—

(A) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives; and

(B) the Select Committee on Intelligence and the Committee on Appropriations of the Senate.

(3) The term "specifically authorized by the Congress" means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

On page 33, line 3, strike "**114.**" and insert "**115.**".

On page 35, line 1, strike "**115.**" and insert "**116.**".

On page 38, line 21, strike "**116.**" and insert "**117.**".

On page 40, line 10, strike "**117.**" and insert "**118.**".

On page 43, line 1, strike "**118.**" and insert "**119.**".

On page 200, between line 18 and 19, insert the following:

SEC. 309. CONFORMING AMENDMENT ON FUNDING OF INTELLIGENCE ACTIVITIES.

Section 504(a)(3) of the National Security Act of 1947 (50 U.S.C. 414(a)(3)) is amended—

(1) in subparagraph (A), by adding "and" at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

On page 200, line 19, strike "**309.**" and insert "**310.**".

On page 201, line 11, strike "**310.**" and insert "**311.**".

On page 203, line 9, strike "**311.**" and insert "**312.**".

On page 204, line 1, strike "**312.**" and insert "**313.**".

Mr. ROBERTS. Mr. President, this amendment would preserve the requirement in section 504 of the National Security Act that funds appropriated for an intelligence activity must also be specifically authorized.

I am hopeful I can work with the managers of the bill and that we will be able to include this important amendment in the bill. It is absolutely essential.

Mr. President, I ask unanimous consent that the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3740, 3741, 3744, AND 3751

Mr. ROBERTS. Mr. President, I ask unanimous consent to call up en bloc amendments Nos. 3740, 3741, 3744, and 3751, and I ask they be considered separately.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS] proposes amendments numbered 3740, 3741, 3744, and 3751 en bloc.

Mr. ROBERTS. Mr. President, I ask unanimous consent that reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments en bloc are as follows:

AMENDMENT NO. 3740

(Purpose: To include among the primary missions of the National Intelligence Director the elimination of barriers to the coordination of intelligence activities)

On page 9 line 13, insert "and intelligence" after "counterterrorism".

AMENDMENT NO. 3741

(Purpose: To permit the National Intelligence Director to modify National Intelligence Program budgets before their approval and submittal to the President)

On page 23, line 1, strike "may require modifications" and insert "may modify, or may require modifications,".

AMENDMENT NO. 3744

(Purpose: To clarify the limitation on the transfer of funds and personnel and to preserve and enhance congressional oversight of intelligence activities)

On page 28, line 17, strike "or" and insert "and".

On page 112, beginning on line 12, strike "Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives" and insert "Select Committee on Intelligence and the Committee on Governmental Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Government Reform of the House of Representatives".

On page 172, strike line 18 and all that follows through page 174, line 23, and insert the following

SEC. 224. COMMUNICATIONS WITH CONGRESS.

AMENDMENT NO. 3751

(Purpose: To clarify the responsibilities of the Secretary of Defense pertaining to the National Intelligence Program)

On page 200, strike lines 5 through 11 and insert the following:

SEC. 307. CONFORMING AMENDMENTS ON RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO NATIONAL INTELLIGENCE PROGRAM.

Section 105(a) of the National Security Act of 1947 (50 U.S.C. 403–5(a)) is amended—

(1) in paragraph (1), by striking "ensure" and inserting "assist the Director in ensuring"; and

(2) in paragraph (2), by striking "appropriate".

Mr. ROBERTS. Mr. President, these amendments contain clarifications to the authorities of the national intelligence director. I am told that our staffs have been working very diligently on these matters. I believe that they strengthen the bill, and I am hopeful they will be accepted by the managers of the bill.

Mr. President, I ask unanimous consent that these amendments now be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Kansas, the distinguished chairman of the Senate Intelligence Committee, for his thoughtful amendments.

I have a great deal of admiration and respect for the Senator's knowledge in this area. I was very pleased that he participated in some of the committee's hearings, particularly the one where we had the former DCIs come in and give us their views. Both and he Senator ROCKEFELLER took the time out of their August recess to come to that hearing and fully participated in it. They have been providing us with their insight and guidance, which I very much appreciate.

The Senator from Kansas has offered a series of thoughtful amendments that are designed to clarify provisions in the bill with regard to information sharing, the primary mission of the National Intelligence Authority, the authorities of the NID, and several other matters. We agree largely with the goals of these amendments, and we are trying to work out agreement on specific language.

One of the problems we face, since we have adopted a lot of different amendments, including one cosponsored by the Senator last night having to do with an office of alternative analysis, is we need to make sure we are not duplicating changes that have been made by other amendments. It is a bit of a moving target here.

Another problem is, of course, we are trying to maintain that delicate balance struck by our bill. Any amendment that further strengthens the NID's authorities is a particular concern to one group; any amendment that weakens the NID's authorities is a particular concern to another. I know the Senator is very aware of the competing pressures in this regard.

In short, I want to assure the Senator and thank him for his contributions. We will try to work out these amendments consistent with the approach we have taken in the underlying bill. I very much appreciate the Senator's cooperation and good work and his leadership in this area.

Mr. ROBERTS. Mr. President, will the distinguished chairman yield?

Ms. COLLINS. I would be happy to yield.

Mr. ROBERTS. I say to the Senator, I would like to thank you for your very kind remarks. As the chairman knows, we have 22 professional staffers who were former analysts throughout the intelligence community. We would like to think we have expertise on this issue. As the chairman knows and the distinguished ranking member knows, we did produce a 511-page inquiry on WMD in regard to the inquiry on the prewar intelligence. I think it is the most thorough look at the intelligence community that has been conducted in the last 20 years. I am very proud of our staff. I think we have an outstanding staff.

I would just like to say this: This is not going to be the best possible bill. This is going to be the best bill possible to achieve that delicate balance that the distinguished chairman has talked about. And that is not being untoward. That is not bad. This is a very comprehensive bill. This touches our entire intelligence community. So we are bound to have to take a good look at this, and we are also going to be bound in terms of our responsibilities in terms of oversight.

I would imagine that with any bill you have what is called technical corrections. In this particular bill, we are going to have to take a hard look at not only technical corrections but monitor this bill as it evolves. But the important thing is that both Senators have been the primary movers of this bill in moving it forward in a comprehensive way. I credit them for their work. I can speak for all members of the Intelligence Committee: We are here, and we are here to help.

I thank the Senator for her kind comments.

The PRESIDING OFFICER (Mr. BURNS). The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I cannot thank the Senator from Kansas enough, chairman of the Intelligence

Committee, for what he has said. It means everything to me and, I know, to Senator COLLINS. We were asked to take on this assignment in the Governmental Affairs Committee because we are the committee of jurisdiction over governmental reorganization. The Intelligence Committee clearly has the experience and expertise in matters of intelligence. Senator ROBERTS and Senator ROCKEFELLER have contributed to the product we have turned out. But it is critically important to the success of what we have started here that our committee be working together with Senator ROBERTS and his committee.

I appreciate the effort and thoughtfulness that went into the many amendments that the Senator from Kansas is offering. Our staffs are looking them over. As Senator COLLINS said, I hope we can accept a number of them. They share the goals that we have together, and they will strengthen the bill. Then I look forward to Senator ROBERTS being on the conference committee and helping us to come up with a good result when we meet our friends from the House.

Most of all, I thank him, my friend. Together we are going to get something good done, not just for the intelligence community but for the reason for which our intelligence agencies exist, and that is for our national security.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. Who seeks recognition?

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3801

Mr. CHAMBLISS. Mr. President, I call for regular order with respect to amendment No. 3801.

The PRESIDING OFFICER. The amendment is pending.

Mr. CHAMBLISS. Mr. President, I rise today, along with my colleague Senator KYL, in support of amendment No. 3801 which I will describe in a minute.

Before I get to that, let me thank the chairman and ranking member of the Governmental Affairs Committee for the great work they have done on this bill. There has been no more delicate situation this body has had to deal with in many years, certainly in the 10 years I have been privileged to be a part of the Congress. Certainly there is no more important issue before us today because this issue involves the safety and security of every American, not just this generation but future generations to come. No two people have the concern of the American people more at heart than do Chairman COLLINS and Ranking Member LIEBERMAN, both of whom I have tremendous respect for. I appreciate their leadership on this issue.

Today I rise along with Senator KYL in support of amendment No. 3801 to S. 2845. This amendment focuses on intelligence reform relative to the civil liberties provision in the underlying bill. Section 211 of the underlying bill establishes a civil liberties board and gives that board certain powers and authorities.

Let me be clear: There is no stronger advocate for civil liberties in the Senate than myself. As a lawyer and a legislator, my entire professional life has been intertwined with the preservation of the liberties we all enjoy as Americans and which are enshrined in our Constitution and our Bill of Rights. The issue we debate today is not whether we support our civil liberties; we all support them as contained in the Constitution and the Bill of Rights. The question is, how best to balance this issue with other rights that form the cornerstone of our Constitution: namely, that among our inalienable rights from our Creator are life, liberty, and the pursuit of happiness.

When Islamic terrorists threaten our life and our liberties, we must act to protect ourselves. That is why we are here today debating the reformation of our intelligence community. We know our enemies want to kill us, and we understand that good intelligence will protect us. In our country, we may differ on how to do this, but there is no disagreement on why we need to do it. Our challenge is to increase our intelligence capabilities without undue infringement on our individual liberties.

Today our struggle is against an enemy unique in our history. The enemy is not a nation state. Rather, it is a warped philosophy that distorts any rational notion of what a Supreme Being expects of mankind. There are no rules of warfare for our enemy. They feel free and unencumbered to fly civilian airplanes loaded with innocent passengers into buildings, killing thousands of ordinary, hard-working, good citizens of our country. They relish in cutting off the heads of people who have done no harm to them whatsoever, recording it on video and broadcasting their horrific, inhumane actions to the world.

One only has to look at one of those tapes or listen to the voices of helpless victims pleading for their lives to grasp how evil and dangerous these Islamic terrorists are and why this Nation must succeed in our fight against them.

To win against such an enemy, we need to keep our focus. We need clear, unambiguous, and non-duplicative orders and laws pertaining to our war on terrorism and the protection of our civil liberties.

S. 2845 is a bill to strengthen our intelligence capabilities. It is meant to put more teeth into our ability to track, find, and arrest or kill those who wish to murder our people and destroy our way of life. It is not a bill regarding our civil liberties.

As a member of the Senate Judiciary Committee on the Constitution, Civil Rights, and Property Rights, which has oversight responsibility in this area, I am keenly aware of the safeguards that are already in place to protect our civil liberties from overreaching by the Government. Within the Department of Justice, there is an entire division devoted to protecting our civil rights. This division is responsible for coordinating the civil rights enforcement efforts of Federal agencies and assists in identifying and removing provisions, policies, and programs that violate our individual rights and liberties.

Last month, by Executive Order 13353, President Bush created the President's Board on Safeguarding Americans' Civil Liberties. This board is specifically designed to further strengthen the protection of the rights of Americans in the effective performance of national security and homeland security functions.

As the President said when he established the board and I quote, "The United States Government has a solemn obligation, and shall continue fully, to protect the legal rights of all Americans, including freedoms, civil liberties, and information privacy guaranteed by Federal law, in the effective performance of national security and homeland security functions."

Our amendment to S. 2845 clearly highlights the importance we all place on civil liberties, but it leaves the power to enforce our laws on this issue where it belongs—with the appropriate Federal agencies that are already equipped and designed for that function.

Whenever U.S. officials or U.S. military personnel violate any of our laws, they need to be fully prosecuted. Of course, we have good systems already in place to make sure that happens. For example, as bad as the abuse of some Iraqi prisoners was, our military justice system is handling those soldiers accused in exactly the right way.

Let me tell you a little bit about what this board is designed to do and the powers and authorities of this board. I am reading from page 155 of the underlying bill:

> The Board shall continually review the information sharing practices of the department's agencies, and elements of the executive branch to determine whether they appropriately protect privacy and civil liberties . . .

And so on.

Now, further, on page 158, in order to accomplish the provisions set forth in the section I just read, this board has access to information as follows, and I am quoting from page 158, line 21:

> If determined by the Board to be necessary to carry out its responsibilities under this section, the Board is authorized to . . .

Now I read on page 159, line 12:

> . . . require, by subpoena issued at the direction of a majority of the members of the Board, persons (other than departments, agencies, and elements of the executive branch) to produce any relevant information, documents, reports, answers, records, accounts, papers, and other documentary or testimonial evidence.

Now, this board has an obligation not to sit back and wait for any complaints to be raised, or any issues to be raised with the board, but an affirmative obligation to go out and review the policies and procedures of the civil organizations underneath the executive department. So what is going to happen, without question, is there will be problems in the intelligence community. We know and understand that. The No. 1 deficiency in the intelligence community is highlighted by every single board; every single committee within this body, or outside committee, that has looked at this issue has agreed that the lack of human intelligence is what the main deficiency has been and continues to be today.

The only way we are going to cure that problem is to encourage our spies in the field and that is exactly what they are—and these spies are absolutely necessary to provide the kind of intelligence our military and civilian authorities need to ensure our national security.

This board is going to have the authority to aggressively go out and review any situation relative to a case that is ongoing by any officer of the CIA, wherever in the world that officer may be operating. This board is going to have the ability to take statements from individuals who are Government employees, or people outside the Government, who have information relative to any case they want to look at.

This bill goes even further. It says this board has authority by subpoena issued by just a majority of the members of this board, to require individuals or agencies to produce documents, including classified documents, that may be reviewed on any particular case.

What is that going to do to every single CIA agent who operates in the field, or to every DIA agent who operates in the field and who shares information with the CIA? I think, without question, what we are doing by the enactment of these particular sections is to create a morale problem at the Central Intelligence Agency and our other intelligence agencies throughout our intelligence community that we will never repair.

We are on the back side today, thank goodness, of having repealed the Deutch guidelines that were implemented in 1995. Those guidelines prohibited the expenditure of tax money being paid to individuals providing us intelligence if they had a criminal record or any kind of disparaging record in their past. Well, what that meant was that we could only hire Sunday school teachers to go out and spy on bad guys around the world. Thank goodness this body took affirmative action in the last couple of years to repeal those guidelines. But it was only after the events of September 11 that we were able to accomplish that.

In addition to the morale problem that will be created, which I don't think we will ever overcome, one might say this is a board that is going to be appointed by the President, confirmed by the Senate, and they are not to be a political board. Everybody in this body knows what that means. This is going to be a political board. In fact, the legislation itself says that members of the board shall be selected solely on the basis of their professional qualifications, achievements, public stature, expertise in civil liberties and privacy, relevant experience, and without regard to political affiliation. But in no event shall more than three members of the board be members of the same political party. So what we are doing here, in effect, is creating a political board. It makes no difference to me which administration is in office. I think it is bad policy to have our CIA agents, DIA agents, and every other intelligence officer in the field that operates for the sole purpose of gathering intelligence to save and protect Americans from being killed or harmed, having this board look over their shoulder and have the ability not just to investigate the case they are operating on, but to look at any information they have shared with anybody else, or any information that they have received from anybody can also be reviewed and traced back. I think it is bad policy to create a board and give them that kind of power and authority and expect them to operate in any way other than a political manner.

Rather than set up another entity with broad powers, including subpoena power, to look over the activities of our intelligence personnel who are fully engaged in important and dangerous activities to protect all of us, I would rather give our support and confidence to those in the Department of Justice who are working on our behalf every day to protect our civil liberties. I want to allow the newly formed President's Board on Safeguarding Americans' Civil Liberties to begin their work. Let us not establish competing and duplicative bureaucracies.

Our amendment will strike from section 211 those provisions expanding the powers given to this board to the point of not allowing them to subpoena information, including classified information, from agents around the world and other folks involved in the intelligence community. We need to rapidly improve our intelligence capabilities, and that should be the focus of S. 2845. The protection of our civil liberties is already the focus of the President and the Department of Justice, and they have the resources to do just that.

With that, I yield to my friend from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, I think the Senator from Georgia has covered this area very well. I spoke to it yesterday. I know Senator STEVENS is here to lay down some amendments. I will take a few minutes to add one primary thought to what the Senator from Georgia has said, and then quickly lay down three amendments, and then I will be done.

Let me make this one key point about what the Senator from Georgia is talking about. The 9/11 Commission did not recommend the board or the many different assistant directorships and other provisions, from an ombudsman to IGs and the like, that are included in the legislation that is before us today. I am going to tell you what the 9/11 Commission did recommend. What it recommended is what the President has done. What the committee did went far beyond that.

Our amendment does not eliminate all of that, but at least it cuts it back to some extent. That is what I want to explain. Senator DURBIN discussed this privacy amendment at length yesterday. His primary point was that the 9/11 Commission recommended this, and therefore the committee did it, and therefore we ought to not amend it out. In fact, one of the things he said was the 9/11 Commission recommended this board, and following their recommendation, the legislation included it.

What exactly did the 9/11 Commission recommend? There were three specific recommendations. They take one and a half pages out of the entire report. I will paraphrase the first two because they are not directly on point:

> As the President determines the guidelines for information sharing among government agencies and by those agencies with the private sector, he should safeguard the privacy of individuals about whom information is shared.

Fine.

Two:

> The burden of proof for retaining a particular governmental power should be on the executive, to explain (a) that the power actually materially enhances security and (b) that there is adequate supervision of the executive's use of the powers. . . .

And three, and this is the key:

> At this time of increased and consolidated government authority, there should be a board within the executive branch to oversee adherence to the guidelines we recommend and the commitment the government makes to defend our civil liberties.

That is it. As the Senator from Georgia said, that is exactly what the President did in his Executive Order 13353.

The Senator from Georgia described what that Executive order does. I have a full copy of all the entities involved in it, the instructions to that board to bring any credible information of possible violations of law to appropriate end, to undertake other efforts to protect the legal rights of all Americans, including freedoms, civil liberties, and information privacy guaranteed by Federal law, and so on.

In other words, what the 9/11 Commission recommended the President did. What is in this bill goes far beyond that. What I said yesterday with respect to risk aversion makes it clear that what the committee did not only goes far beyond what the 9/11 Commission recommended but will virtually guarantee that the risk aversion, which is a problem today, is exacerbated tenfold so that instead of being able to collect more intelligence and analyze that intelligence better and have people who are not involved in group-think, who are actually willing to think outside the box and not be intimidated by risks aversion, instead of that, we are going to get more of that because of all the layers of bureaucracy that is going to be looking over people's shoulders.

What the bill does is require two officers within the national intelligence authority, two out of six, one responsible for privacy, the other for civil rights and civil liberties. In addition, there is an inspector general within the national intelligence authority who, among other things, is to monitor and inform the director of violations of civil liberties and privacy.

There is an ombudsman, which I mentioned a moment ago. There is an independent privacy and civil liberties oversight board with extensive investigative authorities, which the Senator from Georgia talked about, and privacy and civil liberties officers within a long list of executive branch departments and agencies.

So what does the amendment we have offered do? It deletes sections 126 and 127 which require officers for privacy and civil liberties within the national intelligence authority because those already exist; it would strike section 212 requiring privacy and civil liberties officers within a long list of executive branch departments and agencies; and it would modify the privacy and civil liberties oversight board described in section 211. It does not eliminate it, so it would be duplicative of the board the President created.

There will be an executive branch board and an outside board, but this board would not have the authority to subpoena private individuals or documents and reports, accounts, and other evidence of private individuals, nor would it have the power to compel through subpoena, for example, a department or agency to present documents.

I am not even sure, by the way, this board would have the authority to do that under the Constitution. I am not sure that authority could be granted. In any event, that would be a very pernicious power granted to it when that power already exists in the ombudsman, in the inspector general, and the other privacy officers that exist. It is duplicative and unnecessary.

The net result of all these different entities that have the same responsibility is to basically tell intelligence agencies: If you want to get to the end of your career and have a pension at the end of it, you better watch over your shoulder because there are a whole lot of other people doing that. That is not the way to enhance our security.

Those are the additional points I wanted to make in addition to those I made yesterday with respect to this amendment. I hope before we vote on this amendment we will have an opportunity to present these arguments in short form with all of the Members in attendance.

Mr. President, I indicated to the chairman of the committee what I intend to do next. Therefore, since our procedure is to lay down one amendment at a time, I ask unanimous consent to lay down three amendments, and I will explain what they are.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3926

Mr. KYL. Mr. President, the first is amendment No. 3926, which is at the desk, and I ask that amendment be read.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 3926.

Mr. KYL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Immigration and Nationality Act to ensure that nonimmigrant visas are not issued to individuals with connections to terrorism or who intend to carry out terrorist activities in the United States)

At the end, add the following new title:

TITLE IV—VISA REQUIREMENTS

SEC. 401. FINDINGS.

Congress makes the following findings:

(1) Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) governs the admission of nonimmigrants to the United States and sets forth the process for that admission.

(2) Section 214(b) of the Immigration and Nationality Act places the burden of proof on a visa applicant to establish "to the satisfaction of the consular officer, at the time of the application for a visa ... that he is entitled to a nonimmigrant status".

(3) The report of the National Commission on Terrorist Attacks Upon the United States included a recommendation that the United States "combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists ... and constrain terrorist mobility".

(4) Fifteen of the 19 individuals who participated in the aircraft hijackings on September 11, 2001, were nationals of Saudi Arabia who legally entered the United States after securing nonimmigrant visas despite the fact that they did not adequately meet the burden of proof required by section 214(b) of the Immigration and Nationality Act.

(5) Prior to September 11, 2001, the Department of State allowed consular officers to approve nonimmigrant visa applications that were incomplete, and without conducting face-to-face interviews of many applicants.

(6) Each of the 15 individuals from Saudi Arabia who participated in the aircraft hijackings on September 11, 2001, filed a visa application that contained inaccuracies and omissions that should have prevented such individual from obtaining a visa.

(7) Only one of the hijackers listed an actual address on his visa application. The other hijackers simply wrote answers such as "California", "New York", or "Hotel" when asked to provide a destination inside the United States on the visa application.

(8) Only 3 of the individuals from Saudi Arabia who participated in the aircraft hijackings on September 11, 2001, provided any information in the section of the visa application that requests the name and address of an employer or school in the United States.

(9) The 2002 General Accounting Office report entitled "Border Security: Visa Process Should Be Strengthened as Antiterrorism Tool" outlined the written guidelines and practices of the Department of State related to visa issuance and stated that the Department of State allowed for widespread discretion among consular officers in adhering to the burden of proof requirements under section 214(b) of the Immigration and Nationality Act.

(10) The General Accounting Office report further stated that the "Consular Best Practices Handbook" of the Department of State gave consular managers and staff the discretion to "waive personal appearance and interviews for certain nonimmigrant visa applicants".

(11) Only 2 of the 15 individuals from Saudi Arabia who participated in the aircraft hijackings on September 11, 2001, were interviewed by Department of State consular officers.

(12) If the Department of State had required all consular officers to implement section 214(b) of the Immigration and Nationality Act, conduct face-to-face interviews, and require that visa applications be completely and accurately filled out, those who participated in the aircraft hijackings on September 11, 2001, may have been denied nonimmigrant visas and the tragedy of September 11, 2001, could have been prevented.

SEC. 402. IN PERSON INTERVIEWS OF VISA APPLICANTS.

(a) REQUIREMENT FOR INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a nonimmigrant visa—

"(1) who is at least 12 years of age and not more than 65 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

"(A) by a consular official and such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

"(B) by a consular official and such alien is applying for a visa—

"(i) not more than 12 months after the date on which the alien's prior visa expired;

"(ii) for the classification under section 101(a)(15) for which such prior visa was issued;

"(iii) from the consular post located in the country in which the alien is a national; and

"(iv) the consular officer has no indication that the alien has not complied with the immigration laws and regulations of the United States; or

"(C) by the Secretary of State if the Secretary determines that such waiver is—

"(i) in the national interest of the United States; or

"(ii) necessary as a result of unusual circumstances; and

"(2) notwithstanding paragraph (1), to submit to an in person interview with a consular officer if such alien—

"(A) is not a national of the country in which the alien is applying for a visa;

"(B) was previously refused a visa, unless such refusal was overcome or a waiver of ineligibility has been obtained;

"(C) is listed in the Consular Lookout and Support System (or successor system at the Department of State);

"(D) may not obtain a visa until a security advisory opinion or other Department of State clearance is issued unless such alien is—

"(i) within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

"(ii) not a national of a country that is officially designated by the Secretary of State as a state sponsor of terrorism; or

"(E) is identified as a member of a group or sector that the Secretary of State determines—

"(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

"(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

"(iii) poses a security threat to the United States.".

(b) CONDUCT DURING INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(i) A consular officer who is conducting an in person interview with an alien applying for a visa or other documentation shall—

"(1) make every effort to conduct such interview fairly;

"(2) employ high professional standards during such interview;

"(3) use best interviewing techniques to elicit pertinent information to assess the alien's qualifications, including techniques to identify any potential security concerns posed by the alien;

"(4) provide the alien with an adequate opportunity to present evidence establishing the accuracy of the information in the alien's application; and

"(5) make a careful record of the interview to document the basis for the final action on the alien's application, if appropriate.".

SEC. 403. VISA APPLICATION REQUIREMENTS.

Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting "The alien shall provide complete and accurate information in response to any request for information contained in the application." after the second sentence.

SEC. 404. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect 90 days after date of the enactment of this Act.

Mr. KYL. Mr. President, this amendment would codify and tighten the procedures for personal interviews of people seeking temporary visas. Mr. President, 15 of the 19 hijackers who came here received these kinds of visas. I think in every case but one they were not interviewed as the State Department guidelines call for, as the statute assumes but does not make explicit. This amendment will do that.

If there are any issues or questions about it, I would be happy to talk with both the majority and minority. I am hopeful we can work that out.

AMENDMENT NO. 3881

(Purpose: To protect crime victims' rights)

Mr. KYL. Mr. President, the second amendment that I ask be read is at the desk. It is amendment No. 3881.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL] proposes an amendment numbered 3881.

Mr. KYL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Thursday, September 30, 2004, under "Text of Amendments.")

Mr. KYL. Mr. President, I recall in the Senate a vote of I think it was 97 to 1 or 90-something to 1, in any event, earlier this year that passed a proposed statute to guarantee crime victims certain rights. That bill is pending in the House.

What this does is take those exact rights and make them applicable to victims of terrorist attacks, terrorist crimes.

Again, I invite comments. I do not think it will be difficult. We will work that out.

AMENDMENT NO. 3724

(Purpose: To strengthen anti-terrorism investigative tools, promote information sharing, punish terrorist offenses, and for other purposes)

Mr. KYL. Mr. President, I am happy to go to my third amendment. This is amendment No. 3724.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. KYL], for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES, proposes an amendment numbered 3724.

Mr. KYL. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Tuesday, September 28, 2004 under "Text of Amendments.")

Mr. KYL. Mr. President, I rise today to discuss an important amendment that I will offer to the 9/11 Commission bill. My amendment is substantially the same as S. 2679, the Tools to Fight Terrorism Act, a bill that I introduced earlier this year with several other members of the Judiciary Committee and the Senate leadership.

Since the terrorist attacks of September 11, congressional committees and executive agencies have conducted exhaustive reviews of our Nation's antiterrorism safety net. We have had scores of hearings in the House and Senate judiciary committees, a Joint Intelligence Committee Inquiry, the 9/11 Commission hearings and report, and the Justice Department has conducted extensive evaluations of its own antiterrorism capabilities. These hearings have uncovered numerous flaws and gaps in our antiterrorism system. We have found, for example, that in many cases antiterror investigators still have less authority to access information than do investigators of other crimes that, while serious, pale in comparison to the threat posed by international terrorism. We also have seen that some of the federal code's criminal offenses and penalties are far too light, or too narrow in their scope, in light of the contemporary terrorist threat. Yet, despite all of these hearings and reports—and all of the gaps in our antiterror laws that have been identified—Congress has enacted no major antiterror legislation in almost three years.

This amendment addresses many of the problems that these hearings and reports have identified over the last few years. At the outset, I would like to emphasize 5 things about the amendment.

This amendment is not about the PATRIOT Act. This amendment does not reauthorize or extend the PATRIOT Act. Nor does it involve any of the supposedly "controversial" provisions of the PATRIOT Act.

Nothing in TFTA deals with Section 215 subpoenas, which some critics have complained can be used to access a terrorist's records of book withdrawals and computer use at a library.

Nothing in TFTA deals with delayed-notice searches, which some critics deride as "sneak and peak" searches, even though the PATRIOT Act only codified judicial standards that have been in place for decades.

Nothing in TFTA deals with roving wiretaps, which some critics mischaracterize as allowing taps of the telephones of anyone who fits a general description. This is not true. A roving wiretap can only be used for a particular person, though it applies to any phone that the person uses.

Nothing in TFTA deals with National Security Letters, which allow certain records to be subpoenaed and includes an automatic nondisclosure requirement.

I happen to support the PATRIOT and believe that it should not be allowed to expire. Nevertheless, with this amendment, I have deferred that debate. This amendment does not involve the PATRIOT Act or the debates about it. The only way that one can object to this amendment as "controversial" is if one is willing to define all antiterror legislation as "controversial." In a post-9/11 world, with continuing threats to the U.S. homeland—and clear gaps in some of our antiterror laws—such a presumption against all antiterror legislation would be deeply irresponsible. Fixing obvious flaws in our laws, and giving antiterror investigators the tools that they need, should not be controversial.

Much of TFTA is also in the House of Representatives' 9/11 Commission bill. Approximately half of the provisions of TFTA already have been included by the House of Representatives in their bill implementing the recommendations of the 9/11 Commission. For example, the House bill already contains the "Moussaoui fix," which allows FISA warrants for lone-wolf terrorists—Section 412 of TFTA and section 2001 of H.R. 10.; new offenses for hoaxes relating to terrorist crimes or the deaths of U.S. soldiers—Section 416 of TFTA and section 2021 of H.R. 10.; increased penalties for obstruction of justice in terrorism investigations—Section 417 of TFTA and section 2023 of H.R. 10.; authorization to share grand-jury information with state and local governments—Section 423(b) of TFTA and section 2191 of H.R. 10.; improvements to and expansion of the material-support statute—Section 424 of TFTA and section 2043 of H.R. 10.; a new offense targeted at those who receive military-type training in terrorist camps—Section 425 of TFTA and 2042 of H.R. 10.; expansion of the weapons-of-mass-destruction laws—Section 426 of TFTA and section 2052 of H.R. 10.; and new laws targeted at those who aid rogue states' nuclear proliferation—Section 427 of TFTA and section 2053 of H.R. 10.

In all these respects, my amendment is substantially identical to the House bill. The amendment thus helps to bring the Senate bill into line with the House bill, lessening the need for a protracted conference and avoiding delay in enacting this legislation.

TFTA directly implements a number of the key recommendations and addresses key concerns of the 9/11 Commission. The Report of the September 11 Commission recommends that Congress address a number of deficiencies in our nation's preparedness against a terrorist attack. The underlying bill that we are considering responds to many of those recommendations. This amendment addresses others.

The 9/11 Commission Report recommends action to address, among other things, the threat posed by weapons of mass destruction and their proliferation; the vulnerabilities of our seaports and mass-transit systems; the need for improved information sharing; the need to address terrorist finance; the threat posed by sanctuaries where terrorists operate training camps; and the need for improved information sharing. The report also discusses the problems created by terrorist hoaxes, and the legal barriers encountered in the pre-September 11 investigation of suspected hijacker Zacarias Moussaoui.

TFTA addresses every one of these 9/11 Commission recommendations.

TFTA's provisions and the matters that it address have been extensively reviewed in congressional hearings. Every provision of TFTA previously has either been introduced as a bill in the House or Senate or addresses a matter that has been the subject of a committee hearing. Collectively, the provisions of TFTA have been the subject of 9 separate hearings before House and Senate committees and have been the subject of 4 separate committee reports. In addition, the entire bill was reviewed at a September 13 hearing before the Senate Subcommittee on Terrorism. At that hearing, law professor Jonathan Turley testified that every one of TFTA's provisions would be upheld as constitutional by the U.S. Supreme Court.

TFTA primarily consists of all or part of 11 bills currently pending in the House and Senate. Collectively, as of July 19, 2004—the day that TFTA was introduced—the bills included in TFTA have been pending before Congress for 12 years, 10 months, and 28 days. No one can contend that TFTA and its provisions have been "rushed through" the Congress.

TFTA has the support of antiterrorism experts across the ideological spectrum. The Justice Department, in its September 13 testimony on TFTA before the Terrorism Subcommittee, expressed its strong support for the bill. Hearing witnesses Barry Sabin—the Chief of the Criminal Division's Counterterrorism Section—and Dan Bryant, the Assistant Attorney General for the Office of Legal Policy—made clear in their joint written testimony the Justice Department's view that the "Tools to Fight Terrorism Act of 2004 makes well-considered, urgently needed changes to current law, and would greatly aid law enforcement and intelligence officials in their common mission to prevent terrorist attacks and prosecute those who would do us harm. The new tools provided by the TFTA will prevent—terrorist—attacks and will make America safer."

At the Terrorism Subcommittee hearing on TFTA, support for the bill also was voiced by George Washington University law professor Jonathan Turley, a national-security expert who often has been critical of the Justice Department's conduct of the war on terror. In addition to a large number of academic works in the areas of national-security and constitutional law, Professor Turley has represented clients in a variety of high-profile national security cases in both criminal and civil courts, including espionage cases in both federal and military courts. In his testimony before my subcommittee, Professor Turley noted that he "also [has] been a vocal critic of some of the measures taken after September 11th on constitutional and policy grounds."

This is what Professor Turley had to say about the TFTA in his testimony:

> The Tools to Fight Terrorism Act of 2004 . . . contains many beneficial changes that will increase the ability of the government to pursue terrorists while preserving necessary guarantees for civil liberties.
>
> * * * * *
>
> While we must be cautious not to legislate out of a reflective impulse, September 11th exposed a number of vulnerabilities and gaps in our legal and intelligence systems that remain only partially addressed. This Act continues to work to close those gaps and to accommodate the interests of the Executive Branch in pursuing, prosecuting, and (hopefully) deterring terrorists.
>
> * * * * *
>
> The vast majority of the[] provisions [of TFTA] are matters that, in my view, should receive general support as balanced and necessary measures.
>
> * * * * *
>
> TFTA should be a matter for general consensus rather than division among civil libertarians and advocates of national security interests. . . . [W]e need to recognize the improvements in this Act and the good-faith changes that have been made by members seeking a fair balance in the legislation.

In one part of his testimony before my subcommittee, Professor Turley also recommended a change to a part of the bill—in order to better protect civil liberties. He recommended that, if the FBI is given subpoena authority for terrorism investigations, it also be required to report on the use of that authority. The amendment that I offer today incorporates this recommendation—it would require the FBI to report to Congress on the number of subpoenas that it issues pursuant to this new authority, and the circumstances under which those subpoenas are issued.

I will next discuss the provisions of this amendment—and how they help to address the recommendations and concerns raised by the 9/11 Commission, and what others have said about these provisions.

The Moussaoui fix: The case of suspected 9/11 conspirator Zacarias Moussaoui is discussed extensively in the 9/11 Commission Report. Moussaoui, you will recall, is the Al Qaeda operative who was arrested by Minneapolis FBI agents several weeks before the September 11 attacks. That summer, instructors at a Minnesota flight school became suspicious when Moussaoui, with little apparent knowledge of flying, asked to be taught to pilot a 747. The instructors contacted the Minneapolis office of the FBI, which immediately suspected that Moussaoui might be a terrorist.

The hearings conducted by the 9/11 Commission raised some agonizing questions about the FBI's pursuit of Moussaoui. Commissioner Richard Ben-Veniste noted the possibility that the Moussaoui investigation could have allowed the United States to "possibly disrupt the [9/11] plot." Commissioner Bob Kerrey even suggested that with better use of the information gleaned from Moussaoui, the "conspiracy would have been rolled up." And Commissioner Jamie Gorelick followed up by asking whether more could have been done to allow FBI agents to "break through the barriers" to their investigation of Moussaoui.

After the September 11 attacks, when FBI agents finally were allowed to search Moussaoui, they discovered information in his belongings that linked him to two of the actual 9/11 hijackers, and to a high-level organizer of the attacks who later was arrested in Pakistan.

The 9/11 Commissioners are right to ask whether more could have been done to pursue this case. The problem is that, given the state of the law at the time, the answer to that question is probably no. In fact, given the state of the law today, the answer to the question still would be no.

FBI agents were blocked from searching Moussaoui because an outdated requirement of the 1978 FISA statute. FISA sets rules for searches conducted for intelligence investigations. As the 9/11 Commission Report notes, the FBI field office was unable to obtain a FISA warrant for Moussaoui because it lacked information linking him to a known terror group. As the Report states:

> Minneapolis agents "sought a special warrant under the Foreign Intelligence Surveillance Act to [search Moussaoui]. To do so, however, the FBI needed to demonstrate probable cause that Moussaoui was an agent of a foreign power, a demonstration that [is] . . . a statutory requirement for a FISA warrant. The agent did not have sufficient information to connect Moussaoui to a foreign power.

Current law simply does not allow searches of apparent lone-wolf terrorists such as Zacarias Moussaoui—even if the FBI can show probable cause to believe that the person is involved in international terrorism.

My amendment would correct this problem. Section 412 gives the FBI clear authority to conduct a search or surveillance under FISA when it has probable cause to believe that the target is engaged in or preparing for international terrorism. This new authority would not require FBI to also link the suspect to a particular terrorist group.

It is inevitable that Islamist terrorists will try again to attack the United States. As agonizing as it is today to review why we did not prevent the September 11 attacks, imagine if it happened again. Imagine if another attack occurred—and another review commission found that critical FBI investigations again were undermined by the lack of FISA authority to monitor and search lone-wolf terrorists. We simply cannot let that happen. We must ensure that today's FBI agents are not hampered by the same unnecessary barriers that hurt the efforts of the Minneapolis agents in August of 2001.

Process: A bill that is substantially identical to section 412 first was introduced in the Senate by Senator SCHUMER and me on June 5, 2002. We reintroduced the same provision in the 108th Congress: That bill—S. 113—was unanimously reported by the Judiciary Committee in March 2003, and was approved by the full Senate by a vote of 90–4 in May 2003. A substantially identical provision also has been included in a House bill introduced by Chairmen SENSENBRENNER and Goss—and is included in the House 9/11 Commission bill as section 2001. The Moussaoui fix also has been the subject of two hearings—one in the Senate Intelligence Committee on July 31, 2002, and one in the House Crime Subcommittee on May 18, 2004.

Section 412 is substantially identical to section 2001 of the House of Representatives' 9/11 Commission bill.

Weapons of Mass Destruction and Shoulder-Fired Antiaircraft Rockets: The 9/11 Commission Report notes that "al Qaeda has tried to acquire or make weapons of mass destruction for at least ten years. . . . Preventing the proliferation of these weapons warrants a maximum effort." The Report also discusses "Pakistan's illicit trade and [the] nuclear smuggling networks of Pakistani nuclear scientist A.Q. Khan." The Report recommends that the U.S. work with other nations "to develop laws and an international legal regime with universal jurisdiction to enable the capture, interdiction, and prosecution of such smugglers by any state in the world."

Sections 426 and 427 and subtitle B of my amendment all are directed at preventing terrorists from gaining access to weapons of mass destruction. Section 427 makes it a crime to participate in or provide material support to a nuclear-weapons program, or other weapons-of-mass-destruction program, of a designated terrorist organization or state sponsor of terrorism. There would be extraterritorial jurisdiction for an offense under this provision. Section 426 would amend the federal weapons-of-mass-destruction statute to cover attacks on property and would broaden the bases for federal jurisdiction under that statute. Subtitle B is designed to deter the unlawful possession and use of atomic weapons, radiological dispersal devices, shoulder-fired rockets, and the variola virus (the causative agent of smallpox).

In his testimony about these provisions before the Terrorism Subcommittee, Professor Jonathan Turley had this to say:

> [Section 426, the WMD-statute provision] would close current loopholes in the interest of national security and does not materially affect civil liberty interests.
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> [Section 427] would criminalize the participation in programs involving special nuclear material, atomic weapons, or weapons of mass destruction outside of the United States. This new crime with extraterritorial jurisdiction is an obvious response to recent threats identified by this country and other allies like Pakistan. The obvious value of such a law would be hard to overstate. . . . It is important for the purposes of our extraterritorial enforcement efforts to have a specific crime on the books to address this form of misconduct.
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> [With regard to subtitle B—the new shoulder-fired rockets proscription], [g]iven the enormous threats to our country from such weapons, these increased penalties are manifestly reasonable. . . . While it is certainly possible that a defendant could be in possession of a MANPADS as part of arms trafficking or some other motive than terrorism, this is clearly one of the most likely forms of terrorist conduct.

Process: Sections 426 and 427 of my amendment are identical to sections 2052 and 2053 of the House 9/11 Commission bill. These—and the new penalties for possession of shoulder-fired rockets and other dangerous weapons—also are identical to legislation that Senator CORNYN introduced earlier this year.

Mass-Transportation and Seaport Security: The 9/11 Commission Report recommends that the U.S. government "identify and evaluate the transportation assets that need to be protected, set risk-based priorities for defending them, select the most practical and cost-effective ways of doing so, and then develop a plan . . . to implement the effort." While noting the continuing threat to aviation, the Report also emphasizes that "[o]pportunities to do harm are as great, or greater, in maritime or surface transportation"—and that "railroads and mass transit" are particularly difficult to protect against terrorism.

Subtitles C and D of my amendment address the unique challenges of providing security on mass-transportation systems and at seaports by updating current criminal offenses and creating new offenses that are tailored to these venues.

Here is what Professor Turley had to say about the seaport-security provision during the hearing on TFTA:

> [Subtitle D] addresses a weakness in our domestic security system that has been repeatedly criticized as perhaps the country's single greatest threat: seaport security. While much remains to be done in terms of real security improvements at seaports, [subtitle D] represents one of the most significant legal reforms in this area.

* * * * *

> While many of [the acts of violence proscribed by TFTA] can be currently prosecuted under other laws, [subtitle D] would create a tailored series of offenses affecting seaports and seagoing vessels. For example, one important addition would be a crime for knowingly transporting dangerous material for a terrorist operation or a terrorist. This new crime in Section [455] will serve to increase the expected deterrent for transporters. Currently, a transporter can be prosecuted as a co-conspirator as well as charged with false statements in many cases. However, Section [455] would define a crime specifically with this type of opportunistic conduct in mind. For a prosecutor, such a tailored law makes a case more compelling for a jury.
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> These laws give the Executive Branch more flexibility and options in dealing with misconduct at our seaports. It could not be more timely or more justified given recent warnings from security experts.

Process: Subtitles C and D are identical to bills introduced this year by Senators SESSIONS and BIDEN, respectively. The Sessions bill was the subject of a hearing before the Senate Judiciary Committee on April 8, 2004. The Senate Subcommittee on Terrorism held a hearing on the need to improve security at U.S. seaports on January 27 of this year.

Information Sharing: The 9/11 Commission Report recommends that "information procedures should provide incentives for sharing, to restore a better balance between security and shared knowledge." The Report also recommends that the President "coordinate the resolution of the legal, policy, and technical issues across agencies to create a 'trusted information network'"—and that this information-sharing network and the FBI "build a reciprocal relationship, in which state and local governments understand what information they are looking for and, in return, receive some of the information being developed."

Sections 422 and 423 of my amendment act on these recommendations by improving the FBI's ability to share intelligence information that has been obtained under existing authorities. Section 422 creates a uniform standard under which the FBI would disseminate intelligence information to other federal agencies. Under current law, several different statutes govern the circumstances under which the FBI may disseminate intelligence information to other federal agencies. Some of these statutes anomalously place restrictions on information sharing with other federal agencies that are greater than the restrictions applied to nonfederal agencies. This section allows dissemination of intelligence information under uniform guidelines developed by the Attorney General.

Section 423 amends current law to make clear that national-security-related information may be shared with relevant Federal, State, and local officials regardless of whether the investigation that produced the information is characterized as a "criminal" investigation or a "national security" investigation. This section also would authorize the sharing of grand-jury information with appropriate state and local authorities.

I do not think one can overstate the importance of information sharing—of tearing down the walls that prevent different parts of the government from exchanging intelligence and working together in the war on terror.

A graphic illustration of the importance of tearing down the legal walls between different terror investigators is provided by another pre-September 11 investigation. Like the Moussaoui case, this investigation also came tantalizing close to substantially disrupting or even stopping the 9/11 plot—and also ultimately was blocked by a flaw in our antiterror laws. The investigation that I am talking about involved Khalid Al Midhar, one of the suicide hijackers of American Airlines Flight 77, which was crashed into the Pentagon, killing 58 passengers and crew and 125 people on the ground.

An account of the investigation of Midhar is provided in the 9/11 Commission's Staff Statement No. 10. That statement notes as follows:

> During the summer of 2001 [an FBI official] . . . found [a] cable reporting that Khalid Al Mihdhar had a visa to the United States. A week later she found the cable reporting that Mihdhar's visa application—what was later discovered to be his first application—listed New York as his destination. . . . The FBI official grasped the significance of this information.
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> The FBI official and an FBI analyst working the case promptly met with an INS representative at FBI Headquarters. On August 22 INS told them that Mihdhar had entered the United States on January 15, 2000, and again on July 4, 2001. . . . The FBI agents decided that if Mihdhar was in the United States, he should be found.

These alert agents immediately grasped the danger that Khalid Al Midhar posed to the United States—and immediately initiated an effort to track him down. Unfortunately, at the time, the law was not on their side. The Joint Inquiry Report of the House and Senate Intelligence Committees describes what happened next:

> Even in late August 2001, when the CIA told the FBI, State, INS, and Customs that Khalid al-Mihdhar, Nawaf al-Hazmi, and two other "Bin Laden-related individuals" were in the United States, FBI Headquarters refused to accede to the New York field office recommendation that a criminal investigation be opened, which might allow greater resources to be dedicated to the search for the future hijackers. . . . FBI attorneys took the position that criminal investigators "CAN NOT" (emphasis original) be involved and that criminal information discovered in the intelligence case would be "passed over the wall" according to proper procedures. An agent in the FBI's New York field office responded by e-mail, saying: "Whatever has happened to this, someday someone will die and, wall or not, the public will not understand why we were not more effective in throwing every resource we had at certain problems."

The 9/11 Commission staff report assesses the ultimate impact of these legal barriers:

> Many witnesses have suggested that even if Mihdhar had been found, there was nothing the agents could have done except follow him onto the planes. We believe this is incorrect. Both Hazmi and Mihdhar could have been held for immigration violations or as material witnesses in the Cole bombing case. Investigation or interrogation of these individuals, and their travel and financial activities, also may have yielded evidence of connections to other participants in the 9/11 plot. In any case, the opportunity did not arise.

Congress must do what it can now to make sure that something like this does not happen again—that arbitrary, seemingly minor bureaucratic barriers are not allowed to undermine our best leads toward uncovering an attack on the United States. Sections 422 and 423 of my amendment would do just that.

Process: Subsection (b) of section 423 is included in H.R. 10, the House of Representatives' 9/11 Commission bill. Sections 422 and 423 both are identical to a bill that has been introduced by Senator CHAMBLISS.

Subpoena Authority: The bill that the Senate is now considering already authorizes subpoena authority. Section 141(f)(5) of the bill authorizes the National Intelligence Authority's Inspector General to issue subpoenas for his investigations. It also authorizes the Inspector to go to federal court to enforce his subpoenas if a recipient refuses to comply with them. Section 211(g) of the bill also authorizes the new Privacy and Civil Liberties Board to issue administrative subpoenas and to seek their judicial enforcement.

I agree with the bill's judgment that subpoena authority can be an important investigative tool. For this reason, section 415 of my amendment authorizes the Attorney General to issue judicially enforceable subpoenas in an "investigation of a Federal crime of terrorism."

Rachel Brand, the Principal Deputy Assistant Attorney General for the Justice Department's Office of Legal Policy, described the need for subpoena authority in terrorism investigations in a hearing before my subcommittee on June 22 of this year. Ms. Brand noted:

> Although grand jury subpoenas are a sufficient tool in many investigations, there are circumstances in which an administrative subpoena would save precious minutes or hours in a terrorism investigation. For example, the ability to use an administrative subpoena will eliminate delays caused by factors such as the unavailability of an Assistant United States Attorney to immediately issue a grand-jury subpoena, especially in rural areas; the time it takes to contact an Assistant United States Attorney in the context of a time-sensitive investigation; the lack of a grand jury sitting at the moment the documents are needed (under

> federal law, the "return date" for a grand-jury subpoena must be on a day the grand jury is sitting); or the absence of an empaneled grand jury in the judicial district where the investigation is taking place, a rare circumstance that would prevent a grand-jury subpoena from being issued at all.
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> To appreciate the potential importance of an administrative subpoena in a terrorism case, consider the following hypothetical example. On Friday afternoon, counter-terrorism investigators learn that members of an al Qaeda cell have purchased bomb-making materials from a chemical company. They want to obtain records relating to the purchase that may reveal what chemicals the terrorists bought, as well as delivery records that might reveal the terrorists' location. Investigators reach a prosecutor, who issues a grand jury subpoena for those records. But because the grand jury is not scheduled to meet again until Monday morning and the recipient of a grand jury subpoena is not required to produce the records until the next time the grand jury meets, investigators may not be able to obtain the information for three days during which time the al Qaeda cell may have executed its plan. If investigators had the authority to issue an administrative subpoena, they could obtain the records immediately and neutralize the cell.

A recent paper issued by the Republican Policy Committee points out how anomalous it is that the FBI does not have subpoena authority for terrorism investigations. As that report notes, "[c]urrent provisions of federal law grant [administrative-subpoena] authority to most government departments and agencies." Moreover, "[t]hese authorities are not restricted to high-profile agencies conducting life-or-death investigations." As the paper notes, federal law currently authorizes postal inspectors to issue administrative subpoenas when investigating any "criminal matters related to the Postal Service and the mails." Similarly, the Small Business Administration is empowered to use administrative subpoenas to investigate criminal activities under the Small Business Act, such as embezzlement and fraud. The Bureau of Immigration and Customs Enforcement has administrative-subpoena authority for investigations of violations of the immigration laws. And DEA agents have subpoena authority for criminal investigations under the Controlled Substances Act.

As the RPC Policy Paper concludes, "One can hardly contend that federal investigators should be able to issue administrative subpoenas to investigate Mohammed Atta if they suspect that he broke into a mailbox—but should not have the same authority if they suspect he is plotting to fly airplanes into buildings."

Professor Jonathan Turley also commented on TFTA's subpoenas provision in his testimony before the Terrorism Subcommittee. He stated:

> There is little reason to believe that a [Judicially Enforceable Terrorism Subpoena] provision would be unconstitutional.
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> Much is made [by some critics] of the shift from a grand-jury subpoena to a JETS system. However, the term grand-jury subpoena is misleading in that it is not issued by a grand jury but a federal prosecutor. "[A] grand jury subpoena gets its name from the intended use of the . . . evidence, not from the source of its issuance." *Doe* v. *DiGenova*, 779 F.2d 74, 80 n.11 (D.C. Cir. 1985). Administrative subpoenas are currently used in dozens of areas and they have been upheld by the United States Supreme Court. It is extremely rare for a federal prosecutor to deny such a request from the FBI and the elimination of an Assistant United States Attorney from the process is not likely to produce a significant change in the level of review.

Professor Turley also added: "I would strongly encourage the Senate to couple any JETS provision with a close oversight process to monitor the number and nature of subpoenas issued under the new law." As I previously noted, the amendment that I offer today implements this recommendation: it includes a requirement that the FBI report on the number of subpoenas that it employs under the new authority and the circumstances of their issue.

Terrorist Training Camps: The 9/11 Commission Report recommends that the U.S. government "identify and prioritize actual or potential terrorist sanctuaries. For each, it should have a realistic strategy to keep possible terrorists insecure and on the run, using all elements of national power." The Report explains that such sanctuaries pose a threat because they provide terrorist groups with the "opportunity and space to recruit, train, and select operatives"—and that the hospitable environment in the United States also allowed this country to be used for terrorist training and exercises.

Section 425 of my amendment would make it a federal offense to knowingly receive military-type training from or on behalf of a designated foreign terrorist organization. This provision applies extraterritorially to U.S. nationals, permanent residents, stateless persons whose habitual residence is the United States, or a person who is brought into or found in the United States.

The Justice Department testified in favor of this provision at the Terrorism Subcommittee's hearing on the TFTA. The joint statement of Messrs. Sabin and Bryant notes that:

> It is critical that the United States stem the flow of recruits to terrorist training camps. A danger is posed to the vital foreign policy interests and national security of the United States whenever a person knowingly receives military-type training from a designated terrorist organization or persons acting on its behalf. Such an individual stands ready to further the malicious intent of the terrorist organization through terrorist activity that threatens the security of United States nationals or the national security of the United States. Moreover, a trainee's mere participation in a terrorist organization's training camp benefits the organization as a whole. For example, a trainee's participation in group drills at a training camp helps to improve both the skills of his fellow trainees and the efficacy of his instructors' training methods. Additionally, by attending a terrorist training camp, an individual lends critical moral support to other trainees and the organization as a whole, support that is essential to the health and vitality of the organization.

Professor Turley had the following to say about this provision of TFTA in his testimony before the Terrorism Subcommittee:

> This proposal would fill a gap in our laws revealed by recent cases, like that of Jose Padilla, where citizens have trained at terrorist camps. . . . The proposed crime has been narrowly tailored to require a clear knowledge element as well as a reasonable definition of military-type training. The United States has an obvious interest in criminalizing such conduct and to deter citizens who are contemplating such training. In my view, it raises no legitimate issue of free association or free speech given the criminal nature of the organization. Most importantly, given the use of these camps to recruit and indoctrinate such citizens as Padilla and John Walker Lindh, this new criminal offense is responsive to a clear and present danger for the country.

Section 425 of my amendment is identical to section 2042 of the House of Representatives' 9/11 Commission bill.

Terrorist Hoaxes: The 9/11 Commission Report notes at several places that false information about terrorist threats influenced key events on September 11, 2001: possibly "a false report of a third plane approaching" influenced fire crews' decisions on the ground in New York City on that day, and crisis managers were forced to sort out "a number of unnerving false alarms" immediately after the attacks.

The Justice Department also has commented on the harm caused by false information and terrorist hoaxes. In its testimony on the TFTA, the Department noted:

> Since September 11, hoaxes have seriously disrupted people's lives and needlessly diverted law-enforcement and emergency-services resources. In the wake of the anthrax attacks in the fall of 2001, for example, a number of individuals mailed unidentified white powder, intending for the recipient to believe it was anthrax. Many people were inconvenienced, and emergency responders were forced to waste a great deal of time and effort. Similarly, in a time when those in uniform are making tremendous sacrifices for the country, several people have received hoax phone calls reporting the death of a loved one serving in Iraq or Afghanistan.

Section 416 of my amendment is intended to reduce the flow of false information about terrorist or national-security-related events by making it a criminal offense to knowingly convey false information about terrorist crimes or the death or injury of a U.S. soldier during war—if such misinformation is conveyed under circumstances where it may reasonably be believed.

Professor Turley, at the Terrorism Subcommittee hearing on TFTA, commented that:

> This new provision would create a serious deterrent to a type of misconduct that routinely places the lives of emergency personnel at risk and costs millions of dollars in unrecouped costs for the federal and state governments. Since a terrorist seeks first and foremost to terrorize, there is precious [little] difference between a hoaxster and a terrorist when the former seeks to shut down a business or a community with a fake threat. . . . This provision responds to the increase in this form of insidious misconduct and correctly defines it as criminal conduct.

Process: A bill that is substantially identical to section 416 first was introduced almost three years ago by Representative LAMAR SMITH on November 11, 2001. That proposal was the subject of a hearing before the House Crime Subcommittee on November 7, 2001. The bill was reported by the House Judiciary Committee on November 29, 2001, which issued Report No. 107–306 for the bill. The Smith bill was then unanimously approved by the House of Representatives on December 12, 2001. Representative SMITH reintroduced the bill in this Congress. The House Crime Subcommittee held another hearing on the proposal on July 10, 2003, and the Judiciary Committee issued Report No. 108-505 for the new Smith bill. Also, Senator HATCH has introduced a version of this proposal in the Senate.

Section 416 of my amendment is nearly identical to section 2022 of the House of Representatives' 9/11 Commission bill.

Financial and Material Support to Terrorists: The 9/11 Commission Report states in its recommendations that "vigorous efforts to track terrorist financing must remain front and center in U.S. counterterrorism efforts."

Subtitle E of my amendment, the "Combating Money Laundering and Terrorist Financing Act," expands the list of predicate offenses for money laundering to include burglary and embezzlement, operation of an illegal money-transmitting business, and offenses related to alien smuggling, child exploitation, and obscenity that were enacted or amended by the Protect Act. It also amends current law to prohibit concealing having provided financing while knowing that it has been or will be provided to terrorists.

Section 424 of my amendment expands existing prohibitions on providing material support to terrorist groups. This provision makes it a crime to provide material support to any crime of international or domestic terrorism, and expands federal jurisdiction over such offenses.

The Justice Department emphasized the importance of the material-support statute in its joint statement on the TFTA before the Terrorism Subcommittee:

> The TFTA . . . improves current law by clarifying several aspects of the material support statutes. This is another key tool in preventing terrorism. As the Department of Justice has previously indicated, "a key element of the Department's strategy for winning the war against terrorism has been to use the material support statutes to prosecute aggressively those individuals who supply terrorists with the support and resources they need to survive . . . . The Department seeks to identify and apprehend terrorists before they can carry out their plans, and the material support statutes are a valuable tool for prosecutors seeking to bring charges against and incapacitate terrorists before they are able to cause death and destruction."

The 9/11 Commission Report also emphasizes the need "to ensure protection of civil liberties" during the war on terrorism. In order to address concerns raised by some courts and litigants about the chilling effect of the current material-support statute, section 424 of the amendment clarifies what it means to provide "training," "personnel," and "expert advice or assistance" to a terrorist group.

Professor Turley, in his Terrorism Subcommittee testimony on TFTA, said of section 424 that "[t]his proposal would actually improve the current federal law by correcting gaps and ambiguities that have led to recent judicial reversals. In that sense, the proposal can be viewed as a slight benefit to civil liberties by removing a dangerous level of ambiguity in the law."

A provision identical to section 424 of my amendment appears in the House of Representatives 9/11 Commission bill as section 2043.

Presumption of No Bail for Terrorists: Section 413 of my amendment would add terrorists to the category of criminal defendants for whom there is a presumption of no bail. Under current law, a criminal suspect will be denied bail in federal court if the government shows that there is a serious risk that the suspect will flee, obstruct justice, or injure or threaten a witness or juror. The judge must presume this showing is present if the suspect is charged with a crime of violence, a drug crime carrying a potential sentence of ten years or more, any crime that carries a potential sentence of life or the death penalty, or the suspect previously has been convicted of two or more such offenses. Section 413 would add terrorist offenses to this list—judges would be required to presume that facts requiring a denial of bail are present. This is only a presumption—the terror suspect still could attempt to show that he is not a flight risk or potential threat to jurors or witnesses.

The Justice Department testified as to the importance of this provision at the Terrorism Subcommittee hearing on TFTA:

> Current law provides that federal defendants who are accused of serious crimes, including many drug offenses and violent crimes, are presumptively denied pretrial release under 18 U.S.C. § 3142(e). But the law does not apply this presumption to those charged with many terrorism offenses. To presumptively detain suspected drug traffickers and violent criminals before trial, but not suspected terrorists, defies common sense.
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> This omission has presented authorities real obstacles to prosecuting the war on terrorism, as Michael Battle, U.S. Attorney for the Western District of New York, testified before this subcommittee on June 22. In the recent "Lackawanna Six" terrorism case in his district, prosecutors moved for pre-trial detention of the defendants, most of whom were charged with (and ultimately pled guilty to) providing material support to al Qaeda. It was expected that the defendants would oppose the motion. What followed was not expected, however. Because the law does not allow presumptive pre-trial detention in terrorism cases, prosecutors had to participate and prevail in a nearly three-week hearing on the issue of detention, and were forced to disclose a substantial amount of their evidence against the defendants prematurely, at a time when the investigation was still ongoing. Moreover, the presiding magistrate judge did in fact authorize the release of one defendant, who, it was later learned, had lied to the FBI about the fact that he had met with Osama bin Laden in Afghanistan.
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> The Lackawanna Six case illustrates the real-life problems the absence of presumptive pre-trial detention has posed to law enforcement. But this shortcoming in the law has also enabled terrorists to flee from justice altogether. For example, a Hezbollah supporter was charged long ago with providing material support to that terrorist organization. Following his release on bail, he fled the country.

The suspect described above eventually was recaptured by the United States 6 years after his escape. During that time, he was not a participant in a terrorist attack against the United States—but he could have been.

Jonathan Turley also commented on section 413 in his testimony at the Terrorism Subcommittee hearing on TFTA. He stated:

> [Section 413] would create a presumption against bail for accused terrorists. Under this amendment, such a presumption could be rebutted by the accused, but the court would begin with a presumption that the accused represents a risk of flight or danger to society. This has been opposed by various groups, who point to the various terrorist cases where charges were dismissed or rejected, including the recent Detroit scandal where prosecutorial abuse was strongly condemned by the Court. I do not share the opposition to this provision because I believe that, while there have been abuses in the investigation and prosecution of terrorism cases, the proposed change sought by the Justice Department is neither unconstitutional nor unreasonable.
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> This proposal would not impose a categorical denial of bail but a presumption against bail in terrorism cases. Congress has a clearly reasonable basis for distinguishing terrorism from other crimes in such a presumption. In my view, this would be clearly constitutional.
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> While I have been critical of the policies of Attorney General John Ashcroft, I do not share the view of some of my colleagues in the civil liberties community in opposition to this change. There is currently a presumption against pretrial release for a variety of crimes in 18 U.S.C. § 3142(e), including major drug crimes. It seems quite bizarre to have

such a presumption in drug cases but not terrorism cases.

Use of FISA in immigration proceedings: The 9/11 Commission Report recommends that the United States "combine terrorist travel intelligence, operations, and law enforcement in a strategy to intercept terrorists, find terrorist travel facilitators, and constrain terrorist mobility." The report also states that "[t]he challenge for national security in an age of terrorism is to prevent the very few people who may pose overwhelming risks from entering or remaining in the United States undetected."

Section 419 of my amendment is designed to allow the federal government to more readily employ intelligence information to keep suspected terrorists out of the United States. The Foreign Intelligence Surveillance Act requires the government to provide notice when information obtained through FISA is used in any federal proceeding. In 1996, Congress created an exception to this requirement for alien-terrorist removal proceedings. This section would extend this exception to all immigration proceedings—the government would be able to use FISA information to deny an alien a particular immigration benefit, to bar his reentry, or to detain him on immigration charges, all without revealing that the information was obtained through FISA. Such authority would be useful because in many instances, notice that information was obtained through FISA would disclose to the alien that he or his associates have been the target of a FISA investigation—a disclosure that effectively would compromise an ongoing investigation.

Professor Turley addressed this provision in his testimony before the Terrorism Subcommittee on the TFTA:

> This provision would change the current system in which the government must notify parties in an immigration case that it is using information obtained through FISA. . . .
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> Section [419] was criticized recently by the American Immigration Lawyers Association (AILA) group as "constitutionally dubious." Despite my respect for AILA and its work, I must disagree with the suggestion that this provision might be found unconstitutional. The government is allowed to use secret evidence in such proceedings and the only change here is the identification of the source of such secret information. . . . This provision would, in my view, pass constitutional muster.
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> . . . [T]he true legal change produced by Section [419] is marginal. There are good-faith reasons for the government's reluctance to acknowledge an on-going FISA investigation. While I oppose FISA generally, this does not appear an unreasonable request from the Justice Department.

Other provisions: lifetime post-release supervision, obstruction of justice, denial of benefits. In his testimony on TFTA before the Terrorism Subcommittee, Professor Turley also had the following to say about these provisions of TFTA:

> [Section 414] This provision would make terrorists eligible for lifetime post-release supervision. Under the current law, certain individuals convicted of terrorist crimes are not eligible for lifetime post-release supervision because the underlying offense did not create a foreseeable risk of death or serious injury. The Justice Department has objected to the current language of 18 U.S.C. §3583 as too restrictive since there are many individuals who knowingly support terrorist activities, but do so through less overtly violent means, such as computer-related crimes. The purpose is only to make such individuals eligible for lifetime supervision. This proposal seems facially reasonable in light of the sophisticated web of supporting co-conspirators working with groups like Al-Qaeda.
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> [Section 417] This provision increases the penalties for obstruction of justice in terrorism cases. The Justice Department believes that the increase from 5 to 10 years in terrorism cases is needed to show the added severity of such misconduct in this context. For the purpose of full disclosure, I have represented defendants charged under false statement provisions like 18 U.S.C. §1001 and I have been a critic of the abusive use of false statement charges by the Justice Department in non-terrorist cases. However, seeking higher penalties for obstruction in the area of terrorism is not an unreasonable demand and certainly would not raise any immediate constitutional problems.
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> [Section 421] This provision would deny federal benefits to convicted terrorists. The denial of such benefits is currently allowed under the Controlled Substances Act and makes obvious sense given the nature of these crimes.

In conclusion, I would simply remind my colleagues that every provision of TFTA has been fully explored in congressional committee hearings—the individual provisions of the bill have been the subject of nine separate hearings—and every provision of TFTA has the full support of the Department of Justice. These provisions address obvious and in some cases glaring gaps in our nation's antiterrorism safety net. We cannot allow these problems to continue to go unaddressed.

I urge my colleagues to support the amendment.

Mr. President, this is a controversial amendment. It is sometimes called the Tools for Terrorism Act. There are 20 specific provisions of this amendment. Some of them are very uncontroversial, some have become controversial. What I am proposing to do by laying this amendment down is begin a dialog with members of both the majority and the minority to see which of them we can agree to be adopted.

This was the most efficient way to do that rather than independently offering each one seriatim. But it is my intention to work out a unanimous consent agreement with both sides that would result in as much of this amendment as possible, from my perspective, but in any event, as much as we can agree upon, being agreed to without any further debate or votes if they are not necessary.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I very much appreciate the cooperation of the Senator from Arizona. We would be happy to work with him on the three amendments that he has laid down.

I do want to debate further the other amendment, his first amendment on privacy and civil liberties oversight. That is a key amendment, and I do want to engage on that. However, I know that Senator STEVENS is under a tight timeframe for this afternoon. I would be willing to delay my response to the debate of the two Senators on my side of the aisle until after Senator STEVENS has had an opportunity to lay down his amendments.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I thank the Chair. Mr. President, I join Senator COLLINS in thanking Senator KYL and Senator CHAMBLISS for offering the amendments. I thank Senator KYL particularly for the spirit in which he offered—and some of the amendments we will be able to reach agreement on—the last amendment—the so-called tools for terrorists?

Mr. KYL. Yes.

Mr. LIEBERMAN. Tools to fight terrorism, as I would call it. As you said, parts of it are very controversial. As an individual Senator, probably a lot of it I would support, but I particularly appreciate the Senator's conclusion here because neither the Senator from Arizona nor I want to come into a situation where we are getting this bill's fate swept up in controversial amendments.

I look forward to working with the Senator and members of both caucuses to pick out the parts that there is general agreement on, and I believe there will be a good number of those, and make the bill stronger and then get it moving to adoption. I thank the Chair.

The PRESIDING OFFICER. The Senator from Alaska

Mr. STEVENS. Mr. President, I have a series of requests for cosponsors of amendments that I have introduced. I ask unanimous consent that they be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3826, 3827, 3829 AND 3840, EN BLOC

Mr. STEVENS. Mr. President, I call up the four amendments at the desk. I ask unanimous consent that each of them be read and then set aside so we can go through calling up the four of them, and then I will make some comments about them. They are amendments Nos. 3826, 3827, 3829 and 3840.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

> The Senator from Alaska [Mr. STEVENS], for himself, Mr. WARNER, and Mr. INOUYE, proposes an amendment numbered 3826.
>
> The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 3827.
>
> The Senator from Alaska [Mr. STEVENS], for himself, Mr. WARNER, and Mr. INOUYE, proposes an amendment numbered 3829.

The Senator from Alaska [Mr. STEVENS], for himself, Mr. WARNER, Mr. INOUYE, and Mr. BURNS, proposes an amendment numbered 3840.

The amendments are as follows:

AMENDMENT NO. 3826

(Purpose: To modify the duties of the Director of the National Counterterrorism Center as the principal advisor to the President on counterterrorism matters)

On page 84, beginning on line 8, strike "joint operations" and insert "strategic planning".

AMENDMENT NO. 3827

(Purpose: To strike section 206, relating to information sharing)

On page 130, strike line 20 and all that follows through page 153, line 2.

AMENDMENT NO. 3829

(Purpose: To amend the effective date provision)

On page 212, strike lines 3 through 6, and insert the following:

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect one year after the date of the enactment of this Act, except that—

(1) subsections (a) and (b) of section 102 (relating to the establishment of the position of National Intelligence Director) shall take effect 90 days after the date of the enactment of this Act, and the President shall prescribe the duties of the position of National Intelligence Director that are to apply before subsections (d) and (e) of such section take effect;

(2) section 143 (relating to the establishment and operation of the National Counterterrorism Center) shall take effect 90 days after the date of the enactment of this Act, and the National Counterterrorism Center shall be operated without reference to its status under section 143(a) as an entity within the National Intelligence Authority until the National Intelligence Authority is established when section 101 takes effect;

(3) section 331 and the amendments made by such section shall take effect 90 days after the date of the enactment of this Act; and

(4) a provision of this Act shall take effect on any earlier date that the President specifies for such provision in an exercise of the authority provided in subsection (b).

AMENDMENT NO. 3840

(Purpose: To strike the fiscal and acquisition authorities of the National Intelligence Authority)

On page 109, strike line 4 and all that follows through page 113, line 3.

On page 113, line 4, strike "**163.**" and insert "**162.**".

On page 114, line 1, strike "**164.**" and insert "**163.**".

AMENDMENT NO. 3826

Mr. STEVENS. Mr. President, I will address the amendment first in order, amendment No. 3826. This is offered to clarify the duties and responsibilities of the Director of the National Counterterrorism Center. The bill currently states that the Director of the National Counterterrorism Center shall serve as the principal adviser to the President and the national intelligence director on joint operations related to counterterrorism.

This amendment strikes "joint operations" and inserts in lieu thereof "strategic planning." The bill under consideration creates the National Counterterrorism Center to develop and unify strategy, to develop interagency terrorism plans, not to conduct joint operations.

I call attention to page 83, lines 3, 9, and 10, of the committee print.

In support of the bill under consideration, this amendment clarifies the role of the Director of the National Counterterrorism Center to support planning and not conduct operations.

It is the intent of this amendment to make it perfectly clear that the national counterterrorism director would have no control over the conduct of joint operations. Having the intelligence director to report directly to the President would be inappropriate. Furthermore, the Secretary of Defense is the principal adviser to the President on military operations. As currently drafted, the director of the National Counterterrorism Center shall serve as the principal adviser to the President on joint operations. This is very unclear. Does it include military operations? Our amendment eliminates that ambiguity by striking "joint operation" and inserting "strategic planning," which would appear to be consistent with the amendment adopted by the committee in the markup to change the directorate of operations to directorate of planning within the National Counterterrorism Center. I would hope that the manager of the bill would give this amendment serious consideration because I think it clears up a defect in the bill as it is presently written.

AMENDMENT NO. 3829

Now I will address amendment No. 3829. This amendment would delay the implementation of the bill from 6 months to 1 year. I want to make it clear that this amendment would not delay the implementation of the office of the national intelligence director or the National Counterterrorism Center but gives the administration 6 more months to implement the many offices, councils, and changes in the intelligence community that the bill requires.

We are facing an election. We do not know what the outcome of the election is, but to put the burdens of this bill in the first 6 months on the administration, whether it is the existing one or a new one, is entirely inappropriate. The first 6 months of a new Congress and the new year of an administration go by very quickly, and I think there is just too much to do with regard to budget, presentation of State of the Union message, so many other things, to have this implementation done within 6 months.

I make this recommendation because many of the individuals I have spoken to in the intelligence community and those who appeared before our Appropriations Committee suggest that executing these changes should not be at an accelerated pace. Here are the important quotes from Dr. Kissinger.

> What I say and what I have written should be read in conjunction with a joint statement that is being issued today by the following group of individuals: former Senator Boren, former Senator Bradley, former Secretary of Defense Carlucci, former Secretary of Defense William Cohen, former Director of the Central Intelligence Agency Robert Gates, former Under Secretary of Defense John Hamre, former Senator Gary Hart, myself, former Senator Sam Nunn, former Senator Warren Rudman, and former Secretary of State George Shultz.
>
> It is obviously a bipartisan group, and we are concerned that the reforms of the magnitude that are being talked about and with the impact that they will have on the conduct of intelligence and on the national security machinery should not be rushed through in the last weeks of the congressional session in the middle of a Presidential election campaign. The consequences of this reform will inevitably produce months and maybe years of turmoil as the adjustments are made in the operating procedures of the national security apparatus and of the intelligence machinery. That is inherent to reform. But we should not have to explain in retrospect why it was so necessary to come to a conclusion in the middle of a Presidential election campaign. Whatever decisions are made this week, we will have to deal with the immediate terrorist challenge by the apparatus that now exists, as it has already been reformed in the light of the experience of September 11. So urgency should not trump substance.

From Dr. John Hamre, former Deputy Secretary of Defense:

> Mr. Chairman, we are now very far along the road in this debate. Unfortunately, from my perspective, the shape of this debate has been driven more by political imperative than deep analysis of the challenges we face in this area. We do need intelligence reform, I believe. But I believe the debate to date, and the proposals before the Congress, are too narrowly constructed around one perceived failure of the intelligence community, and that is the failure to coordinate the activities of the components of the intelligence community.

Without this extra 6 months, I feel the administration would be hard-pressed to meet the strict requirements, recommendations, and guidelines this bill imposes. It does not require a delay of 6 months; it just gives 6 more months. If they can do it in 2 months, fine, but why put a 6-month deadline when the study that is involved has a 6-month deadline? My amendment allows the President to move fast if he believes it is prudent but does not mandate a rush to finish.

I urge my colleagues to support this amendment which would only work to help the administration to execute this mission well.

AMENDMENT NO. 3827

The amendment strikes line 20 on page 130 of the bill and all text that follows to line 2 on page 153 which relates to creation of a huge information sharing network. The current occupant of the Chair will be very interested in this amendment.

I understand the need for this office to be created, and my amendment will create such an office. But, it would strike the specific requirements and guidelines that the national intelligence director would have to follow to establish a network for intelligence information sharing. My amendment would allow the intelligence community, and more importantly the national intelligence director, to be using the information to determine what type of network they need.

During our Committee hearings, Dr. Henry Kissinger made the following analysis:

> Different components of the government have different missions and priorities that cause them to assign different levels of importance to protecting intelligence information. Good management requires that, when there are contradictions between using intelligence and protecting it, decisions are made by established procedure. Sharing should be optimized, not managed in detail. To attempt to prescribe all the circumstance in bureaucratic or legalistic language would involve so much detail and so many exceptions as to defeat its own purpose.

Also, sharing of this information will not be the ultimate panacea. ADM James Ellis, former Commander of U.S. Strategic Commander until a few months ago, made the following point:

> We should be wary of homogenizing centralized processes that, albeit unintentionally, may suppress or filter differing views. Recent op-ed pieces have noted the inevitability of surprise in our past and offered as well that often a surprise is a result of deficient analysis, not collection or even sharing of data.

Also, from our intelligence reform hearings, Judge Richard Posner, from the 7th Circuit, Court of Appeals stated the following:

> The Commission thinks the reason the bits of information that might have been assembled into a mosaic spelling 9/11 never came together in one place is that no one person was in charge of intelligence. That is not the reason. The reason, or rather, the reasons are, first, that the volume of information is so vast that even with the continued rapid advances in data processing it cannot be collected, stored, retrieved and analyzed in a single database or even network of linked databases. Second, legitimate security concerns limit the degree to which confidential information can safely be shared, especially given the ever-present threat of moles like the infamous Aldrich Ames. And third, the different intelligence services and the subunits of each service tend, because information is power, to hoard it. Efforts to centralize the intelligence function are likely to lengthen the time it takes for intelligence and analyses to reach the President, reduce diversity and competition in the gathering and analysis of intelligence data, limit the number of threats given serious consideration and deprive the president of a range of alternative interpretations of ambiguous and incomplete data—and intelligence data will usually be ambiguous and incomplete.

I point out that the administration's statement, so-called SAP which came from the administration, says:

> the administration supports the strong information-sharing authorities granted to the NID in the bill. The administration is concerned that the extensive authorities and responsibilities granted the Office of Management and Budget to implement the information-sharing network are both outside of OMB's usual responsibilities and are inconsistent with the goal of ensuring an NID with effective authority to manage the intelligence community. These responsibilities should be granted to the NID in such a way as to remain consistent with section 892 of the Homeland Security Act of 2002.
>
> The administration also believes that the detail in which the legislation prescribes the network is excessive. The network would be more likely to accomplish its beneficial goal if the bill simply provided the authority necessary for its establishment while leaving the details to be worked out and altered as the circumstances require.

I am also concerned with the very ambitious schedule that the bill delineates. In 90 days, just 3 months, the Director of OMB would be required to submit to the President and the Congress a description of the Network, establish a director of services and conduct a review of relevant current Federal agency capabilities; it would seem to me that we are setting the administration up to fail with such an unreasonable time frame.

I am also concerned about the cost. The bill estimates this could cost at least $50 million dollars. Where would the funds for this program come from? Also, how would they influence existing programs to coordinate these activities? Currently there are not any funds designated for these activities. Would they be requested from a supplemental or would they be taken from the intelligence community's very tight budget?

Also, I was hoping that the chairman and the ranking member could provide a clearer picture about the protection of civil liberties. I understand that the Privacy and Civil Liberties Boards will be included in discussions—but I worry about the extent to which—and I am quoting from the bill now:

> private sector data, including information from owners and operators of critical infrastructure, is incorporated into the Network; and that the private sector is both providing and receiving information.

This is another czar. We already have an intelligence czar. Now this provision in this bill creates an information czar.

It "requires that the national intelligence director is to set standards for information technology and communication." By the way, it does not say necessarily related to intelligence—across the entire executive branch, for every Cabinet Secretary and I presume for the FCC.

> The NID would also develop an integrated information technology and communication network that ensures information sharing across the entire executive branch again for every Cabinet Secretary

and agency, as I understand it, in the Federal Government

> and with the State and local governments and the private sector.

The scope of this is beyond comprehension. How can this group, now, created by the OMB, assure that privacy and civil liberties will be ensured when there is only one person at the helm, and that person is selected by the OMB?

Am I reading the bill wrong? I don't think so.

> What purposes are to be gained from a governmentwide database that includes every part of the Government—Federal, State, local?

Are we dreaming up a new net? Is this a new Internet? Is this a government net? What is it and why should we give one person the authority to control communications in this manner in this bill?

It would create the largest technological surveillance system ever seen in the world. I repeat that: The largest technological surveillance system ever seen in the world. I think it should be given very thoughtful analysis.

We have to give NID time to establish what and how such information should be gathered, how it is to be analyzed, how it is to be stored, and how it is to be shared. That is to take place in 90 days. I hope the administration, the committee members and their staff take a look at this amendment. This provision is going to delay this bill, unless my amendment is adopted or some form of that. Again, I am ready to hear if we have misanalyzed this, but we have checked it with people who have been in the system a long time and they agree our reading is correct. I again refer the administration and the committee to amendment No. 2837. That is a significant amendment, in my opinion.

AMENDMENT NO. 3840

I turn my attention to amendment No. 3840. This is an amendment cosponsored by Senators WARNER, INOUYE, and the current occupant of the chair, Senator BURNS. It concerns the acquisition of major intelligence systems. The purpose of this amendment is to strike the provisions of the bill which transfer major decisionmaking authorities relating to acquisition of national security and defense systems to the national intelligence director.

My concern stems from a few items, based on the language in this bill. It is unclear to me and to us if the national intelligence director would be responsible for the creation of an entire new staff for the acquisition of major systems or if the Department of Defense shall have to transfer to the NID its personnel to provide the manpower, expertise, and staff for these acquisition functions. If that is the case, then how would the Department of Defense execute its own oversight of its own programs? And, if the national intelligence directorate were to have to use its own people until they can hire new people, the national director would have to fall back to utilizing the personnel of the existing agencies, the people Congress deemed in 2004 were the problem and not the solution.

Until it is clear to the Secretary of Defense whether the national intelligence director must create a bureaucracy or parallel structure, it is my recommendation that we continue the current structure which permits the Secretary of Defense the decision authority over these vital programs.

The NID should request what authority he needs. We should not give it all to him and then have the Secretary of Defense fight to get back some of the normal functions of the Department of Defense. The underlying bill leaves that determination now to NID to begin with.

The Secretary of Defense should continue to oversee the execution of acquisition programs within his Department, and the agencies related to defense, especially those combat support agencies such as the National Security Agency and the National Geospatial-Intelligence Agency.

The Congress recognized the fact that neither the National Security Agency nor the National Geospatial Agency currently possess capability to manage major acquisition programs by passing the fiscal year 2004 National Defense Authorization Act, Public Law 108-354, which transferred these very responsibilities to the Department of Defense. We, the Senate, just transferred these authorities and responsibilities to the Department of Defense. What led to this transfer of acquisition responsibility was a series of critical mistakes regarding the ability to obtain and manage the acquisition of major systems. Some of these mistakes wound up costing the taxpayers close to $1 billion. This is not something we should experiment with, especially with new, untested leadership or personnel.

I repeat, we just changed this this year. We moved it over to prevent the further loss of money and now the committee suggests it should be changed again and now put under a new director who has no experience and no background in acquisition at all.

The administration has taken a policy in that statement, indicating they believe the committee's provision relating to the NID's role in acquisition of major systems needs further study to ensure that the requirements of major consumers are met.

They understand this transfer is premature. It may be the Congress should reverse itself now and move this acquisition authority back to the NID. But let's let the NID get up and running. Let's find out whether we have confidence in that system before we take it away from the Department of Defense, when we just took it away from the Intelligence Committee because of the failures of the past.

Finally, the language currently in the bill would only cover the Department of Defense programs and not the programs in the National Intelligence Program, and that is where the problems lie.

I urge the Senate not to act in haste where such large amounts of funds are currently in play. They currently have a considerable amount of money we have already put up for these acquisitions. The Senate should not break a system that is now working well since this transfer earlier this year, nor put up obstacles to our obtaining major acquisition systems necessary for national security as quickly as possible.

Again, I urge members of the committee to take a look at that.

AMENDMENT NO. 3882

Mr. President, have I called up amendment No. 3882? If not, I do wish it to be called up at this time. I ask all other amendments be set aside and this be called up, amendment No. 3882.

The PRESIDING OFFICER. Without objection, the clerk will report amendment No. 3882.

The assistant legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS] proposes an amendment numbered 3882.

Mr. STEVENS. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 3882

(Purpose: To propose an alternative section 141, relating to the Inspector General of the National Intelligence Authority)

On page 60, strike line 5 and all that follows through page 77, line 18, and insert the following:

SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) OFFICE OF INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—There is within the National Intelligence Authority an Office of the Inspector General of the National Intelligence Authority.

(b) PURPOSE.—The purpose of the Office of the Inspector General of the National Intelligence Authority is to—

(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently investigations, inspections, and audits relating to—

(A) the programs and operations of the National Intelligence Authority;

(B) the relationships among the elements of the intelligence community within the National Intelligence Program; and

(C) the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community;

(2) recommend policies designed—

(A) to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and in such relationships; and

(B) to prevent and detect fraud and abuse in such programs, operations, and relationships;

(3) provide a means for keeping the National Intelligence Director fully and currently informed about—

(A) problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions; and

(4) in the manner prescribed by this section, ensure that the congressional intelligence committees are kept similarly informed of—

(A) significant problems and deficiencies relating to the administration of such programs and operations, and to such relationships; and

(B) the necessity for, and the progress of, corrective actions.

(c) INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—(1) There is an Inspector General of the National Intelligence Authority, who shall be the head of the Office of the Inspector General of the National Intelligence Authority, who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as Inspector General of the National Intelligence Authority shall have significant prior experience in the fields of intelligence and national security.

(d) DUTIES AND RESPONSIBILITIES.—(1) The Inspector General of the National Intelligence Authority shall have the duties and responsibilities set forth in applicable provisions of the Inspector General Act of 1978 (5 U.S.C. App.).

(2) In addition to the duties and responsibilities provided for in paragraph (1), the Inspector General shall—

(1) provide policy direction for, and plan, conduct, supervise, and coordinate independently, the investigations, inspections, and audits relating to the programs and operations of the National Intelligence Authority, the relationships among the elements of the intelligence community within the National Intelligence Program, and the relationships between the elements of the intelligence community within the National Intelligence Program and the other elements of the intelligence community to ensure they are conducted efficiently and in accordance with applicable law and regulations;

(2) keep the National Intelligence Director fully and currently informed concerning violations of law and regulations, violations of civil liberties and privacy, and fraud and other serious problems, abuses, and deficiencies that may occur in such programs and operations, and in such relationships, and to report the progress made in implementing corrective action;

(3) take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

(4) in the execution of the duties and responsibilities under this section, comply with generally accepted government auditing standards.

(e) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—(1) The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(A) by redesignating section 8J as section 8K; and

(B) by inserting after section 8I the following new section:

"SPECIAL PROVISIONS CONCERNING THE NATIONAL INTELLIGENCE AUTHORITY

"SEC. 8J. (a) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the National Intelligence Authority shall be under the authority, direction, and control of the National Intelligence Director with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning intelligence or counterintelligence matters the disclosure of which would constitute a serious threat to national security. With respect to such information, the Director may prohibit the Inspector General from initiating, carrying out, or completing any investigation, inspection, or audit if the Director determines that such prohibition is necessary to preserve the vital national security interests of the United States.

"(b) If the National Intelligence Director exercises the authority under subsection (a), the Director shall submit to the congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority within seven days.

"(c) The National Intelligence Director shall advise the Inspector General of the National Intelligence Authority at the time a report under subsection (a) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such report.

"(d) The Inspector General of the National Intelligence Authority may submit to the congressional intelligence committees any comments on a report of which the Inspector General has notice under subsection (c) that the Inspector General considers appropriate.

"(e) In this section, the term 'congressional intelligence committees' means—

"(1) the Select Committee on Intelligence of the Senate; and

"(2) the Permanent Select Committee on Intelligence of the House of Representatives.".

(2) Section 8H(a)(1)(A) of that Act is amended by inserting "National Intelligence Authority," before "Defense Intelligence Agency".

(3) Section 11 of that Act is amended—

(1) in paragraph (1), by inserting "the National Intelligence Director;" after "the Office of Personnel Management;"; and

(2) in paragraph (2), by inserting "the National Intelligence Authority," after "the Office of Personnel Management,".

Mr. STEVENS. Mr. President, this is the final amendment I would call up now. Again, I apologize for the way it is brought forward. The time factors involved are very narrow, I know. I do want to say, parenthetically, again, one paper said I shouted at the chairman yesterday. I certainly hope I did not shout at the chairman of the committee. Having formerly been the chairman and Senator LIEBERMAN also has been the chairman—I know the vast diversity of this committee and the difficulty we have had bringing this bill to the floor. I think they have done an extremely fine job under the circumstances we have. I don't know why we are being pressured as we are, but the decision has been made to get this bill out, and so we share the leadership position to accomplish that goal.

But I am worried, as I told the managers personally, that some of the in-depth study others of us have given to this bill is not being listened to. The problem will be not in having the bill passed; the problem will be in having the bill implemented if some of these amendments are not adopted. The timeframes in particular worry me greatly, the timeframes within this process. This is worse than establishing a new department, really. This is a control mechanism over a system that abhors control. It is hard to control. If we do it wrong, we are going to bust this system. We are going to destroy the morale. As I said the other day, it takes a minimum of 5 years to get an agent in the field, and it will take another 5 years before that agent can actively recruit people and deal with the nationals and really help control the national assets we need for our security. The people we have in the field right now really started out around 1994 or 1995. They are out there. If we disturb their morale so they decide to pursue other courses, positions, or other goals, this Government is going to be left literally exposed. All of these people are extremely capable people. I have never encountered the intelligence quotient in any other area in our Government that I have run into in the intelligence field. They are high-strung people. They are people whose morale is absolutely essential.

I urge the Senate to consider the morale of the people in the system now and those who will be coming into the system as we moved forward. Do not set timeframes such that it is designed for failure. Give them time. The system is working now. I have said that time and again. I don't think most people know how much change has occurred in the intelligence community since 9/11. It is working. The fact that we haven't had another 9/11 shows that it is working. I hope we will be careful.

I want to talk about this one amendment.

Mr. WARNER. Mr. President, will the Senator yield for 1 minute? I associate myself with his remarks about how we are going about this. We have made enormous progress since the 1991 operation in Iraq, as the Senator well knows, particularly in the tactical level and in military intelligence. I am hopeful that in this haste, we do not unintentionally go back from the progress we have made so far.

Mr. STEVENS. I thank the Senator. We made progress in a lot of areas outside of Iraq. I am in contact now with people in the Philippines. We have problems. We have problems in Indonesia. We have problems throughout the area. We have problems with all of these drugs from Afghanistan. This is a complex world. When we visited with the station chiefs throughout the world recently, they all said the same thing. Ours is a very difficult problem. It is hard to figure out our priorities right now. They are going to have to wait until NID gives them their priorities. How long must they wait?

My amendment suggests an alternative to the inspector general of the National Intelligence Authority as proposed in this bill.

This is amendment No. 3882.

Under the committee bill, the inspector general would have the authority to provide policy direction on interagency relationships without consulting with the department heads of the affected agencies.

I see you shaking your head. You had better read the bill if you disagree. I don't like to see that from staff, anyway. If you are going to shake your head, move.

I think this is a situation where we have been through the creation of inspectors general on the Governmental Affairs Committee. People ought to look at what is being done under this bill. This is the only inspector general I know that would have the authority and direction to provide policy direction on interagency relationships without consulting with the department heads of the affected agencies.

Here is an inspector general of the intelligence community from NID. He has the authority to interrogate people in other agencies to find out interagency relationships of his agency with these other agencies without consulting the heads of the other agencies. Nothing indicates they are even going to consult the inspectors general of those agencies.

There are inspectors general of every agency covered by this bill. That would give the inspector general of the NIA unprecedented authority over appointed officials of other independent agencies and departments. I don't know why the inspector general of the NIA should have unprecedented powers that no other inspector general has.

I raised this question before and I was told that was not the case. When I raised the question, I was told on the floor earlier that the inspector general has the same authority as the inspectors general. I challenged that. And this amendment would bring that bill back into the situation where I was told it was, and that is the inspectors general have the same authority as any other inspector general. They would still have the authority to audit programs and operations of the national intelligence authority. They shall have the authority to investigate interagency relationships if they wanted to among the elements of the intelligence community both within and outside the national intelligence program, but the inspector general of the National Intelligence Authority will not direct the policy of other independent agencies or any other agency. As a matter of fact, IGs should not direct anything. They should make findings and report their findings to the head of the agency.

My amendment is based on existing law that has proven successful in ensuring that the authority of inspectors general of the intelligence community does not infringe upon independent inspectors general of other agencies.

I urge the Senate to take a look at this. To have anyone authorized to investigate interagency relationships? How are you going to get along with your colleagues in the other group? Inspectors general should look for performance or for honesty and integrity, to examine the operations and report. But to report on interagency relationships involving other departments and agencies that are not under his control and are under the control of other inspectors general, that is really going too far. I will say this categorically: If that provision is not changed, I will vote against this bill. I have lived with inspectors general now too long, and that goes too far. I will not vote for this bill unless it is altered.

Ms. COLLINS. Mr. President, I know the Senator from Alaska is on a tight timeline this afternoon. I am not going to respond in depth to the amendments he put forward.

Let me say to the Senator from Alaska that on some of his amendments he has raised very valid concerns, and I would like the opportunity to work with him to try to resolve some of the issues. For example, some of the implementation date issues I believe we might be able to work through. The clarifying language on the counterterrorism center parallels the changes we made in committee, and we may well be able to come up with something on that.

I appreciate the Senator's concerns and his desire to make sure that the language is clear and accurate throughout the bill. While obviously we have some fundamental disagreements on the underlying legislation, nevertheless I believe that some things in his amendments are beneficial in the bill, if we are able to resolve some language. I want to pledge to him my appreciation for his effort and my willingness to work with him on some of those issues.

Mr. STEVENS. Mr. President, I apologize, I do have to go. I want the RECORD to show my support for Senator BYRD's amendment No. 3845, which a few of us have endorsed. I hope we can negotiate some of that because that covers, as the distinguished senior Member of this body has said, the relationship that many of us have had with this process for a long time. I hope we will have a chance to work it out.

Mr. LIEBERMAN. I thank Senator from Alaska. I thank him for the promise he has made and for the suggestions he has offered. There are some matters on which we have big disagreements. There are others on which we clearly do not. We have made some suggestions today that we can work out over the weekend which will improve the bill.

Most of all, I want the Senator from Alaska to know that we always listen to him whether he shouts or not.

Mr. STEVENS. Shout doesn't count. Sometimes I am loud. I apologize.

Mr. LIEBERMAN. Have a good weekend.

Mr. STEVENS. Mr. President, if the Senator will yield, Senator BYRD and I have asked and urged all chairmen and ranking members of the appropriations subcommittees to start conferencing the substance of their bills with the House.

We need to resolve our differences now, before the recess next week, if possible. We have a short period of time when we come back. The continuing resolution will expire November 20.

I conferred with the chairman of the House Appropriations Committee, Chairman BILL YOUNG. He agrees that something needs to be done while we are gone. I don't know if it is possible, but I hope the Senate and House staff will do their best to work with the chairmen and ranking members of the subcommittees on their recommendations and make sure we have them available when we come back on November 16. There will be no time to do such preliminary conferencing when we get back.

At best, we will have 5 days to get something out of conference and resolve the issues and pass a conference report of some kind to deal with as many bills as we can handle. That is a tall order.

I thank my friend, Senator BYRD, ranking member, former chairman of our committee. We are working together with the objectives of trying to finish these bills this year. When the two chairmen retire from the House and the Senate Appropriations Committee, with us will go our staffs. If the next chairman of the House and Senate Appropriations Committee has to continue the work that we should accomplish this year, it is going to take months this time because the trained staff, the people who know the subject, will not be there. We move on to other subjects.

Congress must get these appropriations bills done this year.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3849

Ms. COLLINS. I call for the regular order with respect to the Corzine amendment numbered 3849.

The PRESIDING OFFICER. The amendment is pending.

AMENDMENT NO. 3946 TO AMENDMENT NO. 3849

(Purpose: To provide a complete substitute)

Ms. COLLINS. Mr. President, I send a second-degree amendment to the desk on behalf of Senator INHOFE.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine, [Ms. COLLINS], for Mr. INHOFE, proposes an amendment numbered 3946 to amendment No. 3849.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendments be set aside so that other amendments can be considered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. KYL). Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I thank Senator COLLINS and Senator LIEBERMAN for their hard work on this bill.

I called one of my Democratic colleagues who has been around this body for a long time. I didn't know whether it was a good bill; he said he didn't either. It certainly has good intent. I certainly believe that improving our intelligence is of important national interest.

I want to be supportive of this bill, but I do think it is important that we keep an eye on it because we have learned in the past that bills with language that may sound good at the moment, may not be what is best for the country. We may find out that very language, that one sentence or what have you, can be the very language that undermines the ability of our intelligence community to be effective in protecting the interests of the United States.

I certainly believe we need to do everything we can to create an effective joint national intelligence effort. Unfortunately, I am afraid there are things in this bill that, indeed, may pervert the very purpose of the legislation; that will handicap the intelligence community rather than assist it.

The language would prevent the national intelligence director from having the very capabilities that allow unhindered and meaningful intelligence collection and analysis.

The bill establishes four new offices, additional new privacy and civil liberty officers within each agency, and it creates a new civil liberties board, all with management authority.

If this was the kind of language we could work with, I would be supportive, but I am afraid the way this language has been put together could create bottlenecks and could undermine our ability to be effective. If so, I have a problem with it. I certainly don't want to have a problem with a bill initiating such important reform, but I do.

September 11 did not happen because there was too little bureaucracy. It did not happen because the intelligence community needed more offices and boards, more monitoring personnel, more supervision and more second-guessing. In fact, the problems happened—many of them—because the intelligence community found it difficult to work through the maze of bureaucracies that already exist in what we have today.

Adding more to this bureaucracy only serves to exacerbate intelligence-gathering problems, not help them. Proliferation of government panels, boards, agencies, and ombudsman is not the answer.

There are six sections of the bill, including four offices, a board, and still more additional officers, all tasked with the same bureaucratic management responsibility: No. 1, section 126, officer for civil rights and civil liberties of the national intelligence authority; No. 2, section 127, privacy officer of the national intelligence authority; No. 3, under section 141, the inspector general of the national intelligence authority; No. 4, ombudsman of the national intelligence authority; No. 5, section 211, the privacy and civil liberties oversight board; and under section 212, the privacy and civil liberties officers.

That is quite a bit of bureaucracy, and I know the Presiding Officer is concerned.

We have four new offices added to the national intelligence authority, a board added to the Executive Office of the President, and additional officers added to the various offices within the intelligence agency, all virtually with unrestrained management responsibilities.

I don't believe this is what the 9/11 Commission had in mind. In fact, the 9/11 Commission uses the words "privacy", "civil rights", and "civil liberties" 23 times in the 567-page document. We have marked with blue tabs the references to these terms. The Commission was concerned about it and wanted to make sure we had the right provisions to deal with it. They confronted that issue and dealt with it seriously, mentioning it 23 times.

How about the legislation before the Senate today? How about the legislation we now have under Collins-Lieberman? It has fewer pages, only 213. Yet it has 126 such references to the terms. Members can see the red marks I put on there. They are the marks that show references to these issues. The whole report is chock full of detail on this.

Of course, we know what our problems were with intelligence. We did not have enough linguists. We did not focus enough on human intelligence. We had too much bureaucracy because of the wall between CIA and FBI intelligence that was thought being shared around the world. Those are the real problems, not how much oversight we might create and make it even more difficult for our agents to function without fear that somebody will second-guess whatever they might do in areas of the world where their very lives could be at stake and, indeed, are at stake.

The legislation before the Senate mentions the terms six times as much as the 9/11 Commission. The 9/11 Commission recommended a single—one—civil liberties oversight board. It certainly did not recommend numerous layers of bureaucracy throughout the intelligence community. These, I am afraid, would undermine or distract our ability to protect our security in this country.

I think one of our fears with regard to intelligence and national security, as Senator KYL has so eloquently mentioned, is timidity, a concern that our agents around the world, who are working to find those people who want to do us harm before they actually do us harm, identify them, could make a mistake resulting in criticism and punishment. Timidity can be damaging to our work. That is the problem I am concerned about. We need to create a system that promotes courage, innovation, and creativity on the part of our agents.

When somebody does something new and creative, occasionally things do not turn out the way you would like. Certainly in the intelligence field, that is so. I used to be a Federal prosecutor. We would use undercover operatives, and we would do things, such as put recorders on them. All kinds of things could happen, and sometimes things went astray. But, you want to encourage agents to try to do the kinds of operations that work, not want them in fear that somebody is looking over their shoulder every time they do something that might blow up and then their career would be ruined. I feel strongly about this issue. I hope we can focus on it more clearly.

If you look through the offices that would be created in this bill, they are duplicative and have many problems with them. For example, the officer for civil rights and civil liberties, in section 126 of the bill, is tasked with assisting the national intelligence director in ensuring that the protection of civil rights and civil liberties is appropriately incorporated in the policies and procedures under the national intelligence authority.

This official is also given oversight authority and can "review, investigate, and assess complaints and other information indicating possible abuses of civil rights and civil liberties" in the administration of and relationships among the National Intelligence Authority, unless the NIA's Inspector General determines that the IG can better review the matter—basically, they have to take over the matter.

Here the officer is given powerful authority to conduct as many investigations into any area of the NIA as the officer chooses, all without having to get the agreement or approval of anyone. Only the IG, the Inspector General, could intervene, and then basically only to take over the investigation. So this section provides for a powerful officer who could prove to be disruptive to the goals of the NID.

While protecting and defending civil liberties is an important factor for our Nation, granting an officer free, unfettered, and unchecked authority to tie up intelligence operations and analysis through investigations is not the goal of intelligence reform, or the intention of the 9/11 Commission.

The Inspector General, is checked "from initiating, carrying out, or completing any investigation, inspection, or audit if the Director determines that such prohibition is necessary to protect vital national security interests of the United States." The Inspector General is constrained by the national security interests of the United States, but not this new officer for Civil Rights and Liberties. That officer should be subject to similar constraints.

Secondly, there is a privacy officer provided for in section 127. That officer is tasked with coordinating with the officer of civil rights and civil responsibilities to ensure that privacy policies are upheld. This person will conduct "privacy impact assessments when appropriate or as required by law." Once again, the bill grants unrestrained access and power to a person to check up on the national intelligence director and the intelligence community. This superfluous management could be a handicap to our intelligence-gathering activities. It is something I am concerned about.

We also have in this bill an Inspector General for the NIA, an ombudsman, the board mentioned in section 211, and the officers mentioned in section 212. The Inspectors General of the CIA and the Defense Department are made duplicative officers to the IG in Section 141. And it can have the effect of not only creating excess officers and expense, but also creating competition and undermining the initiative of the agency in question.

We want to be sure that civil rights and civil liberties are protected. We want to be sure that American citizens are protected, not only their civil liberties, which we absolutely intend to protect, but we want to protect their lives, their health, and their families from people who do not share our values and have the goal to destroy us.

While I believe we can defend America with a high degree of fidelity to the liberties and freedoms we cherish, I also know one of the biggest problems we have had is the timidity and the restraint that people feel who work in our intelligence community.

For example, I see Senator KYL is the Presiding Officer. He, for years, recognized the terrible impact on the intelligence-gathering process that resulted from legislation—well intentioned—that constrained the ability of CIA agents and other agents of this United States from dealing with a person who had a criminal record. These agents were prohibited from dealing with these disreputable people. Well, many of the people who have the critical, life or death information may have a reputation or conviction in some country around the world of doing bad things. We know, after hearings, and after much debate on this floor, Senator KYL eventually got that reversed. But it was late. We lost a lot.

The real problem with that constraint on intelligence gathering was that agents themselves said: "OK, they don't want me to do this. I am not going to do it. I am not going to take a chance. I am not going to deal with somebody who might have a criminal record because it may come back to haunt me, and they will haul me before the Church Committee or some other such committee and embarrass me and my family and undermine my career and record in this agency. I am not going to take a chance."

That is what we know happened. It was not a good thing. We fixed that, just as we fixed the wall between the FBI and CIA. These laws sounded like a good idea at the time to those who passed them. And, I am not saying people were not sincere about it. But the net result was, we created timidity, pockets of information, and stovepipes, that did not share information between one another. As a result, there may have been a possibility, had that not been in existence, that we could have protected better the lives and fortunes of American citizens.

I thank Chairman COLLINS and Senator LIEBERMAN and the people who have worked on this. I believe we do need to strengthen our intelligence community, but there are a number of things in this legislation that cause me great concern. We need to be realistic, to work in a way that protects the great traditions of freedom and liberty in this country, but also protects the lives and safety of our families and our communities.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I appreciate the Senators from Arizona and Alabama bringing forward their amendments today, but I have a number of concerns about them.

The proposed amendments strike an officer for civil rights and civil liberties and a privacy officer for the new national intelligence authority. The amendment also strikes provisions requiring that a senior official be designated in certain departments and agencies who would be responsible for privacy and civil liberties issues. And finally, the amendment changes the authority of the privacy and civil liberties oversight board by removing its subpoena authority. I particularly want to address that last point, because I think there is a misunderstanding on the extent of the subpoena authority and to whom it applies.

In the wake of the terrorist attacks on September 11, during his joint address to the Congress, the President called on all Americans to:

> . . . uphold the values of America and remember why so many have come here. We're in a fight for our principles and our first responsibility is to live by them.

Similarly, the 9/11 Commission concluded in its report that we must find ways of reconciling security with liberty since the success of one helps protect the other. The choice between security and liberty is a false choice, as nothing is more likely to endanger America's liberties than the success of a terrorist attack at home.

The Commission went on to state that while protecting our homeland, Americans should be mindful of the threats to vital personal and civil liberties. The shift of power and authority to the Government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life.

In response to these concerns, the Commission recommended that at this time of increased and consolidated Government authority, there should be a board within the executive branch to oversee adherence to the guidelines the Commission recommends and the commitment of our Government to protect civil liberties.

To respond to these recommendations and the concerns that we fight this war against terrorism without sacrificing the values that define us as Americans, S. 2845 establishes the two officers, one for civil rights and one for privacy, to assist the national intelligence director on issues that may affect civil liberties and privacy. These officials are modeled after those created by Congress for the Department of Homeland Security. There is both a civil liberties officer and a privacy officer. The creation of similar officers within the Department of Homeland Security is a good example of how these officers can assist the Department in considering relevant issues without compromising our efforts to protect the homeland.

The Department has found that having those two officials has helped them strike the right balance as they pursue new policies. The Department has found that the work of these officials at DHS has not hindered its implementation of programs and activities but, rather, has improved them. By providing advice and counsel as policies and programs are being developed, they help the Department address privacy and civil liberties concerns at the front end and minimize the possibility of having to respond to real problems after a policy or program that didn't take into account privacy implications or civil liberties implications has already been put into place.

I would have been more sympathetic to the amendment if the Senators had made the argument that perhaps in this much smaller unit those two officials could be combined into one position so that we could have one official for both privacy and civil liberties. That might be a possible compromise. It is one about which I would have to talk with the other sponsor of the bill. But that might be a way to respond to a concern that I know the Presiding Officer has about excessive positions or bureaucracies.

I want to speak particularly to the subpoena issue. The subpoena power provided in this bill to the civil liberties board applies only to persons other than departments, agencies, and elements of the executive branch. I want to repeat that. While the bill does authorize the board to have access to executive department and agency materials and personnel, where appropriate, there is no subpoena power. There is no enforcement mechanism in the bill. That leaves compliance in the hands of the relevant department or agency head. The subpoena power only applies to outside entities, not to Government agencies or officials.

So the provisions of this subpoena authority do not allow the scenario brought forth by some of the sponsors of this amendment in which they raise the specter of the civil liberties board being able to subpoena a CIA case officer. That is not allowed under this bill.

Moreover, the subpoena authority in this bill is narrower, much more circumscribed, than the authority that is given to inspectors general throughout the Federal Government who do have the ability to subpoena documents and individuals for information within the Federal Government. I wanted to correct that misunderstanding on the subpoena power.

We have a responsibility, as we continue to improve our capacity to fight terrorism—the all-important battle that our Nation faces—to uphold and protect the very liberties and freedom on which this Nation was founded and for which we are fighting today. We need to make sure that as we strengthen the power of Government, we do not infringe upon the civil liberties and the privacy of law-abiding Americans. I believe the provisions in this bill help to strike the right balance.

Let me complete my remarks on this issue by pointing out that the 9/11 Commission has endorsed the board created by this bill. I know the Senator from Alabama has suggested a different version of a civil liberties board.

In testimony before the House Government Reform Committee, two of our commissioners—and I would note it was bipartisan; it was a Republican commissioner and a Democratic commissioner—said:

> A civil liberties board of the kind we recommend can be found in the Collins-Lieberman bill in the Senate.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my friend, the Chair, and the Senator from Alabama for introducing these amendments.

I understand their concerns very well. They have raised some reasonable and direct questions. I want to attempt at this moment to try to reassure them, which is to say there is nothing in this underlying bill intended to, or that I can see, restrict the capacity or the mobility of people working in our intelligence community to operate to protect us. The board that is created is intended to, as I see it, do a broad review of policies before policies are ordered or issued, to consult with the policymakers, and afterward to do a review. I don't think there is any basis for feeling that if somebody felt their liberties were violated by a particular action of a particular agency or intelligence person or officer, they could appeal to this board. So the intent is not to second-guess or create a place where there can be second-guessing of individual cases, individual decisions. Therefore, to avoid what the Senator from Alabama and the Senator from Arizona, I think quite understandably, worry about, a climate of risk aversion—you don't want that to happen—you want these people to be aggressive, fearless, and not risk averse.

As a matter of fact, all of the discussion we have had in another context about the bill, which is about encouraging competitive analyses and the so-called red team concepts—and we set up an audit review section to do quality control—it is all about making sure people don't get in a group-think or that they get risk averse, but that they be bold and opinionated and they come up with the best result for us.

The other thing I want to say about the privacy and civil liberties offices is that, as Senator COLLINS said, we took this model—and I urge us to think about this—from the Department of Homeland Security, which has both privacy and civil liberties advisers in it. I will give you a couple of quotes as to early reports. Asa Hutchinson, Under Secretary for Border and Transportation Security at the Department of Homeland Security, testified at the Judiciary Committee last month talking about the agency's existing privacy officer. He said:

> Here in DHS, we can show the effectiveness of a strong privacy officer at the agency level and the success that is achievable only through direct integration of privacy protections in operational work. Privacy is an issue that stretches across the entire government and as we continue to look at government-wide approaches to privacy, it is also important to see how productive agency-level privacy protections are.

That sounds to me like a good, healthy dialog has been created in which privacy is being considered but not standing in the way of that Department protecting our security.

I will also quote from Secretary Ridge, who noted the important role of the same office in providing what he called "proactive legal and policy advice to senior leadership in the Department and its components." He cited the office's success in working with the Border and Transportation Security Directorate "to craft positive policy changes in response to the issues raised by the DOJ Inspector General's report on the 9/11 immigration detainees," and in "develop[ing] policies to establish DHS as a model employer for people with disabilities . . . "—it goes on about helping to implement President Bush's recent Executive order.

I have great respect for my colleagues and friends who introduced this amendment. I understand their concern and I hope in some small way through what I have said I can alleviate the concerns they have.

I thank the Chair and yield the floor.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

AMENDMENTS NOS. 3928, 3873, 3871, AND 3870, EN BLOC

Mr. SESSIONS. Mr. President, I ask unanimous consent that the pending amendment be set aside, and I call up amendments Nos. 3928, 3873, 3871, 3870, and ask for their immediate consideration.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

> The Senator from Alabama [Mr. SESSIONS] proposes amendments numbered 3928, 3873, 3871, and 3870, en bloc.

Mr. SESSIONS. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

The amendments are as follows:

AMENDMENT NO. 3928

(Purpose: To require aliens to make an oath prior to receiving a nonimmigrant visa)

At the end add the following new title:

TITLE IV—OTHER MATTERS

SEC. 401. VISA REQUIREMENTS.

Section 222 of the Immigration and Nationality Act (22 U.S.C. 1202) is amended by adding at the end the following new subsection:

"(h) Every alien applying for a nonimmigrant visa shall, prior to obtaining such visa, swear or affirm an oath stating that—

"(1) while in the United States, the alien shall, adhere to the laws and to the Constitution of the United States;

"(2) while in the United States, the alien will not attempt to develop information for the purpose of threatening the national security of the United States or to bring harm to any citizen of the United States;

"(3) the alien is not associated with a terrorist organization;

"(4) the alien has not and will not receive any funds or other support to visit the United States from a terrorist organization;

"(5) all documents submitted to support the alien's application are valid and contain truthful information;

"(6) while in the United States, the alien will inform the appropriate authorities if the alien is approached or contacted by a member of a terrorist organization; and

"(7) the alien understands that the alien's visa shall be revoked and the alien shall be removed from the United States if the alien is found—

"(A) to have acted in a manner that is inconsistent with this oath; or

"(B) provided fraudulent information in order to obtain a visa.".

AMENDMENT NO. 3873

(Purpose: To protect railroad carriers and mass transportation from terrorism)

At the end of the bill, insert the following:

SEC. ___. RAILROAD CARRIERS AND MASS TRANSPORTATION PROTECTION ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the "Railroad Carriers and Mass Transportation Protection Act of 2004".

(b) IN GENERAL.—Chapter 97 of title 18, United States Code, is amended by striking sections 1992 through 1993 and inserting the following:

"§ 1992. Terrorist attacks and other violence against railroad carriers, passenger vessels, and against mass transportation systems on land, on water, or through the air

"(a) GENERAL PROHIBITIONS.—Whoever, in a circumstance described in subsection (c), knowingly—

"(1) wrecks, derails, sets fire to, or disables railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

"(2) with intent to endanger the safety of any passenger or employee of a railroad carrier, passenger vessel, or mass transportation provider, or with a reckless disregard for the safety of human life, and without previously obtaining the permission of the railroad carrier, mass transportation provider, or owner of the passenger vessel—

"(A) places any biological agent or toxin, destructive substance, or destructive device in, upon, or near railroad on-track equipment, a passenger vessel, or a mass transportation vehicle; or

"(B) releases a hazardous material or a biological agent or toxin on or near the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider;

"(3) sets fire to, undermines, makes unworkable, unusable, or hazardous to work on or use, or places any biological agent or toxin, destructive substance, or destructive device in, upon, or near any—

"(A) tunnel, bridge, viaduct, trestle, track, electromagnetic guideway, signal, station, depot, warehouse, terminal, or any other way, structure, property, or appurtenance used in the operation of, or in support of the operation of, a railroad carrier, without previously obtaining the permission of the railroad carrier, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck railroad on-track equipment;

"(B) garage, terminal, structure, track, electromagnetic guideway, supply, or facility used in the operation of, or in support of the operation of, a mass transportation vehicle, without previously obtaining the permission of the mass transportation provider, and with intent to, or knowing or having reason to know such activity would likely, derail, disable, or wreck a mass transportation vehicle used, operated, or employed by a mass transportation provider; or

"(C) structure, supply, or facility used in the operation of, or in the support of the operation of, a passenger vessel, without previously obtaining the permission of the owner of the passenger vessel, and with intent to, or knowing or having reason to know that such activity would likely disable or wreck a passenger vessel;

"(4) removes an appurtenance from, damages, or otherwise impairs the operation of a railroad signal system or mass transportation signal or dispatching system, including a train control system, centralized dispatching system, or highway-railroad grade crossing warning signal, without authorization from the rail carrier or mass transportation provider;

"(5) with intent to endanger the safety of any passenger or employee of a railroad carrier, owner of a passenger vessel, or mass transportation provider or with a reckless disregard for the safety of human life, interferes with, disables, or incapacitates any dispatcher, driver, captain, locomotive engineer, railroad conductor, or other person while the person is employed in dispatching, operating, or maintaining railroad on-track equipment, a passenger vessel, or a mass transportation vehicle;

"(6) engages in conduct, including the use of a dangerous weapon, with the intent to cause death or serious bodily injury to any person who is on the property of a railroad carrier, owner of a passenger vessel, or mass transportation provider that is used for railroad or mass transportation purposes;

"(7) conveys false information, knowing the information to be false, concerning an attempt or alleged attempt that was made, is being made, or is to be made, to engage in a violation of this subsection; or

"(8) attempts, threatens, or conspires to engage in any violation of any of paragraphs (1) through (7);

shall be fined under this title or imprisoned not more than 20 years, or both.

"(b) AGGRAVATED OFFENSE.—Whoever commits an offense under subsection (a) in a circumstance in which—

"(1) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a passenger or employee at the time of the offense;

"(2) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying high-level radioactive waste or spent nuclear fuel at the time of the offense;

"(3) the railroad on-track equipment, passenger vessel, or mass transportation vehicle was carrying a hazardous material at the time of the offense that—

"(A) was required to be placarded under subpart F of part 172 of title 49, Code of Federal Regulations; and

"(B) is identified as class number 3, 4, 5, 6.1, or 8 and packing group I or packing group II, or class number 1, 2, or 7 under the hazardous materials table of section 172.101 of title 49, Code of Federal Regulations; or

"(4) the offense results in the death of any person;

shall be fined under this title or imprisoned for any term of years or life, or both. In the case of a violation described in paragraph (2), the term of imprisonment shall be not less than 30 years; and, in the case of a violation described in paragraph (4), the offender shall be fined under this title and imprisoned for life and be subject to the death penalty.

"(c) CRIMES AGAINST PUBLIC SAFETY OFFICER.—Whoever commits an offense under subsection (a) that results in death or serious bodily injury to a public safety officer while the public safety officer was engaged in the performance of official duties, or on account of the public safety officer's performance of official duties, shall be imprisoned for a term of not less than 20 years and, if death results, shall be imprisoned for life and be subject to the death penalty.

"(d) CIRCUMSTANCES REQUIRED FOR OFFENSE.—A circumstance referred to in subsection (a) is any of the following:

"(1) Any of the conduct required for the offense is, or, in the case of an attempt, threat, or conspiracy to engage in conduct, the conduct required for the completed offense would be, engaged in, on, against, or affecting a mass transportation provider, owner of a passenger vessel, or railroad carrier engaged in or affecting interstate or foreign commerce.

"(2) Any person travels or communicates across a State line in order to commit the offense, or transports materials across a State line in aid of the commission of the offense.

"(e) NONAPPLICABILITY.—Subsection (a) does not apply to the conduct with respect to a destructive substance or destructive device that is also classified under chapter 51 of title 49 as a hazardous material in commerce if the conduct—

"(1) complies with chapter 51 of title 49 and regulations, exemptions, approvals, and orders issued under that chapter, or

"(2) constitutes a violation, other than a criminal violation, of chapter 51 of title 49 or a regulation or order issued under that chapter.

"(f) DEFINITIONS.—In this section—

"(1) the term 'biological agent' has the meaning given to that term in section 178(1);

"(2) the term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, including a pocket knife with a blade of less than 2½ inches in length and a box cutter;

"(3) the term 'destructive device' has the meaning given to that term in section 921(a)(4);

"(4) the term 'destructive substance' means an explosive substance, flammable material, infernal machine, or other chemical, mechanical, or radioactive device or material, or matter of a combustible, contaminative, corrosive, or explosive nature, except that the term 'radioactive device' does not include any radioactive device or material used solely for medical, industrial, research, or other peaceful purposes;

"(5) the term 'hazardous material' has the meaning given to that term in chapter 51 of title 49;

"(6) the term 'high-level radioactive waste' has the meaning given to that term in section 2(12) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(12));

"(7) the term 'mass transportation' has the meaning given to that term in section 5302(a)(7) of title 49, except that the term includes school bus, charter, and sightseeing transportation;

"(8) the term 'on-track equipment' means a carriage or other contrivance that runs on rails or electromagnetic guideways;

"(9) the term 'public safety officer' has the meaning given such term in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796b);

"(10) the term 'railroad on-track equipment' means a train, locomotive, tender, motor unit, freight or passenger car, or other on-track equipment used, operated, or employed by a railroad carrier;

"(11) the term 'railroad' has the meaning given to that term in chapter 201 of title 49;

"(12) the term 'railroad carrier' has the meaning given to that term in chapter 201 of title 49;

"(13) the term 'serious bodily injury' has the meaning given to that term in section 1365;

"(14) the term 'spent nuclear fuel' has the meaning given to that term in section 2(23) of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101(23));

"(15) the term 'State' has the meaning given to that term in section 2266;

"(16) the term 'toxin' has the meaning given to that term in section 178(2);

"(17) the term 'vehicle' means any carriage or other contrivance used, or capable of being used, as a means of transportation on land, on water, or through the air; and

"(18) the term 'passenger vessel' has the meaning given that term in section 2101(22) of title 46, United States Code, and includes a small passenger vessel, as that term is defined under section 2101(35) of that title.".

(c) CONFORMING AMENDMENTS.—

(1) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 97 of title 18, United States Code, is amended—

(A) by striking "**RAILROADS**" in the chapter heading and inserting "**RAILROAD CARRIERS AND MASS TRANSPORTATION SYSTEMS ON LAND, ON WATER, OR THROUGH THE AIR**";

(B) by striking the items relating to sections 1992 and 1993; and

(C) by inserting after the item relating to section 1991 the following:

"1992. Terrorist attacks and other violence against railroad carriers and against mass transportation systems on land, on water, or through the air.".

(2) TABLE OF CHAPTERS.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by striking the item relating to chapter 97 and inserting the following:

"97. Railroad carriers and mass transportation systems on land, on water, or through the air .... 1991".

(3) CONFORMING AMENDMENTS.—Title 18, United States Code, is amended—

(A) in section 2332b(g)(5)(B)(i), by striking "1992 (relating to wrecking trains), 1993 (relating to terrorist attacks and other acts of violence against mass transportation systems)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),";

(B) in section 2339A, by striking "1993,"; and

(C) in section 2516(1)(c) by striking "1992 (relating to wrecking trains)," and inserting "1992 (relating to terrorist attacks and other acts of violence against railroad carriers and against mass transportation systems on land, on water, or through the air),".

AMENDMENT NO. 3871

(Purpose: To provide for enhanced Federal, State, and local enforcement of the immigration laws)

On page 213, after line 12, add the following:

TITLE IV—IMMIGRATION ENFORCEMENT

SEC. 401. FEDERAL AFFIRMATION OF STATE AND LOCAL ASSISTANCE IN ENFORCEMENT OF FEDERAL IMMIGRATION LAWS.

(a) In General.—Notwithstanding any other provision of law and reaffirming the existing inherent authority of States, law enforcement personnel of a State or a political subdivision of a State have the inherent authority of a sovereign entity to investigate, apprehend, arrest, detain, or transfer to Federal custody aliens in the United States (including the transportation of such aliens across State lines to detention centers), in the course of carrying out their routine duties for the purpose of assisting in the enforcement of the immigration laws of the United States.

(b) Construction.—Nothing in this section shall be construed to require law enforcement officers of a State or political subdivision of a State to—

(1) report the identity of victims of, or witnesses to, a criminal offense to the Secretary of Homeland Security; or

(2) arrest such victims or witnesses for immigration violations.

SEC. 402. LISTING OF IMMIGRATION VIOLATORS IN THE NATIONAL CRIME INFORMATION CENTER DATABASE.

(a) Provision of Information to NCIC.—

(1) In general.—Not later than 180 days after the date of enactment of this Act, and continually thereafter, the Under Secretary for Border and Transportation Security of the Department of Homeland Security shall provide the National Crime Information Center of the Department of Justice with such information as the Under Secretary may have on—

(A) all aliens against whom a final order of removal has been issued;

(B) all aliens who have signed a voluntary departure agreement; and

(C) all aliens whose visas have been revoked.

(2) Circumstances.—The information described in paragraph (1) shall be provided to the National Crime Information Center regardless of whether—

(A) the alien received notice of a final order of removal; or

(B) the alien has already been removed.

(b) Inclusion of Information in NCIC Database.—Section 534(a) of title 28, United States Code, is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3) the following:

"(4) acquire, collect, classify, and preserve records of violations of the immigration laws of the United States; and".

(c) Permission To Depart Voluntarily.—Section 240B(a)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1229c(a)(2)(A)) is amended by striking "120" and inserting "30".

SEC. 403. FEDERAL CUSTODY OF ILLEGAL ALIENS APPREHENDED BY STATE OR LOCAL LAW ENFORCEMENT.

(a) In General.—Section 241 of the Immigration and Nationality Act (8 U.S.C. 1231) is amended by adding at the end the following:

"(j) Custody of Illegal Aliens.—

"(1) In general.—If the chief executive officer of a State or, if appropriate, a political subdivision of the State, exercising authority with respect to the apprehension of an illegal alien submits a request to the Secretary of Homeland Security that the alien be taken into Federal custody, the Secretary of Homeland Security—

"(A) shall—

"(i) not later than 48 hours after the conclusion of the State charging process or dismissal process, or if no State charging or dismissal process is required, not later than 48 hours after the illegal alien is apprehended, take the illegal alien into the custody of the Federal Government and incarcerate the alien; or

"(ii) request that the relevant State or local law enforcement agency temporarily incarcerate or transport the illegal alien for transfer to Federal custody; and

"(B) shall designate at least 1 Federal, State, or local prison or jail, or a private contracted prison or detention facility, within each State as the central facility for that State to transfer custody of the criminal or illegal alien to the Secretary of Homeland Security.

"(2) Reimbursement.—

"(A) In general.—The Department of Homeland Security shall reimburse States and political subdivisions for all reasonable expenses, as determined by the Secretary of Homeland Security, incurred by a State or political subdivision in the incarceration and transportation of an illegal alien as described in subparagraphs (A) and (B) of paragraph (1).

"(B) Cost computation.—Compensation provided for costs incurred under subparagraphs (A) and (B) of paragraph (1) shall be the sum of—

"(i)(I) the average cost of incarceration of a prisoner per day in the relevant State, as determined by the chief executive officer of a State, or, as appropriate, a political subdivision of the State; multiplied by

"(II) the number of days that the alien was in the custody of the State or political subdivision; and

"(ii) the cost of transporting the criminal or illegal alien—

"(I) from the point of apprehension to the place of detention; and

"(II) if the place of detention and place of custody are different, to the custody transfer point.

"(3) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out paragraph (2).".

AMENDMENT NO. 3870

(Purpose: To make information sharing permanent under the USA PATRIOT ACT)

At the appropriate place, insert the following:

SEC. ____. PERMANENT INFORMATION SHARING.

Section 224 of the USA PATRIOT ACT (Public Law 107–56) is amended by—

(1) striking "203(a), 203(c)" and inserting "203"; and

(2) inserting "218," after "216,".

Mr. SESSIONS. Mr. President, these amendments deal with important matters in a number of areas. I will provide more information at the appropriate time about them. I just note that one thing we certainly need to do—I believe there is uniform agreement on this—is that the provisions that deal with the wall between the FBI and CIA, basically, between domestic enforcement and foreign intelligence—that has been identified as one of the primary reasons we did not coordinate our intelligence effectively prior to 9/11—that that wall that we have temporarily removed be removed permanently. That is one of the provisions I suggested in these amendments that have been called up. We will go into more detail as time goes by.

I thank Senator LIEBERMAN for his thoughtful comments, as always. He is very astute in the history and development of intelligence and his interest in the security of the United States is not surpassed in this body. I would say that my concerns are numerous about the legislation in general. Sometimes it is like when you are getting ready to buy that new car or new house and you get the pen in your hand and angst arises because you are afraid to sign it. But when you do sign it, everything goes along fine and it wasn't nearly as bad as you thought. That could be what we are dealing with.

Also, maybe there are some reasons to be concerned about buying this house or this automobile; perhaps because it is a lemon. Maybe we don't have the money. Maybe this isn't the best way to do it. I am concerned about governmental bureaucracy and the real possibility that we will make it worse.

As a Federal prosecutor for 12 years, I worked to try to coordinate all the Federal agencies involved—for example, in drug law enforcement. In Mobile, AL, under the Treasury Department, you had the IRS and they would do financial investigations of drug dealers. The Customs officers were at the ports and they did investigations of drug dealers who shipped in through the ports. They had a lot of abilities—remarkable ability, really, to help in those instances. You had the Department of Alcohol, Tobacco, and Firearms, also part of Treasury. And ATF often got involved in drug cases, although it didn't have direct jurisdiction in such cases. On the other side, you had the Department of Justice, and you had the U.S. Marshal Service and, of course, the U.S. Attorney, FBI, DEA, and Immigration Service. Then, before it went into Homeland Security, the Coast Guard, a part of the Transportation Department, which patrolled the Gulf of Mexico and frequently stopped boats loaded with drugs. They were all independent agencies. I would try to get them to work together and at times it was very difficult, but we made great progress.

How did it happen that we made progress in cooperation during the years that I was an U.S. Attorney? I have thought about it. There was not any major reorganization. In fact, there was no real reorganization of the Government. Ronald Reagan declared a war on drugs, and, we had a war on drugs. It raised the attention level of every Government agency. He said that we will cooperate with one another. The Attorney General of the United States, William French Smith, hired a young, aggressive, talented prosecutor and made him third in command at the

Department of Justice, the associate Attorney General, and he directed him to work with the U.S. attorneys and every agency in the Government to make sure they cooperated and worked together to deal with the war on drugs. That young prosecutor, Mr. President, is well known today. It was Rudy Giuliani. He made things happen. People knew he spoke for the President and we made tremendous progress.

If there was a discussion about how to investigate a major drug gang, and the FBI didn't cooperate with Customs or the DEA was unhappy with Customs or the FBI, the U.S. attorney could just call up somebody in Washington and say: Look, these guys are fighting over bureaucratic turf. We have a case we need to prosecute, and we need to work together. It worked. The turf battles would end. Things happened in an extraordinary way. There was no new bureaucracy established. That is all I am saying. No new entity was established to create coopertion.

A number of years later, in order to obtain more coordination, Congress, after much debating and ballyhoo, created a drug czar, and that was supposed to coordinate these activities.

The drug czar has some interesting powers, and the model of the drug czar might not be bad for this entity, for the challenge of improving our intelligence capabilities. The drug czar has the responsibility to get with every department and agency of the Government and to write, with their input, a plan to fight drugs in America. He does that. They all sign off on it.

Then the drug czar, before the budget request of each one of these agencies goes to the Office of Management and Budget, approves their budget, and if he concludes they are not funding or not asking for funds to carry out the agreement they signed, then he has the ability to object and block that budget. It eventually goes to the President if there is a dispute. But the drug czar has quite a bit of power. It is a small office compared to the other major departments and agencies in the Government. We have to be careful with this legislation that we are not creating another layer of Government.

Mr. McLaughlin, who was the Acting Director of the CIA before Mr. Goss was confirmed, appeared before Senator WARNER's Armed Services Committee. Chairman WARNER asked him a number of questions. One of the things he said that was important to me as a person who has been involved in dealing with Government agencies and knows how people pass the buck and how they cover their own problems—all tendencies that are natural inclinations of governmental entities—I have been there; I know it—Mr. McLaughlin said: I think we need to ask ourselves a couple of questions. One is, who will brief the President of the United States on matters involving intelligence? Who is going to tell the President whether there are weapons of mass destruction in Iraq? Right now, it is clear the CIA Director does that.

The second question is, who will be responsible if it is wrong? Today that is clear still. It is the CIA Director.

We do not have the same CIA Director that we did. He told the President it was a slam dunk that WMD products were in Iraq, and apparently they were not, or at least we have not found them, which is more accurate. And he no longer holds the office.

If we come up with a new organization that organization leaves it less clear who is responsible for stating the intelligence situation of the United States to the President, and we make it even less clear who can be held responsible, then we have not made progress.

My colleagues say the national intelligence director can do it. He could. Where does he get his information? Is he going to interview the CIA and then repeat what the CIA told him to the President? And then if he is wrong, will he say: It wasn't my fault; the CIA told me that? We get into a little bit of a mess here.

The idea of having an enhanced unification of intelligence-gathering capability and dissemination of intelligence appeals to me very much. I remain somewhat confused how we should do it, however. I just do not know what is the best way to do it.

I so much appreciate the time Senator COLLINS and Senator LIEBERMAN have put into this legislation. I know it has many good things in it, but I am just not sure how much progress we will have made when we do this because we know what the real problems are: we did not have enough linguists; we had legal walls between intelligence agencies. We have taken those down. At the President's leadership and insistence, we are bringing in more human intelligence, a critical need, and we are bringing in more foreign language speakers at an incredible new rate. We are moving more aggressively than we ever have against al-Qaida. Three-fourths of them have been captured or killed. We have made progress all over the world. We have enhanced our partnerships with not only our agencies within the United States but around the world. It is not appropriate to mention or talk about all the cooperation we are getting from agencies of other nations, foreign intelligence agencies. They are sharing with us much better. A lot of things are going well.

I think it is fair to say the military feels the intensity of the leadership from the President on down has forced, such as Rudy Giuliani and President Reagan did on the war on drugs, a lot better cooperation between intelligence entities today. The DOD people know the people in the CIA. CIA and the FBI are meeting daily with Homeland Security. And those people know each other's names. They have had months of partnerships working together. The system is working, and I am afraid if we reorganize all this, it may look good on paper, but the personal relationships that have caused confidence to be built up may be undermined. If that were to happen, in the middle of a war, we would not be proud of ourselves.

I thank the Chair. Those are thoughts and concerns I have. I love this country. I know we are in a dangerous period. This struggle against terrorism will continue for decades—for decades it will continue—and the key to victory is intelligence and identifying these dangerous cells before they attack us.

I think we are discussing an important issue. I thank the people who have worked so hard on it. I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to compliment our distinguished colleague. He has spent a lot of time on the Senate Armed Services Committee. He is very familiar with these processes and the people.

We can write the laws as best we can, but it comes down very often to those human relationships to which he referred and this particular framework in the NID. Because the NID cannot, as the distinguished chairman has said, create a whole new department, he has to rely on subordinates who have direct line of authority over a lot of troops, but he is not going to have troops in the sense the Senator from Alabama and I have used them for the departments and agencies of the Government as they function today. He is a step removed.

Those personal relationships with his immediate subordinates and advisers are going to be very important. I thank the Senator.

Mr. President, at this time, if it is convenient to the managers, I will proceed on an amendment.

AMENDMENT NO. 3876

Mr. WARNER. Mr. President, I send to the desk an amendment and ask for its consideration.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, Mr. STEVENS, and Mr. INOUYE, proposes an amendment numbered 3876.

The amendment is as follows:

(Purpose: To preserve certain authorities and accountability in the implementation of intelligence reform)

On page 213, insert after line 8, the following:

SEC. 352. PRESERVATION OF AUTHORITY AND ACCOUNTABILITY.

Nothing in this Act, or the amendments made by this Act, shall be construed to impair and otherwise affect the authority of—

(1) the Director of the Office of Management and Budget; or

(2) the principal officers of the executive departments as heads of their respective departments, including, but not limited to—

(A) the authority of the Secretary of State under section 199 of the Revised Statutes (22 U.S.C. 2651) and the State Department Basic Authorities Act;

(B) the authority of the Secretary of Energy under title II of the Department of Energy Organization Act (42 U.S.C. 7131);

(C) the authority of the Secretary of Homeland Security under section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a));

(D) the authority of the Secretary of Defense under sections 113(b) and 162(b) of title 10, United States Code;

(E) the authority of the Secretary of the Treasury under section 301(b) of title 31, United States Code;

(F) the authority of the Attorney General under section 503 of title 28, United States Code; and

(G) the authority of the heads of executive departments under section 301 of title 5, United States Code.

On page 213, line 9, strike "**352.**" and insert "**353.**".

Mr. WARNER. Mr. President, I refer to the September 28, 2004 Statement of Administration Policy in which the administration expresses their support for the very able work of the distinguished chairman and ranking member on S. 2845.

However, equally important are a number of items that were referred to in this document called the SAP. I draw the attention of my colleagues to the last paragraph. I shall read the first sentence:

> The Administration notes that the Committee bill did not include Section 6 ("Preservation of Authority and Accountability") of the Administration's proposal.

I ask unanimous consent that the entire paragraph from the SAP be printed in its entirety in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> The Administration notes that the Committee bill did not include Section 6 ("Preservation of Authority and Accountability") of the Administration's proposal; the Administration supports inclusion of this provision in the Senate bill. The legislation should also recognize that its provisions would be executed to the extent consistent with the constitutional authority of the President: to conduct the foreign affairs of the United States; to withhold information the disclosure of which could impair the foreign relations, the national security, deliberative processes of the Executive, or the performance of the Executive's constitutional duties; to recommended for congressional consideration such measures as the President may judge necessary or expedient; and to supervise the unitary executive.

Mr. WARNER. Immediately following it, I ask unanimous consent that section 6 to which it refers, drawn from the policy statement forwarded by the administration in its efforts to give the very helpful advice and counsel to the Senate—and I presume the House, as we are working on this matter—be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. 6. PRESERVATION OF AUTHORITY AND ACCOUNTABILITY.

> Nothing in this Act or amendments made by this Act shall be construed to impair or otherwise affect the authority of: (1) the Director of the Office of Management and Budget; or (2) the principal officers of the executive departments as heads of their respective departments, including, but not limited to, under section 199 of the Revised Statutes (22 U.S.C. 2651), Title II of the Department of Energy Organization Act (42 U.S.C. 7131), the State Department Basic Authorities Act of 1956, as amended, section 102(a) of the Homeland Security Act of 2002 (6 U.S.C. 112(a)), and sections 301 of title 5, 113(b) and 162(b) of title 10, 503 of title 28, and 301(b) of title 31, United States Code.

Mr. WARNER. The amendment which the Senator has drawn here, myself, Senator STEVENS, and Senator INOUYE as cosponsors, we have lifted essentially the language of that into the amendment such that the administration's request in that SAP document is met.

In support for the action I am taking, I refer as follows: The President made two basic decisions with respect to intelligence reform designed to implement the 9/11 Commission recommendations. First, he decided that the national intelligence director should have "full budget authority" with respect to the national foreign intelligence program. The bill before us contains a number of provisions intended to carry out that decision.

Second, the President made an equally important decision that the heads of the departments should continue to be in charge of and therefore continue to be accountable for the performance of their respective departments.

This amendment I have submitted would carry out the second Presidential goal.

The language of the amendment, as I said, is virtually identical to the language of the administration's proposal which I have now placed into the RECORD.

The amendment makes clear that the principal officers of the executive departments will remain as the organic statutes, for their departments currently provide the heads of their departments with authority over and responsibility for those departments.

The amendment also preserves the existing authority of the Director of Office of Management and Budget with respect to the budget administrative and legislative proposals.

With this amendment, the bill would provide for a strong national intelligence director and would also ensure that the heads of executive departments remain accountable for the performance of their departments, including the intelligence elements of those departments.

It seems to me that is essential. Again, we come back to the basic concept, we are not creating a new department of government. Consequently, the NID has to rely on the department agency heads to perform their services, and to do that they have to be put into a position of accountability. That accountability is essential to the smooth operation of the goals of this particular legislation.

A strong national intelligence director and accountable heads of departments are compatible concepts. As part of their responsibility, heads of the departments will be accountable for ensuring faithful implementation by their departments' intelligence elements of the guidance and tasking issued by the national intelligence director under such authority as may be granted by the final draft of this legislation.

The President gave a very clear example that illustrates the need for this amendment when he discussed the intelligence reform on August 2, 2004. He said: The national intelligence director will work with the respective agencies to set priorities, but let me make it also very clear that when it comes to operations, the chain of command will be intact. When the Defense Department is conducting operations to secure the homeland, there will be nothing between the Secretary of Defense and me.

Consequently, I would add one other thought. The chief of staff thereafter echoed on the quote: We do not want to do anything that would undermine the chain of command and the responsibilities that go with the Department of Defense, Director of the Central Intelligence Agency, the Secretary of the Homeland Security Department, and other intelligence agencies, the Attorney General, for example.

I am certain they meant to include the Department of State.

This amendment carries out that objective.

I would be interested in the comments of the chairman and the ranking member, and I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, taking a look at this amendment, I say to my friend from Virginia it may be that we can work this one out together because I believe we have a common interest, which is by the changes we are making in law, creating the national intelligence director, not to otherwise alter the authority of various department heads—State, Energy, Homeland Security, Defense, et cetera, that the Senator has enumerated—but clearly the underlying Collins-Lieberman bill does alter some of those authorities by creating authority in the national intelligence director.

Except for that, I do not think there is any intention to otherwise undercut. So the language is a bit worrisome on first look, which is that nothing in the act shall be construed to impair or otherwise affect the authority of these officers.

Well, we do want to affect the authority to the extent stated in the Collins-Lieberman proposal, but not otherwise.

Mr. WARNER. Mr. President, I would have to reflect on that because it seems to me the Senator is trying to have it both ways, and I am sure my distinguished colleague would not be seeking that goal.

Mr. LIEBERMAN. No, I am not. But if I might say briefly—

Mr. WARNER. Let me repeat that. I did not have the microphone on.

Mr. LIEBERMAN. That should be on the record.

Mr. WARNER. I say that the distinguished Senator is trying to have it both ways.

Mr. LIEBERMAN. I want my denial of that intention to also be in the RECORD.

Mr. WARNER. Fine.

So what is the proposal of the Senator?

Mr. LIEBERMAN. Well, I think we should reason together a little bit on this. In other words, I am concerned, in the broadest reading of this, this amendment could be read to undercut everything else the bill does. I do not believe the Senator would intend to do that.

Mr. WARNER. That is not my intention.

Mr. LIEBERMAN. Right. But only, if I understand it, to protect the authority of the departments except as we specifically alter them in the bill.

So, for instance, the national intelligence director will have certain budget authorities or transfer authorities under the bill, as it exists, which do alter the authority of some of those constituent departments—State, Energy, Homeland Security, Defense, et cetera. I would not want this language to obviate the impact of all of those changes.

Mr. WARNER. Yes, but let's work around it and be very mindful of the President's language. He said: Equally important that the heads of the departments should continue to be in charge of and therefore continue to be accountable for the performance of their respective departments.

Mr. LIEBERMAN. Right.

Mr. WARNER. Then I read his direct quotation, which seems to me we have translated into this amendment in good faith.

Mr. LIEBERMAN. If I might, I hear what the Senator is saying, and this goes back to the debate we have had off and on over the 5 days in which we have been on the bill. Let us take the Department of Defense, because that is a concern we have that has been expressed. This was something we argued with regard to the so-called Specter amendment which would have created line authority in the national intelligence director over all the constituent intelligence agencies, including those in the Department of Defense. Senator COLLINS and I argued we do not want to go that far. We want the Secretary of Defense to maintain line authority over NSA, NRA and NGA. On the other hand, we do want—and we may argue this on another amendment—the national intelligence director to be able to have the budget authority we give him and have the transfer authority, et cetera.

Maybe we are heading in the same direction. I think this is one we can try to work out.

Mr. WARNER. Obviously you tried to express the good intentions of trying to work this out. Certainly I desire to do so. But we must be very careful, under the extraordinary circumstances under which this very important piece of legislation is being put together. I am sure lots of work will take place over the weekend, but Monday and Tuesday are days in which certainly this bill, in its construction, is likely to be completed. We have to be careful that we do not create gaps in it, where a department head now can say: Look, the bill took that authority away. If a problem occurred, that is the NID's problem. And then the NID says: Oh, no, that is your problem on your account. We just cannot have finger-pointing when it comes to issues as important as our Nation's intelligence.

Mr. LIEBERMAN. Just a final word: We have been quite focused and specific when we have granted authority to the national intelligence director. So, therefore, all the other authorities the law gives to the various department heads enumerated in the Senator's amendment would not be affected. I see that language—perhaps we should consult with the representatives of the White House, too, to find out what their particular concern was.

We have amended the authority, or even affected the authority of the existing departments, along the margins here.

Mr. WARNER. I think that consultation would be helpful. I have undertaken it in connection with this amendment. I believe my views are consistent with theirs. But an awful lot of work has gone on now. It may be that there is some refinement that would further strengthen this.

For the moment, if the distinguished chairman wishes to speak, I will be happy to hear it and we will just put the amendment to one side.

I would like to come back this afternoon to modify an amendment that is at the desk, again, to clarify that in hopes that it comes near to what your goals are.

I will be back. If the chairman could advise me, is there going to be further time?

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I believe we will be here for another hour, approximately—until 5 o'clock.

Mr. WARNER. That should be adequate time.

Ms. COLLINS. Before the Senator from Virginia leaves, I think we have the same goal in this amendment. But I think to make sure that this amendment is interpreted as I believe we would all have it interpreted, we need to add language at the beginning that says something like: Except as specifically set forth in this act, nothing herein or amendments made by this amendment shall be construed to impair or otherwise affect the authority of it.

That way it would be clear that in this provision we are not affecting the other authorities of these departments, but neither are we wiping out what this legislation has done.

Mr. WARNER. Mr. President, I fully understand the import of the language you are quoting. But that is almost putting a blessing on everything that is written into the bill. I am not sure I am prepared as yet to say that. That is going to require a little study on the part of both of us because I think the effect of your language is, don't touch the bill, but what the bill leaves they are accountable for. That has to be thought through.

Ms. COLLINS. Mr. President, obviously we do want to preserve what is in the bill. That is why we are doing the bill.

Mr. WARNER. I understand that.

Ms. COLLINS. If the intent of the Senator is to override the provisions of the bill, then that would be a problem.

Mr. WARNER. We are trying to make certain just that undefined but all important concept of accountability remains. As you possibly take portions of the responsibility of department heads away and give it to the NID, I want to make sure, if something goes wrong, who is accountable.

We will work. I understand your perspective, but I am not prepared, as yet, to accept that amendment. So we will lay this aside. I thank you.

Mr. President, I am prepared to go ahead with the other matter, if I might.

AMENDMENT NO. 3877, AS MODIFIED

Mr. President, I would like at this time to send to the desk a modification to amendment No. 3877 by the Senator from Virginia.

The PRESIDING OFFICER. The amendment is pending and is so modified.

The amendment (No. 3877), as modified, is as follows:

On page 40, strike line 13 and all that follows through page 42, line 25, and insert the following:

(a) NATIONAL INTELLIGENCE DIRECTOR RECOMMENDATION OR CONCURRENCE IN CERTAIN APPOINTMENTS.—With respect to any position as head of an agency or organization within the intelligence community—

(1) if the appointment to such position is made by the President, any recommendation to the President to nominate or appoint an individual to such position shall be accompanied by the recommendation of the National Intelligence Director with respect to the nomination or appointment of such individual to such position; and

(2) if the appointment to such position is made by the head of the department containing such agency or organization, the Director of the Central Intelligence Agency, or a subordinate official of such department or of the Central Intelligence Agency, no individual may be appointed to such position without the concurrence of the National Intelligence Director.

(b) PRESIDENTIAL AUTHORITY.—This section, and the amendments made by this section, shall apply to the fullest extent consistent with the authority of the President under the Constitution relating to nomination, appointment, and supervision of the unitary executive branch.

(c) CONFORMING AMENDMENTS.—(1) Section 201 of title 10, United States Code, is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(C) by striking "Director of Central Intelligence" each place it appears and inserting "National Intelligence Director";

(D) in subsection (a), as so redesignated—

(i) in paragraph (1)—

(I) by striking "seek" and inserting "obtain"; and

(II) by striking the second sentence; and

(ii) in paragraph (2)—

(I) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(II) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) The Director of the Defense Intelligence Agency."; and

(E) in paragraph (2) of subsection (b), as so redesignated—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(ii) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) The Director of the Defense Intelligence Agency.".

(2)(A) The heading of such section is amended by striking "**consultation and**".

(B) The table of sections at the beginning of subchapter II of chapter 8 of such title is amended in the item relating to section 201 by striking "consultation and".

Mr. WARNER. Mr. President, earlier today I engaged in a colloquy and submitted the original form of this amendment. Subsequent thereto, I had the opportunity to consult with a number of individuals. It is my desire now, basically, to revise my amendment to comport with section 106 of the President's proposal, which he forwarded to the Senate. That is entitled:

> Appointment of officials responsible for intelligence-related activities. Requirement for National Intelligence Director concurrence with respect to certain appointments, with respect to any positions that heads of agency or organization within the intelligence community. . . .

My concern, what I am trying to achieve by this succession of amendments, is to provide some uniformity in the process designating and selecting the heads of the various—for example, the combat commands, as I refer to them, that was the subject of my earlier amendment.

I find that the President's approach in the proposal that he forwarded to the Senate is preferable to my earlier attempt at this. It reads:

> If the appointment to such position is made by the President, any recommendation to the President to nominate or appoint an individual to such position shall be accompanied by the recommendation of the National Intelligence Director with respect to the [proposed] nomination or appointment. . . .
>
> (2) if the appointment to such position is made by the head of the department containing agency or organization [within the intelligence community or] the Director of the Central Intelligence Agency, or a subordinate official of such department or of the Central Intelligence Agency, no individual shall be appointed to such position without the concurrence of the National Intelligence Director.

I believe that, then, confirms there is a certain degree of uniformity and preservation of accountability for the people selected in the various heads of the departments and the agencies.

With that, I will yield the floor for such comment as may be forthcoming from the chairman and ranking member.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ALLEN). Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, I see the distinguished chairman of the Armed Services Committee. I know he was present when Mr. McLaughlin was Acting Director of the CIA and he testified, along with a number of distinguished Government officials, including the Secretary of Defense. He made clear one point. I mentioned it earlier. He said that in any reorganization, it needs to be clear where the responsibility and accountability lies.

He asked the question, who will brief the President, and, in fact, who will be held accountable if he briefs the President incorrectly?

I see Senator WARNER, and I would like to ask the bill managers, also, but my question to Senator WARNER is, from his study of the bill, which is more extensive than mine, does he think there is any clear answer in this legislation that is moving forward to the question asked by Mr. McLaughlin? Who briefs the President and who is responsible if he is in error?

Mr. WARNER. I thank my colleague for the question because earlier today I had a number of discussions related to this question. I talked to some of the White House people. I think I have spoken in the Chamber a number of times about my concern as to the future posture, standing, of this Director of Central Intelligence. He has this magnificent organization, albeit there was a problem on the weapons of mass destruction, but in terms of numbers it was a relatively minute number of people, although the problem is very serious. The organization is all over the world and they are taking risks, extraordinary in some instances, comparable to the men and women in uniform of the Armed Forces as they pursue their assignments.

It is my concern in this reorganization where the director of intelligence now becomes a subordinate, and a decision is to be made by the President, in this legislation it appears to be the case he will not be at the moment on the council—are you familiar with the council of the Secretaries of State and Defense, Attorney General, Homeland Security, and others, who will be sort of a close-knit group and NID will be chairman of the council, and from time to time they will be advising the President, presumably, through the NID? I have tried to work it out so if, say, the Secretary of Defense has views at variance with the NID at the time the NID briefs the President on the NID's position, he is obligated by law to brief the President on the divergent position of one or more members of his council. That is a pending amendment. It is a joint intelligence communities council.

Anyway, I felt that perhaps somehow the Director of the CIA should be involved. There is concern about protocol. It is all Cabinet. He, as such, does not have Cabinet rank. I am working on a proposition to see whether we can preserve the integrity that has been accumulated over many years of the Director of the CIA. It is not only in the United States; he is known all over the world as a person who holds that position. I don't want to see any loss in the eyes of the counterparts worldwide as this new structure, presumably, will be enacted into law.

The answer to the question is, of course, the President can have whomever he wishes to brief him, but I presume NID is specifically someone that the President asked the Congress to create by law. He would be the principal briefer. From time to time he would be accompanied perhaps by others and I think more often than not by the Director of the CIA.

Given that it is the President's absolute authority to decide who he wants to brief him, I don't think it should be written into law, but I am seeking some clarification to the very question the Senator has asked because it is of concern to me. As soon as I gain further information, I will be happy to share it with my colleague.

Mr. SESSIONS. I thank Senator WARNER for his comments. It does appear if we pass this new procedure, we ought to understand who Congress contemplates would be the person most likely to brief the President.

I think I understand what the Senator was saying. It is so important that if the main person is going to be the NID, the national intelligence director who does the briefing, it seems to me he or she would have to reach down and take about half of the CIA up to be on his staff to help him prepare the brief or else he will be regurgitating what came from some other agency and then we have created a weakened CIA, a muddled NID, and who is responsible. Is that a problem?

Mr. WARNER. Mr. President, the Senator is quite correct. We do not want to do that.

In good faith, the chairman of the committee has repeatedly said, in this Chamber, we are not creating a whole new department. I heard the ranking member today mention that. Therefore, we would not in any way be trying to create that number of persons.

Nevertheless, who knows them better—that is, the individual members of the CIA—than the Director who has daily hands-on authority, who travels and visits in posts all over the world, who is basically responsible for their promotion, demotion, and accountability.

Mr. SESSIONS. The chairman is correct.

For the people following this debate, they need to know that the CIA has operations in virtually every country in the world and it is from those agents that much of our intelligence comes. It comes through the CIA Director and he has always briefed the President as the Director of Central Intelligence.

Mr. WARNER. And that fact is known, if I can say to my colleague, that fact is known the world over, that the man who directs the CIA and who is visiting in Great Britain or Pakistan, that is the man who will go home and look the President of the United States straight in the eye. That carries a lot of weight as it results in the creation of personal relationships between the director of our intelligence and his counterparts worldwide.

I do not think it is a subject that can be legislated in law. It is something of legislative history being created in the Senate now and is a vital part of the future interpretation and implementation of this new law.

I thank the Senator.

Mr. SESSIONS. Would the distinguished managers of the bill, for whom I have so much respect, care to comment on the question that Acting Director McLaughlin posed at our hearing when he said one thing we had to be clear about was who would be responsible for stating the intelligence position of the United States to the President and who would be held accountable if they were wrong. It is a question we need to be clear about.

Mr. LIEBERMAN. It is a very important question and I am prepared to give a very short and direct answer which I believe is reflected in the bill, which is that the national intelligence director is explicitly intended to be the principal intelligence advisor to the President of the United States. There should be no doubt about that.

It will give him two roles: One as administrator of the intelligence community—but then, why? To be the principal intelligence adviser to the No. 1 user of intelligence, not the only one but the President of the United States as Commander in Chief.

Mr. SESSIONS. I say to Senator LIEBERMAN, I would share your view that the President is the No. 1 customer of the intelligence that comes forward. I think he may well need a No. 1 adviser to help assimilate all of it.

But let's go back now. Would it normally be that the person who walks in there and looks the President in the eye—should not that person have line, control, and supervision over the people who provided him with that intelligence? And isn't that the only way he can be held responsible for the brief and the opinions to the President, if he obtained the information from sources that are accountable to him or her?

Whereas, in this case, if the NID does it, and the information is coming up through the vast CIA network around the world, as it most often would be—not always but most often would be—then, isn't that a weakness in our concept here?

Mr. LIEBERMAN. Mr. President, through you, of course, I say to the Senator, I do not believe it is a weakness. Here is the judgment we had to make: The Director of Central Intelligence now is effectively the principal intelligence adviser to the President, but as we have seen and stated over and over again in this debate, the record shows that the DCI has not had enough authority to coordinate the activities of the intelligence community to create the kind of unity of effort that we need to make sure we do not have a repeat, at worst, of September 11 and, in a very different way, of what everybody acknowledges was an imperfect functioning of the intelligence community prior to the Iraq war, as documented by the Senate Intelligence Committee.

So we want to give him some authority, but we specifically rejected what would effectively be a department of intelligence, taking NSA, NRO, and NGA out of Defense, taking the counterterrorism out of the FBI, Information Analysis out of the Department of Homeland Security, et cetera, et cetera, making it a department.

We are trying to strike a balance where you preserve the autonomy of those departments' line control, but you put them all together, particularly in that counterterrorism center, so that the director is hearing from all of them and is accountable, and then reports on these intelligence matters to the President.

Incidentally, the Collins-Lieberman proposal does make clear—I will just read from section 111:

> The National Intelligence Director shall be responsible for providing national intelligence—
>
> (1) to the President;
>
> (2) to the heads of other departments and agencies of the executive branch;

Also consumers, the Defense Department the largest of the consumers.

> (3) to the Chairman of the Joint Chiefs of Staff and senior military commanders;
>
> (4) to the Senate and House of Representatives and the committees thereof;
>
> (5) [and] to such other persons or entities as the President shall direct.

So there is no question there is a balance. But I think it is a balance that serves the Nation's interests well. We have power in the NID, but we have not broken the line of authority in other Departments.

As I believe I heard Senator WARNER say at one point, I presume the national intelligence director, in the exercise of his responsibilities, will, from time to time, bring with him to advise the President the head of the CIA, the head of the Homeland Security Department, whoever seems relevant on a given occasion, but to say that for intelligence there is one person ultimately accountable, and that is the national intelligence director.

Mr. SESSIONS. Well, I thank the Senator. I can see the concept there. I guess in my own mind I am having difficulty understanding why we should not raise up the CIA director and make sure that entity exercises the power that it is supposed to have now. It is supposed to be the central intelligence center for the country. And just to add another office above it has a number of problems. As Senator WARNER said, there are agents all over the world gathering intelligence who are responsible directly to the CIA Director, who then is supposed to directly advise the President.

So I hope we will think about this problem as we go forward. If we follow the model of the drug czar, I might feel a bit more comfortable. The drug czar, the Office of National Drug Control Policy Director, as I said earlier, requires that there be a written plan for combating illegal drugs in the United States. Every agency involved in that effort has to participate in drafting the plan and sign off on the plan when it is agreed to. And then that Director, the drug czar, reviews their budget request to make sure they are funding the effort in a coordinated way and has the ear of the President if an entity or agency refuses to cooperate.

But organizations have integrity. I do not think, in general, anyone would argue that it is healthy governmental philosophy or political science to have a person the head of an agency and then people under him and parts of his budget be decided directly by somebody else, and department heads have to be approved or appointed by other people. It classically undermines responsibility. In America we have one Government. And within the Government there are three parts. There are the executive, judicial, and legislative branches. But we have created so many fiefdoms in the executive branch it is hard to hold the President accountable. The FBI Director has—what?—a 12-year term? So it is hard to hold the President responsible for these entities. And then you have Secretaries who do not even have control over the people within their agencies.

So those are some of my concerns. As I said, it may be that nervousness before you sign the deed on the new house. But, again, it could be that some of these things may not work as well as we project them to at this time.

Mr. LIEBERMAN. President, I. obviously, respect and appreciate the concerns that my friend from Alabama has. I want to assure him that we have been over this. And the two things—one, is that not just the 9/11 Commission but a lot of folks, not universally felt, but a lot of people feel that the drug czar has not been all that the position could have been because he did not have any budget authority. He formed the budget but did not really have the muscle. As a matter of fact, Governor Kean and Congressman Hamilton, in their report, specifically said they did not want the national intelligence director to be like the drug czar.

Second, one of the conclusions I gather from the Scowcroft Report, but also others, including 9/11, is that what has happened up until now is that the Director of Central Intelligence has basically been the Director of the CIA—of course, the same person—and not had the time or the clout to coordinate the rest of the intelligence community.

That is part of the failure prior to September 11. That is why we specifically recommend breaking them in two, creating this director over everybody. The CIA is an important part, but there are a lot of other important parts. The FBI counterterrorism and the NSA, NRO, and NGA, as the Senator well knows, in terms of numbers of employees and the amount of the budget, are very big entities that, for now, have been too much outside the control of the Director of Central Intelligence.

So as I say, we have tried to balance. In some way, it might have been neater to take all the pieces and put them under a new secretary of intelligence, but then you really would have, for instance, broken the chain of command in the Defense Department.

We didn't want to do that. We are trying to have a balance to say when it comes to intelligence, there is one person accountable, and that is the national intelligence director.

I thank the Senator. I think this kind of discussion is very important to getting all of us to a point where we can not only proceed with the amendments but go ahead and ultimately next week adopt the bill and have a good feeling about it. Hopefully, we can lead the Senator from Alabama over his buyer's anxiety right now.

Mr. SESSIONS. It is a difficult thing. I remember the story very distinctly. There was an attempt to merge the FBI and DEA in the early 1980s. I wrote Associate Attorney General Giuliani a letter suggesting what should be merged is DEA and Alcohol, Tobacco, and Firearms. I saw him not long after that and he said: Jeff, we can't even merge agencies within the Department of Justice, don't you know? To merge an agency in Treasury with one of Justice is impossible.

While it is weird that we in the Congress and the President of the United States are not capable of merging agencies, as a practical matter, it is very difficult to do these things. I don't think most people realize how our Government really functions. It has great points. Some of the best people I have ever known serve in our Government. But there are problems in making it efficient.

I thank the managers for their leadership and hard work.

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION TO AMENDMENT NO. 3807

Mr. LIEBERMAN. Mr. President, I call up again amendment No. 3807 offered by Senator McCAIN and myself.

The PRESIDING OFFICER. The amendment is now pending.

Mr. LIEBERMAN. I thank the Chair.

Mr. President, I am pleased to send to the desk a modification to the amendment which is essentially a change of one word. I believe having made that one-word change, this amendment implements another section of the 9/11 Commission Report and is acceptable on both sides.

I thank my dear friend and colleague, Senator COLLINS, for all the work we have done together on this amendment, and with other stakeholders who had some concerns about the amendment, generally supported it, and we have worked them all out.

The PRESIDING OFFICER. The amendment will be so modified.

The modification is as follows:

of applicants for such licenses or identification cards.

(C) TIME REQUIREMENT.—The process described in subparagraph (A) shall be conducted in a timely manner to ensure that—

(i) any recommendation for a proposed rule or report is provided to the Secretary of Transportation not later than 9 months after the date of enactment of this Act and shall include an assessment of the benefits and costs of the recommendation; and

(ii) a final rule is promulgated not later than 18 months after the date of enactment of this Act.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary of Transportation shall award grants to States to assist them in conforming to the minimum standards for driver's licenses and personal identification cards set forth in the regulation.

(2) ALLOCATION OF GRANTS.—The Secretary of Transportation shall award grants to States under this subsection based on the proportion that the estimated average annual number of driver's * * *.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank my colleague from Connecticut and my colleague from Arizona, Senator McCAIN, for working with me to address concerns that have been raised by the National Governors Association regarding the provisions in the McCain-Lieberman amendment that dealt with the standardization of State drivers' licenses. I believe the change which has been made, which will require an assessment of the cost benefits of any new requirements, is an important one.

I ask unanimous consent that two letters from the National Governors Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GOVERNORS
ASSOCIATION,
Washington, DC, October 1, 2004.

Hon. SUSAN COLLINS,
U.S. Senate,
Washington, DC.

DEAR SENATOR COLLINS: On behalf of the nation's Governors I am writing to thank you for your efforts in negotiating a compromise on amendment language regarding minimum standards for state driver's licenses. I know that you share Governors' concerns regarding the security and integrity of state driver's license and identification processes and appreciate the difficulties that federal mandates, particularly unfunded mandates, placed on states.

Due in large part to your concern regarding the mandates in the McCain/Lieberman driver's license amendment, NGA was able to make suggestions to improve the measure. We understand that a provision has been added to require that the negotiated rulemaking committee perform an assessment of the benefits and costs of its recommendations. This change is essential to help ensure that the federal government provides adequate funding to states to implement the required mandates.

Governors are committed to working cooperatively with the federal government to develop and implement realistic, achievable standards that will enhance efforts to prevent document fraud and other illegal activity related to the issuance of driver's licenses and identification documents. We appreciate your willingness to work with states to address our concerns. With all the changes included in the amendment, it will provide a reasonable compromise for addressing this issue.

Thank you again for your consideration and assistance. We look forward to working with you during conference.

Sincerely,

RAYMOND C. SCHEPPACH,
Executive Director.

NATIONAL GOVERNORS ASSOCIATION,
Washington, DC, October 1, 2004.

Hon. JOHN MCCAIN,
U.S. Senate,
Washington, DC.
Hon. JOSEPH I. LIEBERMAN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN AND SENATOR LIEBERMAN: Governors share your concerns regarding the security and integrity of state driver's license and identification processes. While NGA opposes federal mandates on states, particularly unfunded mandates, we appreciate your willingness to work with states to improve your amendment regarding minimum requirements for state driver's licenses. As you know, NGA strongly opposes the more proscriptive driver's license mandate provisions under consideration in the House.

It is my understanding that your original amendment has been modified to include two important changes: (1) clarification that the standards that will be set in the rulemaking process will initially apply only to newly-issued and reissued driver's licenses; and (2) a requirement that state elected officials, including Governors, serve on the negotiated rulemaking committee. In addition, we request that a provision be added to require that the negotiated rulemaking committee perform an assessment of the annual benefits and costs of its recommendations.

The first two changes are vital to ensuring that the minimum requirements established under the amendment are workable, do not unnecessarily interfere with existing state laws and improvements, and benefit from the expertise and knowledge of state officials. Likewise, the last change is essential to help ensure that the federal government provides adequate funding to states to implement the required mandates.

Governors are committed to working cooperatively with the federal government to develop and implement realistic, achievable standards that will enhance efforts to prevent document fraud and other illegal activity related to the issuance of driver's licenses and identification documents. We appreciate your willingness to work with states to address our concerns. If all three changes are included in the amendment it will provide a reasonable compromise for addressing this issue.

Thank you again for your consideration and assistance.

Sincerely,

RAYMOND C. SCHEPPACH,
Executive Director.

Ms. COLLINS. Mr. President, I urge adoption of the modified amendment.

The PRESIDING OFFICER. Is there further debate?

Without objection, the amendment is agreed to.

The amendment (No. 3807), as modified, was agreed to.

Ms. COLLINS. I thank the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank my colleagues for their work on intelligence reform. I want to make a few remarks on the intelligence reform bill.

I am supportive of the overall efforts of the Governmental Affairs Committee, what my colleague from Kansas, Senator ROBERTS, and my colleague from West Virginia, Senator ROCKEFELLER, are doing as well on intelligence reform, and I want to support this overall effort.

Before I proceed, it is important to underscore why this is such an important debate in the United States, especially when it is so deeply engaged in many places around the world and particularly in the Middle East and Iraq. In the context of the underlying bill, we need to make sure we clearly understand this.

There is some public uncertainty regarding these issues. As the debate showed last night, we have fundamental differences even between President Bush and Senator KERRY. But both agree, in my opinion, why the U.S. commitment to Iraq is absolutely essential and why we must not fail in Iraq or in this effort to reform our national intelligence.

For purposes of discussion, I recommend a rereading of Osama bin Laden's declaration of war against the Americans. He issued this in 1998. It is in the 9/11 Commission Report and it is chilling, but it tells you what is at stake in this debate.

He says this, and this is a direct quote from that declaration of war:

> The Defence Secretary of the Crusading Americans had said that the explosions at Riyadh and Al-Khobar had taught him one lesson: that is not to withdraw when attacked by cowardly terrorists.

bin Laden continues:

> We say to the Defence Secretary that his talk could induce a grieving mother to laughter! And it shows the fears that have enveloped you all. Where was this courage of yours when the explosion in Beirut took place in 1983 . . . You were transformed into scattered bits and pieces: 241 soldiers were killed, most of them Marines.

bin Laden continues:

> When tens of your soldiers were killed in minor battles and one American pilot was dragged in the street of Mogadishu, you left the area in disappointment, humiliation, and defeat, carrying your dead with you.
>
> Clinton appeared in front of the whole world threatening and promising revenge, but these threats were merely a preparation for withdrawal. You had been disgraced by Allah and you withdraw; the extent of your impotence and weaknesses became very clear.

As bin Laden had explained earlier in the declaration:

> Efforts should be concentrated on destroying, fighting, and killing the (American) enemy until, by the grace of Allah, it is completely defeated.

The task is stated quite simply by bin Laden:

> Killing Americans.

In June 2002, bin Laden spokesman, Suleiman Abu Gheith, placed this statement on the al-Qaida Web site:

> We have the right to kill 4 million Americans—2 million of them children—and to exile twice as many and wound and cripple hundreds of thousands.

He said that:

> We have the right to kill 4 million Americans—2 million of them children. . . .

What can we do to forestall these promised attacks? According to bin Laden, if we follow what he says, we can forestall these promised attacks if "America should abandon the Middle East, convert to Islam and end the immorality and godlessness of its society and culture," for according to bin Laden, "It is saddening to tell you that you are the worst civilization witnessed by the history of mankind."

That is what we fight, and that is what we must stand strong against and be as strong and as organized as we possibly can and have as good intelligence as we possibly can to fight these fanatics.

These terrorists are fanatics. They are wrong about America, and America will fight. They may be fanatics—and they are—but James Schlesinger reminded us earlier this year in the Foreign Relations Committee that they are deadly serious and thoroughly persistent.

We have to therefore anticipate we will be engaged in this global war on terrorism for years to come and we must not waiver in this effort.

As Osama himself has said:

> When the people see a strong horse and a weak horse, they naturally gravitate towards the strong horse.

Therefore, we as a nation and as a body must do everything within our means to demonstrate that we are not the weak horse. That is why retreat before we have successfully stabilized Iraq is not an option. Nothing was more dramatically visible throughout the Middle East and elsewhere of our retreat than were those earlier retreats cited by Osama bin Laden.

The debate over Iraq will continue, even after the election, regarding the timing of our move into Iraq, but that is a moot issue. We are there now and our soldiers are doing the best they can under difficult circumstances. We will bring them home, but make no mistake about the fact that we are anything but united in our determination to persevere and to prevail in Iraq. Success is the only acceptable course of action.

How then are we to be successful in sustaining order and stability in Iraq and bringing order to the chaos that the terrorists can potentially produce around the world? Only by embracing certain fundamental realities. First and foremost, establishing reasonable security is the prerequisite for achieving the goals of political stability. We are doing that in Iraq and we are doing that in Afghanistan. It is slow going and it is difficult, and there will be bumps along the way.

Second, neither the American nor the coalition forces can by themselves impose security on Iraq. Iraqis themselves must provide indispensable support and their own security. Only Iraqis can gather the intelligence to identify the regime remnants and foreign terrorists who must be largely neutralized before adequate security can be assured.

Moreover, it will be essential for Iraqi security forces to be the principal elements in rooting out terrorists and destroying their cells, with the coalition military increasingly in a supporting role.

Similarly, America must take charge of its own security in a way that is consistent with the changed realities in our post-9/11 world. This legislation we are debating, the first major overhaul of the intelligence system, is a major step in that direction. We have the capability, the ability, and the motive—our national security—to do this now and to do it right.

As my colleague Senator KYL from Arizona said yesterday, the problem before 9/11 was not due to too much intelligence. The problem obviously arose because we did not have enough intelligence, smart intelligence, creative intelligence. We could not gather enough information in a timely way to put together all of the possibilities in order to connect the dots, in order to predict that a particular kind of attack was going to occur on that day.

We have had a lot of good, constructive suggestions, from many places, from the 9/11 Commission, from the Senate Intelligence Committee, the great work of its chairman and my colleague Senator PAT ROBERTS from Kansas, from the administration, from the work of the Governmental Affairs Committee, Senator ROCKEFELLER also on the Intelligence Committee, from other commissions in trying to understand why we did not have enough intelligence and why we could not put it all together ahead of time.

Many of the recommendations of the Commission and legislative solutions in the proposed bill try to correct that problem of not having enough good intelligence and knowing precisely what we need to do with the intelligence once we have it.

Most importantly, we need to find a way of bringing the creativity and imagination back into the intelligence business. For too long, the system has been hampered by bureaucracy that by design is risk averse and unwilling to take the offensive. As Senator KYL mentioned the other day, if we look back at President Clinton's directives to the intelligence community, he tried to be forward leaning, especially with regard to al-Qaida and Osama bin Laden. But even though the President himself seemed to say we have to do everything we can to try to get these guys, he ran into bureaucratic barriers. Repeatedly, efforts were made to bring to his attention operations that would have either improved our intelligence or operationally deal with al-Qaida and Osama bin Laden, but they were shot down by various portions or places within the bureaucracy or lawyers within the system. If someone tried to do something, somebody else said this is too risky, we cannot do it.

We have to change that mentality. That was why the 9/11 Commission, the Senate Intelligence Committee, and many other observers have said we have to get out of this paralyzing risk-averse environment where people are afraid somebody is looking over their shoulders, is going to jump on them if they do anything that is the least bit out of the ordinary or risky. We have to get this bureaucratic mindset out because our very security depends on it.

I thank the chairman of the Governmental Affairs Committee, Senator COLLINS, for her great work on this, and the ranking member, Senator LIEBERMAN. I appreciate the important work of my colleagues Senator ROBERTS and Senator ROCKEFELLER, and I hope that we will speedily get to a resolution so we can pass this important bill soon and change the dynamic and make a safer America.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Kansas for his generous comments and for presenting a very compelling case for passing this legislation, a case that says we cannot delay; the stakes are too high; the issues are too compelling in the war against terrorism. I thank him for his support and for his hard work on this very important issue.

I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3798, 3799, 3800, 3911, 3912, 3932, 3864, 3772, 3813 AND 3717, EN BLOC

Ms. COLLINS. Mr. President, I have a number of amendments from both sides of the aisle that have been cleared by both of the managers of the bill. I ask unanimous consent that we proceed to the consideration of the following amendments, en bloc: Coleman amendment 3798, Coleman amendment 3799, Coleman amendment 3800, Snowe amendment 3911, Snowe amendment 3912, Snowe amendment 3932, Frist amendment 3864, Bingaman amendment 3772, Reed of Rhode Island amendment 3813, and Feinstein amendment 3717.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendments are pending.

Ms. COLLINS. I ask unanimous consent that the amendments be agreed to en bloc and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 3798

(Purpose: To amend section 510 of the Homeland Security Act of 2002 to ensure widespread access to the Information Sharing Network)

At the appropriate place, insert the following:

SEC. ___. URBAN AREA COMMUNICATIONS CAPABILITIES.

Section 510 of the Homeland Security Act of 2002, as added by this Act, is amended by inserting ", and shall have appropriate and timely access to the Information Sharing Network described in section 206(c) of the National Intelligence Reform Act of 2004" after "each other in the event of an emergency".

AMENDMENT NO. 3799

(Purpose: To require the enterprise architecture, and implementation plan for the Information Sharing Network to include equipment and training requirements and utilization costs)

On page 137, line 20, strike "and" and all that follows through "(9)" on line 21, and insert the following:

(9) an estimate of training requirements needed to ensure that the Network will be adequately implemented and property utilized;

(10) an analysis of the cost to State, tribal, and local governments and private sector entities for equipment and training needed to effectively utilize the Network; and

(11)

AMENDMENT NO. 3800

(Purpose: To find that the United States needs to implement the 9/11 Commission's recommendation to adopt a unified incident command system and significantly enhance communications connectivity among first responders)

At the appropriate place, insert the following:

(1) The United States needs to implement the recommendations of the National Commission on Terrorist Attacks Upon the United States to adopt a unified incident command system and significantly enhance communications connectivity between and among civilian authorities, local first responders, and the National Guard. The unified incident command system should enable emergency managers and first responders to manage, generate, receive, evaluate, share, and use information in the event of a terrorist attack or a significant national disaster.

AMENDMENT NO. 3911

(Purpose: To require a report on the methodologies utilized for National Intelligence Estimates)

On page 210, between lines 22 and 23, insert the following:

SEC. 336. NATIONAL INTELLIGENCE COUNCIL REPORT ON METHODOLOGIES UTILIZED FOR NATIONAL INTELLIGENCE ESTIMATES.

(a) REPORT.—Not later than 180 days after the date of the enactment of this Act, the National Intelligence Council shall submit to Congress a report that includes the following:

(1) The methodologies utilized for the initiation, drafting, publication, coordination, and dissemination of the results of National Intelligence Estimates (NIEs).

(2) Such recommendations as the Council considers appropriate regarding improvements of the methodologies utilized for National Intelligence Estimates in order to ensure the timeliness of such Estimates and ensure that such Estimates address the national security and intelligence priorities and objectives of the President and the National Intelligence Director.

(b) FORM.—The report under subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

On page 210, line 23, strike "**336.**" and insert "**337.**".

AMENDMENT NO. 3912

(Purpose: To require an evaluation of the effectiveness of the National Counterterrorism Center)

On page 210, between lines 22 and 23, insert the following:

SEC. 336. NATIONAL INTELLIGENCE DIRECTOR REPORT ON NATIONAL COUNTERTERRORISM CENTER.

(a) REPORT.—Not later than one year after the date of the establishment of the National Counterterrorism Center under section 143, the National Intelligence Director shall submit to Congress a report evaluating the effectiveness of the Center in achieving its primary missions under subsection (d) of that section.

(b) ELEMENTS.—The report under subsection (a) shall include the following:

(1) An assessment of the effectiveness of the National Counterterrorism Center in achieving its primary missions.

(2) An assessment of the effectiveness of the authorities of the Center in contributing to the achievement of its primary missions, including authorities relating to personnel and staffing, funding, information sharing, and technology.

(3) An assessment of the relationships between the Center and the other elements and components of the intelligence community.

(4) An assessment of the extent to which the Center provides an appropriate model for the establishment of national intelligence centers under section 144.

(c) FORM.—The report under subsection (a) shall be submitted in an unclassified form, but may include a classified annex.

AMENDMENT NO. 3932

(Purpose: Relating to alternative analyses of intelligence by the intelligence community)

On page 153, between lines 2 and 3, insert the following:

SEC. 207. ALTERNATIVE ANALYSES OF INTELLIGENCE BY THE INTELLIGENCE COMMUNITY.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the National Intelligence Director should consider the advisability of establishing for each element of the intelligence community an element, office, or component whose purpose is the alternative analysis (commonly referred to as a "red-team analysis") of the information and conclusions in the intelligence products of such element of the intelligence community.

(b) REPORT.—(1) Not later than one year after the date of the enactment of this Act, the National Intelligence Director shall submit to Congress a report on the actions taken to establish for each element of the intelligence community an element, office, or component described in subsection (a).

(2) The report shall be submitted in an unclassified form, but may include a classified annex.

AMENDMENT NO. 3864

(Purpose: To extend section 145(c) of the Aviation and Transportation Security Act)

At the appropriate place insert the following:

Section 145(c) of the Aviation and Transportation Security Act (49 U.S.C. 40101 note) is amended by striking "more than" and all that follows through "after" and inserting "more than 48 months after".

AMENDMENT NO. 3772

(Purpose: To establish the position of Chief Scientist of the National Intelligence Authority)

On page 45, between lines 10 and 11, insert the following:

(11) The Chief Scientist of the National Intelligence Authority.

On page 45, line 11, strike "(11)" and insert "(12)".

On page 45, line 14, strike "(12)" and insert "(13)".

On page 59, between lines 14 and 15, insert the following:

SEC. 131. CHIEF SCIENTIST OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) CHIEF SCIENTIST OF NATIONAL INTELLIGENCE AUTHORITY.—There is a Chief Scientist of the National Intelligence Authority who shall be appointed by the National Intelligence Director.

(b) REQUIREMENT RELATING TO APPOINTMENT.—An individual appointed as Chief Scientist of the National Intelligence Authority shall have a professional background and experience appropriate for the duties of the Chief Scientist.

(c) DUTIES.—The Chief Scientist of the National Intelligence Authority shall—

(1) act as the chief representative of the National Intelligence Director for science and technology;

(2) chair the National Intelligence Authority Science and Technology Committee under subsection (d);

(3) assist the Director in formulating a long-term strategy for scientific advances in the field of intelligence;

(4) assist the Director on the science and technology elements of the budget of the National Intelligence Authority; and

(5) perform other such duties as may be prescribed by Director or by law.

(d) NATIONAL INTELLIGENCE AUTHORITY SCIENCE AND TECHNOLOGY COMMITTEE.—(1) There is within the Office of the Chief Scientist of the National Intelligence Authority a National Intelligence Authority Science and Technology Committee.

(2) The Committee shall be composed of the principal science officers of the National Intelligence Program.

(3) The Committee shall—

(A) coordinate advances in research and development related to intelligence; and

(B) perform such other functions as the Chief Scientist of the National Intelligence Authority shall prescribe.

On page 59, line 15, strike "**131.**" and insert "**132.**".

On page 202, line 16, strike "131(b)" and insert "132(b)".

AMENDMENT NO. 3813

(Purpose: To find that risk assessments and protective measures for liquefied natural gas marine terminals should be included in the plan of the Secretary of Homeland Security to protect critical infrastructure)

At the appropriate place, insert the following:

SEC. . LIQUEFIED NATURAL GAS MARINE TERMINALS.

Congress finds that plans developed by the Department of Homeland Security to protect critical energy infrastructure should include risk assessments and protective measures for existing and proposed liquefied natural gas marine terminals.

AMENDMENT NO. 3717

(Purpose: To provide that the Intelligence Community Reserve Corps shall have a personnel strength level authorized by law)

On page 39, strike lines 8 through 11 and insert the following:

(c) PERSONNEL STRENGTH LEVEL.—Congress shall authorize the personnel strength level for the National Intelligence Reserve Corps for each fiscal year.

AMENDMENT NO. 3771, AS MODIFIED

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendment be set aside and that we proceed to the consideration of the Bingaman-Domenici amendment 3771, as modified. I send the modification to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. BINGAMAN and Mr. DOMENICI, proposes an amendment numbered 3771, as modified.

The amendment, as modified, is as follows:

(Purpose: To authorize employees of Federally Funded Research and Development Centers and certain employees of the Department of Energy national laboratories to be eligible for the staff of the National Counterterrorism Center and the national intelligence centers)

On page 91, between lines 12 and 13, insert the following:

(C) Employees of Federally Funded Research and Development Centers (as that term is defined in part 2 of the Federal Acquisition Regulation), including employees of the Department of Energy national laboratories who are associated with field intelligence elements of the Department of Energy, shall be eligible to serve under contract or other mechanism with the National Counterterrorism Center under this paragraph.

On page 98, between lines 21 and 22, insert the following:

(C) Employees of Federally Funded Research and Development Centers (as that term is defined in part 2 of the Federal Acquisition Regulation), including employees of the Department of Energy national laboratories who are associated with field intelligence elements of the Department of Energy, shall be eligible to serve under contract or other mechanism with a national intelligence center under this paragraph.

Mr. LIEBERMAN. Mr. President, since World War II, our national laboratories, primarily serving Energy and Defense Department missions, have been the Nation's repository of expertise on nuclear weapons and other national security and technical issues. Although many of these national laboratories are known as Federal Funded Research and Development Centers, or FFRDC's, and are federally financed, lab employees are not Federal employees. They are employees of the contractors who operate these laboratories. This amendment would make employees of the FFRDC's eligible to serve at the National Counterterrorism Center and other national intelligence centers.

I agree with the sponsors of this amendment that if the national intelligence director, or NID, determines that he or she needs to tap the experts employed at our FFRDC's to help staff these centers, then he or she should be able to do so. But I also want to make it clear, that it is my understanding that we are not creating a new mission for the FFRDC's or authorizing the creation of a new FFRDC for this purpose. Use of these employees would be subject to the availability of funds to the NID, and would still be subject to the Federal conflict of interest provisions and the Federal Acquisition Regulations. Finally, nothing in this amendment is intended to circumvent staff year ceilings established by law for Defense Department-sponsored FFRDC's or any other FFRDC's.

Ms. COLLINS. Mr. President, I ask unanimous consent that the modification be agreed to, that the amendment, as modified, be agreed to, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3771), as modified, was agreed to.

AMENDMENT NO. 3756

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendment be set aside and that the Senate now proceed to the immediate consideration of the Graham-Durbin amendment No. 3756.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will please report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Mr. GRAHAM of Florida, proposes an amendment numbered 3756.

The amendment is as follows:

(Purpose: To establish additional education and training requirements for the National Intelligence Authority)

On page 108, between lines 8 and 9, insert the following:

SEC. 153. ADDITIONAL EDUCATION AND TRAINING REQUIREMENTS.

(a) FINDINGS.—Congress makes the following findings:

(1) Foreign language education is essential for the development of a highly-skilled workforce for the intelligence community.

(2) Since September 11, 2001, the need for language proficiency levels to meet required national security functions has been raised, and the ability to comprehend and articulate technical and scientific information in foreign languages has become critical.

(b) LINGUISTIC REQUIREMENTS.—(1) The National Intelligence Director shall—

(A) identify the linguistic requirements for the National Intelligence Authority;

(B) identify specific requirements for the range of linguistic skills necessary for the intelligence community, including proficiency in scientific and technical vocabularies of critical foreign languages; and

(C) develop a comprehensive plan for the Authority to meet such requirements through the education, recruitment, and training of linguists.

(2) In carrying out activities under paragraph (1), the Director shall take into account education grant programs of the Department of Defense and the Department of Education that are in existence as of the date of the enactment of this Act.

(3) Not later than one year after the date of the enactment of this Act, and annually thereafter, the Director shall submit to Congress a report on the requirements identified under paragraph (1), including the success of the Authority in meeting such requirements. Each report shall notify Congress of any additional resources determined by the Director to be required to meet such requirements.

(4) Each report under paragraph (3) shall be in unclassified form, but may include a classified annex.

(c) PROFESSIONAL INTELLIGENCE TRAINING.—The National Intelligence Director shall require the head of each element and component within the National Intelligence Authority who has responsibility for professional intelligence training to periodically review and revise the curriculum for the professional intelligence training of the senior and intermediate level personnel of such element or component in order to—

(1) strengthen the focus of such curriculum on the integration of intelligence collection and analysis throughout the Authority; and

(2) prepare such personnel for duty with other departments, agencies, and element of the intelligence community.

Ms. COLLINS. Mr. President, I ask unanimous consent that the amendment be agreed to and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3756) was agreed to.

Ms. COLLINS. Mr. President, as I indicated, those amendments have all been worked out. They have been cleared on both sides. We are making progress on this bill. There have been a great number of amendments filed. I encourage all Senators to work closely with the managers of the bill to allow us to proceed to consider this bill on Tuesday. We have a great deal of work to be done before that time, but we made progress today.

I also thank those Senators who came forward with their amendments today. Shortly, I will have an announcement about the voting schedule for Monday. We do expect to have a number of stacked votes in the mid to late afternoon. We are working on that list even as we speak.

AMENDMENT NO. 3803

Ms. COLLINS. Mr. President, on behalf of Senator CORNYN, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows.

The Senator from Maine (Ms. COLLINS), for Mr. CORNYN, proposes an amendment numbered 3803.

The amendment is as follows:

(Purpose: To provide for enhanced criminal penalties for crimes related to alien smuggling)

At the end of the bill, add the following:

TITLE IV—HUMAN SMUGGLING PENALTY ENHANCEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the "Human Smuggling Penalty Enhancement Act of 2004".

SEC. 402. ENHANCED PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking "knowing that a person is an alien, brings" and inserting "knowing or in reckless disregard of the fact that a person is an alien, brings";

(II) by striking "Commissioner" and inserting "Under Secretary for Border and Transportation Security"; and

(III) by inserting "and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law" before the semicolon;

(ii) in clause (iv), by striking "or" at the end;

(iii) in clause (v)—

(I) in subclause (I), by striking ", or" and inserting a semicolon;

(II) in subclause (II), by striking the comma and inserting "; or"; and

(III) by inserting after subclause (II) the following:

"(III) attempts to commit any of the preceding acts; or"; and

(iv) by inserting after clause (v) the following:

"(vi) knowing or in reckless disregard of the fact that a person is an alien, causes or attempts to cause such alien to be transported or moved across an international boundary, knowing that such transportation or moving is part of such alien's effort to enter or attempt to enter the United States without prior official authorization;"; and

(B) in subparagraph (B)—

(i) in clause (i)—

(I) by striking "or (v)(I)" and inserting ", (v)(I), or (vi)"; and

(II) by striking "10 years" and inserting "20 years";

(ii) in clause (ii), by striking "5 years" and inserting "10 years"; and

(iii) in clause (iii), by striking "20 years" and inserting "35 years";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting ", or facilitates or attempts to facilitate the bringing or transporting," after "attempts to bring"; and

(ii) by inserting "and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law," after "with respect to such alien"; and

(B) in subparagraph (B)—

(i) in clause (ii), by striking ", or" and inserting a semicolon;

(ii) in clause (iii), by striking the comma at the end and inserting "; or";

(iii) by inserting after clause (iii), the following:

"(iv) an offense committed with knowledge or reason to believe that the alien unlawfully brought to or into the United States has engaged in or intends to engage in terrorist activity (as defined in section 212(a)(3)(B)(iv)),"; and

(iv) in the matter following clause (iv), as added by this subparagraph, by striking "3 nor more than 10 years" and inserting "5 years nor more than 20 years"; and

(3) in paragraph (3)(A), by striking "5 years" and inserting "10 years".

SEC. 403. AMENDMENT TO SENTENCING GUIDELINES RELATING TO ALIEN SMUGGLING OFFENSES.

(a) DIRECTIVE TO UNITED STATES SENTENCING COMMISSION.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) REQUIREMENTS.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the Sentencing Guidelines and Policy Statements reflect—

(A) the serious nature of the offenses and penalties referred to in this title;

(B) the growing incidence of alien smuggling offenses; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Sentencing Guidelines and Policy Statements adequately address whether the guideline offense levels and enhancements for violations of the sections amended by this title—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this title;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the Sentencing Guidelines; and

(6) ensure that the Sentencing Guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

Ms. COLLINS. I ask unanimous consent the amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3768

Ms. COLLINS. Mr. President, I send an amendment to the desk on behalf of the Senator from Montana, Mr. BAUCUS.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine (Ms. COLLINS), for Mr. BAUCUS, for himself and Mr. ROBERTS, proposes an amendment numbered 3768.

The amendment is as follows:

(Purpose: To require an annual report on the allocation of funding within the Office of Foreign Assets Control of the Department of the Treasury)

At the end, add the following new section:

SEC. 353. ANNUAL REPORT ON THE ALLOCATION OF RESOURCES WITHIN THE OFFICE OF FOREIGN ASSETS CONTROL.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Treasury should allocate the resources of the Office of Foreign Assets Control to enforce the economic and trade sanctions of the United States in a manner that enforcing such sanctions—

(1) against al Qaeda and groups affiliated with al Qaeda is the highest priority of the Office;

(2) against members of the insurgency in Iraq is the second highest priority of the Office; and

(3) against Iran is the third highest priority of the Office.

(b) REQUIREMENT FOR ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury, in consultation with the National Intelligence Director, shall submit to Congress a report on the allocation of resources within the Office of Foreign Assets Control.

(c) CONTENT OF ANNUAL REPORT.—An annual report required by subsection (b) shall include—

(1) a description of—

(A) the allocation of resources within the Office of Foreign Assets Control to enforce the economic and trade sanctions of the United States against terrorist organizations and targeted foreign countries during the fiscal year prior to the fiscal year in which such report is submitted; and

(B) the criteria on which such allocation is based;

(2) a description of any proposed modifications to such allocation; and

(3) an explanation for any such allocation that is not based on prioritization of threats determined using appropriate criteria, including the likelihood that—

(A) a terrorist organization or targeted foreign country—

(i) will sponsor or plan a direct attack against the United States or the interests of the United States; or

(ii) is participating in or maintaining a nuclear, biological, or chemical weapons development program; or

(B) a targeted foreign country—

(i) is financing, or allowing the financing, of a terrorist organization within such country; or

(ii) is providing safe haven to a terrorist organization within such country.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

Ms. COLLINS. Mr. President, I ask unanimous consent the amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. SESSIONS). Without objection, it is so ordered.

AMENDMENT NO. 3768, AS MODIFIED

Ms. COLLINS. Mr. President, I ask unanimous consent that Baucus amendment No. 3768 be modified with the change at the desk.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment (No. 3768), as modified, is as follows:

At the end, add the following new section:

SEC. 353. ANNUAL REPORT ON THE ALLOCATION OF RESOURCES WITHIN THE OFFICE OF FOREIGN ASSETS CONTROL.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of the Treasury is not currently according emerging threats to the United States the proper priority and should reallocate the current resources of the Office of Foreign Assets Control to enforce the economic and trade sanctions of the United States in a manner that enforcing such sanctions substantially increases the priority given to—

(1) al Qaeda and groups affiliated with al Qaeda;

(2) members of the insurgency in Iraq; and

(3) Iran.

(b) REQUIREMENT FOR ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury, in consultation with the National Intelligence Director, shall submit to Congress a report on the allocation of resources within the Office of Foreign Assets Control.

(c) CONTENT OF ANNUAL REPORT.—An annual report required by subsection (b) shall include—

(1) a description of—

(A) the allocation of resources within the Office of Foreign Assets Control to enforce the economic and trade sanctions of the United States against terrorist organizations and targeted foreign countries during the fiscal year prior to the fiscal year in which such report is submitted; and

(B) the criteria on which such allocation is based;

(2) a description of any proposed modifications to such allocation; and

(3) an explanation for any such allocation that is not based on prioritization of threats determined using appropriate criteria, including the likelihood that—

(A) a terrorist organization or targeted foreign country—

(i) will sponsor or plan a direct attack against the United States or the interests of the United States; or

(ii) is participating in or maintaining a nuclear, biological, or chemical weapons development program; or

(B) a targeted foreign country—

(i) is financing, or allowing the financing, of a terrorist organization within such country; or

(ii) is providing safe haven to a terrorist organization within such country.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3903

Ms. COLLINS. Mr. President, I ask unanimous consent to set the pending amendment aside and call up the Stevens amendment No. 3903.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from Maine [Ms. COLLINS], for Mr. STEVENS, Mr. INOUYE, Mr. WARNER, and Mr. KYL, proposes an amendment numbered 3903.

The amendment is as follows:

> (Purpose: To strike section 201, relating to public disclosure of intelligence funding)
>
> On page 115, strike line 15 and all that follows through page 115, line 25.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DEWINE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DEWINE. I ask unanimous consent to proceed in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED FORCES

PRIVATE-FIRST CLASS NICHOLAUS ZIMMER

Mr. DEWINE. Mr. President, I come to the Senate floor today to pay tribute to a young Ohioan who gave his life in the line of duty fighting for freedom. Today I stand here to remember a soldier of inspiring independence and determination, a young man whose life was cut far too short when the tank he was in was hit by a rocket-propelled grenade in Kufa, Iraq. He was 20 years old.

Army PFC Nicholaus Zimmer was the only child of Lisa and Harold "Gino" Zimmer of Powell, OH. The two were proud, yet of course, worried when their son decided to enlist in the Army at the age of 17. Despite their natural parental concerns, they knew he would go his own way and do things in his own way. Because, you see, Nicholaus Zimmer was special. He was voted most unique in the Westland High School class of 2002. He defied stereotypes. He was unconventional. He had an exceptional spirit. Nicholaus was lovingly described as a bookish, pink-haired, 1970s-clothes-wearing, skateboarding kid who loved to question authority. I should note, though, that the pink hair description was constantly changing, as Nicholaus altered his hair color to blue and even shaved it once into a Mohawk haircut. Though most would consider pink hair as strictly a defining characteristic, it was not so for Nicholaus. As with other aspects of his life, Nicholaus could not be easily pigeonholed—not really—especially as a punk rock youth. No, he loved to read Shakespeare and would quote it while talking to teachers. Nicholaus was considering becoming an English teacher. Well, that or maybe an Apache helicopter pilot. Nicholaus was ambitious and set his goals high. He enlisted in the Army so he could earn money to go to college and see the world. He was assigned to the 2nd Battalion, 37th Armored Regiment, 1st Armored Division out of Friedberg, Germany. His job was driving M1A1 tanks—another irony in his life given the fact that Nicholaus didn't have a driver's license. Nevertheless, he drove that tank with great skill and expertise.

At age 19, Nicholaus was sent to Iraq. Nicholaus would send his parents souvenirs from Iraq, including shrapnel and money with Saddam Hussein's face on it. They in turn would send him his favorite books and baby wipes to take the sand off of his body.

Nicholaus was proud to serve. He was also anxious to come home, come home to show his parents the man he had become in the time that he was away.

As his mom said:

> His year was up on Mother's Day. You could tell he was ready to come home. But he had a job to do.

Nicholaus was a good soldier. Here is how his company commander CPT John Moore described him:

> Nick was a superb soldier and had a priceless sense of humor in a place where that came at a premium. He always had a great way of identifying with other soldiers and making the best of some pretty rough situations. As a soldier he was decorated twice for bravery in battle, and he never forgot his duty to his fellow troops. After our company lost our first man, Sergeant Mike Mitchell, Nick was best able to verbalize our sense of loss and what that grief meant to us, despite his junior rank, experience and young age. I will never forget his ability to joke and see the brighter side of any situation and his ability to identify with everybody regardless of rank. Nick's loss hit the 3rd Platoon and all of Crusader Company very hard and resonates through my company still.

I would like to share with you now an e-mail message posted on a soldier memorial Web site following Nicholaus's death. It is from the sister of that same Sergeant Mitchell. The sister writes:

> To the family and friends of Nick—my name is Christine, and I am the sister of Michael Mitchell, who served with Nick. My brother was taken from us on April 4, 2004. My heart goes out to you because we definitely can understand your pain. . . . I want to thank you all since I will not be able to tell Nick myself. I guess Nick was helping the soldiers with the death of my brother. I read a letter that Captain Moore wrote where he said, "Nobody will ever forget that Nick Zimmer was probably one of the most verbally expressive soldiers in this command and that he more than anyone else in the company helped us to identify the effects of Mike Mitchell's death so we could soldier through it and understand it." So Nick, thank you. You and my brother are together now. Please take care of each other.

I have no doubt that they are taking care of each other. Soldiers take care of each other in life and in death. When Nicholaus passed away, family, friends, and members of the Powell community came out to show their support for the Zimmer family. American flags lined the yards down the street, and neighbors stood along the road to pay their respects as the funeral procession passed, a procession that included Nicholaus's father and dozens of motorcycles adorned with flags.

Though it is never easy to say goodbye, the funeral of Nicholaus Zimmer was what he would have wanted. A two-star general sat next to a skateboarder with multiple piercings. Looking through the crowd, one could see tattooed bikers, men in business suits, and teenagers with a variety of unconventional hair colors. Yes, I think he would have liked it.

Indeed, Nicholaus Zimmer was a unique young man, a unique young man with the ability to bring people together of all walks of life. This was apparent at the funeral. It was apparent to anyone who knew him.

As his father said:

> Look at Nicholaus as an example . . . He always lived the way he wanted to—and he died that way, too.

Mr. President, I never had the chance to meet Nicholaus Zimmer, but I wish I could have. I did have the privilege of meeting Nicholaus's family during the calling hours for their son. I thank them for sharing their memories with me. They told me that Nicholaus was not the only member of their family to serve overseas. Nicholaus had an uncle who served in Vietnam and a grandfather who saw action in Korea. The Zimmer family is proud of their son's service. Our Nation, too, is proud of his service.

Mr. President, I will conclude with a message from the extended family of Army Specialist A.J. Vandayburg, an Ohio soldier from Mansfied, who was also killed in Iraq in April. They wrote the following to the Zimmer family:

> Thank you, Nicholaus, for protecting us all. Sometimes we forget what our Armed Forces are doing for us. Freedom, unfortunately, comes with that unforgivable, unfathomable price. You will not be forgotten for your sacrifice. To your family, we say thank you, too, for your sacrifice. There are no words to replace a child, a brother, an uncle—a loved one. When you are able, seek out those who have given their all. We know from experience the price you have paid, and we mourn with you. God bless you all.

Mr. President, I think that letter expresses our sentiments, as well, to the family.

MARINE LANCE CORPORAL WILL STEVENS

Mr. BUNNING. Mr. President, I today honor LCpl Will Stevens of Russell, KY, for his service to his country in the United States Marine Corps. While LCpl Stevens is recovering from a combat injury to his foot in a hospital bed in San Diego, I point out the importance of his service to our country.

Will's service to his country in Iraq ensures a safer future for America and a more stable world in general. Will's family, his loved ones and his countrymen are the people who benefit from the work he did in Iraq. We are all indebted to him for our way of life, our freedoms and for an example of what it means to be a good American.

In the words of Will's grandfather, "He is my hero . . . I am really proud of him and am relieved he is going to be alright." And so am I. I thank Will and all his fellow service members for their work. May God bless them.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3930 AND 3931, EN BLOC

Mr. FRIST. Mr. President, on behalf of Senator MCCONNELL I now ask unanimous consent that the pending amendments be set aside, and I call up amendments Nos. 3930 and No. 3931, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Tennessee [Mr. FRIST], for Mr. MCCONNELL, for himself, and Mr. CORNYN, proposes an amendment numbered 3930.

The Senator from Tennessee [Mr. FRIST], for Mr. MCCONNELL, for himself, Mr. SANTORUM, and Mr. CORNYN, proposes an amendment numbered 3931.

Mr. FRIST. Mr. President, I ask unanimous consent that the reading of the amendments be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3930

(Purpose: To clarify that a volunteer for a federally-created citizen volunteer program and for the program's State and local affiliates is protected by the Volunteer Protection Act)

At the appropriate place, insert the following:

SEC. . FIRST RESPONDER CITIZEN VOLUNTEER PROTECTION ACT.

(a) SHORT TITLE.—This section may be cited as the "First Responder Citizen Volunteer Protection Act".

(b) IMPORTANCE OF VOLUNTEERS.—Section 2(a) of the Volunteer Protection Act of 1997 (42 U.S.C. 14501(a)) is amended—

(1) in paragraph (6), by striking "and" after the semicolon;

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following:

"(7) since the attacks of September 11, 2001, the Federal Government has encouraged Americans to serve their country as citizen volunteers for programs such as the Volunteers in Police Service (VIPS), Medical Reserve Corps (MRC), Community Emergency Response Team (CERT), Neighborhood Watch, and Fire Corps, which help increase our homeland security preparedness and response, and which provide assistance to our fire, police, health, and medical personnel, and fellow citizens in the event of a natural or manmade disaster, terrorist attack, or act of war; and".

(c) CITIZEN VOLUNTEER PROGRAM.—Section 6 of the Volunteer Protection Act of 1997 (42 U.S.C. 14505) is amended by adding at the end the following:

"(7) GOVERNMENTAL ENTITY.—The term 'government entity' means for purposes of this Act—

"(A) Federal or State Government, including any political subdivision or agency thereof; and

"(B) a federally-established or funded citizen volunteer program, including those coordinated by the USA Freedom Corps established by Executive order 13254 (February 1, 2002), and the program's components and State and local affiliates.

AMENDMENT NO. 3931

(Purpose: To remove civil liability barriers that discourage the donation of equipment to volunteer fire companies)

At the appropriate place, insert the following:

TITLE . VOLUNTEER FIREFIGHTER ASSISTANCE

SEC. 01. SHORT TITLE.

This title may be cited as the "Good Samaritan Volunteer Firefighter Assistance Act of 2004".

SEC. 02. REMOVAL OF CIVIL LIABILITY BARRIERS THAT DISCOURAGE THE DONATION OF FIRE EQUIPMENT TO VOLUNTEER FIRE COMPANIES.

(a) LIABILITY PROTECTION.—A person who donates fire control or fire rescue equipment to a volunteer fire company shall not be liable for civil damages under any State or Federal law for personal injuries, property damage or loss, or death proximately caused by the equipment after the donation.

(b) EXCEPTIONS.—Subsection (a) shall not apply to a person if—

(1) the person's act or omission proximately causing the injury, damage, loss, or death constitutes gross negligence or intentional misconduct; or

(2) the person is the manufacturer of the fire control or fire rescue equipment.

(c) PREEMPTION.—This title preempts the laws of any State to the extent that such laws are inconsistent with this Act, except that this title shall not preempt any State law that provides additional protection from liability for a person who donates fire control or fire rescue equipment to a volunteer fire company.

(d) DEFINITIONS.—In this section:

(1) PERSON.—The term "person" includes any governmental or other entity.

(2) FIRE CONTROL OR RESCUE EQUIPMENT.—The term "fire control or fire rescue equipment" includes any fire vehicle, fire fighting tool, communications equipment, protective gear, fire hose, or breathing apparatus.

(3) STATE.—The term "State" includes the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, American Samoa, Guam, the Virgin Islands, any other territory or possession of the United States, and any political subdivision of any such State, territory, or possession.

(4) VOLUNTEER FIRE COMPANY.—The term "volunteer fire company" means an association of individuals who provide fire protection and other emergency services, where at least 30 percent of the individuals receive little or no compensation compared with an entry level full-time paid individual in that association or in the nearest such association with an entry level full-time paid individual.

(e) EFFECTIVE DATE.—This title applies only to liability for injury, damage, loss, or death caused by equipment that, for purposes of subsection (a), is donated on or after the date that is 30 days after the date of enactment of this Act.

SEC. 3. STATE-BY-STATE REVIEW OF DONATION OF FIREFIGHTER EQUIPMENT.

(a) REVIEW.—The Attorney General of the United States shall conduct a State-by-State review of the donation of firefighter equipment to volunteer firefighter companies during the 5-year period ending on the date of enactment of this Act.

(b) REPORT.—

(1) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the Attorney General of the United States shall publish and submit to Congress a report on the results of the review conducted under subsection (a).

(2) CONTENTS.—The report published and submitted under paragraph (1) shall include, for each State—

(A) the most effective way to fund firefighter companies;

(B) whether first responder funding is sufficient to respond to the Nation's needs; and

(C) the best method to ensure that the equipment donated to volunteer firefighter companies is in usable condition.

Mr. FRIST. I ask unanimous consent that the amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I ask unanimous consent that notwithstanding the filing requirement, it be in order for the managers to propose cleared amendments prior to the cloture vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. I ask unanimous consent that at 4:15 on Monday, October 4, the Senate proceed to votes in relation to the following amendments; provided further that no second degrees be in order to the mentioned amendments prior to the votes; further, that there be 2 minutes equally divided for debate prior to each of the votes. The amendments are: Byrd No. 3845; Warner No. 3877, as modified; Stevens No. 3829; Stevens No. 3903; Stevens No. 3826; Stevens No. 3827.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3705

Mr. FRIST. I now ask for the regular order with respect to Collins-Lieberman amendment No. 3705.

The PRESIDING OFFICER. That amendment is now pending.

Mr. FRIST. Mr. President, I thank the chairman and ranking member for their tremendous work today, really over the course of the last week, especially on the amendments that we have addressed over the course of the whole week. They have worked diligently. It has been a productive week. It has been a long week, but we have had good debate on an issue that is complex, an issue that we have all studied for a long period of time but an issue on which I believe debate and the amendment process contributes even greater to our understanding.

It has been very important for Members to come to the floor and debate their different views and their thoughts with respect to our intelligence agencies, their relationships one to another.

We have a number of amendments now pending. As the preview order provides, we will begin voting on some of those amendments at 4:15 on Monday.

I come to the floor at this time with the concern that the clock is still ticking and is working against us on the bill, in part because of the large number of potential amendments. People have submitted amendments and put them in language and begun talking about them, but we clearly need to pick up the pace in order to finish the bill early next week.

Following the completion of this bill, the Senate still must address the internal reform, the internal intelligence oversight reform that goes on in this body. We will begin that on the Senate floor after we complete the Collins-Lieberman bill.

Having said that, I will file a cloture motion in a moment. I do this to ensure that we will being the Collins-Lieberman bill to conclusion at a reasonable time next week, still giving us time to address the other aspect of reform, and that is the internal oversight reform in the Senate.

This is done in consultation with the managers and with the Democratic leadership. The purpose is not in any way to cut off Senators' rights, but I do remind my colleagues that when colture is invoked there is still an additional 30 hours of consideration if we need that.

I hope all of that time will be considered but not be necessarily used. Rule XXII provides for that postcloture time.

CLOTURE MOTION

Mr. FRIST. Mr. President, on behalf of Senator DASCHLE and myself, I send a cloture motion to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 2845, Calendar No. 716, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Bill Frist, Tom Daschle, Susan Collins, Lamar Alexander, Orrin Hatch, Lindsey Graham, John Warner, Judd Gregg, Saxby Chambliss, John Cornyn, Kay Bailey Hutchison, George Allen, Gordon Smith, Jim Talent, Norm Coleman, Ben Nighthorse Campbell, Mitch McConnell, Joseph Lieberman.

Mr. FRIST. I now ask consent that the live quorum under rule XXII be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. This vote will occur Tuesday morning. I will announce on Monday the precise timing of the vote on Tuesday, but I will anticipate an early vote on that morning.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Mr. President, Tuesday, September 14, was National POW/MIA Recognition Day. American citizens in towns and communities all across our Nation commemorated this occasion by pausing to remember American prisoners of war, those who continue to be missing, and their families.

A national observance was held on the River Parade Field at the Pentagon with an honor guard parade consisting of units from the Army, Marine Corps, Navy, Air Force and Coast Guard. Guests included the families of former POWs and MIAs and representatives of veterans' organizations.

The guest of honor for this occasion was our distinguished colleague and our dear friend, Senator DAN INOUYE of Hawaii. Senator INOUYE spoke eloquently about the significance of this remembrance as did Gen Richard Myers, chairman of the Joint Chiefs of Staff, and Deputy Secretary of Defense Paul Wolfowitz.

Secretary Wolfowitz's statement included an introduction of Senator INOUYE that captured the life and legacy of this great patriot. The eloquent remarks of General Myers, Secretary Wolfowitz and Senator INOUYE deserve the attention of the Senate. I ask unanimous consent that the speeches of General Myers, Dr. Wolfowitz and Senator INOUYE be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

REMARKS BY CHAIRMAN OF THE JOINT CHIEFS OF STAFF, GENERAL RICHARD B. MYERS, AT THE POW/MIA RECOGNITION DAY CEREMONY

Thank you so much for joining us as we remember our Prisoners of War and those still Missing in Action.

A special thanks Senator for joining us today. In my view, Senator Inouye embodies our nation's commitment to service and sacrifice—from his decorated military service during World War II to his dedicated public service over the last 40 years. Sir, thank you so much for your support of our military family and for taking the time to be with us today.

This past Saturday, as you know, marked the 3-year anniversary of September 11 terrorist attacks. The tragedies of that day, as well as our ongoing combat operations in the War on Terrorism, serve as a solemn reminder that service and sacrifice are really a part of our lives.

Those who take the oath of office, and put on our Nation's uniform, make a commitment to put the interests of others ahead of their own, and set aside their personal safety and comfort for the well being of others. They become part of our military family, dedicated to protecting all our families.

Today we remember those who embraced this quality to the fullest. When one of our own is killed in action, taken prisoner or missing, we lose a member of our military family. Certainly, I've experienced the loss of friends and squadron mates during my time in Vietnam and in the years since. I expect and know most of you here have experienced similar pain and similar grief.

When one of our own becomes a POW or is missing, their families, both the immediate family and the larger military family, endure the tragic pain of not knowing where they are or if they will ever return.

So it is for both the immediate family, and our larger military family, that today's ceremony carries really so much meaning. We gather to formally remember our loved ones and their service, and to renew our pledge that we shall never, never forget them.

The character of our Nation, in many respects, is reflected in the character of those who serve. Those we remember today reflect the very best of our Nation.

Our Deputy Secretary of Defense is also passionate about the welfare of our servicemen and women, and their families. And there is no one who fights harder on their behalf. He's demonstrated a selfless commitment to the ideals of freedom and democracy as Assistant Secretary of State, as our U.S. Ambassador to Indonesia, and teaching at some of our Nation's finest institutions.

It's a privilege and an honor to introduce our Deputy Secretary of Defense, the Honorable Paul Wolfowitz.

REMARKS OF DEPUTY SECRETARY OF DEFENSE PAUL WOLFOWITZ—INTRODUCTION OF SENATOR DANIEL INOUYE AT THE NATIONAL POW/MIA RECOGNITION DAY

Thank you, General Myers, for those inspiring words. And thank you for your strong leadership and faithful service to our country.

We are joined today by more than a few others who have served our nation: members of America's magnificent Armed Forces, and many of our brave veterans, including the many former POWs who join us, and our special guest, Senator Dan Inouye.

I want to take this occasion to say thank you to Jerry Jennings, the President's point man for accounting for America's missing; and the dedicated men and women on his team. The recovery and return of our missing Americans can mean years of painstaking effort. And some 600 men and women, both military and civilians, around the world take part in everything from diplomatic negotiations and field operations to forensic analysis. They are tireless and dedicated. And through their latest efforts, the remains of fallen Americans have just been recovered in North Korea and are now headed home.

A special welcome to those of you who serve as leaders and volunteers of POW/MIA family groups. We appreciate your tireless devotion in keeping the home fires burning for those Americans still missing or unaccounted for. Your devotion to loved ones who have yet to return helps our nation to honor its commitment to those we must never forget.

We're here today to honor your commitment and your courage.

We're here to remember and honor the courage of America's POW's and missing countrymen who risked everything, facing the worst of war to preserve the best of America.

And we are here—above all—to reaffirm our commitment to keep the pledge President Bush has made to achieve "the fullest possible accounting of our prisoners of war and those missing in action." The brave men and women who serve today—whether in Afghanistan or in Iraq or in other theaters of the war on terrorism—can do so with the full confidence that if they are captured, become missing or fall in battle, this nation will spare no effort to bring them home. That, too, is our solemn pledge. However long it takes, whatever it takes, whatever the cost."

As General Myers reminded us, on Saturday, we observed the third anniversary of September 11th. I was with Secretary Rumsfeld and General Pete Pace and family members in Arlington Cemetery. We'd gathered at the burial spot for the Americans who died at their Pentagon posts just a few hundred yards away on that horrific day.

The serene beauty of their final resting place reminded us all that Americans are reluctant warriors. But, as Secretary Rumsfeld said, that September 11th three years ago was America's call to arms. And as they've always done, brave Americans have once again taken up arms to defend our safety, our security and our liberty.

I recently met one young soldier who was wounded grievously in Iraq. Yet, he described how ravaged Iraq had been before the Americans arrived, and how much good he had been able to do in the time he'd been there. Then, he put his own enormous sacrifice into this selfless context. He said: We're fighting for everything we believe in." He said: "Something had to be done."

We have with us today a man who embodies that same love for America, that same selfless devotion to preserve what America stands for. As a soldier and a senator, he has spent a lifetime fighting for everything America believes in. When something had to be done, he was there to do it. Ladies and gentlemen, Daniel Inouye is a true American hero.

On December 7, 1941, 17-year-old Dan Inouye stood beside his father outside their home in Honolulu, watching as dive-bombers attacked Pearl Harbor. As Japanese Americans, father and son were especially pained and stunned—as the Senator would later recall, they'd worked so hard to be good Americans. Dan jumped on his bicycle and rushed to the Red Cross station, where he taught first aid. There were so many injuries, it would be five days before he would return home.

Dan Inouye wanted to do more. But because he was of Japanese descent, he was classified as 4-C—meaning he was considered a—quote—"enemy alien." That made him—and all Japanese-Americans—ineligible for the draft.

Dan Inouye wasn't discouraged by the pain of this prejudice. Instead, he signed petitions that went to the President, asking for the opportunity to serve. And in the meantime, he went to medical school.

In 1942, President Roosevelt authorized a combat team of Japanese American volunteers. Senator Inouye has recalled what Franklin Roosevelt said when he authorized the unit. It was a phrase, the Senator has said, "that meant a lot to the men of the regiment: 'Americanism is not and has never been a matter of race or color,' said FDR. 'Americanism is a matter of mind and heart.'" And Dan Inouye proved the truth in those words. He immediately quit medical school to enlist in the Army.

On the day young Dan Inouye left for Army training, his father went with him to the pickup point. He'd been silent for most of the ride. Then he cleared his throat, and looking straight ahead, he said to his son: "America has been good to us... We all love this country. Whatever you do, do not dishonor your country. Remember; never dishonor your family. And if you must give your life, do so with honor." Senator Inouye later recalled: "I knew exactly what he meant. I said, 'Yes, sir. Good-bye.'"

Dan Inouye shipped off to Europe, part of the 442nd Regimental Combat Team, made up mostly of Japanese Americans. As the Italian peninsula came into view, Dan Inouye asked some of his comrades what they'd been thinking on their last night aboard ship. Most said the same thing: they hoped they wouldn't dishonor their families. Senator Inouye would later say: "We knew very well that, if we succeeded, their lives"—the lives of the little brothers and sisters and parents back home—"would be better."

The 442nd's motto was "Go for Broke." Its men would prove they were prepared to risk everything they had to win. Prepared to match prejudice with bravery of the highest order.

Senator, you once told me about a particular day in Italy. You sensed that the war was probably coming to an end, and you told one of your sergeants—for you'd received a battlefield commission by then, because the losses in your unit had been so great—you told that sergeant that the war was probably coming to an end soon, that he should be careful and not become one of the last men killed. What you didn't tell me was that you never intended to follow your own advice.

The war ended in Europe on May 8, 1945. Just 18 days before, on April 21, 1945, near San Terenzo, Lieutenant Inouye's unit was ordered to attack a heavily defended ridge. As the lieutenant crawled up the slope, he was hit by machine gun fire. But he kept going, destroying one machine-gun nest, then a second one, before he fell to the ground. He dragged himself toward a third bunker, and as he was about to pull the pin on his last grenade, a German grenade tore into his arm. He pried the grenade out of his lifeless hand, and threw it at the bunker. Another bullet hit him in the leg. Finally a medic gave him a shot of morphine, but Lieutenant Inouye wouldn't let them evacuate him until the area was secure . . . until he knew his men were safe.

Dan Inouye didn't play it safe. He risked everything to protect his men.

Uncommon valor was a common virtue throughout that unit. Based on their numbers and length of service, the 442nd became the most decorated unit in the history of the U.S. Army. And Daniel Inouye was one of the most decorated heroes among them . . . to include a much-belated Medal of Honor.

Dan Inouye's story of valor in battle would be more than enough to secure his place in history. But, it was merely prologue to an amazing story of service to our country.

The story continued when the people of Hawaii voted Daniel Inouye into office in 1954, as a member of the Territorial Legislature. In 1959, when Hawaii achieved statehood, he became its first member of the U.S. House of Representatives. In 1962, he was elected to the Senate. He is now in his seventh term.

Fifty years after entering public service, the man best known to Hawaiians simply as . . . "Dan" . . . is a legend on the Islands. I think Dan Inouye's an American legend, too.

Maybe there's a sort of irony that public servants from our nation's farthest outposts—Hawaii and Alaska—stand at the center of America's political life. I have had more than a passing interest in America's relations with Asia, and I can tell you how fortunate we are to have in Hawaii a state that extends America's reach so deeply into the Asia-Pacific. How fortunate we are to have a senator like Daniel Inouye, a man informed by the wisdom of his years, who looks only to the future. He gazes west, sees possibilities, and understands how important our relations with that great region of the world are for the future of this country. And he has done great service to this nation to build and strengthen those key relationships.

And we are fortunate in how great a friend Senator Dan Inouye has been to America's Armed Forces.

There is no one who understands better what the men and women of our Armed Forces want for this country and what they are prepared to give.

No one who understands better how important the unstinting support of the American people is for our troops as they undertake their difficult and dangerous work.

No one who understands better than Dan Inouye the kind of devotion to our nation the American soldier takes to war . . . and how important is the pledge we make to them that we will leave no man or woman behind.

Dan Inouye shares this nation's commitment . . . that we will not rest until we have the fullest possible accounting of each American who has risked it all in service to our country.

We thank you, Senator, for your support of our men and women in uniform, including on this critical issue.

Fifty years in public service is an impressive milestone. And just last week, Senator Inouye celebrated another significant milestone—his 80th birthday.

He spent that day as he spends most others . . . at his desk, working for America and America's men and women in uniform. It's a privilege, Senator, to have you here to wish you "Happy 80th Birthday." . . . And many more.

Ladies and gentlemen, it's an honor to present to you Senator Daniel Inouye.

SENATOR DANIEL INOUYE

Secretary Wolfowitz, General Myers, former prisoners of war, family members of our missing in action, fellow veterans, and the men and women who proudly wear the uniform of our Armed Forces who are with us here today.

It is an honor for me to stand with you this morning as our Nation pauses to recognize those who have gone before us, those who have sacrificed so much, and continue to do so.

Grateful Americans are holding events such as these in cities and towns across this great land of ours, to express their gratitude to those who sacrificed their freedom to ensure ours, our American POWs, and to those who have never returned from foreign battlefields, our MIAs.

Americans honor their POWs and MIAs, their comrades, and their families through our worldwide commitment to account for our missing warriors, to bring our heroes home from distant lands, and to reunite them once again with their loved ones.

American POWs and MIAs have honored their Nation through their service and sacrifice, much like the magnificent young men and women standing so proudly on the parade field before us today. As I marched the line this morning, I was inspired beyond words by their professionalism. You honor all of us with your presence this morning.

Those who wear the uniform today, and those who went before them know—better than most—why bringing our missing Americans home is a sacred commitment. That mission rests squarely on the shoulders of those of us to whom you have entrusted some measure of leadership.

Your support and encouragement will continue to hold us accountable. Though this effort is ingrained in the hearts and minds of Americans, it is you who ensure this mission continues.

I want to say especially to the families of the missing and to you—their comrades—that your government will not rest until all come home.

More than 140 years ago, President Lincoln, desperately seeking to hold our Nation together, spoke of ". . . those brave men who are now on the tented field or nobly meeting the foe in the front . . . that they who sleep in death . . . are not forgotten by those in highest authority . . . and should their fate be the same, their remains will not be uncared-for."

At the dedication of a grand, national cemetery near the battlefield—at Gettysburg, Pennsylvania, in perhaps the most eloquent 272 words in American history, the President spoke to the families of those lost and to the soldiers still in combat.

He spoke of the honor that we must pay to those who have made the ultimate sacrifice to ensure their sacrifices were not in vain to ensure that this Nation will never forget.

We are equally committed today to the families of the missing from past conflicts, and to the soldiers still in combat.

More than 600 men and women are working around the world on that commitment—that mission. In my home State of Hawaii we have the headquarters of the Joint Task Force on Full Accounting that carries out these searches and the Combat Identification Lab which goes through the painstaking process of identifying the remains which are discovered.

I am very proud of their work and the small contribution that my state makes to this effort.

You are aware of the monumental effort to account for the missing from all wars. But the commitment goes much further than that.

While we seek to bring home the warriors of the past, we must also ensure that you warriors of the present—should you go into harm's way—your Nation will bring you home. "Whatever it takes . . ."

The results of this mission can be seen on distant battlefields where numerous personnel in Afghanistan and Iraq have been recovered.

In Iraq alone, our heroic rescue forces have recovered more than 75 of our warriors alive. But in spite of our commitment to recover today's service members from today's battlefields, our challenge remains to account for those who fell in past conflicts.

I am told that more than 1,800 are unaccounted for from the Vietnam war—730 others have been identified and returned to their families since the end of that war.

Just last week, our troops from the Joint Task Force on Full Accounting brought home the remains of more American soldiers from the Korean war.

Throughout the world—from North Korea to Southeast Asia, in the South Pacific, and even in Europe and Russia, with the cooperation of the people and governments of many nations, the work goes on around the clock.

My fellow Americans, this past weekend the Nation commemorated the third anniversary of the terrorist attack on the United States. The horrifying memory of the attack remains fresh in our minds.

Less than one week after 9-11, Senator TED STEVENS and I were sent by the Senate to New York to assess the damage as we prepared our first supplemental appropriations measure to respond to the tragedy. As we circled the smoldering ruins I was struck by the devastation that lay below us.

The day before, we had toured the wreckage here at the Pentagon.

Let me tell all of you that those two experiences are etched in my brain never to be forgotten.

Today we recognize that the world remains a dangerous place. As much as we desire to live in peace we understand that there is likely to always be a need for a strong military to defend this country and to fight our Nation's wars.

Our obligation is both to future generations of those who go in harm's way, and to those of the past, as Lincoln said, we will assure all of you and them that we shall never forget.

That, my fellow Americans is our solemn pledge. Thank you.

ABUSE OF FOREIGN DETAINEES

Mr. LEAHY. Mr. President, almost five months after learning of the atrocities that occurred at Abu Ghraib, several of the investigations into U.S. detention policies are now complete. I commend Chairman WARNER for his efforts to investigate this scandal, but he remains hampered by the leadership of his own party and an administration that does not want the full truth revealed. While the investigations provide new insight into how the abuses occurred, they frequently raise as many new questions as they answer. Despite calls from a small handful of us who want to find the truth, Congress and this administration have failed to seriously investigate acts that bring dishonor upon our great Nation and endanger our soldiers overseas.

The Bush administration circled the wagons long ago and has continually maintained that the abuses were the work of 'a few bad apples.' I have long said that somewhere in the upper reaches of the executive branch a process was set in motion that rolled forward until it produced this scandal. Even without a truly independent investigation, we now know that the responsibility for abuse runs high up into the chain of command. To put this matter behind us, first we need to understand what happened at all levels of government. It is the responsibility of the Senate to investigate the facts, from genesis to final approval to implementation and abuse. However, this Senate, and in particular the Judiciary Committee, continues to fall short in its oversight responsibilities.

Democrats on the Judiciary Committee attempted in June to force the disclosure of policy memos on the treatment of detainees, but were defeated by a party-line vote. Recently, a Federal judge, recognizing the importance of public examination of such documents, ordered the Bush administration to comply with freedom of information laws and release a list of all documents on the detentions at Abu Ghraib prison by October 15. I commend this decision, but even that list would not tell the entire story.

A recent Washington Post column addressed the administration's attempt to whitewash this scandal. Jackson Diehl wrote:

> Cynics will not be surprised to learn that senior military commanders and Bush administration officials are on the verge of avoiding any accountability for the scandal of prisoner abuse in Iraq and Afghanistan—despite the enormous damage done by that affair to U.S. standing in Iraq and around the world; despite the well-documented malfeasance and possible criminal wrongdoing by those officials; despite the contrasting prosecution of low-ranking soldiers.

Allowing senior officials to avoid accountability sets a dangerous precedent. It is time for Congress, even this Republican Congress, to do its job and take action. We must send a message that no one in the chain of command—from an enlisted private at Abu Ghraib to the Commander-in-Chief—is above the laws of our Nation.

The investigations completed thus far provide additional insight into how the prison abuses occurred, but their narrow mandates prevented them from addressing critical issues. The reports by the Army Inspector General, Maj. Gen. George Fay, and Lt. Gen. Anthony Jones all suffered from structural limitations. The Army IG report was designed as "a functional analysis" of operations, not an investigation into any specific incidents. The Fay and Jones reports, tasked with reviewing the role of military intelligence at Abu Ghraib, were limited in scope to the military itself despite acknowledging that relationships between military intelligence, military police, and outside agencies were significant to the breakdown in order. Overall, these investigations collectively suffered from a lack of scope and authority, leaving key inquiries into issues like contractor abuses and "ghost detainees" unexplored.

The panel led by former Defense Secretary James Schlesinger was similarly limited to the role of the military and could not investigate the role of the CIA. The Schlesinger panel had no subpoena power and lacked true independence. Its loyalty to the Secretary of

Defense is betrayed by its acceptance of a policy that is proving to be one of the root causes of this scandal. In August 2002, Assistant Attorney General Jay Bybee wrote in a memo to White House Counsel Alberto Gonzales that, "While many of these techniques may amount to cruel, inhuman or degrading treatment, they do not produce pain or suffering of the necessary intensity to meet the definition of torture." Alarmingly, in his recent testimony before the Senate Armed Services Committee, Dr. Schlesinger sounded more like an administration official than an independent investigator. His statement to the committee that, "What constitutes humane treatment lies in the eye of the beholder" is something I would have expected to read in a memo from Jay Bybee, not the head of an "independent" commission.

I could not disagree more with the statements of Dr. Schlesinger and Mr. Bybee. The Geneva Conventions and Convention Against Torture define humane treatment of prisoners, setting standards that protect our own soldiers when they are captured. A number of State Department lawyers fought to protect these standards in early 2002, when the President broke with decades of policy and decided against providing the Geneva protections to terrorist suspects. Military lawyers fought the same battle after Secretary Rumsfeld approved techniques for use at Guantanamo that are illegal under the Geneva Conventions.

The recently released reports illustrate why an independent investigation is still necessary. They brought us closer to the truth, but questions remain unanswered. Despite its failings, the Schlesinger report refuted the administration's efforts to avoid responsibility and to minimize this scandal as the misdeeds of 'a few bad apples.' The report documents a failure of leadership by some at higher levels in the chain of command, as well as poor planning from the top and a great deal of confusion about which interrogation and detention practices were acceptable. But the confusion was not caused solely by a lack of leadership. In recent months we have learned that senior officials in the White House, the Justice Department and the Pentagon set in motion a systematic effort to minimize, distort and even ignore our laws, policies and agreements on torture and the treatment of prisoners. The Schlesinger panel failed to follow the investigation to the highest levels of the administration.

Ultimately, what emerges from these reports is a striking contradiction. The reports state that there was no official policy of abuse and they do not recommend punishment for high-ranking officials. And yet, the reports show that decisions that were made by top officials, including the President himself, led to the abuses that occurred in the fields of battle.

Piecing together the facts and findings of these reports with information contained in other official documents and press accounts, a timeline emerges that shows how edicts from Washington trickled down, crossed oceans, and migrated from the front lines on one continent to the next.

In February 2002, President Bush signed a memorandum stating that the Geneva Conventions did not apply to members of al-Qaida and the Taliban. That decision was taken at the recommendation of the Attorney General and White House counsel, and over the objection of the Secretary of State.

Eight months later, in October 2002, with hundreds of prisoners captured in Afghanistan then being held at Guantanamo Bay, the Schlesinger report states that authorities at the base "requested approval of strengthened counter-interrogation techniques." In December of that year, according to the Fay report, Secretary Rumsfeld approved for use at Guantanamo techniques such as "stress positions, isolation for up to thirty days, removal of clothing and the use of detainees' phobias (such as the use of dogs)." Lawyers in the military reacted negatively, strenuously arguing that the use of such techniques was anathema to military tradition and would ultimately come back to haunt the armed services. In January 2003, Secretary Rumsfeld rescinded his approval of the extreme interrogation techniques; new guidelines were issued in April 2003 from a Defense Department working group.

The Fay report reveals, however, that despite the Secretary's shift in policy, the methods he had authorized in December 2002 for use only at Guantanamo Bay quickly migrated to Afghanistan and other locations where our military is active. As early as December 2002, reports General Fay, "interrogators in Afghanistan were removing clothing, isolating people for long periods of time, using stress positions, exploiting fear of dogs and implementing sleep and light deprivation."

It was also in December 2002 that two prisoners in U.S. custody were killed. Both deaths were ruled homicides by pathologists, but, at the time, the Army publicly attributed them to natural causes. It was not until journalists saw copies of the death certificates, which had been given to the non-English speaking families of the deceased, that the truth about the fatalities came out. In September, criminal charges were finally filed, 20 months after the deaths occurred.

These deaths are deeply disturbing, but at least we know some of the details of the cases and can seek justice against the perpetrators. A recent report by the Crimes of War Project uncovered an Afghan detainee's death that was never reported up the military chain of command. The detainee, Jamal Naseer, died in March 2003, allegedly after weeks of torture by American soldiers. Because the Special Forces unit that reportedly controlled the detention facility failed to report the death, it was never investigated. This incident is very troubling on its own, but, like so many other incidents we have discovered, it points to a much larger problem. The U.S. Army Criminal Investigation Command received a tip about Naseer's death earlier this year, but could not investigate the matter due to a lack of information. Christopher Coffey, an Army detective based at Bagram air base, told the L.A. Times:

> We're trying to figure out who was running the base. We don't know what unit was there. There are no records. The reporting system is broke across the board. Units are transferred in and out. There are no SOPs [standard operating procedures] and each unit acts differently.

The L.A. Times article illustrates a serious failure of leadership by the Department of Defense and the obvious shortcomings of allowing the Pentagon to investigate itself. The Army Inspector General's report, released in July, stated that the investigation's team "that visited Iraq and Afghanistan discovered no incidents of abuse that had not been reported through command channels; all incidents were already under investigation." We now know this cannot be accurate. What we don't know is how many more deaths and cases of torture have gone unreported.

As I stated before, the Schlesinger report agreed with administration policy that detainees did not merit Geneva protections, a position with which I and many of those in uniform disagree. The panel acknowledged, however, that the President's policy of treating al-Qaida and Taliban detainees "consistent with the principles of Geneva," was "vague and lacking." Even a government treating prisoners "consistent" with the Conventions would not rely on interrogation practices like the ones we have witnessed. The techniques I just described, ones that were used in Guantanamo, Afghanistan, and Iraq are clearly illegal under the Geneva Conventions. Secretary Rumsfeld and, later, Lt. Gen. Ricardo Sanchez, authorized the use of techniques that were contrary to both U.S. military manuals and international law. Given this incredible overstepping of bounds, I find it incredible that the reports generated thus far have not recommended punishment of any kind for high level officials.

Meanwhile, the CIA conducted its own set of interrogations. The Fay and Schlesinger reports state that the CIA operated under a different set of rules, sometimes including the military and sometimes not. The Fay report states that "the CIA's detention and interrogation practices contributed to a loss of accountability and abuse at Abu Ghraib." The result: further confusion among soldiers in the field over appropriate standards of treatment and the application of the Geneva Conventions.

How did these techniques, which were rescinded by Secretary Rumsfeld in January 2003 become so prevalent in Iraq? The Fay report states it flatly: "Concepts for the non-doctrinal, in-field manual approaches and practices clearly came from documents and personnel in Afghanistan and Guantanamo." Ultimately, the "non-doctrinal" approaches used at Abu Ghraib included nakedness and humiliation, the use of dogs to "fear up" detainees, and sexual and physical assaults. These approaches migrated to Iraq a number of ways, any of which might have been prevented by clear statements of policy from the top. Members of the 519th Military Intelligence Battalion served at Bagram Air Force Base in Afghanistan in 2002. Some of these soldiers have been implicated in the deaths of the two prisoners at Bagram. A number of soldiers from the 519th were sent to Iraq, and some of those have been implicated in the Abu Ghraib abuse scandal. As we all know, military intelligence played a major role in directing and carrying out the abuses at Abu Ghraib.

In addition, as the Fay report cites, "Interrogators in Iraq, already familiar with the practice of some of these new ideas, implemented them even prior to any policy guidelines." Before long, as the Schlesinger report states, policy guidance backed up the interrogators' actions. In August 2003, Maj. Gen. Miller "brought the Secretary of Defense's April 16, 2003, policy guidelines for Guantanamo with him," and gave this policy to Lt. Gen. Sanchez, who was, at the time, the highest level commander in Iraq. On September 14 of last year, according to the Schlesinger report, Lt. Gen. Sanchez approved a policy on interrogation that included techniques that, up to that point, had only been officially applied to so-called enemy combatants—those who, in the minds of President Bush and Secretary Rumsfeld, were not protected by the Geneva Conventions. The Bush administration has steadfastly claimed that the Geneva Conventions apply to the war in Iraq. And yet, Lt. Gen. Sanchez determined, with no authorization to do so, that some of the detainees held in Iraq were to be categorized as unlawful combatants.

How did Lt. Gen. Sanchez justify his authority to approve such techniques? The Schlesinger report found that Lt. Gen. Sanchez relied on the President's February 2002 memorandum and the Department of Justice's notorious August 1, 2002 memo twisting the definition of torture. It is deeply troubling, given this evidence, that the Bush administration has held fast to the contention that the abuses at Abu Ghraib were committed by "a few bad apples." And it is extremely disconcerting that the very outcome that military lawyers warned of when they fought against the administration's desire to suspend the Geneva Conventions—the undermining of the military's tradition of upholding the rule of law—came to fruition. Our armed forces have been tainted by this scandal and our soldiers in the field placed at greater risk.

The Sanchez policy guidelines were technically in effect for only a month before being revised. But, as in Afghanistan, these illegal techniques were put to use almost immediately. Interrogators in Iraq relied upon the guidelines and may have done so believing that they were appropriate. The Jones report states that, "Some of these incidents involved conduct which, in retrospect, violated international law. However, at the time some of the soldiers or contractors committed the acts, they may have honestly believed the techniques were condoned."

I find it deeply disturbing that American soldiers would have acted on such guidelines. I have stated many times that those who violated the laws by assaulting and humiliating prisoners should be prosecuted. The buck should not stop there, however. The reports have shown that there was a serious breakdown in training and operations. There was one MP for every 75 prisoners at Abu Ghraib when the abuses occurred. And as the Army Inspector General found, interrogation facilities lacked oversight processes and control mechanisms. Even routine inspections were lacking.

What these reports show—and, unfortunately, it is an unstated revelation one discovers by reading between the lines—is that once President Bush and his top advisors let the genie out of the bottle by denying the protections of the Geneva Conventions and rewriting the definition of torture, they set off a chain reaction that spanned the globe. By changing the rules of treatment and interrogation for one group of detainees, by tossing away decades of military protocol, by writing and rescinding and rewriting guidelines so often that soldiers had no clear understanding of policy or practice, and by allowing the CIA to operate in the shadows, the leaders of the Bush administration lost control. What was initiated for one group of detainees in one location spilled over into other countries and to very different types of prisoners.

A day or two after the release of the Schlesinger and Fay-Jones reports, Secretary Rumsfeld still claimed that there was no evidence that prisoners had been abused during interrogations. I wonder if he took the time to read or to request a briefing on these investigations. He made the same statement twice before his handlers corrected him, in the middle of a press conference. Incredibly, he again misstated the facts, "correcting" himself to say that only two or three cases of abuse took place during interrogation. In fact, 13 of 44 instances of abuse involved interrogation. It leaves me to wonder. Meanwhile, President Bush has kept quiet about the findings of the reports. His silence is deafening.

As I have said before, there needs to be a thorough, independent investigation of the actions of those involved, from the people who committed abuses, to the officials who set these policies in motion. An independent commission, structured on the model of the 9/11 Commission, will allow us begin to heal the damage that has been done.

I am not alone in calling for an independent commission. Several organizations, including the American Bar Association, Human Rights First, Amnesty International, and Human Rights Watch, have urged the creation of an independent, bipartisan commission to investigate the prisoner abuses. A recent letter from eight retired generals and admirals to President Bush asked him to appoint a prisoner abuse commission modeled on the 9/11 Commission. In that letter, the flag officers stated, "internal investigations by their nature . . . suffer from a critical lack of independence. Americans have never thought it wise or fair for one branch of government to police itself."

The 9/11 Commission provides more than a structural model for a new commission; it also provides a lesson in how perseverance can overcome the administration's refusal to seek the truth. The Bush administration initially opposed the formation of the 9/11 Commission, just as it now opposes a prisoner abuse commission. The administration used the same argument against both commissions. It asserts that the numerous internal investigations are sufficient to uncover the truth. Dr. James Schlesinger, the head of the panel established by Secretary Rumsfeld to investigate the prisoner abuses, addressed this issue in his testimony to the Senate Government Affairs Committee in February 2002, as it debated the need for the 9/11 Commission. He argued for the creation of the Commission because, "to this point many questions have been addressed piecemeal—or not at all. The purpose of the National Commission would be systematically and comprehensively to address such questions—and to give a complete accounting of the events leading up to 9/11. In my judgment, such a Commission would serve a high, indeed indispensable, national purpose." This is exactly the same reason we need an independent commission to investigate the prisoner abuse scandal.

The Governmental Affairs Committee report on the bill to establish the 9/11 Commission stated that it "is a bipartisan initiative to help answer the many remaining questions in a constructive, methodical, and non-partisan way. The commission would complement investigations being undertaken by Congress and the Executive Branch." A prisoner abuse commission would fulfill a similar need—to fill the gaps that inevitably occur when an investigation is addressed in a piecemeal fashion. We already know some gaps exist—such as the ghost detainee problem and the role of contractors—others are sure to arise in the course of an independent investigation.

International law, as well as the Defense Department's own policies, requires the registration and accounting of all detainees. Detainees kept off of the official rolls—so called 'ghost detainees'—are held in violation of the law. The Fay-Jones report revealed that the ghost detainee problem was far more pervasive than the Defense Department had previously acknowledged. General Kern, the investigation's appointing officer, testified before the Senate Armed Services Committee that there could be as many as 100 ghost detainees, but his panel could not thoroughly investigate the matter because the CIA refused to cooperate in the inquiry.

These revelations should not come as a surprise—human rights groups have been calling for an investigation into the ghost detainee issue for months. I first wrote to the National Security Advisor about mistreatment of detainees in June 2003, including a request for information on prisoners transferred in secret by the United States to other nations for interrogation. A report on secret detentions was released on June 17, 2004, by Human Rights First. The report, titled, Ending Secret Detentions, describes a number of officially undisclosed locations that sources—typically unnamed government sources quoted in the press—have described as detention centers for terrorism suspects. These sources have discussed facilities in Iraq, Afghanistan, Pakistan, Jordan, Diego Garcia, and on U.S. war ships. The ICRC has not been allowed access to these facilities. It issued a public statement in March expressing its growing concern over "the fate of an unknown number of people captured . . . and held in undisclosed locations." To date, its requests have been denied.

After being rebuffed by the CIA, the Fay-Jones panel asked two offices to conduct further investigations into the ghost detainee issue: the Department of Defense Inspector General and the CIA Inspector General. Once again, this would result in one branch of government to policing itself. Like the Fay-Jones panel, the Inspectors General lack the authority to follow such investigations beyond their own departments—again allowing many questions to remain unanswered. We need to know what role senior administration officials in the White House, Justice Department, Defense Department, and CIA played in formulating the policies that allowed the illegal detention of ghost detainees. We know this problem emanated from senior officials—Secretary Rumsfeld admitted in June that he approved the secret detention of one detainee at the request of CIA Director Tenet. Only an independent commission with significant authority will be able to fully investigate this matter.

The Fay-Jones report also found that civilian contractors were complicit in the abuse of detainees. We already knew this, but the panel's findings raise new questions about whether the contractors will be held accountable for their actions. Thus far, one contractor has been charged for abuse in Afghanistan, but no charges have been filed against contractors in Iraq. As P.W. Singer points out in his recent Washington Post op-ed, "Army investigators are at a loss over how to hold the contractors accountable. The Army referred individual employees' names to the Justice Department more than three months ago, but Attorney General Ashcroft has yet to take action." As these cases are referred to the Justice Department, the Judiciary Committee must fulfill its oversight responsibility to ensure these crimes do not go unpunished. Given the reports and allegations of abuses of Iraqi prisoners that involved civilian contractors, I am deeply troubled at the passivity being displayed by the Department of Justice. If loopholes exist in the law, the Department should be working with Congress to fill them.

Some argue that another investigation will prevent us from putting the scandal behind us, but ignoring the problem will not make it go away. Each week brings new allegations that reveal how much we still don't know. Human rights groups and journalists have been unrelenting in their efforts to uncover this scandal, and I applaud their contributions. The report released recently by the War Crimes Project revealed unreported deaths in Afghanistan. Veteran journalist Seymour Hersh claims in his new book that senior military and national security officials were repeatedly warned in 2002 and 2003 that prisoners were being abused. Mr. Hersh writes that FBI agents notified their superiors about abuses at Guantanamo and that these reports were passed along to officials at the Pentagon. The ACLU continues to fight in Federal courts to compel the administration to release documents related to torture. Even without further Government action, this scandal is not going to go away. It is time for us to lead the investigation, rather than wait to read about the latest discovery of abuse in tomorrow's paper. We must establish an independent commission.

In the coming months, the remaining Pentagon investigations will come to an end. It will be like finding an old jigsaw puzzle in the back of the closet—it looks complete, but you can never tell if there are pieces missing until you try to put it together. An independent commission can take on this important task; it will ensure that no pieces are missing and that we have a complete, unbiased assessment of a sad chapter in our Nation's history. The 9/11 Commission showed us that it can be painful to dredge up the past, but it is also a necessary step to moving forward.

CHILDREN'S HEALTH PROTECTION AND IMPROVEMENT ACT OF 2004

Mr. ROCKEFELLER. Mr. President, yesterday marked a critical juncture in the fight to provide comprehensive and affordable health care coverage for our Nation's children. Congress had a tremendous opportunity to improve the quality of life for hundreds of thousands of children, not just for the foreseeable future, but also over the long term. September 30, 2004, should have gone down in history as the day Congress set aside partisan politics and took a stand for children. Unfortunately, yesterday will be remembered as the day Congress chose political rhetoric over action and failed to protect health care coverage for children in working families.

Some of my colleagues will argue that September 30 only marked a statutory deadline and didn't really matter in terms of coverage for kids. I strongly disagree. Yesterday's deadline was about keeping our promise to America's working families that their children will have access to comprehensive, affordable, and reliable health care coverage. We in Congress have broken that promise, and it is unconscionable to think that Members would go home to campaign while the health care of some of most vulnerable children hangs in the balance.

We must act now to preserve health care coverage for children enrolled in the Children's Health Insurance Program, CHIP. This is too important an issue to delay even a day. Senators CHAFEE, KENNEDY, SNOWE, and I, along with Congressmen BARTON and DINGELL, have a bipartisan, bicameral bill on the table right now that will protect coverage for America's children. The Children's Health Protection and Improvement Act has the support of 48 bipartisan cosponsors in the House of Representatives and 33 bipartisan cosponsors in the Senate. Our legislation has been endorsed by over 100 local, state, and national organizations including the National Governors Association, the American Academy of Pediatrics, the American Hospital Association, the National Association of Children's Hospitals, the Catholic Health Association, Families USA, the Children's Defense Fund, and the

March of Dimes. There is no reason why we cannot pass this legislation today.

If my colleagues were to talk to their Governors about the merits of the Children Health Protection and Improvement Act, all 50 Governors would say that our legislation addresses the long-term Federal funding shortfalls that will occur in SCHIP over the next 3 years.

If my colleagues were to visit doctors' offices and hospital emergency rooms and talk to general practitioners, pediatricians, and surgeons, these providers would confirm that our legislation makes it easier for children to access health services and reduces our Nation's growing uncompensated health care burden.

Most importantly, if my colleagues were to talk to working families in their home states who rely on CHIP, working families would say that our legislation guarantees real coverage for their children. Our legislation gives working families the peace of mind that comes from knowing their children would not just receive health care coverage tomorrow, next month, or next year, but for the next several years until the CHIP program is reauthorized in fiscal year 2007.

It seems that some in this body are more concerned with sound bites than with actually providing health coverage for children. Of course, we can all attest to the success of the Children's Health Insurance Program over the years. We can all cite the 5.8 million children who were covered last year. But, I ask my colleagues, how are we going to do to protect the coverage of those 5.8 million children and ensure that even more children are covered?

While I strongly support greater outreach and enrollment in the CHIP program, the bottom line is that outreach is not a solution to States' coverage problems. States aren't covering additional children under CHIP because they cannot afford to cover the children already enrolled in their programs. In fact, according to the Kaiser Commission on Medicaid and the Uninsured, states are implementing measures—such as enrollment caps, premiums and enrollment fees, eligibility cuts, restricted benefits, and increased co-payments to scale back outreach and enrollment instead of increase them. The State of Florida is a prime example of this. Enrollment in Florida's CHIP program is closed for some children who are undeniably eligible. Outreach to more children who meet the eligibility requirements for Florida KidCare is futile if those kids cannot access actual coverage.

States are experiencing both State and Federal funding shortfalls that prevent them from covering kids. Senator GORDON SMITH and I offered legislation earlier this year to address State budget shortfalls. The State Fiscal Relief Act would extend the federal fiscal relief enacted last year to help resolve state budget deficits and prevent cuts in critical programs and services, including health care. Yet, Congress has yet to consider this important legislation. And now, Congress has failed to preserve approximately $1.1 billion in expiring CHIP funds for coverage. Our failure to act is sending a very strong message to the states that not only is Congress not willing to assist with budget shortfalls during an economic downturn, Congress is also not willing to uphold the federal guarantee of CHIP coverage.

CHIP is a Federal entitlement, and the Federal Government has a responsibility to make certain the program has the requisite funding to insure eligible children. Additional Federal funding for CHIP outreach should only be pursued after we have made sure states have the federal funding needed to cover the children currently on their rolls. Otherwise, outreach efforts will be ineffective because children will not have access to actual coverage.

The Children's Health Protection and Improvement Act would prevent nearly $1.1 billion in expiring CHIP funds from reverting to the Treasury so that states with unmet needs can use the money to preserve coverage for children currently enrolled and higher-spending states can cover additional children. Our legislation would also establish redistribution rules that will keep CHIP money in the CHIP program through fiscal year 2007.

Some of my colleagues have expressed concerns that our bill would not lead to new children being enrolled in CHIP. These concerns are simply unfounded. My home State of West Virginia, for example, is looking at the feasibility of a CHIP expansion that would cover an additional 4400 children under 300 percent of poverty. The biggest barrier to West Virginia going forward with this expansion is the lack of Federal funds. My state and many others are still recovering from the so-called "CHIP dip," when Federal CHIP funding was $1 billion lower in fiscal years 2002–2004 than it was in fiscal year 2001. However, under the Children's Health Protection and Improvement Act, WV would qualify for redistributed funds which would give the state the ability to proceed with the expansion.

Finally, I respond to the claims made by some that the Secretary of Health and Human Services should be allowed to redistribute approximately $660 million in unspent fiscal year 2002 funds to the six states projected to have shortfalls next year. There are several problems with this approach. First, such an approach would concentrate the vast majority of the expiring fiscal year 2002 funds in just six states, when a total of 30 states would qualify for redistributed funds.

Second, unlike the Rockefeller-Chafee-Kennedy-Snowe bill, this approach would not address Federal funding shortfalls in these states in fiscal years 2006 and 2007. Moreover, such a proposal is likely to open up a larger Federal shortfall in fiscal years 2006 and 2007 for the other 12 states projected to have insufficient Federal funding before SCHIP is reauthorized in fiscal year 2007. This is because these 12 states would receive less in redistributed fiscal year 2002 funds under such a proposal than they would otherwise receive under our legislation.

Third, and most importantly, the Centers for Medicare and Medicaid Services, CMS, has not offered a specific formula for allocating funds to states that need them the most in fiscal year 2005, so there is no guarantee that CMS would actually do so. Furthermore, it is critical to note that Congress acted in both 2000 and 2003 to set a specific statutory formula for redistribution and has never allowed the administration, neither the previous one nor the current one, decide how to reallocate unspent funds. Leadership in both the House and the Senate supported these previous redistributions, which have directly contributed to the success of the CHIP program in recent years, so it is unclear why there seems to be a change in position now.

In recent days, several new ideas have been proposed for how to deal with expiring CHIP funds. Perhaps if it were March or April, and we had ample time to analyze these far-reaching proposals, then we could adequately consider each one. But, the fact of the matter is that we have a strongly bipartisan bill, supported by the Governors of all 50 States, that is ready to go right now. Our legislation has been properly vetted and appropriately scrutinized. The score of our bill is relatively small in relation to the number of children who would be covered. And, our legislation is the product of a long collaborative effort between states, advocacy groups, and Members of Congress instrumental in the creation of the CHIP program. I see no reason why we cannot pass this legislation now.

I am encouraged by Chairman GRASSLEY's statement that he wants to address the long-term Federal CHIP funding shortfalls. After all, the Finance Committee has a history of protecting health care coverage for children. It is where the CHIP program was created and where previous redistributions were conceived. I cannot imagine that members of the Finance Committee would want to jeopardize such a remarkable history by failing to protect CHIP coverage for hundreds of thousands of children over the next three years. I look forward to working with Chairman GRASSLEY and other members of the Finance Committee to pass a unanimous consent agreement on CHIP before we go home next week.

I also call on the President to take a similar stand for children. For reasons that are inconceivable to me, some of my colleagues on the other side of the isle have indicated that our legislation is partisan or politically motivated. That could not be further from the truth. Our legislation has strong bipartisan support in the House and the Senate, and all of the cosponsors have worked hard to keep this bill from becoming part of election-year politics. There is no reason for Congress not to pass our legislation next week and for the President not to sign it into law. Our children cannot afford to wait.

NATIONAL MUSEUM OF THE AMERICAN INDIAN

Mr. JOHNSON. Mr. President, I speak about the Smithsonian's new Museum of the American Indian. In June 1989, when I was still a Member of the House of Representatives, I cosponsored legislation to establish the National Museum of the American Indian within the Smithsonian Institution. The 15-year odyssey for this museum has presented us with more than just items behind glass. This museum tells the story of North and South Americas' native peoples. It shows their journey through time and gives optimism for the future.

First, I thank all those who have been involved since this process began so many years ago, in particular, Senators INOUYE and CAMPBELL, the original sponsors of this bill. The efforts of thousands of people, both Native and non-native, are reflected in the magnificent structure commemorating the lives of the first Americans. I also thank the thousands of participants who have come from all over the Western Hemisphere to be a part of this historic museum opening, especially those Lakota, Dakota, and Nakota peoples who have made the journey from the Great Plains and particularly South Dakota. Those that have made the trip have shared with us the richness and beauty of their cultures.

I recently had the opportunity to tour the museum, and I am so proud to see the Native people of South Dakota represented in the museum. I am particularly contented to see that the exhibits are displayed in a manner where the tribes are able to see their story from their own point of view. This museum will forever grace the national mall in our Nation's Capitol from the serenity gardens created to surround the museum to the heart of the building's Potomac gathering place. It will take its visitors through time by allowing native people to tell their own story.

I also take this opportunity to speak of the future. With the ever changing roles of the United States government and Indian Tribes, it is imperative we constantly examine paths that strengthen that relationship. In regards to this relationship, I often hear of the tribal sovereignty and the obligations of the United States Government and its treaty and trust responsibilities. With health care in Indian Country funded at 50 percent its necessary levels and schools that are decades past their usefulness, I think that we need to take a serious look at these responsibilities. We need to do more to combat the deplorable conditions that many of our native peoples are subjected, and to develop a plan to alleviate these hardships.

Forever, this museum will grace our national mall. With this new beginning and its reflections of the past, we must now look to the future, the future of Indian country.

ADDITIONAL STATEMENTS

BAYAUD INDUSTRIES

● Mr. ALLARD. Mr. President, I would like to honor the fine work and dedication of Bayaud Industries of Denver, CO. This non-profit organization offers disabled Coloradans vocational rehabilitation and employment services. I am pleased to acknowledge their efforts and successes.

Founded in 1969, Bayaud Industries is celebrating this year its 35th anniversary of service to the disabled community. Bayaud currently employs and trains more than 300 disabled individuals so that they can succeed in the workplace with the goal to provide paid, steady work for every person enrolled in these programs. More than 5,000 disabled Coloradans have benefitted from the services provided by Bayaud Industries. Bayaud Industries is comprised of 48 staff members who are dedicated to helping the disabled community. Its efforts have resulted in a listing by the Denver Business Journal as one of the top 25 Colorado human service agencies. Additionally, Bayaud Industries has been awarded numerous grants from leading Colorado foundations and corporations.

Bayaud's services include vocational evaluation, work adjustment training, a General Office Skills Training program, job placement, and job coaching. The first step in training is in the Vocational Evaluation Program, a 4-week process that assesses an individual's skill needs to succeed in the workplace.

After an individual goes through Bayaud's Vocational Evaluation, the Work Adjustment Training helps individuals increase their self-confidence to help them acclimate appropriately to the workplace environment. Throughout this particular training, individuals are taught how to manage the daily stresses of any work environment, which helps create successful and stable employment.

Bayaud's General Office Skills Training program works to familiarize people with the technological aspects of the workplace. Computers are essential in many jobs, and these individuals are given the training necessary to make their employment a success.

Bayaud Industries uses these programs to provide help with one of the most important aspects of employment assistance: Job placement. From resume writing to interview skills, Bayaud Industries strives to ensure that all individuals are properly trained to search for a job that fits their needs and guarantees their achievement. This aspect of Bayaud is crucial to better understand the individual and to find the perfect job fit for both the business and the employee.

After job training and placement, Bayaud continues its relationship with their employees by offering job counseling. Through its quality assistance and care, Bayaud Industries fosters a relationship between these individuals and the 200 businesses across Colorado that employ them. Bayaud works to provide personalized assistance to all individuals with disabilities, addressing each client's specific needs and goals.

I thank Bayaud Industries for their continued efforts for the disabled community and to businesses across Colorado.

Bayaud's exemplary services are needed and greatly appreciated.●

DISCHARGED NOMINATION

The Senate Committee on Foreign Relations was discharged from further consideration of the following nomination and the nomination was confirmed: Alan Greenspan, of New York, to be United States Alternate Governor of the International Monetary Fund for a term of five years.

MEASURES PLACED ON THE CALENDAR

The following bills were read the second time, and placed on the calendar:

H.R. 4596. An act to amend Public Law 97-435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009.

H.R. 4606. An act to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment in the nature of a substitute:

S. 1134. A bill to reauthorize and improve the programs authorized by the Public Works and Economic Development Act of 1965 (Rept. No. 108-382).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. KOHL (for himself and Mr. DEWINE):

S. 2880. A bill to amend title XI of the Social Security Act to ensure full and free competition in the medical device and hospital supply industries; to the Committee on Finance.

By Mr. VOINOVICH (for himself and Mr. DEWINE):

S. 2881. A bill to clarify that State tax incentives for investment in new machinery and equipment are a reasonable regulation of commerce and not an undue burden on interstate commerce, and for other purposes; to the Committee on Finance.

By Mr. HATCH (for himself and Mr. BIDEN):

S. 2882. A bill to make the program for national criminal history background checks for volunteer groups permanent; considered and passed.

By Mr. HATCH (for himself and Mr. LEAHY):

S. 2883. A bill to amend the International Child Abduction Remedies Act to limit the tort liability of private entities or organizations that carry out responsibilities of United States Central Authority under that Act; considered and passed.

By Mr. SHELBY (for himself, Mr. SARBANES, Mr. REED, Mr. BENNETT, Mr. BUNNING, Mrs. DOLE, Mr. CHAFEE, Mr. DODD, Mr. SCHUMER, Mr. BAYH, Mr. MILLER, Mr. ALLARD, Mr. ENZI, Mr. LAUTENBERG, Mrs. BOXER, Mr. CARPER, Ms. STABENOW, and Mr. CORZINE):

S. 2884. A bill to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security, and for other purposes; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LOTT:

S. Res. 445. A resolution to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1630

At the request of Mrs. DOLE, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1630, a bill to facilitate nationwide availability of 2–1–1 telephone service for information and referral services, and for other purposes.

S. 2338

At the request of Mr. BOND, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 2338, a bill to amend the Public Health Service Act to provide for arthritis research and public health, and for other purposes.

S. 2395

At the request of Mr. CONRAD, the name of the Senator from Idaho (Mr. CRAIG) was added as a cosponsor of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 2426

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 2426, a bill to amend title XVIII of the Social Security Act to clarify the treatment of payment under the medicare program for clinical laboratory tests furnished by critical access hospitals.

S. 2553

At the request of Mr. DODD, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 2553, a bill to amend title XVIII of the Social Security Act to provide for coverage of screening ultrasound for abdominal aortic aneurysms under part B of the medicare program.

S. 2568

At the request of Mr. BIDEN, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2602

At the request of Mr. DODD, the names of the Senator from Massachusetts (Mr. KENNEDY), the Senator from Michigan (Mr. LEVIN), the Senator from Montana (Mr. BAUCUS), the Senator from Hawaii (Mr. AKAKA), the Senator from Arkansas (Mr. PRYOR), the Senator from Iowa (Mr. HARKIN), the Senator from Louisiana (Ms. LANDRIEU) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. 2602, a bill to provide for a circulating quarter dollar coin program to honor the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, and for other purposes.

S. 2759

At the request of Mr. ROCKEFELLER, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2864

At the request of Mr. GRASSLEY, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of S. 2864, a bill to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted.

S. 2866

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 2866, a bill to amend the Farm Security and Rural Investment Act of 2002 to clarify the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

S. RES. 408

At the request of Mr. SCHUMER, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. Res. 408, a resolution supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence.

AMENDMENT NO. 3734

At the request of Mr. SPECTER, the names of the Senator from Maine (Ms. SNOWE) and the Senator from New Mexico (Mr. BINGAMAN) were added as cosponsors of amendment No. 3734 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3801

At the request of Mr. KYL, the names of the Senator from Montana (Mr. BURNS) and the Senator from Alabama (Mr. SESSIONS) were added as cosponsors of amendment No. 3801 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3803

At the request of Mr. CORNYN, the names of the Senator from South Carolina (Mr. GRAHAM) and the Senator from Nevada (Mr. ENSIGN) were added as cosponsors of amendment No. 3803 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3808

At the request of Mr. LEVIN, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 3808 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3839

At the request of Mr. STEVENS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of amendment No. 3839 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3840

At the request of Mr. STEVENS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of amendment No. 3840 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3845

At the request of Mr. BYRD, the names of the Senator from Alaska (Mr. STEVENS), the Senator from Hawaii (Mr. INOUYE), the Senator from Virginia (Mr. WARNER), the Senator from Iowa (Mr. HARKIN) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of amendment No. 3845 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

At the request of Mr. STEVENS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of amendment No. 3845 proposed to S. 2845, supra.

AMENDMENT NO. 3875

At the request of Mr. STEVENS, his name and the name of the Senator from Montana (Mr. BURNS) were added as cosponsors of amendment No. 3875 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3877

At the request of Mr. STEVENS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of amendment No. 3877 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3879

At the request of Mr. STEVENS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of amendment No. 3879 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3880

At the request of Mr. STEVENS, the name of the Senator from Montana (Mr. BURNS) was added as a cosponsor of amendment No. 3880 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3903

At the request of Mr. STEVENS, the name of the Senator from Arizona (Mr. KYL) was added as a cosponsor of amendment No. 3903 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL (for himself and Mr. DEWINE):

S. 2880. A bill to amend title XI of the Social Security Act to ensure full and free competition in the medical device and hospital supply industries; to the Committee on Finance.

Mr. KOHL. Mr. President, I rise today with Senator DEWINE to introduce the Medical Device Competition Act of 2004. The legislation that we are introducing today is the product of perhaps the most important work of our Subcommittee in the last few years—ensuring that physicians, patients, and health care workers have access to the best and safest medical devices, devices that can literally make the difference between life and death.

For nearly three years, the Antitrust Subcommittee has undertaken a thorough investigation of the hospital purchasing industry. This industry accounting for more than an estimated $50 billion in commerce is responsible for purchasing nearly everything that a hospital buys to treat sick or injured patients, everything from simple band-aids to high tech x-ray machines, from pacemakers to surgical devices. Much of this purchasing is done under contracts negotiated by what are known as "group purchasing organizations", "GPOs", large organizations that aggregate the buying power of hundreds, and sometimes thousands, of hospitals in order to gain bargaining power and volume discounts from hospital suppliers.

Without question, the goal of gaining volume discounts through aggregating buying power that led to the creation of GPOs is laudable. Unfortunately, our inquiry revealed that a system created to aggregate demand and hold down cost had sometimes mutated into a tool for entrenching market power of dominant suppliers, locking out competitors, and suppressing innovation. All too often conflicts of interest and questionable GPO business practices denied physicians and their patients choice of needed medical devices and robbed hospitals of the benefit of competition.

Moreover, the power and importance of GPOs to our health care system increased as the GPO industry has undergone enormous consolidation in the last decade. As originally envisioned, GPOs were generally local or regional buying cooperatives each of whom accounting for a very small proportion of the market. Today, this situation is transformed. The two largest GPOs negotiate purchasing contracts for more than an estimated 60 percent of the Nation's not for profit hospital beds. The size and national scope of these large GPOs have turned them into the gatekeepers who can decide which medical devices doctors will use and which medical device companies will be able to sell their lifesaving goods..

Our investigation uncovered abuses and questionable practices that interfered with the GPOs' mission of buying the best products at the best prices. At the time our investigation began in 2001, it was all too common a practice for GPOs to contract with only one supplier of a medical device for lengthy terms. Industry observers also raised concerns over contracts which bundled commodities like hospital gowns with medical devices like pacemakers and surgical equipment, creating nearly insurmountable barriers for smaller manufacturers with specialized product lines to compete, regardless of the quality or effectiveness of their product. Some GPOs accepted high payments—so-called "administrative fees"—well in excess of 3 percent from manufacturers. Worst of all, supposedly neutral contracting decisions were at times infected by equity interests held by GPOs or their executives in medical device companies.

We can be proud of the work of our subcommittee—and, indeed, many in the GPO industry—in responding to this situation. At our behest, six of the largest hospital buying groups agreed to fundamental reform by adopting codes of conduct governing their business activities and ethical responsibilities. These codes forbid anti-competitive business practices, and ban conflicts of interest that interfere with the GPOs' mission of buying the best products at the lowest prices. The GPOs that agreed to these new codes should be commended for their willingness to engage in real reform. Thanks to these GPOs' good work and willingness to engage in reform, many of the most egregious practices began to disappear from the marketplace and barriers to patients getting access to the best medical devices more have begun to come down.

Yet these reforms—as real and important as they are—have inherent limitations. They are completely voluntary and can be modified or even withdrawn by the GPOs at will. They have no enforcement mechanism nor any manner to objectively verify that they are being adhered to. We have no assurance that the reforms will not be abridged or abrogated should our subcommittee's oversight come to an end. We must now, therefore, find a way to ensure that these gains cannot be reversed.

Despite their enormous influence, GPOs have until now operated with little, if any, governmental oversight. Quite the contrary, these GPOs have operated under special government protection—a Congressionally granted exemption from anti-kickback law. This exemption—commonly known as the "safe harbor" for GPOs—allows GPOs to accept payments from hospital suppliers even though these purchases are reimbursed by the Medicare program. Acceptance of these payments from suppliers would be illegal absent this special exemption. The fact the hospital purchasing has this specially, Congressionally granted immunity from kickback mandates that government have the ability to oversee the manner GPOs are behaving under the protection of this exemption—oversight currently not required by law.

We are therefore today introducing legislation which will ensure that the Department of Health and Human Services will have the authority to oversee the functioning of the safe harbor and prevent anti-competitive or unethical GPO business practices. This is moderate and measured legislation which is not prescriptive in almost all respects. With only one exception, it does not outlaw any GPO practices or business arrangements. Instead, the bill grants oversight authority over hospital purchasing to HHS, and directs the HHS to draft regulations to prevent improper GPO conduct—that is, unethical conduct, anti-competitive practices, or practices which preclude products necessary for patient care or worker safety from reaching physicians and patients. HHS is further directed to consult with the Federal Trade Commission and the Attorney General in developing these guidelines. Rather than micro-managing specific business practices, the discretion is left to the health policy experts at HHS, after consulting with the antitrust agencies—and only with the input of industry representatives through the notice and comment process—to develop the appropriate standards.

We recognize that different GPOs have different business models, and the goal of this approach is to permit GPOs to maintain these models as long as they do not violate basic precepts of good business conduct. As long as a GPO does not violate these standards, it continues to receive the immunity from anti-kickback law granted by the safe harbor. However, the penalty for GPOs that violate these standards is to be ineligible to participate in the safe harbor—that is, being unable to accept payments from hospital suppliers. This sanction should prevent GPO's from reverting to unethical or anti-competitive conduct, and give HHS the regulatory tools to supervise the industry so that it serves the interests of hospitals and patients.

The one area in which our legislation is prescriptive addresses a principle to which most parties on all sides of the GPO debate—hospitals, manufacturers, and most GPOs themselves—have already agreed. This is the provision that bans GPOs from accepting payments from vendors which exceed three percent of price of the good or service sold. The intent of this provision is to forbid excessive vendor fees which can bias a GPO contracting decision. The decision on which product is placed on a GPO contract should never turn on the amount of money paid by the manufacturer to the GPO; rather, a GPO's only goal should be to contract for the highest quality product at the lowest possible price. Most GPO's codes of conduct already ban vendor fees higher than 3 percent; however, during our investigation we learned that one of the nation's two largest GPOs had accepted fees above 20 percent. Indeed, data submitted to the Subcommittee showed that during 2002 over 20 percent of that GPO's revenues was derived from contracts with vendor fees higher than 3 percent, a proportion that had increased from the previous year. The safe harbor should not shield such practices, conduct which has the strong potential to bias the whole system.

In sum, we believe that our bill is a modest yet effective legislative approach to ensuring that the gains we have achieved over the past two years are not reversed, and that the safe harbor is administered in a way to promote innovation, competition, and cost savings. This legislation will give the authority that HHS needs to be an effective watchdog over hospital purchasing practices. Once this legislation is passed we can be confident that the reforms to the hospital purchasing industry that we have achieved over the last two years will remain in place, and that there will never be a return to practices that imperiled patient health and health worker safety, and blocked competition and innovation in this vital industry.

The bottom line is that our bill will encourage medical innovation, ensure doctors get the broadest choice of medical devices, and ensure that patients will receive the best possible devices available. These are goals we should all support. I urge my colleagues to join me in supporting this legislation.

I ask unanimous consent that the text of this bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2880

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical Device Competition Act of 2004".

SEC. 2. FINDINGS.

Congress finds the following:

(1) Given the increasing costs of health care in the United States, there is a compelling public interest in ensuring that there is full and free competition in the medical device and hospital supply industries so that the best and safest products are available to physicians and patients at a competitive price.

(2) By aggregating purchases, hospital group purchasing can reduce the cost of acquiring medical equipment and hospital supplies so long as such purchasing is done in a manner consistent with antitrust law and free competition.

(3) Some practices engaged in by certain hospital group purchasing organizations have had the effect of reducing competition in the medical device and hospital supply industries by denying some suppliers and device makers access to the hospital marketplace.

(4) There is a compelling public interest in having the Secretary of Health and Human Services, in consultation with the Attorney General and Federal Trade Commission, engage in oversight and supervision of the current Federal health care program anti-kickback exemption (also known as the safe harbor) provided to group purchasing organizations under subparagraphs (C) and (E) of section 1128B(b)(3) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)). This oversight and supervision should ensure that the safe harbor does not shield conduct that harms competition in the hospital supply and medical device industries.

SEC. 3. ENSURING FULL AND FREE COMPETITION.

(a) In General.—Section 1128B(b)(3)(C) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)(C)) is amended—

(1) in clause (i), by striking ", and" at the end and inserting a semicolon; and

(2) by adding at the end the following new clauses:

"(iii) the contracting, business, and ethical practices of the person are not inconsistent with regulations promulgated by the Secretary pursuant to subsection (g)(1);

"(iv) the person has been certified by the Secretary under subsection (g)(2) to be in compliance with the regulations promulgated pursuant to subsection (g)(1); and

"(v) the amount to be paid the person does not exceed a total of 3 percent of the purchase price of the goods or services provided by that vendor;".

(b) Regulations.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b) is amended by adding at the end the following new subsection:

"(g)(1)(A) The Secretary, in consultation with the Attorney General and the Federal

Trade Commission, shall, not later than 1 year after the date of enactment of the Medical Device Competition Act of 2004, issue proposed regulations, and shall, not later than 2 years after such date of enactment, promulgate final regulations, specifying contracting, business, and ethical practices of persons described in paragraph (4) that are contrary to antitrust law and competitive principles, to ethical standards, or to the goal of ensuring that products necessary for proper patient care or worker safety are readily available to physicians, health care workers, and patients.

"(B) In issuing and promulgating regulations under subparagraph (A), the Secretary shall take into account—

"(i) the compelling public policy goals of—

"(I) encouraging competition and innovation in the hospital supply and medical device markets; and

"(II) reducing the cost of health care as a result of aggregating buying power;

"(ii) the potentially detrimental impact of certain anticompetitive contracting practices; and

"(iii) the need to avoid conflicts of interests and other unethical practices by persons described in paragraph (4).

"(2) The Secretary, in consultation with the Attorney General and the Federal Trade Commission, shall establish procedures for annually certifying that persons described in paragraph (4) are in compliance with the final regulations promulgated pursuant to paragraph (1).

"(3) The Secretary, in consultation with the Attorney General and Federal Trade Commission, shall, not less than 6 months after the date of enactment of the Medical Device Competition Act of 2004, issue proposed regulations, and shall, not later than 1 year after such date of enactment, promulgate final regulations, to clarify its regulations promulgated pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987 to specify that the definition of 'remuneration' under this section with respect to persons described in paragraph (4)—

"(A) includes only those reasonable costs associated with the procurement of products and the administration of valid contracts; and

"(B) does not include marketing costs, any extraneous fees, or any other payment intended to unduly or improperly influence the award of a contract based on factors other than the cost, quality, safety, or efficacy of the product.

"(4) A person described in this paragraph is a person authorized to act as a purchasing agent for a group of individuals or entities who are furnishing services reimbursable under a Federal health care program.".

(c) DEFINITION OF PURCHASING AGENT.—Section 1128B of the Social Security Act (42 U.S.C. 1320a–7b), as amended by subsection (b), is amended by adding at the end the following new subsection:

"(h) For purposes of this section, the term 'purchasing agent' means any individual, organization, or other entity that negotiates and implements contracts to purchase hospital supplies or medical equipment, devices, products, or goods or services of any kind for any group of individuals or entities who are furnishing services reimbursable under a Federal health care program, including organizations commonly known as 'group purchasing organizations'.".

(d) EFFECTIVE DATE.—Clause (v) of section 1128B(b)(3)(C) of the Social Security Act (42 U.S.C. 1320a–7b(b)(3)(C)), as added by subsection (a), shall take effect 1 year after the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 445—TO ELIMINATE CERTAIN RESTRICTIONS ON SERVICE OF A SENATOR ON THE SENATE SELECT COMMITTEE ON INTELLIGENCE

Mr. LOTT submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. RES. 445

Resolved, That section 2 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

Mr. LOTT. Mr. President, since September 11, there has been an on-going debate about the quality of our Nation's intelligence capabilities. In recent months, this debate has intensified as questions have arisen about prewar intelligence concerning Iraq's program for developing weapons of mass destruction. In this period, when the United States is engaged in a global war against terrorism, it is imperative that our intelligence resources are used to the utmost of their capability.

The Senate Select Committee on Intelligence is charged with the responsibility of overseeing our Nation's intelligence capabilities. As a member of that committee, I can attest to the quality of the work performed by members and staff who serve on the committee. But there is a huge learning curve to fully comprehend how our Nation's intelligence capabilities are being deployed. There are very complex technological issues associated with international intelligence and Senators often do not have the time to develop expertise in understanding all of these systems. And that makes it difficult for all committee members to engage in effective oversight.

I believe the current structure of the Intelligence Committee handicaps the committee's ability to perform truly meaningful oversight. Unlike any other committee in the Senate, there are severe restrictions placed on how long a member can serve on the Intelligence Committee. A Senator can only serve on the committee for eight continuous years. And one-third of the members of the committee are required to cycle off the committee every 2 years.

I think the Senate can no longer afford the luxury of cycling members on and off the committee. We need an Intelligence Committee whose members have years of experience in understanding the entire spectrum of global intelligence just as we have a Finance Committee whose members have spent years learning the nuances and intricacies of the tax laws and Medicare. For that reason, I am today submitting a resolution eliminating both the 8-year term limit and the mandate to replace one-third of the committee every 2 years. I would note that the 9/11 Commission recommended that term limits on the committee be eliminated.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3945. Mr. LEAHY (for himself and Mr. GRASSLEY) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3946. Ms. COLLINS (for Mr. INHOFE) proposed an amendment to amendment SA 3849 proposed by Mr. CORZINE (for himself and Mr. LAUTENBERG) to the bill S. 2845, supra.

SA 3947. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1876, to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project; which was ordered to lie on the table.

SA 3948. Mr. FRIST (for Mr. SHELBY (for himself and Mr. SARBANES)) proposed an amendment to the bill H.R. 1533, to amend the securities laws to permit church pension plans to be invested in collective trusts.

SA 3949. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1466, to facilitate the transfer of land in the State of Alaska, and for other purposes; which was referred to the Committee on Energy and Natural Resources.

TEXT OF AMENDMENTS—THURSDAY, SEPTEMBER 30, 2004

SA 3809. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 28, line 17, strike "or" at the end.

On page 28, line 19, strike the period and insert "; and".

On page 28, between lines 19 and 20, insert the following:

(D) the personnel involved are not military personnel and the funds were not appropriated to military personnel appropriations, except that the Director may make a transfer of such personnel or funds if the Secretary of Defense does not object to such transfer.

On page 91, between lines 12 and 13, insert the following:

(C) Nothing in this subsection shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

On page 98, between lines 21 and 22, insert the following:

(C) Nothing in this subsection shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

SA 3810. Mr. LEVIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 7, beginning on line 20, strike "that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act".

TEXT OF AMENDMENTS

SA 3945. Mr. LEAHY (for himself and Mr. GRASSLEY) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

SECTION 1. CONGRESSIONAL OVERSIGHT OF FBI USE OF TRANSLATORS.

Not later than 30 days after the date of enactment of this Act, and annually thereafter, the Attorney General of the United States shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that contains, with respect to each preceding 12-month period—

(1) the number of translators employed, or contracted for, by the Federal Bureau of Investigation or other components of the Department of Justice;

(2) any legal or practical impediments to using translators employed by the Federal, State, or local agencies on a full-time, part-time, or shared basis;

(3) the needs of the Federal Bureau of Investigation for the specific translation services in certain languages, and recommendations for meeting those needs;

(4) the status of any automated statistical reporting system, including implementation and future viability;

(5) the storage capabilities of the digital collection system or systems utilized;

(6) a description of the establishment and compliance with audio retention policies that satisfy the investigative and intelligence goals of the Federal Bureau of Investigation; and

(7) a description of the implementation of quality control procedures and mechanisms for monitoring compliance with quality control procedures.

SA 3946. Ms. COLLINS (for Mr. INHOFE) proposed an amendment to amendment SA 3849 proposed by Mr. CORZINE (for himself and Mr. LAUTENBERG) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

In lieu of the matter to be inserted, insert the following:

TITLE ___—CHEMICAL FACILITIES SECURITY

SEC. ___0 1. SHORT TITLE.

This title may be cited as the "Chemical Facilities Security Act of 2004".

SEC. ___02. DEFINITIONS.

In this title:

(1) ALTERNATIVE APPROACHES.—The term "alternative approaches" means ways of reducing the threat of a terrorist release, as well as reducing the consequences of a terrorist release from a chemical source, including approaches that—

(A) use smaller quantities of substances of concern;

(B) replace a substance of concern with a less hazardous substance; or

(C) use less hazardous processes.

(2) CHEMICAL SOURCE.—The term "chemical source" means a non-Federal stationary source (as defined in section 112(r)(2) of the Clean Air Act (42 U.S.C. 7412(r)(2))) for which—

(A) the owner or operator is required to complete a risk management plan in accordance with section 112(r)(7)(B)(ii) of the Clean Air Act (42 U.S.C. 7412(r)(7)(B)(ii)); and

(B) the Secretary is required to promulgate implementing regulations under section ___03(a) of this title.

(3) CONSIDERATION.—The term "consideration" includes—

(A) an analysis of alternative approaches, including the benefits and risks of such approaches;

(B) the potential of the alternative approaches to prevent or reduce the threat or consequences of a terrorist release;

(C) the cost and technical feasibility of alternative approaches; and

(D) the effect of alternative approaches on product quality, product cost, and employee safety.

(4) DEPARTMENT.—The term "Department" means the Department of Homeland Security.

(5) ENVIRONMENT.—The term "environment" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(6) OWNER OR OPERATOR.—The term "owner or operator" has the meaning given the term in section 112(a) of the Clean Air Act (42 U.S.C. 7412(a)).

(7) RELEASE.—The term "release" has the meaning given the term in section 101 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601).

(8) SECRETARY.—The term "Secretary" means the Secretary of Homeland Security.

(9) SECURITY MEASURE.—

(A) IN GENERAL.—The term "security measure" means an action carried out to ensure or enhance the security of a chemical source.

(B) INCLUSIONS.—The term "security measure", with respect to a chemical source, includes measures such as—

(i) an employee training and background check;

(ii) the limitation and prevention of access to controls of the chemical source;

(iii) the protection of the perimeter of the chemical source;

(iv) the installation and operation of intrusion detection sensors;

(v) the implementation of measures to increase computer or computer network security;

(vi) the implementation of other security-related measures to protect against or reduce the threat of—

(I) a terrorist attack on the chemical source; or

(II) the theft of a substance of concern for offsite release in furtherance of an act of terrorism;

(vii) the installation of measures and controls to protect against or reduce the consequences of a terrorist attack; and

(viii) the conduct of any similar security-related activity, as determined by the Secretary.

(10) SUBSTANCE OF CONCERN.—The term "substance of concern" means—

(A) a chemical substance present at a chemical source in quantities equal to or exceeding the threshold quantities for the chemical substance, as defined in or established under paragraphs (3) and (5) of section 112(r) of the Clean Air Act (42 U.S.C. 7412(r)); and

(B) such other chemical substance as the Secretary may designate under section ___03(g).

(11) TERRORISM.—The term "terrorism" has the meaning given the term in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(12) TERRORIST RELEASE.—The term "terrorist release" means—

(A) a release from a chemical source into the environment of a substance of concern that is caused by an act of terrorism; and

(B) the theft of a substance of concern by a person for off-site release in furtherance of an act of terrorism.

SEC. ___03. VULNERABILITY ASSESSMENTS AND SITE SECURITY PLANS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations that require the owner or operator of each chemical source included on the list described in subsection (f)(1)—

(A) to conduct an assessment of the vulnerability of the chemical source to a terrorist release, including identifying hazards that may result from a terrorist release; and

(B) to prepare and implement a site security plan that addresses the results of the vulnerability assessment.

(2) CONTENTS OF SITE SECURITY PLAN.—A site security plan required under the regulations promulgated under paragraph (1) or any other plan determined to be substantially equivalent by the Secretary under subsection (c)—

(A) shall include security measures to significantly reduce the vulnerability of the chemical source covered by the plan to a terrorist release;

(B) shall describe, at a minimum, particular equipment, plans, and procedures that could be implemented or used by or at the chemical source in the event of a terrorist release; and

(C) shall include consideration and, where practicable in the judgment of the owner or operator of the chemical source, implementation of options to reduce the threat of a terrorist release through the use of alternative approaches.

(3) PROMULGATION.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations establishing procedures, protocols, regulations, and standards for vulnerability assessments and site security plans.

(4) GUIDANCE TO SMALL ENTITIES.—Not later than 1 year after the date of enactment of this Act, the Secretary shall publish guidance to assist small entities in complying with paragraph (2)(C).

(5) THREAT INFORMATION.—To the maximum extent practicable under applicable

authority and in the interests of national security, the Secretary shall provide to an owner or operator of a chemical source required to prepare a vulnerability assessment and site security plan threat information that is relevant to the chemical source.

(6) COORDINATED ASSESSMENTS AND PLANS.—The regulations promulgated under paragraphs (1) and (3) shall permit the development and implementation of coordinated vulnerability assessments and site security plans in any case in which more than 1 chemical source is operating at a single location or at contiguous locations, including cases in which a chemical source is under the control of more than 1 owner or operator.

(b) CERTIFICATION AND SUBMISSION.—

(1) IN GENERAL.—Each owner or operator of a chemical source shall certify in writing to the Secretary that the owner or operator has completed a vulnerability assessment and has developed and implemented or is implementing a site security plan in accordance with this title, including—

(A) regulations promulgated under paragraphs (1) and (3) of subsection (a); and

(B) any applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(2) SUBMISSION.—Not later than 18 months after the date of promulgation of regulations under paragraphs (1) and (3) of subsection (a), an owner or operator of a chemical source shall provide to the Secretary copies of the vulnerability assessment and site security plan of the chemical source for review.

(3) OVERSIGHT.—The Secretary shall, at such times and places as the Secretary determines to be appropriate, conduct or require the conduct of vulnerability assessments and other activities (including third-party audits) to ensure and evaluate compliance with—

(A) this title (including regulations promulgated under paragraphs (1) and (3) of subsection (a)); and

(B) other applicable procedures, protocols, or standards endorsed or recognized by the Secretary under subsection (c)(1).

(4) SUBMISSION OF CHANGES.—The owner or operator of a chemical source shall—

(A) provide to the Secretary a description of any significant change that is made to the vulnerability assessment or site security plan required for the chemical source under this section, not later than 90 days after the date the change is made; and

(B) update the certification of the vulnerability assessment or site security plan.

(c) SPECIFIED STANDARDS.—

(1) EXISTING PROCEDURES, PROTOCOLS, AND STANDARDS.—Upon submission of a petition by any person to the Secretary, and after receipt by that person of a written response from the Secretary, any procedures, protocols, and standards established by the Secretary under regulations promulgated under subsection (a)(3) may—

(A) endorse or recognize procedures, protocols, regulations, and standards—

(i) that are established by—

(I) industry;

(II) State or local authorities; or

(III) other applicable law; and

(ii) the requirements of which the Secretary determines to be—

(I) substantially equivalent to the requirements under subsections (a)(1), (a)(2), and (a)(3); and

(II) in effect on or after the date of enactment of this Act; and

(B) require that a vulnerability assessment and site security plan address a particular threat or type of threat.

(2) NOTIFICATION OF SUBSTANTIAL EQUIVALENCY.—If the Secretary endorses or recognizes existing procedures, protocols, regulations, and standards described in paragraph (1)(A), the Secretary shall provide to the person that submitted the petition a notice that the procedures, protocols, regulations, and standards are substantially equivalent to the requirements of paragraph (1) and paragraphs (1) and (3) of subsection (a).

(3) NO ACTION BY SECRETARY.—If the Secretary does not endorse or recognize existing procedures, protocols, and standards described in paragraph (1)(A), the Secretary shall provide to each person that submitted a petition under paragraph (1) a written notification that includes a clear explanation of the reasons why the endorsement or recognition was not made.

(d) PREPARATION OF ASSESSMENTS AND PLANS.—As of the date of endorsement or recognition by the Secretary of a particular procedure, protocol, or standard under subsection (c)(1)(A), any vulnerability assessment or site security plan that is prepared by a chemical source before, on, or after the date of endorsement or recognition of, and in accordance with, that procedure, protocol, or standard, shall, for the purposes of subsection (b)(3) and section ____04, be judged by the Secretary against that procedure, protocol, or standard rather than the relevant regulations promulgated under subsection (c) and paragraphs (1) and (3) of subsection (a) (including such a vulnerability assessment or site security plan prepared before, on, or after the date of enactment of this Act).

(e) REGULATORY CRITERIA.—In exercising the authority under subsections (a) and (c) with respect to a chemical source, the Secretary shall consider—

(1) the likelihood that a chemical source will be the target of terrorism;

(2) the nature and quantity of the substances of concern present at a chemical source;

(3) the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release;

(4) the potential harm to critical infrastructure and national security from a terrorist release;

(5) cost and technical feasibility;

(6) scale of operations; and

(7) such other security-related factors as the Secretary determines to be appropriate and necessary to protect the public health and welfare, critical infrastructure, and national security.

(f) LIST OF CHEMICAL SOURCES.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop a list of chemical sources in existence as of that date.

(2) CONSIDERATIONS.—In developing the list under paragraph (1), the Secretary shall consider the criteria specified in subsection (e).

(3) FUTURE DETERMINATIONS.—Not later than 3 years after the date of promulgation of regulations under subsection (c) and paragraphs (1) and (3) of subsection (a), and every 3 years thereafter, the Secretary shall, after considering the criteria described in subsection (e)—

(A) determine whether additional facilities (including, as of the date of the determination, facilities that are operational and facilities that will become operational in the future) shall be considered to be a chemical source under this title;

(B) determine whether any chemical source identified on the most recent list under paragraph (1) no longer presents a risk sufficient to justify retention of classification as a chemical source under this title; and

(C) update the list as appropriate.

(4) REGULATIONS.—The Secretary may make a determination under this subsection in regulations promulgated under paragraphs (1) and (3) of subsection (a).

(g) DESIGNATION, EXEMPTION, AND ADJUSTMENT OF THRESHOLD QUANTITIES OF SUBSTANCES OF CONCERN.—

(1) IN GENERAL.—The Secretary may, by regulation—

(A) designate certain chemical substances in particular threshold quantities as substances of concerns under this title;

(B) exempt certain chemical substances from designation as substances of concern under this title; and

(C) adjust the threshold quantity of a chemical substance.

(2) CONSIDERATIONS.—In designating or exempting a chemical substance or adjusting the threshold quantity of a chemical substance under paragraph (1), the Secretary shall consider the potential extent of death, injury, or serious adverse effects to human health or the environment that would result from a terrorist release of the chemical substance.

(3) REGULATIONS.—The Secretary may make a designation, exemption, or adjustment under paragraph (1) in regulations promulgated under paragraphs (1) and (3) of subsection (a).

(h) 5-YEAR REVIEW.—Not later than 5 years after the dafe of certification of a vulnerability assessment and a site security plan under subsection (b)(1), and not less often than every 5 years thereafter (or on such a schedule as the Secretary may establish by regulation), the owner or operator of the chemical source covered by the vulnerability assessment or site security plan shall—

(1) review the adequacy of the vulnerability assessment and site security plan; and

(2)(A) certify to the Secretary that the chemical source has completed the review and implemented any modifications to the site security plan; and

(B) submit to the Secretary a description of any changes to the vulnerability assessment or site security plan.

(i) PROTECTION OF INFORMATION.—

(1) DISCLOSURE EXEMPTION.—Except with respect to certifications specified in subsections (b)(1)(A) and (h)(2)(A), vulnerability assessments and site security plans obtained in accordance with this title, and materials developed or produced exclusively in preparation of those documents (including information shared with Federal, State, and local government entities under paragraphs (3) through (5)), shall be exempt from disclosure under—

(A) section 552 of title 5, United States Code; or

(B) any State or local law providing for public access to information.

(2) NO EFFECT ON OTHER DISCLOSURE.—Nothing in this title affects the handling, treatment, or disclosure of information obtained from chemical sources under any other law.

(3) DEVELOPMENT OF PROTOCOLS.—

(A) IN GENERAL.—The Secretary, in consultation with the Director of the Office of Management and Budget and appropriate Federal law enforcement and intelligence officials, and in a manner consistent with existing protections for sensitive or classified information, shall, by regulation, establish confidentiality protocols for maintenance and use of information that is obtained from owners or operators of chemical sources and provided to the Secretary under this title.

(B) REQUIREMENTS FOR PROTOCOLS.—A protocol established under subparagraph (A) shall ensure that—

(i) each copy of a vulnerability assessment or site security plan submitted to the Secretary, all information contained in or derived from that assessment or plan, and other information obtained under section 06, is maintained in a secure location; and

(ii) except as provided in paragraph (5)(B), or as necessary for judicial enforcement, access to the copies of the vulnerability assessments and site security plans submitted to the Secretary, and other information obtained under section 06, shall be limited to persons designated by the Secretary.

(4) DISCLOSURE IN CIVIL PROCEEDINGS.—In any Federal or State civil or administrative proceeding in which a person seeks to compel the disclosure or the submission as evidence of sensitive information contained in a vulnerability assessment or security plan required by subsection (a) or (b) and is not otherwise subject to disclosure under other provisions of law—

(A) the information sought may be submitted to the court under seal; and

(B) the court, or any other person, shall not disclose the information to any person until the court, in consultation with the Secretary, determines that the disclosure of the information does not pose a threat to public security or endanger the life or safety of any person.

(5) PENALTIES FOR UNAUTHORIZED DISCLOSURE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), any individual referred to in paragraph (3)(B)(ii) who acquires any information described in paragraph (3)(A) (including any reproduction of that information or any information derived from that information), and who knowingly or recklessly discloses the information, shall—

(i) be imprisoned not more than 1 year, fined in accordance with chapter 227 of title 18, United States Code (applicable to class A misdemeanors), or both; and

(ii) be removed from Federal office or employment.

(B) EXCEPTIONS.—

(i) IN GENERAL.—Subparagraph (A) shall not apply to a person described in that subparagraph that discloses information described in paragraph (3)(A)—

(I) to an individual designated by the Secretary under paragraph (3)(B)(ii);

(II) for the purpose of section 06; or

(III) for use in any administrative or judicial proceeding to impose a penalty for failure to comply with a requirement of this title.

(ii) LAW ENFORCEMENT OFFICIALS AND FIRST RESPONDERS.—Notwithstanding subparagraph (A), an individual referred to in paragraph (3)(B)(ii) who is an officer or employee of the United States may share with a State or local law enforcement or other official (including a first responder) the contents of a vulnerability assessment or site security plan, or other information described in that paragraph, to the extent disclosure is necessary to carry out this title.

SEC. 04. ENFORCEMENT.

(a) FAILURE TO COMPLY.—If an owner or operator of a chemical source fails to certify or submit a vulnerability assessment or site security plan in accordance with this title, the Secretary may issue an order requiring the certification and submission of a vulnerability assessment or site security plan in accordance with section 03(b).

(b) DISAPPROVAL.—The Secretary may disapprove under subsection (a) a vulnerability assessment or site security plan submitted under section 03(b) if the Secretary determines that—

(1) the vulnerability assessment or site security plan does not comply with regulations promulgated under paragraph (1) and (3) of subsection (a) or the procedure, protocol, or standard endorsed or recognized under section 03(c); or

(2) the site security plan, or the implementation of the site security plan, is insufficient to address—

(A) the results of a vulnerability assessment of a chemical source; or

(B) a threat of a terrorist release.

(c) COMPLIANCE.—If the Secretary disapproves a vulnerability assessment or site security plan of a chemical source under subsection (b), the Secretary shall—

(1) provide the owner or operator of the chemical source a written notification of the determination that includes a clear explanation of deficiencies in the vulnerability assessment, site security plan, or implementation of the assessment or plan;

(2) consult with the owner or operator of the chemical source to identify appropriate steps to achieve compliance; and

(3) if, following that consultation, the owner or operator of the chemical source does not achieve compliance in accordance by such date as the Secretary determines to be appropriate under the circumstances, issue an order requiring the owner or operator to correct specified deficiencies.

(d) EMERGENCY POWERS.—

(1) DEFINITION OF EMERGENCY THREAT.—The term "emergency threat" means a threat of a terrorist act that could result in a terrorist release at a chemical source—

(A) that is beyond the scope of the site security plan as implemented at the chemical source;

(B) the likelihood of the immediate occurrence of which is high;

(C) the consequences of which would be severe; and

(D) based on the factors described in subparagraphs (A) through (C), would not be appropriately and reasonably addressed, or addressed in a timely manner, by the Secretary under subsections (a) through (c).

(2) INITIATION OF ACTION.—

(A) IN GENERAL.—If the Secretary (in consultation with State and local law enforcement officials) determines that an emergency threat exists, the Secretary may bring a civil action on behalf of the United States in United States district court to immediately require each covered source potentially subject to the emergency threat to take such actions as are necessary to respond to the emergency threat.

(B) NOTICE AND PARTICIPATION.—The Secretary shall provide to each covered source that is the subject of a civil action under subparagraph (A)—

(i) notice of any injunctive relief to compel compliance with this subsection that is being sought; and

(ii) an opportunity to participate in any proceedings relating to the civil action.

(3) EMERGENCY ORDERS.—

(A) IN GENERAL.—If the Secretary determines that it is not practicable to ensure prompt action to protect public safety from an emergency threat by commencing a civil action under paragraph (2), the Secretary may issue such orders as are necessary to ensure public safety.

(B) CONSULTATION.—Before issuing an order under subparagraph (A), the Secretary shall—

(i) consult with State and local law enforcement officials; and

(ii) attempt to confirm the accuracy of the information on which the action proposed to be taken is based.

(C) EFFECTIVENESS OF ORDERS.—

(i) IN GENERAL.—An order issued by the Secretary under this paragraph shall be effective for the 60-day period beginning on the date of issuance of the order unless the Secretary files a civil action under paragraph (2) before the expiration of that period.

(ii) EXTENSION OF EFFECTIVE PERIOD.—With respect to an order issued under this paragraph, the Secretary may file a civil action before the end of the 60-day period described in clause (i) to extend the effective period of the order for—

(I) 14 days; or

(II) such longer period as the court in which the civil action is filed may authorize.

(e) PROTECTION OF INFORMATION.—Any determination of disapproval or order made or issued under this section shall be exempt from disclosure—

(1) under section 552 of title 5, United States Code;

(2) under any State or local law providing for public access to information; and

(3) except as provided in section 03(i)(4), in any Federal or State civil or administrative proceeding.

SEC. 05. INTERAGENCY TECHNICAL SUPPORT AND COOPERATION.

The Secretary—

(1) may request other Federal agencies to provide technical and analytical support (other than field work) in implementing this title; and

(2) may provide reimbursement for such technical and analytical support received as the Secretary determines to be appropriate.

SEC. 06. RECORDKEEPING; SITE INSPECTIONS; PRODUCTION OF INFORMATION.

(a) RECORDKEEPING.—The owner or operator of a chemical source that is required to prepare a vulnerability assessment or site security plan under section 03(a) shall maintain a current copy of those documents.

(b) RIGHT OF ENTRY.—In carrying out this title, the Secretary (or a designee), on presentation of credentials, shall have a right of entry to, on, or through—

(1) any premises of an owner or operator of a chemical source described in subsection (a); and

(2) any premises on which any record required to be maintained under subsection (a) is located.

(c) REQUESTS FOR RECORDS.—In carrying out this title, the Secretary (or a designee) may require the submission of, or, on presentation of credentials, may at reasonable times seek access to and copy—

(1) any records, reports, or other information described in subsection (a); and

(2) any other documentation necessary for—

(A) review or analysis of a vulnerability assessment or site security plan; or

(B) implementation of a site security plan.

(d) COMPLIANCE.—If the Secretary determines that an owner or operator of a chemical source is not maintaining, producing, or permitting access to records as required by this section, the Secretary may issue an order requiring compliance with the relevant provisions of this section.

SEC. 07. PENALTIES.

(a) JUDICIAL RELIEF.—Any owner or operator of a chemical source that violates or fails to comply with any order issued by the Secretary under this title or a site security plan submitted to the Secretary under this title (or, in the case of an exemption described in section 03(d), a procedure, protocol, or standard endorsed or recognized by the Secretary under section ___03(c)) may, in a civil action brought in United States district court, be subject, for each day on which the violation occurs or the failure to comply continues, to—

(1) an order for injunctive relief; or

(2) a civil penalty of not more than $50,000.

(b) ADMINISTRATIVE PENALTIES.—

(1) PENALTY ORDERS.—The Secretary may issue an administrative penalty of not more than $250,000 for failure to comply with an order issued by the Secretary under this title.

(2) NOTICE AND HEARING.—Before issuing an order described in paragraph (1), the Secretary shall provide to the person against which the penalty is to be assessed—

(A) written notice of the proposed order; and

(B) the opportunity to request, not later than 30 days after the date on which the person receives the notice, a hearing on the proposed order.

(3) PROCEDURES.—The Secretary may promulgate regulations outlining the procedures for administrative hearings and appropriate review, including necessary deadlines.

(c) TREATMENT OF INFORMATION IN JUDICIAL PROCEEDINGS.—Information submitted or obtained by the Secretary, information derived from that information, and information submitted by the Secretary under this title (except under section 011) shall be treated in any judicial or administrative action as if the information were classified material.

SEC. 08. PROVISION OF TRAINING.

The Secretary may provide training to State and local officials and owners and operators in furtherance of the purposes of this title.

SEC. 09. JUDICIAL REVIEW.

(a) REGULATIONS.—Not later than 60 days after the date of promulgation of a regulation under this title, any person may file a petition for judicial review relating to the regulation with—

(1) the United States Court of Appeals for the District of Columbia; or

(2) with the United States circuit court—

(A) having jurisdiction over the State in which the person resides; or

(B) for the circuit in which the principal place of business of the person is located.

(b) FINAL AGENCY ACTIONS OR ORDERS.—Not later than 60 days after the date on which a covered source receives notice of an action or order of the Secretary under this title with respect to the chemical source, the chemical source may file a petition for judicial review of the action or order with the United States district court for the district in which—

(1) the chemical source is located; or

(2) the owner or operator of the chemical source has a principal place of business.

(c) STANDARD OF REVIEW.—

(1) IN GENERAL.—On the filing of a petition under subsection (a) or (b), the court of jurisdiction shall review the regulation or other final action or order that is the subject of the petition in accordance with chapter 7 of title 5, United States Code.

(2) BASIS.—

(A) IN GENERAL.—Judicial review of a regulation, or of a final agency action or order described in paragraph (1) that is based on an administrative hearing held on the record, shall be based on the record of the proceedings, comments, and other information that the Secretary considered in promulgating the regulation, taking the action, or issuing the order being reviewed.

(B) OTHER ACTIONS AND ORDERS.—Judicial review of a final agency action or order described in paragraph (1) that is not described in subparagraph (A) shall be based on any submissions to the Secretary relating to the action or order, and any other information, that the Secretary considered in taking the action or issuing the order.

SEC. 10. NO EFFECT ON REQUIREMENTS UNDER OTHER LAW.

(a) IN GENERAL.—Except as provided in section 03(i), nothing in this title affects any duty or other requirement imposed under any other Federal or State law.

(b) OTHER FEDERAL LAW.—

(1) IN GENERAL.—Notwithstanding subsection (a), a chemical source that is required to prepare a facility vulnerability assessment and implement a facility security plan under any another Federal law may petition the Secretary to be subject to the other Federal law in lieu of this title.

(2) DETERMINATION OF SUBSTANTIAL EQUIVALENCE.—If the Secretary determines that a Federal law covered by a petition submitted by a chemical source under paragraph (1) is substantially equivalent to this title—

(A) the Secretary may grant the petition; and

(B) the chemical source shall be subject to the other Federal law in lieu of this title.

SEC. ___11. AGRICULTURAL BUSINESS SECURITY GRANT PROGRAM.

(a) DEFINITION OF ELIGIBLE ENTITY.—In this section, the term "eligible entity" means a retail or production agricultural business (including a business that is engaged in the production or processing of seafood) that employs not more than such number of individuals at a chemical source included in the list described in section 03(f)(1) as shall be determined by the Secretary, in consultation with the Administrator of the Small Business Administration and the Secretary of Agriculture.

(b) GRANTS.—The Secretary shall provide grants to an eligible entity that is a chemical source included in the list described in section 03(f)(1) selected under this section to enable the eligible entity at the chemical source—

(1) to improve security measures; and

(2) to protect against or reduce the consequence of a terrorist attack.

(c) CRITERIA.—In establishing criteria for the selection of, or in otherwise selecting, eligible entities to receive a grant under this section, the Secretary shall—

(1) consider on an individual, location-by-location basis, each applicant for a grant; and

(2) require each eligible entity that receives a grant to use funds from the grant only for the purposes described in subsection (b) in accordance with guidance of the Secretary.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this section.

SA 3947. Mr. DOMENICI (for himself and Mr. BINGAMAN) submitted an amendment intended to be proposed by him to the bill S. 1876, to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project; which was ordered to lie on the table; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Provo River Project Transfer Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term "Agreement" means the contract numbered 04–WC–40–8950 and entitled "Agreement Among the United States, the Provo River Water Users Association, and the Metropolitan Water District of Salt Lake & Sandy to Transfer Title to Certain Lands and Facilities of the Provo River Project" and shall include maps of the land and features to be conveyed under the Agreement.

(2) ASSOCIATION.—The term "Association" means the Provo River Water Users Association, a nonprofit corporation organized under the laws of the State.

(3) DISTRICT.—The term "District" means the Metropolitan Water District of Salt Lake & Sandy, a political subdivision of the State.

(4) PLEASANT GROVE PROPERTY.—

(A) IN GENERAL.—The term "Pleasant Grove Property" means the 3.79-acre parcel of land acquired by the United States for the Provo River Project, Deer Creek Division, located at approximately 285 West 1100 North, Pleasant Grove, Utah, as in existence on the date of enactment of this Act.

(B) INCLUSIONS.—The term "Pleasant Grove Property" includes the office building and shop complex constructed by the Association on the parcel of land described in subparagraph (A).

(5) PROVO RESERVOIR CANAL.—The term "Provo Reservoir Canal" means the canal, and any associated land, rights-of-way, and facilities acquired, constructed, or improved by the United States as part of the Provo River Project, Deer Creek Division, extending from, and including, the Murdock Diversion Dam at the mouth of Provo Canyon, Utah, to and including the Provo Reservoir Canal Siphon and Penstock, as in existence on the date of enactment of this Act.

(6) SALT LAKE AQUEDUCT.—The term "Salt Lake Aqueduct" means the aqueduct and associated land, rights-of-way, and facilities acquired, constructed, or improved by the United States as part of the Provo River Project, Aqueduct Division, extending from, and including, the Salt Lake Aqueduct Intake at the base of Deer Creek Dam to and including the Terminal Reservoirs located at 3300 South St. and Interstate Route 215 in Salt Lake City, Utah, as in existence on the date of enactment of this Act.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior or a designee of the Secretary.

(8) STATE.—The term "State" means the State of Utah.

SEC. 3. CONVEYANCE OF LAND AND FACILITIES.

(a) CONVEYANCES TO ASSOCIATION.—

(1) PROVO RESERVOIR CANAL.—

(A) IN GENERAL.—In accordance with the terms and conditions of the Agreement and subject to subparagraph (B), the Secretary shall convey to the Association, all right, title, and interest of the United States in and to the Provo Reservoir Canal.

(B) CONDITION.—The conveyance under subparagraph (A) shall not be completed until the Secretary executes the Agreement and accepts future arrangements entered into by the Association, the District, the Central Utah Water Conservancy District, and the Jordan Valley Water Conservancy District providing for the operation, ownership, financing, and improvement of the Provo Reservoir Canal.

(2) PLEASANT GROVE PROPERTY.—In accordance with the terms and conditions of the Agreement, the Secretary shall convey to the Association, all right, title, and interest of the United States in and to the Pleasant Grove Property.

(b) CONVEYANCE TO DISTRICT.—

(1) IN GENERAL.—In accordance with the terms and conditions of the Agreement and subject to the execution of the Agreement by the Secretary, the Secretary shall convey to the District, all right, title, and interest of the United States in and to the Salt Lake Aqueduct.

(2) EASEMENTS.—

(A) IN GENERAL.—As part of the conveyance under paragraph (1), the Secretary shall grant to the District permanent easements to—

(i) the National Forest System land on which the Salt Lake Aqueduct is located; and

(ii) land of the Aqueduct Division of the Provo River Project that intersects the parcel of non-Federal land authorized to be conveyed to the United States under section 104(a) of Public Law 107-329 (116 Stat. 2816).

(B) PURPOSE.—The easements conveyed under subparagraph (A) shall be for the use, operation, maintenance, repair, improvement, or replacement of the Salt Lake Aqueduct by the District.

(C) LIMITATION.—The United States shall not carry out any activity on the land subject to the easements conveyed under subparagraph (A) that would materially interfere with the use, operation, maintenance, repair, improvement, or replacement of the Salt Lake Aqueduct by the District.

(D) BOUNDARIES.—The boundaries of the easements conveyed under subparagraph (A) shall be determined by the Secretary, in consultation with the District and the Secretary of Agriculture.

(E) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(i) IN GENERAL.—On conveyance of the easement to the land described in subparagraph (A)(ii), the Secretary, subject to the easement, shall transfer to the Secretary of Agriculture administrative jurisdiction over the land.

(ii) ADMINISTRATIVE SITE.—The land transferred under clause (i) shall be administered by the Secretary of Agriculture as an administrative site.

(F) ADMINISTRATION.—The easements conveyed under subparagraph (A) shall be administered by the Secretary of Agriculture in accordance with section 501(b)(3) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761(b)(3)).

(c) CONSIDERATION.—

(1) ASSOCIATION.—

(A) IN GENERAL.—In exchange for the conveyance under subsection (a)(1), the Association shall pay the Secretary an amount that is equal to the sum of—

(i) the net present value of any remaining debt obligation of the United States with respect to the Provo Reservoir Canal; and

(ii) the net present value of any revenues from the Provo Reservoir Canal that, based on past history—

(I) would be available to the United States but for the conveyance of the Provo Reservoir Canal under subsection (a)(1); and

(II) would be deposited in the reclamation fund established under the first section of the Act of June 17, 1902 (43 U.S.C. 391), and credited under the terms of Reclamation Manual/Directives and Standards PEC 03-01.

(B) DEDUCTION.—In determining the net present values under clauses (i) and (ii) of subparagraph (A), the Association may deduct from the net present value such sums as are required for the reimbursement described in the Agreement.

(2) DISTRICT.—

(A) IN GENERAL.—In exchange for the conveyance under subsection (b)(1), the District shall pay the Secretary an amount that is equal to the sum of—

(i) the net present value of any remaining debt obligation of the United States with respect to the Salt Lake Aqueduct; and

(ii) the net present value of any revenues from the Salt Lake Aqueduct that, based on past history—

(I) would have been available to the United States but for the conveyance of the Salt Lake Aqueduct under subsection (b)(1); and

(II) would be deposited in the reclamation fund established under the first section of the Act of June 17, 1902 (43 U.S.C. 391), and credited under the terms of Reclamation Manual/Directives and Standards PEC 03-01.

(B) DEDUCTION.—In determining the net present values under clauses (i) and (ii) of subparagraph (A), the District may deduct from the net present value such sums as are required for the reimbursement described in the Agreement.

(d) PAYMENT OF COSTS.—In addition to amounts paid to the Secretary under subsection (c), the Association and the District shall, in accordance with the Agreement, pay the Secretary—

(1) any necessary and reasonable administrative and real estate transfer costs incurred by the Secretary in carrying out the conveyance; and

(2) ½ of any necessary and reasonable costs associated with complying with—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C)(i) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(ii) any other Federal cultural resource laws.

(e) COMPLIANCE WITH ENVIRONMENTAL LAWS.—

(1) IN GENERAL.—Before conveying land and facilities under subsections (a) and (b), the Secretary shall comply with all applicable requirements under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) any other law applicable to the land and facilities.

(2) EFFECT.—Nothing in this Act modifies or alters any obligations under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 4. EXISTING CONTRACTS.

(a) DEER CREEK DIVISION CONSTRUCTION CONTRACT.—Notwithstanding the conveyances under subsections (a) and (b)(1) of section 3 and subject to the terms of the Agreement, any portion of the Deer Creek Division, Provo River Project, Utah, that is not conveyed under that section shall continue to be operated and maintained by the Association, in accordance with the contract numbered Ilr-874, dated June 27, 1936, and entitled the "Contract Between the United States and Provo River Water Users Association Providing for the Construction of the Deer Creek Division of the Provo River Project, Utah".

(b) PROVO RIVER PROJECT AND JORDAN AQUEDUCT SYSTEM CONTRACTS.—Subject to the terms of the Agreement, any written contract of the United States in existence on the date of enactment of this Act relating to the operation and maintenance of any division or facility of the Provo River Project or the Jordan Aqueduct System is confirmed and declared to be a valid contract of the United States that is enforceable in accordance with the express terms of the contract.

(c) USE OF CENTRAL UTAH PROJECT WATER.—

(1) IN GENERAL.—Subject to paragraph (2), any entity with contractual Provo Reservoir Canal or Salt Lake Aqueduct capacity rights in existence on the date of enactment of this Act may, in addition to the uses described in the existing contracts, use the capacity rights, without additional charge or further approval from the Secretary, to transport Central Utah Project water on behalf of the entity or others.

(2) LIMITATIONS.—An entity shall not use the capacity rights to transport Central Utah Project water under paragraph (1) unless—

(A) the transport of the water is expressly authorized by the Central Utah Water Conservancy District;

(B) the use of the water facility to transport Central Utah Project water is expressly authorized by the entity responsible for operation and maintenance of the facility; and

(C) carrying Central Utah Project water through Provo River Project facilities would not—

(i) materially impair the ability of the Central Utah Water Conservancy District or the Secretary to meet existing express environmental commitments for the Bonneville Unit; or

(ii) require the release of additional Central Utah Project water to meet those environmental commitments.

(d) AUTHORIZED MODIFICATIONS.—The Agreement may provide for—

(1) the modification of the 1936 Repayment Contract for the Deer Creek Division of the Provo River Project to reflect the partial prepayment, the adjustment of the annual repayment amount, and the transfer of the Provo Reservoir Canal and the Pleasant Grove Property; and

(2) the modification or termination of the 1938 Repayment Contract for the Aqueduct Division of the Provo River Project to reflect the complete payout and transfer of all facilities of the Aqueduct Division.

(e) EFFECT OF ACT.—Nothing in this Act impairs any contract (including subscription contracts) in effect on the date of enactment of this Act that allows for or creates a right to convey water through the Provo Reservoir Canal.

SEC. 5. EFFECT OF CONVEYANCE.

On conveyance of any land or facility under subsection (a) or (b)(1) of section 3—

(1) the land and facilities shall no longer be part of a Federal reclamation project;

(2) the Association and the District shall not be entitled to receive any future reclamation benefits with respect to the land and facilities, except for benefits that would be available to other nonreclamation facilities; and

(3) the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the land and facilities, but shall continue to be liable for damages caused by acts of negligence committed by the United States or by any employee or agent of the United States before the date of conveyance, consistent with chapter 171 of title 28, United States Code.

SEC. 6. REPORT.

If a conveyance required under subsection (a) or (b)(1) of section 3 is not completed by the date that is 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) describes the status of the conveyance;

(2) describes any obstacles to completing the conveyance; and

(3) specifies an anticipated date for completion of the conveyance.

SA 3948. Mr. FRIST (for Mr. SHELBY (for himself and Mr. SARBANES)) proposed an amendment to the bill H.R. 1533, to amend the securities laws to permit church pension plans to be invested in collective trusts; as follows:

On page 2, strike lines 17 through 22 and insert the following:

"(2) by striking 'other than any plan described in clause (A), (B), or (C)' and inserting the following: 'or (D) a church plan, company, or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940, other than any plan described in subparagraph (A), (B), (C), or (D)'.".

SA 3949. Ms. MURKOWSKI submitted an amendment intended to be proposed by her to the bill S. 1466, to facilitate the transfer of land in the State of Alaska, and for other purposes; which was referred to the Committee on Energy and Natural Resources; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Alaska Land Transfer Acceleration Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—STATE SELECTIONS AND CONVEYANCES

Sec. 101. Community grant selections and conveyances.
Sec. 102. Prioritization of land to be conveyed.
Sec. 103. Selection of certain reversionary interests held by the United States.
Sec. 104. Effect of hydroelectric withdrawals.
Sec. 105. Entitlement for the University of Alaska.
Sec. 106. Settlement of remaining entitlement.
Sec. 107. Effect of Federal mining claims.
Sec. 108. Land mistakenly relinquished or omitted.

TITLE II—ALASKA NATIVE CLAIMS SETTLEMENT ACT

Sec. 201. Land available after selection period.
Sec. 202. Combined entitlements.
Sec. 203. Authority to convey by whole section.
Sec. 204. Conveyance of cemetery sites and historical places.
Sec. 205. Allocations based on population.
Sec. 206. Authority to withdraw land.
Sec. 207. Report on withdrawals.
Sec. 208. Automatic segregation of land for underselected Village Corporations.
Sec. 209. Settlement of remaining entitlement.

TITLE III—NATIVE ALLOTMENTS

Sec. 301. Correction of conveyance documents.
Sec. 302. Title recovery of Native allotments.
Sec. 303. Native allotment revisions on land selected by or conveyed to a Native Corporation.
Sec. 304. Compensatory acreage.
Sec. 305. Reinstatements and reconstructions.
Sec. 306. Amendments to section 41 of the Alaska Native Claims Settlement Act.

TITLE IV—FINAL PRIORITIES; CONVEYANCE AND SURVEY PLANS

Sec. 401. Deadline for establishment of regional plans.
Sec. 402. Deadline for establishment of village plans.
Sec. 403. Final prioritization of ANCSA selections.
Sec. 404. Final prioritization of State selections.

TITLE V—ALASKA LAND CLAIMS HEARINGS AND APPEALS

Sec. 501. Alaska land claims hearings and appeals.

TITLE VI—REPORT AND AUTHORIZATION OF APPROPRIATIONS

Sec. 601. Report.
Sec. 602. Authorization of appropriations.

SEC. 2. DEFINITIONS.

In this Act:

(1) NATIVE ALLOTMENT.—The term "Native allotment" means an allotment claimed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) STATE.—The term "State" means the State of Alaska.

TITLE I—STATE SELECTIONS AND CONVEYANCES

SEC. 101. COMMUNITY GRANT SELECTIONS AND CONVEYANCES.

(a) IN GENERAL.—Section 6 of Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340) is amended by adding at the end the following:

"(n) The minimum tract selection size is waived with respect to a selection made by the State of Alaska under subsection (a) for the following selections:

National Forest Community Grant Application Number	Area Name	Est. Acres
209	Yakutat Airport Addition.	111
264	Bear Valley (Portage).	120
284	Hyder-Fish Creek.	61
310	Elfin Cove ...	37
384	Edna Bay Admin Site.	37
390	Point Hilda	29.".

(b) COMMUNITY GRANT SELECTIONS.—Section 6 of Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340) (as amended by subsection (a)) is amended by adding at the end the following:

"(o)(1) The State of Alaska may elect to convert a selection filed under subsection (b) to a selection under subsection (a) by notifying the Secretary of the Interior in writing.

"(2) If the State of Alaska makes an election under paragraph (1), the entire selection shall be converted to a selection under subsection (a).

"(3) The Secretary of the Interior shall not convey a total of more than 400,000 acres of public domain land selected under subsection (a) or converted under paragraph (1) to a public domain selection under subsection (a).

"(4) Conversion of a selection under paragraph (1) shall not increase the survey obligation of the United States with respect to the land converted.

"(p) All selection applications of the State of Alaska that are on file with the Secretary of the Interior under the public domain provisions of subsection (a) on the date of enactment of this subsection and any selection applications that are converted to a subsection (a) selection under subsection (o)(1) are approved as suitable for community or recreational purposes.".

SEC. 102. PRIORITIZATION OF LAND TO BE CONVEYED.

Section 906(h)(2) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(h)(2)) is amended—

(1) by striking "(2) As soon as practicable" and inserting the following:

"(2)(A) As soon as practicable";

(2) by striking "The sequence of" and inserting the following:

"(B)(i) The sequence of"; and

(3) by adding at the end the following:

"(ii) In establishing the priorities for tentative approval under clause (i), the State shall—

"(I) in the case of a selection under section 6(a) of Public Law 85–508 (commonly known as the 'Alaska Statehood Act') (72 Stat. 340), include all land selected; or

"(II) in the case of a selection under section 6(b) of that Act—

"(aa) include at least 5,760 acres; or

"(bb) if a waiver has been granted under section 6(g) of that Act or less than 5,760 acres of the entitlement remains, prioritize the selection in such increments as are available for conveyance.".

SEC. 103. SELECTION OF CERTAIN REVERSIONARY INTERESTS HELD BY THE UNITED STATES.

(a) IN GENERAL.—All reversionary interests held by the United States in land owned by the State or any political subdivision of the State and any Federal land leased by the State under the Act of August 23, 1950 (25 U.S.C. 293b), or the Act of June 4, 1953 (25 U.S.C. 293a), that is prioritized for conveyance by the State under section 906(h)(2) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(h)(2))—

(1) are deemed to be selected; and

(2) may, with the concurrence of the Secretary or the head of the Federal agency with administrative jurisdiction over the land, be conveyed under section 6 of Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340).

(b) EFFECT ON ENTITLEMENT.—If, before the date of enactment of this Act, the entitlement of the State has not been charged with respect to a parcel for which a reversionary interest is conveyed under subsection (a), the total acreage of the parcel shall be charged against the remaining entitlement of the State.

(c) MINIMUM ACREAGE REQUIREMENT NOT APPLICABLE.—The minimum acreage requirement under subsections (a) and (b) of section 6 of Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340) shall not apply to the selection of reversionary interests under subsection (a).

(d) STATE WAIVER.—On conveyance to the State of any reversionary interest selected under subsection (a), the State shall be deemed to have waived all right to any future credit should the reversion not occur.

(e) LIMITATION.—This section shall not apply to—

(1) reversionary interests in land acquired by the United States through the use of amounts from the Exxon Valdez Oil Spill Trust Fund; or

(2) reversionary interests in any land conveyed to the State as a result of the "Terms and Conditions for Land Consolidation and Management in Cook Inlet Area" as ratified by section 12 of Public Law 94–204 (43 U.S.C. 1611 note).

SEC. 104. EFFECT OF HYDROELECTRIC WITHDRAWALS.

(a) LAND WITHDRAWN, RESERVED, OR CLASSIFIED FOR POWER SITE OR POWER PROJECT PURPOSES.—If the State has filed a future selection application under section 906(e) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(e)) for land withdrawn, reserved; or classified for power site or power project purposes, notwithstanding the withdrawal, reservation, or classification for power site or power project purposes, the following parcels of land shall be deemed to be vacant, unappropriated, and unreserved within the meaning of Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 339):

Serial Number	Area Name	General Selection Application Number
AKAA 058747	Bradley Lake.	GS 5141
AKAA 058848	Bradley Lake.	GS 44
AKAA 058266	Eagle River/ Ship Creek/ Peters Creek.	GS 1429
AKAA 058265	Eagle River/ Ship Creek/ Peters Creek.	GS 1209
AKAA 058374	Salmon Creek.	GS 327
AKF 031321	Nenana River.	GS 2182
AKAA 059056	Solomon Gulch at Valdez.	GS 86
AKFF 085798	Kruzgamepa River Pass Creek.	GS 4096.

(b) LIMITATION.—Subsection (a) does not apply to any land that is—

(1) located within the boundaries of a conservation system unit (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)); or

(2) otherwise unavailable for conveyance under Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 339).

(c) REQUIREMENT APPLICABLE TO NATIONAL FOREST SYSTEM LAND.—Any land described in subsection (a) that is in a unit of the National Forest System shall not be conveyed unless the Secretary of Agriculture approved the State selection before January 3, 1994.

(d) REQUIREMENTS APPLICABLE TO HYDROELECTRIC APPLICATIONS AND LICENSED PROJECTS.—

(1) HYDROELECTRIC APPLICATIONS.—Any selection of land described in subsection (a) that is included in a hydroelectric application—

(A) shall be subject to the jurisdiction of the Federal Energy Regulatory Commission; and

(B) shall not be conveyed while the hydroelectric application is pending.

(2) LICENSED PROJECT.—Any selection of land described in subsection (a) that is included in a licensed project shall be subject to—

(A) the jurisdiction of the Federal Energy Regulatory Commission;

(B) the rights of third parties; and

(C) the right of reentry under section 24 of the Federal Power Act (16 U.S.C. 818).

(e) EFFECT OF SECTION.—Nothing in this section negates or diminishes any right of an applicant to petition for restoration and opening of land withdrawn or classified for power purposes under section 24 of the Federal Power Act (16 U.S.C. 818).

SEC. 105. ENTITLEMENT FOR THE UNIVERSITY OF ALASKA.

(a) IN GENERAL.—As of January 1, 2003, the remaining State entitlement for the benefit of the University of Alaska under the Act of January 21, 1929 (45 Stat. 1091, chapter 92), is 456 acres.

(b) REVERSIONARY INTERESTS.—The Act of January 21, 1929 (45 Stat. 1091, chapter 92), is amended by adding at the end the following:

"SEC. 3. (a) The State of Alaska (referred to in this Act as the 'State'), acting on behalf of, and with the approval of, the University of Alaska, may select—

"(1) any mineral interest (including an interest in oil or gas) in land located in the State, the unreserved portion of which is owned by the University of Alaska; or

"(2) any reversionary interest held by the United States in land located in the State, the unreserved portion of which is owned by the University of Alaska.

"(b) The total acreage of any parcel of land for which a partial interest is conveyed under subsection (a) shall be charged against the remaining entitlement of the State under this Act.

"(c) In taking title to a reversionary interest, the State, with the approval of the University of Alaska, waives all right to any future acreage credit if the reversion does not occur.

"SEC. 4. The Secretary may survey any vacant, unappropriated, and unreserved land in the State for purposes of allowing selections under this Act.

"SEC. 5. The authorized outstanding selections under this Act shall be not more than—

"(1) 125 percent of the remaining entitlement; plus

"(2) the number of acres of land that are in conflict with land owned by the University of Alaska, as identified in Native allotment applications on record with the Bureau of Land Management.".

SEC. 106. SETTLEMENT OF REMAINING ENTITLEMENT.

(a) IN GENERAL.—The Secretary may enter into a binding written agreement with the State with respect to—

(1) the exact number and location of acres of land remaining to be conveyed under each entitlement established or confirmed by Public Law 85–508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340), from—

(A) the land selected by the State as of January 3, 1994; and

(B) selections under the Act of January 21, 1929 (45 Stat. 1091, chapter 92);

(2) the priority in which the land is to be conveyed;

(3) the relinquishment of selections which are not to be conveyed; and

(4) the survey of the exterior boundaries of the land to be conveyed.

(b) CONSULTATION.—Before entering into an agreement under subsection (a), the Secretary shall ensure that any concerns or issues identified by any Federal agency potentially affected are given consideration.

(c) ERRORS.—The State, by entering into an agreement under subsection (a), shall receive any gain or bear any loss that results from errors in prior surveys, protraction diagrams, or the computation of the ownership of third parties on any land conveyed under an agreement entered into under subsection (a).

(d) AVAILABILITY OF AGREEMENTS.—Agreements entered into under subsection (a) shall be available for public inspection in the appropriate offices of the Department of the Interior.

(e) EFFECT.—Nothing in this section increases the entitlement provided to the State under Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340), or the Act of January 21, 1929 (45 Stat. 1091, chapter 92).

SEC. 107. EFFECT OF FEDERAL MINING CLAIMS.

(a) CONDITIONAL RELINQUISHMENTS.—

(1) IN GENERAL.—To facilitate the conversion of Federal mining claims to State mining claims, a Federal mining claimant may file with the Secretary a voluntary relinquishment of the Federal mining claim conditioned on conveyance of the land to the State.

(2) CONVEYANCE OF RELINQUISHED CLAIM.—The Secretary may convey the land described in the relinquished Federal mining claim to the State.

(3) OBLIGATIONS UNDER FEDERAL LAW.—Until the date on which the land is conveyed under paragraph (2), a Federal mining claimant shall be subject to any obligations relating to the land under Federal law.

(4) NO RELINQUISHMENT.—If the land previously encumbered by the relinquished Federal mining claim is not conveyed to the State under paragraph (2), the relinquishment of land under paragraph (1) shall be of no effect.

(b) RIGHTS-OF-WAY; OTHER INTEREST.—On conveyance to the State of a relinquished Federal mining claim under this section, the State shall assume authority over any leases, licenses, permits, rights-of-way, operating plans, other land use authorizations, or reclamation obligations applicable to the relinquished Federal mining claim on the date of conveyance.

SEC. 108. LAND MISTAKENLY RELINQUISHED OR OMITTED.

Notwithstanding the selection deadlines under section 6(a) of Public Law 85-508 (commonly known as the "Alaska Statehood Act") (72 Stat. 340)—

(1) the State selection application AA-17607 NFCG 75, located in the Chugach National Forest, is reinstated to the parcels of land originally selected in 1978, which are more particularly described as—

(A) S½ sec. 14, T. 11 S., R. 11 W., of the Copper River Meridian;

(B) S½ sec. 15, T. 11 S., R. 11 W., of the Copper River Meridian;

(C) E½SE¼ sec. 16, T. 11 S., R. 11 W., of the Copper River Meridian;

(D) E½, E½W½, SW¼SW¼ sec. 21, T. 11 S., R. 11 W., of the Copper River Meridian;

(E) N½, SW¼, N½SE¼ sec. 22, T. 11 S., R. 11 W., of the Copper River Meridian;

(F) N½, SW¼, N½SE¼ sec. 23, T. 11 S., R. 11 W., of the Copper River Meridian;

(G) NW¼ sec. 27, T. 11 S., R. 11 W., of the Copper River Meridian; and

(H) N½N½, SE¼NE¼ sec. 28, T. 11 S., R. 11 W., of the Copper River Meridian; and

(2) the following parcels of land are considered topfiled under section 906(e) of the Alaska National Interest Lands Conservation Act (16 U.S.C. 1635(e)):

(A) The parcels of land omitted from the State's topfiling of the Utility and Transportation Corridor, and other parcels of land encompassing the Trans-Alaskan Pipeline System, withdrawn by Public Land Order No. 5150 (except for any land within the boundaries of a conservation system unit), which are more particularly described as—

(i) secs. 1-30, 32-36, T. 27 N., R. 11 W., of the Fairbanks Meridian;

(ii) secs. 10, 13–18, 21-28, and 33-36, T. 20 N., R. 13 W., of the Fairbanks Meridian;

(iii) secs. 13, 14, and 15, T. 20 N., R. 14 W., of the Fairbanks Meridian;

(iv) secs. 1-5, 8-17, and 20-28, T. 19 N., R. 13 W., of the Fairbanks Meridian;

(v) secs. 29-32, T. 20 N., R. 16 W., of the Fairbanks Meridian;

(vi) secs. 5–11, 14–23, and 25–36, T. 19 N., R. 16 W., of the Fairbanks Meridian;

(vii) secs. 30 and 31, T. 19 N., R. 15 W., of the Fairbanks Meridian;

(viii) secs. 5 and 6, T. 18 N., R. 15 W., of the Fairbanks Meridian;

(ix) secs. 1–2 and 7–34, T. 16 N., R. 14 W., of the Fairbanks Meridian; and

(x) secs. 4-9, T. 15 N., R. 14 W., of the Fairbanks Meridian.

(B) Secs. 1, 2, 11-14, T. 10 S., R. 42 W., of the Seward Meridian.

TITLE II—ALASKA NATIVE CLAIMS SETTLEMENT ACT

SEC. 201. LAND AVAILABLE AFTER SELECTION PERIOD.

(a) IN GENERAL.—To make certain Federal land available for conveyance to a Native Corporation that has sufficient remaining entitlement, the Secretary may waive the filing deadlines under sections 12 and 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611, 1615) if—

(1) the Federal land is—

(A) located in a township in which all or any part of a Native Village is located; or

(B) surrounded by—

(i) land that is owned by the Native Corporation; or

(ii) selected land that will be conveyed to the Native Corporation;

(2) the Federal land—

(A) became available after the end of the original selection period;

(B)(i) was not selected by the Native Corporation because the Federal land was subject to a competing claim or entry; and

(ii) the competing claim or entry has lapsed; or

(C) was previously an unavailable Federal enclave within a Native selection withdrawal area;

(3)(A) the Secretary provides the Native Corporation with a specific time period in which to decline the Federal land; and

(B) the Native Corporation does not submit to the Secretary written notice declining the land within the period established under subparagraph (A); and

(4) the State has voluntarily relinquished any valid State selection or top-filing for the Federal land.

(b) CONGRESSIONAL ACTION.—Subsection (a) shall not apply to a parcel of Federal land if Congress has specifically made other provisions for disposition of the parcel of Federal land.

SEC. 202. COMBINED ENTITLEMENTS.

Section 12 of the Alaska Native Claims Settlement Act (43 U.S.C. 1611) is amended—

(1) in the second sentence of subsection (b), by striking "Regional Corporation shall" and inserting "Regional Corporation shall, not later than October 1, 2005,"; and

(2) by adding at the end the following:

"(f)(1) The entitlements received by any Village Corporation under subsection (a) and the reallocations made to the Village Corporation under subsection (b) may be combined, at the discretion of the Secretary, without—

"(A) increasing or decreasing the combined entitlement; or

"(B) increasing the limitation on selections of Wildlife Refuge System land, National Forest System land, or State-selected land under subsection (a).

"(2) The combined entitlement under paragraph (1) may be fulfilled from selections under subsection (a) or (b) without regard to the entitlement specified in the selection application.

"(3) All selections under a combined entitlement under paragraph (1) shall be adjudicated and conveyed in compliance with this Act.

"(4) Except in a case in which a survey has been contracted for before the date of enactment of this subsection, the combination of entitlements under paragraph (1) shall not require separate patents or surveys, to distinguish between conveyances made to a Village Corporation under subsections (a) and (b).".

SEC. 203. AUTHORITY TO CONVEY BY WHOLE SECTION.

Section 14(d) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(d)) is amended—

(1) by striking "(d) the Secretary" and inserting the following:

"(d)(1) The Secretary"; and

(2) by adding at the end the following:

"(2) For purposes of applying the rule of approximation under this section, the largest legal subdivision that may be conveyed in excess of the applicable acreage limitation specified in subsection (a) shall be—

"(A) in the case of land managed by the Bureau of Land Management that is not within a conservation system unit, the next whole section;

"(B) in the case of land managed by an agency other than the Bureau of Land Management that is not within a conservation system unit, the next quarter-section and only with concurrence of the agency; or

"(C) in the case of land within a conservation system unit, a quarter of a quarter section, and if the land is managed by an agency other than the Bureau of Land Management, only with the concurrence of that agency.

"(3)(A) If the Secretary determines pursuant to paragraph (2) that an entitlement of a Village Corporation (other than a Village Corporation listed in section 16(a)) or a Regional Corporation may be fulfilled by conveying a specific tract of surveyed or unsurveyed land, the Secretary and the affected Village or Regional Corporation may enter into an agreement providing that all land entitlements under this Act shall be deemed satisfied by conveyance of the specifically identified and agreed upon tract of land.

"(B) An agreement entered into under subparagraph (A) shall be—

"(i) in writing;

"(ii) executed by the Secretary and the Village or Regional Corporation; and

"(iii) authorized by a corporate resolution adopted by the affected Village or Regional Corporation.

"(C) After execution of an agreement under subparagraph (A) and conveyance of the agreed upon tract to the affected Village or Regional Corporation—

"(i) the Secretary shall not make any further adjustments to calculations relating to acreage entitlements of the Village or Regional Corporation; and

"(ii) the Village or Regional Corporation shall not be entitled to any further conveyances under this Act.

"(D) A Village or Regional Corporation shall not be eligible to receive land under subparagraph (A) if the Village or Regional Corporation has received the full land entitlement of the Village or Regional Corporation through—

"(i) an actual conveyance of land; or

"(ii) a previous agreement.

"(E) If the calculations of the Secretary indicate that the final survey boundaries for any Village or Regional Corporation entitlement for which an agreement has not been entered into under this paragraph include acreage in a quantity that exceeds the statutory entitlement of the corporation by 1/10 of 1 percent or less, but not more than the applicable acreage limitation specified in paragraph (2)—

"(i) the entitlement shall be considered satisfied by the conveyance of the surveyed area; and

"(ii) the Secretary shall not change the survey for the sole purpose of an acreage adjustment.

"(F) This paragraph does not limit or otherwise affect the ability of a Village or Regional Corporation to enter into land exchanges with the United States.".

SEC. 204. CONVEYANCE OF CEMETERY SITES AND HISTORICAL PLACES.

Section 14(h)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(1)) is amended—

(1) by striking "(1) The Secretary" and inserting the following:

"(1)(A) The Secretary";

(2) by striking "Only title" and inserting the following:

"(B) Only title"; and

(3) by adding at the end the following:

"(C)(i) Notwithstanding acreage allocations made before the date of enactment of this subparagraph, the Secretary may convey any cemetery site or historical place—

"(I) with respect to which there is an application on record with the Secretary on the date of enactment of this paragraph; and

"(II) that is eligible for conveyance.

"(ii) Clause (i) shall also apply to any of the 188 closed applications that are determined to be eligible and reinstated under Secretarial Order No. 3220 dated January 5, 2001.

"(D) No applications submitted for the conveyance of land under subparagraph (A) that were closed before the date of enactment of this paragraph may be reinstated other than those specified in subparagraph (C)(ii).

"(E) After the date of enactment of this paragraph—

"(i) no application may be filed for the conveyance of land under subparagraph (A); and

"(ii) no pending application may be amended, except as necessary to conform the application to the description in the certification of eligibility of the Bureau of Indian Affairs.

"(F) Unless, not later than 1 year after the date of enactment of this paragraph, a Regional Corporation that has filed an application for a historic place submits to the Secretary a statement on the significance of and the location of the historic place—

"(i) the application shall not be valid; and "(ii) the Secretary shall reject the application.

"(G) The State and the head of the Federal agency with administrative jurisdiction over the land shall have 30 days to provide written comments to the Secretary—

"(i) identifying any third party interest to which a conveyance under subparagraph (A) should be made subject; and

"(ii) describing any easements recommended for reservation.".

SEC. 205. ALLOCATIONS BASED ON POPULATION.

Section 14(h)(8) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(8)) is amended by adding at the end the following:

"(C)(i) Notwithstanding any other provision of this subsection, as soon as practicable after enactment of this subparagraph, the Secretary shall allocate to a Regional Corporation eligible for an allocation under subparagraph (A) the Regional Corporation's share of 200,000 acres from lands withdrawn under this subsection, to be credited against acreage to be allocated to the Regional Corporation under subparagraph (A).

"(ii) Clause (i) shall apply to Chugach Alaska Corporation pursuant to the terms of the 1982 CNI Settlement Agreement.

"(iii) With respect to Cook Inlet Region, Inc., or Koniag, Inc.—

"(I) clause (i) shall not apply; and

"(II) the portion of the 200,000 acres allocated to Cook Inlet Region Inc. or Koniag, Inc., shall be retained by the United States.

"(iv) This subparagraph shall not affect any prior agreement entered into by a Regional Corporation other than the agreements specifically referred to in this subparagraph.".

SEC. 206. AUTHORITY TO WITHDRAW LAND.

Section 14(h)(10) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(h)(10)) is amended—

(1) by striking "(10) Notwithstanding" and inserting the following:

"(10)(A) Notwithstanding"; and

(2) by adding at the end the following:

"(B) If a Regional Corporation does not have enough valid selections on file to fulfill the remaining entitlement of the Regional Corporation under paragraph (8), the Secretary may use the withdrawal authority under subparagraph (A) to withdraw land that is vacant, unappropriated, and unreserved on the date of enactment of this subparagraph for selection by, and conveyance to, the Regional Corporation to fulfill the entitlement.".

SEC. 207. REPORT ON WITHDRAWALS.

Not later than 18 months after the date of enactment of this Act, the Secretary shall—

(1) review the withdrawals made pursuant to section 17(d)(1) of the Alaska Native Claims Settlement Act (43 U.S.C. 1616(d)(1)) to determine if any portion of the lands withdrawn pursuant to that provision can be opened to appropriation under the public land laws or if their withdrawal is still needed to protect the public interest in those lands;

(2) provide an opportunity for public notice and comment, including recommendations with regard to lands to be reviewed under paragraph (1); and

(3) submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report that identifies any portion of the lands so withdrawn that can be opened to appropriation under the public land laws consistent with the protection of the public interest in these lands.

SEC. 208. AUTOMATIC SEGREGATION OF LAND FOR UNDERSELECTED VILLAGE CORPORATIONS.

Section 22(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)) is amended by adding at the end the following:

"(3) In lieu of withdrawal under paragraph (2), land may be segregated from all other forms of appropriation for the purposes described in that paragraph if—

"(A) the Secretary and the Village Corporation enter into an agreement identifying the land for selection; and

"(B) the Village Corporation files an application for selection of the land.".

SEC. 209. SETTLEMENT OF REMAINING ENTITLEMENT.

(a) IN GENERAL.—The Secretary may enter into a written agreement with a Native Corporation relating to—

(1) the land remaining to be conveyed to the Native Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) from land selected as of September 1, 2004, or land made available under section 201, 206, or 208 of this Act;

(2) the priority in which the land is to be conveyed;

(3) the relinquishment of selections which are not to be conveyed;

(4) the selection entitlement to which selections are to be charged, regardless of the entitlement under which originally selected;

(5) the survey of the exterior boundaries of the land to be conveyed;

(6) the additional survey to be performed under section 14(c) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(c)); and

(7) the resolution of conflicts with Native allotment applications.

(b) REQUIREMENTS.—An agreement under subsection (a)—

(1) shall be authorized by a resolution of the Native Corporation entering into the agreement; and

(2) shall include a statement that the entitlement of the Native Corporation shall be considered complete on execution of the agreement.

(c) CORRECTION OF CONVEYANCE DOCUMENTS.—In an agreement under subsection (a), the Secretary and the Native Corporation may agree to make technical corrections to the legal description in the conveyance documents for easements previously reserved so that the easements provide the access intended by the original reservation.

(d) CONSULTATION.—Before entering into an agreement under subsection (a), the Secretary shall ensure that the concerns or issues identified by the State and all Federal agencies potentially affected by the agreement are given consideration.

(e) ERRORS.—Any Native Corporation entering into an agreement under subsection (a) shall receive any gain or bear any loss resulting from errors in prior surveys, protraction diagrams, or computation of the ownership of third parties on any land conveyed.

(f) EFFECT.—

(1) IN GENERAL.—An agreement under subsection (a) shall not—

(A) affect the obligations of Native Corporations under prior agreements; or

(B) result in a Native Corporation relinquishing valid selections of land in order to qualify for the withdrawal of other tracts of land.

(2) EFFECT ON SUBSURFACE RIGHTS.—The terms of an agreement entered into under subsection (a) shall be binding on a Regional Corporation with respect to the location and quantity of subsurface rights of the Regional Corporation under section 14(f) of the Alaska Native Claims Settlement Act (43 U.S.C. 1613(f)).

(3) EFFECT ON ENTITLEMENT.—Nothing in this section increases the entitlement provided to any Native Corporation under—

(A) the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); or

(B) the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101 et seq.).

(g) BOUNDARIES OF A NATIVE VILLAGE.—An agreement entered into under subsection (a) may not define the boundaries of a Native Village.

(h) AVAILABILITY OF AGREEMENTS.—An agreement entered into under subsection (a) shall be available for public inspection in the appropriate offices of the Department of the Interior.

TITLE III—NATIVE ALLOTMENTS

SEC. 301. CORRECTION OF CONVEYANCE DOCUMENTS.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) is amended by adding at the end the following:

"(d)(1) If an allotment application is valid or would have been approved under section 905 of the Alaska National Interests Lands Conservation Act (43 U.S.C. 1634) had the land described in the application been in Federal ownership on December 2, 1980, the Secretary may correct a conveyance to a Native Corporation or to the State that includes land described in the allotment application to exclude the described allotment land with the written concurrence of the Native Corporation or the State.

"(2) A written concurrence shall—

"(A) include a finding that the land description proposed by the Secretary is acceptable; and

"(B) attest that the Native Corporation or the State has not—

"(i) granted any third party rights or taken any other action that would affect the ability of the United States to convey full title under the Act of May 17, 1906 (34 Stat. 197, chapter 2469); and:

"(ii) stored or allowed the deposit of hazardous waste on the land.

"(3) On receipt of an acceptable written concurrence, the Secretary, shall—

"(A) issue a corrected conveyance document to the State or Native Corporation, as appropriate; and

"(B) issue a certificate of allotment to the allotment applicant.

"(4) No documents of reconveyance from the State or an Alaska Native Corporation or evidence of title, other than the written concurrence and attestation described in paragraph (2), are necessary to use the procedures authorized by this subsection.".

SEC. 302. TITLE RECOVERY OF NATIVE ALLOTMENTS.

(a) IN GENERAL.—In lieu of the process for the correction of conveyance documents available under subsection (d) of section 18 of the Alaska Native Claims Settlement Act (as added by section 301), any Native Corporation may elect to reconvey all of the land encompassed by an allotment claim or a portion of the allotment claim agreeable to the applicant in satisfaction of the entire claim by tendering a valid and appropriate deed to the United States.

(b) CERTIFICATE OF ALLOTMENT.—If the United States determines that the allotment is valid or would have been approved under section 905 of the Alaska National Interests Lands Conservation Act (42 U.S.C. 1634) had the land described in the allotment application been in Federal ownership on December 2, 1980, and obtains title evidence acceptable under the Department of Justice title standards, the United States shall accept the deed from the Native Corporation and issue a certificate of allotment to the allotment applicant.

(c) PROBATE NOT REQUIRED.—If the Native Corporation reconveys the entire interest of the Native Corporation in the allotment claim of a deceased applicant, the United States may accept the deed and issue the certificate of allotment without waiting for a determination of heirs or the approval of a will.

(d) NO LIABILITY.—The United States shall not be subject to liability under Federal or State law for the presence of any hazardous substance in land or an interest in land solely as a result of any reconveyance to, and transfer by, the United States of land or interests in land under this section.

SEC. 303. NATIVE ALLOTMENT REVISIONS ON LAND SELECTED BY OR CONVEYED TO A NATIVE CORPORATION.

Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) (as amended by section 301) is amended by adding at the end the following:

"(e)(1) An allotment applicant who had an application pending before the Department of the Interior on December 18, 1971, and whose application is still open on the records of the Department of the Interior as of the date of enactment of this subsection may revise the land description in the application to describe land other than the land that the applicant originally intended to claim if—

"(A) the application—

"(i) describes land selected by or conveyed by interim conveyance or patent to a Native Corporation formed to receive benefits under this Act; or

"(ii) otherwise conflicts with an interest in land granted to a Native Corporation by the United States;

"(B) the revised land description describes land selected by or conveyed by interim conveyance or patent to a Native Corporation of approximately equal acreage in substitution for the land described in the original application;

"(C) the Director of the Bureau of Land Management has not adopted a final plan of survey for the final entitlement of the Native Corporation or its successor in interest; and

"(D) the Native Corporation that selected the land or its successor in interest provides a corporate resolution authorizing reconveyance or relinquishment to the United States of the land, or interest in land, described in the revised application.

"(2) The land description in an allotment application may not be relocated under this section unless the Secretary has determined—

"(A) that the allotment application is valid or would have been approved under section 905 of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1634) had the land in the allotment application been in Federal ownership on December 2, 1980;

"(B) in consultation with the administering agency, that the proposed revision would not create an isolated inholding within a conservation system unit (as defined in section 102 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3102)); and

"(C) that the proposed revision will facilitate completion of a land transfer in the State.

"(3)(A) On obtaining title evidence acceptable under Department of Justice title standards and acceptance of a reconveyance or relinquishment from a Native Corporation under paragraph (1), the Secretary shall issue a Native allotment certificate to the applicant for the land reconveyed or relinquished by the Native Corporation.

"(B) Any allotment revised under this section shall, when allotted, be made subject to any easement, trail, right-of-way, or any third-party interest (other than a fee interest) in existence on the revised allotment land on the date of revision.".

SEC. 304. COMPENSATORY ACREAGE.

(a) IN GENERAL.—The Secretary shall adjust the acreage entitlement computation records for the State or an affected Native Corporation to account for any difference in the amount of acreage between the corrected description and the previous description in any conveyance document as a result of actions taken under section 18(d) of the Alaska Native Claims Settlement Act (as added by section 301) or section 18(e) of the Alaska Native Claims Settlement Act (as added by section 303), or for other voluntary reconveyances to the United States for the purpose of facilitating land transfers in the State.

(b) LIMITATION.—No adjustment to the acreage conveyance computations shall be made where the State or an affected Native Corporation retains a partial estate in the described allotment land.

(c) AVAILABILITY OF ADDITIONAL LAND.—If, as a result of implementation under section 18(d) of the Alaska Native Claims Settlement Act (as added by section 301) or any voluntary reconveyance to facilitate a land transfer, a Village Corporation has insufficient remaining selections from which to receive its full entitlement under the Alaska Native Claims Settlement Act, the Secretary may use the authority and procedures available under paragraph (3) of section 22(j) of the Alaska Native Claims Settlement Act (43 U.S.C. 1621(j)) (as added by section 208) to make additional land available for selection by the Village Corporation.

SEC. 305. REINSTATEMENTS AND RECONSTRUCTIONS.

(a) IN GENERAL.—Section 18 of the Alaska Native Claims Settlement Act (43 U.S.C. 1617) (as amended by section 303) is amended by adding at the end the following:

"(f)(1) If an applicant for a Native allotment filed under the Act of May 17, 1906 (34 Stat. 197, chapter 2469) petitions the Secretary to reinstate a previously closed Native allotment application or to accept a reconstructed copy of an application claimed to have been timely filed with an agency of the Department of the Interior, the United States—

"(A) may seek voluntary reconveyance of any land described in the application that is reinstated or reconstructed after the date of enactment of this subsection; but

"(B) shall not file an action in any court to recover title from a current landowner.

"(2) A certificate of allotment that is issued for any allotment application for which a request for reinstatement or reconstruction is received or accepted after the date of enactment of this subsection shall be made subject to any Federal appropriation, trail, right-of-way, easement, or existing third party interest of record, including third party interests created by the State, without regard to the date on which the Native allotment applicant initiated use and occupancy.".

SEC. 306. AMENDMENTS TO SECTION 41 OF THE ALASKA NATIVE CLAIMS SETTLEMENT ACT.

Section 41(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629g(b)) is amended—

(1) in paragraph (1)(A), by inserting before the semicolon at the end the following: "(except that the term 'nonmineral', as used in that Act, shall for the purpose of this subsection be defined as provided in section 905(a)(3) of the Alaska National Interests Lands Conservation Act (42 U.S.C. 1634(a)(3)), except that such definition shall not apply to land within a conservation system unit)"; and

(2) in paragraph (2)—

(A) by redesignating subparagraphs (A), (B), and (C) as clauses (i), (ii), and (iii), respectively, and indenting the clauses appropriately;

(B) by inserting "(A)" after "(2)";

(C) in clause (ii) (as redesignated by subparagraph (A)), by inserting after "Department of Veterans Affairs" the following: "or based on other evidence acceptable to the Secretary"; and

(D) by adding at the end the following:

"(B)(i) If the Secretary requests that the Secretary of Veterans Affairs make a determination whether a veteran died as a direct consequence of a wound received in action, the Secretary of Veterans Affairs shall, within 60 days of receipt of the request—

"(I) provide a determination to the Secretary if the records of the Department of Veterans Affairs contain sufficient information to support such a determination; or

"(II) notify the Secretary that the records of the Department of Veterans Affairs do not contain sufficient information to support a determination and that further investigation will be necessary.

"(ii) Not later than 1 year after notification to the Secretary that further investigation is necessary, the Department of Veterans Affairs shall complete the investigation and provide a determination to the Secretary.".

TITLE IV—FINAL PRIORITIES; CONVEYANCE AND SURVEY PLANS

SEC. 401. DEADLINE FOR ESTABLISHMENT OF REGIONAL PLANS.

(a) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary, in coordination and consultation with Native Corporations, other Federal land management agencies, and the State, shall update and revise the 12 preliminary Regional Conveyance and Survey Plans.

(b) INCLUSIONS.—The updated and revised plans under subsection (a) shall identify any conflicts to be resolved and recommend any actions that should be taken to facilitate the finalization of land conveyances in a region by 2009.

SEC. 402. DEADLINE FOR ESTABLISHMENT OF VILLAGE PLANS.

Not later than 30 months after the date of enactment of this Act, the Secretary, in coordination with affected Federal land management agencies, the State, and Village Corporations, shall complete a final closure plan with respect to the entitlements for each Village Corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.).

SEC. 403. FINAL PRIORITIZATION OF ANCSA SELECTIONS.

(a) IN GENERAL.—Any Native Corporation that has not received its full entitlement or entered into a voluntary, negotiated settlement of final entitlement shall submit the final, irrevocable priorities of the Native Corporation—

(1) in the case of a Village, Group, or Urban Corporation entitlement, not later than 36 months after the date of enactment of this Act; and

(2) in the case of a Regional Corporation entitlement, not later than 42 months after the date of enactment of this Act.

(b) ACREAGE LIMITATIONS.—The priorities submitted under subsection (a) shall not exceed land that is the greater of—

(1) not more than 125 percent of the remaining entitlement; or

(2) not more than 640 acres in excess of the remaining entitlement.

(c) CORRECTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the priorities submitted under subsection (a) may not be revoked, rescinded, or modified by the Native Corporation.

(2) TECHNICAL CORRECTIONS.—Not later than 90 days after the date of receipt of a notification by the Secretary that there appears to be a technical error in the priorities, the Native Corporation may correct the technical error in accordance with any recommendations of, and in a manner prescribed by or acceptable to, the Secretary.

(d) RELINQUISHMENT.—

(1) IN GENERAL.—As of the date on which the Native Corporation submits its final priorities under subsection (a)—

(A) any unprioritized, remaining selections of the Native Corporation—

(i) are relinquished, but any part of the selections may be reinstated for the purpose of correcting a technical error; and

(ii) have no further segregative effect; and

(B) all withdrawals under sections 11 and 16 of the Alaska Native Claims Settlement Act (43 U.S.C. 1610, 1615) under the relinquished selections are terminated.

(2) RECORDS.—All relinquishments under paragraph (1) shall be included in Bureau of Land Management land records.

(e) FAILURE TO SUBMIT PRIORITIES.—If a Native Corporation fails to submit priorities by the deadline specified in subsection (a)—

(1) with respect to a Native Corporation that has priorities on file with the Secretary, the Secretary—

(A) shall convey to the Native Corporation the remaining entitlement of the Native Corporation, as determined based on the most recent priorities of the Native Corporation on file with the Secretary and in accordance with the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); and

(B) may reject any selections not needed to fulfill the entitlement; or

(2) with respect to a Native Corporation that does not have priorities on file with the Secretary, the Secretary shall satisfy the entitlement by conveying land selected by the Secretary, in consultation with the appropriate Native Corporation, the Federal land managing agency with administrative jurisdiction over the land to be conveyed, and the State, that, to the maximum extent practicable, is—

(A) compact;

(B) contiguous to land previously conveyed to the Native Corporation; and

(C) consistent with the applicable preliminary Regional Conveyance and Survey Plan referred to in section 401.

(f) PLAN OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall—

(A) identify any Native Corporation that does not have sufficient priorities on file;

(B) develop priorities for the Native Corporation in accordance with subsection (e); and

(C) provide to the Native Corporation a plan of conveyance based on the priorities developed under subparagraph (B).

(2) FINALIZED SELECTIONS.—Not later than 180 days after the date on which the Secretary provides a plan of conveyance to the affected Village, Group, or Urban Corporation and the Regional Corporation, the Regional Corporation shall finalize any Regional selections that are in conflict with land selected by the Village, Group, or Urban Corporation that has not been prioritized by the deadline under subsection (a)(1).

(g) DISSOLVED OR LAPSED CORPORATIONS.—

(1)(A) If a Native Corporation is lapsed or dissolved at the time final priorities are required to be filed under this section and does not have priorities on file with the Secretary, the Secretary shall establish a deadline for the filing of priorities that shall be one year from the provisions of notice of the deadline.

(B) To fulfill the notice requirement under paragraph (1), the Secretary shall—

(i) publish notice of deadline to a lapsed or dissolved Native Corporation in a newspaper of general circulation nearest the locality where the affected land is located; and

(ii) seek to notify in writing the last known shareholders of the lapsed or dissolved corporation.

(C) If a Native Corporation does not file priorities with the Secretary before the deadline set pursuant to subparagraph (A), the Secretary shall notify Congress.

(2) If a Native Corporation with final priorities on file with the Bureau of Land Management is lapsed or dissolved, the United States—

(A) shall continue to administer the prioritized selected land under applicable law; but

(B) may reject any selections not needed to fulfill the lapsed or dissolved Native Corporation's entitlement.

SEC. 404. FINAL PRIORITIZATION OF STATE SELECTIONS.

(a) FILING OF FINAL PRIORITIES.—

(1) IN GENERAL.—The State shall, not later than the date that is 4 years after the date of enactment of this Act, in accordance with section 906(f)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(f)(1)), file final priorities with the Secretary for all land grant entitlements to the State which remain unsatisfied on the date of the filing.

(2) RANKING.—All selection applications on file with the Secretary on the date specified in paragraph (1) shall—

(A) be ranked on a Statewide basis in order of priority; and

(B) include an estimate of the acreage included in each selection.

(3) INCLUSIONS.—The State shall include in the prioritized list land which has been topfiled under section 906(e) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(e)).

(4) ACREAGE LIMITATION.—

(A) IN GENERAL.—Acreage for top-filings shall not be counted against the 125 percent limitation established under section 906(f)(1) of the Alaska National Interest Lands Conservation Act (43 U.S.C. 1635(f)(1)).

(B) RELINQUISHMENT.—

(i) IN GENERAL.—The State shall relinquish any selections that exceed the 125 percent limitation.

(ii) FAILURE TO RELINQUISH.—If the State fails to relinquish a selection under clause (i), the Secretary shall reject the selection.

(5) LOWER-PRIORITY SELECTIONS.—Notwithstanding the prioritization of selection applications under paragraph (1), if the Secretary reserves sufficient entitlements for the topfiled selections, the Secretary may continue to convey lower-priority selections.

(b) DEADLINE FOR PRIORITIZATION.—

(1) IN GENERAL.—The State shall irrevocably prioritize sufficient selections to allow the Secretary to complete transfer of 101,000,000 acres by September 30, 2009.

(2) REPRIORITIZATION.—Any selections remaining after September 30, 2009, may be reprioritized.

(c) FINANCIAL ASSISTANCE.—The Secretary may, using amounts made available to carry out this Act, provide financial assistance to other Federal agencies, the State, and Native Corporations and entities to assist in completing the transfer of land by September 30, 2009.

TITLE V—ALASKA LAND CLAIMS HEARINGS AND APPEALS

SEC. 501. ALASKA LAND CLAIMS HEARINGS AND APPEALS.

(a) ESTABLISHMENT.—The Secretary may establish a field office of the Office of Hearings and Appeals in the State to decide matters within the jurisdiction of the Department of the Interior involving hearings and appeals, and other review functions of the Secretary regarding land transfer decisions and Indian probates in the State.

(b) APPOINTMENTS.—For purposes of carrying out subsection (a), the Secretary shall appoint administrative law judges selected in accordance with section 3105 of title 5, United States Code (commonly known as the "Administrative Procedure Act").

TITLE VI—REPORT AND AUTHORIZATION OF APPROPRIATIONS

SEC. 601. REPORT.

(a) IN GENERAL.—Not later than 3 years after the date of enactment of this Act, the Secretary shall submit to Congress a report on the status of the implementation of this Act.

(b) CONTENTS.—The report shall—

(1) describe the status of conveyances to Alaska Natives, Native Corporations, and the State; and

(2) include recommendations for completing the conveyances required by this Act.

SEC. 602. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out the purposes of this Act.

PRIVILEGES OF THE FLOOR

Mr. ALLARD. Mr. President, I ask unanimous consent that Rob Brown, a legislative fellow in my office, be granted the privileges of the floor during the consideration of S. 2845.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent, that Christopher Alexander, a fellow in Senator KENNEDY's office, be granted the privilege of the floor during consideration of S. 2845.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEASURES PLACED ON THE CALENDAR—H.R. 4596 AND H.R. 4606

Mr. FRIST. I understand that there are two bills at the desk and due for a second reading. I ask unanimous consent that the clerk read the titles of the bills for a second time, en bloc.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will read the bills by title, en bloc.

The legislative clerk read as follows:

A bill (H.R. 4596) to amend Public Law 97-435 to extend the authorization for the Secretary of the Interior to release certain conditions contained in a patent concerning certain land conveyed by the United States to Eastern Washington University until December 31, 2009.

A bill (H.R. 4606) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation and in coordination with other Federal, State, and local government agencies, to participate in the funding and implementation of a balanced, long-term groundwater remediation program in California, and for other purposes.

Mr. FRIST. I would object to further proceedings, en bloc.

The PRESIDING OFFICER. The objection is heard. The bills will be placed on the calendar.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader, pursuant to Public Law 108-173, appoints the following individuals to the Commission on Systemic Interoperability: Vicky B. Gregg of Tennessee and Ivan G. Seidenberg of New York.

EXECUTIVE SESSION

NOMINATION OF ALAN GREENSPAN TO BE UNITED STATES ALTERNATE GOVERNOR OF THE INTERNATIONAL MONETARY FUND

Mr. FRIST. As in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nomination: Alan Greenspan, PN-1841. I further ask unanimous consent the Senate proceed to its consideration, the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

INTERNATIONAL MONETARY FUND

Alan Greenspan, of New York, to be United States Alternate Governor of the International Monetary Fund.

The PRESIDING OFFICER. The President will be immediately notified of the Senate's action.

LEGISLATIVE SESSION

MAKING NATIONAL CRIMINAL HISTORY BACKGROUND CHECKS FOR VOLUNTEERS PERMANENT

PREVENTION OF CHILD ABDUCTION PARTNERSHIP ACT

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of S. 2882 and S. 2883, en bloc.

The PRESIDING OFFICER. The clerk will state the bills by title, en bloc.

The legislative clerk read as follows:

A bill (S. 2882) to make a program for national criminal history background checks for volunteer groups permanent.

A bill (S. 2883) to amend the International Child Abduction Remedies Act to limit the tort liability of private entities or organizations that carry out responsibilities of the United States Central Authority under that Act.

There being no objection, the Senate proceeded to consideration of the bills, en bloc.

Mr. FRIST. I ask unanimous consent the bills be read a third time and passed, the motions to reconsider be laid upon the table and any statements regarding this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bills (S. 2882 and S. 2883) were read the third time and passed, as follows:

S. 2882

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. VOLUNTEER GROUP ACCESS TO CRIMINAL BACKGROUND CHECKS PROGRAM.

Section 108(a)(3)(A) of the PROTECT Act (Public Law 108-21) is amended by striking "an 18-month" and inserting "a".

S. 2883

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Prevention of Child Abduction Partnership Act".

SEC. 2. LIMITATION ON LIABILITY.

Section 7 of the International Child Abduction Remedies Act (42 U.S.C. 11606) is amended by adding at the end the following new subsection:

"(f) LIMITED LIABILITY OF PRIVATE ENTITIES ACTING UNDER THE DIRECTION OF THE UNITED STATES CENTRAL AUTHORITY.—

"(1) LIMITATION ON LIABILITY.—Except as provided in paragraphs (2) and (3), a private entity or organization that receives a grant from or enters into a contract or agreement with the United States Central Authority under subsection (e) of this section for purposes of assisting the United States Central Authority in carrying out its responsibilities and functions under the Convention and this Act, including any director, officer, employee, or agent of such entity or organization, shall not be liable in any civil action sounding in tort for damages directly related to the performance of such responsibilities and functions as defined by the regulations issued under subsection (c) of this section that are in effect on October 1, 2004.

"(2) EXCEPTION FOR INTENTIONAL, RECKLESS, OR OTHER MISCONDUCT.—The limitation on liability under paragraph (1) shall not apply in any action in which the plaintiff proves that the private entity, organization, officer, employee, or agent described in paragraph (1), as the case may be, engaged in intentional misconduct or acted, or failed to act, with actual malice, with reckless disregard to a substantial risk of causing injury without legal justification, or for a purpose unrelated to the performance of responsibilities or functions under this Act.

"(3) EXCEPTION FOR ORDINARY BUSINESS ACTIVITIES.—The limitation on liability under paragraph (1) shall not apply to any alleged act or omission related to an ordinary business activity, such as an activity involving general administration or operations, the use of motor vehicles, or personnel management.".

Mr. HATCH. Mr. President, I rise today to commend my colleagues for passing by unanimous consent two bills which I sponsored—a bill to extend the pilot program for national criminal history background checks for volunteers who work with children, and the Prevention of Child Abduction Partnership Act.

The first bill extends the pilot program created by the PROTECT Act. The pilot program allows the National Center for Missing and Exploited Children, NCMEC, in coorperation with the FBI, to provide a background check process for volunteers working for organizations, such as the Boys and Girls Clubs of America, National Mentoring Partnership, and the National Council of Youth Sports. The National Center for Missing and Exploited Children provides its expertise to assist volunteer organizations in evaluating the criminal records of volunteers to determine if the volunteers are fit to interact and provide care for children.

So far, the NCMEC has processed over 2,500 checks. Through these checks the Center has been able to prevent criminals, including child molesters, from applying and securing volunteer positions with youth organizations. Of those applicants whose files showed an offense, over 50 percent of the applicants lied and indicated they did not have a criminal record. Some of the startling examples of people who were found unfit to work with children included: (1) one convicted of manslaughter, (2) one found guilty on charges of Aggravated Criminal Sexual Assault as well as domestic battery, (3) one convicted of three charges of endangering the welfare of a child, (4) one convicted of lewdness and was charged for kidnapping, (5) one charged with sexual contact with a child under the age of 16, (6) one charged with 31 counts, including multiple rapes and assaults, indecent liberties, eluding, and prostitution, (7) one charged with aggravated battery of a pregnant woman, and (8) one charged with oral copulation by force, rape by force, and oral copulation by force, in one instance the victim under 14 and in another, 10 years younger. My bill would allow this invaluable program to continue to prevent convicted criminals such as these from working with children.

The Prevention of Child Abduction Partnership Act grants private entities, including the National Center for

Missing and Exploited Children, immunity from tort liability when they are assisting the U.S. State Department in carrying out its functions under the International Child Abduction Remedies Act.

MISSING CHILD COLD CASE REVIEW ACT OF 2004

Mr. FRIST. I ask unanimous consent the Judiciary Committee be discharged from further consideration of S. 2435 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2435) to permit Inspectors General to authorize staff to provide assistance to the National Center for Missing and Exploited children, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate is considering and passing the "Missing Child Cold Case Review Act of 2004," S. 2435, which will allow an Inspector General to authorize his or her staff to provide assistance on and conduct reviews of the inactive case files involving children, or "cold cases," stored at the National Center for Missing & Exploited Children (NCMEC) and to develop recommendations for further investigations.

I thank Senators GRASSLEY, LINCOLN and HATCH for joining me as cosponsors of this bipartisan legislation. I thank them for their leadership in this area.

Speed is everything in homicide investigations. As a former prosecutor in Vermont, I know firsthand that speed is of the essence when trying to solve a homicide. This focus on speed, however, has led the law enforcement community to generally believe that any case not solved within the first 72 hours or lacking significant leads and witness participation has little likelihood of being solved, regardless of the expertise and resources deployed. With time, such unsolved cases become "cold," and these are among the most difficult and frustrating cases detectives face because they are, in effect, cases that other investigators, for whatever reason, failed to solve.

Our Nation's law enforcement agencies, regardless of size, are not immune to rising crime rates, staff shortages and budget restrictions. Such obstacles have strained the investigative and administrative resources of all agencies. More crime often means that fewer cases are vigorously pursued, fewer opportunities arise for follow-up and individual caseloads increase for already overworked detectives.

All the obstacles that hamper homicide investigations in their early phases contribute to cold cases. The National Center for Missing & Exploited Children—our Nation's top resource center for child protection—presently retains a backlog of cold cases involving children that law enforcement departments nationwide have stopped investigating primarily due to all those obstacles. NCMEC serves as a clearinghouse for all cold cases in which a child has not been found and/or the suspect has not been identified.

The bill that we pass today will allow an inspector general to provide staff support to NCMEC for the purpose of conducting reviews of inactive case files to develop recommendations for further investigation and similar activities. The inspector general community has one of the most diverse and talented criminal investigative cadres in the Federal Government. A vast majority of these special agents have come from traditional law enforcement agencies, and are highly-trained and extremely capable of dealing with complex, criminal cases.

Under current law, an inspector general's duties are limited to activities related to the programs and operations of an agency. Our bill would allow an inspector general to permit criminal investigators under his or her supervision to review cold case files, so long as doing so would not interfere with normal duties. An inspector general would not conduct actual investigations, and any inspector general would only commit staff when the office's mission-related workloads permitted. At no time would these activities be allowed to conflict with or delay the stated missions of an inspector general.

From time to time a criminal investigator employed by an inspector general may be between investigations or otherwise available for brief periods of time. This act would also allow those resources to be provided to the National Center for Missing & Exploited Children. Commitment of resources would be at a minimum and would not materially affect the budget of any office.

We have before us the type of bipartisan legislation that should move easily through the House once it passes the Senate. It is supported by the Department of Justice Office of the Inspector General. I applaud the ongoing work of the National Center for Missing & Exploited Children and hope the House will follow the Senate's leadership and promptly pass this bill to provide NCMEC with the resources it requires to solve cold cases involving missing children.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid upon the table with no intervening action or debate, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2435) was read the third time and passed, as follows:

S. 2435

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Missing Child Cold Case Review Act of 2004".

SEC. 2. AUTHORITY OF INSPECTORS GENERAL.

Title XXXVII of the Crime Control Act of 1990 (42 U.S.C. 5779 et seq.) is amended by inserting after section 3701 the following:

"SEC. 3701A. AUTHORITY OF INSPECTORS GENERAL.

"(a) IN GENERAL.—An Inspector General appointed under section 3 or 8G of the Inspector General Act of 1978 (5 U.S.C. App.) may authorize staff to assist the National Center for Missing and Exploited Children—

"(1) by conducting reviews of inactive case files to develop recommendations for further investigations; and

"(2) by engaging in similar activities.

"(b) LIMITATIONS.—

"(1) PRIORITY.—An Inspector General may not permit staff to engage in activities described in subsection (a) if such activities will interfere with the duties of the Inspector General under the Inspector General Act of 1978 (5 U.S.C. App.).

"(2) FUNDING.—No additional funds are authorized to be appropriated to carry out this section.".

AUTHORIZING THE BOARD OF REGENTS OF THE SMITHSONIAN INSTITUTION TO CARRY OUT CONSTRUCTION ACTIVITIES

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of H.R. 5105, which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

A bill (H.R. 5105) to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the bill be read a third time and passed, the motion to reconsider be laid on the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 5105) was read the third time and passed.

PERMITTING CHURCH PENSION PLANS TO BE INVESTED IN COLLECTIVE TRUSTS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be discharged from further consideration of H.R. 1533, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1533) to amend the securities laws to permit church pension plans to be invested in collective trusts.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent the amendment at the desk be agreed to, the bill, as amended, be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to this bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3948) was agreed to, as follows:

(Purpose: To make a technical correction)

On page 2, strike lines 17 through 22 and insert the following:

"(2) by striking 'other than any plan described in clause (A), (B), or (C)' and inserting the following: 'or (D) a church plan, company, or account that is excluded from the definition of an investment company under section 3(c)(14) of the Investment Company Act of 1940, other than any plan described in subparagraph (A), (B), (C), or (D)'.". '

The bill (H.R. 1533), as amended, was read the third time and passed.

RAIL SECURITY ACT OF 2004

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar 536, S. 2273.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2273) to provide increased rail transportation security, which had been reported from the Committee on Commerce, Science, and Transportation, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 2273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rail Security Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Rail transportation security risk assessment.
Sec. 3. Rail security.
Sec. 4. Study of foreign rail transport security programs.
Sec. 5. Passenger, baggage, and cargo screening.
Sec. 6. Certain personnel limitations not to apply.
[Sec. 7. Fire and life safety improvements.
[Sec. 8. Transportation security.]
Sec. 7. Fire and life-safety improvements.
Sec. 8. Memorandum of agreement.
Sec. 9. Amtrak plan to assist families of passengers involved in rail passenger accidents.
[Sec. 10. System-wide Amtrak security upgrades.]
Sec. 10. Systemwide Amtrak security upgrades.
Sec. 11. Freight and passenger rail security upgrades.
[Sec. 12. Department of Transportation oversight.]
Sec. 12. Oversight and grant procedures.
Sec. 13. Rail security research and development.
Sec. 14. Welded rail and tank car safety improvements.
Sec. 15. Northern Border rail passenger report.
Sec. 16. Report regarding impact on security of train travel in communities without grade separation.
Sec. 17. Whistleblower protection program.

SEC. 2. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing [rail carriers,] *railroads*, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching *and car storage* areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying [weapon detection equipment;] *equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;*

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term [economic impact] *osts* of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, *first responders*, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland [Security)] *Security)*, and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Under Secretary may submit the report in both classified and redacted formats if the Under Secretary determines that such action is appropriate or necessary.

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2005 for the purpose of carrying out this section.

SEC. 3. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking "the rail carrier" each place it appears and inserting "any rail carrier".

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 4. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2004, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 5. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and [mail] *cargo* on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to *give preference to locations at the highest risk of terrorist attack and* achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2005.

SEC. 6. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

[SEC. 7. FIRE AND LIFE SAFETY IMPROVEMENTS.]

SEC. 7. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) [LIFE SAFETY] *LIFE-SAFETY NEEDS.*—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to *Amtrak* tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2005;

(B) $100,000,000 for fiscal year 2006;

(C) $100,000,000 for fiscal year 2007;

(D) $100,000,000 for fiscal year 2008; and

(E) $170,000,000 for fiscal year 2009.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2005;

(B) $10,000,000 for fiscal year 2006;

(C) $10,000,000 for fiscal year 2007;

(D) $10,000,000 for fiscal year 2008; and

(E) $17,000,000 for fiscal year 2009.

(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2005;

(B) $8,000,000 for fiscal year 2006;

(C) $8,000,000 for fiscal year 2007;

(D) $8,000,000 for fiscal year 2008; and

(E) $8,000,000 for fiscal year 2009.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2005 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) [PLAN] *PLANS* REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing *appropriate* project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other [matter] *matters* the Secretary deems [appropriate;] *appropriate.*

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

[(f)] *(g)* FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all [life safety] *portions* of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) [seek] *obtain* financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the [tunnels.] *tunnels, if feasible.*

[SEC. 8. TRANSPORTATION SECURITY.]

SEC. 8. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the [Under Secretary of Homeland Security for Border and Transportation Security] *Secretary of Homeland Security* shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking "safety" the first place it appears, and inserting "safety, including security,".

SEC. 9. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"§ 24316. Plans to address needs of families of passengers involved in rail passenger accidents

"(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2004, Amtrak shall submit to the Chairman of the National Transportation Safety Board *and the Secretary of Transportation* a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

"(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

"(1) A process by which Amtrak will maintain and provide to the National Transportation Safety [Board,] *Board and the Secretary of Transportation,* immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

"(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

"(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

"(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

"(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control; that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

"(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

"(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

"(c) Use of Information.—The National Transportation Safety [Board and Amtrak] *Board, the Secretary of Transportation, and Amtrak* may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

"(d) Limitation on Liability.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

"(e) Limitation on Statutory Construction.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

"(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2005 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.".

(b) Conforming Amendment.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"Sec.
"24316. Plan to assist families of passengers involved in rail passenger accidents.".

[SEC. 10. SYSTEM-WIDE AMTRAK SECURITY UPGRADES.]

SEC. 10. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) In General.—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and *interoperable* communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) Conditions.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, [and] *and, for capital projects,* meet the requirements of section 7(e)(2). *The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.*

(c) Equitable Geographic Allocation.—The [Secretary] *Under Secretary* shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) Availability of Funds.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security [$62,500,000] *$63,500,000* for fiscal year 2005 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 11. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) Security Improvement Grants.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, *universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak)*, and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of [pressurized tank cars] *rail cars transporting high hazard materials* to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations; [and]

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

[(8)] *(11)* other improvements recommended by the report required by section 2, including infrastructure, facilities, and equipment upgrades.

(b) Accountability.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(c) Equitable Allocation.—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

[(c)] *(d)* Conditions.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 10(b) of this Act.

[(d) Tank Car Replacement Incentive.—A grant under subsection (a)(5) may be for up to 15 percent of the cost of the modification or replacement of a pressurized tank car.]

(e) Allocation Between Railroads and Others.—Unless as a result of the assessment required by section 2 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (4) *(5)* of subsection (a).

[(f) Procedures for Grant Award.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this title, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

(g)] *(f)* Authorization of Appropriations.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security [$250,000,000] *$350,000,000* for fiscal year 2005 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(g) High Hazard Materials Defined.—In this section, the term "high hazard materials" means poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia.

[SEC. 12. DEPARTMENT OF TRANSPORTATION OVERSIGHT.]

SEC. 12. OVERSIGHT AND GRANT PROCEDURES.

(a) Secretarial Oversight.—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2004 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) Use of Funds.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

(c) Procedures for Grant Award.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this Act, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement

between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. 13. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) Establishment of Research and Development Program.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail [security, including] *security that may include* research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to [explosives;] *explosives and hazardous chemical, biological, and radioactive substances;*

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment; and

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry [toxic-inhalation chemicals; and] *high hazard materials (as defined in section 11(g) of this Act;*

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public [safety.] *safety;*

(6) other projects recommended in the report required by section 2.

(b) Coordination With Other Research Initiatives.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation. *The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—*

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

[(c) Accountability.—The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.]

(c) Accountability.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2005 and 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 14. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) Track Standards.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each [railroad] *track owner* using continuous welded rail track to include procedures (in its [program] *procedures* filed with the [Administration) that] *Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to* improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) Tank Car Standards.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the [maximum] *relevant* dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) Older Tank Car Impact Resistance Analysis and Report.—Within 2 years after the date of enactment of this Act, the Federal Railroad [Administration, in coordination with the National Transportation Safety Board, shall—] *Administration shall—*

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. 15. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in "The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America", dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the "Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States", dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security.

SEC. 16. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) Study.—The Secretary of Homeland Security shall, in consultation with State and local government officials, conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response.

SEC. 17. WHISTLEBLOWER PROTECTION PROGRAM.

(a) In General.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:

"§20116. Whistleblower protection for rail security matters

"(a) Discrimination Against Employee.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

"(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

"(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

"(b) Dispute Resolution.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway

Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

"(c) PROCEDURAL REQUIREMENTS.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

"(d) ELECTION OF REMEDIES.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

"(e) DISCLOSURE OF IDENTITY.—

"(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

"(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:

"20116. Whistleblower protection for rail security matters.".

Mr. FRIST. I ask unanimous consent that the committee reported amendments be agreed to, the bill, as amended, be read the third time and passed, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendments were agreed to.

The bill (S. 2273), as amended, was read the third time and passed, as follows:

S. 2273

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rail Security Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Rail transportation security risk assessment.
Sec. 3. Rail security.
Sec. 4. Study of foreign rail transport security programs.
Sec. 5. Passenger, baggage, and cargo screening.
Sec. 6. Certain personnel limitations not to apply.
Sec. 7. Fire and life-safety improvements.
Sec. 8. Memorandum of agreement.
Sec. 9. Amtrak plan to assist families of passengers involved in rail passenger accidents.
Sec. 10. Systemwide Amtrak security upgrades.
Sec. 11. Freight and passenger rail security upgrades.
Sec. 12. Oversight and grant procedures.
Sec. 13. Rail security research and development.
Sec. 14. Welded rail and tank car safety improvements.
Sec. 15. Northern Border rail passenger report.
Sec. 16. Report regarding impact on security of train travel in communities without grade separation.
Sec. 17. Whistleblower protection program.

SEC. 2. RAIL TRANSPORTATION SECURITY RISK ASSESSMENT.

(a) IN GENERAL.—

(1) VULNERABILITY ASSESSMENT.—The Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the Secretary of Transportation, shall complete a vulnerability assessment of freight and passenger rail transportation (encompassing railroads, as that term is defined in section 20102(1) of title 49, United States Code). The assessment shall include—

(A) identification and evaluation of critical assets and infrastructures;

(B) identification of threats to those assets and infrastructures;

(C) identification of vulnerabilities that are specific to the transportation of hazardous materials via railroad; and

(D) identification of security weaknesses in passenger and cargo security, transportation infrastructure, protection systems, procedural policies, communications systems, employee training, emergency response planning, and any other area identified by the assessment.

(2) EXISTING PRIVATE AND PUBLIC SECTOR EFFORTS.—The assessment shall take into account actions taken or planned by both public and private entities to address identified security issues and assess the effective integration of such actions.

(3) RECOMMENDATIONS.—Based on the assessment conducted under paragraph (1), the Under Secretary, in consultation with the Secretary of Transportation, shall develop prioritized recommendations for improving rail security, including any recommendations the Under Secretary has for—

(A) improving the security of rail tunnels, rail bridges, rail switching and car storage areas, other rail infrastructure and facilities, information systems, and other areas identified by the Under Secretary as posing significant rail-related risks to public safety and the movement of interstate commerce, taking into account the impact that any proposed security measure might have on the provision of rail service;

(B) deploying equipment to detect explosives and hazardous chemical, biological, and radioactive substances, and any appropriate countermeasures;

(C) training employees in terrorism prevention, passenger evacuation, and response activities;

(D) conducting public outreach campaigns on passenger railroads;

(E) deploying surveillance equipment; and

(F) identifying the immediate and long-term costs of measures that may be required to address those risks.

(4) PLANS.—The report required by subsection (c) shall include—

(A) a plan, developed in consultation with the freight and intercity passenger railroads, and State and local governments, for the government to provide increased security support at high or severe threat levels of alert; and

(B) a plan for coordinating rail security initiatives undertaken by the public and private sectors.

(b) CONSULTATION; USE OF EXISTING RESOURCES.—In carrying out the assessment required by subsection (a), the Under Secretary of Homeland Security for Border and Transportation Security shall consult with rail management, rail labor, owners or lessors of rail cars used to transport hazardous materials, first responders, shippers of hazardous materials, public safety officials (including those within other agencies and offices within the Department of Homeland Security), and other relevant parties.

(c) REPORT.—

(1) CONTENTS.—Within 180 days after the date of enactment of this Act, the Under Secretary shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report containing the assessment and prioritized recommendations required by subsection (a) and an estimate of the cost to implement such recommendations.

(2) FORMAT.—The Under Secretary may submit the report in both classified and redacted formats if the Under Secretary determines that such action is appropriate or necessary.

(d) 2-YEAR UPDATES.—The Under Secretary, in consultation with the Secretary of Transportation, shall update the assessment and recommendations every 2 years and transmit a report, which may be submitted in both classified and redacted formats, to the Committees named in subsection (c)(1), containing the updated assessment and recommendations.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $5,000,000 for fiscal year 2005 for the purpose of carrying out this section.

SEC. 3. RAIL SECURITY.

(a) RAIL POLICE OFFICERS.—Section 28101 of title 49, United States Code, is amended by striking "the rail carrier" each place it appears and inserting "any rail carrier".

(b) REVIEW OF RAIL REGULATIONS.—Within 1 year after the date of enactment of this Act, the Secretary of Transportation, in consultation with the Under Secretary of Homeland Security for Border and Transportation Security, shall review existing rail regulations of the Department of Transportation for the purpose of identifying areas in which those regulations need to be revised to improve rail security.

SEC. 4. STUDY OF FOREIGN RAIL TRANSPORT SECURITY PROGRAMS.

(a) REQUIREMENT FOR STUDY.—Within one year after the date of enactment of the Rail Security Act of 2004, the Comptroller General shall complete a study of the rail passenger transportation security programs that are carried out for rail transportation systems in Japan, member nations of the European Union, and other foreign countries.

(b) PURPOSE.—The purpose of the study shall be to identify effective rail transportation security measures that are in use in foreign rail transportation systems, including innovative measures and screening procedures determined effective.

(c) REPORT.—The Comptroller General shall submit a report on the results of the study to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure. The report shall include the Comptroller General's assessment regarding whether it is feasible to implement within the United States any of the same or similar security measures that are determined effective under the study.

SEC. 5. PASSENGER, BAGGAGE, AND CARGO SCREENING.

(a) REQUIREMENT FOR STUDY AND REPORT.—The Under Secretary of Homeland Security for Border and Transportation Security, in cooperation with the Secretary of Transportation, shall—

(1) analyze the cost and feasibility of requiring security screening for passengers, baggage, and cargo on passenger trains; and

(2) report the results of the study, together with any recommendations that the Under Secretary may have for implementing a rail security screening program to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure within 1 year after the date of enactment of this Act.

(b) PILOT PROGRAM.—As part of the study under subsection (a), the Under Secretary shall complete a pilot program of random security screening of passengers and baggage at 5 passenger rail stations served by Amtrak selected by the Under Secretary. In conducting the pilot program, the Under Secretary shall—

(1) test a wide range of explosives detection technologies, devices and methods;

(2) require that intercity rail passengers produce government-issued photographic identification which matches the name on the passenger's tickets prior to boarding trains; and

(3) attempt to give preference to locations at the highest risk of terrorist attack and achieve a distribution of participating train stations in terms of geographic location, size, passenger volume, and whether the station is used by commuter rail passengers as well as Amtrak passengers.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security to carry out this section $5,000,000 for fiscal year 2005.

SEC. 6. CERTAIN PERSONNEL LIMITATIONS NOT TO APPLY.

Any statutory limitation on the number of employees in the Transportation Security Administration of the Department of Transportation, before or after its transfer to the Department of Homeland Security, does not apply to the extent that any such employees are responsible for implementing the provisions of this Act.

SEC. 7. FIRE AND LIFE-SAFETY IMPROVEMENTS.

(a) LIFE-SAFETY NEEDS.—The Secretary of Transportation is authorized to make grants to Amtrak for the purpose of making fire and life-safety improvements to Amtrak tunnels on the Northeast Corridor in New York, NY, Baltimore, MD, and Washington, DC.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for the purposes of carrying out subsection (a) the following amounts:

(1) For the 6 New York tunnels to provide ventilation, electrical, and fire safety technology upgrades, emergency communication and lighting systems, and emergency access and egress for passengers—

(A) $100,000,000 for fiscal year 2005;
(B) $100,000,000 for fiscal year 2006;
(C) $100,000,000 for fiscal year 2007;
(D) $100,000,000 for fiscal year 2008; and
(E) $170,000,000 for fiscal year 2009.

(2) For the Baltimore & Potomac tunnel and the Union tunnel, together, to provide adequate drainage, ventilation, communication, lighting, and passenger egress upgrades—

(A) $10,000,000 for fiscal year 2005;
(B) $10,000,000 for fiscal year 2006;
(C) $10,000,000 for fiscal year 2007;
(D) $10,000,000 for fiscal year 2008; and
(E) $17,000,000 for fiscal year 2009.

(3) For the Washington, DC Union Station tunnels to improve ventilation, communication, lighting, and passenger egress upgrades—

(A) $8,000,000 for fiscal year 2005;
(B) $8,000,000 for fiscal year 2006;
(C) $8,000,000 for fiscal year 2007;
(D) $8,000,000 for fiscal year 2008; and
(E) $8,000,000 for fiscal year 2009.

(c) INFRASTRUCTURE UPGRADES.—There are authorized to be appropriated to the Secretary of Transportation for fiscal year 2005 $3,000,000 for the preliminary design of options for a new tunnel on a different alignment to augment the capacity of the existing Baltimore tunnels.

(d) AVAILABILITY OF APPROPRIATED FUNDS.—Amounts appropriated pursuant to this section shall remain available until expended.

(e) PLANS REQUIRED.—The Secretary may not make amounts available to Amtrak for obligation or expenditure under subsection (a)—

(1) until Amtrak has submitted to the Secretary, and the Secretary has approved, an engineering and financial plan for such projects; and

(2) unless, for each project funded pursuant to this section, the Secretary has approved a project management plan prepared by Amtrak addressing appropriate project budget, construction schedule, recipient staff organization, document control and record keeping, change order procedure, quality control and assurance, periodic plan updates, periodic status reports, and such other matters the Secretary deems appropriate.

(f) REVIEW OF PLANS.—The Secretary of Transportation shall complete the review of the plans required by paragraphs (1) and (2) of subsection (e) and approve or disapprove the plans within 45 days after the date on which each such plan is submitted by Amtrak. If the Secretary determines that a plan is incomplete or deficient, the Secretary shall notify Amtrak of the incomplete items or deficiencies and Amtrak shall, within 30 days after receiving the Secretary's notification, submit a modified plan for the Secretary's review. Within 15 days after receiving additional information on items previously included in the plan, and within 45 days after receiving items newly included in a modified plan, the Secretary shall either approve the modified plan, or, if the Secretary finds the plan is still incomplete or deficient, the Secretary shall identify in writing to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure the portions of the plan the Secretary finds incomplete or deficient, approve all other portions of the plan, obligate the funds associated with those other portions, and execute an agreement with Amtrak within 15 days thereafter on a process for resolving the remaining portions of the plan.

(g) FINANCIAL CONTRIBUTION FROM OTHER TUNNEL USERS.—The Secretary shall, taking into account the need for the timely completion of all portions of the tunnel projects described in subsection (a)—

(1) consider the extent to which rail carriers other than Amtrak use the tunnels;

(2) consider the feasibility of seeking a financial contribution from those other rail carriers toward the costs of the projects; and

(3) obtain financial contributions or commitments from such other rail carriers at levels reflecting the extent of their use of the tunnels, if feasible.

SEC. 8. MEMORANDUM OF AGREEMENT.

(a) MEMORANDUM OF AGREEMENT.—Within 60 days after the date of enactment of this Act, the Secretary of Transportation and the Secretary of Homeland Security shall execute a memorandum of agreement governing the roles and responsibilities of the Department of Transportation and the Department of Homeland Security, respectively, in addressing railroad transportation security matters, including the processes the departments will follow to promote communications, efficiency, and nonduplication of effort.

(b) RAIL SAFETY REGULATIONS.—Section 20103(a) of title 49, United States Code, is amended by striking "safety" the first place it appears, and inserting "safety, including security,".

SEC. 9. AMTRAK PLAN TO ASSIST FAMILIES OF PASSENGERS INVOLVED IN RAIL PASSENGER ACCIDENTS.

(a) IN GENERAL.—Chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"§24316. Plans to address needs of families of passengers involved in rail passenger accidents

"(a) SUBMISSION OF PLAN.—Not later than 6 months after the date of the enactment of the Rail Security Act of 2004, Amtrak shall submit to the Chairman of the National Transportation Safety Board and the Secretary of Transportation a plan for addressing the needs of the families of passengers involved in any rail passenger accident involving an Amtrak intercity train and resulting in a loss of life.

"(b) CONTENTS OF PLANS.—The plan to be submitted by Amtrak under subsection (a) shall include, at a minimum, the following:

"(1) A process by which Amtrak will maintain and provide to the National Transportation Safety Board and the Secretary of Transportation, immediately upon request, a list (which is based on the best available information at the time of the request) of the names of the passengers aboard the train (whether or not such names have been verified), and will periodically update the list. The plan shall include a procedure, with respect to unreserved trains and passengers not holding reservations on other trains, for Amtrak to use reasonable efforts to ascertain the number and names of passengers aboard a train involved in an accident.

"(2) A plan for creating and publicizing a reliable, toll-free telephone number within 4 hours after such an accident occurs, and for providing staff, to handle calls from the families of the passengers.

"(3) A process for notifying the families of the passengers, before providing any public notice of the names of the passengers, by suitably trained individuals.

"(4) A process for providing the notice described in paragraph (2) to the family of a passenger as soon as Amtrak has verified that the passenger was aboard the train (whether or not the names of all of the passengers have been verified).

"(5) A process by which the family of each passenger will be consulted about the disposition of all remains and personal effects of the passenger within Amtrak's control;

that any possession of the passenger within Amtrak's control will be returned to the family unless the possession is needed for the accident investigation or any criminal investigation; and that any unclaimed possession of a passenger within Amtrak's control will be retained by the rail passenger carrier for at least 18 months.

"(6) A process by which the treatment of the families of nonrevenue passengers will be the same as the treatment of the families of revenue passengers.

"(7) An assurance that Amtrak will provide adequate training to its employees and agents to meet the needs of survivors and family members following an accident.

"(c) Use of Information.—The National Transportation Safety Board, the Secretary of Transportation, and Amtrak may not release to any person information on a list obtained under subsection (b)(1) but may provide information on the list about a passenger to the family of the passenger to the extent that the Board or Amtrak considers appropriate.

"(d) Limitation on Liability.—Amtrak shall not be liable for damages in any action brought in a Federal or State court arising out of the performance of Amtrak in preparing or providing a passenger list, or in providing information concerning a train reservation, pursuant to a plan submitted by Amtrak under subsection (b), unless such liability was caused by Amtrak's conduct.

"(e) Limitation on Statutory Construction.—Nothing in this section may be construed as limiting the actions that Amtrak may take, or the obligations that Amtrak may have, in providing assistance to the families of passengers involved in a rail passenger accident.

"(f) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary of Transportation for the use of Amtrak $500,000 for fiscal year 2005 to carry out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.".

(b) Conforming Amendment.—The chapter analysis for chapter 243 of title 49, United States Code, is amended by adding at the end the following:

"Sec.
"24316. Plan to assist families of passengers involved in rail passenger accidents.".

SEC. 10. SYSTEMWIDE AMTRAK SECURITY UPGRADES.

(a) In General.—Subject to subsection (c), the Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants, through the Secretary of Transportation, to Amtrak—

(1) to secure major tunnel access points and ensure tunnel integrity in New York, Baltimore, and Washington, DC;

(2) to secure Amtrak trains;

(3) to secure Amtrak stations;

(4) to obtain a watch list identification system approved by the Under Secretary;

(5) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(6) to hire additional police and security officers, including canine units; and

(7) to expand emergency preparedness efforts.

(b) Conditions.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless the projects are contained in a systemwide security plan approved by the Under Secretary, in consultation with the Secretary of Transportation, and, for capital projects, meet the requirements of section 7(e)(2). The plan shall include appropriate measures to address security awareness, emergency response, and passenger evacuation training.

(c) Equitable Geographic Allocation.—The Under Secretary shall ensure that, subject to meeting the highest security needs on Amtrak's entire system, stations and facilities located outside of the Northeast Corridor receive an equitable share of the security funds authorized by this section.

(d) Availability of Funds.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $63,500,000 for fiscal year 2005 for the purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 11. FREIGHT AND PASSENGER RAIL SECURITY UPGRADES.

(a) Security Improvement Grants.—The Under Secretary of Homeland Security for Border and Transportation Security is authorized to make grants to freight railroads, the Alaska Railroad, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges and research centers, State and local governments (for passenger facilities and infrastructure not owned by Amtrak), and, through the Secretary of Transportation, to Amtrak, for full or partial reimbursement of costs incurred in the conduct of activities to prevent or respond to acts of terrorism, sabotage, or other intercity passenger rail and freight rail security threats, including—

(1) security and redundancy for critical communications, computer, and train control systems essential for secure rail operations;

(2) accommodation of cargo or passenger screening equipment at the United States-Mexico border or the United States-Canada border;

(3) the security of hazardous material transportation by rail;

(4) secure intercity passenger rail stations, trains, and infrastructure;

(5) structural modification or replacement of rail cars transporting high hazard materials to improve their resistance to acts of terrorism;

(6) employee security awareness, preparedness, passenger evacuation, and emergency response training;

(7) public security awareness campaigns for passenger train operations;

(8) the sharing of intelligence and information about security threats;

(9) to obtain train tracking and interoperable communications systems that are coordinated to the maximum extent possible;

(10) to hire additional police and security officers, including canine units; and

(11) other improvements recommended by the report required by section 2, including infrastructure, facilities, and equipment upgrades.

(b) Accountability.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(c) Equitable Allocation.—The Under Secretary shall equitably distribute the funds authorized by this section, taking into account geographic location, and shall encourage non-Federal financial participation in awarding grants. With respect to grants for passenger rail security, the Under Secretary shall also take into account passenger volume and whether a station is used by commuter rail passengers as well as intercity rail passengers.

(d) Conditions.—The Secretary of Transportation may not disburse funds to Amtrak under subsection (a) unless Amtrak meets the conditions set forth in section 10(b) of this Act.

(e) Allocation Between Railroads and Others.—Unless as a result of the assessment required by section 2 the Under Secretary of Homeland Security for Border and Transportation Security determines that critical rail transportation security needs require reimbursement in greater amounts to any eligible entity, no grants under this section may be made—

(1) in excess of $65,000,000 to Amtrak; or

(2) in excess of $100,000,000 for the purposes described in paragraphs (3) and (5) of subsection (a).

(f) Authorization of Appropriations.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $350,000,000 for fiscal year 2005 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

(g) High Hazard Materials Defined.—In this section, the term "high hazard materials" means poison inhalation hazard materials, Class 2.3 gases, Class 6.1 materials, and anhydrous ammonia.

SEC. 12. OVERSIGHT AND GRANT PROCEDURES.

(a) Secretarial Oversight.—The Secretary of Transportation may use up to 0.5 percent of amounts made available to Amtrak for capital projects under the Rail Security Act of 2004 to enter into contracts for the review of proposed capital projects and related program management plans and to oversee construction of such projects.

(b) Use of Funds.—The Secretary may use amounts available under subsection (a) of this subsection to make contracts for safety, procurement, management, and financial compliance reviews and audits of a recipient of amounts under subsection (a).

(c) Procedures for Grant Award.—The Under Secretary shall prescribe procedures and schedules for the awarding of grants under this Act, including application and qualification procedures (including a requirement that the applicant have a security plan), and a record of decision on applicant eligibility. The procedures shall include the execution of a grant agreement between the grant recipient and the Under Secretary. The Under Secretary shall issue a final rule establishing the procedures not later than 90 days after the date of enactment of this Act.

SEC. 13. RAIL SECURITY RESEARCH AND DEVELOPMENT.

(a) Establishment of Research and Development Program.—The Under Secretary of Homeland Security for Border and Transportation Security, in conjunction with the Secretary of Transportation, shall carry out a research and development program for the purpose of improving freight and intercity passenger rail security that may include research and development projects to—

(1) reduce the vulnerability of passenger trains, stations, and equipment to explosives and hazardous chemical, biological, and radioactive substances;

(2) test new emergency response techniques and technologies;

(3) develop improved freight technologies, including—

(A) technologies for sealing rail cars;

(B) automatic inspection of rail cars;

(C) communication-based train controls; and

(D) emergency response training;

(4) test wayside detectors that can detect tampering with railroad equipment; and

(5) support enhanced security for the transportation of hazardous materials by rail, including—

(A) technologies to detect a breach in a tank car and transmit information about the integrity of tank cars to the train crew;

(B) research to improve tank car integrity, with a focus on tank cars that carry high hazard materials (as defined in section 11(g) of this Act;

(C) techniques to transfer hazardous materials from rail cars that are damaged or otherwise represent an unreasonable risk to human life or public safety;

(6) other projects recommended in the report required by section 2.

(b) Coordination With Other Research Initiatives.—The Under Secretary of Homeland Security for Border and Transportation Security shall ensure that the research and development program authorized by this section is coordinated with other research and development initiatives at the Department and the Department of Transportation. The Under Secretary of Homeland Security for Border and Transportation Security shall carry out any research and development project authorized by this section through a reimbursable agreement with the Secretary of Transportation if the Secretary of Transportation—

(1) is already sponsoring a research and development project in a similar area; or

(2) has a unique facility or capability that would be useful in carrying out the project.

(c) Accountability.—The Under Secretary shall adopt necessary procedures, including audits, to ensure that grants made under this section are expended in accordance with the purposes of this Act and the priorities and other criteria developed by the Under Secretary.

(d) Authorization of Appropriations.—There are authorized to be appropriated to the Under Secretary of Homeland Security for Border and Transportation Security $50,000,000 in each of fiscal years 2005 and 2006 to carry out the purposes of this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

SEC. 14. WELDED RAIL AND TANK CAR SAFETY IMPROVEMENTS.

(a) Track Standards.—Within 90 days after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) require each track owner using continuous welded rail track to include procedures (in its procedures filed with the Administration pursuant to section 213.119 of title 49, Code of Federal Regulations) to improve the identification of cracks in rail joint bars;

(2) instruct Administration track inspectors to obtain copies of the most recent continuous welded rail programs of each railroad within the inspectors' areas of responsibility and require that inspectors use those programs when conducting track inspections; and

(3) establish a program to periodically review continuous welded rail joint bar inspection data from railroads and Administration track inspectors and, whenever the Administration determines that it is necessary or appropriate, require railroads to increase the frequency or improve the methods of inspection of joint bars in continuous welded rail.

(b) Tank Car Standards.—The Federal Railroad Administration shall—

(1) within 1 year after the date of enactment of this Act, validate the predictive model it is developing to quantify the relevant dynamic forces acting on railroad tank cars under accident conditions; and

(2) within 18 months after the date of enactment of this Act, initiate a rulemaking to develop and implement appropriate design standards for pressurized tank cars.

(c) Older Tank Car Impact Resistance Analysis and Report.—Within 2 years after the date of enactment of this Act, the Federal Railroad Administration shall—

(1) conduct a comprehensive analysis to determine the impact resistance of the steels in the shells of pressure tank cars constructed before 1989; and

(2) transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure with recommendations for measures to eliminate or mitigate the risk of catastrophic failure.

SEC. 15. NORTHERN BORDER RAIL PASSENGER REPORT.

Within 180 days after the date of enactment of this Act, the Under Secretary of Homeland Security for Border and Transportation Security, in consultation with the heads of other appropriate Federal departments and agencies and the National Railroad Passenger Corporation, shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure that contains—

(1) a description of the current system for screening passengers and baggage on passenger rail service between the United States and Canada;

(2) an assessment of the current program to provide preclearance of airline passengers between the United States and Canada as outlined in "The Agreement on Air Transport Preclearance between the Government of Canada and the Government of the United States of America", dated January 18, 2001;

(3) an assessment of the current program to provide preclearance of freight railroad traffic between the United States and Canada as outlined in the "Declaration of Principle for the Improved Security of Rail Shipments by Canadian National Railway and Canadian Pacific Railway from Canada to the United States", dated April 2, 2003;

(4) information on progress by the Department of Homeland Security and other Federal agencies towards finalizing a bilateral protocol with Canada that would provide for preclearance of passengers on trains operating between the United States and Canada;

(5) a description of legislative, regulatory, budgetary, or policy barriers within the United States Government to providing prescreened passenger lists for rail passengers travelling between the United States and Canada to the Department of Homeland Security;

(6) a description of the position of the Government of Canada and relevant Canadian agencies with respect to preclearance of such passengers; and

(7) a draft of any changes in existing Federal law necessary to provide for pre-screening of such passengers and providing prescreened passenger lists to the Department of Homeland Security.

SEC. 16. REPORT REGARDING IMPACT ON SECURITY OF TRAIN TRAVEL IN COMMUNITIES WITHOUT GRADE SEPARATION.

(a) Study.—The Secretary of Homeland Security shall, in consultation with State and local government officials, conduct a study on the impact of blocked highway-railroad grade crossings on the ability of emergency responders, including ambulances and police, fire, and other emergency vehicles, to perform public safety and security duties in the event of a terrorist attack.

(b) Report.—Not later than 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall submit a report to the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the findings of the study conducted under subsection (a) and recommendations for reducing the impact of blocked crossings on emergency response.

SEC. 17. WHISTLEBLOWER PROTECTION PROGRAM.

(a) In General.—Subchapter A of chapter 201 of title 49, United States Code, is amended by inserting after section 20115 the following:

"§ 20116. Whistleblower protection for rail security matters

"(a) Discrimination Against Employee.—No rail carrier engaged in interstate or foreign commerce may discharge a railroad employee or otherwise discriminate against a railroad employee because the employee (or any person acting pursuant to a request of the employee)—

(1) provided, caused to be provided, or is about to provide or cause to be provided, to the employer or the Federal Government information relating to a perceived threat to security; or

"(2) provided, caused to be provided, or is about to provide or cause to be provided, testimony before Congress or at any Federal or State proceeding regarding a perceived threat to security; or

"(3) refused to violate or assist in the violation of any law, rule or regulation related to rail security.

"(b) Dispute Resolution.—A dispute, grievance, or claim arising under this section is subject to resolution under section 3 of the Railway Labor Act (45 U.S.C. 153). In a proceeding by the National Railroad Adjustment Board, a division or delegate of the Board, or another board of adjustment established under section 3 to resolve the dispute, grievance, or claim the proceeding shall be expedited and the dispute, grievance, or claim shall be resolved not later than 180 days after it is filed. If the violation is a form of discrimination that does not involve discharge, suspension, or another action affecting pay, and no other remedy is available under this subsection, the Board, division, delegate, or other board of adjustment may award the employee reasonable damages, including punitive damages, of not more than $20,000.

"(c) Procedural Requirements.—Except as provided in subsection (b), the procedure set forth in section 42121(b)(2)(B) of this title, including the burdens of proof, applies to any complaint brought under this section.

"(d) Election of Remedies.—An employee of a railroad carrier may not seek protection under both this section and another provision of law for the same allegedly unlawful act of the carrier.

"(e) Disclosure of Identity.—

"(1) Except as provided in paragraph (2) of this subsection, or with the written consent of the employee, the Secretary of Transportation may not disclose the name of an employee of a railroad carrier who has provided information about an alleged violation of this section.

"(2) The Secretary shall disclose to the Attorney General the name of an employee described in paragraph (1) of this subsection if the matter is referred to the Attorney General for enforcement.".

(b) Conforming Amendment.—The chapter analysis for chapter 201 of title 49, United States Code, is amended by inserting after the item relating to section 20115 the following:

"20116. Whistleblower protection for rail security matters.".

PUBLIC TRANSPORTATION TERRORISM PREVENTION ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2884 that was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2884) to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements related to this bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2884) was read the third time and passed, as follows:

S. 2884

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Public Transportation Terrorism Prevention Act of 2004".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Findings and purpose.
Sec. 3. Memorandum of understanding.
Sec. 4. Security assessments.
Sec. 5. Security assistance grants.
Sec. 6. Intelligence sharing.
Sec. 7. Research, development, and demonstration grants.
Sec. 8. Reporting requirements.
Sec. 9. Authorization of appropriations.
Sec. 10. Sunset provision.

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—Congress finds that—

(1) throughout the world, public transportation systems have been a primary target of terrorist attacks, causing countless death and injuries;

(2) 6,000 public transportation agencies operate in the United States;

(3) 14,000,000 people in the United States ride public transportation each work day;

(4) safe and secure public transportation systems are essential to the Nation's economy and for significant national and international public events;

(5) the Federal Transit Administration has invested $68,700,000,000 since 1992 for construction and improvements to the Nation's public transportation systems;

(6) the Federal Government appropriately invested $11,000,000,000 in fiscal years 2002 and 2003 to protect our Nation's aviation system and its 1,800,000 daily passengers;

(7) the Federal Government invested $115,000,000 in fiscal years 2003 and 2004 to protect public transportation systems in the United States;

(8) the Federal Government has invested $9.16 in aviation security improvements per passenger, but only $0.006 in public transportation security improvements per passenger;

(9) the General Accounting Office, the Mineta Institute for Surface Transportation Policy Studies, the American Public Transportation Association, and other experts have reported an urgent need for significant investment in transit security improvements; and

(10) the Federal Government has a duty to deter and mitigate, to the greatest extent practicable, threats against the Nation's public transportation systems.

SEC. 3. MEMORANDUM OF UNDERSTANDING.

(a) In General.—Not later than 45 days after the date of enactment of this Act, the Secretary of Transportation shall enter into a memorandum of understanding with the Secretary of Homeland Security to define and clarify the respective public transportation security roles and responsibilities of the Department of Transportation and the Department of Homeland Security.

(b) Contents.—The memorandum of understanding described in subsection (a) shall—

(1) establish a process to develop security standards for public transportation agencies;

(2) establish funding priorities for grants from the Department of Homeland Security to public transportation agencies;

(3) create a method of direct coordination with public transportation agencies on security matters;

(4) address any other issues determined to be appropriate by the Secretary of Transportation and the Secretary of Homeland Security; and

(5) include a formal and permanent mechanism to ensure coordination and involvement by the Department of Transportation, as appropriate, in public transportation security.

SEC. 4. SECURITY ASSESSMENTS.

(a) Public Transportation Security Assessments.—

(1) Submission.—Not later than 30 days after the date of enactment of this Act, the Federal Transit Administration of the Department of Transportation shall submit all public transportation security assessments and all other relevant information to the Department of Homeland Security.

(2) Review.—The Secretary of Homeland Security shall review and augment the security assessments received under paragraph (1).

(3) Allocations.—The assessments described in paragraph (1) shall be used as the basis for allocating grant funds under section 5, unless the Secretary of Homeland Security determines that an adjustment is necessary to respond to an urgent threat or other significant factors, after notification to the Committee on Banking, Housing, and Urban Affairs of the Senate.

(4) Security Improvement Priorities.—The Secretary of Homeland Security shall establish security improvement priorities, in consultation with the management and employee representatives of each public transportation system receiving an assessment that will be used by public transportation agencies for any funding provided under section 5.

(5) Updates.—The Secretary of Homeland Security shall annually update the assessments referred to in this subsection and conduct assessments of all transit agencies considered to be at greatest risk of a terrorist attack.

(b) Use of Assessment Information.—The Secretary of Homeland Security shall use the information collected under subsection (a)—

(1) to establish the process for developing security guidelines for public transportation security;

(2) to design a security improvement strategy that minimizes terrorist threats to public transportation systems; and

(3) to design a security improvement strategy that maximizes the efforts of public transportation systems to mitigate damage from terrorist attacks.

(c) Bus Public Transportation Systems.—The Secretary of Homeland Security shall conduct assessments of local bus-only public transportation systems to determine the specific needs of this form of public transportation that are appropriate to the size and nature of the bus system.

(d) Rural Public Transportation Systems.—The Secretary of Homeland Security shall conduct assessments of selected public transportation systems that receive funds under section 5311 of title 49, United States Code, to determine the specific needs of this form of public transportation that are appropriate to the size and nature of the system.

SEC. 5. SECURITY ASSISTANCE GRANTS.

(a) Capital Security Assistance Program.—

(1) In general.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable capital security improvements based on the priorities established under section 4(a)(4).

(2) Allowable use of funds.—Grants awarded under paragraph (1) may be used for—

(A) tunnel protection systems;

(B) perimeter protection systems;

(C) redundant critical operations control systems;

(D) chemical, biological, radiological, or explosive detection systems;

(E) surveillance equipment;

(F) communications equipment;

(G) emergency response equipment;

(H) fire suppression and decontamination equipment;

(I) global positioning or automated vehicle locator type system equipment;

(J) evacuation improvements; and

(K) other capital security improvements.

(b) Operational Security Assistance Program.—

(1) In general.—The Secretary of Homeland Security shall award grants directly to public transportation agencies for allowable operational security improvements based on the priorities established under section 4(a)(4).

(2) Allowable use of funds.—Grants awarded under paragraph (1) may be used for—

(A) security training for transit employees, including bus and rail operators, mechanics, customer service, maintenance employees, transit police, and security personnel;

(B) live or simulated drills;

(C) public awareness campaigns for enhanced public transportation security;

(D) canine patrols for chemical, biological, or explosives detection;

(E) overtime reimbursement for enhanced security personnel during significant national and international public events, consistent with the priorities established under section 4(a)(4); and

(F) other appropriate security improvements identified under section 4(a)(4), excluding routine, ongoing personnel costs.

(c) CONGRESSIONAL NOTIFICATION.—Not later than 3 days before any grant is awarded under this section, the Secretary of Homeland Security shall notify the Committee on Banking, Housing, and Urban Affairs of the Senate of the intent to award such grant.

(d) TRANSIT AGENCY RESPONSIBILITIES.—Each public transportation agency that receives a grant under this section shall—

(1) identify a security coordinator to coordinate security improvements;

(2) develop a comprehensive plan that demonstrates the agency's capacity for operating and maintaining the equipment purchased under this subsection; and

(3) report annually to the Department of Homeland Security on the use of grant funds received under this section.

(e) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified for that grant under this section, the grantee shall return any amount so used to the Treasury of the United States.

SEC. 6. INTELLIGENCE SHARING.

(a) INTELLIGENCE SHARING.—The Secretary of Homeland Security shall ensure that the Department of Transportation receives appropriate and timely notification of all credible terrorist threats against public transportation assets in the United States.

(b) INFORMATION SHARING ANALYSIS CENTER.—

(1) ESTABLISHMENT.—The Department of Homeland Security shall fund the reasonable costs of the Information Sharing and Analysis Center for Public Transportation (referred to in this subsection as the "ISAC") established pursuant to Presidential Directive 63 to protect critical infrastructure.

(2) PUBLIC TRANSPORTATION AGENCY PARTICIPATION.—The Secretary of Homeland Security—

(A) shall require those public transportation agencies that the Secretary determines to be at significant risk of terrorist attack to participate in the ISAC;

(B) shall encourage all other public transportation agencies to participate in the ISAC; and

(C) shall not charge any public transportation agency a fee for participation in the ISAC.

SEC. 7. RESEARCH, DEVELOPMENT, AND DEMONSTRATION GRANTS.

(a) GRANTS AUTHORIZED.—The Secretary of Homeland Security, in consultation with the Federal Transit Administration, shall award grants to public or private entities to conduct research into, and demonstration of, technologies and methods to reduce and deter terrorist threats or mitigate damages resulting from terrorist attacks against public transportation systems.

(b) USE OF FUNDS.—Grants awarded under subsection (a) may be used for—

(1) researching chemical, biological, radiological, or explosive detection systems that do not significantly impede passenger access;

(2) researching imaging technologies;

(3) conducting product evaluations and testing; and

(4) researching other technologies or methods for reducing or deterring terrorist attacks against public transportation systems, or mitigating damage from such attacks.

(c) REPORTING REQUIREMENT.—Each entity that receives a grant under this section shall report annually to the Department of Homeland Security on the use of grant funds received under this section.

(d) RETURN OF MISSPENT GRANT FUNDS.—If the Secretary of Homeland Security determines that a grantee used any portion of the grant funds received under this section for a purpose other than the allowable uses specified under subsection (b), the grantee shall return any amount so used to the Treasury of the United States.

SEC. 8. REPORTING REQUIREMENTS.

(a) ANNUAL REPORT TO CONGRESS.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit a report, which describes the implementation of section 4 through 7, and the state of public transportation security in the United States, to—

(1) the Committee on Banking, Housing, and Urban Affairs of the Senate;

(2) the Committee on Governmental Affairs of the Senate; and

(3) the Committee on Appropriations of the Senate.

(b) ANNUAL REPORT TO GOVERNORS.—Not later than March 31 of each year, the Secretary of Homeland Security shall submit a report to the governor of each State in which a transit agency that has received a grant under this Act is operating that specifies the amount of grant funds distributed to each such transit agency and the use of such grant funds.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) CAPITAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated $2,370,000,000 for fiscal year 2005 to carry out the provisions of section 5(a), which shall remain available until expended.

(b) OPERATIONAL SECURITY ASSISTANCE PROGRAM.—There are authorized to be appropriated to carry out the provisions of section 5(b)—

(1) $534,000,000 for fiscal year 2005;

(2) $333,000,000 for fiscal year 2006; and

(3) $133,000,000 for fiscal year 2007.

(c) INTELLIGENCE.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of section 6.

(d) RESEARCH.—There are authorized to be appropriated $130,000,000 for fiscal year 2005 to carry out the provisions of section 7, which shall remain available until expended.

SEC. 10. SUNSET PROVISION.

This Act is repealed on October 1, 2007.

ORDERS FOR MONDAY, OCTOBER 4, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 10 a.m. on Monday, October 4. I further ask consent that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that there then be a period of morning business for up to 60 minutes, with the first 30 minutes under the control of the minority leader or his designee and the second 30 minutes under the control of the majority leader or his designee; provided further that following morning business, the Senate resume consideration of S. 2845, the intelligence reform bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, for the information of all Senators, on Monday the Senate will resume consideration of the intelligence reform bill. Under the order, there will be a series of stacked votes beginning at 4:15 on Monday. That will be, in all likelihood, the first series of votes on Monday. Monday will be a very, very busy day, and there are likely to be many more votes after these stacked votes over the course of the day into the evening. In all likelihood, we will be voting and debating well into the evening on Monday in order that we can complete this bill early next week.

The cloture motion I filed a few minutes ago will ripen on Tuesday morning, and that will determine the remaining action on this bill. Again, I will remind everyone that upon completion of this legislation, the pending legislation, the Collins-Lieberman bill, which focuses on executive reforms, we will also address the Senate intelligence reforms next week.

As you can tell, there is a lot of work that needs to be done before the Senate adjourns. We will adjourn next Friday on October 8 after we address both of these issues. Again, I want to stress we have both of these important pieces of legislation we will address before departing. Thus, I anticipate very busy sessions between now and next Friday.

As I mentioned earlier, we have had a very busy week, a very productive week. I thank all of our colleagues on both sides of the aisle for their patience and for their hard work. I thank the Presiding Officer, the Senator from Alabama, for his commitment this afternoon, and now into the evening, and for his steady hand at the gavel.

I wish all a restful weekend.

ADJOURNMENT UNTIL MONDAY, OCTOBER 4, 2004, AT 10 A.M.

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 6:19 p.m., adjourned until Monday, October 4, 2004, at 10 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate October 1, 2004:

INTERNATIONAL MONETARY FUND

ALAN GREENSPAN, OF NEW YORK, TO BE UNITED STATES ALTERNATE GOVERNOR OF THE INTERNATIONAL MONETARY FUND FOR A TERM OF FIVE YEARS.

EXTENSIONS OF REMARKS

RECOGNIZING COMCAST CARES DAY

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. GERLACH. Mr. Speaker, I rise today to honor the Comcast Cable Communications for their contributions to community fellowship and well-being as demonstrated in their unique one-day Comcast Cares community project.

Comcast began their tradition of volunteer service in 1997 when Comcast employees and their families participated in the Philadelphia Cares Day. The Philadelphia Cares Day began as a day of city-wide community service in the Comcast headquarters hometown. As the number of employees continued to grow at Comcast, so did the number of Comcast volunteers. The Comcast volunteers are well-known for their enthusiasm, dedication, and for contributions to their community.

In 2001, the spirit of volunteerism and community grew and the Philadelphia Cares Day became company-wide, spread across the country, and was renamed Comcast Cares Day. Six thousand, one hundred Comcast employees participated in over 120 non-profit community projects in 26 states. This new initiative gave Comcast the ability to show their commitment and dedication to each community that it serves.

In Comcast's home state of Pennsylvania, Comcast employees worked on 13 different projects throughout the state. In Pottstown, Pennsylvania, 125 Comcast employees partnered with the Rickets Community Center and the Pottstown School District to paint and landscape the Pottstown High School, the Pottstown Middle School, and the Community Center. Volunteers also worked in Reading, Pennsylvania with the South Mountain YMCA to clear trails, rebuild a rock-climbing wall, and worked on general clean-up for Camp Conrad Weiser.

It was also in 2001 that Comcast received a total of 11 awards in recognition for their multiple community service initiatives. In 2002, Comcast was awarded the Cable Television Public Affairs Association's Golden Beacon Award, the Association's highest honor, honoring Comcast's service and continuing commitment to the communities they serve, as demonstrated in the 2001 Comcast Cares Day.

Mr. Speaker, I ask that my colleagues join me today in recognizing Comcast Cable Corporation for their commitment to volunteerism and community service, not only in Pennsylvania, but throughout the country.

HONORING CHRIST OUR SAVIOR LUTHERAN SCHOOL'S AMERICAN SPIRIT TOWARD THE VICTIMS OF THE BESLAN SCHOOL TRAGEDY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. BURGESS. Mr. Speaker, today, I would like to say thank you to one of my hometown schools, Christ Our Savior Lutheran School in Coppell, Texas. The students of Christ Our Savior enthusiastically participated in a card giving program for the victims of the Beslan school tragedy.

Before departing for my mission to Russia, I asked several local schools. Today, I would like to say thank you to one of my hometown schools, Christ Our Savior if they would like to create, draw, color or write greeting cards to the survivors and grieving families. The response was overwhelming. I was honored to be able to present hundreds of colorful cards to patients and families.

During my time in Russia, I had the opportunity to visit survivors recuperating at two hospitals. The visits were moving and tearful, but you could see the hearts of American students truly shining in the eyes of the Russian children. I was truly privileged to represent the United States, and especially grateful to be able to share wonderful cards full of encouragement and joy.

Again, thank you, the students of Christ Our Savior Lutheran School for your kindheartedness and thoughtfulness. Your words strongly conveyed the spirit of the American people and our commitment to build relations with countries dedicated to combating global terrorism.

PAYING TRIBUTE TO PAUL JONES

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Paul Jones, a terrific community leader from Grand Junction, Colorado. Paul moved to Colorado and became this small town's only obstetrician/gynecologist. In addition to his medical contributions, Paul was also an active community member, and I would like to join my colleagues here today in recognizing his tremendous achievements before this body of Congress.

Paul moved to Grand Junction in 1972 to serve as the city's only obstetrician and gynecologist. During his three decades practicing medicine, he assisted with about 10,000 births. Still active in the community, Paul works with the Community Hospital and St. Mary's Hospital. He also co-chairs the Riverfront Commission, sits on the board of the Western Colorado Botanical Gardens, and still sees patients at Women's Health care of Western Colorado. This year the Lion's Club in Grand Junction named Paul as Lion of the Year for his commitment to the community.

Mr. Speaker, it is a privilege to honor Paul Jones for his service to the citizens of Grand Junction. As a doctor, and community leader Paul has always been there, and it is with great pleasure to recognize him today before this body of Congress and this nation. Thank you, Paul, I wish you well in all of your future endeavors.

CHARLES FLOWERS, SR.

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. BRADY of Texas. Mr. Speaker, during the 2004 Fallen Fire Heroes Memorial Weekend, our nation will come together to honor the 107 firefighters who perished in the line of duty last year. Regretfully, eight Texas firefighters lost their lives, two of whom are from the 8th Congressional District.

We are not here to mourn the loss as much as we are here to celebrate the lives of these dedicated heroes that serve selflessly in the worst of conditions to keep us safe. We celebrate their commitment, their compassion and their courage. So many hours of training; days and nights of service; time away from their families and friends; comradery with their brothers; lives and homes saved . . . it is impossible to put into words our gratitude for these heroes in our lives and our communities.

Charles Flowers, Sr. of the New Caney Volunteer Fire Department will have his name added to the plaques surrounding the National Fallen Firefighters Memorial Park just outside of Washington, D.C. this weekend.

Charles Flowers, Sr., a veteran firefighter for over 25 years died while responding to a motor vehicle accident with a victim pinned in the vehicle. He collapsed from an apparent heart attack after actively attempting to free the victim from the vehicle. Flowers was well known and loved by this community. He served the New Caney Volunteer Fire Department as Chief, Captain, and finally as Assistant Chief. He was also a representative to the Montgomery County Fire Chiefs Association and a member of the Emergency Services Ministries.

Firefighters represent the best our community has to offer. We honor them today, not only for their final act of bravery but for the lives they led. A firefighter's work can some times be thankless, but of all the men and women I've met, meet challenge and the danger without complaints and without regret. Their lives provided hope and comfort to victims of horrible events that we pray never come to us or the ones we love.

This remembrance service is as much a celebration of their lives and their ideals as it is a time to reflect on what we have lost. Firefighters remind us that heroes are every day people who decide to devote their lives and work to something greater than themselves.

Today we are here to honor Charlie Flowers and his brothers, the 106 nationwide who've sacrificed so much. With the start of a new day, we honor the families and friends they've left behind. Mr. Speaker, our prayers are always with them. Together as a community we say thank you to those who will stand in the place of those who have fallen and will continue to faithfully serve and protect.

IN HONOR OF JOE HOLSINGER

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Ms. ESHOO. Mr. Speaker, I rise to honor the life of Joe Holsinger who died on September 10, 2004, at the age of 82.

Joe Holsinger was a distinguished public servant with a long record of service to the people of California. He was a brilliant man, a political mentor to me and to many others, and he will be missed by everyone who had the privilege of knowing him.

Joe Holsinger was born Galen Wright Holsinger on November 24, 1921, in Bellwood, Pennsylvania. He attended the University of Pittsburgh for two and a half years before enlisting in the U.S. Army and completing his service as an officer. After World War II he settled in California, graduated from U.C. Santa Barbara, and began a career in real estate.

His career in public service began in 1975 when he became Congressman Leo Ryan's Administrative Assistant, in charge of both the Washington, D.C. and San Mateo offices. After Congressman Ryan's tragic assassination in Guyana in November, 1978, Joe unsuccessfully sought the Congressional seat. He returned to his former career for several years in real estate as head of Holsinger Properties, Inc. During this time he met Bill Honig, a school district superintendent from Marin County who was seeking election as California's Superintendent of Public Instruction. He supported Bill Honig in his successful 1982 campaign and then joined his staff as a special consultant on school reform legislation. He became Deputy Superintendent of Public Instruction in 1983 and was instrumental in the enactment of the Hughes-Hart School Reform bill (SB 813). He left the Department of Education in 1985 to return to his commercial real estate practice, but returned in late 1988 at the request of Superintendent Honig and resumed his position as Deputy Superintendent for Governmental Policy. Joe Holsinger retired in December 1994, but continued to consult with many legislators in Sacramento until earlier this year.

Joe was a founding member of Americans for Democratic Action (1947), the first president of the Federated Young Democrats of San Francisco (1949) and a founding member and chairman of the Credentials Committee for the first state convention of the California Democratic Council (CDC) in 1953. He was a longstanding member of the California Democratic Party and state executive committee, serving two terms as Chairman of the Rules Committee and as the Northern California chairman from 1968 to 1970. Joe Holsinger also served as Northern California chairman for the 1968 Eugene McCarthy presidential primary campaign and Jimmy Carter's successful campaign for President in 1976.

Mr. Speaker, I ask my colleagues to join me in honoring the memory of this patriotic American, distinguished public servant, successful private sector leader, father and grandfather.

CONGRATULATIONS TO OLYMPIAN TERIN HUMPHREY

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. SKELTON. Mr. Speaker, it has come to my attention that Olympic gymnast, Terin Humphrey, of Bates City, Missouri, received two silver medals at the 2004 Summer Olympics in Athens, Greece.

Terin was born on August 14, 1986, in St. Joseph, Missouri. After graduating from Odessa High School in the spring of 2004, she now plans to attend the University of Alabama. While at Odessa High School, Terin trained at the Great American Gymnastic Express gym for daily six hour workouts. Terin was coached by Al Fong and his wife, Armine Barutyan-Fong. Terin trained with her Olympic teammate, Courtney McCool.

Terin always has been a strong all around gymnast and has a strong record in the sport. Terin was a member of the 2003 gold medal winning United States World Championships Team. In 2004, at the Visa American Cup, Terin won bronze medals in three events: uneven bars, vault and floor. Terin then placed third in the all around at the 2004 United States Championships. In the summer of 2004, Terin made her Olympic debut at Athens, where she won two silver medals for the team competition and for the uneven bars event.

Mr. Speaker, I wish to extend my congratulations to Terin Humphrey for her achievements at the 2004 Summer Olympics.

HONORING HAROLD ZINKIN

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize Mr. Harold Zinkin of Fresno, California posthumously for his service to his community and generous good will. Mr. Zinkin recently passed away on September 22, 2004.

Harold Zinkin was born in San Francisco, California, on May 11, 1922. As the son of proud Russian immigrants, this first-generation American went on to live a life that was nothing short of achieving the American Dream.

In response to the attack on Pearl Harbor, Harold enlisted in the U.S. Navy and was ready to serve his country in any capacity. While serving, he found his talent was in physical therapy. His zeal for health and wellness continued to follow him after his military service. Mr. Zinkin became a champion bodybuilder and was one of the patriarchs of California's fitness movement that rose out of the famed "Muscle Beach." In addition, Harold's vision for the future of health and wellness came to fruition through his creation of revolutionary fitness equipment, the "Universal Gym Machine." As an established pioneer of the fitness movement, Mr. Zinkin helped many achieve bodybuilding success, and lead many more toward making positive lifestyle changes centered on physical fitness.

Regarded by business colleagues as a successful businessman with an extraordinary business outlook towards future successful ventures, Mr. Zinkin was instrumental in creating one of the most dynamic and successful shopping/entertainment complexes throughout California's Central Valley.

Harold Zinkin was perhaps most renowned for the quality of his character and tremendous good will.

He is survived by his wife Betty, son DeWayne and four grandchildren.

Mr. Speaker, I rise today to recognize Harold Zinkin for his tremendous service to his community. I invite my colleagues to join me in honoring him for his commitment to excellence, good will, and for touching lives in the Central Valley and worldwide.

HONORING MARGIE DINGELDEIN

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. CARDOZA. Mr. Speaker, I rise today to honor Margie Dingeldein, a remarkable individual and outstanding athlete who as a member of the U.S. Olympic women's water polo team won the bronze medal at the 2004 Olympic Games in Athens, Greece.

Ms. Dingeldein was born and raised in Merced, California. Her talent and love for the water was recognized early when by age 3, she could swim across a 25 yard pool without coming up for a single breathe of air. Her energy and endurance continued throughout her career, placing her among the best female athletes to come out of the San Joaquin Valley.

Ms. Dingeldein attended Merced High School where she was determined to maintain a well-rounded life. While competing in year-round sports, she remained committed to community service, and her studies, graduating as the valedictorian of the class of 1998. She completed her high school swimming career setting Central California Conference swim records in the 100 and 200 freestyle events, confirming that she was ready for her transition to Stanford University.

While at Stanford, Ms. Dingeldein received three All-American honors, and helped the Cardinal appear in two consecutive NCAA Championships. She continued a family legacy of Stanford graduates, earning a pre-med degree in human biology in 2002. Her endurance and determination culminated with her Olympic appearance after 20 years of competition.

Ms. Dingeldein's bronze medal has made her more than an Olympic medalist. Her international success made her a local hero, as she is among the first Olympic medalists from Merced County. As a role model for our youth, she serves as a superlative example that will inspire and encourage our young athletes.

Mr. Speaker, I ask that my colleagues join me in honoring Margie Dingeldein for her accomplishments. It is an honor to recognize all of her accomplishments and thank her for being such a fine role model to our community, and our country.

RECOGNIZING THE NORTH CAROLINA CIVIC EDUCATION CONSORTIUM

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. PRICE of North Carolina. Mr. Speaker, while many institutions help to develop Americans' knowledge and skills and shape their civic character and commitments, our nation's schools bear a special and historic responsibility to provide our students an adequate civic education.

On September 20–22, 2003, the first annual Congressional Conference on Civic Education was launched. The conference was sponsored by the Alliance for Representative Democracy and co-hosted by the four leaders of the U.S. Congress. One of the very positive outcomes of the Congressional Conference was the establishment of state delegations that would return to the state to enact specific policies designed to restore the civic mission of our schools.

I would like to recognize the North Carolina Civic Education Consortium at the University of North Carolina at Chapel Hill, facilitator of our state's delegation, for helping the delegation design a strong action plan to improve civic education. This action plan and related efforts have led to the following accomplishments: hosting a successful statewide policy summit on the civic mission of schools for state and local policymakers; securing grant funds to pilot model practices and policies in two school systems that could have statewide implications; developing a new resource guide for schools to help them implement new civic education legislation; and gaining visibility and support from the State Board of Education.

Mr. Speaker, I look forward to North Carolina's continued leadership in civic education reform and their participation in the second annual Congressional Conference on Civic Education, which will be held on December 4–6, 2004.

HONORING WILSHIRE ELEMENTARY SCHOOL'S AMERICAN SPIRIT TOWARD THE VICTIMS OF THE BESLAN SCHOOL TRAGEDY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. BURGESS. Mr. Speaker, today I would like to say thank you to one of my hometown schools, Wilshire Elementary School in Euless, Texas. The students of Wilshire enthusiastically participated in a card giving program for the victims of the Beslan school tragedy.

Before departing for my mission to Russia, I asked several local schools if they would like to create, draw, color or write greeting cards to the survivors and grieving families. The response was overwhelming. I was honored to be able to present hundreds of colorful cards to patients and families.

During my time in Russia, I had the opportunity to visit survivors recuperating at two hospitals. The visits were moving and tearful, but you could see the hearts of American students truly shining in the eyes of the Russian children. I was truly privileged to represent the United States, and especially grateful to be able to share wonderful cards full of encouragement and joy.

Again, thank you, the students of Wilshire Elementary School for your kindheartedness and thoughtfulness. Your words strongly conveyed the spirit of the American people and our commitment to build relations with countries dedicated to combating global terrorism.

TRIBUTE TO FRANKLYN G. BROYLES, JR. FOR RECEIVING THE 2004 ARTHRITIS FOUNDATION HUMANITARIAN AWARD

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. CRAMER. Mr. Speaker, I rise today to congratulate my friend, Reverend Franklyn G. Broyles, Jr. of Huntsville for receiving the 2004 Arthritis Foundation Humanitarian Award. This award is given annually to a person in the Huntsville community who has displayed exemplary community leadership.

Reverend Broyles was born and raised in Huntsville, Alabama and after graduating from Vanderbilt Divinity School, Reverend Broyles returned to North Alabama and currently serves as the Minister of Church and Community with the Faith Presbyterian Church. He also serves as the Executive Minister of the Huntsville Association for Pastoral Care and Program Director of the Huntsville area chapter of the National Conference for Community and Justice.

Reverend Broyles has also vigorously given his time to the community. He was the first Administrative Director of Hospice of Huntsville and he served as the Director of the Campus Ministry Association at the University of Alabama in Huntsville for fifteen years. Reverend Broyles has also volunteered his leadership to numerous community organizations.

Additionally, Reverend Broyles is known for his strong commitment to worldwide and interfaith understanding. His service in interagency, worldwide, and interfaith work has earned him close to thirty awards.

Mr. Speaker, Frank's ability to bring people together and provide a positive influence on the entire community is something that we all should strive to do. On behalf of the people of North Alabama, I would like to congratulate Frank Broyles for being named the 2004 Arthritis Foundation Humanitarian Award winner.

HONORING WILLIAM OSTASH

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. KILDEE. Mr. Speaker, I rise before you today on behalf of the Michigan State Polka Music Hall of Fame to honor the late Mr. William Ostash of Bay City, Michigan for his contributions to the Polka Music Industry. On October 3, 2004 the Michigan State Polka Music Industry will honor Mr. William Ostash by inducting him into the Polka Music Hall of Fame.

William Ostash was born in Saskatchan, Canada on December 11, 1915 to Michael and Anna Ostash. In December of 1926, William and his family moved to Bay City, Michigan. At a young age William along with his siblings learned the value of music from their father, who was a well-known violinist in his native country of Ukraine. William who was a self-taught accordion player, performed with the family Orchestra for many years. The Ostash Orchestra music was so popular that it gained airtime on radio station WBCM. History has it that William was one of the first to incorporate the accordion into polka music. Another note worthy of mentioning is that William was also a master at performing the march called "Under the Double Eagle", and according to his family audiences were always amazed at how he could play this tune using his left hand, the bass side, with 120 buttons.

Aside from his musical career, William was a devoted husband to his lovely wife Julie, whom he married on May 3, 1941. To this union were born two sons, James and Ronald. On April 8, 2002 Julie Ostash passed away, and William passed on July 20, 2002. William was a legend and true contributor to the Polka Musical Industry. His contributions will be forever cherished.

Mr. Speaker, I ask my colleagues in the 108th Congress to please join me in honoring the life and legacy of Mr. William Ostash who devoted many years to Polka Music Industry. May he rest in peace.

HONORING CALHOUN MIDDLE SCHOOL'S AMERICAN SPIRIT TOWARD THE VICTIMS OF THE BESLAN SCHOOL TRAGEDY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. BURGESS. Mr. Speaker, today, I would like to say thank you to one of my hometown schools, Calhoun Middle School in Denton, Texas. The students of Calhoun Middle School enthusiastically participated in a card giving program for the victims of the Beslan school tragedy.

Before departing for my mission to Russia, I asked several local schools if they would like to create, draw, color or write greeting cards to the survivors and grieving families. The response was overwhelming. I was honored to be able to present hundreds of colorful cards to patients and families.

During my time in Russia, I had the opportunity to visit survivors recuperating at two hospitals. The visits were moving and tearful, but you could see the hearts of American students truly shining in the eyes of the Russian children. I was truly privileged to represent the United States, and especially grateful to be able to share wonderful cards full of encouragement and joy.

Again, thank you, the students of Calhoun Middle School for your kindheartedness and thoughtfulness. Your words strongly conveyed the spirit of the American people and our commitment to build relations with countries dedicated to combating global terrorism.

CONGRATULATIONS TO ROGER CAZARES

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. FILNER. Mr. Speaker, I want to take this opportunity to recognize and congratulate Roger Cazares upon the occasion of his retirement as the President and Chief Executive Officer of the Metropolitan Area Advisory Committee (MAAC) Project, a multi-purpose social service agency (with a successful 39 year history of serving various communities throughout San Diego County.

After graduating from San Diego State University with a Political Science Degree, Roger headed to the MAAC Project. Thirty years later, he leaves MAAC as one of the most successful social service agencies in the country with 400 employees, an annual operating budget of over $16 million and over $100 million in assets.

Under Roger Cazares' leadership MAAC Project has become an agency that serves over 35,000 individuals per year and staffs 35 sites bringing to its constituents empowering social services, health components, a state of arts charter school, technology centers, economic development, and affordable housing. Roger is a man with a vision that has empowered his staff at the MAAC Project to serve as many people as possible and not be afraid to expand to new services. Roger's legacy at the agency includes creating new leaders by mentoring a younger generation and inspiring them to believe in their potential.

The growth that the MAAC Project has seen under Roger's tenure includes an increase in the agency's North San Diego County Head Start Child Development schools center sites from 4 to 17. Enrollment at these centers went up from 400 to 1,100 children, directly impacting parental participation and involvement in those children's lives. Thanks to Roger's direction MAAC established two residential care facilities for recovering drug and alcohol dependent individuals housed at Casa de Milagros, for women, and Casa Nosotros, for men. Roger Cazares ensured MAAC's summer employment for over 1,000 South Bay youth annually, in cooperation with the Private Industry Council. The MAAC also provided English as a second language and government classes to over 12,000 adults in San Diego County through the Immigration Reform Control Act of 1986 for 5 years.

Roger has made an impact in the community not only by augmenting social services that local government provides but also by becoming involved in the Housing Crisis that San Diego County faces. Roger Cazares created the agency's Housing and Community Development Department in 1991 that has developed more than 1,000 rental units of affordable housing and 12 single family homes, developed, a community development strategy specifically targeting the residents of MAAC's apartment communities, and recently expanded the department to include a property management component. Under Mr. Cazares' leadership, MAAC Project has grown to be one of the premier affordable housing developers in the, region.

Roger Cazares also has left his footprint in the education arena by providing leadership and harnessing his national network for support to fund and open MAAC Community Charter School in Chula Vista. The Charter School is a first class operation that offers hope and opportunity for our deserving youth.

Roger's contributions to the community go beyond the MAAC Project. He was president of the National City Chamber of Commerce from 1994–1995; he served on the National Council of La Raza Board of Directors and Executive Committee for six years. Roger has received a multitude of awards for his community service such as the Hispanic Chamber of Commerce Business Leadership Award, Hispanic Heritage Local Heroes Award presented by KPBS & Union Bank of California, the United Way Ben Polak Community Service Award, the UCSD Excellence in Community Service Award, recipient of Reconocimiento OHTLI Community Service Award presented by the Mexican Government.

Roger is joined in celebrating his accomplishments by his wife and lifelong partner of 30 years, Norma Cazares; their daughters Leticia and Nicole; and their son Javier. My best wishes go to my friend Roger Cazares, a visionary, an activist, a great leader, and a good man.

TRIBUTE TO MINISTER BRUCE RIVERA

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to a committed community activist and advocate Minister Bruce Rivera, a resident of my district who has been committed to improving the community in which he was born and raised, will soon be celebrating his ordination in the United Church of Christ.

Minister Rivera was born and raised in the South Bronx. He attended the public school system in the city of New York, and after graduation, he joined the United States Air Force. He served his nation with distinction, and earned both the Purple Heart and the Cross of Gallantry for his actions during the conflict in Beirut. After five years in the armed services, Minister Rivera returned to the community in which he was raised.

He immediately transferred that same tenacity and dedication to country to his efforts in the local community, becoming committed to improving the South Bronx. He founded South Bronx Churches, an ecumenical organization that has built more than 800 homes in the South Bronx. He also founded the Boston Road Association for Community Empowerment, which serves the interests of more than 700 families in the Morrisania section of the Bronx. He continues to keep himself involved in the community and the city, as a member of the local community planning board, the Chaplain for the 42nd Police Precinct Community Council, and as a Management Analyst at the New York City Department of Health and Mental Hygiene.

Since becoming licensed in the Gospel ministry, Minister Rivera has worked on a dizzying array of ecumenical projects. He ministers to inmates at Rikers Island and the Downstate Correctional Custody Facility. His work with police officers after the events of September 11th recently won him recognition from both the City Council and the NYPD.

Mr. Speaker, Minister Rivera has typified the ideals of dedication and compassion. For twenty years, he has worked to improve the lives of countless individuals in the South Bronx. Minister Rivera has been selfless of his time and his talents, and the Bronx is better for it.

Minister Rivera could not have accomplished all of these things without the love and support of his wife, Maria, and his son Bruce Anthony.

Mr. Speaker, Minister Bruce Rivera is a fine example of a great community leader and a person dedicated through his faith to helping others. I am grateful to have such a deeply committed person doing his good work in my district. I ask my colleagues to join me in honoring his past achievement and in anticipating many great things to come.

HONORING FLORENCE ELEMENTARY SCHOOL'S AMERICAN SPIRIT TOWARD THE VICTIMS OF THE BESLAN SCHOOL TRAGEDY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. BURGESS. Mr. Speaker, today, I would like to say thank you to one of my hometown schools, Florence Elementary School in Southlake, Texas. The students of Florence enthusiastically participated in a card giving program for the victims of the Beslan school tragedy.

Before departing for my mission to Russia, I asked several local schools if they would like to create, draw, color or write greeting cards to the survivors and grieving families. The response was overwhelming. I was honored to be able to present hundreds of colorful cards to patients and families.

During my time in Russia, I had the opportunity to visit survivors recuperating at two hospitals. The visits were moving and tearful, but you could see the hearts of American students truly shining in the eyes of the Russian children. I was truly privileged to represent the United States, and especially grateful to be able to share wonderful cards full of encouragement and joy.

Again, thank you, the students of Florence Elementary School for your kindheartedness and thoughtfulness. Your words strongly conveyed the spirit of the American people and our commitment to build relations with countries dedicated to combating global terrorism.

PAYING TRIBUTE TO HOSPICE AND PALLIATIVE CARE OF WESTERN COLORADO

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. MCINNIS. Mr. Speaker, I rise today to pay tribute to the staff of the Hospice and Palliative Care of Western Colorado, a dedicated medical center in my hometown of Grand Junction, Colorado. For years the center has been providing exceptional leadership and innovation in the palliative and end-of-life care arenas. In recognition of their accomplishments the center recently received the 2004 Circle of Life Citation of Honor from the American Hospital Association. I am proud to join my colleagues here today before this body of Congress and this nation in congratulating them on this award.

Every year the American Hospital Association, a non-profit group of health-care provider organizations and individuals comprising over 5,000 members, awards programs across the country that have found new ways to expand their services and blend traditional medical care and end-of-life care. The programs that are selected serve as national role models for other American communities to look to for examples of compassionate health care. Hospice and Palliative Care of Western Colorado was given a citation of honor for integration and administration of its services in the numerous divergent geographic communities throughout Western Colorado. The center has made significant strides in tailoring every program for the realities and needs of each individual community.

Mr. Speaker, Hospice and Palliative Care of Western Colorado is a dedicated organization that has provided excellent health care to the citizens of Colorado for several years. The center's careful consideration and planning for the communities they aide have made Colorado a shining example for the rest of the country and I am honored to recognize their endeavors today before this body and this nation. Their devotion and commitment to aiding those in need is certainly commendable. I would like to extend my congratulations on this recognition from the American Hospital Association, and I personally want to thank the staff of Hospice and Palliative Care of Western Colorado for all their hard work.

DELORES A. MAGUIRE

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. BRADY of Texas. Mr. Speaker, I rise today to show America's deep appreciation for Delores A. Maguire, M.S., R.D., C.S.P., L.D., who will be deployed to Iraq next May serving as a Captain in the U.S. Army in the war against terror in which we are fighting for a safer world, free from the threat of terror in our daily lives. Delores has served faithfully six years as a Registered Pediatric Dietician at Memorial Hermann Hospital and the Texas Children's Hospital in the renowned Texas Medical Center—Houston.

While overseeing the diets of patients in an Army hospital, Delores will undoubtedly apply her background as a Pediatric Dietician to ensure her patients a successful recovery. As a former member of the United States Navy and the United States Army Reserve, Delores will use her military training, coupled with her extensive medical knowledge to become a valuable asset to the Army in the form of a strong leader and a productive team player.

On a personal level, every one of her colleagues and co-workers tell me that Delores is sincere, honest, hardworking and is a great listener. She is down-to-earth, has a refreshing sense of humor and a way of making very difficult challenges seem easy and uncomplicated. She is committed to excellence and is always there to help others personally and professionally. What a wonderful role model.

Equally important, she never misses a Houston Texans football game and is one of the Texans' greatest fans. Mr. Speaker, many are honored to be her friend, family or colleague, and on behalf of the constituents of the 8th District of Texas we express our pride in her services and pray for a safe return.

IN HONOR OF GEORGE OW

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Ms. ESHOO. Mr. Speaker, Mr. FARR and I rise today to honor the life of George Ow, a local businessman and philanthropist, who passed away July 26, 2004 at the age of 85. He was a beloved member of the Scotts Valley community and well known throughout Santa Cruz County for his generous nature. He is survived by seven children and 14 grandchildren.

George Ow emigrated from China to the United States in 1937, arriving in Santa Cruz to begin his quest for the American Dream. He eventually emerged as one of our region's most prominent businessmen and philanthropists and his life story now stands as an outstanding model of achievement for all.

Before becoming successful, George Ow had a long uphill climb that proved his perseverance and determination. He first worked in his uncle's grocery store while attending and eventually graduating from Santa Cruz High School. From 1944 to 1945 George Ow served in the United States Army and participated in the Allied Liberation of the Philippines. After his service in the military he returned to the Central Coast, building the foundations for his successful business ventures. Investing in commercial real estate, George Ow single-handedly created the business corridor along Capitola's 41st Avenue and Scotts Valley's King's Village Shopping Center.

Throughout his rise to fortune and success, George Ow never forgot the community that nurtured him in his earlier days as a young immigrant. For more than three decades, he was active in the National Exchange Club, a national organization dedicated to community service and youth outreach. In the 1970s he was elected as President of the Club, the first time this post was filled by a non-white individual. He also created dozens of youth scholarships for minority students and donated money to local arts groups, such as Shakespeare Santa Cruz, and a variety of other health foundations. George Ow returned large portions of wealth back to his community, a gift that strengthens our community and our country.

Mr. Speaker, we ask our colleagues to join us in extending our condolences to George Ow's family and friends. As a dedicated member of the Santa Cruz and Scotts Valley community, his achievements in life represent the epitome of the American Dream. He will be missed greatly by the community he loved, served, and gave so much to.

RECOGNIZING SENATOR JOHN T. RUSSELL

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. SKELTON. Mr. Speaker, a distinguished career in Missouri State Senate will soon end.

Missouri State Senator John T. Russell will retire at the end of the year.

Senator Russell was born on September 22, 1931 in Lebanon, Missouri and grew up on a farm near Gasconade River. After graduating from Lebanon High School, he attended Drury College in Springfield, Missouri.

Senator Russell has had an impressive legislative career. He first was elected to the Missouri House of Representatives in 1962 and served until 1974. During his time in the State House, he held the position of Minority Floor Leader in 1971 and 1972. Then, in November 1976, Senator Russell was elected to the Missouri Senate, representing the counties in south central and southwest Missouri. While in the State Senate he served as Chairman of the Senate Appropriations Committee, member of the Gubernatorial Appointments Committee and member of the Transportation Committee.

In addition to his legislative work, Senator Russell has a record of service and leadership in the community. He received an Honorary Doctor of Laws Degree from Southwest Baptist University in 1979. The Missouri Chamber of Commerce presented Senator Russell with the Spirit of Enterprise Award. He received the Guardian of Small Business Award from the National Federation of Independent Business. In 1997, he was given the Community Service Award from the Lebanon Area Chamber of Commerce. Also, he is a member of the First Baptist Church in Lebanon, Missouri, and is a Veteran of the United States Air Force, serving in the Korean War.

Mr. Speaker, I know the Members of this House will join me in thanking Senator Russell for his life of public service and in wishing him and his family all the best in the years to come.

HONORING ALISON COX

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. RADANOVICH. Mr. Speaker, I rise today to congratulate Alison Cox of Turlock, California for winning the Silver Medal in the Women's Eight Rowing event at the 2004 Athens Olympic Games. It was the first medal for the US Women's Eight Rowing team since they won the Gold Medal at the 1984 Los Angeles Olympic Games.

Alison Cox began her rowing career at the age of 19 as a sophomore at the University of San Diego where she received her degree in Communications. She earned All-West Region honors in 2001 and All-West Coast Conference honors for three seasons 1999–2001. She competed at the 2000 under-23 World Championships and won the Gold Medal in the Women's Four Rowing event. Alison advanced to the senior national team in 2001 and helped the U.S. Women's Eight Rowing team win the Gold Medal at the 2002 World Championships.

While at Turlock High School she excelled in athletics. She lettered in tennis, soccer, basketball, and in softball, where she also received the team's most valuable player award.

Mr. Speaker, I rise today to honor Alison Cox for winning the Silver Medal in the Women's Eight Rowing event at the 2004 Athens Olympic Games and for all of her accomplishments in athletics. I invite my colleagues to join me in wishing her many years of continued success.

HONORING JAMILL KELLY

HON. DENNIS A. CARDOZA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. CARDOZA. Mr. Speaker, I rise today to honor Jamill Kelly, an exceptional individual and remarkable athlete who won a silver medal in Freestyle Wrestling at the 2004 Olympic Games in Athens, Greece.

Born and raised in my hometown of Atwater, California, Mr. Kelly attended my alma mater, Atwater High School where his wrestling career began with placing fourth in the 1995 state championships. Mr. Kelly's success as a wrestler continued as he attended Lassen Junior College, taking second in the 1996 Junior College Nationals. He then graduated from Oklahoma State University in 2000, earning a Bachelor of Arts degree in History.

Over the past four years, the former Oklahoma State wrestler remained dedicated to his dream. He continued to train vigorously and compete among the nations finest wrestlers, in order to have the chance to prove his outstanding athletic ability on the world stage. This summer, Mr. Kelly achieved his dream as he spent his summer winning a silver medal in Freestyle Wrestling at the 2004 Olympic Games in Athens.

Mr. Kelly is the city of Atwater's first Olympic medalist. He has become an inspiration to the student athletes of Atwater High School, who witnessed a fellow Falcon strive to reach his dreams in becoming the pinnacle of his sport. He has become a local hero, a national champion, and a world-renown athlete.

Mr. Speaker, I ask that my colleagues join me in honoring Jamill Kelly for his outstanding accomplishments. I am delighted to recognize all of his dedication and hard earned achievements, and thank him for being a role model to our community, and our country.

INTRODUCTION OF THE COUNT EVERY VOTE ACT

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. PRICE of North Carolina. Mr. Speaker, today I am introducing the Count Every Vote Act, legislation to provide additional time, when needed, for conducting recounts of votes in presidential elections.

At its core, our form of government is based on the premise of "one person, one vote." The presidential election of 2000, however, demonstrated how precarious that tenet can be. In the midst of an ongoing challenge to the election result in the state of Florida, the U.S. Supreme Court ruled that manual recounts could not continue because there was not enough time to undertake a proper recount prior to the meeting of the Electoral College. The unsatisfactory result was a president who took office with a cloud hanging over him in the eyes of many Americans.

Given the close nature of the current presidential race, there is a very real chance that we could be faced with a similar situation five weeks from now. We could easily wake up on November 3rd with a swing state election controversy, the outcome of which could decide who will be the President of the United States for the next four years. And it could take more than the 35 days allowed under current law to resolve the controversy without risking the loss of a state's electoral votes.

Mr. Speaker, I request that a June 15 Roll Call column by Leonard Shambon, a counsel with Wilmer Cutler Pickering Hale and Dorr and former assistant to the co-chairman of the Ford-Carter Commission on Election Reform, be reprinted in the Record following my remarks. In his column, Mr. Shambon makes a strong case for the need to reform the timing of the Electoral College, and I have drawn from his expertise in this particular area of elections law. I appreciate Mr. Shambon's tireless research and collaboration in developing a solution to this problem.

The bill I am introducing today has the support of leading scholars renowned for their research in the electoral process, including Thomas Mann, the W. Averell Harriman Chair and Senior Fellow in Governance Studies at The Brookings Institution; John C. Fortier, a research fellow at the American Enterprise Institute and editor of and contributor to After the People Vote: A Guide to the Electoral College; and Norman J. Ornstein, a resident scholar at the American Enterprise Institute, columnist for Roll Call, and contributor to After the People Vote. It would establish a contingency date for the meeting of electors in all states, but only when a challenge to a state's presidential election result remains unresolved as of three days prior to the Electoral College meeting date defined in current law. For the upcoming election, if a recount in any state were ongoing as of December 10, the bill would establish January 3rd as the new meeting date for the Electoral College, providing 59 days—24 days more than current law—to ensure that the recount is given as much time as possible to be resolved.

In a dissenting opinion on the 2000 election contest that the U.S. Supreme Court later upheld, Florida Supreme Court Justice Major Harding appropriately noted, "The circumstances of this election call to mind a quote from football coaching legend Vince Lombardi: 'We didn't lose the game, we just ran out of time.'" We cannot afford to run out of time when it comes to ensuring the integrity of our presidential election contests. That is a conclusion on which everyone should agree.

I invite my colleagues to join me in ensuring that our electoral process is given the most time possible to resolve any contested election results by cosponsoring the Count Every Vote Act.

[From Roll Call, June 15, 2004]

ELECTORAL-COLLEGE REFORM REQUIRES CHANGE OF TIMING

(By Leonard M. Shambon)

This is a modest proposal to reform the Electoral College. No, it would not abolish the Electoral College, just change its timing.

In 2000, the U.S. Supreme Court called off the Florida recount because it believed that the recount could not be concluded in time to conform to the schedule established by federal statute for the electoral college.

One of the Florida Supreme Court justices, whose position was upheld by the Supreme Court, analogized the Gore camp's predicament to a quote from Vince Lombardi: "'We didn't lose the game, we just ran out of time.'" But running out of time should not control the outcome in 2004.

Under the federal statute, each state's presidential electors are to meet on the first Monday after the second Wednesday in December. If a state appoints its presidential electors at least six days before that date, then its choice of electors cannot be overridden. The U.S. Supreme Court in Bush v. Gore believed it was imperative to block the recount ordered by the Florida Supreme Court because the recount could not be completed by the six-day cutoff before the electors' meeting.

But the aftermath of the Bush v. Gore decision, no one seriously examined the question of whether the federal statutory dates make any sense. Fearing endless debates about whether the Electoral College should be completely abolished, no one looked at the peculiarities of the federal law. But there's still time for Congress to do so this year.

Congress should amend 17 words in the statute to push those dates into January, so that any state recounts and contests that occur this fall can proceed at a more orderly pace.

The federal statutory scheme, first adopted in 1792, provides the dates for four events: (1) the states' appointing their electors, on Election Day; (2) having the electors meet and vote; (3) reporting the results to Congress; and (4) the Congressional counting.

Congress has changed the dates on which those events are to occur five times, most recently in 1934 in response to the ratification of the 20th Amendment to the Constitution, which moved the date of inauguration back from March 3 to Jan. 20.

In 1934, the Roosevelt administration recommended to Congress that the period between Election Day and the date of the electors' meeting be set at 41 days. Records reveal that a government attorney chose the 41-day period arbitrarily, without any further explanation.

Congress, without any legislative explanation, went along with this change even though it significantly shortened the period from its pre-existing statutory length.

One Member of Congress, Judiciary Committee Chairman Hatton Sumners (D-Texas), did speak out against the shortened period during the House debate, and in subsequent years, Sumners kept up the drumbeat, noting that it "requires no great imagination to visualize what might develop in a close election when feeling was running high with a belief that wholesale fraud had been perpetrated in one or more pivotal States with no possibility of a final judicial determination."

Sumners' "serious situation" arose in 2000, and it could easily happen again this year. An era of electronic communication and overnight couriers, Congress should immediately lengthen the period between Election Day and the date of the electors' meeting.

The electors' meeting should occur as few days as possible before the Jan. 6 Congressional counting date. The six-day deadline for a state's choice of electors should be changed to the new date for the electors' meeting. And delivery of the electors' votes to Congress should be accomplished by any rapid and secure method, not just by registered mail as is currently required.

Making the date, say, Jan. 3, would provide an additional four weeks this year for an unrushed review.

We should not be hamstrung by a redundant and slow transmission scheme built for an earlier time. The states should have the maximum time, within the framework of the existing November election date and the Congressional counting date, to resolve any contested elections. This time, the game clock should not control the outcome.

PAYING TRIBUTE TO REDDEN FAMILY

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to the Redden family from Gunnison, Colorado. LeOna, Tom, Brett and Wendy represent two generations of Gunnison cattle ranchers, and are truly outstanding citizens of Colorado. I would like to join my colleagues here today in recognizing their tremendous achievements before this body of Congress and this Nation.

As owners and managers of a 2000–acre ranch outside of Gunnison, they have honored their trade with distinction for over a century. In addition to being ranchers, each has contributed significantly to their community. Tom Redden participates with the Gunnison County Stock-growers' Association, the Cattleman Days committee, the Oddfellows, and the Elks Lodge. He also presided over the Soil Conservation Board. LeOna Redden is a member of the Rebeccas and is the state secretary of the military branch of Oddfellows. In recognition of their service to the industry, the couple was honored earlier this year as parade marshals of the Cattleman's Day parade.

Brett Redden and Wendy Hanson, grandchildren of the ranch's founder, currently operate the ranch with the help of their respective families. In addition to ranching, the two families have contributed to their community and the environment. Brett works at the local airport while Wendy works as the director of finance for the city of Gunnison. The pair have also protected almost 1000 acres of land with a conservation easement, and donated additional land to the Colorado Cattlemen's Agricultural Land Trust.

Mr. Speaker, it is a privilege to honor the Redden family for their longstanding commitment to Gunnison and their contributions to the environment and the citizens of Colorado. It is with great pleasure to recognize them today before this body of Congress and this nation.

TRIBUTE TO COY J. HALLMARK FOR RECEIVING THE 2004 ARTHRITIS FOUNDATION HUMANITARIAN AWARD

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. CRAMER. Mr. Speaker, I rise today to congratulate Reverend Coy J. Hallmark of Huntsville for receiving the 2004 Arthritis Foundation Humanitarian Award. This award is given annually to a person in the Huntsville community who has displayed exemplary community leadership.

As an undergraduate at the University of North Alabama, Reverend Hallmark received his first pastoral appointment at a church in Lexington, Alabama. After earning a Master of Divinity Degree from Emory University, Reverend Hallmark was commissioned as a chaplain in the United States Army in 1983. He is currently a Lieutenant Colonel with the 279th Signal Battalion in the Alabama National Guard where he provides spiritual support and supervision for the battalion chaplains in Huntsville, Florence, Mobile and Ft. Lewis, Washington.

In 1986, after returning from a military exercise in South Korea, Reverend Hallmark became an associate pastor at my church, the First United Methodist Church of Huntsville, a role he has served ever since. During his tenure, the church has seen a large increase in its membership and it has been more inclusive and accessible.

In addition to his pastoral duties, Reverend Hallmark has vigorously committed his time volunteering for numerous community organizations that promote the welfare of persons with disabilities and provide them with access to assistive technology devices and services to increase independence in the home, school, and work environments. This issue is close to Coy's heart. His daughter, Rachel was diagnosed with cerebral palsy in 1982.

Mr. Speaker, Reverend Hallmark has been a well respected and thoughtful member of our church and community for many years. On behalf of the people of North Alabama, I congratulate my friend, Coy Hallmark on being named the 2004 Arthritis Foundation Humanitarian Award winner.

BAY COUNTY'S DOMESTIC VIOLENCE AWARENESS MONTH

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. KILDEE. Mr. Speaker, I rise before you today to honor the Bay Area Women's Center of Bay City, Michigan for their diligence and dedication to educating the community on the devastating effects of domestic violence and for supporting numerous victims and their families. The month of October is National Domestic Violence Awareness Month. On Tuesday, October 5, 2004 the Bay Area Women's Center will host their annual vigil and awareness walk to show and renew their commitment to ending domestic violence.

As we enter into National Domestic Violence Awareness Month, I urge every community leader, resident, and law enforcement officer to come together and take a stance against this hideous crime not just during the month of awareness, but every day throughout the year. Countless lives are lost and homes are broken as result of this preventable crime. We as a community must educate ourselves on the warning signs. We must also be willing to alert the authorities before a situation becomes violent. Domestic violence is prevalent in all communities. It knows no status or ethnicity. This is a vicious crime sweeping our Nation with many victims too afraid or simply not aware they are victims until it is too late. I am thankful for the Bay Area Women's Center, for they are committed to helping people in crisis. They hold true to their philosophy that every individual maintains the right to live free of fear and violence. Survival of organizations such as this one is critical if domestic violence is to be an issue of the past. We must support these organizations and help them spread the word that domestic violence will not be tolerated. During the month of October renew your own commitment to stamping out domestic violence by first assuring that you or your loved ones are not falling prey to this repulsive crime.

Mr. Speaker, I ask my colleagues in the 108th Congress to please join me in honoring the Bay City Women's Center for their tireless efforts in promoting domestic violence awareness and for providing a supportive, and nonjudgmental environment to those who have become victims.

PAYING TRIBUTE TO DOUG SCHAKEL

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Doug Schakel, a gifted teacher and coach from Grand Junction, Colorado. Doug has been coaching basketball at the high school and college levels for over thirty-two years. During that time, he has earned many accolades, and has touched many lives in Colorado. This year Doug has been inducted into the Rocky Mountain Athletic Conference Hall of Fame, and I would like to join my colleagues here today in recognizing his tremendous achievements before this body of Congress and this Nation.

As a student at Central Iowa University, Doug began his journey to being one the most successful collegiate coaches in Colorado history. There he played on their varsity basketball team where he developed an interest in coaching. After several years of coaching at various high school programs, Doug eventually ended up as the head coach at Mesa State College in 1978. During his eighteen years as head coach, Doug led the team to an impressive seven conference titles. He also had the best overall record of any coach in the history of Mesa State. In addition, Doug coached four All-Americans, and two Academic All-Americans. He also served as the school's athletic director from 1979 to 1981 and again from 1998–2001. In 1996, he retired from coaching the men's team at Mesa State to focus on teaching full-time.

Mr. Speaker, it is a privilege to honor the accomplishments of this great Colorado citizen. Doug Schakel's dedication to the student athletes throughout his career, and his success as a basketball coach are testaments to his character, and it is with great pleasure to recognize him today before this body of Congress and this Nation. Congratulations, Doug, on this well deserved award, and good luck with all of your future endeavors.

COMPACT FOR SUCCESS

HON. BOB FILNER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. FILNER. Mr. Speaker, I rise today in support of funding in the Labor-Health and Human Services-Education Appropriations bill for the Compact for Success, an educational reform and college guarantee program at the Sweetwater Union High School District, located in my Congressional District in California. The Sweetwater Education Foundation, a non-profit organization, facilitates this program.

The Sweetwater Union High School District serves the densely populated corridor between downtown San Diego and the international border with Mexico, including nearly 40,000 students in grades seven through twelve. These students live in some of the most diverse and economically disadvantaged communities in the state. The schools serve large numbers of "latchkey" children, many of whom enter school behind in basic academic skills. Nearly half of the students in the district qualify for free or reduced price meals, a figure that is as high as 90 percent at some sites.

In addition to their economic disadvantage, a significant percentage of Sweetwater youth come from homes where adult educational attainment is low. Many parents are new immigrants with limited schooling in their home countries. With little history of academic success, these adults often lack the first-hand "know-how" so critical in helping their children reach high achievement goals and think about attending college.

With 84 percent of its students coming from ethnicities traditionally under-represented in higher education, Sweetwater is one of California's most diverse districts. More than half of Sweetwater's students speak a language other than English at home.

The Compact for Success, now entering its fifth year, is raising the bar academically and giving the Sweetwater students the tools to reach their goal of attending a four-year university. Compact participants are students of Sweetwater Union High School District, who complete six years in the Compact program in exchange for guaranteed admission to San Diego State University.

Even though the first class of Compact students is in the 11th grade, the impact of higher expectations is already evident. This year, the number of graduating seniors admitted to San Diego State University shows a 76 percent increase since 1999, the year the Compact began.

The Compact was named the most powerful student initiative in the nation this year by the American Association of School Administrators and earned a Magna Award from the American School Board Journal.

I am proud of the accomplishments of the students participating in the Compact, and I urge support of their funding request.

TRIBUTE TO MRS. ROSABEL SIMMONS

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Mrs. Rosabel Simmons, an outstanding individual who has devoted her life to her family and to serving the community. Mrs. Simmons will be celebrating her 100th birthday in the company of her family and friends on Thursday, in my congressional district in the Bronx.

Rosabel Simmons, known as Rose, was born on September 30, 1904, to York and Malsie Simmons on Wadmalaw Island, South Carolina. She was the youngest of seven children and received her formal education on the Island. She married John Simmons of Edisto Island, South Carolina, and they raised a total of nine children.

Rose followed John to New York with two of their children in 1925. They resided at various locations in Harlem and the Bronx until they finally settled in Bronx County. She worked in the hotel industry and was a union member. After her retirement, she opened a retail establishment that she owned with her husband on Union Avenue in the Bronx.

Rose is a strong advocate of education and sent all of her children to local public schools from elementary school through college. Never one to sit on the sidelines when it came to her children and grandchildren, Rose converted from the Methodist Church to the Catholic Church to support her grandchildren when they entered the Catholic school system. She always insisted on raising the bar of excellence and held each of her children and grandchildren to the same high standard.

This affectionate, tenacious woman serves as the matriarch of her family. She is frequently consulted by her children, grandchildren and great grandchildren for advice, guidance and reassurance. Rose attributes her longevity to her father's genes; York Simmons lived to be 114 years of age, and one of her older sisters, Jestine Simmons Mathews, lived to be 110 years of age. Both resided in Charleston, South Carolina.

Her motto is very simple: When you reach the tender age of 100 years, life becomes very simple. Good food, a good John Wayne or Clint Eastwood movie and continuing civic responsibility. For her birthday gift she asked "everyone eligible to vote to make it to their polling station and vote."

Rose has seen many elections and believes voting is a right which we must exercise, if we are to maintain the privilege, a privilege she is determined will pass on to her great, great grandchildren.

Mr. Speaker, I am proud to say that one of Rose's granddaughters, Mrs. Cheryl Simmons-Oliver, is my district office director and has worked for me for more than 10 years.

Mr. Speaker, I ask my colleagues to join me and the family of Mrs. Rosabel Simmons in wishing her a very happy 100th birthday.

A PROCLAMATION RECOGNIZING TODD SKINNER

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. NEY. Mr. Speaker:

Whereas, Todd Skinner was a participant in the "King Pumpkin" contest; and

Whereas, Todd Skinner harvested a pumpkin weighing 909 pounds and was deemed worthy of being named king in the 41st Annual Pumpkin Festival in Barnesville; and

Whereas, Todd Skinner should be commended for his efforts and diligence in providing nourishment to the pumpkin keeping it healthy in preparation for the event.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in honoring and congratulating Todd Skinner for his outstanding accomplishment.

HONORING ROCKBROOK ELEMENTARY SCHOOL'S AMERICAN SPIRIT TOWARD THE VICTIMS OF THE BESLAN SCHOOL TRAGEDY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. BURGESS. Mr. Speaker, today, I would like to say thank you to one of my hometown schools, Rockbrook Elementary School located in Lewisville, Texas. The students of Rockbrook enthusiastically participated in a card giving program for the victims of the Beslan school tragedy.

Before departing for my mission to Russia, I asked several local schools if they would like to create, draw, color or write greeting cards to the survivors and grieving families. The response was overwhelming. I was honored to be able to present hundreds of colorful cards to patients and families.

During my time in Russia, I had the opportunity to visit survivors recuperating at two hospitals. The visits were moving and tearful, but you could see the hearts of American students truly shining in the eyes of the Russian children. I was truly privileged to represent the United States, and especially grateful to be able to share wonderful cards full of encouragement and joy.

Again, thank you, the students of Rockbrook Elementary for your kindheartedness and thoughtfulness. Your words strongly conveyed the spirit of the American people and our commitment to build relations with countries dedicated to combating global terrorism.

HONORING THE LAND DONATION OF THE CAMPBELL AND WILLS FAMILY TO MEMORIALIZE SARAH PEARSON CAMPBELL

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. SIMPSON. Mr. Speaker, I rise today to pay tribute to the friends and family of Sarah Pearson Campbell, who recently donated fifty acres of land to the Sawtooth National Recreation Area.

With this being the last week of September and there being only five weeks before a very influential election that includes a race for the second congressional district of Idaho, as well as a presidential race, I often find myself with too few hours in my day to accomplish everything that I want to do. But when I was recently made aware of a land donation that had been given to the Sawtooth National Recreation Area, I felt obligated to say thank you to the families that made the donation possible.

Doug and Mary Campbell, along with the families of Wes, Bob and Hank Wills recently donated a 50 acre parcel of land in the heart of the Sawtooth National Recreation Area. The land is located within the heart of Boulder City—a present day ghost town that was once a promising mining town in the heart of Idaho's Boulder Mountain range.

Historic Boulder City is located north of Ketchum, a rugged and steep six-mile track from Highway 75 up Boulder Creek to the Basin. The city was the second town established in the Wood River Valley and was once home to a store, hotel, post office, corral, saloon, cabins, an ore processing mill and various mines. The land donated contains the remains of the mill, four cabins and other mining structures.

The gift was given to pay tribute and honor the Campbell's daughter Sarah Pearson Campbell, who was killed in an avalanche in December 2000 while back country skiing in Teton County, Wyoming. "By donating this historic site, we will be honoring Sarah's commitment to protecting the beauty and integrity of the area," said Doug and Mary Campbell. "This parcel of land is symbolic of Sarah's work and experiences in, and love for, the mountains here in the Sawtooth National Recreation Area."

Words such as these make me proud to be both an Idahoan and American. I have the utmost respect and gratitude for these families, who are willing to carry on the legacy of their daughter and friend through a donation they know would have made her very proud. Although Sarah is no longer able to share in the scenic beauty of the SNRA, her friends and family wanted to make sure others would be able to experience the same beauty that Sarah came to know and love.

I obviously cannot begin to put into words the sentimental meaning and significance this gift has for the families involved; that is something one would have to ask Sarah's family and friends about. But I can tell you this is only the third land donation to the SNRA since its establishment in 1972, and is critical in helping the US Forest Service preserve an area rich in beauty and history.

I would like to extend a personal thank you to all of those involved with this unselfish and generous gift to the SNRA. Although I never had the opportunity to meet Sarah, I can only imagine she shared the same ideals and principals that her family and friends displayed when donating this substantial piece of land.

ACHIEVEMENTS OF CHESTNUT HILL HOSPITAL'S FIRST HUNDRED YEARS

HON. JOSEPH M. HOEFFEL

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. HOEFFEL. Mr. Speaker, I rise today to recognize and celebrate the outstanding achievements of Chestnut Hill Hospital's first hundred years.

Since its inception on October 1, 1904, Chestnut Hill Hospital has provided attentive and extraordinary care to its patients. Beginning as a facility in twin houses on Gravers Lane, the Hospital originally consisted of two wards, five private rooms, one operating room and one reception room. The support of the dedicated community allowed for the Hospital to treat over 275 patients in the first few months of the facility's existence. Over the past 100 years, the Hospital has grown by leaps and bounds with the latest technology and has continued to treat the families of Northwest Philadelphia and Eastern Montgomery County with the most compassionate of care. The remarkable people who have seen the Hospital through events such as the World Wars, the Depression and the Philadelphia Flu Epidemic also deserve recognition as fundamental to the Hospital's success.

Though Chestnut Hill Hospital's second century begins with new owner, the University of Pennsylvania Health System and Vanguard Health Systems, the Hospital will undoubtedly continue the kind and dedicated care that has become its trademark. I congratulate Chestnut Hill Hospital on 100 years of excellent service to the community.

HONORING LEWISVILLE HIGH SCHOOL NORTH'S AMERICAN SPIRIT TOWARD VICTIMS OF THE BESLAN SCHOOL TRAGEDY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. BURGESS. Mr. Speaker, today, I would like to say thank you to one of my hometown schools, Lewisville High School North located in Lewisville, Texas. The students of Lewisville High School North enthusiastically participated in a card giving program for the victims of the Beslan school tragedy.

Before departing for my mission to Russia, I asked several local schools if they would like to create, draw, color or write greeting cards to the survivors and grieving families. The response was overwhelming. I was honored to be able to present hundreds of colorful cards to patients and families.

During my time in Russia, I had the opportunity to visit survivors recuperating at two hospitals. The visits were moving and tearful, but you could see the hearts of American students truly shining in the eyes of the Russian children. I was truly privileged to represent the United States, and especially grateful to be able to share wonderful cards full of encouragement and joy.

Again, thank you, the students of Lewisville High School North and to Sasha Watson for the fifty personalized cards containing Russian phrases and for your kindheartedness and thoughtfulness. Your words strongly conveyed the spirit of the American people and our commitment to build relations with countries dedicated to combating global terrorism.

PAYING TRIBUTE TO JOHN HARDARDT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to John Hardardt, a truly dedicated public servant from Durango, Colorado. John has been a devoted champion of veterans issues, and I would like to join my colleagues here today in recognizing his tremendous service to helping America's veterans before this body of Congress.

John served in the Army for fourteen years and fought in the Vietnam War. Since then, he has undergone more than forty surgeries in VA hospitals as a result of combat related injuries. As La Plata County's first Veteran's Service Officer, John was instrumental in expanding VA services to the rural area. He led a five year struggle to bring a VA clinic to the city of Durango, Colorado, and managed to obtain the necessary funds to purchase vans for transporting veterans in need of medical attention. After serving so effectively in Durango, John has recently accepted a promotion and will be continuing his work in Long Beach, California.

Mr. Speaker, it is a privilege to honor Veterans Service Officer John Hardardt for his service to this country, and his dedication to the heroes of our armed services. John man is a great patriot, and it is a pleasure to recognize him today before this body of Congress and this Nation. Thank you, John, for everything you have done for the veterans of La Plata County. Congratulations on your promotion, and I wish you all the best in your future endeavors.

GARY LEE "DEUCE" STALEY

HON. KEVIN BRADY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. BRADY of Texas. Mr. Speaker, during the 2004 Fallen Fire Heroes Memorial Weekend, our nation will come together to honor the 107 firefighters who perished in the line of duty last year. Regretfully, eight Texas firefighters lost their lives, two of whom are from the 8th Congressional District.

We are not here to mourn the loss as much as we are here to celebrate the lives of these dedicated heroes that serve selflessly in the worst of conditions to keep us safe. We celebrate their commitment, their compassion and their courage. So many hours of training; days and nights of service; time away from their families and friends; comradery with their brothers; lives and homes saved... it is impossible to put into words our gratitude for these heroes in our lives and our communities.

Gary Lee "Deuce" Staley of the Porter Volunteer Fire Department, will have his name added to the plaques surrounding the National Fallen Firefighters Memorial Park in Emmitsburg, Maryland, just outside of Washington, D.C. this weekend.

As a member of the Porter Volunteer Fire Department, Deuce died serving the community that he loved and will always be remembered for his heroism and sacrifice.

In January 2003, Deuce was responding to a fire at an antique car showroom. While attempting to lead three stranded firefighters out of the blaze and to safety, a car filled with nitrous oxide exploded, killing Staley instantly.

Firefighters represent the best our community has to offer. We honor them today, not only for their final act of bravery but for the lives they led. A firefighter's work can sometimes be thankless, but of all the men and women I've met, meet challenge and the danger without complaints and without regret. Their lives provided hope and comfort to victims of horrible events that we pray never come to us or the ones we love.

This remembrance service is as much a celebration of their lives and their ideals as it is a time to reflect on what we have lost. Firefighters remind us that heroes are every day people who decide to devote their lives and work to something greater than themselves.

Today we are here to honor Gary Staley and his brothers, the 106 nationwide who've sacrificed so much. With the start of a new day, we honor the families and friends they've left behind. Mr. Speaker, our prayers are always with them. Together as a community and a nation, we say thank you to those who will stand in the place of those who have fallen and will continue to faithfully serve and protect.

UKRAINE-U.S. RELATIONS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Ms. KAPTUR. Mr. Speaker, I rise today to submit the following article for the RECORD.

COMMENT: UKRAINE-U.S. RELATIONS HINGE ON FALL ELECTIONS

(By Richard Holbrooke, Jan Kalicki and Mark Brzezinski)

SEPT. 27.—Americans are increasingly focused on our pivotal presidential choice on Nov. 2. But many may not be aware that partway around the world, at the doorstep of an expanded Europe, the citizens of Ukraine will be making an important choice in their Oct. 31 elections for president.

Ukrainians will decide whether a pro-Western reformer, Viktor Yushchenko, or a pro-Russian statist, Viktor Yanukovich, will be elected. That choice is theirs and theirs alone to make. But friends of Ukraine can certainly express concern about issues at stake. The first issue is the freedom and fairness of the election process—to ensure that the power of the incumbent president, who cannot run again, is not mobilized to suppress open debate and unfettered choice. There is reason for concern, because oligarchic interests will likely try to stack the political deck, and to protect ill-gotten gains from past and pending privatizations.

The second issue affects the United States even more directly, for Ukrainians will decide whether to support those who favor integration into NATO and the European Union, or those who favor realignment with Russia and Belarus, the latter already under the sway of an unsavory dictator.

After meeting with Russian President Vladimir Putin last month, Ukraine's President Leonid Kuchma amended his government's national security doctrine to turn away from NATO and the EU. The impact was felt immediately: Instead of continuing to plan to transport Caspian oil from the Black Sea to central Europe and eventually the Baltic, Kuchma now plans to transport Russian oil to the Black Sea and further congest the environmentally sensitive Turkish Straits.

Both the EU and the Turkish government have expressed deep concern about this development. But the Bush administration has been largely silent.

Our European and Turkish allies recognize the stakes. Will a country of 48 million people, almost the size of Texas, have the opportunity to pursue a common destiny with its neighbors to the north and west? Or will Ukraine take a course in which new lines could be drawn across post-Cold War Europe? Will energy flows continue to be subject to control by Russian monopolies, or will they reach markets competitively and support the freedom of Ukraine and the Caspian states?

Strategically located between a newly assertive Russia and an expanded NATO and EU, Ukraine can be a bridge to increased cooperation between these two realms. Or it can create new grounds for division. What remains to be seen is whether this pivotal European country will take the path of reform or the path of increased state control. This decision will impact a similar drama being played out between reformers and statists across the vast expanse of Russia itself. The most important interest here is to create durable political, economic and security ties engaging the Euro-Atlantic community with both Russia and Ukraine.

Americans can make clear where we stand: with those in Ukraine supporting free and democratic choice. With our European allies, we can make clear that EU and NATO doors are open if Ukrainians choose the path of integration and reform. But this brings us back to our own elections in November. There is one candidate who believes in democratic action, rather than ideology, and favors making common cause with our allies. There is another who has failed to do so, to the great detriment of America's vital national security interests. The stakes in the United States, as in Ukraine, could not be higher.

HONORING SANGER MIDDLE SCHOOL'S AMERICAN SPIRIT TOWARD THE VICTIMS OF THE BESLAN SCHOOL TRAGEDY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. BURGESS. Mr. Speaker, today I would like to say thank you to one of my hometown schools, Sanger Middle School in Sanger, Texas. The students of Sanger Middle School enthusiastically participated in a card giving program for the victims of the Beslan school tragedy.

Before departing for my mission to Russia, I asked several local schools if they would like to create, draw, color or write greeting cards to the survivors and grieving families. The response was overwhelming. I was honored to be able to present hundreds of colorful cards to patients and families.

During my time in Russia, I had the opportunity to visit survivors recuperating at two hospitals. The visits were moving and tearful, but you could see the hearts of American students truly shining in the eyes of the Russian children. I was truly privileged to represent the United States, and especially grateful to be able to share wonderful cards full of encouragement and joy.

Again, thank you, the students of Sanger Middle School for your kindheartedness and thoughtfulness. Your words strongly conveyed the spirit of the American people and our commitment to build relations with countries dedicated to combating global terrorism.

ACKNOWLEDGING CONTRIBUTIONS MADE TO DEPARTMENT OF HOMELAND SECURITY BY MARGIE GILBERT AND DR. JULIE CANEPA

HON. MAC THORNBERRY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. THORNBERRY. Mr. Speaker, one of the biggest challenges for this Congress over the past 2 years has been to fulfill our responsibilities on homeland security. At the beginning of this Congress, the Speaker decided to create a Select Committee on Homeland Security to help get the new Department of Homeland Security off to a good start and to focus congressional efforts on the many issues related to helping to protect our citizens against terrorism.

Beginning a new committee on such a complex topic would never be easy. Doing so within a very limited time was even more difficult. We had to have help, and to the good fortune of the House and of the country, we got help from some exceptional people.

I want to take a moment to acknowledge the contributions of two of them whose tour of duty on Capitol Hill is ending and to thank them for all they have done for me, as a subcommittee chairman on the Select Committee, and for the entire Committee. Working with my Legislative Director, Kim Kotlar, these two individuals have made enormous contributions to the development of the new Department of Homeland Security and its vital mission.

Our subcommittee has had responsibility for cybersecurity and for science and technology. To advise us on cybersecurity, we have had the assistance of Margie Gilbert. Margie was previously assigned to the White House as a director in the Office of Cyberspace Security, supporting both the National Security Council and the Office of Homeland Security. She dealt with intelligence and domestic protection, particularly national-level incident handling and counterterrorism. Throughout her DOD career, she has worked as an intelligence liaison officer, foreign relations officer, collection systems project leader, contracts and budget manager, and supervisor of a microelectronics research organization. She completed international business studies at University of Copenhagen, has a bachelors degree in computer science from the University of Tennessee, and a masters degree in technical management from Johns Hopkins University.

I soon discovered that, in addition to her warm and engaging personality, Margie has earned enormous respect from those most involved in and most knowledgeable about cybersecurity issues. Success in cybersecurity requires a unique partnership of government and industry, and Margie has done a great deal to promote that relationship so necessary for success. She has guided the subcommittee to the issues that matter most. Her deep understanding of the issues and of the limitations of some proposed solutions, as well as her personal touch, have benefited all who have worked with her, inside and outside of government.

Dr. Julie Canepa has advised the committee on technology issues. Julie is a scientist at Los Alamos National Laboratory. She has a BS in chemistry from Saint Mary's College in Indiana and her Ph.D. in chemistry is from Arizona State University. Among the many jobs she has had at Los Alamos are Program Manager for Environmental Restoration Project and Program Manager for the Los Alamos work with the Yucca Mountain Project. She has published a number of articles.

Protecting the American homeland requires the research, development, and utilization of technologies. This part of the Department of Homeland Security is totally new, and Julie has helped get it off on the right foot. The range of technologies and issues associated with them is enormous. From communications interoperability to radiological detection to vaccines and antidotes, Julie has had to understand not only the technology, but also the government and industry processes which could bring those technologies into use. In addition to her enormous gifts of intellect, she also has a special talent for helping others, who may not have her breath and depth of understanding and knowledge, feel comfortable with very complex subject matter.

I recognize that Federal agencies have a difficult time allowing significant numbers of employees work in other agencies or in other branches of government. However, I believe more strongly than ever that our country is well served when those who have a particular expertise and perspective are allowed to share that with the legislative branch. In the situation of this subcommittee with so much to learn about very technical subjects, I simply do not know what the committee or I would have done without the benefit of these two exceptional public servants.

The last 2 years have seen much progress and some frustrations in homeland security. We clearly have much left to do. But with the continued work of dedicated, talented professionals like Margie Gilbert and Julie Canepa, we will be successful. And I have no doubt that these two outstanding individuals will continue to contribute to the security of the country in many ways and for many years to come.

HARD TIMES

HON. JOE BACA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. BACA. Mr. Speaker, times are hard, and this Republican Congress and the White House are oblivious to it.

Middle class families are being squeezed from every direction. And what have Republicans done about it? Nothing.

Before President Bush took office, 22 million new jobs had been created. Since then, over 1.7 million jobs have been lost.

Instead of creating new jobs, Republicans gave tax cuts to companies that send jobs overseas.

When President Bush took office, the number of uninsured Americans had dropped for the first time in 12 years. Now, 45 million Americans cannot afford to get sick because they have no health insurance.

Four years ago, we had a $236 billion budget surplus. Now, thanks to tax cuts for the wealthiest Americans, the national credit card is maxed out.

Meanwhile, over a thousand Americans have died in Iraq.

American families be warned, if the White House doesn't send your jobs overseas, they'll send your kids.

HONORING BLACKIE BLACK OF BAGDAD BUILDERS INCORPORATED

HON. JEFF MILLER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. MILLER of Florida. Mr. Speaker, I rise today to honor Blackie Black, and to thank him for patriotically helping our wounded war heroes who are returning home to their communities.

The strength of America lies in the hearts and souls of our citizens. All across our country, people are donating their time and talents to improving lives and strengthening communities. We have a shining example of this in our very own backyard of Santa Rosa County.

The most recent acts of kindness by Northwest Floridians have had a profound effect on people's lives and on the future of our country.

They once again are going beyond meeting the essential needs in the communities, knowing the fulfillment that only comes from serving a cause greater than self. Many volunteers got started in the same way: because someone asked them. In our community that someone was Blackie Black of Bagdad Builders Incorporated.

Blackie is constructing the 3,400-square-foot home in Clear Creek near Allentown, Florida for medically retired Army Staff Sergeant Dustin Tuller. Staff Sergeant Tuller came to Bagdad Builders to build his home, however it was County Commissioner Don Salter who sought donations from the community to pay for the home. Commissioner Salter rallied the local community to get involved and numerous contractors came on board to help complete the construction with such goods and services as free labor, insulation from Coastal Insulation, materials from Home Depot, free termite treatment donated by Terminix, free heating and air conditioning, and the list continues to grow.

Blackie Black is a native Northwest Floridian, born in Milton. He and his wife Bonnie own and operate Bagdad Builders and have been involved in giving back to the community for years. He belongs to a religious builders group, which travels the globe building homes for disadvantaged people and churches for communities. He has been doing this for years, but now the dedicated, caring, Santa Rosa County resident is giving back to his neighbor who fought bravely for the freedom of the Iraqis.

Recently, Dustin was asked in an interview, "Do you think other communities can do this as well?" Dustin responded, "That's not the question. Will they? Not can they, but will they?"

America is a compassionate and generous land. With their good works, volunteers are showing the heart and soul of our people, which is the greatest strength of our nation.

In keeping with Commissioner Salter's motto, "We take care of our own in Santa Rosa County." Dustin, Alisha, Dillyn, Zachery, Dammyn, and Lexi will always be grateful for the financial assistance and support the community and you have so generously given.

Mr. Speaker, I would like to recognize Blackie Black for the example he has set in his community. I offer my sincere thanks for all that he has done for Northwest Florida and this great nation.

THE HONORABLE SANDRA S. BECKWITH BECOMES FIRST WOMAN CHIEF JUDGE OF THE U.S. DISTRICT COURT FOR THE SOUTHERN DISTRICT OF OHIO

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. PORTMAN. Mr. Speaker, I rise today to honor Judge Sandra S. Beckwith, who on Monday, October 4, 2004 will become the first woman to hold the position of chief judge for the U.S. District Court of the Southern District of Ohio.

Landmark achievements are nothing new for Judge Beckwith. Born on a military base in Norfolk, Virginia while her father served in the United States Navy, she grew up in Cincinnati hoping to follow in the footsteps of her grandfather, Reed A. Shank, who was the physician for the Cincinnati Reds, Cincinnati Bengals and the University of Cincinnati athletic teams. After beginning in the pre-med program at the University of Cincinnati, Judge Beckwith later changed to pre-law at the suggestion of her father.

Judge Beckwith graduated from the University of Cincinnati's William Howard Taft College of Law with honors and received the Betty Kuhn Memorial Prize for the top woman graduate. She started practicing law in Harrison, Ohio with her father, Charles L. Shank. In 1977, she began a series of career milestones as she was appointed, and later elected, as the first woman to serve on the Hamilton County Municipal Court. Judge Beckwith has been the first woman elected to the Hamilton County Court of Common Pleas, Division of Domestic Relations; appointed to the Hamilton County, Ohio Board of Commissioners (and the first woman elected Chairman by her fellow Commissioners); and the first woman elected to the Hamilton County Commissioners. While serving as a Hamilton County Commissioner, Judge Beckwith practiced law with the respected Cincinnati firm of Graydon Head & Ritchey.

A leader on the critical issues of domestic violence, child support and family law, Judge Beckwith serves on the board of Tender Mercies and the Cincinnati Red Cross and chairs the board of the Collaborative Law Center. Previously, she served on the boards of United Way of Cincinnati; Great Rivers Girl Scouts Council, and remains an ex-officio member of the University of Cincinnati College of Law Board of Visitors.

All of us in the Cincinnati area congratulate Judge Beckwith on this prestigious honor. We look forward to her continued leadership.

CONGRESSIONAL TRIBUTE TO THE 100TH ANNIVERSARY OF THE CITY OF STANDISH

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. STUPAK. Mr. Speaker, I rise today to honor a community in my district that is celebrating its 100th anniversary as a city. This weekend, I will join the residents of Standish, Michigan as they mark this great milestone.

The land that is now Standish was originally surveyed and mapped in 1871 by P.M. Angus, who had to travel there on foot since the railroad had not yet been extended to the area. Mr. Angus was hired by John D. Standish, who owned most of the land, and whose saw mill was the first industry in the new settlement. The first official name of the settlement was Granton, but in 1884, the Village of Granton changed its name to the Village of Standish.

The same year that Standish was founded, the community built its first school, and the railroad was eventually extended to the area. The residents of Standish have a strong sense of their history, and the current Standish Elementary School stands at the same location as that original school. Also, the original railroad depot for the town is still in use, thanks to the local fundraising and restoration efforts of the community.

In 1904, Standish was first incorporated as a city. Over the following years and decades, the community grew and marked a series of firsts along with the rest of our nation. By 1938, it had 913 residents, and today its population is 2,091. The first cars came in 1907 with the arrival of a Buick dealership. Next came commercial electricity, speed limits, the first Prohibition arrests, battery operated radios, and city water and trash removal services. The story of growth and development in Standish is the story of small town America.

Mr. Speaker, I said that Standish is a warm community, and I can personally attest to that. The city was part of the area added to my district after the 2000 census, and I held a town hall meeting at Standish-Sterling High School in February of 2003 in order to get to know my new constituents. I was impressed by their thoughtful questions and touched by their welcome to me as their new Representative. I was, and continue to be, very proud to represent this fine community in Congress.

Mr. Speaker, I ask the United States House of Representatives to join me in congratulating the City of Standish and its residents on their first 100 years and in wishing them well through the next century.

COMMEMORATING THE 100TH ANNIVERSARY OF THE BIRTH OF WILLIAM "COUNT" BASIE AND ACKNOWLEDGING HIS CONTRIBUTIONS TO JAZZ AND SWING MUSIC

SPEECH OF

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. RANGEL. Mr. Speaker, I rise before you today to join with my colleagues in paying tribute to one of the most adored musical treasures of our time, the legendary William "Count" Basie.

Though we lost the late Great Count Basie in 1984 at the age of 79, his melodious spirit and rhythmic style will never be forgotten.

It is said of Count Basie, that he was one of the pre-eminent bandleaders of the Big Band era in the 1930's and 40's. Dubbed the "Master of Swing" because of the flowing intensity of his music, Count Basie was known for his provocative keyboard style characterized by a predominant right hand, which produced quite a distinctive sound.

Among his band's best known tunes was "One O'Clock Jump," "Jumpin' at the Woodside," "Li'l Darlin'," and "April in Paris." With the Count on Piano and band member Freddie Green on guitar, American jazz would never be the same.

Though he was born in Red Bank, New Jersey, Count Basie would call New York City home when he moved there in 1924 and became acquainted with Harlem and the talents of Fats Waller. He and Fats became friends almost immediately and Fats would end up teaching him to play the organ.

Count Basie began his professional career as an accompanist on the vaudeville circuit, and in 1935, became the leader of a nine-piece band. It was while he was with this band performing in Kansas City, that a radio announcer nicknamed him "Count" because he wanted to indicate his standing in a class with aristocrats of jazz such as Duke Ellington.

Though rooted in the style of the 1930s swing-era big bands, the Basie orchestra played with the vigorous drive and carefree swing of a small combo, and was considered a model for ensemble musical conception.

Mr. Speaker, I ask my colleagues to join me in commemorating the 100th anniversary of the birth of William "Count" Basie and his numerous contributions to jazz and swing music.

IN SUPPORT OF THE DIRECT PROFESSIONALS FAIRNESS AND SECURITY ACT OF 2004

HON. LEE TERRY

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. TERRY. Mr. Speaker, I rise today to call the House's attention to the Direct Support Professionals Fairness and Security Act of 2004. This act was introduced today by myself and Representative Lois Capps. The Act provides temporary assistance to states who choose to participate to achieve pay parity between private and public direct support professionals who are essential components of our nation's formal long-term support system for individuals with disabilities.

There are more than 54 million Americans with disabilities, 8 million of whom have mental retardation and other developmental disabilities. Nearly fourteen million require long-term supports and services. These supports include assistance to meet the individual's personal care and hygiene, habilitation, transportation, employment, meal preparation, housekeeping, and other home management needs—supports many of us often take for granted.

The workers who provide services to the individuals with disabilities are known by many job titles—but one thing in common is shared by all of them. They are the hands, voice and face of long-term supports and the human relationship established between the individual and the worker is at the core of our nation's formal long-term supports system. Many are women and the sole income earners for their families. Although providing an essential service to humanity, many of them remain impoverished due to low wages that have not kept pace with those of other industries. Turnover rates for these dedicated workers range between 40 and 100 percent. This has caused a retention and recruitment crisis that threatens our ability to provide adequate supports to people with disabilities of all ages. Further, with such rampant turnover, many of the individuals with disabilities must face new, unfamiliar faces for their daily assistance and lose the support of those upon whom they have come to rely.

The Direct Support Professionals Fairness and Security Act of 2004 provides up to five years of temporary assistance in the form of increased Medicaid dollars to states who choose to participate. Participating states will direct these desperately needed funds directly to increase the wages of private direct support professionals providing essential daily supports to individuals with disabilities. States will have the incentive they need to create parity between public and nonprofit workers providing the same essential services.

I ask my House colleagues to join me in support of the Direct Support Professionals Fairness and Security Act of 2004.

PHYLLIS SCHLAFLY CELEBRATES 80TH BIRTHDAY

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mrs. BLACKBURN. Mr. Speaker, today I rise to honor a legend as she celebrates her 80th birthday.

Phyllis Schlafly has been a national leader of the conservative movement since the publication of her best-selling 1964 book, A Choice Not An Echo.

Mrs. Schlafly worked shoulder to shoulder with other conservatives to create a movement. In 1972 she started a pro-family organization based on the values she knew that Americans shared with her, and helped America regain its moral footing.

For the next three decades her work helped guide young conservatives, and to this day, the organization she created, the Eagle Forum, continues to fight for conservative ideals.

This year the Phyllis Schlafly Report begins its 36th year, her syndicated column appears in 100 newspapers, and her radio commentaries are heard daily on 460 stations across the nation.

And, what I know she'd consider one of her crowning achievements, Mrs. Schlafly raised six children and was named Illinois "Mother of the Year" in 1992.

President Ronald Reagan said it best when referring to Phyllis Schlafly's work as "an example to all those who would struggle for an America that is prosperous and free."

Mrs. Schlafly serves as an inspiration to all of us who work to preserve our important American values—family, faith, and freedom.

THE TIME HAS COME FOR INDIA TO LIVE UP TO DEMOCRATIC PRINCIPLES

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. TOWNS. Mr. Speaker, recently, Indian Prime Minister Dr. Manmohan Singh spoke to the General Assembly of the United Nations. He was met with protests from Sikhs, Muslims, and other protestors.

Although Dr. Singh is a fine economist, his speech masked the reality of life in India. He spoke out against terrorism but he failed to note that India has inflicted a reign of terror on its people while sponsoring terrorism in the Pakistani province of Sindh, according to the January 2, 2002 issue of the Washington Times. He spoke of cooperation against poverty, ignoring the fact that 40 percent of the people in his country live on less than $2 per day and farmers in Punjab are forced to accept prices for their crops that provide them with a less than subsistence wage, forcing them to go deeply in debt to stay alive. He spoke of eliminating weapons of mass destruction but India started the nuclear competition in South Asia. He spoke of democracy while basic human rights are being violated. Over 52,000 Sikhs and tens of thousands of other minorities languish in Indian prisons as political prisoners. India has killed over 250,000 Sikhs, over 89,000 Kashmiris, over 300,000 Christians in Nagaland, and tens of thousands of other minorities. Yet India continues to proclaim its democratic principles.

The irony is that India seeks a permanent seat on the United Nations Security Council. How can it be on the Security Council when it cannot live up to the most basic principles of freedom?

Mr. Speaker, it is time for the United States to take action. We must cut off our aid to India until it lets all people within its artificial borders be free. We must go on record in support of self-determination for the people of Kashmir, as India promised in 1948, and for all the other peoples seeking freedom, such as the Sikhs of Khalistan and the Christians of Nagaland, among others.

Mr. Speaker, the Council of Khalistan issued an excellent and informative press release on the protests against Dr. Singh. I am inserting it into the RECORD now for the information of my colleagues.

[From the Council of Khalistan, September 29, 2004

INDIA MUST LIVE BY PRINCIPLES OF DEMOCRACY—SEEKS UN SECURITY COUNCIL SEAT BUT VIOLATES PRINCIPLES IT PROCLAIMS

As Indian Prime Minister Manmohan Singh spoke to the United Nations General Assembly, Sikhs, Kashmiri Muslims, and other oppressed minorities of South Asia gathered at the United Nations Building in New York to protest his appearance. They demanded the immediate release of all political prisoners, the firing of Cabinet ministers who were involved in genocide against Sikhs, Muslims, Christians, and other minorities, and sovereignty for the peoples and nations of South Asia.

"If India seeks to be a permanent member of the Security Council, it must learn to practice the principles of democracy," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan, which leads the Sikh struggle for freedom. "In 1948, India demanded a free and fair plebiscite in Kashmir. That plebiscite has never been held," he said. "Similarly, India must grant self-determination to Khalistan, Nagaland, and the other countries seeking their independence," he said.

While Prime Minister Singh spoke of "a world in which a free people could together pursue a destiny of shared prosperity," the farmers of Punjab are forced to accept less than subsistence prices for their crops. Half the population of India lives below the international poverty line. Dr. Singh spoke of a global coalition against terrorism, but his government gives only lip service to the War on Terror. India sponsors cross-border terrorism in Sindh, according to the Washington Times of January 2, 2002. Although he spoke against the proliferation of weapons of mass destruction, it was India that began the nuclear competition in South Asia. Dr. Singh spoke of "democracy as an instrument for achieving both peace and prosperity," yet India denies the most basic of democratic freedoms to the Sikhs and other minorities living within its borders.

India has murdered over 250,000 Sikhs since 1984, according to figures compiled by the Punjab State Magistracy and human-rights groups and reported in the book The Politics of Genocide by Inderjeet Singh Jaijee. It has also killed more than 89,000 Kashmiri Muslims since 1988, over 300,000 Christians in Nagaland since 1947, and thousands of Christians and Muslims elsewhere in the country, as well as tens of thousands of Assamese, Bodos, Dalits ("Untouchables," the dark-skinned aboriginal people of South Asia), Manipuris, Tamils, and other minorities. The Indian Supreme Court called the Indian government's murders of Sikhs "worse than a genocide."

According to a report by the Movement Against State Repression (MASR), 52,268 Sikhs are being held as political prisoners in India without charge or trial. Some have been in illegal custody since 1984! Amnesty International reported that tens of thousands of other minorities are also being held as political prisoners. We demand the immediate release of all these political prisoners.

Recently, another church was burned in India. This is part of a pattern of violence against Christians that has been going on since Christmas 1998 with the approval of the Indian government. Nuns have been raped, priests have been murdered, prayer halls and schools have been vandalized. A Christian religious festival was broken up by police gunfire.

Indian police arrested human-rights activist Jaswant Singh Khalra after he exposed their policy of mass cremation of Sikhs, in which over 50,000 Sikhs have been arrested, tortured, and murdered, then their bodies were declared unidentified and secretly cremated. He was murdered in police custody. His body was not given to his family.

"Although Sikhs gave 80 percent of the sacrifices for India's independence, India has massacred Sikhs since achieving independence," said Dr. Gurmit Singh Aulakh, President of the Council of Khalistan. On October 7, 1987, the Sikh Nation declared its independence from India, naming its new country Khalistan.

"Only a sovereign, independent Khalistan will end the repression and lift the standard of living for the people of Punjab," Dr. Aulakh said. "Democracies don't commit genocide."

History shows that multinational states such as India are doomed to failure. Countries like Austria-Hungary, India's longtime friend the Soviet Union, Yugoslavia, Czechoslovakia, and others prove this point. India is not one country, it is a polyglot like those countries, thrown together for the convenience of the British colonialists. It is doomed to break up as they did. Recently, the Punjab Legislative Assembly passed a bill annulling all water agreements with the Indian government, preventing the government's daylight robbery of Punjab river water. Punjab needs its river water for its crops. In the bill, the Assembly explicitly stated the sovereignty of Punjab.

"As Professor Darshan Singh, a former Jathedar of the Akal Takht, said, 'if a Sikh is not a Khalistani, he is not a Sikh'," Dr. Aulakh noted. "We must continue to press for our God-given birthright of freedom," he said. "Without political power, religions cannot flourish and nations perish. India claims to be a democracy. It is time it recognized the right of self-determination for all people in South Asia."

INTRODUCTION OF MILITARY FAMILIES LEAVE ACT

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday; September 30, 2004

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to introduce the Military Families Leave Act, a bill that will take a small step to help ease the burden of military families in this country.

Nearly everyday we hear stories about the hardships of the families of our nation's soldiers. Family members of deployed soldiers face unique challenges, especially in the first days and weeks after the member has been summoned to duty. The National Military Family Association has testified that it hears from many families about the difficulties of balancing new family and personal requirements with their regular duties when a family member is deployed. As members of Congress, we too hear from constituents who struggle with this balance. I believe there are measures we can take to ease this burden and increase flexibility in the lives of our military family members.

The legislation I am introducing today is one of the steps we can take in that direction. The Military Families Leave Act allows spouses, parents, or children of military personnel who are serving on, or are called to active duty, in support of a contingency operation to use their Family and Medical Leave Act benefits for issues directly related to deployment. The bill does not extend the FMLA to anyone; it simply allows those who already qualify for the FMLA to use that benefit in new specific instances. For example, if a woman's husband is deployed for a contingency operation, she can use her FMLA benefit to secure power of attorney or to arrange for necessary childcare. Or, in a single parent situation, the mother or father of the deployed servicemember could use his or her FMLA benefit to care for a grandchild. This bill has been carefully drafted to stipulate that this leave could only be taken for issues directly relating to or resulting from the deployment of a family member.

This bill is a companion to a bill introduced by Senator Russ Feingold S.683. That bill was passed by unanimous consent in the Senate as an amendment to the Fiscal Year 2004 Iraq Supplemental Appropriations bill, but it was unfortunately subsequently stripped in conference. However, this bill continues to have widespread support from military reserve, active duty, and military family organizations.

I would like to submit for the record support letters from the Reserve Enlisted Association, the National Military Family Association, and the Enlisted Association of the National Guard of the United States. Others who support this bill are the Military Officers Association of America, the National Guard Association of the United States, and the Reserve Officers Association.

The time is ripe to show our military families that we are listening to their concerns. The Military Families Leave Act represents a small measure of relief for the families of the men and women who serve in our armed forces. I ask that my colleagues join me in assisting our military families by supporting this bill.

NATIONAL MILITARY FAMILY
ASSOCIATION,
Sept. 14, 2004.

Hon. TOM UDALL,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE UDALL: The National Military Family Association, NMFA, is a national nonprofit membership organization whose sole focus is the military family. NMFA's mission is to serve the families of the seven uniformed services through education, information and advocacy.

On behalf of NMFA and the families it serves, I would like to thank you for introducing legislation to amend the Family and Medical Leave Act of 1993 to provide entitlement to leave to eligible employees whose spouse, son, daughter, or parent is a member of the Armed Forces serving on active duty in support of a contingency operation or notified of an impending call or order to active duty in support of a contingency operation.

NMFA has heard from many families about the difficulty of balancing family obligations with job requirements when a close family member is deployed. Suddenly, they are single parents or, in the case of grandparents, assuming the new responsibility of caring for grandchildren. The days leading up to a deployment can be filled with pre-deployment briefings and putting legal affairs in order. Families also need the opportunity to spend precious time together prior to a long separation. The need is no less when the servicemember returns. Reintegration and transition requires training not only for the servicemember but for the family as well in order to be most effective.

Military families, especially those of deployed servicemembers, are called upon to make extraordinary sacrifices. Thus amendment offers families some breathing room as they adjust to this time of separation.

Thank you for your support and interest in military families. If NMFA can be of any assistance to you in other areas concerning military families, please feel free to contact us.

Sincerely,

CANDACE A. WHEELER,
President.

EANGUS,
Sept. 16, 2004.

Hon. TOM UDALL,
U.S. Congress,
Washington, DC.

DEAR CONGRESSMAN UDALL: The Enlisted Association of the National Guard of the United States (EANGUS) would like to thank you, on behalf of the enlisted men and women of the Army and Air National Guard, for drafting the Military Families Leave Act of 2004.

Families of mobilized National Guard and Reserve members, as well as the families of deployed active duty service members, experience many hardships. Your bill will help alleviate some of the stress involved when, a principal family member is deployed. Allowing the use of the Family and Medical Leave Act of 1993 for those family members can greatly assist during a difficult time.

Thank you so much for recognizing one of the many deeds of the military community. EANGUS will support the Military Families Leave Act in any way possible. If there is anything we can, do to assist, please let us know.

If I can be of any assistance, please feel free to ask.

Working for America's Best!

MSG (RET.) MICHAEL P. CLINE, AUS,
Executive Director.

RESERVE ENLISTED ASSOCIATION AND RESERVE OFFICERS ASSOCIATION,
Sept. 29, 2004.

Hon. TOM UDALL,
U.S. House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE UDALL The Reserve Officers Association, representing 75,000 Reserve Component members, and the Reserve Enlisted Association supporting all Reserve enlisted members supports your bill, to amend the Family and Medical Leave Act to provide authority for Reserve Component family members to take leave in conjunction with a call-up.

The Guard and Reserve are contributing approximately 40 percent of the troops in Iraq and Afghanistan and are gone from home for the longest period of time ever anticipated. Many families are faced with having to accommodate this absence with often less than 30 days notice and it requires a considerable amount of time to make the necessary adjustments. Family members supporting a spouse, son, daughter or parent that is serving on active duty, should not have to also be afraid of losing their job.

The bill recognizes many of the problems encountered in the current mobilization and provide solutions. We are stunned and appreciative of all of the co-sponsors who have supported this generous but necessary measure. ROA and REA applaud your effort and concern.

Sincerely,

LANI BURNETT,
CMSgt, USAFR (Ret.),
REA Executive Director.
ROBERT A. MCINTOSH,
Major General (Ret.), USAFR,
ROA Executive Director.

RECOGNIZING HISPANIC HERITAGE MONTH

HON. PATRICK J. TIBERI

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. TIBERI. Mr. Speaker, I rise today in celebration of National Hispanic Heritage Month, and in special recognition of Hispanics in central Ohio and throughout our country.

During this designated month, America celebrates the culture and traditions of our friends and neighbors with Hispanic roots. Hispanics are now the largest minority group in the United States. The 2000 Census found that 35.3 million people identified themselves as Hispanic American. That represents a 58 percent increase from the 1990 Census.

Beyond the data, the reality is that Hispanics are an integral part of America's social fabric. I am proud that the state of Ohio is home to more than 217,000 residents of Hispanic/Latino descent. Hispanic Americans continue to make great strides in education, employment, health, homeownership, and economic mobility. This is a result of a set of values that includes a strong work ethic, family values, and service to community.

Hispanic Americans in central Ohio serve the community in numerous capacities. In particular, recent immigrants unfamiliar with the English language are served by Spanish interpreters who help provide them access to health care, education, legal assistance and other vital services. Mi Directorio Hispana, a business directory, and Spanish newspapers in central Ohio, like La Voz Hispana, connect Hispanics with the community and keep them informed. The Ohio Hispanic Coalition, a nonprofit outreach organization, and the Ohio Commission of Hispanic/Latino Affairs serve as advocates for the needs of Hispanic people and help to promote good relations among the community-at-large.

Mr. Speaker, the Hispanic community is a vital part of central Ohio and our country. As we move forward as a nation, it is important to pursue policies that can further expand opportunities for Hispanic Americans. I ask all of my colleagues to join me in support and in honor of Hispanic Americans, their culture and traditions, and their work and service that contributes to the greatness of this nation.

MARITIME DAY

HON. DAVID VITTER

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. VITTER. Mr. Speaker, I rise today to recognize September 30 as World Maritime Day. I urge the members of Congress to join me in saluting the hard working men and women of the Merchant Marine.

Each day, mariners perform a vital service in the global economy by ensuring that international trade proceeds without interruption. They work long hours in all kinds of weather. Whether they sail on the storm-tossed waves of the North Atlantic or the tropical heat of the South Pacific, these men and women perform their duties without recognition or fanfare.

Mariners and many others contribute to homeland security, and we must give them the support they need to effectively keep our ports safe. As we recognize Maritime Day, we cannot overlook the human element. Mariners sail for many weeks without being ashore or hearing a loved one's voice on a call home.

We thank the mariners for their continued commitment to keeping us all secure, and we focus our attention on the challenge in their industry of balancing security needs with mariners' need for shore leave. I urge members of Congress to join me in working to reach a solution that provides the utmost in security for ports and harbors around the world while allowing for the personal needs of the men and women who sail these great ships.

I come to the floor of the House of Representatives to salute and honor the men and women of the Merchant Marine on this World Maritime Day.

HONORING LIFE AND WORK OF DUKE ELLINGTON

SPEECH OF

HON. JOE WILSON

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mr. WILSON of South Carolina. Mr. Speaker, I wish to express my strong support for H. Con. Res. 501, which honors the life and work of Duke Ellington and recognizes the 30th Anniversary of Duke Ellington School of the Arts. I add further that the Duke Ellington School is where the Washington, DC Satirical Group, the theater troupe Hexagon, performs every year to raise funds for local charities. Over the last 17 years many members of Congress have performed in the annual "Congress Goes to Hexagon" Night, organized each year by Skip Maraney, of the National Star Route Mail Contractors Association. Hexagon Inc is celebrating its 50th Anniversary this year.

IN HONOR AND REMEMBRANCE OF OFFICER JAMES L. DAVIS

HON. JULIA CARSON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Ms. CARSON of Indiana. Mr. Speaker, I rise today to honor the life and service of Butler University Officer James L. Davis of Indianapolis, Indiana, who was tragically shot and killed in the line of duty on September 24th.

On the morning of Friday, September 24th, Officer Davis responded to reports of a suspicious person at the Hinkle Fieldhouse on Butler University campus. While questioning the subject, he was shot and fatally wounded, becoming the first ever Butler University police officer killed in the line of duty. He was 31.

Known as J.J. to his family, James L. Davis graduated from Indiana University in 1995 with degrees in criminal justice and Afro-American studies. He served our country proudly as a military policeman with the United States Army.

Throughout his distinguished record of public service, James Davis displayed an unwavering commitment to the youth of Indianapolis. In 2001, James supervised 96 Juvenile offenders for the Indiana Department of Correction as a youth service officer. From January 2001 to August 2002, he served as a drill instructor for troubled youth with Project Impact, a program that provides counseling, job training, school drop-out prevention, tutoring and mentoring to at-risk first- and second-time youth offenders. After serving as a corporate security officer for Conseco, Inc., James Davis joined the Butler University police force in January of 2003.

During his full-time service on the police force, James continued his education in the pursuit of justice. At the time of his death he was only two months from completing his master's degree, an important step on the way to fulfilling his career goal of becoming a civil rights lawyer. James had also planned to create a charity honoring his late mother.

The admiration of his colleagues speaks volumes to the strength of his character. To the Chief of the Butler Police, James was "probably one of the most genuine people I've ever known." To his Project Impact supervisor, he was "galactic in regards to his love for humanity." In my community, the outpouring of sympathy and grief for this remarkable man has been extraordinary. In the few days since his passing, hundreds have written cards and e-mails to the department honoring our departed neighbor and friend.

Mr. Speaker, I ask my colleagues to join me in extending my deepest condolences to his wife Valeeda, his three beautiful children, Josiah, 8, Jarren, 3, and Jaedyn, 2, his sister Mylandar Davis, and his loving family and friends.

James L. Davis will be deeply missed by all whose lives he touched. The citizens of Indianapolis extend our most sincere appreciation for his personal sacrifice and commitment to public service.

TRIBUTE TO CHARLES W. JOHNSON

HON. SUSAN A. DAVIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mrs. DAVIS of California. Mr. Speaker, I rise today to honor a wonderful leader of 28 years in my community: Charles W. Johnson.

Charles Johnson is a father, a son, a husband, and most of all a beloved friend.

San Diegans will honor him at the Linda Vista Civic Association meeting on October 21, 2004. His friends, family, and supporters will join together to salute Charles for his selfless and steady dedication to improving our community.

His life is a great American story. It is a classic story of one of the kids that made good.

A retired Navy Master Chief, he graduated high school in Paris, Texas and joined the Navy immediately after.

The Navy brought Charles to San Diego, where he attended San Diego City College and Mesa College.

He is a Linda Vista community activist. He has dedicated countless hours to improving the quality of life for Linda Vista residents.

Charles is a proud founder of the Linda Vista Civic Association and is the immediate past chair.

The Civic Association is a positive force for improving the quality of life for all Linda Vista residents and promoting the involvement of community members of all ages.

They are committed to coordinating, advising, and ensuring that projects operating in the neighborhood do so with collaboration, cooperation, and teamwork, and in a manner consistent with the vision of the Collaborative.

Charles continued his activism as a past chair of the Linda Vista Boys and Girls Club and of the Access Center.

He was a member of the Linda Vista Planning Committee for over six years and the City of San Diego Citizens' Advisory Board on Police-Community Relations.

Charles Johnson was an enthusiastic member of the City of San Diego Redistricting Commission, where he was a strong advocate for his community.

He is an American patriot. He honorably served our country in the military. He continues today as a member of the American Legion and VFW.

I wish to congratulate Charles Johnson for his untiring work on behalf of Linda Vista community.

TRIBUTE TO MRS. BONNIE ELLIOTT

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. McCOTTER. Mr. Speaker, I rise today to acknowledge and honor Mrs. Bonnie Elliott upon her retirement after 21 years of service to the citizens of the Charter Township of White Lake, Michigan.

For nearly three decades, Bonnie has lived in Michigan's Lower Peninsula, though she has always yearned to return to her Upper Peninsula roots; and, upon her retirement, she will realize her dream of once again living the Upper Peninsula.

Bonnie served as Township Clerk for 16 years before being appointed as White Lake Township Supervisor five years ago. During her tenure, the Township has seen significant growth, becoming an enviable location to live and raise a family.

Through her work as a community activist, and an elected official, Bonnie has been integral to the heart of this growing township. She is a charter member of the White Lake Historical Society and a member of both the White Lake Goodfellows and St. Patrick's Church. Bonnie devoted time to the renovation of the Dublin Community Senior Center, the development of the Ferdinand C. Vetter Park, the Judy Hawley Park, and improvements to the White Lake Cemetery.

Bonnie and her husband, Charles, should be extremely proud of the indelible mark she has left on the community. We will sorely miss Bonnie, but will continue to benefit from her dedication and leadership.

Mr. Speaker, I extend my sincere appreciation to Mrs. Bonnie Elliott upon her retirement, and thank her for her fine service to our community and our country. I wish Bonnie and Charles the very best on their retirement to Schoolcraft County in the Upper Peninsula of Michigan.

MONTGOMERY COUNTY, MARYLAND TASK FORCE ON MENTORING

HON. ALBERT RUSSELL WYNN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. WYNN. Mr. Speaker, I rise today to congratulate and to express my appreciation to the Montgomery County, Maryland Task Force on Mentoring for the great work they are doing in helping to guide county children and youth to live useful and productive lives. The Task Force on Mentoring, TFM, works 365 days a year to bring mentoring services to all who ask and need such help. The services of the TFM are available to all county residents regardless of age, gender, race, color, religion or cultural background.

The TFM also provides technical services to organizations, communities, and institutions that request assistance in designing, developing and implementing mentor programs. It hosts a major annual breakfast focusing on key issues involving mentoring. This year, on October 7, 2004, at the Rockville campus of Johns Hopkins University, the TFM is sponsoring its 13th annual breakfast highlighting the crisis of anti-social gangs in Montgomery County, and the attempt by some of these gangs to recruit children and youth into their organizations.

The TFM is a community-based umbrella organization aimed at convincing troubled children and youth that they can make plans for a good life with the help of a caring, well trained, dedicated volunteer mentor.

The TFM is the only organization of its kind in the county. It offers assistance, mentor training, volunteer mentor recruitment, organizational and technical support free of charge to more than 60 mentor programs. It helps to implement mentor programs in any public school in Montgomery County that requests such help.

The TFM recently entered into a collaboration and agreement with the Alliance of Concerned Men of the District of Columbia to begin a mentor program for youthful offenders at the Clarksburg youth facility in Clarksburg, Maryland. The first meeting with the youthful offenders at the Clarksburg facility took place September 10, 2004. Additionally, the TFM is working with Montgomery County Councilman Phil Andrews and the Montgomery County Juvenile Court system to explore the establishment of a mentor program for children and youth in the correctional facility.

The TFM has been repeatedly recognized and commended as a valuable resource and asset to the children, young adults, and the communities within Montgomery County, Maryland. Every year the TFM helps a significant number of children and youth turn their lives around and become positive, active, and socially contributing residents.

Mr. Speaker, please join me in congratulating the Montgomery County, Maryland Task Force on Mentoring for their commitment to improving the lives of all people in the County, and especially the lives of young people.

CASA GRANDE RUINS NATIONAL MONUMENT BOUNDARY MODIFICATION ACT OF 2004

HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. RENZI. Mr. Speaker, I rise today to introduce the Casa Grande Ruins National Monument Boundary Modification Act of 2004.

The Casa Grande Ruin Reservation was first set aside on March 2, 1889, and proclaimed as our nation's first archeological preserve on June 22, 1892. On August 3, 1918, the Casa Grande Ruins National Monument was created, to protect one of the finest architectural examples of 13th century Hohokam culture in the American southwest known to early Spanish explorers as the "Great House".

Mr. Speaker, the Casa Grande Ruins National Monument Boundary Modification Act of 2004 will allow the National Park Service to protect newly discovered sites associated with the existing monument and provide greater opportunities to visitors, researchers and surrounding communities to understand and appreciate the Hohokam culture.

This legislation expands the boundary of the Casa Grande Ruins National Monument to include approximately 257 acres, including land owned by the State of Arizona, private property owners and other Federal agencies. This legislation specifies that lands owned by the State of Arizona and private landowners may be acquired only with the consent of the landowners.

Mr. Speaker, I urge my colleagues to support the Casa Grande Ruins National Monument Boundary Modification Act of 2004. This legislation will expand our knowledge of the ancient Hohokam culture in the Southwest.

EWING MARION KAUFFMAN

HON. KAREN McCARTHY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Ms. MCCARTHY of Missouri. Mr. Speaker, I rise today to honor Kansas City's own "Prescription for Success," Ewing Marion Kauffman. Ewing Kauffman, one of Kansas City's greatest entrepreneurial leaders and philanthropists, is being honored on September 30, 2004 for the continuing gift and proud legacy he left to the community and nation through his Ewing Marion Kauffman Foundation.

Ewing Kauffman's humble boyhood and successful adulthood are a classic Horatio Alger story. He was born September 21, 1916 near Garden City, in Cass County Missouri. Growing up in rural Missouri and later in Kansas City, Ewing's background of hard work and perseverance through adversity instilled the discipline, entrepeneurial principles and philanthropic sympathies that resulted in his extraordinary achievements and remarkable success later in life.

As a boy he sold fish and eggs door-to-door. While bedridden for an entire year with a heart ailment at the age of 11, Ewing read as many as 40 books a month. He worked through high school and junior college driving a laundry truck and earned an associate degree in business in 1936 from Kansas City Junior College. He entered the Navy in World War II and was discharged as Navigator and Ensign.

Upon returning from the war, Ewing began his phenomenal career in pharmaceutics. He started out as a salesman and became the best one in the business. With a $5,000 investment, he founded Marion Laboratories in 1950. He operated initially out of the basement of his home. He reportedly chose to use his middle name for his company rather than his last name in order to not reveal his one-man operation: Ewing Kauffman, salesman by day and Marion Labs Manufacturer by night.

Ewing Kauffman attributed his success as a direct result of one fundamental philosophy: Treat others as you would like to be treated. "It is the happiest principle by which to live and the most intelligent principle by which to do business and make money," he said. His entreprenurial success enabled him to help others. He was beloved by his associates in the pharmaceutical firm through which he provided jobs and economic self-sufficiency to thousands.

He also shared his success with all of Kansas City by bringing back Major League Baseball to the region with his purchase of the Kansas City Royals in 1968, boosting the cities economic base, community profile and civic pride. Ewing's beloved wife, the late Muriel McBrien Kauffman, a philanthropist in her own right with her gifts and perpetual bequests to Kansas City Arts organizations, is also credited with encouraging her husband to invest in the Royals. Their daughter, Julia Irene Kauffman, continues their loving tradition of philanthropy in Kansas City today.

Kauffman's most enduring gift and greatest legacy was the establishment of the Ewing Marion Kauffman Foundation in the mid 1960s. The Kauffman Foundation places special emphasis on improving the academic achievement of our youth, and in stimulating the growth of entrepreneurship in America. For over 40 years the Kauffman Foundation has successfully helped other to help others to live self-sufficiently and has benefited communities through out the country.

Mr. Speaker, please join me in commemorating this most gifted, successful, inspirational, and generous man whose loving legacy has made a difference in countless lives and whose love of the entrepreneurial spirit lives on in the Ewing Marion Kauffman Foundation.

TRIBUTE TO MARGARET JEAN WALES O'ROURKE

HON. SCOTT GARRETT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. GARRETT of New Jersey. Mr. Speaker, the fabric of American history is woven with the hearts of Patriots. Since the colonists' first landing on American soil centuries ago, courageous men and women have toiled, sacrificed, and persevered to build a legacy of freedom and hope for future generations.

While the public contributions of some have been widely lauded, the silent service of countless others is known only in the freedom that we as Americans continue to cherish.

Margaret Jean Wales O'Rourke was one such unheralded patriot.

Born on August 24, 1922, Margaret grew up in Saddle River, New Jersey. She became a nurse and spent time serving at St. Albans Hospital in Long Island, New York. In 1943, in the midst of World War II, Margaret answered her country's call and traveled to California to work as a nurse in the San Leandro Naval Hospital.

While in San Leandro, Margaret met Charles Arthur O'Rourke, the man who would become her husband. A fellow-patriot, Charles was born on December 19, 1923, and joined the Navy in 1942 at the tender age of 18. He spent several years at sea serving in the South Pacific during World War II.

Charles and Margaret completed their time in the Navy in 1946. They married and settled in Ramsey, New Jersey. Although their tours of duty were over, however, their service to country did not end.

The O'Rourke's had three children: Thomas, Shirl, and Barbara. Thomas carried on the O'Rourke military tradition and joined the United States Marine Corps in 1966. He remained in the Marines until 1974, serving as a Cobra pilot in Vietnam.

Today, Thomas's son and Margaret and Arthur's grandson, United States Marine Corps Major Kevin Thomas O'Rourke, continues his family's military heritage, serving as an F–18 pilot in Iraq.

Margaret passed away on August 20, 2004. Her course in life took her farther than she may have anticipated, and her legacy will surely be more enduring than she ever could have imagined. Through their dedication to protecting and preserving liberty, three generations of O'Rourke's have now become part of the tapestry of America.

While Margaret's life on earth has passed, her gift to all of us will endure. I honor Margaret's memory, and her service to the United States of America.

HONORING DR. EDWARD N. BRANDT, JR.

HON. ERNEST J. ISTOOK, JR.

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. ISTOOK. Mr. Speaker, I rise today to honor a fellow Oklahoman who has served this country and his fellowman for over 40 years.

It is not often that we are privileged to honor someone who is considered a Living Treasure, but today we indeed are able to do so. Dr. Edward N. Brandt, Jr., received the Oklahoma Health Center "Living Treasures Award" in 2002, a distinction reserved for "Individuals Who Embody the Light of Compassion, Caring and Creativity in our Community, Schools or Work Places." Dr. Brandt is indeed a Living Treasure who has served his community, his state, and his country with tireless dedication, true compassion, remarkable self-effacement, and persistent good humor for over four decades. We are delighted to join with his colleagues, family and friends who are honoring him with a day of activities in his honor on Friday, November 12, 2004, jointly sponsored by the College of Public Health and the College of Medicine of the University of Oklahoma Health Sciences Center in Oklahoma City, Oklahoma. He is also being honored by the establishment of The Edward N. Brandt, Jr., Student Endowment that will sustain activities Dr. Brandt has carried out for students over the years.

Dr. Brandt began his affiliation with the University of Oklahoma over 50 years ago as an undergraduate. He earned three degrees from the University of Oklahoma, starting in 1954 with a Bachelor of Science (B.S.) in Mathematics from the Norman Campus, and followed in 1960 with a Doctor of Medicine (M.D.) and in 1963 with a Doctor of Philosophy (Ph.D.) in Biostatistics from The University of Oklahoma Medical Center in Oklahoma City, Oklahoma. He also managed to spend time in Stillwater and earn a Master of Science (M.S.) in Mathematics from the Oklahoma State University in 1955.

Dr. Brandt joined the faculty of the University of Oklahoma Medical Center in 1961, beginning as an Instructor and rising to Professor in the School of Medicine and School of Health. He also began his long and distinguished career in medical administration, serving as Associate Dean of the School of Medicine and as Associate Director of the Medical Center from 1968 to 1969.

Dr. Brandt then left Oklahoma to become a leader in academic medicine and a major figure in health policy in the United States. He spent 11 years in Texas, beginning at the University of Texas Medical Branch in Galveston, where he was Professor in the School of Medicine and Graduate School and Dean of the Graduate School from 1970 to 1974, Dean of Medicine from 1973 to 1976, and Executive Dean from 1976 to 1977. He then took over responsibility for the University of Texas System, based in Austin as Vice Chancellor for Health Affairs from 1977 until 1981.

In 1981, Dr. Brandt answered the call of his country and of President Ronald Reagan, and went to Washington to become the senior health official in the Department of Health and Human Services, serving as Assistant Secretary for Health until 1984. In that role he was responsible for overseeing the development of many critical health policies, including the emerging problems associated with AIDS. He worked closely with Secretary Richard S. Schweiker and Secretary Margaret Heckler and with the Congress on these and other health and healthcare issues. Dr. Brandt was also the U.S. Representative to the Executive Board of the World Health Organization from 1982 until 1984.

Dr. Brandt left his leadership position in the federal government to become President of The University of Maryland at Baltimore and Professor in the School of Medicine, where he served from 1985 until 1989.

Returning home to Oklahoma in 1989, Dr. Brandt has served the Health Sciences Center as a distinguished and well-loved member of the faculty. He was Executive Dean of the University of Oklahoma Medical College from 1989 until 1992. In 1992 he was appointed Professor of Health Administration and Policy in the College of Public Health, and since 1996 has been honored as Regents Professor. He has been the Director of the Center for Health Policy Research and Development since 1992 and was Chair of the Department of Health Administration and Policy in the College of Public Health from 2000 until 2002.

Dr. Brandt has remained a central figure in health policy in this country. He has been an active member and often the Chair of some 160 major health committees, task forces, and boards, including at least 88 national, 44 state, and 30 local ones. These include positions such as Member of the Board of Regents of the National Library of Medicine from 1985 to 1989, Chairman (1987–89) and Member of the Governing Council of the Institute of Medicine of the National Academy of Sciences (1986–91), and Vice-Chairman (1987–91) and Chairman of the Medical Schools Section of the American Medical Association (1979–81). He has been a leader in the state of Oklahoma with the Oklahoma State Medical Association, serving as a Member of the House of Delegates since 1992 and Chair of the Council on State Legislation and Regulation. He has been a long-time Chair of the Oklahoma State Trauma System Advisory Board.

Dr. Brandt has received some 82 substantial awards during his career. They include the Outstanding Alumni Service Award for "Outstanding Contribution in Academic Medicine," from the Alumni Association of the University of Oklahoma College of Medicine in 1997, the first such award ever given. In 1981 he was elected to membership in the Institute of Medicine of the National Academy of Sciences and was also named "Territorial Marshal" by the Governor of the State of Oklahoma. In 1984 he received the Distinguished Leadership Award, Department of Health and Human Services, and in 1987, the Distinguished Public Service Award, U.S. Department of Defense, both of which were the highest awards made by those Departments. In 1989 the National AIDS Fund established the Edward N. Brandt, Jr. Award in his honor. In 1994 he was elected as Fellow for "Leadership in Academic Medicine and Public Health, and for Outstanding Service in the Federal Government" by the American Association for the Advancement of Science. He received the 1997 Leadership Award for "Extraordinary Service and Leadership in Injury Prevention" from the National Center for Injury Prevention and Control and the Joan K. Leavitt Outstanding Achievement Award from the Oklahoma Hospital Association. He was recognized by the National Institutes of Health Office of Research in Women's Health with the "Visionary in Women's Health Award" in 2000 and by the University of Oklahoma with the "Golden Scalpel" Award for Contributions to Trauma Care in 2001, and was selected to be a "National Associate" of the National Academy of Sciences also in 2001. This year he was elected as Fellow for "Leadership in Academic Medicine and Public Health, and for Outstanding Service in the Federal Government" by the American Association for the Advancement of Science and is to be honored as a Distinguished Alumnus of the College of Arts & Sciences of the University of Oklahoma in 2005.

In addition to his many professional accomplishments, Dr. Brandt and his wife of 51 years, Patricia Lawson Brandt, raised three sons, Patrick James, Edward III, and Rex Carlin Brandt. They have four grandchildren, Rex Carlin Brandt, Jr., Jeremy Scott Brandt, Justin Schwartz and Karina Schwartz.

This Fall, Dr. Brandt will "retire." In fact, he has become Regents Professor Emeritus and continues to teach, advise students and otherwise remain active in many activities of the University of Oklahoma Health Sciences Center. I am pleased to join with the citizens of the great state of Oklahoma and of this nation in thanking and recognizing Dr. Edward N. Brandt, Jr., for his long service and many contributions to our society. We are proud to have a gentleman, scholar, and citizen of his caliber in our midst.

RECOGNIZING THE BRACEROS

HON. DOUG OSE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. OSE. Mr. Speaker, as we celebrate the achievements of Hispanic Americans during Hispanic Heritage Month, I stand to recognize a group of individuals, known as the Braceros, for their incredible contributions to our great nation during World War II.

September 29th marked the Day of the Bracero. These brave men registered to leave their wives and children behind in their country of origin and homes, while they came to the United States as the "soldiers of the fields." The Braceros wore no uniform and received no medals, but today I rise to honor the Braceros just as I salute our World War II veterans, living and deceased, for their contributions to a safer world and democracy.

This is merely a partial list of the hundreds of Braceros whose families live in my district:

Antonio Silva; Jesus Fernandez; Julian Paras Aguilera; Jesus Sanchez Beltran; Amador Palafox Bustos, Exiquio Contreras Parra; Leonides Gomez; Arturo Venegas, Sr.; Jose Luis Figueroa Tamayo Jose Negrete Sanchez; Jose Dolores Magaña Areas; Jose Ramirez Barajas; J. Jesus Torres Salas; Sr. Gutierrez; Alejandrino Arellano; Sr. Magaña; Pedro de Luna; Roberto Mauzo; Jose F. Ramirez; Rodolfo Martinez Castillo; Modesto Martinez Rosas Ramon Barraza; Carlos Rodriguez; Julian Paras; Jose Guadalupe Ruiz Aguilar; Ruben Cortez Luna; Jose Isabel Viorato; Antonio Hernandez; Joaquin Mendez Mendez; Jesus Torres Salas Rodolfo Castaneda; Juan Reyes Garcia; Rodrigo Izquierdo; Jose Diaz; Conrado Cardenas; Lazaro Gonzalo; Martin Perez; Celedonio Perez; Jose Lua; Cecilio Santillana; Sotero Cervantes; Flores Timoteo; Juan Rico; Francisco Mariscal; Manuel Nava; Jesus Macias; Ruben Jarillo; Juan Rico; Juan Baes; Manuel Briceno; Arturo Romero Barajas; Jose Sanchez Rodriguez; Gonzalo Castaneda; Honorio Ramirez; Antonio Gutierrez; etc.

World War II forced our nation to shift the economy. Throughout the war, upwards of 13 million men served in our nation, roughly one-tenth of the total population. While our servicemen were fighting across the oceans, millions more were working constant shifts in the factories to support the war effort. This resulted in a severe labor shortage in concentrated areas, such as agriculture.

In an effort to minimize this loss of labor, the United States and Mexico entered into a bilateral agreement in August 1942 to provide contracted labor.

These guest workers, known as Braceros, (a derivative of "brazo" literally meaning "arm") were recruited and hired to work in the fields and on the railroads across the United States.

The first 1,500 Braceros to enter the United States arrived in California to work in the sugar beet fields outside of Stockton on September 29, 1942, where they worked until December 24th of that same year.

Over the course of the next twenty-two years, as many as five million Braceros had participated in the program, supporting our critical infrastructure. Some of them would travel back and forth from the United States to Mexico over a century, each time leaving their wives and children behind again.

Jesus Sanchez Beltran was a Bracero from Jalisco, Mexico, until the program ended. There were six in his family that he left behind to work in the California agriculture. His wife and children would only see him three months out of the year. Jesus' story reflects the sacrifice of all the Braceros.

It was through their hard work that our nation was able to effectively sustain our agricultural economy as well as expand and maintain our railroads, resulting in a safe, reliable and effective means of transporting our food, medicine, troops and other supplies for the war.

In 1964, the last Braceros fulfilled their contracts and the program came to an end. However, their contributions and the contributions of their descendants still last today.

The President of the United States has called upon public officials, educators, librarians, and all the people of the Unites States to observe this month with appropriate ceremonies, activities and programs. May we honor their contributions and recognize the Braceros for their place in American history.

PERSONAL EXPLANATION

HON. DAVE WELDON

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. WELDON of Florida. Mr. Speaker, due to the devastation Hurricane Jeanne brought to my district, I was in Florida attending to official duties on Tuesday, September 28 and Wednesday, September 29 and was unable to be in Washington for recorded votes 473–479.

PROVIDING FOR CONSIDERATION OF H.J. RES 107, CONTINUING APPROPRIATIONS FOR FISCAL YEAR 2005

SPEECH OF

HON. BARBARA CUBIN

OF WYOMING

IN THE HOUSE OF REPRESENTATIVES

Wednesday, September 29, 2004

Mrs. CUBIN. Mr. Speaker, it is with frustration that I rise today to oppose H.J. Res. 107; to make continuing appropriations for Fiscal Year 2005, as it is currently drafted.

I want to be clear—I am not opposing the need for, or principle of, this resolution. I, like any of my colleagues, do not believe our nation's federal agencies and numerous, federally-funded programs should suffer just because Congress has failed to reach agreements on 12 of the 13 appropriations measures.

I do, however, take issue with one specific provision attached to the Continuing Resolution (CR) which extends, for the duration of the CR, fee collection authority under the Surface Mining Control and Reclamation Act (SMCRA) of 1977. Commonly known as the Abandoned Mine Land or "AML" program, this fee collection authority was intended to expire at the end of this fiscal year, or tomorrow, Sept. 30, 2004.

Layered in bureaucracy, the AML program is one badly in need of reform. Believing in the principle of the AML program, however, I have been working diligently with my colleagues from Pennsylvania, West Virginia, other members of the Resources Committee, Appropriators, Leadership in this body, and the Administration in the effort to provide that much needed reform before this program expired. Unfortunately, largely due to election year politics and an unwillingness to meet a reasonable compromise by some parties involved, comprehensive reform legislation still lags at the Committee level.

As we continue to negotiate such a comprehensive fix, extending this broken program as the bill under consideration today will do, does not move us any closer to finding a solution that best addresses the needs of all parties involved. In addition to accumulating debts to other certified states and tribes, Wyoming alone is owed approximately $400 million, as authorized by SMCRA. Notwithstanding that fiscal obligation, Wyoming has never received what it is due. The AML extension language included in H.J. Res 107 only further exacerbates this failure to make good on the nation's responsibility to my home State of Wyoming.

Again, Mr. Speaker, I would prefer not to oppose this resolution today. Unfortunately, the decision to include the AML extension language in H.J. Res 107, despite my continued and consistent opposition to such an action, provided me with no other option but a "no" vote.

SENATE—*Monday, October 4, 2004*

The Senate met at 10 a.m. and was called to order by the Honorable CHUCK HAGEL, a Senator from the State of Nebraska.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, our God, we honor Your name. Every day we praise You for You deserve our admiration. We will tell this generation of Your mighty works so that Your name will be known by those not yet born. We celebrate Your matchless mercy and Your power to save.

Thank You for keeping Your word, for picking us up when we have fallen. From Your hands, we find satisfaction and fulfillment for every need.

Today guide the Members of this body with Your love. Answer them when they ask for Your help. Be for each of them a shade by day and a defense by night. May they exercise sound judgment as they listen closely to Your wisdom. Keep them in the path that leads to love.

We pray in Your sacred Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable CHUCK HAGEL led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, October 4, 2004.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable CHUCK HAGEL, a Senator from the State of Nebraska, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. HAGEL thereupon assumed the Chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished Senate majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning after a 1-hour period of morning business, we will resume consideration of the intelligence reform bill. In addition to a large number of pending amendments, we anticipate that more amendments will be offered today. As a reminder, the consent reached on Friday did set up a series of stacked votes beginning at 4:15 today. There are currently six votes in order. However, I anticipate other votes will be added to that series as debate continues. In addition, we well may have votes into the evening in order to make progress on the bill.

I remind my colleagues that a cloture motion was filed on the bill on Friday and that cloture vote will occur tomorrow morning. It is my hope and expectation cloture will be invoked and that we will be able to finish the bill either tomorrow afternoon, tomorrow evening, or Wednesday.

I say this because, as we all know, this is our last week in session. We will adjourn if we complete both of our intelligence reform efforts on this Friday, October 8. Our goal is to adjourn on Friday, October 8. Before that time, we do need to complete action on both arms of intelligence reform, including that relating to the Senate role on intelligence matters. We have a lot of work before us this week. We all need to prepare for busy sessions.

There are a lot of other events that are scheduled over the course of the week. Our focus must be on the business that is before us. Thus, I know everybody will be shifting things around. We need to put a major priority on what goes on here on the floor as well as on several conference reports.

In addition to what people will be seeing on the floor, we have the FSC/ETI manufacturing jobs bill that is currently in conference. There will be a lot of activity this afternoon, tonight, and tomorrow in that conference. I am hopeful we will be able to address that conference report sometime this week.

Homeland Security appropriations is also in conference and progress is being made there. That was the first bill we did when we came back 4 weeks ago. It is important that we complete it, especially since our goal is the safety and security of the American people. That bill directs the spending aspects of homeland security.

The underlying bill we have been on now for a week and a half, and we have been studying the issue aggressively in response to the 9/11 Commission report. We have made huge progress, and all of our colleagues have worked together, on both sides of the aisle, on this very nonpartisan issue. I thank all of our colleagues for participating and working with such focus in an expeditious and a bipartisan manner. The American people thank you. I thank you. The leadership on both sides of the aisle thanks you.

We have no greater duty in this body than protecting our Nation and in strengthening our intelligence system. We are meeting that responsibility. As we have said at the outset, when the Democratic leader and I set out this path, it was because, when we leave on October 8, although we will have in all likelihood a little bit of business to take care of, in truth October 8 really brings to a close most of the activity, almost all of the activity, it would be inexcusable not to deal with these important issues on intelligence which affect the safety and security of the American people. If we were unable to finish that, because it means we would not be able to address it until next year, that would be unpardonable.

To date, the Senate, in this bill, has addressed 35 of the 39 recommendations of the 9/11 Commission. Those are the 39 recommendations that deal with executive branch reorganization. The remaining recommendations will be addressed this week.

The Senate has covered a full range of issues: establishing a national intelligence director to manage the Nation's intelligence community, to advise the President; creating a national counterterrorism center to maximize our intelligence-gathering capabilities and maximizing our counterterrorism activities; redefining the national foreign intelligence program to better coordinate and unify the functions of our intelligence agencies; strengthening and reforming the CIA, the FBI, and other intelligence-related agencies; and ensuring that winning the war on terrorism is our top priority.

There were two additional reforms suggested by the Commission concerning Senate oversight of intelligence and homeland security and, as I mentioned, the Senate will be considering these two remaining recommendations this week.

It is going to be a very full week, but the Democratic leader and I agree that getting this done now must be our top priority. We are making real progress on the Senate floor. We are on the home stretch. We have another 5 days, beginning early today, and I am sure we will use all 5 days to the fullest sense. We have to have these major reforms completed this week.

I thank my colleagues for staying on task. I thank the managers of the bill in particular, Senators COLLINS and LIEBERMAN. They and the Parliamentarian and staff have been working solidly through the weekend. The managers have shown real leadership. These reforms clearly will protect America and make a safer and really more prosperous America because of the increased security that people can feel with a maximally performing intelligence system.

RECOGNITION OF THE ASSISTANT MINORITY LEADER

The ACTING PRESIDENT pro tempore. The distinguished assistant minority leader is recognized.

PROGRESS IN THE SENATE

Mr. REID. Mr. President, last week we all did tremendously important work, including the work that was done by Senators COLLINS and LIEBERMAN on homeland security. We extended the highway bill until next May. The welfare bill, TANF, was extended. We passed a continuing resolution. These are things that did not take a lot of time, but a lot of work was entered into with many different groups and people to get to where we could complete those three items.

Mr. President, I would say through you to the distinguished majority leader, this week is going to be tough. We are going to have to have the cooperation of all Members because we not only have just a few days left, but those days are days that are involved with the Vice Presidential debate tomorrow and the Presidential debate on Friday. So we really have a lot of work to do. We are going to have to have the cooperation of all Members.

I think we have had good bipartisan support to move down the road on the homeland security bill. But I think people are going to have to take a look at the amendments they have filed. If an amendment in a subject area has been decided by an overwhelming vote, I think Senators should reconsider whether or not to propose those amendments. Some Senators are going to have filed amendments that are germane and they are going to have to decide whether or not they want to take the Senate's time. It would appear to me a number of these are not going to pass.

So we have a lot of work to do, a very short period of time to do it, and I think that with the spirit of getting toward the end of the session, which usually becomes a time for Members to cause problems, we haven't had that in the past several weeks and that has worked out very well. So I hope we can move forward as we have the past 3 weeks. It has been very rewarding to the Senate and to the country.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond 60 minutes with the first 30 minutes of that time under the control of the Democratic leader or his designee, and the second 30-minute period under the control of the majority leader or his designee.

ORDER OF PROCEDURE

Mr. REID. Mr. President, on behalf of Senator DASCHLE, I yield 10 minutes to the Senator from New Mexico, Mr. BINGAMAN, and 10 minutes to the Senator from Florida, Mr. NELSON.

The ACTING PRESIDENT pro tempore. The Senator from New Mexico.

Mr. BINGAMAN. I thank the Chair. I thank my colleague from Nevada, Senator REID, for yielding me time.

KYOTO PROTOCOL

Mr. BINGAMAN. Mr. President, last week the Russian Federation began the process of ratifying the Kyoto Protocol on global warming. Russia's ratification is the crucial step that will bring the Kyoto Protocol into force as an international agreement.

In the initial stages of the negotiations, the Senate made clear that we would not be willing to sign any agreement on global warming that did not include scheduled commitments for the developing world in addition to the commitments that were being asked of ourselves. This was not a refusal to participate in the Kyoto negotiations, but it was a guide for what we would find acceptable if we were to actually enter into a treaty.

The Bush administration misrepresented that guide and decided to completely walk away from international negotiations on the issue. Now it looks as though a majority of the world will begin to move forward on the issue of global climate change without U.S. participation.

President Bush's decision was a profound and strategic mistake for our country. The protocol is moving forward now and the United States has very little to say about the direction that it will take. The administration has compounded the error of dropping out of the world climate discussion by failing to come up with a viable climate change policy of its own.

Relying solely on voluntary measures as the basis for our climate change strategy has proven to be ineffective in slowing the growth of our own greenhouse gas emissions. These voluntary actions have been in place since the previous Bush administration, the administration of George Herbert Walker Bush. And now they have been repackaged by the current Bush administration. The current administration and Republican leadership in the House have been so stalwart on this issue that they have opposed efforts in the Senate to even develop modest measures on climate protection, such as a national registry on greenhouse gas emissions and a national registry on climate change.

The science of climate change is clear. The potential losses to our economy through climate-related disruptions such as the increased frequency of hurricanes and other severe storms is starkly apparent. We are putting our own economic security and our competitive edge at risk every day that we delay addressing this issue. The fact that the Kyoto Protocol will officially be entered into force is a signal that the rest of the world is headed toward a marketplace for more efficient and cleaner ways to produce and use energy. But because we in the United States have absented ourselves from the international discussions, we will have a limited role in setting the terms for the development of that marketplace.

The costs to our economic competitiveness could be substantial. A 1999 report by the President's committee of advisers on science and technology shows that between now and 2050 investments in new energy technologies in developing nations will likely be between $15 and $20 trillion, accounting for more than half of the global investments in energy supply.

Let me restate that. Between $15 and $20 trillion. 90 percent of the markets for coal and nuclear and renewable energy technologies that are expected to be developed. 90 percent of those markets are outside the United States. And the question arises: Who will supply those technologies? Given the right incentives, the United States has the technical capability and the human resources to lead in this area.

A recent edition of Newsweek demonstrated that a large number of U.S. companies, maybe even a majority, are ready to move forward. These companies want to take climate change seriously because they are fearful of losing a huge part of the growing market for clean energy technology. Clean energy technology is the future cornerstone of a world market, and we should be vying to capture that market. Instead, we are on a track for a future where we will be buying the technology from overseas rather than selling the technology to others.

In contrast to our weak policy on climate change, the Europeans and the Japanese have already made serious commitments to reducing emissions with or without Kyoto. They are poised to corner the market in the developing world while our discussions on climate are being held hostage by those who would like to avoid an honest discussion of the issue. The longer we play politics, the wider this gap will grow as the Europeans and the Japanese and others develop more efficient vehicles and cleaner and superior ways to produce energy.

Mr. President, I recently visited China, and the Chinese are developing at a rapid pace. My impression from that visit was of the enormous number of coal-fired powerplants that are scheduled to be built in that country over the next two decades.

This development illustrates why it is important to engage the developing world in climate negotiations. But by walking away from the table over 3 years ago, the administration did not improve its ability to cause that engagement to occur. Our misguided refusal to engage in the issue lets everyone else off the hook.

The news of Russia's willingness to go forward with the Kyoto Protocol should be a wake-up call to this administration. We should seize it as an opportunity for the United States to start showing leadership on the issue. Only then can we credibly engage China and the developing world. One way of taking that leadership is for the United States to propel itself forward in the development of cleaner and more efficient technology. If we do not and if Kyoto goes into force, then the United States will run the risk of falling behind in participating in important new markets for energy technology.

There are flexibility mechanisms within the Kyoto structure to allow the United States to participate in a global regime, but we need to take our own first steps.

Two credible first steps could be, first, for us to strengthen our own capabilities for energy technology R&D, and, second, for us to develop a robust and verified national registry for greenhouse gas emissions.

With respect to the registry, if the United States is to develop a strategy for helping to achieve a stable climate in the future, knowing where our emissions are coming from is a necessary first step. The Senate has gone on record in favor of such a registry in the last Congress and again in this Congress.

With time so short in this Congress, frankly, I am not optimistic that we will be able to revisit the issue, but I hope the developments in Russia will drive home the need to start a real debate on a proactive climate policy, and we need to start taking even modest steps to address this extremely important issue.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Florida.

AFTERMATH OF FLORIDA HURRICANES

Mr. NELSON of Florida. Mr. President, I want to give a report to the Senate on the aftermath of our State having been hit by four hurricanes and the recovery efforts that are coming along, and, since the Senate is planning to recess at the end of this week for some number of weeks until after the election, when we will come back in a lameduck session, it is all the more important that we get appropriated the $10.2 billion that has been requested by the White House for emergency hurricane relief so that all of this emergency relief that is going on can continue.

That is what I want to report to the Senate, having been in Florida this weekend, having been with the volunteers, with FEMA, with the State people, and with the local governments. It is amazing how everybody is pitching in and working together. Yet the hard reality of some parts of our State having been hit by three hurricanes, and especially along the Middle Eastern coast, what is called the treasure coast of Florida, having been hit at almost identically the same place by two major hurricanes, having winds sustained at 120 miles per hour when it hit the coast, with gusts up to 135 miles an hour, naturally people are reeling, they are tired and, in some cases, their patience is running out.

For example, in several mobile home parks I visited this weekend, there are people who cannot inhabit their home. The home is literally destroyed. So where are they staying? Some people are literally staying in tents in their front yards because the temporary housing that is supplied by FEMA is being delayed in the delivery. Once the temporary house is delivered, and it is usually in the form of a small trailer, it is set up usually in the driveway of the home so the homeowner can oversee the complete dismantling of the destroyed home and its removal, or the rebuilding and repair of the home if it is salvageable. In many other cases, people are staying with friends or with family, but they are being delayed in the process of rebuilding their lives until FEMA gets in the trailers.

I was told in one place that was hard hit—it is in south Brevard County, right at the Brevard County-Indian County river line, near the Sebastian River. It is a huge mobile home park called Barefoot Bay. Brevard County is my home county. One can image what 120-mile-an-hour winds do to a bunch of mobile homes. Let me tell you what it did. One could surely see the difference between the mobile homes constructed after the new standards imposed after the monster hurricane, Hurricane Andrew, hit Florida 12 years ago, and one can see what 120-mile-an-hour winds do to a mobile home that was not built according to those standards.

The little pieces of wood that form the ceiling of a mobile home are not very thick or wide. Does anyone think those old construction standards for mobile homes, with a little piece of wood that is a truss for a roof, is going to withstand 120-mile-an-hour winds whipping around when the ceiling is not very thick or very wide? It did exactly what one would expect—it absolutely ripped them up.

Another one of the lessons we are learning is that the new building codes are working. As I flew in helicopters across the barrier islands, when that wall of water came, as well as the 145-mile-an-hour winds on the first hurricane, Hurricane Charley, from that Army National Guard helicopter looking down at the barrier islands, one could clearly see what was constructed according to the new building codes because it was standing and relatively intact and what was old construction because it was history.

That scene was replicated after the third hurricane, Hurricane Ivan, that hit the barrier island up in Pensacola beach. It was the same scene out of the window of an Army National Guard helicopter: The new building codes are working.

My message to the Senate, my plea, my begging is that by the end of this week when we leave Washington, we have to have passed at the bare minimum the $10.2 billion request which is not only for FEMA and all of the personal loans and grants, the Small Business Administration low-interest loans so people can rebuild their lives as well as their businesses, but also the money that will go to our military bases to repair the devastation that has occurred at the Kennedy Space Center with NASA. All of that is in this money, and we have to be able to rebuild our lives in Florida for the sake of people and for the sake of this country.

There is something FEMA can do, in addition to getting the temporary housing people are impatiently waiting for. FEMA can also address a chronic problem that does not happen just after one hurricane but gets magnified after multiple hurricanes within a 6-week period, and that is the accumulation of debris.

As I traveled through the mobile home park of Bombay Estates, it was because people from the Mormon Church came there over the weekend to clean up that debris and stack it in areas so those people could get back to their lives. The Red Cross, the Salvation Army—all of these private organizations are doing such a tremendous job, and yet FEMA is taking the position that it will not reimburse local governments for picking up debris unless the debris is on public right of way. That defies reality in Florida.

In Florida, we have many huge senior citizen complexes where the roads in them are private roads, and yet they are still citizens, they are still part of the community, and the debris is accumulating, and FEMA says it will not pay for the pickup of that debris.

Who is going to pay for it? That is part of what FEMA's disaster relief is for. Is the local government to pay for it? The little cities and towns cannot afford all of that expense. So what are they going to do? Assess a fee on all of the senior citizens in this huge senior citizen residential complex?

On fixed incomes, the senior citizens cannot afford it. Yet FEMA is taking the position that they will not pay for the pickup of the debris, but it is not a legitimate position.

Listen to what section 206.224 of the Code of Federal Regulations states. It states that FEMA may provide assistance to remove debris from privately owned lands and waters when it is in the public interest.

What is in the public interest? It is in the public interest to eliminate a threat to public health and safety.

How many canals and water reservoirs did I see littered with debris? If that debris is not picked up, it becomes a hazard for all kinds of pestilence, not even to speak of the danger. As I went through some of that debris yesterday, a lot of those carports in the mobile home parks were just twisted and flung by 120-mile-an-hour winds. They have sharp edges by which people can get really hurt.

So I hope we do not have to direct FEMA to do this by putting language in the Department of Homeland Security funding bill on FEMA's particular funding. We should not have to do that. FEMA has the authority already. It is just an interpretation of the law, and I think this is clearly a case, in the interest of the public safety and welfare, that FEMA should recognize this is not one hurricane but this is four hurricanes within 6 weeks in one State. That is my plea to the Senate, to the House of Representatives, and especially to FEMA.

I yield the floor, and I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. How much time does the minority have remaining in morning business?

The ACTING PRESIDENT pro tempore. The minority has 7 minutes remaining.

LANCE ARMSTRONG, A POSITIVE ROLE MODEL

Mr. REID. Mr. President, I flew to Las Vegas Friday, and on the way out there I read the anniversary edition of Sports Illustrated. It had in it what has transpired in the world of athletics during the last 50 years. The thing that struck my eye was Sports Illustrated said the most definitive role model during these past 50 years is not the name that one would think, but it is Lance Armstrong, the cyclist. Out of all the athletes, they said Lance Armstrong was the most positive role model of all the athletes in some 50 years. The reason that was important to me is I was going to Las Vegas Friday for an event with Lance Armstrong.

This man has done some tremendous things, and not only athletically. Just a few years ago, he was dying of cancer. Many of his sponsors, when he was sick—in fact, most of them—no longer would support him. They pulled their support and left him for dead because of his advanced cancer.

We all know that Lance Armstrong is in a class by himself as a cyclist, but he represents a growing population of cancer survivors.

In June, the Centers for Disease Control found that the number of cancer survivors in the United States had tripled over the past 30 years, a 300-percent increase. Unfortunately, people in my State have lower rates of cancer survivorship than our neighboring States.

Nevada is home to world-class physicians, but we have lacked a research institution that can provide cutting edge treatments for patients who have been helped by traditional therapies. As a result, many Nevadans have been forced to travel out of State for cancer care or to simply forego nontraditional treatments.

Just over 2 years ago, a young couple, Jim and Heather Murren, came to Las Vegas. Jim Murren came to work for MGM as one of its top executives, and he was accompanied by his wife, or vice versa, however one wants to state it. Heather Murren was a financial specialist in New York who worked for a large firm on Wall Street and was an important person in her own right. She came to Las Vegas, and discovered there was a need for a world-class cancer research institute in Las Vegas.

It was a vision she had. The Nevada Cancer Institute has taken shape at a breathtaking pace. The institute, which is set to open its doors next year, has already assembled a team of world-class scientists. They have recruited Dr. Nicholas Vogelzang, who had been the director of the University of Chicago's cancer research center, to direct the new Nevada Cancer Institute.

The Nevada Cancer Institute is offering hope to Nevadans and hope that more Nevadans will beat this dread disease and become like Lance Armstrong, a cancer survivor.

I mention this today because Friday evening, Nevadans celebrated the hope of greater cancer survivorship when Lance and the Tour of Hope cyclists rode down the Las Vegas strip. It is not often the Las Vegas strip is closed, but it was closed Friday for a short period of time.

The Tour of Hope is a week-long journey across America by a team of 20 cyclists who have been touched by cancer. Some are survivors. Others are research scientists, advocates and healers.

At the rally in Las Vegas on Friday, the Tour of Hope team members shared their inspiring stories. Lance Armstrong spoke about his experience and his passion for cancer research. He has done tremendous works on behalf of cancer patients. He founded the Lance Armstrong Foundation, which helps individuals living with, through, and beyond cancer. His historic six consecutive Tour de France victories inspired millions of Americans touched by cancer and the Tour of Hope is carrying his message across the country. Every American can help by signing the Cancer Promise, which is a pledge to support the search for a cure by learning about cancer prevention and research.

This weekend I had the opportunity to collect these promises from my fellow Nevadans and send them across the country with the Tour of Hope cyclists. In addition to signing these promises, many people showed their support by wearing these simple, little yellow plastic wristbands Lance had 5 million of these made. They were gone within a couple of weeks. Now over 12 million have been sold and millions more are being manufactured: "Live strong," it says. These are to be worn all of the time.

Someone who closely watched the debate Thursday night between the President and Senator KERRY noted Senator KERRY had one of these on during the debate. These bands give hope—hope that lives can be saved and this dread disease can be beaten.

I am proud of the progress Nevada is making in this fight against cancer, but it is still unfortunate that too many Nevadans don't have access to quality health care. More than one in five working adults in Nevada have no access to health insurance, perhaps the highest rate in the country. Nationally, we know almost 45 million Americans don't have health insurance, an increase of more than 5 million in just the last 4 years alone.

One reason so many Americans are losing their insurance is because health care costs are spiraling. Employers that do not provide insurance for their employees don't do it because they are cheap or they are mean; they do it because they can't afford it. They know if they have employees with health insurance, they are happier employees.

Health insurance premiums have risen by double digits in the last 4 years. Premiums for a family now have reached about $10,000. Rising premiums have hit businesses and families, also. An average working family now pays nearly $2,700 out of their own pockets for premiums, in addition to paying deductibles and copayments.

It is not just premiums that are going up. The American Association of Retired Persons recently reported that, during the first part of this year, prescription drug prices rose more than 3.5 times the rate of inflation. The typical senior citizen will pay $191 more for prescription drugs this year than last year, and seniors are about to get hit with the largest Medicare premium increase in the history of the program. Monthly Medicare premiums will increase by $11.60 next year.

Today I am hopeful about the gains we are making in the fight against cancer, but I also know we must do more to get health care costs under control. Unfortunately, the President's Medicare bill that passed last year was a huge giveaway to big insurance companies and drug companies. I happen to think the drug companies and the big insurance companies can take care of themselves. We need to look out for working families who have lost their health insurance, families who are struggling with rising premiums and copayments, and senior citizens who are being pounded by the rising costs for prescription drugs.

I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. REID. Mr. President, I ask consent that the time run during the quorum call off the time I have left first and then start running off the time of the majority.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. LOTT. Mr. President, may I inquire about the time remaining in the morning business period?

The ACTING PRESIDENT pro tempore. The Senate is currently in morning business. The majority has 30 minutes remaining.

Mr. LOTT. Thank you, Mr. President.

THE PRESIDENTIAL DEBATES

Mr. LOTT. Mr. President, many Americans watched the debate between the President and Senator KERRY last week. It was a huge audience, and I think that is encouraging because this is a very important election. Very important decisions will have to be made by the American voters. As always, the issues they were debating are very critical—foreign policy issues, the war on terrorism, the situation in Iraq.

My thoughts now, as I have thought all year, are that this is a time for America to have a sure and steady hand at the tiller. There are a lot of difficult situations around the world. There are a lot of important decisions that must be made and commitments have been made that must be honored. Of course, one of the greatest commitments of all is the commitment we made to the men and women in uniform—men and women serving all over the world, including Afghanistan and Iraq. We don't need an uncertain trumpet at a time such as this. We don't need to be undermining or questioning the job they are doing.

Let me emphasize that I don't question anybody's integrity on that, and I know everybody supports our troops. But what we say has consequences. We need to be particularly careful when it comes to foreign policy.

There were a few times last week when I wanted the President to jump in and make a challenge or a strong statement. But I know he didn't because the President of the United States has to think about what it would mean if he was critical in a debate like that about the United Nations or of a particular country such as, say, France. He withheld the criticism.

But we do need consistency and credibility as we go forward with the war on terrorism, as we deal with the situation in Afghanistan, and as we move toward elections in Iraq. I believe we are doing the right thing now by going in and taking out some of the insurgents and strongholds in Samarra, and I presume we are going to take some similar actions in other parts of Iraq so the people of Iraq can exercise that great right of freedom, the right to vote.

But the areas where I thought more should have been said are three. First, with regard to North Korea and other parts of the world, Senator KERRY says we need to have the broadest possible coalition; that we should have a summit; we should have done more at the United Nations; we should have done that, this, or the other. But when it comes to North Korea, we should have bilateral negotiations between the United States and North Korea. That was tried in the last administration. I thought they deserved credit for making a valiant effort. I met with former Secretary of Defense Perry, who negotiated with the North Koreans a couple of times. He talked about what they were trying to do. But the fact is, it didn't work; they were cheating.

Now, the President has been saying let us exercise patience. Let us bring in the Chinese, the South Koreans, the Russians, the Japanese, a coalition, a discussion group of six. That makes sense to me.

Why a broad coalition in other parts of the world, but when it comes to North Korea and a very dangerous situation, we want it to be just between the United States and North Korea, bilateral? Why don't we take advantage of the interests of our friends and neighbors in that region and the Chinese, who certainly have a vested interest in what happens in North Korea? Nobody wants North Korea to have nuclear weapons and the ability to deliver them—certainly not the Chinese, the Japanese, or the South Koreans. They are right there.

I think the President is pursuing the right course when it comes to North Korea.

Another area I have taken an interest in—and I know the Senator in the Chair, the Senator from Nebraska, has looked at this and worked on it and worried about it—and that is this question of nuclear proliferation and what we do about the nuclear weapons and the nuclear materiels the Russians have.

There is a program called Nunn-Lugar that is working to try to deal with that problem. Senator KERRY says we are not doing it fast enough; that what we are doing would take 13 years, and he could condense it to 4 years. Well, that may be easy to hope for or to say, but you have to make it happen. There is another party in this deal, and they are called the Russians. They have something to say about proliferation.

Would I like to see us do it faster? Should we perhaps put more money in this area? Yes. But the administration has been working in this area. The funding has gone up, and I think it is very important that we do it in such a way that we can make sure the money is going for what it is supposed to; that the money is not siphoned off into corporations that do not do the job and enrich themselves.

You can only do so much credibly in a specified period of time. You need to think about that. You need to work with the Russians.

That is why a delegation of us went to Russia earlier this year. That is why we have a delegation coming from Russia early next year continuing the dialog between the Senate and the Russian Federation Council.

One of the areas we talked about most with the Russians is this particular area. I know Senator LUGAR has worked hard on this issue. Senator LUGAR goes to the sites. He doesn't just talk to the officials; he looks at the sites to see what has happened.

Again, I think there was a problem with what Senator KERRY was saying that was not sufficiently challenged. I am sure it will be challenged over a period of time. But the area that really stood out the most to me was this question of globalization of the war on terrorism. The President raised the question: What does that mean? Are you talking about the United Nations?

Are you talking about an organization that for 12 years and 13 resolutions talked tough and didn't do anything? Are you talking about an organization that was supposed to be watching over the Oil for Food Program for the Iraqis that wound up enriching people all over the place and some of our so-called allies being involved, or corporations in those countries being involved in that program in a fraudulent way?

Is that what he was talking about? Or was he talking about the Germans and French?

That is where the President exercised discretion in his comments. But I have to be more specific. Remember the French? They were the ones who had their Foreign Minister aggressively fighting what we were trying to do at the United Nations by flying all over the world, including to Africa, to specifically try to get people, or nations on the Security Council at the United Nations, not to be supportive of the broadest possible coalition.

So when he talked about a broader coalition, again, you need to ask yourself who is he talking about? Is he talking about just the Germans and the French?

I also believe there was a problem with diminishing the coalition which has been helpful—the Brits, the Italians, and the Spanish—until there was a change in administrations—and the Australians. How could you leave out the Australians and the Dutch? And the list goes on and on.

They may not have hundreds of thousands, but they do have hundreds and in some cases thousands. They are doing the job, they are part of the coalition, and we should not diminish the sacrifice they are making with their presence but, more importantly, with their men and women. So I think when we talk about globalization, we need to be very careful.

The President's primary responsibility has to be to the American people. Can we work with other nations? Can we work to have the broadest possible coalition? Can we work with all the international organizations? Yes. The President cannot ever cede the responsibility for making the decisions and making decisions for the American people to some other entity or to some other country.

I think the debate last week was telling. It was of concern to me because of some of the approaches that were suggested by Senator KERRY.

I hope the American people will look at this very carefully. This is a time for a sure and steady hand, a time for consistency and credibility. President Bush has exhibited all of those traits.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

SENATOR KERRY'S GLOBAL TEST

Mr. McCONNELL. Mr. President, during last week's Presidential debate, the junior Senator from Massachusetts claimed that he would only use preemptive force to protect the American people if that use of force passed something he called a "global test".

Let me repeat exactly what he said, because it is significant and I think the American people need to hear it again. When asked by moderator James Lehrer if he would use preemptive force, Senator KERRY said:

> If and when you do it, Jim, you have to do it in a way that passes the test, that passes the global test where your countrymen, your people understand fully why you're doing what you're doing and you can prove to the world that you did it for legitimate reasons.

I have another test for Senator KERRY. It is called the "defense of America" test. It is very simple. There is only one question on the final exam: Would you, as President of the United States, do whatever it takes to defend the American people from another terrorist attack?

If a President fails this test, Americans could die. Let me repeat that, because this is a very serious matter.

If a President fails this all-important test, Americans could die.

Let's look at Senator KERRY'S record and see how he scores.

By insisting that any preemptive strike America might take must pass a "global test," Senator KERRY would give France, Germany, or the U.N. a veto over America's right to self-defense. The final decision to protect America would be made not in the Oval Office but in foreign capitals. The final decision to protect America would be made not by an elected American President but by an unelected U.N. diplomats.

If America must submit to a "global test" before acting to defend herself, we may lose the best opportunity to take preemptive action while our "global test graders" dither and delay. Our enemies might attack while we await our "global test grade." Terrorists who cut innocents' heads off—gleefully—on camera—won't hesitate to unleash a horrific attack while America waits for its "global test results."

To cover for his global test, last week Senator KERRY claimed he would do a better job defending the homeland than President Bush. This despite the President's tripling of homeland security funding, creation of the Department of Homeland Security, and implementation of the USA PATRIOT Act.

I am more of a football fan than a hockey fan, but let me make this analogy. Of course we want as strong a homeland defense as possible. But ultimately, homeland defense is like the goalie on a hockey team: a last chance to stop the enemy. The only way to win is to go on offense, and by subordinating America's right of preemption, Senator KERRY has put his team in the penalty box.

Now, let's suppose Senator KERRY passes his "global test" and decides to use military force. What kind of military would America have, if he had had his way throughout his 20-year career in this body?

He opposed the B-1 bomber that dropped the bombs to destroy the al-Qaeda training bases and Taliban strongholds in Afghanistan.

He opposed the B-2 bomber that drove Saddam Hussein out of his Iraqi command posts and down a spider hole.

He opposed the F-14D Fighter Aircraft that sent missiles into Tora Bora in the hunt for Osama bin Laden, who Senator KERRY claims to want to find.

He opposed the Apache helicopter that destroyed the Iraqi Republican Guard tanks in Kuwait during the first Persian Gulf war.

He opposed the Patriot Missiles that America sent our NATO allies to block the spreading of the Iron Curtain.

He has opposed for 20 years a missile defense system, which could be the last line of defense were a rogue nation like North Korea ever to launch a nuclear weapon.

In the debate last week, he opposed the bunker-buster weapons that can knock loose the terrorists who hide in caves deep under the Afghan desert.

In 1994, after the first attack on the World Trade Center, he proposed cutting intelligence funding by a whopping $5 billion, and defended his proposal on this very floor by saying, "the madness must end." Most Senators from his own party, including Senator KENNEDY, opposed his proposal.

He has repeatedly voted against pay raises for the troops now in Iraq, choosing instead to boost their morale by telling them they are fighting the "wrong war in the wrong place at the wrong time."

He voted against the $87 billion for our troops in Iraq, even though it included body armor for our soldiers. He then claimed this was a "protest" vote. Let me suggest we should never use our troops as pawns for protest.

Now it is time to grade this test. Again, there is only one question. Would you, as President of the United States, do whatever it takes to defend the American people from another terrorist attack?

Judging from the best evidence—the only evidence—we have, Senator KERRY's votes as recorded in the CONGRESSIONAL RECORD, it is clear he is not ready for the final exam.

A generation ago, Senator KERRY vigorously attacked America for its role in another war. He claims to have moderated his views since then. But this "global test" is strikingly similar to what he said in 1970: "I'd like to see our troops dispersed through the world only at the directive of the United Nations." He hasn't changed. He wants to turn our troops into blue-helmeted human shields.

President Bush is playing offense by taking the fight to the terrorists.

where they live, and he supports giving our military and intelligence forces every last tool they need to win the war on terrorism. That is the only way to protect America. Only America has the will and the means to protect America from attack, and only this American Government has the authority to decide how and when. President Bush gets that. Senator KERRY does not.

I yield the floor.

The PRESIDING OFFICER (Mr. WARNER). The Senator from Wyoming.

FIGHTING THE WAR ON TERRORISM

Mr. THOMAS. Mr. President, I appreciate the comments made by my friend from Kentucky. Certainly those are the discussions going on today.

I take a minute or two to talk about the war on terrorism. We are in a war on terrorism. We need to conduct that war and take it to the terrorists, not here at home. We do have a plan. In war, obviously, the plan does not always turn out the way one hopes and we have to change from time to time.

We need to be together on the goals. Our goal is to win. We must do whatever is necessary to win. We should not have all of our conversations about this war based on politics. Hopefully that will be over soon. We ought to talk about the challenges before the country. We need to support our troops and goal—and that is to win.

We are not alone in our effort, although that is talked about sometimes. Some 80 nations are working together with us to ensure the world is a safer and a more secure place. The coalition is removing the threat of terrorism and building a foundation to enhance national and international security.

The war being fought in Afghanistan and Iraq is bringing about a fundamental change to the environment that has given rise and power to the extremists who export terrorism.

Contrary to what those who focus only on the negative would have you believe, we have some good things to talk about that move us toward this goal of winning over there. Coalition forces have not lost an engagement at the platoon level or above in 3 years of war.

This terrorist enemy knows we cannot be defeated by him, but he is focused on winning the battle of perception by attacking civilians to spread fear among local populations in Iraq and Afghanistan. The terrorists' goal is to win the perception battle and to force us to lose our will to win.

Unfortunately, by trying to exploit the negative aspects of the war, some in our country have fallen into the trap and are unwittingly advancing this cause. This is unfortunate and, quite frankly, very counterproductive to our goal of winning.

We have been successful in Iraq and Afghanistan in many ways. Of course, the situation is still violent. It is still volatile. It is not the way we would like it to be, and much more remains to be done. But, again, we will succeed by focusing on success and by moving toward our goals.

Today, in Afghanistan, coalition and Afghan forces are setting the conditions for a stable and safe environment for a successful presidential election in October, followed by parliamentary elections in the spring.

The United Nations Assistance Mission in Afghanistan reports that over 10 million voters are registered as of August 29 for the October 9 presidential election. More than 41 percent of registered voters are women. This is an unusual kind of change for Afghanistan.

Today, more than 18,000 coalition forces, together with the Afghan National Army and Afghan National Police, are increasing their security operations in towns and villages. These are tremendous accomplishments by any standard. Although several months ago, when I had the privilege of attending there, you could tell—you could tell from the kids in school, you could tell from the people on the street—this movement was taking place. Unfortunately, of course, it is being slowed down by the terrorist attacks in Iraq.

Despite the negativity coming from the President's opponents, the United States remains fully committed to assisting the Iraqis in restoring security and rebuilding their nation. The Iraqi National Conference met and has selected the Interim National Council. This Interim Council for the Iraqi Government is now planning for elections, of course, in January. Some say: Well, can that happen? It will not be smooth. Of course it will not be smooth. To make a transition of this kind is not a smooth operation. But the fact is, violence will continue to exist and these things will continue to happen. But this movement toward a change in government to self-government will persist.

The enemy obviously is unscrupulous and will do anything, including, of course, the killing of innocent children, to stop this movement toward freedom from taking seed.

Overwhelmingly, however, the people of Iraq want to rebuild their country and to defend it from fringe groups that wish to tear it apart. The largest single contributor to Iraq's security is that effort of Iraqi people who continue to step forward to join the various Iraqi security forces. More than 230,000 Iraqis serve as part of their country's security force, with another 20,000 in training. Again, I had the opportunity to visit some of these training facilities, and they were new at that time, they were still becoming efficient at that time. You could sense this was happening, and there was a commitment on the part of Iraqis to do some things that were much different than they had been accustomed to.

They have been trained and are on duty in areas including police service, national guard, border enforcement, the Iraq Army, and the Iraqi intervention force.

Now, there are those who may say: I know, but they are not doing very well on the borders. Of course not. It takes time to do these things. This an extreme change from what they were doing in the past. We also know in our own country how difficult it is for border protections.

So while performance varies in regions, Iraqi security forces continue to improve. And they are recruiting additional persons to strengthen their efforts to be very successful.

I think it is clear that the Iraqi people have much at stake in defeating the terrorist insurgency, and they are indeed taking on this burden which, of course, is exactly what has to be done in order to transfer the governance and the security of Iraq to the Iraqi people—our goal.

They need our unequivocal support, not talk of cutting and running, because the mission is difficult. All of us knew it was going to be difficult. Again, we have to go back to the basis of terrorism; we have to go back to 11 September; we have to go back to the previous gulf war where the agreements made by Saddam Hussein were never put in place.

So all those things go in to where we are. Where we are now, you can argue about, but that is where we are. We need to win. We need to be positive. We need to be supportive of our troops and of our commitment. Our goals are lofty, and the road, of course, has not been easy and will not be easy in the future. There will be tough times before we are through. But we must remain resolute and be sure the job is completed and that we win. Because only by fostering freedom and democracy and hope in these oppressed regions of the world can we truly root out and defeat the terrorist threat we have faced and continue to face today.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Ms. COLLINS. Mr. President, shortly we will resume consideration of S. 2845. I am very hopeful that we will be able to clear an amendment that has been pending for some time. I know that the Senator from Ohio wishes to speak in opposition to Senator BYRD's amendment, which is the first amendment that we will vote on later this afternoon at 4:15. Until the Senator from Ohio arrives, which will be very shortly, I suggest the absence of a quorum.

The PRESIDING OFFICER. Will the Senator forbear while the Chair announces the period of morning business is closed.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of S. 2845, which the clerk will report.

The bill clerk read as follows:

A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Pending:

Collins Amendment No. 3705, to provide for homeland security grant coordination and simplification.

Lautenberg Amendment No. 3767, to specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each.

Kyl Amendment No. 3801, to modify the privacy and civil liberties oversight.

Feinstein Amendment No. 3718, to improve the intelligence functions of the Federal Bureau of Investigation

Stevens Amendment No. 3839, to strike section 201, relating to public disclosure of intelligence funding.

Ensign Amendment No. 3819, to require the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators.

Reid (for Schumer) Amendment No. 3887, to amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group.

Reid (for Schumer) Amendment No. 3888, to establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies.

Reid (for Schumer) Amendment No. 3889, to establish a National Commission on the United States-Saudi Arabia Relationship.

Reid (for Schumer) Amendment No. 3890, to improve the security of hazardous materials transported by truck.

Reid (for Schumer) Amendment No. 3891, to improve rail security.

Reid (for Schumer) Amendment No. 3892, to strengthen border security.

Reid (for Schumer) Amendment No. 3893, to require inspection of cargo at ports in the United States.

Reid (for Schumer) Amendment No. 3894, to amend the Homeland Security Act of 2002 to enhance cybersecurity.

Allard Amendment No. 3778, to improve the management of the personnel of the National Intelligence Authority.

Byrd Amendment No. 3845, to enhance the role of Congress in the oversight of the intelligence and intelligence-related activities of the United States Government.

Warner Modified Amendment No. 3877, to modify the role of the National Intelligence Director in the appointment of intelligence officials of the United States Government.

Leahy/Grassley Amendment No. 3945, to require Congressional oversight of translators employed and contracted for by the Federal Bureau of Investigation.

Reed Amendment No. 3908, to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security.

Reid (for Corzine/Lautenberg) Amendment No. 3849, to protect human health and the environment from the release of hazardous substances by acts of terrorism.

Reid (for Lautenberg) Amendment No. 3782, to require that any Federal funds appropriated to the Department of Homeland Security for grants or other assistance be allocated based strictly on an assessment of risks and vulnerabilities.

Reid (for Lautenberg) Amendment No. 3905, to provide for maritime transportation security.

Reid (for Harkin) Amendment No. 3821, to modify the functions of the Privacy and Civil Liberties Oversight Board.

Roberts Amendment No. 3748, to clarify the duties and responsibilities of the Ombudsman of the National Intelligence Authority and of the Analytic Review Unit within the Office of the Ombudsman.

Roberts Amendment No. 3739, to ensure the sharing of intelligence information in a manner that promotes all-sources analysis and to assign responsibility for competitive analysis.

Roberts Amendment No. 3750, to clarify the responsibilities of the Directorate of Intelligence of the National Counterterrorism Center for information-sharing and intelligence analysis.

Roberts Amendment No. 3747, to provide the National Intelligence Director with flexible administrative authority with respect to the National Intelligence Authority.

Roberts Amendment No. 3742, to clarify the continuing applicability of section 504 of the National Security Act of 1947 to the obligation and expenditure of funds appropriated for the intelligence and intelligence-related activities of the United States.

Roberts Amendment No. 3740, to include among the primary missions of the National Intelligence Director the elimination of barriers to the coordination of intelligence activities.

Roberts Amendment No. 3741, to permit the National Intelligence Director to modify National Intelligence Program budgets before their approval and submittal to the President.

Roberts Amendment No. 3744, to clarify the limitation on the transfer of funds and personnel and to preserve and enhance congressional oversight of intelligence activities.

Roberts Amendment No. 3751, to clarify the responsibilities of the Secretary of Defense pertaining to the National Intelligence Program.

Kyl Amendment No. 3926, to amend the Immigration and Nationality Act to ensure that nonimmigrant visas are not issued to individuals with connections to terrorism or who intend to carry out terrorist activities in the United States.

Kyl Amendment No. 3881, to protect crime victims' rights.

Kyl Amendment No. 3724, to strengthen anti-terrorism investigative tools, promote information sharing, punish terrorist offenses.

Stevens Amendment No. 3826, to modify the duties of the Director of the National Counterterrorism Center as the principal advisor to the President on counterterrorism matters.

Stevens Amendment No. 3827, to strike section 206, relating to information sharing.

Stevens Amendment No. 3829, to amend the effective date provision.

Stevens Amendment No. 3840, to strike the fiscal and acquisition authorities of the National Intelligence Authority.

Stevens Amendment No. 3882, to propose an alternative section 141, relating to the Inspector General of the National Intelligence Authority.

Collins (for Inhofe) Amendment No. 3946 (to Amendment No. 3849), in the nature of a substitute.

Sessions Amendment No. 3928, to require aliens to make an oath prior to receiving a nonimmigrant visa.

Sessions Amendment No. 3873, to protect railroad carriers and mass transportation from terrorism.

Sessions Amendment No. 3871, to provide for enhanced Federal, State, and local enforcement of the immigration laws.

Sessions Amendment No. 3870, to make information sharing permanent under the USA PATRIOT ACT.

Warner Amendment No. 3876, to preserve certain authorities and accountability in the implementation of intelligence reform.

Collins (for Cornyn) Amendment No. 3803, to provide for enhanced criminal penalties for crimes related to alien smuggling.

Collins (for Baucus/Roberts) Modified Amendment No. 3768, to require an annual report on the allocation of funding within the Office of Foreign Assets Control of the Department of the Treasury.

Collins (for Stevens) Amendment No. 3903, to strike section 201, relating to public disclosure of intelligence funding.

Frist (for McConnell) Amendment No. 3930, to clarify that a volunteer for a federally-created citizen volunteer program and for the program's State and local affiliates is protected by the Volunteer Protection Act.

Frist (for McConnell) Amendment No. 3931, to remove civil liability barriers that discourage the donation of equipment to volunteer fire companies.

The PRESIDING OFFICER. The Chair recognizes the distinguished Senator from Maine.

Ms. COLLINS. Thank you, Mr. President. The bill is now officially before the Senate. It is open for amendment. We have great deal of work to do on this legislation, as the Presiding Officer is well aware. I do anticipate many votes later today, starting at 4:15. I do anticipate a late session tonight in order to make considerable progress on the bill.

In addition, I want to alert my colleagues to the fact that the majority leader, with the consent of the Democratic leader, did file a cloture motion last week that will ripen tomorrow morning. So we are determined to make good progress on this bill. We made a great deal of progress last week. Negotiations continued over the weekend. But we have to finish this highly significant bill. That is the leader's intention. It is the floor managers' intention. And we will be working long and hard to do so both tonight and tomorrow night.

I thank the Chair.

The PRESIDING OFFICER. The Chair, in a helpful way, wishes to inform the Senate that under the previous order, at the hour of 4:15 today, the Senate will proceed to a series of votes on the pending amendments with 2 minutes equally divided for debate prior to each vote.

Ms. COLLINS. Thank you, Mr. President.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Mr. President, first, I congratulate Senator COLLINS and Senator LIEBERMAN for their very fine work on this bill. Anyone who has watched this debate has to be very impressed by the work they have done in, frankly, a relatively short period of time. They have held a number of hearings. They have diligently worked on this bill and brought the bill to the floor.

I came to the floor last week and asked my colleague from Maine some questions. I thought she had some very good answers. As I expressed at that time—and I have made no secret of this—I have always been concerned that any bill we produce, in fact, give the head of our intelligence enough authority, enough power to actually get the job done. And that was my concern. Frankly, that was the nature of my questions to my colleague from Maine last week.

I come to the floor this morning to express my concerns about the Byrd amendment. My reading of the Byrd amendment is, frankly, that it would strike at the heart of the Collins-Lieberman bill. I believe if the Byrd amendment were to be adopted, all my worst fears would be realized, and we would end up with a bill that would look like it was giving power to this new head of intelligence in this country, but, in fact, that person would not really have the requisite power they needed.

I wonder if I may ask my friend and colleague from Maine several questions about her interpretation of the Byrd amendment.

My understanding is that the Byrd amendment begins, on the copy I have, on page 27 of the bill and strikes the title "Transfer or Reprogramming of Funds and Transfer of Personnel within NIP."

I wonder if my colleague shares my concerns about the danger of this amendment. I think, frankly, this is a gutting amendment. I wonder what her reaction to that is.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, if the Senator from Ohio will yield, I will be happy to respond to his question. The Senator from Ohio is exactly right. The amendment offered by the Senator from West Virginia would greatly weaken the authority of the national intelligence director to move funding and people. That is one of the most important reforms made by this legislation. That is one reason I am strongly opposed to the amendment offered by the Senator from West Virginia.

I believe the Senator from Ohio is exactly right, that were the amendment to pass, it would severely undermine the reforms called for by the 9/11 Commission to create a NID with real authority. That means the authority over the budget, over the people in the national intelligence program, the authority to set priorities, and certainly the Byrd amendment would greatly weaken that authority.

Mr. DEWINE. I appreciate very much my colleague's response. That is the way I read this. As I expressed when I was on the floor last week, really what we need to do is to empower this person, this new position with the authority to get the job done. Never again do we want to be in a position where the head of intelligence of this country can come before the committee and say: I do not have enough power; I do not have the authority to get the job done; I could not move people around; I did not have the budget authority.

That, I think, is what my two colleagues who are on the floor right now have tried to craft with this bill. If you look at this particular section, it talks about the transfer of people and the transfer of money, and the ability of that person to be able to do that and to be the prime mover, the prime person who could do that.

Never again should the head of intelligence in this country really be subservient to anybody else. Yes, they should consult. Yes, they should involve other people. But they certainly should be the prime person.

I wonder if I may ask my colleague—I see Senator LIEBERMAN on the floor—I know some people do have concerns with the way the Senator has written the bill, that other agencies would not be consulted. With the way the Senator has written the bill, would the new head of intelligence consult other agencies and be involved with other agencies with regard to these very essential decisions?

Mr. LIEBERMAN. Mr. President, through you, I am pleased to respond to the Senator from Ohio. I thank him for his questions. The direct answer is that in the proposal Senator COLLINS and I have put down, the national intelligence director, in formulating the national intelligence budget, as distinguished from the military tactical intelligence joint budget, would be required to consult with the heads of the relevant intelligence agencies in formulating his budget, but we make very clear that the budget authority for the national intelligence budget ought to go to the national intelligence director, both in terms of final recommendations to the Office of Management and Budget and the President, but then that the money must come to the national intelligence director before it goes to those constituent agencies. That is a critical element of the authority that we want to establish in the national intelligence director where there is none.

We had repeated testimony before our committee from Secretary Powell, from former Directors of Central Intelligence that without budget authority, they are ineffective, they have no clout.

In addition to constricting, as the Senator from Ohio has made clear, the authority of the national intelligence director under the Collins-Lieberman proposal to transfer both personnel and funds, the Byrd amendment does dramatically undercut that budget authority by, if I can state this to the best of my ability in lay people's language, removing the authority of the new national intelligence director to have budget accounts at the Treasury Department, which would mean that the only way Treasury could transfer money to the national intelligence director was back through the Department of Defense. That is exactly what we are trying to change.

Mr. DEWINE. If I may ask an additional question for Senators who are watching today, maybe the answer is obvious, but what is the importance of that distinction, the inability to do that, having that money go through the Defense Department as opposed to the national intelligence director?

Mr. LIEBERMAN. It is just such a strange circumstance with which I believe many members of our committee were surprised to find, that the intelligence budget, including the CIA budget, the Central Intelligence Agency right now, goes through the Department of Defense before it gets there. Obviously, the Defense Department is an important user of intelligence, perhaps the most important, so is the State Department, the President, and the Homeland Security Department.

The current situation is a little bit—let me see if I can think of an analogy, and I know this is farfetched—where the budget of the Securities and Exchange Commission went through the Department of Health and Human Services. It may be a little farfetched. Maybe it went through one of the other Departments that is slightly more related. It makes no sense.

Again, we are trying to create authority here, and authority in this town, as we kept hearing over and over, is built on money, budget authority, and this amendment would remove that authority from the national intelligence director and, therefore, weaken that position. I fear it would get us back to where we are now, where we do not have that authority with anyone in the intelligence community and no one is in charge.

Mr. DEWINE. I wonder if I may ask my colleague another question. As one looks at the language throughout the bill that Senator COLLINS and Senator LIEBERMAN have crafted, they have made a distinction between the national intelligence programs and the nonnational intelligence programs, given certainly the authority over the national intelligence programs and what they described as far as the budget authority, execution authority over those to the national intelligence director.

The other programs that are not national intelligence programs continue to remain, then, with other departments—for example, the Defense Department—is that correct?

Mr. LIEBERMAN. I am sorry? I missed the question.

Mr. DEWINE. The other programs that are not national intelligence programs would not come under, then, the national intelligence director?

Mr. LIEBERMAN. That is correct. We tried to draw some lines. They are not always clear because there are a lot of programs that overlap, but to say that anything in the national intelligence budget should go to the national intelligence director, that is his or her job. There are other programs that are uniquely the work of the Defense Department—I am going to put it another way: that are totally used by the Defense Department for tactical intelligence to support the work of one service of the military or a joint military action. But those assets are not used for anything else in our intelligence community nonmilitary and, of course, they should go for budget control to the Secretary of Defense.

Mr. DEWINE. That is the way the Senator's bill is written?

Mr. LIEBERMAN. Absolutely. We preserve that. There are one or two amendments that are seeking still to clarify that break that we will debate and vote on I would guess before this bill is finally considered, but that is exactly what we have done in the underlying bill.

Mr. DEWINE. When I came to the Senate floor last week, I was asking questions of both the Senator from Connecticut and my colleague from Maine, and I was happy to hear some of the answers about the Senator's understanding of this bill that has been drafted, but I am concerned that under the amendment from our colleague from West Virginia, these powers would be gone. For example, I asked about the ability to move personnel around, and the Senator assured me under his bill the national intelligence director would be able to move personnel around from one department to another as long as it was a national intelligence program. Is it the Senator's understanding under the amendment from our colleague from West Virginia that power would be gone?

Mr. LIEBERMAN. I say through the Chair, that power would be seriously limited, which is to say the personnel transfers under the amendment would have to be done in accordance with procedures to be developed by the national intelligence director with the concerned department head and only for periods up to 1 year, and that is a constriction that says to the national intelligence director: You do not have the latitude to do what you think is necessary to protect the national security interests. This is a little bit like saying to a general: You can only make a decision for a short period of time in moving your troops around to better confront the enemy and achieve victory. It makes no sense. It is a critical part of the overall proposal of our bill and the 9/11 Commission.

If the Senator from Ohio would give me a moment, this morning, the Family Steering Committee composed of families of victims of 9/11 sent a letter to every Senator commenting on some of these amendments. With regard to this amendment introduced by the Senator from West Virginia, No. 3845, they say that the 9/11 Commission has stated repeatedly that the power of the purse is critical for the national intelligence director position. S. 2845, the underlying bill, provides for the national intelligence director to be empowered with budget execution and transfer authorities. The NID also needs to be able to transfer personnel in response to threats, which is what the Senator's question goes to. So the families conclude: In summary, we oppose amendment No. 3845 introduced by the Senator from West Virginia and others because it reduces the authority of the national intelligence director.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, if the Senator from Ohio would yield on that point.

Mr. DEWINE. I sure will.

Ms. COLLINS. The amendment offered by our colleague from West Virginia would actually give the national intelligence director less authority than the DCI has under current law to move people and money around to address urgent needs. It not only would undo the reforms in our bill, it is a step back from current law.

Under the Byrd amendment, aggregate transfers from a department or agency would be limited to $100 million or 5 percent of the funds available to the department or the agency. There is no such limitation in current law. The amendment offered by the Senator from West Virginia not only undermines the reforms in this bill and significantly would weaken the authority of the NID to move people and money to meet urgent compelling needs, but it actually is weaker than the authority that the Director of the CIA now has. I just wanted to make that point. I know the Senator from Ohio is aware of that as well.

Mr. DEWINE. I thank my colleague for her answer, and that is something that should alarm all the Members of the Senate. I believe there is a general consensus—certainly there is in the intelligence community, a general consensus at least, and I think there is among Members of the Senate—that the power of the DCI today is not enough, and to think that we would be thinking about passing a bill that would pass with this amendment possibly that would weaken the head of our intelligence agencies and give that person less power to me is a shocking thought.

I believe our whole goal should, in a very responsible, rational way, create a new system, which this bill has done, to empower one person to have the authority to run the intelligence in this country. I am afraid, as this discussion has pointed out between my colleagues and myself, that the Byrd amendment will take us actually in the wrong direction. It is a weakening amendment. At least for this Member, it is a gutting amendment. It, frankly, would make it impossible for me to vote for this bill. It would destroy the power of the head of intelligence, this new position, and it would be the wrong thing to do. It is very well intended, but it would be a very serious mistake. This discussion we just had certainly brings that out.

Again, I want to congratulate my colleagues. They have done a very good job in trying to deal with all of the diverse needs we have in the intelligence community, the Defense Department, and all the other agencies. It has been a very tough job, and I congratulate them for their work.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to thank our friend and colleague from Ohio for both his thoughtful consideration of this legislation and his very relevant questions this morning, which I do believe help to illuminate the consequences on one of the amendments we are going to vote on today.

Last week the Senator was here in a less friendly posture. It is always better to have him on our side, and I thank him very much for caring enough about this critically important legislation to come over and be part of this debate.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. ROBERTS). Without objection, it is so ordered.

The Senator from West Virginia is recognized.

AMENDMENT NO. 3845

Mr. BYRD. Mr. President, in a few hours the Senate will vote on the Byrd-Stevens-Inouye-Warner amendment. That amendment's purpose is to ensure that the new national intelligence authority is held accountable to the people's representatives in the Congress. Let me say again, the amendment which I have offered on behalf of myself and Mr. STEVENS, Mr. INOUYE, and Mr. WARNER has a purpose, that purpose being to ensure that the new national intelligence authority, the NID, is held accountable to the people's representatives in the Congress.

Last Friday, I spoke about the Englishmen who spilled their blood to wrest the power of the purse away from monarchs, over many centuries, in England. Their struggle was enshrined in Article I, section 9 of the U.S. Constitution, which I hold in my hand, the Constitution of the United States—the struggle of Englishmen across many centuries, even prior to 1215 when the barons yielded, the great Magna Carta was agreed to by King John, a mighty monarch. And what does that section 9 of Article I say?

> No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.

Not just some of the moneys, all of the moneys. How then, I ask Senators, can a regular account of public money be kept if the Congress empowers a new intelligence director to spend money without regard to appropriations law and without regard to this Constitution?

This is a debate about power. Make no mistake about it. It is a debate about power and who should wield it—the elected representatives of the people or an unelected, unaccountable bureaucrat nestled deep inside our Nation's intelligence agencies.

It goes to the heart of the balance of power between the executive and the legislative branches of Government. I took an oath to support and defend that Constitution, and I have tried to do that now, I will soon be in my 59th year in government, in politics, in the legislative branches of Government—at the State level and at the national level.

Under the pending bill, the Treasury Secretary is authorized to create appropriations accounts to which the national intelligence director can transfer funds. Get that. We are talking about an unelected bureaucrat who will be able to transfer funds. The Collins-Lieberman bill includes no limits on how those funds can be used.

Let me say, I don't see either of the two managers on the floor but they are listening. I saw Senator LIEBERMAN just a few minutes ago. I am sure he is in the premises here. One of the distinguished persons who is aiding the Governmental Affairs Committee in this connection has nodded in the affirmative. So I am not talking behind Senator LIEBERMAN's back. He is here. He knows very well what I am saying, and I am sure he will be very ready to counter my arguments. I respect him for that.

Let me say again, under the pending bill, the Treasury Secretary is authorized to create appropriations accounts to which the national intelligence director can transfer funds. The Collins-Lieberman bill includes no limits on how those funds can be used once they are transferred. Under current law, the intelligence director would be authorized to transfer up to $3.5 billion from the defense budget, giving this director enormous transfer authority never contemplated by the Congress.

That places the Congress on the defensive. The Congress would have to act retroactively to transfers made by the national intelligence director, allowing the intelligence director to spend funds without adequate oversight by the Congress.

I remind Senators that in 1996, the National Reconnaissance Office—the Government's spy satellite agency—was discovered to have stashed away billions of dollars into a reserve that was not reported to the Congress. While the proponents of the bill before the Senate argue that the national intelligence director needs strong budget authority to fight the war on terror, Senators should understand that the intelligence director can use that authority for activities that have nothing to do with the war on terror. The intelligence director could use this sweeping transfer authority to circumvent the limitations imposed by the Congress, the elected representatives of the American people. It has happened before, and it will happen again. It can happen again and very likely it will happen again.

Senators COLLINS and LIEBERMAN have argued that our mandate here today is to implement the 9/11 Commission recommendations and that those recommendations include an intelligence director with strong budget authority. I respectfully submit that our mandate as Senators—my mandate, at least, as a Senator—first and foremost is to protect and defend the Constitution of the United States.

We took an oath to do so, and that mandate supersedes any recommendations put forward by any commission, including the 9/11 Commission. To provide virtually unchecked flexibility to an intelligence director to transfer funds from one account to another would nullify and make meaningless the legislative process of reviewing budget requests from the intelligence agencies. It would nullify and make meaningless congressional decisions about how funds are allocated.

Congressional judgment by elected lawmakers—I am elected; I am one of the elected lawmakers. From time to time I have to go back before the people and see if they want me to continue in this work. Congressional judgment by elected lawmakers would be made subordinate to executive judgments by unelected bureaucrats.

The power of the purse for which our English ancestors spilled their blood and which has protected our democratic institutions and individual rights for centuries would, in a very large measure, pass to the executive branch.

I am saying, in essence, that we need more time to discuss this amendment and to discuss this bill. I don't know what is in the bill. I have read parts of the bill, but I have many other duties to perform, and I think we need more time. This is a major bill. This is the very same thing we ran into when we created the Department of Homeland Security—the very same thing. We are backed up against the wall. The idea is you have to pass this. You have to do it. You have to get behind it. And we find we have a lot of problems with that.

I sought to have the leadership take a little more time on that bill, discuss it, debate it, but the leadership didn't choose to take more time.

It was the very same way with the nefarious resolution that was passed by this Senate on October 11 of 2002 to shift the constitutional power to declare war to a single individual; namely, the President of the United States. I pleaded that we have more time. I pleaded on that same occasion—I think it was with Mr. LIEBERMAN and with the other managers on both sides—please take more time.

Here we are shifting the power. Congress says in article I, section 8, that the Congress shall have the power to declare war. So the Framers of the Constitution did not intend for one man to be able to declare war. The Framers of the Constitution did not intend for one body to put this Nation into a war. It required both bodies. The Constitution says Congress—not just the Senate, not just the House—Congress, which is a combination of both, Congress shall have power to declare war. So the Framers meant for that very great question to be decided by a huge body of men. It was men in those days, only men in the Congress of the United States; but, of course, we know what "Congress" meant—for anybody who serves. It is Congress made up of the elected representatives of the American people. So I have a mandate to listen to the American people. I have a mandate to exercise whatever judgment I have and can bring to bear in my own way to look at these things and to ask questions.

So there we were. We passed it in a big hurry. The leadership on both sides said: Let's get this behind us. I am talking about the resolution that was passed by the U.S. Senate on October 11, 2002, shifting the power, shifting the decision to put this country at war, shifting that decision away from the Congress and handing it over lock, stock, and barrel to one man—the President of the United States. It does not make any difference if he is a Democrat or a Republican, that power is his and will be in the next President's hand. He will have that power, and the next one, if he or she decides to use it. It will be there for them because there is no sunset provision in that resolution terminating that power.

I sought even to have the Congress adopt an amendment which would have provided for a sunset provision in that power so that within a year or at most 2 years—and the circumstances were set forth in my amendment calling for a sunset provision, a termination of handing this power over to any President, Republican or Democrat. Do you know how many votes I got? Well, I got 31 votes, including my own.

I yet am astonished to this very day as to why the Members of the Senate of the United States sought not only to give that power to a President, one man—whether he is Democrat or Republican, that is not the point—shift that power to a President. I said: If we are going to be foolish enough to do that, let's at least have a sunset provision so we can terminate that power. But no, I got 31 votes, including my own—31 votes. What a shame that this Senate and the House would give that power to an individual and say: It's yours, take it, keep it until we in the Congress decide to repeal that provision and take it back. How about that. So the sunset provision was turned down.

I asked for more time. Oh, the leadership said: Let's get this behind us. The President said: Get it behind you; we have an election coming. That was the manipulation that was wrought to have that key vote occur just a few days before the national elections in the year 2002.

Why, those Members who were up for reelection, as they voted on that resolution, they certainly thought: If I vote against this, what is it going to do to me and my reelection? People might think I am unpatriotic; I better vote for this; man, I have to be reelected; I have to be reelected; I am going to vote for it; I have some questions about it, but I am going to put all questions aside because we have an election coming here. The leadership said: Put it behind us; let's vote on it, get it behind us.

I said at the time: You will not get this behind you because this President is not going to let you get it behind you. It is in his favor to make you vote before the election. You might vote differently after the election. No, you have to vote before the election. There we were. We did not have time. I pleaded for time, time, wait until after the election, let's wait to hear what the people have to say.

Here again, we are pressed for time. We are going to go out on I believe it is October 8 presumably for the elections, at least until they are over, so we are in a hurry. Let's not wait until after the election; no, let's get this behind us. We have to do what the Commission says. What about the Constitution? We are legislating in a tremendous hurry, and that is not good.

Former Secretary of State Henry Kissinger in his appearance before the Appropriations Committee said that ought to be put off. You need, I believe he said, 6 or 8 months. I am not sure I am quoting him precisely. In essence, that was his message: Put it off; don't do it in a time before an election; don't do it under the heat that is generated; take your time; this is a measured, measured decision, don't rush it through. Former Secretary of State Henry Kissinger showed the committee the names of several other very important dignitaries who, by their experience, see the reasoning all joined in the suggestion that we take our time. But no, we are brushing that aside, and that was the decision on the part of former Secretaries of Defense—for example, Mr. Cohen. It included both Republicans and Democrats urging that we take more time. I think we should take more time here because we are doing some dangerous things in this bill.

My amendment will keep the power of the purse where it belongs, not in the hands of the intelligence community but here in the hands of the people's elected representatives in the Congress. My amendment retains for the Congress the responsibility for deciding how budget accounts for the intelligence director should be structured while allowing the flexibility the Governmental Affairs Committee seeks for the transfer of personnel and funding within the intelligence community. My amendment is an oversight amendment. It guarantees better oversight over the way these funds are going to be spent.

Normally, when we pass an appropriation, we say to Mr. A, who is head of one agency: Here, you take this and you do this, and you do this, and you do this, and you do this, and then come back in a year and tell us what you did; come back in here tell us what you did with our limitations to do this, do this, but don't do this, don't do this. Under those limitations the agency assures Congress he will live up to the mandate, he will do this, he will do this, and he will not do this that Congress said don't do.

Well, that is not going to be the case. This national intelligence director will do whatever he wants to do, and then there will not be those limitations, either, on him or her. He is not going to be elected. He is going to be another bureaucrat—and I do not mean to speak in any derogatory manner concerning bureaucrats because we have to have them—but they are not elected by the people.

All these seats—these chairs, as I call them—were here many years before I came, and they are filled with Members who are elected by the people of their respective States. We have to answer to those people.

This amendment limits the transfer of funds to $100 million or to 5 percent of the Department or Agency budget, whichever is the lesser. Senators should realize that even with the limitations included in this amendment, the intelligence director is granted significant authority to transfer funds. He would still have significant authority. Given the history, though, of abuses of power and the violation of civil liberties that have taken place within our intelligence community, I cannot imagine Senators condoning such sweeping budget transfer authority.

Hear me, Senators. We should take time. We are talking about rushing through a massive change, one which will have some bearing upon this Constitution which we are sworn to support and defend, and yet we are going to do it with our ears closed, our eyes closed, and our voices unheard.

We are being pressured to act fast before we go home on October 8. I cannot imagine Senators condoning such sweeping budget transfer authority. Common sense and history suggest that if one man is given control of our intelligence agencies and one man is given control over funds appropriated to those agencies, abuses can occur, may occur, and in all probability will occur at some point in time. Those abuses may manifest themselves in the violations of civil liberties, your liberties. They may manifest themselves in scandals such as those at Abu Ghraib prison, or they may manifest themselves as they did in the lead-up to the war in Iraq through politicized intelligence. Therein lies a great danger.

The New York Times, on Sunday, wrote a very lengthy article—read it—entitled, "How the White House Embraced Disputed Arms Intelligence."

I ask unanimous consent that the article from the New York Times be reprinted in the RECORD at the close of my remarks.

The PRESIDING OFFICER (Mr. COCHRAN). Without objection, it is so ordered.

(See exhibit 1.)

Mr. BYRD. Mr. President, the article explores how senior administration officials, including President Bush and Vice President CHENEY, "repeatedly failed to fully disclose the contrary views of America's leading nuclear scientists" when asserting in 2002 that Saddam Hussein was rebuilding his nuclear weapons program. The article reads:

> They sometimes overstated even the most dire intelligence assessments . . .

It goes on to say:

> yet minimized or rejected strong doubts of nuclear experts.

The article goes on:

> Today, 18 months after the invasion of Iraq, investigators there have found no evidence of . . . a revived nuclear weapons program.

Secretary of State Colin Powell said last Friday he regretted the administration's claims that Iraq had stockpiles of weapons of mass destruction in making its case for war.

So the gut-wrenching question for the Senator from Maine is—hear me—if we do this intelligence reorganization hurriedly, are we willing to launch our next preemptive war based on the presumption that our handiwork has corrected our intelligence problems? That is a very serious question.

I will say it again: The gut-wrenching question for you, ROBERT C. BYRD, and for every other Member of the Senate, remains: if we do this intelligence reorganization hurriedly, as we are doing, are we willing to launch our next preemptive war based on the presumption that our handiwork has corrected our intelligence problems?

Think about it. That should sober one up. The question remains, and we are going to be held to it by the American people and by that Constitution: If we do this intelligence reorganization hurriedly, are we willing to launch our next preemptive war based on the presumption that our handiwork has corrected our intelligence problems?

I say to Senators, again, preemptive attack is the official policy of this Government. Preemptive attack today, under the Bush administration, is the official policy of this Government.

Remember also that preemption is totally antithetical to the U.S. Constitution because it clearly cuts the Congress out of decisions to go to war. Preemption by its very nature precludes congressional debates or approval of resolutions before commencing to shed the blood of our sons and our daughters. Preemption stands on its face antithetical, opposite, 180 degrees, to this Constitution, which says that the Congress shall have power to declare war; the Congress, meaning a group of people, two bodies, made up of men and women representing all of the States of this Union. Congress shall declare war, not one man. But the doctrine of preemption tells us the President—the President, not the Congress—the President shall have power to declare war. That is the preemptive doctrine. That great power may send your son, your daughter, your grandson, your granddaughter to war. Who says so? One man, the President of the United States.

So on its face it is unconstitutional. How can a President declare war without doing it clandestinely, secretly? If he wants to bomb a certain country, he is not going to take it up with the Congress. He wants to be secret about this because that strike has to be preemptive. How can it be preemptive if it is going to be debated by the Members of the United States Senate? It can't be preemptive.

Let us remember that intelligence—remember, this is not just ROBERT BYRD saying this—let us remember that the intelligence was manipulated to get us into the Iraq war. Will it not be more easily manipulated in the hands of one intelligence chief, a partisan chief more free than ever to tweak intelligence to please a President? It may be a Democratic President. Does that make it any better? No. That makes no difference.

It is comforting to believe that our intelligence agencies will not be manipulated for political gain, but it is also naive to believe that. To turn over to a greater degree the power of the purse to shadowy figures in the intelligence community is to invite abuses like those that lead to scandal and to the disgrace of the United States in the eyes of the international community.

Think of what we are doing here. It is just like it was when we had that resolution before the Senate on which the Senate voted on October 11, 2002. There is not another Senator on this floor, except the distinguished Senator from Mississippi, Mr. COCHRAN, who is presently presiding over this body, and myself, two Senators. A major question is before the Senate. We are talking about your oversight duties as a Member of the Senate, as you chair or as you serve on a committee—your oversight; the oversight powers of the Congress, provided for in the Constitution of the United States. Yet we are saying, Well, forget it.

The Congress must preserve its power to rein in—not just because it can but because the people expect it of the Congress—our Nation's intelligence agencies and to rein in the executive branch when abuses like these occur.

Further, we must do all we can to ensure that the new intelligence positions created by the Collins-Lieberman bill are held accountable to the Congress; in other words, to the people. This Constitution, in its first three words, says, "We the people . . . ." So we have a responsibility. We have a duty to the people we represent to see that these people are held accountable to the Congress.

On page 47, the pending bill creates four deputy national intelligence director positions as executive level 2 appointments, the equivalent of a Deputy Secretary of Defense or State. Yet none of these new positions is subject to Senate confirmation. How about that? The Congressional Research Service informs me that these deputy intelligence directors would be—listen to this—the only executive level 2 appointments in our Government not subject to confirmation by the Senate. There you have it. These people are going to have tremendous responsibilities, but I am informed that these deputy intelligence directors would be the only executive level 2 appointments in our Government not subject to Senate confirmation.

So it is clear that more needs to be done to ensure accountability to the Congress. How much thought was given to this in the distinguished committee? How much thought was given to this in the Commission that recommends to the Congress these reforms? These clearly mean that more needs to be done to ensure accountability to the Congress. The intelligence failures of 9/11 and the intelligence failures in Iraq are in part a testament to the dire consequences of the Congress abdicating its constitutional duties. The Congress was rushed, as it oftentimes is—rushed, pressured—could be pressured by circumstances only, but that is not quite the case. Congress was rushed into creating a homeland security department, and, in the process, it ceded authorities to the executive branch over organization and personnel matters. The result has been an underfunded homeland security agency whose effectiveness has been compromised, to some extent, by turf wars and bureaucratic resistance.

So we rushed consideration of the war resolution with Iraq, and in the process ceded the constitutional authority to declare war to the White House. The result has been a rush to war marked by foreign policy failures and scandals, with the death toll rising daily and with no end in sight to the chaos in Iraq.

What a pickle. What a pickle we have put ourselves in. Now the Congress is confronted with an intelligence reform bill, proposing to create a national intelligence director who will command 15 intelligence agencies and a $40 billion budget. Rather than learn from our mistakes, rather than take the time to thoughtfully consider this matter outside of Presidential politics, we are being pushed to finish this bill within a handful of days, finish this bill within a shirt-tail full of days, and to cede control over the allocation of the resources to the intelligence community.

Think about it. Think what you are doing. Think what you are about to do, Senators. National security experts are pleading with the Congress to stop for a minute. Hold on, here. Hold on, they say. Stop for a minute to think about what it is doing.

The Appropriations Committee heard from a bipartisan array of witnesses urging the Congress to slow down.

What is the hurry? What is the hurry?

The list is impressive. These men are not Members of the Congress. Listen to them, though. They are saying, slow down. David Boren, former Senator from the State of Oklahoma, former chairman of the Intelligence Committee in the Senate.

Here is another former Senator, Bill Bradley, saying let's slow down here. Slow down. Where is the hurry? Frank Carlucci, former Secretary of Defense under President Reagan. Here is a more recent Secretary of Defense, former Member of this body, a Republican, William Cohen. Robert Gates, Gary Hart, former U.S. Senator; Henry Kissinger, former Secretary of State; John Hamre.

In the case of some of these, their titles have momentarily escaped me.

Sam Nunn, former Senator from the State of Georgia and chairman of the Senate Armed Services Committee;

Warren Rudman, Republican, former Senator from New Hampshire; George Shultz, former Secretary of State, Republican—there you have it, an impressive roster of Republicans and Democrats who rendered great service to this country in one form or another. They are saying slow down. What is the hurry? What is the hurry? They are former Senators, former Department of Defense Secretaries, former Secretaries of State, Republicans and Democrats, all making the same plea: "Racing to implement reforms on an election timetable is precisely the wrong thing to do."

That is not ROBERT BYRD saying that. ROBERT BYRD is quoting these luminaries, and ROBERT BYRD feels the same way they do.

"Racing to implement reforms on an election timetable is precisely the wrong thing to do. Intelligence reform is too complex and too important to undertake at a campaign breakneck speed."

They are saying this subject matter deserves a thoughtful, comprehensive approach. Why in Heaven's name are we in all of this big hurry? Why is there all of this hurry? I am not saying there shouldn't be reform. I am not saying that at all. I am saying this is a major undertaking and we ought to have the time and we ought to take time to debate and ask questions and to try to remove the gremlins that may come to light if we take more time.

The Wall Street Journal concluded in August that:

> The larger point here is that there is no need to rush to any quick political fix.

We may have a different President after the election. He may appoint—and probably would—a national intelligence director who will be a different person from that whom the current President may appoint, should he be reelected. We ought not to do this in such a big hurry.

The Wall Street Journal continues:

> We are contemplating the biggest change to our intelligence services since 1947, while we are fighting a war against a lethal enemy . . .

a war that in large measure has resulted from faulty intelligence.

Are we fixing that fault in this bill? Are we dealing with 9/11 in this bill without casting a watchful eye to the future, to Iraq? How about it?

> That work should take some time—and beltway forbid, maybe even a little thought.

That is a quotation from the Wall Street Journal of the month of August.

The case for stopping and thinking for a moment grows even stronger when one reads U.S. Circuit Court Judge Richard Posner's critique of the 9/11 Commission's report in the New York Times Book Review. Judge Posner writes:

> The enormous public relations effort that the commission orchestrated to win support for the report before it could be digested . . . invites criticism . . . [as does] the commissioners' misplaced, though successful, quest for unanimity. . . . The Commission's contention that our intelligence structure is unsound predisposed it to blame the structure for the failure of the 9/11 attacks, whether it did or not. And pressure for unanimity encourages just the kind of herd thinking now being blamed for that other recent intelligence failure—the belief that Saddam Hussein possessed weapons of mass destruction. . . . For all one knows, the price of unanimity was adopting recommendations that were the second choice [or maybe even the third or fourth choice] of many of the commission's members. . . .

The larger concern is not only that the Congress, in its rush to act, may botch the implementation of the 9/11 Commission's recommendation, but that those recommendations may not be as well-thought-out as the public relations campaign would have us believe.

We are so threatened by the politics surrounding the 9/11 Commission's report and the release of its recommendations prior to the Presidential election that we stand ready—stand, salute—to abdicate our constitutional responsibilities rather than to question or probe deeper into the potential flaws of the Commission's recommendations.

I say again it is the same kind of thinking that occurred prior to the vote on the war resolution with Iraq, the same mentality that led to the much regretted passage of the PATRIOT Act with only a single dissenting vote in this Chamber, and that led to the creation of a Homeland Security Department that now struggles with its mission to make Americans safer from terrorism.

I urge Senators, I plead with Senators, I beg Senators to consider carefully their vote on this amendment.

I am sure there are many Senators who have regretted and will regret to their dying day their decision to vote for the Iraq resolution that was passed by this body on October 11, 2002. I am sure many Senators have lived to regret that vote because we were being pressured: Hurry, hurry, hurry, get this vote behind us. We don't want to talk more about this. We want to talk about the economy. They will regret it. I have had Senators tell me they regret it.

I urge Senators to consider carefully their vote on this amendment. Also, consider this Constitution and the oath I have taken this many times to support and defend the Constitution of the United States. This Constitution provides for adequate oversight. It gives the Congress the power, the oversight.

This bill will, to a considerable extent, take away that power. I am not seeking to undermine the intelligence reforms proposed by the Governmental Affairs Committee. I seek only to ensure that the Congress retain its oversight functions in intelligence and national security matters. We owe it to the people who had faith and confidence in us and who sent us here.

We are not elected here, sent here, by any President of the United States. No President tapped me on the shoulder and said, go get him, boy, I am going to see that you get it. No President can do that. No President can tap me on the shoulder and say: Boy, you are gone; you won't be back after this election. No, no President can say that, thank God. No President is king in this country. Not here, no. We did not swear an oath to adopt any particular commission's report.

We should use our own best judgment in this case, and in doing that we will arrive at different signals, of course, but that is our responsibility. We owe it to the victims of the September 11 attack and their families to get these reforms straight and to take time to study and debate them. Why not take more time? It would be a sad legacy if the suffering of these victims of the September 11 attack, it would be a sad legacy if their suffering and loss resulted not in the strengthening but in the weakening of our national security and intelligence service, leaving more Americans vulnerable to a terrorist attack.

In summary, it is a critical mistake to hand to an unelected intelligence chief nearly unfettered budget transfer authority. We are handing off the ability to exercise oversight. When we do that, we cannot determine whether congressional intent for the people's tax dollars has been met. We will not know about transfers until some time, perhaps, after the fact. Millions of dollars—nay, billions of dollars—could be moved around at the discretion of one man, an unelected figure, with no one the wiser. Resources could be switched from one area of the world to another area of the globe at the discretion of one man. Secret operations could be funded without the prior knowledge of any Member of Congress at the discretion of one man. This is one-man rule. Intelligence could be manipulated by one man, with discretion concerning where to take away secret resources and where to add them.

Absolute power, Senators just heard, corrupts absolutely, and the United States is about to aid and abet that truism.

Senators, Republicans and Democrats, we will rue the day when, because of rushing and posturing and hurrying, we created a spy chief with such awesome power.

I ask unanimous consent to add the names of Senator LEAHY, Senator DORGAN, and Senator BURNS as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. May the record show that John Hamre is a former Deputy Defense Secretary and Robert Gates is a former CIA Director.

[From the New York Times, Oct. 3, 2004]

HOW THE WHITE HOUSE EMBRACED DISPUTED ARMS INTELLIGENCE

(By David Barstow, William J. Broad and Jeff Gerth)

In 2002, at a crucial juncture on the path to war, senior members of the Bush administration gave a series of speeches and interviews in which they asserted that Saddam Hussein was rebuilding his nuclear weapons program. Speaking to a group of Wyoming Republicans in September, Vice President Dick Cheney said the United States now had "irrefutable evidence"—thousands of tubes made of high-strength aluminum, tubes that the Bush administration said were destined for clandestine Iraqi uranium centrifuges, before some were seized at the behest of the United States.

Those tubes became a critical exhibit in the administration's brief against Iraq. As the only physical evidence the United States could brandish of Mr. Hussein's revived nuclear ambitions, they gave credibility to the apocalyptic imagery invoked by President Bush and his advisers. The tubes were "only really suited for nuclear weapons programs," Condoleezza Rice, the president's national security adviser, explained on CNN on Sept. 8, 2002. "We don't want the smoking gun to be a mushroom cloud."

But almost a year before, Ms. Rice's staff had been told that the government's foremost nuclear experts seriously doubted that the tubes were for nuclear weapons, according to four officials at the Central Intelligence Agency and two senior administration officials, all of whom spoke on condition of anonymity. The experts, at the Energy Department, believed the tubes were likely intended for small artillery rockets.

The White House, though, embraced the disputed theory that the tubes were for nuclear centrifuges, an idea first championed in April 2001 by a junior analyst at the C.I.A. Senior nuclear scientists considered that notion implausible, yet in the months after 9/11, as the administration built a case for confronting Iraq, the centrifuge theory gained currency as it rose to the top of the government.

Senior administration officials repeatedly failed to fully disclose the contrary views of America's leading nuclear scientists, an examination by The New York Times has found. They sometimes overstated even the most dire intelligence assessments of the tubes, yet minimized or rejected the strong doubts of nuclear experts. They worried privately that the nuclear case was weak, but expressed sober certitude in public.

One result was a largely one-sided presentation to the public that did not convey the depth of evidence and argument against the administration's most tangible proof of a revived nuclear weapons program in Iraq.

Today, 18 months after invasion of Iraq, investigators there have found no evidence of hidden centrifuges or a revived nuclear weapons program. The absence of unconventional weapons in Iraq is now widely seen as evidence of a profound intelligence failure, of an intelligence community blinded by "group think," false assumptions and unreliable human sources.

Yet the tale of the tubes, pieced together through records and interviews with senior intelligence officers, nuclear experts, administration officials and Congressional investigators, reveals a different failure.

Far from "group think," American nuclear and intelligence experts argued bitterly over the tubes. A "holy war" is how one Congressional investigator described it. But if the opinions of the nuclear experts were seemingly disregarded at every turn, an overwhelming momentum gathered behind the C.I.A. assessment. It was a momentum built on a pattern of haste, secrecy, ambiguity, bureaucratic maneuver and a persistent failure in the Bush administration and among both Republicans and Democrats in Congress to ask hard questions.

Precisely how knowledge of the intelligence dispute traveled through the upper reaches of the administration is unclear. Ms. Rice knew about the debate before her Sept. 2002 CNN appearance, but only learned of the alternative rocket theory of the tubes soon afterward, according to two senior administration officials. President Bush learned of the debate at roughly the same time, a senior administration official said.

Last week, when asked about the tubes, administration officials said they relied on repeated assurances by George J. Tenet, then the director of central intelligence, that the tubes were in fact for centrifuges. They also noted that the intelligence community, including the Energy Department, largely agreed that Mr. Hussein has revived his nuclear program.

"These judgments sometimes require members of the intelligence community to make tough assessments about competing interpretations of facts," said Sean McCormack, a spokesman for the president.

Mr. Tenet declined to be interviewed. But in a statement, he said he "made it clear" to the White House "that the case for a possible nuclear program in Iraq was weaker than that for chemical and biological weapons." Regarding the tubes, Mr. Tenet said "alternative views were shared" with the administration after the intelligence community drafted a new National Intelligence Estimate in late September 2002.

The tubes episode is a case study of the intersection between the politics of preemption and the inherent ambiguity of intelligence. The tubes represented a scientific puzzle and rival camps of experts clashed over the tiniest technical details in secure rooms in Washington, London and Vienna. The stakes were high, and they knew it.

So did a powerful vice president who saw in 9/11 horrifying confirmation of his long-held belief that the United States too often naively underestimates the cunning and ruthlessness of its foes.

"We have a tendency—I don't know if it's part of the American character—to say, 'Well sit down and we'll evaluate the evidence, we'll draw a conclusion,'" Mr. Cheney said as he discussed the tubes in September 2002 on the NBC News program "Meet the Press."

"But we always think in terms that we've got all the evidence," he said. "Here, we don't have all the evidence. We have 10 percent, 20 percent, 30 percent. We don't know how much. We know we have a part of the picture. And that part of the picture tells us that he is, in fact, actively and aggressively seeking to acquire nuclear weapons."

JOE RAISES THE TUBE ISSUE

Throughout the 1990's, United States intelligence agencies were deeply preoccupied with the status of Iraq's nuclear weapons program, and with good reason.

After the Persian Gulf war in 1991, arms inspectors discovered that Iraq had been far closer to building an atomic bomb than even the worst-case estimates had envisioned. And no one believed that Saddam Hussein had abandoned his nuclear ambitions. To the contrary, in one secret assessment after another, the agencies concluded that Iraq was conducting low-level theoretical research and quietly plotting to resume work on nuclear weapons.

But at the start of the Bush administration, the intelligence agencies also agreed that Iraq had not in fact resumed its nuclear weapons program. Iraq's nuclear infrastructure, they concluded, had been dismantled by sanctions and inspections. In short, Mr. Hussein's nuclear ambitions appeared to have been contained.

Then Iraq started shopping for tubes.

According to a 511-page report on flawed prewar intelligence by the Senate Intelligence Committee, the agencies learned in early 2001 of a plan by Iraq to buy 60,000 high-strength aluminum tubes from Hong Kong.

The tubes were made from 7075–T6 aluminum, an extremely hard alloy that made them potentially suitable as rotors in a uranium centrifuge. Properly designed, such tubes are strong enough to spin at the terrific speeds needed to convert uranium gas into enriched uranium, an essential ingredient of an atomic bomb. For this reason, international rules prohibited Iraq from importing certain sizes of 7075–T6 aluminum tubes; it was also why a new C.I.A. analyst named Joe quickly sounded the alarm.

At the C.I.A.'s request, The Times agreed to use only Joe's first name; the agency said publishing his full name could hinder his ability to operate overseas.

Joe graduated from the University of Kentucky in the late 1970's with a bachelor's degree in mechanical engineering, then joined the Goodyear Atomic Corporation, which dispatched him to Oak Ridge, Tenn., a federal complex that specializes in uranium and national security research.

Joe went to work on a new generation of centrifuges. Many European models stood no more than 10 feet tall. The American centrifuges loomed 40 feet high, and Joe's job was to learn how to test and operate them. But when the project was canceled in 1985, Joe spent the next decade performing hazard analyses for nuclear reactors, gaseous diffusion plants and oil refineries.

In 1997, Joe transferred to a national security complex at Oak Ridge known as Y-12, his entry into intelligence work. His assignment was to track global sales of material used in nuclear arms. He retired after two years, taking a buyout with hundreds of others at Oak Ridge, and moved to the C.I.A.

The agency's ability to assess nuclear intelligence had markedly declined after the cold war, and Joe's appointment was part of an effort to regain lost expertise. He was assigned to a division eventually known as Winpac, for Weapons Intelligence, Nonproliferation and Arms Control. Winpac had hundreds of employees, but only a dozen or so with a technical background in nuclear arms and fuel production. None had Joe's hands-on experience operating centrifuges.

Suddenly, Joe's work was ending up in classified intelligence reports being read in the White House. Indeed, his analysis was the primary basis for one of the agency's first reports on the tubes, which went to senior members of the Bush administration on April 10, 2001. The tubes, the report asserted, "have little use other than for a uranium enrichment program."

This alarming assessment was immediately challenged by the Energy Department, which builds centrifuges and runs the government's nuclear weapons complex.

The next day, Energy Department officials ticked off a long list of reasons why the tubes did not appear well suited for centrifuges. Simply put, the analysis concluded that the tubes were the wrong size—too narrow, too heavy, too long—to be of much practical use in a centrifuge.

What was more, the analysis reasoned, if the tubes were part of a secret, high-risk venture to build a nuclear bomb, why were the Iraqis haggling over prices with suppliers all around the world? And why weren't they shopping for all the other sensitive equipment needed for centrifuges?

All fine questions. But if the tubes were not for a centrifuge, what were they for?

Within weeks, the Energy Department experts had an answer.

It turned out, they reported, that Iraq had for years used high-strength aluminum tubes to make combustion chambers for slim rockets fired from launcher pods. Back in 1996, inspectors from the International Atomic Energy Agency had even examined some of those tubes, also made of 7075–T6 aluminum, at a military complex, the Nasser metal fabrication plant in Baghdad, where the Iraqis acknowledged making rockets. According to the international agency, the rocket tubes, some 66,000 of them, were 900 millimeters in length, with a diameter of 81 millimeters and walls 3.3 millimeters thick.

The tubes now sought by Iraq had precisely the same dimensions—a perfect match.

That finding was published May 9, 2001, in the Daily Intelligence Highlight, a secret Energy Department newsletter published on Intelink, a Web site for the intelligence community and the White House.

Joe and his Winpac colleagues at the C.I.A. were not persuaded. Yes, they conceded, the tubes could be used as rocket casings. But that made no sense, they argued in a new report, because Iraq wanted tubes made at tolerances that "far exceed any known conventional weapons." In other words, Iraq was demanding a level of precision craftsmanship unnecessary for ordinary mass-produced rockets.

More to the point, those analysts had hit on a competing theory; that the tubes' dimensions matched those used in an early uranium centrifuge developed in the 1950's by a German scientist, Gernot Zippe. Most centrifuge designs are highly classified; this one, though, was readily available in science reports.

Thus, well before Sept. 11, 2001, the debate within the intelligence community was already neatly framed: Were the tubes for rockets or centrifuges?

EXPERTS ATTACK JOE'S CASE

It was a simple question with enormous implications. If Mr. Hussein acquired nuclear weapons, American officials feared, he would wield them to menace the Middle East. So the tube question was critical, yet none too easy to answer. The United States had few spies in Iraq, and certainly none who knew Mr. Hussein's plans for the tubes.

But the tubes themselves could yield many secrets. A centrifuge is an intricate device. Not any old tube would do. Carefully inquiry might answer the question.

The intelligence community embarked on an ambitious international operation to intercept the tubes before they could get to Iraq. The big break came in June 2001; a shipment was seized in Jordan.

At the Energy Department, those examining the tubes included scientists who had spent decades designing and working on centrifuges, and intelligence officers steeped in the tricky business of tracking the nuclear ambitions of America's enemies. They included Dr. Jon A. Kreykes, head of Oak Ridge's national security advanced technology group; Dr. Duane F. Starr, an expert on nuclear proliferation threats; and Dr. Edward Von Halle, a retired Oak Ridge nuclear expert. Dr. Houston G. Wood III, a professor of engineering at the University of Virginia who had helped design the 40-foot American centrifuge, advised the team and consulted with Dr. Zippe.

On questions about nuclear centrifuges, this was unambiguously the A–Team of the intelligence community, many experts say.

On Aug. 17, 2001, weeks before the twin towers fell, the team published a secret Technical Intelligence Note, a detailed analysis that laid out its doubts about the tubes' suitability for centrifuges.

First, in size and material, the tubes were very different from those Iraq had used in its centrifuge prototypes before the first gulf war. Those models used tubes that were nearly twice as wide and made of exotic materials that performed far better than aluminum. "Aluminum was a huge step backwards," Dr. Wood recalled.

In fact, the team could find no centrifuge machines "deployed in a production environment" that used such narrow tubes. Their walls were three times too thick for "favorable use" in a centrifuge, the team wrote. They were also anodized, meaning they had a special coating to protect them from weather. Anodized tubes, the team pointed out, are "not consistent" with a uranium centrifuge because the coating can produce bad reactions with uranium gas.

In other words, if Joe and his Winpac colleagues were right, it meant that Iraq had chosen to forsake years of promising centrifuge work and instead start from scratch, with inferior material built to less-than-optimal dimensions.

The Energy Department experts did not think that made much sense. They concluded that using the tubes in centrifuges "is credible but unlikely, and a rocket production is the much more likely end use for these tubes." Similar conclusions were being reached by Britain's intelligence service and experts at the International Atomic Energy Agency, a United Nations body.

Unlike Joe, experts at the international agency had worked with Zippe centrifuges, and they spent hours with him explaining why they believed his analysis was flawed. They pointed out errors in his calculations. They noted design discrepancies. They also sent reports challenging the centrifuge claim to American government experts through the embassy in Vienna, a senior official said.

Likewise, Britain's experts believe the tubes would need "substantial re-engineering" to work in centrifuges, according to Britain's review of its prewar intelligence. Their experts found it "paradoxical" that Iraq would order such finely crafted tubes only to radically rebuild each one for a centrifuge. Yes, it was theoretically possible, but an Energy Department analyst later told Senate investigators, it was also theoretically possible to "turn your new Yugo into a Cadillac."

In late 2001, intelligence analysts at the State Department also took issue with Joe's work in reports prepared for Secretary of State Colin Powell. Joe was "very convinced, but not very convincing," recalled Greg Thielmann, then director of strategic, proliferation and military affairs in the Bureau of Intelligence and Research.

By year's end, Energy Department analysts published a classified report that even more firmly rejected the theory that the tubes could work as rotors in a 1950's Zippe centrifuge. These particular Zippe centrifuges, they noted, were especially ill suited for bomb making. The machines were a prototype designed for laboratory experiments and mean to be operated as single units. To produce enough enriched uranium to make just one bomb a year, Iraq would need up to 16,000 of them working in concert, a challenge for even the most sophisticated centrifuge plants.

Iraq had never made more than dozen centrifuge prototypes. Half failed when rotors broke. Of the rest, one actually worked to enrich uranium, Dr. Mahdi Obeidi, who once ran Iraq's centrifuge program, said in an interview last week.

The Energy Department team concluded it was "unlikely that anyone" could build a centrifuge site capable of producing significant amounts of enriched uranium "based on these tubes." One analyst summed it up this way: the tubes were so poorly suited for centrifuges, he told Senate investigators, that if Iraq truly wanted to use them this way, "we should just give them the tubes."

ENTER CHENEY

In the months after Sept. 11, 2001, as the Bush administration devised a strategy to fight Al Qaeda, Vice President Cheney immersed himself in the world of top-secret threat assessments. Bob Woodward, in his book " Plan of Attack," described Mr. Cheney as the administration's new "self-appointed special examiner of worst-case scenarios," and it was a role that fit.

Mr. Cheney had grappled with national security threats for three decades, first as President Gerald R. Ford's chief of staff, later as secretary of defense for the first President Bush. He was on intimate terms with the intelligence community, 15 spy agencies that frequently feuded over the significance of raw intelligence. He knew well their record of getting it wrong (the Bay of Pigs) and underestimating threats (Mr. Hussein's pre-1991 nuclear program) and failing to connect the dots (Sept. 11).

As a result, the vice president was not simply a passive recipient of intelligence analysis. He was known as a man who asked hard, skeptical questions, a man who paid attention to detail. "In my office I have a picture of John Adams, the first vice president," Mr Cheney said in one of his first speeches as vice president. "Adams like to say, 'The facts are stubborn things.' Whatever the issue, we are going to deal with facts and show a decent regard for other points of view."

With the Taliban routed in Afghanistan after Sept. 11, Mr. Cheney and his aides began to focus on intelligence assessments of Saddam Hussein. Mr. Cheney had long argued for more forceful action to topple Mr. Hussein. But in January 2002, according to Mr. Woodward's book, the C.I.A. told Mr. Cheney that Mr. Hussein could not be removed with covert action alone. His ouster, the agency said, would take an invasion, which would require persuading the public that Iraq posted a threat to the United States.

The evidence for that case was buried in classified intelligence files. Mr. Cheney and his aides began to meet repeatedly with analysts who specialized in Iraq and unconventional weapons. They wanted to know about any Iraqi ties to Al Qaeda and Baghdad's ability to make unconventional weapons.

"There's no question they had a point of view, but there was no attempt to get us to hew to a particular point of view ourselves, or to come to a certain conclusion," the deputy director of analysis at Winpac told the Senate Intelligence Committee. "It was trying to figure out, why do we come to this conclusion, what was the evidence. A lot of questions were asked, probing questions."

Of all the worst-case possibilities, the most terrifying was the idea that Mr. Hussein might slip a nuclear weapon to terrorists, and Mr. Cheney and his staff zeroed in on Mr. Hussein's nuclear ambitions.

Mr. Cheney, for example, read a Feb. 12, 2002, report from the Defense Intelligence Agency about Iraq's reported attempts to buy 500 tons of yellowcake, a uranium concentrate, from Niger, according to the Senate Intelligence Committee report. Many American intelligence analysts did not put much stock in the Niger report. Mr. Cheney pressed for more information.

At the same time, a senor intelligence official said, the agency was fielding repeated requests from Mr. Cheney's office for intelligence about the tubes, including updates on Iraq's continuing efforts to procure thousands more after the seizure in Jordan.

"Remember," Dr. David A. Kay, the chief American arms inspector after the war, said in an interview, "the tubes were the only piece of physical evidence about the Iraqi weapons programs that they had."

In March 2002, Mr. Cheney traveled to Europe and the Middle East to build support for a confrontation with Iraq. It is not known whether he mentioned Niger or the tubes in his meetings. But on his return, he made it clear that he had repeatedly discussed Mr. Hussein and the nuclear threat.

"He is actively pursuing nuclear weapons at this time," Mr. Cheney asserted on CNN.

At the time, the C.I.A. had not reached so firm a conclusion. But on March 12, the day Mr. Cheney landed in the Middle East, he and other senior administration officials had been sent two C.I.A. reports about the tubes. Each cited the tubes as evidence that "Iraq currently may be trying to reconstitute its gas centrifuge program."

Neither report, however, mentioned that leading centrifuge experts at the Energy Department strongly disagreed, according to Congressional officials who have read the reports.

WHAT WHITE HOUSE IS TOLD

As the Senate Intelligence Committee report made clear, the American intelligence community "is not a level playing field when it comes to the competition of ideas in intelligence analysis."

The C.I.A. has a distinct edge: "unique access to policy makers and unique control of intelligence reporting," the report found. The Presidential Daily Briefs, for example, are prepared and presented by agency analysts; the agency's director is the president's principal intelligence adviser. This allows agency analysts to control the presentation of information to policy makers "without having to explain dissenting views or defend their analysis from potential challenges," the committee's report said.

This problem, the report said, was "particularly evident" with the C.I.A.'s analysis of the tubes, when agency analysts "lost objectivity and in several cases took action that improperly excluded useful expertise from the intelligence debate." In interviews, Senate investigators said the agency's written assessments did a poor job of describing the debate over the intelligence.

From April 2001 to September 2002, the agency wrote at least 15 reports on the tubes. Many were sent only to high-level policy makers, including President Bush, and did not circulate to other intelligence agencies. None have been released, though some were described in the Senate's report.

Several senior C.I.A. officials insisted that those reports did describe at least in general terms the intelligence debate. "You don't go into all that detail but you do try to evince it when you write your current product," one agency official said.

But several Congressional and intelligence officials with access to the 15 assessments said not one of them informed senior policy makers of the Energy Department's dissent. They described a series of reports, some with ominous titles, that failed to convey either the existence or the substance of the intensifying debate.

Over and over, the reports restated Joe's main conclusions for the C.I.A.—that the tubes matched the 1950's Zippe centrifuge design and were built to specifications that "exceeded any known conventional weapons application." They did not state what Energy Department experts had noted—that many common industrial items, even aluminum cans, were made to specifications as good or better than the tubes sought by Iraq. Nor did the reports acknowledge a significant error in Joe's claim—that the tubes "matched" those used in a Zippe centrifuge.

The tubes sought by Iraq had a wall thickness of 3.3 millimeters. When Energy Department experts checked with Dr. Zippe, a step Joe did not take, they learned that the walls of Zippe tubes did not exceed 1.1 millimeters, a substantial difference.

"They never lay out the other case," one Congressional official said of those C.I.A. assessments.

The Senate report provides only a partial picture of the agency's communications with the White House. In an arrangement endorsed by both parties, the Intelligence Committee agreed to delay an examination of whether White House descriptions of Iraq's military capabilities were "substantiated by intelligence information." As a result, Senate investigators were not permitted to interview White House officials about what they knew of the tubes debate and when they knew it.

But in interviews, C.I.A. and administration officials disclosed that the dissenting views were repeatedly discussed in meetings and telephone calls.

One senior official at the agency said its "fundamental approach" was to tell policy makers about dissenting views. Another senior official acknowledged that some of their agency's reports "weren't as well caveated as, in retrospect, they should have been." But he added, "There was certainly nothing that was hidden."

Four agency officials insisted that Winpac analysts repeatedly explained the contrasting assessments during briefings with senior National Security Council officials who dealt with nuclear proliferation issues. "We think we were reasonably clear about this," a senior C.I.A. official said.

A senior administration official confirmed that Winpac was indeed candid about the differing views. The official, who recalled at least a half dozen C.I.A. briefings on tubes, said he knew by late 2001 that there were differing views on the tubes. "To the best of my knowledge, he never hid anything from me," the official said of his counterpart at Winpac.

This official said he also spoke to senior officials at the Department of Energy about the tubes, and a spokeswoman for the department said in a written statement that the agency "strongly conveyed its viewpoint to senior policy makers."

But if senior White House officials understood the department's main arguments against the tubes, they also took into account its caveats. "As for as I know," the senior administration official said, "D.O.E. never concluded that these tubes could not be used for centrifuges."

A REFEREE IS IGNORED

Over the summer of 2002, the White House secretly refined plans to invade Iraq and debated whether to seek more United Nations inspections. At the same time, in response to a White House request in May, C.I.A. officials were quietly working on a report that would lay out for the public declassified evidence of Iraq's reported unconventional weapons and ties to terror groups.

That same summer the tubes debate continued to rage. The primary antagonists were the C.I.A. and the Energy Department, with other intelligence agencies drawn in on either side.

Much of the strife centered on Joe. At first glance, he seem an unlikely target. He held a relatively junior position, and according to the C.I.A. he did not write the vast majority of the agency's reports on the tubes. He has never met Mr. Cheney. His one trip to the White House was to take his family on the public tour.

But he was, as one staff member on the Senate Intelligence Committee put it, "the ringleader" of a small group of Winpac analysts who were convinced that the tubes were destined for centrifuges. His views carried special force within the agency because he was the only Winpac analyst with experience operating uranium centrifuges. In meetings with other intelligence agencies, he often took the lead in arguing the technical basis for the agency's conclusions.

"Very few people have the technical knowledge to independently arrive at the conclusion he did," said Dr. Kay, the weapons inspector, when asked to explain Joe's influence.

Without identifying him, the Senate Intelligence Committee's report repeatedly questioned Joe's competence and integrity. It portrayed him so determined to prove his theory that he twisted test results, ignored factual discrepancies and excluded dissenting views.

The Senate report, for example, challenged his decision not to consult the Energy Department on tests designed to see if the tubes were strong enough for centrifuges. Asked why he did not seek their help, Joe told the committee: "Because we funded it. It was our testing. We were trying to prove some things that we wanted to prove with the testing." The Senate report singled out that comment for special criticism, saying, "The committee believes that such an effort should never have been intended to prove what the C.I.A. wanted to prove."

Joe's superiors strongly defend his work and say his words were taken out of context. They describe him as diligent and professional, an open-minded analyst willing to go the extra mile to test his theories. "Part of the job of being an analyst is to evaluate alternative hypotheses and possibilities, to build a case, think of alternatives," a senior agency official said. "That's what Joe did in this case. If he turned out to be wrong, that's not an offense. He was expected to be wrong occasionally."

Still, the bureaucratic infighting was by then so widely known that even the Australian government was aware of it. "U.S. agencies differ on whether aluminum tubes, a dual-use item sought by Iraq, were meant for gas centrifuges," Australia's intelligence services wrote in a July 2002 assessment. The same report said the tubes evidence was "patchy and inconclusive."

There was a mechanism, however, to resolve the dispute. It was called the Joint Atomic Energy Intelligence Committee, a secret body of experts drawn from across the federal government. For a half century, Jaeic (pronounced jake) has been called on to resolve disputes and give authoritative assessments about nuclear intelligence. The committee had specifically assessed the Iraqi nuclear threat in 1989, 1997 and 1999. An Energy Department expert was the committee's chairman in 2002, and some department officials say the C.I.A. opposed calling in Jaeic to mediate the tubes fight.

Not so, agency officials said. In July 2002, they insist, they were the first intelligence agency to seek Jaeic's intervention. "I personally was concerned about the extent of the community's disagreement on this and the fact that we weren't getting very far," a senior agency official recalled.

The committee held a formal session in early August to discuss the debate, with more than a dozen experts on both sides in attendance. A second meeting was scheduled for later in August but was postponed. A third meeting was set for early September; it never happened either.

"We were O.B.E.—overcome by events," an official involved in the proceedings recalled.

WHITE HOUSE MAKES A MOVE

"The case of Saddam Hussein, a sworn enemy of our country, requires a candid appraisal of the facts," Mr. Cheney said on Aug. 26, 2002, at the outset of an address to the Veterans of Foreign Wars national convention in Nashville.

Warning against "wishful thinking or willful blindness," Mr. Cheney used the speech to lay out a rationale for pre-emptive action against Iraq. Simply resuming United Nations inspections, he argued, could give "false comfort" that Mr. Hussein was contained.

"We now know Saddam has resumed his efforts to acquire nuclear weapons," he declared, words that quickly made headlines worldwide. "Many of us are convinced that Saddam will acquire nuclear weapons fairly soon. Just how soon, we cannot really gauge. Intelligence is an uncertain business, even in the best of circumstances."

But the world, Mr. Cheney warned, could ill afford to once again underestimate Iraq's progress.

"Armed with an arsenal of these weapons of terror, and seated atop 10 percent of the world's oil reserves, Saddam Hussein could then be expected to seek domination of the entire Middle East, take control of a great portion of the world's energy supplies, directly threaten America's friends throughout the region, and subject the United States or any other nation to nuclear blackmail."

A week later President Bush announced that he would ask Congress for authorization to oust Mr. Hussein. He also met that day with senior members of the House and Senate, some of whom expressed concern that the administration had yet to show the American people tangible evidence of an imminent threat. The fact that Mr. Hussein gassed his own people in the 1980's, they argued, was not sufficient evidence of a threat to the United States in 2002.

President Bush got the message. He directed Mr. Cheney to give the public and Congress a more complete picture of the latest intelligence on Iraq.

In his Nashville speech, Mr. Cheney had not mentioned the aluminum tubes or any other fresh intelligence when he said, "We now know that Saddam has resumed his efforts to acquire nuclear weapons." The one specific source he did cite was Hussein Kamel al-Majid, a son-in-law of Mr. Hussein's who defected in 1994 after running Iraq's chemical, biological and nuclear weapons programs. But Mr. Majid told American intelligence officials in 1995 that Iraq's nuclear program had been dismantled. What's more, Mr. Majid could not have had any insight into Mr. Hussein's current nuclear activities: he was assassinated in 1996 on his return to Iraq.

The day after President Bush announced he was seeking Congressional authorization, Mr. Cheney and Mr. Tenet, the director of central intelligence, traveled to Capitol Hill to brief the four top Congressional leaders. After the 90-minute session, J. Dennis Hastert, the House speaker, told Fox News that Mr. Cheney had provided new information about unconventional weapons, and Fox went on to report that one source said the new intelligence described "just how dangerously close Saddam Hussein has come to developing a nuclear bomb."

Tom Daschle, the South Dakota Democrat and Senate majority leader, was more cautious. "What has changed over the course of the last 10 years, that brings this country to the belief that it has to act in a pre-emptive fashion in invading Iraq?" he asked.

A few days later, on Sept. 8., the lead article on Page 1 of The New York Times gave the first detailed account of the aluminum tubes. The article cited unidentified senior administration officials who insisted that the dimensions, specifications and numbers of tubes sought showed that they were intended for a nuclear weapons program.

"The closer he gets to a nuclear capability, the more credible is his threat to use chemical and biological weapons," a senior administration official was quoted as saying. "Nuclear weapons are his hole card."

The article gave no hint of a debate over the tubes.

The White House did much to increase the impact of The Times' article. The morning it was published, Mr. Cheney went on the NBC News program "Meet the Press" and confirmed when asked that the tubes were the most alarming evidence behind the administration's view that Iraq had resumed its nuclear weapons program. The tubes, he said, had "raised our level of concern." Ms. Rice, the national security adviser, went on CNN and said the tubes "are only really suited for nuclear weapons programs."

Neither official mentioned that the nation's top nuclear design experts believed overwhelmingly that the tubes were poorly suited for centrifuges.

Mr. Cheney, who has a history of criticizing officials who disclose sensitive information, typically refuses to comment when asked about secret intelligence. Yet on this day, with a Gallup poll showing that 58 percent of Americans did not believe President Bush had done enough to explain why the United States should act against Iraq, Mr. Cheney spoke openly about one of the closest held secrets regarding Iraq. Not only did Mr. Cheney draw attention to the tubes; he did so with a certitude that could not be found in even the C.I.A.'s assessments. On "Meet the Press," Mr. Cheney said he knew "for sure" and "in fact" and "with absolute certainty" that Mr. Hussein was buying equipment to build a nuclear weapon.

"He has reconstituted his nuclear program," Mr. Cheney said flatly.

But in the C.I.A. reports, evidence "suggested" or "could mean" or "indicates"—a word used in a report issued just weeks earlier. Little if anything was asserted with absolute certainty. The intelligence community had not yet concluded that Iraq had indeed reconstituted its nuclear program.

"The vice president's public statements have reflected the evolving judgment of the intelligence community," Kevin Kellems, Mr. Cheney's spokesman, said in a written statement.

The C.I.A. routinely checks presidential speeches that draw on intelligence reports. This is how intelligence professionals pull politicians back from factual errors. One such opportunity came soon after Mr. Cheney's appearance on "Meet the Press." On Sept. 11, 2002, the White House asked the agency to clear for possible presidential use a passage on Iraq's nuclear program. The passage included this sentence: "Iraq has made several attempts to buy high-strength aluminum tubes used in centrifuges to enrich uranium for nuclear weapons."

The agency did not ask speechwriters to make clear that centrifuges were but one possible use, that intelligence experts were divided and that the tubes also matched those used in Iraqi rockets. In fact, according to the Senate's investigation, the agency suggested no changes at all.

The next day President Bush used virtually identical language when he cited the aluminum tubes in an address to the United Nations General Assembly.

DISSENT, BUT TO LITTLE EFFECT

The administration's talk of clandestine centrifuges, nuclear blackmail and mushroom clouds had a powerful political effect, particularly on senators who were facing fall election campaigns. "When you hear about nuclear weapons, this is the national security knock-out punch," said Senator Ron Wyden, a Democrat from Oregon who sits on the Intelligence Committee and ultimately voted against authorizing war.

Even so, it did not take long for questions to surface over the administration's claims about Mr. Hussein's nuclear capabilities. As it happened, Senator Dianne Feinstein, another Democratic member of the Intelligence Committee, had visited the International Atomic Energy Agency in Vienna in August 2002. Officials there, she later recalled, told her they saw no signs of a revived nuclear weapons program in Iraq.

At that point, the tubes debate was in its 16th month. Yet Mr. Tenet, of the C.I.A., the man most responsible for briefing President Bush on intelligence, told the committee that he was unaware until that September of the profound disagreement over critical evidence that Mr. Bush was citing to world leaders as justification for war.

Even now, committee members from both parties express baffled anger at this possibility. How could he not know? "I don't even understand it," Olympia Snowe, a Republican senator from Maine, said in an interview. "I cannot comprehend the failures in judgment or breakdowns in communication."

Mr. Tenet told Senate investigators that he did not expect to learn of dissenting opinions "until the issue gets joined" at the highest levels of the intelligence community. But if Mr. Tenet's lack of knowledge meant the president was given incomplete information about the tubes, there was still plenty of time for the White House to become fully informed.

Yet so far, Senate investigators say, they have found little evidence the White House tried to find out why so many experts disputed the C.I.A. tubes theory. If anything, administration officials minimized the divide.

On Sept. 13, The Times made the first public mention of the tubes debate in the sixth paragraph of an article on Page A13. In it an unidentified senior administration official dismissed the debate as a "footnote, not a split." Citing another unidentified administration official, the story reported that the "best technical experts and nuclear scientists at laboratories like Oak Ridge supported the C.I.A. assessments."

As a senior Oak Ridge official pointed out to the Intelligence Committee, "the vast majority of scientists and nuclear experts" in the Energy Department's laboratories in fact disagreed with the agency. But on Sept. 13, the day the article appeared, the Energy Department sent a directive forbidding employees from discussing the subject with reporters.

The Energy Department, in a written statement, said that it was "completely appropriate" to remind employees of the need to protect nuclear secrets and that it had made no effort "to quash dissent."

It closed hearings that month, Congress began to hear testimony about the debate. Several Democrats said in interviews that secrecy rules had prevented them from speaking out about the gap between the administration's view of the tubes and the more benign explanations described in classified testimony.

One senior C.I.A. official recalled cautioning members of Congress in a closed session not to speak publicly about the possibility that the tubes were for rockets. "If people start talking about that and the Iraqis see that people are saying rocket bodies, that will automatically become their explanation whenever anyone goes to Iraq," the official said in an interview.

So while administration officials spoke freely about the agency's theory, the evidence that best challenged this view remained almost entirely off limits for public debate.

In late September, the C.I.A. sent policymakers its most detailed report on the tubes. For the first time, an agency report acknowledged that "some in the intelligence community" believed rocket were "more likely end uses" for the tubes, according to officials who have seen the report.

Meanwhile, at the Energy Department, scientists were startled to find senior White House officials embracing a view of the tubes they considered thoroughly discredited. "I was really shocked in 2002 when I saw it was still there," Dr. Wood, the Oak Ridge adviser, said of the centrifuge claim. "I thought it had been put to bed."

Members of the Energy Department team took a highly unusual step: They began working quietly with a Washington arms-control group, the Institute for Science and International Security, to help the group inform the public about the debate, said one team member and the group's president, David Albright.

On Sept. 23, the institute issued the first in series of lengthy reports that repeated some of the Energy Department's arguments against the C.I.A. analysis, though no classified ones. Still, after more than 16 months of secret debate, it was the first public airing of facts that undermined the most alarming suggestions about Iraq's nuclear threat.

The reports got little attention, partly because reporters did not realize they had been done with the cooperation of top Energy Department experts. The Washington Post ran a brief article about the findings on Page A18. Many major newspapers, including The Times, ran nothing at all.

SCRAMBLING FOR AN "ESTIMATE"

Soon after Mr. Cheney's appearance on "Meet Press," Democratic senators began pressing for a new National Intelligence Estimate on Iraq, terrorism and unconventional weapons. A National Intelligence Estimate is a classified document that is supposed to reflect the combined judgment of the entire intelligence community. The last such estimate had been done in 2000.

Most estimates take months to complete. But this one had to be done in days, in time for an October vote on a war resolution. There was little time for review or reflection, and no time for Jaeic, the joint committee, to reconcile deep analytical differences.

This was a potentially thorny obstacle for those writing the nuclear section: What do you do when the nation's nuclear experts strongly doubt the linchpin evidence behind the C.I.A.'s claims that Iraq was rebuilding its nuclear weapons program?

The Energy Department helped solve the problem. In meetings on the estimate, senior department intelligence officials said that while they still did not believe the tubes were for centrifuges, they nonetheless could agree that Iraq was reconstituting its nuclear weapons capability.

Several senior scientists inside the department said they were stunned by that stance; they saw no compelling evidence of a revived nuclear program.

Some laboratory officials blamed time pressure and inexperience. Thomas S. Ryder, the department's representative at the meetings, had been acting director of the department's intelligence unit for only five months. "A heck of a nice guy but not savvy on technical issues," is the way one senior nuclear official described Mr. Ryder, who declined comment.

Mr. Ryder's position was more alarming than prior assessments from the Energy Department. In an August 2001 intelligence paper, department analysts warned of suspicious activities in Iraq that "could be preliminary steps" toward reviving a centrifuge program. In July 2002 an Energy Department report, "Nuclear Reconstitution Efforts Underway?", noted that several developments, including Iraq's suspected bid to buy yellowcake uranium from Niger, suggested Baghdad was "seeking to reconstitute" a nuclear weapons program.

According to intelligence officials who took part in the meetings, Mr. Ryder justified his department's now firm position on nuclear reconstitution in large part by citing the Niger reports. Many C.I.A. analysts considered that intelligence suspect, as did analysts at the State Department.

Nevertheless, the estimate's authors seized on the Energy Department's position to avoid the entire tubes debate, with written dissents relegated to a 10-page annex. The estimate would instead emphasize that the C.I.A. and the Energy Department both agreed that Mr. Hussein was rebuilding his nuclear weapons program. Only the closest reader would see that each agency was basing its assessment in large measure on evidence the other considered suspect.

On Oct. 2, nine days before the Senate vote on the war resolution, the new National Intelligence Estimate was delivered to the Intelligence Committee. The most significant change from past estimates dealt with nuclear weapons; the new one agreed with Mr. Cheney that Iraq was in aggressive pursuit of the atomic bomb.

Asked when Mr. Cheney became aware of the disagreements over the tubes, Mr. Kellems, his spokesman, said, "The vice president knew about the debate at about the time of the National Intelligence Estimated."

Today, the Intelligence Committee's report makes clear, that 93-page estimate stands as one of the most flawed documents in the history of American intelligence. The committee concluded unanimously that most of the major findings in the estimate were wrong, unfounded or overblown.

This was especially true of the nuclear section.

Estimates express their most important findings with high, moderate or low confidence levels. This one claimed "moderate confidence" on how fast Iraq could have a bomb, but "high confidence" that Baghdad was rebuilding its nuclear program. And the tubes were the leading and most detailed evidence cited in the body of the report.

According to the committee, the passages on the tubes, which adopted much of the C.I.A. analysis, were misleading and riddled with factual errors.

The estimate, for example, included a chart intended to show that the dimensions of the tubes closely matched a Zippe centrifuge. Yet the chart omitted the dimensions of Iraq's 81-millimeter rocket, which precisely matched the tubes.

The estimate cited Iraq's alleged willingness to pay top dollar for the tubes, up to $17.50 each, as evidence they were for secret centrifuges. But Defense Department rocket engineers told Senate investigators that 7075-T6 aluminum is "the material of choice for low-cost rocket systems."

The estimate also asserted that 7075-T6 tubes were "poor choices" for rockets. In fact, similar tubes were used in rockets from several countries, including the United States, and in an Italian rocket, the Medusa, which Iraq had copied.

Beyond tubes, the estimate cited several other "key judgments" that supported its assessment. The committee found that intelligence just as flawed.

The estimate, for example, pointed to Iraq's purchases of magnets, balancing machines and machine tools, all of which could be used in a nuclear program. But each item also had legitimate non-nuclear uses, and there was no credible intelligence whatsoever showing they were for a nuclear program.

The estimate said Iraq's Atomic Energy Commission was building new production facilities for nuclear weapons. The Senate found that claim was based on a single operative's report, which described how the commission had constructed one headquarters building and planned " a new high-level polytechnic school."

Finally, the estimate stated that many nuclear scientists had been reassigned to the A.E.C. The Senate found nothing to back that conclusion. It did, though, discover a 2001 report in which a commission employee complained that Iraq's nuclear program "had been stalled since the gulf war."

Such "key judgments" are supposed to reflect the very best American intelligence. (The Niger intelligence, for example, was considered too shaky to be included as a key judgment.) Yet as they studied raw intelligence reports, those involved in the Senate investigation came to a sickening realization. "We kept looking at the intelligence and saying, 'My God, there's nothing here,'" one official recalled.

THE VOTE FOR WAR

Soon after the National Intelligence Estimate was completed, Mr. Bush delivered a speech in Cincinnati in which he described the "grave threat" that Iraq and its "arsenal of terror" posed to the United States. He dwelled longest on nuclear weapons, reviewing much of the evidence outlined in the estimate. The C.I.A. had warned him away from mentioning Niger.

"Facing clear evidence of peril," the president concluded, "we cannot wait for the final proof—the smoking gun—that could come in the form of a mushroom cloud."

Four days later, on Oct. 11, the Senate voted 77–23 to give Mr. Bush broad authority to invade Iraq. The resolution stated that Iraq posed "a continuing threat" to the United States by, among other things, "actively seeking a nuclear weapons capability."

Many Senators who voted for the resolution emphasized the nuclear threat.

"The great danger is a nuclear one," Senator Feinstein, the California Democrat, said on the Senate floor.

But Senator Bob Graham, then chairman of the Intelligence Committee, said he voted against the resolution in part because of doubts about the tubes. "It reinforced in my mind pre-existing questions I had about the unreliability of the intelligence community, especially the C.I.A.," Mr. Graham, a Florida Democrat, said in an interview.

At the Democratic convention in Boston this summer, Senator John Kerry pledged that should he be elected president, "I will ask hard questions and demand hard evidence." But in October 2002, when the Senate voted on Iraq, Mr. Kerry had not read the National Intelligence Estimate, but instead had relied on briefing from Mr. Tenet, a spokeswoman said. "According to the C.I.A.'s report, all U.S. intelligence experts agree that Iraq is seeking nuclear weapons," Mr. Kerry said then, explaining his vote. "There is little question that Saddam Hussein wants to develop nuclear weapons."

The report cited by Mr. Kerry, an unclassified white paper, said nothing about the tubes debate except that "some" analysts believed the tubes were "probably intended" for conventional arms.

"It is common knowledge that Congress does not have the same access as the executive branch," Brooke Anderson, a Kerry spokeswoman, said yesterday.

Mr. Kerry's running mate, Senator John Edwards, served on the Intelligence Committee, which gave him ample opportunity to ask hard questions. But in voting to authorize war, Mr. Edwards expressed no uncertainty about the principal evidence of Mr. Hussein's alleged nuclear program.

"We know that he is doing everything he can to build nuclear weapons," Mr. Edwards said then.

On Dec. 7, 2002, Iraq submitted a 12,200-page declaration about unconventional arms to the United Nations that made no mention of the tubes. Soon after, Winpac analysts at the C.I.A. assessed the declaration for President Bush. The analysts criticized Iraq for failing to acknowledge or explain why it sought tubes "we believe suitable for use in a gas centrifuge uranium effort." Nor, they said, did it "acknowledge efforts to procure uranium from Niger."

Neither Energy Department nor State Department intelligence experts were given a chance to review the Winpac assessment, prompting complaints that dissenting views were being withheld from policy makers.

"It is most disturbing that Winpac is essentially directing foreign policy in this matter," one Energy Department official wrote in an e-mail message. "There are some very strong points to be made in respect to Iraq's arrogant noncompliance with U.N. sanctions. However, when individuals attempt to convert those 'strong statements' into the 'knock-out' punch, the administration will ultimately look foolish—i.e., the tubes and Niger!"

THE U.N. INSPECTORS RETURN

For nearly two years Western intelligence analysts had been trying to divine from afar Iraq's plans for the tubes. At the end of 2002, with the resumption of United Nations arms inspectors, it became possible to seek answers inside Iraq. Inspectors from the International Atomic Energy Agency immediately zeroed in on the tubes.

The team quickly arranged a field trip to the Nasser metal fabrication factory, where they found 13,000 completed rockets, all produced from 7075-T6 aluminum tubes. The Iraqi rocket engineers explained that they had been shopping for more tubes because their supply was running low.

Why order tubes with such tight tolerances? An Iraqi engineer said they wanted to improve the rocket's accuracy without making major design changes. Design documents and procurement records confirmed his account.

The inspectors solved another mystery. The tubes intercepted in Jordan had been anodized, given a protective coating. The Iraqis had a simple explanation: they wanted the new tubes protected from the elements. Sure enough, the inspectors found that many thousands of the older tubes, which had no special coating, were corroded because they had been stored outside.

The inspectors found no trace of a clandestine centrifuge program. On Jan. 10, 2003, The Times reported that the international agency was challenging "the key piece of evidence" behind "the primary rationale for going to war." The article, on Page A10, also reported that officials at the Energy Department and State Department had suggested the tubes might be for rockets.

The C.I.A. theory was in trouble, and senior members of the Bush administration seemed to know it.

Also that January, White House officials who were helping to draft what would become Secretary Powell's speech to the Security Council sent word to the intelligence community that they believed "the nuclear case was weak," the Senate report said. In an interview, a senior administration official said it was widely understood all along at the White House that the evidence of a nuclear threat was piecemeal and weaker than that for other unconventional arms.

But rather than withdraw the nuclear card—a step that could have undermined United States credibility just as tens of thousands of troops were being airlifted to the region—the White House cast about for new arguments and evidence to support it.

Gen. Richard B. Myers, chairman of the Joint Chiefs of Staff, asked the intelligence agencies for more evidence beyond the tubes to bolster the nuclear case. Winpac analysts redoubled efforts to prove that Iraq was trying to acquire uranium from Africa. When rocket engineers at the Defense Department were approached by the C.I.A. and asked to compare the Iraqi tubes with American ones, the engineers said the tubes "were perfectly usable for rockets." The agency analysts did not appear pleased. One rocket engineer complained to Senate investigators that the analysts had "an agenda" and were trying "to bias us" into agreeing that the Iraqi tubes were not fit for rockets. In interviews, agency officials denied any such effort.

According to the Intelligence Committee report, the agency also sought to undermine the I.A.E.A.'s work with secret intelligence assessments distributed only to senior policy makers. Nonetheless, on Jan. 22, in a meeting first reported by The Washington Post, the ubiquitous Joe flew to Vienna in a last-ditch attempt to bring the international experts around to his point of view.

The session was a disaster.

"Everybody was embarrassed when he came and made this presentation, embarrassed and disgusted," one participant said. "We were going insane, thinking, 'Where is he coming from?'"

On Jan. 27, the international agency rendered its judgment: it told the Security Council that it had found no evidence of a revived nuclear weapons program in Iraq. "From our analysis to date," the agency reported, "it appears that the aluminum tubes would be consistent with the purpose stated by Iraq and, unless modified, would not be suitable for manufacturing centrifuges."

THE POWELL PRESENTATION

The next night, during his State of the Union address, President Bush cited I.A.E.A. findings from years past that confirmed that Mr. Hussein had had an "advanced" nuclear weapons program in the 1990's. He did not mention the agency's finding from the day before.

He did, though, repeat the claim that Mr. Hussein was trying to buy tubes "suitable for nuclear weapons production." Mr. Bush also cited British intelligence that Mr. Hussein had recently sought "significant quantities" of uranium from Africa—a reference in 16 words that the White House later said should have been stricken, though the British government now insists the information was credible.

"Saddam Hussein," Mr. Bush said that night, "has not credibly explained these activities. He clearly has much to hide. The dictator of Iraq is not disarming."

A senior administration official involved in vetting the address said Mr. Bush did not cite the I.A.E.A. conclusion of Jan. 27 because the White House believed the agency was analyzing old Iraqi tubes, not the newer ones seized in Jordan. But senior officials in Vienna and Washington said the international group's analysis covered both types of tubes.

The senior administration official also said the President's words were carefully chosen to reflect the doubts at the Energy Department. The crucial phrase was "suitable for nuclear weapons production." The phrase stopped short of asserting that the tubes were actually being used in centrifuges. And it was accurate in the sense that Energy Department officials always left open the possibility that the tubes could be modified for use in a centrifuge.

"There were differences," the official said, "and we had to address those differences."

In his address, the President announced that Mr. Powell would go before the Security Council on Feb. 5 and lay out the intelligence on Iraq's weapons programs. The purpose was to win international backing for an invasion, and so the administration spent weeks drafting and redrafting the presentation, with heavy input from the C.I.A., the National Security Council and I. Lewis Libby, Mr. Cheney's chief of staff.

The Intelligence Committee said some drafts prepared for Mr. Powell contained language on the tubes that was patently incorrect. The C.I.A.wanted Mr. Powell to say, for example, that Iraq's specifications for roundness were so exacting "that the tubes would be rejected as defective if I rolled one under my hand on this table, because the mere pressure of my hand would deform it."

Initelligence analyst at the State Department waged a quiet battle against much of the proposed language on tubes. A year before, they had sent Mr. Powell a report explaining why they believed the tubes were more likely for rockets. The National Intelligence Estimate included their dissent—that they saw no compelling evidence of a comprehensive effort to revive a nuclear weapons program. Now, in the days before the Security Council speech, they sent the secretary detailed memos warning him away from a long list of assertions in the drafts, the intelligence committee found. The language on the tubes, they said, contained "egregious errors" and "highly misleading" claims. Changes were made, language softened. The line about "the mere pressure of my hand" was removed.

"My colleagues," Mr. Powell assured the Security Council, "every statement I make today is backed up by sources, solid sources. These are not assertions."

He made his way to the subject of Mr. Hussein's current nuclear capabilities.

"By now," he said, "just about everyone has heard of these tubes, and we all know there are differences of opinion. There is controversy about what these tubes are for. Most U.S. experts think they are intended to serve as rotors in centrifuges used to enrich uranium. Other experts and the Iraqis themselves argue that they are really to produce the rocket bodies for a conventional weapon, a multiple rocket launcher."

But Mr. Powell did not acknowledge that those "other experts" included many of the nation's most authoritative nuclear experts, some of whom said in interviews that they were offended to find themselves now lumped in with a reviled government.

In making the case that the tubes were for centrifuges, Mr. Powell made claims that his own intelligence experts had told him were not accurate. Mr. Powell, for example, asserted to the Security Council that the tubes were manufactured to a tolerance "that far exceeds U.S. requirements for comparable rockets."

Yet in a memo written two days earlier, Mr. Powell's intelligence experts had specifically cautioned him about those very same words. "In fact," they explained, "the most comparable U.S. system is a tactical rocket—the U.S. Mark 66 air-launched 70-millimeter rocket—that uses the same, high-grade (7075–T6) aluminum, and that has specifications with similar tolerances."

In the end, Mr. Powell put his personal prestige and reputation behind the C.I.A.'s tube theory.

"When we came to the aluminum tubes," Richard A. Boucher, the State Department spokesman, said in an interview, "the secretary listened to the discussion of the various views among intelligence agencies, and reflected those issues in his presentation. Since his task at the U.N. was to present the views of the United States, he went with the overall judgment of the intelligence community as reflected by the director of central intelligence."

As Mr. Powell summed it up for the United Nations, "People will continue to debate this issue, but there is no doubt in my mind these illicit procurement efforts show that Saddam Hussein is very much focused on putting in place the key missing piece from his nuclear weapons program: the ability to produce fissile material."

Six weeks later, the war began.

Mr. BYRD. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I have enormous respect for the Senator from West Virginia, for his years of experience and his dedication to the Constitution and his ability to protect the rightful prerogatives of this body. I do, however, disagree with him, respectfully, on the contents of his amendment.

I note, as I said this morning, the limitations in Senator BYRD's amendment would inhibit the ability of the national intelligence director to move people and money around to counter the threats facing our country. That is a major reform that has been recommended not only by the 9/11 Commission but by the witnesses before our committee and is a major reform supported by the administration.

Senator BYRD argues that the transfer authorities in the underlying bill cede too much power to the executive branch. But, in fact, the DCI currently has transfer authorities.

This is not a novel concept. We give the NID more transfer authority than the DCI currently has, but we are not taking power from Congress in any way because our bill does not change the existing process through which transfers must be approved by the appropriate congressional committees.

Mr. President, I will have more to say on Senator BYRD's amendment later.

AMENDMENT NO. 3950 TO AMENDMENT NO. 3705

Mr. President, at this point, I would like to take the opportunity to clear a pending amendment, so I ask unanimous consent that the pending amendment be set aside, and I send to the desk a second-degree amendment to the Collins-Carper-Lieberman-Coleman amendment No. 3705.

The PRESIDING OFFICER. Is there objection to the Senator's request?

Without objection, it is so ordered. The pending amendment is set aside.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself and Mr. LIEBERMAN, proposes an amendment numbered 3950 to amendment No. 3705.

Ms. COLLINS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To make certain technical amendments)

On page 5, after line 2, insert the following:

(7) Grant programs under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121–5206).

On page 10, line 17, strike the semicolon and all that follows through page 11, line 7, and insert a period.

On page 12, line 5, strike "(5)" and insert "(6)".

On page 12, lines 17 through 20, strike "technical assistance provided by any Federal agency to States and local governments to conduct threat analyses and vulnerability assessments" and insert "technical assistance provided by any Federal agency to States and local governments regarding homeland security matters".

On page 18, line 9, insert "secure" after "for".

On page 23, line 18, insert "on the basis of terrorist threat" after "grant".

On page 25, line 24, insert "on the basis of terrorist threat" after "distribute".

Ms. COLLINS. Mr. President, this second-degree amendment addresses several relatively minor concerns raised by some of the Members of this body and the Department of Homeland Security about the underlying amendment. I know of no objection to the second-degree amendment. The changes it would make do not in any way affect the funding formula of the underlying amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am pleased to rise in support of this amendment. It builds on some extraordinary work done by the bipartisan membership of the Governmental Affairs Committee on a separate bill before we were assigned responsibility for this intelligence reform months ago in which the chairman and Senator CARPER played leading roles. I give them both great credit.

There is nothing more difficult than funding formulas around this place, for understandable reasons. I think this amendment strikes the right balance in the distribution of homeland security grant funds. The balance is to make certain we apply the dollars across our country in a way that protects us against the enemy we face, the terrorist enemy we face that is ruthless and unpredictable. To some extent, we think we understand them. The probabilities are they will strike more at large cities and visible and symbolic targets, but the reality is we cannot have our focus on what this enemy will do to us or aspire to do to us, be limited to the dreadful and tragic experience of September 11 in which they hit visible symbols of America's greatness because this same terrorist ilk has struck throughout the world at other kinds of targets that are not so visible, at buses with innocents on them, and other means of transportation, at gatherings of people in Iraq adjacent to places where Iraqis are lining up to apply to become security officers.

So that is the balance we are trying to strike which is to give special attention to the larger cities that are more likely to be targets but to understand that in a way that we have never experienced in our history before, all of America is potentially a target because these people do not ever play by anybody's rules of warfare. They strike at the most vulnerable targets. That means they could strike anywhere.

The Governmental Affairs Committee spent many months working on this compromise legislation. The amendment incorporates the text of that Governmental Affairs legislation, unanimously approved, to help streamline our funding for first responders around America. It ensures that a very significant part of the homeland security funding will be determined on the basis of the risks and threats that particular communities face, which moves us substantially in the direction that the 9/11 Commission recommended.

At the same time, this amendment will guarantee that each State, and therefore the localities under the State, continues to receive a minimum amount of funding to build up essential capabilities to both prevent and respond to a potential terrorist attack.

So I am pleased this amendment appears to be acceptable on both sides. I join in urging its adoption.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, as the Senator from Connecticut has indicated, the underlying amendment would implement the Homeland Security Grant Enhancement Act. This legislation is the product of three hearings and 2 years of negotiation on the Governmental Affairs Committee. It was approved by a unanimous vote, and it currently has 29 cosponsors.

It is supported by Senators from big States, such as Michigan and Ohio, and small States, such as Maine and Delaware. The widespread support in the Senate demonstrates that the amendment takes a balanced approach to homeland security funding. It recognizes that a threat-based funding formula is a critical aspect, but it also preserves and recognizes the fact that first responders in every State stand on the front lines of securing the homeland.

I am constantly reminded that two of the hijackers on 9/11 began their journey of death and destruction from Portland, ME. So small States are not immune from being used as staging grounds for terrorist attacks.

I think we have come up with a carefully balanced formula that will help make our Nation safer. Secretary Ridge frequently reminds us that homeland security starts with hometown security. Our legislation recognizes that as well.

I note that the legislation is supported by a wide variety of organizations, including the National Governors Association, the National Council of State Legislatures, the Council of State Governments, the National Association of Counties, the National League of Cities, Advocates for EMS, the International City/County Management Association, the Fraternal Order of Police, and the Fire Chiefs Association.

I know the Presiding Officer is very familiar with this issue in his capacity as the distinguished chairman of the Homeland Security Appropriations Subcommittee, and we have enjoyed working closely with him and his staff as well.

I want to mention one aspect of the underlying bill; that is, it would provide greater flexibility in the use of homeland security funds so we can ensure that if a State needs to have more training as opposed to buying more equipment, there is more flexibility for the use of those funds in a flexible manner via a waiver from the Secretary of Homeland Security.

This was a particular concern to the Senator from Missouri, Mr. TALENT. I know having that flexibility will enable our first responders, whether they live in Maine, Missouri, or Mississippi, to be better prepared.

Mr. President, I know of no further requests for debate on the second-degree amendment nor on the underlying amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the second-degree amendment No. 3950.

The amendment (No. 3950) was agreed to.

Ms. COLLINS. I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LEAHY. Mr. President, I am pleased that the Senate today will accept a bipartisan amendment, No. 3705, to the National Intelligence Reform Act of 2004, S. 2845, offered by Senator COLLINS, for myself and eight other cosponsors, that will revise the formula for the allocation of State and local homeland security grant funding.

Homeland security is a national responsibility shared by all States, regardless of size. Each State has basic terrorism preparedness needs and, therefore, a minimum amount of domestic terrorism preparedness funds is necessary for each State. Our first responders in each and every State are on the front lines in defending against and preparing for terrorist attacks. We need to ensure that they receive the funding they need to prepare for and respond to such attacks.

Recognizing that every State and community should have helped to meet those needs, I authored a minimum formula for State and local basic formula grants to emergency responders that are distributed to States by the Department of Homeland Security Office of State and Local Government Coordination and Preparedness. That formula guarantees that each State—regardless of size—receives at least 0.75 percent of the national allotment to help meet their national domestic security needs.

Congress continues to recognize that every State and community—rural or urban, small or large—has basic domestic security needs and merits the Federal help to meet those needs. Both the Senate and House Homeland Security appropriations bills for Fiscal Year 2005 keep the all-State minimum formula for first responder grants that are distributed to the States.

Representatives and officials from urban States and cities have argued that Federal money to fight terrorism is sent to areas that do not need it and it is "wasted" in small towns. However, Congress has shown that it recognizes these highly populated, highly threatened and highly vulnerable areas have terrorism preparedness needs beyond those basic needs for each State. That is why we in the Senate last month included $1.2 billion for discretionary grants to high-threat urban areas for the coming fiscal year. The House-passed Homeland Security appropriations bill included $1 billion for the Urban Areas Security Initiative.

Not all those who are leaders in urban areas believe that every cent of State and local homeland security funding should go solely to first responders in our cities. I recall this past August, former New York City Mayor Rudy Giuliani brought a warning to emergency first responders in my home State of Vermont that should serve as a notice to all Americans. He said there was no doubt in his mind that another serious attack on the United States would be attempted, and he said it could just as easily be small town America rather than another large city.

"The risk of another attack is a very great one. . . . The biggest city and the smallest towns, both had to be prepared," he was quoted by The Rutland Herald. While in Vermont, Mr. Giuliani publicly lauded the value of the work that first responders in small local communities do day after day. I join him in that praise.

I remind my colleagues that the town of Shanksville, PA, where the fourth hijacked airliner, United flight 93, crashed on September 11, 2001, is a tiny town of 245 residents with only one fire truck in a small fire station. On that day, Shanksville's police officers, fire fighters, and EMS officers who raced to the crash site of flight 93 were on the front lines of terrorism response. It is a threat we cannot always predict but one that we must always try to be prepared to meet.

Officials in the current administration hold the same view. In an interview published in the 2004 edition of The Year in Homeland Security, the Director of the Office for Domestic Preparedness, Sue Mencer, stated the following: . . . " there should be some base level funding to each state and territory regardless of size or population density. There are infrastructures everywhere, although they may not be so dramatic as a Brooklyn Bridge or Golden Gate. There are critical underground pipelines, highways, bridges that we don't think of automatically but still need to be protected."

Critics of the all-State minimum seem to forget that since the September 11, 2001, terrorist attacks, we have asked all-State and local first responders to defend us as never before on the front lines in the war against terrorism. Emergency responders in a rural State have the same responsibilities as those in any urban State to provide enhanced protection, preparedness and response against terrorists.

Fostering divisions between States ignores the real problem: We should be looking to increase the funds to our Nation's first responders. The Hart-Rudman report on domestic preparedness argues that the U.S. will fall approximately $98.4 billion short of meeting critical emergency responder needs over the next 5 years if current funding levels are maintained. Clearly, the domestic preparedness funds available are still not enough to protect from, prepare for, and respond to future domestic terrorist attacks anywhere on American soil.

I am proud to join Senator COLLINS and my eight colleagues in cosponsoring her bipartisan amendment to revise the formula for the allocation of State and local homeland security grant funding. This amendment maintains the 0.75 percent minimum that each State currently receives under the USA PATRIOT Act to help ensure that every State can respond to its preparedness needs, but it also clarifies and recognizes the fact that some States indeed have high-threat areas. I will continue to oppose any efforts to reduce adequate support and resources for our police, fire, and EMS services in each State and community as they continue to protect us from terrorists or respond to terrorist attacks, as well as carry out their other preparedness responsibilities. We should adequately meet the needs of all of our dedicated first responders and resist efforts that would pit them against each other.

We must continue our efforts to ensure the readiness of our States and communities. Should the United States experience terrorist attacks like those we endured over 3 years ago, I want to make sure that each police officer, firefighter, or rescue worker who responds to those attacks has the best training and equipment available to get the job done. I applaud all the hard work of all our State and local emergency first responders who not only continue to carry out the day-to-day responsibilities they have always had, but also find themselves serving on the front lines in the war on terrorism.

AMENDMENT NO. 3705, AS AMENDED

Ms. COLLINS. Mr. President, I know of no further debate on the underlying amendment, the Collins-Carper-Lieberman-Coleman amendment No. 3705.

The PRESIDING OFFICER. The question is on agreeing to the amendment No. 3705, as amended.

The amendment (No. 3705), as amended, was agreed to.

The PRESIDING OFFICER. If there is no objection, the motion to table is laid on the table.

Mr. LIEBERMAN. I thank the Chair.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I note the Senator from North Dakota is on his feet. I wonder if the Senator could inform us whether he is seeking recognition to talk about the bill or offer an amendment or morning business.

Mr. DORGAN. Mr. President, I seek recognition to speak about the bill and about Senator BYRD's amendment and generally about the subject the Senate is considering.

The PRESIDING OFFICER (Mr. THOMAS). The Senator from North Dakota.

AMENDMENT NO. 3845

Mr. DORGAN. Mr. President, let me say that the Senator from West Virginia has done a great service today by pointing out that there is a substantial difference between flexibility and accountability. I cosponsored the amendment offered by Senator BYRD, not because I want less flexibility but because I demand and expect that we should have accountability in terms of how money is spent by the Federal Government, especially in these areas.

I don't think there is one instance in which the administration would argue they have not been given the flexibility to move funding from one account to another in order to accomplish their specific goals and purposes in defeating terrorism. The Congress has been extraordinarily generous in working with the administration in every conceivable way to move money around to areas where they need that money with which to fight terrorism.

Senator BYRD, in his amendment, indicates that he thinks we should continue to have some accountability. Under the pending bill, the Treasury Secretary is authorized to create appropriations accounts, to which the national intelligence director then can transfer funds, and there are really no limits on how those funds would be used at this point.

Let me give a short description of some of the angst I have about this when you just provide funding and say: Katey, bar the door, do what you want, and don't worry about how we feel about it.

This is a tiny little issue, but there is a small area down in the Treasury Department called the Office of Foreign Asset Control, OFAC. Its purpose is to track money that goes to fund and support terrorist organizations so we can shut down that funding. That is the purpose of OFAC. I found that OFAC has 21 people tracking American tourists traveling to Cuba. These are American citizens who are suspected of trying to take a vacation in Cuba. We have 21 people in an agency designed to try to interrupt the flow of money to terrorists who are now spending their time trying to shut down travel by the American people to Cuba.

I will give you an example. A young woman named Joni Scott went to Cuba. She didn't have a license to go there. She went there to distribute free Bibles on the streets of Havana and other Cuban cities. She is a devoutly religious young woman. I have met with her. She went to Cuba to distribute free Bibles. OFAC tracked her down and slapped her with a $10,000 fine because she didn't have a general license to go to Cuba.

And there is Joan Slote, a 76-year-old grandmother who likes to ride bicycles, who signed up with a Canadian company for a bicycle tour of Cuba. She happens to be a senior Olympian who rides bicycles in the Senior Olympics. They tracked her down and slapped a $10,000 fine on her. It was later reduced, but they decided they were going to try to attach her Social Security check because she did not pay her fine on time. That was because she had been in Europe. She rushed back home when her son had a brain tumor and was dying, went to her son's bedside, and was not at home to get her mail. What was her transgression? She was an American who decided to ride a bike in Cuba.

My point is this: This is a rather small agency, OFAC. And when Paul O'Neill was the Secretary of the Treasury, I asked him at a hearing, because I was the chair of the appropriations subcommittee—I said: Mr. Secretary, wouldn't you really prefer to use all of those assets at OFAC to track terrorists? He didn't answer for three or four times. Finally, about the fifth time, he said: Of course.

If I had my choice, that would be the most productive thing. We now discover that more and more of those people at OFAC are being used to track Americans who travel to Cuba. I don't understand that. But it goes to the point that Senator BYRD has made. Should we have some accountability? When we decide to take the taxpayers' money and appropriate that money, should we have some accountability with respect to how the money is spent? This isn't about Republicans or Democrats, conservatives or liberals; it is about accountability.

My colleague from West Virginia, a unique, extraordinary Senator, often pulls from his pocket that well-worn and underlined copy of the Constitution and he asks whether the Senate is carrying out its responsibility. Because after all, this is a Government with several branches. We want to work together. We certainly all want to fight terrorism. There is no question about that. We are willing to appropriate the funds with which to combat terrorism, but we are not all willing to say: By the way, here is the check, spend it the way you want. Congress needs to be involved.

This is not about turf. This amendment described today by Senator BYRD is a bipartisan amendment. But it is not about turf. It is about Republicans and Democrats together who have joined to take a look at this issue and say: In this circumstance, we believe there ought to be some fundamental accountability.

Mr. LIEBERMAN. Mr. President, would the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. LIEBERMAN. I appreciate what the Senator said. I must say that Senator COLLINS and I in crafting the underlying bill were very careful to make sure we did not diminish the accountability the national intelligence director will have to the internal executive branch budget procedures or to Congress. There is a movement of authority here. The movement of authority is from the Department of Defense to the national intelligence director. The Byrd amendment would eliminate that, would force the money to go back to the Department of Defense.

I want to assure the Senator that internally the limits of transfer authority in our bill are quite clear. The national intelligence director has to get approval from the Office of Management and Budget.

More to the point, on congressional oversight, our legislation doesn't alter today's balance between the executive and legislative branch at all. For example, on page 28, paragraph (4) of the bill:

> Any transfer of funds under this subsection shall be carried out in accordance with existing procedures applicable to reprogramming notifications for appropriate congressional committees.

Page 29, paragraph (5)(A):

> The National Intelligence Director shall promptly submit to appropriate committees of Congress a report on any transfer of personnel . . .

And finally: "Any transfer of funds or personnel cannot exceed applicable ceilings established in law for such transfer" by that Congress.

So my question is why my friend from North Dakota thinks in any way this proposal, which does move budget authority from the Defense Department to the national intelligence director, alters the authority of Congress to hold these people accountable?

Mr. DORGAN. Mr. President, I cosponsored the amendment not because of what I think but because of what I know. Let me describe for the Senator from Connecticut a circumstance that I believe means less accountability for the Congress and a circumstance that puts the Congress in a position of having to act retroactively with respect to an action that is already taken which dramatically changes the prerogatives of Congress.

As I understand it, under the bill, the Secretary of the Treasury is authorized to create appropriations accounts to which the national intelligence director then can transfer funds. As I further understand it, the underlying bill includes no limits on how those funds can be used once they are transferred.

As I understand it, the intelligence director would be authorized to transfer about $3.5 billion from the defense budget, and that gives the director a substantial amount of transfer authority never contemplated by Congress. The circumstance is that Congress would have to take action only retroactively to transfers that are made by the national intelligence director, which means that director begins and works to expend funds by their own volition.

My colleague from Connecticut indicates that they must get approval from the Office of Management and Budget. I would point out, that is just the administration giving itself approval to do what it wants. That is not a check and balance of any type.

My point is this: Once these transfers are made into this account and from the account, the only action that would then be available to Congress is some retro-action to say that is not what we intended. That puts Congress in a circumstance that, in my judgment, is disadvantageous for the body in this Government that has the power of the purse.

I go back to this point, and this is a small point, but it is one that is instructive to me: If we do not tell those for whom we appropriate money how we want those funds to be spent, then, Katey, bar the door. Then you have a circumstance of the type I just described to my colleagues. I bet there is not one colleague in this Chamber who would stand up and say this young woman named Joni Scott should have been fined for going to Cuba to distribute free Bibles. I bet there is not one person in this Chamber who would stand up and say: I think we ought to fine a good Christian, a young woman who goes to Cuba and distributes free Bibles.

That is what the people in OFAC are doing. They are tracking people down, such as Joni Scott. That is not the intent, in my judgment. When we appropriate funding—and we are going to appropriate a lot of it—we are in every circumstance accommodating to the administration when it needs to move money for a good purpose, to combat terrorism. When we appropriate that money, we demand accountability. We expect and demand accountability. That is what the Byrd amendment provides.

It is not a radical amendment. First of all, it is bipartisan, and, second, it is just the most fundamental step that, in my judgment, we ought to take as a Congress because we, after all, are the ones who decide how much the American people pay in taxes, what do they have to provide for Government, and then we are the stewards of how that money is spent.

Without this amendment, we have lost control over the stream of this funding. That is why I was a cosponsor of the Byrd amendment, again a bipartisan amendment.

I think it is the right thing for us to do.

I must say to my colleague from Connecticut, I honestly do not think this amendment in any way undermines the Collins-Lieberman bill. I think, frankly, it will strengthen that bill and say to every Member of the House and Senate, Republicans and Democrats: We are going to do this in a way that requires accountability. What better message, in my judgment, than that message? So I actually think it strengthens the underlying bill.

Mr. LIEBERMAN. Mr. President, if I may respond.

Mr. DORGAN. I will be happy to yield for a question.

Mr. LIEBERMAN. Then I will be happy to yield back.

There is a misunderstanding, and I want to see if I can clarify it. There are three parts of the amendment offered by the Senator from West Virginia and others. Two have to do with transfers of personnel and money and whether they can be limited in-any way.

We believe it is not right for Congress to limit the authority—here I mean amounts of money or personnel of the nature of how long the national intelligence director, whom I have been calling the general we do not have now of our intelligence forces, can transfer personnel or money to fight the war on terrorism, to plug a gap that he sees existing in his ranks, to respond to a crisis that occurs somewhere in the world. That is the kind of flexibility we want to give him. That is subject to oversight, but that is a limitation on the power the national intelligence director has in our bill, recommended by the 9/11 Commission, supported by the families of those who died on 9/11.

That is one part. We can argue about that. But it is definitely a cut in the authority of the national intelligence director to help us wage war on terrorism.

Mr. DORGAN. Mr. President, if I can reclaim my time for a moment on that point because I think this is a fruitful discussion, the authority in the underlying bill given to the national intelligence director is extraordinary and above that which we provide in most other circumstances with respect to appropriations. The two Senators may well intend that. I expect they do intend that. Our only point is there has never been a circumstance, to my knowledge, where someone has come to us on an urgent basis saying, We need to plug this hole, we need to move funds, there has never been a circumstance in which the Congress says: No, you cannot do that. We have always said: Absolutely, let us work with you.

Mr. LIEBERMAN. Mr. President, I want to make clear again, there is an alteration of authority and accountability here but not between the executive branch and Congress. The alteration of authority and accountability is between agencies of the executive branch, between the Defense Department and the national intelligence director because, as has been said over and over and talk about accountability, we are spending, by most estimates—and I cannot say the exact number because it is classified—we spend over $40 billion a year on our intelligence agencies, and the 9/11 Commission and Members of this Congress know it and tell us there is no one in charge. What kind of accountability is that?

One of the main purposes of this bill is to put someone in charge, the national intelligence director, and to hold him accountable.

I want to repeat, there is nothing in this bill—there may be some alteration of authority that comes through in the congressional oversight reforms that are coming from Senator McCONNELL and Senator HARRY REID among different committees of the Congress, but all the review and approvals that Congress has for appropriations now will exist when this bill passes. But the national intelligence director will have more authority than the Director of Central Intelligence has today. It is true the Department of Defense, which currently, strangely, receives more than 80 percent of the intelligence budget and then funnels it out to the intelligence community, will lose some of that authority.

There is nothing in this bill—if you see it, bring it to us. Senator COLLINS and I will review it and see if we can alter it. That is not our intention. I want to say what bothers me about the amendment, apart from the transfer, is that it strikes a section in our bill which we thought was process, was routine, which simply says: If we are to give this national intelligence director some authority for the budget, we have to give the Treasury the authority to set up accounts for that person in the Treasury so he can spend it, but he has to spend it according to the appropriations of Congress. He has to spend subject to all the oversight, notification, and accountability of Congress.

I remain puzzled, and I do feel very strongly that this amendment will do serious damage to our proposal, unanimously adopted by the committee based on recommendations of the 9/11 Commission and strongly supported by the families of the victims of 9/11.

Mr. DORGAN. Mr. President, let me just say, first of all, you can delegate authority, but you cannot delegate responsibility. No one can delegate responsibility. We have certain responsibilities for the taxpayers' money. I must say the amendment that has been offered, in my judgment, conforms to the Constitution's understanding of what our responsibilities are.

We have a disagreement. I don't want that disagreement to undermine my comments about the work that Senator COLLINS and Senator LIEBERMAN have done. They have done a lot of work on this bill, perhaps more than anyone else in the Congress, with hearing after hearing after hearing. Very few of us not on that committee understand the hours and the work they put in on this product. I don't mean by cosponsoring this amendment to denigrate or undermine their work, I mean to improve on that work.

And let me just make this point: We have a very fundamental disagreement, the Senator from Connecticut and I, because he believes there is no new authority given to the national intelligence director. As I understand this, what happens is, the Treasury Secretary creates appropriations accounts, and he creates appropriations accounts to which the national intelligence director can then transfer funding.

I also understand under current circumstances, several billion dollars would be transferred to those accounts, and then at some point later, if the Congress determines the expenditures for which that sum of several billion dollars has been committed is not appropriate to what the Congress intended, Congress can then retroactively evaluate how to deal with that. I am saying I believe it puts us in a position, historically, that we are not in with respect to our role as appropriators.

I think the circumstances have always been that money is appropriated through an appropriations process, not through an authorization. The bill we have today is an authorization. I happen to believe this authorization bill should give some additional authority to a new person—in this case the national intelligence director—but I am going to speak for a moment, when we finish this discussion, about the stovepipes and my concerns about what is going on in intelligence generally and why we are in a position, I think, of some vulnerability based on what is not being done.

So I happen to think that it is useful to put someone in charge, but putting someone in charge does not mean that we ought to say to them, oh, by the way, here is a pot of money, move it around as you wish, let us know how you used it, and then we will take a look at it and see whether we evaluate that to have been appropriate use. That is not the way we do things in Congress.

Mr. LIEBERMAN. Will the Senator yield for a moment?

Mr. DORGAN. Of course, I would be happy to yield.

Mr. LIEBERMAN. I could not disagree more with the Senator's understanding of the language in the bill. If there is any basis to the Senator's understanding, we ought to sit together and see if we can fashion a change, because the intention, as I understand it—and perhaps the Senator from Maine may want to speak to this section—was to simply make clear that as we are giving budget authority, and we are giving authority to the NID, but we are holding him or her accountable—as we give that authority to the NID, an account has to be created in the Treasury where he can receive that money, which now goes to the Defense Department.

Our reading of this part of this amendment was that if the formation of these accounts for the national intelligence director at the Treasury is prohibited, then the money is going to go back to Defense again and they are going to undercut the new national intelligence director and go back to the stovepipes.

We have no intention to create pots of money that the NID will do whatever he wants with. Incidentally, any transfer of funds from within the intelligence community—and the budget of this agency itself is not going to be large; it is going to oversee a budget for agencies that is going to be large—will have to be made according to the normal procedures with notification to Congress. We have not altered that at all.

We have even said explicitly that the power—we want to create as much strength in this office as possible. The power in the Appropriations Committee each year to set certain ceilings on transfers remains untouched. We reaffirm it in our proposal.

So we have very different views of this part of the Byrd amendment, and if there is any basis for what the Senator from North Dakota is saying, we ought to sit down and figure out how to correct it because we just want to help this office to work. We do not want to give them any authority to hold billions of dollars of money without holding them accountable.

Mr. BYRD. Will the Senator yield?

Mr. DORGAN. I would be happy to yield to the Senator from West Virginia.

Mr. BYRD. Why not take more time? What is all the rush? Why not take time? That is all I am asking for is take time. The distinguished Senator has offered to sit down with the distinguished Senator from North Dakota. Why do we not take time and try to work this out? There are many other questions. That is what I am asking. Let us have more time. We are being forced to operate under the gun here and that does not lend itself to very wise legislation. That is what I am asking: How about more time? We might resolve several of these problems then.

Mr. LIEBERMAN. I say to the Senator from West Virginia——

Mr. DORGAN. I would be happy to yield for a response.

Mr. LIEBERMAN. I thank the Senator, and I will give it right back.

I say to the Senator from West Virginia most respectfully, we are here. We have been working on this bill in our committee since the end of July. We have listened to a lot of people in the committee. We have altered parts of it. Just last week in 5 days of consideration, several of our colleagues introduced amendments. We thought they would do damage to the bill but they had some merit. We reasoned with them. We came up with clarifications. Sometimes we accepted whole amendments.

Perhaps there is some lack of clarity in this particular part that we can resolve together, but on the overall question, I say to Senator BYRD, we do not have time. It is 3 years plus since these terrorists struck America and killed 3,000 of our innocents, men, women, children. Every form of citizen and noncitizen happened to be in the wrong place at the wrong time.

The PRESIDING OFFICER. The Senator from North Dakota has the floor.

Mr. DORGAN. Mr. President, let me reclaim my time.

Mr. LIEBERMAN. Well, I did not finish but he can take it over. I just want to say, we are under threat. This Capitol——

The PRESIDING OFFICER. The Senator yielded for the purpose of answering questions not for a debate.

Mr. LIEBERMAN. I thank the Chair.

Mr. DORGAN. In my judgment, the discussion we have just had is easily resolved. Either the Senator is providing much greater authority and therefore more flexibility at the expense of less accountability to the Congress or he is not. As I read this, I believe the amendment that has been offered by Senator BYRD, Senator STEVENS, Senator INOUYE, Senator WARNER, myself and others, a bipartisan amendment, does not in any way weaken the bill that came to the Senate floor on which the Senator has spent a lot of time. I think it, in fact, strengthens it. It strengthens the role of Congress and I think makes this a better bill.

So I understand the Senator believes that the way the Senator has created this underlying Collins-Lieberman bill does not provide less accountability for Congress. The Senator has described it as much better flexibility, and that flexibility, as I read this, comes at the expense of accountability for the Congress.

My only point is, all of us want exactly the same thing. We want this to work. If there is anybody in here who does not want this to work, they do not belong in this Chamber. We want this to work. Why do we want it to work? Because we know people want to murder innocent Americans. They want to commit acts of terror in this country and we need to stop them.

Now, how do we stop them? With good intelligence.

I cannot say how profoundly disappointed I am at the poor intelligence we have been given as a Congress in recent years. Somebody needs to answer to that. Somebody needs to be accountable for that. In part, that is what Senator LIEBERMAN and Senator COLLINS are trying to do with this legislation. That is why I commend them for their work.

Let me describe a continuing problem that we have with our law enforcement and intelligence communities in their efforts to prevent another terrorist attack.

On September 10, 2001, the day before 9/11, two messages apparently related to the 9/11 hijackings were intercepted by our Government, by the National Security Agency. The Arabic language messages said, "The match is about to begin" and "tomorrow is zero hour."

Those messages were not translated until the day after 9/11.

You would think that the FBI's translation capabilities would have been vastly improved in the intervening three years. Yet last week we learned that the Inspector General of the Department of Justice had issued a report, which found that three years later, the FBI has neglected to translate hundreds of thousands of hours of intercepted communications among suspected terrorists.

This is not about politics at all. There is no partisanship in this. The question is, Do the FBI, CIA, the NSA, and others do an effective job or do they not? Can we prevent acts of terrorism or can we not?

Let me read this, from the Inspector General's report: Three years after September 11, more than 120,000 hours of potentially valuable terrorism-related recordings have not yet been translated by the linguists at the FBI.

In fact, some recordings have been deleted from audio computer files, and FBI officials speaking on condition of anonymity said officials have had to go back to original al-Qaida recordings on some occasions to try to restore them, after realizing that copies had been deleted because of capacity problems.

The inspector general's report said the linguists might not have realized that material was deleted unless a case officer simply happened to notice it missing from the final transactions. The FBI had failed to institute necessary controls to prevent critical audio material from being automatically deleted.

After September 11, 2001, the FBI director said this:

> The FBI needed to change from an agency primarily focused on investigating crime to one whose primary focus is the prevention of future terrorist attacks.

The Inspector General says:

> Yet necessary system controls have not been established to prevent critical audio materials from being automatically deleted, such as protecting sessions of the highest priority on digital collection systems, active on-line storage until linguists review them.

This is the Inspector General, again. He says:

> The results of our tests showed that three of our FBI offices tested had al-Qaida sessions that potentially were deleted by the system before linguists had a chance to review them.

There is something wrong here. How can you have 120,000 hours of intercepted phone messages and all kinds of audio recordings—terrorists, al-Qaida recordings—that have never been listened to? Is there a recording in that 120,000 hours that sounds like the recording on September 10, 2001, a recording that says: "Tomorrow is the zero hour," and no one has listened to it? I don't know.

The American people understand, I think, that the capability of our intelligence system, the CIA, the FBI, and others, will determine whether we are successful in preventing another terrorist attack.

So it is disheartening when you see the same failures cited over and over, with little improvement.

Let's go back to August 2000, before this administration took over. In that month, we had a report of the National Commission on Terrorism—a report authorized by this Congress, issued by a commission chaired by Ambassador Paul Bremer. This was the same Paul Bremer who later went on to head the Coalition Provisional Authority in Iraq.

The Bremer commission, 4 years ago—this is before 9/11—had this to say:

> The FBI's ability to exploit the increasing volume of terrorism information has been hampered by aging technology.
>
> All U.S. Government agencies faced a chronic shortage of linguists to translate raw data into useful information. This shortage has a direct impact on our counterterrorism efforts.

Mr. Bremer said then, over 4 years ago, that what we need are additional linguists, we need to interpret the raw data, we need to be able to understand it, determine what it means for this country's safety.

Here we are 4 years later and we get an Inspector General's report that says there are 120,000 hours of potentially valuable terrorism-related recordings not even translated.

Indeed, the Inspector General of the Department of Justice concluded that one-third of terrorism-related audio recordings were not translated within 12 hours as mandated by the FBI rules. There are 123,000 hours in languages primarily related to counterterrorism—Arabic, Farsi, Urdu, Pashtun—that have not been translated; 370,000 hours of recordings in languages connecting to counterintelligence probes had not been deciphered by that time. That is nearly one-half million hours potential leads to terrorist plots, sitting there, uninterpreted.

We can pass legislation. We can have a debate about all these issues. But if agencies can't get their act together, can't do the job, don't even interpret the al-Qaida recordings to understand what is there, how on Earth are we going to protect this country?

The 9/11 Commission, incidentally, the Commission which has prompted this bill coming to the floor of the Senate, says the following:

The analysts for the 9/11 Commission

> . . . had difficulty getting access to the FBI and intelligence community information they were expected to analyze. The poor state of the FBI's information systems meant that such access depended in large part on an analyst's personal relationships with the individual in the operational units or squads where the information resided. For all of these reasons, prior to 9/11 relatively few strategic analytic reports about counterterrorism had been completed. Indeed, the FBI had never completed an assessment of the overall terrorist threats to the U.S. homeland.

And I continue to quote:

> The FBI did not have an effective intelligence collection effort. The FBI did not dedicate sufficient resources to the surveillance and translation needs of counterterrorism agents. It lacked sufficient translators proficient in Arabic and other key languages, resulting in a significant backlog of untranslated intercepts.

This from the 9/11 Commission. Following the release of this information from the 9/11 Commission, we now have the release of the Inspector General's report, which is absolutely stunning. It is astonishing to receive a report that, nearly 4 years after a recommendation was made by the Bremmer-Sonnenberg Commission, 3 years after we were attacked on 9/11, that we have 120,000 hours of recordings of intercepted information, a portion of which is from al-Qaida, and it has not yet been interpreted or translated. This is unbelievable.

I talked for a few moments about accountability. Where is the accountability here? Who is accountable for that? Who is responsible for that?

I want to make one other point, if I might. Again, I know I had a discussion with my colleague from Connecticut. My colleague from Maine is on the floor. I don't know whether she heard me, but I said I appreciated the work the two have done to bring this to the floor. Much of it has great merit, in my judgment. Much will be very protective of this country's interests and advances our interests in combating terrorism. I do support the amendment because I think that amendment will strengthen the bill. But let me say one other thing. The 9/11 report is a roadmap and we are using that roadmap in an attempt to construct some legislation here. Other roadmaps, for example, include this Inspector General's report of which we have just become aware. That ought to tell us something about where we are headed here. It is not good.

Let me mention one additional point. As we evaluate what yet needs to be done to protect this country, and discuss issues of transparency, there remain 28 pages of information up in the Intelligence Committee that should still be released. They are classified "top secret." Some in the Senate have read this material; all have the opportunity to read it. It comes from the December 2002 report of the Joint Intelligence Committee of the House and Senate that was sent to the White House and then was published. That report was on 9/11, what happened, and how it happened. That report was published in the December 2002 with 28 pages missing, and the 28 pages deal with Saudi Arabia. That is what has been said publicly, disclosed publicly, but yet they are deemed top secret and the American public is not able to see them. Then, the chairman of the Senate Intelligence Committee, RICHARD SHELBY, indicated that he thought 95 percent of it could be easily declassified. The Foreign Minister of Saudi Arabia thought it should be declassified. Yet it has been classified by the White House, which refuses to share this information with Congress and the American people.

I believe, once again, that all of us should continue to ask the White House to declassify those 28 pages. That, too, is a contribution to understanding what happened and what we do about it.

Those 28 pages, in my judgment, should be released. They cannot as long as they are classified "top secret." In my judgment, they should be declassified. Again, Senator SHELBY indicated that he thought 95 percent of it could easily be declassified, and, as I indicated, the Foreign Minister of Saudi Arabia called for its declassification. Considering that fifteen of the 19 terrorists who struck this country were Saudis, I think our country deserves to get to the bottom of this.

I believe, once again, as we finish discussing these issues on intelligence, 9/11, and how to strengthen this country, how to prevent future acts of terrorism, that these 28 pages ought to be made available to the American people.

I came to the floor today to talk about this inspector general's report and to weigh in briefly on an amendment offered by my colleague, Senator BYRD.

Let me conclude as I started by saying that I believe Senator BYRD has done a great service to the Senate by once again saying there is merit in many of these proposals and that he doesn't come to the floor to denigrate these proposals. He comes to the floor to strengthen these proposals. I agree with him that we have a government in which we have separating powers with respect to the ability and the fight to try to prevent further acts of terrorism from occurring in this country.

All of us need to work together. But we need to work smart. Working hard and working smart sometimes can be two different things. I hope we will work smart working together to have accountability in Congress to provide the flexibility while still retaining accountability so we can create this new agency, get rid of these stovepipes, and have agencies that are forward working, that will share information which will protect this country from future acts of terrorism. All of us share that goal.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I note that the Senator from North Dakota gave a very troubling and compelling example of the fact that the FBI is so far behind in translating critical messages and documents. I am troubled by that, also.

Where we may differ is, I believe, that the authority given to the national intelligence director by the bill will allow us to address that problem. Now we will have one person in Government who is accountable and responsible and who will be able to—unless the Byrd amendment is agreed to—transfer the people and the funds necessary to tackle that backlog. That can't happen because of a very cumbersome process. I see our legislation and the authority it gives the new NID to be critical in allowing us to address just those kinds of problems.

We know there is a shortage of linguists throughout the Federal Government, but we also know there are thousands of linguists. Some of them are in the FBI, some of them are in the CIA, and some are in various other agencies. If we had a national intelligence director who was able to marshal those resources, then we could get rid of those backlogs. I think that would be very helpful.

I have other comments I want to make in response to the Senator's comments on the Byrd amendment.

Mr. DORGAN. Mr. President, will the Senator yield for one point?

Ms. COLLINS. If I could complete my sentence, I would be happy to yield briefly for a question.

The Senator from Missouri has been waiting for some time to speak on the amendment that was just cleared on homeland security grants. I will yield briefly for a question.

Mr. DORGAN. I thank the Senator.

I only make the point that I don't think any of us disagree with the point of having sufficient flexibility so the agencies will make decisions to hire people to translate the tapes. Somebody must be accountable today—not just tomorrow—for 120,000 pages not being translated.

My point is, whether Senator BYRD or myself or any other Senator, we all want sufficient resources to be devoted to the task at hand—especially the urgent task at hand. With or without the kind of flexibility you provide in this bill, I believe the evidence is that in every circumstance in the last 3 years when the administration asked for flexibility in moving funding, it has been granted by this Congress, and it has done so immediately. I know that because I am an appropriator and I see what comes to us. We move it immediately.

I wanted to make the point that I don't think there is any disagreement at all about our interest in seeing critical issues funded. We all want that to happen.

Ms. COLLINS. Mr. President, reclaiming my right to the floor, let us look at what happens under the current system when funds are reprogrammed. I would like to quote from the acting CIA Director John McLaughlin testimony that he gave before the Senate Armed Services Committee which parallels conversations that Senator LIEBERMAN and I had with him privately. It goes directly to this point of the need for a more agile system.

Yes, the DCI has some reprogramming authority now. But let us look at the way it works. Listen to what John McLaughlin says:

> Typically you require the approval of the agency that is surrendering the funds. Then you require the approval of the department head who overseas the agency. Usually that is the Secretary of Defense. Then you require the approval of OMB. Then you require the approval of six congressional committees. Typically that takes 5 months.

I want to repeat that. That reprogramming takes 5 months, on average.

John McLaughlin goes on to say:

> So you can see that is not very agile to meet the needs of today. My view is that the national intelligence director ought to have the authority to move those funds.

We are facing an agile enemy, and what are we putting up against him? A system where it takes 5 months to move funds from one category to another.

I wish to address the issue of the accounts under the bill, which both Senator BYRD and Senator DORGAN have addressed. These are simply accounts that allow the NID to receive the appropriations. That is all they are. The accounts set up under our bill do not give the NID any additional authority. These are just regular Treasury accounts.

Why are they needed? They are needed because the money now is funneled through the Department of Defense.

If you are going to allow the NID to receive the appropriations from Congress from a mechanics standpoint, you have to have a mechanism whereby the Treasury Department sets up the accounts for him. That is all this is. In fact, I refer to page 24, line 12, of our legislation. These accounts are set up explicitly "for the purpose of carrying out the responsibilities and authorities of the director under this act."

The accounts themselves do not allow or authorize the NID to transfer funds. There is transfer authority. It is on page 27 of the bill. These authorities include a number of important safeguards.

First of all, transfers will still require congressional approval just as they do now. We are not changing the balance of power between this new position and the Congress. The transfers are subject to the applicable ceilings established in law to the appropriation ceilings. The transfers cannot be made unilaterally by the NID. They require the approval of the Director of Management and Budget.

Finally, the NID must consult with the affected agency heads, but no longer will he have to get the approval of the agency head and then the department head and then Office of Management and Budget and then Congress—that whole intricate system. We would allow consultation. Then the NID can move the money with the approval of OMB and subject to the same congressional review we have now. This is not a radical new concept. It is an essential authority. We cannot afford to have a process that takes 5 months for money to be moved from one account to another.

The PRESIDING OFFICER. The Senator from Missouri.

AMENDMENT NO. 3705

Mr. TALENT. Mr. President, I thank the Senator from Maine for her comments. I am going to make a couple of comments about an amendment the Senate adopted an hour or two ago that I am strongly supportive of and was pleased to cosponsor. I want a little more on the record about what that amendment does.

As I travel around Missouri and talk with first responders about homeland security, there is a consistent theme I hear. This goes back several years ago when I was not even in the Senate and was just campaigning. Over and over again, what I heard from fire chiefs, local public health authorities, police chiefs, and sheriffs was this: Look; we thank the Federal Government for sending money to help be prepared, but do not tell us in a detailed way what to do with the money.

I had one fire chief from Missouri say his big fear is: They will send the money and I will need the dollars to buy a better communication system so that in the event there is a terrorist-related disaster, I can find out where my guys and gals are and tell them where to go. My big fear is they will tell me I have to buy HAZMAT suits when I don't need HAZMAT suits, because we already have in Missouri a tremendous HAZMAT regional team that I would call if we ever had that problem.

This concern resonated with me. I said to myself, that is what the Federal Government will do. It will send them the money but then tell them what to do with it. Accountability is fine. It is fine maybe to have certain standards in certain areas that are off limits—maybe you do not want them to spend the money on routine personnel costs. But I am a big believer that our first responders are best prepared to handle disaster-related emergencies when they prepare themselves better just to handle emergencies. The kind of problems or threats associated with terrorist disasters are 80 percent the same as with any other disaster—fire, people being crushed or trapped in buildings. The better they are prepared to do their job on a day-to-day basis, the better they will be prepared to protect, help, cure, or get us loose from some terrorist-related disaster.

After I came to the Senate, I found out in large part we have, unfortunately, done exactly what they were afraid we were going to do, which is send them the money with so many strings attached that they do not have the flexibility to use it the way they want.

We had an example of this in Missouri last year when Senator BOND and I were contacted by the local Jewish community in St. Louis which was hosting the Maccabi Games—like the international youth Olympics for Jewish youth from around the world. Those games drew over 5,000 young Jewish people from around the world. The Maccabi Games were an obvious target for a terrorist threat—that is just a matter of common sense—and there were a lot of extra costs associated with protecting the games.

The local hosts wanted some of those costs reimbursed. We certainly understand that. We tried to get money that had already been assigned to the State of Missouri reprogrammed or changed so they could use it for this obviously necessary purpose, and we could not. The statute was too closed to let the money be reprogrammed, despite the best efforts of Senator BOND and I.

It turned out that the Maccabi Games went on without incident, and we are all very grateful. But the problems remain for the discretion on the part of the Secretary of Homeland Security and the Director of the Office of State and Local Government Coordination to at least have the authority to entertain a waiver application by States to reprogram dollars where, at least, some unexpected need arises.

I joined with Senator COLLINS in cosponsoring legislation to that effect. I offered a sense-of-the-Senate resolution on the Homeland Security appropriation which did get adopted by the Senate and had a colloquy with Senator COCHRAN at the time about the need to follow up on this issue. I was very pleased to cosponsor with Senator COLLINS, an amendment that, among other things, does create that kind of waiver authority for the Secretary of Homeland Security and for the Director to help out in instances such as that.

I congratulate the Senator from Maine for her interest. She has heard the same things I have heard. She knows the need to do something about it. I am very pleased that with the adoption of that amendment, we have taken a step in that direction. It is not as far as we need to go, in my judgment. We can trust our first responders more than we will trust them even with this amendment becoming law—and I hope it does become law—but it is a step in the right direction. I will keep working in that direction. The people of Missouri and the people of the country will be better off as we make progress toward that end.

To reiterate, as I have traveled across the State of Missouri discussing homeland security, nearly every police chief and every first responder has told me the same thing: Don't tie our hands on how we are going to use money you give us. Leave us some discretion on how to use those funds. At the same time, the Department of Homeland Security asserts it must tightly control how every dollar is spent. I appreciate the need for accountability given the department's mission. I also appreciate that in many instances our first responders know best how to allocate these funds and that sometimes very legitimate concerns fall outside the narrow spending guidelines of the department.

For example, in St. Louis last year, our local Jewish community hosted the Maccabi Games, an international Jewish Youth Olympics, which drew over 5,000 Jewish youth from around the world. Given the security environment, Missouri's Homeland Security Office threat assessment team stressed the need for greater security but lacked the latitude to reallocate even a modest sum from the monies awarded to the State. Despite all of our efforts here, they were unable to free up dollars to provide for the necessary security.

Thankfully, the event ended without incident, but it still illustrates the need for discretion on the part of the Secretary and the director of the Office for State and Local government Coordination to approve waiver applications on the part of the State to reprogram some of their Federal grant homeland money when some new kind of security issue arises that was unforeseen when they originally applied for those grants.

Last year, I engaged in a colloquy on this floor with Chairman COCHRAN on this issue and have been working since arriving in the Senate with Chairman COLLINS to craft language that would provide State and local governments with flexibility in the reallocate a portion of homeland security grant funds based upon the changing threat environment. Last week I successfully offered an amendment to the Department of Homeland Security Appropriations bill that addressed this issue.

I am pleased that Senator COLLINS has included in her amendment language that we worked on together over the past year to provide the discretionary authority needed by the State homeland security officials.

Ms. COLLINS. I appreciate the leadership of the distinguished Senator from Missouri to allow greater flexibility for State and local officials in spending homeland security grant funds. I agree that greater flexibility is needed to use homeland security funds to meet special security needs. I am pleased to include in my amendment language Senator TALENT and I have crafted over the past 18-months which last week he made the subject of a sense of the senate resolution granting authority to the Director of the Office for Domestic Preparedness to approve the reallocation of funds available to State homeland security officials in unspent homeland security funds. I am confident that this language would allow State and local officials to reallocate homeland security grant funds to provide greater safety for special security events like the Maccabi Games. Senator TALENT has been tireless in his efforts to pass his measure and achieve this flexibility to help local first responders and I am proud that we could include it in this amendment. I look forward to continuing to work with the Senator from Missouri on this important issue.

Mr. TALENT. Mr. President, I will make a comment or two on the bill as a whole. I will not hold the Senate up a long time. We are trying to get this bill done, and I fully support that.

There is an area of the bill I would like to register, for the record, concern on the part of this Senator. Probably the bill's managers will recognize the legitimacy of that concern.

First, I want to say how much I have appreciated the work by the Senator from Maine and the Senator from Connecticut on this bill. I have enjoyed this debate and enjoyed the part that I played in it—not that it has been significant but just attending the briefings, visiting with the Senators on and off the Senate floor. In my work on the Armed Services Committee, we have had hearings on this subject.

This has been handled in the way the American people like to see the Senate handle things. It has been bipartisan in the best sense of that word—not that we have tried to conceal legitimate differences of opinion that sometimes separate the two parties, but because we have understood that the right way to deal with those differences is to reconcile them where we can, to have them out without being personal or political about it, and understand we are all working for the good of the American people and the security of the country.

We can all agree, having been here now through almost this entire Congress, that unfortunately, the Senate does not always operate in that ideal fashion. I believe it has operated in that way on this bill, and the leadership of the two Senators is the reason. It is clear from listening to this debate and watching it on TV in my office that both of these Senators have done their due diligence. They know their subject. There has not been a point raised that they were unfamiliar with. That has been very impressive to me and has led me to decide that I am going to give them the benefit of the doubt on amendments that are offered because clearly they have studied this. It is not a case where they are refusing to consider any concern or looking down on a Senator who is raising it.

It is important for the public to know that personal factors like that can play a part in legislation. The trust and regard in which these two Senators are held by the rest of the body is making a difference.

I also agree with them that it is time to do something; that 3 years is long enough. Some people say 40 years, because there have been a number of recommendations for changing how we do intelligence over the decades. I think it is time to get something done. I agree with that.

I also like the creation of a national intelligence director. I do wish we could have come up with a different name than NID. Imagine how often that name is going to be used and what it may come to represent in Washington, but it may be too late to do anything about that.

For some reason, I do not think people have aired on the floor—and I want to; it is a practical reason—there are times in our history when foreign policy and national defense are bigger issues than at other times. The American people in the United States of America are a people who are concerned with their day-to-day lives. That is as it should be. We would rather, if we could, avoid having to engage extensively in these tremendous efforts abroad and in all the foreign policy discussions and reconstructions that go with that.

In our elections, sometimes we elect Presidents in a context where foreign policy does not seem to be all that important. I think it is another way of saying some Presidents are more interested than other Presidents in intelligence on a day-to-day basis. I do not say that to be critical. I do not think there has been a President who has ever served in that high office who has not cared about the security of the country. But I think people here understand what I mean.

Now that we are fighting this terrorist war, we all read stories about intelligence. We know how important it is. We are all following it on a day-to-day basis. Everybody wants to serve on the Intelligence Committee or the Foreign Affairs Committee, and that is fine. But in other times, attention and interest wanes.

I think by having a national intelligence director, what we will help ensure is that even in those times when interest is waning on the part of other high-level political actors, maybe even the President, we will have somebody in Washington whose job it is to look at all this in a comprehensive way, and try to make sure the agencies under him or her are working together on behalf of the interests of the American people, in a way rather like we have done with the Federal Reserve, where we have created an agency and we have vested a lot of authority in a Chairman of the Federal Reserve. We know that person is watching monetary policy and other policy.

Over time, what has happened is Presidents of both parties and under all circumstances realize that appointments to that kind of job are very highly scrutinized, and you put in people who have prestige and gravitas and the regard of people of both parties and the regard of the country.

It is my hope that will happen with the national intelligence director. Presidents, whether foreign policy is the No. 1 concern for them or not, will know this is an important appointment and they need to put somebody in this position, from administration to administration, who has the regard of everybody in the country, who watches and knows about foreign policy and about intelligence. That will help create a stability over time and a continuity in our intelligence policy.

Now, I am not downgrading the concerns people have expressed. There is always a tension in this kind of thing. You cannot create and set up a higher authority such as this without increasing the risk that if you get a person in there who is very autocratic, it may tend to create a certain kind of groupthink among the agencies even more than we now have, that people could be acting in way that is designed to please only this national intelligence director rather than trying to have their own opinions regarding intelligence. But there are safeguards in the bill designed to deal with that. I certainly have had some concerns along those lines, but I am going to exercise the benefit of the doubt in favor of supporting the creation of a national intelligence director.

There is an area, though—and the Senators have addressed it; I think perhaps they could again in response to my remarks—I am concerned about the flow of intelligence to the troops in the field. Here is the kind of classic situation I am concerned about. We have, of course, an extensive satellite system in place. We get intelligence all the time from those satellites. Particularly since the first Gulf War, the Department of Defense has become pretty good at getting that intelligence off the set satellites and getting it out to the field in real time. That means virtually instantaneously, so that it can be used by our special operations troops, by commanders in the field to check and select targets. This kind of mapping and satellite intelligence can be used even to move troops around during some kind of an engagement. It works pretty well. I know that for a fact.

I think one of the reasons it does work is these agencies—the National Reconnaissance Office, the National Geospatial-Intelligence Agency, the National Security Agency—are in the Department of Defense and the customers they are serving with that intelligence are in the Department of Defense. It is very reasonable to believe that if the provider of the intelligence and the customer of the intelligence are in the same Department, the same bureaucratic structure, they will share intelligence better.

If that were not true, then why are we doing this bill? Because the whole point of the bill is to get all these intelligence agencies under some kind of joint authority so they will share better. In most cases, I think it is very clear how the bill is doing that, that the bill is breaking down existing bureaucratic barriers.

But I do think we all ought to be honest enough to admit with respect to this particular kind of sharing, we are setting up a bureaucratic barrier that does not exist now, because we are going to pull those agencies out of the control of the Department of Defense and put them under the national intelligence director, at least partially. So there is at least a risk we will put up a stovepipe in the name of taking down stovepipes, that we will put up a stovepipe in an area where the sharing is working. It would be ironic if one of the effects of the bill were to interrupt the sharing of the intelligence in the one area where we have confidence now that it is being shared.

Now, I feel a lot better about this concern than I did when I first heard about this bill. I know the Senator from Maine and the Senator from Connecticut have put measures in the bill designed to ensure that flow of intelligence continues. I am glad they have done that. I am glad they recognized the importance of this concern, because it is going to grow as time goes on.

Let me give you an example. We are trying, on the Armed Services Committee—and both Senators serve on that Committee, so they know this as well as I—to make all the various what we call weapons platforms for the Army network-centric. What this means is they will all be networked in, so that we hope in the near future intelligence from a satellite will not even have to go through a middleman at the NGA or the NSA, it will go directly from the satellite down to the commander in the field. It is very important that we procure weapons systems and platforms and communications systems and signal intelligence systems that are all linked together.

This bill, for example, gives procurement authority to the NID over the satellite end of those systems. So we are going to have the NID procuring the satellites, the platforms that are getting the intelligence. We are going to have the Department of Defense procuring its end of the platform that is going to be receiving the intelligence, and there is a danger we will end up with a stovepipe we do not want.

I am not saying this is a reason to oppose the bill. I am not saying it is a reason to change the bill. I am saying it is a concern. I guess what I would say to my friends from Connecticut and Maine is, if they could give us their assurance that not only in the passage of the bill but in the implementation of it, and in the months and years after that, they will remain conscious of these concerns and try to ensure a free flow of intelligence from these various intelligence organizations out to the troops in the field, even though they will no longer be in the same bureaucratic organizations.

Maybe the Senator from Maine would yield for a question from me or have a brief colloquy, if I can ask consent to do that.

I have been airing the point you and I have talked about privately, and you have addressed on the floor as well, about the importance of making sure that tactical military intelligence continues to flow from the NGA and the

NRO and the others out to troops in the field.

I was telling the Presiding Officer you all have done a lot to allay my concern in that regard. What I was hopeful of, and I wanted to put on the record, is to get assurance from you and the Senator from Connecticut that in implementing this bill you will continue to oversee this aspect of it and try to make certain the NID understands the importance of acting jointly with the DOD in ensuring that this intelligence continues to flow. Because no matter what protocols you put in the bill, this is a fruitful area for oversight to make certain that this intelligence is not interrupted. Would the Senator from Maine care to comment?

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am pleased to give the assurances the Senator from Missouri is seeking. He and I, as he mentioned, along with my friend from Connecticut, serve on the Armed Services Committee and have a deep commitment to making sure that our men and women in the military receive the real-time, actionable intelligence they need to be effective. Nothing in this bill would in any way hinder the flow of intelligence from NSA to the combatant commanders to the troops on the ground in Iraq and Afghanistan—nothing.

In fact, as the Senator from Missouri knows, we opposed an amendment last week which would have undermined the relationship between those defense agencies and the Secretary of Defense by essentially moving them out of the Pentagon—not physically but from an authority standpoint—and having them only report to the national intelligence director. We recognized that we need a dual reporting, that these agencies are providing critical intelligence to our troops and to Pentagon officials as well as to the rest of the intelligence community.

I agree with the Senator that vigilant oversight is going to be necessary to make sure this is implemented in the manner we intend. But I must say, given the clear language of the bill, given the fact that tactical intelligence assets are completely exempted from the NID's control, and given the fact that any NID is going to be committed to providing excellent intelligence to our troops, I can't imagine the bill having the negative impact that he might feel.

Mr. TALENT. I have been much reassured by the debate, by your comments, and by my further thinking on the subject. I do think it is unlikely that any national intelligence director would not be sensitive to this. And given the congressional concern that has been expressed, if he or she were insensitive, we certainly could do something about it.

To give an example—and I shared this with the Senate—on procurement, you know the extent to which we are trying to procure network-centric type platforms for the Army. And since now the various satellite agencies would be under the procurement authority of the NID, it would be important early in this process to get some kind of memorandum of understanding or protocol so there would be a joint type procurement process to make certain that what the Army was doing to get network-centric receivers was compatible with whatever the NID was procuring for satellite.

I expect there will be a number of instances in practice where it will be useful for all of us to be aware on a continuing basis of this concern and trying to make certain that they work together, as we did with Goldwater-Nichols. There is an example of a congressional enactment and oversight that has increased the joint process.

I don't offer these remarks in hostility to the bill but to put on the record again the importance of this, to make clear your intent and the intent of the Senator from Connecticut in this regard. I would be happy to have the Senator comment further.

Ms. COLLINS. Let me indicate to the Senator from Missouri that I very much appreciate his concern in this area. There is no greater advocate for our troops than he. I join with him in an assurance that we are going to watch this very carefully. The language of the bill is very tightly and carefully drafted. The commitment to our troops is there. There is nothing in this bill that would in any way hinder military operations, readiness, or the flow of real-time, actionable intelligence to our troops. That is essential. The Senator has my commitment to continue to monitor this very closely.

Mr. TALENT. I am grateful. I don't know if the Senator from Connecticut wanted to say something now or later. I am not inviting you to admit a concern that you don't think is in the language of the bill, that would suggest a weakness in the bill that you don't believe is there. It is just that any change in structure like this has the potential, if we are not careful, to interrupt that flow. I am pleased about your reassurances. I won't make you say it for the 15th time. I will just reclaim my time and close briefly. It has been a pleasure to participate in this debate and to watch how my friends from Connecticut and Maine have handled it. I do think it is time to do something. I had concerns. I had concerns about the speed with which we were acting. I think we can all concede the honesty of those concerns. I do believe, however, for the reasons I have indicated, that we ought to move forward. I think we can, while guarding against the dangers that are present whenever you have a major change like this. There is a lot about our intelligence system that is working. We do want to be careful that in trying to fix the parts that aren't, we don't cause problems for the parts that are working.

The Senators from Maine and Connecticut have done a good job in guarding against that. I congratulate them on their work. Again, I am pleased the Senate has adopted an amendment which finally takes a first step toward allowing our first responders, our State and local officials on whom we depend, to have discretion in where they are going to use these homeland security grants the country is giving them.

I yield the floor.

The PRESIDING OFFICER (Mrs. DOLE). The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, before the Senator from Missouri leaves the floor, I thank him for his statement. I thank him for his kind words about Senator COLLINS and me, which she certainly deserves and I am glad to be along with her on that ride.

I thank him for the specific question and assure the Senator on my behalf, one, that Senator COLLINS and our committee were focused throughout the deliberations on making sure this substantial reorganization of our intelligence assets not in any way diminish the availability of intelligence to the warfighter. In fact, in the best of all situations, we believe the recommendations that we have made will improve intelligence to the warfighter.

By way of reassurance, I want to quote from GEN Michael Hayden, Director of the National Security Agency, who said in testimony before the other body:

> An empowered national intelligence director who would direct authority over the national agencies should not be viewed as diminishing our ability or willingness to fulfill our responsibilities as combat support agencies.

He was speaking on behalf of the three.

It was quite illuminating, in talking to General Hayden and others. They are in direct daily contact, particularly with the combatant commanders. They have people out in the field right now with those combatant commanders, particularly in the most active areas of the world, such as the central command, which includes Iraq and Pakistan. After having described that close integration of national intelligence assets with the warfighters, General Hayden concluded:

> It is inconceivable to me that any future leader of the National Security Agency could or would ever act any differently.

GEN James Clapper, head of the NGA, National Geospatial Agency, expressed exactly the same sentiments to us.

I want to reassure the Senator from Missouri, more to the point of his question, that to the extent we are able—and I am sure if we are not, the Armed Services Committee will—we will definitely keep a close eye as this new system is implemented to make sure our intention, which is that this reform improves intelligence for our warfighters, in fact is being realized.

Mr. TALENT. I can see how that would happen, and we should not accept something that is working fairly well if we think we can make it better. It may be possible by moving these agencies into the NID for budgetary purposes that they will get a higher priority than they get now with the DOD which does not see itself primarily as an intelligence department. I can see potential pluses to this. I just thought it was very important that the record show the concern about this is not only deep with you two as the managers but also all throughout the Senate and the Congress, that there are many of us who are familiar with this and who know this current system is working, certainly working much better than it used to.

I hope whoever is going to be the national intelligence director—I certainly will bring this up in the confirmation process, and I hope you two do as well—knows we want his cooperation and will continue to want this to be a priority.

I thank the Senator for his comments.

I yield back my time.

Ms. COLLINS. Madam President, I am very pleased to see the Senator from Minnesota is on the floor. Senator COLEMAN has been one of the most diligent members of the Governmental Affairs Committee on this issue. He came to virtually every hearing we had throughout the August recess, starting on the very first hearing on July 30. He is a cosponsor of the bill. He helped to write many of its provisions. I am very grateful for his leadership and support, and I look forward to hearing his comments.

The PRESIDING OFFICER. The Senator from Minnesota is recognized.

Mr. COLEMAN. Madam President, I express my deep gratitude for the kind words of the Senator from Maine and my gratitude for the incredible work she and the Senator from Connecticut did in pulling us together in doing a series of hearings—I believe eight—with countless hours of testimony, a very thorough review of the recommendations of the 9/11 Commission, and then an analysis of how do we take those recommendations and somehow move forward in a way that improves, increases the level of safety and security in this great country of ours. That was the challenge and it certainly is a challenge.

I think the chairman has been challenged with drafting a bill that represents a kind of balance here between ambitious reform of our intelligence services and the continuity of the existing intelligence assets we rely upon to keep our country safe. There was discussion during the hearings about the nature of change and some of the challenges of concern—a concern that if we are to make changes, is that going to make us more vulnerable during that period of time.

There was great thought that went into the balance we see in this bill: The balance between the creation of a powerful national intelligence director, on the one hand, and this concept of departmental autonomy on the other; and the right balance between centralization of the information sharing and the balance of civil liberties we cherish as Americans. How do you provide those protections without undermining the ability to do the hard work that has to be done in intelligence, and that keeps up the morale of those on the front lines every day making us safer—folks who, in many ways, are simply unknown; we will never know who they are. At one of our hearings, which was classified, even the name of the witness was classified. I sat there as a relatively new Member of the Senate listening to the incredible work that is going on day to day to keep our country safe. I was struck by that, and I am deeply committed to making sure as we move forward in reform that we keep the morale up and the appreciation up, that we strike the right kind of balance.

After hours of hearings and countless study, I believe the bill drafted by the chair and ranking member represents the kind of balance we need. Today and tomorrow, we are going to vote on a number of amendments that would unravel this carefully constructed balance by weakening the national intelligence director. I urge my colleagues to oppose any such efforts to undermine this balance.

I agree with the sponsors of these amendments that it is vitally important soldiers in combat get timely, accurate information that is relevant to their immediate needs. I also agree the military chain of command needs to be respected. However, I disagree on their interpretation of how the Collins-Lieberman bill would affect the armed services.

Last week, we debated and voted on an amendment that would have effectively removed several intelligence agencies from the Defense Department. We defeated the amendment because a strong majority of the body thought, as I do, that the Department of Defense needs to retain its combat support relationship with such agencies as the National Security Agency and National Reconnaissance Office. I think that vote reflects the importance we attach to the Department's role in intelligence.

The central finding of the 9/11 Commission was that prior to 2001, the safety of Americans was substantially weakened by the absence of a strong entity to make sure that the use of intelligence assets reflected national priorities and that the intelligence gathered was shared with officials who needed it, even if those officials were located in different agencies. I note that the Chair, on a number of occasions, talked about a George Tenet memo in 1998, where he declared war on al-Qaida and nobody knew about it. There were agencies throughout Government that never got this declaration of war from the head of the CIA. As the Commission put it, no one was in charge.

As I say that, I do want to say, having listened to the testimony, today we have a new level of cooperation and collaboration between those involved in intelligence gathering. And because of that new level of cooperation and collaboration, we are moving forward and this country is safer today than it was on 9/11. But the reality of the case is that with no one in charge, institutional silos arose to prevent important pieces of information from being collected into an overall threat assessment that might have alerted officials to the danger we faced.

So it is clear to me, and as recommended in this bill, we need a strong national intelligence director, strong enough to enforce common policies throughout the intelligence community whenever and wherever intelligence collected by one agency might be useful to another. We do not need a mere coordinator. That is what we have now; we have a coordinator. We need someone who can focus resources and attention on the most vital threats, national priorities. That person can only succeed if we give him or her the strong powers they need over the budget and personnel.

I have heard members point out that the 9/11 Commission did not point to any institutional policy that prevented the sharing of information. The argument is, if we can do all this today, why do we have to make institutional change? They argue the problem is due to individuals who failed to perform their jobs by failing to convey information they were supposed to share. It is true that the commission's report discusses several specific instances of this type of bureaucratic behavior, and in the end things that should have been done were not done, none of which seem to have led to disciplinary action. Nevertheless, there were policies such as the wall between domestic and foreign intelligence that inhibited the full sharing of information.

But even that is not quite the full story. It is my belief such insular behavior will always exist, unless and until we have a strong national intelligence director who can effectively enforce common information policies. That is what the Collins-Lieberman bill creates. That is why keeping these powers is so important.

In the committee markup, the Senator from Michigan pointed out instances where language could have been made clearer. I agree with him that clearer lines of authority are important. But I fear that the amendments being offered today are not mere clarifications but, rather, represent a fundamental tip in the balance and will result in erosion of the power of the NID.

I believe the Department of Defense will have a strong role in the new intelligence constructs that the Collins-Lieberman bill creates. The DOD will retain full authority over tactical intelligence. It will have a seat at both the National Counterterrorism Center and the Joint Intelligence Community Council to argue for institutional interests and ensure that its needs are met.

The bill also leaves direct, day-today command of the Department of Defense intelligence agencies with the DOD. Most of the staff of the intelligence agencies will remain uniformed service men and women. The Department will remain the intelligence community's largest consumer of information. The Secretary of Defense will remain one of the most senior members of the Cabinet, with close communication with the President.

If we are going to create a NID with actual clout when it comes to enforcing common intelligence standards, the NID must have the ability to transfer funds and personnel within the intelligence community. Witness after witness came before us and said: With budget authority, there is power. Whoever controls the purse has power. We understand that in this body. He or she must be able to move assets where they are needed most and ensure full compliance with communitywide requirements. The chairman of the 9/11 Commission has admonished Congress, saying, "If you are not going to create a NID who has the powers of budget and appointment, don't do it." These powers are necessary to ensure that intelligence gathered by intelligence agencies reflects national priorities and is shared among all parts of the Government that need it.

The Collins-Lieberman bill gives the national intelligence director a number of important powers. He is supposed to develop common policies of personnel, budget practices, information networks, security classifications, and communication systems. If we want him to succeed in these tasks, we must also give him or her the powers to accomplish them.

This body voted last week to retain day-to-day control of the Defense intelligence services with the DOD, and I supported that sentiment. But since the NID will not have direct day-to-day control, it is even more important that he have the ability to transfer money and personnel.

We all know that bureaucracies have a natural tendency to resist change. So the question is, Will the national intelligence director be able to enforce his policies in the face of the inertia that normally characterizes existing agencies? Not unless everybody knows he is in charge of the resources and has the power to shift them according to agency performance and his evaluation of needs.

The bill contains numerous provisions to ensure that this power is used responsibly. We make it clear that only the national intelligence director can make these transfers of resources and personnel. We also retain Congress's authority to approve transfers before they occur. That way, it will be clear who is responsible for them and who will have to justify them. We create the joint intelligence community council made up of the users of intelligence, including the Secretary of Defense, to advise and evaluate the national intelligence director.

We require the NID to notify Congress, including the Committee on Armed Services, whenever there are transfers of personnel to or from the Department of Defense. In light of these protections, it is extremely unlikely that the intelligence community will fail to support our armed services. In fact, it is stronger than that. It simply is not going to happen. We have set in place the kind of measures, the kind of safeguards, the kind of oversight, the kind coordination that will ensure the needs of the armed services are met. The intelligence needs of the armed services will be met.

Another amendment would remove the section of the bill that would disclose the total funding for intelligence. I must respectfully disagree with those who believe this disclosure will harm our national security.

Again, this was an issue in which we had very clear testimony before the committee. By the way, after all, reliable estimates of this number already appear in the trade press. Moreover, the 9/11 Commission recommended going further. They wanted to disclose the totals for each agency. But here we have a balance.

In our history as a nation, we have found the benefits of disclosure usually outweigh the costs. What we have in the way of disclosure makes policymakers accountable to their actions. But again, we have struck a balance.

I note in his testimony before the committee last month, then-acting CIA Director John McLaughlin agreed that declassification of the top line figure would make sense. He testified:

> It reinforces responsibility and accountability on those receiving the money, because you can see whether it's going up, down, or so forth. . . . It also does the same thing for Congress. . . . I don't think declassifying the top line would be a major security threat.

Given all this, it is difficult for me to believe that disclosure would weaken our safety in any meaningful way. It would, however, lead to more open debate about how much we need to spend to keep America safe, and I think that is a good thing.

There are also proposals to exempt military personnel from the national intelligence director's transfer, detail, and assignment authority. I can understand the desire to maintain the military chain of command, but if we want the national intelligence director to develop and enforce common intelligence policies even in the face of agency silos, then he or she is going to need to draft his or her own players and make sure they are playing on the same team. When the national intelligence director transfers a soldier out of an intelligence agency, that soldier returns to the Armed Forces where he or she will be, once again, safely in the chain of command. But as long as they remain in the intelligence community, they are responsible for meeting the needs of the entire community, not just the Department of Defense, and that is why that individual must have the confidence of the national intelligence director.

There is a second reason for keeping personnel authority in the national intelligence director. We all agree on the creation of a National Counterterrorism Center—there has not been a lot of debate over that—and intelligence centers that represent other national priorities. We mean for these centers to contain the best people from each agency. Assuming, for example, that the National Counterterrorism Center consists of the best terrorism experts from each element of the intelligence community, it makes sense for it to be the forum for negotiating common policies and planning joint operations. But in order to prevent each agency from creating its own counterterrorism unit and sending the NCTC only junior workers or workers sitting out their final years until retirement, the national intelligence director must have the power to bring the best and the brightest to the National Counterterrorism Center.

I note that the Chair talked about her visit to the current TTIC, the Terrorist Threat Integration Center, the forerunner of the NCTC. She noticed how young some of the personnel there were. At this stage in time, it is not seen as the best place to be, but with a strong national intelligence director and a clear National Counterterrorism Center, we want the best and the brightest, and the national intelligence director should have the right to bring those people to the table to work with him or her.

Finally, we will vote on amendments that would take one agency or another out of the definition of "national intelligence program" and thereby move their budgets away from the national intelligence director's authority and back under the Defense Secretary's authority. This might be wise if we make the Secretary of Defense responsible for enforcing common intelligence policies and meeting the intelligence needs of the entire Government, but in that case we would not need a national intelligence director. In that case, we ought to also transfer the CIA into Defense.

On the other hand, if we want a strong coordinator of intelligence and we do not want that person to be the Secretary of Defense, then the national intelligence director must have the budget power over all parts of the intelligence community that service common needs. It simply would not make sense to break agencies, such as the NSA or NRO, up into pieces depending on whether this program or that fell into the national intelligence program. They should either be part of a coordinated approach to intelligence or they should be totally separate. I submit they are too important not to be brought into the national intelligence policy.

I note that even under the Collins-Lieberman bill, these agencies would remain under the day-to-day control of the Department of Defense. Most of their personnel will still consist of uniformed military officers. The relevant congressional committees will remain actively involved in ensuring the needs of the military are met, and the Secretary of Defense will remain a senior Cabinet member with a direct line to the President. With all this, it is difficult for me to believe that the intelligence our combat forces receive will diminish in any material way. It seems more probable that through better coordination and sharing, the Armed Forces will have access to better intelligence under the Collins-Lieberman bill than they would have in a watered-down version, and I think that is the key here.

In this post-9/11 world in which we live, where we understand the nature of the importance of intelligence, we must understand the importance of breaking down the silos that in the past prohibited folks from working together. It is clear we all will benefit. The Department of Defense benefits and the intelligence agencies benefit, but most importantly, the people of this great country benefit. When we have and will have a strong national intelligence director, a clear sense of somebody in charge with accountability and credibility, with the support and confidence of the President, we will all be able to sleep easier at night.

I urge my colleagues to resist the natural hesitation in the face of major change. Everybody likes change until it happens to them. The events of 9/11 changed the world, and we must change our mindsets in response. I believe the Collins-Lieberman bill represents the right balance and will make America safe.

I urge my colleagues to reject those amendments that would weaken the balance, that would weaken the strength of the national intelligence director.

Let's move America forward. Let's make the change. Let's support this bill.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the Senator from Minnesota for his comments. As I indicated, he has been a key member in drafting this bill. I very much appreciate his many contributions and support.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I join in thanking the Senator from Minnesota. Senator COLEMAN really hung in there with us and did the hard work in July, August, and September, both in attending the hearings and in helping to draft a bill over a 2-day markup.

His statement today means a lot to us personally, but I hope and believe it will mean a lot to the other Members of the Senate because it is a strong explanation of why this bill is urgently necessary. People asked earlier: What is the rush? People today asked: What is the rush? The rush is, we were attacked on September 11. It is more than 3 years later, and Congress has not acted to adequately reorganize our intelligence assets community, which the 9/11 Commission told us, and everybody agrees, does not have a leader in charge.

Right now—what is his name?—Zawahiri, the second to bin Laden in al-Qaida, last week put out another tape urging Islamist terrorists around the world to attack America and Americans. So we are at war, and we are not properly defending ourselves. That is the urgency.

The Senator from Minnesota has spoken very eloquently today, both for the bill and against weakening amendments. That is really going to be the test over the next couple of days as we move to cloture and adoption of the bill. The bill is in good shape now. We have listened, we have negotiated with some people, accepted some amendments that we thought would not hurt the bill and would strengthen or clarify it. As the Senator from Minnesota knows, a line has to be drawn and some of these amendments take too much out of the bill and would hurt the purpose, which is to better protect the American people.

So I thank the Senator very much for what he has said, and I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I yield to the Senator from Michigan.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3825, 3809, AS MODIFIED, AND 3810

Mr. LEVIN. Madam President, I have a unanimous consent request, and I think I am following a pattern, at least I hope so. If not, I will withdraw. I ask unanimous consent that three amendments be called up and then be set aside so that they are in advance of cloture. I ask unanimous consent that amendment No. 3825 be called up and set aside. I also send to the desk a modified version of amendment No. 3809, which has been approved by the Democratic leader, which I understand the process is the modification and then that modified amendment will be set aside. Also, I ask unanimous consent that amendment No. 3810 be called up and set aside.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3825

(Purpose: To permit reviews of criminal records of applicants for private security officer employment)

At the appropriate place, insert the following:

SEC. . PRIVATE SECURITY OFFICER EMPLOYMENT AUTHORIZATION ACT OF 2004.

(a) SHORT TITLE.—This section may be cited as the "Private Security Officer Employment Authorization Act of 2004".

(b) FINDINGS.—Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by, among other things, helping to protect critical infrastructure, including hospitals, manufacturing facilities, defense and aerospace contractors, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, and others;

(3) the 9-11 Commission Report says that "Private sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world. It is ignored at a tremendous potential cost in lives, money, and national security" and endorsed adoption of the American National Standards Institute's standard for private preparedness;

(4) part of improving private sector preparedness is mitigating the risks of terrorist attack on critical infrastructure by ensuring that private security officers who protect those facilities are properly screened to determine their suitability;

(5) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(6) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

(c) DEFINITIONS.—In this section:

(1) EMPLOYEE.—The term "employee" includes both a current employee and an applicant for employment as a private security officer.

(2) AUTHORIZED EMPLOYER.—The term "authorized employer" means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

(3) PRIVATE SECURITY OFFICER.—The term "private security officer"—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full- or part-time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this section if the Attorney General determines by regulation that such exclusion would serve the public interest); but

(B) does not include—

(i) employees whose duties are primarily internal audit or credit functions;

(ii) employees of electronic security system companies acting as technicians or monitors; or

(iii) employees whose duties primarily involve the secure movement of prisoners.

(4) SECURITY SERVICES.—The term "security services" means acts to protect people or property as defined by regulations promulgated by the Attorney General.

(5) STATE IDENTIFICATION BUREAU.—The term "State identification bureau" means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

(d) CRIMINAL HISTORY RECORD INFORMATION SEARCH.—

(1) IN GENERAL.—

(A) SUBMISSION OF FINGERPRINTS.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this section.

(B) EMPLOYEE RIGHTS.—

(i) PERMISSION.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of a participating State the request to search the criminal history record information of the employee under this section.

(ii) ACCESS.—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this section.

(C) PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this section, submitted through the State identification bureau of a participating State, the Attorney General shall—

(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(D) USE OF INFORMATION.—

(i) IN GENERAL.—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

(ii) TERMS.—In the case of—

(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been—

(aa) convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

(bb) charged with a criminal felony for which there has been no resolution during the preceding 365 days; or

(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this section in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(E) FREQUENCY OF REQUESTS.—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this section, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and recordkeeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) CRIMINAL PENALTIES FOR USE OF INFORMATION.—Whoever knowingly and intentionally uses any information obtained pursuant to this section other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) USER FEES.—

(A) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(i) collect fees to process background checks provided for by this section; and

(ii) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) LIMITATIONS.—Any fee collected under this subsection—

(i) shall, consistent with Public Law 101-515 and Public Law 104-99, be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in subparagraph (A);

(ii) shall be available for expenditure only to pay the costs of such activities and services; and

(iii) shall remain available until expended.

(C) STATE COSTS.—Nothing in this section shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this section.

(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this section by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this paragraph.

AMENDMENT NO. 3809, AS MODIFIED

On page 28, between lines 19 and 20, insert the following:

(D) the personnel involved are not military personnel and the funds were not appropriated to military personnel appropriations, except that the Director may make a transfer of such personnel or funds if the Secretary of Defense does not object to such transfer; and

(E) nothing in section 143(i) or 144(f) shall be construed to authorize the National Intelligence Director to specify, or require the head of a department, agency, or element of the United States Government to approve a request for, the transfer, assignment, or detail of military personnel, except that the Director may take such action with regard to military personnel if the Secretary of Defense does not object to such action.

AMENDMENT NO. 3810

(Purpose: To clarify the definition of National Intelligence Program)

On page 7, beginning on line 20, strike "that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act".

Mr. LEVIN. I very much thank my dear friend from West Virginia, and I thank the managers.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Madam President, I rise today to not offer but to talk about an amendment because things are in the works. Therefore, I can only talk, not offer.

The amendment, were it to take place, would be amendment No. 3712. Of course, it is to No. 2845, which is our basic bill. I think it is widely agreed that Congress has an obligation to ensure that the efforts of the 9/11 Commission to improve our system of homeland security is accurately captured by any legislation that we pass out of this body.

Last week, Senators McCAIN and HUTCHISON offered constructive amendments on aviation security, but I believe my talking points offer the most comprehensive approach to improving aviation security, so I put them forward to my colleagues. I am pleased that Senator McCAIN was an original cosponsor of my Aviation Security Amendment Act, which I am talking about today as if it were an amendment, which it is not, for the moment anyway.

My idea would be to take needed steps to make certain that Commission transportation security recommendations are reflected in the pending legislation faithfully.

The recommendations of the 9/11 Commission are wide ranging. They build on the work we did in the House-Senate joint inquiry in 2002. I strongly believe that we must reform our Government, our Congress, and our intelligence agencies to meet the threat of terrorism as has been eloquently discussed by the two floor managers on many occasions.

Although the recommendations for transportation security are a small part of the overall report, their importance cannot be understated. They are sort of the most visible parts of security. I agree with the Commission's report when it states that targeting terrorists' ability to travel is a potent weapon against our efforts to protect against future terrorist attack.

In my position as chairman and now ranking member on the Senate Commerce, Science, and Transportation Committee's Subcommittee on Aviation, I have worked on many of these issues that face Congress after the terrorist attacks of 9/11.

I should point out that the Commerce Committee has looked at these issues and developed other recommendations in the years preceding 9/11. I also want to note that while we need to incorporate legislation consistent with the 9/11 recommendations, the report contains specific criticisms of the FAA prior to 9/11 that I do not believe are justified.

For example, the report criticizes the Administrator of the FAA for being more focused on the delays than on security prior to 9/11, but we all were. We addressed those needs collectively with a new process to expedite airport construction.

Unfortunately, I found it to be one area of the report that failed to put into context the actions of the FAA prior to 9/11 and what the congressional role was during that period.

Additionally, after TWA 800 went down in July 1996, we all know that we spent countless hours trying to develop measures for aviation security. That was well before 9/11 by 5 years. Ultimately, we mandated that more equipment and canine teams be dispatched as quickly as possible, but clearly the events of 9/11 have required an even more comprehensive approach.

I have worked closely with Senators McCAIN, HOLLINGS, LOTT, and many others over this period to take action to help ensure that the events of 9/11 are not repeated. Congress has passed a number of landmark bills to address critical needs in filling gaps in our aviation security. While the legislation that passed in the days immediately following the terrorist attacks was responsive to the crisis our aviation system faced, these laws primarily addressed the immediate needs we had regarding commercial passenger airline security, including aircraft passenger and baggage screening. I believe we have a much improved aviation security network because of the laws that were adopted. Improving aviation security is a continuous process, an expensive process, and we must continue to make improvements to our aviation security network. I think we all know much more needs to be done.

Over the last 3 years, TSA, the Transportation Security Administration, has had an appropriate opportunity to get up and running. It was awkward at first. They are much better at it now. I, along with my colleagues on the Commerce Committee, have conducted numerous oversight hearings on TSA and aviation security, a number of them in closed session. Because of this oversight and our understanding of the transportation system, we were better able to understand where we had made progress and identify what more work needed to be done about aviation security.

To further address these needs, Senators McCAIN, HOLLINGS, and myself introduced S. 2393, the Aviation Security Advancement Act, which included measures to tighten air cargo security and bolster other existing programs.

As we know, after the 9/11 Commission was established, they began a complete review of the events surrounding 9/11 and the requirements that would be necessary for a comprehensive strengthening of all of our homeland defense. When this report was released in July, it contained specific recommendations regarding transportation security, along with express concern about cargo and general aviation security. Both cargo and general aviation security have been subjects considered at hearings before the Senate Commerce Committee this year, and I introduced S. 2393 in an effort to make these issues a focus of Congress.

Last week, there was the amendment that I am talking about—not offering but talking about—which would do the following: Standardize the Federal screener workforce to properly address staffing needs and promote more efficient and effective screening at airports; require DHS to consider coordinating aviation-security-related functions to improve efficiency and effectiveness of passenger screening; increase funding for all-cargo aviation security to establish an improved security program and to promote the use of improved technology for cargo screening; provides an additional $450 million to fund priority capital security projects at airports; develops a streamlined baggage screening system by requiring a schedule for the in-line placement of explosive detection systems; it bolsters the Federal Air Marshal Program; advances the development of biometric technology for precise identification of workers and travelers; and improves perimeter security at airports by authorizing more than $20 million for TSA to develop biometric technology and fund a biometric center of excellence.

I believe these changes significantly improved the underlying legislation and have left us with a product that speaks to many of the problems that the 9/11 Commission found and which continue to exist in our airport transportation security network.

As I indicated, this is all in some flux now. It is being worked out with the floor managers. I simply thank my colleagues and the Presiding Officer and the two floor managers for allowing me to speak on what I think would be potentially quite a helpful amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the Senator from West Virginia, Mr. ROCKEFELLER, for talking about this amendment at this point. I know he has not officially offered it yet.

We are talking to him about it. I think this amendment responds to many of the recommendations made by the 9/11 Commission to strengthen aviation security. I very much appreciate the provisions of this amendment. We are trying to work out the authorization level that is included in the bill, but my overall reaction to his proposal is very favorable.

I know it has been reported by the Commerce Committee and cleared by the chairman and the ranking member of that committee. As usual, it reflects the Senator's thoughtful consideration of homeland security issues.

I very much have appreciated his advice throughout this debate, and I am hopeful that shortly we will be able to have him officially offer his amendment, perhaps with a modification, and we would be able to accept it.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Senator COLLINS has spoken exactly for me as well. I look forward to working with the Senator. It is a good amendment. There is one part that doesn't go to the heart of it, and we hope to look over it for a bit more and then I hope before along we can accept the amendment.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Madam President, I rise first to congratulate the committee on the hard work they have put into this bill, in particular Senator SUSAN COLLINS, who I think has done a wonderful job. This was a very difficult situation. She and Senator LIEBERMAN have led the committee in an admirable way. What I have to say is just what I hope will be seriously considered as the bill moves its way through to final completion by the House and Senate, ultimately to be in a form that can be signed by the President.

I rise to discuss one aspect of the bill concerning privacy and civil liberties. The bill before us has many appropriate suggestions for reforming our intelligence activities. Part of this reform includes the transformation of the Central Intelligence Agency and the enhancement of the human intelligence capability. We have heard over and over again that we must increase our human intelligence. Almost every time we get in a situation where we wonder what is happening in some country—even sometimes when we are engaged in war—we ask, Do we know this? Do we know that? The answers are we should, but we don't because we don't have anyone there. We don't have anyone on the ground. That wasn't always the case, but it has become a growing difficulty.

Actually, I think we should be getting better and better at it. What concerns me is that part of this reform in this bill includes the transformation of the Central Intelligence Agency and its enhancement of human intelligence, as I said, but this reform in human intelligence is very critical because we must get better at it. But, simultaneously, we must not inhibit it with overreaching privacy and civil liberties provisions that may have a chilling effect on such activities.

Simply put, I believe these provisions send a wrong message to our professional intelligence officers. Clearly, the 9/11 Commission report includes recommendations highlighting the need for adequate supervision of executive branch powers in order to protect civil liberties. As a modern democracy, we cherish individual rights and understand the importance of creating institutions with a clear mandate for protecting those civil rights. However, this bill establishes two officers in the National Intelligence Authority to oversee compliance of privacy policies and civil rights and civil liberties policies.

It also creates no fewer than eight similar officers for each of the executive branch departments and agencies concerned with national security. These officers would be required to recommend privacy and civil liberties policies and to:

> periodically investigate and review department, agency, or element actions, policies, procedures, guidelines, and related laws and their implementation to ensure that [they are] adequately considering privacy and civil liberties in [their] actions.

These officers are created in addition to an inspector general of the National Intelligence Authority. Clearly, insisting on all of these goes well beyond what is necessary and may well hurt our attempt to improve our human intelligence.

Our history of intelligence reform has many examples of sending wrong messages to our intelligence officers. The restrictions and bureaucratic oversight instituted in the past have often hampered the aggressiveness of operations and left our policymakers with less than a complete picture about critical intelligence matters.

The chilling effect that began with the Church hearings in the 1970s, while it did some things that were good—the chilling effect is long remembered. It has had a long, long effect.

The 1995 directive issued by former CIA Director John Deutch, which limited officers from including unsavory individuals, was also something that had enormous chilling effects and caused some difficulty in obtaining the kind of people we needed as the human resources we have been describing.

My concern is that excessive oversight established by this current bill will do the same thing, if not more. It will leave case officers who do human intelligence missions concerned that they cannot do their jobs to the best of their ability without worrying about being disciplined or somebody kind of looking over their shoulder.

Some people have called this reluctance by operations officers, by these officers, "risk aversion." I don't know if that is the right characterization, but certainly we have had difficulties accomplishing certain missions because we could not get enough trained people on the ground in critical places throughout the world.

I am concerned that the oversight provisions of sections 126, 127, and 212 in this bill will continue to hurt us in this area.

Having said that, I believe removing these provisions would create a much better balance between the Government authority needed to protect America and the civil liberties we hold so dear. Removing these sections that create too many oversight positions would remove redundancy while maintaining the Privacy and Civil Liberties Oversight Board that was recommended by the national commission.

Once again, I believe this bill does a very good job of enhancing our intelligence system, but let us not undermine these positive steps before they have had a chance to work.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3903

Mr. ROCKEFELLER. Madam President, I rise today in opposition to amendment No. 3903, offered by Senator TED STEVENS. This amendment strikes the provision in the bill that calls for the disclosure of the aggregate amount of funding requested, authorized, and appropriated for the national intelligence program.

There is one of the fundamental reforms recommended by the 9/11 Commission and one that I have long supported.

The proponents of this amendment have made two central arguments. First, they suggest we are rushing into this decision without fully understanding the implications.

Second, they suggest that revealing the amount of overall spending could somehow damage our national security.

Let us address the first argument, that we are rushing into this decision. I must point out this is not a new debate. The Congress has been considering this particular question for at least a decade. In 1993, the Senate adopted an amendment calling for the disclosure of the aggregate amount of intelligence spending.

Let me repeat that the Senate endorsed the idea 11 years ago.

That effort and a subsequent attempt to make the top line public, which is what we are talking about—the total amount of the intelligence budget—in 1997 had the support of Senators SPECTER, Boren, and DeConcini, all of whom served as chairman of the Senate Intelligence Committee. We had a full and complete debate in 1993, and this issue has been reviewed, debated, and discussed numerous times in the intervening years. The argument that we are being rushed into this decision is an excuse being used to stop this important change.

Regarding the second argument, that disclosing the overall budget will damage our national security, I cannot cite a better source than the Deputy Director of the CIA John McLaughlin who testified last month that this important step would reinforce responsibility and accountability, not only for those receiving the money but for the Congress as well. In addition, Robert Gates and John Deutch, former Directors of Central Intelligence, have said that releasing the number would not damage national security.

Arguing that disclosure of the total spending for national intelligence would compromise our security and provide enemies with useful information about our intelligence programs ignores the reality of the current situation. While the number is in fact classified, it is widely reported in the press. It also was officially declassified for fiscal years 1997 and 1998 by former DCI Tenet.

Some have argued that the total amount is not the problem; it is the budget trends that need to be protected. Again, current practice undermines this argument. Every year when we do the intelligence authorization bill, the chairmen and vice chairmen in both Houses come to the floor and talk about whether we have increased or decreased the budget that year. Often those statements include specific percentage increases. These discussions and trends disclose nothing about the specific intelligence programs being funded.

The idea that our enemies can somehow determine something about our intelligence capability by knowing the total of what we spend is simply not accurate. Year-to-year changes in any specific program will not move the overall total number enough to give an adversary any indication of how that money is being spent.

In other sensitive national security areas, we disclose much more information without doing damage. We currently disclose an enormous amount of detail about our defense budget and military capabilities. The amount of money we spend on personnel, acquisition, and research and development is unclassified. Also available are the amounts for specific weapons systems, such as tanks, aircraft, and missile defense.

Even much of the spending in the defense budget for specific tactical intelligence programs is unclassified currently.

The disclosure of the total of the national intelligence budget is simply not an academic debate. This step is critical to many of the other reforms in this bill which our floor managers are trying so hard to get done, and to some of the proposed congressional reforms we will be discussing later this week. Without a separate unclassified budget number, the fund for the National Intelligence Program will still need to be included in the Defense Department budget. This arrangement will hinder effective control by the national intelligence director and will restrict our ability to organize in a way to streamline congressional oversight, which is what the 9/11 Commission and our floor managers are seeking in their legislation.

To conclude, it will be virtually impossible to have a separate appropriations for intelligence without the declassified intelligence budget. If we do not take this step and make this number public, we are seriously undermining the reforms in this bill.

I urge my colleagues to oppose the Stevens amendment and support this key recommendation of the 9/11 Commission.

I thank the Presiding Officer and yield the floor.

Ms. COLLINS. Madam President, I thank the Senator from West Virginia for his very eloquent presentation.

As the Senator indicated, the intelligence budget's aggregate number has been made public twice by the DCI. So this is not unprecedented. But if the amendment offered by the Senator from Alaska were adopted, let there be no mistake of what the effect would be. The effect would be that the funding for the National Intelligence Program would still be funded through Department of Defense.

The whole purpose of this bill is to create a national intelligence director with significant authority, and the first and perhaps most significant of those authorities is the control of the budget. The only way you can give the NID true control over the budget is if you have a separate account that the NID controls. And we need to do that by declassifying the top level number.

We did not go as far as the 9/11 Commission recommended. The 9/11 Commission recommended declassifying the top lines of all the agencies' budgets within the National Intelligence Program. We did not adopt that approach. Instead, we are only declassifying the aggregate number for the entire national intelligence budget, a number I note is often estimated and reported in the newspapers today.

But the point I want to make to supplement the remarks of the Senator from West Virginia is if we do not do this, if we adopt the amendment offered by the Senator from Alaska, we will undermine a key reform in the bill because the intelligence budget is so big that if it is not going to be declassified, it has to go through the Department of Defense. There is no other agency or department that is big enough to conceal the total amount of the budget.

This is going to be an important vote which is coming up this afternoon.

Mr. DOMENICI. Madam President, when I delivered my short remarks in reference to the privacy and civil liberties provision, I failed to mention the other provisions in the bill that attempt to provide similar or corresponding type relationships. One is called the privacy and civil liberties oversight board. That is a very different thing within the purview of intelligence activities. It is almost political in nature. It is appointed by the President and confirmed by the Senate, three members of one party and two of the other.

It seems to me a very significant intrusion, perhaps, if one of those institutions will have a very chilling effect.

In addition to all of those I have mentioned, four, that is five; I mentioned six, that is seven; and now we have an eighth, which is an ombudsman, which seems, at least to me, to be a bit of piling on in this bill. You get one, and you think it is OK; someone has another; and someone has another. There is no criticism in that, but that is what it appears to me. We used to call that piling on when we went into conference where somebody seemed to be piling on because they have so many provisions affecting the same thing. But in this case, if that is what it is, it will have serious potential for repercussions that we don't want.

I thank you, Madam President, and the Senate for yielding me this time.

Mr. STEVENS. Madam President, I apologize for not being here earlier. I thank the managers of the bill, Senator COLLINS and Senator LIEBERMAN, and their staffs for the work that has been done over the weekend, which we will be hearing about soon, trying to meet us halfway in terms of some of the objections we have raised to the bill.

We will soon vote on amendment No. 3903, which the Senator from Maine has just discussed, declassification responsibility. This is an enormous step to take mainly because of the absolute lobbying and pressure from two people from the 9/11 Commission. I have talked to other members on the Commission who were not so keen about declassification of the entire intelligence budget other than Mr. Hamilton and Mr. Kean.

Clearly, it is a massive step. From President Truman to President Bush, every President of the United States has said do not declassify the top line of our budget. We have voted in the Senate many times since I have been in the Senate as Members have tried to do this, and we have uniformly turned down such a proposal.

Now it is in a bill for the first time. We must take it out. It requires 51 votes to take out. In the past, it took 51 votes to pass. We are in a different position now than we were before. Very clearly, because of the scope of this bill, we are doing something even more expansive than amendments that came before the Senate before.

Again, I call the attention of the Senators who will vote to the scope of the definition of national intelligence under this bill. It is a sweeping definition.

I ask that page 6, beginning on line 19, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> (6) The term "National Intelligence Program"—
>
> (A)(i) refers to all national intelligence programs, projects, and activities of the elements of the intelligence community;
>
> (ii) includes all programs, projects, and activities (whether or not pertaining to national intelligence) of the National Intelligence Authority, the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, the Office of Intelligence of the Federal Bureau of Investigation, and the Office of Information analysis of the Department of Homeland Security; and
>
> (ii) includes any other program, project, or activity of a department, agency, or element of the United States Government relating to national intelligence unless the National Intelligence Director and the head of the department, agency, or element concerned determine otherwise; but
>
> (B) except as provided in subparagraph (A)(ii), does not refer to any program, project, or activity of the military departments, including any program, project, or activity of the Defense Intelligence Agency that is not part of the National Foreign Intelligence Program as of the date of the enactment of this Act, to acquire intelligence principally for the planning and conduct of joint or tactical military operations by the United States Armed Forces.

Mr. STEVENS. My point is this: Included in intelligence are the top secret plans of this country. They are the planning for future devices and concepts that deal with interception of information. They deal with the ability to identify individuals. They deal with so many classified areas that I may be violating some rules by mentioning the two I mentioned.

All the money we put in this bill, hide in the intelligence bill, to stop anyone from knowing about it, has to be disclosed under this direction, to include everything, any program, project, or activity of any one of these agencies.

I plead with Members to think about classification. This is not routine classification of who is an employee of the CIA. That is bad enough, come to think of it. These activities are so far reaching, and with so many agencies, including the defense agency that deals with research activities. It has projects it is working on, which are so far out that may prove to be viable. They are part of the intelligence budget. They are classified. They are down in the black portion of the bill and are kept classified because we do not want anyone to know what we are researching and what we are developing. It would be included in this.

No amendment we ever looked at before would have done that, but because of the definition of intelligence in this bill it becomes all inclusive and there is no alternative.

Sometimes I think maybe I am just not able to communicate totally what I am thinking about this bill. It is far reaching to the point of having the ability to destroy intelligence capability to plan for the future.

There is no question about the right to know everything—except the secrets of the country. Aren't we allowed to have some secrets? Do we have to disclose a number that encompasses the financing of secret activities, some so classified they are not even top secret; they are code word? You have to be cleared for the word. You have to be totally cleared. And there are very few people cleared for these activities. I don't think there are many people in the Senate who are cleared for code word activities.

Should we tell them what we are spending for code word activities? We do not even tell them the word—but we will have to print in the RECORD now, disclose in the top line of the intelligence budget, all of those activities.

I will speak later about it. Again, I implore the managers of the bill to think twice about this precedent we would be setting, reversing the votes in the Senate—reversing because now it requires 51 votes to take it out. In the past, it was 51 votes to get it passed.

This has shifted the burden from the intelligence people who want to protect the Intelligence Committee to the people who do not understand it, do not wish to really understand it. I am not being accusatory of my two friends. They have worked hard and are trying to understand, but some of us have lived a lifetime in trying to understand it. This amendment has to pass.

If we want to disclose the budget to the extent that it is not classified in terms of top secret or above, that is another matter. We can disclose a portion of the budget that is in the secret category, but when we get to top secret and above—no. If we include that, count me out. I cannot believe we would do that. I hope the Senator will listen to us later.

Mr. BURNS. Will the Senator yield?

Mr. STEVENS. I am delighted to yield.

Mr. BURNS. As I looked at this amendment and thought of making available the information of how much we spend on intelligence—not only are there operations we have to take into consideration, lives of people are on the line. We make them more vulnerable every day in their work, gathering intelligence.

Mr. STEVENS. The Senator is absolutely right.

Mr. BURNS. And I ask the Senator, has anyone determined what it does to the human assets, the people? They are the best we have. Are they willing to work for this agency to get the best intelligence we need?

Mr. STEVENS. The problem is, once we make available this top line they wish to disclose and then start through the budget on what you can find easily, pretty soon you come down to the portion of the budget that is in the classified sector, and then you start to pick it apart. You know what will happen. It will keep getting question after question after question.

But the people who risk their lives, who are foreign nationals, are paid from this budget. We are really going to put in there how much we are paying people around the world to spy for us? Are we naive enough to think we are not paying people? It would be in there. Unless the Senator disagrees with me, there is one little exception: unless someone decides otherwise. I am not sure what that means because it only refers to that one section. It is related to national intelligence.

Now, national intelligence is intelligence that is covered by section 5. It does not refer to counterintelligence or law enforcement activities conducted by the Federal Bureau of Investigation. It does not say it does not cover counterintelligence or activities of the CIA or the DIA, but it does for the FBI.

I think the problem is, the definitions of these programs are so specific now to this bill. But this one covers the disclosure of the total amount. That is what I object to.

Mr. BURNS. Madam President, I have drawn the conclusion that basically this destroys the network. And we wonder why we do not have human resources on the ground in some areas in the world and, yes, even in our own country. I will tell you, if this is disclosed, this will be one of the main reasons that we will have.

Mr. STEVENS. Let me tell the Senator one thing before I quit. I remember one morning I woke up and the New York Times had a picture of the Predator on the front page, and it disclosed that it was capable of carrying the Hellfire missile. If there was anything that was totally classified at that time, that was it, and there it was out there on the front page. Do you know what. About a week later, we missed several people in Afghanistan on whom we were trying to use the Hellfire missile. They knew it was already there. They knew it was armed by that time. Before that, it had not been armed and before that no one had the capability to arm it. But we developed a way to arm it, and there it was on the front page of the New York Times.

Now, this concept of leakage of the intelligence community's activities starts from the top line. I do not understand why we should reverse the history of this Senate. The Senate has never voted to disclose the intelligence budget—never.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I have great respect for the Senator from Alaska. He has always contributed to our country in so many different ways. I have great respect for his long experience in matters of defense and intelligence. I assure him of this.

He raised the question about whether the Senator from Maine and I understand what we are doing. Let me assure him, we understand. We have spent a lot of time studying this issue. The 9/11 Commission has spent a lot of time studying this issue. We disagree with the amendment of the Senator from Alaska. We have a difference of conclusion about policy, but we understand exactly what we are doing.

What we are doing is saying that the billions of dollars that are spent every year on intelligence is the people's money. Unless there is a national security reason not to tell them what the bottom line is we are spending, they have a right to know. One of the consequences of that is that there will be more accountability.

Acting Director of Central Intelligence John McLaughlin said to our committee:

> I think it would make some sense to declassify the overall number of the foreign intelligence program. It would reenforce responsibility and accountability.

This is nobody who was pulled in out of nowhere to run the CIA. He spent his entire career, more than 30 years, in intelligence.

Mr. STEVENS. Will the Senator yield?

Mr. LIEBERMAN. No. I would like to—

Mr. STEVENS. But you are using foreign intelligence. This is national intelligence. He talked about foreign intelligence.

Mr. LIEBERMAN. Excuse me, he talked about national intelligence before our committee. It is the bottom line, a gross number.

The colloquy between the Senator from Montana and the Senator from

Alaska was interesting but bore no relevance whatsoever to the proposal in our bill. Do you think we would make this recommendation if we thought it would compromise the security of anybody in our intelligence community?

Let me ask you this: How would it? It is the bottom line. It is not even the 15 constituent agencies of the intelligence community. This does not compromise anybody's security any more than the Defense Department budget compromises the security of our soldiers, or the DEA budget, which is public, Drug Enforcement Agency, compromises the security of any of our drug enforcement agents, or the FBI budget. People in DEA and FBI are involved in very dangerous work.

Anyway, it is only the bottom line.

The PRESIDING OFFICER. Under the previous order, the hour of 4:15 having arrived, the Senate will proceed to a series of votes on pending amendments, with 2 minutes equally divided for debate prior to each vote. The first amendment is Senator BYRD's amendment, amendment No. 3845.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I want to explain to our colleagues what is going to happen before we proceed. There will be a motion to table the Byrd amendment. There will be 2 minutes equally divided and then a motion to table the Byrd amendment.

We have been able to work out an agreement on Senator WARNER's amendment. That will be the second matter we deal with. He will send a modification to the desk, and it is my hope to be able to adopt that amendment by a voice vote and vitiate the rollcall request.

Then there will be consideration of an amendment from Senator STEVENS having to do with the effective date. Again, we have worked out a compromise on that, working very hard throughout the weekend. I expect Senator STEVENS will propose a modification to his amendment, and that will allow us to clear that amendment by a voice vote.

We then will proceed to the Stevens amendment dealing with classification, which has been debated extensively. That will require a rollcall vote, and I will be moving to table it.

We then will move to another Stevens amendment where, again, I am pleased to report there is another compromise. It has to do with the interagency counterterrorism plans. Again, an amendment will be sent to the desk incorporating the compromise. I believe Senator STEVENS will be offering that. I anticipate being able to accept that on a voice vote.

So I want my colleagues to know that we have made considerable progress in accommodating concerns expressed by the Senator from Virginia and the Senator from Alaska. As a result, I see the need for two rollcall votes out of the five that were ordered. I hope that is how it will unfold.

The PRESIDING OFFICER. Who yields time with regard to the amendment?

Mr. BURNS. Madam President, I say to the managers of the bill, I would like to respond to the ranking member's assessment of why the funds should be disclosed. I ask permission to do that.

The PRESIDING OFFICER. Does the Senator yield time?

Ms. COLLINS. Madam President, I am wondering if perhaps that could be done in the 2 minutes on the Stevens amendment, since we have an awful lot of amendments to get through. I am very hesitant to cut off the Senator from Montana, but would that be acceptable?

Mr. BURNS. That will be fine. We might ask for a little more time.

Ms. COLLINS. OK. Madam President, we would now proceed to 2 minutes of debate equally divided on Senator BYRD's amendment.

The PRESIDING OFFICER. That is correct.

Mr. WARNER. Madam President, seeing the absence of Senator BYRD, I ask the Senator, would you like to proceed to my amendment to take a little time while he comes to the floor?

Ms. COLLINS. Madam President, I think that would be a good idea. I ask unanimous consent that we proceed to Senator WARNER's amendment first while we are waiting for Senator BYRD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

The Senator from Virginia.

Mr. WARNER. Madam President, I now observe the presence of the Senator from West Virginia.

AMENDMENT NO. 3877, AS FURTHER MODIFIED

Madam President, I send to the desk a modification to amendment No. 3877.

The PRESIDING OFFICER. Without objection, the amendment is further modified.

The amendment, as further modified, is as follows:

On page 40, strike line 18 and all that follows through page 42, line 9, and insert the following:

(b) NID RECOMMENDATION OR CONCURRENCE IN CERTAIN APPOINTMENTS.—With respect to any position as head of an agency, organization, or element within the intelligence community (other than the Director of the Central Intelligence Agency)—

(1) if the appointment to such position is made by the President, any recommendation to the President to nominate or appoint an individual to such position shall be accompanied by the recommendation of the National Intelligence Director with respect to the nomination or appointment of such individual to such position; and

(2) if the appointment to such position is made by the head of the department containing such agency, organization, or element, the Director of the Central Intelligence Agency, or a subordinate official of such department or of the Central Intelligence Agency, no individual may be appointed to such position without the concurrence of the National Intelligence Director.

(c) PRESIDENTIAL AUTHORITY.—This section, and the amendments made by this section, shall apply to the fullest extent consistent with the authority of the President under the Constitution relating to nomination, appointment, and supervision of the unitary executive branch.

On page 42, after line 25, add the following:

(e) CONFORMING AMENDMENTS.—(1) Section 201 of title 10, United States Code, is amended—

(A) by striking subsection (a);

(B) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively;

(C) by striking "Director of Central Intelligence" each place it appears and inserting "National Intelligence Director";

(D) in subsection (a), as so redesignated—

(i) in paragraph (1)—

(I) by striking "seek" and inserting "obtain"; and

(II) by striking the second sentence; and

(ii) in paragraph (2)—

(I) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(II) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) The Director of the Defense Intelligence Agency."; and

(E) in paragraph (2) of subsection (b), as so redesignated—

(i) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D), respectively; and

(ii) by inserting after subparagraph (A) the following new subparagraph (B):

"(B) The Director of the Defense Intelligence Agency.".

(2)(A) The heading of such section is amended by striking "**consultation and**".

(B) The table of sections at the beginning of subchapter II of chapter 8 of such title is amended in the item relating to section 201 by striking "consultation and".

Mr. WARNER. This is an amendment which strikes a balance between the respective authorities of the newly to be created NID together with the Secretary of Defense and others as it relates to the recommendations to the President for the appointment of Presidential appointees. It has the support of the distinguished managers on both sides. I worked in cooperation with the White House staff in its preparation, and they have expressed strong concurrence.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I thank the distinguished chairman of the Armed Services Committee for working with Senator LIEBERMAN and me on the appointment authority. This is a very important issue. We have struck the right balance in the modification. I urge acceptance of the modification which embodies the compromise we worked on over the weekend.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank Senator WARNER for the initiative and for the reasoning that we have done. We have come up with a result that is a wise and solid balance. We are creating a new position—national intelligence director—but we want that position to work particularly closely with the Secretary of Defense. This compromise says that on the critical national intelligence agencies—NSA, NGA, and NRO—that are now in the Defense Department, whereas the initiative to head that department was previously in the national intelligence director, we are giving it back to the Secretary of Defense but asking for concurrence from the national intelligence director before it goes to the President.

The PRESIDING OFFICER. The time of the managers has expired.

Mr. LIEBERMAN. In fact, this amendment broadens the involvement of the national intelligence director in these important nominations.

I thank the Senator for his cooperation. It shows that Senator COLLINS and I are willing to hear and accept a good idea.

Mr. WARNER. Madam President, I note the long hours and hard work of the two managers. We started on this on Thursday, when I first introduced it, and we worked it again on Friday. Those were productive days. Even though we did not have rollcall votes on Friday, much was accomplished, including the resolution of this amendment.

I ask now that the amendment be agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3877, as further modified.

The amendment (No. 3877) was agreed to.

Ms. COLLINS. Madam President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3845

The PRESIDING OFFICER. The question now occurs on the amendment of the Senator from West Virginia.

The Senator from Maine.

Ms. COLLINS. Madam President, the amendment of the Senator from West Virginia would considerably limit the authority of the national intelligence director to move money and people. It would undermine a key reform that is included in this bill, a reform that the 9/11 Commission says is absolutely necessary to empower the NID. Otherwise we are just creating another layer of bureaucracy. We need to make sure that the NID has the authority to marshal the resources, the people, and the funding to counter the biggest threats we face.

The Byrd amendment would actually give the new national intelligence director less authority than the DCI has under current law to move around money and personnel to address urgent needs. Under the Byrd amendment, aggregate transfers from a department or an agency would be limited by a dollar and a percentage amount. There is no such limitation in current law. This amendment represents a step backward from current law. It would severely undermine the reforms. I am going to move that it be tabled. I urge my colleagues to oppose the amendment.

The PRESIDING OFFICER. The Senator from West Virginia has 1 minute.

Mr. BYRD. Madam President, I ask unanimous consent for 2 minutes. I would like to yield to the distinguished Senator, chairman of the Appropriations Committee and President pro tempore of the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Madam President, I ask unanimous consent for an additional minute on our side, then, as well.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

Mr. STEVENS. Madam President, I believe this is another amendment that is sort of misunderstood. The powers of the national intelligence director under this bill are much broader than the CIA Director's. Under this bill he has the right to move money from any part of the intelligence community to another part without consent of the agency to whom we appropriated money and, really, without regard to the program activities or even the specifications Congress has put on that money.

Take, for instance, reserve funds. Reserve funds are there in the event of emergencies for the specific agency involved. He can go in to take the reserve funds from one agency and move them entirely to another agency without any consent of the agency or the consent of the committees that appropriated the money for that reserve contingency.

The Senator's amendment makes a lot of sense. Those of us who are cosponsors are very serious about our support.

Mr. LEVIN. Mr. President, I support much of what is contained in amendment No. 3845, offered by Senator BYRD. However, I will vote against the amendment because it strikes from the underlying bill section 224(b)(3), a provision included in an amendment I offered during markup of the bill in the Government Affairs Committee. Section 224 requires that the NID, the Director of the NCTC, and the Director of any other intelligence center make intelligence information available upon the request of committees of Congress with jurisdiction over the subject matter to which the information relates, or upon the request of the chairman or ranking member of the House or Senate Intelligence Committees. Too much information and too many documents have been withheld from congressional committees by the CIA. If we are going to prevent a stronger national intelligence direction from becoming a stronger "yes man" and stronger political arm of a White House, there must be strong oversight from Congress.

The intention of section 224(b)(3) is to limit the amount of intelligence information that the executive branch can legally withhold from the Congress. The requirement to provide information to Congress exists unless the President asserts a Constitutionally-based privilege. Senator BYRD and I both agree that the Congress should have broad access to intelligence information. I disagree, however, with that part of the Byrd amendment which strikes section 224(b)(3).

Mr. NELSON of Florida. Mr. President, while I agree with the provisions of Senator BYRD's amendment, No. 3845, that seeks to provide greater congressional oversight of the national intelligence authority, my objections to provisions in the amendment that would require the National Intelligence Director to relinquish budget authority make it necessary for me to oppose the amendment and vote in favor of the motion to table the amendment.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Madam President, we must not take control of public moneys from the elected representatives of the people and give it to an unelected bureaucrat. The Byrd-Stevens-Inouye-Warner amendment gives the director the flexibility to transfer personnel and appropriations to protect against terrorist attacks but provides a leash with which to rein him in should abuses occur. They may occur. They probably will in time. This is a safeguard.

I say listen to the Constitution of the United States. I am very interested in reform, and I admire the work the committee has done. But we are acting too hastily. We are not given enough time, and we are going to rue the day that we turned this amendment down and failed to leash this unelected bureaucrat. We, the people, stand by the Constitution.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, testimony from former DCIs as well as other experts confirmed the need for stronger authority to transfer and reprogram funds and told us this is key to reform of the intelligence community. The Acting Director of the CIA said it best. He talked about how cumbersome the current system is. He told us you first have to acquire the approval of the agency head, then you have to go to the department secretary, then you have to go to OMB, and then you have to go to Congress. We are keeping the OMB and congressional steps. I want to make that clear. But that process, he told us, typically takes 5 months, and, as he said—and I quote John McLaughlin:

> So you can see that's not very agile to meet the needs of today. My view is that the national intelligence director ought to have the authority to move those funds.

I would also note that other provisions in the bill are opposed by the White House, and the amendment is opposed by the chairman of the Intelligence Committee.

I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on the motion.

The clerk will call the roll.

Mr. McCONNELL. I announce that the Senator from Texas (Mr. CORNYN) and the Senator from Oklahoma (Mr. INHOFE) are necessarily absent.

I further announce that if present and voting the Senator from Oklahoma (Mr. INHOFE) would vote "yea."

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. COLEMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 62, nays 29, as follows:

[Rollcall Vote No. 195 Leg.]

YEAS—62

Alexander
Allard
Allen
Bayh
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Campbell
Cantwell
Carper
Chambliss
Clinton
Coleman
Collins
Conrad
Craig
Crapo
Daschle
DeWine
Dole
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (SC)
Grassley
Hatch
Hutchison
Landrieu
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Roberts
Rockefeller
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Sununu
Talent
Voinovich
Wyden

NAYS—29

Baucus
Bennett
Biden
Burns
Byrd
Chafee
Cochran
Dayton
Dodd
Domenici
Dorgan
Gregg
Hagel
Harkin
Inouye
Jeffords
Johnson
Kohl
Kyl
Lautenberg
Leahy
Murkowski
Reed
Reid
Sarbanes
Stabenow
Stevens
Thomas
Warner

NOT VOTING—9

Akaka
Cornyn
Corzine
Edwards
Graham (FL)
Hollings
Inhofe
Kennedy
Kerry

The motion was agreed to.

AMENDMENT NO. 3829, AS MODIFIED

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Stevens amendment No. 3829.

Ms. COLLINS. Mr. President, I am very pleased to inform our colleagues that, after working very closely with Senator STEVENS, Senator LIEBERMAN and I have agreed to a modification of his amendment that is acceptable to us.

The bill originally called for an effective date after enactment of 180 days. The amendment of Senator STEVENS would retain that date but give the President the ability to extend for another 6 months for certain provisions of the bill. That is an acceptable compromise.

I thank the Senator from Alaska for working with the Senator from Connecticut and myself to reach this agreement. I want my colleagues to take note that we have accommodated the Senator's concern in this regard.

Mr. STEVENS. I send a modification of my amendment to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 3829), as modified, is as follows:

AMENDMENT NO. 3829 (AS MODIFIED)

On page 133, line 4, strike "90 days" and insert "180 days".

On page 134, line 4, strike "180 days" and insert "270 days".

On page 135, line 15, strike "270 days" and insert "1 year".

On page 140, line 6, strike "30 days" and insert "90 days".

On page 145, line 12, strike "1 year" and insert "15 months".

On page 149, line 16, strike "1 year" and insert "15 months".

On page 150, line 20, strike "1 year" and insert "15 months".

On page 212, beginning on line 3, strike "subsection (b), this Act, and the amendments made by this Act," and insert "subsections (b), (c), and (d), titles I through III of this Act, and the amendments made by such titles,"

On page 212, between lines 6 and 7, insert the following:

(b) SPECIFIED EFFECTIVE DATES.—(1) The provisions of section 206 shall take effect as provided in such provisions.

(2) The provisions of sections 211 and 212 shall take effect 90 days after the date of the enactment of this Act.

On page 212, line 7, strike "(b)" and all that follows through "United States" on line 10 and insert "(c) EARLIER EFFECTIVE DATE.—In order to safeguard the national security of the United States through rapid implementation of titles I through III of this Act while also ensuring a smooth transition in the implementation of such titles,".

On page 212, beginning on line 11, strike "Act (including the amendments made by this Act), or one or more particular provisions of this Act" and insert "titles I through III of this Act (including the amendments made by such titles), or one or more particular provisions of such titles".

On page 212, between lines 16 and 17, insert the following:

(d) DELAYED EFFECTIVE DATE.—(1) Except with respect to a provision specified in subsection (b), the President may extend the effective date of a provision of titles I through III of this Act (including the amendments made by such provision) for any period up to 180 days after the effective date otherwise provided by this section for such provision.

(2) The President may extend the effective date of a provision under paragraph (1) only if the President determines that the extension is necessary to safeguard the national security of the United States and after balancing the need for a smooth transition in the implementation of titles I through III of this Act against the need for a rapid implementation of such titles.

On page 212, line 17, strike "(c)" and insert "(e)".

On page 212, line 18, strike "(b)" and insert "(c) or (d)".

On page 212, line 23, strike "earlier" and insert "earlier or delayed".

On page 212, line 25, strike "earlier" and insert "earlier or delayed".

Mr. STEVENS. I thank the Senators from Maine and Connecticut for working with us on this amendment. It does stretch out the timeframe and makes much more sense.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Alaska. We have improved this. We have said 180 days for the effective date. If the President decides it is in the national security interest to extend that, he can do that. If he decides he wants to implement it earlier than 180 days in the national security interest, he can do that as well. It is a good compromise. I support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3829), as modified, was agreed to.

Mr. STEVENS. Mr. President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3903, AS MODIFIED

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Stevens amendment No. 3903.

Mr. STEVENS. Mr. President, could we have order?

Determining classification is the responsibility and duty of the chief executive of the United States, the President, who is also Commander in Chief. Presidents Truman through Bush has determined that the overall intelligence budget top-line figure is, and shall remain, classified, and I believe we should not overrule that judgment.

The foundation of an effective intelligence capability, is secrecy. Secrecy protects not only the information that we collect, but also the brave people that put themselves at risk to do the collection of it. We are an open and a free society that generally abhors secret dealings by our Government. But in the case of intelligence collection and analysis, secrecy, is absolutely necessary.

Some of my colleagues argue that the American people have a right to know how much of their money is being spent to defend their Nation's security through intelligence-gathering operations. I assert today that, through its elected officials, the public interests are being effectively served.

Some argue that disclosing the total budget amount will instill public confidence and enable the American people to know what portion of the Federal budget is dedicated to intelligence activities. This bill recommends that the overall intelligence budget should no longer remain classified. I believe that the total budget figure is of no use to anyone but to those who wish to do us harm.

For example, what do the numbers tell our adversaries or potential adversaries in the world? In any given year, perhaps, not a great deal. But while watching the changes in the budget over time, and using information gathered by their own intelligence activities, sophisticated analysts can indeed learn a great deal.

Trend analysis, as you know, is a technique that our own analysts use to make predictions and to reach conclusions. There are hostile foreign intelligence agencies all over the world that are focused solely on gathering every bit of information that they can about our own intelligence-gathering operations and our capabilities. Their ultimate goal is to exploit weaknesses and to deny access and to deceive our own intelligence collectors. Denial and deception is already a serious concern for the intelligence community, and providing our enemies or potential enemies with any insight as to what we spend on intelligence will only make it worse, not better.

No other nation, friend, or ally, reveals the amount that it spends on intelligence. It would set a terrible, dangerous precedent, because right after the aggregate budget was revealed, that number doesn't say much and so the calls would be quickly for more information.

This is a slippery slope. Reveal the first number and it will be just a matter of minutes before there will be a call to reveal more information.

I want to remind my colleagues that we voted on a similar measure in 1997—the amendment failed by a vote of 56–43. There have also been five votes in the House—all of which have failed. Let us not change our records now.

The President of the United States and every President since Harry Truman has requested that the Senate not declassify the amount our country spends on intelligence. I believe we should listen to what he tells us. I have amended my original amendment to request that only a study be done on this important issue. That the national intelligence director have the time to investigate this important topic and let him, with the President, decide what the safety needs of our Nation are to be.

Based on the recommendations of our colleagues here in the past, I hope you will accept this change and support this amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Connecticut.

Mr. LIEBERMAN. I rise respectfully to oppose the amendment of the Senator from Alaska. The 9/11 Commission recommended that we disclose not only the bottom line of what we spend on intelligence but the budgets of each of the 15 constituent agencies.

The Governmental Affairs Committee decided that we could respond and respect the public's right to know by putting out the bottom line number. That means X billion dollars. No details about what goes to what agency or certainly not what goes to what program or what personnel. But we were not ready to order the disclosure of the intelligence agency budget specifically, and we asked the national intelligence director to come back to us with a study.

That is a good balance. The Senator from Alaska would prohibit public disclosures of the bottom line. The public has a right to know at least that. One thing they might conclude from that is that we are not spending enough on intelligence in the war on terrorism as compared to other things we are spending on.

We worked hard on this. It is balanced. It respects the right to know. The families of people lost on 9/11 oppose this amendment, as I do.

I move to table and I ask for the yeas and nays.

Ms. COLLINS. Mr. President, I would also point out that if we do not disclose the top line, the result is the intelligence budget is still funded through the Department of Defense. So if we are trying to give the national intelligence director real budget authority, we have to disclose that top line. We are not disclosing the top line of the CIA, the DIA, the NSA; it is only the aggregate figure for the entire national intelligence budget. Otherwise we are not reforming the process. The funding will have to go through the Department of Defense.

Mr. STEVENS. Mr. President, I send a modification to the desk.

The PRESIDING OFFICER. The amendment is so modified.

The amendment (No. 3903), as modified, is as follows:

AMENDMENT NO. 3903 AS MODIFIED

On page 115, strike lines 15 through 25 and insert the following:

(a) STUDY ON DISCLOSURE OF AGGREGATE AMOUNT OF APPROPRIATIONS REQUESTED.—The National Intelligence Director shall conduct a study to assess the advisability of disclosing to the public the aggregate amount of appropriations requested in the budget of the President for each fiscal year for the National Intelligence Program.

On page 116, line 1, strike "(c)" and insert "(b)".

On page 116, strike lines 21 through 23, and insert the following:

(c) REPORT.—Not later than 180 days after the effective date of this section, the National Intelligence Director shall submit to Congress a report on the results of the studies carried out under subsections (a) and (b).

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. I announce that the Senator from Oklahoma (Mr. INHOFE) is necessarily absent.

I further announce that if present and voting the Senator from Oklahoma (Mr. INHOFE) would vote "aye."

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Massachusetts (Mr. KENNEDY), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The result was announced—yeas 55, nays 37, as follows:

[Rollcall Vote No. 196 Leg.]

YEAS—55

Alexander
Baucus
Bayh
Biden
Bingaman
Boxer
Breaux
Cantwell
Carper
Chafee
Clinton
Coleman
Collins
Cornyn
Daschle
Dayton
DeWine
Dodd
Dorgan
Durbin
Ensign
Feingold
Feinstein
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Jeffords
Johnson
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
McCain
Mikulski
Murray
Nelson (FL)
Pryor
Reed
Reid
Rockefeller
Santorum
Sarbanes
Schumer
Snowe
Specter
Stabenow
Sununu
Voinovich
Wyden

NAYS—37

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Byrd
Campbell
Chambliss
Cochran
Conrad
Craig
Crapo
Dole
Domenici
Enzi
Fitzgerald
Frist
Hatch
Hutchison
Inouye
Kyl
Lugar
McConnell
Miller
Murkowski
Nelson (NE)
Nickles
Roberts
Sessions
Shelby
Smith
Stevens
Talent
Thomas
Warner

NOT VOTING—8

Akaka
Corzine
Edwards
Graham (FL)
Hollings
Inhofe
Kennedy
Kerry

The motion was agreed to.

Mr. STEVENS. Parliamentary inquiry.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Alaska.

Mr. STEVENS. If I give notice of reconsideration of that vote, what happens under the cloture vote as set for tomorrow?

The PRESIDING OFFICER. If the vote is reconsidered, the amendment will be pending.

Mr. STEVENS. I give notice of reconsideration.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I regret seriously I was unable to make my statement in full. I was not notified of this time limit when I left on Friday. I came back and found it. The statement of my amendment there was not a statement of my amendment. It was a statement in opposition to my amendment. I was unable to tell the Senate that the statement of policy of the President of the United States supports this amendment. I think the Senate should reconsider tomorrow and think again about this amendment.

Is there a time limit on me right now?

Mr. LIEBERMAN addressed the Chair.

Mr. STEVENS. Mr. President, I have the floor. Is there a time limit?

The PRESIDING OFFICER. The Chair advises the Senator that he cannot move to reconsider as he did not vote on the prevailing side.

Mr. LIEBERMAN. I move to reconsider the vote. I was on the prevailing side.

Ms. COLLINS. I move to lay that motion on the table.

Mr. STEVENS. Mr. President, I object.

The PRESIDING OFFICER. The question then is on agreeing to the motion to table.

Mr. STEVENS. Mr. President, is that debatable?

The PRESIDING OFFICER. It is not debatable.

The question is on agreeing to the motion to table.

The motion is agreed to.

Mr. STEVENS. I object.

The PRESIDING OFFICER. The motion to reconsider is laid upon the table.

The motion to lay on the table was agreed to.

The Senator from Alaska.

Mr. STEVENS. Mr. President, I call up amendment No. 3830.

Several Senators addressed the Chair.

Mr. STEVENS. I still have the floor, do I not, Mr. President?

AMENDMENT NO. 3826, AS MODIFIED

The PRESIDING OFFICER. There will now be 2 minutes of debate equally divided on the Stevens amendment No. 3826, according to the previous order.

The Senator from Maine.

Ms. COLLINS. Mr. President, I believe we have worked out an agreement on Senator STEVENS' amendment No. 3826, as modified, that is acceptable to both sides. I am pleased we have been able to reach a compromise. This amendment would clarify the NCTC Director's role in advising the President and the national intelligence director. It uses language that we worked out carefully during the committee markup with Senator LEVIN and others.

Specifically, the NCTC Director would advise the President and the NID on interagency counterterrorism planning and activities which is consistent with the NCTC Director's responsibility to conduct interagency counterterrorism planning.

I urge adoption of the amendment, as modified.

Mr. STEVENS. Has the amendment been modified, Mr. President?

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment, as modified, is as follows:

On page 84, beginning on line 8, strike "joint operations relating to counterterrorism" and insert "interagency counterterrorism planning and activities".

Mr. STEVENS. Mr. President, I will say for the record the Senator from Maine is correct. We have modified this as requested by the committee.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3826, as modified.

The amendment (No. 3826) was agreed to.

Ms. COLLINS. I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3827

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. I call up amendment No. 3830.

The PRESIDING OFFICER. Under the previous order, the next vote is on amendment No. 3827. There will be two minutes of debate evenly divided.

The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that that amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. Now what is the regular order, Mr. President?

The PRESIDING OFFICER. There is no order before the Senate.

The Senator from Alaska.

AMENDMENT NO. 3830

Mr. STEVENS. Mr. President, I call up amendment No. 3830.

Mr. LIEBERMAN. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. STEVENS. There is an objection to calling up the amendment?

Mr. LIEBERMAN. I suggest the absence of a quorum.

Mr. STEVENS. I just want to call it up and set it aside and qualify it for a vote later.

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. It takes unanimous consent to set aside the pending amendment.

Mr. LIEBERMAN. I repeat my objection, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I have had a conversation with the Senator from Alaska. I remove my objection to his calling up the amendment.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I renew my request.

The PRESIDING OFFICER. Without objection, the pending amendment is set aside.

The clerk will report.

The legislative clerk read as follows:

The Senator from Alaska [Mr. STEVENS], for himself, Mr. WARNER, and Mr. INOUYE, proposes an amendment numbered 3830.

Mr. STEVENS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify certain provisions relating to the Central Intelligence Agency)

On page 28, beginning on line 16, strike "of the National Intelligence Director".

On page 43, beginning on line 1, strike "**OF THE NATIONAL INTELLIGENCE DIRECTOR**".

On page 43, beginning on line 5, strike "of the National Intelligence Director" and insert "for the National Intelligence Director and the Director of the Central Intelligence Agency".

On page 43, beginning on line 17, strike "of the National Intelligence Director".

On page 141, between lines 16 and 17, insert the following:

(H) the Director of the Central Intelligence Agency or his designee;

On page 141, line 16, strike "(H)" and insert "(I)".

On page 141, line 18, strike "(I)" and insert "(J)".

On page 141, line 21, strike "(J)" and insert "(K)".

On page 179, beginning on line 21, strike "and coordination of" and all that follows through "elements of" beginning on line 23 and insert ", and coordinate outside the United States, the collection of national intelligence through human sources by agencies and organizations within".

On page 194, beginning on line 23, strike "of the National Intelligence Director".

Mr. STEVENS. Mr. President, what is the pending amendment that was set aside?

The PRESIDING OFFICER. The pending amendment was No. 3810 by Senator LEVIN which has been set aside.

Mr. STEVENS. Mr. President, am I interfering with a time agreement now by continuing on the floor?

The PRESIDING OFFICER. There is no time.

Mr. STEVENS. Mr. President, I am constrained to say that I am disturbed at the process that has just been used. I was out of town. I left town saying I was willing to work. I come back and find a series of my amendments have a 2-minute time limit. I was not consulted on that at all. I think in view of the haste with which this bill is moving forward, it is very sad. It is going to change this Senator's vote on cloture tomorrow because I am tired of having this bill being pushed so hard.

It is being pushed by a group of people who were part of a commission that went out of existence. They went out and raised a million and a half dollars, and they are lobbying this Senate. They are lobbying hard, principally the two leaders. They are no longer leaders of that Commission, and they are demanding that we act. Are they registered lobbyists? Are they? What right have they to push this Senate so hard?

I think we should take some time and consider what we are doing. If we are not careful, we will destroy the intelligence system we are trying to reorganize. I am in favor of reorganizing it. I said that in the beginning. But this is going too fast, when I am prevented from even reading, perhaps just 1 minute to read a 3-minute statement, and nothing in front of the Senators on our side indicated the President of the United States was in favor of this amendment. I offered it because the statement came from the administration.

I think we should slow down. If we don't slow down, we are going to be around a long time because I remember Senator ALLEN who stretched out a cloture vote once for 3 weeks. I really believe there should be some senatorial courtesy involved when a Senator is trying to oppose a pressure group like this. It is not easy to do. I know that. But I am up to it, I tell you. I am up to it. And people better understand that.

I ask that that amendment be set aside for the purpose of further consideration tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is set aside.

The Senator from Kansas.

AMENDMENT NO. 3740, AS MODIFIED

Mr. ROBERTS. Mr. President, I ask unanimous consent to set aside the pending amendment, and I call up amendment No. 3740 with a modification which I send to the desk.

The PRESIDING OFFICER. The amendment is already pending.

Mr. ROBERTS. Mr. President, I thank the chairman and ranking member for crafting an amendment with me that embodies several technical and clarifying modifications to their bill. If, in fact, the distinguished Senator and the distinguished ranking member at this time would accept the amendment, it would be highly desirable on the part of this Senator.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the distinguished chairman of the Intelligence Committee for working very closely with us in proposing this amendment which combines portions of several other amendments that he has introduced. It clarifies that the mission of the national intelligence authority includes eliminating barriers to the coordination of all intelligence activities, including but not limited to counterterrorism. It appropriately ensures that the congressional intelligence committees will receive reports relating to the acquisition authorities of NSA and NGA. It provides that the NID may directly modify budget proposals made by agencies as part of the national intelligence program. I appreciate how closely the chairman has worked with Senator LIEBERMAN and me. I am pleased to support the amendment, and I urge its adoption.

Mr. ROBERTS. I thank the Senators for their assistance.

The PRESIDING OFFICER. Without objection, the amendment is modified.

The amendment, as modified, is as follows:

On page 9, line 13, strike "counterterrorism" and insert "intelligence, including counterterrorism,".

On page 23, line 1, strike "may require modifications" and insert "may modify, or may require modifications,".

On page 28, line 17, strike "or" and insert "and".

On page 112, beginning on line 12, strike "Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives" and insert "Select Committee on Intelligence and the Committee on Governmental Affairs of the Senate and the Permanent Select Committee on Intelligence and the Committee on Government Reform of the House of Representatives".

On page 200, strike lines 5 through 11 and insert the following:

SEC. 307. CONFORMING AMENDMENTS ON RESPONSIBILITIES OF SECRETARY OF DEFENSE PERTAINING TO NATIONAL INTELLIGENCE PROGRAM.

Section 105(a) of the National Security Act of 1947 (50 U.S.C. 403-5(a)) is amended—

(1) in paragraph (1), by striking "ensure" and inserting "assist the Director in ensuring"; and

(2) in paragraph (2), by striking "appropriate".

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3740) was agreed to.

Ms. COLLINS. Mr. President, I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ROBERTS. I ask unanimous consent to set aside the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3741, 3744, AND 3751, WITHDRAWN

Mr. ROBERTS. Mr. President, I ask unanimous consent to withdraw from consideration amendment Nos. 3741, 3744, and 3751.

The PRESIDING OFFICER. Without objection, the amendments are withdrawn.

AMENDMENT NO. 3748, AS MODIFIED

Mr. ROBERTS. Mr. President, I ask unanimous consent to set aside the pending amendment, and call up amendment No. 3748, as modified, which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is modified.

The amendment, as modified, is as follows:

On page 78, line 19, insert "regular and detailed" before "reviews".

On page 79, strike lines 1 and 2 and insert the following:

political considerations, based upon all sources available to the intelligence community, and performed in a manner consistent with sound analytic methods and tradecraft, including reviews for purposes of determining whether or not—

(A) such product or products state separately, and distinguish between, the intelligence underlying such product or products and the assumptions and judgments of analysts with respect to the intelligence and such product or products;

(B) such product or products describe the quality and reliability of the intelligence underlying such product or products;

(C) such product or products present and explain alternative conclusions, if any, with respect to the intelligence underlying such product or products;

(D) such product or products characterizes the uncertainties, if any, and the confidence in such product or products; and

(E) the analyst or analysts responsible for such product or products had appropriate access to intelligence information from all sources, regardless of the source of the information, the method of collection of the information, the elements of the intelligence community that collected the information, or the location of such collection.

On page 80, line 1, insert "(A)" after "(5)".

On page 80, line 3, strike ", upon request,".

On page 80, between lines 5 and 6, insert the following:

(B) The results of the evaluations under paragraph (4) shall also be distributed as appropriate throughout the intelligence community as a method for training intelligence community analysts and promoting the development of sound analytic methods and tradecraft. To ensure the widest possible distribution of the evaluations, the Analytic Review Unit shall, when appropriate, produce evaluations at multiple classification levels.

(6) Upon completion of the evaluations under paragraph (4), the Analytic Review Unit may make such recommendations to

the National Intelligence Director and to appropriate heads of the elements of the intelligence community for awards, commendations, additional training, or disciplinary or other actions concerning personnel as the Analytic Review Unit considers appropriate in light of such evaluations. Any recommendation of the Analytic Review Unit under this paragraph shall not be considered binding on the official receiving such recommendation.

On page 80, line 6, strike "INFORMATION.—" and insert "INFORMATION AND PERSONNEL.—(1)".

On page 80, line 8, insert ", the Analytic Review Unit, and other staff of the Office of the Ombudsman of the National Intelligence Authority" after "Authority".

On page 80 line 10, insert "operational and" before "field reports".

On page 80, between lines 13 and 14, insert the following:

(2) The Ombudsman, the Analytic Review Unit, and other staff of the Office shall have access to any employee, or any employee of a contractor, of the intelligence community whose testimony is needed for the performance of the duties of the Ombudsman.

Mr. ROBERTS. Mr. President, this amendment ensures that the analytic review unit will be able to perform an important quality control and accountability mechanism for the analytic product of the intelligence community. This is an important function that has not been performed by the intelligence community as well as it should have. I thank the chairman and ranking member for working with me to ensure that this important amendment is adopted.

I yield to the distinguished chairman.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I again thank the distinguished chairman for working very closely with the floor managers on this amendment.

It provides thoughtful clarifications to the establishment of an analytic review unit under the Collins-Lieberman bill. I believe the changes made by this amendment would strengthen the bill. I urge its adoption.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I, too, rise to support the amendment the Senator from Kansas offered. It clarifies and strengthens the bill. I thank him for it and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3748), as modified, was agreed to.

Mr. WARNER. Mr. President, I would like at this time to address the Senate and the managers with regard to two amendments. I want to be cooperative in the procedures that they may have in mind for further amendments. If it is convenient, I would like to move forward. If not, I would like to know at what time would be more convenient for the managers. I think we are making considerable progress.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, I very much appreciate the courtesy of the Senator from Virginia. I would like to suggest that we have a brief quorum call so we can try to have some order. We have several requests on both sides of the aisle to proceed on amendments. I need to compare notes with the Democratic manager of the bill.

Mr. WARNER. Mr. President, I certainly want to be cooperative. I hope the Senator will take into consideration that I now have the floor.

Ms. COLLINS. I certainly will. If the Senator wants to proceed—

Mr. WARNER. No. I want to be cooperative. I am perfectly willing to yield the floor for the purpose of a quorum. It is my hope that I will be recognized at such time as the quorum call is to be withdrawn at the discretion of the managers.

Ms. COLLINS. Thank you, Mr. President. That is my intent.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that I be allowed to proceed as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. CHAMBLISS are printed in today's RECORD under "Morning Business.")

Mr. CHAMBLISS. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DAYTON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. Mr. President, what is the pending business?

The PRESIDING OFFICER. The Senate is considering the Intelligence Reform Act.

Mr. DAYTON. Mr. President, I ask unanimous consent that I may be permitted to speak for up to 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ'S WMD

Mr. DAYTON. Over the weekend, there was a very alarming report in the New York Times that stated that senior administration officials repeatedly failed to disclose the contrary views of America's leading nuclear scientists about tubes that could be used for either a nuclear weapons program in Iraq or for alternative purposes, such as short-range rockets.

I understand the article is printed in today's RECORD in Senator BYRD's remarks.

The investigative article found:

> Senior administration officials . . . sometimes overstated even the most dire intelligence assessments of the tubes, yet minimized or rejected the strong doubts of nuclear experts.

That they had alternative uses.

> They worried privately that the nuclear case was weak, but expressed sober certitude in public.

The article goes on to say:

> The absence of unconventional weapons in Iraq is now widely seen as evidence of a profound intelligence failure, of an intelligence community blinded by "group think," false assumptions and unreliable human sources.
>
> Yet the tale of the tubes, pieced together through records and interviews with senior intelligence officers, nuclear experts, administration officials and Congressional investigators, reveals a different failure.
>
> Far from "group think," American nuclear and intelligence experts argued bitterly over the tubes. . . .
>
> Precisely how knowledge of the intelligence dispute traveled through the upper reaches of the administration is unclear. Ms. Rice—

The National Security Adviser—

> knew about the debate before her Sept. 2002 CNN appearance. . . . President Bush learned of the debate at roughly the same time, a senior administration official said.

The report goes on to document how, even though the 15 different agencies of the Federal Government with responsibility for intelligence gathering and assessment differed on this analysis, according to congressional and intelligence officials, none of them informed senior policymakers in the Congress about the Energy Department's dissent, and the Energy Department contained the nuclear experts most knowledgeable about the probable use of these tubes for another purpose.

Despite this disagreement, despite the uncertainty, Vice President CHENEY in the fall of 2002, in a speech to the Veterans of Foreign Wars on August 26 of that year, stated:

> We now know Saddam has resumed his efforts to acquire nuclear weapons. . . .Many of us are convinced that Saddam will acquire nuclear weapons fairly soon. Just how soon we cannot really gauge. Intelligence is an uncertain business, even in the best of circumstances.

The Vice President went on to say:

> Armed with an arsenal of these weapons of terror, and seated atop 10 percent of the world's oil reserves, Saddam Hussein could then be expected to seek domination of the entire Middle East, take control of a great portion of the world's energy supplies, directly threaten America's friends throughout the region, and subject the United States or any other nation to nuclear blackmail.

Yet the article goes on to say that neither the Vice President nor Ms. Rice mentioned that the Nation's top nuclear design experts believed overwhelmingly that the tubes were poorly suited for the centrifuges that would be used for nuclear warheads.

The article goes on:

> Mr. Cheney, who has a history of criticizing officials who disclose sensitive information, typically refuses to comment when asked about secret intelligence. Yet on this day, with a Gallup poll showing that 58 percent of Americans did not believe President Bush had done enough to explain why the United States should act against Iraq, Mr. CHENEY spoke openly about one of the closest held secrets regarding Iraq. Not only did Mr. CHENEY draw attention to the tubes; he did so with a certitude that could not be found in even the CIA's assessments. On "Meet the Press," Mr. CHENEY said he knew "for sure" and "in fact" and "with absolute certainty" that Mr. Hussein was buying equipment to build a nuclear weapon. "He has reconstituted his nuclear program," Mr. CHENEY said flatly.

Ms. Rice said in a New York Times article today, referencing yesterday's investigative report, that she was aware of the dispute in September 2002 among the different intelligence agencies when she stated in a television interview that the tubes "are only really suited for nuclear weapons programs."

I have my own experience of being shown one of those tubes in a briefing conducted by Ms. Rice and CIA Director George Tenet in the White House situation room on December 23, 2002. We were told unequivocally that the tube was intended for Iraq's reconstituted nuclear weapons program. We were given no indication that there was another possible purpose for that tube. We were given no indication that there was serious disagreement among the nuclear experts in the Federal Government about the use of those tubes. We were not given all the facts. We were given one set of facts, the one that supported the position of the President and the Vice President and the one they wanted us to take when we voted on the administration's war resolution just a few days later.

It turns out the information we were given was wrong. One and a half years of subsequent inspections by over 1,400 U.S. weapons inspectors has uncovered no evidence of a reconstituted Iraqi nuclear weapons program under Saddam Hussein. Some 1,300 of those tubes were found to be part of a short-range rocket program which did not represent a threat to our own national security.

The nuclear threat of Iraq was President Bush and Vice President CHENEY's trump card, and they played it to the hilt. They betrayed the trust of the Members of Congress to persuade us to vote for their war resolution. They withheld information we should have had rightfully as Members of this body before making that fateful decision.

We have 138,000 American troops committing their lives, risking their lives, bleeding, fighting, some of them dying, on a daily basis, and we are now told that the administration has any other number of plausible explanations for why they conducted this operation. But the truth is that for many of us, the overwhelming argument being made back in the fall of 2002 when that war resolution was being debated was the supposed nuclear threat of Iraq. And for us to not have been told the truth and all the truth about the facts the administration had before it at the time to me is shameful, disgraceful, and a fundamental violation of the public trust.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Mr. FITZGERALD). The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, are we in morning business?

The PRESIDING OFFICER. We are not.

Mr. ALEXANDER. Mr. President, I rise to speak to an amendment that was accepted on Friday.

The PRESIDING OFFICER. The Senator may proceed.

The Senator from Illinois.

Mr. DURBIN. Mr. President, if the Senator from Tennessee will yield for a moment to make a unanimous consent request to follow the Senator from Tennessee.

Mr. WARNER. Reserving the right to object, the Senator was not on the floor. I had the floor and yielded to the managers for the purpose of going into the cloakroom. So I think I have a right to be recognized when the managers seek recognition, at which time I want to go ahead with my amendments. May I inquire as to the amount of time my distinguished colleagues desire?

Mr. ALEXANDER. I would like to have about 5 minutes, but it does not need to be now.

Mr. WARNER. I am trying to be accommodating.

Mr. DURBIN. Speaking through the Chair. I am happy to follow the Senator from Virginia if the Senator will give some indication of the time sequence. We can propound a unanimous consent request that I follow the Senator from Virginia after he has spoken, if he can give me some indication of how long he will speak.

Mr. WARNER. If it is agreeable to the distinguished Senator, I will follow him and the Senator from Illinois can follow me.

Mr. DURBIN. Will the Senator from Virginia give me a rough indication of how long he might speak?

Mr. WARNER. I will not take an undue period. It is largely in the hands of the managers as to their desire to probe some of the aspects of the amendments. I hope it can be a reasonable period of time, and I hope we will not prolong the Senator's schedule.

Mr. DURBIN. I ask unanimous consent that I follow the Senator from Virginia, after he has spoken to his amendments, to speak in morning business.

Mr. WARNER. I thank my colleague for his usual courtesy.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Tennessee.

Mr. ALEXANDER. Mr. President, I say to the Senator from Virginia, if his amendments are ready to be adopted, he can offer them.

Mr. WARNER. No, they are not ready to be adopted.

AMENDMENT NO. 3807

Mr. ALEXANDER. Mr. President, I rise to speak briefly to an amendment that was accepted on Friday. I thank the managers of the bill, the Senator from Maine and the Senator from Connecticut, for doing this and the Senator from Arizona, Mr. MCCAIN, for his work in making it possible.

This has to do with the recommendation of the 9/11 Commission that the Federal Government set standards for the security of personal identification documents such as drivers' licenses to prevent them from being counterfeited and used as identification for terrorists.

As a former Governor, I have always been skeptical of Federal rules that require States to take action that cost States money. As someone who respects civil liberties, I have been reluctant to unnecessarily identify Americans. In fact, as Governor, I vetoed the bill requiring a picture on a driver's license three times because I thought it was an unnecessary imposition on civil liberties. But times have changed. I believe the Senator from Arizona and others did an excellent job of implementing the 9/11 Commission's recommendation that drivers' licenses and other personal identification documents be upgraded so we can prevent terrorists from using them.

My one concern and the concern that the Senator from Arizona recognized was that I do not want to see the Federal Government come up with this good idea, pass it into law, require the States to do it, and then send the bill to the States. We call that an unfunded Federal mandate, and most of us in this body have said we will not do that anymore.

Senators MCCAIN, COLLINS, and LIEBERMAN have worked out an acceptable way, I believe, to deal with that problem. Basically, the amendment that was adopted on Friday will give the Secretary of Transportation 18 months from the passage of the bill to work with State and local officials to come up with a set of minimum standards for driver's licenses. During that negotiation, States will include estimates of the cost of implementing the proposed standards.

After this 18-month period, the rules will be made final. At that point, we will have before us the new requirements for States for these upgraded drivers' licenses and other personal identification documents as well as the costs that we are imposing on the States. At that time, it will be up to us, if we are true to our word about no more unfunded Federal mandates, to appropriate the appropriate amount of money that it would take Tennessee, Montana, New York, and all the other States to pay for this new requirement that we have imposed on the States. That will be something we can debate and discuss at that time.

The State governments will have 2 years from the issuance of the final regulation to implement these standards, but it is our responsibility then, if it is our good idea, if we impose it on the States, to pay for it. I, and I am sure many others in this body, will be here to argue strenuously that we do, and we should.

This is an excellent amendment. I am glad it was accepted on Friday. I appreciate the work of the National Governors Association and the Senators who were involved. This will give the States the time and resources that States need to make the necessary changes to drivers' licenses and other personal identification documents.

I call on my colleagues to keep this moment in mind because 18 months to 2 years from now the bill will come due and the bill should be paid by us, those who impose the rule, and not sent to State governments. Sending the States the bill would be an unfunded Federal mandate, which we have said we will not do.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I thank the distinguished Presiding Officer.

I wish to inquire of the manager, is this an appropriate time to move forward?

Ms. COLLINS. Mr. President, I suggest that the Senator from Virginia go ahead and present his amendments.

AMENDMENTS NOS. 3874 AND 3875, EN BLOC

Mr. WARNER. I send to the desk two amendments which I will address. They are companion amendments, but I felt it was necessary to do it in two different amendments. One is 3874 and one is 3875. Copies are at the desk, but for the convenience of the clerk I will send up additional copies.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments are as follows:

AMENDMENT NO. 3874

(Purpose: To provide for the treatment of programs, projects, and activities within the Joint Military Intelligence Program and Tactical Intelligence and Related Activities programs as of the date of the enactment of the Act)

On page 211, after line 22, add the following:

SEC. 337. RETENTION OF CURRENT PROGRAMS, PROJECTS, AND ACTIVITIES WITHIN JOINT MILITARY INTELLIGENCE PROGRAM AND TACTICAL INTELLIGENCE AND RELATED ACTIVITIES PROGRAMS PENDING REVIEW.

(a) RETENTION WITHIN CURRENT PROGRAMS.—Notwithstanding any other provision of law, all programs, projects, and activities contained within the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program as of the date of the enactment of this Act shall remain within such programs until a thorough review of such programs is completed.

(b) REMOVAL FROM CURRENT PROGRAMS.—A program, project, or activity referred to in subsection (a) may be removed from the Joint Military Intelligence Program or the Tactical Intelligence and Related Activities programs only if agreed to by the National Intelligence Director and the Secretary of Defense.

AMENDMENT NO. 3875

(Purpose: To clarify the definition of National Intelligence Program)

On page 6, strike line 24 and all that follows through page 7, line 2, and insert the following:

(ii) includes all programs, projects, and activities of the National Foreign Intelligence Program as of the date of the enactment of this Act, including the Central Intelligence Agency, the

Mr. WARNER. I have heard reference made to the fact that this bill leaves intact the manner in which we deal with the TIARA programs and the JMIP; that is, the Joint Military Intelligence Program. I would like to read from page 412 of the 9/11 Commission. The Commission states as follows:

> The Defense Departments's military intelligence programs—the joint military intelligence program (JMIP) and the tactical intelligence and related activities program (TIARA)—would remain part of that department's responsibility.

My question to the distinguished managers, if they desire to reply, is, Is it their position—and I believe they have so stated, but I wish to give them this opportunity—that the recommendation of the Commission that they remain at the Department of Defense, is it the understanding of Senators in their bill that is now before the Senate that that comports with that objective?

May I read it again?

Ms. COLLINS. Yes, please do.

Mr. WARNER. Yes, I thank the Senator. Page 412 of the Commission report:

> The Defense Department's military intelligence program—the joint military intelligence program (JMIP) and the tactical intelligence and related activities program (TIARA)—would remain part of that department's responsibility.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, if I could respond through the Chair to the inquiry of the Senator from Virginia, the bill makes very clear that any intelligence assets that are principally for joint military operations or for tactical intelligence stay within the Department of Defense.

Now, there may be national intelligence assets that are now included within the Joint Military Intelligence Program that could be transferred to the national intelligence program. The tactical assets are clearly just under the control of the Secretary of Defense, but some of the JMIP assets are national, so that is why the bill is worded as it is with the word "principally."

Mr. WARNER. I thank my distinguished colleague.

I would like to now go to the bill and specifically draw the managers' attention to pages 6 and 7. The bill reads:

> The term "National Intelligence Program"—

And that is what the distinguished manager was addressing—

> (A)(i) refers to all national intelligence programs, projects, and activities of the elements of the intelligence community; (ii) includes all programs, projects, and activities (whether or not pertaining to national intelligence) of the National Intelligence Authority, the Central Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office . . .

Now, therein is the problem that the Senator from Virginia has. What is the meaning of "whether or not pertaining to national intelligence"? Because the title says this is the definition of national intelligence. (A)(i) basically gives that, and then (ii) seems to extend the definition to include programs that are not now part of the national intelligence program; that is, "whether or not pertaining." I find that of considerable concern.

The purpose of the amendment is to clarify that form because having had considerable experience when I worked in the Department and the years that I have been privileged to be on the Armed Services Committee—and I have to be very careful as I speak because these are so highly classified, but I will just give generally a picture of my concern.

Right now, the JMIP literally contracts extensively with the Geospatial-Intelligence Agency, the NGA, as it is referred to. For example, the Department of Defense puts in the JMIP budget, through the budgeting process, a block of money. It can then go and contract with these several what we call combat agencies, because they have all the assets—the technical people to do the work. So they sign the contract for a program and that program is absolutely essential to the functioning of, in many instances, the TIARA program, but in many instances the JMIP. And it is essential. The JMIP cannot function unless that particular program for which it has contracted with the NGA is fulfilled.

As I read this amendment—let's call it program X—program X could be transferred under the language "whether or not pertaining to National intelligence," and it goes into the NGA, and then, frankly, the NID might make a decision that, wait a minute, we have to get a very expensive overhead system and we have to go down into the various budgets of the different combat agencies and scrape up some money.

So they come down and they say JMIP says they need the money, but I think we have to prioritize. We are going to take the money and we are going to put it toward the overhead system and it will not be used—for example, this is one of the main functions of the National Geospatial Agency—to make maps. As a matter of fact, when I first came to the Senate it was the old mapping agency. Now it has been combined several times through a number of job descriptions.

But that could be lost. Suddenly we are controverting the recommendation of the 9/11 Commission, that everything in the TIARA and the JMIP is going to be left untouched.

That is the problem I see. I think we have to take a good look at this amendment because my amendment eliminates that language—that is one of the two amendments—it eliminates it in such a way that we redefine that paragraph 1. On page 6, the one I read from, strike so-and-so and put this language in, that is:

> The term "National Intelligence Program"—
>
> (ii) includes all programs, projects, and activities of the National Foreign Intelligence Program as of the date of enactment of this Act, including the Central Intelligence Agency—

And then it goes on to read:

> the National Security Agency, the National Geospatial. . . .

All I have done is keep in place the recommendation of the Commission. The very words I have heard the distinguished managers say on the floor a number of times—and I have it back in the previous Records, in which she has represented to this body in the course of the four or five days we have been debating that we are not touching TIARA and we are not touching the JMIP.

There is my problem. I believe this fixes it.

AMENDMENT NO. 3874

The next amendment addresses what the distinguished managers said a few minutes ago. There could come a time where it is the judgment of the NID that some of these programs should no longer be under the jurisdiction of the JMIP, and therefore my other amendment kicks in. It reads as follows:

> Removal From Current Programs. A program, project, or activity referred to in subsection (a) may be removed from the Joint Military Intelligence Program or the Tactical Intelligence and Related Activities programs only if agreed to by the National Intelligence Director and the Secretary of Defense.

So the two of them could make adjustments in the future. But right now, we have a number of programs in JMIP which are being performed by the combat agencies and I think it would not be in our best interests to dislodge those programs now. In the future, if the two heads agree, this is the statutory authority to do it.

I feel very strongly about these amendments. So much so I will ask for votes on them if we are not able to—I don't say that in the way of anything other than expressing my sincerity in these amendments, but I hope you could possibly accept them. If you cannot, I feel obligated to ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I would point out that the amendment of the distinguished Senator would require that the Secretary of Defense agree to the movement of any asset from the JMIP or TIARA budget to the National Intelligence Program budget.

I want to make sure my colleagues realize that the White House opposes giving the Secretary of Defense a veto over what can be moved from JMIP or TIARA to the new National Intelligence Program. I apologize for talking in acronyms in describing this.

As you know, the tactical intelligence programs are the TIARA programs that are run by the various services within the Department of Defense. The JMIP is the Joint Military Intelligence Programs.

I note we have tried to strike a delicate balance in this bill. We decided, and so I joined the Senator from Virginia, to defeat an amendment that would have moved the NSA, the NGA, the NRO out of the purview and daily supervision of the Secretary of Defense. We were cognizant that the NSA and the NGA provide direct support to the warfighter.

The underlying legislation, however, does strike a delicate balance. We give the national intelligence director control over the budgets, the tasking of national assets, and certain personnel authorities, while leaving those agencies under the day-to-day supervision of the Secretary of Defense. I think that is the right balance.

Keep in mind, when we talked to the head of the NSA, the three-star General who runs that agency, he told us that he has more contact with the CIA than he does the Secretary of Defense; that he is providing national intelligence everyday beyond the needs of the Pentagon. That is not in any way to lessen the important role he is providing to our warfighters, to the combat commanders, to the Secretary of Defense. But these are national assets. Indeed, while I can't disclose the amounts of the budgets or the exact percentages because they are classified, the majority of the budgets for these agencies are already in the National Foreign Intelligence Program budget.

I understand the point of the Senator from Virginia. As always, I am happy to try to work with him. I know Senator LEVIN has some amendments in this area that may bring further clarity. But I am concerned about the scope of his amendments.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, replying to my distinguished colleague, let's use the example of maps. They are absolutely essential to the troops. They can't operate without maps.

The only existing entity of the Federal Government that can make maps is the NGA. Right now, the JMIP, which is the Joint Military Intelligence Program, is acting on behalf of all the services—the Army, Navy, Air Force, and Marine Corps. They all desperately need maps. They have this contract which they pay for out of this budget to have the maps made. But the way your bill is drawn, it seems to me that they could stop making the maps for the military because they think that the dollars are better needed for overhead systems. There sits the Secretary almost powerless unless he runs right up to the President and says: Wait a minute. And you can't have him going to the President on all of the dozens of contracts that the JMIP has with the various contract agencies.

I ask a question. The 9/11 Commission explicitly said don't do this. I thought I understood the manager to say: Well, we are not doing it. I have about four or five references where on the floor the manager said we are not touching TIARA or JMIP; those programs remain under the budget of the Secretary of Defense.

With no intention to do other than what is right, we have a vague situation that we cannot let remain and jeopardize the maps. It is the clearest thing I know that is understandable by everybody in this Chamber—the need for those maps for our soldiers, our naval personnel on the high seas, those flying the aircraft. You cannot limit the ability of the Secretary of Defense to adequately provide those maps.

I say to my distinguished colleague, my colleague has a statute which puts in question the ability to control the very thing my colleague said time and time again she was not going to touch.

Ms. COLLINS. Mr. President, first let me clarify that we did what the 9/11 Commission recommended with regard to these agencies. We did not sever their connection to the Secretary of Defense. The Senator from Virginia is well aware of that. He is well aware that I opposed attempts to sever the connection with the Secretary of Defense. The Senator from Virginia is well aware that the Secretary of Defense would continue to have day-to-day line authority supervision over these agencies.

The second point I make is there is nothing in this bill that would in any way hinder the ability of the NGA to provide much needed maps for our troops. That is just not going to happen. The satellites that are used to produce these maps for the military are also used for surveillance of international terrorism or compliance with proliferation treaties. They are used to look at camps in Afghanistan. These are national assets that are used by multiple agencies, and the bill reflects that.

That is why the majority of the budgets for these agencies are already part of the National Foreign Intelligence Program—what we would rename as the National Intelligence Program. The majority of the budget finances are already part of not JMIP, not TIARA, but what is known as NFIP. That would not in any way hinder the ability of these agencies to meet their obligations to the Department of Defense and to our warfighters.

Mr. WARNER. Mr. President, in response to my colleague, I am not touching the satellites. I agree. Everything she said is absolutely correct. We are not touching the satellites. But we are concerned about things such as the mundane maps which are about 80 percent used by the tactical forces, maybe 20 percent distributed elsewhere in the Government for other purposes. But that is the heart and soul of tactical intelligence. It is desperately needed. You simply have to let those moneys that the Secretary of Defense allocates by contract to the NGA to do the maps be untouched. They cannot be seized in a sweep-up or a reprioritization.

We just had an amendment which was rejected about the reprogramming authority. You have extensive reprogramming authority. But time and time again, I have heard the Senator from Connecticut say we are not going to touch TIARA, we are not going to touch the JMIP. Yet, if I could draw the attention of my colleague from Connecticut to page 6 of the bill, the language is very clear. It says:

> The term "national intelligence program" includes all programs, projects and activities whether or not pertaining to national intelligence.

So you are going beyond national intelligence. You are grabbing the responsibilities of the TIARA Program and the JMIP. There is the language.

Mr. LIEBERMAN. Mr. President, responding to my friend from Virginia, the intention here is to give the national intelligence director budgetary authority over the national intelligence programs. That would not include TIARA. It might include, as has been illuminated in a colloquy between the Senator from Virginia and the Senator from Maine, some programs that are currently in JMIP, the Joint Military Intelligence Program.

For the sake of reasonable organization, we wanted to take the full budgets of those national intelligence agencies—NSA, National Geospatial, and NRO. But what I want to say is that there is some indication that, for instance, a substantial percentage of one of those agency budgets is currently in JMIP. We expect that they will continue to work for the military and its joint programs. But for the sake of decent organization and clear lines of authority, the judgment made by our committee was to say that all of the budgets of those three national intelligence agencies within the national intelligence program will go on budget under the national intelligence director and to leave it. There is going to be some overlap on what is now JMIP. The bill encourages the Secretary of Defense and the national intelligence director to work out those areas of overlap.

Mr. WARNER. Mr. President, I thank my colleague. He precisely came to my point.

Mr. LIEBERMAN. That was not my intention.

Mr. WARNER. Roughly about 30 percent of the NGA budget is derivative of the JMIP budget. One of the pending amendments of the Senator has this provision in it. He said the programs may be moved. My language does that. It says: A program, project, or activity referred to in subsection (a) may be removed from the JMIP or the tactical intelligence but only if agreed to by the national intelligence director and the Secretary of Defense.

So they have the concurrence of the two principals, and then move it but leave in place now those programs such that the budgets remain until they make a joint decision to move them.

I used the example of maps. You cannot cut off the flow of maps back to the troops, the sailors, and the airmen. Yet those maps are made by the NGA.

Mr. LIEBERMAN. The Senator is right. He is correct, obviously. It is clearly not the intention of the bill to do that. The fact is the work of the National Geospatial Agency which we are describing here that produces image intelligence which is so critical to the military is also, as the Senator knows, increasingly critical to the Department of Homeland Security, even the Department of State.

Mr. WARNER. I concur.

Mr. LIEBERMAN. That is why we want to put the budget of the National Geospatial-Intelligence Agency in the national intelligence program. These are national intelligence assets.

Clearly, the call of the military for the services of those assets will be a priority of the agency wherever that budget authority is.

Mr. WARNER. Mr. President, I thank the Senator for that reassurance. But the language now transfers that program, if we look at the parenthetical on page 6, and includes all programs, projects, and activities, whether pertaining to national intelligence or not, which means you grabbed it all and moved it.

That may be to the advantage of our national intelligence system, our tactical system, some date in the future, but do not do it now until we have had some measure of experience.

The Senator from Virginia has provided for the removal of those programs with the concurrence of the two principals. You cannot take away from the Secretary of Defense. He is, under title 10, required to provide for the men and women of the Armed Forces their basic needs. Nothing is more basic than the simple maps, and 80 percent of that cost of producing those maps comes out of JMIP.

I plead with the Senator, leave it for the moment. As we go through the progression and implementation of this, it seems to me the NID and Department of Defense can work it out if for some reason there is concurrence of viewpoints. This is crippling the Secretary of Defense in fulfilling his missions under title 10 where he is required by law, enacted by this Senate over a period of many years, to keep those troops supplied with what they need.

Mr. LIEBERMAN. Mr. President, of course, we do not intend nor do I think we do in any sense cripple the Secretary of Defense. We make a judgment that some of these programs are national intelligence programs. They ought to be in the budget control of the national intelligence director. We enumerate which programs—TIARA, the so-called tactical military programs—off the table. That is with the Secretary of Defense. That provides intelligence to single services or some of the joint programs.

This is a difference of opinion. It is true that because we want to give some credibility to this national intelligence director with these national assets as he serves the entire community, including, most of all, the President of the United States, we are recommending those budgets of those three agencies go to the national intelligence director. Then the negotiation begins with the Secretary of Defense. That is a change.

I assure the Senator there is no intention in any way to contravene or to diminish the capacity of the Secretary of Defense to fulfill his title 10 statutory requirements. He will work it out with the national intelligence director.

Mr. WARNER. Mr. President, if I understood my colleague, all the TIARA and JMIP budgets are off the table. Did the Senator just say that?

Mr. LIEBERMAN. Not quite.

Mr. WARNER. It is the "not quite."

Mr. LIEBERMAN. If I confused the Senator, I apologize.

Mr. WARNER. You did not confuse this old fox; he is listening. But the others may not be able to follow these nuances.

Mr. LIEBERMAN. The TIARA budget is totally within the control of the Secretary of Defense.

Mr. WARNER. Splendid. Leave it there.

Mr. LIEBERMAN. With the Joint Military Intelligence Program, it is not so clear. That is where there will be, if it is part of a national intelligence program, the budget authority will be with the national intelligence director. But the No. 1 customer is going to be the Department of Defense.

We are talking almost as if these are people in different governments. They are going to work this out as they do every day.

I will read testimony from General Hayden, the head of the National Security Agency, before the House, August 18. He says:

> An empowered national intelligence director with direct authority over the national intelligence agencies should not be viewed as diminishing our ability or willingness to fulfill our responsibilities as a combat support agency.

General Hayden is a very respected head of one of those agencies speaking, in fact, for all of them later on—saying to have a national intelligence director with budget authority is not going to diminish our ability or commitment to the combat support agencies.

Then he goes on to talk about how he has forward deployed hundreds of people with our U.S. military command, and there is no way that the creation of a national intelligence director, he says, will alter that commitment to the military.

We are trying to create some budgetary clear lines to the national intelligence director, not contravening the title 10 responsibilities of the Secretary of Defense.

Mr. WARNER. Mr. President, would the Senator look at page 412 of the 9/11 Report, please.

Let me read it:

> The Defense Department's military intelligence programs—the joint military intelligence program (JMIP) and the tactical and related activities program (TIARA)—would remain part of that department's responsibility.

In testimony before your committee, the 9/11 Commissioners have repeatedly stated that some portions, as the Senator said, of JMIP, might ultimately need to be moved to the national intelligence program but only after a thorough review.

The humble Senator from Virginia is just trying to keep the programs in place until as that wise old Commission said, "ultimately" you may review them and consider moving them.

Mr. LIEBERMAN. I respond to my friend who may be humble but is a very distinguished, nonetheless, expert on these matters, and I appreciate the Senator is so informed about the contents of the Commission report.

Interestingly, we communicated with the 9/11 Commission about this particular part of our bill, and they changed their position. Their position developed. I represent that as my best understanding, but I urge the Senator overnight to check with the staff and members of the Commission. I represent that they support our proposal for budgetary authority for the national intelligence director as contained in the bill Senator COLLINS and I have put before the Senate that the Senator's amendment would alter.

Mr. WARNER. I bring to the attention of the managers something they are already aware of, but I think it is important it be incorporated in the debate. I draw the Senators' attention to the September 28, 2004, Statement of Administration Policy, which is in the RECORD in many places, the guidance that was sent to you and your distinguished colleague, the chairman, Senator COLLINS. It says in the fourth paragraph:

> The administration opposes the Committee's attempt to define in statute the programs that should be included in the National Intelligence Program; the Administration believes that further review is required. The Administration also believes that the Committee's bill provisions relating to the NID's role in the acquisition in major systems needs further study.

There is a clear statement of policy by the White House on the precise point that is in these two amendments.

I say to my colleague, if the Senator has a reply to this, I am happy to hear it; otherwise, I ask for the yeas and nays and then I will fight on.

Mr. LIEBERMAN. Yes, indeed. I respectfully disagree. I will share something because we have been talking about the National Geospatial-Intelligence Agency.

GEN James Clapper spoke before us and gave some very strong views that support to military programs would not be compromised in any way by creation of a strong national intelligence director with budget and other authorities over his agency.

So this is a gentleman, a very distinguished general, who is in charge of the exact agency we are talking about, who said to us directly that he was confident the support of his agency to the military would not be compromised in any way by a national intelligence director with budget authority over his agency.

It was quite interesting. He described in some detail, as the Senator has spoken to, the direct support the National Geospatial Agency is giving to military operations in the nine combatant commands and increasingly to levels far below the traditional boundaries of those commands to their subordinate units.

In fact, as he said, national agencies—this where it is hard to draw real hard lines—national agencies are more and more providing what might on another occasion be called tactical support. When our warfighters need imagery support, General Clapper said they get it from the NGA employees who are often right out there with them on the ground alongside their commanders. What struck me is he said to us that is the way things work now in the real world, and that nothing in the legislation we have put before the Senate, Senator COLLINS and I, would change that. I think that is a very strong statement from the head of the agency that I know the Senator is concerned about.

Mr. WARNER. Mr. President, if I might reply, I was privileged to know General Clapper very well. I think you will find he was not with the NGA, but he was Director of the DIA, when he used to come before the Armed Services Committee. He is with the NGA now.

Mr. LIEBERMAN. He is now.

Mr. WARNER. I just point out to you, I will have to go back and look at his testimony, but I know he fully understands the need to keep intact the Secretary of Defense's absolute authority to control those matters which are essential to the fulfillment of his title 10 responsibilities.

I say to you most respectfully, this, in my judgment, is sufficiently vague as to put that in jeopardy. But I have taken generously of the time of the managers, so at this time I ask for the yeas and nays on both amendments that are pending.

The PRESIDING OFFICER. Is there an objection to it being in order to order the yeas and nays with one show of hands?

Mr. WARNER. Mr. President, I will do it singularly if there is a technical problem. Why don't I do it singularly. First I ask for the yeas and nays on amendment No. 3875.

The PRESIDING OFFICER. The Senator has the right to seek the yeas and nays on amendment No. 3874, which is the currently pending amendment.

Mr. WARNER. I thank the Presiding Officer. I ask for the yeas and nays on amendment No. 3874.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Fine. Mr. President, I ask unanimous consent that the amendment be laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I call up amendment No. 3875 and ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. I thank the Presiding Officer and thank the managers of the bill.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I ask unanimous consent that the managers will allow the setting aside of the pending amendments and allow me to call up three amendments that are at the desk that Senator LEAHY has asked me to offer on his behalf.

Ms. COLLINS. Reserving the right to object, I am unaware of what these three amendments are. We have a lot of requests for other amendments to be brought up. I wonder if the Senator would withhold so that I could talk with him about what the three amendments are. Senator DURBIN was actually next in line.

Mr. REID. Well, that is fine. But I thought we were going to allow amendments to be offered. If we are going to pick and choose what amendments are going to be offered, I will object to all of them, because Senator LEAHY has the right to offer his amendments if anybody else does. I will be happy to withhold for a short time. I withdraw my request.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding I have a unanimous consent agreement to speak next as in morning business, but since the chairman of this committee and ranking member have been on the floor all day on this bill, I would withhold my opportunity to speak if they have any pending business on this bill that they want to take care of at this point.

I say to the Senators, I know you want to stay for my speech, but I am sure you would like to take care of the bill before us and pending amendments, and I do not want to stand in your way.

So at this point, Mr. President, if I can speak through you and ask the chairman of the committee if she has any pending business at this point related directly to the bill. If the Senator from Maine could inform me.

Ms. COLLINS. Mr. President, I do not yet know the answer to the question raised by the Senator from Illinois. It is very thoughtful of him. I offer to withhold. I was going to debate a little bit further with Senator WARNER, but perhaps we have covered that to death and should wait until tomorrow to conclude our comments.

I ask through the Chair, could the Senator tell me how long he wishes to speak?

Mr. DURBIN. In the neighborhood of 15 to 20 minutes.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, during the time in the quorum, we have been able to speak with the managers of the bill. I now ask unanimous consent that the pending amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3913, 3915, AND 3916 EN BLOC

Mr. REID. Mr. President, I call up en bloc amendments Nos. 3913, 3915, and 3916 on behalf of Senator LEAHY.

The PRESIDING OFFICER. The amendments are considered pending.

The amendments are as follows:

AMENDMENT NO. 3913

(Purpose: To address enforcement of certain subpoenas)

On page 159, strike lines 19 through 25 and insert the following:

"(2) ENFORCEMENT OF SUBPOENA.—In the case of contumacy or failure to obey a subpoena issued under paragraph (1)(D), either the Board or the Attorney General of the United States may seek an order to require such person to produce the evidence required by such subpoena from the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found.".

AMENDMENT NO. 3915

(Purpose: To establish criteria for placing individuals on the consolidated screening watch list of the Terrorist Screening Center, and for other purposes)

At the appropriate place, insert the following:

SEC. . TERRORIST SCREENING CENTER.

(a) CRITERIA FOR WATCH LIST.—The Secretary of Homeland Security shall report to Congress the criteria for placing individuals on the Terrorist Screening Center consolidated screening watch list, including minimum standards for reliability and accuracy of identifying information, the certainty and level of threat that the individual poses, and the consequences that apply to the person if located. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(b) SAFEGUARDS AGAINST ERRONEOUS LISTINGS.—The Secretary of Homeland Security shall establish a process for individuals to challenge "Automatic Selectee" or "No Fly" designations on the consolidated screening watch list and have their names removed from such lists, if erroneously present.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Privacy and Civil Liberties Oversight Board shall submit a report assessing the impact of the "No Fly" and "Automatic Selectee" lists on privacy and civil liberties to the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Commerce, Science and Transportation of the Senate, and the Committee on the Judiciary, the Committee on Government Reform, and the Committee on Transportation and Infrastructure of the House of Representatives. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effects of such lists on privacy, discrimination, due process and other civil liberties, as well as the implications of applying those lists to other modes of transportation. The Comptroller General of the United States shall cooperate with the Privacy and Civil Liberties Board in the preparation of the report. To the greatest extent consistent with the protection of classified information and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall become effective on the date of enactment of this Act.

AMENDMENT NO. 3916

(Purpose: To strengthen civil liberties protections, and for other purposes)

On page 132, line 23, strike "and".

On page 133, line 3, strike the period and insert "; and".

On page 133, between lines 3 and 4, insert the following:

(L) utilizing privacy-enhancing technologies that minimize the dissemination and disclosure of personally identifiable information.

On page 153, between lines 2 and 3, insert the following:

(o) LIMITATION ON FUNDS.—Notwithstanding any other provision of this section, none of the funds provided pursuant to subsection (n) may be obligated for deployment or implementation of the Network under subsection (f) unless—

(1) the guidelines and requirements under subsection (e) are submitted to Congress; and

(2) the Privacy and Civil Liberties Oversight Board submits to Congress an assessment of whether those guidelines and requirements incorporate the necessary architectural, operational, technological, and procedural safeguards to protect privacy and civil liberties.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding that, pursuant to the unanimous consent agreement, I am to be recognized to speak in morning business.

The PRESIDING OFFICER. The Senator is correct.

WAR IN IRAQ

Mr. DURBIN. Mr. President, I understand that an article printed in the New York Times yesterday, October 3, relative to the war in Iraq and the intelligence leading up to it, was printed in the RECORD earlier today in Senator BYRD's remarks.

Mr. President, it was about 2 years ago that we faced a critical decision on the floor of the Senate. It was a vote that most Members of the Senate, certainly Members of the House, will never forget. It is rare in your legislative career that you are asked to vote to go to war, and that is exactly what occurred in this Chamber in October of 2002. It has happened two or three times in my congressional career.

Each time it has been a matter of grave concern. Each Member of the Senate and the House want to make certain that they use their best judgment, that they get it right. Because if we embark on a war, it goes without saying that some of the bravest and best Americans we serve are going to risk their lives and some will lose their lives. That was what faced us in October of 2002.

The final vote was 77 Members in favor of the use of force resolution to go to war in Iraq and 23 in opposition. Of the 23 Senators voting in opposition—1 Republican, Senator CHAFEE of Rhode Island—22 were Democrats. I was included in that number of 22 Democrats.

I remember the vote. It was late at night. When we finally adjourned and left, each of us felt a heavy weight on our shoulders. We knew that decision in this room by 100 Americans would lead to a war and others would die, many others would be injured as a result. Each Member of the Senate, I am certain, tried to make the right choice and the right decision based on the information they had and their conscience.

Now today, some 2 years later, we step back from that moment and reflect on it, because it was a critical moment in the history of our democracy.

When we vote to go to war, a war in this case which President Bush asked us to support, we have to do it based on facts and evidence given to us. It is rare that any one of us has any personal knowledge of the circumstances that lead up to the possibility of war. We rely on people who serve our Government—our military leaders, our intelligence experts, people in the field of diplomacy. We ask them to give us information so we can make the right decision, and that is the position we found ourselves in in October of 2002.

Today we reflect on the information given to the Congress and the American people before this historic and momentous decision to go to war in Iraq. As we view this information, we cannot help but believe that we were deceived. We were misled. We were given the wrong information before that invasion. Many of the things said to us on the floor of the Senate, much of the information given to us by the administration that led to that decision to go to war in Iraq today, 2 years later, we know was wrong. It was just wrong.

Think back about that debate and what led up to it. In the few short weeks when it became abundantly clear that we would face that decision, we had heard about Iraq for years. We remembered their invasion of Kuwait, the Persian Gulf War where, under General Schwarzkopf, our Army liberated the people of Kuwait, driving the Iraqis back into their homeland.

We knew who Saddam Hussein was. We knew the kind of thug, brutal dictator that he had been in his own country. We remembered that wasting war that he had with Iran where thousands of innocent people were killed. We knew exactly what we were dealing with in Saddam Hussein. He was not a new character for me in my congressional career, nor for most Americans.

But prior to the invasion of Iraq we were told that it had more to do with other issues. It wasn't just the fact that he was an evil dictator; it was the fact that he was a threat to the people of his own nation, to the region, and to the United States. That is what we heard from the Bush administration in support of the invasion of Iraq.

You will remember the debate very well. How often we heard from the President and others that Saddam Hussein had weapons of mass destruction that would be used to harm America, that he had unmanned aerial vehicles which he could launch against other nations in the Middle East, against Israel, even against the United States.

We were told that he was somehow linked with al-Qaida and Osama bin Laden, the perpetrators of the disgraceful and barbaric acts of September 11, 2001. Those were the facts given to us.

We know in those cases and in so many others that those facts were wrong—just plain wrong. The American people were misled. They were told there was a threat against this country that did not exist. The question which faces us today and one which goes to the heart of our democracy is whether the people who made those statements knew they were misleading the American people.

That is a very serious charge. It may be the most serious charge in a democracy—that any leader in Congress or in the executive branch of the Government deliberately misled the American people into believing there was a threat, into believing that a war was necessary, and into making a decision that was based on wrong information. That debate has raged ever since.

When we invaded Iraq and found no weapons of mass destruction, when we found no evidence of these chemical and biological stockpiles, these arsenals of weapons, poised and ready to strike us, the American people and many Members of Congress had to stop and think: if that key element in the war against Iraq was wrong, if we were misled about that fact, what other facts were we misled about?

This New York Times article, which has been put into the RECORD for all to read, addresses one particular element. Most everyone who remembers that debate—I remember so many parts of it—will recall how much time we spent asking ourselves whether Iraq was in a position where it had nuclear weapons or the capacity to build them. Time and again, this debate focused on one piece of tangible evidence: aluminum tubes, aluminum tubes which might or could have been used in the production of nuclear weapons.

You will remember the references to them. They were made by virtually every member of the Bush administration—the President, the Vice President, the Secretary of Defense, the Secretary of State, the Director of the Central Intelligence Agency. Each one of them made some reference to these aluminum tubes and the fact that they were proof-positive evidence of the nuclear weapons that could threaten us from Iraq. This New York Times piece has taken the time to go through the history of these aluminum tubes. What they have found is indeed troubling. What they found is abundantly clear, that the administration deliberately disregarded the facts and findings of the Department of Energy and other key intelligence agencies and, as a result, misled the American people about Iraq's nuclear program—the single most important justification for the war.

Now, a President—any President—must always take whatever actions are necessary to protect America. But the true test of leadership is telling the truth to the American people about the world, tell them of our threats based on reality, based on truth, based on facts. That is the hard work of the Presidency.

In this case, the President did not do that. In his State of the Union Address, and in many other statements, we were told things that were, frankly, not true. Even today, after we have investigated Iraq, after we have sent thousands of inspectors to look for the evidence that we were told would be there, after we have come up empty-handed for a year and a half, even today, when National Security Adviser Condoleezza Rice was asked on public television whether she would concede that the statements of the administration misled the American public, she would not do so.

I say this: If Dr. Condoleezza Rice knows of any credible evidence to support the argument that Iraq was using those aluminum tubes to build nuclear weapons, she owes it to the American people and to her President to step forward and say so. The New York Times, in its lengthy investigation, produced evidence to the contrary. Yet Dr. Rice refuses to even acknowledge it.

We should never give any country veto power over America's security. But we have to be honest with the American people about what we need to be safe. This New York Times article details how the administration spoke with such great certainty to the American people about Saddam's nuclear program, at a time when they knew privately that the evidence was highly questionable. In fact, this article shows that top members of the administration repeatedly made statements that any fair analysis of the facts on our intelligence would have informed them were wrong.

Specifically, in September of 2002, before the vote to go to war, Vice President CHENEY said the United States had "irrefutable evidence" of Iraq's nuclear program, based on Iraq's possession of thousands of tubes made of high-strength aluminum. In September 2002—the same month—Condoleezza Rice said: "We do know that he [Saddam Hussein] is actively pursuing a nuclear weapon." She went on to say that it was based on the aluminum tubes that were "only suited for a nuclear weapons program." She said, "We don't want the smoking gun to be a mushroom cloud."

Can you think of a more provocative statement from the National Security Adviser to the President about the threat of Iraq to the United States, that we might face a mushroom cloud; that we, in fact, would be the victims of a nuclear attack because Saddam Hussein had these weapons? Those were the words of Dr. Rice. Those were words that we know now were not backed up with facts and evidence.

In October 2002, President Bush said in Cincinnati:

> Iraq has attempted to purchase high-strength aluminum tubes and other equipment needed for gas centrifuges, used to enrich uranium for nuclear weapons.

In fact, by the time the President made that statement, this administration was clearly divided from within as to whether that statement was true. I know because I sit on the Intelligence Committee. I know because I sat through days of hearings, where representatives of the Department of Energy and the Central Intelligence Agency clearly disagreed about whether those tubes were proof positive of Saddam Hussein's nuclear weaponry program.

Let's concede the obvious. There was a time when Saddam Hussein was building nuclear weapons back in the early 1990s. We were right to be vigilant and to find out whether he had renewed that program and it was a threat to the region and the United States. The only thing we could find was some evidence that Iraq had purchased these aluminum tubes from Hong Kong. And then we were fortunate to be able to intercept a shipment of these tubes in Jordan and to take a close look at them.

There was a fellow in the Central Intelligence Agency, working for that agency, an analyst, who was building the case that these tubes were proof positive that Saddam Hussein was back in the business of nuclear weapons.

The Senate Intelligence Committee that I serve on took a look at his analysis. Their conclusion was troubling because they concluded that his facts were wrong, his conclusions were wrong; that he was involved in groupthink, in their words, and a holy war within this administration to prove that these tubes were related to nuclear weapons.

They wanted to prove—the CIA did—through this analyst that these tubes were part of a secret high-risk venture to build a nuclear bomb. But they kept running into a problem: Within the same Bush administration, the Department of Energy disputed their conclusions. I heard those arguments, most of America did not. One of the reasons I voted against the use of force resolution was, in my mind, it clearly was not established that Saddam Hussein had nuclear weapons which he would use against the United States.

In June 2001, we seized a shipment of these aluminum tubes. We sent our very best expert to investigate whether they could be used for nuclear weapons, and those who looked at them came back and said, first, in size and materials—this is August of 2001—the tubes were very different from those Iraq had used in centrifuge prototypes before. In fact, the team could find no centrifuge machines deployed in a functioning environment that used such narrow tubes. They believed that the conclusion was unlikely that these tubes were going to be used.

In the months after September 11, 2001, the Bush administration devised a strategy to fight al-Qaida. Vice President CHENEY became deeply involved in reviewing the intelligence evidence. He became a self-appointed examiner of the worst case scenarios involving Iraq. He had the background. He had been Chief of Staff of President Ford and Secretary of Defense for first President Bush. He knew all the intelligence agencies and what they did.

So he was not simply passing when it came to this whole question. He read of an allegation that Iraq was importing yellow cake uranium concentrate from Niger in Africa. He went on to conclude in a statement made on CNN that based on what he had read, Vice President CHENEY said Saddam Hussein is actively pursuing nuclear weapons at this time. But, in fact, there was a debate raging within this administration as to whether that was true.

Over and over the reports from the CIA were disputed by other agencies. The tubes just did not have the necessary thickness to be part of a nuclear weapons program. So we find ourselves in a situation where statements were being made by the Vice President and by others which could not be verified based on the facts within the same administration.

The Senate Intelligence Committee issued a 511-page report on this effort, and they concluded that the CIA analyst involved was so determined to prove his theory on this aluminum tube that he twisted test results, ignored factual discrepancies, and ignored dissenting views.

We know how this ended. It ended with the American people and many Members of Congress convinced that these aluminum tubes were being used for nuclear weapons. For some Members of the Senate, there was no choice; they had to use this evidence to build a case to go to war in Iraq. Statements were made by Vice President CHENEY on August 26, 2002, at the VFW convention in Nashville. Despite the dispute going on within his own administration, the Vice President said:

> The case of Saddam Hussein, a sworn enemy of our country, requires candid appraisal of the facts.

Mr. CHENEY went on to say:

> We now know—

And this is August of 2002—

> We now know Saddam has resumed his efforts to acquire nuclear weapons.

On the thinnest evidence, on the disputed aluminum tubes, Vice President CHENEY made the strongest possible case he could make that the nuclear weapons program in Iraq was underway. He conjured these images of an Iraq of nuclear weapons and the threat they posed to the world while members of his own administration disputed his conclusions.

Again, President Bush, Mr. Tenet, and others made these cases over and over again about the aluminum tubes. Mr. CHENEY went on "Meet the Press" on September 8, 2002, and confirmed when asked that the tubes were the most alarming evidence behind the administration's view that Iraq had resumed its nuclear weapons programs. He said the tubes had "raised our level of concern."

The same day, Dr. Rice went on CNN and said that the aluminum tubes "are only really suited for nuclear weapons programs." She made that statement at a time when the President's own Department of Energy had reached an opposite conclusion. She said these tubes "are only really suited for nuclear weapons programs" when, in fact, that was not the case.

What we have learned here in the course of this investigation, what we have learned from all of the investigations that followed after our invasion of Iraq, what we have learned now that the 9/11 Commission, the bipartisan Commission, has had a chance to look closely at the evidence is that in this case and in so many others, we were misled. The American people were given wrong information and bad information about the situation in Iraq. It was not just flawed intelligence; it was not just a failure of the intelligence agencies; it was a failure of the leaders in the Bush administration to honestly portray the facts, to tell the American people that there was suspicion of a nuclear weapons program but an honest dispute as to whether it existed. Why didn't they portray it that way? Because we would never have gone to war if they had told us that fact, if they had given us the evidence straight, if they had told us about disputes within this administration which were unresolved.

There was a debate last Thursday night between the two leading candidates, the President and Senator KERRY, about foreign policy and about Iraq. Time and again, President Bush said that his was a difficult job, and I do not dispute that for a moment. He talked about all the hard work that was necessary to protect America, and I do not doubt there is hard work. But I will tell you this: part of that hard work has to include taking an honest look at the evidence given to you as the Commander in Chief, being willing to say that if there is a dispute about evidence so basic as these aluminum tubes and the nuclear weapon program of Iraq, that no President should step forward and mislead the American people.

That dispute was ongoing within the Bush administration, and yet clear statements were made by the President, the Vice President, and leading members of the Cabinet that a nuclear weapons program existed when, in fact, it did not.

I hope my colleagues and others will review this evidence, understand the challenges we face, and I hope they will also come to the same conclusion that I have, and that is that whatever we face in terms of threats in the future, whoever that President might be, I am certain he will be committed to the security of America, but he also must be committed to the values of America—the values of honesty, openness, and candor, even when the facts do not support original conclusions.

In some cases, Senator KERRY has been criticized because he changed his position. In this case, the Bush administration took a position on nuclear weapons in Iraq that was wrong, that history and the evidence has proven was wrong. They refused to acknowledge the facts and evidence that came out to dispute it. They stuck with their story even when it was wrong, and now today we have serious questions as to the reasoning and the case made before our invasion of Iraq.

Mr. President, I yield the floor in morning business. I would like to ask the Presiding Officer—I do not see either the chairman of the Governmental Affairs Committee or the ranking member in the Chamber. I have a pending amendment to the bill. I am not going to even suggest to offer it since the chairman is not on the Senate floor, but I will at some later time.

I yield the floor.

The PRESIDING OFFICER. The Senator from Alabama.

Mr. SESSIONS. Mr. President, the Senator from Illinois is very eloquent in the position he takes, and he argues pretty aggressively in this political season one point of view on the question of nuclear weaponry and how the Senate was briefed.

He said one thing that is true. I was not a member of the Intelligence Committee, but as a Senator, we received repeated briefings on the weapons of mass destruction issue, and in the briefings we received, all Members of the Senate, and that includes the Democratic nominee for the Presidency, a Member of this body, Senator KERRY, the issue of what those tubes were for was discussed and both sides of it were presented. It was left to the Senators, I guess, to decide how they would call the question.

I felt as if the weight of the evidence indicated to me that Saddam Hussein was doing what he had done before, that this was just one of the weapons of mass destruction he was desirous of having, he was desirous of possessing and that he wanted to use to threaten his neighbors, his own people, and to improve his threat standing in the neighborhood in which his country existed. In other words, he was clearly desirous of that, else why would he not agree to a full inspection to prove what he did with the remains of his nuclear program that we know he had previously? Else why would he not show what he had done with the chemical weapons we know he used against his own people? And we all heard those briefings.

I know the Presiding Officer was there in those briefings. We heard them, and we knew the issues involved. We debated it on the floor of this Senate for months and months and we discussed all those issues and we had to make a decision about whether or not to allow Saddam Hussein to remain in violation of 16 U.N. resolutions.

We said we could not continue in this way. They fired at airplanes on a regular basis as they enforced the U.N. no-fly zone over Iraq, and we voted on it.

After having all of those issues discussed, after having received the intelligence with both sides of this question discussed before the Senators, Senator KERRY, as referred to by the Senator from Illinois—he referred to him in his campaign—voted to allow the President to make one final effort with Saddam Hussein and authorized him to commence hostilities if that did not succeed.

Those last discussions did not succeed and we made one more effort. They did not succeed and we went to war as every Member of this body knew when we cast that vote. This body was not misled and Senator DURBIN was not misled because he heard the same briefings as he has told us, and neither was Senator KERRY when he cast his vote in favor of allowing this war to proceed.

I think it is critical for leadership in America that if an American makes a commitment and a decision on an issue as important as that to keep the commitment and not flip-flop on it next week, not change their mind next week and go back and try to find some excuse to blame the President who is leading troops in the field and make complaints on the floor of this Senate and in press conferences, statements which make it more difficult for us to be successful.

We know what the challenge is, and we as a nation have made a commitment. This Senate, by a three-fourths plus vote, voted to allow this war to begin. We knew it was going to happen if Saddam Hussein did not back down and admit what he was doing and allow inspectors to come in and demonstrate clearly that he did not have these weapons of mass destruction. We received intensive briefings on that subject. We cast our votes and God gave us the ability to make a clear decision. We ought to stand by that decision, and we are going to stand by it.

There are some who want to cut and run, bob and weave, flip and flop, but the American people will not and this Senate is not. We are going to stand firm and we are going to be successful in Iraq because it is the right thing to do.

Those people have suffered greatly but progress has been made and will continue to be made. We are going to train the military, get them up to speed, and get them equipped. As we have seen in Samara when that happens and they work with the American military, progress, success can and will occur. This is a longrun solution.

We have had so much success in Afghanistan where it is so wonderful to see over 10 million people registered to vote there, and 40 percent of them are women. To say that we cannot make progress in this area of the world is a mistake.

Yes, it is tough. Yes, it is difficult. Yes, a significant but small number want to disrupt everything that has gone on and to make sure that democracy cannot take hold and a good and decent government will not be established to allow the Iraqi people to use their capabilities and work ethic to allow them to be successful, which is important for us. I just would make that response.

I see Senator COLLINS is in the Chamber. I was going to make a statement on a separate issue, but if the Senator needs the floor for matters important to the bill, I would be glad to yield.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Alabama. I do have two brief matters to deal with and then I would be glad to figure out where our order is.

I ask unanimous consent that the Senator from Arizona, Mr. MCCAIN, be added as a cosponsor to the underlying bill, S. 2845.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I ask unanimous consent that the pending amendments be set aside so I may call up two amendments on behalf of the majority leader.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3895, AS MODIFIED, AND 3896, EN BLOC

Ms. COLLINS. Mr. President, I call up amendments Nos. 3895 and 3896, and further I send a modification to No. 3895 to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is modified. Both amendments will now be pending.

The amendments are as follows:

AMENDMENT NO. 3965

On page 94, strike line 5 and insert the following:

SEC. 144. NATIONAL COUNTERPROLIFERATION CENTER.

(a) NATIONAL COUNTERPROLIFERATION CENTER.—(1) Not later than one year after enactment of this Act there shall be established within the National Intelligence Authority a National Counterproliferation Center.

(2) The purpose of the Center is to develop, direct, and coordinate the efforts and activities of the United States Government to deter, prevent, halt, and rollback the pursuit, acquisition, development, and trafficking of weapons of mass destruction, related materials and technologies, and their delivery systems to terrorists, terrorist organizations, other non-state actors of concern, and state actors of concern.

(b) DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—(1) There is a Director of the National Counterproliferation Center, who shall be the head of the National Counterproliferation Center, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as the Director of the National Counterproliferation Center shall have significant expertise in matters relating to the national security of the United States and matters relating to the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies that threaten the national security of the United States, its interests, and allies.

(3) The individual serving as the Director of the National Counterproliferation Center may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Director of the National Counterproliferation Center is doing so in an acting capacity.

(c) SUPERVISION.—(1) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the budget, personnel, activities, and programs of the National Counterproliferation Center.

(2) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the activities of the Directorate of Intelligence of the National Counterproliferation Center under subsection (g).

(3) The Director of the National Counterproliferation Center shall report to the President and the National Intelligence Director on the planning and progress of counterproliferation programs, operations, and activities.

(d) PRIMARY MISSIONS.—The primary missions of the National Counterproliferation Center shall be as follows:

(1) To develop and unify strategy for the counterproliferation efforts (including law enforcement, economic, diplomatic, intelligence, and military efforts) of the United States Government.

(2) To make recommendations to the National Intelligence Director with regard to the collection and analysis requirements and priorities of the National Counterproliferation Center.

(3) To integrate counterproliferation intelligence activities of the United States Government, both inside and outside the United States, and with other governments.

(4) To develop multilateral and United States Government counterproliferation plans, which plans shall—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President) of the United States Government; and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency operational activities, recommendations for operational plans, and assignment of national, departmental, or agency responsibilities.

(5) To ensure that the collection, analysis, and utilization of counterproliferation intelligence, and the conduct of counterproliferation operations, by the United States Government are informed by the analysis of all-source intelligence.

(e) DUTIES AND RESPONSIBILITIES OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—Notwithstanding any other provision of law, at the direction of the President, the National Security Council, and the National Intelligence Director, the Director of the National Counterproliferation Center shall—

(1) serve as the principal adviser to the President and the National Intelligence Director on intelligence and operations relating to counterproliferation;

(2) provide unified strategic direction for the counterproliferation efforts of the United States Government and for the effective integration and deconfliction of counterproliferation intelligence collection, analysis, and operations across agency boundaries, both inside and outside the United States, and with foreign governments;

(3) advise the President and the National Intelligence Director on the extent to which the counterproliferation program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the policies and priorities established by the President and the National Security Council;

(4) in accordance with subsection (f), concur in, or advise the President on, the selections of personnel to head the nonmilitary operating entities of the United States Government with principal missions relating to counterproliferation;

(5) serve as the principal representative of the United States Government to multilateral and bilateral organizations, forums, events, and activities related to counterproliferation;

(6) advise the President and the National Intelligence Director on the science and technology research and development requirements and priorities of the counterproliferation programs and activities of the United States Government; and

(7) perform such other duties as the National Intelligence Director may prescribe or are prescribed by law;

(f) ROLE OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER IN CERTAIN APPOINTMENTS.—(1) In the event of a vacancy in the most senior position of such nonmilitary operating entities of the United States Government having principal missions relating to counterproliferation as the President may designate, the head of the department or agency having jurisdiction over the position shall obtain the concurrence of the Director of the National Counterproliferation Center before appointing an individual to fill the vacancy or recommending to the President an individual for nomination to fill the vacancy. If the Director does not concur in the recommendation, the head of the department or agency concerned may fill the vacancy or make the recommendation to the President (as the case may be) without the concurrence of the Director, but shall notify the President that the Director does not concur in the appointment or recommendation (as the case may be).

(2) The President shall notify Congress of the designation of an operating entity of the United States Government under paragraph (1) not later than 30 days after the date of such designation.

(g) DIRECTORATE OF INTELLIGENCE.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Intelligence.

(2) The Directorate shall have primary responsibility within the United States Government for the collection and analysis of information regarding proliferators (including individuals, entities, organizations, companies, and states) and their networks, from all sources of intelligence, whether collected inside or outside the United States, or by foreign governments.

(3) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected proliferators, their networks, their activities, and their capabilities;

(B) propose intelligence collection and analysis requirements and priorities for action by elements of the intelligence community inside and outside the United States, and by friendly foreign governments;

(C) have primary responsibility within the United States Government for net assessments and warnings about weapons of mass destruction proliferation threats, which assessments and warnings shall be based on a comparison of the intentions and capabilities of proliferators with assessed national vulnerabilities and countermeasures;

(D) conduct through a separate, independent office independent analyses (commonly referred to as "red teaming") of intelligence collected and analyzed with respect to proliferation; and

(E) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(h) DIRECTORATE OF PLANNING.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for developing counterproliferation plans, as described in subsection (d)(3).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter proliferation activities based on policy objectives and priorities established by the National Security Council;

(B) develop plans under subparagraph (A) utilizing input from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to counterproliferation;

(C) assign responsibilities for counterproliferation operations to the departments and agencies of the United States Government (including the Department of Defense, the Department of State, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government), consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the performance of the departments, agencies, and elements of the United States with the plans developed under subparagraph (A); and

(F) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(i) STAFF.—(1) The National Intelligence Director may appoint deputy directors of the National Counterproliferation Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist the Director of the National Counterproliferation Center in fulfilling the duties and responsibilities of the Director of the National Counterproliferation Center under this section, the National Intelligence Director shall employ in the National Counterproliferation Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterproliferation Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterproliferation Center is comprised primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to the National Counterproliferation Center from any other non-Department of Defense element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government and not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterproliferation Center under this subsection shall be under the authority, direction, and control of the Director of the National Counterproliferation Center on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterproliferation Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterproliferation Center may, with the approval of the National Intelligence Director, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director may delegate to the Director of the National Counterproliferation Center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (8).

(10) The National Intelligence Director shall ensure that the staff of the National Counterproliferation Center has access to all databases and information maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(j) SUPPORT AND COOPERATION OF OTHER AGENCIES.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterproliferation Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterproliferation Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (h)(4);

(B) cooperative work with the Director of the National Counterproliferation Center to ensure that ongoing operations of such department, agency, or element do not conflict with operations planned by the Center;

(C) reports, upon request, to the Director of the National Counterproliferation Center on the performance of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterproliferation Center electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterproliferation Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the President of the necessity of resolving the disagreement.

(k) DEFINITIONS.—In this section:

(1) The term "counterproliferation" means—

(A) activities, programs and measures for interdicting (including deterring, preventing, halting, and rolling back) the transfer or transport (whether by air, land or sea) of weapons of mass destruction, their delivery systems, and related materials and technologies to and from states and non-state actors (especially terrorists and terrorist organizations) of proliferation concern;

(B) enhanced law enforcement activities and cooperation to deter, prevent, halt, and rollback proliferation-related networks, activities, organizations, and individuals, and bring those involved to justice; and

(C) activities, programs, and measures for identifying, collecting, and analyzing information and intelligence related to the transfer or transport of weapons, systems, materials, and technologies as described in subparagraph (A).

(2) The term "states and non-state actors of proliferation concern" refers to countries or entities (including individuals, entities, organizations, companies, and networks) that should be subject to counterproliferation activities because of their actions or intent to engage in proliferation through—

(A) efforts to develop or acquire chemical, biological, or nuclear weapons and associated delivery systems; or

(B) transfers (either selling, receiving, or facilitating) of weapons of mass destruction, their delivery systems, or related materials.

AMENDMENT NO. 3886

(Purpose: To include certain additional Members of Congress among the congressional intelligence committees and for certain other purposes)

On page 8, strike lines 3 and 4 and insert the following:

(A) the Select Committee on Intelligence of the Senate;

(B) the Permanent Select Committee on Intelligence of the House of Representatives;

(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(D) the Majority Leader and the Minority Leader of the Senate.

On page 172, beginning on line 24, strike "the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives," and insert "the committees and Members of Congress specified in subsection (c),".

On page 173, beginning on line 17, strike "the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives," and insert "the committees and Members of Congress specified in subsection (c),".

On page 174, beginning on line 7, strike "Representatives" and all that follows through line 13 and insert "Representatives, the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives, and the Majority Leader and the Minority Leader of the Senate. Upon making a report covered by this paragraph—

"(A) the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such a committee shall notify the other of the Chairman, Vice Chairman, or Ranking Member, as the case may be, of such committee of such request;

"(B) the Speaker of the House of Representatives and the Majority Leader of the House of Representatives or the Minority Leader of the House of Representatives shall notify the other or others, as the case may be, of such request; and

"(C) the Majority Leader and Minority Leader of the Senate shall notify the other of such request.

On page 174, between lines 22 and 23, insert the following:

(c) COMMITTEES AND MEMBERS OF CONGRESS.—The committees and Members of Congress specified in this subsection are—

(1) the Select Committee on Intelligence of the Senate;

(2) the Permanent Select Committee on Intelligence of the House of Representatives;

(3) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

(4) the Majority Leader and the Minority Leader of the Senate.

On page 176, between lines 3 and 4, insert the following:

(iii) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives;

(iv) the Majority Leader and the Minority Leader of the Senate;

On page 176, line 4, strike "(ii)" and insert "(v)".

On page 176, line 7, strike "(iii)" and insert "(vi)".

On page 200, between lines 4 and 5, insert the following:

SEC. 307. MODIFICATION OF DEFINITION OF CONGRESSIONAL INTELLIGENCE COMMITTEES UNDER NATIONAL SECURITY ACT OF 1947.

(a) IN GENERAL.—Paragraph (7) of section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended to read as follows:

"(7) The term 'congressional intelligence committees' means—

"(A) the Select Committee on Intelligence of the Senate;

"(B) the Permanent Select Committee on Intelligence of the House of Representatives;

"(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

"(D) the Majority Leader and the Minority Leader of the Senate.".

(b) FUNDING OF INTELLIGENCE ACTIVITIES.—Paragraph (2) of section 504(e) of that Act (50 U.S.C. 414(e)) is amended to read as follows:

"(2) the term 'appropriate congressional committees' means—

"(A) the Select Committee on Intelligence and the Committee on Appropriations of the Senate;

"(B) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives;

"(C) the Speaker of the House of Representatives and the Majority Leader and the Minority Leader of the House of Representatives; and

"(D) the Majority Leader and the Minority Leader of the Senate;".

On page 200, line 5, strike "**307.**" and insert "**308.**".

On page 200, line 12, strike "**308.**" and insert "**309.**".

On page 200, line 19, strike "**309.**" and insert "**310.**".

On page 201, line 11, strike "**310.**" and insert "**311.**".

On page 203, line 9, strike "**311.**" and insert "**312.**".

On page 204, line 1, strike "**312.**" and insert "**313.**".

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. I ask unanimous consent that the pending amendments be set aside so I can offer an amendment for Senator DURBIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3923

Mr. REID. I call up amendment No. 3923.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

AMENDMENT NO. 3923

(Purpose: To ensure the balance of privacy and civil liberties)

On page 154, strike lines 1 through 3 and insert the following:

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and

On page 155, line 6 strike beginning with "has" through line 9 and insert the following: "has established—

"(i) that the need for the power is balanced with the need to protect privacy and civil liberties;".

On page 166, strike lines 4 through 6 and insert the following: "element has established—

"(i) that the need for the power is balanced with the need to protect privacy and civil liberties;".

The PRESIDING OFFICER. The amendment is pending.

Mr. REID. I ask that it now be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. SESSIONS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3871

Mr. SESSIONS. Mr. President, I rise to speak in support of an amendment previously offered, No. 3871, and to share some thoughts about what I believe to be a critical issue facing us in terms of security for this country.

One thing this legislation we are discussing today could do better is it could more effectively help deal with weaknesses that exist in our system today. We are moving blocks around at headquarters and creating responsibilities. Some of that may be good and some of that may not, but what I have not seen enough of is focus on what really is a problem and a weakness in our system and proposals that will actually fix that and make it stronger.

We know, for example, that lack of human intelligence over decades since I guess the Church Committee has left us far too few intelligence officers around the world. We know that we have far too few translators who can translate foreign languages that may involve people who have connections to terrorism. Those are things we know are problems, and I am afraid we do not do enough about it.

This is a matter that I think is critically important that is a problem generally recognized by people today in this country who give it much thought. It is simply this: That if a police officer in any town in America were to stop an individual he or she believes to be here illegally, I would suggest that most Americans do not know what will happen at that point. As a former Federal prosecutor and Attorney General of Alabama, I travel the State and frequently meet with local law officers, sheriffs and police officers, and I ask them what they do when they discover someone who has been in this country illegally.

The answer is, they let them go. They used to call the Immigration and Naturalization Service and they would tell them that if there were not at least 15 people in this group illegally they would not bother to come and even pick up this individual. As a result of that and a few court rulings that, in my view, are not persuasive, are not binding, the mentality has developed among State and local law enforcement that they do not have any role in enforcing our immigration laws, and they do not do it.

I raise this simply because it used the same language I have used before. This is an article from, I believe, a Portsmouth, New Hampshire, paper. It involves the Kittery, ME, police chief. The first line of the article says, "This country is facing a tremendous security issue when it comes to illegal aliens."

The chief of police sent that strong message after his department detained a Colombian citizen and a Bulgarian citizen. Both were found to be in the country after their visas had expired—illegally:

> . . . but the police were told by Immigration and Naturalization Service agents, to release them.
>
> "They just let them go," the Chief said.

That is what happens in America today. That is reality. Anyone who suggests that our police are able to participate effectively in apprehending people who are here illegally does not know what is happening in the real world. We have 650,000 State and local police officers in America—sheriff deputies, police officers, State troopers, and the like. But there are only 2,000 Interior enforcement officers for the Department of Immigration—ICE, they now call it; only 2,000 in the whole country.

So, to tell our local people we don't want your help in this is unwise. It is a serious flaw in our system and I propose that we fix it.

I understand the way we are proceeding here that this amendment is probably not germane. Therefore, if it is not germane, with cloture probably we will not get a vote on it. But it is something I wanted to share with the Members of this Senate.

We have Senator CORNYN, Senator ENSIGN, Senator CHAMBLISS—who chairs the Immigration Subcommittee in Judiciary—and Senator MILLER from Georgia. They have signed onto this amendment. Senator INHOFE, I see just came in, is a signer and supporter of this amendment. It is common sense. It is plain common sense. What we are doing now is wrong. I am very concerned about it.

In addition to the fact that they are told not to participate in the apprehension or detention or holding of someone who is here illegally, even more bizarre is the fact that we now have 400,000 alien absconders in this country. That is 400,000 people who were determined to be in this country illegally, by one forum or another, by administrative ruling or court determination, and have been issued final orders of deportation, but are still at large. What do you think would normally happen if that occurred, if someone is found here illegally and determined so by an administrative or court proceeding? You would think they would be asked to leave. They would be deported.

What happens is they are released on bail pending a final order of deportation and 80 percent of those never come back. They don't show up for their deportation hearing. They abscond.

Mr. President, 86,000 of those are criminal felons; of that 400,000 who absconded, 86,000 are criminal felons who came to this country with permission to live here and work here according to the rules and regulations. They have been convicted of a felony and they have been ordered deported, but they abscond and they are out there—criminals, many of whom are threats. Fifteen thousand of these 86,000 have been determined to be of "national security interest," and 3,000 come from state sponsors of terrorism.

We know that three of the 9/11 hijackers had contact with State and local police during routine traffic stops prior to 9/11. Hijacker Mohammed Atta, believed to have piloted American Airlines flight 77 into the World Trade Center's north tower, was stopped twice by police in Florida. Hijacker Ziad S. Jarrah was stopped for speeding by Maryland State police 2 days before 9/11. Hani Hanjour, who was on the flight that crashed into the Pentagon, was stopped for speeding by police in Arlington, VA.

Right now, if a State or local officer stops one of these 400,000 absconders, they have no real way of knowing the person has been ordered removed from the country by an immigration court. Do you understand that? The key thing here is that people need to understand how the system works. Let's say a Mohammad Atta had been arrested for reckless driving or DUI, that he was in violation of his immigration laws and was ordered deported, and that he absconded back into the country and he is stopped in Maryland or Alabama or Maine by a local police officer. What would happen? If he had committed larceny and had a warrant out for his arrest from Maine, I will tell you what would happen if he is stopped in Alabama. The police officer will run the National Crime Information Computer check. It will come out that there is a warrant out for his or her arrest for larceny in Maine, and he will be held and turned over to the Maine authorities to be prosecuted.

What happens if a person is one of the 400,000 alien absconders? That information is not being put in the NCIC database, so it is not available to the police officers who make a check. They can't determine whether this is a danger to America.

This is what our amendment would do. It would simply clarify the authority of State and local police, that they have a voluntary role in their local role that requires information, and it requires information such as revoked visas and final orders of deportation be listed in the NCIC so the State and local officers can have access to it in the course of their routine duties. It does not say people have to go out and start looking for illegal aliens, but if they apprehend somebody, they run the NCIC check and see whether there is a final order of deportation in the system.

Action by state and local police is totally voluntary. There has been some concern that similar legislation would require the local police to participate in enforcing immigration laws, which I personally think most should—or at least they ought to. But this amendment would not require any action by state and local officers. It also has no link to any funding they are currently receiving.

The amendment goes a step further to clarify the voluntary nature of this amendment it includes language saying that nothing would require the State and local officers to report the immigration status of witnesses of crimes or victims of crimes. Some say if you do that, people will not come forward and report a crime; if they are a victim, they will not come forward and report if they are a witness. This amendment does not require any of that.

Let me briefly conclude. I could say much more about this. But the 9/11 Commission dealt with this issue. They recognize the "growing role"—that is a quote in the 9/11 Commission report—of our State and local law enforcement agencies in the area of immigration law enforcement, and for effective cooperation of all levels of immigration law enforcement—Federal, State, and local.

They also noted this challenge. On page 383 of the 9/11 report:

> The challenge for national security in an age of terrorism is to prevent the very few people who may pose overwhelming risk from entering or remaining in the United States undetected.

We ought to listen to that. It is a threat to our country, that the people who are here illegally remain here without being apprehended. They say there is a growing role for State and local law enforcement in this area. That is why we have offered this language. That is why, even before 9/11, I recognized the problem would be crucial for this country.

I am very frustrated but we need to step up to the plate and make sure every local and State law enforcement officer knows what their authority is; that the Federal ICE people will come and retrieve people who are here illegally; that people who have absconded after a valid order of deportation and a warrant for their arrest has been issued. That ought to be in the NCIC for an immigration offense just as much as a petty larceny offense or a DUI offense. That is not the way it is today.

We have to confront this issue. In one fell sweep we could add 600,000-plus law officers—the eyes and ears of America on the streets of every city and town in America. We could add them to the effort to make this country secure. We could add them as eyes and ears with the ability to identify and arrest people who have warrants out for them, who may be 1 of 3,000 from countries that harbor terrorism.

I thank the Chair. I believe we need to continue to work on this. I intend to do so. We ought to have a vote on this, if possible. If not, we will just keep coming back at it.

AMENDMENTS NO. 3850, NO. 3851, NO. 3855, NO. 3856, AND NO. 3872

I ask unanimous consent that the pending amendment be set aside, and on behalf of Senator GRASSLEY, I would like to call up en bloc five amendments that are filed at the desk. I call up amendments No. 3850, No. 3851, No. 3855, No. 3856, and No. 3872, and I ask unanimous consent that the amendments be set aside.

The PRESIDING OFFICER. Is there objection?

Mr. LIEBERMAN. Objection is made. I ask the Senator from Alabama if he could indicate what the amendments are.

Mr. SESSIONS. I thank Senator LIEBERMAN. This was a request from Senator GRASSLEY, and I called these amendments up and then asked that they be set aside.

Mr. LIEBERMAN. I thank the Senator.

I remove my objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 3566

Mr. SPECTER. Mr. President, I have filed amendment No. 3866, which would prohibit racial profiling with the relevant section as follows:

> The term "racial profiling" means the practice of law enforcement agents relying to any degree on race, ethnicity, religion or national origin in selecting which individuals to subject to routine or spontaneous investigatory activities or in deciding upon the

scope and substance of law enforcement activity following the initial investigatory procedure except where there is trustworthy information relevant to the locality and timeframe that links persons of a particular race, ethnicity, religion or national origin to an identified criminal incident or scheme.

The amendment further defines routine or spontaneous investigative activities to include interviews, traffic stops, pedestrian stops, frisks, and other types of body searches, consensual or nonconsensual searches of the person and possessions, including vehicles, pedestrians, entrants into the United States that are more extensive than those customarily carried out, immigration-related workplace investigations, or other types of enforcement encounters as compiled by the Federal Bureau of Investigation or the Bureau of Statistics.

As evident from these definitions, a number of these items would relate to the kinds of activities of national intelligence, the immigration-related workplace investigations, inspections and interviews of interest to United States.

This amendment tracks very closely the provisions of the Department of Justice guidance regarding use of race by Federal law enforcement agencies promulgated in June of 2003 which says in relevant part, "in making routine or spontaneous law enforcement decisions, such as ordinary traffic stops, Federal law enforcement officers may not use race or ethnicity to any degree except that officers may rely on race or ethnicity in a specific subject description."

I understand the managers are not prepared to have another vote this evening.

But for the RECORD I ask unanimous consent that the pending amendment be set aside and the amendment No. 3866 be taken up for consideration.

Mr. REID. Mr. President, reserving the right to object, I understand the legal prowess of the Senator from Pennsylvania when there is a legal issue. I know the good intentions he has in regard to this most important subject matter and to what the amendment relates. But on behalf of the authorizers, I think this matter should be discussed at the Judiciary Committee level in some detail, and it has not. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SPECTER. Mr. President, I have sought to offer this amendment for most of the afternoon. I offered two amendments last week. I know how difficult it is to manage a bill.

I, again, compliment the distinguished chairman, Senator COLLINS, and the distinguished ranking member, Senator LIEBERMAN, for their work.

As soon as the bill was called to the floor last week, I came to the floor and offered two amendments to cooperate with the managers. I was awaiting the time to offer this amendment.

The problem which is posed procedurally is that cloture will be filed tomorrow. If cloture is invoked, this amendment will not satisfy the germaneness requirements which is the reason I have offered it this evening. But in light of the objection to set aside the pending amendment so debate and a vote can occur on this amendment, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Pennsylvania. He is a very valued and constructive member of our committee in considering this legislation. He was dealing in this amendment with a problem that ought to be dealt with, but, unfortunately, because of the moment we have reached on this bill where effectively unanimous consent is necessary to take up a matter for a vote and objection has been heard on both sides, that will not be possible.

I thank him. I thank him for getting the process going last week and, as he said, coming over early and submitting two amendments which helped to clarify the matters this bill contains. There will be another day for this amendment, I am sure.

Once again, I thank him for his real leadership in pursuit of reform of our national intelligence assets.

I yield the floor.

Ms. COLLINS. Mr. President, I join the Senator from Connecticut and the Senator from Nevada in their compliments of the Senator of the Commonwealth of Pennsylvania. I do very much appreciate that he was so willing to come forward early last week and offer the first amendments. I regret that objection on both sides of the aisle prevent us from accommodating him this evening.

Mr. SPECTER. Mr. President, I thank my colleagues for their gracious comments and pick up on what Senator LIEBERMAN said. This amendment will return. There will be a day for its due consideration and I think enactment by this body.

I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent I be recognized to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

GRANT DOLLARS AT EPA

Mr. INHOFE. Mr. President, I rise today to shed some light on a subject that is very important to me in my oversight duties as the chairman of the Environment and Public Works Committee. Earlier this year, the Environment and Public Works Committee held an oversight hearing where the committee heard testimony from the General Accounting Office and the EPA inspector general regarding a 10-year history of numerous problems with the management of grant dollars at the Environmental Protection Agency.

Some of the problems included EPA not requiring grant recipients to demonstrate real environmental benefits for grants, EPA not requiring competition in its grants awards, and a general lack of oversight of EPA grant officers and recipients. The EPA inspector general released an audit only 2 days before the hearing, finding that a particular nonprofit guaranty had violated the Lobbying Disclosure Act, and with nearly $5 million of EPA grant funding.

Members may recall, because I talked about it at that time, that it was the Consumer Federation of America, which is a 501(c)(4), that had been a recipient of discretionary grants from the EPA. That is a 501(c)(4) as in lobbying organization. They support candidates. It is strictly against the law.

Over the last few months, my staff has done considerable research into the EPA grant and confirmed many of the problems and also found the EPA has a long history of awarding grant dollars without competition to some well-known nonprofit environmental groups that regularly engage in political activity. My staff has compiled some of these findings in this 20 page report to the chairman.

In examining how the environmental groups receive and spend their Federal dollars, it became apparent they receive funding from numerous sources, including large foundations. Within these organizations, political and grassroots efforts quickly became difficult to differentiate the sources of their funding and how they spend them. Therefore, I instructed my staff to examine the funding and expenditure records of the organizations. That has resulted in a second report which is the focus of my remarks today.

My staff has compiled this information into a 15-page report for the chairman to provide some preliminary examples describing five of the most widely politically active environmental groups, the description of their activity, the foundations that provide the financial support for these groups, and the interconnected web among all those organizations.

Interestingly, these environmental groups are all tax-exempt, IRS-registered 501(c)(3) charitable organizations, meaning contributions to these groups are tax deductible. These groups profess to be the greatest stewards of the environment and solicit contributions from a variety of sources by that claim. But they demonstrate more interest in giving apocalyptic environmental scenarios to raise money for raw political purposes rather than working together to improve the environment for America.

We have money from foundations, individuals, and government grants going into environmental groups, and then they turn around and put these out to the 501(c)(3), 527 organizations and 501(c)(4), these are political organizations. All these nonprofit groups are also closely associated and fund their affiliated 501(c)(4) lobbying organizations and the 527 political organizations.

This report could not be more timely as the Washington Post, as recently as September 27 of this year, published an article demonstrating that IRS 501(c)(3), 501(c)(4), and 527 organizations are all engaged in political activity this election cycle with expenditures designed to circumvent the prohibitions in the bipartisan campaign Reform Act of 2002, otherwise known as McCain-Feingold.

This article quoted a Federal Election Commission official stating:

> In the wake of the ban on party-raised soft money, evidence is mounting that money is slithering through on other routes as organizations maintain various accounts, tripping over each other, shifting money between 501(c)(3)'s, (c)(4)'s, and 527's. . . . It's big money.

Why is this important? Because the environment is important to all Americans. Despite what we hear from the groups in their attack advertisements against President Bush and the Republican candidates across the Nation, our air is cleaner, water more drinkable, and our forests are becoming healthier.

Keep in mind this is over a period of time when we have almost doubled the amount of miles that are driven, and our population is dramatically increasing. Yet things are cleaner than they were before.

For instance, over the last 30 years we have cut air pollution in half. Why, then, are some extremists spending millions upon millions to hijack the conservation movement? It seems to me that it is more important to the leadership of these groups to turn their once laudable movement into a political machine by sending out their bipartisan snake oil, salesmen, and misleading the American public regarding their purely politically partisan agenda under the guise of environmental protection.

Our Nation's father of conservation, Teddy Roosevelt, said:

> To waste, to destroy, our natural resources, to skin and exhaust the land instead of using it so as to increase its usefulness, will result in undermining in the days of our children the very prosperity which we ought by right to hand down to them amplified and developed.

These words ring true today, but unfortunately it is clear that the environmentalist movement is deaf to them. What we find now is the fleecing of the American public's pocketbooks by the environmental movement for their political use. What we find now is exhausting litigation, instigation of false claims, misleading science, and scare tactics to fool Americans into believing disastrous environmental scenarios that are untrue.

Pay close attention to the webs of this incestuous activity of these environmentalists groups and their financial benefactors. Environmental organizations have become experts at duplicitous activity, skirting laws up to the edge of illegality, and burying their political activities under the guise of nonprofit environmental improvement.

Chart No. 2 demonstrates the interconnection environmental family affair with nonprofits and their benefactors. As we can see, six organizations at the bottom of the chart are all either 527 groups or 501(c)(4)s. These are political organizations. Money that comes up here—for example, the Heinz Foundation, goes to the various organizations and ultimately gets to the Environmental Accounting Fund, the Save the Environment Organization, Action Fund, Sierra Club Votes, Defenders of Wildlife, Environment 2004. These are all either 501(c)(4)s or 527 organizations.

The LCV calls itself the political voice of the national environmental movement, and much of its grants from even its 501(c)(3) organizations go to fund voter mobilization and education drives. In each election cycle, LCV endorses congressional candidates and since 1996 has published a "dirty dozen" list. They brag about the dirty dozen list that has been very effective, but the LCV mostly singles out only Republican candidates.

What we are talking about is the money that is channeled from 501(c)(3) organizations is going to defeat Republican candidates.

Mr. President, let me provide some examples. So far this year, the LCV has released a "Dirty Dozen" list of eight congressional candidates—seven Republicans and one Democrat. For the first time ever, it includes the President and Vice President. I cannot forget that LCV has, of course, endorsed the junior Senator from Massachusetts for President, the earliest endorsement of a Presidential contender in its 34-year history.

The LCV's 527 organization last reported to have raised over $3.3 million in the 2004 election cycle. This is chart No. 3: $3.3 million. It has also joined with Environment2004, another 527 political organization directed by former Clinton administration EPA staffers purchasing air time to run ads against the President.

Interestingly, not all candidates appreciate LCV's help.

I recently read where the senior Senator from South Dakota requested the LCV not air advertisements in the South Dakota Senate contest this year and even characterized outside organization advertisements as "often too negative, too personal, and lack any real substance."

However, LCV has a long history of political involvement. This is chart No. 4. In 1996, LCV spent a total of $1.5 million in ads trying to defeat its "Dirty Dozen" list of targets of 11 Republicans and 1 Democrat.

In 1998, LCV spent $2.3 million targeting its "Dirty Dozen" list of 12 Republican candidates and 1 Democratic candidate.

In 2000, the LCV spent a total of $4 million, again targeting 11 Republicans and 1 Democrat on its "Dirty Dozen" list. And I cannot forget, in 2000 the LCV also endorsed Al Gore for President.

In 2002, the LCV once again targeted 11 Republican congressional candidates and 1 Democrat.

I see a partisan pattern that is well developed here. LCV spent hundreds of thousands of dollars in congressional contests against Republican candidates. However, the strongest effort seems to have been focused on Senator ALLARD. The LCV claims to have budgeted a total of $700,000 for that race alone and hired a campaign staff of 12 to coordinate phone banks and precinct walks in addition to running television and radio advertisements. Altogether, LCV is reported to have spent $1.5 million in independent expenditures during the 2002 election cycle. Of that total amount, LCV spent $1.313 million benefiting Democratic candidates while only spending $136,000 for Republican candidates.

Another example is the Sierra Club. The Sierra Club describes itself as "America's oldest, largest and most influential grassroots environmental organization." Sierra Club is also an IRS-registered, tax-exempt, nonprofit 501(c)(3) foundation. Here we go again. The Sierra Club Foundation is closely affiliated with its Sierra Club 501(c)(4) and section 527 political organizations. In fact, the Washington Post detailed the interconnected organizations of the Sierra Club in an article it featured last Monday. This is what the Post printed:

> Perhaps no one better illustrates the host of interlocking roles than Carl Pope, one of the most influential operatives on the Democratic side in the 2004 election. As executive director of the Sierra Club, a major 501(c)(4) environmental lobby, Pope also controls the Sierra Club Voter Education Fund, a 527. The Voter Education Fund 527 has raised $3.4 million this election cycle, with $2.4 million of that amount coming from the Sierra Club. A third group, the Sierra Club PAC, has since 1980 given $3.9 million to Democratic candidates and $173,602 to GOP candidates.

The Sierra Club is consistently critical of the Bush environmental record and sometimes others as well. The Sierra Club even accused me of trying to raise the levels of mercury pollution. The Sierra Club's 527 political organization reports to have raised over $6.8 million for the 2004 election cycle alone, with a goal of over $8 million by the end of the month.

Like the LCV, the Sierra Club has a history of involvement in politics. In the year 2000 Presidential contest, the Sierra Club spent several hundred thousand dollars in advertisements attacking President Bush. And in the 2002 election cycle, the Sierra Club endorsed 184 Democratic incumbents and challengers and endorsed 10 Republican candidates—184 Democrats and 10 Republicans. Not surprisingly, the Sierra Club is heavily involved in the 2004 political cycle. The Sierra Club began spending early in the 2004 Presidential contest and has made a series of endorsements this year. Of course, the Sierra Club has endorsed the junior Senator from Massachusetts for President, and it has endorsed 16 Democratic Senate incumbents and challengers and no Republican candidates—16 Democrats, no Republicans. In races for the House of Representatives, the Sierra Club has endorsed 114 Democratic incumbents and challengers and has endorsed 7 Republican candidates.

Let me use one more example briefly—the Natural Resources Defense Council. The NRDC is also an IRS-registered, tax-exempt, nonprofit 501(c)(3) receiving $55 million in tax-deductible contributions—these are tax-deductible contributions; no money going into the Treasury—in just the last year running bogus ads like this one on this chart claiming President Bush is rolling back a mercury regulation that never existed. This is an outrageous lie. I do not remember how much this ad cost, but if you look, this was a full-page ad run in the New York Times. Down here it says:

> Yes, I want to join the Natural Resources Defense Council and help thwart President Bush's plan to weaken controls on toxic mercury.

There aren't any controls on toxic mercury. This is an outrageous lie. How can you lower something that does not exist? The truth is, President Bush's Clear Skies legislative proposal, which I support, is the biggest emissions reduction plan ever proposed by any American President. Over 14 years, it would reduce emissions from powerplants of nitrogen oxides, sulfur dioxide, and mercury emissions from powerplants by 70 percent. Let's be sure and understand that the NRDC deliberately lied in this ad because you cannot roll back standards that do not exist.

The NRDC is affiliated with the NRDC Action Fund, a 501(c)(4) organization—here we go again—and the Environmental Accountability Fund, its section 527 political organization. The NRDC describes itself as "the nation's most effective environmental action organization," and has a long history of political activity.

The NRDC has joined this year with LCV and the Sierra Club to air television and radio ads and hire campaign staffs to work against President Bush in several States, including New Mexico, Florida, Arizona, and Nevada. Overall, the Environmental Accountability Fund, NRDC's 527 organization, last reported to have raised nearly $1 million in the 2004 election cycle.

Well, that is three of the culprits. The report outlines two others in depth—Greenpeace and Environmental Defense—and shows similar patterns of partisan fundraising and spending, such as this Greenpeace ad that equates President Bush's conservation policies to the Texas chainsaw massacre—a disgusting comparison, especially considering that historic healthy forest legislation was proposed and passed by this administration. It is sad that many of these groups would rather watch our forests burn and our watersheds become destroyed rather than employ 21st century forest management technology to improve forest health.

But misleading and scaring the American people during a Presidential election year, I guess, is more important to them than true forest health.

501(c)(3)s, 501(c)(4)s, political action committees, and 527 political organizations—it is all tangled up in a web. Back to that chart we used, chart No. 2, you can see how convoluted it is.

But the money all ends up down here being used for political purposes, millions upon millions of dollars going for partisan political activity while these groups attempt to maintain a nonpartisan cloak and justification that they are helping our environment. But these funds do not just come from scared mothers and others furiously writing checks because these groups have lied to them and told them that eating fish will kill their children. Our research has found that much of the funding these groups receive comes from independent foundations and trusts which also claim to be nonpartisan.

Let's take a look now at some of these nonpartisan institutions and how their money finds its way to this intricately growing web. The Heinz foundations are a few of the largest contributors to these nonprofit environmental organizations. And, of course, Mrs. Teresa Heinz Kerry is either a chairperson of the board of trustees or a member of the board of trustees of each one of these foundations.

In fact, Mrs. Heinz Kerry is the head of the $1.2 billion Heinz Foundation Endowment.

Since 1998, these foundations have contributed nearly $3 million to the Sierra Club, LCV, the NRDC, and Environmental Defense. Each foundation is also a large contributor to the Tides Center and the Tides Foundation, contributing over $6 million since 1998. The Tides organization has in turn also contributed over $1.4 million to the Sierra Club, Greenpeace, and the NRDC over the same period of time.

Another major supporter is the Turner Foundation, founded in 1990 by Ted Turner, who is chairman of the foundation board of trustees. The Turner Foundation sponsors the work of its special projects which include the Partnership Project, comprised of 20 national environmental groups. Since 1998, the Turner Foundation has contributed over $6.4 million to the Partnership Project. Individually, the Turner Foundation has contributed more than $20 million to the LCV since 1998; over $2.6 million to the NRDC; over $1 million to the Sierra Club; and nearly $2 million to Environmental Defense, Earth Justice, and Greenpeace.

Finally, another large supporter is the Pew Charitable Trust. You can follow the lines of the money there. It claims it is an independent nonprofit serving to inform the public on key issues. Two of the Pew's environmental priorities include global warming and wilderness protection. Pew has contributed $17.4 million to Clear the Air Campaign since 1999, with which it publishes materials such as this claiming that the Bush plan means more pollution. Again, another impossible lie because you can't roll back mercury standards that don't exist.

Perhaps wilderness protection is where the Pew shows its true colors. It has joined with the Heritage Force Campaign, the Natural Resource Defense Council, Environmental Defense, and the Sierra Club in a campaign characterizing the President's conservation policies as "Crazy George's National Forest Give-a-Way." Once again, it is silly scare ads like this. For them, it is only about politics, not about true forest management.

We should be more scared of this tangled web of political financing and the fact that there is no way to tell where taxpayer funded grants and private dollars cross. These are the grants we started out talking about. It is also convoluted where advocacy funding and political funding intermingle and even if environmental groups really spend any money actually improving the environment.

Since 1998, Pew Foundation has contributed several million dollars to various environmental organizations. These contributions have included nearly $18 million to Earth Justice; over $3 million to NRDC; over $3.7 million to Environmental Defense. Pew has also contributed $32.6 million to the Tides Center and Foundation over the same period. The Tides organization has contributed over $1.4 million to the Sierra Club, Greenpeace, NRDC, among others, since 1998.

This does not even represent all of the political involvement of environmental extremists. These groups have established an unquestionable record of partisanship and demonstrated a slithering flow of money among themselves and from their financial benefactors.

Today's environmental groups are simply Democratic political machines raising millions of dollars in contributions and spending millions in expenditures each year for the purpose of raising more money to pursue their agenda. Especially in this election year, the American voters should see these groups and their many affiliated organizations as they are—the newest insidious conspiracy of political action committees and perhaps the newest multimillion dollar manipulation of Federal election laws.

I ask unanimous consent that the reports be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

POLITICAL ACTIVITY OF ENVIRONMENTAL GROUPS AND THEIR SUPPORTING FOUNDATIONS

QUESTIONABLY NON-PARTISAN

Following the League of Conservation Voters' endorsement of Senator John Kerry for President, The Hill, a Capitol Hill publication, published an article featuring the financial connection between the League of Conservation Voters and Heinz family foundations. The article further featured the connections between the League of Conservation Voters and other well-known environmental groups such as the Natural Resources Defense Council and Environmental Defense and their financial links to Heinz family foundations as well. The Hill article cited specific contributions such as a $56,000 contribution in 2003 to the Natural Resources Defense Council from a Heinz family foundation and three $200,000 contributions from two Heinz family foundations from 2001 to 2003 to Environmental Defense. The article revealed that Ms. Teresa Heinz Kerry is the chairperson or board member on each Heinz family foundation, and since 2000, the Heinz foundations have given nearly $1 million to the League of Conservation Voters, members of its board, and the groups those board members represent.

Groups such as the League of Conservation Voters, the Natural Resources Defense Council, and Environmental Defense represent themselves as organizations concerned about the protection of the environment. They are all tax exempt Internal Revenue Service (IRS) registered 501(c)(3) organizations often associated with 501(c)(4), 527 political organizations, or other affiliated organizations. However, as recently as September 27, 2004, the Washington Post published an article demonstrating that IRS designated 501(c)(3), 501(c)(4), and 527 organizations are all engaged in political activity this election year with expenditures potentially designed to circumvent the prohibitions in the Bipartisan Campaign Reform Act of 2002, otherwise known as McCain-Feingold. The article quoted a former Federal Election Commission official stating.

"In the wake of the ban on party-raised soft money, evidence is mounting that money is slithering through on other routes as organizations maintain various accounts, tripping over each other, shifting money between 501(c)(3)'s, (c)(4)'s, and 527's. . . . It's big money, and the pendulum has swung too far in their direction."

This report for the Chairman provides preliminary examples describing five of the most widely politically active environmental groups with a description of their activity and the foundations that provide the financial support for those groups.

ENVIRONMENTAL ORGANIZATIONS

League of conservation voters

Beginning with the League of Conservation Voters (LCV) provides an appropriate beginning because the LCV board of directors is comprised of various representatives from a number of other environmental groups. Among those sitting on either the LCV board of directors, LCV political advisory committee, or the LCV political committee are leaders in the following organizations:

—Natural Resources Defense Council
—Environmental Defense
—Sierra Club
—Earthjustice Legal Defense Fund
—The Wilderness Society
—Trust for Public Lands
—Defenders of Wildlife
—U.S. Public Interest Research Group
—National Wildlife Federation
—Environmental Working Group

The LCV is an IRS registered 501(c)(4) organization affiliated with the LCV Education Fund, a 501(c)(3) organization. The LCV is also affiliated with a LCV political action committee, a section 527 organization, and another 501(c)(4) organization, the LCV Accountability Project. The LCV describes its affiliates as the "LCV family of organizations" and describes its work as "the political voice of the national environmental movement and the only organization devoted full-time to shaping a pro-environment Congress and White House." Since 1996, a symbol of the political activity of the LCV has been the Dirty Dozen list it publishes each election year. The LCV represents that it has defeated 28 of 49 candidates targeted by its Dirty Dozen campaigns since 1996. Citing two examples from the 2000 election year, the LCV contends on its Web site,

"How much impact can LCV campaigns make on national policy? In 2000, two of the most dangerous anti-environmentalists in the U.S. Senate—Spencer Abraham of Michigan and Slade Gorton of Washington—were defeated by less than 1% following major LCV campaigns. In a Congress closely divided on the environment, these LCV victories can make all the difference."

Senators Abraham of Michigan and Slade Gorton of Washington were both Republicans running for reelection in 2000. In fact, in 1996, the LCV spent a total of $1.5 million dollars sending 254,000 direct mail pieces and airing 9,000 television and radio advertisements attempting to defeat its Dirty Dozen list of eleven Republican congressional candidates and one Democrat congressional candidate.

In 1998, the LCV Dirty Dozen list targeted twelve Republican congressional candidates and one Democrat congressional candidate for defeat—spending a total of $2.3 million. The LCV spent in many cases over $200,000 per congressional race—airing television and radio advertisements and sending direct mail pieces. In the Nevada Senate race, LCV aired a total of 661 individual television airings against the Republican candidate. LCV spent up to $420,000 in the Wisconsin Senate race against the Republican candidate.

In 2000, the LCV spent a total of $4 million—again targeting eleven Republican congressional candidates and one Democrat congressional candidate on its Dirty Dozen list. The LCV spent up to $444,000 in the Washington Senate race, $520,000 in the Virginia Senate race, and $705,000 in the Michigan Senate race, all in an effort to defeat Republican candidates. However, the LCV also reported spending $52,000 to attempt to defeat Congressman Traficant of Ohio for re-election, the only Democrat on the LCV Dirty Dozen for 2000. Additionally, in May of 2000, the LCV endorsed Al Gore for President.

In 2002, the LCV again targeted eleven Republican congressional candidates and one Democrat congressional candidate with television and radio advertisements including a television advertisement in the South Dakota Senate race implying that the Republican candidate's environmental positions were bought by campaign contributions. The LCV sent thousands of direct mail pieces including 100,000 pieces mailed in the Georgia Senate race and 75,000 pieces sent in the New Hampshire Senate race—both against Republican candidates. The LCV also joined other organizations and spent a total of $570,000 against the New Hampshire Republican Senate candidate. However, the strongest effort seems to have been focused on the Colorado Senate contest. The LCV budgeted a total of $700,000 for this race against incumbent Republican Senator Wayne Allard. The LCV hired a campaign staff of twelve against Senator Allard to coordinate phone banks and precinct walks in addition to running television and radio advertisements that LCV claims reached sixty-seven percent of the state. altogether, the LCV is reported to have spent $1,449,951 in independent expenditures during the 2002 election cycle. Of that total amount, LCV spent $1,313,041 benefitting Democrat candidates while only spending $136,910 for Republican candidates.

Although the LCV has yet to release its completed Dirty Dozen list for the 2004 campaign year at the time of this report, it has released a Dirty Dozen list of eight Congressional candidates, seven Republicans and one Democrat. For the first time it has included the President and Vice President on its Dirty Dozen list. The LCV has endorsed forty-two candidates in Congressional elections in addition to endorsing Senator John Kerry for President. In fact, the LCV's endorsement of Senator Kerry is the earliest endorsement of a Presidential contender in the thirty-four year history of the LCV. Of the forty-two candidates endorsed by the LCV at the time of this report, thirty-one are Democrat candidates, and ten Republicans are candidates.

As in previous election cycles, the LCV is active this year airing political advertisements—already spending $100,000 to elect a Democrat candidate in a Kentucky congressional special election this year. The LCV is also reported to have already spent hundreds of thousands of dollars on Senator John Kerry's Presidential campaign including joining with Environment2004, a 527 political organization, purchasing air time in Florida and Washington, D.C. At the time of this report, Environment2004 last reported to have raised over $600,000 in the 2004 election cycle. The LCV's 527 organization last reported to have raised over $3.3 million in the 2004 election cycle.

However not all candidates appreciate LCV's help. The senior senator from South Dakota is reported to have specifically written LCV characterizing outside organization advertisements, like those aired by LCV, as "often too negative, too personal, and lack any real substance." He further requested that the LCV not air advertisements in the South Dakota Senate contest this year.

Natural Resources Defense Council

The Natural Resources Defense Council (NRDC) is an IRS registered 501(c)(3) tax exempt organization affiliated with the NRDC Action Fund, a 501(c)(4) organization. The NRDC is also affiliated with the Environmental Accountability Fund, a section 527 political organization. The NRDC's mission statement is to "safeguard the Earth: its people, its plants and animals and the natural systems on which all life depends;" additionally, the NRDC describes itself as "the nation's most effective environmental action organization.

Since the beginning of the Bush Administration, the NRDC has compiled a "Bush Record" on its Web site characterizing the Bush Administration as, "in catering to industries that put America's health and natural heritage at risk, threatens to do more damage to our environmental protections than any other in U.S. history.

The NRDC has a long history of political activity. As early as 1982, NRDC spent a record $2.5 million with other environmental organizations on congressional and gubernatorial races to "oust Reagan supporters. The NRDC is also involved in this year's Presidential race joining with LCV and the Sierra Club to work against President Bush in the state of New Mexico which has been characterized as a "battleground state" this year. The Albuquerque Journal reports that NRDC has already aired television and radio advertisements against the Bush Administration's environmental record joining the LCV and Sierra Club working to hire their own campaign staffs against the Bush candidacy. The NRDC's Environmental Accountability Fund, a 527 political organization, is sponsoring political advertisements against President Bush throughout New Mexico and other "battle ground states" including Florida, Arizona, and Nevada. Overall, at the time of this report, this 527 organization has raised nearly $1 million in the 2004 election cycle.

The NRDC 501(c)(3) organization, however, is also nationally politically involved joining earlier this year with Moveon.org, another section 527 political organization, purchasing advertisements in the New York Times accusing the Bush Administration of weakening regulations on drinking water and air quality while soliciting contributions for the NRDC 501(c)(3) affiliate.

Sierra Club

The Sierra Club describes itself as "America's oldest, largest and most influential grassroots environmental organization." With a reported membership of 700,000, the Sierra Club is represented by a 501(c)(4) organization, a section 527 political organization, and the 501(c)(3) Sierra Club Foundation. In a September 27, 2004 article on the interconnectedness of IRS designated 501(c)(3), 501(c)(4), and 527 organizations this election year, the Washington Post featured the Sierra Club as the prime example of this web writing the following:

"Perhaps no one better illustrates the host of interlocking roles than Carl Pope, one of the most influential operatives on the Democratic side in the 2004 election. As executive direct of the Sierra Club, a major 501c(4) environmental lobby, Pope also controls the Sierra Club Voter Education Fund, a 527. The Voter Education Fund 527 has raised $3.4 million this election cycle, with $2.4 million of that amount coming from the Sierra Club. A third group, the Sierra Club PAC, has since 1980 given $3.9 million to Democratic candidates and $173,602 to GOP candidates.

"These activities just touch the surface of Pope's political involvement. In 2002-03, Pope helped found two major 527 groups: America Votes, which was raised $1.9 million to coordinate the election activities of 32 liberal groups, and America Coming Together (ACT), which has a goal of raising more than $100 million to mobilize voters to cast ballots against Bush. Finally, Pope is treasurer of a new 501c(3) foundation, America's Families United, which reportedly has $15 million to distribute to voter mobilization groups.

"'I am in this as deeply as I am,' Pope said, 'because I think this country is in real peril.'"

The Sierra Club is consistently critical of the Bush Administration and it compiles a "Sierra Club RAW newsletter" featuring "The Uncooked Facts of the Bush Assault on the Environment" with regular criticisms of the Bush Administration evironmental record and sometimes expanding its criticisms to other officials as well. For instance in its June 23, 2004 edition, the Sierra Club accused Senator Inhofe of attempting to raise "levels of mercury pollution" claiming the following: "But wait—there's more. The Bush administration's weak air proposals were not weak enough, it seems, for Senator James Inhofe, the chairman of the Environment and Public Works Committee. Inhofe tried to raise the 'acceptable' levels of mercury pollution. . . ."

Like NRDC's "Bush Record," the Sierra Club has its own "W Watch" where it features articles critical of the Bush Administration on environmental issues to judicial nominations. Sierra Club affiliated organizations such as Earthjustice, which began as the Sierra Club Legal Defense Fund, is also highly critical of the Bush Administration and is regularly engaged in legal actions against the federal government. In fact, in its most recent IRS filings, Earthjustice describes eighty-six legal actions on a variety of environmental related issues. Earthjustice also publishes its own political information. It issued its "Paybacks" report shortly before the 2002 elections that made such explicit claims as, "the Bush Administration is weakening environmental laws in particular to help those industries that paid to put it in office."

Like other environmental groups, the Sierra Club has a history of involvement in political campaigns. In the 2000 Presidential contest, the Sierra Club spent several hundred thousand dollars in advertisements attacking Candidate George W. Bush's campaign throughout the country including what is reported as the largest expenditure of a third party on Spanish language advertisements. In the 2002 election cycle, the Sierra Club is reported to have spent $265,772 in independent expenditures all for Democratic candidates and making no independent expenditures for Republican candidates. Additionally, in the 2002 Senate races, the Sierra Club endorsed nineteen Democrat incumbents and challengers and endorsed no Republican candidates. In the 2002 races for the U.S. House of Representatives, the Sierra Club endorsed one hundred sixty-five Democrat incumbents and challengers and endorsed ten Republican candidates.

Like previous election years, the Sierra Club is heavily involved in the 2004 political cycle. The Sierra Club began spending early in the 2004 Presidential contest and is reported to have spent at least $350,000 as early as late 2003 in advertisements against President Bush throughout the country including in New Hampshire, Michigan, Wisconsin, Pennsylvania, Florida, Nevada, and Nebraska. The Sierra Club has made a series of endorsements in this year's political contests, and like LCV, the Sierra Club has endorsed Senator John Kerry for President. In Senate races, the Sierra Club has endorsed sixteen Democrat Senate incumbents and challengers and no Republican candidates. In races for the U.S. House of Representatives, the Sierra Club has endorsed one hundred fourteen Democrat incumbents and challengers and has endorsed seven Republican candidates. At the time of this report, the Sierra Club's 527 political organization claims to have raised over $6.8 million for the 2004 election cycle alone.

Greenpeace

Greenpeace USA describes itself as "the leading independent campaigning organization that uses non-violent direct action and creative communication to expose global environmental problems and to promote solutions that are essential to a green and peaceful future." It claims 250,000 members in the United States and 2.5 million members around the world. Greenpeace USA is represented by Greenpeace, Inc., a section 501(c)(4) organization and the Greenpeace Fund Inc., a section 501(c)(3) organization.

Greenpeace USA and its affiliate organizations through Greenpeace International have received attention for many years more through demonstrations than through political endorsements. Press reports that have described some of Greenpeace USA's demonstrations have included activists rapelling down skyscrapers, occupying abandoned oil rigs, intervening in whale hunts with inflatable rafts, and illegally boarding ships while at sea, among other demonstrations that often result in arrests and criminal convictions for Greenpeace activists. In fact, on Earth Day 2001, Greenpeace USA founder John Passacantado was arrested with the founder of the Rainforest Action Network for locking themselves to a gate during a protest blockading the entrance to the Environmental Protection Agency.

Although, Greenpeace may be better known for its demonstrations, its political views may be clear as it has characterized President Bush as the "toxic Texan," and hung a banner from a water tower near the President's ranch in Texas that read the same. Greenpeace has devoted much of its Web site toward criticism of the Bush Administration equating the Administration's environmental and conservation policies to the "Texas chainsaw massacre."

Environmental Defense

Environmental Defense describes itself as "fighting to protect human health, restore the oceans and ecosystems, and curb global warming." Environmental Defense is represented by two organizations: Environmental Defense, Inc., a 501(c)(3) organization and the Environmental Defense Action Fund, Inc., a 501(c)(4) organization.

Environmental Defense represents its work in a number of issue campaigns for instance, increased air regulations, increased regulation of ocean industries, strengthening Endangered Species Act and adding additional listings, and reversing global warming. Environmental Defense is involved with various other environmental organizations such as the Sierra Club on many other "campaigns" as well. All "campaigns" are featured on its Web site or its Action!Network Web site.

Environmental Defense is regularly associated with other politically involved environmental organizations as well such as NRDC, Greenpeace, and LCV, among others, and its board of directors not only includes the wife of the Democratic Presidential nominee but also includes former Clinton Administration officials involved in their own environmental organizations regularly critical of the Bush Administration.

FOUNDATIONS

The following are three of the foundations that regularly contribute to the five environmental organizations referenced in this report, among others.

Pew Charitable Trusts

The Pew Charitable Trusts (Pew) are comprised of seven separate trusts and reports it is an "independent non-profit" serving to "inform the public on key issues and trends, as a highly credible source of independent, non-partisan research and polling information and that its environmental priorities include global warming, protecting ocean life, and wilderness protection." In two of those priorities in particular, global warming and wilderness protection, Pew has joined and supported other organizations and campaigns.

In 1998, Pew created the Pew Center on Global Climate Change. The Pew Center reports, "the growing scientific consensus is that this warming is largely the result of emissions of carbon dioxide and other greenhouse gases from human activities including industrial processes, fossil fuel combustion, and changes in land use, such as deforestation." Pew also sponsors the work of the Clear the air Campaign with a $3.4 million grant in 1999, $4.3 million grant in 2000, nearly $5 million grant in 2001, and $4.7 million grant in 2003 with which it published its Dirty Air, Dirty Power report in June 2004 claiming, on the first page of the publication, that coal burning power plants "make people sick and shorten the lives of thousands each year" and further claiming that "President Bush has allowed polluters to rewrite clean air rules."

Concerning wilderness protection, Pew endorses the Heritage Forests Campaign also highly critical of the Bush Administration conservation policies, and, joining with the Natural Resources Defense Council, Environmental Defense, the Sierra Club, characterize the President's conservation policies as "Crazy George's National Forest Give-away, Every Tree Must Go."

Since 1998, Pew has contributed several million dollars to various environmental organizations. These contributions have included nearly $18 million to Earthjustice, over $3 million to NRDC, and over $3.7 million to Environmental Defense. Pew has also contributed $32.6 million to the Tides Center and foundation over the same period. The Tides organization has contributed over $1.4 million to the Sierra Club and affiliates, Greenpeace and affiliates, the NRDC, and the Environmental Working Group since 1998.

Turner Foundation

The Turner Foundation describes itself as "a private, independent family foundation committed to preventing damage to the natural systems—water, air, and land—on which all life depends." It was founded in 1990 by Ted Turner who is Chairman of the Foundation Board of Trustees. The Turner Foundation makes grants "in the areas of the environment and population." The Foundation is especially involved in the issues of global warming and overpopulation, and supports the work of its "special projects" which include the Partnership Project which is comprised of twenty national environmental groups. The Turner Foundation's other special projects include the League of Conservation Voters Education Fund, the NARAL Foundation, and Planned Parenthood Federation of America.

Since 1998, the Turner Foundation has contributed over $6.4 million to the Partnership Project that is comprised of the League of Conservation Voters, Sierra Club, Earthjustice, Environmental Defense, Natural Resources Defense council, and Greenpeace among others. Individually, the Turner Foundation has contributed more than $20 million to the LCV since 1998, over $2.6 million to the NRDC, over $1 million to the Sierra Club, nearly $2 million to the National Wildlife Federation, and nearly $2 million to Environmental Defense, Earthjustice, Greenpeace, and the Environmental Working Group.

Heinz foundations

The Heinz foundations are comprised of several different foundations, some established for specific purposes. Of the Heinz family affiliated foundations, the largest contributors to environmental organizations are the Howard Heinz Endowment, Vira I. Heinz Endowment, and Heinz Family Foundation.

Ms. Teresa Heinz Kerry is either chairperson of the board of trustees or member of the board of trustees on each foundation. Ms. Heinz Kerry is the head of the $1.2 billion Heinz Foundation endowment. Since 1998, these foundations have contributed nearly $3 million to Environmental Defense, the Sierra Club, the LCV, and the NRDC. Each foundation is also a large contributor to the Tides Center and Tides Foundation and affiliates contributing over $6 million since 1998. The Tides organization has in turn also contributed over $1.4 million to the Sierra Club and affiliates, Greenpeace and affiliates, the NRDC, and the Environment Working Group over that same period.

CONCLUSION

This report does not represent the totality of environmental groups engaged in political activity in this election year or prior election years. It does not even represent all the actions taken by the environmental groups that are highlighted in this report each election year. However, this report provides examples of some of the actions taken by these groups and clearly questions any claims these groups make concerning being "non-partisan." These group shave clearly established a record of partisanship and clearly demonstrated each election cycle that they simply have an agenda to work together against Republican candidates and work to elect Democrat candidates. Additionally, these groups are, in large part, annually financed by foundations consistently supporting those groups' partisan efforts and in some cases directly involved in partisan criticisms of the Bush Administration. Moreover, these groups' activities demonstrate the concern expressed in the Washington Post article regarding political money this election year—money "slithering through on other routes as organizations maintain various accounts, tripping over each other, shifting money between 501(c)(3)'s, (c)(4)'s, and 527's."

Today's environmental groups are simply political machines reporting millions in contributions and expenditures each year for the purpose of raising more money to pursue their agenda. Especially in this election year, the American voter should see these groups and their many affiliate organizations as they are—the newest insidious conspiracy of political action committees and perhaps the newest multi-million dollar manipulation of federal election laws.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, let me commend you for your leadership in presiding this evening. I realize it has been a very long evening and the Senator has been in the Chair for a long time.

AMENDMENTS NOS. 3722, AS MODIFIED, 3757, AS MODIFIED, 3762, AS MODIFIED, 3778, AS MODIFIED, 3814, 3818, AS MODIFIED, 3825, 3832, 3833, AS MODIFIED, 3836, 3841, 3859, AS MODIFIED, 3860, 3867, AS MODIFIED, 3901, 3910, AS MODIFIED, 3925 EN BLOC

Ms. COLLINS. Mr. President, I have a series of amendments that have been cleared on both sides of the aisle. I ask unanimous consent that the list of amendments that I send to the desk be agreed to with the modifications agreed to where indicated.

The PRESIDING OFFICER. Is there objection?

Mr. LIEBERMAN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 3722, AS MODIFIED

(Purpose: To facilitate the utilization of United States commercial remote sensing space capabilities for filling imagery and geospatial information requirements)

At the end of subtitle A of title II, add the following:

SEC. ___. USE OF UNITED STATES COMMERCIAL REMOTE SENSING SPACE CAPABILITIES FOR IMAGERY AND GEOSPATIAL INFORMATION REQUIREMENTS.

(a) IN GENERAL.—The National Intelligence Director shall take actions to ensure, to the extent practicable, the utilization of United States commercial remote sensing space capabilities to fulfill the imagery and geospatial information requirements of the intelligence community.

(b) PROCEDURES FOR UTILIZATION.—The National Intelligence Director may prescribe procedures for the purpose of meeting the requirement in subsection (a).

(c) DEFINITIONS.—In this section, the terms "imagery" and "geospatial information" have the meanings given such terms in section 467 of title 10, United States Code.

AMENDMENT NO. 3757, AS MODIFIED

(Purpose: To require the Secretary of Homeland Security to report to the Congress on the technological capabilities and equipment to Transportation Security Administration field offices)

At the appropriate place, insert the following:

SEC. . TSA FIELD OFFICE INFORMATION TECHNOLOGY AND TELECOMMUNICATIONS REPORT.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to the Congress, which may be transmitted in classified and redacted formats, setting forth—

(1) a descriptive list of each administrative and airport site of the Transportation Security Administration, including its location, staffing, and facilities;

(2) an analysis of the information technology and telecommunications capabilities, equipment, and support available at each such site, including—

(A) whether the site has access to broadband telecommunications;

(B) whether the site has the ability to access Transportation Security Administration databases directly;

(C) the means available to the site for communicating and sharing information and other data on a real time basis with the Transportation Security Administration's national, regional, and State offices as well as with other Transportation Security Administration sites;

(D) the means available to the site for communicating with other Federal, State, and local government sites with transportation security related responsibilities; and

(E) whether and to what extent computers in the site are linked through a local area network or otherwise, and whether the information technology resources available to the site are adequate to enable it to carry out its functions and purposes; and

(3) an assessment of current and future needs of the Transportation Security Administration to provide adequate information technology and telecommunications facilities, equipment, and support to its sites, and an estimate of the costs of meeting those needs.

AMENDMENT NO. 3762, AS MODIFIED

(Purpose: To improve information sharing by the national intelligence centers)

On page 97, line 10, insert before the period the following: ", including through the establishment of mechanisms for the sharing of information and analysis among and between national intelligence centers having adjacent or significantly interrelated geographic regions or functional areas of intelligence responsibility".

AMENDMENT NO. 3778, AS MODIFIED

(Purpose: To improve the management of the personnel of the National Intelligence Authority)

On page 113, between lines 17 and 18, insert the following:

(b) Termination of Employees.—(1) Notwithstanding any other provision of law, the National Intelligence Director may, in the discretion of the Director, terminate the employment of any officer or employee of the National Intelligence Authority whenever the Director considers the termination of employment of such officer or employee necessary or advisable in the interests of the United States.

(2) Any termination of employment of an officer or employee under paragraph (1) shall not affect the right of the officer or employee to seek or accept employment in any other department, agency, or element of the United States Government if declared eligible for such employment by the Office of Personnel Management.

On page 113, line 18, strike "(b) Rights and Protections" and insert "(c) Other Rights and Protections".

On page 113, after line 24, add the following:

(d) Regulations.—The National Intelligence Director shall prescribe regulations on the application of the authorities, rights, and protections in and made applicable by subsections (a), (b), and (c), to the personnel of the National Intelligence Authority.

AMENDMENT NO. 3814

(Purpose: To provide the sense of Congress that United States foreign assistance should be provided to South Asia, Southeast Asia, West Africa, the Horn of Africa, North and North Central Africa, the Arabian peninsula, Central and Eastern Europe, and South America to prevent the establishment of terrorist sanctuaries)

On page , between lines and , insert the following:

(2) regions of specific concern where United States foreign assistance should be targeted to assist governments in efforts to prevent the use of such regions as terrorist sanctuaries are South Asia, Southeast Asia, West Africa, the Horn of Africa, North and North Central Africa, the Arabian peninsula, Central and Eastern Europe, and South America;

AMENDMENT NO. 3818, AS MODIFIED

At the appropriate place, insert:

SEC. ___. NATIONWIDE INTEROPERABLE COMMUNICATIONS NETWORK.

(a) In General.—Within one year of enactment, the Secretary of Homeland Security, in coordination with the Federal Communications Commission and the National Telecommunications and Information Administration, shall complete a study assessing potential technical and operational standards and protocols for a nationwide interoperable communications network (referred to in this section as the "Network") that may be used by Federal, State, and local governmental and non-governmental public safety, homeland security, and other first responder personnel. The assessment shall be consistent with the SAFECOM national strategy as developed by the public safety community in cooperation with SAFECOM and the DHS Interoperability Office. The Secretary shall report the results of the study to the Senate Committee on Commerce, Science, and Transportation, the Senate Committee on Governmental Affairs, the House of Representatives Committee on Energy and Commerce, and the House of Representatives Select Committee on Homeland Security.

(b) Consultation and Use of Commercial Technologies.—In assessing standards and protocols pursuant to paragraph (a), the Secretary of Homeland Security shall—

(1) seek input from representatives of the user communities regarding the operation and administration of the Network; and

(2) consider use of commercial wireless technologies to the greatest extent practicable.

AMENDMENT NO. 3825

(Purpose: To permit reviews of criminal records of applicants for private security officer employment)

At the appropriate place, insert the following:

SEC. ___. PRIVATE SECURITY OFFICER EMPLOYMENT AUTHORIZATION ACT OF 2004.

(a) Short Title.—This section may be cited as the "Private Security Officer Employment Authorization Act of 2004".

(b) Findings.—Congress finds that—

(1) employment of private security officers in the United States is growing rapidly;

(2) private security officers function as an adjunct to, but not a replacement for, public law enforcement by, among other things, helping to protect critical infrastructure, including hospitals, manufacturing facilities, defense and aerospace contractors, nuclear power plants, chemical companies, oil and gas refineries, airports, communication facilities and operations, and others;

(3) the 9-11 Commission Report says that "Private sector preparedness is not a luxury; it is a cost of doing business in the post-9/11 world. It is ignored at a tremendous potential cost in lives, money, and national security" and endorsed adoption of the American National Standards Institute's standard for private preparedness;

(4) part of improving private sector preparedness is mitigating the risks of terrorist attack on critical infrastructure by ensuring that private security officers who protect those facilities are properly screened to determine their suitability;

(5) the American public deserves the employment of qualified, well-trained private security personnel as an adjunct to sworn law enforcement officers; and

(6) private security officers and applicants for private security officer positions should be thoroughly screened and trained.

(c) Definitions.—In this section:

(1) Employee.—The term "employee" includes both a current employee and an applicant for employment as a private security officer.

(2) Authorized employer.—The term "authorized employer" means any person that—

(A) employs private security officers; and

(B) is authorized by regulations promulgated by the Attorney General to request a criminal history record information search of an employee through a State identification bureau pursuant to this section.

(3) Private security officer.— The term "private security officer"—

(A) means an individual other than an employee of a Federal, State, or local government, whose primary duty is to perform security services, full- or part-time, for consideration, whether armed or unarmed and in uniform or plain clothes (except for services excluded from coverage under this section if the Attorney General determines by regulation that such exclusion would serve the public interest); but

(B) does not include—

(i) employees whose duties are primarily internal audit or credit functions;

(ii) employees of electronic security system companies acting as technicians or monitors; or

(iii) employees whose duties primarily involve the secure movement of prisoners.

(4) Security services.—The term "security services" means acts to protect people or property as defined by regulations promulgated by the Attorney General.

(5) State identification bureau.—The term "State identification bureau" means the State entity designated by the Attorney General for the submission and receipt of criminal history record information.

(d) Criminal History Record Information Search.—

(1) In general.—

(A) Submission of fingerprints.—An authorized employer may submit to the State identification bureau of a participating State, fingerprints or other means of positive identification, as determined by the Attorney General, of an employee of such employer for purposes of a criminal history record information search pursuant to this section.

(B) Employee rights.—

(i) Permission.—An authorized employer shall obtain written consent from an employee to submit to the State identification bureau of a participating State the request to search the criminal history record information of the employee under this section.

(ii) Access.—An authorized employer shall provide to the employee confidential access to any information relating to the employee received by the authorized employer pursuant to this section.

(C) PROVIDING INFORMATION TO THE STATE IDENTIFICATION BUREAU.—Upon receipt of a request for a criminal history record information search from an authorized employer pursuant to this section, submitted through the State identification bureau of a participating State, the Attorney General shall—

(i) search the appropriate records of the Criminal Justice Information Services Division of the Federal Bureau of Investigation; and

(ii) promptly provide any resulting identification and criminal history record information to the submitting State identification bureau requesting the information.

(D) USE OF INFORMATION.—

(i) IN GENERAL.—Upon receipt of the criminal history record information from the Attorney General by the State identification bureau, the information shall be used only as provided in clause (ii).

(ii) TERMS.—In the case of—

(I) a participating State that has no State standards for qualification to be a private security officer, the State shall notify an authorized employer as to the fact of whether an employee has been—

(aa) convicted of a felony, an offense involving dishonesty or a false statement if the conviction occurred during the previous 10 years, or an offense involving the use or attempted use of physical force against the person of another if the conviction occurred during the previous 10 years; or

(bb) charged with a criminal felony for which there has been no resolution during the preceding 365 days; or

(II) a participating State that has State standards for qualification to be a private security officer, the State shall use the information received pursuant to this section in applying the State standards and shall only notify the employer of the results of the application of the State standards.

(E) FREQUENCY OF REQUESTS.—An authorized employer may request a criminal history record information search for an employee only once every 12 months of continuous employment by that employee unless the authorized employer has good cause to submit additional requests.

(2) REGULATIONS.—Not later than 180 days after the date of enactment of this Act, the Attorney General shall issue such final or interim final regulations as may be necessary to carry out this section, including—

(A) measures relating to the security, confidentiality, accuracy, use, submission, dissemination, destruction of information and audits, and recordkeeping;

(B) standards for qualification as an authorized employer; and

(C) the imposition of reasonable fees necessary for conducting the background checks.

(3) CRIMINAL PENALTIES FOR USE OF INFORMATION.—Whoever knowingly and intentionally uses any information obtained pursuant to this section other than for the purpose of determining the suitability of an individual for employment as a private security officer shall be fined under title 18, United States Code, or imprisoned for not more than 2 years, or both.

(4) USER FEES.—

(A) IN GENERAL.—The Director of the Federal Bureau of Investigation may—

(i) collect fees to process background checks provided for by this section; and

(ii) establish such fees at a level to include an additional amount to defray expenses for the automation of fingerprint identification and criminal justice information services and associated costs.

(B) LIMITATIONS.—Any fee collected under this subsection—

(i) shall, consistent with Public Law 101-515 and Public Law 104-99, be credited to the appropriation to be used for salaries and other expenses incurred through providing the services described in such Public Laws and in subparagraph (A);

(ii) shall be available for expenditure only to pay the costs of such activities and services; and

(iii) shall remain available until expended.

(C) STATE COSTS.—Nothing in this section shall be construed as restricting the right of a State to assess a reasonable fee on an authorized employer for the costs to the State of administering this section.

(5) STATE OPT OUT.—A State may decline to participate in the background check system authorized by this section by enacting a law or issuing an order by the Governor (if consistent with State law) providing that the State is declining to participate pursuant to this paragraph.

AMENDMENT NO. 3832

At the appropriate place, insert the following:

SEC. . COMMUNICATIONS INTEROPERABILITY.

(a) DEFINITION.—As used in this section, the term "equipment interoperability" means the devices that support the ability of public safety service and support providers to talk with each other via voice and data on demand, in real time, when needed, and when authorized.

(b) NATIONAL GUIDELINES FOR EQUIPMENT INTEROPERABILITY.—Not later than one year after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the Federal Communications Commission and the National Telecommunications and Information Administration, and other appropriate representatives of Federal, State, and local government and first responders, shall adopt, by regulation, national goals and guideline for equipment interoperability and related issues that—

(1) set short-term, mid-term, and long-term means and minimum equipment performance guidelines for Federal agencies, States, and local governments;

(2) recognize—

(A) the value, life cycle, and technical capabilities of existing communications infrastructure;

(B) the need for cross-border interoperability between States and nations;

(C) the unique needs of small, rural communities; and

(D) the interoperability needs for daily operations and catastrophic events.

(c) NATIONAL EQUIPMENT INTEROPERABILITY IMPLEMENTATION PLAN.—

(1) DEVELOPMENT.—Not later than 180 days of the completion of the development of goals and guidelines under subsection (b), the Secretary of Homeland Security shall develop an implementation plan that—

(A) outlines the responsibilities of the Department of Homeland Security; and

(B) focuses on providing technical and financial assistance to States and local governments for interoperability planning and implementation.

(2) EXECUTION.—The Secretary shall execute the plan developed under this subsection as soon as practicable.

(3) REPORTS.—

(A) INITIAL REPORT.—Upon the completion of the plan under subsection (c), the Secretary shall submit a report that describes such plan to—

(i) the Committee on Governmental Affairs of the Senate;

(ii) the Committee on Environment and Public Works of the Senate;

(iii) the Committee on Commerce, Science, and Transportation of the Senate;

(iv) the Select Committee on Homeland Security of the House of Representatives; and

(v) the Committee on Energy and Commerce of the House of Representatives.

(B) ANNUAL REPORT.—Not later than 1 year after the submission of the report under subparagraph (A), and annually thereafter, the Secretary shall submit a report to the committees referred to in subparagraph (A) that describes the progress made in implementing the plan developed under this subsection.

(d) INTERNATIONAL INTEROPERABILITY.—Not later than 1 year after the date of enactment of this Act, the President shall establish a mechanism for coordinating cross-border interoperability issues between—

(1) the United States and Canada; and

(2) the United States and Mexico.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 2005 through 2009—

(1) such sums as may be necessary to carry out subsection (b);

(2) such sums as may be necessary to carry out subsection (c); and

(3) such sums as may be necessary to carry out subsection (d).

AMENDMENT NO. 3833, AS MODIFIED

(Purpose: To require a report on the implementation of recommendations of the Defense Science Board on preventing and defending against clandestine nuclear attack)

On page 153, between lines 2 and 3, insert the following:

SEC. 207. REPORT ON IMPLEMENTATION OF RECOMMENDATIONS OF DEFENSE SCIENCE BOARD ON PREVENTING AND DEFENDING AGAINST CLANDESTINE NUCLEAR ATTACK.

(a) FINDING.—Congress finds that the June 2004 report of the Defense Science Board Task Force on Preventing and Defending Against Clandestine Nuclear Attack—

(1) found that it would be easy for adversaries to introduce and detonate a nuclear explosive clandestinely in the United States;

(2) found that clandestine nuclear attack and defense against such attack should be treated as an emerging aspect of strategic warfare and that those matters warrant national and Department of Defense attention; and

(3) called for a serious national commitment to a multidepartment program to create a multi-element, layered, global, civil/military complex of systems and capabilities that can greatly reduce the likelihood of a successful clandestine attack, achieving levels of protection effective enough to warrant the effort.

(b) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of Energy, submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the actions proposed to be taken to address the recommendations of the Defense Science Board Task Force on Preventing and Defending Against Clandestine Nuclear Attack.

AMENDMENT NO. 3836

(Purpose: To authorize the Secretary of Homeland Security to award grants to improve first responder communications systems)

At the appropriate place, insert the following:

SEC. ___. COMMUNICATION SYSTEM GRANTS.

(a) IN GENERAL.—The Secretary of Homeland Security may award grants, on a competitive basis, to States, local governments, local law enforcement agencies, and local fire departments to—

(1) improve communication systems to allow for real time, interoperable communication between State and local first responders; or

(2) purchase communication systems that allow for real time, interoperable communication between State and local first responders.

(b) APPLICATION.—Any State, local government, local law enforcement agency, or local fire department desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums necessary for each of the fiscal years 2005 through 2009 to carry out the provisions of this section.

AMENDMENT NO. 3859, AS MODIFIED

On page 94, between lines 14 and 15, insert the following:

(3) There may be established under this subsection one or more national intelligence centers having intelligence responsibility for the following:

(A) The nuclear terrorism threats confronting the United States.

(B) The chemical terrorism threats confronting the United States.

(C) The biological terrorism threats confronting the United States.

On page 94, line 15, strike “(3)” and insert “(4)”.

AMENDMENT NO. 3860

(Purpose: To improve the working relationship between the intelligence community and the National Infrastructure Simulation and Analysis Center)

At the appropriate place, insert the following:

SEC. ___. INTELLIGENCE COMMUNITY USE OF NISAC CAPABILITIES.

The National Intelligence Director shall establish a formal relationship, including information sharing, between the intelligence community and the National Infrastructure Simulation and Analysis Center. Through this relationship, the intelligence community shall take full advantage of the capabilities of the National Infrastructure Simulation and Analysis Center, particularly vulnerability and consequence analysis, for real time response to reported threats and long term planning for projected threats.

AMENDMENT NO. 3867, AS MODIFIED

At the appropriate place, insert the following:

SEC. ___. TERRORISM FINANCING.

(a) REPORT ON TERRORIST FINANCING.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the President, acting through the Secretary of the Treasury, shall submit to Congress a report evaluating the current state of United States efforts to curtail the international financing of terrorism.

(2) CONTENTS.—The report required by paragraph (1) shall evaluate and make recommendations on—

(A) the effectiveness and efficiency of current United States governmental efforts and methods to detect, track, disrupt, and stop terrorist financing;

(B) the relationship between terrorist financing and money laundering, including how the laundering of proceeds related to illegal narcotics or foreign political corruption may contribute to terrorism or terrorist financing;

(C) the nature, effectiveness, and efficiency of current efforts to coordinate intelligence and agency operations within the United States Government to detect, track, disrupt, and stop terrorist financing, including identifying who, if anyone, has primary responsibility for developing priorities, assigning tasks to agencies, and monitoring the implementation of policy and operations;

(D) the effectiveness and efficiency of efforts to protect the critical infrastructure of the United States financial system, and ways to improve the effectiveness of financial institutions;

(E) ways to improve multilateral and international governmental cooperation on terrorist financing, including the adequacy of agency coordination within the United States related to participating in international cooperative efforts and implementing international treaties and compacts; and

(F) ways to improve the setting of priorities and coordination of United States efforts to detect, track, disrupt, and stop terrorist financing, including recommendations for changes in executive branch organization or procedures, legislative reforms, additional resources, or use of appropriated funds.

(b) POSTEMPLOYMENT RESTRICTION FOR CERTAIN BANK AND THRIFT EXAMINERS.—Section 10 of the Federal Deposit Insurance Act (12 U.S.C. 1820) is amended by adding at the end the following:

“(k) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF FINANCIAL INSTITUTIONS.—

“(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (6) of this subsection shall apply to any person who—

“(A) was an officer or employee (including any special Government employee) of a Federal banking agency or a Federal reserve bank;

“(B) served 2 or more months during the final 12 months of his or her employment with such agency or entity as the senior examiner (or a functionally equivalent position) of a depository institution or depository institution holding company with continuing, broad responsibility for the examination (or inspection) of that depository institution or depository institution holding company on behalf of the relevant agency or Federal reserve bank; and

“(C) within 1 year after the termination date of his or her service or employment with such agency or entity, knowingly accepts compensation as an employee, officer, director, or consultant from—

“(i) such depository institution, any depository institution holding company that controls such depository institution, or any other company that controls such depository institution; or

“(ii) such depository institution holding company or any depository institution that is controlled by such depository institution holding company.

“(2) DEFINITIONS.—For purposes of this subsection—

“(A) the term ‘depository institution’ includes an uninsured branch or agency of a foreign bank, if such branch or agency is located in any State; and

“(B) the term ‘depository institution holding company’ includes any foreign bank or company described in section 8(a) of the International Banking Act of 1978.

“(3) RULES OF CONSTRUCTION.—For purposes of this subsection, a foreign bank shall be deemed to control any branch or agency of the foreign bank, and a person shall be deemed to act as a consultant for a depository institution, depository institution holding company, or other company, only if such person directly works on matters for, or on behalf of, such depository institution, depository institution holding company, or other company.

“(4) REGULATIONS.—

“(A) IN GENERAL.—Each Federal banking agency shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

“(B) CONSULTATION REQUIRED.—The Federal banking agencies shall consult with each other for the purpose of assuring that the rules and regulations issued by the agencies under subparagraph (A) are, to the extent possible, consistent and comparable and practicable, taking into account any differences in the supervisory programs utilized by the agencies for the supervision of depository institutions and depository institution holding companies.

“(5) WAIVER.—

“(A) AGENCY AUTHORITY.—A Federal banking agency may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of that agency, and the Board of Governors of the Federal Reserve System may grant a waiver of the restriction imposed by this subsection to any officer or employee of a Federal reserve bank, if the head of such agency certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the relevant Federal banking agency.

“(B) DEFINITION.—For purposes of this paragraph, the head of an agency is—

“(i) the Comptroller of the Currency, in the case of the Office of the Comptroller of the Currency;

“(ii) the Chairman of the Board of Governors of the Federal Reserve System, in the case of the Board of Governors of the Federal Reserve System;

“(iii) the Chairperson of the Board of Directors, in the case of the Corporation; and

“(iv) the Director of the Office of Thrift Supervision, in the case of the Office of Thrift Supervision.

“(6) PENALTIES.—

“(A) IN GENERAL.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever a Federal banking agency determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with a depository institution, depository institution holding company, or other company for which such agency serves as the appropriate Federal banking agency, the agency shall impose upon such person one or more of the following penalties:

“(i) INDUSTRY-WIDE PROHIBITION ORDER.—The Federal banking agency shall serve a written notice or order in accordance with and subject to the provisions of section 8(e)(4) for written notices or orders under paragraphs (1) or (2) of section 8(e), upon such person of the intention of the agency—

“(I) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the depository institution, depository institution holding company, or other company for a period of up to 5 years; and

"(II) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured depository institution for a period of up to 5 years.

"(ii) CIVIL MONETARY FINE.—The Federal banking agency may, in an administrative proceeding or civil action in an appropriate United States district court, impose on such person a civil monetary penalty of not more than $250,000. In lieu of an action by the Federal banking agency under this clause, the Attorney General of the United States may bring a civil action under this clause in the appropriate United States district court. Any administrative proceeding under this clause shall be conducted in accordance with section 8(i).

"(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under subparagraph (A)(i) shall be subject to paragraphs (6) and (7) of section 8(e) in the same manner and to the same extent as a person subject to an order issued under such section.

"(C) DEFINITIONS.—Solely for purposes of this paragraph, the 'appropriate Federal banking agency' for a company that is not a depository institution or depository institution holding company shall be the Federal banking agency on whose behalf the person described in paragraph (1) performed the functions described in paragraph (1)(B).".

(c) POSTEMPLOYMENT RESTRICTION FOR CERTAIN CREDIT UNION EXAMINERS.—Section 206 of the Federal Credit Union Act (12 U.S.C. 1786) is amended by adding at the end the following:

"(w) ONE-YEAR RESTRICTIONS ON FEDERAL EXAMINERS OF INSURED CREDIT UNIONS.—

"(1) IN GENERAL.—In addition to other applicable restrictions set forth in title 18, United States Code, the penalties set forth in paragraph (5) of this subsection shall apply to any person who—

"(A) was an officer or employee (including any special Government employee) of the Administration;

"(B) served 2 or more months during the final 12 months of his or her employment with the Administration as the senior examiner (or a functionally equivalent position) of an insured credit union with continuing, broad responsibility for the examination (or inspection) of that insured credit union on behalf of the Administration; and

"(C) within 1 year after the termination date of his or her service or employment with the Administration, knowingly accepts compensation as an employee, officer, director, or consultant from such insured credit union.

"(2) RULE OF CONSTRUCTION.—For purposes of this subsection, a person shall be deemed to act as a consultant for an insured credit union only if such person directly works on matters for, or on behalf of, such insured credit union.

"(3) REGULATIONS.—

"(A) IN GENERAL.—The Board shall prescribe rules or regulations to administer and carry out this subsection, including rules, regulations, or guidelines to define the scope of persons referred to in paragraph (1)(B).

"(B) CONSULTATION.—In prescribing rules or regulations under this paragraph, the Board shall, to the extent it deems necessary, consult with the Federal banking agencies (as defined in section 3 of the Federal Deposit Insurance Act) on regulations issued by such agencies in carrying out section 10(k) of the Federal Deposit Insurance Act.

"(4) WAIVER.—

"(A) AGENCY AUTHORITY.—The Board may grant a waiver, on a case by case basis, of the restriction imposed by this subsection to any officer or employee (including any special Government employee) of the Administration if the Chairman certifies in writing that granting the waiver would not affect the integrity of the supervisory program of the Administration.

"(5) PENALTIES.—

"(A) IN GENERAL.—In addition to any other administrative, civil, or criminal remedy or penalty that may otherwise apply, whenever the Board determines that a person subject to paragraph (1) has become associated, in the manner described in paragraph (1)(C), with an insured credit union, the Board shall impose upon such person one or more of the following penalties:

"(i) INDUSTRY-WIDE PROHIBITION ORDER.—The Board shall serve a written notice or order in accordance with and subject to the provisions of subsection (g)(4) for written notices or orders under paragraphs (1) or (2) of subsection (g), upon such person of the intention of the Board—

"(I) to remove such person from office or to prohibit such person from further participation in the conduct of the affairs of the insured credit union for a period of up to 5 years; and

"(II) to prohibit any further participation by such person, in any manner, in the conduct of the affairs of any insured credit union for a period of up to 5 years.

"(ii) CIVIL MONETARY FINE.—The Board may, in an administrative proceeding or civil action in an appropriate United States district court, impose on such person a civil monetary penalty of not more than $250,000. In lieu of an action by the Board under this clause, the Attorney General of the United States may bring a civil action under this clause in the appropriate United States district court. Any administrative proceeding under this clause shall be conducted in accordance with subsection (k).

"(B) SCOPE OF PROHIBITION ORDER.—Any person subject to an order issued under this subparagraph (A)(i) shall be subject to paragraphs (5) and (7) of subsection (g) in the same manner and to the same extent as a person subject to an order issued under subsection (g).".

(d) EFFECTIVE DATE.—Notwithstanding section 341, subsection (a) shall become effective on the date of enactment of this Act, and the amendments made by subsections (b) and (c) shall become effective at the end of the 12-month period beginning on the date of enactment of this Act, whether or not final regulations are issued in accordance with the amendments made by this section as of that date of enactment.

(e) REPEAL OF DUPLICATIVE PROVISION.—Section 16(c) of this Act, entitled "REPORT ON TERRORIST FINANCING" is repealed, and shall have no force or effect, effective on the date of enactment of this Act.

AMENDMENT NO. 3901

(Purpose: To require certain overdue reports relating to maritime security to be transmitted to the Congress within 90 days, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. DEADLINE FOR COMPLETION OF CERTAIN PLANS, REPORTS, AND ASSESSMENTS.

(a) STRATEGIC PLAN REPORTS.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall transmit to the Congress—

(1) a report on the status of the National Maritime Transportation Security Plan required by section 70103(a) of title 46, United States Code, which may be submitted in classified and redacted format;

(2) a comprehensive program management plan that identifies specific tasks to be completed and deadlines for completion for the transportation security card program under section 70105 of title 46, United States Code that incorporates best practices for communicating, coordinating, and collaborating with the relevant stakeholders to resolve relevant issues, such as background checks;

(3) a report on the status of negotiations under section 103 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70111 note);

(4) the report required by section 107(b) of the Maritime Transportation Security Act of 2002 (33 U.S.C. 1226 note); and

(5) a report on the status of the development of the system and program mandated by section 111 of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70116 note).

(b) OTHER REPORTS.—Within 90 days after the date of enactment of this Act—

(1) the Secretary of Homeland Security shall transmit to the Congress—

(A) a report on the establishment of the National Maritime Security Advisory Committee appointed under section 70112 of title 46, United States Code; and

(B) a report on the status of the program established under section 70116 of title 46, United States Code, to evaluate and certify security systems of international intermodal transportation;

(2) the Secretary of Transportation shall transmit to the Congress the annual report required by section 905 of the International Maritime and Port Security Act (46 U.S.C. App. 1802) that includes information that should have been included in the last preceding annual report that was due under that section; and

(3) the Commandant of the United States Coast Guard shall transmit to Congress the report required by section 110(b) of the Maritime Transportation Security Act of 2002 (46 U.S.C. 70101 note).

(d) EFFECTIVE DATE.—Notwithstanding any other provision of this Act, this section takes effect on the date of enactment of this Act.

AMENDMENT NO. 3910, AS MODIFIED

At the appropriate place, insert the following:

SEC. ___. REPORT ON INTERNATIONAL AIR CARGO THREATS.

(a) REPORT.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Secretary of Defense and the Administrator of the Federal Aviation Administration, shall submit a report to the Committee on Commerce, Science, and Transportation and the Committee on Governmental Affairs of the Senate and the Committee on Transportation and Infrastructure and the Select Committee on Homeland Security of the House of Representatives that contains the following:

(1) A description of the current procedures in place to address the threat of an inbound all-cargo aircraft from outside the United States that intelligence sources indicate could carry explosive, incendiary, chemical, biological or nuclear devices.

(2) An analysis of the potential for establishing secure facilities along established international aviation routes for the purposes of diverting and securing aircraft described in paragraph (1).

(b) REPORT FORMAT.—The Secretary may submit all, or part, of the report required by this section in classified and redacted form if the Secretary determines that it is appropriate or necessary.

AMENDMENT NO. 3923

(Purpose: To ensure the balance of privacy and civil liberties)

On page 154, strike lines 1 through 3 and insert the following:

(1) analyze and review actions the executive branch takes to protect the Nation from terrorism, ensuring that the need for such actions is balanced with the need to protect privacy and civil liberties; and

On page 155, line 6 strike beginning with "has" through line 9 and insert the following: "has established—

"(i) that the need for the power is balanced with the need to protect privacy and civil liberties;".

On page 166, strike lines 4 through 6 and insert the following: "element has established—

"(i) that the need for the power is balanced with the need to protect privacy and civil liberties;".

AMENDMENT NO. 3867, AS MODIFIED

Mr. LEVIN. Mr. President, I thank the managers of the intelligence reform bill, S. 2845, for accepting an amendment offered by myself and Senator COLEMAN on the issue of terrorist financing. This amendment, amendment No. 3867, was developed in coordination with Senators COLLINS and LIEBERMAN of the Governmental Affairs Committee and Senators SHELBY and SARBANES of the Banking Committee. I thank each of my colleagues for their guidance and assistance which has enabled us to fashion a good amendment with bipartisan support and offer it to the bill today.

This amendment is the result of an extensive investigation by the Permanent Subcommittee on Investigations, initiated at my request, into money laundering allegations involving Riggs Bank, a nationally chartered bank located right here in the Nation's Capital. Our investigation found a bank which routinely allowed highly questionable transactions with few questions asked. Some of these transactions involved millions of dollars in cash or suspicious wire transfers; others have raised serious concerns about possible terrorist financing.

We live in a post-9/11 world. After the attack on America, we strengthened our antimoney laundering laws, in part, because Osama bin Laden boasted that his modern new recruits knew the "cracks" in "Western financial systems" like they knew the "lines in their hands." That chilling statement helped fuel a new effort to strengthen our defenses against terrorists, corrupt dictators, and others who would use our financial systems against us. Part of that effort was Congress' enactment of the PATRIOT Act which, in title III, strengthened U.S. laws to stop money laundering, foreign corruption, and terrorist financing.

Even before the PATRIOT Act, we had laws and regulations to stop money laundering. In fact, since 1987, the Office of the Comptroller of the Currency, OCC, has required nationally chartered banks to establish antimoney laundering programs to ensure the banking system is not misused by criminals. The PATRIOT Act was intended to build on that existing foundation to further strengthen our defenses against money launderers.

Our investigation found that Riggs Bank ignored its antimoney laundering obligations before the PATRIOT Act, and continued to ignore them afterward. We found that the bank didn't get serious in part because, in the past, when bank regulators pointed out problems with Riggs' antimoney laundering controls, if the bank promised to do better, the regulators let it go. The regulators tolerated the bank's weak antimoney laundering program, continued to accept excuses when deficiencies were not corrected, and continued to hold off on tough enforcement measures.

We were particularly surprised to learn that the OCC examiner-in-charge who oversaw Riggs Bank for 4 years, from 1998 to 2002, appeared to function at times as more of an advocate for the bank than an arms-length regulator. The investigation found, for example, that in 2001, the examiner-in-charge advised more senior OCC personnel against taking a formal enforcement action against Riggs for its lax antimoney laundering program, because the bank had promised to do better. In 2002, after subordinate examiners had uncovered troubling transactions and bank accounts involving Augusto Pinochet, the former President of Chile, and actions by Riggs to hide those accounts from the OCC for 2 years, the examiner-in-charge ordered the examination materials not to be included in the OCC's electronic database, even though such materials are normally placed in that database. The examination materials were instead saved in paper form, making it much more difficult for subsequent examiners to learn about the Pinochet examination. About a month after giving this order, that same Examiner-in-Charge was offered a job at Riggs. He later retired from the OCC and 3 days after retiring, took a senior position with Riggs.

These actions—advising against a formal enforcement action, suppressing the Pinochet examination materials, and accepting a job offer at the bank he regulated, among others—raise serious conflict of interest concerns. Federal bank examiners are our first line of defense against money laundering and terrorist financing at U.S. banks, and we can't allow their independence to be undermined by the lure of a job at the banks they oversee.

The 9/11 Commission report notes the important role that stopping terrorist financing plays in our counterterrorism efforts. It explicitly recommends that U.S. antiterrorist financing programs remain "front and center in U.S. counterterrorism efforts." Subcommittee hearings and a report released by my staff in July of this year support that recommendation and offer a detailed legislative record demonstrating the need for new measures to further strengthen federal oversight of the antimoney laundering programs at our financial institutions.

The Levin-Coleman amendment would strengthen U.S. anti-terrorist financing efforts in two ways. First, it would require the President, through the Treasury Secretary, to take a hard look at the current state of U.S. efforts to combat terrorist financing and issue a report in 6 months with recommendations for reforms. One of the most important issues to be addressed is improving our process for setting priorities and coordinating U.S. agency efforts to detect, track, disrupt, and stop terrorist financing. It is far from clear today, when it comes to combating terrorist financing, what U.S. agency official, if any, has primary responsibility for developing priorities, assigning tasks to agencies, and monitoring the implementation of policy and operations.

Secondly, the amendment would impose a 1-year cooling off period before a senior Federal examiner may take a job with a financial institution that he or she was responsible for overseeing. This cooling off period is similar to one already in place for Federal procurement officials under 41 U.S. 423(d). Members of Congress, Congressional staff, and many other Federal employees already operate under cooling off periods, which have been in place for years and have had a beneficial effect. Our amendment would apply a new cooling off period to senior federal bank examiners like the OCC examiner who oversaw Riggs.

John D. Hawke, Jr., U.S. Comptroller of the Currency and head of the OCC, which served as the primary regulator of Riggs, has expressed strong support for legislation imposing a 1-year cooling off period for senior Federal examiners, stating in a memorandum to OCC staff that "when an OCC examiner, with no break in continuity, takes employment with a bank he or she has been supervising, there are inevitably questions that will be asked and suspicions raised." He apparently wanted to impose a cooling off period on OCC examiners 4 years ago but was advised that he lacked the statutory authority to do so. The report released by my subcommittee staff in July also recommends enacting a 1-year cooling off period for bank examiners. Similar legislation, introduced in the House of Representatives by Rep. LUIS GUTIERREZ, D-Ill., and Rep. SUE KELLY, R-NY, was recently approved by the House Financial Services Committee for inclusion in the House intelligence reform bill.

The Levin-Coleman amendment would close the revolving door and eliminate potential and actual conflicts of interest for our federal examiners. It would also provide a fresh look at our country's antiterrorist financing efforts. I thank my colleagues on both sides of the aisle for supporting this amendment.

A brief section-by-section explanation of the amendment follows.

Subsection (a) directs the Treasury Department to prepare a report within 6 months evaluating the current state of U.S. efforts to curtail the international financing of terrorism. The report is required to address the effectiveness and efficiency of current Federal programs to detect, track, disrupt, and stop terrorist financing; the relationship between terrorist financing and money laundering; the nature, effectiveness and efficiency of current efforts to coordinate intelligence and agency operations related to terrorist financing, including identifying which agency official, if any, has primary responsibility to develop priorities, assign tasks to agencies and monitor the implementation of policy and operations related to terrorism; the effectiveness and efficiency of efforts to protect the critical infrastructure of the U.S. financial system; ways to improve the effectiveness of financial institutions; ways to improve multilateral and international governmental cooperation on terrorist financing; and recommendations for reforms.

Subsection (b) imposes a 1-year cooling off period on senior examiners at the OCC, Federal Reserve Banks, Federal Deposit Insurance Corporation, Office of Thrift Supervision, and National Credit Union Administration before a senior examiner can take a job at a financial institution that he or she oversaw. The subsection does so by establishing a new subsection (k) in the statutes applicable to these agencies.

The new subsection (k) contains language that was drawn from two sets of postemployment provisions now in the federal code, the provisions in section 207 of title 18 applicable to a variety of senior federal employees and the provisions in section 423(d) of title 41 applicable to senior Federal procurement officials. For example, the new subsection (k) draws on the "knowing" standard used in the section 207 provisions, and the "compensation" language that appears in section 423(d).

The new subsection (k) is intended to apply only to senior examiners who have a meaningful relationship with a financial institution, such as an examiner-in-charge or a senior examiner with dedicated responsibility to oversee a particular institution. It is not intended to apply to less senior examiners who may examine or inspect dozens of financial institutions in a single year without developing a sustained relationship with any one institution. It is also not intended to apply to persons holding supervisory positions that do not involve routine interactions with an institution for purposes of examining or inspecting the institution's books or operations. The provision may apply to more than one senior examiner at the same financial institution, and is not limited to examiners with an office at the site of the financial institution or to examiners who spend 100 percent of their time on a single institution.

Each Federal banking agency is directed to issue rules, regulations, and guidance to delineate the personnel to which this postemployment restriction applies. Each agency head also has authority, on a case-by-case basis, to waive the postemployment restriction for a particular individual if the waiver would not hurt the integrity of the agency's supervisory program. It is intended that the agency head issue these waivers personally, without delegating the waiver authority to another official, to ensure careful usage.

The new subsection (k) authorizes two types of penalties for senior examiners who violate the 1-year cooling off period. These two penalties are in addition to any other administrative, civil, or criminal remedy or penalty that may be available to the United States or any other person for the same conduct. The first penalty is an industry-wide employment ban which requires the relevant agency to remove the affected individual from the financial institution and prohibit them from employment at any insured financial institution for up to 5 years. The second penalty authorizes the agency to impose a civil monetary fine on the individual of up to $250,000. This fine would have to be imposed either in a Federal court proceeding or in an administrative proceeding that accords with the agency's administrative rules for imposing civil monetary penalties. The provision also authorizes the Attorney General to impose a civil monetary penalty if an agency does not, but prohibits both from doing so.

The requirement for a 1-year cooling off period is intended to become effective one year after the date of the enactment of this act, whether or not any agency issues implementing regulations to carry out the act's requirements.

Mr. COLEMAN. Mr. President, first of all, I thank Chairman COLLINS and ranking Member Senator LIEBERMAN, for their diligence and hard work on the National Intelligence Reform bill. I would like to say a few words on the Levin-Coleman amendment on terrorist financing. Without question, financial institutions are vital to our economy. Unfortunately, banks can also be used as conduits for terrorist financing and money laundering.

In July, 2004, as chairman of the Permanent Subcommittee on Investigations, I held a hearing on suspicious financial activity in accounts handled by Riggs Bank. The subcommittee uncovered clear evidence of poor bank compliance and lax oversight regarding Federal laws, designed to protect the integrity of the international financial system.

Chairman COLLINS is currently looking at certain Saudi Arabian accounts that may have benefited two of the September 11, 2001 hijackers. I commend her diligence in expanding our investigation and look forward to the results of her investigation.

Equally disturbing, PSI's investigation demonstrated that Federal banking regulators took far too long to implement proper controls and procedures to identify, monitor, and combat money laundering, suspicious activity, and terrorist financing. In particular, I was troubled by the actions of a former senior bank examiner of Riggs Bank who began to work for Riggs Bank immediately after retiring from the Office of Comptroller of the Currency. Prior to leaving Riggs Bank, this examiner apparently limited findings of accounts owned by Augusto Pinochet contrary to established policies. Upon taking employment at Riggs Bank, this former examiner attended numerous meetings with bank regulators such that the potential for undue influence was less than to be desired.

Certain provisions of this legislation will close the revolving door between senior examiners and the financial institutions they examine, by requiring a cooling off period of 1 year before taking employment at the financial institutions they previously regulated.

In a post-9/11 world, we need to ensure that financial institutions and Federal banking regulators uphold Federal banking statutes, including the Bank Secrecy Act and the Patriot Act. This legislation will maintain the separation between Federal banking regulators and financial institutions. Given our concern for terrorist financing, and our heavy reliance on the integrity of the financial system, reducing the potential of harm is necessary because the stakes are too high if problems go uncorrected. I hope my colleagues will all join me in support of this amendment.

Mr. JEFFORDS. Mr. President, on the morning of September 14, 2001, I toured the Pentagon with officials from the Federal Emergency Management Agency, FEMA. I was so impressed, that on the morning of September 11, in the hours following an unspeakable tragedy, first responders and rescue workers from different departments were able to work as one great team to extinguish the fires, to help the injured, and to save lives. This first impression only tells half of the real story. In actuality, the bravery and selflessness of the firefighters, emergency medical technicians, and police officers were hindered by a lack of interoperability between their communications systems. I spoke with workers at the Pentagon who experienced this limitation firsthand. It's inconceivable to me that members of fire departments and emergency agencies from Fairfax and Arlington Counties, the District of Columbia, and Montgomery County were held back because of equipment incompatibility.

The lack of adequate communications equipment was not only an unnecessary impediment to response operations in and among units on duty across the Potomac at the Pentagon, but has also been an obstacle to other emergencies. In March 2002, I chaired an Environment and Public Works Committee hearing to address the budget needs of FEMA. At the hearing, then-Director Joe Allbaugh testified that:

> This problem of limited interoperability is especially frustrating in the area of communications. While at Ground Zero for several days, I personally witnessed first responders passing notes, handwritten notes, back and forth to one another as the most reliable, effective means of communication. On September 11 and in other emergency situations, seamless communication interoperability would have saved lives.

Today, more than 3 years after the attacks of September 11, the Senate is still debating the issues of interoperability and sufficient communications capabilities.

Interoperability is not only an issue during times of extreme national distress, whether brought on by a terrorist attack or a natural disaster. On August 19, 1997, residents and police officers from northern Vermont and New Hampshire were faced with tragedy when Carl Draga began a shooting spree, killing four and wounding three others, before being killed in an standoff with police. Throughout that sad day, officers from the Vermont and New Hampshire State Police and a New Hampshire Fish and Game warden chased Draga across the Connecticut River from New Hampshire to Vermont and back again to New Hampshire. Compounding the difficulty of pursuing a fugitive across State lines, was the lack of interoperability between the departments. Communications were hampered by the technical limitations of the radios and other equipment.

Last week, the Senate unanimously adopted amendments that will provide for a higher priority for public safety in terms of Spectrum allocation. My amendment will further address the needs of first responders. My amendment will establish National Interoperability Standards and a National Interoperability Implementation Plan to put those standards into place. Specifically, the Department of Homeland Security, DHS, will, no later than 1 year after the enactment of this bill, adopt interoperability goals and standards to fully assess and evaluate the technical needs of first responders for more routine operations and for catastrophic events like those we suffered on September 11, 2001. After those goals and standards are developed, the DHS will create an implementation plan, and will report to the Congress on its plan and its progress. This will ensure that as the Federal Government, States, and localities spend money on interoperability, we will all be working in the same direction, toward one set of goals, with measurable results.

My amendment also requires that the DHS establish a means of coordinating international interoperability. For States like Vermont, which share an international borer, it is imperative that first responders in both nations communicate with each other.

We must be prepared for the future, and we must give our first responders the tools they need to perform their duties. My amendment will give the DHS the direction and authority to make our country safer.

MORNING BUSINESS

Ms. COLLINS. Mr. President, I ask unanimous consent that there now be a period of morning business for debate only with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HONORING OUR ARMED SERVICES

FIRST LIEUTENANT TYLER HALL BROWN

Mr. CHAMBLISS. Mr. President, I rise today to honor United States Army 1LT Tyler Hall Brown, who was killed proudly fighting for his country in Iraq on September 14, 2004. An Airborne Ranger and ROTC graduate from Atlanta, GA, Tyler was 26 years old.

Tyler was born on May 27, 1978, in Atlanta. He attended Woodward Academy and was senior class president, where his classmates considered him a "politician in the making."

Tyler Brown then attended the Georgia Institute of Technology where he was student body president of the Class of 2001 and a cadet in the Army ROTC program. Tyler graduated with dual bachelor of science degrees in management and in history, society and technology. After being commissioned as an Army Officer, he was assigned to the 2nd Infantry Division—Camp Hovey, in Tongduchon City, Korea. From Korea, he deployed to Iraq early last month with his unit, C Company, 1st Battalion, 9th Infantry Regiment, 2nd Infantry Division. He was killed by small arms fire when his unit was attacked by insurgents in the Iraqi town of Ar Ramadi, Iraq, 70 miles west of Baghdad.

Lieutenant Brown was slain by a sniper as he led a reconnaissance patrol in an Iraqi town infested with insurgents. Mortally wounded by the sniper's shot, Lieutenant Brown was able to give a warning to his men, which prevented any others from being hit. Though he was wearing upper body armor, he was hit in the upper thigh where a tourniquet could not stop the bleeding.

His unit had deployed from Korea in early September and had been in Iraq only two weeks when Tyler was killed.

Tyler's company commander, CPT Daniel Gade, made the following comments: "Tyler was the finest officer I've ever known . . . he loved his men, and they loved him in return."

It is certainly ironic that Lieutenant Brown had been approved for service in the Army's famous 3rd Infantry Regiment, known as the Old Guard, which guards the Tomb of the Unknowns and serves as escorts at military burials at Arlington Cemetery. Instead, Brown chose to go to Iraq with men from his battalion in South Korea. On September 28, at Arlington Cemetery, the Old Guard that he was to join honored Tyler Brown at his gravesite.

Tyler Brown was a great American, a great soldier, a great leader, and an outstanding young man. He and his comrades in Iraq deserve our deepest gratitude and respect as they go about the extraordinarily challenging, important job of rebuilding a country, which will result in freedom and prosperity for million of Iraqis. I join with Tyler's family, friends, and fellow soldiers in mourning his loss and want them to know that Tyler's sacrifice will not be lost or forgotten, but will truly make a difference in the lives of the Iraqi people.

HE SAPA WACIPI

Mr. DASCHLE. Mr. President, I take this opportunity to let my Senate colleagues know about a wonderful event going on back in my home state of South Dakota later this week. For 3 days starting on Friday, October 8, the 18th Annual He Sapa Wacipi (Black Hills Powwow) and Fine Arts Show will be taking place in the beautiful Black Hills, traditional homeland of the Oceti Sakowin Oyate, or Great Sioux Nation. I can think of no better way, or place, to celebrate life and the vibrant cultures of the bands of the Oceti Sakowin Oyate, and of the many other tribal nations who live throughout the Great Plains.

I also want to take this opportunity to congratulate the tribal citizens of the Oceti Sakowin Oyate, the board of directors of the Black Hills Powwow Association, the organizers and event staff, and the all those participating in the Wacipi.

In Washington on September 21, 2004, we celebrated the opening of the National Museum of the American Indian. The events associated with the museum's dedication marked the first time in history that so many people from throughout the Western Hemisphere have gathered to celebrate a museum dedicated solely to their historic contributions to humankind, their many struggles for survival, and their present-day accomplishments and lifeways. Featured prominently in the museum and accompanying celebrations were the tribal nations of the Great Plains.

The opening week of the museum was also historic because the Senate Committee on Indian Affairs held an oversight hearing on the contributions of Native American code talkers in World War I, the Korean War, and World War II. There have been code talkers from at least 17 tribes, the Lakota, Dakota, and Nakota among them. As a cosponsor of legislation that would honor all Native American code talkers, I was especially proud to have met and visited with Clarence Wolf Guts, of the Oglala Lakota Nation, the last surviving Lakota code talker. I had the honor of presenting Clarence with a framed copy of a recent Senate floor speech I delivered that was submitted to the CONGRESSIONAL RECORD in Lakota, marking the first time a Native American language has been memorialized in the RECORD.

Like the National Museum of the American Indian, and the legacy of the code talkers, the He Sapa Wacipi is a living testament to the tribal nations of the Great Plains. It brings people from across North America, young and old, Indian and non-Indian, together to celebrate life through song and dance. It is a chance for old friends to see one another, and for new ones to be made. The art show gives Native American artists the opportunity to showcase their talent, and there are various other activities, including traditional hand-game tournaments, contemporary Native American music concerts, and activities targeted to the youth. It is more than just a dance; it is a modern expression of the traditional values of respect, honor, devotion to family, and patriotism that so many of our tribal nations have embodied throughout history.

For my part, I am sorry that my schedule keeps me from attending such a wonderful event. But I am proud to officially acknowledge and honor all those participating in the He Sapa Wacipi.

TRIBUTE TO DR. BEVERLY KEEPERS

Mr. McCONNELL. Mr. President, I rise today to pay tribute to a special and valued educator in my hometown of Louisville, KY, Dr. Beverly Keepers. Dr. Keepers has devoted her time and energy for the past 34 years to the educational growth of the Commonwealth's youth.

Dr. Keepers is a native of Shively, KY where she attended McFerren Elementary and graduated from Western High school. Following high school, she entered Western Kentucky University and earned a Bachelor of Arts Degree in English with minors in theatre arts and education. With her degree in hand, she started her career at Butler High School teaching English, theater, journalism, and photography.

Dr. Keepers' many talents in the classroom were recognized and in 1988 she accepted the assistant principal position at Southern High School. One year later she became the principal at the Youth Performing Arts School, YPAS, in Louisville. While this position was challenging in and of itself, Dr. Keepers was offered a second principalship at Louisville's duPont Manual High School. She accepted the offer and became the first woman in higher administration in Manual's history. In the fall of 1991, she began her dual roles as principal at two different schools, and hit the ground running.

During her years at Manual and YPAS, Dr. Keepers has earned the respect of students and teachers alike. She has made the campuses safer, kept the schools up to date with the latest technologies, strove to make student's voices heard, and worked hard to continue the long standing tradition of excellence at Manual High School and YPAS.

If all this work were not enough, Dr. Keepers was recently a student herself. She went back to school in 2000 and completed her doctorate in educational leadership and organizational development at my alma mater, the University of Louisville, where she was named to the dean's list and was recognized with an Outstanding Student award.

Dr. Keepers' hectic schedule does not end when the school bell rings either. While she has shown tireless dedication by working 70-hour weeks, she remains devoted to her family: husband Jerry, and their two daughters, Tiffany and Lauren.

While most would say her contributions to the Louisville community are more than enough, she is quite active outside of school. She serves as a board member of the Kentucky Derby Festival and Kosair Children's Hospital and has participated in Leadership Louisville and the Bingham Fellows.

Today I ask my colleagues to join me in honoring and recognizing Dr. Beverly Keepers as a truly remarkable member of the Louisville community.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On May 19, 2002, in Wise, VA, Joseph Armstrong murdered his cellmate, Kenneth Boothe Jr., at Red Onion State Prison. During the trial, prosecutors contended Armstrong killed Boothe because he hated gays and blacks and thought Boothe was gay.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

MINNESOTA'S FAVORITE TEACHERS

Mr. DAYTON. Mr. President, Recently I invited Minnesotans to honor their favorite teachers. The response was overwhelming.

Over 4,000 Minnesotans nominated their favorite teachers. Many teachers were nominated more than once. Current students nominated present teachers. Older Minnesotans nominated teachers from years, even decades, ago.

Many of the honored teachers are still actively teaching; others are now retired; some have passed away. I wish there was time here and space in the CONGRESSIONAL RECORD to read all of the words of admiration and gratitude, which accompanied those 4,000 nominations.

They were truly heartwarming. Very successful adults credited special teachers with turning their lives around; helping them to recognize their undiscovered talents, or sparking interests which led to their successful careers.

The specific details varied but the conclusions were the same. Those teachers made huge differences in the lives of their students. They saved lives. They made lives. They taught more than their subjects. They taught ways of thinking, ways of being. They taught study skills and the value of hard work. They helped boys and girls; young women and young men to find themselves, to believe in themselves, and to better themselves. They helped young dreamers learn how to live out those dreams and how to make them life-enhancing realities.

We do too little to credit and honor the many teachers—dedicated men and women—who perform these human miracles for our children. They are modestly paid at best, underpaid at worst, although most of them do not teach for monetary rewards. They teach for their love of teaching, for the joys of performing their magical awakening of young minds to new possibilities. They take personal satisfaction in their own knowledge of their successes, even when they are seldom recognized and appreciated by the rest of us. It may be only years later that someone thinks to note their incredible contributions. Now is one those moments.

Sadly, in Minnesota, there is mostly bashing and trashing of public school teachers and public schools. They are paid $2,500 less than the national averages for public school K–12 teachers. Their class sizes are larger than the national average. State support for public school students is declining, both in real dollars and relative to other states. They are asked to do more and more, with less and less.

The least we can do is to say thank you, when they do their jobs well. I encourage my fellow Minnesotans to thank a teacher this week or this month, and next week or next month. Either a present or former teacher. For a special job, well done. They deserve it. They have earned it.

I ask unanimous consent that names of teachers nominated by Minnesotans as their favorite teachers be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

ABE Program (Burnsville)—Dorien Busch; Academia Cesar Chavez—Melissa Deeb; Academy of Hly Angels—Nancy Alcombright, Johanna Giesen, Kate Hanson, Mary Jonas, James Page, Gregg Sawyer; Academy of Saints Peter & Paul—Rachel Gapinsky, Molly Green-Tandberg, Mrs. Whitmore; Adams Elementary (Coon Rapids)—Jenny Popp, Tim Simonson; Adams Magnet Elementary (St. Paul)—Casey Cavenaugh, Ruth Gandara, Tatiana Leiva, Andrea Marcy, Marina Median, Amy Ottaviani, Tamara Ramirez, Shelly Stevens, Carrie Webber; Adrian Elementary—Jolene Henning; Afton-Lakeland Elementary—Caronline DeRuck, Colleen Hayne, Derek Olson; AGAPE-ALC (St. Paul)—Rosemary Dosch; Akin Road Elementary—Anita Ruthenbeck; Albany High School—Bill Krogman; Albert Lea High School—Jill Donahue, Paul Kile; Albertville ECSE Program—Linda Foss; Albrook School—Kit Davis, Sandra Olson; Alden-Conger Secondary School—Marty Anderson; Alice Smith Elementary—Anne Crowe, Ms. Lynch, Martha Mason, Jody Olson, Carla Perrier, Shelley Varner; Alta Elementary—Cary Friedrich; Alternative Learning Center (Norwood-Young America)—Dennis Stanek; American Indian Magnet—Ms. Fairbanks, Heidi Nakatani; Ames Elementary—John Weimholt; Anderson Open Elementary—Deb Becker, Martha Purcell, Jo Thies, Tony Trelles; Andover—Patti Bollinger; Andover Elementary—Mrs. Bastian, Gail Fessler, Mrs. Vanarsedale, Linda Zdenek, Terry Zumberg, Sue Casey; Andover High School—Deb Aaarsch, Stew Lasky, Renee Voltin; Annandale Middle School—Troy Davidson, Pam Peterson; Anne Sullivan Communication Center—Susette Brandon, Pat Coonen-Korte, Molly Coyne, Sharon DeLisle, Joyce Graham, Alan Husby, Ron Hustvedt, Sue Levahn; Annuciation School—Marie Murphy, Mrs. Nixon, Mary Strickland; Anoka—Joleen Lundeen; Anoka High School—Mr. Alhquist, Mr. Baufield, Scott Birklid, Jeff Buerkle, Mr. Coffee, Marilee Gustafson, Peter Hayes, Morrie Johnson, Paul Kelley, Bob and Susan Kimball, Mr. Rignell, Brenda Selander, Mr. Wicks;

Anoka-Ramsey Community College—Steve Beste, Gorrdy Wax; Anoka-Hennepin Community College—Judy Klein-Pells, Lea Yager; Anwatin Middle School—Ed Barlow, Lou Byers, Dennis Debe, Tom Muehlbauer, Steven Polen, Libby Schubert, Tanna Swanson, Chris Wernimont, Jackie Williams; Apollo High School—Sue Peterka; Apple Valley High School—Cathy Campbell, Mike Egstad, Barry Gimpel, Robert Helgeson, Thomas O'Neill, Frank Pasquerella, Ron Ronning, Wenzel Ruhmann; Arden Hills—Mr. Price; Argosy University—Susan Hines; Arlington High School—Allan Grady, Tami Molkenbur, Michelle Monogue, Diana Morton, Ms. Page, Mark Rawlings, Claudia Reeve, Sue Tuggle; Armatage Elementary—Sue Allen, Jane Campbell, Hern Livermore, Mary Shaffer, Les Beudoin; Armstrong High School—Mary Davis, Jill Wolpert; ARTech Charter School (Northfield)—Anne Klawiter; Ashland Middle School—Ms. Heino; Assumption School—Ms. Kolidji; Augsburg College—Dal Liddle, John Shockley; Augustan College—Janina Ehrlich; Austin High School—Maurine Carver, Peter Schmidt; Avalon Charter School—Nora Whalen; Aveda Institute—Lyndon Barsten, Joe Lopez; Avon Elementary—Ridell Mathwison; Bailey Elementary—Renee Birkholtz; Baker Elementary—Florence Allen, Sue Powell; Baldwin-Woodville High School—Marti Koller; Bamber Valley Elementary—Janet Carlson; Bancroft Elementary—Mrs. Johnson, Jill Loesch, Danton Tyree; Barton Open Elementary—Mary Austin, Mark Downing, Laura Ellison, Karin Emerson, Lee Fabel, Maryann Fabel, Allison Forester, M. Gauthier, Kate Glasenapp, Robin Jacobs, Chris Jaglo, John Kline, Julie Martin, Patrice Pavek, Helena Perry, Amber Place, Scott Slocum, Jane Spicer, Jackie Sullivan; Basswood Elementary—Wendy Forsyth, Ms. Lalin, Reene Williams; Battle Creek Magnet Elementary—Jennifer Carwright, Joan Hunkeke; Bay View Elementary (Duluth)—Sue Hieb; Bayview Elementary (Waconia)—Stacy Gustafson; Becker High School—Sue Meyer, Dan Olson, Lisa Sackett, Joini Svaren; Becker Intermediate Elementary—Joan O'Brian; Becker Middle School—Wayne Johnson, Jennifer Mahowald, Sandy Hayes; Bel Air Elementary—Debbie Raymond; Belle Plain Elementary—Diane Hanson; Belle Plaine Junior High—Steven Schroeder; Bemidji—Orin Ecternach, Mrs. Sanford; Bemidji High School—Dan Bryant, James Saari, Diane Sharpe;

Bemloji Middle School—Kent Nichols, Moe Webb; Bemidji State University—Mark Christensen; Ben Franklin Junior High—Dy Fladland; Bendix Elementary—Brian Atkinson, Ms. Fee; Benilde-Saint Margaret's School—Michael Jeremiah, Sylvian Sundrom, Mrs. Zahedi; Benjamin Banneker Middle School—Scott Grabowski, Delores Lemp; Bethune Elementary—Elizabeth Bergu, Sandi Sween; Birch Grove Elementary—Mrs. Johnson, Tanya Stember; Birchview Elementary—Marianne Brinda, Kathy Henkel, Douglas Johnson, Shannon Peterson; Birchwood Elementary (Duluth)—Milton Hill; Birchwood Elementary (Plymouth)—Jill Freshwaters; Bird Island Elementary—Betsy Hennen; Bishop Elementary—Mrs. Barnes; Black Hawk Middle School—Alan Glass, Mrs. Windgate; Blaine High School—Frank Shelton, Robert Strand, Joyce Banghart, Robert Godding, Alan Krantz, Mr. Mesick, Bradley Miller, Bruce Olson, Larry Osnek, Walt Pimlott, Kathleen Pimlott, Ed Schaefle, Ms. Sundberg, Jean Wontor; Blessed Sacrament School (St. Paul)—Angie Kelcher; Blessed Sacrament School (Toledo, OH)—Mrs. Tansey, Mrs. Wyrick; Bloomington—Mike Becker, Carol Berg, Debbie Rohde, Mrs. Russell, Jan Tweet, All Bloomington School District Teachers; Blue Heron Elementary—Ms. Kegley, Kathy Perreault, Mandy Hidabrands; Bluff Creek Elementary—Sharla Ekegren, Lisa Gilbert, Susan Gulstrand; Braham Area Secondary School—Herman Aune; Brainard High School—Sue Headlee, Alan Hewitt, Keith Peterson; Breck School—Mrs. Barton, Jane Bartow, Peter Clark, Penny Donelson, Dan Dotteny, Mr. Thomas, Sara Thorne, Bonnie Zeff; Bridgewater Elementary—Lee Murray; Brimhall Elementary—Lonnie Doberstein, Shirley Heiligman, Ann Hobbie, Margaret Kuhfield, Marina Liadova, Rich Olson, Ms. Tyler; Brooklyn Center High School—Robert Jacobson, Roger Dick, Ben Vennes; Brookland Park—Mrs. Lafrenz, Judith Nelson, Tracey Williams; Brooklyn Park Junior High—Al Daas, Cindy Knight, Mr. Johnson; Brookside Education Center—Mary Hinnekamp; Brown College—Lyn Bell, Rick Murray; Bruce F. Vento Elementary—Laura Vargo, Marjorie Smith; Bryn Mawr Elementary—Annette Gagliardi, Suzanne Greenberg, Joann Parker, Jeanie Revor; Buchtel Senior High School (Akron, OH)—James Wortham; Budd Elementary—Michelle Rosen; Buffalo Community Middle School—Mrs. Baunschmidt, Greg Blacik, Suzette Habisch, Barry Johnson, Joan Olson; Buffalo High School—Gerry Bakke, Mrs. Cary, Tracy Hagstrom, David Robinson, Joel Squadroni, Mrs. Soderman; Burnsville—Mrs. Ubbelohde, Ms. Conrad, Shannon Westerbuck, Dan Wolf, Mrs. Wolter, Matt Deutsch, Mrs. Drugge, Kevin Floyd, Linda Goude, Jenny Hugstad-Vaa, Andy Karageorgiu, Jeff Marshall, Cheryl Thorson, Harlan Ernisee, David Griffith;

Burroughs Elementary—Tim Cadotte, Mrs. Curtis, Ms. Davies, Theresa Fee, Norman Hauer, Joe Janssen, Mr. Kilabarda, Samuel Larsen, Greg Moen; Byron Elementary—Rebecca Demmer, C.H.I.L.D. Preschool, Fairview University Medical Center—Rose Beauchamp; Cambridge—Isanti School District—Chris Miller; Calvin Christian School—Amanda Kubacki; Cambridge Middle School—Mark Rothbauer; Cambridge-Isanti High School—Bruce Anderson, Kathy Dolezal, Bob Dolezal, Rebecca Lieser, John Porisch, Shane Weibel; Cannon Falls Elementary—Nancy Berhow, Staff of Cannon Falls Elementary; Cannon Falls High School—John Fogarty, Pat Senjum; Cannon Falls Middle School—Carol McNeary; Capitol Hill Elementary—Robert Burns, Barbara Ford, Mrs. Gulner; Capitol Hill Magnet—Renne Antonow, John Benda, Robert Burns, Mr. Lewter, Annette Lopez, John Maycock, Jane McKim, Mrs. Ochi-Watson, John Porter, Nancy Randall, Mr. Scott, Tom DeGree, Lucy Kanson, Niemiec Marian, Marti Starr, Mary Steffy, Carlton Elementary—Kathryn Vigliaturo; Carlton High School—Mr. Gardner; Carondelet Catholic School—Kevin Bagley, Anna Hoffman, Jeff Ruhnke, Mr. Wright; Carver Elementary—Kathryn Gantriis, Patti Life, Sandy Winegarden; Carver-Scott Education Cooperative—Cindy Walters; Castle Elementary—Barb Ives, Joyce Tonn, Micah Friese; Cedar Creek Community School—Mrs. Mozetti, Pete Rose; Cedar Island Elementary—Norma Hughes, Ms. Tobler, Chuck Waltz, Jennifer Leslie, All Cedar Island Elementary Teachers; Cedar Manor Elementary—Marriah Davis; Cedar Park Elementary—Mrs. Kouba, Mrs. Rustad, Sandy Spitzner; Cedar Rapids Community Schools—Dora McNulty, Mr. Moran, Jan Schrader; Cedar Ridge Elementary (Eden Prairie)—Beth Kohls, Barry Zeeb; Cedar Riverside Community School (Minneapolis)—

Stephanie Byrdziak; Cedar School—Joan Ward; Cedarburg High School—Robert Merklein; Centennial Elementary (Circle Pines)—Mrs. Doble, Ms. Fritz, Mr. Gutbrod, Amy Halbur, Emily Hjelle, Rhonda Stone, Mr. Wirkkunen; Centennial Elementary (Richfield)—Erica Busta-Loken, Jake Jauert, Becky Rysted; Centennial High School (Circle Pines)—Duane, John Eret, Nicole Larson, Greg Schmidt, Nicole Sherry, Jeff Welciek, David Wolff; Centennial Junior High (Lino Lakes)—Mrs. Allen; Centennial Middle School (Lino Lakes)—Jill Ehlen Christian Gould, Suzanne Horne, Erica Joy Johnson, Karen Ross-Brown, Greg Schnagl, Laurie Tangren, Ann Thomsen;

Centerville Elementary School—Ann Batholomew; Central Community Center (Minneapolis)—Kris Fingerson; Central Community Center Child Care (St. Louis Park)—Beth Shannon; Central Elementary (Norwood)—Dave Rauch; Central Elementary (Winona)—Carol Harbinson; Central High School (Duluth)—Cal Benson; Central High School (Omaha, NE)—Dan Daly; Central High School (St. Paul)—R.C. Demers, John Elwell, Orville Everson, Patrty Heim, Mrs. Jithendranathan, Mary Mackbee, Donald Murray, Cathy Nachbar, Tom Niland, Matthew Oyen, Lorraine Potuzak, Meredith Rainbow, John Rousseau, Mrs. Schlukebier, Ms. Speltz, Amy Stelle, Ed Roth; Central Lakes College—Mary Barthel; Central Middle School (Eden Prairie)—Patrick Gallagher, Scott Hackett, Karen Nelson; Central Middle School (Plymouth)—Dan Nielsen; Central Middle School (Wihte Bear Lake)—Kari Jansen; Central Park Elementary (Roseville)—Lisa Bell, Liz Dayton, Gail Hoveland-Wires, Andrew Nielsen, Mrs. Snyder, Ms. Wheton; Central Services Building (Stillwater)—Jo Tate; Century College—Brian Downs, Wayne Haag, Mark Hophmeister, Kim Loomis; Centruy High School (Rochester)—Shane Baker, Sonia Ellsworth, Lanny Kolpek, Jean Marvin, Phillip Olson, Kari Stellpflug; Century Junior High (Forest Lake)—Patricia Cheynne, Ricahrd Hofstede, Glen King, Carol Rupar, Ms. Trampe; Champlin Elementary—Deborah Dille, Geoff Olinyk, Dave Walters, Carol Allen, Mr. Baufield, Kerry Bogenreif, Mrs. Burtness, Karen Gallagher, Ms. Hable, Ryan Holmgren, Bradley Johnson, Vicki Johnson, Amy Kennedy, Steve Lyons, Geoff Olinyk, Mr. Rosenkranz, Clark Sanders, Chris Woodward, Kathy Suski; Chanhassen Elementary—Robin Coleman, Jane Johnson, Jen Ptacek, Janet Snyder, Karen Timmers, Sharon Tupper; Chapel Hill Academy—Mary Stude; Chaska Elementary—Mrs. Johnson, Mrs. Kingdig, Gregory Lange, Mr. Shernock, Darla Work; Chaska High School—Fred Berg, Cheryl Boe, Sharah Boehlke, Chris Cormmers, Jason Pelowski, Christopher Schriever; Chaska Middle School East—Chris Behrens, Mrs. Melius, Jill Wimberger; Chaska Middle School West—Ron Cramer, Nate Delowski, Cullen Nelson; Chelsea Heights Elementary—Mr. Barnes, Ms. Barry, Lynn Bartol, Lynn Blumthal, Ron Johnson, Jodie Krogseng, Ann Linz, Micky Palewicz, Christine Stolz, Diana Swanson, Ms. Young; Cherokee Heights Magnet Elementary—Ms. Otto; Cherry View Elementary—Lynn Dolan, Mrs. Grant, Claudia Nelson, Tina Pearson, Deane Barta, Pat Isbel; Child Garden Montessori—Kathy Sefelt;

Children's Center Montessori—Jean, Lori; Children's Country Day School—Sheila; Chippewa Middle School—Christine Alexander, Keith Anderson, Ms. Carley, Karen Forest, Mrs. Ifkavitch, Judy Klohs, Ms. Nickila, Mrs. Plocher, Ric Seiderkranz, Joseph Thell; Chisago—Katie Hawkins Ahearn; Chisago Lakes Elementary—Jamie Thaler; Chisago Lakes High School—Pat Collins, Jason Mahlen, Peg McCubbin, Diane Spychalla; Chisago Lakes Middle School—Jim Gillach, Linda Guanzini, Lynnett Kutzke, Sally Lundholm, Gloria Peterson, Jim Sauerbry, Paul Swanson; Chosen Valley Elementary—Mary Jasmin; Chosen Valley Elementary—Ms. Mathison; Chosen Valley Elementary—Barb Schroeder; Christ Community Lutheran School—Jeff Boehlke, Barb Laabs, Julie Steinborn, Madeline Strei; Christ Lutheran School—Mark Dobberstein; Christa McAuliffe Elementary—Cindy Belongia; Christ's Household of Fiath—Karin Alsbury, Adella Alsbury, David Behum; Churchill Elementary (Rochester)—Mrs. Stekel; Churchill High School (Winnipeg, Canada)—Neil Dempsey; City of Lakes Waldorf School—Emily McLoury, Ms. Ouellette; Cityview Community School—Melissa Kaiser-Crist, Michael Stokes; Clarkfield Junior High School—Tom Diekman; Clear Springs Elementary—Kaari Cox, Ms. Moret; Clearbrook-Gonvick High School—Jacob Boomgaarden; Clearwater Middle School (Waconia)—Jeff Radel; Cleveland Middle School (St. Paul)—Mary Cathryn Ricker; Cleveland Public School (Cleveland)—Greg Davis; Clinton-Graceville-Beardsley High School—Randy Giles; Cloquet High School—Dan Naslund; Clover Ridge Elementary—Heather Miller, Jeffifer Shinn; Coleraine—Tom Patnaude; College of Saint Benedict—Mara Faulkner, Dale White; College of Saint Catherine—Patricia Eldred, Dale McGowan, Julie Ashland, Aruni Fernando; Colorado Spring—Ann Elrod; Columbia Heights High School—Jim Jungers, Dan Shuck, Kris Svedberg; Columbus Elementary School—Sharon DeRaad; Community of Peace Academy—Tim Danz, Susan Gottlieb, Carrie Eicher; Community Family Education Center (St. Paul)—Sue Betten; Como Park Elementary—Susan Munion; Como Park High School—Jeff Gosse, Mr. Grebner, Mike Lewis, Roy Magnuson, Sharon Mason; Concord Elementary—Deborah Carroll, Colin Friden, Kari Ingemann, Ms. Koster, Kimberly Moore, Pam Olson, Leslie Stacey, Mrs. Swanson, Holly Thiede, Rosemary Thiel; Concordia Academy (Roseville)—Dean Dunnavan, Micah Treichel; Concordia College of Bronxville—Mandara Nakhai.

NUCLEAR MEDICINE WEEK

Mr. BOND. Mr. President, I rise today to remind my colleagues that this week, October 3 through October 9, is Nuclear Medicine Week. Nuclear Medicine Week is the first week in October every year and is an annual celebration initiated by the Society of Nuclear Medicine. Each year, Nuclear Medicine Week is celebrated internationally at hospitals, clinics, imaging centers, educational institutions, corporations, and more.

I am particularly proud to note that Dr. Henry Royal, a physician practicing nuclear medicine at the Mallinckrodt Institute of Radiology in St. Louis, is a constituent and immediate-past president of the Society of Nuclear Medicine. The Society of Nuclear Medicine is an international scientific and professional organization of more than 15,000 members dedicated to promoting the science, technology and practical applications of nuclear medicine. I commend him and his colleagues for their outstanding work in the field of nuclear medicine and for their dedication to caring for people with cancer and other serious and life-threatening illnesses that can be diagnosed, managed, and treated with medical isotopes via nuclear medicine procedures.

With nuclear medicine, health care providers can use a safe, noninvasive procedure to gather information about a patient's condition that might otherwise be unavailable or have to be obtained through surgery or more expensive diagnostic tests. Nuclear medicine procedures often identify abnormalities very early in the progression of a disease—long before some medical problems are apparent with other diagnostic tests. This early detection allows a disease to be treated early in its course, when there may be a more successful prognosis.

An estimated 16 million nuclear medicine imaging and therapeutic procedures are performed each year in the United States. Of these, 40 to 50 percent are cardiac exams and 35 to 40 percent are oncology related. Nuclear medicine procedures are among the safest diagnostic imaging tests available. The amount of radiation from a nuclear medicine procedure is comparable to that received during a diagnostic x-ray.

Nuclear medicine tests, also known as scans, examinations, or procedures, are safe and painless. In a nuclear medicine test, small amounts of medical isotopes are introduced into the body by injection, swallowing, or inhalation. A special camera, PET or gamma camera, is then used to take pictures of your body. The camera does this by detecting the medical isotope in the target organ, bone or tissue and thus forming images that provide data and information about that area of your body. This is how nuclear medicine differs from an x-ray, ultrasound or other diagnostic test—it determines the presence of disease based on function rather than anatomy.

Recently, the Centers for Medicare & Medicaid Services' announced its decision to approve coverage of positron emission tomography or PET for Medicare beneficiaries who have suspected Alzheimer's disease. This decision will allow physicians to obtain an early and more definitive diagnosis and to begin treatment at the time when it provides the best chance of prolonging cognitive function for our Medicare beneficiaries. Some of the more frequently performed nuclear medicine procedures include: bone scans to examine orthopedic injuries, fractures, tumors or unexplained bone pain; heart scans to identify normal or abnormal blood flow to the heart muscle, measure heart function or determine the existence or extent of damage to the heart muscle after a heart attack; breast scans that are used in conjunction with mammograms to more accurately detect and locate cancerous tissue in the breasts; liver and gallbladder scans to evaluate liver and gallbladder function; cancer imaging to detect tumors and determine the severity—staging—of various types of cancer; treatment of thyroid diseases and certain types of cancer; brain imaging to investigate problems within the brain itself or in blood circulation to the brain; renal imaging in children to examine kidney function.

Unfortunately, the field of nuclear medicine is not attracting enough incoming students to fill the current demand for nuclear medicine technologists—usually called NMTs. Currently, there is approximately an 18-percent vacancy of NMTs as determined by the American Hospital Association, AHA. By 2010, the Bureau of Labor Statistics, BLS, projects that the U.S. will need an additional 8,000 NMTs to fill the projected demand created by the aging workforce and expanding senior population. Over the next 20 years, the BLS expects that there will be a 140-percent increase in the demand for imaging services. The use of diagnostic imaging services has been increasing by approximately four percent a year, even as the number of certified NMTs and registered radiologic technologists has remained stable. As a result, imaging technologists often work longer shifts, and patients can face weeks of delay for routine exams.

A similar situation is developing for nuclear medicine physicians. According to the American Board of Medical Specialties, there currently are 4,087 certified nuclear medicine physicians in the United States. At the same time, the number of physician training programs is also declining, exacerbating the future shortage.

Over the next 20 years, the number of people over the age of 65 is expected to double at the exact same time when the nation will face shortages of medical personnel—including nurses, NMTs, physicians, laboratory personnel, and other specialists. With an increasing number of people needing specialized care—such as nuclear medicine—coupled with an inadequate workforce, our Nation quickly could face a healthcare crisis of serious proportions with limited access to quality cancer care, particularly in traditionally underserved areas.

I encourage my colleagues to support Nuclear Medicine Week, to support policies such as the newly released CMS decision, and to support increased funding for programs so that our Nation will have a sufficient supply of nuclear medicine physicians and technologists to care for all patients in need of nuclear medicine procedures and related care.

CHIP PROTECTION AND IMPROVEMENT ACT

Mr. CHAFEE. Mr. President, I introduced S. 2759, along with my colleague, Senator ROCKEFELLER, to help States with healthy State Children's Health Insurance programs remain strong, so that they may continue to provide high-quality health care coverage to the children they serve. Our bill achieves this objective by allowing States to keep $1.1 billion in expiring funds in the SCHIP program and continuing current law redistribution rules through 2007.

Concerns have been expressed that S. 2759 would not reallocate SCHIP funds in an effective manner and that States cannot utilize their current SCHIP allotments. Proponents of this view believe the expiring SCHIP funds could be more effectively used for outreach and enrollment in the program. We fully support greater outreach and enrollment, but do not believe that it should come at the expense of providing adequate health insurance to children currently served by the program. In 2003, due to State budget deficits, seven States capped enrollment in their SCHIP. Over the next few years, unless we extend the availability of existing SCHIP funds and target them to the States with the most need, many States will lack adequate funds to meet their existing need, much less enroll more eligible but uninsured children. It is also important to note that ten percent of the amount States spend on coverage can be spent on administrative costs, including outreach. Consequently, an increase in coverage would also increase the funding States have for outreach and enrollment. Moreover, the Robert Wood Johnson Foundation currently provides SCHIP outreach grants to community health centers, hospitals, and faith-based organizations through its Covering Kids & Families Initiative.

Another criticism of S. 2759 deals with the amount of money States will have available in fiscal year 2005. States and territories will have $10.8 billion available to provide health insurance coverage to children in 2005. It has also been estimated that States will only require $5.3 billion in fiscal year 2005 to provide adequate coverage. Although this is true in the aggregate, this funding figure does not take into account the realities of the existing SCHIP financing system. These excess funds are concentrated in low-spending States that have not utilized their SCHIP allotments in previous years, and they are not available to States facing Federal funding shortfalls. In the absence of a fundamental alteration of the current SCHIP financing system, the aggregate funding in the program is not relevant to critical issue of whether there is adequate funding within specific States.

Lastly, it has been proposed that the Secretary of the Department of Health and Human Services has the authority to redistribute unspent allotments from fiscal year 2002 to States where Federal funding shortfalls are anticipated in fiscal year 2005. While it is encouraging that the concerns of States facing an immediate shortfall in 2005 would be alleviated under this approach, our larger concern about the long-term financial health of the SCHIP in fiscal years 2006 and 2007 persists. Eleven States would receive less in redistributed fiscal year 2002 funds under this proposal than they would otherwise receive, and they would not have access to the $1.07 billion in federal SCHIP funds that are scheduled to expire.

The Children's Health Protection and Improvement Act addresses the long-term Federal funding shortfalls in the SCHIP program over the next 3 years. The Governors of all 50 States have endorsed our proposal and view it as a comprehensive approach to addressing the Federal SCHIP funding shortfalls that will occur prior to the program's reauthorization in fiscal year 2007. We stand ready to work with the Senate leadership and the administration to keep the SCHIP strong so that it may continue to provide critical health care coverage to uninsured children through fiscal year 2007, when a more comprehensive resolution of the formula problems can be explored.

ASSISTIVE TECHNOLOGY ACT OF 2004

Mr. DEWINE. Mr. President, I rise today in support of the Assistive Technology Act of 2004, which passed the Senate last week by unanimous consent on September 30, 2004. I thank Senator GREGG for his commitment to this very important issue and to my colleagues who have spent several months working on this bill.

The Assistive Technology Act is legislation that helps those individuals with disabilities receive the necessary equipment, devices, and services that allow them to live independently, improve their education, or assist with employment opportunities. This program is open to all ages, so it may help the smallest child receive equipment that will help him or her in the classroom or older adults who may need a device to adapt their workspace so they continue on the job.

Many States, such as Ohio, offer many different services to individuals with disabilities. Successful programs—equipment exchange programs and demonstration centers, for example—help ensure that the individual needing assistance is receiving the appropriate equipment to address the obstacle he or she is trying to overcome. Programs like these and the financial loan program help provide everyone in need with the opportunity to receive and purchase the technology and devices necessary to lead productive lives.

This legislation is very important to the millions of individuals with disabilities living in the United States. Again, I thank Senator GREGG and my colleagues on the HELP Committee for working on this issue. I look forward to working with my colleagues on other legislation that will address the needs of individuals with disabilities.

I ask unanimous consent the text of three letters from groups supporting the Assistive Technology Act be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEAR CHAIRMAN GREGG AND SENATOR HARKIN: On behalf of the National Association of Assistive Technology Act Programs (ATAP), I am writing to indicate our support for the Senate's passage of HR 4278, a bill to reauthorize the Assistive Technology Act. We understand it will be "hotlined" today.

Thank you for your work to bring this process to this point. The bill allows AT programs to continue so that people with disabilities can access assistive technology devices and services. We hope to work with you to make sure that the bill is adequately funded in future appropriations bills so that we can fully realize all of the goals of the bill.

If you have questions or need additional information, please contact Jane West at 202-289-3903 or jwest@wpllc.net.

Sincerely,

DEBORAH BUCK,
Executive Director.

DEAR MR. DEWINE: On behalf of the Association of University Centers on Disabilities (AUCD) I would like to thank you for your leadership and remarkable bi-partisan work on HR 4278, the reauthorization of the Assistive Technology Act. The bill will assist people with disabilities throughout our country who will be able to work more effectively, learn at school and more fully participate in their communities, thanks to their increased access to assistive technologies.

We appreciate the hard work that has gone into every phase of the process of developing and negotiating this vital legislation. We are especially pleased that the bill clearly delineates the authorization of appropriations so that state grants will have defined and equitable minimum allotment levels. We also appreciate the fact that the bill provides flexibility to states to design locally responsive programs while still assuring a focus on activities that will get assistive technology into the hands of the people that need it. We are pleased, as well, that the bill has enhanced provisions for Research and Development efforts.

The network of University Centers for Excellence in Developmental Disabilities represented by AUCD urge you to pass HR 4278 now, and we look forward to working with you as you continue to work to ensure that the future holds nothing but enhancements of the programs and services authorized by this legislation.

Thank you for your support of people with disabilities and families who will now see increased benefits from the vast technological advances the 21st century will bring. And thank you again for your bipartisan work and your leadership.

Sincerely,

GEORGE JESIEN, PH.D.,
Executive Director.

Hon. MIKE DEWINE,
U.S. Senate, Washington, DC.

DEAR SENATOR DEWINE: On behalf of the National Association of Protection and Advocacy Systems (NAPAS) we would like to thank you for your leadership on assistive technology and moving forward with the process of reauthorizing the Assistive Technology Act of 1998. The substitute bill before the Senate "Improving Access to Assistive Technology for Individuals with Disabilities Act of 2004" represents a true bipartisan piece of legislation.

The bill is a step forward for the protection and advocacy system. The bill makes the following changes that we support: Establishes a grant to the American Indian Consortium for a Protection and Advocacy for Assistive Technology (PAAT) program; establishes a line item to fund the PAAT program; enables a PAAT program to retain earned income for an additional fiscal year beyond current law and regulation; included language to continue needed training and technical assistance for the PAAT program.

All of these changes to current law will help make the PAAT program consistent with other protection and advocacy programs. We are thankful for the hard work and dedication of you and the staff who have endeavored to improve this program for people with disabilities.

Regrettably, the bill did not contain recommended language to include a provision which would enable the minimum allotments for states and territories to rise when the program receives an appropriations increase.

Thank you very much for working in a bipartisan manner to move this legislation. We look forward to working with you to enact this into law this year. If you would like additional information or have questions, please contact myself or Nadia Facey, Public Policy Analyst, at 202-408-9514.

Sincerely,

MAUREEN FITZGERALD,
President, Board of Directors.
CURTIS L. DECKER,
Executive Director.

ADDITIONAL STATEMENTS

IN CELEBRATION OF THE DEDICATION OF PACIFICA STATE BEACH

• Mrs. BOXER. Mr. President, I take this opportunity to recognize the City of Pacifica for its efforts to renovate and restore Pacifica State Beach.

California's beaches are an integral part of our State's heritage. Whether they are vast expanses of flat, sandy shores or rocky cliffs overlooking the ocean, California's beaches are diverse and beautiful. People from all over the world come to participate in the myriad activities California's beaches offer. With over a thousand miles of coastline, California is truly a State that thrives on its beaches.

For over 10 years, the City of Pacifica has striven to renovate Pacifica State Beach, which serves as a gateway to Northern California's spectacular coastline. The city has demonstrated a great commitment to protect, enhance and restore the 4 miles of shoreline that define the community. Through the strong leadership of Pacifica Mayor Jim Vreeland and countless other local, State, and Federal representatives, many changes have been made at Pacifica State Beach.

From the restoration of sand dunes and wetlands, to the creation of bike paths, coastal trail paths and a new skate park, to habitat enhancement and new amenities for visitors, the renovation of Pacifica State Beach has been a success. The City of Pacifica has not only understood the importance of protecting and restoring California's fragile coastal areas, its restoration efforts are a model of balancing environmental needs, public access and economic necessities.

The City of Pacifica's dedication to the community is inspiring, and its vision and commitment in protecting California's coastal resources should be commended. I congratulate the City of Pacifica for its hard work, and wish all concerned the best as they dedicate Pacifica State Beach on October 16, 2004.•

TRIBUTE TO MR. GEORGE F. DIXON III

• Mr. VOINOVICH. Mr. President, I rise today to recognize Mr. George F. Dixon III for his exceptional service and leadership to our Nation.

Mr. Dixon is nearing the end of his term as chair of the American Public Transportation Association, the association that represents the North American public transportation industry.

During his chairmanship, Mr. Dixon has been dedicated to supporting the reauthorization of the Transportation Equity Act for the 21st Century, the development of a 5-year strategic plan for APTA, and the oversight of APTA's Public Transportation Partnership for Tomorrow outreach and education program. Mr. Dixon also represented APTA on a trade mission to Russia.

Mr. Dixon, a Cleveland, OH native, has a distinguished history of public service in Northeast Ohio. For example, over the past 10 years, he has brought great improvements to the public transportation system in Cleveland as the President of the Board of the Greater Cleveland Regional Transportation Authority. Mr. Dixon has also served the Cleveland community as a member of the Cleveland School Board for 5 years and as a leader in numerous local organizations including the Greater Cleveland Growth Association, Build up Greater Cleveland, Civic Vision, MidTown Cleveland, and the Convention and Visitors Bureau of Greater Cleveland.

Mr. Dixon is a accomplished leader and someone who, day in and day out, goes above and beyond the call of duty to help people in his community. On behalf of the people of Ohio, I am pleased to commend George F. Dixon, III for his extraordinary efforts to improve the quality of life in Ohio and our Nation, and I congratulate him on a successful term as Chair of the American Public Transportation Association.●

MERLE JOHNSON

● Mrs. BOXER. Mr. President, I am pleased and honored to salute my constituent Merle Johnson, who served America with bravery and distinction behind enemy lines during World War II.

Merle Johnson joined the National Guard in 1939, at age 16. He was mobilized the following year and was sent to Hawaii 2 weeks after the attack on Pearl Harbor.

In October 1942, he was sent to the Solomon Islands with the Army's 25th Infantry Division, which conducted mop-up operations after the Marines' bloody assaults on Guadalcanal and New Georgia Island.

After being wounded in action and recovering on New Caledonia, Merle volunteered to join a unit that would become known to the world as Merrill's Marauders. This elite group of Army Rangers was formed to conduct extremely dangerous top-secret missions behind Japanese enemy lines in Burma.

The Marauders' most famous and important mission was to capture the strategic airfield at Myitkyina, Burma. To accomplish this goal, they had to fight their way for 9 months through more than 600 miles of jungle, surrounded by Japanese troops. By the time they captured the airfield, more than 2,500 of the 3,000 Marauders had been killed, wounded, or struck by illness.

For his valiant service, Merle Johnson was awarded a Purple Heart, three Bronze Stars, three Battle Stars, and a Presidential Unit Citation.

After the war, Mr. Johnson worked on the production line at Rockwell Corporation and as a labor organizer for the steelworkers union. He now lives in Tustin, CA.

Earlier this year, Mr. Johnson represented Merrill's Marauders during the dedication ceremony for the World War II Memorial. This monument now stands as a tribute to Merle Johnson, Merrill's Marauders, and 16 million other brave men and women who served America in World War II.●

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9534. A communication from the Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "17 CFR Part 143—Collection of Claims Owed the United States Arising From Activities Under the Commission's Jurisdiction" (RIN3038–AC03) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9535. A communication from the Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "17 CFR Part 143—Adjustment of Civil Monetary Penalties for Inflation" (RIN3038–AC13) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9536. A communication from the Executive Director, Commodity Futures Trading Commission, transmitting, pursuant to law, the report of a rule entitled "17 CFR Part 30—Foreign Futures and Foreign Options Transactions" (RIN3038–AB45) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9537. A communication from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Child and Adult Care Food Program: Improving Management and Program Integrity" (RIN0584–AC24) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9538. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Bacillus Thuringiensis var. aiza strain PS811 (Cry1F Insecticidal Protein); Exemption from the Requirement of a Tolerance" (FRL*7372–6) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9539. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Cyzzofamid; Pesticide Tolerance" (FRL*7367–4) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9540. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Dichlormid; Time-Limited Pesticide Tolerances" (FRL*7680–8) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9541. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Forchlorfenuron; Pesticide Tolerance" (FRL*7681–5) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9542. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Mesotrione; Pesticide Tolerances for Emergency Exemptions" (FRL*7678–8) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9543. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Octanal; Exemption from the Requirement of a Tolerance" (FRL*7678–7) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9544. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sodium Thiosulfate; Exemption from the Requirement of a Tolerance" (FRL*7677–1) received on September 29, 2004; to the Committee on Agriculture, Nutrition, and Forestry.

EC–9545. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–9546. A communication from the Secretary of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–9547. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–9548. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–9549. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–9550. A communication from the Under Secretary of Defense for Personnel and Readiness, Department of Defense, transmitting, pursuant to law, the report of a retirement; to the Committee on Armed Services.

EC–9551. A communication from the Acting Under Secretary of Defense for Acquisition, Technology, and Logistics, Department of Defense, transmitting, pursuant to law, a report relative to proposed test and evaluation (T&E) budgets that are not certified by the Director of the Defense Test Resource Management Center (TRMC) to be adequate; to the Committee on Armed Services.

EC–9552. A communication from the Chairman, Securities and Exchange Commission, transmitting, pursuant to law, the 2003 Annual Report of the Securities Investor Protection Corporation; to the Committee on Banking, Housing, and Urban Affairs.

EC–9553. A communication from the Assistant General Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Retention of Excess Income in the Section 236 Program" (RIN2502–AH68) received on September 29, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9554. A communication from the Assistant General Counsel for Regulations, Office of Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Suspension, Debarment, Limited Denial of Participation" (RIN2501–AC81) received on September 29, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9555. A communication from the Export-Import Bank of the United States, transmitting, pursuant to law, the report of a transaction involving exports to the State of Qatar; to the Committee on Banking, Housing, and Urban Affairs.

EC–9556. A communication from the Assistant Administrator for Procurement, National Aeronautics and Space Administration, transmitting, pursuant to law, the report of a rule entitled "Removal of Mid-Range Procurement Procedures" (RIN2700–AD02) received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9557. A communication from the Acting Director, Statutory Import Programs Staff, Department of Commerce, transmitting, pursuant to law, the report of a rule entitled "Changes in the Insular Possessions Watch and Jewelry Programs" (RIN0625-AA65) received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9558. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Pollock in Statistical Area 630 in the Gulf of Alaska" received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9559. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Pollock in Statistical Area 620 in the Gulf of Alaska (C-season)" received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9560. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Non-Community Development Quota Pollock with Trawl Gear in the Chinook Salmon Savings Area of the BSAI Management Area" received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9561. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Flathead Sole in the Bering Sea and Aleutian Islands Management Area" received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9562. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Fishing for Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore Component in the Central Regulatory Area of the Gulf of Alaska" received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9563. A communication from the Deputy Assistant Administrator, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Northeastern United States; Summer Flounder Recreational Fishery; Fishing Year 2004; New York Measures" (RIN0648-AQ82) received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9564. A communication from the Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #10—Adjustments of the Recreational Fishery from the U.S.-Canada Border to Cape Falcon, Oregon" received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9565. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Inseason Action #9—Adjustment of the Commercial Salmon Fishery from Humbug Mountain, Oregon to the Oregon-California Border" received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9566. A communication from the Deputy Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Pollock in Statistical Area 610 of the Gulf of Alaska" received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9567. A communication from the Trial Attorney, National Highway Traffic Safety Administration, Department of Transportation, transmitting, pursuant to law, the report of a rule entitled "Civil Penalties" (RIN2127-AJ32) received on September 29, 2004; to the Committee on Commerce, Science, and Transportation.

EC-9568. A communication from the Secretary of Energy, transmitting, pursuant to law, the report of the Department of Energy's intention to inter into a five-year contract with Mountain State Energy Technology Applications, Incorporated; to the Committee on Energy and Natural Resources.

EC-9569. A communication from the Inspector General, Nuclear Regulatory Commission, transmitting, pursuant to law, the Inspector General's report for Fiscal Year 2004 Commercial and Inherently Governmental Activities for the Commission; to the Committee on Environment and Public Works.

EC–9570. A communication from the Administrator, Environmental Protection Agency, transmitting, pursuant to law, a report entitled "Annual Report to Congress on Implementation of Public Law 106-107"; to the Committee on Environment and Public Works.

EC–9571. A communication from the Chairman, Tennessee Valley Authority, transmitting, pursuant to law, a report relative to the issues the Authority needs to address in order to prepare for a competitive electricity wholesale market in the Tennessee Valley; to the Committee on Environment and Public Works.

EC-9572. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Longmont Recised Carbon Monoxide Plan" (FRL#7822-3) received on September 29, 2004; to the Committee on Environment and Public Works.

EC-9573. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Northern Engraving Environmental Cooperative Agreement" (FRL#7632-2) received on September 29, 2004; to the Committee on Environment and Public Works.

EC-9574. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production" (FRL#7812-8) received on September 29, 2004; to the Committee on Environment and Public Works.

EC–9575. A communication from the Deputy Associate Administrator, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Nebraska: Final Authorization of State Hazardous Waste Management Program Revision" (FRL#7823-8) received on September 29, 2004; to the Committee on Environment and Public Works.

EC–9576. A communication from the Assistant Secretary for Fish and wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Migratory Bird Hunting: Migratory Bird Hunting Regulations on Certain Federal Indian Reservations and Ceded Lands for the 2004-05 Late Season" (RIN1018-AT53) received on September 29, 2004; to the Committee on Environment and Public Works.

EC–9577. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Modification of Exemption from Tax for Small Property and Casualty Insurance Companies" (Notice 2004-64) received on September 29, 2004; to the Committee on Finance.

EC–9578. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Certain Reinsurance Arrangements" (Notice 2004-65) received on September 29, 2004; to the Committee on Finance.

EC–9579. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Australia; to the Committee on Foreign Relations.

EC–9580. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, a report that the termination of assistance and the application of sanctions to Libya would have a serious adverse effect on vital United States interests; to the Committee on Foreign Relations.

EC–9581. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Canada; to the Committee on Foreign Relations.

EC–9582. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $100,000,000 or more to Germany; to the Committee on Foreign Relations.

EC–9583. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to the Arms Export Control Act, the report of a proposed license for the export of defense articles or defense services sold commercially under a contract in the amount of $50,000,000 or more to India; to the Committee on Foreign Relations.

EC–9584. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the prohibition on military assistance provided for in the Act for the Republic of the Congo; to the Committee on Foreign Relations.

EC-9585. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, the report of the texts and background statements of international agreements, other than treaties; to the Committee on Foreign Relations.

EC-9586. A communication from the Chief Executive Officer, Corporation for National and Community Service, transmitting, pursuant to law, the report of a vacancy and designation of acting officer for the position of Chief Financial Officer, Corporation for National and Community Service, received on September 29, 2004; to the Committee on Governmental Affairs.

EC-9587. A communication from the Auditor of the District of Columbia, transmitting, pursuant to law, a report entitled "Comparative Analysis of Actual Cash Collections to Revised Revenue Estimates Through the 3rd Quarter of Fiscal Year 2004"; to the Committee on Governmental Affairs.

EC-9588. A communication from the Assistant Secretary for Policy, Management, and Budget, Department of the Interior, transmitting, pursuant to law, a report relative to grants streamlining and standardization; to the Committee on Governmental Affairs.

EC-9589. A communication from the Administrator, Office of Workforce Security, Employment and Training Administration, transmitting, pursuant to law, the report of a rule entitled "Unemployment Insurance Program Letter: SUTA Dumping—Amendments to Federal Law Affecting the Federal-State Unemployment Compensation Program" (UIPL30-04) received on September 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-9590. A communication from the Director, Corporate Policy and Research Department, Pension Benefit Guaranty Corporation, transmitting, pursuant to law, the report of a rule entitled "Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits" received on September 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-9591. A communication from the Assistant Secretary, Employee Benefits Security Administration, Department of Labor, transmitting, pursuant to law, the report of a rule entitled "Fiduciary Responsibility Under the Employee Retirement Income Security Act of 1974; Automatic Rollover Safe Harbor" (RIN1210-AA92) received on September 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-9592. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Change of Names and Addresses; Technical Amendment" (Doc. No. 2004N-0287) received on September 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-9593. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting, pursuant to law, the report of a rule entitled "Change of Names and Addresses; Technical Amendment; Correction" (Doc. No. 2004N-0287) received on September 29, 2004; to the Committee on Health, Education, Labor, and Pensions.

EC-9594. A communication from the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, transmitting, pursuant to law, the report of a rule entitled "Exemption from Import/Export Requirements for Personal Medical Use" (RIN1117-AA56) received on September 9, 2004; to the Committee on the Judiciary.

EC-9595. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Presidential Inaugural Committee Reporting and Prohibition on Accepting Donations from Foreign Nationals" received on September 29, 2004; to the Committee on Rules and Administration.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Ms. COLLINS, from the Committee on Governmental Affairs, without amendment:

S. 2688. A bill to provide for a report of Federal entities without annually audited financial statements (Rept. No. 108-383).

By Mr. GREGG, from the Committee on Health, Education, Labor, and Pensions, with an amendment in the nature of a substitute:

S. 2686. A bill to amend the Carl D. Perkins Vocational and Technical Education Act of 1998 to improve the Act (Rept. No. 108-384).

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

H.R. 867. A bill for the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan.

S. 115. A bill for the relief of Richi James Lesley.

S. 353. A bill for the relief of Denes and Gyorgyi Fulop.

S. 1042. A bill for the relief of Tchisou Tho.

By Mr. HATCH, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 1635. A bill to amend the Immigration and Nationality Act to ensure the integrity of the L-1 visa for intracompany transferees.

By Mr. HATCH, from the Committee on the Judiciary, without amendment:

S. 1784. A bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine.

S. 2012. A bill for the relief of Luay Lufti Hadad.

S. 2044. A bill for the relief of Alemseghed Mussie Tesfamical.

S. 2089. A bill to allow aliens who are eligible for diversity visas to be eligible beyond the fiscal year in which they applied.

S. 2314. A bill for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan.

S. 2331. A bill for the relief of Fereshteh Sani.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. HATCH for the Committee on the Judiciary.

Susan Bieke Neilson, of Michigan, to be United States Circuit Judge for the Sixth Circuit.

Christopher A. Boyko, of Ohio, to be United States District Judge for the Northern District of Ohio.

Beryl A. Howell, of the District of Columbia, to be a Member of the United States Sentencing Commission for the remainder of the term expiring October 31, 2005.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. MIKULSKI (for herself and Mr. KENNEDY):

S. 2885. A bill to build capacity at community colleges in order to meet increased demand for community college education while maintaining the affordable tuition rates and the open-door policy that are the hallmarks of the community college system; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BOND:

S. 2886. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain hazard mitigation assistance; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID (for himself, Mr. LEAHY, and Mr. LAUTENBERG):

S. Res. 446. A resolution honoring former President James Earl (Jimmy) Carter on the occasion of his 80th birthday; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1784

At the request of Mrs. FEINSTEIN, the name of the Senator from Missouri (Mr. TALENT) was added as a cosponsor of S. 1784, a bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine.

S. 2395

At the request of Mr. CONRAD, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 2425

At the request of Mr. BYRD, the names of the Senator from North Dakota (Mr. DORGAN) and the Senator from Arkansas (Mr. PRYOR) were added as cosponsors of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2553

At the request of Mr. DODD, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2553, a bill to amend title XVIII of the Social Security Act to provide for coverage of screening ultrasound for abdominal aortic aneurysms under part B of the medicare program.

S. 2568

At the request of Mr. BIDEN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2587

At the request of Ms. STABENOW, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2587, a bill to amend title XVIII of the Social Security Act to adjust the amount of payment under the physician fee schedule for drug administration services furnished to medicare beneficiaries.

S. 2613

At the request of Mr. HAGEL, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 2613, a bill to amend the Public Health Service Act to establish a scholarship and loan repayment program for public health preparedness workforce development to eliminate critical public health preparedness workforce shortages in Federal, State, and local public health agencies.

S. 2718

At the request of Mr. DEWINE, the name of the Senator from Oregon (Mr. WYDEN) was added as a cosponsor of S. 2718, a bill to provide for programs and activities with respect to the prevention of underage drinking.

S. 2744

At the request of Mr. SUNUNU, the names of the Senator from Montana (Mr. BAUCUS), the Senator from Indiana (Mr. BAYH), the Senator from Illinois (Mr. DURBIN), the Senator from Nevada (Mr. ENSIGN) and the Senator from California (Mrs. FEINSTEIN) were added as cosponsors of S. 2744, a bill to authorize the minting and issuance of a Presidential $1 coin series.

S. 2759

At the request of Mr. ROCKEFELLER, the names of the Senator from Nebraska (Mr. HAGEL) and the Senator from South Dakota (Mr. JOHNSON) were added as cosponsors of S. 2759, a bill to amend title XXI of the Social Security Act to modify the rules relating to the availability and method of redistribution of unexpended SCHIP allotments, and for other purposes.

S. 2831

At the request of Mr. SMITH, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2831, a bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to clarify that federally recognized Indian tribal governments are to be regulated under the same government employer rules and procedures that apply to Federal, State, and other local government employers with regard to the establishment and maintenance of employee benefit plans.

S. 2845

At the request of Ms. COLLINS, the name of the Senator from Arizona (Mr. MCCAIN) was added as a cosponsor of S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

S. 2856

At the request of Mr. LEAHY, his name was added as a cosponsor of S. 2856, a bill to limit the transfer of certain Commodity Credit Corporation funds between conservation programs for technical assistance for the programs.

S. CON. RES. 78

At the request of Mr. LIEBERMAN, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. Con. Res. 78, a concurrent resolution condemning the repression of the Iranian Baha'i community and calling for the emancipation of Iranian Baha'is.

S. CON. RES. 136

At the request of Mr. CONRAD, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Georgia (Mr. MILLER), the Senator from Oregon (Mr. WYDEN), the Senator from Oklahoma (Mr. NICKLES), the Senator from Michigan (Ms. STABENOW), the Senator from Louisiana (Mr. BREAUX) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 420

At the request of Mr. PRYOR, the names of the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. Res. 420, a resolution recommending expenditures for an appropriate visitors center at Little Rock Central High School National Historic Site to commemorate the desegregation of Little Rock Central High School.

S. RES. 430

At the request of Mr. HATCH, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. Res. 430, a resolution designating November 2004 as "National Runaway Prevention Month".

AMENDMENT NO. 3845

At the request of Mr. BYRD, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of amendment No. 3845 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3890

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3890 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3891

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3891 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3893

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3893 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3908

At the request of Mrs. CLINTON, her name was added as a cosponsor of amendment No. 3908 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. MIKULSKI (for herself and Mr. KENNEDY):

S. 2885. A bill to build capacity at community colleges in order to meet increased demand for community college education while maintaining the affordable tuition rates and the open-door policy that are the hallmarks of the community college system; to the Committee on Health, Education, Labor, and Pensions.

Ms. MIKULSKI. Mr. President, I rise to introduce the "Community College Opportunity Act." Community colleges are the gateway to the future for first time students looking for an affordable college education, and for mid-career students looking to get ahead in the workplace. As college tuition at four-year colleges continues to rise, more and more students are turning to community colleges for the education they need to prepare for 21st century jobs.

Yet soon we may not be able to count on our community colleges being available to everyone. The combination of budget cuts and increased enrollments is forcing community colleges to make tough choices between raising tuition and turning students away. This important legislation will help keep the doors of our community colleges open to increasing numbers of students without sending tuition through the roof. My bill authorizes $100 million for a competitive grant program to help community colleges serve more students. Community colleges could apply for a grant to help with the cost of constructing or renovating facilities, hiring faculty, purchasing new computers and scientific equipment, and investing in creative ways of addressing overcrowding—like distance learning.

Why is this important? Community colleges are one of the great American social inventions. I used to teach night school at Baltimore City Community College. I know firsthand the vital role they play in our communities. Their low cost, convenient location, and open door admissions policy have made them the key to the American dream for so many. Many generations of immigrants pursued the American dream by working all day and going to school at night. After World War II, the GI bill gave returning veterans a chance to get ahead by going to local junior colleges.

Now, more than ever, it's important to invest in community colleges. In the next ten years, 40 percent of new jobs will require college education. At the same time, college tuition is on the rise. Tuition at the University of Maryland is up by as much as 21 percent. That's causing many students to take a second look at community colleges because they're more affordable. They're also leaders in training workers for 21st century jobs from nurses to computer techies, and even lab techs for new industries, like biotechnology. They're playing a key role in addressing shortages in nursing and teaching. In Maryland, community colleges train 55 percent of new nurses.

Yet our community colleges are bursting at the seams. They're growing faster than 4-year colleges. Enrollment at Maryland's community colleges is expected to grow 30 percent in the next 10 years, while 4-year colleges will grow by 15 percent. Community colleges are holding classes from 7 in the morning to 10 at night, on weekends, and over the internet. In my own state of Maryland, they are starting to turn students away because there isn't enough room. As many as 2000 students were shut out of Montgomery College last year because they couldn't get into the classes they needed or they couldn't afford the cost. Last fall, Prince George's Community College had to turn away 630 prospective nursing students and 1,000 prospective education students.

It's great that so many Americans are going to community colleges. For so many Americans, community colleges are the only way to get the education they need to be competitive for 21st century jobs. Yet the rapid increase of students is threatening the very mission of community colleges. If we want a world-class workforce, we need to invest in higher education. We need to make sure we have always institutions available to everyone who wants a college degree or just a couple of courses. That means investing in our community colleges, so they can continue to be affordable, accessible, and successful at training the next generation of nurses, teachers, and techies.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows.

S. 2885

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMMUNITY COLLEGE CAPACITY-BUILDING GRANT PROGRAM.

Title III of the Higher Education Act of 1965 (20 U.S.C. 1051 et seq.) is amended—

(1) by redesignating part F as part G; and

(2) by inserting after part E the following:

"PART F—COMMUNITY COLLEGES

"SEC. 371. COMMUNITY COLLEGE CAPACITY-BUILDING GRANT PROGRAM.

"(a) PROGRAM AUTHORIZED.—

"(1) IN GENERAL.—From amounts appropriated under section 399(a)(6) for a fiscal year, the Secretary shall award grants to eligible entities, on a competitive basis, for the purpose of building capacity at community colleges to meet the increased demand for community colleges while maintaining the affordable tuition rates and the open-door policy that are the hallmarks of the community college system.

"(2) DURATION.—Grants awarded under this section shall be for a period not to exceed 3 years.

"(b) DEFINITIONS.—In this section:

"(1) COMMUNITY COLLEGE.—The term 'community college' means a public institution of higher education (as defined in section 101(a)) whose highest degree awarded is predominantly the associate degree.

"(2) ELIGIBLE ENTITY.—The term 'eligible entity' means a community college, or a consortium of 2 or more community colleges, that demonstrates capacity challenges at not less than 1 of the community colleges in the eligible entity, such as—

"(A) an identified workforce shortage in the community served by the community college that will be addressed by increased enrollment at the community college;

"(B) a wait list for a class or for a degree or a certificate program;

"(C) a faculty shortage;

"(D) a significant enrollment growth;

"(E) a significant projected enrollment growth;

"(F) an increase in the student-faculty ratio;

"(G) a shortage of laboratory space or equipment;

"(H) a shortage of computer equipment and technology;

"(I) out-of-date computer equipment and technology;

"(J) a decrease in State or county funding or a related budget shortfall; or

"(K) another demonstrated capacity shortfall.

"(c) APPLICATION.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such manner, and accompanied by such information as the Secretary may reasonably require by regulation.

"(d) AWARD BASIS.—In awarding grants under subsection (a), the Secretary shall take into consideration—

"(1) the relative need for assistance under this section of the community colleges;

"(2) the probable impact and overall quality of the proposed activities on the capacity problem of the community college;

"(3) providing an equitable geographic distribution of grant funds under this section throughout the United States and among urban, suburban, and rural areas of the United States; and

"(4) providing an equitable distribution among small, medium, and large community colleges.

"(e) USE OF FUNDS.—Grant funds provided under subsection (a) may be used for activities that expand community college capacity, including—

"(1) the construction, maintenance, renovation, and improvement of classroom, library, laboratory, and other instructional facilities;

"(2) the purchase, rental, or lease of scientific or laboratory equipment for educational purposes, including instructional research purposes;

"(3) the development, improvement, or expansion of technology;

"(4) preparation and professional development of faculty;

"(5) recruitment, hiring, and retention of faculty;

"(6) curriculum development and academic instruction;

"(7) the purchase of library books, periodicals, and other educational materials, including telecommunications program material;

"(8) the joint use of facilities, such as laboratories and libraries; or

"(9) the development of partnerships with local businesses to increase community college capacity.

"SEC. 372. APPLICABILITY.

"The provisions of part G shall not apply to this part.".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

Section 399(a) of the Higher Education Act of 1965 (20 U.S.C. 1068h(a)) is amended by adding at the end the following:

"(6) PART F.—There are authorized to be appropriated to carry out part F, $100,000,000 for fiscal year 2005, and such sums as may be necessary for each of the 4 succeeding fiscal years.".

By Mr. BOND:

S. 2886. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain hazard mitigation assistance; to the Committee on Finance.

Mr. BOND. Mr. President, I rise today to introduce legislation concerning a critical issue this year—disaster assistance. This has been one of the worst hurricane seasons that Florida has seen in recent years. The Sunshine State has been battered by four hurricanes in the past six weeks. I extend my deepest sympathies to the residents of Florida where some have had to evacuate more than three times during this hurricane season only to return home and find their homes leveled, their crops uprooted, their neighborhoods flooded, and their dreams shattered.

In my home State of Missouri, we are no strangers to natural disasters. Located smack in the middle of Tornado Alley, Missouri has been hit by some of the largest storms in U.S. in history. In May of 2003, a string of tornadoes ripped through the western part of the State causing major damage and devastation.

With two rivers—the Mississippi and the Missouri—we have also seen our fair share of flooding through the years. I will never forget when the Mississippi River breached its banks in 1993—one of the most devastating floods in U.S. history. Of the nine Midwestern States affected, the State of Missouri was the hardest hit and State officials estimate that damages totaled $3 billion.

While both the Mississippi and Missouri Rivers have made the State of Missouri susceptible to riverine flooding, the State is also susceptible to flash flooding. A case in point is the city of Union, located about 45 minutes from St. Louis, which suffered tremendous damage from a severe flash flood in May of 2000.

I mention the city of Union as a specific example of the benefits that a disaster mitigation program can hold in flash-flood situations. After the flood, the City of Union applied to the State of Missouri Emergency Management Agency to seek help in a demolition and acquisition project. With the mitigation grant money, 17 properties were acquired in residential areas with substantial damage. These properties are now dead restricted for "open space," which will prevent future development and the potential for flash flood related deaths in that area because many of the homes and people will no longer be in harm's way. This is an excellent example of the value of disaster and mitigation money invested by the federal, state and local governments.

Over the years, the State of Missouri has worked with the Federal Emergency Management Agency (FEMA) to build structures that prevent flooding and other damage from occurring when natural disasters strike. Time and time again, FEMA has come to the rescue by establishing funding for disaster relief and mitigation activities within the State of Missouri and in other States across the country.

Having served as the Chairman of the Senate Appropriations Subcommittee on VA, HUD, and Independent Agencies, which until recently oversaw FEMA, I know first hand the value of the agency's disaster mitigation grant programs—the Hazards Mitigation Grant Program (HGMP), the Pre-Disaster Mitigation program (PDM), and the Flood Mitigation Assistance (FMA) program. Designed to manage future emergencies, these programs have been essential to countless communities, and without them, thousands of lives would be in jeopardy.

Recently, some very disturbing news was brought to my attention. According to a June 2004 legal memorandum issued by the Internal Revenue Service (IRS), FEMA mitigation grants may be subject to income taxation. While some may argue that this is merely the IRS's interpretation of the statute, it is clearly the position the IRS intends to take against American taxpayers whose only recourse will be to fight the agency in court.

I must say that I am absolutely stunned by this determination by the IRS!! How in the world could the IRS possibly think that Congress intended to tax these types of grants to prevent natural disasters, especially when we went out of our way to ensure that disaster-relief payments to individuals recovering from a hurricane, flood, tornado or other natural disaster are not subject to income taxes?

Today, I am offering a bill that will stop the IRS in its tracks and prevent the taxation of disaster mitigation grants. This language will ensure that any Federal grants, as well as state grants indirectly associated with this program, will not be deemed to be income by the IRS's tortured reasoning. This bill will be effective as of the beginning of this year to ensure that any grants currently out there, especially in light of the current hurricanes that have happened, are not subject to tax. In addition, there should be no inference by this legislation that Congress intended such grants to be taxable prior to the effective date of this legislation.

Why is this important? Why am I out here today? Because the Missouri and Mississippi Rivers rise, because tornadoes will ravage through the state once again, and because flash flooding can decimate an entire community. The last thing Americans who are working to prevent such potential destruction need is for government-grant funding to be subject to tax. My bill ensures that such taxes do not see the light of day.

I urge my colleagues to support this important legislation, and I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD as follows:

S. 2886

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXCLUSION FROM GROSS INCOME FOR CERTAIN DISASTER MITIGATION PAYMENTS.

(a) IN GENERAL.—Section 139 of the Internal Revenue Code of 1986 (relating to disaster relief payments) is amended by adding at the end the following new subsection:

"(g) CERTAIN DISASTER MITIGATION PAYMENTS.—Gross income shall not include the value of any amount received directly or indirectly as payment or benefit by the owner of any property for hazard mitigation with respect to the property pursuant to the Robert T. Stafford Disaster Relief and Emergency Assistance Act or the National Flood Insurance Act."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending on or after December 31, 2004.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 446—HONORING FORMER PRESIDENT JAMES EARL (JIMMY) CARTER ON THE OCCASION OF HIS 80TH BIRTHDAY

Mr. REID (for himself, Mr. LEAHY, and Mr. LAUTENBERG) submitted the following resolution; which was considered and agreed to:

S. RES. 446

Whereas Jimmy Carter was born in Plains, Georgia, on October 1, 1924;

Whereas Jimmy Carter attended Georgia Southwestern College and the Georgia Institute of Technology, and received a B.S. degree from the United States Naval Academy in 1946;

Whereas Jimmy Carter served honorably as a submariner in the United States Navy in both the Atlantic and Pacific fleets, working under Admiral Hyman Rickover in the development of the nuclear submarine program;

Whereas Jimmy Carter continued his commitment to public service, serving as Georgia State Senator and Governor of Georgia;

Whereas Jimmy Carter was elected the 39th President of the United States on November 2, 1976;

Whereas Jimmy Carter created both the Departments of Education and Energy and implemented major education policies and a comprehensive national energy program;

Whereas Jimmy Carter oversaw deregulation of the airline, energy, and banking industries;

Whereas Jimmy Carter promoted human rights as a tenet of American foreign policy and pressed nations to uphold basic human rights;

Whereas Jimmy Carter furthered diplomatic relations with the People's Republic of China;

Whereas Jimmy Carter was instrumental in the negotiation and signing of the Camp David Accord between Israel and Egypt, signaling a new era of peace between those 2 countries;

Whereas Jimmy Carter has continued his service to his country since leaving the Presidency by championing safe and affordable housing, human rights, and disease prevention;

Whereas Jimmy Carter remains actively committed to promoting peace and democracy abroad, supervising elections in fledgling democracies, and helping to defuse international crises in North Korea, Somalia, and Haiti; "his decades of untiring effort to find peaceful solutions to international conflicts, to advance democracy and human rights, and to promote economic and social development"; and

Now, therefore, be it

Resolved, That the Senate honors former President Jimmy Carter on the occasion of his 80th birthday and extends best wishes to him and his family.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3950. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3951. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3724 proposed by Mr. KYL (for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3952. Mr. LIEBERMAN (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. LIEBERMAN to the bill S. 2845, supra.

SA 3953. Mr. GRAHAM, of Florida submitted an amendment intended to be proposed to amendment SA 3941 submitted by Mr. GRAHAM of Florida and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3954. Ms. COLLINS (for Mr. LOTT) submitted an amendment intended to be proposed by Ms. COLLINS to the bill H.R. 5122, to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms.

SA 3955. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table.

SA. 3956. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3950. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to amendment SA 3705 proposed by Ms. COLLINS (for herself, Mr. CARPER, and Mr. LIEBERMAN) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 5, after line 2, insert the following:

(7) Grant programs under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121–5206.).

On page 10, line 17, strike the semicolon and all that follows through page 11, line 7, and insert a period.

On page 12, line 5, strike "(5)" and insert "(6)".

On page 12, lines 17 through 20, strike "technical assistance provided by any Federal agency to States and local governments to conduct threat analyses and vulnerability assessments" and insert "technical assistance provided by any Federal agency to States and local governments regarding homeland security matters".

On page 18, line 9, insert "secure" after "for".

On page 23, line 18, insert "on the basis of terrorist threat" after "grant".

On page 25, line 24, insert "on the basis of terrorist threat" after "distribute".

SA 3951. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3724 proposed by Mr. KYL (for himself, Mr. CORNYN, Mr. CHAMBLISS, and Mr. NICKLES) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end of the amendment, add the following:

DIVISION —ADVANCING JUSTICE THROUGH DNA TECHNOLOGY

SEC. 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Division may be cited as the "Advancing Justice Through DNA Technology Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Division is as follows:

Sec. 1. Short title; table of contents.

TITLE I—DEBBIE SMITH ACT OF 2004

Sec. 101. Short title.
Sec. 102. Debbie Smith DNA Backlog Grant Program.
Sec. 103. Expansion of Combined DNA Index System.
Sec. 104. Tolling of statute of limitations.
Sec. 105. Legal assistance for victims of violence.
Sec. 106. Ensuring private laboratory assistance in eliminating DNA backlog.

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2004

Sec. 201. Short title.
Sec. 202. Ensuring public crime laboratory compliance with Federal standards.
Sec. 203. DNA training and education for law enforcement, correctional personnel, and court officers.
Sec. 204. Sexual assault forensic exam program grants.
Sec. 205. DNA research and development.
Sec. 206. National Forensic Science Commission.
Sec. 207. FBI DNA programs.
Sec. 208. DNA identification of missing persons.
Sec. 209. Enhanced criminal penalties for unauthorized disclosure or use of DNA information.
Sec. 210. Tribal coalition grants.
Sec. 211. Expansion of Paul Coverdell Forensic Science Improvement Grant Program.
Sec. 212. Report to Congress.

TITLE III—INNOCENCE PROTECTION ACT OF 2004

Sec. 301. Short title.

Subtitle A—Exonerating the Innocent Through DNA Testing

Sec. 311. Federal post-conviction DNA testing.
Sec. 312. Kirk Bloodsworth Post-Conviction DNA Testing Grant Program.
Sec. 313. Incentive grants to States to ensure consideration of claims of actual innocence.

Subtitle B—Improving the Quality of Representation in State Capital Cases

Sec. 321. Capital representation improvement grants.
Sec. 322. Capital prosecution improvement grants.
Sec. 323. Applications.
Sec. 324. State reports.
Sec. 325. Evaluations by Inspector General and administrative remedies.
Sec. 326. Authorization of appropriations.

Subtitle C—Compensation for the Wrongfully Convicted

Sec. 331. Increased compensation in Federal cases for the wrongfully convicted.
Sec. 332. Sense of Congress regarding compensation in State death penalty cases.

TITLE I—DEBBIE SMITH ACT OF 2004

SEC. 101. SHORT TITLE.

This title may be cited as the "Debbie Smith Act of 2004".

SEC. 102. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by amending the heading to read as follows:

"SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.";

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "or units of local government" after "eligible States"; and

(ii) by inserting "or unit of local government" after "State";

(B) in paragraph (2), by inserting before the period at the end the following: ", including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect"; and

(C) in paragraph (3), by striking "within the State";

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "or unit of local government" after "State" both places that term appears; and

(ii) by inserting ", as required by the Attorney General" after "application shall";

(B) in paragraph (1), by inserting "or unit of local government" after "State";

(C) in paragraph (3), by inserting "or unit of local government" after "State" the first place that term appears;

(D) in paragraph (4)—

(i) by inserting "or unit of local government" after "State"; and

(ii) by striking "and" at the end;

(E) in paragraph (5)—

(i) by inserting "or unit of local government" after "State"; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

"(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "The plan" and inserting "A plan pursuant to subsection (b)(1)";

(ii) in subparagraph (A), by striking "within the State"; and

(iii) in subparagraph (B), by striking "within the State"; and

(B) in paragraph (2)(A), by inserting "and units of local government" after "States";

(5) in subsection (e)—

(A) in paragraph (1), by inserting "or local government" after "State" both places that term appears; and

(B) in paragraph (2), by inserting "or unit of local government" after "State";

(6) in subsection (f), in the matter preceding paragraph (1), by inserting "or unit of local government" after "State";

(7) in subsection (g)—

(A) in paragraph (1), by inserting "or unit of local government" after "State"; and

(B) in paragraph (2), by inserting "or units of local government" after "States"; and

(8) in subsection (h), by inserting "or unit of local government" after "State" both places that term appears.

(b) Reauthorization and Expansion of Program.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting "(1) or" before "(2)"; and

(B) by inserting at the end the following:

"(4) To collect DNA samples specified in paragraph (1).

"(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.";

(2) in subsection (b), as amended by this section, by inserting at the end the following:

"(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4).";

(3) by amending subsection (c) to read as follows:

"(c) Formula for Distribution of Grants.—

"(1) In general.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

"(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

"(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

"(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

"(ii) the population in the jurisdiction; and

"(iii) the number of part 1 violent crimes in the jurisdiction.

"(2) Minimum amount.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

"(3) Limitation.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

"(A) For fiscal year 2005, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(B) For fiscal year 2006, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(C) For fiscal year 2007, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(D) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(E) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).";

(4) in subsection (g)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.";

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

"(1) $151,000,000 for fiscal year 2005;

"(2) $151,000,000 for fiscal year 2006;

"(3) $151,000,000 for fiscal year 2007;

"(4) $151,000,000 for fiscal year 2008; and

"(5) $151,000,000 for fiscal year 2009."; and

(6) by adding at the end the following:

"(k) Use of Funds for Accreditation and Audits.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

"(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

"(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

"(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

"(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

"(C) to support future capacity building efforts; and

"(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

"(l) External Audits and Remedial Efforts.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.".

SEC. 103. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) Inclusion of All DNA Samples From States.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking "of persons convicted of crimes;" and inserting the following: "of—

"(A) persons convicted of crimes;

"(B) persons who have been charged in an indictment or information with a crime; and

"(C) other persons whose DNA samples are collected under applicable legal authorities, provided that DNA profiles from arrestees who have not been charged in an indictment or information with a crime, and DNA samples that are voluntarily submitted solely for elimination purposes shall not be included in the Combined DNA Index System;"; and

(2) in subsection (d)(2)—

(A) by striking "if the responsible agency" and inserting "if—

"(i) the responsible agency";

(B) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(ii) the person has not been convicted of an offense on the basis of which that analysis was or could have been included in the index, and all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal.".

(b) Felons Convicted of Federal Crimes.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

"(d) Qualifying Federal Offenses.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

"(1) Any felony.

"(2) Any offense under chapter 109A of title 18, United States Code.

"(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

"(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).".

(c) Military Offenses.—Section 1565(d) of title 10, United States Code, is amended to read as follows:

"(d) Qualifying Military Offenses.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

"(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

"(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d))).".

(d) Keyboard Searches.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(e) Authority for Keyboard Searches.—

"(1) In general.—The Director shall ensure that any person who is authorized to access the index described in subsection (a) for purposes of including information on DNA identification records or DNA analyses in that index may also access that index for purposes of carrying out a one-time keyboard search on information obtained from any DNA sample lawfully collected for a criminal justice purpose except for a DNA sample voluntarily submitted solely for elimination purposes.

"(2) Definition.—For purposes of paragraph (1), the term 'keyboard search' means a search under which information obtained from a DNA sample is compared with information in the index without resulting in the information obtained from a DNA sample being included in the index.

"(3) NO PREEMPTION.—This subsection shall not be construed to preempt State law.".

SEC. 104. TOLLING OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3297. Cases involving DNA evidence

"In a case in which DNA testing implicates an identified person in the commission of a felony, except for a felony offense under chapter 109A, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"3297. Cases involving DNA evidence.".

(c) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section if the applicable limitation period has not yet expired.

SEC. 105. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg–6) is amended—

(1) in subsection (a), by inserting "dating violence," after "domestic violence,";

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

"(1) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

"(A) the length of the relationship;

"(B) the type of relationship; and

"(C) the frequency of interaction between the persons involved in the relationship."; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting "dating violence," after "domestic violence,";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting ", dating violence," after "between domestic violence"; and

(ii) by inserting "dating violence," after "victims of domestic violence,";

(B) in paragraph (2), by inserting "dating violence," after "domestic violence,"; and

(C) in paragraph (3), by inserting "dating violence," after "domestic violence,";

(4) in subsection (d)—

(A) in paragraph (1), by inserting ", dating violence," after "domestic violence";

(B) in paragraph (2), by inserting ", dating violence," after "domestic violence";

(C) in paragraph (3), by inserting ", dating violence," after "domestic violence"; and

(D) in paragraph (4), by inserting "dating violence," after "domestic violence,";

(5) in subsection (e), by inserting "dating violence," after "domestic violence,"; and

(6) in subsection (f)(2)(A), by inserting "dating violence," after "domestic violence,".

SEC. 106. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(d)(3)) is amended to read as follows:

"(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

"(A) IN GENERAL.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services, even if the laboratory makes a reasonable profit for the services.

"(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated on a nonprofit or for-profit basis, by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

"(C) PAYMENTS.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).".

TITLE II—DNA SEXUAL ASSAULT JUSTICE ACT OF 2004

SEC. 201. SHORT TITLE.

This title may be cited as the "DNA Sexual Assault Justice Act of 2004".

SEC. 202. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)) is amended to read as follows:

"(2) prepared by laboratories that—

"(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2004, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

"(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and".

SEC. 203. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) IN GENERAL.—The Attorney General shall make grants to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $12,500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 204. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) ELIGIBLE ENTITY.—For purposes of this section, the term "eligible entity" includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs;

(D) State sexual assault coalitions;

(E) medical personnel, including doctors, medical examiners, coroners, and nurses, involved in treating victims of sexual assault; and

(F) victim service providers involved in treating victims of sexual assault.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 205. DNA RESEARCH AND DEVELOPMENT.

(a) IMPROVING DNA TECHNOLOGY.—The Attorney General shall make grants for research and development to improve forensic DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) DEMONSTRATION PROJECTS.—The Attorney General shall make grants to appropriate entities under which research is carried out through demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 206. NATIONAL FORENSIC SCIENCE COMMISSION.

(a) APPOINTMENT.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the "Commission"), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under subsection (b).

(b) RESPONSIBILITIES.—The Commission shall—

(1) assess the present and future resource needs of the forensic science community;

(2) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(3) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(4) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(5) disseminate, through the National Institute of Justice, best practices concerning

the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(6) examine additional issues pertaining to forensic science as requested by the Attorney General;

(7) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(8) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in paragraph (7) to ensure—

(A) the appropriate use and dissemination of DNA information;

(B) the accuracy, security, and confidentiality of DNA information;

(C) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(D) that any other necessary measures are taken to protect privacy; and

(9) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in paragraphs (1) through (8).

(c) PERSONNEL; PROCEDURES.—The Attorney General shall—

(1) designate the Chair of the Commission from among its members;

(2) designate any necessary staff to assist in carrying out the functions of the Commission; and

(3) establish procedures and guidelines for the operations of the Commission.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 207. FBI DNA PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of fiscal years 2005 through 2009 to carry out the DNA programs and activities described under subsection (b).

(b) PROGRAMS AND ACTIVITIES.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 208. DNA IDENTIFICATION OF MISSING PERSONS.

(a) IN GENERAL.—The Attorney General shall make grants to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 209. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

"(c) CRIMINAL PENALTY.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $100,000. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.".

SEC. 210. TRIBAL COALITION GRANTS.

(a) IN GENERAL.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

"(d) TRIBAL COALITION GRANTS.—

"(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

"(A) increasing awareness of domestic violence and sexual assault against American Indian and Alaska Native women;

"(B) enhancing the response to violence against American Indian and Alaska Native women at the tribal, Federal, and State levels; and

"(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to American Indian women victimized by domestic and sexual violence.

"(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—

"(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against American Indian and Alaska Native women; and

"(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian and Alaska Native women.

"(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).".

(b) TECHNICAL AMENDMENT.—Effective as of November 2, 2002, and as if included therein as enacted, Public Law 107-273 (116 Stat. 1789) is amended in section 402(2) by striking "sections 2006 through 2011" and inserting "sections 2007 through 2011".

(c) AMOUNTS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 402(2) of Public Law 107-273, as amended by subsection (b)) is amended by amending subsection (b)(4) (42 U.S.C. 3796gg-1(b)(4)) to read as follows:

"(4) 1/54 shall be available for grants under section 2001(d);".

SEC. 211. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) FORENSIC BACKLOG ELIMINATION GRANTS.—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking "shall use the grant to carry out" and inserting "shall use the grant to do any one or more of the following:

"(1) To carry out"; and

(B) by adding at the end the following:

"(2) To eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence.

"(3) To train, assist, and employ forensic laboratory personnel, as needed, to eliminate such a backlog.";

(2) in subsection (b), by striking "under this part" and inserting "for the purpose set forth in subsection (a)(1)"; and

(3) by adding at the end the following:

"(e) BACKLOG DEFINED.—For purposes of this section, a backlog in the analysis of forensic science evidence exists if such evidence—

"(1) has been stored in a laboratory, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility; and

"(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.".

(b) EXTERNAL AUDITS.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.".

(c) THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(24)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(G) $20,000,000 for fiscal year 2007;

"(H) $20,000,000 for fiscal year 2008; and

"(I) $20,000,000 for fiscal year 2009.".

(d) TECHNICAL AMENDMENT.—Section 1001(a) of such Act, as amended by subsection (c), is further amended by realigning paragraphs (24) and (25) so as to be flush with the left margin.

SEC. 212. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this Division and the amendments made by this Division.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as "CODIS");

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this Division are carried out;

(3) the distribution of grant amounts under this Division among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and

other personnel authorized under sections 203 and 204;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA research and development programs to improve forensic DNA technology, and implement demonstration projects under section 205;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 206;

(7) the use of funds by the Federal Bureau of Investigation under section 207;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 208;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under the amendments made by section 211;

(10) State compliance with the requirements set forth in section 313; and

(11) any other matters considered relevant by the Attorney General.

TITLE III—INNOCENCE PROTECTION ACT OF 2004

SEC. 301. SHORT TITLE.

This title may be cited as the "Innocence Protection Act of 2004".

Subtitle A—Exonerating the Innocent Through DNA Testing

SEC. 311. FEDERAL POST-CONVICTION DNA TESTING.

(a) Federal Criminal Procedure.—

(1) In general.—Part II of title 18, United States Code, is amended by inserting after chapter 228 the following:

"CHAPTER 228A—POST-CONVICTION DNA TESTING

"Sec.
"3600. DNA testing.
"3600A. Preservation of biological evidence.

"§ 3600. DNA testing

"(a) In General.—Upon a written motion by an individual under a sentence of imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the 'applicant'), the court that entered the judgment of conviction shall order DNA testing of specific evidence if—

"(1) the applicant asserts, under penalty of perjury, that the applicant is actually innocent of—

"(A) the Federal offense for which the applicant is under a sentence of imprisonment or death; or

"(B) another Federal or State offense, if—

"(i)(I) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(c) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

"(II) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and

"(ii) in the case of a State offense—

"(I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and

"(II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense;

"(2) the specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

"(3) the specific evidence to be tested—

"(A) was not previously subjected to DNA testing and the applicant did not—

"(i) knowingly and voluntarily waive the right to request DNA testing of that evidence in a court proceeding after the date of enactment of the Innocence Protection Act of 2004; or

"(ii) knowingly fail to request DNA testing of that evidence in a prior motion filed under this section; or

"(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing;

"(4) the specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing;

"(5) the proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices;

"(6) the applicant identifies a theory of defense that—

"(A) is not inconsistent with an affirmative defense presented at trial; and

"(B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

"(7) if the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial;

"(8) the proposed DNA testing of the specific evidence—

"(A) would produce new material evidence to support the theory of defense referenced in paragraph (6); and

"(B) assuming the DNA test result excludes the applicant, would raise a reasonable probability that the applicant did not commit the offense;

"(9) the applicant certifies that the applicant will provide a DNA sample for purposes of comparison; and

"(10) the applicant's motion is filed for the purpose of demonstrating the applicant's actual innocence of the Federal or State offense, and not to delay the execution of the sentence or the administration of justice.

"(b) Notice to the Government; Preservation Order; Appointment of Counsel.—

"(1) Notice.—Upon the receipt of a motion filed under subsection (a), the court shall—

"(A) notify the Government; and

"(B) allow the Government a reasonable time period to respond to the motion.

"(2) Preservation order.—To the extent necessary to carry out proceedings under this section, the court shall direct the Government to preserve the specific evidence relating to a motion under subsection (a).

"(3) Appointment of counsel.—The court may appoint counsel for an indigent applicant under this section in the same manner as in a proceeding under section 3006A(a)(2)(B).

"(c) Testing Procedures.—

"(1) In general.—The court shall direct that any DNA testing ordered under this section be carried out by the Federal Bureau of Investigation.

"(2) Exception.—Notwithstanding paragraph (1), the court may order DNA testing by another qualified laboratory if the court makes all necessary orders to ensure the integrity of the specific evidence and the reliability of the testing process and test results.

"(3) Costs.—The costs of any DNA testing ordered under this section shall be paid—

"(A) by the applicant; or

"(B) in the case of an applicant who is indigent, by the Government.

"(d) Time Limitation in Capital Cases.—In any case in which the applicant is sentenced to death—

"(1) any DNA testing ordered under this section shall be completed not later than 60 days after the date on which the Government responds to the motion filed under subsection (a); and

"(2) not later than 120 days after the date on which the DNA testing ordered under this section is completed, the court shall order any post-testing procedures under subsection (f) or (g), as appropriate.

"(e) Reporting of Test Results.—

"(1) In general.—The results of any DNA testing ordered under this section shall be simultaneously disclosed to the court, the applicant, and the Government.

"(2) NDIS.—The Government shall submit any test results relating to the DNA of the applicant to the National DNA Index System (referred to in this subsection as 'NDIS').

"(3) Retention of DNA sample.—

"(A) Entry into NDIS.—If the DNA test results obtained under this section are inconclusive or show that the applicant was the source of the DNA evidence, the DNA sample of the applicant may be retained in NDIS.

"(B) Match with other offense.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant results in a match between the DNA sample of the applicant and another offense, the Attorney General shall notify the appropriate agency and preserve the DNA sample of the applicant.

"(C) No match.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant does not result in a match between the DNA sample of the applicant and another offense, the Attorney General shall destroy the DNA sample of the applicant and ensure that such information is not retained in NDIS if there is no other legal authority to retain the DNA sample of the applicant in NDIS.

"(f) Post-Testing Procedures; Inconclusive and Inculpatory Results.—

"(1) Inconclusive results.—If DNA test results obtained under this section are inconclusive, the court may order further testing, if appropriate, or may deny the applicant relief.

"(2) Inculpatory results.—If DNA test results obtained under this section show that the applicant was the source of the DNA evidence, the court shall—

"(A) deny the applicant relief; and

"(B) on motion of the Government—

"(i) make a determination whether the applicant's assertion of actual innocence was false, and, if the court makes such a finding, the court may hold the applicant in contempt;

"(ii) assess against the applicant the cost of any DNA testing carried out under this section;

"(iii) forward the finding to the Director of the Bureau of Prisons, who, upon receipt of such a finding, may deny, wholly or in part, the good conduct credit authorized under section 3632 on the basis of that finding;

"(iv) if the applicant is subject to the jurisdiction of the United States Parole Commission, forward the finding to the Commission so that the Commission may deny parole on the basis of that finding; and

"(v) if the DNA test results relate to a State offense, forward the finding to any appropriate State official.

"(3) Sentence.—In any prosecution of an applicant under chapter 79 for false assertions or other conduct in proceedings under this section, the court, upon conviction of the applicant, shall sentence the applicant to a term of imprisonment of not less than 3 years, which shall run consecutively to any other term of imprisonment the applicant is serving.

"(g) Post-Testing Procedures; Motion for New Trial or Resentencing.—

"(1) In general.—Notwithstanding any law that would bar a motion under this paragraph as untimely, if DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, the applicant may file a motion for a new trial or resentencing, as appropriate. The court shall establish a reasonable schedule for the applicant to file such a motion and for the Government to respond to the motion.

"(2) Standard for granting motion for new trial or resentencing.—The court shall grant the motion of the applicant for a new trial or resentencing, as appropriate, if the DNA test results, when considered with all other evidence in the case (regardless of whether such evidence was introduced at trial), establish by a preponderance of the evidence that a new trial would result in an acquittal of—

"(A) in the case of a motion for a new trial, the Federal offense for which the applicant is under a sentence of imprisonment or death; and

"(B) in the case of a motion for resentencing, another Federal or State offense, if—

"(i) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(c) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

"(ii) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or a new sentencing proceeding.

"(h) Other Laws Unaffected.—

"(1) Post-conviction relief.—Nothing in this section shall affect the circumstances under which a person may obtain DNA testing or post-conviction relief under any other law.

"(2) Habeas corpus.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.

"(3) Not a motion under section 2255.—A motion under this section shall not be considered to be a motion under section 2255 for purposes of determining whether the motion or any other motion is a second or successive motion under section 2255.

"§ 3600A. Preservation of biological evidence

"(a) In General.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is under a sentence of imprisonment for such offense.

"(b) Defined Term.—For purposes of this section, the term 'biological evidence' means—

"(1) a sexual assault forensic examination kit; or

"(2) semen, blood, saliva, hair, skin tissue, or other identified biological material.

"(c) Applicability.—Subsection (a) shall not apply if—

"(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

"(2) the defendant knowingly and voluntarily waived the right to request DNA testing of the biological evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2004;

"(3) the defendant is notified after conviction that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice;

"(4)(A) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

"(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing; or

"(5) the biological evidence has already been subjected to DNA testing under section 3600 and the results included the defendant as the source of such evidence.

"(d) Other Preservation Requirement.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

"(e) Regulations.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2004, the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

"(f) Criminal Penalty.—Whoever knowingly and intentionally destroys, alters, or tampers with biological evidence that is required to be preserved under this section with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding, shall be fined under this title, imprisoned for not more than 5 years, or both.

"(g) Habeas Corpus.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.".

(2) Clerical amendment.—The chapter analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 228 the following:

"228A. Post-conviction DNA testing .... 3600".

(b) System for Reporting Motions.—

(1) Establishment.—The Attorney General shall establish a system for reporting and tracking motions filed in accordance with section 3600 of title 18, United States Code.

(2) Operation.—In operating the system established under paragraph (1), the Federal courts shall provide to the Attorney General any requested assistance in operating such a system and in ensuring the accuracy and completeness of information included in that system.

(3) Report.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that contains—

(A) a list of motions filed under section 3600 of title 18, United States Code, as added by this Division;

(B) whether DNA testing was ordered pursuant to such a motion;

(C) whether the applicant obtained relief on the basis of DNA test results; and

(D) whether further proceedings occurred following a granting of relief and the outcome of such proceedings.

(4) Additional information.—The report required to be submitted under paragraph (3) may include any other information the Attorney General determines to be relevant in assessing the operation, utility, or costs of section 3600 of title 18, United States Code, as added by this Division, and any recommendations the Attorney General may have relating to future legislative action concerning that section.

(c) Effective Date; Applicability.—This section and the amendments made by this section shall take effect on the date of enactment of this Act and shall apply with respect to any offense committed, and to any judgment of conviction entered, before, on, or after that date of enactment.

SEC. 312. KIRK BLOODSWORTH POST-CONVICTION DNA TESTING GRANT PROGRAM.

(a) In General.—The Attorney General shall establish the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program to award grants to States to help defray the costs of post-conviction DNA testing.

(b) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

(c) State Defined.—For purposes of this section, the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 313. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

For each of fiscal years 2005 through 2009, all funds appropriated to carry out sections 203, 205, 208, and 312 shall be reserved for grants to eligible entities that—

(1) meet the requirements under section 203, 205, 208, or 312, as appropriate; and

(2) demonstrate that the State in which the eligible entity operates—

(A) provides post-conviction DNA testing of specified evidence—

(i) under a State statute enacted before the date of enactment of this Act (or extended or renewed after such date), to persons convicted after trial and under a sentence of imprisonment or death for a State felony offense, in a manner that ensures a reasonable process for resolving claims of actual innocence; or

(ii) under a State statute enacted after the date of enactment of this Act, or under a State rule, regulation, or practice, to persons under a sentence of imprisonment or death for a State felony offense, in a manner comparable to section 3600(a) of title 18, United States Code (provided that the State statute, rule, regulation, or practice may make post-conviction DNA testing available in cases in which such testing is not required by such section), and if the results of such testing exclude the applicant, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar such application as untimely; and

(B) preserves biological evidence secured in relation to the investigation or prosecution of a State offense—

(i) under a State statute or a State or local rule, regulation, or practice, enacted or adopted before the date of enactment of this Act (or extended or renewed after such date), in a manner that ensures that reasonable measures are taken by all jurisdictions within the State to preserve such evidence; or

(ii) under a State statute or a State or local rule, regulation, or practice, enacted or adopted after the date of enactment of this Act, in a manner comparable to section 3600A of title 18, United States Code, if—

(I) all jurisdictions within the State comply with this requirement; and

(II) such jurisdictions may preserve such evidence for longer than the period of time that such evidence would be required to be preserved under such section 3600A.

Subtitle B—Improving the Quality of Representation in State Capital Cases

SEC. 321. CAPITAL REPRESENTATION IMPROVEMENT GRANTS.

(a) In General.—The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) Defined Term.—In this section, the term "legal representation" means legal counsel and investigative, expert, and other services necessary for competent representation.

(c) Use of Funds.—Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

(d) Effective System.—As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

(1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—

(A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;

(B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital representation; or

(C) pursuant to a statutory procedure enacted before the date of the enactment of this Act under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and

(2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

(D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;

(E) monitor the performance of attorneys who are appointed and their attendance at training programs, and remove from the roster attorneys who fail to deliver effective representation or who fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; and

(F) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

(i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and

(ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

SEC. 322. CAPITAL PROSECUTION IMPROVEMENT GRANTS.

(a) In General.—The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

(b) Use of Funds.—

(1) Permitted uses.—Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

(2) Prohibited use.—Grants awarded under subsection (a) shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

SEC. 323. APPLICATIONS.

(a) In General.—The Attorney General shall establish a process through which a State may apply for a grant under this subtitle.

(b) Application.—

(1) In general.—A State desiring a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

(2) Contents.—Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 321(d)(1)(C), a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this subtitle shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this subtitle; and

(ii) allocated in accordance with section 326(b).

SEC. 324. STATE REPORTS.

(a) In General.—Each State receiving funds under this subtitle shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

(b) Capital Representation Improvement Grants.—With respect to the funds provided under section 321, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in a program described in section 321(d)(1)(A), an entity described in section 321(d)(1)(B), or a selection committee or similar entity described in section 321(d)(1)(C); and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 321(d)(1)(C), to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 321(d)(2)(A);

(ii) establish and maintain a roster of qualified attorneys in accordance with section 321(d)(2)(B);

(iii) assign attorneys from the roster in accordance with section 321(d)(2)(C);

(iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 321(d)(2)(D);

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 321(d)(2)(E); and

(vi) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 321(d)(2)(F), including a statement setting forth—

(I) if the State employs a public defender program under section 321(d)(1)(A), the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 321(d)(1)(B), the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 321(d)(1)(C), an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in specific capital cases or to supplant non-Federal funds.

(c) CAPITAL PROSECUTION IMPROVEMENT GRANTS.—With respect to the funds provided under section 322, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 322(b)(1)(A);

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 322(b)(1)(B);

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 322(b)(1)(C);

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 322(b)(1)(D);

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 322(b)(1)(E); and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

(d) PUBLIC DISCLOSURE OF ANNUAL STATE REPORTS.—The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

SEC. 325. EVALUATIONS BY INSPECTOR GENERAL AND ADMINISTRATIVE REMEDIES.

(a) EVALUATION BY INSPECTOR GENERAL.—

(1) IN GENERAL.—As soon as practicable after the end of the first fiscal year for which a State receives funds under a grant made under this title, the Inspector General of the Department of Justice (in this section referred to as the "Inspector General") shall—

(A) after affording an opportunity for any person to provide comments on a report submitted under section 324, submit to Congress a report evaluating the compliance by the State with the terms and conditions of the grant; and

(B) if the Inspector General concludes that the State is not in compliance with the terms and conditions of the grant, specify any deficiencies and make recommendations for corrective action.

(2) PRIORITY.—In conducting evaluations under this subsection, the Inspector General shall give priority to States that the Inspector General determines, based on information submitted by the State and other comments provided by any other person, to be at the highest risk of noncompliance.

(3) DETERMINATION FOR STATUTORY PROCEDURE STATES.—For each State that employs a statutory procedure described in section 321(d)(1)(C), the Inspector General shall submit to Congress, not later than the end of the first fiscal year for which such State receives funds, after affording an opportunity for any person to provide comments on a certification submitted under section 323(b)(2)(D), a determination as to whether the State is in substantial compliance with the requirements of the applicable State statute.

(b) ADMINISTRATIVE REVIEW.—

(1) COMMENT.—Upon the submission of a report under subsection (a)(1) or a determination under subsection (a)(3), the Attorney General shall provide the State with an opportunity to comment regarding the findings and conclusions of the report or the determination.

(2) CORRECTIVE ACTION PLAN.—If the Attorney General, after reviewing a report under subsection (a)(1) or a determination under subsection (a)(3), determines that a State is not in compliance with the terms and conditions of the grant, the Attorney General shall consult with the appropriate State authorities to enter into a plan for corrective action. If the State does not agree to a plan for corrective action that has been approved by the Attorney General within 90 days after the submission of the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall, within 30 days, direct the State to take corrective action to bring the State into compliance.

(3) REPORT TO CONGRESS.—Not later than 90 days after the earlier of the implementation of a corrective action plan or a directive to implement such a plan under paragraph (2), the Attorney General shall submit a report to Congress as to whether the State has taken corrective action and is in compliance with the terms and conditions of the grant.

(c) PENALTIES FOR NONCOMPLIANCE.—If the State fails to take the prescribed corrective action under subsection (b) and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 321 and 322 and require the State to return the funds granted under such sections for that fiscal year. Nothing in this paragraph shall prevent a State which has been subject to penalties for noncompliance from reapplying for a grant under this subtitle in another fiscal year.

(d) PERIODIC REPORTS.—During the grant period, the Inspector General shall periodically review the compliance of each State with the terms and conditions of the grant.

(e) ADMINISTRATIVE COSTS.—Not less than 2.5 percent of the funds appropriated to carry out this subtitle for each of fiscal years 2005 through 2009 shall be made available to the Inspector General for purposes of carrying out this section. Such sums shall remain available until expended.

(f) SPECIAL RULE FOR "STATUTORY PROCEDURE" STATES NOT IN SUBSTANTIAL COMPLIANCE WITH STATUTORY PROCEDURES.—

(1) IN GENERAL.—In the case of a State that employs a statutory procedure described in section 321(d)(1)(C), if the Inspector General submits a determination under subsection (a)(3) that the State is not in substantial compliance with the requirements of the applicable State statute, then for the period beginning with the date on which that determination was submitted and ending on the date on which the Inspector General determines that the State is in substantial compliance with the requirements of that statute, the funds awarded under this subtitle shall be allocated solely for the uses described in section 321.

(2) RULE OF CONSTRUCTION.—The requirements of this subsection apply in addition to, and not instead of, the other requirements of this section.

SEC. 326. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR GRANTS.—There are authorized to be appropriated $100,000,000 for each of fiscal years 2005 through 2009 to carry out this subtitle.

(b) RESTRICTION ON USE OF FUNDS TO ENSURE EQUAL ALLOCATION.—Each State receiving a grant under this subtitle shall allocate the funds equally between the uses described in section 321 and the uses described in section 322, except as provided in section 325(f).

Subtitle C—Compensation for the Wrongfully Convicted

SEC. 331. INCREASED COMPENSATION IN FEDERAL CASES FOR THE WRONGFULLY CONVICTED.

Section 2513(e) of title 28, United States Code, is amended by striking "exceed the sum of $5,000" and inserting "exceed $100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and $50,000 for each 12-month period of incarceration for any other plaintiff".

SEC. 332. SENSE OF CONGRESS REGARDING COMPENSATION IN STATE DEATH PENALTY CASES.

It is the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

SA 3952. Mr. LIEBERMAN (for Mr. KENNEDY) submitted an amendment intended to be proposed by Mr. LIEBERMAN to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 170, between lines 8 and 9, insert the following:

(l) PROTECTIONS FOR HUMAN RESEARCH SUBJECTS.—The Secretary of Homeland Security shall ensure that the Department of Homeland Security complies with the protections for human research subjects, as described in part 46 of title 45, Code of Federal Regulations, or in equivalent regulations as promulgated by such Secretary, with respect to research that is conducted or supported by such Department.

SA 3953. Mr. GRAHAM of Florida submitted an amendment intended to be proposed to amendment SA 3941 submitted by Mr. GRAHAM of Florida and intended to be proposed to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. TREATMENT OF FOREIGN STATES.

(a) IMMUNITY OF A FOREIGN STATE.—Section 1605(a) of title 28, United States Code, is amended by striking paragraph (7) not including subparagraph (B) and inserting the following:

"(7) not otherwise covered by paragraph (2), in which money damages are sought against a foreign state for personal injury or death, or damage to or loss of property, that was caused by an act of torture, extrajudicial killing, aircraft sabotage, hostage taking, or the provision of material support or resources (as defined in section 2339A of title 18) for such an act if such act or provision of material support is engaged in by an official, employee, or agent of such foreign state while acting within the scope of his or her office, employment, or agency, except that the court shall decline to hear a claim under this paragraph—

"(A) if the foreign state was not designated as a state sponsor of terrorism under section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)) or section 620A of the Foreign Assistance Act of 1961 (22 U.S.C. 2371) at the time the act occurred, unless later so designated as a result of such act or the act is related to the September 11, 2001, terrorist attacks against the World Trade Center, the Pentagon, and other targets in the United States; and".

(b) DEFINITION OF NATIONAL OF THE UNITED STATES.—Section 2332f(e) of title 18, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) national of the United States means—

"(A) a person described in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)); or

"(B) an organization which is incorporated or chartered or has its principal place of business in the United States;".

SA 3954. Ms. COLLINS (for Mr. LOTT) submitted an amendment intended to be proposed by Ms. COLLINS to the bill H.R. 5122, to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms; as follows:

On page 2, line 11, strike "the date of the enactment of this Act" and insert "September 30, 2004".

SA 3955. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. RESTRICTION ON ISSUANCE OF MULTIPLE REPLACEMENT SOCIAL SECURITY CARDS.

(a) IN GENERAL.—The Commissioner of Social Security shall issue regulations to restrict the issuance of multiple replacement social security cards to any individual to not more than 3 per year and not more than 10 for the life of the individual, except in any case in which the Commissioner determines there is minimal opportunity for fraud.

(b) RULEMAKING.—The Commissioner of Social Security shall issue regulations to carry out the amendment made by subsection (a) not later than 180 days after the date of enactment of this Act.

SA 3956. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed, insert the following:

SEC. ___. RESTRICTION ON ISSUANCE OF MULTIPLE REPLACEMENT SOCIAL SECURITY CARDS.

(a) IN GENERAL.—The Commissioner of Social Security shall issue regulations to restrict the issuance of multiple replacement social security cards to any individual to not more than 3 per year and not more than 10 for the life of the individual, except in any case in which the Commissioner determines there is minimal opportunity for fraud.

(b) RULEMAKING.—The Commissioner of Social Security shall issue regulations to carry out the amendment made by subsection (a) not later than 180 days after the date of enactment of this Act.

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that the Committee on Rules and Administration will meet at 9:30 a.m., Tuesday, Oct. 5, 2004, to conduct a special meeting of the Committee to consider a resolution related to recommendations of the National Commission on Terrorist Attacks Upon the United States.

For further information concerning this meeting, please contact Susan Wells at 202-224-6352.

COMMITTEE ON INDIAN AFFAIRS

Mr. CAMPBELL. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, October 6, 2004, at 10:00 a.m. in Room 485 of the Hart Senate Office Building to conduct a business meeting on pending Committee matters.

Those wishing additional information may contact the Indian Affairs Committee at 224-2251.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to continue its markup of Thursday, September 30, 2004 on Monday, October 4, 2004 immediately following the stacked roll call votes which are scheduled to begin at 4:15 p.m. in S-219, The Capitol.

I. Nominations: Claude A. Allen to be U.S. Circuit Judge for the Fourth Circuit; Susan B. Neilson to be United States Circuit Judge for the Sixth Circuit; Christopher Boyko to be United States District Judge for the Northern District of Ohio; Beryl Alaine Howell to be a Member of the United States Sentencing Commission.

II. Legislation: S. 2396—Federal Courts Improvement Act of 2004; Hatch, Leahy, Chambliss, Durbin, Schumer; S. 2204—A bill to provide criminal penalties for false information and hoaxes relating to Terrorism Act of 2004; Hatch, Schumer, Cornyn, Feinstein, DeWine; S. 1860—A bill to reauthorize the Office of National Drug Control Policy Act of 2003; Hatch, Biden, Grassley; S. 2560—A bill to amend chapter 5 of title 17, United States Code, relating to inducement of copyright infringement, and for other purposes Act of 2004; Hatch, Leahy, Graham; S.J. Res. 23—A joint resolution proposing an amendment to the Constitution of the United States providing for the event that one-fourth of the members of either the House of Representatives or the Senate are killed or incapacitated Act of 2003; Cornyn, Chambliss; S. 2737—A bill to modify the prohibition on recognition by United States courts of certain rights relating to certain marks, trade names, or commercial names Act of 2004; Domenici, Graham, Sessions; S. 1784—A bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine Act of 2003; Feinstein, Grassley, Kohl, Biden, Kyl, Schumer; S. 2863—A bill to reauthorize the Department of Justice Act of 2004; Hatch, Leahy, DeWine, Schumer; H.R. 2391—To amend title 35, United States Code, to promote cooperative research involving universities, the public sector, and private enterprises Act of 2003; Smith—TX; S. 2760—A bill to limit and expedite Federal collateral review of convictions for killing a public safety officer Act of 2004; Kyl, Hatch, Craig, Cornyn, Sessions, Chambliss; S. 1297—A bill to amend title 28, United States Code, with respect to the jurisdiction of Federal courts inferior to the Supreme Court over certain cases and controversies involving the Pledge of Allegiance to the Flag Act of 2003; Hatch, Talent, Kyl; S. 2089—A bill to allow aliens who are eligible for diversity visas to be eligible beyond the fiscal year in which they applied Act of 2004; Chambliss, Kennedy, Miller; S. 2302—A bill to improve access to physicians in medically underserved areas Act of 2004; Conrad, Feingold, Kennedy, Schumer, DeWine, Kohl; S. 989—A bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes Act of 2003; Enzi, Reid; S. 1728—Terrorism Victim Compensation Equity Act of 2003; Specter, Leahy, Schumer; S. 1740—Anthrax Victims Fund Fairness Act of 2003; Leahy, Feingold; S. 549—A bill to amend the September 11th Victim Compensation Fund of 2001 (49 U.S.C. 40101 note; Public Law 107–42) to provide compensation for victims killed in the bombing of the World Trade Center in 1993, and for other purposes Act of 2003; Schumer; S. 115—Private Bill; A bill for the relief of Richi James Lesley Act of 2004; Cochran; S. 2331—A bill for the relief of Fereshteh Sani Act of 2004; Allen; S. 1042—Private Bill; A bill for the relief of Tchisou Tho Act of 2003; Coleman; S. 2314—A bill for the relief of Nabil Raja Dandan, Ketty Dandan, Souzi Dandan, Raja Nabil Dandan, and Sandra Dandan Act of 2004; Durbin; S. 353—Private Bill; A bill for the relief of Denes and Gyorgyi Fulop Act of 2003; Feinstein; H.R. 867—Private Bill; For the relief of Durreshahwar Durreshahwar, Nida Hasan, Asna Hasan, Anum Hasan, and Iqra Hasan Act of 2003; Holt—NJ; S. 2012—Private Bill; A bill for the relief of Luay Lufti Hadad Act of 2004; Levin.

PRIVILEGE OF THE FLOOR

Mr. TALENT. I ask unanimous consent that a fellow from my office, Lore Aguyo, be allowed floor privileges for the remainder of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

APPOINTMENT

The PRESIDING OFFICER. The Chair, on behalf of the Majority Leader and Democratic Leader of the Senate and the Speaker of the House of Representatives and Minority Leader of the House of Representatives, pursuant to Public Law 108–199, Section 104(c)(1), announces the joint appointment of the following individual to serve as Chairman of the Commission on the Abraham Lincoln Study Abroad Fellowship Program: Peter McPherson.

AMENDING THE CONGRESSIONAL ACCOUNTABILITY ACT OF 1995

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 5122 which is at the desk.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislation clerk read as follows:

A bill (H.R. 5122) to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for two terms.

There being no objection, the Senate proceeded to consider the bill.

Ms. COLLINS. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3954) was agreed to, as follows:

On page 2, line 11, strike "the date of the enactment of this Act" and insert "September 30, 2004".

The bill (H.R. 5122), as amended, was passed.

HONORING FORMER PRESIDENT JAMES EARL (JIMMY) CARTER ON THE OCCASION OF HIS 80TH BIRTHDAY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 446, submitted earlier today by Senator REID of Nevada.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 446) honoring former President James Earl (Jimmy) Carter on the occasion of his 80th birthday.

There being no objection, the Senate proceeded to consider the resolution.

Mr. REID. Mr. President, I rise today to recognize President Jimmy Carter on the occasion of his 80th birthday.

The people of Nevada elected me to the U.S. House in 1982, so I arrived in Congress after President Carter had already left the White House. I did not have a chance to work with him.

But I have had, and I continue to have the pleasure of observing his great leadership on many important projects and issues.

What I admire most about President Carter is that he has never forgotten where he came from. Jimmy Carter was brought up on his family's peanut farm outside the small town of Plains, GA. His family home lacked electricity and indoor plumbing.

He is a product of the American dream, ascending from the red clay fields of Georgia to the most powerful office in the world.

I have heard a story that when he told his mother he was going to run for President, she replied, "President of what?"

After graduating as valedictorian of his high school class, a young Jimmy Carter enrolled in the U.S. Naval Academy. He graduated in 1946 in the top tenth of his class, and signed on as an officer under the tough but inspirational Captain Hyman Rickover in the Navy's first experimental nuclear submarine.

Due to his service, a submarine was named for him: The USS *Jimmy Carter*. This is one of the very few US Navy vessels to be named for a person still alive at the time of the commissioning.

President Carter's presidency was distinguished by his strong commitment to human rights in the world, and his commitment to justice and protection of the environment at home.

As the governor of Georgia, he had reorganized the State government to make it more responsive to the needs of the people. He did the same thing as president, separating the Department of Health, Education and Welfare into the Department of Education and the Department of Health and Human Services. He also recognized the importance of establishing a strong national energy policy by creating a new cabinet-level department, the United States Department of Energy.

The Carter administration's foreign policy is best remembered for the peace treaty he brokered between the states of Israel and Egypt with the Camp David Accord. The unfortunate assassination of President Sadat only underscored the deep-seated animosity in that part of the world, which made this agreement so remarkable.

He also brokered the SALT II treaty with the Soviet Union to control the proliferation of nuclear weapons. At the same time, he aggressively developed weapons systems like cruise missiles and stealth bombers, which are still a vital part of our military arsenal.

Since leaving the White House, Jimmy Carter has redefined the role of an ex-President, using his status and standing to mediate for peace and fight disease worldwide.

He has been involved in a number of public policy, human rights, and charitable causes. His work in international public policy and conflict resolution is largely through the Carter Center, which also focuses on worldwide health care and includes a campaign to eliminate guinea worm disease.

Outside of the Carter Center, President Carter conducts diplomatic missions as an elder statesman. In 2002 the Nobel committee recognized his efforts at Camp David and the accomplishments of his post-presidency by awarding him the Nobel Peace Prize.

In addition to promoting peace and human rights through the world, President Carter has been involved with the non-profit group Habitat for Humanity since 1984.

Habitat is an ecumenical Christian housing ministry dedicated to eliminating substandard housing. Habitat volunteers have built more than 100,000 houses worldwide, providing decent and affordable homes for grateful families, including some in my home State of Nevada.

Unlike some public figures who support good causes merely by lending their name, President Carter gives his sweat to Habitat for Humanity. He hammers nails and cuts boards. Each year he leads a work project, and he and his wife Rosalyn donate a week of their time to this wonderful cause.

The late educator Booker T. Washington once said, "There are two ways of exerting one's strength: one is pushing down, the other is pulling up."

President Carter's life has been a testament to the latter. The value of his life's work cannot be measured or quantified by the years he served as President, but by the scope of all his deeds, political as well as humanitarian.

I have visited the President at his home in Plains. I have attended his Sunday School class. I am honored to have served as his Nevada finance chairman when he ran for President. President Carter is my friend, for which I am grateful.

President Carter leads by example. Living modestly and decently, he continues to stand up for the weak, the less fortunate, and those whose God-given rights have been denied.

It is my honor to wish the Naval lieutenant, Nobel Prize recipient, and 39th President of our United States, James Earl Carter, a happy 80th birthday.

I have submitted a resolution to commemorate this occasion, and Congressman LEWIS has introduced the accompanying resolution in the House. I urge all of my colleagues to join me in supporting this measure.

Ms. COLLINS. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements be printed in the RECORD without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 446) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follow:

S. RES. 446

Whereas Jimmy Carter was born in Plains, Georgia, on October 1, 1924;

Whereas Jimmy Carter attended Georgia Southwestern College and the Georgia Institute of Technology, and received a B.S. degree from the United States Naval Academy in 1946;

Whereas Jimmy Carter served honorably as a submariner in the United States Navy in both the Atlantic and Pacific fleets, working under Admiral Hyman Rickover in the development of the nuclear submarine program;

Whereas Jimmy Carter continued his commitment to public service, serving as Georgia State Senator and Governor of Georgia;

Whereas Jimmy Carter was elected the 39th President of the United States on November 2, 1976;

Whereas Jimmy Carter created both the Departments of Education and Energy and implemented major education policies and a comprehensive national energy program;

Whereas Jimmy Carter oversaw deregulation of the airline, energy, and banking industries;

Whereas Jimmy Carter promoted human rights as a tenet of American foreign policy and pressed nations to uphold basic human rights;

Whereas Jimmy Carter furthered diplomatic relations with the People's Republic of China;

Whereas Jimmy Carter was instrumental in the negotiation and signing of the Camp David Accord between Israel and Egypt, signaling a new era of peace between those 2 countries;

Whereas Jimmy Carter has continued his service to his country since leaving the Presidency by championing safe and affordable housing, human rights, and disease prevention;

Whereas Jimmy Carter remains actively committed to promoting peace and democracy abroad, supervising elections in fledgling democracies, and helping to defuse international crises in North Korea, Somalia, and Haiti; his decades of untiring effort to find peaceful solutions to international conflicts, to advance democracy and human rights, and to promote economic and social development; and

Now, therefore, be it

Resolved, That the Senate honors former President Jimmy Carter on the occasion of his 80th birthday and extends best wishes to him and his family.

MISCELLANEOUS TRADE AND TECHNICAL CORRECTIONS ACT OF 2004

Ms. COLLINS. Mr. President, I ask that the Chair now lay before the Senate the House message to accompany H.R. 1047, the miscellaneous tariffs bill.

The PRESIDING OFFICER laid before the Senate a message from the House of Representatives disagreeing to the amendment of the Senate to the bill (H.R. 1047) entitled "An Act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes", and ask a conference with the Senate on the disagreeing votes of the two Houses thereon.

Ms. COLLINS. I ask unanimous consent that the Senate insist on its amendment, agree to conference with the House, and the Chair be authorized to appoint conferees at a ratio of 2 to 1.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Presiding Officer (Mr. TALENT) appointed Mr. GRASSLEY, Mr. FRIST, and Mr. BAUCUS conferees on the part of the Senate.

ORDERS FOR TUESDAY, OCTOBER 5, 2004

Ms. COLLINS. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9 a.m. on Tuesday, October 5. I further ask that following the prayer and the pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that there be a period of morning business until 9:40 a.m. with the first half of the time under the control of the majority leader or his designee and the second half under the control of the Democratic leader or his designee; provided further that at 9:40 a.m., the Senate resume consideration of S. 2845, the intelligence reform bill, and the time until 9:45 a.m. be equally divided between the two leaders or their designees; provided further that at 9:45 a.m. the Senate proceed to a vote on the motion to invoke cloture on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER TO FILE SECOND-DEGREE AMENDMENTS

Ms. COLLINS. I ask unanimous consent that Members have until 9:45 tomorrow morning in order to file second-degree amendments as under rule XXII.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Ms. COLLINS. Mr. President, for the information of all Senators, tomorrow at 9:45 a.m., the Senate will vote on the motion to invoke cloture on the intelligence reform bill. We have made good progress on the bill, disposing of dozens of amendments. It is my hope that cloture will be invoked tomorrow morning so that we can move toward final action on the bill. For the remainder of the bill, the Senate will work through additional amendments to the bill. Senators should, therefore, expect rollcall votes throughout the day tomorrow.

Finally, I remind everyone of the majority leader's announcement that following the conclusion of this bill, the Senate will begin consideration of the intelligence reforms related to the organization of the Senate.

ADJOURNMENT UNTIL 9 A.M. TOMORROW

Ms. COLLINS. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 9:18 p.m. adjourned until Tuesday, October 5, 2004, at 9 a.m.

HOUSE OF REPRESENTATIVES—*Monday, October 4, 2004*

The House met at 12:30 p.m. and was called to order by the Speaker pro tempore (Mr. SHUSTER).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 4, 2004.

I hereby appoint the Honorable BILL SHUSTER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from California (Mr. DREIER) for 5 minutes.

H.R. 10 WILL IMPROVE HOMELAND SECURITY

Mr. DREIER. Mr. Speaker, this week we will consider what is perhaps the most significant piece of legislation of this Congress. Following the tragic events of September 11, 2001, we all recognized that we had to take dramatic steps to ensure that it never happens again. H.R. 10, the 9/11 Recommendations Implementations Act, is the culmination of years of extensive study, debate and dedication by those who are committed to improving our Nation's homeland security.

I am proud to be an original cosponsor of this important bill introduced by the gentleman from Illinois (Mr. HASTERT) not only because it takes extensive steps to reform our intelligence agencies, but also because it addresses a critical threat to our national security: The porous nature of our borders. We know it is far too easy for illegal immigrants to cross the border into this country, and we cannot ignore the fact that terrorists can gain access to the United States this way.

So I am particularly pleased that as we worked on this bill, we were able to include measures to strengthen our ongoing efforts to eliminate illegal border crossings. This legislation adds 10,000 new border patrol agents to intercept illegal immigrants and potential terrorists, as well as 4,000 new immigration enforcement investigators to track illegal immigrants down within our borders. These 14,000 new agents are badly needed and will immediately improve illegal immigrant interdiction and interception operations.

Additionally, H.R. 10 allows for expedited deportation of illegal immigrants and limits the ability of potential terrorists to claim political asylum to avoid being repatriated to their home country. All of these measures will upgrade our ability to win the battle that is taking place every day along our borders.

Perhaps most notably, H.R. 10 includes provisions to counter the explosive increase in identity fraud committed by illegal immigrants and terrorists. This issue is of paramount concern to me, because I firmly believe that if we can eliminate job access for illegal immigrants, then we will be much closer to completing our ultimate goal of eliminating illegal immigration.

In fact, Mr. Speaker, T.J. Bonner, a 26-year veteran of the Border Patrol, and president of the National Border Patrol Council, estimates that we can eliminate as much as 98 percent of illegal border crossings if we can give employers access to verifiable identity information on prospective employees and if we crack down on employers who hire illegal workers. Ninety-eight percent is a remarkable number, and it would allow the Border Patrol to focus on targeting criminal aliens and terrorists.

Because of this, Mr. Speaker, I introduced H.R. 5111, the Bonner Plan, to improve the security of our Social Security cards and provide a method by which employers could immediately verify the authenticity of that Social Security card. My bill would also increase fines for hiring an illegal worker by 400 percent, and provide for prison sentences of up to 5 years per count.

A major first step toward passage of the Bonner plan in its entirety has been the inclusion of very important provisions to combat identity fraud in H.R. 10 which we will be passing as I said this week. H.R. 10 includes new Federal minimum standards to ensure the integrity of both driver's licenses and birth certificates, both of which are widely used source documents which allow illegal immigrants to obtain other documents and access to social services. These new Federal standards will increase the difficulty for illegal immigrants to hide the true nature of their illegal status in our country.

And similar to the Bonner plan, H.R. 10 improves the privacy and integrity of an individual's Social Security number, limits the number of replacement Social Security cards a person may receive, and investigates whether the Social Security number itself can be used as a tool to verify a worker's authorization to work in the United States. All of these provisions are vitally important to the war against illegal immigration and the war on terrorism, so I stand here today to enthusiastically express my support for passage of H.R. 10 with the immigration measures fully intact.

Since I introduced it on September 21, the Bonner plan, H.R. 5111, has received interest and support from many of my colleagues, including Senators KYLE, CORNYN and CHAMBLISS. The bill also garnered a unique group and I believe unprecedented group of bipartisan cosponsors, including the gentleman from Texas (Mr. REYES), a past chairman of the Congressional Hispanic Caucus, as well as the gentleman from Colorado (Mr. TANCREDO), the chairman of the Immigration Reform Caucus. We all share the goal of eliminating illegal immigration, and I hope very much that we are able to see full and enthusiastic support for H.R. 10 as we move ahead with it this week.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 2 p.m. today.

Accordingly (at 12 o'clock and 37 minutes p.m.), the House stood in recess until 2 p.m.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the SPEAKER pro tempore (Mr. PETRI) at 2 p.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

As a clear, cool westerly blows across the Nation and the somber tones of autumn settle upon us, the Members of the House may be called to a syncopated discipline of self-surrender. With more determined steps, all walk into the season when seeds of the future fall to the Earth.

With grateful hearts for so many blessings, Lord, allow Your people to use their freedom wisely, and befriend the barren, the voiceless, and the hardened. Cover us with a protective cloak, that the paralysis of fear may be massaged to accept the planting of hope into our tiring body. In these days of diminished light, prepare us for Your hidden promise. For You are the Lord of every season and forever. Amen

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Nevada (Mr. GIBBONS) come forward and lead the House in the Pledge of Allegiance.

Mr. GIBBONS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 1533. An act to amend the securities laws to permit church pension plans to be invested in collective trusts.

H.R. 2714. An act to reauthorize the State Justice Institute.

H.R. 4278. An act to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

The message also announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 5105. An act to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 2273. An act to provide increased rail transportation security.

S. 2435. An act to permit Inspectors General to authorize staff to provide assistance to the National Center for Missing and Exploited Children, and for other purposes.

S. 2495. An act to strike limitations on funding and extend the period of authorization for certain coastal wetland conservation projects.

S. 2882. An act to make the program for national criminal history background checks for volunteer groups permanent.

S. 2883. An act to amend the International Child Abduction Remedies Act to limit the tort liability of private entities or organizations that carry out responsibilities of the United States Central Authority under that Act.

S. 2884. An act to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security, and for other purposes.

The message also announced that pursuant to Public Law 108–173, the Chair, on behalf of the Majority Leader, appoints the following individuals to the Commission on Systemic Interoperability:

Vicky B. Gregg of Tennessee; and

Ivan G. Seidenberg of New York.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 1, 2004.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on October 1, 2004 at 11:00 a.m.:

That the Senate passed without amendment H.R. 2408.

That the Senate passed without amendment H.R. 2771.

That the Senate passed without amendment H. Con. Res. 501.

With best wishes, I am

Sincerely,

JEFF TRANDAHL,
Clerk of the House.

APPOINTMENT TO COMMISSION ON ABRAHAM LINCOLN STUDY ABROAD FELLOWSHIP PROGRAM

The SPEAKER pro tempore. Pursuant to section 104(c)(1)(I) of the Consolidated Appropriations Act, 2004 (P.L. 108–199), and the order of the House of December 8, 2003, the Chair announces that the Speaker and minority leader of the House, with the majority and minority leaders of the Senate, jointly appoint Mr. Melville Peter McPherson, East Lansing, Michigan, chairman of the Commission on the Abraham Lincoln Study Abroad Fellowship Program.

APPOINTMENT AS MEMBERS TO COMMISSION ON SYSTEMIC INTEROPERABILITY

The SPEAKER pro tempore. Pursuant to section 1012(c)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 242b note), and the order of the House of December 8, 2003, the Chair announces the Speaker's appointment of the following members on the part of the House to the Commission on Systemic Interoperability:

Mr. Gary A. Mecklenburg, Chicago, Illinois,

Dr. Don E. Detmer, Crozet, Virginia.

REAPPOINTMENT TO ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE FOR 3-YEAR TERM

The SPEAKER pro tempore. Pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)), the order of the House of December 8, 2003, and upon the recommendation of the majority leader, the Chair announces on Friday, October 1, 2004, the Speaker reappointed the following member on the part of the House to the Advisory Committee on Student Financial Assistance for a 3-year term:

Ms. Norine Fuller, Arlington, Virginia.

COMMUNICATION FROM HON. NANCY PELOSI, DEMOCRATIC LEADER

The SPEAKER pro tempore laid before the House the following communication from the Honorable NANCY PELOSI, Democratic Leader:

OCTOBER 4, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to section 214(a) of the Help America Vote Act of 2002 (42 U.S.C. 15344), I hereby appoint Douglas H. Palmer of Trenton, New Jersey to the Election Assistance Commission Board of Advisors. Mr. Palmer will fill the remainder of the term of Willie L. Brown, Jr.

Best regards,

NANCY PELOSI.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure; which was read and, without objection, referred to the Committee on Appropriations:

COMMITTEE ON TRANSPORTATION
AND INFRASTRUCTURE,
Washington, DC, September 29, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House of Representatives, the Capitol, Washington, DC.

DEAR MR. SPEAKER: Enclosed please find resolutions approved by the Committee on

Transportation and Infrastructure on September 29, 2004, in accordance with 40 U.S.C. §3307.

Sincerely,

DON YOUNG,
Chairman.

Enclosures.

LEASE—DEPARTMENT OF VETERAN'S AFFAIRS, 811 VERMONT AVE, NW, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 207,943 rentable square feet of space, including 10 parking spaces, for the Department of Veteran's Affairs currently located in government owned space at 811 Vermont Avenue, NW, in Washington, DC, at a proposed total annual cost of $9,357,435 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

AMENDED PROSPECTUS—LEASE—FEDERAL BUREAU OF INVESTIGATION, TAMPA, FL

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 137,023 rentable square feet of space, and 124 inside and 22 outside parking spaces, for the Federal Bureau of Investigation currently located in Tampa, Florida, at a proposed total annual cost of $4,453,248 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution. This amends a Committee resolution dated November 7, 2001, which authorized 112,700 square feet and 117 parking spaces at a proposed total annual cost of $3,662,750.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE—INTERNAL REVENUE SERVICE, ACCOUNTS MANAGEMENT DIVISION, PHILADELPHIA, PA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 205,789 rentable square feet of space, and 1,175 parking spaces, for the Internal Revenue Service currently located in multiple facilities in Philadelphia, Pennsylvania, at a proposed total annual cost of $7,356,957 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

LEASE—EXECUTIVE OFFICE OF THE PRESIDENT, NORTHERN VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 375,000 rentable square feet of space, and 1,175 parking spaces, for the Executive Office of the President currently located in multiple facilities in Northern Virginia, at a proposed total annual cost of $13,875,000 for a lease term of 15 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

ALTERATION IN LEASED SPACE—BUREAU OF PUBLIC DEBT, PARKERSBURG, WV

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized for the alteration of leased space located at 200 Third Street, in Parkersburg, West Virginia at a design and review cost of $154,000, an estimated construction cost of $1,930,000, and management and inspection cost of $116,000 for a combined estimated total project cost of $2,200,000, a prospectus for which is attached to, and included in, this resolution.

CONSTRUCTION—UNITED STATES COURTHOUSE, LAS CRUCES, NM

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, additional appropriations are authorized for the construction of a 229,988 gross square foot United States Courthouse, including 81 inside parking spaces, located in Las Cruces, NM, at additional site, design, construction, and management and inspection cost of $7,644,000 for an estimated total project cost of $64,736,000, for which a fact sheet is attached to, and included in, this resolution.

Provided, that any design shall, to the maximum extent possible incorporate shared or collegial space, consistent with efficient court operations that will minimize the size and cost of the building to be constructed.

Provided further, that any design shall incorporate changes in the 1997 United States Courts Design Guide, including the implementation of a policy on shared courtrooms.

AMENDED PROSPECTUS—ALTERATION—EISENHOWER EXECUTIVE OFFICE BUILDING, WASHINGTON, DC

Resolved by the committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, additional appropriations are authorized for the alternation of the Eisenhower Executive Office building, located in Washington, D.C., at an additional estimated construction cost of $5,718,000 (estimated construction cost of $63,531,000 was previously authorized), additional design and review cost of $515,000 (design cost of $5,718,000 was previously authorized and $1,674,000 was made available through P.L. 107–38), and additional management and inspection cost of $343,000 (management and inspection cost of $5,682,000 was previously authorized) for an estimated total project cost of $81,507,000, a prospectus for which is attached to, and included in, this resolution.

AMENDED PROSPECTUS—CONSTRUCTION—U.S. MISSION TO THE UNITED NATIONS, NEW YORK, NY

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, additional appropriations are authorized for the construction of the United States Mission to the United Nations, located in New York City, NY, at an additional design and review cost of $405,000, additional management and inspection cost of $641,000, and additional estimated construction cost of $9,773,000 for an amended estimated total project cost of $72,326,000, a prospectus for which is attached to, and included in, this resolution. This resolution amends Committee resolutions dated July 23, 1998, which authorized design cost of $3,163,000; May 27, 1999, that authorized demolition and management and inspection cost of $4,300,000; and June 21, 2000, that authorized design cost of $266,000, construction cost of $49,962,000, and management and inspection cost of $3,816,000.

AMENDED PROSPECTUS—CONSTRUCTION—BUREAU OF ALCOHOL, TOBACCO, FIREARMS AND EXPLOSIVES, WASHINGTON, DC

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to 40 U.S.C. §3307, additional appropriations are authorized for the construction of a 438,242 gross square foot facility, including 200 inside parking spaces for the Bureau of Alcohol, Tobacco, Firearms, and Explosives, currently located at multiple facilities in Washington, D.C., at an additional estimated construction cost of $47,503,000, for an amended estimated total project cost of $150,998,000, a prospectus for which is attached to, and included in, this resolution. This resolution amends Committee resolutions dated October 9, 1998, which authorized a site acquisition cost of $32,700,000 and design cost of $5,234,000, and June 21, 2000, which authorized a construction cost of $79,000,000 and management and inspection cost of $4,000,000.

LEASE—FEDERAL BUREAU OF INVESTIGATION, NEW YORK, NY

Resolved by the Committee on Transportation and Infrastructure of the U.S. House of Representatives, That pursuant to title 40 U.S.C. §3307, appropriations are authorized to lease up to approximately 169,461 rentable square feet of space for the Federal Bureau of Investigation currently located in government owned space at 26 Federal Plaza and 290 Broadway, in New York, NY at a proposed total annual cost of $8,134,128 for a lease term of 10 years, a prospectus for which is attached to and included in this resolution.

Approval of this prospectus constitutes authority to execute an interim lease for all tenants, if necessary, prior to execution of the new lease.

Provided, That the General Services Administration shall not delegate to any other agency the authority granted by this resolution.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, the numbers H.R. 3, H.R. 9, and H.R. 10 shall be available during the second session of the 108th Congress for assignment by the Speaker to such bills as he may designate.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

PETRIFIED FOREST NATIONAL PARK EXPANSION ACT OF 2004

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1630) to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1630

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Petrified Forest National Park Expansion Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) MAP.—The term "map" means the map entitled "Proposed Boundary Adjustments, Petrified Forest National Park", numbered 110/80,044, and dated June 2004.

(2) PARK.—The term "Park" means the Petrified Forest National Park in the State.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) STATE.—The term "State" means the State of Arizona.

SEC. 3. BOUNDARY REVISION.

(a) IN GENERAL.—The Secretary is authorized to revise the boundary of the Park to include approximately 125,000 acres as depicted on the map.

(b) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 4. ACQUISITION OF ADDITIONAL LAND.

(a) PRIVATE LAND.—The Secretary may acquire from a willing seller, by donation, purchase with donated or appropriated funds, or exchange, any private land or interests in private land within the revised boundary of the Park. In acquiring private land and interests in private land within the revised boundary of the Park, the Secretary shall undertake to acquire such private land and interests in private land first by donation or exchange.

(b) STATE LAND.—

(1) IN GENERAL.—The Secretary may, with the consent of the State and in accordance with Federal and State law, acquire from the State any State land or interests in State land within the revised boundary of the Park.

(2) PLAN.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall, in coordination with the State, develop a plan for acquisition for State land or interests in State land under paragraph (1);

(3) MANAGEMENT AGREEMENT.—If the Secretary is unable to acquire the State land under paragraph (1) within the 3-year period required by paragraph (2), the Secretary may enter into an agreement that would allow the National Park Service to manage State land within the revised boundary of the Park.

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—Subject to applicable laws, all land and interests in land acquired under this Act shall be administered by the Secretary as part of the Park.

(b) TRANSFER OF JURISDICTION.—The Secretary shall transfer to the National Park Service administrative jurisdiction over any land under the jurisdiction of the Secretary that—

(1) is depicted on the map as being within the boundaries of the Park; and

(2) is not under the administrative jurisdiction of the National Park Service on the date of enactment of this Act.

(c) EXCHANGE AFTER ENACTMENT.—Upon completion of an exchange of land after the date of the enactment of this Act, the Secretary shall transfer administrative jurisdiction over the exchanged lands within the boundary of the Park as depicted on the map to the National Park Service.

(d) GRAZING.—

(1) IN GENERAL.—The Secretary shall permit the continuation of grazing on land transferred to the Secretary under this Act, subject to applicable laws, regulations, and Executive Orders.

(2) TERMINATION OF LEASES OR PERMITS.—Nothing in this subsection prohibits the Secretary from accepting the voluntary termination of a grazing permit or grazing lease within the Park.

(e) AMENDMENT TO GENERAL MANAGEMENT PLAN.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall amend the general management plan for the Park to address the use and management of any additional land acquired under this Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Speaker, I thank the gentleman from Nevada (Mr. GIBBONS) for yielding me this time.

I rise today in support of H.R. 1630, the Petrified Forest National Park Expansion Act of 2004. This legislation authorizes the largest and most responsible park expansion this Congress has considered.

The Petrified Forest is truly a national treasure. It contains some of the most valuable natural and cultural resources in the world. The Petrified Forest contains resources dating back 225 million years.

Yet, today, the Petrified Forest is being threatened. Looters are raiding unprotected areas around the Petrified Forest National Park, searching for fossilized wood and valuable property, and they are selling these items on the black market. Our American Indian grave sites have been dug up and destroyed, and adjacent landowners have been forced to hire their own private security to prevent theft and vandalism.

In 1992, the National Park Service released a general management plan that proposed the inclusion of some 98,000 acres of surrounding threatened land. Since this time, additional Bureau of Land Management, State of Arizona, and private land has been identified for inclusion in the Petrified Forest National Park.

The Petrified Forest National Park Expansion Act of 2004 authorizes the inclusion of 125,000 additional acres surrounding the Petrified Forest National Park. Expanding the Petrified Forest National Park will increase tourism and enhance research opportunities for communities in northern Arizona. In addition, private landowners identified in this exchange are willing sellers and will first consider a land exchange with the Federal Government.

As amended, this legislation ensures that acquisition by donation or exchange or other Federal lands shall occur first. Then, if additional lands need to be acquired, the Federal Government can purchase private land from willing sellers. This compromise will allow for the largest expansion of a national park this Congress, while ensuring the Federal Government's backlog maintenance needs are not further aggravated.

This important legislation has broad support from several nationally recognized archeological groups, as well as support from the Navajo County Board of Supervisors, the city of Holbrook and the city of Winslow, Arizona.

Mr. Speaker, I urge my colleagues to support H.R. 1630, the Petrified Forest National Park Expansion Act of 2004.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1630 as it is being brought to the floor today is not the same bill that passed the Committee on Resources in July. An issue was raised by the majority on the acquisition of the private lands within the park, but I am pleased that the language has been worked out and that it is language that is acceptable to both sides.

So, Mr. Speaker, we will support this new amended version of H.R. 1630.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I urge adoption of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the bill, H.R. 1630, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TAUNTON, MASSACHUSETTS SPECIAL RESOURCES STUDY ACT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2129) to direct the Secretary of the Interior to conduct a special resources study regarding the suitability and feasibility of designating certain historic buildings and areas in Taunton, Massachusetts, as a unit of the National Park System, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Taunton, Massachusetts Special Resources Study Act".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The city of Taunton, Massachusetts, is home to 9 distinct historic districts, with more than 600 properties on the National Register of Historic Places. Included among these districts are the Church Green Historic District, the Courthouse Historic District, the Taunton Green Historic District, and the Reed and Barton Historic District.

(2) All of these districts include buildings and building facades of great historical, cultural, and architectural value.

(3) Taunton Green is the site where the Sons of Liberty first raised the Liberty and Union Flag in 1774, an event that helped to spark a popular movement, culminating in the American Revolution, and Taunton citizens have been among the first to volunteer for America's subsequent wars.

(4) Robert Treat Paine, a citizen of Taunton, and the first Attorney General of Massachusetts, was a signer of the Declaration of Independence.

(5) Taunton was a leading community in the Industrial Revolution, and its industrial area has been the site of many innovations in such industries as silver manufacture, paper manufacture, and ship building.

(6) The landscaping of the Courthouse Green was designed by Frederick Law Olmsted, who also left landscaping ideas and plans for other areas in the city which have great value and interest as historical archives and objects of future study.

(7) Main Street, which connects many of the historic districts, is home to the Taunton City Hall and the Leonard Block building, 2 outstanding examples of early 19th Century American architecture, as well as many other historically and architecturally significant structures.

(8) The city and people of Taunton have preserved many artifacts, gravesites, and important documents dating back to 1638 when Taunton was founded.

(9) Taunton was and continues to be an important destination for immigrants from Europe and other parts of the world who have helped to give Southeastern Massachusetts its unique ethnic character.

SEC. 3. STUDY.

The Secretary, in consultation with the appropriate State historic preservation officers, State historical societies, the city of Taunton, and other appropriate organizations, shall conduct a special resources study regarding the suitability and feasibility of designating certain historic buildings and areas in Taunton, Massachusetts, as a unit of the National Park System. The study shall be conducted and completed in accordance with section 8(c) of Public Law 91-383 (16 U.S.C. 1a–5(c)) and shall include analysis, documentation, and determinations regarding whether the historic areas in Taunton—

(1) can be managed, curated, interpreted, restored, preserved, and presented as an organic whole under management by the National Park Service or under an alternative management structure;

(2) have an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use;

(3) reflect traditions, customs, beliefs, and historical events that are valuable parts of the national story;

(4) provide outstanding opportunities to conserve natural, historic, cultural, architectural, or scenic features;

(5) provide outstanding recreational and educational opportunities; and

(6) can be managed by the National Park Service in partnership with residents, business interests, nonprofit organizations, and State and local governments to develop a unit of the National Park System consistent with State and local economic activity.

SEC. 4. REPORT.

Not later than 3 fiscal years after the date on which funds are first made available for this Act, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations of the study required under section 3.

SEC. 5. PRIVATE PROPERTY.

The recommendations in the report submitted pursuant to section 4 shall discuss and consider the concerns expressed by private landowners with respect to designating the certain structures referred to in this Act as a unit of the National Park System.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2129, introduced by the gentleman from Massachusetts (Mr. FRANK), would direct the Secretary of the Interior to conduct a special resources study regarding the suitability and feasibility of designating certain historic buildings and areas in Taunton, Massachusetts, as a unit of the National Park System, and for other purposes. The city of Taunton, Massachusetts, is home to nine distinct historic districts, with more than 600 properties on the National Register of Historic Places. Included among these districts is the Taunton Green Historic District, the site where the Sons of Liberty first raised the Liberty and Union Flag in 1774, an event that helped to spark a popular movement culminating in the American Revolution. Taunton was also a leading community in the industrial revolution, and its industrial area has been the site of many innovations in silver manufacture, paper manufacture, and shipbuilding. Main Street, which connects many of the historic districts, is the home of the Taunton City Hall and the Leonard Block building, two outstanding examples of early 19th century American architecture, as well as many other historical and architecturally significant structures.

The city has historically been and continues to be an important destination for immigrants migrating from Europe, as well as other parts of the world, and contributes greatly to the unique ethnic character of southeastern Massachusetts.

H.R. 2129, as amended, is supported by the majority and minority of the Committee on Resources. I would urge adoption of this bill, Mr. Speaker.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Taunton, Massachusetts, is a city rich in its significant cultural and historical resources. As a result, we support authorizing the National Park Service to study this area to determine how these resources might best be conserved and interpreted for generations to come. I join the gentleman from West Virginia (Ranking Member Rahall) in congratulating the gentleman from Massachusetts (Mr. FRANK) for his hard work on behalf of this legislation and this community, and we look forward to working with him on legislation to implement any recommendations which come out of this study that we are authorizing today. So we urge the passage of H.R. 2129.

Mr. Speaker, I yield such time as he might consume to the gentleman from Massachusetts (Mr. FRANK), the sponsor of the legislation.

□ 1415

Mr. FRANK of Massachusetts. I thank the gentlewoman for yielding me time.

I thank the gentleman from Nevada (Mr. GIBBONS) for his courtesy; and I am grateful to the leadership of the committee, the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL), for bringing this forward.

Massachusetts is rich in history, but this is a particularly significant piece of Massachusetts from an historic standpoint. As the gentleman from Nevada (Mr. GIBBONS) pointed out, the Liberty and Union Flag was raised there in 1774. This is the place here in Taunton where the revolution was fueled. Robert Treat Paine, a resident of Taunton, signed the Declaration, and it continues to be important.

The courthouse green, a lovely area, was designed by Frederick Law Olmsted, the greatest landscape architect in our history and, probably, the history of the world. I am privileged to have an office right in the midst of this. So I guess I should say I would be a beneficiary of this. But it is for the city, and it will be passed on.

I also should say that I became the Representative of Taunton in the last redistricting. And for the prior couple of decades it was extraordinarily well-represented by one of our great former colleagues, the gentleman from Massachusetts, Mr. Moakley, who was sadly taken from us a few years ago. So as we put this bill forward, I am delighted to do it, but I also want people to understand that I do this in tribute, in part, to the legacy of Joe Moakley, one of the great leaders in this House, widely respected and even loved by both sides.

This is a genuinely important historical operation. It played a historic role in the Revolution. We had Frederick Law Olmsted there. It was also very important in the Industrial Revolution. It continues today to be a very important community.

So I am grateful to the committee for bringing this forward and I look forward to the passage of this bill and subsequent action by the Park Service.

Mrs. CHRISTENSEN. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I urge adoption of the bill. I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the bill, H.R. 2129, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RESOLUTION OF BOUNDARY ENCROACHMENT ON LAND OF UNION PACIFIC RAILROAD COMPANY IN TIPTON, CALIFORNIA

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4817) to facilitate the resolution of a minor boundary encroachment on lands of the Union Pacific Railroad Company in Tipton, California, which were originally conveyed by the United States as part of the right-of-way granted for the construction of transcontinental railroads, as amended.

The Clerk read as follows:

H.R. 4817

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF UNITED STATES INTERESTS IN CERTAIN RAILROAD GRANT LANDS IN TIPTON, CALIFORNIA.

(a) PROPERTY DEFINED.—In this section, the term "property" means that portion of the existing building located at 615 North Burnett Road in Tipton, California, which encroaches upon land that, subject to a reversionary interest, was conveyed by the United States pursuant to the Act of July 27, 1866 (14 Stat. 292).

(b) RELEASE OF INTERESTS IN PROPERTY.—There is hereby released, without consideration, all right, title, and interest of the United States in and to the surface portion of the property. The United States retains any subsurface mineral rights held by the United States as of the date of the enactment of this Act associated with the property.

(c) INSTRUMENT OF RELEASE.—The Secretary of the Interior shall execute and file in the appropriate office a deed of release, amended deed, or other appropriate instrument effectuating the release of interests made by subsection (b).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4817.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4817, introduced by my Committee on Resources colleague, the gentleman from California (Mr. NUNES), and amended by the Committee on Resources would facilitate the resolution of a minor boundary encroachment on lands of the Union Pacific Railroad Company in Tipton, California. The bill is supported by the majority and minority of the Committee on Resources and the administration.

Mr. Speaker, I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a very minor boundary issue left over from rights-of-way granted in the 19th century. We have reviewed the legislation and we do not oppose the passage of H.R. 4817.

Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I urge adoption of the bill. I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the bill, H.R. 4817, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RECOGNIZING THAT NOVEMBER 2, 2003, SHALL BE DEDICATED TO "A TRIBUTE TO SURVIVORS" AT THE UNITED STATES HOLOCAUST MEMORIAL MUSEUM

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and concur in the Senate concurrent resolution (S. Con. Res. 76) recognizing that November 2, 2003, shall be dedicated as "A Tribute To Survivors" at the United States Holocaust Memorial Museum.

The Clerk read as follows:

S. CON. RES. 76

Whereas, in 1945, American soldiers and other Allied forces, defeated Nazi Germany, ending World War II in Europe and the systematic murder of Europe's Jews and other targeted groups;

Whereas 6,000,000 Jews were killed during the Holocaust, and after World War II hundreds of thousands of survivors immigrated to the United States, where in spite of their enormous suffering, they rebuilt their lives, and embraced and enriched their adopted homeland;

Whereas, in 1978, President Jimmy Carter created the President's Commission on the Holocaust to make a recommendation regarding "the establishment . . . of an appropriate memorial to those who perished in the Holocaust";

Whereas President Carter said: "Out of our memory . . . of the Holocaust we must forge an unshakable oath with all civilized people that never again will the world stand silent, never again will the world . . . fail to act in time to prevent this terrible crime of genocide. . . . [W]e must harness the outrage of our own memories to stamp out oppression wherever it exists. We must understand that human rights and human dignity are indivisible.";

Whereas, in 1979, the Commission recommended "a living memorial that will speak not only of the victims' deaths but of their lives, a memorial that can transform the living by transmitting the legacy of the Holocaust'';

Whereas, in 1980, the United States Congress unanimously passed legislation authorizing the creation of the United States Holocaust Memorial Museum as a ''permanent living memorial'' on Federal land in the Nation's Capital;

Whereas, in 1983, Vice President George Bush designated the Federal land on which the United States Holocaust Memorial Museum would be built;

Whereas Vice President Bush said: ''Here we will learn that each of us bears responsibility for our actions and our failure to act. Here we will learn that we must intervene when we see evil arise. Here we will learn more about the moral compass by which we navigate our lives and by which countries navigate the future.'';

Whereas, in 1985, Holocaust survivors participated in the groundbreaking ceremony at the site of the future United States Holocaust Memorial Museum;

Whereas, in 1988, President Ronald Reagan dedicated the cornerstone of the United States Holocaust Memorial Museum;

Whereas President Reagan said: ''We who did not go their way owe them this: We must make sure that their deaths have posthumous meaning. We must make sure that from now until the end of days all humankind stares this evil in the face . . . and only then can we be sure it will never arise again.'';

Whereas, in 1992, replicas of 2 of the milk cans that hid the Oneg Shabbat archive under the Warsaw Ghetto were buried beneath the Museum's Hall of Remembrance, with a Scroll of Remembrance signed by Holocaust survivors;

Whereas, in 1993, President Bill Clinton opened the United States Holocaust Memorial Museum;

Whereas President Clinton said: ''[T]his museum will touch the life of everyone who enters and leave everyone forever changed; a place of deep sadness and a sanctuary of bright hope; an ally of education against ignorance, of humility against arrogance, an investment in a secure future against whatever insanity lurks ahead. If this museum can mobilize morality, then those who have perished will thereby gain a measure of immortality.'';

Whereas, in 2001, President George W. Bush delivered the keynote address at the first Days of Remembrance ceremony after he assumed office.

Whereas President Bush said: ''When we remember the Holocaust and to whom it happened, we must also remember where it happened . . . The orders came from men who . . . had all the outward traits of cultured men, except for conscience. Their crimes showed the world that evil can slip in, and blend in, even amid the most civilized surroundings. In the end, only conscience can stop it. And moral discernment, decency, tolerance—these can never be assumed in any time, or any society. They must always be taught.'';

Whereas the United States Holocaust Memorial Museum has had more than 19,000,000 visitors in the first 10 years of its existence;

Whereas, in 2003, the United States Holocaust Memorial Museum, on the occasion of its 10th Anniversary, wishes to pay tribute to America's Holocaust survivors, who worked tirelessly to help build the Museum and whose committed support and involvement continue to make the institution such as extraordinary memorial and a vital part of life in the United States; and

Whereas the United States Holocaust Museum has a sacred obligation to preserve and transmit the history and lessons of the Holocaust and, together with the Holocaust survivors, must ensure that the legacy of the survivors is passed on to each new generation: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes that November 2, 2003, shall be dedicated to ''A Tribute to Survivors'' at the United States Holocaust Memorial Museum and shall be devoted to honoring our Nation's Holocaust survivors, as well as their liberators and rescuers, and their families;

(2) recognizes that on that day, the United States Holocaust Memorial Museum shall be devoted in its entirety to special programs about and for the survivors of the Holocaust;

(3) commends the United States Holocaust Memorial Museum for its first decade of education dedicated to the memory of the victims of the Holocaust;

(4) endeavors to continue to support the vital work of the United States Holocaust Memorial Museum; and

(5) requests that this resolution shall be duly recorded in the official records of the United States Holocaust Memorial Museum.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. Con. Res. 76.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate Concurrent Resolution 76, introduced by Senator HATCH of Utah, dedicates November 2, 2003, as ''A Tribute to Survivors'' at the United States Holocaust Memorial Museum located here in our Nation's capital.

The gentleman from Utah (Mr. CANNON) has authored the House companion bill and should be equally commended for his tireless work on behalf of his constituents.

Chartered by a unanimous Act of Congress in 1980, the United States Holocaust Memorial Museum's primary mission is to advance and disseminate knowledge about this unprecedented tragedy; to preserve the memory of those who suffered; and to encourage its visitors to reflect upon the moral and spiritual questions raised by the events of the Holocaust as well as their own responsibilities as citizens of a democracy.

This living memorial speaks not only to the victims' deaths, but of their lives. It holds the power to transform the living by transmitting the legacy of the Holocaust.

On the occasion of its 10th anniversary, the museum on November 1 and 2 of 2003, held a Tribute to Holocaust survivors, a special celebration at the museum for survivors, their families, and other members of the eyewitness generation, including liberators and rescuers. This unique event brought together over 7,000 people, reuniting over 2,000 survivors. Museum Director Sara Bloomfield characterized the tribute as critical, with so many of the Holocaust survivors now in the later years of their lives.

More importantly though, dedicating November 2, 2003, as ''A Tribute to Survivors'' at the museum affords all of us the opportunity to answer to their silent question: Indeed, we have not forgotten you.

Senate Concurrent Resolution 76 is supported by the majority and minority of the committee. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, with S. Con. Res. 76, I guess this majority is operating under the adage that it is better late than never.

Senate Concurrent Resolution 76 was written for an event that occurred 11 months ago on November 2, 2003. The resolution would have been timely if it had been taken up before that date.

The tribute to the survivors of the Holocaust at the United States Holocaust Memorial Museum on November 2, 2003 was a worthy event deserving of recognition. It is regrettable that the majority waited so long to bring up this resolution that the day we seek to honor has already occurred.

However, even late, it is an important recognition and I am pleased that there will be this recognition of that tribute to the survivors that occurred last year.

Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the sponsor of the House legislation is home with a family member who is ill and unable to make his presentation. I ask for support of this resolution.

Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 76.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GIBBONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

TAPOCO PROJECT LICENSING ACT OF 2004

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2319) to authorize and facilitate hydroelectric power licensing of the Tapoco Project.

The Clerk read as follows:

S. 2319

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tapoco Project Licensing Act of 2004".

SEC. 2. DEFINITIONS.

In this Act:

(1) APGI.—The term "APGI" means Alcoa Power Generating Inc. (including its successors and assigns).

(2) Commission.—The term "Commission" means the Federal Energy Regulatory Commission.

(3) Map.—The term "map" means the map entitled "Tapoco Hydroelectric Project, P-2169, Settlement Agreement, Appendix B, Proposed Land Swap Areas, National Park Service and APGI", numbered TP514, Issue No. 9, and dated June 8, 2004.

(4) Park.—The term "Park" means Great Smoky Mountains National Park.

(5) Project.—The term "Project" means the Tapoco Hydroelectric Project, FERC Project No. 2169, including the Chilhowee Dam and Reservoir in the State of Tennessee.

(6) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. LAND EXCHANGE.

(a) Authorization.—

(1) In general.—Upon the conveyance by APGI of title acceptable to the Secretary of the land identified in paragraph (2), the Secretary shall simultaneously convey to APGI title to the land identified in paragraph (3).

(2) Description of land to be conveyed by APGI.—The land to be conveyed by APGI to the Secretary is the approximately 186 acres of land, subject to any encumbrances existing before February 21, 2003—

(A) within the authorized boundary of the Park, located northeast of United States Highway 129 and adjacent to the APGI power line; and

(B) as generally depicted on the map as "Proposed Property Transfer from APGI to National Park Service".

(3) Description of land to be conveyed by the Secretary.—The land to be conveyed by the Secretary to APGI are the approximately 110 acres of land within the Park that are—

(A) adjacent to or flooded by the Chilhowee Reservoir;

(B) within the boundary of the Project as of February 21, 2003; and

(C) as generally depicted on the map as "Proposed Property Transfer from National Park Service to APGI".

(b) Minor Adjustments to Conveyed Land.—The Secretary and APGI may mutually agree to make minor boundary or acreage adjustments to the land identified in paragraphs (2) and (3) of subsection (a).

(c) Opportunity To Mitigate.—If the Secretary determines that all or part of the land to be conveyed to the Park under subsection (a) is unsuitable for inclusion in the Park, APGI shall have the opportunity to make the land suitable for inclusion in the Park.

(d) Conservation Easement.—The Secretary shall reserve a conservation easement over any land transferred to APGI under subsection (a)(3) that, subject to any terms and conditions imposed by the Commission in any license that the Commission may issue for the Project, shall—

(1) specifically prohibit any development of the land by APGI, other than any development that is necessary for the continued operation and maintenance of the Chilhowee Reservoir;

(2) authorize public access to the easement area, subject to National Park Service regulations; and

(3) authorize the National Park Service to enforce Park regulations on the land and in and on the waters of Chilhowee Reservoir lying on the land, to the extent not inconsistent with any license condition considered necessary by the Commission.

(e) Applicability of Certain Laws.—Section 5(b) of Public Law 90-401 (16 U.S.C. 460*l*-22(b)), shall not apply to the land exchange authorized under this section.

(f) Reversion.—

(1) In general.—The deed from the Secretary to APGI shall contain a provision that requires the land described in subsection (a)(3) to revert to the United States if—

(A) the Chilhowee Reservoir ceases to exist; or

(B) the Commission issues a final order decommissioning the Project from which no further appeal may be taken.

(2) Applicable law.—A reversion under this subsection shall not eliminate APGI's responsibility to comply with all applicable provisions of the Federal Power Act (16 U.S.C. 791a et seq.), including regulations.

(g) Boundary Adjustment.—

(1) In general.—On completion of the land exchange authorized under this section, the Secretary shall—

(A) adjust the boundary of the Park to include the land described in subsection (a)(2); and

(B) administer any acquired land as part of the Park in accordance with applicable law (including regulations).

(2) National park service land.—Notwithstanding the exchange of land under this section, the land described in subsection (a)(3) shall remain in the boundary of the Park.

(3) Public notice.—The Secretary shall publish in the Federal Register notice of any boundary revised under paragraph (1).

SEC. 4. PROJECT LICENSING.

Notwithstanding the continued inclusion of the land described in section 3(a)(3) in the boundary of the Park (including any modification made pursuant to section 3(b)) on completion of the land exchange, the Commission shall have jurisdiction to license the Project.

SEC. 5. LAND ACQUISITION.

(a) In General.—The Secretary or the Secretary of Agriculture may acquire, by purchase, donation, or exchange, any land or interest in land that—

(1) may be transferred by APGI to any nongovernmental organization; and

(2) is identified as "Permanent Easement" or "Term Easement" on the map entitled "Tapoco Hydroelectric Project, P-2169, Settlement Agreement, Appendix B, Proposed Land Conveyances in Tennessee", numbered TP616, Issue No. 15, and dated March 11, 2004.

(b) Land Acquired by the Secretary of the Interior.—The Secretary shall—

(1) adjust the boundary of the Park to include any land or interest in land acquired by the Secretary under subsection (a);

(2) administer any acquired land or interest in land as part of the Park in accordance with applicable law (including regulations); and

(3) publish notice of the adjustment in the Federal Register.

(c) Land Acquired by the Secretary of Agriculture.—

(1) Boundary adjustment.—The Secretary of Agriculture shall—

(A) adjust the boundary of the Cherokee National Forest to include any land acquired under subsection (a);

(B) administer any acquired land or interest in land as part of the Cherokee National Forest in accordance with applicable law (including regulations); and

(C) publish notice of the adjustment in the Federal Register.

(2) Management.—The Secretary of Agriculture shall evaluate the feasibility of managing any land acquired by the Secretary of Agriculture under subsection (a) in a manner that retains the primitive, back-country character of the land.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2319.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate 2319, introduced by Senator ALEXANDER of Tennessee, would facilitate a hydroelectric power relicensing for the Tapoco Project near the Great Smoky Mountains National Park by authorizing the Secretary of the Interior to enter into a series of land exchanges with Alcoa Power Generating, Inc.

The gentleman from Tennessee (Mr. DUNCAN) is the author of the House companion bill and has asked us to accept the Senate bill in the interest of time.

Mr. Speaker, the bill is supported by the majority and minority of the committee as well as the administration.

Mr. Speaker, I urge adoption of the bill.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON RESOURCES,
Washington, DC, October 1, 2004.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter regarding H.R. 4667, a bill to authorize and facilitate hydroelectric power licensing of the Tapoco Project. I agree that the Committee on Energy and Commerce has a jurisdictional interest in H.R. 4667, and that by not insisting upon your referral of the bill, you do not compromise your jurisdictional claim. I will also support your request to be named as a conferee on this bill or the similar Senate bill, S. 2319 should one become necessary.

It is indeed our intention to consider S. 2319, which is being held at the desk in the House. To clarify the committee jurisdiction over this matter, I will place your letter and my response in the Congressional Record under the extension of remark authority granted during consideration of S. 2319.

Thank you again for your cooperation on this issue.

Sincerely,

RICHARD W. POMBO,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, September 30, 2004.

Hon. RICHARD W. POMBO,
Chairman, Committee on Resources, House of Representatives,
Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN POMBO: On September 15, 2004, the Committee on Resources ordered reported H.R. 4667, a bill to authorize and facilitate hydroelectric power licensing of the Tapoco Project. Upon introduction, this bill was also referred to the Committee on Energy and Commerce, and was subsequently ordered reported by the Committee today. S. 2319, which is the companion legislation to H.R. 4667, is currently being held at the desk in the House. I understand that it is your intention to consider S. 2319 rather than H.R. 4667 in the House.

Recognizing your interest in bringing this legislation before the House expeditiously, the Committee on Energy and Commerce agrees not to seek a sequential referral of the bill. By agreeing not to seek a sequential referral, the Committee on Energy and Commerce does not waive its jurisdiction over the bill.

I request that you include this letter and your response as part of the Congressional Record during consideration of this bill by the House.

Sincerely,

JOE BARTON,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from Tennessee (Mr. DUNCAN) to add his remarks on Senate 2319.

Mr. DUNCAN. Mr. Speaker, I thank the gentleman from Nevada (Mr. GIBBONS) for yielding me time.

Mr. Speaker, I rise today to encourage the House to approve S. 2319 which was first introduced by my Tennessee colleague, Senator LAMAR ALEXANDER.

Simply put, S. 2319 is a jobs bill that will keep 2,000 jobs through a land exchange between the ALCOA Corporation and the Great Smoky Mountains National Park.

This bill ratifies an agreement between ALCOA and a large number of Tennessee and North Carolina State and local officials, Federal agencies and nonprofit conservation groups.

Specifically, this bill allows the relicensing of the Tapoco Project, an ALCOA-owned-and-operated hydroelectric project that is federally licensed under the Federal Power Act.

Originally licensed in 1955, the Tapoco Project was constructed on the Little Tennessee and Cheoah Rivers. It contains more than 8,000 acres that are located between nearly 10,000 acres of lands owned by ALCOA, the Great Smoky Mountains National Park, and the Cherokee and Nantahala National Forests.

Senate bill 2319 creates a legal barrier that prevents the relicensure of the Tapoco Project because a portion of the Chilhowee Reservoir floods four side streams containing approximately 100 acres of land within the authorized boundary of the Great Smoky Mountains National Park. Although these lands were included within the park when it was created in 1926, the Federal Government decided for financial reasons not to acquire flooding rights that were then held by ALCOA's corporate predecessor.

However, the Federal Power Act and the 1926 Great Smoky Mountains National Park law each prohibit the licensing of hydroelectric projects inside the park. Thus, it appears the Tapoco Project was erroneously licensed in 1955 to include four areas flooded by Chilhowee Dam.

Although ALCOA owns valid property rights to flood these lands, FERC does not have the legal authority to issue a new license. Under Senate bill 2319, the Park Service and ALCOA will exchange lands to correct this 50-year-old mistake and allow FERC to relicense the Tapoco Project.

Specifically, the bill directs the Secretary of Interior to acquire 189 acres of ecologically valuable lands located within the authorized boundaries of the park, in exchange for 100 acres of land located within the park and the Tapoco Project. This is a net gain of 89 acres for the park.

The legislation also authorizes the Secretaries of Interior and Agriculture to adjust the boundaries of the park and adjacent U.S. forests and accept the lands that are expected to be transferred by ALCOA to a nonprofit organization and subsequently by the nonprofit organization to the Federal Government.

In conclusion, without this legislation, ALCOA would no longer be able to provide power for its operations in East Tennessee and would be forced to halt its operations. This would be a major blow to 2,000 hardworking families in my district and an annual economic loss of over $400 million to a region that already has lost thousands of jobs overseas.

Mr. Speaker, I urge passage of this bill. I especially thank my colleague in the other body, Senator ALEXANDER, for his work on this legislation. I thank my friend and colleague, the gentleman from Nevada (Mr. GIBBONS) for so graciously yielding me this time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have reviewed Senate 2319 and have no objection to its passage today. I join the ranking member, the gentleman from West Virginia (Mr. RAHALL), in congratulating the gentleman from Tennessee (Mr. DUNCAN) on his efforts on behalf of this legislation and the Tapoco Project.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the Senate bill, S. 2319.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

EDWARD H. McDANIEL AMERICAN LEGION POST NO. 22 LAND CONVEYANCE ACT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1521) to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community, as amended.

The Clerk read as follows:

S. 1521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—[LAND CONVEYANCE]

SEC. 101. SHORT TITLE.

This Act may be cited as the "Edward H. McDaniel American Legion Post No. 22 Land Conveyance Act".

SEC. 102. DEFINITIONS.

In this Act:

(1) POST NO. 22.—The term "Post No. 22" means the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 103. CONVEYANCE OF LAND TO EDWARD H. McDANIEL AMERICAN LEGION POST NO. 22.

(a) CONVEYANCE ON CONDITION SUBSEQUENT.—Not later than 180 days after the date of enactment of this Act, subject to valid existing rights and the condition stated in subsection (c) and in accordance with the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.), the Secretary shall convey to Post No. 22, for no consideration, all right, title, and interest of the United States in and to the parcel of land described in subsection (b).

(b) DESCRIPTION OF LAND.—The parcel of land referred to in subsection (b) is the parcel of Bureau of Land Management land that—

(1) is bounded by Route 160, Bride Street, and Dandelion Road in Nye County, Nevada;

(2) consists of approximately 4.5 acres of land; and

(3) is more particularly described as a portion of the S ¼ of section 29, T. 20 S., R. 54 E., Mount Diablo and Base Meridian.

(c) CONDITION ON USE OF LAND.—

(1) IN GENERAL.—Post No. 22 and any successors of Post No. 22 shall use the parcel of land described in section (b) for the construction and operation of a post building and memorial park for use by Post No. 22, other veterans groups, and the local community for events and activities.

(2) REVERSION.—Except as provided in paragraph (3), if the Secretary, after notice to Post No. 22 and an opportunity for a hearing, makes a finding that Post No. 22 has used or permitted the use of the parcel for any purpose other than the purpose specified in paragraph (1) and Post No. 22 fails to discontinue that use, title to the parcel shall revert to the United States, to be administered by the Secretary.

(3) WAIVER.—The Secretary may waive the requirements of paragraph (2) if the Secretary
determines that a waiver would be in the best interests of the United States.

TITLE II—EXTENSIONS

SEC. 201. AUTHORIZATION AND APPROPRIATION EXTENSIONS.

Division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 16 U.S.C. 461 note) is amended—

(1) in each of sections 107, 208, 408, 507, 811, and 910, by striking "September 30, 2012" and inserting "September 30, 2027";

(2) in each of sections 108(a), 209(a), 409(a), 508(a), 812(a), and 909(c), by striking "$10,000,000" and inserting "$20,000,000"; and

(3) in title VIII, by striking "Canal National Heritage Corridor" each place it appears in the section headings and text and inserting "National Heritage Canalway".

TITLE III—NATIONAL COAL HERITAGE AREA

SEC. 301. NATIONAL COAL HERITAGE AREA.

(a) NATIONAL COAL HERITAGE AREA AUTHORITY; BOUNDARY REVISION.—Title I of division II of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 16 U.S.C. 461 note) is amended as follows:

(1) In section 103(b), by inserting "(1)" before "the counties" and by inserting the following before the period: "; (2) Lincoln County, West Virginia; and (3) Paint Creek and Cabin Creek in Kanawha County, West Virginia".

(2) In section 104, by striking "Governor" and all that follows through "organizations" in the matter preceding paragraph (1) and inserting "National Coal Heritage Area Authority, a public corporation and government instrumentality established by the State of West Virginia, pursuant to which the Secretary shall assist the National Coal Heritage Area Authority".

(3) In section 105—

(A) by striking "paragraph (2) of"; and

(B) by adding at the end the following new sentence: "Resources within Lincoln County, West Virginia, and Paint Creek and Cabin Creek within Kanawha County, West Virginia, shall also be eligible for assistance as determined by the National Coal Heritage Area Authority.".

(4) In section 106(a)—

(A) by striking "Governor" and all that follows through "and Parks" and inserting "National Coal Heritage Area Authority"; and

(B) in paragraph (3), by striking "State of West Virginia" and all that follows through "entities" and inserting "National Coal Heritage Area Authority".

(b) AGREEMENT CONTINUING IN EFFECT.—The contractual agreement entered into by the Secretary of the Interior and the Governor of West Virginia prior to the date of the enactment of this Act pursuant to section 104 of title I of division II of the Omnibus Parks and Public Lands Management Act of 1996 (16 U.S.C. 461 note) shall be deemed as continuing in effect, except that such agreement shall be between the Secretary and the National Coal Heritage Area Authority.

TITLE IV—COASTAL HERITAGE TRAIL ROUTE IN NEW JERSEY

SEC. 401. REAUTHORIZATION OF APPROPRIATIONS FOR COASTAL HERITAGE TRAIL ROUTE IN NEW JERSEY.

(a) REAUTHORIZATION.—Section [illegible] of Public Law 100-515 (16 U.S.C. 1244 note) is amended

(1) in subsection (b)(1), by striking "$4,000,000" and all that follows and inserting "such sums as may be necessary."; and

(2) in subsection (c), by striking "10" and inserting "12".

(b) STRATEGIC PLAN.—

(1) IN GENERAL.—The Secretary of the Interior shall, by not later than 2 years after the date of the enactment of this Act, prepare a strategic plan for the New Jersey Coastal Heritage Trail Route.

(2) CONTENTS.—The strategic plan shall describe—

(A) opportunities to increase participation by national and local private and public interests in planning, development, and administration of the New Jersey Coastal Heritage Trail Route; and

(B) organizational options for sustaining the New Jersey Coastal Heritage Trail Route.

TITLE V—ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR

SEC. 501. SHORT TITLE.

This title may be cited as the "Illinois and Michigan Canal National Heritage Corridor Act Amendments of 2004".

SEC. 502. TRANSITION AND PROVISIONS FOR NEW MANAGEMENT ENTITY.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 (Public Law 98-398; 16 U.S.C. 461 note) is amended as follows:

(1) In section 103—

(A) in paragraph (8), by striking "and";

(B) in paragraph (9), by striking the period and inserting "; and"; and

(C) by adding at the end the following:

"(10) the term 'Association' means the Canal Corridor Association (an organization described under section 501(c)(3) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code).".

(2) By adding at the end of section 112 the following new paragraph:

"(7) The Secretary shall enter into a memorandum of understanding with the Association to help ensure appropriate transition of the management entity to the Association and coordination with the Association regarding that role.".

(3) By adding at the end the following new sections:

"SEC. 119. ASSOCIATION AS MANAGEMENT ENTITY.

"Upon the termination of the Commission, the management entity for the corridor shall be the Association.

"SEC. 120. DUTIES AND AUTHORITIES OF ASSOCIATION.

"For purposes of preparing and implementing the management plan developed under section 121, the Association may use Federal funds made available under this title—

"(1) to make loans and grants to, and enter into cooperative agreements with, States and their political subdivisions, private organizations, or any person;

"(2) to hire, train, and compensate staff; and

"(3) to enter into contracts for goods and services.

"SEC. 121. DUTIES OF THE ASSOCIATION.

"The Association shall—

"(1) develop and submit to the Secretary for approval under section 123 a proposed management plan for the corridor not later than 2 years after Federal funds are made available for this purpose;

"(2) give priority to implementing actions set forth in the management plan, including taking steps to assist units of local government, regional planning organizations, and other organizations—

"(A) in preserving the corridor;

"(B) in establishing and maintaining interpretive exhibits in the corridor;

"(C) in developing recreational resources in the corridor;

"(D) in increasing public awareness of and appreciation for the natural, historical, and architectural resources and sites in the corridor; and

"(E) in facilitating the restoration of any historic building relating to the themes of the corridor;

"(3) encourage by appropriate means economic viability in the corridor consistent with the goals of the management plan;

"(4) consider the interests of diverse governmental, business, and other groups within the corridor;

"(5) conduct public meetings at least quarterly regarding the implementation of the management plan;

"(6) submit substantial changes (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan to the Secretary;

"(7) for any year in which Federal funds have been received under this title—

"(A) submit an annual report to the Secretary setting forth the Association's accomplishments, expenses and income, and the identity of each entity to which any loans and grants were made during the year for which the report is made;

"(B) make available for audit all records pertaining to the expenditure of such funds and any matching funds; and

"(C) require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available for audit all records pertaining to the expenditure of such funds.

"SEC. 122. USE OF FEDERAL FUNDS.

"(1) IN GENERAL.—The Association shall not use Federal funds received under this title to acquire real property or an interest in real property.

"(2) Other sources.—Nothing in this title precludes the Association from using Federal funds from other sources for authorized purposes.

"SEC. 123. MANAGEMENT PLAN.

"(a) Preparation of Management Plan.—Not later than 2 years after the date that Federal funds are made available for this purpose, the Association shall submit to the Secretary for approval a proposed management plan that shall—

"(1) take into consideration State and local plans and involve residents, local governments and public agencies, and private organizations in the corridor;

"(2) present comprehensive recommendations for the corridor's conservation, funding, management, and development;

"(3) include actions proposed to be undertaken by units of government and nongovernmental and private organizations to protect the resources of the corridor;

"(4) specify the existing and potential sources of funding to protect, manage, and develop the corridor; and

"(5) include the following:

"(A) Identification of the geographic boundaries of the corridor.

"(B) A brief description and map of the corridor's overall concept or vision that show key sites, visitor facilities and attractions, and physical linkages.

"(C) Identification of overall goals and the strategies and tasks intended to reach them, and a realistic schedule for completing the tasks.

"(D) A listing of the key resources and themes of the corridor.

"(E) Identification of parties proposed to be responsible for carrying out the tasks.

"(F) A financial plan and other information on costs and sources of funds.

"(G) A description of the public participation process used in developing the plan and a proposal for public participation in the implementation of the management plan.

"(H) A mechanism and schedule for updating the plan based on actual progress.

"(I) A bibliography of documents used to develop the management plan.

"(J) A discussion of any other relevant issues relating to the management plan.

"(b) Disqualification From Funding.—If a proposed management plan is not submitted to the Secretary within 2 years after the date that Federal funds are made available for this purpose, the Association shall be ineligible to receive additional funds under this title until the Secretary receives a proposed management plan from the Association.

"(c) Approval of Management Plan.—The Secretary shall approve or disapprove a proposed management plan submitted under this title not later than 180 days after receiving such proposed management plan. If action is not taken by the Secretary within the time period specified in the preceding sentence, the management plan shall be deemed approved. The Secretary shall consult with the local entities representing the diverse interests of the corridor including governments, natural and historic resource protection organizations, educational institutions, businesses, recreational organizations, community residents, and private property owners prior to approving the management plan. The Association shall conduct semi-annual public meetings, workshops, and hearings to provide adequate opportunity for the public and local and governmental entities to review and to aid in the preparation and implementation of the management plan.

"(d) Effect of Approval.—Upon the approval of the management plan as provided in subsection (c), the management plan shall supersede the conceptual plan contained in the National Park Service report.

"(e) Action Following Disapproval.—If the Secretary disapproves a proposed management plan within the time period specified in subsection (c), the Secretary shall advise the Association in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed management plan.

"(f) Approval of Amendments.—The Secretary shall review and approve all substantial amendments (including any increase of more than 20 percent in the cost estimates for implementation) to the management plan. Funds made available under this title may not be expended to implement any changes made by a substantial amendment until the Secretary approves that substantial amendment.

"SEC. 124. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

"(a) Technical and Financial Assistance.—Upon the request of the Association, the Secretary may provide technical assistance, on a reimbursable or nonreimbursable basis, and financial assistance to the Association to develop and implement the management plan. The Secretary is authorized to enter into cooperative agreements with the Association and other public or private entities for this purpose. In assisting the Association, the Secretary shall give priority to actions that in general assist in—

"(1) conserving the significant natural, historic, cultural, and scenic resources of the corridor; and

"(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the corridor.

"(b) Duties of Other Federal Agencies.—Any Federal agency conducting or supporting activities directly affecting the corridor shall—

"(1) consult with the Secretary and the Association with respect to such activities;

"(2) cooperate with the Secretary and the Association in carrying out their duties under this title;

"(3) to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

"(4) to the maximum extent practicable, conduct or support such activities in a manner which the Association determines is not likely to have an adverse effect on the corridor.

"SEC. 125. AUTHORIZATION OF APPROPRIATIONS.

"(a) In General.—To carry out this title there is authorized to be appropriated $10,000,000, except that not more than $1,000,000 may be appropriated to carry out this title for any fiscal year.

"(b) 50 Percent Match.—The Federal share of the cost of activities carried out using any assistance or grant under this title shall not exceed 50 percent of that cost.

"SEC. 126. SUNSET.

"The authority of the Secretary to provide assistance under this title terminates on September 30, 2027.".

SEC. 503. PRIVATE PROPERTY PROTECTION.

The Illinois and Michigan Canal National Heritage Corridor Act of 1984 is further amended by adding after section 126 (as added by section 502 of this title) the following new sections:

"SEC. 127. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

"(a) Notification and Consent of Property Owners Required.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the corridor until the owner of that private property has been notified in writing by the Association and has given written consent for such preservation, conservation, or promotion to the Association.

"(b) Landowner Withdraw.—Any owner of private property included within the boundary of the corridor, and not notified under subsection (a), shall have their property immediately removed from the boundary of the corridor by submitting a written request to the Association.

"SEC. 128. PRIVATE PROPERTY PROTECTION.

"(a) Access to Private Property.—Nothing in this title shall be construed to—

"(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

"(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

"(b) Liability.—Designation of the corridor shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

"(c) Recognition of Authority to Control Land Use.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

"(d) Participation of Private Property Owners in Corridor.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the corridor to participate in or be associated with the corridor.

"(e) Effect of Establishment.—The boundaries designated for the corridor represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the corridor and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the corridor or its viewshed by the Secretary, the National Park Service, or the Association.".

SEC. 504. TECHNICAL AMENDMENTS.

Section 116 of Illinois and Michigan Canal National Heritage Corridor Act of 1984 is amended—

(1) by striking subsection (b); and

(2) in subsection (a)—

(A) by striking "(a)" and all that follows through "For each" and inserting "(a) For each";

(B) by striking "Commission" and inserting "Association";

(C) by striking "Commission's" and inserting "Association's";

(D) by redesignating paragraph (2) as subsection (b); and

(E) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

TITLE VI—[POTASH ROYALTY REDUCTION]

SEC. 601. SHORT TITLE.

This Act may be cited as the "Potash Royalty Reduction Act of 2004".

SEC. 602. POTASSIUM AND POTASSIUM COMPOUNDS FROM SYLVITE.

(a) Royalty Rate.—Notwithstanding section 102(a)(9) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701(a)(9)), section 2 of the Act of February 7, 1927 (30 U.S.C. 282) and the term of any lease issued under such section 2, the royalty rate on the quantity or gross value of the output from Federal lands of potassium and potassium compounds from the mineral sylvite at the point of shipment to market in the 5-year period beginning on the date of the enactment of this Act shall be 1.0 percent.

(b) RECLAMATION FUND.—Fifty percentum of any royalties paid pursuant to this Act during the 5-year period referred to in subsection (a), together with any interest earned from the date of payment, shall be paid by the Secretary of the Treasury to the payor of the royalties to be used solely for land reclamation purposes in accordance with a schedule to implement a reclamation plan for the lands for which the royalties are paid. No payment shall be made by the Secretary of the Treasury pursuant to this subsection until the Secretary of the Interior receives from the payor of the royalties, and approves, the reclamation plan and schedule, and submits the approved schedule to the Secretary of the Treasury. The share of royalties held by the Secretary of the Treasury pursuant to this subsection, and interest earned thereon, shall be available until paid pursuant to this subsection, without further appropriation; shall not be considered as money received under section 35 of the Mineral Leasing Act (30 U.S.C. 191) for the purpose of revenue allocation; and shall not be reduced by any administrative or other costs incurred by the United States.

(c) STUDY AND REPORT.—After the end of the 4-year period beginning on the date of the enactment of this Act, and before the end of the 5-year period beginning on that date, the Secretary of the Interior shall report to the Congress on the effects of the royalty reduction under this Act, including a recommendation on whether the reduced royalty rate for potassium from sylvite should apply after the end of the 5-year period..

TITLE VII—[SODA ASH ROYALTY REDUCTION]

SEC. 701. SHORT TITLE.

This Act may be cited as the "Soda Ash Royalty Reduction Act of 2004".

SEC. 702. FINDINGS.

The Congress finds the following:

(1) The combination of global competitive pressures, flat domestic demand, and spiraling costs of production threaten the future of the United States soda ash industry.

(2) Despite booming world demand, growth in United States exports of soda ash since 1997 has been flat, with most of the world's largest markets for such growth, including Brazil, the People's Republic of China, India, the countries of eastern Europe, and the Republic of South Africa, have been closed by protectionist policies.

(3) The People's Republic of China is the prime competitor of the United States in soda ash production, and recently supplanted the United States as the largest producer of soda ash in the world.

(4) Over 700 jobs have been lost in the United States soda ash industry since the Department of the Interior increased the royalty rate on soda ash produced on Federal land, in 1996.

(5) Reduction of the royalty rate on soda ash produced on Federal land will provide needed relief to the United States soda ash industry and allow it to increase export growth and competitiveness in emerging world markets, and create new jobs in the United States.

SEC. 703. REDUCTION IN ROYALTY RATE ON SODA ASH.

Notwithstanding section 102(a)(9) of the Federal Land Policy Management Act of 1976 (43 U.S.C. 1701(a)(9)), section 24 of the Mineral Leasing Act (30 U.S.C. 262), and the terms of any lease under that Act, the royalty rate on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market from Federal land in the 5-year period beginning on the date of the enactment of this Act shall be 2 percent.

SEC. 704. STUDY.

After the end of the 4-year period beginning on the date of the enactment of this Act, and before the end of the 5-year period beginning on that date, the Secretary of the Interior shall report to the Congress on the effects of the royalty reduction under this Act, including—

(1) the amount of sodium compounds and related products at the point of shipment to market from Federal land during that 4-year period;

(2) the number of jobs that have been created or maintained during the royalty reduction period;

(3) the total amount of royalty paid to the United States on the quantity or gross value of the output of sodium compounds and related products at the point of shipment to market produced during that 4-year period, and the portion of such royalty paid to States; and

(4) a recommendation of whether the reduced royalty rate should apply after the end of the 5-year period beginning on the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 1521.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate 1521, introduced by the Assistant Democratic Leader of the Senate, Senator REID of Nevada, would direct the Secretary of the Interior to convey public land currently managed by the Bureau of Land Management in Pahrump, Nevada, to the Edward H. McDaniel American Legion Post No. 22, for the construction of a post building and memorial park for use by the American Legion, and other veterans' groups, and the local community.

The bill was subsequently amended by the Committee on Resources where six additional titles were added. However, four of the six additional titles contained language that has once passed this House, and would simply make technical changes to seven existing National Heritage Areas and one Heritage Trail Route.

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Focusing then on the two remaining titles, title VI would temporarily set a royalty rate reduction upon the quantity or gross value of sodium compounds and related products at point of shipment to market from Federal lands over the next 5 years. It would also instruct the Secretary of the Interior to report to Congress on the effects of such royalty reduction, as well as to provide a recommendation of whether the reduced royalty rate should apply following the end of the 5-year period.

This is taken from the gentlewoman from Wyoming's (Mrs. CUBIN's) bill, H.R. 4625, which has passed the House already.

Similarly, title VII provides for a 5-year royalty rate reduction upon the quantity or gross value of potassium compounds from the mineral sylvite at point of shipment to market from Federal lands over the next 5 years. As under the previous title, the Secretary of the Interior would again be required to recommend to Congress whether the reduced royalty rate should continue after the 5-year period. This is taken from H.R. 4984 authorized by the gentleman from New Mexico (Mr. PEARCE).

Mr. Speaker, Senate bill 1521, as amended, is supported by the majority and the minority of the Committee on Resources. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

The legislation we are considering is sponsored by Nevada Senator HARRY REID. Both Committee on Resources ranking member, the gentleman from West Virginia (Mr. RAHALL) and myself have become very much aware of the bipartisan efforts among the Nevada delegation to secure public lands for various causes.

This is another one of those situations, and while we do not always agree with a particular Nevada land bill, when we can, we are always pleased to be of some of some small service to the distinguished senator.

As a member of the American Legion Auxiliary myself, I am always pleased to support any bill that is done on behalf of the American Legion. As such, we have no objections to passing Senate 1521, as amended by the House.

Mr. Speaker, I have no further speakers on this legislation, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further speakers on S. 1521, would urge adoption of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the Senate bill, S. 1521, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "A bill to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community, and for other purposes."

A motion to reconsider was laid on the table.

LINCOLN COUNTY CONSERVATION, RECREATION, AND DEVELOPMENT ACT OF 2004

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4593) to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4593

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

TITLE I—LINCOLN COUNTY CONSERVATION, RECREATION, AND DEVELOPMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Lincoln County Conservation, Recreation, and Development Act of 2004".

Subtitle A—Land Disposal

SEC. 111. DEFINITIONS.

In this subtitle:

(1) County.—The term "County" means Lincoln County, Nevada.

(2) Map.—The term "map" means the map entitled "Lincoln County Conservation, Recreation, and Development Act Map" and dated October 1, 2004.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

(4) Special account.—The term "special account" means the special account established under section 113(b)(3).

SEC. 112. CONVEYANCE OF LINCOLN COUNTY LAND.

(a) In General.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712), the Secretary, in cooperation with the County, in accordance with that Act, this subtitle, and other applicable law and subject to valid existing rights, shall conduct sales of—

(1) the land described in subsection (b)(1) to qualified bidders not later than 75 days after the date of the enactment of this Act; and.

(2) the land described in subsection (b)(2) to qualified bidders as such land becomes available for disposal.

(b) Description of Land.—The land referred to in subsection (a) consists of—

(1) the land identified on the map as Tract A and Tract B totaling approximately 13,328 acres; and

(2) between 87,000-90,000 acres of Bureau of Land Management managed public land in Lincoln County identified for disposal by the BLM either through—

(A) the Ely Resource Management Plan (intended to be finalized in 2005); or

(B) a subsequent amendment to that land use plan undertaken with full public involvement.

(c) Availability.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

(1) the Office of the Director of the Bureau of Land Management;

(2) the Office of the Nevada State Director of the Bureau of Land Management;

(3) the Ely Field Office of the Bureau of Land Management; and

(4) the Caliente Field Station of the Bureau of Land Management.

(d) Joint Selection Required.—The Secretary and the County shall jointly select which parcels of land described in subsection (b)(2) to offer for sale under subsection (a).

(e) Compliance With Local Planning and Zoning Laws.—Before a sale of land under subsection (a), the County shall submit to the Secretary a certification that qualified bidders have agreed to comply with—

(1) County and city zoning ordinances; and

(2) any master plan for the area approved by the County.

(f) Method of Sale; Consideration.—The sale of land under subsection (a) shall be—

(1) consistent with section 203(d) and 203(f) of the Federal Land Management Policy Act of 1976 (43 U.S.C. 1713(d) and (f));

(2) through a competitive bidding process unless otherwise determined by the Secretary; and

(3) for not less than fair market value.

(g) Withdrawal.—

(1) In general.—Subject to valid existing rights and except as provided in paragraph (2), the land described in subsection (b) is withdrawn from—

(A) all forms of entry and appropriation under the public land laws, including the mining laws;

(B) location, entry, and patent under the mining laws; and

(C) operation of the mineral leasing and geothermal leasing laws.

(2) Exception.—Paragraph (1)(A) shall not apply to a competitive sale or an election by the County to obtain the land described in subsection (b) for public purposes under the Act of June 14, 1926 (43 U.S.C. 869 et seq; commonly known as the "Recreation and Public Purposes Act").

(h) Deadline for Sale.—

(1) In general.—Except as provided in paragraph (2), the Secretary shall—

(A) notwithstanding the Lincoln County Land Act of 2000 (114 Stat. 1046), not later than 75 days after the date of the enactment of this title, offer by sale the land described in subsection (b)(1) if there is a qualified bidder for such land; and

(B) offer for sale annually lands identified for sale in subsection (b)(2) until such lands are disposed of or unless the county requests a postponement under paragraph (2).

(2) Postponement; exclusion from sale.—

(A) Request by county for postponement or exclusion.—At the request of the County, the Secretary shall postpone or exclude from the sale all or a portion of the land described in subsection (b)(2).

(B) Indefinite postponement.—Unless specifically requested by the County, a postponement under subparagraph (A) shall not be indefinite.

SEC. 113. DISPOSITION OF PROCEEDS.

(a) Initial Land Sale.—Section 5 of the Lincoln County Land Act of 2000 (114 Stat. 1047) shall apply to the disposition of the gross proceeds from the sale of land described in section 112(b)(1).

(b) Reimbursement of Costs.—Proceeds from the sale of lands described in section 112(b)(2) shall be used to reimburse costs incurred by the Nevada State office and the Ely Field Office of the Bureau of Land Management for preparing for the sale of land described in section 102(b) including surveys appraisals, compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321) and compliance with the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1712).

(c) Disposition of Proceeds.—Following compliance with section 113(b) proceeds from sales of lands described in section 112(b)(2) shall be disbursed as follows—

(1) 5 percent shall be paid directly to the state for use in the general education program of the State;

(2) 45 percent shall be paid to the County for use for economic development in the County, including County parks, trails, and natural areas; and

(3) the remainder shall be deposited in a special account in the Treasury of the United States and shall be available without further appropriation to the Secretary until expended for—

(A) the inventory, evaluation, protection and management of unique archaeological resources (as defined in section 3 of the Archaeological Resources Protection Act of 19792 (16 U.S.C. 470bb)) of the County;

(B) the development and implementation of a multispecies habitat conservation plan for the County;

(C) processing of public land use authorizations and rights-of-way relating to the development of land conveyed under section 112(b) of this Act;

(D) processing the Silver State OHV trail and implementing the management plan required by section 151(c)(2) of this Act; and

(E) processing wilderness designation, including but not limited to, the costs of appropriate fencing, signage, public education, and enforcement for the wilderness areas designated.

(d) Investment of Special Account.—Any amounts deposited in the special account shall earn interest in an amount determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities, and may be expended according to the provisions of this section.

Subtitle B—Wilderness Areas

SEC. 121. FINDINGS.

Congress finds that—

(1) public land in the County contains unique and spectacular natural resources, including—

(A) priceless habitat for numerous species of plants and wildlife; and

(B) thousands of acres of land that remain in a natural state; and

(2) continued preservation of those areas would benefit the County and all of the United States by—

(A) ensuring the conservation of ecologically diverse habitat;

(B) protecting prehistoric cultural resources;

(C) conserving primitive recreational resources; and

(D) protecting air and water quality.

SEC. 122. DEFINITIONS.

In this subtitle:

(1) County.—The term "County" means Lincoln County, Nevada.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

(3) State.—The term "State" means the State of Nevada.

SEC. 123. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.

(a) ADDITIONS.—The following land in the State is designated as wilderness and as components of the National Wilderness Preservation System:

(1) MORMON MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 157,938 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Mormon Mountains Wilderness".

(2) MEADOW VALLEY RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 123,488 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Meadow Valley Range Wilderness".

(3) DELAMAR MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 111,328 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Delamar Mountains Wilderness".

(4) CLOVER MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 85,748 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Clover Mountains Wilderness".

(5) SOUTH PAHROC RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 25,800 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "South Pahroc Range Wilderness".

(6) WORTHINGTON MOUNTAINS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 30,664 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Worthington Mountains Wilderness".

(7) WEEPAH SPRING WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 51,480 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Weepah Spring Wilderness".

(8) PARSNIP PEAK WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 43,693 acres, as generally depicted on the map entitled "Northern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Parsnip Peak Wilderness".

(9) WHITE ROCK RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 24,413 acres, as generally depicted on the map entitled "Northern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "White Rock Range Wilderness".

(10) FORTIFICATION RANGE WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 30,656 acres, as generally depicted on the map entitled "Northern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Fortification Range Wilderness".

(11) FAR SOUTH EGANS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 36,384 acres, as generally depicted on the map entitled "Northern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Far South Egans Wilderness".

(12) TUNNEL SPRING WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 5,371 acres, as generally depicted on the map entitled "Southern Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Tunnel Spring Wilderness".

(13) BIG ROCKS WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 12,997 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Big Rocks Wilderness".

(14) MT. IRISH WILDERNESS.—Certain Federal land managed by the Bureau of Land Management, comprising approximately 28,334 acres, as generally depicted on the map entitled "Western Lincoln County Wilderness Map", dated October 1, 2004, which shall be known as the "Mt. Irish Wilderness".

(b) BOUNDARY.—The boundary of any portion of a wilderness area designated by subsection (a) that is bordered by a road shall be at least 100 feet from the edge of the road to allow public access.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this title, the Secretary shall file a map and legal description of each wilderness area designated by subsection (a) with the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) EFFECT.—Each map and legal description shall have the same force and effect as if included in this section, except that the Secretary may correct clerical and typographical errors in the map or legal description.

(3) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the Nevada State Director of the Bureau of Land Management;

(C) the Ely Field Office of the Bureau of Land Management; and

(D) the Caliente Field Station of the Bureau of Land Management.

(d) WITHDRAWAL.—Subject to valid existing rights, the wilderness areas designated by subsection (a) are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing and geothermal leasing laws.

SEC. 124. ADMINISTRATION.

(a) MANAGEMENT.—Subject to valid existing rights, each area designated as wilderness by this subtitle shall be administered by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.), except that—

(1) any reference in that Act to the effective date shall be considered to be a reference to the date of the enactment of this title; and

(2) any reference in that Act to the Secretary of Agriculture shall be considered to be a reference to the Secretary of the Interior.

(b) LIVESTOCK.—Within the wilderness areas designated under this subtitle that are administered by the Bureau of Land Management, the grazing of livestock in areas in which grazing is established as of the date of enactment of this title shall be allowed to continue, subject to such reasonable regulations, policies, and practices that the Secretary considers necessary, consistent with section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)), including the guidelines set forth in Appendix A of House Report 101-405.

(c) INCORPORATION OF ACQUIRED LAND AND INTERESTS.—Any land or interest in land within the boundaries of an area designated as wilderness by this subtitle that is acquired by the United States after the date of the enactment of this title shall be added to and administered as part of the wilderness area within which the acquired land or interest is located.

(d) WATER RIGHTS.—

(1) FINDINGS.—Congress finds that—

(A) the land designated as Wilderness by this subtitle is within the Northern Mojave and Great Basin Deserts, is arid in nature, and includes ephemeral streams;

(B) the hydrology of the land designated as wilderness by this subtitle is predominantly characterized by complex flow patterns and alluvial fans with impermanent channels;

(C) the subsurface hydrogeology of the region is characterized by ground water subject to local and regional flow gradients and unconfined and artesian conditions;

(D) the land designated as wilderness by this subtitle is generally not suitable for use or development of new water resource facilities; and

(E) because of the unique nature and hydrology of the desert land designated as wilderness by this subtitle, it is possible to provide for proper management and protection of the wilderness and other values of lands in ways different from those used in other legislation.

(2) STATUTORY CONSTRUCTION.—Nothing in this subtitle—

(A) shall constitute or be construed to constitute either an express or implied reservation by the United States of any water or water rights with respect to the land designated as wilderness by this subtitle;

(B) shall affect any water rights in the State existing on the date of the enactment of this title, including any water rights held by the United States;

(C) shall be construed as establishing a precedent with regard to any future wilderness designations;

(D) shall affect the interpretation of, or any designation made pursuant to, any other Act; or

(E) shall be construed as limiting, altering, modifying, or amending any of the interstate compacts or equitable apportionment decrees that apportion water among and between the State and other States.

(3) NEVADA WATER LAW.—The Secretary shall follow the procedural and substantive requirements of the law of the State in order to obtain and hold any water rights not in existence on the date of enactment of this title with respect to the wilderness areas designated by this subtitle.

(4) NEW PROJECTS.—

(A) WATER RESOURCE FACILITY.—As used in this paragraph, the term "water resource facility"—

(i) means irrigation and pumping facilities, reservoirs, water conservation works, aqueducts, canals, ditches, pipelines, wells, hydropower projects, and transmission and other ancillary facilities, and other water diversion, storage, and carriage structures; and

(ii) does not include wildlife guzzlers.

(B) RESTRICTION ON NEW WATER RESOURCE FACILITIES.—Except as otherwise provided in this title, on and after the date of the enactment of this Act, neither the President nor any other officer, employee, or agent of the United States shall fund, assist, authorize, or issue a license or permit for the development of any new water resource facility within the wilderness areas designated by this title.

SEC. 125. ADJACENT MANAGEMENT.

(a) IN GENERAL.—Congress does not intend for the designation of wilderness in the State pursuant to this subtitle to lead to the creation of protective perimeters or buffer zones around any such wilderness area.

(b) NONWILDERNESS ACTIVITIES.—The fact that nonwilderness activities or uses can be seen or heard from areas within a wilderness designated under this subtitle shall not preclude the conduct of those activities or uses outside the boundary of the wilderness area.

SEC. 126. MILITARY OVERFLIGHTS.

Nothing in this subtitle restricts or precludes—

(1) low-level overflights of military aircraft over the areas designated as wilderness by this subtitle, including military overflights that can be seen or heard within the wilderness areas;

(2) flight testing and evaluation; or

(3) the designation or creation of new units of special use airspace, or the establishment of military flight training routes, over the wilderness areas.

SEC. 127. NATIVE AMERICAN CULTURAL AND RELIGIOUS USES.

Nothing in this subtitle shall be construed to diminish the rights of any Indian tribe. Nothing in this subtitle shall be construed to diminish tribal rights regarding access to Federal land for tribal activities, including spiritual, cultural, and traditional food-gathering activities.

SEC. 128. RELEASE OF WILDERNESS STUDY AREAS.

(a) FINDING.—Congress finds that, for the purposes of section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), the public land in the County administered by the Bureau of Land Management in the following areas has been adequately studied for wilderness designation:

(1) The Table Mountain Wilderness Study Area.

(2) Evergreen A, B, and C Wilderness Study Areas.

(3) Any portion of the wilderness study areas—

(A) not designated as wilderness by section 124(a); and

(B) depicted as released on—

(i) the map entitled "Northern Lincoln County Wilderness Map" and dated October 1, 2004;

(ii) the map entitled "Southern Lincoln County Wilderness Map" and dated October 1, 2004; or

(iii) the map entitled "Western Lincoln County Wilderness Map" and dated October 1, 2004.

(b) RELEASE.—Any public land described in subsection (a) that is not designated as wilderness by this subtitle—

(1) is no longer subject to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c));

(2) shall be managed in accordance with—

(A) land management plans adopted under section 202 of that Act (43 U.S.C. 1712); and

(B) existing cooperative conservation agreements; and

(3) shall be subject to the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 129. WILDLIFE MANAGEMENT.

(a) IN GENERAL.—In accordance with section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this subtitle affects or diminishes the jurisdiction of the State with respect to fish and wildlife management, including the regulation of hunting, fishing, and trapping, in the wilderness areas designated by this subtitle.

(b) MANAGEMENT ACTIVITIES.—In furtherance of the purposes and principles of the Wilderness Act, management activities to maintain or restore fish and wildlife populations and the habitats to support such populations may be carried out within wilderness areas designated by this subtitle where consistent with relevant wilderness management plans, in accordance with appropriate policies such as those set forth in Appendix B of House Report 101–405, including the occasional and temporary use of motorized vehicles, if such use, as determined by the Secretary, would promote healthy, viable, and more naturally distributed wildlife populations that would enhance wilderness values and accomplish those purposes with the minimum impact necessary to reasonably accomplish the task.

(c) EXISTING ACTIVITIES.—Consistent with section 4(d)(1) of the Wilderness Act (16 U.S.C. 1133(d)) and in accordance with appropriate policies such as those set forth in Appendix B of House Report 101–405, the State may continue to use aircraft, including helicopters, to survey, capture, transplant, monitor, and provide water for wildlife populations, including bighorn sheep, and feral stock, horses, and burros.

(d) WILDLIFE WATER DEVELOPMENT PROJECTS.—Subject to subsection (f), the Secretary shall authorize structures and facilities, including existing structures and facilities, for wildlife water development projects, including guzzlers, in the wilderness areas designated by this title if—

(1) the structures and facilities will, as determined by the Secretary, enhance wilderness values by promoting healthy, viable, and more naturally distributed wildlife populations; and

(2) the visual impacts of the structures and facilities on the wilderness areas can reasonably be minimized.

(e) HUNTING, FISHING, AND TRAPPING.—In consultation with the appropriate State agency (except in emergencies), the Secretary may designate by regulation areas in which, and establish periods during which, for reasons of public safety, administration, or compliance with applicable laws, no hunting, fishing, or trapping will be permitted in the wilderness areas designated by this title.

(f) COOPERATIVE AGREEMENT.—The terms and conditions under which the State, including a designee of the State, may conduct wildlife management activities in the wilderness areas designated by this subtitle are specified in the cooperative agreement between the Secretary and the State, entitled "Memorandum of Understanding between the Bureau of Land Management and the Nevada Department of Wildlife Supplement No. 9," and signed November and December 2003, including any amendments to that document agreed upon by the Secretary and the State and subject to all applicable laws and regulations. Any references to Clark County in that document shall also be deemed to be referred to and shall apply to Lincoln County, Nevada.

SEC. 130. WILDFIRE MANAGEMENT.

Consistent with section 4 of the Wilderness Act (16 U.S.C. 1133), nothing in this subtitle precludes a Federal, State, or local agency from conducting wildfire management operations (including operations using aircraft or mechanized equipment) to manage wildfires in the wilderness areas designated by this subtitle.

SEC. 131. CLIMATOLOGICAL DATA COLLECTION.

Subject to such terms and conditions as the Secretary may prescribe, nothing in this subtitle precludes the installation and maintenance of hydrologic, meteorologic, or climatological collection devices in the wilderness areas designated by this subtitle if the facilities and access to the facilities are essential to flood warning, flood control, and water reservoir operation activities.

Subtitle C—Utility Corridors

SEC. 141. UTILITY CORRIDOR AND RIGHTS-OF-WAY.

(a) UTILITY CORRIDOR.—

(1) IN GENERAL.—Consistent with subtitle B and notwithstanding sections 202 and 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1763), the Secretary of the Interior (referred to in this section as the "Secretary") shall establish on public land a 2,640-foot wide corridor for utilities in Lincoln County and Clark County, Nevada, as generally depicted on the map entitled "Lincoln County Conservation, Recreation, and Development Act", and dated October 1, 2004.

(2) AVAILABILITY.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

(A) the Office of the Director of the Bureau of Land Management;

(B) the Office of the Nevada State Director of the Bureau of Land Management;

(C) the Ely Field Office of the Bureau of Land Management; and

(D) the Caliente Field Station of the Bureau of Land Management.

(b) RIGHTS-OF-WAY.—

(1) IN GENERAL.—Notwithstanding sections 202 and 503 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1711, 1763), and subject to valid and existing rights, the Secretary shall grant to the Southern Nevada Water Authority and the Lincoln County Water District nonexclusive rights-of-way to Federal land in Lincoln County and Clark County, Nevada, for any roads, wells, well fields, pipes, pipelines, pump stations, storage facilities, or other facilities and systems that are necessary for the construction and operation of a water conveyance system, as depicted on the map.

(2) APPLICABLE LAW.—A right-of-way granted under paragraph (1) shall be granted in perpetuity and shall not require the payment of rental.

(3) COMPLIANCE WITH NEPA.—Before granting a right-of-way under paragraph (1), the Secretary shall comply with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.), including the identification and consideration of potential impacts to fish and wildlife resources and habitat.

(c) WITHDRAWAL.—Subject to valid existing rights, the utility corridors designated by subsection (a) are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing and geothermal leasing laws.

(d) STATE WATER LAW.—Nothing in this subtitle shall—

(1) prejudice the decisions or abrogate the jurisdiction of the Nevada or Utah State Engineers with respect to the appropriation, permitting, certification, or adjudication of water rights;

(2) preempt Nevada or Utah State water law; or

(3) limit or supersede existing water rights or interest in water rights under Nevada or Utah State law.

(e) Water Resources Study.—

(1) In general.—The Secretary, acting through the United States Geological Survey and the Desert Research Institute, and a designee from the State of Utah shall conduct a study to investigate ground water quantity, quality, and flow characteristics in the deep carbonate and alluvial aquifers of Lincoln and White Pine Counties, Nevada and adjacent areas in Utah. The study shall—

(A) include new and review of existing data;

(B) determine the volume of water stored in aquifers in those areas;

(C) determine the discharge and recharge characteristics of each aquifer system;

(D) determine the hydrogeologic and other controls that govern the discharge and recharge of each aquifer system; and

(E) develop maps at a consistent scale depicting aquifer systems and the recharge and discharge areas of such systems.

(2) Timing; availability.—The Secretary shall complete a draft of the water resources report required under paragraph (1) not later than 30 months after the date of the enactment of this Act. The Secretary shall then make the draft report available for public comment for a period of not less than 60 days. The final report shall be submitted to the Committee on Resources in the House of Representatives and the Committee on Energy and Natural Resources in the Senate and made available to the public not later than 36 months after the date of the enactment of this Act.

(3) Agreement.—Prior to any transbasin diversion from ground-water basins located within both the State of Nevada and the State of Utah, the State of Nevada and the State of Utah shall reach an agreement regarding the division of water resources of those interstate ground-water flow system(s) from which water will be diverted and used by the project. The agreement shall allow for the maximum sustainable beneficial use of the water resources and protect existing water rights.

SEC. 142. RELOCATION OF RIGHT-OF-WAY AND UTILITY CORRIDORS LOCATED IN CLARK AND LINCOLN COUNTIES IN THE STATE OF NEVADA.

(a) Definitions.—In this section:

(1) Agreement.—The term "Agreement" means the land exchange agreement between Aerojet-General Corporation and the United States, dated July 14, 1988.

(2) Corridor.—The term "corridor" means—

(A) the right-of-way corridor that is—

(i) identified in section 5(b)(1) of the Nevada-Florida Land Exchange Authorization Act of 1988 (102 Stat. 55); and

(ii) described in section 14(a) of the Agreement;

(B) such portion of the utility corridor identified in the 1988 Las Vegas Resource Management Plan located south of the boundary of the corridor described in subparagraph (A) as is necessary to relocate the right-of-way corridor to the area described in subsection (c)(2); and

(C) such portion of the utility corridor identified in the 2000 Caliente Management Framework Plan Amendment located north of the boundary of the corridor described in subparagraph (A) as is necessary to relocate the right-of-way corridor to the area described in subsection (c)(2).

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

(b) Relinquishment and Fair Market Value.—

(1) In general.—The Secretary shall, in accordance with this section, relinquish all right, title, and interest of the United States in and to the corridor on receipt of a payment in an amount equal to the fair market value of the corridor (plus any costs relating to the right-of-way relocation described in this subtitle).

(2) Fair market value.—

(A) The fair market value of the corridor shall be equal to the amount by which the value of the discount described in the 1988 appraisal of the corridor that was applied to the land underlying the corridor has increased, as determined by the Secretary using the multiplier determined under subparagraph (B).

(B) Not later than 60 days after the date of the enactment of this Act, the Appraisal Services Directorate of the Department of the Interior shall determine an appropriate multiplier to reflect the change in the value of the land underlying the corridor between—

(i) the date of which the corridor was transferred in accordance with the Agreement; and

(ii) the date of enactment of this Act.

(3) Proceeds.—Proceeds under this subsection shall be deposited in the account established under section 113(c)

(c) Relocation.—

(1) In general.—The Secretary shall relocate to the area described in paragraph (2), the portion of IDI-26446 and UTU-73363 identified as NVN-49781 that is located in the corridor relinquished under subsection (b)(1).

(2) Description of area.—The area referred to in paragraph (1) is the area located on public land west of United States Route 93

(3) Requirements.—The relocation under paragraph (1) shall be conducted in a manner that—

(A) minimizes engineering design changes; and

(B) maintains a gradual and smooth interconnection of the corridor with the area described in paragraph (2).

(4) Authorized uses.—The Secretary may authorize the location of any above ground or underground utility facility, transmission lines, gas pipelines, natural gas pipelines, fiber optics, telecommunications, water lines, wells (including monitoring wells), cable television, and any related appurtenances in the area described in paragraph (1).

(d) Effect.—The relocation of the corridor under this section shall not require the Secretary to update the 1998 Las Vegas Valley Resource Management Plan or the 2000 Caliente Management Framework Plan Amendment.

(e) Waiver of Certain Requirements.—The Secretary shall waive the requirements of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.) that would otherwise be applicable to the holders of the right-of-way corridor described in subsection (a)(2)(A) with respect to an amendment to the legal description of the right-of-way corridor.

Subtitle D—Silver State Off-Highway Vehicle Trail

SEC. 151. SILVER STATE OFF-HIGHWAY VEHICLE TRAIL.

(a) Definitions.—In this section:

(1) Secretary.—The term "Secretary" means the Secretary of the Interior.

(2) Map.—The term "Map" means the map entitled "Lincoln County Conservation, Recreation and Development Act Map" and dated October 1, 2004.

(3) Trail.—The term "Trail" means the system of trails designated in subsection (b) as the Silver State Off-Highway Vehicle Trail.

(b) Designation.—The trails that are generally depicted on the Map are hereby designated as the "Silver State Off-Highway Vehicle Trail".

(c) Management.—

(1) In general.—The Secretary shall manage the Trail in a manner that—

(A) is consistent with motorized and mechanized use of the Trail that is authorized on the date of the enactment of this title pursuant to applicable Federal and State laws and regulations;

(B) ensures the safety of the people who use the Trail; and

(C) does not damage sensitive habitat or cultural resources.

(2) Management plan.—

(A) In general.—Not later than 3 years after the date of the enactment of this title, the Secretary, in consultation with the State, the County, and any other interested persons, shall complete a management plan for the Trail.

(B) Components.—The management plan shall—

(i) describe the appropriate uses and management of the Trail;

(ii) authorize the use of motorized and mechanized vehicles on the Trail; and

(iii) describe actions carried out to periodically evaluate and manage the appropriate levels of use and location of the Trail to minimize environmental impacts and prevent damage to cultural resources from the use of the Trail.

(3) Monitoring and evaluation.—

(A) Annual assessment.—The Secretary shall annually assess the effects of the use of off-highway vehicles on the Trail and, in consultation with the Nevada Division of Wildlife, assess the effects of the Trail on wildlife and wildlife habitat to minimize environmental impacts and prevent damage to cultural resources from the use of the Trail.

(B) Closure.—The Secretary, in consultation with the State and the County, may temporarily close or permanently reroute, subject to subparagraph (C), a portion of the Trail if the Secretary determines that—

(i) the Trail is having an adverse impact on—

(I) natural resources; or

(II) cultural resources;

(ii) the Trail threatens public safety;

(iii) closure of the Trail is necessary to repair damage to the Trail; or

(iv) closure of the Trail is necessary to repair resource damage.

(C) Rerouting.—Portions of the Trail that are temporarily closed may be permanently rerouted along existing roads and trails on public lands currently open to motorized use if the Secretary determines that such rerouting will not significantly increase or decrease the length of the Trail.

(D) Notice.—The Secretary shall provide information to the public regarding any routes on the Trail that are closed under subparagraph (B), including by providing appropriate signage along the Trail.

(4) Notice of open routes.—The Secretary shall ensure that visitors to the Trail have access to adequate notice regarding the routes on the Trail that are open through use of appropriate signage along the Trail and through the distribution of maps, safety education materials, and other information considered appropriate by the Secretary.

(d) No Effect on Non-Federal Land and Interests in Land.—Nothing in this section shall be construed to affect ownership, management, or other rights related to non-Federal land or interests in land.

(e) Map on File.—The Map shall be kept on file at the appropriate offices of the Secretary.

Subtitle E—Open Space Parks

SEC. 161. OPEN SPACE PARK CONVEYANCE TO LINCOLN COUNTY, NEVADA.

(a) Conveyance.—Notwithstanding sections 202 and 203 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1171, 1712), not later than 1 year after lands are identified by the County, the Secretary shall convey to the County, subject to valid existing rights, for no consideration, all right title, and interest of the United States in and to the parcels of land described in subsection (b).

(b) Description of Land.—Up to 15,000 acres of Bureau of Land Management-managed public land in Lincoln County identified by the county in consultation with the Bureau of Land Management.

(c) Costs.—Any costs relating to any conveyance under subsection (a), including costs for surveys and other administrative costs, shall be paid by the County, or in accordance with section 113(c)(2) of this title.

(d) Use of Land.—

(1) In general.—Any parcel of land conveyed to the County under subsection (a) shall be used only for—

(A) the conservation of natural resources; or

(B) public parks.

(2) Facilities.—Any facility on a parcel of land conveyed under subsection (a) shall be constructed and managed in a manner consistent with the uses described in paragraph (1).

(e) Reversion.—If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the uses specified in subsection (d), the parcel of land shall, at the discretion of the Secretary, revert to the United States.

SEC. 162. OPEN SPACE PARK CONVEYANCE TO THE STATE OF NEVADA.

(a) Conveyance.—Notwithstanding section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712), the Secretary shall convey to the State of Nevada, subject to valid existing rights, for no consideration, all right, title, and interest of the United States in and to the parcels of land described in subsection (b), if there is a written agreement between the State and Lincoln County, Nevada, supporting such a conveyance.

(b) Description of Land.—The parcels of land referred to in subsection (a) are the parcels of land depicted as "NV St. Park Expansion Proposal" on the map entitled "Lincoln County Conservation, Recreation, and Development Act Map" and dated October 1, 2004.

(c) Costs.—Any costs relating to any conveyance under subsection (a), including costs for surveys and other administrative costs, shall be paid by the State.

(d) Use of Land.—

(1) In general.—Any parcel of land conveyed to the State under subsection (a) shall be used only for—

(A) the conservation of natural resources; or

(B) public parks.

(2) Facilities.—Any facility on a parcel of land conveyed under subsection (a) shall be constructed and managed in a manner consistent with the uses described in paragraph (1).

(e) Reversion.—If a parcel of land conveyed under subsection (a) is used in a manner that is inconsistent with the uses specified in subsection (d), the parcel of land shall, at the discretion of the Secretary, revert to the United States.

Subtitle F—Jurisdiction Transfer

SEC. 171. TRANSFER OF ADMINISTRATIVE JURISDICTION BETWEEN THE FISH AND WILDLIFE SERVICE AND THE BUREAU OF LAND MANAGEMENT.

(a) In General.—Administrative jurisdiction over the land described in subsection (b) is transferred from the United States Bureau of Land Management to the United States Fish and Wildlife Service for inclusion in the Desert National Wildlife Range and the administrative jurisdiction over the land described in subsection (c) is transferred from the United States Fish and Wildlife Service to the United States Bureau of Land Management.

(b) Description of Land.—The parcel of land referred to in subsection (a) is the approximately 8,503 acres of land administered by the United States Bureau of Land Management as generally depicted on the map entitled "Lincoln County Conservation, Recreation, and Development Act Map" and identified as "Lands to be transferred to the Fish and Wildlife Service" and dated October 1, 2004.

(c) Description of Land.—The parcel of land referred to in subsection (a) is the approximately 8,382 acres of land administered by the United States Fish and Wildlife Service as generally depicted on the map entitled "Lincoln County Conservation, Recreation, and Development Act Map" and identified as "Lands to be transferred to the Bureau of Land Management" and dated October 1, 2004.

(d) Availability.—Each map and legal description shall be on file and available for public inspection in (as appropriate)—

(1) the Office of the Director of the Bureau of Land Management;

(2) the Office of the Nevada State Director of the Bureau of Land Management;

(3) the Ely Field Station of the Bureau of Land Management;

(4) the Caliente Field Office of the Bureau of Land Management;

(5) the Office of the Director of the United States Fish and Wildlife Service; and

(6) the Office of the Desert National Wildlife Complex.

TITLE II—OJITO WILDERNESS

SEC. 201. SHORT TITLE.

This title may be cited as the "Ojito Wilderness Act".

SEC. 202. DEFINITIONS.

In this title:

(1) Pueblo.—The term "Pueblo" means the Pueblo of Zia.

(2) Secretary.—The term "Secretary" means the Secretary of the Interior.

(3) State.—The term "State" means the State of New Mexico.

(4) Map.—The term "map" means the map entitled "Ojito Wilderness Act" and dated October 1, 2004.

(5) Wilderness.—The term "Wilderness" means the Ojito Wilderness designated under section 3(a).

SEC. 203. DESIGNATION OF THE OJITO WILDERNESS.

(a) In General.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.), there is hereby designated as wilderness, and, therefore, as a component of the National Wilderness Preservation System, certain land in the Albuquerque District-Bureau of Land Management, New Mexico, which comprise approximately 11,183 acres, as generally depicted on the map, and which shall be known as the "Ojito Wilderness".

(b) Map and Legal Description.—The map and a legal description of the Wilderness shall—

(1) be filed by the Secretary with the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives as soon as practicable after the date of the enactment of this Act;

(2) have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in the legal description and map; and

(3) be on file and available for public inspection in the appropriate offices of the Bureau of Land Management.

(c) Management of Wilderness.—Subject to valid existing rights, the Wilderness shall be managed by the Secretary in accordance with the Wilderness Act (16 U.S.C. 1131 et seq.) and this title, except that, with respect to the Wilderness, any reference in the Wilderness Act to the effective date of the Wilderness Act shall be deemed to be a reference to the date of the enactment of this Act.

(d) Management of Newly Acquired Land.—If acquired by the United States, the following land shall become part of the Wilderness and shall be managed in accordance with this title and other laws applicable to the Wilderness:

(1) Section 12 of township 15 north, range 01 west, New Mexico Principal Meridian.

(2) Any land within the boundaries of the Wilderness.

(e) Management of Lands To Be Added.—The lands generally depicted on the map as "Lands to be Added" shall become part of the Wilderness if the United States acquires, or alternative adequate access is available to section 12 of township 15 north, range 01 west.

(f) Release.—The Congress hereby finds and directs that the lands generally depicted on the map as "Lands to be Released" have been adequately studied for wilderness designation pursuant to section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) and no longer are subject to the requirement of section 603(c) of such Act (16 U.S.C. 1782(c)) pertaining to the management of wilderness study areas in a manner that does not impair the suitability of such areas for preservation as wilderness.

(g) Grazing.—Grazing of livestock in the Wilderness, where established before the date of the enactment of this Act, shall be administered in accordance with the provisions of section 4(d)(4) of the Wilderness Act (16 U.S.C. 1133(d)(4)) and the guidelines set forth in Appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the One Hundred First Congress (H. Rept. 101-405).

(h) Fish and Wildlife.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this section shall be construed as affecting the jurisdiction or responsibilities of the State with respect to fish and wildlife in the State.

(i) Water.—Nothing in this section shall affect any existing valid water right.

(j) WITHDRAWAL.—Subject to valid existing rights, the Wilderness, the lands to be added under subsection (e), and lands authorized to be acquired by the Pueblo as generally depicted on the map are withdrawn from—

(1) all forms of entry, appropriation, and disposal under the public land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation of the mineral leasing, mineral materials, and geothermal leasing laws.

(k) EXCHANGE.—Not later than 3 years after the date of the enactment of this Act, the Secretary shall seek to complete an exchange for State land within the boundaries of the Wilderness.

SEC. 204. LAND HELD IN TRUST.

(a) IN GENERAL.—Subject to valid existing rights and the conditions under subsection (d), all right, title, and interest of the United States in and to the lands (including improvements, appurtenances, and mineral rights to the lands) generally depicted on the map as "BLM Lands Authorized to be Acquired by the Pueblo of Zia" shall, on receipt of consideration under subsection (c) and adoption and approval of regulations under subsection (d), be declared by the Secretary to be held in trust by the United States for the Pueblo and shall be part of the Pueblo's Reservation.

(b) DESCRIPTION OF LANDS.—The boundary of the lands authorized by this section for acquisition by the Pueblo where generally depicted on the map as immediately adjacent to CR906, CR923, and Cucho Arroyo Road shall be 100 feet from the center line of the road.

(c) CONSIDERATION.—

(1) IN GENERAL.—In consideration for the conveyance authorized under subsection (a), the Pueblo shall pay to the Secretary the amount that is equal to the fair market value of the land conveyed, as subject to the terms and conditions in subsection (d), as determined by an independent appraisal.

(2) APPRAISAL.—To determine the fair market value, the Secretary shall conduct an appraisal paid for by the Pueblo that is performed in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(3) AVAILABILITY.—Any amounts paid under paragraph (1) shall be available to the Secretary, without further appropriation and until expended, for the acquisition from willing sellers of land or interests in land in the State.

(d) PUBLIC ACCESS.—

(1) IN GENERAL.—Subject to paragraph (2), the declaration of trust and conveyance under subsection (a) shall be subject to the continuing right of the public to access the land for recreational, scenic, scientific, educational, paleontological, and conservation uses, subject to any regulations for land management and the preservation, protection, and enjoyment of the natural characteristics of the land that are adopted by the Pueblo and approved by the Secretary: *Provided* that the Secretary shall ensure that the rights provided for in this paragraph are protected and that a process for resolving any complaints by an aggrieved party is established.

(2) CONDITIONS.—Except as provided in subsection (f)—

(A) IN GENERAL.—The land conveyed under subsection (a) shall be maintained as open space, and the natural characteristics of the land shall be preserved in perpetuity.

(B) PROHIBITED USES.—The use of motorized vehicles (except on existing roads or as is necessary for the maintenance and repair of facilities used in connection with grazing operations), mineral extraction, housing, gaming, and other commercial enterprises shall be prohibited within the boundaries of the land conveyed under subsection (a).

(e) RIGHTS OF WAY.—

(1) EXISTING RIGHTS OF WAY.—Nothing in this section shall affect—

(A) any validly issued right-of-way, or the renewal thereof; or

(B) the access for customary construction, operation, maintenance, repair, and replacement activities in any right-of-way issued, granted, or permitted by the Secretary.

(2) NEW RIGHTS OF WAY AND RENEWALS.—

(A) IN GENERAL.—The Pueblo shall grant any reasonable requests for rights-of-way for utilities and pipelines over land acquired under subsection (a) that is designated as the Rights-of-Way corridor #1 as established in the Rio Puerco Resource Management Plan in effect on the date of the grant.

(B) ADMINISTRATION.—Any right-of-way issued or renewed after the date of the enactment of this Act over land authorized to be conveyed by this section shall be administered in accordance with the rules, regulations, and fee payment schedules of the Department of the Interior, including the Rio Puerco Resources Management Plan in effect on the date of issuance or renewal of the right-of-way.

(f) JUDICIAL RELIEF.—

(1) IN GENERAL.—To enforce subsection (d), any person may bring a civil action in the United States District Court for the District of New Mexico seeking declaratory or injunctive relief.

(2) SOVEREIGN IMMUNITY.—The Pueblo shall not assert sovereign immunity as a defense or bar to a civil action brought under paragraph (1).

(3) EFFECT.—Nothing in this section—

(A) authorizes a civil action against the Pueblo for money damages, costs, or attorneys fees; or

(B) except as provided in paragraph (2), abrogates the sovereign immunity of the Pueblo.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4593, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4593 was introduced by myself and would designate over 700,000 acres of wilderness and release over 200,000 acres of land currently being managed as wilderness study areas. It would create a 260-mile off-highway vehicle trail; establish roughly 450 miles of utility corridors within Lincoln County for the purposes of designating rights of way for the Southern Nevada Water Authority and Lincoln County Water District. It would privatize not more than 90,000 acres of public land deemed disposable by the Bureau of Land Management within the county, while conveying not more than 15,000 acres of public land to the State and county for use as parks and open space.

It is important to note that this proposal enjoys the support of the entire Nevada congressional delegation and is the product of exhaustive public participation, which is vital in a comprehensive bill such as this.

This bill was subsequently amended by the Committee on Resources, where one additional title was added. As amended, title II would designate the 11,000 Ojito Wilderness Study Area in Sandoval County, New Mexico, as wilderness and take certain Federal land into trust for the Pueblo of Zia for the purposes of consolidating its land holdings and to protect religious and cultural sites in the area.

Mr. Speaker, it is supported by the majority and minority of the committee. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4593, as it is being brought to the floor today, is a diverse bill affecting land and resources in Nevada and New Mexico.

First and foremost, I want to take this opportunity to commend my colleague the gentleman from New Mexico (Mr. UDALL) for his work on title II of this legislation, which designates the Ojito Wilderness in New Mexico. Title II is the text of H.R. 3176, introduced by the gentleman from New Mexico (Mr. UDALL) and favorably reported from the Committee on Resources.

The language of title II is a model of the legislative process. The gentleman from New Mexico (Mr. UDALL) has developed a bipartisan proposal that has significant local, State and national support, and we strongly support this aspect of H.R. 4593.

Title I of H.R. 4593 is the Lincoln County, Nevada, lands bill. This is a complex and far-reaching piece of legislation that includes utility corridors and rights of way, land sales and conveyances, also wilderness, ORV trails, land exchanges and water. There are still a number of issues and concerns with this title, but we are pleased that at least the two wilderness areas that were previously dropped have been added back in.

Mr. Speaker, H.R. 4593, as amended, is a compromise, and as such, we have no objection to its consideration by the House today.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield as much time as he shall consume to the gentleman from Nevada (Mr. PORTER), my good friend and colleague from district three.

Mr. PORTER. Mr. Speaker, I rise today to speak in support of H.R. 4593, the Lincoln County Conservation, Recreation, and Development Act of 2004. I appreciate the opportunity to speak in favor of this valuable legislation, and I am proud to be an original cosponsor.

I would also like to thank my colleague, the gentleman from Nevada (Mr. GIBBONS), for introducing this legislation in the House, as well as Senator ENSIGN and Senator REID for introducing companion legislation in the Senate. H.R. 4593 represents an important compromise and enjoys strong bipartisan support from the entire Nevada congressional delegation.

The area I represent in Congress is one of the fastest growing areas in the Nation. The growth of Clark County has been significant, and it is a tribute to the leadership of our elected and administrative officials, the hard work and dedication of local developers and the economic success of the Las Vegas region.

We have worked hard in the State of Nevada to ensure the organized, strategic and orchestrated growth of our community while still maintaining and preserving many of Nevada's environmental treasures and our resources. This growth, while impressive, has created and placed new and increased pressures on our existing precious resources, such as infrastructure, education and water. In my 20 years in public office, I have seized opportunities to better manage this growth and the responsibilities and liabilities it brings.

I see the Lincoln County Conservation, Recreation and Development Act as legislation that can benefit southern Nevada, Lincoln County and the full State of Nevada as our economy and population continue to grow, specifically with the development of additional water resources.

At a time when Clark County continues to lead the Nation in growth with thousands of new residents each month, Nevada has access to the smallest water allocation of the seven States using the Colorado River. By 2002, our population had increased to 1.6 million people, most of whom reside in the Las Vegas Valley, and water use had far surpassed our 300,000-acre-foot allocation from the Colorado River. As a result, we must remain committed to maximizing the use of available Colorado River water while at the same time making use of existing in-State resources.

As drought continues in the West and our State continues to grow, the development of the in-State water resources grows increasingly important. This legislation will help with the proposed development of our in-State resources intended to diversify our water supply and supplement Nevada's water entitlement from the Colorado River. The Lincoln County Conservation, Recreation and Development Act will help to expedite a solution to southern Nevada's current water situation without compromising public involvement and environmental compliance.

Mr. Speaker, for the past decade, Colorado River water and conservation have been the most cost-effective options to meet demands in southern Nevada. However, as we plan for the future, the continued development of additional water resources has become necessary.

Development of in-State water resources will provide southern Nevada with a long-term, reliable water supply to meet the increased demands of a growing population and ensure supply during times of drought. Accessing these resources requires significant investment, and H.R. 4593 is an important step forward in achieving these goals.

I would like to urge my colleagues in the House to support this important bipartisan legislation and join me in voting for H.R. 4593.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further speakers on this, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I also have no additional requests for time, would urge adoption of this bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the bill, H.R. 4593, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 1445

AUTHORIZING SECRETARY OF THE INTERIOR TO PARTICIPATE IN BROWNSVILLE PUBLIC UTILITY BOARD WATER RECYCLING AND DESALINIZATION PROJECT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2960) to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Brownsville Public Utility Board water recycling and desalinization project.

The Clerk read as follows:

H.R. 2960

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BROWNSVILLE PUBLIC UTILITY BOARD WATER RECYCLING AND DESALINIZATION PROJECT.

(a) IN GENERAL.—The Reclamation Wastewater and Groundwater Study and Facilities Act (Public Law 102–575, title XVI; 43 U.S.C. 390h et seq.) is amended by adding at the end the following new section:

"SEC. 163 . BROWNSVILLE PUBLIC UTILITY BOARD WATER RECYCLING AND DESALINIZATION PROJECT.

"(a) IN GENERAL.—The Secretary, in cooperation with the Brownsville Public Utility Board, may participate in the design, planning, and construction of facilities to reclaim, reuse, and treat impaired waters in the Brownsville, Texas, area.

"(b) COST SHARING.—The Federal share of the cost of the project described in subsection (a) shall not exceed 25 percent of the total cost of the project.

"(c) LIMITATION.—Funds provided by the Secretary shall not be used for operation and maintenance of the project described in subsection (a).".

(b) CONFORMING AMENDMENT.—The table of sections in section 2 of Public Law 102–575 is amended by inserting after the last item relating title XVI the following:

"Sec. 163 . Brownsville Public Utility Board water recycling and desalinization project.".

The SPEAKER pro tempore (Mr. PETRI). Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2960, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

H.R. 2960, authored by the gentleman from Texas (Mr. ORTIZ), amends the Bureau of Reclamation's Title XVI Program to authorize the Secretary of the Interior, in cooperation with the Brownsville Public Utility Board, to participate in the design, planning, and construction of facilities to reclaim, reuse, and treat impaired waters in the Brownsville, Texas, area. The Federal cost-share for the project will not exceed 25 percent of the total projected cost.

This bill will help ensure delivery of high-quality drinking water for the residents of the Brownsville area. By developing nontraditional water supplies, the community is reducing stress on the over-utilized Rio Grande while providing safe and dependable water supplies for future generations, and I therefore urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to begin by commending my friend and colleague on the Committee on Resources, the gentleman from Texas (Mr. ORTIZ), for introducing this bill and for working hard to secure its passage.

The community leaders in the Brownsville, Texas, area also deserve recognition for the decision to use water desalinization and water recycling as tools to stabilize their water supplies and reduce the impact of drought. We strongly support this legislation.

Mr. ORTIZ. Mr. Speaker, I rise in support of H.R. 2960, a bill I introduced that will amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Brownsville Public Utility Board water recycling and desalinization project.

I would like to thank Chairman POMBO, Ranking Member RAHALL, as well as Water and Power Subcommittee Chairman CALVERT and Ranking Member NAPOLITANO, for their valuable support on this legislation.

This bill was considered in the House Resources Committee and was passed with no dissent. It will essentially allow the Brownsville PUB to participate in water recycling and desalinization project funding authorized by the Secretary of the Interior.

This bill, H.R. 2960, makes the Brownsville Public Utilities Board (PUB) eligible for a Federal share of Title 16 funding for design, planning, and construction of facilities to reclaim, reuse, and treat impaired waters in the Brownsville area.

PUB's water supply plan has several components including: reclaiming brackish groundwater (not obligated under the Mexican water treaty) through desalinization, and building a pipeline to transport treated sewage for irrigation. This is an important bill for Brownsville and the PUB because it will make them eligible for grants to do the essential work of reclaiming waters that are currently unusable in the South Texas area.

Given our current water situation, and the ongoing water debt with Mexico, Brownsville and the Rio Grande Valley must use all our creativity to find new sources of water for the next century to attend to all the needs of future water users. South Texas has seen an amazing amount of growth, a dynamic we expect to continue for decades to come. The more varied, and more creative, we are in finding new water sources, the more successful we will be in attracting new industry to sustain the growth of our Valley economy.

I ask my colleagues to support this bill.

Mr. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the bill, H.R. 2960.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

PROVO RIVER PROJECT TRANSFER ACT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3391) to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project, as amended.

The Clerk read as follows:

H.R. 3391

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Provo River Project Transfer Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term "Agreement" means the contract numbered 04-WC-40-8950 and entitled "Agreement Among the United States, the Provo River Water Users Association, and the Metropolitan Water District of Salt Lake & Sandy to Transfer Title to Certain Lands and Facilities of the Provo River Project" and shall include maps of the land and features to be conveyed under the Agreement.

(2) ASSOCIATION.—The term "Association" means the Provo River Water Users Association, a nonprofit corporation organized under the laws of the State.

(3) DISTRICT.—The term "District" means the Metropolitan Water District of Salt Lake & Sandy, a political subdivision of the State.

(4) PLEASANT GROVE PROPERTY.—

(A) IN GENERAL.—The term "Pleasant Grove Property" means the 3.79-acre parcel of land acquired by the United States for the Provo River Project, Deer Creek Division, located at approximately 285 West 1100 North, Pleasant Grove, Utah, as in existence on the date of enactment of this Act.

(B) INCLUSIONS.—The term "Pleasant Grove Property" includes the office building and shop complex constructed by the Association on the parcel of land described in subparagraph (A).

(5) PROVO RESERVOIR CANAL.—The term "Provo Reservoir Canal" means the canal, and any associated land, rights-of-way, and facilities acquired, constructed, or improved by the United States as part of the Provo River Project, Deer Creek Division, extending from, and including, the Murdock Diversion Dam at the mouth of Provo Canyon, Utah, to and including the Provo Reservoir Canal Siphon and Penstock, as in existence on the date of enactment of this Act.

(6) SALT LAKE AQUEDUCT.—The term "Salt Lake Aqueduct" means the aqueduct and associated land, rights-of-way, and facilities acquired, constructed or improved by the United States as part of the Provo River Project, Aqueduct Division, extending from, and including, the Salt Lake Aqueduct Intake at the base of Deer Creek Dam to and including the Terminal Reservoirs located at 3300 South St. and Interstate Route 215 in Salt Lake City, Utah, as in existence on the date of enactment of this Act.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior or a designee of the Secretary.

(8) STATE.—The term "State" means the State of Utah.

SEC. 3. CONVEYANCE OF LAND AND FACILITIES.

(a) CONVEYANCES TO ASSOCIATION.—

(1) PROVO RESERVOIR CANAL.—

(A) IN GENERAL.—In accordance with the terms and conditions of the Agreement and subject to subparagraph (B), the Secretary shall convey to the Association, all right, title, and interest of the United States in and to the Provo Reservoir Canal.

(B) CONDITION.—The conveyance under subparagraph (A) shall not be completed until the Secretary executes the Agreement and accepts future arrangements entered into by the Association, the District, the Central Utah Water Conservancy District, and the Jordan Valley Water Conservancy District providing for the operation, ownership, financing, and improvement of the Provo Reservoir Canal.

(2) PLEASANT GROVE PROPERTY.—In accordance with the terms and conditions of the Agreement, the Secretary shall convey to the Association, all right, title, and interest of the United States in and to the Pleasant Grove Property.

(b) CONVEYANCE TO DISTRICT.—

(1) IN GENERAL.—In accordance with the terms and conditions of the Agreement, and subject to the execution of the Agreement by the Secretary the Secretary shall convey to the District, all right, title, and interest of the United States in and to Salt Lake Aqueduct.

(2) EASEMENTS.—

(A) IN GENERAL.—As part of the conveyance under paragraph (1), the Secretary shall grant to the District permanent easements to—

(i) the National Forest System land on which the Salt Lake Aqueduct is located; and

(ii) land of the Aqueduct Division of the Provo River Project that intersects the parcel of non-Federal land authorized to be conveyed to the United States under section 104(a) of Public Law 107-329 (116 Stat. 2816).

(B) PURPOSE.—The easements conveyed under subparagraph (A) shall be for the use, operation, maintenance, repair, improvement, or replacement of the Salt Lake Aqueduct by the District.

(C) LIMITATION.—The United States shall not carry out any activity on the land subject to the easements conveyed under subparagraph (A) that would materially interfere with the use, operation, maintenance, repair, improvement, or replacement of the Salt Lake Aqueduct by the District.

(D) BOUNDARIES.—The boundaries of the easements conveyed under subparagraph (A) shall be determined by the Secretary, in consultation with the District and the Secretary of Agriculture.

(E) TRANSFER OF ADMINISTRATIVE JURISDICTION.—

(i) IN GENERAL.—On conveyance of the easement to the land described in subparagraph (A)(ii), the Secretary, subject to the easement, shall transfer to the Secretary of Agriculture administrative jurisdiction over the land.

(ii) ADMINISTRATIVE SITE.—The land transferred under clause (i) shall be administered by the Secretary of Agriculture as an administrative site.

(F) ADMINISTRATION.—The easements conveyed under subparagraph (A) shall be administered by the Secretary of Agriculture in accordance with section 501(b)(3) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761(b)(3)).

(c) CONSIDERATION.—

(1) ASSOCIATION.—

(A) IN GENERAL.—In exchange for the conveyance under subsection (a)(1), the Association shall pay the Secretary an amount that is equal to the sum of—

(i) the net present value of any remaining debt obligation of the United States with respect to the Provo Reservoir Canal; and

(ii) the net present value of any revenues from the Provo Reservoir Canal that, based on past history—

(I) would be available to the United States but for the conveyance of the Provo Reservoir Canal under subsection (a)(1); and

(II) would be deposited in the reclamation fund established under the first section of the Act of June 17, 1902 (43 U.S.C. 391), and credited under the terms of Reclamation Manual/Directives and Standards PEC 03-01.

(B) DEDUCTION.—In determining the net present values under clauses (i) and (ii) of subparagraph (A), the Association may deduct from the net present value such sums as are required for the reimbursement described in the Agreement.

(2) DISTRICT.—

(A) IN GENERAL.—In exchange for the conveyance under subsection (b)(1), the District shall pay the Secretary an amount that is equal to the sum of—

(i) the net present value of any remaining debt obligation of the United States with respect to the Salt Lake Aqueduct; and

(ii) the net present value of any revenues from the Salt Lake Aqueduct that, based on past history—

(I) would have been available to the United States but for the conveyance of the Salt Lake Aqueduct under subsection (b)(1); and

(II) would be deposited in the reclamation fund established under the first section of the Act of June 17, 1902 (43 U.S.C. 391), and credited under the terms of Reclamation Manual/Directives and Standards PEC 03-01.

(B) DEDUCTION.—In determining the net present values under clauses (i) and (ii) of subparagraph (A), the District may deduct from the net present value such sums as are required for the reimbursement described in the Agreement.

(d) PAYMENT OF COSTS.—In addition to amounts paid to the Secretary under subsection (c), the Association and the District shall, in accordance with the Agreement, pay the Secretary—

(1) any necessary and reasonable administrative and real estate transfer costs incurred by the Secretary in carrying out the conveyance; and

(2) ½ of any necessary and reasonable costs associated with complying with—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C)(i) the National Historic Preservation Act (16 U.S.C. 470 et seq.); and

(ii) any other Federal cultural resource laws.

(e) COMPLIANCE WITH ENVIRONMENTAL LAWS.—

(1) IN GENERAL.—Before conveying land and facilities under subsections (a) and (b), the Secretary shall comply with all applicable requirements under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.);

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.); and

(C) any other law applicable to the land and facilities.

(2) EFFECT.—Nothing in this Act modifies or alters any obligations under—

(A) the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); or

(B) the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 4. EXISTING CONTRACTS.

(a) DEER CREEK DIVISION CONSTRUCTION CONTRACT.—Notwithstanding the conveyances under subsections (a) and (b)(1) of section 3, and subject to the terms of the Agreement any portion of the Deer Creek Division, Provo River Project, Utah, that is not conveyed under that section shall continue to be operated and maintained by the Association, in accordance with the contract numbered Ilr-874, dated June 27, 1936, and entitled the "Contract Between the United States and Provo River Water Users Association Providing for the Construction of the Deer Creek Division of the Provo River Project, Utah".

(b) PROVO RIVER PROJECT AND JORDAN AQUEDUCT SYSTEM CONTRACTS.—Subject to the terms of the Agreement, any written contract of the United States in existence on the date of enactment of this Act relating to the operation and maintenance of any division or facility of the Provo River Project or the Jordan Aqueduct System is confirmed and declared to be a valid contract of the United States that is enforceable in accordance with the express terms of the contract.

(c) USE OF CENTRAL UTAH PROJECT WATER.—

(1) IN GENERAL.—Subject to paragraph (2), any entity with contractual Provo Reservoir Canal or Salt Lake Aqueduct capacity rights in existence on the date of enactment of this Act may, in addition to the uses described in the existing contracts, use the capacity rights, without additional charge or further approval from the Secretary, to transport Central Utah Project water on behalf of the entity or others.

(2) LIMITATIONS.—An entity shall not use the capacity rights to transport Central Utah Project water under paragraph (1) unless—

(A) the transport of the water is expressly authorized by the Central Utah Water Conservancy District;

(B) the use of the water facility to transport the Central Utah Project water is expressly authorized by the entity responsible for operation and maintenance of the facility; and

(C) carrying Central Utah Project water through Provo River Project facilities would not—

(i) materially impair the ability of the Central Utah Water Conservancy District or the Secretary to meet existing express environmental commitments for the Bonneville Unit; or

(ii) require the release of additional Central Utah Project water to meet those environmental commitments.

(d) AUTHORIZED MODIFICATIONS.—The Agreement may provide for—

(1) the modification of the 1936 Repayment Contract for the Deer Creek Division of the Provo River Project to reflect the partial prepayment, the adjustment of the annual repayment amount, and the transfer of the Provo Reservoir Canal and the Pleasant Grove Property; and

(2) the modification or termination of the 1938 Repayment Contract for the Aqueduct Division of the Provo River Project to reflect the complete payout and transfer of all facilities of the Aqueduct Divsion.

(e) EFFECT OF ACT.—Nothing in this Act impairs any contract (including subscription contracts) in effect on the date of enactment of this Act that allows for or creates a right to convey water through the Provo Reservoir Canal.

SEC. 5. EFFECT OF CONVEYANCE.

On conveyance of any land or facility under subsection (a) or (b)(1) of section 3—

(1) the land and facilities shall no longer be part of a Federal reclamation project;

(2) the Association and the District shall not be entitled to receive any future reclamation benefits with respect to the land and facilities, except for benefits that would be available to other nonreclamation facilities; and

(3) the United States shall not be liable for damages arising out of any act, omission, or occurrence relating to the land and facilities, but shall continue to be liable for damages caused by acts of negligence committed by the United States or by any employee or agent of the United States before the date of conveyance, consistent with chapter 171 of title 28, United States Code.

SEC. 6. REPORT.

If a conveyance required under subsection (a) or (b)(1) of section 3 is not completed by the date that is 18 months after the date of enactment of this Act, the Secretary shall submit to Congress a report that—

(1) describes the status of the conveyance;

(2) describes any obstacles to completing the conveyance; and

(3) specifies an anticipated date for completion of the conveyance.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and to include extraneous material on H.R. 3391, as amended, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3391, authored the gentleman from Utah (Mr. CANNON), authorizes the Secretary of the Interior to convey title to certain lands and facilities of the Provo River Project in the State of Utah. These facilities are operated and maintained by the Provo River Water Users Association and the Metropolitan Water District of Salt Lake and Sandy under contracts with the Bureau of Reclamation.

The bill, as amended, is the result of diverse stakeholders working cooperatively to pursue solutions to multiple concerns. Reclamation, the association, Metro, the Central Utah Water Conservancy District, Jordan Valley Water Conservancy District, and the Canal Company have created this legislation to address human safety and seismic concerns, and to have the ability to obtain low-interest financing for the rehabilitation cost.

Today, Congress has the opportunity to make this collaborative effort come true for the water users of central Utah; and so, Mr. Speaker, I urge adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has explained the pending measure. We, on this side of the aisle, have no objection to its consideration.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the bill, H.R. 3391, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING SECRETARY OF THE INTERIOR FOR CONSTRUCTION OF LOWER SANTA MARGARITA CONJUNCTIVE USE PROJECT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4389) to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4389

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITIONS.

For the purposes of this section, the following definitions apply:

(1) DISTRICT.—The term "District" means the Fallbrook Public Utility District, San Diego County, California.

(2) PROJECT.—The term "Project" means the impoundment, recharge, treatment, and other facilities the construction, operation, and maintenance of which is authorized under subsection (b).

SEC. 2. AUTHORIZATION FOR CONSTRUCTION OF LOWER SANTA MARGARITA CONJUNCTIVE USE PROJECT.

(a) AUTHORIZATION.—The Secretary, acting pursuant to the Federal reclamation laws (Act of June 17, 1902; 32 Stat. 388), and Acts amendatory thereof or supplementary thereto, as far as those laws are not inconsistent with the provisions of this Act, is authorized to construct, operate, and maintain to make the yield of the Lower Santa Margarita Conjunctive Use Project to be located below the confluence of De Luz Creek with the Santa Margarita River on Camp Joseph H. Pendleton, the Fallbrook Annex of the Naval Weapons Station, and surrounding lands within the service area of the District available for irrigation, municipal, domestic, military, and other uses for the District and such other users as herein provided.

(b) CONDITIONS.—The Secretary of the Interior may construct the Project only after the Secretary of the Interior determines that the following conditions have occurred:

(1) The District has entered into a contract under section 9(d) of the Reclamation Project Act of 1939 to repay to the United States appropriate portions, as determined by the Secretary, of the actual costs of constructing, operating, and maintaining the Project, together with interest as hereinafter provided.

(2) The officer or agency of the State of California authorized by law to grant permits for the appropriation of water has granted such permits to the Bureau of Reclamation for the benefit of the Department of the Navy and the District as permitees for rights to the use of water for storage and diversion as provided in this Act, including approval of all requisite changes in points of diversion and storage, and purposes and places of use.

(3) The District has agreed that it will not assert against the United States any prior appropriative right the District may have to water in excess of the quantity deliverable to it under this Act, and will share in the use of the waters impounded by the Project on the basis of equal priority and in accordance with the ratio prescribed in section 4(b). This agreement and waiver and the changes in points of diversion and storage under paragraph (2), shall become effective and binding only when the Project has been completed and put into operation.

(4) The Secretary of the Interior has determined that the Project has economic, environmental, and engineering feasibility.

SEC. 3. COSTS.

The Department of the Navy shall not be responsible for any costs in connection with the Project, except upon completion and then shall be charged in reasonable proportion to its use of the Project under regulations agreed upon by the Secretary of the Navy and Secretary of the Interior.

SEC. 4. OPERATION; YIELD ALLOTMENT; DELIVERY.

(a) OPERATION.—The operation of the Project may be by the Secretary of the Interior or otherwise as agreed upon by the Secretaries of the Interior and the Navy and the District, under regulations satisfactory to the Secretary of the Navy with respect to the Navy's share of the impounded water and national security.

(b) YIELD ALLOTMENT.—Except as otherwise agreed between the parties, the Department of the Navy and the District shall participate in the water impounded by the Project on the basis of equal priority and in accordance with the following ratio:

(1) 60 percent of the Project's yield is allotted to the Secretary of the Navy.

(2) 40 percent of the Project's yield is allotted to the District.

(c) CONTRACTS FOR DELIVERY OF WATER.—

(1) IN GENERAL.—If the Secretary of the Navy certifies that the Department of the Navy does not have immediate need for any portion of the 60 percent yield allotted under subsection (b), the official agreed upon to administer the Project may enter into temporary contracts for the delivery of the excess water.

(2) FIRST RIGHT FOR EXCESS WATER.—The first right of the Secretary of the Navy to demand that water without charge and without obligation on the part of the United States after 30 days notice shall be included as a condition of contracts entered into under this subsection. The first right to water available under paragraph (1) shall be given the District, if otherwise consistent with the laws of the State of California.

(3) DISPOSITION OF FUNDS.—Moneys paid to the United States under a contract under this subsection shall be covered into the general Treasury or to the Secretary of the Navy, as services in lieu of payment for operation and maintenance of the Project, and shall not be applied against the indebtedness of the District to the United States.

(4) MODIFICATION OF RIGHTS AND OBLIGATIONS RELATED TO WATER YIELD.—The rights and obligations of the United States and the District regarding the ratio or amounts of Project yield delivered may be modified by an agreement between the parties.

SEC. 5. REPAYMENT OBLIGATION OF THE DISTRICT.

(a) IN GENERAL.—The general repayment obligation of the District shall be determined by the Secretary of the Interior consistent with the Water Supply Act of 1958; provided, however, that for the purposes of calculating interest and determining the time when the District's repayment obligation to the United States commences, the pumping and treatment of groundwater from the Project shall be deemed equivalent to the first use of water from a water storage project.

(b) MODIFICATION OF RIGHTS AND OBLIGATION BY AGREEMENT.—The rights and obligations of the United States and the District regarding the repayment obligation of the District may be modified by an agreement between the parties.

SEC. 6. TRANSFER OF CARE, OPERATION, AND MAINTENANCE.

The Secretary may transfer to the District, or a mutually agreed upon third party, the care, operation, and maintenance of the Project under conditions satisfactory to that Secretary and the District, and with respect to the portion of the Project that is located within the boundaries of Camp Pendleton, satisfactory also to the Secretary of the Navy. If such a transfer takes place, the District shall be entitled to an equitable credit for the costs associated with the Secretary's proportionate share of the operation and maintenance of the Project. The amount of such costs shall be applied against the indebtedness of the District to the United States.

SEC. 7. SCOPE OF ACT.

For the purpose of this Act, the basis, measure, and limit of all rights of the United States pertaining to the use of water shall be the laws of the State of California. That nothing in this Act shall be construed—

(1) as a grant or a relinquishment by the United States of any rights to the use of water that it acquired according to the laws of the State of California, either as a result of its acquisition of the lands comprising Camp Joseph H. Pendleton and adjoining naval installations, and the rights to the use of water as a part of that acquisition, or through actual use or prescription or both since the date of that acquisition, if any;

(2) to create any legal obligation to store any water in the Project, to the use of which the United States has such rights;

(3) to constitute a recognition of, or an admission that, the District has any rights to the use of water in the Santa Margarita River, which rights, if any, exist only by virtue of the laws of the State of California; or

(4) to require the division under this Act of water to which the United States has such rights.

SEC. 8. LIMITATIONS ON OPERATION AND ADMINISTRATION.

Unless otherwise agreed by the Secretary of the Navy, the Project—

(1) shall be operated in a manner which allows the free passage of all of the water to the use of which the United States is entitled according to the laws of the State of California either as a result of its acquisition of the lands comprising Camp Joseph H. Pendleton and adjoining naval installations, and the rights to the use of water as a part of those acquisitions, or through actual use or prescription, or both, since the date of that acquisition, if any; and

(2) shall not be administered or operated in any way which will impair or deplete the quantities of water the use of which the United States would be entitled under the laws of the State of California had the Project not been built.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated, out of any money in the Treasury of the United States not otherwise appropriated, the following:

(1) $60,000,000 (the current estimated construction cost of the Project, plus or minus such amounts as may be indicated by the engineering cost indices for this type of construction); and

(2) such sums as may be required to operate and maintain the said project.

SEC. 10. REPORTS TO CONGRESS.

Not later than 1 year after the date of the enactment of this Act and periodically thereafter, the Secretary of the Interior and the Secretary of the Navy shall each report to the Congress regarding if the conditions specified in section 2(b) have been met and if so, the details of how they were met.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4389, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4389, introduced by our colleague, the gentleman from California (Mr. ISSA), authorizes the construction of a groundwater recharge and pumping project in the lower Santa Margarita River Basin in Southern California. If constructed, the project could provide much-needed water to the local water utility district and to the Camp Pendleton Marine Base for its military needs.

Supporters believe this project, in conjunction with ongoing water conservation measures, will augment the local water district's water supply, will relieve additional demands on the future for costly and limited imported water supplies, and sets aside and preserves valuable environmental habitats.

This project is an excellent example of a local agency working to secure safe and dependable water supplies for future generations, and I urge the adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has explained the pending measure. I see the sponsor of the legislation is preparing to speak on it. We on this side have no objection to its consideration.

Mr. Speaker, I reserve the balance of my time.

Mr. GIBBONS. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ISSA), Congressman to the 49th District of California and a valued member of the Committee on Energy and Commerce.

Mr. ISSA. Mr. Speaker, I thank the gentleman for his comments and for yielding me this time.

Mr. Speaker, I rise today in support of H.R. 4389, which I introduced in June of 2004. I want to take this opportunity to thank the chairman of the Committee on Resources, the subcommittee chairman, the ranking member on the Subcommittee on Water and Power, and all the staff who have worked so hard to bring this important piece of legislation to the floor in an expeditious fashion.

H.R. 4389 authorizes the construction of a conjunctive use water project on the Santa Margarita River in Fallbrook, California. The project will treat water drawn from the Santa Margarita River and offer a reliable water source to the Camp Pendleton Marines and the surrounding communities. Over 60,000 military and civilian personnel work aboard that base each day. It is home to the 1st Marine Expeditionary Force, 1st Marine Division, 1st Force Service Support Group and many other tenants, more than half of whom have been serving in Iraq as we speak.

Securing a reliable source of drinking water has been an ongoing challenge for this base. In fact, this piece of legislation is really a piece of legislation begun by my predecessor, Mr. Ron Packard, who today continues to oversee the completion of this project. It is truly his legacy we are passing on today.

San Diego County has relatively few natural resources for fresh drinking water and has forced the import of 90 percent of the water it consumes annually. This project is vital for the future of San Diego County because it provides over 15,000 acre feet of drinking water that will not have to be imported from the already overtaxed Colorado River or the Bay-Delta.

Additionally, this bill will provide the first connection to Southern California's imported drinking water supply from the San Diego aqueduct. This will supply quality safe drinking water for Camp Pendleton, and the construction of this project will dramatically improve the quality of life for Marines, their families, and to this important military installation.

Mr. Speaker, I urge support and passage of H.R. 4389.

Mr. ISSA. Mr. Speaker, I rise today in support of H.R. 4389, which I introduced on June 23, 2004. I want to take this opportunity to thank the Chairman of the Resources Committee, the Subcommittee Chairman on Water and Power and all the staff involved for reporting this bill favorably to the floor in an expeditious manner.

H.R. 4389 authorizes the construction of a conjunctive use water project on the Santa Margarita River in Fallbrook, CA. This project will treat water drawn from the Santa Margarita River and offer a reliable water supply for Marine Corps Base, Camp Pendleton and the surrounding communities. Over 60,000 military and civilian personnel work aboard the base everyday. It is the home of 1st Marine Expeditionary Force, 1st Marine Division, 1st Force Service Support Group and many tenant units. Securing a reliable source of quality drinking water has been an ongoing challenge for the base.

San Diego County has relatively few natural sources to draw drinking water from and it is forced to import over 90 percent of all the water consumed annually. This project is vital to the future of San Diego County because it will provide 15,000 acre feet of drinking water; we will not need to import from the Colorado River or the Bay Delta. Additionally, this bill will provide a connection for the first time to Southern California's imported water supply via the San Diego Aqueduct.

The water quality for Camp Pendleton will dramatically improve with the construction of this project, and the quality of life of Marines and their families at this important military installation will be enhanced.

I want to thank the Chairman for the opportunity to speak on H.R. 4389, and I urge my colleagues to vote in favor of this bill.

Ms. BERKLEY. Mr. Speaker, I rise today in support of the Lincoln County Conservation, Recreation, and Development Act of 2004. I would like to thank Mr. GIBBONS, Mr. PORTER, Mr. RAHALL, Mr. POMBO, and the members of the Resources Committee for their diligent work on this bipartisan legislation that is important to all Nevadans.

The Lincoln County Conservation, Recreation, and Development Act is the result of the cooperation and support of the entire Nevada delegation. This carefully crafted piece of legislation strikes a delicate balance between encouraging economic development in Lincoln County, protecting Nevada's environment, and managing essential natural resources.

The Federal Government controls over 98 percent of the land in Lincoln County. Allowing for the private development of a portion of this land would provide for an increase in economic growth in Lincoln County. Property taxes collected would be reinvested to maintain critical government services and improve infrastructure and recreational opportunities within the County. Proceeds from land sales will also be reinvested to preserve and manage parks, trails, and natural resources, and pay for development of a multi-species conservation plan.

This comprehensive legislation will aid in the preservation of our natural resources and public lands in Lincoln County. Nearly 770,000 acres of land will be designated as wilderness, and thousands of acres in Lincoln County will be protected to create more parks and trails for future generations. I am extremely pleased that the Mount Irish, Big Rocks and Mormon Mountain areas were included as wilderness designations in the final version of this vital legislation. These sites are rich in archeological artifacts and wilderness designation provides the necessary protection for these treasures.

I recognize the importance of ensuring that environmentally sensitive lands are protected. Under this legislation the Bureau of Land Management will complete a full environmental impact statement pursuant to the National Environmental Policy Act (NEPA). Another provision provides the Secretary of the Interior the authority to set aside 10,000 acres of the land to be auctioned for potential cultural and natural resource issues that may arise.

This sensible piece of legislation will provide an economic boost to the communities of Lincoln County and protect and promote Nevada's unique natural areas while providing exciting opportunities to sustain future growth in our great State.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the bill, H.R. 4389, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONVEYANCE OF CERTAIN LAND HELD IN TRUST FOR THE PAIUTE INDIAN TRIBE OF UTAH TO THE CITY OF RICHFIELD, UT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3982) to direct the Secretary of the Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah, and for other purposes.

The Clerk read as follows:

H.R. 3982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE TO CITY.

(a) AUTHORIZATION FOR CONVEYANCE.—Not later than 90 days after the Secretary receives a request from the Tribe and the City to convey all right, title, and interest of the United States and the Tribe in and to the Property to the City, the Secretary shall take the Property out of trust status and convey the Property to the City.

(b) TERMS AND CONDITIONS.—The conveyance under subsection (a) shall be subject to the following conditions:

(1) TRIBAL RESOLUTION.—Prior to conveying the Property under subsection (a), the Secretary shall ensure that the terms of the sale have been approved by a tribal resolution of the Tribe.

(2) CONSIDERATION.—Consideration given by the City for the Property shall be not less than the appraised fair market value of the Property.

(3) NO FEDERAL COST.—The City shall pay all costs related to the conveyance authorized under this section.

(c) PROCEEDS OF SALE.—The proceeds from the conveyance of the Property under this section shall be given immediately to the Tribe.

(d) FAILURE TO MAKE CONVEYANCE.—If after the Secretary takes the Property out of trust status pursuant to subsection (a) the City or the Tribe elect not to carry out the conveyance under that subsection, the Secretary shall take the Property back into trust for the benefit of the Tribe.

SEC. 2. TRIBAL RESERVATION.

Land acquired by the United States in trust for the Tribe after February 17, 1984, shall be part of the Tribe's reservation.

SEC. 3. TRUST LAND FOR SHIVWITS OR KANOSH BANDS.

If requested to do so by a tribal resolution of the Tribe, the Secretary shall take land held in trust by the United States for the benefit of the Tribe out of such trust status and take that land into trust for the Shivwits or Kanosh Bands of the Paiute Indian Tribe of Utah, as so requested by the Tribe.

SEC. 4. CEDAR BAND OF PAIUTES TECHNICAL CORRECTION.

The Paiute Indian Tribe of Utah Restoration Act (25 U.S.C. 761) is amended by striking "Cedar City" each place it appears and inserting "Cedar". Any reference in a law, map, regulation, document, paper, or other record of the United States to the "Cedar City Band of Paiute Indians" shall be deemed to be a reference to the "Cedar Band of Paiute Indians".

SEC. 5. DEFINITIONS.

For the purposes of this Act:

(1) CITY.—The term "City" means the City of Richfield, Utah.

(2) PROPERTY.—The term "Property" means the parcel of land held by the United States in trust for the Paiute Indian Tribe of Utah located in Section 2, Township 24 South, Range 3 West, Salt Lake Base and Meridian, Sevier County, Utah and more particularly described as follows: Beginning at a point on the East line of the Highway which is West 0.50 chains, more or less, and South 8° 21′ West, 491.6 feet from the Northeast Corner of the Southwest Quarter of Section 2, Township 24 South, Range 3 West, Salt Lake Base and Meridian, and running thence South 81° 39′ East, perpendicular to the highway, 528.0 feet; thence South 26° 31′ West, 354.6 feet; thence North 63° 29′ West, 439.3 feet to said highway; thence North 8° 21′ East, along Easterly line of said highway 200.0 feet to the point of beginning, containing 3.0 acres more or less.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRIBE.—The term "Tribe" means the Paiute Indian Tribe of Utah.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3982, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3982 is sponsored by the gentleman from Utah (Mr. CANNON). The legislation authorizes the Secretary of the Interior to take a 3-acre parcel of land owned by the Paiute Indian Tribe out of trust so the tribe can sell it to the City of Richfield, Utah. The land would be sold only on a willing-seller basis for fair market value and would be used by the city to expand its municipal airport.

H.R. 3982 also authorizes the Secretary to transfer three parcels of trust land to two of the Tribe's constituent bands. The parcels, each of which is one acre or less, will remain in trust for the benefit of the individual bands.

Finally, H.R. 3982 changes the name of the Cedar City Band of Paiute Indians of Utah to the Cedar Band of Paiute Indians of Utah. The tribe and all local entities support this bill, and I urge its adoption.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as congressional action is required for land and trusts to be sold, and the Paiute Indian Tribe has contacted us for assistance, we are very supportive of authorizing the Secretary to convey these lands for the tribe.

We support the tribe's sovereign decision to sell these lands and wish them the best in further economic development. We urge our colleagues to support H.R. 3982.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the bill, H.R. 3982.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1500

ALASKA NATIVE ALLOTMENT SUBDIVISION ACT

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1421) to authorize the subdivision and dedication of restricted land owned by Alaska Natives.

The Clerk read as follows:

S. 1421

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alaska Native Allotment Subdivision Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) RESTRICTED LAND.—The term "restricted land" means land in the State that is subject to Federal restrictions against alienation and taxation.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) STATE.—The term "State" means the State of Alaska.

SEC. 3. SUBDIVISION AND DEDICATION OF ALASKA NATIVE RESTRICTED LAND.

(a) IN GENERAL.—An Alaska Native owner of restricted land may, subject to the approval of the Secretary—

(1) subdivide the restricted land in accordance with the laws of the—

(A) State; or

(B) applicable local platting authority; and

(2) execute a certificate of ownership and dedication with respect to the restricted land subdivided under paragraph (1) with the same effect under State law as if the restricted land subdivided and dedicated were held by unrestricted fee simple title.

(b) RATIFICATION OF PRIOR SUBDIVISIONS AND DEDICATIONS.—Any subdivision or dedication of restricted land executed before the date of enactment of this Act that has been approved by the Secretary and by the relevant State or local platting authority, as appropriate, shall be considered to be ratified and confirmed by Congress as of the date on which the Secretary approved the subdivision or dedication.

SEC. 4. EFFECT ON STATUS OF LAND NOT DEDICATED.

Except in a case in which a specific interest in restricted land is dedicated under section 3(a)(2), nothing in this Act terminates, diminishes, or otherwise affects the continued existence and applicability of Federal restrictions against alienation and taxation on restricted land or interests in restricted land (including restricted land subdivided under section 3(a)(1)).

The SPEAKER pro tempore (Mr. PETRI). Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Senate 1421 is legislation sponsored by the gentlewoman from Alaska (Senator MURKOWSKI) that will yield tremendous benefits to Alaska native owners of lands they obtained under the Native Allotment Act of 1906.

The bill resolves a problem that is confounding the State of Alaska, Alaska municipalities and the owners of native allotments. In the past few years, government attorneys have questioned whether current law authorizes the subdivision of Alaska native allotments or the placement of certain easements across them. Some allotments have already been subdivided, and the validity of these subdivisions is now in question.

This bill fixes the problem. It allows Alaska natives to subdivide their allotments and dedicate rights-of-way on them, according to State law, without losing the protections in the restricted status of such lands.

The law does not force Alaska natives to do anything with their lands. Rather, it gives them more freedom to utilize their property in an economically beneficial manner.

This is an excellent, noncontroversial bill worked out cooperatively by all affected parties. I urge the adoption of this bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has explained the pending measure. We on this side have no objection to its consideration.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I urge the adoption of this measure.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the Senate bill, S. 1421.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

NOXIOUS WEED CONTROL AND ERADICATION ACT OF 2004

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 144) to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land, as amended.

The Clerk read as follows:

S. 144

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NOXIOUS WEED CONTROL AND ERADICATION.

The Plant Protection Act (7 U.S.C. 7701 et seq.) is amended by adding at the end the following new subtitle—

"Subtitle E—Noxious Weed Control and Eradication

"SEC. 451. SHORT TITLE.

"This subtitle may be cited as the 'Noxious Weed Control and Eradication Act of 2004'.

"SEC. 452. DEFINITIONS.

"In this subtitle:

"(1) INDIAN TRIBE.—The term 'Indian Tribe' has the meaning given that term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

"(2) WEED MANAGEMENT ENTITY.—The term 'weed management entity' means an entity that—

"(A) is recognized by the State in which it is established;

"(B) is established for the purpose of or has demonstrable expertise and significant experience in controlling or eradicating noxious weeds and increasing public knowledge and education concerning the need to control or eradicate noxious weeds;

"(C) may be multijurisdictional and multidisciplinary in nature;

"(D) may include representatives from Federal, State, local, or, where applicable, Indian Tribe governments, private organizations, individuals, and State-recognized conservation districts or State-recognized weed management districts; and

"(E) has existing authority to perform land management activities on Federal land if the proposed project or activity is on Federal lands.

"(3) FEDERAL LANDS.—The term 'Federal lands' means those lands owned and managed by the United States Forest Service or the Bureau of Land Management.

"SEC. 453. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a program to provide financial and technical assistance to control or eradicate noxious weeds.

"(b) GRANTS.—Subject to the availability of appropriations under section 457(a), the Secretary shall make grants under section 454 to weed management entities for the control or eradication of noxious weeds.

"(c) AGREEMENTS.—Subject to the availability of appropriations under section 457(b), the Secretary shall enter into agreements under section 455 with weed management entities to provide financial and technical assistance for the control or eradication of noxious weeds.

"SEC. 454. GRANTS TO WEED MANAGEMENT ENTITIES.

"(a) CONSULTATION AND CONSENT.—In carrying out a grant under this subtitle, the weed management entity and the Secretary shall—

"(1) if the activities funded under the grant will take place on Federal land, consult with the heads of the Federal agencies having jurisdiction over the land; or

"(2) obtain the written consent of the non-Federal landowner.

"(b) Grant Considerations.—In determining the amount of a grant to a weed management entity, the Secretary shall consider—

"(1) the severity or potential severity of the noxious weed problem;

"(2) the extent to which the Federal funds will be used to leverage non-Federal funds to address the noxious weed problem;

"(3) the extent to which the weed management entity has made progress in addressing the noxious weeds problem; and

"(4) other factors that the Secretary determines to be relevant.

"(c) Use of Grant Funds; Cost Shares.—

"(1) Use of grants.—A weed management entity that receives a grant under subsection (a) shall use the grant funds to carry out a project authorized by subsection (d) for the control or eradication of a noxious weed.

"(2) Cost shares.—

"(A) Federal cost share.—The Federal share of the cost of carrying out an authorized project under this section exclusively on non-Federal land shall not exceed 50 percent.

"(B) Form of non-federal cost share.—The non-Federal share of the cost of carrying out an authorized project under this section may be provided in cash or in kind.

"(d) Authorized Projects.—Projects funded by grants under this section include the following:

"(1) Education, inventories and mapping, management, monitoring, methods development, and other capacity building activities, including the payment of the cost of personnel and equipment that promote control or eradication of noxious weeds.

"(2) Other activities to control or eradicate noxious weeds or promote control or eradication of noxious weeds.

"(e) Application.—To be eligible to receive assistance under this section, a weed management entity shall prepare and submit to the Secretary an application containing such information as the Secretary shall by regulation require.

"(f) Selection of Projects.—Projects funded under this section shall be selected by the Secretary on a competitive basis, taking into consideration the following:

"(1) The severity of the noxious weed problem or potential problem addressed by the project.

"(2) The likelihood that the project will prevent or resolve the problem, or increase knowledge about resolving similar problems.

"(3) The extent to which the Federal funds will leverage non-Federal funds to address the noxious weed problem addressed by the project.

"(4) The extent to which the program will improve the overall capacity of the United States to address noxious weed control and management.

"(5) The extent to which the weed management entity has made progress in addressing noxious weed problems.

"(6) The extent to which the project will provide a comprehensive approach to the control or eradication of noxious weeds.

"(7) The extent to which the project will reduce the total population of noxious weeds.

"(8) The extent to which the project promotes cooperation and participation between States that have common interests in controlling and eradicating noxious weeds.

"(9) Other factors that the Secretary determines to be relevant.

"(g) Regional, State, and Local Involvement.—In determining which projects receive funding under this section, the Secretary shall, to the maximum extent practicable—

"(1) rely on technical and merit reviews provided by regional, State, or local weed management experts; and

"(2) give priority to projects that maximize the involvement of State, local and, where applicable, Indian Tribe governments.

"(h) Special Consideration.—The Secretary shall give special consideration to States with approved weed management entities established by Indian Tribes and may provide an additional allocation to a State to meet the particular needs and projects that the weed management entity plans to address.

"SEC. 455. AGREEMENTS.

"(a) Consultation and Consent.—In carrying out an agreement under this section, the Secretary shall—

"(1) if the activities funded under the agreement will take place on Federal land, consult with the heads of the Federal agencies having jurisdiction over the land; or

"(2) obtain the written consent of the non-Federal landowner.

"(b) Application of Other Laws.—The Secretary may enter into agreements under this section with weed management entities notwithstanding sections 6301 through 6309 of title 31, United States Code, and other laws relating to the procurement of goods and services for the Federal Government.

"(c) Eligible Activities.—Activities carried out under an agreement under this section may include the following:

"(1) Education, inventories and mapping, management, monitoring, methods development, and other capacity building activities, including the payment of the cost of personnel and equipment that promote control or eradication of noxious weeds.

"(2) Other activities to control or eradicate noxious weeds.

"(d) Selection of Activities.—Activities funded under this section shall be selected by the Secretary taking into consideration the following:

"(1) The severity of the noxious weeds problem or potential problem addressed by the activities.

"(2) The likelihood that the activity will prevent or resolve the problem, or increase knowledge about resolving similar problems.

"(3) The extent to which the activity will provide a comprehensive approach to the control or eradication of noxious weeds.

"(4) The extent to which the program will improve the overall capacity of the United States to address noxious weed control and management.

"(5) The extent to which the project promotes cooperation and participation between States that have common interests in controlling and eradicating noxious weeds.

"(6) Other factors that the Secretary determines to be relevant.

"(e) Regional, State, and Local Involvement.—In determining which activities receive funding under this section, the Secretary shall, to the maximum extent practicable—

"(1) rely on technical and merit reviews provided by regional, State, or local weed management experts; and

"(2) give priority to activities that maximize the involvement of State, local, and, where applicable, representatives of Indian Tribe governments.

"(f) Rapid Response Program.—At the request of the Governor of a State, the Secretary may enter into a cooperative agreement with a weed management entity in that State to enable rapid response to outbreaks of noxious weeds at a stage which rapid eradication and control is possible and to ensure eradication or immediate control of the noxious weeds if—

"(1) there is a demonstrated need for the assistance;

"(2) the noxious weed is considered to be a significant threat to native fish, wildlife, or their habitats, as determined by the Secretary;

"(3) the economic impact of delaying action is considered by the Secretary to be substantial; and

"(4) the proposed response to such threat—

"(A) is technically feasible;

"(B) economically responsible; and

"(C) minimizes adverse impacts to the structure and function of an ecosystem and adverse effects on nontarget species and ecosystems.

"SEC. 456. RELATIONSHIP TO OTHER PROGRAMS.

"Funds under this Act (other than those made available for section 455(f)) are intended to supplement, not replace, assistance available to weed management entities, areas, and districts for control or eradication of noxious weeds on Federal lands and non-Federal lands. The provision of funds to a weed management entity under this Act (other than those made available for section 455(f)) shall have no effect on the amount of any payment received by a county from the Federal Government under chapter 69 of title 31, United States Code.

"SEC. 457. AUTHORIZATION OF APPROPRIATIONS.

"(a) Grants.—To carry out section 454, there are authorized to be appropriated to the Secretary $7,500,000 for each of fiscal years 2005 through 2009, of which not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs.

"(b) Agreements.—To carry out section 455 of this subtitle, there are authorized to be appropriated to the Secretary $7,500,000 for each of fiscal years 2005 through 2009, of which not more than 5 percent of the funds made available for a fiscal year may be used by the Secretary for administrative costs of Federal agencies.".

SEC. 2. TECHNICAL AMENDMENT.

The table of sections in section 1(b) of the Agricultural Risk Protection Act of 2000 is amended by inserting after the item relating to section 442 the following:

"Subtitle E—Noxious Weed Control and Eradication

"Sec. 451. Short title.
"Sec. 452. Definitions.
"Sec. 453. Establishment of program.
"Sec. 454. Grants to weed management entities.
"Sec. 455. Agreements.
"Sec. 456. Relationship to other programs.
"Sec. 457. Authorization of Appropriations.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. Gibbons) and the gentlewoman from the Virgin Islands (Mrs. Christensen) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. Gibbons).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Senate 144, introduced by Senator LARRY CRAIG of Idaho and passed by the Senate on March 4, 2003, would establish a program providing assistance through States to eligible weed management entities for the control of noxious weeds on public and private land. In simple terms, S. 144 would amend the Plant Protection Act authorizing the Secretary of Agriculture to fund specific weed control or eradication projects on a competitive basis. The bill also serves to bolster the presence of weed management entities, which exist today in most western States but lack the funding for meaningful control of noxious weeds.

Weed management entities are comprised of community members and local landowners affected by this problem, as well as representatives of the State or Federal Government. Where established, they have proven to be vital in controlling noxious weeds.

Senate 144 aims to deal with the growing threat of noxious weeds in an inclusive manner, across government agencies, and on private lands. It is important to note that due to cost concerns, the authorization of appropriations has been reduced to $15 million per year rather than $100 million per year. Additionally, administrative costs of Federal agencies are limited to 5 percent, ensuring the money gets to the ground where it is needed.

The bill, as amended, is supported by the majority and minority of the Committee on Resources as well as the Committee on Agriculture.

I would like to thank Chairman GOODLATTE and the Agriculture Committee staff for their willingness to work on and approve this important piece of legislation. I urge the adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, across our Nation people are grasping for solutions to better control and mitigate the significant adverse economic and environmental costs associated with invasive plants, animals and insects. The pending measure is the final product of a dialogue initiated by Senators LARRY CRAIG and TOM DASCHLE which began 4 years ago.

Noxious weeds remain a substantial threat to western rangelands. This legislation will provide needed financial and technical support for local weed management programs, particularly in western States, including South Dakota and Idaho.

While I commend the sponsors of this bill for working so diligently on it, the gentleman from West Virginia (Mr. RAHALL), ranking member the Committee on Resources, and I also hope that in the next Congress we might move forward with more comprehensive invasive species legislation to address the ecological challenge of harmful nonnative species on a broader level.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I urge the adoption of the bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the Senate bill, S. 144, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

The title of the Senate bill was amended so as to read: "An Act to require the Secretary of Agriculture to establish a program to provide assistance to eligible weed management entities to control or eradicate noxious weeds on public and private land.".

A motion to reconsider was laid on the table.

TRANSFERRING FEDERAL LANDS BETWEEN SECRETARY OF AGRICULTURE AND SECRETARY OF INTERIOR

Mr. GIBBONS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1814) to transfer Federal lands between the Secretary of Agriculture and the Secretary of the Interior.

The Clerk read as follows:

S. 1814

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSES AND DEFINITIONS.

(a) PURPOSES.—The purposes of this Act are—

(1) to transfer administrative jurisdiction of certain Federal lands in Missouri from the Secretary of the Interior to the Secretary of Agriculture for continued Federal operation of the Mingo Job Corps Civilian Conservation Center; and

(2) to not change the Secretary of Labor's role or authority regarding this Job Corps Center.

(b) DEFINITIONS.—For the purposes of this Act—

(1) "Center" means the Mingo Job Corps Civilian Conservation Center in Stoddard County, Missouri, referenced in section 2(a) of this Act;

(2) "eligible employee" means a person who, as of the date of enactment of this Act, is a full-time, part-time, or intermittent annual or per hour permanent Federal Government employee of the Fish and Wildlife Service at the Mingo Job Corps Civilian Conservation Center, including the two fully funded Washington Office Job Corps support staff;

(3) "Environmental Authorities" mean all applicable Federal, State and local laws (including regulations) and requirements related to protection of human health, natural resources, or the environment, including but not limited to: the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601, et seq.); the Solid Waste Disposal Act (42 U.S.C. 6901, et seq.); the Federal Water Pollution Control Act (33 U.S.C. 1251, et seq.); the Clean Air Act (42 U.S.C. 7401, et seq.); the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136, et seq.); the Toxic Substances Control Act (15 U.S.C. 2601, et seq.); the Safe Drinking Water Act (42 U.S.C. 300f, et seq.); and the National Environmental Policy Act of 1969 (42 U.S.C. 4321, et seq.);

(4) "U.S. Fish and Wildlife Service" means the United States Fish and Wildlife Service as referenced at title 16, United States Code, section 742b(b);

(5) "Forest Service" means the Department of Agriculture Forest Service as established by the Secretary of Agriculture pursuant to the authority of title 16, United States Code, section 551;

(6) "Job Corps" means the national Job Corps program established within the Department of Labor, as set forth in the Workforce Investment Act of 1998, Public Law No. 105-220, §§141-161, 112 Stat. 1006-1021 (1998) (codified at 29 U.S.C. 2881-2901);

(7) "National Forest System" means that term as defined at title 16, United States Code, section 1609(a); and

(8) "National Wildlife Refuge System" means that term as defined at title 16, United States Code, section 668dd.

SEC. 2. TRANSFER OF ADMINISTRATION.

(a) TRANSFER OF CENTER.—Administrative jurisdiction over the Mingo Job Corps Civilian Conservation Center, comprising approximately 87 acres in Stoddard County, Missouri, as generally depicted on a map entitled "Mingo National Wildlife Refuge", dated September 17, 2002, to be precisely identified in accordance with subsection (c) of this section, is hereby transferred, without consideration, from the Secretary of the Interior to the Secretary of Agriculture.

(b) MAPS AND LEGAL DESCRIPTIONS.—

(1) The map referenced in this section shall be on file and available for public inspection in the Office of the Chief, Forest Service, Washington, DC, and in the office of the Chief of Realty, U.S. Fish and Wildlife Service, Arlington, Virginia.

(2) Not later than 180 days after the date of enactment of this Act, the Secretary of the Interior, in consultation with the Secretary of Agriculture, shall file a legal description and map of all of the lands comprising the Center and being transferred by section 2(a) of this Act with the Committee on Resources of the United States House of Representatives and the Committee on Environment and Public Works of the United States Senate, and such description and map shall have the same force and effect as if included in this Act, except that the Secretary of the Interior may make typographical corrections as necessary.

(c) APPLICABLE LAWS.—

(1) Subject to section 3, the Center transferred pursuant to subsection (a) shall be administered by the Secretary of Agriculture and shall be subject to the laws and regulations applicable to the National Forest System.

(2) This transfer shall not conflict or interfere with any laws and regulations applicable to Job Corps.

SEC. 3. IMPLEMENTATION OF TRANSFER.

(a) REVERSION REQUIREMENT.—

(1) In the event that the Center is no longer used or administered for Job Corps purposes, as concurred to by the Secretary of

Labor, the Secretary of Agriculture shall so notify the Secretary of the Interior, and the Secretary of the Interior shall have 180 days from the date of such notice to exercise discretion to reassume jurisdiction over such lands.

(2) The reversionary provisions of subsection (a) shall be effected, without further action by the Congress, through a Letter of Transfer executed by the Chief, Forest Service, and the Director, United States Fish and Wildlife Service, and with notice thereof published in the Federal Register within 60 days of the date of the Letter of Transfer.

(b) AUTHORIZATIONS.—

(1) IN GENERAL.—A permit or other authorization granted by the U.S. Fish and Wildlife Service on the Center that is in effect on the date of enactment of this Act will continue with the concurrence of the Forest Service.

(2) REISSUANCE.—A permit or authorization described in paragraph (1) may be reissued or terminated under terms and conditions prescribed by the Forest Service.

(3) EXERCISE OF RIGHTS.—The Forest Service may exercise any of the rights of the U.S. Fish and Wildlife Service contained in any permit or other authorization, including any right to amend, modify, and revoke the permit or authorization.

(c) CONTRACTS.—

(1) EXISTING CONTRACTS.—The Forest Service is authorized to undertake all rights and obligations of the U.S. Fish and Wildlife Service under contracts entered into by the U.S. Fish and Wildlife Service on the Center that is in effect on the date of enactment of this Act.

(2) NOTICE OF NOVATION.—The Forest Service shall promptly notify all contractors that it is assuming the obligations of the U.S. Fish and Wildlife Service under such contracts.

(3) DISPUTES.—Any contract disputes under the Contracts Disputes Act (41 U.S.C. 601, et seq.) regarding the administration of the Center and arising prior to the date of enactment of this Act shall be the responsibility of the U.S. Fish and Wildlife Service.

(d) MEMORANDUM OF AGREEMENT.—

(1) IN GENERAL.—The Chief, Forest Service, and the Director, U.S. Fish and Wildlife Service, are authorized to enter into a memorandum of agreement concerning implementation of this Act, including procedures for—

(A) the orderly transfer of employees of the U.S. Fish and Wildlife Service to the Forest Service;

(B) the transfer of property, fixtures, and facilities;

(C) the transfer of records;

(D) the maintenance and use of roads and trails; and

(E) other transfer issues.

(e) AGREEMENTS WITH THE SECRETARY OF LABOR.—In the operation of the Center, the Forest Service will undertake the rights and obligations of the U.S. Fish and Wildlife Service with respect to existing agreements with the Secretary of Labor pursuant to Public Law 105-220 (29 U.S.C. 2887, et seq.), and the Forest Service will be the responsible agency for any subsequent agreements or amendments to existing agreements.

(f) RECORDS.—

(1) AREA MANAGEMENT RECORDS.—The Forest Service shall have access to all records of the U.S. Fish and Wildlife Service pertaining to the management of the Center.

(2) PERSONNEL RECORDS.—The personnel records of eligible employees transferred pursuant to this Act, including the Official Personnel Folder, Employee Performance File, and other related files, shall be transferred to the Forest Service.

(3) LAND TITLE RECORDS.—The U.S. Fish and Wildlife Service shall provide to the Forest Service records pertaining to land titles, surveys, and other records pertaining to transferred real property and facilities.

(g) TRANSFER OF PERSONAL PROPERTY.—

(1) IN GENERAL.—All federally owned personal property present at the Center is hereby transferred without consideration to the jurisdiction of the Forest Service, except that with regard to personal property acquired by the Fish and Wildlife Service using funds provided by the Department of Labor under the Job Corps program, the Forest Service shall dispose of any such property in accordance with the procedures stated in section 7(e) of the 1989 Interagency Agreement for Administration of Job Corps Civilian Conservation Center Program, as amended, between the Department of Labor and the Department of the Interior.

(2) INVENTORY.—Not later than 60 days after the date of enactment of this Act, the U.S. Fish and Wildlife Service shall provide the Forest Service with an inventory of all property and facilities at the Center.

(3) PROPERTY INCLUDED.—Property under this subsection includes, but is not limited to, buildings, office furniture and supplies, computers, office equipment, vehicles, tools, equipment, maintenance supplies, and publications.

(4) EXCLUSION OF PROPERTY.—At the request of the authorized representative of the U.S. Fish and Wildlife Service, the Forest Service may exclude movable property from transfer based on a showing by the U.S. Fish and Wildlife Service that the property is needed for the mission of the U.S. Fish and Wildlife Service, cannot be replaced in a cost-effective manner, and is not needed for management of the Center.

SEC. 4. COMPLIANCE WITH ENVIRONMENTAL AUTHORITIES.

(a) DOCUMENTATION OF EXISTING CONDITIONS.—

(1) IN GENERAL.—Within 60 days after the date of enactment of this Act, the U.S. Fish and Wildlife Service shall provide the Forest Service and the Office of Job Corps, Employment and Training Administration, Department of Labor, all reasonably ascertainable documentation and information that exists on the environmental condition of the land comprising the Center.

(2) ADDITIONAL DOCUMENTATION.—The U.S. Fish and Wildlife Service shall provide the Forest Service and the Office of Job Corps, Employment and Training Administration, Department of Labor, with any additional documentation and information regarding the environmental condition of the Center as such documentation and information becomes available.

(b) ACTIONS REQUIRED.—

(1) ASSESSMENT.—Within 120 days after the date of enactment of this Act, the U.S. Fish and Wildlife Service shall provide the Forest Service and the Office of Job Corps, Employment and Training Administration, Department of Labor, an assessment, consistent with ASTM Standard E1527, indicating what action, if any, is required on the Center under any Environmental Authorities.

(2) MEMORANDUM OF AGREEMENT.—If the findings of the environmental assessment indicate that action is required under applicable Environmental Authorities with respect to any portion of the Center, the Forest Service and the U.S. Fish and Wildlife Service shall enter into a memorandum of agreement that—

(A) provides for the performance by the U.S. Fish and Wildlife Service of the required actions identified in the environmental assessment; and

(B) includes a schedule for the timely completion of the required actions to be taken as agreed to by U.S. Fish and Wildlife Service and Forest Service.

(c) DOCUMENTATION OF ACTIONS.—After a mutually agreeable amount of time following completion of the environmental assessment, but not exceeding 180 days from such completion, the U.S. Fish and Wildlife Service shall provide the Forest Service and the Office of Job Corps, Employment and Training Administration, Department of Labor, with documentation demonstrating that all actions required under applicable Environmental Authorities have been taken that are necessary to protect human health and the environment with respect to any hazardous substance, pollutant, contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product on the Center.

(d) CONTINUATION OF RESPONSIBILITIES AND LIABILITIES.—

(1) IN GENERAL.—The transfer of the Center and the requirements of this section shall not in any way affect the responsibilities and liabilities of the U.S. Fish and Wildlife Service at the Center under any applicable Environmental Authorities.

(2) ACCESS.—At all times after the date of enactment of this Act, the U.S. Fish and Wildlife Service and its agents shall be accorded any access to the Center that may be reasonably required to carry out the responsibility or satisfy the liability referred to in paragraph (1).

(3) NO LIABILITY.—The Forest Service shall not be liable under any applicable Environmental Authorities for matters that are related directly or indirectly to activities of the U.S. Fish and Wildlife Service or the Department of Labor on the Center occurring on or before the date of enactment of this Act, including liability for—

(A) costs or performance of response actions required under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601, et seq.) at or related to the Center; or

(B) costs, penalties, fines, or performance of actions related to noncompliance with applicable Environmental Authorities at or related to the Center or related to the presence, release, or threat of release of any hazardous substance, pollutant, or contaminant, hazardous waste, hazardous material, or petroleum product or derivative of a petroleum product of any kind at or related to the Center, including contamination resulting from migration.

(4) NO EFFECT ON RESPONSIBILITIES OR LIABILITIES.—Except as provided in paragraph (3), nothing in this title affects, modifies, amends, repeals, alters, limits or otherwise changes, directly or indirectly, the responsibilities or liabilities under applicable Environmental Authorities with respect to the Forest Service after the date of enactment of this Act.

(e) OTHER FEDERAL AGENCIES.—Subject to the other provisions of this section, a Federal agency that carried or carries out operations at the Center resulting in the violation of an environmental authority shall be responsible for all costs associated with corrective actions and subsequent remediation.

SEC. 5. PERSONNEL.

(a) IN GENERAL.—

(1) EMPLOYMENT.—Notwithstanding section 3503 of title 5, United States Code, the Forest

Service will accept the transfer of eligible employees at their current pay and grade levels to administer the Center as of the date of enactment of this Act.

(b) TRANSFER-APPOINTMENT IN THE FOREST SERVICE.—Eligible employees will transfer, without a break in Federal service and without competition, from the Department of the Interior, U.S. Fish and Wildlife Service, to the Department of Agriculture, Forest Service, upon an agreed date by both agencies.

(c) EMPLOYEE BENEFIT TRANSITION.—Employees of the U.S. Fish and Wildlife Service who transfer to the Forest Service—

(1) shall retain all benefits and/or eligibility for benefits of Federal employment without interruption in coverage or reduction in coverage, including those pertaining to any retirement, Thrift Savings Plan (TSP), Federal Employee Health Benefit (FEHB), Federal Employee Group Life Insurance (FEGLI), leave, or other employee benefits;

(2) shall retain their existing status with respect to the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS);

(3) shall be entitled to carry over any leave time accumulated during their Federal Government employment;

(4) shall retain their existing level of competitive employment status and tenure; and

(5) shall retain their existing GM, GS, or WG grade level and pay.

SEC. 6. IMPLEMENTATION COSTS AND APPROPRIATIONS.

(a) The U.S. Fish and Wildlife Service and the Forest Service will cover their own costs in implementing this Act.

(b) There is hereby authorized to be appropriated such sums as may be necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. GIBBONS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. GIBBONS).

GENERAL LEAVE

Mr. GIBBONS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. GIBBONS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Senate 1814, introduced by Senator KIT BOND of Missouri, would transfer the management of the Mingo Job Corps Civilian Conservation Center from the Department of the Interior to the Department of Agriculture. This bill was overwhelmingly adopted by the other body, and it is identical to H.R. 3433 as proposed by our distinguished colleague from Missouri (Mrs. EMERSON).

This center is located within the boundaries of the Mingo National Wildlife Refuge and it provides basic training and educational skills to hundreds of at-risk students between the ages of 16 and 24. These students can learn a variety of trades including automotive repair, bricklaying, carpentry, welding and culinary arts. In addition, they obtain critical experience, socialization skills and the confidence they will need to be successful in the workplace.

The U.S. Forest Service operates 18 Job Corps Centers throughout the United States, and they have signed a memorandum of understanding with the U.S. Fish and Wildlife Service which transfers to them responsibility for the operation of this center. This legislation is necessary because the National Wildlife Refuge Administration Act stipulates that the transfer cannot occur administratively. Both agencies strongly support this realignment.

This is a good bill. The Job Corps Center is important to the economy of southeast Missouri, and it will ensure a bright future for hundreds of young men and women. I compliment the sponsors of this measure and urge an "aye" vote on Senate 1814.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this legislation. We believe it will not harm the integrity of the Mingo National Wildlife Refuge.

Mr. Speaker, I yield back the balance of my time.

Mr. GIBBONS. Mr. Speaker, I urge the adoption of the measure.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the Senate bill, S. 1814.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GIBBONS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONGRATULATING AMERICAN DENTAL ASSOCIATION FOR SPONSORING SECOND ANNUAL "GIVE KIDS A SMILE" PROGRAM

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 567) congratulating the American Dental Association for sponsoring the second annual "Give Kids a Smile" program which emphasizes the need to improve access to dental care for children, and thanking dentists for volunteering their time to help provided needed dental care.

The Clerk read as follows:

H. RES. 567

Whereas access to dental care for children is a vital element of overall health care and development;

Whereas dental caries—more commonly known as tooth decay—is the most common chronic childhood disease;

Whereas untreated tooth decay in children results in thousands of children experiencing poor eating and sleeping patterns, suffering decreased attention spans at school, and being unable to smile;

Whereas due to a confluence of factors, children eligible for Medicaid and the State Children's Health Insurance Program are three to five times more likely than other children to experience and suffer from untreated tooth decay;

Whereas dentists provide an estimated $1.7 billion annually in non-reimbursed dental care;

Whereas the participation of dentists in the second annual "Give Kids a Smile" program, established and sponsored by the American Dental Association and held this year on February 6, 2004, serves to remind people in the United States about the need to end untreated childhood dental disease;

Whereas the generous support of numerous corporations, such as Crest Healthy Smiles 2010, Sullivan-Schein Dental, DEXIS Digital X-ray Systems, and Ivoclar Vivadent Inc., helped make this year's "Give Kids a Smile" program a success; and

Whereas more than 37,000 volunteers, including more than 15,000 dentists, provided free education, screening, and care services to an estimated one million children at more than 2,500 sites in all 50 States and the District of Columbia during this year's "Give Kids a Smile" program: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates the American Dental Association for establishing and continuing its sponsorship of the "Give Kids a Smile" program;

(2) emphasizes the need to improve access to dental care for children;

(3) thanks the thousands of dentists, dental hygienists, dental assistants, and others who volunteered their time to bring a smile to the faces of an estimated one million children as part of the "Give Kids a Smile" program; and

(4) thanks Crest Healthy Smiles 2010, Sullivan-Schein Dental, DEXIS Digital X-ray Systems, and Ivoclar Vivadent Inc. for their generous support which helped make this year's "Give Kids a Smile" program a success.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H. Res. 567, introduced by the distinguished gentleman from Virginia (Mr. CANTOR). The resolution congratulates the American Dental Association for establishing the "Give Kids a Smile" program and thanks the thousands of dentists who volunteered their time to treat an estimated 1 million children on February 21 of last year, 2003.

Giving children access to dental care is crucial. Dental decay is one of the most common chronic infectious diseases among U.S. children. This preventable health problem begins early, and among low-income children, almost 50 percent of tooth decay remains untreated and may result in pain, dysfunction, underweight and poor appearance, problems that can greatly reduce a child's capacity to succeed in the educational environment.

The "Give Kids a Smile" program provides a much-needed service to our community by emphasizing the need to improve access to dental care for children. The program began in 2002 by a group of dentists in the Greater St. Louis Dental Society. Since then the program has grown, and in 2004 events took place at approximately 2,500 locations across the Nation, with about 36,000 dental team volunteers, including over 14,000 dentists, to provide free services to underserved children. The ADA has been crucial in implementing and expanding this program, and they deserve to be commended for their efforts.

Mr. Speaker, I urge my colleagues to support this piece of legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution which congratulates the American Dental Association for sponsoring the "Give Kids a Smile" program.

I want to say that the participation of dentists in the second annual "Give Kids a Smile" program, which was established and sponsored by them, the American Dental Association, and held this year on February 6, 2004, serves as a reminder to people in the United States about the need to end untreated childhood dental disease and, in doing so, also prevent adult dental disease.

This activity was participated in by more than 37,000 volunteers, including more than 15,000 dentists who provided free education, screening and care services to an estimated 1 million children. We want to thank the American Dental Association for doing this and thank the National Dental Association for their support.

This bill was favorably reported by the Committee on Energy and Commerce last week by a voice vote.

Mr. BURTON of Indiana. Mr. Speaker, while I support the goals of the "Give Kids a Smile" program, and I commend the American Dental Association for establishing and continuing its sponsorship of the "Give Kids a Smile" program, and thank the thousands of dentists, dental hygienists, dental assistants, and others who volunteered their time to this program, I remain deeply concerned about the dental profession's continued reliance on mercury-containing dental amalgams.

The amalgam fillings the American Dental Association so wrongly calls "silver" are mainly mercury, not silver at all. Mercury is the single largest ingredient in each filling, representing about 45 to 50 percent of the mercury by weight, or about one-half a gram per filling. That is a colossal amount of mercury in scientific terms—as much as is in an old fashioned thermometer. For example, a young child with six amalgam fillings has the equivalent of six mercury thermometers worth of mercury in their mouth.

No one has ever identified a positive health benefit to mercury in the human body. Thus, it was sound public health policy to eliminate mercury from thermometers, blood pressure gauges, light switches, cosmetics, teething powder, horse liniment, hat-making materials, smokestack emission, and mining operations. In fact, virtually ever industry has either reduced or banned the use of mercury, with the exception of dentistry.

I have repeatedly called upon the dental establishment to ban the use of this highly toxic substance but regrettably, the dental establishment continues to hold to the scientific fiction that a material that is hazardous before it goes into the mouth, and hazardous after it comes back out of the mouth, is somehow perfectly safe while contained in the mouth, and they have repeatedly attempted to block every effort to ban mercury-amalgams.

According to the resolution, one of the underlying reasons behind the "Give Kids a Smile" program is that access to dental care for children is a vital element of overall health care and development. Yet, the developing neurological systems of fetuses and young children are especially susceptible to damage by even the slightest trace amounts of mercury. And an increasing body of scientific evidence points to mercury toxicity as a source of neurological problems including, but not limited to, modest declines in intelligence quotient (IQ), tremors, attention deficit disorder (ADD), attention deficit hyperactivity disorder (ADHD), Alzheimer's disease and autism.

I hope that one day soon, the American Dental Association will truly live up to the promise and intent of the "Give Kids a Smile" program and stop using mercury-based amalgam fillings for good.

Mr. CANTOR. Mr. Speaker, I rise today to recognize the Nation's dentists who provide free oral health care services to thousands of low-income children across the country. One day each year dentists take time out of their busy schedules and away from their practices to provide important dental care to children who do not have access to that kind of care.

I have seen first-hand the tremendous generosity of dentists and the excitement of the children when Give Kids A Smile day came to Richmond, VA. A local museum was turned into a full-service dentists' office, with children being provided much-needed dental work. The children were excited, and I think the dentists and dental hygienists got an ever bigger kick out of it.

Mr. Speaker, I am pleased that this resolution has come to the floor today, as over 40,000 members of the American Dental Association are together this week at their annual session. I know they must take pride in their generosity and knowing that they have provided so many children with access to important dental care that they otherwise would not receive. I am pleased that Give Kids A Smile day will keep kids smiling.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and agree to the resolution, H. Res. 567.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BILIRAKIS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SOUTHERN UTE AND COLORADO INTERGOVERNMENTAL AGREEMENT IMPLEMENTATION ACT OF 2003

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 551) to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes.

The Clerk read as follows:

S. 551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress, after review and in recognition of the purposes and uniqueness of the Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado, finds that—

(1) the Intergovernmental Agreement is consistent with the special legal relationship between Federal Government and the Tribe; and

(2) air quality programs developed in accordance with the Intergovernmental Agreement and submitted by the Tribe for approval by the Administrator may be implemented in a manner that is consistent with the Clean Air Act (42 U.S.C. 7401 et seq.).

(b) PURPOSE.—The purpose of this Act is to provide for the implementation and enforcement of air quality control programs under the Clean Air Act (42 U.S.C. 7401 et seq.) and other air quality programs developed in accordance with the Intergovernmental Agreement that provide for—

(1) the regulation of air quality within the exterior boundaries of the Reservation; and

(2) the establishment of a Southern Ute Indian Tribe/State of Colorado Environmental Commission.

SEC. 3. DEFINITIONS.

In this Act:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) COMMISSION.—The term "Commission" means the Southern Ute Indian Tribe/State of Colorado Environmental Commission established by the State and the Tribe in accordance with the Intergovernmental Agreement.

(3) INTERGOVERNMENTAL AGREEMENT.—The term "Intergovernmental Agreement" means the agreement entered into by the Tribe and the State on December 13, 1999.

(4) RESERVATION.—The term "Reservation" means the Southern Ute Indian Reservation.

(5) STATE.—The term "State" means the State of Colorado.

(6) TRIBE.—The term "Tribe" means the Southern Ute Indian Tribe.

SEC. 4. TRIBAL AUTHORITY.

(a) AIR PROGRAM APPLICATIONS.—

(1) IN GENERAL.—The Administrator is authorized to treat the Tribe as a State for the purpose of any air program applications submitted to the Administrator by the Tribe under section 301(d) of the Clean Air Act (42 U.S.C. 7601(d)) to carry out, in a manner consistent with the Clean Air Act (42 U.S.C. 7401 et seq.), the Intergovernmental Agreement.

(2) APPLICABILITY.—If the Administrator approves an air program application of the Tribe, the approved program shall be applicable to all air resources within the exterior boundaries of the Reservation.

(b) TERMINATION.—If the Tribe or the State terminates the Intergovernmental Agreement, the Administrator shall promptly take appropriate administrative action to withdraw treatment of the Tribe as a State for the purpose described in subsection (a)(1).

SEC. 5. CIVIL ENFORCEMENT.

(a) IN GENERAL.—If any person fails to comply with a final civil order of the Tribe or the Commission made in accordance with the Clean Air Act (42 U.S.C. 7401 et seq.) or any other air quality program established under the Intergovernmental Agreement, the Tribe or the Commission, as appropriate, may bring a civil action for declaratory or injunctive relief, or for other orders in aid of enforcement, in the United States District Court for the District of Colorado.

(b) NO EFFECT ON RIGHTS OR AUTHORITY.—Nothing in this Act alters, amends, or modifies any right or authority of any person (as defined in section 302(e) of the Clean Air Act (42 U.S.C. 7601(e)) to bring a civil action under section 304 of the Clean Air Act (42 U.S.C. 7603).

SEC. 6. JUDICIAL REVIEW.

Any decision by the Commission that would be subject to appellate review if it were made by the Administrator—

(1) shall be subject to appellate review by the United States Court of Appeals for the Tenth Circuit; and

(2) may be reviewed by the Court of Appeals applying the same standard that would be applicable to a decision of the Administrator.

SEC. 7. DISCLAIMER.

Nothing in this Act—

(1) modifies any provision of—

(A) the Clean Air Act (42 U.S.C. 7401 et seq.);

(B) Public Law 98-290 (25 U.S.C. 668 note); or

(C) any lawful administrative rule promulgated in accordance with those statutes; or

(2) affects or influences in any manner any past or prospective judicial interpretation or application of those statutes by the United States, the Tribe, the State, or any Federal, tribal, or State court.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

The bill we are considering today, S. 551, the Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003, provides the congressional authorization necessary to allow the Southern Ute Indian tribe and the State of Colorado to implement an important agreement to protect air quality on the Southern Ute reservation in Colorado.

□ 1515

This Intergovernmental Agreement enjoys broad local and regional support. In addition, this bill authorizes the U.S. Environmental Protection Agency to recognize the Southern Ute Tribe as a State for purposes of administration of the Clean Air Act on the tribe's reservation and allows the tribe to enforce air quality programs within the borders of its reservation.

S. 551 also provides a process for the tribe and the Southern Ute/State of Colorado Environmental Commission, created by the Intergovernmental Agreement, to enforce their orders under an approved air quality program.

Mr. Speaker, I urge all Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of S. 551, the Southern Ute and Colorado Intergovernmental Agreement Implementation Act of 2003. This legislation is necessary to allow the Southern Ute Indian Tribe to be treated as a state for purposes of administering the Clean Air Act on the Southern Ute Indian Reservation in southwestern Colorado.

Under this bill, both Indian and non-Indian areas within the Reservation can be regulated by a single entity, a joint State/Tribal Commission, composed of three members from the tribe and three members from the State. This makes good common sense and will allow the State and the tribe to properly implement the Clean Air Act.

S. 551 will not alter anyone's duty to comply with the Act nor would it alter any rights of any citizen to bring an action to enforce the Clean Air Act. S. 551 will implement the Intergovernmental Agreement that was negotiated between the State and the tribe. I understand that the Attorney General of Colorado, Ken Salazar, has been a key negotiator in negotiating this agreement. Without his work, it would not have happened. The State of Colorado, the tribe, and the Attorney General's Office are to be commended for this effort. I urge my colleagues to support Senate 551.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. PETRI). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the Senate bill, S. 551.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 18 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1617

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BOOZMAN) at 4 o'clock and 17 minutes p.m.

CLARIFICATION OF TREATMENT OF SUPPLEMENTAL APPROPRIATIONS IN CALCULATING RATE FOR OPERATIONS FOR CONTINUING APPROPRIATIONS

Mr. YOUNG of Florida. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5202) to clarify the treatment of supplemental appropriations in calculating the rate for operations applicable for continuing appropriations for fiscal year 2005.

The Clerk read as follows:

H.R. 5202

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLARIFICATION OF TREATMENT OF SUPPLEMENTAL APPROPRIATIONS IN CALCULATING RATE FOR OPERATIONS.

For purposes of the application of section 103 of Public Law 108–309, supplemental appropriations shall be included in the calculation of the rate for operations only in accordance with the attachments to Office of Management and Budget Bulletin No. 04-05 entitled "Apportionment of the Continuing Resolution(s) for Fiscal Year 2005".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5202.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. YOUNG of Florida. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, the legislation before the House, H.R. 5202, is to assist the Members of the House in understanding scoring relevant to the continuing resolution that we passed last week.

As my colleagues know, the current CR expires on November 20, 2004. As I explained last week, the CR continues all ongoing activities at current rates, including supplemental funding, under the same terms and conditions as fiscal year 2004. As in past CRs, it does not allow new starts, and it restricts obligations on high initial spend-out programs. So the annualized funding levels in this bill will not impinge on our final budget deliberations.

As a courtesy to those in this body who do not understand how OMB determines the rate of operations, I have been asked to put this bill on the floor today to clarify that the term "rate for operations" for 2004 supplementals will be apportioned pursuant to OMB Bulletin Number 04-05.

So, in reality, this bill does not change anything. However, some believe it is needed to clarify for CBO the amount of money the executive branch intends to spend during the period of the CR.

The deficit will not change by one dime as a result of this bill. How much money the government spends will not change by one dime as a result of this bill.

CBO's and the Committee on the Budget's job under the Budget Act is to provide an estimate of bills that are being considered and then are enacted into law. Let me emphasize the word estimate, which is based on a set of assumptions made at the time. Those estimates are sometimes good, and sometimes, they are off. An example where they were off was the Medicare bill.

But thankfully, these estimates do not become the actual balance in our checkbook. That is a real number, based on the checks actually issued by the U.S. Treasury. That is the real number that drives the surplus or deficit.

CBO scoring is only relevant to keep a scorecard on how Congress is doing relative to the budget assumptions. As we all know, during the year, we often wait for a revision by CBO of its scoring to determine the level of a deficit. This revision comes when CBO marries its numbers with the reality that is driven by actual spending.

So we are doing this bill today because some feel that we need to set the record straight. I believe the record is already straight and the OMB apportionment process will dictate the actual level of spending of the CR. By the way, under OMB's apportionment process, the CR will actually save $5 billion from the level that was allocated for fiscal year 2005 discretionary spending in the budget.

This savings is going to happen with or without this bill, but I urge that we pass the bill.

EXECUTIVE OFFICE OF THE PRESIDENT, OFFICE OF MANAGEMENT AND BUDGET,
Washington, DC, September 30, 2004.

Bulletin No. 04-05

To the Heads of Executive Departments and Establishments.

Subject: Apportionment of the Continuing Resolution(s) for Fiscal Year 2005.

1. Purpose and Background. H.J. Res. 107 (continuing resolution) will provide continuing appropriations for the period October 1 through November 20, 2004. I am providing an automatic apportionment for amounts provided by this continuing resolution (CR) as specified in section 2. This Bulletin supplements instructions for apportionment of CRs in OMB Circular No. A 11, section 123, and applies to this CR and any extensions of this CR.

2. Automatic Apportionments. Calculate the amount automatically apportioned through the period ending November 20th (and any extensions of that period) by multiplying the rate (amount) provided by the CR by the lower of: the percentage of the year covered by the CR (e.g., for H.J. Res. 107 use 13.97 percent), or the historical seasonal rate of obligations for the period of the year covered by the CR.

See Attachments A and B to this Bulletin for more detailed instructions on calculating the amount provided by the CR and the amount automatically apportioned. Sec. 111 of the CR requires that the resolution be implemented so that only the most limited funding action permitted in the CR is taken. The Administration has interpreted this section to mandate that agencies in general spend at a minimum level, so as not to infringe upon the prerogative of Congress to set full-year funding levels. Funding apportioned under the CR excludes one-time, nonrecurring projects and activities that were funded in FY 2004, which includes most projects and activities funded by FY 2004 supplemental appropriations. The only FY 2004 supplemental projects and activities that may be factored into the "not to exceed current rate" can be found in Attachment B.

Under an automatic apportionment, all of the footnotes and conditions placed on the prior year apportionment remain in effect.

H.J. Res. 107 expires at midnight on Saturday, November 20, 2004.

3. Written Apportionments. If a program requires an amount different from the total amount automatically apportioned, you must request a written apportionment from OMB. Once a written apportionment is approved, the terms and conditions of the automatic apportionment bulletin cease to apply.

JOSHUA B. BOLTEN,
Director.

Attachments.

ATTACHMENT A—CALCULATING THE AMOUNT MADE AVAILABLE BY THE CR AND THE AUTOMATIC APPORTIONMENT

Calculate the amount automatically apportioned (whole dollars) through the period ending November 20, 2004, (and any extensions of that period) by multiplying the rate (amount) provided by the CR by the lower of: the percentage of the year covered by the CR (rounded to the nearest hundredth); (for a seven-week CR, use 51 days/365 days=13.97%); or the historical seasonal rate of obligations for the period of the year covered by the CR.

1. What is the rate (annualized, full-year amount) provided by the continuing resolution (CR)? The rate (full-year amount) provided by the CR for all accounts is the rate of operations not exceeding the current rate, calculated as follows:

Take the net amount enacted in FY 2004, i.e., add only the supplemental appropriations amounts listed in Attachment B of OMB Bulletin 01-05; subtract any rescissions (e.g., across-the-board reductions), and factor in transfers mandated by law;

Add the unobligated balance (including those for emergencies) carried forward to FY 2004 start-of-the-year (SOY), if any; and

Subtract the unobligated balance (including those for emergencies) at the end of FY 2004 end of year (EOY), if any.

2. Which estimates of FY 2004 (EOY) unobligated balances should agencies use in the calculation? Agencies are required to use current estimates of FY 2004 (EOY) unobligated balances. You can adjust the unobligated balances with the following conditions:

FY 2004 SOY unobligated balances: Use the amount shown on the most recent FY 2004 apportionment/reapportionment. This would be shown on line 2a ("Unobligated balance: brought forward, October 1 (actual)") of the SF 132/letter apportionment.

FY 2004 EOY unobligated balances: Again, you must use the most recently approved apportionment. For the majority of the accounts, this should be the FY 2005 initial apportionment.

You may request OMB to apportion the revised estimates of unobligated balances, SOY FY 2005, and if apportioned by OMB, you may use the revised amounts to calculate the amount available under the CR.

3. How should mandatory appropriations and balances be treated? A continuing resolution is an appropriations bill. As such, it normally does not affect mandatory appropriations provided in substantive or authorizing legislation. Therefore, for accounts

with a mix of discretionary and mandatory appropriations, take the mandatory component out before calculating the amount provided by the CR. This includes both the budget authority and unobligated balances.

4. What is the amount of the automatic apportionment under a CR? Multiple the rate (annualized, full-year amount) provided by the CR (see note 1) by:

The percentage of the year covered by the CR (rounded to the nearest hundredth);

The historical seasonal rate of obligations for the period of the year covered by the CR; or

The lower number will be the amount automatically apportioned.

5. Are entitlement and other mandatory payments whose budget authority was provided in Appropriations Acts for fiscal year 2004 continued at the FY 2004 level or FY 2005 program level?

Sec. 126 of H.J. Res. 107 allows entitlements and other mandatory payments whose BA was provided in Appropriations Acts for FY 2004 to continue at the "rate to maintain program levels under current law, under the authority and conditions provided in the applicable appropriations Act for fiscal year 2004, etc." In other words, these programs can operate at the FY 2005 level but the appropriated administrative expenses associated with these programs must be based on the FY 2004 levels.

ATTACHMENT B—FY 2004 SUPPLEMENTAL PROJECTS AND ACTIVITIES (RECURRING) TO BE INCLUDED IN DETERMINATION OF CURRENT RATE AMOUNTS PROVIDED BY THE CONTINUING RESOLUTION[1]

Agency Account	*FY 2004 BA [Millions of dollars]*
Department of Energy:	
Other Defense Activities	3
Department of Homeland Security:	
U.S. Coast Guard	80
International Security Assistance:	
Economic Support Fund	672
Foreign Military Financing Program	287
Peacekeeping Operations	20
Non-Proliferation, Antiterrorism, Demining & Related Programs	35
Migration and Refugee Assistance	25
Department of Justice:	
FBI, Salaries and Expenses	15
Department of State:	
Contributions for International Peacekeeping	245
International Narcotics Control and Law Enforcement	170
United States Agency for International Development:	
International Disaster and Famine Assistance	70

[1] This list, compiled by OMB, excludes one-time, non-recurring projects and activities funded in FY 2004 Supplemental Appropriation Acts, including the FY 2004 Emergency Supplemental Appropriations Act for Defense and for the Reconstruction of Iraq and Afghanistan (P.L. 108-106), Title X of the FY 2005 Department of Defense Appropriations Act (P.L. 108-287), and the Emergency Supplemental Appropriations for Disaster Relief Act, 2004 (P.L. 108-303).

Mr. Speaker, I reserve the balance of my time.

Mr. OBEY. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, I think, as the gentleman has so aptly indicated already, the best way that this bill can be described is to put it in the terms that the old Bowery Boys used to say in those B movies many years ago when we were both kids, when Leo Gorcey would say "dis don't do nuthin' to nobody." That is exactly what this legislation does. It "don't do nuthin' to nobody."

It is here simply because, evidently, the folks who are on the Committee on the Budget do not, as the gentleman from Florida indicates, understand how the OMB goes about dealing with or enforcing and implementing the continuing resolutions which we pass. Somehow, it seems that the Committee on the Budget or perhaps only the chairman of the Committee on the Budget, I do not know, it seems that they feel that, without this language, OMB will go on a spending spree.

Well, the fact is that what this legislation says is that OMB cannot do something which OMB is already not planning to do. The interpretation that is always given to the continuing resolution by the Committee on Appropriations and by OMB is that the most conservative approach must be used for obligating funds under a CR. Notwithstanding that interpretation, the Committee on the Budget is having its version of a heart attack, suggesting that somehow the continuing resolution, which the gentleman brought to the floor last week, is going to result in runaway spending.

As the gentleman from Florida says, while it pretends to reign in OMB, this resolution will not result in one dime less being spent than would have been the case with the CR that passed the House last week.

I guess all I would say is that I find it interesting that 2 weeks before the end of the fiscal year, when this Congress has still not passed a single domestic appropriations bill, because the bills that were passed in this body have not been accepted by those in the other body, and at a time when we still do not have a transportation bill out of the authorizing committee, at a time when so many pieces of legislation are tied up between the House and the Senate, this House has been asked to waste a good amount of time on the budget process reform bill, which the Committee on the Budget insisted on bringing to the floor earlier in the year, which did a "brilliant" job of passing so-called budget reform legislation which guaranteed that Members could continue to do anything whatsoever that they wanted to do on the tax side of the ledger without having to take into account one iota what it did to the deficit. Now we are being asked to pass this meaningless piece of fluff.

It does not matter whether Members vote "yes" or "no" on this resolution. The result will be the same. So I guess if it makes the chairman of the Committee on the Budget happy, the House may as well go ahead and pass it, but do not deceive yourself into thinking that it does something for or to anybody. It does not.

Mr. Speaker, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Speaker, I have no requests for time. I just urge a "yes" vote, and I yield back my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. YOUNG) that the House suspend the rules and pass the bill, H.R. 5202.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 4 o'clock and 26 minutes p.m.), the House stood in recess until approximately 6:30 p.m. today.

☐ 1830

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mrs. BLACKBURN) at 6 o'clock and 30 minutes p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

Senate Concurrent Resolution 76, by the yeas and nays;

S. 1814, by the yeas and nays;

House Resolution 567, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. The remainder of the series will be 5-minute votes.

RECOGNIZING THAT NOVEMBER 2, 2003, SHALL BE DEDICATED TO "A TRIBUTE TO SURVIVORS" AT THE UNITED STATES HOLOCAUST MEMORIAL MUSEUM

The SPEAKER pro tempore. The pending business is the question of suspending the rules and concurring in the Senate concurrent resolution, S. Con. Res. 76.

The Clerk read the title of the Senate concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and concur in the Senate concurrent resolution, S. Con. Res. 76, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 331, nays 0, not voting 101, as follows:

[Roll No. 487]

YEAS—331

Abercrombie
Aderholt
Akin
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herseth
Hinchey
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCollum
McCotter
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Napolitano
Neugebauer
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Oxley
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Tancredo
Tanner
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Waters
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—101

Ackerman
Alexander
Becerra
Bishop (GA)
Bishop (UT)
Boehlert
Brady (PA)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burton (IN)
Buyer
Cannon
Capuano
Carson (OK)
Conyers
Cooper
Cummings
DeMint
Dicks
Doggett
Duncan
Fattah
Forbes
Frost
Gallegly
Gephardt
Gerlach
Gilchrest
Goode
Greenwood
Grijalva
Gutierrez
Hastings (FL)
Herger
Hill
Hinojosa
Hobson
Hoeffel
Houghton
Isakson
Jackson-Lee (TX)
John
Jones (OH)
Kennedy (RI)
Kilpatrick
Lampson
Lantos
Larsen (WA)
Lipinski
Lynch
Majette
Matsui
McCarthy (NY)
McGovern
Meek (FL)
Menendez
Millender-McDonald
Mollohan
Murtha
Myrick
Nadler
Neal (MA)
Nethercutt
Nunes
Ortiz
Owens
Pallone
Payne
Pelosi
Peterson (PA)
Pickering
Portman
Rangel
Reyes
Rodriguez
Royce
Ruppersberger
Rush
Sandlin
Scott (GA)
Shadegg
Shaw
Shays
Shimkus
Smith (MI)
Smith (TX)
Sullivan
Sweeney
Tauzin
Taylor (NC)
Terry
Toomey
Towns
Turner (OH)
Vitter
Wamp
Watson
Watt
Weldon (PA)
Young (AK)

☐ 1854

Mr. ROHRABACHER changed his vote from "nay" to "yea."

So (two-thirds having voting in favor thereof) the rules were suspended and the Senate concurrent resolution was concurred in.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Mr. HINOJOSA. Mr. Speaker, on rollcall No. 487, had I been present, I would have voted "yea."

TRANSFERRING FEDERAL LANDS BETWEEN SECRETARY OF AGRICULTURE AND SECRETARY OF INTERIOR

The SPEAKER pro tempore (Mrs. BLACKBURN). The pending business is the question of suspending the rules and passing the Senate bill, S. 1814.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. GIBBONS) that the House suspend the rules and pass the Senate bill, S. 1814, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 333, nays 0, not voting 99, as follows:

[Roll No. 488]

YEAS—333

Abercrombie
Aderholt
Akin
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Granger
Graves
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinchey
Hinojosa
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCollum
McCotter
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Murphy
Musgrave
Napolitano
Neugebauer
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Oxley
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)

Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schrock
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tanner
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Waters
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—99

Ackerman
Alexander
Bartlett (MD)
Becerra
Berman
Bishop (UT)
Boehlert
Brady (PA)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burton (IN)
Buyer
Cannon
Capuano
Carson (OK)
Cooper
Cummings
DeMint
Dicks
Doggett
Dunn
Fattah
Forbes
Frost
Gallegly
Gephardt
Gerlach
Gilchrest
Goode
Green (TX)
Greenwood
Grijalva
Gutierrez
Hastings (FL)
Hill
Hobson
Hoeffel
Houghton
Isakson
Jackson-Lee (TX)
John
Jones (OH)
Kennedy (RI)
Kilpatrick
Lampson
Lantos
Larsen (WA)
Lipinski
Lynch
Majette
Matsui
McCarthy (NY)
McGovern
Meek (FL)
Menendez
Millender-McDonald
Mollohan
Moran (VA)
Murtha
Myrick
Nadler
Neal (MA)
Nethercutt
Nunes
Ortiz
Owens
Pallone
Payne
Pelosi
Peterson (PA)
Pickering
Portman
Reyes
Rodriguez
Ruppersberger
Rush
Sandlin
Saxton
Scott (GA)
Shadegg
Shaw
Shays
Shimkus
Smith (MI)
Sweeney
Tancredo
Tauzin
Taylor (NC)
Terry
Toomey
Towns
Turner (OH)
Vitter
Wamp
Watson
Watt
Weldon (PA)
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised there are 2 minutes left in the vote.

□ 1902

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONGRATULATING AMERICAN DENTAL ASSOCIATION FOR SPONSORING SECOND ANNUAL "GIVE KIDS A SMILE" PROGRAM

The SPEAKER pro tempore (Mrs. BLACKBURN). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 567.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and agree to the resolution, H. Res. 567, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yea 338, nays 0, not voting 94, as follows:

[Roll No. 489]

YEAS—338

Abercrombie
Aderholt
Akin
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Bell
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burns
Burr
Butterfield
Calvert
Camp
Cantor
Capito
Capps
Cardin
Cardoza
Carson (IN)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dingell
Dooley (CA)
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Feeney
Ferguson
Filner
Flake
Foley
Ford
Frank (MA)
Franks (AZ)
Frelinghuysen
Garrett (NJ)
Gibbons
Gillmor
Gingrey
Gonzalez
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hinchey
Hinojosa
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Istook
Jackson (IL)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kleczka
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Langevin
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Maloney
Manzullo
Markey
Marshall
Matheson
McCarthy (MO)
McCollum
McCotter
McCrery
McDermott
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore
Moran (KS)
Murphy
Musgrave
Napolitano
Neugebauer
Ney
Northup
Norwood
Nussle
Oberstar
Obey
Olver
Osborne
Ose
Otter
Oxley
Pascrell
Pastor
Paul
Pearce
Pence
Peterson (MN)
Petri
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (VA)
Sensenbrenner
Serrano
Sessions
Sherman
Sherwood
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Waters
Waxman
Weiner
Weldon (FL)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—94

Ackerman
Alexander
Becerra
Berman
Bishop (UT)
Boehlert
Brady (PA)
Brown (OH)
Brown, Corrine
Brown-Waite, Ginny
Burton (IN)
Buyer
Cannon
Capuano
Carson (OK)
Cooper
Cummings
DeMint
Dicks
Doggett
Fattah
Forbes
Fossella
Frost
Gallegly
Gephardt
Gerlach
Gilchrest
Goode
Greenwood
Grijalva
Gutierrez
Hastings (FL)
Hill
Hobson
Hoeffel
Houghton
Isakson
Jackson-Lee (TX)
John
Jones (OH)
Kennedy (RI)
Kilpatrick
Lampson
Lantos
Larsen (WA)
Lipinski
Lynch
Majette
Matsui
McCarthy (NY)
McGovern
Meek (FL)
Millender-McDonald
Mollohan
Moran (VA)
Murtha
Myrick
Nadler
Neal (MA)
Nethercutt
Nunes
Ortiz
Owens
Pallone
Payne
Pelosi
Peterson (PA)
Pickering
Portman
Reyes
Rodriguez
Ruppersberger
Rush
Sandlin
Scott (GA)
Shadegg
Shaw
Shays
Shimkus
Smith (MI)
Sweeney
Tauzin
Taylor (NC)
Terry
Toomey
Towns
Turner (OH)
Vitter
Wamp
Watson
Watt
Weldon (PA)
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised 5 minutes remain in this vote.

□ 1910

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent this evening from this chamber. I would like the RECORD to show that, had

I been present, I would have voted "yea" on rollcall votes 487, 488, and 489.

PERSONAL EXPLANATION

Mr. BURTON of Indiana. Mr. Speaker, I was regrettably delayed in my return to Washington, DC and therefore unable to be on the House Floor for rollcall votes 487, 488, and 489. Had I been here I would have voted "aye" for rollcall vote 487, and "aye" for rollcall vote 488.

In addition, I would have somewhat reluctantly voted "aye" for rollcall vote 489.

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

The SPEAKER pro tempore laid before the House the following communication from the chairman of the Committee on Transportation and Infrastructure; which was read and, without objection, referred to the Committee on Appropriations:

HOUSE OF REPRESENTATIVES, COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, September 30, 2004.

Hon. J. DENNIS HASTERT,
Speaker of the House,
H232 Capitol, Washington, DC.

DEAR MR. SPEAKER: Enclosed are copies of resolutions adopted on September 29, 2004 by the Committee on Transportation and Infrastructure. Copies of the resolutions are being transmitted to the Department of the Army.

Sincerely,

DON YOUNG,
Chairman.

Enclosures.

RESOLUTION—DOCKET 2734, CUYAHOGA RIVER & TRIBUTARIES, SUMMIT COUNTY, OHIO

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army, is requested to review the report on the Cuyahoga River Published in June 1975 entitled, "Second Interim Preliminary Feasibility Report on Cuyahoga River Flood Control Study," and other pertinent reports to determine whether modifications to the recommendations contained therein are advisable at the present time in the interest of water quality, environmental restoration and protection, recreation, flood damage reduction and other related purposes within the Cities of Hudson, Munroe Falls, and Cuyahoga Falls, as well as Silver Lake Villager in Summit County, Ohio.

RESOLUTION—DOCKET 2735, GUAYANES RIVER, YABUCOA, PUERTO RICO

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army is requested pursuant to Section 204 of the Flood Control Act of 1970, P.L. 91-611, to survey the Guayanes River in the Yabucoa Valley, Puerto Rico, in the interest of providing improvements for urban flood damage reduction and other related purposes.

RESOLUTION—DOCKET 2736, GLEN JEAN, WEST VIRGINIA

Resolved by the Committee on Transportation and Infrastructure of the United States House of Representatives, That the Secretary of the Army is requested to review the report of the Chief of Engineers on the Ohio River and Tributaries, Pennsylvania, Ohio and West Virginia published as House Document No. 306, Seventy-fourth Congress, 1st Session, and other pertinent reports to determine whether modifications to the recommendations contained therein are advisable at the present time in the interest of flood damage reduction and related purposes in the community of Glen Jean, West Virginia and its vicinity.

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

NORTH KOREAN HUMAN RIGHTS ACT OF 2004

Mr. LEACH. Madam Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 4011) to promote human rights and freedom in the Democratic Republic of Korea, and for other purposes.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "North Korean Human Rights Act of 2004".

SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
Sec. 2. Table of contents.
Sec. 3. Findings.
Sec. 4. Purposes.
Sec. 5. Definitions.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

Sec. 101. Sense of Congress regarding negotiations with North Korea.
Sec. 102. Support for human rights and democracy programs.
Sec. 103. Radio broadcasting to North Korea.
Sec. 104. Actions to promote freedom of information.
Sec. 105. United Nations Commission on Human Rights.
Sec. 106. Establishment of regional framework.
Sec. 107. Special Envoy on Human Rights in North Korea.

TITLE II—ASSISTING NORTH KOREANS IN NEED

Sec. 201. Report on United States humanitarian assistance.
Sec. 202. Assistance provided inside North Korea.
Sec. 203. Assistance provided outside of North Korea.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

Sec. 301. United States policy toward refugees and defectors.
Sec. 302. Eligibility for refugee or asylum consideration.
Sec. 303. Facilitating submission of applications for admission as a refugee.
Sec. 304. United Nations High Commissioner for Refugees.
Sec. 305. Annual reports.

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) According to the Department of State, the Government of North Korea is "a dictatorship under the absolute rule of Kim Jong Il" that continues to commit numerous, serious human rights abuses.

(2) The Government of North Korea attempts to control all information, artistic expression, academic works, and media activity inside North Korea and strictly curtails freedom of speech and access to foreign broadcasts.

(3) The Government of North Korea subjects all its citizens to systematic, intensive political and ideological indoctrination in support of the cult of personality glorifying Kim Jong Il and the late Kim Il Sung that approaches the level of a state religion.

(4) The Government of North Korea divides its population into categories, based on perceived loyalty to the leadership, which determines access to food, employment, higher education, place of residence, medical facilities, and other resources.

(5) According to the Department of State, "[t]he [North Korean] Penal Code is [d]raconian, stipulating capital punishment and confiscation of assets for a wide variety of 'crimes against the revolution,' including defection, attempted defection, slander of the policies of the Party or State, listening to foreign broadcasts, writing 'reactionary' letters, and possessing reactionary printed matter".

(6) The Government of North Korea executes political prisoners, opponents of the regime, some repatriated defectors, some members of underground churches, and others, sometimes at public meetings attended by workers, students, and schoolchildren.

(7) The Government of North Korea holds an estimated 200,000 political prisoners in camps that its State Security Agency manages through the use of forced labor, beatings, torture, and executions, and in which many prisoners also die from disease, starvation, and exposure.

(8) According to eyewitness testimony provided to the United States Congress by North Korean camp survivors, camp inmates have been used as sources of slave labor for the production of export goods, as targets for martial arts practice, and as experimental victims in the testing of chemical and biological poisons.

(9) According to credible reports, including eyewitness testimony provided to the United States Congress, North Korean Government officials prohibit live births in prison camps, and forced abortion and the killing of newborn babies are standard prison practices.

(10) According to the Department of State, "[g]enuine religious freedom does not exist in North Korea" and, according to the United States Commission on International Religious Freedom, "[t]he North Korean state severely represses public and private religious activities" with penalties that reportedly include arrest, imprisonment, torture, and sometimes execution.

(11) More than 2,000,000 North Koreans are estimated to have died of starvation since the early 1990s because of the failure of the centralized agricultural and public distribution systems operated by the Government of North Korea.

(12) According to a 2002 United Nations-European Union survey, nearly one out of every ten children in North Korea suffers from acute malnutrition and four out of every ten children in North Korea are chronically malnourished.

(13) Since 1995, the United States has provided more than 2,000,000 tons of humanitarian food assistance to the people of North Korea, primarily through the World Food Program.

(14) Although United States food assistance has undoubtedly saved many North Korean lives and there have been minor improvements in transparency relating to the distribution of such assistance in North Korea, the Government of North Korea continues to deny the World Food Program forms of access necessary to properly monitor the delivery of food aid, including the ability to conduct random site visits, the use of native Korean-speaking employees, and travel access throughout North Korea.

(15) The risk of starvation, the threat of persecution, and the lack of freedom and opportunity in North Korea have caused large numbers, perhaps even hundreds of thousands, of North Koreans to flee their homeland, primarily into China.

(16) North Korean women and girls, particularly those who have fled into China, are at risk of being kidnapped, trafficked, and sexually exploited inside China, where many are sold as brides or concubines, or forced to work as prostitutes.

(17) The Governments of China and North Korea have been conducting aggressive campaigns to locate North Koreans who are in China without permission and to forcibly return them to North Korea, where they routinely face torture and imprisonment, and sometimes execution.

(18) Despite China's obligations as a party to the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees, China routinely classifies North Koreans seeking asylum in China as mere "economic migrants" and returns them to North Korea without regard to the serious threat of persecution they face upon their return.

(19) The Government of China does not provide North Koreans whose asylum requests are rejected a right to have the rejection reviewed prior to deportation despite its obligations under the 1951 United Nations Convention Relating to the Status of Refugees and the 1967 Protocol Relating to the Status of Refugees.

(20) North Koreans who seek asylum while in China are routinely imprisoned and tortured, and in some cases killed, after they are returned to North Korea.

(21) The Government of China has detained, convicted, and imprisoned foreign aid workers attempting to assist North Korean refugees in proceedings that did not comply with Chinese law or international standards.

(22) In January 2000, North Korean agents inside China allegedly abducted the Reverend Kim Dong-shik, a United States permanent resident and advocate for North Korean refugees, whose condition and whereabouts remain unknown.

(23) Between 1994 and 2003, South Korea has admitted approximately 3,800 North Korean refugees for domestic resettlement, a number that is small in comparison with the total number of North Korean escapees but far greater than the number legally admitted in any other country.

(24) Although the principal responsibility for North Korean refugee resettlement naturally falls to the Government of South Korea, the United States should play a leadership role in focusing international attention on the plight of these refugees, and formulating international solutions to that profound humanitarian dilemma.

(25) In addition to infringing the rights of its own citizens, the Government of North Korea has been responsible in years past for the abduction of numerous citizens of South Korea and Japan, whose condition and whereabouts remain unknown.

SEC. 4. PURPOSES.

The purposes of this Act are—

(1) to promote respect for and protection of fundamental human rights in North Korea;

(2) to promote a more durable humanitarian solution to the plight of North Korean refugees;

(3) to promote increased monitoring, access, and transparency in the provision of humanitarian assistance inside North Korea;

(4) to promote the free flow of information into and out of North Korea; and

(5) to promote progress toward the peaceful reunification of the Korean peninsula under a democratic system of government.

SEC. 5. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means—

(A) the Committee on International Relations of the House of Representatives; and

(B) the Committee on Foreign Relations of the Senate.

(2) CHINA.—The term "China" means the People's Republic of China.

(3) HUMANITARIAN ASSISTANCE.—The term "humanitarian assistance" means assistance to meet humanitarian needs, including needs for food, medicine, medical supplies, clothing, and shelter.

(4) NORTH KOREA.—The term "North Korea" means the Democratic People's Republic of Korea.

(5) NORTH KOREANS.—The term "North Koreans" means persons who are citizens or nationals of North Korea.

(6) SOUTH KOREA.—The term "South Korea" means the Republic of Korea.

TITLE I—PROMOTING THE HUMAN RIGHTS OF NORTH KOREANS

SEC. 101. SENSE OF CONGRESS REGARDING NEGOTIATIONS WITH NORTH KOREA.

It is the sense of Congress that the human rights of North Koreans should remain a key element in future negotiations between the United States, North Korea, and other concerned parties in Northeast Asia.

SEC. 102. SUPPORT FOR HUMAN RIGHTS AND DEMOCRACY PROGRAMS.

(a) SUPPORT.—The President is authorized to provide grants to private, nonprofit organizations to support programs that promote human rights, democracy, rule of law, and the development of a market economy in North Korea. Such programs may include appropriate educational and cultural exchange programs with North Korean participants, to the extent not otherwise prohibited by law.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

SEC. 103. RADIO BROADCASTING TO NORTH KOREA.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the United States should facilitate the unhindered dissemination of information in North Korea by increasing its support for radio broadcasting to North Korea, and that the Broadcasting Board of Governors should increase broadcasts to North Korea from current levels, with a goal of providing 12-hour-per-day broadcasting to North Korea, including broadcasts by Radio Free Asia and Voice of America.

(b) REPORT.—Not later than 120 days after the date of the enactment of this Act, the Broadcasting Board of Governors shall submit to the appropriate congressional committees a report that—

(1) describes the status of current United States broadcasting to North Korea; and

(2) outlines a plan for increasing such broadcasts to 12 hours per day, including a detailed description of the technical and fiscal requirements necessary to implement the plan.

SEC. 104. ACTIONS TO PROMOTE FREEDOM OF INFORMATION.

(a) ACTIONS.—The President is authorized to take such actions as may be necessary to increase the availability of information inside North Korea by increasing the availability of sources of information not controlled by the Government of North Korea, including sources such as radios capable of receiving broadcasting from outside North Korea.

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President $2,000,000 for each of the fiscal years 2005 through 2008 to carry out subsection (a).

(2) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

(c) REPORT.—Not later than 1 year after the date of the enactment of this Act, and in each of the 3 years thereafter, the Secretary of State, after consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees a report, in classified form, on actions taken pursuant to this section.

SEC. 105. UNITED NATIONS COMMISSION ON HUMAN RIGHTS.

It is the sense of Congress that the United Nations has a significant role to play in promoting and improving human rights in North Korea, and that—

(1) the United Nations Commission on Human Rights (UNCHR) has taken positive steps by adopting Resolution 2003/10 and Resolution 2004/13 on the situation of human rights in North Korea, and particularly by requesting the appointment of a Special Rapporteur on the situation of human rights in North Korea; and

(2) the severe human rights violations within North Korea warrant country-specific attention and reporting by the United Nations Working Group on Arbitrary Detention, the Working Group on Enforced and Involuntary Disappearances, the Special Rapporteur on Extrajudicial, Summary, or Arbitrary Executions, the Special Rapporteur on the Right to Food, the Special Rapporteur on the Promotion and Protection of the Right to Freedom of Opinion and Expression, the Special Rapporteur on Freedom of Religion or Belief, and the Special Rapporteur on Violence Against Women.

SEC. 106. ESTABLISHMENT OF REGIONAL FRAMEWORK.

(a) FINDINGS.—The Congress finds that human rights initiatives can be undertaken on a multilateral basis, such as the Organization for Security and Cooperation in Europe (OSCE), which established a regional framework for discussing human rights, scientific and educational cooperation, and economic and trade issues.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United Sates should explore the possibility of a regional human rights dialogue with North Korea that is modeled on the Helsinki process, engaging all countries in the region in a common commitment to respect human rights and fundamental freedoms.

SEC. 107. SPECIAL ENVOY ON HUMAN RIGHTS IN NORTH KOREA.

(a) SPECIAL ENVOY.—The President shall appoint a special envoy for human rights in North Korea within the Department of State (hereafter in this section referred to as the "Special Envoy"). The Special Envoy should be a person of recognized distinction in the field of human rights.

(b) CENTRAL OBJECTIVE.—The central objective of the Special Envoy is to coordinate and *promote efforts to improve respect for the fundamental human rights of the people of North Korea.*

(c) Duties and Responsibilities.—The Special Envoy shall—

(1) engage in discussions with North Korean officials regarding human rights;

(2) support international efforts to promote human rights and political freedoms in North Korea, including coordination and dialogue between the United States and the United Nations, the European Union, North Korea, and the other countries in Northeast Asia;

(3) consult with non-governmental organizations who have attempted to address human rights in North Korea;

(4) make recommendations regarding the funding of activities authorized in section 102;

(5) review strategies for improving protection of human rights in North Korea, including technical training and exchange programs; and

(6) develop an action plan for supporting implementation of the United Nations Commission on Human Rights Resolution 2004/13.

(d) Report on Activities.—Not later than 180 days after the date of the enactment of this Act, and annually for the subsequent 5 year-period, the Special Envoy shall submit to the appropriate congressional committees a report on the activities undertaken in the preceding 12 months under subsection (c).

TITLE II—ASSISTING NORTH KOREANS IN NEED

SEC. 201. REPORT ON UNITED STATES HUMANITARIAN ASSISTANCE.

(a) Report.—Not later than 180 days after the date of the enactment of this Act, and in each of the 2 years thereafter, the Administrator of the United States Agency for International Development, in conjunction with the Secretary of State, shall submit to the appropriate congressional committees a report that describes—

(1) all activities to provide humanitarian assistance inside North Korea, and to North Koreans outside of North Korea, that receive United States funding;

(2) any improvements in humanitarian transparency, monitoring, and access inside North Korea during the previous 1-year period, including progress toward meeting the conditions identified in paragraphs (1) through (4) of section 202(b); and

(3) specific efforts to secure improved humanitarian transparency, monitoring, and access inside North Korea made by the United States and United States grantees, including the World Food Program, during the previous 1-year period.

(b) Form.—The information required by subsection (a)(1) may be provided in classified form if necessary.

SEC. 202. ASSISTANCE PROVIDED INSIDE NORTH KOREA.

(a) Humanitarian Assistance Through Nongovernmental and International Organizations.—It is the sense of the Congress that—

(1) at the same time that Congress supports the provision of humanitarian assistance to the people of North Korea on humanitarian grounds, such assistance also should be provided and monitored so as to minimize the possibility that such assistance could be diverted to political or military use, and to maximize the likelihood that it will reach the most vulnerable North Koreans;

(2) significant increases above current levels of United States support for humanitarian assistance provided inside North Korea should be conditioned upon substantial improvements in transparency, monitoring, and access to vulnerable populations throughout North Korea; and

(3) the United States should encourage other countries that provide food and other humanitarian assistance to North Korea to do so through monitored, transparent channels, rather than through direct, bilateral transfers to the Government of North Korea.

(b) United States Assistance to the Government of North Korea.—It is the sense of Congress that—

(1) United States humanitarian assistance to any department, agency, or entity of the Government of North Korea shall—

(A) be delivered, distributed, and monitored according to internationally recognized humanitarian standards;

(B) be provided on a needs basis, and not used as a political reward or tool of coercion;

(C) reach the intended beneficiaries, who should be informed of the source of the assistance; and

(D) be made available to all vulnerable groups in North Korea, no matter where in the country they may be located; and

(2) United States nonhumanitarian assistance to North Korea shall be contingent on North Korea's substantial progress toward—

(A) respect for the basic human rights of the people of North Korea, including freedom of religion;

(B) providing for family reunification between North Koreans and their descendants and relatives in the United States;

(C) fully disclosing all information regarding citizens of Japan and the Republic of Korea abducted by the Government of North Korea;

(D) allowing such abductees, along with their families, complete and genuine freedom to leave North Korea and return to the abductees' original home countries;

(E) reforming the North Korean prison and labor camp system, and subjecting such reforms to independent international monitoring; and

(F) decriminalizing political expression and activity.

(c) Report.—Not later than 180 days after the date of the enactment of this Act, the Administrator of the Agency for International Development shall submit to the appropriate congressional committees a report describing compliance with this section.

SEC. 203. ASSISTANCE PROVIDED OUTSIDE OF NORTH KOREA.

(a) Assistance.—The President is authorized to provide assistance to support organizations or persons that provide humanitarian assistance to North Koreans who are outside of North Korea without the permission of the Government of North Korea.

(b) Types of Assistance.—Assistance provided under subsection (a) should be used to provide—

(1) humanitarian assistance to North Korean refugees, defectors, migrants, and orphans outside of North Korea, which may include support for refugee camps or temporary settlements; and

(2) humanitarian assistance to North Korean women outside of North Korea who are victims of trafficking, as defined in section 103(14) of the Trafficking Victims Protection Act of 2000 (22 U.S.C. 7102(14)), or are in danger of being trafficked.

(c) Authorization of Appropriations.—

(1) In General.—In addition to funds otherwise available for such purposes, there are authorized to be appropriated to the President $20,000,000 for each of the fiscal years 2005 through 2008 to carry out this section.

(2) Availability.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

TITLE III—PROTECTING NORTH KOREAN REFUGEES

SEC. 301. UNITED STATES POLICY TOWARD REFUGEES AND DEFECTORS.

(a) Report.—Not later than 120 days after the date of the enactment of this Act, the Secretary of State, in consultation with the heads of other appropriate Federal departments and agencies, shall submit to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate a report that describes the situation of North Korean refugees and explains United States Government policy toward North Korean nationals outside of North Korea.

(b) Contents.—The report shall include—

(1) an assessment of the circumstances facing North Korean refugees and migrants in hiding, particularly in China, and of the circumstances they face if forcibly returned to North Korea;

(2) an assessment of whether North Koreans in China have effective access to personnel of the United Nations High Commissioner for Refugees, and of whether the Government of China is fulfilling its obligations under the 1951 Convention Relating to the Status of Refugees, particularly Articles 31, 32, and 33 of such Convention;

(3) an assessment of whether North Koreans presently have unobstructed access to United States refugee and asylum processing, and of United States policy toward North Koreans who may present themselves at United States embassies or consulates and request protection as refugees or asylum seekers and resettlement in the United States;

(4) the total number of North Koreans who have been admitted into the United States as refugees or asylees in each of the past five years;

(5) an estimate of the number of North Koreans with family connections to United States citizens; and

(6) a description of the measures that the Secretary of State is taking to carry out section 303.

(c) Form.—The information required by paragraphs (1) through (5) of subsection (b) shall be provided in unclassified form. All or part of the information required by subsection (b)(6) may be provided in classified form, if necessary.

SEC. 302. ELIGIBILITY FOR REFUGEE OR ASYLUM CONSIDERATION.

(a) Purpose.—The purpose of this section is to clarify that North Koreans are not barred from eligibility for refugee status or asylum in the United States on account of any legal right to citizenship they may enjoy under the Constitution of the Republic of Korea. It is not intended in any way to prejudice whatever rights to citizenship North Koreans may enjoy under the Constitution of the Republic of Korea, or to apply to former North Korean nationals who have availed themselves of those rights.

(b) Treatment of Nationals of North Korea.—For purposes of eligibility for refugee status under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157), or for asylum under section 208 of such Act (8 U.S.C. 1158), a national of the Democratic People's Republic of Korea shall not be considered a national of the Republic of Korea.

SEC. 303. FACILITATING SUBMISSION OF APPLICATIONS FOR ADMISSION AS A REFUGEE.

The Secretary of State shall undertake to facilitate the submission of applications under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157) by citizens of North Korea seeking protection as refugees (as defined in section 101(a)(42) of such Act (8 U.S.C. 1101(a)(42)).

SEC. 304. UNITED NATIONS HIGH COMMISSIONER FOR REFUGEES.

(a) Actions in China.—It is the sense of Congress that—

(1) the Government of China has obligated itself to provide the United Nations High Commissioner for Refugees (UNHCR) with unimpeded access to North Koreans inside its borders to enable the UNHCR to determine whether they are refugees and whether they require assistance, pursuant to the 1951 United

Nations Convention Relating to the Status of Refugees, the 1967 Protocol Relating to the Status of Refugees, and Article III, paragraph 5 of the 1995 Agreement on the Upgrading of the UNHCR Mission in the People's Republic of China to UNHCR Branch Office in the People's Republic of China (referred to in this section as the "UNHCR Mission Agreement");

(2) the United States, other UNHCR donor governments, and UNHCR should persistently and at the highest levels continue to urge the Government of China to abide by its previous commitments to allow UNHCR unimpeded access to North Korean refugees inside China;

(3) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally employ as professionals or Experts on Mission persons with significant experience in humanitarian assistance work among displaced North Koreans in China;

(4) the UNHCR, in order to effectively carry out its mandate to protect refugees, should liberally contract with appropriate nongovernmental organizations that have a proven record of providing humanitarian assistance to displaced North Koreans in China;

(5) the UNHCR should pursue a multilateral agreement to adopt an effective "first asylum" policy that guarantees safe haven and assistance to North Korean refugees; and

(6) should the Government of China begin actively fulfilling its obligations toward North Korean refugees, all countries, including the United States, and relevant international organizations should increase levels of humanitarian assistance provided inside China to help defray costs associated with the North Korean refugee presence.

(b) ARBITRATION PROCEEDINGS.—It is further the sense of Congress that—

(1) if the Government of China continues to refuse to provide the UNHCR with access to North Koreans within its borders, the UNHCR should initiate arbitration proceedings pursuant to Article XVI of the UNHCR Mission Agreement and appoint an arbitrator for the UNHCR; and

(2) because access to refugees is essential to the UNHCR mandate and to the purpose of a UNHCR branch office, a failure to assert those arbitration rights in present circumstances would constitute a significant abdication by the UNHCR of one of its core responsibilities.

SEC. 305. ANNUAL REPORTS.

(a) IMMIGRATION INFORMATION.—Not later than 1 year after the date of the enactment of this Act, and every 12 months thereafter for each of the following 5 years, the Secretary of State and the Secretary of Homeland Security shall submit a joint report to the appropriate congressional committees and the Committees on the Judiciary of the House of Representatives and the Senate on the operation of this title during the previous year, which shall include—

(1) the number of aliens who are nationals or citizens of North Korea who applied for political asylum and the number who were granted political asylum; and

(2) the number of aliens who are nationals or citizens of North Korea who applied for refugee status and the number who were granted refugee status.

(b) COUNTRIES OF PARTICULAR CONCERN.—The President shall include in each annual report on proposed refugee admission pursuant to section 207(d) of the Immigration and Nationality Act (8 U.S.C. 1157(d)), information about specific measures taken to facilitate access to the United States refugee program for individuals who have fled countries of particular concern for violations of religious freedom, identified pursuant to section 402(b) of the International Religious Freedom Act of 1998 (22 U.S.C. 6442(b)). The report shall include, for each country of particular concern, a description of access of the nationals or former habitual residents of that country to a refugee determination on the basis of—

(1) referrals by external agencies to a refugee adjudication;

(2) groups deemed to be of special humanitarian concern to the United States for purposes of refugee resettlement; and

(3) family links to the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Iowa (Mr. LEACH) and the gentleman from Florida (Mr. WEXLER) each will control 20 minutes.

The Chair recognizes the gentleman from Iowa (Mr. LEACH).

GENERAL LEAVE

Mr. LEACH. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 4011.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Iowa?

There was no objection.

Mr. LEACH. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 4011, the North Korean Human Rights Act of 2004. As approved unanimously by the Senate last week, the bill contains three modest changes from the text passed by this body in July. First it expresses the sense of Congress that the United States should explore the possibility of a regional dialogue on human rights with North Korea. Second, it mandates the appointment of a special envoy on human rights in North Korea within the State Department. Finally, it enhances the discretion of the executive branch by recasting conditions on assistance to the North Korean government as a sense of Congress provision.

I deeply appreciate the efforts of the Senate to ensure that the 108th Congress speaks with a unanimous, bipartisan voice on these issues of shared concern. In this connection, I would like to express my particular gratitude to Senators BROWNBACK, BAYH, LUGAR, BIDEN and their capable staff members.

During the past 2½ years, the Subcommittee on Asia and the Pacific has received testimony from a number of North Koreans who have survived some of the gravest rigors of the human condition. Their accounts buttress the growing awareness that the people of North Korea have endured some of the most acute humanitarian traumas of our time.

Inside North Korea they suffer at the hands of a totalitarian dynasty that permits no dissent and strictly curtails freedoms of speech, press, religion, and assembly. The regime maintains a brutal system of prison camps that house an estimated 200,000 political inmates who are subjected to slave labor, torture, and even lethal chemical experimentation. Since the collapse of the centralized agricultural system in the 1990s, more than 2 million North Koreans are estimated to have died of starvation.

North Koreans outside of North Korea are also uniquely vulnerable. Many thousands are hiding inside China, which currently refuses to allow the U.N. High Commissioner For Refugees to evaluate and identify genuine refugees among the North Korea migrant population. China forcibly returns North Koreans to North Korea, where they routinely face imprisonment, torture, and sometimes execution. Inside China, North Korean women and girls are particularly vulnerable to trafficking and sexual exploitation.

Provoked by these crises, this broadly bipartisan legislation aims to promote international cooperation on human rights and refugee protection and increased transparency in the provision of humanitarian assistance to the people of North Korea.

On the human rights front, this bill underscores the importance of human rights issues in future negotiations with North Korea. It authorizes funds for programs to promote human rights, democracy, rule of law, market economy, and freedom of information. It also urges additional North Korea-specific attention by appropriate U.N. human rights authorities.

On the humanitarian front, the bill authorizes increased funding for assistance to North Koreans outside of North Korea, including refugees, orphans, and trafficking victims. It endorses but also seeks greater transparency for the delivery of U.S. humanitarian aid inside North Korea. Finally, it outlines human rights and humanitarian principles that should govern future direct aid to the North Korean government.

In terms of refugee protection, the bill requires a formal clarification of U.S. policy and affirms the eligibility of North Koreans to seek protection as refugees under United States law. It also urges the U.N. High Commissioner For Refugees to use all available means to gain access to North Koreans in China.

Although the principal responsibility for North Korean refugee resettlement naturally falls with the government of South Korea, the United States should play a leadership role in focusing international attention on the plight of these refugees in formulating shared international solutions to their profound humanitarian dilemma.

I wanted to remove any misapprehension that overseas audiences may have about the intent, content, or motives behind this bill. Unequivocally, I would state this legislation is a purely humanitarian endeavor. There are no hidden agendas related to geostrategic concerns and strategies. Indeed, the committee of jurisdiction is deeply indebted to the concerns expressed by thousands of American citizens of Korean descent, who are convinced that for too long the international community has largely ignored the plight of their brethren in the north.

As explained in the report of the Committee on International Relations: "H.R. 4011 is motivated by a genuine desire for improvements in human rights, refugee protection and humanitarian transparency.

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"It is not a pretext for a hidden strategy to provoke regime collapse or to seek collateral advantage in ongoing strategic negotiations. While the legislation highlights numerous egregious abuses, the Congress remains willing to recognize progress in the future, and hopes for such an opportunity."

Similarly, with regard to China, this bill is not solely critical; it is also aspirational. It makes clear that the United States and the international community stand ready to provide more assistance to help defray the costs associated with North Korean migrant presence when China begins fulfilling its obligations as a party to the 1951 U.N. Refugee Convention. We genuinely hope for that opportunity.

I would like to thank my colleagues for their strong bipartisan endorsement of this bill. I also would like to thank the many nongovernmental and civic organizations who have informed and supported this legislation. In this regard, the pivotal efforts of the North Korea Freedom Coalition, a group of more than 40 nonpartisan NGOs, deserves particular mention.

Finally, I would like to note the particular contributions of Senator SAM BROWNBACK, whose leadership in the other body has inspired House action on this issue. And in this body, the attention and insight of the gentleman from California (Mr. LANTOS), the gentleman from American Samoa (Mr. FALEOMAVAEGA), the gentleman from California (Mr. BERMAN), the gentleman from New York (Mr. ACKERMAN), and the gentleman from Florida (Mr. WEXLER) on the Democratic side, and the gentleman from California (Mr. COX), the gentleman from California (Mr. ROYCE), and the gentleman from New Jersey (Mr. SMITH) on this side of the aisle are deeply appreciated.

Madam Speaker, H.R. 4011 is a responsible, creative approach to an ongoing human rights tragedy and deserves our unanimous support.

Madam Speaker, I reserve the balance of my time.

Mr. WEXLER. Madam Speaker, I yield myself such time as I may consume.

I strongly support this legislation, and I urge my colleagues to do so as well.

I would first like to commend my good friend, the gentleman from Iowa (Mr. LEACH), for his introduction of the North Korean Human Rights Act, and the gentleman from American Samoa (Ranking Member FALEOMAVAEGA) for his hard work on the bill as well.

Madam Speaker, United States policy towards North Korea has been a principal focus of American policymakers for over a decade. Both Republican and Democratic administrations have actively sought to encourage the North Korean leadership to end its nuclear and missile programs and to end its destabilizing influence in the northeast Asian region.

But as the United States attempts to encourage North Korea to give up its weapons of mass destruction and to establish positive relationships with the United States, Japan, South Korea, and China, we have paid insufficient attention to the horrendous human rights situation in North Korea and the desperate humanitarian crisis caused by the North Korean misrule.

Madam Speaker, the legislation before the House will correct this imbalance. The North Korean Human Rights Act will press the administration to actively pursue a human rights and humanitarian agenda with North Korea, as we also attempt to resolve our security differences with the North.

According to the annual State Department Human Rights Report, North Korea is one of the world's worst human rights abusers. Over the past decade, millions of North Korean citizens starved to death because of their own government's gross incompetence, while the North Korean leadership lived a luxurious life in their tucked-away villas. The North Korean gulags, furthermore, overflow with North Korean prisoners with no hope of release.

North Korea does not hold free and fair elections, and there is no freedom of the press. North Korean citizens do not have the right to speak out against their government or to practice a religion.

In short, Madam Speaker, the North Korean people have no hope of changing their government unless the United States and other world democracies stand up for freedom in North Korea.

This important legislation will also help focus attention on the large number of North Korean refugees that have been created by the North's misrule, particularly those refugees in China. It is critically important that the U.N. High Commissioner For Refugees have access to this floating population and that the North Korean refugees be treated appropriately.

Madam Speaker, the legislation before the House tackles all of these important subjects. It will direct that human rights remain on the negotiation table with the North. It demands better accountability for international food aid to North Korea. It encourages a solution on the North Korean refugee issue with China, and it attempts to increase American broadcasting in North Korea.

This bill is an excellent piece of legislation, and I strongly support its passage.

Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEACH. Madam Speaker, I yield 5 minutes to the distinguished gentleman from New Jersey (Mr. SMITH), who is the House's great leader on human rights issues.

Mr. SMITH of New Jersey. Madam Speaker, I thank the gentleman for yielding me this time.

I want to rise and really pay tribute to the leadership of the gentleman from Iowa (Mr. LEACH) in bringing this legislation not just to the floor today, but to what will be its ultimate enactment into law. I thank the gentleman for his leadership on human rights in North Korea, as well as human rights in the Asian Pacific region. The gentleman has been a stalwart and a real leader, and this is just another important product of that work; and I, and I know many others, are very grateful for his leadership.

This bill is the culmination of a concerted bipartisan effort to act against the unspeakable cruelties occurring under the Kim Jong Il regime. In this regard, I want to commend the efforts as well of the North Korean Freedom Coalition which sponsored, as many Members know, the historic North Korea Freedom Day rally in Washington on April 28, as well as the Korean-American Church Coalition, which built strong support for this bill out in the grass-roots.

Madam Speaker, since the mid-1990s, as many as 2 million North Koreans have died because of failed North Korean economic policies. Despite the loss of nearly 10 percent of the country's population to a man-made famine, Kim Jong Il's regime uses food as a weapon to control its population by rewarding loyalty and withholding food from enemies of the regime. In North Korean society the entire population is divided into three class labels assigned on the basis of loyalty to the regime: "core," "wavering," and "hostile." These labels continue to be used to prioritize access to jobs, region of residence, and entitlement to items distributed through the Public Distribution System.

Humanitarian relief organizations such as the U.N. World Food Program are prohibited by North Korea from distributing food and relief supplies directly to starving victims. Instead, the brutal dictatorship siphons off food aid and gives it to the Communist leadership and to the Army. H.R. 4011 authorizes increased funding for assistance for North Korean refugees, orphans, and trafficking victims outside of North Korea and conditions additional humanitarian assistance inside North Korea upon significant improvements in transparency and monitoring. It is the sense of Congress that future assistance to North Korea should be prohibited unless the government ensures that internationally recognized human rights standards are met and Pyongyang makes substantial progress towards respecting basic human rights such as decriminalizing political expression, providing for family reunification, and reform of its prison camp system.

Madam Speaker, North Korea's human rights abuses, as we now know, are a nightmare of epic proportions. Its regime restricts every basic freedom of its people. It attempts to control all information, brainwashes citizens into following a cult of personality, and threatens international security through the reckless use of its nuclear weapons program. President Bush was clearly correct in labeling North Korea as a nation as part of the "axis of evil."

An estimated 150,000 to 200,000 political prisoners in North Korea are held in camps where they are subjected to torture, forced labor, starvation, and execution. Prisoners in these camps include thousands who attempted to flee the country to avoid starvation, but were returned to North Korea, regrettably, by the Chinese. Eye witnesses from these camps have testified before a hearing that the gentleman from Iowa (Chairman LEACH) held on the subcommittee and told us horrific stories of savage torture, forced abortions, and persecution of Christians. Mothers have seen their newborn children killed right in front of their very eyes by North Korean prison guards.

Madam Speaker, H.R. 4011 also provides additional support and protection for the courageous North Koreans who have been able to escape by clarifying that North Koreans are eligible to apply for U.S. refugee and asylum consideration, and designating North Koreans who have been persecuted or mistreated by the North Koreans as a priority 2 group of special humanitarian concern to the United States. H.R. 4011 also underscores China's obligation to provide UNHCR with access to North Koreans in China and urges the UNHCR to assert its right to arbitration with China in an effort to secure access to North Koreans in China.

This is a very, very important human rights bill. Again, I want to commend the chairman for his extraordinary leadership in bringing it to the body today.

Mr. LEACH. Madam Speaker, I yield myself such time as I may consume.

In conclusion, let me just stress as strongly as I can that the regime in North Korea is one of the most difficult in the world. Economically, it is based upon the selling of weapons, the selling of drugs, and the selling of counterfeit money. We would like what is best for the North Korean people, that is, the possibility that this regime can come into this new century in a way that is acceptable in behavior to the international community and, therefore, in a manner that gives hope and prosperity to the North Korean people.

We would like a rogue state that, quite frankly, is partly a criminal state, to become a civilized community. But we have nothing in this bill that is aimed at doing anything except providing incentives for a regime to do better and for a society to be better off. With that emphasis on a humanitarian goal, not a geo-strategic one, a humanitarian one, we urge the greatest possible support from this body and for a new policy and a new kind of era for United States and North Korean relations.

Mr. ROYCE. Madam Speaker, I rise in support of H.R. 4011, the North Korea Human Rights Act, of which I am an original cosponsor.

I would like to commend the gentleman from Iowa, Mr. LEACH, and thank the leadership for expeditiously bringing this bill to the floor.

Madam Speaker, the House passed this legislation unanimously in July. Last week, the other body passed this bill with minor changes. With its passage today, this important piece of legislation heads to the President's desk.

This legislation has been years in the making. In May 2002, the Asia Subcommittee held the first of our hearings that have focused on the humanitarian plight in North Korea. At this hearing and others, our committee heard testimony from North Korean defectors. As Chairman of the US-Republic of Korea Interparliamentary Exchange, I have led Congressional delegations to Seoul where we have met with defectors lucky enough to escape the regime of Kim Jong Il. Here we heard firsthand accounts of the brutal conditions that face the average North Korean—where the regime apportions and withholds food based on perceived citizen loyalty to Kim Jong Il. These meetings and hearings have helped to lay the foundation for this legislation.

Madam Speaker, much has been made about the best way to approach North Korea, which poses a nuclear threat. I believe that there is a strong consensus to bring about change in North Korea. This legislation makes it clear that human rights conditions in North Korea should remain a key element in future negotiations between the United States, North Korea, and other concerned parties in Northeast Asia.

In order to ensure his survival, Kim Jong Il tries to keep an iron grip on all information in North Korea. U.S. backed Radio Free Asia is working to counter Kim Jong Il's propaganda, bringing objective news to the North Korean people. Surveys indicate that North Korean defectors are listening to RFA's broadcasts. A former North Korean military officer tells the story of one official shouting to another during a policy debate, "You . . . must listen to [the] radio coming from the outside world! Then you will know that we have been living like frogs in a well! [with blinders on]."

That is why this bill calls for an increase of radio broadcasts into North Korea to twelve hours per day. And because of the problem of access to suitable radios in North Korea, the legislation requests a report detailing the steps the U.S. government is taking to increase the availability of information inside North Korea—including the provision of radios. This should maximize North Koreans access to foreign broadcasts like Radio Free Asia. The stakes couldn't be higher. We are talking about helping to free people and by doing so, improving our security.

This legislation is a responsible initiative to promote human rights, refugee protection, and increased transparency in the delivery of humanitarian aid to the North Korean people. It deserves our support.

Mr. LEACH. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BLACKBURN). The question is on the motion offered by the gentleman from Iowa (Mr. LEACH) that the House suspend the rules and concur in the Senate amendment to H.R. 4011.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

URGING GOVERNMENT OF UKRAINE TO ENSURE DEMOCRATIC, TRANSPARENT, AND FAIR ELECTIONS PROCESS FOR PRESIDENTIAL ELECTION ON OCTOBER 31, 2004

Mrs. JO ANN DAVIS of Virginia. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 415) urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the presidential election on October 31, 2004, as amended.

The Clerk read as follows:

H. CON. RES. 415

Whereas the establishment of a democratic, transparent, and fair election process for the 2004 presidential election in Ukraine and of a genuinely democratic political system are prerequisites for that country's full integration into the Western community of nations as an equal member, including into organizations such as the North Atlantic Treaty Organization (NATO);

Whereas the Government of Ukraine has accepted numerous specific commitments governing the conduct of elections as a participating State of the Organization for Security and Cooperation in Europe (OSCE), including provisions of the Copenhagen Document;

Whereas the election on October 31, 2004, of Ukraine's next president will provide an unambiguous test of the extent of the Ukrainian authorities' commitment to implement these standards and build a democratic society based on free elections and the rule of law;

Whereas this election takes place against the backdrop of previous elections that did not fully meet international standards and of disturbing trends in the current pre-election environment;

Whereas it is the duty of government and public authorities at all levels to act in a manner consistent with all laws and regulations governing election procedures and to ensure free and fair elections throughout the entire country, including preventing activities aimed at undermining the free exercise of political rights;

Whereas a genuinely free and fair election requires a period of political campaigning conducted in an environment in which neither administrative action nor violence, intimidation, or detention hinder the parties, political associations, and the candidates from presenting their views and qualifications to the citizenry, including organizing supporters, conducting public meetings and events throughout the country, and enjoying unimpeded access to television, radio, print, and Internet media on a non-discriminatory basis;

Whereas a genuinely free and fair election requires that citizens be guaranteed the right and effective opportunity to exercise their civil and political rights, including the right to vote and the right to seek and acquire information upon which to make an informed vote, free from intimidation, undue influence, attempts at vote buying, threats of political retribution, or other forms of coercion by national or local authorities or others;

Whereas a genuinely free and fair election requires government and public authorities to ensure that candidates and political parties enjoy equal treatment before the law and that government resources are not employed to the advantage of individual candidates or political parties;

Whereas a genuinely free and fair election requires the full transparency of laws and regulations governing elections, multiparty representation on election commissions, and unobstructed access by candidates, political parties, and domestic and international observers to all election procedures, including voting and vote-counting in all areas of the country;

Whereas increasing control and manipulation of the media by national and local officials and others acting at their behest raise grave concerns regarding the commitment of the Ukrainian authorities to free and fair elections;

Whereas efforts by the national authorities to limit access to international broadcasting, including Radio Liberty and the Voice of America, represent an unacceptable infringement on the right of the Ukrainian people to independent information;

Whereas efforts by national and local officials and others acting at their behest to impose obstacles to free assembly, free speech, and a free and fair political campaign have taken place in Donetsk, Sumy, and elsewhere in Ukraine without condemnation or remedial action by the Ukrainian Government;

Whereas numerous substantial irregularities have taken place in recent Ukrainian parliamentary by-elections in the Donetsk region and in mayoral elections in Mukacheve, Romny, and Krasniy Luch; and

Whereas the intimidation and violence during the April 18, 2004, mayoral election in Mukacheve, Ukraine, represent a deliberate attack on the democratic process: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) acknowledges and welcomes the strong relationship formed between the United States and Ukraine since the restoration of Ukraine's independence in 1991;

(2) recognizes that a precondition for the full integration of Ukraine into the Western community of nations, including as an equal member in institutions such as the North Atlantic Treaty Organization (NATO), is its establishment of a genuinely democratic political system;

(3) expresses its strong and continuing support for the efforts of the Ukrainian people to establish a full democracy, the rule of law, and respect for human rights in Ukraine;

(4) urges the Government of Ukraine to guarantee freedom of association and assembly, including the right of candidates, members of political parties, and others to freely assemble, to organize and conduct public events, and to exercise these and other rights free from intimidation or harassment by local or national officials or others acting at their behest;

(5) urges the Government of Ukraine to meet its Organization for Security and Cooperation in Europe (OSCE) commitments on democratic elections and to address issues previously identified by the Office of Democratic Institutions and Human Rights (ODIHR) of the OSCE in its final reports on the 2002 parliamentary elections and the 1999 presidential elections, such as illegal interference by public authorities in the campaign and a high degree of bias in the media;

(6) urges the Ukrainian authorities to ensure—

(A) the full transparency of election procedures before, during, and after the 2004 presidential elections;

(B) free access for Ukrainian and international election observers;

(C) multiparty representation on all election commissions;

(D) unimpeded access by all parties and candidates to print, radio, television, and Internet media on a non-discriminatory basis;

(E) freedom of candidates, members of opposition parties, and independent media organizations from intimidation or harassment by government officials at all levels via selective tax audits and other regulatory procedures, and in the case of media, license revocations and libel suits, among other measures;

(F) a transparent process for complaint and appeals through electoral commissions and within the court system that provides timely and effective remedies; and

(G) vigorous prosecution of any individual or organization responsible for violations of election laws or regulations, including the application of appropriate administrative or criminal penalties;

(7) further calls upon the Government of Ukraine to guarantee election monitors from the ODIHR, other participating States of the OSCE, Ukrainian political parties, candidates' representatives, nongovernmental organizations, and other private institutions and organizations, both foreign and domestic, unobstructed access to all aspects of the election process, including unimpeded access to public campaign events, candidates, news media, voting, and post-election tabulation of results and processing of election challenges and complaints;

(8) strongly encourages the President to fully employ the diplomatic and other resources of the Government of the United States to ensure that the election laws and procedures of Ukraine are faithfully adhered to by all local and national officials, by others acting at their behest, and by all candidates and parties, during and subsequent to the presidential campaign and election-day voting;

(9) strongly encourages the President to clearly communicate to the Government of Ukraine, to all parties and candidates, and to the people of Ukraine the high importance attached by the Government of the United States to this presidential campaign as a central factor in determining the future relationship between the two countries; and

(10) pledges its enduring support and assistance to the Ukrainian people's establishment of a fully free and open democratic system, their creation of a prosperous free market economy, their establishment of a secure independence and freedom from coercion, and their country's assumption of its rightful place as a full and equal member of the Western community of democracies.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Florida (Mr. WEXLER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H. Con. Res. 415 regarding free and fair elections in Ukraine. I want to commend the gentleman from Illinois (Chairman HYDE) for introducing this important and timely resolution and thank the ranking Democrat of the full committee, the gentleman from California (Mr. LANTOS), for his strong support.

On October 31, the people of Ukraine will go to the polls to participate in an election for their next president. The development of a strong democracy in Ukraine has been slow and difficult over the past 13 years by any measure. However, no issue will be more important to Ukraine's future standing with the West than the strength of its democracy. Therefore, this election, in many ways represents a historic opportunity for the people of Ukraine to decide whether or not democracy can flourish in this important nation.

Ukraine has an obvious need to maintain positive relations with its neighbor, Russia. But with its resources and economic potential, Ukraine can and should be an important element in the further stabilization of Europe. However, its long-term commitment to democracy is the only way Ukraine can become a full partner with the democracies of the Euro-Atlantic community. Because of the importance of relations between Ukraine and the West, Ukraine has been reassured time and again that the door to the West remains open. This month will be a crucial test of whether the Ukrainian people and their government are willing to make the effort to walk through that door.

Regrettably, recent statements and actions by some in the current political leadership have raised concerns in the international community and in this Congress about whether this election will be open and fair. Based on problems witnessed in the past elections in Ukraine, I believe it is important that Ukraine's leaders understand that this election will be regarded as a litmus test of Ukraine's commitment to democracy and to its future in Europe.

It seems incomprehensible to me that with the rocky relationship the West has had at times with the outgoing leadership in Kiev, that either of the major candidates running for election would want his victory tainted by an unfair electoral process, biased media coverage, and even thuggery.

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Why would the next President of Ukraine want to spend the next 5 years under a cloud of legitimacy?

Many visitors to Ukraine, including several from this House over the past few months, have raised the issue of free and fair elections. All have been reassured by President Kuchma, Prime Minister Yanukovich, Foreign Minister Gryshcenko, and Speaker of the Parliament, Lytvyn, that every effort will be made to meet the government's commitment for a free and fair election. I am afraid, however, that in many instances thus far, the rhetoric has not been matched by the actions.

At the Subcommittee on Europe markup of this resolution in June, our former subcommittee chairman, Doug Bereuter, noted that they would hold those government officials to their word. We know that Ukraine's leaders have heard our message, but we are concerned that some of them are not taking that message seriously.

H. Con. Res. 415 notes the importance of the presidential election to the success of Ukraine's transition to democracy. The resolution addresses reports of government harassment of those who support opposition candidates and of threats and violence against opposition leaders and their families. It speaks to allegations of harassment of independent media in Ukraine and about allegations of possible outright election fraud.

The resolution stresses how important it will be for President Kuchma and other senior officials to take active steps to ensure that the kinds of foul play seen in past elections do not become the norm during the remainder of this presidential election.

Finally, the manager's amendment which has been included also includes language calling on the United States Government to ensure that all of Ukraine's election laws are being followed by the presidential candidates and those working on their behalf.

Mr. Speaker, we in the Congress remain committed to assisting Ukraine in building a stable, democratic and prosperous nation. What better way for President Kuchma to leave office than to ensure that the people of Ukraine have a free and fair choice as to who will lead them over the next 5 years?

We hope the elections in just a few weeks' time will prove that Ukraine too shares these same goals.

I urge adoption of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution. Mr. Speaker, I want to thank my friends and colleagues, the gentleman from California (Mr. LANTOS), the gentleman from Illinois (Mr. HYDE), the gentleman from New Jersey (Mr. SMITH) and Doug Bereuter for sponsoring this important resolution, as well as the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

Mr. Speaker, this resolution reaffirms U.S. Congressional support for the democratic aspirations of the Ukrainian people and the establishment of a genuine democracy in Ukraine. Given the importance of Ukraine to the stability of southeastern Europe and the strong ties between the Ukrainian and American people, we must make every effort to put the relationship between our two nations on a strong and democratic footing.

Unfortunately, the conduct of the previous parliamentary and presidential elections in Ukraine was judged to be flawed by the Organization for Security and Cooperation in Europe. We in Congress had hoped that the Government of Ukraine had learned from its past mistakes, but all the evidence elected collected so far about the conduct of this year's presidential campaign points otherwise.

As the Ukrainian presidential election approaches in just 3 weeks, the prospect for the election to be free and fair seems bleak.

Despite high-level protests by the United States government and the Congress over the continued manipulation and control of the media by national and local Ukrainian officials, these violations have continued unabated and raise grave concerns regarding the commitment of the Ukrainian Government to free and fair elections.

I am also uneasy about the efforts of the Government of the Russian Federation to tilt the election in favor of the presidential candidate from the ruling party.

Mr. Speaker, Ukraine has been a country at the crossroads for the past 12 years. This election will show the world whether the Ukrainian Government is committed to democracy and the rule of law. It will also serve as an indicator of the Ukraine's readiness to become a valuable member of the Western community of democracies.

Congressional consideration of this resolution today, just 3 weeks before the presidential election, sends an important message to the Ukrainian electorate and the Ukrainian political elite that the U.S. Congress cares deeply about the political future of Ukraine.

Mr. Speaker, the United States seeks a strong and lasting relationship with Ukraine. Ukraine has already shown its good will by joining coalition forces in Iraq. However, history has shown that the most enduring and fruitful alliances can be sustained between genuine democracies which share the same values and aspirations.

I would like to express my sincere hope that Ukraine will succeed in conducting a democratic and fair election. Ukraine will then be on a firm path of becoming a full-fledged member of Europe.

I strongly urge my colleagues to support this resolution.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield as much time as he may consume to my colleague the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I am very pleased that the House moved to the timely consideration of H. Con. Res. 415, which calls upon the government of Ukraine to ensure a democratic, transparent and fair election process for that country's presidential elections that are about to take place on October 31. As chairman of the Helsinki Commission, I join the gentleman from Illinois (Chairman HYDE) in sponsoring this important resolution. H. Con. Res. 415 makes clear the expectation that Ukrainian authorities should, consistent with their own laws and international agreements, ensure an election process that enables all of the candidates to compete on a level playing field.

International attention, Mr. Speaker, is now rightly focused on ensuring free, fair, open and transparent presidential elections on October 31, with a second round likely on November 21. These elections are critically important to the future of Ukraine, yet we see on a daily basis an election campaign that seriously calls into question Ukraine's commitment to OSCE principles.

Without exaggeration, Ukraine is facing a critical election, a choice not only between Euro-Atlantic integration versus reintegration into the former Soviet Eurasian space, but a choice between further development toward a European-style democracy, such as in Poland or Hungary, versus the increasingly authoritarian system that prevails in Russia today.

Unfortunately, the pre-election environment in Ukraine gives great cause for concern. Ukrainian voters clearly are not receiving balanced and objective information about all of the candidates in the race. Ukraine's state-owned television channels are heavily biased against the democratic opposition candidate, Viktor Yushchenko, who is leading in the polls nevertheless.

Independent media providing Ukrainians with objective information about the campaign, including channel 5, are being shut down in various regions. Journalists who do not follow the secret instructions from the presidential administration, it is called temnyky, are harassed and even fired. Given the stakes in these elections, Mr. Speaker, we should not be surprised that the ruling regime has launched an all-out campaign against the free media and against the opposition, the most recent of numerous examples being the highly suspicious poisoning of Viktor Yushchenko.

In addition, numerous obstacles to a free and fair political campaign have been placed by the national authorities, including intimidation of citizens, candidates and campaigns, the harassment of citizen expressions of political views, and the illegal use of State resources to promote the candidacy of Prime Minister Viktor Yanukovich.

Equal conditions for candidates, including unimpeded access to media, and an end to the intimidation and harassment of candidates and citizens must be provided during the remainder of the presidential campaign and will be key in determining whether or not the Ukrainian presidential elections will be judged as free and fair by the OSCE and the international community.

The elections will be a watershed for the future direction of that country. Ukraine has tremendous potential. An independent, democratic Ukraine where the rule of law prevails is vital to the security and stability of Europe. Ukrainian authorities need to radically improve the election environment, however, if there is to be hope for these elections to meet those standards.

Mr. Speaker, this resolution urges the Ukrainian government to guarantee freedom of association and assembly, and it is not guaranteed now; ensure full transparency of the election process; free access for Ukrainian and international election observers; and unimpeded access by all candidates to the media on a nondiscriminatory basis.

I urge all Members to support this.

Mr. WEXLER. Mr. Speaker, I have no further requests for time, and I yield back the balance of the time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURPHY). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 415, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF S. 878, CREATING ADDITIONAL FEDERAL COURT JUDGESHIPS

Mr. SESSIONS (during consideration of H. Con. Res. 415) from the Committee on Rules, submitted a privileged report (Rept. No. 108-723) on the resolution (H. Res. 814) providing for consideration of the bill (S. 878) to authorize an additional permanent judgeship in the district of Idaho, and for other purposes, which was referred to the House Calendar and ordered to be printed.

BELARUS DEMOCRACY ACT OF 2004

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 854) to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence, as amended.

The Clerk read as follows:

H.R. 854

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Belarus Democracy Act of 2004".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The United States supports the promotion of democracy, respect for human rights, and the rule of law in the Republic of Belarus consistent with its commitments as a participating state of the Organization for Security and Cooperation in Europe (OSCE).

(2) The United States has a vital interest in the independence and sovereignty of the Republic of Belarus and its integration into the European community of democracies.

(3) In November 1996, Lukashenka orchestrated an illegal and unconstitutional referendum that enabled him to impose a new constitution, abolish the duly-elected parliament, the 13th Supreme Soviet, install a largely powerless National Assembly, and extend his term of office to 2001.

(4) Democratic forces in Belarus have organized peaceful demonstrations against the Lukashenka regime in cities and towns throughout Belarus which led to beatings, mass arrests, and extended incarcerations.

(5) Victor Gonchar, Anatoly Krasovsky, and Yuri Zakharenka, who have been leaders and supporters of the democratic forces in Belarus, and Dmitry Zavadsky, a journalist known for his critical reporting in Belarus, have disappeared and are presumed dead.

(6) Former Belarus Government officials have come forward with credible allegations and evidence that top officials of the Lukashenka regime were involved in the disappearances.

(7) The Belarusian authorities have mounted a major systematic crackdown on civil society through the closure, harassment, and repression of nongovernmental organizations, and independent trade unions.

(8) The Belarusian authorities actively suppress freedom of speech and expression, including engaging in systematic reprisals against independent media.

(9) The Lukashenka regime has reversed the revival of Belarusian language and culture, including through the closure of the National Humanities Lyceum, the last remaining high school where classes were taught in the Belarusian language.

(10) The Lukashenka regime harasses the autocephalic Belarusian Orthodox Church, the Roman Catholic Church, the Jewish community, the Hindu Lights of Kalyasa community, evangelical Protestant churches (such as Baptist and Pentecostal groups), and other minority religious groups.

(11) The Law on Religious Freedom and Religious Organizations, passed by the National Assembly and signed by Lukashenka on October 31, 2002, establishes one of the most repressive legal regimes in the OSCE region, severely limiting religious freedom and placing excessively burdensome government controls on religious practice.

(12) The parliamentary elections of October 15, 2000, and the presidential election of September 9, 2001, were determined to be fundamentally unfair and nondemocratic.

(13) The Government of Belarus has made no substantive progress in addressing criteria established by the OSCE in 2000, ending repression and the climate of fear, permitting a functioning independent media, ensuring transparency of the elections process, and strengthening of the functions of parliament.

SEC. 3. ASSISTANCE TO PROMOTE DEMOCRACY AND CIVIL SOCIETY IN BELARUS.

(a) PURPOSES OF ASSISTANCE.—The assistance under this section shall be available for the following purposes:

(1) To assist the people of the Republic of Belarus in regaining their freedom and to enable them to join the European community of democracies.

(2) To encourage free and fair presidential, parliamentary, and local elections in Belarus, conducted in a manner consistent with internationally accepted standards and under the supervision of internationally recognized observers.

(3) To assist in restoring and strengthening institutions of democratic governance in Belarus.

(b) AUTHORIZATION FOR ASSISTANCE.—To carry out the purposes of subsection (a), the President is authorized to furnish assistance and other support for the activities described in subsection (c), to be provided primarily for indigenous Belarusian groups that are committed to the support of democratic processes.

(c) ACTIVITIES SUPPORTED.—Activities that may be supported by assistance under subsection (b) include—

(1) the observation of elections and the promotion of free and fair electoral processes;

(2) development of democratic political parties;

(3) radio and television broadcasting to and within Belarus;

(4) the development of nongovernmental organizations promoting democracy and supporting human rights;

(5) the development of independent media working within Belarus and from locations outside the country and supported by nonstate-controlled printing facilities;

(6) international exchanges and advanced professional training programs for leaders and members of the democratic forces in skill areas central to the development of civil society; and

(7) other activities consistent with the purposes of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There are authorized to be appropriated to the President to carry out this section such sums as may be necessary for each of the fiscal years 2005 and 2006.

(2) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under paragraph (1) are authorized to remain available until expended.

SEC. 4. RADIO BROADCASTING TO BELARUS.

(a) PURPOSE.—It is the purpose of this section to authorize increased support for United States Government and surrogate radio broadcasting to the Republic of Belarus that will facilitate the unhindered dissemination of information.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to such sums as are otherwise authorized to be appropriated, there are authorized to be appropriated such sums as may be necessary for fiscal year 2005 and each subsequent fiscal year for radio broadcasting to the people of Belarus in languages spoken in Belarus.

SEC. 5. SENSE OF CONGRESS RELATING TO SANCTIONS AGAINST BELARUS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the sanctions described in subsection (c) should apply with respect to the Republic of Belarus until the President determines and certifies to the appropriate congressional committees that the Government of Belarus has made significant progress in meeting the conditions described in subsection (b).

(b) CONDITIONS.—The conditions referred to in subsection (a) are the following:

(1) The release of individuals in Belarus who have been jailed based on political or religious beliefs.

(2) The withdrawal of politically motivated legal charges against all opposition figures and independent journalists in Belarus.

(3) A full accounting of the disappearances of opposition leaders and journalists in Belarus, including Victor Gonchar, Anatoly Krasovsky, Yuri Zakharenka, and Dmitry Zavadsky, and the prosecution of those individuals who are responsible for their disappearances.

(4) The cessation of all forms of harassment and repression against the independent media, independent trade unions, nongovernmental organizations, religious organizations (including their leadership and members), and the political opposition in Belarus.

(5) The implementation of free and fair presidential and parliamentary elections in Belarus consistent with OSCE commitments.

(c) PROHIBITION ON LOANS AND INVESTMENT.—

(1) UNITED STATES GOVERNMENT FINANCING.—No loan, credit guarantee, insurance, financing, or other similar financial assistance should be extended by any agency of the United States Government (including the Export-Import Bank and the Overseas Private Investment Corporation) to the Government of Belarus, except with respect to the provision of humanitarian goods and agricultural or medical products.

(2) TRADE AND DEVELOPMENT AGENCY.—No funds available to the Trade and Development Agency should be available for activities of the Agency in or for Belarus.

(d) MULTILATERAL FINANCIAL ASSISTANCE.—It is further the sense of Congress that, in addition to the application of the sanctions described in subsection (c) to the Republic of Belarus (until the President determines and certifies to the appropriate congressional committees that the Government of Belarus has made significant progress in meeting the conditions described in subsection (b)), the Secretary of the Treasury should instruct the United States Executive Director of each international financial institution to which the United States is a member to use the voice and vote of the United States to oppose any extension by those institutions of any financial assistance (including any technical assistance or grant) of any kind to the Government of Belarus, except for loans and assistance that serve humanitarian needs.

SEC. 6. MULTILATERAL COOPERATION.

It is the sense of Congress that the President should continue to seek to coordinate with other countries, particularly European countries, a comprehensive, multilateral strategy to further the purposes of this Act, including, as appropriate, encouraging other countries to take measures with respect to the Republic of Belarus that are similar to measures described in this Act.

SEC. 7. REPORT.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, and not later than 1 year thereafter, the President shall transmit to the appropriate congressional committees a report that describes, with respect to the preceding 12-month period, and to the extent practicable the following:

(1) The sale or delivery of weapons or weapons-related technologies from the Republic of Belarus to any country, the government of which the Secretary of State has determined, for purposes of section 6(j)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)(1)), has repeatedly provided support for acts of international terrorism.

(2) An identification of each country described in paragraph (1) and a detailed description of the weapons or weapons-related technologies involved in the sale.

(3) An identification of the goods, services, credits, or other consideration received by Belarus in exchange for the weapons or weapons-related technologies.

(4) The personal assets and wealth of Aleksandr Lukashenka and other senior leadership of the Government of Belarus.

(b) FORM.—A report transmitted pursuant to subsection (a) shall be in unclassified form but may contain a classified annex.

SEC. 8. DECLARATION OF POLICY.

Congress hereby—

(1) calls upon the Lukashenka regime to cease its persecution of political opponents or independent journalists and to release those individuals who have been imprisoned for opposing his regime or for exercising their right to freedom of speech;

(2) expresses its grave concern about the disappearance of Victor Gonchar, Anatoly Krasovsky, Yuri Zakharenko, and Dmitry Zavadsky and calls upon the Lukashenka regime to cooperate fully with the Belrussian civil initiatve "We Remember" and to extend to this organization all necessary information to find out the truth about the disappearances;

(3) calls upon the the Lukashenka regime to cooperate fully with the Parliamentary Assembly of the Council of Europe (PACE) and its specially appointed representatives in matters regarding the resolution of the cases of the disappeared; and

(4) commends the democratic opposition in Belarus for their commitment to participate in October 2004 Parliamentary elections as a unified coalition and for their courage in the face of the repression of the Lukashenka regime in Belarus.

SEC. 9. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) OSCE.—The term "OSCE" means the Organization for Security and Cooperation in Europe.

(3) SENIOR LEADERSHIP OF THE GOVERNMENT OF BELARUS.—The term "senior leadership of the Government of Belarus" includes—

(A) the President, Prime Minister, Deputy Prime Ministers, government ministers, Chairmen of State Committees, and members of the Presidential Administration of Belarus;

(B) any official of the Government of Belarus who is personally and substantially involved in the suppression of freedom in Belarus, including judges and prosecutors; and

(C) any other individual determined by the Secretary of State (or the Secretary's designee) to be personally and substantially involved in the formulation or execution of the policies of the Lukashenka regime that are in contradiction of internationally recognized human rights standards.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Florida (Mr. WEXLER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 854.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 854 and would like to commend the gentleman from New Jersey (Mr. SMITH) for his tireless efforts in support of democracy worldwide, and in this case in Belarus.

Belarus is perhaps the last country in Europe to embrace democracy. In just 2 weeks that nation will hold important elections for parliament in what will be a litmus test for President Lukashenko's commitment to democracy and the direction he intends to take Belarus in the future. I regret that the political situation there at the moment does not look very promising.

In June, the House overwhelmingly passed H. Res. 624, introduced by our former colleague Doug Bereuter, which emphasizes that if Belarus is ever to become more integrated into the Western community of nations, it must work towards the establishment of a genuinely democratic political system in which the freedom of association and assembly are guaranteed, where political candidates from the opposition will be free from political harassment and intimidation as they campaign for office, and in which the media are free to act independently, free from government control or intimidation, where there exists a system in which elections and the electoral process are open, transparent and fair.

For all of these reasons, it was important that the Congress emphatically express our strong support for free, fair and transparent elections and more definitive progress towards establishing a functioning democracy in Belarus.

The bill we have before us today provides a mechanism by which we can influence that progress. H.R. 854 would authorize assistance for democracy promotion, for building strong democratic institutions, radio broadcasting, and the development of an independent media. But we know how the current government feels about these matters, and we anticipate a lack of cooperation. So the bill also provides a series of sanctions which could be implemented if certain conditions in Belarus are not adequately addressed or resolved.

I would also note that in Europe, the situation in Belarus is of equal concern. The OSCE, the OSCE Parliamentary Assembly and the Parliamentary Assembly of the Council of Europe have all expressed deep concerns over Belarus and its elections.

H.R. 854 rather precisely explains the concerns and recommendations of the United States Congress, and I urge adoption of this important bill.

Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this bill.

Mr. Speaker, first I would like to commend my friend and colleague from New Jersey (Mr. SMITH) for being a stalwart supporter of democracy in Belarus and for his willingness to offer this legislation.

Just a few months ago, this House passed an important resolution on the upcoming parliamentary elections in Belarus. This resolution, authored by our former colleague Doug Bereuter and myself, called upon the Government of Belarus to ensure that these important elections be conducted in a free and fair manner. Regrettably, since then, the political situation in Belarus has deteriorated, not improved.

The dictatorial regime of Aleksandr Lukashenka continues to cling to power, using brutal force, intimidation, and illegal maneuvering to secure his reign. If Lukashenka succeeds, as he did in 1996 when he amended the constitution in a seriously flawed referendum, and as he did in 2001 when he extended his term in office through an election that was neither free nor fair, and as he did in 2003 when he similarly stole local elections, the United States Government must have a clear and effective strategy to promote human rights and democracy in Belarus.

Our legislation directs the President to focus our assistance on core democracy programs in Belarus, namely, promotion of free elections, support for civil society, strengthening of democratic political parties, and support for independent media and international exchanges. Lukashenka's regime must understand that we will not forget the cause of human rights and democracy in Belarus, and that the United States and Belarus will not have a fully normal relationship until Belarus moves assertively towards a democratic form of government.

Belarus is strategically located in Eastern Europe, bordering Poland and Lithuania, both members of NATO and the European Union, and Ukraine and Russia. We cannot afford to give up on the cause of democracy and freedom in Belarus.

The Lukashenka regime is one of the most notorious human rights abusers in the world, routinely suppressing the rights of Belarusian citizens. The regime has been implicated in the political murders of its opponents, disappearances of opposition leaders, repression of independent media, harassment of NGOs, and other egregious violations of internationally recognized and accepted democratic norms.

Lukashenka bears full responsibility for these abuses, as nothing in Belarus happens without his knowledge or full acquiescence. The United States, the European Union, member states of the Organization for Security and Cooperation in Europe, and international human rights NGOs have all called upon the Lukashenka dictatorship to end its human rights abuses and restore democracy to Belarus.

Although the anti-Lukashenka forces in Belarus have boycotted previous elections, the opposition is participating in the upcoming elections and has united into a coalition of five democratic parties that will campaign as a block.

Although this coalition faces an uphill battle, we should nevertheless commend the leaders and members of this coalition for their courage and determination to bring democracy to Belarus and provide them our unqualified support.

In the congressional tradition of setting policy that has been instrumental in defeating dictatorships in Europe, Asia, and Africa, this legislation will promote democracy, human rights, and the rule of law and consolidate the independence and sovereignty of Belarus.

I strongly support passage of this bill and urge my colleagues to do so as well.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend my colleague, the gentleman from New Jersey (Mr. SMITH), the sponsor of this bill, who works tirelessly to promote democracy over in Europe; and I am sorry he is not here to speak on this bill.

Mr. SMITH of New Jersey. Mr. Speaker, I rise to urge passage of H.R. 854, the Belarus Democracy Act. With important parliamentary elections in Belarus scheduled for October 17, it is essential that we pass the Belarus Democracy Act. This Congress must demonstrate its strong support for pro-democracy forces in Belarus and advance U.S. interests in the region. Now is the time to send a strong signal.

Since his election in 1995, Belarusian dictator Alexander Lukashenka has steadily undermined democratic institutions through a series of unfair elections and a seriously flawed constitutional referendum. The U.S. State Department, Helsinki Commission which I Chair, as well as the OSCE, the OSCE Parliamentary Assembly, the United Nations, the Council of Europe, the European Union and other international entities have all chronicled the appalling state of human rights and democracy there. Located in the heart of Europe, Belarus is juxtaposed to our NATO allies and will soon border the European Union.

The Lukashenka regime has repeatedly violated basic freedoms of speech, expression, assembly, association and religion. Since I introduced the Belarus Democracy Act last year, the situation in Belarus has only become more difficult.

Just within the last few months, the independent media, non-governmental organizations (NGOs), independent trade unions, religious groups, and democratic opposition leaders have faced increased harassment, arrest, detentions, and even violence. Opposition leaders have been imprisoned and beaten. NGOs have been closed down with increasing frequency. Independent media outlets continue to feel the wrath of the powers-that-be, including closures, defamation lawsuits, exorbitant fines, confiscations of newspapers or the suspension of their distribution, censorship and the deportation of an independent journalist from Ukraine who had lived in Belarus since 1990. Independent trade unions are subject to a pattern of obstruction, harassment and intimidation by the authorities.

In short, the situation in Belarus continues its downward spiral with daily reports of growing repression and human rights violations.

Here in Washington and at various OSCE Parliamentary Assembly meetings, I've had occasion to meet with the wives of the disappeared. The cases of their husbands—Yuri Zakharenka, Victor Gonchar, Anatoly Krasovsky, and journalist Dmitri Zavadsky who disappeared in 1999 and 2000 and are presumed to have been murdered—are a stark illustration of the climate of fear that pervades in Belarus. I am pleased that just last week the United States, together with the European Union, has decided to restrict admission to four top Belarusian officials implicated in these politically motivated disappearances. Reports of arms and weapons deals between the Belarusian regime and rogue states continue to circulate. Lukashenka and his regime were open in their support of Saddam Hussein. On August 24, the Treasury Department charged that Infobank of Belarus has been involved with money laundering involving fraudulent transactions pertaining to Iraq, where funds laundered by Saddam Hussein's regime were derived from schemes to circumvent the UN Oil-for-Food program.

PROVISIONS OF BDA

Mr. Speaker, the main purpose of the BDA is to demonstrate U.S. support for those struggling to promote democracy and respect for human rights in Belarus despite the onerous pressures they face from the anti-democratic regime. This bill authorizes necessary assistance for democracy-building activities such as support for NGOs, independent media—including radio and television broadcasting to Belarus—and international exchanges.

The bill also encourages free and fair parliamentary elections, conducted in a manner consistent with international standards—in sharp contrast to the 2000 parliamentary and 2001 presidential elections in Belarus which flaunted democratic standards. As a result of those elections, Belarus has the distinction of lacking legitimate presidential and parliamentary leadership, which contributes to its self-imposed isolation. Parliamentary elections now have an added dimension, with Lukashenka's September 7 announcement of a referendum to take place on the same day, that would pave the way to extend his rule beyond 2006, when his tenure is due to expire, to potentially join the ranks of "presidents for life" like President Niyazov in Turkmenistan and others in Central Asia.

As matters stand now, the deck appears to be stacked in Lukashenka's favor, as the Belarusian Government has almost total control of the electoral process. Opposition parties have been allocated a negligible percentage of seats on district and precinct election commissions, and many candidates proposed by Belarusian democratic opposition parties have been denied registration. To their credit, the embattled opposition and non-governmental organizations have not given up. I have met with the leaders of the Belarusian opposition and have been impressed with their determination to participate in the coming elections and their courageous work to advance democracy, human rights and the rule of law, despite all of the obstacles placed in their way by the Lukashenka regime.

In addition, this bill includes "sense of Congress" language that would impose sanctions against the Lukashenka regime. U.S. Government financing would be prohibited, except for humanitarian goods and agricultural or medical products. The U.S. Executive Directors of the international financial institutions would be encouraged to vote against financial assistance to the Government of Belarus except for loans and assistance that serve humanitarian needs. This bill also requires reports from the President concerning the sale or delivery of weapons or weapons-related technologies from Belarus to rogue states and on the personal assets and wealth of Lukashenka and other senior leadership in Belarus.

I hope that the Belarus Democracy Act will help support those who desire a genuinely independent, democratic Belarus and serve as a catalyst to facilitate Belarus' integration into democratic Europe. The measure is designed to be a counterweight to the pattern of clear, gross and uncorrected human rights violations by the Lukashenka regime. The Belarusian people—who have suffered so much both under past and present dictatorships—deserve to live in a society where democratic principles and human rights are respected. We must stand firmly on the side of those who long for freedom.

Mr. PALLONE. Mr. Speaker, I rise today to express my support for H.R. 854, the Belarus Democracy Act of 2003. This important piece of legislation will take significant steps toward the democratization of Belarus and offer support for those living in the country and seeking a democratic process in fundamental areas such as elections, media and human rights. If passed, this bill will ensure that a fair and free electoral process will exist in the former Soviet state. In addition, this bill will work toward the development of a media that is non-state controlled and independent. Furthermore, this bill will establish training programs and methods of international exchange for the individuals that will advance the development of a democratic and civil society.

By placing specific economic sanctions on Belarus, the United States will send a clear message that major democratic reforms must take place in order for the country to become an independent state that is integrated into Europe. I am in full support of H.R. 854, and I urge my fellow colleagues to vote in favor of this vital piece of legislation, which will go very far in assisting the democratization process in Belarus.

Mr. HYDE. Mr. Speaker, I submit for the RECORD an exchange of letters concerning the bill H.R. 854 between the Chairman of the Committee on International Relations and the Chairman of the Committee on the Judiciary.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON INTERNATIONAL RELATIONS,
Washington, DC, July 13, 2004.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 854, the "Belarus Democracy Act of 2003," which was referred primarily to the Committee on International Relations and additionally to the Committees on the Judiciary and Financial Services. This Committee ordered the bill reported favorably on February 25, 2004.

I concur that the referral to the Committee on the Judiciary was based on §5(c), a sense of Congress provision that the President should use his powers under the Immigration and Nationality Act to deny entry to the United States to the senior leadership of the Government of Belarus. The manager's amendment which the Committee will call up does not include §5(c) or any other provisions that fall within the Rule X jurisdiction of the Committee on the Judiciary.

I appreciate your willingness to waive further consideration of the bill in the Committee on the Judiciary so that the bill may proceed expeditiously to the floor. I concur, that in taking this action, your Committee's jurisdiction over the bill is in no way diminished or altered. I will, as you request, include this exchange of letters in the CONGRESSIONAL RECORD during consideration of the legislation on the House floor.

I appreciate your cooperation in this matter.

Sincerely,

HENRY J. HYDE,
Chairman.

CONGRESS OF THE UNITED STATES,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 13, 2004.

Hon. HENRY HYDE,
Chairman, Committee on International Relations, House of Representatives, Washington, DC.

DEAR CHAIRMAN HYDE: I am writing regarding H.R. 854, the "Belarus Democracy Act of 2003" which was referred primarily to the Committee on International Relations and additionally to the Committees on the Judiciary and Financial Services. The Committee on International Relations ordered the bill reported favorably on February 25, 2004, but as of this time has not filed a report.

The referral to the Committee on the Judiciary was based on §5(c), a sense of Congress provision that the President should use his powers under the Immigration and Nationality Act to deny entry to the United States to the senior leadership of the Government of Belarus. I understand that you have indicated your willingness to take the bill to the floor under suspension of the rules with a manager's amendment that does not include §5(c) or any other provisions that fall within the Rule X jurisdiction of the Committee on the Judiciary.

Based on your willingness to follow this course, I am willing to waive further consideration of the bill in the Committee on the Judiciary so that the bill may proceed expeditiously to the floor. The Committee on the Judiciary takes this action with the understanding that the Committee's jurisdiction over the bill is in no way diminished or altered. I would appreciate your including this letter and your response in the CONGRESSIONAL RECORD during consideration of the legislation on the House floor.

I appreciate your cooperation in this matter.

Sincerely,

F. JAMES SENSENBRENNER, Jr.,
Chairman.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the bill, H.R. 854, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

☐ 1945

COMMENDING PEOPLE AND GOVERNMENT OF GREECE FOR SUCCESSFUL COMPLETION OF 2004 SUMMER OLYMPIC GAMES

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 774) commending the people and Government of Greece for the successful completion of the 2004 Summer Olympic Games.

The Clerk read as follows:

H. RES. 774

Whereas in August 2004, the Summer Olympic Games returned to Greece, their ancient birthplace and the land of the Acropolis, Homer, and Plato, reminding all of the origin of democracy;

Whereas the people and Government of Greece, through extraordinary diligence, energy, and imagination, hosted a successful 2004 Summer Olympic Games in Athens;

Whereas Greece demonstrated an extraordinary ability to accommodate more than 10,000 athletes from 202 countries, along with hundreds of thousands of spectators, foreign dignitaries, and journalists, and did so efficiently, securely, and with hospitality;

Whereas the 2004 Summer Olympic Games hosted by Greece proudly displayed the ideals of the Olympic movement, promoting mutual understanding, friendship, and peace among nations through noble athletic competition;

Whereas close cooperation between Greece and the United States on several aspects of the Olympic Games, including security, was consistent with the longtime friendship and alliance between two nations that have stood side by side in defense of a shared commitment to freedom and democracy for more than 100 years;

Whereas Greece provided the world with the unique experience of seeing the Olympics framed by ancient wonders such as the Parthenon on the Acropolis and the stadium in Olympia;

Whereas Greece displayed its modern achievements through extraordinary Olympic venues, world-class infrastructure, and breathtaking and high-tech opening and closing ceremonies; and

Whereas following completion of the games, United States Olympic Committee Chairman Peter Ueberroth stated that "history will record these Games as among the greatest, if not the greatest, of all time": Now, therefore, be it

Resolved, That the House of Representatives—

(1) commends the people of Greece for the successful completion of the 2004 Summer Olympic Games; and

(2) agrees with United States Olympic Committee Chairman Peter Ueberroth that "history will record these Games as among the greatest, if not the greatest of all time".

The SPEAKER pro tempore (Mr. MURPHY). Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Florida (Mr. WEXLER) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 774, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I might consume.

I rise in strong support of H. Res. 774 commending the people and government of Greece for the successful completion of the 2004 Summer Olympic Games, and I want to commend our colleagues, the gentleman from Massachusetts (Mr. MEEHAN), the gentleman from Florida (Mr. BILIRAKIS), and the gentlewoman from New York (Mrs. MALONEY) for introducing this legislation.

For 17 glorious days this summer, with the spectacular setting of the ancient Parthenon and Acropolis as background, the Nation of Greece hosted the world to what has been referred to by some as one of the greatest games of all times.

As we followed the progress of the preparations, we realized it surely was not easy to accomplish. The costs were high, and the tensions associated with providing security for 10,000 athletes and hundreds of thousands of visitors and spectators placed great pressure on the government of Greece. But in the end, the world-class venues and infrastructure provided, the breathtaking opening and closing ceremonies and, of course, the competition itself afforded the world an unparalleled look at the energy, diligence, hospitality and imagination of the people of Greece.

All of Greece has a right to be proud of what was accomplished this summer. This resolution reaffirms that recognition.

I urge adoption of this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. WEXLER. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of this resolution.

Mr. Speaker, I would first like to commend our colleague, the gentleman from Massachusetts (Mr. MEEHAN), for introducing this important resolution.

The 2004 Olympic Games in Athens recently unfolded before the eyes of hundreds of millions of people around the world, some watching in person, but many more on television. It is fair to say, Mr. Speaker, that the Athens games were an unqualified success.

Despite fears of terrorism or that key Olympic venues would not be ready, Athens was more than prepared to receive tens of thousands of athletes and officials from around the world, and the Olympic spirit thrived as athletes lived out their dreams.

These were truly historic games. The Summer Olympic Games returned to Greece, their ancient birthplace, for the first time. The games brought together people from all over the world: 202 countries participated in the Athens Olympics, including athletes from Afghanistan and Iraq.

The Greek people and the government of Greece, through extraordinary diligence, energy and enthusiasm, hosted over 10,000 athletes with efficiency and security. The Greek officials developed transportation infrastructure to ensure that athletes and spectators could easily get to all Olympic venues and practice facilities.

The United States and the government of Greece cooperated closely on several aspects of the Olympic games, including security. This cooperation solidified the long-standing alliance and friendship between our two Nations which stand side-by-side in defense of a shared commitment to freedom and democracy.

The 2004 Olympics in Greece showed us the best combination of a modern, world-class infrastructure and high-tech innovation, framed by the ancient wonders of Greece, the birthplace of Western culture and democracy.

Mr. Speaker, I want to join the sponsors of this resolution in agreeing with the United States Committee Chairman Peter Ueberroth that "history will record these Games as among the greatest, if not the greatest, of all time."

I strongly support this resolution and urge its unanimous passage.

Mrs. MALONEY. Mr. Speaker, I rise today in strong support of H. Res. 774, commending the people of Greece for hosting a successful and safe Olympics.

As co-chair of the Congressional Caucus on Hellenic Issues, it is my great honor to recognize Greece for its recent achievements.

I am very fortunate and privileged to represent Astoria, Queens—one of the largest and most vibrant communities of Greek Americans in this country.

I never had any doubts that Greece would be an excellent host for the 2004 Olympic Games, truly one of the greatest ever to be held.

For three weeks in August, the people of Greece welcomed the world to participate in an event which allows countries to set aside their political differences for a brief time to come together in the spirit of peace and sportsmanship.

Thousands of athletes from around the world returned to the birthplace of the Olympics to determine the fastest, the strongest, the best in each competition.

From the swimming pool to the volleyball courts to the track and field arena, moments of perseverance and victory will be etched in our memories forever.

As gracious hosts, the people of Greece showed the visiting delegations its beautiful historic and natural treasures, ensuring that they would remember their time in Greece for more than only their events.

We heard much talk in the months leading up to the Games that the Greeks would not be ready.

But they proved everyone wrong.

The venues were completed and were the sites of some of the most exciting Olympic competitions ever.

The opening and closing ceremonies were unbelievable.

The volunteers were phenomenal, and the transportation was efficient.

And most importantly, the outstanding security preparations taken in advance of the Games resulted in the safety of both the athletes and visitors.

The 2004 Games have set an example for how future host cities will prepare for this magnificent event.

The dollars and time spent on security were well worth the investment.

I am tremendously proud of Greece for what it has accomplished.

I an hopeful that its economy will benefit from the Games for years to come.

I am confident that millions of tourists are planning vacations as we speak to Greece so that they can see for themselves the ancient ruins and its gorgeous coastline.

And so that they can meet for themselves Greece's greatest treasure . . . its people.

I would like to thank my good friend Representative MEEHAN for introducing this resolution, and I urge my colleagues to support it.

Mr. MEEHAN. Mr. Speaker, I thank the distinguished Chairman and Ranking Member of the International Relations Committee for bringing this resolution to the floor.

I rise today in strong support of H. Res. 774, to pay tribute to the people and Government of Greece for hosting an unforgettable 2004 Summer Olympic Games.

This summer, the Olympic Games returned to their ancient birthplace. The people of Greece proudly displayed the ideals of the Olympic movement, promoting mutual understanding, friendship, and peace among nations through noble athletic competition.

Greece overcame daunting security challenges and safely accommodated more than 10,000 athletes from 202 countries, along with hundreds of thousands of spectators, foreign dignitaries, and journalists.

These visitors and the Olympics' television viewers worldwide experienced the games much as they must have been played originally, framed by ancient wonders such as the Parthenon on the Acropolis and the stadium in Olympia.

Greece also displayed its modern achievements such as extraordinary Olympic venues and breathtakingly high-tech opening and closing ceremonies.

In the words of United States Olympic Committee Chairman Peter Ueberroth, "history will record these Games as among the greatest, if not the greatest, of all time."

The United States and Greece have long enjoyed a deep friendship that grew from a shared commitment to freedom and democracy more than 100 years ago.

We were proud to work in close cooperation with Greece this year to ensure the safety and success of this summer's games.

I therefore join in commending the people of Greece for hosting an extraordinary 2004 Summer Olympic Games, and urge the House to pass this resolution. Zeto Ellas!

Mr. BILIRAKIS. Mr. Speaker, I rise today to express my highest praise and congratulations for the magnificent way Greece hosted the 2004 Summer Olympics. I strongly support H. Res. 774, a resolution which commends the people and government of Greece for the superb Olympic Games held this summer in Athens.

The task of hosting the modern Olympic Games is filled with honor, but also presents a colossal challenge. With dedication, commitment to hard work, and inspirational leadership, Greece met the challenge while proudly showcasing the ideals of the Olympics and promoting friendship and peace among nations.

As the host to the biggest sporting event in the world, Athens rose magnificently to the challenge and demonstrated the pride and honor that comes with such an occasion. The leadership shown by the government of Greece, and more specifically, the Prime Minister of Greece, Costas Karamanlis, inspired Athens to a great celebration of commitment, dedication, and human endeavor. The mayor of Athens, Dora Bakoyianni, was responsible for presenting the Olympics not only as a modern sporting occasion, but also as an ancient tradition with superb new modern facilities surrounded by historic and architectural wonder.

The Olympic Games left behind not only a memory of great athletic competition, but a legacy of peace, nobility, and honor that should be at the forefront of all international occasions. The Athens Olympic Organizing Committee, under the direction of Gianna Dasklaki-Angelopoulos, presented such a colossal event which surpassed all expectations. She and her staff succeeded in showcasing all that Athens has to offer, old and new, as the birthplace of the Olympics and a frontrunner in modern development. With Athens being the birthplace of the modern Olympics games and containing so many beautiful ancient monuments, there could not have been a more perfect setting for a truly wonderful celebration of athleticism.

The citizens and government of Greece put on a show that made Hellenes from around the world proud. As a Greek-American, I am most proud. I commend Greece for ensuring that the 2004 Summer Olympic Games would not be forgotten. I encourage my colleagues to support H. Res. 774.

Mr. WEXLER. Mr. Speaker, I yield back the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 774.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS REGARDING OPPRESSION BY CHINA OF FALUN GONG IN UNITED STATES AND CHINA

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 304) expressing the sense of Congress regarding oppression by the Government of the People's Republic of China of Falun Gong in the United States and in China.

The Clerk read as follows:

H. CON. RES. 304

Whereas Falun Gong is a peaceful spiritual movement that originated in the People's Republic of China but has grown in popularity worldwide and is now accepted and practiced by thousands in the United States;

Whereas demonstrations by Falun Gong practitioners in the People's Republic of China and the United States have been peaceful, meditative sessions;

Whereas the Constitution of the People's Republic of China provides to the citizens of that country freedom of speech, assembly, association, and religious belief;

Whereas members of the Falun Gong spiritual movement, members of Chinese pro-democracy groups, and advocates of human rights reform in the People's Republic of China have been harassed, libeled, imprisoned, and beaten for demonstrating peacefully inside that country;

Whereas the Chinese Government has also attempted to silence the Falun Gong movement and Chinese prodemocracy groups inside the United States;

Whereas on June 12, 2003, 38 Members of Congress filed an Amended Brief of Amicus Curiae in support of the Falun Gong at the United States District Court, Northeastern District of Illinois, Eastern Division;

Whereas Chinese consular officials have pressured local elected officials in the United States to refuse or withdraw support for the Falun Gong spiritual group;

Whereas Dr. Charles Lee, a United States citizen, has reportedly been mentally and physically tortured since being detained by Chinese authorities in early 2003;

Whereas the apartment of Ms. Gail Rachlin, the Falun Gong spokeswoman in the United States, has been broken into 5 times by agents of the Chinese regime since the regime banned Falun Gong in 1999 in China;

Whereas over the past 5 years China's diplomatic corps has been actively involved in harassing and persecuting Falun Gong practitioners in the United States;

Whereas on June 23, 2003, Falun Gong practitioners were attacked outside a Chinese restaurant in New York City by local United States-based individuals with reported ties to the Chinese Government;

Whereas 5 Falun Gong practitioners were assaulted outside of the Chinese Consulate in Chicago on September 7, 2001, while exercising their constitutionally protected rights to free speech, leading to battery convictions in Cook County Criminal Court of Jiming Zheng on November 13, 2002, and Yujun Weng on December 5, 2002, both assailants being members of a Chinese-American organization in Chicago, the Mid-USA Fujian Township Association, which maintains close ties with the Chinese Consulate;

Whereas individuals that physically harassed Falun Gong practitioners in San Francisco on October 22, 2000, were later seen at anti-Falun Gong meetings and the Chinese Consulate in San Francisco;

Whereas San Francisco City Supervisor Chris Daly, after receiving complaints that Chinese officials were intimidating his constituents, authored a resolution condemning human rights violations and persecution of Falun Gong members by the Chinese Government;

Whereas Mr. Daly and the other members of the San Francisco City Council subsequently received a letter from the Chinese Consul General in San Francisco, claiming that Falun Gong was an "evil cult" that was undermining the "normal social order" in the People's Republic of China, and that Mr. Daly's resolution should therefore be rejected, which it subsequently was;

Whereas in November 2000, the former Mayor of Saratoga, California, Stan Bogosian, issued a proclamation honoring the contributions of Falun Gong practitioners to the Saratoga community, which prompted the Chinese Consulate in San Francisco to write to Mr. Bogosian urging him to retract his support for local Falun Gong activities;

Whereas many local and national media organizations have reported that other local officials across the United States, including the mayors of several major cities, have been pressured by Chinese consular officials to recant statements of support for the Falun Gong;

Whereas journalists have cited fear of hurting trade relationships as the motivation for some local United States officials to recant their support for Falun Gong after receiving pressure from Chinese consular officials; and

Whereas the Constitution of the United States guarantees freedom of religion, the right to assemble, and the right to speak freely, and the people of the United States strongly value protecting the ability of all people to live without fear and in accordance with their personal beliefs: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) the Government of the People's Republic of China should—

(A) immediately stop interfering in the exercise of religious and political freedoms within the United States, such as the right to practice Falun Gong, that are guaranteed by the United States Constitution;

(B) cease using the diplomatic missions in the United States to spread falsehoods about the nature of Falun Gong;

(C) release from detention all prisoners of conscience, including practitioners of Falun Gong, who have been incarcerated in violation of their rights as expressed in the Constitution of the People's Republic of China;

(D) immediately end the harassment, detention, physical abuse, and imprisonment of individuals who are exercising their legitimate rights to freedom of religion, including the practices of Falun Gong, freedom of expression, and freedom of association as stated in the Constitution of the People's Republic of China; and

(E) demonstrate its willingness to abide by international standards of freedom of belief, expression, and association by ceasing to restrict those freedoms in the People's Republic of China;

(2) the President should, in accordance with section 401(a)(1)(B) of the International Religious Freedom Act of 1998 (22 U.S.C. 6401(a)(1)(B)), and with the intention of dissuading the Chinese Government from attempting to stifle religious freedom in the People's Republic of China and the United States, take action such as—

(A) issuing an official public demarche, a formal protest, to the Chinese Foreign Ministry in response to the repeated violations by the Chinese Government of basic human rights protected in international covenants to which the People's Republic of China is a signatory; and

(B) working more closely with Chinese human rights activists to identify Chinese authorities who have been personally responsible for acts of violence and persecution in the People's Republic of China;

(3) the Attorney General should investigate reports that Chinese consular officials in the United States have committed illegal acts while attempting to intimidate or inappropriately influence Falun Gong practitioners or local elected officials, and, in consultation with the Secretary of State, determine an appropriate legal response; and

(4) officials of local governments in the United States should—

(A) in accordance with local statutes and procedures, recognize and support organizations and individuals that share the goals of all or part of the local community, including Falun Gong practitioners; and

(B) report incidents of pressure or harassment by agents of the People's Republic of China to Members of Congress, the Attorney General, and the Secretary of State.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentlewoman from California (Ms. LEE) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 304, the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

I would like to commend my colleagues, the gentlewoman from California (Ms. WOOLSEY) and the gentlewoman from California (Ms. LEE), for their dedication and support of this resolution. I would also like to thank the gentleman from Illinois (Chairman HYDE), as well as the gentleman from California (Mr. LANTOS), our ranking member, and our entire leadership for bringing this resolution to the floor today.

I rise today to call attention to the horrific specter of the repression imposed upon a peaceful spiritual movement, the Falun Gong, by the largest authoritarian regime in the world today, the Communist regime in China.

On July 22, 1999, a date which will live in the annals of human rights violations as a day of infamy, the Beijing authorities declared the Falun Gong illegal, branding it a so-called "evil cult." This immediately prompted mass arrests, torture and reported deaths of Falun Gong practitioners in official custody, which continues unabated to this present day.

These Falun Gong practitioners still in Chinese custody include at least one American citizen, Dr. Charles Lee. Members of Congress have repeatedly called for his immediate release, and we renew that call here today.

This chamber has repeatedly condemned the Chinese regime's abhorrent violations of human rights and the violations of freedom of belief and conscience of the Falun Gong. We have done so by rendering our overwhelming support to bipartisan resolutions that I have introduced with my colleague, the gentlewoman from California (Ms. WOOLSEY), and numerous others.

However, H. Con. Res. 304 is different. This resolution before us today is addressing something even more ominous. With over 70 cosponsors, this resolution focuses on reports and investigations on the use of fear, intimidation and oppression, often connected with violence, right here within the borders of our own country, within the United States.

Falun Gong practitioners, while peacefully and nonviolently exercising their constitutional rights to free speech and assembly, have been intimidated from California to New York by agents of the Chinese regime. They have, as we have outlined in this resolution, been physically harassed on the streets of San Francisco, assaulted on the streets of Chicago outside of the Chinese consulate and attacked on the streets of New York by individuals with reported ties to the Chinese regime.

Let those listening to this debate, including representatives of any foreign governments having strategies for suppressing free speech in this country, remember one thing: This is the United States of America, the cradle of freedom and democracy. We will not sit idly by as you infringe upon the rights of our citizens and residents who practice Falun Gong. Any interference in the exercise of free speech inside our land will result in the expulsion of those who engage in such actions.

In the land of the free, all voices will be heard. In the home of the brave, a hundred or more flowers will bloom, including the Falun Gong's spiritual movement.

I ask my colleagues to send a clear message to the Chinese regime and to immediately and unconditionally stop its deplorable treatment of the Falun Gong spiritual movement, both inside China and specifically here in the United States.

I ask for a "yes" vote on H. Con. Res. 304.

Mr. Speaker, I reserve the balance of my time.

Ms. LEE. Mr. Speaker, I yield myself such time as I may consume.

I strongly support this resolution. It is a very important resolution, and I urge my colleagues to do so as well.

Mr. Speaker, 5 years ago, the Chinese government launched a very brutal crackdown of the Falun Gong spiritual movement throughout China. Tens of thousands of Falun Gong practitioners were brutally beaten, thrown in jail and tortured.

☐ 2000

Over 800 Falun Gong practitioners have been killed and tens of thousands remain locked up in Chinese prisons, in psychiatric institutions, and reformed through labor camps. The ongoing Chinese suppression of the Falun Gong is one of the greatest human rights abuses of our time and will, undoubtedly, be marked as one of the darkest periods in modern Chinese history.

Congress has repeatedly spoken out against the repression of Falun Gong practitioners in China. The resolution before us today, however, focuses the spotlight on a new element of the Chinese Government's anti-Falun Gong campaign, the attempt to quash any support for Falun Gong in the United States.

Over the past 5 years, Chinese diplomats in the United States have engaged in a campaign of intimidation and pressure against Falun Gong practitioners here in the United States and those who advocate on their behalf. Apparently not satisfied with the brutal suppression of Falun Gong adherence in China, China has decided to export these repressive policies to the United States.

As the resolution notes, local officials in the United States have been pressured to vote against resolutions condemning the persecution of Falun Gong. Practitioners of Falun Gong in the United States have also been harassed and physically assaulted by individuals associated with Chinese diplomatic missions. Media organizations attempting to fairly cover the treatment of Falun Gong have been pressured by Chinese officials, particularly if their papers ran editorials critical of the Chinese Government.

Mr. Speaker, the Chinese Government's heavy-handed tactics against Falun Gong in the United States will backfire. As Americans see firsthand the extremes to which the Chinese Government will go to stop Falun Gong, sympathy for the plight of Falun Gong practitioners everywhere is sure to grow. Mr. Speaker, this resolution puts the Congress firmly on record against such pressure tactics, and I strongly support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. WOOLSEY), whose leadership on this issue is to be commended and who has worked in a bipartisan fashion with the gentlewoman from Florida to bring this resolution to the floor.

Ms. WOOLSEY. Mr. Speaker, I rise in strong support of H. Con. Res. 304, a resolution that condemns the harassment of Falun Gong practitioners in China and here in the United States. I first want to thank the gentlewoman from Florida (Ms. ROS-LEHTINEN), with whom I coauthored and introduced this important resolution in October of last year. I also want to thank the House leadership for allowing this important legislation to come to the House floor, and the gentlewoman from California (Ms. LEE) for yielding me this time.

Finally, I want to thank the loyal and dedicated Falun Gong practitioners who have diligently stopped by my offices over the last 2 years. It has been my pleasure to work with them on this issue.

Mr. Speaker, in April of 1999, 10,000 Falun Gong practitioners staged a peaceful demonstration in front of the Communist Party headquarters near Tiananmen Square. They protested China's oppressive regime. Of course, we are all familiar with the events that took place in Tiananmen Square in 1989, when thousands of individuals protesting the Chinese regime were brutally beaten and many killed, but China's abuses of Falun Gong practitioners both in China and here in the United States have not received the same attention.

China's rulers have condemned Falun Gong since the 1999 protest, calling this peaceful spiritual movement an evil cult, and embarking on an official campaign to eradicate the movement. China has imprisoned, tortured, and even murdered hundreds of people simply because they peacefully practice Falun Gong. Included among those who have been jailed and tortured are American citizens of Chinese descent.

Charles Lee, a California native, is one such victim. In the year 2003, he traveled to China to visit his extended family. Immediately upon stepping off the airplane, Charles Lee was arrested by Chinese officials. Despite the United States State Department appeals for his release, he has been jailed and tortured in a Chinese prison since his abduction.

Other American Falun Gong practitioners have been assaulted, robbed, and harassed right here in America. Miss Gail Rachlin, the Falun Gong spokeswoman in the United States, has had her New York apartment broken into not once, not twice, but five times over in the last 5 years; and it appears the break-ins have been by Chinese agents.

China's diplomats to the United States too have been actively involved in harassing and persecuting Falun Gong practitioners here in the United States. When San Francisco City Supervisor Chris Daly heard some of his constituents had been harassed by Chinese officials, he authored a resolution for the San Francisco Board condemning the persecution of Falun Gong members by the Chinese Government. In response, the Chinese Consul General in San Francisco sent Mr. Daly a harshly worded letter, claiming that Falun Gong undermines the normal social order in China and should be condemned.

The same experience has been repeated time and time again in dozens of cities across the country. A local official introduces a resolution in support of Falun Gong, and in response the Chinese consulate in the U.S. condemns that resolution as well as the local official who sponsored it.

Mr. Speaker, that is why H. Con. Res. 304 expresses the sense of Congress that the Government of the People's Republic of China immediately stop interfering in the exercise of religious and political freedoms within the United States, including the right to practice Falun Gong. This resolution also states that China immediately cease its harassment, detention, and torture of any individual exercising his or her legitimate rights to freedom of religion, freedom of expression, and freedom of association, as affirmed by the Constitution of the People's Republic of China.

The right to practice the religion or spiritual movement of one's choice is ingrained in the very fabric of the United States Constitution. That is why it is counter to what we stand for in our country that Chinese officials have persecuted Falun Gong practitioners and harassed local American officials right here in our country.

I urge all of my colleagues to support this important resolution. Send a strong message to China that we demand the proper treatment of both Americans and Chinese individuals who practice the Falun Gong spiritual movement.

Mr. SMITH of New Jersey. Mr. Speaker, I rise to urge passage of H. Con. Res. 304, expressing the sense of Congress that the Government of the People's Republic of China should cease its persecution of Falun Gong practitioners in the United States and in China. Ms. ROS-LEHTINEN, I commend you for introducing this legislation and for speaking out against human rights abuses throughout the world.

Members of Congress need to be aware of the brutal suppression of human rights and religious freedoms being carried out by the People's Republic of China. From forced abortion and labor camps, to the imprisonment and sometimes even execution of brave Chinese who dare to stand up for their faith or political beliefs, Hu Jintao's regime, like that of Jiang Zemin before, is one of the worst violators of human rights in the world.

While Christians, Tibetan Buddhists, and Muslim Uighurs are all being persecuted for the faith, the suffering of peaceful Falun Gong practitioners has been especially intense. In 1999, China's dictators launched a brutal campaign to completely eradicate Falun Gong from their country through whatever means necessary, claiming that Falun Gong was a threat to "social order" in China. The reason behind this campaign of brutality is clear: by the mid to late 1990s, the number of Falun Gong practitioners began to exceed the number of members of the Communist Party. Like all dictators and totalitarian terror systems, the PRC fears and hates what it cannot control. So it sought to destroy and intimidate those who practice Falun Gong. I would also note that the regime has labeled as "cults" and is now oppressing other groups with followings comparable to that of the Falun Gong, such as the Xiang Gong, Guo Gong, and Zhong Gong qigong groups.

Falun Gong is not a religion, per se, but rather more like a philosophy. Based on the principles of Truthfulness, Compassion, and Tolerance, Falun Gong uses a series of five physical and mental exercises to assist its members to purify themselves spiritually and peacefully resolve conflicts. Whatever one may say about the merits of their beliefs, the evidence is very clear that Falun Gong practitioners are peaceful individuals who want to be left alone to practice their beliefs as they see fit.

To carry out the task of smashing those who practice Falun Gong, the Beijing dictatorship created "610" offices throughout China to oversee and direct the persecution of Falun Gong through brainwashing, torture, and murder.

The State Department Human Rights Report for 2003 has several pages documenting the plight of the Falun Gong. We know at least 250 Falun Gong members have died as a result of torture thus far. For instance, in only a three-month period from June to August last year, more than 50 Falun Gong died in custody, many from torture in detention camps. Other estimates place the total body count higher. Bodies of the tortured victims are often cremated immediately to conceal evidence of torture. The report indicated that Falun Gong adherents sent to mental health institutions have been administered psychiatric drugs and electric shock treatments by Chinese authorities.

Several thousand Falun Gong practitioners—estimated at 125,000 or higher—are held in labor camps, prisons, and mental hospitals, where they are forced to endure torture brainwashing sessions. For example, in December 2003, Liu Chengjun, sentenced to 19 years in prison in March 2002 for involvement in illegal Falun Gong television broadcasts, was reportedly beaten to death by police in Jilin City Prison.

The government continues to find new ways to crack down on Falun Gong. Over the past year, the Government initiated a comprehensive effort to round up practitioners not already in custody and sanctioned the use of high-pressure tactics and mandatory anti-Falun Gong study sessions to force practitioners to renounce Falun Gong. Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend anti-Falun Gong classes or were sent directly to reeducation-through-labor camps, where in some cases, beatings and torture reportedly were used to force them to recant. These tactics reportedly resulted in large number of practitioners signing pledges to renounce the movement.

At the National People's Congress session in March, Premier Wen Jiabao's Government Work Report emphasized that the Government would "expand and deepen its battle against cults," including Falun Gong. Thousands of individuals were still undergoing criminal, administrative, and extrajudicial punishment for engaging in Falun Gong practices, admitting that they adhered to the teachings of Falun Gong, or refusing to criticize the organization or its founder.

During April to June 2003, the Government launched fresh accusations that Falun Gong practitioners were disrupting SARS-prevention efforts. State-run media claimed that, beginning in April, Falun Gong followers "incited public panic" and otherwise "sabotaged" anti-SARS efforts in many provinces by preaching that belief in Falun Gong will prevent persons from contracting SARS. Authorities detained hundreds of Falun Gong adherents on such charges, including 69 in Jiangsu Province during May and 180 in Hebei Province during June.

But Beijing is not confining its disgusting torture and brainwashing campaign to its own people. Chinese-American citizens and permanent residents are also victims. One American citizen, Dr. Charles Li, was arrested January 22, 2003 in China upon his arrival at an airport. A Falun Gong practitioner, the Chinese government alleges he attempted to sabotage television and radio equipment, even though he had just arrived in the country. Dr. Li has gone on continual hunger strikes to protest his arrest but been subject to forced feedings. There are reports that he is being subjected to brainwashing and anti-Falun Gong propaganda. At least 37 other Falun Gong practitioners who have family members that are residing in the U.S. are also in prison in China. Authorities also detained foreign Falun Gong practitioners from other countries. For example, in January 2003, two Australian citizens were deported for engaging in Falun Gong activities in Sichuan Province.

As my colleagues know, a sizeable number of Falun Gong practitioners reside here in the United States. They attempt to raise awareness about the horrors their fellow believers are subject to through meeting with government officials and through holding peaceful protests. Just this past August, Falun Gong members gathered on the Mall to pass out literature and inform Americans of the great suffering those in their faith are enduring. When Hu Jintao and other state leaders responsible for this purge are visiting foreign countries, Falun Gong members travel overseas to protest and raise awareness of the brutal persecution.

In response, China's persecution against the Falun Gong has moved outside of China's own borders. Large numbers of Falun Gong in the United States have reported to have been harassed. The FBI is currently investigating beatings of Falun Gong practitioners in Atlanta and Chicago. On June 23, 2003, Falun Gong practitioners in New York were harassed and physically violated by Chinese nationals associated with the consulate. Charges have been filed with the authorities. Li Li and some of her friends were involved with this incident.

Persecution of Falun Gong in China is horrific enough itself. The fact that China is now exporting its repression to weaker foreign nations under the guise of "safety" and "public order" is even worse. The cancer of China's repression is spreading all over the world. The PRC is not content to beat and torture and silence those inside its own borders. Now it is seeking to bully other nations into doing its bidding. When will this country wake up and stand up to this kind of nonsense?

I call upon all members of this body to support H. Con. Res. 304. I call on the administration to step up its efforts to speak up for the Falun Gong and out against the actions of the Chinese government immediately.

Mr. HOYER. Mr. Speaker, the U.S. State Department's 2004 International Religious Freedom report for China begins as follows: "During the period covered by this report, the Government's respect for freedom of religion and freedom of conscience remained poor, especially for many unregistered religious groups and spiritual movements such as the Falun Gong."

According to the report, the arrest, detention, and imprisonment of Falun Gong practitioners continued, and practitioners who refuse to recant their beliefs are sometimes subjected to harsh treatment in prisons and reeducation-through-labor camps and there have been credible reports of deaths due to torture and abuse.

Foreign observers estimate that half of the 250,000 officially recorded inmates in the country's reeducation-through-labor camps are Falun Gong adherents.

Falun Gong blends aspects of Taoism, Buddhism, and the meditation techniques and physical exercises of qigong (a traditional Chinese exercise discipline) with the teachings of Falun Gong leader Li Hongzhi. Despite its spiritual content, Falun Gong does not consider itself a religion and has no clergy or places of worship.

Mr. Speaker, this resolution calls upon the government of China to immediately end the harassment, detention, physical abuse, and imprisonment of individuals who are exercising their legitimate rights to freedom of religion, freedom of expression, and freedom of association as stated in the Constitution of the People's Republic of China.

The importance of this cannot be overstated—the protection of religious freedom is intimately connected to the protection of other fundamental human and civil rights, as well as to the growth of democracy.

A government that acknowledges and protects freedom of religion and conscience is one that understands the inherent and inviolable dignity of the human person, and is more likely to protect, the other rights fundamental to human dignity, such as freedom from arbitrary arrest or seizure, or freedom from torture and murder.

Mr. Speaker, this resolution sends an important message to the government of China that we will not look the other way when they violate the basic rights of their people, and that we demand of our partners in the international community the protection of the most basic human rights—freedom to worship freely.

Mr. PALLONE. Mr. Speaker, I would like to express my support for H. Con. Res. 304, a resolution honoring the tradition and practice of Falun Gong. As a cosponsor of this resolution, I urge my colleagues to vote yes on this important piece of legislation.

H. Con. Res. 304 calls on the Chinese Government to stop interfering with the religious and political rights of individuals in the United States to practice Falun Gong. The Chinese Government has gone so far as to spread falsehoods about Falun Gong and to harass, detain, abuse and imprison Falun Gong practitioners. The practitioners are simply exercising their legitimate right to freedom of religion and expression, and the actions of the Chinese Government conflict with international standards of freedom and human rights and must end immediately.

I have an admiration for the practitioners and adherents of Falun Gong and I am invested in the movement both in the United States and abroad. I remain committed to the task of making Falun Gong safe to practice in any country in the world. The members of Falun Gong are opposed by a Chinese government that unjustly views them as dissenters. This view is entirely without merit. In reality, Falun Gong is an inherently peaceful, apolitical movement that stresses nonviolence and meditation. Since Falun Gong was outlawed in 1999, hundreds of nonviolent practitioners have been arrested, tortured, libeled, and detained without charge or proof of any wrongdoing.

Sadly, the unwarranted and unprovoked aggression against Falun Gong has not ceased, nor is it limited to China. There have been unprovoked attacks in the United States and Falun Gong members have been subjected to a humiliating and denigrating blacklist.

One incident that I found particularly offensive took place in June 2003. Falun Gong members were attacked and beaten while holding a nonviolent protest in New York City. In an effort to end the discrimination that confronts Falun Gong practitioners, I wrote a letter to the Manhattan District Attorney, Robert Morgenthau, requesting an investigation of this case. I hope that justice prevails in this case.

With passage of H. Con. Res. 304, we can send a strong signal condemning China's human rights abuses and we can take one step closer to ensuring Falun Gong members the freedom of religion and assembly guaranteed to them by law.

Ms. LEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURPHY). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 304.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS REGARDING HUMANITARIAN ASSISTANCE TO COUNTRIES OF CARIBBEAN DEVASTATED BY HURRICANES CHARLEY, FRANCES, IVAN, AND JEANNE

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 496) expressing the sense of Congress with regard to providing humanitarian assistance to countries of the Caribbean devastated by Hurricanes Charley, Frances, Ivan, and Jeanne, as amended.

The Clerk read as follows:

H. CON. RES. 496

Whereas in May 2004, the National Oceanic and Atmospheric Association (NOAA) predicted that 2004 would be an above-normal Atlantic hurricane season;

Whereas from August to September 2004 Hurricanes Charley, Frances, Ivan, and Jeanne devastated countries of the Caribbean and the southern, midwestern, and eastern regions of the United States;

Whereas the people of the United States, who have encountered the harsh consequences of the recent hurricanes, can empathize with the countries of the Caribbean as they begin the recovery process;

Whereas Hurricane Frances displaced 800 people and destroyed 80 homes in the Bahamas;

Whereas Hurricane Frances caused an estimated $125,000,000 in damage to the islands of the Bahamas;

Whereas four hurricanes have struck the region within five weeks;

Whereas 90 percent of homes in Grenada sustained significant damage as a result of Hurricane Ivan;

Whereas the International Committee of the Red Cross estimates that 60,000 of the 95,000 inhabitants of Grenada were made homeless as a result of the devastation;

Whereas Hurricane Ivan is the worst natural disaster to hit Jamaica in 50 years;

Whereas an estimated 13,000 Jamaicans were displaced during Hurricane Ivan;

Whereas more than 60 people died and hundreds were injured as a result of Hurricanes Charley, Frances, and Ivan;

Whereas as a result of Hurricane Jeanne, at least 2,000 people have died in Haiti while it is estimated that another 1,000 people are currently missing;

Whereas many others have died in the Dominican Republic and Puerto Rico due to Hurricane Jeanne;

Whereas the United States Agency for International Development reports that there is flooding in more than 80 percent of Gonaives, Haiti, and more than 30 percent of Port-de-Paix, Haiti;

Whereas hurricane recovery assistance is being sought from the Caribbean-American community, the European Union, and Canada;

Whereas the financial burden of providing emergency and reconstruction assistance to the devastated countries is much greater than the Caribbean region can sustain by itself;

Whereas the cost of providing humanitarian emergency assistance to the countries of the Caribbean continues to increase with each natural disaster;

Whereas the cost of assisting Grenada, Jamaica, the Bahamas, the Dominican Republic, Haiti, and other island nations with reconstruction after the hurricane season of 2004 could exceed $250,000,000;

Whereas in addition to disaster relief, governments of the countries of the Caribbean are under pressure to secure their communities and prevent looters and other criminals from causing further harm to their citizens who are struggling to recover from the devastation caused by the hurricanes;

Whereas the United States Agency for International Development's Office of United States Foreign Disaster Assistance (OFDA) is coordinating with the Caribbean Disaster Emergency Response Agency (CDERA) and members of the Eastern Caribbean Donor Group (ECDG), including the Pan American Health Organization (PAHO), International Federation of Red Cross and Red Crescent Societies (IFRC), the United Nations Development Program (UNDP), and the Canadian International Development Agency (CIDA) to provide urgently needed food, potable water, temporary shelter, and other basic necessities;

Whereas multilateral development banks, such as the World Bank and the Inter-American Development Bank, and other international organizations, such as the United Nations and the Organization of American States, have joined the United States in providing urgently needed assistance to the countries of the Caribbean that have suffered the most from the effects of the hurricanes;

Whereas the damage caused by the hurricanes have demonstrated that proper building and housing codes that are consistently enforced significantly reduce the human and financial toll caused by natural disasters;

Whereas the Caribbean region is recognized as the third border of the United States and the economic turmoil caused by the hurricanes of August and September 2004 will have an effect on the United States; and

Whereas the countries of the Caribbean will need significant assistance from the international community for both relief and reconstruction efforts: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) commends the governments of the countries of the Caribbean for their efforts to respond and assist the people of the region after the devastation caused by Hurricanes Charley, Frances, Ivan, and Jeanne from August to September 2004;

(2) commends the efforts of the Caribbean-American community to provide relief to family and friends suffering in the region;

(3) supports the efforts of the United States Government to assist in coordinating international efforts to help the people of the region, particularly in Grenada, Jamaica, Haiti, and the Bahamas, with assessing damage and providing relief to affected communities;

(4) urges the international community to take all necessary steps to provide emergency relief and support reconstruction efforts; and

(5) urges the President, acting through the Administrator of the United States Agency for International Development to—

(A) continue to make available to private volunteer organizations, United Nations agencies, and regional institutions the necessary funding to mitigate the effects of the recent natural disasters that have devastated the countries of the Caribbean; and

(B) provide assistance for the promulgation and enforcement of housing and building codes in the countries of the Caribbean.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentlewoman from California (Ms. LEE) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H. Con. Res. 496, the concurrent resolution now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of House Concurrent Resolution 496, expressing the sense of Congress with regard to providing humanitarian assistance to the countries of the Caribbean devastated by Hurricanes Charley, Frances, Ivan, and Jeanne.

As a Member whose home State of Florida has experienced firsthand the fury of these hurricanes, my heart goes out to our neighbors in the Caribbean as they begin to rebuild their lives amidst the debris. Thus, at a time when hundreds of thousands of people across the Caribbean are coping with the destruction left by these four recent hurricanes, this resolution could not be more timely.

Mr. Speaker, I want to congratulate the gentlewoman from California (Ms. LEE) for introducing this measure, and I would like to thank our Subcommittee on the Western Hemisphere chairman, the gentleman from North Carolina (Mr. BALLENGER), as well as the gentleman from Illinois (Mr. HYDE), the gentleman from California (Mr. LANTOS), and our leadership for their efforts in helping to bring this resolution to the floor this evening.

Mr. Speaker, in August and September of this year, Hurricanes Charley, Frances, Ivan, and Jeanne swept over the Caribbean, battering the islands of Grenada, the Bahamas, Jamaica, the Caymans, Haiti, the Dominican Republic, Cuba, and other smaller islands. In their wake, they left nearly 2,000 dead, many thousands more injured and hundreds of thousands homeless. The cost in lost homes and property has yet to be tallied, but in many of these places the destruction has been near total.

While the humanitarian response has been immediate, a long-term recovery plan is needed to prevent further suffering. I would like to commend the administration for immediately dispatching to the Caribbean emergency relief teams from USAID and the Office of Foreign Disaster Assistance. Through their efforts, humanitarian relief supplies have been reaching the affected areas and the many who are now suffering. As we speak, the Bush administration is preparing a recovery package which will likely be included in an emergency supplemental appropriations bill that is expected on the floor at a future date.

But this is only the beginning. As with the recovery and the reconstruction of our own communities in those States ravaged or affected by these hurricanes, the full magnitude of the situation and the total need will not become clear for weeks to come. However, our friends and neighbors in the Caribbean need our help now. It is, therefore, my hope that this resolution will pass the House, as I believe it serves as an official call to action to help relieve the suffering caused by these recent hurricanes. Therefore, I urge my colleagues to vote in favor of this important resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. LEE. Mr. Speaker, I yield myself such time as I may consume.

I want to begin by thanking the gentlewoman from Florida, also our ranking member, the gentleman from California (Mr. LANTOS), the gentleman from Illinois (Mr. HYDE), along with my colleagues on this side of the aisle and on the other side of the aisle, including the gentleman from North Carolina (Mr. BALLENGER), for their support and for their commitment to make sure that this important resolution moves off of this floor tonight.

I also want to thank our staff, Paul Oostburg, Ted Brennan, Caleb McCarry, also Khalil Munir and Jamila Thompson of my staff, who all worked very, very hard, very diligently, and very quickly to craft this bill before us today.

Mr. Speaker, this is a bipartisan resolution; and it is a very minor, very small resolution in terms of the enormity of the disaster that it is addressing, but it is a resolution that expresses the need for humanitarian assistance to hurricane-ravaged Caribbean countries. H. Con. Res. 496 acknowledges the hardship endured by all Caribbean islands, it recognizes the international response to the tragedy, and it outlines the need for relief and reconstruction efforts throughout the affected areas.

Americans, all of us, especially Floridians and Californians, know firsthand the suffering experienced by natural disasters: hurricanes, fires, tornadoes and earthquakes. For weeks, we have watched the devastation throughout the region in Grenada, the Bahamas, Jamaica, Haiti, St. Vincent, St. Lucia, and Barbados, just to mention a few of the affected countries.

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Four hurricanes struck within 5 weeks. Over 440,000 individuals were displaced. This is hard to even imagine.

Mr. Speaker, we need to step up and lend a helping hand. We cannot sit back and wait as people suffer in Florida and in the Caribbean. I understand that the administration has proposed $50 million in emergency spending for relief to the region, and I must say that that is a good, small, very small, step for a start. But we know that much more will be needed to help the entire region.

In Grenada, the hardest hit island by Hurricane Ivan, the land is barren. Countless homes are destroyed, and schools will not open until 2005. What is going to happen to the young people of Grenada who need and want to go to school? The Grenadian Ambassador, the Honorable Dennis Antoine, shared with me the devastation to his country. Ivan the Terrible caused, he said, "The total destruction of the police headquarters, the official residence of both the governor general and the prime minister, parliament house, schools, churches, roads, bridges, one of two hospitals, the airport tower and the national stadium. More than 70 percent of the population is virtually homeless, and there is in excess of 60,000 persons needing relief."

Stories were similar in the Bahamas where all 29 of the inhabited islands felt the impact of Hurricane Frances. A few weeks later, Hurricane Jeanne assaulted Grand Bahama and Abaco where the flood waters were just receding. In Jamaica, the largest English-speaking Caribbean country, 18,000 people were displaced by Hurricane Ivan. Many other Caribbean countries affected by the storms have remained so focused on assisting their neighbors that they have not even had the chance to fully assess their own damage. However, the preliminary estimates for damages in St. Vincent and the Grenadines, a country that sustained lesser harm, is more than their government's annual budget.

For the Bahamas and Grenada, the damage cost total is more than $1 billion, but we must remember that more than 15 islands throughout the region were affected. Throughout the Caribbean, primary crops, such as bananas, nutmeg, cocoa and sugar are just totally destroyed. Clearly, Caribbean economies are simply overwhelmed. There is a Haitian saying that an empty sack cannot stand up. More than 2,000 Haitians lost their lives. Hundreds remain missing. My heart breaks for those suffering and struggling. The Haitian people are resilient people, but we must help.

Tropical Storm Jeanne was not even a category 1 hurricane when it demolished the Haitian towns of Gonaives and Port de Paix. It exemplifies how even the smallest natural disasters wreak havoc on the poorest people. In Haiti's flood-torn cities, children sleep on tin roofs because flood waters have still not subsided. Gunshots are heard in darkness as thieves and thugs continue to steal from the people and cheat them of their chance for protection and peace. Men and women dig mass graves, scrambling to identify the bodies of lost loved ones. And the government cannot even provide security to distribute emergency supplies.

We need to join the efforts of the international community and show support for all the affected countries. The Caribbean-American community and neighboring Caribbean nations responded to the calls of assisting the hardest hit countries immediately. Across our borders, churches, nonprofit organizations, businesses and activists have rushed to support the entire region. Although the United States Agency for International Development assisted in some relief efforts, the United States Government can, we must, do more. We must work with other donors and Caribbean countries to plan and support the relief and reconstruction effort.

Our third border is in great need and the United States needs to show our support for the entire region. Again, I want to thank my colleagues for supporting this effort. Again, this is a very good first start. I look forward to working with our appropriators, including our colleague from Detroit, Michigan (Ms. KILPATRICK), who has been a tremendous advocate for the region, in order to obtain adequate emergency funding for the more than 15 Caribbean countries devastated by these hurricanes. Time is of the essence, Mr. Speaker.

Mr. Speaker, I yield 4 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) who is a leader not only in the Virgin Islands but for the entire Caribbean region who knows firsthand and has experienced firsthand the devastation of natural disasters.

Mrs. CHRISTENSEN. I thank the gentlewoman for yielding me this time.

Mr. Speaker, I am a cosponsor of House Concurrent Resolution 496, and I rise in strong support of the resolution which calls on Congress to support badly and immediately needed humanitarian assistance to the Caribbean countries which were devastated by the recent hurricanes, as we provide aid to the people of Florida; and our hearts go out to them as well.

Mr. Speaker, Hurricanes Charley, Frances, Gaston, Ivan and Tropical Storm Jeanne have caused widespread damage in large numbers of our neighboring Caribbean countries. We have seen the tragedy in Haiti where Hurricane Jeanne resulted in more than 2,000 deaths, many more still missing and over a quarter of a million people homeless. In Grenada, Hurricane Ivan destroyed 78 percent of the island's electrical system and homes as well as hospitals, schools and their spice industry. And Hurricane Frances has caused an estimated $125 million in damage to the islands of the Bahamas. More than 440,000 individuals have been displaced throughout the region.

These storms left a path of destruction across a region that is our third border and which was already stressed and whose economies were already heavily burdened in part by our own homeland security needs. They do not have the capacity to respond. These countries, which include six of the top ten most indebted countries in the world, are in desperate need of our assistance for everything, emergency health services, water, shelter, food and infrastructure.

To put the situation into perspective, the U.N.'s Office For the Coordination of Humanitarian Affairs in an October 1 report pointed out that Grenada, one of the smallest countries in the western hemisphere, bases its economy on tourism and agriculture and imports most of the food that it consumes. The majority of the island's 102,000 inhabitants make their living out of these two vital sectors which were severely hit by Hurricane Ivan. The negative impact of the disaster has been enormous at all levels and in all sectors, disrupting the livelihood of every single Grenadian and causing serious damage to the backbone of the country's economy.

Mr. Speaker, President Bush and the administration have announced they will provide $50 million to assist the region, specifically Haiti, Jamaica and Grenada, with small amounts for the Bahamas, Trinidad and Tobago, and St. Vincent and the Grenadines. That is not enough. Much more will be needed to help the entire region. Because so many of the economies of the countries in the region have been severely damaged because vital income-producing crops were destroyed, and replanting and new seeding processes will not yield salable produce for several years, the members of the Congressional Black Caucus have called for an appropriation of $500 million for reinforcement and alternative economic development.

Mr. Speaker, my district is part of the region. We know the devastation of hurricanes, not only to the physical structures but to the emotions and to the families, and the difficulty of recovery. Even with the strong and resilient spirit of the people of the Caribbean, things are very, very difficult today.

I join my colleagues in urging this body to support the adoption of this resolution as well as our request for additional funding for the region.

Ms. LEE. Mr. Speaker, I want to thank the gentlewoman from the Virgin Islands for that very powerful statement and for laying out what is at stake and the reality of life during these very tragic times for those in the Caribbean region.

Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. WATERS) whose commitment to the Caribbean is longstanding and unwavering.

Ms. WATERS. Mr. Speaker, I thank the gentlewoman from California for helping to organize us to be able to address this most important issue this evening.

I rise in support of H. Con. Res. 496, a resolution that simply supports humanitarian assistance to countries of the Caribbean devastated by Hurricanes Charley, Frances, Ivan and Jeanne. The recent hurricanes have had devastating impacts on several Caribbean nations. In Grenada, Hurricane Ivan destroyed 90 percent of the homes and 78 percent of the electrical system, as well as numerous government buildings, hospitals, schools and churches. Approximately 60,000 of the island's 95,000 inhabitants were left homeless. In Jamaica, 18,000 people were displaced by Hurricane Ivan, which was the worst natural disaster to hit Jamaica in 50 years. The Bahamas incurred an estimated $125 million in damage as a result of Hurricanes Frances and Jeanne. In Haiti, Hurricane Jeanne caused extensive flooding and left 300,000 people homeless. More than 1,500 Haitians were killed, and another 900 are still missing. Thousands of people are in desperate need of food, clean water, emergency shelter and medical care. Relief efforts continue to be hampered by water and mud covering the main roads, and stagnant waters have given rise to a large mosquito population that could lead to a malaria epidemic.

The nations of the Caribbean are small island nations that do not have the capacity to respond to the widespread death and destruction caused by hurricanes of this magnitude. Immediate assistance from the United States is critical to enable these countries to meet the emergency needs of their people and begin to rebuild damaged homes and infrastructure.

I am thankful that the President did show some concern, and he proposed $50 million in supplemental appropriations to cover disaster relief for the nations of the Caribbean that have been devastated by hurricanes and tropical storms. But it is a very small amount, and it cannot begin to meet the tremendous needs of thousands of Haitians, let alone the needs of our other Caribbean neighbors. The affected countries and territories include Bahamas, Barbados, the Cayman Islands, Dominican Republic, Grenada, Haiti, Jamaica, St. Lucia, Puerto Rico, St. Vincent, the Grenadines, Trinidad, Tobago, the Turks and Caicos, even Venezuela, Cuba, the U.S. Virgin Islands, have all felt the devastation of these hurricanes. So we need a lot more to respond to this terrible devastation.

Even though the President has proposed $50 million in supplemental appropriations, it is a small amount, and it cannot begin to meet the tremendous needs of thousands of Haitians, let alone the needs of all of these other countries. The Congressional Black Caucus is on record now in asking the President for at least $500 million in disaster relief to mount an effective response. Of course, I would urge my colleagues to vote for H. Con. Res. 496. I would also urge my colleagues to provide a supplemental appropriation of at least $500 million in disaster assistance to help our Caribbean neighbors rebuild their homes and their lives after these unprecedented storms. This resolution does not have that amount in it, and we know that we must do the work with the Appropriations Committee, but this is a resolution that would give recognition to this tremendous devastation that has taken place and squarely place us on record in wanting to respond to it.

I am very thankful for the opportunity to share with the gentlewoman from California this concern as we demonstrate through this resolution.

Mr. BALLENGER. Mr. Speaker, I am a cosponsor of H. Con. Res. 496. I fully support helping to relieve the suffering of people in the Caribbean. The news reports of the death and destruction in Haiti, Greneda and elsewhere in the Caribbean is just terrible. We all want to reach out and help our neighbors who are suffering.

USAID's Office of Foreign Disaster Assistance has been on the ground distributing emergency aid since just after these storms hit. The $50 million aid package proposed by the Administration is, by all measures, a good start.

But, it should not be considered an end to U.S. assistance. The current proposal represents what the Administration believes can be spent in the first year. By way of comparison, $52 million was expended during the first year of implementing disaster reconstruction after Hurricane Mitch hit in 1999. I expect to see more aid going to the Caribbean in subsequent years.

Mr. Speaker, while I believe that $50 million is not sufficient to meet the needs of the Caribbean in the long term, I do believe it is enough to meet the immediate needs of those nations hardest hit. To meet the long term needs of these countries, I would support an effort to provide additional reconstruction funds. Although I am retiring, I am willing to work with my colleagues to secure long term assistance for the Caribbean nations before I go. I hope that my colleagues here tonight will join me in this area.

I thank my colleague from California for bringing this important resolution recognizing the terrible suffering inflicted on the Caribbean by the same hurricanes that did so much damage to our own country. I urge my colleagues to support this resolution.

Mrs. JONES of Ohio. Mr. Speaker, I rise in support of H. Con. Res. 496, a bi-partisan effort urging that Congress support humanitarian assistance to Caribbean countries devastated by the recent hurricanes.

Four hurricanes—Charley, Frances, Ivan and Jeanne—hit the region within five weeks. The affected countries and territories include the Bahamas, Barbados, the Cayman Islands, Cuba, the Dominican Republic, Grenada, Haiti, Jamaica, St. Lucia, Puerto Rico, St. Vincent and the Grenadines, Trinidad and Tobago, the Turks and Caicos, Venezuela, and the U.S. Virgin Islands, but the burden is felt by all. More than 440,000 individuals displaced throughout the region.

Tropical Storm Jeanne killed more than 2,000 people in Haiti, and hundreds remain missing. Men and women dig mass graves, scrambling to identify the bodies of lost loved ones. An estimated 300,000 people remain homeless as a result of the floods.

With eight weeks left to the 2004 Atlantic Hurricane season, the Caribbean Disaster Emergency Response Agency (CDERA) is urging the Caribbean to remain vigilant. The call comes against the background of an updated hurricane season forecast yesterday which calls for three more storms and two hurricanes this month with a 33 percent chance of a land falling storm and 17 percent chance of a land falling hurricane.

The Administration announced providing $50 million to assist the region—specifically Haiti, Jamaica, and Grenada with small amounts for the Bahamas, Trinidad and Tobago, and St. Vincent and the Grenadines. this is a good start, but much more will be needed to help the entire region.

Mr. Speaker, I rise to reiterate my support for H. Con. Res. 496 and urge the Administration to provide even more aid to assist the region.

Ms. LEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURPHY). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 496, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

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SPECIAL ORDERS

The SPEAKER pro tempore (Mr. MURPHY). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE JUDGES OF MADISON COUNTY, PART THREE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. NORWOOD) is recognized for 5 minutes.

Mr. NORWOOD. Mr. Speaker, tonight is part three on the judges of Madison County, Illinois. As I promised last week, I am back on the floor tonight to talk about a place that has the dubious distinction of being America's number one "judicial hellhole," Madison County, Illinois.

Mr. Speaker, they do not give out awards like the number one "judicial hellhole" from the American Tort Reform Association to just anyone. No, sir, only a court that continually misapplies civil laws, regularly violates fundamental constitutional rights of defendants, and caters to the interests of opportunistic trial lawyers can get a recognition like that. Sadly, Mr. Speaker the Circuit Court of Madison County, Illinois, got this distinction the old-fashioned way; they earned it.

Tonight, Mr. Speaker, I want to continue a story I started last week on one of the ways they earned this awful award by trashing someone's first amendment rights. I stood on the floor last week, and I told the Members about the former Attorney General and U.S. Court of Appeals Judge Griffin Bell and his experience with Madison County. I told the Members that, at a public forum in April of this year, Judge Bell said that counties like Madison County are a serious "stain on our system," meaning the judicial system. I also told the Members that Judge Bell called for an investigation into the administration of civil justice in Madison County. I finally told the Members, Mr. Speaker, that the wrath of the "judicial hellhole" was felt the very next day when Judge Bell and his firm were barred from appearing in their courtroom. But as Paul Harvey might say, what I did not tell the Members, Mr. Speaker, was the "rest of the story."

Hold on to your hat, Mr. Speaker, because, not long after that outrageous act by the Madison County Court, the St. Louis Post-Dispatch reported that a Madison County judge closed his courtroom to report his warning to cover a hearing about a fee dispute between prominent local trial lawyers. See, Mr. Speaker, as it turns out, the hearing was likely to include arguments over the lawyers' share of fees stemming from a very large class-action settlement, and for once, dollar amounts would likely be released regarding the sizable sums of money that these greedy trial lawyers stood to pocket.

So what happened? Well, you guessed it. The Madison County judge simply refused public access to the transcripts and exhibits from that hearing. Yet, once again, free speech lost, and trial lawyers won.

Mr. Speaker, the message from Madison County Circuit Court judges is simple: We have absolutely no respect for the first amendment. Folks speaking out against our brand of civil injustice should expect intimidation and retaliation, and finally, when court is in session, no one is safe unless of course he is of their trial lawyers.

Mr. Speaker, last month, I wrote a letter to U.S. Attorney General Ashcroft asking him to formally investigate the judicial hijinks taking place in Madison County, Illinois. To my surprise, one of the Madison County trial lawyers, a Mr. Randall Bono, took time to ask in a local newspaper, why in the world would someone from Georgia "have an interest" in Madison County?

Mr. Speaker, that is pretty easy. When sleazy trial lawyers like Randall Bono retire when they are 42 years old, because they have pocketed millions of dollars through frivolous lawsuits, when a local court decides to hear cases from around the country it has no business hearing, when the local judicial system stops being a public trust and becomes a private trough for greedy trial lawyers like Randall Bono, when these and countless other injustices are allowed to continue anywhere in this great Nation, it is not a local issue, Mr. Speaker; it is a national issue. And this Congressman from Georgia, for one, has had enough.

Mr. Speaker, let me make this loud and clear to trial lawyers like Randall Bono and corrupt judges of Madison County: They may try to hush up, but I am coming after them, and I cannot and I will not be intimidated on these issues.

SMART SECURITY AND DISABLED VETERANS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, the Bush administration is shamefully neglecting the men and women who serve in the United States Military, even as they return home from a war in Iraq, having lost arms, legs, other parts of their bodies, to suffer forever from other physical or mental disabilities such as post-traumatic stress disorder.

In August of 2003, when I spent some time at Bethesda Naval Hospital where I was recuperating from back surgery, we were faced with and I met with the wounded soldiers because I visited them while I was in the hospital, the wounded, who had come home forever changed by the war in Iraq. Meeting with these soldiers and their families and seeing their injuries gave me a firsthand look at the true horrors of war. I became more committed than ever that our government should cover all the expenses of any injury that results from war. But that is just not happening.

The disability benefits and health care system that currently assists 5 million American servicemen and women has become so overburdened by the addition of over 26,000 wounded soldiers from the wars in Iraq and Afghanistan, is now woefully incapable of providing the benefits and services that were promised before those individuals went to war. Currently, there is a backlog of more than 300,000, and let me say it again, 300,000 service-related claims, and that number is increasing every single day. And since President Bush shamefully relied on thousands of National Guard and Army Reserve soldiers to fight in Iraq, these veterans now deserve veterans benefits, too. It is only appropriate.

Just as President Bush failed utterly in his planning of the Iraq War, he also failed utterly in planning how the Veterans' Administration system would address the hundreds of thousands of soldiers returning from that war. The cowboy mentality of the Bush administration is quite clear: Shoot first, ask questions later, even if asking those questions could have saved lives.

Worst of all, some of our soldiers still are not getting the necessary equipment that can save their lives: the advanced body armor that is capable of stopping bullets from assault rifles; armor for tanks to prevent the destruction of U.S. military convoys; and the water equipment to keep them hydrated in the scorching desert heat. Parents are sending that equipment to their kids, buying it here and sending it to them.

The failure to give this equipment to each and every soldier is particularly shameful considering that, last November, Congress passed legislation to fund the war effort to the tune of $87 billion. That is on top of the $78 billion in supplemental funds that was appropriated in March of 2003. Yet reports show that billions of those dollars are being misused, misappropriated and even stolen in Iraq.

And, now, the President plans to reprogram $3.4 billion of last year's $18.4 billion supplemental, using it for military purposes instead of for Iraq's reconstruction. So, now, we are forced to pilfer money that was supposed to pay for infrastructure needs for the Iraqi people.

How many more soldiers have to have their limbs shot off before this administration will wake up? How many more soldiers have to die for a President's mistake? There has to be a better way. There has to be a better way than this, and we must fully support the thousands of soldiers who sacrifice to serve and protect America.

That is why I have introduced H. Con. Res. 392, a SMART security platform for the 21st Century. SMART stands for Sensible, Multilateral, American Response to Terrorism. SMART security treats war as an absolute last resort. It fights terrorism with stronger intelligence and multilateral partnerships, and it controls the spread of weapons of mass destruction with aggressive diplomacy, strong regional security arrangements and vigorous inspection regimes. SMART security means equipping our troops with the tools that are essential to their survival and then helping them with proper health care once they get home. But the hawkish Bush administration, which quickly led this country to war, is failing in helping men and women in uniform when they get out of war.

EXCHANGE OF SPECIAL ORDER TIME

Mr. WELDON of Florida. Mr. Speaker, I ask unanimous consent to take the Special Order time of the gentleman from Oklahoma (Mr. COLE).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

STEM CELL RESEARCH

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Florida. Mr. Speaker, I come from the Sunshine State of Florida, and I rise tonight to shed a little sunshine, speak out some truth regarding the facts on stem cell research and specifically President Bush's position on stem cell research. And I would like to highlight some of the inaccuracies, misstatements and lack of candor that is coming from presidential candidate JOHN KERRY.

Senator KERRY's statements are notable for their sweeping inaccuracy. And as a physician who has formerly and still does take care of patients suffering from diseases like Alzheimer's and diabetes mellitus, I am very concerned that these statements are creating a false hope on the part of many people who suffer from these conditions. And, further, I am very disturbed by the fact that it appears as though the Senator is trying to exploit their suffering for his own personal political gain.

Senator KERRY has repeatedly stated that he intends to lift the Bush ban on stem cell research. What he does not tell us is that there is no Bush ban on stem cell research. Indeed, just this past year, under the Bush administration, some $300 million has been spent on adult stem cell research, and on embryonic stem cell research, there has been about $35 million spent. The facts are simple, and they are basically this: This body, the Congress of the United States, passed a ban on Federal dollars being used for research that involves the destruction of a human embryo.

□ 2045

Interestingly, Senator KERRY has voted for that, it is in the Labor, Health and Human Services bill, and he has voted for it I understand repeatedly; and that is where the ban is. It is actually in a bill this body passed and that Presidential candidate JOHN KERRY actually voted for. He is now criticizing President Bush for something that he actually voted for.

So what is the truth? What is really going on? Well, this body voted for no funding on any research that involves the destruction of a human embryo. When you do embryonic stem cell research in humans, you have to destroy a human embryo in order to do that research. You have to take stem cells out of that embryo and, in the process of doing that, you destroy it. This is not illegal in the United States. It is perfectly legal to do it. The debate is exclusively over Federal funding of it.

Now, what President Clinton did is he played a very clever game around the intent of the law. He allowed these embryos to be destroyed in outside labs, and then the embryonic stem cells were shipped over to the NIH and he allowed Federal funding to be used for that.

I, along with others, felt that President Clinton was violating the law when he was doing that. And we asked him to stop, and he did not. Ultimately, George Bush came into office, and this was one of the first significant biomedical issues that the Bush administration had to wrestle with, and the decision was made that they would stop doing that. They would essentially stop being complicit in violation of the law and they would comply with the law.

So what is exactly the controversy here, you might say? Stem cell research, embryo stem cell research, what exactly is going on is very, very simple. We have been using adult stem cells, and adult stem cells are stem cells from our own bodies, in treating people with diseases for years and years and years and years.

I have in this chart next to me on my left an example of a person who had bad rheumatoid arthritis, and this is something we call a rheumatoid nodule. They were treated with adult stem cells, and you can see in this photo that nodule clears up, the rheumatoid arthritis goes away.

This is another chart of the same person. It may be a little bit hard to see, but this is before the treatment, the joints were very inflamed and red. You can see a nodule here on the thumb. Then after an adult stem cell treatment, it all clears up.

There are some people who feel that these embryonic stem cells will be better at this kind of treatment, but it has never been done. Nobody has ever taken an embryonic stem cell and treated a human being for anything.

What I believe Senator KERRY wants is he wants Federal dollars to be used for embryonic stem cell research in humans, even though it has never even been successfully done in animals. I think this is the wrong thing to do, and I think Mr. KERRY needs to retract some of these misstatements that he has been making.

GREAT VICTORY FOR FARM LABOR ORGANIZING COMMITTEE IN REACHING LABOR AGREEMENT

The SPEAKER pro tempore (Mr. MURPHY). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I am proud to speak this evening on behalf of the people of our congressional district in Ohio. All Members like to rise when something really significant has happened, and I come from a part of America, northern Ohio, that has always fought for the betterment of the working conditions of people, across our region, across our State, across our country, and indeed across the world.

This past week, and I will place the article in the RECORD, something truly historic has occurred, something that deserves mention in the CONGRESSIONAL RECORD of our Nation, and that is the great victory by the Farm Labor Organizing Committee of Northwest Ohio and its magnificent leader, Baldemar Velasquez, in achieving the first labor agreement on behalf of thousands and thousands of migrant workers across this continent, for the first time giving them the ability to earn a decent wage, to have decent working conditions, and to contract for their labor, to begin to get rid of the corruption that surrounds individuals who move around this continent, exploiting people and forcing them to pay bounty if they want to go back to their nation, forcing them to pay a bounty if they want a job, and then ignore them, ignore their welfare when they are working with no rights at all.

Every year, 9 million people come to the United States of America, most of them illegally, to work in our fields, picking blueberries, cutting cabbage, working in meat plants, working in food processing facilities with absolutely everybody sort of closing their eyes to their welfare, everybody making money off their backs, and yet those workers having no standing.

This past week, through this incredible agreement, the Farm Labor Organizing Committee has finally given the most exploited people on this continent the first platform to stand on. I could not be prouder to represent any group of people than this group.

I can remember as a young college graduate coming back to my community in Ohio and wearing a button that said FLOC, the Farm Labor Organizing Committee, and it had the words "viva la causa," long live the cause. Indeed the cause has finally been victorious across this great continent.

This contract that the workers have gotten will cover over 8,000 workers, dozens of growers, and hopefully begin to ameliorate the terrible conditions forced on workers on this continent because of NAFTA, all that came before it and the worsening conditions that came after, as millions of Mexican farmers were thrown off their land and became a mobile group of people across this continent with no place to live, no decent wages, coming into our market, trafficked by among the most despicable people that have ever lived.

I am just so proud of the Farm Labor Organizing Committee. This is the first contract for guest workers in our Nation's history, in Mexico's history, and, indeed, in Latin America's history.

What will happen is that workers will receive a decent wage, not terrific for working in the hot sun 12 hours a day, $8.06 an hour, for the backbreaking work they do. It has been covered in articles in the Toledo Blade which reported this front page story: "Pact to affect 8,000 migrants."

The pact was signed in North Carolina after a several-year boycott of the second-largest pickling company in our country called Mt. Olive Pickle. It talks about FLOC's 35 years of struggle to provide migrant workers with better working conditions and fair wages. Initially, the contracts were signed locally in our region of Ohio with companies like Campbell's Soup and Vlasic Pickle, but finally it has expanded to other parts of the country where workers will now be paid $8.06 an hour, a federally set minimum wage rate for what are called H2-A workers, the workers that do come into our country. But again I say, so many are illegally trafficked by unscrupulous labor barons they call "coyotes." And workers could earn up to $12 an hour on piecework. So it provides for people who have the ability to work harder to be paid more.

Undocumented workers who are under control of unscrupulous smugglers and farm labor contractors, this provides the ability, finally, to get rid of those terrible, terrible individuals.

Mr. Speaker, I could not be prouder than to come to this floor this evening and congratulate Baldemar Velasquez and the Farm Labor Organizing Committee for building a better world.

Mr. Speaker, I include for the RECORD the article from the Toledo Blade.

PACT TO AFFECT 8,000 MIGRANTS

(By Jon Chavez)

In what would be its first major organizing victory outside Ohio and Michigan, the Toledo-based Farm Labor Organizing Committee today is expected to sign a three-way labor agreement in North Carolina with Mt. Olive Pickle Co. Inc., which has been the subject of a FLOC boycott since 1999.

At a ceremony in Raleigh, N.C., this morning, FLOC officials said they will sign a three-year labor pact with the North Carolina Growers Association, of Vass, N.C., which represents about 1,050 farms that raise 27 different crops ranging from cucumbers to tobacco, and a related agreement with Mt. Olive.

It's a marked change in business in mostly nonunion North Carolina. The contracts will cover the most union workers in the state, and FLOC will be its largest labor organization.

Covered by the agreements will be nearly 8,000 migrant workers who travel from Mexico to North Carolina, numbers that will more than double FLOC's membership rolls.

Baldemar Velasquez, president of FLOC, was ecstatic yesterday. "I knew eventually they would have to do something. I just never knew the timing would be this soon," he told The Blade.

Lynn Williams, a spokesman for Mt. Olive, said the company would not comment until the contract is signed.

How individual farmers feel is unclear. They can choose to opt out of the association, which a party to the contract. But how those growers would be affected is uncertain.

The agreements cover migrants who harvest crops and work with visas issued under a U.S. Department of Labor program called H-2A. The growers association helps place H-2A workers at various farms as needed.

The pacts will provide the workers with specific wage rates for either hourly work or for how much is picked (depending on the crop), a formal procedure to address grievances, and third-party verification to ensure all parties are living up to the agreement.

FLOC was born in the fields of northwest Ohio nearly 35 years ago as a means to provide migrant workers with better working conditions and fair wages. Initially, it reached contracts with individual growers but became a formidable force in the industry when it reached an agreement in 1986 with Campbell Soup Co. and its subsidiary, Vlasic Pickle, and a group of growers to improve wages and working conditions.

The agreements in North Carolina follow a similar arrangement and similarly occurred after years of public boycotts and pressure tactics by the farm union.

In FLOC's agreement with Mt. Olive Pickle, the nation's second-largest pickle firm, the Mount Olive, N.C., company endorses the separate contract between the union and growers association and it provides economic incentives for the deal to occur.

Mr. Velasquez said that about 60 cucumber growers will get a 10 percent price increase for their crops they supply to Mt. Olive. That increase will be passed along in the form of wage increases for the 800 to 1,000 workers who work for those growers.

Those workers are paid $8.06 an hour, a federally set minimum wage rate for H-2A workers. Under the new pact, which raises pay rates, workers could earn up to $12 an hour. "It depends, but a good picker could earn that," Mr. Velasquez said.

Growers do not have to participate in the contract. However, those who remain in the association will be covered by the agreement and receive the crop price increases, said Stan Eury, director of the growers association.

The agreements do not prohibit farmers who are not part of the association from supplying Mt. Olive Pickle. At least a few suppliers now do not belong to the association.

David Rose, a sweet-potato and tobacco farmer from Nashville, N.C., said there have been rumors for months that a farm labor contract was in the works. He declined to say how many farmers might leave the association.

Still, Mr. Rose, of JB Rose Farms Inc., said the labor agreements likely will have an impact on all farmers.

The key provisions of the contracts were not necessarily wages.

Workers frequently complained of abuses by growers but were fearful to report them because they might be blacklisted and later denied a work visa, Mr. Velasquez said. The agreements provide a list of worker rights, including a hiring seniority system that the union will administer through a work office to be set up in Mexico.

"The pact goes from Mexico all the way to Ohio, so that will eliminate debate around blacklisting of workers," Mr. Velasquez said. "They'll be union members by the time they enter the U.S."

For the growers, there is a formal grievance system and third-party inspections to verify compliance, which should protect the farmers' image if they are treating their workers right, he said.

"The worst part of it for them is the terrible negative image that comes with these issues," the Toledo labor leader said. "They don't like the publicity."

In a statement, Mr. Eury agreed that credibility is important.

"Unfortunately the lines have been blurred between the treatment of H-2A foreign guest-workers and undocumented workers who are under control of unscrupulous smugglers and farm labor contractors," the statement said. "Our industry is continually judged as a whole by the misdeeds of a few."

The three parties began negotiating about six weeks ago at the behest of Mt. Olive, Mr. Velasquez said. The first hint became publicly known last month when FLOC said a large growers' association agreed to not meddle in the union's organizing activity.

After reaching agreement on key principles, details of the pact were worked out in about a week, Mr. Velasquez said.

Both Mt. Olive and the growers researched FLOC's previous labor agreements with growers for Campbell and Vlasic.

"They studied it and told us they could live with it," Mr. Velasquez said. "They had also called some growers in Ohio to see how it had worked up there. The growers gave them some positive feedback."

INFLUX OF WOUNDED STRAINS VA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, I rise tonight to talk about a matter that is of very grave importance to the veterans of our country. I am referring to an article that was in The Washington Post this past Sunday. The article mentioned that thousands of U.S. troops are now returning to this country from Iraq and Afghanistan with physical injuries and mental health problems. They are encountering a VA benefit system that is already overburdened, and officials and veterans groups are concerned that the challenge could grow as this Nation remains at war.

Currently, we have had well over 1,000 of our soldiers killed in Iraq, and we have had 6,000 to 7,000 of our soldiers seriously injured. Many of those soldiers have lost limbs, they have been blinded, they have sustained brain injuries and terrible disfigurements. Many of those injuries are occurring as the result of roadside bombs which explode as these soldiers are out on patrol.

The disability benefits and health care system, as noted in The Washington Post article, this system that provides services for about 5 million American veterans, has been overloaded for decades. We know that. The current backlog consists of more than 300,000 claims. That is 300,000 of our veterans who are waiting to get their claims adjudicated.

Mr. Speaker, because we have mobilized so many of our Reservists and National Guard persons to fight in Iraq and Afghanistan, nearly 150,000 have become eligible for health care and VA benefits as of August 1, and that number is rising. But this is the alarming information that is contained in The Washington Post article.

It says: "At the same time, President Bush's budget for 2005 calls for cutting of the Department of Veterans Affairs staff that handles benefit claims, and some veterans report long waits for benefits and confusing claims decisions.'"

Think of that. At a time when we are at war, when more and more of our soldiers are being terribly injured and are in need of the VA health care system, when claims are backlogged amounting to 300,000, the President sends this Congress a budget that actually calls for cuts in the number of people who are responsible for processing these claims.

The article that I am referring to makes reference to one particular soldier. "I love the military. That was my life," says this soldier, "but I don't believe they are taking care of me now."

He is Staff Sergeant Gene Westbrook, 35, of Lawton, Oklahoma. He was paralyzed in a mortar attack near Baghdad this past April, but he has received no disability benefits because they say his paperwork is missing. Now he is trying to support himself, his wife and his three children on his regular military pay of $2,800 a month as he awaits a ruling that could provide him up to $6,500 a month in terms of VA disability benefits.

Mr. Westbrook was deployed to Iraq in January where he served as a drill sergeant. He was sent to train Iraqi Army recruits. While on duty on April 28, south of Sadr City in Baghdad, he was hit by a mortar shell and the shrapnel severed his spine. He is now paralyzed from the chest down. He has limited movement in his right arm and he battles constant infections. His wife takes care of him full time.

Sergeant Westbrook praises the Army for the medical care he has received, but is it not shameful that this veteran would be waiting for benefits, and that we would have a President who would cut the budget for those who are charged with processing these claims?

□ 2100

U.S. FOREIGN POLICY PLAGUED WITH ATTENTION DEFICIT DISORDER

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. RYAN) is recognized for 5 minutes.

Mr. RYAN of Ohio. Mr. Speaker, it has been a very interesting time in the past couple of years. I have come to this floor on many occasions to talk about what is happening in Afghanistan. The truth and the reality I think is becoming more apparent to all of us as American citizens; and as the Presidential debates and the Presidential contest and the election of this year coming up in the next few weeks is coming to a close, this issue is becoming more and more relevant.

I think it is becoming more and more relevant, Mr. Speaker, because it illustrates that the foreign policy of the United States of America has attention deficit disorder.

After 9/11, in which we were attacked by Osama bin Laden, al Qaeda, housed by the Taliban in Afghanistan, an international coalition went to Afghanistan and said to the world that we are together in the fight against terrorism. Unfortunately, several months after that, the United States, pretty much by itself, even though the President said the other night, well, we have Poland with us; well, now Poland is withdrawing its troops and its support from the battle in Iraq.

So we shift our focus from the battle in Afghanistan, and the international coalition that we had, to Iraq. The satellites that were focused on Afghanistan trying to find Osama bin Laden, trying to find exactly what was going on with the drug trade and opium production in Afghanistan, the satellites turned and began to face Iraq. Troops that we had in Afghanistan went to Iraq. Interrogators that we had in Afghanistan went to Iraq. Funding that should have gone to Afghanistan went to Iraq.

Now, the President said several weeks ago that the Taliban is gone, that the Taliban does not exist anymore. That is completely and utterly false. The Taliban is still in existence. They are still fomenting problems in Afghanistan. They are still controlling some of the attacks that are going on in Afghanistan. And the quotes in today's paper were saying, a quote from a high-ranking official in the Taliban, the quote was, we are going to kill anyone who goes and tries to vote in Afghanistan elections, anyone who wants to run for office in Afghanistan, and anyone who would otherwise participate in the elections in Afghanistan. Why? Because Karzai is a puppet to the United States of America.

We have 17,000 troops in Afghanistan. We have 130,000 troops in Iraq. We cannot find Osama bin Laden. And today in the newspapers all over the country, stated from Afghanistan officials who are working with the United States, United States officials, that the trail to Osama bin Laden is cold. Cold. We have nowhere to go, we have nowhere to look; we do not know where he is. We dropped the ball, we outsourced the project to people in Afghanistan instead of giving it to the best, most highly trained, highly skilled units in the world, because we have attention deficit disorder, because we had to go to Iraq, we had to drop $200 billion, and everything this administration said to us before the war has proven not to be true.

We are going to be able to use the oil in Iraq for reconstruction: not true. We have spent $200 billion; the taxpayer has spent funding this debacle in Iraq. We were told we were going to be greeted as liberators. Now we are greeted as occupiers. It has gotten so bad in Iraq, the Italians are now paying $1 million to get hostages back. So the Italians are paying $1 million to the insurgents in Iraq to fund the insurgents against us. It is ridiculous. This has been a debacle from the get-go, and it is time we square things around before we have a narco-state in Afghanistan on our hands.

THE TRUTH ABOUT THE MEDICARE MODERNIZATION ACT

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes as the designee of the majority leader.

Mr. GINGREY. Mr. Speaker, it is a pleasure to come before my colleagues on the House floor this evening to spend an hour with them talking about the new Medicare Prescription Drug part D and Medicare Modernization Act, which was passed in December 2003 in a bipartisan fashion by this body and signed into law by President Bush. But before we get started, I want to spend time going through a lot of the nuances of this bill and make sure that all of my colleagues, and especially, of course, if some seniors and people that are watching this body and paying attention to what we say here on this floor, it will help them better understand, and I think we will have spent a very, very beneficial hour this evening.

Before I get started, I cannot help but think about, this is October 4, the fall of the year, the most beautiful time of the year in many parts of this great Nation of ours, especially in my home State of Georgia and my 11th Congressional District in the northern part of the State. In 27 days will be one of my favorite holidays, and I am sure my colleagues would agree with me that Halloween. Halloween is always one of the most fun times of the year, especially if you have children, as I have. Now they are adults. I also now have precious grandchildren. What an exciting thing to go door to door in your neighborhood, in a safe environment, trick or treating, maybe even scaring people a little bit, scaring other kids with the costumes and the spooks and the goblins; and every now and then, if you do not get a good treat when you knock on somebody's door, some mean old, grumpy adult, you will scare them too.

But what we are seeing today in this body, maybe because it is a Presidential election year, but all of a sudden, Halloween does not seem so funny to me anymore, because what I am seeing from Members of this very body is adults scaring adults. And not just scaring adults, but scaring specific adults, and that is the great senior citizens of this country. In fact, I call these scare tactics, without putting on a costume, it is mainly just rhetoric, I call it Mediscare, Mediscare.

I am sure lots of seniors, I know they have in my district, because I have gone across the 17 counties doing well over 60 town hall meetings now with senior citizens, talking to the seniors about this new program, this good program, this good first step. But they have already been scared. They have been scared by so much of this rhetoric, as an example, that says you are going to lose your Medicare as you know it. They, the Republican majority, the President of the United States, this administration, they are going to take away Medicare as you know it. That is one Mediscare tactic.

Another: this bill is nothing but a giveaway to the pharmaceutical industry; that is all it is. The pharmaceutical industry contributes all of this money to Republican Members of the Congress to buy this bill. In fact, the pharmaceutical industry, they drew up the bill. It is nothing but a giveaway to the pharmaceutical industry.

I am going to refute some of these Mediscare tactics, and on that one I would like to right at the outset say, if that were true, when Medicare was first signed into law by a Democratic President, Lyndon Johnson, in 1965, and we had part A and part B, part A, the hospital part; part B, the doctor part. I never heard anybody say, and I am sure my colleagues never heard anybody saying that part A was nothing but a giveaway to the hospitals, or that part B was nothing but a giveaway to the doctors, because they happen to be the ones who respectively provided that care under part A and part B.

No, they did not call it a giveaway. In fact, the hospitals and the doctors, over the 38 years of the program, and it is a good program. I think it has served us well. I do not think we could get too many of my physician colleagues, and oh, by the way, I think my colleagues know that I am one of seven physician members of this body; not many of my colleagues are saying today Medicare part A or medicare part B, certainly my rural hospitals in the 11th Congressional District of Georgia, they are not saying Congressman, part A medicare has been nothing but a money tree for us, it has been wonderful, part A has been great for rural hospitals. No. They are struggling. Every day they are struggling.

So we hear all of these things and these scare tactics and telling the seniors, even now that we have this interim prescription drug discount program, because it takes a while to get the prescription drug benefit, the insurance part, and it is totally, totally optional, not required; but we will not have that ready until January of 2006. But this President and this Congress and this leadership, this Republican leadership, knew that our seniors needed relief right now. They really do. Some are trying to make these decisions about paying their utility bill or their mortgage payment; and all of a sudden, it is time to refill that prescription and they do not have the money to do it. And they are breaking pills and they are skipping pills. These seniors, those who are on fixed income, those low-income seniors who are in that bind really cannot wait until January 1 of 2006. They need relief right now.

That is what the interim prescription drug discount program is all about. It is a Godsend for them. Yet, here again, Halloween is upon us, really a Presidential election is upon us, just 3 days after Halloween. That is what it is all about. But to scare seniors, especially those needy seniors who, by just signing up for that prescription drug Medicare-approved discount card get a $600 credit each of the 2 years; a $1,200 credit toward the purchase of those much and badly, desperately needed drugs. They are being scared into not signing up, not picking up that telephone and dialing 1-800 Medicare and spending 15 to 20 minutes at most on the phone and getting that card in their hand.

These cards have been available since June 1 of this year. I am very pleased that 1.8 million currently have them of the low-income, needy seniors, and something like 4 million overall. But we need to do better, and the reason we are not doing better is simply because of this Halloween Mediscare mentality of scaring seniors into not participating.

□ 2115

Well, enough of that. We will get back to that maybe a little later in the hour. But let us talk a little bit about the reason that we need to have a prescription drug benefit under Medicare.

Well, it is a 38-year-old program. Medicare as we know it is a 38-year-old program. It is a 20th century health care program with no coverage for prescription drugs, none whatsoever, except certain medications that are actually administered by a physician in a doctor's office intravenously or intramuscularly to treat maybe end stage renal disease and cancer, chemotherapy. Anything else, any time the general practitioner, the family practitioner, the general internist, writes those three or four prescriptions, none of that, that is all out of pocket. And many of our seniors do not have any coverage.

They do not have an insurance program through the VA program or TRICARE or as retirees for let us say a State worker or Federal employee or maybe a generous benefit from a company they have worked for for 35, for 40 years. Many of them do not have that. They have absolutely nothing. So this program is way, way overdue. And so many other Congresses and other presidents, the Democratic majority have made promises to our seniors and talked about delivering, delivering on a promise and failed to do so. And all of the sudden this President has the courage and the wisdom and the insight and the compassion to get a tough bill through this Congress. And now, instead of getting credit for that, these Medicare tactics are trying to discredit him over that. Amazing. In fact, down right appalling.

Another scare tactic is this, and I know we all have heard it. When we debated the bill there was a lot of discussion about this, and some of the seniors organizations were very concerned about, is it possible that when we start offering a prescription drug benefit under Medicare, are many of the conditions that currently have a health retirement benefit for their employees, for their retired employees, that does include prescription drugs, are they going to be encouraged because now this Medicare Prescription Drug Part B is an optional benefit to seniors to just drop these programs?

So that is another one of the scare tactics. Yeah, do not vote for this bill because, if you do, the first thing that is going to happen is your company, that you worked for 30, 35 years, they are going to drop you like a hot potato, as the expression goes.

Let me point out to my colleagues, and I want to call their attention to this first slide. What this slide shows is that, over the last 12 years, the number of large employers who have been offering health care for their retirees, the number that has actually begun to drop this coverage, even before we passed this bill, has been decreasing over these last 12 years. This first part of the slide shows people who are under 65 and are retired. In 1991, 88 percent of them were covered by health care that included a prescription drug benefit. In 2003, this coverage has dropped to 72 percent.

Now, this is for the people who are under 65. What happens now when they become Medicare eligible at age 65? In 1991, the percentage that were covered by their former employer was 80 percent, less than those under 65 who are not eligible for Medicare yet. And the drop off again is substantial, from 1991 to 2003, down to 61 percent.

The point of this first slide is basically to show that this is already happening, this is already happening. And it is not because of the fact that we now are offering a prescription drug benefit to these seniors who now, if they are dropped by these plans by their former employer, they have nothing. They have no coverage at all. And as part of this new Medicare modernization and prescription drug act, and I do not know exactly what the dollar amount of the estimated cost is, the Congressional Budget Office very clearly said to the Congress, it is going to cost $420 billion over 10 years. We have got another number later on that, was over $500 billion, but a significant amount of that money, something like $75 billion dollars is going to these companies, these large companies, large and small companies, to help them wrap around the Medicare prescription drug benefit so they will continue, they will continue to offer health insurance that includes prescription drugs and actually bend this curve, not make it worse, but maybe stop this normal attrition that is already occurring without the prescription drug benefit and the modernization to Medicare. This is already happening. So we are going to turn that curve around. And I sincerely believe that that will happen.

Remember at the outset when I said about some of the Medicare rhetoric, and the first one I think we mentioned was they, the Republican majority, the President, indeed, they are about to take away Medicare as you know it. And the chairman of the Committee on Ways and Means, the gentleman from California (Mr. THOMAS), was quoted as saying, "Well, we certainly hope so," and roundly criticized by our colleagues on the other side of the aisle.

What the chairman meant by that was quite simply, Medicare as we know it has been sorely lacking for all these years, no prescription drug benefit, part A and Part B, yes. But all of the sudden we are going to offer something that hopefully keeps seniors out of the hospital, they now have coverage for that, do they not, under Medicare part A, and out of the nursing home also under Medicare part A, but that coverage is not to infinity.

What happens is, when our seniors go into the hospital, there is a significant co-pay, and they use up their days, and then everything is out-of-pocket. They have to go into a skilled nursing home for a very limited number of days per illness, and then, everything after that is out of their pocket. And in many instances, they literally go broke in a nursing home and have to go on Medicaid and lose a lot of pride and a lot of dignity in the process. But even more importantly, as the gentleman from California (Mr. THOMAS), so concisely and clearly indicated, Medicare as we know it needs improvement. And Medicare as we know it, if we do not do something to improve it and we continue to let people get terribly sick with end-stage renal disease or significant coronary blockage, and they end up in the hospital needing bypass surgery or maybe an amputation, and then possibly spend the rest of their lives in a nursing home because their high blood pressure was not treated in a timely fashion and they suffered what we refer to medically as a cerebral vascular accident but what you know as a stroke, yes, they get treated all right in the hospital and in the nursing home until their money runs out. But is that the compassionate thing to do?

That is Medicare as we know it. That is exactly what the gentleman from California (Mr. THOMAS) was talking about when he said, Medicare as we know it needs to go. We need to improve upon it. And that is what we are going to do, and that is what we are doing with this interim drug discount program. And starting in January 1 of 2006, the opportunity for our seniors, the option or choice, it is not required, of course, but hopefully, just as many who signed up back in 1965. It was President Truman himself, former President Truman who voluntarily signed up for Medicare Part B in 1965; and some 95 percent, maybe more than that, of our seniors who are on Medicare, are voluntarily on Part B because it is a good program.

The taxpayers are paying 75 percent of that premium, even though it has gone up over the years, because the cost of health care has gone up. But that is formula driven. But we need to change Medicare as we know it. And that is what we are doing with this bill, this new law. And I thank God for that. And I think our seniors thank God for that, and they thank this Congress, the Members that voted for this bill, and they thank President Bush for having the courage to see this through and deliver on a promise.

When I came to the Congress in 2003, almost 2 years ago, as only one of seven physician Members on the House side, we have Dr. FRIST, the majority leader on the Senate side, a lot of people told me back home, they said, especially my physician constituency, my friends that I had practiced medicine with for almost 30 years, You are going to go up to Washington and you are going to solve all of our problems, and you are going to explain to the 434 other Members, the non-physician Members how to get it done, what our needs are, what the problems are, what the problems with health care in general but for Medicare and our seniors specifically. We are counting on you. We are counting on you to make sure that everybody else understands this, and we solve the problems.

And I would say to them today, I am working on it. I am trying hard. But what I found when I arrived here is lots of folks, some physicians, many not, who have been working on health care and working to deliver a more modern 21st century health care system for our seniors: the same thing that we Members of Congress enjoy, all of our Federal employees under the Federal health employees benefit program, State employees, people indeed under the TRICARE system, enjoy, 21st century medicine. And there have been many Members in this body who have been working tirelessly for quite a few years before this Member, this physician Member arrived.

One of those is here with me tonight, and I am so proud to call her my friend and colleague. She is not a physician, but her husband is a physician. In fact, he is a retired OB-GYN just like myself. And as the chairman of the Subcommittee on Health of the Committee on Ways and Means, I am going to state that she has been invaluable to me and to all of her colleagues in sharing her knowledge, in making the most complex, arcane part of Medicare law understandable, understandable to me and to all the Members.

So it is with a great deal of pleasure that I recognize her here this evening and let her take as much time as she wants to talk a little bit more about the specifics of this bill. The gentlewoman from Connecticut (Mrs. JOHNSON).

□ 2130

Mrs. JOHNSON of Connecticut. Mr. Speaker, I thank the gentleman very much for yielding. As a representative from Georgia, not only has he been very effective here in this body of the House, but as a physician Member, he has been extremely effective. This is the first time we should have had a critical mass of physicians to participate in these debates, which are striking at the heart of the inadequacy of the public program in regard to our seniors.

Medicine found ways to stop our seniors from dying of heart attacks, but then it left them living with cardiac problems. Medicare as a payor could pay for heart transplants and all those things that can deal with diagnosed heart illness, but we cannot pay for all those programs that we now know that medicine has now developed to prevent cardiac illness from getting worse and leading people to needing heart transplants and serious heart operations.

That just gives you some idea. When we say Medicare is no longer adequate to provide health care to our seniors, that is what we mean. The whole world has moved into the world of disease management to prevent diseases from getting worse, to identify them real early, prevent them from getting worse, and that is what this bill does.

It will welcome seniors into Medicare in 2006 with a Welcome to Medicare physical. At that physical, we will identify those early signs of diabetes, heart disease, hypertension, and will start then to help seniors manage those illnesses and have the support in managing it and have the medications to manage it so that they do not end up in the emergency room, they do not end up in the hospital beds.

That is why, in the end, we were able to pass this bill, because Members who were concerned about the deficit came to understand that, if you do not modernize Medicare, it will go bankrupt. If you do modernize Medicare, you can move the money from the hospital emergency room treatment setting to the preventative setting and provide both with better quality health care and a financially secure system.

The point that the gentleman made earlier about employer-provided health care for retirees was absolutely right on target. We want our employers to stay in the business of providing retiree health care. We want the big union plans to stay in the business of providing retiree health care, but their fastest growing cost is pharmaceuticals, and it will drive them out of business. It will bankrupt their plans if we do not do something about it.

In this bill, we do do something about it. We share that cost with them, and for that reason, most employers and most unions, most public programs, State employer and municipal employers will be able to stay in the business of providing comprehensive health care for their retirees, including prescription drugs, in a way that they could not have if we had not passed this bill.

So this bill is not only terrific from the point of view of those who already have health care from their employers, it is terrific from the point of view of seniors who do not have good drug coverage. Some have very good, but most do not. They either have no drug coverage or inadequate drug coverage but under this bill, seniors will do very nicely.

If the gentleman has time, I would like to talk a little bit about the prescription drug benefit under this bill.

Mr. GINGREY. Mr. Speaker, I thank the gentlewoman from Connecticut (Mrs. JOHNSON) very much, and if she will, I would like for her to go over that a little bit because I think there is still a lot of confusion about that, and if the gentlewoman can take a few more minutes and explain that. I know the Members would appreciate hearing from her.

Mrs. JOHNSON of Connecticut. Mr. Speaker, a lot of seniors have, first of all, been misled to think that the discount card is the Medicare reform bill. The discount card is not the program. The discount card is only an intermediate step, and it is one that, in my district at least, seniors who were spending $1,000, $1,500 a year on drugs can save considerably through a discount card. They can save usually, at least we are finding, about a third of their costs.

We are also finding that seniors who do not have any drug costs are remembering that if they have a discount card, that if they go to the doctor and he prescribes an antibiotic, which is often over $100, they will be able to save about a third of the cost of that antibiotic when they go to the pharmacy to buy it. So even seniors without regular drug expenditures are recognizing that the discount card is a good thing for them, but it is only an interim step.

The real program that goes into effect a year from January is a very generous program to those who need it the most. For seniors who have incomes under 135 percent of the poverty income; and remember, 50 percent, just think about this, 50 percent of all the retired women all across our Nation are in this category; 50 percent of retired women will have no premium, no deductible. They will get their generic drugs for $1 to $3 and their brand name drugs for $3 to $5. What a giant step forward, for half of America's retired women, to get prescription drugs with no premium at all, no deductible, $1 to $3 for generics and $3 to $5 for brand name. That will mean that none of those seniors will have to make the choice between food on the table or taking the drugs that will keep them healthy.

Then 70 percent of all of our seniors in America, men and women, will have 75 percent of the cost of their drugs paid for under this program. Medicare is an 80/20 deal. We pay 80 percent; you pay 20 percent. Eventually, we will get this Medicare prescription drug benefit back up to that so there will be consistency, but at the beginning, it will be 75 percent government paid, that is, the taxpayers, that is, your children, and 25 percent you pay. There will be a premium, of course, and a deductible. Just like there is a premium and deductible for Medicare part B, there will be a premium and deductible for the prescription drug bill. Although the premium will be far lower than it is for part B. It will not be over $35. It might be a lot less if things continue to go the way they are going.

So Medicare will offer a prescription drug benefit that for 70 percent of America's retirees will cover 75 percent of the cost of all their drugs. Now, if you have very high costs, you will have to spend $3,600 before you get the catastrophic coverage, but that $3,600 can be paid by you, by your children. It can be paid by charitable organizations. It can be paid a number of different ways, and for anyone whose income is 150 percent of poverty, which is about $14,000 I think for a single and about $19,000 for a couple, I think that is about right, anyone under those amounts will not have to pay this $3,600.

Anyone that lives in a State like Connecticut that has a ConnPACE program or like Pennsylvania that has a PACE program, any State program that provides subsidies for seniors with prescription drugs, they will never be exposed to that $3,600, and over time, we will make sure that the $3,600 expenditure for catastrophic coverage is not required of anyone who cannot afford it. But if you can afford it, it is good for you to pay it rather than the taxpayers because it lowers the burden on our children of the enormous costs associated with Medicare, Social Security and Medicaid's payment for long-term care which, when the baby boomers retire, is going to be extraordinary.

So, as a retiree, I will want to pay my share if I need to get to that catastrophic level and if I can afford the $3,600. So this is a totally generous program to those who need it the most. It is a very generous program to 70 percent of seniors because it covers 75 percent of your drugs, and for everyone else, it is very generous up to that $2,250. Then it requires some effort before you reach the 95 percent coverage, but for that effort, you can have help.

We just want to make sure that everyone has the help they need to reach the catastrophic, but it is a very generous program. I am proud of it. I am proud of the way it modernizes the quality of care you will get by, helping you manage your disease so you will not end up on the operative table.

I am extremely proud of the way it revitalizes rural health care because, without this bill, rural doctors would be out of business in many parts of the country. The small rural hospitals would be quietly going under, and we would literally lose that provider system that provides health care in the rural areas.

Medicare is like the post office. We have to be able to deliver everywhere all across the country to every single senior, no matter how small a community they live in, and to do that, we have to make the changes we make in this bill to assure a healthy delivery system of doctors, of hospitals, of home health agencies and of all of those providers that are crucial to a high quality of health care for our seniors all across this America.

So this bill is a huge reform. It revitalizes the quality of care Medicare can deliver. It revitalizes the system so it will truly be a national delivery system, and it modernizes the benefit package by providing prescription drugs to our seniors. They fought hard for it. They deserved it. Inaction would have been absolutely a travesty, and anyone who voted for inaction when there was an opportunity to advance Medicare in so many areas was really, in my personal opinion, misguided.

The seniors could not wait. They should not wait, and we will have this nationwide new program up and running in January of 2006, and the seniors will benefit for generations to come.

I thank the gentleman from Georgia (Mr. GINGREY) very much for letting me join him for this Special Order on what is a very, very important new opportunity for seniors.

Mr. GINGREY. Mr. Speaker, I thank the gentlewoman from Connecticut, the honorable chairman of the Subcommittee on Health of the Committee on Ways and Means. I know she has got a very busy evening, as all of her evenings here in the Congress are just jam-packed with other obligations, for her to come by tonight and help us share this time and explain, as I said earlier, you can see what I am talking about, she makes it so clear and understandable. I invite her to stay as long as she can, and if she needs to leave, I understand that, but I am very, very appreciative of her work and her expertise. I thank her so much.

What I wanted to say, just kind of in following up on some of her remarks, this is a bipartisan bill. This new Medicare Modernization and Prescription Drug Act that preserves, protects, strengthens and simplifies Medicare as we know it, that is what we are talking about, and I am proud that it was a bipartisan vote.

There were some Members on both sides of the aisle who were concerned about the bill, for different reasons, and voted against it. I think 28 of my Republican colleagues actually voted against passage of this bill, and remember what they said when they came down and spoke against the bill and in a vote of conscience voted against it? They thought that the bill was costing too much; we could not afford it. We could not afford to deliver on this promise.

Their concerns with the deficit, of course, are understandable. Their concerns with the need to continue to successfully wage this war against terrorism and to win is very understandable. So these 28 Members, my colleagues on my side of the aisle, voted no. They wanted to do it. They knew it was a good program that they felt its time had come, but yet did not think we could afford to do it. They voted no.

I think it is an accurate statement to my friends on the other side of the aisle, the Democrats who voted against the bill, most of them felt that we were not doing enough. Another one of those Medicare tactics I was talking about in this Halloween season is, the hole in the donut is too big; the hole in the donut is big enough to drive a truck through.

So they wanted to do more. In fact, the proposal that I heard from a number of Members on the other side of the aisle who voted "no" was, well, let us close that hole in the donut so we give better coverage to everybody, especially good coverage to those needy seniors that the gentlewoman from Connecticut was talking about.

□ 2145

But that bill would have cost us something like $2 trillion over a 10-year period of time. And we certainly could not afford that. Yet, for whatever reason, those who felt like we were not doing enough and we needed to do more, and those who felt like even though we were not doing enough we could not even afford that much, that was a vote of conscience on their part. And that is understandable.

But the bill did pass in a bipartisan fashion, a much wider margin, I might add, than the other body, than the Senate. But my Republican colleagues who voted "no," a vote of conscience, you do not hear one single voice from my side of the aisle going around and scaring seniors and telling them do not accept a Medicare prescription drug discount card, this interim program, which is available right now. And many of those beneficiaries are eligible for that $600 credit. All they have to do is pick up the telephone, 15-minute conversation, and they have got that prescription drug discount card, which probably lowers the cost of their prescriptions maybe 20 percent, if it is a brand-name drug, possibly up to 40 percent if it is generic, in addition to the $600 per year or $1,200 over the course of the interim program.

You do not hear my friends who voted "no," a fiscally conservative vote, you do not hear them telling the seniors not to sign up for those cards. But you do hear that from my colleagues on the other side of the aisle who voted "no." Again, a vote of due conscience because they thought we were not doing quite enough, that we needed to do more. Wish we could. Hopefully, as the gentlewoman from Connecticut (Mrs. JOHNSON) said, as we go further along into this program, we will be able to do more; and we will work with our colleagues on the other side of the aisle to try to make it a program, which is already a great first start, even better as we go forward, as we can better afford to do more.

Oh no, that is not enough for them. They have to scare seniors, and they have been doing it ever since December of 2003. Not just this Halloween season, but of course the rhetoric is getting a little more heated now because not only are we getting close to Halloween but we also are getting closer to November 2, and we all know what November 2 is. So it is all about who gets the credit or, from their perspective, who gets the discredit. They want to scare the seniors enough and tell them do not even accept the prescription drug discount card, when they can get $600 a year credit in their medications and, in many instances if they are a low-income senior, will cost them nothing. Unbelievable. Unbelievable.

The gentlewoman from Connecticut was talking a little bit about the basic program, the part B, the insurance program, that will be available as a voluntary option in January 2006. For the average senior whose income is, let us say, more than $18,000 to $20,000 a year, this is what the program will cost. And I want to call my colleagues' attention to this slide.

Basically, $35 a month premium, a $250 deductible per year, and then 25 percent copay. That means the good news is Medicare and the general taxpayer, those individuals who are still out there in the workforce paying that payroll tax, cover 75 percent, up to $2,250.

Now, yes, there is a gap in coverage. This is what we refer to as the hole-in the donut. And beyond that point, until the senior has spent $3,600 out of pocket, there is no coverage and the senior has to pay 100 percent. That is the part we are going to improve as time goes on. But the good news in that, the glass being half full and not half empty, is that when they reach that point, then the coverage is 95 percent insurance and 5 percent copay.

Mr. Speaker, I want my colleagues to pay attention to this next slide, just to give them an example of some of the savings that will be affected by this interim prescription drug discount program. If a senior is paying today $100 per month for prescription drugs, and believe me those who have had those town hall meetings and talked to their seniors, many of them are paying $100 a month, some are paying $500 a month and more. But let us just take $100 a month. They will have an annual savings of $773, basically reducing their annual prescription cost for drugs, for prescription drugs, by 64 percent.

Let us take another example. Let us say it is $500 a month. Let us say it is a senior, someone like myself, who has had a little heart surgery and is on four medications a month, each one of them costing $100-plus. Pretty quickly they are up to $500 a month. Well, this prescription drug plan, over a period of a year, is going to save them $2,700, reducing their annual cost by 45 percent.

Let us continue. How about $800 a month? How many have relatives, parents, or grandparents who may be on six or eight prescription drugs a month and they are paying over $800 a month? The annual savings, $5,871, some 61 percent reduction of their annual cost for prescription drugs. Simply amazing.

Mr. Speaker, I think it was the Honorable Speaker Tip O'Neill who said a few years ago "all politics is local," so let me spend a few minutes talking about my district, the 11th in Georgia. I want to call my colleagues' attention to this slide.

In Georgia's Eleventh Congressional District alone, the average senior will save $1,488 off their prescription drug costs over 18 months. Over an 18-month period of time $1,488 savings. That is not pocket change. That is certainly not pocket change for seniors, many of whom are on a fixed income. These savings represent 42 percent off of the typical senior's drug cost.

In fact, it is estimated that prescription drug savings for the State of Georgia, all the seniors in the State of Georgia will reach $186 million; $186 million. That will certainly help the bottom line in Georgia, and the bottom line especially for our needy seniors.

I also want to call attention to this next slide. This is just a typical example of what a Medicare prescription drug discount card looks like. And I guess the most important thing here, and I know we have 1.8 million seniors who have these, but we want more to take advantage, because the time is slipping away and the opportunity to get that credit that so many of them are eligible for. We do not want them to lose that opportunity. But the most important thing about this card is that it has the Medicare seal of approval. That way you know that that is the real deal. That is the card.

There will be plenty to choose from. They are available now. In fact, they have been available since June 1 of this year. It is time for our seniors to reject the Mediscare rhetoric and get these cards. Sign up for them. All you have to do is pick up that telephone and dial 1-800-Medicare, and they will walk you through the steps in 15 or 20 minutes.

Mr. Speaker, this is another slide that I am calling my colleagues' attention to; and basically what it reflects in the respective States is how many Medicare beneficiaries are there who will actually pay no more than $5 per prescription under this new Medicare Modernization Act and Prescription Drug Bill. The State that, of course, jumps off the page at me is my State. I am sure my colleagues feel the same as they look at this slide and pick out their State, whether you are from the West, the North, the East, the South, or wherever, or in the heartlands.

When I look at Georgia, the great State of Georgia, and realize that 233,000, 233,000 Georgians under this new plan, because of their income, because they are on a fixed income, maybe they are below 150 percent of the Federal poverty level, the most that they will pay on this program is $5 per prescription. That is it, $5 per prescription. That is 233,000 in the great State of Georgia.

We have some tremendous strains, of course, in the Medicare program. I mentioned at the outset how tough it is for the physicians to stay in the program, that it is not a giveaway. Part B is not a giveaway to the doctors. Fortunately, many, through compassion, are staying in the program. But it is certainly no giveaway. And for sure no giveaway to our hospitals is part A. And, parenthetically, part D, the prescription drug part, is no giveaway to the pharmaceutical industry.

But just look at this slide, my fellow colleagues. Look at this and pick out your State and see the benefit to your hospitals, especially your rural hospitals, that are struggling so badly to keep those doors open. Outside of the school system, they are probably the largest employer in your county, in your congressional district. Just look at the benefit that your State gets through the hospitals under this program.

Here again, I go right to Georgia, and that is where it is most important to me. Over $550 million worth of benefit to the hospitals, especially the rural hospitals in the State of Georgia. That is $550 million, almost half a billion dollars. This is a Godsend to these hospitals. And that is what we are doing with this Medicare and Modernization Prescription Drug Act.

Mr. Speaker, I realize we are coming to the close of our hour, which has been, I think, a good time to spend talking with my colleagues and making sure that everybody understands. We have done something very historic in this 108th Congress. We have finally delivered on a promise that was made a long time ago. Thirty-eight years is a long, long time for our seniors to wait for a prescription drug benefit to modernize this Medicare program, which is still in the 20th century.

The rest of us, those of us who are not yet quite 65, although some Members of this body are, we have a benefit plan that has an emphasis on wellness, on prevention, and making sure that catastrophic illnesses do not occur to us.

□ 2200

This is such an important point to remember that including a prescription drug benefit may very well, in the long term, over a 10-year period of time, result in some savings to the Medicare program. Yes, we are estimating it might cost $500 billion over 10 years, but I want my colleagues to understand that it will only cost $500 billion over 10 years if it does not work. Because I would suggest that if it does work, and I sincerely believe as the President believes in this compassionate effort to finally deliver that we are going to reduce the cost of Medicare that we spend on part A, the hospital part, we are going to keep people out of the hospital. We are going to reduce the cost of part B, the part of Medicare that we spend on physician reimbursement because we are not going to be doing as much open heart surgery. We are not going to be doing as much renal dialysis and kidney transplants. We are not going to have as many people in the nursing homes for the rest of their lives who are trying to recover from a CVA, or, as you know it, a stroke, because these seniors will be able to control that high blood pressure that heretofore they could not. They knew they had it but they could not take their medication, and the only benefit they get is when a catastrophe has occurred.

I thank my colleagues for giving me an opportunity to talk to them tonight about this great program that is going to only get better. I think it is time to stop scaring our seniors. We have got 27 days before Halloween. We have got about 30 days before our elections. Let us take the politics out of this. Let us not try to ride our reelection train on the back of our seniors by scaring them over this program. It is unconscionable to do that. They deserve so much better. And you are better. I know that.

We get awfully partisan up here sometimes, but when we talk out in the halls or we realize that we are all basically the same, we have got families, we have got children, we have got grandchildren, we have got seniors in our district, let us all work toward the betterment of them through this program and quit scaring our seniors. Beyond this Halloween and this election and going forward in the 109th Congress, we will make this program even better than it is now.

THE NATIONAL DEBT

The SPEAKER pro tempore (Mr. MURPHY). Under the Speaker's announced policy of January 7, 2003, the gentleman from Tennessee (Mr. TANNER) is recognized for 60 minutes as the designee of the minority leader.

Mr. TANNER. Mr. Speaker, I come here to the floor tonight to talk about something that is not very pleasant to think about, much less talk about, but as President Jimmy Carter once said, the highest office in this land of ours is that of citizen, because the citizen makes the determination as to the course that our country's leaders take. All of us are citizens, and therefore, all of us ought to be aware of what I consider to be a grave and growing danger, maybe second only to terrorism in our country tonight. The issue that I am referring to is our Nation's overwhelming Federal debt. I do not believe most of our citizens, the highest officeholders in this land, realize just how bad this debt and deficit is and how much it is rapidly deteriorating in terms of our Nation's financial balance sheet.

We have embarked for the last 4 years on an unprecedented and unsustainable borrowing binge that is going to place our citizens in hock not only from the standpoint of paying ever-increasing taxes just to service the debt, much like we do our credit card debt, but what we are doing to ourselves, to our country and to our children and grandchildren.

Let me talk to you a little bit about mind-numbing figures, numbers. I will try to limit that, but let me just try to explain. We hear two different debt numbers. We hear of our Federal debt being $7.3 trillion, and it is. That is the total obligation of our country vis-a-vis our deficits, our budgets and so on. About $3 trillion of that $7.3 trillion is money basically that we owe to each other; we owe to the Social Security trust fund that we have borrowed from; we owe to the veterans' organizational trust funds that we have; the airport trust fund; the highway trust fund; on and on. That $3 trillion is money that we the people, the citizens, owe to the various trustees, and we have to make good on that in the future. That is not the part of the $7.3 trillion I want to talk about tonight. I want to talk tonight about the $4.3 trillion that I call hard money, hard dollars that we have actually borrowed from individuals and corporations in this country and from around the world that we will talk about in a few minutes. I hope before you turn off listening to us, you will listen to what we have to say about that, because it is truly frightening.

I do not know, reading history, of any country that has managed to remain strong and free and bankrupt. My friends, my citizens, that is where this country is headed. The deterioration of the Federal balance sheet in the last 4 years is truly breathtaking. These numbers right here, we have borrowed in the last 45 months or so $1 trillion if we add all of this up, $1 trillion. I do not have to tell all of us, myself included, who have debt on our house, our car or our credit cards, what $1 trillion means. It means, at 5 percent interest, we have actually increased taxes on the American people in the last 45 months by $50 billion a year each and every year. That is called a debt tax that we will talk about later. It must come off the top. It must be paid. It cannot be repealed, and that is where we have put ourselves collectively in the last just 4 years.

This second chart shows how much the debt limit levels have increased just since 2001. In 2001, the debt ceiling was $5.9 trillion. In 2004, it will be $8.07 trillion, and by 2014, according to the Congressional Budget Office projection, that is assuming that everything stays the same, it will be $13 trillion. I suggest to you that, if you are in an airplane, you are in a death spiral financially on this chart right here. If you do not do something different, if we do not do something different, if you do not demand that the leaders of this country in this one-party government we have now do something different, we are going to hit the ground. There is no way this country can sustain and service this kind of debt.

I talked about servicing the debt. Last year, on this $4 trillion plus, we paid $159 billion in interest. We wrote checks for $159 billion. This will go on as we see under present law. By the end of 2008, we will be spending $1 trillion a year just to service our debt. It is clearly unsustainable. There is no way that you can take that much money out of our economy just to service debt for which we get no military prowess, no education, no health care, no highways, no bridges, no anything but just the privilege of paying taxes so we can pay debt.

At this point, I want to again emphasize, if you are just talking about debt, we are in an unprecedented and unsustainable headlong dive into bankruptcy. I want to ask my friend from Texas now to talk a little bit about what we do. But after he does, please stay tuned because we are going to talk about who owns it, and that is truly frightening. My friend from Texas (Mr. STENHOLM) is one of the leaders here in the Congress for financial responsibility, for commonsense approaches to government in terms of what we can afford. He has been so for over 20 years. He is the father around here of the balanced budget amendment. He introduced it, I guess, as soon as he got here, and he is one who has unquestioned credibility and credentials on our Nation's debt, deficit, financial balance sheet, you name it. I am glad the gentleman has joined us tonight.

Mr. STENHOLM. I thank my friend from Tennessee for yielding and thank him for taking this hour tonight. I not only want to thank him, but I want to thank USA Today for what they did today on the front page of their newspaper. We have been in this Chamber several times this year talking about this, but nobody pays any attention. You would think that you are making this up, what you have just shown, how the deficit has turned around. We have listened to the explanations from our friends on the other side who are in control of the fiscal matters of this country right now. Here is the paper, front page: $84,454 is the average householder's personal debt, as you mentioned. We have got home mortgages. If you are in small business, you borrow money. Your personal family, you borrow money. You have got credit card debt. You have got a car loan, et cetera. So the average per household is $84,454. The average debt that you are talking about tonight plus the unfunded liabilities of Social Security and Medicare, and I found it rather fascinating that the previous 1 hour did not ever mention the debt that is associated with the Medicare program right now, that did not mention that we were kind of misled, and I was one of the bipartisan supporters of the pharmaceutical drug Medicare reform bill, and I supported it because of the rural hospital components, but nobody mentioned the fact that we were misled about what the cost of that bill was going to be, those of us who supported it. We were not told 100 percent of the truth, and that is another story for another day.

But you are going to get into something in a minute that I think is going to get even more the attention of the American people. I remember, 1981, when we in this body in a bipartisan way increased the debt ceiling to, I believe, $980 billion. We are talking tonight about $7.3 trillion. It was $980 billion in 1981. We did not worry too much about that at that time because we owed most of that money to ourselves. When you owe money to yourselves, I remember the debate very clearly, it is not a problem because we are just taking it out of this pocket and putting it in another one. But, today, it has changed a little.

I think that leads into the point the gentleman was wanting to make. I want to talk more about this unfunded liability again, things we are not doing in this 108th Congress.

□ 2215

It has been now labeled, and I think correctly, the biggest do-nothing Congress since 1948; i.e., we have been in session less this year than any Congress since 1948. And that means that we have got an energy bill we have not passed. That means we have got a budget we have not passed. That means that, sometime this week, we are going to reach the debt ceiling of $7.384 trillion, which means we have got to up our credit card limit, or we default on these notes that we have got. And so all of this time, nothing is being talked about until today on the front page, some newspaper, some media, paid a little bit of attention to it.

But when we talk about debt, we do not owe it to ourselves anymore, and one of the most frightening aspects of this debt today is the one that the gentleman is just about to talk about.

Mr. TANNER. Mr. Speaker, reclaiming my time, I thank the gentleman for his comments.

I hope that we have communicated the breathtaking magnitude of this federal debt, $7.3 trillion in a $10 trillion economy. We cannot sustain that. It is like, if one makes $50,000 a year and they owe 70 percent of that in debt, they are in deep trouble, and I will talk about that in a minute. But the gentleman from Washington has joined us.

Mr. Speaker, would he like to say something before I get into whom we owe?

Mr. McDERMOTT. Mr. Speaker, will the gentleman yield?

Mr. TANNER. I yield to the gentleman from Washington.

Mr. McDERMOTT. Mr. Speaker, I think it is rather unusual that the gentleman from Texas (Mr. STENHOLM), the gentleman from Tennessee (Mr. TANNER), and I are all up here today talking about the same issue because I really think it is time to get some real value out of the administration's color-coded warning system. It is time to declare a code red on the Nation's debt crisis.

The front page story today, which has been alluded to, from USA Today analyzed the financial obligations facing Americans because of government debt. USA Today called it the hidden debt, and it totals a staggering $53 trillion. That translates into $473,456 per household. This money we need right now to meet the future obligations for programs like Medicare, Social Security, and government pensions. It grows by $1 trillion a year as long as this administration's budget binge continues.

The bills come due in earnest beginning in 2008. That is not very far away. It is a blink of an eye in real terms. So far, the answer out of this administration seems to be a strategy of letting the financial crisis reach epic proportions and then renege on the promise that the country has made to the greatest generation. And that, in my view, is not right.

When Americans need their government most, at retirement, the administration has not put forth a credible plan to honor our commitment to senior citizens. When Americans are most vulnerable, entering retirement after a lifetime of hard work and sacrifice, this administration is budget binging and simply cannot go on.

What will they say to seniors? Well, we would not do the math. Or we did the math and left it to the next administration to be responsible. The road the administration has put this Nation on is a fast track to catastrophe. This is far from a dire warning.

Economists and other experts on both sides of the aisle know the consequences of what USA Today is reporting today. The nonpartison, independent CBO looked at the President's budget. The CBO concluded, "These long-term budget projections show clearly that the budget is on an unsustainable path." That is not rhetoric. That is a dose of reality about where this administration has taken the country.

It gets even worse if a major disruption in oil supplies or another terrorist attack shakes the world's confidence in America. There is a major crisis at America's doorstep, but this administration serves up anecdotes instead of answers.

America's national security cannot be separated from America's economic security. And knowing that this Nation faces a looming debt load surpassing $53 trillion, the administration simply denies the crisis and keeps rewarding the rich with increasing tax cuts. Every day that the administration pretends everything is rosy is another day closer to a crisis when decisions will be forced, not made. That is because America is being run on borrowed money as much as borrowed time.

America is increasingly dependent on foreign governments to finance the U.S. Government spending. Is that the administration's idea of how to keep America secure? The way the administration is going, our insatiable appetite for foreign capital to keep the United States going will match our insatiable appetite for oil. Dealing with one is bad enough. Dealing with both is downright scary.

What happens when foreign countries decide to push the limit and demand more and more of us, not in dollars but in policies? If anyone doubts that carrot-and-stick approach, I would say look back on our own recent history. How many times has the United States tied economic assistance to another nation for concessions on something we want in return? The answer is, too many times to count.

National security depends upon economic security and is not built on top of an international debt or a mountain of international IOUs. We owe the greatest generation something more than a than an IOU. We owe the next generation something more than an anvil of debt hanging around their necks. We owe it to ourselves to face the reality that is facing us this day.

Here is the scale.

America is the greatest economic engine on the face of the earth. Last year, America's entire economic output was $11 trillion, as has been mentioned before. That was the total gross domestic product. As impressive as that is, the GDP pales in comparison to the $53 trillion coming due. Last year's entire economic output of the greatest country on earth is a mere one-fifth of the debt load America faces. Common sense ought to tell us where math like that gets us.

The war on America's debt is going to challenge us in ways we have never seen before. The danger is the economic policies set in motion by the current administration will pit one generation against another; the seniors against the folks in our age group against our kids. Every day the administration denies the problem is another day the war on debt becomes harder to win. We can act while we are still responsible to make choices. Or America can wait until we make or are forced to make draconian cuts.

The Greatest Generation made the greatest sacrifice on behalf of every generation. America owes them a debt of gratitude, not a mountain of debt that imperils everything they fought for. It is time to put the common good ahead of uncommon gain in this country. We have done it before, and we can do it again.

I think the gentleman from Tennessee (Mr. TANNER) ought to be commended for coming out here and raising this issue. At 10:30 at night, the people of the west coast are still watching, and I am sure people in Tennessee are watching, and people in Texas are watching, and they have got to think about this. This is not being discussed in this campaign. But George Bush has run us off the road. So my hat is off to the gentleman for coming out and talking about this.

Mr. TANNER. Mr. Speaker, reclaiming my time, I thank the gentleman for joining us. I got interested in this, it has been 2 years ago now, and I have learned more about the Nation's debt structure and so forth than I ever thought I would. And the more I think about it, the more concerned I become. And we are talking about this gross federal debt.

Let me try to boil it down. Of the last year, we paid gross interest on the $7.3 trillion of $318 billion. If we do the math, that is, 17.8 percent of every dollar that comes into this town is going out in interest. That is a 17.8 percent mortgage on our country. If we just talk about the $4 trillion, the hard dollars, and take away the money we owe each other, we have got almost a 9 percent mortgage on the country now, and it is going up every single day.

Mr. McDERMOTT. Mr. Speaker, who is financing it?

Mr. TANNER. Mr. Speaker, I am going to answer that question, and I guess now is as good a time as any. The foreign-held debt in January of 2001 was $1.01 trillion. The foreign-held debt in July of this year was $1.81 trillion. That is a difference of $800 billion since 2001, a 79 percent increase in what foreigners hold.

If we look at this chart, in 1980, of our debt foreigners held 17 percent of it. Last year, they held 37 percent of it. That is over a 23-year period.

But look at this one. In just 1 year, through July of 2004, it has gone from 37 to 42. That is what I am talking about when, on page 2 of the story, we will hear this, oh, well, this deficit is not any greater than it has been in times gone by as a percentage of the gross domestic product. That may be true, but what they do not tell us is that, in those times before, it was Americans buying war bonds. It was Americans buying T-bills and Americans buying notes. That is not true any longer. We are now dependent on the infusion of foreign capital to buy our notes, our T-bills and our bonds to finance this government. This is a recipe for financial disaster. It has to be.

One of the heart-breaking things about this is that people just do not focus on it and do not understand the magnitude of the problem. We think about the foreign aid bill. Do my colleagues realize that this year we will ship overseas four times the amount of the foreign aid bill in interest alone? Eighty-four billion dollars we are shipping out of this country to foreign-held debt. This is something that I think people ought to be aware of.

And this chart will show who owns our debt. In July of 2004, we owed the Japanese $695.8 billion. We owe mainland China $166.9 billion; United Kingdom, $130.4 billion; Caribbean banking centers, $90.9 billion; Korea, $61.5 billion; Taiwan, $57.6 billion; Hong Kong, $50.4 billion; Germany, $49 billion; Switzerland, $48 billion. We owe OPEC $43.9 billion. We owe Mexico $34.1 billion; Canada, $33.3 billion; Singapore, $26.1 billion. We owe Luxembourg $26 billion; Ireland, $18.2 billion; Brazil, $16.2 billion; Italy, $15.7 billion; Turkey, $15 billion; India, $14.9 billion; the Netherlands, $14.6 billion; Belgium, $14.6 billion; Thailand, $14.3 billion; Israel, $13.8 billion; France, $13.6 billion; Spain, $11.9 billion; Sweden, $10.4 billion; Australia, $9.7 billion; others, $7.5 billion. We owe $1.813.1 trillion out of the $4 trillion to people who are not Americans and who may not see the world as we see it in the future. And therein lies, I think, an unacceptable risk that we are putting our country in. We are creating a financial risk to our country that is, in my view, unacceptable.

The percentage of debt that was in foreign-held hands when President Bush took office has gone up, as I said, $800 billion. And the percentage of the 2003 deficit last year that we had, do my colleagues know what happened? Seventy percent of our deficit last year was financed by foreigners.

□ 2230

Not us. We are not paying for it. We are not paying for anything. Foreigners are financing our deficit spending. And if you do not think that is dangerous, then you have not studied history.

I yield further to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I hope our colleagues are paying a little attention to this tonight, because when we have been on this floor offering to be part of a solution, if people are watching this right now, folks are beginning to think, I would hope, okay, what should we do about it? What do you propose we do about it? How do you stop this, or is it no problem?

Well, I do not think anybody can come to the conclusion that this is no problem. If they do, they are living on a different world than the gentleman is or I am. It is a problem. It is a major problem.

Not only is this foreign debt, but then when you look at the unfunded liabilities of our Social Security system, for our children and grandchildren, and I want to emphasize right here, no one watching this has to worry about your Social Security check today. That is not the problem. It is our children and grandchildren that have got to worry about it. The Medicare situation right now is a $30 trillion unfunded liability. That is the more immediate problem.

But our point tonight is in emphasizing this body, the 108th Congress, has done nothing to address the problem the gentleman is showing, has done nothing to address the Social Security unfunded liability, has done nothing to deal with Medicare, other than dig the hole deeper; and that is the concern that we bring tonight.

It is time that we start doing something about it. Sometime this week, it is estimated that on Friday the United States of America will reach our credit card limit, $7.384 trillion; and when you reach that limit, you cannot borrow any more.

Now, the Blue Dogs, we have written a letter to the gentleman from Illinois (Speaker HASTERT), saying Mr. Speaker, we will vote to increase the debt ceiling, we will provide some bipartisan support for doing that, and we ask you to bring it to the floor and do it out in the open, with one proviso: reinstate one small rule that worked in 1990, 1992 and 1997, pay-as-you-go.

It says if you are going to spend more money for any purpose, you have got to pay for it. If you are going to cut taxes, you have got to cut the spending first; not just say you are going to do it, but actually do it before you cut the taxes so you do not dig the deficit hole deeper.

We think that is a reasonable compromise. The gentleman and I and 36 of our colleagues have said on this side of the aisle, we will do that.

Instead, what we hear from the leadership of this House is we are not going to vote on it until the lame duck session. We are going to put the Treasurer of the United States, who has asked us to increase the debt ceiling, we are going to put the good faith and credit of the United States into requiring the Treasurer of the United States to use every gimmick at his disposal, borrowing the Civil Service trust fund dollars, again, they have already been borrowed and spent, but we are going to do it again, because, as you know, these trust funds are a figment of imagination of anybody.

The military, the irony tonight, is that for the next 6 weeks we are going to force the Treasurer of the United States to borrow the military trust funds. The men and women who are putting their lives on the line tonight for us in Afghanistan and Iraq, work in paying into their trust fund for their retirement, we are going to manipulate that for the next 6 weeks just to keep us from voting to increase the debt ceiling. That borders on immorality. We hear a lot about that around this body, and it is wrong.

It is time for us to start dealing. You will find, Mr. Speaker, there are some considerable number of Democrats that will work with you would you allow us the opportunity to do so.

Finally, on the point the gentleman is making here, the gentleman mentioned debt tax awhile ago. All we hear about around here is tax cuts, tax cuts out the gazoo.

What the gentleman has shown tonight is the largest tax increase that this country has ever seen, because once you owe $7 trillion, let us round it off now because it will be $8 trillion within the next year, $8 trillion, a 1 percent increase in the interest rates of this country, a 1 percent increase is a $80 billion tax increase, and where are we going to send 42 percent of that tax increase? To our good foreign neighbors that are financing our spending binge in this country.

This is the biggest not only tax increase, but, as the gentleman pointed out tonight, the biggest foreign aid bill that this country has ever passed. And yet you would not believe it based on the rhetoric we hear in this body night after night.

Mr. TANNER. Mr. Speaker, I see our friend from Mississippi (Mr. TAYLOR) has joined us. I thank the gentleman for coming down. Some of us sometimes feel like a canary in a coal mine. They send a canary in a coal mine to see if it can live because of the gases and so forth. We have been talking about this, the Blue Dogs and others, for at least a year.

I think maybe with the gentleman from Texas (Mr. STENHOLM), what he said about USA Today, maybe we are getting through now and people are beginning to see. As I said earlier, the citizens of this country need to know this. I do not think they really fully know, because nobody has talked that much about it, but we are on a road to financial Armageddon. What we are doing around here is just plain wrong.

I thank the gentleman from Mississippi for joining us tonight.

Mr. TAYLOR of Mississippi. Mr. Speaker, I thank the gentleman for yielding.

Later on this week there will be a debate between the two candidates for President. I distinctly remember the incumbent telling me a little over 3½ years ago that he could increase spending, decrease taxes and pay down the national debt.

Having watched this body for decades have huge annual operating deficits, I did not think it could work. It just did not make sense. It took fiscal restraints, it took some tax increases that I voted against, but it took both of those things to balance the budget. And here he was coming in saying, I am going to spend more, I am collecting less, and I am going to balance the budget.

So on the night of my son's 13 birthday, they passed the President's budget. At that time our Nation was $5,643,283,000,000 in debt and owed over $1 trillion to the Social Security trust fund, and yet he said what we needed to do was spend more and collect less.

In slightly over 3 years the national debt has increased by $1,735,784,685,911. To put that into context, if you went all the way from the American Revolution, the cost of the American Revolution, the cost of the War of 1812, the cost of the Mexican American War, the Civil War, Spanish-American War, World War I, World War II, Korea and Vietnam, all the things that happened in those years, all the way up to 1979, our Nation borrowed $1 trillion. In a little over 3 years, our Nation has borrowed $1.7 trillion. Where did it come from?

The gentleman from Tennessee (Mr. TANNER) has done a great job of talking about we borrowed it from the Communist Chinese. By the way, if you are concerned about Taiwan's independence, imagine a scenario where the Chinese are getting ready to invade Taiwan and say, By the way, if you defend Taiwan, we are calling in the note for $160 billion you owe us, plus the note for the other $50 billion you owe to Hong Kong, since we now own them also. So we are calling in the note for over $200 billion if you defend Taiwan. I have got to tell you, I do think that is part of their strategy. I have said that here on the House floor. If you think big deficits are a good idea, then you like borrowing money from the Communist Chinese.

But worse than that, every single American who has a job, from a kid who is working at a snowball stand to Bill Gates, everybody pays at least on their first $68,000 of income on their Social Security. There was a solemn promise made back during the Reagan Presidency when those taxes were increased that that money would be set aside for no other purpose than paying Social Security benefits.

Right now, our Nation owes the Social Security trust fund $1.6 trillion with no plan to pay it back. The past 3 years, they have stolen an additional $521 billion from the Social Security trust fund.

So if you watch the debates Thursday night, and I hope some television commentator somewhere is watching this, how about a great question: How do you plan to pay back the $1.6 trillion that has been stolen from the Social Security trust fund, including the $521 billion that has been stolen in just over the past 3 years? Because if you do not have a plan to pay it back, then you stole it.

So in order to get about $600 billion in tax breaks, $521 billion stolen from the Social Security trust fund, the rest is borrowed from the Communist Chinese. A heck of a deal.

As a matter of fact, if you take a look at it, for every dollar the American people got back in tax breaks, our Nation has borrowed three. That is a heck of a sound business decision.

So if you have watched the House floor in the past couple of weeks, you know that we have had votes on things like gay marriage, which I opposed. We have had votes on things like burning the flag, which I oppose. We have had a lot of talk of morals; we have had a lot of talk of patriotism.

So let me pose to my Republican friends who vote for most of these things, a moral question: Is it moral for you to spend money that you are going to stick your kids with the bill? What moral father, what moral mother would go out and buy a house or a fancy car and say, I don't care what it costs, because my kids are going to pay for it.

What moral grandparent would go out and buy something and say, I don't care what it costs. My grandkids are going to pay for it.

Mr. TANNER. Or just pay the interest on it and let them pay it off.

Mr. TAYLOR of Mississippi. Right. Talk about patriotism. What patriot would bankrupt the country he loves? That is exactly what has been going on for the last 3 years.

We hear talk about sound economic principles. Really? What is so sound about borrowing $3 for every $1 the citizens got back in tax breaks? New York loan sharks do not charge that kind of interest. Yet it is what we continue to pay.

So I think the questions that I would hope the press will be asking Thursday night are how did we get into this jam and what is your plan, both of you candidates, for getting us out it?

What is my plan? Number one, I think we need a constitutional amendment to protect the trust funds. We have a solemn promise. If we take money out of a person's paycheck and say it is going towards Social Security, then it should go towards nothing but Social Security. If we take money out of a person's paycheck to pay for Medicare, then it should go towards nothing but Medicare. It is pretty simple. If we tell a Federal employee we are going to take money out of their paycheck and set it aside for their retirement, then we ought to do just that.

But what you do not know and probably do not want to hear is that as of this moment this Nation owes you, every Social Security recipient, a total of $1.6 trillion has been taken out of your trust fund. For those of you who paid into Medicare, and every working American has, we owe you $270 billion. If you are a Federal employee, we owe you $622 billion in your retirement fund.

By the way, if a private sector employer had done that, if a private sector employer had dug into his employees' retirement fund for any reason, no matter how good, whether it was to help a crippled child, whether it was to help someone go to college, whether it was to pay a disaster loan, if they borrowed into it for any reason, they would go to jail. Yet the people who run our country continue to do that with absolutely no remorse for what they have done, and, sadder still, with absolutely no plan for paying it back.

So I say to the gentleman from Tennessee (Mr. TANNER), I do appreciate the opportunity to be here tonight.

For you House employees, I hate keeping you here tonight. There is one week left in this session. I promise not to do this to you on a regular basis. I think these are things the American public needs to know about. I think this is the time to talk about it.

Mr. TANNER. I yield to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Speaker, I was just going to add a couple of points here.

It is not just the three of us talking about this. The Comptroller General David Walker, the government's chief accountant, is traveling the Nation warning of the impending crisis. "I am desperately trying to get people to understand the significance of this for our country, our children and our grandchildren," Walker says. "How this is resolved could affect not only our economic security but our national security," which the gentleman has pointed out and the gentleman from Mississippi (Mr. TAYLOR). "We are heading to a future where we will have to double taxes or cut Federal spending by 50 percent."

Alan Greenspan has been begging this Congress and this administration to deal with the deficit, but nobody seems to be listening.

□ 2245

This is a major problem which requires a solution, and we just seem to be ignoring it and sweeping it under the table like it is not there, but it is there.

Mr. TANNER. Mr. Speaker, if this has not depressed us enough, this year, so far, in 2004, the increase in the privately held debt is $380 billion. The increase in foreign-held debt is $370 billion. Ninety-seven percent of the increase in privately held debt is in the hands of foreigners.

There is a fellow, Alan Sloan, who wrote not long ago in The Washington Post about us financing our government with borrowed money from anywhere on Earth where people will let us have some in exchange for our IOU, and he said this: "Whose bread I eat, his song I sing." What of course he was talking about is, as the gentleman from Mississippi (Mr. TAYLOR) pointed out, when you are in hock all over the world, but particularly to Beijing, and look at what they have done; I cannot believe that this is just happenstance.

Just since 2000, they have increased their holdings of our debt 119 percent. Now, there is a reason for that, and it is not because they see the world the same way the United States does every day. I am not bashing China, other than to say, we are creating a financial liability, a financial vulnerability that is tantamount to a national security issue. There is no other way we can say it. To point that out, there is a former official of the People's Bank of China, the country's central bank, who was recently quoted and said the U.S. dollar is now at the mercy of Asian governments.

I want to tell my colleagues, we not only have a horrendous balance of trade situation with Asia but, if this is true, then we are no longer the architects of our own destiny financially. There is no way this country can be strong and free and put in the position we are in, in hock all over the world, getting worse by the day. Mr. Speaker, 97 percent of the privately held debt this year increased by foreigners.

Mr. STENHOLM. Mr. Speaker, I want to make an observation right here, because I know if any of our colleagues, and we have two on the floor from our friends on the other side of the aisle right now, their thinking right now, if it has been as it has been when we have had open expressions of opposition to some of our solutions, is that you are forgetting to say we are at war, and wars are expensive. No, we are not forgetting for one second that we are at war, and 20 percent of this problem is directly related to the war, 20 percent. I use as my reference for that, Alan Greenspan.

The gentleman from Tennessee brought up another interesting point that really is directly tied to the point the gentleman is making tonight. How many times have we been on this floor worried about the trade deficit? I rhetorically ask the question of my constituency back home many times: How long can America keep sending over $500 billion, exporting our jobs to other countries at the rate we are without the law of economics taking over? I do not know the answer to that question, and I do not know anybody who does know the answer to that question, but there is an answer, and the market is ultimately going to answer that.

But now, tonight, the gentleman has shown, as Paul Harvey says, the rest of the story. What happens to those dollars when we ship them across to other countries? They come back. They have to come back. They are buying our debt with those dollars. If they did not, we would have a much more serious economic situation almost overnight.

Mr. TANNER. And if they stop, we have a crisis.

Mr. STENHOLM. That is the crisis.

Now, we hear folks saying, well, Charlie, this deficit is not the largest in the history of our country as a percent of GDP, and I concede that point readily, because that is a fact, if we will also use the same GDP figures for spending and for revenue. And having been around this body now for almost 26 years, I tend to go back and see, well, what was it in 1978 when I was elected and what is it in 2004 today. And spending as a percent of GDP by the Federal Government for all programs has gone down one-half of 1 percent. Revenue has gone down by 5 percent. Therefore, we are perfectly willing to borrow from foreign interests that which we demand the right to spend for all of the purposes that we are spending today. And when we hear this, there is another thing; and this is the point I wanted to make.

The current accounts deficit, the gentleman mentioned that, is the largest that it has been in the history of our country today: 6.9 percent of gross domestic product in the current accounts deficit. Mr. Speaker, 3.4 percent is where it was in 1987 when Black Monday occurred and the stock market crashed because of something that happened. As USA Today says today, an oil crisis, something happens, we have a problem. We are double, 100 percent worse off today in the current accounts deficit than we were in 1987.

Well, one other little figure, facts and figures. The gentleman talked about the debt tax. Forty percent of all income taxes paid by the United States citizenry last year went to pay interest on the national debt. Forty percent of all of our taxes are going to pay interest on the debt; and yet the debt, the deficit, and the rising debt is of no problem to the leadership of this House. Mind-boggling.

Mr. TANNER. Mr. Speaker, I yield to the gentleman from Mississippi (Mr. TAYLOR).

Mr. TAYLOR of Mississippi. Mr. Speaker, it is funny how people change. There was a guy who was a Representative from Illinois and he believed in a balanced budget. His name is DENNIS HASTERT. Back when he was just Member HASTERT, he gave great speeches on the House floor about the importance of a Balanced Budget Amendment to the Constitution. So whether the gentleman from Tennessee (Mr. TANNER) is here, whether the gentleman from Texas (Mr. STENHOLM) is here, whether I am here, whether the gentleman from California (Mr. CUNNINGHAM) is here, no matter who is here, the rules are that Congress cannot spend more than they collect in taxes.

The gentleman from Illinois (Mr. HASTERT) he came to the floor back then and said, Mr. Chairman, I rise today in support of a Balanced Budget Amendment. "It is an amazing statistic that interest payments on our national debt were 5 times higher in 1993," we are going back a ways, "than outlays for all education, job training, and employment programs combined. Clearly, until our monstrous" then "$4.3 trillion Federal deficit is eliminated, interest payments will continue to eat away at the important initiatives which the government funds. I will not stand by and watch Congress recklessly squander the future of our children and grandchildren. Mr. Chairman, when I served in the Illinois legislature, the fact that we had a balanced budget amendment to our State Constitution enabled us to practice strong fiscal discipline. We must have the same safeguard at the Federal level. The American people have wanted a Balanced Budget Amendment for a long time because they know it is the only way to force Congress to make the tough spending choices."

That comes out of the CONGRESSIONAL RECORD March 17, 1994. The gentleman from Illinois (Mr. HASTERT) became Speaker in January of 1999, almost 5 years ago. In the 5 years that he has been Speaker, he has not allowed a single vote on a Balanced Budget Amendment to the Constitution. We have had a number of votes on amending the American Constitution on things that I voted for, things like preventing gay marriage, things like preventing flag desecration, but not a single vote on what I consider to be the most important issue in America right now, and that is passing a law that whether or not the gentleman from California (Mr. CUNNINGHAM), or the gentleman from Texas (Mr. STENHOLM), or the gentleman from Tennessee (Mr. TANNER), or myself, the Speaker, or no matter who sits in our chairs, those people who serve the public will spend no more than they collect in taxes.

I say to the Speaker of the House, the gentleman from Illinois (Mr. HASTERT), we have about 1 week left in this session. I, for one, would like the opportunity to vote on a Balanced Budget amendment. You have blocked it for 5 years now. One of the reasons I will never vote for you for Speaker is because what you said as a Member did not translate into what you did as Speaker of the House.

I believe it is important. Almost every State has laws that say, you cannot spend more than you collect in taxes. In my State of Mississippi, city councilmen and county supervisors are held personally liable if they spend more than they collect in taxes. And guess what? They do not spend more than they collect in taxes. We need that sort of responsibility here.

So I say to the gentleman from Tennessee (Mr. TANNER), thank you for pointing out the evils of the debt. We have outlined some solutions tonight. We are hoping guys like the gentleman from Illinois (Mr. HASTERT) or whoever the next Speaker is will give us a vote on that. And I am ready to do that, I say to the gentleman from California (Mr. CUNNINGHAM), and I hope he is ready to do that. But at the very least, let us have a vote on it. Let us show the American people who is for a Balanced Budget Amendment and who is not. Quit hiding behind the Speaker of the House who, for 5 years now, has blocked that vote, even though he came to this floor on any number of occasions and said how important it was for our Nation to have that.

Mr. STENHOLM. Mr. Speaker, one of the reasons why he has not brought it up is we cannot have the kinds of budgets that have been here in this body for the last 3 or 4 years and get to a balanced budget. We have to change our overall budget philosophy and go back to pay-as-you-go. It is pretty simple arithmetic. We cannot run this country on philosophy. The banks will not lend us money on philosophy all of our lives. At some point, the law of economics is going to take over and as the charts the gentleman from Tennessee (Mr. TANNER) has shown us tonight, if it does not begin to get the attention, which I am glad again today, USA Today put it on the front page, maybe now, tomorrow night in the debates between the two candidates for Vice President, this issue will come up.

Maybe Thursday or Friday night it will become part of the debate, and people will start asking the question, what is your plan? The three of us will be here, hopefully with three friends from the other side of the aisle with a plan; and if we will start working together, we can begin to address this problem. But we cannot do it with the game plan that we are under today. The game plan today is giving the results of what the gentleman is showing us right now in the charts.

Mr. TANNER. Mr. Speaker, I want to thank my colleagues for coming, and we will wrap this up. But there are three things that I hope people who have listened to this tonight will come away with. Number one, we are in an unprecedented spiral of debt. We are borrowing money now faster than this country has ever borrowed it. There is not a reputable economist in this land that thinks that growth can catch up to this debt curve that is plunging us into bankruptcy. Not one reputable economist will say that growth will catch up with this.

As I said earlier at the top of the hour, we are in an airplane; and if we do not do something different, we are in a death spiral. It is going to hit the ground. It is that simple. No question about that.

The second thing is I hope people will realize that as bad as this is, what is worse is who is financing it. Back in World War II, back in World War I, back any time we had a national crisis in this country and we had to raise money through borrowing, we did it with war bonds and so forth, and people in this country invested in the good of the Nation. That is not happening. We are now mortgaging our country, 90 percent this year. It has gone up 79 percent in the last 4 years. We are borrowing from people who do not have America's best interests at heart. I hope that is the second lesson that comes out of this tonight. Please, if you think that is important, if you know, as I do, that we are creating a financial vulnerability second only as a matter of national security to the war on terrorism, because we will lose control of our own financial destiny, control of our economy if this is not quickly reversed.

And third, the way to reverse it is to immediately establish the rules of pay-as-you-go. Every family does it. If I want to spend some money over here, I have to cut somewhere over here. It is that simple. We all do it. They refuse, the Republican leadership here refuses to put what we call PAYGO rules back in. They work. If you have a good idea, that is fine. How are you going to pay for it? You have to cut somewhere else to do it. We ought to demand, the citizens, the highest officeholders in our land must demand financial accountability that has been sadly and, in my judgment, heart-breakingly absent here. I yield to the gentleman from Mississippi.

Mr. TAYLOR of Mississippi. Mr. Speaker, just along the lines of the gentleman from Tennessee (Mr. TANNER), and I am really reminded of it when I see a great American hero sitting across the aisle from us, someone who fought for his country in Vietnam, was an ace, probably has some different views than what we do. But I will say this: I greatly respect the gentleman from California (Mr. CUNNINGHAM), and I greatly respect everyone who has ever served our country. I have enormous respect for all of those fighting in Iraq and Afghanistan tonight.

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But I will say this. Those of us who are fortunate enough not to have to fight these wars, ought to at the very least be willing to pay for them right now and not stick those young soldiers and their children with the bill for this war.

That is what is going on. We are just kicking the can. We are asking the kids to fight for us now, and, by the way, when you get home, here is the bill. And if you cannot pay for it, your children and your children's children will pay for it.

Almost every tax on the books, as regrettable as taxes are, almost every tax on the books was put on during wartime. Never in the American history has there been a tax break during a war, never, because every other generation says, we have a challenge we are going to pay for.

This generation needs to step forward as other generations did. And those of us who are fortunate enough not to fight this war ought to at least be willing to pay for it right now.

Mr. TANNER. Mr. Speaker, we want to thank the staff. We apologize for keeping them here this late. This is a message that we hope people will begin to think about.

TO CAST ASIDE A FRIEND

The SPEAKER pro tempore. Under the Speaker's announced policy of January 7, 2003, the gentleman from California (Mr. CUNNINGHAM) is recognized for half the time before midnight, approximately 30 minutes.

Mr. CUNNINGHAM. Mr. Speaker, I am not going to talk about spending, deficits, taxes, Democrats, Republicans. I am going to do something a little different on the floor. I will talk about a vision for world peace. And the title is "To Cast Aside a Friend," maybe a little different perspective on Saudi Arabia.

There was a speech in which the individual talked about a Saudi businessman who was talking about the murderous events on September 11. We know it as 9/11. The Saudi was worried about the derailment of the partnership and alliance that Saudi Arabia and the United States have enjoyed over the past 60 years for the betterment of a free world, both for Saudi Arabia and for the United States.

I recently visited Saudi Arabia for a couple of weeks, and I want to talk a little bit about what I found there, the support for the United States but yet some of the anger towards the United States, not hatred, but anger.

There has been a fire storm of criticism against Saudi Arabia in the months since 9/11, and the relationships between Saudi Arabia and the United States has been condemned and vilified. I believe Saudi Arabia remains a valuable ally to the United States. The detractors will say that Saudi Arabia is an incubator for terrorism simply because many were Saudis on that flight during 9/11, and they were citizens.

The individuals to whom I spoke in the cabinet and the Shura council, which is like the Congress of the United States, were in disbelief when they were told that Saudis were on that airplane. One of the reasons that some of the people who were reported on those airplanes were still walking around Saudi Arabia, so they said, no, it cannot be. It is misinformation. And when it was proven that it was, they were in disbelief.

If you have a gang of thugs in a city, it does not represent the mainstream of that city. And I found through the citizens I was able to speak to, businessmen, to teachers, to almost every cabinet member, to the Shura council, to women in universities and colleges in Saudi Arabia, and I found nothing but support for the United States, and a lot want to keep the relationship and better the relationship.

Osama bin Laden was targeting Saudi Arabia, not just the United States, and more specifically, he was targeting the relationship between the two countries by using Saudis as hijackers in 9/11. We know he could have used dozens of different nationalities on those airplanes, but Osama bin Laden wants to bring down the Saudi regime which condemned and expelled him years before.

Second, the disparagers will say that Saudi Arabia is an incubator of terrorism because of school systems.

I will be including this because I do not have time tonight to read the whole thing, but it goes into talk about the bank system, the lending system and how Saudis have shut down terrorism.

I would like to first cover what I found about education. We had about 20,000 Saudi Arabian students in the United States before 9/11. One of the fathers sent his son back. He was a senior in college. And after 9/11 he went through the airplane, and INS saw that he was a Saudi student, held up his visa and made the statement, "Okay, smile for me like a terrorist."

This is the inhumane treatment that many of the students and the ill treatment that people from the Mideast are receiving when they come back into the United States. So when I say anger by the Saudis, not hate, in some cases, I believe it is justified.

I have an individual in my district. He has been an American citizen for many, many years. His brother still lives in Saudi Arabia. His brother's son, named Bater, came through the airport as he had many, many times to come back to school within the United States. He ended up on some list. No one was able to find out what list or why that list existed.

Upon arrival, he was put in handcuffs and shackled, his legs shackled like a common criminal. He was held at the airport and shipped back to Riyadh. No explanation. When he got back to Riyadh, guess what? The United States found out that the allegations were not true.

Now, can you imagine how my constituent's brother treated him when he came back to Saudi Arabia? He still loves the United States. The son, Bater, loves the United States. But would there be anger? If it was my son, you bet.

These are the kinds of things that Secretary Colin Powell is working on to find out, how do we allow the students to come back into the United States, $1.2 billion just from students coming in from Saudi Arabia? Seventy-five percent of the Saudi cabinet graduated from U.S. schools and colleges and universities. Most of them end up with Ph.D.s. These are the leaders running the country in Saudi Arabia; and every one of them with whom I spoke supported the United States and wanted to regain that kindling relationship.

It is best in their economic and their political lives to be friends with the United States.

One other area that I have heard criticism of Saudi Arabia, that they teach Wahhabism. Eighty-five percent of the curriculum in Saudi Arabia is okay by the United States; 15 percent was marginal; and 5 percent taught intolerance. Well, guess what? The Saudi government under the Crown Prince said, all right, imams, the teachers; they fired over 3,000 of these imams who were teaching intolerance. They have changed the curriculum to go along with a 100-percent okay by the United States. They either fired these imams or they actually threw them in jail, and now, they actually have a school curriculum to purport no intolerance, will be taught within the Saudi schools.

The curriculum had not changed much in 40 years in Saudi Arabia, but they are doing that because they know that is also in their best interest. Now, also, 75 percent of the Shura council, that is like our Congress, Republicans or Democrats or however they are made up over there, but to the person there when I spoke to them, their Shura council supported the United States.

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It was an odd thing though, Mr. Speaker. Every person that had just visited the United States and the Cabinet or the Shura Council had not made those personal relationships, not made friendships, learned our economic system, learned why a free society is good. They rejected the United States and said I do not need the United States; I will send my son to Australia, or New Zealand or to England to learn.

My fear, Mr. Speaker, is that in a very short time we have 75 percent of the Cabinet and the Council and the leadership in Saudi Arabia that is very strong supporters of the United States. If we lose that relationship because their sons and their daughters and this generation is going to other countries to study, we are going to lose that mass friendship toward the United States and the support that we have today, and that is scary.

The next generation will be lost. Many of the businesses that support the United States are now purporting to Russia and China and Vietnam to New Zealand and Australia. We are losing $40 billion a year in just trade and business because of the way that we are treating Saudi Arabia.

One of the key issues I think in the relationship is visa delay. It is critical. Secretary Colin Powell, when I spoke to him, is working diligently to make sure that we improve the visa situation and at the same time ensure national security and homeland security in visa issuance. That is a difficult task but we have got to do it. These visa restrictions are alienating students and the Saudi people themselves.

In medical care and health care, most Saudis come to the United States for their health care. One of the groups were talking about health care a minute ago, but our hospitals and doctors lose over $1 billion a year from Saudis coming to our hospitals. When you take a look at the hotels, the restaurants, the transportation that they use, the firms that they contact for business, we are looking in excess of $15 billion a year that the United States loses in revenue. Four hundred in new business opportunities have been lost between 2003 and 2004.

Colin Powell once said that like our Statue of Liberty our Nation has a spine of steel but our torch is a welcome torch, and that is all we are trying to do, Mr. Speaker, is to make sure that our longest-serving friend in the Middle East, Saudi Arabia, remains our friend, and we castigate those that would say otherwise.

I would be a fool to say that Saudi Arabia does not have its own problems. Are there people that want to kill us in Saudi Arabia? Absolutely, but I want to tell my colleagues, there are other areas in what I looked at as well.

The leadership in Saudi Arabia escorted me to several banks where I witnessed American, Canadian and British auditors in every bank making sure that every single dollar that goes through there is legitimate and not going to service terrorism. They have taken their charities into one group, and anyone that invests in a charity cannot do it with cash. You cannot use an ATM card. You cannot use a credit card. The individual that puts the money into the charity has got to be identified and identify where the money is going to, penny for penny. We could not do that in this country, but yet Saudi Arabia is trying to cut off any fiscal resources that the terrorists could use, both through money laundering in their banks or through charities, and they have done a good job.

It is not just with the United States. They are working with Interpol. They are working with MI5. They are working with our intelligence services on a day-to-day basis on banking, on money laundering, on charities.

Mr. Speaker, I sit on the Permanent Select Committee on Intelligence, and I cannot get into a lot of it, but I want to tell my colleagues that the intelligence that we receive from Saudi Arabia rivals the information that we receive from our strongest allies, and I want to tell my colleagues also, Mr. Speaker, they are suffering miserably against al Qaeda. Just in the past weeks they have killed or captured 300 al Qaeda, at a loss of many of their police and their own military. Many have realized that if they pet the wolf, the wolf is going to bite them. They are in full array trying to share as much information as they can with us and our allies.

Crown Prince Abdallah Aziz and King Fahd are visionaries, Mr. Speaker. I would like to submit for the RECORD copies of initiatives and actions taken by Saudi Arabia to combat terrorism. There are reams of pages of loss of life of Saudi police and military that talks about the captures in here. It documents it. It talks about their international cooperation, the regard to charitable organizations, combat money laundering, legal and regulatory actions.

I would also like, Mr. Speaker, to submit for the RECORD political and economic reforms in the kingdom of Saudi Arabia, and somewhere in here I think most importantly are the public statements by senior Saudi officials condemning extremism and promoting modernization.

POLITICAL AND ECONOMIC REFORM IN THE KINGDOM OF SAUDI ARABIA

The Government of Saudi Arabia has implemented a number of political and economic reforms to encourage political participation, promote economic growth, increase foreign investment and expand employment opportunities. The Kingdom has been updating and modernizing its academic curricula, and monitoring its religious schools. It plans to hold municipal elections as part of a comprehensive streamlining of local government. In addition, the Kingdom is promoting its free market economy by privatizing twenty major state enterprises, establishing fourteen regulatory authorities to carry out reforms, improving foreign investment laws, revising a broad range of commercial laws and implementing intellectual property rights to foster innovation. It is also becoming a more significant player in international trade by seeking membership in the World Trade Organization (WTO).

SAUDI ARABIA AND REFORM IN THE ARAB WORLD

In January 2003, the Kingdom of Saudi Arabia presented a bold initiative entitled 'Charter to Reform the Arab Position' to encourage economic and political reform in the Arab world.

The Charter urges Arab states to recognize the need for internal reform and greater participation by citizens in the political process as important steps toward the development of Arab human resources and the democratization of the Arab world.

The initiative calls on Arab states to implement a Greater Arab Free Trade Zone by the end of 2005. The goal of this agreement is for Arab states to implement unified tariffs and duties within 10 years, which will serve as the basis for the establishment of a Common Arab Market (CAM). It also encourages members of the League of Arab States to modernize local economies, privatize government-owned industries and open economic development opportunities to outside investment and participation.

At the end of the 16th Arab Summit in Tunis, May 22-23, 2004, Saudi Arabia along with the other 21 members of the Arab League issued the "Tunis Declaration" and pledged to carry out political and social reforms, promote democracy, expand popular participation in politics and public affairs, and reinforce women's rights.

SAUDI ARABIA AND POLITICAL INITIATIVES AND LEGISLATION

In 1992, Custodian of the Two Holy Mosques King Fahd bin Abdulaziz introduced three major political developments to modernize the government within the framework of the Kingdom's traditions:

The formation of the Consultative Council (Majlis Al-Shura)—The Consultative Council currently consists of 120 members who serve four-year terms.

The establishment of Consultative Councils in each of the 13 provinces of Saudi Arabia—The Consultative Councils are composed of leading citizens who help provide input and review management of the provinces by their respective local governments.

The introduction of the Basic Law of Governance—The Basic Law is similar to a constitution.

On November 29, 2003, King Fahd approved changes that would enhance the legislative role of the Consultative Council. The amendments to Articles 17 and 23 of the Consultative Council System grant the Council the power to propose new bills or amendments to regulations in force and debate such proposals without prior approval from the King.

Elections

On October 13, 2003, Saudi Arabia approved groundbreaking plans to streamline local and municipal governments by introducing elections for half of the members of each municipal council to ensure that citizens have a strong voice in local affairs. A one-year period was given to the authorities responsible for managing and finalizing the election procedures.

The proposal for elections marked an important step in the Kingdom's ongoing reform agenda and followed King Fahd's address to the Consultative Council on May 17, 2003, where he said: " I would like to confirm that we will continue on the path of political and economic reform. We will work to improve our system of government and the performance of the public sector and broaden popular participation in the political process."

On July 10, 2004, Saudi Arabia announced that the basic regulations and systematic procedures for the election process had been established, and that committees had worked through the details for establishing election centers, registering voters and candidates and setting deadlines in the election of members in 178 municipal councils across all cities and villages in the Kingdom's 13 provinces.

On September 7, 2004, the Minister of Municipal and Rural Affairs Prince Met'eb bin Abdulaziz issued directives that a committee be set up to supervise the upcoming municipal elections in Riyadh Province. The committee, affiliated with the Ministry's general committee for the election process, will supervise implementation of the rules and regulations and all other preparatory and executive works.

In addition, Saudi Arabia briefed a visiting team of United Nations experts on the measures completed by the Ministry of Municipal and Rural Affairs relating to the elections, and the UN team held meetings with the committees supervising the process.

On September 11, 2004, dates were announced for the three phases of the election process: for Riyadh province, February 10, 2005, with voter registration from November 23 to December 22, 2004; for the four southern provinces and the Eastern Province, March 3, 2005, with voter registration from December 14, 2004, to January 12, 2005; and for the rest of the country, April 21, 2005, with voter registration from February 15 to March 16, 2005. Candidates can register for the three phases December 26 to 30, January 30 to February 3, and March 20 to 24, respectively.

King Abdulaziz Center for National Dialogue

On August 3, 2003, Crown Prince Abdullah announced the establishment of the King Abdulaziz Center for National Dialogue to promote the public exchange of ideas as an essential part of life in Saudi Arabia. So far, three rounds of talks have taken place, covering standards of education, the emergence of extremism, and the role of women. The next national dialogue will be in October 2004 and will focus on youth issues. In his address to the European Policy Centre on February 19, 2004, Saudi Arabia's Minister of Foreign Affairs Prince Saud Al-Faisal said: "The Center for National Dialogue was established with a broad agenda including, but not limited to, reassessment of the standards of education; dealing with the emergence of extremism; the essential role women should play in society; and institutional development. Diversity and tolerance are the guiding principles."

National Human Rights Association (NHRA)

In March 2004, Custodian of the Two Holy Mosques King Fahd bin Abdulaziz approved the establishment of the first independent human rights organization in Saudi Arabia. The National Human Rights Association (NHRA) implements the international human rights charters signed by the Kingdom. The NHRA, which includes a special panel to monitor violations of women's rights, was formed following the October 2003 human rights conference entitled "Human Rights in Peace and War". The human rights conference concluded with the issuance of the "Riyadh Declaration" which states that respect for human life and dignity is the foundation of human rights; that a human being deserves respect, regardless of race, color or sex; that violation of human rights is a crime deserving severe punishment; that to hold a human being in custody without legal basis is forbidden by Islamic laws; that disregard for privacy and property rights is a violation of human rights; and that tolerance of faith is required by Islam, which also prohibits coercing people to follow a certain religion.

Press law

On July 17, 2001, the Kingdom endorsed a 30-article law to restructure the press industry and allow journalists to establish a trade association. On February 24, 2003, the Saudi Journalists Association was officially established to protect the rights of journalists in the Kingdom and coordinate relations between journalists and the media establishment, and on June 7, 2004, elected a nine-member board that includes two women. In March 2004, the Consultative Council passed a resolution urging the Ministry of Culture and Information to encourage greater freedom of expression in the Saudi media, and to open up opportunities for investment in the media to the Saudi private sector.

Education

In Saudi Arabia today, there are eight public universities, more than 100 colleges and more than 26,000 schools. Some five million students are enrolled in the education system, which boasts a student to teacher ratio of 12.5 to 1—one of the lowest in the world. Of the 5.2 million students enrolled in Saudi schools, half are female, and of the 200,000 students at Saudi universities and colleges, women comprise more than half of the student body. The government allocates about 25 percent of the annual state budget to education. Recent initiatives include:

In February 2002, Saudi Arabia initiated a process of evaluating and assessing its school curriculum. This audit determined that about five percent of textbooks contained possibly offensive language. A program was put into place to eliminate such material and textbooks and curricula have been updated and modernized. Two pilot programs, one in Riyadh and one in Jeddah, have been established to experiment with new teaching methods.

Student councils are being set up in public schools to begin educating young Saudis about civic responsibilities and participatory governance.

In August 2002, the Department of Statistics reported that 93.2 percent of Saudi women and 89.2 percent of Saudi men are literate.

Saudi Arabia is open to foreign investment for private higher education.

In October 2003, Dr. Maha Abdullah Orkubi was appointed Dean of the Jeddah branch of the Arab Open University (AOU), the first time for a Saudi woman to be appointed to such a senior academic position.

Saudi Arabia has introduced English language classes to the Sixth Grade for the 2004-2005 academic year in order to improve English teaching at intermediate and secondary schools.

Religion

During 2003, two thousand imams who had been violating prohibitions against the preaching of intolerance were disciplined or removed from their positions, and more than 1,500 have been referred to educational programs. The Ministry of Islamic Affairs has begun a three-year program to educate imams and monitor mosques and religious education to purge extremism and intolerance. On April 27, 2004, at a reception in New York co-sponsored by the U.S.-Saudi Business Council and the Council on Foreign Relations (CFR), Saudi Arabia's Minister of Foreign Affairs Prince Saud Al-Faisal explained: "It is the religious establishment in Saudi Arabia that in fact is proving to be the body most qualified to de-legitimatize Al-Qaeda's claims, the very religious community that is being attacked and discredited." For more information about the efforts of Saudi Arabia's religious establishment, please consult the "Public Statements by Senior Saudi Officials Condemning Extremism and Promoting Moderation" report, which can be found on the Embassy web site at <www.saudiembassy.net>.

Judicial Regulations

Saudi Arabia has recently passed several important regulations to ensure a fair and balanced justice system, including:

Law of Procedure Before Shari'ah Courts

In September 2001, Saudi Arabia passed the Law of Procedure Before Shari'ah Courts to regulate the rights of defendants and legal procedures. In addition to granting defendants the right to legal representation, the law outlines the processes by which pleas, evidence and experts are accepted by the court.

Code of Law Practice

In January 2002, the Code of Law Practice went into effect in Saudi Arabia. The law outlines the specific requirements necessary to become an attorney, including education, registration and admission to the courts as well as licensing. The law also defines the duties and rights of lawyers, including the right of attorney-client privilege.

Criminal Procedure Law

In May 2002, the Criminal Procedure Law, a 225-article bill, was passed to regulate the rights of defendants and suspects before the courts and police. The law protects a defendant's rights with regard to interrogation, investigation, and incarceration and also grants the defendant access to the Bureau of Investigation and Prosecution. Members of the Bureau of Investigation and Prosecution are to ensure, through visits, that the rights of the defendants and persons in custody are being protected. The law also outlines a series of regulations that justice and law enforcement authorities must follow during all stages of the judicial process, from arrest and interrogation, to trial and the execution of verdicts, ensuring that the judicial process remains fair and balanced.

In April 2004, the Ministry of Justice organized a symposium on the Kingdom's judicial system. The communiqué declared that Shariah [Islamic Law] is viable at all times and places; that legal procedures should be filed in a manner that supports the individual's rights and penal procedures should reflect human dignity in accordance with Shariah; and that equal rights should be extended to individuals with regard to legal aid in all phases of penal lawsuits of a public nature.

SAUDI ARABIA AND ECONOMIC INITIATIVES AND LEGISLATION

Applying for accession to the World Trade Organization (WTO)

Saudi Arabia is one of the largest economies outside the World Trade Organization (WTO). Recent steps toward privatization and market liberalization have called for fresh negotiations on Saudi Arabia's bid to join the WTO. In the accession process, the Kingdom is negotiating bilateral agreements with current WTO members while adopting the organization's various trade rules. The Kingdom of Saudi Arabia and the European Union signed a bilateral agreement on August 31, 2003, guaranteeing free access to goods and services. Moreover, Saudi Arabia has already signed 35 bilateral trade agreements with other members of the WTO, including China, Japan, Canada, Brazil, Argentina and Australia. Talks between Saudi Arabia and the United States are ongoing in mid-September, 2004.

On July 5, 2004, the Council of Saudi Chambers of Commerce and Industry (CSCCI) announced plans to set up early next year a center that will provide technical and support services to Saudi businesses in preparation for the Kingdom's accession to the WTO.

Copyright Law

On June 9, 2003, the Council of Ministers endorsed the Copyright Law, a 28-article document that meets the requirements of the World Trade Organization's Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS), placing Saudi Arabia one step closer to entry in the WTO. The law protects intellectual property including print publications, lectures, audio recordings, visual displays, as well as computer programs and works of art. The law establishes a range of fines and actions that can be effected for copyright violations. Saudi Arabia has also joined the Universal Copyright Convention and the Berne Convention for the Protection of Literary and Artistic Works to further protect intellectual property and encourage continued development and innovative thinking.

Patent Law

On July 17, 2004, the Council of Ministers approved a 65-article law on patents, integrated circuits, plant varieties and industrial designs. The new law also meets the requirements of TRIPS and the Paris Agreement for Industrial Property.

The Capital Markets Law

On June 16, 2003, the Council of Ministers passed the Saudi Arabian Capital Markets Law. The law will stimulate and strengthen the Saudi economy and increase the participation of Saudi citizens in the capital markets. The law:

Establishes the Saudi Arabian Securities and Exchange Commission (SASEC) to protect investor interests, ensure fair business, promote and develop the capital market, license brokers and offer securities to the public.

Establishes the Saudi Arabian Stock Exchange (SASE), which will incorporate the national securities depository center.

Foreign Investment Law

The Foreign Investment Law, enacted by the Saudi Arabian General Investment Authority (SAGIA), was set up to allow foreign investors to own property, transfer capital and profits, claim full ownership of their projects and enjoy a reduction in tax rates. The law protects foreign investors from confiscation of property without a court order or expropriation of property, except for public interest, against an equitable compensation. In August 2002, SAGIA passed an amendment to the Executive Rules of the Foreign Investment Act strengthening the legal framework, allowing foreigners to, for instance, own land and avoid double taxation.

Capital Gains Tax

On January 12, 2004, the Cabinet cut the capital gains tax on foreign investors from 45 percent to 20 percent and fixed the tax on natural gas at 30 percent.

U.S.-Saudi Council for Trade and Investment

On July 31, 2003, Saudi Arabia and the United States signed an agreement to strengthen commercial and investment relations. As a result, the U.S.-Saudi Council for Trade and Investment was established to meet at least once a year to enable representatives of both countries to review the signing of additional agreements on trade, protection of intellectual property rights, investment, vocational training and environmental issues. There are 337 joint ventures between the two countries with a total investment of more than $21 billion. American companies are the largest group of foreign investors in the Kingdom.

Enacting the GCC Customs Union

The Customs Union was established on January 1, 2003, by the Gulf Cooperation Council (GCC) to standardize customs duties in the six member countries. In accordance with the Customs Union, the Government of Saudi Arabia approved the reduction to 5 percent of customs for goods formerly charged between 7 and 12 percent. In addition, the GCC agreed to the principle of a single port of entry. Most related laws and regulations will be standardized by the end of 2005.

SAUDI ARABIA AND AGENCIES THAT PROMOTE REFORM

The following is a list of agencies established to help implement economic reform in Saudi Arabia.

Supreme Economic Council (SEC)

In August 1999, Saudi Arabia announced the formation of the Supreme Economic Council (SEC). The SEC evaluates economic, industrial, agricultural and labor policies to assess their effectiveness. Privatization efforts have gained momentum since the creation of the SEC, which oversees economic restructuring aimed at opening up Saudi markets and attracting investments.

Supreme Council for Petroleum and Minerals (SCPM)

Saudi Arabia established the Supreme Council for Petroleum and Minerals (SCPM) in January 2000, as a body responsible for policymaking on the exploitation of petroleum, gas and other hydrocarbon materials. The SCPM passed the Gas Initiative to develop natural gas fields, transmission pipelines and petrochemical projects in cooperation with international as well as national companies.

Supreme Commission of Tourism (SCT)

The Supreme Commission of Tourism (SCT) was established in April 2000 to help the tourism sector grow and encourage investment from the private sector. Each year, two million Muslims from all over the world visit Saudi Arabia to perform the Hajj, and many more come to perform the minor pilgrimage of Umrah. The Kingdom is a popular destination for non-religious activities as well. The Kingdom is rich in history and culture and has a variety of tourist attractions to offer, including archeological sites, varied landscapes and shorelines rich in marine life. On March 15, 2004, the Cabinet approved a general strategy for developing the nation's tourism to be carried out by the SCT. The Kingdom's tourist industry is expected to create 489,000 jobs, a number that could reach as high as 2.3 million.

Saudi Arabian General Investment Authority (SAGIA)

In April 2000, the Saudi Arabian General Investment Authority (SAGIA) was set up to further promote foreign investment and serve the business community as a one-stop shop for licenses, permits, and other business paperwork. The 2000 Foreign Investment Law included property ownership rights for foreign investors as well as reduced tax rates for businesses. SAGIA works with the Supreme Economic Council (SEC) and the Supreme Commission of Tourism (SCT) and serves as a mediator between investors and the government.

Food and Drugs Authority (FDA)

In March 2003, a Food and Drugs Authority (FDA) was established to provide consumer protection and ensure the safe utilization of all foodstuffs, pharmaceuticals, medical devices and electronic products.

The Council of Saudi Chambers of Commerce and Industry (CSCCI)

The Council of Saudi Chambers of Commerce and Industry represents the regional Chambers of Commerce and Industry at both national and international levels. The Council monitors and researches economic issues, helps encourage economic growth, organizes seminars and conferences both within the Kingdom and abroad, and creates foreign investment opportunities through trade missions to other nations. In addition, the Council's work has resulted in the issuance of new regulations that allow foreign businessmen, investors, and representatives of foreign firms to acquire entry visas to the Kingdom without having to consult with the Ministry of Foreign Affairs.

ECONOMIC INDICATORS

The best indicator of Saudi Arabia's economic growth is the increase in the Gross Domestic Product (GDP), from $20 billion in 1970 to $211.20 billion in 2003. Saudi Arabia's current economy is now the largest in the Middle East.

In 2003 and 2004, Saudi Arabia was given "A" credit ratings by 'Standard and Poor's' for longterm local currency and foreign currency, based on the Kingdom's macro-economic stability and substantial external liquidity.,

Today, Saudi Arabia is the world's 25th largest importer/exporter, with foreign trade of $78 billion. In 2003, trade between Saudi Arabia and the United States totaled more than $22 billion.

Saudi Arabia is the world's largest oil exporter and has the world's largest spare production capacity. The Kingdom has utilized oil revenues to expand and diversify the Saudi economy to reduce its dependence on oil, which has resulted in impressive gains in the non-oil sector. In 2003, the non-oil industrial sector is estimated to have grown by 3.9%; the construction sector by 2.8%; electricity, gas, and water by 6.2%; transport and communications by 4.3%; and wholesale, retail, restaurants, and hotels by 4.4% in real prices.

In 1975, Saudi Arabia had about 470 industrial plants with overall investments estimated at $2.7 billion. By 2001, the total number of factories in the Kingdom exceeded 3,300 with a total investment of more than $90 billion.

The role of the private sector has increased substantially with its GDP rising 28-fold in real terms from 1973 to 2002. Over that period, non-oil exports increased from $26 million to over $10 billion, and in 2003, the private sector GDP is estimated to have grown by 3.7% in current prices and 3.4% in real terms, according to Deputy Governor of the Saudi Arabian Monetary Agency (SAMA) Muhammed Al-Jasser in a speech in April 2004.

The all-share index on the Saudi stock exchange stood at 4384 as of December 11, 2003, compared to 2518 at the beginning of the year, representing an increase of more than 74%. Value of shares traded amounted to $143.2 billion at the end of November 2003, compared to $35.73 billion in 2002. In May 2004, the index reached 6455.

In the past decade, Saudi Arabia's 10 licensed commercial banks have seen a substantial growth in domestic banking. In 2003, combined capital and reserves of the banks increased to $12.5 billion with total assets of $145 billion. Recently, eight leading money exchangers operating throughout the Kingdom agreed to merge and form the Al-Bilad Bank, which will be Saudi Arabia's eleventh commercial bank. The Al-Bilad Bank has a capital of $.08 billion and is expected to launch its operations in the first quarter of 2005.

"The underlying goal of these reforms is to realize the country's vast economic potential while creating new opportunities both inside and outside Saudi Arabia, and to expand and diversify the Kingdom's economy while creating job opportunities for a rapidly growing population." Ali Al-Naimi, Minister of Petroleum and Mineral Resources, July 22, 2003.

SAUDI ARABIA AND PRIVATIZATION

In November 2002, the Kingdom of Saudi Arabia announced plans to privatize many of its vital economic sectors. The Supreme Economic Council (SEC) has taken overall charge of the program, specifying the sectors to be privatized and setting out a strategic plan and timetable for the privatization program. Sectors open to privatization include: telecommunications, civil aviation, desalination, highway management, railways, sports clubs, health services, government hotels, municipal services, education services, operation and management of social service centers, Saudi employment services, agricultural services, construction and management of abattoirs, public parks and recreation centers, and cleaning and waste collection. Concrete examples of privatization efforts include:

Telecommunications

In December 2002, the Saudi Telecom Company (STC) was privatized, and 30 percent of its shares were sold to the public in an Initial Public Offering (IPO) that raised more than $4 billion.

Postal services

In 2002, the Saudi government approved the transfer of the responsibilities of the state-run postal services from the Ministry of Posts, Telegraphs and Telephones (PTT) to the private sector. In January 2003, Dr. Khaled Al-Otaibi, Director General of Posts at the Ministry of Posts, Telegraphs and Telephones (subsequently renamed Telecommunications and Information Technology), reported that privatization of the postal services has been operating successfully, with about 100 agencies established by the private sector.

Saudi Railway Organization (SRO)

On April 11, 2004, General President of the Saudi Railways Organization (SRO) Khaled AlYahya confirmed that three major rail projects have been approved by the Supreme Economic Council (SEC) for immediate implementation by the private sector. The first project will extend the existing Dammam-Riyadh line to Jeddah. The second will connect Makkah with Madinah through Jeddah. The third will link Riyadh with the phosphate and bauxite mines in the provinces of Qasim and Northern Borders.

Airports

The Kingdom will privatize the management and operation of local and international airports. However, airport security will remain in the hands of the government. Saudi Arabia has 24 domestic airports and three international, in Riyadh, Jeddah and Dammam.

Saudi Arabian Airlines (SAA)

Saudi Arabian Airlines is the largest airline in the Middle East, with a fleet of 117 aircraft carrying more than 12 million passengers per year to 50 cities on four continents. Research has begun for its partial privatization. The privatization effort promises to be a successful endeavor resulting in increased revenues and enhanced performance. In addition, the SEC approved, in June 2003, the opening of the Saudi aviation sector to private enterprise, giving private companies the opportunity to provide domestic airline services.

Ports Authority

The Ports Authority has assigned several projects to the private sector to expedite the handling of goods and maritime services at the Kingdom's eight seaports. For example, at the Jeddah Islamic Port and the King Abdulaziz Port in Dammam, the King Fahd Vessel Repair Yard (located at both ports) and the two areas for processing re-exports are now leased by the private sector.

Health care sector

The Ministry of Health strongly supports the privatization of some state-run hospitals, and in 2003 employed a private company to promote its pre- and post-natal healthcare education program, with the program introduced in more than 85 percent of the Kingdom's hospitals. To further privatization efforts, on October 28, 2003, the Minister of Commerce and Industry, Dr. Hashem bin Abdullah Yamani, approved the formation of a joint stock company for medical care that will establish, own and manage health facilities, including hospitals.

Urban transportation system

Transportation Minister Dr. Jubarah Al-Suraiseri announced in August 2003 that plans are under way to privatize and reorganize Saudi Arabia's urban transportation system.

National Company for Cooperative Insurance (NCCI)

On May 18, 2004, the SEC approved selling off government shares in the Arab world's largest insurance company, the National Company for Cooperative Insurance (NCCI). The sale of government shares in NCCI will help open up the Kingdom's insurance market, which is estimated at more than $2.5 billion. NCCI has assets of about half a billion dollars and is the only insurance company officially licensed in Saudi Arabia.

Saudi Arabian Mining Company "Ma'aden"

On May 19, 2004, the SEC approved the privatization of the Saudi Arabian Mining Company "Ma'aden", which is wholly owned by the Ministry of Petroleum and Mineral Resources. As a first step toward privatization, "Ma'aden" is setting up a unit to study and evaluate the precious and base metals sector starting January 1, 2005.

"First of all, I wish to make clear that the government of Saudi Arabia has since the very beginning been extremely supportive of the private economic sector."—Crown Prince Abdullah, Asharq Alawsat, (Arabic daily), May 13, 2002.

SAUDI ARABIA AND FOREIGN INVESTMENT

In April 2000, the Saudi Arabian General Investment Authority (SAGIA) was set up to further promote foreign investment and serve the business community as a one-stop shop for licenses, permits, and other business paperwork. Since its establishment, SAGIA has licensed more than 2,000 projects worth around $15 billion.

Telecommunications

The Saudi Communication Commission (SCC) was established on December 29, 2001, to open up the market and enable foreign companies to invest in telecommunications. On August 10, 2004, the Council of Ministers licensed UAE's Etisalat to establish and operate the second mobile phone network that includes GSM service.

Insurance

A new Insurance Law was passed on July 14, 2003, that will establish legal structures governing insurance and reinsurance transactions in the Kingdom. Foreign companies are encouraged to invest in the insurance sector.

Saudi Railway Organization (SRO)

In January 2003, the Kingdom of Saudi Arabia short-listed eight foreign companies to consult on the three railway projects to connect the western Red Sea port of Jeddah with the eastern Arabian Gulf port of Dammam, link Jeddah to the holy cities of Makkah and Madinah, and give access to mining projects in the north.

Energy sector

Agreements worth more than $7 billion have been reached with international oil companies for investments in the energy sector, including a project with Royal Dutch Shell and TotalFinaElf, to develop upstream gas operations in the southern part of the Empty Quarter [Rub' al-Khali]. These are the first of what is expected to be a total of more than $25 billion of investments over the next few years.

Mining

In April 2003, the Minister of Petroleum and Mineral Resources announced that a new mining strategy was being finalized to bolster private investment in the mining sector. The Mineral Investment Act was passed on September 13, 2004; it will create jobs and allow local and foreign investors to explore the country's mineral resources. The Kingdom is rich in minerals such as phosphate, iron ore, bauxite, zinc, and copper.

Health care sector

The new laws facilitating the transfer of certain state-run hospitals to the private sector will allow foreign investors to own hospitals. The foreign investor does not need to have a medical background and does not require a Saudi sponsor.

Water and Electricity Sector

In August 2003, the Ministry of Water and Electricity invited Saudi and international companies to bid on water desalination and electricity projects worth more than $8 billion. The offers were extended in March 2004.

SAUDI ARABIA AND OIL

In 2003, Saudi Arabia's oil revenue totaled $85 billion. The Kingdom has always acknowledged that unstable energy markets and unrealistically low or high oil prices harm both producers and consumers. Following the horrific attacks on September 11, 2001, the Kingdom dispatched 9 million additional barrels of oil to the United States to ensure price stability and availability. In the fall of 2002, in order to maintain market stability, Saudi Arabia boosted oil production to compensate for the fall in Venezuelan production, and in the spring of 2003, it boosted output to compensate for the loss of Iraqi production.

On August 11, 2004, Saudi Arabia's Minister of Petroleum and Mineral Resources Al-Naimi stated: "The Kingdom of Saudi Arabia, in collaboration with the other OPEC countries, endeavors to ensure the stability of the international oil market and prevent oil prices from escalating in a way that may negatively affect the world economy or oil demand. To achieve this goal, the Kingdom has increased its production during the last three months to meet the growing demand for Saudi oil. This increase amounted to more than one million barrels per day, bringing to more than 9.3 million barrels daily the average production of the Kingdom during the past three months."

SAUDI ARABIA AND ECONOMIC DIVERSIFICATION

Over the past three decades, the non-oil sector of the Saudi economy has grown from 35 percent to more than 60 percent of total GDP.

Production of gas—Natural gas is used for the Kingdom's domestic consumption for power generation, seawater desalination and various other functions, primarily in the petrochemical industry. With 234 trillion cubic feet of natural gas reserves in 2002, the Kingdom has the fourth largest non-associated gas reserves in the world, and they are still growing. Part of the Kingdom's oil and gas strategy includes expanding the capacity of the gas network from 3 billion to 7 billion cubic feet.

Mining—Saudi Arabia has the largest supply of mineral resources in the region, including precious, base and industrial minerals. The government is encouraging enterprises for extracting and processing these minerals—an area where U.S. companies play a major role.

Construction Materials—The Kingdom of Saudi Arabia is the largest producer of construction materials in the Middle East, and construction is the Kingdom's largest non-oil industry. According to the National Commercial Bank (NCB), the largest bank in Saudi Arabia, the construction and building materials sector currently contributes an annual $12 billion to the Saudi economy. Saudi Arabia's construction products, including cement, tiles, marble, glass, granite, cable, air-conditioning equipment and fabricated iron and steel, are all exported throughout the region.

Pharmaceuticals—Saudi Arabia has a $1.17 billion pharmaceutical market estimated to grow at 15 percent annually. With more than 2,400 pharmacies and more than 4,600 registered drugs, both generic and patented, Saudi Arabia is the largest consumer of pharmaceuticals in the Gulf region. The United States exported more than $82 million worth of pharmaceuticals to the Kingdom in 2001, a 47 percent increase from the previous year.

Banks—On October 6, 2003, during a visit by German Chancellor Gerhard Schroeder, the Kingdom gave Deutsche Bank approval to open a branch and operate as the first independent, wholly foreign-owned bank in Saudi Arabia. Additional possibilities for wholly foreign-owned banks in Saudi Arabia include BNP Paribas Bank of France and J.P. Morgan Chase Bank.

Stock Exchange—The Stock market has developed significantly over the past decade and is, by far, the largest in the Middle East. Value of shares traded amounted to $143.2 billion at the end of November 2003, compared to $35.73 billion in 2002.

SAUDI ARABIA AND EMPLOYMENT

The following information is based on data on the labor force from the Central Department of Statistics (CDS) of Saudi Arabia's Ministry of Economy and Planning for the year 2002.

Employment figures

The total population in Saudi Arabia increased from 12 million in 1980 to more than 20 million in 2000. The Saudi labor force is defined as all Saudis, 15 years of age and older, who are either employed or seeking a job, and in 2002 amounted to 3.15 million (consisting of 2.68 million males and 465,000 females) with an unemployment rate of 9.6 percent. The Kingdom is involved in various initiatives to increase employment levels among young people and women.

The creation of job opportunities

The Saudi government seeks to create jobs through the various reforms addressed in this booklet such as economic diversification, privatization, opening up the market and other initiatives, including:

The National Program for Training and Employment

The National Program for Training and Employment helps Saudi citizens find jobs in both the public and private sectors. The Program is responsible for the creation of job opportunities, job training and Saudization.

Saudization

Saudization is a measure that applies limitations to the number of foreign workers employed in order to slowly increase dependency on Saudi workers. In 2002, the non-Saudi labor force amounted to 3.09 million. The government continues to provide incentives to create more employment opportunities for its citizens as well as provide incentives for participation in job training.

Centennial fund

On July 8, 2004, Custodian of the Two Holy Mosques King Fahd bin Abdulaziz approved the formation of a charitable foundation called the "Centennial Fund" that will provide assistance to all Saudi citizens, both men and women, who seek to achieve economic independence by setting up small business enterprises. On July 20, 2004, the Centennial Fund signed an agreement with the Saudi Arabian General Investment Authority (SAGIA) to work together in helping Saudi entrepreneurs to translate their commercial ideas into projects.

Employment of women

In 2002, there were 465,000 Saudi women in the labor force; this represents 15 percent of the total Saudi labor force. Saudi women are owners or part owners of more than 22,000 businesses. Accounting, banking and computer training centers have been established to prepare women for jobs, and as a result, more opportunities have opened up for women, including those in the technological, automotive and other industrial sectors.

INITIATIVES AND ACTIONS TAKEN BY THE KINGDOM OF SAUDI ARABIA TO COMBAT TERRORISM

Following the horrific events of September 11, an international coalition composed of more than 100 nations was formed to combat terrorism. Saudi Arabia is an active partner in this coalition and has been working diligently with the United States and other nations to destroy terrorist organizations and eliminate the threat they pose to the international community.

Saudi Arabia, as the birthplace and cradle of Islam, has a very special role to play in the war on terrorism. Its opposition to Al-Qaeda's hateful ideology sends a clear message to the world that these extremists and their cult do not represent the peaceful Islamic religion. This stand has unfortunately made the Kingdom even more of a target, but the people of Saudi Arabia are determined not to let terrorism destroy their country or corrupt their faith.

The attached report is a compilation of the Kingdom's counter-terror efforts to date. The people of Saudi Arabia remain staunch allies of the international community in its campaign against terrorism.

In its efforts to confront terrorism, Saudi Arabia has: Questioned thousands of suspects; arrested more than 600 individuals; dismantled a number of Al-Qaeda cells; seized large quantities of arms caches; extradited suspects from other countries; and established joint task forces with the United States.

"I vow to my fellow citizens and to the friends who reside among us, that the State will be vigilant about their security and well-being. Our nation is capable, by the Grace of God Almighty and the unity of its citizens, to confront and destroy the threat posed by a deviant few and those who endorse or support them. With the help of God Almighty, we shall prevail."—Crown Prince Abdullah bin Abdulaziz, Deputy Prime Minister and Commander of the National Guard, May 13, 2003.

ARRESTS AND QUESTIONING OF SUSPECTS

Saudi intelligence and law enforcement authorities have been working closely with the United States and other countries as well as with Interpol to identify, question and when appropriate, arrest suspects. Since September 11, Saudi Arabia has questioned thousands of suspects and arrested more than 600 individuals with suspected ties to terrorism.

Specific actions

On September 5, 2004, three security officers were killed when their car caught fire after being hit by gunfire while pursuing a suspect vehicle. The officers were part of a security force carrying out operations in the southern part of the city of Buraidah. Seven militants were arrested in the operation. The deaths of Sergeant Mufleh Saad Ruweishid

Al-Rasheedi, Sergeant Sayer Farhan Ghanim Al-Nomasi and Murif Shakir Eid Al-Rasheedi bring to 36 the total of security personnel who have lost their lives fighting terrorism since May 2003.

On September 3, 2004, one security officer, Yousef bin Ayed Al-Harbi, was killed and three injured during operations in Buraidah. Surveillance of a suspected residence and vehicle led to an exchange of fire between security forces and another vehicle. After a pursuit through a residential neighborhood, the driver of the second vehicle was killed, and another individual involved in the incident was arrested.

On September 2, 2004, the Ministry of Interior announced that Abdullah bin Abdulaziz bin Ahmed Almughrin had voluntarily surrendered to security authorities. He was wanted for his involvement in setting up an Al Qaeda cell in the Eastern Province, three of whose members were recently arrested. The cell is suspected of preparing the attack in Al Khobar on May 30, 2004. Almughrin is also suspected of having links to other parties, both inside and outside the Kingdom, that have been planning acts of terrorism.

On August 30, 2004, security forces in the Eastern Province were carrying out investigations when a car carrying four persons tried to break through security barriers. In the ensuing exchange of fire, one of them was killed, and the other three wounded, and arrested. The search operation also led to the arrest of another suspect, and the seizure of two vehicles that had been under surveillance by the security forces.

On August 11, 2004, Abdulrahman bin Obaid-Allah Al-Harbi was killed in the vicinity of the Holy Mosque in Makkah after he attacked security officers who were trying to apprehend him. He was wanted for his involvement with an extremist group and the manufacturing of explosives.

On August 5, 2004, Faris Ahmad Jamaan Al Showeel Alzahrani, one of the leaders of the group that has been calling for terrorist attacks, was arrested. Saudi Arabia's most-wanted list now stands at 11 at large, with 12 killed and three in custody.

On July 22, 2004, Fayez bin Rasheed bin Mohammad Al-Khashman Al-Dossary surrendered to security authorities in the city of Taif, expressing the desire to benefit from the grace period offered by Custodian of the Two Holy Mosques King Fahd bin Abdulaziz.

On July 20, 2004, in a raid on a suspected hideout in the city of Riyadh, security forces killed two suspects, one of whom, Isa Saad Mohammad bin O'ooshan, was on the list of Saudi Arabia's most-wanted. Recovered during the raid were the partial remains of Mr. Paul Marshall Johnson, Jr., the American who was kidnapped and murdered by Al-Qaeda in June.

On July 17, 2004, Ibrahim Al-Sadiq Al-Bakri Al-Qaidi arrived in the Kingdom from Damascus, where he had surrendered to the Saudi Embassy, expressing the desire to benefit from the grace period offered by Custodian of the Two Holy Mosques King Fahd bin Abdulaziz.

On July 13, 2004, top Al-Qaeda suspect Khalid bin Odeh bin Mohammed Al-Harbi, also known as Abu Sulaiman Al-Makki, surrendered to Saudi authorities at the Saudi Embassy in Iran and was later transported to Saudi Arabia.

On July 3, 2004, the Ministry of Interior confirmed the deaths of two militants, Rakan Muhsin Mohammed Alsaykhan and Nasir Rashid Nasir Alrashid, who were on the list of 26 most wanted that was published in December 2003. The two died of wounds received in an incident on April 12 in the Riyadh suburb of Al-Fayha, in which a security officer lost his life.

On July 1, 2004, terrorist Awad bin Mohammed bin Ali Al-Awad, wanted for his involvement in the April 12 incident, was killed and another suspect was arrested and has been identified as Abdulrahman bin Mohammed bin Abdulrahman Al Abdulwahab, wanted in connection with the murder of a German resident in Riyadh on May 22. A security officer, Private Muslih bin Saad Al-Qarni, was killed in this incident.

On June 30, 2004, a terrorist was killed in a shootout in Riyadh, later identified as Fahd bin Ali Aldakheel Algablan. Security forces seized, in addition to weapons such as Kalashnikovs and pistols, a laboratory for preparing explosive devices, equipment for forging documents, and materials for medical treatment and first aid.

On June 23, 2004, in a televised address read on behalf of Custodian of the Two Holy Mosques King Fahd bin Abdulaziz by Crown Prince Abdullah bin Abdulaziz, Deputy Prime Minister and Commander of the National Guard, the government of the Kingdom of Saudi Arabia offered those involved in terrorist activity a last opportunity to repent and voluntarily surrender within one month, or face resolute and determined force: whoever surrendered would be assured due process in accordance with Shariah [Islamic Law]. Hours later, Sa'aban bin Mohammed bin Abdullah Al-Lailahi Al-Shihri, wanted for the past two years, became the first militant to accept the offer and surrender to authorities. On June 28, 2004, Osman Hadi Al Maqboul Almardy Alomary became the second to do so; he is on the list of Saudi Arabia's 26 most-wanted that was posted last December.

On June 18, 2004, Abdulaziz Abdulmohsen Almughrin, head of the deviant group that has been terrorizing the Kingdom, and which was responsible for the brutal murder of U.S. hostage Paul Johnson, was one of the four suspects killed in a siege in the Maalaz area of the city of Riyadh. The three others killed were identified as Faisal bin Abdulrahman Al-Dakheel, Turki bin Fehaid Al-Mutairi, and Ibrahim bin Abdullah Al-Duraihem. One security officer was killed, and two others wounded. Found at the scene were three cars, one of which had been used in a recent attack on a BBC journalist and his photographer; ammunition and weapons, including sub-machine guns, rocket launchers, pipe bombs and grenades; and a stack of identity papers.

On June 1, 2004, security forces killed two suspects during a shootout in an isolated area of Al-Hada on the Taif-Makkah road. The two suspects had been identified as being implicated in the criminal terrorist attack that took place in Al Khobar on May 29, 2004, that resulted in the deaths of 22 people, including one American and three Saudis. Security forces rescued 41 hostages in that incident; one of the four terrorists was wounded and apprehended.

On May 20, 2004, security forces killed four terrorist suspects and injured another in a gunfight in Qasim Province. The security forces came under heavy fire from machineguns after locating five terrorist suspects in a rest house in Khudairah, a village in the area of Buraidah. Two security officers were killed. Weapons and ammunition were confiscated.

On May 1, 2004, four terrorists were killed after carrying out an attack in Yanbu that left eight people dead and twenty others wounded. The four belonged to one family: Sameer Sulaiman Alansari, Sami Sulaiman Alansari, Ayman Abdulqader Alansari, and Mustafa Abdulqader Abed Alansari.

On April 22, 2004, five terror suspects were killed following a shootout with security forces in the Al-Safa neighborhood in Jeddah. Four of them were identified as Ahmad Abdulrahman Saqr Alfadhil, Khalid Mobarak Habeeb-Allah Alqurashi, Mostafa Ibrahim Mohammad Mobaraki, and Talal A'nbar Ahmad A'nbari, numbers 23, 11, 25, and 13 on the most wanted list published on December 6, 2003.

On April 18, 2004, the Ministry of Interior issued a statement explaining the developments following incidents on April 12 and 13, 2004; confirming that security forces had seized two trucks loaded with 4,118 kilograms of explosives ready for detonation, plus a car full of weapons; and adding that various other items and weapons had also been seized at different locations. Eight suspects have been arrested in connection with these events.

On March 15, 2004, security forces killed one of Saudi Arabia's most wanted terror suspects: Khalid Ali Ali-Haj, who was on the December 6 list of wanted terrorist suspects. Ali-Haj was a Yemeni national who trained at Al-Qaeda camps in Afghanistan where he worked closely with Osama bin Laden. Security forces searched his car and found six hand grenades, two Kalashnikov assault rifles, ten Kalashmkov ammunition magazines, three 9-mm pistols and the equivalent of about $137,000 in cash.

On February 22, 2004, the Ministry of Interior confirmed the death of A'amir Mohsin Moreef Al Zaidan Alshihri, who was on the December 6 list of wanted terrorist suspects. He died some time after being wounded during a clash with police in Riyadh on November 6, 2003. The body was recently recovered from where it was buried, just outside the city, and DNA tests proved that it was Alshihri.

On January 30, 2004, security forces stormed a rest house in Al Siliye district in the east of the city of Riyadh, arrested seven suspects and seized a number of items including a car rigged with explosives, five rocket-propelled grenade launchers, seven machine guns, 11 pistols, five hand grenades, 21 detonators, military uniforms, and ammunition.

On January 12, 2004, the Ministry of Interior announced that, over the past six months, large quantities of ammunition and weapons had been seized. The total weight of confiscated explosives was 23,893 kilograms. In addition, 301 rocket propelled grenades together with launchers, 431 homemade grenades, 304 explosive belts (ready for use by suicide bombers), 674 detonators, 1,020 small arms and 352,398 rounds of ammunition were confiscated. The Ministry of Interior also called on everyone in Saudi Arabia to cooperate in fighting terrorism and extremism.

On December 30, 2003, Mansoor Mohammad Ahmad Faqeeh, whose name had been published in a December 6 list of 26 wanted terrorist suspects, surrendered to security authorities.

On December 8, 2003, the Ministry of Interior announced that Ibrahim Mohammad Abdullah Alrayis, whose name was on the December 6 list, had been killed by security forces. The Ministry statement praised citizens' cooperation with the security forces, who are pursuing those wanted and those who are trying to undermine the country's security and safety.

On December 6, 2003, the Ministry of Interior published the names and photos of 26 suspects wanted by security forces in connection with the terrorist incidents that have taken place in the Kingdom in the past few months, urging them to surrender to the authorities. The Ministry called on all citizens and residents to report information they may have about any of the wanted suspects. Immediate financial rewards of up to $1.9 million are being offered for information leading to the arrest of any wanted suspect, or any other terrorist elements and cells.

On November 26, 2003, a suspected terrorist was arrested. The suspect's hiding place was linked to the terrorist cell involved in the November 9 car bombing at the Al-Muhaya residential complex in Riyadh. Search of the hiding place revealed large quantities of arms and documents. Items discovered by security forces include one SAM-7 surface to air missile, five rocket-propelled grenade launchers, 384 kilogram of the powerful explosive RDX, 39 detonators, 20 hand grenades, eight AK–47 assault rifles, 41 AK–47 magazines, and 16,800 rounds of ammunition. Also recovered were four wireless communication devices, three computers, computer disks and CDs, and SR 94,395 in cash, as well as numerous identity cards and leaflets calling for the perpetration of acts of terror.

On November 25, 2003, a car bomb plot was foiled in Riyadh. The encounter with security forces led to the deaths of two wanted terrorist suspects: Abdulmohsin Abdulaziz Alshabanat, who was killed in the exchange of fire, and Mosaed Mohammad Dheedan Alsobaiee, who committed suicide by detonating the hand grenade he was carrying. The vehicle that was seized was loaded with explosives and camouflaged as a military vehicle.

On November 20, 2003, Abdullah bin Atiyyah bin Hudeid Al-Salami surrendered to security authorities. He was wanted for suspected terrorist activities.

On November 6, 2003, security forces investigating a suspected terrorist cell in the Al-Suwaidi district of the city of Riyadh came under fire from the suspects, who attempted to flee while attacking security forces with machine guns and bombs. In the exchange of fire, one terrorist was killed and eight of the security officers suffered minor injuries. On the same day, in the Al-Shara'ei district of the city of Makkah, two terrorist suspects, who were surrounded by security forces, used home-made bombs to blow themselves up. Their suicide followed a firefight during which they refused to surrender when requested by the security officers.

On November 3, 2003, Saudi police arrested six suspected Al-Qaeda militants after a shootout in the holy city of Makkah in Saudi Arabia. The raid on an apartment triggered a shootout that left two suspected terrorists dead, and one security officer wounded.

On October 20, 2003, security forces raided several terrorist cells in various parts of the country, including the city of Riyadh, the Al-Majma'a District in Riyadh Province, Makkah Province, the Jeddah District of Makkah Province, and Qasim Province. Security forces confiscated items including C4 plastic explosives, home-made bombs, gas masks, and large quantities of assault rifles and ammunition.

On October 8, 2003, security forces raided a farm in the northern Muleda area of Qasim Province and were able to arrest a suspect. Three other suspects fled the scene. Two security officers suffered injuries.

On October 5, 2003, security forces arrested three suspects during a raid in the desert to the east of Riyadh.

On September 23, 2003, security forces surrounded a group of suspected terrorists in an apartment in the city of Jizan. During a gun battle, one security officer was killed and four officers injured. Two suspects were arrested and one killed. The suspects were armed with machine guns and pistols and a large quantity of ammunition.

On July 28, 2003, security forces killed six terrorist suspects and injured one in a gunfight at a farm in Qasim Province, 220 miles north of the capital, Riyadh. Two security officers were killed and eight suffered minor injuries. Four people who harbored the suspects were arrested.

On July 25, 2003, three men were arrested at a checkpoint in Makkah for possessing printed material that included a "religious edict" in support of terrorist acts against Western targets.

On July 21, 2003, the Minister of Interior announced that Saudi authorities had defused terrorist operations which were about to be carried out against vital installations and arrested 16 members of a number of terrorist cells after searching their hideouts in farms and houses in Riyadh Province, Qasim Province and the Eastern Province. In addition, underground storage facilities were found at these farms and homes containing bags, weighing over 20 tons, filled with chemicals used in the making of explosives.

On July 3, 2003, Turki Nasser Mishaal Aldandany, a top Al-Qaeda operative and one of the masterminds of the May 12 bombings, was killed along with three other suspects in a gun battle with security forces that had them surrounded.

On June 26, 2003, Ali Abdulrahman Said Alfagsi Al-Ghamdi, a.k.a. Abu Bakr Al-Azdi, surrendered to Saudi authorities. Al-Ghamdi, considered one of the top Al-Qaeda operatives in Saudi Arabia, is suspected of being one of the masterminds of the May 12 bombings in Riyadh.

On June 14, 2003, security forces raided a terrorist cell in the Alattas building in the Khalidiya neighborhood of Makkah. Two Saudi police officers and five suspects were killed in a shootout. Twelve suspects were arrested. and a number of booby-trapped Qur'ans and 72 home-made bombs, in addition to weapons, ammunition, and masks were confiscated.

On May 31, 2003, Yousif Salih Fahad Al-Ayeeri, a.k.a. Swift Sword, a major Al-Qaeda operational planner and fundraiser, was killed while fleeing from a security patrol.

On May 27–28, 2003, eleven suspects were taken into custody in the city of Madinah. Weapons, false identity cards and bomb-making materials were confiscated. In addition, Saudi national Abdulmonim Ali Mahfouz Al-Ghamdi was arrested, following a car chase. Three non-Saudi women without identity cards, who were in the car he was driving, were detained.

In May 2003, three clerics, Ali Fahd Al-Khudair, Ahmed Hamoud Mufreh Al-Khaledi and Nasir Ahmed Al-Fuhaid, were arrested after calling for support of the terrorists who carried out the Riyadh attacks. In November 2003, Ali Fahd Al-Khudair recanted his religious opinions on Saudi TV. Shortly after, a second cleric, Nasir Ahmed Al-Fuhaid, recanted and withdrew his religious opinions describing them as a "grave mistake". On December 16, 2003, Ahmed Hamoud Mufreh Al-Khaledi became the third cleric to recant on national television.

Saudi Arabia has provided extensive intelligence and military cooperation in the assault on Al-Qaeda. Given the sensitivity of these operations, disclosure of specific actions or the nature of Saudi cooperation in these areas has intentionally been limited. However, public disclosures to date have revealed major Saudi contributions to the breakup of a number of Al-Qaeda cells, the arrests of key Al-Qaeda commanders, and the capture of numerous Al-Qaeda members.

In June 2002, Saudi Arabia successfully negotiated with Iran for the extradition of 16 suspected Al-Qaeda members.

In June 2002, Saudi Arabia asked Interpol to arrest 750 people, many of whom are suspected of money laundering, drug trafficking, and terror-related activities. This figure includes 214 Saudis whose names appear in Interpol's database in addition to expatriates who fled Saudi Arabia.

In early 2002, Saudi intelligence and law enforcement agencies identified and arrested a cell composed of seven individuals linked to Al-Qaeda who were planning to carry out terrorist attacks against vital sites in the Kingdom. The cell leader was extradited from the Sudan. This cell was responsible for the attempt to shoot down American military planes at Prince Sultan Airbase using a shoulder-launched surface-to-air missile.

INTERNATIONAL COOPERATION

Multilateral cooperation is essential in order to successfully defeat terrorism. Saudi Arabia has supported many international and regional efforts in the fight against terrorism through multilateral and bilateral agreements. The Kingdom is committed to working closely with the European, Asian and U.S. governments, and with the United Nations, to ensure that information is shared as quickly and effectively as possible.

Specific actions

On July 22, 2004, the final report of the National Commission on Terrorist Attacks Upon the United States confirmed: that there is no evidence the government of Saudi Arabia funded Al-Qaeda; that the post 9-11 flights that repatriated Saudi citizens, including members of the bin Ladin family, were investigated by the FBI and "no one with known links to terrorism departed on these flights"; and that the Saudi government had been pursuing Osama bin Laden prior to the attacks on the United States.

On July 2, 2004, the Financial Task Force (FATF) released its fifteenth annual report, which contains an evaluation of Saudi Arabia's laws, regulations and systems to combat money laundering and terrorist financing. According to this evaluation: "Saudi authorities have focused heavily on systems and measures to counter terrorism and the financing of terrorism. Specifically, they have taken action to increase the requirements for financial institutions on customer due diligence, established systems for tracing and freezing terrorist assets, and tightened the regulation and transparency of charitable organizations."

On April 29, 2004, the Office of the Coordinator for Counter-Terrorism of the U.S. Department of State released its 2003 'Patterns of Global Terrorism' report. The report praises the Kingdom of Saudi Arabia for its "unprecedented" efforts to fight terrorism both inside its borders and abroad. Ambassador J. Cofer Black, Coordinator for Counter-Terrorism, states in his introductory remarks: "I would cite Saudi Arabia as an excellent example of a nation increasingly focusing its political will to fight terrorism. Saudi Arabia has launched an aggressive, comprehensive, and unprecedented campaign to hunt down terrorists, uncover their plots, and cut off their sources of funding."

U.S. Secretary of the Treasury John W. Snow said on January 22, 2004: "The United States, Saudi Arabia, and our other partners around the globe have spoken out loud and clear—terrorism has no place in a civilized world. We will continue to work with Saudi Arabia and all our allies in the war against terror to seek out those who bankroll terrorist organizations and shut them down."

President George W. Bush said on November 22, 2003: "Crown Prince Abdullah is an honest man . . . And he has told me that we are joined in fighting off the terrorist organizations which threatened the Kingdom and they threaten the United States, and he's delivering."

SAMA has also created a committee to carry out self-assessment for compliance with the FATF recommendations and these self-assessment questionnaires have been submitted. The FATF conducted a mutual evaluation on September 21–25, 2003.

Attorney General John Ashcroft commended Saudi Arabia's efforts in the war on terrorism and stated, on August 29, 2003: "I believe that progress is being made and I think not only that it (cooperation) is good but it continues to improve."

Saudi Arabia and the United States established a second joint task force in August 2003, this one aimed at combating the financing of terror. The task force, which was initiated by Crown Prince Abdullah, is further indication of the Kingdom's commitment to the war on terrorism and its close cooperation with the United States in eradicating terrorists and their supporters.

In May 2003, a Saudi-U.S. task force was organized from across law enforcement and intelligence agencies to work side by side to share "real time" intelligence and conduct joint operations in the fight against terrorism. The U.S. Ambassador to Saudi Arabia, Robert Jordan, described the cooperation of Saudi investigators with the U.S. law enforcement representatives as "superb".

On April 30, 2003, Ambassador Cofer Black, Coordinator for Counterterrorism, released the Annual Patterns of Global Terrorism 2002 report and stated that "The Saudi Government has made significant strides, certainly in the last year. They are a strong partner in the war on terrorism. In the past several months, we have made significant strides in our counterterrorism cooperation. The Saudi Government continues to work with us in identifying and working to counter al-Qaeda and other terrorist groups . . . In recent months, I've made two separate trips to Saudi Arabia to work with senior officials. This is, in part, what we believe to be a long-term pattern of close coordination on terrorism issues."

Saudi Arabia redeployed Special Forces to enhance security and counter-terrorism efforts.

Saudi Arabia maintains close relationships with the intelligence and law enforcement agencies of many other nations intensifying counter-terrorism cooperation.

Saudi government departments and banks are required to participate in international seminars, conferences and symposia on combating terrorist financing activities. Saudi Arabia has also hosted many seminars, conferences and symposia on combating terrorism; and is a member of the Financial Action Task Force (FATF) established by the G–7 in 1988.

In 2002, Saudi Arabia completed and submitted two FATF self-assessment questionnaires: one regarding the 40 FATF recommendations on the prevention of money laundering and the other regarding its eight special recommendations on terrorist financing.

SAMA exchanges information on activities related to money laundering and terrorist financing with other banking supervisory authorities and with law enforcement agencies.

Saudi Arabia has appointed Price Waterhouse Coopers as advisors for the FATF Mutual Evaluation and the IMF-sponsored FSAP examination. In addition, the Kingdom has appointed an executive task force representing SAMA and other government agencies for a successful outcome of these evaluations.

ACTIONS TAKEN WITH REGARD TO CHARITABLE ORGANIZATIONS

Charitable giving is an important part of Islam and there are thousands of legitimate charities throughout the Middle East. Since September 11, Saudi Arabia has conducted a thorough review of its charitable organizations and has made a number of specific changes.

Specific actions

On June 2, 2004, a press conference was held at the Royal Embassy of Saudi Arabia in Washington, DC to announce that Saudi Arabia and the United States had jointly designated five branch offices of the Al-Haramain Islamic Foundation as financial supporters of terrorism. It was also announced that Saudi Arabia is folding Al-Haramain and other charities which used to operate abroad into the Saudi National Commission for Relief and Charity Work Abroad.

On February 27, 2004, the Custodian of the Two Holy Mosques King Fahd bin Abdulaziz issued a royal order approving the creation of the Saudi National Commission for Relief and Charity Work Abroad, which, in order to eliminate any misdeed that might undermine Saudi charitable operations, is charged exclusively with responsibility for all donations and contributions outside the Kingdom.

On January 29, 2004, one week after Saudi Arabia and the United States requested the designation of four branch offices of the Al-Haramain Islamic Foundation, the United Nations Security Council announced that Al-Haramain's offices in Indonesia, Pakistan, Kenya and Tanzania had been added to its consolidated list of terrorists tied to Al-Qaeda, Osama bin Laden and the Taliban. Now that these offices are under UN sanctions, member states are obligated to take legal action against them.

On January 22, 2004, Crown Prince Abdullah's Foreign Affairs Advisor Adel Al-Jubeir and Secretary of the Treasury John Snow held a joint press conference in Washington, DC to announce that Saudi Arabia and the United States had asked the UN Sanctions Committee to designate four branch offices of the Al-Haramain Foundation as financial supporters of terrorism. The branches are located in Kenya, Tanzania, Pakistan and Indonesia and subject to the laws and regulations of those countries.

On December 22, 2003, Saudi Arabia and the United States took steps to designate two organizations as financiers of terrorism under United Nations Security Council Resolution 1267 (1999). These organizations are the Bosnia-based Vazir and the Liechtenstein-based Hochburg AG. Mr. Safet Durguti, a representative of the Vazir organization, has also been designated under the relevant United Nations Security Council Resolutions as a terrorist financier. This was the third joint action taken against terrorist financing by the United States Treasury Department and the Kingdom of Saudi Arabia.

In May 2003, the Saudi Arabian Monetary Agency (SAMA) distributed an update entitled "Rules Governing Anti-Money Laundering and Combating Terrorist Financing" to all banks and financial institutions in Saudi Arabia requiring the full and immediate implementation of nine new policies and procedures. The new regulations include:

All bank accounts of charitable or welfare societies must be consolidated into a single account for each such society. SAMA may give permission for a subsidiary account if necessary, but such an account can only be used to receive, not to withdraw or transfer, funds.

Deposits in these accounts will be accepted only after the depositor provides the bank with identification and all other required information for verification.

No ATM cards or credit cards can be issued for these accounts. No cash withdrawals are permitted from the charitable institution's account, and all checks and drafts are to be in favor of legitimate beneficiaries and for deposits in a bank account only.

No charitable or welfare society can open or operate these bank accounts without first presenting a valid copy of the required license.

No overseas fund transfers are allowed from these bank accounts.

SAMA's approval is required to open a bank account.

Only two individuals duly authorized by the Board of a charitable institution shall be allowed to operate the main account.

In May 2003, Saudi Arabia asked the Al-Haramain Islamic Foundation and all Saudi charities to suspend activities outside Saudi Arabia until mechanisms are in place to adequately monitor and control funds so they cannot be misdirected for illegal purposes.

Also in May 2003, SAMA instructed all banks and financial institutions in the Kingdom to stop all financial transfers by Saudi charities to any accounts outside the Kingdom.

On April 30, 2003, Ambassador Cofer Black, Coordinator for Counterterrorism stated: "We are pleased with the steps the Saudis are taking to ensure that all charitable donations by Saudis reach their intended good works and that no funds from Saudi Arabia are diverted by those who would use them for evil purposes."

In December 2002, a special Financial Intelligence Unit was established to track charitable giving to ensure that no funds reach evildoers.

In the summer of 2002, in another successful joint anti-terrorism action, the Kingdom of Saudi Arabia and the United States took steps to freeze the assets of a close bin Laden aide, Wa'el Hamza Julaidan, who is believed to have funneled money to al-Qaeda. Julaidan served as the director of the Rabita Trust and other organizations.

In March 2002, the U.S. Treasury Department and Saudi Arabia blocked the accounts of the Somalia and Bosnia branches of the Saudi Arabia-based Al-Haramain Islamic Foundation. While the Saudi headquarters for this private charity is dedicated to helping those in need, the United States and Saudi Arabia determined that the Somalia and Bosnia branches supported terrorist activities and terrorist organizations such as al-Qaeda and AIAI (al-Itihaad al-Islamiya). In May 2003, Saudi Arabia asked the Al-Haramain Islamic Foundation and all Saudi charities to suspend activities outside Saudi Arabia until mechanisms are in place to adequately monitor and control funds so they cannot be misdirected for illegal purposes.

Saudi Arabia has established a High Commission for oversight of all charities, contributions and donations. In addition, it has established operational procedures to manage and audit contributions and donations to and from the charities, including their work abroad.

FREEZING SUSPECTED TERRORIST ASSETS, COMBATING MONEY LAUNDERING

In the wake of the events of September 11, the Kingdom of Saudi Arabia took prompt action on September 26, 2001 and required Saudi banks to identify and freeze all assets relating to terrorist suspects and entities per the list issued by the United States government on September 23, 2001. Saudi banks have complied with the freeze requirements and have initiated investigations of transactions that suspects linked to Al-Qaeda may have undertaken in the past.

Specific actions

In August 2003, the Council of Ministers approved new legislation that puts in place harsh penalties for the crime of money laundering and terror financing. This legislation stipulates jail sentences of up to 15 years and fines up to $1.8 million for offenders.

The new law: Bans financial transactions with unidentified parties; requires banks to maintain records of transactions for up to 10 years; establishes intelligence units to investigate suspicious transactions; and sets up international cooperation on money-laundering issues with countries with which formal agreements have been signed.

In February 2003, the Saudi Arabian Monetary Agency (SAMA) began to implement a major technical program to train judges and investigators on legal matters involving terrorism financing and money-laundering methods, international requirements for financial secrecy, and methods followed by criminals to exchange information.

Saudi Arabia was one of the first countries to take action against terrorist financing, freezing the assets of Osama bin Laden in 1994.

Saudi Arabia has investigated many bank accounts suspected of having links to terrorism and has frozen more than 40 accounts.

Saudi Arabia, as a member of the G-20, approved an aggressive plan of action directed at the rooting out and freezing of terrorist assets worldwide. Saudi Arabia is proud to have been a leader in the development of this plan and its implementation, and of key objectives for U.S. and international policies for dealing with terrorism now and in the future.

SAMA instructed Saudi banks to promptly establish a supervisory committee to closely monitor the threat posed by terrorism and to coordinate all efforts to freeze the assets of the identified individuals and entities. The committee is composed of senior bank officers who are in charge of risk control, auditing, money-laundering units, legal affairs, and operations. The committee meets regularly in the presence of SAMA officials.

Saudi banks have put in place, at the level of their Chief Executive Officers, as well as at the level of a supervisory committee, mechanisms to respond to all relevant inquiries, both domestic and international. To ensure proper coordination and effective response, all Saudi banks route their responses and relevant information via SAMA.

A Special Committee was established drawing from the Ministry of Interior, Ministry of Foreign Affairs, the Intelligence Agency and SAMA to handle requests from international bodies and countries with regard to combating terrorist financing.

Even before September 11, Saudi Arabia had taken steps to ensure that its financial system is not used for illegal activities. In 1988 the Kingdom signed and joined the United Nations Convention against Illicit Trafficking of Narcotics and Psychotropic Substances. In 1995, Saudi Arabia established units countering money laundering at the Ministry of Interior, in SAMA and in the commercial banks.

LEGAL AND REGULATORY ACTIONS TO COMBAT TERRORISM

The Kingdom has a strong legislative, regulatory and supervisory framework for banking and financial services. This infrastructure ensures that each bank or other financial service provider remains vigilant and also has strong internal controls, processes and procedures to not only know the identity of its customers but also have awareness of their activities and transactions. Money-laundering and other suspicious activities are targeted and all those found violating laws and regulations are subject to severe financial penalties and imprisonment. Money-laundering crimes are high-profile crimes and all cases are referred to a senior court.

Specific actions

SAMA and the Ministry of Commerce issued instructions and guidelines to the Kingdom's financial and commercial sectors for combating money-laundering activities. To further strengthen and implement the current regulations, the Ministry of Commerce issued Regulation # 1312 aimed at preventing and combating money laundering in the non-financial sector. These regulations are aimed at manufacturing and trading sectors and also cover professional services such as accounting, legal affairs, and consultancy.

The Saudi Government has taken concrete steps to create an institutional framework for combating money laundering. This includes the establishment of units to counter money laundering, with trained and dedicated specialist staff. These units work with SAMA and law enforcement agencies. The government has also encouraged banks to bring money-laundering-related experiences to the notice of various bank committees (such as Fraud Committees, and those of Chief Operations Officers and Managing Directors) for exchange of information and joint action.

Saudi banks and SAMA have implemented an online reporting system to identify trends in money-laundering activities to assist in policy-making and other initiatives.

In May 2003, SAMA issued instructions to all Saudi financial institutions to strictly implement 40 recommendations of the FATF regarding money laundering and the eight recommendations regarding terror financing. Furthermore, SAMA issued instructions to all Saudi financial institutions prohibiting the transfer of any funds by charitable organizations outside the Kingdom.

Another major institutional initiative is the creation of a specialized Financial Intelligence Unit (FIU) in the Security and Drug Control Department of the Ministry of Interior. This unit is specially tasked with handling money-laundering cases. A communication channel between the Ministry of Interior and SAMA on matters involving terrorist-financing activities has also been established.

In May 2002, SAMA issued rules "Governing the Opening of Bank Accounts" and "General Operational Guidelines" in order to protect banks against money-laundering activities. For instance, Saudi banks are not permitted to open bank accounts for non resident individuals without specific approval from SAMA. Banks are required to apply strict "Know your Customer" rules and any non-customer business has to be fully documented

Saudi Arabia carries out regular inspections of banks to ensure compliance with laws and regulations. Any violation or noncompliance is cause for serious action and is referred to a bank's senior management and the Board. Furthermore, the Government has created a permanent committee of banks' compliance officers to review regulations and guidelines and recommend improvements, and to ensure that all implementation issues are resolved.

Saudi authorities have made significant efforts to train staff in financial institutions and others involved in compliance and law as well as those in the Security and Investigation departments of the Ministry of Interior.

Special training programs have been developed for bankers, prosecutors, judges, customs officers and other officials from government departments and agencies. Furthermore, training programs are offered by the Nayef Arab University for Security Sciences (formerly the Nayef Arab Academy for Security Sciences), the King Fahd Security Faculty, Public Security Training City, and SAMA.

The Saudi government has established a permanent committee of representatives of seven ministries and government agencies to manage all legal and other issues related to money-laundefing activities.

In 1995, SAMA issued "Guidelines for Prevention and Control of Money-Laundering Activities" to Saudi Banks to implement "Know your Customer" rules, maintain records of suspicious transactions, and report them to law enforcement officials and SAMA.

The first conference for FATF outside the G-7 countries was held in Riyadh at the SAMA Institute of Banking in 1994.

OTHER INITIATIVES RELATED TO FIGHTING TERRORISM

Saudi Arabia has publicly supported and extended cooperation to various international efforts to combat terrorism. These include:

In January 2004, while in Tunis for the 21st session of the Arab Interior Ministers' Council, Minister of Interior Prince Nayef bin Abdulaziz called for better coordination of counterterrorism efforts throughout the Arab world, declaring: "It is painful to have some of our sons as tools of terrorism, but with the joint efforts by our scholars, intellectuals and mass media, we can confront this matter and purify our Islamic and Arab thought from all blemishes."

Saudi Arabia has signed a multilateral agreement under the auspices of the Arab League to fight terrorism.

Saudi Arabia participates regularly and effectively in G-20 meetings and the Kingdom has signed various bilateral agreements with non-Arab countries.

Every 90 days, Saudi Arabia prepares and submits to the UN Security Council Committees upon their request, a report on the initiatives and actions taken by the Kingdom with respect to the fight against terrorism.

The Kingdom has supported the following requirements of various UN resolutions related to combating terrorism:

Freezing funds and other financial assets of the Taliban regime based on UN Security Council Resolution 1267.

Freezing funds of listed individuals based on UN Security Council Resolution 1333.

Signing the International Convention for Suppression and Financing of Terrorism based on UN Security Council Resolution 1373.

Reporting to the UN Security Council the implementation of Resolution 1390.

Saudi Arabia has given support to and implemented Resolution No. 1368 dated September 12, 2001 related to the financing of terrorist activities.

Public Statements by Senior Saudi Officials Condemning Extremism and Promoting Moderation

PUBLIC STATEMENTS PROMOTING MODERATION

The Qur'an, the Islamic religion and the Kingdom of Saudi Arabia reject and condemn all forms of religious extremism that lead to violence, terrorism and the taking of innocent lives. Islam teaches peace, understanding and tolerance, not violence or hatred. The Kingdom of Saudi Arabia is steadfast in believing that those resorting to violence and extremism are deviants and criminals who must face the full consequences of their actions. Following are some of the public statements made by leading officials and religious leaders in this regard.

"I believe that no society is immune from deviants and extremists. This situation exists in every country, in every society and in every faith. These individuals do not represent their societies. They do not represent the prevailing thinking of a society."—Crown Prince Abdullah bin Abdulaziz, Deputy Prime Minister and Commander of the National Guard, January 12, 2003.

STATEMENTS MADE BY GOVERNMENT OFFICIALS AND RELIGIOUS LEADERS

Custodian of the Two Holy Mosques King Fahd bin Abdulaziz today received senior officials of the Ministry of Education and advised all those involved in education to adhere to the Islamic faith and help the new generation distance themselves from deviant groups and evildoers.—Saudi Press Agency, September 5, 2004.

In his Friday sermon at the Grand Mosque in Makkah, Imam Shaikh Saud Al-Sheraim stressed the need for Muslims to seek advice in searching for the truth, and to embrace cooperation and reconciliation. The killing and terrorizing of the innocent that is taking place in Muslim countries, he stated, is something evil and a sign of great danger, saying: "Such acts must never be ignored or justified but confronted and stopped by all available means."—Shaikh Saud Al-Sheraim, imam at the Grand Mosque in Makkah, July 9, 2004.

"We will not allow a wicked group driven by a deviant ideology to destabilize the Kingdom's security."—Custodian of the Two Holy Mosques King Fahd bin Abdulaziz, June 20, 2004.

Deputy Prime Minister and Commander of the National Guard Crown Prince Abdullah bin Abdulaziz today received citizens expressing condemnation of terrorist acts. Crown Prince Abdullah, thanking them for their stance, urged all citizens to report abnormal behavior to the security authorities. He confirmed that leaders of the deviant group had been killed, and called on others involved to turn themselves in before they are annihilated, declaring that they are followers of Satan and enemies of religion and their country.—Saudi Press Agency, June 19, 2004.

"It is with great sadness and pain that we announce the death of Paul Marshall Johnson, Jr. . . . Today, we are faced with the tragedy of his gruesome death at the hands of barbarians who have rejected the teachings of their faith and the principles of humanity. His brutal murder illustrates the cruelty and inhumanity of the enemy we all are fighting."—Foreign Affairs Advisor to the Crown Prince, Adel Al-Jubeir, June 18, 2004.

Shaikh Dr. Salih bin Abdullah bin Humaid, imam at the Grand Mosque in Makkah, spoke out against terrorism at Friday prayer today, reiterating that any terrorist act is criminal and contrary to religion. The recent criminal acts in the Kingdom, he said, have targeted Muslims who thought themselves safe as well as non-Muslims who are under protection through agreements with Muslims. The perpetrators of these acts, members of a deviant group, have killed and intimidated people, destroyed property, and wreaked havoc on earth; and therefore they will surely be punished in hell in the hereafter.—Saudi Press Agency, June 18, 2004.

"Saudi Arabia does not condone extremism and does not take part in it. It is true that we support people who seem to us to be good Muslims. But they are not extremists . . . Young Saudis who commit these crimes are influenced by bad ideas. Intellectuals must explain to them what is true and what is false."—Minister of the Interior, Prince Nayef bin Abdulaziz Al-Saud, June 17, 2004.

The Council of Call and Guidance, in its meeting yesterday, condemned the explosion [at the General Department of Traffic in Riyadh on April 21, 2004], and urged confrontation of the deviant ideas that lead to such criminal acts. The Council, which comprises representatives from various areas of jurisprudence including the Islamic Affairs Ministry, the Presidency of the Two Holy Mosques, and the Islamic universities, called for fortifying young people against destructive ideas that run counter to the teachings of Islam.—Saudi Press Agency, April 26, 2004.

"We strongly warn you against heeding misleading edicts that promote extremism . . . Nobody will approve such a horrendous crime. It is a prohibited, nefarious, terrorist act . . . See how much damage these deviants have done to the image of Islam, the religion of peace."—Shaikh Abdul Rahman Al-Sadais, imam at the Grand Mosque in Makkah, April 23, 2004.

"These people want to disrupt security, horrify people who consider themselves safe, and kill Muslims. It is forbidden to cover up for such sinful people and whoever does so, will be their partner in the crime . . . It is also forbidden to justify the acts of these criminals . . . You have to be vigilant and have strong will in defending the religion and the Muslim country against these people."—Shaikh Abdulaziz Al-Ashaikh, Grand Mufti, Chairman of the Council of Senior Religious Scholars, April 22, 2004.

Interior Minister Prince Nayef bin Abdulaziz today reiterated that such acts of terrorism do not have anything to do with Islam, and appealed to those who are contemplating them to come to their senses and surrender, because they will be caught, and the resolve of the security forces has only deepened.—Saudi Press Agency, April 21, 2004.

"It is not lawful to protect these deviants and all of us should denounce them."—Shaikh Saleh bin Humaid, imam at the Grand Mosque in Makkah, April 17, 2004.

"Terrorism is a strange phenomenon in a country like the Kingdom of Saudi Arabia, which has been unwaveringly implementing the Islamic Shariah . . . The Ulema (Muslim scholars) do oppose terrorism, and believe in the importance of obedience of rulers . . . The terror acts which earlier took place in Makkah, Madinah, and Riyadh run counter to the teachings of Islam."—Shaikh Abdulaziz Al-Ashaikh, Grand Mufti, Chairman of the Council of Senior Religious Scholars, January 27, 2004.

Shaikh Abdul Rahman Al-Sudais, imam at the Grand Mosque in Makkah, today denounced plans by militants to destabilize the Kingdom and undermine its security. "They have violated the sanctity of time and place and committed terrorism, violence, bombings, crime and corruption." Shaikh Al-Sudais also advised the faithful to make use of Ramadan to win God's forgiveness and mercy. He stressed the need to teach moderation to the youth. "This is the joint duty of mosque, family, school, university and the media," he explained.—Arab News, November 8, 2003.

"Our youth must be inoculated against alien ideas. Families, schools and mosques as well as the country's ulema and intellectuals and the media and every sincere person must contribute to this effort in order to expose alien thoughts and show the truth."—Crown Prince Abdullah, June 30, 2003.

"These misguided groups, whose members' minds have been possessed by the devil, will be punished and defeated, God willing, along with those who support them."—Crown Prince Abdullah, June 22, 2003.

"Terrorism has nothing to do with Islam . . . Islam should not be blamed for acts of other people. People should be held responsible individually for their own acts."—Shaikh Abdulaziz Al-Ashaikh, Grand Mufti, Chairman of the Council of Senior Religious Scholars, May 24, 2003.

"We have entrusted a committee of experienced and knowledgeable people to propagate the moderate views of Islam."—Crown Prince Abdullah, May 21, 2003.

"We will not remain idle and watch certain religious figures who instigate violence by issuing edicts branding certain people as 'infidels'."—Minister of the Interior, Prince Nayef bin Abdulaziz Al-Saud, May 15, 2003.

"Whoever did this will regret it because they have galvanized this country's determination to extract this cancer (terrorism) and ensure that it doesn't return . . . they have turned this country into one fist aimed at putting an end to this heinous wound in the body of this nation so that it won't return."—Minister of Foreign Affairs, Prince Saud Al-Faisal, May 14, 2003.

"Our schools and our faith teach peace and tolerance . . . There is no room in our schools for hatred, for intolerance or for anti-western thinking. We are working very hard to build a world-class educational system which will help our children be prepared to make substantial contributions to the global society."—Minister of Foreign Affairs, Prince Saud Al-Faisal, December 9, 2002.

"Islam is a religion of compassion, forgiveness and goodness . . ."—Shaikh Saleh Al-Luheidan, Chairman of the Supreme Judicial Council, November 6, 2002.

"Islam, as you know, does not advocate terrorism, and the hurting or killing of human beings is not acceptable by anyone whether he is a Muslim or not."—Crown Prince Abdullah, March 23, 2002.

"Any attack on innocent people is unlawful and contrary to Shariah."—Shaikh Muhammad bin Abdullah Al-Subail, imam at the Grand Mosque of Makkah, December 4, 2001.

"The recent developments in the United States constitute a form of injustice that is not tolerated by Islam, which views them as gross crimes and sinful acts."—Shaikh Abdulaziz Al-Ashaikh, Grand Mufti, Chairman of the Council of Senior Religious Scholars, September 15, 2001.

"As a human community we must be vigilant and careful to oppose these pernicious and shameless evils, which are not justified by any sane logic, nor by the religion of Islam."—Shaikh Saleh Al-Luheidan, Chairman of the Supreme Judicial Council, September 14, 2001.

[Press Release, June 15, 2004]

SAUDI RELIGIOUS SCHOLARS PROMOTE INTERFAITH PEACE AND CONDEMN TERRORIST ACTS

Both abroad and at home, Saudi religious scholars are condemning acts of terrorism and promoting the Islamic principles of peace and tolerance.

At an Embassy press conference in London, U.K., Minister of Islamic Affairs Shaikh Salih bin Abdulaziz Al-As-Shaikh stated that Saudi Arabia has achieved a great deal of success in combating terrorism, with many perpetrators killed or arrested. The Kingdom, he said, enjoys political, economic and social stability in spite of the terrorist incidents that have recently occurred. Islam, he reiterated, is a religion of love and tolerance that calls for dialogue with others.

Shaikh Abdulrahman Al-Sudais, one of the imams at the Grand Mosque in Makkah, led Friday prayers on June 11 with over 55,000 worshippers gathered in and around the East London Mosque. Calling for interfaith peace and harmony, he urged Muslims to be united in setting an example of "the true image of Islam" in their interactions with other communities. "The history of Islam," he declared, "is the best testament to how different communities can live together in peace and harmony."

In Saudi Arabia, a number of well-known Muslim scholars issued a statement on June 13 strongly condemning the recent incidents that led to the killing of people and the damaging of property as outrageous crimes forbidden by the Islamic religion.

According to Ambassador to the United States Prince Bandar bin Sultan: "Senior religious scholars in Saudi Arabia have continually and unequivocally condemned terrorism. In our war against terrorism, these condemnations are a powerful weapon."

[Press Release, Apr. 28, 2004]

SAUDI FOREIGN MINISTER ON ROLE OF RELIGIOUS ESTABLISHMENT IN WAR AGAINST AL-QAEDA

At the Council on Foreign Relations (CFR) in New York yesterday, Saudi Arabia's Minister of Foreign Affairs Prince Saud Al-Faisal explained that, contrary to accusations by the Kingdom's critics, the religious establishment is a critical asset in the nation's war against Al-Qaeda. During the CFR conference entitled 'The United States and Saudi Arabia: A Relationship Threatened By Misconceptions', Prince Saud stated: "It is the religious establishment in Saudi Arabia that in fact is proving to be the body most qualified to de-legitimatize Al-Qaeda's claims, the very religious community that is being attacked and discredited."

According to Prince Saud Al-Faisal: "The insular extremism of Saudi Arabia's arch-conservatives is being used as evidence for not only the sympathy, but also the collaboration of Saudi Arabia and its society with Al-Qaeda's aims and objectives. Nothing is further from the truth, as evidenced by the war being waged relentlessly against Al-Qaeda in Saudi Arabia, and the support that the society is giving the government's efforts to rid the country of these evildoers."

Prince Saud Al-Faisal also explained that attacks on Saudi Arabia and its religious establishment "will undermine the country that is waging total war against them [Al-Qaeda], and that is probably the country most capable of preventing them from spreading their cultist ideology in the Islamic world."

On April 22, the day after the recent bombing in Riyadh, Shaikh Abdulaziz Al-Ashaikh, the Grand Mufti of Saudi Arabia and Chairman of the Council of Senior Religious Scholars, issued a statement calling the incident a "forbidden and sinful act". The statement continued: "It is also forbidden to justify the acts of these criminals." Shaikh Abdulaziz Al-Ashaikh also stated: "You have to be vigilant and have strong will in defending the religion and the Muslim country against these people."

[Press Release, Feb. 2, 2004]

KING AND CROWN PRINCE ADDRESS PILGRIMS—STATEMENT CONDEMNS TERRORISM AND PROMOTES TOLERANCE

The Custodian of the Two Holy Mosques King Fahd bin Abdulaziz and Crown Prince Abdullah bin Abdulaziz, Deputy Prime Minister and Commander of the National Guard, issued a joint statement from Mina on the occasion of Eid Al-Adha, addressing Muslims everywhere as well as the two million pilgrims gathered for Hajj. The statement, read on their behalf on Saudi television, unequivocally denounced terrorism and called for global cooperation in the war against it. The following are highlights from the statement:

"The entire world, including the Kingdom of Saudi Arabia, has been harmed by many acts of terror intended to undermine stability, and spread fear and evil. Some of these events have been perpetrated by individuals unfortunately claiming to be Muslims. It is necessary to clarify the position of Islam concerning these events and their perpetrators. These acts, and those who carry them out, are deviant. It is important to oppose them. These acts are a function of false ideas, contrived by individuals who have strayed from the truth, and contradict the teachings of religion."

"The Kingdom opposes all forms of terrorism, and is fighting it locally and condemning it internationally, and is working to uproot it and expose its negative impact on society."

"The Kingdom urges the international community to vigorously confront the menace of terrorism, and supports all peace-loving countries in fighting and uprooting it. A comprehensive plan for combating terrorism by all countries must be implemented so that terrorists will not be allowed to conduct their subversive activities from any territory."

"Islam is a noble faith. It does not tolerate hatred and malice."

[Press Release, Feb. 2, 2004]

SAUDI ARABIA'S TOP CLERIC URGES MUSLIMS TO REJECT TERRORISM

Shaikh Abdulaziz Al-Ashaikh, the Grand Mufti of Saudi Arabia and Chairman of the Council of Senior Religious Scholars, delivered a sermon to almost two million pilgrims at the peak of the Hajj. As Saudi Arabia's highest religious authority, he used this important occasion to denounce terrorism and those who perpetrate it in the name of religion.

During his sermon he highlighted the importance of educating others about Islam, so that terrorists will not be able to claim that their reprehensible actions have anything to do with the true faith: "You must know Islam's firm position against all these terrible crimes. The world must know that Islam is a religion of peace and mercy and goodness; it is a religion of justice and guidance . . . Islam has forbidden violence in all its forms. It forbids the hijacking airplanes, ships and other means of transport, and it forbids all acts that undermine the security of the innocent."

[Press Release, Jan. 28, 2004]

SAUDI ARABIA'S LEADING RELIGIOUS AUTHORITY CONDEMNS TERRORISM

Shaikh Abdulaziz Al-Ashaikh, Saudi Arabia's Grand Mufti and Chairman of the Council of Senior Religious Scholars, reaffirmed that Islam does not tolerate bloodshed and absolutely prohibits acts of terrorism against Muslims and non-Muslims.

During a lecture in Makkah, Shaikh Al-Ashaikh warned his listeners of the destabilizing effect that terrorism can have on society. Acknowledging that terrorism results from deviant ideas, Shaikh Al-Ashaikh emphasized the importance of educating and protecting the younger generation from such misguided thoughts. He remarked that terrorism is an aberration in a country like the Kingdom of Saudi Arabia, because the country lives under Islamic law which forbids violence and terrorism. Shaikh Al-Ashaikh added: "The terror acts which earlier took place in Makkah, Madinah and Riyadh run counter to the teachings of Islam."

Shaikh Al-Ashaikh has always taken a strong stand against extremism, warning Muslims that extremism and fanaticism lead only to violence and the death of innocent people. "Islam is not a religion of violence. It is a religion of mercy for everyone," stated Shaikh Al-Ashaikh.

[Press Release, Jan. 8, 2004]

CROWN PRINCE PROMOTES NATIONAL DIALOGUE TO COUNTER EXTREMISM

The King Abdulaziz Center for National Dialogue recently concluded its Second National Forum for Intellectual Dialogue. The forum was entitled 'Extremism and Moderation: A Comprehensive Approach'. Some 60 participants, both men and women, discussed fifteen academic papers prepared by researchers on topics such as "Characteristics of the Extremist Personality" and "The Relationship Between Ruler and Ruled, Rights and Duties of Citizens and Their Relationship with Extremism."

Deputy Prime Minister and Commander of the National Guard Crown Prince Abdullah emphasized the importance of dialogue when he stated: "I have no doubt that the establishment of the Center and the continuation of dialogue within its boundaries will become a historic achievement that contributes to the creation of a channel for objective expression that would have an effective impact in combating extremism and fostering a pure atmosphere that could give birth to wise positions and illuminating ideas that reject terrorism and terrorist thought."

Following the event, Crown Prince Abdullah hosted a reception on January 3 in honor of the participants, where he stressed the importance of tolerance and moderation in both public and private lives, stating: "Islam advocates moderation." Crown Prince Abdullah has repeatedly emphasized the need to address the underlying causes of terrorism. He has stated: "The bullets that kill women and children, terrorize those secure in their safety, and destroy innocent communities, come not only from rifles, but from deviant thoughts and misguided interpretations of our great religion and its noble message." One of the goals of the Kingdom's initiative to promote open dialogue and national debate is the ultimate rejection of extremist ideology.

[Press Release, Nov. 25, 2003]

KING FAHD, CROWN PRINCE ABDULLAH CALL ON MUSLIMS TO UNITE AGAINST TERROR, COMBAT ROOTS OF EXTREMISM

The Custodian of the Two Holy Mosques King Fahd bin Abdulaziz and Crown Prince Abdullah bin Abdulaziz, Deputy Prime Minister and Commander of the National Guard, in a joint statement issued today, congratulated Muslims on the occasion of the blessed Eid Al-Fitr, and called upon them to "work for the stability and security of Islamic countries and the whole world and overcome the obstacles to world peace."

King Fahd and Crown Prince Abdullah said that the recent bombings in Riyadh had nothing to do with Islam and that Muslims should "work together to combat the roots of extremism." In their message, they stated: "We must intensify our efforts and stand united to rectify defects and distortions, correct erroneous understanding and lead delinquents to the right path."

King Fahd and Crown Prince Abdullah also said that "a true Muslim does not spread corruption nor does he seek destruction," and urged Muslims to follow the Prophet Muhammad (peace be upon him) who was an example of tolerance and mercy.

[Press Release, Sept. 4, 2003]

KING FAHD ADDRESSES ROLE OF MOSQUE IN ISLAM AND CONDEMNS EXTREMISM

The Custodian of the Two Holy Mosques King Fahd bin Abdulaziz, in a message to the nineteenth session of the World Supreme Council for Mosques August 30, emphasized the important mission of the mosque in Islam, which is to promote peace, tolerance, moderation and wisdom. King Fahd added that fulfillment of this mission will help show the youth the correct path of Islam, distancing them from grievance, aggression and evil.

King Fahd condemned all forms of terrorism and warned that terror networks were using misguided Muslim youths to further their cause. King Fahd added: "By playing into the hands of terror networks, these youths have tarnished the image of Islam and Muslims."

[Press Release, Aug. 21, 2003]

SAUDI ARABIA'S HIGHEST RELIGIOUS AUTHORITY WARNS AGAINST THE DANGERS OF EXTREMISM

Shaikh Abdulaziz Al-Ashaikh, the Grand Mufti of Saudi Arabia and Chairman of the Council of Senior Ulema [religious scholars], issued a statement today warning Muslims that extremism and fanaticism lead only to violence and the death of innocent people. Shaikh Al-Ashaikh emphasized that "Muslims must understand that the path of reform never comes through violence. Islam is not a religion of violence. It is a religion of mercy for everyone."

Shaikh Al-Ashaikh stated: "One of the fall-outs from extremism in understanding Islam is that some people call for jihad for the sake of God without justification These people, who call for jihad, want to raise the banner of jihad to draw the youth into their ranks, and not to fight for the Almighty God."

Saudi Arabia s religious leaders have repeatedly and unequivocally condemned terrorism in all its forms. Following the Riyadh bombings on May 12, Shaikh Al-Ashaikh stated: "Terrorism has nothing to do with Islam . . . Islam should not be blamed for the acts of other people. People should be held responsible individually for their own acts."

[Press Release (Excerpts), May 20, 2003]

KING FAHD VOWS TO EXPAND REFORMS

No tolerance for terrorism

In an address to the Consultative Council, King Fahd bin Abdulaziz pledged to expand the breadth and pace of reform in the country and affirmed the government s resolve to crack down on terrorism.

"The people of Saudi Arabia oppose all forms of terrorism, and will never allow any faction of deviant terrorists to harm the country and undermine the safety of its citizens and residents. We will not allow any deviant ideology that encourages and feeds terrorism", said King Fahd. "This nation is determined to eradicate all forms of terrorism."

The King also emphasized that public education is critical to religious moderation, tolerance and the peaceful teaching of Islam. The King called upon religious leaders to promote social harmony and unity.

In King Fahd's words: "It is the responsibility of our religious leaders to save our youth from the evil of destructive thoughts that propagate extremism and hatred and only result in devastation and ruin.

No one can ignore the seriousness of our move toward reform. And I say to every citizen that each one of us has a role and a responsibility in this endeavor. I say to each government official that public service is an honor, which has obligations to the public good, but does not convey any special privileges. I say to every businessman that our economy is not just a source of capital and profit, but it is an investment in national security and safety. I say to every woman that this nation is for all and you will be a partner in making its future. And I say to officials in education that they are shapers of future generations. Good education promotes character and instills values in the young for the benefit of this nation.

"And I say to every citizen that one of the most important obligations is to confront narrow mindedness, regionalism and social division. Confronting these ills is a requirement of our faith and contributes to national unity.

The world we live in is at a crossroads. We are part of this world and cannot be disconnected from it. We cannot be mere spectators while the rest of the world is progressing towards a new global system. This country is the heart of the Muslim World, and the cradle of Arab identity. Therefore, we should rise to the challenges and support each other in carrying out responsibilities and duties."

[Press Release, May 13, 2003]

ADDRESS TO THE NATION—CROWN PRINCE ABDULLAH BIN ABDULAZIZ

In the name of God, most compassionate, most merciful

My fellow citizens:

May God's peace and blessing be upon you.

The tragic, bloody and painful events that took place in the heart of our dear capital, Riyadh, last night, in which innocent citizens and residents were killed or injured, prove once again that terrorists are criminals and murderers with total disregard for any Islamic and human values or decency. They are no different from vicious animals whose only concern is to shed blood and bring terror to those innocents under God's protection.

These tragic events should serve as a warning to the unwary, and should restore sanity to the deluded. The perpetrators are but a small group of deviants whose objective is to do harm to our society by doing damage to its security.

On the other hand, the whole Saudi nation, old and young, men and women, stand shoulder-to shoulder in condemning this heinous act and expressing their rejection of those who perpetrated it. We will be steadfast in defending our homeland, the cradle of Islam, and the heart of the Arab world.

If these murderers believe that their criminal and bloody act will shake our nation or its unity, they are mistaken. And if they believe they can disrupt the security and tranquility of our nation, they are dreaming. This is because the Saudi people, who have embraced the Holy Book as their guide and the Shari'a as their way of life, and who have rallied behind their leaders, who in turn embraced them, will not permit a deviant few to shed the blood of the innocent which God Almighty, in His infinite wisdom and justice, has sanctified. The entire Saudi nation, and not just its valiant security forces, will not hesitate to confront the murderous criminals.

There can be no acceptance or justification for terrorism. Nor is there a place for any ideology which promotes it, or beliefs which condone it. We specifically warn anyone who tries to justify these crimes in the name of religion. And we say that anyone who tries to do so will be considered a full partner to the terrorists and will share their fate. As revealed in the Holy Qur'an: "If a man kills a believer intentionally, his recompense is Hell, to abide therein (forever): and the wrath and the curse of God are upon him, and a dreadful penalty is prepared for him."

Further, as revealed in the Holy Qur'an, the taking of an innocent life is a crime against all of humanity. In the words of the Prophet (God's peace and mercy be upon him): "He who kills a resident living in peace among you, will never breathe the air of heaven."

These messages, which do not require any interpretation, provide clear evidence that the fate of those murderers is damnation on earth and the fury of Hell in the thereafter.

I vow to my fellow citizens and to the friends who reside among us, that the State will be vigilant about their security and well-being. Our nation is capable, by the Grace of God Almighty and the unity of its citizens, to confront and destroy the threat posed by a deviant few and those who endorse or support them. With the help of God Almighty, we shall prevail.

[Press Release, May 13, 2003]

PRINCE BANDAR'S STATEMENT ON THE TERRORIST ATTACKS IN RIYADH

His Royal Highness Prince Bandar bin Sultan, Saudi Ambassador to the United States, issued the following statement on the terrorist attacks in Riyadh:

The terrorist attacks on Saudi Arabia May 12 are evil and unforgivable crimes. I send my deepest condolences on behalf of the people of Saudi Arabia to all of the American victims and their families and to the Saudi, European, Arab and Asian families. My government promises that we will not rest until, together, we hunt down these criminals and bring them to justice. And when we do, their punishment will be swift and severe.

No words can express our feelings for the loss of the innocent people who were murdered and injured. Those victims were Arabs, Americans, Europeans, and Asians. They were Muslims as well as Christians. The attack was an attack on humanity. We reject the terrorists who express their hatred for our people and our friends through such cowardly actions. These terrorists have turned their backs on our people and they have perverted our faith; they do not in any way represent Islam. They only represent hatred towards all of humanity. As a nation of peace, the Kingdom of Saudi Arabia will work to protect our citizens and our friends who live and work in our country, American, Arab, European, African or Asian, Muslim or non-Muslim; and we are determined to eradicate the terrorists who bring violence and hatred to the whole world, as Crown Prince Abdullah declared today.

The target of the Al-Qaeda terrorists is Saudi Arabia and the United States and the 70-year relationship that has benefited both our peoples; and at a time when we are working together to bring peace and stability to the people of the Middle East, their aim is to destroy our alliance through violence. But they will not succeed. We say to the people of the United States, as your friend and ally, you can rely on us to do our part as we have done in critical times in the past. We will continue to hunt down the criminals, we will continue to cut off their finances and we will bring them to justice.

On this day, grief and pain weigh on our hearts. I pray that God Almighty continues to give us the wisdom and courage that will lead our nations and the world into a new era of peace and prosperity for all mankind, of all faiths.

[Press Release, Feb. 13, 2003]

SAUDI KING AND CROWN PRINCE ADDRESS MUSLIMS

Statement contains messages of peace, and stance on Iraq

The Custodian of the Two Holy Mosques, King Fahd bin Abdulaziz, and Crown Prince Abdullah bin Abdulaziz, Deputy Prime Minister and Commander of the National Guard, issued a statement Monday from the Holy Site of Mina on the occasion of Eid Al-Adha 2003, addressing the 2 million pilgrims gathered for Hajj and all Muslims everywhere.

The following are excerpts from the statement.

". . . Islam is a religion of peace and tolerance, ease in the implementation of religious teachings, duties and rites; and tolerance in day-to-day dealings with people . . ."

". . . The government of Saudi Arabia has condemned terror in all its forms. It took a leading role in urging the international community to challenge this sinister world phenomenon . . ."

". . . In this world, the Muslim has a constructive role to play, and he should strive to prove that he is equal to the task. He should endeavor to promote the welfare of mankind and preserve the five necessities as is required by religion, namely: religion, mind, honor, self and property . . ."

". . . The [Kingdom] set into motion the call to Islamic solidarity to bring Muslims together, overcome dissensions and eliminate their causes, promote all that may lead to harmony and eliminate all that may lead to misunderstanding . . ."

". . . Towards this end the Kingdom of Saudi Arabia submitted a peace initiative to the 14th Arab Summit held in Beirut [in March 2002]. The Saudi initiative was adopted by the Summit and became an Arab peace plan with international support."

"Our attitude towards the Iraq situation and towards complete disarmament in the area of weapons of mass destruction is within the aforementioned principles. In fact it is an endeavor to put these principles into practice. We are doing all we can to spare Iraq and its people as well the entire region, the dangers and woes of war and its ramifications. We hope that the efforts being made to solve the crisis by peaceful means will be successful. Likewise we hope that reason will prevail and that constructive dialogue be given a chance to find a peaceful resolution."

"With regard to weapons of mass destruction, whether in this region or in any other part of the world, the Kingdom lends its full support to international efforts to eliminate such weapons irrespective of whether they are nuclear, chemical, or biological. The Kingdom calls on the international community to do all that is necessary to support all efforts required to eliminate weapons of mass destruction . . ."

[Press Release, Feb. 11, 2003]

SAUDI RELIGIOUS LEADERS FORBID ATTACKS ON NON-MUSLIMS

Saudi Arabia's Council of Senior Ulema (Religious Scholars) has issued an edict condemning attacks and other violence against innocents. The edict also conveys that it is a crime to randomly judge people as "infidels" and target them for violence.

The Grand Mufti of Saudi Arabia and Chairman of the Council of Senior Ulema Shaikh Abdulaziz Al-Ashaikh said that this is a very serious matter as it relates to the shedding of innocent blood, the bombing of buildings, and the destruction of public and private installations. The edict issued by the Council on this matter is as follows:

"The acts of shedding the blood of innocent people, the bombing of buildings and ships, and the destruction of public and private installations are criminal acts and against Islam. Those who carry out such acts have deviant beliefs and misguided ideologies and are to be held responsible for their crimes. Islam and Muslims should not be accountable for the actions of such people. Islamic Law clearly prohibits leveling such charges against non-Muslims, warns against following those who carry such deviant beliefs, and stresses that it is the duty of all Muslims all over the world to consult truthfully, share advice, and cooperate in piety and righteousness."

Violence against Westerners has not been an issue or problem in Saudi Arabia. However, the religious authorities took this step to reinforce the prohibition in Islam against all forms of violence.

[Press Release, Feb. 4, 2003]

STATEMENT REGARDING SAUDI EDUCATION SYSTEM

In 70 years, Saudi Arabia has formed a nationwide educational system that provides free education from preschool through university to all citizens. Today, there are eight universities, over 100 colleges and more than 26,000 schools. Some 5 million students are enrolled in the educational system, which boasts a student to teacher ratio of 12.5 to 1.0—one of the lowest in the world.

The Saudi government recently conducted an audit, which determined that about five percent of school textbooks and curriculum guides contained possibly offensive language. A program is now in place to eliminate such material from schools. Saudi Arabia's Crown Prince Abdullah recently urged a gathering in Riyadh of young people from around the world to shun extremism, saying: "Ours is a tolerant and temperate faith and we must conduct ourselves accordingly. There is no room for extremism or compulsion in Islam. In fact, it violates the tenets of our faith and the traditions of our Prophet."

The Crown Prince also told the gathering: "Wisdom and reason must guide your statements and actions; you must not let emotions sway you. It is your responsibility, when you return to your nations, to counsel people to employ wisdom, patience and reason in dealing with issues."

Foreign Minister Prince Saud Al-Faisal recently stated: "We are working very hard to build a world-class educational system which will help our children be prepared to make substantial contributions to the global society. Our schools and our faith teach peace and tolerance."

The Saudi commitment to its education system also includes approved budgets for the construction of 780 new schools as well as improvements to another 380 schools. Part of this funding will improve and equip a number of educational facilities, such as supplying schools with computers and laboratory equipment. The funding will also provide maintenance to existing schools.

[Press Release, Jan. 13, 2003]

SAUDI CROWN PRINCE CALLS FOR MODERATION AND TOLERANCE

At a gathering hosted at his home in Riyadh for distinguished visitors to the Al-Jenadriyah Festival, Crown Prince Abdullah called upon regional leaders to promote moderation and tolerance. He said that this was a time for deep thought and reflection, for tolerance and moderation, for honesty and sincerity. He urged scholars and intellectuals to exert their efforts toward bringing people together not dividing them.

"The scholar, the author, the thinker, the philosopher and the poet all must strive to bring humanity together", stated the Crown Prince. "I have faith in your ability to contribute to the greater good."

The Crown Prince also commented: "Reason, patience, moderation and kind words help bring people together."

He urged those assembled to reject extremism and intolerance.

[Press Release, Dec. 7, 2002]

MOSQUES NOT TO BE USED AS POLITICAL PLATFORMS

Official order sent to Imams and Khuttab

In an official letter to Saudi religious leaders, Shaikh Saleh Al-Ashaikh, Minister of Islamic Affairs, said restrictions have been put in place to prohibit unauthorized persons from making speeches at mosques. The order, distributed as part of a new program for the care of mosques and their workers, warned speakers at mosques against making provocative speeches and inciting people.

The letter said that mosques are meant only for prayer, guidance and other pious activities and should not be used as political platforms.

Al-Ashaikh warned speakers against misusing mosques to make provocative speeches or incite people or exploit mosques by reciting poems in praise of some misguided people. Violators of the order can be subject to severe punishment, including removal from office.

Al-Ashaikh also commended the efforts of the imams and khuttab in fulfilling their religious duties by leading people in prayers and providing advice and guidance. He also called upon the imams and khuttab to serve as models for others by spreading love and brotherhood.

EXCERPTS FROM A LETTER SENT BY CROWN PRINCE ABDULLAH TO PRESIDENT GEORGE W. BUSH ON SEPTEMBER 10, 2002

". . . terrorism has no religion or nationality it is pure evil, condemned and abhorred by all religions and cultures.

"We in Saudi Arabia felt an especially great pain at the realization that a number of young Saudi citizens had been enticed and deluded and their reasoning subverted to the degree of denying the tolerance that their religion embraced, and turning their backs on their homeland, which has always stood for understanding and moderation. They allowed themselves to be used as a tool to do great damage to Islam, a religion they espoused, and to all Muslims. They also aimed at causing considerable harm to the historic and strong relationship between the American people and the people of Saudi Arabia. I would like to make it clear that true Muslims all over the world will never allow a minority of deviant extremists to speak in the name of Islam and distort its spirit of tolerance. Your friends in the Kingdom of Saudi Arabia denounced and condemned the September 11 attacks as strongly as did the American people.

". . . nothing can ever justify the shedding of innocent blood or the taking of lives and the terrorizing of people, regardless of whatever cause or motive. Therefore, we do not simply reiterate sincere and true condolences to the relatives of the victims, but assure all of our continued will and determination to do our utmost to combat this malignant evil and uproot it from our world."

One of the things I hear within my own press here in the United States, why are not more of the Muslim Nations speaking out against terrorism. Well, Mr. Speaker, here is a book full of it. Who are these people? The king and crown prince address the Nation; Saudi Arabia's top clerics urge Muslims to reject terrorism; Saudi Arabia's leading religious authorities condemn terrorism in public statements; King Fahd, Crown Prince Abdallah call on Muslims to unite against terror, combat roots of extremism; Crown Prince Abdallah Aziz statements against terrorism; and the entire Cabinet and Shura Council statements on combating terrorism and rejecting it. The key I think in here is the top leading Muslim leaders within their religious contract purport and talk about the negligence of terrorism itself.

Mr. Speaker, the dialogue is so key and the things that we do. I have an article here. I want to talk about peace in the Middle East and a little bit of how I see that we are going to purport, though this is a one man's opinion and I wish it had been my vision, but greater men with greater visions purported this. It has already passed by the United Nations. It was accepted by the United States. It was supported by the Arab League, and it was supported by Crown Prince Abdallah Aziz.

This article recently in, I believe it is the New York Times, talks about a Sharon's plan to reunite the Gaza and the West Bank, primarily the Gaza in this article.

[From the New York Times, Sept. 13, 2004]

ISRAELIS PROTEST SHARON'S PLAN TO OUST JEWS FROM GAZA

(By Greg Myre)

JERUSALEM, Sept. 12.—Tens of thousands of right-wing Israelis packed the streets of central Jerusalem on Sunday night in the latest mass protest against Prime Minister Ariel Sharon's plan to withdraw Jewish settlers from the Gaza Strip.

The rally occurred just hours after Mr. Sharon said at a cabinet meeting that growing incitement by right-wing activists could lead to violence, or even civil war in Israel.

"We have witnessed in the past few days a very grave campaign of incitement, I would say, with calls that in essence are aimed at inciting a civil war," Mr. Sharon told his ministers in the first few minutes of the meeting, which was filmed by television crews. "I see this as very grave."

The demonstrators, meanwhile, filled Zion Square in a rally organized by settlers and their backers as part of their efforts to derail the plan to pull out of Gaza, tentatively set for next year.

"Sharon, what happened to you?",read one banner, referring to his decades of strong support for settlements. "The government of Sharon is a government of destruction," said another held by the protesters, many of them young settlers.

The prime minister has said he sees no future for Israelis in Gaza, and is willing to leave the territory while trying to strengthen Israel's hold on the much larger West Bank settlements.

Both developments reflect the mounting tension in Israel as Mr. Sharon prepares to proceed with the withdrawal plan, which has the backing of most Israelis, polls show. But the Gaza pullout faces strong opposition from the well-organized settlers, in addition to segments of Mr. Sharon's own Likud Party and some other traditional supporters.

In recent days, some right-wing settler activists have warned that government efforts to remove the 8,000 settlers from Gaza, which is home to 1.3 million Palestinians, could lead to open conflict among Israelis. Mr. Sharon urged his cabinet ministers to speak out against such threats, though a number of ministers are opposed to the withdrawal.

Zevulon Orlev, the social welfare minister and a critic of the Gaza pullout, said it was wrong of Mr. Sharon to blame the settlers for the tense political atmosphere.

"How did we get to a process of decision making that some say is tainted with illegitimacy?" Mr. Orlev told Israel radio. "The prime minister and the cabinet must do some soul searching."

Despite several opinion surveys showing solid public backing for a Gaza withdrawal, Likud Party members rejected the plan in May. But the ballot was nonbinding, and Mr. Sharon later secured a slim majority in his cabinet for the pullout. In recent weeks, Israeli authorities have said repeatedly that they fear an extremist could attack a political leader or a security official.

In 1995, Prime Minister Yitzhak Rabin was shot by a Jewish extremist opposed to his interim peace agreements with the Palestinians, which included handing over some land that Israel captured in 1967.

The Yesha Council, the main group representing settlers in the West Bank and Gaza, said it would use only lawful means to oppose the withdrawal. The group has organized several large protests in recent months, including the one on Sunday.

"We believe the disengagement plan is harmful to Israel, but we only support peaceful protests," said Josh Hasten, a council spokesman. "We are saddened by the prime minister's comments, which seem to depict an entire group in an unfavorable light."

The Palestinian leadership supports an Israeli withdrawal from Gaza but wants the pullout to be coordinated with the Palestinians, a demand Mr. Sharon has refused.

The Palestinians, who are seeking a state based on the lines that existed before the 1967 Arab-Israeli war, are also demanding a withdrawal of all West Bank settlers. The settler population has been growing at a rate of around 10,000 annually in recent years.

In another development on Sunday, a lawyer representing Israel told the High Court of Justice in Jerusalem that the state would re-examine parts of a West Bank separation barrier that has been constructed near Qalqilya, a Palestinian town, those present said.

The Association for Civil Rights in Israel filed the petition on behalf of Palestinian villagers who have been cut off from farmland and face other difficulties, said Yoav Loeff, a spokesman for the group. The judge gave the state 60 days to respond, Mr. Loeff said.

It will be the first time the state will re-examine a significant section of the barrier that has already been built, he said.

Also on Sunday, Israel charged six Egyptian students with plotting to kidnap and kill Israeli soldiers in an effort to support the Palestinians. The six, who were charged in Beersheba in southern Israel, had been arrested two weeks ago near the desert border, armed with knives, Reuters reported.

□ 2320

Mr. Speaker, I ask you, can we, as a world, as the United States, watch Israel and Palestine destroy each other increasingly day by day, more and more; as we watch Arafat and his direction of terrorism, and as we look at Israel on both sides, Israel and the Palestinians' loss of life, which affects us in the United States, and it affects the Arab nations, and it affects the world.

I believe the key to peace is one initiative that was supported by the Crown Prince before the Arab League. It basically reports resolutions 194, 242 and 338, which say, basically, that Israel should turn back the occupied lands prior to 1967.

Now, this is coming from a strong supporter of Israel. I flew in Israel in the 1970s. I flew Mirage there. I have many Israeli friends and I have many Persian and Arab friends. But I believe that a strong, free Israel, an Israel that is not attacked daily, an Israel that does not have to kill its own neighbors to support itself is a much better world. If we implement those resolutions supported by the United Nations, supported by the Arab League, supported by the United States, supported by NATO, which never made it into power, it never made it into law, then we would have a much better Israel and a safer world.

Now, if Israel gave back the occupied territories, they would be attacked. But in this resolution the Arab League says any act or group or nation that attacks Israel, the Arab League will act to defend Israel itself. Would they be attacked? Absolutely. If you are a terrorist and there is peace, you are out of a job. You lose all the power that you have, the money, the support, and the ego. And just like in my home country of Ireland, you would have terrorists at will.

But just imagine, Mr. Speaker, if that happened and you had other nations, four dimension, that would come to the aid of Israel and make it stronger; and have within the borders itself and just outside the borders, the Arab nations, supporting Israel. Can you imagine a vision of world peace in the near future? I do not think we can the way it is going, Mr. Speaker.

Eight thousand settlers, of course, within Gaza oppose this. The majority, the majority of Israelis support this because they are tired of their families being murdered. Palestinians are tired of their families being killed and slaughtered on a daily basis. Most of the majority of Palestinians and Israelis, I believe, want peace.

At one time, Mr. Speaker, I would have told you that Arafat has to go, just like in former Yugoslavia Izetbegovic with the Muslims, Tudjman with the Croatians, and Milosevic with the Serbs. They were too long in the tooth. They had too much bloody history behind them. I do not think there was ever any way for Yugoslavia to get itself out of the pit it was in, and I do not believe with Arafat there is a way to get out of that pit. At one time I thought Sharon had to go as well.

But as I spoke to the leadership in Saudi Arabia, they said, Duke, maybe the Prime Minister is the only person that can make this happen. Maybe he is the only person in Israel that can pull the Likud group together, along with the settlers, and turn back the occupied lands. I guess we will have to see, Mr. Speaker.

I want to talk now about the education system that has been changed in Saudi Arabia, to the benefit of the United States and to the citizens of Saudi Arabia itself, with the banks they have gone through. I also want to talk about the oil system. All the way back to the 1940s, for 60 years, Saudi Arabia has supported the United States. Even in the 1970s, with the Arab oil embargo, Saudi shipped the United States oil during the Vietnam conflict to make sure our soldiers were safe. When we went in to Desert Storm, Saudi Arabia allowed us to operate out of their bases. During the current Afghan raids, Saudi Arabia allowed us to use their bases. And against Iraq, the same.

Put yourself in the position of Saudi Arabia, though, and you have a neighbor that is a wolf. If the United States fails in going into Iraq, or we pull out now, early, and all of those terrorists and extremists that want Iraq and Afghanistan and every state in the Middle East to espouse the Muslim extremist doctrine, it also puts the Saudis at risk as well.

So they do go slow sometimes; but I have to say that, with what they have done in support of the United States in their education system, in their banks, in information, and against terrorism, Mr. Speaker, we have an ally there. And the system that we need to take a look at right away, and which Colin Powell is working on, is the visa system itself.

Let me read just a few of these initiatives and actions taken by Saudi Arabia to combat terrorism.

They have arrested more than 600 individuals in these past few weeks. They have dismantled a number of al Qaeda cells. They have seized large quantities of arms caches and explosives. They have extradited suspects from other countries to be tried. They have established a joint task force with the United States in which our own Permanent Select Committee on Intelligence speaks with on a daily basis. There is international coordination between MI-5, Interpol, the United States and other nations. They have looked at the charitable organizations, and they have one now that goes through a filtering system that is audited by the U.S., by Australia, the British, and the Canadians. The legal and regulatory actions to combat terrorism have stepped up 100-fold, according to Colin Powell.

Mr. Speaker, I would like to submit for the RECORD these three books that go on to talk about some of the things that Saudi Arabia has done.

Mr. Speaker, I have seen on this House floor resolutions. And, frankly, quite often we here in this body think a simple nonbinding resolution does not get beyond the walls, or maybe just into a couple of households. But we had a resolution on this House floor, Mr. Speaker, that most of us voted for but had no idea the impact it would have. To Saudi Arabia and to the Saudi citizens it was a slap in the face.

☐ 2330

Sometimes we learn slowly or are actually part of the problem, Mr. Speaker but we cannot continue to do that. If I was Osama bin Laden and I wanted to separate an ally from the United States, I would have done exactly the same thing that he did. Because he is not just after the United States; he is after the Saudi Government itself. After all, they were the ones that kicked him out. Crown Prince Abdullah's peace plan, which many Israelis found hopeful. Why? Because it was introduced in a time of immense ill will between Arabs and Israelis because Saudi Arabia was viewed as the least likely to ever agree to diplomatic relations with Israel. But instead we have a Crown Prince that is a visionary. He, in my opinion, is like President Sadat was to Egypt. The Crown Prince should be praised and applauded, not castigated for his efforts, which is consistent with the U.S. position and with United Nations resolutions, in particular resolution 194, 242 and 338.

TO CAST ASIDE A FRIEND

I had dinner with a Saudi businessman this summer and one of the first things he said to me was how very sorry the world and particularly Saudi Arabia were about the murderous events of September 11th. I can tell you that our grief was his grief. If possible, he felt as deeply about this crime and tragedy as we do. And he was extremely worried about derailment of the partnership and alliance that Saudi Arabia and the United States have enjoyed for the past 60 years, for the betterment of the free world.

There has been a firestorm of criticism against Saudi Arabia in the months since 9/11 and the relationship between the United States and the Saudis has been condemned and vilified. I told him that I believe Saudi Arabia remains a valuable ally. We have our differences, but any alliance will have its ups and downs over six decades.

What are the issues raised by the critics?

First, the detractors say that Saudi Arabia is an incubator of terrorism, simply because 15 of the 19 hijackers on 9/11 were Saudi citizens.

You may have a gang of tens, hundreds or even thousands of men in any single country, but that gang does not necessarily represent the mainstream.

Moreover, Osama bin Laden was targeting Saudi Arabia not just the United States, and more specifically, he was targeting the relationship between the two countries by using Saudi Arabians as hijackers on 9/11. After all, we know he could have used a dozen different nationalities. Bin Laden wants to bring down the Saudi regime, which condemned and expelled him years ago. He hates the Saudi government and classifies Saudi Arabia as non-Islamic, and he is particularly keen on exterminating the religious authorities inside the Kingdom. This is a similar goal as Saudi Arabia's American critics, who in fact are doing Bin Laden's work for him in a more efficient manner.

Second, the disparagers say that Saudi Arabia is an incubator of terrorism because its school system systematically teaches their kids to hate America and Western values. I am not an expert on the Saudi educational system, but I can tell you that this allegation is nonsense. For years, English language has been taught and Western gadgets used in schools starting at age 12 and soon the study of english will start at age 9 . . . Kingdom-wide. This would be a very very strange way to promote the so-called anti-Westernism. So would the fact that the government sends thousands of students to study in the U.S. and Europe on full scholarships. In 2001 there were more than 5,000 in the U.S. alone and even more sent privately. This shows how ridiculous it is to allege that the Saudi government is determined to teach their kids to hate America.

Furthermore, the Saudi educational system has to be taken within the context of deeply rooted cultural and religious values cherished by around 1.4 billion Muslims around the world. But those values should be construed as being anti-Western or anti-American. Nor should we for a moment consider that every human being living on this globe should follow our way of life. Being the home of the holiest shrines of Islam, Saudi Arabia has a responsibility that deserves a better understanding. Aside from that, the Saudi educational system, just as elsewhere in the world, is subject to revisions on an on-going basis and has recently witnessed some changes as declared by Prince Saud Al-Faisal, the Foreign Minister.

Third, those criticizing the Kingdom say that it is an 'exporter of terrorism through its support of religious schools and mosques abroad.

How hypocritical. It is very convenient for them to forget that the U.S. government eagerly encouraged the Saudis to donate schools and mosques in Pakistan to provide infrastructure for the fight against the Soviet Union in Afghanistan; and that the U.S. government was enthusiastic about the Saudi funded schools throughout the Muslim world in order to stem the tide of Ayatollah Khomeini's export of radicalism. As for controls over these contributions, it is obvious that mistakes were made. But there is plenty of blame for both parties, and the Secretary of the Treasury O'Neil has applauded the Saudi efforts to establish effective control.

There are a lot of American critics who seem to think that they can run Saudi society better than the Saudis. Let me say that if the concern is the anti-Israeli sentiment in the media or if the desire is more Saudi involvement in an action against Iraq, you will be sorely disappointed if either the press or the political process is thrown open. The Royal Family has balanced openness; progress and modernization on one hand with a deeply conservative, tribal and religious population on the other. Pressure from Washington will work against the progressive elements. They need to proceed at a sustainable pace . . . with our good-will and encouragement but not with our arrogant; condescending dictates. Much needs to be done and the leading Saudi reformers are the ones to do it.

On the other hand, if there is really a feeling amongst us that anger against us, rather than hate—to be precise, is sweeping the region, including Saudi Arabia where it is possibly the least pronounced, is it not worth our while to find out why? Many voices in the region at the official and public levels cite biased and heavy-handed American foreign policy, which is no secret. Let us address the situation, I emphasize, on the basis of an objective examination of our long-term and strategic interests.

Extremism is by and large a cause/effect phenomenon and the cause could be anywhere from religious, political, economic, societal factors and grievances to a combination of one or more of these elements. It cannot be attributed solely to an educational system. Why don't we try to scratch deeper than the surface. I think we do have the magnanimity to conduct a soul-searching exercise to determine how and where our policies might have gone awry; this could be a highly beneficial exercise.

Let me say that the Royal Family has worked very very hard to modernize their country and to do so in a way that accommodates the United States. Radical Islam is a product of the rejection of modernization and this is why Osama bin Laden and his cohorts want to destroy the Royal Family. I do not think we should be in the business of promoting Bin Laden's agenda for any reason, much less to the direct and immediate detriment of ourselves and our friends. In fact, because Saudi Arabia is at the center of Islam and Arab World, never in our history have we been in greater need for their alliance.

Since we have touched upon the subject of modernization, let's ask the question: has the Saudi government used its oil wealthy wisely towards that end?

The government has proven time and time again to be an effective instrument of progress in such a conservative society. In fact, one could make a strong case that the most effective method of modernization in such a strongly tribal, nomadic and deeply conservative culture was the one that evolved in Saudi Arabia.

Let me not leave you with the impression that I believe the Saudi government and Royal family are perfect—no government system is for that matter. As far as we are concerned the Saudi regime has a long way to develop, but Americans being a true ally of Saudi Arabia for decades can and should help them to evolve.

Over the past 30 years alone, the Saudi government has invested $1.2 trillion and transformed a desert into a modern, viable nation. Before the discovery of oil in 1932, Saudi Arabia's meager income came from the annual pilgrimage. Now its GDP ranks 30th out of 186 nations. The Saudis also understand the necessity for a diverse economy. They have built two large industrial cities, numerous industrial parks, loaned about $10 billion for new businesses and have more than 2,500 new factories, giving preference always to U.S. companies.

Simultaneously, they have invested in their people by building thousands of schools, 8 universities, over 300 hospitals and 100,000 miles of paved roads.

They have not squandered their opportunities, but this is not to say that they do not have problems. In 60 years they have transformed themselves from a nomadic society to one which is 85 percent urban. Unemployment among the young emerged because of a mismatch between skills and jobs. The government understands the problem and is expanding technical and vocational training on one hand and replacing foreign workers with Saudis on the other. They are very conscious of the problem and, as allies, we should urge the Administration to help them through its various organs.

And they have not neglected their self-defense. Hand-in-glove with the U.S. military and defense contractors, Saudi Arabia has build its military forces. Yet there are those that devalue our partnership by stating that Saudi Arabia does not cooperate with the United States militarily.

Ridiculous.

In the 1980s, Saudi Arabia's donations to the Afghan Mujahideen were matched dollar for dollar by the U.S. government in our joint drive against communism.

In the 1980s, Washington and Riyadh cooperated very closely to stop military aggression by Iran.

Even at oil embargo times Saudi Arabia fuel supplies to the U.S. armed forces never stopped.

In 1990, the U.S. government received complete Saudi cooperation in the war against Iraq.

After Desert Storm and up until today, there has been crucial Saudi support in maintaining the southern "no-fly" zone in Iraq.

During our most recent campaign in Afghanistan, the Saudis provided access to the command and control facility at the Prince Sultan Air Base. This is an excellent record of alliance.

When the nay-sayers criticize Saudi Arabia for not supporting a war against Iraq because the Kingdom wants to use the U.N. sanctions and diplomatic solutions to bring Saddam to heel and because it has not been shown any link between Saddam and 9/11, how is this different from the position of Brent Scowcroft and Dick Armey or Germany and an array of others, inside and outside the U.S.A.? Believe me, no one in the Saudi government will shed a tear at Saddam's demise, but Iraq is their neighbour and the Saudis are justifiably cautious when asked to commit to such schemes which will devastate an innocent Iraqi populace.

Not only in Saudi Arabia but in the whole world, sentiments run high against U.S. military action against Iraq; people are wary that it will wreak havoc and destruction on an already beleaguered people. On the other hand, if possession of weapons of mass destruction is the motive for such a war you cannot detract people in that part of the world from also pointing fingers elsewhere. And we have to recognize that.

Furthermore, it is asserted that we cannot trust Saudi Arabia to be a supplier of our energy needs. This is absolutely absurd. Saudi Arabia's policy for the past 25 years has been not to use oil as a political weapon. Saudi policy makers maintain stable prices and stable supplies of oil throughout the world. They have often sold their oil at a $4 discount below world market price to ensure affordable oil is available to the free world. Most oil exporters produce as much as they can. However, for many years Saudi Arabia has played the role of swing producer, increasing or decreasing production in order to avoid spikes in the pricing. Most notably Saudi Arabia continued this policy even though it could use the extra income due to the expense of the Gulf War in 1990–1991 which cost them over $60 billion. I am not saying the Saudis are angels sacrificing their interests for the sake of consumer countries, but I am saying that their energy interests match ours and have done so for 60 years. To throw the overboard for some pie-in-the-sky Russian supply scheme is lunacy.

Moreover, there are those who claim that Saudi Arabia is a stumbling block to peace between Israel and Palestine. They assert that Saudi Arabia fuels terrorist organizations in the Occupied Territories. As to the last assertion, the Saudis adamantly deny this. They say that their government's aid to Palestinians is humanitarian . . . clothes, food, medicine and shelter . . . and assertions to the contrary have never been proven. In fact, I believe that their attitude toward peace is demonstrated by Crown Prince Abdullah's Peace Plan, which many Israelis found very hopeful. Why? Because it was introduced in a time of immense ill-will between Arabs and Israel; because Saudi Arabia was always viewed as the least likely to ever agree to diplomatic relations with Israel; and because the whole Arab World has agreed to the plan. The Crown Prince should be praised and applauded, not castigated, for his effort which is consistent with the U.S. position and U.N. resolutions, particularly Resolution No. 194, 242 and 338.

Let us swap positions with the Saudis and explore how they, both at the official and populace level, see us. And for that purpose, let us take the Palestine question—the most inflammatory in the region—as a yardstick to gauge how our positions diverge or converge. The Saudis cannot ignore that we side with Israel across the board, providing it with political and military cover to the detriment of the Palestinians. Is it not true that we vetoed over 70 U.S. resolutions favouring Palestinians, thereby insulating Israel from international consensus and even censure?

On the ground, and as a daily routine, Israeli tanks roll into Palestinian territories. There, the Arabs see the Israeli army, strongest in the region, devastatingly using a U.S. supplied sophisticated arsenal against Palestinians, sparing no houses, farmland or civilian lives; lives of civilians who are only seeking their right to self-determination in line with the will of the international community.

How can the Arab on the street reconcile himself with this? Even the closest of our friends are dismayed and embarrassed at our deteriorating credibility. Under such pressure, the most moderate regime will only have to identify with its people's sentiments and legitimate concerns; hence the disappointment with U.S. policies.

Historically speaking, we must not forget that Saudi Arabia has all along been accused by Arab radicals as being the most moderate Arab country and the staunchest friend of the West. In so far as the Arab-Israeli relationship is concerned, what Saudi Arabia is obviously after is a lasting and just peace, not a lopsided or one-sided one, based on U.N. resolutions. This has been unequivocally highlighted in the plan I've just referred to and has been a standing policy line for Saudi Arabia.

Despite all pressures, Saudis say, they went out of their way to maintain their moderate posture. But, have they been immune from Israeli provocations? Unfortunately not. Among other things, Israel has been making provocative air sorties over the Saudi air bases and I personally know how humiliating this must be.

Having said that, do we, as lawmakers, accept to fall for the paradox of calling Saudi Arabia a "stumbling block" to peace?

For the sake of our ally and friend Israel and our unwavering commitment to its security and longevity, I urge our Administration together with the U.N. and our allies in Europe to work diligently to impose peace in line with U.N. resolutions—this will inevitably make the world a safer place for us, for our Israeli friends and for the rest of humanity.

Finally, let us look at this purely from a selfish perspective. The Saudis have more crude oil than anyone else; 25 percent of the world oil reserve, a commodity by all accounts that is going to be the main source of energy for the next two decades at least. They have a proven track record of handling this resource wisely. Crude oil is strategic. Let's cooperate with them.

From a security and policy view point the question that occurs to me here is how many friends do we have in the region with a historically rooted and abiding relationship as is the case with Saudi Arabia?

Let me conclude by saying that Saudi Arabia is not the enemy. In the recent words of our President, "Saudi Arabia is our eternal friend". But if we continue to assail, insult and threaten them, we will jeopardize the relationship.

And make no mistake, those that denounce the partnership know very well that their denunciations can be self-fulfilling. What folly . . . . to cast aside a proven friend for someone else's purposes.

IRAQ WATCH

The SPEAKER pro tempore (Mr. GARRETT of New Jersey). Under the Speaker's announced policy of January 7, 2003, the gentleman from Washington (Mr. INSLEE) is recognized until midnight.

Mr. INSLEE. Mr. Speaker, I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. I thank my friend for yielding. Here we are once more this evening for the next half hour to talk about the situation in the Middle East. It seems that we have been doing this now for, I think, 15 or 16 months. We describe it as the Iraq Watch. I understand, also, that tomorrow night we will be back here shortly before the conclusion of the legislative business for the day prior to the Vice Presidential debate which is scheduled for tomorrow night between Vice President CHENEY and Senator EDWARDS.

Speaking of the Vice President, I remember being somewhat taken aback by the continued allegation by the Vice President relative to the relationship between al Qaeda and Saddam Hussein. Of course, just recently I read again where the Vice President makes allusions to some sort of link between al Qaeda and Saddam Hussein.

Mr. CUNNINGHAM. Will my friend yield for just 10 seconds on that issue and then I will leave you alone?

Mr. DELAHUNT. Yes, I will. Of course.

Mr. CUNNINGHAM. I will be happy to provide the 9/11 report. The committee graphically details from 1990 to 2000, to when Saddam Hussein was captured, his linkage with al Qaeda and it is in the 9/11 report.

Mr. DELAHUNT. With all due respect to my good friend from California, I have read the report. I have read it in considerable detail. I agree with the chairman of the 9/11 Commission after my review of that report that was done by an independent commission comprised of five Republicans and five Democrats. In fact, this past June the chairman of the commission, a former Governor of New Jersey, Tom Kean, had this to say in an interview that was broadcast over one of the networks. The report concluded that there was no operational link between al Qaeda and Saddam Hussein, that it was absolutely not borne out by any of the evidence that was available to them. In fact, the former Governor, and let me underscore the fact that he is a highly respected member of the Republican Party, had this to say. These are his words, not my words:

"We believe that there were a lot more active contacts frankly with Iran and Pakistan than there were with Iraq. Al Qaeda did not like to get involved with states unless they were living there. They got involved with Sudan. They got involved where they lived. But otherwise, no," he said on ABC's "This Week." I think it is rather clear from the 9/11 report that there were no links between Saddam and Osama bin Laden. But again that does not seem to deter the Vice President from continuing that fiction. But again that does not appear to be unusual for the Vice President, because it is clear that the Vice President was one of the more significant influences in the determination to seek the military intervention with Iraq.

In a review of the book by Bob Woodward that was posted, by the way, on the Bush-Cheney campaign Web site, there was a particular excerpt that I thought was very informative about the role of the Vice President in the effort to convince the American people about the need to go to war in Iraq. Again, I am reading from an excerpt from that book by Bob Woodward. It describes the differences between the Secretary of State, Colin Powell, and his observations and that of the Vice President. I am now reading:

"Powell thought that Cheney had the fever. The Vice President and Wolfowitz kept looking for the connection between Hussein and September 11. It was a separate little government that was out there, Wolfowitz, Libby, Under Secretary of Defense Douglas Feith and Feith's 'gestapo office,' as Secretary Powell privately referred to it. Cheney now had an unhealthy fixation. Nearly every conversation or reference came back to al Qaeda and trying to nail the connection with Iraq. He would often have an obscure piece of intelligence. Secretary Powell thought that Cheney," he is referring to the Vice President obviously, "took intelligence and converted uncertainty and ambiguity into fact. Cheney would take an intercept and say it showed something was happening. 'No, no, no,' Powell or another would say. 'It shows that somebody talked to somebody else who said something might be happening.' A conversation would suggest something might be happening and the Vice President would convert that into a 'we know.' Secretary Powell concluded we didn't know and no one knew."

I think it is unfortunate that, to use the words of Secretary Powell, that the Vice President had the fever, had a fixation about Iraq and some sort of operational link with al Qaeda when none existed.

□ 2340

And unfortunately, it has been repeated over and over and over again so that many Americans accept it, despite the conclusion reached by the 9/11 Commission. It simply did not exist.

My friend from California talks about 1990 and Iraq, and I would remind my friend from California that, back in 1990, the President's father, George Herbert Walker Bush, made every effort to forestall sanctions that were passed by this House prior to the Gulf War that would have been imposed on Iraq and the Saddam Hussein regime. Not only is there inconsistency here, but please do not talk about 1990 and prior to the Gulf War when this government, the United States Government, under the President's father, George Herbert Walker Bush, had what only can be described as a special relationship with Saddam Hussein. Saddam Hussein was taken off the terrorist list in 1984. It was that administration that installed an embassy in Baghdad in 1986. It was that administration that provided, if you will, the dual-use technologies that could be utilized in the development of a nuclear weapons program to be shipped to Iraq. I mean inconsistency is not a strong enough word. But maybe this is what prompted RICHARD CHENEY, the Vice President, to be so obsessed and fixated with Iraq.

The last time we were here, we discussed the need to be forthright and to acknowledge mistakes and not paint a picture that is simply not matched by the reality on the ground in Iraq. It is important to heed the advice of a former member of the administration, David Kay, who was responsible for finding weapons of mass destruction in Iraq, who was appointed by the Bush-Cheney administration to do so, and came back and testified before the Senate Foreign Relations Committee that we were all wrong. Well, we were wrong about the weapons of mass destruction. We were wrong about links between Saddam Hussein and al Qaeda. And it is dangerous, let me suggest, to continue to attempt, for whatever purpose, and I am not impugning the motives or suggesting that there is a political reason that the Vice President continues to try to maintain that link because far be it from me to question his motives, but, again, to quote David Kay, former member of that administration, when told that the Vice President continued to suggest that weapons of mass destruction might still be found in Iraq, said the following, "what worries me about Cheney's statements is, I think people who hold out for a hail Mary pass delay the inevitable looking back at what went wrong." I believe we have enough evidence now to say that the intelligence process and the policy process that used that information did not work.

Mr. INSLEE. Mr. Speaker, will the gentleman yield?

Mr. DELAHUNT. I yield to the gentleman from the State of Washington (Mr. INSLEE).

Mr. INSLEE. Mr. Speaker, I think it is abundantly clear that the Vice President has some explaining to do to the American people about what happened and what his participation was in starting a war based on false information. And there are two people I have met in the last 24 hours who I think are deserving of an explanation. One was a mother whose son-in-law fortunately just got back from serving proudly in the Army in Iraq, and she told me she is just incredibly happy that her son-in-law came back healthy to the arms of his family and his wife, but she is not happy that others have not and that the Federal Government has not been candid about what happened in Iraq that got us into this war with such devastating consequences. That mother-in-law is entitled to an explanation from the Vice President of the United States about why he made repeated statements that are inaccurate that started a war that has cost over 1,000 American lives.

Today, on the plane flying out here from Seattle, which I go home every weekend to Seattle, this morning sitting next to me was a major heading for Iraq to do an inspection tour. And I just tell my colleague that I feel so strongly that he and all of the 100,000-plus troops in Iraq deserve an explanation from their Federal Government of what happened here, and there are three questions I would like the Vice President to answer.

Question number one, why on September 14, 2003, did the Vice President say this: "If we're successful in Iraq, then we will have struck a major blow right at the heart of the base, if you will, the geographic base of the terrorists who had us under assault for many years but most especially on 9/11"? Vice President CHENEY went to the American people and told them that Iraq was responsible for the attack on 9/11, and he wanted the Americans to believe that. And there was no evidence to that then, as we have seen the intelligence. There was no evidence at the time we took the vote, and there is no evidence today that that statement was true. And a war was started based on a statement that this Vice President made to Americans. They deserve an explanation why this Vice President sold a bill of goods to the American people, specifically saying that the folks had us under assault but most especially 9/11?

And we know exactly what he was trying to do, which was create an impression that we were going to attack the people who attacked us, which we did in Afghanistan, and that is why we supported it with a huge consensus in this body. The people who attacked us were based in Afghanistan. But why did this Vice President then gild the lilly and stretch the evidence and try to create this misimpression? We deserve an answer to that question in this debate tomorrow night.

Second question for the Vice President: Why on August 26, 2002, did the Vice President say, "simply stated, there is no doubt that Saddam Hussein now has weapons of mass destruction"? We know now, and many of us knew then from reading the intelligence, that there was massive doubt about this issue, that the Vice President again gilded the lilly, tried to say there was no doubt about this issue, and that simply was not an accurate statement, and a war occurred as a result. And the people serving then and our sons and daughters who might have to serve, goodness knows how many years if this administration continues in authority in Iraq, they deserve an answer why the Vice President said that when it was false.

Mr. DELAHUNT. Mr. Speaker, reclaiming my time, I just think there is a certain level of embarrassment because the Vice President has been proven conclusively to be wrong, not simply out of an investigation conducted by media, by outside parties, but by an independent commission established as a result of action in this body here and in the body across the hall that, if the gentleman remembers, the administration resisted.

□ 2350

But to continue to try to justify the rationale for the war, he simply refuses to acknowledge the reality. If only, if only he and others in the administration would accept the admonition of David Kay, who was appointed by the President and the Vice President to search for weapons of mass destruction, if he would just simply concur with David Kay's statement that we were all wrong, we could then hopefully make some progress. But we are not going to get that, and we know that.

Mr. INSLEE. Mr. Speaker, if the gentleman will yield further, let me suggest why that is important. It is not a matter of culpability. That is not the issue. But the fact of the matter is if we are going to have a success, we have to have people in the administration, when you have a failed policy, who are willing to evaluate it and change and decide they had said some things that were not true and admit it and change.

But this administration refuses to accept failure. We continue to have simply more of the same, and they want to say, well, we are at least certain, we are at least sure, we are at least resolute.

The best description I had of that is resolution is a good thing, certainty is a good thing, but it is not a good thing to have a firm grip on the wheel if the car is heading over the cliff, and this administration refuses repeatedly to recognize their errors so they can change their policy.

I have a third question the Vice President owes Americans an answer to. Why did the Vice President on March 16, 2003, say, and this is a long quote, but I will get to the summation, "And we believe he has in fact reconstituted nuclear weapons."

Why did this Vice President want to create this massive cloud of fear in America about reconstituted nuclear weapons, when even the intelligence reports at that time, and they are now in the public domain, did not support that conclusion? I hate to think it was just to sort of support their predetermined effort to start a war, but it is very difficult to reach a different conclusion, when no one else was saying that except the Vice President. And why, if we now find that is inaccurate, why does the Vice President not just come clean and be candid with the American people, so that we can show some willingness to start a new policy in Iraq?

But they keep clinging to these falsehoods, clinging to these misimpressions, clinging to this false information that they have spewed out across America. And they have been successful in fooling some Americans about the connection of Saddam with al Qaeda. Something like 40 percent of Americans believe that, because they want to believe their Vice President.

We all want to believe our Vice President, but the fact of the matter is, as long as they cling to this, it will make it more difficult to be a successful policy in Iraq.

Mr. DELAHUNT. Again, it is either a deception to mislead or it could be incompetence. But I do not believe it to be incompetence, because no one has ever accused the Vice President of being an individual who does not thoughtfully analyze information. But, again, as Secretary of State Powell concluded, if you have the fever, and he thought that the Vice President had the fever, then you are detached from reality.

For the Secretary of State to use the term "gestapo office" as an appropriate description of the separate little government that was established in the office of Undersecretary of Defense Douglas Feith, I think says something about the inability of some people to see the world as it really is, as opposed to what you have decided it to be.

We hear so much about these rosy scenarios that the President and other members of the administration paint regarding Iraq and what is transpiring there, and yet when we hear the truth as it is reported by individuals who do not have a particular ax to grind, such as a reporter from the Wall Street Journal.

The gentleman from Washington (Mr. INSLEE) is, I am sure, an avid reader of the Wall Street Journal. That is a publication that clearly is pro-administration, is very conservative.

But here is what a reporter by the name of Farnaz Fassihi says in e-mails as recently as the 29th of September. "Being a foreign correspondent in Baghdad these days is like being under virtual house arrest. I leave when I have very good reason to and a scheduled interview. I avoid going to people's homes, and never walk in the streets. I can't go grocery shopping anymore. I can't eat in restaurants, can't strike a conversation with strangers, can't look for stories, can't drive in anything but a full armored car, can't go to scenes of breaking news stories, can't be stuck in traffic, can't speak English outside, can't take a road trip, can't say I'm an American, can't linger at checkpoints. There have been one too many close calls, including a car bomb so near my house that it blew out all the windows. I am now a security personnel first, a reporter second.

"It is hard to pinpoint when the turning point actually began. Was it April when Fallujah fell out of the grasp of the Americans? Was it when Muqtada al-Sadr declared war on the U.S. military? Was it when Sadr City, home to 10 percent of Iraqi's population, became a nightly battlefield for the Americans? Or was it when the insurgency began spreading from isolated pockets in the Sunni Triangle to include most of Iraq? Despite President Bush's rosy assessment, Iraq remains a disaster. If under Saddam it was a potential threat, under the Americans it has been transformed to an imminent and active threat."

Mr. INSLEE. Mr. Speaker, if the gentleman will yield further, I just wanted to make one point in response to the statement of our friend the gentleman from California (Mr. CUNNINGHAM).

One of the most telling things in the debate of the two presidential candidates last night was where the President said that we had to attack Iraq because the enemy attacked us, and his opponent challenged that and said, "Well, no, Osama bin Laden attacked us, not Iraq." The President said, "Of course, I know Osama bin Laden attacked us."

But the problem is this administration and the Vice President has been trying to create a misimpression from day one to tie Saddam Hussein to the attacks of 9/11. I want to respond to the assertion of the gentleman from California (Mr. CUNNINGHAM) to the contrary, to read from the Commission report that says, and the language they used was as categoric as you can get, there is "no credible evidence," no credible evidence, "of a link between Iraq and the al Qaeda attacks against the United States."

They did not say that the evidence was suspect, they did not say the evidence is de minimis, they did not say the evidence is debatable. They said there is no, zero, zilch, nada, credible evidence of a connection that this Vice President for the last 2 years has been telling about, trying to create the impression that exists.

He needs to get up in that debate tomorrow, and the first thing he needs to say is, "You know what? We were wrong. Saddam Hussein for all his faults and his terrible heinous, terrible things he did to Iraqis, Iraq did not attack us on 9/11." He owes that statement to Americans. I will be surprised if we hear it, but I think it would be healthy if we did.

Mr. DELAHUNT. Mr. Speaker, reclaiming my time, I can assure the gentleman we will not hear it. Right now it is all about trying to paint a rosy scenario that is absolutely without any foundation, when the reality is it is a disaster.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. BECERRA (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. FROST (at the request of Ms. PELOSI) for today on account of personal reasons.

Ms. JACKSON-LEE of Texas (at the request of Ms. PELOSI) for today on account of official business in the district.

Ms. KILPATRICK (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. NADLER (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. ORTIZ (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. REYES (at the request of Ms. PELOSI) for today on account of personal reasons.

Mr. TAUZIN (at the request of Mr. DELAY) for today and October 5 and 6 on account of medical reasons.

Mr. BOEHLERT (at the request of Mr. DELAY) for today and the balance of the week on account of medical reasons.

Mr. GERLACH (at the request of Mr. DELAY) for today on account of family commitments.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Mr. BLUMENAUER, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

(The following Members (at the request of Mr. NORWOOD) to revise and extend their remarks and include extraneous material:)

Mr. COLE, for 5 minutes, today.

Mr. SOUDER, for 5 minutes, today.

Mr. OSBORNE, for 5 minutes, October 5.

Mr. BURTON of Indiana, for 5 minutes, October 5, 6, 7, 8, 9.

Mr. WELDON of Florida, for 5 minutes, today.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2273. An act to provide increased rail transportation security; to the Committee on Transportation and Infrastructure.

S. 2435. An act to permit Inspectors General to authorize staff to provide assistance to the National Center for Missing and Exploited Children, and for other purposes; to the Committee on Government Reform.

S. 2495. An act to strike limitations on funding and extend the period of authorization for certain coastal wetland conservation projects; to the Committee on Resources.

S. 2882. An act to make the program for national criminal history background checks for volunteer groups permanent; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 982. An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

H.R. 2408. An act to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges, and for other purposes.

H.R. 2771. An act to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program.

H.R. 4115. An act to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

H.R. 4259. An act to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

H.R. 5105. An act to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 1537—An act to direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery.

S. 1663—An act to replace certain Coastal Barrier Resources System maps.

S. 1687—An act to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

S. 1778—An act to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes.

S. 2052—An act to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail.

S. 2180—An act to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

S. 2363—An act to revise and extend the Boys and Girls Clubs of America.

S. 2508—An act to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House, reports that on September 29, 2004 he presented to the President of the United States, for his approval, the following bills.

H.R. 1308. An act to amend the Internal Revenue Code of 1986 to provide tax relief for working families, and for other purposes.

H.R. 3389. To amend the Stevenson-Wydler Technology Innovation Act of 1980 to permit Malcolm Baldrige National Quality Awards to be made to nonprofit organizations.

Jeff Trandahl, Clerk of the House, reports that on September 30, 2004 he presented to the President of the United States, for his approval, the following bills.

H.R. 5149. To reauthorize the Temporary Assistance for Needy Families block grant program through March 31, 2005, and for other purposes.

H.R. 5183. To provide an extension of highway, highway safety, motor carrier safety, transit, and other programs funded out of the Highway Trust Fund pending enactment of a law reauthorizing the Transportation Equity Act for the 21st Century.

H.J. Res 107. Making continuing appropriations for the fiscal year 2005, and for other purposes.

H.R. 4654. To reauthorize the Tropical Forest Conservation Act of 1998 through fiscal year 2007, and for other purposes.

ADJOURNMENT

Mr. DELAHUNT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), under its previous order, the House adjourned until tomorrow, Tuesday, October 5, 2004, at 9 a.m., for morning hour debates.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

9928. A letter from the Under Secretary for Food, Nutrition, and Consumer Services, Department of Agriculture, transmitting the Department's "Major" final rule — Food Stamp Program: Vehicle and Maximum Excess Shelter Expense Deduction Provisions of Pub. L. 106-387 [Amendment No. 396] (RIN: 0584-AD13) received August 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9929. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Bacillus thuringiensis var. aizawai strain PS811 (Cry1F insecticidal protein); Exemption from the Requirement of a Tolerance [OPP-2004-0249; FRL-7372-6] received September 29, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9930. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Cyazofamid; Pesticide Tolerance [OPP-2004-0211; FRL-7367-4] received September 29, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9931. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Dichlormid; Time-Limited Pesticide Tolerances [OPP-2004-0318; FRL-7680-8] received September 29, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9932. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Forchlorfenuron; Pesticide Tolerance [OPP-2004-0272; FRL-7681-5] received September 29, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9933. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Mesotrione; Pesticide Tolerances for Emergency Exemptions [OPP-2004-0313; FRL-7678-8] received September 29, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9934. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Octanal; Exemption from the Requirement of a Tolerance [OPP-2004-0298; FRL-7678-7] received September 29, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9935. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Sodium Thiosulfate; Exemption from the Requirement of a Tolerance [OPP-2004-0289; FRL-7677-1] received September 29, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9936. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Dinotefuran; Pesticide Tolerance [OPP-2004-0155; FRL-7368-1] received September 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9937. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Thiamethoxam; Pesticide Tolerances for Emergency Exemptions [OPP-2004-0254; FRL-7675-6] received September 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9938. A letter from the Deputy Associate Administrator, Environmental Protection

Agency, transmitting the Agency's final rule — Thifensulfuron Methyl; Pesticide Tolerance [OPP-2004-0277; FRL-7679-4] received September 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9939. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Tribenuron Methyl; Pesticide Tolerance [OPP-2004-0278; FRL-7679-5] received September 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9940. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Allethrin, Bendiocarb, Burkholderia cepacia, Fenridazon potassium, and Molinate; Tolerance Actions [OPP-2004-0260; FRL-7679-7] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9941. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Fenamidone; Pesticide Tolerance [OPP-2004-0255; FRL-7681-3] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9942. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Fludioxonil; Pesticide Tolerances [OPP-2004-0321; FRL-7682-3] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9943. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Methoxyfenozide; Pesticide Tolerances [OPP-2004-0312; FRL-7681-6] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9944. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Forchlorfenuron; N-(2-Chloro-4-pyridinyl)-N'-phenylurea; Time-Limited Pesticide Tolerance [OPP-2004-0145; FRL-7362-1] received August 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9945. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Isodecyl Alcohol Ethoxylated (2-8 moles) Polymer with Chloromethyl Oxirane; Tolerance Exemption [OPP-2004-0204; FRL-7368-3] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

9946. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General James B. Peake, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

9947. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Admiral Gregory G. Johnson, United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

9948. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Robert R. Dierker, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

9949. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Authorization of Captain Adam M. Robinson, Jr., United States Navy, to wear the insignia of the grade of rear admiral (lower half) in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9950. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Authorization of Rear Admiral John M. Mateczun and Rear Admiral Michael C. Tracy to wear the insignia of the grade of rear admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9951. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Authorization of Lieutenant General Bantz J. Craddock, United States Army, to wear the insignia of the grade of general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9952. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Authorization of Vice Admiral Timothy J. Keating, United States Navy, to wear the insignia of the grade of admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9953. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Authorization of Major General John M. Brown III, United States Army, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9954. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting Authorization of Major General James F. Amos, United States Marine Corps, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9955. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the grade of admiral and vice admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9956. A letter from the Principal Deputy Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the grade of vice admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

9957. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to the United Arab Emirates pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

9958. A letter from the Secretary, Department of Energy, transmitting Certification that the groundbreaking for the Depleted Uranium Hexafluoride Conversion facilities at the Paducah Gaseous Diffusion Plant in Kentucky and at the Portsmouth Gaseous Diffusion Plant in Ohio occurred on July 27 and 28, 2004, respectively, pursuant to Public Law 107-206 section 502(3) (116 Stat. 852); to the Committee on Energy and Commerce.

9959. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Interim Final Determination to Stay and/or Defer Sanctions, Maricopa County Environmental Services Department [AZ 134-082; FRL-7818-1] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9960. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Air Quality Classifications for the 8-Hour Ozone National Ambient Air Quality Standards [OAR-2003-0083; FRL-7816-2] received September 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9961. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Kentucky and Indiana: Approval of Revisions to 1-Hour Ozone Maintenance Plan for Louisville Area [KY-146, 148-200419; IN 12-1-4; FRL-7812-4] received September 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9962. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans North Carolina: Raleigh/Durham Area and Greensboro/Winston-Salem/High Point Area Maintenance Plan Updates [R04-OAR-2004-NC-0002-200417(a); FRL-7815-9] received September 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9963. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; State of Nevada; Las Vegas Valley Carbon Monoxide Nonattainment Area [NV-043-080; FRL-7801-8] received September 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9964. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion [SW-FRL-7816-9] received September 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9965. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Missouri: Final Approval of Missouri Underground Starage Tank Program [FRL-7816-1] received September 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9966. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Antelope Valley Air Quality Management District [CA 307-0466a; FRL-7812-2] received September 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9967. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; District of Columbia; Update to Materials Incorporated by

Refernce [DC101-2029; FRL-7791-9] received August 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9968. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Georgia: Approval of Revisions to the State Implementation Plan; Correction [R04-OAR-2004-GA-0001-200420C; FRL-7798-7] received August 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9969. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans South Carolina; Source Testing [R04-OAR-2003-SC-200416(a); FRL-7799-5] received August 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9970. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Revised Major Stationary Source Applicability for Reasonably Available Control Technology in the Northern Virginia Ozone Nonattainment Area [VA146-5080a; FRL-7798-6] received August 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9971. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Finding of Failure to Attain and Reclassification to Serious Nonattinament; Imperial Valley Planning Area; California; Particulate Matter of 10 Microns or Less [CA 109-RECLAS; FRL-7800-5] received August 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9972. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Longmont Revised Carbon Monoxide Maintenance Plan [RME Docket Number R08-OAR-2004-CO-0003; FRL-7822-3] received September 29, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9973. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Wisconsin; Northern Engraving Environmental Cooperative Agreement [WI117-01-7347a; FRL-7637-2] received September 29, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9974. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Secondary Aluminum Production [FRL-7812-8] received September 29, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9975. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Nebraska; Final Autorization of State Hazardous Waste Management Program Revision [FRL-7823-8] received September 29, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9976. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Air Quality Designations and Classificationd for the 8-Hour Ozone National Ambient Air Quality Standards; Las Vegas, Nevada Nonattainment Area [OAR-2003-0083; FRL-7815-3] received September 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9977. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revised Major Stationary Source Applicability for Reasonably Available Control Technology and Permitting and Revised Offset Ratios for the Washington Area [MD153-3111; FRL-7813-1] received September 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9978. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Denver Revised Carbon Monoxide Maintenance Plan [RME Docket Number R08-OAR-2004-CO-0001; FRL-7813-3] received September 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9979. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans Kentucky: 1-Hour Ozone Maintenance Plan Update for Lexington Area [R04-OAR-2004-KY-0001 200423; FRL-7813-9] received September 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9980. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval of Section 112(l) Authority for Hazardous Air Pollutants; Maryland Equivalency by Permit Provisions; NESHAP for Chemical Recovery Combustion Sources at Kraft, Soda, Sulfite, and Stand-Alone Semichemical Pulp Mills [MD001-1001a; FRL-7813-6] received September 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

9981. A letter from the Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Afghanistan for construction services (Transmittal No. 04-18), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9982. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to the Netherlands for defense articles and services (Transmittal No. 04-38), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9983. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Canada for defense articles and services (Transmittal No. 04-27), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

9984. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting reports in accordance with Section 36(a) of the Arms Export Control Act, pursuant to 22 U.S.C. 2776(a); to the Committee on International Relations.

9985. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract with Italy (Transmittal No. DDTC 075-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9986. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles that are firearms controlled under category I of the United States Munitions List sold commercially under a contract with Canada (Transmittal No. DDTC 050-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9987. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Spain (Transmittal No. DDTC 074-04), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9988. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad with Egypt (Transmittal No. DDTC 070-04), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

9989. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Israel (Transmittal No. DDTC 077-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9990. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Germany (Transmittal No. DDTC 055-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9991. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed license for the export of defense articles or defense services sold commercially under a contract to Canada (Transmittal No. DDTC 058-04), pursuant to 22 U.S.C. 2776(c); to the Committee on International Relations.

9992. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services to Japan (Transmittal No. DDTC 076-04), pursuant to 22 U.S.C. 2776(c-d); to the Committee on International Relations.

9993. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed manufacturing license agreement for the manufacture of significant military equipment abroad and the export of defense articles or defense services to the United Kingdom and Italy (Transmittal No. DDTC 047-04), pursuant to 22 U.S.C. 2776(c-d); to the Committee on International Relations.

9994. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of

State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9995. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9996. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

9997. A letter from the Acting Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 62(a) of the Arms Export Control Act (AECA), Transmittal No. 05-04, concnering the Office of the Assistant Secretary of Defense's proposed lease of defense articles to the Government of Bahrain; to the Committee on International Relations.

9998. A letter from the Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(5)(A) of the Arms Export Control Act (AECA) as amended, Transmittal No. 0A-04, relating to enchancements or upgrades for Egypt of AIM-9M missiles from the level of sensitivity of technology or capability described in Section 36(b)(1) AECA, as amended certification 03-15 on 17 July 2003; to the Committee on International Relations.

9999. A letter from the Deputy Secretary, Department of the Treasury, transmitting as required by section 401(c) of the National Emergencies Act, 50 U.S.C. 1641(c), and section 204(c) of the International Emergency Economic Powers Act, 50 U.S.C. 1703(c), and pursuant to Executive Order 13313 of July 31, 2003, a six-month periodic report on the national emergency with respect to persons who commit, threaten to commit, or support terrorism that was declared in Executive Order 13224 of September 23, 2001; to the Committee on International Relations.

10000. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 3(d) of the Arms Export Control Act, certification regarding the proposed transfer of major defense equipment among the Governments of Belgium, Denmark, the Netherlands, and Norway (Transmittal No. RSAT-2-04); to the Committee on International Relations.

10001. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 3(d) of the Arms Export Control Act, certification regarding the proposed transfer of major defense equipment from the Government of Germany to the Government of Spain; to the Committee on International Relations.

10002. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 3(d) of the Arms Export Control Act, certification regarding the proposed transfer of major defense equipment from the Government of the Netherlands to the Government of Germany (Transmittal No. RSAT-05-04); to the Committee on International Relations.

10003. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2004-42, Continuation of U.S. Drug Interdiction Assistance to the Government of Colombia, pursuant to the authority in Section 1012 of the National Defense Authorization Act for FY 1995, as amended, pursuant to 22 U.S.C. 2291-4; to the Committee on International Relations.

10004. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2004-41, Waiving Prohibition on United States Military Assistance with Respect to the Republic of the Congo, consistent with Section 2007(a) of the American Servicemembers' Protection Act of 2002, Title II, of Pub. L. 107-276; to the Committee on International Relations.

10005. A letter from the Chairman and General Counsel, National Labor Relations Board, transmitting the Board's Inherently Governmental and Commercial Activities Inventory for FY 2004, as required by the Federal Activities Inventory Reform Act of 1998 (the FAIR ACT); to the Committee on Government Reform.

10006. A letter from the Office of the District of Columbia Auditor, transmitting a report entitled, "Sufficiency Review of the Water and Sewer Authority's Fiscal Year 2004 Revenue Estimate in Support of the Issuance of $280 Million in Revenue Bonds"; to the Committee on Government Reform.

10007. A letter from the Director, Office of Personnel Management, transmitting the semiannual report on the activities of the Inspector General and the Management Response for the period of October 1, 2003 to March 31, 2004, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

10008. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting the designation as "foreign terrorist organization " pursuant to Section 219 of the Immigration and Nationality Act, pursuant to 8 U.S.C. 1189; to the Committee on the Judiciary.

10009. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Oil Pollution Prevention and Response; Non-Transportation-Related Onshore and Offshore Facilities [OPA-2004-0003; FRL-7800-2] (RIN: 2050-AC62) received August 9, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10010. A letter from the Director, Office of National Drug Control Policy, transmitting the "Plan Colombia/Andean Ridge Counterdrug Initiative Semi-Annual Obligation Report, 1st and 2nd Quarters Fiscal Year 2004," pursuant to the President's delegation by Executive Order 13313, pursuant to Public Law 106-246, section 3204(e); jointly to the Committees on International Relations and Appropriations.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. BARTON: Committee on Energy and Commerce. S. 551. An act to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes (Rept. 108-712, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. S. 1814. An act to transfer federal lands between the Secretary of Agriculture and the Secretary of the Interior (Rept. 108-716, Pt. 1). Ordered to be printed.

Mr. POMBO: Committee on Resources. H.R. 3176. A bill to designate the Ojito Wilderness Study Area as wilderness, to take certain land into trust for the Pueblo of Zia, and for other purposes; with an amendment (Rept. 108-717). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4389. A bill to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes (Rept. 108-718, Pt. 1). Ordered to be printed.

Mr. POMBO: Committee on Resources. H.R. 3391. A bill to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project; with an amendment (Rept. 108-719). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4593. A bill to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes; with an amendment (Rept. 108-720). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON: Committee on Energy and Commerce. H.R. 4667. A bill to authorize and facilitate hydroelectric power licensing of the Tapoco Project, and for other purposes (Rept. 108-721, Pt. 1). Ordered to be printed.

Mr. HEFLEY: Committee on Standards of Official Conduct. Investigation of Certain Allegations Related to Voting on the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Rept. 108-722). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 814. Resolution providing for consideration of the bill (S. 878) to authorize an additional permanent judgeship in the district of Idaho, and for other purposes (Rept. 108-723). Referred to the House Calendar.

Mr. HOEKSTRA: Permanent Select Committee on Intelligence. H.R. 10. A bill to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes; with an amendment (Rept. 108-724, Pt. 1). Ordered to be printed.

Mr. HUNTER: Committee on Armed Services. H.R. 10. A bill to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes; with amendments (Rept. 108-724, Pt. 2). Ordered to be printed.

Mr. OXLEY: Committee on Financial Services. H.R. 10. A bill to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes; with an amendment (Rept. 108-724, Pt. 3). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Armed Services discharged from further consideration.

H.R. 4389 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

Pursuant to clause 2 of rule XII the Committees on Agriculture and Education and the Workforce discharged from further consideration. S. 1814 referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

[The following actions occurred on October 1, 2004]

H.R. 180. Referral to the Committee on Rules extended for a period ending not later than November 19, 2004.

H.R. 2971. Referral to the Committees on Financial Services, Energy and Commerce, and the Judiciary extended for a period ending not later than November 19, 2004.

H.R. 3143. Referral to the Committees on Financial Services, International Relations, and the Judiciary extended for a period ending not later than November 19, 2004.

H.R. 3358. Referral to the Committee on the Budget extended for a period ending not later than November 19, 2004.

H.R. 3551. Referral to the Committee on Transportation and Infrastructure extended for a period ending not later than November 19, 2004.

H.R. 3800. Referral to the Committee on the Budget extended for a period ending not later than November 19, 2004.

H.R. 3925. Referral to the Committee on the Budget extended for a period ending not later than November 19, 2004.

H.R. 4794. Referral to the Committee on International Relations extended for a period ending not later than November 19, 2004.

[The following actions occurred on October 4, 2004]

H.R. 10. Referral to the Committees on Education and the Workforce, Energy and Commerce, Government Reform, International Relations, the Judiciary, Rules, Science, Transportation and Infrastructure, Ways and Means, and the Select Committee on Homeland Security extended for a period ending not later than October 5, 2004.

H.R. 4389. Referral to the Committee on Armed Services extended for a period ending not later than October 4, 2004.

S. 1814. Referral to the Committees on Agriculture and Education and the Workforce extended for a period ending not later than October 4, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. ENGLISH (for himself, Mr. Murphy, and Ms. Hart):

H.R. 5201. A bill to suspend temporarily the duty on electron guns for cathode ray tubes (CRT's) with a high definition television screen aspect ratio of 16:9, and for other purposes; to the Committee on Ways and Means.

By Mr. YOUNG of Florida:

H.R. 5202. A bill to clarify the treatment of supplemental appropriations in calculating the rate for operations applicable for continuing appropriations for fiscal year 2005; to the Committee on Appropriations, considered and passed.

By Mr. STENHOLM (for himself, Mr. Rehberg, Mr. Etheridge, Mr. Everett, Mr. Berry, Mr. Boswell, Mr. Edwards, Mr. Osborne, Mr. Pomeroy, Mr. Davis of Tennessee, Mr. Peterson of Minnesota, and Mr. Neugebauer):

H.R. 5203. A bill to provide emergency agricultural disaster assistance; to the Committee on Agriculture.

By Ms. ESHOO:

H.R. 5204. A bill to amend section 340E of the Public Health Service Act (relating to children's hospitals) to modify provisions regarding the determination of the amount of payments for indirect expenses associated with operating approved graduate medical residency training programs; to the Committee on Energy and Commerce.

By Mr. CASE:

H.R. 5205. A bill to extend the boundary of the Hawai'i Volcanoes National Park in the State of Hawaii; to the Committee on Resources.

By Mr. FOLEY:

H.R. 5206. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income certain hazard mitigation assistance; to the Committee on Ways and Means.

By Mr. FOSSELLA (for himself and Mr. Cox):

H.R. 5207. A bill to amend title 10, United States Code, to increase the amount of the military death gratuity from $12,000 to $75,000; to the Committee on Armed Services.

By Mr. MEEHAN:

H.R. 5208. A bill to prohibit the possession of a firearm in a hospital zone; to the Committee on the Judiciary.

By Mr. MEEHAN:

H.R. 5209. A bill to adjust the boundary of Lowell National Historical Park, and for other purposes; to the Committee on Resources.

By Ms. BALDWIN:

H. Con. Res. 508. Concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued by the United States Postal Service honoring Robert "Fighting Bob" La Follette, Sr., and that the Citizens' Stamp Advisory Committee should recommend to the Postmaster General that such a stamp be issued; to the Committee on Government Reform.

By Mr. NETHERCUTT (for himself, Ms. Dunn, and Mr. Blunt):

H. Con. Res. 509. Concurrent resolution urging the President to withdraw the United States from the 1992 Agreement on Government Support for Civil Aircraft with the European Union and immediately file a consultation request, under the Understanding on Rules and Procedures Governing the Settlement of Disputes of the World Trade Organization, on the matter of injury to, and adverse effects on, the commercial aviation industry of the United States; to the Committee on Ways and Means.

By Mr. MOORE (for himself, Mr. Ryun of Kansas, Mr. Moran of Kansas, Mr. Owens, Mr. Blumenauer, and Mr. Burns):

H. Res. 815. A resolution congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee, conducted by the National Geographic Society; to the Committee on Government Reform.

By Mr. CROWLEY:

H. Res. 816. A resolution recognizing the holiday of Diwali; to the Committee on Government Reform.

By Mr. McDERMOTT (for himself, Mr. Inslee, Mr. Baird, Mr. Larsen of Washington, Mr. Nethercutt, Mr. Dicks, Mr. Hastings of Washington, Ms. Dunn, and Mr. Smith of Washington):

H. Res. 817. A resolution congratulating Ichiro Suzuki for breaking the Major League Baseball record for hits in a single season; to the Committee on Government Reform.

By Mr. RODRIGUEZ:

H. Res. 818. A resolution celebrating the 50th anniversary of the opening of the Falcon International Dam, recognizing the dam's importance as a source of water and power and as a symbol of friendship and cooperation between the United States and the United Mexican States, and urging Mexico to honor all of its obligations under the 1944 Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande; to the Committee on International Relations.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 10: Mr. Burr, Mr. Green of Wisconsin, Mr. McInnis, Mr. Goodlatte, Mr. Issa, Mr. Pickering, and Mr. Sessions.

H.R. 104: Mr. Nadler and Mr. Grijalva.

H.R. 677: Ms. Herseth.

H.R. 728: Mr. Pickering.

H.R. 734: Ms. McCollum.

H.R. 792: Ms. Herseth.

H.R. 832: Mr. Udall of Colorado.

H.R. 918: Mr. McNulty.

H.R. 972: Mr. Meehan.

H.R. 1268: Mr. Grijalva.

H.R. 1294: Mrs. Maloney.

H.R. 1508: Mr. Butterfield, Mr. Markey, and Mr. Emanuel.

H.R. 1677: Mr. Evans.

H.R. 1734: Mr. Peterson of Minnesota and Mr. Moore.

H.R. 2107: Mr. Markey, Mr. Rodriguez, and Mr. Wynn.

H.R. 2135: Mr. Fossella.

H.R. 2173: Mr. Boswell.

H.R. 2295: Ms. Herseth.

H.R. 2680: Mr. Hill, Mr. Peterson of Minnesota, Mr. Matheson, Ms. Pryce of Ohio, Mr. Burgess, Mr. Norwood, Mrs. Biggert, Mr. Latham, Mr. Castle, and Mr. Greenwood.

H.R. 2724: Mr. Owens.

H.R. 2967: Mr. Fossella.

H.R. 3352: Ms. Harman.

H.R. 3459: Ms. Slaughter and Mrs. Lowey.

H.R. 3558: Mr. Andrews, Mr. Murtha, and Mr. Van Hollen.

H.R. 3803: Mr. Cummings.

H.R. 3859: Mr. Cooper and Mr. Lewis of Georgia.

H.R. 4067: Ms. Millender-McDonald and Ms. Eddie Bernice Johnson of Texas.

H.R. 4188: Mr. Stark.

H.R. 4233: Ms. Carson of Indiana.

H.R. 4257: Mr. Walden of Oregon.

H.R. 4264: Mr. Sherman and Mr. Simmons.

H.R. 4292: Mr. Waxman.

H.R. 4591: Mr. Frank of Massachusetts, Mr. Udall of Colorado, Mr. Emanuel, Ms. Woolsey, Mr. Rahall, Mr. Gutierrez, Mr. Acevedo-Vilá, Mrs. Jones of Ohio, Ms. Schakowsky, Mr. Owens, Mr. Nadler, Mr. Rush, Mr. Honda, Mr. Wexler, Mr. McDermott, Ms. Jackson-Lee of Texas, Mr. Conyers, and Mr. Weiner.

H.R. 4595: Mr. Wexler.

H.R. 4610: Mr. Davis of Alabama.

H.R. 4616: Ms. LINDA T. SÁNCHEZ of California.

H.R. 4626: Mr. SOUDER and Ms. WOOLSEY.

H.R. 4634: Mr. PORTER.

H.R. 4674: Mr. LANTOS.

H.R. 4682: Mr. CROWLEY, Ms. PELOSI, Mr. SCOTT of Virginia, Mr. BRADY of Pennsylvania, and Ms. WATSON.

H.R. 4689: Mr. NADLER.

H.R. 4706: Mr. LIPINSKI, Ms. MILLENDER-MCDONALD, and Mr. CARDIN.

H.R. 4711: Mr. GUTIERREZ.

H.R. 4793: Mr. CUMMINGS and Ms. WOOLSEY.

H.R. 4802: Mr. RODRIGUEZ and Mr. VAN HOLLEN.

H.R. 4830: Mr. OWENS, Mr. MORAN of Virginia, and Mr. SANDLIN.

H.R. 4835: Mr. PASTOR.

H.R. 4839: Mr. GORDON.

H.R. 4860: Mr. SHERMAN.

H.R. 4895: Mr. MILLER of Florida and Mr. BISHOP of Utah.

H.R. 4896: Mrs. MALONEY, Ms. MCCOLLUM, Mr. RYAN of Ohio, and Mr. RAHALL.

H.R. 4906: Mr. PICKERING.

H.R. 4910: Mr. RAHALL, Mr. EMANUEL, Mr. SCHIFF, Mrs. NAPOLITANO, and Mr. TURNER of Texas.

H.R. 4924: Mr. STEARNS, Mr. BILIRAKIS, Ms. HARRIS, Mr. LINCOLN DIAZ-BALART of Florida, and Mr. FEENEY.

H.R. 4948: Mr. REYES.

H.R. 5028: Mr. RYAN of Ohio, Mr. BROWN of Ohio, Mr. BOEHNER, and Mr. GRAVES.

H.R. 5061: Mr. MCCOTTER, Mr. FOLEY, Mr. SHERMAN, and Mr. FILNER.

H.R. 5079: Mr. PICKERING.

H.R. 5080: Mr. PICKERING.

H.R. 5110: Ms. LEE and Mr. MCGOVERN.

H.R. 5132: Mr. ACEVEDO-VILÁ.

H.R. 5135: Mr. FALEOMAVAEGA and Mr. RADANOVICH.

H.R. 5144: Mr. BURR, Mr. LANTOS, Ms. SCHAKOWSKY, and Mr. TIBERI.

H.R. 5150: Mr. OLVER, Mr. TOWNS, Mr. LANGEVIN, Mr. DAVIS of Florida, Mr. MEEKS of New York, Mrs. DAVIS of California, Mr. KENNEDY of Rhode Island, Mr. RAHALL, and Mr. BERRY.

H.R. 5195: Mr. HOLDEN, Mr. OTTER, Mr. SIMPSON, Mr. KINGSTON, Mr. NETHERCUTT, Mr. LAHOOD, and Mr. LATOURETTE.

H.R. 5199: Mr. STENHOLM, Mr. KENNEDY of Rhode Island, Mr. COOPER, and Mrs. MALONEY.

H. Con. Res. 304: Mr. FILNER and Mr. FEENEY.

H. Con. Res. 306: Mr. UDALL of New Mexico.

H. Con. Res. 496: Ms. JACKSON-LEE of Texas, Mr. MCDERMOTT, Mr. SCOTT of Georgia, Ms. SCHAKOWSKY, Mr. THOMPSON of Mississippi, Ms. WATSON, Mr. WAXMAN, Mr. WEINER, Mr. DEUTSCH, Mr. HASTINGS of Florida, Mr. MENENDEZ, and Mr. CAPUANO.

H. Res. 341: Ms. ROS-LEHTINEN and Mr. WEXLER.

H. Res. 746: Ms. WOOLSEY and Mr. RODRIGUEZ.

H. Res. 774: Ms. LINDA T. SÁNCHEZ of California, and Mr. FOLEY.

H. Res. 782: Mrs. DAVIS of California, Mr. MCGOVERN, Mr. WEXLER, Ms. MCCOLLUM, and Mr. DEUTSCH.

H. Res. 797: Mr. FATTAH, Mr. MEEKS of New York, and Mrs. MALONEY.

H. Res. 809: Ms. ROS-LEHTINEN.

H. Res. 810: Ms. CORRINE BROWN of Florida, Ms. JACKSON-LEE of Texas, Ms. LEE, Ms. SCHAKOWSKY, Mr. TOWNS, Ms. WATERS, Ms. WATSON, and Mr. WEXLER.

H. Res. 813: Mr. WEXLER, Mr. FAT[illegible], Ms. WATSON, Ms. SCHAKOWSKY, and Mr. OW[illegible]S.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 10

OFFERED BY: MR. PLATTS

AMENDMENT NO. 1: At the end of subtitle A of title I (page 60, after line 9), add the following new section:

SEC. 1018. DEPUTY NATIONAL INTELLIGENCE DIRECTOR FOR FINANCE.

(a) DEPUTY NATIONAL INTELLIGENCE DIRECTOR FOR FINANCE.—There is a Deputy National Intelligence Director for Finance who shall be appointed by the National Intelligence Director.

(b) SUPERVISION.—The Deputy National Intelligence Director for Finance shall report directly to the National Intelligence Director.

(c) DUTIES.—The Deputy National Intelligence Director for Finance shall—

(1) assist the National Intelligence Director in the preparation and execution of the budget of the elements of the intelligence community within the National Intelligence Program;

(2) provide unfettered access to the Director to financial information under the National Intelligence Program; and

(3) perform such other duties as may be prescribed by the Director or specified by law.

EXTENSIONS OF REMARKS

THE INSTALLATION OF RABBI MICHAEL PONT AS THE NEW LEADER OF THE TEMPLE BETH AHM IN ABERDEEN, NJ

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. PALLONE. Mr. Speaker, it is with great pleasure that I rise today to welcome the installation of Rabbi Michael Pont as the new leader of the Temple Beth Ahm in Aberdeen, New Jersey. Rabbi Pont has served his previous community with a great deal of capability and we are delighted to have him join our district.

Prior to joining the Aberdeen community, Rabbi Pont served on the Greensboro Jewish Federation Board of Trustees, Blumenthal Jewish Home Board, and Family Life Council Board. Rabbi Pont was also a participant of the March of the Living Seminar to Poland and Israel, Greensboro Jewish Federation Mission to Moldova, Greensboro Jewish Federation young Leadership Program.

Rabbi Pont served as the Assistant Rabbi at the Beth David Synagogue in Greensboro, NC. Among his many accomplishments, Rabbi Pont directed the religious school, oversaw programming for families and youth, led worship, and served as pastor.

Rabbi Pont has taught several educational courses to youth, young adults, and adults including classes on Jewish holidays, Jewish values, Shabbat, and kashrut. While in Greensboro, Rabbi Pont initiated educational and cultural programs for families of the entire Jewish community, and also initiated a community service project in which Jewish Family Services would assist new immigrants.

Rabbi Pont studied at the University of Judaism in Los Angeles, CA and the Schechter Institute in Jerusalem, Israel for his Rabbinical Ordination. He received his Masters Degree in Jewish Education from the Jewish Theological Seminary, New York, and his Bachelors Degree in Psychology from the University of Michigan, Ann Arbor. Rabbi Pont is currently a member of the Rabbinical Assembly and MERCAZ USA.

Mr. Speaker, I am proud and honored to welcome a man of Rabbi Michael Pont's experience and dedication to our community. Once again, I ask that you join me in congratulating Rabbi Michael Pont, and extend him good wishes and the best of luck in his new position.

HOUSE COMMITTEE ON RESOURCES RECEIVES INFORMATION ON THE UNITED NATIONS' MAN AND BIOSPHERE PROGRAM

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. POMBO. Mr. Speaker, the United Nations' Man and Biosphere Program (MAB) is managed by the United Nations Educational, Scientific and Cultural Organization (UNESCO) headquartered in Paris, France. Although there are 47 United Nations' Biosphere Reserves in the United States that comprise a land area larger than Colorado, this program is not authorized by even a single U.S. law or international treaty. This lack of legal authority is even more remarkable when one considers that millions of acres of private property in the United States are contained within the boundaries of biosphere reserves.

To better understand the workings of this program, it was necessary for me to write to Dr. Nataran Ishwaran, Director of UNESCO's Division of Ecological Resources in Paris, France, who oversees the Man and Biosphere Program. I desired to learn more about the process for establishing and terminating biosphere reserves as well as the monitoring UNESCO requires for these designations.

Dr. Ishwaran's reply indicated "Member States wishing to remove the biosphere reserve in its country notifies the UNESCO Secretariat which in turn informs the Man and Biosphere International Coordinating Committee (ICC). . . .The ICC is an intergovernmental body made up of 34 countries, elected in a rotational system by the UNESCO General Conference."

I commend my colleagues to learn more about the United Nations' Biosphere Reserves by reading this letter by Dr. Ishwaran, Director of UNESCO's Division of Ecological Resources.

UNITED NATIONS EDUCATIONAL, SCIENTIFIC AND CULTURAL ORGANIZATION,

August 24, 2004.

Mr. RICHARD W. POMBO,
Chairman, Committee on Resources,
House of Representatives, Washington, DC.

DEAR MR. POMBO: I should like to acknowledge your letter of 3 August 2004 and to thank you for your kind words on my new appointment.

Our replies to your questions regarding biosphere reserves follow below. They are based on the "Statutory Framework" for biosphere reserves, a text negotiated by over 400 experts (including US experts) in 1995 and adopted by the UNESCO General Conference under 28 C/Resolution 2.4 in the same year. This Resolution is considered a "soft law" and is not an internationally binding treaty as is for example the World Heritage Convention. The Statutory Framework, and the accompanying "Seville Strategy" can be found on the MABnet under http://www.unesco.org/mab/publications/document.htm.

It is important to understand that before this Statutory Framework was adopted in 1995, nomination and designation of sites did not follow such a formal legal procedure, and that the criteria for biosphere reserves were much more oriented to either nature conservation or scientific research. As you can see from the definition and "vision" for biosphere reserves, the emphasis now is on the combination of three functions of conservation, scientific research and development. This evolution in the biosphere reserve criteria means that the World Network of Biosphere Reserves, which began in 1976, contains a legacy of "old" sites nominated by their MAB National Committees but which do not necessarily conform to the 1995 criteria. This is the case in the USA, where sites were designated from 1976 up till 1991.

(1) Designation procedure—(see Article 5 of the Statutory Framework): UNESCO Member States make nominations for the designation of new sites as biosphere reserves through their MAB National Committees. The nomination form (http://www.unesco.org/mab/docs/brnomform.htm) requires endorsement at the local and national levels. The nominations are sent to the UNESCO Secretariat, which submits them for technical evaluation by the Advisory Committee for Biosphere Reserves (a 12 person group of experts nominated by the UNESCO Director-General). The nominations are then decided upon in the light of the recommendations from this Advisory Committee by the MAB International Coordinating Council (ICC). The ICC is an intergovernmental body made up of 34 countries, elected in a rotational system by the UNESCO General Conference. In practice the ICC devolves the decision on new nominations to its Bureau (the Chair and the five Vice-Chairs) that meets about once a year. The UNESCO Secretariat then informs the Member State on the decision. As is stipulated under Article 2.3, individual biosphere reserves remain under the sovereign jurisdiction of the States (countries) where they are situated.

(2) Monitoring—The Statutory Framework makes provision under Article 9 for a "periodic review" every ten years after designation. This is a self-evaluation, carried out by the "concerned authority" which in practice is usually the administrative body responsible for the biosphere reserve. The format for this periodic review report is voluntary, but countries generally use the form designed by the UNESCO Secretariat for this purpose (available on: http://www.unesco.org/mab/publications/document.htm). The periodic review reports follow the same process of technical evaluation and examination as for new nominations. The MAB Bureau makes a recommendation to the Member State concerned on each periodic review report: these recommendations are very often suggestions as to the types of measures which could be taken to improve the functioning of the site under question as a biosphere reserve.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

(3) Terminating biosphere reserve designation—Technically, this can happen in two ways. As is said under Article 9.8, a Member State wishing to remove a biosphere reserve in its country notifies the UNESCO Secretariat which in turn informs the MAB ICC. A second procedure follows the periodic review process as is stated under Article 9 paragraphs 5 and 6: if the ICC finds that a biosphere reserve does not satisfy the criteria after a reasonable period of time in which the Member State concerned could have taken measures to improve it, the site concerned "will no longer be referred to as a biosphere reserve which is part of the Network" (please refer to Article 9, paragraph 6 of the Statutory Framework). In practice this second means has never been used. To date, four countries have asked that non-functional sites be removed from the Network. The UK, for example, undertook a periodic review of all its sites with the biosphere reserve designation (dating from 1977). It recognized that four of these did not and could not meet the 1995 criteria and asked the ICC to remove them from the Network. This was hailed by the ICC as a positive result of the periodic review.

(4) Reduction in size of a biosphere reserve—There is no formal provision for this, but logically it should follow the same procedure as for an extension, which is given under Article 5.2. De facto, this means following the same procedure as for new nominations.

I trust this answers your questions satisfactorily; if you have any other questions, do not hesitate to contact us.

Yours sincerely,

N. ISHWARAN,

Director, Division of Ecological Sciences.

44TH ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF CYPRUS

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. BILIRAKIS. Mr. Speaker, I would like to take this opportunity to commemorate the 44th anniversary of the Independence of the Republic of Cyprus. On October 1, 1960, Cyprus became an independent republic after decades of British colonial rule.

The relationship between Cyprus and the United States is strong and enduring. Over the last decades, Cyprus and the United States have established close political, economic and social ties, developing a valued friendship. Cyprus and the United States share a deep and abiding commitment to democracy, fundamental human rights, free markets, and the ideal and practice of equal justice under law.

As the Republic of Cyprus celebrates its 44th Independence Day, I share the Cypriots' joy for having created a prosperous, open society based on solid foundations. Furthermore, I believe this is an opportunity for the United States of America and Cyprus to come closer together, as we stand united in our resolve to fight the battle on terrorism. As we move forward, I am confident that our friendship will continue well into the future.

IN HONOR OF ANN COONERTY

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. FARR. Mr. Speaker, I rise today to honor Ann Coonerty in tribute of her 90th birthday. Ann is a native Californian and long time resident of Santa Cruz County who continues to offer her services as an educator to our community. It is my pleasure to stand in this House and honor Ann's 90th birthday.

Ann McGinley Coonerty was born in Santa Maria, California on October 16th, 1914. She excelled in school and, at age 19, became the first woman in her family to earn a college degree. She graduated from U.C. Berkeley in 1934 with a teaching credential and a degree in mathematics; soon after, she began her teaching career in the Santa Maria area. In 1941, she took a break to marry Kevin Coonerty and start a family. When Kevin returned home from serving in World War II, he used the GI Bill to earn a degree in engineering. During this time, Ann tutored her husband in mathematics while raising their three children.

After Kevin began working for Rocketdyne in Southern California in 1953, Ann returned to teaching. In 1975 Ann and her family moved to Santa Cruz where she began working at Happy Valley Elementary School as a teacher's aide. Twenty-nine years later, she is quite simply an institution and an inspiration to parents, children and colleagues. Even today, as Ann approaches her 90th birthday, she plans to continue volunteering her time as an aide.

Mr. Speaker, I applaud Ann Coonerty's achievements, accomplishments, and her dedication to education. She has demonstrated a unique passion for family, community, and to her profession. Ann has devoted her life to teaching and tutoring students, a service for which our community is eternally grateful. I join the County of Santa Cruz, and friends and family in honoring this truly commendable woman.

THE RECOGNITION OF MAYOR WILLIAM ROSENBLATT

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. PALLONE. Mr. Speaker, I rise today to praise an exemplary individual, and a good friend, Mayor William Rosenblatt. I have known Mayor Rosenblatt for quite some time now, and, in this time, I have always been impressed by his commitment to his community, as well as his sense of obligation towards the preservation of our beaches. This weekend, he will be a deserving recipient of the 'Big Kahuna' award, presented by the Surfers' Environmental Alliance (SEA). As he receives this fitting tribute, I would like to take a moment and laud Mayor Rosenblatt for all that he has done for the beaches of New Jersey.

Born in Newark, New Jersey, Mayor Rosenblatt attended Montclair University, and after he received his masters degree from Rutgers University, he completed his post doctorate training at the Mind Body Institute at Harvard University. Previously he has served as the director of behavioral medicine at Monmouth Medical Center and an adjunct faculty member at Monmouth University, Rutgers University, and Kean University—just to name a few.

Mayor Rosenblatt has been surfing for 42 years, mostly in New Jersey. His commitment and love for the sport is exhibited in his membership to organizations such as Clean Ocean Action and Surfers Medical Association. In addition, he is the proud co-founder of the Jersey Shore chapter of the Surfrider Foundation, and he sits on the National Board of Directors for the organization. As the Mayor of Loch Arbour for the last 7 years, William Rosenblatt has served proudly and has done a tremendous job. Time and time again, Mayor Rosenblatt has let his actions serve as an example for the rest of the community. By serving as beach captain for the Loch Arbour/Allenhurst Beach sweeps, and writing a surfing column in the Asbury Park Press for the last 3 years, few can deny this individual's obvious passion for the sport of surfing and adoration for our beaches.

The Surfers' Environmental Alliance, identifies a 'kahuna' as a "respected elder of the sport, a mentor to young surfers." This is a fitting description of Mayor William Rosenblattt, who is not only a mentor to young surfers, but also a highly regarded and respected leader in his community, as well as the sport of surfing. Mr. Speaker, once again, I congratulate my friend in receiving this honor and would like to commend the SEA for their work, and for recognizing the contributions of Mayor Rosenblatt.

PROPERTIES CONSIDERED SUITABLE AS ADDITIONAL WORLD HERITAGE SITES IN THE UNITED STATES

HON. RICHARD W. POMBO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. POMBO. Mr. Speaker, in 1972 the United States ratified "The Convention Concerning Protection of World Cultural and Natural Heritage" known as the World Heritage Convention. Since then 20 properties in the United States have been designated as World Heritage Sites and operated under a worldwide program administered by the United Nations Educational, Scientific and Cultural Organization (UNESCO) which is based in Paris, France.

World Heritage Sites in the United States were non-controversial until the Clinton administration and over-zealous environmental groups used Yellowstone National Park's World Heritage Site designation to stop a proposed gold mine located on private property outside the boundaries of the park. Many in Congress joined me in believing this mission creep of the World Heritage Convention was never envisioned when the United States ratified it over 30 years ago.

I have learned that the National Park Service, pursuant to Article 11 of the World Heritage Convention, has developed a "Tentative" or "Indicative" List of cultural and natural properties in the United States that it considers suitable for inclusion to the World Heritage List. Presently, this list contains 70 properties in over 30 States and the District of Columbia.

Based on the experience during the Clinton administration involving a proposed gold mine on private property located outside Yellowstone National Park, America must be very cautious when it proposes new areas for designation as World Heritage Sites. For example, I note the oil-rich Arctic National Wildlife Refuge is on the "Tentative List" as is the mineral-rich Cape Krusenstern Archaeological District in Alaska. World Heritage Site designation of either area would jeopardize America's national security and international competitiveness.

Happily, the U.S. Department of the Interior believes the "Tentative List" needs to be updated for a variety of reasons. I encourage my colleagues to read the following letter from Deputy Assistant Secretary of the Interior Paul Hoffman as well as the present "Tentative List."

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, DC, August 13, 2004.

Hon. RICHARD POMBO,
House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of July 13, 2004, requesting information about the United States Indicative Inventory of Potential Future United States Nominations to the World Heritage List. As you know, the Department of the Interior, through the National Park Service, directs and coordinates the United States participation in the World Heritage Convention in accordance with the statutory mandate of Title IV of the National Historic Preservation Act Amendments of 1980 as implemented by Federal regulations (36 CFR 73).

The Indicative Inventory, prepared by the National Park Service in the early 1980s, was developed in compliance with Article 11 of the Convention, which calls on participating nations to submit to the World Heritage Committee an inventory or tentative list of cultural and natural properties that it considers suitable for inclusion in the World Heritage List. The purpose of these tentative lists is to enable the Committee to evaluate within the widest possible context the "outstanding universal value" of each property nominated to the List. Inclusion on a country's tentative list is required before properties can be nominated to the World Heritage List. However, a listing in the inventory does not confer World Heritage status on the property in question; it merely indicates that a property may be further examined for possible nomination in the future.

The complete U.S. Indicative Inventory was published in a Federal Register notice on May 6, 1982. The full notice, including a description and location for each listed property, is enclosed for your review. Subsequently, two properties were added to the inventory: Haleakala National Park in Hawaii, added in 1983; and Taliesin West, Frank Lloyd Wright's winter studio in Arizona, added at the request of the Frank Lloyd Wright Foundation, in 1990. The two additions were made by the respective Assistant Secretaries of the Interior for Fish and Wildlife and Parks at the time, on the recommendation of the Federal Interagency Panel for World Heritage, in accordance with the procedures outlined in Federal regulations (36 CFR 73) for implementation of the World Heritage program in the United States. Although conceived as a "rolling list" to which additions or deletions could be made, no other changes to the Inventory have ever been made.

The inventory was compiled by the National Park Service with input from a wide variety of sources, including Federal and State agencies, elected Congressional and State representatives, private industry, conservation and preservation organizations, academic institutions, local governments, and individuals. A draft of the inventory was published for comment in 1981; the comments received were summarized in the subsequent 1982 notice. Scholarly and scientific evaluation was the basis for selecting the properties listed in the inventory.

While the NPS does not have documentation on who suggested which sites should be included in the U.S. Indicative Inventory, we believe NPS units were recommended by the park superintendents and that non-Federal properties were suggested by their respective owners. U.S. law requires that all property owners of record of a site (1) concur with the nomination of their site and (2) that they commit to preserving their site in perpetuity.

For a variety of reasons, including its desire to achieve a more balanced and representative World Heritage List by stepping aside to give greater opportunity to other countries with few or no sites yet designated, the United States has not submitted any further nominations since 1994. As stated in the 1982 Federal Register notice, the inventory was intended as a preliminary list of properties that appear to qualify for nomination to the World Heritage List and that may be considered for nomination during the next ten years. From the time when the inventory was published until the United States made its most recent World Heritage nomination in 1994, thirteen of the properties included in it were nominated and listed by the World Heritage Committee.

After much consideration, it is our view that the current Indicative Inventory is out of date and should be revised for a variety of reasons, such as the changing views of heritage and concerns about the geographic and thematic representativity of the World Heritage List. Even the approach taken to creating the list now appears outdated. We intend to begin the process of revision early next year and will keep you informed and look forward to your input as we proceed.

Thank you again for your interest. Please contact me if you have any further questions.

Sincerely,

PAUL ROFFMAN,
Deputy Assistant Secretary
for Fish and Wildlife and Parks.

Enclosure.

POTENTIAL U.S. NOMINATIONS FROM THE TENTATIVE LIST (COMPLETE TEXT)

INDICATIVE LIST, UNITED STATES (BY STATE)

Alabama

Moundville Site

Alaska

Aleutian Islands Unit of the Alaska Maritime National
Wildlife Refuge (Fur Seal Rookeries) C(vi); N(ii)
Arctic National Wildlife Refuge
Cape Krusenstern Archaeological District
Denali National Park
Gates of the Arctic National Park
Glacier Bay National Park and Preserve inscribed 1992
Katmai National Park
Wranaell-St. Elias National Park and Preserve inscribed 1979

Arizona

Casa Grande National Monument
Grand Canyon National Park inscribed 1979
Hohokam Pima National Monument
Lowell Observatory
Organ Pipe Cactus National Monument
Saguaro National Monument
San Xavier Del Bac
Taliesin West [added 17 Aug 90]
Ventana Cave

California

Joshua Tree National Monument
Point Reyes National Seashore/Farallon Islands National
Wildlife Refuge
Redwood National Park inscribed 1980
Sequoia/Kings Canyon National Parks
Yosemite National Park inscribed 1984

California/Nevada

Death Valley National Monument

Colorado

Colorado National Monument
Mesa Verde National Park inscribed 1978
Lindenmeir Site
Rocky Mountain National Park

District of Columbia

Chapel Hall, Gallaudet College
Washington Monument

Florida/Georgia

Everglades National Park inscribed 1979
Okefenokee National Wildlife Refuge

Georgia

Ocmulgee National Monument
Savannah Historic District
Warm Springs Historic District

Hawaii

[Haleakala National Park added 21 Aug 83]
Hawaii Volcanoes National Park inscribed 1987
Pu'uhonua O Honaunau National Historical Park

Illinois

Auditorium Building, Chicago
Cahokia Mounds State Historic Site inscribed 1982
Carson, Pirie, Scott and Company Store, Chicago
Eads Bridge, Illinois-St. Louis, Missoui
Frank Lloyd Wright Home and Studio
Leiter II Building, Chicago
Marquette Building, Chicago
Reliance Building, Chicago
Robie House, Chicago
Rookery Building, Chicago
South Dearborn Street-Printing House Row North Historic District
Unity Temple, Oak Park

Indiana

New Harmony Historic District

Louisiana

Poverty Point

Maine

Acadia National Park

Massachusetts

Goddard Rocket Launching Site

Missouri

Wainright Building, St. Louis

Montana

Glacier National Park inscribed 1995

New Jersey/New York

Statue of Liberty National Monument inscribed 1984

New Mexico

Carlsbad Caverns National Park inscribed 1995
Chaco Culture National Historical Park inscribed 1987
Pecos National Monument
Taos Pueblo inscribed 1992 Trinity Site

New York

Brooklyn Bridge
General Electric Research Laboratories, Schenectady
Prudential (Guaranty) Building, Buffalo
Pupin Physics Laboratory, Columbia University
Original Bell Telephone Laboratories

North Carolina/Tennessee

Great Smoky Mountains National Park inscribed 1983

Ohio

Mound City Group National Monument

Oregon

Crater Lake National Park

Pennsylvania

Fallingwater
Independence National Historic Site inscribed 1979

Texas

Big Bend National Park
Guadalupe Mountains National Park

Utah

Arches National Park
Bryce Canyon National Park
Canyonlands National Park
Capitol Reef National Park
Rainbow Bridge National Monument
Lion National Park

Virginia

McCormick Farm and Workshop
Monticello inscribed 1987
University of Virginia Historic District inscribed 1987
Virginia Coast Reserve

Washington

Mount Rainier National Park
Olympic National Park inscribed 1981
North Cascades National Park

Wisconsin

Taliesin

Wyoming

Grand Teton National Park

Wyoming/Montana

Yellowstone National Park inscribed 1978

Puerto Rico

La Fortaleza-San Juan National Historical Site inscribed 1983

These sites are further detailed in the following Public Notice in the Federal Register (47 FR 9648), as amended by 48 FR 38101 and 55 FR 33781).

IN HONOR OF BUTCH VORIS

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. FARR. Mr. Speaker, I rise today to honor Roy Marlin "Butch" Voris, the founder of the Blue Angels.

After graduating from Salinas Junior College in 1939, Mr. Voris entered the Navy in 1941. In February of 1942 he was commissioned an ensign and designated a naval aviator. Mr. Voris was deployed in the Pacific theater of World War II, where he flew both Grumman F4F "Wildcat" and Grumman F6F "Hellcats." He was a talented pilot, earning the "fighter ace" status, and a respected commander of Fighter Squadron 113, Fighter Squadron 191, and Attack Carrier Air Group 5. For his service and sacrifices to his country, Mr. Voris earned three Distinguished Flying Crosses, 11 Air Medals, three Presidential Unit Citations, and the Purple Heart.

When the Secretary of the Navy and the Chief of Naval Operations created a Navy flight exhibition team in 1946 to demonstrate precision fighter maneuvers at Navy air shows and other public events, they naturally chose Captain Voris to be the first Officer-in-Charge and Flight Leader. After selecting his fellow pilots and maintenance personnel from the Navy's best officers and sailors, he modified the Grumman F6F "Hellcat" and painted it the now famous blue and gold. Captain Voris flew with the Blue Angels on their first tour, and again in 1951, before retiring from the Navy in 1963.

Mr. Speaker, I applaud Captain "Butch" Voris' years of service to our country and amazing accomplishments. He is an American hero who has made a remarkable contribution to the world of aviation, which we are lucky enough to continue to enjoy today. I join with the thousands of attendees to the California International Air Show in Salinas, and dozens of former Blue Angel pilots, in honoring this talented man and his many achievements.

CYPRUS

HON. MICHAEL BILIRAKIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. BILIRAKIS. Mr. Speaker, I rise today to submit for the CONGRESSIONAL RECORD an excerpt from the recent (9/23/04) address by the President of the Republic of Cyprus, Mr. Tassos Papadopoulos, to the General Assembly of the United Nations. In his remarks, President Papadopoulos eloquently outlined his concerns about the U.N. proposed plan, and his hopes for peace and reunification for Cyprus.

I would like to emphasize how proud we are that Cyprus is now a full member of the European Union. The European Union has outlined an extensive set of priorities for this Session of the General Assembly. As the statement delivered by the Dutch Presidency has delineated these priorities, I will not elaborate on them any further.

This year marks 30 years since the occupation of 37% of Cyprus' territory as a result of the invasion of the island by Turkish troops. It also marks 30 years of relentless efforts by the Greek Cypriots to achieve a just and peaceful settlement, with the support of the international community, to which I would like here to express our deep appreciation.

The Greek Cypriot side has repeatedly demonstrated in the past thirty years, its readiness to move forward by making many painful sacrifices and concessions, while the Turkish Cypriot leadership always lacked the necessary political will. The quest and eagerness of Greek Cypriots for a solution never meant, however, that they would accept any settlement proposed to them nor that they would be ready to embark on an adventure, in all probability condemned to failing, with irreversible consequences.

The latest effort by the UN Secretary-General to solve the Cyprus problem resulted in a Plan, which, by some was described as a historic opportunity to solve one of the longest standing international problems. I will only briefly outline why, despite the hard work invested in the process by all involved, the end product of this effort was judged to be inadequate and fell short of minimum expectations from a settlement for Greek Cypriots.

Firstly, the Annan Plan was not the product of negotiation nor did it constitute an agreed solution between the parties. Secondly, the Plan did not place the necessary emphasis on achieving a one State solution with a central government able to guarantee the single sovereign character of Cyprus. Thirdly, it failed to address the serious concerns of the Greek Cypriot Community regarding their security and effective implementation of the Plan.

In rejecting the Plan as a settlement for the Cyprus problem the Greek Cypriots did not reject the solution or the reunification of their country. They have rejected this particular Plan as not effectively achieving this objective. We remain committed to a solution which will ensure the reunification of the country, its economy, and its people.

We are committed to reaching a solution on the basis of a bi-zonal, bi-communal federation. However, there are a number of essential parameters the Greek Cypriot Community insist this solution to be founded on. The withdrawal of troops and settlers and the respect of human rights for all Cypriots, the underlying structures for a functioning economy, the functionality and workability of the new state of affairs, the just resolution of land and property issues in accordance with the decisions of the European Court of Human Rights, and the respect of the right of return of refugees. To this end, we welcome the recent Pinheiro Progress Report on property restitution in the context of the return of refugees and internally displaced persons.

Simultaneously, it pains me to bring to your attention, Mr. President, that certain provisions of the Annan Plan have encouraged an unprecedented unlawful exploitation of occupied properties in northern Cyprus, something alluded to even in statements by officials of the occupying power itself.

The most paramount feature of any settlement is the ability to install a sense of security to the people. The mistakes of the past must not be repeated. Cyprus must in its future course, proceed without any grey areas with regard to its sovereignty or its relation to third states. If the people feel that their needs have not formed the basis of any solution reached or that the characteristics of this solution have been dictated by the interests of third parties, then this solution will unsurprisingly be bypassed. Indeed, the spirit and practice of effective multilateralism not only encompasses, but also derives from, the comprehension and consideration of local realities and particulars, on which it must then proceed to formulate proposals.

This should not be interpreted by third parties as a lack of will to solve the Cyprus problem. Instead, it must be unequivocally understood that the people who will have to live with this solution are in the best position to judge what is suitable for them, that it is imperative for the people to be called upon to ratify any plans that are drawn to this effect, and that their verdict must be respected.

In the framework of the European Union, and with the aim of promoting reunification and reconciliation, my Government, despite the obstacles placed by the current status quo, is consistently pursuing policies aiming to enhance the economic development of the Turkish Cypriots. While not intended to serve as a substitute for a solution, such policies are in our view the most effective way to foster the maximum economic integration of the two Communities, and increase contact between them, so as to ensure the viability of a future solution.

Responding to the expanding possibilities on the ground, we have intensified our efforts to ameliorate the situation and seek ways to benefit citizens. In this context, my Government has recently proposed the withdrawal of military forces from sensitive areas and refraining from military exercises, the opening of eight additional crossing points across the cease fire line and the facilitation of the movement of persons, goods and services across the Green Line, as well as the extension of the so far unilateral demining process initiated by my Government.

We have also declared our readiness to make special arrangements whereby Turkish Cypriots will utilize Larnaca Port for the export of their goods. Furthermore, subject to the area of Varosha being returned under the control of the Government of Cyprus and to its legitimate inhabitants, we could accommodate the lawful operation of the port of Famagusta.

The Cyprus problem is not always perceived in its correct parameters. The fact remains that this problem is the result of a military invasion and continued occupation of part of the territory of a sovereign state. This fact should not be conveniently overlooked in people's perception, by concentrating on peripheral parameters. Any initiative to solve the problem must have at its core, this most basic and fundamental fact and be based on the premise that international legality must be served and the occupation lifted.

Unfortunately, the fundamentals of the situation on the ground remain unchanged for the past 30 years since the Turkish invasion in Cyprus. This situation is one comprising of severe violations of the most fundamental human rights. The yet unresolved issues of the missing persons, an issue of a purely humanitarian nature, as well as that of the enclave of the Karpass peninsula, are in themselves an indication of Cyprus' enduring suffering. This should not only point towards the specifics of the solution to be pursued but must also guide our actions with regard to managing the current status quo. For instance, the United Nations Force in Cyprus (UNFICYP), assigned with the task to manage the status quo inflicted 30 years ago, should remain specific to the situation on the ground.

The accession of Cyprus to the European Union, in conjunction with the lack of an agreement on the settlement of the Cyprus problem, in spite of our efforts and our preference for a settlement prior to accession, signifies the end of an era and the beginning of a new one. I firmly believe that the new context defined by the accession of my country to the EU and by the expressed will of Turkey to advance on the European path offers a unique opportunity and could have a catalytic effect in reaching a settlement in Cyprus. Our vocation is to be partners and not enemies.

Hence, in this new era, we plea to Turkey, to join us in turning the page and seeking ways to mutually discover, mutually beneficial solutions to the various aspects that compose the Cyprus problem. The mere realization that peace and stability in our region serve the interests of both our countries is ample evidence to prove that what unites us is stronger than what divides us.

THE RECOGNITION OF COMMISSIONER BRADLEY M. CAMPBELL

HON. FRANK PALLONE, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. PALLONE. Mr. Speaker, I rise today to acknowledge the work and tireless efforts of Commissioner Bradley M. Campbell. In the time that I have known Commissioner Campbell, I have found him to be a man of great integrity, courage, and dedication towards everything he does. This weekend, Mr. Campbell will be the recipient of the "Big Kahuna" award from the Surfers' Environmental Alliance. As New Jersey's Environmental Commissioner, I can say with great certainty, that through his work, Bradley Campbell is a truly deserving recipient of such an award.

In surfing circles a Kahuna is recognized as a respected elder of the sport, and a mentor to young surfers. Past recipients of the award have included surf shop owners, surf team managers, athletes or leaders in various environmental initiatives that have championed the sport. All these individuals have two things in common—they have had a great love and respect for the sport of surfing, and they have—in their own ways—encouraged and preserved the sport for everyone to enjoy.

Commissioner Campbell is truly an advocate for the sport of surfing as well as various environmental causes that are significant to surfers, as well as all individuals who care about the preservation of our beaches and the well being of our environment. Through his position as Commissioner of the Department of Environmental Protection, he has strengthened New Jersey's environmental laws and greatly improved the quality of our state's natural resources. Prior to assuming his position as Commissioner, Brad had a distinguished record of service, which included serving as the Associate Director of the White House Council on Environmental Quality (CEQ), and later, being appointed by President Clinton as the Regional Administrator (Mid-Atlantic Region) of the Environmental Protection Agency.

Mr. Speaker, once again I ask that my colleagues join me in congratulating Commissioner Campbell on his award, and I would like to extend my gratitude for all his years of hard work and genuine commitment.

MARRIAGE PROTECTION AMENDMENT

SPEECH OF

HON. ANNA G. ESHOO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Ms. ESHOO. Mr. Speaker, I come to the floor today to express my strong opposition to what is an assault on our Constitution, H.J. Res. 106, the Marriage Protection Amendment.

Constitutional amendments can never be taken lightly. Our Constitution has been amended only twenty-seven times in the two centuries since our country was founded, but it's never been amended to limit the civil rights of a specific group of people as we are doing here today.

Few policy issues are more grounded in the jurisdiction of the fifty states than the laws of marriage. As Vice President CHENEY said in a recent interview, "Historically, that's been a relationship that's been handled by the states," and "States have made the basic fundamental decision [as to] what constitutes a marriage." I agree with the Vice President. Should this legislation pass, not only would state courts be prohibited from recognizing same-sex marriages, but states would also be prohibited from enacting legislation to grant same-sex marriages through referendum, ballot initiative, or even through their own state constitutional amendment process, even in states where the majority supports it.

As I strongly oppose the content of this legislation, the Majority's motivation to consider it today is raw politics. Bringing this legislation up weeks before our national elections, divides this nation even further at a time when critical issues and needs must be addressed. We should be using this time to focus on the recommendations of the 9/11 Commission; on the restructuring of our intelligence community; on protecting our ports, nuclear facilities and other potential targets from terrorists; on the rising health care costs in this country; on the loss of jobs throughout this country; on reducing our spiraling budget deficit; or on the rapidly deteriorating situation in Iraq. Instead, one month before the election, we're debating an amendment to our Constitution that has no hope of enactment, but merely because the Republican Majority believes they will be able to score points with this ill-begotten bill.

Mr. Speaker, I urge my colleagues to oppose this legislation and get back to work on the critical needs facing America.

TRIBUTE TO CARL OSTROM

HON. JIM McDERMOTT

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. McDERMOTT. Mr. Speaker, I rise today to ask the House to join with me to recognize and honor 86–year-old Carl Ostrom, from Seattle. The nationally acclaimed non-profit "Experience Works," which recognizes outstanding contributions by seniors in its annual Prime Time Awards Program, selected Mr. Ostrom as their 2004 Outstanding Older Worker from the State of Washington. It is an honor well deserved.

Mr. Ostrom helps to make the world a better place through his leadership at the University District Food Bank in Seattle, which assists 800 families every week.

Mr. Ostrom serves as the part-time operations manager, overseeing the critical work of delivery and distribution of food. Remarkably, Carl Ostrom has been involved with the University District Food Bank for 17 years.

Carl's unselfish deeds and extraordinary commitment to give back to his community are an inspiration. Carl Ostrom proves, again, that senior citizens can make lifelong contributions to their community and their country. I congratulate Carl Ostrom for being selected the 2004 Outstanding Older Worker in the State of Washington, and I look forward to his continued role in making the world a better place.

MARRIAGE PROTECTION AMENDMENT

SPEECH OF

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. WAXMAN. Mr. Speaker, I rise in strong opposition to House Joint Resolution 106, which would deny basic rights under the Constitution to gays and lesbians. This resolution is a cynical ploy to foster division and diversion for the election campaign. Even its strongest proponents know it has no chance of passing.

Two short months ago, the House passed unprecedented legislation that would strip the federal courts of the ability to decide the constitutionality of The Defense of Marriage Act. And today the House will vote on whether to use the very document that guarantees our liberties and protections to restrict the rights of one group of Americans.

Throughout U.S. history, the states have been responsible for marriage and family law. Thirty-eight states have already acted to define marriage as the union of a man and woman and no state has adopted legislation that would define marriage differently. This year alone, voters in eleven states will consider amendments to their state constitutions barring gay marriage.

The charade on the House floor today is a strategy to change the subject, and I certainly can't blame the Republican Party for wanting to distract voters from their record. That is why the Republican leadership bypassed the committee of jurisdiction and brought H.J. Res. 106 directly to the floor in the middle of the campaign season.

THE INAUGURATION OF A NEW PRESIDENT AT MIDDLEBURY COLLEGE

HON. BERNARD SANDERS

OF VERMONT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. SANDERS. Mr. Speaker, it is with great pleasure that I recognize the October 10th inauguration of Dr. Ronald D. Liebowitz as the sixteenth president of Middlebury College. Middlebury is one of the nation's finest liberal arts colleges. We in Vermont are proud that we have, in our midst, a beacon of learning for students all across the nation.

Dr. Liebowitz was chosen as Middlebury's forthcoming president after a five-month search during which 400 prospective candidates were reviewed. Despite the fact that the prestigious position attracted many of the nation's foremost educators, Middlebury selected one of its own, the third time it has chosen a member of its faculty to head the institution. His able predecessor, John McCardell, was also a longtime faculty member when he became president in 1992, and Dr. McCardell's thirteen-year leadership has amply confirmed Middlebury College's confidence that its own faculty have some of the finest minds and some of the most humane administrative abilities that can be found in the entire nation.

A professor of geography, Dr. Liebowitz is a widely recognized authority on Russian economic and political geography. Dr. Liebowitz has served as provost and executive vice president of Middlebury College since 1997. Earlier, he served for two years as dean of the faculty. During his administrative years he played a significant leadership role in the internationalization of the curriculum, including the introduction of innovative interdisciplinary, team-taught senior seminars in international studies, the establishment of a new major in international studies, and the strengthening of the program in international politics and economics.

We in Vermont welcome his leadership as he shepherds this outstanding college into the future. We look forward to a rich partnership as Middlebury brings its student and faculty resources to bear on helping us address Vermont's, and the nation's, problems and priorities. And in these difficult times, we have confidence that Middlebury's long-standing choice to focus on international affairs will educate yet more generations of students to look outward, to recognize that they have a dual obligation: to work for domestic justice by helping those in America who are less fortunate than themselves, and to work for international justice by giving support to foreign nations as they attempt to realize social justice for their own citizens.

RECOGNIZING THE 100TH ANNIVERSARY OF THE BELLEVILLE SHOE MANUFACTURING COMPANY

HON. JERRY F. COSTELLO

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. COSTELLO. Mr. Speaker, I rise today to ask my colleagues to join me in recognizing the 100th Anniversary of the Belleville Shoe Manufacturing Company located in my hometown of Belleville, Illinois.

Founded in 1904, Belleville Shoe produced their first military footwear for World War I in 1917 and continues providing footwear to each branch of our Nation's military and law enforcement personnel.

The original group of investors for Belleville Shoe was of German descent: Adolph Knobeloch, H.E. Leunig, Joseph Reis, James Rentchler, and William Weidmann. Reis was named president, but it was Weidmann, the company's secretary-treasurer, who had introduced the shoe-factory idea. The company began operations in the former Rentchler machine shops at East B and Delmar streets. Born in Belleville, William Weidmann was one of eight children of a German immigrant couple. His parents arrived in the area in the second half of the nineteenth century. By the time he was gathering investors for the company, he and his wife Caroline (Leunig) had two sons, William and Walter.

In the same year that Belleville Shoe was incorporated, Walter graduated from the St. Louis Manual Training School. Soon thereafter, he joined the company as the operational manager. Walter directed Belleville Shoe's operations successfully through the Great Depression, World War II, and into the 1950s. Through the 1960s, 1970s, and into the mid-1980s, Walter's son, Homer Weidmann led the company. Today, William Weidmann's great-grandson, Eric R. Weidmann, is the president.

In its beginnings, the Belleville Shoe Company produced everyday footwear for men and boys. During World War I, the company produced its first line of combat boots for the military. With the end of World War I, the factory again started producing more than 25 styles of shoes. During this time, the company became the first in the Belleville area to offer worker incentives and daily attendance was rewarded with profit bonus and a life insurance policy.

By the time Belleville Shoe celebrated its 25th anniversary, the company employed 300 people and manufactured about two thousand pairs of shoes daily. Like many companies in that day, Belleville Shoe struggled during the Depression—it was a military contract, which was again awarded to produce military footwear for World War II, that brought the company back to the heavy production schedules it had during World War I.

By the end of World War II, Belleville Shoe had earned an award for continued on-time delivery throughout the conflict. It was during this period that the strong relationship with our Nation's military was forged, permitting Belleville Shoe's claim to be "the country's oldest and largest supplier of military footwear." From 1940 to the present, Belleville Shoe Manufacturing has provided a continual flow of military boots to various divisions of the nation's armed forces.

In terms of its dress shoe production lines, from the 50's up until the 70's, Belleville Shoe experienced significant declines in production of dress shoes. During the 70's, Belleville Shoe increased production of their sports shoe lines. These sport lines of track, baseball and football shoes were produced in Belleville and sold under the Rawlings brand name. By the mid-1980s, however, shoe imports of all types increased in the United States, particularly sports shoes and Belleville Shoe began to focus exclusively on military products. Production needs during this time also increased the requirements for additional space and heavier equipment to produce larger quantities of military shoes. In 1986, a new facility was opened in the Belle Valley Industrial Park in Belleville to accommodate this production.

During Operation Desert Storm in the early 1990s, Belleville Shoe was again called upon to dramatically increase the military's supply of footwear. The design and material of the traditional black all-leather combat boot was changed to suit the conditions in the Persian Gulf A desert-colored, suede and nylon boot with insulation to protect against the desert heat was created and shipped out. These boots are in use today in operations in the middle-east and throughout the world.

In this, its 100th year, Belleville Shoe is the largest supplier of military boots to our U.S. Armed Forces. With two plants, one in Belleville, Illinois and DeWitt, Arkansas, the company is producing over 1,000,000 pairs of shoes annually.

And today, as in 1917, their boots are Made in the USA. Wherever U.S. military forces have walked, Belleville Shoe footwear has been on duty.

Mr. Speaker, I ask my colleagues to join me in recognizing the 100th Anniversary of the Belleville Shoe Company, it's Company President Eric Weidmann and all of the men and women at Belleville Shoe Manufacturing Company.

IN RECOGNITION OF THE EIGHTH AVENUE SENIOR CENTER'S 11TH ANNIVERSARY CELEBRATION

HON. NYDIA M. VELÁZQUEZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Ms. VELÁZQUEZ. Mr. Speaker, I rise today on the floor of the U.S. House of Representatives to recognize the 11th anniversary of the Brooklyn Chinese American Association's Eighth Avenue Senior Center.

The Eighth Avenue Senior Center is part of the Brooklyn Chinese-American Association (BCA), which has been serving the growing Asian-American population in the Sunset Park, Borough Park, and Bay Ridge communities of Brooklyn for the past 17 years, as a human services and community development organization.

Today, the BCA's Eighth Avenue Senior Center touches the lives of over 3,000 elderly residents in the area, and offers services to over 250 seniors on a daily basis. The center provides older Asian-Americans with a variety of enriching educational programs and recreational activities.

Over the past 11 years, the Eighth Avenue Senior Center has integrated a variety of services integral to this elderly population, which it otherwise would not have had access to. This includes providing meals, bilingual information, English and citizenship classes, health services, and housing assistance.

This center also plays an important role in coordinating town hall meetings, assisting senior members in meeting their housing needs, and educating the community on the importance of exercising their voting rights. Because of these services, the Eighth Avenue Senior Center creates a sense of community and enhancement for the elderly population living in Brooklyn.

Therefore, Mr. Speaker, I rise today to honor the 11th anniversary of the Eighth Avenue Senior Center, and join with my colleagues in the House of Representatives to recognize their outstanding service to the elderly Asian-American population in Brooklyn.

NUCLEAR MEDICINE WEEK

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. MORAN of Virginia. Mr. Speaker, Mr. WOLF and I rise today to remind our colleagues that this week, October 3 through October 9, is Nuclear Medicine Week. Nuclear Medicine Week is the first week in October every year and is an annual celebration initiated by the Society of Nuclear Medicine. Each year, Nuclear Medicine Week is celebrated internationally at hospitals, clinics, imaging centers, educational institutions, corporations, and more.

We are particularly proud to note that the Society of Nuclear Medicine is headquartered in Reston, Virginia. The Society of Nuclear Medicine is an international scientific and professional organization of more than 15,000 members dedicated to promoting the science, technology and practical applications of nuclear medicine. We commend the Society staff and its professional members for their outstanding work in the field of nuclear medicine and for their dedication to caring for people with cancer and other serious and life-threatening illnesses that can be diagnosed, managed, and treated with medical isotopes via nuclear medicine procedures.

With nuclear medicine, health care providers can use a safe, noninvasive procedure to gather information about a patient's condition that might otherwise be unavailable or have to be obtained through surgery or more expensive diagnostic tests. Nuclear medicine procedures often identify abnormalities very early in the progression of a disease—long before some medical problems are apparent with other diagnostic tests. This early detection allows a disease to be treated early in its course, when there may be a more successful prognosis.

An estimated 16 million nuclear medicine imaging and therapeutic procedures are performed each year in the United States. Of these, 40–50 percent are cardiac exams and 35–40 percent are oncology related. Nuclear medicine procedures are among the safest diagnostic imaging tests available. The amount of radiation from a nuclear medicine procedure is comparable to that received during a diagnostic x-ray.

Nuclear medicine tests, also known as scans, examinations, or procedures, are safe and painless. In a nuclear medicine test, small amounts of medical isotopes are introduced into the body by injection, swallowing, or inhalation. A special camera, PET or gamma camera, is then used to take pictures of your body. The camera does this by detecting the medical isotope in the target organ, bone or tissue and thus forming images that provide data and information about that area of your body. This is how nuclear medicine differs from an x-ray, ultrasound or other diagnostic test—it determines the presence of disease based on function rather than anatomy.

Recently, the Centers for Medicare & Medicaid Services announced its decision to approve coverage of positron emission tomography or PET for Medicare beneficiaries who have suspected Alzheimer's disease. This decision will allow physicians to obtain an early and more definitive diagnosis and to begin treatment at the time when it provides the best chance of prolonging cognitive function for our Medicare beneficiaries.

Some of the more frequently performed nuclear medicine procedures include:

Bone scans to examine orthopedic injuries, fractures, tumors or unexplained bone pain;

Heart scans to identify normal or abnormal blood flow to the heart muscle, measure heart function or determine the existence or extent of damage to the heart muscle after a heart attack;

Breast scans that are used in conjunction with mammograms to more accurately detect and locate cancerous tissue in the breasts;

Liver and gallbladder scans to evaluate liver and gallbladder function;

Cancer imaging to detect tumors and determine the severity, staging, of various types of cancer;

Treatment of thyroid diseases and certain types of cancer;

Brain imaging to investigate problems within the brain itself or in blood circulation to the brain; and

Renal imaging in children to examine kidney function.

Unfortunately, the field of nuclear medicine is not attracting enough incoming students to fill the current demand for nuclear medicine technologists—usually called NMTs. Currently, there is approximately an 18 percent vacancy of NMTs as determined by the American Hospital Association, AHA. By 2010, the Bureau of Labor Statistics, BLS, projects that the U.S. will need an additional 8,000 NMTs to fill the projected demand created by the aging workforce and expanding senior population. Over the next 20 years, the BLS expects that there will be a 140-percent increase in the demand for imaging services. The use of diagnostic imaging services has been increasing by approximately 4 percent a year, even as the number of certified NMTs and registered radiologic technologists has remained stable. As a result, imaging technologists often work longer shifts, and patients can face weeks of delay for routine exams.

A similar situation is developing for nuclear medicine physicians. According to the American Board of Medical Specialties, there currently are 4,087 certified nuclear medicine physicians in the United States. At the same time, the number of physician training programs is also declining, exacerbating the future shortage.

Over the next 20 years, the number of people over the age of 65 is expected to double at the exact same time when the Nation will face shortages of medical personnel—including nurses, NMTs, physicians, laboratory personnel, and other specialists. With an increasing number of people needing specialized care—such as nuclear medicine-coupled with an inadequate workforce, our Nation quickly could face a healthcare crisis of serious proportions with limited access to quality cancer care, particularly in traditionally underserved areas.

We encourage our colleagues to support Nuclear Medicine Week and to support increased funding for programs so that our nation will have a sufficient supply of nuclear medicine physicians and technologists to care for all patients in need of nuclear medicine procedures and related care.

TRIBUTE TO STEPHEN SCOTT ABERNATHY

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. PENCE. Mr. Speaker, I rise today to pay tribute to the life of Stephen Scott Abernathy of Centerville, Indiana. He died on Saturday, September 25, 2004 of injuries resulting from a motorcycle accident.

Upon graduating from Centerville High School in 1995, Scott nobly served four years with the United States Marine Corps, where he joined the rugby team. He served as the assistant wrestling coach at Avon High School from 1999–2001 and graduated magna cum laude from Indiana University in 2003.

Scott settled back in Wayne County and became a member of American Legion Post 18 and the Centerville Christian Church.

Mr. Speaker, I express my heartfelt condolences as well as those of the United States Congress to Scott's parents, Stephen and Barbara; his brother, David of Richmond; his niece, Kaytlyn; and his grandparents, James and Josephine Williamson of Munster, Indiana.

Stephen Scott Abernathy was a role model for all Americans and led a life of great quality. All those who knew him well will sorely miss him.

IN HONOR OF THE OPENING OF THE RUBIN MUSEUM OF ART

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. NADLER. Mr. Speaker, it is my great pleasure to rise today to commemorate the opening of New York's newest museum, located in my Congressional District in Manhattan's Chelsea neighborhood. The Rubin Museum of Art (RMA), a cultural and educational institution dedicated to the art of the Himalayan region, opens this week with a series of fascinating exhibitions and programs.

With a collection spanning the 2nd to 19th Centuries, combining a variety of artistic mediums from paintings to stone sculptures and textiles, this museum will showcase a diverse and vast compilation of historical and sacred art. The inaugural exhibitions are certainly a testimony to the comprehensiveness of this artistic display. Each of the Museum's six floors and theater level gallery features a different exhibit, with educational wall texts and interpretive panels providing another dimension of thought and understanding for both the casual and more experienced museumgoer. The Museum is also home to a state-of-the-art theater, a classroom, and a space for contemporary and historical photography.

RMA's commitment to serving a broad and diverse audience is further evidenced by the wide range of programs offered. RMA has established an innovative Museum Campus program through which it has forged working relationships with the colleges and universities in downtown Manhattan. The Museum's educational programs bring arts education to many public schools and students from underserved communities. Among the future scheduled events are ArtTalks with the Museum's chief curator, Caron Smith, as well as lectures by noted art historians and professors, and poetry and music by contemporary artists.

I am pleased to congratulate the Rubin Museum of Art and all those whose contributions and efforts made the opening of this creative and new enriching cultural center possible, especially the founders Donald and Shelley Rubin. Lifelong New Yorkers, they have been assembling what is now America's largest collection of Himalayan art for over 25 years. Their desire to give back to the City that they love benefits not only New York and its visitors but the world at large. I am proud to join the artistic community of New York in the celebration of the Rubin Museum of Art and its mission of establishing, preserving and presenting to the public a permanent collection of Himalayan art, which accurately reflects its vitality, complexity and historical significance.

HONORING THE BALDWIN SENIOR CENTER AS THEY CELEBRATE THEIR 25TH ANNIVERSARY

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Ms. DELAURO. Mr. Speaker, it is with great pleasure that I rise today to extend my sincere congratulations to the Baldwin Senior Center Stratford, Connecticut, as they celebrate their 25th Anniversary. This is a remarkable milestone for an organization dedicated to enriching the lives of Stratford's seniors.

Senior centers play a vital role in our communities and this is especially true of the Baldwin Senior Center. All too often, what are supposed to one's "golden years" are filled with struggles. Health concerns, increasing health care costs, the loss of independence—these are just some of the challenges our seniors face. Perhaps even more devastating is the sense of loneliness that can come as one moves through their later years. Providing invaluable programs and services, senior centers make a real difference in the lives of some of our most vulnerable citizens. That is why they are so important to our seniors and our communities.

In addition to regular daily activities—which include bingo, book discussions, yoga, quilting classes, and oil painting—the Baldwin Senior Center offers unique opportunities for seniors to get involved with their community. Their knitting/crocheting group made over two dozen hats, scarves, and mittens which were donated to Stratford's South End Community Center. Over 120 seniors and students from Bunnell High School participated in a "Senior Prom" as a fundraiser for the Relay for Life, the American Cancer Society's annual funding drive. The Community Service group organized a project during the summer which had seniors reading books to youngsters from the town's minority center. And seniors sponsored a cupcake bake sale, using the proceeds to buy books which they brought to the South End Community Center. All of these activities ensure that the seniors stay active and involved which makes all the difference—both in their lives and those of many others.

Just as important as the activities are the services which are provided at the Center. Executive Director Diane Puterski is joined by several dedicated staff who work hard to ensure Stratford's seniors have access to the care and benefits they need. Outreach Coordinator Marie Gunman provides services to homebound adults and those who choose not to use the Center by making home visits to people needing information or who are referred to the Center by other agencies as being in need. Lisa Stone manages the program which provides help with entitlements and benefits including Medicare, energy assistance, Medigap insurances, ConnPACE, and Title XIX among others. Diane Russo coordinates the Family Caregivers Support Program which is funded by the Southwest Area Agency on Aging. Through this program, she provides support, information, and education to persons caring for older adults with chronic illnesses, such as Alzheimer's Disease. Together, the staff of the Baldwin Senior Center are improving the quality of life for our seniors. An unequaled resource for seniors and their families, the Baldwin Senior Center is a true community treasure.

Always welcomed with open arms and warm smiles, I have enjoyed the time I have had the opportunity to spend at the Baldwin Senior Center. As they celebrate their Silver Anniversary, I am proud to stand today and extend my sincere congratulations on this special occasion as well as my very best wishes for many more years of unparalleled service to their community.

IN RECOGNITION OF MR. SONNY HALL, INTERNATIONAL PRESIDENT OF THE TRANSPORT WORKERS UNION, ON THE OCCASION OF HIS RETIREMENT

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mrs. MALONEY. Mr. Speaker, I rise to salute Mr. Sonny Hall, international president of the Transport Workers Union, on the occasion of his retirement. Sonny Hall is a trailblazing leader of the trade union movement who throughout his life has selflessly devoted himself in service to our Nation, his family, and the union members whom he has led so ably for generations.

As International President of the Transport Workers Union of America, Sonny Hall has represented more than 100,000 men and women employed in the Nation's transportation and allied industries. Prior to his election to this post at the Union's 19th Constitutional Convention in October 1993, he served as president of Transport Workers Union Local

100, the largest local union of TWU, representing nearly 38,000 members who operate the lifelines of New York City, its extensive network of subway trains and its public and private bus lines.

Over the course of his long and distinguished career, Mr. Hall served in virtually every union position, from shop steward all the way up to the very pinnacle of the labor movement. He was named president of Local 100 in May 1985 and subsequently elected to full 3-year terms in December 1985, 1988 and 1991. He first joined the Transport Workers Union in 1950 as a bus cleaner for the old Omnibus Corporation, and became a bus operator in 1957. In between, he served tours of duty in both the U.S. Marine Corps and the U.S. Army. Elected an international vice president at the Transport Workers Union's Seventeenth Constitutional Convention in September 1985, he was appointed executive vice president by the International Executive Council on January 9, 1989, acid was subsequently elected to that post for a 4-year term at the Union's 18th Constitutional Convention in October 1989.

Mr. Hall went on to be elected secretary treasurer to the AFL–CIO Transportation Trades Department in 1995, and was elected to the AFL–CIO's Executive Council at the Federation's convention in October 1995. Throughout his career, he always served both his fellow union members and the transit-riding public with courageous, calm, clear-headed and effective leadership.

Sonny Hall studied military and criminal law at the University of New Mexico, and graduated with a bachelor of arts degree from the Cornell University Labor College. He is the son of a retired New York City bus operator who served the riding public for three decades and was an early member of Transport Workers Union Local 100. Sonny Hall and his wife, Maureen, are proud parents of a son, Kevin Hall.

In recognition of his outstanding accomplishments, I ask my colleagues to join me in honoring Mr. Sonny Hall on the occasion of his retirement.

CONGRATULATING THE OKLAHOMA EXPOS

HON. JOHN SULLIVAN

OF OKLAHOMA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. SULLIVAN. Mr. Speaker, I rise today to honor the Oklahoma Expos, who won the age 14 and under United States Specialty Sports Association's USSSA youth baseball championship on July 18.

This fine group of kids from the First District of Oklahoma was able to defeat close to 90 teams from 15 states in order to win their division's World Series. Needless to say, I am very proud of every member of the roster, all of whom can rightfully call themselves champions.

Of course, they were only able to accomplish this feat through years of hard work and dedication, not to mention teamwork. During their time together, not only did these kids learn how to win at the game of baseball, but also how to win at the game of life. For, whether it be on the baseball fields of Tulsa, Oklahoma or here in the House of Representatives, magical things can happen when people put aside their differences and work together for a common cause. In fact, as I stand here today, I wonder if some of the members of this great body couldn't learn a thing or two from these kids about teamwork.

As we all know, getting a group of 14 year olds to come together as a team does not happen just by chance, there has to be a guiding force. Thus, I would also like to acknowledge the coaches and parents of the Oklahoma Expos for spending so much time with these boys in order to help mold them into champions on the field and off. Your unquestioned dedication to giving back to the community and raising tomorrow's leaders is commendable.

TRIBUTE TO KRISTEN ADELMAN

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. CARDIN. Mr. Speaker, I rise today to pay special tribute to Kristen Adelman who was a member of the Tour of Hope bike ride across America. On Oct. 1, 2004, Kristen joined six-time Tour de France winner Lance Armstrong in a relay bike ride from Los Angeles, CA to Washington, D.C. to help inform the public about the importance of cancer clinical trials.

Kristen is a cancer survivor who has survived three recurrences of an aggressive form of lymphoma. In remission for more than 18 months, Kristen was selected to join 20 other cyclists, including Lance Armstrong, in the eight-day, life-affirming journey across America. Other participants included cancer survivors, physicians, nurses, researchers and advocates who all share one mission—to find a cure for cancer.

Kristen is from Elkridge, MD where she teaches algebra and physical education at the St. Augustine School. She was an active triathlete and marathon runner before her diagnoses of cancer. In fact, while going through treatment, she continued to run and ride her bike.

To prepare for the Tour of Hope, Kristen went through a rigorous 16-week training program. She undertook this ride because she wanted to draw attention to the importance of cancer research. Kristen understands that the only way to find a cure for cancer is through clinical trials, which will help identify safe and effective drugs.

I hope my colleagues in the U.S. House of Representatives will join me in offering our gratitude and appreciation to Kristen for her generosity of spirit and fortitude. It is precisely this type of commitment that will allow us to conquer cancer.

MARRIAGE PROTECTION AMENDMENT

SPEECH OF

HON. ROSA L. DeLAURO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Ms. DELAURO. Mr. Speaker, I rise in strong opposition to this amendment, which would mark the first time in our Nation's history that the Constitution would be amended to restrict the civil rights of a specific group, rather than to expand rights.

I do not support changing the definition of marriage, and in fact, I voted in favor of the Defense of Marriage Act. But like former Republican Congressman Bob Barr, who authored that bill, I oppose this Constitutional amendment. I believe that each state should have the ability to decide family matters for themselves, rather than having the federal government dictate what they must do.

I strongly support recognizing civil unions to give partners the right to access of health benefits, visiting rights at hospitals, pensions, and other benefits granted to committed married partners. These are rights that other Americans are able to take for granted, and frankly it's difficult to believe that in the 21st Century we need to fight to guarantee those rights. But this amendment would prevent civil unions and domestic partner benefits, again, forbidding states and the District of Columbia to decide for themselves whether they want to allow those benefits.

It is wrong to casually amend our Constitution simply to score a political point. This vicious debate is below the dignity of the House. I hope my colleagues will reject the politics of hate and intolerance, and oppose this amendment.

IN RECOGNITION OF THE PHILLIPS BETH ISRAEL SCHOOL OF NURSING ON ITS CENTENNIAL CELEBRATION

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mrs. MALONEY. Mr. Speaker, I rise to salute the Phillips Beth Israel School of Nursing on the occasion of the centennial anniversary that it celebrates on October 9th and 10th, 2004.

For one hundred years, the Phillips Beth Israel School of Nursing has been one of the leading centers of professional nursing education in the United States. As with so many institutions in New York City, its roots first grew in Lower Manhattan, where it was founded as an adjunct to its namesake, Beth Israel Medical Center, the outstanding health care institution with which it has been so closely connected throughout its history.

Created shortly after the establishment of the Beth Israel Hospital, the School of Nursing was first officially chartered by the New York State Board of Regents in 1904. Thus began its progression toward excellence, a standard that the School quickly met and proudly upholds to this day.

Since its inception as a degree-granting institution, the Phillips Beth Israel School of Nursing has undergone significant changes reflective of the evolving nature of health care delivery over the course of the last century. During World War II, the Beth Israel Training School for Nurses, as it was then called, participated in the U.S. Cadet Nursing Program under the terms of the Bolton Act, which provided subsidies to train nursing students for combat duty. As that great conflict was ending, Seymour J. Phillips, a Beth Israel trustee, Chairman of the Phillips Van Heusen Company, and a leading philanthropist of the day, became Chairman of the School, which was renamed in his honor four decades later. In 1978, the School of Nursing received approval to grant the degree of Associate in Applied Science in Nursing. A major academic affiliation was established in 1983 with Pace University offering the liberal arts component of the curriculum. The Phillips Beth Israel School of Nursing also has entered into articulation agreements with Pace and New York University to offer its students the opportunity to pursue a baccalaureate degree.

In 1985, the Phillips Beth Israel School of Nursing received full accreditation from the National League for Nursing, and was reaccredited in 2002 for a full eight years. Under the able leadership of its current Dean, Janet Mackin, RN, EdD, the School continues to advance its mission with a view to its long term future, and is preparing to move into new facilities located at 6th Avenue and 27th Street in Manhattan. Its current curriculum prepares graduates to practice nursing in the realities of today's health care system, but throughout its century-old tradition of excellence, it has maintained a constant goal: educating nurses to practice with a philosophy of caring and compassion.

Mr. Speaker, I ask my colleagues to join me in saluting a century of achievement by a proud New York institution, the Phillips Beth Israel School of Nursing.

IN HONOR OF DR. FRANCISCO OSVALDO CORTINA

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. MENENDEZ. Mr. Speaker, I rise today to honor Dr. Francisco Osvaldo Cortina for his lifelong dedication to practicing medicine and serving others. Dr. Cortina was honored by the Association of Villaclareños at their annual banquet on October 3, 2004, in Union City, New Jersey.

As a respected physician, Dr. Cortina has devoted more than 32 years to helping people. He began his medical career in his hometown of Santa Clara, Cuba, after graduating from the University of Havana. After immigrating to the United States in 1967, he opened a practice in Petersburg, VA, and later relocated to New Jersey. Dr. Cortina completed his general practice residency at St. Mary's Hospital in Hoboken, where he became the chief resident and graduated in 1972. He then opened practices in Hoboken and Union City.

Dr. Cortina is the son of Spanish immigrants and is married to his high school sweetheart, Hortensia. They have two sons who have proudly carried on the medical tradition and are also physicians.

Today, I ask my colleagues to join me in honoring Dr. Francisco Osvaldo Cortina for his outstanding career as a physician, which has spanned multiple decades, cities and countries. His contributions throughout the years have affected the lives of many, and the wisdom he has passed on to his children will no doubt continue to help the New Jersey medical community in the years to come.

CONGRATULATING AIR NEW ZEALAND

HON. JENNIFER DUNN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Ms. DUNN. Mr. Speaker, on behalf of the U.S. Congress, Mr. INSLEE, Mr. BAIRD, Mr. NETHERCUTT, Mr. SMITH of Washington, Mr. DICKS, Mr. LARSEN of Washington, Mr. HASTINGS of Washington, Mr. MCDERMOTT, and myself, congratulate Air New Zealand for its recent decision to upgrade its wide-body fleet by placing an order with The Boeing Company for eight 777–200ERs and two 7E7s, Boeing's newest airplane. Air New Zealand's order of the Boeing 7E7 makes it the second official customer for this revolutionary new aircraft.

This decision clearly demonstrates Air New Zealand's commitment to the world's best technology and long-term view of the airline's place in commercial aviation. It is with great pride and gratitude that we applaud Air New Zealand's purchase of American-manufactured aircraft.

RECOGNIZING THE SELECTION OF DALE GLYNN AS MICHIGAN HIGH SCHOOL PRINCIPAL OF THE YEAR

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to recognize Dale Glynn of Everett High School in Lansing, Michigan for being named Michigan High School Principal of the Year. Mr. Glynn was presented with this honor by the Michigan Association of Secondary School Principals on September 27, 2004.

During his tenure as Principal, Dale Glynn has striven to provide his students with access to the best education by developing rewarding after school programs and creating an environment of inclusiveness for all of the students at Everett High School. Mr. Glynn has been honored by his peers and is loved by his students because of his steadfast commitment and determination to provide his urban school the same access to quality education as suburban counterparts.

Mr. Speaker, providing quality public education to all our nation's students has been a top priority of this Congress. Educators like Dale Glynn who make tremendous strides to providing high caliber education to all students must be recognized and commended. I ask my colleagues to join me in recognizing Dale Glynn for being named Michigan High School Principal of the Year.

CONSTITUTION WEEK AND CIVIC EDUCATORS

HON. KENNY C. HULSHOF

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. HULSHOF. Mr. Speaker, the Constitution states: "This great nation of ours was founded in order to form a more perfect Union, establish Justice, insure domestic tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity."

These words echo the principles that have served our nation well for the past 228 years. It is of paramount importance that today's youth have a firm grasp of the principles and ideals outlined in this hallowed document.

Mr. Speaker, as you may know, President Bush declared September 17th through September 23rd Constitution Week to commemorate the September 17, 1787 signing of the Constitution. I rise today to recognize Constitution Week and to honor civic education leaders and programs that have played an integral role in educating Missouri's youth about the Constitution.

One exemplary program worthy of particular praise is We the People: the Citizen and Constitution. This program educates students in junior high and high school on the merits of a Constitutional democracy and discusses the material in a manner that provides relevance to the students and creates a model for student civic life.

I want to draw particular praise for Millie Aulbur, who is the Director of Law-Related Education for the Missouri Bar. She has been a pillar in the civic education community, and her diligent work and strong leadership have vastly improved civic education programs in my home state. Likewise, she has been extremely effective in raising awareness of this issue with Missouri's Congressional delegation. Millie has recently succeeded in establishing a coalition of civic education leaders, known as the Advisory Committee for Civic Education of the Missouri Bar. I have known Millie since before coming to Congress, having served with her in the Missouri Attorney General office. I can say unequivocally that she is one of the finest and hard-working individuals I know. Her commitment to civic education and Missouri's youth is highly commendable.

Without these civic education programs and leaders, we run the risk that future generations of Americans will lack knowledge of the document upon which our democracy is based. Millie Aulbur's efforts set a fine example, and I urge my colleagues to learn more about civic education programs in their Congressional districts and to assist these valued civic educators in this noble endeavor.

PIRACY DETERRENCE AND EDUCATION ACT OF 2004

SPEECH OF

HON. LAMAR S. SMITH

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, September 28, 2004

Mr. SMITH of Texas. Mr. Speaker, I wish to offer some additional information and guidance on several sections of H.R. 4077.

Section 12 of H.R. 4077 is called the "Family Movie Act of 2004." The Committee has made changes to the Committee reported language to better enable the provision to achieve its purpose: to empower people to use technology to skip and mute material that they find objectionable in movies, without impacting established doctrines of copyright or trademark law or those whose business model depends upon advertising. This amendment to the law should be narrowly construed to affect its intended purpose only. The sponsors of the legislation have been careful to tailor narrowly the legislation to clearly allow specific, consumer-directed activity and not to open or decide collateral issues or to affect any other potential or actual disputes in the law.

The substitute amendment we offer today makes clear that, under certain conditions, "making imperceptible" of limited portions of audio or video content of a motion picture—that is, skipping and muting limited portions of movies without adding any content—as well as the creation or provision of a computer program or other technology that enables such making imperceptible, does not violate existing copyright or trademark laws. That is true whether the movie is on prerecorded media, like a DVD, or is transmitted to the home, as through services like "video-on-demand."

The core provision of the Family Movie Act lies in Section 2, which creates a new exemption at section 110(11) of the Copyright Act. This new exemption sets forth a number of conditions to ensure that it achieves its intended effect while remaining carefully circumscribed and avoiding any unintended consequences. The conditions that allow an exemption, which I will discuss in more detail in a moment, consist of the following:

The making imperceptible must be "by or at the direction of a member of a private household." This legislation contemplates that any altered performances of the motion picture would be made either directly by the viewer or at the direction of a viewer where the viewer is exercising substantial choice over the types of content they choose to skip or mute.

The making imperceptible must occur "during a performance in or transmitted to the household for private home viewing." Thus, this provision does not exempt an unauthorized "public performance" of an altered version.

The making imperceptible must be "from an authorized copy of a motion picture." Thus, skipping and muting from an unauthorized, or "bootleg" copy of a motion picture would not be exempt.

No "fixed copy" of the altered version of the motion picture may be created by the computer program or other technology that makes imperceptible portions of the audio or video content of the motion picture. This provision makes clear that services or technologies that make a fixed copy of the altered version are not afforded the benefit of this exemption.

No changes, deletions or additions may be made by the computer program or other technology to commercial advertisements, or to network or station promotional announcements, that would otherwise be performed or displayed before, during, or after the performance of the motion picture. This requirement makes plain that devices or services that provide for automated "ad-skipping" do not fall within the scope of this exemption.

The "making imperceptible" of content does not include the addition of audio or video content over or in place of other content, such as placing a modified image of a person, a product, or an advertisement in place of another, or adding content of any kind.

The portion of the substitute amendment containing the Family Movie Act reflects a number of clarifying changes from the version of the bill reported by the Judiciary Committee.

The substitute amendment makes clear that the "making imperceptible" of limited portions of audio or video content of a motion picture must be done by or at the direction of a member of a private household. While this limitation does not require that the individual member of the private household exercise ultimate decision-making over each and every scene or element of dialog in the motion picture that is to be made imperceptible, it does require that the making imperceptible be made at the direction of that individual in response to the individualized preferences expressed by that individual. The substitute amendment envisions that the test of "at the direction of an individual" is satisfied when an individual selects preferences from among options that are offered by the technology.

The Committee has used as an example the model of ClearPlay, which appeared before the Subcommittee during hearings on this legislation. ClearPlay provides filter files that allow a viewer to express his or her preferences in a number of different categories, including language, violence, drug content, sexual content, and several others. The version of the movie that the viewer sees depends upon the preferences expressed by that viewer. It is the Committee's view that the current version of ClearPlay falls under the liability limitation of the Family Movie Act.

This limitation would not allow a program distributor, such as a provider of video-on-demand services, a cable or satellite channel, or a broadcaster, to make imperceptible limited portions of a movie in order to provide an altered version of that movie to all of its customers, which would likely violate a number of the copyright owner's exclusive rights, or to make a determination of scenes to be skipped or dialog to be muted and to offer to its viewers no more of a choice than to view an original or an altered version of that film. Some element of individualized preferences and control must be present such that the viewer exercises substantial choice over the types of content they choose to skip or mute.

It is also important to emphasize that the new section 110(11) exemption is targeted narrowly and specifically at the act of "making imperceptible" limited portions of audio or video content of a motion picture during a performance that occurs in, or that is transmitted to, a private household for private home viewing. This section would not exempt from liability an otherwise infringing performance, or a transmission of a performance, during which limited portions of audio or video content of the motion picture are made imperceptible. In other words, where a performance in a household or a transmission of a performance to a household is done lawfully, the making imperceptible limited portions of audio or video content of the motion picture during that performance, consistent with the requirements of this new section, will not result in infringement liability. Similarly, an infringing performance in a household, or an infringing transmission of a performance to a household, are not rendered non-infringing by section 110(11) by virtue of the fact that limited portions of audio or video content of the motion picture being performed are made imperceptible during such performance or transmission in a manner consistent with that section.

The substitute amendment also provides additional guidance, if not an exact definition, of what the term "making imperceptible" means. The substitute provides that the term "making imperceptible" does not include the addition of audio or video content that is performed or displayed over or in place of existing content in a motion picture. This is intended to make clear in the text of the statute what has been expressed throughout the consideration of this legislation, which is that the Family Movie Act does not allow for the addition of content of any kind, including the making imperceptible of audio or video content by replacing it or by superimposing other content over it. In other words, for purposes of section 110(11), "making imperceptible" refers solely to skipping scenes and portions of scenes or muting audio content from the original, commercially available version of the motion picture. No other modifications of the content are addressed or immunized by this legislation.

The Committee is aware that some copy protection technologies rely on matter placed into the audio or video signal. We would point out that the phrase "limited portions of audio or video content of a motion picture" means what it would naturally seem to mean (i.e., the actual content of the motion picture) and does not refer to any component of a copy protection scheme or technology. It is not our intention that this provision allow the skipping of technologies or other copy-protection-related matter for the purpose of defeating copy protection. Rather, it is expected that skipping and muting of content in the actual motion picture will be skipped or muted at the direction of the viewer based on that viewer's desire to avoid seeing or hearing the action or sound in the motion picture. Skipping or muting done for the purpose of or having the effect of avoiding copy protection technologies would be an abuse of the safe harbor outlined in this legislation and may violate section 1201.

Violating the Digital Millennium Copyright Act, and particularly its anti-circumvention provisions, is not necessary to enable technology of the kind contemplated under the Family Movie Act. Although the amendment to section 110 provides that it is not an infringement of copyright to engage in the conduct that is the subject of the Family Movie Act, the Act does not provide any exemption from the anti-circumvention provisions of section 1201 of title 17, or from any other provision of chapter 12 of title 17. It would not be a defense to a claim of violation of section 1201 that the circumvention is for the purpose of engaging in the conduct covered by this new exemption in section 110(11), just as it is not a defense under section 1201 that the circumvention is for the purpose of engaging in any other non-infringing conduct.

The Committee is aware of companies currently providing the type of products and services contemplated by this Act and found that the Family Movie Act created no impediment to the technology employed by those companies. Indeed, it is important to underscore the fact that our support for this technology and consumer offering is driven in some measure by our desire for copyright law to be respected and to ensure that this technology be deployed in a way that supports the continued creation and protection of entertainment and information products that rely on copyright protection. It is our firm expectation that those rights and the interests of viewers in their homes can work together in the context we have defined in this bill. Any suggestion that support for the exercise of viewer choice in modifying their viewing experience of copyrighted works requires violation of either the copyright in the work or of the copy protection schemes that provide protection for such work should be rejected as counter to legislative intent or technological necessity.

The substitute amendment offered today also provides for an exclusion to the exemption in cases involving the making imperceptible of commercial advertisements or network or station promotional announcements. The Committee heard concerns during the Committee markup that the bill might be read to somehow exempt from copyright infringement liability devices that allow for skipping of advertisements in the playback of recorded television. This is neither the intent nor the effect of the bill. The phrase "limited portions of audio or video content of a motion picture" is intended to apply only to the skipping and muting of scenes or dialog of a motion picture and not to the skipping of advertisements. That intent is made clear in the language of the statute by our amendment today, which provides that the new section 110(11) exemption does not apply to the making imperceptible of commercial advertisements, or to network or station promotional announcements, that would otherwise be performed or displayed before, during or after the performance of the motion picture.

The changes made by the substitute amendment are not to be taken to suggest that the Committee intends to express a view on the merits of, or the unresolved legal questions underlying, recent litigation related to so-called "ad-skipping" technologies. The Committee intends simply to make clear that this legislation is narrowly targeted to the use of technologies and services that filter out content in movies that a viewer finds objectionable and that it in no way relates to or affects the legality of so-called "ad-skipping" technologies.

Because the committee's and the sponsors' intention has been to fix a narrow and specific copyright issue, we seek to avoid unnecessarily interfering with current business models, especially with respect to advertising, promotional announcements, and the like.

The phrase "commercial advertisements or . . . network or station promotional announcements" is intended to cover what would naturally be perceived as commercials by most viewers, including traditional commercials that stand independent of the narrative flow of the content of the actual motion picture itself, or promotional announcements made in similar fashion, such as those commonly used to announce upcoming programming offered by the network or other entertainment provider.

Let me offer a few final points with respect to Section 2. During the consideration of this legislation the Committee became aware of a variety of services that distributed actual copies of altered movies. This type of activity is clearly not covered by the Family Movie Act. There is a basic distinction between a viewer choosing to alter what is visible or audible when viewing a film, the focus of this legislation, and a separate entity choosing to create and distribute a single, altered version to members of the public. It is the sponsor's intent that only viewer directed changes to the viewing experience be immunized, and not the making or distribution of actual altered copies of the motion picture.

On a related point, the committee took notice of conflicting expert opinions on whether fixation is required to infringe the derivative work right under the Copyright Act, as well as whether evidence of Congressional intent in enacting the 1976 Copyright Act supports the notion that fixation should not be a prerequisite for the preparation of an infringing derivative work. The committee and the sponsors take no view of that disputed point of the law and leave that point to future developments in the courts or Congress. This legislation should not be construed to be predicated on or to take a position on whether fixation is necessary to violate the derivative work right, or whether the conduct that is immunized by this legislation would be infringing in the absence of this legislation.

Section 3 of the Family Movie Act provides for a limited exemption from trademark infringement for those engaged in the conduct described in the new section 110(11) of the Copyright Act. The substitute amendment makes several clarifying changes from the version as reported by the Committee.

In short, this section makes clear that a person engaging in the conduct described in section 110(11)—the "making imperceptible of portions of audio or video content of a motion picture or the creation or provision of technology to enable such making available—is not subject to trademark infringement liability based on that conduct, provided that person's conduct complies with the requirements of section 110(11). This section provides a similar exemption for a manufacturer, licensee or licensor of technology that enables such making imperceptible, but such manufacturer, licensee or licensor is subject to the additional requirement that it ensure that the technology provides a clear and conspicuous notice at the beginning of each performance that the performance of the motion picture is altered from the performance intended by the director or the copyright holder.

Of course, nothing in this section would immunize someone whose conduct, apart from the narrow conduct described by 110(11), rises to the level of a Lanham Act violation.

For example, someone who provides technology to enable the making imperceptible limited portions of a motion picture consistent with section 110(11) could not be held liable on account of such conduct under the Trademark Act, but if in providing such technology the person also makes an infringing use of a protected mark or engages in other ancillary conduct that is infringing, such conduct would not be subject to the exemption provided here.

Finally, regarding Section 10(G), the Committee intends that the government has the burden to prove beyond a reasonable doubt that the service provider is ineligible for a Section 512 safe harbor from monetary relief for performing the function in question. The Committee also intends that courts refer to the legislative history regarding and case law interpreting Section 512 as a guide to interpreting the substantive standards governing whether the service provider is ineligible for Section 512 protection.

MARRIAGE PROTECTION AMENDMENT

SPEECH OF

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. GRIJALVA. Mr. Speaker, I rise today to express my strong objection to this so-called "marriage protection" amendment. Furthermore, I am appalled that we are spending three and a half hours debating this issue when Americans are struggling to cope with much more serious issues, with little or no help from this body.

The sponsors of this bill claim that there is a dire need to amend the Constitution in order to protect and promote the notion of healthy, stable families. I support the notion of "healthy families" but I could suggest a number of methods we could use to reach this goal that do not include discriminating against an entire class of American citizens.

We could provide healthcare to the over 40 million uninsured Americans.

We could work to offer a real prescription drug benefit for seniors so they do not need to choose between food and medicine.

We could offer real solutions to create economic opportunity for all.

We could provide the funding necessary to allow all children to go to school in a safe and healthy environment.

We could strengthen programs that combat domestic violence.

We could renew the assault weapons ban.

We do not need to prevent two people who love each other from being legally recognized as such.

These are serious issues that too many Americans struggle with every day. These are serious problems that Congress could address if we had the time and dedication to the real issues. Instead, we stand on the floor today playing party politics on a stage that has being held hostage by the Republican House leadership's election year politics to consider an initiative that the Senate has already overwhelmingly rejected.

Mr. Speaker, I urge my colleagues to vote against this unnecessarily divisive election year proposal.

PAYING TRIBUTE TO FLORIE MASSAROTTI

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Florie Massarotti, a truly dedicated community leader from Cokedale, Colorado. Florie has been participating in the Boy Scouts for over fifty years, both as a young member and as an adult leader in various positions. The mentorship he has provided to many children in Las Animas County is exemplary, and I would like to join my colleagues here today in recognizing his tremendous achievements before this body of Congress and this Nation.

Florie began his long association and service with the Boy Scouts at the age of twelve in Cokedale. After graduating high school, he stopped participating for several years, during which time the local troop was disbanded. When, in 1958, the Holy Name Society reorganized the troop, Florie volunteered as a third assistant scoutmaster. Two weeks later he became the Scoutmaster. For twenty years, Florie headed his troop, passing on the leadership role to his successor, while assuming a position as a council member. In the 1990's, when the Scoutmaster position was vacated, he took the lead until a replacement was found. Today, in addition to serving as a council member, Florie is a member of the Rocky Mountain Council Executive Board. In recognition for his commendable contributions, Florie was awarded the St. George Award, a Roman Catholic award for adults in Scouting, the 50-year Pin, and the Silver Beaver that is awarded to Scouters with distinguished service.

Mr. Speaker, it is a privilege to honor Florie Massarotti for his half-century of contributions to the Boy Scouts. His actions serve as an example, and it is with great pleasure to recognize him today before this body of Congress and this Nation. Thank you, Florie, and I wish you well with all of your future endeavors.

50 YEARS OF RADIO FREE EUROPE/RADIO LIBERTY BROADCASTING IN UKRAINE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. LANTOS. Mr. Speaker, 50 years ago, Congress authorized a program of U.S. radio broadcasts to Ukraine that had enormous historical importance, and still do today. We know that the transition to democracy and genuine freedom of speech in the former communist countries has never been easy to implement, but such broadcasts are an essential component. Thomas A. Dine, the President of the RFE/RL, is one of my dear and closest friends. He has been a tireless fighter for democracy, human rights, press freedoms, and rule of law in Ukraine and other countries of Eastern Europe and the former Soviet Union. I want to honor his contribution to the cause of freedom and democracy in Ukraine by including this speech he delivered last month in Kharkiv, Ukraine, in the CONGRESSIONAL RECORD.

TODAY'S UKRAINE: THE LACK OF DEMOCRATIC FREEDOMS

(By Thomas A. Dine)

I am in Ukraine at this time for several reasons:

First, to celebrate the 50th anniversary of Radio Liberty's Ukrainian broadcasting service. Radio Liberty has been a source of objective news and information for the people of Ukraine for fifty years—for this fact, I am honored to head Radio Free Europe/Radio Liberty and to be associated with the men and women who have brought first-class journalism to Ukraine's airwaves for half a century. Second, to remind as many Ukrainians as possible that in February 2004, the Kuchma Government kicked Radio Liberty off the Dovira Radio FM network. Third, to work with media people to try to restore our broadcasts on as many stations as possible as soon as possible. Fourth, to join all of you participating in this Global Fairness Initiatives, IREX, and Ukraine in Europe conference here in Kharkiv.

Today I want to share my experiences and observations about the condition of democratic institutions in general, and free press in particular, in Ukraine. Overall, the Ukrainian people still do not have the full freedoms they deserve. This is the essence of my talk here this morning: after five decades, the Ukrainian people still do not have the full freedoms they deserve. Of course, Ukraine in 2004 is a vastly better place to be than it was in 1954. The tyrannical Soviet Union is no more, and its calculated effort to eradicate Ukrainian culture failed. Ukraine now has a semblance of political independence and free markets.

But I can tell you that for those of us in the business of establishing and protecting freedom of speech and press institutions, Ukraine continues to be a heartache. For example, here's a question for you: What do Pakistan, Jordan, Azerbaijan, Indonesia, Egypt, and Kuwait have in common? Yes, they are all Muslim countries. But besides that, they all, according to the watchdog organization Reporters Without Borders, have more press freedom than Ukraine.

Let me give you a more personal example: Radio Free Europe/Radio Liberty broadcasts to 19 countries today, and each one is important to us. All people, whether they're from large nations like Russia or small nations like Armenia, have the right of unfettered access to news and information. But as the President of RFE/RL, owing to the lack of real press freedom here in Ukraine, starting with the murder of George Gongadze, I have spent more time dealing with Ukraine over the past four years than with any other single country. The condition of press freedom in Ukraine today is poor.

Ukraine is the biggest disappointment among the countries to which Radio Free Europe/Radio Liberty broadcasts. I say this because, while we certainly broadcast to countries less free than Ukraine, no other country's post-Soviet path has diverted so much from the hopes that I, and other western friends of Ukraine, had for it. Ukraine is a potentially rich and beautiful country, with immense potential with a well-educated populace 50-million strong, fertile land, bustling seaports, and a strategic location between the European Union and Russia. But a succession of corrupt governments has squandered this potential. U.S. State Department officials have even invented a term for our feelings of frustration; it is called in Washington, "Ukraine fatigue." Elected American politicians and American foreign policy officials are tired of the Ukrainian leadership's resistance to liberal democratic reforms.

The media environment in Ukraine has one overriding problem, and it's easy to summarize: an overwhelming majority of radio and television stations present only pro-government points of view. Experts who have studied the Ukrainian media have identified three reasons for this.

The first reason is obvious: almost all national TV and radio stations are owned or controlled by government officials and their friends. Two associates of President Kuchma in particular Viktor Medvedchuk, the head of the Kuchma Administration, and Viktor Pinchuk, Mr. Kuchma's son-in-law-control a staggering portion of Ukrainian broadcast media outlets.

The second reason for the dominance of the government's point of view on the airwaves is the widespread use of temniki. As I am sure all of you know, temniki are secret, unsigned daily memoranda sent by President Kuchma's staff to editors of the leading state and private media, instructing them on how to cover a particular story, and on which stories to cover and which to ignore. When the President's office determines the content of the evening news, that is not freedom—that is autocracy. Noted journalist Andriy Shevchenko put it best when he told your Parliament in 2002, "Television news coverage in Ukraine is done by remote control."

The third reason for the orthodoxy prevailing in Ukrainian broadcasting is the corrupt licensing process. As you know, anyone with a computer and a printer can start a newsletter or a website. But television and radio frequencies are a finite commodity that must be allotted by the government. That is how it works in the United States, and that's how it works in Ukraine. The problem in Ukraine, however, is that the licensing authorities favor broadcast entities that promise to be friendly to the government—and the process itself is so closed and confusing that protesting a given decision is futile.

This concentration of media power in the hands of one political mindset and one political bloc becomes particularly dangerous during an election campaign. This year, when it is absolutely critical that voters receive as much objective and balanced information about the candidates as possible, Ukrainian voters are getting only one side of the story. Studies by outside observers have established beyond doubt that on the TV and radio stations controlled by Mr. Medvedchuk and Mr. Pinchuk, including Ukrainian state television and Ukrainian state radio, reporters are providing positive coverage of the candidate Mr. Kuchma supports, and overwhelmingly negative coverage of the candidate Mr. Kuchma most fears and dislikes. This is precisely why freedom of the press is essential to the operation of a democracy: an electorate cannot possibly make informed choices at the ballot box if the media do not report the whole truth about the candidates.

President Kuchma thus enjoys a luxury that any political leader would envy—a media environment that is almost totally compliant. And this lack of diversity in the media landscape has been exacerbated by the fact that the profession of practicing journalism in Ukraine is so difficult that few people are willing to do it.

I stated earlier that the condition of media freedom in Ukraine is poor. Associated with this fact is that Ukraine, to put it mildly, is not a good place to be a journalist. Reporters there have more to fear than the censorship and intimidation that unfortunately plague much of the media in the former Soviet Union. Ukrainian journalists must also fear for their lives. Since 2000, at least 39 journalists have been killed. 42 Ukrainian journalists were attacked or harassed in 2003 alone nearly double the figure for 2002. And although President Kuchma himself may not be to blame for all the mayhem that is visited on reporters in his country, there is strong evidence, indeed a tape recording, that he is directly responsible for the most notorious act of violence against a journalist in recent memory: the cruel and criminal beheading of Georgy Gongadze.

Furthermore, practicing journalism in Ukraine entails enormous economic burdens. While there is a small group of well-connected journalists that is very well-paid, low salaries are the rule. Expenses such as computers, transmitters, newsprint, and paper are very burdensome for the average Ukrainian enterprise. Private media outlets have a limited pool of advertisers from which to draw extra revenue, and therefore have a hard time turning a profit. When you have impoverished media employing impoverished journalists, the result is a journalistic climate that is extremely conducive to corruption: people with money can get their stories told and their views expressed, while people without money cannot. Moneyed interests—including government officials—can manipulate coverage of their actions, as cash-starved newspapers are offered financial inducements to tell the payer's side of the story. Call it journalistic bribery.

Meanwhile, the prevalence of organized crime has made targets of journalists who dare to print the truth about corruption. And law suits against media outlets for defamation are on the rise. In a climate such as this, when independent journalists face everything from lawsuits to jail to death, it is almost a miracle that anyone is willing to pursue the profession.

Radio Free Europe/Radio Liberty has experienced the hostility of the Ukrainian media environment firsthand. As a broadcast entity funded in the United States and produced in Prague, we cannot be intimidated by President Kuchma and his goons. But while Kuchma can't go after RFE/RL, he can go after our affiliate stations in Ukraine, and that is precisely what he has done.

The government's crusade against Radio Liberty began in earnest in February 2004 when, after a five-year, close working relationship, our Ukrainian-language programs were removed from the Dovira FM radio network by the company's new owner, who is a political supporter of President Kuchma. Dovira was RFE/RL's major affiliate; it gave us the ability to reach some 60 percent of the population of Ukraine, including Kyiv. The explanation given by the new owners—that RFE/RL news programs did not fit the envisioned new format of the radio network—ignored the fact that Dovira listenership was highest when our programs were on its airwaves. And in fact, authorities later admitted to some of us that the Dovira action was taken for political, not commercial, reasons.

The attack on Radio Liberty intensified in March, when Radio Kontynent, an FM commercial station in Kyiv that had begun to air RFE/RL programming two days earlier, was raided and closed by Ukrainian authorities. The station's transmission equipment was seized and three employees were briefly detained. This station also carried the programs of other international broadcasters, including the Voice of America, BBC, Polish State Radio, and Deutsche Welle. Serhiy Sholokh, the owner of Radio Kontynent, fled Ukraine and has received political asylum in the United States.

On that very same day, an RFE/RL representative was scheduled to meet in Kyiv with Heorhiy Chechyk, the owner of an independent FM station in Poltava, to finalize a contract to broadcast RFE/RL programs. The director was killed in a suspicious automobile accident en route to this meeting.

RFE/RL continues to broadcast in Ukraine on seven independent radio stations in smaller cities and a small network in Crimea. In addition, our board, the U.S. Broadcasting Board of Governors, has added additional shortwave frequencies into Ukraine in an effort to continue to provide our popular programming to listeners in Ukraine. But the Kuchma Administration is doing its best to prevent us from gaining greater access. Over and over again, owners of radio stations in Ukraine tell us that they are being threatened by Ukrainian authorities and told not to take RFE/RL programs. Some station owners who earlier showed interest now are unwilling even to meet with us. The government has exerted financial pressure on potential affiliates as well, threatening a tenfold increase in the licensing fees of any TV or radio station that rebroadcasts foreign programming. Their tactics, in other words, are no different from those of the mafia.

The website of RFE/RL's Ukrainian Service, www.radiosvoboda.org, has a substantial following in Ukraine. But even our Internet efforts have faced government obstruction. Earlier this year, RFE/RL attempted to send a "mirror server" to Kyiv, which would have provided Internet users in Ukraine with much quicker and more reliable access to the site. Ukrainian customs, however, refused to admit the server, seizing on a clerical error to accuse RFE/RL of attempted smuggling. Just looking at the harassment Radio Liberty has faced in Ukraine, you can see why Reporters Without Borders has given Ukraine such low marks.

In addition to the problems I mentioned earlier, there is one more problem plaguing the Ukrainian media environment—and this one is the most worrisome of all. It is apathy. Over and over again, scholars and observers of Ukraine note that when the government interferes with freedom of the press, the Ukrainian people—including journalists—do not protest much. As one Ukrainian journalist has stated, "Freedom of speech is not valued in our society, and its violation does not cause public outrage" when it is threatened.

Ladies and gentlemen, if I can leave you today with one message, it is that freedom of expression does matter. There's a reason that the founders of the United States put freedom of speech and freedom of the press at the top of the Bill of Rights. There's a reason that Thomas Jefferson once wrote, "If it were left to me to decide whether we should have a government without a free press or a free press without a government, I would prefer the latter." There's a reason Franklin Roosevelt called it "the first freedom." There's a reason it occupies an important place in the Universal Declaration of Human Rights. That reason is that without a free press, society simply does not work—and its people cannot prosper.

Newspapers, radio, and television perform two functions that are absolutely critical: first, they allow a nation's citizens to engage in an ongoing conversation with one another, and to form intelligent opinions about how their society should be run; and second, they serve as a check against government corruption. It is a universal truth of human nature that power corrupts. A free press is the most important protection we the people have against government's inevitable tendency to increase its own power. This is the critical difference between the Communist view of government and the democratic view of government: the Communists preached that the government knew best. The democratic view is that because power corrupts, government cannot be trusted and it therefore must be checked in every way possible. That is why democracy requires a representative legislature, independent courts, and, most importantly, a free press.

One of my favorite words in the English language is "obstreperous." I am told that in Ukrainian it is halaslivy. If you look at the word's Latin roots—"ob"—against, and "strepere"—to make a noise—you can get an idea of what it means: unruly, clamorous, noisy, defiant. What Ukraine needs more than anything now is for you, the Ukrainian people, to be more obstreperous. If corrupt officials violate your rights, make lots of noise. If they shut down the TV stations they do not control, make lots of noise. If they send goons to polling places when you are trying to vote for your local mayor, make lots of noise. And if they try to steal next month's election, make lots of noise. Protest, defiance, noise, demanding the truth—these are the fundamental ingredients of freedom and democracy.

My fondest wish is for this to be the last anniversary that Radio Liberty ever celebrates in Ukraine; nothing would make me happier than for us to become obsolete. But as long as Ukraine lacks a free press, Radio Liberty will be with you—if it takes another 50 years, we will not abandon your cause of real freedom, of real democratic institutions.

Remember, though, that the most important role will be played by you, the people. Never forget that apathy is the dictator's best friend—and that obstreperousness is the dictator's worst nightmare. Ukraine is a proud place, but it is not a free place.

A window was opened when the Soviet Union dissolved and the nation-state of Ukraine arose again—and now it's up to you to make sure that the window stays open, so that Ukraine can at last breathe the same fresh air, that is a fully free media, that we in the West have worked so hard for and been fortunate enough to breathe for so long.

TRIBUTE TO JONESBORO MAYOR HUBERT BRODELL

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to a man with a very impressive public service record. Jonesboro Mayor Hubert Brodell is retiring after 17 years of serving the needs of Jonesboro's citizens. He has served four consecutive terms as mayor and will be stepping down this year. I would like to pay tribute to his service and dedication and acknowledge his retirement today.

Hubert Brodell has worked very hard for both the economic development and the industrial growth of Jonesboro. Under his leadership, the city has expanded by 2/3 its original size, primarily due to the 1987 annexation referendum he put together to prepare for future growth. This has allowed and also attracted various industries to the area. The population has doubled during his time in office, and Mayor Brodell has risen to the challenges of a growing community by meeting them head on. He implemented the 911 Center that expanded and improved emergency services; maintained a goal of keeping the streets and highways up to par; and worked fervently with city services to better meet the needs of all who call Jonesboro home.

In his personal life, Hubert Brodell is a family man. He has been married to his wife, Dorothy, for 50 years and has 6 children and 17 grandchildren. He has decided this to be his last term so he can spend more time with the people he loves.

So on behalf of the U.S. Congress, I extend my sincerest appreciation to Hubert Brodell for his outstanding service and citizenship. Jonesboro and all of Northeast Arkansas is a better place to live and work because of his service, and I am proud to call him my friend.

PAYING TRIBUTE TO JEANETTE WARE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. McINNIS. Mr. Speaker, it is with a sad heart that I rise to pay tribute to the passing of Jeanette Ware, a dedicated humanitarian from Carbondale, Colorado. Jeannette was a devoted member of the community, and will be missed by many in Carbondale. As her family and friends mourn her loss, I believe it is appropriate to recognize Jeanette before this body and this Nation today.

Jeanette Ware moved to Carbondale in 2000 and immediately volunteered as an Emergency Medical Technician with the fire department. Instantly making a difference, she was recognized as the rookie of the year in 2001 and was later awarded the Carbondale Fire department's Life Saver Award for saving a child's life. Jeanette also started her own business as a midwife, assisting mothers with child birth and caring for their babies. She sadly was taken from this world, at the young age of 28, in a car accident when her car lost control and went off the road.

Mr. Speaker, Jeanette was a dedicated young woman that selflessly served her community, and I am honored to pay tribute to such an amazing person. At such a young age, her contributions to the community are an incredible model for all Americans. My thoughts and prayers go out to her family and friends during this time of bereavement.

URGING THE GOVERNMENT OF UKRAINE TO ENSURE THAT THE PRESIDENTIAL ELECTIONS ON OCTOBER 31, 2004 ARE FREE, FAIR, AND CONSISTENT WITH INTERNATIONAL STANDARDS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. LANTOS. Mr. Speaker, I want to bring the attention of my friends and colleagues in Congress to an issue of a critical importance to U.S. national interests in Europe—the upcoming presidential elections in Ukraine on October 31, 2004, just days before our own elections on November 2, 2004.

Ukraine has been a country at crossroads since it first regained independence in 1991. It conducted parliamentary and presidential elections but the outcome always fell far short of the international standards and democratic commitments of its own constitution. Although the government of Ukraine adopted recommendations of the OSCE into its electoral law, the implementation was lagging. On many occasions, international elections observers observed fragrant violations of the law at all levels of the Ukrainian political system. The worst abuses exploited the so-called administrative resources to virtually shut out the opposition candidates from the political process. Despite pressure from the United States Government and Congress, these practices continued.

Nevertheless, Mr. Speaker, we hoped that these elections would be a marked improvement over the past because the government of Ukraine understood how crucial they are to ensure Ukraine's integration in Europe. Ukraine's democracy and geopolitical orientation are at stake. Throughout the past year, many Ukrainian dignitaries traveled to Washington to meet with United States Administration officials and Members of Congress to assure us that these elections would be different. U.S. Members of Congress and Administration officials made regular trips to Kiev with the same message. Sadly, Mr. Speaker, our hopes were crushed when we saw how the 2004 presidential campaign was unfolding.

According to information collected by international and local non-partisan monitoring groups, most of Ukraine's 225 territorial election commissions are controlled by pro-government political forces that are openly supporting the candidacy of the Prime Minister Viktor Yanukovych. International observers also estimate that the twenty five presidential candidates are not genuine candidates, but are running to place Yanukovych loyalists on the electoral commissions. This practice compromises the independence of the commissions and makes a complete farce out of the Ukrainian election law. State and local Ukrainian officials are controlling and manipulating the media to shut out the main opposition candidate Victor Yuchshenko. The state officials are using illegal means to interfere in the election campaign, giving rise to grave concerns regarding the commitment of the Ukrainian Government to free and fair elections.

In fact, our Ambassador to Ukraine, John Herbst, most recently publicly stated that Ukraine is not meeting its commitments to conduct fair and transparent elections. I am also concerned by the behind the scenes deal between President Putin and Prime Minister Yanukovych. It is obvious that Mr. Yanukovych is the preferred candidate of Russia, and I wonder how much of the Ukrainian political sovereignty and economic freedom have been ceded to Russia in exchange for its financial support.

I hope that this resolution will send an important message to the Ukrainian electorate and the Ukrainian political elite that the U.S. Congress cares deeply about the future of Ukraine. Ukrainian citizens must have confidence that the legal system will protect their rights and that their political will and their votes will be counted, and the result of the elections will not be manipulated. The United States hopes to sustain a strong and friendly relationship with democratic, sovereign, and prosperous Ukraine. History has shown us that the most enduring alliances are sustained between allies who share the same values and vision. The elections on October 31, 2004 will reveal whether the Ukrainian Government is committed to democracy and the rule of law and whether it is willing to become a full and equal member of the western community of democracies.

TRIBUTE TO WESLEY AND ELLA MAE ROOKS

HON. MARION BERRY

OF ARKANSAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. BERRY. Mr. Speaker, I rise today to pay tribute to Wesley and Ella Mae Rooks. They are a very special couple who have given so much to the community they adopted over forty years ago. Wesley came to Gillett, Arkansas, as a math teacher, and Ella Mae found a job in a neighboring town as a secretary. Eventually, Ella Mae was employed as a secretary to the principal at Gillett High School where Wesley was teaching.

Mr. Speaker, there is no way to adequately measure the positive influence Wesley and Ella Mae had on the young people of Gillett in their years at Gillett High School. I personally know from my own children's experience how they valued every child and encouraged them in their class work and in life beyond the classroom. They were demanding of a child's best, expected it, and did so with a large dose of good humor. Young people knew the Rooks were rooting for them to succeed.

Their retirement has given them other outlets to find ways of encouraging others. Whatever need presents itself, they respond.

So on behalf of the U.S. Congress, I take this opportunity to wish Wesley my congratulations on his 80th birthday, and he and Ella Mae are both congratulated on being loved and appreciated by a host of friends and relatives. They are the essence of what makes America great. I am indeed blessed to have them as my friends and neighbors.

PAYING TRIBUTE TO BOBBY JULICH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Bobby Julich, a truly talented athlete from Glenwood Springs, Colorado. Bobby's efforts in the Athens Olympic Games are an inspiration to us all, and I would like to join my colleagues here today in recognizing his tremendous achievements before this body of Congress and this Nation.

Bobby Julich was first motivated to become a competitive cyclist at the age of twelve while watching Aspen's Alexi Grewal win a gold medal in the 1984 Olympic time trials event in Los Angeles. As a student at Glenwood Springs high school, he was an active competitor and was sponsored by many local shops. Now 32, Bobby recently won the bronze medal in the men's road time trial at the Athens Games. His achievement has been recognized by his high-school on its wall of pride.

Mr. Speaker, it is an honor to recognize Bobby Julich for his achievement. Representing his country in the Olympics is a great privilege and he did so nobly. I am proud to recognize him today before this body of Congress and this Nation. Congratulations on your performance in the Olympic games, Bobby, and I wish you well in all of your future endeavors.

CONGRATULATING MS. KOKO TAYLOR

HON. JESSE L. JACKSON, JR.

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. JACKSON of Illinois. Mr. Speaker, I rise today to recognize and congratulate one of my most prestigious constituents, from Country Club Hills, Illinois, Ms. Koko Taylor, the "Queen of the Blues". Ms. Taylor is a recipient of the 2004 National Heritage Fellowship.

The National Heritage Fellowship is the country's highest honor given in the folk and traditional arts. Ten fellowships and twelve awardees were chosen from 10 states, and we are proud to have Ms. Koko Taylor as this year's award recipient from Illinois.

Ms. Taylor was born 75 years ago in a sharecropper's cabin at the edge of a cotton plantation in southwestern Tennessee. Even though her father encouraged her to perform only Gospel music, Koko and her siblings would sneak out and play the blues on homemade instruments. When she was eighteen, Koko (given that name as a child due to her love of chocolate) moved with her soon-to-be husband Robert "Pop" Taylor to Chicago. Initially sustaining herself as a housekeeper on Chicago's North Shore, it was not long before she was sitting in with legendary blues musicians in Chicago's lively club scene. In 1962, she was discovered by Willie Dixon and signed to a Chess recording contract—Chess Records was the Motown of Chicago. She recorded the million record selling hit "Wang Dang Doodle" in 1965, and had many successful hits since.

For more than 40 years, Koko Taylor's powerhouse vocals have thrilled audiences, from little bars in Chicago's South Side to giant international festivals. She's been in movies, on television, on radio and in print all over the world. Ms. Taylor has received just about every award the blues world has to offer. She has received 19 W.C. Handy Awards, more than any other female blues artist. She has also been nominated for a Grammy for six of her last seven Alligator albums, and won a Grammy in 1984. In 1993, Chicago Mayor Richard A. Daley honored Taylor with a "Legend of the Year Award," and declared "Koko Taylor Day" throughout Chicago. The Blues Foundation bestowed a Lifetime Achievement Award on her in 1999.

Ms. Taylor has been described by Rolling Stone as "the great female blues singer of her generation." Her vocal power and stage presence, drawing on such forbears as Bessie Smith, Sippie Wallace, and Alberta Hunter, has carried her through four decades of recording and live performance, and she continues to play over 100 concerts a year all over the world. Ms. Taylor's contributions to the music world have been enumerable, and I congratulate her on her achievement.

INTRODUCTION OF A BILL AUTHORIZING EXPANSION OF HAWAI'I VOLCANOES NATIONAL PARK KAHUKU, HAWAI'I

HON. ED CASE

OF HAWAII

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. CASE. Mr. Speaker, I rise today to introduce a bill to authorize expansion of Hawai'i Volcanoes National Park located on the Island of Hawai'i.

This bill would authorize expansion of the park's boundaries to allow the National Park Service to acquire 656 additional acres between the 1,000 and 2,000-foot elevation marks in the Kahuku district makai (oceanside) of State Highway 11. This property, which is a part of the historic Kahuku Ranch, most of which has already been added to the Park, includes extensive natural and cultural resources. These Kahuku lands encompass the southwest rift zone of Mauna Loa, one of the most massive volcanoes in the world.

The geologic features of the proposed acquisition—three large pit craters—provide vestiges of native forest and other unique attributes. The property also includes ranch buildings, walls, and pasture lands that are reminiscent of nineteenth and early twentieth century ranching and contain remnant ranchlands that are not currently represented to the public by any National Park in Hawai'i. These buildings would provide public, office, educational, and research space for a much-needed satellite headquarters for this portion of the 333,000-acre park. And locating these services in these historic structures will preserve more of the natural resources of the park in an unspoiled condition.

The property also provides magnificent open landscape views and vistas that offer a glimpse into a cultural landscape that has remained unchanged for decades.

The geologic, biologic and cultural resources contained on this property will also enhance the quality of the park for its legislated purpose and as a World Heritage Site and International Biosphere Reserve. In addition, the park has a well-developed partnership with adjacent landowners in management of native ecosystems and historic landscapes and acquisition of this makai section of Kahuku will help to facilitate this partnership.

The Hawaii House of Representatives passed H.R. No. 56 in the 2001 session supporting acquisition of the Kahuku Ranch as part of Hawaii Volcanoes National Park and the Hawaii State Senate passed a similar resolution.

I would be very grateful for the support of my colleagues for this important bill. Mahalo!

PAYING TRIBUTE TO ERNESTO TAFOYA

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. MCINNIS. Mr. Speaker, I rise to pay tribute to US Navy veteran Ernesto Tafoya. Ernesto, who held the rank of Senior Chief Petty Officer, bravely answered our Nation's call to duty during World War II. Following the war, he continued to serve our Nation in the Naval Reserve, retiring in 1983 after forty years of honorable service. I consider it a great honor to recognize the sacrifices Ernesto made for his Nation before this body of Congress today.

Ernesto joined the U.S. Navy in 1943 at the age of seventeen. After months of training he became an engineman on an amphibious landing craft, and was later sent to the Pacific Theater. Ernesto's unit arrived in Hawaii in early 1945, sailed to the Marshall Islands, and eventually arrived at Leyte Gulf in the Philippines. There his unit took part in liberating the Philippines from the Japanese. Following the Philippine campaign, Ernesto was sent to Japan as part of the allied occupation force where he again served honorably. Upon returning from overseas Ernesto continued his service in our Nations Naval Reserve.

Ernesto comes from a family with a long tradition of defending our Nation's freedom. His maternal grandfather Sabino Lopez from Chiuaua, Mexico, gained his U.S. citizenship by fighting for the Union side in the Civil War. His older brother Dewey served in the European Theater with the US Army during World War II, and was killed during the infamous Battle of the Bulge. In addition, Ernesto's children have followed in their father's footsteps, both his son and his daughter are currently serving as members of our armed forces. His daughter, Michelle Tafoya, has served honorably in the US Air Force for sixteen years, and is today being promoted to the rank of Lieutenant Colonel. Ernesto's son, Carl, served in Vietnam and Desert Storm, and is currently deployed in Kuwait as an Army medivac helicopter pilot.

Mr. Speaker, later today, I will have the distinct honor of recognizing Ernesto for his service during World War II by bestowing upon him the Philippine Liberation Medal. This is a long overdue tribute to the sacrifices Ernesto endured in the defense of freedom. Ernesto, your service is the embodiment of American heroism and we are very proud of you.

IN HONOR OF THE REPUBLIC OF CHINA'S NATIONAL DAY

HON. PETE SESSIONS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. SESSIONS. Mr. Speaker, I rise to honor one of the United States' most reliable allies, the Republic of China, on the occasion of its National Day, October 10. That great nation, better known as Taiwan, has served as a mirror on our times, reflecting the agonies and dreams of the 20th Century and the soaring aspirations of the new century. The ROC was born of the tragedy of Communist betrayal, reared in the tension of the cold war, and reached maturity during the information age.

The ROC was the first casualty of Imperial Japanese aggression and our staunch ally in the fight to free the Pacific of that tyranny. In 1949, Chinese Communists seized power on the mainland and the central government of the Republic of China relocated to Taiwan. Since that time, we have rightfully considered Taiwan's security of vital interest to the United States. In 1950, President Truman ordered the Seventh Fleet to protect Taiwan from attack by the Chinese Communists and we have maintained a presence in the area ever since. Moreover, the Congress has consistently expressed its support of the ROC since the passage of Taiwan Relations Act of 1979.

Mr. Speaker, Taiwan has developed into a premier Asian democracy, having peacefully evolved from one party rule to the vibrant home of multi-party elections.

Taiwan's political development has been complemented by its economic rise as one of Asia's "Four Tigers," along with Hong Kong, Singapore, and South Korea. Since 1949, the ROC's economy has moved from a leader in agricultural exports, to a major manufacturer of small electronics and consumer goods, to today's premier Asian producer of capital- and technology-intensive commodities, such as personal computers and machinery. Because its economy has achieved such rapid growth, Taiwan boasts one of the world's highest standards of living, with only 1 percent of its population below the poverty line in 2000. Today, the ROC is an irreplaceable part of the world economy and vital to continued growth here in the U.S.

I know that my colleagues will join me in wishing Taiwan's President Chen Shuibian, its Representative here in the U.S., Dr. David Tawei Lee and the 23 million people of Taiwan a most happy National Day and continued peace and prosperity.

PAYING TRIBUTE TO CHUCK KORNMAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Chuck Kornman, a dedicated humanitarian from Grand Junction, Colorado. Chuck has spent his entire life serving other people during times of desperation, and I would like to join my colleagues here today in recognizing his tremendous leadership and service before this body of Congress and this Nation.

Chuck began his professional career as a minister, and after retiring 15 years ago became a volunteer for the Red Cross. This year he will turn 81 years old, and as a family-service coordinator, Chuck travels to disaster sites all over the world to help those affected. He spent 3 months in New York City after the terrorist attacks on September 11 and more recently has aided those afflicted by the floods in Texas, the ice storms in Oklahoma, and the tornado devastated area in southeast Nebraska. Chuck not only interviews victims of natural disasters about their needs, but also provides an unparalleled level of support.

Mr. Speaker, it is a privilege to honor Chuck Kornman for his dedication and commitment to others. In the pinnacle of his life, he serves as an example to all of us. It is with great pleasure that I recognize him today before this body of Congress and this Nation. Thank you, Chuck, for everything you have done. I wish you the best in all of your future endeavors.

HONORING LYNDA THEIL FOR 33 YEARS OF PUBLIC SERVICE

HON. LYNN C. WOOLSEY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Ms. WOOLSEY. Mr. Speaker, I rise today to honor Lynda Theil on her retirement from 33 years of public service as a staff member in the House of Representatives. A dedicated staffer, a tireless worker, a sharp mind, and a good friend, Lynda's dedication to working on behalf of our nation's children has been nothing short of inspiring.

Lynda began her career on the Hill working for Ohio Congressman John Seiberling in January of 1971, the beginning of the 92nd Congress. She worked for Rep. Seiberling through the birth of her two daughters, Corbin and Ashley, who she has raised into intelligent, sophisticated and beautiful young women. Upon Rep. Seiberling's retirement, Linda transitioned to the staff for his successor, Congressman Tom Sawyer at the beginning of the 100th Congress where she worked until the spring of 1993.

It was at this time, when I was just starting my first term in Congress, that Lynda came to my staff. Her expertise and vast knowledge of education policy have been invaluable to me as a member of the House Education and Workforce Committee. She has worked on legislation including the Child Nutrition Act, the School Breakfast Pilot program, Headstart, The Balancing Act, and welfare programs to name a few. I would also like to honor her for helping to create the Democratic Caucus Task Force on Children and Families. She was instrumental in helping me make this important Caucus a reality and give a voice in Congress to those who need it most.

After so many years of dedicated service, it will certainly be difficult to see Lynda go. She has not only been a resource to myself and other Members of Congress, but also a mentor to a countless number of staff members. I wish her well as she moves on to a new phase of her life. With one grandchild, Brady, and another on the way, she will undoubtedly be as busy and hardworking in retirement as she was on the Hill. I can say without hesitation, that Members of Congress and staff alike will certainly miss her.

Mr. Speaker, Lynda Theil is the role model for what every staff member should be; dedicated, hardworking, caring, and devoted. Her presence will be missed, but not forgotten. Thank you, congratulations, and best wishes, Lynda.

PAYING TRIBUTE TO DONALD BROTZMAN

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. MCINNIS. Mr. Speaker, it is with a heavy heart that I rise to mourn the passing of Congressman Donald Brotzman. Donald, the former representative for Colorado's Second Congressional District recently passed away at the age of eighty-two after battling cancer. He was known for his warmth, integrity and abiding sense of professionalism. As his family and friends mourn their loss, I believe it is appropriate to remember Donald and pay tribute to him for his contributions to the state of Colorado and this Nation.

Donald was born in 1922 in Logan County where he was a tenor saxophonist and three-sport athlete at Sterling High School. He went to school at the University of Colorado on a football scholarship in 1939, only to postpone his studies to serve his country as an Army officer during World War II. After the war, Donald married Louise Reed and returned to the University of Colorado to earn his business and law degrees.

Donald began working as a lawyer in Boulder in 1950, and was elected later that same year to the Colorado House of Representatives. He was a dynamic legislator who reflected strong Western values and a compassionate heart. Donald would go on to serve in the State Senate where he was named the outstanding freshman member, an honor he also enjoyed from his time in the State House. He was appointed as the Colorado U.S. attorney in 1959 and just two years later, he was elected to the U.S. House of Representatives where fellow lawmakers named him president of the Republican freshman class. Former U.S. Senator Bill Armstrong referred to Donald as a trailblazer in politics, and a man of great integrity and principle.

After Donald left politics, he worked in the Government Relations department at the Rubber Manufacturers Association before retiring in 1989. When Louise died in 1995, Donald remarried, and is survived by his wife Gwendolyn, a brother, daughter, and son, in addition to a stepson and six grandchildren.

Mr. Speaker, we are all saddened by the loss of Congressman Donald Brotzman, though we take comfort in the knowledge that our grief is overshadowed by the legacy of dedication that Donald has left with us. I am honored to pay tribute to such a devoted public servant, one who has given many years in service to the state of Colorado and Nation. I know that many throughout our state who had the chance to benefit from his experience and dedication will miss Donald Brotzman. My thoughts and prayers go out to his family during this time of bereavement.

MINGO JOB CORPS CIVILIAN CONSERVATION CENTER

HON. JO ANN EMERSON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mrs. EMERSON. Mr. Speaker, the Mingo Job Corps Civilian Conservation Center was established in 1965 and is located on the southeastern corner of Mingo National Wildlife Refuge. Over 224 corps members participate in the program at Mingo at any one time. They can see daily what many people travel miles to observe on a National Wildlife Refuge. They are working to make a special effort to provide vocational work sites for training, as well as placement in permanent jobs, not just at Mingo, but on other facilities within the region.

In a residential setting, students are given the opportunity to complete their secondary education, round out their social skills, and acquire a vocational skill. Vocational training is offered in the following trades at Mingo: automotive repair, building maintenance, bricklaying, carpentry, heavy equipment operation, painting, welding, clerical, culinary arts, and health services.

With an audience of over 200 young people in residence for over a year on a National Wildlife Refuge, the Center is taking advantage of the opportunity to expose them to environmental awareness concepts in the education, vocational training, and residential living programs. The Center is a unique mix of human resources and natural resource management.

The Mingo Job Corps Center, located in Puxico, Missouri, has become a critical part of the economy in Southeast Missouri. I first want to brag on the work the Center has done and give a little background on the work they do to better the community and the lives of those they serve. The Center has been crucial in providing the young people in Southeast Missouri many opportunities that they would not otherwise have available to them. The lack of viable economic opportunities in the area is staggering, and, as a result, many people in the area have to rely on government assistance to make ends meet.

The Mingo Job Corps Center is the one place these people can go to develop the critical skills needed to enter the workforce. While some of the students at the Center are what we commonly refer to as being "at-risk," the Job Corps program has allowed these young men and women to make a life for themselves and succeed. Additionally, the surrounding community has benefitted from the work of the Center because, upon graduation, the students are able to give back to the community with the skills they have learned.

Last year, U.S. Fish and Wildlife Service announced that they did not have the budget to adequately operate the Center. As a result, the Department of Labor recommended that the operations of the Center be contracted out. i completely opposed the proposal to contract out the operations at the Mingo Job Corps Center.

In response to the announcement to contract out operations Senator BOND and I introduced legislation to transfer the Mingo Center to the jurisdiction of the U.S. Forest Service. By adding the Mingo Job Corps Center to the list of U.S. Forest Service-run facilities, we will protect the livelihood of the students and employees served by the Center and ensure that the facility will continue to be operated by an experienced and dedicated staff. Most importantly, the skilled workers who graduate from the Center will continue to add to the dedicated workforce and contribute to the health of the rural economy.

I am very proud to bring this legislation to the House of Representatives for a vote today, because it represents an important initiative in rural Missouri. Our job training programs are vital to our economic success now and in the future. Keeping the Mingo Center open and operating is a small, but important way to acknowledge our commitment to a dedicated workforce.

PAYING TRIBUTE TO RAYMOND TETREAULT

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. McINNIS. Mr. Speaker it is with great pride that I rise today to pay tribute to Raymond Tetreault, a dedicated gardener from Delta, Colorado. Raymond is responsible for creating beautiful landscapes and scenic floral displays throughout the streets of Delta and I would like to join my colleagues here today before this body of Congress and this nation in recognizing his service to the Delta community.

Raymond grew up in New Bedford, Massachusetts and moved to Colorado to look for work in 1976. He loved gardening as a child and took related classes from Front Range Community College before working fourteen years at the Pinehurst Country Club. After Pinehurst Raymond, who identifies himself as an amateur naturalist, became the Delta city gardener in 2003. Raymond prides himself on making sure that every flowerbed is a knockout. He insures that each flowerbed is comprised of a mix of annuals and perennials to produce colorful blooms all year round. His work can be seen in most local Delta parks, Main Street, the bike path between the Gunnison River and Gunnison River Drive, and the Delta County Historical Society Museum.

Mr. Speaker, Raymond Tetreault is a dedicated, selfless person who has been a devoted public servant. He has developed intricate floral designs that color the streets of Delta reflecting the tremendous pride of its citizens. Raymond's enthusiasm and commitment to his craft certainly deserve the recognition of this body of Congress and this nation. Thanks for all your service, Raymond, and keep up the good work!

PERSONAL EXPLANATION

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. ROGERS of Michigan. Mr. Speaker, on the legislative day of Thursday, September 30, 2004, the House had a vote on Res. 792, a resolution to honor the United Negro College Fund on its 60th anniversary. On House rollcall vote No. 486, I was unavoidably detained. Had I been present, I would have voted "yea."

PAYING TRIBUTE TO NANCY PENFOLD

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Nancy Penfold, a dedicated creator and curator of the City of Fort Lupton Museum. This week Nancy will be honored as the 2004 Outstanding Older Worker from Colorado for her longstanding commitment to service by the Experience Works Prime Awards organization, and I would like to join my colleagues here today in recognizing Nancy's accomplishments before this body of Congress and the Nation.

Nancy's family came to Fort Lupton in 1895, and have been strong facilitators for the town's continued success. Nancy was born and raised there, making her an excellent candidate for telling the history of Fort Lupton. Nancy was a volunteer historian since 1975 and in 1982, she led the movement to establish the City of Fort Lupton Museum. Today she holds the position of museum curator where she maintains the local heritage of the Fort Lupton community, and strives to preserve the riches of its past through special events and programming that enable citizens to display unique collections. Nancy has spent many hours collecting oral histories from seniors in both the Greeley and Fort Lupton communities that enables citizens to organize and archive family histories for future generations.

Nancy is also very active in several organizations and boards throughout her community including: Quality of Life, Friends of a Woman's Place, the Greeley RSVP board, and the Walk for Life campaign in the American Cancer Society. Additionally she has worked as a peer counselor for Weld County Mental

Health, helped start the local Hospice program, and frequently delivers meals as part of the Meals on Wheels program.

Mr. Speaker, Nancy Penfold has dedicated her life to preserving the history and culture of one of Colorado's most unique towns. Her compassionate and selfless service to Fort Lupton and the Colorado community certainly deserves the recognition of this body of Congress and this nation. Congratulations on your award, Nancy, and I wish you all the best in your future endeavors.

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IN HONOR OF DENNIS A. LUSARDI

HON. ELIOT L. ENGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. ENGEL. Mr. Speaker, I rise today in honor of Mr. Dennis A. Lusardi who will receive the Four Freedoms Award on Friday, November 5, 2004. This prestigious award is given by the Franklin and Eleanor Roosevelt Institute to exceptional men and women who, in their work and life, are committed to the 4 principles outlined by President Roosevelt in 1941. These principles are the freedoms of speech and expression, worship, and the freedom from both want and fear.

I know that Dennis embodies these pillars in his work with the labor movement. As a dedicated worker, he has served the labor community and union members for over 40 years. He was born in Yonkers and graduated from Christopher Columbus High School and then attended Westchester Community College. I admire his entrance into the workforce in 1958 as an apprentice in the esteemed Ironworkers' Union. My father was an Ironworker, and I have great respect for trade unions, their values, and the work that they do. Dennis immediately showed that he was a dedicated and passionate advocate for improvements to his union. He took his first leadership role in the 1970s when he was appointed to the Pension Fund, and has proven his devotion by continuing his service as Chairman still today. He continued his impassioned work in 1981 when he became a Delegate to the International Convention.

In 1989 Dennis also became the Financial Secretary Treasurer, and since then he has held his position by acclamation from those he serves. Dennis' expertise and experience have truly benefited the labor movement, the community, and those who know and love him. He also lends his services and experiences as the Ironworkers' Union's Business Manager. He is as committed to advocating on behalf of his fellow workers today as the day he began his career. I am delighted to say that he continues this exceptional service as the Vice President of Westchester Building Trades, the Treasurer for the Ironworkers District Counsel of New York, and is also representative for the Ironworkers District Counsel Pension Plan. He exemplifies the hardworking ideals of his union and this country, and truly deserves this great honor. In addition to the incredible and significant work on behalf of organized labor, Dennis is also a proud father of two, and has three wonderful grandchildren. It is my privilege today to speak in the House of Representatives in honor of Mr. Dennis A. Lusardi.

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PAYING TRIBUTE TO CHAR HACKER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. MCINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Char Hacker, a talented teacher from Grand Junction, Colorado. For twenty-three years Char has inspired ahd challenged Taylor Elementary students to achieve the very best in their lives and I would like.to join my colleagues here today in recognizing Char's tremendous service to the Grand Junction community.

Char became an elementary teacher when she graduated from Western State College after her first dream of directing a High School band program did not work out. However, Char found her true passion as a music teacher and went on to earn her masters degree in special-needs education after working at Taylor High School for ten years. Currently she spends half her day teaching music and half teaching individual students with special needs. Char is a brilliant teacher whose methods of using fun and games to encourage her students to study hard and reach their goals. She positively impacted the lives of several students, an experience that many remember long after they have become adults.

Mr. Speaker, Char Hacker is a wonderful ambassador for education who dedicates her life to teaching the next generation of leaders in her Grand Junction, Colorado community. Char has taken the noble and challenging occupation of teaching to a new level of excellence. Her compassionate and selfless service to Grand Junction and the Colorado community certainly deserves the recognition of this body of Congress and this nation. Thanks for all your hard work, Char, and I wish you all the best in your future endeavors.

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PERSONAL EXPLANATION

HON. GEORGE R. NETHERCUTT, JR.

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. NETHERCUTT. Mr. Speaker, I was unavoidably detained due to a prior obligation and missed the following votes. Had I been present I would have voted "no" on Roll Call Vote No. 473, "yea" on Roll Call Vote No. 474, "yea" on Roll Call Vote No. 475, "no" on Roll Call Vote No. 476, "yea" on Roll Call Vote No. 477, "no" on Roll Call Vote No. 478, "yea" on Roll Call Vote No. 479, "no" on Roll Call Vote No. 480, "yea" on Roll Call Vote No. 481, "yea" on Roll Call Vote No. 482, "yea" on Roll Call Vote No. 483, "yea" on Roll Call Vote No. 485, and "yea" on Roll Call Vote No. 486.

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PAYING TRIBUTE TO JOEL BOUCHARD

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. MCINNIS. Mr. Speker, it is with great pride that I rise today to pay tribute to veteran Joel Bouchard from Clifton, Colorado, for overcoming adversity. Joel served his country as a soldier in World War II, and after being injured in battle, went to school to begin a new career. He was determined to triumph over his injuries, and I would like to join my colleagues here today in recognizing his tremendous achievement before this body of Congress.

On September 25 1944, Joel Bouchard was fighting the German army in a German forest when shrapnel injured his leg. He would be treated in a MASH unit and then have several follow-up surgeries in an English Hospital. Because of the injury, Joel's' right leg is paralyzed from the knee down. The injury prohibited him from retuning to his job in a ball bearing plant. Thankfully, a program created in 1945 by the Joseph Bulova School of Watchmaking would provide Joel a new beginning. The Bulova family established the school to allow disabled veterans to be self-sufficient. Jewelers throughout the country committed over 1500 positions to the graduates of the school. The son of a blacksmith, Joel excelled as a student and has been a master horologist for half a century.

Mr. Speaker, it is a privilege to honor Joel Bouchard for his service to this country and his courage to overcome his serious injury. Joel serves as an example to us all that there is always hope, and a chance for a new beginning, and it is with great pleasure to recognize him today before this body of Congress and this Nation. Thank you, Joel, for you service to this country. Your story of perseverance serves as an inspiration to us all. I wish you the best in all of you future endeavors.

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FLOOR ANNOUNCEMENT BY THE HON. DAVID DREIER ON THE AMENDMENT PROCESS FOR CONSIDERATION OF H.R. 10—9/11 RECOMMENDATIONS IMPLEMENTATION ACT

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. DREIER. Mr. Speaker, the Rules Committee may meet this week to grant a rule which could limit the amendment process for floor consideration of H.R. 10, the 9/11 Recommendations Implementation Act. The Committees on Armed Services, Financial Services, Government Reform, Intelligence and the Judiciary marked-up and ordered the bill reported on September 29, 2004.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Rules Committee in room H–312 of the Capitol by 7 p.m. on Tuesday, October 5th. Members should draft their amendments to the text of the Rules Committee print dated October 4th, which is available for their review on the Rules Committee website.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format. Members are also advised to check with the Office of the Parliamentarian to be certain their amendments comply with the rules of the House.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, October 5, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

OCTOBER 6

9:30 a.m.
Foreign Relations
To hold hearings to examine the impact of current visa policy on international students and researchers.
SD–419

10 a.m.
Health, Education, Labor, and Pensions
Judiciary
To hold joint hearings to examine responding to an ever-changing threat relating to BioShield II.
SH–216

Indian Affairs
Business meeting to consider pending calendar business.
SR–485

Intelligence
To hold closed hearings to examine certain intelligence matters.
SH–219

2:30 p.m.
Armed Services
To hold hearings to examine the report of the Special Advisor to the Director of Central Intelligence for Strategy Regarding Iraqi Weapons of Mass Destruction Programs.
SH–216

Commerce, Science, and Transportation
Competition, Foreign Commerce, and Infrastructure Subcommittee
To hold hearings to examine issues relating to natural gas.
SR–253

Foreign Relations
East Asian and Pacific Affairs Subcommittee
To hold hearings to examine neglected diseases in East Asia regarding public health programs.
SD–419

OCTOBER 7

9:30 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the effect of Federal bankruptcy and pension policy on the financial situation of the airlines.
SR–253

Judiciary
Business meeting to consider pending calendar business.
SD–226

10 a.m.
Joint Economic Committee
To hold hearings to examine the long-run economics of natural gas.
SD–628

OCTOBER 8

9:30 a.m.
Joint Economic Committee
To hold hearings to examine the current employment situation for September.
SD–628

SENATE—*Tuesday, October 5, 2004*

The Senate met at 9 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Almighty God, ruler of all nature, thank You for Your magnificent love that awakens us each day. When we are unfaithful, You continue to shower us with mercies. Thank You for a nation built on a foundation of freedom and for military heroes and heroines who stand daily in harm's way. Thank You for lawmakers who do justly, love mercy, and walk humbly with You. Guide their feet and teach them Your paths.

Lord, in these complicated times, show Yourself strong on behalf of those who love You. Solve the riddles that confound us. Confuse those who seek to hinder Your providence. Bring sanity to a world that often seems to spin out of control.

Lord, nothing is impossible for You. So transform our dark yesterdays into bright tomorrows.

We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning we will have a short period of morning business until 9:45 a.m. At 9:45 we will proceed to the vote on a motion to invoke cloture on the intelligence reform bill. If cloture is invoked, many of the pending amendments would fall as a result of a germaneness requirement under rule XXII. It is then hoped we will continue to process those germane amendments as we move toward final passage of the bill. It is my hope that cloture will be invoked and we can finish the bill either tonight or early tomorrow morning. The cloture rule, as Senators know, provides for a maximum of 30 hours. Hopefully all the time may not be necessary. Over the course of the morning, as various amendments are looked at, examined, and discussed, we will have a much better feel as to when we can bring closure to the bill.

I remind everybody that upon conclusion of this legislation, the Senate will turn to the other arm of intelligence reform, and that is the internal intelligence reform that has been put forth by our distinguished majority and minority whips who have been working with a task force of 22 Senators, appointed by Senator DASCHLE and myself, to address this significant reform within our own body.

Our scheduling is compressed more and more as we move closer to Friday. It will take the cooperation of all Senators to finish our work before adjourning. We have these two important arms of intelligence reform that we will address. There is other legislation that is in conference right now and progress is being made on the FSC/ETI manufacturing jobs bill. Of course, they will be meeting over the course of today as well. We have Homeland Security appropriations which is in conference, and I understand steady progress is being made.

Our goal is to adjourn on October 8, but all of this important business must be addressed before then. A lot of people are asking, is October 8 firm? In my mind, October 8 is the goal for us to complete our business, and we can complete our business if we continue the very good work by the managers on this bill, by the task force that is overseeing the development of the recommendations for our internal reform, and the conferences which I mentioned.

I thank Members for their cooperation, for working together in a bipartisan way on very important legislation, most of which addresses the safety and security of the American people.

RECOGNITION OF THE ASSISTANT MINORITY LEADER

The PRESIDENT pro tempore. The acting Democratic leader is recognized.

CONGRESSIONAL INTELLIGENCE REFORM

Mr. REID. Mr. President, through the Chair to the distinguished majority leader, I ordinarily don't speak for other Senators, but I think I can speak for Senator MCCONNELL. We appreciate very much the majority leader and Senator DASCHLE's deliberateness in moving forward on reform, not only of the intelligence community but also congressional reform. It would be easy to put that aside, but I think it is important that we move forward as the 9/11 Commission recommended. They have said quite clearly, you can't do one without the other.

What we have done, working with the other 20 members of the task force, is come up with what political scientists say are some significant changes in the history of this body. I don't know if that is true or not, but there are some significant changes which would create a new Homeland Security authorizing committee that would not necessitate the Secretary, as he has this year, appearing 164 times before different committees and subcommittees. Eighty-eight different subcommittees and committees have jurisdiction over him. That is not good. The new Homeland Security committee will take jurisdiction from 10 different committees.

We also are creating, from the pattern given to us by the 9/11 Commission, a very strong Intelligence Committee. And in the appropriations process, we have a subcommittee there. I spoke last night to Lee Hamilton, one of the cochairs. We have kept them advised as to everything we have done, and they are on board. They think what we are doing is totally in keeping with their recommendations. We haven't followed everything they wanted, but we have kept them advised along the way. We have a very good product.

Again, Senator MCCONNELL and I extend both to the majority leader and Senator DASCHLE our thanks for keeping your eyes on the prize and having us go forward, as difficult as it has been.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business until 9:40 a.m., with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee.

HELEN DEWAR

Mr. FRIST. Mr. President, I will speak within morning business.

As we move to adjourn at the end of this week, I fear we will lose sight of an important event which will take

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

place at the end of the 108th Congress. Because at the end of this session, the Senate press corps will lose one of the most distinguished and accomplished members of that body.

After nearly 25 years of hallway stakeouts, quorum calls, late-night votes, pressing deadlines, takeout food, the Washington Post Senate reporter Helen Dewar plans to leave her position when we adjourn sine die. Before that happens, I believe it is appropriate to recognize Helen's outstanding career during which she has faithfully informed Post readers on the oftentimes complex and intricate actions of this body.

Since 1980, Helen Dewar has covered every major Senate debate—from budget battles and judicial nominations to the sweeping intelligence reforms we are making now. But Helen's special talent has been to bring clarity to the day-to-day operations of this body, the Senate. Helen Dewar is known for being tough, persistent, inquisitive, and thorough. Helen's direct style of asking questions gets right to the heart of matter. She never asks an important question just once; she asks until she is satisfied she has gotten as much as she can.

Born and raised in Stockton, CA, Helen Dewar earned her undergraduate degree in political science from Stanford University. Her first stint at the Post was filling paste pots for the then-Women's page. She left after one week for a reporting job on the Northern Virginia Sun. she returned to the Post in 1961 as a reporter and has worked steadily in that role since.

When Helen was getting started in the newspaper business, women had to struggle to get entry level jobs. It was rare for women to win a job covering politics at the Post back in the 1970s. Helen had to push hard to move from the ranks of the Metro staff to covering Jimmy Carter's 1976 campaign, and then to winning the coveted assignment covering the Senate.

Helen began covering the Senate in late 1979. When Ronald Reagan swept to victory over President Carter in 1980, the Republicans claimed control of the Senate, and Helen was poised to cover a great story. As the Senate reporter who was also responsible for following the budget, Helen wrote extensively about the Reagan revolution. She covered the battle over President Reagan's 1981 tax cut and the Cold War military buildup.

Helen has covered virtually every major story on the Hill during the past 20 years, from Reaganomics to Iran-contra, ethics investigations, the fight over the Gulf War resolution, to the impeachment of President Clinton. During election season, she covered Senate election battles and how they might impact national policy. Helen has reported on the career of seven Senate majority leaders, including ROBERT BYRD, HOWARD BAKER, BOB DOLE, GEORGE MITCHELL, TOM DASCHLE, TRENT LOTT, and myself. The hallmark of Helen's reporting has been fairness, integrity, clarity and scrupulous attention to detail.

Helen is regarded by her colleagues as the dean of the Congressional Press Corps. She intently focuses on detail and comes from the school of journalism where the story is more important than the journalist. The hallways of the Capitol and Tuesday stakeouts will not seem the same without her. I offer my warmest wishes to Helen Dewar in all her future endeavors. Her colleagues here on the Hill and in the Post newsroom will miss her. But those who will feel her departure most acutely will be her thousands of readers who, for more than two decades, have looked to her to provide a succinct, unvarnished account of the activities of their elected officials.

I yield the floor

Mr. DASCHLE. Mr. President, I join the majority leader in applauding the remarkable career of Helen Dewar, the dean of the Senate press corps.

As Senator FRIST mentioned, Helen will be leaving her beat as the Washington Post's Senate correspondent at the end of this Congress. If I can borrow a phrase, not having Helen Dewar to kick us around anymore will be a loss for the Senate and for America.

Helen Dewar is a dogged reporter and graceful writer, and those gifts are rare enough, but she has possessed an even rarer gift. From the day she started the Senate beat, she has always known that you cannot understand the Senate just by walking these marbled Halls and making phone calls from a desk in the Capitol; you have to go out into America and talk to the people.

I recently came across what may be the first story Helen ever wrote from South Dakota. The date was July 2, 1980. It was a story about the centennial celebration of Arlington, SD, population 953. The headline read: "Celebrating 100 Years Against the Odds."

Helen described the town's parade as 2 miles long, "considerably longer than the town itself." She recounted people's complaints—farm prices were too low and gas prices were too high.

Mostly, she captured the incredible pride people in Arlington felt for their community. "The pride was so intense," she wrote, "that a visitor from Washington, offering Arlingtonians a chance to sound off about government and politics, was told to forget all about that unpleasantness, grab a plate of barbeque and simply enjoy Arlington."

Helen Dewar is a Washington institution, but she has never worn beltway blinders. For nearly 25 years, she has worked long, hard hours in the Senate, and when the Senate recesses, she has crisscrossed America to get the story—to explain to reporters what their Government is doing and why.

She is a reporter's reporter—tough, persistent, perceptive, and always fair. She has earned the respect of her colleagues, her sources, and her readers.

She has served American democracy well by helping to hold our Government accountable and to give the people the information and knowledge they need to make informed decisions about their Government.

After nearly 25 years covering this body, Helen is part of the institutional memory of the Senate. More than that, she is part of the heart of this place. It is a privilege and a pleasure to work with Helen, and I know we all wish her well in all her future endeavors.

The PRESIDENT pro tempore. Who seeks time?

The Senator from Georgia is recognized.

IRAQ

Mr. CHAMBLISS. Mr. President, for the past several days, I have followed the remarks of the senior Senator from Massachusetts relative to Iraq and the war on terrorism. He likes to talk more about yesterday and not as much about tomorrow. He finds fault in everything that the President and his team have done to protect our lives, our liberties, and our way of life. He interprets facts to fit his dismal view of Iraq.

What bothers me the most about his many public statements condemning the war in Iraq is that he does so while we still have troops engaged in securing that country. These troops know it is vital—absolutely vital—for the long-term security of the United States and our allies that they succeed in helping Iraq become a free and democratic country.

The most recent edition of the Army Times newspaper contains a very telling survey of Active Duty, Reserve and National Guard troops on their views of Iraq and the Presidential race which bears out this point. This is the October 11th edition of the Army Times.

I ask unanimous consent that the article, which appears beginning on page 14, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Army Times]

THE MILITARY

(By Gordon Trowbridge)

President Bush retains overwhelming support among the military's professional core despite a troubled mission in Iraq and an opponent who is a decorated combat veteran, a Military Times survey of more than 4,000 readers indicates.

Bush leads Democratic Sen. John Kerry 73 percent to 18 percent in the voluntary survey of 4,165 active-duty, National Guard and reserve subscribers to Army Times, Navy Times, Marine Corps Times and Air Force Times.

Though the results of the Military Times 2004 Election Survey are not representative of the opinions of the military as a whole, they are a disappointment to Democrats who hoped Kerry's record and doubts about Bush would give their candidate an opening in a traditionally Republican group with tremendous symbolic value in a closely contested election.

"For a long time, Kerry thought he had a chance to win the mantle and beat Bush on the issue of who could be the better commander in chief," said Peter Feaver, a political science professor at Duke University who has written extensively on civil-military relations and the political opinions of those in uniform.

Feaver said journalists and political analyst focus heavily on the opinions of military members because of a situation the nation hasn't faced in more than 30 years: a heated presidential race amid a difficult and controversial war.

While the survey found some readers with doubts about Bush's handling of the war in Iraq, there was remarkable consistency in their views of the two candidates.

Officers and enlisted troops, active-duty members and reservists, those who have served in combat zones and those who haven't, all supported Bush by large margins. And the survey hints that Kerry's emphasis of his decorated service in Vietnam may have done more harm than good with those in uniform.

"FROM THE HEART"

"It's about honesty and integrity," said Marine Sgt. Jason Jester, who was interviewed separately from the survey.

Jester, a recruiter from Winston-Salem, N.C., voted for Bush in 2000 and plans to do so again.

"He might not always make the right decisions, but I think the decisions he makes come from the heart."

To conduct the survey, Military Times e-mailed more than 31,000 subscribers Sept. 15. They were invited to access an Internet site seeking their opinions on the presidential race and related issues. From Sept. 21 to 28, and before the first presidential debate on Sept. 30, a total of 2,754 active-duty and 1,411 reserve and Guard members took part.

The nature of the survey led experts to caution against reading the results as representative of the military as a whole.

Unlike most public opinion polls, the Military Times survey did not randomly select those to question. Instead, subscribers with e-mail addresses on file were sent an invitation. That means there is no statistical margin of error for the survey—so it's impossible to calculate how accurately the results reflect the views of Military Times readers.

The surveyed group is older, higher in rank and more career-oriented than the military as a whole. Junior enlisted troops in particular are underrepresented in the group that responded.

But as a snapshot of the careerist core of the armed services, the survey holds little good news for Kerry, revealing a group with strong Republican leanings that the Democratic challenger has not shaken. Among the findings:

Echoing previous Military Times polls and other research, the survey found a group with a close affinity for the Republican Party. About 60 percent of those surveyed identified themselves as Republicans, while 13 percent consider themselves Democrats and 20 percent independents. Among the general population, pollsters usually find voters evenly divided among Republicans, Democrats and independents.

Mr. CHAMBLISS. Mr. President, the caption is: "Troops sound off. Who do you choose for President and why?"

Among Active-Duty forces, 66 percent in this poll said the most important issue for them in deciding for whom to vote is the war in Iraq. In the same poll, 60 percent said they approve of the way President Bush is handling the situation in Iraq, and 72 percent said if the Presidential election were held today, they would vote for President Bush. That is quite a statement of support for the Commander in Chief and his policies in Iraq from those who are actually doing the fighting and the dirty work to bring security and prosperity to that country.

Even more significant are the results from the Reserve and National Guard troops who have been called to active duty and deployed to Iraq. Among this group, 72 percent said the most important issue for them is the war in Iraq; 63 percent approve of the President's policies in Iraq; and a full 76 percent of the Reserve and National Guard soldiers who have actually been deployed to a combat zone said they are planning on voting for President Bush. These are amazing figures from both our Active Duty and Reserve Forces that tell us much more about what is going on in Iraq than just the reports of the bombings and kidnaping.

Listening to the assessments from my colleague from Massachusetts begs the question: Why do the vast majority of our soldiers and marines engaged in ground operations in Iraq appreciate the importance of our mission there and believe they are engaged in a historical struggle that will lead to a better world and a safer America when a senior Senator cannot see the same thing? Are they right or is he right?

As I reflect on the words of the Senator from Massachusetts, I am reminded of that famous quotation made by McLandburgh Wilson:

> Twixt the optimist and pessimist,
> The difference is droll:
> The optimist sees the doughnut,
> But the pessimist sees the hole.

When it comes to Iraq and the war on terrorism, my colleague from Massachusetts sees the hole, when he should be seeing the doughnut.

I suspect that nothing we say in this Chamber will change his views on the issue. Nevertheless, I feel obligated to make some remarks about why our troops are fighting in Iraq, and why some are giving the ultimate sacrifice for our country. It is important for our troops and their families to know that not all Senators only see the "hole."

Our policy in Iraq should not be viewed in isolation. The issue is far more complex than that. It is important to understand the linkage between the Islamic terrorists who want to destroy us and the totalitarian regimes under which so many of them were raised. People who have such a deranged view of a Supreme Being that they believe their religion sanctions their own suicide, while killing innocent people, and do not come from free, open, and democratic countries and societies.

Let me explain how I look at Iraq and the war on terrorism. If we look at each incident individually, each bombing, each hostage taking, each killing, et cetera, we get one impression of these events. What we should do instead is put ourselves in the place of an eagle soaring high and looking down on everything that is going on inside of Iraq.

When we take the eagle's view, this is what we see: Iraq is no longer a sanctuary for terrorists, it is no longer a country that threatens its neighbors, and it is no longer a threat to world peace and order.

The insurgency in Iraq is confined to 3 of the 18 provinces, and the country is preparing for its first democratic election only 4 months from now.

Iraqi leaders, Iraqi soldiers, and Iraqi policemen are stepping forward in the thousands to take back their country from the terrorists.

All we have to do to see what progress is being made in this area is to look at the success we have had just over this weekend. It was not just American troops who had success in Samarra, one of the most violent places inside of Iraq; it was the now-trained Iraqi security police who fought side by side with the American troops, who received the praise of the American troops for the training, preparation, and the great job they did in not just helping secure the peace but driving the insurgents out of that town and providing a safer and more secure community in which the people could live.

America, along with many other countries, remains firm and will not be deterred from achieving the goal of seeing a democracy in Iraq.

There is a realistic understanding of the difficulties and dangers in Iraq, but there are also visionary, optimistic leaders in Iraq and in the many countries that make up the multinational force who are determined to see the insurgency fail.

There have been many references to the July 2004 National Intelligence Estimate, or the NIE. In fact, Senator KENNEDY said in this Chamber on 29 September 2004 that the best case scenario in that NIE was that violence in Iraq would continue at current levels, with tenuous political and economic stability. Regardless of what this classified NIE actually said, I do know it was based on information that is but a snapshot in time and that time continues to move on.

There are many things visible today that were not clear when that NIE was written. The character of the Iraqi leadership was unknown last June, but no one who heard Prime Minister Allawi speak to the Joint Session of Congress recently could be anything but impressed with his enthusiasm, his intellect, and, most importantly, his determination to see a free and safe and democratic Iraq.

Lieutenant General Petraeus has been working assiduously to build up the Iraqi security forces. Last June, when the NIE was written, very few of those forces had completed their training. Now trained and competent Iraqi Army and police units are on duty and are assuming the major role in restoring security in their own country, and the training continues, so we can expect even more Iraqi security forces to assume their duties every month, just as they did in Samarra this past weekend.

We are engaged in an enormous struggle of historic proportions to see freedom and democracy spread throughout the Islamic world, and this will set the foundation for a final peaceful solution between Israel and Palestine. It will also, in the long term, eliminate the politically oppressive environment and poor economic conditions that have been the breeding grounds for terrorists to find new recruits.

I want to say to our military personnel and their families that your role in this historic and important struggle is the key to its success. You will look back with pride on your contributions and your sacrifices to make our country and the world safer. When you see what you have accomplished from an eagle's view, you will not see the hole that a pessimist sees.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that notwithstanding morning business, it now be in order to consider amendments to the pending intelligence reform bill, and for the information of all Senators, these are amendments that have been cleared on both sides. This will only take a few moments.

The PRESIDING OFFICER (Mr. CHAMBLISS). Is there objection?

Mr. STEVENS. Reserving the right to object, I intended to speak for 1 minute before the time had expired for morning business. Will the Senator yield for just one brief comment?

Ms. COLLINS. I will be happy to yield.

The PRESIDING OFFICER. The Senator from Alaska.

INTELLIGENCE REFORM

Mr. STEVENS. Mr. President, this bill came to the floor on September 27. It was debated a few hours, the 28th and 29th similarly. On the 30th, it was debated about half a day. Yesterday, we started business on the bill sometime around noon. Today, we are voting cloture on the seventh calendar day, but probably less than 3 days of debate. I think this rush is unbecoming of the Senate.

I shall oppose cloture, and I want the record to show I do not think this subject, reform of the intelligence community, has ever taken such a short period of time. We are acting under pressure primarily from two men whose business was through when they filed their report. I am appalled that we are moving at this pace.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I note that the debate on this bill has been extensive. The Senator from Connecticut and I were here until 9 p.m. last night. We were here until after 6 o'clock on Friday. We have been here, although others have not been here, debating all day every day.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

AMENDMENT NO. 3933, AS MODIFIED

Ms. COLLINS. Mr. President, the first amendment I call up is amendment No. 3933, as modified, with the changes that are at the desk. This is an amendment from Senators CANTWELL, SESSIONS, SCHUMER, and KYL.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for Ms. CANTWELL, herself, Mr. SESSIONS, Mr. SCHUMER, and Mr. KYL, proposes an amendment numbered 3933, as modified.

The amendment is as follows:

At the appropriate place, insert the following:

SEC. . BIOMETRIC STANDARD FOR VISA APPLICATIONS.

(a) SHORT TITLE.—This section may be cited as the "Biometric Visa Standard Distant Borders Act".

(b) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—Section 303(c) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1732(c)) is amended to read as follows:

"(c) TECHNOLOGY STANDARD FOR VISA WAIVER PARTICIPANTS.—

"(1) IN GENERAL.—Not later than October 26, 2006, the Secretary of State shall certify to Congress which of the countries designated to participate in the visa waiver program established under section 217 of the Immigration and Nationality Act (8 U.S.C. 1187) are developing a program to issue to individuals seeking to enter that country pursuant to a visa issued by that country, a machine readable visa document that is tamper-resistant and incorporates biometric identification information that is verifiable at its port of entry.

"(2) SAVINGS CLAUSE.—This subsection shall not be construed to rescind the requirement of section 217(a)(3) of the Immigration and Nationality Act (8 U.S.C. 1187(a)(3)).".

The PRESIDENT pro tempore. The amendment is pending. Is there further debate? If not, without objection, the amendment is agreed to.

The amendment (No. 3933), as modified, was agreed to.

AMENDMENT NO. 3957

Ms. COLLINS. Mr. President, I now call up a managers' amendment that is at the desk and, again, has been cleared on both sides of the aisle.

The PRESIDENT pro tempore. The clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself, and Mr. LIEBERMAN, proposes an amendment numbered 3957.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The PRESIDENT pro tempore. Is there further debate on this amendment? If not, without objection the amendment is agreed to.

The amendment (No. 3957) was agreed to.

AMENDMENTS NOS. 3712, AS MODIFIED, AND 3768, AS FURTHER MODIFIED

Ms. COLLINS. Madam President, I ask unanimous consent, notwithstanding morning business, that I send two amendments to the desk and ask the pending amendment also be set aside, to S. 2845.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. On behalf of Senator ROCKEFELLER and Senator BAUCUS, these amendments have been cleared on both sides and I urge their adoption en bloc.

The PRESIDING OFFICER. Without objection, the amendments are agreed to.

The amendments were agreed to, as follows:

AMENDMENT NO. 3172, AS MODIFIED

(Purpose: To provide improved aviation security)

At the appropriate place, insert the following:

TITLE —AVIATION SECURITY

SEC. —01. IMPROVED PILOT LICENSES.

(a) IN GENERAL.—Within 90 days after the date of enactment of this Act, the Federal Aviation Administrator may develop a system for the issuance of any pilot's license issued more than 180 days after the date of enactment of this Act that—

(1) are resistant to tampering, alteration, and counterfeiting;

(2) include a photograph of the individual to whom the license is issued; and

(3) are capable of accommodating a digital photograph, a biometricl measure, or other unique identifier that provides a means of—

(A) ensuring its validity; and

(B) revealing whether any component or security feature of the license has been compromised.

(b) USE OF DESIGNEES.—The Administrator of the Federal Aviation Administration may use designees to carry out subsection (a) to the extent feasible in order to minimize the burden of such requirements on pilots.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Administrator for fiscal year 2005, $50,000,000 to carry out subsection (a).

SEC. —02. AIRCRAFT CHARTER CUSTOMER PRESCREENING.

(a) IN GENERAL.—Within 1 year after the date of enactment of this Act, or as soon as practicable thereafter, the Secretary of Homeland Security shall establish a process by which operators of charter aircraft with a maximum takeoff weight of greater than 12,500 pounds may—

(1) request the Transportation Security Administration to compare information about any individual seeking to charter an aircraft, and any passengers proposed to be transported aboard the aircraft, with a comprehensive, consolidated database or watchlist containing information about known or suspected terrorists and their associates; and

(2) refuse to charter an aircraft to or transport aboard such aircraft any persons identified on such database or watchlist.

(b) Privacy Safeguards.—The Secretary shall take appropriate measures to ensure that—

(1) the Transportation Security Administration does not disclose information to any person engaged in the business of chartering aircraft other than whether an individual compared against government watchlists constitutes a flight security or terrorism risk; and

(2) an individual denied access to an aircraft is given an opportunity to consult the Transportation Security Administration for the purpose of correcting mis-identification errors, resolve confusion resulting from names that are the same as or similar to names on available government watchlists, and address other information that is alleged to be erroneous, that may have resulted in the denial.

(c) Transfer.—The Secretary shall assess procedures to transfer responsibility for conducting reviews of any appropriate government watchlists under this section from persons engaged in the business of chartering air carriers to the public to the Secretary.

(d) Authority of the Secretary.—Nothing in this section precludes the Secretary from requiring operators of charter aircraft to comply with security procedures, including those established under subsection (a), if the Secretary determines that such a requirement is necessary based on threat conditions.

(e) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the provisions of this section.

SEC. —03. AIRCRAFT RENTAL CUSTOMER PRESCREENING.

(a) In General.—Within 1 year after the date of enactment of this Act, or as soon as practicable thereafter, the Secretary of Homeland Security shall establish a process by which operators of rental aircraft with a maximum takeoff weight of greater than 12,500 pounds may—

(1) request the Transportation Security Administration to compare information about any individual seeking to rent an aircraft, and any passengers proposed to be transported aboard the aircraft, with a comprehensive, consolidated database or watchlist containing information about known or suspected terrorists and their associates; and

(2) refuse to rent an aircraft to or transport aboard such aircraft any persons identified on such database or watchlist.

(b) Privacy Safeguards.—The Secretary shall take appropriate measures to ensure that—

(1) the Transportation Security Administration does not disclose information to any person engaged in the business of renting aircraft other than whether an individual compared against government watchlists constitutes a flight security or terrorism risk; and

(2) an individual denied access to an aircraft is given an opportunity to consult the Transportation Security Administration for the purpose of correcting mis-identification errors, resolve confusion resulting from names that are the same as or similar to names on available government watchlists, and address other information that is alleged to be erroneous, that may have resulted in the denial.

(c) Transfer.—The Secretary shall assess procedures to transfer responsibility for conducting reviews of any appropriate government watchlists under this section from persons engaged in the business of renting aircraft to the public to the Secretary.

(d) Authority of the Secretary.—Nothing in this section precludes the Secretary from requiring operators of rental aircraft to comply with security procedures, including those established under subsection (a), if the Secretary determines that such a requirement is necessary based on threat conditions.

(e) Authorization of Appropriations.—There are authorized to be appropriated to the Secretary such sums as may be necessary to carry out the provisions of this section.

SEC. —04. REPORT ON RENTAL AND CHARTER CUSTOMER PRESCREENING PROCEDURES.

(a) In General.—Within 12 months after the date of enactment of this Act, the Secretary of Homeland Security shall transmit a report to Congress on the feasibility of extending the requirements of section —02, section —03, or both sections to apply to aircraft with a maximum certificated takeoff weight of 12,500 pounds or less.

(b) Issues Addressed.—The report shall—

(1) examine the technology and communications systems needed to carry out such procedures;

(2) provide an analysis of the risks posed by such aircraft; and

(3) examine the operational impact of proposed procedures on the commercial viability of that segment of charter and rental aviation operations.

SEC. —05. AVIATION SECURITY STAFFING.

(a) Staffing Level Standards.—

(1) Development of standards.—Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation and Federal Security Directors, shall develop standards for determining the appropriate aviation security staffing standards for all commercial airports in the United States necessary—

(A) to provide necessary levels of aviation security; and

(B) to ensure that the average aviation security-related delay experienced by airline passengers is minimized.

(2) GAO analysis.—The Comptroller General shall, as soon as practicable after the date on which the Secretary of Homeland Security has developed standards under paragraph (1), conduct an expedited analysis of the standards for effectiveness, administrability, ease of compliance, and consistency with the requirements of existing law.

(3) Report to congress.—Within 120 days after the date of enactment of this Act, the Secretary of Homeland Security and the Comptroller General shall transmit a report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on the standards developed under paragraph (1), together with recommendations for further improving the efficiency and effectiveness of the screening process, including the use of maximum time delay goals of no more than 10 minutes on the average.

(b) Integration of Federal Airport Workforce and Aviation Security.—The Secretary of Homeland Security shall conduct a study of the feasibility of combining operations of Federal employees involved in screening at commercial airports and aviation security related functions under the aegis of the Department of Homeland Security in order to coordinate security-related activities, increase the efficiency and effectiveness of those activities, and increase commercial air transportation security.

SEC. —06. IMPROVED AIR CARGO AND AIRPORT SECURITY.

(a) In General.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration, in addition to any amounts otherwise authorized by law, for the purpose of improving aviation security related to the transportation of cargo on both passenger aircraft and all-cargo aircraft—

(1) $200,000,000 for fiscal year 2005;

(2) $200,000,000 for fiscal year 2006; and

(3) $200,000,000 for fiscal year 2007.

(b) Next-Generation Cargo Security Grant Program.—

(1) In general.—The Secretary shall establish and carry out a grant program to facilitate the development, testing, purchase, and deployment of next-generation air cargo security technology. The Secretary shall establish such eligibility criteria, establish such application and administrative procedures, and provide for such matching funding requirements, if any, as may be necessary and appropriate to ensure that the technology is deployed as fully and as rapidly as practicable.

(2) Research and development; deployment.—To carry out paragraph (1), there are authorized to be appropriated to the Secretary for research and development related to next-generation air cargo security technology as well as for deployment and installation of next-generation air cargo security technology, such sums are to remain available until expended—

(A) $100,000,000 for fiscal year 2005;

(B) $100,000,000 for fiscal year 2006; and

(C) $100,000,000 for fiscal year 2007.

(c) Authorization for Expiring and New LOIs.—

(1) In general.—There are authorized to be appropriated to the Secretary $150,000,000 for each of fiscal years 2005 through 2007 to fund projects and activities for which letters of intent are issued under section 44923 of title 49, United States Code, after the date of enactment of this Act.

(2) Period of reimbursement.—Notwithstanding any other provision of law, the Secretary may provide that the period of reimbursement under any letter of intent may extend for a period not to exceed 10 years after the date that the Secretary issues such letter, subject to the availability of appropriations. This paragraph applies to letters of intent issued under section 44923 of title 49, United States Code, or section 367 of the Department of Transportation and Related Agencies Appropriation Act, 2003 (49 U.S.C. 47110 note).

(d) Reports.—The Secretary shall transmit an annual report for fiscal year 2005, fiscal year 2006, and fiscal year 2007 to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on—

(1) the progress being made toward, and the status of, deployment and installation of

next-generation air cargo security technology under subsection (b); and

(2) the amount and purpose of grants under subsection (b) and the locations of projects funded by such grants.

SEC. —07. AIR CARGO SECURITY MEASURES.

(a) Enhancement of Air Cargo Security.—The Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall develop and implement a plan to enhance air cargo security at airports for commercial passenger and cargo aircraft that incorporates the recommendations made by the Cargo Security Working Group of the Aviation Security Advisory Committee.

(b) Supply Chain Security.—The Administrator of the Transportation Security Administration shall—

(1) promulgate regulations requiring the evaluation of indirect air carriers and ground handling agents, including background checks and checks against all Administration watch lists; and

(2) evaluate the potential efficacy of increased use of canine detection teams to inspect air cargo on passenger and all-cargo aircraft, including targeted inspections of high risk items.

(c) Increased Cargo Inspections.—Within 1 year after the date of enactment of this Act, the Secretary of Homeland Security shall require that the percentage of cargo screened or inspected is at least two-fold the percentage that is screened or inspected as of September 30, 2004.

(c) All-Cargo Aircraft Security.—Subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

"§44925. All-cargo aircraft security.

"(a) Access to Flight Deck.—Within 180 days after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall—

"(1) issue an order (without regard to the provisions of chapter 5 of title 5)—

"(A) requiring, to the extent consistent with engineering and safety standards, that all-cargo aircraft operators engaged in air transportation or intrastate air transportation maintain a barrier, which may include the use of a hardened cockpit door, between the aircraft flight deck and the aircraft cargo compartment sufficient to prevent unauthorized access to the flight deck from the cargo compartment, in accordance with the terms of a plan presented to and accepted by the Administrator of the Transportation Security Administration in consultation with the Federal Aviation Administrator; and

"(B) prohibiting the possession of a key to a flight deck door by any member of the flight crew who is not assigned to the flight deck; and

"(2) take such other action, including modification of safety and security procedures and flight deck redesign, as may be necessary to ensure the safety and security of the flight deck.

"(b) Screening and Other Measures.—Within 1 year after the date of enactment of this Act, the Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, shall issue an order (without regard to the provisions of chapter 5 of title 5) requiring—

"(1) all-cargo aircraft operators engaged in air transportation or intrastate air transportation to physically screen each person, and that person's baggage and personal effects, to be transported on an all-cargo aircraft engaged in air transportation or intrastate air transportation;

"(2) each such aircraft to be physically searched before the first leg of the first flight of the aircraft each day, or, for inbound international operations, at aircraft operator's option prior to the departure of any such flight for a point in the United States; and

"(3) each such aircraft that is unattended overnight to be secured or sealed or to have access stairs, if any, removed from the aircraft.

"(c) Alternative Measures.—The Administrator of the Transportation Security Administration, in coordination with the Federal Aviation Administrator, may authorize alternative means of compliance with any requirement imposed under this section.".

(d) Conforming Amendment.—The subchapter analysis for subchapter I of chapter 449, United States Code, is amended by adding at the end the following:

"44925. All-cargo aircraft security.".

SEC. —08. EXPLOSIVE DETECTION SYSTEMS.

(a) In-Line Placement of Explosive-Detection Equipment.—Within 180 days after the date of enactment of this Act, the Secretary of Homeland Security shall establish a schedule for replacing trace-detection equipment used for in-line baggage screening purposes as soon as practicable where appropriate with explosive detection system equipment. The Secretary shall notify the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure of the schedule and provide an estimate of the impact of replacing such equipment, facility modification and baggage conveyor placement, on aviation security-related staffing needs and levels.

(b) Next Generation EDS.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $100,000,000, in addition to any amounts otherwise authorized by law, for the purpose of research and development of next generation explosive detection systems for aviation security under section 44913 of title 49, United States Code. The Secretary shall develop a plan and guidelines for implementing improved explosive detection system equipment.

(c) Portal Detection Systems.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $250,000,000, in addition to any amounts otherwise authorized by law, for research and development and installation of portal detection systems or similar devices for the detection of biological, radiological, and explosive materials. The Secretary of Homeland Security shall establish a pilot program at not more than 10 commercial service airports to evaluate the use of such systems.

(d) Reports.—The Secretary shall transmit an annual report to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure on research and development projects funded under subsection (b) or (c), and the pilot program established under subsection (c), including cost estimates for each phase of such projects and total project costs.

SEC. —09. AIR MARSHAL PROGRAM.

(a) Cross-Training.—The Secretary of Homeland Security shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the potential for cross-training of individuals who serve as air marshals and on the need for providing contingency funding for air marshal operations.

(b) Authorization of Additional Appropriations.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of Inspections and Customs Enforcement, in addition to any amounts otherwise authorized by law, for the deployment of Federal Air Marshals under section 44917 of title 49, United States Code, $83,000,000 for the 3 fiscal year period beginning with fiscal year 2005, such sums to remain available until expended.

SEC. —10. TSA-RELATED BAGGAGE CLAIM ISSUES STUDY.

Within 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in consultation with the Secretary of Transportation, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on the present system for addressing lost, stolen, damaged, or pilfered baggage claims relating to air transportation security screening procedures. The report shall include—

(1) information concerning the time it takes to settle such claims under the present system;

(2) a comparison and analysis of the number, frequency, and nature of such claims before and after enactment of the Aviation and Transportation Security Act using data provided by the major United States airlines; and

(3) recommendations on how to improve the involvement and participation of the airlines in the baggage screening and handling processes and better coordinate the activities of Federal baggage screeners with airline operations.

SEC. —11. REPORT ON IMPLEMENTATION OF GAO HOMELAND SECURITY INFORMATION SHARING RECOMMENDATIONS.

Within 30 days after the date of enactment of this Act, the Secretary of Homeland Security, after consultation with the heads of Federal departments and agencies concerned, shall transmit to the Senate Committee on Commerce, Science, and Transportation and the House of Representatives Committee on Transportation and Infrastructure a report on implementation of recommendations contained in the General Accounting Office's report titled "Homeland Security: Efforts To Improve Information Sharing Need To Be Strengthened" (GAO-03-760), August, 2003.

SEC. —12. AVIATION SECURITY RESEARCH AND DEVELOPMENT.

(a) Biometrics.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $20,000,000, in addition to any amounts otherwise authorized by law, for research and development of biometric technology applications to aviation security.

(b) Biometrics Centers of Excellence.—There are authorized to be appropriated to the Secretary of Homeland Security for the use of the Transportation Security Administration $1,000,000, in addition to any amounts otherwise authorized by law, for the establishment of competitive centers of excellence at the national laboratories.

SEC. —13. PERIMETER ACCESS TECHNOLOGY.

There are authorized to be appropriated to the Secretary of Homeland Security

$100,000,000 for airport perimeter security technology, fencing, security contracts, vehicle tagging, and other perimeter security related operations, facilities, and equipment, such sums to remain available until expended.

SEC. —14. BEREAVEMENT FARES.

(a) IN GENERAL.—Chapter 415 of title 49, United States Code, is amended by adding at the end the following:

"§ 41512. Bereavement fares.

"Air carriers shall offer, with appropriate documentation, bereavement fares to the public for air transportation in connection with the death of a relative or other relationship (as determined by the air carrier) and shall make such fares available, to the greatest extent practicable, at the lowest fare offered by the air carrier for the flight for which the bereavement fare is requested.".

(b) CONFORMING AMENDMENT.—The chapter analysis for chapter 415 is amended by inserting after the item relating to section 41511 the following:

"41512. Bereavement fares".

SEC. —15. REVIEW AND REVISION OF PROHIBITED ITEMS LIST.

Not later than 60 days after the date of enactment of this Act, the Transportation Security Administration shall complete a review of its Prohibited Items List, set forth in 49 C.F.R. 1540, and release a revised list that—

(1) prohibits passengers from carrying butane lighters onboard passenger aircraft; and

(2) modifies the Prohibited Items List in such other ways as the agency may deem appropriate.

SEC. —16. REPORT ON PROTECTING COMMERCIAL AIRCRAFT FROM THE THREAT OF MAN-PORTABLE AIR DEFENSE SYSTEMS.

(a) REQUIREMENT.—The Secretary of Homeland Security, in coordination with the head of the Transportation Security Administration and the Under Secretary for Science and Technology, shall prepare a report on protecting commercial aircraft from the threat of man-portable air defense systems (referred to in this section as "MANPADS").

(b) CONTENT.—The report required by subsection (a) shall include the following:

(1) An estimate of the number of organizations, including terrorist organizations, that have access to MANPADS and a description of the risk posed by each organization.

(2) A description of the programs carried out by the Secretary of Homeland Security to protect commercial aircraft from the threat posed by MANPADS.

(3) An assessment of the effectiveness and feasibility of the systems to protect commercial aircraft under consideration by the Under Secretary for Science and Technology for use in phase II of the counter-MANPADS development and demonstration program.

(4) A justification for the schedule of the implementation of phase II of the counter-MANPADS development and demonstration program.

(5) An assessment of the effectiveness of other technology that could be employed on commercial aircraft to address the threat posed by MANPADS, including such technology that is—

(A) either active or passive;

(B) employed by the Armed Forces; or

(C) being assessed or employed by other countries.

(6) An assessment of alternate technological approaches to address such threat, including ground-based systems.

(7) A discussion of issues related to any contractor liability associated with the installation or use of technology or systems on commercial aircraft to address such threat.

(8) A description of the strategies that the Secretary may employ to acquire any technology or systems selected for use on commercial aircraft at the conclusion of phase II of the counter-MANPADS development and demonstration program, including—

(A) a schedule for purchasing and installing such technology or systems on commercial aircraft; and

(B) a description of—

(i) the priority in which commercial aircraft will be equipped with such technology or systems;

(ii) any efforts to coordinate the schedules for installing such technology or system with private airlines;

(iii) any efforts to ensure that aircraft manufacturers integrate such technology or systems into new aircraft; and

(iv) the cost to operate and support such technology or systems on a commercial aircraft.

(9) A description of the plan to expedite the use of technology or systems on commercial aircraft to address the threat posed by MANPADS if intelligence or events indicate that the schedule for the use of such technology or systems, including the schedule for carrying out development and demonstration programs by the Secretary, should be expedited.

(10) A description of the efforts of the Secretary to survey and identify the areas at domestic and foreign airports where commercial aircraft are most vulnerable to attack by MANPADS.

(11) A description of the cooperation between the Secretary and the Administrator of the Federal Aviation Administration to certify the airworthiness and safety of technology and systems to protect commercial aircraft from the risk posed by MANPADS in an expeditious manner.

(c) TRANSMISSION TO CONGRESS.—The report required by subsection (a) shall be transmitted to Congress along with the budget for fiscal year 2006 submitted by the President pursuant to section 1105(a) of title 31, United States Code.

SEC. —17. SCREENING DEVICES TO DETECT CHEMICAL AND PLASTIC EXPLOSIVES.

Not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a report on the current status of efforts, and the additional needs, regarding passenger and carry-on baggage screening equipment at United States airports to detect explosives, including in chemical and plastic forms. The report shall include the cost of and timetable for installing such equipment and any recommended legislative actions.

SEC. —18. REPORTS ON THE FEDERAL AIR MARSHALS PROGRAM.

Not later than 90 days after the date of enactment of this Act, and every 90 days thereafter, the Secretary of Homeland Security shall provide to the Senate Committee on Commerce, Science, and Transportation a classified report on the number of individuals serving only as sworn Federal air marshals. Such report shall include the number of Federal air marshals who are women, minorities, or employees of departments or agencies of the United States Government other than the Department of Homeland Security, the percentage of domestic and international flights that have a Federal air marshal aboard, and the rate at which individuals are leaving service as Federal air marshals.

SEC. —19. SECURITY OF AIR MARSHAL IDENTITY.

(a) IN GENERAL.—The Secretary of the Department of Homeland Security shall designate individuals and parties to whom Federal air marshals shall be required to identify themselves.

(b) PROHIBITION.—Notwithstanding any other provision of law, no procedure, guideline, rule, regulation, or other policy shall expose the identity of an air marshal to anyone other than those designated by the Secretary under subsection (a).

SEC. —20. SECURITY MONITORING CAMERAS FOR AIRPORT BAGGAGE HANDLING AREAS.

(a) IN GENERAL.—The Under Secretary of Homeland Security for Border Transportation and Security shall provide assistance, subject to the availability of funds, to public airports that have baggage handling areas that are not open to public view in the acquisition and installation of security monitoring cameras for surveillance of such areas in order to deter theft from checked baggage and to aid in the speedy resolution of liability claims against the Transportation Security Administration.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Homeland Security for fiscal year 2005 such sums as may be necessary to carry out this section, such sums to remain available until expended.

SEC. —21. EFFECTIVE DATE.

Notwithstanding any other provision of this act, this title takes effect on the date of enactment of this Act.

AMENDMENT NO. 3768, AS FURTHER MODIFIED

At the appropriate place, insert the following new section:

SEC. . ANNUAL REPORT ON THE ALLOCATION OF RESOURCES WITHIN THE OFFICE OF FOREIGN ASSETS CONTROL.

(a) REQUIREMENT FOR ANNUAL REPORT.—Not later than 180 days after the date of enactment of this Act, and annually thereafter, the Secretary of the Treasury shall submit to Congress a report on the allocation of resources within the Office of Foreign Assets Control.

(b) CONTENT OF ANNUAL REPORT.—An annual report required by subsection (a) shall include—

(1) a description of—

(A) the allocation of resources within the Office of Foreign Assets Control to enforce the economic and trade sanctions of the United States against terrorist organizations and targeted foreign countries during the fiscal year prior to the fiscal year in which such report is submitted; and

(B) the criteria on which such allocation is based;

(2) a description of any proposed modifications to such allocation; and

(3) an explanation for any such allocation that is not based on prioritization of threats determined using appropriate criteria, including the likelihood that—

(A) a terrorist organization or targeted foreign country—

(i) will sponsor or plan a direct attack against the United States or the interests of the United States; or

(ii) is participating in or maintaining a nuclear, biological, or chemical weapons development program; or

(B) a targeted foreign country—

(i) is financing, or allowing the financing, of a terrorist organization within such country; or

(ii) is providing safe haven to a terrorist organization within such country.

(c) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall take effect on the date of the enactment of this Act.

Mr. BAUCUS. Mr. President, this amendment goes to the heart of our debate over the structure and purpose of the U.S. intelligence community. My amendment addresses the allocation of resources at Treasury's Office of Foreign Assets Control, or OFAC.

Much of our attention has focused on the creation of a new, independent office to oversee our intelligence activities. Often lost in this debate are the details about many of the smaller, lesser known Federal agencies whose efforts are essential to our national security.

Even though many people don't know who they are, OFAC is one of our most powerful weapons in the war on terrorism, because it is charged with tracking down and identifying the international sources of terrorist financing.

Unfortunately, OFAC is also tasked with administration of the Cuba travel ban. As we all know, U.S. policy toward Cuba is a highly emotional and divisive issue. Still, I would doubt that anyone seriously thinks that travel by Americans to Cuba poses a larger or more serious threat to U.S. interests than al-Qaida or the insurgents in Iraq, or Syria, Iran or North Korea.

My colleagues might be surprised and disturbed, then, to learn that—at the direction of the State Department—OFAC diverts more of its personnel resources to imposition of the Cuba travel ban than to any other country or project-specific issue.

According to their records, the equivalent of 21 full-time OFAC employees are allocated to the Cuba travel ban. On the other hand, only 16 are allocated to the search al-Qaida's financial sources of support.

Less than 15 full-time employee resources are spent on the former Iraq regime and its insurgents, and less than 14 are spent on Iran. Less than 10 are allocated to Syria, Sudan, and Libya combined. Afghanistan doesn't even merit one full-time employee—it receives the attention of roughly 2/3 of one full-time OFAC employee. North Korea only gets ⅓.

In other words, more OFAC personnel resources are spent on the effort to prevent Americans from vacationing in Cuba than are spent to track down and shut off the sources of funds used by al-Qaida to carry out terrorist activities.

This is an appalling diversion of our resources. If we hope to defeat the disparate threats arrayed against U.S. interests both here at home and abroad—we must dedicate our attention to the real dangers confronting us around the world. Wisely allocating our resources will better ensure our success.

The amendment I offer addresses this imbalance by requiring an annual report from OFAC on how it allocates its resources and the criteria it uses to make those resource decisions. It also outlines criteria that ought to be considered when prioritizing the threats posed by different countries and groups. Among these criteria are the likelihood that a country or organization is: planning or sponsoring a direct attack on U.S. interests; participating in a nuclear, biological, or chemical weapons development program; financing or allowing the financing of terrorists, or providing a safe haven to terrorists.

Colleagues, this is an issue of the highest importance. My amendment simply asks for common sense in the allocation of our limited resources. We cannot expect to win the war on terrorism if we refuse to dedicate our full and focused efforts to fighting it. In this time of crisis, the American people expect us to lead with vision and clarity. My amendment offers this.

I see no credible reason why OFAC should waste precious resources creating bureaucratic red tape for Montana producers who just want to negotiate legal agricultural sales to Cuba. Instead, OFAC should focus its resources where they are more urgently needed: on shutting down the financial networks of al-Qaida and other more serious threats to U.S. interests. That is why the Chairman of the Intelligence Committee supports this amendment, and that is why the American Farm Bureau Federation and the National Foreign Trade Council support this amendment.

I take this opportunity to thank Senator COLLINS and Senator LIEBERMAN, the chairwoman and ranking member managing this bill, and their staff, for all of their hard work on the Baucus-Roberts-Craig amendment.

The PRESIDENT pro tempore. The Senator from New Mexico is recognized. There is no further time remaining on the majority side. The minority has until 9:40 a.m.

IMPROVED NUTRITION AND PHYSICAL ACTIVITY

Mr. BINGAMAN. Mr. President, I rise to speak briefly about an important bill that I hope we can pass before the Congress leaves town and adjourns this year. That is the IMPACT bill, of which Senator FRIST is the prime sponsor. I have cosponsored it and various other Senators have also cosponsored it.

This is a bill that passed the Senate. It is awaiting action by the House. I wanted today to come to the floor and urge the House to bring up that bill and pass it so it can be sent to the President for his signature.

Just last week, the Institute of Medicine released a report on childhood obesity. It is a report that I requested in 2001. The report indicates that the prevention of obesity in children and youth needs to be a national public health priority.

Obesity-associated annual hospital costs for children and youth have more than tripled in two decades to $127 billion. In adults, national expenditures associated with overweight and obesity in adults ranges from $98 billion to $129 billion annually. The report calls on the government, industry, media, health care professionals, the nonprofit organizations, State and local educational authorities, schools, parents, and families to take immediate steps to confront this epidemic. And the IMPACT bill I have referred to will address many of those issues.

The bill is of critical importance. It tries to focus attention on these issues. There are a variety of provisions in the bill that I think are extremely important. It will direct us toward finding solutions, first, by preparing the health care community to deal with obesity in terms of prevention, diagnosis, and intervention by adding obesity, overweight, and eating disorders to the list of priority conditions to be addressed in the health professions title VII training grants.

Second, IMPACT supports community-based solutions to increase physical activity and improve nutrition on a number of levels. It provides funding for demonstration projects in communities and schools and health care organizations and other qualified entities that promote fitness or healthy nutrition.

It authorizes the Centers for Disease Control to collect fitness and energy fitness expenditure information from children.

It directs the Agency for Health Care Research and Quality to review any new information related to obesity trends among various subpopulations, and includes such information in its health disparities report.

It allows States to use their preventive services block grant funds for community education on nutrition and increased physical activity. And it instructs the Secretary to report on what research has been done in this area of obesity.

There are a variety of other provisions in the bill. The legislation is an excellent first step in the fight to improve health. It is not the only step we need to take, but it is a first step.

We also need to assist our schools in providing healthy nutrition options and expanding physical activity programs. We need to grow the workforce such that people have access to the health care professions they need to prevent, diagnose, and treat obesity, and we need to ensure that Medicare and Medicaid provide the services necessary to help people prevent obesity and its complications.

These are not small goals, but they are critical to our Nation's health, both today and in the future.

I want to continue working with Senator FRIST and other colleagues in the Senate to find new ways to address these goals, but before Congress adjourns this year we need to go ahead and call on the House to pass the legislation we have passed in the Senate. This is an important step and one that should not be delayed until the convening of a new Congress. I hope the House of Representatives will bring this legislation up quickly, will pass it, will send it to the President, and we can begin down the road of dealing with this serious problem that afflicts so many of our children.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DURBIN. How much time is remaining?

The PRESIDENT pro tempore. There are 9 minutes 22 seconds remaining.

PRESIDENTIAL DEBATES

Mr. DURBIN. Mr. President, the debate last week between Senator KERRY and President Bush marked a milestone in this campaign. Some 65 million Americans tuned in to this debate, which is an extraordinary number, more than tune in to such popular television shows as the Oscars. Certainly, we believe that Presidential debates serve that audience even more.

It was an important debate because it signaled the beginning of the real campaign. Despite all the time, effort, and money, it appears that a large group of American voters are waiting to these closing weeks, listening closely to the candidates, to make the decision about how they will vote on November 2, one of the most historic elections we have witnessed in recent times.

The debate come Friday night is going to be equally, if not more, important. We will move from the critical issue of national security and foreign policy to issues of great importance related to the domestic situation in America: How are things going for America's individuals and families and businesses?

We believe, as we look at the record, that the choice is going to be very clear. We will use the same matrix, the same measure President Ronald Reagan used when he ran for President, when he asked very bluntly: Are you better off today than you were 4 years ago?

When it comes to the domestic issues, we believe there is a compelling case and a compelling argument that America is not better off today than it was 4 years ago when President George W. Bush was sworn in. The numbers speak for themselves. This President will have lost more jobs as President than any President in the history of the United States since Herbert Hoover.

I have to explain for those not old enough that Herbert Hoover's Presidency was a disaster. It was the Great Depression. America saw more suffering from families and businesses in that period of time than at any time in that whole era, and now we have a President who came to office, George Bush, saying, give me a chance with my economic policy, and by every objective standard the President's economic policies have failed. They have failed to create jobs. We have seen an exodus of good-paying jobs. In my State, 160,000 manufacturing jobs have been lost. Some have been replaced, but virtually every single replacement job pays less, offers fewer, if any, benefits, and families find themselves falling behind.

Look at the national numbers. Consider what has happened. We have seen median household income across America decline by 3.4 percent under President Bush. That means the earning power of American families has gone down under Bush's economic policies while the costs of living have gone up. Gasoline prices are up 22 percent over when the President was elected, college tuition at public 4-year institutions up 28 percent, and family health care premiums up 45 percent. This is a backbreaking statistic because individual families cannot afford to go without health care insurance protection, and yet the cost goes up every year. It becomes increasingly expensive and less coverage is offered.

What has the Bush administration done to help working families deal with these increased costs of living? Virtually nothing. They have offered tax cuts for the wealthiest people in America, with the blind faith that if the richest people in America are given more money, somehow working Americans and middle-income Americans will prosper. It has failed. It has not worked. The debate on Friday night will focus on that.

President Bush will be held accountable not just for the situation in Iraq and the standing of the United States in the world but in terms of what he has done or failed to do for families. Listen to what has happened since President Bush has taken office: 1.6 million private sector jobs have been lost; 5.2 million more Americans have no health insurance. Since President Bush has been President, 5 million Americans have lost their health insurance, and 4.3 million Americans have descended into poverty. They were above the poverty line when President Bush came in. His economic policies have driven them below.

Household debt has risen $2.3 billion as families borrow more money to try to keep up with the costs. Personal bankruptcies have hit a record high. The S&P 500 has dropped 15 percent, decimating retirement savings of families across the board. The No Child Left Behind Program has not been funded, shortchanged by billions of dollars. There has been $500 billion taken out of the Social Security trust fund, and keep this in mind: When President Bush took office, we had a $236 billion surplus. Today, we have a $422 billion deficit. In fact, some argue, including my colleague from Illinois, that it is almost $700 billion when the Social Security trust fund that has been raided is added in.

This President, a so-called fiscal conservative, has driven us more deeply in debt than any President in our history, has lost more jobs than any President in 70 years. How will he answer the most basic question: Is America better off today than it was 4 years ago? By every objective measurable standard, when it comes to the comfort and hope of American families, the Bush administration has failed time and time again. They have a foreign policy which has put us in a situation in Iraq with no end in sight. They have an economic policy giving tax cuts to wealthy people, which has no sensitivity to the struggles working families are facing.

So how are the constituents of President Bush doing, what he calls his base, the wealthiest people in America? Pretty well. HMO profits are up 84 percent, CEO compensation up 20 percent, corporate profits up 15.3 percent. They are doing great on Wall Street but not too great on Main Street, and that is what the issue is going to be in St. Louis at Washington University on Friday night when Senator KERRY faces President Bush in a townhall meeting, where families from across the Midwest can ask the questions on their mind. These are the questions they will ask because they reflect the reality of family life in America.

The President promised us compassionate conservatism. He has failed when it comes to conservatism, as we have record historic deficits. He has certainly failed when it comes to compassion, as he has not addressed the most basic issues: making certain families have good jobs, that they have health insurance to cover them in times of need, that they can afford the college tuition so their kids can have a better life than they have had. These are the issues we are going to face.

What will we do in the Senate after we have considered this important bill on intelligence? We will go to a tax bill which is now in conference, which is larded up with some of the worst special interest favors we have seen in the history of this Senate. That is the best this Republican-led Senate can do, is come up with that kind of a bill at the end to give away literally tens of billions of dollars in a deficit economy to special interest groups again in Washington.

What will we do in this tax bill to help working families and small businesses pay for health insurance? Absolutely nothing. What will we do to stop good-paying jobs, manufacturing jobs, from being outsourced to other countries? Scarcely anything. Very little. It shows where the Republican priorities are on Capitol Hill and where the Republican priorities are in the White House, and it shows the clear choice that American voters are going to face on November 2.

I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The majority leader.

CLOTURE VOTE

Mr. FRIST. Madam President, in a very few minutes we come to a very important vote before this body, a vote that in many ways brings to a head the debate that has been on the floor the last week and a half to the last almost 2 weeks, a debate that focuses on the safety and security of the American people. This is a debate that does encompass a major reorganization to make our intelligence activities more efficient, more effective. The vote we will be taking in a few minutes is a product of us filing cloture at the end of last week to give focus to the debate.

I stand before you as majority leader to encourage our colleagues to vote for cloture. That means germane amendments will be considered. The amendments that have been introduced, that are pending, that are germane, will still be considered, can still be voted upon. In fact, germane amendments also that are brought to the floor can still be voted upon.

What it does mean is that over the next 30 hours we have a huge task and that task is to bring to closure and ultimately to a vote on this bill. It can be as long as 30 hours of debate but hopefully it will be much less than that. So I urge my colleagues to vote with the managers, with the leadership in the Senate for cloture on this very important bill.

The PRESIDING OFFICER. The minority leader.

Mr. DASCHLE. I join the majority leader in our enthusiastic support for the vote we will soon cast. I hope colleagues on both sides of the aisle will take this important step. This is an opportunity to make a statement about our determination, on a bipartisan basis, to move this legislation forward.

Senators have come forth with a lot of good ideas. I respect them. I appreciate the quality of the debate that we have had. It has been a very good debate. But now comes a time when I think we need to limit further amendments to those which are very relevant to the legislation, germane, and that is what this vote will do. Three commissions have made recommendations that are reflected in the legislative work that is before us today. Now is our opportunity to build upon that commission work, to build upon what the committee has done so diligently, and to work together to move this legislative vehicle along to accommodate the schedule we have here in the Senate, as well as the recognition that we still have to work with our House counterparts to resolve whatever outstanding differences there may be with them.

This is an important vote. I hope, as I say, that we can speak with one voice with regard to completing our work and moving on to the second phase of our 9/11 response, which is the legislative reorganization. I join with the leader and express the hope we can have a resounding vote on cloture this morning.

I yield the floor.

Mr. LEVIN. Mr. President, I will not vote to invoke cloture on the National Intelligence reform bill at this time.

This legislation reforming the intelligence agencies of our Government is a critical step in strengthening our national defense and our homeland security. If this cloture vote succeeds, it will prematurely cut off debate and prevent relevant amendments which could improve this legislation from being considered by the Senate. There are about 57 amendments currently pending before the Senate on this bill and perhaps half will be prevented from even being considered if cloture is invoked.

This is far-reaching and complex legislation which reorganizes the basic elements of our intelligence community. We cannot afford to get it wrong or we will end up making us less secure. We owe it to our constituents and the Nation, if necessary, to stay a few days longer in Washington and finish the job right. Frustrating the right of Senators to offer relevant amendments aimed at improving this legislation is unwise.

Mr. FRIST. Madam President, finally, what to expect over the course of the day. The cloture vote will occur here in a couple of minutes. We strongly encourage votes for cloture. You heard the Democratic leader and myself, and you have heard the managers also make the strong case for cloture.

Immediately, amendments will be considered that are germane. The focus, hopefully, will be on amendments that have been introduced that are germane, so I encourage those proponents to come forward and talk to the managers immediately. The clock does start ticking as soon as this vote is completed. With that, we have a limited amount of time so we need aggressively to start addressing this amendment by amendment, on the floor.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and intelligence and intelligence-related activities of the United States Government, and for other purposes.

Pending:

Lautenberg Amendment No. 3767, to specify that the National Intelligence Director shall serve for one or more terms of up to 5 years each.

Kyl Amendment No. 3801, to modify the privacy and civil liberties oversight.

Feinstein Amendment No. 3718, to improve the intelligence functions of the Federal Bureau of Investigation.

Stevens Amendment No. 3839, to strike section 201, relating to public disclosure of intelligence funding.

Ensign Amendment No. 3819, to require the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators.

Reid (for Schumer) Amendment No. 3887, to amend the Foreign Intelligence Surveillance Act of 1978 to cover individuals, other than United States persons, who engage in international terrorism without affiliation with an international terrorist group.

Reid (for Schumer) Amendment No. 3888, to establish the United States Homeland Security Signal Corps to ensure proper communications between law enforcement agencies.

Reid (for Schumer) Amendment No. 3889, to establish a National Commission on the United States-Saudi Arabia Relationship.

Reid (for Schumer) Amendment No. 3890, to improve the security of hazardous materials transported by truck.

Reid (for Schumer) Amendment No. 3891, to improve rail security.

Reid (for Schumer) Amendment No. 3892, to strengthen border security.

Reid (for Schumer) Amendment No. 3893, to require inspection of cargo at ports in the United States.

Reid (for Schumer) Amendment No. 3894, to amend the Homeland Security Act of 2002 to enhance cybersecurity.

Leahy/Grassley Amendment No. 3945, to require Congressional oversight of translators employed and contracted for by the Federal Bureau of Investigation.

Reed Amendment No. 3908, to authorize the Secretary of Homeland Security to award grants to public transportation agencies to improve security.

Reid (for Corzine/Lautenberg) Amendment No. 3849, to protect human health and the environment from the release of hazardous substances by acts of terrorism.

Reid (for Lautenberg) Amendment No. 3782, to require that any Federal funds appropriated to the Department of Homeland Security for grants or other assistance be allocated based strictly on an assessment of risks and vulnerabilities.

Reid (for Lautenberg) Amendment No. 3905, to provide for maritime transportation security.

Reid (for Harkin) Amendment No. 3821, to modify the functions of the Privacy and Civil Liberties Oversight Board.

Roberts Amendment No. 3739, to ensure the sharing of intelligence information in a manner that promotes all-sources analysis and to assign responsibility for competitive analysis.

Roberts Amendment No. 3750, to clarify the responsibilities of the Directorate of Intelligence of the National Counterterrorism Center for information-sharing and intelligence analysis.

Roberts Amendment No. 3747, to provide the National Intelligence Director with flexible administrative authority with respect to the National Intelligence Authority.

Roberts Amendment No. 3742, to clarify the continuing applicability of section 504 of the National Security Act of 1947 to the obligation and expenditure of funds appropriated for the intelligence and intelligence-related activities of the United States.

Kyl Amendment No. 3926, to amend the Immigration and Nationality Act to ensure that nonimmigrant visas are not issued to individuals with connections to terrorism or who intend to carry out terrorist activities in the United States.

Kyl Amendment No. 3881, to protect crime victims' rights.

Kyl Amendment No. 3724, to strengthen anti-terrorism investigative tools, promote information sharing, punish terrorist offenses.

Stevens Amendment No. 3827, to strike section 206, relating to information sharing.

Stevens Amendment No. 3840, to strike the fiscal and acquisition authorities of the National Intelligence Authority.

Stevens Amendment No. 3882, to propose an alternative section 141, relating to the Inspector General of the National Intelligence Authority.

Collins (for Inhofe) Amendment No. 3946 (to Amendment No. 3849), in the nature of a substitute.

Sessions Amendment No. 3928, to require aliens to make an oath prior to receiving a nonimmigrant visa.

Sessions Amendment No. 3873, to protect railroad carriers and mass transportation from terrorism.

Sessions Amendment No. 3871, to provide for enhanced Federal, State, and local enforcement of the immigration laws.

Sessions Amendment No. 3870, to make information sharing permanent under the USA PATRIOT ACT.

Warner Amendment No. 3876, to preserve certain authorities and accountability in the implementation of intelligence reform.

Collins (for Cornyn) Amendment No. 3803, to provide for enhanced criminal penalties for crimes related to alien smuggling.

Collins (for Baucus/Roberts) Modified Amendment No. 3768, to require an annual report on the allocation of funding within the Office of Foreign Assets Control of the Department of the Treasury.

Frist (for McConnell) Amendment No. 3930, to clarify that a volunteer for a federally-created citizen volunteer program and for the program's State and local affiliates is protected by the Volunteer Protection Act.

Frist (for McConnell) Amendment No. 3931, to remove civil liability barriers that discourage the donation of equipment to volunteer fire companies.

Levin Modified Amendment No. 3809, to exempt military personnel from certain personnel transfer authorities.

Levin Amendment No. 3810, to clarify the definition of National Intelligence Program.

Stevens Amendment No. 3830, to modify certain provisions relating to the Central Intelligence Agency.

Warner Amendment No. 3875, to clarify the definition of National Intelligence Program.

Warner Amendment No. 3874, to provide for the treatment of programs, projects, and activities within the Joint Military Intelligence Program and Tactical Intelligence and Related Activities programs as of the date of the enactment of the Act.

Reid (for Leahy) Amendment No. 3913, to address enforcement of certain subpoenas.

Reid (for Leahy) Amendment No. 3915, to establish criteria for placing individuals on the consolidated screening watch list of the Terrorist Screening Center.

Reid (for Leahy) Amendment No. 3916, to strengthen civil liberties protections.

Collins (for Frist) Modified Amendment No. 3895, to establish the National Counterproliferation Center within the National Intelligence Authority.

Collins (for Frist) Amendment No. 3896, to include certain additional Members of Congress among the congressional intelligence committees.

Sessions (for Grassley) Amendment No. 3850, to require the inclusion of information regarding visa revocations in the National Crime Information Center database.

Sessions (for Grassley) Amendment No. 3851, to clarify the effects of revocation of a visa.

Sessions (for Grassley) Amendment No. 3855, to combat money laundering and terrorist financing, to increase the penalties for smuggling goods into the United States.

Sessions (for Grassley) Amendment No. 3856, to establish a United States drug interdiction coordinator for Federal agencies.

Sessions/Ensign Amendment No. 3872, to amend the Immigration and Nationality Act to require fingerprints on United States passports and to require countries desiring to participate in the Visa Waiver Program to issue passports that conform to the biometric standards required for United States passports.

CLOTURE MOTION

The PRESIDING OFFICER. Under the previous order, the hour of 9:45 a.m. having arrived, the Senate will proceed to a vote on the motion to invoke cloture.

Under the previous order, the clerk will report the motion to invoke cloture.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. 2845, Calendar No. 716, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Bill Frist, Tom Daschle, Susan Collins, Lamar Alexander, Orrin Hatch, Lindsey Graham, John Warner, Judd Gregg, Saxby Chambliss, John Cornyn, Kay Bailey Hutchison, George Allen, Gordon Smith, Jim Talent, Norm Coleman, Ben Nighthorse Campbell, Mitch McConnell, Joseph Lieberman.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on S. 2845, the National Intelligence Reform Act of 2004, shall be brought to a close? The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

Mr. REID. I announce that the Senator from Hawaii (Mr. AKAKA), the Senator from Delaware (Mr. BIDEN), the Senator from New Jersey (Mr. CORZINE), the Senator from North Carolina (Mr. EDWARDS), and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The yeas and nays resulted—yeas 85, nays 10, as follows:

[Rollcall Vote No. 197 Leg.]

YEAS—85

Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Coleman
Collins
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—10

Burns
Byrd
Cochran
Conrad
Cornyn
Ensign
Inouye
Levin
Sessions
Stevens

NOT VOTING—5

Akaka
Biden
Corzine
Edwards
Kerry

The PRESIDING OFFICER. On this vote, the yeas are 85, the nays are 10. Three-fifths of the Senators duly chosen and sworn having voted in the affirmative the motion is agreed to.

Ms. COLLINS. Madam President, I ask unanimous consent that it be in order to consider sequentially the Feinstein amendment, No. 3718, and the Gregg amendment, No. 3934, both as modified with changes that are at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

AMENDMENT NO. 3718, AS MODIFIED

Mrs. FEINSTEIN. Madam President, my comments are related to amendment No. 3718, as modified, which the chairman said is at the desk. I will not have to ask for the amendment to be modified. This amendment has been previously debated. I have spoken on the floor twice about it. It was set aside at my request.

The amendment clarifies the relationship of the FBI to the new national intelligence director. It ensures that national intelligence programs include the FBI's intelligence activities. I had hoped that the amendment could be disposed of yesterday, but apparently that could not happen and, thus, the amendment is before us today.

I thank Senators LIEBERMAN, COLLINS, ROBERTS, and GREGG, all of whose staff worked hard to improve the original amendment. The result is, in essence, a compromise that accomplishes our fundamental goal, which is to ensure that the intelligence functions of the Federal Bureau of Investigation are both reorganized and, secondly, effective and coordinated in the intelligence community.

The original amendment has been modified to that effect. It is my understanding that the amendment, as modified, is acceptable to both sides.

Ms. COLLINS. Madam President, I congratulate the Senator from California for her amendment. She has worked very closely with Senator LIEBERMAN and me, as well as with the Judiciary Committee and Senator GREGG.

Senator FEINSTEIN's amendment is a good one. It strengthens the bill. It underscores her commitment to making the FBI as effective as possible in the war against terrorism. I thank the Senator for her leadership, and I urge adoption of her amendment.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Madam President, I also thank the Senator from California for her persistence, both on the substance of this amendment and in the vagaries and twists and turns of the legislative process.

This is an important amendment. In some sense, it strengthens, ratifies, and makes statutory some of the very constructive changes that have been occurring at the FBI, by establishing a directorate of intelligence within the FBI that is based on the existing Office of Intelligence there.

The amendment also modifies the definition of national intelligence under the bill, in order to make clear that national intelligence programs within the FBI will be included within the national intelligence program. So there will be no more of the division between foreign and domestic, and no more of the division between the FBI and CIA, which occurred so heartbreakingly and infuriatingly before September 11. We are all going to be together in the national intelligence program under the national intelligence director, protecting the safety of the American people.

This amendment increases substantially the probability that we can deter the terrorist enemy by knowing where they are before they strike us. I thank the Senator for her leadership, and I support the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Without objection, the amendment is agreed to.

The amendment (No. 3718), as modified, was agreed to.

Ms. COLLINS. Madam President, it is my understanding that the Senator from New Hampshire, Mr. GREGG, is on his way to the floor to speak briefly on his amendment.

While we are awaiting his arrival, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3710

Mr. CHAMBLISS. Madam President, I call up for consideration amendment No. 3710.

The PRESIDING OFFICER. Without objection, the pending amendment is laid aside.

Mr. REID. What was the request, Madam President?

The PRESIDING OFFICER. The Senator is seeking to call up amendment No. 3710. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. CHAMBLISS] proposes an amendment numbered 3710.

Mr. CHAMBLISS. Madam President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide for the establishment of a unified combatant command for military intelligence)

On page 153, between lines 2 and 3, insert the following:

SEC. 207. UNIFIED COMBATANT COMMAND FOR MILITARY INTELLIGENCE.

(a) IN GENERAL.—Chapter 6 of title 10, United States Code, is amended by inserting after section 167a the following new section:

"§ 167b. Unified combatant command for military intelligence

"(a) ESTABLISHMENT.—(1) With the advice and assistance of the Chairman of the Joint Chiefs of Staff, the President, through the Secretary of Defense, shall establish under section 161 of this title a unified combatant command for military intelligence (hereinafter in this section referred to as the 'military intelligence command').

"(2) The principle functions of the military intelligence command are—

"(A) to coordinate all military intelligence activities;

"(B) to develop new military intelligence collection capabilities; and

"(C) to represent the Department of Defense in the intelligence community under the National Intelligence Director.

"(b) ASSIGNMENT OF FORCES AND CIVILIAN PERSONNEL.—(1) Unless otherwise directed by the Secretary of Defense, all active and reserve military intelligence forces of the armed forces within the elements of the Department of Defense referred to in subsection (i)(2) shall be assigned to the military intelligence command.

"(2) Unless otherwise directed by the Secretary of Defense, the civilian personnel of the elements of the Department of Defense referred to in subsection (i)(2) shall be under the military intelligence command.

"(c) GRADE OF COMMANDER.—The commander of the military intelligence command shall hold the grade of general or, in the case of an officer of the Navy, admiral while serving in that position, without vacating his permanent grade. The commander of such command shall be appointed by the President, by and with the consent of the Senate, for service in that position.

"(d) DUTIES OF COMMANDER.—Unless otherwise directed by the President or the Secretary of Defense, the commander of the military intelligence command shall—

"(1) carry out intelligence collection and analysis activities in response to requests from the National Intelligence Director; and

"(2) serve as the principle advisor to the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the National Intelligence Director on all matters relating to military intelligence.

"(e) AUTHORITY OF COMMANDER.—(1) In addition to the authority prescribed in section 164(c) of this title, the commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, all affairs of the command relating to military intelligence activities.

"(2) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct, the following functions relating to military intelligence activities:

"(A) Developing strategy, doctrine, and tactics.

"(B) Preparing and submitting to the Secretary of Defense and the National Intelligence Director recommendations and budget proposals for military intelligence forces and activities.

"(C) Exercising authority, direction, and control over the expenditure of funds for personnel and activities assigned to the command.

"(D) Training military and civilian personnel assigned to or under the command.

"(E) Conducting specialized courses of instruction for military and civilian personnel assigned to or under the command.

"(F) Validating requirements.

"(G) Establishing priorities for military intelligence in harmony with national priorities established by the National Intelligence Director and approved by the President.

"(H) Ensuring the interoperability of intelligence sharing within the Department of Defense and within the intelligence community as a whole, as directed by the National Intelligence Director.

"(I) Formulating and submitting requirements to other commanders of the unified combatant commands to support military intelligence activities.

"(J) Recommending to the Secretary of Defense individuals to head the components of the command.

"(3) The commander of the military intelligence command shall be responsible for—

"(A) ensuring that the military intelligence requirements of the other unified combatant commanders are satisfied; and

"(B) responding to intelligence requirements levied by the National Intelligence Director.

"(4)(A) The commander of the military intelligence command shall be responsible for, and shall have the authority to conduct the development and acquisition of specialized technical intelligence capabilities.

"(B) Subject to the authority, direction, and control of the Secretary of Defense, the commander of the command, in carrying out the function under subparagraph (A), shall have authority to exercise the functions of the head of an agency under chapter 137 of this title.

"(f) INSPECTOR GENERAL.—The staff of the commander of the military intelligence command shall include an inspector general who shall conduct internal audits and inspections of purchasing and contracting actions through the command and such other inspector general functions as may be assigned.

"(g) BUDGET MATTERS.—(1) The commander of the military intelligence command shall, with guidance from the National Intelligence Director, prepare the annual budgets for the Joint Military Intelligence Program and the Tactical Intelligence and Related Activities program that are presented by the Secretary of Defense to the President.

"(2) In addition to the activities of a combatant commander for which funding may be requested under section 166(b) of this title, the budget proposal for the military intelligence command shall include requests for funding for—

"(A) development and acquisition of military intelligence collection systems; and

"(B) acquisition of other material, supplies, or services that are peculiar to military intelligence activities.

"(h) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the activities of the military intelligence command. The regulations shall include authorization for the commander of the command to provide for operational security of military intelligence forces, civilian personnel, and activities.

"(i) IDENTIFICATION OF MILITARY INTELLIGENCE FORCES.—(1) For purposes of this section, military intelligence forces are the following:

"(A) The forces of the elements of the Department of Defense referred to in paragraph (2) that carry out military intelligence activities.

"(B) Any other forces of the armed forces that are designated as military intelligence forces by the Secretary of Defense.

"(2) The elements of the Department of Defense referred to in this paragraph are as follows:

"(A) The Defense Intelligence Agency.

"(B) The National Security Agency.

"(C) The National Geospatial-Intelligence Agency.

"(D) The National Reconnaissance Office.

"(E) Any intelligence activities or units of the military departments designated by the Secretary of Defense for purposes of this section.

"(j) MILITARY INTELLIGENCE ACTIVITIES.—For purposes of this section, military intelligence activities include each of the following insofar as it relates to military intelligence:

"(1) Intelligence collection.

"(2) Intelligence analysis.

"(3) Intelligence information management.

"(4) Intelligence workforce planning.

"(5) Such other activities as may be specified by the President or the Secretary of Defense.".

"(k) INTELLIGENCE COMMUNITY DEFINED.—In this section, the term 'intelligence community' means the elements of the intelligence community listed or designated under section 3(4) of the National Security Act of 1947 (50 U.S.C. 401a(4)).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of that chapter is amended by inserting after the item relating to section 167a the following new item:

"167b. Unified combatant command for military intelligence.".

Mr. CHAMBLISS. Madam President, I call up this amendment with the intention of withdrawing it. We had discussions with the chairman of the committee, along with the ranking member. While we feel this is a significantly important amendment, we are still a ways from coming to an agreement relative to the substance of it.

Basically, in today's intelligence community, there are 15 agencies within the Federal Government that have some jurisdiction and some involvement. Eight of those 15 agencies are located within the Department of Defense. We have our three combat support agencies—the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office—all of which have been discussed very liberally within this debate. We also have the Defense Intelligence Agency, as well as every one of the four service branches with an intelligence division.

Under the current setup—and the setup that will be in place after the passage of the intelligence reform bill, as it is now on the floor—all eight of those agencies report to the Secretary of Defense and they will report in a dual capacity to the Secretary of Defense and the National Intelligence Director.

Senator NELSON, who has been a very strong cohort and cosponsor of this amendment, and I strongly believe that what we need to do to improve the effectiveness and the communication in the intelligence community relevant to the Department of Defense is to combine all eight of those intelligence agencies under one combatant commander, create a new combatant commander that is at the four-star level and require all eight of these agencies to report to that one four-star general so that the Secretary of Defense and the national intelligence director have one person to go to when it comes to the collection, analysis, and dissemination of intelligence from a Department of Defense perspective.

Having been involved in this for the last 4 years, both in my last 2 years on the House side and 2 years now on the Senate side, I know how complex the intelligence world is and how many overlaps there are between the civilian side and the Defense Department side and how absolutely necessary it is that we have an ongoing line of communication between the military and civilian departments and agencies that are involved in the collection, analysis, and dissemination of intelligence and the sharing of that information at different levels and across various agencies.

For the Secretary of Defense to have eight people report to him and for the new National Intelligence Director to have eight people report to him, when we could have one person reporting to both of those two on issues relating to military intelligence, seems almost commonsensical that we reduce those eight down to one if we are going to provide a more efficient, a more effective intelligence line of communication.

That is the substance of our amendment. While I understand there is some objection forthcoming to the inclusion of the amendment, Senator NELSON and I wanted to offer it, we want to debate it, and we want to make sure this entire body knows we are going to come back next year when we have a little different forum within which to operate to offer this amendment again as a stand-alone bill and see it to its conclusion.

I close by saying that there is some objection from the Department of Defense on amendment 3710. While they are not publicly objecting, if they were asked, they would say they would rather not have a unified combatant command for intelligence because they want to have the flexibility of doing it the way they want to do it.

Several years ago, we had a similar situation relative to the consolidation of special operations when this body took the lead and told the Department of Defense: We are going to create a new unified combatant command for special forces, or SOCOM; we are going to create a four-star commander and consolidate all special operations under SOCOM and that one combatant commander.

The Defense Department resisted that, but today they will tell you at the Pentagon that it is one of the best things we have ever done. It was this body that initiated it. Senator NELSON and I think the same thing should apply in the area of intelligence. While I will withdraw the amendment, we both wanted to stress that a unified combatant command for military intelligence will be equally important for informing the National Intelligence Director of military intelligence requirements as it will be for assigning military intelligence capabilities to assist in fulfilling the National Intelligence Director's intelligence responsibilities.

I yield to my colleague from Nebraska, Senator NELSON.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. NELSON of Nebraska. Madam President, I thank my colleague for the opportunity to join with him to support this bipartisan legislation which we will be working to get passed in January.

As my colleague said, the new command will be a functional rather than a regional command, just like the U.S. Strategic Command in my State of Nebraska, and the U.S. Special Operations Command in Florida, the U.S. Joint Forces Command in Virginia, and U.S. Transportation Command in Illinois.

As stated, the goal of this new command will be to organize the eight combat support intelligence elements within the Department of Defense under a single military commander. These elements will include bringing together what are often referred to as the alphabet agencies. Most people know them more by their initials than they do by the actual names. But it will bring together the DIA, or the Defense Intelligence Agency, the National Security Agency, the National Geospatial-Intelligence Agency, the National Reconnaissance Office, and the Army, Navy, Air Force, and Marine intelligence offices. All total, these offices employ thousands with budgets in the billions.

Eighty percent of all intelligence gathered by the U.S. Government is used by our armed services, and the ability to rapidly disseminate this information, as well as share the information, often means the difference between success and failure in the field. This new combatant commander will streamline the flow of information from our combat support elements to the warfighter, an important part, an important role for this agency.

The responsibility of the military intelligence commander will include intelligence collection and analysis in response to requests from the national intelligence director. As we know, this past week we all heard a great deal about whether it should be a NID, national intelligence director, or a NIC, whether it should be about directing or coordinating. This commander will act as the single entry point for the NID to assign military intelligence capabilities, and will strengthen the coordination of those efforts.

This will strengthen coordination between the NID and the Department of Defense because without one central contact inside DOD who can manage the military intelligence capabilities of the Department, it will be an extraordinary challenge for somebody outside DOD, such as the NID, to proficiently administer eight separate military intelligence assets.

This new command will prepare and submit to the Secretary of Defense and the NID recommendations and budget proposals for military intelligence forces and activities. Additionally, the commander will establish priorities for military intelligence that coincide with national priorities established by the NID and approved by the President. The commander will also ensure interoperability of intelligence sharing within the Department of Defense and within the intelligence community as a whole, as directed by the NID.

The commander will answer to the Chairman of the Joint Chiefs of Staff, the Secretary of Defense, and the President, and will represent the Department of Defense in the intelligence community under the NID.

I realize some of my colleagues may be asking the question whether this new position will add yet another layer to military intelligence-gathering agencies, but consider the fact that no military coordinator currently exists. So I do not see this as another layer; I view it as a necessary position that DOD has been far too long without.

Perhaps if the commander for military intelligence already existed, then discovering how command was severed at Abu Ghraib might have been easier. The tragedy there likely would not have been prevented entirely, but there certainly would have been more direct lines of accountability with a combatant commander for military intelligence.

This is an opportunity for us to debate the issue at this time, but the opportunity to pass it after the first of the year will be one that I think we must, in fact, take up. It will improve coordination and will not undermine the direction of the national intelligence director, but it will, in fact, help harmonize in the sharing of intelligence throughout the entire military and intelligence community.

I thank my colleague from Georgia for the opportunity to participate, and I congratulate the chairman of the committee and the ranking member for doing an outstanding job in reforming our intelligence-gathering agencies' operations.

It is not an easy task. We think this could be a part of it, but rather than have any effect in slowing down the operation of what we are doing today, we think we can take this up at another time.

Mr. CHAMBLISS. I thank the Senator from Nebraska for his always keen insight into the problem that exists and why this amendment would help with the solution to that problem. I look forward to continuing to work with him when we get back in the next session of Congress.

I also thank the chairman for her effort to try to figure out some compromise relevant to this particular issue. Senator COLLINS and Senator LIEBERMAN have been very cooperative, and it is not for a lack of effort on their part that we are not able to come to some compromise on this issue, but we look forward to continuing the dialogue and working with them.

I yield the floor.

AMENDMENT NO. 3710 WITHDRAWN

I ask unanimous consent to withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

The Senator from Maine.

Ms. COLLINS. Madam President, I thank the Senator from Georgia and the Senator from Nebraska for their contributions to this debate. They have raised an important issue. It is, as they have recognized, a difficult and controversial issue, and I am very grateful to both of them for being willing to raise the issue but not press forward with their amendment at this time. I look forward to continuing to work with both of them. Both of them are leaders in military and intelligence matters, and I very much respect their judgment and their knowledge.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I join Senator COLLINS in thanking our colleagues from Georgia and Nebraska for a very thoughtful and substantial idea that is not going to be possible to act on in this bill, but I thank them for the question they have raised. I think they are heading in the right direction, and I look forward to working with them.

We have two choices. The four of us could work together on the Armed Services Committee or we could continue to work through the Governmental Affairs Committee, but in either case, as Senator COLLINS has said, Senator CHAMBLISS and Senator BEN NELSON are leaders in the Senate on matters of national security and just in the best tradition of our Government and our Congress, which is not always honored, moving in a totally bipartisan, nonpartisan way. I thank them for that and look forward to seeing this to fruition someday soon.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 3934, AS MODIFIED

Ms. COLLINS. Madam President, I ask unanimous consent that we now turn to Gregg amendment No. 3934, as modified.

The PRESIDING OFFICER. The amendment is pending.

The amendment, as modified, is as follows:

AMENDMENT NO. 3934, AS MODIFIED

On page 121, line 13, strike "and analysts" and insert ", analysts, and related personnel".

On page 121, line 17, strike "and analysts" and insert ", analysts, and related personnel".

On page 121, line 19, strike "and analysts" and insert ", analysts, and related personnel".

On page 123, beginning on line 8, strike ", in consultation with the Director of the Office of Management and Budget, modify the" and insert "establish a".

On page 123, line 11, strike "in order to organize the budget according to" and insert "to reflect".

Ms. COLLINS. I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, without objection, the amendment is agreed to.

The amendment (No. 3934), as modified, was agreed to.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. CANTWELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3933

Ms. CANTWELL. Madam President, I rise to thank the managers of this bill for their hard work and perseverance in trying to get the recommendations of the 9/11 Commission passed and their accommodation of many Members with various amendments. Obviously they have been working long before this time period, through the August recess and since we have come back, and now we are pushing towards the final stages.

I thank the managers of the bill for including a provision in the bill, a Cantwell-Sessions amendment dealing with the Visa Waiver Program and closing a loophole that I call the Ressam loophole. That is a loophole that allowed a terrorist to go from Algiers to France to Canada and then load up his car with explosives and head to the U.S.-Canadian border at the State of Washington with plans to set off those explosives, potentially, at LAX Airport or perhaps somewhere along the way of the west corridor.

What the amendment did was to basically say to those who are our partner countries that the United States wants to make sure that people coming into our country on visas meet certain biometric standards so we know who people are. If we actually knew Mr. Ressam's true identity when he left France to go to Canada, he would have been stopped at the Canadian border. He could have been stopped earlier in the process if we actually knew who this individual was.

So what this Cantwell-Sessions amendment did, and, again, I thank the managers for adding it, was to help us identify the types of technologies that we hope our partner visa waiver countries also adopt for their biometrics on visas allowing people into their country.

To put it simply, our borders will only be as strong as our partner countries' and as they adopt standards. The last thing we want to do in the United States is to have a process by which we are more sure of people we are giving visas to, only to have, then, individuals who are looking for ways to get access to the United States to go to Mexico or Canada or France or Germany and then find their way to easy entry into the United States by creating a new identity.

The estimates are that there are millions of passports that have been lost or stolen and that individuals easily create new identities. But if our partner countries in the Visa Waiver Program, such as Mexico, France, Germany, also create biometric on their visas for people coming into their countries, we will have a safer process of understanding and stopping terrorists at their point of origin as opposed to continuing to allow them to travel around the globe, creating new identities or possibly getting easy access to our neighboring countries and then easily sneaking across U.S. borders.

I thank the managers for their hard work and diligence on this issue and for working to accommodate so many Members on what are very challenging issues. We have done great work on making our borders more secure since 9/11. We have put resources there. We have tightened our programs. We have worked on the US VISIT implementation. But we need to continue to understand that our security will only be as good as the security of our partner nations, working in this battle to fight terrorism around the globe. I very much appreciate the managers being included in that.

If I could say, I am also pleased that the conference report on the JOBS bill is moving. It seems to be progressing. While we are working to finish up this 9/11 report and finish up the legislation that implements it, I am hopeful we will be successful in passing the FSC/ETI conference report before we leave for this recess that is scheduled for this Friday. That is very important legislation to help companies that want a level playing field on the trade front, helping large companies in my State or exporters such as Boeing and Microsoft—there are many more—to get a level playing field.

There is also tax fairness in this JOBS bill for Washingtonians and seven other States that have not been able to deduct their sales tax from the Federal income tax. I am glad to see that recision is in the bill. I hope we can move forward this week to give the fairness back to those States that have been unjustly penalized on that for about the last 18 years. While this 9/11 legislation is moving through, I hope we are also successful in moving the JOBS bill through and that we can continue to work diligently on that process.

As I see no other Members who are ready to offer amendments, I will say one more word of thanks to the incredibly hard work that is going on in the State of Washington by the U.S. Geological Survey. Many people realize that there is an imminent eruption of Mount St. Helens about to take place. We have seen the ash and steam of several smaller events occur in the last several days. But because of the investment this country has made in the Department Interior and the U.S. Geological Survey, we have so much more information at hand today.

In 1980, we heard the final cry of a U.S. Geological Survey worker who said, "Vancouver, Vancouver, this is it." Then he ended up losing his life to the explosion, as did 57 other residents of the Northwest. The impact of that volcanic explosion was so significant it impacted various cities such as Yakima and Vancouver.

Today, because seismologists, geologists, meteorologists, and vulcanologists also have been working together, we have much more data and we have been able to advise the larger community on the hazards we are facing with another eruption of Mount St. Helens. I thank the men and women who are doing terrific work in informing all of us so we can make great plans, so that aviation, transportation, and the health and security of the emergency management system can do their jobs, because we have good science and information.

I thank the managers of this bill for their hard work and perseverance on an issue that many times during this debate didn't seem to be very decisive, as Members have many different ideas about how we approach terrorism and what our country needs to do to harden our targets and to improve our intelligence operation. But I want to thank the diligence of these Members because they are doing the work to understand the details of this legislation. They have been doing that work for the summer while we were out on recess, and what they did is work to understand these amendments in detail. I appreciate their adoption of the Cantwell-Sessions amendment, which I do believe will help us not only make U.S. borders more secure but make our partner countries' borders more secure and stop terrorism at the point of origin. I thank the managers for their help and support for the passage of this amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, let me thank the Senator from Washington for her kind words about Senator COLLINS and me, but really much more than that, for having an excellent idea here which will measurably increase the security of the American people.

Our borders are more secure than they were on September 10, 2001, but they are not secure enough. We don't want to discourage people from coming to the United States for business or pleasure, but to protect ourselves we have to ask not only of ourselves but of other countries that they begin to use the technology available to identify those who are coming to our country, not for business or pleasure but to do us harm. This amendment will move us forward on that.

Senator CANTWELL has been—I think I heard her use the word "perseverance" with regard to the chairman and myself. She has been the model of perseverance because she really believes in this. In the twists and turns of the legislative process where individuals can register objections, the Senator from Washington was here late last night and early this morning. The result is that ultimately all the objections faded away because this is a great idea. It was adopted.

I thank her very much and look forward to monitoring the implementation of this as we go forward.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ENZI). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DASCHLE. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

MINNESOTA TWINS

Mr. DASCHLE. Mr. President, I will have more remarks on another matter, but I wanted to start this morning by acknowledging yet another remarkable year by the Minnesota Twins.

Tonight, the Twins will be playing in the Major League Baseball playoffs, and this marks the third year in a row that the Twins have made the playoffs.

We follow the Twins in South Dakota because we have no team ourselves in the eastern part of the State. So the Twins have become very special to many South Dakotans as well.

I might remind my colleagues that this is the same small market Minnesota Twins team that was threatened not long ago with "contraction"—a euphemism cooked up by big city owners for shutting down a team that generations of South Dakotans have come to call their own.

Tonight the Twins will face off against the New York Yankees, whose huge payroll ensures that it is never a surprise when they make it to the playoffs.

The Twins will pitch their ace, Johan Santana—who also happens to be a leading contender for the Cy Young award. His dominance is in many ways a symbol of what has made the Twins so solid.

After being cast off by another team, he was brought up in the Twins system, which rewards dedication and loyalty. And like so many of the Twins stars, he is a hard worker who leaves everything on the field.

It is no mistake that the Twins' strengths—dedication, loyalty and hard work—are the same traits that have made the Midwest strong.

So let me add my voice to those of thousands of Twins fans across South Dakota and Minnesota in saying to Grady and his boys, good luck. You have made us proud, and we know you will continue to do so in the days ahead.

HIGHER EDUCATION

Mr. DASCHLE. Mr. President, Congress, unfortunately, is going to miss many important deadlines this year and many critical opportunities to help relieve the increasing economic squeeze on America's families. This morning, I would like to talk about one of those missed opportunities, which is helping families pay for college.

We knew for 6 years that the Federal Higher Education Act would expire on September 30. Despite that, the majority failed to set aside time to reauthorize the law.

That leaves the Senate in the unfortunate position of having to simply extend the current law—with no improvements, and no additional help for the millions of middle-class families in South Dakota and across America who are struggling to put their sons and daughters through college.

Kim and Todd Dougherty are two of those parents. They live in Chamberlain, SD. They have three children: two sons, ages 20 and 22, and a daughter who is a junior in high school. Todd is a salesman. Kim teaches second graders at a tribal school. Both of her parents were teachers, too. This is a family that believes in education.

The Dougherty's older son, Scott, started college at a small college in Minnesota 4 years ago but left after two semesters because of frustration with a learning disability and came home to consider other schools and options.

Shortly after he returned home, Scott tore the ACL ligament in his knee. Unfortunately, he had let his health insurance lapse because he couldn't pay his tuition and insurance premiums at the same time. His knee surgery cost him $12,000. After his surgery, he had to start paying back his student loans.

Today, Scott works as a cook in a restaurant. He pays $409 each month towards his medical and student loan debts, and another $200 a month for health insurance. That leaves him $75 a month for everything else. He can't go back to college until he pays off a sizable portion of his debts, and he worries that he can't get a better-paying job because he has so much debt.

All across America, there are tens of thousands of families who are in situations similar to the Doughertys'—or soon could be.

They are hard-working, middle-class families in which parents have saved for years to pay for their children's college educations. There is no margin for error in their family budgets. If one thing goes wrong—if a parent loses a job unexpectedly, or someone in the family has a serious illness or accident—the debts start to pile up and suddenly, college starts to feel unattainable. Middle-class parents watch their dreams for their children's future start to slip away.

We need to do right by these families, and that means keeping the doors of college open to all Americans, no matter what their family's economic circumstances.

Unfortunately, we are moving in the opposite direction. This year, nearly a half-million Americans will be turned away from colleges strictly for financial reasons. They can do the work, they just can't afford the tuition.

Since President Bush took office, the average tuition at a 4-year public college has increased 28 percent; when this year's increases are released in about a month, that number is likely to climb to well over 30 percent.

College costs are rising faster than inflation—faster than average family incomes—and much faster than increases in student financial aid.

Every 2 years, a non-partisan group called the National Center for Public Policy and Higher Education releases State-by-State report cards on higher education. The report cards grade each State on six different criteria. One is affordability: How large a share of their income do families have to pay for college at a public 4-year college or university?

Their latest report, released in early September, ought to concern us all. Thirty-seven States—including South Dakota—got an "F" for affordability. Thirty-seven of 50 States. Ten additional States received "Ds," two States got "Cs," and one State received a "B."

No State earned an "A." Even in the best-performing States, we are losing ground; college is less affordable today than it was a decade ago. This is a serious national problem.

What is the response from the administration and congressional Republicans? Silence. They failed to bring the Higher Education Act up for reauthorization.

Their oversized tax cuts have eaten up Federal resources that we could otherwise invest in higher education, and in basic research and investment.

The President's proposed budget for next year provides no new money for the Perkins low-interest loan program, no new money for the College Work Study program, and the Supplemental Educational Opportunity Grants, and no money at all for the LEAP program—all of which help lower-income students pay for college.

Despite the President's campaign promise in 2000 to increase the maximum Pell grant, his proposed budget for next year freezes Pell grants for the third year in a row.

Even worse, the administration is once again proposing changes to the eligibility rules that would reduce Pell grants by 270 million overall and cause 84,000 families to lose their Pell grants altogether.

I joined a bipartisan coalition of Senators to protect students and families from these unwise changes last year—and we are determined to prevent these cuts again this year. Making it even harder for the sons and daughters of America's working families to afford college is the wrong direction for America.

The repeated attempts to cut Pell grants are part of a pattern by this administration and the Republican leadership in this Congress to deny educational opportunities.

Earlier this year, Democrats made a simple proposal: Let's help those Americans whose jobs are being shipped to China or India attend a community college, where they can learn new skills to get new jobs. The administration said, flatly, "no" and shut the doors of college in the faces of these Americans.

But we want to do right by America.

We support increasing the maximum Pell grant from $4,050 to $5,100—the amount candidate Bush called for in 2000 but has never supported as President.

We support doubling the HOPE Scholarship tax credit from $1,500 per student to 3,000 per student, extending the deductibility of tuition expenses, and making the education tax credits refundable for the poorest families. We support Senator KERRY's proposed $4,000-a-year "College Opportunity Tax Credit" which would be refundable for low-income families.

Instead of the cuts the President proposes for tribal colleges and the minuscule increases he recommends for historically black colleges and universities, and Hispanic serving institutions, we support significantly increasing support for these minority-serving institutions because we believe diversity strengthens our democracy and our economy.

We believe in expanding the use of loan-forgiveness programs to reduce student debt while addressing crucial needs, such as placing doctors and teachers in rural communities and inner cities.

We believe our brave National Guard and Reserve members in Iraq and Afghanistan who are facing the same bullets as full-time military members deserve the same education benefits. The National Guard Bill of Rights provides that educational equity. We should pass an entire National Guard Bill of Rights this year.

Over the course of a career, a person with a 2-year college degree will earn an average of $400,000 more than a high school graduate. Someone with a 4-year degree will earn $1 million more.

It is not just individuals who benefit when we open the doors of college to the sons and daughters of working families. America's economic future depends on our ability to develop the potential of all of our people.

A while back I read a story in the New York Times. The headline read, "U.S. Is Losing Its Dominance in the Sciences."

The story said:

> The United States has started to lose its worldwide dominance in critical areas of science and innovation, according to federal and private experts who point to strong evidence like prizes awarded to Americans and the number of papers in major professional journals.

Unless we reverse this decline and regain America's scientific and technological knowledge, our children will grow up in a less productive, less prosperous America.

Keeping college affordable is a very personal issue for me. I was the first person in my family to go to college. I worked to pay for part of my tuition, and I also had help from my parents. My mother went back to work when I was in high school to help pay for my college education. Even with all of us pitching in, it was still not quite enough. As so many others today, I joined the ROTC program and I spent 3 years in the Air Force after I graduated to pay back my loans.

I know what a difference it makes when America invests in the children of regular working people. I also know the pride a parent feels watching his child receive a college degree. I have seen all three of my own children graduate from college.

We believe every American deserves those same opportunities. We will continue to fight for them as we resolve these matters in the Senate and elsewhere throughout our country.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida.

Mr. NELSON of Florida. Mr. President, I commend and thank the chairman of the committee, the Senator from Maine, and the ranking member, the Senator from Connecticut, because they have already approved and passed last evening an amendment I had offered which will be very helpful as we try to meet this threat of terrorism.

Indeed, we have a watch list. Recent news stories say the watch list is not necessarily being implemented as it should by the Department of Homeland Security. Nevertheless, we try. That watch list has been specifically targeted to commercial aviation.

The watch list needs to be expanded because there is plenty of opportunity of mischief, as I have said in this Chamber many times, with regard to the securing of our seawater ports and, specifically, in addition to cargo, the cruise ship industry and the thousands of people who vacation on a cruise ship.

This is particularly important to my State of Florida because we have the three largest cruise ports in the world: the Port of Miami, Port Canavaral, and Port Everglades, all on the east coast of Florida and all of which have these gigantic cruise ships that sail to the great delight of the passengers. These are cruises that are sometimes only a day but usually they are 4 to 7 days in duration. It is certainly a place for a wonderful vacation for people to cruise to the Bahamas in the midst of this floating hotel, a cruise ship.

Because there are several thousand people located in one place and they are treated as passengers on an airline, checking their baggage and their persons for all kinds of weapons and other destructive materials, is it not logical that the watch list for avowed terrorists, given to commercial airline companies and to TSA, should not be administered by TSA as they check the baggage of people on cruise ships? The answer to that is common sense. Yes, it should be.

Because of the very professional manner in which the Chair and her ranking member of this committee have handled this legislation, they understood that and they have agreed to the amendment. They were very kind to pass the amendment last night. I cannot imagine this would become an issue in the conference committee.

I give credit where credit is due, to the cruise industry. The cruise industry recognizes the possibility for mischief. It makes sense. I thank the cruise industry for stepping up.

I am compelled to speak about two more matters not directly related to this but which are very timely in the consideration of the Senate.

Did the Senator from Maine have a question?

Ms. COLLINS. Would the Senator be willing to yield for two quick unanimous consent requests?

Mr. NELSON of Florida. It is the absolute least I can do for the gracious Senator from Maine who recognized the common sense of this amendment. She, along with Senator LIEBERMAN, have made it possible to be accepted.

I certainly yield.

Ms. COLLINS. I thank the Senator for his cooperation and his amendment.

Mr. President, I ask unanimous consent that the Senate stand in recess from 12:30 to 2:15 today to accommodate the weekly party luncheons and that the time in recess be counted against the postcloture period.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. I thank the Senator from Florida.

HURRICANE CLEANUP

Mr. NELSON of Florida. Mr. President, I thank the leaders for the tremendous job they have done in handling this legislation. Anyone who can pass legislation in such a contentious atmosphere has to be Merlin, the Magician. My hat is off to the Senator from Maine and the Senator from Connecticut.

Two other very timely topics, timely in the sense of an emergency, after having been hit by four hurricanes in Florida, with the tremendous debris that is left over, part of the moneys we have passed here for FEMA is for debris cleanup of which FEMA then reimburses the local governments that go out and, either with their own crews or by contracting out, arrange for the removal of debris. This is not only clearly getting one's life back in order but it is also a health question, a safety question.

I was going through some of this debris on Sunday at a mobile home park for senior citizens called Palm Bay Estates in my home county of Broward. All of the aluminum, particularly on carports, was whipped up and twisted by the wind and now is in piles, with razor-sharp edges. So it is a safety as well as a health question. The debris accumulates in canals, in waters, in estuaries, particularly if it is of an organic nature. Then it starts to become a health hazard as well. We simply need to have it picked up.

But that is not the question. FEMA is taking the position that they are not going to reimburse the local government unless it is picked up from a public right-of-way. Yet FEMA has the authority, if it involves the health and safety of the people, to allow the repayment for the pickup from private rights-of-way.

Why is that important in Florida? Because we have huge senior citizen complexes with thousands of senior citizens. But they are not public rights-of-way, they are private rights-of-way. That debris has to be picked up for health and safety reasons. Yet who is going to pay for it? FEMA has the authority to do that. Since the local governments are not going to be able to bear the cost of all that pickup, especially after four hurricanes, the only other alternative is to assess the residents of that area for the pickup.

Senior citizens on fixed income cannot afford that. FEMA has it under its authority, but FEMA is not doing it. We want to give them a little encouragement.

I have spoken to the chairman of the Homeland Security Appropriations Subcommittee. That bill is now in conference with the House. I have suggested some language that will give FEMA some help to recognize that this is in the public interest, particularly in the State of Florida, after four hurricanes, and that they should be so directed. I am hopeful the conferees will accept that language.

VOTER REGISTRATION IN FLORIDA

Mr. NELSON of Florida. Mr. President, the last item I want to talk about is of grave concern. Yesterday was the final day for voter registration in the State of Florida. As one can imagine, there were huge lines at all of the registration points in Florida's 67 counties. But there is a subtle administrative order that could be directing extreme mischief in denying people the right to vote; for a directive, according to the supervisor of elections in one of our counties—specifically in Volusia—has come out from the secretary of State's office, division of elections, in the capital city of Tallahassee, that says if any piece of information on this Florida voter registration form is missing, this voter registration is to be treated as null and void.

Why am I concerned about that? Because they specifically say in the directive that if the box on line 2 that states, "Are you a U.S. citizen?" is not checked yes, they are to discard it, when in fact the oath that is signed specifically states, "I do solemnly swear or affirm that I am a U.S. citizen. I am a legal resident of Florida." And the voter registration applicant signs that form.

This is a clear intent—hopefully, not an intent—it is a clear manifestation of disenfranchising people, of not allowing them the right to vote, if on a technicality, because on line 2 they have not checked the box of being a U.S. citizen, but on line 17 have sworn under oath that they are a U.S. citizen, they are saying that they are going to discount the voter's registration application.

I hope we don't have to go to court again. I hope we don't have to do what CNN did, go to court to strike down a law that said they were going to strike 48,000 convicted felons but would not release that to the public so that the public could see if those names were accurate. And lo and behold, when the Miami Herald got hold of the list, they found over 2,000 who were legitimate registered voters and not convicted felons.

Why do we have to keep going back to the courts to enforce this when what is at stake is the right of people to vote, which is absolutely a part of the constitutional foundation of this country?

The people should have the confidence and the knowledge that if they are eligible, they will be able to register and then, if registered to vote, that they will have the right to vote and to have that vote counted as they intended.

We are only about 4 weeks away from an election. I don't want to see a repeat in Florida of what happened 4 years ago when there was so much dissension and uncertainty. The whole electoral process has to work. It is important that it works for the sake of our democracy. A good place for us to start is for the secretary of State's office, the division of elections of the State of Florida, to stop issuing such edicts and directives to the election supervisors in Florida's 67 counties that would cause a voter trying to register to be thrown out on a silly omission, which is covered by their solemn oath.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 3739 AND 3750, WITHDRAWN

Ms. COLLINS. Mr. President, I ask unanimous consent that amendments Nos. 3739 and 3750 be withdrawn. These are amendments that had been offered by Senator ROBERTS previously. He has asked that I withdraw them on his behalf.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

POINTS OF ORDER, EN BLOC

Ms. COLLINS. Mr. President, I ask unanimous consent that it now be in order to raise points of order, en bloc against the following amendments in that they are not germane under the provisions of rule XXII. They are the following amendments: 3887, 3888, 3889, 3890, 3891, 3892, 3893, 3894, 3808, 3849, 3782, 3905, 3747, 3881, 3724, 3928, 3873, 3871, 3870, 3803, 3930, 3931, 3874, 3850, 3851, 3855, 3856, 3872, 3926, and 3819.

The PRESIDING OFFICER. Is there objection to raising the points of order?

Without objection, it is so ordered.

Ms. COLLINS. I announce that this will allow us to officially consider the remaining germane amendments. The nongermane amendments, as determined last week, will fall under this order. We will continue to work through the pending amendments that remain at the desk as we move toward completing this bill.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I have no objection. I want to ask Senator COLLINS, through you, my staff thought the Senator from Maine may have inadvertently read 3908 as 3808. Just to clarify, it is 3908.

Ms. COLLINS. Mr. President, I would not be surprised.

Mr. LIEBERMAN. Their ears are much better than mine.

Ms. COLLINS. I ask unanimous consent that the list be corrected to indicate the correct number is 3908.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair sustains the points of order, en bloc. The amendments fall.

Ms. COLLINS. Thank you, Mr. President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent I be able to speak for up to 15 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. LAUTENBERG. Mr. President, I want to discuss the situation in Iraq.

Every day we see the terrible news about innocent Iraqis being killed, about the terrible tension in the country, about our young people being attacked and killed and, frankly, the mess we are witnessing, which is painful to see.

It came home today in a stark recitation, in a statement by Paul Bremer.

Paul Bremer was sent to Iraq to be in charge of the transition as we tried to go from the culmination of what appeared to be the end of the violence until we got to a government that was going to be run by Iraqis on an interim basis and the vote coming up in January. But what we heard from Mr. Bremer was painful to hear, and it has to be particularly painful to President Bush and his administration. What he said was there were not enough troops to do their job. We believed that from the beginning. General Shinseki said it, and he was overruled by the Pentagon and by the Defense Secretary. He was fired for saying: We need more troops to do the job, Mr. President.

People across the country understand that we need more people. Over 300,000 I believe was the number he used. He now says that and the failure to immediately stop the looting, stop the violence, and stop the response from those who would commit violence on the country were part of the reasons we are in this terrible situation we are in.

Last week, we finally had a chance to hear what President Bush's plans for Iraq were. And this is the image of what we got. It is blank. It says nothing. There is no plan.

Last Thursday, we heard repetition from President Bush, the same tired slogans we have heard for almost 2 years now, no plan was articulated, no new ideas, nothing, just the same as we see on this placard. President Bush basically said that we are going to get more of the same in Iraq. What a terrible condition that is. Iraq has become an absolute crisis, and there is no plan to fix the situation.

When the President asked Senator JOHN KERRY what his plan is, it adds insult to injury. He has a plan. He talked about his plan. But the President has offered nothing on his side and challenges JOHN KERRY to have a plan, and JOHN KERRY presents a plan and the President doesn't show any. The President is showing a stubbornness. He calls it "staying the course." It is a stubbornness that is costing American lives, the lives of our young people, the lives of our soldiers, and the lives of American workers in Iraq.

We need a dramatic change in direction. Everything that was assumed to be in order was wrong. They were wrong about the weapons of mass destruction, and they were wrong about how our troops would be greeted on the streets of Iraq. Certainly, as I said earlier, they were wrong about how many troops we needed to secure the country. They were wrong about the reaction of the Shiites. They were wrong about how long the conflict would last and the toll it would take on Americans lives.

The President and his team have just about done it wrong. The President's worst adviser in terms of being wrong on almost everything is Vice President CHENEY.

At the outset of the war in March of 2003, Vice President CHENEY declared:

> We will, in fact, be greeted as liberators.

In fact, be greeted as liberators? In fact? I don't think so.

But maybe the reason Vice President CHENEY kept getting things wrong on the war is he has not ever seen it. He has never worn a uniform, and he was never on a battlefield. In fact, when duty called, Vice President CHENEY turned his back on the call while many answered the call to serve. DICK CHENEY took five student deferments in order to avoid service in Vietnam.

He wasn't, however, the only member of the Bush team who kept getting it wrong. I want to review some of the quotes of President Bush's top advisers. One is by Secretary Donald Rumsfeld. He said on February 7, 2003:

> It is unknowable how long that conflict will last. It could last 6 days, 6 weeks, I doubt 6 months.

It is one thing to be wrong one time but you try to correct the situation.

Here is what Deputy Defense Secretary Paul Wolfowitz said:

> We know that there are ties between the Iraqi regime and a whole range of terrorist groups, including al-Qaida, and we know that Saddam has these weapons.

Again, what kind of a statement is that? It doesn't tell us anything except that we are wrong.

When we look at other statements that have been made, on March 30, 2003, Defense Secretary Rumsfeld said:

> The area in the south and the west and the north that coalition forces control is substantial. It happens not to be the area where weapons of mass destruction were dispersed. We know where they were. They're in the area around Tikrit, and Baghdad and east, west, south and north somewhat.

Each one of these statements indicates a lack of knowledge and a lack of understanding as to what was going to happen when this war was concluded. It has not been concluded.

When we look at the cost of the war, as of today, 1,058 our troops have died, some 7,000 injured, many with terrible injuries that will handicap them all of their lives.

We need to change course. We don't need more of the same. Senator KERRY, our colleague, is offering a new direction, and that is what we need. We need to stop bearing the entire burden of Iraq. We are taking 90 percent of the casualties, and the American taxpayers have shelled out almost $200 billion for Iraq. It is not right. It is not fair to the American taxpayers. It is certainly not fair to the families whose young sons and daughters are in service over there. Senator KERRY prepared a plan for a new direction in Iraq, a direction that will bring other countries to the table.

President Bush makes reference to Poland helping us in Iraq. He was almost obsessed with Poland during the debate.

What are the facts? Poland has 2,500 troops in Iraq, and they announced just this week they are getting out. They will have all of their troops pulled out sometime next year. Thailand wants to take its troops out—I think they have some 400 people there.

Again, under the administration's war plan, we are left with even more of the burden, and we are left with almost all of the costs both in terms of our soldiers' lives and American taxpayer dollars. All that has been accomplished in the last 2 years is we have alienated critical allies, and we are paying the price for that.

A big part of the problem is that the President refuses to accept reality.

Last week in a television interview President Bush was asked whether he regrets the moment on the aircraft carrier on May 21st in 2003, the infamous "Mission accomplished" speech. Incredibly, President Bush said he would do it all over again. In fact, in response to that question, would he have done it, he said he would "absolutely" do it again. He went on to say, "You bet I'd do it again."

It is incredible. He made that speech approximately a year and a half ago, saying, "Mission accomplished." That meant it was over, that we would not have to worry about things.

Instead, we have lost over 800 people, four or five times the number killed during what was considered the active part of the war. We are moving to the delusional. The President does not regret telling our Nation's military families "Mission accomplished"? He does not regret giving families false hope that major combat operations had ended?

We are now facing the biggest fallout of reservists ever in the State of New Jersey. There are pictures in the paper of men and women, saying they are scared; they are worried. Their families are frightened. Their kids are scared. Their spouses are scared. They know darn well it is dangerous over there.

Does the President regret taunting the terrorists and insurgents when he said "Bring 'em on"? I'm sure the men and women on the ground in Iraq wish he had never said those words.

When I was wearing a uniform a long time ago, during World War II in Europe, I never wanted to see the enemy. I never wanted to see anyone who was hostile.

It was the wrong thing to say. I hope one day we will be able to face up to the truth that these were terrible statements.

More recently, President Bush told the world that the war on terror could not be won, but a couple days later he said, no, no, we will win. When the President was asked about a CIA report and the material he was looking at on intelligence, he said he dismisses the CIA report as just guessing when they told him the situation in Iraq was bad and could get much worse. Just guessing? The arm of our intelligence corps that is supposed to have the latest and the fullest data, and they are just guessing?

We need someone to take the bad news seriously, a President who will react to it and fix the situation. So far, President Bush simply ignored the bad news. I guess he hopes it goes away.

Unfortunately, he is inflexible on one simple point. He would repeat every one of the mistakes he has made over the last few years. The plan to go to war without a real alliance in place, he would do again. The decision to ignore the advice from General Shinseki that 300,000 troops would be needed, he would ignore the general's advice again. The argument that Saddam had weapons of mass destruction to reconstitute a nuclear programs, links to al-Qaida, he would make all of those arguments again.

All of this while ignoring, for all practical purposes, North Korea, Iran, countries that are actually developing nuclear weapons, while taking some of the attention away from the pursuit of Osama bin Laden who killed 3,000 Americans.

Not only does the President like to stick with bad ideas but there are flip-flops when someone else suggested good ideas, often resisting and then supporting. One flip was the Department of Homeland support. President Bush strongly opposed creating it in March 2002. His spokesman said a Homeland Security Department "doesn't solve anything." Then flopping 3 months later, the President said he did want a Homeland Security Department.

President George Bush opposed creation of the 9/11 Commission. In April of 2002, President Bush said he was against the creation of the 9/11 Commission. He flopped after that as a result of increased political pressure. The President said he does support creating the 9/11 Commission in September of the same year. In April, no; In September, yes. It goes on and on.

Then the President, in response to an inquiry about Osama bin Laden, which in September of 2001 President Bush said he wanted Osama bin Laden dead or alive. In March of 2002, President Bush said, I don't know where he is; I truly am not that concerned about him.

Not concerned? He murdered 3,000 Americans, 700 of my constituents in New Jersey. A terrible comment.

What we have seen shows we are on a very bad track right now. In fairness to the American people, families, those who are serving, we ought to come forward with a statement about what we intend to do. How much longer will we have to have people in harm's way? How are we going to get the troops that it is suggested are needed—30,000 or 40,000? Where will they come from? Is there an intention to initiate a draft? I don't know where we are going to get the soldiers and other service people to fill these obligations.

I know one thing. Every day we read about another American serviceperson being killed or American civilians being captured or beheaded, it tells everyone in the country we are on the wrong path and we have to make a change.

I hope President Bush, even in this interim period, can see the necessity to come forward to the American people and say, look, we made some errors; we are going to correct them. We are going to get more people in there, but we are going to end this conflict by that time so we can start to bring our people home. There is no encouragement out there to believe that.

I yield the floor.

RECESS

The PRESIDING OFFICER. Under the previous order, the hour of 12:30 having arrived, the Senate will stand in recess until the hour of 2:15 p.m, with time to run against cloture.

Thereupon, the Senate, at 12:28, recessed until 2:16 p.m., and reassembled when called to order by the Presiding Officer (Mr. SUNUNU).

The PRESIDING OFFICER. In my capacity as a Senator from the State of New Hampshire, I suggest the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. VOINOVICH). Without objection, it is so ordered.

NATIONAL INTELLIGENCE REFORM ACT OF 2004—Continued

Ms. MIKULSKI. Mr. President, I want to take this opportunity as the Senate resumes this afternoon's debate to rise in very strong support of the National Intelligence Reform Act of 2004.

I am proud to join with Senator COLLINS and Senator JOE LIEBERMAN as a cosponsor of this bill. It is an excellent bill, and I want to support my two colleagues, Senators COLLINS and LIEBERMAN, for working so hard and to go at it in a way that is not only bipartisan but nonpartisan following the recommendations of the 9/11 Commission.

I am excited about this bill because I think it reforms our intelligence to be able to make sure that we prevent any more 9/11s affecting the United States; that we reform the intelligence so that we never go to war again on dubious information; that we make the highest and best use of the talent in our intelligence agencies, and that they have the framework to be able to protect the Nation, as well as be able to speak truth to power.

Mr. President, I am no stranger to reform. I am on the Intelligence Committee. I came on the committee before 9/11 to be an advocate for reform, particularly in the area of signals intelligence. As I worked on the committee and served on the joint inquiry about what occurred on 9/11, I became deeply committed to other issues related to reform: to have a national intelligence director, to create an inspector general, to mandate alternative or red team analysis, to always make sure that we policymakers have the best information, and that our troops and our homeland security officials get the best intelligence they need to be able to protect the Nation.

Following the 9/11 Commission report, but also with the wonderful work of Senators COLLINS and LIEBERMAN, we now have intelligence legislation that will give us a single empowered leader for our intelligence community, a strong inspector general, and a definite alternative analysis to make sure that all views are heard.

This reform is broad, deep, and also authentic. I think that is what the Nation wants of us.

Mr. President, 3,000 people died on September 11. They died at the World Trade Center, they died at the Pentagon, and they died on a field in Pennsylvania. At least 60 Marylanders died. We remember that they came from all walks of life. We must remember those we lost that day. The way we honor their memory is to take actions to do everything we can to prevent it from ever happening again. That is what the families have asked us to do. That is what the Nation has asked us to do. I am so pleased that we will act on this legislation before we recess.

We need to do this, and we need to do this now. In joining the Intelligence Committee, and also after those terrible acts, like many others, I asked what could we have done to prevent the September 11 attacks on our country? Also, why did we think that Saddam Hussein had weapons of mass destruction? What kind of information does the President need before he sends troops into harm's way? What kinds of information do we need—we, the Members of Congress—to be able to provide the right response to a President's request? We reviewed a lot of this information, and now we know we have the kind of reform in this legislation that will help us.

The 9/11 Commission built on the 9/11 joint inquiry of the House and Senate Intelligence Committees. We did that in a classified way. Then, the 9/11 Commission was organized, and I am happy to say I voted for it. The Commission could bring into the sunshine what many of us knew privately because it was classified. We knew about missed opportunities, insufficient or unreliable information, the failure to share information, the shortcomings of watch lists.

The legislation that we have before us will move the priorities forward for intelligence reform. First of all, it gives the intelligence community one leader with authority, responsibility, and financial control. In Washington, if you cannot control people or you cannot control budgets, you cannot control the agency.

Second, it provides for diversity of opinion in the analysis. It requires independent analysis. It also provides a framework for red teaming or a devil's advocate so that, again, the policymakers get the best information.

It also strengthens information sharing. It provides the support to speak truth to power. And it also provides a unity of effort in the global war on terrorism. All of this is done with a delicate balance of protecting privacy and civil liberties.

I salute my colleagues. While they were doing their homework this summer with the 9/11 report, I was doing mine—built on the experience that I had both as a member of the Intelligence Committee and the joint inquiry to investigate what went wrong on 9/11. I continued my homework over the summer. I read the riveting report of the 9/11 Commission. I attended hearings in the Intelligence Committee and Governmental Affairs. I consulted with officials of the FBI and others in homeland security in my State. I met with the Director of the National Security Agency. Having done that, I now conclude that this is the best legislation.

We are at a turning point. This is a new century. It poses new threats to the Nation. Therefore, it requires a new framework to serve the Nation. That is what I believe this legislation will do. So I say to my colleagues that one of the best actions we can take now, in order to serve the Nation, is stand up for our troops, protect the homeland, and pass the Collins-Lieberman legislation, which I truly believe brings about the reform of the national intelligence community.

I also salute the work of Senator HARRY REID and Senator MITCH McCONNELL, who were working on how we need to reform ourselves in Congress to be able to provide the best oversight of the intelligence community so we can have the best intelligence, yet the highest value for our dollar, and at the same time protect the Nation, finding the balance to protect our civil liberties. I believe the task force report saying the Senate needs to reform itself internally will come after this legislation. I think we have done a great job working on a bipartisan basis.

I remember that fateful evening of 9/11 and that day when we gathered on the Capitol steps. America had lived through a lot. We didn't know what was yet to come. But joining with our House colleagues, we in the Senate, with our leadership, joined hands and sang "God Bless America." We were not a Democratic Party. We were not a Republican Party. We were the red, white, and blue party, and that is what we need to be here today. We need to join hands, pass the reforms necessary to protect the Nation, and to truly ask God to bless the United States of America.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I thank my dear friend and colleague from Maryland, Senator MIKULSKI, for that very thoughtful and strong statement on behalf of the bill. It means a lot to me and I know Senator COLLINS.

Senator MIKULSKI has focused on these national security intelligence issues. She happens to have a lot of people who work in this field for us in the State of Maryland. Senator COLLINS and I were very grateful and proud when Senator MIKULSKI joined us as an original cosponsor of this legislation. I appreciate all that she has contributed to our efforts. Her statement is very timely and gratefully appreciated. I thank the Senator.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I echo the words of my colleague from Connecticut. Senator MIKULSKI has been so helpful throughout this debate and in the development of this bill. In fact, when the Governmental Affairs Committee was first assigned the responsibility for evaluating the 9/11 Commission recommendations and producing this bill, it was the Senator from Maryland who was the first to call me and to offer to help, to share her knowledge from her years on the Intelligence Committee and on the Appropriations Committee. I really appreciated that gesture.

Since that time, she also participated in one of the Governmental Affairs Committee hearings that we held. Her State lost so many citizens on that awful day, and she has been relentless in her determination to make sure their memory is never forgotten. I very much appreciate all of her contributions.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. FEINSTEIN. Mr. President, I ask unanimous consent to speak for a few minutes on an unrelated matter, pertaining to a bill the House of Representatives just passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

HOLD ON S. 878

Mrs. FEINSTEIN. Mr. President, I rise to oppose S. 878, or at least the version the House of Representatives just passed today. Essentially, what the House did was to poison a worthy bill, a bill that was meant to alleviate the crisis of an overwhelming workload under which the Federal judiciary is struggling. The House did so by adding language to split the Ninth Circuit into three circuits. In doing so, the House has essentially taken the new judges as hostages to a starkly partisan and controversial ploy.

I will not go along with such bullying tactics, and I am placing a hold on that bill today. It is with great regret, and with greater frustration, that I place this hold.

I will take a few minutes to explain why we so desperately need the new Federal judges S. 878 would provide, and then I want to make clear why I am so opposed to the language the House of Representatives has added to split the Ninth Circuit.

According to the Administrative Office of the Courts, the average caseload for every Federal district judge in the country is now 523 cases per judge. In 1999, the average was 480 cases. So it has increased 9 percent in 4 years. But that only tells part of the story. Of the four Federal district courts in California, my home State, three of them handled more cases per judge than the national average: the U.S. District Court for the Northern District of California, 544 cases; Southern District of California, 611 cases; the U.S. District Court for the Eastern District, 734 cases per judge, 40 percent more than the national average.

So it is this burden that needed to be remedied, and in this bill there were 51 district court judges. It was an important bill.

This situation extends far beyond California. For example, the district court for Nebraska, represented by my colleague CHUCK HAGEL, who has been working on this issue with me, has 627 cases per judge, almost 20 percent more than the average. Other courts with exceedingly high caseloads are in Iowa and Arizona.

The version of the Senate bill that the House Judiciary Committee amended would have added 51 new Federal district court judges, 32 of them permanent, 15 temporary judges whose seats would expire when they retire, and 4 seats that would be converted from temporary to permanent. That version of the bill would also have added 11 judges to the circuits of the Court of Appeals. All of these additions came at the recommendation of the nonpartisan Judicial Conference of the United States. According to their 2003 report, the need for new judges is real and growing.

They go on to state:

> Since 1991, the number of criminal case filings has increased 45 percent and the number of criminal defendants is 35 percent higher.

Then it continued on with the statistics. When the judges tell us that they need more judges to supervise criminal trials, to secure our borders, and to crack down on deadly firearms, it is our obligation to listen and to act, because these judges are the linchpin of our justice system. Just as we need soldiers to help win the war on terror, we need enough judges to keep safe at home.

Instead of moving forward to simply add judges, which is what we need, the House essentially sabotaged the bill by adding an amendment to split the Ninth Circuit into these three new circuits.

This is not the time or the place for such an action. I am very much aware of arguments in favor of splitting the Ninth Circuit. In the Senate Judiciary Committee we have been debating this for years and, as I said at the Senate hearing on the issue earlier this year, I welcome the hearing and look at it with a much more open mind than I have in the past. I am sensitive to the fact that the Ninth Circuit had a 13-percent increase in caseload in a single year.

However, this is only one side of the argument. We have testimony from the chief judge of the Ninth Circuit, whom I respect greatly, who informs me that the size is not an obstacle to efficiency. We have letters from the State Bar Associations of California, Arizona, and Hawaii opposing a circuit split. I have a letter from Governor Schwarzenegger of California opposing a split of the Ninth Circuit. I have letters from eight judges in the Ninth Circuit opposing a circuit split, and also a letter from Senator SESSIONS saying that he has received letters from 15 Ninth Circuit judges opposing a split.

Suffice it to say that reasonable minds can differ on whether the Ninth Circuit should be split. What reasonable minds, I think, have to agree on is this is no way to undertake such a momentous change in our Nation's history. I suspect what is happening is that opponents of the Ninth Circuit are trying to take a bill that we need, add new judges, and make the Congress accept the split to the Ninth Circuit as the price.

The fact of the matter is the split they propose will not equalize the caseload. There will still be a disproportionate caseload with the methodology used in the split followed by the House decision voted on this morning. Under the House bill, the new Ninth Circuit, with California, Hawaii, Guam, and the Northern Mariana Islands, would have 407 cases per circuit judge. That is much more than the new Twelfth Circuit, of Nevada, Arizona, Idaho, and Montana, which would have 280 cases per circuit judge. It is also much more than the new Thirteenth Circuit, of Alaska, Oregon, and Washington, which would have 279 cases per judge. So the House bill does not solve the problem of an even split of cases between the circuits.

What we found as we looked at this over the years is that an even split cannot happen unless California is split in half, because the State, and ergo the number of cases, is simply too large. This has always been the dilemma.

Additionally, this legislation causes major new costs. The Administrative Office of the Courts states that the startup costs for a three-way split that the House today demanded would ring up $131.3 million to make that particular split.

Despite the need for new judges, I cannot accept this ploy. This is the time for new Federal judges. It is not the time to split the Ninth Circuit. I think the House of Representatives has harmfully cemented one weighty issue to the other and it is not going to work.

So, regretfully, I must place a hold on this bill. I hope Members who are concerned about this will listen, and I hope it is not too late to work out some solution.

I yield the floor.

The PRESIDING OFFICER. The Senator from Louisiana.

Ms. LANDRIEU. Mr. President, I ask unanimous consent to speak 10 minutes as if in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE GUARD AND RESERVE FORCES

Ms. LANDRIEU. Mr. President, I know the issue the Senator from California raised is very important and will be considered as we go forward in our debates, as our session wraps up. The Senator from Connecticut and the Senator from Maine have done an outstanding job in managing the underlying bill and helping us come to grips with some of the new fundamental changes necessary to reorganize our intelligence communities to face the challenges confronting our Nation. I do not want to take too much time away from that very important debate. But I did feel compelled to come to the floor and raise an issue regarding our military families, especially the families of our National Guardsmen and Reservists. They, too, are so critical to meeting and defeating enemies on the home-front and in Iraq and Afghanistan.

Because we call on thousands of Active men and women in our armed forces, as well as reservists in our Guard and Reserve, to be in the forefront of the battles in Iraq and Afghanistan, I thought it was important to come to the floor to share some information that will disappoint people in Louisiana and across the United States.

Right now, somewhere in this Capitol, there is a conference meeting trying to finalize a tax relief package that we refer to around here as FSC/ETI. It is a necessary change in our Tax Code because of some trade decisions that were made relative to the way Europe and America conduct trade and impose taxes and fees on imports and exports. For several months, members of the Senate Finance Committee and Members of the House Ways and Means Committee have been working to reach a final agreement. Different amendments have been added and subtracted as a means to bring the bill closer to final passage.

One of the amendments that I thought was one of the most important amendments in that bill—one that my colleagues in the Senate, Republicans and Democrats, agreed to unanimously called for tax credits to be made available to employers who continued to pay the salaries of their employees if those employees had been activated for duty in the National Guard and Reserves. The Senate agreed that if we were going to give tax relief and a trade fix for corporations and for businesses, then we should also find space in that bill to provide tax relief in some way to the patriotic employers who are trying to help their employees in the Guard and Reserve make ends meet. We should do that so the men and women who put the uniform on every morning and run those patrols ferreting out insurgents and terrorists in Iraq would not have to take a pay cut to do their job to defend America. We want those troops focused on the war-front, not whether bills have been paid on the home-front.

Americans might be shocked, because I am shocked, and I am disappointed, that our Government has not yet found a way to make sure that when we call up the men and women basically out of their regular life—as doctors or lawyers or truck drivers or nurses or teachers or government workers or firefighters or police officers—and ask them to leave their families, leave their jobs, leave their businesses and go fight on the front line for us, that we have not found a way to make sure they can do that without taking a pay cut. The GAO has documented that 41 percent of the Guardsmen and Reservists fighting for us—being called away from their homes, away from their families, and putting their lives in peril and great danger—are doing so with a pay cut. We need to provide them a helmet and a gun and a flak jacket and some protection. But I think we also should make every effort to ensure their families back-home have some stability. We should take steps so that the troop in Falujah knows his employer can take care of his family.

If this Congress and the President were not already enacting trillions in tax cuts and we were adhering to a plan of fiscal responsibility, I might be able to look these families in the eye and say, "Sorry we have a budget deficit. We are doing the best we can."

But do you know what the shame of it is? There is a conference meeting somewhere in this Capitol giving out tax relief to people who already have a lot of money, to corporations some of which may be on the front line but many of which are not, and we have the Republican leadership on the House that says we cannot afford a tax credit to benefit patriotic employers, our Guardsmen and Reservists, and their families. We are asking our men and women in unifrom to bear 100 percent of the risk and burden of fighting the war on terror. Yet in all the tax relief in the Republican-drafted plan, the Republican-leadership plan drafted by Chairman THOMAS, we can't find one penny to make sure the military families get a full paycheck. The cost of my amendment amounts to less than .1 percent of all the Bush/Republican tax cuts enacted since 2001. My amendment is even offset, but the Republican leadership simply refuses to help military families.

Since 2001, the Republican leadership has passed over $2.1 trillion in tax cuts and tax breaks for the wealthiest Americans. I supported some of these tax cuts but the major beneficiaries have been wealthy individuals who had already accumulated great assets, and corporations. Direct support for military families has been less than .1 percent, or $1.37 billion, of the $2.1 trillion in tax cuts.

If you remember, in 2001, we had one bill for tax cuts which we called the Military Family Relief Act. It amounted to $1.37 billion out of $2.1 trillion. So the bulk of the tax relief is going to people who are not on the front line. Only limited help is going to the people on the front line.

You can see the graph here, $2.1 trillion to everybody else who is not in uniform and $1.37 billion to the military families who are fighting the battle. I don't understand how we are fighting this war. Maybe somebody can explain it to me.

At least people say: Senator, you must not understand that much of these tax cuts get to the military families; it is just not directly. If they have children, they might get the child tax credit. I understand that. But 75 percent of the enlisted men and women in our armed services make less than $30,000 a year. A staff sergeant with 8 years of experience makes $30,000 a year. So if you don't write them directly into the bills—because the bills are skewed to those individuals and families making over $75,000, mostly $100,000, $200,000, $300,000—the military families don't get to take advantage of tax cuts.

Time and time again, every time a tax bill passes this Congress, the military family is left on the cutting room floor. In 2001, we passed the Economic Growth Tax Relief Reconciliation Act, $1.6 trillion—direct support for military families was $0.

In 2002, we passed the Jobs and Growth Tax Relief Reconciliation Act, $41 billion—military families, $0.

In 2003, we passed the Jobs and Growth Reconciliation Act, $230 billion—direct support for military, $0.

This year we passed the Working Families Tax Relief Act, $146 billion—direct support for military families, $0. This $146 billion had no offsets.

Now we have a conference in this Capitol putting together an $81 billion tax bill. And the amendment, the one little amendment we put on to encourage employers to keep the salaries up for the Guard and Reserve when they are fighting in Iraq, was taken out because we can't afford it. When it left the Senate, we had paid for it. There are plenty of ways the House Republicans could pay for it, today, but helping military families is not in their interests. We could close a loophole that allows companies to leave the United States for the purpose of reorganizing themselves so they do not have to pay taxes. We could close that loophole and gave it to the men and women putting on the uniform to defend our country. These soldiers, sailors, airmen, and marines aren't fleeing the country to avoid paying taxes, yet we don't get tough on the corporations that are leaving the country to avoid taxes. They take every benefit of what this nation has to offer, including the blood and sweat of our troops, and pay nothing in return. But, some in Congress want to put these corporations in front of our men and women in uniform.

Let me also say I am ashamed for our Government that we have not yet closed our own loophole when a Federal Government worker takes off the Government suit or dress or uniform and puts on the military uniform and goes to fight on the front lines of Iraq. The US Government, as an employer, does not fill the pay gap for Federal employees.

Mr. President, 41 percent of the guardsmen and reservists who are fighting in Iraq take a pay cut to fight and we keep passing appropriations bills and tax cuts to give everyone in the world a tax break, except our military families. And, our poor military families ask for help and we have the Republican leadership in the House telling them: Sorry, there is no more money.

I just got back from Fort Polk a couple of weeks ago, where I have 4,000 maybe 5,000 families in Louisiana whose primary breadwinner has stopped winning bread at home and gone over to Iraq to help fight this war. I promised them that I was not going to just come on home without a fight or without raising this issue for the 5,000 families in my State and for the thousands of families around this country who do not ask for much. They ask for good training. They ask for equipment. And they are asking that they don't take a pay cut when they go to fight. They are not asking for a pay raise; they just don't want a pay cut. They'll get that pay cut if we let this last tax bill go out of here without fixing this provision or without giving some tax credit to companies, many of them small businesses, who continue to pay their activated Guard and Reserve employees.

You can understand why a small business sometimes can't afford to continue to pay the guardsmen and reservists 100 percent of their salary and then have to pay 100 percent of the salary for a replacement.

We are asking for a tax credit for these employers so they can voluntarily, if they want, continue to pay the salary of their Guard and Reserve, take a tax credit so we would basically share that expense among everyone and allow that guardsman and reservist to get a full paycheck.

I repeat for the record, the GAO reports that 41 percent of the guardsmen and reservists called to active duty take a pay cut. We could fix that, but for some reason we do not want to, we do not think we should, or we do not have the money. Yet at the same time we are fixing a lot of things for a lot of people and passing one appropriations bill and one tax bill after another.

Forty percent of those serving in Iraq and Afghanistan are Guard and Reserve; 410,000 families or individuals have been activated since September 11. We probably have a few more thousand to activate until we get it right in Iraq.

We can pay for this, as I said, by closing loopholes, but the Republican leadership said, "No." We cannot not pay for it. They have passed tax bills out of here and chalked it up to more debt. This would not be that much to add for people assuming 100 percent of the risk to defend this Nation, but they do not choose to do that, either. Right now, as I speak, 3 o'clock today, it is not in the bill.

I hope these words are traveling through this Capitol. I hope there are people listening and phones start ringing to include the military families in this FSC/ETI bill that is moving through conference so this tax relief can be given and the pay gap can be closed. If you are on the front line, taking 100 percent of the risk, the last thing you need to take is a pay cut.

I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CRAPO). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, does the rule of germaneness apply under cloture?

The PRESIDING OFFICER. Germaneness on debate is required on cloture.

Mr. BYRD. I ask unanimous consent to speak for not more than 10 minutes on a matter not germane to the pending matter before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered.

VETERANS BENEFITS

Mr. BYRD. Mr. President, West Virginians have a long and proud record of service to the U.S. military. General Stonewall Jackson, one of the greatest military minds of his time, hailed from present day West Virginia. Chuck Yeager, the World War II ace and the first man ever to travel faster than sound, is proud to be a West Virginian. SSG Junior Spurrier left his home of Bluefield, WV, to fight for the liberation of France and received just one fewer awards than the legendary Audie Murphy, the most decorated American soldier in World War II.

There are many more West Virginians whose names will not be recorded in the great military histories of our country, but these veterans have asked little of their country. They have a right to expect that our Government will provide them with the benefits they earned in service to our country, and that is the one thing they do expect.

Time and time again, President Bush has turned his back on veterans who have served our country. Over and over again, President Bush has had to choose between veterans programs and budget-busting tax cuts for the wealthy, and he has chosen to cut taxes for America's super-wealthy instead of taking care, as he should have, of America's veterans. As veterans evaluate the actions of this administration, I hope they are asking whether they are better off than they were 4 years ago.

For the last 3 years, Congress wanted to increase veterans' benefits by allowing military retirees to keep all of their VA disability checks and the military retirement pay, but President Bush opposed it. He fought against it. In fact, he threatened to veto a $396 billion Defense bill in order to keep Congress from allowing veterans to receive all the compensation they have earned through their service in the Armed Forces. Yes, my colleagues heard me right. President George Bush threatened to veto an entire Defense bill because veterans would get the benefits they had earned.

This year, President Bush approved plans to shut down three veterans hospitals and partially close nine more. What is more, the Beckley VA Medical Center which serves 40,000 veterans in southern West Virginia and is located in my home county of Raleigh narrowly missed the President's chopping block. Only a last-minute intervention by Senator JOHN D. ROCKEFELLER, Representative NICK RAHALL, and me saved the Beckley Veterans Hospital. If the President gets a second term, however, veterans better watch out. You veterans may have to kiss more of your hospitals goodbye.

But the Bush administration didn't bother to wait for a second term before slashing veterans health care in other ways. Last year, the Bush administration decided that an entire category of veterans should no longer be eligible to seek health care from the VA. This wrongheaded decision means that by next year more than 520,000 veterans will be barred from VA hospitals. In other words, the White House says it would be too expensive to let these veterans enjoy their VA health care benefits. How can President Bush claim he supports our troops if he doesn't support VA health care for half a million veterans?

President Bush has also taken to shortchanging veterans to new, disgusting levels. He is no longer content with simply underfunding veterans health care to the tune of $3.2 billion per year, according to leading veterans' service organizations. Now President Bush has decided that some people who served our country in uniform should pay more for their veterans health care benefits. The President's budget for this year doubles the cost of prescription drugs for these veterans, increases their fees for doctor visits by 33 percent, and sticks them with new annual enrollment fees.

I know that when President Bush hits the campaign trail in West Virginia, he will talk about how he cares about veterans, but I doubt that he will tell West Virginia's veterans about his plans to cut their benefits and raise their fees. I am sure you won't hear the President talking about how he has shortchanged the VA, cut veterans health care, fought Congress on veterans benefits, closed veterans hospitals, and increased health care charges.

The Bible says:

> . . . by their fruits ye shall know them.

In today's terms, we would say that you have to walk the walk if you want to talk the talk. But when it comes to looking out for veterans, George Bush is ambling off in the wrong direction.

The veterans of West Virginia know about sacrifice. They have given up a lot in their service to this country. This administration has spent 4 years undercutting veterans. The people of West Virginia should know that it is time to stand up for our veterans.

I yield the floor.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. LAUTENBERG. Mr. President, today what we have seen is a fresh topic of interest, as discussed in the newspaper. I ask unanimous consent that in my hour of time, whatever time I have remaining be available to me as if it were in morning business and that I be permitted to use 15 minutes of that time at this point.

The PRESIDING OFFICER. Without objection, it is so ordered.

PAUL BREMER'S RECENT COMMENTS

Mr. LAUTENBERG. Mr. President, the topic of very active discussion is Mr. Paul Bremer's comments that are in the papers, particularly the Washington Post, today. I say this with a great deal of respect for Paul Bremer. I think he worked hard to do a very good job. He can hardly be described as a leftwing liberal, for sure. He said something that was, to use the vernacular, kind of a show stopper. He said:

> We paid a big price for not stopping it (looting) because it established an atmosphere of lawlessness. . . . We never had enough troops on the ground.

This is our person in charge of the transition from Iraq's former government, purportedly to become a democracy. He is the fellow who was in charge in Iraq. We all, whoever went there, visited with him, listened to him. He worked very closely with the military. He is very skilled. But he said it. "We never had enough troops on the ground," and that was the beginning of the problem in which we are now so deeply enmeshed.

We have had generals saying it. We had General Shinseki saying that we needed 300,000 of our troops there to do the job, and not having had enough caused us, frankly, to become mired in a situation that, at least by current appearances, seems as though it is going to hold us there for a long time at a terrible cost in life, terrible cost in family relationships, terrible cost financially as well.

THE VICE PRESIDENT AND HALLIBURTON

Tonight, as everyone knows, the debate will be between Vice President CHENEY and Senator JOHN EDWARDS, for each of them to present their credentials and their views. But I rise to discuss the Vice President's relationship with Halliburton, his financial relationship with the oil company he ran from 1995 to the year 2000, the company that is reaping the benefits of multibillion-dollar contracts from the Bush-Cheney administration.

Vice President CHENEY still receives salary checks from Halliburton for well over $150,000 each year. He holds 433,000 unexercised Halliburton stock options. It presents a very questionable picture when we look on this chart at the orange line which conveys the Halliburton income to Vice President CHENEY from 2001 on, and his Vice Presidential salary. If one looks, we see the compensation from Halliburton exceeded that of the U.S. Government's compensation or pay for the Vice President. In the year 2002, Halliburton fell to $162,000 but then crept back up to where they are very close together. That is, the salary paid by the U.S. Government and the deferred compensation plan that gives Vice President CHENEY $178,000.

When you look at this, it presents a terrible picture. Here is a Vice President of the United States, the next person in line to take over if, Heaven forbid, something happened to the President, and he is getting paid from a company he used to work for. We know this is a deferred compensation plan, that it was earned before.

I also mention the fact that Vice President CHENEY, when he left Halliburton, got a $20 million termination bonus plus over $1 million in another bonus. If we looked at the deferred salary and the nontermination bonus DICK CHENEY has received from Halliburton while Vice President of the United States, it is up to almost $2 million.

This is, if not corrupting in its reality, its functionality. It has the appearance that raises enormous questions. This relationship, coupled with Halliburton's no-bid contract and other contracts in Iraq, is extremely problematic.

On top of the salary, there are 433,000 shares options that are exercisable. I come out of the corporate world and I know how valuable the stock options can be. The profits are committed to a charity, purportedly, but the more you get, the more you can give away.

Why does the Vice President permit this salary arrangement to continue when he could have done away with it, as did Mr. John Snow, who was the Secretary of the Treasury. He wrapped up 6 years' worth of deferred compensation into one year and said: I want to be done with this. I don't want to have my income coming from my former employer while I work for the U.S. Government at such a high level.

By continuing this financial relationship, the Vice President undermines our Nation's ethical credibility here and abroad. On September 14, 2003, the Vice President was asked about his relationship with Halliburton and the no-bid contract on the program, "Meet the Press." Vice President CHENEY told Tim Russert—and I happened to be watching the program; that is what stimulated my interest—the Vice President said:

> I've severed all my ties with the company, gotten rid of all my financial interests. I have no financial interest in Halliburton of any kind and haven't had now for over 3 years.

The problem with that statement is that when he said it, he held those 433,000 Halliburton stock options and continued to receive a deferred salary from the company and still has a salary for the year coming into 2005.

I went to the Congressional Research Service to see what the definition of a "financial interest" might look like. The Congressional Research Service confirmed to me that holding such options and receiving deferred salary constitutes a financial interest. They agree, and so do I, that when you have deferred compensation, when you have stock options, that is a financial interest. They say if it looks like a duck and sounds like a duck, it must be a duck. There it is, a financial interest.

Even though the exercised prices for Vice President CHENEY's Halliburton stock options are above the current market price, the majority of the options extend to 2009. My goodness, what does it take to free himself from a previous business contact?

When I left the company that I helped start and at which I spent 30 years, the minute I left there all of my options were canceled, to my regret, because there was a lot of money involved.

Any option holder has to hope that the stock price surges so the value of the options increase. One way this can happen is to be sure that lucrative contracts keep coming from the U.S. Government.

In the first quarter of 2004, Halliburton's revenues were up 80 percent from the first quarter of 2003. Why? Wall Street analysts point to one simple factor: The company's massive governmental contracts in Iraq. Those are the things that are responsible for this increase in revenue and profits, if any.

Vice President CHENEY's annual deferred salary from Halliburton is significant. As I pointed out earlier, in fact, the Vice President's Halliburton salary is as high as his government pay—last year, $178,000 in salary from Halliburton. I have heard the Vice President's defense of his Halliburton deferred salary. He claims that the deal was locked in in 1999 and there is no way for him to get out of his deferred salary deal.

How about if he had an employment contract with the company for 10 years and then became Vice President of the United States, would he say he had to have both jobs at the same time because he had a contract? Come on.

Checking of the facts revealed otherwise. I obtained the terms of Vice President CHENEY's deferred salary contract with Halliburton, and the bottom line is that the deferred salary agreement is not set in stone. In fact, one need only look at the ethics agreement of Treasury Secretary Snow to see what the Vice President should have done in order to avoid taking salary from private corporations while in public office. Secretary Snow took six different deferred compensation packages as a lump sum upon taking office. Get rid of any shadow of doubt, any shadow of conflict.

Worst of all, this financial relationship is going on while Halliburton is ripping off American taxpayers. I am very specific about this. Halliburton is ripping off American taxpayers. I have said it, and I will say it again. Look at the record.

The Pentagon's inspector general revealed that Halliburton, while our people were fighting for their lives, overcharged $27.4 million for meals that were never served to our troops. False records. Fraudulent.

Another Pentagon audit found Halliburton overcharged the Army by $1.09 a gallon for 57 million gallons of gasoline deferred to citizens in Iraq.

Auditors found potential overcharges of up to $61 million for gasoline that a Halliburton subsidiary, KBR, delivered as part of its no-bid contract to help rebuild Iraq's oil industry.

Under its cost-plus contract with the Pentagon, the more Halliburton spends, the more profit it makes regardless of whether that spending is necessary. Several former Halliburton employees have come forward to reveal how the company has taken advantage of this sweetheart deal by spending millions on nonexistent or vastly overpriced goods and services.

According to these former employees, Halliburton engaged in the following wasteful practices: They had its employees drive empty trucks back and forth across Iraq in order to bill for the trips despite the obvious risks that this practice posed to both truck drivers and the 85,000 trucks. Halliburton, under their arrangement, whatever they spent, came up with a profit for them.

If they needed an oil change they would buy a new truck. Halliburton removed all of the spare tires from its trucks and failed to provide basic maintenance supplies like oil filters. This is not something I am making up. It is in the record. As a result, when tires went flat or trucks broke down, they were abandoned or torched, with Halliburton making a profit on the replacements. This is the most sinister of behavior.

When a Halliburton employee needed one drill, his supervisor told him to order four. When the employee said he did not need four drills, the supervisor responded: Don't worry about it, it is a cost-plus contract.

One employee discovered that Halliburton was paying $45 for a case of soda in Kuwait when local supermarkets charged only $7.

The PRESIDING OFFICER (Mr. CHAFEE). The Senator's 15 minutes have expired.

Mr. LAUTENBERG. I remind the Chair that according to the rules under cloture I have an hour of time to be used if I can get an agreement for unanimous consent.

I ask unanimous consent, because the time is going to be used by me, that I be allowed a few more minutes until I finish my remarks.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, reserving the right to object, is there not a germaneness requirement for the debate at this point?

The PRESIDING OFFICER. There is, but the Senator had asked to speak as in morning business for 15 minutes.

Ms. COLLINS. I will not object.

Mr. REID. Mr. President, the time is running against the bill?

The PRESIDING OFFICER. It is.

Mr. LAUTENBERG. Mr. President, I thank the manager. The Senator from Maine has worked very hard on this intelligence reform bill. I supported her as a member of that committee. I know this might be a diversion to her, but I appreciate her consent.

One employee discovered that Halliburton was paying $45 for cases of soda in Kuwait when local supermarkets charged about only $7. And then there are the kickbacks. Halliburton admitted to the Pentagon that two employees took kickbacks, valued at approximately $6 million, in return for awarding a Kuwaiti-based company with lucrative subcontracts.

The scandal is playing itself out in the real world, while this Senate sleeps. It is neglect on everybody's part that this was permitted to continue.

This kind of corporate behavior resembles that of Enron and other corporations that have sought to defraud the Government with kickbacks and bribes and overcharges.

Profiteering during war is an outrageous action, if not a crime. When I served in World War II, if a company profiteered as people were losing their lives, they would be punished. They would have jail sentences in front of them.

That is not what I am suggesting. What I am suggesting is that this is abominable behavior and it ought not be permitted.

When I think of the debate that is going on and JOHN KERRY is accused of being soft on defense, when he served so bravely, when even though he disagreed with the policy of the Government, he served the country loyally, bravely, and was wounded. The assertions that maybe the wounds weren't deep enough were challenged by statements in the paper yesterday where it said that he still has shrapnel in his body from those wounds. Anyone who would suggest that because Senator JOHN KERRY examined the question on moneys being spent for the war, because it included tax relief for some of the richest among us, the fact is, he served without question, without any reservation whatsoever, except he had a difference in policy. But he put his life on the line, which we haven't seen around here, I can tell you, as I have described in past speeches.

I used the identification of the chicken hawk. The chicken hawk is someone who makes war that other people are to fight. I don't think it is fair to tear apart the loyalty, the heroism of Senator JOHN KERRY anymore than it was fair to challenge the heroism or the loyalty of former Senator Max Cleland.

I hope this assault on character can stop and we can discuss the issues that affect the American people.

I yield the floor and reserve the remainder of my time from my hour when I come back to the floor.

The PRESIDING OFFICER. The Senator from Georgia.

CORRECT REPORTING

Mr. MILLER. Mr. President, politics is politics. As we all know, it can be a contact sport. While many things can be considered fair or unfair, depending on your outlook, I think most would agree that the voting record and the printed and stated positions of a candidate or elected official are right and proper to discuss. But it is also important that those who report this discussion be correct in what they report.

Mr. LAUTENBERG. Mr. President, may I challenge whether this is part of the debate on the intelligence reform bill or is this discussing a different matter?

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I ask unanimous consent that the Senator from Georgia be permitted to speak as in morning business for 20 minutes, just as the Senator from New Jersey was permitted to speak as in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. LAUTENBERG. I have made my request, but I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MILLER. I thought we were in morning business. If I may now continue.

It is also important that those who report the discussion be correct in what they report. From most of the national media, we have not had that correct reporting on JOHN KERRY's national defense record.

From the media we have heard, from their review of national defense records, that the liberal Democrat JOHN KERRY and the conservative Vice President DICK CHENEY are, in fact, long lost ideological soul mates, separated only by birth and hair.

We hear from Wolf Blitzer and Judy Woodruff on CNN and Chris Matthews on MSNBC, Alan Colmes of Fox, and the fact finders at the Washington Post and the LA Times that if you took DICK CHENEY and substituted him for JOHN KERRY or if you took JOHN KERRY and substituted him for DICK CHENEY the defense votes that occurred in the House and Senate and the outcomes of defense spending bills and Pentagon operations would be virtually identical.

They would have you believe that when it comes to national defense records, votes and positions, they say the very DNA of DICK CHENEY and JOHN KERRY are practically indistinguishable, that they are doves from the same nest. Or maybe it is hawks now, with Kerry's latest change.

As silly as this assertion is, the Democrats are more than happy to make it because many in the media are only too happy to parrot it. There is no better proof of this than the media's response to the speech I made at the Republican National Convention in New York City.

Now, I was inclined to let the veracity of an old man soon to be retired just go unanswered, thinking that the juice wasn't worth the squeeze. And I would have, if it had been my reputation at stake instead of the safety of my family. Let me start with the LA Times which bought lock, stock, and barrel the Democrats' official line, and I quote:

> The Kerry campaign responded by accusing Miller of mischaracterizing the Senator's record, pointing out that Cheney also voted to cut funding for some of those weapons systems while serving in Congress. Others were targeted for cutback by Cheney when he was Defense Secretary in the first Bush Administration.

USA Today minimized the negative of Kerry's defense votes this way:

> . . . Kerry voted against large Pentagon spending bills that include many weapons three times in his 20-year career. And Defense Secretary Cheney recommended ending some of the same systems that Miller cited.

CNN's Judy Woodruff said this to me only a few minutes after my speech:

> JOHN KERRY voted for 16 of 19 defense budgets that came through the Senate while he

was in the Senate, and many of those votes you cited, DICK CHENEY also voted against.

Wolf Blitzer of CNN emphasized the similarity of KERRY and CHENEY:

> When the Vice President was the Secretary of Defense, he proposed cutting back on the B-2 bomber, the F-14 Tomcat as well. I covered him at the Pentagon during those years when he was raising serious concerns about those two weapons systems. . . .

And then, that citadel of sanctimony, the home of the whopper, the Washington Post, weighed in with this totally untrue statement:

> Miller's list was mostly derived from a single KERRY vote against a spending bill in 1991, rather than individual votes against particular systems.

Later, a Washington Post analysis added:

> KERRY did not cast a series of votes against individual weapon systems, but instead KERRY voted against a Pentagon spending package in 1990 as part of deliberations over restructuring and downsizing the military in the post-Cold War period.

Editorial pages began to chime in, such as the Philadelphia Daily News:

> Miller charged that KERRY has voted to strip the Armed Services of necessary weapons systems when DICK CHENEY, as Defense Secretary, proposed many of the cuts and voted for others.

Mr. President, is this true? Are there just a handful of votes by KERRY against weapons systems? Are those votes identical to those by DICK CHENEY? Did the media have their facts straight? And even more important, did they really want to have their facts straight? Or did they just simply adopt, without verification, the talking points from the KERRY campaign?

Let's start at the beginning. I said in my speech that KERRY "opposed the very weapons systems that won the Cold War and that are now winning the war on terrorism."

I then listed the systems that KERRY opposed, such as the B-1, the B-2, F-14A, F-14D Tomcats, the Apache helicopter, the F-15 Eagle, the Patriot missile, Aegis cruiser, the SDI, and the Trident missile.

Did KERRY oppose the weapons systems that won the Cold War? The answer is yes.

In 1984, JOHN KERRY ran for the Senate and built his campaign around the promise to reverse what he called "the biggest defense buildup since World War II," a buildup he considered in his words, "wasteful, useless, and dangerous."

In a key 1984 campaign document, KERRY identified 16 weapons systems he wanted to "cancel."

All of those weapons systems that I stated that KERRY opposed are found in this 1984 document, except for two—the Trident missile and the B-2 bomber. But Senator KERRY's opposition to those was reported in other press interviews in 1984.

Mr. President, this 1984 campaign document is the first, but by no means the last, of KERRY's opposition to these weapons systems.

It is strange, but there has not been a single story that I can find in the media about this document. No one wants the American people to see what KERRY was wanting to cancel at the height of the Cold War.

This document doesn't exist as far as the national media is concerned. But it is vital to any debate about JOHN KERRY's national defense record because it spells out in KERRY's own words his complete and total opposition to these weapons systems. This document begins and ends with the word "cancel."

In his own words, JOHN KERRY says "cancel" the MX, the B-1, the ASAT, SDI, the Apache helicopter, the Patriot, the Aegis cruiser, the Harrier, the Tomcat, the Eagle, the Phoenix, the Sparrow, and all of the other weapons systems listed on this chart.

If you are like most people, you might read this document and say, if JOHN KERRY wants to cancel these weapons systems, it certainly doesn't mean he is for them. So then he must oppose them. In the name of common sense, could you have any other meaning from this?

The media tells us that just because JOHN KERRY wanted to cancel those systems, that doesn't mean he opposed those systems. Such is their strange and twisted logic.

Because the media is not convinced JOHN KERRY meant "cancel" when he said "cancel," they ignore this document and think the American people should, too.

Those who don't ignore this document dismiss it, basically because KERRY opposed these systems 20 years ago. So what is the big deal today?

Here is why it is a big deal. This document came out in 1984, when America was in a life-and-death struggle with the Soviet Union. At that time, the Cold War was anything but cold, and it was certainly not over.

The premier of the Soviet Union was not Gorbachev but Konstantin Chernenko, an old Brezhnev hard-liner.

This document that outlined JOHN KERRY's vision for our national defense, which the media ignores and doesn't want you to know about, came out about 6 months after the Soviet Union shot down Korean Airlines 747 filled with 269 civilians.

This Kerry proposal came at a time when Soviet troops were at the halfway point of their armed invasion of Afghanistan.

This Kerry proposal came at a time when Cuban troops were in Angola and Kampuchea.

This Kerry proposal came at a time when Marxists insurgents had taken power in Nicaragua and were pushing northward into El Salvador.

This Kerry proposal came at a time when insurgents and terrorists were on the attack, and the way KERRY wanted to deal with them was by canceling crucial weapons systems.

Here, at the height of the Cold War, at a time when we were playing cards with the devil himself, when our own future, the world's freedom, and the fate of half a billion souls from Poland to Siberia; from the Baltic to Crimea, were all in the pot. JOHN KERRY said "fold them" to what ultimately turned out to be one of the biggest winning hands ever played for freedom.

That is why this 1984 document is a big deal. Mr. President, I ask unanimous consent that this document be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOHN KERRY ON THE DEFENSE BUDGET

"We are continuing a defense buildup that is consuming our resources with weapons systems that we don't need and can't use."

The Reagan Administration has no rational plan for our military. Instead, it acts on misinformed assumptions about the strength of the Soviet military and a presumed "window of vulnerability", which we now know not to exist.

And Congress, rather than having the moral courage to challenge the Reagan Administration, has given Ronald Reagan almost every military request he has made, no matter how wasteful, no matter how useless, no matter how dangerous.

The biggest defense buildup since World War II has not given us a better defense. Americans feel more threatened by the prospect of war, not less so. And our national priorities become more and more distorted as the share of our country's resources devoted to human needs diminishes.

JOHN KERRY HAS A DIFFERENT APPROACH

John Kerry believes that the time has come to take a close look at what our defense needs are and to plan for them rather than to assume we must spend indiscriminately on new weapons systems.

John Kerry believes that we can cut from $45 to $53 billion from the Reagan Defense budget this year. Some of these cuts include:

Major nuclear programs

MX Missile, Cancel, $5.0 billion
B-1 Bomber, Cancel, $8.0 billion
Anti-satellite system, Cancel, $99 million
Star Wars, Cancel, $99 million
Tomahawk Missile, Reduce by 50 per cent, $294 million

Land forces

AH-64 Helicopters, Cancel, $1.4 billion
Division Air Defense, Gun (DIVAD), Cancel, $638 million
Patriot Air Defense Missile, Cancel, 1.3 billion

Naval forces

Aegis Air-Defense Cruiser, Cancel, $800 million
Battleship Reactivation, Cancel, $453 million

Aircraft

AV-8B Vertical Takeoff and Landing Aircraft, Cancel, $1.0 billion
F-15 Fighter Aircraft, Cancel, $2.3 billion
F-14A Fighter Aircraft, Cancel, $1.0 billion
F-14D Fighter Aircraft, Cancel, $286 million
Pheonix Air-to-Air Missile, Cancel, $431 million
Sparrow Air-to-Air Missile, Cancel, $264 million

In addition, acquisition of equipment and supplies should depend on real defense needs, not inter-service rivalries. "National security" is no excuse for bad management practices. The Congressional Budget Office and the General Accounting Office" agree that an additional $8 billion can be saved by implementing the recommendations of the President's own Grace Commission Report.

"I will never forget that the Defense Budget is not an employment program, but a tool to provide the nation with a strong, lean and stabilizing defense posture.

Finally, John thinks it's time for a Senator who will stand up for what's right and not go along with what's expedient.

"If we don't need the MX, the B-1 or these other weapons systems. . . . There is no excuse for casting even one vote for unnecessary weapons of destruction and as your Senator, I will never do that."

Mr. MILLER. This document is not the end of this sorry story, for with these weapons systems clearly in his crosshairs as candidate JOHN KERRY, Senator JOHN KERRY pulled the trigger on them his first year in the Senate in 1985, and then again at every other chance he got.

In 1985, the "series of votes against individual weapons systems" the Washington Post so snugly swore never took place began.

In all, 14 Senate votes took place in 1985 alone on 5 of the specific weapons systems Kerry pledged to cancel. Mr. President, 13 of his 14 votes in 1984 were to cut the defense systems he promised to cancel.

Four of those were to cut the MX peacemaker missile; two votes were to cut antisatellite weapons; two votes were to cut SDI; another vote was to restrict SDI's use; another vote was to cut battleship reactivation; and another vote was against binary weapons.

KERRY's only vote not to cut a defense program was on SDI. You know why? Because after voting three times to cut SDI by as much as $1.5 billion, KERRY voted against a cut of $160 million because he said it didn't cut SDI enough.

So when it comes to the weapons systems that won the Cold War, JOHN KERRY said in 1985 he wanted to cancel them, and then in 1985 he voted against them 13 out of 14 times.

There were two other votes to cut back overall defense spending, for a total of 16 votes in 1985 on national defense alone; but the Mr. Magoos down at the pious Post somehow could not locate these facts.

In fact, the Washington Post could not only find "a" vote—one single solitary vote over 20 years—where JOHN KERRY voted against defense. That single antidefense vote was after the Cold War in 1990 or 1991, depending upon which Washington Post report you read.

Judy Woodruff did some better. She found 19 total defense votes over KERRY's 20 years in the Senate. There were 16 votes in 1985 on defense systems and overall spending alone.

She also claimed that CHENEY voted the same way as KERRY on "many of those" 19.

Yet how many can "many" be if CHENEY and KERRY served simultaneously in Congress for only 4 of those 19 annual budget fights?

But Wolf Blitzer's defense of KERRY's national defense record was the most interesting. With the wave of a hand, Blitzer dismissed the numerous votes by KERRY against these weapon systems that occurred years before as well as the years after CHENEY was Secretary of Defense.

CHENEY's position in 1990 and KERRY's opposition in 1984 is the difference between opposing the Sherman tank and the B-29 in the year before D-day and then wanting to cut back on them the year after V-J day.

Mr. President, you could review the series of JOHN KERRY votes on weapons systems in 1986, 1987, 1988 and 1989—all that occurred before the Berlin Wall fell.

The fact is you can look at KERRY's votes during the cold war, after the cold war, before Desert Storm, after Desert Storm, after the first World Trade Center attack, before the war on terrorism and now during the war on terrorism, and you will find JOHN KERRY was one of the most reliable "no" votes against the weapons our soldiers needed to defend this country and keep the U.S. safe.

The point is if the media won't tell you what the impact of KERRY's position would have been on the cold war, they sure are not going to tell you what the impact would be today on the war on terrorism.

So let me sum up what we can learn from the media's response to my speech at the Republican National Convention on JOHN KERRY's defense record.

The media can only find JOHN KERRY opposing defense weapon systems that Secretary CHENEY opposed also.

The media will only count overall spending bills as a vote against a weapon system, and will not count the numerous votes on the systems themselves nor the overall budget plans as votes on the systems or national defense.

And the media can simply find no votes by JOHN KERRY against any weapon systems during the height of the cold war—not a one. Not a single one.

What they found, or what they want you to believe they found is that CHENEY and KERRY had practically identical national defense voting records during the cold war. And that is flagrantly wrong.

Let me take another minute to look at this.

In 1985, the House in which CHENEY was a Member had a series of votes on 17 specific weapon systems.

Seventeen of DICK CHENEY's seventeen votes were to protect the defense systems.

Seven ayes on seven votes to protect the MX peacekeeper missile;

Six ayes on six votes to protect SDI;

Another vote to protect the Trident II missile;

Another vote to protect binary weapons;

Another vote to protect chemical weapons; and

Another vote to protect ASAT weapons.

During the height of the cold war, essentially every vote by DICK CHENEY was the mirror opposite of JOHN KERRY.

Where CHENEY repeatedly voted for weapon systems, KERRY repeatedly voted against those weapon systems.

Where CHENEY supported President Reagan's announced position on each vote on these weapon systems, KERRY opposed President Reagan's announced position on each vote.

The sole vote of JOHN KERRY against a cut in defense was because he wanted a bigger cut—a cut as much as ten times larger in SDI.

So there are differences between DICK CHENEY and JOHN KERRY on national defense. It's the difference between the world's biggest and greatest military superpower and, well, spitballs.

Mr. President, I probably have wasted my time and just spit in the ocean because we all have learned the hard way that the elite media can do anything it wants and sell anything it wants.

We saw earlier this year the New York Times and Washington Post repeat on their front pages false allegations by Ambassador Joe Wilson about Niger uranium and his wife's role in his own activities, but they then buried the correction somewhere in the back pages.

We saw Newsweek's Evan Thomas report that: "The media want Kerry to win" and that support, in Thomas's words, "is going to be worth maybe 15 points."

We see CBS News having to admit they were pushing forgeries about President Bush's National Guard service.

The national media's all-out defense of JOHN KERRY's indefensible defense record falls into this same sorry and disgraceful pattern of selling an agenda rather than the facts.

What I said in New York was true. It was true then. It is still true now.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

JOHN KERRY'S DEFENSE RECORD

Mr. REID. Mr. President, JOHN KERRY's record on defense reflects more than approximately 10,000 votes he has cast in the Senate. His defense record goes back to the steaming jungles of Vietnam where he, as a young sailor commanding a fast boat, went into harm's way on many different occasions. We know about the number of those occasions because his defense record indicates that the Government of the United States awarded him two medals for heroism—one a Bronze Star, one a Silver Star. He was wounded on three separate occasions and received three Purple Hearts. They were awarded not by some gentleman's club but by the U.S. military.

On the programs about which we have heard a dissertation today, as we look through those—except for the MX missile, which was canceled by the President of the United States, not by Congress, as I recall—all of these programs came into being. So to think that any one Senator, with the hundreds and hundreds of votes on defense matters, stopped the Cold War from being won is really a little silly, for lack of a better description.

Senator JOHN KERRY supported more than $4.1 trillion in defense spending, including for 16 of the last 19 Defense authorization bills. In fact, he voted for the largest increase in defense spending since the early 1980s.

JOHN KERRY is a strong supporter of the U.S. armed services and has consistently worked to ensure the military has the best equipment and training possible. In 2002, as an example, Senator KERRY voted for the largest increase in the history of the defense budget. This increase provided more than $355 billion in the Defense Department for 2003, an increase of $21 billion over the previous year. This measure includes $71.5 billion for procurement programs, such as $4 billion for Air Force's F–22 fighter jets which are now going to be stationed at Nellis Air Force Base in Las Vegas; $3.5 billion for Joint Strike Fighter which will also be stationed in Las Vegas at Nellis Air Force Base, and $279.3 million for the E–8C Joint Stars aircraft.

Senator KERRY's vote also funded a 4.1-percent pay increase for military personnel; $160 million for the B–1 bomber defense system upgrade; $1.5 billion for a new attack submarine; more than $630 million for Army and Navy variants of the Black Hawk helicopter; $3.2 billion for additional C–17 transports; $900 million for R&D of the Comanche helicopter; and more than $800 million for the Trident submarine conversion.

For someone who has served in the Senate for 20 years—this is just one Senator's opinion—it speaks well of him that he is not a rubberstamp for requests submitted to us by the Defense Department. That is what we are. We are a separate, equal branch of Government, the U.S. Congress, and our part of it is the Senate. We have an obligation to review very closely what is given to us by the Pentagon and given here. They always ask for more than they deserve, knowing that we are going to turn down some requests. We have budgets to meet also. It speaks well of Senator KERRY if he did not rubberstamp everything they asked for.

As to the Bradley fighting vehicle, which was mentioned in the previous speech, Senator KERRY supported $8.5 billion for the Bradley program. That is not bad. Senator KERRY, for the M–1 Abrams tank, has supported at least $21.5 billion in defense authorization for that tank.

He has supported all five new aircraft carriers since he joined the Senate. Since 1985, JOHN KERRY has voted to start work on each of the five new aircraft carriers: the USS *Stennis*, USS *Truman* in 1988, the USS *Reagan* in 1993, the USS *Bush* in 1998, and the newest yet unnamed carrier in 2001. So these aircraft carriers, the *Stennis*, *Reagan*, *Bush*, and formerly the CVNX, he voted for all of those.

The F–15 fighter jets, Senator KERRY supported almost $20 billion in Defense authorizations for the F–15. For the F–16, Senator KERRY supported at least $25 billion in Defense authorization.

There is going to be a debate tonight and maybe that is why the speech was given, but in testimony before the House Armed Services Committee, Mr. CHENEY said:

> If you're going to have a smaller air force, you don't need as many F–16s. . . . The F–16D we basically continue to buy and close it out because we're not going to have as big a force structure and we won't need as many F–16s.

According to the Boston Globe, Bush's 1991 Defense budget "kill[ed] 81 programs for potential savings of $11.9 billion . . . Major weapons killed include[d] . . . the Air Force's F–16 airplane." This was Secretary CHENEY. This was House Member CHENEY. This was Vice President CHENEY.

It is also important to note that Senator KERRY has supported at least $10.3 billion in Defense authorizations for the B–1 bomber.

The Kerry record on the B–2 bomber. He supported $17 billion in Defense authorization for the B–2. Mr. CHENEY proposed cuts to the B–2 program. I am sure there were times when he supported it, as did Senator KERRY. There were times when Senator KERRY thought there was too much being spent, as did Secretary CHENEY.

According to the Boston Globe in 1990:

> Defense Secretary Richard Cheney announced a cutback . . . of nearly 45 percent in the administration's B–2 Stealth bomber program, from 132 programs to 75 . . .

If we want to go back and revisit history a long time ago, we do not have to go back very far to find out, just a couple of years ago, an introduction of JOHN KERRY by Senator ZELL MILLER at the Georgia Democratic Jefferson Jackson Day Dinner, and I quote my friend ZELL MILLER:

> My job tonight is an easy one: to present to you one of the nation's authentic heroes, one of this party's best-known and greatest leaders—and a good friend. He was once a lieutenant governor—but he didn't stay in that office 16 years, like someone I know (Miller). It just took two years before the people of Massachusetts moved him to the United States Senate in 1984.

Further quoting him:

> In his 16 years in the Senate, John Kerry has fought against government waste and worked hard to bring some accountability to Washington. Early in his Senate career in 1986, John signed on to the Gramm-Rudman-Hollings Deficit Reduction Bill, and he fought for balanced budgets before it was considered politically correct for Democrats to do so.

Senator MILLER went on to say:

> John has worked to strengthen our military, reform public education—

Let me repeat this quote:

> John has worked to strengthen our military, reform public education, boost the economy and protect the environment. Business Week magazine named him one of the top pro-technology legislators and made him a member of its "Digital Dozen."

Further quoting:

> John was reelected in 1990 and again in 1996—when he defeated popular Republican Governor William Weld in the most closely watched Senate race in the country.
>
> John is a graduate of Yale University and was a gunboat officer in the Navy. He received a Silver Star, Bronze Star and three awards of the Purple Heart for combat duty in Vietnam. He later cofounded the Vietnam Veterans of America.
>
> As many of you know, I have great affection, some might say an obsession, for my two Labrador retrievers, Gus and Woodrow. It turns out John is a fellow dog lover, too, and he better be. His German shepherd, Kim, is about to have puppies. And I just want him to know Gus and Woodrow had nothing to do with that.

This is a direct quote from Senator ZELL MILLER and, among other things, I repeat, "JOHN has worked to strengthen our military."

The record for Senator KERRY supporting the military is, as Senator MILLER said, a stellar performance. He has worked to strengthen our military.

I also say that for someone who opposed the MX missile system, I do not think that makes him a bad guy. We in Nevada did not like the system. It was eventually stopped. If somebody does not support the missile defense system—I think there is probably somebody sitting in the Presiding Officer's chair today, which can only be presided by those on the majority, who does not support the missile defense system. So the fact that people pick and choose what they support for the military does not make them bad.

Senator KERRY's record is very good, and I have gone over some of the things he supported. I am not going to belabor the point, other than to say that Senator KERRY supported the F–18, and he supported the $60 billion defense for that instrument of war. The Cheney F–18 record, he asked for cutbacks on that.

Senator KERRY is a person who truly believes in the military. He was a volunteer as a young man and went and fought, showing heroism in that process, and he is still showing heroism in his defense of this country, under tremendous odds, with terribly negative attacks. For someone who has served with Senator KERRY for two decades in the Senate, I am proud of him. I am proud he is the nominee for my party. He is a man of integrity. He has tremendous competence.

I was on the Select Committee on MIA/POW. He chaired that. The cochair was Bob Smith from New Hampshire. He did a remarkably good job in a most difficult situation.

I wish today had not turned into a situation of trying to talk about Presidential politics, but that is the way it has turned out.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have come to the floor to speak about the issue of reimportation of prescription drugs. I also wanted to talk for a moment about the tax bill that is being negotiated by the conference committee between the House and Senate, especially with respect to the runaway plant issue and tax incentives that now occur for those who shut down their American manufacturing plants and export jobs. I will speak about those two issues briefly.

Before I do that, I'd like to address some of the remarks of my colleague from Georgia, who was speaking when I came to the floor of the Senate.

I disagreed strongly with my colleague when I heard his speech at one of the national political conventions. He certainly had every right to give that speech. I disagree strongly with the presentation he gave on the Senate floor, but he has every right, of course, to express those opinions on the Senate floor.

I have great respect for my colleague from Georgia. I honor his service. He has provided great public service to this country in many different ways, so I honor that service.

But I, of course, reserve the right to disagree with my colleague as well, just as he came to the floor and disagreed with some of the votes that have been cast by Senator KERRY.

The last time I was on the floor when my colleague from Georgia came to speak, he was offering a proposal that we take away the right of the American people to vote for Senators. He proposed instead that Senators be appointed or selected by State legislatures, and that the right of the people to vote for Senators should be rescinded.

Well, I thought that did not sound like a very modern approach. We left that idea a long time ago in this country, and I got up and spoke and indicated I did not have quite such a pessimistic view of this country's future and certainly did not agree that we ought to revert back to the States appointing their Senators and taking away from the American people the right to elect Senators. But that was the only previous occasion I recall on which I took the floor of the Senate and disagreed with my distinguished colleague from Georgia. I must say, however, that I feel compelled to disagree once again.

I have not come to the Senate floor to be critical, ever, of President George W. Bush's military record. I would not do that. And I would not be critical of Senator KERRY's military record. Both of them served.

My colleague came to talk about Senator KERRY's record in voting for defense for this country. This is not a new technique in American politics. This is timeless. It always happens that someone stands up and points at someone else and says: You don't represent this country's interests in defense. You don't support a strong defense. You are not willing to stand up when you need to stand up and be counted and support a strong defense for this country.

Sometimes that works. But let me just say this. I don't think it works when you point at someone who decided on graduation from Yale that he would volunteer to go to Vietnam; not only that, he would volunteer to serve on a swift boat, where he was certain to be involved in hostile action. He didn't have to do that. He did that, he volunteered. He received a Bronze Star, a Silver Star, three Purple Hearts, and still has fragments in his body from the wounds from which those Purple Hearts arose. I don't think it works to point fingers at that man and suggest he, somehow, is weak on defense.

My colleague's assessment of Senator KERRY has changed some. Senator REID pointed out that in March of 2001, at a banquet in Georgia, my colleague from Georgia introduced Senator KERRY. Here is what he said about him:

> My job tonight is an easy one. It's to present to you one of this Nation's authentic heroes, one of this party's best known and greatest leaders, and a good friend.

Then he said this, my colleague from Georgia:

> John has worked to strengthen our military, reform public education, boost the economy and protect the environment.

Let me say that again because it is important. It is at odds with what we just heard from my colleague from Georgia on the floor of the Senate this afternoon. Speaking of JOHN KERRY, my colleague from Georgia said:

> John has worked to strengthen our military.

This is a speech from March 1, 2001. What is the difference between then and now? JOHN KERRY has had the same record on defense.

Incidentally, JOHN KERRY has supported a great amount of this country's defense: the Apache helicopter, Aegis, The Bradley, Black Hawk, B-2 bomber, C-17 cargo jets, F-16, F-18, Tomahawk missiles, C-130s, and I could go on and on and on. Billions, tens of billions, yes, trillions of dollars for defense Senator KERRY has voted for.

What is the difference between March 1, 2001, in my colleague's assessment of Senator KERRY where he said "John," speaking of Senator KERRY, "has worked to strengthen our military," what is the difference between that and the discussion we have just heard today? The difference is, it's an election year and my colleague has, apparently, decided to change his mind. If there were an Olympic event called "stretching," I have a couple of personal nominations for who might win the gold medal.

This ought not be, in American elections, an attempt to find out who is the worst. It ought to be a search for who is the best. Who can best lead this country? Who has a vision for the future that grows our economy, that protects our country, protects our homeland, provides for a strong defense, protects the environment? It is a search, in my judgment, for who is the best, not who is the worst.

We have two candidates running for President, both fully qualified to serve in that office. It does not serve our country well to point at one and say somehow he is weak on defense, doesn't support defense, especially when it is so at odds with the record. But it is now an election year. I guess almost anything goes.

There is a term, I suppose, for changing one's mind, and it is called flip-flop. I have not used it, but some have used it to the point of significant repetition this year. I will not use it here except to say what we have just heard today is at significant odds, not only with the record of a member of our caucus who has served with great gallantry but also at odds with the previously stated views of the person who made the speech today.

Let me end as I began and say I honor the service of the Senator from Georgia. I disagree with him about these issues. Four weeks from today this country will see fit to make an informed choice between two men who strive to serve for the next 4 years as this country's President. Both candidates, I am sure, care about national security. Both care about homeland security. As was stated in the debate last week, both love this country.

I submit, just as one Senator, both are qualified to serve in that office. Both parties have nominated people they choose to support and support aggressively. I come to the Senate floor today to simply say this: JOHN KERRY is someone with whom I have served for many years. I have watched him vote. The fact is, he supports a strong defense for this country. He always has and always will. When it came time to answer his call, his country's call, he left one of the prestigious colleges in this country upon graduation and said: Let me volunteer. He went to Vietnam. He went in harm's way.

There is no amount of energy or wind that can be exerted by others who will change the basic fact of a voting record that is in strong support of America's defense.

Mr. REID. Will the Senator yield for a question?

Mr. DORGAN. I am happy to yield.

Mr. REID. I say through the Chair to the Senator from North Dakota, the Senator from North Dakota has served more than 2 decades in the Congress of the United States?

Mr. DORGAN. That is correct.

Mr. REID. So you have been called to vote on every Defense bill and hundreds and hundreds of amendments offered on those Defense bills over the years.

As strong as the Senator from North Dakota is on matters relating to the U.S. military, I don't know this, but I will bet there were occasions that you voted to cut certain programs; is that right?

Mr. DORGAN. I say to the Senator, I have, in fact. I serve on the appropriations subcommittee here on the Senate. I care a lot about this country's defense. And I voted against the MX missile program, because I felt it was a terrible waste of money. But I am a strong supporter of defense. I believe anyone who looks at my record will understand the weapons programs I supported, significant weapons programs, have added strength and boosted this country's capability.

Because I serve on the Appropriations Subcommittee on Defense, I watch what others do as well. From a firsthand knowledge, I say that Senator KERRY has a strong and aggressive record in supporting this country and supporting a strong defense for this country.

Mr. REID. The point I make, and I would like the Senator to respond to this, a person from time to time, in service in the Congress of the United States, votes for amendments to cut spending in different areas for a lot of different reasons. They still can be some of the strongest hawks we have around here; isn't that true?

Mr. DORGAN. No question about that.

My colleague from Georgia was talking about Vice President CHENEY and JOHN KERRY. I didn't quite understand that comparison of their records on defense. I have lived a couple of doors down from Dick and Lynne Cheney for a number of years. I know them well. I would never come to suggest somehow that DICK CHENEY doesn't support a strong defense. And I know JOHN KERRY very well. I certainly wouldn't come to suggest he doesn't support a strong defense. Both of them have records that demonstrate a support for this country's defense.

Well, enough about that. I didn't come to the floor of the Senate to speak about that. But I felt that there should be some response to the statement by the Senator from Georgia this afternoon which I think, frankly, is not supported at all by the facts.

AMERICAN JOBS

On May 5 of this year, we had a vote in the Senate. That vote was on an amendment that I had offered, together with my colleague, Senator MIKULSKI from Maryland. The intent of the vote was to shut down a loophole that rewards U.S. companies that move their manufacturing jobs overseas.

Yes, we have that kind of loophole. It is a perverse, insidious loophole in our Tax Code that says: Shut down your U.S. manufacturing plant, get rid of your U.S. employees and outsource those jobs, and, God bless you, while you leave this country, we will give you a tax cut.

Talk about a perverse incentive to do exactly the wrong thing, that is it.

We are now seeing the conference committee between the Senate Finance Committee and the House Ways and Means Committee meet and negotiate over a FSC/ETI bill, sometimes also called the "jobs bill." If they finish putting this bill together in conference and do not include a provision to eliminate this perverse incentive, they will have done precious little to help protect, nurture, and strengthen American jobs.

Incidentally, when I offered this amendment on May 5 of this year, the amendment was tabled by a vote of 60 to 39. Sixty Members of the Senate voted to say they did not want to shut down a tax loophole that provides an incentive for companies to fire their American workers and move their U.S. jobs overseas. So that loophole still exists in tax law.

Now I read in the paper this morning they really do not want to pay for the cost of this FSC/ETI bill by shutting down loopholes. This is unbelievable.

We have American companies now that decide they want to do business through a post office box in the Bahamas or the Grand Caymans. Why? Do they want to be a citizen of the Grand Caymans? Not exactly. They just want to avoid paying U.S. taxes so everyone else can pay taxes that these folks do not pay.

I suggest that once companies have decided to move their corporation and run their business out of a mailbox in the Bahamas for the purpose of avoiding U.S. taxes, the next time they get in trouble maybe they ought to call the Bahamian Navy to protect them. I understand the Bahamian Navy has 20 people. Maybe the next time one of these companies gets in trouble with some expropriated assets or other issue they can call on the combined flexed muscle of the Bahamian Navy.

My point is simple. We have a real problem in this country with the outsourcing of jobs. In the last 4 years, we have actually lost jobs at a time when we are supposed to be creating jobs. We have an expanding population. We need new jobs. But we are losing jobs.

I will not give the same speech I have given previously about the Radio Flyer and Huffy bicycles, those quintessentially American products that are now being made in China. I will not talk about the all-American cookie, the Fig Newton, now being made in Monterey, Mexico, so that it is now Mexican food. I will not give the speech about the outsourcing of these jobs to Sri Lanka, Bangladesh, Indonesia, and China. But if this country does not wake up soon and get rid of these pernicious loopholes in the tax law that say, ship your U.S. jobs overseas and we will give you a big tax cut, if we do not do that, we are not going to succeed.

Growing an economy requires us to do the right things. We cannot talk about growing the economy and then support tax loopholes and say, by the way, ship your U.S. jobs overseas. That does not work. We are outsourcing jobs every single day and no one seems to care much about it.

Incidentally, that also relates to the trade deficit, because when we outsource the jobs and ship the products from those jobs back into this country, it means we exacerbate the trade deficit, which is the largest deficit in human history.

One can make an argument as an economist—I used to teach a bit of economy in college—one can make an argument that the budget deficit is money we owe to ourselves. We cannot make that argument with respect to a trade deficit. We owe a trade deficit to other countries. It will be paid inevitably by a lower standard of living in our country in the future.

The largest trade deficit in history ought to be cause for substantial alarm in this Chamber and at the White House. Yet there is almost a conspiracy of silence all around this town about a trade deficit that, in my judgment, hurts this country very badly.

Incidentally, Lou Dobbs has written a book about this trade deficit. I encourage colleagues and others to read it. His program, more than any on television these days, is talking about the danger of this trade deficit.

At any rate, as they finalize this jobs bill in conference, which is going on as I speak, they need to come back to the amendment I offered last May 5 with my colleague, Senator MIKULSKI. They need to shut down this perverse incentive in tax law, which gives benefits and encouragement and financial help to companies that move their jobs overseas.

REIMPORTATION OF PRESCRIPTION DRUGS

Let me make one other point on another subject that I think is critical. We are told we are near the end of this session. Perhaps on Friday of this week we will complete our work and then come back for a lameduck session, which happens to be a terrible idea. Perhaps, because this Congress has not done much of the right kind of work or much of the work it needs to do, we will have to have a lameduck session.

As we near the end of this session, the one relentless issue that many Members of Congress say they care about and want to do something about is the issue of the prices of prescription drugs. We pay the highest prices in the world for prescription drugs and there are far too many in this country who cannot afford them.

Senior citizens are 12 percent of our population yet they consume over one-third of the prescription drugs in America. Senior citizens have reached that point in their lives when they have a fixed income. Yet one-third of the prescription drugs are taken by our senior citizens. Why? Because they must. These are lifesaving drugs, miracle drugs. My hat is off to the pharmaceutical industry and to the researchers at the National Institutes of Health and others who have helped create these new drugs, but miracle drugs offer no miracle to those who cannot afford to take them.

I sat on a bale of straw the other day at a farm in southern North Dakota with a fellow who is 87 years old. He told me: I fought cancer for 3 years and I think I finally have beaten it. This is an 87-year-old man. I fought cancer for 3 years and I think I finally won. For those 3 years, my wife and I drove to Canada to buy the prescription drugs I needed to fight this cancer.

Why? Because the same FDA approved drug, the identical pill, is put in the same bottle, made by the same company, but is priced at a dramatically lower price in Canada.

He said: For 3 years, we went to Canada to save that money because we had to. Senior citizens should not have to go to Canada to save money on prescription drugs.

He is right about that. I would prefer that pharmacist be able to go to Canada to purchase those lower priced prescription drugs from the pharmacist in Canada, come back, and pass the savings along to the consumers in our country.

By getting rid of the artificial barriers that prevent re-importation, we would put downward pressure on prescription drug prices in this country so people would not have to go anywhere but their local drugstore to purchase prescription drugs. They could purchase them here for a fair price. But we are charged the highest prices in the world for these drugs.

We are told by the Food and Drug Administration that if we reimport prescription drugs from Canada in any organized way that there would be a safety issue. We are told by the Secretary of Health and Human Services that there may be a safety issue. We are told by the President that he thinks maybe we should look at this but there might be a safety issue.

That suggests somehow that Americans are not able to do what Europeans have done everyday for years. The Europeans have something called parallel trading. Their parallel trading programs allow someone from Germany to buy a prescription drug from Spain, someone from France to buy a prescription drug from Italy.

They don't have any safety issues in Europe. The marketplace determines the price for the drug, and the market puts downward pressure so the Europeans don't pay the highest prices in the world for prescription drugs as we do. They do what is called parallel trading, and there are no safety issues at all. European officials have testified before our committees. The safety issues simply are not there. It is a bogus issue.

We have drafted a bipartisan piece of legislation called the Pharmaceutical Market Access and Drug Safety Act. Myself, along with Senators SNOWE, McCAIN, STABENOW, FEINGOLD, and others, we have drafted a bipartisan piece of legislation that systematically addresses the safety issues so that there cannot be any safety concerns. Our bill would allow the reimportation of prescription drugs from Canada and from other major developed countries and would put downward pressure on prescription drug prices. The House of Representatives has passed such a bill. That bill is on the calendar at the desk. The bipartisan bill which we have introduced is similar to the bill that is at the desk. Yet we are unable to get a final vote in the Senate.

We have had substantial discussion. I had a discussion with the majority leader on this subject at midnight one night earlier this year on the Senate floor. I had a hold on a nominee. I withdrew that hold because I believed we had an agreement that we were going to work toward an opportunity to have a vote on this legislation. I believed that agreement with the majority leader existed. He now indicates it was not an agreement for a vote. He indicates it was an agreement that a process would begin and that the authorizing committee would work on this. The authorizing committee worked on it, to be sure. They would have markups scheduled and markups cancelled, markups scheduled and markups cancelled. The fact is, they never were able to get a bill out of committee because they couldn't get consensus on anything. We have a consensus on the bill that is on the calendar. We have a consensus on the bipartisan bill. If there is a vote on that in the Senate, it will pass by a significant margin. We don't need another consensus. There is a consensus that already exists. What we need is a vote on the floor of the Senate.

I encourage the majority leader once again to allow us the opportunity to cast this vote. Senator McCAIN, Senator SNOWE, myself, Senator STABENOW, Senator FEINGOLD, Senator DASCHLE, Senator KENNEDY and many others have worked very hard on this issue. In my judgment, it is a disservice to those who deserve to pay fair prices for prescription drugs not to have a vote on this bill. It is a disservice to their interests for us not to complete work on this bill during this session of the Congress.

I ask unanimous consent to print in the RECORD two editorials. One is by the Chicago Tribune and it is entitled "Shielding the Drug Industry." This says essentially what I have said:

> While Congress dithers, States and cities skirt if not break the law by helping seniors and others take advantage of lower prescription-drug prices in Canada.

And the editorial talks about the desperate need for Congress to pass a law dealing with reimportation. They specifically feel that the legislation that is before the Congress would be meritorious and they talk about Peter Rost who is vice president of marketing for one of the largest drug companies who broke ranks with the drug industry in the last couple of weeks and publicly endorsed the proposal in Congress that my colleagues and I have sponsored.

Then I ask unanimous consent to print in the RECORD a New York Times editorial that is titled "The Senate's Chance on Drug Costs."

> If Dr. Bill Frist, the Senator majority leader, knows what's good for the body politic, he will allow a quick floor vote on the drug reimportation bill he has been bottling up for the benefit of President Bush and the pharmaceutical industry.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Chicago Tribune, Oct. 1, 2004]

SHIELDING THE DRUG INDUSTRY

Last month Peter Rost, a vice president of marketing for Pfizer Inc., broke ranks with the drug industry and his employer by publicly endorsing a proposal in Maryland's Montgomery County to allow its employees to buy cheaper drugs from Canada. Rost disputed industry claims that reimportation would pose a public health risk. "The real concern about safety is about people who do not take drugs because they cannot afford it," he said.

Rost—who made it clear that he was speaking only for himself, not Pfizer—joins a growing number of city and state officials across the country arguing for reimportation. Only a few months ago, a new law seemed inevitable. Even Health and Human Services Secretary Tommy Thompson suggested that was so. Unfortunately, "inevitable" may not mean any time soon.

Competing reimportation bills have been bottled up in the Senate for months. And Senate Majority Leader Bill Frist of Tennessee isn't likely to allow a debate or vote before the election. Last month he argued that with only a few weeks left in the session and other pressing issues, there wasn't enough time for a full debate.

While Congress dithers, states and cities skirt if not break the law by helping seniors and others take advantage of lower prescription-drug prices in Canada. One such program is supposed to be introduced soon in Illinois.

The lack of progress is frustrating. Last spring, at his confirmation hearings, Medicare chief Mark McClellan promised to help develop legislation to allow imports of lower-cost prescription drugs with safeguards to protect consumers. Frist said that the Senate "will begin a process for developing proposals that would allow for the safe reimportation of FDA-approved prescription drugs." But Sen. Byron Dorgan (D-N.D.) said recently that the process had "led to nothing."

No wonder some politicians are so frustrated that they're openly challenging the Food and Drug Administration in announcing plans to help consumers link to pharmacies in Canada and elsewhere.

Opponents of reimportation have argued that it would open America's borders to a flood of tainted drugs, and that the FDA could not guarantee the safety or purity of such imported drugs. That argument isn't convincing. Many drugs are manufactured abroad, and the FDA inspects those factories and ensures that drugs are shipped to America without tampering. That system could be expanded, using fees paid by those who import or export the drugs.

Pfizer execs are asserting that Rost "has no qualifications to speak on importation" and emphasize that he is not speaking for the company. But his support for reimportation resonates in Illinois, where 67 percent of registered voters supported Gov. Rod Blagojevich's plan to help residents buy prescription drugs from Canada, Ireland and England, according to a recent Tribune/WGN-TV poll. A survey by the Kaiser Family Foundation showed about 8 in 10 Medicare recipients support allowing Americans to buy drugs from Canada if they can get a lower price. The same study showed more than 6 in 10 don't believe such a system would expose Americans to unsafe medicines from other countries.

It seems terribly clear that congressional leaders have one intention here: protecting their heavy campaign contributors in the drug industry from competition. This issue deserves a vote. The stalling has to stop.

[From the New York Times, Sept. 29, 2004]

THE SENATE'S CHANCE ON DRUG COSTS

If Dr. Bill Frist, the Senate majority leader, knows what's good for the body politic, he will allow a quick floor vote on the drug reimportation bill he has been bottling up for the benefit of President Bush and the pharmaceutical industry. A large majority—up to 75 members, by some estimates—would easily pass the bill and delight the organized older voters who have been clamoring for lower-priced Canadian drugs. American consumers are increasingly aware that their average drug prices are 67 percent higher than what Canadians pay for comparable prescriptions. Bipartisan Senate pressure is growing on Dr. Frist, along with threats of the sort of floor rebellion that saw the Republican House rise up last year to pass a drug reimportation plan over Mr. Bush's opposition.

Mr. Bush continues to express concern about potential safety risks from imported drugs while insisting that the new Medicare subsidy for prescription drugs will eventually ease the pocketbook pain of distressed retirees. Dr. Frist also continues to express concern about the need to weigh the benefits of lower prices against possible safety risks.

But this concern is addressed in the pending bipartisan bill, which mandates that the bargain drugs would come from licensed Canadian pharmacies and wholesalers registered with the federal Food and Drug Administration.

The real issue appears to be to avoid forcing Mr. Bush to choose between signing the bill and angering the drug industry, which donates mightily to G.O.P. campaigns, or vetoing it and infuriating older voters.

This page has supported the Medicare drug plan, but with the imperative that the administration work harder to restrain costs, however much the pharmaceutical lobby complains. The reimportation bill is a promising cost saver.

Mr. DORGAN. As I have indicated, there is a bipartisan group of Senators who have worked a long while on this issue. The House of Representatives passed this idea by a wide bipartisan margin. This is not a partisan issue. It is bipartisan.

My hope is that the majority leader will decide that as a matter of scheduling, we will, before we adjourn sine die, address this issue and resolve it for the benefit of the American people. There is no safety issue. Everyone knows that is a bogus issue. To continue to raise that issue suggests somehow that Americans are unable to do what the Europeans have done routinely year after year. That is, put together a system—we call it reimportation; in Europe it is called parallel trading—that is safe for consumers and that puts downward pressure on prescription drug prices.

I yield the floor.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. HUTCHISON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR ON TERRORISM

Mrs. HUTCHISON. Mr. President, it is my understanding that there has been use of the Senate floor in the last few minutes to discuss the Presidential race and to make statements about the situation in Iraq and our President's handling of that and our President's own war service, his service in the guard, which was honorable. I don't know everything that was said, but let me say that it is very important we take every opportunity to look at what is happening in the war on terrorism and the place that Iraq holds in the war on terrorism. Let's don't forget Afghanistan, either.

Our country was hit on 9/11, 2001. Everybody in the world knows that. It hasn't been easy to deal with a different kind of enemy, but that is what we have, a different kind of enemy. Our President has been resolute and firm in fighting this enemy every step of the way. Americans can hardly imagine that human beings would actually be able to shoot children in the back as they are running away, as happened in Russia a few weeks ago, terrorists taking over a school and children running away to go to safety and being shot in the back. Three hundred people died in that event.

People can't imagine an enemy that would cut someone's head off before a video camera and spread it out across the world. But that has happened with the kind of enemy we are now facing. Does anyone think that kind of enemy can be dealt with with kid gloves, with good manners, as we would have in a debating society? The President doesn't. The Vice President doesn't. They are standing up for our country. They are standing up for our country against an unimaginable enemy, and they are doing a great job. They are doing a great job because they feel from their hearts that we must be firm and resolute against this enemy, and we must not let anything stand in the way of protecting America and protecting our homeland.

That is why I am so proud of our President and our Vice President. They are not asking anyone else if America can defend itself.

And we are at war with terrorists who would shoot children in the back and cut innocent people's heads off for absolutely no reason whatsoever. So if we are going to use the Senate floor to be part of the campaign, I think we need to make sure the people of our country hear both sides. There are real differences. There are real differences in how we would handle the war on terrorism, what we do in Iraq. Iraq is not an easy situation. We all know that.

We know the enemy has infiltrated Iraq. They have come in through the porous borders from all over the world to try to disrupt the stability and the stabilization of Iraq. Americans have boots on the ground in Iraq. Our young men and women are fighting for our freedom in the deserts of Afghanistan and in Iraq so that we will be able to debate on the Senate floor, hold our own elections, and live in the freedom that we have come to know. I think our young men and women deserve the respect that we have a united country in this war and in this effort. This is every bit as much a fight for freedom as any war in which America has been engaged.

Our President and our Vice President put one thing, and one thing only, first: the security of the American people. They want every child in our country to grow up with the same kind of freedom and opportunity every one of us in the Senate has had growing up. If we let terrorists curtail the way we live, we will have lost. We will have said that we are not going to answer the call of our generation to maintain the freedom and opportunity of our country, which we have been able to enjoy. That is unthinkable. Our President and our Vice President are standing firm for the protection of the American people. They are standing firm for our economy.

One of the other hits we took on 9/11/01 was the hit to our economy. The tourism industry went down, the airline industry was in trouble, and it had a ripple effect throughout our economy. But our President has remained firm in the way we would try to stabilize the stock market and get jobs back and get people back to work. He is doing it with tax cuts, so that people will have more of their own money to spend and they will put it into the economy. Guess what. That has made the difference.

The turnaround in our economy started right after the tax cuts were signed by the President. The stock market is up and jobs are coming back; 1.7 million jobs have been put on this year alone. We are almost back to where we were before 9/11.

So, Mr. President, if we are going to use the Senate floor to talk about the election that is going to happen in the next 6 weeks in this country, I think we better look at the record. The record is good. We have taken the steps that are necessary after being hit by terrorists in a way that we could never have imagined being hit on 9/11. Our homeland is more secure. Is it everything it needs to be? No. The President will tell you that. Anyone will tell you that. But it is a whole lot safer than it was on September 10, 2001.

We are taking the steps right now on the Senate floor to reform our intelligence-gathering capabilities. We are going to have the best intelligence operation in the entire world. We are already making great strides. We have made great improvements. There is much more sharing and, in fact, the increased and better intelligence has caused us to know that there is a heightened alert right now. But we are taking the steps to codify that and put it into statutory form. We are doing exactly what we ought to be doing to assure that our country is prepared to go forward, to stay the course in this war, and to win the war on terrorism. We are going to do it one step at a time, with a President who is absolutely focused on our national security.

Mr. President, I am proud of our President. I am proud of our Vice President. They are staying focused. A lot of people think this campaign has gotten pretty rough. Campaigns in America are rough. None of us like it, but no one is going to unilaterally disarm. Therefore, we are going to make sure that the truth comes out so that people can see the differences between the two candidates. There doesn't have to be any mud slung in this campaign because the differences are very great. Our President is resolute that he is going to win the war on terrorism and protect the American people, and he hopes we can fight the war on terrorism on the turf where they are rather than allowing them on our turf. That is his strategy, and it is the right one.

We have a President who is firmly committed to a domestic agenda that includes an education for every child in our country; quality health care for every person in our country, to bring more people who are insured into our health care system; to have malpractice reform so that we will be able to assure quality health care at a reasonable cost. Our President is committed to Social Security reform so that it will be there for our seniors, not just for the next 20 years, but for the next 100 years. It is going to take leadership. It is going to take leadership and vision for the next President of the United States. Our President is doing exactly the right thing in focusing on our security, on education for children, on quality health care for all of the people in our country. Our President is doing a great job. I am proud of him. I think the people of America—the more they focus on not only the accomplishments of the last 4 years, but the vision for the future—our President is talking about his vision for the next 4 years and what we will be able to do for our country that will build on the rising economy, the better national security that he has already put in place.

Mr. President, I am going to yield the floor, and I hope that we can keep this debate on the differences on the issues. I hope we will not have extraneous charges and the use of the Senate floor for extraneous charges that do not have a place in the civilized debate that I hope we will have on the floor of the Senate in the future.

I yield the floor.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, may I inquire as to the parliamentary situation in the Senate?

The PRESIDING OFFICER. We are postcloture on S. 2485.

Mr. GRAHAM. I thank the Chair. I wish to make some remarks on an amendment that I have filed. I will not ask that that amendment be brought before the Senate this evening, but I look toward doing so at an appropriate time.

Mr. President, 3 years have passed since the attacks of September 11, 2001. Largely because of the anger and the concern and the desire to show that the lives of those 3,000 Americans who were sacrificed on that day had meaning, we are nearing passage of a meaningful intelligence reform plan. But as we commit ourselves to implementing this plan, I remain convinced that we still will not be doing all we can do, all we should do to win the war on terror and to hold our adversaries to account.

Why do I hold those views?

It is my view that we have allowed to escape at least one and possibly more make-believe allies that have and may be today supporting terrorists with financial, logistical, and even diplomatic resources. These allies are saying one thing in their public relations campaign but doing quite another in their palaces, in the halls of government when it comes to nurturing al-Qaida and other terrorist networks.

Let me give a little explanation of why I think this issue is so important. For 19 relatively young men, most of whom were strangers to each other, to be able to come into the United States without much command of the English language and almost no knowledge of American culture and practices, stay in this country for, in some cases, 18 months, to be able to refine a plan that had been developed prior to their entry, to deal with unexpected complications, such as the detaining of the 20th hijacker, and to be able to practice that plan and finally execute it with the tragic consequences of September 11 is not an easy task. Many have asked how could they have done it.

I believe, for one thing, these 19 people were more capable than we may have originally thought, and that itself is a chilling observation, because it says something about the adversary we are going to continue to be facing once we restart the war on terror.

But second, I also believe they were not here alone. In that famous August 2001 briefing which the President received at Crawford, TX, one of the items in that briefing which has, in my opinion, been inadequately observed was that the President was told that al-Qaida had a network inside the United States.

Supplementing that network, I believe the Saudis were given license to take advantage of a network that was already in existence in the United States for another purpose, primarily the purpose of surveilling countrymen who were in the United States to determine if they were fulminating any plots that might be adverse to the interests of the royal family. That network was then made available to at least 2 and maybe more, possibly all, of the 19 hijackers.

I will remind my colleagues again, as I have previously, that much of the information that makes this case is contained in the 27 pages of the final report of the House and Senate inquiry into 9/11, the 27 pages which were censored by the administration and, therefore, have never been made available to the American people. But I can say this: A California-based former employee of the Saudi Civil Aviation Authority, a then 42-year-old Saudi national named Omar al-Bayoumi, had extensive contacts with two of the Saudi national hijackers, Khalid al Mihdhar and Nawaf al Hazmi. These two men had entered the United States in January of 2000 after having attended a summit of terrorists in Malaysia a few weeks earlier.

Bayoumi was paid $40,000 a year by a Saudi Government subcontractor, but he never showed up for work. He was what is referred to as a ghost employee. Indeed, a CIA agent described him as a spy of the Saudi Government assigned to keep track of Saudi citizens in southern California, particularly the large number of Saudi students studying at higher education institutions there.

The day that al-Bayoumi met the two hijackers at a Los Angeles restaurant, he had first attended a meeting at the Saudi consulate with a Saudi official who subsequently was denied reentry into the United States because of his alleged terrorist background.

He then, over lunch, invited the two terrorists to come from Los Angeles to San Diego where he proceeded to first allow them to live with him until they could arrange for an apartment, he cosigned their lease, paid their first month's rent, hosted a welcome party, and helped them get a variety of services, including driver's licenses and flight school applications. He introduced them to others who served as their translator and other support roles.

This is just one strand in the web of connections between hijackers and the Saudi Government. But, again, I am restricted in terms of how fulsome the details can be.

There is other evidence of Saudi complicity, especially when it comes to financing al-Qaida. In a monograph on the finances of al-Qaida prepared by the 9/11 Commission, staff investigators found government-sponsored Islamic charities had helped provide funds for Osama bin Laden. The monograph states:

> Fund-raisers and facilitators throughout Saudi Arabia and the Gulf raised money for al Qaeda from witting and unwitting donors and diverted funds from Islamic charities and mosques.

It attributed this thriving network to "a lack of awareness and a failure to conduct oversight over institutions [which] created an environment in which such activity has flourished."

The 9/11 Commission investigators concluded:

> It appears that the Saudis have accepted that terrorist financing is a serious issue and are making progress in addressing it. It remains to be seen whether they will (and are able to do) enough, and whether the U.S. Government will push them hard enough, to substantially eliminate al Qaeda financing by Saudi sources.

At least one other authority body is even more skeptical. The Council on Foreign Relations established a task force on terrorist financing, and representatives of the task force testified last week on the 29th of September before a hearing of the Senate Banking Committee.

Mallory Factor, vice chairman of the Independent Task Force on Terrorist Financing, said this:

> The Saudi Government has clearly allowed individual and institutional financiers of terror to operate and prosper within Saudi borders.

Let me repeat that statement:

> The Saudi government has clearly allowed individuals and institutional financiers of terror to operate and prosper within Saudi borders.

He continued:

> Saudi Arabia has enacted a new anti-money laundering law designed to impede the flow from Saudi Arabia to terrorist groups. However, significant enforcement by Saudi Arabia of several of these new laws appears to be lacking. . . .

He continued:

> Furthermore, even if these laws were fully implemented, they contain a number of exceptions and flaws which weaken their effectiveness in curbing terror financing. . . . Quite simply, Saudi Arabia continues to allow many key financiers of global terror to operate, remain free and go unpunished within Saudi borders.

Lee Wolosky, the codirector of the Council on Foreign Relations Task Force, added:

> There is no evidence . . . that since September 11, 2001, Saudi Arabia has taken public punitive actions against any individual for financing terror.

That directly contradicts the statements made by this administration that the Saudis have been cooperating and continue to deserve to be considered as allies.

Despite all of the evidence, President Bush has said nothing to suggest that he is reconsidering the assurance he offered to the American people in the Rose Garden on September 24, 2001, when he said:

> As far as the Saudi Arabians go . . . they've been nothing but cooperative. Our dialogue has been one of—as you would expect friends to be, able to discuss issues.

On Sunday, like several million Americans, I watched the Sunday interview programs and I saw a lady I admire, Dr. Condoleezza Rice, as she attempted to explain why she and other key members of this administration, aware of the fact that there was a considerable disagreement as to whether aluminum tubes which were destined for Iraq but had been intercepted, but which had been determined by the best experts in the United States, those in the Department of Energy, to not be appropriate for the construction of a centrifuge, one of the preliminary steps in the development of weaponizable material—she said any prudent policymaker would have to take the most conservative view if there was a disagreement, take the view that would best protect the American people.

I say this: If we have the kinds of comments that have come from responsible citizens who served on the 9/11 Commission, statements that have been made by a respected independent task force of the Council on Foreign Relations, and the recommendations of the joint House-Senate task force, why do we not take the same conservative position as relates to Saudi Arabia?

This is what our colleagues in this Chamber and the House said in December of 2002. Recommendation 19 of the final report of the joint inquiry stated: The intelligence community, and particularly the FBI and the CIA, should aggressively address the possibility that foreign governments are providing support to or are involved in terrorist activity targeting the United States and U.S. interests. State-sponsored terrorism substantially increases the likelihood of successful and more lethal attacks against the United States. This issue must be addressed.

If we believe that we should take the stance which is most protective of the security of the people of the United States of America, why have we taken this position of coddling passivity and deference to the Kingdom of Saudi Arabia with this record of their support of terrorism?

My lack of confidence in both Saudis and the administration, my lack of confidence in their ability to level with the American people, leads me to offer this amendment on behalf of the families of those who died on 9/11.

Several groups of families and survivors have filed lawsuits against the Saudi Government, members of the Saudi Royal Family, other Saudi entities, alleging that they were part of a conspiracy that led to the successful attacks on the United States on September 11, 2001.

The Saudi Government, in Federal court, has moved to strike not only the Royal Family, not only individuals but also to strike virtually every entity under the umbrella, that those entities are a part of the sovereign immunity in Saudi Arabia and therefore come under the umbrella of sovereign immunity from their acts.

The effect of this position is to prevent the victims' families from proceeding to the discovery portion of the trial which could yield valuable information about the Saudi Government's activities. This amendment would waive sovereign immunity protections for foreign governments involved in lawsuits related to the September 11 attacks. It would not automatically declare that the Saudi Government or any other government is responsible for the attacks or was complicit in the attacks, but it would give victims' families a chance to have their day in court. While exceptions like this are rare, this is because terrorist attacks of the magnitude of September 11 are rare.

Congress has waived sovereign immunity before. In the case of the Iran hostage-taking, sovereign immunity was waived because there was reason to suspect that the hostage-takers had received support from the Iranian Government. We decided an exception to the law was necessary in this case in order to both get to the truth and see that justice was provided for innocent American families.

I believe the family members of the victims of 9/11 deserve to have an equal opportunity to get to the truth, especially in light of the coverup our Government has engaged in and which has prevented the American people from a full understanding of the extent of that complicity.

For all we know, the network which functioned prior to 9/11 and which contributed to the ability of these 19 people who were new to the United States, woefully deficient in the English language, to be able to hide out for 18 months and then refine, practice, and execute a plan of terror, that infrastructure is still in place. This amendment would help these families and the people of the United States better understand what has happened to us in the past, what the threat might be today, and to hold those responsible and accountable for their actions.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. CRAIG. Mr. President, I ask unanimous consent to speak as if in morning business for no more than 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho.

FLU VACCINE SUPPLY

Mr. CRAIG. I come to the Senate floor this afternoon to express a grave concern about today's announcement concerning a new threat to America's flu vaccine supply—and to urge that firm and decisive action is needed to meet this potential deadly threat.

First, the facts as we know them: Earlier this morning, the California-based Chiron Corporation announced that British regulators had unexpectedly imposed a 3-month suspension of operations of its Liverpool plant, citing unspecified manufacturing problems.

What does this mean? Mr. President, I believe today's announcement may prove to have worldwide and deadly consequences. This is because Chiron's Liverpool facility is today one of only two major manufacturers of flu vaccine worldwide, and it supplies approximately one-half of the total U.S. flu vaccine supply.

More specifically, if Chiron is unable to ship its vaccine this year, the U.S. will lose approximately 46 million doses of flu vaccine, just under half of the anticipated supply of about 100 million doses. Ideally, as many as 185 million doses would be needed to protect all Americans who are at risk. This gives you some idea of the parameters of the problem.

Because flu vaccine is produced seasonally and cannot easily be accelerated on short notice, and because the annual flu season typically begins in October—the month we are now in—this announcement effectively deals a body blow to U.S. preparedness as we enter this year's flu season.

As the chairman of the Senate Special Committee on Aging, I am especially concerned about the effects of this development on America's senior population, who account for over 90 percent of the approximately 36,000 American flu deaths each year.

Indeed, just last week the Aging Committee held a hearing to examine ways of improving flu preparedness and vaccination rates.

At our hearing, Chiron president and CEO testified that Chiron was on track to deliver its full complement of flu vaccine this year. According to initial accounts, today's announcement from the British Government came as an alarming surprise, both to Chiron itself and to the U.S. Food and Drug Administration, which itself had conducted reviews of Chiron's operations in recent months.

Time will tell, of course, but there is no question that today's developments have caught the world public health community off guard.

So what can be done?

First, I am very encouraged that FDA, CDC, and the NIH have moved swiftly today to convene emergency meetings of top vaccine experts to confer with their British counterparts and to seek assistance from the other major vaccine manufacturer, Aventis. I understand that Secretary Tommy Thompson has already dispatched a team to England to address this crisis.

I believe these discussions are extremely important. Of course, safety must always be our paramount consideration. Nevertheless, considering Chiron's critical role in flu vaccine production, coupled with the deadly worldwide threat that confronts us, I urge U.S. and British scientists and officials to do everything in their power to correct whatever problems might exist in time to permit shipment of at least some of Chiron's vaccine this year.

Second, I believe it is imperative that Federal authorities act swiftly to guarantee that, if there is to be a sharp drop in vaccine supplies, priority distribution go first to America's elderly and to the young children, as well as certain other especially vulnerable populations.

Third, today's alarming announcement is a wake-up call that better long-term flu preparedness is imperative. As we heard at last week's hearing, this is especially true in light of the fact that scientists now believe that a return of an especially strong pandemic strain of flu is overdue.

Scientific progress is being made in a number of promising areas, among them options for developing cell-based alternatives to today's egg-based technology. I am also encouraged that the administration in recent months has made substantial progress in its pandemic preparedness planning.

In addition, Senator EVAN BAYH and I introduced legislation earlier this year to further address some of these longer-term issues. For example, our legislation, S. 2038, would encourage an increase in vaccine production capacity by offering a tax credit for companies to invest in the construction or renovation of production facilities and for the production of new and improved vaccines. Our legislation also contains provisions to encourage greater volume of vaccine production, as well as to improve outreach and education about the importance of flu vaccination.

Finally, I want to close by noting that perhaps the single most important reason today's announcement is so potentially devastating is the simple fact that we have only two manufacturers for flu vaccine.

Stop and think about that. In a country as great and as rich as ours, with our medical science as advanced as it is, we rely only on two companies to produce this vaccine. Why? In part, for example, it is because in recent years vaccine companies, in trying to guess what the market is going to be and to produce for the market, lost well over $120 million and simply could not take those kinds of losses.

That is why Senator EVAN BAYH and I introduced legislation to try, again, to resolve this problem.

Why? Again, flu is a worldwide killer, and the need for vaccine is very clear. Yet the market has dwindled to a point that the pullout of just one company, as was announced today, devastates a worldwide supply of vaccine.

An additional factor underlying this problem, as in so many other sectors, is the issue of tort liability. The risk of lawsuit is so great today that some of these companies are simply closing their shops and walking away.

Today is not the time to discuss this particular issue in great detail, but as we move forward we need to ask ourselves, can we put the American population at risk simply because we have developed such a litigious society that everybody has to sue? When they do that, we find ourselves, as the announcement today found us, dramatically wanting for tens of millions of Americans who may this year not receive the vaccinations they need. Is that a risk that is acceptable, or is that a risk that is too high?

There is no question in my mind, and there is no question in the minds of the scientists in public health, that flu is a killer. Last year, 36,000 Americans died as a result of the flu or conditions stemming from it.

Once again, I commend the swift response of Secretary Thompson and others. I hope this grave situation can successfully be addressed. If it is, many will be saved.

We do not yet know all the facts, and again, safety is paramount, but if the American Government and the British Government can perhaps come to some degree of accord regarding acceptable and safe development and production standards between ourselves and Great Britain, thousands of Americans and others worldwide may yet receive the vaccine they need.

This is a critical issue, and it is an issue that will play out in the coming days. But whatever transpires, I believe this Congress, the CDC, the FDA, and all who are involved in this issue must clearly prioritize vaccine distribution first for our very elderly, our very vulnerable, and our youngest citizens—those who are the greatest potential victims of this tragic illness.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ALEXANDER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENNETT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENNETT. I ask unanimous consent that I be allowed to speak in morning business for 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

JUST THE NUMBERS

Mr. BENNETT. Mr. President, in this election time we are hearing a great deal of discussion about the economy. We are hearing all kinds of spin being placed on the economic numbers. I don't come to the floor to try to put any spin on the numbers, but I do come to try to list the numbers. As I read the various speeches on both sides of the aisle, many times they pick out one particular portion of the economy that can be used to make a point for or against where their political position is. I want to simply outline the numbers and let those who may be watching come to their own conclusions as to whether the economy is doing well.

First number: Over the past four quarters the U.S. economy has expanded by 4.8 percent. Let's put that in perspective. In that same period, Italy has seen its economy expand by 1.2 percent; Germany 2 percent; 2.8 percent in France; 3.6 percent in Britain; and 4.2 percent in Japan. Japan is emerging from a 15-year recession, and they are thrilled about their growth at 4.2 percent. In America, we are growing at 4.8 percent. Those are the numbers.

Comparison to our own history: The U.S. growth rate over the past year has been nearly a full percentage point above the 3.9 percent growth over a comparable period when President Clinton was seeking reelection. August's 5.4 unemployment rate, for those who want to focus primarily on jobs, is well below the average of the 1970s. The average unemployment in the 1970s was 6.2; the 1980s, the average unemployment in the 1980s was 7.3; and the 1990s, the average unemployment in the 1990s was 5.75. Our current unemployment is 5.4.

The nonfarm business sector productivity growth has averaged 4.6 percent per year from the beginning of 2002 through the second quarter of this year. Unprecedented in the post-World War II period, the annualized productivity increases since early 2002 have been nearly three times the annual average rate that prevailed from 1994 to 1996. Let me repeat that. If you go back to those 2 years from 1994 to 1996, again trying to take a comparable period, 2 years before a Presidential election, the average annual rate in that period was 1.6 percent. Right now our annualized rate is three times as high.

Consumer price inflation was 3.4 percent in 2000. Since then it has averaged 2.4 percent. Inflation is under control. Inflation expectations are very well contained.

So we are having growth higher than we have had. We are having productivity higher than we have had. We are having unemployment lower than we have had. And inflation and inflation expectations are well under control.

I could go on with additional statistics. Let me cite a few very recent numbers to bring people up to date. One of the things about economics that many of us forget is that the numbers take a while to be accumulated. You will have a number released and then, when the economists go back through the data, they come back and say, no, that number was wrong. We now know that the average was either higher or lower than we had indicated.

The second quarter GDP growth of this year was originally reported at 2.8 percent below the numbers I have been talking about, causing some people to say, see, the economy has slowed down. They have now been revised. The economists have gone back, reexamined the data, and have revised that 2.8 percent upward to 3.3 percent, which gives us the average for the four quarters that I cited earlier. The economy is doing very well. Business investment increased by 12.5 percent and has now increased for five consecutive quarters. Export growth was strong and the revised second quarter trade deficit was smaller than previously reported.

Residential investment, primarily home building, is now estimated to have grown at a stellar 16.5 percent annualized rate. This is the second strongest quarterly growth in home building in 8 years. More Americans own their home now than at any time in American history. Household wealth—which represents for many people the equity in their homes—is at a record high. It hit a record high—the highest in American history—in the second quarter of 2004.

For those who talk about squeezes and those who talk about Americans who cannot save anything, Americans who cannot acquire any wealth, I suggest that you look at the facts. Again, according to the Federal Reserve data, U.S. household wealth hit a record high in the second quarter of 2004. It will be interesting to see where it goes in the third quarter.

New home sales dropped off for a while. People said maybe the recovery was slowing down. New home sales regained their vigor in August, with a 9.4-percent annualized rate of increase. Construction activity remains on a solid footing. Housing starts were up by a robust 9 percent in August over the year before. As I said, the home ownership rate in the United States is now 69 percent, the highest in American history.

It is interesting that we focus on the percentage, because the growth of the population would allow people to say, yes, it is the highest in history numerically, but a smaller percentage of Americans are living in their own homes. That is not true. It is not only the highest numerically; it is the highest percentage of Americans owning their own home and living in their own home.

These are the facts. We will let the politicians in this election spin whatever they want to spin, but I hope everybody will ultimately come back to the facts.

If I may put my interpretation on the facts which I believe are very defensible, the recovery out of the recent recession has not only taken hold, not only gained traction, it is strong, it is growing, and the next President of the United States—whomever he may be—will inherit a very strong and robust economy. He will take credit for it because it will have happened on his watch, but the groundwork for this economy, for the next economy, has been laid already. We are seeing the results now.

Economists are looking back and saying 2002 was a better year than we thought; 2003 was a stronger year in the last half; and in 2004, the economy is growing at a rate at which every other industrialized country in the world would be very grateful. America is doing economically very well. Those are the facts.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Mr. President, shortly, I am hopeful we will be able to clear three amendments offered by the Senator from Alaska—three pending amendments. We have reached compromises due to a lot of hard work and good faith on both parts. We have asked the Senator from Alaska if he is available to come over to the floor now, and I am hopeful we will be able to resolve those three pending amendments this evening. In the meantime, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3767 WITHDRAWN

Mr. LIEBERMAN. Mr. President, with the authorization of the sponsor of the amendment, Senator LAUTENBERG of New Jersey, I withdraw amendment No. 3767 among the pending amendments.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. I thank the Chair, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. TALENT). Without objection, it is so ordered.

AMENDMENT NO. 3814, AS MODIFIED

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that amendment No. 3814, previously agreed to, be modified with a change that is at the desk. This modification is technical in nature, involving only the instruction line of the amendment. It has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, is as follows:

On page 4, after line 12, of the agreed to language of amendment No. 3942, insert the following:

(4) regions of specific concern where United States foreign assistance should be targeted to assist governments in efforts to prevent the use of such regions as terrorist sanctuaries are South Asia, Southeast Asia, West Africa, the Horn of Africa, North and North Central Africa, the Arabian peninsula, Central and Eastern Europe, and South America;

Mr. LIEBERMAN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3866

Mr. REID. Mr. President, I ask unanimous consent that notwithstanding cloture, the Specter amendment No. 3866 be in order.

The PRESIDING OFFICER. Is there objection? The Senator from Maine.

Ms. COLLINS. Mr. President, as the Senator from Nevada is aware, this amendment is not germane to the underlying bill. We are in a postcloture situation. There are objections on both sides of the aisle to proceeding with this amendment.

Regretfully, I inform the Senator I must object.

The PRESIDING OFFICER. Objection is heard. The Senator from Nevada.

Mr. REID. Mr. President, I am disappointed. However, I understand fully. If the Senator from Maine had the ability to make this in order, the same as last night, it would have been done. This is a complicated bill. But I felt I had to attempt to move forward on this so there will be no misunderstanding as to what took place last night on this matter.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCAIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

PARDONING POSTHUMOUSLY JOHN ARTHUR "JACK" JOHNSON

Mr. McCAIN. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 447, which was submitted earlier today.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 447) expressing the sense of the Senate that the President of the United States should exercise his constitutional authority to pardon posthumously John Arthur "Jack" Johnson for Mr. Johnson's racially motivated 1913 conviction that diminished his historic significance and unduly tarnished his reputation.

Mr. REID. Reserving the right to object, I would like to be added as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

There being no objection, the Senate proceeded to consider the resolution.

Mr. McCAIN. Mr. President, I am pleased that today the Senate will approve a Senate resolution, which I introduced with my colleagues Senators HATCH and KENNEDY, calling on the President to exercise his constitutional authority to pardon posthumously the world's first African-American heavyweight champion, John Arthur "Jack" Johnson, for his racially motivated 1913 conviction.

For those of my colleagues who are not familiar with the plight of Jack Johnson, he is considered by many to be the most dominant athlete in boxing history. Born in the Jim Crow-era South in 1878 to parents who were former slaves, he realized his talent for the sweet science early in life. In order to make a living, Johnson traveled across the country fighting anyone willing to face him. But he was denied repeatedly on purely racial grounds a chance to fight for the world/heavyweight title. For too long, African American fighters were not seen as legitimate contenders for the championship. Fortunately, after years of perseverance, Johnson was finally granted an opportunity in 1908 to fight the then-reigning title holder, Tommy Burns. Johnson handily defeated Burns to become the first African-American heavyweight champion.

Jack Johnson's success in the ring, and sometimes indulgent lifestyle outside of it, fostered resentment among many and raised concerns that Johnson's continued dominance in the ring would somehow disrupt what was then perceived by many as a "racial order." So, a search for a white boxer who could defeat Johnson began—a recruitment effort that was dubbed the search for the "great white hope." That hope arrived in the person of former champion Jim Jeffries who returned from retirement to fight Johnson in 1910. But when Johnson defeated Jeffries, race riots broke out as many sought to avenge the loss.

Following the defeat of the "great white hope," the Federal Government launched an investigation into the legality of Johnson's relationships with white women. The Mann Act, which was enacted in 1910, outlawed the transport of white women across State lines for the purpose of prostitution or debauchery, or for "any other immoral purpose." Using the "any other immoral purpose" clause as a pretext, Federal law enforcement officials set out to "get" Johnson.

On October 18, 1912, he was arrested for transporting his white girlfriend across State lines in violation of the Act. But the charges were dropped when the woman, whose mother had originally tipped off Federal officials, refused to cooperate with authorities. She later married Johnson.

Yet Federal authorities persisted in their persecution of Johnson, persuading a former white girlfriend of Johnson's to testify that he had transported her across State lines. Her testimony resulted in Johnson's conviction in 1913, when he was sentenced to 1 year and a day in Federal prison. During Johnson's appeal, one prosecutor admitted that "Mr. Johnson was perhaps persecuted as an individual, but that it was his misfortune to be the foremost example of the evil in permitting the intermarriage of whites and blacks."

Johnson fled the country to Canada, and then traveled to various European and South American countries, before losing his heavyweight championship title in Cuba in 1915. He returned to the United States in 1920, surrendered to authorities, and served nearly a year in Federal prison. Despite this obvious injustice, Johnson refused to turn his back on the country that betrayed him. During World War II, he traveled the country to promote war bonds. Johnson died in an automobile accident in 1946.

A gross injustice was done to Jack Johnson when a Federal law was misused to send him to prison. The Senate's passage of this resolution and the President's pardon of Jack Johnson would not right this injustice, but it would recognize it, and shed light on the achievements of an athlete who was forced into the shadows of bigotry and prejudice. Taking such actions would allow future generations to grasp fully what Jack Johnson accomplished against great odds and appreciate his contributions to society unencumbered by the taint of his criminal conviction.

Jack Johnson was a flawed individual who was certainly controversial. But he was also a historic American figure, whose life and accomplishments played an instrumental role in our Nation's progress toward true equality under the law. And he deserved much better than a racially motivated conviction, which denied him of his liberty, and served to diminish his athletic, cultural, and historic significance.

The pardon of Jack Johnson would not be an act that would benefit Mr. Johnson or his heirs. Rather, his pardon would be a nominal but useful corrective of a shameful injustice that would serve as a testament of America's resolve to live up to its noble ideals of justice and equality. Instead of erasing from our memories the injustice that deprived a great athlete of his livelihood and freedom, we have an opportunity to speak as one in condemning the public intolerance and misuse of Federal authority that was perpetrated against this man.

While we know that we cannot possibly right the wrong that was done to Jack Johnson, we can take this small step toward acknowledging his mistreatment and removing the cloud that casts a shadow on his legacy.

I urge adoption of the resolution.

I will mention there is a great American named Ken Burns who may be the foremost maker of documentaries in America. Ken Burns, Mohammad Ali, and many other respected figures throughout America have formed a committee for the pardon of Jack Johnson. I hope we can get it sooner or later.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues in calling for a presidential pardon for Jack Johnson, the first black heavyweight champion in boxing, who was unjustly persecuted in 1913 for being famous, wealthy, powerful—and black.

Jack Johnson was the son of a former slave. He grew up in Galveston in the era of segregation, harsh racial bigotry, and vicious lynching. But Johnson was tough and talented, and he saw a way up. He fought for money in "battle royals," in which groups of black men fought until the last one standing was declared the winner. He turned professional and, at the age of 25, won the Negro heavyweight championship. It was 1903, and boxing was widely and closely followed throughout the Nation.

White fighters didn't fight blacks professionally, but Johnson's popularity grew. He was an innovative boxer and was sometimes ridiculed for his smart and relaxed style, even though it was considered a brilliant style when it was later adopted by white boxers.

With no worlds left to conquer in segregated boxing, Johnson set his sights on challenging white boxers, and sportswriters began to support his challenge. Jim Jeffries, the white heavyweight champion, retired, rather than face Johnson. The title went to Tommy Burns, and a match was finally scheduled. Johnson defeated him easily, and whites immediately began to scour the country for a "great white hope" to win the title. Under intense pressure, Jeffries came out of retirement to face Johnson on the Fourth of July, 1910, in a fight called the "Battle of the Century." Johnson defeated him easily.

Blacks in cities and towns across the country celebrated and some were attacked and even killed. Race riots erupted in some cities. In 1912, the Justice Department tried to do what no boxer could do at the time, and knock Johnson out. The Justice Department went to vindictive lengths to punish the heavyweight champion of the world because of the color of his skin. The law they chose was the Mann Act, which had been enacted by Congress in 1910, and which made it a crime to transport a woman across state lines "for the purpose of prostitution or debauchery," or for "any other immoral purpose."

Johnson flaunted his boxing success and defied bigotry. He had money and power at a time when the vast majority of blacks were poor and powerless. He was, athletically, the king of the hill, when blacks were regarded as physically inferior to whites. Relationships between a black man and white woman were often deemed "immoral" in those days, but Johnson ignored such views. "I act in my relations with people of other races as if prejudice did not exist," he said.

Johnson's relationships with white women enraged whites, and the Justice Department searched his past for a suitable case and convicted him. Most of the charges were thrown out on appeal, but enough remained to sentence Johnson to one year in prison. At the time, the prosecutor said Johnson may have been persecuted "as an individual" but "it was his misfortune to be the foremost example of the evil in permitting the intermarriage of whites and blacks." Johnson was the embodiment of the hopes of countless blacks, and the prosecutor admitted the conviction was meant to "send a message." Johnson served his one-year sentence, was shunned by the boxing community, and died in 1946.

A pardon now would also send a message—that Johnson deserves his rightful place in sports history and the Nation's history.

Civil rights is still the unfinished business in America. Sadly, generations of Americans whose names we will never know suffered through whole lifetimes of bigotry because of the racism that stained our Nation for so long. Correcting such a major symbol of injustice in the past reminds us of how much we still must do in the future.

I commend Senator MCCAIN for introducing this resolution, and I urge Congress to approve it.

Mr. MCCAIN. I ask unanimous consent the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 447) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 447

Whereas, Jack Johnson was a flamboyant, defiant, and controversial figure in American history who challenged racial biases;

Whereas, Jack Johnson was born in Galveston, Texas, in 1878 to parents who were former slaves;

Whereas, Jack Johnson became a professional boxer and traveled throughout the United States fighting white as well as black heavyweights;

Whereas, Jack Johnson, after being denied, on purely racial grounds, the opportunity to fight two white champions was granted an opportunity in 1908 by an Australian promoter to fight the reigning white title-holder, Tommy Burns, whom Johnson defeated to become the first African American to hold the title of Heavyweight Champion of the World;

Whereas, Jack Johnson's victory prompted a search for a white boxer who could beat Johnson, a recruitment effort dubbed the search for the "great white hope";

Whereas, a white former champion named Jim Jeffries left retirement to fight and lose to Jack Johnson in Reno, Nevada, in 1910 in what was deemed the "Battle of the Century";

Whereas, rioting and aggression toward African Americans resulted from Johnson's defeat of Jeffries and led to racially-motivated murders of African Americans nationwide;

Whereas, Jack Johnson's relationship with white women compounded the resentment felt toward him by many whites;

Whereas, between 1901 and 1910, 754 African Americans were lynched, some of whom were lynched simply for being "too familiar" with white women;

Whereas, in 1910 the Congress passed the Mann Act, (18 U.S.C. 2421), then known as the "White Slave Traffic Act," which outlawed the transportation of women in interstate or foreign commerce "for the purpose of prostitution or debauchery, or for any other immoral purpose";

Whereas, in October, 1912, Jack Johnson became involved with a white woman whose mother disapproved of their relationship and sought action from the United States Department of Justice, claiming that Johnson had abducted her daughter;

Whereas, Jack Johnson was arrested on October 18, 1912, by Federal marshals for transporting this woman across State lines for an "immoral purpose" in violation of the Mann Act, only to have the charges dropped when the woman refused to cooperate with authorities and then married the champion;

Whereas, Federal authorities persisted and summoned a white woman named Belle Schreiber who testified that Johnson had transported her across State lines for the purpose of "prostitution and debauchery";

Whereas, Jack Johnson was eventually convicted in 1913 of violating the Mann Act and sentenced to one year and a day in Federal prison, but fled the country to Canada and then on to various European and South American countries, before losing the Heavyweight Championship title to Jess Willard in Cuba in 1915;

Whereas, Jack Johnson returned to the United States in July, 1920, surrendered to authorities, served nearly a year in the Federal penitentiary at Leavenworth, Kansas, and fought subsequent boxing matches, but never regained the Heavyweight Championship title;

Whereas, Jack Johnson served his country during World War II by encouraging citizens to buy war bonds and participating in exhibition boxing matches to promote the war bond cause;

Whereas, Jack Johnson died in an automobile accident in 1946; and

Whereas, in 1954 Jack Johnson was inducted into the Boxing Hall of Fame: Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

(1) Jack Johnson paved the way for African American athletes to participate and succeed in racially-integrated professional sports in the United States;

(2) Jack Johnson was wronged by a racially-motivated conviction prompted by his success in the boxing ring and his relationship with white women;

(3) his criminal conviction unjustly ruined his career and destroyed his reputation; and

(4) the President of the United States should grant a pardon to Jack Johnson posthumously to expunge from the annals of American criminal justice a racially-motivated abuse of the Federal government's prosecutorial authority and in recognition of Mr. Johnson's athletic and cultural contributions to society.

Mr. McCAIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that notwithstanding the adjournment of the Senate or other business before the Senate, all time be counted as postcloture time on S. 2845; provided further that at 11:30 a.m. on Wednesday, the Senate begin a series of rollcall votes on the pending amendments in the order offered.

I further ask unanimous consent that there be 2 minutes equally divided prior to each vote, with no second-degree amendments in order to the amendments prior to the votes.

I further ask unanimous consent that the voting sequence end at amendment No. 3916.

I further ask unanimous consent that it be in order for the managers, with the concurrence of the two leaders, to send a managers' amendment to the desk prior to passage.

I further ask unanimous consent that following the conclusion of those votes and the expiration of any remaining time under rule XXII, the Senate vote on any qualified amendment to be followed by third reading and a vote on passage of the bill, as amended, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that immediately following passage of S. 2845, the Senate proceed to the consideration of Calendar No. 770, S. Res. 445.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. FRIST. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators speaking for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

NOTICE OF MOTION TO SUSPEND

Mr. McCONNELL. Mr. President, I wish to file the following amendment and give notice to the Senate that pursuant to rule 5, section 1 of the Standing Rules of the Senate, notice is hereby given of the motion to suspend, modify or amend rule 25 for the purpose of implementing the 9/11 Commissions recommendations related to congressional reorganization.

Mr. President, the world changed on September 11, 2001, and those changes have reached far and wide. Today, we in Congress must change the way we perform our critical role of intelligence and homeland security oversight.

Today, the Senate majority leader, the Senate minority leader, Senator HARRY REID, and myself will file an amendment to a Senate Resolution that takes significant strides toward strengthening our oversight of intelligence and homeland security.

We urge Members to join this discourse and offer those changes and improvements that will enhance the domestic security of the United States. We not only expect a vigorous debate but we hope for such a discourse and urge Members to help improve this initial product.

MONGOLIA AND BURMA

Mr. McCONNELL. Mr. President, as elected representatives, we often get correspondence from people—from our respective States and elsewhere—expressing views and opinions on a whole range of issues.

Occasionally, a letter comes in that deserves to be shared with the entire Senate. I recently received such a letter from Mongolian Prime Minister Elbegdorj Tsakhia, who took power after democratic elections in that country earlier this year.

While some may not pay much attention to Mongolia—it is literally half a world away—it deserves America's thanks and praise. That country serves to remind us that the fundamental pillars upon which our democracy is constructed—individual rights, freedom of the press and religious tolerance—are not Western ideals but universal rights. As Prime Minister Elbegdorj points out, Mongolia enjoys a tradition of democracy and recognizes that it shares a responsibility to support freedom beyond its borders.

Today I want to personally thank Prime Minister Elbegdorj and the people of Mongolia for their country's contributions to the War on Terrorism in Iraq and for their steadfast support of democracy in Asia—and in Burma, in particular. Brave Mongolian soldiers serving in Iraq, and those who champion the cause of democracy closer to home, are a tribute to their country.

While I will include the text of the Prime Minister's letter in the RECORD following my remarks, I want to read one line that rings true:

> Having lived under, and fought against, the tyranny of Communism I can assure you of one thing: that no dictatorship, no military regime, no authoritarian government can stand against the collective will of a people determined to be free.

Amen, Mr. Prime Minister.

I encourage you to do all you can to further strengthen democracy in your own country, and to continue to aggressively support Daw Aung San Suu Kyi and the people of Burma in their struggle for freedom.

I ask unanimous consent to print the letter in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

PRIME MINISTER OF MONGOLIA,
September 16, 2004.

Hon. MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: On August 20, 2004 I was sworn in as Mongolia's new Prime Minister. This election has seen another peaceful transfer of political power in my country. It represents Mongolians' continuing commitment to democracy and human rights.

I have lived in the U.S. for the past several years and during that time I earned degrees at the University of Colorado and Harvard. I also served as a consultant to Radio Free Asia in Washington, D.C. During my time in the U.S., I followed your actions on promoting democracy and human rights in Asia—in particular, Burma. I, like you, believe that Aung San Suu Kyi and her National League for Democracy is the legitimate representative of the Burmese people. The military junta that is ruling Burma can only maintain their power through barbaric acts of terror to instill fear in the people.

Mongolia faces many serious economic and social challenges. After our July elections, our parliament, like your Senate, is a divided chamber. The Mongolian people have made their electoral choices and now it is up to my government to make it work. I believe the true test of any democracy is not just the institutionalization of a process and policies that protect individual liberties, freedom of speech, and religious tolerance at home. It is how those values are shared abroad. There can be no excuse made for Burma's military junta. The Burmese people had an election and chose to embrace freedom and democracy. I believe each country that shares our values must take steps to help achieve the results of the 1990 elections. I look forward to engaging in this effort.

Despite the distance that separates our countries, our shared values bring us close together. As you read this letter, U.S. and Mongolian soldiers stand shoulder-to-shoulder helping to build peace and stability in a new Iraq.

Thank you for your work to support democracy in Burma and throughout Asia. Having lived under, and fought against, the tyranny of Communism I can assure you of one thing: that no dictatorship, no military regime, no authoritarian government can stand against the collective will of a people determined to be free.

Sincerely,

ELBEGDORJ TSAKHIA.

NAFTA INJURY PANEL DECISION

Mr. CRAIG. Mr. President, I rise today to express my deep concern that the rights of U.S. lumber producers to remedy against unfairly traded imports from Canada have been improperly curtailed by a runaway NAFTA Chapter 19 dispute settlement panel.

Because of the significant impact on many of our States, today I am joined by Mr. BAUCUS, Mr. CHAMBLISS, Mrs. LINCOLN, Mr. CRAPO, Mr. SMITH, and Mr. WYDEN for a discussion about the NAFTA Injury Panel and Order of August 31, 2004.

On August 31, 2004, this already rogue panel ordered the U.S. International Trade Commission to reverse its earlier rulings that, in fact, the U.S. lumber industry is injured by imports of subsidized and dumped Canadian lumber. In doing so, the NAFTA panel clearly exceeded its authority under U.S. law.

As we all know, Chapter 19 panels reviewing U.S. trade cases are to decide issues under U.S. law just like U.S. courts, applying the same legal standards and subject to the same limitations on their jurisdiction and authority. In fact, as it is structured, NAFTA panels have less authority because they do not have the ability to issue injunctions the way federal courts do.

As many of my colleagues know, just last year the U.S. Court of Appeals for the Federal Circuit, interpreting Supreme Court precedent, stated explicitly that a Federal court cannot simply reverse an ITC decision and cannot order the ITC to change its ruling from affirmative to negative. However, this is just what the NAFTA panel did in this case—told the United States ITC to change its previous ruling. U.S. courts have long determined that if some aspect of an ITC decision is not adequately supported by the evidence cited by the ITC, the proper action by a court is to remand the case to the ITC for further substantive analysis. Yet, in the lumber case the NAFTA panel expressly told the ITC it could not further analyze the facts and issues before it, but could only issue a new decision consistent with the NAFTA panel's view that the U.S. industry is not threatened with injury. This very action is usurping due process.

In other words, the NAFTA panel has effectively tied the hands of U.S. courts and prevented U.S. Federal courts from acting. This is exactly why I voted against NAFTA when it came up for a vote years ago. Simply put, here we go again having an international body, full of individuals who disregard U.S. law, dictating to the U.S. courts how to interpret our own laws. Not on my watch. I ask the rhetorical question, how can this NAFTA ruling be consistent with the requirements of the NAFTA agreement that Chapter 19 panels are to follow U.S. law when reviewing U.S. agency decisions? This ruling, without question, is a fundamental breach of the terms of the agreement—a breach that goes to the very integrity of the NAFTA dispute settlement system itself.

The ITC, as it is required by the NAFTA law Congress passed, has complied with the NAFTA panel order to reverse its affirmative threat of injury determination. Thankfully, however, the ITC emphasized that the NAFTA panel had "violated U.S. law and exceeded its authority as established by the NAFTA [by] failing to apply the correct standard of review and by substituting its own judgment for that of the Commission." The Commission further described "the panel's decisions throughout this proceeding as overstepping its authority, violating the NAFTA, seriously departing from fundamental rules of procedure, and committing legal error."

My confidence in the NAFTA has always been shaky at best, but today that confidence is completely eroded. The Commission's expressed views on this matter are highly telling and descriptive of the NAFTA panel's overreaching and exceeding of its authority. I therefore wish to enter in their entirety into the RECORD the "Views of the Commission in Response to the Panel Decision and Order of August 31, 2004" issued by the Commission on September 10, 2004.

Mr. BAUCUS. Mr. President, I share the concerns of my colleague. For many U.S. industries, the laws against unfair trade are the last line of defense. American workers and their families should be able to count on the enforcement of U.S. antidumping and countervailing duty laws to provide a level playing field, and they should be able to rely on the Congress to ensure that those laws are fully enforced. The manner in which agency decisions are affected by NAFTA panel decisions should be closely scrutinized by the Senate.

As my colleague indicated, under the terms of the NAFTA, Chapter 19 panels are supposed to apply the law just as would a U.S. court. They are supposed to be bound by U.S. court precedents in their interpretation of U.S. law. Unfortunately, it has become clear that some of these panels think they do not have to abide by these rules. Again, one of the most blatant examples of this problem involves the ongoing lumber case.

Earlier this year, the same panel that recently ordered the ITC to reverse itself had questioned some of the reasoning of the ITC in its injury decision and sent the case back to the ITC for further explanation. My understanding is that the Federal courts issue such remand orders all the time. Here, however, the panel not only told the ITC to reconsider its decision, but then gave the Commission only 7 business days in which to complete its remand determination, instead of the 60 to 90 days that a court would normally give.

In response to this order from the panel, the Commission requested additional time, and explained that to properly address the panel's concerns, the ITC would have to gather new evidence and request additional comments from the parties to the case, so that all views could be heard. This should have been an easy request for the panel to grant, because just a few months earlier the U.S. Court of Appeals for the Federal Circuit had issued an opinion stating plainly that the decision to reopen the record on remand rested exclusively with the ITC. Incredibly, the NAFTA panel ignored this binding court ruling and forbade the Commission to consider new evidence, and again demanded a new determination by the ITC in a mere 7 business days. This is another clear case of overreaching by a NAFTA panel that should not be permitted.

Continued support for free trade initiatives such as NAFTA rests upon the promise of full enforcement of U.S. laws. American industries and workers must be able to rely on the promises made to them by the Congress that unfair trade practices will not be tolerated. When NAFTA panels exceed their authority, confidence is lost not only in the dispute settlement system but in trade agreements generally. We need to inject credibility back into the NAFTA system by reforming Chapter 19.

Mr. CHAMBLISS. I wholeheartedly concur with the concerns of my colleagues regarding the far-reaching effects of NAFTA panel decisions. I am especially troubled by the fact that NAFTA panels often blatantly fail to apply the required standard of review.

NAFTA requires panels to apply the standard of review of the country imposing the duty. The panels are thus obliged to apply the same standard as would the U.S. Court of International Trade—namely, to determine whether the ITC's decision was reasonable and supported by substantial evidence on the record of the case, even if there was also evidence supporting an alternative conclusion. The courts—and NAFTA panels—are not supposed to second-guess the ITC or reweigh the evidence considered by the ITC, but simply to ensure there is a reasonable basis in the record to support the Commission's conclusions. In practice, however, NAFTA panels have often ignored this requirement and have instead substituted their judgment for that of the ITC or the Commerce Department.

This is especially problematic given that agencies review all of the evidence collected during a proceeding, have substantial experience administering the laws, and often consult with and advise Congress in the drafting of the statutes.

Unlike a court or a panel, the ITC has the resources—including industry analysts, economists, and accountants—and the expertise needed to review and analyze the often voluminous records in these proceedings. The Commission is therefore plainly better suited to make determinations based on the facts. As a result, U.S. law could not be clearer: Courts and panels are not to second-guess an agency but are only to ensure that the agency followed the express requirements of the statute and that there is substantial evidence—"more than a scintilla"—in support of the agency's ultimate conclusion. While the U.S. courts follow this essential element of review in administrative cases, the NAFTA panels do not.

Indeed, as the recent ITC decision referenced by my colleague makes clear, in the softwood lumber injury case the NAFTA panel substituted its judgment for that of the International Trade Commission on any number of evidentiary questions. Unfortunately, the lumber panel is just the latest example of a proceeding in which NAFTA panels have reached legally untenable results completely at odds with U.S. law and NAFTA requirements. We in Congress must monitor this situation very closely. We cannot allow our domestic industries and their workers to become defenseless against unfairly traded imports due to flawed decisions by runaway panels. A better means of dispute settlement within the NAFTA must be created, and the proper standard of review requirements must be enforced.

Mrs. LINCOLN. Mr. President, there is another aspect of the recent softwood lumber NAFTA panel process that deserves our attention. As you know, NAFTA Chapter 19 is a unique form of international dispute settlement that applies to antidumping and subsidy cases involving Canada and Mexico. Normally, U.S. Government decisions to impose duties on unfairly traded goods are reviewed by the U.S. Court of International Trade, a Federal court with judges appointed by the President with the advice and consent of the Senate. For dumped and subsidized goods from Canada and Mexico, however, court review is often replaced with review by a panel of private citizens—mostly members of the bar or other private citizens who are experts in various capacities, but who are not themselves U.S. jurists.

Chapter 19 empowers these panelists to review U.S. legal decisions according to whether they are consistent with NAFTA obligations. Unlike any dispute settlement system in any other trade agreement to which the U.S. is a party, Chapter 19 also empowers these panelists to review cases according to whether they are consistent with U.S. law. NAFTA inherited this particular power from the preceding U.S.-Canada Free Trade Agreement. Unfortunately, as in the softwood case, this system has led to panel judgments that actually overturn valid U.S. legal decisions.

I find this state of affairs to be extremely troubling. In my view, Chapter 19 is clearly in need of reform, and the Senate must be prepared to act to revise this system to prevent unjust situations. If we hope to maintain confidence in, and public support for, our system of trade, then we have to repair the system when it doesn't work. The NAFTA panel in the softwood case has dealt a major blow to our faith in the system. It is time we did something about it.

Mr. CRAPO. Mr. President, I concur with my colleague that the integrity of the NAFTA panel system has been put into serious doubt as a result of the recent panel decision in the softwood lumber case. When NAFTA panels prevent appropriate enforcement of the U.S. trade laws, the public will cease supporting our participation in NAFTA. It is simply unacceptable for a NAFTA panel to dictate the outcome of an investigation to any U.S. court or agency. That is not the purpose of a NAFTA panel. Such authority was not granted by the U.S. Congress to the NAFTA, the WTO, or any other foreign organization.

Congress approved the NAFTA based on its understanding that effective trade remedies would not be eroded. Preservation of these remedies is essential to the overall process of opening foreign markets to imports of goods and services and to prevent harm to American industry and agriculture. Popular support for the principles of free trade and the NAFTA as a whole will be weakened if the dispute settlement system is continually misused to overturn legitimate agency decisions.

In my view, it is essential that future NAFTA panel decisions are carefully scrutinized by Congress. With respect to the seriously flawed NAFTA panel decision in the softwood lumber case, I believe the U.S. Government must pursue an Extraordinary Challenge Committee appeal in order to restore the rights of the American industry and its workers.

Mr. SMITH. Mr. President, I would like to join my colleagues in expressing concern about the Canadian lumber NAFTA panel decision. The experience in the lumber case suggests that greater safeguards may be needed to prevent abuse by rogue panels. Without such reform, I fear Canada will continue its strategy of litigation over negotiation. Indeed, the softwood lumber dispute has reached a critical phase. Since backing away from a tentative agreement reached in December 2003, the Canadian Government has pursued an even more aggressive litigation strategy in an effort to insulate its unfair practices. Most recently, the Canadian Government has urged the Commerce Department to act contrary to U.S. law and return on a retroactive basis antidumping and countervailing duties collected prior to recent Chapter 19 rulings.

In my view, it is imperative that the Commerce Department clearly and emphatically reject requests that deposits already collected be repaid as a consequent result of Chapter 19 panel decisions. U.S. law clearly follows the generally-accepted convention that international dispute settlement decisions are to be implemented prospectively only. The Commerce Department cannot repay deposits already made without express statutory authorization. And the law as passed by the Congress is clear that entries prior to any panel decisions would be "liquidated" in the circumstances of the lumber case at the duty rates that Commerce Department established in its original countervailing duty and antidumping duty determinations in 2002.

I find the Canadian Government's current position with respect to repayment of duties to be particularly remarkable considering the Commerce Department's treatment of this issue in the previous softwood lumber dispute. In 1994, the Commerce Department stated that the statute implementing the U.S.-Canada Free Trade Agreement did not permit it to refund deposits paid prior to the implementation date of a panel decision. Since the relevant statutory provisions under the NAFTA remain the same, the Canadian parties know that their position is wrong as a matter of U.S. law. Canadian parties could have appealed the 2002 lumber trade findings to the Court of International Trade, which might have issued an injunction to protect their ability to obtain a retroactive refund of the deposits, but they chose the NAFTA panel route knowing full well that NAFTA panels cannot issue such injunctions.

Of course, the deposits made could always be returned as part of a negotiated settlement that preserves the interests of U.S. workers and sawmills, as was done in 1994. But the Commerce Department is otherwise forbidden by law from refunding the deposits made prior to international panel rulings. I expect the Commerce Department to make this clear to Canada.

I think it is important for each of us to encourage the stakeholders to come back in good faith to negotiations to resolve these cases once and for all. I believe there will be a window of opportunity later this year and will work with all parties to encourage meaningful negotiations to find a balanced solution.

Mr. WYDEN. I, too, rise today to share concerns about the recent NAFTA panel decision. Today, the Canadian share of lumber in the U.S. market is reaching record highs. Canada's practice of dumping subsidized timber in our domestic market continues to wreak havoc on U.S. mills and jobs. My own State of Oregon has been hit especially hard, losing over 3000 jobs in the timber industry since 2002. For years now, my colleagues and I have worked with the International Trade Commission, the Department of Commerce, and the U.S. Trade Representative to help maintain mill operations and keep jobs in our country.

As my colleagues have made clear today, I believe the blatant disregard for U.S. law by the panel will further damage already suffering U.S. timber workers.

Moreover, I cannot refrain from adding, as I watch jobs in the timber industry continue to disappear at an alarming rate, I find recent decisions by the administration to lower the duties, as a result of administrative reviews, to be particularly egregious and out of line. These decisions have exacerbated an already terrible crisis, and weakened my confidence in the administration's willingness to help our timber workers.

Simply put, I believe it is time to move toward a fix for a system that currently appears to be broken.

STATEMENT OF INTENTION ON S. 2796

Mr. CRAIG. Mr. President, as our colleagues know, Senator DURBIN and I have introduced S. 2796, pertaining to the legal treatment of certification marks, collective marks, and service marks.

Federal law protects all four kinds of marks equally. Specifically, 15 U.S.C. §1503 and 15 U.S.C. §1504 provide that service marks, collective marks, and certification marks "shall be entitled to the protection provided" to trademarks, except where Congress provides otherwise by statute. However, the clarity of the Federal laws on this point has been confused by a recent decision of the Second Circuit Court of Appeals in the case of Idaho Potato Commission v. M&M Produce Farm and Sales. That decision interpreted the Lanham Act as requiring that certification marks should be treated differently from trademarks with respect to "no challenge" provisions.

We introduced S. 2796 to underscore the policy that Congress clearly intended in the first place. I ask the distinguished Senator from Illinois, is that not the case?

Mr. DURBIN. Mr. President, the Senator from Idaho is correct. Let me say to all our colleagues, this bill does not change current law. Our purpose in drafting S. 2796 was to make it clear that, in our view, the Second Circuit reached an incorrect decision in its interpretation of the Lanham Act. S. 2796 would simply restate the original intent of Congress when we enacted the Lanham Act, and indicate our support of the view that these marks are to be given equal legal treatment by the courts, not the anomalous reading that the Second Circuit gave to it in the Idaho Potato Commission decision.

Mr. CRAIG. I thank the Senator for his clarification and hope all our colleagues will join us in this effort to protect important public policy interests.

Mrs. LINCOLN. Mr. President, I thank the chairman for bringing up for consideration legislation providing multiyear reauthorization of the Economic Development Administration. EDA provides critical resources to communities experiencing significant economic distress and dislocation. The partnership between the planning and development districts in my State of Arkansas and the EDA has been a successful one. It is my hope that this partnership will continue to provide the flexibility that is needed to respond to constantly changing economic conditions.

Mr. BAUCUS. It is my understanding that this legislation preserves current EDA practices and administration of the Planning Partners Program for economic development districts, as currently authorized under Public Works and Economic Development Act of 1965. This is a critical program providing important continual professional and technical assistance to rural and distressed communities to assist in developing economic strategies and implementing infrastructure improvements. It is essential that the legislation maintain this program consistent with current authorization, practices and policies.

Mr. INHOFE. Mr. President, that is correct. The EDA planning program is an important program which provides technical assistance to communities to develop and implement comprehensive economic development strategies. As a matter of fact this bill will provide an historic increase in funding for this important program and will give planning partners the additional resources to address local needs and improve the delivery of federal economic development efforts.

Mrs. LINCOLN. I thank the chairman for his strong leadership and attention to this important matter.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On August 27, 2000, Christopher Weninger, who is not gay, was walking home from a party when three men approached him and one asked him for a cigarette. As Weninger handed the man a cigarette, another man punched him in the face and called him "queer." Weninger suffered a broken nose and eye socket. Police investigated the beating as a hate crime.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

NINETY YEARS OF MUSICAL SUCCESS

Mr. LEAHY. Mr. President, I am proud to salute the American Society of Composers, Authors and Publishers, better known as ASCAP, on its anniversary of 90 years of successful representation of America's songwriters and music publishers.

ASCAP formally began when a group of noted songwriters and their supporters gathered at the Hotel Claridge in New York City on February 13, 1914, at a monumental event that would forever change music history. These visionaries, whose members included some of that era's most active and talented songwriters, such as Irving Berlin, James Weldon Johnson, Jerome Kern and John Philip Sousa, began a tradition of outstanding public advocacy on behalf of songwriters that continues to this very day.

Soon after its founding, a prominent member of ASCAP, Victor Herbert, brought a lawsuit against Shanley's Restaurant that established the legal basis for songwriters to protect their "performing right" in the music they created. In a legal battle that took 2 years to reach the U.S. Supreme Court, ASCAP finally prevailed in a unanimous opinion written by Justice Oliver Wendell Holmes. Once their legal authority to protect the musical performing right was secure, ASCAP provided its owner-members with several ways to be compensated for the performances of their copyrighted works.

In advancing its members' interests, ASCAP has traditionally welcomed the marketing of new technologies as opportunities to expand the reach of their musical entertainment to new audiences. With the advent of radio, ASCAP began an interdependent relationship that remains one of its most important sources of revenue to this very day. Today, under the leadership of its distinguished chairman and award winning songwriter, Marilyn Bergman, ASCAP licenses over 11,500 local commercial radio stations and 2,000 non-commercial radio stations and ASCAP music is a dominant entertainment feature of our airwaves.

With the Internet explosion, ASCAP responded with its own technological innovations. It fielded ACE, the first interactive online song database, and EZ-Seeker software for tracking Internet performances. Most recently, it has developed Mediaguide which is probably the world's most comprehensive and accurate broadcast tracking system. Thus, creative innovation and vigilance on behalf of its members have been an ASCAP hallmark since its formation.

While ASCAP has had a deep involvement with the innovative telecommunications technologies and the marvels they have added to our lives, its institutional essence is its people. We have all been admirers of many of the more renowned ASCAP members who now number in the many hundreds over the years. They include such extraordinary talents as: Billy Joel, Hal David, Cy Coleman, Garth Brooks, Irving Berlin, Prince, Lyle Lovett, Henry Mancini, Marvin Hamlisch, Louis Armstrong, Arturo Sandoval, Duke Ellington, Madonna, Jimmy Webb, Cole Porter, and, or course, the late Jerry Garcia and his bandmates in the Grateful Dead.

However, as a national organization with international impact ASCAP actually represents an additional 185,000 individual songwriter and music publisher members, who are less well known. They are the critical mass of individual talents that extend into every city, town and hamlet in our country.

Its member-owners and the officers and employees who support them are all a part of the traditional ASCAP family. And they are especially deserving of the congratulations we extend on this auspicious event. In addition, those millions of us who appreciate and enjoy the fruits of their creators' talents have become a part of ASCAP's vast extended family of enthusiasts.

So I am wishing a very happy ninetieth birthday anniversary to ASCAP's members, officers, and employees on behalf of its huge extended family for its years of music success in America and around the world.

GRANT DOLLARS AT EPA

Mr. INHOFE. Mr. President, pursuant to my remarks of October 4 on the management of Federal grant dollars at the U.S. Environmental Protection Agency, I ask unanimous consent that the document entitled "Grants Management at the Environmental Protection Agency—A New Culture Required to Cure a History of Problems" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

GRANTS MANAGEMENT AT THE ENVIRONMENTAL PROTECTION AGENCY

A NEW CULTURE REQUIRED TO CURE A HISTORY OF PROBLEMS

On March 3, 2004, the U.S. Senate Environment and Public Works Committee held an oversight hearing into grants management at the Environmental Protection Agency (EPA). Testimony offered at the hearing referenced the need for a cultural shift within EPA necessary for new and effective grants management and oversight within EPA. These remarks are compiled from testimony from that hearing and information derived from subsequent oversight conducted by Environment and Public Works Committee (EPW) Majority Staff following that hearing.

EPA GRANTS MANAGEMENT

Each year, the EPA awards over half of its annual budget, totaling over $4 billion, in grants. This amounts to between seven to eight thousand grants or grant actions taken each year. EPA awards both discretionary and non-discretionary grants to recipients such as state, local, and tribal governments, educational institutions, non-profit organizations, foreign recipients, and individuals among other types of recipients. The U.S. General Accounting Office (GAO) completed a comprehensive report on EPA grant management which it issued in August 2003, compiling ninety-three GAO and EPA Inspector General reports, 1,232 reviews of records of awarded grants ending in fiscal year 2002, and interviews with EPA grant officials. According to the GAO report, the majority of EPA grant awards are non-discretionary grants awarded to government entities to fund infrastructure and the implementation of federal and state environmental programs. These grant funds are awarded according to statutory or regulatory formulas to the receiving governmental entities. The GAO reported that in fiscal year 2002, the EPA awarded nearly $3.5 billion in non-discretionary grants. The remaining approximately $700 million in fiscal year 2002 was awarded in discretionary grants in which EPA officials have the discretion to determine the grant amounts and recipients. Primarily, EPA awards discretionary grants to non-profit organizations, universities, and governmental entities.

EPA grants are awarded and managed both through EPA headquarters and through the ten regional EPA offices. The EPA Office of Administration and Resources Management's Office of Grants and Debarment within agency headquarters develops agency policy for grants management. Overall the program offices within EPA headquarters and the regional offices employ 109 grants specialists responsible for financial oversight of grant awards and over 1,800 project officers responsible for providing technical and programmatic oversight of grant recipients and to monitor the progress of individual grants.

EPA GRANTS MANAGEMENT HISTORY

The EPA Inspector General (OIG), the Office of Management and Budget (OMB), and the GAO have consistently identified deficiencies in EPA grant management in numerous audits and reports. The EPA has consistently identified grants management as either an agency or material weakness in recent annual Federal Managers Financial Integrity Act reports. As recently as September 2003, the OIG again recommended that the EPA again reflect that grants management is a "material weakness."

In its August 2003 comprehensive report on grants management, the GAO provided a condensed history of grants management within the EPA. As described in the report, the OIG first recommended in 1995 and subsequently provided congressional testimony in July 1996 that EPA demonstrated a significant weakness in grants management. This resulted in EPA identifying grants management as a "material weakness" in its 1996 Integrity Act report. In response, the EPA instituted new policies for monitoring grant recipients, providing grants training for project officers, and reviewing grants management effectiveness. Although EPA reported in its 1999 Integrity Act report that weaknesses in grants management had been corrected, the OIG again provided congressional testimony in November 1999 where it disclosed that OIG audits revealed management problems persisted despite new EPA policies. The EPA continued to designate grants management as an "agency weakness" in its 2000 Integrity Act report. In 2002, the OIG and the OMB recommended that EPA designate grants management as a "material weakness" within the agency. Additionally, in its August 2003 report, the GAO stated that EPA continues to encounter the problems in the following areas: (1.) selecting the most qualified applicants, (2.) effectively overseeing grantees, (3.) measuring the environmental results of grants, and (4.) effectively managing grants staff and resources. The U.S. House of Representatives Committee on Transportation and Infrastructure Subcommittee on Water Resources and Environment held a series of hearings in June 2003, October 2003, and July 2004 concerning the continued deficiencies in EPA grants management based in large part on the GAO findings.

In the President's 2004 Budget submission, the OMB identified four EPA grant programs in which it reported EPA could not adequately measure the effectiveness of those programs. Additionally, in the President's 2005 Budget submission, the OMB evaluated a total of twenty EPA programs including ten grant-based programs. Again, the OMB reported that EPA exhibits weakness in measuring the effectiveness of its grants programs.

On March 3, 2004, the Senate Environment and Public Works Committee held its first oversight hearing into grants management at the EPA. With such a troubling history in EPA grants management, the testimony offered at the hearing led Chairman James Inhofe to characterize the previous 10 years of grant management at EPA in the following manner:

"[F]or the last ten years, the story of grants management is seemingly a revolving door of the EPA IG audits, GAO reports, Congressional hearings, and new EPA policies in response. Even with this constant cycle of criticism, hearings, and new policies, the GAO reported later last year that the EPA continues to demonstrate the same persistent problems in grants management. These problems include a general lack of oversight of the grantees, a lack of oversight of the Agency personnel, a lack of any measurement of environmental results, and a lack of competition in awarding grants. It is imperative that Agency personnel are accountable for monitoring grants—that measurable environmental results are clearly demonstrated."

NEW EPA RESPONSES

In September 2002, the EPA issued a new grant award competition policy which focused on requiring competition in grant awards over $75,000 with certain exceptions and created the position of grant competition advocate to enforce the policy and recommend changes. Additionally, the GAO reports that in 1998, 1999, and in February 2002, the EPA has issued oversight policies designed to increase grant baseline monitoring, increase in-depth reviews, create annual monitoring plans, and create a grantee compliance database.

In April 2003, the EPA issued its first five-year grants management plan. This plan incorporates the new grants competition and oversight policies establishing the following principal Objectives and Activities for grants management:

Enhance the skills of EPA personnel involved in grants management; promote competition in the award of grants; leverage technology to improve program performance; strengthen EPA oversight of grants; support identifying and achieving environmental outcomes.

SENATE ENVIRONMENT AND PUBLIC WORKS COMMITTEE OVERSIGHT

At the March 3, 2004, Senate Environment and Public Works Committee oversight hearing into grants management at the EPA, Chairman Inhofe stated:

"I want to announce to all of you today that this Committee is going to take this oversight responsibility seriously in regards to grants management. . . . I am going to make a personal commitment that it is going to change this time. . . . We are going to have accountability and the revolving door will stop."

The Committee heard testimony from the OIG, EPA Office of Administration and Resources Management, GAO, and a representative from Taxpayers for Common Sense. GAO and OIG reiterated the much of the same themes that have characterized their consistent criticisms of grant management at the EPA. The GAO testified to: a lack of oversight of grantees and EPA personnel, a lack of competition in discretionary grants, and a lack of measurable environmental outcomes.

The OIG testified to: no link between funded projects and EPA mission, no assessment of probability of success, no determination of the reasonableness of the costs of the grant, no measurable environmental outcomes, and no deliverable in grant work-plans.

A representative for Taxpayers for Common Sense echoed similar criticisms offered by the OIG and GAO and, while acknowledging EPA's new focus on improving grants management, testified that EPA needs to improve: EPA personnel commitment to competition in grants selection, grantee oversight, ensuring grants are consistent with Agency goals, and EPA staff accountability.

The EPA focused its testimony on the new grants management plan and accomplishments under that plan detailing its five main goals and evidence of its initial success. The EPA testified to: new certification of grants project officers, increased competition especially among non-profit grantees, deployment of a new Intergrated Contracts Management System automating grants mangement monitoring, and increased minimal monitoring standards for all grants.

The hearing produced the following general findings: EPA discretionary grants need a system that requires wide competition for the available funds and sufficient notice of the funding opportunities that may be available; EPA discretionary and non-discretionary grants need to demonstrate and quantify measurable environmental results; and EPA administration and project officers need to ensure that new policies to more closely monitor grants, ensure measurable environmental results, and ensure wide solicitation and competition among grants, among other goals, and accomplished.

In addition, the hearing produced the specific finding that discretionary grants in particular are often the most problematic due to limited oversight from the EPA. Testimony offered by the GAO revealed that oversight through such safeguards as the Single Audit Act to ensure that discretionary grantee expenditures are allowable costs are generally not applicable to discretionary grants given the grant comparatively low dollar amounts. Responding to questions from Chairman Inhofe, GAO representative John Stephenson testified to the following:

"Senator Inhofe. Would [discretionary grants] be the most difficult to monitor?

Mr. Stephenson. I would think so. The nondiscretionary grants go by formula to the States based on the need. There is a little more specificity in place as to how you oversee that category of grants. So I would agree that the discretionary grants are probably more problematic."

The OIG offered corresponding answers to similar questions from Senator Inhofe testifying to the following:

"Senator Inhofe. You are testifying that the EPA mismanagement of only discretionary grants costs the taxpayers hundred of million of dollars each year?

Ms. Heist. Of predominately discretionary funds, yes.

Senator Inhofe. Why do you focus on discretionary recipients in particular?

Ms. Heist. In the past we found the most problem was with discretionary grants. We found problems with, as has been mentioned here today, competition. We found Agency managers continued to use the same grantees year-after-year and there has not been a lot of competition. Predominately, that is where we found the problems, so we continue to focus in that area."

In fact, the OIG supplemented her testimony with a March 1, 2004, audit of a discretionary grant recipient non-profit organization that received a total of $4,714,638 in five selected grants from 1996 to 2004. The OIG's audit concluded with the following findings:

"Therefore, although EPA funds were awarded to a 501(c)(3) organization, in actuality, a 501(c)(4) lobbying organization performed the work and ultimately received the funds. This arrangement clearly violates the Lobbying Disclosure Act prohibition on a 501(c)(4) organization which engages in lobbying from receiving Federal funds.

In summary, the [Consumer Federation of America], a 501(c)(4) organization: (1) performed direct lobbying of Congress, and (2) received Federal funds contrary to the Lobbying Disclosure Act. Consequently, all of the costs claimed and paid under the agreements are statutorily unallowable."

The March 1, 2004 OIG audit subsequently concluded among other findings, "EPA recover all funds paid to the non-profit recipient" and "EPA suspend work under current grants or cooperative agreements not covered by the audit and make no new awards until the recipient can demonstrate that its financial management practices and controls over Federal funds comply with all regulatory requirements."

However, lack of oversight in grants to non-profit organizations is not entirely new information. The GAO reported in 2001 that EPA exhibited weaknesses specifically in non-profit grantee oversight. In its April 2001 report that GAO specifically evaluated EPA's oversight of non-profit grantee costs. The GAO concluded, "EPA's post-award grant management policy provides minimal assurance that unallowable costs for nonprofit grantees will be identified." In its August 2003 report, the GO again reported it found some of the largest number of problems in discretionary grants to non-profit organizations. In fact, the GAO reported that of the grants it sampled for its report, EPA took some of the most significant remedial actions to problems within the individual grants against non-profit organizations.

Testimony received during the hearing also confirmed that EPA has continued to award discretionary grants to non-profit and other recipients often without preparing solicitations and without competition with other potential applicants. In its August 2003 EPA grants report, the GAO reported the following:

"The Federal Grant and Cooperative Agreement Act of 1977 encourages agencies to use competition in awarding grants. To encourage competition, EPA issued a grants competition policy in 1995. However, EPA's policy did not result in meaningful competition throughout the agency, according to EPA officials. Furthermore, EPA's own internal management reviews and a 2001 Inspector General report found that EPA has not always encouraged competition. Finally, EPA has not always engaged in widespread solicitation when it could be beneficial to do so. Widespread solicitation would provide greater assurance that EPA receives proposals from a variety of eligible and highly qualified applicants who otherwise may not have known about grant opportunities. According to a 2001 EPA Inspector General report, program officials indicated that widespread solicitation was not necessary because 'word gets out' to eligible applicants. Applicants often sent their proposals directly to these program officials, who funded them using 'uniquely qualified' as the justification for a noncompetitive award. This procedure created the appearance of preferential treatment by not offering the same opportunities to all potential applicants. In addition, the agency provided incomplete or inconsistent public information on its grant programs in the Catalog of Federal Domestic Assistance. Therefore, potential applicants may not have been adequately informed of funding opportunities."

In fact, the OIG reported in May 2001 that the lack of competition and lack of solicitation in discretionary grants led to the appearance of preferential treatment in awarding grants and an uncertainty that grants were being awarded to the most meritorious and cost-effective projects:

"Without widespread solicitation [of available grants], EPA is not only limiting potential applicants, but is also creating the appearance of preferential treatment. Furthermore, during our discussions with EPA program officials we found implications of preferential treatment in the selection of grantees."

During the hearing, EPA acknowledged neglecting competition and giving the appearance of favoritism in awarding grants as EPA responded to the following question asked by Senator Jeffords:

"Mr. O'Connor. Senator Jeffords, with respect to the competition as was noted, for years and years, our project officers were accustomed to just selecting their grantee which led to at least the appearance that we had favorites and that we were not necessarily going out there sure that we were getting the best value for the Government. That policy, quite frankly, did not go over very well initially, with our 1,800 project officers because it does require quite a bit of additional work. This was something that they had to adjust to. Frankly, we set a goal of competing, I believe it was 30 percent of the covered grants in our first year. I was very pleased with achieving the 75 percent. But that is one of a number of major mindsets that we are trying to change, and will change, over the next couple of years in how we manage our grants."

Chairman Inhofe concluded the hearing with a closing statement acknowledging that all the witnesses could agree that discretionary grants oversight may be particularly problematic. Upon the conclusion of the hearing, Chairman Inhofe began a series of information requests to EPA. Chairman Inhofe issued the first request at the close of the March 2004 hearing. The request included a listing of all discretionary grant recipients in fiscal year 2003, the amount of the recipient, and the type of recipient for each grant award. It also requested the amounts in grants those recipients had received for the two previous fiscal years.

SUBSEQUENT OVERSIGHT

Pursuant to Environment and Public Works Committee oversight responsibility, Chairman Inhofe has submitted subsequent information requests which have included requesting project officer grant files on discretionary grant recipients and interviews with the EPA project and approving officers for discretionary grants. In each information request, EPA has fully responded, making grant files and personnel available.

Additionally, one of the first accomplishments from the Committee's oversight has been a change in availability of information on grants on the EPA Web site. At the March 2004 hearing Chairman Inhofe required, "What would be wrong with putting all [grant awards] on a Web site where the public and anyone interested would have access to them?"

Later in the hearing, Chairman Inhofe reiterated his point of transparency in grant awarding stating, "I like the idea of doing something, of opening the doors, and not just having a Web site where you show the various competitions coming up, but also where you show the grants that are issued. . . . I look forward to that."

EPA has responded by reorganizing its Web site to provide a direct link to the EPA grants from its homepage and reorganized its Office of Grants and Debarment page to clearly list links concerning EPA grants. However, most importantly, EPA has created a new site of the most comprehensive information ever provided on individual grants. This new page contains information such as the awarding office, total amount of the grant, purpose of the grant, and awarding and monitoring personnel at EPA. This new page allows users to search all awarded grants by description, type of recipient, and by quarter or fiscal year all within seven days of the grant award. Additionally, this page is only an interim site as the EPA plans to develop a "Grants Datamart" of new publicly accessible information through its Web site by early 2005.

Although more publicly available information on available grants, new competition for those discretionary grants and full disclosure of awarded grants are a promising beginning to reform of EPA grants management, individual EPA program offices must enforce these new policies with necessary oversight of EPA personnel and EPA grantees. However, with comparatively low individual dollar amounts, discretionary grants to non-profit organizations in particular may receive the least oversight compared to recipients of larger dollar amount grants. As referenced in previous GAO reports and corroborated in the OIG recent audit of a non-profit grant recipient, discretionary grants to non-profit recipients have exhibited some of the highest amount of problems and have required the most significant remedial actions taken by the EPA.

BIG BUSINESS ENVIRONMENTALISM

In spring 2001, the Sacramento Bee began a series of articles on the operations of the national environmental groups and the current actions of the modern environmental movement. Those articles began characterizing the today's environmental groups in the following manner:

"[T]oday's groups prosper while the land does not. Competition for money and members is keen. Litigation is blood sport. Crisis, real or not, is a commodity. And slogans and sound bites masquerade as scientific fact."

The series continued by identifying the twenty environmental organizations reporting the largest resources, each an Internal Revenue Service (IRS) registered non-profit organization, and criticizing today's environmental movement for its largesse. The series highlighted such issues and arguments as: the salaries paid to environmental group executives, the millions of dollars in assets, or billions in some cases, of environmental groups, the unprecedented focus on fundraising, the marketing and advertising on agenda-based science, the increasingly litigious business of today's environmental groups, and the subsidizing of environmental groups with federal tax dollars.

Continuing on the theme of environmental groups being subsidized by federal taxpayers, that same publication published an additional article in October 2001, specifically highlighting the issue of federal tax dollars going to environmental groups regularly engaged in lobbying and litigating against the federal government, and how that, according to federal audits, in some cases those tax dollars have been misused. Interestingly, the article adds,

"Just how much public money flows to environmental groups has never been calculated, partly because it springs from so many sources. . . . But no government agency charts the total spending, identifies trends, or assesses what taxpayers are getting for their money."

The Washington Post published a series of articles beginning May 2003 focusing on a particular non-profit environmental group, The Nature Conservancy, branding the organization "Big Green" for its status as the nation's eighth largest non-profit with assets of $3 billion. The series criticized The Nature Conservancy, a regular EPA discretionary grant recipient, for its wide-ranging business interests including drilling operations, product marketing activities ranging from beef to neckties to a breakfast cereal to toilet cleaners, and million-dollar land deals to organization board members and supporters that has gained The Nature Conservancy a U.S. Senate Finance Committee investigation and subsequent audit by the IRS.

Earlier this year, FrontPage Magazine published a similarly critical article of environmental non-profit groups titled "Environmental Activism Is In Fact Big Business," reporting that today's more than 3,000 environmental non-profit organizations collect more than $8.5 billion annually and that most individually collect more than $1 million each year.

Not all environmental organizations regularly receive EPA grants or receive EPA grants at all. However, some environmental groups receive millions of dollars in private contributions each year and receive hundreds of thousands of dollars in EPA grants each year as well. Additionally, those same environmental groups are closely linked with affiliate organizations which are politically involved or are closely associated with other politically involved environmental organizations.

SELECTED EPA DISCRETION NON-PROFIT GRANTEES

The following organizations are IRS registered 503(c)(3) tax exempt non-profit entities that have regularly received discretionary grant funding from the EPA. Each organization has received varying amounts of EPA discretionary grants. Each organization is also affiliated with an IRS registered 501(c)(4) or 527 political organization or is otherwise involved in political activities. Unless otherwise specified, the EPA reports that until it formally adopted its grants competition policy in 2003, although it encouraged competition, each grant was likely awarded without solicitation or competition with other potential applicants.

Natural Resources Defense Council

The Natural Resources Defense Council (NRDC) states that its purpose is to "safeguard the Earth: its people, its plants and animals and the natural systems on which all life depends." The NRDC is represented by three organizations. These organizations are the NRDC, Inc., a 501(c)(3) organization; the NRDC Action Fund, a 501(c)(4) organization; and the Environmental Accountability Fund, a section 527 political organization.

The NRDC is consistently critical of the Bush Administration's environmental record and devotes a portion of its own Web site to the "Bush Record" which it characterizes in the following manner: "This administration, in catering to industries that put America's health and natural heritage at risk, threatens to do more damage to our environmental protections than any other in U.S. history." In fact, this organization is particularly politically involved with a history of spending millions of dollars in previous election cycles. The NRDC is also involved in this year's Presidential race joining with other organizations airing television and radio advertisements against President Bush. The NRDC's section 527 political organization, the Environmental Accountability Fund, last reports to have raised nearly $1 million in the 2004 election cycle, at the time of this report. The NRDC 501(c)(3) organization is also nationally politically involved joining earlier this year with Moveon.org, another section 527 political organization, running advertisements, such as one featured earlier this year in the New York Times, accusing the Bush Administration of weakening regulations on drinking water and air quality while at the same time soliciting contributions for the NRDC 501(c)(3) affiliate.

The NRDC, Inc. organization has reported consistent end of the year annual net assets of over $70 million for the previous three years, with over $80 million of end of the year net assets reports in its tax filing of the year ending 2003. Additionally, the NRDC, Inc. reports receiving increasing amounts of direct public contributions totaling from $32.6 million in 1999 to over $55 million in 2003.

The NRDC, Inc. organization also reports spending an increasing amount on direct grassroots lobbying, from $264,253 in its filing for the year ending 1999 to $861,524 in its filing for the year ending 2003 with a total of nearly $1 million in total lobbying expenditures in 2002 alone. NRDC Lobbying Disclosure Act Reports over the same 1999-2003 period disclose NRDC, Inc. made these expenditures lobbying Congress and the Administration, including Department of Energy, the Department of the Interior and the EPA.

The NRDC, Inc. organization reported receiving over half a million dollars annually in government grants in its IRS filings for the reporting periods ending 1999 through 2003. Specifically, the NRDC, Inc. organization reports it received $850,903 in government grants in the period ending 1999, $759,596 for 2000, $679,319 for 2001, $630,910 for 2002, and $608,099 for 2003. The EPA reports that NRDC, Inc. organization has received nearly $6.5 million in twenty-three discretionary grants since 1993. EPA also reports that these individual grants ranged in amounts from $7,500 to nearly $2 million during this period. The EPA acknowledges that likely all these grants were awarded without competition with any other applicant. The EPW Majority Staff requested interviews of EPA approving and project officers for selected grants over $200,000 each. The purposes for some grants to NRDC, Inc., were wide ranging. For instance, EPA reported that some of the stated purposes for grants awarded to NRDC, Inc., have included development of energy efficient technologies, strengthening the case for smart growth, a NRDC and Ad Council clean water campaign, and promoting energy efficiency in Russian buildings. In some instances, approving officers and project officers for those grants have since retired from the EPA. However, EPW Majority Staff interviewed EPA approving and project officers for one ongoing grant awarded by the Office of Air and Radiation beginning in January 2002 through December 2004 for a total of $1,198,993.00. The grant's stated project title and description are as follows: "Development or Long-Term Adoption of Energy-Efficient Products and Services. To work within the energy efficiency and manufacturing community toward long term market transformation of energy-efficient technologies and practices." EPA officials stated that the grant was awarded without solicitation or competition with other applicants, and EPA awarded the grant pursuant to a proposal NRDC, Inc. submitted to the EPA. One EPA official reported that although this particular grant proposal was unsolicited, it was subject to a peer review. However, upon further questioning EPW Majority Staff learned that the peer review consisted of the review of one other EPA official within the Climate Protection Partnerships Division of the Office of Air and Radiation. EPA officials reported that this grant received some form of review from several levels within the Climate Protection Division from review of the technical merits of the proposal by the project officers through approval by the division director. EPW Majority Staff interviewed the approving officer and two project officers for this grant, and all reported receiving EPA grant training and receiving periodic recertification. Each interviewed personnel has been employed with the EPA for various tenures from two years to over twenty years. EPA project officers reported that monitoring for this grant consists of periodic contact by the project officer and the requirement of quarterly reports from NRDC, Inc. on its progress on the grant. All EPA officials interviewed were aware of NRDC's regular litigation against the federal government, and some were otherwise aware of NRDC's political activity and criticisms of the Bush Administration's environmental policies.

Children's Environmental Health Network

The Children's Environmental Health Network (CEHN) describes itself as a "national multi-disciplinary organization whose mission is to protect the fetus and the child from environmental health hazards and promote a healthy environment." CEHN has been a 501(c)(3) tax exempt organization since 2001 and reported for the filing period ending 2000,end of the year net assets of $25,324.00. However, the CEHN also reports receiving a total of $545,626 in direct contributions in addition to $136,729.00 in government grants.

Since CEHN's beginnings in 2001, the EPA reports it has awarded four grants to CEHN in amounts ranging from a $2,600 to an ongoing grant totaling $332,304.00 for the grant term of August 2002 to July 2005. As of this report, EPA has awarded nearly $400,000 in grants to the CEHN. All EPA approving and project officers for each of these grants are still employed at the EPA, the EPW Majority Staff requested interviews with each official/EPA officials confirmed that the agency awarded each grant without solicitation and without competition with any other potential applicant.

The first of the awards was a $10,000 grant awarded from EPA Office of International Affairs to CEHN to distribute information from the Global Forum for Action, a conference sponsored by CEHN. EPA officials, however, disclosed that the original proposal from CEHN requested $70,000 to pay for a large part of the Global Form for Action conference that had already concluded prior to CEHN's submission of its grant proposal. EPA, however, agreed to provide $10,000 for dissemination of information from the conference. The second of the awards was a $43,615 grant awarded from EPA headquarters for the purpose of developing a plan for the expansion of the use of the Internet to increase information regarding environmental health threats to children. EPA officials monitored the grant by requiring quarterly progress reports. The result of the grant was a report CEHN prepared on its meetings with Internet providers and medical associations. EPA officials, however, reported that a Web site disseminating information on children's health has not been developed subsequent to this report. Interestingly, however, during this same period and thereafter, the CEHN has published its own Children's Environmental Health Bush Administration Report Card for 2001-2004. On April 5, 2004, CEHN published its most recent report card on its own Internet site which graded the Bush Administration's environment record with an "F" on protecting children's health citing sixteen areas where it claims the Bush Administration is lacking in protecting children's health.

The third grant to CEHN was awarded from EPA Region 3 in the amount of $2,600 for the purpose of training two Washington, D.C. highschool students to assist with environmental education in a local elementary school classroom. CEHN coordinated the training for these two highschool students in a there-week course. Representatives from the Sierra Club, Environmental Defense, the EPA, and others made presentations to the students about a variety of topics including "lead poisoning, asthma, ozone depletion, global warming, the workings of a power plant, and water topics." Although the students toured a water treatment facility in conjunction with the presentations, EPA officials could not confirm that the students actually toured a power plant. The grant reports CEHN submitted also did not include a representative from the utility industry as a presenter, and EPA officials also could not confirm that the students received any information from industry representatives.

Finally, the fourth grant EPA awarded to CEHN is the largest. The EPA Office of Prevention of Pesticides and Toxic Substances awarded the first installment of an ongoing grant totaling $332,304.06 over the grant period August 2002 to July 2005. The purpose of this grant is to increase available scientific information on children's health to CEHN and other non-governmental organizations. Like all other grants awarded to CEHN, this grant was awarded through an unsolicited proposal without competition with any other potential applicants. Interestingly, the chairperson of the board of directors for CEHN is the former EPA Assistant Administrator for the Office of Pesticides and Toxic Substances during the Clinton Administration from 1993 to 1999. EPA officials involved in approving and monitoring this grant advised EPW Majority Staff that although they personally did not work closely with the former Assistant Administrator, they worked for the Office of Pesticides and Toxic Substances during the same period.

Environmental Defense, Inc.

Environmental Defense describes itself as "fighting to protect human health, restore the oceans and ecosystems, and curb global warming." Environmental Defense is represented by two organizations: Environmental Defense, Inc., 501(c)(3) organization, and the Environmental Defense Action fund, Inc., a 501(c)(4) organization.

Environmental Defense, Inc. reports consistently increasing amounts of end of the year net assets from approximately $33 million in its tax filing for the period ending 1999 to over $49 million for 2003. During that same period Environmental Defense, Inc. has received increasing amounts of direct public contributions, from $28.4 million in 1999 to nearly $42 million in 2003. This organization also reports spending varying amounts in direct and grassroots lobbying expenditures for the same period, spending $528,804 for 1999, $410,975 for 2000, $857,542 for 2001, $673,548 for 2002, and $856,983 for 2003. Environmental Defense, Inc. reports making those expenditures lobbying Congress and the Administration agencies including the EPA.

Environmental Defense, Inc. also reports receiving varying amounts of annual government grants. It reported receiving $752,645 for 1999, $505,170 for 2000, $575,673 for 2001, $273,116 for 2002, and $341,338 for 2003. Environmental Defense, Inc. has also received over $4.6 million from the EPA in discretionary grants since 1993, many, if not all, awarded without competition with other potential applicants.

The Tides Center

The Tides Center describes its organization as "working with new and emerging charitable organizations who share our mission of striving for positive social change." This organization is represented or affiliated with two other organizations: the Tides Foundation, a 501(c)(3) foundation, and the Tsunami Fund, a 501(c)(4) organization.

The Tides Center and Tides Foundation regularly grant funds to what it designates as its projects. To receive funding, The Tides Center's main requirement for becoming a new project is that the "project's work falls within the Tides Mission of working toward progressive social change." Some of the projects the Tides Center and Tides Foundation have funded include other environmental organizations such as the Environmental Working Group, the Natural Resources Defense Council, and affiliates of the Sierra Club and Greenpeace.

The Tides Center regularly reports annual end of the year net assets increasing from $21.1 million in its tax filing for the period ending 1999 to $33.8 million in 2003. During this same period, the Tides Center reports increasing direct public contributions from $38.7 million in its 1999 filing to nearly $60 million in 2003. The Tides Center reports varying amounts of legally allowable direct and grassroots lobbying expenditures between $22,505 in its 1999 filing to $601,885 in its 2003 filing with a 2002 filing disclosing expenditures of nearly $1 million.

The Tides Center also regularly receives several millions of dollars of government grants in increasing amounts each year. The Tides Center reported receiving $1,626,906 for 1999, $1,582,370 for 2000, $2,145,499 for 2001, $3,481,484 for 2002, and $5,175,732 for 2003. Although the Tides Center has received increasing amount of funding in grants, the U.S. Department of Housing and Urban Development (HUD) Inspector General audited the Tides Center as recently as September 2002 and recommended that HUD consider suspending grant funding until the Tides Center and its project organization partner in the audited grant develop and implement appropriate management controls to ensure the Tides Center's compliance with federal rules concerning allowable expenditures for federal funding. The EPA reports that the Tides Center and Tides Foundation have received nearly $2 million in federal grants from the EPA alone since 1993. EPW Majority Staff interviewed EPA approving and project officers in four grants EPA awarded to the Tides Center. In two of the selected grants, EPA made the awards without solicitation or competition with other applicants. In fact, the single largest grant EPA has made to the Tides Center since 1993 was awarded for a term of May 2002 to December 2003 for a total of $477,275. The grant was awarded for the purpose of encouraging public participation in the cleanup of hazardous waste at federal facilities. Although the grant was awarded without solicitation or competition, EPA confirmed the project officer has made on-site visits to the grantee and has requested an audit of funds to ensure EPA grant funding is separated from other funds used by the Tides Center. In another ongoing grant to the Tides Center totaling $75,000 for the purpose of developing a white paper on the markets for environmental papers, EPA again confirmed this grant was awarded subsequent to an unsolicited proposal and without competition. In fact, in awarding funding to the Tides Center in other grants based on unsolicited proposals, EPA has simply recorded that the grantee has "unique and superior qualifications to perform the work." However, in each of these previously described grants, EPA project officers confirmed that prior to this particular grant oversight with Tides Center, neither had any prior experience with the Tides Center.

In two of the other two selected grants, EPA made the awards with competition with one award approved by the awarding office's Assistant Administrator. The first of these ongoing grants was for a total of $125,000 for a grant term of September 2003 to August 2006, for the purpose of "strengthening the national network of brownfield environmental justice and community groups, technical assistance, training, research on schools sitting on contaminated property, regional workshops, and history of selected brownfields community efforts." The grant application, however, states that the Tides Center will ultimately apply for a total of $442,000 for this project. The Tides Center's submitted proposal for the grant includes conducting conferences, workshops, and producing fact sheets. The EPA Office of Solid Waste and Emergency Response awarded this grant following a review throughout the office with final approval by the office Assistant Administrator. EPA officials confirmed that the solicitation for this grant was available for forty-five days on the agency Web site. EPA received forty-four proposals and awarded twenty-one. Finally, the fourth Tides Center ongoing grant in which EPW Majority Staff interviewed EPA officials involved an awarded amount totaling of $150,000 for a grant term of May 2004 to May 2004, for the purpose of "improving meaningful non-federal stakeholder involvement in decisions concerning clean up of hazardous waste at federal facilities. In this grant, EPA reports that it prepared a solicitation that was available for sixty days on the agency Web site and in the Federal Register. EPA received a total of twenty-three proposals and awarded one. Proposals were evaluated by a panel comprised of EPA personnel and two additional members from the Army Corps of Engineers and the Department of Energy.

Consumer Federation of America

The Consumer Federation of America describes its purpose as to "work to advance pro-consumer policy on a variety of issues before Congress, the White House, federal and state regulatory agencies, state legislatures, and the courts." The Consumer Federation of America (CEA) was formerly represented by two organizations: the Consumer Federation of America Foundation, a 501(c)(3) organization, and the Consumer Federation of America, a 501(c)(4) organization. According to the CFA, currently both organizations have now merged into one 501(c)(3) organization following an EPA Inspector General audit completed March 1, 2004 that was referenced in testimony on EPA grants management before the Environment and Public Works Committee on March 3, 2004.

The CFA reported end of the year net assets of $609,745 for its IRS filing for the period ending 2003. It also reports receiving $184,110 in direct public contributions during that same reporting period. CFA has regularly filed Lobbying Disclosure Act reports disclosing lobbying expenditures between $80,000 and $200,000 from lobbying Congress and a variety of federal agencies. In fact, the EPA Inspector General included in its audit of CFA that CFA had an estimated total of $940,000 in direct lobbying costs from 1998 through 2002.

The CFA Foundation has also been a regular recipient of grant dollars from the EPA. Since 1993, the CFA or CFA Foundation has received over $8 million alone from the EPA. However, during the EPW Committee grants management oversight hearing held March 3, 2004, the OIG testified to the following:

"We have reported on EPA shortcomings in overseeing assistance agreements for over ten years. A particularly relevant example is a recent report in which we questioned $4.7 million because the work was performed by an ineligible lobbying organization. EPA awarded the cooperative agreements to an associated organization but did not have any employees, space, or overhead expenses. In addition, the ineligible organization's financial management practices did not comply with Federal regulations. The recipient did not adequately identify and separate lobbying expenses in its accounting records. As a result, lobbying costs may have been charged to the Federal projects."

The OIG included its March 1, 2004 audit of the CFA with its testimony which concluded with the following summary:

"In summary, the [CFA] Federation, a 501(c)(4) organization: (1) performed direct lobbying of Congress, and (2) received Federal funds contrary to the Lobbying Disclosure Act. Consequently, all the costs claimed and paid under the agreements are statutorily unallowable."

EPA has advised EPW Majority Staff that it continues to work to resolve this issue with CFA and to develop a response to the OIG audit. EPA has also disclosed that the agency offices awarding the grants to CFA that were subject to the audit did not prepare solicitations for the grants nor subject the grants to competition with other potential applicants.

World Wildlife Fund

The World Wildlife Fund (WWF) describes its purpose as the "conservation of nature," and describes its conservation work as focusing on three issues: "saving endangered species, protecting endangered habitats, and addressing global threats such as toxic pollution, over-fishing and climate change." The WWF advocates for a wide variety of issues, such as opposing oil and gas development in the Arctic National Wildlife Refuge, strengthening the Endangered Species Act, advocating for global warming legislation, and arguing that the Bush Administration plans to eliminate millions of acres of national forests for road building, logging, and mining interests.

The WWF is a 501(c)(3) tax exempt non-profit organization. The WWF reports increasing end of the year net assets ranging from $114 million for its tax filing in the period ending 1998 to $146 million for 2003. During this same period the WWF reports receiving an increasing amount in direct public contributions from $66.6 million for 1998 to $79 million for 2003. The WWF also reports lobbying expenditures each year from 1998 to 2003 in amounts from $121,138 to $400,548. The WWF reports making these expenditures lobbying Congress and the Administration, including the Department of Interior, U.S. Forest Service, and the EPA.

The WWF is also a regular recipient of government grants and reported receiving over $20 million in government grants from 1998 to 2001. The WWF reported receiving government grants of over $18 million in 2002 and over $16 million in 2003 alone. Since 1993, the WWF has received over $1.6 million in EPA discretionary grants including the most recent ongoing EPA grant to the WWF for $100,000. The EPA Office of Research and Development (ORD) awarded this grant to the WWF beginning May 2002 for the purpose of providing technical assistance to governmental departments of American Samoa to assess the impacts of climate change on coral reef systems. EPW Majority Staff interviewed EPA approving and project officers for this grant. Although this grant was awarded prior the EPA's discretionary grant competition, the ORD prepared a solicitation for this grant that was available from July 2001 to October 2001 on the EPA Web site and in the Federal Register and Commerce Business Daily. The ORD received twelve proposals that were evaluated by a panel consisting of representatives from the EPA, the National Oceanic and Atmospheric Administration, and Harvard University. EPA awarded grants to five of the twelve proposals. The WWF proposal begins with the foundation that global warming due to anthropogenic effects is causing damage to coral reefs among other detrimental effects. The EPA reported that part of the monitoring requirements WWF is to meet during the term of the grant is to submit periodic reports. In each grant quarterly reports prepared by WWF, the WWF reports working with local governmental departments sampling and conducting studies gathering information on the damage to coral reefs and associated species to ultimately recommend means to protect American Samoa's corral reefs. EPA officials anticipate the grant will conclude in 2005. EPW Majority Staff also asked EPA officers responsible for monitoring the grant whether grant management was sufficiently described in their job description and whether it is an area in which EPA measures their job performance. Interestingly, one EPA officer responded that since being assigned to ORD, both aspects were true. However, the same EPA officer responded that in previous assignments neither aspect was true.

Friends of the Earth

Friends of the Earth states its mission as the following: "Friends of the Earth defends the world and champions a healthy and just world." Friends of the Earth is a group critical of the Bush Administration's environmental record, suggesting that political contributors have solely determined the environmental agenda of the Bush Administration.

Friends of the Earth is represented by two organizations: Friends of the Earth, a 501(c)(3) organization, and Friends of the Earth Action, Inc., a 501(c)(4) organization.

Friends of the Earth has consistently reported end of year net assets between $1 million and $3 million in IRS filings for periods ending in 1998 through 2003. Over the same period, Friends of the Earth has reported receiving annual direct public contributions from $3.5 million for 1999 to $4.4 million for 2003. From 1999 to 2003, Friends of the Earth also reported lobbying expenditures from $29,433 to $111,849. Friends of the Earth annual lobbying reports disclose these expenditures include lobbying Congress and the Administration, including the EPA.

Since 1999, Friends of the Earth has regularly reported it has received no government grants; however, it has received small federal grants from the EPA from 1993 to 1999 totaling about $200,000. Like many other discretionary grants, EPA acknowledges that these grants likely were awarded without a public solicitation and without competition with other potential applicants.

World Resources Institute

The World Resources Institute describes itself as an independent non-profit organization and describes its mission is to "move human society to live in way that protect Earth's environment and its capacity to provide for the needs and aspirations of current and future generations." The World Resources Institute (WRI) is represented by two 501(c)(3) tax exempt non-profit organization, the WRI and the World Resources Institute Fund.

The WRI board of directors consists of thirty-two members including representatives from fellow EPA grantee, the Natural Resources Defense Council, and the League of Conversation Voters. WRI describes its work as being, "concentrated on achieving progress toward four key goals: protect Earth's living systems; increase access to information; create sustainable enterprise and opportunity; reverse global warming."

In IRS reporting periods from 1998 to 2003, the WRI regularly reports end of the year net assets from $46 million to $57 million. During this same period the WRI reported receiving varying amounts of annual direct public contributions, from $8.6 million for 1998, $14.3 million for 1999, $9.4 million for 2000, $15.7 million for 2001, $21.7 million for 2002, and $9.3 million for 2003. WRI has also reported consistently receiving millions of dollars in government grants each year. WRI reported receiving $3.2 million for 1998, $2.4 million for 1999, $2.9 for 2000, $2.3 for 2001, $3.4 for 2002, and $2.7 for 2003. The WRI is also a regular recipient of EPA grants, totaling around $8,132,060 million awarded since 1993. All except $575,000 of the total amount of grants awarded to WRI were awarded prior to the EPA competition policy. Additionally, all of the $575,000 awarded since 2003 has been awarded in amounts under the competition policy threshold or were incremental amounts under already awarded original grants. Unless the awarding office within EPA for any of the grants within the $8.1 million instituted its own competition policy, EPA acknowledges that all $8.1 million was likely awarded without solicitation and competition with other potential recipients.

National Wildlife Federation

The National Wildlife Federation describes itself as "the nation's largest and oldest protector of wildlife." The National Wildlife Federation is involved in various environmental issues and features a "Take Action" page on its Web site advocating for national global warming legislation and characterizing the Bush Administration as "ax[ing] protections for National Forest across the country."

The National Wildlife Federation is represented by two organizations: the National Wildlife Federation, a 501(c)(3) organization, and the National Wildlife Action, a 501(c)(4) organization.

The National Wildlife Federation has reported varying annual end of the year net assets from $33.8 million in its IRS filings for the period ending 2000 to $6.7 million for 2003. During the same period, the National Wildlife Federation reports receiving direct public contributions from $34.7 million for 1999 to $37.9 million for 2003 with public contributions over $40 million for 2001 and 2002. The National Wildlife Federation also reports consistent lobbying expenditures from $140,000 to $371,000 from 2000 through 2003.

The National Wildlife Federation has also reported regularly receiving government grants each year, with $265,441 for 2000, $214,811 for 2001, $244,403 for 2002, and $330,941 for 2003. EPA reports that it has awarded the National Wildlife Federation approximately $600,000 since 1994 all of which was awarded in grants which individually amounted to well under the EPA's new discretionary grant competition policy threshold.

STAPPA-ALAPCO

STAPPA-ALAPCO is the combination of the State and Territorial Air Pollution Program Administrators, a 501(c)(3) organization, and the Association of Local Air Pollution Control Officials, a 501(c)(6) trade association. STAPPA-ALAPCO describes itself as the "two national associations that represent air pollution control agencies in 54 states and territories and over 165 major metropolitan areas across the United States."

STAPPA-ALAPCO receives no direct public contributions, and according to the EPA, it receives all of its funding from EPA through government grants. STAPPA-ALAPCO created a "Secretariat" in 1980 and that has been receiving funding through Clean Air Act grants from the EPA Office of Air and Radiation since that time. These grants are exempt from the EPA competition policy because of an exemption for co-regulators.

STAPPA-ALAPCO has drawn the past criticism of Chairman Inhofe for its regular Congressional testimony supporting a variety of new EPA rulemakings. In his opening statement in an EPW Committee hearing in July 2002 concerning environmental regulations affecting military readiness, Inhofe stated:

"How many times has STAPPA-ALAPCO testified before Congress, and how many times were they opposing the streamlining of procedural paperwork. . . . These groups of government bureaucrats invariably wind up testifying for bigger government and opposing smaller government.

"To add insult to injury, not only are the salaries of these individual government employees paid with our tax dollars; quite often the groups themselves receive separate, additional, appropriated dollars to pay for the groups themselves and the activities of these groups. As I say, these activities almost invariably amount to lobbying for bigger government and more expenditures of our tax dollars with an emphasis not on better results but rather on more procedures."

Pursuant to a resolution of member states, EPA calculates the individual shares of each member state and sets aside funds from Clean Air Act grant allocations for a state to fund STAPPA-ALAPCO. This method of EPA directly funding STAPPA-ALAPCO has drawn past criticism. For instance, language in the conference report for the 2001 Department of Veterans Affairs, Housing and Urban Development, and Independent Agencies Appropriations Bill directed EPA to withhold state and local grant funds at the national level to pay for activities of programs only if such activities are efforts that will benefit state and local air agencies, if the activities are the responsibility of state and local air agencies and if state and local air agencies have provided their concurrence. A state is free to withdraw support from STAPPA-ALAPCO. Additionally, a state is now also free to support STAPPA-ALAPCO directly. In fact, not all states are currently members of STAPPA-ALAPCO. In response to an EPW Majority Staff request for the total amount of EPA grants awarded to the STAPPA-ALAPCO Secretariat over the period 1988-2003, EPA responded with a list of five grants for a total of $6,190,830.

CONCLUSION

The EPA awards over half of its annual budget each year in grants. The GAO, OMB, and OIG have made various common criticisms of EPA grants management, including a lack of measurable environmental results, a lack of a measurable probability of success from the grants, no evaluation of reasonable costs in grants, and a general lack of oversight of EPA personnel and grantees. Although much of EPA's grant funding is provided in formula-based non-discretionary grants to state and local governmental entities, several hundred million dollars each year are awarded to discretionary recipients. For several years, the GAO, OMB, and OIG have criticized the management of these discretionary grants, in particular citing that EPA has often awarded these grants without widespread solicitation or competition with any other potential applicants. The GAO has argued that EPA oversight of discretionary grants has been particularly problematic especially of non-profit recipients. The OIG has even argued that this lack of competition in discretionary grants has given the appearance of years of preferential treatment in EPA discretionary grant awards. EPA has responded with new competition and oversight policies and a five-year grants management plan to cure the years of criticism of its overall grants program. This preliminary report confirms some of those criticisms in some individual discretionary grants and highlights some promising practices within the EPA to better manage and award discretionary grants.

However, this report also reveals the problem that EPA has consistently awarded discretionary grants to non-politically involved groups. These grants have been awarded in large part without solicitation or competition with other applicants and may have received the least oversight from EPA. The example of the OIG audit of the Consumer Federation of America may be a discrete situation or may simply be one example of nonprofit grant recipients taking advantage of past EPA grant oversight to potentially use funds for unintended purposes. In either case, however, EPA needs to be aware that it regularly subsidizes non-profit organizations with discretionary grant funding that are partisan or otherwise politically active. Of all new reforms in EPA grants management, reforms in discretionary grants can occur immediately due to the fact they are just that—discretionary. EPA should include in its new culture of grant management a careful scrutiny of all the activities of discretionary grant applicants to absolutely ensure grant awards are being used for their intended purposes. In addition, and as important as ensuring allowable costs, the Administration should ensure that it is not being undermined by the other activities of its grants recipients and give equally careful scrutiny to the wide spectrum of political activity of some of its discretionary grant recipients before making awards.

HONORING FAVORITE TEACHERS

Mr. DAYTON. Mr. President, nearly 4,000 Minnesotans honored their favorite teacher at my Minnesota State fair booth this summer. I honor these teachers further by submitting their names to the CONGRESSIONAL RECORD as follows:

Concordia College-Moorhead—Duane Mickelson; Congdon Park Elementary—Cathy Armstrong, Mary John, Dan Kopp, Kathy Sharrow; Convent of the Visitation School—Richard Barbeau, Judy Benson, Darlene Dailey, Theresa Jasper, Ann Matson, Zinny Mooney, Robert Shandorf, Brian Waltz; Cook County High School—Al Heine; Coon Rapids—Ms. Beachler, Mrs. Hussian, Jan Krunze, Lorraine Newkirk, Ms. Sonstegaard; Coon Rapids High School—Linda Carlson, Anne Collins, Paula Karjahlati, Gail Parr-Van Zee, Francis Prokash, Miles Wagner; Coon Rapids Middle School—Lori Landry, Dawn Ressler; Coon Rapids Senior High—Dave Rykken; Cooper Elementary, Minneapolis—Bill Bauer, Cathy Sullivan, Faye Wooten; Cooper High School, New Hope—Kari Christensen, Lisa Emison, Samuel Tanner; Cornelia Elementary—Pala Thomasgard; Cornell Elementary—Nancy Helgerson; Cottage Grove—Joe Adams, Mr. Herbert, Audrey Osofsky; Cottage Grove Elementary—Shannon Hagness, Jennifer Skarphol, Heather DeCramer; Cottage Grove Junior High—Mike Amidon, Ms. Hanson; Countryside Elementary—Mr. Bjerken, Margie Galvin, Ms. McCullough, Jeanne Sumnicht, Mr. Thorkelson, Deb Vork; Crawford Elementary—Gordan Leverett; Creative Arts School-ALC, St. Paul—Rich Anderson; Creek Valley Elementary—Sarah Dolphin; Crest View Elementary, Brooklyn Park—Angela Bailey-Aldrich; Crestview Elementary, Cottage Grove—Chuck Broman, Mrs. Phelps, Leah Pollman; Cretin-Derham Hall—Judith Kavanaush, Mike Main, Andrew Mons, Rob Peick, Mr. Pike, Laurel Zummerman, Jim O'Neil, Staff of the Spanish Department; Cromwell-Wright Elementary—Lea Anderson-Tiili, Bill Frienmuth, Mr. Koenig; Crooked Lake Elementary—Ms. Clair, Mrs. Coe, Mrs. Gibson, Pam Manko, Maureen Ledin, Mrs. Stowell; Crookston—Nancy Melby; Crossroads Elementary—Ruby Buchmayer, Axel Caberea, Gina Costello, Melissa Green, Virginia Herriges, Karen Lee, Mrs. Watterrud, Brenda Petta; Crosswinds Arts and Sciences Middle School—Mark Russo; Crystal Lake Elementary—Sharon Dewald; Custer High School, Milwaukee, WI—Daniel Przybylowski; Cuyuna Range Elementary—Wendy Gindorff; Cypress Elementary, New Port Richey, FL—Susan Phillippi; Dakota Hills Middle School—Greg Montbraind, Michael Schlink, Heather Thaller; Dakota Meadows Middle School—Joe Broze, John Lawton; Dakota Prairie Unity High School—Cliff Peterson; Dallas Center Grimes Community High School, Grimes, IA—Steven Saleas; Dassel-Cokato High School—Susan Marco; Dassel-Cokato Middle School—Kip Kip Link, Julie Lund, Nathan Youngs; Dassel-Cokato Senior High Joe Harmala, Linda Bain, Lanett Daniel, Dianne Eveland, Kristin Gruber, Kate Michaels, Terry Protivinsky; Deephaven Elementary—Karl Boberg, Diane Jost; Deer Path Middle School, Lake Forest, IL—Thomas Cardam[illegible]e; Deerwood Elementary—Debbie Iverson, Julia Kirschbaum; Delano High School—Mr. Johnson; Delano Middle School—Mr. Bergren, Gary Brophy, Tory Spainer; Denfelt Senior High—Ruth Schulzt; Desert Ridge Elementary, Phoenix, AZ—Mr. Cook; Desert Sands Unified School District, La Quinta, CA—Mrs. Kcop; Dexter High School, Dexter, MI—Richard Grannis; Diamond Path Elementary—Nancy Cooley; Discovery Elementary—Marsha Watkins; Douglas Elementary—Bette Jacobs; Dowling Elementary—Laurel Engman, Joseph Rossow, Bob Tscida; Downtown Open School—Kate Bowler, Abby Lindesmith, Kristin Sonquist; Duluth Kathy Fahrion, Deanne Ferguson; Duluth Central High School—Sherman Moe; Duluth East High School—LaDonna Bergum, Robert Mix, Bill Tormendson; Duluth Public Schools—Judy Kopperman; Duluth Secondary Tech School—Lou Zywicki; Eagan High School—Peter Otterson, Mrs. Zimmen, Amanda Adams, Adam Copeland, Barb Geier, Roland Hoke, Joe Joran, Jane Lee, Jesse Madsen, Paulette Reikowski, Sue Retka, Kim Waltman; Eagle Lake Elementary—Mrs. Barsness; Eagle Point Elementary, Oakdale—Lucille Bryant, Cheryl Chacka, Marge Proulx; Eagle Ridge Junior High—Tia Clausen, Mandi Johnson, Mrs. O'Connell, Barb Johnson; Earl School, Fort Peck, MT—Betty Hirsch; Earle Brown Elementary—Mr. Axen, Amy Berge, Mary Mandel; Early Childhood Family Education, Balaton—Diane Peterson; Early Childhood Family Education, Buffalo—Patty Lammers; Early Childhood Family Education, Ruthton—Tracey Kuhlman; Early Childhood Family Education, Slayton—Diane Ellens; Early Childhood Family Education, St. Michael—Mona Voelker; Early Childhood Special Education, Glencoe—Cindy May; East Bethel Community School—Kate Arnold; East Grand Forks School District—Marcie DeGroot; East High School—Mr. Bender; East Saint Paul Lutheran School—Rick Block, Karen Reem; East Side Elementary—Cheryl Hoff; East Union Elementary—Jenny Killian; Eastern Heights Elementary—Sharon Graves; Eastside Workplace Kindergarten—Michelle Brunswick; Eastview High School—Ms. Henrickson, Mary Kuettner, Frank Pasquerella, Ann Strey; Echo Park Elementary—Kim Coleman; Eden Lake Elementary—Brian Gunderson, Pat Kinch, Janet Krmpotich, Kate Plamer, Joan Tetrick, Kim Thrasher; Eden Prairie High School—Steve Cwodzinski, Michael Holm, Marty Teigen, Jo King, Margaret Bicke, Mark Bray, Karen Breittingen, Annie Cull, Mike Holm, Ms. Kanthak, Bruce Kivimaki, Kari McSherry, Dean Raths, Rob Saint Clair, Vince Thomas, Brent Turner, Linda Wallenberg, Mrs. Welter, Mrs. Werning, Mike Whipkey; Edgerton Elementary—Ann Benson, Mrs. Rasusson, Terry Tremain, Mrs. Wobbema; Edgewood Middle School—Bill Sucha, Debbie Wall, Shelly Wright; Edina High School—

Daniel Baron, Mr. Benson, Kim Budde, Gail Casey, Tom Connell, Martha Cosgrove, Besty Cussler, Alegjandro Diaz-Andrade, Barney Hall, Lisa Hanson, Angela Kieffer, Colleen Raasch, Chris Reono, Michael Roddy, Brian Simpson; Edina Highlands Elementary—Mark Wallace; Edinbrook Elementary—Mrs. Gerber, LuAnn Gunderson; Edison High School—Mike Doyle, Norman Glock, Frank Goodrich, Matt Maki, Robert Sivanich, Pamela Wolfe; Education Service Center, Bloomington—Anna Smith; Edward Neill Elementary School—Judie Prayfrock; Eisenhower Elementary—Cathy Berger; El Colegio Charter School—Cathy Diaz; Elk River High School—Kathy Ellefson; Elk River School District—Mrs. Talley; Ellis Middle School—Sylvia Stier; Elton Hill Elementary—Kelly Wright-Glynn; Elysian Elementary—Mark Meyer, Sandy Mielke; Emerson Spanish Immersion—Flory Sommers, Theresa Wilson; Emmet D. Williams Elementary—Susan Bates, Diane Biederman, Ms. Hagen, Jessie Reinhart-Lind, Joni Springer; Epiphany School—Betty Flanigan, Matt Foslyn, Wendy Snyder; Ericsson Elementary—Sharon Bahe, Kathleen Hewitt, Terry Vick; Eveleth-Gilbert Senior High—Betty Daniels; Evergreen Park Elementary—Beth Neil; Excell Academy—Aaron Hjermstad, Megan Hjermstad; Excelsior Elementary—Mark Broten, Mark Garrison, Tim Ketel, Sara Macke, Sandy Miller, Mrs. Nickle, Annette Smith; EXPO for Excellence Magnet—Mrs. Desembre, Mrs. Michel, Mary Ross, Ulla Tervo-Desnick, Maura Tschida; Face to Face Academy—John Vasecka; Fairmont High School—Daniel Chicos, Mr. Gorath, Cliff Janke, Dan Schuh; Fairview Elementary—Darren Lukenbill; Faithful Shepherd Catholic School—Kim Michalak, Julee Titze; Falcon Heights Elementary—Paul Charest, Delores Cox, Kelly Klein, Meggan Lovick, Holly Maddox, Ms. Plathe, Mrs. Slashmacher, Mrs. Wingingland; Falcon Ridge Middle School—Dave Fournier, Gregg Kotsonas, Sharon Lund; Falls High School—Mr. Bjorquist; Falls Secondary—Darrell Schmidt; Faribault High School—Mrs. Bottke, Bernie Engrav; Farmington Middle School West—Sue Bieraugel, Patti Haberman; Farnsworth Elementary—Jane Vega; Fergus Falls High School—Sue Empting, Judith Halverson; Fergus Falls Middle School—Dave Ellis, Mr. Mitberg; Fertile-Beltrami—Kordula Holmrick, Joan Kronschnabel, Scoot Larson; Field Elementary—Mary Hill, Ms. Slocum, Sandy Barry, Allison Constant, Ms. Stevenson; Willow River Elementary—Brian Bassa, Jeannie Mach; Wilshire Park Elementary—Gail Beall, Ms. Burba, Kathie Frank, Jason Hartman, Sarah Taylor, Mrs. Wyatt; Windom Open Elementary—Kim Landreville; Winona Area Catholic School—Linda Schauer; Winona High School—Daryl Miller, James Miller, Meryl, Nichols; Winterquist Elementary—Brooke Pfister, Wendy Smith; Woden-Crystal Lake School District—Howard Dorman; Woodbury High School—Theresa VonRuden; Woodbury Elementary—Linda Brommer, John Flavin, Julie McGee, Kay Peliter, Dave Ross; Woodbury High School—Dave Carlson, Meredith Deullman, Bruce Monroe, Duane Tannahill, Theresa VonRuden; Woodbury Junior High—William Barr, Tania Dantas, Sarah Prunty, Shannon Smith, Frau Tol, Jim Carlson, Mrs. Rafferty, Robert Schumacher; Woodland Elementary—Joni Hodsdon, Terry Langager, Scott Lund, Diana Rotty, Stuart Samsky; Woodland Hills Academy—Wendy Robinson; Worthington High School—Mr. Sphingen; Wrenshall High School—Kris Nelson; Wylie Elementary School—Mr. Durhlam; Wyoming Elementary—Tom Erickson, Cheryl Runquist, Julie Sorenson, Terry Buerkle, Mary Ellen Dellwo; Zachary Lane Elementary—Yvonne Peterson, Angela Steiner, Mike Westby; Zanewood Elementary—Jon Fritz; Zemmer Junior High—Mike Suschler; Zimmerman Elementary—Mrs. Gerlach, Barb Roos, Ben Kvidt; Zion Lutheran Christian Day School—Sheila Sandell; Zumbrota-Mazeppa Elementary—Mary Ann Urban.

VOTING INTEGRITY AND VERIFICATION ACT

Mr. BURNS. Mr. President, I would like to take a few moments to comment on S. 2437, the Voting Integrity and Verification Act, VIVA, which prevents any vote in the upcoming election from being cast inaccurately by allowing voters to check their ballots on paper to ensure accuracy. The paper trail required with this bill would serve as a safety net if an electronic malfunction happens to occur.

American voters are skeptical coming into the 2004 election after the much debated recounts that took place in the 2000 election, and in order to put the voters at ease, we must make our voting technology better and keep every vote on record. I have heard from several Montanans who say they want the security to view an individual paper version of the ballot before it is cast and counted. They also want to know they have the opportunity to correct errors that are discovered on the individual paper version of the ballot that this bill will provide. I join Senator ENSIGN and Senator REID in urging all of my colleagues to vote in favor of the Voting Integrity and Verification Act of 2004 to ensure that votes are accurately cast in the upcoming election.

PROGRESS ON TAA

Mr. GRASSLEY. Mr. President, I rise to address the progress that's been made in how the Trade Adjustment Assistance, or TAA, program operates. You may recall that in 2002, I worked with Senator BAUCUS to shepherd landmark TAA reforms through Congress. President Bush acknowledged the role of TAA as an important part of his comprehensive trade agenda when he signed these reforms into law in August of that year. The reform legislation made a number of changes to TAA, including, for the very first time, the addition of a new health coverage tax credit, or HCTC, and a new wage insurance provision, as well as a doubling of the funds available for retraining workers dislocated by trade. Given the number and significance of the changes made to TAA, I joined Senator BAUCUS in asking the Government Accountability Office, or GAO, to study how the TAA Reform Act is being implemented. Separately, we asked GAO to study how the health coverage tax credit is being implemented. The GAO report on TAA came out last month, and while it's clear some of the details of implementation merit further study, overall the report shows a marked improvement in the way TAA is administered.

The GAO report notes that the Department of Labor has reduced its average petition-processing time from 107 days in 2002 to 38 days in 2003, and the percentage of petitions processed in 40 days or less increased from 17 percent in 2002 to 62 percent in 2003. Certified workers are enrolling in training services more quickly than in prior years. More broadly, it is evident that the funds available under TAA are beginning to be administered more effectively. One of the hurdles that Labor officials had to overcome was a perception, at least in some states, that all TAA-eligible workers are entitled to training. According to GAO, that perception contributed to problems with managing TAA training funds.

In response, the Labor Department has encouraged, States to take steps to better administer TAA funds. The Labor Department has also improved the way it disburses training funds so that State officials can better target the funds that are available to workers who are truly in need of training. These efforts are starting to pay off; in fact, after the GAO report came out, we learned that thanks to improved administration by the Labor Department, $28.4 million dollars was available at the end of the 2004 fiscal year for supplemental distribution. Last week my home State of Iowa received an additional $559,626 dollars in additional TAA training, job search; and relocation funds. These funds will help ensure that trade-impacted Iowans will receive the benefits they are entitled to under the program. The same is true for States across the country. I think we can all agree that it is good to see our taxpayer dollars being spent more wisely.

Unfortunately, the GAO report fails to capture the full breadth of the improvements made by the Labor Department. The report States that 19 states temporarily discontinued enrolling TAA-eligible workers in training at some point between fiscal years 2001 and 2003 because they lacked adequate training funds. However, GAO collected only aggregate data, so it is unclear how many States temporarily discontinued enrollment before funding was doubled in the TAA Reform Act of 2002, versus after. That information would have been helpful. The report does note that six States temporarily discontinued enrollment during fiscal year 2004, which is quite puzzling given the fact that the TAA program had funds left over at the end of the year. I think it is important to note that Labor dispatched technical assistance teams to help those States implement needed improvements so that workers could get access to training. Since there wasn't any shortfall in funds, it seems those 6 States can work with Labor to administer the program more effectively. So, while Labor's progress has been impressive, there's certainly more work to be done.

The wage insurance provision known as alternative TAA for older workers is a brand new program, so it is not surprising that implementation has not been without hiccups. But things are improving. According to the Labor Department, as of August 2004, 32 States had already issued alternative TAA payments and another 11 States had the capability to do so. In addition, 48 States reported that information on the alternative TAA program is provided as part of their rapid response activities. Approved petitions for alternative TAA increased from 60 in fiscal year 2003 to 937 in fiscal year 2004. Importantly, since alternative TAA went into effect in August 2003, well over 700 workers have received assistance from this new program.

As for the health coverage tax credit, it is also a brand new program. The just-released GAO report shows that the HCTC was implemented at record speed and is providing valuable health care coverage to thousands of displaced workers and recipients of benefits from the Pension Benefit Guaranty Corporation, or PBGC. While the initial take-up rate may not be as high as was estimated at the time the TAA Reform Act was passed, even GAO noted that determining an actual rate of participation rate is difficult. Not all workers initially identified as being eligible will meet all the requirements, and of those that do it is not apparent how many have access to healthcare coverage via their spouse. In addition, enrollment numbers for the HCTC do not reflect all of the dependents who also benefit from the HCTC.

The Labor Department has reached out to educate the public about these and other aspects of the TAA Reform Act. Labor officials conducted 15 training sessions with stakeholders across the country in fiscal years 2002 and 2003. During fiscal year 2004, six regional forums were held for workforce practitioners in which Labor began focusing on policies and practices that integrate service delivery to dislocated workers in need of services. Labor administers a wide array of programs for trade affected workers, including both TAA and the Workforce Investment Act, or WIA. In the past, these programs have been splintered, leading to inconsistent service delivery. Through initiatives started by the current Department of Labor, workers are now receiving a wider array of services in faster time. While it is clear more work remains, the GAO reports do bear witness to the progress that's been made.

I will continue working with Senator BAUCUS to monitor developments and oversee implementation of the TAA Reform Act. We must continue to assess how the program can be improved. For example, there is currently no incentive for States to report the most accurate information possible. We should consider ways to improve the data that is reported, so the TAA program's true impact can be fully assessed. Additional study by GAO may prove helpful in this and other areas. Labor started its own 5-year rigorous impact evaluation of the TAA program this year, and that should also prove helpful. But while there is room for improvement, it is also true that much has been accomplished, and I want to take this opportunity to thank the hard working officials at the Department of Labor for their dedication in implementing the significant changes brought about by the TAA Reform Act of 2002. I also thank officials at the Internal Revenue Service, the Centers for Medicare and Medicaid Services, and PBGC, along with those in State agencies, who have worked so hard to implement the HCTC.

NUCLEAR MEDICINE WEEK

Mr. WARNER. Mr. President, I rise today to remind my colleagues that this week is Nuclear Medicine Week. Nuclear Medicine Week is the first week in October every year and is an annual celebration initiated by the Society of Nuclear Medicine. Each year, Nuclear Medicine Week is celebrated internationally at hospitals, clinics, imaging centers, educational institutions, corporations, and more.

I am particularly proud to note that the Society of Nuclear Medicine is headquartered in Reston, VA. The Society of Nuclear Medicine is an international scientific and professional organization of more than 15,000 members dedicated to promoting the science, technology and practical applications of nuclear medicine. I commend the society staff and its professional members for their outstanding work in the field of nuclear medicine and for their dedication to caring for people with cancer and other serious and life-threatening illnesses.

Some of the more frequently performed nuclear medicine procedures include: bone scans to examine orthopedic injuries, fractures, tumors or unexplained bone pain; heart scans to identify normal or abnormal blood flow to the heart muscle, measure heart function or determine the existence or extent of damage to the heart muscle after a heart attack; breast scans that are used in conjunction with mammograms to detect and locate cancerous tissue in the breasts; liver and gallbladder scans to evaluate liver and gallbladder function; cancer imaging to detect tumors; treatment of thyroid diseases and certain types of cancer; brain imaging to investigate problems within the brain itself or in blood circulation to the brain; and renal imaging in children to examine kidney function.

I thank all of those who serve in this very important medical field and join them in celebrating Nuclear Medicine Week.

ORAL HEALTH AND OLDER AMERICANS

Mr. BREAUX. Mr. President, the oral health of older Americans is in a state of decay. Millions of vulnerable seniors are unable to access the oral health care they need, suffer needlessly, and ultimately require costly and invasive treatments that unnecessarily burden our troubled health care system.

Good oral health care should begin at birth as part of overall health care. This important component of health care should not—and cannot—end at retirement. Proper dental care must be a lifetime commitment. Unfortunately, for far too many older Americans, oral health care is a luxury. Too many of our "greatest generation" suffer from chronic oral pain and disease, severely limiting regular activities of daily living and impeding their independence. Neglect of oral health may result in the deterioration of overall physical health. Lack of access to care for even routine dental cleanings and exams can exacerbate serious and complicated overall health problems that increase with age.

Limited access to oral health care poses one of the greatest crises for the health and well being of America's elderly. Not one older American receives routine dental care under Medicare. Medigap, used by some older Americans as a supplemental insurance to Medicare, is an expensive cavity when it comes to dental coverage. Less than 20 percent of Americans 75 and older have any form of private dental insurance. Under Medicaid, adult dental care is optional and close to 30 States are failing to meet even the most minimal standards of care. Millions suffer, often in silence.

Older adults suffer from the cumulative toll of oral diseases over their lifetime. This results in extensive oral and periodontal disease. Surveys have shown that nursing home residents with teeth suffer particularly from untreated tooth decay, while those without teeth also have a variety of oral health problems. Medications often adversely affect oral health as well. Evidence suggests that periodontal disease can complicate or is linked to diabetes, heart disease, stroke and pneumonia.

Some older Americans—especially those with special needs, the frail, and those classified by the Social Security Administration to be aged, blind and disabled—are often plagued with challenging oral health needs. Being disabled, medically compromised, homebound, or institutionalized increases the likelihood of serious dental problems and limited access to dental care. Dental care for the 1.65 million people in long-term care facilities is problematic at best.

I would like to tell you about Marcia Ball, who lives in a nursing home in Lafayette, LA. She is 64. One morning last July, she awoke to find her cheek swollen up like a balloon. An untreated abscess had run rampant, sending her to the hospital with a raging fever and labored breathing. After a surgical team drained the infection, her heart and lungs suddenly stopped working. She pulled through, but four days later developed pneumonia. A member of the medical team says that the bacteria from untreated tooth decay entered her lungs every time she inhaled. She returned to her nursing home after two weeks at the hospital. Medicaid paid for three rounds of antibiotics, two trips to the emergency room, two days in intensive care, and the remainder of her hospital stay. But Medicaid in Louisiana, like many other States, won't pay for extractions. So she still has badly decayed teeth, but she doesn't have the $60 needed to cover an extraction or insurance for routine dental care.

Marcia Ball's story is not unusual, according to Dr. Greg Folse, a geriatric dentist in Lafayette. Most of Dr. Folse's patients are keeping their teeth as they age, but he says that over 85 percent have moderate to severe gum disease and 60 percent have tooth decay. Medicaid dental services in Louisiana, where Dr. Folse takes his practice to patients in his van, are limited to dentures, which are not much use for people who still have their teeth.

A national report card released in September by the advocacy group Oral Health America before a forum of the U.S. Senate Special Committee on Aging examined seniors' access to key dental services and gave failing or near failing grades to each State and gave the Nation an overall "D" grade. When it comes to caring for vulnerable populations, the report said, the country is flat out failing.

This lack of access to oral health care is compounded by a shortage of skilled geriatric dental care professionals, part of a larger national shortage of geriatricians described to the U.S. Senate Special Committee on Aging by the Alliance for Aging Research in their report, Medical Never Never Land. Just finding a dentist can pose a considerable challenge for older Americans and those with a disability. The good work of community health centers is limited to providing preventative and basic dental care to only about one-in-twelve patients who are fortunate enough to have access to such a facility. In many States that provide a dental benefit, reimbursement rates are too low to attract a sufficient number of dentists willing to treat Medicaid patients.

With scientific advances and the graying of millions of baby boomers, this year the number of elderly on the planet passed the number of children for the first time. Although we have made great strides in promoting independence, productivity and quality of life, old age still brings inadequate health care, isolation, impoverishment, abuse and neglect for far too many Americans.

Oral diseases can impact an otherwise independent, productive life, triggering a downward spiral that can result in malnutrition, serious illness and even death.

In 2000, the Surgeon General's office called oral disease in this country a "silent epidemic," but oral health continues to be an afterthought to other health care issues, and off the radar screen for most national leaders. Congress has never addressed the lack of oral health coverage for older Americans, failing to place these this issue into the national consciousness and addressed the issues at a national level.

We need new infrastructure and funding—focusing resources, creating accountability and changing how we think about oral health in our country, particularly as it affects vulnerable populations. We must lay the foundation to address, in a meaningful and lasting way, a devastating and growing problem that has been invisible for far too long. We can no longer neglect these difficult issues afflicting frail and elderly victims.

This effort needs to take numerous steps to improve access to oral health care:

We need to ensure the provision of oral health screening, diagnostic, and treatment services, particularly for vulnerable individuals, and nursing home and long-term care residents.

We must eliminate the barriers requiring determination of medical necessity. We must ensure that States comply with applied income laws.

We need to ensure greater communication among States and nursing home and long-term care facilities about the need for and availability of oral health services.

More and more of us will enjoy longer, healthier lives with our teeth intact, but with this gift comes the responsibility to prevent the needless suffering too often borne by our frailest citizens.

I appreciate the work of my fellow members and a wide array of excellent groups such as Oral Health America, Special Care Dentistry, and the Alliance for Aging Research, and individuals like Dr. Greg Folse on behalf of oral health and older Americans and look forward to continued support from both sides of the aisle and in both Houses to make oral health a reality for all Americans.

ADDITIONAL STATEMENTS

IN RECOGNITION OF NANCY NADEL

• Mr. CARPER. Mr. President, I rise today to recognize Nancy Nadel, recipient of the Delaware School Nurse of the Year award. Nancy has dedicated her life to her family and to the thousands of school children whose lives she has touched.

Nancy was born in Wilmington on September 16, 1952. She graduated from John Dickinson High School in 1970 and received her bachelor's degree in school nursing in 1974 from the University of Delaware. During college, Nancy joined the U.S. Army after graduation and was assigned to Fitzsimons Army Medical Center in Aurora, CO. She retired as a Lieutenant Colonel in 1996 from the United States Army Reserve. In 1979, Nancy received her master's degree in school nursing and her Pediatric Nurse Practitioner Certificate from the University of Colorado.

Nancy returned to Delaware in 1983. Three years later, she became the school nurse for the Baltz Elementary School and remained there until 1995, when she went to Forest Oak Elementary School. At Forest Oak, she is known as a nonassuming person, who has a "quiet way about doing what she does best—being a school nurse." She is kind to the children and always looking out for their best interests.

In 2002, Nancy started a fitness program at Forest Oaks Elementary. Having been inspired by a talk on obesity at the National School Nurses Convention, she submitted a grant application, and was awarded $3,300 from the State of Delaware to implement her program. The program promotes increased physical activity and healthy nutrition in first to fourth graders. Nancy hopes to expand the program to also include students in kindergarten and fifth grade and to teachers and staff.

Nancy has also helped coordinate a bike safety program and helmet program, taught open airways classes to empower students with asthma in self care, collaborated with the school guidance counselor and psychologist to meet the emotional and educational needs of students and presented staff education programs in diabetes, asthma and Attention Deficit Hyperactivity Disorder.

Nancy is a member of Sigma Theta Tau, the international nursing honor society, the National Association of School Nurses, the Delaware School Nurses Association, DSNA, and was a member of the DSNA Continuing Education Committee from 1990-1995. Nancy also serves on the Red Clay Nurse Liaison Committee, is the computer representative for the Red Clay School nurses, and is a member of the revision committee for the school nurse technical assistance manual.

Nancy is married to Joe Nadel, a psychologist and teacher at Wesley College. She has four children, Katie, Carolyn, Dan, and Susan, and three stepchildren, Joe, Ian and Mike. In her spare time, she volunteers at Mary Mother of Hope House II by sponsoring food, linen and gift drives at their shelter.

Nancy is an amazing human being. She has been and remains deeply committed to her family, her students, and her community. She has helped shape the lives of thousands in the halls of the institutions she served, and in the hearts of those who have been lucky enough to call her their friend. I rise today to honor and to thank Nancy for her selfless dedication to the betterment of others. She is a remarkable woman and a testament to the community she represents.●

NEW JERSEY ALLIANCE FOR ACTION

● Mr. CORZINE. Mr. President, I rise to recognize the 30th anniversary of the New Jersey Alliance for Action, an organization that has worked tirelessly to improve the quality of life for all New Jerseyans.

The New Jersey Alliance for Action is a nonprofit, nonpartisan consortium of business, labor, government and academic leaders dedicated to creating jobs, improving the economy and protecting the environment. These goals are achieved by modernizing our State's infrastructure to meet the needs of a growing New Jersey. Since its creation in 1974, the New Jersey Alliance for Action has worked to obtain funding and secure permits for road, rail, and aviation improvements, water projects, school construction, shore preservation, business expansion and other key infrastructure initiatives. Today, it boasts more than 600 dedicated members and has developed a solid track record of working closely with state and local governments.

The Board of Trustees of the New Jersey Alliance for Action is composed of some of New Jersey's most prominent business, labor, professional and educational leaders. Through creative partnerships between the public and private sectors, the foundation addresses many of the pressing issues that affect the great State of New Jersey.

While this organization is exemplary, two men must be singled out for their vision and hard work: Richard M. Hale and Ellis S. Vieser. They were responsible for creating an organization that crossed the boundaries, establishing an environment where the interests of New Jersey's citizens are top priority. We owe a deep debt of gratitude for their lifetime of dedication and remarkable leadership. They embodied a can-do attitude together with a sense of community. It is not difficult to see how the alliance has made such giant strides in such a relatively short period of time.

I thank the members of the New Jersey Alliance for Action for continuing the work of Richard M. Hale and Ellis S. Vieser. It is their commitment to the work of the alliance's founders that allows New Jersey to shine so brightly. Congratulations on this very special milestone.●

VETERANS' HISTORY PROJECT

● Mr. JOHNSON. Mr. President, I rise today to publicly recognize the progress of the Veterans' History Project and to honor Greg Latza, author of Blue Stars: A Selection of Stories from South Dakota's World War II Veterans.

Blue Stars honors and immortalizes the incredible stories of forty-four South Dakota World War II veterans. Greg's inspiration for writing this book came in 1994, when as a photographer for a newspaper, he covered a powerful interview of a Sioux Falls World War II veteran.

As World War II veterans grow older, it is important to collect their stories, as Greg did, before they are lost. There are 19 million war veterans living in the United States, and every day we lose 1,600 of them. We will be able to honor their services for generations to come by collecting their memories for the Veterans' History Project and preserving them at the Library of Congress.

The Veterans' History Project, which Congress unanimously approved on October 27, 2000, honors our Nation's war veterans and those who served in support of them, by creating a legacy of recorded interviews and other documents chronicling veterans' wartime experiences. The project encompasses veterans of World War I, World War II, Korea, Vietnam, Operation Desert Storm, Operation Enduring Freedom, and Operation Iraqi Freedom.

All recordings of personal histories and all documents submitted to the Veterans' History Project will be archived in the National History Collection at the Library of Congress' American Folklife Center. These important artifacts will create a comprehensive, searchable catalog of veterans' stories, thus allowing current and future generations to access them.

I congratulate Greg Latza on his efforts. Blue Stars pays a great tribute to South Dakota's contributions to World War II. Like the Veterans' History Project, it serves as an excellent example of the importance of honoring and remembering America's veterans.●

HONORING GUNNERY SERGEANT CLESTER LENOIR

● Mr. BREAUX. Mr. President, I honor not only a fellow Louisianian, but also an extraordinary Marine, Clester Lenoir. Clester Lenoir is retiring after serving more than 20 years of service in the United States Marine Corps. He was raised in Baton Rouge, LA, where he graduated from Tara High School, Baton Rouge in 1984.

Gunnery Sergeant's first duty station was in his home state of Louisiana where he served with the Fourth Marine Division in New Orleans. He was assigned as the Status of Resources and Training System Noncommissioned Officer, a staff sergeant's billet. He was tasked to assist and inspect various reserve units around the Nation. He excelled at this assignment and was awarded a Navy/Marine Corps Achievement medal for his meritorious service.

Lenoir has served as an Administrative Assistant in the Marine Corps' Office of Legislative Affairs during his last 3 years of service. That office supports Members of Congress, and their committees on matters relating to the Marine Corps and the security of our Nation.

Lenoir has carried the Marine Corps' message to these hallowed halls, providing Members the information necessary to determine how best to equip, maintain and support the United States Marine Corps and ultimately provide and ensure our Nation's security. During this period, he has been responsible for directing, and organizing numerous congressional events in the metropolitan DC area. His attention to detail in making these very important events logistically successful is noteworthy.

Lenoir has made a lasting contribution in the capability of today's Marine Corps and the future shape of tomorrow's Corps. His superior performance of duties highlight the culmination of more than 20 years of dedicated and honorable Marine Corps service. He achieved five Navy/Marine Corps Achievement medals for his exemplary service throughout his 20-year career. By his exemplary professional competence, sound judgment, and total dedication to duty, he has reflected great credit upon himself and has always upheld the highest traditions of the United States Marine Corps and the United States Naval Service.

I am proud that Clester Lenoir joined the Marine Corps from the great state of Louisiana, seeking to protect and serve our great Nation. He has done so with great distinction. On behalf of the U.S. Senate, I wish to extend my heartfelt thanks and gratitude. May he have many more years of continuing success as he pursues other interests outside of the United States Marine Corps.●

IN MEMORY OF JUDGE RICHARD SHEPPARD ARNOLD

● Mrs. CLINTON. Mr. President, on September 23, our country lost one of its greatest jurists, and Arkansas lost one of its greatest native sons, Richard Sheppard Arnold.

Judge Arnold was born into a legal family in 1936 in Texarkana, TX. His maternal grandfather, Morris Sheppard, served in this body from Texas from 1913 until 1941, and his paternal grandfather, William H. Arnold, was a circuit judge. His father, Richard Lewis Arnold, was a leading expert in public unitlies law. Judge Arnold graduated first in his class from Yale University and Harvard Law School, and in 1960 and 1961, he served as law clerk to one of our Nation's greatest Supreme Court Justices, the late William J. Brennan. Judge Arnold served in private practice, ran for Congress, served as legislative advisor to both Governor and Senator Dale Bumpers, and spent more than 25 years on the Federal district and appellate benches. Since 1980, Judge Arnold served on the 8th U.S. Circuit Court of Appeals.

Richard Arnold was one of our great legal writers with more than 700 opinions over the course of his legal career. Just this year, the American Society of Writers on Legal Subjects awarded him its lifetime achievement award, only the second in its 50-year history. His more prominent opinions advanced civil rights and voting rights, and in March of this year, as part of a three-judge panel, his 22-page opinion upheld a lower court ruling releasing the Little Rock School District from more than 40 years of Federal court supervision of its desegregation efforts.

Judge Richard Arnold was a friend to President Clinton and me and we join his wife, Kay, and his two daughters, Janet and Lydia, along with his brother, Judge Morris "Buzz" Arnold, in mourning his passing. He will be remembered for his remarkable life, his unequalled brilliance, character, common sense, deep religious faith, and devotion to the law. We have lost a cherished friend, and our Nation has lost a champion of justice.●

COLONEL JOHN SCHORSCH

● Mr. ALLARD. Mr. President, I rise today to express my appreciation for the outstanding service of Colonel John Schorsch, or "Rusty" as we all call him.

Liaison chiefs are chosen because of their expertise, their ability to manage personnel in a pressure-packed environment, and their discernment in making tough decisions in difficult situations. They generally have a well-rounded education, significant command experience, and a long track record of effectiveness. Simply put, service liaison chiefs are the best of the best.

Colonel Schorsch is certainly one of the best. He is graduate of the United States Military Academy and the U.S. Naval War College. He has been a platoon commander, a company commander, a battalion commander, and a brigade commander. Colonel Schorsch has served as an aide-de-camp and as the joint staff action officer and planner. Perhaps more importantly, Rusty served as the Army aide to two Presidents: President Bush and President Clinton.

I have traveled with Rusty many times and have greatly enjoyed the opportunity to get to know him. He is engaging, outgoing, and disarming. His stories about life in the Army often take on epic proportions and can make the most dour individual break into a grin.

Yet what separates Colonel Schorsch from most is his character. He is completely unflappable. He is undaunted by challenges. He is relentless in pursuit of a goal and absolutely determined to complete an assigned task. To Rusty, no detail is too small, no assignment too menial, and no task too trivial.

When things become difficult, Rusty remains undeterred. He does not give in. He does not cave. Indeed, whenever he has encountered seemingly unsurmountable problems, Rusty's philosophy has always been to step it up, and hold nothing back.

I have watched him time and time again tackle with the equal efficiency the largest of problems and the smallest of details. I have seen him persevere and overcome obstacles. And, during these challenges, he does not complain; and he does not flinch; he does not give in.

The Army has been fortunate to have a soldier like Rusty as its liaison chief here in the Senate. He has demonstrated to me and to many other Members the caliber and quality of Army officers. I know I speak for many of my fellow Members in expressing our disappointment in his departure. Yet I know that the Army has many good things planned for Rusty and that our country will benefit from his experience elsewhere.

With this in mind, I sincerely appreciate Colonel Schorsch's service to me and the rest of the Senate. I wish him the best in the future. He will surely be missed.●

HONORING CHUCK GROTH

● Mr. JOHNSON. Mr. President, on behalf of Senator TOM DASCHLE and myself, we publicly honor and recognize Chuck Groth. For more than 30 years, Chuck Groth has been telling the story. Whether it's about the trials and tribulations of farm families or the status of Federal policy that will impact agriculture, more than 10,000 South Dakota farm families have relied on Chuck's insightful presentation in their monthly edition of the Union Farmer.

The Union Farmer is the voice of the South Dakota Farmer's Union, covering the extensive interests of the organization's varied membership.

Chuck Groth has been responsible for more than 360 editions of the Union Farmer—an extraordinary record of longevity. Throughout the ups and downs of the industry, Chuck reported the news that captured the current state of affairs. He helped elevate the public dialogue about important issues, and made people more aware of the plight of South Dakota's farm and ranch families.

During the mid-1980s, America's farm families faced their darkest days since the Great Depression of the 1930s. Chuck helped organized thousands of Farmer's Union members to call upon their elected officials to provide assistance to rural America. The effort led to a historic act that took all 105 members of the South Dakota State Legislature to Washington, DC, in 1985 to lobby Congress about the needs of rural America.

Chuck has helped organize more than 50 fly-ins to Washington, DC, trips that helped keep farm policy at the forefront of the congressional agenda. Agriculture needed to have its story told, and Chuck was the wordsmith that made that possible.

I ask my colleagues to join Senator TOM DASCHLE and myself in saluting Chuck Groth for his distinguished career and commitment to our Nation's family farmer.●

TRIBUTE TO PAT CHRISTEN

● Mr. KENNEDY. Mr. President, this evening in San Francisco, a grateful community is coming together to honor one of the Nation's most able and respected leaders in the fight against HIV and AIDS—Pat Christen. For the past 15 years, Pat has served as executive director of the San Francisco AIDS Foundation. Tonight, she will end her tour of service to spend more time with her family particularly with her two young daughters, Morgan and Madison.

Since 1982, the San Francisco AIDS Foundation has been at the forefront of the ongoing battle against HIV and AIDS. Pat was there in the beginning, when a mysterious and deadly disease was taking so many of the San Francisco community's young people. She manned the agency's hotline as a volunteer, serving as an outlet and a resource for those facing the disease. From this caring and compassionate beginning, Pat rose to become a courageous and visionary leader against HIV.

In San Francisco, Pat saw thousands of young people in her community die needlessly because they could not obtain the proper medical care and support they needed in order to live and fight the disease. At the foundation, she helped to shape San Francisco's response to prevention and treatment of

AIDS. She also took the battle to Congress and had a vital role in the development and passage of the Federal Ryan White CARE Act.

In her familiar grassroots style, Pat and the foundation galvanized other like-minded organizations around the country to help develop the CARE Act, and to provide the muscle and hustle that was necessary to galvanize action in Congress. Today, the Ryan White Act provides over $2 billion a year in HIV care and treatment to those most in need. It brings new hope and the promise of a life of dignity for tens of thousands of people living with HIV in cities and communities throughout the nation.

Under Pat's leadership, the foundation recently joined the global battle against HIV and AIDS. In December 2000, the Pangaea Global AIDS Foundation was launched in an effort to expand HIV antiretroviral treatment and care in the developing world. In just a few short years, Pangaea has become a key strategic resource in this international effort, particularly in Asia and Africa.

In October 2003, the Government of South Africa announced an unprecedented program to provide HIV antiretroviral drugs to the 5 million people in that nation suffering from HIV and AIDS. Pat and other Pangaea staff were part of a small technical support team working intensively behind the scenes with the South African Government as it prepared its national treatment initiative. Without Pat's skillful leadership, it might never have happened. Pangaea is now helping to make similar urgently needed relief available in Uganda and China.

Over the course of her career, Pat has demonstrated her willingness to speak out, to challenge others to become involved, to show compassion and understanding when others reacted with anger and vindictiveness. Above all, she had an extraordinary ability to do what others thought could not be done. To so many of us who admired her and worked with her, she became the symbol of the saying in World War II, "the difficult we do immediately; the impossible takes a little longer."

We all owe an enormous debt of gratitude to Pat for her inspiring leadership and her dedication to bring about the day when everyone everywhere with HIV will be able to live a long and productive life with dignity. Pat, thank you very, very much for all you have done so well across the years, and for the enormous difference you have made in the lives of so many persons in our own country and throughout the world.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Williams, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:21 a.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1537. An act to direct the Secretary of Agriculture to convey to the New Hope Cemetery Association certain land in the State of Arkansas for use as a cemetery.

S. 1663. An act to replace certain Coastal Barrier Resources System maps.

S. 1687. An act to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System.

S. 1778. An act to authorize a land conveyance between the United States and the City of Craig, Alaska, and for other purposes.

S. 2052. An act to amend the National Trails System Act to designate El Camino Real de los Tejas as a National Historic Trail.

S. 2180. An act to direct the Secretary of Agriculture to exchange certain lands in the Arapaho and Roosevelt National Forests in the State of Colorado.

S. 2363. An act to revise and extend the Boys and Girls Clubs of America.

S. 2508. An act to redesignate the Ridges Basin Reservoir, Colorado, as Lake Nighthorse.

H.R. 982. An act to clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

H.R. 2408. An act to amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges.

H.R. 2771. An act to amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program.

H.R. 4259. An act to amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

H.R. 4115. An act to amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

H.R. 5105. An act to authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 2:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agree to the amendment of the Senate to the bill (H.R. 4011) to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

The message also announced that the House disagree to the amendment of the Senate to the bill (H.R. 4850) making appropriation for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House: Mr. Frelinghuysen, Mr. Istook, Mr. Cunningham, Mr. Doolittle, Mr. Weldon of Florida, Mr. Culberson, Mr. Young of Florida, Mr. Fattah, Mr. Pastor, Mr. Cramer, and Mr. Obey.

The message further announced that the House has passed the following bills, without amendment:

S. 551. An act to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes.

S. 1421. An act to authorize the subdivision and dedication of restricted land owned by Alaska Natives.

S. 1814. An act to transfer Federal lands between the Secretary of Agriculture and the Secretary of the Interior.

S. 2319. An act to authorize and facilitate hydroelectric power licensing of the Tapoco Project.

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 854. An act to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

H.R. 1630. An act to revise the boundary of the Petrified Forest National Park in the State of Arizona, and for other purposes.

H.R. 2129. An act to direct the Secretary of the Interior to conduct a special resources study regarding the suitability and feasibility of designating certain historic buildings and areas in Taunton, Massachusetts, as a unit of the National Park System, and for other purposes.

H.R. 2960. An act to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Brownsville Public Utility Board water recycling and desalinization project.

H.R. 3391. An act to authorize the Secretary of the Interior to convey certain lands and facilities of the Provo River Project.

H.R. 3982. An act to direct the Secretary of Interior to convey certain land held in trust for the Paiute Indian Tribe of Utah to the City of Richfield, Utah, and for other purposes.

H.R. 4389. An act to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes.

H.R. 4593. An act to establish wilderness areas, promote conservation, improve public land, and provide for the high quality development in Lincoln County, Nevada, and for other purposes.

H.R. 4817. An act to facilitate the resolution of a minor boundary encroachment on lands of the Union Pacific Railroad Company in Tipton, California, which were originally conveyed by the United States as part of the right-of-way granted for the construction of transcontinental railroads.

H.R. 5202. An act to clarify the treatment of supplemental appropriations in calculating the rate for operations applicable for continuing appropriations for fiscal year 2005.

The message further announced that the House has agreed to the following concurrent resolution, without amendment:

S. Con. Res. 76. Concurrent resolution recognizing that November 2, 2003, shall be dedicated to "A Tribute to Survivors" at the United States Holocaust Memorial Museum.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 304. Concurrent resolution expressing the sense of Congress regarding oppression by the Government of the People's Republic of China of Falun Gong in the United States and in China.

H. Con. Res. 415. Concurrent resolution urging the Government of Ukraine to ensure a democratic, transparent, and fair election process for the presidential election on October 31, 2004.

H. Con. Res. 496. Concurrent resolution expressing the sense of Congress with regard to providing humanitarian assistance to countries of the Caribbean devastated by Hurricanes Charley, Frances, Ivan, and Jeanne.

The message further announced that the House has passed the following bills, with amendments:

S. 144. An act to require the Secretary of the Interior to establish a program to provide assistance through States to eligible weed management entities to control or eradicate harmful, nonnative weeds on public and private land.

S. 1521. An act to direct the Secretary of the Interior to convey certain land to the Edward H. McDaniel American Legion Post No. 22 in Pahrump, Nevada, for the construction of a post building and memorial park for use by the American Legion, other veterans' groups, and the local community.

The message also announced that pursuant to section 104(c)(1)(I) of the Consolidated Appropriations Act, 2004 (Public Law 108–199), and the order of the House of December 8, 2003, the Speaker and Minority Leader of the House, with the Majority and Minority Leaders of the Senate, jointly appoints Mr. Melville Peter Mcpherson of East Lansing, Michigan, Chairman of the Commission on the Abraham Lincoln Study Abroad Fellowship Program.

The message further announced that pursuant to section 2 14(a) of the Help America Vote Act of 2002 (42 U.S.C. 15344), the Minority Leader appoints Douglas H. Palmer of Trenton, New Jersey to the Election Assistance Commission Board of Advisors, to fill the remainder of the term of Willie L. Brown, Jr.

The message also announced that pursuant to section 491 of the Higher Education Act (20 U.S.C. 1098(c)),. the order of the House of December 8, 2003, and upon the recommendation of the Majority Leader, the Speaker reappoints the following member on the part of the House of Representatives to the Advisory Committee on Student Financial Assistance for a 3-year term: Ms. Norine Fuller of Arlington, Virginia.

The message further announced that pursuant to section 1012(c)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (42 U.S.C. 242b note), the Speaker appoints the following members on the part of the House of Representatives, to the Commission on Systemic Interoperability: Mr. Gary A. Mecklenburg of Chicago, Illinois and Dr. Don E. Detmer of Crozet, Virginia.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–9596. A communication from the Senior Paralegal for Regulations, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Community Reinvestment Act Regulations" (RIN 1550–AB48) received on October 4, 2004; to the Committee on Banking, Housing , and Urban Affairs.

EC–9597. A communication from the Senior Paralegal for Regulations, Office of Thrift Supervision, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Risk-Based Capital Guidelines; Capital Adequacy Guidelines; Capital Maintenance: Consolidation of Asset-backed Commercial Paper Programs and Other Related Issues" (RIN 1550–AB79) received on October 4, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–9598. A communication from the Deputy Assistant Administrator for Operations, Office of Protected Resources, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Sea Turtle Requirements: Coulon TED Extended Flap Modification" (RIN 0648–AS02) received on October 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9599. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, transmitting, pursuant to law, the report of a rule entitled "Closure of Directed Fishing for Yellowfin Sole in the Bering Sea and Aleutian Islands Management Area (BSAI)" received on October 4, 2004; to the Committee on Commerce, Science, and Transportation.

EC–9600. A communication from the Chairman, Interagency Coordinating Committee on Oil Pollution Research, Coast Guard, transmitting, pursuant to law, a report relative to the Committee's activities carried out during the current two-fiscal year period; to the Committee on Commerce, Science, and Transportation.

EC–9601. A communication from the Secretary of Energy, transmitting, pursuant to law, transmitting, pursuant to law, a report relative to the Department of Energy's competitive sourcing efforts; to the Committee on Energy and Natural Resources.

EC–9602. A communication from the Assistant Secretary for Legislative Affairs, Department of State, transmitting, pursuant to law, a report relative to the Department's Alternative Fuel Vehicle (AFV) program for fiscal year 2003; to the Committee on Energy and Natural Resources.

EC–9603. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, a report entitled "U.S.-Bahrain Free Trade Agreement: Potential Economywide and Selected Sectoral Effects"; to the Committee on Finance.

EC–9604. A communication from the Chairman, International Trade Commission, transmitting, pursuant to law, a report entitled "Andean Trade Preference Act (ATPA)—Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution"; to the Committee on Finance.

EC–9605. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "2005 Per Diem Rates" (Rev. Proc. 2004–60) received on October 4, 2004; to the Committee on Finance.

EC–9606. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Payments That Do Not Qualify as Qualified Transportation Fringe Benefits" (Rev. Rul. 2004–98) received on October 4, 2004; to the Committee on Finance.

EC–9607. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Appeals Settlement Guidelines: 401(k) Accelerated Deductions" (UIL9300 .01–01) received on October 4, 2004; to the Committee on Finance.

EC–9608. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting, pursuant to law, the report of a rule entitled "Offer to Resolve Issues Arising From Certain Tax, Withholding, and Reporting Obligations" (Rev. Proc. 2004–59) received on October 4, 2004; to the Committee on Finance.

EC–9609. A communication from the Chief Executive Officer, Corporation for National Community Service, transmitting, pursuant to law, the report of the Office of Inspector General for the period from October 1, 2003 through March 31, 2004; to the Committee on Governmental Affairs.

EC–9610. A communication from the Secretary of Education, transmitting, pursuant to law, the report of the Office of Inspector General for the Department of Education for the six-month period ending March 31, 2004; to the Committee on Governmental Affairs.

EC–9611. A communication from the Chairman, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "Presidential Inaugural Committee Reporting and Prohibition on Accepting Donations from Foreign Nationals" received on September 29, 2004; to the Committee on Rules and Administration.

EC–9612. A communication from the Director, Regulations Management, Veterans'

Health Administration, transmitting, pursuant to law, the report of a rule entitled "Priorities for Outpatient Medical Services and Inpatient Hospital Care" (RIN 2900-AL39) received on October 4, 2004; to the Committee on Veterans' Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MCCAIN, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 2608. A bill to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes (Rept. No. 108-385).

By Mr. LOTT, from the Committee on Rules and Administration, without amendment:

S. Res. 445. A resolution to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DODD (for himself, Ms. SNOWE, Mr. KENNEDY, Mrs. CLINTON, Ms. COLLINS, Mr. DURBIN, Mr. LAUTENBERG, Mr. JOHNSON, and Mrs. MURRAY):

S. 2887. A bill to improve the Child Care Access Means Parents in School Program; to the Committee on Health, Education, Labor, and Pensions.

By Mr. DODD (for himself, Mr. EDWARDS, Mr. LEVIN, and Mr. KENNEDY):

S. 2888. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to encourage and support students who have contributed substantial public services; to the Committee on Health, Education, Labor, and Pensions.

By Mr. ALEXANDER (for himself and Ms. LANDRIEU):

S. 2889. A bill to require the Secretary of the Treasury to mint coins celebrating the recovery and restoration of the American bald eagle, the national symbol of the United States, to America's lands, waterways, and skies and the great importance of the designation of the American bald eagle as an endangered species under the Endangered Species Act of 1973, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. KENNEDY (for himself and Mr. KERRY):

S. 2890. A bill to modify the boundary of Lowell National Historical Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. LEAHY (for himself and Mr. JEFFORDS):

S. 2891. A bill to authorize the Secretary of Agriculture to sell or exchange certain National Forest System land in the State of Vermont; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. DODD (for himself and Mr. BOND):

S. 2892. A bill to amend the Public Health Service Act to reauthorize and extend certain programs to provide coordinated services and research with respect to children and families with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

By Ms. MURKOWSKI:

S. 2893. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and for other purposes; to the Committee on Finance.

By Mr. KENNEDY:

S. 2894. A bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. TALENT (for himself and Mr. BOND):

S. 2895. A bill to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of breast cancer awareness month; considered and passed.

By Mr. BURNS (for himself and Mr. BREAUX):

S. 2896. A bill to modify and extend certain privatization requirements of the Communications Satellite Act of 1962; considered and passed.

By Mr. LEVIN (for himself, Mr. HATCH, Mr. BIDEN, and Mr. KENNEDY):

S. 2897. A bill to amend the Controlled Substances Act to lift the patient limitation on prescribing drug addiction treatments by medical practitioners in group practices, and for other purposes; to the Committee on the Judiciary.

By Mr. FITZGERALD:

S. 2898. A bill to require the review of Government programs at least once every 5 years for purposes of evaluating their performance; to the Committee on Governmental Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCAIN (for himself, Mr. HATCH, Mr. KENNEDY, Mr. REID, and Mr. TALENT):

S. Con. Res. 447. A resolution expressing the sense of the Senate that the President of the United States should exercise his Constitutional Authority to pardon posthumously John Arthur "Jack" Johnson for Mr. Johnson's racially-motivated 1913 conviction that diminished his athletic, cultural, and historic significance, and unduly tarnished his reputation; considered and agreed to.

By Mr. BROWNBACK (for himself and Mr. ROBERTS):

S. Con. Res. 140. A concurrent resolution urging the President to withdraw the United States from the 1992 Agreement on Government Support for Civil Aircraft with the European Union and immediately file a consultation request, under the Understanding on Rules and Procedures Governing the Settlement of Disputes of the World Trade Organization, on the matter of injury to, and adverse effects on, the commercial aviation industry of the United States; to the Committee on Finance.

ADDITIONAL COSPONSORS

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At the request of Mr. WARNER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 623, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 1379

At the request of Mr. JOHNSON, the names of the Senator from Vermont (Mr. LEAHY) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1945

At the request of Ms. CANTWELL, her name was added as a cosponsor of S. 1945, a bill to amend the Public Health Service Act and the Employee Retirement Income Security Act of 1974 to protect consumers in managed care plans and other health coverage.

S. 1968

At the request of Mr. ENZI, the names of the Senator from Illinois (Mr. FITZGERALD) and the Senator from Michigan (Ms. STABENOW) were added as cosponsors of S. 1968, a bill to amend the Higher Education Act of 1965 to enhance literacy in finance and economics, and for other purposes.

S. 2077

At the request of Mr. CRAIG, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2077, a bill to amend title XIX of the Social Security Act to permit additional States to enter into long-term care partnerships under the Medicaid Program in order to promote the use of long-term care insurance.

S. 2395

At the request of Mr. CONRAD, the name of the Senator from Arkansas (Mr. PRYOR) was added as a cosponsor of S. 2395, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

S. 2425

At the request of Mr. COCHRAN, the names of the Senator from Colorado (Mr. ALLARD), the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Mississippi (Mr. LOTT) were added as cosponsors of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2522

At the request of Mr. CORZINE, the name of the Senator from California (Mrs. FEINSTEIN) was added as a cosponsor of S. 2522, a bill to amend title

38, United States Code, to increase the maximum amount of home loan guaranty available under the home loan guaranty program of the Department of Veterans Affairs, and for other purposes.

S. 2553

At the request of Mr. DODD, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 2553, a bill to amend title XVIII of the Social Security Act to provide for coverage of screening ultrasound for abdominal aortic aneurysms under part B of the medicare program.

S. 2568

At the request of Mr. BIDEN, the name of the Senator from Virginia (Mr. WARNER) was added as a cosponsor of S. 2568, a bill to require the Secretary of the Treasury to mint coins in commemoration of the tercentenary of the birth of Benjamin Franklin, and for other purposes.

S. 2706

At the request of Mrs. CLINTON, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of S. 2706, a bill to establish kinship navigator programs, to establish kinship guardianship assistance payments for children, and for other purposes.

S. 2735

At the request of Mr. MILLER, the name of the Senator from Mississippi (Mr. LOTT) was added as a cosponsor of S. 2735, a bill to require a study and report regarding the designation of a new interstate route from Augusta, Georgia to Natchez, Mississippi.

S. 2764

At the request of Mr. DODD, the name of the Senator from Georgia (Mr. MILLER) was added as a cosponsor of S. 2764, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 2786

At the request of Mr. BAYH, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 2786, a bill to strengthen United States trade enforcement laws.

S. 2793

At the request of Mr. SANTORUM, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 2793, a bill to remove civil liability barriers that discourage the donation of fire equipment to volunteer fire companies.

S. 2815

At the request of Mr. DEWINE, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 2815, a bill to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

S. 2821

At the request of Ms. SNOWE, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 2821, a bill to reauthorize certain programs of the Small Business Administration, and for other purposes.

S. 2881

At the request of Mr. VOINOVICH, the name of the Senator from Tennessee (Mr. ALEXANDER) was added as a cosponsor of S. 2881, a bill to clarify that State tax incentives for investment in new machinery and equipment are a reasonable regulation of commerce and not an undue burden on interstate commerce, and for other purposes.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from Iowa (Mr. GRASSLEY), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Michigan (Ms. STABENOW), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Minnesota (Mr. COLEMAN) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. CON. RES. 136

At the request of Mr. CONRAD, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. Con. Res. 136, a concurrent resolution honoring and memorializing the passengers and crew of United Airlines Flight 93.

S. RES. 271

At the request of Mr. COLEMAN, the name of the Senator from Nevada (Mr. ENSIGN) was added as a cosponsor of S. Res. 271, a resolution urging the President of the United States diplomatic corps to dissuade member states of the United Nations from supporting resolutions that unfairly castigate Israel and to promote within the United Nations General Assembly more balanced and constructive approaches to resolving conflict in the Middle East.

S. RES. 408

At the request of Mr. SCHUMER, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. Res. 408, a resolution supporting the construction by Israel of a security fence to prevent Palestinian terrorist attacks, condemning the decision of the International Court of Justice on the legality of the security fence, and urging no further action by the United Nations to delay or prevent the construction of the security fence.

AMENDMENT NO. 3838

At the request of Mr. CONRAD, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Montana (Mr. BURNS) were added as cosponsors of amendment No. 3838 intended to be proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3888

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3888 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3890

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3890 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3891

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3891 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3893

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3893 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3894

At the request of Mr. SCHUMER, the name of the Senator from New Jersey (Mr. CORZINE) was added as a cosponsor of amendment No. 3894 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3943

At the request of Mr. HARKIN, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of amendment No. 3943 proposed to H.R. 4278, a bill to amend the Assistive Technology Act of 1998 to support programs of grants to States to address the assistive technology needs of individuals with disabilities, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DODD (for himself, Ms. SNOWE, Mr. KENNEDY, Mrs. CLINTON, Ms. COLLINS, Mr. DURBIN, Mr. LAUTENBERG, Mr. JOHNSON, and Mrs. MURRAY):

S. 2887. A bill to improve the Child Care Access Means Parents in School Program; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I am pleased to rise today with Senators SNOWE, KENNEDY, COLLINS, MURRAY, Durbin, Lautenberg, Clinton and Johnson to introduce legislation which would supply greatly needed support to college students struggling to balance their roles as parents with their roles as students. The Child Care Access Means Parents in School Act, CCAMPIS, would increase access to, support for, and retention of low-income, nontraditional students who are struggling to complete college degrees while caring for their children.

The typical college student is no longer an 18 year old recent high school graduate. According to a 2002 study by the National Center for Education Statistics, only 27 percent of undergraduates meet the "traditional" undergraduate criteria of earning a high school diploma, enrolling full-time, depending on parents for financial support and not working or working part-time. This means that 73 percent of today's students are considered nontraditional in some way. Clearly, nontraditional students—older students with children and various job and life experiences—are filling the ranks of college classes. Why? Because they recognize the importance of college to future success. It is currently estimated that a full-time worker with a bachelor's degree earns about 60 percent more than a full-time worker with only a high school diploma. This amounts to a lifetime gap in earnings of more than $1 million.

Today's nontraditional students face barriers unheard of by traditional college students of earlier years. Many are parents and must provide for their children while in school. Access to affordable, quality and convenient child care is a necessity for these students. But obtaining the child care that they need is often difficult because of their limited income and nontraditional schedules, compounded by declining assistance for child care through other supports. Campus based child care can fill the gap. It is conveniently located, available during the right hours, and of high quality and lower cost. Unfortunately, it is unavailable at many campuses. Even when programs do exist, they are often available to only a fraction of the eligible students. That is where the Dodd-Snowe CCAMPIS Act comes in.

The Dodd-Snowe CCAMPIS Act increases and expands the availability of campus based child care in three ways. First, it raises the minimum grant amount from $10,000 to $30,000. For most institutions of higher education, $10,000 has proven too small relative to the effort to complete a Federal application. Grant offices on campuses often pass small grants over in favor of those that appear more cost effective.

Second, the Dodd-Snowe CCAMPIS Act ensures that a wider range of students are able to access services. Present language defines low-income students as students eligible to receive a Federal Pell Grant. This language excludes graduate students, international students, and students who may be low-income but make slightly more than is allowed to qualify for Pell grants. CCAMPIS will open eligibility for these additional populations.

Third, the CCAMPIS Act raises the program's current authorization level from $45 million to $75 million so that we not only expand existing programs, we create new ones.

Research demonstrates that campus based child care is of high quality and that it increases the educational success of both parents and students. Furthermore, recipients of campus based child care assistance who are on public assistance are more likely to never return to welfare and to obtain jobs paying good wages.

Currently, there are approximately 1,850 campus based child care programs but over 4,000 colleges and universities eligible to participate in the CCAMPIS program. Currently, CCAMPIS funds only 343 programs in 25 states and the District of Columbia. Meanwhile, the number of nontraditional students across America is increasing. As these numbers increase, the need for campus based child care will be increasingly unmet.

This is a modest measure that will make a major difference to students. It will offer them new hope for starting and staying in school. I am hopeful that it can be considered and enacted as part of the Higher Education Act. I look forward to working with my colleagues to move this important measure forward.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2887

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHILD CARE ACCESS MEANS PARENTS IN SCHOOL PROGRAM.

(a) Minimum Grant.—Section 419N(b)(2)(B) of the Higher Education Act of 1965 (20 U.S.C. 1070e(b)(2)(B)) is amended by striking "$10,000" and inserting "$30,000".

(b) Definition of Low-Income Student.—Section 419N(b)(7) of such Act is amended to read as follows:

"(7) Definition of low-income student.—For the purpose of this section, the term 'low-income student' means a student who—

"(A) is eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made;

"(B) would otherwise be eligible to receive a Federal Pell Grant for the fiscal year for which the determination is made, except that the student fails to meet the requirements of—

"(i) section 401(c)(1) because the student is enrolled in a graduate or first professional course of study; or

"(ii) section 484(a)(5) because the student is in the United States for a temporary purpose; or

"(C) is from a family with an income that is less than 275 percent of the poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Community Services Block Grant Act) applicable to a family of the size involved.".

(c) Authorization of Appropriations.—Section 419N(g) of such Act is amended by striking "$45,000,000 for fiscal year 1999" and inserting "$75,000,000 for fiscal year 2005".

Ms. SNOWE. Mr. President, I am extremely pleased to join my colleague from Connecticut, Senator Dodd, to introduce the Child Care Access Means Parents in School Act of 2004. Senator Dodd and I have worked together to ensure access to quality child care, and this bill represents the next step in our shared commitment to this important issue. This legislation provides grants to colleges in order to provide child care for low-income students.

Countless college students have recently returned to college. At this time, we should remind ourselves that many Americans face obstacles that prevent them from participating in higher education. The absence of affordable and accessible child care is, unfortunately, one such obstacle.

For many parents with young children, the availability of on-campus child care services is central to their ability to attend college. Campus-based child care is conveniently located, available at the hours that fit students' schedules and often available at a lower cost than community-based child care centers. Student parents rate access to campus-based child care as an important factor affecting their college enrollment. Unfortunately, such services are often in very short supply, particularly for low-income parents who may find the cost of existing services prohibitive.

Higher education is becoming ever more crucial to getting a job in today's global job market. The majority of new jobs require education beyond high school. Getting the skills necessary to meet the demands of today's marketplace simply requires higher and higher levels of educational achievement. For many low-income students who are parents, the availability of campus-based child care is key to their ability to receive a higher education and thus achieve the American dream. Student parents are more likely to remain in school, and to graduate sooner and at a higher rate if they have campus-based child care. Child care services are particularly critical for older students who choose to go back to school to get their degree or to improve their skills through advanced education. Children placed in campus-based child care also reap numerous benefits, given its high quality. In fact, children in high-quality child care exhibit higher earnings as adults, higher rates of secondary school graduation, lower rates of teen pregnancy, and a reduced need for special education or costly social services.

Research shows that programs such as the High/Scope Perry Preschool Program in Ypsilanti, Michigan and the Chicago Child-Parent Centers demonstrate overwhelmingly that quality child care is a wise investment and is cost efficient. According to analysis of these programs the public saves $7 for every $1 invested in child care. These savings counted only the benefits to the public at large—in reduced costs of crime, welfare and remedial education and in taxes paid when the preschoolers became adult workers—without even taking into account participants' increased earnings or the increased contribution to economic growth those earnings represent.

The Child Care Access Means Parents in School Act of 2004 will amend title IV of the Higher Education Act to help provide campus-based child care to low-income parents seeking a college degree. Under the bill, the Secretary of Education will award 3-year grants to institutions of higher education to support or help establish a campus-based child care program serving the needs of low-income student parents. The Secretary will award $75 million in grants—equal to 1 percent of total Pell grant funding—based on an application submitted by the institution, and the grant amount will be linked to the institution's Pell grant funding level. This bill ensures that a wide range of low-income students are able to access child care services.

Under the bill low-income students are defined as students eligible to receive a Federal Pell Grant, or students who would be eligible to receive a Pell grant if they were not in the United States temporarily, and students who are from a family with an income that is less than 275 percent of the poverty line (as defined by the Office of Management and Budget). Students typically qualify for Pell grants if their income is under $30,000 per year and in Maine, this means approximately 17,000 students could have access to high quality child care services while they earn their college degree. This bill will make a true difference in the lives of many low-income students who need child care to attend school.

This bill raises the minimum CCAMPIS grant to $30,000 and authorizes $75 million as research has found that the existing minimum grant of $10,000 is often too small relative to the effort for many institutions to complete a federal application. We have found that grant offices on campuses often pass small grants over in favor of those that are most cost effective.

Because the bill we are introducing today will help bring the American dream within the reach of American parents who need child care in order to attend college. I urge my colleagues to support this important legislation which will truly make a difference in the lives of many American parents.

By Mr. DODD (for himself, Mr. EDWARDS, Mr. LEVIN, and Mr. KENNEDY):

S. 2888. A bill to amend the Higher Education Act of 1965 to establish a scholarship program to encourage and support students who have contributed substantial public services; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise to introduce, along with Senators EDWARDS, LEVIN and KENNEDY, the Youth Service Scholarship Act. This Act would authorize the Secretary of Education to award college scholarships of up to $5,000 a year to high school students and undergraduates who perform community service.

A recent study titled Community Service and Service Learning in U.S. Public Schools reveals that 66 percent of public schools involve students in community service. This means that approximately 54,000 public schools in America currently engage about 13.7 million students in community service each year. Other studies have shown that nearly 84 percent of high school students participate in volunteer activities either in or out of school, and two-thirds of college students have recently participated in volunteer activities.

The Youth Service Scholarship Act is dedicated to assist low-income students who dedicate a significant portion of their time to volunteer service with money for college. This Act would authorize the Secretary of Education to award college scholarships of up to $5,000 to high school students who perform over 600 hours of community service in two years. In order to be considered, high school applicants must maintain a 2.0 grade point average, submit character recommendations, and write an essay on the nature of their community service. Additional money is available if the student continues to participate in a significant amount of community service once they are in college.

Volunteerism not only brings support and services to communities in need, it provides significant benefits to the students who participate. Research has shown that students who volunteer are 50 percent less likely to use drugs and alcohol, or engage in destructive behavior. Additionally, students who volunteer are more likely to receive good grades, be philanthropic, graduate, and be interested in going to college.

In the 21st Century, higher education is not a luxury, it is a necessity. For many of our low-income youth, finding money to pay for college is an obstacle to enrollment. This scholarship program provides aid to motivated and inspirational youth.

I urge my colleagues to join me in supporting the Youth Service Scholarship Act. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2888

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Youth Service Scholarship Act of 2004".

SEC. 2. FINDINGS.

Congress finds that—

(1) young people under 18 years of age are now our Nation's most impoverished age group, with 1 of every 5 living in poverty, a higher proportion than in 1968, and the percentage of minority children living in poverty is about twice as high;

(2) more than 1 of 4 families is headed by a single parent and the percentage of such families has risen steadily over the past few decades, rising 13 percent since 1990;

(3) there is a need to engage youth as active participants in decisionmaking that affects their lives, including in the design, development, implementation, and evaluation of youth development programs at the Federal, State, and community levels;

(4) existing outcome driven youth development strategies, pioneered by community-based organizations, hold real promise for promoting positive behaviors and preventing youth problems;

(5) formal evaluations of youth development programs have documented significant reductions in drug and alcohol use, school misbehavior, aggressive behavior, violence, truancy, high-risk sexual behavior, and smoking;

(6) compared to youth in the United States generally, youth participating in community-based organizations are more than 26 percent more likely to report having received recognition for good grades than youth in the United States generally and nearly 20 percent more likely to rate the likelihood of their going to college as very high; and

(7) the availability and use of Federal resources can be an effective incentive to leverage broader community support to enable local programs, activities, and services to provide the full array of developmental core resources, remove barriers to access, promote program effectiveness, and facilitate coordination and collaboration within the community.

SEC. 3. ESTABLISHMENT OF PROGRAM.

Subpart 2 of part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1070a–11 et seq.) is amended—

(1) by redesignating section 407E as section 406E; and

(2) by adding at the end the following:

"Chapter 4—Public Service Incentives

"SEC. 407A. PURPOSE.

"The purpose of this chapter is to establish a scholarship program to reward low-income students who have, during high school, and who continue, during college, to make significant public service contributions to their communities.

"SEC. 407B. SCHOLARSHIPS AUTHORIZED.

"(a) QUALIFICATIONS FOR SCHOLARSHIPS.—The Secretary is authorized to award a scholarship to enable a student to pay the cost of attendance at an institution of higher education during the student's first 4 academic years of undergraduate education, if the student—

"(1) in order to be eligible for the first year of such scholarship, performed not less than

300 hours of qualifying public service during each of 2 academic years of the student's secondary school enrollment;

"(2) in order to be eligible for the second or any subsequent year of such scholarship, performed not less than 300 hours of qualifying public service during the academic year of postsecondary school attendance preceding the academic year for which the student seeks such scholarship;

"(3) was eligible for a free or reduced price lunch under the Richard B. Russell National School Lunch Act (42 U.S.C. 1721 et seq.);

"(4) is eligible to receive Federal Pell Grants for the year in which the scholarships are awarded, except that a student shall not be required to comply or verify compliance with section 484(a)(5) for purposes of receiving a scholarship under this chapter; and

"(5) otherwise demonstrates compliance with regulations prescribed by the Secretary under section 407G.

"(b) DEFINITION OF QUALIFYING PUBLIC SERVICE.—For purposes of subsection (a), the term 'qualifying public service' means service that would be eligible for treatment as community service under the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) or under the Federal work-study program under part C.

"SEC. 407C. AMOUNT OF SCHOLARSHIP.

"(a) AMOUNT OF AWARD.—

"(1) IN GENERAL.—Except as provided in paragraph (2) and subsection (b), the amount of a scholarship awarded under this chapter for any academic year shall be equal to $5,000.

"(2) ADJUSTMENT FOR INSUFFICIENT APPROPRIATIONS.—If, after the Secretary determines the total number of students selected under section 407D for an academic year, funds available to carry out this chapter for the academic year are insufficient to fully fund all awards under this chapter for the academic year, the amount of the scholarship paid to each student under this chapter shall be reduced proportionately.

"(b) ASSISTANCE NOT TO EXCEED COST OF ATTENDANCE.—A scholarship awarded under this chapter to any student, in combination with the Federal Pell Grant assistance and other student financial assistance available to such student, may not exceed the student's cost of attendance.

"SEC. 407D. SELECTION OF SCHOLARSHIP RECIPIENTS.

"The Secretary shall designate a panel to select students for the award of scholarships under this chapter. Such panel shall be composed of 9 individuals who are selected by the Secretary and shall be composed of equal numbers of youths, community representatives, and teachers. The Secretary shall ensure that no individual assigned under this section to review any application has any conflict of interest with regard to the application that might impair the impartiality with which the individual conducts the review under this section.

"SEC. 407E. APPLICATIONS.

"Any eligible student desiring to obtain a scholarship under this section shall submit to the Secretary an application at such time, in such manner, and containing such information or assurances as the Secretary may require. Such application shall—

"(1) demonstrate that the eligible student is maintaining satisfactory academic progress and is achieving a grade point average of at least 2.0 (on a scale of 4), or its equivalent;

"(2) include a recommendation from—

"(A) the supervisor of the community service project of the applicant; and

"(B) another individual not related to, but familiar with the character of the applicant such as a teacher, coach, or employer; and

"(3) include an essay by the applicant on the nature of the community service performed by the applicant.

"SEC. 407F. PROGRAM DISSEMINATION AND PROMOTION.

"(a) DEVELOPMENT AND DISSEMINATION.—The Secretary shall develop and disseminate to the public information on the availability of, and application process for, scholarships under this chapter.

"(b) PROMOTION.—In disseminating information about the scholarship program under this chapter, the Secretary shall—

"(1) disseminate such information directly or through arrangements with local educational agencies, public and private elementary schools and secondary schools, nonprofit organizations, consumer groups, Federal, State, or local agencies, and the media; and

"(2) at a minimum, include a description and the purpose of the scholarship program, an explanation of how to obtain an application, and a description of the application process and procedures.

"SEC. 407G. REGULATIONS.

"The Secretary shall prescribe such regulations as may be necessary to carry out this chapter.

"SEC. 407H. EVALUATION.

"Not earlier than 2 years after the first fiscal year for which funds are made available under this chapter, the Secretary shall prepare and submit to Congress an evaluation of the effectiveness of the program under this chapter. Such evaluation shall include—

"(1) an evaluation of the demand, by grade level and types of community service sites, for the scholarships provided under this chapter;

"(2) general data on the background of program participants and the types of service performed; and

"(3) an itemization of the costs of administering the program under this chapter.

"SEC. 407I. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this chapter $5,000,000 for fiscal year 2005 and such sums as are necessary for each of the 3 succeeding fiscal years.".

By Mr. DODD (for himself and Mr. BOND):

S. 2892. A bill to amend the Public Health Service Act to reauthorize and extend certain programs to provide coordinated services and research with respect to children and families with HIV/AIDS; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, I rise today to introduce the Children and Family HIV/AIDS Research and Care Act of 2004. This bipartisan legislation will address the special needs of children and youth with HIV/AIDS—needs that are too often overlooked, both domestically and internationally. This legislation recognizes the simple fact that when it comes to HIV prevention, research, care, and treatment, children and youth are not just small adults. To give them a chance for a healthy future, we must ensure that their unique needs are met.

I want to begin by thanking my good friend Senator BOND of Missouri for joining me in introducing this important legislation. Senator BOND has provided crucial support for children and for children's health. Over the years, he has been a leader in the fight to protect children from birth defects and developmental disabilities. He has also done a great deal to ensure that our nation's children's hospitals and community health centers have the resources they need to continue to provide essential care to children and families. I am very pleased to work with him to move this legislation forward.

Children's growing bodies are especially susceptible to the rapid advancement of HIV infection. Because their immune systems are still immature, the disease typically progresses more rapidly and differently in children than in adults. For example, children with HIV infection are more prone to neurological abnormalities and certain opportunistic infections than adults. In addition, because children's bodies are growing and developing, HIV/AIDS can have profound effects on children's physical growth and ability to reach developmental milestones such as crawling, walking and learning to talk.

While research has definitively shown that initiating drug treatment in children in a timely manner promotes normal growth and development, and prolongs life, treating children with HIV/AIDS presents particular challenges. Appropriately formulated and dosed HIV/AIDS drugs are urgently needed to ensure that children receive optimal care. Currently, liquid formulations that young children can swallow are not always readily available. In addition, pediatric dosing and safety information for these powerful drugs is often lacking, particularly for younger children. This lack of information puts children at risk: too much medication can be toxic and too little will not effectively suppress the virus. Over time, under-dosing can lead to drug resistance, a particularly serious concern for children who will need to use these medications for years, if not decades.

Appropriate HIV/AIDS care and treatment for children and youth also requires that special attention be paid to their social development needs. Children and youth have unique concerns regarding disclosure and stigma that may be exacerbated by frequent absences from school and social activities, and the onset of sexual maturity. Working with schools and other social and community institutions is imperative to promoting a sense of normalcy. Because children are not typically medical decision-makers, developing long-term care partnerships with parents and other caregivers is also crucial to successful care and treatment. At the same time, maximizing each child's own ability to take active participation in different aspects of his or her own care can increase a child's sense of ownership over treatment, improving adherence and overall health.

By reauthorizing and expanding Title IV of the Ryan White CARE Act this legislation will help to ensure that the unique care and treatment needs of children are addressed. This program is a lifeline for more than 53,000 women, children, and youth affected by HIV/AIDS served annually by Title IV-funded projects. Through 91 grants in 35 states, the District of Columbia, Puerto Rico and the Virgin Islands, Title IV projects provide medical care, case management, support services, mental health, transportation, child care, and other crucial services to families affected by HIV/AIDS. Title IV is the smallest of the four main titles of the Ryan White CARE Act, yet reaches the highest proportion of minorities.

Key to the success of Title IV projects is the model of "family-centered care." This model of care treats the whole family as the client, whether several family members are infected by HIV, or just a parent or child. The family-centered care model is crucial to developing strong partnerships between consumers and providers, leading to better health outcomes for women, children, and youth. By allowing affected family members to receive services, as well as the infected individuals, Title IV projects promote health at the family level, thereby prolonging life, improving quality of life, and saving money by keeping people out of the hospital.

I would like to take a moment to recognize the work done by the Children, Youth and Family AIDS Network of Connecticut, which provides Title IV services to more than 500 children, youth, women, and families affected by HIV/AIDS in my home state. I have heard from many of these individuals about just how important these services are to their quality of life.

While recommitting the Health Resources and Services Administration (HRSA) to family-centered care and the unique work of Title IV, this legislation will also expand the innovative strategies Title IV projects have used to prevent mother-to-child HIV transmission. Since 1994, when the administration of preventive drug interventions was shown to significantly reduce perinatal HIV transmission, the number of newborns infected with HIV has decreased dramatically. Yet mother-to-children transmission does continue to occur, largely due to missed opportunities for identifying HIV-positive pregnant women and providing the supportive services needed to ensure adherence to recommended treatment regimens. We propose to fund demonstration grants to assess the effectiveness of two strategies in reducing mother-to-children transmission: (1) Increasing routine, voluntary HIV testing of pregnant women and (2) increasing access to prenatal care, intensive case management, and supportive services for HIV-positive pregnant women.

In addition, this bill will encourage research into key care and treatment questions affecting the pediatric populations. These include: the long-term health effects of preventive drug regimens on HIV-exposed children; the long-term health, psycho-social, and prevention needs for children and adolescents perinatally HIV-infected; the transition to adulthood for HIV-infected children; and safer and more effective treatment options for infants, children, and adolescents with HIV disease.

Since history suggests that a vaccine may prove to be the most effective, affordable, long-term approach to stopping the spread of HIV, this legislation will also ensure that children are not an afterthought when it comes to the development of an HIV vaccine. Currently, some of the populations hardest hit by the pandemic—infants and youth—are at risk of being left behind in the search for an effective vaccine. Because we cannot assume that a vaccine tested in adults will also be safe and effective when used in pediatric populations, it will be important to ensure that promising vaccines are tested in infants and youth as early as is medically and ethically appropriate. Failure to begin planning for the inclusion of these groups in clinical trials could mean significant delays in the availability of a pediatric HIV vaccine, at the cost of countless thousands of lives. This legislation will ensure that we begin now to address the logistical, regulatory, medical, and ethical issues presented by pediatric testing of HIV vaccines so that children can share in the benefits of any advances in vaccines research.

I want to thank several organizations for lending their expertise to the development of this legislation, in particular the Elizabeth Glaser Pediatric AIDS Foundation, the AIDS Alliance for Children, Youth and Families, and the American Academy of Pediatrics, all of whom support this bill. I would also like to note that the AMS Vaccine Advocacy Coalition is endorsing this legislation. I would ask unanimous consent that three letters of endorsement be printed in the RECORD.

HIV/AIDS is the single greatest health care catastrophe facing the world today. We need to do much more to seek effective treatments and, eventually, a cure for this horrible illness. This legislation is by no means sufficient to reach that goal, but it is a step towards ensuring that children are not left behind as we make progress, and then when we do finally eradicate HIV/AIDS once and for all, children and youth are able to benefit immediately. I urge all of my colleagues to join us in support of this legislation.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

AIDS ALLIANCE FOR CHILDREN,
YOUTH AND FAMILIES,
Washington, DC, October 5, 2004.
Senator CHRISTOPHER J. DODD,
Subcommittee on Children and Families,
Senator CHRISTOPHER S. BOND,
Subcommittee on Aging,
Washington, DC.

DEAR SENATORS DODD AND BOND:

As the national non-profit organization dedicated to women, children, youth and families affected by HIV/AIDS, we would like to extend our sincere gratitude for you introduction of the Children and Family HIV/AIDS Research and Care Act of 2004. We greatly appreciate your leadership on this issue.

The Children and Family HIV/AIDS Research and Care Act provides many important services to some of the most vulnerable populations of HIV-positive people: women, children, infants, youth and male caregivers. This bill reauthorizes Title IV of the Ryan White CARE Act, strengthens the model of family-centered care, reinforces other provisions in the CARE Act serving these groups, expands efforts to prevent mother-to-child HIV transmission (MTCT), and ensures that biomedical research efforts in the fight against HIV—especially the search for a preventive vaccine—take into consideration the special needs of pediatric populations.

Title IV of the Ryan White CARE Act is a lifeline to more than 53,000 women, children, youth, infants and male caregivers served each year. Through grants to 91 organizations across 35 states, the District of Columbia, Puerto Rico and the U.S. Virgin Islands, grantees and hundreds of subgrantees provide medical care, support services, case management, outreach and other services to thousands of families affected by HIV/AIDS. Title IV saves lives by providing treatment and care, improves quality of life by keeping people healthier, and saves money by reducing hospitalization. Title IV projects have also led the way in reducing MTCT from more than 2,000 babies born HIS-positive each year to fewer than 300. It is essential this program be reauthorized and expanded, and we appreciate your support.

In addition, biomedical research on a potential HIV vaccine and other research into antiretroviral treatment, psychosocial and prevention needs, and transitioning from pediatric into adult health care settings are all complicated research issues that must pay special attention to the needs of children. Children and youth are not merely "mini-adults" for whom the same treatment, care and prevention regimens apply. In terms of both physiological and psychosocial development, children and adolescents have different needs than adults, and research efforts must be attuned to these concerns. This bill would address those issues by developing a pediatric HIV vaccination testing plan and expand other research efforts relevant to infants, children, and youth affected by HIV/AIDS.

We fully endorse this legislation, and again thank you for your efforts to introduce and support it. We look forward to working with our offices to promote this bill and see its provisions enacted into law.

Sincerely,

IVY TURNBULL,
President.
DAVID C. HARVEY,
Executive Director.

ELIZABETH GLASER PEDIATRIC
AIDS FOUNDATION,
Washington, DC, October 5, 2004.
Hon. CHRISTOPHER J. DODD,
U.S. Senate,
Washington, DC.
Hon. CHRISTOPHER S. BOND,
U.S. Senate,
Washington, DC.

DEAR SENATORS DODD AND BOND:

On behalf of the Elizabeth Glaser Pediatric AIDS Foundation, I would like to commend your leadership in introducing the Children and Family HIV/AIDS Research and Care Act of 2004. We applaud your attention to the needs of children with HIV/AIDS and offer our strong endorsement of this bipartisan legislation.

The Foundation was created more than 15 years ago to help children with HIV/AIDS and is now the worldwide leader in the fight against pediatric AIDS and other serious and life-threatening diseases affecting children. While we have made great strides in caring for children with HIV/AIDS since the early days of the pandemic, it is an unfortunate fact that their unique needs are still too often overlooked. As we have learned first-hand, children with HIV/AIDS are not small adults. To give them the best possible chance for a healthy future, it is essential that their specific prevention, care and treatment needs are met.

The Children and Family HIV/AIDS Research and Care Act of 2004 will address those needs by reauthorizing Title IV of the Ryan White CARE Act and expanding its focus on reaching and caring for adolescents with HIV/AIDS. To further reduce mother-to-child transmission of HIV, this legislation will also promote routine, voluntary prenatal HIV testing and intensive care management for HIV-positive pregnant women. In addition, because children are at risk of being left behind in the search for an effective HIV vaccine, the bill will require federal agencies funding and regulating HIV vaccine research to develop plans and guidelines for including pediatric populations in clinical trials as quickly as is medically and ethically appropriate. This legislation will also encourage research on key remaining pediatric research questions, including how to provide safer and more effective treatment options for children with HIV/AIDS.

Thank you again for your commitment to ensuring that the unique prevention, care and treatment needs of children with HIV/AIDS are met. We appreciate the opportunity to join you in helping children to reap the benefits of the very best that science and medicine have to offer and look forward to working with you toward passage of this critical legislation.

Sincerely,

MARK ISAAC,
Vice President, Public Policy and Communication.

AIDS VACCINE ADVOCACY COALITION,
New York, NY, October 5, 2004.
Hon. CHRISTOPHER BOND,
U.S. Senate,
Hon. CHRISTOPHER DODD,
U.S. Senate,
Washington, DC.

DEAR SENATORS BOND AND DODD: On behalf of the AIDS Vaccine Advocacy Coalition, I would like to express our strong support for the Children and Family HIV/AIDS Research and Care Act of 2004. We applaud your efforts to provide coordinated services and research with respect to children and families with HIV/AIDS.

Founded in 1995, AVAC is an internationally recognized non-profit organization committed to accelerating the ethical development and global delivery of vaccines against HIV/AIDS. We are committed to a broad, sustainable response to manage the long haul from basic science, to product development, through multiple clinical trials and, eventually and most importantly, to a safe, efficacious, accessible and affordable vaccine in use for the people and communities that need it most.

Unless issues surrounding the testing of vaccine candidates in relevant pediatric populations are addressed now, they likely won't have timely access to an effective vaccine when one is developed and licensed. That would not only deny young people of an important HIV prevention tool, but it would severely hamper global efforts to stop the AIDS pandemic.

We, therefore, strongly endorse your effort to enact legislation that prioritizes this critical research issue and calls for a plan of action to move forward. We appreciate the opportunity to join you now to ensure that the research and development process delivers treatment and prevention to the populations that need it most and look forward to working with you toward passage of this legislation.

Sincerely,

MITCHELL WARREN,
Executive Director.

Mr. BOND. Mr. President, currently, more than 3,700 children and youth under the age of 13 are living with HIV or AIDS in the United States and of the more than 40,000 Americans newly infected with HIV each year, half are young people under the age of 25 years old. When we think about this devastating virus we do not often associate it with children, especially infants or newborn babies, but the fact is this disease does not discriminate on the basis of age. It affects children in very specific and very different ways than adults.

For instance, the medical experience of children with HIV/AIDS can differ significantly from that of adults. Because children's immune systems are still immature, the disease typically progresses more rapidly in children than in adults and can have different manifestations. For example, the majorities of children with HIV have neurological abnormalities and are more susceptible to certain opportunistic infections than adults. In addition, because children's bodies are growing and developing, HIV/AIDS can have profound effects on children's physical growth and ability to reach developmental milestones such as crawling, walking and learning to walk.

Medication for young children living with HIV/AIDS can also be very different than that of an adult living with HIV/AIDS. For example, children of certain ages cannot swallow pills and require liquid formulations of life-saving HIV/AIDS drugs that are not always readily available. In addition, dosing and safety information for these powerful drugs are often strikingly different for children and adults, and for younger children, this information is typically completely missing. This lack of information puts children at risk by requiring health care providers to estimate correct dosing. Too much medication can be toxic, and too little will not effectively suppress the virus. Over time, under-dosing can lead to drug resistance.

Children are not just small adults and their growing bodies are especially susceptible to the rapid advancement of HIV infection. Early awareness that a child has HIV infection, combined with good care and support, can enhance survival and quality of life, which is why I am introducing, with my colleague Senator DODD, The Children Family HIV/AIDS Research and Care Act of 2004. This legislation will address those needs of children and adolescents living with HIV/AIDS by reauthorizing Title IV of the Ryan White CARE Act and expanding its focus on reaching and caring for adolescents with HIV/AIDS. Moreover, this legislation will continue to work to reduce mother-to-child transmission of HIV, by promoting routine, voluntary prenatal HIV testing and intensive care management for HIV-positive pregnant women. In addition, because children are at risk of being left behind in the search for an effective HIV vaccine, the bill will require federal agencies funding and regulating HIV vaccine research to develop plans and guidelines for including pediatric populations in clinical trials as quickly as is medically and ethically appropriate. This legislation will also encourage research on key remaining pediatric research questions, including how to provide safer and more effective treatment options for children with HIV/AIDS.

For a young person living with HIV or AIDS there is no cure and there is no remission. It is with them at home, on the playground, in the classroom, and at a Friday night sleepover. It will be with them as they enter high school, go to college and get their first job. For a person born with this virus it is a permanent part of their life. This bill will help to ensure that the needs of infants, children, and adolescents living with HIV/AIDS are not overlooked.

By Ms. MURKOWSKI:

S. 2893. A bill to amend the Internal Revenue Code of 1986 to allow individuals a refundable credit against income tax for the purchase of private health insurance, and for other purposes; to the Committee on Finance.

Ms. MURKOWSKI. Mr. President, I believe all Americans should have access to affordable, high-quality health care. Rising health care costs impose a burden on families and small businesses and put coverage out of reach for many Americans. According to the most recent Census Bureau findings, 45 million Americans lack health insurance; about 200,000 of the 45 million were Alaskans. The vast majority, nearly 80 percent, of uninsured Alaskans in 2003–2004 were employed or members of working families.

As part of the effort to address this problem, I have introduced legislation that will increase the number of insured Americans. The SAVE (Securing Access, Value, and Equality) Health Care Act offers a solution to the problems of accessibility, portability, and choice.

My plan does not just increase funding for current government programs; my plan provides a path to greater opportunity, more freedom, and more control over your own health care and your own future.

The SAVE Health Care Act would provide working class Americans with a tax credit that they can use to purchase health insurance. The act targets three-quarters of the total number of uninsured Americans by setting eligibility at 350 percent of poverty, or an Alaskan's annual income of $41,000 for an individual or $82,000 for a family of four.

To help make health coverage more affordable for low and middle-income individuals and families who do not have employer-provided coverage and who are not eligible for the expanded public programs, this legislation would provide a refundable tax credit of up to $1,000 for individuals and up to $3,000 for families, which could be advanced on a monthly basis.

The SAVE Act would also cover an additional 50 percent of any health insurance premiums not covered by the basic credit. This provision is targeted to help those who need health insurance the most—those who are sick, have pre-existing health conditions, or older Americans whose insurance prices are higher and who do not have access to employer-based insurance.

A tax credit proposal without this type of additional assistance would only help insure the young and the healthy because their premiums are the lowest and most within reach financially. The additional credit is a key part of providing coverage to Americans with the greatest need.

The SAVE Act would allow those who have access to employer-sponsored plans to have up to one-half of the credit they are eligible for to help them pay for their portion of the health insurance premiums. This credit amount is a balance designed to help employees afford their portion of employer-sponsored coverage without providing employers an incentive to shift more costs to their employees.

The SAVE Act includes a provision that would make the premiums for qualified high-deductible health insurance plans that coordinate with Health Savings Accounts (HSAs) tax-deductible. Both individuals and their employers can contribute tax free dollars to an HSA, and the individual can use these dollars for qualifying out-of-pocket medical expenses.

The SAVE Act provides small business owners a refundable tax credit for contributions they make to their employees' HSAs in the amount of $500 per worker with family coverage and $200 per worker with individual coverage. More than half of the uninsured are small business employees and their families.

In addition to reducing the number of our nation's uninsured, this legislation will create an incentive for personal savings while shaping a health care marketplace driven by consumer choice.

The SAVE Act would extend and expand the State high risk pool health insurance grant program that was established under the Trade Adjustment Act of 2002. Alaska is one of 31 States that currently operates a high risk pool. I commend the work of the Alaska Comprehensive Health Insurance Association (ACHIA), the nonprofit organization that provides health insurance to 467 Alaska residents who would otherwise be denied coverage because of medical conditions. Under this legislation, Alaska will receive a portion of the $75 million allocated in this legislation to continue to operate our high risk pool and to continue insuring Alaskans that really need this program.

The SAVE Act would establish a grant program in which States would be encouraged to establish Voluntary Choice Cooperatives, or VCCs. VCCs essentially increase the clout of small businesses in negotiating with insurers. Premiums are generally higher for small businesses because they do not have as much purchasing power as large companies. This limits the ability of small businesses to bargain for lower rates. They also have higher administrative costs because they have fewer employees among whom to spread the fixed cost of a health benefits plan. Moreover, VCCs decrease the risk of adverse selection and spread the cost of health care over a broader group.

I believe this well-rounded approach will provide significant help with the cost and availability of health insurance, and make a real difference in reducing the number of uninsured Americans.

By Mr. KENNEDY:

S. 2894. A bill to amend the Public Health Service Act to provide for the coordination of Federal Government policies and activities to prevent obesity in childhood, to provide for State childhood obesity prevention and control, and to establish grant programs to prevent childhood obesity within homes, schools, and communities; to the Committee on Health, Education, Labor, and Pensions.

Mr. KENNEDY. Mr. President, it's an honor to introduce the "Prevention of Childhood Obesity Act". The goal of this legislation is to deal more effectively with the growing health epidemic of obesity now faced by millions of children today. Currently, 9,000,000 children have this chronic condition, and it's putting them at high risk for diabetes, high blood pressure, and other preventable diseases. In addition, obese children frequently grow up to become obese adults, and they impose at least 11 billion dollars in medical costs on the nation each year.

Childhood obesity is the direct result of too much food and too little physical activity. One of the results is the epidemic now plaguing the nation. Children watch over 40,000 food advertisements on television a year—one food commercial every minute, urging them to eat large helpings of candy, snacks, fast foods and cereal high in sugar.

Young students have access to vending machines that now put high-fat or high-sugar snacks and beverages in them. Yet they have no opportunity for physical activity or instruction in physical education. They live in neighborhoods with instant access to fast foods, but no supermarket, no outdoor produce stand, or few fruits and vegetables. These same neighborhoods also have no bike paths, sidewalks, tracks for walking or running, and no parks or open spaces.

The result is millions of children without nutritious foods, a safe physical environment, that allows them to be active, and healthy information. Today, only 2 percent of the nation's children meet Department of Agriculture standards for daily intake. Less than a third meet the recommended guidelines for exercise, and millions have developed obesity.

According to the Centers for Disease Control, regular physical activity and healthy eating and a positive environment for such behavior are essential factors in reducing the epidemic of obesity. Our legislation focuses, therefore, on coordinating federal, state, community and school efforts to see that our children have access to a healthy environment.

This bill appoints a federal commission to see that Federal food policies promote good nutrition. Guidelines for food and physical activity advertisements will be established by a summit conference of representatives from education, industry, and health care.

At the State level, the bill provides grants and coordinates efforts by the states to implement and evaluate ways to prevent obesity. It offers grants for early childhood activities and school and after-school programs, and for developing curricular, training educators, and implementing policies to reduce poor foods, increase physical education, and help communities build sidewalks, bike trails, and create parks that encourage healthy activity and sports.

We know that regular physical activity and healthy eating can prevent childhood obesity. We need a coordinated and focused nationwide effort to halt this health epidemic facing millions of children, and prevent the chronic diseases and unnecessary suffering that afflict millions of children today. It's time for Congress to do its part, and I urge my colleagues to support us.

By Mr. FITZGERALD:

S. 2898. A bill to require the review of Government programs at least once every 5 years for purposes of evaluating their performance; to the Committee on Governmental Affairs.

Mr. FITZGERALD. Mr. President, I rise today to introduce the Program Assessment and Results Act, or "PAR Act." This bill is a companion bill to H.R. 3826 that Congressman Todd Platts, Chairman of the House Government Reform Subcommittee on Government Efficiency and Financial Management, introduced on February 25, 2004.

The PAR Act builds upon the reforms adopted by Congress in the early 1990s, such as the Government Performance and Results Act of 1993 (GPRA). This bill would increase the effectiveness, and accountability of the Federal Government by requiring the review of Federal programs at least once every five years to evaluate their performance. Information obtained from these reviews would be incorporated in the President's budget requests and would assist Congress in its oversight and funding of Federal programs.

The PAR Act would strengthen the program evaluation requirements under the strategic planning requirements of GPRA, the one area that the Government Accountability Office (GAO) recognized as a government-wide deficiency under GPRA. GAO found that most agencies were implementing the requirement for program evaluation merely by making lists of observations rather than presenting and analyzing performance data.

To build upon the framework of reforms established by GPRA, the PAR Act would require the Office of Management and Budget (OMB) to work with Federral agencies to carefully and periodically assess the strengths and weaknesses of all Federal programs. This legislation would enable policy makers to compare data from different agents to determine how different programs with similar goals are achieving their results.

The PAR Act would improve the accountability of Federal programs in a number of areas. Congress would be able to use this information to make more informed budget decisions and conduct more effective oversight. Federal managers would use the information to improve the way they manage programs. Moreover, taxpayers will be able to track the progress of these programs with more precision.

The ultimate result of the PAR Act will be a more effective and efficient government. Therefore, I urge my colleagues to support passage of this legislation.

I ask unanimous consent that the bill be printed in the RECORD following my remarks.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2898

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Program Assessment and Results Act".

SEC. 2. FINDINGS.

Congress finds that—

(1) inefficiency and ineffectiveness in Federal programs undermines the confidence of the American people in the Government and reduces the Federal Government's ability to adequately address vital public needs;

(2) insufficient information on program performance seriously disadvantages Federal managers in their efforts to improve program efficiency and effectiveness;

(3) congressional policy making, spending decisions, and program oversight are handicapped by insufficient attention to program performance and results;

(4) programs performing similar or duplicative functions that exist within a single agency or across multiple agencies should be identified and their performance and results shared among all such programs to improve their performance and results;

(5) advocates of good government continue to seek ways to improve accountability, focus on results, and integrate the performance of programs with decisions about budgets;

(6) with the passage of the Government Performance and Results Act of 1993, the Congress directed the executive branch to seek improvements in the effectiveness, efficiency, and accountability of Federal programs by having agencies focus on program results; and

(7) the Government Performance and Results Act of 1993 provided a strong framework for the executive branch to monitor the long-term goals and annual performance of its departments and agencies.

SEC. 3. PURPOSE.

The purposes of this Act are—

(1) to improve the Government Performance and Results Act of 1993 by implementing a program assessment and evaluation process that attempts to determine the strengths and weaknesses of Federal programs with a particular focus on the results produced by individual programs;

(2) to use the information gathered in the assessment and evaluation process to build on the groundwork laid in the Government Performance and Results Act of 1993 to help the executive branch make informed management decisions and evidence-based funding requests aimed at achieving positive results; and

(3) to provide congressional policy makers the information needed to conduct more effective oversight, to make better-informed authorization decisions, and to make more evidence-based spending decisions that achieve positive results for the American people.

SEC. 4. PROGRAM ASSESSMENT.

(a) REQUIREMENT FOR PROGRAM ASSESSMENTS.—Chapter 11 of title 31, United States Code, as amended by the Government Performance and Results Act of 1993, is amended by adding at the end the following new section:

"§ 1120. Program assessment

"(a) ASSESSMENT.—The Director of the Office of Management and Budget to the maximum extent practicable shall conduct, jointly with agencies of the Federal Government, an assessment of each program at least once every 5 fiscal years.

"(b) ASSESSMENT REQUIREMENTS.—In conducting an assessment of a program under subsection (a), the Director of the Office of Management and Budget and the head of the relevant agency shall—

"(1) coordinate to determine the programs to be assessed; and

"(2) evaluate the purpose, design, strategic plan, management, and results of the program, and such other matters as the Director considers appropriate.

"(c) CRITERIA FOR IDENTIFYING PROGRAMS TO ASSESS.—The Director of the Office of Management and Budget shall develop criteria for identifying programs to be assessed each fiscal year. In developing the criteria, the Director shall take into account the advantages of assessing during the same fiscal year any programs that are performing similar functions, have similar purposes, or share common goals, such as those contained in strategic plans under section 306 of title 5. To the maximum extent possible, the Director shall assess a representative sample of Federal spending each fiscal year.

"(d) CRITERIA FOR MORE FREQUENT ASSESSMENTS.—The Director of the Office of Management and Budget shall make every effort to assess programs more frequently than required under subsection (a) in cases in which programs are determined to be of higher priority, special circumstances exist, improvements have been made, or the head of the relevant agency and the Director determine that more frequent assessment is warranted.

"(e) PUBLICATION.—At least 90 days before completing the assessments under this section to be conducted during a fiscal year, the Director of the Office of Management and Budget shall—

"(1) make available in electronic form through the Office of Management and Budget website or any successor website, and provide to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate—

"(A) a list of the programs to be assessed during that fiscal year; and

"(B) the criteria that will be used to assess the programs; and

"(2) provide a mechanism for interested persons to comment on the programs being assessed and the criteria that will be used to assess the programs.

"(f) REPORT.—(1) The results of the assessments conducted during a fiscal year shall be submitted in a report to Congress at the same time that the President submits the next budget under section 1105 of this title after the end of that fiscal year.

"(2) The report shall—

"(A) include the performance goals for each program assessment;

"(B) specify the criteria used for each assessment;

"(C) describe the results of each assessment, including any significant limitation in the assessments;

"(D) describe significant modifications to the Federal Government performance plan required under section 1105(a)(28) of this title made as a result of the assessments; and

"(E) be available in electronic form through the Office of Management and Budget website or any successor website.

"(g) Classified Information.—(1) With respect to program assessments conducted during a fiscal year that contain classified information, the President shall submit on the same date as the report is submitted under subsection (f)—

"(A) a copy of each such assessment (including the classified information), to the appropriate committees of jurisdiction of the House of Representatives and the Senate; and

"(B) consistent with statutory law governing the disclosure of classified information, an appendix containing a list of each such assessment and the committees to which a copy of the assessment was submitted under subparagraph (A), to the Committee on Government Reform of the House of Representatives and the Committee on Governmental Affairs of the Senate.

"(2) Upon request from the Committee on Government Reform of the House of Representatives or the Committee on Governmental Affairs of the Senate, the Director of the Office of Management and Budget shall, consistent with statutory law governing the disclosure of classified information, provide to the Committee a copy of—

"(A) any assessment described in subparagraph (A) of paragraph (1) (including any assessment not listed in any appendix submitted under subparagraph (B) of such paragraph); and

"(B) any appendix described in subparagraph (B) of paragraph (1).

"(3) In this subsection, the term 'classified information' refers to matters described in section 552(b)(1)(A) of title 5.

"(h) Inherently Governmental Functions.—The functions and activities authorized or required by this section shall be considered inherently Governmental functions and shall be performed only by Federal employees.

"(i) Termination.—This section shall not be in effect after September 30, 2013.".

(b) Guidance.—Not later than 6 months after the date of the enactment of this Act, the Director of the Office of Management and Budget shall prescribe guidance to implement the requirements of section 1120 of title 31, United States Code, as added by subsection (a), including guidance on a definition of the term "program".

(c) Conforming and Clerical Amendments.—

(1) Section 1115(g) of title 31, United States Code, is amended by striking "1119" and inserting "1120".

(2) The table of sections at the beginning of chapter 11 of title 31, United States Code, is amended by adding at the end the following:

"1120. Program assessment.".

SEC. 5. STRATEGIC PLANNING AMENDMENTS.

(a) Change in Deadline for Strategic Plan.—Subsection (a) of section 306 of title 5, United States Code, is amended by striking "No later than September 30, 1997," and inserting "Not later than September 30 of each year following a year in which an election for President occurs, beginning with September 30, 2005, ".

(b) Change in Period of Coverage of Strategic Plan.—Subsection (b) of section 306 of title 5, United States Code, is amended to read as follows:

"(b) Each strategic plan shall cover the 4-year period beginning on October 1 of the year following a year in which an election for President occurs.".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 447—EXPRESSING THE SENSE OF THE SENATE THAT THE PRESIDENT OF THE UNITED STATES SHOULD EXERCISE HIS CONSTITUTIONAL AUTHORITY TO PARDON POSTHUMOUSLY JOHN ARTHUR "JACK" JOHNSON FOR MR. JOHNSON'S RACIALLY-MOTIVATED 1913 CONVICTION THAT DIMINISHED HIS ATHLETIC, CULTURAL, AND HISTORIC SIGNIFICANCE, AND UNDULY TARNISHED HIS REPUTATION

Mr. McCAIN (for himself, Mr. Hatch, Mr. Kennedy, Mr. Reid, and Mr. Talent) submitted the following resolution; which was considered and agreed to:

S. Res. 447

Whereas, Jack Johnson was a flamboyant, defiant, and controversial figure in American history who challenged racial biases;

Whereas, Jack Johnson was born in Galveston, Texas, in 1878 to parents who were former slaves;

Whereas, Jack Johnson became a professional boxer and traveled throughout the United States fighting white as well as black heavyweights;

Whereas, Jack Johnson, after being denied, on purely racial grounds, the opportunity to fight two white champions was granted an opportunity in 1908 by an Australian promoter to fight the reigning white title-holder, Tommy Burns, whom Johnson defeated to become the first African American to hold the title of Heavyweight Champion of the World;

Whereas, Jack Johnson's victory prompted a search for a white boxer who could beat Johnson, a recruitment effort dubbed the search for the "great white hope";

Whereas, a white former champion named Jim Jeffries left retirement to fight and lose to Jack Johnson in Reno, Nevada, in 1910 in what was deemed the "Battle of the Century";

Whereas, rioting and aggression toward African Americans resulted from Johnson's defeat of Jeffries and led to racially-motivated murders of African Americans nationwide;

Whereas, Jack Johnson's relationship with white women compounded the resentment felt toward him by many whites;

Whereas, between 1901 and 1910, 754 African Americans were lynched, some of whom were lynched simply for being "too familiar" with white women;

Whereas, in 1910 the Congress passed the Mann Act, (18 U.S.C. 2421), then known as the "White Slave Traffic Act," which outlawed the transportation of women in interstate or foreign commerce "for the purpose of prostitution or debauchery, or for any other immoral purpose";

Whereas, in October, 1912, Jack Johnson became involved with a white woman whose mother disapproved of their relationship and sought action from the United States Department of Justice, claiming that Johnson had abducted her daughter;

Whereas, Jack Johnson was arrested on October 18, 1912, by Federal marshals for transporting this woman across State lines for an "immoral purpose" in violation of the Mann Act, only to have the charges dropped when the woman refused to cooperate with authorities and then married the champion;

Whereas, Federal authorities persisted and summoned a white woman named Belle Schreiber who testified that Johnson had transported her across State lines for the purpose of "prostitution and debauchery";

Whereas, Jack Johnson was eventually convicted in 1913 of violating the Mann Act and sentenced to one year and a day in Federal prison, but fled the country to Canada and then on to various European and South American countries, before losing the Heavyweight Championship title to Jess Willard in Cuba in 1915;

Whereas, Jack Johnson returned to the United States in July, 1920, surrendered to authorities, served nearly a year in the Federal penitentiary at Leavenworth, Kansas, and fought subsequent boxing matches, but never regained the Heavyweight Championship title;

Whereas, Jack Johnson served his country during World War II by encouraging citizens to buy war bonds and participating in exhibition boxing matches to promote the war bond cause;

Whereas, Jack Johnson died in an automobile accident in 1946; and

Whereas, in 1954 Jack Johnson was inducted into the Boxing Hall of Fame: Now, therefore, be it

Resolved, That it is the Sense of the Senate that—

(1) Jack Johnson paved the way for African American athletes to participate and succeed in racially-integrated professional sports in the United States;

(2) Jack Johnson was wronged by a racially-motivated conviction prompted by his success in the boxing ring and his relationship with white women;

(3) his criminal conviction unjustly ruined his career and destroyed his reputation; and

(4) the President of the United States should grant a pardon to Jack Johnson posthumously to expunge from the annals of American criminal justice a racially-motivated abuse of the Federal government's prosecutorial authority and in recognition of Mr. Johnson's athletic and cultural contributions to society.

SENATE CONCURRENT RESOLUTION 140—URGING THE PRESIDENT TO WITHDRAW THE UNITED STATES FROM THE 1992 AGREEMENT ON GOVERNMENT SUPPORT FOR CIVIL AIRCRAFT WITH THE EUROPEAN UNION AND IMMEDIATELY FILE A CONSULTATION REQUEST, UNDER THE UNDERSTANDING ON RULES AND PROCEDURES GOVERNING THE SETTLEMENT OF DISPUTES OF THE WORLD TRADE ORGANIZATION, ON THE MATTER OF INJURY TO, AND ADVERSE EFFECTS ON, THE COMMERCIAL AVIATION INDUSTRY OF THE UNITED STATES

Mr. BROWNBACK (for himself and Mr. Roberts) submitted the following concurrent resolution; which was referred to the Committee on Finance:

S. Con. Res. 140

Whereas as recently as 1990, Boeing was the uncontested world leader in commercial aviation, and had produced over 55 percent of all the jet commercial aircraft ever produced: McDonnell Douglas produced 25 percent, while Airbus accounted for only 6 percent;

Whereas in 1992 the Agreement on Government Support for Civil Aircraft was negotiated between the United States and the European Community to address the near total subsidization of Airbus commercial aircraft development;

Whereas the agreement stated that no more than 33 percent of total aircraft development costs could be borne by the respective governments;

Whereas the agreement "recogniz[ed] that the disciplines in the GATT Agreement on Trade in Civil Aircraft should be strengthened with a view to progressively reducing the role of government support";

Whereas Boeing has experienced a dramatic downturn in the last three years, losing thousands of employees and a significant market share;

Whereas Airbus has continued to increase market share at a time of significant turbulence in the commercial airline industry as a result of continued government subsidies;

Whereas the European Union has not abided by the agreement to phase out subsidies;

Whereas European Union officials have publicly reaffirmed their plan to achieve global leadership in aerospace based on continued subsidization, noting in "European Aeronautics: A Vision for 2020", that "gradual realization of our ambitious vision must be facilitated by an increase in public funding. European aeronautics has grown and prospered with the support of public funds and this support must continue if we are to achieve our objective of global leadership.";

Whereas the new Airbus A380 is the most subsidized aircraft ever, having received more than $6,000,000,000 in direct subsidies from the European Union, including $3,700,000,000 in launch aid;

Whereas in public statements, Airbus representatives have indicated that the company may launch yet another new aircraft, which may require billions of dollars of additional subsidies from the European Union;

Whereas Airbus has achieved market parity with Boeing; therefore the 1992 agreement has outlived its usefulness;

Whereas the parties to the 1992 agreement noted "their intention to act without prejudice to their rights and obligations under the GATT and under other multilateral agreements negotiated under the auspices of the GATT";

Whereas on a visit to Washington State on August 13, 2004, President George W. Bush said "I've instructed U.S. Trade Representative Bob Zoellick to inform European officials in his September meeting that we think these subsidies are unfair and that he should pursue all options to end these subsidies—including bringing a WTO case, if need be";

Whereas the Boeing Company has more than 150,000 employees within the United States and has 26,000 suppliers in all 50 States;

Whereas the United States Trade Representative has strongly supported Boeing's efforts to seek redress in this matter and has patiently and appropriately pursued bilateral dialogue with the European Union in an attempt to negotiate a new agreement to discipline subsidies; and

Whereas public statements by the United States Trade Representative have made it clear that bilateral consultations on the matter of ending commercial aviation subsidies by the European Union have been unproductive and that further talk is unlikely to resolve the serious injury caused to the Boeing company: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) the President should direct the United States Trade Representative to withdraw the United States from the Agreement on Government Support for Civil Aircraft that was entered into with the European Community in 1992; and

(2) the President should direct the United States Trade Representative immediately to file a consultation request, under the Understanding on Rules and Procedures Governing the Settlement of Disputes of the World Trade Organization, on the matter of serious injury to the commercial aviation industry of the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 3957. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3958. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3959. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3960. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3961. Mr. ENSIGN (for himself, Mr. SESSIONS, Mr. GRASSLEY, Mr. CHAMBLISS, and Mr. REID) submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3962. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 3809 proposed by Mr. LEVIN to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3963. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself , Mr. STEVENS, and Mr. INOUYE) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3964. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself , Mr. STEVENS, and Mr. INOUYE) to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3965. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3966. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3967. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3792 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3968. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3790 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3969. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3790 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3970. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3782 proposed by Mr. LAUTENBERG to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3971. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3905 proposed by Mr. LAUTENBERG to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3972. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2845, supra; which was ordered to lie on the table.

SA 3973. Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill S. 2484, An Act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes.

SA 3974. Mr. FRIST (for himself, Mr. DASCHLE, Mr. MCCONNELL, and Mr. REID) submitted an amendment intended to be proposed by him to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3957. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 5, beginning on line 15, strike "and the Department of Energy" and insert "the Department of Energy, and the Coast Guard".

On page 5, beginning on line 23, strike "including the Office of Intelligence of the Coast Guard".

On page 6, line 10, insert ", as determined consistent with any guidelines issued by the President," before "to the interests".

On page 9, beginning on line 13, strike "counterterrorism" and all that follows through "foreign intelligence" on line 15 and insert "intelligence activities of the United States Government between intelligence activities located abroad and intelligence".

On page 10, line 23, strike "a principal" and insert "the principal".

On page 12, line 18, insert "of" before "the National Intelligence Program".

On page 13, line 12, insert "appropriations for" after "oversee".

On page 20, beginning on line 12, strike "related to the national security which is".

On page 21, line 23, strike "(4)" and insert "(5)".

On page 22, line 3, strike "(5)" and insert "(6)".

On page 25, line 10, strike "head of the".

On page 28, line 17, strike "or" and insert "and".

On page 30, line 24, strike "205" and insert "206".

On page 31, line 23, strike "205" and insert "206 and the Clinger Cohen Act (divisions D and E of Public Law 104-106; 110 Stat. 642)".

On page 32, beginning on line 13, strike "on all matters" and all that follows through line 15 and insert "or international organizations on all matters involving intelligence related to the national security.".

On page 32, beginning on line 21, strike "head of each element of the intelligence community" and insert "head of any department, agency, or other element of the United States Government".

On page 59, line 20, strike "309" and insert "310".

On page 87, line 8, insert "and analytic" after "intelligence collection".

On page 93, line 17, insert "of" before "electronic access".

On page 96, beginning on line 13, strike "National Security Council" and insert "President".

On page 99, line 25, strike "National Security Council" and insert "President".

On page 134, strike lines 6 through 9 and insert the following:

(1) in consultation with the Executive Council, issue guidelines—

(A) for acquiring, accessing, sharing, and using information, including

On page 153, between lines 2 and 3, insert the following:

SEC. 207. PERMANENT AUTHORITY FOR PUBLIC INTEREST DECLASSIFICATION BOARD.

(a) IN GENERAL.—Section 710 of the Public Interest Declassification Act of 2000 (title VII of Public Law 106–567; 50 U.S.C. 435 note) is amended—

(1) by striking "(a) EFFECTIVE DATE.—"; and

(2) by striking subsection (b).

(b) CONFORMING AMENDMENT.—The head of such section is amended by striking "; **SUNSET**".

On page 154, line 16, strike "section 205(g)" and insert "subsections (e) and (g) of section 205".

On page 154, line 21, strike "section 205(g)" and insert "subsections (e) and (g) of section 205".

On page 156, line 4, strike "section 205(g)" and insert "subsections (e) and (g) of section 205".

On page 170, line 19, strike "and independent" and insert "independent".

On page 171, beginning on line 1, strike "and independent" and insert "independent".

On page 171, beginning on line 8, strike "and independent" and insert "independent".

On page 171, line 14, strike "objective and independent" and insert "timely, objective, independent".

On page 171, line 20, strike "and independent" and insert "independent".

On page 175, strike lines 8 through 17 and insert the following:

(2) COVERED INFORMATION.—

(A) IN GENERAL.—Except as provided in subparagraph (B), paragraph (1) applies to information, including classified information, that an employee reasonably believes provides direct and specific evidence of—

(i) a false or inaccurate statement to Congress contained in any intelligence assessment, report, or estimate; or

(ii) the withholding from Congress of any intelligence information material to any intelligence assessment, report, or estimate.

(B) EXCEPTION.—Paragraph (1) does not apply to information the disclosure of which is prohibited by rule 6(e) of the Federal Rules of Criminal Procedure.

On page 177, after line 17, add the following:

Subtitle D—Homeland Security Civil Rights and Civil Liberties Protection

SEC. 231. SHORT TITLE.

This title may be cited as the "Homeland Security Civil Rights and Civil Liberties Protection Act of 2004".

SEC. 232. MISSION OF DEPARTMENT OF HOMELAND SECURITY.

Section 101(b)(1) of the Homeland Security Act of 2002 (6 U.S.C. 111(b)(1)) is amended—

(1) in subparagraph (F), by striking "and" after the semicolon;

(2) by redesignating subparagraph (G) as subparagraph (H); and

(3) by inserting after subparagraph (F) the following:

"(G) ensure that the civil rights and civil liberties of persons are not diminished by efforts, activities, and programs aimed at securing the homeland; and".

SEC. 233. OFFICER FOR CIVIL RIGHTS AND CIVIL LIBERTIES.

Section 705(a) of the Homeland Security Act of 2002 (6 U.S.C. 345(a)) is amended—

(1) by amending the matter preceding paragraph (1) to read as follows:

"(a) IN GENERAL.—The Officer for Civil Rights and Civil Liberties, who shall report directly to the Secretary, shall—";

(2) by amending paragraph (1) to read as follows:

"(1) review and assess information concerning abuses of civil rights, civil liberties, and profiling on the basis of race, ethnicity, or religion, by employees and officials of the Department;";

(3) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(4) by adding at the end the following:

"(3) assist the Secretary, directorates, and offices of the Department to develop, implement, and periodically review Department policies and procedures to ensure that the protection of civil rights and civil liberties is appropriately incorporated into Department programs and activities;

"(4) oversee compliance with constitutional, statutory, regulatory, policy, and other requirements relating to the civil rights and civil liberties of individuals affected by the programs and activities of the Department;

"(5) coordinate with the Privacy Officer to ensure that—

"(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

"(B) Congress receives appropriate reports regarding such programs, policies, and procedures; and

"(6) investigate complaints and information indicating possible abuses of civil rights or civil liberties, unless the Inspector General of the Department determines that any such complaint or information should be investigated by the Inspector General.".

SEC. 234. PROTECTION OF CIVIL RIGHTS AND CIVIL LIBERTIES BY OFFICE OF INSPECTOR GENERAL.

Section 8I of the Inspector General Act of 1978 (5 U.S.C. App.) is amended by adding at the end the following:

"(f)(1) The Inspector General of the Department of Homeland Security shall designate a senior official within the Office of Inspector General, who shall be a career member of the civil service at the equivalent to the GS-15 level or a career member of the Senior Executive Service, to perform the functions described in paragraph (2).

"(2) The senior official designated under paragraph (1) shall—

"(A) coordinate the activities of the Office of Inspector General with respect to investigations of abuses of civil rights or civil liberties;

"(B) receive and review complaints and information from any source alleging abuses of civil rights and civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

"(C) initiate investigations of alleged abuses of civil rights or civil liberties by employees or officials of the Department and employees or officials of independent contractors or grantees of the Department;

"(D) ensure that personnel within the Office of Inspector General receive sufficient training to conduct effective civil rights and civil liberties investigations;

"(E) consult with the Officer for Civil Rights and Civil Liberties regarding—

"(i) alleged abuses of civil rights or civil liberties; and

"(ii) any policy recommendations regarding civil rights and civil liberties that may be founded upon an investigation by the Office of Inspector General;

"(F) provide the Officer for Civil Rights and Civil Liberties with information regarding the outcome of investigations of alleged abuses of civil rights and civil liberties;

"(G) refer civil rights and civil liberties matters that the Inspector General decides not to investigate to the Officer for Civil Rights and Civil Liberties;

"(H) ensure that the Office of the Inspector General publicizes and provides convenient public access to information regarding—

"(i) the procedure to file complaints or comments concerning civil rights and civil liberties matters; and

"(ii) the status of corrective actions taken by the Department in response to Office of the Inspector General reports; and

"(I) inform the Officer for Civil Rights and Civil Liberties of any weaknesses, problems, and deficiencies within the Department relating to civil rights or civil liberties.".

SEC. 235. PRIVACY OFFICER.

Section 222 of the Homeland Security Act of 2002 (6 U.S.C. 142) is amended—

(1) in the matter preceding paragraph (1), by inserting ", who shall report directly to the Secretary," after "in the Department";

(2) in paragraph (4), by striking "and" at the end;

(3) by redesignating paragraph (5) as paragraph (6); and

(4) by inserting after paragraph (4) the following:

"(5) coordinating with the Officer for Civil Rights and Civil Liberties to ensure that—

"(A) programs, policies, and procedures involving civil rights, civil liberties, and privacy considerations are addressed in an integrated and comprehensive manner; and

"(B) Congress receives appropriate reports on such programs, policies, and procedures; and".

On page 180, line 8, strike "pertaining to intelligence relating to" and insert "related to intelligence affecting".

On page 181, beginning on line 8, strike "on all matters" and all that follows through line 10 and insert "or international organizations on all matters involving intelligence related to the national security.'.".

On page 201, strike line 14 through 20 and insert the following:

(a) APPOINTMENT OF NATIONAL COUNTERINTELLIGENCE EXECUTIVE.—Section 902(a) of the Counterintelligence Enhancement Act of 2002 (title IX of Public Law 107–306; 116 Stat. 2432; 50 U.S.C. 402b) is amended—

(1) by striking "President" and inserting "National Intelligence Director"; and

(2) by striking "Director of Central Intelligence" and inserting "Director of the Central Intelligence Agency".

On page 205, line 1, strike "**COUNTERTERRORISM**" and insert "**COUNTERINTELLIGENCE**".

On page 207, between lines 13 and 14, insert the following:

"The Director of the Central Intelligence Agency.

On page 207, line 21, insert "Deputy" before "Director".

On page 44, strike line 24.

On page 45, line 1, strike "(6)" and insert "(5)".

On page 45, line 3, strike "(7)" and insert "(6)".

On page 45, line 5, strike "(8)" and insert "(7)".

On page 45, line 7, strike "(9)" and insert "(8)".

On page 45, line 9, strike "(10)" and insert "(9)".

On page 45, line 11, strike "(11)" and insert "(10)".

On page 45, line 14, strike "(12)" and insert "(11)".

On page 52, strike lines 1 through 20.

On page 52, line 21, strike "**126.**" and insert "**125.**".

On page 55, line 1, strike "**127.**" and insert "**126.**".

On page 56, line 9, strike "**128.**" and insert "**127.**".

On page 57, line 1, strike "**129.**" and insert "**128.**".

On page 57, line 17, strike "**130.**" and insert "**129.**".

On page 58, strike lines 3 through 9 and insert the following:

(c) Authorities and Functions.—The Chief Financial Officer of the National Intelligence Authority shall—

(1) have such authorities, and carry out such functions, with respect to the National Intelligence Authority as are provided for an agency Chief Financial Officer by section 902 of title 31, United States Code, and other applicable provisions of law;

(2) assist the National Intelligence Director in the preparation and execution of the budget of the elements of the intelligence community within the National Intelligence Program;

(3) assist the Director in participating in the development by the Secretary of Defense of the annual budget for military intelligence programs and activities outside the National Intelligence Program;

(4) provide unfettered access to the Director to financial information under the National Intelligence Program; and

(5) perform such other duties as may be prescribed by the Director or specified by law.

On page 59, line 15, strike "**131.**" and insert "**130.**".

On page 202, line 16, strike "131(b)" and insert "130(b)".

On page 19, line 12, insert "of access" after "grant".

On page 20, line 25, insert "of" after "development".

On page 53, line 2, strike "President" and insert "National Intelligence Director".

On page 173, line 11, strike "2" and insert "3".

SA 3958. Mrs. FEINSTEIN submitted an amendment intended to be proposed by her to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 4, strike lines 5 through 16 and insert the following:

(2) The term "foreign intelligence" means information relating to the capabilities, intentions, or activities of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

(3) The term "counterintelligence" means foreign intelligence gathered, and information gathering activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities.

On page 6, line 12, strike "counterintelligence or".

On page 6, beginning on line 17, strike "expressly provided for in this title" and insert "expressly provided for in law".

On page 7, beginning on line 5, strike "the Office of Intelligence of the Federal Bureau of Investigation" and insert "the Directorate of Intelligence of the Federal Bureau of Investigation".

On page 8, between lines 6 and 7, insert the following:

(8) The term "certified intelligence officer" means a professional employee of an element of the intelligence community who meets standards and qualifications set by the National Intelligence Director.

On page 120, beginning on line 17, strike ", subject to the direction and control of the President,".

On page 123, between lines 6 and 7, insert the following:

(e) Discharge of Improvements.—(1) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) through the head of the Directorate of Intelligence of the Federal Bureau of Investigation.

(2) The Director of the Federal Bureau of Investigation shall carry out subsections (b) through (d) under the joint guidance of the Attorney General and the National Intelligence Director in a manner consistent with section 112(a)(8).

On page 123, line 7, strike "(e)" and insert "(f)".

On page 123, line 17, strike "(f)" and insert "(g)".

On page 126, between lines 20 and 21, insert the following:

SEC. 206. DIRECTORATE OF INTELLIGENCE OF THE FEDERAL BUREAU OF INVESTIGATION.

(a) Directorate of Intelligence of Federal Bureau of Investigation.—The element of the Federal Bureau of Investigation known as of the date of the enactment of this Act as the Office of Intelligence is hereby redesignated as the Directorate of Intelligence of the Federal Bureau of Investigation.

(b) Head of Directorate.—The head of the Directorate of Intelligence shall be the Executive Assistant Director for Intelligence of the Federal Bureau of Investigation.

(c) Responsibilities.—The Directorate of Intelligence shall be responsible for the following:

(1) Supervision of all national intelligence programs, projects, and activities of the Bureau.

(2) The discharge by the Bureau of the requirements in section 105B of the National Security Act of 1947 (50 U.S.C. 403–5b).

(3) The oversight of Bureau field intelligence operations.

(4) Coordinating human source development and management by the Bureau.

(5) Coordinating collection by the Bureau against nationally-determined intelligence requirements.

(6) Strategic analysis.

(7) Intelligence program and budget management.

(8) The intelligence workforce.

(9) Any other responsibilities specified by the Director of the Federal Bureau of Investigation or specified by law.

(d) Staff.—The Directorate of Intelligence shall consist of such staff as the Director of the Federal Bureau of Investigation considers appropriate for the activities of the Directorate.

On page 196, strike line 20 and all that follows through page 197, line 7, and insert the following:

SEC. 304. MODIFICATION OF COUNTERINTELLIGENCE AND NATIONAL INTELLIGENCE UNDER NATIONAL SECURITY ACT OF 1947.

Section 3 of the National Security Act of 1947 (50 U.S.C. 401a) is amended—

(1) by striking paragraph (3) and inserting the following new paragraph (3):

"(3) The term 'counterintelligence' means foreign intelligence gathered, and information gathering activities conducted, to protect against espionage, other intelligence activities, sabotage, or assassinations conducted by or on behalf of foreign governments or elements thereof, foreign organizations, or foreign persons, or international terrorist activities."; and

(2) in paragraph (5)(B)—

(A) by striking "counterintelligence or"; and

(B) by striking "expressly provided for in this title" and insert "expressly provided for in law".

SA 3959. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. COMPTROLLER GENERAL STUDY AND REPORT.

(a) Study.—The Comptroller General of the United States shall conduct a study that examines—

(1) detention alternatives for monitoring aliens who do not require a secure detention setting while they are awaiting hearings during removal proceedings or the appeals process, including—

(A) electronic monitoring devices;

(B) home visits;

(C) work visits; and

(D) reporting by telephone;

(2) the effectiveness of the Intensive Supervision Appearance Program of the Bureau of Immigration and Customs Enforcement, Department of Homeland Security; and

(3) any other matters that the Comptroller General considers appropriate.

(b) Report.—Not later than 180 days after the date of enactment of this Act, the Comptroller General shall submit a report to Congress that contains—

(1) the results of the study conducted under subsection (a);

(2) any recommendations, including recommendations for administrative and legislative action, that the Comptroller General considers appropriate.

SA 3960. Mr. CORNYN submitted an amendment intended to be proposed by him to the bill S. 2815, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

TITLE IV—HUMAN SMUGGLING PENALTY ENHANCEMENT

SEC. 401. SHORT TITLE.

This title may be cited as the "Human Smuggling Penalty Enhancement Act of 2004".

SEC. 402. ENHANCED PENALTIES FOR ALIEN SMUGGLING.

Section 274(a) of the Immigration and Nationality Act (8 U.S.C. 1324(a)) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) in clause (i)—

(I) by striking "knowing that a person is an alien, brings" and inserting "knowing or in reckless disregard of the fact that a person is an alien, brings";

(II) by striking "Commissioner" and inserting "Under Secretary for Border and Transportation Security"; and

(III) by inserting "and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law" before the semicolon;

(ii) in clause (iv), by striking "or" at the end;

(iii) in clause (v)—

(I) in subclause (I), by striking ", or" and inserting a semicolon;

(II) in subclause (II), by striking the comma and inserting "; or"; and

(III) by inserting after subclause (II) the following:

"(III) attempts to commit any of the preceding acts; or"; and

(iv) by inserting after clause (v) the following:

"(vi) knowing or in reckless disregard of the fact that a person is an alien, causes or attempts to cause such alien to be transported or moved across an international boundary, knowing that such transportation or moving is part of such alien's effort to enter or attempt to enter the United States without prior official authorization;"; and

(B) in subparagraph (B)—

(i) in clause (i)—

(I) by striking "or (v)(I)" and inserting ", (v)(I), or (vi)"; and

(II) by striking "10 years" and inserting "20 years";

(ii) in clause (ii), by striking "5 years" and inserting "10 years"; and

(iii) in clause (iii), by striking "20 years" and inserting "35 years";

(2) in paragraph (2)—

(A) in the matter preceding subparagraph (A)—

(i) by inserting ", or facilitates or attempts to facilitate the bringing or transporting," after "attempts to bring"; and

(ii) by inserting "and regardless of whether the person bringing or attempting to bring such alien to the United States intended to violate any criminal law," after "with respect to such alien"; and

(B) in subparagraph (B)—

(i) in clause (ii), by striking ", or" and inserting a semicolon;

(ii) in clause (iii), by striking the comma at the end and inserting "; or";

(iii) by inserting after clause (iii), the following:

"(iv) an offense committed with knowledge or reason to believe that the alien unlawfully brought to or into the United States has engaged in or intends to engage in terrorist activity (as defined in section 212(a)(3)(B)(iv)),"; and

(iv) in the matter following clause (iv), as added by this subparagraph, by striking "3 nor more than 10 years" and inserting "5 years nor more than 20 years"; and

(3) in paragraph (3)(A), by striking "5 years" and inserting "10 years".

SEC. 403. AMENDMENT TO SENTENCING GUIDELINES RELATING TO ALIEN SMUGGLING OFFENSES.

(a) Directive to United States Sentencing Commission.—Pursuant to its authority under section 994(p) of title 18, United States Code, and in accordance with this section, the United States Sentencing Commission shall review and, as appropriate, amend the Federal Sentencing Guidelines and related policy statements to implement the provisions of this title.

(b) Requirements.—In carrying out this section, the United States Sentencing Commission shall—

(1) ensure that the Sentencing Guidelines and Policy Statements reflect—

(A) the serious nature of the offenses and penalties referred to in this title;

(B) the growing incidence of alien smuggling offenses; and

(C) the need to deter, prevent, and punish such offenses;

(2) consider the extent to which the Sentencing Guidelines and Policy Statements adequately address whether the guideline offense levels and enhancements for violations of the sections amended by this title—

(A) sufficiently deter and punish such offenses; and

(B) adequately reflect the enhanced penalties established under this title;

(3) maintain reasonable consistency with other relevant directives and sentencing guidelines;

(4) account for any additional aggravating or mitigating circumstances that might justify exceptions to the generally applicable sentencing ranges;

(5) make any necessary conforming changes to the Sentencing Guidelines; and

(6) ensure that the Sentencing Guidelines adequately meet the purposes of sentencing under section 3553(a)(2) of title 18, United States Code.

SA 3961. Mr. ENSIGN (for himself, Mr. Sessions, Mr. Grassley, Mr. Chambliss, and Mr. Reid) submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) Increased Number of Consular Officers.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) Limitation on Use of Foreign Nationals for Visa Screening.—

(1) Immigrant visas.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: "All immigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(2) Nonimmigrant visas.—Subsection (d) of such section is amended by adding at the end the following: "All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(c) Training for Consular Officers in Detection of Fraudulent Documents.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: "As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.".

(d) Assignment of Anti-Fraud Specialists.—

(1) Survey regarding document fraud.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) Requirement for specialist.—

(A) In general.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify the diplomatic and consular posts at which visas are issued that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall assign or designate at each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

(B) Exceptions.—The Secretary of State is not required to assign or designate a specialist as described in subparagraph (A) at a diplomatic and consular post if an employee of the Department of Homeland Security is assigned on a full-time basis to such post under the authority in section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 2,000 the number of positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were made available during the preceding fiscal year. Of the additional border patrol agents, in each fiscal year not less than 20 percent of such agents shall be assigned to duty stations along the northern border of the United States.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were made available during the preceding fiscal year.

SA 3962. Ms. COLLINS (for herself and Mr. LIEBERMAN) submitted an amendment intended to be proposed to amendment SA 3809 proposed by Mr. LEVIN to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, line 3, strike "military" and all that follows through page 2, line 9, and insert the following:

uniformed services personnel, except that the Director may transfer military positions or billets if such transfer is for a period not to exceed three years; and

(E) nothing in section 143(i) or 144(f) shall be construed to authorize the Director to specify or require the head of a department, agency, or element of the United States Government to approve a request for the transfer, assignment, or detail of uniformed services personnel, except that the Director may take such action with regard to military positions or billets if such transfer is for a period not to exceed three years.

SA 3963. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike line 4 and all that follows through page 2, line 2 and insert the following:

Nothing in this Act, or the amendments made by this Act, shall be construed to impair the authority of—

(1) the Director of the Office of Management and Budget; or

(2) except as otherwise provided in this Act, or the amendments made by this Act, the principal officers of the executive departments,

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SA 3964. Ms. COLLINS submitted an amendment intended to be proposed to amendment SA 3876 proposed by Mr. WARNER (for himself, Mr. STEVENS, and Mr. INOUYE) to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike lines 4 through 6 and insert the following:

Except as otherwise provided by this Act, or the amendments made by this Act, nothing in the Act, or the amendments made by this Act, shall be construed to impair the authority of—

SA 3965. Mr. SHELBY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place insert:

(II) by striking the period at the end and inserting a semicolon; and

(iii) by adding at the end the following:

"(9) managing the Homeland Security Information Clearinghouse established under section 801(d); and

"(10) managing the Noble Training Center in Fort McClellan, Alabama."

SA 3966. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended—

(1) by striking "DEFINITION.—In this section, the term" and inserting the following: "DEFINITIONS.—In this section—

"(1) the term";

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(2) the term 'expert advice or assistance' means any act, effort, or service—

"(A) by a person who, by reason of education, training, experience, or profession, has scientific, technical, or other specialized knowledge concerning the matter of science or skill to which the act, effort, or service applies; and

"(B) that is directed at helping, furthering, guiding, or enhancing the operation, management, financing, mission, or performance, of terrorist activity by the terrorist or foreign terrorist organization.

"(3) the term 'training' means instruction or teaching in a scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, military, or other field that is directed in any way at furthering, enhancing, or improving the individual or organizational performance of terrorist activity by the terrorist or foreign terrorist organization; and

"(4) the term 'personnel' means any third person that will provide services to assist in, or in any way further, the operation, management, financing, mission, or performance of terrorist activity by the terrorist or foreign terrorist organization.".

(b) PROHIBITED ACTIVITIES.—Section 2339B(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking ", within the United States or subject to the jurisdiction of the United States, knowingly"; and

(B) by inserting "with the intention that such material support or resources be used, or with the knowledge that such material support or resources are to be used, in full or in part, to further the terrorist activities of the organization," after "conspires to do so,"; and

(2) by adding at the end the following:

"(3) BURDEN OF PROOF.—A defendant shall not be found guilty of violating paragraph (1) unless the United States proves that the defendant has knowledge, that the organization referred to in paragraph (1)—

"(A) is designated a 'foreign terrorist organization' under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

"(B) has engaged or does engage in international or domestic terrorism.".

SA 3967. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. TERRORISM SUBPOENAS.

(a) IN GENERAL.—Chapter 113B of title 18, United States Code, is amended by inserting after section 2332f the following:

"§ 2332g. Terrorism subpoenas

"(a) AUTHORIZATION OF USE.—

"(1) IN GENERAL.—In any terrorism investigation within the jurisdiction of the Department of Justice, the Attorney General may issue in writing and cause to be served a subpoena requiring the production of any records or other materials that the Attorney General, or designee, finds relevant to the investigation, or requiring testimony by the custodian of the materials to be produced concerning the production and authenticity of those materials under the circumstances set forth in paragraph (5).

"(2) CONTENTS.—A subpoena issued under paragraph (1) shall describe the records or items required to be produced and may require production as soon as possible, but in no event less than 24 hours after service of the subpoena unless the subpoena recipient consents to production forthwith.

"(3) DELEGATION.—The Attorney General's authority to issue terrorism subpoenas under this section may be delegated, with authority to redelegate only to the following officials:

"(A) Each United States attorney.

"(B) The Assistant Attorney General for the Criminal Division.

"(C) The Director of the Federal Bureau of Investigation or a designee of the Director.

"(4) LIMITATION ON DELEGATION.—The authority to issue subpoenas under this section by the Federal Bureau of Investigation is limited to circumstances under which the issuer of the subpoena has a good faith belief for asserting, and certifies on the face of the subpoena, that either—

"(A) an Assistant United States attorney was not readily available at the time the subpoena was issued; or

"(B) a grand jury investigating the relevant matter was not currently sitting in the district in which the subpoena was being issued. If a subpoena is issued under this subsection, the issuing agent must notify and provide a copy of the subpoena to the United States attorney for the district in which the terrorism investigation is being conducted not later than 3 days after the date of issuance of the subpoena.

"(5) ATTENDANCE OF WITNESSES AND PRODUCTION OF RECORDS.—

"(A) IN GENERAL.—The attendance of witnesses and the production of records may be required from any place in any State, or in any territory or other place subject to the jurisdiction of the United States at any designated place of hearing.

"(B) LIMITATION.—A witness shall not be required to appear at any hearing more than 500 miles distant from the place where the witness was served with a subpoena.

"(C) REIMBURSEMENT.—Witnesses summoned under this section shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States.

"(b) SERVICE.—

"(1) IN GENERAL.—A subpoena issued under this section may be served by any person designated in the subpoena as the agent of service.

"(2) SERVICE OF SUBPOENA.—

"(A) NATURAL PERSON.—Service of a subpoena upon a natural person may be made by personal delivery of the subpoena to that person, or by certified mail with return receipt requested.

"(B) BUSINESS ENTITIES AND ASSOCIATIONS.—Service of a subpoena may be made upon a domestic or foreign corporation, or upon a partnership or other unincorporated association that is subject to suit under a common name, by delivering the subpoena to an officer, to a managing or general agent, or to any other agent authorized by appointment or by law to receive service of process.

"(C) PROOF OF SERVICE.—The affidavit of the person serving the subpoena entered by that person on a true copy thereof shall be sufficient proof of service.

"(c) ENFORCEMENT.—

"(1) IN GENERAL.—In the case of the contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which the investigation is carried on, or the subpoenaed person resides, carries on business, or may be found, to compel compliance with the subpoena.

"(2) ORDER.—Any court of the United States described under paragraph (1) may issue an order requiring the subpoenaed person, in accordance with the subpoena, to appear, to produce records, or to give testimony touching the matter under investigation. Any failure to obey the order of the court may be punished by the court as contempt thereof.

"(3) SERVICE OF PROCESS.—Any process under this subsection may be served in any judicial district in which the person may be found.

"(d) NONDISCLOSURE ORDER.—

"(1) IN GENERAL.—A United States district court, upon application of the United States, may issue an ex parte order that no person or entity disclose to any other person or entity (other than to an attorney in order to obtain legal advice) the existence of such summons for a period of up to 120 days if there is reason to believe that such disclosure may result in a danger to the national security of the United States, the endangerment to the life or physical security of any person, flight to avoid prosecution, destruction of or tampering with evidence, or intimidation of potential witnesses.

"(2) EMERGENCY NONDISCLOSURE AUTHORITY.—Notwithstanding any other provision of this title, when the Attorney General or designee reasonably determines that—

"(A) an emergency situation exists with respect to the issuance of a subpoena under this section in order to obtain relevant information before an order authorizing nondisclosure can with due diligence be obtained; and

"(B) the factual basis for issuance of a nondisclosure order under this section exists,

the Attorney General or designee may authorize the issuance of a subpoena under this section and order that it not be disclosed if an order in accordance with paragraph (1) is made to a Federal district judge as soon as practicable, but not later than 72 hours after the Attorney General or designee authorizes the nondisclosure subpoena. Any nondisclosure order issued by a district court under this section shall be effective as if entered at the time the subpoena was issued.

"(3) NOTICE OF NONDISCLOSURE REQUIREMENT.—The subpoena, or an officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed of the nondisclosure requirements under paragraph (1).

"(4) FURTHER APPLICABILITY OF NONDISCLOSURE REQUIREMENTS.—Any person who receives a disclosure under this subsection shall be subject to the same prohibitions on disclosure under paragraph (1).

"(5) ENFORCEMENT OF NONDISCLOSURE REQUIREMENT.—Any person who knowingly violates a nondisclosure order issued by a district court shall be imprisoned for not more than 1 year. If the violation is committed with the intent to obstruct an investigation or judicial proceeding, the person shall be imprisoned for not more than 5 years.

"(6) NONDISCLOSURE EXTENSIONS.—An order under this subsection may be renewed for additional periods of up to 120 days upon a showing that the circumstances described in paragraph (1) continue to exist. An officer, employee, or agency of the United States in writing, shall notify the person to whom the subpoena is directed when a nondisclosure order is no longer effective.

"(e) JUDICIAL REVIEW.—

"(1) IN GENERAL.—At any time before the return date specified in a subpoena issued under this section, the person or entity subpoenaed may, in the United States district court for the district in which that person or entity does business or resides, petition for an order modifying or setting aside the subpoena.

"(2) MODIFICATION OF NONDISCLOSURE REQUIREMENT.—A district court may modify or set aside a nondisclosure order imposed under paragraph (1) or (2) of subsection (d) at the request of a person to whom a subpoena has been directed if the court finds that the reasons supporting the original nondisclosure order no longer exist. The burden is on the government to support the validity and continuity of any nondisclosure orders under this section.

"(3) REVIEW OF GOVERNMENT SUBMISSIONS.—In all proceedings under this subsection, the court shall review the submission of the Federal Government, which may include classified information, ex parte and in camera.

"(f) IMMUNITY FROM CIVIL LIABILITY.—Any person, including officers, agents, and employees of a non-natural person, who in good faith produce the records or items requested in a subpoena, shall not be liable in any court of any State or the United States to any customer or other person for such production, or for nondisclosure of that production to the customer or other person.

"(g) GUIDELINES.—Not later than 6 months after the date of enactment of this section, the Attorney General shall, by rule, establish such guidelines as are necessary to ensure the effective implementation of this section including guidelines for effective retention and recordkeeping.

"(h). INFORMATION SHARING.—Information acquired by the government under this section may be disclosed under the exceptions and pursuant to the procedures set forth in rule 6(e)(3) of the Federal Rules of Criminal Procedure.

"(i) CONGRESSIONAL OVERSIGHT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Attorney General shall submit a report to the Committee on the Judiciary of the Senate and the Committee on the Judiciary of the House of Representatives, that contains, with respect to each preceding 12-month period—

"(1) the number of subpoenas issued by the Federal Bureau of Investigation under subsection (a)(4);

"(2) any guidelines or changes to guidelines implemented by the Attorney General under subsection (g); and

"(3) whether judicial enforcement of any terrorism subpoena was pursued and the result of that litigation.".

(b) AMENDMENT TO TABLE OF SECTIONS.—The table of sections of chapter 113B of title 18, United States Code, is amended by inserting after the item relating to section 2332f the following:

"2332g. Terrorism subpoenas.".

SA 3968. Mr. LEAHY submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 2, strike line 19 and all that follows through page 3, line 9.

SA 3969. Mr. LEAHY submitted an amendment intended to be proposed to amendment SA 3790 submitted by Mr. KYL and intended to be proposed to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 5, strike line 14 and all that follows through page 12, line 9, and insert the following:

SEC. ___. PROVIDING MATERIAL SUPPORT TO TERRORISTS.

(a) DEFINITIONS.—Section 2339A(b) of title 18, United States Code, is amended—

(1) by striking "DEFINITION.—In this section, the term" and inserting the following: "DEFINITIONS.—In this section—

"(1) the term";

(2) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(2) the term 'expert advice or assistance' means any act, effort, or service—

"(A) by a person who, by reason of education, training, experience, or profession, has scientific, technical, or other specialized knowledge concerning the matter of science or skill to which the act, effort, or service applies; and

"(B) that is directed at helping, furthering, guiding, or enhancing the operation, management, financing, mission, or performance, of terrorist activity by the terrorist or foreign terrorist organization.

"(3) the term 'training' means instruction or teaching in a scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, military, or other field that is directed in any way at furthering, enhancing, or improving the individual or organizational performance of terrorist activity by the terrorist or foreign terrorist organization; and

"(4) the term 'personnel' means any third person that will provide services to assist in, or in any way further, the operation, management, financing, mission, or performance of terrorist activity by the terrorist or foreign terrorist organization.".

(b) PROHIBITED ACTIVITIES.—Section 2339B(a) of title 18, United States Code, is amended—

(1) in paragraph (1)—

(A) by striking ", within the United States or subject to the jurisdiction of the United States, knowingly"; and

(B) by inserting "with the intention that such material support or resources be used, or with the knowledge that such material support or resources are to be used, in full or in part, to further the terrorist activities of the organization," after "conspires to do so,"; and

(2) by adding at the end the following:

"(3) BURDEN OF PROOF.—A defendant shall not be found guilty of violating paragraph (1) unless the United States proves that the defendant has knowledge, that the organization referred to in paragraph (1)—

"(A) is designated a 'foreign terrorist organization' under section 219 of the Immigration and Nationality Act (8 U.S.C. 1189); or

"(B) has engaged or does engage in international or domestic terrorism.".

SA 3970. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3782 proposed by Mr. LAUTENBERG to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 1, strike lines 4 through 7, and insert the following:

(a) IN GENERAL.—Any Federal funds appropriated to the Department of Homeland Security for grants or other assistance shall be allocated based strictly on an assessment of risks and vulnerabilities.

(b) PRESERVATION OF PRE-9/11 GRANT PROGRAMS.—This section shall not be construed to affect any authority to award grants under any Federal grant program listed under subsection (c), which existed on September 10, 2001, to enhance traditional missions of State and local law enforcement, firefighters, ports, emergency medical services, or public health missions.

(c) PROGRAMS INCLUDED.—The programs referred to in subsection (b) are the following:

(1) The Firefighter Assistance Program authorized under section 33 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2229).

(2) The Emergency Management Performance Grant Program and the Urban Search and Rescue Grant program authorized under—

(A) title VI of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5195 et seq.);

(B) the Departments of Veterans Affairs and Housing and Urban Development, and Independent Agencies Appropriations Act, 2000 (Public Law 106-74; 113 Stat. 1047 et seq.); and

(C) the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.).

(4) The Edward Byrne Memorial State and Local Law Enforcement Assistance Programs authorized under part E of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3750 et seq.).

(5) The Public Safety and Community Policing (COPS ON THE BEAT) Grant Program authorized under part Q of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796dd et seq.).

(6) Grant programs under the Public Health Service Act regarding preparedness for bioterrorism and other public health emergencies and the Emergency Response Assistance Program authorized under section 1412 of the Defense Against Weapons of Mass Destruction Act of 1996 (50 U.S.C. 2312).

SA 3971. Mr. LAUTENBERG submitted an amendment intended to be proposed to amendment SA 3905 proposed by Mr. LAUTENBERG to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, beginning with line 20, strike through line 3 on page 4, and insert the following:

"(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall require imported merchandise, excluding merchandise entered temporarily under bond (including in bond), remaining on the wharf or pier onto which it was unladen for more than 7 calendar days without entry being filed to be removed from the wharf or pier and deposited in the public stores, a general order warehouse, or a centralized examination station where it shall be inspected for determination of contents, and thereafter a permit for its delivery may be granted.

SA 3972. Mr. DURBIN submitted an amendment intended to be proposed by him to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert:

SEC. 206. INFORMATION SHARING.

(a) DEFINITIONS.—In this section:

(1) ADVISORY BOARD.—The term "Advisory Board" means the Advisory Board on Information Sharing established under subsection (i).

(2) EXECUTIVE COUNCIL.—The term "Executive Council" means the Executive Council on Information Sharing established under subsection (h).

(3) HOMELAND SECURITY INFORMATION.—The term "homeland security information" means all information, whether collected, produced, or distributed by intelligence, law enforcement, military, homeland security, or other activities relating to—

(A) the existence, organization, capabilities, plans, intentions, vulnerabilities, means of finance or material support, or activities of foreign or international terrorist groups or individuals, or of domestic groups or individuals involved in transnational terrorism;

(B) threats posed by such groups or individuals to the United States, United States persons, or United States interests, or to those of other nations;

(C) communications of or by such groups or individuals; or

(D) groups or individuals reasonably believed to be assisting or associated with such groups or individuals.

(4) NETWORK.—The term "Network" means the Information Sharing Network described under subsection (c).

(b) FINDINGS.—Consistent with the report of the National Commission on Terrorist Attacks upon the United States, Congress makes the following findings:

(1) The effective use of information, from all available sources, is essential to the fight against terror and the protection of our homeland. The biggest impediment to all-source analysis, and to a greater likelihood of "connecting the dots", is resistance to sharing information.

(2) The United States Government has access to a vast amount of information, including not only traditional intelligence but also other government databases, such as those containing customs or immigration information. However, the United States Government has a weak system for processing and using the information it has.

(3) In the period preceding September 11, 2001, there were instances of potentially helpful information that was available but that no person knew to ask for; information that was distributed only in compartmented channels, and information that was requested but could not be shared.

(4) Current security requirements nurture over-classification and excessive compartmentalization of information among agencies. Each agency's incentive structure opposes sharing, with risks, including criminal, civil, and administrative sanctions, but few rewards for sharing information.

(5) The current system, in which each intelligence agency has its own security practices, requires a demonstrated "need to know" before sharing. This approach assumes that it is possible to know, in advance, who will need to use the information. An outgrowth of the cold war, such a system implicitly assumes that the risk of inadvertent disclosure outweighs the benefits of wider sharing. Such assumptions are no longer appropriate. Although counterintelligence concerns are still real, the costs of not sharing information are also substantial. The current "need-to-know" culture of information protection needs to be replaced with a "need-to-share" culture of integration.

(6) A new approach to the sharing of intelligence and homeland security information is urgently needed. An important conceptual model for a new "trusted information network" is the Systemwide Homeland Analysis and Resource Exchange (SHARE) Network proposed by a task force of leading professionals assembled by the Markle Foundation and described in reports issued in October 2002 and December 2003.

(7) No single agency can create a meaningful information sharing system on its own. Alone, each agency can only modernize stovepipes, not replace them. Presidential leadership is required to bring about governmentwide change.

(c) INFORMATION SHARING NETWORK.—

(1) ESTABLISHMENT.—The President shall establish a trusted information network and secure information sharing environment to promote sharing of intelligence and homeland security information in a manner consistent with national security and the protection of privacy and civil liberties, and based on clearly defined and consistently applied policies and procedures, and valid investigative, analytical or operational requirements.

(2) ATTRIBUTES.—The Network shall promote coordination, communication and collaboration of people and information among all relevant Federal departments and agencies, State, tribal, and local authorities, and relevant private sector entities, including owners and operators of critical infrastructure, by using policy guidelines and technologies that support—

(A) a decentralized, distributed, and coordinated environment that connects existing systems where appropriate and allows users to share information among agencies, between levels of government, and, as appropriate, with the private sector;

(B) the sharing of information in a form and manner that facilitates its use in analysis, investigations and operations;

(C) building upon existing systems capabilities currently in use across the Government;

(D) utilizing industry best practices, including minimizing the centralization of data and seeking to use common tools and capabilities whenever possible;

(E) employing an information access management approach that controls access to data rather than to just networks;

(F) facilitating the sharing of information at and across all levels of security by using policy guidelines and technologies that support writing information that can be broadly shared;

(G) providing directory services for locating people and information;

(H) incorporating protections for individuals' privacy and civil liberties;

(I) incorporating strong mechanisms for information security and privacy and civil liberties guideline enforcement in order to enhance accountability and facilitate oversight, including—

(i) multifactor authentication and access control;

(ii) strong encryption and data protection;

(iii) immutable audit capabilities;

(iv) automated policy enforcement;

(v) perpetual, automated screening for abuses of network and intrusions; and

(vi) uniform classification and handling procedures;

(J) compliance with requirements of applicable law and guidance with regard to the planning, design, acquisition, operation, and management of information systems; and

(K) permitting continuous system upgrades to benefit from advances in technology while preserving the integrity of stored data.

(d) IMMEDIATE ACTIONS.—Not later than 90 days after the date of the enactment of this Act, the Director of the Office of Management and Budget, in consultation with the Executive Council, shall—

(1) submit to the President and to Congress a description of the technological, legal, and policy issues presented by the creation of the Network described in subsection (c), and the way in which these issues will be addressed;

(2) establish electronic directory services to assist in locating in the Federal Government intelligence and homeland security information and people with relevant knowledge about intelligence and homeland security information; and

(3) conduct a review of relevant current Federal agency capabilities, including—

(A) a baseline inventory of current Federal systems that contain intelligence or homeland security information;

(B) the money currently spent to maintain those systems; and

(C) identification of other information that should be included in the Network.

(e) GUIDELINES AND REQUIREMENTS.—As soon as possible, but in no event later than 180 days after the date of the enactment of this Act, the President shall—

(1) in consultation with the Executive Council—

(A) issue guidelines for acquiring, accessing, sharing, and using information, including guidelines to ensure that information is provided in its most shareable form, such as by separating out data from the sources and methods by which that data are obtained; and

(B) on classification policy and handling procedures across Federal agencies, including commonly accepted processing and access controls;

(2) in consultation with the Privacy and Civil Liberties Oversight Board established under section 211, issue guidelines that—

(A) protect privacy and civil liberties in the development and use of the Network; and

(B) shall be made public, unless, and only to the extent that, nondisclosure is clearly necessary to protect national security; and

(3) require the heads of Federal departments and agencies to promote a culture of information sharing by—

(A) reducing disincentives to information sharing, including overclassification of information and unnecessary requirements for originator approval; and

(B) providing affirmative incentives for information sharing, such as the incorporation of information sharing performance measures into agency and managerial evaluations, and employee awards for promoting innovative information sharing practices.

(f) ENTERPRISE ARCHITECTURE AND IMPLEMENTATION PLAN.—Not later than 270 days after the date of the enactment of this Act, the Director of Management and Budget shall submit to the President and to Congress an enterprise architecture and implementation plan for the Network. The enterprise architecture and implementation plan shall be prepared by the Director of Management and Budget, in consultation with the Executive Council, and shall include—

(1) a description of the parameters of the proposed Network, including functions, capabilities, and resources;

(2) a delineation of the roles of the Federal departments and agencies that will participate in the development of the Network, including identification of any agency that will build the infrastructure needed to operate and manage the Network (as distinct from the individual agency components that are to be part of the Network), with the delineation of roles to be consistent with—

(A) the authority of the National Intelligence Director under this Act to set standards for information sharing and information technology throughout the intelligence community; and

(B) the authority of the Secretary of Homeland Security and the role of the Department of Homeland Security in coordinating with State, tribal, and local officials and the private sector;

(3) a description of the technological requirements to appropriately link and enhance existing networks and a description of the system design that will meet these requirements;

(4) an enterprise architecture that—

(A) is consistent with applicable laws and guidance with regard to planning, design, acquisition, operation, and management of information systems;

(B) will be used to guide and define the development and implementation of the Network; and

(C) addresses the existing and planned enterprise architectures of the departments and agencies participating in the Network;

(5) a description of how privacy and civil liberties will be protected throughout the design and implementation of the Network;

(6) objective, systemwide performance measures to enable the assessment of progress toward achieving full implementation of the Network;

(7) a plan, including a time line, for the development and phased implementation of the Network;

(8) total budget requirements to develop and implement the Network, including the estimated annual cost for each of the 5 years following the date of the enactment of this Act; and

(9) proposals for any legislation that the Director of Management and Budget determines necessary to implement the Network.

(g) DIRECTOR OF MANAGEMENT AND BUDGET RESPONSIBLE FOR INFORMATION SHARING ACROSS THE FEDERAL GOVERNMENT.—

(1) ADDITIONAL DUTIES AND RESPONSIBILITIES.—

(A) IN GENERAL.—The Director of Management and Budget, in consultation with the Executive Council, shall—

(i) implement and manage the Network;

(ii) develop and implement policies, procedures, guidelines, rules, and standards as appropriate to foster the development and proper operation of the Network; and

(iii) assist, monitor, and assess the implementation of the Network by Federal departments and agencies to ensure adequate progress, technological consistency and policy compliance; and regularly report the findings to the President and to Congress.

(B) CONTENT OF POLICIES, PROCEDURES, GUIDELINES, RULES, AND STANDARDS.—The policies, procedures, guidelines, rules, and standards under subparagraph (A)(ii) shall—

(i) take into account the varying missions and security requirements of agencies participating in the Network;

(ii) address development, implementation, and oversight of technical standards and requirements;

(iii) address and facilitate information sharing between and among departments and agencies of the intelligence community, the Department of Defense, the Homeland Security community and the law enforcement community;

(iv) address and facilitate information sharing between Federal departments and agencies and State, tribal and local governments;

(v) address and facilitate, as appropriate, information sharing between Federal departments and agencies and the private sector;

(vi) address and facilitate, as appropriate, information sharing between Federal departments and agencies with foreign partners and allies; and

(vii) ensure the protection of privacy and civil liberties.

(2) APPOINTMENT OF PRINCIPAL OFFICER.—Not later than 30 days after the date of the enactment of this Act, the Director of Management and Budget shall appoint, with approval of the President, a principal officer in the Office of Management and Budget whose primary responsibility shall be to carry out the day-to-day duties of the Director specified in this section. The officer shall report directly to the Director of Management and Budget, have the rank of a Deputy Director and shall be paid at the rate of pay payable for a position at level III of the Executive Schedule under section 5314 of title 5, United States Code.

(h) EXECUTIVE COUNCIL ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Executive Council on Information Sharing that shall assist the Director of Management and Budget in the execution of the Director's duties under this Act concerning information sharing.

(2) MEMBERSHIP.—The members of the Executive Council shall be—

(A) the Director of Management and Budget, who shall serve as Chairman of the Executive Council;

(B) the Secretary of Homeland Security or his designee;

(C) the Secretary of Defense or his designee;

(D) the Attorney General or his designee;

(E) the Secretary of State or his designee;

(F) the Director of the Federal Bureau of Investigation or his designee;

(G) the National Intelligence Director or his designee;

(H) such other Federal officials as the President shall designate;

(I) representatives of State, tribal, and local governments, to be appointed by the President; and

(J) individuals who are employed in private businesses or nonprofit organizations that own or operate critical infrastructure, to be appointed by the President.

(3) RESPONSIBILITIES.—The Executive Council shall assist the Director of Management and Budget in—

(A) implementing and managing the Network;

(B) developing policies, procedures, guidelines, rules, and standards necessary to establish and implement the Network;

(C) ensuring there is coordination among departments and agencies participating in the Network in the development and implementation of the Network;

(D) reviewing, on an ongoing basis, policies, procedures, guidelines, rules, and standards related to the implementation of the Network;

(E) establishing a dispute resolution process to resolve disagreements among departments and agencies about whether particular information should be shared and in what manner; and

(F) considering such reports as are submitted by the Advisory Board on Information Sharing under subsection (i)(2).

(4) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Council shall not be subject to the requirements of the Federal Advisory Committee Act (5 U.S.C. App.).

(5) REPORTS.—Not later than 1 year after the date of the enactment of this Act, and annually thereafter, the Director of Management and Budget, in the capacity of Chair of the Executive Council, shall submit a report to the President and to Congress that shall include—

(A) a description of the activities and accomplishments of the Council in the preceding year; and

(B) the number and dates of the meetings held by the Council and a list of attendees at each meeting.

(6) INFORMING THE PUBLIC.—The Executive Council shall—

(A) make its reports to Congress available to the public to the greatest extent that is consistent with the protection of classified information and applicable law; and

(B) otherwise inform the public of its activities, as appropriate and in a manner consistent with the protection of classified information and applicable law.

(i) ADVISORY BOARD ON INFORMATION SHARING.—

(1) ESTABLISHMENT.—There is established an Advisory Board on Information Sharing to advise the President and the Executive Council on policy, technical, and management issues related to the design and operation of the Network.

(2) RESPONSIBILITIES.—The Advisory Board shall advise the Executive Council on policy, technical, and management issues related to the design and operation of the Network. At the request of the Executive Council, or the Director of Management and Budget in the capacity as Chair of the Executive Council, or on its own initiative, the Advisory Board shall submit reports to the Executive Council concerning the findings and recommendations of the Advisory Board regarding the design and operation of the Network.

(3) MEMBERSHIP AND QUALIFICATIONS.—The Advisory Board shall be composed of no more than 15 members, to be appointed by the President from outside the Federal Government. The members of the Advisory Board shall have significant experience or expertise in policy, technical and operational matters, including issues of security, privacy, or civil liberties, and shall be selected solely on the basis of their professional qualifications, achievements, public stature and relevant experience.

(4) CHAIR.—The President shall designate one of the members of the Advisory Board to act as chair of the Advisory Board.

(5) ADMINISTRATIVE SUPPORT.—The Office of Management and Budget shall provide administrative support for the Advisory Board.

(j) REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and semiannually thereafter, the President through the Director of Management and Budget shall submit a report to Congress on the state of the Network and of information sharing across the Federal Government.

(2) CONTENT.—Each report under this subsection shall include—

(A) a progress report on the extent to which the Network has been implemented, including how the Network has fared on the government-wide and agency-specific performance measures and whether the performance goals set in the preceding year have been met;

(B) objective systemwide performance goals for the following year;

(C) an accounting of how much was spent on the Network in the preceding year;

(D) actions taken to ensure that agencies procure new technology that is consistent with the Network and information on whether new systems and technology are consistent with the Network;

(E) the extent to which, in appropriate circumstances, all terrorism watch lists are available for combined searching in real time through the Network and whether there are consistent standards for placing individuals on, and removing individuals from, the watch lists, including the availability of processes for correcting errors;

(F) the extent to which unnecessary roadblocks, impediments, or disincentives to information sharing, including the inappropriate use of paper-only intelligence products and requirements for originator approval, have been eliminated;

(G) the extent to which positive incentives for information sharing have been implemented;

(H) the extent to which classified information is also made available through the Network, in whole or in part, in unclassified form;

(I) the extent to which State, tribal, and local officials—

(i) are participating in the Network;

(ii) have systems which have become integrated into the Network;

(iii) are providing as well as receiving information; and

(iv) are using the Network to communicate with each other;

(J) the extent to which—

(i) private sector data, including information from owners and operators of critical infrastructure, is incorporated in the Network; and

(ii) the private sector is both providing and receiving information;

(K) where private sector data has been used by the Government or has been incorporated into the Network—

(i) the measures taken to protect sensitive business information; and

(ii) where the data involves information about individuals, the measures taken to ensure the accuracy of such data;

(L) the measures taken by the Federal Government to ensure the accuracy of other information on the Network and, in particular, the accuracy of information about individuals;

(M) an assessment of the Network's privacy and civil liberties protections, including actions taken in the preceding year to implement or enforce privacy and civil liberties protections and a report of complaints received about interference with an individual's privacy or civil liberties; and

(N) an assessment of the security protections of the Network.

(k) AGENCY RESPONSIBILITIES.—The head of each department or agency possessing or using intelligence or homeland security information or otherwise participating in the Network shall—

(1) ensure full department or agency compliance with information sharing policies, procedures, guidelines, rules, and standards established for the Network under subsections (c) and (g);

(2) ensure the provision of adequate resources for systems and activities supporting operation of and participation in the Network; and

(3) ensure full agency or department cooperation in the development of the Network and associated enterprise architecture to implement governmentwide information sharing, and in the management and acquisition of information technology consistent with applicable law.

(l) AGENCY PLANS AND REPORTS.—Each Federal department or agency that possesses or uses intelligence and homeland security information, operates a system in the Network or otherwise participates, or expects to participate, in the Network, shall submit to the Director of Management and Budget—

(1) not later than 1 year after the date of the enactment of this Act, a report including—

(A) a strategic plan for implementation of the Network's requirements within the department or agency;

(B) objective performance measures to assess the progress and adequacy of the department or agency's information sharing efforts; and

(C) budgetary requirements to integrate the agency into the Network, including projected annual expenditures for each of the following 5 years following the submission of the report; and

(2) annually thereafter, reports including—

(A) an assessment of the progress of the department or agency in complying with the Network's requirements, including how well the agency has performed on the objective measures developed under paragraph (1)(B);

(B) the agency's expenditures to implement and comply with the Network's requirements in the preceding year; and

(C) the agency's or department's plans for further implementation of the Network in the year following the submission of the report.

(m) PERIODIC ASSESSMENTS.—

(1) COMPTROLLER GENERAL.—

(A) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, and periodically thereafter, the Comptroller General shall evaluate the implementation of the Network, both generally and, at the discretion of the Comptroller General, within specific departments and agencies, to determine the extent of compliance with the

Network's requirements and to assess the effectiveness of the Network in improving information sharing and collaboration and in protecting privacy and civil liberties, and shall report to Congress on the findings of the Comptroller General.

(B) INFORMATION AVAILABLE TO THE COMPTROLLER GENERAL.—Upon request by the Comptroller General, information relevant to an evaluation under subsection (a) shall be made available to the Comptroller General under section 716 of title 31, United States Code.

(C) CONSULTATION WITH CONGRESSIONAL COMMITTEES.—If a record is not made available to the Comptroller General within a reasonable time, before the Comptroller General files a report under section 716(b)(1) of title 31, United States Code, the Comptroller General shall consult with the Select Committee on Intelligence of the Senate, the Permanent Select Committee on Intelligence of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Committee on Government Reform of the House of Representatives concerning the Comptroller's intent to file a report.

(2) INSPECTORS GENERAL.—The Inspector General in any Federal department or agency that possesses or uses intelligence or homeland security information or that otherwise participates in the Network shall, at the discretion of the Inspector General—

(A) conduct audits or investigations to—

(i) determine the compliance of that department or agency with the Network's requirements; and

(ii) assess the effectiveness of that department or agency in improving information sharing and collaboration and in protecting privacy and civil liberties; and

(B) issue reports on such audits and investigations.

(n) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated—

(1) $50,000,000 to the Director of Management and Budget to carry out this section for fiscal year 2005; and

(2) such sums as are necessary to carry out this section in each fiscal year thereafter, to be disbursed and allocated in accordance with the Network implementation plan required by subsection (f).

SA 3973. Mr. FRIST (for Mr. SPECTER) proposed an amendment to the bill S. 2484, An Act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004".

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. SIMPLIFICATION AND IMPROVEMENT OF GRADE AND PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.

(a) SIMPLIFICATION OF GRADES AND GRADE REQUIREMENTS.—(1) Subsection (b) of section 7404 is amended—

(A) by striking "(1)" after "(b)";

(B) in the Physician and Dentist Schedule, by striking the items relating to the grades and inserting the following:

"Physician grade.

"Dentist grade."; and

(C) by striking paragraph (2).

(2) Subsection (a) of such section is amended by adding at the end the following: "The pay of physicians and dentists serving in positions to which an Executive order applies under the preceding sentence shall be determined under subchapter III of this chapter instead of such Executive order.".

(b) SIMPLIFICATION AND IMPROVEMENT OF PAY AUTHORITIES.—Subchapter III of chapter 74 is amended to read as follows:

"SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

"§ 7431. Pay

"(a) ELEMENTS OF PAY.—Pay of physicians and dentists in the Veterans Health Administration shall consist of three elements as follows:

"(1) Base pay as provided for under subsection (b).

"(2) Market pay as provided for under subsection (c).

"(3) Performance pay as provided under subsection (d).

"(b) BASE PAY.—One element of pay for physicians and dentists shall be base pay. Base pay shall meet the following requirements:

"(1) Each physician and dentist is entitled to base pay determined under the Physician and Dentist Base and Longevity Pay Schedule.

"(2) The Physician and Dentist Base and Longevity Pay Schedule is composed of 15 rates of base pay designated, from the lowest rate of pay to the highest rate of pay, as base pay steps 1 through 15.

"(3) The rate of base pay payable to a physician or dentist is based on the total number of the years of the service of the physician or dentist in the Veterans Health Administration as follows:

"**For a physician or dentist with total service of:**	**The rate of base pay is the rate payable for:**
two years or less	step 1
more than 2 years and not more than 4 years	step 2
more than 4 years and not more than 6 years	step 3
more than 6 years and not more than 8 years	step 4
more than 8 years and not more than 10 years	step 5
more than 10 years and not more than 12 years	step 6
more than 12 years and not more than 14 years	step 7
more than 14 years and not more than 16 years	step 8
more than 16 years and not more than 18 years	step 9
more than 18 years and not more than 20 years	step 10
more than 20 years and not more than 22 years	step 11
more than 22 years and not more than 24 years	step 12
more than 24 years and not more than 26 years	step 13
more than 26 years and not more than 28 years	step 14
more than 28 years	step 15.

"(4) At the same time as rates of basic pay are increased for a year under section 5303 of title 5, the Secretary shall increase the amount of base pay payable under this subsection for that year by a percentage equal to the percentage by which rates of basic pay are increased under such section for that year.

"(c) MARKET PAY.—One element of pay for physicians and dentists shall be market pay. Market pay shall meet the following requirements:

"(1) Each physician and dentist is eligible for market pay.

"(2) Market pay shall consist of pay intended to reflect the recruitment and retention needs for the specialty or assignment (as defined by the Secretary) of a particular physician or dentist in a facility of the Department of Veterans Affairs.

"(3) The annual amount of the market pay payable to a physician or dentist shall be determined by the Secretary on a case-by-case basis.

"(4)(A) In determining the amount of market pay for physicians or dentists, the Secretary shall consult two or more national surveys of pay for physicians or dentists, as applicable, whether prepared by private, public, or quasi-public entities in order to make a general assessment of the range of pays payable to physicians or dentists, as applicable.

"(B)(i) In determining the amount of the market pay for a particular physician or dentist under this subsection, and in determining a tier (if any) to apply to a physician or dentist under subsection (e)(1)(B), the Secretary shall consult with and consider the recommendations of an appropriate panel or board composed of physicians or dentists (as applicable).

"(ii) A physician or dentist may not be a member of the panel or board that makes recommendations under clause (i) with respect to the market pay of such physician or dentist, as the case may be.

"(iii) The Secretary should, to the extent practicable, ensure that a panel or board consulted under this subparagraph includes physicians or dentists (as applicable) who are practicing clinicians and who do not hold management positions in the medical facility of the Department at which the physician or dentist subject to the consultation is employed.

"(5) The determination of the amount of market pay of a physician or dentist shall take into account—

"(A) the level of experience of the physician or dentist in the specialty or assignment of the physician or dentist;

"(B) the need for the specialty or assignment of the physician or dentist at the medical facility of the Department concerned;

"(C) the health care labor market for the specialty or assignment of the physician or dentist, which may cover any geographic area the Secretary considers appropriate for the specialty or assignment;

"(D) the board certifications, if any, of the physician or dentist;

"(E) the prior experience, if any, of the physician or dentist as an employee of the Veterans Health Administration; and

"(F) such other considerations as the Secretary considers appropriate.

"(6) The amount of market pay of a physician or dentist shall be evaluated by the Secretary not less often than once every 24 months. The amount of market pay may be adjusted as the result of an evaluation under this paragraph. A physician or dentist whose market pay is evaluated under this paragraph shall receive written notice of the results of such evaluation in accordance with procedures prescribed under section 7433 of this title.

"(7) No adjustment of the amount of market pay of a physician or dentist under paragraph (6) may result in a reduction of the amount of market pay of the physician or dentist while in the same position or assignment at the medical facility of the Department concerned.

"(d) PERFORMANCE PAY.—(1) One element of pay for physicians and dentists shall be performance pay.

"(2) Performance pay shall be paid to a physician or dentist on the basis of the physician's or dentist's achievement of specific goals and performance objectives prescribed by the Secretary.

"(3) The Secretary shall ensure that each physician and dentist of the Department is advised of the specific goals or objectives that are to be measured by the Secretary in determining the eligibility of that physician or dentist for performance pay.

"(4) The amount of the performance pay payable to a physician or dentist may vary annually on the basis of individual achievement or attainment of the goals or objectives applicable to the physician or dentist under paragraph (2).

"(5) The amount of performance pay payable to a physician or dentist in a fiscal year shall be determined in accordance with regulations prescribed by the Secretary, but may not exceed the lower of—

"(A) $15,000; or

"(B) the amount equal to 7.5 percent of the sum of the base pay and the market pay payable to such physician or dentist in that fiscal year.

"(6) A failure to meet goals or objectives applicable to a physician or dentist under paragraph (2) may not be the sole basis for an adverse personnel action against that physician or dentist.

"(e) REQUIREMENTS AND LIMITATIONS ON TOTAL PAY.—(1)(A) Not less often than once every two years, the Secretary shall prescribe for Department-wide applicability the minimum and maximum amounts of annual pay that may be paid under this section to physicians and the minimum and maximum amounts of annual pay that may be paid under this section to dentists.

"(B) The Secretary may prescribe for Department-wide applicability under this paragraph separate minimum and maximum amounts of pay for a specialty or assignment. If the Secretary prescribes separate minimum and maximum amounts for a specialty or assignment, the Secretary may establish up to four tiers of minimum and maximum amounts for such specialty or assignment and prescribe for each tier a minimum amount and a maximum amount that the Secretary determines appropriate for the professional responsibilities, professional achievements, and administrative duties of the physicians or dentists (as the case may be) whose pay is set within that tier.

"(C) Amounts prescribed under this paragraph shall be published in the Federal Register, and shall not take effect until at least 60 days after the date of publication.

"(2) Except as provided in paragraph (3) and subject to paragraph (4), the sum of the total amount of the annual rate of base pay payable to a physician or dentist under subsection (b) and the market pay determined for the physician or dentist under subsection (c) may not be less than the minimum amount, nor more than the maximum amount, applicable to specialty or assignment of the physician or dentist under paragraph (1).

"(3) The sum of the total amount of the annual rate of base pay payable to a physician or dentist under subsection (b) and the market pay determined for the physician or dentist under subsection (c) may exceed the maximum amount applicable to the specialty or assignment of the physician or dentist under paragraph (1) as a result of an adjustment under paragraph (3) or (4) of subsection (b).

"(4) In no case may the total amount of compensation paid to a physician or dentist under this title in any year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3.

"(f) TREATMENT OF PAY.—Pay under subsections (b) and (c) of this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

"(g) ANCILLARY EFFECTS OF DECREASES IN PAY.—(1) A decrease in pay of a physician or dentist resulting from an adjustment in the amount of market pay of the physician or dentist under subsection (c) shall not be treated as an adverse action.

"(2) If the pay of a physician or dentist is reduced under this subchapter as a result of an involuntary reassignment in connection with a disciplinary action taken against the physician or dentist, the involuntary reassignment shall be subject to appeal under subchapter V of this chapter.

"(h) DELEGATION OF RESPONSIBILITIES.—The Secretary may delegate to an appropriate officer or employee of the Department any responsibility of the Secretary under subsection (c), (d), or (e) except for the responsibilities of the Secretary under subsection (e)(1).

"§ 7432. Pay of Under Secretary for Health

"(a) BASE PAY.—The base pay of the Under Secretary for Health shall be the annual rate of basic pay for positions at Level III of the Executive Schedule under section 5314 of title 5.

"(b) MARKET PAY.—(1) In the case of an Under Secretary for Health who is also a physician or dentist, in addition to the base pay specified in subsection (a) the Under Secretary for Health may also be paid the market pay element of pay of physicians and dentists under section 7431(c) of this title.

"(2) The amount of market pay of the Under Secretary for Health under this subsection shall be established by the Secretary.

"(3) In establishing the amount of market pay of the Under Secretary for Health under this subsection, the Secretary shall utilize an appropriate health care labor market selected by the Secretary for purposes of this subsection.

"(c) TREATMENT OF PAY.—Pay under this section shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

"§ 7433. Administrative matters

"(a) REGULATIONS.—(1) The Secretary shall prescribe regulations relating to the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

"(2) In prescribing the regulations, the Secretary shall take into account the recommendations of the Under Secretary for Health on the administration of this subchapter. In formulating recommendations for the purpose of this paragraph, the Under Secretary shall request the views of representatives of labor organizations that are exclusive representatives of physicians and dentists of the Department and the views of representatives of professional organizations of physicians and dentists of the Department.

"(b) REPORTS.—(1) Not later than 18 months after the Secretary prescribes the regulations required by subsection (a), and annually thereafter for the next 5 years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

"(2) Each report under this subsection shall include the following:

"(A) A description of the rates of pay in effect during the current fiscal year with a comparison to the rates in effect during the fiscal year preceding the current fiscal year, set forth by facility and by specialty.

"(B) The number of physicians and dentists who left the Veterans Health Administration during the preceding fiscal year.

"(C) The number of unfilled physician positions and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and an assessment of the reasons that such positions remain unfilled.

"(D) An assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

"(3) The first two annual reports under this subsection shall also include a comparison of staffing levels, contract expenditures, and average salaries of physicians and dentists in the Veterans Health Administration for the current fiscal year and for the fiscal year preceding the current fiscal year, set forth by facility and by specialty.".

(c) INITIAL RATES OF BASE PAY FOR PHYSICIANS AND DENTISTS.—The initial rates of base pay established for the base pay steps under the Physician and Dentist Base and Longevity Pay Schedule provided in section 7431(b) of title 38, United States Code (as added by subsection (b)), are as follows:

Base Pay Step:	Rate of Pay:
1	$90,000
2	$93,000
3	$96,000
4	$99,000
5	$102,000
6	$105,000
7	$108,000
8	$111,000
9	$114,000
10	$117,000
11	$120,000
12	$123,000
13	$126,000
14	$129,000
15	$132,000.

(d) EFFECTIVE DATE.—(1) Notwithstanding the 60-day waiting requirement in section 7431(e)(1)(C) of title 38, United States Code (as amended by subsection (b)), pay provided for a physician or dentist under subchapter III of chapter 74 of such title, as amended by subsection (b), shall take effect on the first day of the first pay period applicable to such physician or dentist that begins on or after January 1, 2006.

(2) Pay provided for the Under Secretary for Health under subchapter III of chapter 74 of title 38, United States Code, as amended by this section shall take effect on the first

day of the first pay period applicable to the Under Secretary that begins on or after January 1, 2006.

(e) TRANSITION PROVISIONS.—

(1) PHYSICIANS AND DENTISTS.—

(A) PAY.—(i) The amount of the pay payable on and after the date of the enactment of this Act to a physician or dentist in receipt of pay under section 7404 or 7405 of title 38, United States Code, as of the day before such date shall continue to be determined under such section (as in effect on the day before such date) until the effective date that is applicable under subsection (d) to such physician or dentist, as the case may be.

(ii) A physician or dentist appointed or reassigned on or after the date of the enactment of this Act, but before the effective date applicable under subsection (d) to such physician or dentist, shall be compensated in accordance with applicable provisions of section 7404 or 7405 of title 38, United States Code (as in effect on the day before date of the enactment of this Act), until such effective date.

(B) SPECIAL PAY.—(i) A special pay agreement entered into by a physician or dentist under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, a physician or dentist in receipt of special pay pursuant to such an agreement on that date shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) to such physician or dentist.

(ii) A physician or dentist described in subparagraph (A)(ii) may be paid special pay under applicable provisions of section 7433, 7434, 7435, or 7436 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of the appointment or reassignment of such physician or dentist, as the case may be, and ending on the effective date applicable under subsection (d) to such physician or dentist. However, no special pay agreement shall be required for the payment of special pay under this clause.

(C) TREATMENT OF SPECIAL PAY.—(i) Special pay paid under subparagraph (B) to a physician or dentist during the period beginning on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to such physician or dentist shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act).

(ii) Special pay paid to a physician or dentist under section 7438 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(D) PRESERVATION OF PAY.—The amount of pay paid to a physician or dentist after the effective date of this Act shall not be less than the amount of pay paid to such physician or dentist on the day before the effective date of this Act while such physician or dentist remains in the same position or assignment.

(2) UNDER SECRETARY FOR HEALTH.—

(A) SPECIAL PAY.—(i) The current special pay agreement entered into by the Under Secretary for Health under subchapters I and III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, the Under Secretary shall continue to receive special pay under the terms of such agreement until the effective date that is applicable under subsection (d) to the Under Secretary.

(ii) An individual appointed as Under Secretary for Health on or after the date of the enactment of this Act and before the effective date applicable under subsection (d) to the Under Secretary shall be paid special pay in accordance with the provisions of sections 7432(d)(2) and 7433 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of appointment and ending on such effective date. However, no special pay agreement shall be required for the payment of special pay under this clause.

(B) TREATMENT OF SPECIAL PAY.—Special pay paid under subparagraph (A) during the period beginning on the date of the enactment of this Act and ending on the effective date applicable under subsection (d) to the Under Secretary—

(i) shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act); and

(ii) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(f) CONFORMING AMENDMENTS.—Section 7404 is amended—

(1) in subsection (c), by striking "special pay" and inserting "pay"; and

(2) in subsection (d), by striking "pay may not be paid" and all that follows and inserting "pay for positions for which basic pay is paid under this section may not be paid at a rate in excess of the rate of basic pay authorized by section 5316 of title 5 for positions in Level V of the Executive Schedule.".

(g) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 74 is amended by striking the items relating to subchapter III and inserting the following new items:

"SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

"Sec. 7431. Pay.
"Sec. 7432. Pay of Under Secretary for Health.
"Sec. 7433. Administrative matters.".

SEC. 4. ALTERNATE WORK SCHEDULES FOR REGISTERED NURSES.

(a) IN GENERAL.—(1) Chapter 74 is amended by inserting after section 7456 the following new section:

"§ 7456A. Nurses: alternate work schedules

"(a) APPLICABILITY.—This section applies to registered nurses appointed under this chapter.

"(b) 36/40 WORK SCHEDULE.—(1)(A) Subject to paragraph (2), if the Secretary determines it to be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a work week shall be considered for all purposes to have worked a full 40-hour basic work week.

"(B) A nurse who works under the authority in subparagraph (A) shall be considered a 0.90 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings.

"(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) to have worked a full 40-hour basic work week shall be subject to subparagraphs (B) and (C).

"(B) The hourly rate of basic pay for a nurse covered by this paragraph for service performed as part of a regularly scheduled 36-hour tour of duty within the work week shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

"(C) The Secretary shall pay overtime pay to a nurse covered by this paragraph who—

"(i) performs a period of service in excess of such nurse's regularly scheduled 36-hour tour of duty within an administrative work week;

"(ii) for officially ordered or approved service, performs a period of service in excess of 8 hours on a day other than a day on which such nurse's regularly scheduled 12-hour tour of duty falls;

"(iii) performs a period of service in excess of 12 hours for any day included in the regularly scheduled 36-hour tour of duty work week; or

"(iv) performs a period of service in excess of 40 hours during an administrative work week.

"(D) The Secretary may provide a nurse to whom this subsection applies with additional pay under section 7453 of this title for any period included in a regularly scheduled 12-hour tour of duty.

"(3) A nurse who works a work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for every nine hours of absence.

"(c) HOLIDAY PAY.—A nurse working a work schedule under subsection (b) that includes a holiday designated by law or Executive order shall be eligible for holiday pay under section 7453(d) of this title for any service performed by the nurse on such holiday under such section.

"(d) 9-MONTH WORK SCHEDULE FOR CERTAIN NURSES.—(1) The Secretary may authorize a registered nurse appointed under section 7405 of this title, with the nurse's written consent, to work full time for nine months with 3 months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of such fiscal year.

"(2) A nurse who works under the authority in paragraph (1) shall be considered a 0.75 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings.

"(3) Work under this subsection shall be considered part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

"(4) A nurse who works under the authority in paragraph (1) shall be considered a full-time employee for purposes of chapter 89 of title 5.

"(e) NOTIFICATION OF MODIFICATION OF BENEFITS.—The Secretary shall provide each employee with respect to whom an alternate work schedule under this section may apply written notice of the effect, if any, that the alternate work schedule will have on the employee's health care premium, retirement, life insurance premium, probationary status, or other benefit or condition of employment. The notice shall be provided not later than 14 days before the employee consents to the alternate work schedule.

"(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of chapter 74 is amended by inserting after the

item relating to section 7456 the following new item:

"Sec. 7456A. Nurses: alternate work schedules.".

(b) POLICY AGAINST CERTAIN WORK HOURS.—(1) It is the sense of Congress to encourage the Secretary of Veterans Affairs to prevent work hours by nurses providing direct patient care in excess of 12 consecutive hours or in excess of 60 hours in any 7-day period, except in the case of nurses providing emergency care.

(2) Not later than one year after the date of the enactment of this Act and every year thereafter for the next two years, the Secretary shall certify to Congress whether or not each Veterans Health Administration facility has in place, as of the date of such certification, a policy designed to prevent work hours by nurses providing direct patient care (other than nurses providing emergency care) in excess of 12 consecutive hours or in excess of 60 hours in any 7-day period.

SEC. 5. NURSE EXECUTIVE SPECIAL PAY.

Section 7452 is amended by adding at the end the following new subsection:

"(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary may, in accordance with regulations prescribed by the Secretary, pay special pay to the nurse executive at each location as follows:

"(A) Each Department health care facility.

"(B) The Central Office.

"(2) The amount of special pay paid to a nurse executive under paragraph (1) shall be not less than $10,000 or more than $25,000.

"(3) The amount of special pay paid to a nurse executive under paragraph (1) shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the personal qualifications of the nurse executive, the characteristics of the health care facility concerned, the nature and number of specialty care units at the health care facility concerned, demonstrated difficulties in recruitment and retention of nurse executives at the health care facility concerned, and such other factors as the Secretary considers appropriate.

"(4) Special pay paid to a nurse executive under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V of this chapter.".

SA 3974. Mr. FRIST (for himself, Mr. DASCHLE, Mr. MCCONNELL, and Mr. REID) submitted an amendment intended to be proposed by him to the resolution S. Res 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on intelligence; which was ordered to lie on the table; as follows:

At the end of the resolution, insert the following:

SEC. 100. PURPOSE.

It is the purpose of titles I through V of this resolution to improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government, and to improve the Senate's oversight of homeland security.

TITLE I—HOMELAND SECURITY OVERSIGHT REFORM

SEC. 101. HOMELAND SECURITY.

(a) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS.—The Committee on Governmental Affairs is renamed as the Committee on Homeland Security and Governmental Affairs.

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

(1) Department of Homeland Security except matters relating to the Coast Guard, to the Transportation Security administration, and to the Federal Law Enforcement Training Center, and the revenue functions of the Customs Service.

(2) Archives of the United States.

(3) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(4) Census and collection of statistics, including economic and social statistics.

(5) Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.

(6) Federal Civil Service.

(7) Government information.

(8) Intergovernmental relations.

(9) Municipal affairs of the District of Columbia, except appropriations therefor.

(10) Organization and management of United States nuclear export policy.

(11) Organization and reorganization of the executive branch of the Government.

(12) Postal Service.

(13) Status of officers and employees of the United States, including their classification, compensation, and benefits.

(c) ADDITIONAL DUTIES.—The committee shall have the duty of—

(1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(2) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(4) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(d) JURISDICTION OF SENATE COMMITTEES.—The jurisdiction of the Committee on Homeland Security and Governmental Affairs provided in subsection (b) shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate.

TITLE II—INTELLIGENCE OVERSIGHT REFORM

SEC. 201. INTELLIGENCE OVERSIGHT.

(a) COMMITTEE ON ARMED SERVICES MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress) (referred to in this section as "S. Res. 400") is amended by—

(1) inserting "(A)" after "(3)"; and

(2) inserting at the end the following:

"(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.".

(b) NUMBER OF MEMBERS.—Section 2(a) of S. Res. 400 is amended—

(1) in paragraph (1), by inserting "not to exceed" before "fifteen members";

(2) in paragraph (1)(E), by inserting "not to exceed" before "seven"; and

(3) in paragraph (2), by striking the second sentence and inserting "Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin.".

(c) ELIMINATION OF TERM LIMITS.—Section 2 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(d) APPOINTMENT OF CHAIRMAN AND RANKING MEMBER.—Section 2(b) of S. Res. 400, as redesignated by subsection (c) of this section, is amended by striking the first sentence and inserting the following: "At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee.".

(e) SUBCOMMITTEES.—Section 2 of S. Res. 400, as amended by subsections (a) through (d), is amended by adding at the end the following:

"(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman and Vice Chairman of the select Committee, respectively.".

(f) REPORTS.—Section 4(a) of S. Res. 400 is amended by inserting ", but not less than quarterly," after "periodic".

(g) STAFF.—Section 15 of S. Res. 400 is amended to read as follows:

"SEC. 15. (a) The select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member's designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

"(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces, and shall have full access to select Committee staff, information, records, and databases."

"(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee clearance requirements for employment by the select Committee.".

(h) NOMINEES.—S. Res. 400 is amended by adding at the end the following:

"SEC. 17. (a) The select Committee shall have final responsibility for reviewing, holding hearings, and voting on civilian persons nominated by the President to fill a position within the intelligence community that requires the advice and consent of the Senate.

"(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with that person.".

TITLE III—COMMITTEE STATUS

SEC. 301. COMMITTEE STATUS.

(a) HOMELAND SECURITY.—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on

Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

(b) INTELLIGENCE.—The select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

TITLE IV—INTELLIGENCE-RELATED SUBCOMMITTEES

SEC. 401. SUBCOMMITTEE RELATED TO INTELLIGENCE OVERSIGHT.

(a) ESTABLISHMENT.—There is established in the select Committee on Intelligence a Subcommittee on Oversight which shall be in addition to any other subcommittee established by the select Committee.

(b) RESPONSIBILITY.—The Subcommittee on Oversight shall be responsible for ongoing oversight of intelligence activities.

SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.

(a) ESTABLISHMENT.—There is established in the Committee on Appropriations a Subcommittee on Intelligence. The Subcommittee on Military Construction shall be combined with the Subcommittee on Defense into 1 subcommittee.

(b) JURISDICTION.—The Subcommittee on Intelligence of the Committee on Appropriations shall have jurisdiction over funding for intelligence matters.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This resolution shall take effect on the convening of the 109th Congress.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on October 5, 2004, at 2:30 p.m., to conduct a hearing on the nomination of Pamela Hughes Patenaude, of New Hampshire, to be Assistant Secretary for Community Planning and Development, Department of Housing and Urban Development.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Ms. COLLINS. Mr. President, I ask unanimous consent that the Commerce, Science, and Transportation Committee be authorized to meet on Tuesday, October 5, 2004, at 9:30 a.m., on E-Rate.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, October 5, 2004, at 9:30 a.m., to hold a hearing on the Millennium Challenge Corporation: A Progress Report.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Governmental Affairs be authorized to meet on Tuesday, October 5, 2004, at 10 a.m., in SD–342 to consider the nomination of Gregory Jackson to be an Associate Judge of Columbia Superior Court.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions be authorized to meet for a hearing entitled "Reducing Childhood Obesity: Public-Private Partnerships to Improve Nutrition and Increase Physical Activity in Children" during the session of the Senate on Tuesday, October 5, at 10 a.m., in SD–430.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Tuesday, October 5, 2004, at 10 a.m., in SD–226.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON RULES AND ADMINISTRATION

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be authorized to meet during the session of the Senate on Tuesday, October 5, 2004, at 9:30 a.m., to conduct a special meeting of the committee to consider a resolution related to recommendations of the National Commission on Terrorist Attacks Upon the United States.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on October 5, 2004, for a markup on the nominations of Robert N. Davis, to be a Judge, U.S. Court of Appeals for Veterans Claims; Mary J. Schoelen, to be a Judge, U.S. Court of Appeals for Veterans Claims; William A. Moorman, to be a Judge, U.S. Court of Appeals for Veterans Claims; and Robert Allen Pittman, to be Assistant Secretary, Human Resources and Administration, U.S. Department of Veterans Affairs.

The meeting will take place in S–216 in the Capitol, immediately following the first rollcall vote of the Senate after 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BINGAMAN. Mr. President, I ask unanimous consent that Nancy Faulk, who is a fellow in my office, be given the privilege of the floor today.

The PRESIDENT pro tempore. Without objection, it is so ordered.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2004

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 705, S. 2483.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2483) to increase, effective as of December 1, 2004, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

There being no objection, the Senate proceeded to consider the bill.

Mr. SPECTER. Mr. President, I have sought recognition to comment briefly on legislation which was reported, after a unanimous affirmative vote, by the Committee on Veterans' Affairs on July 20, 2004, and which is the subject of my request today that the bill be unanimously approved by the Senate. S. 2483 would grant to nearly 3 million beneficiaries who receive certain "cash-transfer" payments from the Department of Veterans Affairs, VA, a cost-of-living adjustment, COLA, increase in their benefits effective with checks received on or after January 1, 2005, and thereafter.

An annual cost-of-living adjustment in veterans benefits is an important tool which protects veterans' cash-transfer benefits against the corrosive effects of inflation. The principal programs affected by the adjustment that would be made by S. 2483 would be compensation paid to disabled veterans, and dependency and indemnity compensation, so-called "DIC," payments made to the surviving spouses, minor children and other dependents of service members who died in service and to the survivors of former service members who died after service as a result of service-connected injuries or disease.

The impact of the COLA which would be enacted here is outlined in detail in Report 108–351 which accompanied the Committee on Veterans' Affairs approval of the bill on July 20, 2004. In summary, this legislation would grant to VA compensation and DIC beneficiaries the same percentage increase in benefits that will be granted to recipients of Social Security benefits in 2005—that is, an increase equal to the percentage increase in the consumer price index, CPI, for fiscal year 2004 as measured and reported by the Department of Labor's Bureau of Labor Statistics later this year. The President's proposed budget for fiscal year 2005 requested such an increase, then estimated to be 1.3 percent, and the Senate has already concurred with the committee's judgment that such an increase is appropriate with its approval earlier this year of a budget resolution which assumes that such an increase will be enacted and which sets aside the funds necessary to finance the COLA increase envisioned by this legislation.

I urge my colleagues to support enactment of this vital legislation and that they "clear" the bill for passage today. The bill still must clear the House of Representatives before it is presented to the President. As my colleagues fully understand, the days remaining for the House to take this action are dwindling.

Mr. GRAHAM of Florida. Mr. President, as ranking member of the Committee on Veterans' Affairs, I urge my colleagues to continue to support our veterans and their families by passing H.R. 4175, the proposed Veterans' Compensation Cost-of-Living Adjustment Act of 2004.

The Veterans' Compensation Cost-of-Living Adjustment Act would increase the rate of disability compensation for veterans with service-connected disabilities and the rate of dependency and indemnity compensation for surviving spouses with minor children. This bill requires, effective December 1, 2004, that the Secretary of Veterans Affairs increase the rates of compensation by the same percentage provided to Social Security recipients.

In keeping with the commitment to care for the brave men and women who have served this great Nation, we must make every effort to continue to meet their needs. This legislation ensures that veterans and their families will be able to adjust their incomes to keep pace with inflation and is vital to the financial stability of many veterans and their families who are struggling with the rising costs of goods and services. Our veterans and their families depend on the cost-of-living increase for their livelihood, therefore, it is important that we swiftly move this legislation.

We must demonstrate our commitment to those who have already paid a great price through their selfless service to our Nation. At a time when our airmen, soldiers, sailors, and marines are in harm's way, we must remember the sacrifices that those before them have made on behalf of this grateful Nation by providing this cost-of-living adjustment.

Mr. FRIST. Mr. President, I ask unanimous consent that the bill be read a third time and the Committee on Veterans' Affairs then be discharged from further consideration of H.R. 4175 and the Senate proceed to its consideration; provided that all after enacting clause be stricken and the text of S. 2483 be inserted in lieu thereof; the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the bill be printed in the RECORD. I further ask unanimous consent that S. 2483 be returned to the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2483) was read the third time.

The bill (H.R. 4175), as amended, was read the third time and passed.

GATEWAY ARCH ILLUMINATION IN HONOR OF BREAST CANCER AWARENESS MONTH

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2895, which was introduced earlier today by Senator TALENT.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2895) to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of Breast Cancer Awareness Month.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2895) was read the third time and passed, as follows:

S. 2895

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ILLUMINATION OF GATEWAY ARCH IN HONOR OF BREAST CANCER AWARENESS MONTH.

In honor of breast cancer awareness month, the Secretary of the Interior shall authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights for a certain period of time in October, to be designated by the Secretary of the Interior.

MODIFICATION AND EXTENSION OF CERTAIN PRIVATIZATION REQUIREMENTS

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of S. 2896, which was introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2896) to modify and extend certain privatization requirements of the Communications Satellite Act of 1962.

There being no objection, the Senate proceeded to consider the bill.

Mr. FRIST. I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to this matter be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2896) was read the third time and passed, as follows:

S. 2896

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRIVATIZATION REQUIREMENTS MODIFIED AND EXTENDED.

Section 621(5) of the Communications Satellite Act of 1962 (47 U.S.C. 763) is amended—

(1) in subparagraph (A)(ii), by striking "June 30, 2004" and inserting "June 30, 2005"; and

(2) by adding at the end the following new subparagraph:

"(F) Notwithstanding subparagraphs (A) and (B), a successor entity may be deemed a national corporation and may forgo an initial public offering and public securities listing and still achieve the purposes of this section if—

"(i) the successor entity certifies to the Commission that—

"(I) the successor entity has achieved substantial dilution of the aggregate amount of signatory or former signatory financial interest in such entity;

"(II) any signatories and former signatories that retain a financial interest in such successor entity do not possess, together or individually, effective control of such successor entity; and

"(III) no intergovernmental organization has any ownership interest in a successor entity of INTELSAT or more than a minimal ownership interest in a successor entity of Inmarsat;

"(ii) the successor entity provides such financial and other information to the Commission as the Commission may require to verify such certification; and

"(iii) the Commission determines, after notice and comment, that the successor entity is in compliance with such certification.

"(G) For purposes of subparagraph (F), the term 'substantial dilution' means that a majority of the financial interests in the successor entity is no longer held or controlled, directly or indirectly, by signatories or former signatories.".

EXPENDITURES FOR VISITORS CENTER AT LITTLE ROCK CENTRAL HIGH SCHOOL NATIONAL HISTORIC SITE

Mr. FRIST. I ask unanimous consent that the Energy and Natural Resources Committee be discharged from further consideration of S. Res. 420 and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 420) recommending expenditures for an appropriate visitors center at Little Rock Central High School National Historic Site to commemorate the desegregation of Little Rock Central High School.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution and preamble be agreed to en bloc, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 420) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 420

Whereas the United States recognizes that in September 1957, 9 young students changed the course of American history by claiming the right to receive an equal education;

Whereas Ernest Green, Elizabeth Eckford, Jefferson Thomas, Terrence Roberts, Carlotta Walls, Minnijean Brown, Gloria Ray, Thelma Mothershed, and Melba Pattillo, known as the "Little Rock Nine", and their parents had the courage necessary to break the bonds of prejudice and desegregation and venture onto the world stage, with full knowledge of the perils and complexities inherent in their endeavor;

Whereas despite their effort to enroll at Little Rock Central High School and receive an education, the Little Rock Nine were met with severe adversity;

Whereas Little Rock Central High School became not only a crucial battleground in the struggle for civil rights, but symbolic of the United States Government's commitment to eliminating separate systems of education for African-Americans and Caucasians;

Whereas the enrollment of the Little Rock Nine was recognized by Dr. Martin Luther King, Jr. as such a significant event in the struggle for civil rights that he attended the graduation of the first African-American from Little Rock Central High School;

Whereas the sacrificial accomplishments that were made in September 1957 have continuing benefits for the United States today;

Whereas the United States will always revere the accomplishments that 9 young high school students made by showing the Nation and the world that "all men are created equal" and the rule of law is paramount in the democracy of the United States;

Whereas the Little Rock Nine were forced to obtain the blessings of liberty that are inherent in the United States Constitution through the intervention of the judicial branch and executive branch of the United States Government;

Whereas existing visitor facilities at Little Rock Central High School are inadequate, resulting in limited opportunities for citizens to learn about civil rights and our Nation's heritage; and

Whereas the legislative branch of the United States Government has the opportunity to appropriately commemorate the legacy that these heroic individuals left by fully funding the design and construction of an informative memorial: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) the courage displayed by the Little Rock Nine should be commemorated as an example of American sacrifice through extreme adversity;

(2) Congress should fully fund the design and construction of a visitor center at Little Rock Central High School National Historic Site; and

(3) the new facilities should open by September 2007 in order to commemorate the 50th anniversary of the historic events that occurred at Little Rock Central High School.

PROTECTING OLDER AMERICANS FROM FRAUD MONTH

Mr. FRIST. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 749, S. Res. 424.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 424) designating October 2004 as Protecting Older Americans From Fraud Month.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 424) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 424

Whereas perpetrators of financial crimes frequently target their fraud schemes at older Americans because older Americans possess a large percentage of the individual household wealth in the United States;

Whereas many older Americans have been divested of their hard-earned life savings by fraud and frequently pay a high emotional cost, losing not only their money, but also their self-respect and dignity;

Whereas perpetrators of fraud schemes against older Americans reach their victims through the telephone, the mail, or the Internet;

Whereas the United States Postal Inspection Service responded to nearly 80,000 fraud complaints, arrested 1,453 fraud offenders, secured nearly 1,387 fraud convictions, and initiated 102 civil or administrative actions involving fraud in fiscal year 2003;

Whereas fraud investigations by the United States Postal Inspection Service in fiscal year 2003 resulted in nearly $1,500,000,000 in court-ordered and voluntary restitution payments;

Whereas older Americans are often the disproportionate targets of cross-border fraud, including prize promotions, sweepstakes scams, foreign money offers, advance-fee loans, and foreign lotteries, and file 20 percent of all cross-border fraud complaints;

Whereas there was an 80 percent increase in 2003 of reports of Internet fraud targeting older Americans, and the amount of money lost by older Americans to Internet fraud increased from $2,690,618 in 2002 to $12,818,313 in 2003, a 375 percent increase in money lost;

Whereas the Federal Trade Commission reports that 27,300,000 people in the United States have been victims of identity theft in the last 5 years, including 9,900,000 people in the last year alone, and that identity theft has cost businesses and financial institutions nearly $48,000,000,000, in addition to the reported $5,000,000,000 in out-of-pocket expenses incurred by consumer fraud victims;

Whereas there was a 200 percent increase in 2002 of identity theft targeting older Americans, and credit card fraud is perpetrated against older Americans at a higher rate than the general population of the United States;

Whereas the Federal Trade Commission continues to successfully implement its do-not-call registry, with 60 percent of consumers surveyed stating that they registered and 80 percent of the registered consumers surveyed reporting fewer calls, but more older Americans need to be aware that the do-not-call registry is available;

Whereas fraud schemes targeting older Americans have caused losses estimated at millions of dollars a year, and have cost some older Americans their homes;

Whereas consumer awareness is the best protection from telemarketing, mail, Internet, and identity fraud schemes, and the Federal Trade Commission and the United States Postal Inspection Service have resources available to educate and assist the public; and

Whereas it is vital to increase public awareness of the enormous impact that fraud has on older Americans and to educate the public, older Americans, their families, and their caregivers about a wide array of fraud schemes, such as telemarketing, mail, Internet, and identity fraud, and how to report suspected fraud to the appropriate authorities: Now, therefore, be it

Resolved, That the Senate—

(1) designates October 2004 as "Protecting Older Americans From Fraud Month"; and

(2) requests that the President issue a proclamation calling on the people of the United States to observe the month with appropriate activities and programs that—

(A) prevent the purveyors of telemarketing, mail, Internet, and identity fraud from victimizing the people of the United States; and

(B) educate and inform the public, older Americans, their families, and their caregivers about a number of financial crimes, such as telemarketing, mail, Internet, and identity fraud.

DEPARTMENT OF VETERANS AFFAIRS HEALTH CARE PERSONNEL ENHANCEMENT ACT OF 2004

Mr. FRIST. I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 713, S. 2484.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2484) to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists, to authorize alternate work schedules and executive pay for nurses.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Veterans' Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 2484

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Department of Veterans Affairs Health Care Personnel Enhancement Act of 2003".

[SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

[Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

[SEC. 3. IMPROVEMENT AND SIMPLIFICATION OF PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.

[(a) Chapter 74 is amended—

[(1) In section 7404b—

[(A) by striking "(1)" after "(b)";

[(B) by striking the list of position grades under the caption, "PHYSICIAN AND DENTIST SCHEDULE" and inserting in lieu thereof the following:

["Physician grade.
[Dentist grade."; and

[(C) by striking paragraph (2) in its entirety;

[(2) In section 7404(c) by striking "special"; and

[(3) By striking Subchapter III in its entirety and inserting in lieu thereof the following sections:

["SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

["§ 7431. Pay authority

["(a) In order to recruit and retain highly qualified physicians and dentists in the Veterans Health Administration, the Secretary shall establish and periodically adjust the rates of pay for physicians and dentists based upon the factors specified in subsection (b). Total pay shall be benchmarked to representative salaries of non-Department physicians, dentists, and health care clinician-executives.

["(b) Pay for physicians and dentists employed in the Veterans Health Administration shall have three components:

["(1) BASE PAY.—This shall be a uniform pay band applicable nationwide. The minimum rate shall be the maximum rate for Chief grade in the Veterans Health Administration Physician and Dentist Pay Schedule in effect on the day before the date of enactment of this Act. The maximum rate may not exceed the rate of basic pay authorized by section 5316 of title 5 for Level V of the Executive Schedule. The Secretary shall adjust annually the minimum rate by the same percentage as the adjustment under section 5303 of title 5 in the rates of pay for the General Schedule, and the maximum rate in accordance with section 5318 of title 5. Administration facilities, under regulations prescribed by the Secretary, may set individual base pay anywhere within the pay band.

["(2) MARKET PAY.—This shall be a variable pay band based on geographic area, specialty, assignment, personal qualifications, and individual experience, and shall be established and adjusted locally in accordance with regulations prescribed under subsection (c). Administration facilities will set individual market pay in accordance with regulations prescribed by the Secretary. The Under Secretary for Health shall periodically review and recommend to the Secretary adjustments to the market pay band based on published healthcare workforce employment and compensation data. The Secretary may adjust the market pay band periodically based on the recommendations of the Under Secretary and in response to changing health-care labor trends.

["(3) PERFORMANCE PAY.—

["(A) There shall be a variable pay band linked to the physician's or dentist's achievement of specific corporate goals and individual performance objectives. Physicians and dentists other than those specified in subsection (f)(1) shall not be eligible for this component during the first year of appointment. The amount payable to a physician or dentist for this component may vary based on individual achievement. The performance component paid to any physician or dentist other than those specified in subsection (f)(1) will be in accordance with regulations prescribed by the Secretary and may not exceed $10,000 in a year.

["(B) In accordance with regulations prescribed by the Secretary, ten percent of the benchmark total pay for physicians and dentists specified in subsection (f)(1) shall be linked to the physician's or dentist's achievement of specific corporate goals and individual performance objectives as a performance component. Administration facilities may set the performance pay in accordance with regulations prescribed by the Secretary.

["(c) Compensation paid under this subchapter shall be considered pay for all purposes; included but not limited to retirement benefits under chapters 83 and 84 of title 5, United States Code, and other benefits. Notwithstanding the preceding sentence, amounts paid for performance pay under subsection (b)(3)(A) shall not be considered pay for retirement benefits under chapters 83 and 84 of title 5, United States Code.

["(d) Any decrease in pay that results from an adjustment to the market or performance component of a physician's or dentist's total compensation does not constitute an adverse action.

["(e) In no case may the total amount of compensation paid to a physician or dentist under this title in any one year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3, United States Code.

["(f) COVERED POSITIONS.—

["(1) This subsection applies to physicians and dentists in the following positions: Chiefs of Staff or equivalent facility-level and Network-level clinical management positions (including Network Clinical Service Managers), facility and Network or Regional executive positions (including Network Service Line Coordinators and Medical Center/Health Care System Directors), Central Office executive positions, and such other positions under this title as the Secretary may determine in accordance with regulations prescribed in accordance with section 7434(a).

["(2) Notwithstanding the special relationships of the Veterans Health Administration with affiliated institutions under section 7302, physicians and dentists serving in covered positions and receiving compensation under this subchapter may not receive any compensation on or after the date specified in regulations issued by the Secretary, through employment or contract with, or negotiate or accept any offer of employment from, any institution or other entity that is affiliated with the VA medical center to which they are assigned, or affiliated with a VA medical center which falls under their official responsibilities. This limitation shall include receiving compensation through or from practice groups or any other entities associated with the affiliated institution(s), or from entities under contract with the affiliated institution(s). Compensation includes anything of monetary value, including but not limited to honoraria, salary, and any fringe benefits such as: tuition waiver, insurance protection, contributions to a retirement fund, payment for books, below-market interest loans, or employee discounts. Nothing in this section precludes physicians and dentists in covered positions from holding uncompensated appointments as other than officer, director, or trustee with affiliated institutions in furtherance of section 7302.

["(3) Subject to any conditions the Secretary may be regulation prescribe, the Secretary may, on a case-by-case basis, suspend or waive the limitation in paragraph (2) to an individual physician or dentist, when necessary and appropriate to carry out the purposes of section 7302, to assist communities or practice groups to meet medical needs which otherwise would not be met, or where the Secretary determines that suspension or waiver would be in the best interest of the United States. The Secretary shall make any suspension or wavier made pursuant to this paragraph in writing.

["§ 7432. Transition to new pay system

["(a) All current special pay agreements entered into under the provisions of this subchapter in effect on the day before the date of enactment of this Act shall terminate on the date of enactment of this Act. Any physician or dentist in receipt of special pay on that date shall continue to be compensated as if such agreement were still in effect until the date specified in regulations issued by the Secretary implementing this new subchapter.

["(b) Physicians and dentists appointed or reassigned on or after the date of enactment of this Act, but before implementation of this subchapter shall be compensated in accordance with sections 7404, 7405, 7433, 7434, 7435, and 7436, as applicable, in effect on the day before the date of enactment of this Act. Any such physician or dentist shall continue to be compensated at the applicable rates until such date specified in regulations issued by the Secretary implementing the new pay system. No special pay agreement will be required of any physician or dentist receiving such pay.

["(c) During the period from the date of enactment of this Act through the date of implementation of this subchapter, physicians and dentists paid pursuant to this section shall be subject to paragraphs (1), (2), (4), (5), and (6) of subsection (b) of section 7438 in effect on the day before the date of enactment of this Act.

["(d) The amount of pay paid under this subchapter for a physician or dentist appointed before the effective date of regulations implementing this subchapter shall be not less than the amount of base pay and special pay such physician or dentist received under this title on the day before such effective date.

["(e) Special pay subject to the provisions of section 7438, as in effect before the date of enactment of this section, or subject to subsection (c), paid to Veterans Health Administration physicians and dentists appointed before the effective date of regulations implementing this subchapter and who separate after such effective date, shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5.

["§ 7433. Pay for Under Secretary for Health

["(a) Section 5314 of title 5 establishes the base pay for the Under Secretary for Health at Level III of the Executive Schedule.

["(b) In addition to base pay under section 5314 of title 5, the Under Secretary for Health shall be eligible for Market Pay under section 7431(b)(2).

[''(c) TRANSITION.—The current special pay agreement of the Under Secretary for Health entered into under the provisions of this subchapter in effect on the day before the date of enactment of this Act shall terminate on the date of enactment of this Act. The incumbent Under Secretary for Health on the date of enactment of this Act shall continue to receive special pay as if such agreement were still in effect until the date specified in regulations issued by the Secretary implementing this new subchapter. Any Under Secretary for Health appointed on or after the date of enactment of this Act, but before the date specified in regulations issued by the Secretary implementing this new subchapter, shall receive special pay in accordance with sections 7432(d)(2), 7433, and 7437(a) in effect on the day before the date of enactment of this Act.

["§ 7434. Administrative provisions

[''(a) After receiving the recommendations of the Under Secretary for Health, the Secretary, pursuant to the authority in section 7421(a), shall prescribe regulations implementing the physician and dentist pay system established in this new subchapter. Such regulations shall include the method for computing the pay for all physicians and dentists in the Veterans Health Administration under this title.

[''(b) Eighteen months after the Secretary issues regulations implementing this subchapter and annually thereafter for the next ten years, the Secretary shall provide to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the authorities under this subchapter. Each report shall include:

[''(1) a description of the rates of pay in effect during the preceding fiscal year with a comparison to the rates in effect during the previous fiscal year by facility and by specialty;

[''(2) the number of physicians and dentists who left employment with the Veterans Health Administration during the preceding year;

[''(3) the number of unfilled physician and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and a summary of the reasons that such positions remain unfilled; and

[''(4) an assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

[In addition, the first two reports following implementation of this subchapter shall also include a comparison of staffing levels, contract expenditures, and average salary of physicians and dentists by facility and specialty for the preceding and previous fiscal years.''.

[(b) The title and list of sections for Subchapter III in the table of sections at the beginning of Chapter 74 is amended to read as follows:

[''SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

[''Sec. 7431. Pay authority.
[''Sec. 7432. Transition to new pay system.
[''Sec. 7433. Pay for Under Secretary for Health.
[''Sec. 7434. Administrative provisions.''.

[SEC. 4. ALTERNATE WORK SCHEDULES.

[(a) Chapter 74 is amended by adding a new section 7456a:

["§ 7456a. Alternate work schedules

[''(a) COVERAGE.—This section applies to registered nurses appointed under this chapter.

[''(b) 36/40 WORK SCHEDULE.—

[''(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a workweek shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek.

[''(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 40-hour basic workweek shall be subject to subparagraphs (B) and (C).

[''(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 36-hour tour of duty within the workweek shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

[''(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 36-hour tour of duty within a workweek is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a day on which such nurse's regularly scheduled three 12-hour tours fall, or in excess of 12 hours for any day included in the regularly scheduled 36-hour tour of duty, or in excess of 40 hours during an administrative workweek.

[''(ii) Except as provided in subparagraph (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

[''(3) A nurse who works a 36/40 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for nine hours of absence.

[''(c) 7/7 WORK SCHEDULE.—

[''(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work seven regularly scheduled 10-hour tours of duty, with seven days off duty, within a two-week pay period, shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 80 hours for the pay period.

[''(2)(A) Basic and additional pay for a registered nurse who is considered under paragraph (1) to have worked a full 80-hour pay period shall be subject to subparagraphs (B) and (C).

[''(B) The hourly rate of basic pay for such a nurse for service performed as part of a regularly scheduled 70-hour tour of duty within the pay period shall be derived by dividing the nurse's annual rate of basic pay by 1,820.

[''(C)(i) Such a nurse who performs a period of service in excess of such nurse's regularly scheduled 70-hour tour of duty within a pay period is entitled to overtime pay under section 7453(e) of this title, or other applicable law, for officially ordered or approved service performed in excess of eight hours on a day other than a day on which such nurse's regularly scheduled seven 10-hour tours fall, or in excess of 10 hours for any day included in the regularly scheduled 70-hour tour of duty, or in excess of 80 hours during a pay period.

[''(ii) Except as provided in subparagraph (i), a registered nurse to whom this subsection is applicable is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 10-hour tour of duty.

[''(3) A nurse who works a 7/7 work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of eight hours of leave for seven hours of absence.

[''(d) 9-MONTH WORK SCHEDULE.—The Secretary may authorize a registered nurse appointed under section 7405, with the nurse's written consent, to work full-time for nine months with three months off duty, within a fiscal year, and be paid at 75 percent of the full-time rate for such nurse's grade for each pay period of such fiscal year. Such employee shall be considered a .75 full-time equivalent employee in computing full-time equivalent employees for the purposes of determining compliance with personnel ceilings. Service on this schedule shall be considered part-time service for purposes of computing benefits under chapters 83 and 84 of title 5.

[''(e) The Secretary shall prescribe regulations for the implementation of this section.''.

[(b) The title and list of sections for Subchapter IV in the table of sections at the beginning of Chapter 74 is amended to read as follows:

[''SUBCHAPTER IV—PAY FOR NURSES AND OTHER HEALTH-CARE PERSONNEL

[''Sec. 7451. Nurses and other health-care personnel: competitive pay.
[''Sec. 7452. Nurses and other health-care personnel: administration of pay.
[''Sec. 7453. Nurses: additional pay.
[''Sec. 7454. Physician assistants and other health care professionals: additional pay.
[''Sec. 7455. Increases in rates of basic pay.
[''Sec. 7456. Nurses: special rules for weekend duty.
[''Sec. 7456a. Alternate work schedules.
[''Sec. 7457. On-call pay.
[''Sec. 7458. Recruitment and retention bonus pay.''.

[SEC. 5. NURSE EXECUTIVE SPECIAL PAY.

[(a) Section 7452 is amended by adding at the end thereof:

[''(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary, in accordance with regulations the Secretary shall prescribe, shall pay special pay to the nurse executive at each Department health-care facility or at Central Office.

[''(2) Special pay paid under paragraph (1) shall be a minimum of $10,000 and a maximum of $25,000. The amount paid to each nurse executive shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the nurse executive's personal qualifications, the characteristics of the health-care facility, e.g., tertiary, single site or multi-site, nature and number of specialty care units, demonstrated recruitment and retention difficulties, and such other factors the Secretary deems appropriate.

[''(3) Special pay paid under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including but not limited to retirement benefits under chapters 83 and 84 of title 5, United States Code, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V.".

[SEC. 6. EFFECTIVE DATE.

[The amendments to title 38, United States Code, contained herein shall take effect on the first day of the first pay period on or after the later of April 1, 2004, or six months after the date of enactment.

[SEC. 7. ADMINISTRATIVE PROVISION.

[(a) Chapter 74 is amended by adding a new section 7427:

["§ 7427. Functions

["The functions assigned to the Secretary and other officers of the Department of Veterans Affairs under this chapter are vested in their discretion."]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Health Care Personnel Enhancement Act of 2004".

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. SIMPLIFICATION AND IMPROVEMENT OF GRADE AND PAY PROVISIONS FOR PHYSICIANS AND DENTISTS.

(a) SIMPLIFICATION OF GRADES AND GRADE REQUIREMENTS.—Section 7404(b) is amended—

(1) by striking "(1)" after "(b)";

(2) in the Physician and Dentist Schedule, by striking the items relating to the grades and inserting the following:

"Physician grade.

"Dentist grade."; and

(3) by striking paragraph (2).

(b) SIMPLIFICATION AND IMPROVEMENT OF PAY AUTHORITIES.—Subchapter III of chapter 74 is amended to read as follows:

"SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

"§ 7431. Pay

"(a) ELEMENTS OF PAY.—Pay of physicians and dentists in the Veterans Health Administration shall consist of three elements as follows:

"(1) Base pay as provided for under subsection (b).

"(2) Market pay as provided for under subsection (c).

"(3) Incentive pay as provided for under subsection (d).

"(b) BASE PAY.—One element of pay for physicians and dentists shall be base pay. Base pay shall meet the following requirements:

"(1) Each physician and dentist is entitled to base pay determined under the Physician and Dentist Base and Longevity Pay Schedule.

"(2) The Physician and Dentist Base and Longevity Pay Schedule is composed of 15 rates of base pay designated, from the lowest rate of pay to the highest rate of pay, as base pay steps 1 through 15.

"(3) The rate of base pay payable to a physician or dentist is based on the total number of the years of the service of the physician or dentist in the Veterans Health Administration as follows:

"For a physician or dentist with total service of:	***The rate of base pay is the rate payable for:***
two years or less	*step 1*
more than 2 years and not more than 4 years	*step 2*
more than 4 years and not more than 6 years	*step 3*
more than 6 years and not more than 8 years	*step 4*
more than 8 years and not more than 10 years	*step 5*
more than 10 years and not more than 12 years	*step 6*
more than 12 years and not more than 14 years	*step 7*
more than 14 years and not more than 16 years	*step 8*
more than 16 years and not more than 18 years	*step 9*
more than 18 years and not more than 20 years	*step 10*
more than 20 years and not more than 22 years	*step 11*
more than 22 years and not more than 24 years	*step 12*
more than 24 years and not more than 26 years	*step 13*
more than 26 years and not more than 28 years	*step 14*
more than 28 years	*step 15.*

"(4) At the same time as rates of basic pay are increased for a year under section 5303 of title 5, the Secretary shall increase each rate of base pay payable under this subsection for that year by a percentage equal to the percentage by which rates of basic pay are increased under such section for that year.

"(c) MARKET PAY.—One element of pay for physicians and dentists shall be market pay. Market pay shall meet the following requirements:

"(1) Subject to paragraph (3), each physician and dentist is eligible for market pay.

"(2) Market pay shall consist of pay intended to reflect the value to the Veterans Health Administration of the skills, experience, and availability of a particular physician or dentist within a particular health care labor market.

"(3) The annual amount of the market pay payable to a physician or dentist shall be determined by the Secretary on a case-by-case basis, subject to paragraph (5). The sum of the total amount of the market pay determined for a physician or dentist under this subsection and the annual rate of base pay payable to the physician or dentist under subsection (b) may not be less than the minimum amount, nor more than the maximum amount, applicable to the physician or dentist under paragraph (4).

"(4)(A) Not less often than once every two years, the Secretary shall prescribe for Departmentwide applicability the minimum and maximum amounts of annual pay (excluding incentive pay under subsection (d)) that may be paid under this section to physicians and the minimum and maximum amounts of annual pay (excluding incentive pay under subsection (d)) that may be paid under this section to dentists.

"(B) The Secretary may prescribe for Departmentwide applicability under this paragraph separate minimum and maximum amounts of pay for a specialty or subspecialty. If the Secretary prescribes separate minimum and maximum amounts for a specialty or subspecialty, the Secretary may establish up to four tiers of minimum and maximum amounts for such specialty or subspecialty and prescribe for each tier a minimum amount and a maximum amount that the Secretary determines appropriate for the professional responsibilities, professional achievements, and administrative duties of the physicians or dentists (as the case may be) whose pay is set within that tier.

"(5)(A) In determining the amount of the market pay for a physician or dentist and determining a tier (if any) to apply to a physician or dentist under paragraph (4)(B), the Secretary shall consult with and consider the recommendations of the Medical Professional Standards Board for the medical facility of the Department at which the physician or dentist is employed, except in the case of a physician or dentist whose market pay is determined under subparagraph (B).

"(B) In the case of a physician or dentist who is a member of a Medical Professional Standards Board, the Secretary shall determine the amount of the market pay and the tier (if any) applicable to the physician or dentist under paragraph (4)(B) in accordance with such procedures and standards as the Secretary shall prescribe. Such procedures and standards shall, to the maximum extent practicable, be similar to the procedures and standards applicable to determinations of the amount of market pay and the tier applicable to physicians and dentists under paragraph (4)(B) who are not members of a board. Under such regulations, no member of a board may participate in or have a consultative role in determining the amount of market pay or tier of such member or any other member of such board.

"(C) A Medical Professional Standards Board consulted under this subparagraph shall consist of at least three and not more than five persons, each of whom is either a physician or a dentist. Not less than a majority of the members of the board shall be practicing clinicians in their professions.

"(6) Subject to paragraph (7), the determination of the amount of market pay of a physician or dentist shall take into account—

"(A) the level of experience of the physician or dentist in the specialty or subspecialty of the physician or dentist;

"(B) the need for the specialty or subspecialty of the physician or dentist at the Department facility concerned;

"(C) the health care labor market for the specialty or subspecialty of the physician or dentist, which may cover any geographic area the Secretary considers appropriate for the specialty or subspecialty;

"(D) the professional reputation of the physician or dentist;

"(E) the board certifications, if any, of the physician or dentist;

"(F) the prior experience, if any, of the physician or dentist as an employee of the Veterans Health Administration; and

"(G) such other considerations as the Secretary considers appropriate.

"(7) The amount that any consideration specified in paragraph (6) may contribute to the amount of market pay may not exceed, or be less than, such amount as the Secretary may specify in regulations prescribed under section 7433 of this title, or in directives issued for purposes of this subsection.

"(8) In determining amounts of market pay, the Secretary—

"(A) shall consult two or more national surveys of pay for physicians or dentists, as applicable, whether prepared by public, private, or quasi-public entities; and

"(B) may utilize the recommendations or assistance of one or more boards of physicians or dentists, as applicable, that are appointed by the Secretary for purposes of this subsection.

"(9) The amount of market pay of a physician or dentist shall be adjusted at such times as the Secretary considers appropriate in order to ensure the retention of qualified physicians and dentists by the Veterans Health Administration.

"(10) The amount of market pay of a physician or dentist shall be evaluated by the Secretary not less often than once every 24 months.

The amount of market pay may be adjusted as the result of an evaluation under this paragraph. A physician or dentist whose market pay is increased by reason of an evaluation under this paragraph shall receive written notice of the increase in accordance with procedures prescribed under section 7433 of this title.

"(11) No adjustment of the amount of market pay of a physician or dentist under paragraph (9) or (10) may result in a reduction of the amount of market pay of the physician or dentist.

"(d) INCENTIVE PAY.—One element of pay for physicians and dentists shall be incentive pay. Incentive pay shall meet the following requirements:

"(1) Each physician and dentist is eligible for incentive pay.

"(2) Incentive pay shall consist of an amount intended to recognize outstanding contributions by a physician or dentist to—

"(A) the facility in which employed;

"(B) the furnishing of care to veterans; or

"(C) the practice of medicine or dentistry, as applicable.

"(3) The amount of incentive pay shall be determined for a physician or dentist by the Secretary.

"(4) The amount of incentive pay shall be determined for a physician or dentist on a case-by-case basis.

"(5) The amount of incentive pay paid to a physician or dentist in a calendar year may not exceed $10,000.

"(e) DELEGATION OF RESPONSIBILITIES.—The Secretary may delegate to an appropriate officer or employee of the Department any responsibility of the Secretary under subsection (c) or (d), except for the responsibilities of the Secretary under subsection (c)(4).

"(f) LIMITATION ON TOTAL COMPENSATION.—In no case may the total amount of compensation paid to a physician or dentist under this section in any year exceed the amount of annual compensation (excluding expenses) specified in section 102 of title 3.

"(g) TREATMENT OF PAY.—(1) Except as provided in paragraph (2), pay under this subchapter shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5 and other benefits.

"(2) Incentive pay under subsection (d) shall not be considered pay for purposes of retirement benefits under chapters 83 and 84 of title 5.

"(h) DECREASES IN CERTAIN PAY NOT TREATABLE AS ADVERSE ACTION.—A decrease in pay of a physician or dentist resulting from an adjustment in the amount of incentive pay of the physician or dentist under subsection (d) shall not be treated as an adverse action.

"§ 7432. Pay of Under Secretary for Health

"(a) BASE PAY.—The base pay of the Under Secretary for Health shall be the annual rate of basic pay for positions at Level III of the Executive Schedule under section 5314 of title 5.

"(b) MARKET PAY.—(1) In the case of an Under Secretary for Health who is also a physician or dentist, in addition to the base pay specified in subsection (a) the Under Secretary for Health may also be paid the market pay element of pay of physicians and dentists under section 7431(c) of this title.

"(2) The amount of market pay of the Under Secretary for Health under this subsection shall be established by the Secretary.

"(3) In establishing the amount of market pay of the Under Secretary for Health under this subsection, the Secretary shall utilize an appropriate health care labor market selected by the Secretary for purposes of this subsection.

"§ 7433. Administrative matters

"(a) REGULATIONS.—(1) The Secretary shall prescribe regulations relating to the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

"(2) In prescribing the regulations, the Secretary shall take into account the recommendations of the Under Secretary for Health on the administration of this subchapter.

"(b) REPORTS.—(1) Not later than 18 months after the Secretary prescribes the regulations required by subsection (a), and annually thereafter for the next 10 years, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the pay of physicians and dentists in the Veterans Health Administration under this subchapter.

"(2) Each report under this subsection shall include the following:

"(A) A description of the rates of pay in effect during the preceding fiscal year with a comparison to the rates in effect during the fiscal year preceding fiscal year, set forth by facility and by specialty.

"(B) The number of physicians and dentists who left the Veterans Health Administration during the preceding fiscal year.

"(C) The number of unfilled physician positions and dentist positions in each specialty in the Veterans Health Administration, the average and maximum lengths of time that such positions have been unfilled, and an assessment of the reasons that such positions remain unfilled.

"(D) An assessment of the impact of implementation of this subchapter on efforts to recruit and retain physicians and dentists in the Veterans Health Administration.

"(3) The first two annual reports under this subsection shall also include a comparison of staffing levels, contract expenditures, and average salaries of physicians and dentists in the Veterans Health Administration for the fiscal year preceding such report and for the fiscal year preceding such fiscal year, set forth by facility and by specialty.".

(c) INITIAL RATES OF BASE PAY FOR PHYSICIANS AND DENTISTS.—The initial rates of base pay established for the base pay steps under the Physician and Dentist Base and Longevity Pay Schedule provided in section 7431(b) of title 38, United States Code (as added by subsection (b)), are as follows:

Base Pay Step:	**Rate of Pay:**
1	$90,000
2	$93,000
3	$96,000
4	$99,000
5	$102,000
6	$105,000
7	$108,000
8	$111,000
9	$114,000
10	$117,000
11	$120,000
12	$123,000
13	$127,000
14	$130,000
15	$133,000.

(d) TRANSITION PROVISIONS.—

(1) PHYSICIANS AND DENTISTS.—

(A) PAY.—(i) A physician or dentist in receipt of pay under section 7404 or 7405 of title 38, United States Code, as of the day before the date of the enactment of this Act shall continue to receive pay under such section (as in effect on the day before the date of the enactment of this Act) until the effective date of this Act under section 8 of this Act.

(ii) A physician or dentist appointed or reassigned on or after the date of the enactment of this Act, but before the effective date of this Act, shall be compensated in accordance with applicable provisions of section 7404 or 7405 of title 38, United States Code (as in effect on the day before date of the enactment of this Act), until the effective date of this Act.

(B) SPECIAL PAY.—(i) A special pay agreement entered into by a physician or dentist under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, a physician or dentist in receipt of special pay pursuant to such an agreement on that date shall continue to receive special pay under the terms of such agreement until the effective date of this Act.

(ii) A physician or dentist described in subparagraph (A)(ii) may be paid special pay under applicable provisions of section 7433, 7434, 7435, or 7436 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date appointment or reassignment of such physician or dentist, as the case may be, and ending on the effective date of this Act. However, no special pay agreement shall be required for the payment of special pay under this clause.

(C) TREATMENT OF SPECIAL PAY.—(i) Special pay paid under subparagraph (B) shall be subject to the provisions of paragraphs (1), (2), (4), (5), and (6) of section 7438(b) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act).

(ii) Special pay paid under subparagraph (B) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(D) PRESERVATION OF PAY.—The amount of pay paid under subchapter III of chapter 74 of title 38, United States Code (as amended by subsection (a)), to a physician or dentist appointed or reassigned before the effective date of this Act may be not less than the aggregate amount of pay and special pay paid to the physician or dentist under chapter 74 of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), as of the day before the effective date of this Act.

(2) UNDER SECRETARY FOR HEALTH.—

(A) SPECIAL PAY.—(i) The current special pay agreement entered into by the Under Secretary for Health under subchapter III of chapter 74 of title 38, United States Code, before the date of the enactment of this Act shall terminate on the date of the enactment of this Act. However, the Under Secretary shall continue to receive special pay under the terms of such agreement until the effective date of this Act.

(ii) An individual appointed as Under Secretary for Health on or after the date of the enactment of this Act and before the effective date of this Act shall be paid special pay in accordance with the provisions of section 7432(d)(2), 7433, and 7437(a) of title 38, United States Code (as in effect on the day before the date of the enactment of this Act), during the period beginning on the date of appointment and ending on the effective date of this Act. However, no special pay agreement shall be required for the payment of special pay under this clause.

(B) TREATMENT OF SPECIAL PAY.—Special pay paid under subparagraph (A) shall be fully creditable for purposes of computing benefits under chapters 83 and 84 of title 5, United States Code.

(e) CONFORMING AMENDMENT.—Section 7404(c) is amended by striking "special pay" and inserting "pay".

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 74 is amended by striking the items relating to subchapter III and inserting the following new items:

"SUBCHAPTER III—PAY FOR PHYSICIANS AND DENTISTS

"Sec. 7431. Pay.

"Sec. 7432. Pay of Under Secretary for Health.

"Sec. 7433. Administrative matters.".

SEC. 4. ALTERNATE WORK SCHEDULES FOR REGISTERED NURSES.

(a) IN GENERAL.—(1) Chapter 74 is amended by inserting after section 7456 the following new section:

"§ 7456A. Nurses: alternate work schedules

"(a) APPLICABILITY.—This section applies to registered nurses appointed under this chapter.

"(b) 36/40 WORK SCHEDULE.—(1) Subject to paragraph (2), if the Secretary determines it be necessary in order to obtain or retain the services of registered nurses at any Department health-care facility, the Secretary may provide, in the case of nurses employed at such facility, that such nurses who work three regularly scheduled 12-hour tours of duty within a workweek shall be considered for all purposes (except computation of full-time equivalent employees for the purposes of determining compliance with personnel ceilings) to have worked a full 40-hour basic workweek.

"(2)(A) Basic and additional pay for a nurse who is considered under paragraph (1) to have worked a full 40-hour basic workweek shall be subject to subparagraphs (B) and (C).

"(B) The hourly rate of basic pay for a nurse covered by this paragraph for service performed as part of a regularly scheduled 36-hour tour of duty within the workweek shall be derived by dividing the nurse's annual rate of basic pay by 1,872.

"(C)(i) A nurse covered by this paragraph is entitled to overtime pay for work performed in such periods as the Secretary shall prescribe.

"(ii) Except as otherwise provided in clause (i), a nurse covered by this paragraph is not entitled to additional pay under section 7453 of this title, or other applicable law, for any period included in a regularly scheduled 12-hour tour of duty.

"(3) A nurse who works a work schedule described in this subsection who is absent on approved sick leave or annual leave during a regularly scheduled 12-hour tour of duty shall be charged for such leave at a rate of ten hours of leave for every nine hours of absence.

"(4) A nurse working a work schedule under this subsection shall be eligible for holiday pay under section 7453(d) of this title for any service performed by the nurse on a designated holiday under such section, regardless of whether such holiday occurs during or outside the nurse's regularly scheduled tour of duty under such work schedule.

"(c) 9-MONTH WORK SCHEDULE FOR CERTAIN NURSES.—(1) The Secretary may authorize a registered nurse appointed under section 7405 of this title, with the nurse's written consent, to work fulltime for nine months with 3 months off duty, within a fiscal year, and be paid at 75 percent of the fulltime rate for such nurse's grade for each pay period of such fiscal year.

"(2) A nurse who works under the authority in paragraph (1) shall be considered a 0.75 fulltime equivalent employee in computing fulltime equivalent employees for the purposes of determining compliance with personnel ceilings.

"(3) Work under this subsection shall be considered parttime service for purposes of computing benefits under chapters 83 and 84 of title 5.

"(4) A nurse who works under the authority in paragraph (1) shall be considered a fulltime employee for purposes of chapter 89 of title 5.

"(d) TREATMENT AS FULL-TIME EMPLOYEE.—(1) A nurse working a work schedule under subsection (b) or (c) who is a full-time employee in non-probationary status at the commencement of work under such work schedule shall remain a full-time employee in non-probationary status while working under such work schedule.

"(2)(A) A nurse under a part-time appointment under section 7405(d) of this title who, while working a work schedule under subsection (b) or (c), performs hours of service (as determined in accordance with such subsection) equivalent to two years of service shall be treated as a full-time employee and no longer in probationary status.

"(B) In determining the hours of service performed by a nurse for purposes of subparagraph (A), any hours of service not performed under a work schedule under subsection (b) or (c) shall not be included.

"(e) NOTIFICATION OF MODIFICATION OF BENEFITS.—The Secretary shall provide each nurse with respect to whom an alternate work schedule under this section may apply written notice of the effect, if any, the alternate work schedule will have on the nurse's health care premium, retirement, life insurance premium, probationary status, or other benefit or condition of employment. The notice shall be provided not later than 14 days before the nurse consents to the alternate work schedule.

"(f) REGULATIONS.—The Secretary shall prescribe regulations to carry out this section.".

(2) The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7456 the following new item:

"Sec. 7456A. Nurses: alternate work schedules.".

(b) POLICY AGAINST WORK SHIFTS IN EXCESS OF 12 HOURS.—(1) It is the sense of Congress to encourage the Secretary of Veterans Affairs to prevent work shifts by nurses providing direct patient care in excess of 12 hours in any 24 hour period.

(2) Not later than one year after the date of the enactment of this Act and every year thereafter for the next two years, the Secretary shall certify to Congress whether or not each Veterans Health Administration facility has in place, as of the date of such certification, a policy designed to prevent work shifts by nurses providing direct patient care in excess of 12 hours in any 24 hour period.

(c) REPORT ON OVERTIME FOR CERTAIN NURSES.—(1) Not later than one year after the effective date of this Act, the Secretary of Veterans Affairs shall submit to Congress a report on the overtime, if any, worked by nurses covered by work schedules described by subsections (b) and (c) of section 7456A of title 38, United States Code (as added by subsection (a)), during the one-year period ending on the date of such report.

(2) The report shall set forth—

(A) the aggregate number of hours of overtime worked by nurses under each such work schedule during the one-year period ending on the date of the report; and

(B) the aggregate amount of overtime pay paid to nurses working under each such work schedule during such period.

SEC. 5. RATE OF PAY FOR DIRECTOR OF NURSING SERVICE.

(a) SENIOR EXECUTIVE SERVICE ES-6 RATE.—(1) Subchapter IV of chapter 74 is amended by adding at the end the following new section:

"§7459. Director of Nursing Service: rate of pay

"(a) SENIOR EXECUTIVE SERVICE ES-6 RATE.—The rate of pay for the Director of Nursing Service shall be equal to the sum of the maximum rate of basic pay established for the Senior Executive Service under section 5382 of title 5 and the amount of the locality-based comparability payment provided under section 5304 of such title for the Director's locality.

"(b) INAPPLICABILITY OF NURSE PAY PROVISION.—Section 7451 of this title does not apply to the Director of Nursing Service.".

(2) The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7458 the following new item:

"Sec. 7459. Director of Nursing Service: rate of pay.".

(b) CONFORMING AMENDMENT.—Section 7404(d) is amended by striking "section 7457" and inserting "sections 7457 and 7459".

SEC. 6. NURSE EXECUTIVE SPECIAL PAY.

Section 7452 is amended by adding at the end the following new subsection:

"(g)(1) In order to recruit and retain highly qualified Department nurse executives, the Secretary may, in accordance with regulations prescribed by the Secretary, pay special pay to the nurse executive at each location as follows:

"(A) Each Department healthcare facility.

"(B) The Central Office.

"(2) The amount of special pay paid to a nurse executive under paragraph (1) shall be not less than $10,000 or more than $25,000.

"(3) The amount of special pay paid to a nurse executive under paragraph (1) shall be based on factors such as the grade of the nurse executive position, the scope and complexity of the nurse executive position, the personal qualifications of the nurse executive, the characteristics of the healthcare facility concerned, the nature and number of specialty care units at the healthcare facility concerned, demonstrated difficulties in recruitment and retention of nurse executives at the healthcare facility concerned, and such other factors as the Secretary considers appropriate.

"(4) Special pay paid to a nurse executive under paragraph (1) shall be in addition to any other pay (including basic pay) and allowances to which the nurse executive is entitled, and shall be considered pay for all purposes, including retirement benefits under chapters 83 and 84 of title 5, and other benefits, but shall not be considered basic pay for purposes of adverse actions under subchapter V.".

SEC. 7. CLARIFICATION OF DISCRETIONARY NATURE OF VETERANS HEALTH ADMINISTRATION PERSONNEL ADMINISTRATION AUTHORITIES.

(a) IN GENERAL.—Chapter 74 is amended by inserting after section 7426 the following new section:

"§ 7427. Discretionary nature of functions

"Any authority assigned to the Secretary or another officer of the Department under this chapter shall be carried out at the discretion of the Secretary or other officer, as the case may be.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 74 is amended by inserting after the item relating to section 7426 the following new item:

"7427. Discretionary nature of functions.".

SEC. 8. EFFECTIVE DATE.

The amendments to title 38, United States Code, made by this Act shall take effect one year after the date of the enactment of this Act.

Mr. SPECTER. Mr. President, I seek recognition today to ask for Senate approval of a manager's amendment to S. 2484, the proposed "Department of Veterans Affairs Personnel Enhancement Act of 2004," and to ask for Senate approval of the bill as so amended. This amendment was developed in consultation with, and it has been approved by, the ranking member of the Senate Veterans' Affairs Committee, Senator BOB GRAHAM.

I introduced S. 2484 on June 1, 2004 at the request of the administration. That bill, in the form I introduced it, and as it was amended prior to its approval by the Senate Committee on Veterans' Affairs on July 20, 2004, is already explained in Senate Report 108-357. Accordingly, I will not detail provisions of the bill that are already explained in the Committee Report. Rather, I will confine this explanation to highlighting how the bill as now further amended—the "Manager's bill"—would modify the reported bill.

Section 3 of the reported bill makes changes in the system used by the Department of Veterans Affairs—VA—to compensate its physicians and dentists. The managers' bill contains many changes to this section. Some are primarily technical in nature and are designed to assure that the language of the bill actually accomplishes its intended purpose. These changes would, among other things, clarify how VA physicians' and dentists' retirement credits will be computed during the transition from the current to the new pay system; assure that statutory language requiring comparability pay increases is consistent with language in other Federal pay system statutes; and specify that physicians and dentists who work in VA headquarters will also be eligible for pay under the new pay system.

Other changes made to section 3 of the reported bill are more substantive. Almost entirely, they respond to comments that were made on the reported bill by VA officials, by VA employee representatives, by physician and dentist professional organizations, and by the staffs of interested Senators, and by the staff of the House of Representatives' Committee on Veterans' Affairs. First, there are two changes that would foster more public awareness of, and input on, decisions made by VA that would affect the pay of physicians and dentists. One change would require that the VA Secretary publish in the Federal Register any updates in the national "pay bands" he or she might establish under authority of this legislation; another would require VA's Under Secretary for Health to solicit the views of exclusive employee representatives and physicians' and dentists' professional organizations before making recommendations to the Secretary on "pay band" modifications or other regulatory changes.

Second, the Managers' bill would modify the reported bill's requirement that VA consult local Medical Professional Standards Boards—PSBs—prior to making decisions concerning the pay of physicians or dentists. It would only be required that an appropriate panel of physicians or dentists, as applicable, be consulted since not all VA facilities have an appropriate PSB in place. The managers' bill would also excise references to the required size of the board.

Third, the Managers' bill would require VA to provide a physician or dentist written notice of decisions made by VA concerning his or her "market-based" pay. Under the reported bill, such notification was only required in the event a physician's or dentist's pay were to increase.

Fourth, the Managers' bill would create an exception to the general rule contained in the reported bill that a physician's or dentist's pay may not be reduced during his or her tenure with VA. The managers' amendment would permit VA to change pay—and reduce pay—if a physician or dentist changes his or her assignment within a medical facility or moves from one VA facility to another. For example, if VA were to hire a cardiologist at the prevailing market salary for a practicing cardiologist, but that physician later becomes a VA primary care physician, VA would be allowed to adjust his or her pay to the primary care physician level. Similarly, if a physician is hired in Manhattan at a Manhattan salary and later transfers to the DesMoines VA Medical Center,' VA would be allowed to adjust his or her pay to DesMoines market rates. In cases where the move or change in assignment is involuntary due, for example, to disciplinary action, VA would be required to afford the employee an opportunity to appeal.

Fifth, the reported bill included a provision which would have allowed VA to award "incentive pay" of up to $10,000 to physicians or dentists in recognition of outstanding contributions to the facility, to the care of veterans, or to the practice of medicine or dentistry. It was suggested that these standards were too general. In response, the managers' bill specifies that such pay—renamed "performance pay"—would be awarded on the basis of the physician's or dentist's achievement of specific goals or objectives as revealed by the Secretary in advance. Additionally, the managers' bill would raise the amount payable as "performance pay" to $15,000 annually or 7.5 percent of the sum of a physician's or dentist's base and market pay, whichever is lower. Inasmuch as the achievement of "performance pay" objectives are intended to be encouraged only by the "positive reinforcement" of a prospective bonus, the managers' bill would prohibit VA from taking disciplinary actions against physicians or dentists for failing to meet goals outlined under this program.

Finally, the managers' bill, at VA's request, would make all of the changes to the VA physician and dentist compensation system effective the first pay period following January 1, 2006.

Section 4 of the reported bill authorizes alternate work schedules for VA nurses. The managers' bill makes a number of technical changes, and two substantive changes. On the technical side, the managers' bill, for example, clarifies the full-time vs. part-time status of nurses working alternate schedules and specifies a requirement that VA provide notice to employees whose benefits might change under a new work schedule. Substantively, one modification would require that VA pay overtime to nurses on a 36/40 schedule in three instances: when work over 12 hours in one day is performed; when more than 40 hours are worked in an administrative work week; and when more than 8 hours are worked on a day not originally scheduled for a 12-hour shift. Each of these over-time scenarios is consistent with current practice; the change is made purely to ensure maintenance of the status quo. A second substantive change would express the Sense of the Congress that VA should prevent work hours by nurses in excess of 12 consecutive hours or over 60 hours in any seven-day period, and require VA to certify to Congress that each VA facility has policies in place designed to prevent nurses from working more than these tours of duty. The patient safety-related reasons for these requirements are explained in Senate Report 108-357.

Section 5 of the reported bill would have provided a pay increase for the Director of Nursing Services in VA's Central Office. Due to disagreements concerning the implementation of this section of the bill, action on this proposed pay increase is deferred.

The substance of Section 6 of the reported bill is unchanged. It is merely renumbered in light of the removal of section 5.

Section 7 of the reported bill would have clarified VA authority with respect to certain personnel decisions. This provision, requested by VA as a purely technical "clarification" of existing law, was subject to much discussion and debate among VA officials, Committee staff, and employee representatives. It was taken by employee representatives to be a "stealth attempt" by VA to circumvent current collective bargaining agreements. The Committee does not ascribe such motives to VA, but it has withdrawn this provision from the managers' bill.

Section 8 of the reported bill specified that all provisions of the bill would have been effective one year following the date of enactment. Section 3 of the managers' bill changes the effective date applicable to that provision to the first pay period following January 1, 2006. The other provisions of the managers' bill would now take effect upon enactment of the managers' bill.

This legislation is the product of almost unprecedented open negotiation with very senior VA officials, unions representing Government employees, professional representatives of VA physicians and dentists, and other interested persons. This unprecedented "sunshine" has resulted, I think, in an exceptional bill. But for the extraordinary efforts of VA, union, and professional organization officials to resolve their differences in good faith, this improved managers' bill could not have emerged. They and the Congressional staff are to be complimented. But the efforts of one person—Mr. William T. Cahill, the Veterans Affairs Committee's Health Policy Counsel—deserve to be singled out for recognition. But for his steadfast and determined efforts to push this project through numerous impasses that had impeded its development, we would not have gotten to this day.

Mr. GRAHAM. Mr. President, I rise today to urge swift passage of S. 2484, which reflects a compromise agreement on a new system for compensating physicians and dentists in the Department of Veterans Affairs' VA health care system, as well as alternative work schedules for VA nurses. VA doctors and dentists have not gotten a pay adjustment in over a decade. All of these measures are aimed at improving VA's ability to recruit and retain quality health care professionals. I would like to highlight some of the key aspects of this legislation.

The compromise agreement sets forth a three-tiered system for paying VA physicians and dentists. The three tiers consist of base, market, and performance pay. The base pay element is similar to that employed by other Federal agencies, also known as the General Schedule GS—system. As such, increases are guaranteed for every 2 years a physician or dentist remains employed by VA.

The second component of the new pay system is market pay. This element will be implemented by the Secretary in the form of pay bands that will be determined by surveys of regional salaries in the academic and private sectors. Also relevant to the market pay determinations are factors such as the scarcity—or abundance—of certain specialty physicians, type and years of experience, and board certifications. Finally, the Secretary will consult with professional review panels composed of other physicians or dentists.

The final component is performance pay. Performance pay will be awarded to doctors and dentists if they meet certain goals and measures set forth by the Secretary. Currently, VA has extensive performance measures that it utilizes to motivate its health care providers and ensure quality of care. This element has a maximum of $15,000 or 7.5 percent of the sum of the base and market pay.

One other major section of this agreement establishes alternative work schedules for VA nurses. It is widely known that the entire country is suffering from a nursing shortage. VA anticipates that it will be hit especially hard by the retirement of a significant portion of its nursing workforce over the next 10 years. S. 2484 allows VA to employ different types of working schedules in order to attract more nurses to the system.

I am proud to have worked on this valuable piece of legislation for our Nation's veterans.

Mr. FRIST. I ask unanimous consent the substitute amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the amendment to the title be agreed to, the motions to reconsider be laid on the table en bloc, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (3973) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment in the nature of a substitute, as amended, was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

The bill (S. 2484), as amended, was passed.

The title was amended so as to read:

"An Act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes.".

ORDERS FOR WEDNESDAY, OCTOBER 6, 2004

Mr. FRIST. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. on Wednesday, October 6. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and there then be a period of morning business for up to 30 minutes, with the first half under the control of the majority leader and the second half under the control of the minority leader; further, that the Senate then resume consideration of S. 2845, the intelligence reform bill, as provided under the previous order; provided further that the debate prior to 11:30 be equally divided between the two managers, and that 15 minutes of that time be under the control of Senators WARNER and LEVIN.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, tomorrow morning the Senate will continue debate on the intelligence reform bill. Under a previous order, at 11:30 a.m. there will be a series of stacked votes on amendments to the bill. Following those votes, the Senate will continue working through the remaining amendments to the bill, and Senators should expect votes throughout the day.

I remind my colleagues that postcloture debate will expire late tomorrow afternoon. If we use all the remaining time, Senators should expect a stacked series of votes which will include any remaining pending amendments and final passage. It is my hope that we will not use all postcloture debate time.

In addition, I encourage Members to work together to dispose of as many amendments as possible in order to avoid a "mini vote-arama." Tomorrow will be a very busy day. I ask all Senators to plan accordingly.

ORDER FOR ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. FRIST. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order, following the remarks of Senator TALENT.

THANKING SENATORS

Mr. FRIST. Mr. President, shortly I will go into a quorum call while we wait a few minutes for Senator TALENT, but let me thank my colleagues on both sides of the aisle. We have had a very productive day, a very productive week. We set out with an objective several weeks ago of completing this very important intelligence reform bill. With the cooperation of all of our colleagues, we will complete this bill tomorrow.

Following completion of that bill, we will proceed to our internal Senate oversight reforms, and look forward to hopefully addressing that late tomorrow afternoon.

There are a number of other issues we laid out in the course of the day that are underway, including the FSC/ETI jobs manufacturing bill and the Homeland Security Appropriations bill. So we have a lot of work to do in a short period of time during the remainder of this week.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. TALENT. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

ILLUMINATION OF THE GATEWAY ARCH IN ST. LOUIS

Mr. TALENT. Mr. President, I rise tonight in support of legislation which I have sponsored along with Senator BOND that would authorize the Secretary of the Interior to illuminate the gateway arch with pink lighting in honor of Breast Cancer Awareness Month. I want to say how much I appreciate the cooperation from both sides of the aisle on this important measure so that we can get it done and passed in time to honor those who have struggled against this disease during that month which has been set aside to recognize what they have done.

It is amazing how many American families have been touched by this disease. Speaking personally, my mother fought and eventually lost the battle against breast cancer. Her struggle certainly had a profound impact on me and on my family.

Currently, breast cancer is the second leading cause of cancer deaths for women in the United States. Approximately 40,000 women in this country will die from the disease in 2004, and the American Cancer Society estimates that a woman in the United States has a 1 in 7 chance of developing invasive breast cancer during her lifetime, and this risk was 1 in 11 in 1975.

For the past 20 years, October has been designated as Breast Cancer Awareness Month. Events around the world are dedicated to spreading the message of early detection so that prevention and the ongoing search for a cure can continue. Throughout the month, women are reminded in many ways that regular screening for breast cancer continues to be the most effective way to detect this disease in its earliest stages and therefore save lives.

Recently, I was contacted by a group of Missourians who wanted to highlight the need for breast cancer awareness. They wanted to illuminate the arch, which is, of course, a landmark not only in Missouri but in the country—a landmark with both national and local significance. They wanted to illuminate it with pink lighting in order to commemorate Breast Cancer Awareness Month. People everywhere associate the pink ribbon and the color pink as a symbol of breast cancer awareness and the ongoing search for the cure.

Lighting the arch with pink lighting will also recognize the millions of women who are currently battling breast cancer and those who have lost their lives fighting their disease.

The bill I introduced will give the Secretary of the Interior the authority to allow for that kind of lighting of the arch one night in October. I am hopeful that women not only in Missouri but all around the country and around the world will see the arch and take the message of that lighting to heart.

I am very grateful to the majority leadership and the Democratic leadership as well for clearing this bill. I am grateful to the Senate for passing it by unanimous consent this evening.

I yield the floor.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

The **PRESIDING OFFICER**. Under the previous order, the Senate stands in adjournment until 9:30 a.m. tomorrow.

There being no objection, the Senate, at 8:17 p.m., adjourned until Wednesday, October 6, 2004, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate October 5, 2004:

FEDERAL HOUSING FINANCE BOARD

RONALD ROSENFELD, OF OKLAHOMA, TO BE A DIRECTOR OF THE FEDERAL HOUSING FINANCE BOARD FOR THE REMAINDER OF THE TERM EXPIRING FEBRUARY 27, 2009, VICE JOHN THOMAS KORSMO, RESIGNED.

MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION

MICHAEL BUTLER, OF TENNESSEE, TO BE A MEMBER OF THE BOARD OF TRUSTEES OF THE MORRIS K. UDALL SCHOLARSHIP AND EXCELLENCE IN NATIONAL ENVIRONMENTAL POLICY FOUNDATION FOR A TERM EXPIRING OCTOBER 6, 2008, VICE ERIC D. EBERHARD, TERM EXPIRED.

HOUSE OF REPRESENTATIVES—*Tuesday, October 5, 2004*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. BOOZMAN).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 5, 2004.

I hereby appoint the Honorable JOHN BOOZMAN to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 20, 2004, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10 a.m. today.

Accordingly (at 9 o'clock and 2 minutes a.m.), the House stood in recess until 10 a.m.

☐ 1000

AFTER RECESS

The recess having expired, the House was called to order at 10 a.m.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord, in a culture that prefers the ease of "either-or" thinking and "absolutes" sneak into everyday conversations, we need Your stable presence, Lord, to understand our own limitations and accept the differences of others.

Unless we are versed in holding onto the mystery in everyday living, life can be boring or filled with just too many contradictions.

Sometimes when we face the end of a term, the autumn of another year, we do look beyond the surface of daily events.

Slowly in the diminishing sunlight the shadows reveal the inner meaning of what has been really happening and what we do truly relish in what has been.

The autumnal events of life can still bear fruit, yet at another time, in another place, or in another person.

The job lost can lead to a work that needs to be done.

The problem unsolved can lead to more insightful questions.

And the self once lost in a crazy routine can be found again and live forever.

Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentlewoman from Connecticut (Ms. DELAURO) come forward and lead the House in the Pledge of Allegiance.

Ms. DELAURO led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

THE GLOBAL TEST IS A MISERABLE FAILURE

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, Senator KERRY says that our Nation must pass a global test before engaging in military action to protect ourselves. I wonder who gets to administer the test.

Certainly, Mr. KERRY would ask France and Germany for their opinions. Others would probably add Great Britain, Russia, China, and Japan to that list. Most certainly the U.N. and its member states would have a say where our military goes and why.

Unfortunately, the American people would not in a global test. Mr. KERRY would probably ignore a group of Iraqi women who were here in Washington recently. They said the question is not why we removed Saddam Hussein from power, but what took us so long.

An American President is accountable not to the world in how he protects this Nation, but to the American people who rely on him to act to protect them. Other countries should not be able to have veto power over our sovereignty.

Senator KERRY's global test is a miserable failure of a policy idea.

IN NOVEMBER, AMERICANS HAVE A CHANCE TO TRADE GEORGE BUSH

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, it may surprise many of my colleagues to hear this, but I am now convinced George Bush should remain in Washington. Now that D.C. has a baseball team, there is finally a job in this town which George Bush is qualified for and the work is not that hard or tough.

He may not know how many troops we need in Iraq, but even he knows that you need nine baseball players on the field; and in baseball, you do not declare mission accomplished until the game's last out.

I am surprised the White House has not boasted about the Expos' move from Montreal. After all, they are finally creating some jobs here in America.

Of course, the President would have some explaining to do to his new team. He will have to break it to them that they have just moved from a nation with universal health care to a Nation where 45 million people lack coverage. Welcome to the ownership society.

He will also need to warn them that it is not just chin-high fast balls that they need to watch out for in Washington, since the Republican Congress and the NRA just erased the city's gun laws.

When head of the Texas Rangers, George Bush traded Sammy Sosa. In November Americans have a chance to trade George Bush.

HELP PROMOTE HEALTHY LIFESTYLES IN AMERICA

(Mr. RYUN of Kansas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RYUN of Kansas. Mr. Speaker, I am known for running a 4-minute mile,

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and while today I run a 4-minute half-mile, I still make running a priority. I know that exercise is preventative medicine at best. Healthy, active lifestyles could save $76 billion in health care costs each year. Health insurance companies clearly have an incentive to keep their beneficiaries healthy.

There are 88 million inactive adults in the United States today. Sixty-one percent of adults exceed their target weight, increasing their risks for more than 30 illnesses, most of which are preventable. Exercise is beneficial to every age group, and for those over the age of 50, strength training has been proven to reduce osteoporosis and increase bone density.

Insurance companies can do more to promote healthy living by offering incentives for those who exercise regularly and encouraging preventative health screenings.

H. Con. Res. 34 commends the health insurance companies who are already acknowledging the benefits of exercise and rewarding their active beneficiaries and encouraging others to do the same. Join me in voting for H. Con. Res. 34 today and help promote healthy lifestyles in America.

REPUBLICAN HOUSE BRIBERY

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Mr. Speaker, over the weekend a former Republican Congressman accused Republican leaders here in the House of trying to bribe him in order to gain his support for legislation he did not support. This is not the first time House Republicans attempted to bribe Members of their caucus to vote a certain way, nor will it probably be the last.

This weekend on "Meet the Press," former Republican Congressman Tom Coburn said the Republican leadership offered him a bribe to vote in favor of a transportation bill.

Coburn told moderator Tim Russert that he did not want to support a Republican transportation bill because it was not paid for. So what did the Republican leadership do? I am quoting former Congressman Tom Coburn when he says, "I was then offered a bribe by the committee to vote for the bill. I could have $15 million to spend wherever I wanted to." Coburn continues, "I don't believe that's the kind of government we want. That's what we're seeing in Congress now with some of the ethical problems that are there."

Mr. Coburn, I could not agree with you more. Unfortunately, the abuses of power have happened on the Republican Party's watch, and we will not see a change unless Democrats return to power both here in the House of Representatives and in the Senate.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida). The Chair reminds Members that they should direct their comments to the Chair and not to others in the second person.

PRESIDENT BUSH IS THE RIGHT LEADER IN THE WAR ON TERROR

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, President George W. Bush has led our Nation in the global war on terror with consistent strength and courage. After thousands of innocent Americans were murdered on September 11, he understood the nature of the terrorist threat and immediately went on the offensive to protect American families.

The Democratic Presidential nominee, JOHN KERRY, has proven he has a September 10 approach. When asked what he would do about the war on terror, KERRY said America should hold summits and must pass a global test before defending the American people. This is a mixed message that will do nothing to deter terrorists.

Under President Bush's leadership, America has liberated 50 million people from terrorist-sponsoring regimes in Afghanistan and Iraq, captured or killed hundreds of terrorists, formed a new Department of Homeland Security, initiated training of Iraqi police and military, and stopped the flow of millions of dollars in terrorist funding. President Bush has proven he is the right leader to win the war on terrorism by making courageous decisions to protect American families.

In conclusion, may God bless our troops, and we will never forget September 11.

HEALTH CARE COSTS

(Ms. DeLAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DeLAURO. Mr. Speaker, average Americans confronting the exploding cost of health care today are continuing to feel the pain, and the Republican leadership of this body who can ease that pain is doing nothing.

We know now that in the past 4 years the cost of health care for the average worker has increased three times faster than the increase in wages. More than 14 million Americans now spend more than one-quarter of their paycheck on health care. Yet House Republican leadership offers no promise of a solution.

These numbers confirm what we hear every day from workers being forced into unconscionable choices. What do we have to offer a parent who must choose between housing and health care? What solution can we promise business owners, particularly small business owners, who must tell employees that they will no longer cover their health benefits?

On one of the most fundamental crises of our time the leadership of Congress is deafly silent. The responsibility, Mr. Speaker, resides here. If the Republican leadership of this House and the President of the United States are not committed to solving this problem, one that costs Americans so much of their paycheck, what excuse can they offer working Americans?

The Republican majority and the President can choose to make health care a priority. I wonder how much longer American workers can afford to wait for leadership.

LOST PUBLIC TRUST

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, the Office of the President of the United States transcends politics. Even when the person occupying the office violates the public trust, as President Nixon did, the American people lost faith in the politician but not the office. It was an extreme display of patriotism and optimism. America is on the verge of doing that again.

When an administration that claims, as this one did, that it had hard incontrovertible evidence of weapons of mass destruction, the American people believed it because it came from the Office of the President. Now the President's security adviser admits there were serious doubts that Saddam had the aluminum tubes needed for weapons of mass destruction, the very basis for going to war; but the administration ignored the evidence and manufactured the sound bites that took America to war.

In so doing, the administration violated the trust the American people place in the Office of the President. The American people will take the first step in restoring integrity to the Office of the President when they elect JOHN KERRY as the next President on November 2. It cannot come too soon.

CRYSTAL-CLEAR CHOICES

(Mr. GREEN of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GREEN of Texas. Mr. Speaker, the future of our health care system is at stake in the November election.

In one way or another, every American has experienced the good, the bad, and the ugly about our health care system; and the question voters all across this country should ask themselves is: Are we better off than we were 4 years ago?

Let us take one look at our administration's record on health care. Since 2001, an additional 5.2 million Americans are uninsured. For the American businesses and families, health care premiums have risen more than $3,500 in these 3 years. We are paying more and covering fewer people.

Under this administration's watch, seniors have felt the sting of double-digit Medicare premium increases. Seniors and everyone else's prescription drug costs increase steadily, and we watch the administration fight plans that allow Medicare to negotiate for lower costs.

The American people deserve better. This Congress should do better.

We should fund children's health care programs and expand to working families who cannot afford health care insurance. We need to reverse this administration's damage by cutting our families' health insurance premiums by $1,000 a year.

□ 1015

We should allow for crucial stem cell research that holds such promise for our loved ones.

Mr. Speaker, the choice is clear this November.

150TH ANNIVERSARY OF FOUNDING OF REPUBLICAN PARTY

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, this is the 150th anniversary of the Republican Party's founding. After a century and a half, from the abolition of slavery to the establishment of women's suffrage, to the liberation of millions of people in the Soviet Union, Afghanistan and Iraq, there has not been any question but that the Republican Party is the most effective political organization in the history of the world in advancing the cause of freedom.

In 1924, this week, Republicans denounced the Democrats' Presidential nominee William Jennings Bryant for defending the Ku Klux Klan at the Democratic National Convention. It was this week in 1868 that Republicans denounced the Democrats for adopting a national campaign theme, "This is a White Man's Country, Let White Men Rule."

Mr. Speaker, each day of the year, the Republican Freedom Calendar highlights a civil rights achievement of this most American of institutions. The calendar is available at www.policy.house.gov.

ARE YOU BETTER OFF—HEALTH CARE

(Mr. RODRIGUEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RODRIGUEZ. Mr. Speaker, President Bush has had only one policy in the last 4 years and that is the fiscally irresponsible tax cuts to the wealthiest people in this country. Today, an additional 5.2 million Americans are uninsured, and the family share of health care premiums has risen by over $1,000 in 4 years, a 57 percent increase.

In addition, prior to George Bush, we had, for the first time in 12 years, brought down the number of uninsured. Now we find ourselves with 45 million Americans that are uninsured. Family USA just reported the fact that at any given time there are over 80 million Americans without access to insurance during a period of their life.

So we find ourselves in a situation where this administration has failed to keep up with the CHIP program, the program that responds to the needs of our children that are uninsured, of working Americans that are out there paying their taxes, working hard, but finding themselves without access to health care.

This country can do better. We can do better. We have the best health care system in the world. Let us do better.

APPOINTMENT OF CONFEREES ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey? The Chair hears none and, without objection, appoints the following conferees: Messrs. FRELINGHUYSEN, ISTOOK, CUNNINGHAM, DOOLITTLE, WELDON of Florida, CULBERSON, YOUNG of Florida, FATTAH, PASTOR, CRAMER, and OBEY.

There was no objection.

PROVIDING FOR CONSIDERATION OF S. 878, CREATING ADDITIONAL FEDERAL COURT JUDGESHIPS

Mr. SESSIONS. Mr. Speaker, by the direction of the Committee on Rules, I call up House Resolution 814 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 814

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (S. 878) to authorize an additional permanent judgeship in the district of Idaho, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. No amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Texas (Mr. SESSIONS) is recognized for 1 hour.

Mr. SESSIONS. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentlewoman from New York (Ms. SLAUGHTER), pending which I yield myself such time as I may consume. During consideration of this resolution, all time is yielded for purposes of debate only.

Mr. Speaker, this resolution before us is a well-balanced, structured rule that provides for 1 hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. It waives all points of order against consideration of the bill, and provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read.

It waives all points of order against the committee amendment in the nature of a substitute, and makes in order only those amendments printed in the report of the Committee on Rules accompanying the resolution. It provides that the amendments printed in the report may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, and shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent. These amendments shall not be subject to amendment and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole.

Finally, the rule waives all points of order against the amendments printed in the report and provides for one motion to recommit with or without instructions.

Mr. Speaker, I rise today in strong support of the rule for S. 878, a bill to authorize the creation of a number of much-needed Federal judgeships, as well as in strong support of the underlying legislation. This legislation already enjoys strong bipartisan support in the other body, where it was sponsored by my good friend, Senator LARRY CRAIG of Idaho, because it would greatly improve the ability of the Federal judiciary to handle its caseload and increase the number of cases and appeals that sit before them weighing the merits of each case.

By passing this legislation, Congress can help to lighten the load on some of our most overworked Federal judges and reduce the amount of time it takes them to review and process cases for appeal. By adding these new judgeships, Congress will be taking a meaningful step towards making justice in the Federal Judiciary more swift and fair in the United States of America.

We are bringing this legislation to the floor today in response to a survey conducted every 2 years by the Judicial Conference of the United States. The Judicial Conference makes an objective, biennial review of all U.S. Courts of Appeal and U.S. District Courts to determine if additional judges are needed in the Federal Court system. Recently, the Conference determined its benchmark caseload standards for Federal courts at 430 weighted cases per judgeship for district courts and 500 weighted cases per panel for circuit courts. This benchmark was then used to recommend to Congress what new judgeships are needed according to how many cases above the benchmark a particular Federal Court is handling.

The Judicial Conference process also took into account additional criteria that may influence the judgeship needs of each court, including the presence of senior judges and magistrate judges that help to relieve caseloads, geographical factors, unusual caseload complexities, and temporary caseload increases or decreases. Based upon these findings, the Conference then made a recommendation to Congress about how many new judges are currently needed to fill the judgeship gap in the Federal Judiciary.

The Judicial Conference of the United States completed its last review in March of 2003 and submitted a list of recommendations to the House and Senate Committees on the Judiciary. The legislation that we are considering today reflects those recommendations and creates 11 new circuit court seats and 47 new district court seats. In addition, under this legislation, four other temporary district judgeships are converted to permanent status.

Mr. Speaker, my father, Judge William S. Sessions, was a Federal District Judge in San Antonio, Texas, for 13 years, so I have firsthand experience in understanding how overworked judges are and the need we have for additional judges. However, this legislation is not just about making life easier for our Federal judges; it is about providing people with cases before Federal courts with the appropriate recourse to a speedy resolution of their complaints.

A judicial system that is unable to complete its work in a timely fashion compromises the integrity of that system, and this bill will help to restore our Federal courts' ability to rule on matters before them in a fair, deliberative, and expedited fashion. I believe that it is our duty, as Members of Congress, to address the concerns raised by the Judicial Conference of the United States; and by passing this rule, and this legislation, Congress will help address the overwhelming backlog in our Federal Court system.

I encourage all of my colleagues to stand up for our Judiciary by supporting this rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. SLAUGHTER. Mr. Speaker, I thank my colleague for yielding me this time, and I yield myself such time as I may consume.

Mr. Speaker, for far too many Americans, justice delayed is justice denied in our Federal Court system. Regrettably, today's Federal courts find themselves without the resources to adjudicate the cases in a timely fashion. Compliance with the Speedy Trials Act of 1974 must seem like an unachievable goal to judges all across this Nation, that struggle to keep our Federal court systems functioning.

Mr. Speaker, the rule before us is a restrictive rule that allows for 1 hour of general debate on this bill to create 47 new Federal district judge positions and add 11 circuit judgeships to the Federal bench. It allows consideration of only two of six amendments offered in the Committee on Rules last night.

Mr. Speaker, I agree that adding new judgeships would help address the backlog in the Federal courts; however, to do so without addressing the congestion in the Federal Bankruptcy Courts is analogous to trying to stop a hemorrhage with a Band-Aid.

It is worth noting that the other body's version of this bill would create 34 bankruptcy judge positions. It is also worth noting that one of the rejected amendments offered by our colleague, the gentleman from Georgia (Mr. KINGSTON), in the Committee on Rules last night would have created 36 new permanent and temporary bankruptcy judgeships.

□ 1030

We would have a better debate on this bill today if this body were allowed to debate the thoughtful amendments that the rule does not make in order.

Mr. Speaker, the Federal courts are hurting. Just last week, the Judicial Conference of the United States voted to delay 42 court construction projects across the country to save $225 million and to avoid laying off as many as 3,500 employees. Last year, Federal courts had to cut 1,000 jobs. The lack of staffing resources only compounds the backlog problem, and the remaining staff is grievously overworked. Even with this extreme action, the Judicial Conference reports that as many as 4,800 court clerks, probation officers and other support staff could still lose their jobs in the next year.

According to the chief judge of the bankruptcy court for the Western District of New York, the number of bankruptcy cases filed has steadily increased nearly 10 percent for each of the last 4 years. Yet despite the increased workload, the court's funding was substantially reduced over the past 2 fiscal years, and it is bracing itself for a 15 percent reduction in fiscal year 2005. Judge John Ninfo writes that "the immediate impact is the need for the court to terminate the employment of four to five people, all of whom have served this court extremely well. The adverse impact upon the families of those people will be substantial."

Judge Ninfo goes on to say, "The court anticipates the need to significantly reduce services to the bar and the public, which will cause hardship on debtors and creditors during a time that is already difficult and stressful."

Mr. Speaker, we must do more to address the backlog in the Federal courts than simply adding new positions to the bench. We must provide the resources necessary for staffing and the efficient operation of justice. We must show more respect for the third branch. Vilifying the courts or singling out so-called activist judges is counterproductive. Certainly, stripping jurisdiction away from the courts to hear cases relating to the Pledge of Allegiance or same-sex marriage is not helpful and, I do not believe, constitutional.

The current push to strip the courts of jurisdiction when controversial decisions are issued is not novel. It has been tried before. In the 1960s and 1970s, in the aftermath of the historic decision in Brown v. Board of Education, Congress repeatedly attempted to strip the courts of the power to hear school desegregation suits or to order busing to achieve integration. More recently, it has been tried to strip courts of jurisdiction to hear challenges to laws prohibiting abortion or suits against public schools that require prayer. These shortsighted efforts raise significant balance-of-power questions and demean this austere body. Lest we forget the words of James Madison, the father of our Constitution, who two centuries ago explained that the courts are the "impenetrable bulwark" that transform the Bill of Rights into enforceable rights, a very important statement.

I, therefore, caution my colleagues to consider the full ramifications of court-stripping action. It does little good to have an abstract constitutional right if no court can ever enforce it.

Mr. Speaker, the bill before us today provides this body with the opportunity to take a look at the state of the judiciary. Adding new judgeships will help, but we need to do more to ensure the strength and the independence of the judicial branch, the protector of our constitutionally guaranteed rights.

Mr. Speaker, I call for a "no" vote on this rule.

Mr. Speaker, I yield 7 minutes to the gentleman from California (Mr. BERMAN).

Mr. BERMAN. Mr. Speaker, I appreciate the gentlewoman yielding me this time, and I rise very disappointed in the rule proposed for the consideration of S. 878 and intend to vote against it and urge my colleagues to oppose it.

This rule makes in order only two amendments, both offered by Republican Members. It rejects four other amendments, including one that I myself offered. There is no defensible substantive rationale for this decision. There is a political rationale that is barely defensible. While my amendment would have required a waiver, both amendments that the Committee on Rules chose to make in order also required waivers. While my amendment has not been formally considered by the Committee on the Judiciary, the committee has also not considered the amendment proposing to split the Ninth Circuit. The Committee on Rules has once again decided to stifle an open debate. To make matters worse, its rule furthers a partisan political objective to the detriment of an important policy goal.

I think the American public deserves to hear a little about the amendments that the Rules Committee does not want debated. The amendment that I sought to offer would have provided parties in a court proceeding with the opportunity to petition for an appeal of a judge's refusal to recuse himself. The amendment would have left it to the discretion of the courts to decide the appropriate circumstances in which such petitions should be granted. Unlike the judicial misconduct statute, the recusal statute currently provides no opportunity to appeal a judge's refusal to recuse himself. My amendment would have simply brought the procedures for addressing recusal and misconduct decisions into line with one another.

Chief Justice Rehnquist himself highlighted this statutory anomaly in a letter to several U.S. Senators. These Senators had expressed concern that Justice Scalia did not recuse himself from a case in which Vice President CHENEY was a named litigant. While this case was pending, Justice Scalia had taken a duck-hunting trip with the Vice President. Not only did they hunt together for several days, but Justice Scalia had traveled with the Vice President aboard Air Force Two. In a public document explaining his refusal to recuse himself from a case involving his hunting buddy, Justice Scalia wrote that he did not believe "his impartiality might reasonably be questioned." In commenting on Justice Scalia's decision, Chief Justice Rehnquist noted, "there is no formal procedure for a court review of a decision of a justice in an individual case."

My own feelings about the propriety of Justice Scalia's refusal to recuse himself are not important. What is important, however, is the opinion of the American people. The efficacy of our court system depends entirely on the perception that the courts will administer justice impartially. If the courts lose the trust of the people, they lose their only real power. Reasonably or not, many folks around the country did question whether Justice Scalia could be impartial in a case involving a hunting buddy. It is clear that Justice Scalia's declaration of impartiality did not, in and of itself, put these questions to rest. To the extent these questions persist, our court system suffers.

The amendment I wanted to offer would have gone a long way to addressing this problem. If this amendment had been the law when Justice Scalia refused to recuse himself, the litigants in the Cheney case could have petitioned the Supreme Court to review Justice Scalia's decision. Dismissal of that petition by a panel of justices would have gone a long way to quelling questions about Justice Scalia's impartiality. Unfortunately, without such review, those questions persist; not in my mind because my guess is Justice Scalia could have gone duck hunting with my colleague from California (Mr. WAXMAN), and he would have still ruled on Vice President CHENEY's side of that case. The thought of Justice Scalia and Congressman WAXMAN duck hunting together is an interesting one. Without such a review, the questions persist in the eyes of the American people. Their persistence rots the foundation of our judicial system.

I presented my amendment to the Rules Committee because we must act before further questions arise and the public loses more confidence in the judiciary. Apparently, the Rules Committee is less concerned about this crisis in confidence than about the prospect of an uncomfortable debate.

In addition, a number of other amendments that were offered in the Rules Committee were denied: one dealing with the issue of cameras in the courtroom; one with the absence of this bill to provide the bankruptcy judges that are needed in our Federal bankruptcy system; a third dealing with the loss of COLAs by judges during the years that Congress did not pass the COLA increase for itself and the Federal judiciary, an issue which definitely impacts on the ability of the Federal courts to attract the best possible candidates for the Federal judiciary.

What it did allow was an amendment proposing to split the Ninth Circuit, at tremendous cost, against the opposition of the overwhelming majority of the Ninth Circuit justices, into three different circuits. I vigorously oppose that amendment. I will not use this time to speak on that amendment. I will speak on it when it comes up. My only point in mentioning that is one very controversial amendment that required a waiver was allowed by the Rules Committee; three other amendments which may have also been controversial and required the same kind of a waiver were denied by the Rules Committee. I think that makes for an unsatisfactory rule, and I urge opposition to it.

Ms. SLAUGHTER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I think the American public should know that we are addressing today the reconfiguration of Federal courts, and there are several crises that I think are abounding without the appropriate amount of time to debate this very important question.

First of all, in my own Southern District, we reported just a couple of days ago that our courts are having to lay off personnel, having to delay court decisions, and that means the access of constituents into the courthouse of justice—because of the lack of dollars that provide resources that are necessary to administer the courts—is denied. Over the years, we have attempted to increase compensation to our Federal judges, and my disappointment in the fact that the amendment offered by the gentleman from Illinois

(Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS) to increase Federal judges' salaries by 16.5 percent was not allowed. Over the years, we have overlooked the increasing need for increased compensation for these judges who are lifetime appointees.

But the most egregious amendment that was allowed was to be able to divide the courts, the Ninth Circuit in particular, into three different circuits. One would think that that was done for the efficiency of justice, but I can clearly denote for those who are listening that it was really done to water down the kind of open and free decisions that are being made by the Ninth Circuit. What they are doing is, if you don't like the decisions, let's implode the court and make it into the 13th and the 12th. Here we go again trying to undermine the rendering of justice and the freedom of judges to look at the facts and to make the right decisions. I would hope that, any time we come and discuss the Constitution, the Federal court system, the Supreme Court, the district courts, the circuit courts, that we do it with an eye toward freedom and enhancing justice and opening the courts so that all petitioners might feel free to go in, and that the judges will not be intimidated by those who take offense to both lifetime appointees and the courts' decisions, and certainly we should question those who want to take and destroy the court system by their own amendments and their own views.

Ms. SLAUGHTER. Mr. Speaker, I yield myself the balance of my time. I simply want to make the point that on a party-line vote, the Rules Committee Republicans rejected making the following four bipartisan amendments in order under the rule:

The first one was offered by the gentleman from Illinois (Mr. HYDE) and the gentleman from Michigan (Mr. CONYERS) to increase Federal judges' salary;

A Democratic amendment by the gentleman from Michigan (Mr. CONYERS) permitting Federal judges to allow photographing or televising court proceedings at their discretion;

An important amendment offered by the gentleman from California (Mr. BERMAN) that would allow a party to petition for a three-judge panel to override a Federal judge's refusal to recuse herself or himself from a case;

And the Republican amendment, a very important one, by the gentleman from Georgia (Mr. KINGSTON) to create 36 new permanent and temporary bankruptcy judges.

I think that renders this bill fairly useless, Mr. Speaker.

Mr. Speaker, I yield back the balance of my time.

Mr. SESSIONS. Mr. Speaker, I yield myself the balance of my time.

The points that have been made by my colleagues on the other side, I think it is important for us to recognize that the Ninth Circuit Court of Appeals has 48 judges. That is twice the number of total judges of the next largest circuit.

☐ 1045

The Ninth Circuit represents some 56 million people, roughly one-fifth of this Nation's population. And this is 25 million more people than the next largest circuit. The gentleman from Wisconsin (Chairman SENSENBRENNER), the wonderful chairman of the Committee on the Judiciary here in the House, held hearings on this subject to gain information to be able to render a reasonable observation about how important this would be; and, in fact, we do believe that addressing this problem by breaking up and adding more circuits would be beneficial, would be beneficial to not only other States and other petitioners, but also to make sure that the effective enforcement of justice was properly achieved in the United States of America.

So I am proud to say that the Committee on Rules did yesterday hear the debate about the amendments that were before us. We looked at and I believe properly rendered a decision to say that we are concerned about the number of judges, we are concerned about the way the courts look in terms of the circuit courts that are available to people for litigation, and we moved forward with a bill that I believe is balanced, one which I believe will pass, one which I believe will mirror the other body to make sure that the effective use of judges, effective use of resources, and effective legislation by the United States Congress, hopefully to be signed by President George W. Bush, will be achieved with this legislation.

I wholeheartedly support not only this legislation but would ask each of my colleagues to support this rule and the underlying legislation. And I want to thank, for his exemplary service, the gentleman from Wisconsin (Mr. SENSENBRENNER), who is the fabulous chairman of the Committee on the Judiciary, for bringing forth this bill today.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The SPEAKER pro tempore (Mr. MILLER of Florida). The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Ms. SLAUGHTER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for electronic voting, if ordered, on the question of adoption of the resolution.

The vote was taken by electronic device, and there were—yeas 198, nays 171, not voting 63, as follows:

[Roll No. 490]

YEAS—198

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Houghton
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Neugebauer
Ney
Northup
Nussle
Osborne
Ose
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Tancredo
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—171

Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)

DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinojosa
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Langevin
Lee
Levin
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Neal (MA)
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watson
Watt
Waxman
Woolsey
Wu

NOT VOTING—63

Abercrombie
Alexander
Baird
Boehlert
Brown, Corrine
Buyer
Cannon
Clay
Cubin
DeMint
Doggett
Engel
Forbes
Gephardt
Goode
Greenwood
Hall
Harris
Hastings (FL)
Hinchey
Hoeffel
Hostettler
Isakson
John
Jones (OH)
Kirk
Kucinich
Lampson
Lantos
Larsen (WA)
Larson (CT)
Lewis (GA)
Lipinski
Majette
McGovern
Meeks (NY)
Millender-McDonald
Mollohan
Myrick
Napolitano
Nethercutt
Norwood
Nunes
Oberstar
Otter
Payne
Portman
Quinn
Rothman
Souder
Stenholm
Sweeney
Tauzin
Terry
Toomey
Towns
Turner (TX)
Waters
Weiner
Weldon (PA)
Wexler
Wicker
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1112

Messrs. RANGEL, PASCRELL, SCOTT of Georgia and ACKERMAN changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

Stated for:

Mr. NUNES. Mr. Speaker, on the legislative day of Tuesday, October 5, 2004, the House had rollcall vote No. 490. Unfortunately, I was unavoidably detained. Had I been present, I would have voted "yea" on the rollcall vote.

Mr. WICKER. Mr. Speaker, on rollcall No. 490 I was unavoidably detained. Had I been present, I would have voted "yea."

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Ms. SLAUGHTER. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 206, noes 173, not voting 53, as follows:

[Roll No. 491]

AYES—206

Aderholt
Akin
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis (FL)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Sandlin
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Stearns
Sullivan
Tancredo
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—173

Ackerman
Allen
Andrews
Baca
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Dooley (CA)
Doyle
Edwards
Emanuel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinojosa
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Langevin
Larsen (WA)
Larson (CT)
Lee
Levin
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Miller (NC)
Miller, George
Moore
Moran (VA)
Murtha
Nadler
Neal (MA)
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Watson
Watt
Waxman
Weiner
Woolsey
Wu

NOT VOTING—53

Abercrombie
Alexander
Baird
Boehlert
Brown, Corrine
Buyer
Cannon
Clay
DeMint
Doggett
Engel
Forbes
Gephardt
Goode
Greenwood
Hall
Harris
Hastings (FL)
Hinchey
Hoeffel
Isakson
John
Jones (OH)
Kirk
Kucinich
Lampson
Lantos
Lewis (GA)
Majette
McGovern
Meeks (NY)
Millender-McDonald
Mollohan
Myrick
Napolitano
Nethercutt
Norwood
Oberstar
Payne
Portman
Quinn
Souder
Stenholm
Sweeney
Tauzin
Terry
Toomey
Towns
Turner (TX)
Waters
Weldon (PA)
Wexler
Wynn

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MILLER of Florida) (during the vote). Members are advised there are 2 minutes remaining in this vote.

☐ 1120

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. KIRK. Mr. Speaker, today, I missed 2 votes. Had I been present, I would have voted the following way:

Yes on rollcall Vote No. 490, On ordering the previous question providing for consideration of S. 878, to authorize an additional permanent judgeship in the district of Idaho, and for other purposes.

Yes on rollcall Vote No. 491, On agreeing to H. Res. 814, providing for consideration of S. 878, to authorize an additional permanent judgeship in the district of Idaho, and for other purposes.

Mr. McGOVERN. Mr. Speaker, I was unavoidably detained for rollcall votes numbers 487, 488, 489, 490, and 491. If I was present, I would have voted:

"Aye" on rollcall No. 487; "aye" on rollcall No. 488; "aye" on rollcall No. 489; "nay" on rollcall No. 490; and "nay" on rollcall No. 491.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 5122. An act to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 1047) "An Act to amend the Harmonized Tariff Schedule of the United States to modify temporarily certain rates of duty, to make other technical amendments to the trade laws, and for other purposes," agrees to a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. GRASSLEY, Mr. FRIST, and Mr. BAUCUS, to be the conferees on the part of the Senate.

The message also announced that in accordance with the return of the papers to the Senate providing for technical corrections, said corrections having been made, the Secretary be directed to return to the House (H.R. 4567) "An Act making appropriations for the Department of Homeland Security for the fiscal year ending September 30, 2005, and for other purposes."

The message also announced that pursuant to section 104(c)(1) of Public Law 108-199, the Chair, on behalf of the Majority Leader and Democratic Leader of the Senate, and the Speaker of the House and Minority Leader of the House, announces the joint appointment of the following individual to serve as Chairman of the Commission on the Abraham Lincoln Study Abroad Fellowship Program:

Peter McPherson.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 878.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

CREATING ADDITIONAL FEDERAL COURT JUDGESHIPS

The SPEAKER pro tempore. Pursuant to House Resolution 814 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the Senate bill, S. 878.

☐ 1120

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the Senate bill (S. 878) to authorize an additional permanent judgeship in the district of Idaho, and for other purposes, with Mr. LAHOOD in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the Judicial Conference of the United States reviews the judgeship needs of United States courts every 2 years to determine if any of the courts need additional judges. The Conference completed its last review in March of 2003, and then submitted its recommendations to the House and Senate Committees on the Judiciary. I am pleased that the bill as reported by the Committee mirrors that recommendation. Thus, these are judgeships being created based upon demonstrated need and not upon politics.

The Judicial Conference bases its recommendations on a variety of factors that indicate the needs of various courts. Most importantly, it sets a benchmark caseload standard for considering judgeship requests at 430 weighted cases for individual judges on the district courts and 500 adjusted case filings for the three-judge panels on the courts of appeal. Aside from the numbers, it also considers additional criteria, including senior judge and magistrate judge assistance, geographical factors, unusual caseload complexity, and temporary caseload increases or decreases.

Based on these criteria, the Conference's current proposal recommends that Congress establish 11 new judgeships in four courts of appeal and 46 new judgeships in 24 district courts. The Conference also recommends that five temporary district court judgeships created in 1990 be established as permanent positions. Many of these needs have existed for many years.

The other body passed Senate 878 on May 22, 2003. The Senate bill created 12 permanent district judgeships, two temporary district judgeships, and a number of bankruptcy judgeships. This version of S. 878 also converted two temporary district judgeships to permanent status.

During our September 9 markup on the legislation, the Committee on the Judiciary revised the bill in two major ways.

First, we added all the circuit and district judgeships recommended by the U.S. Judicial Conference that were not included in the Senate bill. This brings the total number of new judgeships in the bill to 58, 11 circuit court seats and 47 district court seats. In addition, four other temporary district judgeships are converted to permanent judgeships.

The Subcommittee on Courts, the Internet, and Intellectual Property conducted an oversight hearing on Federal judgeship needs last year, and we are satisfied as a committee that the submissions developed by the Judicial Conference are meritorious. I emphasize that all the judgeships in the bill before the House could more than satisfy the threshold requirements developed by the Judicial Conference.

Second, all of the bankruptcy judgeships set forth in S. 878 as passed by the other body were stricken. These will be dealt with in the context of the bankruptcy reform legislation which the House has passed and which is currently pending before the other body.

Mr. Speaker, whatever our occasional differences with the third branch, it is our responsibility to ensure that our Federal courts have the resources necessary to allow citizens to seek legal redress in civil disputes and to permit the prosecution of criminal offenses when appropriate. This is a basic function of government.

I urge the Members to support the underlying text of S. 878, as well as the amendment that I will shortly offer to ensure that this bill does not run afoul of the Budget Act, based on the CBO score that accompanies this bill.

Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in conditional opposition to S. 878. The reason I would oppose this bill is if the amendment offered by the gentleman from Idaho is passed by this body.

I firmly believe we should pass a judgeship bill, and I supported it. Senate bill 878, as it was reported out by the House Committee on the Judiciary. The reported bill created all new Article 3 judgeships requested by the Administrative Office of the U.S. Courts. As a result, it would provide critical assistance to many Federal district and appeals courts currently staggering under tremendous caseloads.

As reported, S. 878 is largely noncontroversial and enjoyed bipartisan support at the House Committee on the Judiciary markup. In fact, if S. 878 were brought up on the Suspension Calendar, as it should have been, I have no doubt it would have passed on a voice vote.

Since it is so noncontroversial, we might ask ourselves why the House's valuable time must be wasted debating S. 878 under a rule. Why are we not using this valuable time to deal with the more difficult appropriations or national security bills?

The answer is that a decision has been made to turn this noncontroversial bill into campaign season cannon fodder. This noncontroversial bill comes before us on a rule in order to provide an opportunity to debate an amendment soon to be offered by the gentleman from Idaho.

The tragedy is that this tactic may result in the adoption of a highly inadvisable amendment. An adoption of this amendment, which would split the Ninth Circuit Court of Appeals into three circuits, will signal the death knell for S. 878 in the Senate.

I will discuss my reasons for opposing that amendment in some detail when it is offered, but I can state at this time that if this amendment were to pass, it would be the first time in the history of our Federal judiciary that we have split a circuit against the will of the justices of that circuit.

If the amendment is adopted, S. 878 will die in the Senate. There is no question about that.

I might also point out that S. 878, as it passed out of committee, while noncontroversial, failed to include any of the new bankruptcy judges that are very important to deal with the tremendous caseload problems in our bankruptcy courts. The Committee on the Judiciary stripped out all of the bankruptcy judgeships because the majority thought that requiring the Senate to pass the bankruptcy reform bill, which also contains authorization for those same judgeships, might be leveraged in the process. I think that is a strategy that is destined to fail and it is a failure in S. 878, in that the judges so desperately needed on the bankruptcy court are not included in this bill.

Mr. Chairman, I reserve the balance of my time.

□ 1130

Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. LOFGREN), a member of the Subcommittee on Courts, the Internet, and Intellectual Property of the Committee on the Judiciary.

Ms. LOFGREN. Mr. Chairman, I rise today not only as a member of the Committee on the Judiciary but as chair of the California Democratic Delegation to say we need more judges, but we do not need to split the Ninth Circuit. It is important to know that California's Republican Governor, Arnold Schwarzenegger opposes the proposed split as does former Republican Governor Pete Wilson. Our two Democratic Senators, DIANNE FEINSTEIN and BARBARA BOXER, also oppose the split, and the American Bar Association and the California Academy of Appellate Lawyers also oppose the split. Even the judges of the Ninth Circuit oppose the split by a 30-to-9 margin.

According to the Administrative Office of the Courts, the start-up cost for such a split would be $131 million, and there would be an additional $21.7 million in extra personnel costs every year.

Why would we waste these millions? The Ninth Circuit is not broken. Although the Ninth Circuit contains the largest number of judges of any Federal circuit, the ratio of published opinions to the number of judgeships is well within what is applicable to other circuits. It is also worth noting that the circuit judges in the Ninth Circuit take only 1.4 months to decide cases following argument, while the national average is 2.1 months.

Despite all the rhetoric, the Ninth Circuit's reversal rates compare favorably with every other circuit. So I would urge my colleagues to oppose and vote down the amendment to split the circuit. We do need these judges. But join the Republican governor and the judges and the taxpayers, who do not want to fund this waste, in turning down this ill-conceived amendment to split the Ninth Circuit so that we can move forward and get those judges that we need.

Mr. BERMAN. Mr. Chairman, I yield 4 minutes to the gentleman from California (Mr. SCHIFF), a member of the Committee on the Judiciary.

Mr. SCHIFF. Mr. Chairman, I thank the gentleman for yielding me time.

I rise with the same conditional support of S. 878 as my colleague from California (Mr. BERMAN). The base bill responds to a crisis of judicial vacancies in our country by authorizing a number of much-needed judgeships.

Since arriving at Congress, I have been very surprised by the poor state of relations between our branches and the absence of comity that has existed between the Congress and the courts. The Federal caseload continues to increase at a record pace, reaching record levels. Courthouse funding is woefully inadequate, failing to meet the needs of Federal courts in order to carry out their critical mission and to make necessary improvements in priority areas such as courthouse security.

Judicial confirmations continue to be mired in political brinksmanship and judicial compensation has not kept pace with inflation. What is more, the Congress has now resorted to a more proactive attack on the judicial branch which we have seen on the floor of this body most recently in the form of court-stripping proposals.

Today's action on this legislation, barring the Simpson amendment, is a welcome and long overdue step in recognizing our responsibility in Congress to support the judiciary. But I am gravely concerned about the potential of the Simpson amendment. It seems to fly directly in the face of the White Commission's report analyzing when circuits should be split and when they should not. The White Commission reported in 1998: "There is one principle that we regard as undebatable. It is wrong to realign circuits or not to realign them and to restructure courts or to leave them alone because of particular judicial decisions or particular judges. This rule must be faithfully honored for the independence of the judiciary is of constitutional dimension and requires no less."

The Judicial Conference of the United States periodically completes a review of judgeship needs. As a result of rapid increase in the caseloads of our courts, the conference recommended that Congress establish 11 new judgeships and four courts of appeals and 46 new judgeships and 26 district courts. It also recommended five temporary judgeships become permanent.

The base bill is an important step in fulfilling that goal, and the House bill authorizes more than 50 new judgeships across the United States. However, if this bill becomes bogged down in an amendment which would only continue the assault on the judiciary, contravene the will of the judges of the circuit itself, it will be a step in the wrong direction. Circuit division would eliminate a number of important advantages that come from a large circuit. It would eliminate the ability to transfer judges from one district to another within the same circuit to deal with fluctuating caseloads. It would reduce the number of circuit judges available to decide the cases from the growing border of districts from Arizona and southern California.

For these reasons, division of the circuit is strongly opposed by a bipartisan coalition of judges and officials. The judges of the Ninth Circuit have voted overwhelmingly 30 to 9 against division. In addition, California Governor Arnold Schwarzenegger strongly opposes any effort to break up the circuit.

What is more, as the White Commission wrote, "there is no persuasive evidence that the Ninth Circuit or any other circuit for that matter is not working effectively or that creating new circuits will improve the administration of justice in any circuit or overall. Furthermore, splitting the circuit would impose substantial costs of administrative disruption, not to mention the monetary costs of creating a new circuit. Accordingly, we do not recommend to Congress and the President that they consider legislation to split the circuit."

Are we going to take a bill that was one of the few positive lights in the relationship between the Congress and the courts and turn it into yet another assault on the wishes and the needs of the judiciary?

To quote the White Report again, "Maintaining the Court of Appeals for the Ninth Circuit as currently aligned respects the character of the west as a distinct region."

Mr. Chairman, I urge support for the base bill and rejection of the Simpson amendment.

Mr. SENSENBRENNER. Mr. Chairman, I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Chairman, I rise today in support of Senate S. 878 which authorizes the creation of certain new U.S. circuit and district judgeships as well as converts temporary judgeships to permanent status.

Mr. Chairman, I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and his staff for their leadership in addressing the urgency for additional Federal district judgeships in the United States District Court of New Mexico, especially in Las Cruces, New Mexico. This desperate judicial situation in the southern New Mexico district is manifest in crushing caseloads, unique geographical factors, and the exhaustion of judicial resources. Data indicates that the district has the fourth highest total criminal caseload per judgeship in the Nation with 739 weighted cases per judgeship. This is 46 percent higher than the national average and a 150 percent increase from 1996.

This extraordinary caseload is primarily attributed to the geographical factors unique to the district. Immigration and narcotics cases are almost exclusively driving the increase, placing an extraordinary burden on the Las Cruces Federal Courthouse, which is just 50 miles away from the U.S.-Mexico border. The district has begun to exhaust all judicial resources. One option to handle the enormous caseload in Las Cruces is assigning rotating duties to district judges from Albuquerque and Santa Fe, requiring judges and their staffs to travel more than 450 miles roundtrip during the week. Many of the judges are even called in from other jurisdictions.

U.S. district judges from Vermont to Kansas have presided in Las Cruces regularly and conclude that they have never seen a caseload as high as in the entire time they have been on the bench. One judge commented that, in 28 days, he handled more capital cases in 28 days than he did during an entire year in Vermont.

The desperately needed judges provided for in this legislation will decrease the weighted filings by half, bringing the district on parity with the rest of the districts in the United States.

Again, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for his fine leadership on this legislation and urge passage of S. 878.

Mr. BERMAN. Mr. Chairman, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Chairman, I thank the gentleman from California (Mr. BERMAN) for yielding me time.

Mr. Chairman, I am tired of my Republican colleagues using the term "activist judges" to scare citizens into believing our Federal judiciary has lost all credibility and seeks only to promote an activist liberal agenda, and I am taking this time today to tell you why.

This is plainly not the truth. It is wrong, and it is illogical. In fact, was not it activist unelected judges who appointed the current President of the United States of America? The only threat these judges, most of whom were appointed by Republican Presidents, present is shutting down the Republicans ultra-conservative agenda and actually proving that many of the policies Republicans promote are unconstitutional or discriminating.

Let us take the controversial Ninth Circuit Court as an example. Twenty-six judges sit on this court. My Republican colleagues talk as if all of these judges are out to destroy the morals of this country, that these judges will destroy the fabric of our families and sensor religious practices perhaps because our colleagues on the other side of the aisle believe that these judges do not believe in fundamental Christian values. But at least half of these judges have conservative leanings. And I ask, is 50 percent not enough?

My Republican colleagues also like to insinuate the Democrats have appointed most of the active judges in our courts today. But they are mistaken. Since President Jimmy Carter was in office, Democrats have appointed 634 judges. Republicans have appointed 735 judges. It seems to me that Republicans know their policies are so radical that they will not stand up in court, and the only way to ensure their policies will stay on the books is to wipe out our jurisdiction system and erase our systems of checks and balances.

Republicans are destroying the courts, undermining judges' decisions, bullying those who stand by the Constitution. Do not let them tell you they are fighting activist judges. They are just carrying out their paranoid control. Mr. Chairman, if the judges in this country were so biased, so against conservative values, how did our current President get appointed in the year 2000? Those judges did not seem too activist to Republicans at that time, did they?

Mr. UDALL of Colorado. Mr. Chairman, I will vote against this amendment because I am concerned that whatever benefits it might have are outweighed by the costs to the taxpayers that it would entail.

The current jurisdiction of the Ninth Circuit is certainly extensive—from Alaska to Hawaii, Guam, and the Commonwealth of the Northern Marianas and including California, Nevada, Arizona, Idaho, Montana, Nevada, Oregon, and Washington.

The populations of several of these states have increased considerably in recent years, and it can be anticipated that the caseloads of the Ninth Circuit will continue to increase accordingly. So, there might be something to be said for realigning the judicial districts now included in the Ninth Circuit.

However, I do not think that it is appropriate for the House of Representatives to make such an important decision on the basis of the very brief consideration that we are being permitted today.

And I certainly think that before making such a serious decision, we should consider how it would affect the ability of the federal courts to do their job.

Regarding that aspect of the matter, I think we should all pay careful heed to the analysis of the Administrative Office of the United States Courts contained in a May 14th letter from its Director, Leonidas Ralph Meacham, to Senator FEINSTEIN.

Discussing proposals to divide the Ninth Circuit in ways similar to that proposed in this amendment, Mr. Meacham wrote "The judiciary is not in a position to absorb any of the additional costs" that would result. He goes on to say that dividing the Ninth Circuit into three circuits—which is what this amendment would do—"would likely require one-time start-up funding ranging from $16.7 million to $18.9 million for space alterations, information technology and telecommunications infrastructure, furniture, and law books. In addition, a new courthouse would have to be built" (and another modernized) that would cost millions more. Also, according to Mr. Meacham, "The judiciary would also require an additional $21.7 million annually in recurring personnel and operating expenses."

At a time when our courts are already hard-pressed for funding and the overall federal budget is drowning in red ink, I think we should not lightly incur such additional costs—and certainly not on the basis of a mere 40 minutes of debate on this amendment.

Instead, any measure to realign the Ninth Circuit—or any other part of the federal courts, for that matter—should be carefully reviewed in committee and then considered by the House of Representatives under procedures that allow full consideration of its potential benefits and the costs that would be involved.

If such a measure is considered under those considerations, I will review it carefully and will support it if I am convinced that it deserves approval. However, I have not reached that conclusion about this amendment and so I will vote against it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I rise in partial support of the bill before the Committee of the Whole, S. 878, authorizing the addition of permanent judgeships in the District of Idaho and for other purposes. As introduced, the bill only authorized the President to appoint a new U.S. district judge for the District of Idaho. Substitutes adopted by the Senate Judiciary Committee (on May 20, 2003) and the full Senate (two days later) added another 15 district judgeships (permanent, temporary, or temporary converted to permanent), along with 29 permanent and seven converted (temporary-to-permanent) bankruptcy judgeships.

The rule reports out of the Committee on Rules, H. Res. 814, severely hindered the ability of Members to improve this legislation by ruling only two—Republican—amendemtns in order. The amendment offered by the Chairman of the Judiciary Committee that would stagger the implementation of this legislation to accommodate budgetary needs.

On the other hand, the amendment offered by the gentleman from Idaho threatens to water down the 9th Circuit and effectively strip the existing courts of their ability to take up cases. This effect would be consistent with the line of court-stripping legislation that has passed in this House recently—the Pledge Protection Act; the Federal Marriage Amendment; the Marriage Protection Act.

The amendment that was offered by the Distinguished Ranking Member of the Judiciary Committee that would call for increases in the pay that federal circuit judges receive should have been ruled in order.

We must protect the power and discretion of the Courts and we must preserve the sanctity of the U.S. Constitution. The way that we legislate to change the makeup of the federal circuit courts will have a tremendous effect on the development of jurisprudence.

The Subcommittee on Courts, the Internet, and Intellectual Property conducted an oversight hearing regarding federal judgeship needs on June 24, 2003. The Subcommittee reviewed the original request for additional circuit and district judgeships developed by the U.S. Judicial Conference and the methodology adopted to justify the submission.

The Judicial Conference of the United States (Conference) reviews biannually the judgeship needs of all U.S. courts of appeal and U.S. district courts to determine if any of the courts require additional judges to administer civil and criminal justice in the federal court system. The Conference then submits its recommendations to the House and Senate Committees on the Judiciary. The Conference completed its last review in March, 2003, and submitted its recommendations to Congress.

The Conference set a benchmark caseload standard for considering judgeship requests at 430 weighted cases per judgeship for district courts and 500 adjusted case filings per panel for courts of appeal. The Conference process takes into account additional criteria that may influence the judgeship needs of each court, including senior judge and magistrate judge assistance, geographical factors, unusual caseload complexity, and temporary caseload increases or decreases.

Therefore, I support this legislation only insofar as it aids in the administration of justice; however, I reserve my opposition to the negative effects that I can have on the discretion that federal judges have.

Mr. SMITH of Texas. Mr. Chairman, the Chairman did a good job of summarizing S. 878 so I will not repeat his description of the bill.

I would emphasize that during my Subcommittee's oversight hearing on judgeship needs last year we received testimony from the Judicial Conference and others that supported the requests that are a part of this package.

The need to create new circuit and district judgeships is real and speaks to our obligation to assist a coequal branch of government in discharging its duties on behalf of the American people.

I urge Members to support the bill and the Sensenbrenner amendment that will cure a scoring problem with consideration of S. 878.

Mr. THOMAS. Mr. Chairman, I rise today in support of S. 878, which would make important upgrades to the Federal judiciary's infrastructure. I appreciate the leadership Chairman SENSENBRENNER has exhibited in the development of this legislation, which would establish 58 new Federal judgeships.

As reported by the House Committee on the Judiciary, S. 878 would provide 47 new Federal district court judgeships. Significantly, S. 878 reflects legislation (H.R. 3486) that I introduced earlier this year in that S. 878 would convert the expired temporary judgeship in the U.S. District Court for the Eastern District of California temporary judgeship to a permanent judgeship and add three additional permanent judgeships.

These additional four judgeships are much-needed as the seven judges in the Eastern District are currently carrying an average weighted caseload of 788 each, far in excess of the 430 benchmark used by the U.S. Judicial Conference to determine when additional permanent judgeships are required. Moreover, it must be noted that the judges of the Eastern District have exceeded that benchmark since 1998, when their average weighted caseload was 567. The judges of the Eastern District also have an average of 920 pending cases each, an increase of 25 percent since 1998.

In addition, the Eastern District continues to see an annual increase in total filings; in 2003, 5,853 cases were filed in the Eastern District, which is an increase of 1,139 cases from the 4,714 cases filed in 1998. As one would expect, the number of pending cases in the Eastern District has likewise increased; in 2003, there were 6,440 cases pending, which is an increase of 1,269 since 1998.

Accordingly, I encourage my colleagues to continue to work to quickly enact legislation to provide the Federal judiciary, and especially the Eastern District of California, with the resources necessary to efficiently and effectively administer justice.

Mr. BERMAN. Mr. Chairman, we have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the committee amendment in the nature of a substitute is as follows:

S. 878

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NEW DISTRICT JUDGESHIPS.

The President shall appoint, by and with the advice and consent of the Senate, the following:

(1) 1 additional district judge for the northern district of Alabama.

(2) 1 additional district judge for the middle district of Alabama.

(3) 3 additional district judges for the district of Arizona.

(4) 1 additional district judge for the northern district of California.

(5) 3 additional district judges for the eastern district of California.

(6) 1 additional district judge for the central district of California.

(7) 2 additional district judges for the southern district of California.

(8) 2 additional district judges for the middle district of Florida.

(9) 4 additional district judges for the southern district of Florida.

(10) 1 additional district judge for the district of Idaho.

(11) 1 additional district judge for the western district of Missouri.

(12) 1 additional district judge for the district of Nebraska.

(13) 2 additional district judges for the district of New Mexico.

(14) 3 additional district judges for the eastern district of New York.

(15) 1 additional district judge for the district of Oregon.

(16) 1 additional district judge for the district of South Carolina.

(17) 2 additional district judges for the eastern district of Virginia.

(18) 1 additional district judge for the district of Utah.

(19) 1 additional district judge for the western district of Washington.

SEC. 2. CONVERSION OF TEMPORARY TO PERMANENT JUDGESHIPS.

The existing judgeships for the eastern district of California, the district of Hawaii, the district of Kansas, the eastern district of Missouri, that were authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101 650) shall, as of the date of the enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall, as of such date of enactment, hold those offices under section 133 of title 28, United States Code, as amended by this Act.

SEC. 3. TEMPORARY JUDGESHIPS.

(a) APPOINTMENT.—The President shall appoint, by and with the advice and consent of the Senate, the following:

(1) 1 additional district judge for the northern district of California.

(2) 2 additional district judges for the central district of California.

(3) 3 additional district judges for the southern district of California.

(4) 1 additional district judge for the district of Colorado.

(5) 1 additional district judge for the middle district of Florida.

(6) 1 additional district judge for the northern district of Illinois.

(7) 1 additional district judge for the northern district of Indiana.

(8) 1 additional district judge for the southern district of Indiana.

(9) 1 additional district judge for the northern district of Iowa.

(10) 1 additional district judge for the district of New Mexico.

(11) 1 additional district judge for the eastern district of New York.

(12) 1 additional district judge for the western district of New York.

(b) VACANCIES NOT FILLED.—(1) The first 2 vacancies in the office of district judge in the central district of California, occurring 10 years or more after judges are first confirmed to fill both temporary judgeships created in that district by subsection (a), shall not be filled.

(2) The first 3 vacancies in the office of district judge in the southern district of California, occurring 10 years or more after judges are first confirmed to fill all 3 temporary judgeships created in that district by subsection (a), shall not be filled.

(3) The first vacancy in the office of district judge in each district named in subsection (a), other than the central or southern district of California, occurring 10 years or more after judges are first confirmed to fill the temporary judgeship created in that district by subsection (a), shall not be filled.

SEC. 4. CONFORMING AMENDMENTS.

The table contained in section 133(a) of title 28, United States Code, is amended—

(1) by amending the item relating to Alabama to read as follows:

''Alabama:

Northern	*8*
Middle	*4*
Southern	*3'';*

(2) by amending the item relating to Arizona to read as follows:

''Arizona .... 15'';

(3) by amending the item relating to California to read as follows:

''California:

Northern	*15*
Eastern	*10*
Central	*28*
Southern	*15'';*

(4) by amending the item relating to Florida to read as follows:

''Florida:

Northern	*4*
Middle	*17*
Southern	*21'';*

(5) by amending the item relating to Hawaii to read as follows:

''Hawaii .... 4'';

(6) by amending the item relating to Idaho to read as follows:

''Idaho .... 3'';

(7) by amending the item relating to Kansas to read as follows:

''Kansas .... 6'';

(8) by amending the item relating to Missouri to read as follows:

''Missouri:

Eastern	*7*
Western	*5*
Eastern and Western	*2'';*

(9) by amending the item relating to Nebraska to read as follows:

''Nebraska .... 4'';

(10) by amending the item relating to New Mexico to read as follows:

''New Mexico .... 8'';

(11) by amending the item relating to New York to read as follows:

''New York:

Northern	*5*
Southern	*28*
Eastern	*18*
Western	*4'';*

(12) by amending the item relating to Oregon to read as follows:

''Oregon .... 7'';

(13) by amending the item relating to South Carolina to read as follows:

''South Carolina .... 11'';

(14) by amending the item relating to Utah to read as follows:

''Utah .... 6'';

(15) by amending the item relating to Virginia to read as follows:

''Virginia:

Eastern	*13*
Western	*4'';*

and

(16) by amending the item relating to Washington to read as follows:

''Washington:

Eastern	*4*
Western	*8''.*

SEC. 5. ADDITIONAL CIRCUIT JUDGES.

(a) PERMANENT JUDGESHIPS.—The President shall appoint, by and with the advice and consent of the Senate, 1 additional circuit judge for the first circuit court of appeals, 2 additional circuit judges for the second circuit court of appeals, 1 additional circuit judge for the sixth circuit court of appeals, and 5 additional circuit judges for the ninth circuit court of appeals.

(b) TEMPORARY JUDGESHIPS.—

(1) APPOINTMENT OF JUDGES.—The President shall appoint, by and with the advice and consent of the Senate, 2 additional circuit judges for the ninth circuit court of appeals.

(2) EFFECT OF VACANCIES.—The first 2 vacancies occurring on the ninth circuit court of appeals 10 years or more after judges are first confirmed to fill both temporary circuit judgeships created by this subsection shall not be filled.

(c) NUMBER OF CIRCUIT JUDGES.—The table contained in section 44(a) of title 28, United States Code, is amended—

(1) by amending the item relating to the first circuit to read follows:

''First .... 7'';

(2) by amending the item relating to the second circuit to read follows:

''Second .... 15'';

(3) by amending the item relating to the sixth circuit to read as follows:

''Sixth .... 17'';

and

(4) by amending the item relating to the ninth circuit to read as follows:

''Ninth .... 33''.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 108–723. Each amendment may be offered only in the order printed in the report, by a member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

It is now in order to consider amendment No. 1 printed in House Report 108–723.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 offered by Mr. SENSENBRENNER:

Strike sections 1 through 4 and insert the following:

SECTION 1. NEW DISTRICT JUDGESHIPS.

The President shall appoint, by and with the advice and consent of the Senate, the following:

(1) 1 additional district judge for the northern district of Alabama, who shall be appointed no earlier than October 1, 2006.

(2) 1 additional district judge for the middle district of Alabama, who shall be appointed no earlier than October 1, 2008.

(3) 3 additional district judges for the district of Arizona, who shall be appointed no earlier than October 1, 2007.

(4) 1 additional district judge for the northern district of California, who shall be appointed no earlier than October 1, 2006.

(5) 3 additional district judges for the eastern district of California, who shall be appointed no earlier than October 1, 2006.

(6) 1 additional district judge for the central district of California, who shall be appointed no earlier than October 1, 2005.

(7) 2 additional district judges for the southern district of California, who shall be appointed no earlier than October 1, 2005.

(8) 2 additional district judges for the middle district of Florida, who shall be appointed no earlier than October 1, 2007.

(9) 4 additional district judges for the southern district of Florida, who shall be appointed no earlier than October 1, 2005.

(10) 1 additional district judge for the district of Idaho, who shall be appointed no earlier than October 1, 2008.

(11) 1 additional district judge for the western district of Missouri, who shall be appointed no earlier than October 1, 2008.

(12) 1 additional district judge for the district of Nebraska, who shall be appointed no earlier than October 1, 2006.

(13) 2 additional district judges for the district of New Mexico, one of whom shall be appointed no earlier than October 1, 2005, and one of whom shall be appointed no earlier than October 1, 2008.

(14) 3 additional district judges for the eastern district of New York, who shall be appointed no earlier than October 1, 2007.

(15) 1 additional district judge for the district of Oregon, who shall be appointed no earlier than October 1, 2010.

(16) 1 additional district judge for the district of South Carolina, who shall be appointed no earlier than October 1, 2008.

(17) 1 additional district judge for the district of Utah, who shall be appointed no earlier than October 1, 2008.

(18) 2 additional district judges for the eastern district of Virginia, who shall be appointed no earlier than October 1, 2006.

(19) 1 additional district judge for the western district of Washington, who shall be appointed no earlier than October 1, 2009.

SEC. 2. CONVERSION OF TEMPORARY TO PERMANENT JUDGESHIPS.

The existing judgeships for the eastern district of California, the district of Hawaii, the district of Kansas, and the eastern district of Missouri, that were authorized by section 203(c) of the Judicial Improvements Act of 1990 (28 U.S.C. 133 note; Public Law 101-650) shall, as of the date of the enactment of this Act, be authorized under section 133 of title 28, United States Code, and the incumbents in those offices shall, as of such date of enactment, hold those offices under section 133 of title 28, United States Code, as amended by this Act.

SEC. 3. TEMPORARY JUDGESHIPS.

(a) APPOINTMENT.—The President shall appoint, by and with the advice and consent of the Senate, the following:

(1) 1 additional district judge for the northern district of California, who shall be appointed no earlier than October 1, 2010.

(2) 2 additional district judges for the central district of California, who shall be appointed no earlier than October 1, 2010.

(3) 3 additional district judges for the southern district of California, who shall be appointed no earlier than October 1, 2009.

(4) 1 additional district judge for the district of Colorado, who shall be appointed no earlier than October 1, 2009.

(5) 1 additional district judge for the middle district of Florida, who shall be appointed no earlier than October 1, 2010.

(6) 1 additional district judge for the northern district of Illinois, who shall be appointed no earlier than October 1, 2009.

(7) 1 additional district judge for the northern district of Indiana, who shall be appointed no earlier than October 1, 2009.

(8) 1 additional district judge for the southern district of Indiana, who shall be appointed no earlier than October 1, 2010.

(9) 1 additional district judge for the northern district of Iowa, who shall be appointed no earlier than October 1, 2010.

(10) 1 additional district judge for the district of New Mexico, who shall be appointed no earlier than October 1, 2008.

(11) 1 additional district judge for the eastern district of New York, who shall be appointed no earlier than October 1, 2009.

(12) 1 additional district judge for the western district of New York, who shall be appointed no earlier than October 1, 2008.

(b) VACANCIES NOT FILLED.—(1) The first 2 vacancies in the office of district judge in the central district of California, occurring 10 years or more after judges are first confirmed to fill both temporary judgeships created in that district by subsection (a), shall not be filled.

(2) The first 3 vacancies in the office of district judge in the southern district of California, occurring 10 years or more after judges are first confirmed to fill all 3 temporary judgeships created in that district by subsection (a), shall not be filled.

(3) The first vacancy in the office of district judge in each district named in subsection (a), other than the central or southern district of California, occurring 10 years or more after judges are first confirmed to fill the temporary judgeship created in that district by subsection (a), shall not be filled.

SEC. 4. CONFORMING AMENDMENTS.

(a) AMENDMENTS.—The table contained in section 133(a) of title 28, United States Code, is amended—

(1) by amending the item relating to Alabama to read as follows:

"Alabama:	
Northern	8
Middle	4
Southern	3";

(2) by amending the item relating to Arizona to read as follows:

"Arizona .... 15";

(3) by amending the item relating to California to read as follows:

"California:	
Northern	15
Eastern	10
Central	28
Southern	15";

(4) by amending the item relating to Florida to read as follows:

"Florida:	
Northern	4
Middle	17
Southern	21";

(5) by amending the item relating to Hawaii to read as follows:

"Hawaii .... 4";

(6) by amending the item relating to Idaho to read as follows:

"Idaho .... 3";

(7) by amending the item relating to Kansas to read as follows:

"Kansas .... 6";

(8) by amending the item relating to Missouri to read as follows:

"Missouri:	
Eastern	7
Western	6
Eastern and Western	2";

(9) by amending the item relating to Nebraska to read as follows:

"Nebraska .... 4";

(10) by amending the item relating to New Mexico to read as follows:

"New Mexico .... 8";

(11) by amending the item relating to New York to read as follows:

"New York:	
Northern	5
Southern	28
Eastern	18
Western	4";

(12) by amending the item relating to Oregon to read as follows:

"Oregon .... 7";

(13) by amending the item relating to South Carolina to read as follows:

"South Carolina .... 11";

(14) by amending the item relating to Utah to read as follows:

"Utah .... 6";

(15) by amending the item relating to Virginia to read as follows:

"Virginia:	
Eastern	13
Western	4"; and

(16) by amending the item relating to Washington to read as follows:

"Washington:	
Eastern	4
Western	8".

(b) CONSTRUCTION.—The amendments made by subsection (a) shall not be construed to authorize the appointment of any judge on a date earlier than that authorized for that judge under section 1.

The CHAIRMAN. Pursuant to House Resolution 814, the gentleman from Wisconsin (Mr. SENSENBRENNER) and a Member opposed each will control 5 minutes.

The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I regret that I must offer this amendment to S. 878, but its passage will avoid a problem highlighted by the Congressional Budget Office and its cost estimate for the bill.

Budget rules require us to stay within a 1-year and 5-year budget authority score for direct spending. The bill as reported by the Committee on the Judiciary comports with the 1-year spending threshold imposed by the budget rule. Unfortunately, however, the 5-year score exceeds the corresponding threshold by roughly $5.5 million.

To cure this defect, I was faced with choosing either deleting meritorious circuit and district judgeships from the bill or retaining all of the judgeships while staggering their implementation over a longer period of time. I have chosen the latter option as the better of the two, and this amendment reflects that.

While some judicial districts will have to wait longer for additional judges under this plan, at least those judges will have been authorized for the relatively near future.

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Assuming S. 878 is enacted, it will also be possible for a future Congress, perhaps the 109th, to provide the additional funding necessary to change the statute and accelerate the implementation dates for those judgeships that cannot be created prior to fiscal year 2005

That said, my amendment would implement 11 circuit judgeships and convert the four temporary district judgeships to permanent seats in fiscal year 2005. Existing temporary seats do not score at all, and the related costs of the 11 circuit judgeships easily comply with the first-year threshold requirement.

For the next 5 fiscal years, through fiscal year 2010, the figure staggers the implementation of the remaining district judgeships at the rate of eight per year. In other words, eight new district judgeships are added in fiscal 2006, eight more in fiscal 2007, and so on through 2010. In the last year, fiscal year 2011, the remaining seven district judgeships are officially authorized.

I am sure that each of us could develop a different priority list detailing which judgeships would be implemented in a given fiscal year. I have tried to be fair by arranging the list based on need as defined by the Judicial Conference criteria.

We have received an informal assurance from CBO that this amendment will lower the 5-year budget authority estimate for direct spending below the $34.5 million requirement imposed on the Committee on the Judiciary. My staff has also worked closely with the Committee on the Budget on this matter, and I understand this amendment will satisfy their concerns. I appreciate their contributions to this effort.

In conclusion, I urge the Members to adopt this amendment, a necessary change that will bring us closer to authorizing the first omnibus judgeship bill since 1990.

Mr. BERMAN. Mr. Chairman, will the gentleman yield?

Mr. SENSENBRENNER. I yield to the gentleman from California.

Mr. BERMAN. Mr. Chairman, I thank the gentleman and I support the gentleman's amendment, but I am curious why an amendment that is being offered in order to avoid a Budget Act problem requires a waiver of the Budget Act.

Mr. SENSENBRENNER. Reclaiming my time, I do not know.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Does anyone claim time in opposition?

Mr. BERMAN. Mr. Chairman, I stand up in opposition simply to state my support for the gentleman's amendment and urge its adoption.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

The CHAIRMAN. It is now in order to consider amendment No. 2 printed in House Report 108-723.

AMENDMENT NO. 2 OFFERED BY MR. SIMPSON

Mr. SIMPSON. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. SIMPSON:

Insert after section 5 the following new section:

SEC. 6. NINTH CIRCUIT REORGANIZATION.

(a) SHORT TITLE.—This section may be cited as the "Ninth Circuit Judgeship and Reorganization Act of 2004".

(b) DEFINITIONS.—In this section:

(1) FORMER NINTH CIRCUIT.—The term "former ninth circuit" means the ninth judicial circuit of the United States as in existence on the day before the effective date of this section.

(2) NEW NINTH CIRCUIT.—The term "new ninth circuit" means the ninth judicial circuit of the United States established by the amendment made by subsection (c)(2)(A).

(3) TWELFTH CIRCUIT.—The term "twelfth circuit" means the twelfth judicial circuit of the United States established by the amendment made by subsection (c)(2)(B).

(4) THIRTEENTH CIRCUIT.—The term "thirteenth circuit" means the thirteenth judicial circuit of the United States established by the amendment made by subsection (c)(2)(B).

(c) NUMBER AND COMPOSITION OF CIRCUITS.—Section 41 of title 28, United States Code, is amended—

(1) in the matter preceding the table, by striking "thirteen" and inserting "fifteen"; and

(2) in the table—

(A) by striking the item relating to the ninth circuit and inserting the following:

"Ninth	California, Guam, Hawaii, Northern Marianas Islands.";

and

(B) by inserting after the item relating to the eleventh circuit the following:

"Twelfth	Arizona, Nevada, Idaho, Montana.
"Thirteenth	Alaska, Oregon, Washington.".

(d) PLACES OF CIRCUIT COURT.—The table contained in section 48(a) of title 28, United States Code, is amended—

(1) by striking the item relating to the ninth circuit and inserting the following:

"Ninth	San Francisco, Los Angeles.";

and

(2) by inserting after the item relating to the eleventh circuit the following:

"Twelfth	Las Vegas, Phoenix.
"Thirteen	Portland, Seattle.

(e) ASSIGNMENT OF CIRCUIT JUDGES.—Each circuit judge of the former ninth circuit who is in regular active service and whose official duty station on the day before the effective date of this section—

(1) is in California, Guam, Hawaii, or the Northern Marianas Islands shall be a circuit judge of the new ninth circuit as of such effective date;

(2) is in Arizona, Nevada, Idaho, or Montana shall be a circuit judge of the twelfth circuit as of such effective date; and

(3) is in Alaska, Oregon, or Washington shall be a circuit judge of the thirteenth circuit as of such effective date.

(f) ELECTION OF ASSIGNMENT BY SENIOR JUDGES.—Each judge who is a senior circuit judge of the former ninth circuit on the day before the effective date of this section may elect to be assigned to the new ninth circuit, the twelfth circuit, or the thirteenth circuit as of such effective date, and shall notify the Director of the Administrative Office of the United States Courts of such election.

(g) SENIORITY OF JUDGES.—The seniority of each judge—

(1) who is assigned under subsection (e), or

(2) who elects to be assigned under subsection (f),

shall run from the date of commission of such judge as a judge of the former ninth circuit.

(h) APPLICATION TO CASES.—The following apply to any case in which, on the day before the effective date of this section, an appeal or other proceeding has been filed with the former ninth circuit:

(1) If the matter has been submitted for decision, further proceedings with respect to the matter shall be had in the same manner and with the same effect as if this section had not been enacted.

(2) If the matter has not been submitted for decision, the appeal or proceeding, together with the original papers, printed records, and record entries duly certified, shall, by appropriate orders, be transferred to the court to which the matter would have been submitted had this section been in full force and effect at the time such appeal was taken or other proceeding commenced, and further proceedings with respect to the case shall be had in the same manner and with the same effect as if the appeal or other proceeding had been filed in such court.

(3) A petition for rehearing or a petition for rehearing en banc in a matter decided before the effective date of this section, or submitted before the effective date of this section and decided on or after such effective date as provided in paragraph (1), shall be treated in the same manner and with the same effect as though this section had not been enacted. If a petition for rehearing en banc is granted, the matter shall be reheard by a court comprised as though this section had not been enacted.

(i) TEMPORARY ASSIGNMENT OF CIRCUIT JUDGES AMONG CIRCUITS.—Section 291 of title 28, United States Code, is amended by adding at the end the following:

"(c) The chief judge of the Ninth Circuit may, in the public interest and upon request by the chief judge of the Twelfth Circuit or the Thirteenth Circuit, designate and assign temporarily any circuit judge of the Ninth Circuit to act as circuit judge in the Twelfth Circuit or Thirteenth Circuit.

"(d) The chief judge of the Twelfth Circuit may, in the public interest and upon request by the chief judge of the Ninth Circuit or Thirteenth Circuit, designate and assign temporarily any circuit judge of the Twelfth Circuit to act as circuit judge in the Ninth Circuit or Thirteenth Circuit.

"(e) The chief judge of the Thirteenth Circuit may, in the public interest and upon request by the chief judge of the Ninth Circuit or the Twelfth Circuit, designate and assign temporarily any circuit judge of the Thirteenth Circuit to act as circuit judge in the Ninth Circuit or Twelfth Circuit.".

(j) TEMPORARY ASSIGNMENT OF DISTRICT JUDGES AMONG CIRCUITS.—Section 292 of title 28, United States Code, is amended by adding at the end the following:

"(f) The chief judge of the United States Court of Appeals for the Ninth Circuit may in the public interest—

"(1) upon request by the chief judge of the Twelfth Circuit or Thirteenth Circuit, designate and assign 1 or more district judges within the Ninth Circuit to sit upon the Court of Appeals of the Twelfth Circuit or Thirteenth Circuit, or a division thereof, whenever the business of that court so requires; and

"(2) designate and assign temporarily any district judge within the Ninth Circuit to hold a district court in any district within the Twelfth Circuit or Thirteenth Circuit.

"(g) The chief judge of the United States Court of Appeals for the Twelfth Circuit may in the public interest—

"(1) upon request by the chief judge of the Ninth Circuit or Thirteenth Circuit, designate and assign 1 or more district judges within the Twelfth Circuit to sit upon the Court of Appeals of the Ninth Circuit or Thirteenth Circuit, or a division thereof whenever the business of that court so requires; and

"(2) designate and assign temporarily any district judge within the Twelfth Circuit to hold a district court in any district within the Ninth Circuit or Thirteenth Circuit.

"(h) The chief judge of the United States Court of Appeals for the Thirteenth Circuit may in the public interest—

"(1) upon request by the chief judge of the Ninth Circuit or Twelfth Circuit, designate and assign 1 or more district judges within the Thirteenth Circuit to sit upon the Court of Appeals of the Ninth Circuit or Twelfth Circuit, or a division thereof whenever the business of that court so requires; and

"(2) designate and assign temporarily any district judge within the Thirteenth Circuit to hold a district court in any district within the Ninth Circuit or Twelfth Circuit.

"(i) Any designations or assignments under subsection (f), (g), or (h) shall be in conformity with the rules or orders of the court of appeals of, or the district within, as applicable, the circuit to which the judge is designated or assigned.".

(k) ADMINISTRATIVE COORDINATION.—Section 332 of title 28, United States Code, is amended by adding at the end the following:

"(l) Any 2 contiguous circuits among the Ninth Circuit, Twelfth Circuit, and Thirteenth Circuit may jointly carry out such administrative functions and activities as the judicial councils of the 2 circuits determine may benefit from coordination or consolidation.".

(l) ADMINISTRATION.—The court of appeals for the ninth circuit as constituted on the day before the effective date of this section may take such administrative action as may be required to carry out this section and the amendments made by this section. Such court shall cease to exist for administrative purposes 2 years after the date of the enactment of this Act.

Page 8, line 8, strike the period at the end and insert ", whose official duty station shall be in California.".

(Page 8, line 13, strike the period at the end and insert ", whose official duty station shall be in California.".

Strike subsection (c) of section 3.

Insert after section 6 the following:

SEC. 7. NUMBER OF CIRCUIT JUDGES

The table contained in section 44(a) of title 28, United States Code, is amended—

(1) by amending the item relating to the first circuit to read follows:

"First .... 7";

(2) by amending the item relating to the second circuit to read follows:

"Second .... 15";

(3) by amending the item relating to the sixth circuit to read as follows:

"Sixth .... 17";

and

(4) by amending the item relating to the ninth circuit to read as follows:

"Ninth .... 19".

(5) by inserting after the item relating to the eleventh circuit the following:

"Twelfth 8
"Thirteenth .... 6".

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this Act, this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) SECTION 6.—Section 6 and the amendments made by section 6 shall take effect on the first October 1 that occurs on or after 9 months after the date on which all 5 judges authorized to be appointed to the ninth circuit court of appeals under section 5(a), and both judges authorized to be appointed under section 5(b), have been appointed, by and with the advice and consent of the Senate.

The CHAIRMAN. Pursuant to House Resolution 814, the gentleman from Idaho (Mr. SIMPSON) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Idaho (Mr. SIMPSON).

Mr. SIMPSON. Mr. Chairman, I yield myself such time as I may consume, and I thank the Committee on Rules for making this amendment in order.

Mr. Chairman, this amendment would split the Ninth Circuit Court of Appeals and, as has already been stated on this floor, there is some controversy surrounding it. This is an issue that has been discussed for several years, both in the States that are affected by the Ninth Circuit and when I was in the State legislature. I served on the Judiciary and Rules Committee, and we discussed this many times and looked at the Ninth Circuit and the potential need for splitting the Ninth Circuit.

Let me state at the outset of this, it is inevitable that the Ninth Circuit will be split. At some point in time, whether it is with this bill or some other bill in the future, the need to split the Ninth Circuit is undeniable. At some point in time, the growth is such that it is growing so rapidly that we will have to split this court.

What are the factors that we should look at that should determine when it is time to split this court? I agree with the White Commission and the statements made by the gentleman from California earlier. Looking at the decisions of a judge, there is no reason to split the court. Whether one agrees or disagrees with those decisions, that is not the reason to split a court.

The reason to split a court is for administrative purposes, and in the past there has been much debate about the liberal decisions of the Ninth Circuit and so forth; and people have wanted to get out of the Ninth Circuit for that reason. That is not my intention. My intention is because of the administration of the Ninth Circuit.

Look at these facts. The Ninth Circuit has 48 judges, a figure that is approaching twice the number of total judges as the next largest circuit. It is twice as big as the next largest circuit in terms of judges, and the Ninth Circuit represents 56 million people, roughly one-fifth of the population of the U.S. This is 5 million more people than the next largest circuit. The Ninth Circuit encompasses nearly 40 percent of the geographic area of the United States. It runs essentially from the equator to the North Pole and from the corners of Montana to Guam. It is an enormous surface area.

The Ninth Circuit also has the most number of appeals filed and the highest percentage of increases in appeals filed, the most number of appeals still pending and the longest median time until disposition of those appeals.

To address this problem, this amendment creates a new Ninth Circuit featuring California, Guam, Hawaii and the Northern Marianas Islands; a new 12th Circuit, featuring Arizona, Nevada, Idaho, and Montana; and a new 13th, featuring Alaska, Oregon, and Washington.

This legislation also allows the President to appoint five new judges to permanent Ninth Circuit seats, along with two other judges who will temporarily fill seats. These additions are consistent with requests made by the Judicial Conference and will ensure that future caseload demands made on the new Ninth Circuit will more closely mirror its new judgeship resources. The amendment further ensures that the duty stations of these judges will be California, where the demand for more judges is highest.

The creation of more judgeships in the absence of additional reform will not improve the administration of justice in the United States. This is an instance in which bigger does not mean better. We must distribute judgeships with an eye toward achieving structural coherence within each circuit. This amendment accomplishes that.

For just a minute, Mr. Chairman, let me address some of the arguments that have already been made and will be made against this bill:

First, that we are doing it just because we do not like the decisions of the Ninth Circuit. While that may have been the case in the past and some of the tactics that has been talked about in the past when this issue has been discussed, certainly that has been one of the premier points of view that some people have raised, that is not the reason to do it. I agree with the White Commission.

Second, the cost. The cost, as has been stated here, is somewhat exaggerated, and the reason for that is that it took into consideration the addition of five new additional judges and two temporary judges. Those judges will be appointed whether or not this amendment is adopted because they are in the underlying bill. So the cost of this amendment is substantially overstated by the opponents of this legislation.

Third, we have talked about Governor Schwarzenegger of California not supporting this and that we should follow our fellow Republican Governor. I can tell my colleagues that there are Republican Governors that do support this that are affected in the Ninth Circuit. The California Governor is not the only Governor in the Ninth Circuit.

The fourth is judges do not want this, that there was a vote taken and it was 30 to nine of the judges of the Ninth Circuit that did not want this split to occur. Let me tell my colleagues how that occurred. That was a straw poll that was taken of the judges. The chief justice of the Ninth Circuit knew exactly how each of those judges voted. It was not a vote in secret, and each one of those judges knew that the chief justice of the Ninth Circuit is adamantly opposed to this split. Did that influence the vote? I do not know, but I can tell my colleagues that of the nine that voted to support the split, they are registered as the nine. Of the 30 that opposed the split, some of them opposed it, some of them were undecided, and they were counted as opposing the split. So to say that it was 30 to nine, I think, is an exaggeration of the case.

The fact is we have to look at the facts that I stated here. Is it time to split this court? I think it is undeniable that it is time. Justice in the Ninth Circuit is different than it is in every other circuit in this country. We do things differently in the Ninth Circuit because it is so large.

In every other circuit, when there is an appeal of the three-judge decision en banc to the full court, all the judges of that circuit sit and listen to the case, even those on the three-judge panel, so that they can have their points of view inserted into that discussion of the case. In the Ninth Circuit, that is not the case. It is so large that they pull names out of a hat, and 10 members and the chief sit en banc. One may or may not be chosen for it. Individuals that sat on the three-judge panel and listened to it may not even be on the en banc panel; and consequently they cannot have their views inserted as to why they decided the way they did as a three-judge panel.

So justice is different in the Ninth Circuit. I think it should be uniform. I think the size of the judiciary in the various circuits should be more closely related than they currently are with the Ninth Circuit; and, consequently, I hope my colleagues will support this amendment, and we will finally do what we have discussed for many years, that is, split the Ninth Circuit, make justice in the West just as it is in the rest of the country.

Mr. Chairman, I reserve the balance of my time.

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise to express my strong opposition to the amendment offered by the gentleman from Idaho. This amendment has never been marked up in the Committee on the Judiciary. It comes out of right field, left field, whatever field. It has never been considered by the committee with jurisdiction over the Federal courts. In fact, the only process it received was a subcommittee hearing last year where the witnesses were split about its advisability.

Let me talk about some of the reasons why I think this body should reject this amendment.

The costs of implementing a three-way split of the Ninth Circuit are enormous and could not come at a worst time. The Administrative Office of U.S. Courts estimates start-up costs in excess of $131 million, incurring additional annual costs of over $20 million each year as a result of this split. The courts will be forced to incur these costs when they are in the midst of a budget crisis.

The Federal courts have already engaged in one round of staff cutbacks. Late last month, the administrative office announced a 2-year moratorium on 42 Federal courthouse construction projects as a result of the hard freeze on the judiciary budget. The administrative office has indicated that it may need to start cutting more staff if the budget situation remains the same.

The Ninth Circuit judges themselves are overwhelmingly opposed to splitting the circuit. In April of this year, Ninth Circuit judges voted 30 to nine against division of the circuit. In light of this overwhelming opposition from the affected judges, a split of the Ninth Circuit would constitute an unprecedented interference with the judicial system. Congress has never split a circuit over the objections of the affected judges.

If the opposition of the judges themselves does not carry water, perhaps a long bipartisan list of other opponents will be more persuasive. California Governor Schwarzenegger, as the gentleman has acknowledged, wrote in April of 2004 expressing his strong opposition to this proposal. The American Bar Association, the California Academy of Appellate Lawyers, a group of prominent Republican and Democratic lawyers and a number of county and State bar associations all oppose this split.

Split proponents have the burden of proving the advisability of a split; and in my mind, it is a heavy burden. They both must prove that the current Ninth Circuit does not efficiently and effectively serve the interests of justice and that a split would solve more problems than it would create.

To date, the empirical evidence in support of this split is lacking. In fact, for each reason offered as a justification to split the Ninth Circuit, there is a compelling response that justifies an opposite conclusion.

Some split proponents tout the common misperception that the Supreme Court reverses the Ninth Circuit an inordinate amount of the times. Based on this perception, they claim the Ninth Circuit is either out of touch with the rest of the country or issues an unusual number of bad decisions. The evidence does not support this assertion and, in fact, may lead to the opposite conclusion.

For the past 3 years, the reversal rate of the Ninth Circuit by the U.S. Supreme Court has compared favorably with other circuits; but even if we did not like the Ninth Circuit decisions, the gentleman's amendment does not propose shooting the justices. These judges will still be sitting on circuit courts. So it does not even achieve the goal that many of its proponents, if not the gentleman himself, seek to obtain with this amendment.

There was a reason why the leadership of the majority party decided to open up this bill for this nongermane amendment and no other nongermane amendments, and I would suggest it had nothing to do with judicial efficiency or effectiveness. It had to do with politics.

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It has been noted that due to the Ninth Circuit's size, panels rarely involve the same three judges. Proponents of the split argue that the shifting nature of panels leads to inconsistent opinions. However, it can be said that the shifting nature of panels contributes to the objectivity of decision-making and makes it difficult for any one bias or philosophy to predominate. Less charitably, it could be said that the very consistency of Ninth Circuit opinions, not their inconsistency, is what split advocates find objectionable.

Split proponents note that the Ninth Circuit has almost twice as many judges as the next largest Federal circuit, serves the largest population and deals with the largest number of appeals. Split proponents cite these numbers to support the contention that the Ninth Circuit is overburdened and is simply too huge to operate efficiently. However, statistics belie those contentions. They support the opposite conclusion.

These statistics show that in recent years the Ninth Circuit handled over 207 appeals per circuit judge. When compared to other circuits, these numbers put Ninth Circuit judges in the middle of the pack with regard to the number of appeals they handle annually. Ninth Circuit judges may not be the most efficient, but they are certainly not among the least.

I am sure we will also hear a bit today about the length of time, in fact, we have heard that it takes the Ninth Circuit takes to decide individual cases. The truth is that the Ninth Circuit judges are remarkably quick at deciding cases following argument or submission. It takes the Ninth Circuit 1.4 months to file a decision following arguments, as opposed to the national average of 2.1 months. For submitted cases, it takes one-half month nationally compared with two-tenths of a month in the Ninth Circuit.

Those who raise concerns about delays in case dispositions also offer no such evidence that delays are due to circuit size. In fact, vacant judgeships constitute a more likely explanation for any delays in overall case disposition. Proof for this conclusion can be drawn from the experience of the much smaller Sixth Circuit, which has a large percentage of judicial vacancies and the longest time, in excess of the Ninth Circuit by far, in case disposition among circuits. If delays in case disposition were the keystone for splitting circuits, we would start with the Sixth.

Finally, and least credibly, some split advocates accuse the Ninth Circuit of being unduly activist. These folks believe a split would somehow curb this alleged tendency, or at least inoculate the carved-out 12th and 13th from the decisions of the old Ninth Circuit.

I reject judicial activism as a sound rationale for splitting the circuits, or for any other congressional action against the courts. If judicial activism were valid grounds for restructuring the courts, we would have to reconstitute the current U.S. Supreme Court, which has displayed its own judicial activism in crafting its doctrine of State sovereign immunity. Because judicial activism exists in the eye of the beholder, it cannot be a sound basis for restructuring courts.

In conclusion, we must ask ourselves whether the cure presented by this amendment would be worse than the supposed disease. The disruptions, costs, and uncertainty that would attend a split might turn it into a costly failure. Frankly, the best way for Congress to participate constructively in improving the Ninth Circuit would be to pass S. 878 without this amendment. The additional district and circuit judgeships this bill creates within the Ninth Circuit will help it get an even better handle on its caseload.

Mr. Chairman, I reserve the balance of my time.

Mr. SIMPSON. Mr. Chairman, I yield myself such time as I may consume.

If you were to follow the arguments of the gentleman from California, maybe we should be combining the smaller circuits into larger circuits, if cost is the issue.

And it is the other side talking about judicial activism, not this side. We are talking because of administrative purposes.

Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the full committee.

Mr. SENSENBRENNER. Mr. Chairman, I rise in support of the amendment offered by the gentleman from Idaho. And I know that an underlying argument on both sides of the aisle is whether one likes or dislikes the controversial decisions the Ninth Circuit has rendered from time to time. I would hope that we would disregard that and look at the statistics, that the Ninth Circuit has become unwieldy.

I agree with the gentleman from Idaho that the Ninth Circuit is going to get split sooner or later. I believe that he has an amendment to accomplish this split in the best manner possible.

Now, let us look at why the Ninth Circuit needs to be split. First, it has 48 judges already serving, seven more are created in this bill, and that is a figure that approaches twice the number of total judges in the next largest circuit.

Second, the population of the territory within the Ninth Circuit is 56 million people, and that is roughly one-fifth of the Nation's population, and 25 million more than the population of the next largest circuit. The Ninth Circuit comprises nearly 40 percent of the geographic area of the United States. So that means, to come to get your appeal heard, one, in many instances, has to travel much farther, to San Francisco, than litigants in the other circuits to get to where those circuits sit.

The Ninth Circuit has the most number of appeals filed and the highest percentage increase in number of appeals filed, the most number of appeals still pending, and the longest median time until disposition.

Now, having said all of these statistics, why should we delay in dealing with the split of the Ninth Circuit? There are some who have proposed only one additional circuit be created, whether it includes all the States outside of California, Hawaii, Guam, and the northern Mariana Islands or whether the circuit should be divided into three pieces.

I think that what the gentleman from Idaho has done in dividing the Ninth Circuit into three, a new Ninth Circuit, a new 12th Circuit and a new 13th Circuit will make for the most efficient administration of justice.

I grant the point that most of the appeals arise from California, and that is why the gentleman's amendment has all seven of the new judges, five permanent and two temporary, sit with the newly reconstituted Ninth Circuit in the State of California. This is an idea whose time has come. If we delay adopting this amendment, we are just going to have more administrative problems caused by higher caseloads, so we might as well do it now; and I would urge the committee to support the amendment.

Mr. BERMAN. Mr. Chairman, may I get a sense of how much time each side has?

The CHAIRMAN. The gentleman from California has 12 minutes remaining.

Mr. BERMAN. Mr. Chairman, I yield 5 minutes to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. Mr. Chairman, first, there were the court-stripping amendments, now there are the court-splitting amendments. What will come next, the court-flogging amendments?

Why is this being sought? Well, it is argued that the amendment to split the courts, to split the circuit, is an amendment out of the necessity of improving the timeliness of the actions within the Ninth Circuit. Critics have purportedly claimed the Ninth Circuit is too big and prevents litigants from receiving timely legal redress.

In the period since 1984, when the court was last authorized new judgeships, there has been significant growth of the court's caseload. It has more than doubled. But interestingly enough, both the Fifth and the 11th Circuits have experienced similar increases in caseload growth; however, no divisions of those circuits have been contemplate or proposed.

So why is it only the Ninth Circuit? In fact, the Ninth Circuit terminated more than 10,000 cases in calendar year 2002, and has increased its efficiency year after year due to the continuing examination of case processing procedures and constant innovation. This has been accomplished despite unfilled vacancies. If the Congress and those that offer this amendment were truly concerned with timeliness, we would have filled those vacancies a long time ago.

So then what is the basis of this court-splitting, circuit-splitting amendment? Perhaps this is being sought because of an outcry of the judges within the Ninth Circuit and the members of the bench within the Ninth Circuit that they feel this has to be done, that it would improve the efficiency of the courts. But that cannot be it either, because the overwhelming opinion of the judges and the attorneys in the Ninth Circuit, as well as the statements of others concerned with this issue, having submitted written statements or given oral testimony before the commission, cut the other way.

Among those opposing the division of the Ninth Circuit were 20 out of 25 persons testifying at the Seattle hearing of the commission opposed to the split, 37 out of 38 persons testifying at the San Francisco hearing opposed to the split, and the governors of California, Washington, Oregon, and Nevada, the American Bar Association, and the Federal Bar Association all opposed the split. Plainly, this is not on outcry from those most immediately affected.

Well, it is argued that the need for consistency requires the split. But, again, the White Commission concluded, neither do we see a need to split the Ninth Circuit in order to solve problems having to do with consistency, predictability, and coherence of circuit law; there is no recognizable evidence of such a conflict. Indeed, the Circuit's use of its en bloc review process is designed to resolve and has effectively resolved precisely such conflicts.

In sum, Mr. Chairman, when they say it is about efficiency, when they say it is about consistency, and when they say it is about timeliness, it is about ideology. And as the White Commission stated, there is unanimous agreement that ideology should never be the ideology to split a circuit.

Mr. SIMPSON. Mr. Chairman, I yield 2½ minutes to the gentleman from Arizona (Mr. RENZI).

Mr. RENZI. Mr. Chairman, I thank the gentleman from Idaho for yielding me this time, and for his hard work and, in particular, his insight on this amendment; and I support the gentleman in looking forward to splitting up the Ninth Circuit Court, which I think is long overdue.

I find the legislation to be a real positive step in that it also incorporates the language that we worked on which removes Arizona from the Ninth Circuit Court. I find it to be forward looking. It acknowledges the simple fact the nine States that now compromise the Ninth Circuit Court continue to experience phenomenal growth rates.

Throughout the Southwest, we are seeing more and more homes being built, more and more people moving into the Southwest. Our population rates are exploding. The Ninth Circuit, as it exists today, is simply too big to quickly and effectively administer justice. It takes over a year to get even a case to be heard in the Ninth Circuit. For this reason alone, we need to look at splitting it up to better serve the needs of the citizens of the western United States.

The new circuit map proposed by the gentleman from Idaho (Mr. SIMPSON) addresses current population trends and alleviates caseload backlogs. The Ninth Circuit Court's current jurisdiction encompasses nine States and, again, almost 56 million people, roughly 19 percent of the U.S. population in what, again, is the fastest growing region of America.

Explosive population growth in the Ninth Circuit Court has outpaced the court's ability to administer justice in an efficient manner and the caseload is simply too big to administer efficiently.

The opposition claims the court is efficient, but I cite this example. In 2002, the Ninth Circuit Court had more cases pending for more than a year than all other circuit courts combined. In addition, the circuit court is too big for judges to track the opinion of other judges, which results in inconsistencies and unfairness in the judicial process. For example, two different three-judge panels on the same day issued different legal standards to resolve the same issue. How are district judges supposed to even know which standards, which holdings, to follow when such confusion, when such a lack of consistency exists on the bench?

I urge my colleagues to support this amendment to release us from the Ninth Circuit Court. They forgot to find the simplicity, they forgot to find the clarity you need in seeking the truth, those who continue to legislate from the bench, who now fight to struggle and protect the empire they have built to themselves.

Mr. BERMAN. Mr. Chairman, I yield myself 1 minute.

Now the mask comes off. The last line of the gentleman: They are legislating from the bench; we do not like their decisions.

Believe me, my colleagues, the original proponents of this split and many of its supporters are doing this not based on judicial efficiency, but on ideology. If you want to deal with rising population, you authorize new judgeships.

The major reason in any of the variables where the Ninth Circuit has lagged is because we have not filled the vacancies that were already authorized. You can have one circuit, you can have three circuits, you can have 10 circuits, but if you do not keep up with the growing litigation requirements by authorizing and filling those judgeships, you will have greater delays. It is a very simple equation.

☐ 1215

Mr. Chairman, I yield 3½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), a member of the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the distinguished ranking member for yielding me this time, and I regretfully rise to vigorously oppose the distinguished gentleman from Idaho's amendment. I consider this similar to court stripping, and that is the legislation that we have had over the past couple of weeks dealing with court stripping and taking away rights from the courts for reasons that are inexplicable.

Let me just cite for my colleagues a reason that has been argued by the proponent of this amendment, that the Ninth Circuit is too big, that there are too many delays. But let me just say that, in making that criticism, you might be interested in knowing that, last year, the average length of turnaround for cases before the Ninth Circuit was a month less than the average case lasted in 2002. Further, the Ninth Circuit's average turnaround time has improved 16 percent relative to the national average since 1997.

So the question would be, why would you, in complete rejection of the Governor of the State of California and the former Governor, try to restructure these courts? First of all, in a time when we are tightening our belts, when we would not even allow a simple amendment that would raise the salaries of the Federal judges to about $185,000, far less than a first associate in some of our major law firms, why would you not allow that amendment but you would in fact spend more dollars to redesign these courts?

The cost is going to be enormous. With an estimated start-up cost of about $131 million and an estimated annual recurring cost of about $22 million, this is a costly expenditure when we do not really have the dollars to do so. I would much rather spend dollars on making sure we have enough Federal judges, district judges, so that all of the petitioners and defendants can get a fair hearing in our courts.

The other thing is geography. The Ninth Circuit includes California. Although there are nine States in the Ninth Circuit, more than two-thirds of the workload of appeals is from California. There is no way to evenly divide the circuit into multiple circuits of roughly proportionate size without dividing California. The consistency of the decisions, the fairness of the decisions and the openness of the court gets undermined.

The other is, of course, history. Over the course of the extremely colorful history of the West, certain ties have developed that should be respected in circuit alignment in order to provide for continuity and stability. Arizona, for example, may at one time have seen itself as a Rocky Mountain State, but the truth today is that its economic and cultural ties are overwhelmingly closer to California. History plays a large part in it. Dividing the court simply takes away and makes the lives of judges more difficult. But the important point is that the circuits have reflected the balance of America, the fairness of America.

I live in the 5th and 11th Circuits, and I might say, I vigorously disagree with them on their civil rights decisions. They make the absolute wrong decisions, but they are the circuit courts. Even if you disagree with the Ninth Circuit, you cannot come here and cut them up and tear them up because you disagree with their philosophy, their legal decisions, the rendering of justice. We have to be better than that in America, and I would rise to oppose this amendment.

Today I rise in strong opposition to the amendment being offered by Representative SIMPSON which would divide the current Ninth Circuit to create three new Circuits.

I believe it is important at the outset that we understand at least three important points:

The first goes to cost. It is important to remember that we are not just talking about splitting up the judges of the existing Court of Appeals into separate courts of appeals. We are actually talking about dividing the entire and well integrated administrative structure of the Ninth Circuit to create three separate and largely duplicative administrative structures. With an estimated start-up cost of about $131 million, and an estimated annual recurring cost of about $22 million, this is both costly and wasteful. This is especially true when we face a budget crisis requiring us to lay off employees performing critical functions such as the supervision of probationers and preparation of sentencing reports.

The second point goes to geography. The Ninth Circuit includes California. Although there are nine states in the Ninth Circuit, more than two-thirds of the workload of the court of appeals is from California. There is no way to divide the circuit into multiple circuits of roughly proportionate size without dividing California. While I can understand why some might want to have a federal circuit court of appeal that was dominated by individuals from their State, today we are being asked to play politics with judicial geography and this is absolutely unacceptable in our democratic society.

Some of the proponents of this bill have argued that smaller, rural States are disadvantaged by being lumped into a circuit that contains a State the size of California with a substantial urban population base. But surely, they would not argue that Vermont and New Hampshire should be granted their emancipation from the larger, more urban States in the Second and First Circuits. Our federal bench should not be manipulated simply to make each circuit homogeneous.

The third point goes to history. Over the course of the extremely colorful history of the west, certain ties have developed that should be respected in circuit alignment in order to provide for continuity and stability. Arizona, for example, may at one time have seen itself as a rocky mountain state, but the truth today is that its economic and cultural ties are overwhelmingly closer to California than to Colorado or Wyoming. Another example is California and Nevada. Their bond is so great that they have joined ion a compact to protect Lake Tahoe. Moreover, Idaho and eastern Washington have essentially treated their district judges as interchangeable for years. The division proposed in this amendment to S. 878 would server all these ties by dividing Arizona from California, California from Nevada and Idaho from Washington.

Proponents of this split have long criticized the Ninth Circuit for its size and caseload. They might be interested to note that last year the average length of turnaround for cases before the Ninth Circuit was a month less than the average case lasted in 2002. Further, the Ninth Circuit's average turnaround time has improved 16 percent relative to the national average since 1997.

Dividing a Circuit should not take place simply to make the lives of judges or lawyers easier or cozier to reduce travel burdens. It should only take place when there is demonstrated proof that a circuit is not operating effectively and there is a consensus among the bench, the bar, and the public that they serve, that division is the appropriate remedy. Moreover, I do not see any persuasive evidence that would suggest that the Ninth Circuit is not operating effectively.

What I do not understand is why these repeated efforts to split the Ninth Circuit are pursued despite bi-partisan opposition ranging from Gov. Arnold Schwarzenegger (R–CA) to the overwhelming majority of Ninth Circuit judges, including the current Chief Judge, and Senior Judge Clifford Wallace, a former Chief Judge who was nominated by a Republican President. This irresponsible amendment would effectively take an otherwise non-controversial bill and turn it into a controversy. Whatever happened to that old adage, "if it ain't broke, don't fix it?"

I urge my colleagues to vote "no" on the Simpson amendment to S. 878.

Mr. SIMPSON. Mr. Chairman, I yield myself 30 seconds. While I appreciate the facts from the gentleman from California's comments, the reality is that some people, as I stated in my opening statement, support this because they do not like the decisions of the Ninth Circuit. That is a reality. But as the chairman stated and I stated, that is not the reason to do it. Look at the facts. Do not vote on it based on ideology.

I would also state that it is interesting that, from that side of the aisle, there are people who do not want to split it because they do like the decisions of the Ninth Circuit, and so they want them to apply to the entire West. For the same reason that some Members on my side want it split, some people on their side do not want it split.

Mr. Chairman, I yield 2 minutes to the gentleman from Montana (Mr. REHBERG).

Mr. REHBERG. Mr. Chairman, I thank the gentleman from Idaho for taking on this issue which is something that Montana has been calling for since the early eighties. When we finally got an appointment to the Ninth Circuit, we threw a party. We had not had one since the Kennedy era.

It is not about economic ties. I am not going to make the argument that I do not like the decisions that they make. In fact, I do not have to make the argument. The U.S. Supreme Court made the argument when they overturned 24 or 25 other cases. But there is a precedent within the United States for reapportioning the work, and it is called the United States Congress. It is no surprise that the judges do not like it. Who less likes reapportionment than United States Congressmen? We are the ones who complain the most, except in my case; I represent the whole State, so I cannot complain. But the State of California would love nothing more than to create the Supreme Court West. Back in the eighties when we tried to get it, all the appointments were going to California. We had a problem with our President at the time. We tried to make the argument.

Economic ties. If you want to make the argument about economic ties, what social and economic ties does Montana have to California other than the fact they are coming up and buying our property? The biggest problems that we have within the State of Montana are Federal problems that need to be addressed as locally as possible. I give great credit to Justice Sid Thomas who has now brought people to Montana to hear these cases. Why? Because he recognized as a matter of fairness that Montana deserved every bit as much of a right to have those cases heard in Montana as it did in California.

It makes logical sense to divide up the court. It makes logical sense. In the executive branch, when the populations shift, usually the needs shift. What do we do with the bureaucracy? And I do not mean that in the negative term. The bureaucracy usually moves to where the issue or the problem is existing. In the judiciary, it does not seem to do that.

Why do the lawyers vote overwhelmingly not to split it? They are not stupid. They are not going to go against a judge that may someday judge against their case. They are covering their rear ends. So it makes logical sense. Montana has been asking for it. Now is the time. I thank the gentleman from Idaho for sponsoring this legislation.

Mr. BERMAN. Mr. Chairman, I yield myself 1 minute.

Perhaps the most eloquent and forceful argument against the amendment being proposed and the split being proposed by the gentleman from Idaho came from the former chief judge of the Ninth Circuit, a Montana justice, Judge Browning, who felt very strongly that the interests of justice were not served by this particular split.

As I listened to the proponents of this amendment talk, the judges do not want it. The lawyers do not want it. They are not talking the merits. They are scared of the judges. We hear no clamor from the litigants about a split of the circuit. We hear no argument that there is some compelling public ground swell for this split. Some of my colleagues do not like this, and they want to ascribe motivations to people who disagree with them. They are afraid of the judges. They assume the judges are not going to act on what is in their interests. They are not going to lose their judgeships over this split. They believe justice is not served by this split.

I urge opposition to this amendment.

Mr. Chairman, I reserve the balance of my time.

Mr. SIMPSON. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon (Mr. WALDEN).

Mr. WALDEN of Oregon. Mr. Chairman, I rise today in support of this amendment. The Ninth Circuit represents 56 million people, or roughly one-fifth of our Nation's population. This is 25 million more people than the next largest circuit; 56 million people in one circuit. It encompasses 40 percent of the geographic area of the United States. Traveling across this much land mass wastes both time and money.

The Ninth Circuit also has the most number of appeals filed and the highest percentage increase in appeals filed, the most number of appeals still pending, and the longest median time until disposition. This is an overworked, overstretched court.

In addition, since the size of the circuit inhibits greater en banc participation by the entire circuit, the Ninth has adopted a practice that allows it to sit en banc with only 11 judges. This means the plurality of those 11, six judges, can effectively determine the case law for the circuit and the remaining 20 judges who serve. All of this leads to inconsistency in case law development and uncertainty among litigants. The outcome of cases in the Ninth are frequently determined more by the composition of a given three-judge panel, not by the law of the circuit as it has evolved. This is detrimental to the law-declaring role, one of a circuit's two primary functions, the other being to correct errors on appeal.

Mr. Chairman, I commend the gentleman from Idaho who has worked tenaciously on this issue to try and bring about fairness in the distribution of the workload in the Ninth Circuit and to bring about fairness in terms of where these cases are heard. We heard from the gentleman from Montana about the need at least to have a judge come there and hear a case once in a while. I think the gentleman from California, if I heard right from the gentleman from Montana, the judge he cited moved to California in 1960 and never held a hearing in Montana. In effect, he became a Californian.

Mr. Chairman, I support this amendment.

Mr. BERMAN. Mr. Chairman, I yield 1 minute to the gentleman from California (Mr. SCHIFF).

Mr. SCHIFF. I thank the gentleman for yielding me this time.

Mr. Chairman, I just wanted to compliment my colleague on the other side for his comments about the Ninth Circuit judges being overworked and being overstretched. It is really gratifying to hear all the concern for the workload of the judges in the Ninth Circuit. That concern, I think, would carry more weight with the opposition to this bill if it were reflected historically in a desire to fill the vacancies for those overworked and overstretched judges. If there had been, I think, a stronger pattern of support for that, for dealing with the burden on the caseload in the Ninth Circuit, then there would be less inclination to think this is all about ideology. But when the gentleman goes on to say that part of this is also due to his dislike of the outcome of cases determined by the composition of these three-judge panels rather than law precedent, we get, once again, back to ideology rather than a concern over caseload or workload.

Again, for those reasons, the White Commission and the courts have historically and unanimously opposed circuit splitting over matters of ideology.

Mr. SIMPSON. Mr. Chairman, I yield 1½ minutes to the gentleman from Idaho (Mr. OTTER).

Mr. OTTER. I thank my colleague and my good friend from Idaho for yielding me this time.

Mr. Chairman, I had quite a few prepared remarks, but most all of the information that I was going to impart to this body has already been said time and time again about the overload of the courts; the workforce themselves; how many additional judges have been added; and the fact that we almost have twice as many judges now in the Ninth Circuit as there are in the next closest circuit; the geographic size and obviously the population all present tremendous problems for those of us in the Ninth Circuit.

It was said earlier that, when Congress does not like something, and especially we have been investing and assigning all manner of responsibility and all manner of attitude to why we want to divide up the Ninth Circuit, I would remind the gentleman from California and the gentlewoman from Texas that, if you read article III of the Constitution, it says very clearly that the judicial system shall be invested in the Supreme Court and such other inferior courts as Congress may from time to time deem necessary. So these courts are indeed a creature of this Congress, and so then it falls to our responsibility, I think, as the gentleman from Montana clearly pointed out, that when we need to reapportion because of size and because of geography that is involved and the amount of people that are involved, it is necessary for this Congress to take action and this action is long overdue.

Mr. Chairman, I rise today in support of the amendment my friend from Idaho is offering to split the Ninth Circuit Court of Appeals. It's no surprise that the outcome of many of the Ninth Circuit's decisions is inconsistent case law that results in uncertainty among litigants.

After all, the Ninth Circuit encompasses nearly 40 percent of the land in the United States, stretching from Canada to Mexico and from Alaska to Guam. That means the Ninth Circuit must represent one out of every five Americans, even though there are eleven circuit courts handling appeals throughout the country.

The number of people who call the Ninth Circuit home and the distance it takes to travel across the massive geographic area already places a huge burden on this court. On top of that, the Ninth Circuit has more appeals filed than any other court. And with each new appeal the time it takes to get a decision increases.

It's become an administrative nightmare, Mr. Chairman, but it results in more than just a paperwork backlog. The Ninth Circuit is simply too large to do an effective job, so it leaves people in my state and throughout the West without an effective voice in our nation's legal system.

It's a liability that deserves serious consideration by us today. An effective and efficient court system is essential to protecting the freedoms that we as Americans hold dear. The checks and balances that safeguard our liberties are meaningless without timely rendering of justice.

We must not let bureaucracy and administrative stagnation undermine development of coherent and consistent case law. This is an instance when bigger absolutely does not mean better, and it is important that we address this issue now.

My friend Mr. Simpson's amendment would create two new circuit courts and split the up the Ninth so that each of the three courts are better represented both proportionally and regionally. By focusing on a smaller geographic area with a smaller population base, the court would have the opportunity to develop a body of law based on consistency, constitutionality and rational public policy.

This simple solution would enable the judicial system in the West to render fair decisions in a timely manner and start clearing the enormous court backlog throughout our region. I'm proud to be working with Congressman SIMPSON on his continued effort to reshape the court system in the West and restore some commonsense and judicial reality to the federal appeals process. I strongly encourage you to vote for this amendment.

Mr. BERMAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I am not challenging the constitutionality of the proponent's amendment. I am challenging the wisdom of the proponent's amendment. If we do this, we are doing something unprecedented with significant adverse budgetary consequences in a fashion that will not distribute the caseload in any sense equally, that is opposed by the judges, that is opposed by the lawyers who practice in this court and, to the extent that it is ideologically motivated, foists on our poor California Republicans a circuit that they think will not serve their interests.

So I hate to see this squabble between the Idaho and Montana Republicans and the California Republicans, but the fact is this is why, even though you have the authority to draw these lines, it may not be wise to.

□ 1230

I urge opposition to the amendment, and I include for the RECORD a letter from the highly praised Ninth Circuit judge from Montana opposing the split.

UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT,
Billings, MT, October 28, 2003.

Re: H.R. 2723
Hon. LAMAR SMITH, Chairman,
Subcommittee on the Courts, the Internet, and Intellectual Property, Washington, D.C.

DEAR CHAIRMAN SMITH: I am a United States Circuit Judge with chambers in Billings, Montana. I write in opposition to H.R. 2723. I am also authorized to state that the following Ninth Circuit Judges whose official stations are within the boundaries of the proposed Twelfth Circuit join me in opposing H.R. 2723: Judge Otto R. Skopil (Portland, Oregon), Judge Betty Binns Fletcher (Seattle, Washington), and Judge Jerome Farris (Seattle, Washington). In addition, Judge James R. Browning (San Francisco, California), Judge Alfred T. Goodwin (Pasadena, California), Judge Robert Boochever (Pasadena, California) and Judge M. Margaret McKeown (San Diego, California), whose initial official duty stations were within the boundaries of the proposed Twelfth Circuit (Montana, Oregon, Alaska, and Washington, respectively), have authorized me to register their opposition to H.R. 2723. All of these judges maintain strong connections with their former states of residence. In particular, Judges Goodwin and McKeown wished me to emphasize that they spend a significant amount of time each year in the Northwest, maintain offices there, and retain close professional relationships with the bar and bench in Oregon and Washington, respectively.

Sincerely,

SIDNEY R. THOMAS.

Mr. Chairman, I yield back the balance of my time.

Mr. SIMPSON. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I appreciate the gentleman's concern for the squabble between the Republicans from California and the Republicans from Idaho. But I can tell the gentleman that some Republicans from California also see the need to split the Ninth Circuit. They also are concerned about not having the rest of us in the pool with them.

Let me just say this. The White Commission has been mentioned several times here, and I agree with the White Commission, as I have stated before. Splitting the court because one does not like the decisions is not the right reason to do it. If those individuals here want to split this court because they think that they are going to get better decisions out of a new court that they like better, they are going to be mighty disappointed because I can find decisions on any court anywhere in the land that I am going to disagree with. That is not a valid reason to split a court, even though there are some people who want to do it for that reason.

What I am asking the Members to do is to look past that and look at the statistics, look at the numbers, look at the facts that the reality is that it is going to be split at some time. We cannot go on with a court that is twice as large, will some day, looking at the growth rate, be three times as large as any other circuit court. According to the argument of the gentleman from California, what we should have done in 1980 when we split the Fifth Circuit was just add more judges, but we decided to split it, and, yes, all the judges there wanted to split the Fifth Circuit.

I would like to know of this 30 to nine vote that is being touted, how many of them were the undecideds that were counted in the 30. How many of them would have voted one way or another if a secret ballot was taken and they did not have to reveal who they were to the chief justice that they knew was opposed to the amendment.

I will also tell the Members that the White Commission also recognized there was something wrong with the Ninth Circuit because they recommended not a split in the Ninth Circuit, but to split it administratively, something that had not been done in any other region. They recognized that the administration of the Ninth Circuit was too large and needed to be handled differently. It was not efficient. So they recommended splitting the administration of it. Why they did not recommend splitting the court, I do not know. I think it is because it was always looked at as partisan. And I will also tell the Members that five of the nine Supreme Court Justices have made public comments about the need to split the Ninth Circuit.

I urge support for the amendment.

Mr. SMITH of Texas. Mr. Chairman, I support this amendment.

The Ninth Circuit has become so large that unless something is done, it risks becoming irrelevant.

In the past 2 years, the Courts, Internet and Intellectual Property Subcommittee has held two hearings on this issue.

It is clear to me that this bill contains much-needed reforms to the court system.

As has been pointed out, the Ninth Circuit is the largest in the country. It represents 56 million people and has 48 judges—twice the number of judges in the next largest circuit.

It has gotten so big that because its size prohibits participation by the entire circuit, as few as six judges often determine case law for the entire circuit.

This leads to inconsistent decisions and uncertainty for litigants.

The Ninth Circuit leads all circuits in total appeals filed and pending.

The increase in its workload over one and 5-year periods leads all circuits.

Worst of all, it continues to rank as one of the slowest circuits in disposing of cases.

Mr. Chairman, bigger court systems do not mean better justice, but slower justice.

And as we know, "justice delayed is justice denied."

Unless this problem is addressed, the Ninth Circuit will continue to grow in size but diminish in effectiveness.

Mr. SIMPSON'S amendment takes a common sense approach and will make the Ninth Circuit more efficient.

This amendment creates a new Ninth Circuit, as well as a new Twelfth and Thirteenth.

In addition, it authorizes the President to appoint five new judges to permanent Ninth Circuit seats and two judges to fill temporary seats.

The Ninth Circuit has grown too big to take care of the people it serves. I urge my colleagues to support this amendment and help us improve the justice system in this country.

Americans for the most part have retained faith in our judiciary because they believe it applies the rule of law, from traffic court to the Supreme Court, when adjudicating legal disputes.

I hope we are able to return to the Ninth Circuit an ability to discharge its civic functions on behalf of the American people.

The CHAIRMAN. All time for debate has expired.

The question is on the amendment offered by the gentleman from Idaho (Mr. SIMPSON).

The question was taken; and the Chairman announced that the ayes appeared to have it.

RECORDED VOTE

Mr. BERMAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 205, noes 194, not voting 33, as follows:

[Roll No. 492]

AYES—205

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Camp
Cantor
Capito
Carter
Chabot
Chocola
Coble
Cole
Collins
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gillmor
Gingrey
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Johnson (CT)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McIntyre
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
[illegible]
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Stenholm
Sweeney
Tancredo
Taylor (MS)
Taylor (NC)
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOES—194

Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Bono
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Calvert
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clyburn
Conyers
Cooper
Costello
Cox
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
DeLauro
Deutsch
Dicks
Dooley (CA)
Doyle
Dreier
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gilchrest
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz

Owens
Pallone
Pascrell
Pastor
Pelosi
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Simmons
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Wilson (NM)
Woolsey
Wu
Wynn

NOT VOTING—33

Abercrombie
Ackerman
Boehlert
Brown, Corrine
Buyer
Cannon
Clay
Delahunt
DeMint
Dingell
Doggett
Forbes
Gephardt
Goode
Greenwood
Hastings (FL)
Hoeffel
Isakson
John
Kucinich
Lampson
Majette
Meeks (NY)
Millender-McDonald
Nethercutt
Norwood
Payne
Portman
Sullivan
Tauzin
Terry
Towns
Weldon (PA)

□ 1306

Ms. BALDWIN and Messrs. CARDOZA, SCOTT of Georgia, DAVIS of Tennessee, and BERRY changed their vote from "aye" to "no."

Messrs. GUTKNECHT, GERLACH, THOMAS, ROHRABACHER, NUNES, OSE, LEWIS of California, GARY G. MILLER of California, McKEON, CUNNINGHAM, RADANOVICH, and GALLEGLY, and Mrs. JOHNSON of Connecticut changed their vote from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

The CHAIRMAN. There being no other amendments, the question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Accordingly, the Committee rose; and the Speaker pro tempore (Mrs. BIGGERT) having assumed the chair, Mr. LAHOOD, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the Senate bill (S. 878) to authorize an additional permanent judgeship in the district of Idaho, and for other purposes; pursuant to House Resolution 814, he reported the Senate bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted in the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the third reading of the Senate bill.

The Senate bill was ordered to be read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. BERMAN

Mr. BERMAN. Madam Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. BERMAN. In its present form, yes.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. BERMAN moves to recommit the bill S. 878 to the Committee on the Judiciary with instructions that the Committee report the same back to the House forthwith with the following amendment:

In section 6(h) of the bill, add the following new paragraph at the end:

(4) If the matter is one involving a judge who has refused the request of a party to a proceeding to disqualify himself or herself pursuant to a recusal, any appeal of that decision shall be had in such court.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. BERMAN) is recognized for 5 minutes in support of his motion.

Mr. BERMAN. Madam Speaker, the Committee on Rules denied me and the rule denied me the opportunity to offer a variation of this amendment in committee, even though they allowed one other nongermane amendment, which we just adopted.

This amendment, I believe, addresses a serious problem in the current structure of the Federal procedures. If an outside party complains that a Federal judge has engaged in misconduct, that party has a right to have the presiding judge entertain his complaint. If it is the district court, it is the chief judge of the district that that judge sits in; if it is the appellate court, it is the presiding judge of the circuit; and if it is the Supreme Court, it is the Chief Justice of the Supreme Court.

If the presiding judge or the chief judge does not resolve that, the complainant is entitled to a three-judge panel. That is for misconduct.

But for recusals based on an apparent conflict of interest, asking a judge to step aside and not hear a particular case, there is absolutely no process other than the judge himself who is being alleged to have not been appropriately sitting on that case because of conflicts of interest or apparent conflicts of interest; that judge gets to decide for himself. That system is not right.

What this amendment would do in order to be germane and apply as a pilot project, and Chief Justice Rehnquist himself highlighted this statutory anomaly to several U.S. Senators: these Senators had expressed concern that Justice Scalia did not recuse himself from a case in which Vice President CHENEY was a named litigant. While this case was pending, Justice Scalia had taken a duck-hunting trip with the Vice President. Not only did they hunt together for several days, but Justice Scalia also traveled with the Vice President aboard Air Force 2.

In a public document explaining his refusal to recuse himself from a case involving his hunting buddy, Justice Scalia wrote that he did not believe "his impartiality might reasonably be questioned." In commenting on Justice Scalia's decision, Chief Justice Rehnquist wrote to the Senators, "There is no formal procedure for a court review of a decision of a Justice in such a case."

While I believe that my notions of the propriety of Justice Scalia's refusal to recuse himself are not important, the opinion of the American people is important. The efficacy of our court system depends entirely on the perception that the courts will administer justice impartially. If the courts lose the trust of the people, they lose their only real power.

Reasonably or not, fairly or not, many folks around this country did question whether Justice Scalia could be impartial in a case involving a hunting buddy. It is clear that Justice Scalia's declaration of impartiality did not itself put these questions to rest. To the extent these questions persist, our court system suffers.

This motion to recommit in the new circuits established so that the motion will be in order will establish a process by which the Federal courts can design a procedure where refusals by the judge to recuse himself can be heard by other judges, thereby getting rid of the problem of the appearance of conflict of interest.

I want to make it very clear. I am not coming to the conclusion that Justice Scalia had a conflict of interest; I am coming to the opinion and the conclusion which I believe strongly that someone other than Justice Scalia should be able to make this decision, just like someone other than an accused justice should be able to make the decision about whether or not there has been judicial misconduct.

We are leaving full authority to the Federal courts to design that process, but the notion that there is some appeal, some procedure, some process by which a challenge to the fairness and impartiality of a judge will be heard by someone other than the judge is a necessity.

I urge the adoption of this motion.

Unlike the judicial misconduct statute, the recusal statute currently provides no opportunity to appeal a judge's refusal to recuse himself. My amendment would have simply brought the procedures for addressing recusal and misconduct decisions into line with one another.

Chief Justice Rehnquist himself highlighted this statutory anomaly in a letter to several

U.S. Senators. These Senators had expressed concern that Justice Scalia did not recuse himself from a case in which Vice President CHENEY was a named litigant. While this case was pending, Justice Scalia had taken a duck-hunting trip with the Vice President. Not only did they hunt together for several days, but Justice Scalia also traveled with the Vice President aboard Air Force Two.

In a public document explaining his refusal to recuse himself from a case involving his hunting buddy, Justice Scalia wrote that he did not believe "his impartiality might reasonably be questioned." In commenting on Justice Scalia's decision, Chief Justice Rehnquist noted that, "There is no formal procedure for a Court review of a decision of a Justice in an individual case."

What I believe about the propriety of Justice Scalia's refusal to recuse himself is unimportant. What is important, however, is the opinion of the American people. The efficacy of our court system depends entirely on the perception that the courts will administer justice impartially. If the courts lose the trust of the people, they lose their only real power.

Reasonably or not, many folks around the country did question whether Justice Scalia could be impartial in a case involving a hunting buddy. It is clear that Justice Scalia's declaration of impartiality did not, itself, put these questions to rest. To the extent these questions persist, our court system suffers.

Mr. SENSENBRENNER. Madam Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Wisconsin (Mr. SENSENBRENNER) is recognized for 5 minutes.

Mr. SENSENBRENNER. Madam Speaker, this is the wrong time, the wrong procedure, and the wrong amendment to deal with what is a very legitimate problem.

If the procedure that was outlined by the gentleman from California's motion to recommit were in place at the time Justice Scalia and Vice President CHENEY went on their duck-hunting trip, the other eight Justices of the Supreme Court would decide whether or not Justice Scalia could vote on the case that Vice President CHENEY was a named litigant in. This can be subject to extreme misuse as people could file complaints again Justices and ask for recusals to take them out and to take their votes out if they felt that the Justices would vote the wrong way.

And the same thing under the gentleman from California's motion to recommit would apply at the district court and the Court of Appeals level, and that is whether a judge's colleagues will determine whether or not a judge has a vote on a piece of litigation that is coming before the court.

□ 1315

Now, I concede the fact that there is a problem that the gentleman from California (Mr. BERMAN) has recognized; but his solution is the wrong solution.

The correct solution is to allow the commission that has been appointed by Chief Justice Rehnquist and which is headed by Justice Steven Bryer, looking into judicial misconduct statutes and how they should be changed to come up with a recommendation that can either be enacted into law by statute or adopted as a rule of civil or criminal procedure.

If legislation is necessary, we should go through the normal legislative process in looking at all of the angles of the proposed solution to make sure that what we are doing is right. I know there is a problem, but the gentleman from California (Mr. BERMAN) is not right. We should allow people to study this more dispassionately and thus vote down the motion to recommit.

I ask for a "no" vote.

Madam Speaker, I yield back the balance of my time

The SPEAKER pro tempore (Mrs. BIGGERT). Without objection, the previous question is ordered on the motion to recommit.

There was no objection

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. BERMAN. Madam Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 190, noes 216, not voting 26, as follows:

[Roll No. 493]

AYES—190

Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Harman
Herseth
Hill
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kleczka
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Menendez
Michaud
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Pelosi
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—216

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Houghton
Hulshof
Hunter
Hyde
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Thomas

Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NOT VOTING—26

Abercrombie
Boehlert
Brown, Corrine
Cannon
DeMint
Forbes
Gephardt
Goode
Greenwood
Hastings (FL)
Hoeffel
Isakson
John
Kucinich
Lampson
Majette
Matsui
Meeks (NY)
Millender-McDonald
Nethercutt
Norwood
Payne
Portman
Tauzin
Terry
Weldon (PA)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mrs. BIGGERT) (during the vote). Members are reminded that there are 2 minutes remaining in this vote.

☐ 1336

Messrs. DUNCAN, SOUDER and SHAYS changed their vote from "aye" to "no."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

PERSONAL EXPLANATION

Mr. ABERCROMBIE. Madam Speaker, in accordance with a leave of absence approved earlier today, I was unavoidably absent from the House. Had I been present, I would have voted as follows:

Rollcall: 490, Previous Question on the rule for S. 878, "no"; 491, Rule for consideration of S. 878, "no"; 492, Simpson Amendment to S. 878, "no"; 493, Motion to recommit S. 878 with instructions, "yes."

The SPEAKER pro tempore. The question is on the passage of the bill.

The bill was passed.

The title of the bill was amended so as to read: "A bill to create additional Federal court judgeships.".

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

RECOGNIZING SPIRIT OF JACOB MOCK DOUB AND EXPRESSING SENSE OF CONGRESS THAT "NATIONAL TAKE A KID MOUNTAIN BIKING DAY" SHOULD BE ESTABLISHED IN JACOB MOCK DOUB'S HONOR

Mr. BARTON of Texas. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 480) recognizing the spirit of Jacob Mock Doub and his contribution to encouraging youth to be physically active and fit and expressing the sense of Congress that "National Take a Kid Mountain Biking Day" should be established in Jacob Mock Doub's honor.

The Clerk read as follows:

H. CON. RES. 480

Whereas, according to the Centers for Disease Control and Prevention, obesity rates have nearly tripled in adolescents in the United States since 1980;

Whereas overweight adolescents have a 70 percent chance of becoming overweight or obese adults;

Whereas research conducted by the National Institutes of Health indicates that while genetics do play a role in childhood obesity, the large increase in childhood obesity rates over the past few decades can be traced to overeating and lack of sufficient exercise;

Whereas the Surgeon General and the President's Council on Physical Fitness and Sports recommend regular physical activity, including bicycling, for the prevention of overweight and obesity;

Whereas Jacob Mock "Jack" Doub, born July 11, 1985, was actively involved in encouraging others, especially children, to ride bicycles;

Whereas Jack Doub, an active youth with an avid interest in the outdoors, was introduced to mountain biking at the age of 11 near Grandfather Mountain, North Carolina, and quickly became a talented cyclist;

Whereas Jack Doub won almost every cross-country race he entered for two years, and between the ages of 14 and 17 became a top national-level downhill and slalom competitor;

Whereas Jack Doub placed second in junior expert dual slalom at the 2002 National Off Road Bicycling Association's National Championship Series at Snowshoe Mountain;

Whereas Jack Doub died unexpectedly from complications related to a bicycling injury on October 21, 2002;

Whereas Jack Doub's family and friends have joined, in association with the International Mountain Bicycling Association, to honor Jack Doub's spirit and love of bicycling by establishing the Jack Doub Memorial Fund to promote and encourage children of all ages to learn to ride and lead a physically active lifestyle;

Whereas the International Mountain Bicycling Association's worldwide network includes 32,000 individual members, more than 450 bicycle clubs, 140 corporate partners, and 240 bicycle retailer members who coordinate more than 1,000,000 volunteer trailwork hours each year and have built more than 5,000 miles of new trails; and

Whereas the International Mountain Bicycling Association has encouraged low-impact riding and volunteer trailwork participation since 1988: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) recognizes the health risks associated with childhood obesity;

(2) recognizes the spirit of Jacob Mock Doub and his contribution to encouraging youth of all ages to be physically active and fit, especially through bicycling;

(3) expresses its sense that "National Take a Kid Mountain Biking Day" should be established in honor of Jacob Mock Doub; and

(4) encourages parents, schools, civic organizations, and students to promote increased physical activity among youth in the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 480.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise to support H. Con. Res. 480, authored by my good friend, the gentleman from North Carolina (Mr. BURR), to recognize the spirit of Jacob Mock Doub and his contribution to encouraging youth to be physically active and fit.

Jacob Doub, a resident of North Carolina, died unexpectedly from complications related to a bicycling injury 2 years ago. His spirit, however, lives on as his family and friends have recently joined with the International Mountain Bicycling Association to establish the Jack Doub Memorial Fund to promote and encourage children of all ages to learn to ride a bike and to lead a physically active lifestyle.

I understand that Jack's vivacious attitude toward mountain biking was irrepressible. His energy and drive to be a great mountain biker is an inspiration to all of us. With obesity rates on the rise, we all need to take personal responsibility and do more to increase physical activity to improve our health.

Madam Speaker, I would urge my colleagues to adopt this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Madam Speaker, I yield 5 minutes to the gentleman from Oregon (Mr. BLUMENAUER), the sponsor of the resolution.

Mr. BLUMENAUER. Madam Speaker, I must correct the record. I am not a sponsor of the bill. It was introduced by the gentleman from North Carolina (Mr. BURR) and the gentleman from Massachusetts (Mr. MARKEY), though; but I do celebrate the spirit in which it is offered to recognize the contributions in terms of memorializing the notion of making sure our youth are physically fit and active and expressing the sense of Congress that National Take a Kid Mountain Biking Day should be established in Mr. Doub's honor.

I think it is important for us to move in this direction in part to take someone who loved the spirit, the challenge, the physical activity of cycling and to translate that to promote and encourage children of all ages to learn to ride and lead a physically active lifestyle.

This is serious business. The committee has been working throughout this session of Congress, focusing on the needs of fitness for our youth. The notion of childhood obesity, the rates have nearly tripled in adolescents in the United States since 1980, and we know the research indicates that overweight adolescents have a 70 percent chance of becoming overweight or obese as adults and the range of physical problems that are associated with it.

That is why the Surgeon General and the President's Council on Physical Fitness and Sports recommend regular physical activity, including bicycling, for the prevention of overweight and obesity, as well as general health promotion.

Mountain biking is a growing activity around the United States. In my State of Oregon, over 400,000 people participated in mountain biking last year. Bike Magazine identified the area around Hood River, Oregon, just to the east of my district, as some of the finest singletrack in the mountain bike universe, lying within an 80-mile radius of Hood River, incorporating all of the area that I represent.

It is important not just to fitness and recreation. It is also important to the economy.

Overall, bicycling and mountain bike tourism is important to local and State economies. We are finding across the country cycling activities are gathering tourists for organized rides, for touring and for mountain biking. In our State, tourism is a $6.1 billion industry, and we are watching as bicycling is becoming an ever-increasing part of that effort, programs like Cycle Oregon that bring together 2,000 people from around the country every year.

It also is the source of a growing industry just in terms of cycle manufacturing and sales. There are thousands of small businesses across America that are part of the bicycling industry and specifically mountain biking. We just found this last year in Oregon the Chris King Precision Components relocated from California to Oregon because of the local support for mountain biking.

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And they join one of dozens of companies that are a part of that effort, creating a critical mass in terms of the component, manufacturing, sales and service.

For all of these reasons, in terms of celebrating the spirit of mountain biking, the importance of promoting fitness, particularly among our youth, because it is so important in areas like tourism and small businesses, I rise in support of this resolution and urge my colleagues not just to support it, but find ways that they can translate this back home to their communities to make a difference.

Mr. BROWN of Ohio. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume to urge all my colleagues to support this. This is a good piece of legislation. It recognizes an individual in the district of the gentleman from North Carolina (Mr. BURR), who died in a bicycling accident. It also recognizes a very helpful activity.

I have a mountain bike, although in Texas you would have to call it more of a prairie bike or a hill bike; but this is a good thing, and I hope we can pass it unanimously.

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 480.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PATIENT NAVIGATOR OUTREACH AND CHRONIC DISEASE PREVENTION ACT OF 2004

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 918) to authorize the Health Resources and Services Administration, the National Cancer Institute, and the Indian Health Service to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services, as amended.

The Clerk read as follows:

H.R. 918

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Patient Navigator Outreach and Chronic Disease Prevention Act of 2004''.

SEC. 2. PATIENT NAVIGATOR GRANTS.

Subpart V of part D of title III of the Public Health Service Act (42 U.S.C. 256) is amended by adding at the end the following:

''SEC. 340A. PATIENT NAVIGATOR GRANTS.

''(a) GRANTS.—The Secretary, acting through the Administrator of the Health Resources and Services Administration, may make grants to eligible entities for the development and operation of demonstration programs to provide patient navigator services to improve health care outcomes. The Secretary shall coordinate with, and ensure the participation of, the Indian Health Service, the National Cancer Institute, the Office of Rural Health Policy, and such other offices and agencies as deemed appropriate by the Secretary, regarding the design and evaluation of the demonstration programs.

''(b) USE OF FUNDS.—A condition on the receipt of a grant under this section is that the grantee agree to use the grant to recruit, assign, train, and employ patient navigators who have direct knowledge of the communities they serve to facilitate the care of individuals, including by performing each of the following duties:

''(1) Acting as contacts, including by assisting in the coordination of health care services and provider referrals, for individuals who are seeking prevention or early detection services for, or who following a screening or early detection service are found to have a symptom, abnormal finding, or diagnosis of, cancer or other chronic disease.

''(2) Facilitating the involvement of community organizations providing assistance to individuals who are at risk for or who have cancer or other chronic diseases to receive better access to high-quality health care services (such as by creating partnerships with patient advocacy groups, charities, health care centers, community hospice centers, other health care providers, or other organizations in the targeted community).

''(3) Notifying individuals of clinical trials and facilitating enrollment in these trials if requested and eligible.

''(4) Anticipating, identifying, and helping patients to overcome barriers within the health care system to ensure prompt diagnostic and treatment resolution of an abnormal finding of cancer or other chronic disease.

''(5) Coordinating with the relevant health insurance ombudsman programs to provide information to individuals who are at risk for or who have cancer or other chronic diseases about health coverage, including private insurance, health care savings accounts, and other publicly funded programs (such as Medicare, Medicaid, and the State children's health insurance program).

''(6) Conducting ongoing outreach to health disparity populations, including the uninsured, rural populations, and other medically underserved populations, in addition to assisting other individuals who are at risk for or who have cancer or other chronic diseases to seek preventative care.

''(c) GRANT PERIOD.—

''(1) IN GENERAL.—Subject to paragraphs (2) and (3), the Secretary may award grants under this section for periods of not more than 3 years.

''(2) EXTENSIONS.—Subject to paragraph (3), the Secretary may extend the period of a grant under this section, except that—

''(A) each such extension shall be for a period of not more than 1 year; and

''(B) the Secretary may make not more than 4 such extensions with respect to any grant.

''(3) END OF GRANT PERIOD.—In carrying out this section, the Secretary may not authorize any grant period ending after September 30, 2010.

''(d) APPLICATION.—

''(1) IN GENERAL.—To seek a grant under this section, an eligible entity shall submit an application to the Secretary in such form, in such manner, and containing such information as the Secretary may require.

''(2) CONTENTS.—At a minimum, the Secretary shall require each such application to outline how the eligible entity will establish baseline

measures and benchmarks that meet the Secretary's requirements to evaluate program outcomes.

"(e) UNIFORM BASELINE MEASURES.—The Secretary shall establish uniform baseline measures in order to properly evaluate the impact of the demonstration projects under this section.

"(f) PREFERENCE.—In making grants under this section, the Secretary shall give preference to eligible entities that demonstrate in their applications plans to utilize patient navigator services to overcome significant barriers in order to improve health care outcomes in their respective communities.

"(g) COORDINATION WITH OTHER PROGRAMS.—The Secretary shall ensure coordination of the demonstration grant program under this section with existing authorized programs in order to facilitate access to high-quality health care services.

"(h) STUDY; REPORTS.—

"(1) FINAL REPORT BY SECRETARY.—Not later than 6 months after the completion of the demonstration grant program under this section, the Secretary shall conduct a study of the results of the program and submit to the Congress a report on such results that includes the following:

"(A) An evaluation of the program outcomes, including—

"(i) quantitative analysis of baseline and benchmark measures; and

"(ii) aggregate information about the patients served and program activities.

"(B) Recommendations on whether patient navigator programs could be used to improve patient outcomes in other public health areas.

"(2) INTERIM REPORTS BY SECRETARY.—The Secretary may provide interim reports to the Congress on the demonstration grant program under this section at such intervals as the Secretary determines to be appropriate.

"(3) INTERIM REPORTS BY GRANTEES.—The Secretary may require grant recipients under this section to submit interim reports on grant program outcomes.

"(i) RULE OF CONSTRUCTION.—This section shall not be construed to authorize funding for the delivery of health care services (other than the patient navigator duties listed in subsection (b)).

"(j) DEFINITIONS.—In this section:

"(1) The term 'eligible entity' means a public or nonprofit private health center (including a Federally qualified health center (as that term is defined in section 1861(aa)(4) of the Social Security Act)), a health facility operated by or pursuant to a contract with the Indian Health Service, a hospital, a cancer center, a rural health clinic, an academic health center, or a nonprofit entity that enters into a partnership or coordinates referrals with such a center, clinic, facility, or hospital to provide patient navigator services.

"(2) The term 'health disparity population' means a population that, as determined by the Secretary, has a significant disparity in the overall rate of disease incidence, prevalence, morbidity, mortality, or survival rates as compared to the health status of the general population.

"(3) The term 'patient navigator' means an individual who has completed a training program approved by the Secretary to perform the duties listed in subsection (b).

"(k) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—To carry out this section, there are authorized to be appropriated $2,000,000 for fiscal year 2006, $5,000,000 for fiscal year 2007, $8,000,000 for fiscal year 2008, $6,500,000 for fiscal year 2009, and $3,500,000 for fiscal year 2010.

"(2) AVAILABILITY.—The amounts appropriated pursuant to paragraph (1) shall remain available for obligation through the end of fiscal year 2010.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 918, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, we have a number of bills before the House today, dealing with health-related issues that have come out of the committee that I have the privilege to chair, the Committee on Energy and Commerce. This bill is one of the more important of those bills as it attempts to give our citizens the ability to navigate the health care system to get the very best possible care in the most time-efficient manner.

I would like to take a step back and reflect on where we have been in this Congress and in previous Congresses. As the second session of this Congress draws to a close, I think it is entirely fitting that the House should devote much of its time today on these health care issues. It is not a stretch, in my opinion, to call this House, the 108th Congress, the Health Care Congress. I am proud of the many accomplishments that the Committee on Energy and Commerce has been responsible for in this area over the last 2 years.

I think the achievement that we will reflect back on and be most proud of, of course, is the Medicare Modernization Act, which President Bush has already signed into law and which is helping millions of our senior citizens as we speak. After years of debate and inaction, this Congress finally has delivered in that bill a prescription drug benefit to our Nation's seniors.

Of course, not all of the Medicare Modernization Act's provisions are fully up and running yet. They will be phased in over the next several years. And when they are totally phased in, I think we will all look back and reflect that this was a very good thing that we have done in this Congress.

We should be proud of our achievement. I salute the members of the Committee on Energy and Commerce who have worked so long and hard to make that happen.

Prescription drugs are not the only area where this Congress has worked to advance the health agenda of the American people. Working with President Bush, we have also written laws that upgrade our medical device program. We have instituted a new animal drug approval system. We have provided for competition in the contact lens marketplace. We have updated our poison control center programs.

I might add that all of those achievements occurred under Congressman BILLY TAUZIN of Louisiana, who, as we speak, is undergoing radiation treatment down in Texas for a cancer that he has discovered in his body that, hopefully, is being removed.

We have also improved our Nation's organ donor system and, most recently, created a new program to help prevent and educate against youth suicide. By any measure, these accomplishments would rival that of any Congress in the past.

Today, we are continuing the good work we have already established in the 108th Congress. We have five substantive bills that we are going to debate and vote on, hopefully in a positive way, in the next several hours, all of which in some way improve the health care system for millions and millions of Americans.

The one we are debating at this moment is the Patient Navigator Outreach and Chronic Disease Prevention Act. The Committee on Energy and Commerce favorably reported this legislation last week, and it is now on the floor.

Improving health care outcomes for all Americans requires substantial improvements in health disparity populations, populations not defined solely by race and ethnicity, that have a significant disparity in the overall rate of disease incidence, prevalence, morbidity, mortality, or survival rates as compared to the health status of the general population. Patient navigator programs as provided in this bill provide outreach to communities to encourage more individuals to seek preventive care and coordinate that care so that they are less at risk to have or to maintain a chronic disease.

For example, the Ralph Lauren Center for Cancer Care and Prevention, a partnership between Memorial Sloan-Kettering and North General Hospital in Harlem, New York, operates a patient navigator program to help patients and family members deal with the complexities of the health care system in that area. By coordinating health care services through a patient navigator, programs strive to shorten the period of time when the patient is screened for cancer or other chronic diseases and further diagnosis and treatment, so they can be treated as soon as possible.

H.R. 918, as amended by the Committee on Energy and Commerce, authorizes a 5-year demonstration program to evaluate the use of patient navigators. Specifically, the legislation requires patient navigators to coordinate health care services and provider referrals, facilitating the involvement of community organizations to provide assistance to patients, facilitate enrollment in clinical trials, anticipate barriers within the health care system itself, to help ensure prompt diagnostic care and treatment, to coordinate with the health insurance ombudsman program, and conduct ongoing outreach to health disparity populations for preventive care.

Grant recipients must establish baseline measures and benchmarks to evaluate the program outcome, which all culminate in a final report prepared by the Secretary no later than 6 months after the completion of the demonstration grant program. The bill authorizes a total of $25 million over a 5-year period to conduct these demonstration programs.

I would like to thank the distinguished gentlewoman from the 15th Congressional District of Ohio (Ms. PRYCE), for her outstanding leadership and undying commitment to this particular bill. I would also like to thank the chairman of the subcommittee, the gentleman from Florida (Mr. BILIRAKIS), for his work; the ranking member, the gentleman from Michigan (Mr. DINGELL); the subcommittee's ranking member, the gentleman from Ohio (Mr. BROWN); and the bill's sponsor, the gentleman from New York (Mr. MENENDEZ), for their assistance in streamlining this legislation.

Again, Madam Speaker, I want to congratulate my colleagues on a very successful Health Care Congress, and especially on this particular bill. If we can get the bills that we are considering today to the President's desk, the 108th Congress should go down as one of the best ever for health care initiatives.

Madam Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Madam Speaker, I yield myself 2 minutes, and I want to begin by thanking the chairman, the gentleman from Texas (Mr. BARTON), for his good work today with this whole slew of eight or nine bills that we are doing bipartisanly. It is legislation that clearly helps health care in this country, and I want to thank Chairman Barton for that, and also the chairman of the subcommittee, (Mr. BILIRAKIS), for his work.

Too many Americans face financial barriers to health care. The American Cancer Society and other patient advocates support H.R. 918 because they know many Americans also face serious nonfinancial barriers. These include significant racial and cultural and linguistic and geographic barriers, barriers that have contributed to the striking disparities across racial and ethnic lines in the incidence and the treatment of cancer and other chronic diseases.

This patient navigator bill is intended to ease the way for patients confronting a serious illness in an intimidating array of treatment options. With this legislation's passage, we will begin to see increased enrollment in clinical trials, we will see greater community involvement in health awareness, and we will have a more coordinated approach to health care services that will benefit all patients in the end.

I want to commend the gentleman from New Jersey (Mr. MENENDEZ) for this legislation, my colleague, the gentlewoman from Ohio (Ms. PRYCE), for her hard work also on this bill; and I am pleased to support it.

Madam Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield 5 minutes to the gentlewoman from the 15th District of Ohio (Ms. PRYCE), our distinguished Republican Conference chairwoman.

Ms. PRYCE of Ohio. Madam Speaker, I thank the gentleman for yielding me this time, and I want to begin by commending the gentleman from Texas (Mr. BARTON), the distinguished chairman of the Committee on Energy and Commerce. He has led this committee with great strength since he took the helm; we have enjoyed working with him, and I want to thank him for his attention to this important issue.

I also want to extend special thanks to my friend and colleague, the gentleman from New Jersey (Mr. MENENDEZ). He has been a great partner over the last few years as we have worked this initiative together. We represent different parts of the country, and we belong to different political parties, but we have put many differences aside and have joined together for a great purpose here today. We joined together because we understand that cancer, diabetes, and other chronic diseases can affect anyone in any part of the country, of any race and of any income level.

Madam Speaker, even with the tremendous advancements we have made in prevention, diagnosis, and treatment of illnesses, we understand that in far too many communities across this country navigating the health care system can be a significant barrier to gaining access to quality and affordable service.

Before I continue, I want to take a moment to extend my appreciation to my staff and the staff of the committee for their excellent work and the help they have given us. And I want to highlight the American Cancer Society, the National Association of Community Health Centers, and the National Rural Health Association for their tireless efforts to educate our colleagues about the importance of this issue.

Madam Speaker, each and every day Congress is in session, our colleagues on both sides of the aisle debate important issues. Sometimes we agree and other times we disagree. But at the end of the day, we share the same goal to return to our districts with something positive to tell our constituents about.

Today, every Member of this body will have the opportunity to report to their constituents something positive: that this Congress has taken a significant step to ensure that our friends and neighbors across America have the tools and resources they need to make good decisions about their health and the health of their children.

Madam Speaker, last year, I had the opportunity to meet two gentlemen who pioneered the concept that this legislation is based on, the patient navigator concept. Dr. Harold Freeman and Dr. Elmer Huerta were two of the most humble, kind gentlemen I have ever had the good fortune of getting to know. Let me tell you a little about what they do.

First, they recognized in their own work as doctors in underserved communities that navigating the health care system can be an insurmountable barrier for many, many people, especially when they are poor, underserved, and uninsured. All we have to do is step in and help them. Step out of our homes into communities and we will find families and individuals who struggle to find access to the health care that they need, both preventive and treatment.

The concept of these doctors is a great one. The patient navigators are angels who guide individuals through the health care system. It is truly one of the most creative and innovative ways to address the health care needs of these individuals, who may otherwise avoid seeing a doctor when they are healthy and avoid treatment when they need it, when they are sick.

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Whether based at hospitals, community health centers or cancer centers, these programs literally put in place patient navigators to help individuals find their way through the often complex health care systems that they are confronted with.

These navigators, like Leka Murdock whom I met during my visit to the Ralph Lauren Cancer Center in Harlem, assist people who come through their doors with obtaining coverage through the Medicaid system or other sources, they obtain cancer screenings or counseling about disease prevention, or they make referrals for treatment or clinical trial options should an abnormality be detected.

For people who may otherwise not know or be able to access the system, patient navigator programs offer them the tools and resources they need to make the good decisions about their health and the health of their children. They help break through the red tape that often prevents them from getting the information and the treatment so needed.

That is why the gentleman from New Jersey and I partnered together to introduce, garner support for and move forward this legislation that will create innovative demonstration projects in communities across the country based on this concept. This bill will link sustained health promotion outreach efforts with patient navigator programs. Specifically, the bill will make funds available to community health centers, cancer centers, rural and frontier serving medical facilities and other eligible entities to increase and promote chronic-disease-prevention screening, outreach and public health education, as well as provide patient navigators to help patients overcome the barriers and complexities in the system.

It is my hope that this legislation will serve as a springboard for launching many more navigator programs. These are extraordinary programs, and they are making real differences in the lives of people who are suffering, people who may not otherwise even know that they are sick. Or if they do, people who may not do what is necessary to get better. These are the people we need to reach, and this bill is a healthy start. By furthering this collaboration between the private and the public sectors, we will maximize our resources and close in on that day when cancer and other chronic diseases no longer threaten the lives of our loved ones.

Mr. Speaker, I urge my colleagues to support this legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield 7 minutes to the gentleman from New Jersey (Mr. MENENDEZ), the sponsor of the bill.

Mr. MENENDEZ. Mr. Speaker, I want to thank my colleague from Ohio (Mr. BROWN) as well as the gentleman from Michigan (Mr. DINGELL), ranking member on the Committee on Energy and Commerce, as well as the gentleman from Texas (Mr. BARTON) and the gentleman from Florida (Mr. BILIRAKIS), chairman on the Subcommittee on Health, and all their staff for bringing us here today. I want to particularly thank my good friend and lead cosponsor from Ohio (Ms. PRYCE) and her staff who have been actively engaged in this effort and have been instrumental in getting the bill to the floor today. And, of course, the gentlewoman from Ohio's own personal experiences and her family with the questions of cancer have made her such a powerful advocate in this regard.

This is truly a bipartisan effort and a case study in how, if we choose to work together across the aisle, we can really make a difference. I began working on this legislation several years ago to address the health disparities I saw in my district, a true melting pot of America with a very significant Hispanic population. There have been many people involved behind the scenes in this effort that I want to take the opportunity to thank.

The first person I spoke to about this issue was David Woodmansee, who is the Northeast regional representative for the American Cancer Society. The second person I met with was Licy Do Canto who was with the American Cancer Society and has continued the fight for patient navigators at the National Association of Community Health Centers. Dave and Licy, along with the help of ACS employees, were instrumental in helping us to take a concept such as patient navigation and turn it into a legislative solution for improving health outcomes among all populations, particularly underserved populations. I also want to thank Karissa Willhite, the Democratic Caucus policy director, for her untiring efforts to achieve the success we expect to have today. And we cannot talk about patient navigators without thanking three doctors, Drs. Harold Freeman, Elmer Huerta and Gil Friedell, who have been pioneers in creating patient navigator programs that can be replicated across the country, which is exactly what we are doing today.

There is no question that we as a Nation must do more to improve health outcomes and that can only be done when we start at the bottom and bring those with the greatest disparities up out of despair. Reducing health disparities has been a much-talked-about goal, but we cannot achieve better health outcomes without action. We cannot just talk about the problem. We have to take action to end the problem.

The patient navigator bill is an effort to do just that. It will ensure that all Americans, regardless of income, race, ethnicity, language or geography will have access to prevention screening and treatment, and that they will have an advocate at their side helping them navigate through today's complicated health care system.

The bill addresses what I believe are the root causes of health disparities in minority and underserved communities. That is, lack of access to health care, particularly prevention and early detection. The bottom line is, the only way to stay healthy is to see a doctor when you are healthy. Unfortunately, patients in health disparity communities are less likely to receive early screening and detection, so their disease is found at a much later stage and they have less chance of survival. That is why we are here today, to give those people the chance they deserve for a long, healthy life.

The patient navigator bill does this by replicating the successful models developed by Drs. Freeman, Huerta and Friedell in a national demonstration project. It focuses on outreach and prevention through community health centers, rural health clinics, Indian health clinics and cancer clinics. And it does so by providing patient navigator services and outreach in health disparity communities to encourage people to get screened early so that they can receive the care they need. Patient navigators educate and empower patients, serving as their advocates in navigating the health care system.

In addition to having visited both Dr. Freeman's program in Harlem and Dr. Huerta's program here in Washington, my constituents in New Jersey and I have seen firsthand the difference patient navigators can make in a community. I was able to secure funding for a 1-year demonstration project at a community health center in Jersey City, New Jersey. The program has screened 842 people and has a caseload of about 140 patients who were identified through these screenings with abnormal findings and are currently benefiting from the help of the patient navigator in finding follow-up care and treatment.

Before I close, I just want to share a story about Hazel Hailey, one of the patient navigators at this center and her daughter, Robin Waiters. Robin, who was only 36 years old, suffered severe stomach pains for 2 years and refused to see a doctor, despite her mother's pleas for her to seek medical care. Finally, she had no choice but to go see a doctor. Tragically, 3 months later, Robin died from colorectal cancer. Her mother, Hazel, who is now a patient navigator, tells us about her daughter's last request. She made her mom promise to tell all of her friends, family and everyone she could "that if your body is trying to tell you something, listen to it. You could possibly save your life." Hazel quotes her daughter as saying, "I am dying because I chose not to get help. Fear set in, and I lost out on life."

Hazel is fulfilling her promise to her daughter as a patient navigator, working every day to ensure that what happened to her daughter does not happen to other families. That is why we are here today, to ensure that the Hazels across the country have the tools they need to educate and empower people about the importance of early detection screening and to help them navigate the complexities of the health care system so that they can get the treatment and follow-up care they need.

Again, I want to thank my colleague from Ohio (Ms. PRYCE) for all of her work on this effort as well as all of those who have worked behind the scenes to make this concept a reality. We have come too far and are too close to simply let the issue die at the end of this Congress, so I call upon our colleagues in the other body to join us in making this bill a reality this year. There is simply too much at stake if we do not act.

Mr. BARTON of Texas. Mr. Speaker, I yield 3 minutes to the gentlewoman from Florida (Ms. ROS-LEHTINEN).

Ms. ROS-LEHTINEN. I thank the gentleman for yielding me this time.

While there is no question, Mr. Speaker, that tremendous progress has been made across our country in the fight against cancer and other diseases, barriers continue to exist between millions of Americans and their access to high quality health care. Whether it is due to distance, lack of health insurance, limited access to specialists, limited language skills, whatever the reason, too many Americans continue to receive a narrow range of health care services and limited options. That is why I am so pleased to join the gentlewoman from Ohio (Ms. PRYCE) and the gentleman from New Jersey (Mr. MENENDEZ) as an original cosponsor of the Patient Navigator, Outreach, and Chronic Disease Prevention Act and to express my heartfelt support for this vital piece of legislation that is going to improve the lives of so many people.

This program provides a crucial service, primarily to the underinsured and the uninsured members of all populations, and most specifically to the Hispanic and African-American populations that studies have shown are those who are in those categories of underinsured and uninsured. Navigating the health system can be a huge barrier for many people. The patient navigator bill will greatly aid the community by providing a more efficient service for all. The patient navigator bill will also help the communities by providing a more efficient service for all minorities because it addresses the unique needs of the population that it serves through providing culturally sensitive services, including cancer screening, disease prevention counseling, assistance in obtaining Medicaid and other necessary referrals.

This important legislation, Mr. Speaker, would ensure early prevention screening and timely treatment for all patients. It seeks to help close the gap that exists in health care treatment for minority communities, thus improving their quality of life and ensuring that the minority members of our community are treated with the utmost respect and care.

An example of a successful patient navigator program exists right here in our Nation's capital, Mr. Speaker. It is run by Dr. Elmer Huerta, one of the founding fathers of the patient navigator program. Dr. Huerta conducts a weekly 1-hour show called, Let's Talk About Health, Hablemos de Salud, which focuses on health promotion and disease prevention. This show reaches about 75 percent of Hispanics and Latinos in the United States, over 25 million people, and it extends to Latin America. I am proud to be associated with such a dynamic and exciting program, and I thank all who have worked tirelessly to make this vital program a reality. Muchas gracias.

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to join my colleague Congressman ROBERT MENENDEZ of New Jersey in the passage of H.R. 918, the Patient Navigator, Outreach, and Chronic Disease Prevention Act of 2003. As you know, Mr. Speaker, I have come to this floor on numerous occasions to express my outrage concerning racial and ethnic health disparities in this Nation and legislative solutions to address them. For years, research has told us that minorities and low-income populations are the least likely to receive the health care they need to live a long, healthy life. We've done a very good job of identifying this problem and finally we have a bill that will begin the process of solving them.

The bill we are passing today while greatly modified enjoys strong support from the American Cancer Society, the National Association of Community Health Centers, the National Alliance for Hispanic Health, the National Hispanic Medical Association, the National Medical Association, Racial and Ethnic Health Disparities Coalition, the Intercultural Cancer Council and their Caucus, the National Council of La Raza, 100 Black Men of America, the National Rural Health Association, Asian and Pacific Islander American Health Forum, the Cancer Research and Prevention Foundation, and the National Patient Advocate Foundation.

This bill addresses what many of us believe are the root causes of health disparities in minority and underserved communities: Lack of access to health care in general—and particularly lack of access to prevention and early detection—as well as language and cultural barriers to care.

In the 2002 IOM report Unequal Treatment: Confronting racial and ethnic disparities in care, research explained that there are a number of explanations for the higher rates of disease among minority populations, including higher rates of uninsured, reduce access to care, and lower quality of care. But all of these barriers point to the same underlying problem, minority patients are less likely to receive early screening and detection, so their disease is found at a much later stage and they have less chance of survival.

This bill we're passing today will be the process to ensure that all Americans, regardless of race, ethnicity, language, income, or geography, will have access to prevention screening and treatment, and that they will have an advocate at their side, helping them navigate through today's complicated health care system.

The bill before us ensures that navigators are available to help patients make their way through the health care system—whether it's translating technical medical terminology, making sense of their insurance, making appointments for referral screenings, following up to make sure the patient keeps that appointment, or even accompanying a patient to a referral appointment.

Mr. Speaker, I also want to acknowledge that the original concept for the legislation comes from Dr. Harold Freeman's "navigator" program, which he created while he was Director of Surgery at Harlem Hospital. It is our hope that Dr. Freeman's navigator concept and its laser shape focus on comprehensive modeling of prevention services will eventually be fully translated in legislative terms. To this end, it is my sincere desire that this body would move expeditiously in holding hearing on H.R. 3459 the Healthcare Equality and Accountability Act of 2003. It is our firm belief that H.R. 3459 expands and accents the comprehensive components that Dr. Freedman's navigator program embodies. As you know, Mr. Speaker, H.R. 3459 enjoys the support of 104 Members in this body, was created by the Congressional Black, Hispanic, Asian Pacific-American, and Native American Caucuses, and included the introduced version of the bill before us today.

In closing, Mr. Speaker, I want to thank Karissa Willhite of Mr. MENENDEZ's office and John Ford and Cheryl Jaeger of the Energy and Commerce Committee along with other staff that enabled this bill to come to the floor. It urge my colleagues to vote for its adoption.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOSSELLA). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 918, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Public Health Service Act to authorize a demonstration grant program to provide patient navigator services to reduce barriers and improve health care outcomes, and for other purposes.".

A motion to reconsider was laid on the table.

NATIONAL ALL SCHEDULES PRESCRIPTION ELECTRONIC REPORTING ACT OF 2004

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3015) to amend the Public Health Service Act to establish an electronic system for practitioner monitoring of the dispensing of any schedule II, III, or IV controlled substance, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3015

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National All Schedules Prescription Electronic Reporting Act of 2004".

SEC. 2. CONTROLLED SUBSTANCE MONITORING PROGRAM.

Part P of title III of the Public Health Service Act (42 U.S.C. 280g et seq.) is amended by adding after section 399N the following:

"SEC. 399O. CONTROLLED SUBSTANCE MONITORING PROGRAM.

"(a) FORMULA GRANTS.—

"(1) IN GENERAL.—Each fiscal year, the Secretary shall make a payment to each State with an application approved under this section for the purpose of establishing and implementing a controlled substance monitoring program under this section.

"(2) DETERMINATION OF AMOUNT.—In making payments under paragraph (1) for a fiscal year, the Secretary shall allocate to each State with an application approved under this section an amount which bears the same ratio to the amount appropriated to carry out this section for that fiscal year as the number of pharmacies of the State bears to the number of pharmacies of all States with applications approved under this section (as determined by the Secretary), except that the Secretary may adjust the amount allocated to a State under this paragraph after taking into consideration the budget cost estimate for the State's controlled substance monitoring program.

"(b) APPLICATION APPROVAL PROCESS.—

"(1) IN GENERAL.—To seek a grant under this section, a State shall submit an application at such time, in such manner, and containing such assurances and information as the Secretary may reasonably require. Each such application shall include—

"(A) a budget cost estimate for the State's controlled substance monitoring program;

"(B) proposed standards for security for information handling and for the database maintained by the State under subsection (d) generally including efforts to use appropriate encryption technology or other such technology;

"(C) proposed standards for meeting the uniform electronic format requirement of subsection (g);

"(D) proposed standards for availability of information and limitation on access to program personnel;

"(E) proposed standards for access to the database, and procedures to ensure database accuracy;

"(F) proposed standards for redisclosure of information;

"(G) proposed penalties for illegal redisclosure of information; and

"(H) assurances of compliance with all other requirements of this section.

"(2) APPROVAL OR DISAPPROVAL.—Not later than 90 days after the submission by a State of an application under paragraph (1), the Secretary shall approve or disapprove the application. The Secretary shall approve the application if the State demonstrates to the Secretary that the State will establish and implement or operate a controlled substance monitoring program in accordance with this section.

"(3) WITHDRAWAL OF AUTHORIZATION.—If a State fails to implement a controlled substance monitoring program in accordance with this section—

"(A) the Secretary shall give notice of the failure to the State; and

"(B) if the State fails to take corrective action within a reasonable period of time, the Secretary shall withdraw any approval of the State's application under this section.

"(4) VOLUNTARY DISCONTINUANCE.—A funding agreement for the receipt of a payment under this section is that the State involved will give a reasonable period of notice to the Secretary before ceasing to implement or operate a controlled substance monitoring program under this section. The Secretary shall determine the period of notice that is reasonable for purposes of this paragraph.

"(5) RETURN OF FUNDS.—If the Secretary withdraws approval of a State's application under this section, or the State chooses to cease to implement a controlled substance monitoring program under this section, a funding agreement for the receipt of a payment under this section is that the State will return to the Secretary an amount which bears the same ratio to the overall payment as the remaining time period for expending the payment bears to the overall time period for expending the payment (as specified by the Secretary at the time of the payment).

"(c) REPORTING REQUIREMENTS.—In implementing a controlled substance monitoring program under this section, a State shall comply with the following:

"(1) The State shall require dispensers to report to such State each dispensing in the State of a controlled substance to an ultimate user or research subject not later than 1 week after the date of such dispensing.

"(2) The State may exclude from the reporting requirement of this subsection—

"(A) the direct administration of a controlled substance to the body of an ultimate user or research subject;

"(B) the dispensing of a controlled substance in a quantity limited to an amount adequate to treat the ultimate user or research subject involved for 48 hours or less; or

"(C) the administration or dispensing of a controlled substance in accordance with any other exclusion identified by the Secretary for purposes of this paragraph.

"(3) The information to be reported under this subsection with respect to the dispensing of a controlled substance shall include the following:

"(A) Drug Enforcement Administration Registration Number of the dispenser.

"(B) Drug Enforcement Administration Registration Number and name of the practitioner who prescribed the drug.

"(C) Name, address, and telephone number of the ultimate user or research subject.

"(D) Identification of the drug by a national drug code number.

"(E) Quantity dispensed.

"(F) Estimated number of days for which such quantity should last.

"(G) Number of refills ordered.

"(H) Whether the drug was dispensed as a refill of a prescription or as a first-time request.

"(I) Date of the dispensing.

"(J) Date of origin of the prescription.

"(4) The State shall require dispensers to report information under this section in accordance with the electronic format specified by the Secretary under subsection (g), except that the State may waive the requirement of such format with respect to an individual dispenser.

"(5) The State shall automatically share information reported under this subsection with another State with an application approved under this section if the information concerns—

"(A) the dispensing of a controlled substance to an ultimate user or research subject who resides in such other State; or

"(B) the dispensing of a controlled substance prescribed by a practitioner whose principal place of business is located in such other State.

"(6) The State may notify the appropriate authorities responsible for drug diversion investigation if information in the database maintained by the State under subsection (d) indicates an unlawful diversion or misuse of a controlled substance.

"(d) DATABASE.—In implementing a controlled substance monitoring program under this section, a State shall comply with the following:

"(1) The State shall establish and maintain an electronic database containing the information reported to the State under subsection (c).

"(2) The database must be searchable by any field or combination of fields.

"(3) The State shall include reported information in the database at such time and in such manner as the Secretary determines appropriate, with appropriate safeguards for ensuring the accuracy and completeness of the database.

"(4) The State shall take appropriate security measures to protect the integrity of, and access to, the database.

"(e) PROVISION OF INFORMATION.—Subject to subsection (f), in implementing a controlled substance monitoring program under this section, a State may provide information from the database established under subsection (d) and, in the case of a request under paragraph (3), summary statistics of such information, in response to a request by—

"(1) a practitioner (or the agent thereof) who certifies, under the procedures determined by the State, that the requested information is for the purpose of providing medical or pharmaceutical treatment or evaluating the need for such treatment to a bona fide current patient;

"(2) any local, State, or Federal law enforcement, narcotics control, licensure, disciplinary, or program authority, who certifies, under the procedures determined by the State, that the requested information is related to an individual investigation or proceeding involving the unlawful diversion or misuse of a schedule II, III, or IV substance, and such information will further the purpose of the investigation or assist in the proceeding;

"(3) any agent of the Department of Health and Human Services, a State medicaid program, a State health department, or the Drug Enforcement Administration who certifies that the requested information is necessary for research to be conducted by such department, program, or administration, respectively, and the intended purpose of the research is related to a function committed to such department, program, or administration by law that is not investigative in nature; or

"(4) any agent of another State, who certifies that the State has an application approved under this section and the requested information is for the purpose of implementing the State's controlled substance monitoring program under this section.

"(f) LIMITATIONS.—In implementing a controlled substance monitoring program under this section, a State—

"(1) shall make reasonable efforts to limit the information provided pursuant to a valid request under subsection (e) to the minimum necessary to accomplish the intended purpose of the request; and

"(2) shall not provide any individually identifiable information in response to a request under subsection (e)(3).

"(g) ELECTRONIC FORMAT.—The Secretary shall specify a uniform electronic format for the reporting, sharing, and provision of information under this section.

"(h) RULES OF CONSTRUCTION.—

"(1) FUNCTIONS OTHERWISE AUTHORIZED BY LAW.—Nothing in this section shall be construed to restrict the ability of any authority, including any local, State, or Federal law enforcement, narcotics control, licensure, disciplinary, or program authority, to perform functions otherwise authorized by law.

"(2) NO PREEMPTION.—Nothing in this section shall be construed as preempting any State law, except that no such law may relieve any person of a requirement otherwise applicable under this Act.

"(3) ADDITIONAL PRIVACY PROTECTIONS.—Nothing in this section shall be construed as preempting any State from imposing any additional privacy protections.

"(4) CERTAIN CONFIDENTIALITY REQUIREMENTS.—Nothing in this section shall be construed as superceding the confidentiality requirements of programs defined by and subject to part 2 of title 42, Code of Federal Regulations.

"(5) NO FEDERAL PRIVATE CAUSE OF ACTION.—Nothing in this section shall be construed to create a Federal private cause of action.

"(i) RELATION TO HIPAA.—Except to the extent inconsistent with this section, the provision of information pursuant to subsection (c)(5), (c)(6), or (e) and the subsequent transfer of such information are subject to any requirement that would otherwise apply under the regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996.

"(j) PREFERENCE.—Beginning January 1, 2007, the Secretary, in awarding any competitive grant that is related to drug abuse (as determined by the Secretary) to a State, shall give preference to any State with an application approved under this section.

"(k) STUDY.—Not later than 2 years after the date of the enactment of this section, the Secretary shall—

"(1) complete a study that—

"(A) determines the progress of States in establishing and implementing controlled substance monitoring programs under this section;

"(B) determines the feasibility of implementing a real-time electronic controlled substance monitoring program, including the costs associated with establishing such a program; and

"(C) .provides an analysis of the privacy protections in place for the information reported to the controlled substance monitoring program in each State receiving a grant for the establishment or operation of such program, and a comparison to the privacy requirements that apply to covered entities under regulations promulgated pursuant to section 264(c) of the Health Insurance Portability and Accountability Act of 1996, along with any recommendations for additional requirements for protection of this information; and

"(2) submit a report to the Congress on the results of the study.

"(l) ADVISORY COUNCIL.—

"(1) ESTABLISHMENT.—A State may establish an advisory council to assist in the establishment and implementation of a controlled substance monitoring program under this section.

"(2) SENSE OF CONGRESS.—It is the sense of the Congress that, in establishing an advisory council under this subsection, a State should consult with appropriate professional boards and other interested parties.

"(m) DEFINITIONS.—For purposes of this section:

"(1) The term 'bona fide patient' means an individual who is a patient of the dispenser or practitioner involved.

"(2) The term 'controlled substance' means a drug that is included in schedule II, III, or IV of section 202(c) of the Controlled Substance Act.

"(3) The term 'dispense' means to deliver a controlled substance to an ultimate user or research subject by, or pursuant to the lawful order of, a practitioner, irrespective of whether the dispenser uses the Internet or other means to effect such delivery.

"(4) The term 'dispenser' means a physician, pharmacist, or other individual who dispenses a controlled substance to an ultimate user or research subject.

"(5) The term 'practitioner' means a physician, dentist, veterinarian, scientific investigator, pharmacy, hospital, or other person licensed, registered, or otherwise permitted, by the United States or the jurisdiction in which he or she practices or does research, to distribute, dispense, conduct research with respect to, administer, or use in teaching or chemical analysis, a controlled substance in the course of professional practice or research.

"(6) The term 'State' means each of the 50 States and the District of Columbia.

"(7) The term 'ultimate user' means a person who has lawfully obtained, and who possesses, a controlled substance for his or her own use, for the use of a member of his or her household, or for the use of an animal owned by him or her or by a member of his or her household.

"(n) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated—

"(1) $25,000,000 for each of fiscal years 2006 and 2007; and

"(2) $15,000,000 for each of fiscal years 2008, 2009, and 2010.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to insert extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in very strong support of H.R. 3015. All of us have deep concerns about the abuse of prescription drugs. Whether after surgery or in the treatment of chronic pain, ensuring that patients receive proper pain management is a critical component in the provision of health care. However, these medications can and sometimes are abused. The Committee on Energy and Commerce has heard about the problems prescription drug abuse has created in our communities throughout America. In some areas, the nonmedical use of prescription drugs presents a bigger problem than even cocaine and heroin. This is a serious issue that cannot be addressed through traditional drug control programs. We need to find a balanced approach that does not interfere with the doctor-patient relationship but also ensures that these potentially addictive drugs are not abused. Prescription drug monitoring programs can be a part of the solution to this public health challenge.

These programs help physicians better serve their patients because they can review the patient's prescription drug history. Drug interactions can often lead to adverse events for patients so that these monitoring programs serve as an additional safety check.

Only 21 States have implemented drug monitoring programs. While this is a good start, problems arise because illicit drug use shifts to contiguous States without monitoring programs. H.R. 3015 will strengthen prescription drug monitoring programs to eliminate gaps in systems between States and ensure that programs are interoperable so information is readily available across State lines.

I would like to thank the distinguished gentleman from Kentucky (Mr. WHITFIELD), the distinguished gentleman from New Jersey (Mr. PALLONE), the distinguished gentleman from Georgia (Mr. NORWOOD) and the distinguished gentleman from Ohio (Mr. STRICKLAND), all members of the Committee on Energy and Commerce, for their hard work on this legislation.

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At the appropriate time after the debate, I would urge that all of my colleagues support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2½ minutes.

Prescription drug pain relievers, stimulants, and other controlled substances play a crucial role in health care. But when misused, those same medicines can be enormously destructive, as we know. Some are addictive, life threatening; many are both.

As these medicines proliferate, so, unfortunately, does the risk of misuse. Over the last decade, use of prescription pain relievers has increased by nearly 200 percent, while the use of stimulants has increased by more than 150 percent. Some 6.2 million Americans misuse prescription medicines for nonmedical purposes. In 1999 a quarter of those who took prescription drugs for nonmedical purposes were new users. In other words, this problem is not just growing; simply, it is exploding.

To combat this problem, physicians and pharmacists need information. This legislation, which is the culmination of hard work and compromise by the gentleman from New Jersey (Mr. PALLONE), the gentleman from Kentucky (Mr. WHITFIELD), and the gentleman from Ohio (Mr. STRICKLAND) will provide the information and coordination necessary to stem the misuse of prescription medicines. The legislation creates grants to establish State-run programs for prescription monitoring that will be administered and will be coordinated at the Federal level.

Fighting. prescription drug abuse, preventing nonmedical use together are a difficult problem that requires doctors and law enforcement authorities to acquire and to share information. I think this bill is an important step forward in this fight. I am pleased to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

I am going to yield to the gentleman from Kentucky (Mr. WHITFIELD), but before I do that I would like to announce to the House that one of the other cosponsors of this important legislation, the gentleman from Georgia (Mr. NORWOOD), as we speak, is awaiting a lung transplant, which may very well occur this afternoon and this legislation would have not gotten to the floor of the House without his strong commitment to it. So I would encourage all my colleagues to pray for the gentleman from Georgia (Mr. NORWOOD) that his surgery goes well and that he is back amongst us as soon as possible.

Mr. Speaker, I yield 4 minutes to the distinguished gentleman from Kentucky (Mr. WHITFIELD).

Mr. WHITFIELD. Mr. Speaker, I thank the chairman for yielding me this time.

We are excited today to have on the floor this legislation relating to prescription drug abuse in the United States, which has reached epidemic proportions. Recent statistics show that 6.2 million Americans abuse prescription drugs. To help combat this problem, many States, such as my own State of Kentucky and about 20 others, have adopted prescription drug monitoring programs to assist physicians and law enforcement officials stop the abuse and prosecute those individuals who are breaking the law.

The cornerstone of most existing drug-monitoring programs is that they allow physicians access to the information before writing a prescription for a controlled substance. Physicians tell us that it is an invaluable tool in treating their patients. However, there is one glaring problem, and that is that these programs operate only intrastate. And as the gentleman from Texas (Chairman BARTON) mentioned, it is essential that we have an interstate program.

To that end, I have been pleased to work with the gentleman from New Jersey (Mr. PALLONE), the gentleman from Georgia (Mr. NORWOOD), the gentleman from Ohio (Mr. STRICKLAND), my colleagues on both sides of the aisle, on legislation to address this issue. This legislation, H.R. 3015, the National All Schedules Prescription Electronic Reporting Act, creates a grant program housed at the Department of Health and Human Services which will fund the establishment and operation of State-run prescription drug monitoring programs. It establishes standards for reporting data and governs who has access to such information and under what circumstances because of the privacy issues. From the beginning our goal has been to give physicians the tool they need to treat patients, which also provides a better mechanism to prosecute individuals who are allegedly using illegal controlled substances.

I believe this is a good bill, a balanced bill, and one that will provide States with an important tool to curb prescription drug abuse.

I would like at this time to thank all of the cosponsors and give particular thanks to the gentleman from Texas (Chairman BARTON) and the gentleman from Florida (Chairman BILIRAKIS); the gentleman from Michigan (Mr. DINGELL), ranking member; and the gentleman from Ohio (Mr. BROWN), without all of whom we would not have been successful without their efforts to get this legislation through the Committee on Energy and Commerce.

I would also like to recognize the hard work of our committee staff, particularly Chuck Clapton and Ryan Long and John Halliwell on my staff; and, of course, we could not have done it without the Democratic committee staff, and I would also like to thank them.

I would urge all Members to vote for this important legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from New Jersey (Mr. PALLONE), who has been a leader on health care in this Congress.

Mr. PALLONE. Mr. Speaker, I thank the gentleman from Ohio (Mr. BROWN) for yielding me this time.

Mr. Speaker, as a sponsor of H.R. 3015, I rise today in strong support of this important piece of legislation and urge its passage in the House of Representatives. H.R. 3015, the National All Schedules Prescription Electronic Reporting Act, provides an avenue for addressing the illegal diversion and misuse of prescription drugs, which constitutes one of the fastest growing areas of drug abuse in our Nation today, affecting people of all areas of our Nation, all ages and all income levels.

Health care practitioners and pharmacists desperately need electronic prescription drug monitoring systems to ensure that they are prescribing and dispensing schedule II, III, and IV controlled substances that are medically necessary. This bill provides the resources to States to create and operate State-based prescription drug monitoring programs, allows physicians to access this information, and allows for States to communicate with one another. If enacted into law, this bill would help physicians prevent their patients from becoming addicted to prescription medications and would help law enforcement with criminal investigations in the illicit prescription drug market.

Mr. Speaker, H.R. 3015 represents a work of great bipartisan effort; and I thank the gentleman from Kentucky (Mr. WHITFIELD), of course the gentleman from Georgia (Mr. NORWOOD), and the gentleman from Ohio (Mr. STRICKLAND) for their willingness to move forward with this effort. But I also want to thank our chairmen and our ranking members of the full committee as well as the subcommittee.

This is an effort to alleviate the prescription drug abuse problem plaguing our Nation. In addition, I want to applaud the leadership of the American Society for Interventional Pain Physicians for working with Congress in this significant public health initiative. I have to say I have never seen a more effective lobbying effort than what they put forth to try to move this bill.

Mr. WAXMAN. Mr. Speaker, I believe that H.R. 3015, legislation to support State controlled substance monitoring programs, is well intentioned. Non-medical use of controlled substances is a serious problem. Establishing State databases that contain information on prescriptions for such substances may help stem the practice of individuals seeking prescriptions from multiple providers for the purpose of non-medical use.

However, as we forge policies to facilitate controlled substance prescription information sharing among providers, States, and others, we must carefully consider the privacy implications of such steps. The databases H.R. 3015 supports potentially will contain a vast amount of personal medical information—including individually identifiable data regarding many individuals who are given prescriptions for legitimate medical reasons such as recovery from surgery. The last thing we want to do is deter individuals from seeking medical care out of fear that the privacy of their health information will not be protected.

I am pleased that, following up on concerns I expressed when the bill was under consideration in committee, sponsors of the measure agreed to add language that is a step forward from earlier versions of the bill with respect to privacy protection. This language includes (1) a requirement that the Secretary of Health and Human Services study and report to Congress on the privacy protections regarding each State database that receives funding under the bill; and (2) requirements that the State grant applications submitted to the Secretary of HHS propose standards regarding redisclosure of information, penalties for illegal redisclosure of information, and other privacy related standards. These provisions increase focus by States and HHS on the privacy issues raised by the State controlled substance monitoring programs.

However, H.R. 3015's State-to-State disclosure and uniform electronic format provisions promote the development of, in essence, a national prescription database network. As such, it is particularly important that Congress work to ensure that appropriate privacy standards apply to databases in the network. The bill does not accomplish this task. It contains no minimum Federal standards or even a requirement that the HHS Secretary develop publicly reviewable criteria for assessing the sufficiency of the privacy standards that States must propose for their programs when applying for grants under the bill.

I do want to recognize and acknowledge the efforts of the sponsors to respond to the privacy concerns that I raised, particularly the efforts of Mr. PALLONE, Dr. NORWOOD, and Mr. WHITFIELD. And while I cannot support this bill at this point, I hope that with further consideration by the Senate and ultimately in conference, Members will carefully consider the privacy ramifications of controlled substance monitoring systems and make improvements in this area before the bill is enacted.

Mr. CHANDLER. Mr. Speaker, I am pleased to stand in support of H.R. 3015, the National All Schedules Prescription Electronic Reporting Act (NASPER).

As my Kentucky colleagues know, prescription drug abuse is one of the paramount challenges in our effort to curb substance abuse in our State. In 1997, as Attorney General of Kentucky, I established the Prescription Drug Abuse Task Force in order to examine the problem. Among the Task Force's accomplishments was the establishment of KASPER, the Kentucky All Schedule Prescription Electronic Reporting System.

KASPER was designed to stop the practice of "doctor shopping," where abusers and dealers of illegally obtained prescription drugs visit multiple physicians in order to obtain multiple prescriptions. The success of KASPER has been impressive. In fact the program has been so successful that the Government Accounting Office described it as one of the Nation's best prescription drug abuse monitoring systems.

The result has been that it is now more difficult for people to fill multiple or fraudulent prescriptions in the Bluegrass State. However, "Doctor Shoppers" have circumvented KASPER by traveling to one of the seven States surrounding Kentucky. That is why without a national approach to this problem, Kentucky will not be able to truly succeed in its fight against prescription drug abuse.

For this reason, I salute Representative WHITFIELD for recognizing the strengths of KASPER and using it as a framework for a national system. That's why I have joined him as a cosponsor of this important legislation. I urge my colleagues to vote in favor of H.R. 3015 and help communities across America to combat the abuse of prescription drugs.

Mr. STUPAK. Mr. Speaker, as an original co-sponsor of the National All Schedules Prescription Electronic Reporting, or NASPER, Act of 2003, I rise today in strong support of its passage. The prescription drug abuse problem in our country has been well documented, and by passing the NASPER Act (H.R. 3015), Congress will take one step towards addressing the problem.

The NASPER Act will help ensure that Schedule II, and III, and IV controlled substances are used and prescribed safely and responsibly. The legislation will help States create electronic monitoring systems that will allow physicians and pharmacists to ensure that their patients are not being over-prescribed these powerful, yet potentially dangerous drugs. The legislation builds upon proven programs already started in 15 States, including Michigan. The Government Accounting Office (GAO) found in 2002 that these State programs are useful tools to help prevent the illegal distribution of these drugs.

However, the GAO also found a loophole that is often exploited. The States with electronic monitoring systems are often undermined by neighbor States who lack monitoring systems. The NASPER Act addresses this problem by allowing States to contact each other so that practitioners in one State can ensure that their patients are not receiving medications in another State.

I am proud to join with Congressmen PALLONE, WHITFIELD, STRICKLAND, and NORWOOD in providing leadership on this issue. I also applaud the tireless work of the American Society of Interventional Pain Physicians to combat the illegal use and inadvertent overprecribing of controlled substances and promote this legislation.

Mr. STRICKLAND. Mr. Speaker, I rise today to speak in support of H.R. 3015. I would first like to thank the Energy and Commerce Committee staff for their great work on this bill. I would also like to thank my colleagues Mr. PALLONE, Mr. NORWOOD, and Mr. WHITFIELD and their staff for their hard work. H.R. 3015 includes prescription monitoring provisions similar to those included in H.R. 3870, a bill Congressman NORWOOD and I introduced earlier this year. While, H.R. 3870 is a more comprehensive effort to close loopholes in current law that lead to prescription drug abuse, I am very pleased with the progress that has been made in H.R. 3015 on prescription drug monitoring.

I am particularly interested in deterring prescription drug diversion because of the immense problem of OxyContin abuse in many of the rural Appalachian Ohio counties I represent. I have received letters from constituents whose sons and daughters have died after taking a crushed OxyContin tablet. These tragedies cannot go unchecked. I am sure that OxyContin is not the only prescription drug that is abused in Appalachia, but its abuse is the most obvious example of the devastating consequences of prescription drug diversion.

H.R. 3015 would build on existing State prescription monitoring programs by providing grants through the Department of Health and Human Services for States to establish, operate, and update prescription monitoring programs. These grants are meant to ensure State monitoring systems can share information with other States, and our intention is to expand and improve current State monitoring programs without eliminating the work that, for example, Kentucky or Nevada has already done.

I believe that drugs like OxyContin are important advances in pain management, but we must work to stop the dangerous abuse of such drugs. H.R. 3015 is a positive step in that direction.

Again, I thank my colleagues and congratulate them on this compromise legislation.

Mr. PAUL. Mr. Speaker, I rise in opposition to H.R. 3015, the National All Schedules Prescription Electronic Reporting Act. This bill is yet another unjustifiable attempt by the Federal government to use the war on drugs as an excuse for invading the privacy and liberties of the American people and for expanding the Federal government's disastrous micromanagement of medical care. As a physician with over 30 years experience in private practice, I must oppose this bill due to the danger it poses to our health as well as our liberty.

By creating a national database of prescriptions for controlled substances, the Federal government would take another step forward in the war on pain patients and their doctors. This war has already resulted in the harassment and prosecution of many doctors, and their staff members, whose only "crime" is prescribing legal medication, including opioids, to relieve their patients' pain. These prosecutions, in turn, have scared other doctors so that they are unwilling to prescribe an adequate amount of pain medication, or even any pain medication, for their suffering patients.

Doctors and their staffs may even be prosecuted because of a patient's actions that no doctor approved or even knew about. A doctor has no way of controlling if a patient gives some of the prescribed medication away or consumes a prescribed drug in a dangerous combination with illegal drugs or other prescription drugs obtained from another source. Nonetheless, doctors can be subjected to prosecution when a patient takes such actions.

Applying to doctors laws intended to deal with drug kingpins, the government has created the illusion of some success in the war on drugs. Investigating drug dealers can be hard and dangerous work. In comparison, it is much easier to shut down medical practices and prosecute doctors who prescribe pain medication.

A doctor who is willing to treat chronic pain patients with medically justified amounts of controlled substances may appear at first look to be excessively prescribing. Because so few doctors are willing to take the drug war prosecution risks associated with treating chronic pain patients, and because chronic pain patients must often consume significant doses of pain medication to obtain relief, the prosecution of one pain doctor can be heralded as a large success. All the government needs to do is point to the large amount of patients and drugs associated with a medical practice.

Once doctors know that there is a national database of controlled substances prescriptions that overzealous law enforcement will be scrutinizing to harass doctors, there may be no doctors left who are willing to treat chronic pain. Instead of creating a national database, we should be returning medical regulation to local control, where it historically and constitutionally belongs. Instead of drug warriors regulating medicine with an eye to maximizing prosecutions, we should return to State medical boards and State civil courts review that looks to science-based standards of medical care and patients' best interests.

H.R. 3015 also threatens patients' privacy. A patient's medical records should be treated according to the mutual agreement of the patient and doctor. In contrast, H.R. 3015 will put a patient's prescriptions on a government-mandated database that can be accessed without the patient's permission.

Instead of further eroding our medical privacy, Congress should take steps to protect it.

Why should someone not be able to deny the government and third parties access to his medical records without his permission or a warrant?

One way the House can act to protect patients' privacy is by enacting my Patient Privacy Act (H.R. 1699) that repeals the provision of Federal law establishing a medical ID for every American. Under the guise of "protecting privacy," the Health and Human Services' so-called "medical privacy" regulations allow medical researchers, insurance agents, and government officials access to your personal medical records—without your consent. Congress should act now to reverse this government-imposed invasion of our medical privacy.

Please join me in opposing H.R. 3015—legislation that, if enacted, will make us less free and less healthy.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOSSELLA). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 3015, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide for the establishment of a controlled substance monitoring program in each State.".

A motion to reconsider was laid on the table.

PANCREATIC ISLET CELL TRANSPLANTATION ACT OF 2004

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3858) to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

The Clerk read as follows:

H.R. 3858

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pancreatic Islet Cell Transplantation Act of 2004".

SEC. 2. ORGAN PROCUREMENT ORGANIZATION CERTIFICATION.

Section 371 of the Public Health Service Act (42 U.S.C. 273) is amended by adding at the end the following:

"(c) Pancreata procured by an organ procurement organization and used for islet cell transplantation or research shall be counted for purposes of certification or recertification under subsection (b).".

SEC. 3. ANNUAL ASSESSMENT ON PANCREATIC ISLET CELL TRANSPLANTATION.

Section 429 of the Public Health Service Act (42 U.S.C. 285c–3) is amended by adding at the end the following:

"(d) In each annual report prepared by the Diabetes Mellitus Interagency Coordinating Committee pursuant to subsection (c), the Committee shall include an assessment of the Federal activities and programs related to pancreatic islet cell transplantation. Such assessment shall, at a minimum, address the following:

"(1) The adequacy of Federal funding for taking advantage of scientific opportunities relating to pancreatic islet cell transplantation.

"(2) Current policies and regulations affecting the supply of pancreata for islet cell transplantation.

"(3) The effect of xenotransplantation on advancing pancreatic islet cell transplantation.

"(4) The effect of United Network for Organ Sharing policies regarding pancreas retrieval and islet cell transplantation.

"(5) The existing mechanisms to collect and coordinate outcomes data from existing islet cell transplantation trials.

"(6) Implementation of multiagency clinical investigations of pancreatic islet cell transplantation.

"(7) Recommendations for such legislation and administrative actions as the Committee considers appropriate to increase the supply of pancreata available for islet cell transplantation.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentlewoman from Colorado (Ms. DEGETTE) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and to include extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strongest possible support of H.R. 3858, the Pancreatic Islet Cell Transplantation Act of 2004, introduced by the gentleman from Washington (Mr. NETHERCUTT).

The Pancreatic Islet Cell Transplantation Act is short and simple. It requires the pancreata donated for the purposes of islet cell transplantation or research be counted for purposes of certification or recertification of organ procurement organizations. Islet cell transplantation is a procedure where islet cells are removed from a donor pancreas and transferred into another person. Once implanted, the beta cells in these islets begin to make and release insulin. H.R. 3858 will help to increase the number of pancreatic and other organ donations, expanding the capabilities of pancreatic islet cell research.

My family is very active in raising the awareness of diabetes. My father, Larry Barton, died of complications from diabetes, and my wife, Terry Barton, is executive director of the Tarrant County Chapter of the American Diabetes Association. So I know personally how excited people are about islet cell transplantation. It may help people with certain type 1 diabetes live without daily injections of insulin, which is very exciting. It is my hope that this legislation will help to speed this research forward.

Mr. Speaker, I cannot urge in any stronger possible terms that all Members support this legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. DEGETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today this body can greatly improve the lives of more than 1 million Americans who are affected by juvenile diabetes. The Pancreatic Islet Cell Transplantation Act addresses a significant problem by reducing the nonscientific barriers standing in the way of this promising treatment.

Pancreatic islet cell transplantation is a procedure that infuses new insulin-producing cells into an individual with juvenile diabetes. This procedure has now been performed in over 300 people in this country. The results are nothing short of miraculous. A majority of those islet cell transplantation recipients no longer need to inject themselves with insulin.

For a person with juvenile diabetes this change is life altering. It means no more needles and no more worry. It means the question of what to eat no longer requires calculation or cause for alarm. For those patients islet cell transplantation means freedom, and ultimately islet cell transplantation will be a cure for type 1 diabetes.

As we know too well, Mr. Speaker, living with diabetes is challenging. Insulin is not a cure. It is only a means of managing the disease, and it is more complicated by the difficulties of monitoring glucose levels. Very serious complications like blindness and kidney disease are not uncommon. In fact, a staggering number of patients with juvenile, or type 1, diabetes suffer from some type of complication. Every year 82,000 individuals lose their foot or leg to diabetes. Heart disease is the leading cause of diabetes-related deaths. And diabetes is the leading cause of new blindness in people 20 to 74 years old.

This bill, which I was proud to introduce with the gentleman from Washington (Mr. NETHERCUTT), who, unfortunately, cannot be here with us today, takes us one step closer to preventing these devastating complications. H.R. 3858 will help increase the supply of pancreata for islet cell transplantation and better coordinate Federal Government efforts and information. These are narrow, yet essential, improvements to our health care system that may not only change the lives of people with juvenile diabetes but also will reduce costs in our health care system.

The total annual cost of diabetes in 2002 was estimated to be $132 billion. Of that, $23 billion was due to the cost care for complications of diabetes. This is exactly why we need to use new procedures like islet cell transplantation to improve lives and reduce the cost of health care in the United States.

We are at a time of extraordinary opportunity in the field of juvenile diabetes research, and pancreatic islet cell transplantation is just one of the new procedures that gives us great hope. The gentleman from Washington (Mr. NETHERCUTT) and I have been the cochairs of the Congressional Diabetes Caucus for many years now, and we are pleased to say it is still the largest caucus in Congress. We have seen the technologies improve, and we have worked to improve the coordination and Federal support for diabetes programs. The Pancreatic Islet Cell Transplantation Act continues that work.

Like so many of my colleagues, I support improved scientifically based efforts that will improve patients' lives and even eradicate this disease. Since the science in this area is developing at a rapid pace, additional efforts are needed to ensure that Federal policies and regulatory actions support the momentum.

I want to add my thanks to the gentleman from Texas (Chairman BARTON) and for the gentleman from Michigan (Mr. DINGELL) as well as the Committee on Energy and Commerce staff on both sides of the aisle for their hard work and diligence on this and all of the health bills being considered today.

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Their leadership provides exactly the kind of bipartisan cooperation that we need to address significant issues like improving our health care system, that Congress faces today.

I also want to thank the volunteers of the Juvenile Diabetes Research Foundation and the American Diabetes Association. These two organizations have been tireless, and they are to be commended.

Finally, Mr. Speaker, I would like to thank you for all of your hard work in this area over the years.

Pancreatic islet cell transplantation is an incredible innovation in medicine. I urge all of my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, let me in summary again commend the gentlewoman from Colorado (Ms. DEGETTE), the gentleman from Michigan (Mr. DINGELL) and all the folks on the minority side that worked with us on this. I want to thank again the gentleman from Washington (Mr. NETHERCUTT) for his work.

This bill is going to pass on suspension, which shows how noncontroversial and bipartisan this particular issue is. But this is a bill that is worthy of considerable celebration because if you have a family member that has diabetes and you have to watch and sometimes help them get their insulin injections, the ability to get an islet cell transplant revolutionizes their life. It is just amazing.

Our problem is that there just are not enough organ donations to make it possible to do this for many people. Hopefully, this legislation will make it possible to get more donations and, over time, perhaps even do the research that can result in being able to replicate the islet cells so that every diabetic in the country that wants one of these transplants can get that.

So I cannot say in stronger terms how happy I am to bring this to the floor, and I would urge unanimous adoption of the bill.

Mr. NETHERCUTT. Mr. Speaker, I rise in strong support of the Pancreatic Islet Cell Transplantation Act and urge my colleagues to pass this bill

As the parent of a daughter with Type 1, or juvenile diabetes, I can tell you that it is a terrible disease. People with diabetes must contend with daily insulin injections and blood tests to monitor glucose levels. Hanging above this constant management is the threatening cloud of complications, such as kidney failure, blindness or amputation that this disease so often brings.

The legislation that we consider today reflects an extraordinary opportunity in the field of juvenile diabetes research. Pancreatic islet transplantation has been hailed as the most important advance in diabetes research since the discovery of insulin in 1921. The procedure, which involves transplanting insulin-producing cells into an individual with juvenile diabetes, has been performed on over 300 individuals, and the majority of them no longer need to take insulin to stay alive. While significant research remains to be done to expand this procedure to all who suffer with juvenile diabetes, its promise is incredibly exciting for families like mine.

My bill seeks to remove some of the nonscientific barriers currently before the scientists racing to perfect this procedure. A shortage of donor pancreata is one of the major obstacles to higher transplant rates. In 2001, approximately 1,800 pancreata were donated and only 500 were available for islet cell transplantation and research. At the same time, more than one million people suffer from juvenile diabetes. Current Federal regulations do not credit organ procurement organizations (OPOs) for harvesting pancreases for islet cell transplantation toward their certification or recertification. The Pancreatic Islet Cell Transplantation Act alters these regulations to credit OPOs for pancreata used for islet cell transplantation or research.

This legislation provides help for an extremely promising procedure, that in turn offers a great deal of hope to the millions of Americans with juvenile diabetes. It gives me great pride to have introduced this bill, and I urge my colleagues to support this legislation.

Ms. DEGETTE. Mr. Speaker, I yield back the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOSSELLA). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 3858.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ASTHMATIC SCHOOLCHILDREN'S TREATMENT AND HEALTH MANAGEMENT ACT OF 2004

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2023) to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Asthmatic Schoolchildren's Treatment and Health Management Act of 2004".

SEC. 2. FINDINGS.

The Congress finds the following:

(1) Asthma is a chronic condition requiring lifetime, ongoing medical intervention.

(2) In 1980, 6,700,000 Americans had asthma.

(3) In 2001, 20,300,000 Americans had asthma; 6,300,000 children under age 18 had asthma.

(4) The prevalence of asthma among African-American children was 40 percent greater than among Caucasian children, and more than 26 percent of all asthma deaths are in the African-American population.

(5) In 2000, there were 1,800,000 asthma-related visits to emergency departments (more than 728,000 of these involved children under 18 years of age).

(6) In 2000, there were 465,000 asthma-related hospitalizations (214,000 of these involved children under 18 years of age).

(7) In 2000, 4,487 people died from asthma, and of these 223 were children.

(8) According to the Centers for Disease Control and Prevention, asthma is a common cause of missed school days, accounting for approximately 14,000,000 missed school days annually.

(9) According to the New England Journal of Medicine, working parents of children with asthma lose an estimated $1,000,000,000 a year in productivity.

(10) At least 30 States have legislation protecting the rights of children to carry and self-administer asthma metered-dose inhalers, and at least 18 States expand this protection to epinephrine auto-injectors.

(11) Tragic refusals of schools to permit students to carry their inhalers and auto-injectable epinephrine have occurred, some resulting in death and spawning litigation.

(12) School district medication policies must be developed with the safety of all students in mind. The immediate and correct use of asthma

inhalers and auto-injectable epinephrine are necessary to avoid serious respiratory complications and improve health care outcomes.

(13) No school should interfere with the patient-physician relationship.

(14) Anaphylaxis, or anaphylactic shock, is a systemic allergic reaction that can kill within minutes. Anaphylaxis occurs in some asthma patients. According to the American Academy of Allergy, Asthma, and Immunology, people who have experienced symptoms of anaphylaxis previously are at risk for subsequent reactions and should carry an epinephrine auto-injector with them at all times, if prescribed.

(15) An increasing number of students and school staff have life-threatening allergies. Exposure to the affecting allergen can trigger anaphylaxis. Anaphylaxis requires prompt medical intervention with an injection of epinephrine.

SEC. 3. PREFERENCE FOR STATES THAT ALLOW STUDENTS TO SELF-ADMINISTER MEDICATION TO TREAT ASTHMA AND ANAPHYLAXIS.

(a) AMENDMENTS.—Section 399L of the Public Health Service Act (42 U.S.C. 280g) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following:

"(d) PREFERENCE FOR STATES THAT ALLOW STUDENTS TO SELF-ADMINISTER MEDICATION TO TREAT ASTHMA AND ANAPHYLAXIS.—

"(1) PREFERENCE.—The Secretary, in making any grant under this section or any other grant that is asthma-related (as determined by the Secretary) to a State, shall give preference to any State that satisfies the following:

"(A) IN GENERAL.—The State must require that each public elementary school and secondary school in that State will grant to any student in the school an authorization for the self-administration of medication to treat that student's asthma or anaphylaxis, if—

"(i) a health care practitioner prescribed the medication for use by the student during school hours and instructed the student in the correct and responsible use of the medication;

"(ii) the student has demonstrated to the health care practitioner (or such practitioner's designee) and the school nurse (if available) the skill level necessary to use the medication and any device that is necessary to administer such medication as prescribed;

"(iii) the health care practitioner formulates a written treatment plan for managing asthma or anaphylaxis episodes of the student and for medication use by the student during school hours; and

"(iv) the student's parent or guardian has completed and submitted to the school any written documentation required by the school, including the treatment plan formulated under clause (iii) and other documents related to liability.

"(B) SCOPE.—An authorization granted under subparagraph (A) must allow the student involved to possess and use his or her medication—

"(i) while in school;

"(ii) while at a school-sponsored activity, such as a sporting event; and

"(iii) in transit to or from school or school-sponsored activities.

"(C) DURATION OF AUTHORIZATION.—An authorization granted under subparagraph (A)—

"(i) must be effective only for the same school and school year for which it is granted; and

"(ii) must be renewed by the parent or guardian each subsequent school year in accordance with this subsection.

"(D) BACKUP MEDICATION.—The State must require that backup medication, if provided by a student's parent or guardian, be kept at a student's school in a location to which the student has immediate access in the event of an asthma or anaphylaxis emergency.

"(E) MAINTENANCE OF INFORMATION.—The State must require that information described in subparagraphs (A)(iii) and (A)(iv) be kept on file at the student's school in a location easily accessible in the event of an asthma or anaphylaxis emergency.

"(2) RULE OF CONSTRUCTION.—Nothing in this subsection creates a cause of action or in any other way increases or diminishes the liability of any person under any other law.

"(3) DEFINITIONS.—For purposes of this subsection:

"(A) The terms 'elementary school' and 'secondary school' have the meaning given to those terms in section 9101 of the Elementary and Secondary Education Act of 1965.

"(B) The term 'health care practitioner' means a person authorized under law to prescribe drugs subject to section 503(b) of the Federal Food, Drug, and Cosmetic Act.

"(C) The term 'medication' means a drug as that term is defined in section 201 of the Federal Food, Drug, and Cosmetic Act and includes inhaled bronchodilators and auto-injectable epinephrine.

"(D) The term 'self-administration' means a student's discretionary use of his or her prescribed asthma or anaphylaxis medication, pursuant to a prescription or written direction from a health care practitioner.".

(b) APPLICABILITY.—The amendments made by this section shall apply only with respect to grants made on or after the date that is 9 months after the date of the enactment of this Act.

SEC. 4. SENSE OF CONGRESS COMMENDING CDC FOR ITS STRATEGIES FOR ADDRESSING ASTHMA WITHIN A COORDINATED SCHOOL HEALTH PROGRAM.

The Congress—

(1) commends the Centers for Disease Control and Prevention for identifying and creating "Strategies for Addressing Asthma Within a Coordinated School Program" for schools to address asthma; and

(2) encourages all schools to review these strategies and adopt policies that will best meet the needs of their student population.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2023, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself of such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 2023, the Asthmatic Schoolchildren's Treatment and Health Management Act, sponsored by the Energy and Commerce subcommittee chairman, the gentleman from Florida (Mr. STEARNS).

Over the past 15 years, the number of Americans diagnosed with asthma has nearly doubled to an estimated 17 million people, including 5 million children. The Federal Government has invested significant resources to strengthen and improve asthma research and prevention activities. The Department of Health and Human Services fiscal 2005 budget request includes approximately $321 million for direct asthma programs.

When asthma strikes, airways in the lungs become inflamed and constricted, causing coughing, wheezing and difficulty breathing. Each year, nearly half a million Americans are hospitalized and, unfortunately and sadly, more than 5,000 die from asthma. Several medications, when properly administered in a timely fashion, are now available to treat asthma and/or anaphylaxis.

Unfortunately, some schools do not permit students to self-administer medication for asthma even though the parent or guardian of the student has authorized the use of the medication and it is recommended by a health care provider, resulting in an unnecessary delay of potentially life-saving treatments.

H.R. 2023 directs the Secretary of Health and Human Services to give preference when making asthma-related grants to States that require schools to allow students to self-administer medications. H.R. 2023 does not federally mandate that States allow children to carry prescribed asthma medication in schools. The intent of the bill is to incentivize States to do the right thing by granting preference for asthma-related health program dollars to the States that have regulations that put the parents' and the children's safety first.

Mr. Speaker, I can say, as one of the founding members of Asthma Awareness Day here on Capitol Hill, I am very proud that now as chairman of the Committee on Energy and Commerce, with the strong support and leadership of the gentleman from Florida (Mr. STEARNS), we can bring this bill forward. I would urge its adoption.

Mr. Speaker, I ask unanimous consent to yield the balance of my time to manage the bill to the subcommittee chairman, the gentleman from Florida (Mr. STEARNS).

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, millions of Americans, including my wife, suffer from asthma. In a classroom of 30 children, on the average, three are likely to have asthma. The disease killed more than 200 American children in the year 2000. Some States, however, prohibit children from carrying emergency asthma medicine to school. Some of these prohibitions occur despite the fact that parents have authorized the medication's use. This creates an unnecessary delay in administering these medications, when it only takes seconds for an asthma attack sometimes to turn deadly.

The ASTHMA Act, H.R. 2023, encourages States to modernize their laws. I commend my friend the gentleman from Florida (Mr. STEARNS) for his leadership on this legislation and my friend, the gentleman from New York (Mr. TOWNS), for introducing the proposal.

The Centers for Disease Control and Prevention has done terrific work in examining and recommending strategies for combating asthma in school-based situations and has laid out six strategies for addressing asthma in schools. This bill also commends those efforts.

Allowing children to self-administer their asthma medication will save lives and will make our schools healthier and safer. I am pleased to support this important legislation.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud also to author this bill, H.R. 2023, the Asthmatic Student Treatment and Health Management Act, ASTHMA, with my colleague, the gentleman from Rhode Island (Mr. KENNEDY). He and I have been working together on this for some time, and we are pleased it came to the House floor today. It has been a long haul.

I also want to thank the gentleman from Texas (Chairman BARTON) for his early support and providing the leadership in this whole series of legislative initiatives. We introduced this bill, the gentleman from Rhode Island (Mr. KENNEDY) and I, in 2003 on Asthma Awareness Day. Frankly, I think it has been building momentum ever since.

This bill provides incentives for States to guarantee students can carry and use prescribed asthma medication while they are at school. It is not a mandate, and, frankly incurs no new spending.

The "zero tolerance" movement of the 1980s and 1990s had the unintended consequence of depriving students of immediate access to their prescribed medication. Often there is a signaling effect in the States or industry merely from the existence of Federal legislation, sort of a chilling effect. I think our bill elevated the conversation here in the United States in school boards and State legislatures.

Because of this discussion, we now have 31 "asthma-friendly" States, such as my own State of Florida. Furthermore, of these 31, 19 extend their protection even further to anaphylaxis medication, like epinephrine autoinjectors. On Asthma Awareness Day, May 7, 2003, when we first started this, at that time there were only 20 States, and only nine with this extra protection.

As mentioned earlier, over 6.3 million children under the age of 18 suffer from asthma, probably more than that when you realize a lot of people do not even admit to having asthma. It is the most common cause of missed school days, 14 million annually. It costs us tremendously in lost time, learning, lost productivity and earnings of parents, and medical expenses, including costly emergency room visits, not to mention the enormous amount of stress for people involved, the parents and children.

September 22, 2003, a Newsweek magazine article cover story, as you will remember, said, "Your Child's Health and Safety: The Latest on Allergies and Asthma." "The Allergy Epidemic" pointed out, "We have conquered most childhood infections, but," and this is what is important, "extreme reactions to everyday substances still pose a new threat."

We read about David Adams of Georgia, whose acute allergic reaction to peanuts was stanched by a quick epinephrine injection, "never sets foot outside his home without an emergency supply of epinephrine."

This "Fighting for Air" article states, "Asthma among children has more than doubled over the past 20 years," and at Chicago's Hughes Elementary School, "at this school of 500 students, an astonishing one-third have asthma." Second grader Zeron Moody "just wants to play without gasping" for air.

When asthma attacks, every minute counts. Sadly, there have been tragedies when a school child is prevented from swift access to his or her asthma medication. A student who must go to the nurse's office, even if there is a school nurse, to get his or her prescribed, life-saving medication, just may run out of time for the initial treatment that could save his or her life.

There is a 2002 article in a magazine called Reason entitled "Asthma Attack: When Zero Tolerance Collides with Children's Health." I just want to share the horror of a 1991 death of a New Orleans high school student, Catrina Lewis, who was simply delayed by security guards before being allowed to get to her inhaler from the office. When finally it did not help, she asked the school staff to call an ambulance. Instead, they spent a half-hour trying to call her mother first.

Catrina's sister, another student, finally called 911, but unfortunately, tragically, the emergency help arrived too late. Catrina's death resulted in more than heartbreak, but a legal judgment against the principal, the counselor and school board. Obviously, in this case no one comes out the winner.

Medical providers prescribe safe, legal treatment, along with instructions on how to self-administer to patients diagnosed with asthma and severe allergies. Along with parental support, it just makes good medical sense to allow a student to treat him or herself and avoid this possible tragedy in the classroom.

I would like to remind young people with asthma in this country that throughout history there have been people we know or believe had asthma, but they still accomplished great things; not because they had asthma, but because they did not let it stop them from finding greatness, achievement.

In the past 3 years, I have shared stories about President Theodore Roosevelt and the Italian composer, priest and musician, Antonio Vivaldi. In Congress, for Asthma Awareness Day we hosted famous athletes who currently have and suffer from asthma. But, frankly, they do not let it slow them down, and they still pursue their career: Jerome Bettis of the Pittsburgh Steelers, who just last Sunday scored two touchdowns, I say to my colleagues; and Jackie Joyner-Kersee, Olympic heptathlete, most of us do not know what that is, but that is an individual that competes in seven track and field events.

I would also like to point out another sober but timely point that there may arise emergencies where a schoolchild with asthma simply, simply needs to have his or her vital medication close at hand and not locked in a desk drawer across the campus. We sadly just never know these days when a homeland security event might call for a lockdown at a school, for students to "shelter in place."

If this happens, that is why this bill is important. We want every child to have his or her lifesaving medication on their person and not in a shelter-in-place, in a lockdown position.

In conclusion, Mr. Speaker, H.R. 2023 is an important step for the health of school children, for parental rights, and for trust in the physician-patient-parent relationship and judgment.

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Again, I appreciate the support of my colleague, the gentleman from Rhode Island (Mr. KENNEDY), and I appreciate the gentleman from Texas (Chairman BARTON) for moving this bill, and the gentleman from Florida (Chairman BILIRAKIS) for marking it up in the Subcommittee on Health. We made great progress. We need the Senate to follow through, and we need to pass this bill today, and I encourage its swift passage in the Senate.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield 7 minutes to the gentleman from Rhode Island (Mr. KENNEDY), my friend.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I rise today as the lead Democratic cosponsor of the ASTHMA Act of 2003, and I want to acknowledge my good friend and partner, the gentleman from Florida (Mr. STEARNS), for his excellent leadership on this matter. As my colleagues have just heard him speak, he has spoken very eloquently to the case that we are making through this legislation.

I think he illustrated better than anything else the reason why we are pushing this legislation when he talked about the story of Catrina Lewis. We in Rhode Island, and those stories are happening all over the country; in Rhode Island, we have a family, the father, Walter Stone, and the mother, Lynn Stone, lost their daughter, Morgan. She was a mild asthmatic. She was attending college and was killed when her asthma overcame her and she was not able to gain access to her medications.

This is a life-and-death issue. Unfortunately, many States have made it a liability for those students to carry their inhalers to school when those students need their medications. If they have not registered them in the nurse's office, for example, they are subject to all kinds of punishment. Then again, if they need their medication, as those of us who have asthma, like myself, know very well, it can come on you very quickly; and if you do not have your medication available, you can have a much worse time of it. Tragically, as we have seen in Catrina Lewis's case and in Morgan Stone's case, it can be fatal.

The gentleman from Florida (Mr. STEARNS), my good colleague, was talking about the fact that we have 5,000 people die every year of asthma. This is quite extraordinary when people consider that asthma must not be that big a deal because when people suffer from asthma, it does not look like they are suffering. That is the biggest impediment for people in this country when approaching asthma, the fact that most people, when seeing an asthmatic, do not see the suffering that an asthmatic goes through when they are having an asthma attack, or do not see the suffering that someone is going through when they have an anaphylactic shock attack because of allergies to food.

Many times people do not take this seriously, and it is for just that reason that we need to pass this legislation. It is because many school districts do not take this seriously that we have had the situation where too many young people have had to go through unspeakable suffering as a result of an asthma attack that could have been treated, or they have even suffered death because of the fact that they did not have access to their medications. That is why we need to pass this legislation.

We have heard eloquently from the gentleman from Florida (Mr. STEARNS) about the statistics. But the fact remains, with all of the statistics, it is important that people keep in mind that asthma is the single leading cause of missed school days in this country.

Unfortunately, more and more children suffering from asthma are uninsured and do not have access to medications, so we also need to talk about that. Unfortunately, that cannot be incorporated in this legislation, but I know the gentleman from Florida (Mr. STEARNS) and I both will work hard to make sure that asthma medication is available to our children who are not otherwise covered by health insurance. And the reason for that is simple: Our children are making the emergency room their primary source of medical care when they have asthma attacks and, as any physician or parent can tell us, this is the worst kind of health care policy we can have in this country.

We need to do more through the Centers for Disease Control to alert families about asthma and to educate families about how to help them manage their child's asthma if their children have asthma. These things can make an enormous difference in a family's life, and certainly those are also objectives that we need to follow as well.

Mr. Speaker, I know the gentleman from Florida (Mr. STEARNS) and I both owe a special debt of gratitude to Nancy Sanders, who is President and founder of the Allergy and Asthma Network of Mothers of Asthmatics. She has really encapsulated all of these issues through her advocacy, and she speaks on behalf of all mothers of asthmatics when she testifies as she does, and her partner in this effort, Marissa Magnetti, who has also worked very hard to get this bill to the floor. I want to thank both of them for their good work in getting this bill to the floor.

Mr. Speaker, I want to thank once again my colleagues in the Congress who have been helping us, the gentleman from Texas (Mr. BARTON) for his work in passing this in the committee; and of course, I want to thank the gentleman from Florida (Mr. STEARNS) for his good work and partnership on this legislation.

Mr. STEARNS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my colleague also for mentioning Nancy Sanders, because I was going to save the best for last, Nancy Sanders, the director of Mothers of Asthmatics, Allergy and Asthma Network; without her energy and her time, we probably would not be here today.

So in large measure, this is a case where government is acting, Congress is acting, but it is because of her and all her volunteers and supporters have made this a major objective and mission for their actions to try and bring to bear all of the resources of the private sector so that we in the government are aware of this problem.

I know from some of the hearings that we have had, that both the gentleman from Rhode Island (Mr. KENNEDY) and I have shared, and we have had many panels come out and speak, all of this was organized by Nancy Sanders. So it is to her credit this bill is on the floor today, because of her hard work.

So I appreciate the gentleman from Rhode Island (Mr. KENNEDY) bringing that to the attention of the floor, and I want to echo that, how important it is to have Nancy Sanders.

Mr. KENNEDY of Rhode Island. Mr. Speaker, will the gentleman yield?

Mr. STEARNS. I yield to the gentleman from Rhode Island.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank my colleague for yielding.

She is working, as all of us are, on a number of these other agenda items in helping to assist those who suffer from asthma and allergy attacks. We have worked on more notification for families when purchasing food products to know what is in those food products so that they can be alerted to any food type that may trigger anaphylactic shock. And I know that these and many other issues are ones that we are going to need to continue to work for in the years ahead.

I thank my colleague for his effort on this and many others of these issues.

Mr. STEARNS. Mr. Speaker, reclaiming my time, I would just give a concluding remark. Not often when we come to the House floor do we have legislation that will save lives. I had this experience when I was working on the defibrillator bill, which the gentleman from Ohio (Mr. BROWN) is going to offer later on, which is another one of those bills that will actually save lives. And this is one that will save lives, not to mention the huge amount of stress that will be alleviated by parents' knowing that their children will have their medication with them at school.

Ms. JACKSON-LEE of Texas. Mr. Speaker, H.R. 2023, the Asthmatic Schoolchildren's Treatment and Health Management Act of 2003, provides incentives to States to help guarantee the rights of students to carry and use prescribed lifesaving asthma and anaphylaxis medications while at school.

Many students attend schools in States where State and/or local statute prohibits them from carrying their prescribed asthma medication on their person. Worse, anaphylaxis, including the loss of breathing, can accompany a severe asthmatic attack. In an onset of asthma or an anaphylactic attack, every minute counts, and a schoolchild who has to go to a teacher's desk or school nurse's office to get his or her asthma medication may not have sufficient time to initiate treatment.

I am pleased to be a cosponsor of this legislation, and just in the past year and a half since we introduced H.R. 2023, many States are passing laws protecting these students. We now have 31 States that permit students to possess and self-administer asthma medication, such as albuterol inhalers. Of these 31, 19 extend that protection even further to include anaphylaxis medication, such as epinephrine auto-injectors. A year and a half ago, there were only 20 States with statutes that protected students to possess and self-administer inhalers, and only 9 of those allowed permission for epinephrine auto-injectors. Great progress has been made, and your vote for H.R. 2023 can only encourage further success.

In my State of Texas, approximately 900,000 adults, or 6 percent of the population, currently have asthma. Children are particularly hard hit in having asthma—which really can take away the joy of being a child.

H.R. 2023 encourages states to pass asthma-friendly legislation, without new spending, without mandates. This bill directs the Secretary of Health and Human Services to give preference to a State's asthma and anaphylaxis medication statutes when awarding grants for asthma-related programs under its Department (such as Centers for Disease Control and Prevention studies). It offers a gentle incentive for States to take this easy, healthy step for its young citizens. My State of Texas could greatly benefit from such an incentive, as we have a high asthma rate and still do not guarantee the rights of children to carry their own asthma medication.

Mr. ENGEL. Mr. Speaker, I rise in support of H.R. 2023, the Asthmatic Schoolchildren's Treatment and Health Management Act of 2004. As a cosponsor of this important legislation, I look forward to its quick enactment. Asthma has had a tremendous impact on our Nation's health. I represent the Bronx, Westchester and Rockland County in New York, and our community has been hit very hard by asthma, especially our children. My family has experienced first-hand the effects of asthma. My wife has asthma and two of my kids do as well. So I know how important it is that people, especially children, have access to care and have the medicine they need when they need it.

According to the NYC Department of Health in the Bronx, about 25 percent of children in the Bronx have asthma, as opposed to 15 percent nationwide. Hospitalization rates for children are around ten times higher than the national average. The Bronx, in particular, leads New York City in asthma-related hospitalizations and deaths. Audrey Dregante, a Nurse Practitioner at Bronx Lebanon Hospital Pediatric Asthma Center has stated that "Pediatric Asthma is an epidemic in the Bronx."

There are many factors contributing to asthma that can easily be addressed and would save lives and greatly enhance the quality of life for so many suffering with asthma. Some of the factors contributing to the disease are inadequate housing conditions, such as mold in homes, dust mites and insects, and the lack of proper ventilation. The poor are less likely to have health care and use emergency room care as their primary care provider, and are not getting the proper treatment. Low-birth weight babies are surviving in greater numbers and problems with lung development may be leading to the rise in asthma cases. Early diagnosis and treatment is critical in these instances, as well as pre-natal care for the poor. The increasing amounts of pollution and congestion in urban areas caused by traffic and diesel-powered trucks and buses increase the risk for asthma.

Children in particular have a difficult time with asthma and, as we know, proper treatment and control of the disease in crucial. the legislation before us today seeks to rectify one situation that is preventing children from even carrying their asthma medication. Amazingly, many states do not allow kids to self-administer their asthma medications in school, which can lead to severe conditions if proper treatment is not available in time. New York does allow kids to carry and administer their asthma medication. I believe it is irrational and irresponsible to prohibit children from having their medication readily available. H.R. 2023 would encourage schools to allow children to carry their asthma medication by giving those schools preference when awarding public health and asthma-related grants. I think this is positive legislation that will encourage school districts to allow their children to carry and self-administer their asthma medicine, which will improve their condition and could save their lives. I urge my colleagues to support this legislation.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of H.R. 2023, the Asthmatic Schoolchildren's Treatment and Health Management Act. Nearly one-third of all people with asthma in our Nation are children under the age of 18, according to the American Lung Association. This figure translates to more than 6.3 million children. Asthma is now the most common, serious, chronic disease among children, accounting for 14 million absences from school each year.

I commend this legislation and believe it is great to allow students to self-administer medication to treat that student's asthma. We are encouraging the child to control their condition with correct management of it as well as giving them the responsibility to go get their nebulizer for a breathing treatment or get their inhaler when they know they need it. However, we still need to do more for our asthmatic children through education and outreach. Doctors say that asthma is a disease that can be managed, treated and prevented. Yet across our country, in cities like Chicago, there are no centralized asthma programs, and many States do not keep an up-to-date count of how many children have the disease.

We have seen asthma continue to strike black children the hardest, especially those who live in low-income areas. The 2002 National Health Interview Survey, a project of the CDC, found that 12 percent of all children under age 18 were asthmatic, and half had suffered an attack in the previous year. Black and low-income families get it far more often: 18 percent of black children had been diagnosed with asthma, and 9 percent had suffered attacks, versus 10 and 4 percent for Latino children, and 11 and 5 percent for whites. Due to a lack of health care, crowded housing, and more exposure to asthma triggers such as cockroach feces and dust mites, the asthma rate was also higher for children from families whose incomes were less than $20,000 a year.

Although, most children have mild to moderate problems, and their illness can be controlled by treatment at home, too many of our asthmatic children are ending up in our emergency rooms. The CDC reports that in 1999, 658,000 pediatric emergency room visits were due to asthma. The estimated annual rate for emergency room visits among children 5 years old or younger is 137.1 per 10,000 persons—the highest rate of all age groups. Asthma cost more than $4.6 billion in medical care and time lost from school or work. African Americans have nearly four times the asthma related emergency room visits as whites and are more than three times as likely than whites to be hospitalized for asthma.

Mr. Speaker, unfortunately, Chicago, where I reside, is commonly called an epicenter of the Nation's asthma epidemic. I believe that my State of Illinois, Chicago and our Congress need to encourage that more is done to help our asthmatic children, like education and, as the doctors suggest, managing, treating and prevention of this disease as a way to keep more of our kids out of the emergency rooms.

Mrs. CHRISTENSEN. Mr. Speaker, I rise today to join my colleague Congressman CLIFF STEARNS of Florida in the passage of H.R. 2023, the Asthmatic Schoolchildren's Treatment and Health Management Act of 2004. Mr. Speaker, as a medical doctor I know of nothing more important to a patient than the ability to access his/her medication. The bill before us today underscores this critical component in the continuum of care as it relates to asthma and school-age children.

I am grateful to Mr. STEARNS for introducing this important piece of legislation and will be working forward to its impact in African American and medically underserved communities. As you know, Mr. Speaker, asthma is the 6th-ranking chronic condition in the U.S., and the leading serious chronic illness of children in the U.S., and has a significant impact on African Americans. Not only do African Americans have a higher asthma prevalence rate than Caucasians, but they are also more likely to be hospitalized or die due to asthma.

Data released in 2003 by the Centers for Disease Control and Prevention stated that the lifetime prevalence rate is 29 percent higher in African Americans than in Caucasians. The asthma attack prevalence rate in African Americans is 37 percent higher than in Caucasians, and the asthma attack prevalence rates in African-Americans are highest among children under the age of 5.

The CDC also noted that African Americans have nearly four times the asthma-related emergency room visits than Caucasians and that African Americans are more than three times more likely than Caucasians to be hospitalized for asthma. Finally, African Americans are three times more likely than Caucasians to die from asthma and more African American women die from asthma than any other group.

A recent study by Guido R. Zanni and Jeannette Wick, entitled Counseling Inner-City Youth with Asthma, found that approximately 1 in 13 school-age children is affected—an increase of 72.3 percent since the 1980s. Asthma-related absenteeism amounted to 14 million missed school days in 2000.

The researchers noted that the inner cities have unique challenges with asthma-causing agents: Tobacco and cooking smoke, indoor allergens, bioaerosols and other air pollutants, respiratory infections, and stress. Up to 59 percent of inner-city pediatric asthma sufferers live in homes with environmental tobacco smoke. Sensitivity to allergens is typical of pediatric asthma. Most inner-city children (94 percent are highly sensitive to inhalant allergens, and 76 percent are sensitive to 3 or more allergens. Approximately 36 percent have cockroach sensitization. Combining cockroach sensitization with regular exposure significantly increases asthma-related hospitalizations, emergency room visits, school absenteeism, and lost sleep.

The researchers noted some of the causes of nonadherence to asthma medication regimens by school-age children are created by parental health beliefs, the use of multiple care providers, the lack of a comprehensive asthma-management plan, psychosocial stressors, inadequate attention to triggers and early warning signals, and inadequate environmental allergen control. They also noted that many schools have a zero-tolerance drug policy, forcing students to smuggle and take their asthma medications discreetly or leave their medications at home.

Mr. Speaker, I believe that H.R. 2023 is a step in the right direction towards eliminating health disparities by making grants available to States, with a preference to States that require public elementary and secondary schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis under specified conditions.

Again, Mr. Speaker, I believe that this bill is a measure that safeguards the health of children with asthma and urge my colleagues to support it.

Mr. ENGEL. Mr. Speaker, asthma has had a tremendous impact on our Nation's health. I represent the Bronx, Westchester and Rockland County in New York, and we have been hit very hard by asthma, especially our children.

According to the NYC Department of Health, in the Bronx about 25 percent of children have asthma, as opposed to 15 percent Nationwide; hospitalization rates for children are around ten times higher than the national average; and the Bronx, in particular, leads New York City in asthma-related hospitalizations and deaths. Audrey Dregante, a nurse practitioner at Bronx Lebanon Hospital, Pediatric Asthma Center has stated that "Pediatric Asthma is an epidemic in the Bronx."

There are many factors contributing to asthma that can easily be addressed and would save lives and greatly enhance the quality of life for so many suffering with asthma. Many of these factors have to do with the economic status of those with asthma and the fact that they are not educated on the treatments available. Some of the factors contributing to the disease are inadequate housing conditions—impoverished conditions such as mold in homes, dust mites and insects, and the lack of proper ventilation; the poor are less likely to have health care and use emergency room care as their primary care provider and are not getting the proper treatment; low-birth weight babies are surviving in greater numbers, and problems with lung development may be leading to the rise in asthma cases—early diagnosis and treatment is critical in these instances, as well as pre-natal care for the poor; and the increasing amounts of pollution and congestion in urban areas caused by traffic and diesel-powered trucks and buses.

Children in particular have a difficult time with asthma and, as we know, proper treatment and control of the disease is crucial. The legislation before us today seeks to rectify one situation that is preventing children from even carrying their asthma medication. Amazingly, many States do not allow kids to self-administer their asthma medications in school, which can lead to severe conditions if proper treatment is not available in time.

New York does allow kids to carry and administer their asthma medication. I believe it is irrational and irresponsible to prohibit children from having their medication readily available. H.R. 2023 would encourage schools to allow children to carry their asthma medication by giving those schools preference when awarding public health and asthma-related grants.

I think this is positive legislation that will encourage school districts to allow their children to carry and self-administer their asthma medicine, which will improve their condition and could save their lives. I urge my colleagues to support this legislation.

Mr. STEARNS. Mr. Speaker, I yield back the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOSSELLA). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 2023, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MAMMOGRAPHY QUALITY STANDARDS REAUTHORIZATION ACT OF 2004

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H. R. 4555) to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards, as amended.

The Clerk read as follows:

H.R. 4555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mammography Quality Standards Reauthorization Act of 2004".

SEC. 2. TEMPORARY RENEWAL AND LIMITED PROVISIONAL CERTIFICATE.

Section 354 of the Public Health Service Act (42 U.S.C. 263b) is amended—

(1) in subsection (b)(1)—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by inserting "or a temporary renewal certificate" after "certificate"; and

(ii) in clause (i), by striking "subsection (c)(1)" and inserting "paragraphs (1) or (2) of subsection (c)";

(B) in subparagraph (B)—

(i) in the matter preceding clause (i), by inserting "or a limited provisional certificate" after "certificate"; and

(ii) in clause (i), by striking "subsection (c)(2)" and inserting "paragraphs (3) and (4) of subsection (c)"; and

(C) in the flush matter at the end, by striking "provisional certificate" and inserting "temporary renewal certificate, provisional certificate, or a limited provisional certificate"; and

(2) in subsection (c)—

(A) by redesignating paragraph (2) as paragraph (4); and

(B) by inserting after paragraph (1) the following:

"(2) TEMPORARY RENEWAL CERTIFICATE.—The Secretary may issue a temporary renewal certificate, for a period of not to exceed 45 days, to a facility seeking reaccreditation if the accreditation body has issued an accreditation extension, for a period of not to exceed 45 days, for any of the following:

"(A) The facility has submitted the required materials to the accreditation body within the established time frames for the submission of such materials but the accreditation body is unable to complete the reaccreditation process before the certification expires.

"(B) The facility has acquired additional or replacement equipment, or has had significant personnel changes or other unforeseen situations that have caused the facility to be unable to meet reaccreditation timeframes, but in the opinion of the accreditation body have not compromised the quality of mammography.

"(3) LIMITED PROVISIONAL CERTIFICATE.—The Secretary may, upon the request of an accreditation body, issue a limited provisional certificate to an entity to enable the entity to conduct examinations for educational purposes while an onsite visit from an accreditation body is in progress. Such certificate shall be valid only during the time the site visit team from the accreditation body is physically in the facility, and in no case shall be valid for longer than 72 hours. The issuance of a certificate under this paragraph, shall not preclude the entity from qualifying for a provisional certificate under paragraph (4).".

SEC. 3. NATIONAL ADVISORY COMMITTEE.

Section 354(n) of the Public Health Service Act (42 U.S.C. 263b(n)) is amended—

(1) in paragraph (2), by striking subparagraph (C) and all that follows and inserting the following:

"(C) other health professionals,

whose clinical practice, research specialization, or professional expertise include a significant focus on mammography. The Secretary shall appoint at least 4 individuals from among national breast cancer or consumer health organizations with expertise in mammography, at least 2 industry representatives with expertise in mammography equipment, and at least 2 practicing physicians who provide mammography services."; and

(2) in paragraph (4), by striking "biannually" and inserting "annually".

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

Subparagraphs (A) and (B) of section 354(r)(2) of the Public Health Service Act (42 U.S.C. 263b(r)(2)(A) and (B)) are amended by striking "2002" each place it appears and inserting "2007".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on this legislation.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4555, the Mammography Quality Standards Act. I want to commend my good friend and ranking minority member, the gentleman from Michigan (Mr. DINGELL) for bringing the bill forward.

It is particularly fitting that the House is considering this bill today, as the month of October is formally recognized as National Breast Cancer Awareness Month. It is estimated that this year over 200,000 women will be diagnosed with breast cancer. Like many other diseases, early detection of breast cancer is critical to saving lives. Right now, mammograms are the best screening tool available to women to help detect breast cancer at an early age.

In 1992, Congress enacted the Mammography Quality Standards Act to ensure that all women have access to quality mammography for the detection of breast cancer in its earliest, most treatable stages. The MQSA provides that screening and diagnostic services must be accredited and certified by the Food and Drug Administration. H.R. 4555 reauthorizes the Act through fiscal year 2007.

The bill includes a new provision to permit the Secretary of Health and Human Services to issue a temporary renewal certificate or a limited provisional certificate to any facility seeking reaccreditation under MQSA. The legislation also permits the Secretary to appoint individuals with expertise in mammography equipment to the National Mammography Quality Assurance Advisory Committee and grants the advisory committee greater flexibility in how many times the committee must meet annually.

Mr. Speaker, this is a good piece of legislation and I would encourage my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, I would like to thank the gentleman from Texas (Chairman BARTON) for his good work on this legislation, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Florida (Chairman BILIRAKIS) for offering this legislation reauthorizing the Mammography Quality Standards Act of 1992.

The gentleman from Michigan (Mr. DINGELL) pioneered this important legislation a dozen years or so ago. By increasing the breast cancer early detection rate, this legislation has undoubtedly contributed to the battle against this deadly disease.

Breast cancer is the top cancer threat for American women. This year alone, in our country, almost 216,000 women will be diagnosed with breast cancer, and more than 40,000 will lose their lives from it.

Accurate reading of mammograms is essential to early detection of breast cancer. Mammography has increased the survival rate for women in their 40s by 16 percent.

Over a decade ago, Congress recognized the importance of high-quality mammography screening by passing the Mammography Quality Standards Act. This act was designed to ensure that mammography is safe and reliable and that breast cancer is detected during its most treatable stages. This act established national standards for mammography facilities, for personnel, including doctors who interpret mammograms, for equipment, and for operating procedures.

This legislation today, H.R. 4555, ensures that American mammography providers continue to be held to high standards and that mammography continues to become a safer, more accurate tool for detecting breast cancer. It makes sense to update and extend this program to make certain we are fighting breast cancer as early as possible and as accurately as possible.

I am pleased to support this important legislation.

Mr. DINGELL. Mr. Speaker, I rise in support of H.R. 4555, the Mammography Quality Standards Reauthorization Act of 2004. I am proud to have introduced this bill, and proud to have helped author the original Mammography Quality Standards Act which has made a major contribution to improving the quality of mammograms.

Just a few months ago, the Institute of Medicine (IOM) published a detailed reported entitled: "Saving Women's Lives, Strategies for Improving Breast Cancer Detection and Diagnosis." According to the IOM, "[m]ammography is a safety net that saves lives each year, . . . and although mammography saves lives, it is not perfect." The IOM report noted that many women who would benefit from mammography do not undergo regular screening and others who do undergo regular screening develop breast cancers that were not detected by their mammography exam. While the report notes that progress has been made in reducing mortality from breast cancer, it is still the second leading cause of death for women.

While research will hopefully lead us to improved techniques for detecting and treating breast cancer, another IOM study entitled: "Mammography and Beyond: Developing Technologies for Early Detection of Breast Cancer," concluded that mammography, while not perfect, is still the best choice for screening the general population to detect breast cancer at early and treatable stages. To be sure, there are important issues regarding quality and access with respect to screening and treatment services, and work on those will continue.

This legislation is almost identical to S. 1879, a bill introduced by Senator MIKULSKI that has already been passed by the Senate. The only substantive difference is the authorization period. Our bill extends the authorization period through FY 2007, two years longer than the Senate bill. But I support a timely completion of various mammography issue studies requested by Senator MIKULSKI, and I, look forward to working with her, Chairman BARTON, my other colleagues, and stakeholders, including the Susan G. Komen Foundation, to bring an MQSA reauthorization bill to the President's desk as quickly as possible.

Mr. GREEN of Texas. Mr. Speaker, I rise today in support of the Mammography Quality Standards Act. It is truly fitting for the House to pass a reauthorization of MQSA during October, which is Breast Cancer Awareness Month. This year, more than 215,000 individuals will learn that they have breast cancer. Hopefully, many of these will be early diagnoses, detected by mammograms that have proven time and again to be the most important tool for early detection.

Thanks to the efforts of HHS, the FDA and private advocacy groups, such as the Susan G. Komen Foundation, an estimated 40 million mammograms are performed annually. And thanks to the Mammography Quality Standards Act initially enacted over a decade ago, women all across America have benefited from uniform quality standards for mammography facilities.

For several years, I've been working with the FDA on issues related to silicone breast implants. I am concerned about recent studies on the effect of breast implants on mammography readings.

Specifically, an April 2003 NIH report highlighted clinical studies suggesting that women with breast implants have more advanced cancer at diagnosis than women without breast implants. And more recently, a January 2004 article published in the Journal of the American Medical Association concluded that breast implants decrease the sensitivity of mammography screenings to detect breast cancer.

The FDA has been extremely responsive on this issue and has acknowledged that breast implants can hide tumors or make it more difficult to include them in the image. As such, the FDA has suggested that medical professionals take special implant displacement views in addition to those taken during routine mammograms. These extra views are crucial to ensuring that women with breast implants have effective mammograms.

The folks at FDA have worked wonders on mammography standards thus far. I have every confidence that they will keep up the good work and take into consideration the unique circumstances of women with breast implants. With that, Mr. Speaker, I would encourage all of my colleagues to support this important legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 4555, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

☐ 1500

SECURELY PROTECT YOURSELF AGAINST CYBER TRESPASS ACT

Mr. BARTON of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2929) to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2929

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Securely Protect Yourself Against Cyber Trespass Act" or the "SPY ACT".

SEC. 2. PROHIBITION OF DECEPTIVE ACTS OR PRACTICES RELATING TO SPYWARE.

(a) PROHIBITION.—It is unlawful for any person, who is not the owner or authorized user of a protected computer, to engage in deceptive acts or practices that involve any of the following conduct with respect to the protected computer:

(1) Taking control of the computer by—

(A) utilizing such computer to send unsolicited information or material from the protected computer to others;

(B) diverting the Internet browser of the computer, or similar program of the computer used to access and navigate the Internet—

(i) without authorization of the owner or authorized user of the computer; and

(ii) away from the site the user intended to view, to one or more other Web pages, such that the user is prevented from viewing the content at the intended Web page, unless such diverting is otherwise authorized ;

(C) accessing or using the modem, or Internet connection or service, for the computer and thereby causing damage to the computer or causing the owner or authorized user to incur unauthorized financial charges;

(D) using the computer as part of an activity performed by a group of computers that causes damage to another computer; or

(E) delivering advertisements that a user of the computer cannot close without turning off the computer or closing all sessions of the Internet browser for the computer.

(2) Modifying settings related to use of the computer or to the computer's access to or use of the Internet by altering—

(A) the Web page that appears when the owner or authorized user launches an Internet browser or similar program used to access and navigate the Internet;

(B) the default provider used to access or search the Internet, or other existing Internet connections settings;

(C) a list of bookmarks used by the computer to access Web pages; or

(D) security or other settings of the computer that protect information about the owner or authorized user for the purposes of causing damage or harm to the computer or owner or user.

(3) Collecting personally identifiable information through the use of a keystroke logging function.

(4) Inducing the owner or authorized user to install a computer software component onto the computer, or preventing reasonable efforts to block the installation or execution of, or to disable, a computer software component by—

(A) presenting the owner or authorized user with an option to decline installation of a software component such that, when the option is selected by the owner or authorized user, the installation nevertheless proceeds; or

(B) causing a computer software component that the owner or authorized user has properly removed or disabled to automatically reinstall or reactivate on the computer.

(5) Misrepresenting that installing a separate software component or providing log-in and password information is necessary for security or privacy reasons, or that installing a separate software component is necessary to open, view, or play a particular type of content.

(6) Inducing the owner or authorized user to install or execute computer software by misrepresenting the identity or authority of the person or entity providing the computer software to the owner or user.

(7) Inducing the owner or authorized user to provide personally identifiable, password, or account information to another person—

(A) by misrepresenting the identity of the person seeking the information; or

(B) without the authority of the intended recipient of the information.

(8) Removing, disabling, or rendering inoperative a security, anti-spyware, or antivirus technology installed on the computer.

(9) Installing or executing on the computer one or more additional computer software components with the intent of causing a person to use such components in a way that violates any other provision of this section.

(b) GUIDANCE.—The Commission shall issue guidance regarding compliance with and violations of this section. This subsection shall take effect upon the date of the enactment of this Act.

(c) EFFECTIVE DATE.—Except as provided in subsection (b), this section shall take effect upon the expiration of the 6-month period that begins on the date of the enactment of this Act.

SEC. 3. PROHIBITION OF COLLECTION OF CERTAIN INFORMATION WITHOUT NOTICE AND CONSENT.

(a) OPT-IN REQUIREMENT.—Except as provided in subsection (e), it is unlawful for any person—

(1) to transmit to a protected computer, which is not owned by such person and for which such person is not an authorized user, any information collection program, unless—

(A) such information collection program provides notice in accordance with subsection (c) before execution of any of the information collection functions of the program; and

(B) such information collection program includes the functions required under subsection (d); or

(2) to execute any information collection program installed on such a protected computer unless—

(A) before execution of any of the information collection functions of the program, the owner or an authorized user of the protected computer has consented to such execution pursuant to notice in accordance with subsection (c); and

(B) such information collection program includes the functions required under subsection (d).

(b) INFORMATION COLLECTION PROGRAM.—For purposes of this section, the term "information collection program" means computer software that—

(1)(A) collects personally identifiable information; and

(B)(i) sends such information to a person other than the owner or authorized user of the computer, or

(ii) uses such information to deliver advertising to, or display advertising, on the computer; or

(2)(A) collects information regarding the Web pages accessed using the computer; and

(B) uses such information to deliver advertising to, or display advertising on, the computer.

(c) NOTICE AND CONSENT.—

(1) IN GENERAL.—Notice in accordance with this subsection with respect to an information collection program is clear and conspicuous notice in plain language, set forth as the Commission shall provide, that meets all of the following requirements:

(A) The notice clearly distinguishes such notice from any other information visually presented contemporaneously on the protected computer.

(B) The notice contains one of the following statements, as applicable, or a substantially similar statement:

(i) With respect to an information collection program described in subsection (b)(1): "This program will collect and transmit information about you. Do you accept?".

(ii) With respect to an information collection program described in subsection (b)(2): "This program will collect information about Web pages you access and will use that information to display advertising on your computer. Do you accept?".

(iii) With respect to an information collection program that performs the actions described in both paragraphs (1) and (2) of subsection (b): "This program will collect and transmit information about you and your computer use and will collect information about Web pages you access and use that information to display advertising on your computer. Do you accept?".

(C) The notice provides for the user—

(i) to grant or deny consent referred to in subsection (a) by selecting an option to grant or deny such consent; and

(ii) to abandon or cancel the transmission or execution referred to in subsection (a) without granting or denying such consent.

(D) The notice provides an option for the user to select to display on the computer, before granting or denying consent using the option required under subparagraph (C), a clear description of—

(i) the types of information to be collected and sent (if any) by the information collection program;

(ii) the purpose for which such information is to be collected and sent; and

(iii) in the case of an information collection program that first executes any of the information collection functions of the program together with the first execution of other computer software, the identity of any such software that is an information collection program.

(E) The notice provides for concurrent display of the information required under subparagraphs (B) and (C) and the option required under subparagraph (D) until the user—

(i) grants or denies consent using the option required under subparagraph (C)(i);

(ii) abandons or cancels the transmission or execution pursuant to subparagraph (C)(ii); or

(ii) selects the option required under subparagraph (D).

(2) SINGLE NOTICE.—The Commission shall provide that, in the case in which multiple information collection programs are provided to the protected computer together, or as part of a suite of functionally-related software, the notice requirements of paragraphs (1)(A) and (2)(A) of subsection (a) may be met by providing, before execution of any of the information collection functions of the programs, clear and conspicuous notice in plain language in accordance with paragraph (1) of this subsection by means of a single notice that applies to all such information collection programs, except that such notice shall provide the option under subparagraph (D) of paragraph (1) of this subsection with respect to each such information collection program.

(3) CHANGE IN INFORMATION COLLECTION.—If an owner or authorized user has granted consent to execution of an information collection program pursuant to a notice in accordance with this subsection:

(A) IN GENERAL.—No subsequent such notice is required, except as provided in subparagraph (B).

(B) SUBSEQUENT NOTICE.—The person who transmitted the program shall provide another notice in accordance with this subsection and obtain consent before such program may be used to collect or send information of a type or for a purpose that is materially different from, and outside the scope of, the type or purpose set forth in the initial or any previous notice.

(4) REGULATIONS.—The Commission shall issue regulations to carry out this subsection.

(d) REQUIRED FUNCTIONS.—The functions required under this subsection to be included in an information collection program that executes any information collection functions with respect to a protected computer are as follows:

(1) DISABLING FUNCTION.—With respect to any information collection program, a function of the program that allows a user of the program to remove the program or disable operation of the program with respect to such protected computer by a function that—

(A) is easily identifiable to a user of the computer; and

(B) can be performed without undue effort or knowledge by the user of the protected computer.

(2) IDENTITY FUNCTION.—With respect only to an information collection program that uses information collected in the manner described in paragraph (1)(B)(ii) or (2)(B) of subsection (b), a function of the program that provides that each display of an advertisement directed or displayed using such information when the owner or authorized user is accessing a Web page or online location other than of the provider of the software is accompanied by the name of the information collection program, a logogram or trademark used for the exclusive purpose of identifying the program, or a statement or other information sufficient to clearly identify the program.

(3) RULEMAKING.—The Commission may issue regulations to carry out this subsection.

(e) LIMITATION ON LIABILITY.—A telecommunications carrier, a provider of information service or interactive computer service, a cable operator, or a provider of transmission capability shall not be liable under this section to the extent that the carrier, operator, or provider—

(1) transmits, routes, hosts, stores, or provides connections for an information collection program through a system or network controlled or operated by or for the carrier, operator, or provider; or

(2) provides an information location tool, such as a directory, index, reference, pointer, or hypertext link, through which the owner or user of a protected computer locates an information collection program.

SEC. 4. ENFORCEMENT.

(a) UNFAIR OR DECEPTIVE ACT OR PRACTICE.—This Act shall be enforced by the Commission under the Federal Trade Commission Act (15 U.S.C. 41 et seq.). A violation of any provision of this Act or of a regulation issued under this Act committed with actual knowledge or knowledge fairly implied on the basis of objective circumstances that such act is unfair or deceptive or violates this Act shall be treated as an unfair or deceptive act or practice violating a rule promulgated under section 18 of the Federal Trade Commission Act (15 U.S.C. 57a).

(b) PENALTY FOR PATTERN OR PRACTICE VIOLATIONS.—

(1) IN GENERAL.—Notwithstanding subsection (a) and the Federal Trade Commission Act, in the case of a person who engages in a pattern or practice that violates section 2 or 3, the Commission may, in its discretion, seek a civil penalty for such pattern or practice of violations in an amount, as determined by the Commission, of not more than—

(A) $3,000,000 for each violation of section 2; and

(B) $1,000,000 for each violation of section 3.

(2) TREATMENT OF SINGLE ACTION OR CONDUCT.—In applying paragraph (1)—

(A) any single action or conduct that violates section 2 or 3 with respect to multiple protected computers shall be treated as a single violation; and

(B) any single action or conduct that violates more than one paragraph of section 2(a) shall be considered multiple violations, based on the number of such paragraphs violated.

(c) EXCLUSIVENESS OF REMEDIES.—The remedies in this section (including remedies available to the Commission under the Federal Trade Commission Act) are the exclusive remedies for violations of this Act.

(d) EFFECTIVE DATE.—This section shall take effect on the date of the enactment of this Act, but only to the extent that this section applies to violations of section 2(a).

SEC. 5. LIMITATIONS.

(a) LAW ENFORCEMENT AUTHORITY.—Sections 2 and 3 of this Act shall not apply to—

(1) any act taken by a law enforcement agent in the performance of official duties; or

(2) the transmission or execution of an information collection program in compliance with a law enforcement, investigatory, national security, or regulatory agency or department of the United States or any State in response to a request or demand made under authority granted to that agency or department, including a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a court order, or other lawful process.

(b) EXCEPTION RELATING TO SECURITY.—Nothing in this Act shall apply to—

(1) any monitoring of, or interaction with, a subscriber's Internet or other network connection or service, or a protected computer, by a telecommunications carrier, cable operator, computer hardware or software provider, or provider of information service or interactive computer service, to the extent that such monitoring or interaction is for network or computer security purposes, diagnostics, technical support, or repair, or for the detection or prevention of fraudulent activities; or

(2) a discrete interaction with a protected computer by a provider of computer software solely to determine whether the user of the computer is authorized to use such software, that occurs upon—

(A) initialization of the software; or

(B) an affirmative request by the owner or authorized user for an update of, addition to, or technical service for, the software.

(c) GOOD SAMARITAN PROTECTION.—No provider of computer software or of interactive computer service may be held liable under this Act on account of any action voluntarily taken, or service provided, in good faith to remove or disable a program used to violate section 2 or 3 that is installed on a computer of a customer of such provider, if such provider notifies the customer and obtains the consent of the customer before undertaking such action or providing such service.

(d) LIMITATION ON LIABILITY.—A manufacturer or retailer of computer equipment shall not be liable under this Act to the extent that the manufacturer or retailer is providing third party branded software that is installed on the equipment the manufacturer or retailer is manufacturing or selling.

SEC. 6. EFFECT ON OTHER LAWS.

(a) PREEMPTION OF STATE LAW.—

(1) PREEMPTION OF SPYWARE LAWS.—This Act supersedes any provision of a statute, regulation, or rule of a State or political subdivision of a State that expressly regulates—

(A) deceptive conduct with respect to computers similar to that described in section 2(a);

(B) the transmission or execution of a computer program similar to that described in section 3; or

(C) the use of computer software that displays advertising content based on the Web pages accessed using a computer.

(2) ADDITIONAL PREEMPTION.—

(A) IN GENERAL.—No person other than the Attorney General of a State may bring a civil action under the law of any State if such action is premised in whole or in part upon the defendant violating any provision of this Act.

(B) PROTECTION OF CONSUMER PROTECTION LAWS.—This paragraph shall not be construed to limit the enforcement of any State consumer protection law by an Attorney General of a State.

(3) PROTECTION OF CERTAIN STATE LAWS.—This Act shall not be construed to preempt the applicability of—

(A) State trespass, contract, or tort law; or

(B) other State laws to the extent that those laws relate to acts of fraud.

(b) PRESERVATION OF FTC AUTHORITY.—Nothing in this Act may be construed in any way to limit or affect the Commission's authority under any other provision of law, including the authority to issue advisory opinions (under Part 1 of Volume 16 of the Code of Federal Regulations), policy statements, or guidance regarding this Act.

SEC. 7. ANNUAL FTC REPORT.

For the 12-month period that begins upon the effective date under section 11(a) and for each 12-month period thereafter, the Commission shall submit a report to the Congress that—

(1) specifies the number and types of actions taken during such period to enforce sections 2(a) and 3, the disposition of each

such action, any penalties levied in connection with such actions, and any penalties collected in connection with such actions; and

(2) describes the administrative structure and personnel and other resources committed by the Commission for enforcement of this Act during such period.

Each report under this subsection for a 12-month period shall be submitted not later than 90 days after the expiration of such period.

SEC. 8. FTC REPORT ON COOKIES.

(a) In General.—Not later than the expiration of the 6-month period that begins on the date of the enactment of this Act, the Commission shall submit a report to the Congress regarding the use of tracking cookies in the delivery or display of advertising to the owners and users of computers. The report shall examine and describe the methods by which such tracking cookies and the websites that place them on computers function separately and together, and the extent to which they are covered or affected by this Act. The report may include such recommendations as the Commission considers necessary and appropriate, including treatment of tracking cookies under this Act or other laws.

(b) Definition.—For purposes of this section, the term "tracking cookie" means a cookie or similar text or data file used alone or in conjunction with one or more websites to transmit or convey personally identifiable information of a computer owner or user, or information regarding Web pages accessed by the owner or user, to a party other than the intended recipient, for the purpose of—

(1) delivering or displaying advertising to the owner or user; or

(2) assisting the intended recipient to deliver or display advertising to the owner, user, or others.

(c) Effective Date.—This section shall take effect on the date of the enactment of this Act.

SEC. 9. REGULATIONS.

(a) In General.—The Commission shall issue the regulations required by this Act not later than the expiration of the 6-month period beginning on the date of the enactment of this Act. Any regulations issued pursuant to this Act shall be issued in accordance with section 553 of title 5, United States Code.

(b) Effective Date.—This section shall take effect on the date of the enactment of this Act.

SEC. 10. DEFINITIONS.

For purposes of this Act:

(1) Cable operator.—The term "cable operator" has the meaning given such term in section 602 of the Communications Act of 1934 (47 U.S.C. 522).

(2) Collect.—The term "collect", when used with respect to information and for purposes only of section 3, does not include obtaining of the information by a party who is intended by the owner or authorized user of a protected computer to receive the information pursuant to the owner or authorized user—

(A) transferring the information to such intended recipient using the protected computer; or

(B) storing the information on the protected computer in a manner so that it is accessible by such intended recipient.

(3) Computer; protected computer.—The terms "computer" and "protected computer" have the meanings given such terms in section 1030(e) of title 18, United States Code.

(4) Computer software.—

(A) In general.—Except as provided in subparagraph (B), the term "computer software" means a set of statements or instructions that can be installed and executed on a computer for the purpose of bringing about a certain result.

(B) Exception for cookies.—Such term does not include—

(i) a cookie or other text or data file that is placed on the computer system of a user by an Internet service provider, interactive computer service, or Internet website to return information to such provider, service, or website; or

(ii) computer software that is placed on the computer system of a user by an Internet service provider, interactive computer service, or Internet website solely to enable the user subsequently to use such provider or service or to access such website.

(5) Commission.—The term "Commission" means the Federal Trade Commission.

(6) Damage.—The term "damage" has the meaning given such term in section 1030(e) of title 18, United States Code.

(7) Deceptive acts or practices.—The term "deceptive acts or practices" has the meaning applicable to such term for purposes of section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(8) Disable.—The term "disable" means, with respect to an information collection program, to permanently prevent such program from executing any of the functions described in section 3(b) that such program is otherwise capable of executing (including by removing, deleting, or disabling the program), unless the owner or operator of a protected computer takes a subsequent affirmative action to enable the execution of such functions.

(9) Information collection functions.—The term "information collection functions" means, with respect to an information collection program, the functions of the program described in subsection (b) of section 3.

(10) Information service.—The term "information service" has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(11) Interactive computer service.—The term "interactive computer service " has the meaning given such term in section 230(f) of the Communications Act of 1934 (47 U.S.C. 230(f)).

(12) Internet.—The term "Internet" means collectively the myriad of computer and telecommunications facilities, including equipment and operating software, which comprise the interconnected world-wide network of networks that employ the Transmission Control Protocol/Internet Protocol, or any predecessor or successor protocols to such protocol, to communicate information of all kinds by wire or radio.

(13) Personally identifiable information.—

(A) In general.—The term "personally identifiable information" means the following information, to the extent only that such information allows a living individual to be identified from that information:

(i) First and last name of an individual.

(ii) A home or other physical address of an individual, including street name, name of a city or town, and zip code.

(iii) An electronic mail address.

(iv) A telephone number.

(v) A social security number, tax identification number, passport number, driver's license number, or any other government-issued identification number.

(vi) A credit card number.

(vii) Any access code, password, or account number, other than an access code or password transmitted by an owner or authorized user of a protected computer to the intended recipient to register for, or log onto, a Web page or other Internet service or a network connection or service of a subscriber that is protected by an access code or password.

(viii) Date of birth, birth certificate number, or place of birth of an individual, except in the case of a date of birth transmitted or collected for the purpose of compliance with the law.

(B) Rulemaking.—The Commission may, by regulation, add to the types of information specified under paragraph (1) that shall be considered personally identifiable information for purposes of this Act, except that such information may not include any record of aggregate data that does not identify particular persons, particular computers, particular users of computers, or particular email addresses or other locations of computers with respect to the Internet.

(14) Suite of functionally related software.—The term 'suite of functionally related software' means a group of computer software programs distributed to an end user by a single provider, which programs are necessary to enable features or functionalities of an integrated service offered by the provider.

(15) Telecommunications carrier.—The term "telecommunications carrier" has the meaning given such term in section 3 of the Communications Act of 1934 (47 U.S.C. 153).

(16) Transmit.—The term "transmit" means, with respect to an information collection program, transmission by any means.

(17) Web page.—The term "Web page" means a location, with respect to the World Wide Web, that has a single Uniform Resource Locator or another single location with respect to the Internet, as the Federal Trade Commission may prescribe.

SEC. 11. APPLICABILITY AND SUNSET.

(a) Effective Date.—Except as specifically provided otherwise in this Act, this Act shall take effect upon the expiration of the 12-month period that begins on the date of the enactment of this Act.

(b) Applicability.—Section 3 shall not apply to an information collection program installed on a protected computer before the effective date under subsection (a) of this section.

(c) Sunset.—This Act shall not apply after December 31, 2009.

The SPEAKER pro tempore (Mr. Fossella). Pursuant to the rule, the gentleman from Texas (Mr. Barton) and the gentlewoman from Illinois (Ms. Schakowsky) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. Barton).

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2929.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House is considering legislation to protect consumers against Internet spying.

Internet spying is all too common. Many consumers are totally unaware that even that their computers can be infected with programs that monitor their activity on the Internet and transfer private information to third parties. At the least, this private information is used to drive the annoying pop-up ads that we see when we turn on our computers. At its very worst, spyware is used by unscrupulous operators to steal financial information and even the individual who owns the computer's personal identity.

The term spyware is used to describe a number of nefarious activities on the Internet, all involve spying or stealing information about consumers without their permission. These activities include: Key stroke logging, in which all of the computer user's key strokes are recorded and sent to a third party; homepage highjacking, in which spyware takes control of the computer, highjacks the individual user's homepage to a commercial or in some case a pornographic site; phishing, in which spyware directs false messages to computer users purporting to be from reputable merchants to steal credit card or other financial information from the user for the use of the third party.

Spyware is downloaded on to a computer without the knowledge of the user. Computers can be infected just by visiting Web sites that cause spyware to be downloaded on to any computer visiting that site.

We tested some of the computers in the Committee on Energy and Commerce. We discovered that these computers had been infected with many pieces of spyware, I believe the number was over 60, and that some of it did direct information to third parties about the use of those computer. All of this was done without any notice to the owners of those computers. I would also point out that this was done by getting through at least two fire walls, the House of Representatives' fire wall and the Committee on Energy and Commerce's fire wall.

Technological development moves quickly, much faster than the regulatory or legislative process. It has taken the House 5 years to give regulators additional tools to combat spam, for instance. I am told that the Federal Trade Commission has not brought any cases against purveyors of spyware to date. Our reaction to spyware is the exception to this rule. In town meetings in my congressional district in Texas just this past August, my constituents unanimously expressed outrage at the brazenness of spyware and exhibited a strong desire for us to act as soon as possible against this insidious disease.

Every Member that I have spoken with on both political parties wants to take action to fight spyware. Some have heard from constituents. One of our subcommittee chairmen experienced the effects of spyware firsthand when his own homepage was highjacked. Today, on a bipartisan basis, it is my hope that we will pass this legislation to combat spyware.

The legislation before us would prohibit the sets of practices like highjacking a consumer's homepage. It would prohibit keystroke logging. It would prohibit sending ads that cannot be closed except by shutting down the computer. It would also provide for a prominent opt-in for consumers prior to downloading any monitoring software under that consumer's computer.

I believe that consumers should be given notice and have the right to consent before monitoring software that collects information about them is added to their computers.

The legislation before us would also require that monitoring software be easily disabled at the direction of the consumer. It would also provide for FTC, Federal Trade Commission, enforcement with significant monetary penalties for those who knowingly violate the act. While criminal penalties may be appropriate for the most egregious behavior, I believe we have an obligation to provide additional protection to consumers' online information by having these civil fines that the FTC would enforce.

Importantly, the SPY ACT before us regulates information-collection programs. These are programs that have the capability to collect personally identifiable information and either transmit that information to a third party or use that information to deliver or display advertising on the computer. The SPY ACT requires companies that are sending ads to the computers to identify with each ad the information collection program that is generating the ad. With this disclosure, consumers will know who is bombarding them with ads and will be able to make their own decision as to whether they wish to be so bombarded.

The SPY ACT sets up a uniform national rule. Internet commerce is inherently interstate in nature. We need one set of rules for such commerce. I want to commend a number of Members for their strong work on this bill. First of all, I would like to thank the bill's sponsor, the gentlewoman from California (Mrs. BONO). It is she who has taken the lead to introduce the bill last October when most of us, myself included, had little knowledge of exactly what spyware was. She has been a tireless educator to many of us on its dangers and has worked tirelessly to improve the bill. She has brought dynamic leadership on technology issues to the Committee on Energy and Commerce, and her commonsense approach on this legislation has brought the issue to the floor expeditiously. I want to commend her for her strong work.

The gentleman from New York (Mr. TOWNS), the co-sponsor of the original legislation with the gentlewoman from California (Mrs. BONO), he too has been a great bipartisan partner in this project. He made important contributions to the areas of network- and computer-based security.

The gentleman from Florida (Mr. STEARNS), the chairman of the Subcommittee on Commerce, Trade and Consumer Protection has been a key leader on all privacy related issues in this Congress. He has held eight hearings on privacy matters in this Congress and worked with the gentlewoman from California (Mrs. BONO) and the gentleman from New York (Mr. TOWNS) to perfect the legislation that is before us today.

I would also like to commend the gentleman from Michigan (Mr. DINGELL), the ranking minority member and the gentlewoman from Illinois (Ms. SCHAKOWSKY) the ranking subcommittee member, for their excellent work at the subcommittee and full committee.

We have had truly a bipartisan effort to perfect this legislation and bring it to the floor today. It shows what can happen when Members on both sides of the aisle work together towards a common purpose.

The bill before us is a significant improvement on the original bill. And it is a result of the fine work that has been done by all Members on all sides of the aisle. This is a good bill. It has passed the Committee on Energy and Commerce overwhelmingly.

Anybody who has held a town meeting on this can tell you automatically that our constituents are opposed to spyware and want us to do something to protect their privacy as soon as possible.

Madam Speaker, I hope that we pass this overwhelmingly.

Madam Speaker, I reserve the balance of my time.

Ms. SCHAKOWSKY. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of a strong consumer and privacy protection bill, H.R. 2929, the Securely Protect Yourself Against Cyber Trespass Act or the SPY ACT.

First, I would like to thank my colleagues, the gentleman from Texas (Mr. BARTON), the ranking member, the gentleman from Michigan (Mr. DINGELL), the gentleman from Texas (Mr. STEARNS), the gentleman from New York (Mr. TOWNS) and the gentlewoman from California (Mrs. BONO), for their work on the SPY Act. I would like to commend them for the manner in which this bill was handled. The process was open. There was a sincere willingness to address each other's concerns and the work was organized around the goal of creating a strong and effective consumer protection bill. I think we have accomplished our goal.

The SPY ACT is a bill whose time has come. As we have learned from our constituents, friends and family from our own experiences, people are increasingly finding that their home web pages have been changed or that their computers are sluggish. They will get pop-up ads that will not go away no matter how many times they try to close them. They find software on their computer that they did not install and that they cannot un-install. Their computers are no longer their own, and they cannot figure out why. They think that the problem is with their computer, with a faulty program they installed, or with their Internet service provider.

But more and more often, it is becoming clear that they are the unwilling victims of spyware. Software that can collect personal information, track web usage and adversely effect computer performance. While some of the above examples may be written off as merely annoying, there are serious privacy and security issues at stake.

The tracking capability of the software is so powerful that it can record every keystroke a computer user enters. It can snatch personal information from a consumer's hard drive. People can see their bank account numbers, passwords and other personal information stolen because they quite innocently went to a Web site or clicked an agreement which downloaded spyware onto their computer.

Although we do not want to stop legitimate uses of the underlying software, like allowing for access to online newspapers without having to register every time the Web site is visited, we do want consumers to know what is happening with their constitutes and personal information and to stop truly nefarious abuses of the programs, like keystroke logging which can track and transmit every keystroke entered to an unintended recipient.

The SPY ACT ensures that consumers are protected from truly bad acts and actors while also preserving pro-consumer functions of the software. It prohibits indefensible uses of the software, like keystroke logging and homepage highjacking. Additionally, it gives consumers the choice to opt-in to the installation or activation of information-collection programs on their computer, programs that are not spyware, but only when the consumer knows exactly what information will be collected and what will be done with it.

Furthermore, the SPY ACT gives the Federal Trade Commission the power it needs, on top of laws already in place, to pursue deceptive uses of the spyware. The SPY ACT puts the control of computers and privacy back in consumers' hands, and I am glad that I was able to be a part of the process that brought this bill to the floor today.

Again, I thank my colleagues for this pro-consumer, pro-privacy and bipartisan piece of legislation.

Madam Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield 5 minutes to the gentleman from Florida (Mr. STEARNS), the distinguished subcommittee chairman.

Mr. STEARNS. Madam Speaker, I am pleased to support this legislation. I think it provides strong e-commerce protection, not through computer codes but rather through the U.S. legal code, for the American consumer and businesses large and small. And I would like to say at the very onset that we have support from the industry itself. Microsoft, Time Warner, Dell, Yahoo, eBay, the Business Software Alliance, Humana, EarthLink and several spyware companies themselves.

The SPY ACT of 2004 takes dead aim at unwanted and sometimes malicious programs known as spyware that we all know can link and lurk in cyberspace. They corrupt and compromise computers and their networks and ultimately, Madam Speaker, they cost Americans and the economy major losses in time and money and productivity.

The Federal Trade Commission loosely defines spyware as software "that aids in gathering information about a person or organization without their knowledge and that may send such information to another entity without the consumer's consent or that assert control over a computer without the consumer's knowledge."

The reality is that this deceptive and sometimes fraudulent activity, including the use of spyware, not only has the potential to damage consumer's confidence in e-commerce but also can be used to defraud consumers by stealing their personal financial information, quite literally, from underneath their noses. It is also alarming that estimates now show that these spyware programs have grown in number from about 2 million in August of 2003 to over 14 million today.

The National Cybersecurity Alliance has estimated that over 90 percent of users had some form of adware or spyware on their computers, and frankly, most of them were totally unaware of it. Given the gravity of this threat and its rapid growth, I am proud to say that the Committee on Energy and Commerce, Republicans and Democrats alike, as mentioned by the ranking member, have worked together in a bipartisan fashion. Oftentimes, we are on the House floor, we will be here probably the next couple of days, not in a bipartisan fashion, but we are here today, and it is a credit to the leadership for bringing this bill before us.

Obviously, I think great credit goes to my colleague, the gentlewoman from California (Mrs. BONO) for her early leadership in this area and also working in a bipartisan method. I think a lot of credit goes to the gentleman from New York (Mr. TOWNS) for his early co-sponsorship. And I think our Subcommittee on Commerce, Trade and Consumer Protection, which I chair, and the gentlewoman from Illinois (Ms. SCHAKOWSKY) is the ranking member, also as she pointed out, worked together.

I would also like to tell my colleagues, this is another good effort of our staffs, both Democrat and Republican, working together. The hard work of industry also should be commended because, obviously, when this bill first got started and we had our hearings, there were a lot of people in the industry that had some reservations.

□ 1515

We can only get through those reservations by having open-door communications with them and making the case of hard work with the staff and trying to get this free flow of communication, and I think in this case the staff is to be commended for making, as the chairman said, a good bill even better.

As I mentioned to him, I have had many hearings dealing with privacy, and we have had a hearing on this. So H.R. 2929 would not only send a loud and clear message to those who would do harm to our computers but it also would add another layer of protection over the robust firewall and detection technology that the information technology industry is starting to provide consumers and businesses.

In conclusion, Madam Speaker, I urge my colleagues to pass H.R. 2929, the SPY Act of 2000. It is time to put an end to spyware and keep Americans secure and confident in the e-commerce marketplace.

Ms. SCHAKOWSKY. Madam Speaker, I would like to join the gentleman in thanking our staff, as well, for the hard work and the good work they did on bringing this legislation now to fruition.

Madam Speaker, I yield 5 minutes to the gentleman from New York (Mr. TOWNS), one of the people most responsible for this consumer protection legislation.

Mr. TOWNS. Madam Speaker, I rise in support of the SPY Act, which would greatly improve the privacy of consumers' online computer use.

A lot of hard work has been put into this legislation. First and foremost, I would like to commend the gentlewoman from California (Mrs. BONO), the primary sponsor of the bill. Without her hard work, insight and persistence on this issue, we would not be here today. As the primary Democratic sponsor, I have been proud to work with her on this bill, and I salute her for all her efforts.

I also want to commend the gentleman from Texas (Chairman BARTON) for his strong commitment to this issue and leadership in getting our bill to the floor. I would like to thank the gentleman from Florida (Chairman STEARNS), the gentleman from Michigan (Ranking Member DINGELL), and the gentlewoman from Illinois (Ranking Member SCHAKOWSKY), who have all made substantial contributions. I would also like to acknowledge all of the staff that have worked so hard to make this day a reality.

There is no debate that spyware is a serious problem, one that is growing and becoming more harmful every day. Spyware software, which is downloaded without the computer owner's knowledge, invades our privacy by recording and transmitting personal information, monitoring the Web sites we visit, or even stealing documents from our computers. Other programs hijack our computers by changing our home page or forcing us to click through multiple screens until we download a spyware program.

Today's legislation would give consumers new tools to prevent these harmful activities from happening. Under the bill, consumers would have to receive a clear and concise warning about the spyware program. Second, consumers would have to provide their affirmative consent before the program could operate on their computer. Finally, consumers must have the option to easily disable any harmful spyware program on their computer.

While some consumers may want to share their information to receive free games or other discount offers, all consumers have the right to make that choice. This legislation would help ensure that consumers who do not want these programs secretly operating in the background, recording personal information, are not on their computers.

Finally, Madam Speaker, any time we legislate on highly technical matters, there is always a danger in stifling innovation or making the use of legitimate software too burdensome. It is a very difficult tightrope to walk, but I think we have done an excellent job in walking that line. This bill addresses many of the concerns raised, while at the same time retaining meaningful notice and consent to protect consumers' privacy.

This is a classic example of what we can accomplish when we work together, and we have worked together to make this day a reality. Through much hard work, we have carefully crafted a strong, bipartisan consumer protection bill; and I urge my colleagues to support this legislation because it is needed and needed desperately.

Mr. BARTON of Texas. Madam Speaker, I want to thank the gentleman from New York who just spoke for his excellent leadership on this bill. It is a better bill because of his efforts.

Madam Speaker, I yield 5 minutes to the distinguished gentlewoman from California (Mrs. BONO), who, along with the gentleman from New York (Mr. TOWNS), was an original cosponsor of the original bill.

Mrs. BONO. Madam Speaker, first I would like to thank the gentleman from Texas for yielding me time and for his tremendous leadership on this issue, as well as all of the issues before the Committee on Energy and Commerce.

I would also like to extend my gratitude to the gentleman from Michigan (Ranking Member DINGELL), the gentleman from Florida (Chairman STEARNS), a good friend, the gentlewoman from Illinois (Ranking Member SCHAKOWSKY) and the original cosponsor along with me, the gentleman from New York (Mr. TOWNS), who has been an absolute pleasure and delight to work with. I look forward to working with him on a lot more similar issues in the future.

Each of the aforementioned colleagues of mine, as well as their staffs, have worked with me to improve and refine this bill. I also thank the industry participants and consumer groups who have contributed to its improvement. I am confident that we have drafted a bill that protects consumers without impeding the growth of technology.

I would also like to thank all my staff and Jennifer Baird and Linda Valter for their tireless work.

In the other body, Senators BURNS, WYDEN, AND BOXER introduced S. 2145, the SPY BLOCK Act, and the Senate Commerce Committee recently approved and reported the bill. I look forward to working with my Senate counterparts on this matter, as well as the FTC and the technology industry, which will hopefully work to educate consumers about the dangers surrounding spyware, as well as its nature.

In California, my home State, Governor Schwarzenegger, recently signed an anti-spyware bill entitled the Consumer Protection Against Computer Spyware Act. This bill, similar to other State laws, varies from the proposed Federal legislation, making it all the more imperative that we act now to ensure there is a uniform standard available for consumers.

Yesterday, Earthlink and Webroot just released their latest spyware audit, which reveals that after 3 million scans for spyware, 83.4 million instances of spyware had been discovered. This is an average of 26 traces of spyware per SpyAudit scan. Unfortunately, consumers regularly and unknowingly download software programs that have the ability to track their every move. Consumers are sometimes informed when they download such software. However, the notice is often buried in multithousand word documents that are filled with technical terms and legalese that would confuse even a high-tech expert. Moreover, there are some Web sites and e-mail messages which deliberately trick computer users.

In response to the rapid proliferation of spyware, in July of 2003, together with the gentleman from New York (Mr. TOWNS), I introduced H.R. 2929, the Securely Protect Yourself Against Cyber Trespass Act. This bill prohibits such behavior by specifically outlawing Web hijacking, keystroke logging, drive-by downloads, phishing, and several other insidious behaviors.

Additionally, H.R. 2929 establishes a simple notice regime so the computer users can make informed decisions regarding programs they wish to put on their computers. The PC has become our new town square and global market, as well as our private database. If a consumer downloads software that can monitor the information shared during transactions, for the sake of the consumer as well as e-commerce, it is imperative that the consumer be informed of whom he or she is inviting into their computer and what he or she is capable of doing. After being informed, a consumer should have the chance to decide whether to continue with that download.

H.R. 2929 would require that all spyware companies give clear, concise and conspicuous notice to computer users about the function of their software, as well as the information that may be collected and transmitted through such software. After giving such notice, the computer user would have to agree to further download that software.

Madam Speaker, I urge my colleagues to support H.R. 2929. Again, I thank the chairman and my colleagues on the other side of the aisle.

Ms. SCHAKOWSKY. Madam Speaker, if I could inquire if there are any other speakers on the other side.

Mr. BARTON of Texas. We think we have the gentleman from Michigan (Mr. UPTON), subcommittee chairman, on his way; but other than that we have no other speakers.

Ms. SCHAKOWSKY. Madam Speaker, I have no other speakers, and I yield back the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield myself the balance of the time.

To close the debate, let me simply say I think we have seen in this debate not just the bipartisan support but the unanimous support this bill has. Whether my colleagues represent metropolitan New York City or the suburbs of Chicago or the hurricane-ravaged plains of Florida, the prairies of Texas, or Southern California, we are all hooked up to the Internet; and we all have constituents who are outraged that as they do their Internet shopping and browsing and surfing, these insidious programs called spyware can infect their computers without their permission. Unfortunately, right now it is not even illegal.

What this bill does is make it illegal, and it gives the Federal Trade Commission the authority to impose significant civil fines for using this spyware.

I would also like to point out that thanks to the strong work of the committee staff on both sides of the aisle, we have a bill that the business community supports. Microsoft, the Software Business Alliance, Yahoo, Time Warner who owns AOL, they all support this. Ebay supports this bill. We are going to put those statements of support in the RECORD at this point.

TIMEWARNER,
September 21, 2004.

Hon. JOE BARTON,
Hon. JOHN DINGELL,
House Energy and Commerce Committee, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BARTON AND REPRESENTATIVE DINGELL: On behalf of TimeWarner and its AOL division, I would like to express our support for H.R. 2929, the Safeguard Against Privacy Invasions Act, which was authored by Representatives Bono and Towns and approved by your Committee in June.

Battling spyware is one of AOL's top business and policy priorities. Spyware is a growing concern for all Internet users, wreaking havoc with consumers' computers and undermining their online experience. We believe that spyware must be addressed on many fronts, including through legislation, technology, and consumer education.

We have been pleased to work closely with the House Energy and Commerce Committee over the past several months on this legislation. H.R. 2929 will provide some important tools in the fight against spyware, outlawing destructive behaviors that can deceive and defraud consumers through the use of unauthorized software. We appreciate all of the improvements you have made and continue to make to this bill as it moves through the process, and we are hopeful that, along with legislation that has been approved by the Judiciary Committee, it will soon be considered on the House Floor.

The time is right for strong and effective federal spyware legislation. We are grateful for the opportunity to work with you and your Committee on this topic, and are eager to see this bill move forward so that consumers and legitimate businesses can enjoy additional anti-spyware protections in the near future.

Sincerely,

JENNIFER JACOBSEN,
Vice President,
Global Public Policy.

BUSINESS SOFTWARE ALLIANCE,
Washington, DC, September 17, 2004.

Hon. JOE BARTON,
Chairman, House Energy and Commerce Committee, Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your ongoing efforts to advance America's high tech industries and protect the interests of American consumers. We appreciate your commitment and leadership.

In particular, I write today to commend you for your attention to addressing the growing problem of spyware and to let you know that the Business Software Alliance endorses your leadership in moving to secure approval of the Spy Act, H.R. 2929, on the House floor this Congress. The manager's amendment to the committee passed bill, which we understand will be brought to the floor, is a step forward in the effort to control the onslaught of harmful spyware that has proved to be annoying at best and harmful at its worst to consumers and businesses alike.

Surreptitiously downloaded spyware inflicts significant costs on our member companies as they are forced to help their innocent customers identify and remedy the source of parasitic encroachment on their computer systems. As an association that represents the country's leading business software and hardware makers, we know all too well the dangers of harmful and deceptive spyware. We have heard from our customers, just as you have from your constituents, that this spyware is frustrating the user experience by hijacking their personal property.

I also want to commend you and your staff on the development of the legislation. As you know, the initial drafts raised concerns that the bill might target and punish technologies rather than the bad behavior that has proved to be so troublesome. I am pleased that you and your staff provided an open and inclusive environment for us to share our views and appreciate the improvements that have been made to the legislation.

As you know, successful legislation requires thoughtful discussion, cooperation and compromise, and we understand the important balance you have sought to achieve in moving this process forward. We applaud your efforts, and BSA looks forward to working with you and your staff as the bill continues through the legislative process.

Sincerely,

ROBERT W. HOLLEYMAN, II,
President and CEO.

SEPTEMBER 21, 2004.

Hon. JOE BARTON,
Chairman, House Committee on Energy & Commerce, Rayburn House Office Building, Washington, DC.
Hon. JOHN DINGELL,
Ranking Member, House Committee on Energy & Commerce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BARTON AND CONGRESSMAN DINGELL: On behalf of eBay and its more than 100 million users worldwide, I want to commend you for your bipartisan work on legislation intended to combat Spyware on the Internet.

We agree that the proliferation of so-called "Spyware" on the Internet threatens to undermined consumers' online experience and erode the overall value of the Internet. eBay is always ready to work with lawmakers to come up with sound legislation that prohibits invasions of privacy while protecting legitimate activities we use to protect our community and fight fraud. We believe the Energy & Commerce Committee has worked hard to strike the necessary balance on this important issue, and has gone to unprecedented lengths to reach bipartisan consensus and work with industry leaders.

One of eBay's highest priorities is to provide a safe and well-lit place for our users to conduct business. That is why we are pleased with the Committee's willingness to include a provision exempting fraud detection and prevention activities from the bill's requirements intended to deter Spyware. That provision will allow us to continue to gather critical information needed to protect our users when they trade on eBay.

Thank you for taking eBay's concerns into consideration in developing balanced legislation to target nefarious behavior on the Internet. We look forward to full House consideration of this important legislation as soon as possible.

Sincerely,

TOD H. COHEN,
Associate General,
Global Government Relations.

HUMANA INC.,
Louisville, KY, September 15, 2004.

Re H.R. 2929—the Safeguard Against Privacy Invasions Act.

Hon. JOE BARTON,
Chairman, House Energy and Commerce Committee, Washington, DC.

DEAR CHAIRMAN BARTON: I wish to express my company's strong support for the Committee-reported version of H.R. 2929, the Safeguard Against Privacy Invasions Act, or SPY Act. This legislation provides a meaningful opportunity to reduce the amount of spyware and disruptive advertising that are threatening to impair our day-to-day business applications. Moreover, such reduction will enhance the protection of our customers' personal information and improve their online experience.

Humana Inc., headquartered in Louisville, Kentucky, is one of the nation's largest publicly traded health benefits companies, with approximately 7 million medical members located primarily in 19 states and Puerto Rico. We offer coordinated health insurance coverage and related services—through traditional and internet-based plans—to employer groups, government-sponsored plans and individuals. We have approximately 13,000 employees.

At Humana, we have experienced significant spyware-related damage on our workstations. This includes computer-related printing problems, inability to operate internal applications like entering timesheets and expense reports, serious performance degradation (slow response time), and the inability to launch or use the Internet or our internal intranet applications. We have numerous workstations that have needed to be rebuilt because of spyware issues and service calls where our technicians spend numerous hours troubleshooting various spyware problems. We estimate that we received approximately 300,000 individual pieces of malicious spyware in the first quarter of 2004 alone (or approximately 5 percent of all transactions.)

Not every associate or consumer has the sophistication level of knowing what is or may not be installed on his or her PC—causing spyware-related response time issues. As a result, we believe that surreptitiously installed spyware introduces very serious privacy concerns both at an individual level and for corporations. Unknowingly being spied upon seems to also introduce new types of concerns for corporations, including protection of intellectual assets, property, trade secrets, and competitive advantage information.

Additionally, as a company whose core business is to handle our customers' most sensitive medical information, we strongly support the concept that consumers need to be meaningfully informed about how their personal information is collected and used. And, we support their right to end that relationship when they deem fit to do so. There is no such thing as "benign" spyware.

The health care industry continues to be one of the most paper-intensive industries. In the past several years, we have made great strides to move toward an electronic world. E-commerce and the Internet in the health care industry have reduced administrative costs, improved claims processing, and hold the promise of improving patient care and quality through concepts such as electronic medical records. The proliferation of spyware and disruptive software threatens to undermine consumers' confidence in the Internet and negate the progress we have made and hope to make in the future. Therefore we fully support moving forward with this important legislation.

In closing, we appreciate the opportunity to comment on H.R. 2929, and look forward to assisting the Committee in any way as this legislation moves forward.

Sincerely,

BRUCE J. GOODMAN,
Senior Vice President and
Chief Service and Information Officer.

MICROSOFT CORPORATION,
Washington, DC, September 22, 2004.

Hon. JOE BARTON,
Chairman, House Energy and Commerce Committee, House of Representatives, Washington, DC.

Hon. JOHN D. DINGELL,
Ranking Member, House Energy and Commerce Committee, House of Representatives, Washington, DC.

DEAR CHAIRMAN BARTON AND RANKING MEMBER DINGELL: I am writing to commend your leadership on H.R. 2929, the "Securely Protect Yourself Against Cyber Trespass Act" or the "SPY ACT," and convey Microsoft's support for moving the bill forward for consideration by the full House.

Microsoft shares the goals of the members of the Energy and Commerce Committee to protect consumers from deceptive software ("spyware"). We agree: the fraudsters that use deceptive software to prey on consumers must be stopped. We appreciate your and your staff's tireless work toward producing a bill that, as you put it, goes after the bad guys but doesn't unnecessarily impede the good guys.

Legislation is but one tool with which to wage the fight against spyware. In addition to strong laws, Microsoft strongly believes that technological solutions, consumer awareness, best practices, and strong enforcement are all critical elements of any effective strategy to help unsuspecting consumers avoid being victimized by spyware.

In particular, I want to express our appreciation for working to address concerns with Section 3 of H.R. 2929 which imposes notice and consent requirements to protect the privacy of computer users. We appreciate the work of the staff to understand potential consequences of such requirements in instances where exchange of data is related to the functionality of particular software applications or where it would be reasonably expected by computer users.

Finally, let me personally convey Microsoft's appreciation for the opportunity to provide input to you and the committee staff throughout this process. We would not have reached this point without their diligence and serious consideration of our feedback.

Like any legislation of such complexity, there may be additional areas that need to be clarified or enhanced. With that in mind, we look forward to continuing to work in partnership with you and the bipartisan committee staff should such issues arise. Likewise, please do not hesitate to call on us should you require our input or assistance.

Thank you for the enormous amount of time and effort you have devoted to this important effort.

Sincerely,

JACK KRUMHOLTZ,
Managing Director, Federal Gov. Affairs,
Associate General Counsel.

YAHOO! INC.,
SEPTEMBER 17, 2004.

Hon. JOE BARTON,
Energy & Commerce Committee,
2322 Rayburn House Office Building, Washington, DC.

DEAR MR. CHAIRMAN, Yahoo! writes to support the latest version of H.R. 2929 issued on September 10, 2004, and looks forward to continuing to work with you as the bill proceeds through the legislative process.

You, Ranking Minority Member Dingell, Subcommittee Chairman Stearns, Ranking Member Schakowsky, and co-authors of the bill Representatives Bono and Towns and the respective staff, have worked tirelessly to develop a bill that prohibits "spyware" activities such as taking control of a user's computer or modifying computer settings for the purposes of causing damage. In addition, the bill gives users more control over their online experience through enhanced notices and features that can disable aspects software consumers may find undesirable. The new requirements strike a balance between allowing useful tools for computer users and requiring reasonable changes to existing mechanisms to give notice, consent, and to remove or disable software.

Thank you for hearing our concerns, responding to them accordingly, and giving consumers and legitimate businesses hope that the spyware problem can be, in part, addressed by new tools for consumers and the new deterrent penalties in H.R. 2929.

Sincerely,

JOHN SCHEIBEL,
Vice President for Public Policy.

UNITED STATES TELECOM ASSOCIATION,
Washington, DC, August 4, 2004.

Hon. DENNIS HASTERT,
House of Representatives,
Washington, DC.

DEAR MR. SPEAKER: On behalf of the United States Telecom Association ("USTA"), I am writing to express our support of H.R. 2929, the Safeguard Against Privacy Invasions Act. USTA was grateful for the opportunity afforded by members of the House Commerce Committee specifically Chairman Barton, Representatives Stearns, Upton, Bono, Dingell Towns, and Schakowsky and their staff to participate and comment on this legislation. USTA represents over 1,200 member companies that offer a wide range of services, including local exchange, long distance, wireless, Internet and cable television service.

H.R. 2929 recognizes appropriately the role of telecommunications carriers as it relates to network integrity, security and the transmission of information. In late June, the House Commerce Committee voted 45–4 to send this legislation to the full House and it is our hope that it will be considered in the coming weeks.

Again, thank you for all you do on behalf of the telecommunications industry. Please do not hesitate to contact me if I may be of service to you or your staff.

Sincerely,

WALTER B. MCCORMICK, JR.
President and Chief Executive Officer.

WHENU,
New York, NY, September 20, 2004.

Re H.R. 2929.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce, House of Representatives, Washington, DC.

DEAR CHAIRMAN BARTON: WhenU.com is a global Desktop Advertising Network. Through the Company's partnerships with popular software developers, WhenU enables consumers to receive valuable software for free by agreeing to see occasional ads instead of paying a fee—and without compromising their privacy. WhenUs's unique advertising technology distinguishes itself from existing online advertising approaches by applying sophisticated precision logic at the desktop level. From the desktop, WhenU software examines keywords, URLs and search terms currently in use on the consumer's browser and then selects relevant and useful advertisements. WhenU accomplishes this in a highly privacy protective manner and avoids collecting any browsing data—even anonymously—about individual users. The WhenU Desktop Advertising Network does not track user or clickstream data, use cookies, compile a centralized database of users, or engage in any type of user profiling.

I am writing to first express my appreciation to you, Chairman Stearns, and Representatives Bono, Schakowsky and Towns, among others, and to the bipartisan Energy and Commerce Committee staff led by David Cavicke, for the opportunity to work with the Committee to help perfect H.R. 2929. It has been a gratifying, productive and successful process. I am pleased today to state that WhenU supports the September 10 version of H.R. 2929. We are particularly pleased with the bill's treatment of state pre-emption issues. We believe that the September 10 version of H.R. 2929 strikes a reasonable balance that should succeed in protecting consumers, eliminate bad actors, and enable legitimate businesses to continue to provide useful and meaningful e-commerce solutions for the country.

Sincerely,

AVI NAIDER,
Chief Executive Officer.

180SOLUTIONS,
Bellevue, WA, September 17, 2004.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN. 180solutions is a leading provider of Internet search marketing software, offering consumers access to a wide range of free content in return for their agreement to be shown a limited number of websites each day selling goods or services—most often at times when they are likely shopping for those goods or services online. We use keyword search technology to deliver these highly targeted websites to consumers on behalf of over 6,000 advertisers, including many top-tier companies whose brands are household names.

We are writing to express our company's support for House passage of H.R. 2929 in the form of the Managers' Amendment dated September 10, 2004. During the course of this legislation's consideration in the Energy and Commerce Committee, it has continually evolved and improved to allow legitimate companies like ours to assist consumers in their search for advantageous and competitive sales offers online, while protecting computer users and owners from the deceptive or fraudulent acts or practices often associated with spyware. We are also deeply

> appreciative of the open process by which the bill has been developed and commend the Members and staff on both sides of the aisle for working with all stakeholders to that end.
>
> As you may know, we had hoped the legislation would deal more with tracking cookies, but we recognize that the issue is complex and thus has become controversial. The Federal Trade Commission report provided for by section 8 of the Managers' Amendment is a good compromise that will foster further discussion on the basis of sound and unbiased analysis.
>
> Thank you again for your consideration of our views and for your careful crafting of this legislation.
>
> Sincerely,
>
> KEITH SMITH,
> *Chief Executive Officer.*

This is one of those rare times when the House of Representatives probably is not ahead of the curve, but we are at least catching up with the curve to end something and to police something that every one of our constituents who is on the Internet is absolutely opposed to.

So Madam Speaker, I ask for a strong "aye" vote on this bill.

Mr. SHAYS. Madam Speaker, I want to express support for two bills the House is considering this week: H.R. 2929, the Safeguard Against Privacy Invasions Act, and H.R. 4661, the Internet Spyware I-SPY Prevention Act. I strongly support these pieces of legislation and I am pleased they incorporate changes similar to legislation Congressman JAY INSLEE and I introduced, H.R. 4255, the Computer Software Privacy and Control Act.

Millions of computers have been infected with spyware, software that is deceptively installed on their computers to collect their personal information, record their keystrokes, change their browser homepage, or display unwanted advertising.

H.R. 2929 would require notice and consent from the computer user before software is able to collect personal information and transmits it to a third party, monitor Internet usage, such as websites visited, modify computer settings or deliver advertisements. This provision accomplishes a main goal of the Computer Software Privacy and Control Act.

H.R 4661 strengthens criminal provisions in the Computer Fraud and Abuse Act. Providing necessary criminal penalties for spyware will help prevent this deceptive activity and protect the privacy of consumers. Our legislation includes provisions similar to this as well.

I am glad H.R. 2929 and H.R. 4661 require notice and consent and strengthen criminal provisions, and I urge my colleagues to support these important pieces of legislation.

Mr. GOODLATTE. Madam Speaker, I rise today to discuss H.R. 2929, the "Safeguard Against Privacy Invasions Act."

I believe that there is a need to impose appropriate civil penalties against those who use software to commit egregious acts against computer users. In that respect, the provisions in H.R. 2929 that impose civil penalties on the truly bad actors, including those who use spyware to take over a user's computer to send spam, or those who engage in keystroke logging to steal personal information, are a step in the right direction.

However, I also have concerns that portions of the bill cast too wide a net and that they would have unintended consequences that could penalize the legitimize software companies that are actually trying to play by the rules. Many provisions of this bill would not only encompass spyware, but also legitimate interactive software services. I oppose the provisions of this bill that stretch beyond punishing the truly bad actors and instead create a static regulatory regime in an industry that is always innovating and changing to respond to consumer demand.

Also, imposing a notice and consent requirement for most software that is loaded onto computers could create unintended consequences. Specifically, when consumers are faced with the multiple notices that would be required under this bill, they will likely become desensitized and stop reading the disclosure altogether. The result could be a heavy-handed regulation that does not even achieve the desired goals of informing consumers and protecting them from spyware, especially since the truly bad actors are likely to simply ignore these regulations.

I have introduced legislation, H.R. 4661, the Internet Spyware I-SPY Prevention Act, which impose tough criminal penalties on the most egregious purveyors of spyware without imposing a broad regulatory regime on legitimate software providers. I believe that this more targeted approach is the best way to combat spyware.

While I have serious reservations about many portions of H.R. 2929, I also believe that it contains many civil prohibitions that would help in the fight against spyware. I support this bill, not in its entirety, but as an acknowledgement that some civil penalties are appropriate in the fight against spyware when properly targeted. However, I remain concerned about the broad regulatory aspects of this legislation, and hope to continue working to ensure that the final legislation is appropriately targeted at the truly bad actors, and that it does not cast a broad regulatory burden on those who continue to innovate and create new and exciting services in the interactive software industry.

Ms. JACKSON-LEE of Texas. Madam Speaker, I join my colleagues today to support H.R. 2929. Persistent computer security vulnerabilities may expose U.S. critical infrastructure and government computer systems to possible cyber attack by terrorists, possibly affecting the economy or other areas of national security. Because of the ubiquitous nature of the Internet, unprotected home computers—often lacking network security features, could be the entree for cyber attacks. Even when national security is not at issue, spyware programs could be used to harvest personal informaiton—such as bank or credit card account number and e-mail addresses—from computers. This information could be used subsequently in fraudulent criminal activities or in the sending of unauthorized SPAM e-mail messages.

Unwanted spyware programs can make changes to a computer that can be annoying and can cause the computer to slow down or crash. These programs have the ability to change the home page of a computer user's Web browser or search page, or add additional components to the browser that are unnecessary or unwanted. These programs could make it very difficult to change the settings back to the way they were originally.

This bill directs the Federal Trade Commission (FTC) to prohibit the transmission of an unauthorized spyware program to a covered computer over the Internet. The bill further establishes requirements for an affirmative agreement by the user of the covered computer to specifically agree the conditions of the transmission with an acknowledgement of the person and address of the transmitter.

The bill provides specific prohibitions on use of any spyware program for collecting any personally identifiable information from the covered computer unless notice is provided. The criminal penalties provided for in this act will help to provide a necessary enforcement mechanism.

I believe this is just one of the steps necessary to secure the nation's critical infrastructure and to help protect the privacy and civil liberties of Americans.

Mr. DINGELL. Madam Speaker, "Barbarians At the Digital Gate" recently warned the front page of the Sunday New York Times Business Section. What elicited this alarming headline? Pernicious computer software commonly called "spyware" and "adware".

These programs sneak onto your computer, and allow a third party to harvest your personal information. It is the equivalent of putting a wiretap on your phone and listening to your conversations. Adware tracks your Web surfing or online shopping so that marketers can send you unwanted ads. Spyware can hijack your computer to pornographic or gambling sites, or steal your passwords and credit card information.

The rapid proliferation of spyware and adware has brought Internet use to a crossroads. It threatens legitimate Internet commerce. Consumer complaints are deluging computer call centers and regulators. The most common complaints are: hijacked home pages, redirected Web searches, a flood of pop-up ads, and sluggish and crashed computers.

The bill, as amended, prohibits a number of deceptive acts or practices related to spyware, and provides for FTC enforcement and enhanced civil fines. It also recognizes that there are legitimate applications of spyware and, thus, exempts law enforcement, national security, network security, diagnostics and repair, and fraud detection from the SPY Act. It is a carefully balanced bill.

Most importantly, this legislation contains opt-in protection for consumers. It requires companies that distribute spyware and adware to obtain permission from consumers through an easily understood licensing agreement before installing spyware or adware on their computers. The programs, once downloaded, would have to provide a means to identify the spyware or adware and easily uninstall or disable it.

I also note that without aggressive enforcement, the goals of this bill will not be met. We are asking the FTC to do a great deal in a very complex area and I trust that the appropriators will provide them with sufficient resources to fulfill these tasks.

This legislation is supported by a coalition that includes: the Business Software Alliance, the Center For Democracy and Technology, the Council for Marketing and Opinion Research, Dell, eBay Inc., Humana Inc., Microsoft, 180 Solutions, Time Warner/AOL United States Telecom Association, WhenU, and Yahoo!—all of whom have submitted letters of support.

The bill has improved at every stage of its consideration, and I want to commend the leadership and hard work of Rep. BARTON, the Chairman of the Committee on Energy and Commerce, Reps. STEARNS and SCHAKOWSKY, the Chairman and Ranking Member, respectively, of the Commerce, Trade, and Consumer Protection Subcommittee, and Reps. BONO and TOWNS, the lead Republican and Democrat sponsors of the bill. I also commend the bipartisan staff team who worked very hard over the last five months to get this bill to the Floor this year; David Cavicke, Shannon Jacquot, Crhis Leahy, Brian McCullough, Will Carty, Jennifer Baird, Consuela Washington, Diane Beedle, and Andrew Delia.

I urge my Colleagues to vote "yes" on passage of H.R. 2929. It is a good bill. It's good for consumers. And it is good for honest commerce on the Internet.

Mr. GREEN of Texas. Madam Speaker, my interest in the consumer problem of spyware stems from many years of work on the consumer spam problem.

The anti-spam law was not expected to eliminate unwanted email, but it did draw a line for consumers—that some kinds of privacy invasion are not allowed. Internet Service Providers like Microsoft, AOL, Yahoo, and Earthlink along with State Attorney Generals are bringing serious actions against spammers who violate the law.

Spyware and illegal spam are not just problems of privacy and convenience, both can be the cause of viruses and other computer crimes.

Just like robbery and speeding have not been eliminated, neither will spam or spyware. But when something is harming social welfare and consumers are overwhelmed, and private sector solutions are not enough, then we need an enforceable standard.

This legislation prohibits the most commonly known deceptive acts and practices related to Spyware from tracking your web surfing habits to send you advertising to hijacking your passwords and credit care numbers.

However, while some use this technology to deceive and defraud us, this technology is also used to support our efforts in national security. This important use of technology is taken into consideration by this bill and exempts law enforcement, national security agencies, network security programs and diagnostics on repairs to our computers from the SPY Act.

In addition, state attorney generals will have the ability to enforce consumer protection laws against spyware and preserves state trespass, contract tort and fraud laws.

This legislation will draw a line that spying on Americans' computers will not be tolerated. Will some people continue to get away with it? Perhaps. But will some people be prosecuted and punished for violating our privacy? Absolutely.

Mr. BARTON of Texas. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 2929.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BARTON of Texas. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

RECOGNIZING COMMUNITY ORGANIZATION OF PUBLIC ACCESS DEFIBRILLATION PROGRAMS

Mr. BARTON of Texas. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 250) recognizing community organization of public access defibrillation programs.

The Clerk read as follows:

H. CON. RES. 250

Whereas coronary heart disease is the single leading cause of death in the United States;

Whereas every two minutes, an individual suffers from cardiac arrest in the United States, and 250,000 Americans die each year from cardiac arrest out of hospital;

Whereas the chance of survival for a victim of cardiac arrest diminishes by ten percent each minute following sudden cardiac arrest;

Whereas 80 percent of cardiac arrests are caused by ventricular fibrillation, for which defibrillation is the only effective treatment;

Whereas 60 percent of all cardiac arrests occur outside the hospital, and the average national survival rate for an out-of-hospital victim of cardiac arrest is only five percent;

Whereas automated external defibrillators (AEDs) make it possible for trained non-medical rescuers to deliver potentially life-saving defibrillation to victims of cardiac arrest;

Whereas public access defibrillation (PAD) programs train non-medical individuals to use AEDs;

Whereas communities that have established and implemented PAD programs that make use of AEDs have achieved average survival rates as high as 50 percent for those individuals who have suffered an out-of-hospital cardiac arrest;

Whereas successful PAD programs ensure that cardiac arrest victims have access to early 911 notification, early cardiopulmonary resuscitation, early defibrillation, and advanced care;

Whereas schools, sports arenas, large hotels, concert halls, high-rise buildings, gated communities, buildings subject to high-security, and similar facilities can benefit greatly from the use of AEDs as part of a PAD program, since it often takes additional and therefore critical time for emergency medical personnel to respond to victims of cardiac arrest in these areas;

Whereas according to the American Heart Association, widespread use of defibrillators could save as many as 50,000 lives nationally each year;

Whereas the Aviation Medical Assistance Act of 1998 (Public Law 105-170; 49 U.S.C. 44701 note) authorized AEDs to be carried and used aboard commercial airliners;

Whereas the Cardiac Arrest Survival Act of 2000 (Public Law 106–505; 42 U.S.C. 238p–238q), and the Rural Access to Emergency Devices Act (Public Law 106-505, 42 U.S.C. 254c note) provided for the placement of AEDs in Federal office buildings and increased access to AEDs in rural communities;

Whereas the Community Access to Emergency Defibrillation Act of 2001 (Public Law 107-188; 42 U.S.C. 244-245) authorized the development and implementation of PAD projects;

Whereas the Automatic Defibrillation in Adam's Memory Act (presented to the President for his signature on June 20, 2003) authorizes the use of grant funds to establish an information clearinghouse to provide information to increase public access to defibrillation in schools; and

Whereas Summit County, Ohio serves as an inspiring model for communities across the United States by providing access to AEDs in all of the county's 59 middle and high schools, in 47 city buildings and community centers, in 17 police departments, and in seven buildings at the University of Akron: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That Congress—

(1) recognizes the growing number of community activists, organizations, and municipal governments leading the national effort to establish public access defibrillation (PAD) programs; and

(2) encourages the continued development and implementation of PAD programs in schools, sports arenas, large hotels, concert halls, high-rise buildings, gated communities, buildings subject to high-security, and similar facilities to increase the survival rate for victims of cardiac arrest.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 250.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise today in support of H. Con. Res. 250 which recognizes community organization of public access defibrillation programs. The Committee on Energy and Commerce favorably reported this resolution by voice vote last week.

Coronary heart disease continues to be the leading cause of death in the United States. It is often the case that lives are either saved or lost in those first few critical moments when an individual suffers from cardiac arrest.

Fortunately, medical technology and life-saving equipment are improving every day. New, portable medical devices called "automated external defibrillators" are often used to deliver life-saving treatment on the scene.

I can give a personal example of an individual in my district, Mr. Gary Terry, who was going through the Austin airport several years ago when he suffered a massive heart attack just as he went through security checkpoint. Luckily, the city of Austin had just installed these defibrillators at the airport, and it has on videotape the emergency technicians grabbing the defibrillator, putting it on Mr. Terry's chest and literally bringing him back to life. Mr. Terry is alive and well today because one of these devices was in the Austin international airport in Austin, Texas.

Over the past 6 years, Congress has enacted several laws to expand the use of automatic external defibrillators. H. Con. Res. 250 recognizes the growing number of community activist organizations and municipal governments leading the national effort to establish public access defibrillation programs and encourages the continued development and implementation of programs in a variety of community venues.

Madam Speaker, I would urge that all Members adopt this resolution. Also, I want to thank my good friend, the gentleman from Ohio (Mr. BROWN), for his sponsorship of this legislation. It shows his commitment to a healthier community that he would take the time to be the leader on this important legislation.

Madam Speaker, I reserve the balance of my time.

□ 1530

Mr. BROWN of Ohio. Madam Speaker, I yield myself 3 minutes.

Madam Speaker, heart disease kills more Americans than any other condition. Nearly a quarter of a million Americans die from cardiac arrest every year. The American Heart Association, which supports this resolution, estimates that with widespread access to and use of defibrillation, 50,000 of those lives could be saved every year.

We are starting to see real success in ensuring that there are defibrillators in major public places in this country. In Summit County, in my district, a successful effort led by Dr. Terry Gordon has resulted in public defibrillators in all of the county's 59 middle schools and high schools, and in 23 other public buildings, coverage that probably is unprecedented in the United States.

As these efforts continue, we are making strides towards public access defibrillation in all major public venues, in schools and sports arenas, in large hotels, in concert halls, in high-rise buildings, in gated communities and high-security companies.

Currently, 60 percent of heart attacks take place in venues like these outside of hospitals, and the survival rate for these attacks is only around 5 percent. Public access to defibrillation programs provide defibrillators to facilities and train nonmedical personnel in how to use a defibrillator. If administered within 3 minutes of a victim collapsing from cardiac arrest, a defibrillator can increase the patient's survival rate, it is estimated, by 70 percent.

Knowing these statistics, Madam Speaker, it is clear we can do better in preventing death from cardiac arrest. This House can begin by fully funding the Community and Rural Defibrillation Program for fiscal year 2005.

My colleagues, the gentlewoman from California (Mrs. CAPPS), the gentleman from Illinois (Mr. SHIMKUS), along with the gentleman from Georgia (Mr. DEAL) and the gentleman from Wisconsin (Mr. KIND), and especially the gentleman from Florida (Mr. STEARNS) have been champions of these important programs, and it is critical their funding levels be maintained.

Madam Speaker, I thank the gentleman from Texas (Mr. BARTON), our chairman, and the ranking member, the gentleman from Michigan (Mr. DINGELL) of the Committee on Energy and Commerce, as well as my colleague and friend, the gentleman from Florida (Mr. BILIRAKIS) for bringing this measure up for consideration before the House today. It is an important bill that will save lives. This will matter to the lives of family members of so many Americans.

Madam Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Florida (Mr. STEARNS), one of our subcommittee chairmen.

Mr. STEARNS. Madam Speaker, I thank the distinguished chairman for yielding me this time, and I rise in support and as a cosponsor of H. Con. Res. 250, recognizing public access defibrillation, or PAD, programs.

My colleagues, years ago I had the opportunity and honor to work with the American Heart Association and we developed legislation addressing sudden cardiac arrest along with the gentlewoman from California (Mrs. CAPPS). This cooperation led to the Cardiac Arrest Survival Act. After years of work, the provisions from the Cardiac Arrest Survival Act were combined with other health care provisions in H.R. 2498, and finally enacted in 2000 as the Public Health Improvement Act.

This law directs the Secretary of Health and Human Services to simply develop guidelines for the placement of defibrillators in public buildings. It also directs Health and Human Services to consult with and counsel other Federal agencies where such devices are to be used.

Now, a number of agencies have initiated the program, including Labor, HHS, Commerce, GSA, and IRS. These public access defibrillation programs, PADs, vary with occupancy of the building, building size and other characteristics.

Since last winter, the gentlewoman from California (Mrs. CAPPS) and I have been working with the Architect of the Capitol and the Office of the Attending Physician to consider the implementation of a PAD program throughout the United States Capitol complex to help save lives for the people that visit our Capitol in and around this area. The hard-working staff, employees of the U.S. Congress, and the many visitors should be afforded the same protection as citizens employed by or visiting other Federal facilities implementing PAD programs.

We are finding that the biggest area of discussion from building supervisors at both the executive branch and here in the Capitol is the ongoing maintenance of the AEDs and the program once they are in place. Now, thanks to our persistence, I am pleased to share that each Chamber's Legislative Branch Appropriations bill for fiscal year 2005 has included $1 million in funding for installation and annual maintenance of hundreds and hundreds of defibrillators around the Capitol complex.

This is good, good news, and I am very pleased to cosponsor the legislation of my colleague, the gentleman from Ohio (Mr. BROWN), and I commend him for his active participation on this.

Mr. BROWN of Ohio. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume to just ask that we strongly support the Sherrod Brown bill.

Mr. BARTON of Texas. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 250.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS THAT PRIVATE HEALTH INSURANCE COMPANIES SHOULD TAKE A PROACTIVE ROLE IN PROMOTING HEALTHY LIFESTYLES

Mr. BARTON of Texas. Madam Speaker, I move to suspend the rules and agree to the concurrent resolution

(H. Con. Res. 34) expressing the sense of the Congress that private health insurance companies should take a proactive role in promoting healthy lifestyles, and for other purposes, as amended.

The Clerk read as follows:

H. CON. RES. 34

Whereas Secretary of Health and Human Services Tommy Thompson acknowledges that $270,000,000,000 in health costs are caused by preventable diseases, including $183,000,000,000 for heart disease alone, and has called current policies of insurance companies "wrongheaded" for not doing more to encourage people to stay healthy to prevent expensive illnesses;

Whereas obesity increases the risk of illness from more than 30 medical conditions, including heart disease, cancer, stroke, chronic obstructive pulmonary disease, and diabetes, which account for 2/3 of all deaths in the United States;

Whereas 61 percent of adults in the United States (120,000,000 people) are above their target weight, and 13 percent of children and adolescents in the United States are obese or overweight, a figure that has tripled since 1980;

Whereas from age 50 to 70, those who do not perform strength training lose a quarter to a third of a pound of muscle every year and gain the same amount in body fat;

Whereas weight training is proven to increase bone density and reduce osteoporosis among men and women over 50 years old;

Whereas if the more than 88,000,000 inactive adults in the United States began regular exercise, national medical costs would decrease by more than $76,000,000,000 each year;

Whereas on June 20, 2002, President George W. Bush launched the Healthier US fitness initiative to promote a healthy lifestyle and encourage people in the United States to increase their physical fitness; and

Whereas providing incentives for exercise and strength training would help more people become active and healthy and would decrease national medical costs: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) the Congress commends Secretary of Health and Human Services Tommy Thompson for his efforts to encourage private health insurance companies to take action to encourage people in the United States to lead active lifestyles;

(2) it is the sense of the Congress that private health insurance companies should—

(A) do more to encourage people in the United States to lead a healthier and more active lifestyle to prevent expensive and painful illnesses;

(B) provide discounted premiums to those who exercise regularly; and

(C) encourage frequent screening for diseases that are easily treatable in their early stages; and

(3) the Congress applauds private health insurance companies that are already taking these actions.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. BARTON) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. BARTON).

GENERAL LEAVE

Mr. BARTON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 34, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to thank the gentlewoman from Missouri (Ms. MCCARTHY) for sponsoring this legislation. I think its basic intent, that is, as a Nation we need to do more ourselves to promote healthy lifestyles, is extremely sound. I know insurance companies are already doing just that in this area.

I believe that what the insurance companies are doing is being very constructive. I also know there are limitations on what we can legitimately expect insurance companies to do. Individual and family responsibility remains the key and cannot be replaced by laws and resolutions.

Having said that, I would like to take a moment to thank my good friend, the gentlewoman from Missouri (Ms. MCCARTHY), for her service to this House and her leadership on this issue. She will be leaving us after the conclusion of this Congress, and she will be missed. She has been a valuable member of the Committee on Energy and Commerce. Her brightness and her willingness to work in a bipartisan fashion across the aisle have helped move numerous pieces of legislation, and we will certainly miss her as we hopefully start the next Congress.

Today, we are here to support her as she brings this important resolution to the floor of the House of Representatives. She has been a tireless leader on this issue, and I think it is a fitting tribute to her that we bring this bill to the floor. The people of the Fifth District of Missouri should be very grateful for her service to the country.

Madam Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Madam Speaker, I yield myself 2 minutes.

Madam Speaker, I want to join the gentleman from Texas (Mr. BARTON), our chairman, in thanking the gentlewoman from Missouri (Ms. MCCARTHY) for her good work, not just on this legislation, but her years of service to this Congress, and especially her years of participation on the Committee on Energy and Commerce and her good work there on a whole myriad of issues. I especially, as I said, want to thank her for her work on this resolution, which encourages private health insurance companies to take a more proactive role in promoting healthy lifestyles.

The number of Americans who are overweight and obese continues to rise. Obesity is problematic in large part because of the myriad of health complications it can cause.

It is appropriate that health insurance companies, along with doctors, public officials, and community leaders, encourage people in the United States to lead healthier lifestyles. Moderate weight loss of 5 to 10 pounds can lower the risk of cardiovascular disease, reduce high blood sugar, and help prevent other health conditions associated especially with obesity.

Making prevention work and encouraging healthy lifestyles requires cooperation from all parties involved in health care, including insurance carriers, and I am pleased to support the gentlewoman's resolution.

Madam Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield 3 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Madam Speaker, I thank the distinguished chairman for yielding me this time, and the gentlewoman from Missouri (Ms. MCCARTHY) for her 10 years of service here in the House. I have been here the whole time she has been here. She has grace and is decent and kind and has done an outstanding job for her people back in Missouri.

This is a very important issue. I founded the Congressional Fitness Caucus 2 years ago, and cochair it with the gentleman from Colorado (Mr. UDALL) for this exact same purpose, to try to encourage healthier lifestyles all across the country, particularly with young people, but especially here, where health insurance companies can join us and fight the obesity epidemic. Madam Speaker, Type 2 diabetes is climbing in this country.

The human body is made to move. People need to watch what they eat and live healthier lives. We need to encourage it, and the entire health care delivery system needs to kind of change its approach to more preventive care: emphasizing maintenance, checkups, and all kinds of ways to take better care of ourselves to lower health care costs.

There is no way Medicare and Medicaid, which are the Federal Government's responsibilities, can sustain the trends we see today in chronic health care problems associated with obesity. It is now on a par with tobacco as the number one killer in America, obesity-related illnesses. We have to get our arms around it. But I think it is going to take changing the paradigm and the culture, and it is going to take a national campaign.

I, too, want to commend Secretary Tommy Thompson. He got his own body in better shape and now he is leading by example and carrying this message. The President is probably the most fit President in the history of our country. We all need to use our own walk to exhort the advantages of just moderate increases in physical activity and better diet and nutrition.

Health insurance agencies or companies stand to gain a lot from their bottom line by promoting wellness, a holistic approach to better living. We can all take simple steps. America on the Move is a national program that Secretary Thompson helped start.

In Tennessee, where I am from, we are towards the bottom in terms of health. We are in the fried chicken belt. But we have Tennessee on the Move, which is a grass-roots effort to promote wellness and physical activity. Again, this is going to have to be done on a variety of fronts across the country, so that all these little fires will burn together for a healthier America.

I cannot think of a better legacy for my colleague from Missouri to leave than to encourage people to live a healthier life, to enjoy the quality of life, better sleep, increased productivity in the private sector and in all of our lives, but particularly with our children. They need to know the consequences early on of inactivity and a sedentary lifestyle. Get out of doors. Go play the game. Do not play it on the video; go play it yourself. We need to encourage more physical activity.

Again, this human body, all human bodies, were made to move. Burn more calories and ingest fewer calories. With small, simple steps we will not face the problems associated with obesity in the future.

Madam Speaker, this is a bipartisan effort and I thank the gentlewoman from Missouri for leading this effort.

Mr. BROWN of Ohio. Madam Speaker, I yield 7 minutes to the gentlewoman from Missouri (Ms. McCARTHY).

Ms. McCARTHY of Missouri. Madam Speaker, I rise today in support of House Concurrent Resolution 34, a sense of the Congress encouraging health insurance companies to take a more proactive role in promoting physical activity that prevents stroke, high blood pressure, and other life-threatening diseases.

The U.S. Department of Health and Human Services acknowledges that $270 billion in health care costs are caused by preventable diseases, including $180 billion for heart disease alone. Research by the Harvard School of Public Health noted that the closest thing to a magic bullet for treating this epidemic is exercise. It is estimated that if the more than 88 million inactive adults in the United States began regular exercise, national medical costs would decrease by more than $76 billion each year.

According to the Department of Health and Human Services, two-thirds of all deaths in the United States are caused by obesity, a disease that increases the risk of illness for more than 30 medical conditions, including heart disease, cancer, stroke, chronic obstructive pulmonary disease, and diabetes.

□ 1545

Sixty-one percent of American adults are above their target weight, and 9 million school children are overweight, a figure that has tripled since 1980. A report by the Centers for Disease Control and Prevention found that walking and bicycling among children age 5 to 15 dropped 40 percent between 1977 and 1995, and school budget constraints have led to the suspension of physical education classes across America.

In 2003, the Centers for Disease Control and Prevention declared obesity the most important public health issue facing the United States. As Dr. Jeffrey Koplan, a former director of the Centers for Disease Control and Prevention, noted in a recent report on childhood obesity, "Obesity is a personal issue, but at the same time, families, communities and corporations all are adversely affected by obesity, and all bear responsibility for changing social norms to better promote healthier lifestyles." Children and teenagers are contracting diabetes at a rapidly increasing pace. Dr. Kenneth Cooper, one of the Nation's foremost experts on physical activity, noted, "We may have the first generation in which parents will outlive their kids," referring to the reduced life expectancy of children who develop diabetes before age 14.

The measure before us today expresses the sense of Congress that health insurance companies can do more to encourage healthier, more active lifestyles and urges them to consider incentives for those who choose to exercise regularly. I applaud the insurance providers and companies who already recognize the benefits of a healthy public, as does this resolution. These insurers offer incentives for getting active. Blue Cross and Blue Shield of Kansas City, for example, offers a free Walking Works program to employees and policyholders. In addition to helping plan a daily walking routine, Walking Works provides discounts on walking shoes and pedometers. Cigna offers discounts on subscriptions to health-related magazines, and Aetna provides discounts for home exercise equipment. Kaiser Permanente and Aetna here in Washington offer dues reductions of up to 60 percent at more than 90 area gyms. Obese Americans who take drastic, expensive action to lose weight under a doctor's orders are currently able to lighten their Federal tax load.

The Surgeon General recommends daily exercise consisting of 30 minutes of walking or the equivalent, but 75 percent of Americans fail to meet this standard. A recent Harvard study found that, among healthy people, exercise can raise levels of HDL, known as good cholesterol, which improves clotting factors, lowers blood pressure and decreases inflammation. The study found that there is nothing else that has stronger and quicker effects than physical activity for preventing diabetes. Exercise can change virtually every tissue in the body. A German study comparing exercise and Viagra in treating erectile dysfunction found that an exercise regimen consisting of squatting exercises and pelvic and leg lifts is more effective in treating the condition than medication.

Health and Human Services Secretary Tommy Thompson has called the current policies of insurance companies "wrongheaded" for not doing more to encourage people to stay healthy to prevent expensive illnesses. H. Con. Res. 34 commends Secretary Thompson for his efforts to promote incentives for Americans to lead an active life. Just two weekends ago, Secretary Thompson, along with Agriculture Secretary Ann Veneman, Education Secretary Rod Paige and Surgeon General Richard Carmona, fanned out across our country announcing healthier U.S. grants. The Federal funds will aid in disease prevention or management programs, many aimed at promoting exercise, like an afterschool health club pilot program for children at risk for asthma, diabetes and obesity, and that is going to Philadelphia.

I would like to thank the gentleman from Texas (Mr. BARTON) of the Committee on Energy and Commerce for his kind remarks and help in this effort along with the gentleman from Michigan (Mr. DINGELL) and the gentleman from Ohio (Mr. BROWN), my cosponsors from both sides of the aisle like the gentleman from Kansas (Mr. RYUN) who spoke on behalf of this measure earlier in the day, and more than 20 organizations including the American Heart Association and the YMCA that support H. Con. Res. 34. I urge the House to adopt this measure and continue fiscally responsible policies to reduce the billions in health care costs currently spent on preventable diseases.

Mr. BROWN of Ohio. Madam Speaker, I yield 3 minutes to the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN).

Mrs. CHRISTENSEN. I thank the gentleman for yielding me this time.

Madam Speaker, I rise today to join the gentlewoman from Missouri (Ms. McCARTHY) in urging the passage of House Concurrent Resolution 34, a resolution expressing the sense of Congress that private health insurance companies should take a proactive role in promoting healthy lifestyles.

Madam Speaker, we know as a society that our lifestyle choices disproportionately account for the excess death and disease burden in this country. Recent studies have documented that of the top 10 killers in America, many such as heart disease, injuries, diabetes, HIV/AIDS, strong perinatal conditions and lung diseases can be reduced or eliminated through healthy lifestyle choices.

I want to take this opportunity to commend and thank the gentlewoman from Missouri for introducing this important piece of legislation. As chair of the Health Brain Trust of the Congressional Black Caucus, I know that it can help my constituents, African-Americans in this country, all people of color and all Americans who are fortunate enough to have health insurance.

Recently, the Center for Research in Nutrition and Health Disparities at the University of South Carolina noted that, in the 20th century, public health advances eradicated diseases through sanitation, immunizations, health education and advances in medical technology. This led to enormous improvements in people's lives. However, the 21st century has brought a new set of public health challenges which include tobacco- and alcohol-related diseases as well as sexually transmitted ones. We have also seen that sedentary lifestyles and diets high in calorie-rich foods have produced a generation of Americans who are increasingly obese. The health problems associated with weight-related diseases are multiplying by epidemic proportions.

Madam Speaker, between 50 and 66 percent of African-American women can be classified as being overweight. More than 2.8 million, or 13 percent of African-Americans, also have diabetes. Finally, we and other people of color suffer disproportionately from complications and death due to this illness. We also know that lifestyle choices relating to poor nutrition and obesity can be associated with three of the other 10 leading causes of death, heart disease, stroke and cancer.

It is clear that we need all hands on deck to address this health care crisis in our country. That is why I am urging my colleagues to support House Concurrent Resolution 34 which urges private health insurance companies to do more to encourage people in the United States to lead a healthier and more active lifestyle to prevent expensive and painful illness; two, to provide discounted premiums to those who exercise regularly; and three, to encourage frequent screening for diseases that are easily treatable in their early stages. We still have to do more to cover everyone and to pay providers for their time spent in counseling patients on good disease prevention and health promotion, but, Madam Speaker, House Concurrent Resolution 34 is a step in the right direction by giving the insurance industry a stake in the fight to eliminate health care disparities, to ensure better health for all Americans and to reduce the skyrocketing costs of health care. I urge my colleagues to support it.

Mr. BROWN of Ohio. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BARTON of Texas. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to support the bill of the gentlewoman from Missouri, but I also, as we wrap up, want to reflect on what we have just seen on the House floor. We have just debated nine bills on suspension that have come out of the Committee on Energy and Commerce, and in a year in which a lot of the public thinks that all we do is fight each other on the House floor and get enraged at each other and confront each other, I want the country to know that there is another side to this Congress. We can have equality and cooperation. We have seen that today.

We have just had nine bills put on the suspension calendar. When it goes on the suspension calendar, what it means is that the majority and the minority both at the committee level and at the leadership level agree to put the bill on the floor. It also means that you have to get a two-thirds vote to pass. In the nine bills that we have just debated, some of them are substantive bills. We have a bill that deals with asthma that I consider to be very substantive. We had a bill that deals with islet cell transplantation that is very substantive. We have a reauthorization of the Mammography Quality Control Screening Act by the gentleman from Michigan (Mr. DINGELL) that is obviously substantive. We have a brand new patient navigator bill that the gentleman from New York (Mr. TOWNS) and the gentlewoman from Ohio (Ms. PRYCE) put together. We have a bill for defibrillation that the gentleman from Ohio (Mr. BROWN) has authored. We have a prescription drug monitoring bill that the gentleman from Georgia (Mr. NORWOOD), the gentleman from New Jersey (Mr. PALLONE) and the gentleman from Kentucky (Mr. WHITFIELD) have worked together on in a bipartisan basis. These are substantive bills. It shows that we can cooperate. It shows that we can work together. We also had, it is not a health-related bill but the spyware bill that the gentlewoman from California (Mrs. BONO) and the gentleman from New York (Mr. TOWNS) worked on shows that, in the area of technology, we can work together.

I hope that we showed the country that the Committee on Energy and Commerce, the "e" and "c" does stand for equality and cooperation, and that this is a precursor of what is to come in the next Congress. I urge support of the McCarthy bill.

Ms. JACKSON-LEE of Texas. Madam Speaker, I join my colleagues today to support H. Con. Res. 34 calling for private health insurance companies to take action to encourage people in the United States to lead active lifestyles. A report from the Centers for Disease Control and Prevention, CDC, shows about one in five American adults engage in a high level of overall physical activity, including both activity at work and during leisure time. At the other end of the spectrum, about one in four American adults engage in little or no regular physical activity.

Physical activity whether it is walking the dog or simply taking the stairs at work is essential to good health. This CDC study helps give us an even fuller picture of our physical activity status. It confirms that we need to pay more attention to getting adequate physical activity and reversing the alarming rise in obesity that we've experienced nationally during the past decade.

Research has shown that people who are usually inactive can improve their health and well-being by becoming even moderately active on a regular basis, and that physical activity need not be strenuous to achieve health benefits.

Insurance providers need to help to promote fitness activities to their patients. Statistics in the United States make this clear: 61 percent of adults in the United States are above their target weight, and 13 percent of children and adolescents in the United States are obese or overweight, a figure that has tripled since 1980. In addition to the health consequences, the economic projections are staggering. One study indicates that if the 88,000,000 inactive adults in the United States began regular exercise, national medical costs would decrease by more than $76 billion.

The government and the insurance companies need to send a clear message that everybody benefits from improved fitness and exercise. While the Internal Revenue Code of 1986 provides tax incentives for taxpayers who are obese, it does not provide such incentives for those who are active and healthy.

I believe that insurance companies should my colleagues gathered here today to encourage people in the United States to lead a healthier and more active lifestyle to prevent expensive and painful illnesses; to provide discounted premiums to those who exercise regularly; and to cover and encourage frequent screening for diseases that are easily treatable in their early stages.

Mr. DAVIS of Illinois. Madam Speaker, the percentage of children and adolescents who are defined as overweight has more than doubled since the early 1970s with nearly 15 percent of children and adolescents now being overweight.

Congress has asked our schools to encourage health eating and physical activity to decrease the obesity epidemic in our Nation. We have encouraged our physicians to educate our constituents and parents to be better eating role models to their children. The CDC has even stated to begin to stop and reverse this upward obesity trend "will require effective collaboration among government, voluntary, and private sectors, as well as a commitment to action by individuals and communities across the Nation". It then only makes sense that we now ask the insurance industry to join us in the fight to reduce obesity in our country.

As we know, there are serious health consequences that are caused when an individual is overweight or obese such as high blood pressure, Type 2 diabetes, congestive heart failure, stroke, as well as some types of cancer. These can all be very costly diseases, especially if they are not managed correctly. According to a study of national costs attributed to both overweight and obesity, medical expenses accounted for 9.1 percent of total U.S. medical expenditures in 1998 and may have reached as high as $78.5 billion. Approximately half of these costs were paid by Medicaid and Medicare.

Madam Speaker, I urge my colleagues to support this legislation.

Mr. BARTON of Texas. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 34, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

SAFE AND TIMELY INTERSTATE PLACEMENT OF FOSTER CHILDREN ACT OF 2004

Mr. HERGER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 4504) to improve protections for children and to hold States accountable for the orderly and timely placement of children across States lines, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Safe and Timely Interstate Placement of Foster Children Act of 2004".

SEC. 2. SENSE OF THE CONGRESS.

(a) FINDING.—The Congress finds that the Interstate Compact on the Placement of Children (ICPC) was drafted more than 40 years ago, is outdated, and is a barrier to the timely placement of children across State lines.

(b) SENSE OF THE CONGRESS.—It is the sense of the Congress that the States should expeditiously revise the ICPC to better serve the interests of children and reduce unnecessary work, and that the revision should include—

(1) limiting its applicability to children in foster care under the responsibility of a State, except those seeking placement in a licensed residential facility primarily to access clinical mental health services; and

(2) providing for deadlines for the completion and approval of home studies as set forth in section 4.

SEC. 3. ORDERLY AND TIMELY PROCESS FOR INTERSTATE PLACEMENT OF CHILDREN.

Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is amended—

(1) by striking "and" at the end of paragraph (23);

(2) by striking the period at the end of paragraph (24) and inserting "; and"; and

(3) by adding at the end the following:

"(25) provide that the State shall have in effect procedures for the orderly and timely interstate placement of children; and procedures implemented in accordance with an interstate compact approved by the Secretary, if incorporating with the procedures prescribed by paragraph (26), shall be considered to satisfy the requirement of this paragraph.".

SEC. 4. HOME STUDIES.

(a) ORDERLY PROCESS.—

(1) IN GENERAL.—Section 471(a) of the Social Security Act (42 U.S.C. 671(a)) is further amended—

(A) by striking "and" at the end of paragraph (24);

(B) by striking the period at the end of paragraph (25) and inserting "; and"; and

(C) by adding at the end the following:

"(26) provides that—,

"(A)(i) within 60 days after the State receives from another State a request to conduct a study of a home environment for purposes of assessing the appropriateness of placing a child in the home, the State shall, directly or by contract—

"(I) conduct and complete the study; and

"(II) return to the other State a report on the results of the study, which shall address the extent to which placement in the home would meet the needs of the child; and

"(ii) in the case of a home study begun on or before September 30, 2006, if the State fails to comply with clause (i) within the 60-day period as a result of circumstances beyond the control of the State (such as a failure by a Federal agency to provide the results of a background check, or the failure by any entity to provide completed medical forms, requested by the State at least 45 days before the end of the 60-day period), the State shall have 75 days to comply with clause (i) if the State documents the circumstances involved and certifies that completing the home study is in the best interests of the child; except that

"(iii) this subparagraph shall not be construed to require the State to have completed, within the applicable period, the parts of the home study involving the education and training of the prospective foster or adoptive parents;

"(B) the State shall treat any report described in subparagraph (A) that is received from another State or an Indian tribe (or from a private agency under contract with another State) as meeting any requirements imposed by the State for the completion of a home study before placing a child in the home, unless, within 14 days after receipt of the report, the State determines, based on grounds that are specific to the content of the report, that making a decision in reliance on the report would be contrary to the welfare of the child; and

"(C) the State shall not impose any restriction on the ability of a State agency administering, or supervising the administration of, a State program operated under a State plan approved under this part to contract with a private agency for the conduct of a home study described in subparagraph (A).".

(2) SENSE OF THE CONGRESS.—It is the sense of the Congress that each State should—

(A) use private agencies to conduct home studies when doing so is necessary to meet the requirements of section 471(a)(26) of the Social Security Act; and

(B) give full faith and credit to any home study report completed by any other State or an Indian tribe with respect to the placement of a child in foster care or for adoption.

(b) TIMELY INTERSTATE HOME STUDY INCENTIVE PAYMENTS.—Part E of title IV of the Social Security Act (42 U.S.C. 670–679b) is amended by inserting after section 473A the following:

"SEC. 473B. TIMELY INTERSTATE HOME STUDY INCENTIVE PAYMENTS.

"(a) GRANT AUTHORITY.—The Secretary shall make a grant to each State that is a home study incentive-eligible State for a fiscal year in an amount equal to the timely interstate home study incentive payment payable to the State under this section for the fiscal year, which shall be payable in the immediately succeeding fiscal year.

"(b) HOME STUDY INCENTIVE-ELIGIBLE STATE.—A State is a home study incentive-eligible State for a fiscal year if—

"(1) the State has a plan approved under this part for the fiscal year;

"(2) the State is in compliance with subsection (c) for the fiscal year; and

"(3) based on data submitted and verified pursuant to subsection (c), the State has completed a timely interstate home study during the fiscal year.

"(c) DATA REQUIREMENTS.—

"(1) IN GENERAL.—A State is in compliance with this subsection for a fiscal year if the State has provided to the Secretary a written report, covering the preceding fiscal year, that specifies—

"(A) the total number of interstate home studies requested by the State with respect to children in foster care under the responsibility of the State, and with respect to each such study, the identity of the other State involved; and

"(B) the total number of timely interstate home studies completed by the State with respect to children in foster care under the responsibility of other States, and with respect to each such study, the identity of the other State involved.

"(2) VERIFICATION OF DATA.—In determining the number of timely interstate home studies to be attributed to a State under this section, the Secretary shall check the data provided by the State under paragraph (1) against complementary data so provided by other States.

"(d) TIMELY INTERSTATE HOME STUDY INCENTIVE PAYMENTS.—

"(1) IN GENERAL.—The timely interstate home study incentive payment payable to a State for a fiscal year shall be $1,500, multiplied by the number of timely interstate home studies attributed to the State under this section during the fiscal year, subject to paragraph (2).

"(2) PRO RATA ADJUSTMENT IF INSUFFICIENT FUNDS AVAILABLE.—If the total amount of timely interstate home study incentive payments otherwise payable under this section for a fiscal year exceeds the total of the amounts made available pursuant to subsection (h) for the fiscal year (reduced (but not below zero) by the total of the amounts (if any) payable under paragraph (3) of this subsection with respect to the preceding fiscal year), the amount of each such otherwise payable incentive payment shall be reduced by a percentage equal to—

"(A) the total of the amounts so made available (as so reduced); divided by

"(B) the total of such otherwise payable incentive payments.

"(3) APPROPRIATIONS AVAILABLE FOR UNPAID INCENTIVE PAYMENTS FOR PRIOR FISCAL YEARS.—

"(A) IN GENERAL.—If payments under this section are reduced under paragraph (2) or subparagraph (B) of this paragraph for a fiscal year, then, before making any other payment under this section for the next fiscal year, the Secretary shall pay each State whose payment was so reduced an amount equal to the total amount of the reductions which applied to the State, subject to subparagraph (B) of this paragraph.

"(B) Pro rata adjustment if insufficient funds available.—If the total amount of payments otherwise payable under subparagraph (A) of this paragraph for a fiscal year exceeds the total of the amounts made available pursuant to subsection (h) for the fiscal year, the amount of each such payment shall be reduced by a percentage equal to—

"(i) the total of the amounts so made available; divided by

"(ii) the total of such otherwise payable payments.

"(e) 2-Year Availability of Incentive Payments.—Payments to a State under this section in a fiscal year shall remain available for use by the State through the end of the next fiscal year.

"(f) Limitations on Use of Incentive Payments.—A State shall not expend an amount paid to the State under this section except to provide to children or families any service (including post-adoption services) that may be provided under part B or E. Amounts expended by a State in accordance with the preceding sentence shall be disregarded in determining State expenditures for purposes of Federal matching payments under sections 423, 434, and 474.

"(g) Definitions.—In this section:

"(1) Home study.—The term 'home study' means a study of a home environment, conducted in accordance with applicable requirements of the State in which the home is located, for the purpose of assessing whether placement of a child in the home would be appropriate for the child.

"(2) Interstate home study.—The term 'interstate home study' means a home study conducted by a State at the request of another State, to facilitate an adoptive or relative placement in the State.

"(3) Timely interstate home study.—The term 'timely interstate home study' means an interstate home study completed by a State if the State provides to the State that requested the study, within 30 days after receipt of the request, a report on the results of the study. The preceding sentence shall not be construed to require the State to have completed, within the 30-day period, the parts of the home study involving the education and training of the prospective foster or adoptive parents.

"(h) Limitations on Authorization of Appropriations.—

"(1) In general.—For payments under this section, there are authorized to be appropriated to the Secretary—

"(A) $10,000,000 for fiscal year 2005;

"(B) $10,000,000 for fiscal year 2006;

"(C) $10,000,000 for fiscal year 2007; and

"(D) $10,000,000 for fiscal year 2008.

"(2) Availability.—Amounts appropriated under paragraph (1) are authorized to remain available until expended.".

(c) Repealer.—Effective October 1, 2008, section 473B of the Social Security Act is repealed.

SEC. 5. REQUIREMENT TO COMPLETE BACKGROUND CHECKS BEFORE APPROVAL OF ANY FOSTER OR ADOPTIVE PLACEMENT AND TO CHECK CHILD ABUSE REGISTRIES; SUSPENSION AND SUBSEQUENT ELIMINATION OF OPT-OUT.

(a) Requirement To Complete Background Checks Before Approval of any Foster or Adoptive Placement and To Check Child Abuse Registries; Suspension of Opt-out.—

(1) Requirement to check child abuse registries.—Section 471(a)(20) of the Social Security Act (42 U.S.C. 671(a)(20)) is amended—

(A) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "on whose behalf foster care maintenance payments or adoption assistance payments are to be made" and inserting "regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child";

(ii) in each of clauses (i) and (ii), by inserting "involving a child on whose behalf such payments are to be so made" after "in any case"; and

(iii) by striking "and" at the end of clause (ii); and

(B) by adding "and" at the end of subparagraph (B); and

(C) by adding at the end the following:

"(C) provides that the State shall—

"(i) check any child abuse and neglect registry maintained by the State for information on any prospective foster or adoptive parent and on any other adult living in the home of such a prospective parent, and request any other State in which any such prospective parent or other adult has resided in the preceding 5 years, to enable the State to check any child abuse and neglect registry maintained by such other State for such information, before the prospective foster or adoptive parent may be finally approved for placement of a child, regardless of whether foster care maintenance payments or adoption assistance payments are to be made on behalf of the child under the State plan under this part;

"(ii) comply with any request described in clause (i) that is received from another State; and

"(iii) have in place safeguards to prevent the unauthorized disclosure of information in any child abuse and neglect registry maintained by the State, and to prevent any such information obtained pursuant to this subparagraph from being used for a purpose other than the conducting of background checks in foster or adoptive placement cases;".

(2) Suspension of opt-out.—Section 471(a)(20)(B) of such Act (42 U.S.C. 671(a)(20)(B)) is amended—

(A) by inserting ", on or before September 30, 2004," after "plan if"; and

(B) by inserting ", on or before such date," after "or if".

(b) Elimination of Opt-out.—Section 471(a)(20) of such Act (42 U.S.C. 671(a)(20)), as amended by subsection (a) of this section, is amended—

(1) in subparagraph (A)—

(A) in the matter preceding clause (i), by striking "unless an election provided for in subparagraph (B) is made with respect to the State,"; and

(B) by adding "and" at the end of clause (ii); and

(2) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

SEC. 6. COURTS ALLOWED ACCESS TO THE FEDERAL PARENT LOCATOR SERVICE TO LOCATE PARENTS IN FOSTER CARE OR ADOPTIVE PLACEMENT CASES.

Section 453(c) of the Social Security Act (42 U.S.C. 653(c)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(5) any court which has authority with respect to the placement of a child in foster care or for adoption, but only for the purpose of locating a parent of the child.".

SEC. 7. CASEWORKER VISITS.

(a) Purchase of Services in Interstate Placement Cases.—Section 475(5)(A)(ii) of the Social Security Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking "or of the State in which the child has been placed" and inserting "of the State in which the child has been placed, or of a private agency under contract with either such State".

(b) Increased Visits.—Section 475(5)(A)(ii) of such Act (42 U.S.C. 675(5)(A)(ii)) is amended by striking "12" and inserting "6".

SEC. 8. HEALTH AND EDUCATION RECORDS.

Section 475 of the Social Security Act (42 U.S.C. 675) is amended—

(1) in paragraph (1)(C)—

(A) by striking "To the extent available and accessible, the" and inserting "The"; and

(B) by inserting "the most recent information available regarding" after "including"; and

(2) in paragraph (5)(D)—

(A) by inserting "a copy of the record is" before "supplied"; and

(B) by inserting ", and is supplied to the child at no cost at the time the child leaves foster care if the child is leaving foster care by reason of having attained the age of majority under State law" before the semicolon.

SEC. 9. RIGHT TO BE HEARD IN FOSTER CARE PROCEEDINGS.

(a) In General.—Section 475(5)(G) of the Social Security Act (42 U.S.C. 675(5)(G)) is amended—

(1) by striking "an opportunity" and inserting "a right";

(2) by striking "and opportunity" and inserting "and right"; and

(3) by striking "review or hearing" each place it appears and inserting "proceeding".

(b) Notice of Proceeding.—Section 438(b) of such Act (42 U.S.C. 638(b)) is amended by inserting "shall have in effect a rule requiring State courts to notify foster parents, pre-adoptive parents, and relative caregivers of a child in foster care under the responsibility of the State of any proceeding to be held with respect to the child, and" after "highest State court".

SEC. 10. COURT IMPROVEMENT.

Section 438(a)(1) of the Social Security Act (42 U.S.C. 629h(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (C); and

(2) by adding at the end the following:

"(E) that determine the best strategy to use to expedite the interstate placement of children, including—

"(i) requiring courts in different States to cooperate in the sharing of information;

"(ii) authorizing courts to obtain information and testimony from agencies and parties in other States without requiring interstate travel by the agencies and parties; and

"(iii) permitting the participation of parents, children, other necessary parties, and attorneys in cases involving interstate placement without requiring their interstate travel; and".

SEC. 11. REASONABLE EFFORTS.

(a) In General.—Section 471(a)(15)(C) of the Social Security Act (42 U.S.C. 671(a)(15)(C)) is amended by inserting "(including, if appropriate, through an interstate placement)" after "accordance with the permanency plan".

(b) PERMANENCY HEARING.—Section 471(a)(15)(E)(i) of such Act (42 U.S.C. 671(a)(15)(E)(i)) is amended by inserting ", which considers in-State and out-of-State permanent placement options for the child," before "shall".

(c) CONCURRENT PLANNING.—Section 471(a)(15)(F) of such Act (42 U.S.C. 671(a)(15)(F)) is amended by inserting ", including identifying appropriate out-of-State relatives and placements" before "may".

SEC. 12. CASE PLANS.

Section 475(1)(E) of the Social Security Act (42 U.S.C. 675(1)(E)) is amended by inserting "to facilitate orderly and timely in-State and interstate placements" before the period.

SEC. 13. CASE REVIEW SYSTEM.

Section 475(5)(C) of the Social Security Act (42 U.S.C. 675(5)(C) is amended—

(1) by inserting ", in the case of a child who will not be returned to the parent, the hearing shall consider in-State and out-of-State placement options," after "living arrangement"; and

(2) by inserting "the hearing shall determine" before "whether the".

SEC. 14. USE OF INTERJURISDICTIONAL RESOURCES.

Section 422(b)(12) of the Social Security Act (42 U.S.C. 622(b)(12)) is amended—

(1) by striking "develop plans for the" and inserting "make";

(2) by inserting "(including through contracts for the purchase of services)" after "resources"; and

(3) by inserting ", and shall eliminate legal barriers," before "to facilitate".

SEC. 15. GAO STUDY ON CHILD WELFARE BACKGROUND CHECKS.

(a) STUDY.—The Comptroller General of the United States shall conduct a study of background checks that are performed for the purpose of determining the appropriateness of placing in a foster or adoptive home a child who is under the custody of a State. The study shall review the policies and practices of States in order to—

(1) identify the most common delays in the background clearance process and where in the process the delays occur;

(2) describe when background checks are initiated;

(3) determine which of local, State, or Federal (such as FBI) background checks are used, how long it takes, on average, for each kind of check to be processed, which crimes or other events are included in each kind of check, how the States differ in classifying the crimes and other events checked, and how the information revealed by the checks is used in determining eligibility to act as a foster or adoptive parent;

(4) examine the barriers child welfare agencies face in accessing criminal background check information;

(5) examine the use of the latest information-sharing technology, including electronic fingerprinting and participation in the Integrated Automated Fingerprinting Information System;

(6) identify the varied uses of such technology for child welfare purposes as opposed to criminal justice purposes; and

(7) recommend best practices that can increase the speed, efficiency, and accuracy of child welfare background checks at all levels of government.

(b) REPORT TO THE CONGRESS.—Within 12 months after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the Committees on Ways and Means and on Education and the Workforce of the House of Representatives and the Committees on Finance and on Health, Education, Labor, and Pensions of the Senate a report which contains the results of the study required by subsection (a).

SEC. 16. EFFECTIVE DATE.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this Act shall take effect on October 1, 2004, and shall apply to payments under parts B and E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(b) ELIMINATION OF OPT-OUT.—The amendments made by section 5(b) shall take effect on October 1, 2006, and shall apply to payments under part E of title IV of the Social Security Act for calendar quarters beginning on or after such date, without regard to whether regulations to implement the amendments are promulgated by such date.

(c) DELAY PERMITTED IF STATE LEGISLATION REQUIRED.—If the Secretary of Health and Human Services determines that State legislation (other than legislation appropriating funds) is required in order for a State plan under part B or E of title IV of the Social Security Act to meet the additional requirements imposed by the amendments made by a provision of this Act, the plan shall not be regarded as failing to meet any of the additional requirements before the 1st day of the 1st calendar quarter beginning after the first regular session of the State legislature that begins after the date of the enactment of this Act (or, in the case of the amendments made by section 5(b), the 1st day of the 1st calendar quarter beginning after the first such regular session that begins after the effective date of such section). If the State has a 2-year legislative session, each year of the session is deemed to be a separate regular session of the State legislature.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HERGER) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HERGER).

GENERAL LEAVE

Mr. HERGER. Madam Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. HERGER. Madam Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 4504, the Safe and Timely Interstate Placement of Foster Children Act of 2004. I am pleased to be a cosponsor of this bipartisan legislation sponsored by the distinguished majority leader from Texas (Mr. DELAY). I thank him for introducing this important legislation and for his dedication and efforts to ensure foster and adopted children are better protected.

Madam Speaker, since November 2003, the subcommittee that I chair has conducted numerous hearings examining the Nation's child protection system. We have heard testimony from more than 45 witnesses who all agree on one important point, our current system fails to protect children and, therefore, needs improvement. The legislation before us today is an important first step in our effort to ensure children are not needlessly lingering in foster care. This legislation would encourage States to expedite the safe placement of foster and adoptive children into homes across State lines. Currently, these placements take an average of 1 year longer than placements within a single State, delaying permanency with loving families for thousands of children.

H.R. 4504 would establish deadlines for completing home studies that assess whether the home is appropriate for a child. The legislation also authorizes up to $10 million in each of fiscal years 2005 through 2008 for incentive payments to the States for home studies completed in a timely manner. In addition, the bill includes provisions to better ensure safety for children and foster and adoptive homes and to give foster parents and relative caregivers a right to be heard and notice of any court proceedings held concerning a child in their care.

I thank my colleagues, Republicans and Democrats, for their support of our efforts to move this bill. I urge all my colleagues to join me in voting for this legislation so that we can ensure children are placed with loving families in a timely and safe way.

Madam Speaker, I reserve the balance of my time.

□ 1600

Mr. CARDIN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, when a child in foster care is waiting for a loving home, they should not have to wait an extra year to be placed in that home solely because it exists in another State.

Unfortunately, that is exactly what happens in many cases today. The interstate placement of foster children is too often delayed by bureaucratic red tape, the lack of communication, differing standards among States, insufficient resources, and sometimes just plain indifference. The truth is that when one is dealing with an out-of-state placement, a particular State does not give it the same attention it does to a placement within its own State. I therefore support this legislation to encourage States to expedite the appropriate placement of children across State lines.

The bill before us calls upon States to update a compact that dictates the process for interstate placement, and it requires States to expeditiously conduct home studies for children coming from other States.

Concluding these home studies, which evaluate whether prospective foster or adoptive parents can provide a safe and caring home for a child, has been one of the primary barriers to placing children across State lines.

The legislation attempts to focus States' attention on this problem by requiring the completion of home studies within 60 days and by offering financial bonuses for every study that is completed within 30 days.

I want to congratulate and thank the distinguished gentleman from Texas (Mr. DELAY), majority leader, for bringing this legislation forward and for working with both sides of the aisle to try to perfect this bill and to make it one that we hope can be enacted this year.

As a result of those discussions, some important changes have been made, and let me just point them out. First, the revised legislation now exempts the training of the foster and adoptive parents from both the 60- and 30-day home study timetables. Many States help prepare prospective adoptive and foster parents, and sometimes this training can take up to 3 months. We want to encourage such efforts; and, therefore, the new bill does not count training against a home study requirement and bonus.

Second, we recognize that factors beyond a State's control, such as waiting for an FBI background check or medical records, can sometimes prolong the home study process. The revised bill therefore gives States an additional 15 days, for a total of 75 days, to complete the home study in such circumstances.

And, finally, the new bill increases the bonuses for home studies completed within 30 days to $1,500 and clarifies that the $10 million a year will be authorized for these bonuses for the next 4 years. So the States can really plan on these new roles.

I should point out that one controversial provision remains in the bill that is not directly related to the goal of expediting interstate placements. The bill would eliminate the ability of States to determine their own standards for placing children with relatives of adoptive parents who have committed criminal offenses in the past. Mr. Speaker, my own State already complies with Federal standards in this area; and, therefore, I am not opposed to that provision in the bill. However, I understand that New York, California, and seven other States want the flexibility to make placement decisions on past offenses that may have happened many years ago. Those nine States now opt out of the Federal standards, an option that would be eliminated by this legislation. However, the revised bill does delay the effect of this change for 2 years, giving the States more time to modify those procedures.

Mr. Speaker, we have 500,000 children in foster care of which over 100,000 are ready for adoption. We need to remove barriers between these children and loving homes, and this bill takes a modest, but meaningful, step in that direction.

In closing, once again let me compliment the majority leader for allowing this Congress to focus on the issues of foster children. We have been able to do that in a bipartisan manner, and we have made some very constructive changes that have helped our most vulnerable children, and I congratulate him on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HERGER. Mr. Speaker, I yield 1 minute to the distinguished gentleman from Texas (Mr. DELAY), majority leader, the author of the bill.

Mr. DELAY. Mr. Speaker, I want to thank the gentleman for yielding me this time, and I want to also thank the gentleman from California (Chairman HERGER) and the distinguished gentleman from Maryland (Mr. CARDIN), ranking member, for their leadership on this legislation and in this area. They have worked tirelessly to understand the plight of abused and neglected children in this country, and we greatly appreciate the hard work that they have been doing.

I would also like to especially thank the staff from the Committee on Ways and Means, Matt Weidinger and Christine Devere, for their help on this bill. Nick Gwyn, from the minority staff, also contributed to this effort. The Congressional Research Service, Emilie Stolzfus and Karen Spar, provided technical advice on this bill that was greatly appreciated. In addition, I also want to thank Barbara Clark and Susan Orr with the Department of Health and Human Services for their work on this bill. But I especially want to thank Cassie Bevan on my staff. Dr. Bevan really shepherded this bill, and she has shown the love that exhibited in this bill is the exact kind of love that she has for children that are abused and neglected, the most innocent that are treated so badly by the adults that should love them and raise them. Dr. Bevan has done exemplary work in this area with this bill and in many other areas. And we are grateful to her.

Mr. Speaker, I am proud to have authored this bill and recommend it to my colleagues today. This legislation would streamline the system of which abused and neglected children in America are placed in foster and adoptive homes across State lines and brings hope to thousands of children every year who otherwise would spend their precious days in uncertainty and fear.

For the first time, it will set Federal deadlines for children's interstate placement to ensure both safety and timeliness by establishing Federal requirements.

Today in the United States an abused or neglected child who must be placed in a foster home outside their home State, often with a family member in another State, waits on average 1 full year longer to be placed than a child placed in-state. There is simply no justification for this inefficiency in this day and age. These kids need our help. Yes, prospective families must be found and screened. Background checks must be conducted, and the well-being of the child must always, always be the driving interest.

But an extra year just because a second government bureaucracy gets involved? An extra year of waiting for a permanent, forever family?

Not anymore, Mr. Speaker. Under this bill before us, once a child is deemed in need of an out-of-state placement, the State has 60 days to find the child a foster home or an adoptive home and 14 days to approve that home. And on top of that, it creates a financial incentive of $1,500 for States that complete their home study in 30 days.

These abused and neglected children should not be treated like second-class citizens or lower priorities just because they have to move out of their home State to be loved. To ensure these children's safety, this bill will also set Federal requirements for the criminal background checks States must conduct to screen prospective foster parents. It will end the ability of States to "opt out" of Federal criminal background requirements to prevent children from ever being placed into the home of anyone who has had a felony conviction involving violence or children.

It also provides 2 years for all States to get into compliance with Federal law so that by October, 2006, every placement in the country will be done with the same commitment to safety and timeliness.

Let us just be real clear about what we are talking about here. These children have not known the kind of lives they were meant to lead. They have been abused and neglected by the very people who are supposed to love them the most. They have been beaten, malnourished, terrorized, and in many cases sexually abused. Things have gotten so bad in their lives that the State has been forced to step in to offer the child protection.

A family has volunteered to create a loving home for this child, and yet because of bureaucratic inefficiency and out-of-touch policies, these children are left to suffer alone with their fear and their bruises for another lost year of their young lives. Unacceptable. Unacceptable.

This bill will get these children out of their personal hells and into the arms of a loving family quickly and safely. Sixty days is more than enough to make necessary background checks and to ensure the quality of the prospective foster or adoptive parents, as evidenced by the widespread support for this legislation among groups dedicated to the protection of abused and neglected children like the National Foster Parent Association, the National Association of Psychiatric Health Systems, the Consortium for Children, the National Council for Adoption, and the National Council of Juvenile and Family Court Judges.

The people closest to the movement to reform the foster care system in America support this bill, Mr. Speaker. Current law allows children in need of an out-of-state placement to wait an extra year to find a family and does not ensure that ultimate placement is safe.

Current law is a cruel and callous insult to these children and the responsibility of the Nation to care for them. Current law, Mr. Speaker, must change. And if it does not and Congress adjourns without acting and an abused and neglected child dies in a State that has opted out of the Federal system, our failure to act will be the reason.

So I urge my colleagues not to let things reach that point. Act now in the interest of abused and neglected children who are today just hoping for a chance to hope. Give them that chance, Mr. Speaker, and support this legislation.

Mr. CARDIN. Mr. Speaker I yield 4 minutes to the distinguished gentleman from Washington (Mr. MCDERMOTT), a member of the Committee on Ways and Means.

Mr. MCDERMOTT. Mr. Speaker, I want to thank the gentleman from California (Mr. HERGER) for bringing this legislation to the floor today.

Often this close to an election, we waste a lot of time on nonsense aimed to affect the election. But today's bill is really important because it aims to improve the chances of foster children to find permanent homes more quickly. This bill provides incentives to States that quickly place out-of-state children into permanent homes. But it also penalizes States that place children too slowly.

I am concerned that there may be situations where the delays in placement are caused by Federal agencies, not by State mismanagement; and I would like to ask the gentleman from California to engage me in a brief colloquy.

Since the bill calls for a government study to look at the reasons for delays in conducting background checks on prospective adoptive and foster parents, is it the gentleman from California's intention to work with me and my colleagues to address any barriers that the study finds especially at the Federal level?

Mr. HERGER. Mr. Speaker, will the gentleman yield?

Mr. MCDERMOTT. I yield to the gentleman from California.

Mr. HERGER. Mr. Speaker, I thank the gentleman from Washington for his support of this important legislation.

And as he has mentioned, the legislation requests that GAO study the reasons for delays in conducting background checks, and I am very interested in what the GAO has to say on these issues given the importance of completing home studies in a timely manner so children may quickly, but safely, be placed into permanent homes. I hope we can continue to work together to explore these issues, building on what the GAO reports to us.

I thank the gentleman for his interest in this important issue and for his support of the legislation before us.

Mr. MCDERMOTT. Mr. Speaker, I thank the gentleman for his response. We look forward to working with him.

Mr. HERGER. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CAMP), a member of the Committee on Ways and Means and the Human Resources Subcommittee.

Mr. CAMP. Mr. Speaker, I thank the chairman for yielding me this time, and I also want to thank the distinguished gentleman from Texas (Mr. DELAY), majority leader, for his long record of leadership on foster care issues as well as on this particular legislation today.

This time of year I often get asked: What am I proud to have accomplished as a Member of Congress? And I am sure many of my colleagues get the same question. For me it is an easy question to answer. It is our work on adoption issues and moving children in foster care into safe, permanent, loving homes.

Together we have accomplished a lot for abandoned children, and today we can do even more. It is odd to think that after years of work on this issue, bringing regularity to international adoptions, providing greater incentives to adopt older and special needs children, helping new parents with the enormous financial cost to giving a young child a new lease on life, that something as simple as a State boundary line is delaying kids from finding true happiness and the unconditional love of a mother and father.

H.R. 4504, the Safe and Timely Interstate Placement Act of 2004, is a bipartisan piece of legislation that will expedite the safe placement of foster and adoptive children into permanent homes across State lines. Currently, these placements take more than 1 year longer than placements within a State's borders. We should not, and cannot, allow that to continue.

This legislation takes a commonsense approach to helping our Nation's foster children. It sets reasonable deadlines for completing and responding to interstate home studies and provides financial incentives for meeting those deadlines.

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It also ensures children are protected by requiring all States to follow Federal criminal background check procedures for perspective foster and adoptive parents.

This is good policy. It will help children find the family they deserve. I urge my colleagues to vote "yes" on H.R. 4504.

Mr. CARDIN. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Speaker, I rise today to speak on behalf of the 30,000 youth in the Los Angeles County foster care system. The goal for our foster care system is to find a permanent, loving family for each child and to ensure their well-being.

The focus of this bill is interstate placement, an excellent way to place children with relatives. This bill will help to achieve this goal. But my concern is this: after 2 years, H.R. 4504 would eliminate an opt-out provision for FBI background checks for all States.

The California County Welfare Directors Association concurs that this provision presents a problem for my home State of California, which already performs more rigorous background checks than required by the Interstate Compact on the Placement of Children. The 9/11 Commission has told us the FBI is already having difficulty performing background checks for homeland security needs. States cannot rely on the overburdened FBI to accelerate interstate placements of children. Our foster care children would have to compete with criminals and terrorists for time.

Foster care youth need to be placed in safe, loving homes. I would ask, Mr. Speaker, to give the Congress the opportunity to revisit this mandatory background check provision before the 2-year reprieve is over so that States like California can continue with their more rigorous background checks. I will work with the author to maybe have a provision that would do that.

Mr. CARDIN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from California (Mr. CARDOZA), one of the cosponsor of this legislation.

Mr. CARDOZA. Mr. Speaker, I rise in support of H.R. 4504 sponsored by the House majority leader, the gentleman from Texas (Mr. DELAY). As Members from opposing sides of the political spectrum, I praise the gentleman from Texas (Mr. DELAY), and I could not be more proud to be here today in support of a common goal, moving our Nation's most precious children into safe and permanent homes.

As an adoptive parent myself, I have seen firsthand the glaring problems our foster care system is currently facing. At any given time in the United States, there are roughly 500,000 children in foster care, moving from placement to placement, often living out of a suitcase, in hopes that one day a loving family will welcome them into their home.

H.R. 4504, the Safe and Timely Placement of Foster Children Act, addresses one specific, yet extremely important, aspect of the system, interstate adoptions. Often an impediment to a foster child's placement in a permanent home happens when a child from one State is being adopted by a family in another State. The State where the family resides must complete a home study in order to verify that the placement is safe, secure, and ready for the new child. Often these types of home studies are a low priority for the State where the adoptive family resides and can lead to delays of months and even years in the adoption process.

This legislation we are considering today would establish a 60-day deadline for completing an interstate home study. If a State completes the home study within 30 days, this bill would authorize a $1,500 incentive payment for the completed home study to be used for adoption-related expenses.

The children that this bill seeks to help are needy, neglected children without a voice who desperately want to have a home, something all of us take for granted. They want to go to the same school with the same friends for more than a few months at a time. They want someone to tuck them in at night and help them with their homework. They want to stop living out of a black plastic garbage bag that doubles as a suitcase. They want a real home, and they want to be loved.

Over the years I have met with numerous kids from all over the country who are in various stages of foster care. I have heard great stories where children were reunited with their biological parents or are placed in loving, caring adoptive homes, like my own children are. But I have also heard other stories that have just made me sick to my stomach.

One young boy I met at a school for foster children in my district told me the story of his life that seemed quite fitting for this debate today. He had been placed in foster care at an early age and had been moved in and out of seven different homes up and down the State of California. As you can imagine, he grew jaded and resentful from the harsh life he was forced to live.

Finally he, was placed with a family that saw through his rough exterior and who wanted to adopt him. This young boy was convinced that he had finally found a real home with devoted parents. Soon after he was placed in this foster family, however, the father was transferred to North Carolina and the family was forced to move. Unfortunately, they could not get the paperwork processed between California and North Carolina in order to facilitate the adoption, so this young boy was left behind and is now residing in a group home.

It is our job as Members of Congress to be a voice for these children and make sure their dreams are realized. We owe it to them to streamline the adoptive process and make Federal law work for positive outcomes. If that means requiring States to get their act together, then so much the better.

Mr. CARDIN. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Alabama (Mr. CRAMER).

Mr. CRAMER. Mr. Speaker, I rise today in strong support of H.R. 4504, the Safe and Timely Interstate Placement Act of 2004. I congratulate the gentleman from California (Mr. HERGER) and the gentleman from Maryland (Mr. CARDIN) as well for bringing this very important piece of legislation to the floor of the House in what might be one of our last weeks in session here. I also want to congratulate the majority leader for the passion he has brought to this issue as well.

We have had many discussions about the plight of those children that do not have a safety net under them, particularly foster children, and foster children that could be eligible for adoption as well.

I began my career after law school as an assistant district attorney, and I was assigned to juvenile court. In those days in Alabama we were to assist the welfare department with issues of removal of children. I learned more than I ever wish I had to learn about children that were in foster care, vulnerable children, abused children, physically abused, sexually abused, and often both as well.

What I found out the hard way, though, is that the system does not protect those children. The bureaucracies work against what we can do to place and protect those children. I got actively involved with the Foster Parents Association down there in north Alabama, and their frustrations with the bureaucracy were many.

This piece of legislation today accomplishes just about everything that we need to accomplish. It deals with the placement of children across State lines, and the bureaucracies have worked against that. My colleagues have pointed out how much longer it takes to place those children.

This legislation as well speaks to States that have opted out of Federal requirements. There should be criminal background checks. There should be restrictions on who is eligible to adopt children. Most States are not doing those background checks, and consequently most of those States are not protecting children the way they should. So this makes this uniform.

Another important issue that is covered in this legislation is it authorizes up to $10 million through fiscal year 2008 for incentive payments to the States for $1,500 for each interstate home study completed within 30 days. It wants to force the States to do those home studies quicker.

Mr. Speaker, this is a good piece of legislation, it should not be controversial, and our Members should support it.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, I would just urge my colleagues to support this very important bill, and I compliment the manner in which it was handled in this body, improving the legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleague, the gentleman from Maryland (Mr. CARDIN), and all of the gentlemen and gentlewomen we have worked with on this bipartisan legislation. The legislation we are considering today is an important step that will ensure timely and safe homes for children.

It also has the support of the Bush administration, which today issued a statement of administration policy. This statement says the following: "The administration supports House passage of H.R. 4504. This bill would help speed up the interstate adoption process so that children could be placed in permanent, loving homes more quickly by authorizing the Department of Health and Human Services to make incentive grants to States that complete timely interstate home studies.

"The administration is particularly pleased that the House bill includes a provision that eliminates the ability of States to opt out of requirements to conduct criminal background checks on foster and adoptive parents."

Mr. Speaker, I thank the administration for their support, and I urge all my colleagues to join us in support of this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased to be here today to support the "Orderly and Timely Interstate Placement of Foster Children Act of 2004." This act amends the Social Security Act to require each State to have procedures for orderly and timely placement of children, in foster care or for adoption.

In addition, this bill directs the Secretary of Health and Human Services to make incentive grants to States that complete timely interstate home studies. It also revises requirements for checking of child abuse registries to eliminate an opt-out provision.

Because of this act, we will allow access to the Federal parent locator service to courts in foster care or adoptive placement cases. It also provides for consideration of out-of-state placements in permanency hearings, case plans, and case reviews.

As chair of the Congressional Children's Caucus, I have dedicated a significant portion of my congressional services to this issue of children. Children entering foster care are often in poor health. Compared with children from the same socioeconomic background, they have much higher rates of serious emotional and behavioral problems, chronic physical disabilities, birth defects, developmental delays, and poor school achievement according to Child Welfare Statistical Fact Book.

In my state of Texas we have a Child Population of 5,629,200. There are 17,103 in state care; 6,002, or 30.5 percent, are African American children. African American children, who made up less than 16 percent of all children under age 18, accounted for 38 percent of foster children in 2001, a total of 204,973.

White children, who made up 62 percent of American children, accounted for 37 percent of foster children. Hispanic children, who made up 18 percent of U.S. children, accounted for 17 percent of foster children.

Alcohol and drug abuse are factors in the placement of more than 75 percent of the children who are entering foster care. Children who lose their parents to AIDS are another group in need of foster care. In addition, increasing numbers of children who are HIV infected are in foster care.

An estimated 80,000 healthy children will be orphaned by AIDS in the next few years, with approximately one-third of that number expected to enter the child welfare system. Some conservative estimates are that about 30 percent of the children in care have marked or severe emotional problems.

According to a GAO study, 58 percent of young children in foster care had serious health problems; 62 percent had been subject to prenatal drug exposure, placing them at significant risk for numerous health problems.

Children in foster care are three to six times more likely than children not in care to have emotional, behavioral and developmental problems including conduct disorders, depression, difficulties in school, and impaired social relationships.

The health care children receive while in foster care is often compromised by insufficient funding, poor planning, lack of access, prolonged waits for community-based medical and mental health services, and lack of coordination of services as well as poor communication among health and child welfare professionals.

The Child Welfare League of America (CWLA) worked with the American Academy of Pediatrics (AAP) to develop standards for the health of foster children. However, many child welfare agencies lack specific policies for children's physical and mental health services and state Medicaid systems rarely cover all of the services these children require.

We need a more comprehensive, inclusive health care system to protect our Nation's foster children. To begin with, all children entering foster care should have an initial physical examination before or soon after placement. This examination should focus on identifying acute and chronic conditions requiring expedient treatment, so the condition does not worsen or become unmanageable. It is better for the child, for the foster parent, and for state Medicaid programs to urge an early diagnosis and treatment.

All children in foster care should receive comprehensive mental health and developmental evaluations, either before placement or soon after. Although they live with a family, the child in foster care requires physical, developmental, and mental health status monitoring more frequently than children living in stable homes.

Finally, child welfare agencies and health care providers should develop and implement systems to ensure the efficient transfer of physical and mental health information among professionals who treat children in foster care. The ability to communicate about medical histories and previous problems will make diagnosis and treatment easier and more affordable, and also provide the child with a more complete medical background.

We in Congress can see that more is done to hold social services accountable for maintaining the health and well being of these children. We can work to have more funds efficiently spent on the federal level to help these children. These are our most precious resource of the future, let us come together to work to protect it.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of H.R. 4504. There are currently approximately 540,000 children in foster care in our country. In my home state of Illinois, 5 percent of our children, approximately 28,460 children are in foster care. The number of kids in foster care has doubled from 1987 to 2004. Nearly half of today's population of foster kids are under the age of ten.

I commend the gentleman from Texas, Mr. DELAY for this legislation. The idea of providing an opportunity for children who could not experience family life, to give them the opportunity to have the well-being, the nurturing of a family rather than being institutionalized or as a ward of the State is of tremendous value. I simply want to add my voice in support of it.

Mr. HERGER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the bill, H.R. 4504, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to improve protections for children and to hold States accountable for the safe and timely placement of children across State lines, and for other purposes.".

A motion to reconsider was laid on the table.

SENSE OF CONGRESS RECOGNIZING CONTRIBUTIONS OF SEVEN "COLUMBIA" ASTRONAUTS

Mr. ROHRABACHER. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 57) expressing the sense of the Congress in recognition of the contributions of the seven *Columbia* astronauts by supporting establishment of a Columbia Memorial Space Science Learning Center, as amended.

The Clerk read as follows:

H.J. RES. 57

Whereas the crew of the space shuttle Columbia was dedicated to scientific research and stimulating the interest of American children in space flight and science;

Whereas the Columbia crew carried out science projects of American schoolchildren;

Whereas the members of that crew gave their lives trying to benefit the education of American children;

Whereas a fitting tribute to that effort and to the sacrifice of the Columbia crew and their families is needed;

Whereas an appropriate form for such tribute would be to expand educational opportunities in science by the creation of a center and museum to offer children and teachers activities and information derived from American space research;

Whereas the former manufacturing site of the space shuttles (including the Columbia and the Challenger) in the city of Downey, California, is a fitting site for such a tribute;

Whereas residents of Downey are proud of their role in building the space shuttle fleet and in furthering the Nation's space program; and

Whereas city officials have been working with NASA representatives to develop the center in Downey: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That it is the sense of the Congress that—

(1) the space science learning center in Downey, California, should be designated as the Columbia Memorial Space Science Learning Center as a living memorial to the seven Columbia astronauts who died serving their country in the name of science and research; and

(2) the Federal Government, along with public and private organizations and persons, should continue to cooperate in the establishment of such a center.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROHRABACHER) and the gentleman from Tennessee (Mr. GORDON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROHRABACHER).

GENERAL LEAVE

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.J. Res. 57.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, since the beginning of time, a thirst for knowledge has been the greatest of motivations for discovery and exploration. Our passionate pursuit of the unknown has resulted in opening new frontiers and tremendous technological and other opportunities that benefit humankind.

There are no better examples of this spirit than the courageous crew of the Space Shuttle *Columbia*. They made the ultimate sacrifice, we say paid the ultimate sacrifice, so we could exceed our limitations in exploring the heavens. This resolution is a fitting tribute to the *Columbia* crew, who dedicated their lives to scientific research and space exploration.

The fact that on their fateful mission they conducted experiments designed by school children demonstrates the value that the *Columbia* crew placed on young people. They believed in the participation of young people and the involvement of young people in America's space experience.

H.J. Res. 57 will continue this exalted tradition by inspiring future generations of American children to pursue opportunities in science and engineering and by providing them a facility with a history that is tied directly to the Space Shuttle program.

I visited the Downey facility, which will become, when this resolution passes, this space learning center, as a young reporter in the 1970s. At that time, I remember that I was ushered into this aerospace facility. It was a large building, and I was ushered in there to cover my story, and I was ushered right to the first mock-up of the Space Shuttle. It was in this Downey facility where the space shuttles were put together and designed. Certainly seeing that first mock-up, before there ever was a Space Shuttle, inspired me as a young reporter; and I am certain it will inspire young people as well.

As far as my inspiration, I went on later on after my journalism career to be a speech writer for Ronald Reagan.

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It was my honor to work with President Reagan on several of his remarks dealing with the return of the first shuttles that were put into orbit and into space. So that bit of inspiration that the shuttle mock-up had on me paid off with dividends for the President of the United States and for the people of the United States.

I would think that the young people who go through this center will also, with their inspiration, serve our country and the cause of humankind well into the future; and this, of course, is a wonderful gift that we can give them that is tied to this history of the shuttle.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I join my friend, the gentleman from California (Mr. ROHRABACHER), in support of H.J. Res. 57 which recognizes, through a sense of Congress, the contribution of the seven *Columbia* astronauts by supporting the establishment of a Columbia Memorial Science Learning Center in Downey, California.

The *Columbia* shuttle accident was a great tragedy in American history. These courageous astronauts were dedicated to scientific research and stimulated the interest of American children in space flight and science. The crew members gave their lives in trying to benefit the education of American children.

Accordingly, an appropriate tribute to their memory would be to expand educational opportunities in science by the establishment of a center and museum to provide children and teachers with activities and information derived from American space science and research.

A fitting site for such a memorial is the former manufacturing site of the space shuttles, including the *Columbia* and *Challenger*, in the city of Downey, California. City officials have worked diligently with the NASA officials to develop this center. As a result, it is both appropriate and important for Congress to endorse this effort.

Mr. Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 30 seconds.

I would like to pay a special tribute at this time to the gentlewoman from California (Ms. ROYBAL-ALLARD) for the hard work that she put in on this effort. She has been working with local government in that area, as well as the rest of us, to try to make sure that this facility would be put to good use for the benefit of our country and for the benefit of young people.

So as we move forward with this legislation, we need to make sure that we thank the gentlewoman from California (Ms. ROYBAL-ALLARD) for her hard work on the project.

Mr. Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. BARTLETT), an esteemed member of our committee, and a Ph.D. whose guidance and thoughtful reflection have helped many of us on the Committee on Science on very complicated issues.

Mr. BARTLETT of Maryland. Mr. Speaker, recognizing the contribution and sacrifice of our brave astronauts is certainly reason enough to support this resolution, but there may be a justification which is equally important.

For a number of years now, decreasing numbers of our young people have aspired to careers in science, math, and engineering. This puts us at a competitive disadvantage with the rest of the world. Indeed, many of our companies in this country must solicit overseas for workers in these technical areas because we simply are not turning out enough in this country.

For the short term, this is a threat to our economic superiority. We will not continue to be the world's premier economic power if we do not turn out scientists, mathematicians, and engineers in adequate numbers. For the longer term, it is a threat to our national security. Our military prowess is now the envy of the world. That cannot continue to be so for the future if we do not turn out well-trained scientists, mathematicians, and engineers in large enough numbers.

Hopefully, as young people come to this learning center, they will be inspired once again to pursue careers in science, math, and engineering. This will be good for them. It will certainly be good for our country.

Mr. GORDON. Mr. Speaker, I yield 4 minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I cannot thank this bipartisan effort enough for honoring our friends and neighbors from Houston, Texas, who died in the *Columbia* Seven Tragedy; and to also thank the distinguished gentlewoman from California (Ms. ROYBAL-ALLARD) for her leadership and her vision on this issue. I look forward to hearing her remarks as she captures for us the importance of what this space science center will represent, a living testimony to the bravery of the seven *Columbia* astronauts who died serving their country in the name of furthering scientific research.

The establishment of this center will provide a venue that will inspire those who may be our future astronauts, scientists, and engineers and will help people of all ages enhance their knowledge of science and to value technology in their daily lives.

We were certainly excited about the successful flight yesterday of SpaceShipOne, the world's first privately funded, manned spacecraft. I know that the gentleman from California (Mr. ROHRABACHER) and myself, who sit on the Subcommittee on Space and Aeronautics, and although I may be championing human space flight in a very loud tone, coming from NASA Johnson in Houston, we are all very excited about the potential of commercial space flight and the opportunities that it will bring about.

This great center, educational learning center, will hopefully train the astronauts of tomorrow and certainly be part of eliminating the fear and encouraging the excitement that space exploration brings about.

Let me say to my colleagues that America is not America without its commitment to space exploration. I am reminded of the leadership John F. Kennedy gave and the sparkle in the eyes of those who were able to hear and listen to his words and watch him speak. I believe President Kennedy said it well in 1962 in my hometown of Houston when declaring his commitment to putting a man on the Moon by the end of the decade. Well, Mr. Speaker, we have had men and women who have made their journey into space since that time.

He said, "This generation does not intend to founder in the backwash of the coming age of space. We mean to be a part of it. We mean to lead it. For the eyes of the world now to look into space, to the Moon, and to the planets beyond; and we avow that we shall not see it governed by the hostile flag of conquest, but by a banner of freedom and peace. We have vowed that we shall not see space filled with weapons of mass destruction, but with instruments of knowledge and understanding."

With that, I also say that I believe it is important for the Committee on Science and, particularly, the Subcommittee on Space and Aeronautics to take up the challenge that has been given to us by the naming of this great center, to ask the hard questions about safety. A number of my colleagues have written a letter to ask for a full hearing on the questions of safety of human space flight and, as well, to address the question of safety with respect to the International Space Station.

I also would ask my colleagues to help me additionally honor the *Columbia* Seven by joining and supporting the *Columbia* Seven receiving the Congressional Gold Medal with over 320 sponsors of this House, along with sponsors of the United States Senate, the other body, as I am not allowed to mention the other body. Let us honor them, for they were brave, and let us pay tribute to this great resolution, H.J. Res. 57, that the gentlewoman from California (Ms. ROYBAL-ALLARD) has so ably presented before us, and pay tribute to her for her leadership and as well thank her for bringing honor to the *Columbia* Seven.

Let us join again in honoring them by supporting the Congressional Gold Medal for the *Columbia* Seven, because that brings additional tribute to their families, and let us again support the exploration of space by those learning to understand space and those still wishing to go into space.

Mr. Speaker, I am here today to support H.J. Res. 57 designating the space science learning center in Downey, California as the "Columbia Memorial Space Science Learing Center" as a living memorial to the seven *Columbia* astronauts who died serving their country in the name of furthering scientific research. The establishment of this center will provide a venue that will inspire those who may be our future astronauts, scientists, and engineers and will help people of all ages enhance their knowledge of science and to value technology in their daily lives.

Yesterday's news about the successful flight of SpaceShipOne the world's first privately funded manned spacecraft—its second flight in less than a week—is proof of the continued excitement for space travel and the science that supports it. Few were able to witness yesterday's flight. This new center will help to bring those experiences to the public.

The naming of this center will help us to remember the sacrifices that the *Columbia* astronauts have made to their country and in the furtherance of science. The seven astronauts whose lives were lost aboard the space shuttle *Columbia* were truly extraordinary people. To the world those astronauts were valiant heroes; to those of us from Houston, they were also friends, neighbors, and family. They were integral members of the community, and they paid the ultimate price to further a mission that benefited all of humanity.

The courageous astronauts aboard the *Columbia* were individuals of the highest caliber, always striving for excellence, and exemplifying the most noble of human traits. They were skilled professionals, scientists, clinicians, adventurers, and family men and women. The crew represented the diversity of our Nation—black and white, men and women, immigrant and native-born. The crew even included a comrade from Israel, the embodiment of the international goals of peace and cooperation.

I believe President Kennedy said it well in 1962 in my hometown of Houston, when declaring his commitment to putting a man on the moon by the end of that decade. He said,

"This generation does not intend to founder in the backwash of the coming age of space. We mean to be a part of it—we mean to lead it. For the eyes of the world now look into space, to the moon and to the planets beyond, and we have vowed that we shall not see it governed by a hostile flag of conquest, but by a banner of freedom and peace. We have vowed that we shall not see space filled with weapons of mass destruction, but with instruments of knowledge and understanding."

I believe that President Kennedy would have been proud to see the fantastic progress of the program that he so inspired that day. Today, NASA provides insights into the origins, destiny, and wonder of the universe and is a source of dreams for young and old alike

Beyond the technological benefits of space exploration, NASA's courageous pioneers also inspired the youth of America in a way that only manned space missions can. The majesty and adventure of seeing people traversing the heavens sparks the natural curiosity and imagination of young people. It nudges some toward science and math and pushes all to strive for excellence. Seeing a team, like that on the *Columbia* inspires young engineers, scientists, and all sorts of people who want to be part of something truly great and noble. That inspiration may well be the *Columbia* crew's most enduring impact on humanity. Centers like the "Columbia Memorial Space Science Learning Center"—itself located on an historic NASA site—are important in bringing that inspiration to the public.

Mr. ROHRABACHER. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, as we move forward in this discussion, I believe that the words of the gentleman from Maryland (Mr. BARTLETT) and, of course, the words of the gentlewoman from Texas (Ms. JACKSON-LEE) should be taken very seriously when we are talking about young people and the molding or melding here of our space program along with the education of America's youth.

This has been a great experience for me in that it may be my last time as chairman of the Subcommittee on Space and Aeronautics to address this House on an issue. I have been the chairman for 8 years, and let me just note that I have thoroughly enjoyed being the chairman of this subcommittee because by its nature, America's space program brings our people together, and by its nature then, we have had a tremendous bipartisan, positive relationship in our subcommittee and on our committee staff.

One of the projects I have worked on which I have yet to complete in terms of my ultimate goal, but one of the projects I have worked on and on which I have had some tremendous support from both sides of the aisle, is providing young people who want to study math and science and engineering full scholarships that would be set up by the various departments and agencies of our government, NASA in particular, in order to mold the education of young people so that they can fulfill the needs of these various departments for skilled people in the future, while at the same time providing engineering and scientific education for our young people.

These scholarships, by the way, would not be free; they would educate young people, and once the young person is done with the education, having received a full scholarship, for every 1 year of scholarship, they would be expected to work for that department or agency of government for 2 years. It would be a payback, one might say, although the student would then be receiving full pay like any other employee of that department.

Mr. Speaker, I will be working on that project for the next few years, and I would hope for this same spirit of bipartisanship that we hear today, and as we congratulate the gentlewoman from California (Ms. ROYBAL-ALLARD) for her hard work today on behalf of children and the space program, that we would work together to try to implement the scholarship program that I have just outlined. And I will be making it a priority in my next few years in Congress, although I will not be the chairman of the Subcommittee on Space and Aeronautics anymore.

Mr. Speaker, I reserve the balance of my time.

Mr. GORDON. Mr. Speaker, I yield 4 minutes to the gentlewoman from California (Ms. ROYBAL-ALLARD), the original sponsor of this important bill.

Ms. ROYBAL-ALLARD. Mr. Speaker, I am proud to rise in support of House Joint Resolution 57, which I introduced last year with my distinguished colleague, the chairman of the Subcommittee on Space and Aeronautics, the gentleman from California (Mr. ROHRABACHER).

I thank the gentleman from California (Mr. ROHRABACHER) for his support and his assistance in bringing this resolution to the floor. This resolution, I am proud to say, has the unanimous support of the California delegation in the House of Representatives, and I thank all of them for their sponsorship.

Mr. Speaker, House Joint Resolution 57 names the proposed learning center in the city of Downey the Columbia Memorial Space Science Learning Center. This naming is in honor of the seven brave astronauts who lost their lives on the Space Shuttle *Columbia* on February 1, 2003.

The city of Downey, which I am proud to say is in my 34th Congressional District, was home to the former Rockwell International plant where key components of NASA's space shuttle fleet, including the *Columbia*, were built. The history of America's space program runs deep through the fabric of Downey where virtually everyone in the city boasts of having a relative or a friend who played a key role in engineering or building our Nation's space shuttle fleet.

When NASA closed the shuttle manufacturing facility, it was Downey's great pride in its space heritage that motivated city leaders to incorporate a space science learning center as a cornerstone of its economic redevelopment plan. Former Representative Steve Horn's early support was key to this effort, and his ability to secure Federal resources for the center was instrumental in moving the project forward.

I am pleased to continue his work and to be able to have finalized the transfer of the former NASA site from the State of California to the city of Downey. When completed in 2006, the learning center will memorialize the *Columbia* astronauts, the rich space history of Downey, and all who helped realize our Nation's dream of space exploration.

To effectively teach current and future generations about this proud history, Downey has contracted an historian familiar with aeronautic development and its special context in southern California.

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His or her work will be the principle source for history-oriented exhibits and programs at the center. The Columbia Learning Center, however, is also about the future of space exploration. Downey's leaders recognize that the city's legacy goes beyond astronauts and aeronautical engineers or the shuttles, Apollo modules, and moon capsules that were built in Downey during the last half century.

They know the future lies in our youth. The Columbia Memorial Space Science Learning Center will therefore design programs and exhibits to excite our youth about the sciences and to inspire them to become our country's future scientists, engineers and astronauts who will explore the universe and make discoveries we can now only imagine.

I cannot think of a more fitting memorial than to name the Downey Space Science Learning Center in honor of the brave men and women of the *Columbia* crew who gave their lives in the pursuits of space science and space exploration.

I am proud to sponsor this legislation with the gentleman from California (Mr. ROHRABACHER) and the entire California delegation, and I urge its adoption.

Mr. GORDON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we conclude this important bill, I would just like to say that I served as the ranking member of the Subcommittee on Space and Aeronautics with the gentleman from California (Mr. ROHRABACHER) for most of those 8 years.

In my 20 years in Congress, I have not served with a more fair, decent or knowledgeable chairman as the gentleman. And I will also say that, within his discretion, which was most of the time, he could not have been more bipartisan in trying to find solutions to our joint concerns. So I very sincerely say that the Subcommittee on Space and Aeronautics, the Committee on Science, our country is a better place for the gentleman's service to the Committee on Science.

Ms. JACKSON-LEE of Texas. Mr. Speaker, will the gentleman yield?

Mr. GORDON. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I was just listening to the final remarks of the gentleman when I was standing here. I was not recognizing that we are towards the end of the session and that we are coming to an end of a tenure. I might have been one of those that put in a petition for the extension of the chairman's tenure. But I just want to join my ranking member and congratulate the gentleman from California (Mr. ROHRABACHER) for many of the bipartisan efforts and journeys that we have taken.

We have a mutual love of space exploration. We have teased each other about unmanned and manned in space, and I will change that to womaned and unwomaned. But in any event, I, too, want to add my appreciation. I will continue to work with him as he works with me in supporting not only this great resolution but also the Congressional Gold Medal that honors our *Columbia* seven as well.

I thank the distinguished ranking member for yielding to me, and I thank him for his support on the Congressional Gold Medal work and the legislation before us.

Mr. GORDON. Mr. Speaker, I would say that all the men and women on our subcommittee on my side of the aisle would echo those remarks.

Mr. Speaker, I yield back the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is a fitting time for me to sort of step down because we had this tremendous success yesterday on Spaceship One. And one of my major goals as chairman of this committee was to make sure that commercial space remained an option so that in the future that we did not look at space as just an endeavor of the Federal Government, but instead looked at it as possibly offering services through the commercial sector and profit-making ventures as well as space exploration and some of the other types of things in space science that can only be done by the government itself or government working with private industry.

So this great achievement of having a commercially sponsored and designed and paid-for spaceship that went into space and was capable of carrying passengers, this was a great success. And I want to commend everyone who was involved in the spaceship program.

By the way, that was done in response to a prize, the X Prize, which offered a $10 million prize to anyone who could accomplish that mission. And I will be introducing legislation within the next few days to try to systemize the prize concept encouraging space endeavors in developing new technologies.

Finally, Mr. Speaker, let me finish with this one note about space. We were talking a lot today about this particular legislation which is aimed at providing a link between children's learning and our future and the space program and the astronauts and the space shuttle, and these are links that certainly exist. But what we hear most often when we are talking about space is, why is space worth it? Why are we so involved? Why is there a space subcommittee of the Committee on Science? Why are we spending so much time, effort and money? Is it really worth the investment?

What I would like to leave in this debate and on the record is why our investment in space has been so valuable to the people of the United States and, yes, the people of the world.

I remember when I was a young boy, that I crawled into a pit underneath a little house in North Dakota because it had been reported that tornados were expected that night. And we had to spend the entire night listening to some little radio there in a hole in the ground underneath the floor boards of this small farm. And, in fact, today, we have the small farmers and people throughout the country and people in cities that know when tornados are coming and have adequate warnings.

There has been much progress made in this area, especially in the area of tornados and hurricanes.

I sat through a hurricane when I was younger. The people of Florida, one can only wonder how many more billions of dollars would have been lost in damage and lives would have been lost if it would not have been for the satellite technology that permitted us to track the hurricanes that slammed into Florida just recently. We had ample warning to people to prepare. We now have a GPS system that will tell us where we are located on the planet which has tremendous commercial applications but also tremendous applications to make sure that, in the future, our landing systems for our airplanes will be specifically guided to protect the passengers who travel throughout the country.

I remember, before there was space imaging, and as I say, my family came from a farming background where people farmed totally different. Today's space imaging helps us improve the yield and protects the crops that we plant so it helps keep the cost of food down. In each one of these instances, we are talking about billions upon billions of dollars that are saved by the people of the United States and the world by an investment in space.

We are talking about communication satellites. When I was young, I remember calling up my grandparents in North Dakota, and it was a long distance call. We called very rarely, maybe two or three times a year, because the call was so expensive, and we had to go through so many operators, and it was so disruptive. It was $5 at that time which was a lot of money. We rarely called. But, today, young people can call up their grandparents on cell phones from anywhere, aided of course and made possible by the investment that we made in space-based assets. Those telephone calls now cost a matter of cents. We have increased the communications between generations. People call their loved ones.

Our investment in space has increased the level of love in our society and saved us billions of dollars. And, of course, we have, the biggest issue when I first came to this Congress was what? The biggest issue was, should we regulate the cable industry, cable TV? And, of course, they said, there will never be any competition with cable TV because they have to put in the cables.

Well, I, for one, have Direct TV at my house, and that competition has kept the costs of cable down, and it has just proliferated information and entertainment, made our lives happier throughout the country and saved, again, billions of dollars because of that competition in keeping down the cost of entertainment and information.

Of course, our military assets in space have saved the lives of our soldiers and done a tremendous job of keeping the peace for the world, and that is in our hands.

This is what we have accomplished with our investment. A meager investment in space has given us tens of billions, if not hundreds of billions, of dollars worth of value back to us. And that value can be used in education. That value has been used to make our society better because of what we have achieved from our space program.

We are not at the end of the space program. We have a future to look forward to that is bright. We have a President that has offered us the guidelines for the future and the strategy for the future. We can see a possibility of generating power from space, from solar-based power in the future. We can see another colony, perhaps a colony on the moon, with its natural resources there, or on an asteroid. There are so many things that we can accomplish.

The future depends on our children which is what this amendment today is all about, and it depends on the willingness of this generation to make an investment and to keep that investment in technology and in space-related assets.

It has been my honor to serve as chairman of the Subcommittee on Space and Aeronautics, to work with people from both sides of the aisle who are committed to this type of future for America and the world. May we always lead the world in conquering new frontiers. May we always lead the world into the unknown and make sure that America leads the world into a better tomorrow.

Mr. ROHRABACHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and pass the joint resolution, H.J. Res. 57, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution, as amended, was passed.

A motion to reconsider was laid on the table.

MILITARY PERSONNEL FINANCIAL SERVICES PROTECTION ACT

Mr. BAKER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5011) to prevent the sale of abusive insurance and investment products to military personnel, as amended.

The Clerk read as follows:

H.R. 5011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Military Personnel Financial Services Protection Act".

SEC. 2. CONGRESSIONAL FINDINGS.

The Congress finds the following:

(1) Our military personnel perform great sacrifices in protecting our Nation in the War on Terror and promoting democracy abroad.

(2) Our brave men and women in uniform deserve to be offered first-rate financial products in order to provide for their families and to save and invest for retirement.

(3) Our military personnel are being offered high-cost securities and life insurance products by some financial services companies engaging in abusive and misleading sales practices.

(4) One securities product being offered to our service members, the contractual plan, has largely disappeared from the civilian market since the 1980s due to its excessive sales charges and the emergence of low-cost products. A 50-percent sales commission is typically assessed against the first year of contributions made under a contractual plan, even though the average commission on other securities products such as mutual funds is less than 6 percent on each sale.

(5) The excessive sales charge of the contractual plan makes it susceptible to abusive and misleading sales practices.

(6) Certain life insurance products being offered to our service members are being improperly marketed as investment products. These products provide very low death benefits for very high premiums that are front-loaded in the first few years, making them completely inappropriate for most military personnel.

(7) Regulation of these securities and life insurance products and their sale on military bases has been clearly inadequate and requires Congressional legislation to address.

SEC. 3. PROHIBITION ON FUTURE SALES OF PERIODIC PAYMENT PLANS.

(a) AMENDMENT.—Section 27 of the Investment Company Act of 1940 (15 U.S.C. 80a-27) is amended by adding at the end the following new subsection:

"(j) TERMINATION OF SALES.—

"(1) TERMINATION.—Effective 30 days after the date of enactment of the Military Personnel Financial Services Protection Act, it shall be unlawful, subject to subsection (i)—

"(A) for any registered investment company to issue any periodic payment plan certificate; or

"(B) for such company, or any depositor of or underwriter for any such company, or any other person, to sell such a certificate.

"(2) NO INVALIDATION OF EXISTING CERTIFICATES.—Paragraph (1) shall not be construed to alter, invalidate, or otherwise affect any rights or obligations, including rights of redemption, under any periodic payment plan certificate issued and sold before 30 days after such date of enactment.".

(b) TECHNICAL AMENDMENT.—Section 27(i)(2)(B) of such Act is amended by striking "section 26(e)" each place it appears and inserting "section 26(f)".

(c) REPORT ON REFUNDS, SALES PRACTICES, AND REVENUES FROM PERIODIC PAYMENT PLANS.—Within 6 months after the date of enactment of this Act, the Securities and Exchange Commission shall submit to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, a report describing—

(1) any measures taken by a broker or dealer registered with the Securities and Exchange Commission pursuant to section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78*o*(b)) to voluntarily refund payments made by military service members on any periodic payment plan certificate, and the amounts of such refunds;

(2) after such consultation with the Secretary of Defense as the Commission considers appropriate, the sales practices of such brokers or dealers on military installations over the past 5 years and any legislative or regulatory recommendations to improve such practices; and

(3) the revenues generated by such brokers or dealers in the sales of periodic payment plan certificates over the past 5 years and what products such brokers or dealers market to replace the revenue generated from the sales of periodic payment plan certificates prohibited under subsection (a) of this section.

SEC. 4. METHOD OF MAINTAINING BROKER/DEALER REGISTRATION, DISCIPLINARY, AND OTHER DATA.

Subsection (i) of section 15A of the Securities Exchange Act of 1934 (15 U.S.C. 78o-3(i)) is amended to read as follows:

"(i) Obligation to Maintain Registration, Disciplinary and Other Data.—

"(1) Maintenance of system to respond to inquiries.—A registered securities association shall—

"(A) establish and maintain a system for collecting and retaining registration information;

"(B) establish and maintain a toll-free telephone listing, and a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding—

"(i) registration information on its members and their associated persons; and

"(ii) registration information on the members and their associated persons of any registered national securities exchange that uses the system described in subparagraph (A) for the registration of its members and their associated persons; and

"(C) adopt rules governing the process for making inquiries and the type, scope, and presentation of information to be provided in response to such inquiries in consultation with any registered national securities exchange providing information pursuant to subparagraph (B)(ii).

"(2) Recovery of costs.—Such an association may charge persons making inquiries, other than individual investors, reasonable fees for responses to such inquiries.

"(3) Process for disputed information.—Such an association shall adopt rules establishing an administrative process for disputing the accuracy of information provided in response to inquiries under this subsection in consultation with any registered national securities exchange providing information pursuant to paragraph (1)(B)(ii).

"(4) Limitation of liability.—Such an association, or an exchange reporting information to such an association, shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.

"(5) Definition.—For purposes of this subsection, the term 'registration information' means the information reported in connection with the registration or licensing of brokers and dealers and their associated persons, including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law, or exchange or association rule, and the source and status of such information.".

SEC. 5. FILING DEPOSITORIES FOR INVESTMENT ADVISERS.

(a) Amendment.—Section 204 of the Investment Advisers Act of 1940 (15 U.S.C. 80b-4) is amended—

(1) by striking "Every investment" and inserting the following:

"(a) In General.—Every investment"; and

(2) by adding at the end the following:

"(b) Filing Depositories.—The Commission may, by rule, require an investment adviser—

"(1) to file with the Commission any fee, application, report, or notice required to be filed by this title or the rules issued under this title through any entity designated by the Commission for that purpose; and

"(2) to pay the reasonable costs associated with such filing and the establishment and maintenance of the systems required by subsection (c).

"(c) Access to Disciplinary and Other Information.—

"(1) Maintenance of system to respond to inquiries.—The Commission shall require the entity designated by the Commission under subsection (b)(1) to establish and maintain a toll-free telephone listing, or a readily accessible electronic or other process, to receive and promptly respond to inquiries regarding registration information (including disciplinary actions, regulatory, judicial, and arbitration proceedings, and other information required by law or rule to be reported) involving investment advisers and persons associated with investment advisers.

"(2) Recovery of costs.—An entity designated by the Commission under subsection (b)(1) may charge persons making inquiries, other than individual investors, reasonable fees for responses to inquiries made under paragraph (1).

"(3) Limitation on liability.—An entity designated by the Commission under subsection (b)(1) shall not have any liability to any person for any actions taken or omitted in good faith under this subsection.".

(b) Conforming Amendments.—

(1) Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a) is amended—

(A) by striking subsection (d); and

(B) by redesignating subsection (e) as subsection (d).

(2) Section 306 of the National Securities Markets Improvement Act of 1996 (15 U.S.C. 80b-10, note; P.L. 104-290; 110 Stat. 3439) is repealed.

SEC. 6. STATE INSURANCE JURISDICTION ON MILITARY INSTALLATIONS.

(a) Clarification of Jurisdiction.—Any law, regulation, or order of a State with respect to regulating the business of insurance shall apply to insurance activities conducted on Federal land or facilities in the United States and abroad, including military installations, except to the extent that such law, regulation, or order—

(1) directly conflicts with any applicable Federal law, regulation, or authorized directive; or

(2) would not apply if such activity were conducted on State land.

(b) Primary State Jurisdiction.—To the extent that multiple State laws would otherwise apply pursuant to subsection (a) to an insurance activity of an individual or entity on Federal land or facilities, the State having the primary duty to regulate such activity and whose laws shall apply to such activity in the case of a conflict shall be—

(1) the State within which the Federal land or facility is located; or

(2) if the Federal land or facility is located outside of the United States, the State in which—

(A) in the case of an individual engaged in the business of insurance, such individual has been issued a resident license; or

(B) in the case of an entity engaged in the business of insurance, such entity is domiciled.

SEC. 7. REQUIRED DEVELOPMENT OF MILITARY PERSONNEL PROTECTION STANDARDS REGARDING INSURANCE SALES.

(a) State Standards.—The Congress intends that—

(1) the States collectively work with the Secretary of Defense to ensure implementation of appropriate standards to protect members of the Armed Forces from dishonest and predatory insurance sales practices while on a military installation of the United States (including installations located outside of the United States); and

(2) each State identify its role in promoting the standards described in paragraph (1) in a uniform manner within 12 months after the date of the enactment of this Act.

(b) State Report.—It is the sense of the Congress that the NAIC should, after consultation with the Secretary of Defense and within 12 months after the date of the enactment of this Act, conduct a study to determine the extent to which the States have met the requirement of subsection (a) and report such study to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

SEC. 8. REQUIRED DISCLOSURES REGARDING LIFE INSURANCE.

(a) Requirement.—Except as provided in subsection (d), no insurer or producer may sell or solicit, in person, any life insurance product to any member of the Armed Forces on a military installation of the United States unless a disclosure in accordance with this section is provided to such member before the sale of such insurance.

(b) Disclosure.—A disclosure in accordance with this section is a written disclosure that—

(1) states that subsidized life insurance may be available to the member of the Armed Forces from the Federal Government;

(2) states that the United States Government has in no way sanctioned, recommended, or encouraged the sale of the product being offered;

(3) is made in plain and readily understandable language and in a type font at least as large as the font used for the majority of the policy; and

(4) with respect to a sale or solicitation on Federal land or facilities located outside of the United States by an individual or entity engaged in the business of insurance, except to the extent otherwise specifically provided by the laws of such State in reference to this Act, lists the address and phone number where consumer complaints are received by the State insurance commissioner for the State in which the individual has been issued a resident license or the entity is domiciled, as applicable.

(c) Enforcement.—If it is determined by a State or Federal agency, or in a final court proceeding, that any individual or entity has intentionally failed to provide a disclosure required by this section, such individual or entity shall be prohibited from further engaging in the business of insurance with respect to employees of the Federal Government on Federal land, except—

(1) with respect to existing policies; and

(2) to the extent required by the Federal Government pursuant to previous commitments.

(d) Exceptions.—

(1) Federal and state insurance activity.—This section shall not apply to insurance activities—

(A) specifically contracted by or through the Federal Government or any State government; or

(B) specifically exempted from the applicability of this Act by a Federal or State law, regulation, or order that specifically refers to this paragraph.

(2) Uniform state standards.—If a majority of the States have adopted, in materially identical form, a standard setting forth the disclosures required under this section that apply to insurance solicitations and sales to military personnel on military installations of the United States, after the expiration of the 2-year period beginning on such majority adoption, such standard shall apply in lieu of

the requirements of this section to all insurance solicitations and sales to military personnel on military installations, with respect to such States, to the extent that such standards do not directly conflict with any applicable authorized Federal regulation or directive.

(3) MATERIALLY IDENTICAL FORM.—For purposes of this subsection, standards adopted by more than one State shall be considered to have materially identical form to the extent that such standards require or prohibit identical conduct with respect to the same activity, notwithstanding that the standards may differ with respect to conduct required or prohibited with respect to other activities.

SEC. 9. IMPROVING LIFE INSURANCE PRODUCT STANDARDS.

(a) IN GENERAL.—It is the sense of the Congress that the NAIC should, after consultation with the Secretary of Defense and within 12 months after the date of the enactment of this Act, conduct a study and submit a report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on ways of improving the quality of and sale of life insurance products sold by insurers and producers on military installations of the United States, which may include limiting sales authority to companies and producers that are certified as meeting appropriate best practices procedures or creating standards for products specifically designed for members of the Armed Forces regardless of the sales location.

(b) CONDITIONAL GAO REPORT.—If the NAIC does not submit the report to the committees as described in subsection (a), the Comptroller General of the United States shall study any proposals that have been made to improve the quality and sale of life insurance products sold by insurers and producers on military installations of the United States and report to the Committee on Financial Services of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on such proposals within 6 months after the expiration of the period referred to in subsection (a).

SEC. 10. REQUIRED REPORTING OF DISCIPLINED INSURANCE AGENTS.

(a) REPORTING BY INSURERS.—After the expiration of the 2-year period beginning on the date of the enactment of this Act, no insurer may enter into or renew a contractual relationship with a producer that solicits or sells life insurance on military installations of the United States unless the insurer has implemented a system to report, to the State insurance commissioner of the State of the domicile of the insurer and the State of residence of the insurance producer, disciplinary actions taken against the producer with respect to the producer's sales or solicitation of insurance on a military installation of the United States, as follows:

(1) Any disciplinary action taken by any government entity that the insurer knows has been taken.

(2) Any significant disciplinary action taken by the insurer.

(b) REPORTING BY STATES.—It is the sense of the Congress that within 2 years after the date of the enactment of this Act, the States should collectively implement a system to—

(1) receive reports of disciplinary actions taken against insurance producers by insurers or government entities with respect to the producers' sale or solicitation of insurance on a military installation; and

(2) disseminate such information to all other States and to the Secretary of Defense.

SEC. 11. REPORTING BARRED PERSONS SELLING INSURANCE OR SECURITIES.

(a) ESTABLISHMENT.—The Secretary of Defense shall maintain a list of the name, address, and other appropriate information of persons engaged in the business of securities or insurance that have been barred, banned, or otherwise limited in any manner that is not generally applicable to all such type of persons, from any or all military installations of the United States.

(b) NOTICE AND ACCESS.—The Secretary shall ensure that—

(1) the appropriate Federal and State agencies responsible for securities and insurance regulation are promptly notified upon the inclusion or removal of a person under such agencies' jurisdiction; and

(2) the list is kept current and easily accessible—

(A) for use by such agencies; and

(B) for purposes of enforcing or considering any such bar, ban, or limitation by the appropriate Federal personnel, including commanders of military installations.

(c) REGULATIONS.—

(1) IN GENERAL.—The Secretary shall issue regulations in accordance with this subsection to provide for the establishment and maintenance of the list under this section, including appropriate due process considerations.

(2) TIMING.—

(A) PROPOSED REGULATIONS.—Not later than the expiration of the 60-day period beginning on the date of the enactment of this Act, the Secretary shall prepare and submit to the appropriate Committees a copy of the regulations under this subsection that are proposed to be published for comment. The Secretary may not publish such regulations for comment in the Federal Register until the expiration of the 15-day period beginning upon such submission to the appropriate Committees.

(B) FINAL REGULATIONS.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall submit to the appropriate Committees a copy of the regulations under this section to be published as final.

(C) EFFECTIVE DATE.—Such regulations shall become effective upon the expiration of the 30-day period beginning upon such submission to the appropriate Committees.

(3) DEFINITION.—For the purposes of this section, the term "appropriate Committees" means—

(A) the Committee on Financial Services and the Committee on Armed Services of the House of Representatives; and

(B) the Committee on Banking, Housing, and Urban Affairs and the Committee on Armed Services of the Senate.

SEC. 11. SENSE OF CONGRESS.

It is the sense of the Congress that the Federal and State agencies responsible for insurance and securities regulation should provide advice to the appropriate Federal entities to consider—

(1) significantly increasing the life insurance coverage made available through the Federal Government to members of the Armed Forces;

(2) implementing appropriate procedures to encourage members of the Armed Forces to improve their financial literacy and obtain objective financial counseling before purchasing additional life insurance coverage or investments beyond those provided by the Federal Government; and

(3) improving the benefits and matching contributions provided under the Thrift Savings Plan to members of the Armed Forces.

SEC. 12. DEFINITIONS.

For purposes of this Act, the following definitions shall apply:

(1) ENTITY.—The term "entity" includes insurers.

(2) INDIVIDUAL.—The term "individual" includes insurance agents and producers.

(3) NAIC.—The term "NAIC" means the National Association of Insurance Commissioners.

(4) STATE INSURANCE COMMISSIONER.—The term "State insurance commissioner" means, with respect to a State, the officer, agency, or other entity of the State that has primary regulatory authority over the business of insurance and over any person engaged in the business of insurance, to the extent of such business activities, in such State.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Louisiana (Mr. BAKER) and the gentleman from Illinois (Mr. EMANUEL) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. BAKER).

GENERAL LEAVE

Mr. BAKER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5011.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. BAKER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the members of the House Committee on Financial Services and I assume many Members of the Congress were shocked to learn of practices on military installations of this Nation wherein the practice of bringing in retired military officers to meet with young enlisted men and women to represent to them that financial investment opportunities were being made available which, in fact, were not financial investments but financial misfortune.

Young men and women, often headed to a theater of war, thinking they were buying life insurance for their dependents and their spouses, would return finding that the premiums paid yielded very little benefit at high cost. Mutual fund investments, which often required half of the first year's investment, went into the pockets of the broker.

It would be years in some cases before these young men or women would find a financial return on what they thought would be an investment for their family's future.

Upon learning of these revelations, the committee began its work and made serious inquiries into the manner in which these actions were permitted. The bill before the House today, the result of work by the gentleman from Georgia (Mr. BURNS), the gentleman from Illinois (Mr. EMANUEL) and other Members, takes an important stride forward in that it would preclude the sale of contractual mutual fund products period on military installations and, secondly, would require the establishment of rules and regulations by State insurance commissioners to ensure that types of activities previously engaged in here would heretofore be prohibited.

This measure is one with which I believe both sides of the aisle can strongly agree. I find it highly appropriate that, as young men and women are preparing to stand in defense of this country, that this Congress at least stand in defense of their financial security.

Mr. Speaker, I reserve the balance of my time.

□ 1700

Mr. EMANUEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this legislation.

I would like to thank the gentleman from Louisiana (Chairman BAKER) and the gentleman from Ohio (Chairman OXLEY) and the gentleman from Massachusetts (Ranking Member FRANK) and the gentleman from Pennsylvania (Ranking Member KANJORSKI) for helping give our enlistees one more line of defense against unfair financial practices and also their families.

I requested this hearing on July 20. We held a subcommittee hearing quickly thereafter in early September, September 9, after a series of articles in the New York Times on the sales practices of certain financial services and industries and companies on our military bases throughout the country. The New York Times had cited numerous cases of abusive practices, including one instance in which a Coast Guard officer went $16,000 into debt after he invested $600 of his $3,600 salary in a contractual mutual fund.

Many young recruits and enlistees are of modest financial means. In fact, they are forced to draw on other government programs such as food stamps to make ends meet and to feed their families, and the last thing they need are unnecessary types of financial products with high fees and little financial benefit for them. There is simply no reason for some of these investment vehicles or life insurance vehicles to be sold to them.

Take the contractual mutual fund which was in the 1960s discouraged in the civilian market to the point that it is almost nonexistent. The SEC had recommended to Congress then to ban it, but it basically ran out of its purpose in the early 1980s. Today, I think in our hearing we found out that, in fact, contractual mutual funds up to north of 95 percent of them exist only among the military and enlistees. They do not exist today, for practical purposes, inside the civilian population.

The question we have to ask ourselves, if contractual mutual funds are not good for the civilian market, in fact, the SEC discourages them, why would we allow them to be sold and marketed to our troops? If we want to allow access to the military bases, fine, for other types of financial needs for the financial security of our enlistees, but our young men and women are not to be seen as ATM fee-generating machines for the financial services industry.

This legislation requires new disclosure for life insurance products so it is crystal clear to our men and women what is being sold, instead of the information being buried in the fine print. Now companies will have to give plain English documents telling them of subsidized life insurance that is readily available through the Armed Forces and that the government does not recommend this product.

In fact, the Armed Forces sells a product for $16.25 a month, $250,000 in coverage, one of the things we had recommended; and I am hoping later on maybe we can deal with it. The gentleman from Texas (Mr. EDWARDS) and I recommended raising the cap in the military or on the government program from $250,000 to 500,000. We should deal with that need, and if enlistees want more life insurance they should be able to get it; but in this case some of the companies were selling life insurance products for about $1,500 for about $15,000 worth of value, where the government offers and 96 percent of the enlistees are enrolled, a product for $16.25 a month.

Also, during the hearing, we learned one other issue which I promised to take up next year and I said it in the full committee, that, in fact, in 2000 Congress permitted members of the Armed Forces to enroll in the government Thrift Savings Program. Yet Members of Congress get a match, but members of the armed services do not get a match for their investment in their savings program. Although this was not the right vehicle to deal with it, and we have a sense of the Congress that we should in this legislation, I intend next year to introduce a piece of legislation to authorize and then appropriate the dollars so enlistees get what Members of Congress get or Members of Congress get what enlistees get, but we are not going to have the disparity between the two.

Finally, this legislation includes important provisions encouraging State and Federal authorities to implement financial literacy programs for enlisted personnel. Our troops need the basic financial knowledge necessary to make good decisions, and they deserve these commonsense measures to protect them from financial distress.

We in this Chamber can make a choice today. We can restore the values that have kept our military strong and that we hold for the future of our troops and their families. This bill could be another small measure to help make the lives of our troops a little easier, and it sends a message reminding them that we are deeply grateful for their service and commitment to defending our Nation.

I encourage my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BAKER. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. BURNS) who introduced legislation early in this Congress and encouraged the committee to act in a timely manner.

Mr. BURNS. Mr. Speaker, I thank the gentleman for yielding me time.

I would like to thank the gentleman from Ohio (Chairman OXLEY) of the Committee on Financial Services and the gentleman from Louisiana (Mr. BAKER), the subcommittee chairman. I would like to thank my distinguished colleagues and the gentleman from Illinois (Mr. EMANUEL) for their support and input.

I rise in strong support of H.R. 5011, the Military Personnel Financial Services Protection Act.

Mr. Speaker, I introduced H.R. 5011 to halt the fiscal abuse of our servicemen and -women by those in the life insurance and securities industry that use devious sales practices to collect exorbitant fees and sales commissions.

Further, H.R. 5011 is targeted at those who use our Federal military installations, both at home and abroad, as a shield to evade individual State insurance regulations and restrictions.

The 12th district of Georgia that I represent is home to many active duty, Reserve, and retired military personnel. I have Fort Gordon in Augusta; Fort Stewart in Savannah. I have the Naval Supply Course School in Athens. Georgia is represented by all branches of the military service: Army, Air Force, Coast Guard, Marines and Navy.

In recent months, my office had become aware of servicemen and -women residing in the 12th district and throughout the State of Georgia that have suffered financially as a result of dubious financial products and questionable insurance policies. Unfortunately, these questionable sales practices are not limited to the State of Georgia and have been found to be pervasive on our military installations within the United States and abroad.

Investigations into these practices are currently being conducted by the Department of Defense, the NASD, the Securities and Exchange Commission, and the State insurance commission regulators, including Georgia's commissioner of insurance, John Oxendine.

Let me provide my colleagues with a few unfortunate examples of what has happened just in Georgia.

Young recruits have been approached in group settings during boot camp and asked to fill out savings plan allotment forms that in truth turn out to be primarily payments for insurance premiums and sales commissions.

Junior enlisted personnel have been encouraged by senior enlisted personnel to participate in savings plans that are, in fact, insurance products.

Junior enlisted personnel and their superiors have received free meals at local restaurants and other gratuities as an enticement to participate in these illicit plans.

Junior officers have been provided free drinks and food at base officers clubs and then asked to participate in flawed mutual fund contracts that give the appearance of being endorsed by their chain of command.

Retired military personnel now employed by financial insurance firms have used their base and command access to inappropriately influence junior officers and enlisted personnel to participate in these questionable products.

Flawed mutual fund contractual plans that are disparaged by the financial and industry experts have been marketed virtually exclusively to our military personnel.

Outrageous as these may seem, sales agents banned from military installations in Georgia subsequently moved to Germany and continued their illicit sales practices to soldiers living abroad.

I will not, and I cannot, sit by and watch innocent servicemembers suffer from unscrupulous sales practices on our military installations. I say shame on those companies that allowed these practices to take advantage of our military personnel and shame on us for not acting sooner.

My staff has been in discussions with the Committee on Financial Services, the government regulators, corporate representatives, and independent financial experts to ensure that H.R. 5011 effectively addresses the illicit sales practice being encouraged by our armed services personnel and to prevent any unintended consequences.

H.R. 5011 does not target systematic investment plans or legitimate investment in insurance products, only those flawed mutual fund contractual plans and insurance contracts that require the payments of exorbitant fees and high front-loaded sales commissions.

As a bipartisan measure, H.R. 5011 has received overwhelming support from the various financial, insurance, and military organizations and support groups and has been reported out of Committee on Financial Services by a unanimous vote, bipartisan vote of 68 to zero.

Working together we can and we must act in a prudent manner to protect our servicemen and -women from harm caused by dubious financial products and questionable financial and insurance sales practices and policies.

I urge my colleagues to recognize the importance of acting to protect the financial interests of our armed services personnel and vote "yes" on this worthy resolution.

Mr. EMANUEL. Mr. Speaker, I yield 1 minute to the gentleman from Massachusetts (Mr. FRANK), the ranking member, who helped us on this legislation in passing it.

Mr. FRANK of Massachusetts. Mr. Speaker, I thank the gentleman from Illinois for showing great leadership on this. He was, to my knowledge, the first Member of this body to decide that we ought to take some action. He spoke to me early when this was first called to our attention, and he has been very diligent and very thoughtful and others, the gentleman from Texas, gentleman from New York, have joined in.

So I am glad we are at this point where we are about to pass very good consumer protection legislation, and this is a species of that legislation; and it shows what our role ought to be, namely, to start from the assumption that the market will work and we will leave things to the market, but to be ready to step in when the market fails and it does not include the kind of protections that it ought to include.

This is a very thoughtful piece of legislation, worked out in a bipartisan way, under the leadership of the gentleman from Louisiana (Mr. BAKER), the chairman of the subcommittee; the gentleman from Pennsylvania (Mr. KANJORSKI), the ranking member. I am delighted to join in supporting it.

Mr. BAKER. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas (Mr. RYUN).

Mr. RYUN of Kansas. Mr. Speaker, I thank the chairman for the time.

I am a strong supporter of this legislation that we are considering today, and I want to thank Mr. BURNS for his leadership on this issue and also the gentleman from Ohio (Chairman OXLEY) for his work moving this bill to the floor in a very timely and expedient fashion.

As a member of both the Committee on Armed Services and Committee on Financial Services, the issue at hand today is one that I care very deeply about. Today, by passing H.R. 5011, we will be protecting our men and women in uniform.

I have the honor of representing three military installations and have seen firsthand the dedication and service of our servicemembers. These military men and women deserve the protection found in H.R. 5011. Congress has a responsibility to provide our servicemembers access to financial services while protecting them from dishonest agents.

I was honored to work with the gentleman from Georgia (Mr. BURNS) in the committee to include language that will improve installation commanders' knowledge of previous predatory offenses. This will allow our commanders to keep previous offenders from soliciting on the bases.

I urge and encourage my colleagues to support this legislation.

Mr. EMANUEL. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ISRAEL), a distinguished member of both the Committee on Armed Services and the Committee on Financial Services, who introduced earlier in the year, life insurance for American troops after an unfortunate death of a constituent in the Iraqi theater.

Mr. ISRAEL. Mr. Speaker, I thank my friend from Illinois for the time.

I want to thank our chairman of our subcommittee, chairman of our committee and our ranking member for their bipartisan cooperation, and I also want to thank the gentleman from Texas (Mr. EDWARDS) for keeping this Congress focused on this vitally important issue.

I am particularly pleased with a provision of this bill that the gentleman from Kansas just discussed which he and I worked together on on a bipartisan basis requiring the DOD to maintain a list of all sales agents who have been barred from any base and to report such barring to the relevant State or Federal regulator. That database will ensure that agents barred from one base cannot simply move to another base to prey on personnel in different areas.

Simultaneously, the reporting requirement will enable the regulator immediately to begin taking investigative action and appropriate disciplinary action. These measures will protect our troops from those who are looking to exploit them wherever, whenever they can.

This is an important step, but we still have a long way to go. We still have a long way to go in protecting the protectors and meeting the financial needs of those who are fighting for our security.

In that vein, Mr. Speaker, I want to share with my colleagues the story of one of the families that I represent, a constituent that I used to represent, Raheen Tyson Heighter, 19-years-old, grew up in Bay Shore, New York, enlisted in the Army. When he enlisted, he was told he had to have life insurance. He said I cannot afford life insurance; they do not pay me enough to pay my premiums. They said, you have got to have life insurance. He said, well, I am 19 years old. He thought, like most 19-year-olds, I am invincible. He said, give me the cheapest policy you can.

He was killed in action in Iraq. His mother received a call from a casualty officer saying we regret to inform you of the death of your son, and all he had was a $10,000 life insurance policy because that is all Raheen Tyson Heighter could afford to pay.

No family in America who receives the horrible news of the death of their son or daughter in war should also have to suffer the indignity of being financially abused.

We have a bipartisan bill in this Congress, sponsored by the gentleman from New York (Mr. KING) and myself, called the Raheen Tyson Heighter Life Insurance for America's Troops Act. If we really want to protect the protectors, we ought to be providing them with the base amount of $250,000, and we ought to pick up the tab for their premium. If they can afford to give up their lives for us, we ought to be able to afford to pay their life insurance.

□ 1715

This is a good bill. This is an important bill. It is a good step, but we still have a ways to go in protecting our protectors.

I thank the committee for their bipartisan cooperation in moving this forward, but we still need to go a little further.

Mr. BAKER. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I rise today in strong support of H.R. 5011, the Military Personnel Financial Services Protection Act. The military has a major presence in central Texas, and I have a great interest in protecting the financial well-being of our soldiers and their families.

I find it absolutely deplorable that our men and women in uniform are being actively coerced into spending any part of their already modest incomes on unnecessary, overpriced insurance policies and predatory investment plans. Companies that solicit these plans knowingly exploit the financial naivety of our newest soldiers through unscrupulous practices, which have been described here today and recently detailed in a New York Times series.

At a time when soldiers should be focusing their efforts and limited resources on providing for their families, it is unconscionable we allow our soldiers to be swindled into contractual plans that have not been offered to civilian markets since the 1980s, or to be sold expensive insurance policies that provide inadequate coverage.

Therefore, I ask my colleagues to protect those who so selflessly stand on the wall and protect us and to vote in favor of H.R. 5011.

Mr. EMANUEL. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. EDWARDS), who represents Fort Hood, home to 40,000 soldiers, most of whom have served in Iraq, including the First Cavalry Division and the Fourth Infantry Division, which captured Saddam Hussein.

Mr. EDWARDS. Mr. Speaker, this is the way Congress should work. The New York Times made it obvious that there were new standards that needed to be set to protect our troops who were risking their lives for our country. The gentleman from Georgia (Mr. BURNS), the gentleman from Illinois (Mr. EMANUEL), and Members on a bipartisan basis came together quickly to address that problem. And I want to commend all of those involved in the leadership for bringing this bill to the floor.

As the gentleman from Illinois (Mr. EMANUEL) said, for 14 years I have had the privilege of representing Fort Hood, the only two-division installation in the U.S. Army. During times of war and peace, I have seen the incredible personal sacrifices made by our military troops and their families on behalf of our Nation.

We can never repay the debt of gratitude we owe the young 20-year-old soldier I met at Walter Reed Hospital recently, who came back from Iraq with an amputated leg. We cannot repay the young widow I met at Fort Hood recently with a small baby in her arms, a baby who will never gaze into the eyes of its father.

As a small downpayment on that debt of gratitude, we in Congress must continue our efforts to improve pay, health care, housing, and education for military families and their children.

I also salute this bill for helping protect our troops against misrepresentations in the sale of mutual funds and life insurance policies. While our military forces should have the right to invest in their family's futures, it is clear that higher standards are needed to protect our servicemen and -women from unscrupulous practices.

This bill is a step in the right direction by prohibiting unfair policies, by requiring greater regulation of insurance sales on military installations, such as Fort Hood in my district, and by encouraging the Department of Defense and State regulatory agencies to set new and higher standards for the sale of these policies.

I hope this is a first step, not the last step, in protecting our troops. After passing this legislation, I hope Congress will move forward with legislation I and the gentleman from Illinois (Mr. EMANUEL) and others have authored to require the Department of Defense to offer up to $500,000 in life insurance to our troops, rather than the present cap of $250,000.

In today's world, $250,000 simply is not enough life insurance for many young families with children to feed, clothe, educate, and to send to college. By increasing life insurance at affordable rates up to $500,000, the Department of Defense and Congress can prevent many of the abuses outlined so well by the recent New York Times articles. Until Congress takes that action, this bill is a very positive, solid step forward toward protecting military families who are sacrificing so much to protect American families.

Mr. Speaker, I again thank those who, working on a bipartisan basis, brought this legislation so quickly to the floor of the House; and I would hope that the other body would act accordingly.

Mr. EMANUEL. Mr. Speaker, I yield myself such time as I may consume to close.

I want to also thank the gentleman from Louisiana (Mr. BAKER), our chairman, for the hearing and the way he conducted the hearing on September 9, for the leadership of the gentleman from Ohio (Mr. OXLEY) and the ranking member, the gentleman from Massachusetts (Mr. FRANK) showed when we did finally pass the legislation, which passed unanimously in our committee.

This was a quick response to what is clearly needed by everybody's standard. We should not allow our enlistees to be targeted for the type of financial services and products that are merely for the gain of the industry representatives and not for the protection of our enlistees. This was the right thing to do.

Hopefully, the Senate can move quickly, although there are other things we would like to move, as noted by the gentleman from Texas (Mr. EDWARDS), such as our legislation raising the cap on the life insurance from $250,000 to $500,000. And there are things not in this bill that we still need to do. But this is the right step; it is the right action.

Mr. Speaker, the bipartisanship that was shown here I would hope would extend to other areas. And again I want to thank the chairman of the subcommittee for the hearing and also seeing through this legislation to today's conclusion.

Mr. Speaker, I yield back the balance of my time.

Mr. BAKER. Mr. Speaker, I yield myself such time as I may consume.

I simply wish to acknowledge the good work of the gentleman from Illinois (Mr. EMANUEL) and his colleagues on this matter and to express appreciation for the bipartisan manner in which it was considered, passed and, I think this afternoon, passed on the floor of this House.

Clearly, when we identify a problem of such pressing urgency to the young men and women of our national defense, it is highly appropriate this Congress should be timely and responsive in meeting their need. I think H.R. 5011 achieves that goal, and I am appreciative of the opportunity to have worked with my colleague and echo the observations of the gentleman from Illinois. I hope this bipartisan approach continues with issues yet to come.

Mr. OXLEY. Mr. Speaker, I rise in support of H.R. 5011, the Military Personnel Financial Services Protection Act. This legislation, introduced by my good friend MAX BURNS of Georgia, will protect the men and women who put their lives on the line each day for our Nation.

Mr. Speaker, since the awful day of September 11, 2001, our country has been at war with radical Islamic terrorists. In the prosecution of this war, our armed services have performed heroically. Indeed, many have made the ultimate sacrifice for the cause of freedom.

Sadly, at the same time, there are a few bad actors in the securities and insurance industries determined to take financial advantage of our service men and women. These unscrupulous companies and salesmen gain access to military installations and use aggressive, misleading, and often illegal sales tactics, to sell high-cost products of dubious value that are unsuitable for any investor.

The Pentagon has issued several directives intended to curtail these abuses. But for a whole host of reasons, it is clear that the abuses will not stop unless Congress passes this legislation.

H.R. 5011 prohibits bad products and bad sales practices, clarifies regulatory jurisdiction on U.S. installations here and abroad, adds strong consumer protections and disclosures, and ensures proper reporting systems between our military and the financial regulators to ensure that bad actors cannot continue their predatory behavior. It also makes the process of selecting a broker more transparent for all investors, by providing online access to background information—including disciplinary actions—on broker-dealers. These are tough measures that will greatly enhance consumer protections for military services members, and make financial transactions on base more transparent and investor-friendly.

Our Committee reported this bill to protect our service men and women on a unanimous 68–0 vote. This overwhelming bipartisan consensus is the result of strong leadership by Mr. BURNS, the author of this legislation; by Mr. EMANUEL for highlighting this issue for the Committee and working with us on a bipartisan basis; the Chairman of the Subcommittee on Capital Markets, Mr. BAKER, who led our investigation into the abusive practices and bad products; Mr. JIM RYUN and Mr. ISRAEL who worked closely together on the reporting requirements of this bill; and last but not least, Congresswoman GINNY BROWN-WAITE for ensuring appropriate SEC oversight of broker-dealer sales practices on military installations. Their hard work and leadership is well-reflected in this legislation.

Mr. Speaker, I am also including for the record an exchange of letters between myself and the Chairman of the Committee on Armed Services regarding their jurisdictional interest on this legislation. I want to thank the distinguished Chairman for his assistance in moving this legislation forward in an expeditious fashion.

COMMITTEE ON ARMED SERVICES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 4, 2004.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services,
Rayburn House Office Building.

DEAR MR. CHAIRMAN: On September 29, 2004, the Committee on Financial Services reported H.R. 5011, a bill to prevent the sale of abusive insurance and investment products to military personnel. As you know, H.R. 5011, as ordered reported, contained provisions within the jurisdiction of the Committee on Armed Services.

Because of your willingness to consult with this Committee, and because of your desire to move this legislation expeditiously, I will waive consideration of the bill by the Committee on Armed Services. By agreeing to waive this consideration of the bill, the Committee does not waive its jurisdiction over H.R. 5011. In addition, should a conference be convened on this legislation, the Committee reserves its authority to seek conferees on any provisions of the bill that are within its jurisdiction. I ask for your commitment to support any request for conferees by the Committee on H.R. 5011 or similar legislation.

I request that you include this letter and your response in the Congressional Record during your consideration of the legislation on the House floor. Thank you for your consideration of these matters.

With best wishes.

Sincerely,

DUNCAN HUNTER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, October 4, 2004.

Hon. DUNCAN HUNTER,
Chairman, Committee on Armed Services,
Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN HUNTER: Thank you for your recent letter regarding your committee's jurisdictional interest in H.R. 5011, the Military Personnel Financial Services Protection Act. I appreciate all of your efforts to expedite consideration of this important legislation.

I acknowledge your committee's jurisdictional interest in section 11 of this bill as ordered reported by the Committee on Financial Services and appreciate your cooperation in allowing speedy consideration of the legislation. I agree that your decision to forego further action on the bill will not prejudice the Committee on Armed Services with respect to its jurisdictional prerogatives on this or similar legislation. I will support your request for an appropriate number of conferees should there be a House-Senate conference on this or similar legislation.

Finally, I will include a copy of your letter and this response in Committee's report on the bill and the Congressional Record when the legislation is considered by the House.

Thank you again for your assistance.

Sincerely,

MICHAEL G. OXLEY,
Chairman.

I urge all of my colleagues in the full House to support this bipartisan effort and vote "yes" on H.R. 5011.

Mrs. TAUSCHER. Mr. Speaker, I rise today in support of this bill, H.R. 5011, the Military Personnel Financial Services Protection Act. Every American—especially every American who suits up to protect our Nation—should rest assured that their family's future is provided for if the unthinkable happens. I support Representative BURNS's bill because basic life insurance should not be a worry on our fighting force's shoulders, it should be a trusted guarantee. It is utterly unconscionable for insurance agents to be peddling policies to our troops that provide poor coverage and charge exorbitant fees, such as these contractual plans. I recently returned from a trip to Iraq and I am pleased to know that the young soldiers I met will soon be protected from fraudulent or misleading sales practices with the passage of this bill.

Mr. BAKER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Louisiana (Mr. BAKER) that the House suspend the rules and pass the bill, H.R. 5011, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BAKER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CONFIRMING AUTHORITY OF SECRETARY OF AGRICULTURE AND COMMODITY CREDIT CORPORATION TO ENTER INTO MEMORANDUMS OF UNDERSTANDING REGARDING COLLECTION OF APPROVED COMMODITY ASSESSMENTS FROM PROCEEDS OF MARKETING ASSISTANCE LOANS

Mr. HAYES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4620) to confirm the authority of the Secretary of Agriculture and the Commodity Credit Corporation to enter into memorandums of understanding with a State regarding the collection of approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans, as amended.

The Clerk read as follows:

H.R. 4620

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONFIRMATION OF AUTHORITY OF SECRETARY OF AGRICULTURE TO COLLECT STATE COMMODITY ASSESSMENTS.

(a) COLLECTION FROM MARKETING ASSISTANCE LOANS.—The Secretary of Agriculture may collect commodity assessments from the proceeds of a marketing assistance loan for a producer if the assessment is required to be paid by the producer or the first purchaser of a commodity pursuant to a State law or pursuant to an authority administered by the Secretary. This collection authority does not extend to a State tax or other revenue collection activity by a State.

(b) COLLECTION PURSUANT TO AGREEMENT.—The collection of an assessment under subsection (a) shall be made as specified in an agreement between the Secretary of Agriculture and the State requesting the collection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. HAYES) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentleman from Washington (Mr. NETHERCUTT) for sponsoring H.R. 4620 and bringing this bill to the committee's attention. I also appreciate his extensive efforts in working to resolve this problem for producers in Washington State as well as producers nationwide.

For years, the U.S. Department of Agriculture has collected State commodity checkoff assessments from marketing loans to fund research and promotion. In recent years, however, when producers within a State have voted to increase assessments on themselves, USDA has found that it lacks the statutory authority to recognize modified memorandums of understanding with the State.

As amended in the Committee on Agriculture, H.R. 4620 provides USDA the authority to collect these assessments and allows USDA to recognize modified agreements with the States.

Again, I appreciate the work of the gentleman from Washington on this issue, and I urge support of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of H.R. 4620.

H.R. 4620 was introduced by our colleague, the gentleman from Washington State (Mr. NETHERCUTT). I have been contacted by the Texas Wheat Growers, the National Association of Wheat Growers, the Wheat Export Trade Education Committee and the USA Rice Federation in support of addressing an issue that has arisen in regard to the collection of assessments for State commodity research and education programs when the commodity in question goes under loan with the USDA.

I want to thank the gentleman from Washington and the Washington Wheat Growers for bringing this situation to our attention before it impacted more States or more commodities. I am pleased to have worked with the chairman, the gentleman from Virginia (Mr. GOODLATTE), to report out a bill that the Committee on Agriculture finetuned in conjunction with USDA and the wheat industry.

As a wheat farmer, I know the benefit our State wheat and other commodity promotion groups do on our behalf with checkoff funds, and I support this continued effort; and therefore, I am pleased to support this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYES. Mr. Speaker, I yield myself such time as I may require to conclude by thanking my colleague, the gentleman from Texas (Mr. STENHOLM) for his assistance today.

Mr. HASTINGS of Washington. Mr. Speaker, I support this legislation to clarify the authority of state commissions to collect commodity assessments on the proceeds of marketing assistance loans.

Agriculture is the prime driver of the economy in my Central Washington congressional district. Many growers in my district make use of marketing loans that allow them to use their crop as collateral.

Many growers also participate in check-off programs for collecting an assessment on a certain crop. These assessments are normally collected at the first point of sale. The USDA and the Commodity Credit Corporation have supported state commissions in the collection of grower-funded commodity assessments when, because of low commodity prices, the commodity is forfeited to the government. The state assessments have been collected under a Memorandum of Understanding between the USDA and state commodity commissions.

Recently, wheat growers in Washington and California voted to increase their support of commodity activities through an assessment increase. USDA has claimed that it lacks the statutory authority to honor a Memorandum of Understanding if the assessment rate is changed. This decision has the potential to cause serious impact to state commissions and disadvantage to growers that depend on their work. The use of funds is very important during times of low prices and oversupply, when the need for expanding markets increases.

This legislation introduced by my friend and colleague from Washington, Mr. NETHERCUTT and myself will authorize the USDA to continue to collect state commodity assessments in the event of forfeiture of a commodity to the federal government.

I urge my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina (Mr. HAYES) that the House suspend the rules and pass the bill, H.R. 4620, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to confirm the authority of the Secretary of Agriculture to collect approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAYES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4620.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PROVIDING FOR NATIONAL PLAN FOR CONTROL AND MANAGEMENT OF SUDDEN OAK DEATH

Mr. HAYES. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4569) to provide for the development of a national plan for the control and management of Sudden Oak Death, a tree disease caused by the fungus-like pathogen Phytophthora ramorum, and for other purposes.

The Clerk read as follows:

H.R. 4569

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL PLAN FOR CONTROL AND MANAGEMENT OF SUDDEN OAK DEATH.

(a) DEVELOPMENT OF NATIONAL PLAN.—Subject to the availability of appropriated funds for this purpose, the Secretary of Agriculture, acting through the Animal Plant and Health Inspection Service, shall develop a national plan for the control and management of Sudden Oak Death, a forest disease caused by the fungus-like pathogen Phytophthora ramorum.

(b) PLAN ELEMENTS.—In developing the plan, the Secretary shall specifically address the following:

(1) Information derived by the Department of Agriculture from ongoing efforts to identify hosts of Phytophthora ramorum and survey the extent to which Sudden Oak Death exists in the United States.

(2) Past and current efforts to understand the risk posed by Phytophthora ramorum and the results of control and management efforts regarding Sudden Oak Death, including efforts related to research, control, quarantine, and hazardous fuel reduction.

(3) Such future efforts as the Secretary considers necessary to control and manage Sudden Oak Death, including cost estimates for the implementation of such efforts.

(c) CONSULTATION.—The Secretary shall develop the plan in consultation with other Federal agencies that have appropriate expertise regarding the control and management of Sudden Oak Death.

(d) IMPLEMENTATION OF PLAN.—The Secretary shall complete the plan and commence implementation as soon as practicable after the date on which funds are first appropriated pursuant to the authorization of appropriations in subsection (e) to carry out this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Secretary such sums as may be necessary to carry out this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from North Carolina (Mr. HAYES) and the gentleman from Iowa (Mr. BOSWELL) each will control 20 minutes.

The Chair recognizes the gentleman from North Carolina (Mr. HAYES).

Mr. HAYES. Mr. Speaker, I yield myself such time as I may consume.

Since Sudden Oak Death syndrome was first detected in California in 1995, the disease has killed tens of thousands of oaks and tanoaks in 12 coastal California counties and affected shrubs and trees in small areas of Curry County, Oregon, and King County, Washington. In addition, isolated cases of the European mating type of SOD have been found in Washington, Oregon, and British Columbia.

Sixty plant species are known to be hosts or associated hosts of the pathogen responsible. There are no chemical treatments currently available to eliminate the disease in nursery stock.

□ 1730

Following confirmation of a discovery of the SOD pathogen in March at Monrovia Nurseries in Los Angeles County, California, USDA's APHIS plant protection and quarantine staff have been working with other Federal and State authorities to address the situation. APHIS mobilized its rapid response teams, and the California Department of Food and Agriculture placed hold orders on all shipments of host plant materials from confirmed positive facilities. Likewise, the Forest Service is coordinating with APHIS, spending $1.3 million this fiscal year to monitor areas near confirmed infestations to see if the pathogen is spreading from nurseries to forests.

Despite the efforts of USDA and State agriculture departments, by the end of April, positive cases had been confirmed in nurseries from at least 10 States. As of September 29, 2004, the total number of confirmed positive locales from the trace forward, national and other survey finds was 160 in 21 States, including Alabama, three; Arkansas, one; Arizona, one; California, 53; Colorado, one; Florida, six; Georgia, 18; Louisiana, five; Maryland, two; North Carolina, nine; and so on.

I am concerned about the potentially devastating impact of SOD on eastern hardwood forests and support all efforts at improving planning and coordination of our control and management programs. The legislation introduced by the gentleman from Georgia (Mr. BURNS) and 19 other Members is an attempt to refocus efforts at controlling and managing outbreaks of SOD. In particular, the bill authorizes appropriations for development of a national strategy for sudden oak death syndrome.

I would urge all Members to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BOSWELL. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H.R. 4569, a bill to provide for the development of a national plan for control of sudden oak death, a disease that has threatened oak stands in California but is now potentially a threat to trees in other parts of the country. While we work to contain this disease, it is important that the necessary commerce in oak nursery stock be permitted to continue within reasonable bounds. This bill should help advance both of these important goals.

Our success in this matter is important to all Americans. Whether you are in the forest land business or just enjoy the shade of a majestic oak gracing your lawn, we all have an interest in this important issue. I want to commend my colleagues from Georgia (Mr. BURNS) and (Mr. SCOTT) in particular, for their work in bringing this legislation before us today. I encourage all Members to vote for the passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HAYES. Mr. Speaker, I yield 5 minutes to the gentleman from Georgia (Mr. BURNS) who has been very active in this matter from the beginning.

Mr. BURNS. Mr. Speaker, I thank the gentleman for yielding me this time. I thank the chairman and the ranking member of the Committee on Agriculture for moving this rapidly through the committee and to the floor of the House.

Mr. Speaker, I rise today in support of H.R. 4569 in an effort to stop a nationwide tree epidemic before it further infects America's forest and horticultural industry. Mr. Speaker, my distinguished colleague from Georgia (Mr. SCOTT) and I introduced this legislation because we recognize the similarities of what could result if sudden oak death disease continues to spread across the Nation in a similar fashion to that of the Dutch elm disease which devastated American forests and cities in the 1930s.

The bill would expand the U.S. Department of Agriculture's endeavors to halt the spread of the oak-destroying fungus Phytophthora ramorum and its harmful effect on America's oaks. Phytophthora ramorum invades susceptible trees through the bark, killing portions of the tree, creating an ideal environment for insects and other fungi to invade. Although primarily a west coast disease today, the sudden oak death disease has infected nurseries all across the United States and has recently made its way to Georgia through the sale of plants in the nursery industry killing over 100,000 oaks in the process, putting businesses in danger of closing and millions of trees at risk.

Our Nation's oak woodlands, urban forests, agricultural forestry and horticultural industries are all in jeopardy. The sudden oak death disease now affecting several States across our country has everyone waiting for something to be done to address this potentially disastrous problem. Sudden oak death negatively affects ecosystem functions, increases fire and safety hazards, and reduces property values in developed areas.

Over 7 million people lived where the initial outbreak occurred in the urban/wildland interface of central and coastal California. Neighborhoods were transformed within months. Dead trees surrounded communities where green trees formerly thrived. Communities were overwhelmed as residential yards, parks, open space and recreation areas were irreparably altered and in need of costly removal of thousands of hazardous trees.

The U.S. ornamental industry is valued at over $13 billion in annual sales, the third largest crop value in America. Georgia produces over $601 million in sales annually, and in my district alone, the 12th District of Georgia, we have $66 million in ornamental horticulture sales. Our nursery and horticultural interstate trade, international export markets, lumber companies and gardeners all will suffer a traumatic loss if we do not take action to prevent the spread of the sudden oak death disease.

We have seen the early stages of the sudden oak death disease and its capability of spreading far and wide. If we fail to stop this threat to our oak trees, the similar type of disease that caused catastrophic damage among Dutch elms over decades ago, the Dutch elm disease, will seem pale by comparison. Mr. Speaker, H.R. 4569 is bipartisan legislation that takes the necessary steps to combat this threat. We need our Secretary of Agriculture to immediately develop a plan to manage this disease that is rapidly spreading across our Nation.

I urge my colleagues to vote "yes" to protect our 21st century forests and our horticulture industry from the kind of devastation that we experienced in the 1930s with Dutch elm disease.

Mr. BOSWELL. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I stand here because sudden oak death was first found in Marin County in my district in 1995. Since then, I have been working to control and contain this devastating disease, and I have been working with the gentleman from California (Mr. THOMPSON) as well because it is happening in our contiguous districts. It is good that we are here today to vote on this bipartisan bill, and it is something that I have been working on to get control over. But I am saddened that it has taken the spread of this disease to receive national interest.

Slowly but surely, as sudden oak death has spread through other communities, the Nation has come to understand the devastation that it causes and its need to be stopped. Sudden oak death is catching national attention as it has appeared for the first time in nurseries in southern California and nurseries in Oregon, and there is some serious concern that SOD has even spread to the southeastern part of the country. Nurseries in California are struggling with the quarantines that have been put in place on their plants in Canada and the State of Kentucky. In fact, quarantines of nurseries in Washington and Oregon are being considered at this very time.

But more tragic than that is what actually happens to the beautiful trees in an area that is affected by SOD and the resulting fire risks. It just brings tears to your eyes when you see these groups of trees disappearing.

Mr. Speaker, I ask that my colleagues join me in supporting this bill, H.R. 4569, to contain sudden oak death before it affects the entire country. Please do not wait until sudden oak death spreads to your community before you recognize the severity of this problem. I urge my colleagues to join all of us here today and vote for this important legislation.

Mr. THOMAS. Mr. Speaker, I rise today in strong support of H.R. 4569, which would require the Secretary of the United States Department of Agriculture to develop a plan to control and manage Sudden Oak Death (SOD). Sudden Oak Death is an issue of significant concern to my constituents who live in San Luis Obispo County, and I thank Mr. BURNS and Chairman GOODLATTE for working with me to develop this legislation.

Oaks are a significant part of California's culture, and San Luis Obispo County is famous for its beautiful oak trees, particularly those along U.S. Highway 101. In fact, "El Paso de Robles," which is the name of one of the cities located in the northern portion of the County, is literally translated "the pass of the oaks." It also should be noted that oak trees provide pleasant vistas that encourage tourism, which is an important component of the California and San Luis Obispo County economies.

Unfortunately, oak trees are susceptible to a disease known as Sudden Oak Death, which is caused by the fungus-like pathogen Phytophthora ramorum, and for which there is currently no known cure or treatment. Rather, the standard regulatory practice is to quarantine the infected woodland area to reduce the likelihood of its further dispersal. However, quarantine efforts are not always effective because the disease is difficult to contain. Thus, while San Luis Obispo County is not among the thirteen California counties that are subject to such quarantines, I am interested in efforts to contain and combat Sudden Oak Death in order to ensure that Sudden Oak Death does not become established in San Luis Obispo County's environment.

In order to most effectively and efficiently combat Sudden Oak Death, we need to have a plan, and that plan should be derived from a careful analysis of what we have learned from our past efforts. As that is exactly what Mr. Burns' legislation would facilitate, I encourage my colleagues to join me as I work to see it enacted into law.

Mr. DICKS. Mr. Speaker, I rise today in support of H.R. 4569, a bill to provide for the development of a national plan for the control and management of Sudden Oak Death, a tree disease caused by the fungus-like pathogen Phytophthora ramorum.

In 1993, a fungus-like organism was found in Germany and the Netherlands on nursery-grown rhododendrons and viburnums. The disease was found to cause leaf blight, stem canker, and tip dieback. About the same time, oak trees in the San Francisco Bay Area were dying from similar symptoms and the disease began to be known as "sudden oak death."

Since that time, P. Ramorum has been found along the southeastern coast of the United States, California, Oregon and my home state of Washington. As of September 29, 2004, the total number of confirmed positive sites is 160 in 21 States. This disease invades susceptible trees and shrubs, including Douglas fir, through the bark, killing portions of the tree. This creates an ideal environment for insects and other fungi to invade.

Federal regulations were published February 14, 2002, to control the movement of sudden oak death from twelve infested counties in California and an area under eradication in Oregon. Research on Sudden Oak Death is currently being conducted by the Agriculture Research Service, U.S. Forest Service, Universities and others to better identify hosts, methods of detection, and effective treatments. Currently, 64 plants are regulated. There are no chemical treatments currently available to eliminate the disease in nursery stock.

H.R. 4569 is critical to the eradication of P. Ramorum. This bill allows the United States Department of Agriculture to develop the plan in consultation with other Federal agencies that have appropriate expertise regarding the control and management of Sudden Oak Death. I urge passage of this important bill.

Mr. FARR. Mr. Speaker, I rise today as an original cosponsor in support of H.R. 4569, legislation to provide for the development of a national plan for the control and management of Sudden Oak Death.

Sudden Oak Death is a forest disease caused by the plant pathogen Phytophthora ramorum. This pathogen has caused widespread dieback in California and across the nation of tanoak, several oak species (including; coast live oak, California black oak, Shreve's oak, and canyon live oak) and a myriad of shrubs and nursery stock.

The disease has killed hundreds of thousands of trees in the coastal counties in northern California (two of which I represent) and southwestern Oregon. As a result of the dieback in California, USDA recently issued federal quarantine regulations on the movement of materials outside California. This action is in addition to the separate quarantines Canada and the States of California and Oregon imposed on themselves. Further, thirteen states have also implemented their own specific regulations against California nursery stock after the positive find in a southern California nursery. Millions of dollars of nursery stock have already been destroyed with little or no compensation for the growers.

Additionally, the alarming discovery that evidence of DNA has been found on California's coastal redwoods and Big Leaf Maples in the foothills of the Sierra Nevada raises our concerns to a much higher level. Should the Sudden Oak Death pathogen establish itself in the Sierra Nevada, California's commercial forest industry as well as prized recreation areas would be severely impacted. If this proves to be true, the economic and ecological costs to California would be incalculable.

If Sudden Oak Death is left unchecked, the landscape of California and the economic livelihoods of many will be forever changed. It's been almost ten years since the first detailed accounts of large numbers of tanoaks were observed dying in Marin and Santa Cruz Counties and already a difference in the landscape can be noted.

Mr. Speaker, depending on the plant species, P. ramorum infection may occur on the trunk, branches, and/or leaves. Infections on the woody portions of a tree are referred to as cankers. Cankers on the trunk of oak and tanoak trees are the most damaging, and often lead to death.

Additionally, diseased oak and tanoak trees are often attacked by other organisms once they are weakened by P. ramorum. It has also been found to infect the leaves and twigs of numerous other plants species. While many of these foliar hosts, such as California bay laurel and Rhododendron species, do not die from the disease, they do play a key role in the spread of P. ramorum, acting as breeding ground for innoculum, which may then be spread through wind-driven rain, water, plant material, or human activity.

Mr. Speaker, we currently know that the total number of APHIS-confirmed positive sites from the trace-forward, national, and other survey finds is 160 in 21 states and the number realistically is much higher considering the current scope of testing. This number ranges from single event sites to as many as 53 in my state of California.

The time to act is now and passage of H.R. 4569 is a great step forward. We must stop the further spread of Sudden Oak Death.

Mr. BOSWELL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. HAYES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from North Carolina (Mr. HAYES) that the House suspend the rules and pass the bill, H.R. 4569.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. HAYES. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

PENNSYLVANIA NATIONAL FOREST IMPROVEMENT ACT OF 2004

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3514) to authorize the Secretary of Agriculture to convey certain lands and improvements associated with the National Forest System in the State of Pennsylvania, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3514

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pennsylvania National Forest Improvement Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Disposal of administrative sites, Allegheny National Forest, Pennsylvania.
Sec. 3. Conveyance of Sheffield Ranger District Headquarters, Warren County, Pennsylvania.
Sec. 4. Conveyance of Ridgeway Ranger District Headquarters, Elk County, Pennsylvania.
Sec. 5. Conveyance of Marienville Ranger Residence, Forest County, Pennsylvania.
Sec. 6. Disposition of funds.
Sec. 7. Administration of land acquired by United States.
Sec. 8. Relation to other conveyances authorities.

SEC. 2. DISPOSAL OF ADMINISTRATIVE SITES, ALLEGHENY NATIONAL FOREST, PENNSYLVANIA.

(a) DISPOSAL AUTHORITY.—The Secretary of Agriculture may convey, by sale or exchange, any and all right, title, and interest of the United States in and to the following National Forest System lands and administrative sites in the Allegheny National Forest, in Pennsylvania:

(1) US Tract 121, Sheffield ranger residence, consisting of 0.41 acres, as depicted on the map titled "Allegheny Unit, Allen M. Gibson Tract 121, March 1942".

(2) US Tract 896, an undeveloped administrative site, consisting of 2.42 acres, as depicted on the map titled "Allegheny Unit, Howard L. Harp Tract 896, 1947".

(3) US Tract 1047 (formerly Tracts 551, 551a,b,c), original Marienville Ranger District Headquarters, consisting of 1.90 acres, as depicted on the map titled "Marienville Ranger Station Compound Tract 1047, August 1998".

(4) US Tract 844, Marienville ranger residence, as depicted on the map titled "Allegheny Unit, Peter B. DeSmet Tract 844, 1936", except that portion of the tract identified as Lot 2, on the Survey Plat prepared by D. M. Heller and dated December 12, 1999, which is subject to conveyance under section 5.

(b) PROPERTY DESCRIPTIONS.—The maps referred to in subsection (a) are the primary descriptions of the lands to which the maps refer. In the event of a conflict between a map description and the metes and bounds description of the lands, the map shall be deemed to be the definitive description of the lands unless the map cannot be located. The maps shall be on file and available for public inspection in the Office of the Chief of the Forest Service until the lands are disposed of pursuant to this section.

(c) CONSIDERATION.—

(1) AUTHORIZED CONSIDERATION.—As consideration for a conveyance of land under subsection (a), the recipient of the land, with the consent of the Secretary, may convey to the Secretary other land, existing improvements, or improvements constructed to the specifications of the Secretary.

(2) CASH EQUALIZATION.—Notwithstanding any other provision of law, the Secretary may accept a cash equalization payment in excess of 25 percent of the value of any land and administrative site exchanged under subsection (a).

(d) APPLICABLE LAW.—Except as otherwise provided in this section, any conveyance of land under subsection (a) shall be subject to the laws and regulations applicable to the conveyance and acquisition of land for the National Forest System.

(e) SOLICITATION OF OFFERS.—

(1) CONVEYANCE PRIORITY.—In the selection of the recipient of land under this section, the Secretary may give a preference to public entities that agree to use the land for public purposes.

(2) TERMS AND CONDITIONS.—The Secretary may solicit offers for the conveyance of land under this section on such terms and conditions as the Secretary may prescribe.

(3) REJECTION OF OFFERS.—The Secretary may reject any offer made under this section if the Secretary determines that the offer is not adequate or not in the public interest.

(f) REVOCATIONS.—Notwithstanding any other provision of law, on conveyance of land by the Secretary under this section, any public order withdrawing the land from any form of appropriation under the public land laws is revoked.

(g) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

SEC. 3. CONVEYANCE OF SHEFFIELD RANGER DISTRICT HEADQUARTERS, WARREN COUNTY, PENNSYLVANIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of Agriculture may convey to the Warren County Development Association of Warren County, Pennsylvania, all right, title, and interest of the United States in and to US Tract 770, Sheffield Ranger District Headquarters, consisting of 5.50 acres, as depicted on the map titled "Allegheny Unit, Elk Tanning Company Tract 770, 1934".

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), the Warren County Development Association shall make to the Secretary a lump sum payment of $100,000.

(c) PROPERTY DESCRIPTION.—The map referred to in subsection (a) is the primary description of the lands to which the map refers. In the event of a conflict between the map description and the metes and bounds description of the lands, the map shall be deemed to be the definitive description of the lands unless the map cannot be located. The map shall be on file and available for public inspection in the Office of the Chief of the Forest Service until the lands are disposed of pursuant to this section.

(d) REVOCATIONS.—Notwithstanding any other provision of law, on conveyance of land by the Secretary under this section, any public order withdrawing the land from any form of appropriation under the public land laws is revoked.

SEC. 4. CONVEYANCE OF RIDGEWAY RANGER DISTRICT HEADQUARTERS, ELK COUNTY, PENNSYLVANIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of Agriculture may convey to Ridgeway Township, Pennsylvania, all right, title, and interest of the United States in and to US Tract 904, consisting of 8.812 acres, and US Tract 905, consisting of 0.869 acres, Ridgway Ranger District Headquarters, as depicted on the maps titled "Allegheny Unit, Harry R. Eliza E. Larson Tract 904, 1959" and "Allegheny Unit, Leo S. Laura A. Guth Tract 905, July 1948".

(b) CONSIDERATION.—As consideration for the conveyance under subsection (a), Ridgeway Township shall pay to the Secretary an amount equal to the fair market value of the conveyed lands, as determined by an appraisal acceptable to the Secretary and Ridgeway Township.

(c) PROPERTY DESCRIPTION.—The maps referred to in subsection (a) is the primary description of the lands to which the maps refer. In the event of a conflict between a map description and the metes and bounds description of the lands, the map shall be deemed to be the definitive description of the lands unless the map cannot be located. The maps shall be on file and available for public inspection in the Office of the Chief of the Forest Service until the lands are disposed of pursuant to this section.

(d) REVOCATIONS.—Notwithstanding any other provision of law, on conveyance of land by the Secretary under this section, any public order withdrawing the land from any form of appropriation under the public land laws is revoked.

SEC. 5. CONVEYANCE OF MARIENVILLE RANGER RESIDENCE, FOREST COUNTY, PENNSYLVANIA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of Agriculture may convey, without consideration, to the Marienville Volunteer Fire Department of Forest County, Pennsylvania, all right, title, and interest of the United States in and to that portion of US Tract 844, Marienville ranger residence, as depicted on the map titled "Allegheny Unit, Peter B. DeSmet Tract 844, 1936", which is identified as Lot 2 on the Survey Plat prepared by D. M. Heller and dated December 12, 1999.

(b) PROPERTY DESCRIPTION.—The map referred to in subsection (a) is the primary description of the lands to which the map refers. In the event of a conflict between the map description and the metes and bounds description of the lands, the map shall be deemed to be the definitive description of the lands unless the map cannot be located. The map shall be on file and available for public inspection in the Office of the Chief of the Forest Service until the lands are disposed of pursuant to this section.

(c) REVOCATIONS.—Notwithstanding any other provision of law, on conveyance of land by the Secretary under this section, any public order withdrawing the land from any form of appropriation under the public land laws is revoked.

SEC. 6. DISPOSITION OF FUNDS.

(a) DEPOSIT IN SISK ACT FUND.—The Secretary of Agriculture shall deposit in the fund established under Public Law 90–171 (16 U.S.C. 484a; commonly known as the Sisk Act)—

(1) the proceeds of a sale or exchange under section 2; and

(2) the consideration received pursuant to sections 3(b) and 4(b).

(b) USE OF PROCEEDS.—Subject to subsection (c), funds deposited under subsection (a) shall be available to the Secretary, without further appropriation, for—

(1) the acquisition, construction, or improvement of administrative facilities and sites for the Allegheny National Forest; or

(2) the acquisition of land and interests in land in the Allegheny National Forest.

(c) CONDITION ON LAND ACQUISITION.—The acquisition of lands in the Allegheny National Forest using funds deposited under subsection (a) is subject to the condition that the market value of the acquired lands may not exceed 125 percent of the market value of the lands disposed of under this Act.

SEC. 7. ADMINISTRATION OF LAND ACQUIRED BY UNITED STATES.

Lands acquired by the Secretary of Agriculture under section 6(b) or by exchange under section 2 shall be managed by the Secretary in accordance with the Act of March

1, 1911 (commonly known as the Weeks Act; 16 U.S.C. 480 et seq.) and other laws and regulations pertaining to National Forest System lands. For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*-9), the boundaries of the Allegheny National Forest, as adjusted on account of the disposal and acquisition of lands under this Act, shall be considered to be the boundaries of that national forest as of January 1, 1965.

SEC. 8. RELATION TO OTHER CONVEYANCES AUTHORITIES.

Except as expressly provided in this Act, nothing in this Act affects any other authority of the Secretary of Agriculture to sell, exchange, or acquire land. Lands authorized for disposal under this Act shall not be subject to subchapters II and III of chapter 5 of title 40, United States Code.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3514, as amended, the Pennsylvania National Forest Improvement Act of 2004, introduced by the gentleman from Pennsylvania (Mr. PETERSON), authorizes the Secretary of Agriculture to sell or convey six parcels of land from the Allegheny National Forest to local municipalities or private individuals. All of these parcels, totaling just over 22 acres, have been identified by the Forest Service as outlying parcels that are not connected to the National Forest. Three of the parcels would be conveyed to local government agencies, allowing them to consolidate operations to better serve their communities. Proceeds from these sales will be used to improve administrative sites and acquire inholdings from willing sellers. I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume. I rise to express my support also for H.R. 3514, the Pennsylvania National Forest Improvement Act of 2004. This legislation allows the Secretary of Agriculture to sell or convey six parcels of land from the Allegheny National Forest in Pennsylvania to local municipalities or private individuals.

According to the U.S. Forest Service, the sale or conveyance of these parcels is necessary because they are administrative sites which actually exceed their worth in terms of management. The parcels in question have been identified as outlying parcels by the Forest Service. Three of the parcels would be conveyed to local government agencies, allowing them to better serve their communities. Proceeds from the sale of the parcels will be used to improve administrative sites and to acquire inholdings from willing sellers. For all these reasons, I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Pennsylvania (Mr. PETERSON), the author of the legislation.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I would like to thank both the chairman and the ranking member for bringing this legislation up. It is very simple. They have explained it well. The Allegheny National Forest is a 600,000-acre forest in northwestern Pennsylvania. These parcels were used for some of their management facilities that have now been relocated on the forest in new facilities.

Some of these plots of land have nice buildings on them. They are deteriorating. They need to be turned back over into the private sector, into the local government sector. One piece will go to the local fire department in Marionville, Pennsylvania, which will help them expand their service for the community there. Another one will be to the Ridgway Township whose facilities border this land. It will assist them. In fact, the facility will enhance their ability to serve their community. Another parcel will go to the county economic development agency for further development of the economy in that region. The other parcels will be put up for sale, and the cash will be used to enhance the many facilities that are on the Allegheny National Forest. The use of those facilities continues to grow, but there is a lot of maintenance, there are a lot of enhancements needed to serve the growing public use of the forest. I just want to thank the committee and all those for bringing this forward and ask my colleagues to pass this legislation. It is good government.

Mr. STENHOLM. Mr. Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 3514, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3514, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

HONORING THE SERVICE OF NATIVE AMERICAN INDIANS IN THE UNITED STATES ARMED FORCES

Mr. COLE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 306) honoring the service of Native American Indians in the United States Armed Forces, as amended.

The Clerk read as follows:

H. CON. RES. 306

Whereas American Indians have served with distinction in the United States Armed Forces and in military actions for more than 200 years;

Whereas the courage, determination, and fighting spirit of American Indians were strengths recognized and valued by American military leaders;

Whereas nearly 190,000 American Indian veterans have fought for the United States in the struggle for freedom and peace, often in a percentage well above their percentage of the population of the United States as a whole;

Whereas the Elders of the American Indian Society have proclaimed that official recognition of the military service of American Indians would help engender a sense of self-esteem and pride in American Indians;

Whereas, although November 11, Veterans Day, marks a day of observance for all veterans who served in the Armed Forces, the establishment of a specific National American Indian Veterans Day would honor the service of American Indians in the Armed Forces; and

Whereas November 7, a date during the annual National American Indian Heritage Month, would be an appropriate day to establish as National American Indian Veterans Day: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) honors the service of American Indians in the Armed Forces;

(2) recommends the establishment of a National American Indian Veterans Day;

(3) encourages all Americans to learn about the history of the service of American Indians in the Armed Forces; and

(4) requests the President to issue a proclamation calling on the people of the United States to observe the day with appropriate ceremonies, activities, and programs to demonstrate their support for American Indian veterans.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Oklahoma (Mr. COLE) and the gentleman from Missouri (Mr. SKELTON) each will control 20 minutes.

The Chair recognizes the gentleman from Oklahoma (Mr. COLE).

GENERAL LEAVE

Mr. COLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the concurrent resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

Mr. COLE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of House Concurrent Resolution 306, a resolution that honors the service of Native Americans in the Armed Forces of the United States. As a proud member of the Chickasaw Nation, it is a great honor for me to speak in tribute of the thousands of Native Americans who have worn the uniform of the United States or served in the ranks of our military throughout our history. As the heirs of their own proud warrior traditions that precede the founding of the United States, Native Americans have made notable contributions to the Armed Forces of our country from its very inception.

□ 1745

Even in the 19th century, an era of conflict between Indian nations and the United States, Native Americans could be found serving in and with our military. Native Americans fought with Andrew Jackson at the Battle of New Orleans. A Native American was a member of General Grant's staff at Appomattox. And Indian scouts played a critical role throughout the wars on the American Plains.

In the 20th century, Choctaw Indians from Oklahoma were used as Code Talkers in the trenches of Europe during the First World War. In World War II, the Comanche Code Talkers from the district I represent in Oklahoma sent the first messages on D-Day. And of course the Navajo Code Talkers who fought and died on the other side of the world helped turn the tide of war in the Pacific.

Two of the five Native American Congressional Medal of Honor recipients are from my home State of Oklahoma. Jack C. Montgomery, a Cherokee; and Ernest Childers, a Creek, served our country with great distinction. More recently, my fellow Chickasaw, Commander John Herrington, became the first Native American astronaut. Even now he is training in Russia for his next mission.

But, Mr. Speaker, not all Native American soldiers are scouts, Code Talkers, Medal of Honor recipients, or astronauts. Most serve in the ranks and at the same jobs as their fellow Americans. I think of my uncle who joined the Navy, fought in the Philippines, and endured 3½ years in Japanese prison camps during World War II. Or my brother, John Cole Jr., who followed my father, a career Air Force noncommissioned officer, and enlisted in the United States Air Force during the Vietnam era. They are typical of the thousands of American Indians who have served our country in times of peril.

That tradition of service continues today. Native Americans volunteer for military service at a higher rate than any other racial or ethnic group in America. This concurrent resolution which honors their gallant service comes as we celebrate the opening of the Smithsonian's National Museum of the American Indian. That institution honors the rich history and enormous contributions made by the First Americans to all Americans.

I congratulate the gentleman from Arizona (Mr. RENZI), the proud son of a career officer and a former member of the Defense Department who represents thousands of Native Americans, for his fine work on this concurrent resolution. And I encourage all my colleagues to join him in honoring the outstanding Native American warriors who have served our country in peace and war.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Concurrent Resolution 306, introduced by the gentleman from Arizona (Mr. RENZI). I would like to recognize the gentleman from Arizona for his efforts to bring forward this resolution honoring the service of Native American Indians in the United States Armed Forces. I also wish to recognize the gentleman from Oklahoma (Mr. COLE), my colleague on the House Committee on Armed Services, for his support of this bill. We thank him for that.

For over 200 years, Native American Indians have distinguished themselves in military action. Most Americans would be surprised to learn that since the founding of our country, Native American Indians have made substantial contributions to our Nation's defense.

Our Nation is at war, and our troops are serving on the front lines in combat in the Middle East. Of those serving in uniform, nearly 19,000 are American Indians and Native Alaskans, and over 3,000 of them, Mr. Speaker, are women.

There are more than 2,000 Native Americans and Alaskan Natives deployed in support of Operation Iraqi Freedom and Operation Enduring Freedom. Over 1,000 American servicemembers have been killed while in service to our Nation; and while we honor all those who have given their lives to defend our freedoms, today we recognize the 13 Native Americans and Alaskan Natives among them that made the ultimate sacrifice.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I rise in support of House Concurrent Resolution 306, introduced by Mr. RENZI. I would like to recognize the gentleman from Arizona for his efforts to bring forward this resolution honoring the service of Native American Indians in the United States Armed Forces. I would also like to recognize Mr. COLE, my colleague on the House Armed Services Committee, for his support of this bill.

For over 200 years, Native American Indians have distinguished themselves in military action. Most Americans would be surprised to learn that since the founding of our country, Native American Indians have made substantial contributions to our Nation's defense.

More than 12,000 American Indians are believed to have served in the United States Armed Forces during World War I. Nearly 600 Choctaw and Cherokee Indians from Oklahoma, assigned to the 142 Infantry of the 36th Texas-Oklahoma National Guard Division, distinguished themselves on the battlefields of France. Four American Indians from the 142nd were awarded the Croix de Guerre to recognize their bravery in the face of enemy action. Also lesser known during World War I was the use of the Choctaw language to encode military messages.

When World War II dropped on the shores of America there were less than 350,000 American Indians, yet more than 44,000 volunteered to serve this nation in uniform. It is only relatively recent that Americans finally learned the valuable contributions Native American Indians made to the war effort. Nearly 50 years after the war, the veil of secrecy was finally raised and Americans learned the true story of the legendary Navajo Code Talkers.

Navajo Code Talkers took part in every assault the U.S. Marines conducted in the Pacific from 1942 to 1945. In May 1942, the original 29 Navajo recruits helped to develop a dictionary of military terms that were required to be memorized during basic training. While the Japanese were able to decipher the codes used by the Army and Army Air Corps, they were never able to crack the Navajo code used by the Marines. Over the course of the war, nearly 500 Navajos served as code talkers, and it was not until September 17, 1992, that the United States finally recognized and appropriately honored the Navajos for their extraordinary contribution to the war.

American Indians, however, served in both the Pacific and European theatre during World War II, and three were bestowed the Nation's highest military award—the Congressional Medal of Honor—Jack Montgomery, a Cherokee from Oklahoma; Ernest Childers, a Creek from Oklahoma; Van Barfoot, a Choctaw from Mississippi.

Native American Indians also distinguished themselves in battle during the Korean conflict. Two American Indians were also awarded the Congressional Medal of Honor for their actions on the battlefield. Mitchell Red Cloud, Jr. a Winnebago from Wisconsin; and Charles George, a Cherokee from North Carolina.

Once again, our Nation is at war and our troops are serving on the front lines of combat in the Middle East. Of those serving in the uniform services, nearly 19,000 are American Indians and Native Alaskans, and over 3,000 of those are women.

There are more than 2,000 Native American and Alaskan Natives deployed in support of Operation Iraqi Freedom and Operation Enduring Freedom. Over 1,000 American service members have been killed while in service to our Nation, and while we honor all those who have given their lives to defend our freedoms, today we recognize the 13 Native American Indians and Alaskan Natives among them that made the ultimate sacrifice.

The most prominent is the first service woman killed in action. Army Specialist Lori

Piestewa, a Hopi Indian, who grew up on the reservation near Tuba City in Arizona. She is also the first Native American service woman to be killed in combat. The 507th Maintenance Company to which she was assigned was ambushed by enemy forces on March 23, 2003, near Nasiriyah, Iraq. She along with the 12 other Native American Indians and Alaskan Natives will be remembered for their devotion to duty and sacrifice in service to this Nation.

I am proud to be here to honor Native American Indians and all Native Americans for their rich tradition of strength, wisdom, and warrior ethos. And, I commend them and all those in uniform who have volunteered to defend the rights and freedoms that we all hold dear.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. COLE. Mr. Speaker, I yield myself such time as I may consume.

I want to thank the distinguished gentleman from Missouri, my good friend, for his support of this resolution and, frankly, for the terrific work he does for veterans of all stripes, all colors, all varieties, all nationalities. Nobody is a better friend to the American soldier and the American veteran than my good friend from Missouri.

I had the good fortune, Mr. Speaker, recently to visit Iraq and Afghanistan. And while there, I talked to a number of my fellow Oklahomans who are also Native Americans and continue that proud tradition of serving their country and honoring their tribes. Many of them remarked quite movingly the fact that they were part of a centuries-old tradition that they took with enormous seriousness. And, Mr. Speaker, they continue that proud tradition of service today as generation after generation enlists.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Oklahoma (Mr. COLE) for his leadership on this as well as the gentleman from Arizona (Mr. RENZI). I think it is very important that we recognize this very important segment of American society, the Native Americans and the Alaskan Americans.

Mr. Speaker, I yield 3 minutes to the gentleman from New Mexico (Mr. UDALL).

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in support of House Concurrent Resolution 306, which honors the service of Native Americans in the Armed Forces.

The gentleman from Arizona (Mr. RENZI) and I have had the privilege of representing large portions of the Navajo Nation, one of the largest tribes in the United States. New Mexico also is the home of two Apache nations and 19 pueblos.

According to the last Census, there are now over 190,000 Native American veterans, constituting the highest rate of service of any ethnic group in our country. Two weeks ago when the Museum of the American Indian opened on the National Mall, Native Americans from around the hemisphere traveled to Washington to celebrate, honor, and preserve Native American culture. One aspect of that culture is the value of service. One of the best examples is the Navajo Code Talkers, a group of soldiers who have been credited with saving the lives of countless American soldiers with their unbreakable code in the Second World War.

These individuals risked their lives for our freedom at a time when some considered them second-class citizens. Their code was so successful and so critical to keep secret that some Code Talkers were guarded by fellow Marines whose role was to kill them in case of imminent capture by the enemy. The Code Talkers set a fine example of service for generations to come.

A reminder of the brave service that Native Americans provide to our country was brought to light once again last year when Army Private First Class Lori Piestewa of Arizona gave her life in the war in Iraq. Private Piestewa is believed to be the first Native American woman to be killed in the U.S. Armed Forces combat.

This concurrent resolution, which calls for the establishment of a National Native American Indian Veterans Day, is a fitting way to honor America's first sons and daughters in arms. This concurrent resolution's adoption will serve as a tribute not only to the Native Americans who have served our country well but also to their families and communities who have supported them.

I urge its adoption and have enjoyed very much working with the gentleman from Oklahoma (Mr. COLE) and the gentleman from Arizona (Mr. RENZI) and the other cosponsors on this, and I urge all Members to support this concurrent resolution.

Mr. COLE. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Arizona (Mr. RENZI), the author of this resolution.

Mr. RENZI. Mr. Speaker, I thank the gentleman from Oklahoma for yielding me this time.

Mr. Speaker, it is a privilege to stand before the House today to recognize our Nation's Native American veterans. I thank the gentleman from New Mexico (Mr. UDALL), who has worked very closely with me and my staff to recognize these brave warriors.

I have the privilege to represent eight tribes in Arizona, the largest of which is the Navajo Nation, home to the Navajo Code Talkers.

On my travels throughout Arizona district one, I have met many of these veterans and have heard their stories of sacrifice, valor, and patriotism and have seen firsthand their fighting warrior spirit that reinforces their commitment to serve our Nation in the Armed Forces.

Native American Indians and these veterans have served our Nation in battle long before they were ever considered citizens of the United States. From the Revolutionary War to the war in Iraq, a strong sense of patriotism and protecting the homeland has prompted Native Americans to answer our Nation's call. Many Native Americans come from rural areas where they learn to rely on the land and they learn to rely on each other for self-preservation and the family and the tribe and their national sovereign nation. These are inherent characteristics found in the best and brightest of our service personnel.

Five Congressional Medal of Honor recipients are Native Americans. Last year on Veteran's Day, I had the honor of presenting the Congressional Silver Medal in honor of nine Navajo Code Talkers on behalf of President Bush. This distinguished group of soldiers used their distinctive language to defeat the enemy in World War II. Today in the communities on the Navajo Nation, they are revered and are respected elders among the entire Navajo Nation because of their service to this country. It is an honor to recognize their service and to walk with them. And I rise today to give them our respect and the honor due from this Nation to those Native American veterans, whom we are so grateful and appreciative of their service.

Mr. Speaker, I thank the gentleman from Oklahoma (Mr. COLE) for the representation and hard work that he has shown particularly on this issue.

Mr. SKELTON. Mr. Speaker, I yield 3 minutes to the gentleman from Iowa (Ms. BOSWELL).

Mr. BOSWELL. Mr. Speaker, I am very happy today to represent those in my district, an extension of the Sac and Fox Tribe, Meskwakis, great Americans, Native Americans, and a number of those that live in that settlement, as they refer to it there, in Tama County, Iowa, that I know that served as I did in Vietnam and other places. And I associate myself with the comments that have been made already by my colleagues. They have provided and will continue to provide a great service to our Nation. They always have. They are willing to step up and be counted and do their part and many times do more than their part. I found them to be very self-giving, to be sure; that the freedoms they enjoy at this time, regardless of the historical circumstances, they love our Nation, and they serve it with honor and distinction, and I am satisfied that they will continue to always do that.

So I appreciate the effort that has gone in to presenting this to us today, and I think that this is the right thing to do. and we probably ought to do this more often. So I am proud to share in these compliments to Native Americans. I urge adoption of the concurrent resolution.

Mrs. JONES of Ohio. Mr. Speaker, I rise in support of H. Con. Res. 306, which honors the service of American Indian Veterans.

For more than 200 years, about 190,000 American Indians have served and defended this great country in military action. Their service is pronounced during our major wars. President Theodore Roosevelt and his Rough Riders recruited American Indian Scouts for the Spanish-American War. Choctaw Indians were used as Codetalkers in World War I. Comanche Codetalkers sent the first message on D-Day. When the United States has needed them in combat, American Indians volunteered to serve, regardless of whether they were federal citizens.

Today we are honoring American Indian veterans just like every year at hundreds of Pow Wows American Indians honor all American veterans. During these annual tribal celebrations, the "Prisoner of War/Missing in Action" flag is presented while the honor drum plays a "Veterans Song." Veterans take part in an honor dance, and are recognized for their heroism and service to our country.

I am proud to be part of this Congress that today recognizes the American Indians who have served our country. They have served bravely, and deserve our recognition. I thank Congressman RICK RENZI for introducing this worthy bill.

Mr. SKELTON. Mr. Speaker, I yield back the balance of my time.

Mr. COLE. Mr. Speaker. I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Oklahoma (Mr. COLE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 306, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

The title of the concurrent resolution was amended so as to read: "Concurrent resolution honoring the service of American Indians in the United States Armed Forces.".

A motion to reconsider was laid on the table.

□ 1800

UNIVERSAL NATIONAL SERVICE ACT OF 2003

Mr. MCHUGH. Mr. Speaker. I move to suspend the rules and pass the bill (H.R. 163) to provide for the common defense by requiring that all young persons in the United States, including women, perform a period of military service or a period of civilian service in furtherance of the national defense and homeland security, and for other purposes.

The Clerk read as follows:

H.R. 163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Universal National Service Act of 2003".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. National service obligation.
Sec. 3. Two-year period of national service.
Sec. 4. Implementation by the President.
Sec. 5. Induction.
Sec. 6. Deferments and postponements.
Sec. 7. Induction exemptions.
Sec. 8. Conscientious objection.
Sec. 9. Discharge following national service.
Sec. 10. Registration of females under the Military Selective Service Act.
Sec. 11. Relation of Act to registration and induction-authority of Military Selective Service Act.
Sec. 12. Definitions.

SEC. 2. NATIONAL SERVICE OBLIGATION.

(a) OBLIGATION FOR YOUNG PERSONS.—It is the obligation of every citizen of the United States, and every other person residing in the United States, who is between the ages of 18 and 26 to perform a period of national service as prescribed in this Act unless exempted under the provisions of this Act.

(b) FORM OF NATIONAL SERVICE.—National service under this Act shall be performed either—

(1) as a member of an active or reverse component of the uniformed services; or

(2) in a civilian capacity that, as determined by the President, promotes the national defense, including national or community service and homeland security.

(c) INDUCTION REQUIREMENTS.—The President shall provide for the induction of persons covered by subsection (a) to perform national service under this Act.

(d) SELECTION FOR MILITARY SERVICE.—Based upon the needs of the uniformed services, the President shall—

(1) determine the number of persons covered by subsection (a) whose service is to be performed as a member of an active or reverse component of the uniformed services; and

(2) select the individuals among those persons who are to be inducted for military service under this Act.

(e) CIVILIAN SERVICE.—Persons covered by subsection (a) who are not selected for military service under subsection (d) shall perform their national service obligation under this Act in a civilian capacity pursuant to subsection (b)(2).

SEC. 3. TWO-YEAR PERIOD OF NATIONAL SERVICE.

(a) GENERAL RULE.—Except as otherwise provided in this section, the period of national service performed by a person under this Act shall be two years.

(b) GROUNDS FOR EXTENSION.—At the discretion of the President, the period of military service for a member of the uniformed services under this Act may be extended—

(1) with the consent of the member, for the purpose of furnishing hospitalization, medical, or surgical care for injury or illness incurred in line of duty; or

(2) for the purpose of requiring the member to compensate for any time lost to training for any cause.

(c) EARLY TERMINATION.—The period of national service for a person under this Act shall be terminated before the end of such period under the following circumstances:

(1) The voluntary enlistment and active service of the person in an active or reverse component of the uniformed services for a period of at least two years, in which case the period of basic military training and education actually served by the person shall be counted toward the term of enlistment.

(2) The admission and service of the person as a cadet or midshipman at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the Coast Guard Academy, or the United States Merchant Marine Academy.

(3) The enrollment and service of the person in an officer candidate program, if the person has signed an agreement to accept a Reserve commission in the appropriate service with an obligation to serve on active duty if such a commission is offered upon completion of the program.

(4) Such other grounds as the President may establish.

SEC. 4. IMPLEMENTATION BY THE PRESIDENT.

(a) IN GENERAL.—The President shall prescribe such regulations as are necessary to carry out this Act.

(b) MATTER TO BE COVERED BY REGULATIONS.—Such regulations shall include specification of the following:

(1) The types of civilian service that may be performed for a person's national service obligation under this Act.

(2) Standards for satisfactory performance of civilian service and of penalties for failure to perform civilian service satisfactorily.

(3) The manner in which persons shall be selected for induction under this Act, including the manner in which those selected will be notified of such selection.

(4) All other administrative matters in connection with the induction of persons under this Act and the registration, examination, and classification of such persons.

(5) A means to determine questions or claims with respect to inclusion for, or exemption or deferment from induction under this Act, including questions of conscientious objection.

(6) Standards for compensation and benefits for persons performing their national service obligation under this Act through civilian service.

(7) Such other matters as the President determines necessary to carry out this Act.

(c) USE OF PRIOR ACT.—To the extent determined appropriate by the President, the President may use for purposes of this Act the procedures provided in the Military Selective Service Act (50 U.S.C. App. 451 et seq.), including procedures for registration, selection, and induction.

SEC. 5. INDUCTION.

(a) IN GENERAL.—Every person subject to induction for national service under this Act, except those whose training is deferred or postponed in accordance with this Act, shall be called and inducted by the President for such service at the time and place specified by the President.

(b) AGE LIMITS.—A person may be inducted under this Act only if the person has attained the age of 18 and has not attained the age of 26.

(c) VOLUNTARY INDUCTION.—A person subject to induction under this Act may volunteer for induction at a time other than the time at which the person is otherwise called for induction.

(d) EXAMINATION; CLASSIFICATION.—Every person subject to induction under this Act shall, before induction, be physically and mentally examined and shall be classified as to fitness to perform national service. The President may apply different classification standards for fitness for military service and fitness for civilian service.

SEC. 6. DEFERMENTS AND POSTPONEMENTS.

(a) HIGH SCHOOL STUDENTS.—A person who is pursuing a standard course of study, on a full-time basis, in a secondary school or similar institution of learning shall be entitled to have induction under this Act postponed until the person—

(1) obtains a high school diploma;

(2) ceases to pursue satisfactorily such course of study; or

(3) attains the age of 20.

(b) HARDSHIP AND DISABILITY.—Deferments from national service under this Act may be made for—

(1) extreme hardship; or

(2) physical or mental disability.

(c) TRAINING CAPACITY.—The President may postpone or suspend the induction of persons for military service under this Act as necessary to limit the number of persons receiving basic military training and education to the maximum number that can be adequately trained.

(d) TERMINATION.—No deferment or postponement of induction under this Act shall continue after the cause of such deferment or postponement ceases.

SEC. 7. INDUCTION EXEMPTIONS.

(a) QUALIFICATIONS.— No person may be inducted for military service under this Act unless the person is acceptable to the Secretary concerned for training and meets the same health and physical qualifications applicable under section 505 of title 10, United States Code, to persons seeking original enlistment in a regular component of the Armed Forces.

(b) OTHER MILITARY SERVICE.—No person shall be liable for induction under this Act who—

(1) is serving, or has served honorably for at least six months, in any component of the uniformed services on active duty; or

(2) is or becomes a cadet or midshipman at the United States Military Academy, the United States Naval Academy, the United States Air Force Academy, the Coast Guard Academy, the United States Merchant Marine Academy, a midshipman of a Navy accredited State maritime academy, a member of the Senior Reserve Officers' Training Corps, or the naval aviation college program, so long as that person satisfactorily continues in and completes two years training therein.

SEC. 8. CONSCIENTIOUS OBJECTION.

(a) CLAIMS AS CONSCIENTIOUS OBJECTOR.—Any person selected under this Act for induction into the uniformed services who claims, because of religious training and belief (as defined in section 6(j) of the Military Selective Service Act (50 U.S.C. 456(j))), exemption from combatant training included as part of that military service and whose claim is sustained under such procedures as the President may prescribe, shall, when inducted, participate in military service that does not include any combatant training component.

(b) TRANSFER TO CIVILIAN SERVICE.—Any such person whose claim is sustained may, at the discretion of the President, be transferred to a national service program for performance of such person's national service obligation under this Act.

SEC. 9. DISCHARGE FOLLOWING NATIONAL SERVICE.

(a) DISCHARGE.—Upon completion or termination of the obligation to perform national service under this Act, a person shall be discharged from the uniformed services or from civilian service, as the case may be, and shall not be subject to any further service under this Act.

(b) COORDINATION WITH OTHER AUTHORITIES.—Nothing in this section shall limit or prohibit the call to active service in the uniformed services of any person who is a member of a regular or reserve component of the uniformed services.

SEC. 10. REGISTRATION OF FEMALES UNDER THE MILITARY SELECTIVE SERVICE ACT.

(a) REGISTRATION REQUIRED.—Section 3(a) of the Military Selective Service Act (50 U.S.C. 453(a)) is amended—

(1) by striking "male" both places it appears;

(2) by inserting "or herself" after "himself"; and

(3) by striking "he" and inserting "the person".

(b) CONFORMING AMENDMENT.—Section 16(a) of the Military Selective Service Act (50 U.S.C. App. 466(a)) is amended by striking "men" and inserting "persons".

SEC. 11. RELATION OF ACT TO REGISTRATION AND INDUCTION AUTHORITY OF MILITARY SELECTIVE SERVICE ACT.

(a) REGISTRATION.—Section 4 of the Military Selective Service Act (50 U.S.C. App. 454) is amended by inserting after subsection (g) the following new subsection:

"(h) This section does not apply with respect to the induction of persons into the Armed Forces pursuant to the Universal National Service Act of 2003.".

(b) INDUCTION.—Section 17(c) of the Military Selective Service Act (50 U.S.C. App. 467(c)) is amended by striking "now or hereafter" and all that follows through the period at the end and inserting "inducted pursuant to the Universal National Service Act of 2003.".

SEC. 12. DEFINITIONS.

In this Act:

(1) The term "military service" means service performed as a member of an active or reverse component of the uniformed services.

(2) The term "Secretary concerned" means the Secretary of Defense with respect to the Army, Navy, Air Force, and Marine Corps, the Secretary of Homeland Security with respect to the Coast Guard, the Secretary of Commerce, with respect to matters concerning the National Oceanic and Atmospheric Administration, and the Secretary of Health and Human Services, with respect to matters concerning the Public Health Service.

(3) The term "United States", when used in a geographical sense, means the several States, the District of Columbia, Puerto Rico, the Virgin Islands, and Guam.

(4) The term "uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, commissioned corps of the National Oceanic and Atmospheric Administration, and commissioned corps of the Public Health Service.

Mr. RANGEL. Mr. Speaker, I reserve the right to object.

The SPEAKER pro tempore (Mr. OSE). Does the gentleman propose a parliamentary inquiry?

PARLIAMENTARY INQUIRY

Mr. RANGEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RANGEL. Mr. Speaker, I would like to inquire whether the proponent of this motion to suspend supports the bill, and, if he does not, whether or not his motion is in order.

Mr. MCHUGH. Is that a parliamentary inquiry?

Mr. RANGEL. Yes, it is.

Mr. MCHUGH. I know the gentleman thinks it is. I am waiting for direction from the Chair.

The SPEAKER pro tempore. Under the rule, the question of who controls time in favor of the motion is relevant.

Does the gentleman from New York (Mr. MCHUGH) favor the resolution?

Mr. MCHUGH. Mr. Speaker, I would say I support the consideration of the this bill at this time.

The SPEAKER pro tempore. Would the gentleman repeat his comment?

Mr. MCHUGH. Mr. Speaker, I fully support the consideration of this bill at this time.

Mr. RANGEL. Mr. Speaker, the question that I raised before I raised the point of order is not whether he supports consideration of the bill but whether he supports the bill.

The SPEAKER pro tempore. Under rule XV, if the proponent of the resolution does not favor the resolution, then another Member may claim the 20 minutes in support of the motion.

Mr. RANGEL. Mr. Speaker, based on that, I raise a point of order, and I would like to claim the time in support of the resolution.

Mr. MCHUGH. Mr. Speaker, I would say, if I may, in response to the gentleman's claim, that I am disappointed he has less faith in his power of persuasion than I do, because I came here prepared to be persuaded. But if I must decide now, I would vote no, so I do not claim to be a proponent of the bill.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) may control 20 minutes in support of the bill.

Mr. MCHUGH. Mr. Speaker, that leaves me where? I would claim the time in opposition.

The SPEAKER pro tempore. The Chair affirms that 20 minutes is reserved for a Member in opposition. The gentleman from New York (Mr. MCHUGH) may claim that time.

Mr. MCHUGH. Under the rules of the House, I would claim that time in opposition.

Mr. SKELTON. Mr. Speaker, I claim the time in opposition to this bill.

Mr. MCHUGH. Mr. Speaker, I believe the time has already been claimed.

The SPEAKER pro tempore. As a matter of recognition, the Chair would award the 20 minutes in opposition to the gentleman from New York (Mr. MCHUGH).

Mr. MCHUGH. Mr. Speaker, as a matter of comity, I would be happy to split the time in opposition with the distinguished gentleman from Missouri (Mr. SKELTON), the ranking member on the Committee on Armed Services.

Mr. SKELTON. Mr. Speaker, so I understand, am I entitled to the time in opposition? I am the ranking member of the Committee on Armed Services.

The SPEAKER pro tempore. Without objection, the gentleman from Missouri (Mr. SKELTON) will control 10 minutes, half of the time in opposition.

There was no objection.

Mr. SKELTON. Mr. Speaker, I am claiming the entire time in opposition, as the ranking member of the Committee on Armed Services.

The SPEAKER pro tempore. The Chair has awarded the 20 minutes in opposition to the gentleman from New York (Mr. MCHUGH), who, by unanimous consent, has agreed to split the time with the gentleman from Missouri (Mr. SKELTON).

Just to summarize, the Chair would advise that the gentleman from New York (Mr. RANGEL) will control 20 minutes, the gentleman from New York (Mr. MCHUGH) will control 10 minutes and the gentleman from Missouri (Mr. SKELTON) will control 10 minutes.

The Chair recognizes the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this bill because it gives this great august body an opportunity for the first time to discuss whether or not the administration or the party in the majority intends to have a draft.

I suspect that one of the reasons that this has to be cleared up before the election, the evidence clearly indicates that everyone in the Pentagon, the Defense Department, has indicated that we need a robust military force in Iraq. All of the evidence indicates that we have exhausted our active troops; we are exhausting the Reserves; we are exhausting the National Guard.

We have a back-door draft, where we do not let people who enlisted and have finished their term get out. In addition to that, the Army is over there in combat. Where the normal term is 1 year, the Pentagon has indicated they are going to reduce it to 6 months, to go along with what the Marines do, because of fatigue.

It just seems to me as many times as the administration says that they are against a draft, all we hear on the Internet and around the country is that, after the election, they are going to have the draft.

If they are going to have the draft, I support this legislation, even though, quite frankly, I would have preferred that the bill be referred to the Committee on Armed Services, because I think it is important enough to have hearings on this matter and for the administration to really show why they really do not need to get people through an involuntary conscription.

But since they knew I had this bill and since they knew it was election time, I rise in support of the bill, even though I would gladly yield to the committees of jurisdiction, because it just seems to me that, if we abuse the system by continually taking legislation for the purpose of embarrassment and not in order to say that it is so noncontroversial that we should put it on the suspension calendar, then, no matter who is in the majority, we are violating every principle of the House, and that is the reason why the Parliamentarian and the Speaker have decided that I am in control of the time.

This system should be used only when there is no controversy. But I am not a Member of the House that runs away from controversy. Those who run away from it are those people who have the responsibility to discuss bills in the committee with hearings and bring the legislation so the American public can see what you do believe before an election.

But now you cannot even decide who is for the bill, who is for consideration, "I want it up; I want it down." It is a political thing that you are using that determines the lives of people as to who fights in wars and who is exempt from wars and who should do national service.

It is a disgrace, what is going on here today, and you cannot find anyone to put the blame on. You are against your own bill. It came out of your Committee on Rules. You have the majority. But yet you need some way, some vehicle.

And just because justice does not cave in to people who are hypocritical in nature, we got the time to tell you why we support the bill and why we oppose the bill. But, unfortunately, we are doing this on the suspension calendar. The majority, I guess, will say that this is a noncontroversial issue, because if you do not admit that it is controversial, then you are saying that it should not have been on this calendar in the first place.

Mr. Speaker, I reserve the balance of my time.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I do not think there is much controversy here. Nobody is going to vote for this bill. If it were controversial, I think we would have a very close vote here. I doubt we will. In fact, I was not going to raise a point of order. I will not. I would ask the Chair rhetorical without expectation of a response, what happens when the sponsor claiming the time in support of the bill actually will vote against it? It will be interesting to see how the final tally is actually taken.

I am fascinated. I have a great deal of respect for the gentleman from New York, my fellow New Yorker, but I find it a bit amusing at best to hear him claim that the reason that this is a controversial issue is we read about it on the Internet. The only thing we read about on the Internet is what some of his colleagues are planting with respect to that.

The basis for our being here today is simply to answer the concerns of the American people that have been created by political forces who are trying to create controversy where none should exist. The administration clearly, the Department of Defense clearly, and I suspect that at the end of this vote it will be shown the House of Representatives clearly rejects the fact, either before an election, at election or after election, that there is a need, there is a rationale, for returning to mandatory conscription by the United States military.

I would say to the gentleman from New York that he is the only sponsor of a bill in my 12 years in the House that is complaining that his bill has been brought to the floor. We have a great deal of respect for the gentleman. I suspect and I strongly believe he put together his bill with a great deal of conviction and belief, and we felt it time, given the Internet discussion and all the other absolutely baseless charges that were floating about, that this issue be put to rest, not for the issue and not for the concern of politics, but for the comfort of the American people who have been whipped into a frenzy unnecessarily about this issue.

Now some may say today that this legislation is really about the need to establish a system of national service—an attempt to instill in our youth a sense of responsibility and a clearer understanding of the sacrifices made over many years to win our freedoms—and what it takes to better secure our future. And I would say—that is a legitimate topic of discussion—an area that perhaps merits exploration.

But the clear objective of this bill—and the undeniable intent of recent claims of secret plans and post election plots is focused on a return of the draft—forced military conscription.

Mr. Speaker, I reserve the balance of my time.

Mr. SKELTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have seen something that I have never seen in 28 years in the House of Representatives, never; someone whom I respect and consider a good friend, someone bringing a bill to the House floor that they do not support. That is news. That is the first time ever and probably in the history of the United States House of Representatives.

So I am in strong opposition to this bill. I am surprised that the Republican leadership would bring the bill to the floor. And why? Not to reinstate the draft.

The fact that the Republican leadership would bring this bill to the floor suggests to me, as an observer, several reasons: The war in Iraq is not going well. The President's plan to handle this situation with a minimum number of troops is not working, and we need more in-strength, as Paul Bremer just told us. And this tacit allegation that the administration wants to reinstate the draft right after the election. One of those three.

Americans should take notice of the fact that the House leadership thinks we need to resume the draft by bringing it up.

I have said before on occasion what Mark Twain once said, "The more you explain it to me, the more I don't understand it." Why are we wasting our time, precious time, we ought to be talking about health care, be talking about the deficit, be talking about taking care of the troops. And, my goodness, I am so proud of them, and the gentleman from California (Chairman HUNTER) and I have worked so hard to try to take care of those troops with body armor, to try to take care of them with pay raises, and I know he is disappointed as well in bringing this bill up.

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And at the end of the day, Mr. Speaker, to bring this bill to the floor is nothing more than a cynical election year political ploy. If you want to play politics, go rent yourself a truck bed and get yourself a microphone and get a crowd and talk there, but this is not an electionary place. This is where we make the laws of the United States of America. And for someone to bring this bill to the floor that does not support it, does not want it, and wants to make a political point, well, I need not finish that sentence.

Mr. Speaker, I reserve the balance of my time.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. CONYERS).

Mr. CONYERS. Mr. Speaker, bringing up a bill today, nearly 2 days since it was introduced without a hearing, to anybody in any committee, nothing, to just bring it up today, 3 days before the end of the session, makes it very clear what is on the minds of the leadership in this House. This is a smoke screen to divert the focus from the real facts about the war in Iraq.

The authors of this bill want a hearing. Why do you not want a hearing? Why do you want to bring it up out of nowhere? This was not even scheduled. Yesterday, this was not scheduled or noted for scheduling.

But they do not want a hearing because they do not want the public thinking about the fact that, as of today, we have spent nearly $200 billion on this war, the United States has lost over 1,000 lives, these figures represent 90 percent of the costs of the war, and more than 90 percent of the casualties in what the President continues to paint as a global problem led by a willing coalition, when no coalition exists.

Worse, the President sends our troops into Iraq without body armor, without sufficient troop strength, and without any discernible exit strategy, and guess what? We are running out of troops. It is not a secret, I say to my colleagues. We are continuing to keep National Guardsmen in the service beyond their career. We are taking Reservists and we are running out of volunteers. So let us not be astounded that what follows that is a draft. The only problem is that we cannot announce it until after the election.

Bringing this bill up today—nearly two years since the day we introduced it—is nothing but a Republican attempt at a smokescreen to divert the focus from the real facts about the war in Iraq.

The Republicans don't want the public thinking about the fact that as of today, we've spent nearly $200 billion on this war, and the United States has lost over 1000 lives. These figures represent ninety percent of the cost of this war and more than ninety percent of the casualties—in what the President continues to paint as a global problem led by a willing coalition. No such coalition exists. Worse, President Bush sends our troops into Iraq without sufficient troop strength, and without any discernable exit strategy or plan to win the peace. The Administration doesn't want the public to know that, when it comes to Iraq, this President has failed the American people.

Even Paul Bremmer, the U.S. official who governed Iraq after the invasion, has admitted that the United States made a mistake in not deploying enough troops in Iraq, and then made a mistake in not containing the violence and looting after the ouster of Saddam Hussein.

The Administration doesn't want to call attention to the fact that the Pentagon has had to resort to the use of a "stop loss" policy to mask the fact that we do not have enough troops in Iraq. This policy is in a sense a military draft because it is used to keep tens of thousands of soldiers bound for Iraq and Afghanistan in their service beyond their originally scheduled discharge dates. Under this policy, the Army alone has blocked the retirements and departures of more than 40,000 soldiers, about 16,000 of them National Guard and reservists who were eligible to leave the service this year. This just shows that politics has taken priority over readiness. The administration uses these policies to meet the needs in Iraq because they are expedient and convenient, but all it amounts to is playing politics with the lives of the men and women overseas, and with their families back home.

And while the Administration likes to talk about what a good job it's doing in Iraq, it consistently fails to mention the other impending crises we will eventually have to deal with. Iraq does not scratch the surface when you consider the situation we're in with North Korea and Iran.

No, rather than have the American people focusing on these facts and statistics, the Republican members of Congress want to use this bill as a political maneuver to kill rumors that the President plans to reinstate the draft after the election. The Republicans want to use this bill—a bill that strives to bring equality to our military—to shift the focus from their extreme and devastating shortcomings.

What our bill does is address the growing disparity in socio-economic background between those who go to fight our nation's conflicts and those who send them. The statistics show that minorities and the working class segments of society constitute a disproportionate percentage of the military. African Americans represent 21 percent of the military as opposed to 13 percent of the civilian age population. Only 24 percent of the persons in the military have parents in white collar management jobs, while that is true for 34 percent of the general military population. It is plain fact that the military does not come from the higher socio-economic status of society.

This bill deserves better than placement on the suspension calendar. It deserves serious consideration. As my colleague Mr. RANGEL has stated, we should be hearing testimony and gaining an understanding of our needs in Iraq. But as it stands, the Republicans only care about his bill to divert attention from the true fact—that the President has made a colossal error in judgment that is costing American lives every single day.

Mr. McHUGH. Mr. Speaker, if the gentleman from Michigan feels it is inevitable, he has a chance to vote for the resumption of the draft, if that is what he wants. By the way, he said the bill was introduced 2 days ago. I suspect he misspoke. It was introduced in January of 2003.

Mr. Speaker, I am happy to yield 1½ minutes to the gentleman from California (Mr. HUNTER), the distinguished chairman of the Committee on Armed Services.

Mr. HUNTER. Mr. Speaker, the question has been asked, why is this bill calling for a draft being offered on the floor when it is apparent that nobody on the Republican side wants it and the reason we are doing this is to expose the biggest hoax in show business. The hoax has been carried out through the Internet where millions of young people are being scared by some anonymous tipster who is claiming that somehow, there is a secret plan to reinstate the draft.

So what are we going to do? We look over at the bill and the only bill that has been offered to reinstate the draft is offered by Democrats. It is offered by the gentleman from Washington (Mr. McDERMOTT), it is offered by the gentleman from Hawaii (Mr. ABERCROMBIE), it is offered by the gentleman from New York (Mr. RANGEL), it is offered by Democrats and not a single Republican has cosponsored it.

The President of the United States says in this message from the White House, he will veto this Democrat bill to reinstitute the draft. Mr. Rumsfeld says he will oppose this bill. He says, we are meeting our recruitment goals with both the Army and the Marine Corps, we do not need a draft, and he will oppose it; every Republican will vote against it.

The reason we are doing this is to expose this hoax of the year, which has been needlessly scaring millions of young people, driven by a bill that not a single Republican has signed onto. And let me tell my colleagues, not a single Republican in my estimation will sign onto it and the bill will not pass; and I invite the Democrats sponsoring this bill to carry out their position and vote for it tonight if they want to.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I oppose this bill to reinstate the draft, but I really want to thank the Republican leadership for bringing the bill to the floor, even though they oppose it, to highlight this administration's complete mismanagement of the war in Iraq.

Imposing a draft is not the right solution, but it is time we recognized a real problem. Our military is overstretched, overcommitted, and close to the breaking point. Last week, Paul Bremer, the former Iraqi administrator, acknowledged that we should have had more troops in Iraq to deal with the counterinsurgency which has resulted in over 1,000 Americans dead. He is only the latest to call for an increase in the size of our military.

From former Army Chief of Staff General Shinseki, whose appeal for more troops in Iraq fell on deaf ears, to General John Riggs, the head of the Army's transportation efforts, who called for an increase in end-strength beyond 10,000 troops, to the Pentagon's own Defense Science Board, which warned last week that inadequate troop size means that the United States cannot sustain current and projected global stabilization commitments, the strain on our military is increasingly obvious.

Guards and Reservists make up 40 percent of our mission in Iraq, and those who have served and survived are not able to come home because there is nobody to replace them. The Army Guard will fall short of its recruitment goal by 5,000 personnel for the first time since 1994.

I have a bill to increase the end-strength of the military, which is a responsible way to reduce the stress on the force. But instead of scheduling my bill, the leadership has scheduled a vote on the draft that they do not even support.

I urge my colleagues to reject this bill and join me in calling on the Pentagon to substantially increase the size of our voluntary military.

Mr. RANGEL. Mr. Speaker, I yield myself such time as I may consume.

I want to applaud the candidness and the honesty of the chairman of the Committee on Armed Services to admit that they are using the Rules of the House of Representatives to rebut the rumors on the Internet that President Bush wants to enact a draft. I thought we did this through the Republican National Committee. This is a political thing.

It may be vicious to believe that people do not trust the President when he says no, and they do not trust Rumsfeld, and they do not trust Republicans; that is a terrible political problem, but do not use my House of Representatives to correct it. Do not use the rules of this House to correct it. This place is a place for legislation and not to play political games.

If you do not have the trust of the American people when you say there is not going to be a draft, then you had better use the Republican National Campaign Committee to rebut it. But each time you think you have to run an election on the Rules of this House, after all of us are gone, we have an obligation to those who succeed us to abide by the Rules of the House that were left to us for one purpose: not to win elections, but to legislate.

Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. MCDERMOTT).

Mr. MCDERMOTT. Mr. Speaker, the gentleman from New York (Mr. RANGEL) and I put this bill in in January of 2003 because we knew that not every American was at equal risk, that the wealthy would not go, and the war would be like all the others. But no one wanted to talk about it then. They buried it over in the Defense Department. We have not heard about it until this very day, on the day the Vice President is going to get up and debate tonight. We will see.

Now, why are we here today? We are here because you are afraid. You are afraid that the young people of this country are watching television. You are afraid that they do not believe the President, they do not believe Mr. Rumsfeld, they do not believe Condoleezza Rice, they do not believe anybody who tells them there is not going to be a draft, because they see what you are doing to the Guard and what you are doing to the Reserves and what you are doing to the individual Ready Reserves that you are pulling back in. They know you are not telling the truth.

Now, these kids may have funny hair and they may look odd and have rings in their nose and whatever, but they know the truth, and they are on the Internet blogs and the telephone. Every time the President denies it, the phone calls pour into our offices: When is it going to happen?

Now, we know that if Mr. Bush gets reelected and he comes up here and asks you for a draft, we have got to have more troops and we are going to do it this way or that way, you will roll over for him like butter in the hot sun. There will not be anything left of you but a puddle of butter, because you know that you will not be able to stand up to him. And the fact is that the kids have got it right, and now their parents are listening and are saying, Oh, my God, there might actually be a draft.

It would not be hard to do. Let me tell my colleagues how it works. Just announce that there are not going to be any loans for college. You can get $80,000 if you enlist, but if you are not going to enlist, you are not going to get to go to college on government money. Rich mommies and daddies will take care of their boys, but poor ones will have to go to the military.

Mr. MCHUGH. Mr. Speaker, I yield myself such time as I may consume.

I am stunned by the fact that my friend from New York stands up in his beginning comments and sites the reason we have to deal with this is because the Internet is saying so, and then criticizes people that it is an Internet rumor. He seems to be very comfortable with his Presidential candidate's position of being everywhere at every time.

Also, I would just say to the gentlewoman from California, who complained about her bill and increasing end-strength, the House Committee on Armed Services which, as we will remember, has already passed a bill into the House and we are in conference with the Senate, would increase end-strength by almost 40,000 troops. So we have responded to that this year and have for the past 2 years as well. Frankly, we did not need her bill.

Mr. Speaker, I am happy to yield 1 minute to the gentleman from North Carolina (Mr. HAYES), a distinguished member of the House Committee on Armed Services.

Mr. HAYES. Mr. Speaker, I thank the gentleman from New York (Mr. MCHUGH) for bringing this to the floor. This is, I say in all disappointment, an incredible insult to the men and women who wear the uniform. Why is it an insult? Because our men and women are the best, brightest, best trained, best equipped, most effective that the world has ever known. They are a tribute to the education process in this country and the ability of young people to stand up and serve their country.

My dear friend, the gentleman from Missouri (Mr. SKELTON), whom I admire and trust and respect, raised the point, and I think it needs to be expanded a bit.

People have gone all over this country in the beds of pickup trucks anywhere someone would stick a microphone in their face, and the minority political operatives have used it as an opportunity not just to scare youngsters, but to scare moms and dads and grandparents about something that does not exist.

Mr. Speaker, we can do better. Support the bipartisan effort to increase our ROTC on college and high school campuses. Let us honor the young men and women who are fighting for us today with a degree of skill, accuracy, and commitment that we have never seen.

Mr. Speaker, today we bring to the floor a matter of great importance to our troops, and an issue about which there has been much misinformation. The legislation before us, H.R. 163, would essentially reinstate the draft, requiring all young persons, including women, to perform a period of military service.

Those who are in favor of this legislation declare the draft is necessary for two reasons. They argue that recruiting and retention of our armed forces are falling at alarming rates and they asset that the military is disproportionately comprised of poorly-educated individuals.

This is one of the greatest insults to our military I have ever heard. Today our armed forces are the most professional, best educated, most integrated and best trained in the world. All one needs to do is spend a few moments with our troops. Yesterday I was at Ft. Bragg in my district in NC. Talking with service members, is one of the most motivational things I ever experienced. These soldiers, often youngsters, are skilled, well-trained, articulate, intelligent, dedicated to their country, and model citizens. They endure hardships and sacrifice because they want to serve. Let me repeat: they want to serve. They are patriots who want to contribute to their country and serve their nation. They are proud of their service and we as a grateful nation should express nothing other than gratitude and praise for what they do. Our military today is not a repository for poor kids with little education and few opportunities in life. The U.S. military didn't get to be the most technically advanced fighting force in the world by relying on a collection of high school dropouts and underachievers.

Simply stated, we have the finest and most professional military in the world. To suggest otherwise and argue that we need a draft to bring educated, skilled people into the military, is one of the most degrading insults to our troops that I have ever heard and furthermore is true not true.

Secondly, I would like to point out that even though tours have been long, many sacrifices have been made and our troops have been called on for extraordinary missions, recruiting and retention is going well for all 5 services. Retention for the active component is over 100 percent and reserve retention rates are at 99 percent.

The recent call for additional combat capability in Iraq and Afghanistan to conduct the global war on terror has fueled misconceptions that the United States will need to reinstate the draft to perform its military missions. There is only one reason that would justify conscription: if the military were unable to recruit enough volunteers to meet its personnel needs. This is not the case. Needed military personnel strength increases can be achieved through the existing recruitment and retention system. We should increase ROTC on high school and college campuses to highlight the high tech careers available through our military and further enhance our already successful recruitment efforts. No one in the Administration, at the Department of Defense, or at the Selective Service System has advocated for the reinstatement of the draft in any form.

Mr. Speaker, the bill before us today is poor public policy, and pure politics and a disgrace to our troops. The all-volunteer force established the best and most professional military in the world. Our troops are disciplined, resilient and experienced, prosecuting the Global War on Terrorism and numerous other missions since 1973 with valor, bravery and honor. Continuing to uphold the high standards our military personnel embody everyday is only achieved through a voluntary force. I urge my colleagues to honor those who have individually decided to serve their country and vote against this election year legislation.

Mr. SKELTON. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from New York (Mr. OWENS).

Mr. OWENS. Mr. Speaker, I rise in opposition to the bill.

Mr. Speaker, it is insulting and disgusting for the Republican Majority to make a joke of serious war and peace policy by bringing draft legislation to the floor as a frivolous matter, as a joke.

Every member of the House who is against the draft should join me as a co-sponsor of H.R. 4746, the Selective Service Registration Termination Act. The attached "Dear Colleague" letter of June 25, 2004 provides a fuller explanation of H.R. 4746

This bill proposes the termination of the selective service registration system which requires that all eighteen-year-old males register. This lost component of the system maintains a large manpower pool readily available for the quick implementation of a draft. This bill takes away the draft option and guarantees that future policy makers must confine their adventures to actions which can be launched and maintained with only a volunteer military force.

H.R. 4746 clearly indicates that in the case of a full declaration of war by the Congress of the United States the Selective Service System may be reinstituted. Only as a last resort should a war be declared and mandatory proscription be authorized.

In the case of a draft there must be no exemptions for the rich and the powerful. If a draft is implemented the rich and powerful should go first. Attached is a statement from the CONGRESSIONAL RECORD submitted on July 16, 2003 which expresses the conviction which must guide any future draft: Let the rich go first.

U.S. CONGRESS,
HOUSE OF REPRESENTATIVES,
Jun. 25, 2004.

WORKING FAMILIES NEED JOBS, NOT GUNS AND UNIFORMS—WE MUST TERMINATE SELECTIVE SERVICE REGISTRATION

DEAR COLLEAGUE: I have introduced the "Selective Service Registration Termination Act" (H.R. 4746) in order to dismantle the machinery of a draft which would suck American youth deeper into the quagmire of the Iraq War and also provide manpower for new preemptive wars. Our nation is at a pivotal point with respect to the use of military force to protect our vital interests around the world. The worship of the false god of war would be lessened if we take clear and careful steps to reduce the pool of potential combat troops. Continuing a volunteer army policy will provide a strong restraint and check on new violent adventures.

Every presidential candidate must be made to pledge that there will be no implementation of a draft after the election. Working families need jobs, not guns and uniforms. Preparations for a draft are presently an underground, covert, ghost operation as we move toward election day; however, there are distinct actions which point the way to a future sudden "common sense" announcement that the machinery of the draft must be reactivated. Please note that the Senate recently authorized a twenty thousand soldier increase for the Department of Defense. All experts have agreed that unless circumstances change the size of the occupying army in Iraq must be greatly increased. Instead of the creation of a vast new pool of cannon fodder, we must insist that "the circumstances must be changed."

"Shock and Awe" invasions must not continue to be an alternative for the unilateral confrontation of enemies in the war against terrorists. The machinery of diplomacy; a world wide network of coordinated intelligence; and the maintenance of the capacity to execute swift, targeted actions must replace the obsolete and costly total war strategy. Ending the draft system is the most practical step available to use to force the end of reckless war as an alternative.

Working families need jobs, not guns and uniforms. Support a giant step toward lasting peace. Please join me by cosponsoring H.R. 4746 by contacting Larry J. Walker at 225-6231.

Sincerely,

MAJOR R. OWENS,
Member of Congress.

Mr. Speaker, the July 10th vote to allow the expenditure of funds to implement radical changes in the overtime provisions of the Wage and Hour Act was an outrageous and devastating attack on working families. Compounding the horror of this action is the recent announcement that our present compliment of soldiers in Iraq, ninety percent of whom come from working families, will be forced into combat overtime for the indefinite future. Not even the one year rotation rule of Viet Nam will be applied to relieve their long ordeal under extreme heat and guerilla warfare duress.

Overtime in the dangerous defense of the nation is being mandated without controls while at the same time overtime wages to feed working families is being subjected to new schemes which reduce take-home pay. This is an unacceptable continuation of the gross exploitation and oppression of working families by the Republican Scrooges who presently dominate the Congress and the White House. This nation faces a tragic predicament: An elite group of juvenile old men have plunged us into a war where great suffering and pain is being inflicted on working families who bear the brunt of the casualties on the front lines as well as the fallout from economic dislocations and recession here at home.

It appears that the Republican well-to-do decision makers have great contempt for those who do the dangerous and dirty work for our nation. All Americans must remember the debt we owe to those who risk their last full measure of devotion. Or perhaps the powerful and the rich should go to the front lines first. The RAP poem below is a summary of my indignation on this critical action:

LET THE RICH GO FIRST

Working Families
Keep your soldiers at home,
For overtime in Iraq
No cash
No comp time
Not even gratitude,
Republicans intrude

To exempt all heroes,
No combat rotation
Life on indefinite probation
Scrooges running the nation.
To the front lines
Let the rich go first—
For blood they got a thirst,
Let the superstars drink it
In the glorious trenches;
Leave the disadvantaged on the benches.
Working Families
Let the rich go first:
The battlegrounds they always choose
Their estates have the most to lose;
Send highest IQs to
Take positions at the front,
Let them perform their best
High tech warfare stunt;
Working Families
Keep your malnourished sons home—
Harvard Yale kids should roam
The world with guns and tanks;
Reserve gold medals
For the loyal Ivy League ranks.
O say can you see
Millionaire graduates
Dying for you and me?
Welfare Moms
Have a message for the masters:
Tell Uncle Sam
His TANF pennies he can keep
For food stamps we refuse to leap
Through your hoops like beasts;
Promise to leave our soldier alone
And we'll find our own feasts.
To Uncle Sam we offer a bargain—
Don's throw us dirty crumbs
Don't treat us like bums
And then demand
The full measure of devotion;
Our minds are now in motion
Class warfare
Is not such a bad notion;
Your swindle will not last
Recruiters we won't let pass,
Finally, we opened our eyes—
Each family is a private enterprise.
Each child a precious prize;
We got American property rights,
Before our children die in war
This time we'll choose the fights.
Let the rich go first:
They worry about
The overtime we abuse;
The battlefields they always choose
Their estates have the most to lose.
Let the rich go first!

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan (Mr. DINGELL), the dean of the House.

Mr. DINGELL. Mr. Speaker, I think this debate is pointing out something very important: This is a rich man's war and it is a poor man's fight. We have some of the finest young people in the world over there in the Mideast that are dying, better than 1,000 of them, and better than 8,000 have been wounded; but about 20,000 have had to be MedEvac'd out of there because of injuries and things of that kind.

□ 1830

We do not have enough troops in the field to prevail. We had enough to win a war, but we do not have enough to win the peace, and we do not have enough people to police and to control a situation which is getting worse and worse and worse.

The question is, if you are not going to have a draft, and I am not going to sport legislation, but how do you propose over here to get our people the troops that they need, to get the levels of force that they need to win? It is easy to stand around here and talk about, oh, how we must support our troops, it sounds very patriotic. But let us get some people over there. Let us get the necessary levels of force. Let us get the equipment that we need over there for our people.

I would note, there is not enough equipment like body armor. There is not enough armor for the Humvees. Our people are dying in good part because of this, and they are dying in good part because there are not enough of them to properly address the problem of a clever and well-managed insurgency which is killing thousands of young Americans.

I say that we are going to have to have a national debate on this. I commend the gentleman from New York (Mr. RANGEL) for having forced this issue to the House floor. I say, rather than making political points on this, my Republican colleagues should start to address something more important: Address how you are going to win; address how you are going to get the number of troops; address how you are going to produce the levels of force that are going to enable us to win, to get our people home safely and to carry out our real duty to the American people.

Mr. RANGEL. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, well, I just want to echo the dean, and I want to congratulate the gentleman from New York (Mr. RANGEL) for his courage.

Frankly, let me say to my colleagues on the floor of the House, there is a secret plan for the draft. And there is nothing, there is nothing that this debate will do to dispense with that rule more and that secret plan. Let me tell you why. Because you have got 1,000-plus dying. You have 7,000-plus that are already wounded. You have the highest number of AWOL persons who are not returning. You have soldiers doing 24-hour duty. And I realize that, when you are in combat, you are at the subject of your commanders, but you are doing a 24-hour duty, and people are frustrated and tired and overwhelmed. You have people who cannot get medicine. And you have individuals who are National Guard and who are Reservists who are away from their families and are being told, just 2 more months, just 6 more months.

Mr. Speaker, this debate is imperative to those who are listening. To the young people, I am voting no. But this was a protest to say to the President and the administration in January of 2003 when this war was raging, what is your exit strategy? What is your strategy to win the peace?

We have none.

Secretary Rumsfeld can make a joke and talk about surprise all he wants. That is not befitting of a Secretary of Defense. The military brass have indicated they need more soldiers, and it is true they come from the inner cities and rural communities. My voice may be a little raspy, but these children went into this war because they wanted an education. That is what Jessica Lynch wanted. That is what so many wanted. That does not undermine their patriotism or their heroism or our honor to them or the ones that died; they died in vain. But this is a debate to pull the covers from those who want to hide from the fact that they need a draft.

What you need to do is not send our troops into misdirected and ill-directed wars. Then we will not have to have this debate. I will vote a resounding "no," but there is a secret plan for a draft.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the gentlewoman's comments, and it proves perfectly why we are here tonight because that is what the message is the American people are listening to, what the gentlewoman just said. And there is one way to dispel this, and that is to defeat this. No President can impose a draft without the consent and the approval of the United States House of Representatives. It will not come tonight or at any other time.

Mr. Speaker, I yield 10 seconds to the gentleman from Texas (Mr. DELAY), the distinguished majority leader.

Mr. DELAY. Mr. Speaker, sometimes, not always, but sometimes a bill comes to the floor of this House after a long deliberative examination of the facts surrounding a difficult issue with compelling arguments on both sides, and we can all come together and find common ground. Sometimes a bill is the result of hard-nosed political wrangling, and a party-line vote pushes a controversial measure over the finish line.

And sometimes, Mr. Speaker, on rare occasions like today, a bill is considered on the floor of the House as a practical exercise, to expose a fraud. For months now, the American people have been subjected to and had their intelligence insulted by a manipulative, dishonest and willful campaign of misinformation. This campaign, which started as a whisper and now is being supported on the floor of the House, but it has since been given voice by the leading Democrats in the country today, asserts without any evidence whatsoever that there is a secret Republican plan to reinstitute the military draft.

This campaign is a baseless and malevolent concoction of the Democratic Party, and everyone in this chamber knows it. It has one purpose and one purpose only, and that is to spread fear, to spread fear among an unsuspecting public, to undermine the war on terror, to undermine our troops, to undermine our cause and, most of all, to undermine our commander-in-chief in an election year.

Well, Mr. Speaker, it is a lie. And to prove it, all we had to do was to look in the Congressional Record. And lo and behold there it was, a plan. Not secret, but public. Not hidden by Republicans but openly touted by Democrats, H.R. 163, before us today. H.R. 163 is not the product of a Pentagon cabal, but it is sponsored by six of the most liberal and vociferous critics of the war on terror.

The vote on this bill will not be close, and it will not be a party line. Instead, it will be an opportunity for Americans to see who takes the national security of the United States seriously, who respects our armed forces, who wants to win the war on terror, and who just wants to win the next election.

This bill is a fraud, and so is the pernicious campaign of deception that has brought it to the floor today. I urge all my colleagues to vote no and expose to the light of truth the craven partisan whisper campaign now poisoning the national debate.

Mr. SKELTON. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. Ose). The gentleman from Missouri (Mr. Skelton) has 3½ minutes remaining.

Mr. SKELTON. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio (Mr. Ryan).

Mr. RYAN of Ohio. Mr. Speaker, I thank the gentleman for yielding me time.

I rise in opposition of this bill, but I would like to clarify something. We are not trying to scare kids. This President's foreign policy is what is scaring the kids of this country. And people have said today, why are people believing this? Why are people believing this big Internet hoax?

It is the same people who told us that Saddam Hussein had something to do with 9/11; the same people who told us Saddam Hussein had something to do with weapons of mass destruction; the same people who told us we would be able to use the oil for reconstruction money; the same people who told us we would be greeted as liberators, not occupiers; the same people, the same President who told us the Taliban is gone; the same President who told us that Poland is our ally 2 days before they pull out; the same President who tells us Iraq is going just great; the same President who tells us the economy is going just great; the same people who told us the tax cuts were going to create millions of jobs; the same people who told us that the Medicare program only cost $400 billion when it really cost $540 billion.

So please forgive us for believing what you are saying. Please forgive the students of this country for not believing what you are saying. Not one thing, not one thing about this war that has been told to the American people or that has been told to these college students has been true. Not one thing. Bremer says we need more troops. The Pentagon says we need more troops, and this President cannot get them from the international community. There is only one option left. Let us be honest with the American people.

Mr. RANGEL. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore. The gentleman from New York (Mr. Rangel) has 9 minutes remaining. The gentleman from New York (Mr. McHugh) has 4½ minutes remaining. The gentleman from Missouri (Mr. Skelton) has 2 minutes remaining.

Mr. RANGEL. Mr. Speaker, I yield 7 minutes to the gentleman from Pennsylvania (Mr. Murtha) who is an outstanding member of this House of Representatives, and he is in support of this bill.

Mr. MURTHA. Mr. Speaker, I hate to rise in opposition to both leaderships on both sides of the aisle. I am probably the only one that is going to vote for a draft. I believe we have to start looking at this right now. And I will tell you why it is a serious problem. We have 135,000 troops in Iraq right now. We are going to have to have 135,000 there for at least 2 years. We are training people, the Iraqis about 4,000 a month, and a lot of them are deserting. So there is no way that we have had cooperation with the international community. There is no way we are going to be able to do the fourth round of replacement without some kind of a draft.

Now, I remember the President of the United States asking to extend the National Guard in 1941, just a few months before the attack on Pearl Harbor. He extended it by one vote, and this is serious business here. We can get up and talk politics, we can get up and blame each other for what we are involved in here, but we have to have the personnel to do this job.

I go out to the hospitals every week, and I see these young people who are in their second and third tours in Iraq. I see them without legs and without arms, and I know how hard this is.

Now, let me tell you, on the street that I lived on when I was a kid, four people in my family, my father and three of his brothers, were involved in World War II. Some of them were drafted, and some of them were volunteers. And in the next house, there were seven from the same family. In the next house from that, there were six from the same family that went into World War II. Now, they went; some drafted, and some not drafted. We had 15 million people. We are in a war. And not only a small segment of the population should fight in that war.

I voted against the volunteer army in the first place because I said that I did not believe that, if we got into a crucial situation, we would be able to sustain our national security. This is a national security problem. This is something we have to face now.

I remember standing right over here when Jack Kemp was a Member, and he did not want to vote to extend registration because he believed it was not necessary. I said, Jack, we have to be prepared here. We have to be prepared in case something happens.

They have advertisements for the volunteer army, and they say, we want you to come in. We want you to get an education. We want you to better yourselves. We want you to come in, and you will have a steady job, and an awful lot of people joined the military with that in mind.

I was talking to a father the other day. He said his father was in World War II. His uncle was in the Battle of the Bulge, and another uncle served in the Pacific. And he was in the Reserves, and his boy was just killed in Iraq. And he was so worried because they were sending people back for the second and third time.

I mean, we have got people in the National Guard who they have stopped letting out. His son was supposed to come home in August, and he was killed.

Now, that is the kind of thing we are facing. This should not only be borne by people who are volunteering because they could not find a job. This is something that every one of us across the board, rich and poor, everyone should be willing to serve in the armed services of the United States.

□ 1845

Mr. STARK. Mr. Speaker, will the gentleman yield?

Mr. MURTHA. I yield to the gentleman from California.

Mr. STARK. Mr. Speaker, I would like to associate myself with the remarks of the gentleman and support his position.

Mr. MURTHA. Mr. Speaker, I would hope that we would take this seriously. I would hope that we would not get into a political debate about whether this is politics or not. I would hope we would look ahead.

What I said before, my colleagues have got to remember we have got 135,000 troops on the ground. We have sent some of these people back a couple of times. The Army is looking at the possibility of having a 6-month tour, and that will not help the situation because they are going to have to send them back sooner. Some of the people who are supposed to be home for a year are unable to stay home for a year.

I remember being in Europe talking to General Jones, and they extended the 1st Infantry Division. He was worried that the families, because they extended them, how many people would be killed and what a pressure that would put on the families. All of us worry about that. All of us have to worry about that. That is our job, and we have to look ahead.

We cannot just look ahead to the election. We have got to look ahead after the election at what it is going to mean to our troops.

I think that we make a mistake when we get up here and accuse each other when we are in a war. When we were in a war in World War II, we were attacked here, and everybody ought to be willing to serve. I mean, a draft is a fair way to cut, no deferments for anybody. We pick it by lottery; we take the number of people we need and send it down to the Armed Forces.

Let me tell my colleagues something. They are already taking category fours, and I think that is good for the country. I think it is good because the best training people will get in the world today is the military training. They will take category fours, and they will make those people into good citizens. They will work them, and the Army does not like it. The military does not like category fours because it is too much time to train those people.

Let me tell my colleagues something. All of us need everybody to go into the Armed Forces. From every level, from the rich and the poor, from the middle class, everybody needs to go, and we have to, and there is no question about it. If we are going to be there, if what the leaders on both sides are saying, both candidates are saying, we are going to be there. We are not going to leave there until the Iraqis can take over. They cannot take over overnight. It is going to take time to train those people; and if we are going to train those people, we have got to have somebody in the United States who can replace them.

It takes us a year to train. The gentleman from California (Mr. LEWIS), the chairman, and I put in the money for the extra 30,000 people because we knew they needed 30,000 people this year. I asked the personnel guy, are you going to ask for this in the budget this year? He said, no, sir, we are going to expect a supplemental to take care of it.

The point is, we needed an extra 30,000 people. We have got to face that we are in a war, and we have got to face that everybody should be bearing the burden of this war, not just the few volunteers that are time after time sacrificing and the young people are being so mangled by this war. Their spirit aside, they are doing a marvelous job and are so proud.

When I go out to the hospital every week, Bethesda one week and Walter Reed the next week, and I see these young people, and even then the fighting is so intense that they are saying to me, this is a tough war, Congressman, and we need help, we need support; and we are giving them support. In this Congress, we are giving them everything they need except we are not looking ahead to the very thing that we are going to need down the road and that is additional troops, and we are not meeting the requirement of the National Guard, and that is the first step.

So I would ask Members to reconsider this, and I would hope that a number of us would vote for a draft as a serious business rather than talking of politics and the whole thing.

Mr. McHUGH. Mr. Speaker, I yield myself such time as I may consume.

There are few people I have more respect for than the gentleman from Pennsylvania. He made a very eloquent argument, very correctly, for an increase in end strength, not to a return of the draft and for the problems that that would create.

We have an end strength increase of 40,000 in our bill in the House that has passed, and there is a conference with the Senate. Those are the people we need, and we should move on that and not a draft.

Mr. Speaker, I yield 30 seconds to the gentleman from South Carolina (Mr. WILSON), a distinguished member of the Committee on Armed Services.

Mr. WILSON of South Carolina. Mr. Speaker, the bill we are voting on today has been used by Democrats to scare young voters and their parents with the lie of an impending draft.

As a retired veteran of 31 years' service in the Army National Guard, with three sons serving today in the military, including one serving in Iraq, I agree with the Newsweek magazine expose of October 12 which discredits the rumor has having no basis in fact. Crying wolf about the need for a draft causes doubt about the ability of our Armed Forces and hurts our morale and recruitment.

I urge all of my colleagues to vote against H.R. 163 and end this false rumor.

Mr. Speaker, the bill we are voting on today has been used by Democrats to scare young voters and their parents with the lie of an impending draft.

In South Carolina, the Democratic Party sent out a despicable campaign letter, disguised as a draft notice. The Democratic Presidential Candidate John Kerry speaks disingenuously about a "back door draft." He has said to elect him President because he "will give us a foreign policy that absolutely makes it unnecessary to have a draft." Democrats' false rhetoric has helped fuel a nationwide scare campaign.

As a retired veteran of 31 years service in the Army National Guard, and with three sons today in the military, one of whom is serving in Iraq, I agree with the Newsweek magazine's exposé (Oct. 12th) which discredited the rumors as having no basis in fact. Crying wolf about the need for a draft causes doubt about the ability of our Armed Forces, and hurts our morale and recruitment.

Let's be clear. The all-volunteer American military is succeeding in the War on Terror, and retention remains high. We have the best-trained, best-equipped, most competent military in history. We have a new greatest generation that I have visited three times in Iraq who are dedicated patriots protecting American families by taking the war to the terrorists. There is absolutely no need for a draft. Not one person in the executive branch supports or has talked about reinstating the draft.

Clearly, by resorting to the politics of fear, KERRY and the Democrats have no positive agenda for America. Americans deserve more. President Bush and Republicans have a proud record of achievement in the last 4 years: of tax relief, better education for our children, improved health care through prescription drug coverage, and a strong national defense against terrorism.

I urge all of my colleagues to vote against H.R. 163, and end this false rumor.

[From Newsweek, Oct. 11, 2004]

THE DRAFT: RUMORS, AND THAT'S ALL THEY ARE

For months, Democratic operatives have muttered that news about a revived military draft could become the silver bullet that stops President George W. Bush's re-election campaign. But the White House and Pentagon emphatically deny any intention to reinstitute conscription: in the first presidential debate last week, Bush made sure to include a reference in his closing remarks to the "all-volunteer Army."

Democratic presidential contender John Kerry carefully limited his debate remarks to a factually supportable charge that current Bush policies may constitute a "back-door draft" because some soldiers' tours of duty are being involuntarily extended. But some Kerry supporters and prominent Kerry surrogates—are spreading more alarming rumors about a reinstated draft. "You do not have the draft hanging over your heads—not yet. But pay attention, boys and girls, to what you've got going on in Iraq," disabled Vietnam vet and former U.S. Senator Max Cleland, an important Kerry backer, recently told a student audience. At the University of Colorado-Boulder last week, cafeteria tables were littered with cards signed by self-described Students for Kerry, warning YOU'RE GONNA GET DRAFTED. (In an "open letter" to America's students, independent candidate Ralph Nader recently claimed the "machinery for drafting a new generation of young Americans is being quietly put into place.") The most explicit claims about a Bush plan to revive conscription have come from onetime Kerry rival Howard Dean, who charged in a recent newspaper column that draft boards "have already been notified that 20-year-olds and medical personnel will be called up first." Laura Gross, Dean's spokeswoman, says Dean spoke with two draft-board officials in different parts of the country who told him they had been "put on notice there is going to be a draft . . . Bush has not denied that there's going to be a draft."

Rumors about a new draft were sparked when a Pentagon Web site earlier this year posted a solicitation for volunteers to man local draft boards. But officials say the ad has appeared every year since 2001, and didn't signal a plan to reactivate the draft. Two bills in Congress propose reviving conscription, but both were introduced by anti-

Iraq-war Democrats to highlight the fact that the burden of military service falls disproportionally on poor people. The bills have no chance of approval. Selective Service spokesman Dan Amon says he has fielded "hundreds" of calls about the possibility of a renewed draft, which he calls an "urban legend . . . If the White House is planning a draft, you'd think they might have told us about it." The uniformed military are among the last people who want to see the draft revived. While U.S. forces are stretched by current commitments—including Iraq—Army leaders don't want a draft, don't think they need one and recognize that, politically, it would be virtually impossible. Two-year waves of unwilling, unskilled soldiers would contribute little except, the brass fear, the same discipline problems the Army spent years purging after Vietnam. Army lobby spokesman John Grady says: "Nobody wants to go there again."

Mr. SKELTON. Mr. Speaker, I yield 1½ minutes to the gentlewoman from California (Mrs. DAVIS).

Mrs. DAVIS of California. Mr. Speaker, I want my constituents to know that Congress is not going to legislate a draft today, but I also want to ask my constituents and all Americans to read between the lines.

What is going on here today? What they are seeing is an admission of this administration's failure to adequately plan for our troops in Iraq. What they are seeing is a bait and switch.

On the one hand, Americans are being told today that they do not need to worry about a draft, and believe me, this was an issue that if my colleagues would have left it alone, it would have died on the Internet. But on the other hand, I am afraid that Americans will think that they are being told there is nothing to worry about in Iraq.

What we are seeing is a very controversial matter being brought up before Congress by using a procedure that is meant for noncontroversial items.

I want to acknowledge how much military servicemembers' contributions have meant to Americans through their voluntary and selfless service. And how do we honor them? Well, we honor the profound and valiant successes by keeping our forces strong.

The solution to our overburdened military lies in expanding the all-volunteer force; and this solution, as it has been stated, has been voted on and passed by both Chambers of the Congress. It provides a much-needed increase in military end strength, and as a member of the Committee on Armed Services, I have worked hard to provide the solution.

I feel strongly, and I know that most of the people here do, that everyone benefits from keeping an all-volunteer force. So I urge my colleagues to stand firm with this conviction, but I also say let us have a serious discussion. Let us not make this political.

Mr. SKELTON. Mr. Speaker, may I ask what time is allotted for each Member.

The SPEAKER pro tempore (Mr. OSE). The gentleman from New York (Mr. RANGEL) has 2 minutes remaining. The gentleman from New York (Mr. MCHUGH) has 3¾ minutes remaining, and the gentleman from Missouri (Mr. SKELTON) has 30 seconds remaining.

The Chair recognizes the gentleman from New York (Mr. RANGEL).

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from New Jersey (Mr. ANDREWS).

Mr. ANDREWS. Mr. Speaker, I oppose the draft, and I understand the reason why we are having this debate.

What I do not understand is when are we going to have the debate about the flawed intelligence that led up to the war. When are we going to have the debate about the disregard of the recommendation of General Shinseki and now Ambassador Bremer? When are we going to have a debate about a failure of international negotiations to bring more coalition partners in?

This is a worthy debate, but it is not worthy of the sacrifice that these men and women are making around the world. Let us have a real debate about the real issues that confront us in Iraq.

Mr. MCHUGH. Mr. Speaker, perhaps the gentleman's heard of the 9/11 Commission.

I am happy to yield 1 minute to the gentleman from California (Mr. CUNNINGHAM), a distinguished member of the Committee on Appropriations.

Mr. CUNNINGHAM. Mr. Speaker, Military Time, 72 percent of the military, active, Guard, Reserves, are going to vote for President George W. Bush, not JOHN KERRY.

Why we are here today is there has been a ruse before the American public. Some people thought they would scare people into thinking the President was going to reinstitute the draft. You have been caught in your own trap. That is the reason we are here today is to show the American people that it is a spoof.

When you talk about politics, you are the ones that put forth politics, and the gentleman from Pennsylvania (Mr. MURTHA), you how I love you, and when you talk about politics on this floor, you need to take a look within your own party.

It was your leadership that voted against the money to give our troops the support that they need. It was JOHN KERRY that voted against the money to support our troops. You know that, and you are caught here today trying to spoof the American people; and shame on you, shame on you and shame on you.

PARLIAMENTARY INQUIRY

Mr. RANGEL. Parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman will state his inquiry.

Mr. RANGEL. Mr. Speaker, are we allowed to use the floor of the House to campaign and specifically name the Presidential candidate that we are supporting?

Did I frame my question correctly?

The SPEAKER pro tempore. Members may refer to Senators who are nominated candidates for the office of President. But the gentleman from California is admonished to direct his remarks to the Chair.

The Chair recognizes the gentleman from Missouri (Mr. SKELTON).

Mr. SKELTON. Mr. Speaker, I yield myself the balance of the time.

I mentioned earlier that this is a moment in history when someone brings a bill to the floor that does not support the bill. In my years here in the House of Representatives, I have never seen that.

I think it is also historic for another reason, that this piece of legislation was brought to the floor to quell a rumor. That, I am sure the history books will never reflect, never reflect the fact that legislation was brought to the floor to quell a rumor.

Mr. RANGEL. Mr. Speaker, I would like to close, and so if I only have 1 minute remaining, I reserve it.

The SPEAKER pro tempore. The gentleman from New York (Mr. RANGEL) has 1½ minutes remaining.

Mr. RANGEL. Mr. Speaker, I yield 30 seconds to the gentleman from Michigan (Mr. SMITH).

Mr. SMITH of Michigan. Mr. Speaker, the reason we are here is to make clear to the world that we are not going to have military conscription right now for active military duty.

I introduced a bill last year, H.R. 3598, because I think we need to seriously discuss the understanding of the military of a greater number of our population. I think we need to look at volunteerism in this country; and with terrorism threatening us for the immediate future, there is a need for that education, that training, maybe even basic military training, but not combat service.

Mr. MCHUGH. Mr. Speaker, I am happy to yield 30 seconds to the gentleman from Georgia (Mr. KINGSTON).

Mr. KINGSTON. Mr. Speaker, I thank the gentleman for yielding me time.

We are here for three reasons. Number one, because the gentleman from New York (Mr. RANGEL) has proposed reinstating the draft. It is a legitimate piece of legislation. The gentleman from Pennsylvania (Mr. MURTHA) has given an articulate reason that we should consider it, and it is legitimate to consider it.

But the other reason why we are pulling it out at this time is because of pieces like this that were sent out by the South Carolina Democratic Party, as well as a number of things that went out on the Internet, saying to college kids like my 19-year-old son John and my 21-year-old daughter Betsy that there is going to be a draft and there is a secret plan.

The gentlewoman from Texas (Ms. JACKSON-LEE) has already stated there is a secret plan. We are voting "no" to show there is no secret plan and also ask our colleagues on the floor to talk to their Democrat friends and tell them not to send out propaganda pieces like this, because it is just a lie.

The SPEAKER pro tempore. Who yields time? The gentleman from New York (Mr. RANGEL) has the right to close.

Mr. MCHUGH. Mr. Speaker, I yield 30 seconds to the gentleman from Arizona (Mr. HAYWORTH).

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Mr. HAYWORTH. Mr. Speaker, I rise against the legislation, and I read the words of a young Arizonan now at war from the pages of the Arizona Republic, a letter. He writes, "As I sit on this plane taking us to war, I can't help but think about who is with me. Americans from all walks of life are going to war together on this plane. Americans going to war on this plane are ages 18 to 59. Americans going to war on this plane are rich and poor. Americans on this plane joined for different reasons. All are volunteers."

It is a strength to have a volunteer fighting force. We rise remembering the words of Captain Moore, "We have a great volunteer force."

Mr. MCHUGH. Mr. Speaker, I yield 30 seconds to the distinguished gentleman from Indiana (Mr. BUYER), a veteran of the first Gulf War.

Mr. BUYER. Mr. Speaker, I rise in strong opposition to the bill. I also join the gentleman from Missouri (Mr. SKELTON) and regret that the heat of national elections has caused us to debate something that is not going to happen.

We are here because it was JOHN KERRY who implied that President Bush would reinstate the draft, and it was CBS News and its anchor, Dan Rather, who have chosen to keep telling the "big lie," as noted in the editorial of Investors Business Daily.

Fortunately, I believe Americans will know better. President Bush has not said he will reinstate the draft. There is good reason Americans are tuning out CBS News and will tune out this bill. Vote "no" on the draft.

Mr. MCHUGH. Mr. Speaker, I yield 1 minute to the distinguished gentleman from New Jersey (Mr. SAXTON), a senior member of the Committee on Armed Services.

Mr. SAXTON. Mr. Speaker, I would like to use the short time I have to close our side of the debate by pointing out some facts.

It has been contended by the other side that we are having trouble attracting and retaining people in the armed services. The facts do not bear that out. In fact, they point just the other way.

Last year, for example, the Army attracted 74,000 new soldiers. That was 100 percent of the goal set. Furthermore, the Army and Army Reserve retention goal for fiscal year 2004 is 28,201. As of June of 2004, with 3 months left in the fiscal year, the active Army had achieved 98 percent of its year-to-date retention goal, the Army Reserve had achieved 96 percent of its goal, and the National Guard had exceeded its goal by 30 percent.

Furthermore, Mr. Speaker, new weapons systems that we have today require manpower but they also require brain power. It takes time to cultivate competent soldiers and Marines, and by drafting our soldiers we slide down the scale of our professional Army towards a more amateur and, I contend, less effective military.

Let us all vote to oppose the draft today.

Mr. MCHUGH. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, very simply, this is a bill that is necessary to be dealt with in what I agree is perhaps an unconventional way, but nevertheless has caused great anxiety, great fear and concern amongst mothers, fathers, and children. This is a way to put the fear aside. That should be a primary duty of the House of Representatives. And, as I suspect even the proponents will, a "no" vote is the right vote.

Mr. RANGEL. Mr. Speaker, I yield myself the balance of my time.

My Republican colleagues have convinced me they will not vote for a draft before this election, and I appreciate their sincerity in stating that. But I support my bill for the very reasons that the gentleman from Pennsylvania (Mr. MURTHA) has done so.

If the issue is the protection of our country against an enemy, then all Americans should have the opportunity to fight and defend for all our freedom so that we can sit here. And there should be a plea for the rich and the poor, which is so eloquently stated but not followed, to be volunteering and joining and having the honor to say they defended our country at a time of war.

Mr. Speaker, that is not going to happen before the election, and because of my 34 years in the House and my respect for the rules, as much as I appreciate the fact that the leadership has brought my bill up, even though they did not support it, they have brought my bill up because they have a problem with the President's integrity on this issue.

So as much as I appreciate that, what I appreciate more are the standing committees that we have in this House, and so I would hope that my bill will be referred to the committee process for hearings so that the entire House of Representatives would understand the necessity for this legislation.

But on this I will vote "no".

Mr. STARK. Mr. Speaker, I am an original cosponsor of the Universal Service Act and rise in support of this bill.

That being said, this vote today is a cynical political ploy. The Republican Leadership did not bring this vitally important issue forward to have a meaningful debate. They did it to buy themselves political cover from accusations that President Bush's failed policy in Iraq will necessitate a new military draft.

I object to this cynical misappropriation of our democratic responsibilities by the Republicans. We are here to do the people's business, not dispose of it thoughtlessly for mere political gain.

I am a cosponsor of the Universal Service Act. I support reinstating the draft, not because it is popular, but because I believe it is right.

Many of us remember World War II. That was a war fought by Americans of every stripe and every background. It didn't matter if you were rich or poor or the color of your skin. All Americans sacrificed and shared the responsibility for winning that war. It was everyone's patriotic duty and our country was better for it.

Today armed forces ought to strive to meet that example. Reinstating a draft with no deferments and no exceptions is both fair and democratic. It will mean that Americans of every background will serve our country, not just the poor and disadvantaged as it is today. It will mean that our troops, reservists and members of the Guard won't be forced into extended deployments well after their tours are up.

Ultimately, I would hope that a draft will deter future wars of convenience like that in Iraq. I'm sure many parents—and Members of Congress—will think twice about supporting a war if they know their children may be called to fight.

This, of course, is not being genuinely debated here today. Instead this is a political charade that demeans the importance of this issue.

Mrs. MALONEY. Mr. Speaker, I rise today in opposition to H.R. 163, the "Universal National Service Act of 2003." This legislation is being brought to the Floor by the Majority without holding any hearings which would provide for the necessary debate an issue this magnitude requires.

There is no doubt that the military is currently overextended worldwide. National Guard members and Reservists have been sent overseas for extended missions, leaving their families behind. While we are eternally grateful to them and all the members of the U.S. military for their bravery, I am sad to say that when they return home, they will discover that this Administration has cut many critical veterans' benefits. The Department of Veterans Affairs and the health care system it oversees are not prepared for the numbers of new veterans who will need long-term care for their injuries. This Nation's veterans deserve nothing less than the benefits to which they are entitled.

I think we can all agree that a strong military is critical to our Nation's defense. However, I think that we can accomplish this goal by ensuring that those who are currently serving have the necessary equipment and resources to complete their missions and the benefits that they and their families deserve. If we need to increase the size of the military, there are ways to do it other than through a draft.

I hope that when we consider these issues in the future, the Majority will be more respectful of our service men and women.

Mr. SCHIFF. Mr. Speaker, I rise in strong opposition to H.R. 163. I do not believe that a reinstatement of the draft is necessary or desirable; nor do I believe that there is any support for a draft among my constituents or in the country as a whole.

This Nation has had an all-volunteer military for more than 30 years and the quality of America's service men and women, their dedication, professionalism and commitment has never been greater. Public support for our men and women in uniform is also much higher than it was in the later years of the draft.

Today's soldiers typically stay in the military 2 years longer than their predecessors did in the early 1970s. This reduced turnover has resulted in a more professional force that is able to take full advantage of the high-tech weaponry that is a key component of our military. The volunteer military's lower turnover rate has also led to a reduction in training costs. In 1988, a General Accounting Office study found that the all-volunteer force was cheaper than a conscript force by $2.5 billion per year—more than $4 billion in today's dollars.

Volunteers are more likely to seek promotion, and are likely to be more professionally motivated than draftees. In fact, current retention rates among deployed troops are higher than for forces based in the United States. Because volunteers are paid more and it is costly to train new soldiers, there is a greater incentive to use our troops wisely.

The military has also been successful in its efforts to increase the aptitude of recruits. Today's military is better educated than the general population. While more than 90 percent of military recruits have a high school diploma, only 75 percent of the general population does. Military recruits are also more likely to score high on aptitude tests than their civilian counterparts.

I was, frankly, surprised to see this bill on the suspension calendar for today. Typically, bills are brought up under suspension when they are non-controversial as a two-thirds vote of the House is required for passage. This bill, which enjoys virtually no support in the House, will be resoundingly defeated and I can only surmise that the Majority has only called up this bill in order to vote it down, and in so doing divert attention from the mistakes made by the Administration in overextending our forces.

We do have a military manpower shortage now, but the draft is not the answer. Over the objections of the Administration, the House has authorized the Army and Marine Corps to increase their active-duty end strength by 20,000 and 10,000, respectively. This will help to alleviate some of the strain on both the active and reserve components.

I hope that the Congress will focus attention next year on military manpower issues. We need to reconfigure our military and address the need for personnel who specialize in stability and post-conflict operations. Currently, most of the personnel who are expert in this area are in the Guard and Reserves and there are reports that re-enlistment rates in some units are down as a result of multiple extended deployments overseas.

Throughout my tenure in Congress, I have visited our troops on the front lines as often as possible. I am awed by their courage, their patriotism and their competence. We need to do more to support them and to ensure that they are not overextended, but reinstating the draft is not the answer. Better treatment of those who wear the uniform, and those who once served, is the more constructive solution.

Mr. DUNCAN. Mr. Speaker, I rise in opposition to this bill. With the modern technology found in most weapons today, the U.S. military needs a more highly educated force than it needed years ago. Also, the United States does not need the large numbers of soldiers our armed forces required in previous large wars. Our all-volunteer military is working well, and we have raised pay and benefits up to higher levels than most would be making in the private sector.

Secretary Rumsfeld agrees. In recent testimony before the Armed Services Committee in the other body, he noted:

"We've got 295 million people in the United States of America. We need 1.4 million to serve in the active force. We have no trouble attracting and retaining the people we need."

"We are not having trouble maintaining a force of volunteers. Every single person's a volunteer. We do not need to use compulsion to get people to come in the armed services. We got an ample number of talented, skillful, courageous, dedicated young men and women willing to serve. And it's false."

Service in our armed forces is one of the most honorable ways anyone can serve this Nation, and our military is attracting very good people. However, in a society that prides itself on individual liberty and personal freedom, public service is not the only way to serve the common good. A free country should never force anyone to work for the government unless there is no other reasonable alternative.

We can teach our children to love and appreciate this country without forcing any young person to serve in the military against his or her will. There are plenty of professions where people honorably serve others, a good many of which are in the private sector.

Farmers serve this Nation well providing food for the people. Bankers serve the Nation well by creating the capital and financing for small businesses to create jobs and hire hard-working people.

Nurses and doctors serve the Nation well by working long hours protecting us from disease and injury.

Farmers, doctors, teachers, business people—these are just a few of the countless people in countless professions who work hard at honest jobs serving others in service to this Nation.

For every person we force into the military against his or her wishes, we are taking away the ability of that individual to fulfill the God-given right to pursue one's own happiness, a right that Thomas Jefferson made the centerpiece of the Declaration of Independence.

Mr. BLUMENAUER. Mr. Speaker, it is unfortunate that neither the administration nor the Republican leadership in Congress is willing to face the facts. The reckless rush to war in Iraq without being prepared to win the peace has put our troops seriously at risk. We have a situation that continues to deteriorate on the ground in Iraq. We are forcing young men and women to stay in the military and are exerting inordinate pressure to extend their enlistments. Finally, we are reducing the qualifications of new recruits into the military. This is all a desperate attempt to maintain our inadequate troop strength levels.

Rather than acknowledge the problems and deal with responsible proposals that have been offered by a number of our colleagues, the Republican leadership has instead advanced to the floor legislation to reinstate the draft which they do not even support.

It is time to stop playing games with the welfare of the young men and women that are serving us in Iraq and around the world. They deserve better. They deserve proper equipment and an increase in our overall troop level. They need leadership in the White House and in Congress to help stabilize and reverse the perilous situation into which they have been thrust, against the best advice of uniformed leadership.

I urge my colleagues to reject this legislation and to provide a responsible alternative to increasing the troop level and increasing the range and nature of support from other countries. Sadly, it appears that this White House, the current Secretary of Defense and the Republican leadership in Congress are not equal to the task at hand. Hopefully, after November we will be given a new opportunity to address these critical issues.

Mr. PAUL. Mr. Speaker, I rise to oppose H.R. 163 in the strongest possible terms. The draft, whether for military purposes or for some form of "national service," violates the basic moral principles of individual liberty upon which this country was founded. Furthermore, the military neither wants nor needs a draft.

The Department of Defense, in response to calls to reinstate the draft has confirmed that conscription serves no military need. Defense officials from both parties have repudiated the need to reinstate the draft. For example, Secretary of Defense Donald Rumsfeld has said that, "The disadvantages of using compulsion to bring into the armed forces the men and women needed are notable," while President William Clinton's Secretary of the Army Louis Caldera, in a speech before the National Press Club, admitted that, "Today, with our smaller, post-Cold War armed forces, our stronger volunteer tradition and our need for longer terms of service to get a good return on the high, up-front training costs, it would be even harder to fashion a fair draft."

However, the most important reason to oppose H.R. 163 is that a draft violates the very principals of individual liberty upon which our nation was founded. Former President Ronald Reagan eloquently expressed the moral case against the draft in the publication Human Events in 1979: ". . . [conscription] rests on the assumption that your kids belong to the State. If we buy that assumption then it is for the State—not for parents, the community, the religious institutions or teachers—to decide who shall have what values and who shall do what work, when, where and how in our society. That assumption isn't a new one. The Nazis thought it was a great idea."

Some say the 18 year old draftee "owes it" to his (or her, since N.R. 163 makes woman eligible for the draft) country. Hogwash! It just as easily could be argued that a 50 year-old chicken-hawk, who promotes war and places the danger on innocent young people, owes more to the country than the 18 year-old being denied his (or her) liberty.

All drafts are unfair. All 18 and 19 year olds are never drafted. By its very nature a draft must be discriminatory. All drafts hit the most vulnerable young people, as the elites learn quickly how to avoid the risks of combat.

Economic hardship is great in all wars and cannot be minimized. War is never economically beneficial except for those in position to profit from war expenditure. The great tragedy of war is that is enables the careless disregard for civil liberties of our own people. Abuses of German and Japanese Americans in World War I and World War II are well known.

But the real sacrifice comes with conscription—forcing a small number of young vulnerable citizens to fight the wars that older men and women, who seek glory in military victory without themselves being exposed to danger, promote. The draft encourages wars with neither purpose nor moral justification and that are too often not even declared by the Congress.

Without conscription, unpopular wars are difficult to fight. Once the draft was undermined in the 1960s and early 1970s, the Vietnam War came to an end. But most importantly, liberty cannot be preserved by tyranny. A free society must always resort to volunteers. Tyrants think nothing of forcing men to fight and serve in wrongheaded wars. A true fight for survival and defense of America would elicit, I am sure, the assistance of every able-bodied man and woman. This is not the case for wars of mischief far away from home in which we have experienced often in the past century.

A government that is willing to enslave some of its people can never be trusted to protect the liberties of its own citizens. I hope all my colleagues join me in standing up for individual liberty and to shut down this un-American relic of a bygone era and help realize the financial savings and the gains to individual liberties that can be achieved by ending Selective Service registration.

Mr. PUTNAM. Mr. Speaker, it must be an election year, because the fear mongering is in full swing.

President George W. Bush has repeatedly said he doesn't intend to revive the draft, because he believes that the military is more effective and less expensive as an all-volunteer force than it would be under a draft. Yet that hasn't stopped his critics, who are waging a behind-the-scenes campaign to frighten the American people.

The truth is this: President Bush has no "secret plan" to reinstitute the draft, and the only measure that would do so is the one we are considering today—offered by members of Senator KERRY's party and cosponsored solely by the minority party.

I concur with the Pentagon's assessment that the all-volunteer force has provided a military "that is experienced, smart, disciplined and representative of America." Volunteer soldiers are more family-oriented, career-oriented and stay longer. Lastly, there is no need for a draft at this time.

Mr. Speaker, I am opposed to this bill, and its overwhelming rejection today by the Members of the House will put to rest the spin that is being offered by those merely interested in frightening voters during an election year. I urge my colleagues to join me in denouncing these tactics and voting against this bill.

Mr. ORTIZ. Mr. Speaker, I rise in opposition to the bill to reinstate a military draft in the United States. It is unfortunate that we find ourselves in this position . . . but it is not a matter of needing a draft . . . this administration has not managed our resources and our troops well.

We went into the Iraq war with no exit strategy, and the current military reinforcements are coming from the administration's backdoor draft via calling the Individual Ready Reserve (IRR) back into service. The IRR are those who have already fulfilled their active duty service requirement to the United States.

The Nation does not need a draft for an all-volunteer force. We need to wisely and effectively manage or troops and our resources in the theater. Charging into Iraq with insufficient troop numbers—against the advise of the Army Chief of Staff—and allowing an insurgency to fester, have combined to put our troops in far more danger than need be.

Even our distinguished former U.S. civilian administrator in Iraq, L. Paul Bremer, said just yesterday that the United States "paid a big price" for not having enough troops on the ground after we overthrew Saddam Hussein.

Bremer said when he arrived to head the U.S.-led Coalition Provisional Authority in Baghdad in early May, 2003, there was already "horrid" looting occurring. I agree with Ambassador Bremer when he goes on to say: "We paid a big price for not stopping it because it established an atmosphere of lawlessness. We never had enough troops on the ground."

Now, our current method of retaining a list of people for the Selective Service, for registration only, is important tool to retain should we ever need an enormous, rapid infusion of manpower in the military.

Let me say to my colleague from New York, Mr. RANGEL, our distinguished friend who introduced this bill to illustrate the point that many of our service men and women today are in the military because they have very few economic choices in their lives. I join you in urging all the sons and daughters of America, rich and poor, to be part of the uniformed service. We cannot have one class of Americans to fight our wars and another class of Americans benefiting from those wars.

Freedom isn't free—for any of us.

Mr. Speaker, this bill is a politically motivated diversion. It is not well conceived . . . it did not get a hearing in our House Armed Services Committee and it's not a serious attempt—for if it were, it would have gone through our process here and would not be destined for defeat as a "non-controversial" bill.

GENERAL LEAVE

Mr. McHUGH. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill now under consideration, H.R. 163.

The SPEAKER pro tempore (Mr. OSE). Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New York (Mr. McHUGH) that the House suspend the rules and pass the bill, H.R. 163.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have not voted in the affirmative.

Mr. McHUGH. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on suspending the rules and passing the bill, H.R. 163, will be followed by 5-minute votes on suspending the rules and passing H.R. 2929, and suspending the rules and passing H.R. 5011.

The vote was taken by electronic device, and there were—yeas 2, nays 402, not voting 29, as follows:

[Roll No. 494]

YEAS—2

Murtha
Stark

NAYS—402

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastert

Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—29

Boehlert
Brown (OH)
Brown, Corrine
Cannon
Cox
DeMint
Dooley (CA)
Forbes
Gephardt
Greenwood
Hoeffel
John
Jones (OH)
Kaptur
Kleczka
Kucinich
Lampson
Majette
McIntyre
Meeks (NY)
Millender-McDonald
Nethercutt
Norwood
Portman
Pryce (OH)
Sandlin
Slaughter
Tauzin
Terry

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOSSELLA) (during the vote). There are 2 minutes remaining in this vote.

□ 1929

Mrs. CUBIN and Messrs. EMANUEL, PORTER, DOOLITTLE, DELAHUNT, SHERMAN, RADANOVICH and BASS changed their vote from "yea" to "nay."

So (two-thirds not having voted in favor thereof) the motion was rejected.

The result of the vote was announced as above recorded.

Stated against:

Mr. TERRY. Mr. Speaker, on rollcall No. 494, I was unavoidably detained. Had I been present, I would have voted "no."

SECURELY PROTECT YOURSELF AGAINST CYBER TRESPASS ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 2929, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. BARTON) that the House suspend the rules and pass the bill, H.R. 2929, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 399, nays 1, not voting 32, as follows:

[Roll No. 495]

YEAS—399

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—1

Paul

NOT VOTING—32

Boehlert
Brown (OH)
Brown, Corrine
Cannon
Cox
DeMint
Dooley (CA)
Forbes
Gephardt
Greenwood
Hefley
Hoeffel
John
Jones (OH)
Kaptur
Kleczka
Kucinich
Lampson
LaTourette
Majette
McIntyre
Meeks (NY)
Millender-McDonald
Moran (VA)
Nethercutt
Norwood
Portman
Pryce (OH)
Sandlin
Simmons
Slaughter
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. FOSSELLA) (during the vote). Members are advised that 2 minutes are remaining in this vote.

□ 1938

So (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

MILITARY PERSONNEL FINANCIAL SERVICES PROTECTION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 5011, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Louisiana (Mr. BAKER) that the House suspend the rules and pass the bill, H.R. 5011, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 396, nays 2, not voting 34, as follows:

[Roll No. 496]

YEAS—396

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Houghton
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, E. B
Johnson, Sam
Jones (NC)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Murphy
Musgrave
Myrick
Nadler
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Price (NC)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Towns
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—2

Flake
Paul

NOT VOTING—34

Boehlert
Brown (OH)
Brown, Corrine
Cannon
Cox
DeMint
Dooley (CA)
Forbes
Gephardt
Greenwood
Hoeffel
John
Jones (OH)
Kaptur
Kleczka
Kucinich
Lampson
Majette
McIntyre
Meeks (NY)
Millender-McDonald
Moran (VA)
Murtha
Napolitano
Nethercutt
Norwood
Portman
Pryce (OH)
Rangel
Renzi
Sandlin
Sherman
Slaughter
Tauzin

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

□ 1946

So (two thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. MORAN of Virginia. Mr. Speaker, on rollcall Nos. 495 and 496, had I been present, I would have voted "yea."

CONSIDERATION OF MEMBER AS FIRST SPONSOR OF H.R. 871

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent that I may hereafter be considered as the first sponsor of H.R. 871, a bill originally introduced by Representative Bereuter of Nebraska, for the purpose of adding cosponsors and requesting reprintings pursuant to clause 7 of rule XII.

The SPEAKER pro tempore (Mr. MURPHY). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8, rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow.

AGRICULTURAL ADJUSTMENT ACT AMENDMENT

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2984) to amend the Agricultural Adjustment Act to remove the requirement that processors be members of an agency administering a marketing order applicable to pears.

The Clerk read as follows:

H.R. 2984

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PEAR MARKETING ORDERS.

Section 8c(7)(C) of the Agricultural Adjustment Act (7 U.S.C. 608c(7)(C)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended in the last sentence—

(1) by striking "or pears"; and

(2) by striking ": *Provided*," and all that follows through "be equal".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself of such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2984, introduced by the gentleman from Oregon (Mr. WALDEN). This legislation removes the requirement that processors be members of an agency administering a marketing order applicable to pears.

The pear industry has been working with the U.S. Department of Agriculture to consolidate the various pear marketing orders. Current statute requires that any marketing order that assesses processing pears must have equal representation from producers and processors on its governing board. This statute is a barrier to the industry's consolidation plan and would unjustly grant processors, who do not pay in the Federal marketing orders, a role in directing activities funded with producer dollars.

H.R. 2984 would allow producers alone to dictate how their funds will be used in pear promotion activities. The pear industry, from producers to processors, is united in their support of this bill.

I want to applaud its gentleman from Oregon (Mr. WALDEN) for his work in bringing forth commonsense legislation that is wholeheartedly supported by the pear industry. I appreciate his leadership on behalf of his constituents. I urge my colleagues to support H.R. 2984.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2984. Current statute requires any marketing order that assesses processing pears must have equal representation from producers and processors on its governing board. This statute is a barrier to the industry's consolidation plan and would unjustly grant processors, who do not pay into Federal marketing orders, a role in directing activities funded with producer dollars.

The Pacific Northwest pear industry is seeking to consolidate promotional activity under a single Federal marketing order for fresh pears and processing pears that will be funded, operated and managed by pear producers.

H.R. 2984 would remove the existing processor membership requirement, allowing the industry to establish a single producer-funded-and-operated Federal marketing order. This change will pave the way for consolidation and allow producers alone to determine how their funds will be used in pear promotion activities.

The pear industry is unified in support of the proposed changes made in H.R. 2984, and I encourage members to support this measure.

Mr. Speaker, I ask unanimous consent that the gentleman from North Dakota (Mr. POMEROY) be allowed to manage the balance of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GOODLATTE. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Oregon (Mr. WALDEN), the author of the legislation.

Mr. WALDEN of Oregon. Mr. Speaker, I want to thank the ranking member of the committee and the committee chairman and subcommittee chairman for their work on this legislation. I want to thank the gentleman from Washington (Mr. HASTINGS), the gentleman from Washington (Mr. NETHERCUTT) and the gentleman from Washington (Mr. LARSEN) for joining me as cosponsors of this legislation.

Mr. Speaker, I represent pear country in the northwest, at least in the State of Oregon. In the great Hood River Valley and down in the Jackson Road Valley, Jackson County and elsewhere across my district, they grow tremendous, tasty pears, many of which find their way into special packages from Harry and David, among other companies.

Our pear growers are trying to be innovative in terms of how they market their products. Many individual growers now are growing organic fruit, and many are taking it upon themselves to market their own products to the public, as opposed to necessarily going through big processors, although, obviously, the bulk of the fruit still is dealt with that way. But they are looking for new ways to bring value added to their products.

The industry, therefore, is seeking to consolidate their promotional activity under a single Federal marketing order, and the current statute requires that any marketing order that assesses processing pears must have equal representation from producers and processors on its governing board, and yet the processors pay nothing into this process.

So, as a result, they have come to us, the processors and the growers, and said, "You know, why don't you change this law and let us go ahead and streamline how we operate."

So this legislation does that. It removes the existing processor membership requirement, and the processors all support that. The change will pave the way for consolidation and allow producers alone to dictate how their funds will be used in pear promotional activities.

The pear industry is united behind this. Each of the Pacific Northwest pear processors have expressed support for the changes. The Oregon, Washington and California State marketing commissions support it. Both Federal marketing orders are in support. The Pacific Northwest Canned Pear Service, the nonprofit voluntary marketing board of the Northwest canned pear industry, supports it. And the Washington-Oregon Canning Pear Association, the nonprofit bargaining association, all support H.R. 2984.

So, Mr. Speaker, I encourage the approval of this legislation. I look forward to having this written into law and having our pear industry be able to be more competitive in its promotional activities.

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to assume the responsibility of floor management on this and subsequent pieces of legislation for the ranking member, the gentleman from Texas (Mr. STENHOLM). He, at this moment, is appearing before the House Committee on Rules in support of an amendment to be considered tomorrow advancing disaster relief for America's farmers.

The amendment of the gentleman from Texas (Mr. STENHOLM), which I have cosponsored and strongly support, would represent a commitment by this House similar to that made by the Senate, a roughly $3 billion commitment in support of farmers who have had disastrous results this growing season in light of weather circumstances not anticipated and not normal and truly of a disastrous magnitude.

We stand prepared and will help those victims of the Florida hurricanes. We also have to recognize that, when it comes to production of agriculture, there are a lot of other types of disasters that have wreaked havoc right across this country, and that is the reason that the legislation that the gentleman from Texas (Mr. STENHOLM) is moving forward, supported by both Republican and Democratic Members of this body representing agriculture production areas, is so critically important.

I certainly hope that the ranking member is successful in his efforts to have an amendment made in order that will allow consideration of the disaster relief. We believe and we believe strongly that the disaster relief that passed the Senate is the disaster relief that our farmers need and deserve. We believe anything short of that would be an abdication by this House in meeting the needs of farmers. That is why we feel so strongly about it that the gentleman from Texas (Mr. STENHOLM) actually left the floor management to go to rules and make the case for this legislation.

Mr. HASTINGS of Washington. Mr. Speaker, I urge my colleagues to support passage of this legislation to remove the Agricultural Adjustment Act requirement that processors be members of an agency administering a marketing order on pears.

I want to thank my friend and colleague from Oregon, Mr. WALDEN, for his hard work on behalf of the NW pear industry.

My Congressional district produces 44 percent of the nation's pears, and Washington State is the top pear producing state in the nation. The pear growers I represent and their fellow pear growers throughout the Pacific Northwest are working hard to meet the challenges of foreign competition and changing consumer tastes, and industry marketing organizations are a vital part of this effort. However, Northwest pear growers are operating under an unnecessarily complicated arrangement involving two federal marketing orders and two state commodity commissions. The industry would like to streamline its grade standards and marketing efforts by moving to a single federal marketing order.

Moving from four organizations doing the same job to one seems like common sense to me, but there is a problem. Current federal statute requires that any marketing order that covers pears for processing must have equal representation from producers and processors on its governing board. Keep in mind that it is producers, not processors, that pay the assessments and are subject to the marketing orders' quality standards. For this reason a requirement that processors have equal representation is unreasonable and is a barrier to the industry's plan to consolidate its organizations.

This legislation will simply remove the requirement that the number of producer and processor representatives be equal. If passed, our bill would allow the Northwest pear industry to establish a single federal marketing order that does not give disproportionate influence to one segment of the industry.

This legislation is supported by the Pacific Northwest pear industry, and the processors themselves do not oppose the removal of this provision.

I urge my colleagues to support this bill.

Mr. POMEROY. Mr. Speaker, I have no further requests for time on the legislation before us, and, on behalf of the gentleman from Texas (Mr. STENHOLM), I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I urge my colleagues to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 2984.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2984.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

EXPRESSING SUPPORT OF HOUSE FOR ORGANIZATIONS PROVIDING EMERGENCY FOOD ASSISTANCE

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 261) expressing the support of the House of Representatives for the efforts of organizations such as Second Harvest to provide emergency food assistance to hungry people in the United States, and encouraging all Americans to provide volunteer services and other support for local antihunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens, and emergency shelters.

The Clerk read as follows:

H. RES. 261

Whereas food insecurity and hunger are a fact of life for millions of low-income Americans and can produce physical, mental, and social impairments;

Whereas recent census data show that almost 13,000,000 children in the United States live in families experiencing hunger or food insecurity;

Whereas the problem of hunger and food insecurity can be found in rural, suburban, and urban America, touching nearly every American community;

Whereas although substantial progress has been made in reducing the incidence of hunger and food insecurity in the United States, certain groups, including the working poor, the elderly, homeless people, children, migrant workers, and Native Americans remain vulnerable to hunger and the negative effects of food deprivation;

Whereas the people of the United States have a long tradition of providing food assistance to hungry people through acts of private generosity and public support programs;

Whereas the Federal Government, through Federal food assistance programs such as the Federal Food Stamp Program, child nutrition programs, and food donation programs, provides essential nutrition support to millions of low-income people;

Whereas there is a growing awareness of the important public and private partnership role that community-based organizations, institutions of faith, and charities provide in assisting hungry and food insecure people;

Whereas more than 50,000 local community-based organizations rely on the support and efforts of more than 1,000,000 volunteers to provide food assistance and services to millions of vulnerable people;

Whereas a diverse group of organizations, including America's Second Harvest, the United States Conference of Mayors, and other organizations have documented substantial increases in requests for emergency food assistance over the past year; and

Whereas all Americans can help participate in hunger relief efforts in their communities by donating food and money, by volunteering, and by supporting public policies aimed at reducing hunger: Now, therefore, be it

Resolved, That the House of Representatives supports the efforts of organizations such as Second Harvest to provide emergency food assistance to hungry people in the United States, and encourages all Americans to provide volunteer services and other support for local antihunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens, and emergency shelters.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from North Dakota (Mr. POMEROY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution, which recognizes the efforts of communities and faith-based groups such as Second Harvest to recover surplus food from restaurants and other facilities and donate it to local soup kitchens.

These efforts play an important role in combating hunger, which afflicts far too many Americans, particularly children.

The resolution is sponsored by the gentleman from Virginia (Mr. WOLF) and has 43 cosponsors. As we approach the holiday season, it is important to acknowledge these voluntary efforts. I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I again stand in support of the ranking member, the gentleman from Texas (Mr. STENHOLM), as he testifies before the Committee on Rules on behalf of his amendment that would allow disaster assistance similar to that passed by the Senate to be considered by the House tomorrow.

I think it is very important for people to know that this bill is of critical importance to the district the gentleman from Texas (Mr. STENHOLM) has represented so well for so long. They have had catastrophic losses from drought in 2003. And while there are some discussions percolating about a disaster bill for 2004, we know there was no disaster response for the losses suffered by farmers in 2003.

The Senate saw fit to take care of that, and in their bill, 2003 is provided for. That amendment by the Senate sits in conference committee on the homeland security bill right now. That is why I was so pleased to see the Stenholm proposal come forward today, the proposal that would allow a farmer to choose whether the 2003 or 2004 losses would be covered under the bill, and in all other respects mirrors the $3 billion package that the Senate advanced.

I am pleased that the gentleman from Texas (Mr. STENHOLM) is up in the Committee on Rules right now, and I am also pleased on his behalf to then read the statement that he would have been prepared to give on behalf of this legislation: "Mr. Speaker, I rise in full support of H. Res. 261. This resolution expresses congressional support for the vitally important work carried out by organizations such as America's Second Harvest in ensuring that needy Americans do not suffer from the pangs of hunger.

"In addition, it also encourages all Americans to provide volunteer services and other support for local anti-hunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens and emergency shelters.

"I have long been associated with the work of America's Second Harvest and, in particular, with the efforts of its member food banks, the South Plains Food Bank in Lubbock and the Food Bank of Abilene."

Remember, these are the words the gentleman from Texas (Mr. STENHOLM) was prepared to deliver as he represents his district. I am more familiar with the food banks in Fargo and Bismarck.

Resuming the statement of the gentleman from Texas (Mr. STENHOLM), "It is crucial that Congress take time to acknowledge the hard work of more than 1 million volunteers who strive to feed over 23 million needy Americans each year. These volunteers provide this necessary assistance in every community, large and small, rural and urban, across the United States. I wholeheartedly encourage my colleagues to support this resolution."

That concludes the statement that the gentleman from Texas (Mr. STENHOLM) was prepared to make. I would add my own comments.

What we are seeing is an unprecedented demand on food shelters, not just in Abilene, not just in Lubbock, but all across this country. There is something happening in this economy. Regardless of what the macrostatistics may tell you, there is a growing demand on our food banks.

Now, I think that there are any number of economic indicators in this country, but one that deeply alarms me is this draw on the food banks.

□ 2000

This is truly the last stop for people who cannot feed their families.

When we have this draw on our food banks, we know that something terrible is going wrong in terms of the middle-income folks slipping into ever-greater problems in making ends meet; and the lower incomes below that, falling short of such critical necessities as being able to buy their groceries. That is why they are showing up at these food shelters.

So I appreciate this resolution and I appreciate the support of the gentleman from Texas (Mr. STENHOLM), I appreciate the support of the chairman; and I urge adoption of this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

This is a very worthy resolution and it reflects on the great work done by food banks and those who volunteer their efforts in the various food pantries and soup kitchens and restaurants that depend upon those food banks, including food banks in my congressional district, the Southwest Virginia Second Harvest Food Bank and the Blue Ridge Second Harvest Food Bank.

I urge my colleagues to support the resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of H. Res. 261. Currently, about 35 million Americans either don't know where their next meal is coming from, or they have to cut back on what they eat because they don't have enough money for groceries. Thankfully, there are organizations like Second Harvest who provide when it is most needed. America's Second Harvest is the largest domestic hunger-relief organization in the United States. The America's Second Harvest mission is to feed hungry people by soliciting and distributing food and grocery products through a nationwide network of certified affiliate food banks and food-rescue programs and to educate the public about the nature of and solutions to the problem of hunger in America.

America's Second Harvest's network of more than 200 regional food banks and food-rescue organizations serves all 50 states, the District of Columbia, and Puerto Rico by distributing food and grocery products to approximately 50,000 local charitable hunger-relief agencies including food pantries, soup kitchens, women's shelters, Kids Cafes, Community Kitchens, and other organizations that provide emergency food assistance.

As we approach fall and the holiday season, many of our food banks will not have enough food. I urge our citizens who are fortunate to have the necessities in life to share with their neighbors who are more in need—not just around the holidays when we are reminded but throughout the year. I hope one day Congress is able to report to our Nation that the number of hungry citizens in our Nation is decreasing. I urge my colleagues to support this legislation as a way to thank those organizations that have assisted in feeding the hungry for so many years and encourage more people to assist in this fight.

Mr. WOLF. Mr. Speaker, I want to thank my friend and Virginia colleague, Chairman GOODLATTE for recognizing the importance of this resolution.

The resolution recognizes organizations such as America's Second Harvest that provide emergency food assistance to hungry people in the United States, and encourages all Americans to provide volunteer services and other support for local anti-hunger advocacy efforts and hunger relief charities, including food banks, food rescue organizations, food pantries, soup kitchens, and emergency shelters. I hope it will help draw attention to the problem of hunger in America today.

I have mixed emotions today—proud of the armies of compassion that are represented by organizations such as America's Second Harvest and sad because its been 40 years since President Johnson declared war on poverty and hunger . . . and yet, today, 13 million kids still live in households that do not have an adequate supply of food.

I am pleased that the House is considering this resolution which will help draw attention to this silent tragedy. In Matthew 25, Jesus talks about the obligation to feed the hungry. In a world, and especially a nation, as plentiful as ours—it is tragic that even one child faces food insecurity.

My state of Virginia is better off than many states. We are below the national average poverty rate of 11.6 percent. We have fewer people who don't have food—7.6 percent versus the national average of 10.4 percent. Yet, hunger is still here.

Substantial progress has been made to feed the hungry in the United States, yet too many Americans still go to bed hungry and feel the effects of food deprivation. Federal programs like the Food Stamp Program, child nutrition programs, and food donation programs, provide essential nutritional support to millions of low-income people, but the need remains.

Thankfully, community- and faith-based institutions are providing assistance to hungry people across the country. The armies of compassion are working hard, but we each must do our part to join in and support them.

We need to eliminate the barriers that many businesses must overcome when they decide to do the morally conscionable thing and donate their surplus goods. It's outrageous that it is more "cost effective" for a business to throw out or destroy surplus food rather than donate it to a local soup kitchen.

I hope that in the midst of the facts and statistics, no one misses the point of this resolution—that in a land of plenty, 13 million children still go to bed hungry. A country which is as blessed as ours needs to do better.

Mr. MCGOVERN. I want to thank my good friend, Mr. WOLF, for sponsoring this resolution and for his leadership in the fight to end hunger here in the United States and around the world.

I also want to thank Chairman GOODLATTE, Ranking Member STENHOLM, and the members of the Agriculture Committee for moving this resolution forward for consideration by the full House.

I rise in support of H. Res. 261. America's Second harvest, the food banks that operate across the country, and the volunteers who help provide assistance at these organizations deserve to be recognized and thanked for their diligence and hard work in combating hunger in America.

Mr. Speaker, I believe hunger is a political problem. There is no reason people—both here at home and around the world—should go without food. America is known as a country of plenty, and it is shameful that our prosperous nation still has children, veterans, seniors, and other individuals and families who simply do not know from day to day whether they will have enough to eat.

The system of food banks throughout the United States provides a safety net where individuals and families can go to get a meal when they really need one. In my own congressional district and hometown of Worcester, Massachusetts, the Worcester County Food Bank provides this invaluable service to the people of Central Massachusetts. Jean McMurray, the executive director of the Food Bank, helps provide food for soup kitchens and food pantries throughout Worcester County.

The food bank also runs and operates a kitchen where they prepare food for soup kitchens and train people in food service and food preparation skills in order to find good-paying jobs. These are excellent programs and an excellent food bank, and I am so very pleasing that this resolution recognizes and honors the work of Jean McMurray, her staff and their counterparts across the country.

Mr. Speaker, our food banks are stretched thin. Every day they are called upon to provide more and more assistance. Sadly, more people go without food every day in our country, and the safety net provided by these food banks, the assistance that help the food insecure escape starvation, is strained to the breaking point.

As Co-Chair of the Congressional Hunger Center, I have worked closely with America's Second Harvest and local food banks. The Congressional Hunger Center, dedicated to training tomorrow's leaders in the fight against hunger, places Emerson Trust Fellows in food banks and other anti-hunger organizations across the country so that they may see and learn first-hand from the work carried out by these groups.

Mr. Speaker, like my colleague Mr. WOLF, I am committed to ending hunger in America. We have a blueprint researched and developed by the Alliance to End Hunger on how Congress and the American people, working together, can achieve that goal. This resolution honors many of the groups and individuals who are on the front lines of that battle, and I thank Congressman WOLF once again for his leadership. I hope passage of this resolution will help energize this body to make a full commitment to ending hunger in America once and for all.

Ms. KAPTUR. Mr. Speaker, I rise in support of this resolution commending Second Harvest and other food banks around the country who do such a wonderful job in providing essential assistance to people who need it. I am thankful each and every day that they are able to provide help to hungry people, as are the people who receive the food.

As the ranking member on the Subcommittee on Agricultural Appropriations, I have been torn over the level of funding we provide for our many food assistance programs. I am happy that we are able to provide as much funding as we do, while recognizing that there are still are other programs like WIC, Commodity Supplemental Feeding, and the Senior Farmers Market Nutrition Program, that could still use more.

I am unhappy about the growth in these food programs because they are supposed to be countercyclical. If our funding levels are high, then it means many among us, including many who have full time jobs, are not doing well economically. They need these food programs to help make ends meet.

Consider the following: In fiscal 2001, we provided $20.1 billion for Food Stamps. In the fiscal 2005 bill approved by the House in July, we included $33.6 billion, an increase of 67 percent in that one program. Do the additional 5.8 million program receiving these benefits think they are better off than they were four years ago?

According to testimony provided by USDA, in 2002, 47 percent of all infants born in the nation—1.9 million out of 4.1 million—were receiving benefits under the WIC program. What happened to meaningful jobs for their parents?

Last year the Toledo Blade reported of cases in which the families of individuals called up for active National Guard or Military Reserve Duty had to seek assistance from the WIC program because of lost family income. This is taking care of our servicemen and women and their families?

A population survey from the Census Bureau found that 12.1 percent of Ohioans were living in poverty in 2003, up from 11 percent in 2001. There is definitely a connection between increases in poverty and the thousands of jobs that have been lost in Ohio since 2001;

In 2003, the Toledo-Northwest Ohio Food Bank reported that food pantries and soup kitchens in the area served 28,000 households. By the end of June of this year, this number increased to 40,000 households. People who in past years had donated to food banks are now becoming recipients.

Local grocery stores had been generous in their support of food banks in prior years, but because of local closures and consolidations, the food banks are finding that the donations they are receiving are down while the need for the program has increased.

As a nation, while we support these programs of assistance because it is the right thing to do, no one should ignore the fact that there are reasons why people are on these programs. America needs more jobs that pay a living wage. America needs an increase in the minimum wage to be sure that families can live in dignity, not in despair. America needs to end the harsh choices we expect too many young families and too many elderly to make—do they pay the rent, pay for utilities, pay for health care, or leave money for food?

America, frankly, needs better days than we have seen for the past four years.

I ask unanimous consent to include at this point in the RECORD an article from the October 3rd issue of the Toledo Blade, entitled "Ranks of Area's 'Invisible' Poor are Increasing".

[From the Toledo Blade, Oct. 3, 2004]

RANKS OF AREA'S "INVISIBLE" POOR ARE INCREASING

MORE OHIO, MICHIGAN RESIDENTS ARE LIVING ON THE EDGE THAN EVER

(By Karamagi Rujumba)

Gary Robertson was laid off from his warehouse job eight months ago. With no steady income and the bills piling up, he soon lost his apartment. A couple of friends put him up for a while, but that didn't last for long. So one day, he was finally forced to do something he never imagined: He spent a night at a men's homeless shelter at the Cherry Street Mission. "I was homeless and that was hard for me to accept. I had never been to a food pantry or a shelter," said Mr. Robertson, a native of Alabama who moved to Findlay 17 years ago and got a job at an area warehouse. "I was doing well until I lost my job," Mr. Robertson said. He came to Toledo hoping for better luck in a larger city, but has since failed to find a regular job here. He has been working odd jobs to make his portion of the rent for an apartment he shares. When he needs food, he goes to the Cherry Street Mission's food pantry. Mr. Robertson is far from alone.

"We are seeing an increasing number of people who rely on pantries and soup kitchens, especially this year," said Lisa Hamler-Podolski, the executive director of the Ohio Association of Second Harvest Foodbanks, a Columbus-based agency that donates food to food banks across the state. A U.S. Census Bureau report released last month confirmed what many volunteers at area food pantries and soup kitchens have known for a long time—that more people in Ohio and Michigan live in poverty today than in past years.

AREA CENSUS FIGURES

Poverty is defined in terms of family size and income. For 2003, the Census Bureau reported that a family of four living on a total annual income of $18,810 or less is considered to be in poverty. And statistical benchmarks show poverty is on the rise in Toledo, Ohio, and Michigan: In the last Census report, Toledo was ranked eighth among cities that have the highest number of children living in poverty. A recent population survey from the Census Bureau found that 12.1 percent of Ohioans were living in poverty in 2003, up from 11.9 percent in 2002, and 11 percent in 2001. In Michigan, 11.4 percent of the population was living in poverty last year, compared to 11.6 percent in 2002 and 9.4 percent in 2001. In 2003, the Toledo-Northwest Ohio Food Bank, Inc., reported that the various food pantries and soup kitchens to which it distributed served 28,000 households. By the end of the first six months of 2004, the same pantries and kitchens reported that 40,000 households were dependent on their services.

"The people we are talking about appear to be invisible, but you see them everyday. They serve you at restaurants, take care of your parents in nursing homes, and make your beds in hotels," Ms. Hamler-Podolski said. "They are the new poor. People who have always had jobs and now, due to plant closings and downsizing, find themselves struggling to put food on the table."

DEMAND HIGH AT PANTRIES

Julie Chase Morefield, the director of marketing and operations at the Toledo-Northwest Ohio Food Bank, agreed. "The demand at area pantries and kitchens is way up and it has been a problem finding enough food to distribute," she said. Her agency serves 330 pantries and soup kitchens in eight northwest Ohio counties, including Lucas, Defiance, Fulton, Henry, Ottawa, Sandusky, Williams, and Wood counties. "It is worse than we have ever seen it. We've never really seen numbers this high," Ms. Morefield said. "There are a lot of people out there who are really struggling."

John Urban, a retired vacuum cleaner salesman is one of them. Standing in line for a food bag at the Helping Hands of Saint

Louis pantry in East Toledo one recent Tuesday morning, Mr. Urban said his Social Security income of $900 a month no longer was enough to sustain him. "I come here once a month and they give me enough food to last a couple of weeks," said the 64-year-old, who was born on the city's east side. After showing his proof of residence and income, Mr. Urban was handed a brown bag stuffed with loaves of bread, bagels, macaroni, spaghetti sauce, several cans of soup, and powdered milk.

The line at the pantry on this particular morning was not very long. That is because it was the beginning of the month, said Linda Lupien, the director of Helping Hands. "The middle and the end of the month are usually very tough because that's when people run out of money," Ms. Lupien said. "We are seeing new faces every day and people who are hitting the pantry line because they simply cannot make it anymore."

Al Baumann, a retired pastor at Saint Mark's Lutheran Church in East Toledo, is the director of the Toledo Area Council of Churches, which runs the Feed Your Neighbor program. "There are a lot more people in Toledo who rely on food donations. You see them everyday, but you just don't know it," Mr. Baumann said. "We serve more than 30,000 families a year through our program." Feed Your Neighbor is a food voucher system involving 12 Toledo churches that was started in 1975, when the council of churches started distributing emergency food supplies because of the drastic economic downturn of the 1970s. While the current economic climate is not as dire, Mr. Baumann said the number of people in need of food is growing every month. "We're finding more people, even in the suburbs, who can no longer make ends meet," he said. "A lot of people are not aware of the economic hardships their neighbors might be experiencing because of the way that we are economically segregated as a society."

CUTTING FOOD STAMPS

Drastic cuts in federal government subsidies to food stamp and similar programs serving the poor is another reason that more people are lining up at food pantries, Mr. Baumann said. According to the Lucas County Department of Jobs and Family Services, there are now 27,784 households receiving food stamps and 4,574 families on cash assistance through the Ohio Works First program. The county has seen a steady increase in the number of people seeking cash and food assistance, said Cindy Ginter, the program manager at Lucas County's Department of Jobs and Family Services. In 2003, the county had 25,286 households on food-stamp rolls and 3,736 families on cash assistance.

"We would like to not have seen this kind of increase, but because of the economy, the numbers just keep increasing," Ms. Ginter said. The sluggish economy also is cited by the county's Women, Infants, and Children program for the record number of low-income earning families that depend on its services, said Tom Kuhn, the agency's director. In 1999, WIC, an agency of the Ohio Department of Health's Bureau of Nutrition Services, served 12,326 families in the county. This year, that number has jumped to more than 15,000 families. "The numbers have been steadily rising, but this is the highest they have ever been," Mr. Kuhn said.

Sheldon Danziger, a professor of public policy at the Gerald R. Ford School of Public Policy at the University of Michigan, said the federal and state governments are not doing enough to stave the rising numbers of people living in poverty.

The Ohio Department of Jobs and Family Services came under fire last week because $431 million in federally-allocated funds have been sitting unused for months in the state's Temporary Assistance for Needy Families account. Director Tom Hayes confirmed the funds are being held while the state and counties design programs to spend the money.

ECONOMIC PROBLEMS

Mr. Danziger argued that it isn't because of a failure of antipoverty programs that poverty has remained high for Americans since the 1970s. He said it's because the economy has not delivered the benefits of prosperity to all workers, and because politicians and the public have lost faith in the ability of government to deal with the problem of poverty. "Wage stagnation is one of the reasons that we still see people lining up at food pantries," Mr. Danziger said. "Since the 1990s, labor market changes have meant that workers with a high school education or less have had wage rates that have not grown relative to the rate of inflation." He said the government has failed to implement public policies like a higher minimum wage adjusted for inflation, which would be the quickest way to help people who are struggling. The last time the minimum wage was adjusted was in 1997, when it was raised to $5.15 per hour. If it were to be adjusted to current inflation, the professor said, the minimum wage would be $6.10 per hour.

GLOBAL POVERTY INCREASE

Mr. Danziger said the gap between the rich and poor is not only increasing here, but in many developing nations of the world where more than a billion people continue to face extreme poverty. According to a report released by the World Commission on the Social Dimension of Globalization in February, more than a billion people lived on less than $1 per day in 2000. The commission, which was established in 2002 by the International Labor Organization, a United Nations agency, reported the gap between the richest and poorest countries has widened dramatically in the past four decades. In the U.S., increasing unemployment benefits and implementing more tax credit programs for low-wage earners would be a critical step in helping the unemployed get back on their feet, Mr. Danziger said. According to the Center on Budget and Policy Priorities, a Washington think tank, 17 States and the District of Columbia so far have enacted earned income tax credits for low income residents, which supplement the federal government credits.

Ohio and Michigan, however, are not among them.

These tax credits, Mr. Danziger argued, go a long way in meeting day-to-day expenses for low-wage earners. George Garcia, a Toledo truck driver, said he could have used some help when he almost lost his house after breaking both his legs in an accident that left him unemployed for more than six months. "I was down to the last week and $1,500 behind on my mortgage. I had to tell the children that we were about to lose our home," said the 39-year-old father of three. After borrowing from several friends, he kept the family's home. But because he had no health insurance, he spent all his money on medical bills and had to turn to the Cherry Street pantry for food. "The pantry was great. I always got enough food and when I took it home, it was like I had just come from the grocery store," he said. Though he now makes enough to support his family most of the time, Mr. Garcia acknowledged that "every now and then, I have to go to the pantry to get by."

Mr. GOODLATTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURPHY). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and agree to the resolution, H. Res. 261.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

RECOGNIZING THE ESTABLISHMENT OF HUNTERS FOR THE HUNGRY PROGRAMS ACROSS THE U.S.

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 481) recognizing the establishment of Hunters for the Hungry programs across the United States and the contributions of those programs to efforts to decrease hunger and help feed those in need.

The Clerk read as follows:

H. RES. 481

Whereas Hunters for the Hungry programs are cooperative efforts among hunters, sportsmen's associations, meat processors, State meat inspectors, and hunger relief organizations to help feed those in need;

Whereas during the past three years Hunters for the Hungry programs have brought hundreds of thousands of pounds of venison to homeless shelters, soup kitchens, and food banks; and

Whereas each year donations have multiplied as Hunters for the Hungry programs continue to feed those in need: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes the cooperative efforts of hunters, sportsmen's associations, meat processors, State meat inspectors, and hunger relief organizations to establish Hunters for the Hungry programs across the United States; and

(2) recognizes the contributions of Hunters for the Hungry programs to efforts to decrease hunger and help feed those in need.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from North Dakota (Mr. POMEROY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Res. 481, as introduced by the gentleman from Georgia (Mr. GINGREY).

This resolution recognizes and encourages Hunters for the Hungry programs. These are voluntary, cooperative efforts among hunters, sportsmen's associations, meat processors, State meat inspectors, and hunger relief organizations to help feed those in need. These programs are in place in almost every State. They have brought hundreds of thousands of pounds of venison to homeless shelters, soup kitchens, and food banks, feeding thousands of needy people.

Hunters for the Hungry programs are great examples of community service. This resolution is intended to bring attention to these programs and to promote additional constructive ideas for addressing the problem of hunger.

Hunting season is right around the corner in much of the country, and I urge my colleagues to do everything they can to support these important programs. Not only does hunting contribute to our rural economy, it helps our communities fight hunger.

I urge my colleagues to support this resolution, and I congratulate the gentleman from Georgia (Mr. GINGREY) for his efforts to move this resolution forward.

Mr. Speaker, I reserve the balance of my time.

Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

I am here once again representing my ranking member on the Committee on Agriculture, the gentleman from Texas (Mr. STENHOLM) as he testifies before the Committee on Rules, attempting to secure placement of the legislation he has offered in support of disaster assistance to farmers.

To reveal the state of play here, the Senate has passed a $3 billion disaster bill to help farmers in light of the disastrous losses that they have suffered, not just from hurricanes, but we have seen it all, a big swath of losses due to drought. In North Dakota, we have even had disaster losses of a significant magnitude due to early frost, frost coming on August 19.

There are some in the House discussing a nod to disaster assistance to the tune of $500 million, maybe up to close to $1 billion. This does not come close to addressing the needs of farmers across this country.

Mr. Speaker, a $3 billion bill passed by the Senate is a much more realistic and substantive response, and I hope that the House is given the opportunity by the Committee on Rules, pursuant to the testimony of the gentleman from Texas (Mr. STENHOLM) right now, to consider the full disaster package, the $3 billion disaster package.

Mr. Speaker, when it comes to production agriculture, we have macro statistics and we have micro circumstances. The macro statistics may reveal that this is just another year in production agriculture, but we know from the hurricanes in the State of Florida that it has been anything but a normal year in terms of production agriculture.

If we take you over to the Great Plains States, we will show you a drought that is beginning to rival what they saw in the Great Depression, the "Dirty 30s," reservoirs drying up, year after year of failed production. Up in North Dakota, and I will tell my colleagues that I am a farm retailer's kid, I have been close to farming and agriculture all of my life, I have never seen a frost on August 19 do such harm to the production that we were experiencing.

This is why this disaster bill is so critically important, and that is why I wish the gentleman from Texas (Mr. STENHOLM) well in his testimony before the House Committee on Rules.

I will say of his statement on behalf of this bill, wholehearted support, I appreciate very much the chairman's efforts in moving this bill forward, and I will go on to read the statement of the gentleman from Texas (Ranking Member STENHOLM) on behalf of H. Res. 481.

"Mr. Speaker, I express my wholehearted support for H. Res. 481 which recognizes the establishment of the Hunters for the Hungry programs across the United States and the vital contributions these programs make in the ongoing effort to decrease hunger and help feed those in need.

"Hunters for the Hungry programs are volunteer and cooperative efforts among hunters, sportsmen's associations, meat processors, State meat inspectors, and hunger relief organizations to help feed those in need.

"These programs are not only simple, but also practical. The hunters provide the game meat, which is taken to processors who cut, wrap, and freeze it. The meat is then distributed through agencies such as food banks and other nonprofit organizations which feed the needy.

"In my home State of Texas," again speaking on behalf of the gentleman from Texas (Mr. STENHOLM), "the Texas Association of Community Action Agencies, Inc., with funding from the Texas Department of Housing and Community Affairs, has worked with the hunters' program for over 10 years. Since 1991, the Hunters for the Hungry program in Texas has distributed over 480,000 pounds of venison to the needy in Texas.

"Hunters for the Hungry programs provide an excellent example of community service in action. The intention of this resolution is more than just to congratulate those who participate in these programs for a job well done. The resolution also serves to bring attention, encourage participation, and promote additional constructive ideas for addressing the problem of hunger in the United States."

Mr. Speaker, seeing no further requests for time, I yield back the balance of our time.

Mr. GOODLATTE. Mr. Speaker, at this time it is my pleasure to yield such time as he may consume to the gentleman from Georgia (Mr. GINGREY), the chief sponsor of the legislation.

Mr. GINGREY. Mr. Speaker, first I want to thank the distinguished chairman of the Committee on Agriculture, the gentleman from Virginia (Mr. GOODLATTE), as well as the ranking member, for bringing this resolution to the floor today.

On December 8, 2003, I introduced House Resolution 481 to bring attention to an often-overlooked group of hunters and meat processors who help feed thousands of homeless and hungry people each year. It was my intention to draft a resolution that would praise Hunters for the Hungry programs across our country in many States, all States, and encourage new and innovative ways of addressing our Nation's hunger problem.

Although these organizations have various names, depending on the State or region of the country, Hunters for the Hungry organizations show the humanitarian and kind-hearted spirit of our Nation's hunting community. Hunters for the Hungry programs are volunteer and cooperative efforts among hunters, sportsmen's associations, meat processors, State meat inspectors, and hunger relief organizations. All of these groups work together to help feed those in need.

Over the past 3 years, such programs have brought hundreds of thousands of pounds of excess venison to homeless shelters, to soup kitchens and food banks, feeding thousands of needy people. Each year, donations have multiplied and programs now find themselves overflowing with thousands of pounds of meat and, at times, they cannot even cover the cost of processing, packaging, storing, and distributing the meat.

Hunters for the Hungry programs are great examples of community service. They serve to feed the needy and to prevent waste. Meat is a rare commodity for agencies serving the needy, and a supply of venison from the Hunters for the Hungry will typically provide the best meal these needy people have had for weeks or even months.

Most importantly, Hunters for the Hungry organizations serve as a great example of how our Nation can address issues like hunger without government intervention. These organizations receive no government money, and they operate from donations and volunteer service. We must revise the awareness of these organizations so they can solicit more monetary donations and volunteers.

As Josh Wilson, the operations director for the Farmers and Hunters Feeding the Hungry program put it, "I know it is quite encouraging to our FHFH coordinators and to the other venison programs to know that their efforts are noticed and appreciated."

Mr. Speaker, I ask the House of Representatives to speak in one voice of encouragement and gratitude to these organizations for all of their community service.

Mr. GOODLATTE. Mr. Speaker, I congratulate again the gentleman from Georgia and thank him for bringing forward this fine resolution. I urge my colleagues to support it.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and agree to the resolution, H. Res. 481.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 481, the resolution just considered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

AMENDING THE DEPARTMENT OF AGRICULTURE ORGANIC ACT OF 1944 TO ENSURE THAT DEPENDENTS OF EMPLOYEES OF THE FOREST SERVICE STATIONED IN PUERTO RICO RECEIVE HIGH-QUALITY ELEMENTARY AND SECONDARY EDUCATION

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5042) to amend the Department of Agriculture Organic Act of 1944 to ensure that the dependents of employees of the Forest Service stationed in Puerto Rico receive a high-quality elementary and secondary education.

The Clerk read as follows:

H.R. 5042

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO COVER EXPENSES OF PRIMARY AND SECONDARY SCHOOLING OF DEPENDENTS OF FOREST SERVICE PERSONNEL IN PUERTO RICO.

Section 202 of the Department of Agriculture Organic Act of 1944 (16 U.S.C. 554b) is amended—

(1) by inserting "(a) PROVISION OF MEDICAL CARE; RELATED TRANSPORTATION.—" before "Appropriations for the Forest Service"; and

(2) by adding at the end the following new subsection:

"(b) COVERAGE OF DEPENDENT EDUCATIONAL EXPENSES IN PUERTO RICO; RELATED TRANSPORTATION.—(1) Appropriations for the Forest Service shall be available to the Secretary of Agriculture to cover the cost of primary and secondary schooling of dependents of Forest Service personnel, who are stationed in Puerto Rico and are subject to transfer and reassignment to other locations in the United States, but not to exceed the costs authorized by the Department of Defense for the same area for dependents of members of the Armed Forces, when it is determined by the Secretary that the schools available in the area of Puerto Rico in which the dependents reside are unable to provide adequately for the education of the dependents.

"(2) If the Secretary determines that the school attended by a dependent described in paragraph (1) is not accessible by public means of transportation on a regular basis, the Secretary may provide, out of funds appropriated for the Forest Service, for the transportation of the dependent between the school and the place of residence of the dependent.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from North Dakota (Mr. POMEROY) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 5042, introduced by the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ).

Mr. Speaker, H.R. 5042 amends the Department's Organic Act to allow the Secretary of Agriculture to cover tuition and transportation costs for dependents of Forest Service employees in Puerto Rico.

When the U.S. Naval Base at Roosevelt Roads closed its school, several Forest Service employees lost the only nearby English language school available to their children. H.R. 5042 would allow the Department of Agriculture to reimburse tuition and transportation costs for these employees' dependents. Currently, several other Federal agencies, including the FAA, Department of Justice, and the Coast Guard, have made use of this authority for their employees assigned to Puerto Rico.

The bill should have minimal fiscal impact, as USDA was reimbursing the Department of Defense for the use of their school at the same rate authorized in this bill.

I urge my colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

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Mr. POMEROY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want the record once again to reflect that I am standing in for the ranking member, the gentleman from Texas (Mr. STENHOLM) as he appears in the Committee on Rules arguing for consideration of an amendment that would allow the House to express its support for disaster relief for farmers similar to what was passed earlier by the Senate; $3 billion for disaster relief for farmers was an amount established in the Senate consideration on this matter. Certainly, it was not all that some wanted, but it was viewed as a substantive response to the disaster need to our farmers.

It troubles me that some in the House are talking about no response, talking about doing whatever is necessary for Florida, by the way, I stand in strong support for a response of Florida, but leaving behind the losses faced in other agriculture production areas.

We all have to stand together, and the production loss of my farmers is just as devastating, albeit from other causes than hurricane losses, as the hurricane losses have been to the farmers in southern Florida.

Therefore, I wish the ranking member well in his testimony to the Committee on Rules. We will fully engage this debate tomorrow, but I want the record to reflect that the gentleman from Texas (Mr. STENHOLM) in my opinion is clearly advancing the interest of farmers tonight as he testifies to the Committee on Rules in favor of his disaster legislation, legislation supported by both Republicans and Democrats representing hard-hit areas of production agriculture.

That said, I will now read from the gentleman from Texas (Mr. STENHOLM's) statements on behalf of H.R. 5042: "Mr. Speaker, I rise in support of H.R. 5042, and I thank the gentleman from Puerto Rico (Mr. ACEVEDO-VILÁ) for bringing this issue before the House of Representatives and the Committee on Agriculture.

"Until recently, 11 dependents of the Forest Service employees stationed in Puerto Rico attended the DOD Educational Authority schools at the Naval Station Roosevelt Road. However, this naval station closed earlier this year at the direction of Congress. As a result, Federal Forest Service employees assigned to Puerto Rico are faced with limited choices and opportunities for their children's education. This could lead to loss of qualified staff of the Forest Service willing to work in Puerto Rico.

"While other Federal agencies have authority to reimburse their staff for educational expenses incurred by their dependents while assigned to Puerto Rico, the Forest Service has no similar authorization. This legislation, which is supported by the Forest Service, will simply employ authorization to the Forest Service to reimburse its staff for educational expenses incurred by their dependents when assigned to Puerto Rico.

"I encourage Members to support this simple but fair legislative solution."

Mr. ACEVEDO-VILÁ. Mr. Speaker, I rise today in support of H.R. 5042. This legislation is an important step to provide access to stable and quality education for the dependents of our federal employees who are assigned to Puerto Rico. This is a non-controversial bill that will allow the dependents of USDA Forest Service employees to receive convenient, reliable and high quality education when assigned to Puerto Rico.

Until Naval Station Roosevelt Road's closure earlier this year, dependents of Forest Service employees who work at both the Caribbean National Forest and the International Institute of Tropical Forestry (IITF) had attended the DOD Educational Authority (DODEA) schools at NSRR, and the Forest Service reimbursed DODEA for the expense of educating its staff's dependents.

The closest DODEA school, at Fort Buchanan, is approximately a 1 to 1½ hour commute each way from their previous school, and therefore is not a convenient or suitable alternative. Most of the classes taught in Puerto Rico's public schools are in Spanish, and are not acceptable alternatives to English-based education for these federal employee dependents. Private schools, while close by, are an expensive cost to federal employees, and though other federal agencies, such as the U.S. Coast Guard, the Department of Justice, the Federal Aviation Administration and others have authority to reimburse their staff for educational expenses incurred by their dependents at private schools while assigned to Puerto Rico, the Forest Service has no similar authorization.

As a result, federal Forest Service employees assigned to Puerto Rico are faced with limited choices and opportunities for the continuing education of their dependents. This legislation will simply provide authorization to the Forest Service to reimburse its staff for educational expenses incurred by their dependents' when assigned to Puerto Rico.

This bill is budget neutral, as it caps the Forest Service's reimbursement authority to not exceed the per-child amount previously reimbursed to the DODEA. The Forest Service supports this legislation.

I support this legislation and urge my colleagues to vote yes on this important fix to allow the dependents of federal employees working for the Forest Service to receive the highest educational experience.

In closing, I would like to thank Agriculture Committee Chairman BOB GOODLATTE, ranking member CHARLES STENHOLM, and the committee staff of their assistance in quickly sheparding this bill through their committee and to the floor. I appreciate their help in addressing this important measure.

I urge my fellow members to support this measure, and to ensure that the dependents of our dedicated and professional Forest Service employees in Puerto Rico maintain convenient access to quality education.

Mr. POMEROY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURPHY). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 5042.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 5042.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

AUTHORIZING THE SECRETARY OF AGRICULTURE TO SELL OR EXCHANGE CERTAIN ADMINISTRATIVE SITES IN THE OZARK-ST. FRANCIS AND OUACHITA NATIONAL FORESTS

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 33) to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Ozark-St. Francis and Ouachita National Forests and to use funds derived from the sale or exchange to acquire, construct, or improve administrative sites.

The Clerk read as follows:

S. 33

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SALE OR EXCHANGE OF LAND.

(a) IN GENERAL.—The Secretary of Agriculture (referred to in this Act as the "Secretary") may, under such terms and conditions as the Secretary may prescribe, sell or exchange any right, title, and interest of the United States in and to the following National Forest System land and improvements:

(1) In the Ouachita National Forest—

(A) tract 1, "Work Center and two Residences" (approximately 12.4 acres), as identified on the map entitled "Ouachita National Forest, Waldron, Arkansas, Work Center and Residences" and dated July 26, 2000;

(B) tract 2, "Work Center" (approximately 10 acres), as identified on the map entitled "Ouachita National Forest, Booneville, Arkansas, Work Center" and dated July 26, 2000;

(C) tract 3, "Residence" (approximately ½ acre), as identified on the map entitled "Ouachita National Forest, Glenwood, Arkansas, Residence" and dated July 26, 2000;

(D) tract 4, "Work Center" (approximately 10.12 acres), as identified on the map entitled "Ouachita National Forest, Thornburg, Arkansas, Work Center" and dated July 26, 2000;

(E) tract 5, "Office Building" (approximately 1.5 acres), as identified on the map entitled "Ouachita National Forest, Perryville, Arkansas, Office Building" and dated July 26, 2000;

(F) tract 6, "Several Buildings, Including Office Space and Equipment Depot" (approximately 3 acres), as identified on the map entitled "Ouachita National Forest, Hot Springs, Arkansas, Buildings" and dated July 26, 2000;

(G) tract 7, "Isolated Forestland" (approximately 120 acres), as identified on the map entitled "Ouachita National Forest, Sunshine, Arkansas, Isolated Forestland" and dated July 26, 2000;

(H) tract 8, "Isolated Forestland" (approximately 40 acres), as identified on the map entitled "Ouachita National Forest, Sunshine, Arkansas, Isolated Forestland" and dated July 26, 2000;

(I) tract 9, "Three Residences" (approximately 9.89 acres), as identified on the map entitled "Ouachita National Forest, Heavener, Oklahoma, Three Residences" and dated July 26, 2000;

(J) tract 10, "Work Center" (approximately 38.91 acres), as identified on the map entitled "Ouachita National Forest, Heavener, Oklahoma, Work Center" and dated July 26, 2000;

(K) tract 11, "Residence #1" (approximately 0.45 acres), as identified on the map entitled "Ouachita National Forest, Talihina, Oklahoma, Residence #1" and dated July 26, 2000;

(L) tract 12, "Residence #2" (approximately 0.21 acres), as identified on the map entitled "Ouachita National Forest, Talihina, Oklahoma, Residence #2" and dated July 26, 2000;

(M) tract 13, "Work Center" (approximately 5 acres), as identified on the map entitled "Ouachita National Forest, Big Cedar, Oklahoma, Work Center" and dated July 26, 2000;

(N) tract 14, "Residence" (approximately 0.5 acres), as identified on the map entitled "Ouachita National Forest, Idabel, Oklahoma, Residence" and dated July 26, 2000;

(O) tract 15, "Residence and Work Center" (approximately 40 acres), as identified on the map entitled "Ouachita National Forest, Idabel, Oklahoma, Residence and Work Center" and dated July 26, 2000; and

(P) tract 16, "Isolated Forestland" at sec. 30, T. 2 S., R. 25 W. (approximately 2.08 acres), as identified on the map entitled "Ouachita National Forest, Mt. Ida, Arkansas, Isolated Forestland" and dated August 27, 2001.

(2) In the Ozark-St. Francis National Forest—

(A) tract 1, "Tract 750, District 1, Two Residences, Administrative Office" (approximately 8.96 acres), as identified on the map entitled "Ozark-St. Francis National Forest, Mountain View, Arkansas, Tract 750, District 1, Two Residences, Administrative Office" and dated July 26, 2000;

(B) tract 2, "Tract 2736, District 5, Mountainburg Work Center" (approximately 1.61 acres), as identified on the map entitled "Ozark-St. Francis National Forest, Mountainburg, Arkansas, Tract 2736, District 5, Mountainburg Work Center" and dated July 26, 2000;

(C) tract 3, "Tract 2686, District 6, House" (approximately 0.31 acres), as identified on the map entitled "Ozark-St. Francis National Forest, Paris, Arkansas, Tract 2686, District 6 House" and dated July 26, 2000;

(D) tract 4, "Tract 2807, District 6, House" (approximately 0.25 acres), as identified on the map entitled "Ozark-St. Francis National Forest, Paris, Arkansas, Tract 2807, District 6, House" and dated July 26, 2000;

(E) tract 5, "Tract 2556, District 3, Dover Work Center" (approximately 2.0 acres), as identified on the map entitled "Ozark-St. Francis National Forest, Dover, Arkansas, Tract 2556, District 3, Dover Work Center" and dated July 26, 2000;

(F) tract 6, "Tract 2735, District 2, House" (approximately 0.514 acres), as identified on the map entitled "Ozark-St. Francis National Forest, Jasper, Arkansas, Tract 2735, District 2, House" and dated July 26, 2000; and

(G) tract 7, "Tract 2574, District 2, House" (approximately 0.75 acres), as identified on the map entitled "Ozark-St. Francis National Forest, Jasper, Arkansas, Tract 2574, District 2, House" and dated July 26, 2000.

(b) APPLICABLE AUTHORITIES.—Except as otherwise provided in this Act, any sale or exchange of land described in subsection (a) shall be subject to laws (including regulations) applicable to the conveyance and acquisition of land for National Forest System purposes.

(c) CASH EQUALIZATION.—Notwithstanding any other provision of law, the Secretary may accept cash equalization payments in excess of 25 percent of the total value of the land described in subsection (a) from any exchange under subsection (a).

(d) SOLICITATIONS OF OFFERS.—

(1) IN GENERAL.—In carrying out this Act, the Secretary may use solicitations of offers for sale or exchange under this Act on such terms and conditions as the Secretary may prescribe.

(2) REJECTION OF OFFERS.—The Secretary may reject any offer under this Act if the Secretary determines that the offer is not adequate or not in the public interest.

SEC. 2. DISPOSITION OF FUNDS.

Any funds received by the Secretary through sale or by cash equalization from an exchange—

(1) shall be deposited into the fund established by Public Law 90-171 (commonly known as the "Sisk Act") (16 U.S.C. 484a); and

(2) shall be available for expenditure, without further Act of appropriation, for the acquisition, construction, or improvement of administrative facilities, land, or interests in land for the national forests in the States of Arkansas and Oklahoma.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore (Mr. PEARCE). Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of S. 33 which allows the Forest Service to sell or exchange a total of 23 administrative sites on national forest lands in Arkansas and Oklahoma. The funds generated will be used to relocate and renovate offices as well as purchase and replace administrative sites. Overall, the lands covered by the bill total just over 308 acres. The total value of the sites to be sold is $3.375 million.

The total acreage involved requires an act of Congress to allow the agency to sell these lands. The sales will encourage efficient management of the National Forest Service lands in Arkansas and Oklahoma. And I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my support for S. 33, a lands exchange bill that was introduced by Senator LINCOLN of Arkansas which passed the Senate on November 11, 2003. Its companion bill in the House, H.R. 3744 was introduced by the gentleman from Arkansas (Mr. ROSS). These two pieces of legislation are the same except for changes to the title and some capitalization.

This legislation authorizes the sale of 16 administrative sites in the Ouachita National Forest and 7 administrative sites in the Ozark-St. Francis National Forest. Because some of the parcels contain buildings which must be maintained for historic preservation purposes, they are expensive to maintain, according to the U.S. Forest Service. In fact, the U.S. Forest Service contends that the cost of maintaining such parcels generally exceeds their value in terms of management. S. 33 allows the monies from the sale of the sites to be used to relocate and renovate offices and to purchase and replace administrative sites.

The Forest Service has indicated that it has no objections to the legislation. For all of these reasons, I urge my colleagues to support this legislation.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I welcome back the gentleman from Texas (Mr. STENHOLM) who I hear has been at the Committee on Rules.

Mr. Speaker, I have no further request for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the Senate bill, S. 33.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 33.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

PROVIDING FOR THE USE BY THE STATE OF NORTH CAROLINA OF FEDERAL LANDS AT THE OXFORD RESEARCH STATION IN GRANVILLE COUNTY, NORTH CAROLINA

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2119) to provide for the use by the State of North Carolina of Federal lands, improvements, equipment, and resource materials at the Oxford Research Station in Granville County, North Carolina, as amended.

The Clerk read as follows:

H.R. 2119

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND CONVEYANCE, OXFORD RESEARCH STATION, GRANVILLE COUNTY, NORTH CAROLINA.

(a) CONVEYANCE REQUIRED.—The Secretary of Agriculture shall convey, without consideration, to the State of North Carolina all right, title, and interest of the United States in and to a parcel of Federal real property consisting of approximately 4.28 acres and administered as part of the Oxford Research Station in Granville County, North Carolina. The conveyance shall include all improvements, equipment, and resource materials at the research station.

(b) DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary. The cost of the survey shall be borne by the State.

(c) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentleman from Texas (Mr. STENHOLM) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2119 sponsored by the gentleman from North Carolina (Mr. BUTTERFIELD).

H.R. 2119, as amended, would allow the Forest Service to transfer a currently disused facility in North Carolina to the State of North Carolina. The facility has not been used in several years, and in fact, the land on which it sits was donated by the State of North Carolina to the Federal Government for the purpose of establishing a research station.

The administration supports the proposed transfer, and the State intends to use the facility to do research on invasive species, a very worthwhile project.

I urge my colleagues to support this bill.

House of Representatives,
Committee on Agriculture,
Washington, DC, October 5, 2004.

Hon. Tom Davis,
Chairman, House Committee on Government Reform, Rayburn House Office Building, Washington, DC.

Dear Mr. Chairman: I would like to take this opportunity to share with you a copy of H.R. 2119 as passed by the Committee on Agriculture. As you know, the Committee on Government Reform has received an additional referral of this legislation and I am respectfully requesting that this legislation be discharged from your committee. This legislation, sponsored by Representative Balance would provide for the use by the State of North Carolina of Federal lands, improvements, equipment, and resource materials at the Oxford Research Station in Granville County, North Carolina.

As the committee of primary jurisdiction, on September 23, 2004, the Committee on Agriculture favorably reported this legislation by an affirmative voice vote. As this bill prepares to move to the floor I am asking for your discharge to move this legislation forward.

This discharge in no way affects your jurisdiction over the subject matter of the bill and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Government Reform represented on the conference committee.

Thank you for your cooperation in this matter and look forward to working with your committee in the future.

Sincerely,

Bob Goodlatte,
Chairman.

House of Representatives,
Committee on Government Reform,
Washington, DC, October 5, 2004.

Hon. Bob Goodlatte,
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.

Dear Chairman Goodlatte: Thank you for working with me as you developed H.R. 2119, a bill to provide for the use by the State of North Carolina of Federal lands, improvements, equipment, and resource materials at the Oxford Research Station in Granville County, North Carolina. I would like to confirm our mutual understanding with respect to the consideration of H.R. 2119. As you know, the disposal of federal property, including real property, is within the jurisdiction of the Committee on Government Reform.

In the interests of moving this important legislation forward, I will agree to waive sequential consideration of this bill by the Committee on Government Reform. However, I do so only with the understanding that this procedural route should not be construed to prejudice the Committee on Government Reform's jurisdictional interest and prerogatives on this bill or other similar legislation. I respectfully request your support for the appointment of outside conferees from the Committee on Government Reform should this bill or a similar Senate bill be considered in conference with the Senate.

Finally, I would ask that you include a copy of our exchange of letters on this matter in the Congressional Record during the House debate of this bill. If you have questions regarding this matter, please do not hesitate to call me. I thank you for your consideration.

Sincerely,

Tom Davis,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to express my support for H.R. 2119, legislation to allow the Secretary of Agriculture to convey to the State of North Carolina approximately 4.28 acres of Federal lands administered as part of the Oxford Research Station in Granville, North Carolina.

The bill addresses concerns raised by USDA with the original legislation. In a letter dated March 30, 2004, USDA acknowledged the strong, equitable interest the State of North Carolina has in the research station and stated it will gladly exercise the authority provided to convey the Oxford Research to the State of North Carolina once the legislation is enacted.

According to USDA estimates, the amendment will not significantly affect the Federal budget. In fact, the research station is currently unused and actually costs the USDA's property inventory funding to maintain it.

For all these reasons, I urge my colleagues to support this legislation.

Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. Butterfield).

Mr. BUTTERFIELD. Mr. Speaker, I thank the chairman, the gentleman from Virginia (Mr. Goodlatte) and the ranking member, the gentleman from Texas (Mr. Stenholm) for bringing up this legislation today.

The Oxford Research Station was established in 1912 as a crop and forestry research station. The station facilities include computerized curing barns, office facilities, a shop building, several equipment shelters, a tobacco evaluation facility and underground irrigation systems.

For 92 years, the station's marquee programs have been tobacco-related. Accomplishments at the Oxford Tobacco Research Station include fertility investigations concerning tobacco plants' nutrition; development of the first tobacco varieties with resistance to Granvill Wilt and black shank disease; the invention of tobacco bulk curing barns; genetic studies to develop new, varieties resistance to Granville Wilt and black shank diseases; evaluation of crop breeding lines, curing experiments, computerized monitoring and control of humidity and temperatures; and many others.

As long a list of accomplishments that the station has accumulated in its 92 years of service to American agriculture, the station now stands unused by USDA, and American taxpayers are still paying for upkeep and maintenance. An unofficial estimate, Mr. Speaker, from the Animal and Plant Health Inspection Service for fiscal year 2005 is that the station will cost $227,000 for basic upkeep.

Mr. Speaker, one man's trash is another man's treasure. USDA does not want or need the Oxford Research Station, but the North Carolina Department of Agriculture does. If the facility is conveyed to the North Carolina Department of Agriculture, the State will move its entire biological control program to the station. The State intends to use the quarantine facilities to research invasive species without risk of introducing them to the national environment of our State.

Among the species to be studied include the hemlock wooly adelgid, an insect that has been identified in Public Law 108-148, the President's Healthy Forest Initiative, as a forest-damaging insect. The facility will also research control methods of the Sudden Oak Death Fungus.

The people of North Carolina, Mr. Speaker, would be grateful for the passage of this legislation.

Mr. STENHOLM. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I congratulate the gentleman from North Carolina on bringing forward a fine piece of legislation. I thank my colleague, the gentleman from Texas (Mr. Stenholm), the ranking member, for his work on this and other bills that we brought before the House tonight. I urge my colleagues to support this legislation.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. Goodlatte) that the House suspend the rules and pass the bill, H.R. 2119, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide for the conveyance of Federal lands, improvements, equipment, and resource materials at the Oxford Research Station in Granville County, North Carolina, to the State of North Carolina.".

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 2119.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

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SPECIAL ORDERS

The SPEAKER pro tempore (Mr. PEARCE). Under the Speaker's announced policy of January 7, 2003, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

EXCHANGE OF SPECIAL ORDER TIME

Ms. BALDWIN. Mr. Speaker, I ask unanimous consent to claim the time of the gentlewoman from California (Ms. WOOLSEY).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Wisconsin?

There was no objection.

HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Wisconsin (Ms. BALDWIN) is recognized for 5 minutes.

Ms. BALDWIN. Mr. Speaker, I want to thank the gentleman from New Jersey (Mr. PALLONE) for coordinating a discussion of a very important topic as we ask ourselves, "In the arena of health care, are we better off now than we were 4 years ago?"

In order to answer this question, are we better off, I need look no further than the innumerable, and often heartbreaking, letters and calls that I receive from people of Wisconsin's 2nd Congressional District every single day.

I get letters from seniors who detail the unbelievable choices they are forced to make, deciding whether to use their limited and fixed incomes for food or prescription drugs.

I get letters from small business owners who are agonizing over the fact that they can no longer afford the costs associated with offering insurance to their employees.

I get letters from countless people who have lost their health care coverage and are wondering where they can turn for the needed care or how they will once again be able to get coverage, given a preexisting condition.

I get letters from young mothers who spend sleepless nights worried that the rising health care premiums are fast becoming unaffordable and they might soon join the ranks of America's 45 million uninsured.

I get letters from parents, frustrated that their children's treatment for a mental illness is not covered by their insurance.

I get letters from parents of children with diabetes who cannot believe that their own government's restrictive stem cell policy is standing in the way of a possible cure.

So when asked, "Are we better off now than we were 4 years ago?" the answer is a resounding no. But if these personal stories are not enough proof for my colleagues, let us look at some recent statistics.

Today, according to the U.S. Census Bureau, a record-breaking 45 million Americans do not have health insurance coverage. Millions more are underinsured. This is the highest level of uninsured in our Nation's history, and it grew by 5.2 million people over the past 4 years.

Health care costs have continued to skyrocket during the last 4 years as well. The prices for prescription drugs have seen double-digit increases in the last 4 years.

The average family's share of health insurance premiums has risen by almost $1,000 in the last 4 years, a shocking 57 percent increase. In fact, just recently, the Kaiser Family Foundation reported that health insurance premiums rose again between 2003 and 2004, the fourth straight year of double-digit increases.

While health care costs have been growing, the percentage of Americans receiving health care coverage through their employers has dropped.

What has been the Republican response to this health care crisis of rising numbers of uninsured and rising costs? Unfortunately, the Republican response has been to put forward the same old proposals as they have in years past: tort reform, association health plans, the health savings accounts, proposals that study after study have shown to be ineffective in holding down health care costs and also ineffective in providing coverage to the uninsured.

Republicans have ignored the pleas of our seniors, calling on us to stop skyrocketing costs of prescription drugs, and have instead created a prescription drug benefit in Medicare that does more to help drug companies than it does to help senior citizens.

The Republicans have failed to stop $1.1 billion in State child health insurance program funding from being taken from the States, funding that could have been used to provide health insurance to 750,000 children in America.

Given this dismal 4-year track record, it is obvious that we need a new approach to address this health care crisis, one that would truly control costs and expand access.

I join my fellow Democrats in telling America that we are ready to lead in a new direction, one that would make quality health care affordable and available and assure health care security for every American.

ORDER OF BUSINESS

Mr. PEARCE. Mr. Speaker, I request to address the House for 5 minutes out of turn.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

DEMOCRAT NOMINEE FOR PRESIDENT CONTINUES TO DEBATE WITH HIMSELF

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Mexico (Mr. PEARCE) is recognized for 5 minutes.

Mr. PEARCE. Mr. Speaker, as I contemplate the debate from last week, I realize that again the Democrat nominee for President, Mr. KERRY, continues to debate with himself.

I was very amazed to learn throughout the debate that he was talking about the need for multilateral action, until it came to the one circumstance where we are engaged in multilateral action in which he felt we should go back to bilateral action. Now, that is, of course, in the case of Korea, and we found that the Mainland Chinese have been very, very effective at working with us to back the North Koreans down from the bluster and the rhetoric that they have thrown in front of the world stage for the past couple of years. Amazingly, in that circumstance, Mr. KERRY wants the Chinese to be quiet, and he wants the U.S. to go back to bilateral negotiations with the North Koreans.

What that accomplishes is to give the North Koreans standing which they have not had in the past 2 years under the Bush doctrine. We give a terrorist state, a state that is starving its own people, a state that is incapable of making the changes in the government that are required to bring the nation into this century, and he would give them standing while moving the Mainland Chinese and our other allies off to the side.

He did not explain that, and it was in complete contradiction with everything else he brought up during the debate. So, again, we find that the gentleman from Massachusetts continues to debate himself.

I contemplated also his need for a global test. From my own perspective, when the President says that we will not ask permission to defend America, that is the clarity and plainness that most Americans want, and so this global test for me is fraught with questions. Which test would we apply? Which of our allies? Would it be France? We want France's approval before we go and do some action that would prevent attacks on U.S. citizens here on American soil? Again, I have very deep questions about the gentleman from Massachusetts' plan.

One of the most stunning things that I watched in the debate, Mr. Speaker, was the assumption that Mr. KERRY has to sell, and that is, that the war in Iraq is a mistake. He says, on the one hand, it is a mistake, and on the other hand, he is going to win it. But I will tell my colleagues, if you convince enough people in this country to vote for the gentleman who says it is a mistake, those people have to believe the war is a mistake because much of his campaign is based on that presumption and that willingness to change the course in this country; but if he convinces the Americans that it is a mistake, how then is he going to turn on his heels against the will of the American public who has sided with him and then win the war?

Mr. Speaker, I would say that he has no intention of winning the war, that instead he is going to go to those allies who say that the war is a mistake, whether it be Syria, whether it be France, whether it be Russia, whether it be any of the nations who were involved in the Oil-For-Food scandal that took $10 billion out of money that should have bought food for hungry Iraqis, and he would go to them and ask them their opinion for this global test that he has suggested.

Mr. Speaker, I would say that within weeks the gentleman from Massachusetts would unilaterally pull out of Iraq, leaving all of our allies in that region in very deep distress.

If the United States pulls out of the Middle East, I think that we stand to lose our friends, the Saudi Arabians; our friends, the Kuwaitis; the Jordanians. I think Pakistan would be at risk. I think Syria would be at risk.

I think that the gentleman from Massachusetts has not clearly contemplated the effects of declaring that this war is a mistake and being willing to ridicule our friends, being willing to ridicule the prime minister from that war-torn region who is putting his neck on the line every single day, and the gentleman from Massachusetts declares him to be a puppet.

We have seen in Pakistan the President, Musharraf, has twice just barely escaped assassination attempts. That region is very unstable, and we have one of the candidates for President of the United States who is willing to say that this coalition, these partners of ours, are bribed and coerced. Where is he going to find the people to become a part of this multinational cooperation when he makes those kinds of statements?

I think that the gentleman from Massachusetts has ill-thought-out his words, has ill-established a doctrine and stands the chance of ruining America's hopes for world peace.

EXCHANGE OF SPECIAL ORDER TIME

Mrs. CAPPS. Mr. Speaker, I would like permission to speak in place of my colleague, the gentleman from Illinois (Mr. EMANUEL).

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Mrs. CAPPS) is recognized for 5 minutes.

Mrs. CAPPS. Mr. Speaker, as we come to the end of another Congress, as the country stands ready to pick a new President for the next 4 years, it is appropriate to ask is America better off today than it was 4 years ago.

In terms of health care, the answer is clearly no. Since 2001, as the economy has weakened, the cost of insurance has risen. These two factors have increased the number of uninsured Americans. There are now over 5 million more Americans without insurance than at the beginning of the Bush administration. That is right, 5.2 million more.

In 2004, insurance premiums went up 11 percent, and at the same time inflation and, more importantly, workers' wages have gone up by less than 3 percent. This unaffordable increase comes on top of an increase of almost 14 percent in 2003, 13 percent in 2002, almost 11 percent in 2001. Each of these increases far outstrips pay raises. So in that time, a family's share of health insurance premiums have gone up $1,000, a whopping 57 percent.

With such a weak economy and without sufficient increases in wages, these increases are devastating to a working family; but this administration, this congressional leadership have not done a thing to help. In fact, they have made it harder to help people struggling with the high cost of insurance.

Just last week, the administration took over $1 billion in unused children's health insurance funds away from the States.

□ 2045

This money could have easily been redistributed to shore up State programs and to expand coverage. And despite the continuing State budget crises, the administration has refused to grant more fiscal relief.

These actions and the refusal of the administration to put more funding into Medicaid have put unbelievable pressure on States to cut back their insurance programs. In 2004, 19 States cut benefits. Twenty have increased copayments. In 2003, 18 States cut benefits and 17 increased copayments. And as of right now, nine more States plan to take these steps in the coming year. This is all happening because of the administration's refusal to help.

In addition, under the President's watch, prescription drug prices have skyrocketed. The administration did nothing to reduce these prices or to help people pay for them. Last year, the Republican leadership and this President shoved a Medicare bill through the House in the dead of night. That bill, written by the prescription drug and private insurance companies, offered a sham prescription drug benefit.

The President and congressional leadership blocked Medicare from negotiating lower prices for Medicare beneficiaries in the bill, and the President has fought efforts to allow seniors to import cheaper prescription medications, despite bipartisan support. Their answer was the so-called prescription drug discount card, which has proved to be a failure.

Reports done by the House Committee on Government Reform, and I did them in my district, have exposed that the prices with these cards can be higher than Canadian drug prices, and they are much higher than the prices seniors could get if Medicare would negotiate on behalf of America's 40 million seniors.

But this is not even the worst of it. The President's bill has set the stage to privatize Medicare. It shovels an additional $46 billion to managed care companies in order to push seniors into HMOs. And the President has asked seniors to pay for that by increasing their own premiums by 17 percent. The media reports that the administration is hiding bigger premium increases down the road.

It seems pretty clear to me that America is not better off than it was 4 years ago. Democrats want to lower the cost of health insurance for small businesses through a new tax credit. We want to extend health insurance coverage to 7½ million parents through Medicaid and CHIP, and we want to help older Americans who cannot afford to purchase health insurance so they can buy into Medicare.

Democrats have a New Partnership For America's Future, one that ensures our security and lays the foundation for a strong and prosperous economy, and that is what we are fighting for.

ORDER OF BUSINESS

Mr. SMITH of Michigan. Mr. Speaker, I ask unanimous consent to proceed with my 5 minutes at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

SOCIAL SECURITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan (Mr. SMITH) is recognized for 5 minutes.

Mr. SMITH of Michigan. Mr. Speaker, looking forward to 2005, there are few more important issues for government than overspending and overpromising. Unless we get spending under control, government will lose the ability to do much of anything else except manage our indebtedness. Already we pay nearly $300 billion a year, approaching 12 percent of our total expenditures for interest on the debt. That is $300 billion a year on interest. And interest rates are going up, our debt is going up, and that cost is rising very rapidly.

This fight will influence the kind of lives that our kids have. Why do we not pay attention to the problems of the insolvency of Social Security and Medicare? Why do we not look at the problems that this kind of overpromising and overspending are going to have on the economy of the United States? The challenge facing Congress will be to restore our reputation for fiscal restraint.

The Federal Government is now running the largest budget deficit in our history, which is estimated to be $574 billion for the fiscal year that just ended September 30, and we will soon have to increase the $7.384 trillion statutory debt limit in order to accommodate this borrowing, which our children and our grandchildren are ultimately going to have to assume the responsibility for.

I cannot think of harsher words than maybe unconscionable, maybe too interested in our political futures to do what is necessary to deal with these tough problems. This overexpenditure, the debt, is only a small part of the total problem. Overpromising is the larger issue, and that deals with the chart I have before us tonight, and that is this massive unfunded liability.

The deficit and debt, unfortunately, are only the beginning of our financial problems. These figures come from Dr. Tom Savings, who is a professor of economics at Texas A&M and also a trustee for both Social Security and Medicare. He has calculated that the total unfunded liabilities for the three programs of Medicare, Medicaid, and Social Security are now $73.5 trillion.

That means to accommodate our promises we are going to have to come up with $73 billion, put it in our savings account, and that is going to draw interest, at least to accommodate inflation, to keep the promises. There is no way we can do this. We are headed for a reality of the financial sky is falling on the United States Congress.

The issues of changing the programs have been demagogued so that Republicans can accuse Democrats when they suggest any change, and Democrats can accuse the Republicans of ruining Social Security and Medicare.

In conclusion, let me briefly run down through the unfunded liabilities of the different parts. Medicare part A, which is mostly the hospitals, is a $21.8 trillion unfunded liability, the amount you would have to put in an account today. Medicare part B, $23 trillion. That is mostly doctors. Medicare part D, the new prescription drug program, adds to the unfunded liability $16.6 trillion. Social Security is running at about $12 trillion.

We have got to deal with these problems. Maybe next year, after the election, whichever President is elected, we will have the guts, we will have the intestinal fortitude to move ahead in trying to solve and make changes to these programs so that we can continue what we have promised the American people. They are important programs. There is going to be dramatic changes. The longer we wait, the more drastic the changes will have to be. That was the conclusion of the bipartisan task force on Social Security that I chaired.

The challenge is great for this body, the Senate, and the White House; and I ask, Mr. Speaker, that the electorate of this Nation ask those candidates running for office, for the Congress, for the Senate, for the Presidency what they are going to do about these huge problems facing our kids and our grandkids.

CONFERENCE REPORT ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. FRELINGHUYSEN submitted the following conference report and statement on the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2005, and for other purposes:

Conference Report (H. Rept. 108-734)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4850) "making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2005, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia and related agencies for the fiscal year ending September 30, 2005, and for other purposes, namely:

TITLE I—FEDERAL FUNDS

Federal Payment for Resident Tuition Support

For a Federal payment to the District of Columbia, to be deposited into a dedicated account, for a nationwide program to be administered by the Mayor, for District of Columbia resident tuition support, $25,600,000, to remain available until expended: Provided, That such funds, including any interest accrued thereon, may be used on behalf of eligible District of Columbia residents to pay an amount based upon the difference between in-State and out-of-State tuition at public institutions of higher education, or to pay up to $2,500 each year at eligible private institutions of higher education: Provided further, That the awarding of such funds may be prioritized on the basis of a resident's academic merit, the income and need of eligible students and such other factors as may be authorized: Provided further, That the District of Columbia government shall maintain a dedicated account for the Resident Tuition Support Program that shall consist of the Federal funds appropriated to the Program in this Act and any subsequent appropriations, any unobligated balances from prior fiscal years, and any interest earned in this or any fiscal year: Provided further, That the account shall be under the control of the District of Columbia Chief Financial Officer, who shall use those funds solely for the purposes of carrying out the Resident Tuition Support Program: Provided further, That the Office of the Chief Financial Officer shall provide a quarterly financial report to the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: Provided further, That not more than $1,200,000 of the total amount appropriated for this program may be used for administrative expenses.

Federal Payment for Emergency Planning and Security Costs in the District of Columbia

For necessary expenses, as determined by the Mayor of the District of Columbia in written consultation with the elected county or city officials of surrounding jurisdictions, $15,000,000, to remain available until expended, to reimburse the District of Columbia for the costs of providing public safety at events related to the presence of the national capital in the District of Columbia and for the costs of providing support to respond to immediate and specific terrorist threats or attacks in the District of Columbia or surrounding jurisdictions: Provided, That any amount provided under this heading shall be available only after notice of its proposed use has been transmitted by the President to Congress and such amount has been apportioned pursuant to chapter 15 of title 31, United States Code.

Federal Payment to the District of Columbia Courts

For salaries and expenses for the District of Columbia Courts, $190,800,000, to be allocated as follows: for the District of Columbia Court of Appeals, $8,952,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Superior Court, $84,948,000, of which not to exceed $1,500 is for official reception and representation expenses; for the District of Columbia Court System, $40,699,000, of which not to exceed $1,500 is for official reception and representation expenses; and $56,201,000, to remain available until September 30, 2006, for capital improvements for District of Columbia courthouse facilities: Provided, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: Provided further, That the solicitation and contract shall contain the clause "availability of Funds" found at 48 CFR 52.232-18: Provided further, That funds made available for capital improvements shall be expended consistent with the General Services Administration master plan study and building evaluation report: Provided further, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of

Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), and such services shall include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate: Provided further, That 30 days after providing written notice to the Committees on Appropriations of the House of Representatives and Senate, the District of Columbia Courts may reallocate not more than $1,000,000 of the funds provided under this heading among the items and entities funded under this heading for operations, and not more than 4 percent of the funds provided under this heading for facilities.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

For payments authorized under section 11–2604 and section 11-2605, D.C. Official Code (relating to representation provided under the District of Columbia Criminal Justice Act), payments for counsel appointed in proceedings in the Family Court of the Superior Court of the District of Columbia under chapter 23 of title 16, D.C. Official Code, or pursuant to contractual agreements to provide guardian ad litem representation, training, technical assistance and such other services as are necessary to improve the quality of guardian ad litem representation, payments for counsel appointed in adoption proceedings under chapter 3 of title 16, D.C. Code, and payments for counsel authorized under section 21–2060, D.C. Official Code (relating to representation provided under the District of Columbia Guardianship, Protective Proceedings, and Durable Power of Attorney Act of 1986), $38,500,000, to remain available until expended: Provided, That the funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the $56,201,000 provided under such heading for capital improvements for District of Columbia courthouse facilities) may also be used for payments under this heading: Provided further, That in addition to the funds provided under this heading, the Joint Committee on Judicial Administration in the District of Columbia shall use funds provided in this Act under the heading "Federal Payment to the District of Columbia Courts" (other than the $56,201,000 provided under such heading for capital improvements for District of Columbia courthouse facilities), to make payments described under this heading for obligations incurred during any fiscal year: Provided further, That funds provided under this heading shall be administered by the Joint Committee on Judicial Administration in the District of Columbia: Provided futher, That notwithstanding any other provision of law, this appropriation shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for expenses of other Federal agencies, with payroll and financial services to be provided on a contractual basis with the General Services Administration (GSA), and such services shall include the preparation of monthly financial reports, copies of which shall be submitted directly by GSA to the President and to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

(INCLUDING TRANSFER OF FUNDS)

For salaries and expenses, including the transfer and hire of motor vehicles, of the Court Services and Offender Supervision Agency for the District of Columbia and the Public Defender Service for the District of Columbia, as authorized by the National Capital Revitalization and Self-Government Improvement Act of 1997, $180,000,000, of which not to exceed $2,000 is for official reception and representation expenses related to Community Supervision and Pretrial Services Agency programs; of which not to exceed $25,000 is for dues and assessments relating to the implementation of the Court Services and Offender Supervision Agency Interstate Supervision Act of 2002; of which $110,853,000 shall be for necessary expenses of Community Supervision and Sex Offender Registration, to include expenses relating to the supervision of adults subject to protection orders or the provision of services for or related to such persons; of which $39,314,000 shall be available to the Pretrial Services Agency; and of which $29,833,000 shall be transferred to the Public Defender Service for the District of Columbia: Provided, That notwithstanding any other provision of law, all amounts under this heading shall be apportioned quarterly by the Office of Management and Budget and obligated and expended in the same manner as funds appropriated for salaries and expenses of other Federal agencies: Provided further, That the Director is authorized to accept and use gifts in the form of in-kind contributions of space and hospitality to support offender and defendant programs, and equipment and vocational training services to educate and train offenders and defendants: Provided further, That the Director shall keep accurate and detailed records of the acceptance and use of any gift or donation under the previous proviso, and shall make such records available for audit and public inspection: Provided further, That the Court Services and Offender Supervision Agency Director is authorized to accept and use reimbursement from the D.C. Government for space and services provided on a cost reimbursable basis: Provided further, That the Public Defender Service is authorized to charge fees to cover costs of materials distributed to attendees of educational events, including conferences, sponsored by the Public Defender Service, and notwithstanding section 3302 of title 31, United States Code, said fees shall be credited to the Public Defender Service account to be available for use without further appropriation.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA WATER AND SEWER AUTHORITY

For a Federal payment to the District of Columbia Water and Sewer Authority, $4,800,000, to remain available until expended, to continue implementation of the Combined Sewer Overflow Long-Term Plan: Provided, That the District of Columbia Water and Sewer Authority provides a 100 percent match for this payment.

FEDERAL PAYMENT FOR THE ANACOSTIA WATERFRONT INITIATIVE

For a Federal payment to the District of Columbia Department of Transportation, $3,000,000, to remain available until September 30, 2006, for design and construction of a continuous pedestrian and bicycle trail system from the Potomac River to the District's border with Maryland.

FEDERAL PAYMENT TO THE CRIMINAL JUSTICE COORDINATING COUNCIL

For a Federal payment to the Criminal Justice Coordinating Council, $1,300,000, to remain available until expended, to support initiatives related to the coordination of Federal and local criminal justice resources in the District of Columbia.

FEDERAL PAYMENT FOR THE UNIFIED COMMUNICATIONS CENTER

For a Federal payment to the District of Columbia, $6,000,000, to remain available until expended, for the Unified Communications Center.

FEDERAL PAYMENT FOR TRANSPORTATION ASSISTANCE

For a Federal payment to the District of Columbia Department of Transportation, $2,500,000, of which $1,000,000 shall be allocated to implement a downtown circulator transit system, and of which $1,500,000 shall be to offset a portion of the District of Columbia's allocated operating subsidy payment to the Washington Metropolitan Area Transit Authority.

FEDERAL PAYMENT FOR PUBLIC SCHOOL LIBRARIES

For a Federal payment to the District of Columbia Public Schools, $6,000,000, to remain available until expended, for a public school library enhancement program: Provided, That the District of Columbia Public Schools provides a 100 percent match for this payment: Provided further, That the Federal portion is for the acquisition of library resources: Provided further, That the matching portion is for any necessary facilities upgrades.

FEDERAL PAYMENT FOR THE FAMILY LITERACY PROGRAM

For a Federal payment to the District of Columbia, $1,000,000, for a Family Literacy Program to address the needs of literacy-challenged parents while endowing their children with an appreciation for literacy and strengthening familial ties: Provided, That the District of Columbia shall provide a 100 percent match with local funds as a condition of receiving this payment.

FEDERAL PAYMENT FOR FOSTER CARE IMPROVEMENTS IN THE DISTRICT OF COLUMBIA

For a Federal payment to the District of Columbia for foster care improvements, $5,000,000, to remain available until expended: Provided, That $3,250,000 shall be for the Child and Family Services Agency, of which $2,000,000 shall be for the early intervention program to provide intensive and immediate services for foster children; of which $750,000 shall be for the emergency support fund to purchase services or technology necessary to allow children to remain in the care of an approved and licensed family member; of which $500,000 shall be for technology upgrades: Provided further, That $1,250,000 shall be for the Department of Mental Health to provide all court-ordered or agency-required mental health screenings, assessments and treatments for children under the supervision of the Child and Family Services Agency: Provided further, That $500,000 shall be for the Washington Metropolitan Council of Governments, to continue a program in conjunction with the Foster and Adoptive Parents Advocacy Center, to provide respite care for and recruitment of foster parents: Provided further, That these Federal funds shall supplement and not supplant local funds for the purposes described under this heading.

FEDERAL PAYMENT TO THE OFFICE OF THE CHIEF FINANCIAL OFFICER OF THE DISTRICT OF COLUMBIA

For a Federal payment to the Office of the Chief Financial Officer of the District of Columbia, $32,500,000: Provided, That these funds shall be available for the projects and in the amounts specified in the statement of the managers on the conference report accompanying this Act: Provided further, That each entity that receives funding under this heading shall submit to the Office of the Chief Financial Officer of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate a report on the activities to be carried out with such funds no later than March 15, 2005.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

For a Federal payment for a school improvement program in the District of Columbia, $40,000,000, to be allocated as follows: for the District of Columbia Public Schools, $13,000,000 to improve public school education in the District of Columbia; for the State Education Office, $13,000,000 to expand quality public charter schools in the District of Columbia, to remain available until September 30, 2006; for the Secretary of the Department of Education, $14,000,000 to provide opportunity scholarships for students in the District of Columbia in accordance with division C, title III of the District of Columbia Appropriations Act, 2004 (Public Law 108-199, 118 Stat. 126), of which up to $1,000,000 may be used to administer and fund assessments: Provided, That of the $13,000,000 for the District of Columbia Public Schools, not less than $2,000,000 shall be for a new incentive fund to reward high performing or significantly improved public schools; not less than $2,000,000 shall be to support the Transformation School Initiative directed to schools in need of improvement: Provided further, That of the remaining amounts, the Superintendent of the District of Columbia Public Schools shall use such sums as necessary to provide grants to schools which are not eligible for other programs referenced under this heading, and to contract for management consulting services and implement recommended reforms: Provided further, That the Comptroller General shall conduct a financial audit of the District of Columbia Public Schools: Provided further, That of the $13,000,000 provided for public charter schools in the District of Columbia, $2,000,000 shall be for the City Build Initiative to create neighborhood-based charter schools; $2,750,000 shall be for the Direct Loan Fund for Charter Schools; $150,000 shall be for administrative expenses of the Office of Charter School Financing and Support to expand outreach and support of charter schools; $100,000 shall be for the D.C. Public Charter School Association to enhance the quality of charter schools; $4,000,000 shall be for the development of an incubator facility for public charter schools; $2,000,000 shall be for a charter school college preparatory program; and $2,000,000 shall be for a new incentive fund to reward high performing or significantly improved public charter schools: Provided further, That the District of Columbia government shall establish a dedicated account for the Office of Charter School Financing and Support (the Office) that shall consist of the Federal funds appropriated in this Act, any subsequent appropriations, any unobligated balances from prior fiscal years, any additional grants, and any interest and principal derived from loans made to Charter Schools, and repayment of dollars utilized to support credit enhancement earned in this or any fiscal year: Provided further, That the account shall be under the control of the District of Columbia Chief Financial Officer who shall use those funds solely for the purposes of carrying out the Credit Enhancement Program, Direct Loan Fund Grant Program, and any other charter school financing under the management of the Office: Provided further, That in this and subsequent fiscal years the Office of the Chief Financial Officer shall conduct an annual audit of the funds expended by the Office and provide an annual financial report to the Mayor, the Council of the District of Columbia, the Office of the District of Columbia Treasurer and the Committees on Appropriations of the House of Representatives and Senate for these funds showing, by object class, the expenditures made and the purpose therefor: Provided further, That not more than $250,000 of the total amount appropriated for this program may be used for administrative expenses and training expenses related to the cost of the National Charter School Conference(s) to be hosted by December 2006; and no more than 5 percent of the funds appropriated for the direct loan fund may be used for administrative expenses related to the administration and annual audit of the direct loan, grant, and credit enhancement programs.

FEDERAL PAYMENT FOR BIOTERRORISM AND FORENSICS LABORATORY

For a Federal payment to the District of Columbia, $8,000,000, to remain available until September 30, 2006, for design, planning, and procurement costs associated with the construction of a bioterrorism and forensics laboratory: Provided, That the District of Columbia shall provide an additional $2,300,000 with local funds as a condition of receiving this payment.

TITLE II—DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided: Provided, That notwithstanding any other provision of law, except as provided in section 450A of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1-204.50a) and provisions of this Act, the total amount appropriated in this Act for operating expenses for the District of Columbia for fiscal year 2005 under this heading shall not exceed the lesser of the sum of the total revenues of the District of Columbia for such fiscal year or $6,199,114,000 (of which $4,165,485,000 shall be from local funds, $1,687,554,000 shall be from Federal grant funds, $332,761,000 shall be from other funds, and $13,314,000 shall be from private funds), in addition, $114,900,000 from funds previously appropriated in this Act as Federal payments: Provided further, That this amount may be increased by proceeds of one-time transactions, which are expended for emergency or unanticipated operating or capital needs: Provided further, That such increases shall be approved by enactment of local District law and shall comply with all reserve requirements contained in the District of Columbia Home Rule Act as amended by this Act: Provided further, That the Chief Financial Officer of the District of Columbia shall take such steps as are necessary to assure that the District of Columbia meets these requirements, including the apportioning by the Chief Financial Officer of the appropriations and funds made available to the District during fiscal year 2005, except that the Chief Financial Officer may not reprogram for operating expenses any funds derived from bonds, notes, or other obligations issued for capital projects.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $416,069,000 (including $261,068,000 from local funds, $100,256,000 from Federal grant funds, and $54,745,000 from other funds), in addition, $32,500,000 from funds previously appropriated in this Act under the heading "Federal Payment to the Chief Financial Officer of the District of Columbia", and $500,000 from funds previously appropriated in this Act under the heading "Federal Payment for Foster Care Improvements in the District of Columbia" shall be available to the Metropolitan Washington Council of Governments: Provided, That not to exceed $9,300 for the Mayor, $9,300 for the Chairman of the Council of the District of Columbia, $9,300 for the City Administrator, and $9,300 for the Office of the Chief Financial Officer shall be available from this appropriation for official reception and representation expenses: Provided further, That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: Provided further, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally generated revenues: Provided further, That notwithstanding any other provision of law, or Mayor's Order 86-45, issued March 18, 1986, the Office of the Chief Technology Officer's delegated small purchase authority shall be $500,000: Provided further, That the District of Columbia government may not require the Office of the Chief Technology Officer to submit to any other procurement review process, or to obtain the approval of or be restricted in any manner by any official or employee of the District of Columbia government, for purchases that do not exceed $500,000.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $334,745,000 (including $55,764,000 from local funds, $93,050,000 from Federal grant funds, $185,806,000 from other funds, and $125,000 from private funds), of which $13,000,000 collected by the District of Columbia in the form of BID tax revenue shall be paid to the respective BIDs pursuant to the Business Improvement Districts Act of 1996 (D.C. Law 11-134; D.C. Official Code, sec. 2-1215.01 et seq.), and the Business Improvement Districts Amendment Act of 1997 (D.C. Law 12-26; D.C. Official Code, sec. 2-1215.15 et seq.): Provided, That such funds are available for acquiring services provided by the General Services Administration: Provided further, That Business Improvement Districts shall be exempt from taxes levied by the District of Columbia: Provided further, That local funds in the amount of $1,200,000 shall be appropriated for the Excel Institute.

PUBLIC SAFETY AND JUSTICE

Public safety and justice, $797,423,000 (including $760,849,000 from local funds, $6,599,000 from Federal grant funds, $29,966,000 from other funds, and $9,000 from private funds), in addition, $1,300,000 from funds previously appropriated in this Act under the heading "Federal Payment to the Criminal Justice Coordinating Council": Provided, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: Provided further, That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services that are performed in emergencies by the National Guard in a militia status and are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: Provided further, That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and the availability of the sums shall be deemed as constituting payment in advance for emergency services involved.

PUBLIC EDUCATION SYSTEM

(INCLUDING TRANSFER OF FUNDS)

Public education system, including the development of national defense education programs, $1,223,424,000 (including $1,058,709,000 from local funds, $151,978,000 from Federal grant funds, $8,957,000 from other funds, $3,780,000 from private funds), in addition, $25,600,000 from funds previously appropriated in this Act under the *heading "Federal Payment for Resident Tuition Support", $6,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Public School Libaries", and $26,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement in the District of Columbia" to be allocated as follows:*

(1) DISTRICT OF COLUMBIA PUBLIC SCHOOLS.—$888,944,000 (including $760,494,000 from local funds, $117,450,000 from Federal grant funds, $7,330,000 from other funds, $3,670,000 from private funds), in addition, $6,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Public School Libraries" shall be available for District of Columbia Public Schools and $13,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement in the District of Columbia" shall be available for District of Columbia Public Schools: Provided, That notwithstanding any other provision of law, rule, or regulation, the evaluation process and instruments for evaluating District of Columbia Public School employees shall be a non-negotiable item for collective bargaining purposes: Provided further, That this appropriation shall not be available to subsidize the education of any nonresident of the District of Columbia at any District of Columbia public elementary or secondary school during fiscal year 2005 unless the nonresident pays tuition to the District of Columbia at a rate that covers 100 percent of the costs incurred by the District of Columbia that are attributable to the education of the nonresident (as established by the Superintendent of the District of Columbia Public Schools): Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia Public Schools on July 1, 2005, an amount equal to 10 percent of the total amount of the local funds appropriations request provided for the District of Columbia Public Schools in the proposed budget of the District of Columbia for fiscal year 2006 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the District of Columbia Public Schools under the District of Columbia Appropriations Act, 2006: Provided further, That not to exceed $9,300 for the Superintendent of Schools shall be available from this appropriation for official reception and representation expenses.

(2) TEACHERS' RETIREMENT FUND.—$9,200,000 from local funds shall be available for the Teacher's Retirement Fund.

(3) STATE EDUCATION OFFICE.—$43,101,000 (including $10,015,000 from local funds, $32,913,000 from Federal grant funds, and $176,000 from other funds), in addition, $25,600,000 from funds previously appropriated in this Act under the heading "Federal Payment for Resident Tuition Support" shall be available for the State Education Office and $13,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for School Improvement in the District of Columbia" shall be available for the State Education Office: Provided, That of the amounts provided to the State Education Office, $500,000 from local funds shall remain available until June 30, 2006 for an audit of the student enrollment of each District of Columbia Public School and of each District of Columbia public charter school.

(4) DISTRICT OF COLUMBIA PUBLIC CHARTER SCHOOLS.—$196,802,000 from local funds shall be available for District of Columbia public charter schools: Provided, That there shall be quarterly disbursement of funds to the District of Columbia public charter schools, with the first payment to occur within 15 days of the beginning of the fiscal year: Provided further, That if the entirety of this allocation has not been provided as payments to any public charter schools currently in operation through the per pupil funding formula, the funds shall remain available for public education in accordance with section 2403(b)(2) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(2)): Provided further, That of the amounts made available to District of Columbia public charter schools, $100,000 shall be made available to the Office of the Chief Financial Officer as authorized by section 2403(b)(5) of the District of Columbia School Reform Act of 1995 (D.C. Official Code, sec. 38–1804.03(b)(5)): Provided further, That $750,000 of this amount shall be available to the District of Columbia Public Charter School Board for administrative costs: Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the District of Columbia public charter schools on July 1, 2005, an amount equal to 25 percent of the total amount of the local funds appropriations request provided for payments to public charter schools in the proposed budget of the District of Columbia for fiscal year 2006 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for such payments under the District of Columbia Appropriations Act, 2006.

(5) UNIVERSITY OF THE DISTRICT OF COLUMBIA SUBSIDY.—$49,602,000 from local funds shall be available for the University of the District of Columbia subsidy: Provided, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2005, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area: Provided further, That notwithstanding the amounts otherwise provided under this heading or any other provision of law, there shall be appropriated to the University of the District of Columbia on July 1, 2005, an amount equal to 10 percent of the total amount of the local funds appropriations request provided for the University of the District of Columbia in the proposed budget of the District of Columbia for fiscal year 2006 (as submitted to Congress), and the amount of such payment shall be chargeable against the final amount provided for the University of the District of Columbia under the District of Columbia Appropriations Act, 2006: Provided further, That not to exceed $9,300 for the President of the University of the District of Columbia shall be available from this appropriation for official reception and representation expenses.

(6) DISTRICT OF COLUMBIA PUBLIC LIBRARIES.—$30,831,000 (including $28,978,000 from local funds, $1,093,000 from Federal grant funds, $651,000 from other funds, and $110,000 from private funds) shall be available for the District of Columbia Public Libraries: Provided, That not to exceed $7,500 for the Public Librarian shall be available from this appropriation for official reception and representation expenses.

(7) COMMISSION ON THE ARTS AND HUMANITIES.—$4,941,000 (including $3,618,000 from local funds, $523,000 from Federal grant funds, and $800,000 from other funds) shall be available for the Commission on the Arts and Humanities.

HUMAN SUPPORT SERVICES

(INCLUDING TRANSFER OF FUNDS)

Human support services, $2,533,825,000 (including $1,165,314,000 from local funds, $1,331,670,000 from Federal grant funds, $27,441,000 from other funds, $9,400,000 from private funds), in addition, $4,500,000 from funds previously appropriated in this Act under the heading "Federal Payment to Foster Care Improvements in the District of Columbia": Provided, That $29,600,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: Provided further, That no less than $8,498,720, to remain available until expended, shall be deposited in the Addiction Recovery Fund, established pursuant to section 5 of the Choice in Drug Treatment Act of 2000, effective July 8, 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3004), to be used exclusively for the purpose of the Choice in Drug Treatment program, established pursuant to section 4 of the Choice in Drug Treatment Act of 2000 (D.C. Law 13–146; D.C. Official Code, sec. 7–3003), of which $7,500,000 shall be provided from local funds: Provided further, That none of the $8,498,720 for the Choice in Drug Treatment program shall be used by the Department of Health's Addiction Prevention and Recovery Administration to provide youth residential treatment services or youth outpatient treatment services: Provided further, That no less than $2,000,000 shall be available to the Department of Health's Addiction Prevention and Recovery Administration exclusively for the purpose of providing youth residential treatment services: Provided further, That no less than $1,575,416 shall be available to the Department of Health's Addiction Prevention and Recovery Administration exclusively for the purpose of providing youth outpatient treatment services, of which $750,000 shall be made available exclusively to provide intensive outpatient treatment slots, outpatient treatment slots, and other program costs for youth in the care of the Youth Services Administration: Provided further, That no less than $1,400,000 shall be used by the Department of Health's Addiction Prevention and Recovery Administration to fund a Child and Family Services Agency pilot project entitled Family Treatment Court: Provided further, That $1,200,000 of local funds, to remain available until expended, shall be deposited in the Adoption Voucher Fund, established pursuant to section 3805(a) of the Adoption Voucher Fund Act of 2000, effective October 19, 2000 (D.C. Law 13–172; D.C. Official Code, sec. 4–344(a)), to be used exclusively for the purposes set forth in section 3805(b) of the Adoption Voucher Fund Act (D.C. Official Code, sec. 4–344(b)): Provided further, That no less than $300,000 shall be used by the Department of Health's Environmental Health Administration to operate the Total Maximum Daily Load program: Provided further, That no less than $1,268,500 shall be used by the Department of Health's Environmental Health Administration to operate its air quality programs, of which no less than $242,000 shall be used to fund 4 full-time air quality employees: Provided further, That the Department of Human Services, Youth Services Administration shall not expend any appropriated fiscal year 2005 funds until the Mayor has submitted to the Council by September 30, 2004, a plan, including time lines, to close the Oak Hill Youth Center at the earliest feasible date. All of the above proviso amounts in this heading relate back to and are a subset of the first-referenced appropriation amount of $2,533,825,000.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and leasing of passenger-carrying vehicles, $331,936,000 (including $312,035,000 from local funds, $4,000,000 from Federal funds, and $15,901,000 from other funds), in addition, $2,500,000 from funds previously appropriated in this Act under *the heading "Federal Payment for Transportation Assistance": Provided, That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business.*

Cash Reserve

For the cumulative cash reserve established pursuant to section 202(j)(2) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995 (D.C. Official Code, sec. 47–392.02(j)(2)), $50,000,000 from local funds.

Repayment of Loans and Interest

For payment of principal, interest, and certain fees directly resulting from borrowing by the District of Columbia to fund District of Columbia capital projects as authorized by sections 462, 475, and 490 of the District of Columbia Home Rule Act (D.C. Official Code, secs. 1–204.62, 1–204.75, and 1–204.90), $347,700,000 from local funds.

Payment of Interest on Short-Term Borrowing

For payment of interest on short-term borrowing, $4,000,000 from local funds.

Certificates of Participation

For principal and interest payments on the District's Certificates of Participation, issued to finance the ground lease underlying the building located at One Judiciary Square, $11,252,000 from local funds.

Settlements and Judgments

For making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government, $20,270,000 from local funds: Provided, That this appropriation shall not be construed as modifying or affecting the provisions of section 303 of this Act.

Wilson Building

For expenses associated with the John A. Wilson building, $3,633,000 from local funds.

Workforce Investments

For workforce investments, $38,114,000 from local funds, to be transferred by the Mayor of the District of Columbia within the various appropriation headings in this Act for which employees are properly payable: Provided, That of this amount $3,548,000 shall remain available until expended to meet the requirements of the Compensation Agreement Between the District of Columbia Government Units 1 and 2 Approval Resolution of 2004, effective February 17, 2004 (Res. 15–459; 51 DCR 2325).

Non-Departmental Agency

To account for anticipated costs that cannot be allocated to specific agencies during the development of the proposed budget, $13,946,000 (including $4,000,000 from local funds and $9,946,000 from other funds) to be transferred by the Mayor of the District of Columbia within the various appropriations headings in this Act: Provided, That $4,000,000 from local funds shall be for anticipated costs associated with the No Child Left Behind Act.

Emergency Planning and Security Fund

For Emergency Planning and Security Fund, $15,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Emergency Planning and Security Costs in the District of Columbia".

Old Convention Center Demolition Reserve

For the Old Convention Center Demolition Reserve, such amounts as may be necessary, not to exceed $11,000,000, from the District's general fund balance.

Tax Increment Financing Program

For a Tax Increment Financing Program, such amounts as are necessary to meet the Tax Increment Financing requirements, not to exceed $9,710,000 from the District's general fund balance.

Equipment Lease Operating

For Equipment Lease Operating $23,109,000 from local funds: Provided, That for equipment leases, the Mayor may finance $19,453,000 of equipment cost, plus cost of issuance not to exceed 2 percent of the par amount being financed on a lease purchase basis with a maturity not to exceed 5 years.

Emergency and Contingency Reserve Funds

For the emergency reserve fund and the contingency reserve fund under section 450A of the District of Columbia Home Rule Act (Public Law 98–198, as amended; D.C. Official Code, sec. 1–204.50a), such additional amounts from the District's general fund balance as are necessary to meet the balance requirements for such funds under section 450A.

Family Literacy

From funds previously appropriated in this Act under the heading "Federal Payment for the Family Literacy Program", $1,000,000.

Pay-As-You-Go Capital

For Pay-As-You-Go Capital funds in lieu of capital financing, $6,531,000 from local funds, to be transferred to the Capital Fund.

Pay-As-You-Go Contingency

For Pay-As-You-Go Contingency Fund, $43,137,000, subject to the Criteria for Spending Pay-As-You-Go Funding Act of 2004, approved by the Council of the District of Columbia on 1st reading, May 14, 2004 (Title I of Bill 15–768), there are authorized to be transferred from the contingency fund to certain other headings of this Act as necessary to carry out the purposes of this Act. Expenditures from the Pay-As-You-Go Contingency Fund shall be subject to the approval of the Council by resolution.

Revised Revenue Estimate Contingency Priority

If the Chief Financial Officer for the District of Columbia certifies through a revised revenue estimate that funds are available from local funds, such available funds shall be expended as provided in the Contingency for Recordation and Transfer Tax Reduction and the Office of Property Management and Library Expenditures Act of 2004, approved by the Council of the District of Columbia on 1st reading, May 14, 2004 (Bill 15–768), including up to $2,000,000 to the Office of Property Management, up to $1,200,000 to the District of Columbia Public Library, up to $256,000 to the D.C. Police and Firefighters Retirement and Relief Board, and $132,600 for the Police and Fire Clinic.

ENTERPRISE AND OTHER FUNDS

Water and Sewer Authority

For operation of the Water and Sewer Authority, $287,206,000 from other funds, of which $15,180,402 shall be apportioned for repayment of loans and interest incurred for capital improvement projects and payable to the District's debt service fund. For construction projects, $371,040,000, to be distributed as follows: $181,656,000 for the Blue Plains Wastewater Treatment Plant, $43,800,000 for the sewer program, $9,118,000 for the stormwater program, $122,627,000 for the water program, and $13,839,000 for the capital equipment program; in addition, $4,800,000 from funds previously appropriated in this Act under the heading "Federal Payment to the District of Columbia Water and Sewer Authority": Provided, That the requirements and restrictions that are applicable to general fund capital improvement projects and set forth in this Act under the Capital Outlay appropriation account shall apply to projects approved under this appropriation account.

Washington Aqueduct

For operation of the Washington Aqueduct, $47,972,000 from other funds.

Stormwater Permit Compliance Enterprise Fund

For operation of the Stormwater Permit Compliance Enterprise Fund, $3,792,000 from other funds.

Lottery and Charitable Games Enterprise Fund

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act, 1982, for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia (D.C. Law 3–172; D.C. Official Code, sec. 3–1301 et seq. and sec. 22–1716 et seq.), $247,000,000 from other funds: Provided, That the District of Columbia shall identify the source of funding for this appropriation title from the District's own locally generated revenues: Provided further, That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board: Provided further, That the Lottery and Charitable Games Enterprise Fund is hereby authorized to make transfers to the general fund of the District of Columbia, in excess of this appropriation, if such funds are available for transfer.

Sports and Entertainment Commission

For the Sports and Entertainment Commission, $7,322,000 from other funds: Provided, That the paragraph under the heading "Sports and Entertainment Commission" in Public Law 108–199 (118 Stat. 125) is amended by striking the term "local funds" and inserting the term "other funds" in its place.

District of Columbia Retirement Board

For the District of Columbia Retirement Board, established pursuant to section 1[illegible] of the District of Columbia Retirement Reform Act of 1979 (D.C. Official Code, sec. 1–711), $1[illegible]277,000 from the earnings of the applicable retirement funds to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board: Provided, That the District of Columbia Retirement Board shall provide to the Congress and to the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: Provided further, That the District of Columbia Retirement Board shall provide the Mayor, for transmittal to the Council of the District of Columbia, an itemized accounting of the planned use of appropriated funds in time for each annual budget submission and the actual use of such funds in time for each annual audited financial report.

Washington Convention Center Enterprise Fund

For the Washington Convention Center Enterprise Fund, $77,176,000 from other funds.

National Capital Revitalization Corporation

For the National Capital Revitalization Corporation, $7,850,000 from other funds.

University of the District of Columbia

For the University of the District of Columbia, $85,102,000 (including, $49,603,000 from local funds previously appropriated in this Act under the heading "Public Education Systems", $15,192,000 from Federal funds, $19,434,000 from other funds, and $873,000 from private funds): Provided, That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 2005, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

UNEMPLOYMENT INSURANCE TRUST FUND

For the Unemployment Insurance Trust Fund, $180,000,000 from other funds.

OTHER POST EMPLOYEE BENEFITS TRUST FUND

For the Other Post Employee Benefits Trust Fund, $953,000 from other funds.

DISTRICT OF COLUMBIA PUBLIC LIBRARY TRUST FUND

For the District of Columbia Public Library Trust Fund, $17,000 from other funds: Provided, That $7,000 shall be for the Theodore W. Noyes Trust Fund: Provided further, That $10,000 shall be for the Peabody Trust Fund.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

For construction projects, an increase of $1,087,649,000, of which $839,898,000 shall be from local funds, $38,542,000 from Highway Trust funds, $37,000,000 from the Rights-of-way funds, $172,209,000 from Federal grant funds, and a rescission of $361,763,000 from local funds appropriated under this heading in prior fiscal years, for a net amount of $725,886,000, to remain available until expended; in addition, $6,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for the Unified Communications Center", $3,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for the Anacostia Waterfront Initiative", and $8,000,000 from funds previously appropriated in this Act under the heading "Federal Payment for Bioterrorism and Forensics Laboratory": Provided, That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: Provided further, That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: Provided further, That the Office of the Chief Technology Officer of the District of Columbia shall implement the following information technology projects on behalf of the District of Columbia Public Schools: Student Information System (project number T2240), Student Information System PCS (project number T2241), Enterprise Resource Planning (project number T2242), E-Rate (project number T2243), and SETS Expansion PCS (project number T2244).

TITLE III—GENERAL PROVISIONS

SEC. 301. Whenever in this Act, an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor.

SEC. 302. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor, or, in the case of the Council of the District of Columbia, funds may be expended with the authorization of the Chairman of the Council.

SEC. 303. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of legal settlements or judgments that have been entered against the District of Columbia government.

SEC. 304. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly provided herein.

SEC. 305. (a) Except as provided in subsection (b), no part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

(b) The District of Columbia may use local funds provided in this Act to carry out lobbying activities on any matter other than—

(1) the promotion or support of any boycott; or

(2) statehood for the District of Columbia or voting representation in Congress for the District of Columbia.

(c) Nothing in this section may be construed to prohibit any elected official from advocating with respect to any of the issues referred to in subsection (b).

SEC. 306. (a) None of the funds provided under this Act to the agencies funded by this Act, both Federal and District government agencies, that remain available for obligation or expenditure in fiscal year 2005, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditures for an agency through a reprogramming of funds which—

(1) creates new programs;

(2) eliminates a program, project, or responsibility center;

(3) establishes or changes allocations specifically denied, limited or increased under this Act;

(4) increases funds or personnel by any means for any program, project, or responsibility center for which funds have been denied or restricted;

(5) reestablishes any program or project previously deferred through reprogramming;

(6) augments any existing program, project, or responsibility center through a reprogramming of funds in excess of $1,000,000 or 10 percent, whichever is less; or

(7) increases by 20 percent or more personnel assigned to a specific program, project or responsibility center, unless the Committee on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the reprogramming.

(b) None of the local funds contained in this Act may be available for obligation or expenditure for an agency through a transfer of any local funds in excess of $1,000,000 from one appropriation heading to another unless the Committees on Appropriations of the House of Representatives and Senate are notified in writing 15 days in advance of the transfer, except that in no event may the amount of any funds transferred exceed 4 percent of the local funds in the appropriations.

SEC. 307. Consistent with the provisions of section 1301(a) of title 31, United States Code, appropriations under this Act shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.

SEC. 308. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978 (D.C. Law 2–139; D.C. Official Code, sec. 1–601.01 et seq.), enacted pursuant to section 422(3) of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–2041.22(3)), shall apply with respect to the compensation of District of Columbia employees. For pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5, United States Code.

SEC. 309. No later than 30 days after the end of the first quarter of fiscal year 2005, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia and the Committees on Appropriations of the House of Representatives and Senate the new fiscal year 2005 revenue estimates as of the end of such quarter. These estimates shall be used in the budget request for fiscal year 2006. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 310. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985 (D.C. Law 6–85; D.C. Official Code, sec. 2–303.03), except that the District of Columbia government or any agency thereof may renew or extend sole source contracts for which competition is not feasible or practical, but only if the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated rules and procedures and has been reviewed and certified by the Chief Financial Officer of the District of Columbia.

SEC. 311. None of the Federal funds provided in this Act may be used by the District of Columbia to provide for salaries, expenses, or other costs associated with the offices of United States Senator or United States Representative under section 4(d) of the District of Columbia Statehood Constitutional Convention Initiatives of 1979 (D.C. Law 3–171; D.C. Official Code, sec. 1–123).

SEC. 312. None of the funds appropriated under this Act shall be expended for any abortion except where the life of the mother would be endangered if the fetus were carried to term or where the pregnancy is the result of an act of rape or incest.

SEC. 313. None of the Federal funds made available in this Act may be used to implement or enforce the Health Care Benefits Expansion Act of 1992 (D.C. Law 9–114; D.C. Official Code, sec. 32–701 et seq.) or to otherwise implement or enforce any system of registration of unmarried, cohabiting couples, including but not limited to registration for the purpose of extending employment, health, or governmental benefits to such couples on the same basis that such benefits are extended to legally married couples.

SEC. 314. (a) Notwithstanding any other provision of this Act, the Mayor, in consultation with the Chief Financial Officer of the District of Columbia may accept, obligate, and expend Federal, private, and other grants received by the District government that are not reflected in the amounts appropriated in this Act.

(b)(1) No such Federal, private, or other grant may be accepted, obligated, or expended pursuant to subsection (a) until—

(A) the Chief Financial Officer of the District of Columbia submits to the Council a report setting forth detailed information regarding such grant; and

(B) the Council has reviewed and approved the acceptance, obligation, and expenditure of such grant.

(2) For purposes of paragraph (1)(B), the Council shall be deemed to have reviewed and approved the acceptance, obligation, and expenditure of a grant if—

(A) no written notice of disapproval is filed with the Secretary of the Council within 14 calendar days of the receipt of the report from the Chief Financial Officer under paragraph (1)(A); or

(B) if such a notice of disapproval is filed within such deadline, the Council does not by resolution disapprove the acceptance, obligation, or expenditure of the grant within 30 calendar days of the initial receipt of the report from the Chief Financial Officer under paragraph (1)(A).

(c) No amount may be obligated or expended from the general fund or other funds of the District of Columbia government in anticipation of the approval or receipt of a grant under subsection (b)(2) or in anticipation of the approval *or receipt of a Federal, private, or other grant not subject to such subsection.*

(d) The Chief Financial Officer of the District of Columbia may adjust the budget for Federal, private, and other grants received by the District government reflected in the amounts appropriated in this Act, or approved and received under subsection (b)(2) to reflect a change in the actual amount of the grant.

(e) The Chief Financial Officer of the District of Columbia shall prepare a quarterly report setting forth detailed information regarding all Federal, private, and other grants subject to this section. Each such report shall be submitted to the Council of the District of Columbia and to the Committees on Appropriations of the House of Representatives and Senate not later than 15 days after the end of the quarter covered by the report.

SEC. 315. (a) Except as otherwise provided in this section, none of the funds made available by this Act or by any other Act may be used to provide any officer or employee of the District of Columbia with an official vehicle unless the officer or employee uses the vehicle only in the performance of the officer's or employee's official duties. For purposes of this paragraph, the term "official duties" does not include travel between the officer's or employee's residence and workplace, except in the case of—

(1) an officer or employee of the Metropolitan Police Department who resides in the District of Columbia or is otherwise designated by the Chief of the Department;

(2) at the discretion of the Fire Chief, an officer or employee of the District of Columbia Fire and Emergency Medical Services Department who resides in the District of Columbia and is on call 24 hours a day or is otherwise designated by the Fire Chief;

(3) the Mayor of the District of Columbia; and

(4) the Chairman of the Council of the District of Columbia.

(b) The Chief Financial Officer of the District of Columbia shall submit by March 1, 2005, an inventory, as of September 30, 2004, of all vehicles owned, leased or operated by the District of Columbia government. The inventory shall include, but not be limited to, the department to which the vehicle is assigned; the year and make of the vehicle; the acquisition date and cost; the general condition of the vehicle; annual operating and maintenance costs; current mileage; and whether the vehicle is allowed to be taken home by a District officer or employee and if so, the officer or employee's title and resident location.

SEC. 316. None of the funds contained in this Act may be used for purposes of the annual independent audit of the District of Columbia government for fiscal year 2005 unless—

(1) the audit is conducted by the Inspector General of the District of Columbia, in coordination with the Chief Financial Officer of the District of Columbia, pursuant to section 208(a)(4) of the District of Columbia Procurement Practices Act of 1985 (D.C. Official Code, sec. 2–302.8); and

(2) the audit includes as a basic financial statement a comparison of audited actual year-end results with the revenues submitted in the budget document for such year and the appropriations enacted into law for such year using the format, terminology, and classifications contained in the law making the appropriations for the year and its legislative history.

SEC. 317. (a) None of the funds contained in this Act may be used by the District of Columbia Corporation Counsel or any other officer or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia.

(b) Nothing in this section bars the District of Columbia Corporation Counsel from reviewing or commenting on briefs in private lawsuits, or from consulting with officials of the District government regarding such lawsuits.

SEC. 318. (a) None of the funds contained in this Act may be used for any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

(b) Any individual or entity who receives any funds contained in this Act and who carries out any program described in subsection (a) shall account for all funds used for such program separately from any funds contained in this Act.

SEC. 319. None of the funds contained in this Act may be used after the expiration of the 60-day period that begins on the date of the enactment of this Act to pay the salary of any chief financial officer of any office of the District of Columbia government (including any independent agency of the District of Columbia) who has not filed a certification with the Mayor and the Chief Financial Officer of the District of Columbia that the officer understands the duties and restrictions applicable to the officer and the officer's agency as a result of this Act (and the amendments made by this Act), including any duty to prepare a report requested either in the Act or in any of the reports accompanying the Act and the deadline by which each report must be submitted. The Chief Financial Officer of the District of Columbia shall provide to the Committees on Appropriations of the House of Representatives and Senate by the 10th day after the end of each quarter a summary list showing each report, the due date, and the date submitted to the Committees.

SEC. 320. (a) None of the funds contained in this Act may be used to enact or carry out any law, rule, or regulation to legalize or otherwise reduce penalties associated with the possession, use, or distribution of any schedule I substance under the Controlled Substances Act (21 U.S.C. 802) or any tetrahydrocannabinols derivative.

(b) The Legalization of Marijuana for Medical Treatment Initiative of 1998, also known as Initiative 59, approved by the electors of the District of Columbia on November 3, 1998, shall not take effect.

SEC. 321. Nothing in this Act may be construed to prevent the Council or Mayor of the District of Columbia from addressing the issue of the provision of contraceptive coverage by health insurance plans, but it is the intent of Congress that any legislation enacted on such issue should include a "conscience clause" which provides exceptions for religious beliefs and moral convictions.

SEC. 322. The Mayor of the District of Columbia shall submit to the Committees on Appropriations of the House of Representatives and Senate, the Committee on Government Reform of the House of Representatives, and the Committee on Governmental Affairs of the Senate quarterly reports addressing—

(1) crime, including the homicide rate, implementation of community policing, the number of police officers on local beats, and the closing down of open-air drug markets;

(2) access to substance and alcohol abuse treatment, including the number of treatment slots, the number of people served, the number of people on waiting lists, and the effectiveness of treatment programs;

(3) management of parolees and pre-trial violent offenders, including the number of halfway houses escapes and steps taken to improve monitoring and supervision of halfway house residents to reduce the number of escapes to be provided in consultation with the Court Services and Offender Supervision Agency for the District of Columbia;

(4) education, including access to special education services and student achievement to be provided in consultation with the District of Columbia Public Schools and the District of Columbia public charter schools;

(5) improvement in basic District services, including rat control and abatement;

(6) application for and management of Federal grants, including the number and type of grants for which the District was eligible but failed to apply and the number and type of grants awarded to the District but for which the District failed to spend the amounts received; and

(7) indicators of child well-being.

SEC. 323. (a) No later than 30 calendar days after the date of the enactment of this Act, the Chief Financial Officer of the District of Columbia shall submit to the appropriate committees of Congress, the Mayor, and the Council of the District of Columbia a revised appropriated funds operating budget in the format of the budget that the District of Columbia government submitted pursuant to section 442 of the District of Columbia Home Rule Act (D.C. Official Code, sec. 1–204.42), for all agencies of the District of Columbia government for fiscal year 2005 that is in the total amount of the approved appropriation and that realigns all budgeted data for personal services and other-than-personal-services, respectively, with anticipated actual expenditures.

(b) This section shall apply only to an agency where the Chief Financial Officer of the District of Columbia certifies that a reallocation is required to address unanticipated changes in program requirements.

SEC. 324. None of the funds contained in this Act may be used to issue, administer, or enforce any order by the District of Columbia Commission on Human Rights relating to docket numbers 93-030-(PA) and 93-031-(PA).

SEC. 325. None of the Federal funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 326. Notwithstanding any other law, the District of Columbia Courts shall transfer to the general treasury of the District of Columbia all fines levied and collected by the Courts under section 10(b)(1) and (2) of the District of Columbia Traffic Act (D.C. Official Code, sec. 50–2201.05(b)(1) and (2)). The transferred funds shall remain available until expended and shall be used by the Office of the Corporation Counsel for enforcement and prosecution of District traffic alcohol laws in accordance with section 10(b)(3) of the District of Columbia Traffic Act (D.C. Official Code, sec. 50–2201.05(b)(3)).

SEC. 327. None of the funds contained in this Act may be made available to pay—

(1) the fees of an attorney who represents a party in an action or an attorney who defends an action, including an administrative proceeding, brought against the District of Columbia Public Schools under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in excess of $4,000 for that action; or

(2) the fees of an attorney or firm whom the Chief Financial Officer of the District of Columbia determines to have a pecuniary interest, either through an attorney, officer or employee of the firm, in any special education diagnostic services, schools, or other special education service providers.

SEC. 328. The Chief Financial Officer of the District of Columbia shall require attorneys in special education cases brought under the Individuals with Disabilities Act (IDEA) in the District of Columbia to certify in writing that the attorney or representative rendered any and all services for which they receive awards, including those received under a settlement agreement or as part of an administrative proceeding, under the IDEA from the District of Columbia. As part of the certification, the Chief Financial Officer of the District of Columbia shall require all attorneys in IDEA cases to disclose any financial, corporate, legal, memberships on boards of directors, or other relationships with any special education diagnostic services, schools, or other special education service providers to which the attorneys have referred any clients as part of this certification. The Chief Financial Officer shall prepare and submit quarterly reports to the Committees on Appropriations of the House of Representatives and Senate on the certification of and the amount paid by the government of the District of Columbia, including the District of Columbia Public Schools, to attorneys in cases brought under IDEA. The Inspector General of the District of Columbia may conduct investigations to determine the accuracy of the certifications.

SEC. 329. Sections 11–1701(b)(5), 11–1704(b), 11–1723(b), 11–2102(a)(2), and the second and third sentences of Section 11–1724, of the District of Columbia Official Code, are hereby repealed.

SEC. 330. Section 11–1728 of the District of Columbia Official Code, is amended to read as follows:

"SEC. 11–1728. RECRUITMENT AND TRAINING OF PERSONNEL AND TRAVEL.

"(a) The Executive Officer shall be responsible for recruiting such qualified personnel as may be necessary for the District of Columbia Courts and for providing in-service training for court personnel.

"(b) Travel under Federal supply schedules is authorized for the travel of court personnel on official business. The joint committee shall prescribe such requirements, conditions and restrictions for such travel as it considers appropriate, and shall include policies and procedures for preventing abuses of that travel authority.".

SEC. 331. The amount appropriated by this Act may be increased by no more than $15,000,000 from funds identified in the comprehensive annual financial report as the District's fiscal year 2004 unexpended general fund surplus. The District may obligate and expend these amounts only in accordance with the following conditions:

(1) The Chief Financial Officer of the District of Columbia shall certify that the use of any such amounts is not anticipated to have a negative impact on the District's long-term financial, fiscal, and economic vitality.

(2) The District of Columbia may only use these funds for the following expenditures:

(A) Unanticipated one-time expenditures.

(B) Expenditures to avoid deficit spending.

(C) Debt Reduction.

(D) Unanticipated program needs.

(E) Expenditures to avoid revenue shortfalls.

(3) The amounts shall be obligated and expended in accordance with laws enacted by the Council in support of each such obligation or expenditure.

(4) The amounts may not be used to fund the agencies of the District of Columbia government under court ordered receivership.

(5) The amounts may be obligated and expended only if approved by the Committees on Appropriations of the House of Representatives and Senate in advance of any obligation or expenditure.

SEC. 332. Section 450A of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code, sec. 1–204.50a), is amended as follows.

(1) Subsection (a) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

"(1) IN GENERAL.—There is established an emergency cash reserve fund ('emergency reserve fund') as an interest-bearing account (separate from other accounts in the General Fund) into which the Mayor shall make a deposit in cash not later than October 1 of each fiscal year of such an amount as may be required to maintain a balance in the fund of at least 2 percent of the operating expenditures as defined in paragraph (2) of this subsection or such amount as may be required for deposit in a fiscal year in which the District is replenishing the emergency reserve fund pursuant to subsection (a)(7).".

(B) Paragraph (2) is amended to read as follows:

"(2) IN GENERAL.—For the purpose of this subsection, operating expenditures is defined as the amount reported in the District of Columbia's Comprehensive Annual Financial Report for the fiscal year immediately preceding the current fiscal year as the actual operating expenditure from local funds, less such amounts that are attributed to debt service payments for which a separate reserve fund is already established under this Act.".

(C) Paragraph (7) is amended to read as follows:

"(7) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the emergency reserve fund during the preceding fiscal years so that not less than 50 percent of any amount allocated in the preceding fiscal year or the amount necessary to restore the emergency reserve fund to the 2 percent required balance, whichever is less, is replenished by the end of the first fiscal year following each such allocation and 100 percent of the amount allocated or the amount necessary to restore the emergency reserve fund to the 2 percent required balance, whichever is less, is replenished by the end of the second fiscal year following each such allocation.".

(2) Subsection (b) is amended as follows:

(A) Paragraph (1) is amended to read as follows:

"(1) IN GENERAL.—There is established a contingency cash reserve fund ('contingency reserve fund') as an interest-bearing account, separate from other accounts in the General Fund, into which the Mayor shall make a deposit in cash not later than October 1 of each fiscal year of such amount as may be required to maintain a balance in the fund of at least 4 percent of the operating expenditures as defined in paragraph (2) of this subsection or such amount as may be required for deposit in a fiscal year in which the District is replenishing the emergency reserve fund pursuant to subsection (b)(6).".

(B) Paragraph (2) is amended to read as follows:

"(2) IN GENERAL.—For the purpose of this subsection, operating expenditures is defined as the amount reported in the District of Columbia's Comprehensive Annual Financial Report for the fiscal year immediately preceding the current fiscal year as the actual operating expenditure from local funds, less such amounts that are attributed to debt service payments for which a separate reserve fund is already established under this Act.".

(C) Paragraph (6) is amended to read as follows:

"(6) REPLENISHMENT.—The District of Columbia shall appropriate sufficient funds each fiscal year in the budget process to replenish any amounts allocated from the contingency reserve fund during the preceding fiscal years so that not less than 50 percent of any amount allocated in the preceding fiscal year or the amount necessary to restore the contingency reserve fund to the 4 percent required balance, whichever is less, is replenished by the end of the first fiscal year following each such allocation and 100 percent of the amount allocated or the amount necessary to restore the contingency reserve fund to the 4 percent required balance, whichever is less, is replenished by the end of the second fiscal year following each such allocation.".

SEC. 333. For fiscal year 2005, the Chief Financial Officer shall re-calculate the emergency and contingency cash reserve funds amount established by Section 450A of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 803; D.C. Official Code, sec. 1–204.50a), as amended by this Act and is authorized to transfer funds between the emergency and contingency cash reserve funds to reach the required percentages: Provided, That for fiscal year 2005, the Chief Financial Officer may transfer funds from the emergency and contingency cash reserve funds to the general fund of the District of Columbia to the extent that such funds are not necessary to meet the requirements established for each fund: Provided further, That the Chief Financial Officer may not transfer funds from the emergency or the contingency reserve funds to the extent that such a transfer would lower the fiscal year 2005 total percentage below 7 percent of operating expenditures, as amended by this Act.

SEC. 334. (a) Section 6 of the Policemen and Firemen's Retirement and Disability Act Amendments of 1957 (sec. 5–732, D.C. Official Code) is amended by striking the period at the end of the first sentence and inserting the following: ", and for the administrative costs associated with making such benefit payments.".

(b) The amendment made by subsection (a) shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 335. (a) CONTINUING AVAILABILITY OF AMOUNTS IN CHARTER SCHOOL FUND.—Section 2403(b)(1) of the District of Columbia School Reform Act of 1995 (sec. 38–1804.03(b)(1), D.C. Official Code) is amended by adding at the end the following new sentence: "Amounts in the Charter School Fund shall remain available until expended, and any amounts in the Fund remaining unobligated or unexpended at the end of a fiscal year shall not revert to the General Fund of the District of Columbia.".

(b) AVAILABILITY OF ADDITIONAL LOCAL FUNDS FOR CHARTER SCHOOL FUND.—Section 2403(b)(2)(A) of such Act (sec. 38–1804.03(b)(2)(A), D.C. Official Code) is amended by inserting after "District of Columbia," the following: "together with any other local funds that the Chief Financial Officer of the District of Columbia certifies are necessary to carry out the purposes of the Fund during the fiscal year,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to fiscal year 2005 and each succeeding fiscal year.

SEC. 336. (a) CONTINUATION OF CERTAIN AUTHORITY OF CHIEF FINANCIAL OFFICER.—Section 2302 of the Emergency Wartime Supplemental Appropriations Act, 2003 (Public Law 108–11; 117 Stat. 593), is amended by striking "September 30, 2004" and inserting "September 30, 2005".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of the Emergency Wartime Supplemental Appropriations Act, 2003.

SEC. 337. (a) Section 106(b) of the District of Columbia Public Works Act of 1954 (sec. 34–2401.25(b), D.C. Official Code) is amended by striking paragraph (5).

(b) Section 212(b) of such Act (sec. 34–2112(b), D.C. Official Code) is amended by striking paragraph (5).

(c) The amendments made by this section shall apply with respect to quarters occurring during fiscal year 2005 and each succeeding fiscal year.

SEC. 338. Notwithstanding any other provision of this Act, there is hereby appropriated for the Office of the Inspector General such amounts in local funds, as are consistent with the annual estimates for the expenditures and appropriations necessary for the operation of the Office of the Inspector General as prepared by the Inspector General and submitted to the Mayor and forwarded to the Council pursuant to D.C. Official Code 2-302.08(a)(2)(A) for fiscal year 2005: Provided, That the Office of the Chief Financial Officer shall take such steps as are necessary to implement the provisions of this subsection.

SEC. 339. The paragraph under the heading "Federal Payment for Incentives for Adoption of Children" in Public Law 106-113, approved November 29, 1999 (113 Stat. 1501), is amended to add the following proviso: ": Provided further, That the funds provided under this heading for the establishment of a scholarship fund for District of Columbia children of adoptive families, and District of Columbia children without parents due to the September 11, 2001 terrorist attack to be used for post high school education and training, once obligated by the District to establish the scholarship fund, shall remain obligated and be retained by the District for 25 years from the date of obligation to allow for any individual who is within the class of persons to be assisted by this provision to reach post high school and to present expenditures to be extinguished by the fund".

SEC. 340. AUTHORITY OF OPCSFS. (a) Section 161(3)(E)(i) of Public Law 106-522 shall be amended to include a new section known as (E)(i)(IV) to establish regulations for administering lease guarantees through the credit enhancement fund to public charter schools in the District of Columbia.

(b) The first sentence of section 143 of the District of Columbia Appropriations Act of 2003 (Public Law 108-7, 117 STAT. 130) approved April 20, 2003 is amended by striking the phrase, "under the authority of the Department of Banking and Financial Institutions" and inserting "under the authority of the Mayor" in its place.

SEC. 341. PROCESS FOR FILING CHARTER PETITIONS. D.C. Code §38-1802.01 is amended by adding a new section (e) as follows—

"(e) A petition to establish a public charter school in the District of Columbia, or to convert a District of Columbia public school or an existing private or independent school, is a public document.".

SEC. 342. AMENDMENTS TO CHARTER SCHOOL LAW. (a) PROCESS FOR FILING CHARTER PETITIONS.—Section 2201 of the District of Columbia School Reform Act of 1995 (D.C. Code 38-1802.01) is amended—

(1) in subsection (a)(3)(B), by striking "two-thirds" and inserting "51 percent"; and

(2) in subsection (b)(3)(B), by striking "two-thirds" and inserting "51 percent".

(b) EMPLOYEES.—Section 2207 of the District of Columbia School Reform Act of 1995 (D.C. Code 38-1802.07) is amended by adding at the end the following:

"(d) TEACHERS REMAINING AT CONVERTED PUBLIC CHARTER SCHOOLS.—A teacher employed at a District of Columbia public school that converts to a public charter school under section 2201 shall have the option of remaining at the charter school during the school's first year of operation after receiving an extended leave of absence under subsection (a)(1). After this 1-year period, the teacher may continue to be employed at the public charter school, at the sole discretion of the public charter school, or shall maintain current status within the District of Columbia public school system.".

(c) PUBLIC SCHOOL SERVICES TO PUBLIC CHARTER SCHOOLS.—Section 2209(b) of the District of Columbia School Reform Act of 1995 (D.C. Code 38-1802.09(b)) is amended—

(1) in paragraph (1)—

(A) by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—Notwithstanding any other provision of law, regulation, or order relating to the disposition of a facility or property described in subparagraph (B), or to the disposition of any property of the District of Columbia, the Mayor and the District of Columbia government shall give a right of first offer, which right shall be annually reinstated with respect to any facility or property not previously disposed of, or under contract to be disposed of, to an eligible applicant whose petition to establish a public charter school has been conditionally approved under section 2203(d)(2), or a Board of Trustees, with respect to the purchase, lease, transfer, or use of a facility or property described in subparagraph (B).";

(B) by amending subparagraph (B)(iii) to read as follows:

"(iii) With respect to which—

"(I) the Board of Education has transferred jurisdiction to the Mayor and over which the Mayor has jurisdiction on the effective date of this subclause; or

"(II) over which the Mayor or any successor agency gains jurisdiction after the effective date of this subclause."; and

(C) by adding at the end the following:

"(C) TERMS OF PURCHASE OR LEASE.—The terms of purchase or lease of a facility or property described in subparagraph (B) shall—

"(i) be negotiated by the Mayor;

"(ii) include rent or an acquisition price, as applicable, that is at least 25 percent less than the appraised value of the property (based on use of the property for school purposes); and

"(iii) include a lease period, if the property is to be leased, of not less than 25 years, and renewable for additional 25-year periods as long as the eligible applicant or Board of Trustees maintains its charter."; and

(2) in paragraph (2)(A), by striking "preference" and inserting "a right to first offer"; and

(3) by adding at the end the following:

"(3) CONVERSION PUBLIC CHARTER SCHOOLS.—Any District of Columbia public school that was approved to become a conversion public charter school under section 2201 before the effective date of this subsection or is approved to become a conversion public charter school after the effective date of this subsection, shall have the right to exclusively occupy the facilities the school occupied as a District of Columbia public school under a lease for a period of not less than 25 years, renewable for additional 25-year periods as long as the school maintains its charter at the non-profit rate, or if there is no non-profit rate, at 25 percent less than the fair market rate for school use.".

SEC. 343. ANNUAL REPORT TO CONGRESS. Section 2211 of the School Reform Act of 1995 (D.C. Code 38-1802.11) shall be amended by:

(1) adding the following new subparagraph at the end of section 2211(a)(1):

"(D) Shall ensure that each public charter school complies with the annual reporting requirement of subsection 38-1802.04(b)(11) of this Act, including submission of the audited financial statement required by sub-subsection (B)(ix) of that section."; and

(2) adding the following before the period at the end of subparagraph (d): "(10) details of major Board actions; (11) major findings from school reviews of academic, financial, and compliance with health and safety standards and resulting Board action or recommendations; (12) details of the fifth year review process and outcomes; (13) summary of annual financial audits of all charter schools, including (a) the number of schools that failed to timely submit the audited financial statement required by that section; (b) the number of schools whose audits revealed a failure to follow required accounting practices or other material deficiencies; and (c) the steps taken by the authority to ensure that deficiencies found by the audits are rectified; (14) number of schools which have required intervention by authorizing board to address any academic or operational issue; (15) what recommendations an authorizing board has made to correct identified deficiencies".

SEC. 344. TRANSFER TO DISTRICT OF COLUMBIA. (a) TRANSFER OF JURISDICTION.—

(1) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, subject to subsection (b), the Director of the National Park Service (referred to in this section as the "NPS"), acting on behalf of the Secretary of the Interior, shall transfer jurisdiction to the government of the District of Columbia, without consideration, the property described in paragraph (2).

(2) PROPERTY.—The property referred to in paragraph (1) is—

(A) a portion of National Park Service land in Anacostia Park, U.S. Reservation 343, Section G, the boundaries of which are the Anacostia River to the west, Watts Branch to the south, Kenilworth Aquatic Gardens to the north, and Anacostia Avenue to the east which includes the community center currently occupied under permit by the District of Columbia known as the "Kenilworth Parkside Community Center"; and

(B) all of U.S. Reservation 523.

(b) CONDITIONS OF TRANSFER.—

(1) TERM.—Jurisdiction will be transferred from the NPS to the District of Columbia.

(2) CONDITION OF TRANSFER.—The transfer of jurisdiction under subsection (a)(1) shall be subject to such terms and conditions, to be included in a Declaration of Covenants to be mutually executed between NPS and the District of Columbia to ensure that the property transferred under that subsection—

(A) is used only for the provision of public recreational facilities, open space, or public outdoor recreational opportunities; and

(B) nothing in this Act precludes the District of Columbia from entering into a lease for all or part of the property with a public not-for-profit entity for the management or maintenance of the property.

(3) TERMINATION.—

(A) IN GENERAL.—The transfer under subsection (a)(1) shall terminate if—

(i) any term or condition of the transfer described in paragraph (2) or contained within the Declaration of Covenants described in paragraph (2) is violated, as determined by the NPS; and

(ii) the violation is not corrected by the date that is 90 days after the date on which the Mayor of the District of Columbia receives from the NPS a written notice of the violation.

(B) DETERMINATION OF CORRECTION.—A violation of a term or condition of the transfer under subsection (a)(1) shall be determined to have been corrected under subparagraph (A)(ii) if, after notification of the violation, the District of Columbia and the NPS enter into an agreement that the NPS considers to be adequate to ensure that the property transferred will be used in a manner consistent with paragraph (2).

(4) PROHIBITION OF CIVIL ACTIONS.—No person may bring a civil action relating to a violation of any term or condition of the transfer described in paragraph (2) before the date that is 90 days after the person notifies the Mayor of the District of Columbia of the alleged violation (including the intent of the person to bring a civil action for termination of the transfer under paragraph (3)).

(5) REMOVAL OF STRUCTURES; REHABILITATION.—The transfer under subsection (a)(1) shall be subject to the condition that, in the event of a termination of the transfer under paragraph (3), the District of Columbia shall bear the cost of removing structures on, or rehabilitating, the property transferred.

(6) ADMINISTRATION OF PROPERTY.—If the transfer under subsection (a)(1) is terminated

under paragraph (3), the property covered by the transfer shall be returned to the NPS and administered as a unit of the National Park System in the District of Columbia in accordance with—

(A) the Act of August 25, 1916 (commonly known as the "National Park Service Organic Act") (16 U.S.C. 1 et seq.); and

(B) other laws (including regulations) generally applicable to units of the National Park System.

SEC. 345. The project for the Chicago Sanitary and Ship Canal Dispersal Barrier, Illinois, initiated under Section 1135 of Public Law 99–662, is authorized at a total cost of $9,100,000 with a Federal cost of $6,825,000 and a non-Federal cost of $2,275,000.

SEC. 346. BIENNIAL EVALUATION OF CHARTER SCHOOL AUTHORIZING BOARDS. (a) Biennial management evaluation of the District of Columbia Chartering Authorities for the District of Columbia Public Charter Schools shall be conducted by the Comptroller General of the United States.

(b) Evaluation shall include the following:

(1) Establish standards to assess each authorizer's procedures and oversight quality;

(2) Identify gaps in oversight and recommendations;

(3) Review processes of charter school applications;

(4) Extent of ongoing monitoring, technical assistance, and sanctions provided to schools;

(5) Compliance with annual reporting requirements;

(6) Actual budget expenditures for the preceding two fiscal years;

(7) Comparison of budget expenditures with mandated responsibilities;

(8) Alignment with best practices; and

(9) Quality and timeliness of meeting Section 2211(d) of the School Reform Act of 1995 (D.C. Code 38-1802.11(d)), as amended.

(c) INITIAL INTERIM REPORT TO CONGRESS.—The Government Accountability Office shall submit to the Committees on Appropriations of the House of Representatives and Senate, no later than May 1, 2005, a baseline report on the performance of each authorizer in meeting the requirements of the School Reform Act of 1995.

(d) Hereafter Section 2214(f) of Public Law 104–143 (D.C. Code 38–1802.14(f)), shall apply to the District of Columbia Board of Education Charter Schools Office.

SEC. 347. CLARIFYING OPERATIONS OF PUBLIC CHARTER SCHOOL BOARD. Section 2214 of the School Reform Act of 1995 (Public Law 104–134; D.C. Code 38-1802.14), is amended—

(1) by striking subsection (f) and inserting the following:

"(f) AUDIT.—The Board shall maintain its accounts according to Generally Accepted Accounting Principles for Not-for-Profit Organizations. The Board shall provide for an audit of the financial statements of the Board by an independent certified public accountant in accordance with Government auditing standards for financial audits issued by the Comptroller General of the United States. The findings and recommendations of any such audit shall be forwarded to the Mayor, the District of Columbia Council, the appropriate congressional committees, and the Office of the Chief Financial Officer."; and

(2) adding at the end the following:

"(h) CONTRACTING AND PROCUREMENT.—The Board shall have the authority to solicit, award, and execute contracts independently of the Office of Contracting and Procurement and the Chief Procurement Officer. Nothing in chapter 3 of title 2 of the District of Columbia Code shall affect the authority of the Board under this subsection.".

This Act may be cited as the "District of Columbia Appropriations Act, 2005".

And the Senate agree to the same.

RODNEY FRELINGHUYSEN,
ERNEST J. ISTOOK, Jr.,
RANDY "DUKE" CUNNINGHAM,
JOHN T. DOOLITTLE,
DAVE WELDON,
JOHN ABNEY CULBERSON,
BILL YOUNG,
CHAKA FATTAH,
ED PASTOR,
ROBERT E. "BUD" CRAMER, JR.,
DAVID R. OBEY,
Managers on the Part of the House.

MIKE DEWINE,
SAM BROWNBACK,
KAY BAILEY HUTCHISON,
TED STEVENS,
MARY LANDRIEU,
DANIEL K. INOUYE,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate bill (H.R. 4850), making appropriations for the District of Columbia for the fiscal year ending September 30, 2005, and for other purposes, submit the following joint statement to the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

The conference agreement on H.R. 4850 incorporates some of the provisions of both the House and the Senate versions of the bill. Report language and allocations set forth in either House Report 108-610 or Senate Report 108–354 that are not changed by the conference are approved by the committee of conference. The statement of the managers, while repeating some report language for emphasis, does not negate the language referenced above unless expressly provided herein.

The District of Columbia Appropriations Act, 2005, put in place by this bill, incorporates the following agreements of the managers:

TITLE I—FEDERAL FUNDS

FEDERAL PAYMENT FOR RESIDENT TUITION SUPPORT

The conference agreement provides $25,600,000 for a Federal payment for resident tuition support as proposed by the House instead of $21,200,000 as proposed by the Senate. Further, the conferees limit administrative expenses to no more than $1,200,000 in fiscal year 2005. The conferees urge the District to work with the legislative committees of jurisdiction and the Committees on Appropriations to reauthorize this important program and to explore options for enhancing the effectiveness of these tuition assistance grants, including additional non-Federal sources.

FEDERAL PAYMENT FOR EMERGENCY PLANNING AND SECURITY COSTS IN THE DISTRICT OF COLUMBIA

The conference agreement provides $15,000,000 for a Federal payment for emergency planning and security costs in the District of Columbia as proposed by the House and Senate.

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA COURTS

The conference agreement provides $190,800,000 for a Federal payment to the District of Columbia Courts, instead of $202,110,000 as proposed by the House and $195,010,000 as proposed by the Senate. Included in this amount is $8,952,000 for the Court of Appeals, $84,948,000 for the Superior Court, $40,699,000 for the Court System, and $56,201,000 for capital improvements.

The conferees have provided sufficient funds for the Old Courthouse project to meet the expenditure requirements in fiscal year 2005. The conferees are supportive of the Old Courthouse project and the much needed Judiciary Square renovation, and are committed to providing the needed resources for the Old Courthouse project within the context of the fiscal year 2006 appropriations process.

The conferees agree with the financial reporting requirements proposed in Senate Report 108-354; however, the conferees direct that these reports be prepared and submitted to the Committees on Appropriations of the House of Representatives and Senate on a quarterly basis.

DEFENDER SERVICES IN DISTRICT OF COLUMBIA COURTS

The conference agreement provides $38,500,000 for Defender Services in the District of Columbia Courts instead of $41,500,000 as proposed by the House and $34,500,000 as proposed by the Senate.

FEDERAL PAYMENT TO THE COURT SERVICES AND OFFENDER SUPERVISION AGENCY FOR THE DISTRICT OF COLUMBIA

The conference agreement provides $180,000,000 for a Federal payment to the Court Services and Offender Supervision Agency for the District of Columbia, instead of $183,490,000 as proposed by the House and $182,490,000 as proposed by the Senate.

The conferees direct that $1,100,000 included in the above amount is to continue to reduce supervision caseload ratios for sex-offenders, mental health, and domestic violence cases, and $200,000 to expand the global positioning system electronic monitoring program.

The conferees note that many individuals leave prison and enter community supervision each year with histories of long-term substance abuse and prior supervision failure due to substance abuse relapse. It is estimated that 35 percent of the 2,200 individuals returning to the District of Columbia from federal prison each year are chronic substance abusers. These offenders are at a higher risk for quick substance abuse relapse and subsequent rearrest.

Based on these facts, the conferees support CSOSA's collaborative efforts with the D.C. government, the U.S. Parole Commission, the Office of Justice Programs and the Bureau of Prisons to initiate a 32-bed Pre-Release Transition Program. This six- to twelve-month residential treatment program will be located at the District of Columbia's Correctional Treatment Facility. It will serve both individuals transitioning out of prison and parole violators who will be remanded to this program rather than returned to a Federal facility. The conferees urge CSOSA to continue to participate in this important program that will complement CSOSA's existing re-entry and treatment programs by offering a meaningful alternative to parole revocation for the habitual substance abuser who has violated his or her parole, as well as enhancing the potential for success among those entering community supervision.

Federal Payment to the District of Columbia Water and Sewer Authority

The conference agreement provides $4,800,000 for a Federal payment to the District of Columbia Water and Sewer Authority instead of $10,000,000 as proposed by the House and Senate. These funds are for the continued implementation of the Combined Sewer Overflow Long-Term Plan.

Federal Payment for the Anacostia Waterfront Initiative

The conference agreement provides $3,000,000 for a Federal payment to the District of Columbia Department of Transportation for design and construction of a continuous pedestrian and bicycle trail system from the Potomac River to the District's border with Maryland as proposed by the House and Senate.

Federal Payment to the Criminal Justice Coordinating Council

The conference agreement provides $1,300,000 for a Federal payment to the Criminal Justice Coordinating Council as proposed by the House and Senate. The amount is to remain available until expended as proposed by the Senate.

Federal Payment for the Unified Communications Center

The conference agreement provides $6,000,000 for a Federal payment to the District of Columbia for the Unified Communications Center instead of $7,000,000 as proposed by the Senate and no funds as proposed by the House. The House had included funding for the Unified Communications Center in this Act under the heading Federal Payment for Capital Development in the District of Columbia.

Federal Payment for Capital Development in the District of Columbia

The conference agreement provides no funding for capital development as proposed by the Senate instead of $7,000,000 as proposed by the House. The conferees have provided $6,000,000 for the Unified Communications Center under the heading Federal Payment for the Unified Communications Center.

Federal Payment for Transportation Assistance

The conference agreement provides $2,500,000 for a Federal payment to the District of Columbia Department of Transportation for transportation assistance as proposed by the Senate. The House bill contained no similar provision. Included in this amount is $1,500,000 to assist the District with its annual operating payment to the Washington Metropolitan Area Transit Authority, and $1,000,000 for the District's Downtown Circulator.

The conferees are supportive of the efforts of the District of Columbia Department of Transportation (DDOT) to implement the Downtown Circulator. The conferees encourage the DDOT to consider all bid proposals, including those of private bus operators, for carrying out some elements of this service.

Federal Payment for Public School Libraries

The conference agreement provides $6,000,000 for a Federal payment to the District of Columbia Public Schools for public school libraries subject to a one-to-one match by the District of Columbia Public Schools as proposed by the House. The Senate had no similar provision. The conference agreement adopts by reference language accompanying these funds as recommended in House report 108-610.

Federal Payment for the Family Literacy Program

The conference agreement provides $1,000,000 for a Federal payment to the District of Columbia for a family literacy program subject to a 100 percent match with local funds as proposed by the House. The Senate had no similar provision.

Federal Payment for Foster Care Improvements in the District of Columbia

The conference agreement provides $5,000,000 for a Federal payment for foster care improvements in the District of Columbia as proposed by the House and Senate. The conferees have included the following distribution of funds: $3,250,000 for the District of Columbia Child and Family Services Agency, of which $2,000,000 is for an intensive, early intervention program, $750,000 is for emergency support, and $500,000 is for technology upgrades; $1,250,000 is for the District's Department of Mental Health; and $500,000 is for the Washington Metropolitan Council of Governments for respite care. The District is directed to implement this program based on the direction provided in Senate Report 108–354.

Federal Payment to the Office of the Chief Financial Officer of the District of Columbia

The conference agreement provides $32,500,000 for a Federal payment to the Office of the Chief Financial Officer of the District of Columbia as proposed by the Senate instead of $19,000,000 as proposed by the House. These funds are for programs and activities that include, but are not limited to, support for economic development and infrastructure in the District, and the health, education, and job training needs of District residents and are to be allocated as follows:

Project Name	*Amount*
Capitol Hill Arts Workshop/capital improvements	$150,000
Center for Inspired Teaching/professional development	150,000
Chesapeake Veterans Hospital/capital development	250,000
SEED Foundation/urban boarding school model	150,000
Teacher Advancement Program/expand programs with DCPS and charter schools	200,000
See Forever Foundation/after school programs	250,000
Court Appointed Special Advocates	300,000
Capitol Hill Cluster School	300,000
Girl Scout Council/capital improvements and scholarships	700,000
National Campaign to Prevent Teen Pregnancy/with Uhlich Children's Advantage Network	300,000
Building Bridges Across the River/capital improvements	300,000
Calvary Bilingual Multicultural Learning Center tuition assistance	400,000
Environmental Active Cap Project remediation of the Anacostia River	400,000
Southeastern University/information technology and increasing enrollment	450,000
National Capital Children's Museum/exhibit development	500,000
Old Naval Hospital Foundation/capital development	700,000
Washington Area Women's Foundation/financial independence initiative	1,000,000
National Trust for Historic Preservation Lincoln Cottage/capital development	1,000,000
National Composite Center/bridges along the Anacostia/subject to a match by DDOT	1,000,000
Discovery Creek Children's Museum/educational programs	400,000
DC Poison Control Center/operations	450,000
Children's Health Fund/mobile van	400,000
DC Commission on the Arts/Main Street Arts Initiative	400,000
First Book Program	200,000
National Safe Kids Campaign	300,000
Teach for America, DC	200,000
All Faith Consortium/substance abuse services	200,000
Shakespeare Theater/capital development	900,000
Gospel Rescue Mission/capital development	300,000
Second Chance Employment Services	450,000
Washington Opera/educational outreach	400,000
Teen Connection	900,000
Barracks Row Inc/capital development	500,000
Whitman-Walker Clinic	600,000
Gonzaga College/capital development	400,000
National Center for Manufacturing Sciences	400,000
Center for Mental Health/family health model	400,000
Council for Court Excellence	200,000
Unity Health Care/patient educational project	650,000
World Vision/Kids in Need of Community Storehouse	400,000
Read Net Foundation	400,000
Kingsman Charter School	200,000
ARISE Foundation/life management skills	300,000
SURE Foundation/library and community resources	100,000
Children's Hospital/capital development lab	400,000
Values First Inc	250,000
Best Friends Foundation	250,000
Everybody Wins	150,000
Greater DC Task Force on Trafficking in Persons	120,000
Women's Center/family strengthening program initiative	850,000
Institute for Educational Equity and Opportunity/advocate research initiative	250,000
Educational Advancement Alliance/civic education project	250,000
Caribbean American Mission for Educational Research and Action	350,000
Capital City Careers Federal Industry Academies	200,000

Project Name	*Amount*
Catalyst Inc/teacher feeder program at Jefferson High School	200,000
Foundation for Advancement of African Americans in Film	250,000
Church of Epiphany/support our schools program	150,000
Fort Dupont Hockey Club/kids at risk	80,000
STEED youth education and recreation program	350,000
Jewish Council for Public Affairs/resource initiative for low-moderate income families	500,000
Eastern Market renovation	250,000
National Children's Alliance/capital development	500,000
Capital Area Food Bank/capital development	300,000
Perry School Community Services	150,000
Dance Institute of Washington	150,000
Bach to School	100,000
STRIVE/job readiness program	100,000
Volunteers for Abused and Neglected Children	100,000
American Community Partnership	100,000
Latin American Youth Center	100,000
For Love of Children/Thurgood Marshall Center Youth Technology program	100,000
One Economy/Digital Inclusion Initiative	200,000
City Year's Reading for Success/literacy program	100,000
Children's Hospital/capital development	5,000,000
St. Coletta of Greater Washington/capital development	2,000,000
Chief Financial Officer/project reviews	100,000
TOTAL	32,500,000

The agreement includes $100,000 to the Office of the Chief Financial Officer (OCFO) to review all entities that are receiving funding under this heading. The conferees expect that the OCFO will report to the Committees on Appropriations of the House of Representatives and Senate on the financial status of these organizations and how they have used Federal funds provided under this heading. The conferees expect all entities receiving funds to provide proper access to records as is necessary for the OCFO to carry out these reviews.

Each entity that receives funding under this heading is to submit to the Committees on Appropriations of the House of Representatives and Senate, a report on the activities to be carried out with such funds no later than March 15, 2005. The House bill contained no similar provision.

The conferees are concerned about the deteriorating state of the historic Civil War-era cavalry barn on the campus of St. Elizabeth's and direct the District's Office of Planning to submit a plan to the Committees on Appropriations, within 60 days of the date of enactment of this Act, to protect, repair and make effective re-use of the barn. The conferees understand that the Friends of St. Elizabeth's Cavalry Barn have recommended restoring the cavalry barn for use by the Metropolitan Police Department's Horse Mounted Patrol and directs the Office of Planning, in cooperation with the Metropolitan Police Department, to include an evaluation of the feasibility of this proposal as part of the aforementioned plan.

FEDERAL PAYMENT FOR SCHOOL IMPROVEMENT

The conference agreement includes $40,000,000 for a Federal payment for a school improvement program in the District of Columbia as proposed by the House and Senate. Included in this amount is $13,000,000 for the District of Columbia Public Schools to improve public school education; $13,000,000, to remain available until September 30, 2006, for the State Education Office to expand quality charter schools in the District of Columbia; and $14,000,000 for the Secretary of the Department of Education to provide opportunity scholarships for students in the District of Columbia.

The conferees direct that the $13,000,000 provided to the District of Columbia Public Schools shall be allocated as follows: not less than $2,000,000 shall be used to establish a new incentive fund designed to reward high performing or significantly improved public schools; not less than $2,000,000 shall be used to support the Transformation School Initiative directed to schools in need of improvement; the remaining amounts shall be used by the Superintendent of the District of Columbia Public Schools to contract for management and consulting services and implement reforms, and to provide grants to schools which are not eligible under either the incentive fund or the Transformation School Initiative.

The conferees direct that $13,000,000 provided to the State Education Office to expand public charter schools in the District of Columbia shall be distributed as follows: $2,000,000 for the City Build Initiative to create neighborhood-based charter schools; $2,750,000 for the Credit and Direct Loan Program for charter schools; $150,000 for administrative expenses of the Office of Charter School Financing and Support to expand outreach and support of charter schools; $100,000 for the D.C. Public Charter School Association to enhance the quality of charter schools; $4,000,000 for the development of an incubator facility for public charter schools; $2,000,000 for a charter school college preparatory program to be implemented by the Educational Advancement Alliance in consultation with the D.C. Public Charter School Association; and $2,000,000 for a new incentive fund to reward high performing or significantly improved public charter schools.

The conferees strongly encourage the District of Columbia Chartering Authorities for the District of Columbia Public Charter Schools and the Chief Financial Officer of the District of Columbia to enter into a memorandum of understanding to govern annual financial audits of local and Federal funding to charter schools in the District of Columbia.

The $2,000,000 provided to the Educational Advancement Alliance in consultation with the D.C. Public Charter School Association is for the implementation of a comprehensive college preparatory program to be made available to all 9th through 12th grade students attending public charter schools within the District of Columbia and authorized by either public school chartering authority. It is the intent of the conferees that this program should provide direct early college awareness services to those students and parents preparing and planning for higher education by offering activities that include, but are not limited to, assistance with dual concurrent course enrollment, pre-college advising, financial aid counseling, PSAT, SAT, and ACT test preparation, college application assistance, and career exploration and leadership development.

The conferees recognize Sallie Mae for their commitment to the District of Columbia's charter schools and their utilization of innovative approaches to encourage private investment.

The conference agreement adopts by reference language accompanying these funds as recommended in Senate Report 108-354. The conference agreement also includes six general provisions that are designed to enhance oversight of charter schools.

FEDERAL PAYMENT FOR BIOTERRORISM AND FORENSICS LABORATORY

The conference agreement provides $8,000,000 for a Federal payment to the District of Columbia for the bioterrorism and forensics laboratory as proposed by the Senate. The conferees direct the District to provide at least $2,300,000 of local funds for this purpose. The House bill contained no similar provision.

TITLE II—DISTRICT OF COLUMBIA FUNDS

OPERATING EXPENSES

DIVISION OF EXPENSES

The conference agreement provides that operating expenses for the District of Columbia for fiscal year 2005 shall not exceed $6,199,114,000, of which $4,165,485,000 is from local funds, $1,687,554,000 is from Federal grant funds, $332,761,000 is from other funds, and $13,314,090 is from private funds as proposed by the House instead of $7,206,164,000, of which $4,215,088,000 is from local funds, $1,762,046,000 is from Federal funds, $1,214,843,000 is from other funds, and $14,817,000 is from private funds and an intra-district amount of $435,054,000 as proposed by the Senate. In addition, the agreement includes $114,900,000 from funds previously appropriated in this Act as Federal payments, instead of $98,900,000 as proposed by the House and $186,900,000 as proposed by the Senate.

GOVERNMENTAL DIRECTION AND SUPPORT

The conference agreement provides $416,069,000 for governmental direction and support, including $261,068,000 from local funds, $100,256,000 from Federal grant funds, and $54,745,000 from other funds as proposed by both the House and Senate. In addition, the agreement includes $33,000,000 from funds previously appropriated in this Act as Federal payments, instead of $19,500,000 as proposed by the House and $52,500,000 as proposed by the Senate. These Federal payment funds are allocated as follows:

Washington Metropolitan Council of Governments.—$500,000 for foster care improvements.

Office of the Chief Financial Officer.—$32,500,000 to support economic development and infrastructure in the District, and the health, education, and job training needs of District residents.

The conference agreement once again includes a provision that extends through fiscal year 2005, the authority of the Office of the Chief Financial Officer (OCFO) over personnel, procurement, and the preparation of fiscal impact statements. This authority continues to exempt all aspects of the OCFO's contracting and procurement from the District of Columbia's Procurement Practices Act. It is the intent of the conferees that the OCFO continue to exercise its exemption during the post control board period.

ECONOMIC DEVELOPMENT AND REGULATION

The conference agreement provides $334,745,000 for economic development and support, including $55,764,000 from local funds, $93,050,000 from Federal grant funds, $185,806,000 from other funds, and $125,000 from private funds as proposed by both the House and Senate.

PUBLIC SAFETY AND JUSTICE

The conference agreement provides $797,423,000 for public safety and justice, including $760,849,000 from local funds, $6,599,000 from Federal grant funds, $29,966,000 from other funds, and $9,000 from private funds as proposed by the House instead of $798,723,000, including $760,849,000 from local funds, $7,899,000 from Federal funds, $29,966,000 from other funds, and $9,000 from private funds as proposed by the Senate. In addition, the agreement includes $1,300,000 from funds previously appropriated in this Act as Federal payments as proposed by the House and Senate.

Criminal Justice Coordinating Council.—$1,300,000 to support initiatives related to the coordination of Federal and local criminal justice resources in the District of Columbia.

PUBLIC EDUCATION SYSTEM

(INCLUDING TRANSFER OF FUNDS)

The conference agreement provides $1,223,424,000 for the public education system, including $1,058,709,000 from local funds, $151,978,000 from Federal grant funds, $8,957,000 from other funds, and $3,780,000 from private funds as proposed by the House instead of $1,266,424,000, including $1,058,709,000 from local funds, $194,979,000 from Federal funds, $8,957,000 from other funds, and $3,780,000 from private funds. In addition, the agreement includes $57,600,000 from funds previously appropriated in this Act as Federal payments as proposed by the House, instead of $54,500,000 as proposed by the Senate. These Federal payment funds are allocated as follows:

District of Columbia Public Schools.—$6,000,000 for public school libraries and $13,000,000 for school improvement.

State Education Office.—$13,000,000 for school improvement and $25,600,000 for resident tuition support.

District of Columbia Public Schools.—The allocation includes $888,944,000 for District of Columbia public schools, including $760,494,000 from local funds, $117,450,000 from Federal grant funds, $7,330,000 from other funds, $3,670,000 from private funds as proposed by the House instead of $901,944,000, including $760,494,000 from local funds, $130,450,000 from Federal grant funds, $7,330,000 from other funds, and $3,670,000 from private funds. In addition, the agreement includes $19,000,000 from funds previously appropriated in this Act as Federal payments as proposed by the House instead of $13,000,000 as proposed by the Senate.

Teachers Retirement Fund.—The allocation includes $9,200,000 for the Teachers Retirement Fund as proposed by the House and Senate.

State Education Office.—The allocation includes $43,104,000 for the State Education Office, including $10,015,000 from local funds, $32,913,000 from Federal grant funds, and $176,000 from other funds as proposed by the House instead of $73,104,000, including $10,015,000 from local funds, $62,914,000 from Federal grant funds, and $176,000 from other funds as proposed by the Senate. In addition, the agreement includes $38,600,000 from funds previously appropriated in this Act as Federal payments as proposed by the House instead of $40,500,000 as proposed by the Senate.

District of Columbia Public Charter Schools.—The allocation includes $196,802,000 from local funds for District of Columbia public charter schools as proposed by both the House and Senate.

University of the District of Columbia.—The allocation includes $49,602,000 for the University of the District of Columbia as proposed by both the House and Senate.

District of Columbia Public Libraries.—The allocation includes $30,831,000 for District of Columbia public libraries, including $28,978,000 from local funds, $1,093,000 from Federal grant funds, $651,000 from other funds as proposed by both the House and Senate, and $110,000 from private funds as proposed by the House.

Commission on the Arts and Humanities.—The allocation includes $4,941,000 for the Commission on the Arts and Humanities, including $3,618,000 from local funds, $523,000 from Federal grant funds, and $800,000 from other funds as proposed by both the House and Senate.

HUMAN SUPPORT SERVICES

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $2,533,825,000 for human support services, including $1,165,314,000 from local funds, $1,331,670,000 from Federal grant funds, $27,441,000 from other funds, and $9,400,000 from private funds as proposed by both the House and Senate. In addition, the agreement includes $4,500,000 from funds previously appropriated in this Act as Federal payments as proposed by the House instead of $5,000,000 as proposed by the Senate. These Federal payment funds are allocated as follows:

Department of Mental Health.—$1,250,000 for foster care improvements.

Child and Family Services Agency.—$3,250,000 for foster care improvements.

PUBLIC WORKS

The conference agreement includes $331,936,000 for public works, including $312,035,000 from local funds, $4,000,000 from Federal grant funds, and $15,901,000 from other funds as proposed by both the House and Senate. In addition, the agreement includes $2,500,000 from funds previously appropriated in this Act as Federal payments instead of $5,000,000 as proposed by the Senate. The House bill contained no similar provision. These Federal payment funds are allocated as follows:

Department of Transportation.—$2,500,000 for transportation assistance.

CASH RESERVE

The conference agreement includes $50,000,000 from local funds for the cumulative cash reserve as proposed by both the House and Senate.

REPAYMENT OF LOANS AND INTEREST

The conference agreement provides $347,700,000 from local funds for repayment of loans and interest as proposed by both the House and Senate.

PAYMENT OF INTEREST ON SHORT-TERM BORROWING

The conference agreement provides $4,000,000 from local funds for payment on short-term borrowing as proposed by both the House and Senate.

CERTIFICATES OF PARTICIPATION

The conference agreement provides $11,252,000 from local funds for certificates of participation as proposed by both the House and Senate.

SETTLEMENTS AND JUDGMENTS

The conference agreement provides $20,270,000 from local funds for settlements and judgments as proposed by both the House and Senate.

WILSON BUILDING

The conference agreement provides $3,633,000 from local funds for the Wilson building as proposed by both the House and Senate.

WORKFORCE INVESTMENTS

The conference agreement provides $38,114,000 from local funds for workforce investments as proposed by both the House and Senate.

NON-DEPARTMENTAL AGENCY

The conference agreement includes $13,946,000 for the Non-Departmental Agency, including $4,000,000 from local funds and $9,946,000 from other funds as proposed by both the House and Senate.

EMERGENCY PLANNING AND SECURITY FUND

The conference agreement provides $15,000,000 from funds previously appropriated in this Act under the heading Federal Payment for Emergency Planning and Security costs as proposed by both the House and Senate.

OLD CONVENTION CENTER DEMOLITION RESERVE

The conference agreement provides not to exceed $11,000,000 from the general fund balance for the old convention center demolition reserve as proposed by the Senate. The House had no similar provision.

TAX INCREMENT FINANCING PROGRAM

The conference agreement provides $9,710,000 from local funds for a tax increment-financing program as proposed by both the House and Senate.

EQUIPMENT LEASE OPERATING

The conference agreement provides $23,109,000 for equipment lease operating from local funds as proposed by the House. The Senate had no similar provision.

EMERGENCY AND CONTINGENCY RESERVE FUNDS

The conference agreement provided such amounts from local funds as are necessary to meet the balance requirements for the emergency reserve fund and the contingency reserve fund as proposed by both the House and Senate.

FAMILY LITERACY

The conference agreement provides $1,000,000 for the Family Literacy Program as proposed by the House. The Senate had no similar provision.

PAY-AS-YOU-GO CAPITAL

The conference agreement includes $6,531,000 from local funds for pay-as-you-go capital as proposed by both the House and Senate. In addition, the conference agreement includes language allowing the transfer of funds to other headings in this Act as proposed by the Senate. The House had no similar provision.

PAY-AS-YOU-GO CONTINGENCY

The conference agreement includes $43,137,000 subject to the Criteria for Spending Pay-As-You-Go Funding Act as proposed by both the House and Senate.

REVISED REVENUE ESTIMATE CONTINGENCY PRIORITY

The conference agreement provides that if the Chief Financial Officer certifies, through a revised revenue estimate, that funds are available from local funds, such funds will be expended based on the Contingency for Recordation and Transfer Tax Reduction and the Office of Property Management and Library

Expenditures Act as proposed by both the House and Senate.

ENTERPRISE AND OTHER FUNDS

Water and Sewer Authority

The conference agreement provides $287,206,000 from other funds for the Water and Sewer Authority as proposed by the Senate instead of $275,289,000 as proposed by the House. The agreement also includes $371,040,000 from other funds for construction projects as proposed by both the House and Senate. In addition, the agreement includes $4,800,000 from funds previously appropriated in this Act as a Federal payment for the combined sewer overflow long-term plan, as proposed by the House and the Senate.

Washington Aqueduct

The conference agreement includes $47,972,000 from other funds for the Washington Aqueduct as proposed by both the House and Senate.

Stormwater Permit Compliance Enterprise Fund

The conference agreement includes $3,792,000 from other funds for the Stormwater Permit Compliance Enterprise Funds as proposed by both the House and Senate.

Lottery and Charitable Games Enterprise Fund

The conference agreement includes $247,000,000 from other funds for the Lottery and Charitable Games Enterprise Fund as proposed by both the House and Senate.

Sports and Entertainment Commission

The conference agreement includes $7,322,000 from local funds for the Sports and Entertainment Commission as proposed by both the House and Senate.

District of Columbia Retirement Board

The conference agreement includes $15,277,000 for the District of Columbia Retirement Board from other funds as proposed by both the House and Senate.

Washington Convention Center Enterprise Fund

The conference agreement includes $77,176,000 from other funds for the Washington Convention Center Enterprise Fund as proposed by both the House and Senate.

National Capital Revitalization Corporation

The conference agreement includes $7,850,000 from other funds for the National Capital Revitalization Corporation as proposed by both the House and Senate.

University of the District of Columbia

The conference agreement includes $85,102,000 for the University of the District of Columbia as proposed by the House and Senate.

Unemployment Insurance Trust Fund

The conference agreement includes $180,000,000 for the Unemployment Insurance Trust Fund as proposed by the House and Senate. The title of the account is agreed to as the "Unemployment Insurance Trust Fund" as proposed by the House instead of "Unemployment Compensation Fund" as proposed by the Senate.

Other Post Employee Benefits Trust Fund

The conference agreement includes $953,000 for the Other Post Employee Benefits Trust Fund as proposed by the House and Senate. The title of the account is agreed to as "Other Post Employee Benefits Trust Fund" as proposed by the House instead of "District of Columbia Personnel Trust Fund" as proposed by the Senate.

District of Columbia Public Library Trust Fund

The conference agreement includes $17,000 for the District of Columbia Public Library Trust Fund as proposed by the House and Senate. The title of this account is agreed to as "District of Columbia Public Library Trust Fund" as proposed by the Senate instead of the abbreviation as proposed by the House.

CAPITAL OUTLAY

(INCLUDING RESCISSIONS)

The conference agreement includes $1,087,649,000 for capital outlays, including $839,898,000 from local funds, $38,542,000 from Highway Trust funds, $37,000,000 from the Rights-of-way funds, $172,209,000 from Federal grant funds, and a rescission of $361,763,000 from local funds appropriated under this heading in prior years as proposed by the House instead of $839,897,000 from local funds and $367,763,000 from local funds previously appropriated as proposed by the Senate. All other amounts were in agreement. In addition, the agreement includes from funds previously appropriated in this Act as Federal payments, $3,000,000 for the Anacostia Waterfront Initiative; $6,000,000 for the Unified Communications Center, and $8,000,000 for the Bioterrorism and Forensics Laboratory.

TITLE III—GENERAL PROVISIONS

The conference agreement changes the section numbers and makes technical corrections to several provisions.

The conference agreement excludes a provision as proposed by the Senate (Sec. 305) that requires the reporting of employee payroll information to various congressional committees and the D.C. Council. The House bill contained no similar provision.

The conference agreement includes the language in Sec. 105(a) as proposed by the House, and changes the section number to Sec. 305, to prohibit the use of any funds in the Act for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature. The Senate bill (Sec. 306) proposed the use of local funds for this purpose.

Also in Sec. 305, the conference agreement includes the language in Sec. 105(b) as proposed by the House to allow the use of local funds to carry out lobbying activities on any matter except the promotion or support of any boycott, statehood for the District or voting representation in Congress. The Senate bill (Sec. 307) proposed the use of local funds for these purposes.

The conference agreement includes the language in Sec. 115 as proposed by the House, and changes the section number to Sec. 315, relating to restrictions on the use of official vehicles. The Senate bill included a similar provision (Sec. 317).

The conference agreement includes the language in Sec. 117 as proposed by the House, and changes the section number to Sec. 317, that prohibits the use of appropriated funds by the Corporation Counsel or any other office or entity of the District government to provide assistance for any petition drive or civil action which seeks to require Congress to provide for voting representation in Congress for the District of Columbia. The Senate bill (Sec. 319) allowed the use of local funds for this purpose.

The conference agreement includes the language in Sec. 118 as proposed by the House, and changes the section number to Sec. 318, to prohibit the use of any funds contained in this Act for needle exchange programs. The Senate bill (Sec. 320) allowed the use of local funds for such programs.

The conference agreement includes the language in Sec. 125 as proposed by the House, and changes the section number to Sec. 325, to prohibit the transfer of Federal funds in this Act without appropriate authority. The Senate bill contained no similar provision.

The conference agreement includes the language in Sec. 331 as proposed by the Senate, and changes the section number to Sec. 329, to repeal certain sections of the District of Columbia Official Code to eliminate certain bonding requirements for court officers. The House bill (Sec. 136) proposed similar language.

The conference agreement includes the language in Sec. 332 as proposed by the Senate, and changes the section number to Sec. 330, to amend the District of Columbia Official Code to allow the D.C. Courts to take advantage of the Federal program of discounted airfares. The House bill (Sec. 137) proposed similar language.

The conference agreement includes the language in Sec. 129 as proposed by the House, and changes the section number to Sec. 331, that provides for appropriations in this Act to be increased by no more than $15,000,000 from unexpended general funds and sets forth certain criteria for the use of the funds. The Senate bill contained no similar provision.

The conference agreement includes the language in Sec. 333 as proposed by the Senate, and changes the section number to Sec. 332, to amend section 450A of the District of Columbia Home Rule Act relating to emergency and contingency reserve funds. The House bill (Sec. 130) proposed similar language.

The conference agreement includes the language in Sec. 334 as proposed by the Senate related to re-calculating the District's emergency and contingency cash reserve funds, and changes the section number to Sec. 333. The House bill (Sec. 131) proposed similar language.

The conference agreement includes the language in Sec. 132 as proposed by the House, and changes the section number to Sec. 334, to amend language that authorizes expenses associated with the processing of retirement and disability payments. The Senate bill (Sec. 335) proposed similar language.

The conference agreement includes the language in Sec. 133 as proposed by the House, and changes the section number to Sec. 335, to clarify that all funds placed within the charter school fund are appropriated funds for the purpose. The Senate bill contained no similar provision.

The conference agreement includes the language in Sec. 134 as proposed by the House, and changes the section number to Sec. 336, to extend authority of the Chief Financial Officer. The Senate bill (Sec. 337) proposed similar language.

The conference agreement includes the language in Sec. 135 as proposed by the House, and changes the section number to Sec. 337, to eliminate certain Federal agency reporting requirements relating to payments to the District of Columbia Water and Sewer Authority. The Senate bill (Sec. 330) proposed similar language.

The conference agreement includes the language in Sec. 336 as proposed by the Senate, and changes the section number to Sec. 338, relating to funding for the operation of the Office of the Inspector General. The House bill (Sec. 138) proposed similar language.

The conference agreement includes the language in Sec. 338 as proposed by the Senate, and changes the section number to Sec. 339, that amends language relating to the Federal payment for incentives for the adoption of children. The House bill contained no similar provision.

The conference agreement includes the language in Sec. 339 as proposed by the Senate, and changes the section number to Sec. 340, to allow the Office of Charter School Financing and Support to use Federal credit enhancement or direct loan funds to provide guarantees for charter schools. The House bill contained no similar provision.

The conference agreement includes the language in Sec. 340 and Sec. 341 as proposed by the Senate, and changes the section numbers to Sec. 341 and Sec. 342, to amend the District of Columbia School Reform Act of 1995 to further support and expand charter schools in the District. The language modifies the process for filing charter school petitions and encourages public schools to convert to charter schools. In addition, the language requires that a public school which converts to a public charter school may retain the facility which it occupied as a public school. The House bill contained no similar provisions.

The conference agreement includes the language in Sec. 342 as proposed by the Senate, and changes the section number to Sec. 343, to clarify the auditing procedures of the District of Columbia Public Charter School Board and increase oversight and accountability. The House bill contained no similar provision.

The conference agreement modifies the language in Sec. 323 as proposed by the Senate, and changes the section number to Sec. 344 to provide authority for the transfer of certain property in the District of Columbia. The House bill contained no such provision.

The conference agreement includes language in Sec. 345 that changes the amount of Federal funds that may be expended for the Chicago Sanitary and Ship Canal Dispersal Barrier.

The conference agreement includes the language in Sec. 344 as proposed by the Senate, and changes the section number to Sec. 346 to establish a biennial evaluation of the District of Columbia chartering authorities for the District of Columbia public charter schools. The House bill contained no such provision.

The conference agreement includes the language in Sec. 345 as proposed by the Senate, and changes the section number to Sec. 347, to clarify the operations of the Public Charter School Board relating to auditing and contracting and procurement. The House bill contained no such provision.

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2005 recommended by the Committee of Conference, with comparisons to the fiscal year 2004 amount, the 2005 budget estimates, and the House and Senate bills for 2005 follow:

[In thousands of dollars]

New budget (obligational) authority, fiscal year 2004	$541,783
Budget estimates of new (obligational) authority, fiscal year 2005	560,359
House bill, fiscal year 2005	560,000
Senate bill, fiscal year 2005	560,000
Conference agreement, fiscal year 2005	560,000
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2004	+18,217
Budget estimates of new (obligational) authority, fiscal year 2005	−359
House bill, fiscal year 2005	+0
Senate bill, fiscal year 2005	+0

Rodney Frelinghuysen,
Ernest J. Istook, Jr.,
Randy "Duke" Cunningham,
John T. Doolittle,
Dave Weldon,
John Abney Culberson,
Bill Young,
Chaka Fattah,
Ed Pastor,
Robert E. "Bud" Cramer, Jr.,
David R. Obey,
Managers on the Part of the House.

Mike DeWine,
Sam Brownback,
Kay Bailey Hutchison,
Ted Stevens,
Mary Landrieu,
Daniel K. Inouye,
Managers on the Part of the Senate.

ORDER OF BUSINESS

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

PANDORA'S BOX

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, the Republican ploy is not going to work. Finally, it is out in the open. H.R. 163, which the administration denied for 18 months, that is the national service bill, is not going to go away because the Republicans will it. They opened Pandora's box with this needless door, and they cannot close it, no matter how hard they try.

Finally, the American people are going to get the truth. H.R. 163 is out in the open. The administration denied the existence of the possibility of a draft since the day we proposed it. They refused to face the issue of who would fight and die in the President's war. They ordered the Republican majority to bury 163 alive; refer it to the Department of Defense where it would be placed in solitary confinement forever; lose it in the system, just like they lose human beings in the system in Iraq. But they did not count on the kids, our sons and daughters or nieces and nephews our godchildren and grandchildren. The Republicans did not count on the kids. It started on the Internet blogs. Go look for yourself. We raise smart kids, America. They were the first to see through the administration's rhetoric.

The administration claims we have enough soldiers in Iraq, but they stop-loss soldiers who have survived a year on duty in Iraq, and this administration orders them to stay and fight some more. They claim we have enough soldiers in Iraq, but we call up the ready reserves and order them out to Iraq. They claim they have enough soldiers in Iraq, but they got rid of the general, they retired him, who said it would take 300,000 troops in Iraq.

They get the names and addresses of our high school kids through the PATRIOT Act and send the recruiters on a mission. Yes, America, the PATRIOT Act helps them locate your children. One parent in Seattle called it "outrageous" and "disgraceful." How right he was. The PATRIOT Act. You know, the bill the administration claims it needs to catch the terrorists; but it nets the government the names, addresses, and telephone numbers of your sons and daughters, every single one of them. They not only know where you live, they are coming to have a talk with your kid.

They say they do not need a draft. They sure do not act that way. And that is before the election, the only thing they fear. Even their own guy, the former Iraqi administrator, told an audience yesterday the U.S. went into Iraq without enough troops. The looting, the violence, there was no way to stop it. Paul Bremer said this in a direct quote: "We never had enough troops on the ground." Later, aides said his comments were meant to be off the record. Apparently, that is where the administration keeps the truth these days, off the record.

Likewise, Rumsfeld told the Council on Foreign Relations in New York yesterday that he knows of "no strong, hard evidence linking Saddam to al Qaeda." When that one got into the news media, the Secretary said he was misunderstood. I just bet he was.

I know one person who was not misunderstood, the Vice President, who spoke on the record in a disclosed location, Seattle, Washington. This is worth repeating, given the Vice Presidential debates tonight. The Seattle Post Intelligencer and its columnist Joel Connelly found a transcript of a 1992 Seattle appearance by then Defense Secretary Dick Cheney. He was explaining why the U.S. had left Saddam in Iraq after the first Gulf War, and this is a direct quote: "And the question in my mind is how many additional American casualties is Saddam worth? And the answer is not that damned many. So I think we got it right, both when we decided to expel him from Kuwait, but also when the President made the decision we had achieved our objectives and we were not going to get bogged down in the problems of trying to take over and govern Iraq." Not going to get bogged down.

Does anyone think the Vice President will talk straight about this later tonight? Not a chance. And they wonder why the kids get it. Every time this administration says there will be no draft, the kids get online and the phones to my office and the office of the gentleman from New York (Mr. RANGEL) ring off the hook. The kids know the difference between the truth and Republican rhetoric.

H.R. 163 is out of solitary confinement, and it is in the open. What 18-year-old can believe an administration who said there were weapons of mass destruction, knowing their own people doubted it? What 18-year-old can believe they do not intend to get them to Iraq, whether they call it a draft or a precondition for a college loan? What 18-year-old can believe they will tell it straight when they pronounce "mission accomplished" over 900 casualties ago?

The kids know, Mr. Speaker. They know just like other generations. The kids are forcing their parents to look at reality and see the truth. The kids may have funny colored hair or a ring in their ear or nose, but they have a good head on their shoulders. Punk rock music may not be the in thing to listen to, but these kids are making voting the in thing to do, and the Republicans are terrified.

ORDER OF BUSINESS

Mr. STRICKLAND. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LINK BETWEEN SADDAM HUSSEIN AND ATTACK ON UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio (Mr. STRICKLAND) is recognized for 5 minutes.

Mr. STRICKLAND. Mr. Speaker, tonight there is going to be a debate in Cleveland, Ohio, my home State. I believe probably millions and millions of Americans will be watching. One of the things I hope they listen for is a question that I feel certain the Vice President will receive.

The Vice President, in spite of all evidence to the contrary, continues to say that there was a link between Iraq and Saddam Hussein and the attack upon our country.

□ 2100

That is a very fundamental thing for the American people to consider, because I believe most Americans, if they believe that Saddam Hussein was responsible for attacking our country on September 11, 2001, they would feel that what we have done by going into Iraq was totally justified.

But all of the evidence from really authoritative sources, and I am talking about the 9/11 Commission and most recently I am talking about the FBI, has indicated that there was no connection between Saddam Hussein, Iraq and the attack upon America. Just yesterday, the FBI indicated that as far as they can tell, there was no collaboration between Saddam Hussein and the al Qaeda terrorism network.

And so we find ourselves tonight bogged down in a war that has consumed over 1,000 American lives, has resulted in the injury of nearly 7,000 American soldiers, and we are finding ourselves unable to establish any connection between Iraq and the attack upon our country. And so while we are losing soldiers, while we are spending billions of dollars, while we are seeing the terrible injuries to our soldiers in Iraq, Osama bin Laden, the individual who was in fact responsible for attacking our country, the al Qaeda terrorism network, is now spreading throughout the world.

What we have done in Iraq is not unlike what some of my friends used to do as young kids, going into the woods and finding a hornets' nest and throwing rocks or walnuts at it and stirring up the hornets and then having to suffer with the consequences of that. There is a way you can capture the hornets' nest as a trophy to hang in your barn or in your garage, but you need to use your head, you need to be prepared, you need to take equipment, you need to have a screen to put over yourself, you need to go to that hornets' nest when there is not a lot of hornet activity around it. You need to plug the hole where the hornets go in and out of that nest before you attempt to take it from the tree.

But, no, that is not the way we attacked or planned the attack on Iraq. It was like a kid taking a stick and starting to beat a hornets' nest. The hornets are now out there.

Iraq has become a hotbed for terrorism. The President says Iraq is the central part of our war on terrorism. It may be now, but it was not before this war started. There is no evidence that the terror network was operating in Iraq. But now we have created a situation where terrorists from all over the world are gathering in that country, and they are fighting and they are killing our people.

Our resources are being consumed. And the President has no plan to free us from this morass and the Vice President continues to say to the American people that there was a connection, in spite of the 9/11 Commission report, in spite of what the FBI says.

I believe the American people want us to fight the terrorists. I want us to fight the terrorists. That is why nearly all of us, save one, voted to support the war in Afghanistan. And as Senator KERRY reminded the President in the debate a few nights ago, it was Osama bin Laden who attacked us. It was the al Qaeda terror network that attacked us. It was not Saddam Hussein and Iraq. The American people need to be aware of that as they decide who they want to be the person that makes the decisions regarding our foreign policy in the years ahead of us.

AMERICA'S HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. EDDIE BERNICE JOHNSON) is recognized for 5 minutes.

Ms. EDDIE BERNICE JOHNSON of Texas. Mr. Speaker, I rise today to address the issue of America's health care. Are we better off than we were 4 years ago? A quick look at the facts tells us that we are far from it.

Just this summer, the Census Bureau announced that the number of people without health insurance nationwide went up by 1.4 million—the third annual increase in a row. Forty-five million people are uninsured, many because they have lost their jobs. Over 5 million people have lost their health insurance since the beginning of the Bush administration.

The Current Population Survey (CPS) is the primary source for data on Texas' uninsured population. It paints a picture for the state of health care in Texas. My homes State currently has the second highest rate of uninsured in the United States behind New Mexico. CPS data shows that there were 4.5 million people without health insurance in Texas, which is about 21.4 percent of the total population.

The President said we're turning the corner, but we have to look at the facts. Efforts to improve our economy are not reaching people of color.

African Americans are losing their jobs at nearly twice the national average. Latino unemployment hovers near a 5-year high. These numbers are an outrage and are unacceptable.

The higher unemployment rate for people of color is a major contributing factor to the health disparity affecting a large percentage of uninsured minorities. Blacks and Latinos are far more likely to be uninsured when compared to their Anglo counterparts.

Nationally, 11.6 percent of the Anglo population, 20.1 percent of the African-American population and 34.8 percent of the Hispanic population are without health insurance. In my homa State of Texas, while 12 percent of whites are uninsured, 21.2 percent of African Americans and 36.7 percent of Hispanics do not have medical coverage.

Unfortunately, the rates for children without health coverage are also reaching alarming numbers.

In the United States today, one in five children is without health insurance. In fact, in my home State of Texas 1.6 million children depend solely on health insurance provided by Medicaid. Limited access to health care contributes to growing rates of disease among children.

Studies have shown that good health is a prerequisite for optimal learning and schools can help studies achieve academic success by participating in efforts that promote good health, including access to regular medical and mental health care.

Protecinting the health care of children should be the number one priority of any great nation. An investment in the health care of our youth is one of the wisest investments we can make for the future of this country.

No, Mr. Speaker, when it comes to health care, we are not better off than we were 4 years ago, and we can and should do better.

Now is the time for all Americans to have access to quality health care and meaningful patient protection. Our citizens deserve and expect nothing less.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 5 minutes p.m.), the House stood in recess subject to the call of the Chair.

☐ 0749

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. DREIER) at 7 o'clock and 49 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5212, EMERGENCY SUPPLEMENTAL APPROPRIATIONS, FISCAL YEAR 2005, FOR ADDITIONAL DISASTER ASSISTANCE RELATING TO STORM DAMAGE

Mr. PUTNAM, from the Committee on Rules, submitted a privileged report (Rept. No. 108–735) on the resolution (H. Res. 819) providing for consideration of the bill (H.R. 5212) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to storm damage, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. PUTNAM, from the Committee on Rules, submitted a privileged report (Rept. No. 108–736) on the resolution (H. Res. 822) waiving points of order against the conference report to accompany the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 5107, JUSTICE FOR ALL ACT OF 2004

Mr. PUTNAM, from the Committee on Rules, submitted a privileged report (Rept. No. 108–737) on the resolution (H. Res. 823) providing for consideration of the bill (H.R. 5107) to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. ABERCROMBIE (at the request of Ms. PELOSI) for today before 2 p.m. on account of personal reasons.

Mr. HASTINGS of Florida (at the request of Ms. PELOSI) for October 4 and today before 5 p.m. on account of official business.

Mr. KLECZKA (at the request of Ms. PELOSI) for today after 6:30 p.m. and October 6 on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. POMEROY) to revise and extend their remarks and include extraneous material:)

Mrs. MCCARTHY of New York, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. STUPAK, for 5 minutes, today.

Mr. BROWN of Ohio, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. PALLONE, for 5 minutes, today.

Mrs. CAPPS, for 5 minutes, today.

Mr. ROSS, for 5 minutes, today.

Mrs. CHRISTENSEN, for 5 minutes, today.

Ms. BALDWIN, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

Mr. HINCHEY, for 5 minutes, today.

Ms. NORTON, for 5 minutes, today.

Ms. EDDIE BERNICE JOHNSON of Texas, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mr. SHERMAN, for 5 minutes, today.

Mr. LANGEVIN, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

Mr. TURNER of Texas, for 5 minutes, today.

Mr. STRICKLAND, for 5 minutes, today.

Mr. RYAN of Ohio, for 5 minutes, today.

Mr. INSLEE, for 5 minutes, today.

(The following Members (at the request of Mr. GOODLATTE) to revise and extend their remarks and include extraneous material:)

Mr. SMITH of Michigan, for 5 minutes, today and October 6.

Mr. PEARCE, for 5 minutes, today.

Mr. OSBORNE, for 5 minutes, today.

ADJOURNMENT

Mr. PUTNAM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 50 minutes a.m.), the House adjourned until today, Wednesday, October 6, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

10011. A letter from the Deputy Secretary, Department of Defense, transmitting Certification that the total cost for the planning, design, construction, and installation of equipment for the renovation of Wedges 2 through 5 of the Pentagon, cumulatively, will not exceed four times the total cost for the planning, design, construction and installation of equipment for the renovation of Wedge 1, pursuant to 10 U.S.C. 2674 Public Law 108–87, section8055(a); to the Committee on Armed Services.

10012. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Admiral Frank L. Bowman, United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

10013. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Vice Admiral James C. Dawson, Jr., United States Navy, and his advancement to the grade of vice admiral on the retired list; to the Committee on Armed Services.

10014. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of General Hal M. Hornburg, United States Air Force, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

10015. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Admiral Thomas B.

Fargo, United States Navy, and his advancement to the grade of admiral on the retired list; to the Committee on Armed Services.

10016. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting the DoD Mentor-Protege Program Annual Report for 2004, pursuant to Public Law 101-510, section 831; to the Committee on Armed Services.

10017. A letter from the Deputy Chief of Naval Operations (Manpower and Personnel), Department of Defense, transmitting notification of a decision to convert to contractor performance by private sector Public Works Center Mainenance and Hazardous Materials of the Washington, DC metro area (initiative number NC20010699); to the Committee on Armed Services.

10018. A letter from the Acting Under Secretary for Acquisition, Technology, and Logistics, Department of Defense, transmitting the first annual report to Congress on the Defense Acquisition Challenge Program for FY 2003, pursuant to 10 U.S.C. 2359(b)(1); to the Committee on Armed Services.

10019. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to the State of Qatar pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

10020. A letter from the Chairman, National Credit Union Administration, transmitting the Administration's Combined Annual Performance Report 2003/Initial Annual Performance Plan 2005 and Annual Performance Plan 2004, prepared in accordance with the Government Performance and Results Act and OMB Circular No. A-11; to the Committee on Government Reform.

10021. A letter from the Chairman, Securities and Exchange Commission, transmitting the annual report of the Securities Investor Protection Corporation for the year 2003, pursuant to 15 U.S.C. 78ggg(c)(2); to the Committee on Financial Services.

10022. A letter from the Secretary, Department of Education, transmitting a follow-up report on the recommendations of Presidential Advisory Committee, pursuant to section 6(b) of the Federal Advisory Committee Act, as amended; to the Committee on Education and the Workforce.

10023. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Protection of Stratospheric Ozone: Listing of Substances in the Foam Sector [OAR-2003-0228, FRL-7821-6] (RIN: 2060-AG12) received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10024. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Minnesota; Sulfur Dioxide; United Defense [R05-OAR-2004-MN-0001; FRL-7794-5] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10025. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Connecticut; Carbon Monoxide Maintenance Plan Update; Limited Maintenance Plans. [R01-OAR-2004-CT-0003; A-1-FRL-7801-2] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce

10026. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Utah; Revisions to New Source Review Rules [RME Docket Number R08-OAR-UT-0002; FRL-7791-7] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10027. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Colorado; Colorado Springs Revised Carbon Monoxide Maintenance Plan and Approval of Related Revisions [RME Docket Number R08-OAR-2004-CO-0002; FRL-7809-2] received September 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10028. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implemenation Plans; Virginia; Update to Materials Incorporated by Reference [VA160-5083; FRL-7808-8] received September 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10029. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval ad Promulgation of Implementation Plans for California-San Joaquin Valley PM-10 [CA-121-CORR; FRL-7807-2] received September 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10030. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans: New Source Review; State of Nevada, Clark County Department of Air Quality and Environmental Management [NV054-081; FRL-7808-7] received September 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10031. A letter from the Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Standards for Hazardous Air Pollutants for Secondary Aluminum Production [OAR-2002-0084; FRL-7808-2] received September 1, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

10032. A letter from the Chairman, Federal Communications Commission, transmitting a report on Auction Expenditures for FY 2003, pursuant to the Balanced Budget Act of 1997, as codified in Section 309(j)(8)(B) of the Communications Act of 1934, as amended; to the Committee on Energy and Commerce.

10033. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting notification concerning the Department of the Army's Proposed Letter(s) of Offer and Acceptance (LOA) to Canada for defense articles and services (Transmittal No. 04-39), pursuant to 22 U.S.C. 2776(b); to the Committee on International Relations.

10034. A letter from the Director, International Cooperation, Department of Defense, transmitting Pursuant to Section 27(f) of the Arms Export Control Act and Section 1(f) of Executive Order 11958, Transmittal No. 10-04 informing of an intent to sign a Memorandum of Understanding Concerning Cooperation in Post-Production Support of Harrier Aircraft with Italy, Spain, and the United Kingdom and a Project Agreement with Italy Concerning Post-Production In-Service Support of the T/AV-8B Aircraft, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

10035. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting certification of a proposed lease of defense articles or defense services to the Czech Republic (Transmittal No. DDTC 078-04), pursuant to 22 U.S.C. 2776(d); to the Committee on International Relations.

10036. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to Sections 101 and 102(b) of the Arms Export Control Act, the President has determined and certified that it is in the national interest to waive restrictions and allow the Export-Import Bank to support United States exports to Libya (PD 2004-44), with an accompanying justification by the Secretary, in accordance with Section 2(b)(4) of the Export-Import Bank Act of 1945, as amended; to the Committee on International Relations.

10037. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a report pursuant to the heading "Loan Guarantees to Isreal" in Chapter 5 of Title I of the Emergency Wartime Supplemental Appropriations Act, 2003 (Pub. L. 108-11); to the Committee on International Relations.

10038. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Memorandum of Justification for the waiver of loan default sanctions under Section 620(q) of the Foreign Assistance Act to support the Government of Ethiopia; to the Committee on International Relations.

10039. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Presidential Determintion (No. 2004-52) and an explanation of relevant factors that support rescinding the designation of Iraq as a state sponsor of terrorism with respect to Section 6(j)(4)(A) of the Export Administration Act of 1979, Pub. L. 96-72, as amended, and as continued in effect by Executive Order 13222 of August 17, 2001; section 620A(c)(1) of the Foreign Assistance Act of 1962, Pub. L. 87-195, as amended; and Section 40(f)(1)(A) of the Arms Export Control Act, Pub. L. 90-629, as amended; to the Committee on International Relations.

10040. A letter from the Assistant Secretary for Policy, Management, and Budget, Department of the Interior, transmitting the Department's Annual Report on grants streamlining and standardization, covering the period from May 2003 to May 2004, pursuant to Public Law 106-107, section 5 (113 Stat. 1488); to the Committee on Government Reform.

10041. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

10042. A letter from the Deputy General Counsel for Equal Opportunity and Administrative Law, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

10043. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled "Annual Report to Congress on Implementation of Public Law 106-107"; to the Committee on Government Reform.

10044. A letter from the Associate Special Counsel for Legal Counsel and Policy, Office of Speical Counsel, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

10045. A letter from the Director, Officer of Personnel Management, transmitting the Chief Human Capital Officers (CHCO) Council's Report to Congress covering FY 2003, pursuant to 5 U.S.C. 1401 note Public Law 107–296 section 1303(d); to the Committee on Government Reform.

10046. A letter from the Chairman, Commission on Ocean Policy, transmitting the final report on the recommendations for a national ocean policy entitled, "An Ocean Blueprint for the 21st Century," pursuant to Public Law 106—553, section Title V (114 Stat. 2762A–98); to the Committee on Resources.

10047. A letter from the Assistant Secretary for Policy, Management, & Budget, Department of the Interior, transmitting the Department's report on the administration of the Marine Mammal Protection Act of 1972, covering calendar years 1999 and 2000, pursuant to 16 U.S.C. 1373(f); to the Committee on Resources.

10048. A letter from the Assistant Attorney General, Department of Justice, transmitting a copy of a report required by the "21st Century Department of Justice Appropriations Authorization Act," related to certain settlements and injunctive relief, pursuant to 28 U.S.C. 530D Public Law 107–273, section 202; to the Committee on the Judiciary.

10049. A letter from the Deputy Executive Director, Reserve Officers Association, transmitting the Association's report of audit for the year ending March 31, 2004, pursuant to Public Law 90-595, section 16; to the Committee on the Judiciary.

10050. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Patapsco River, Baltimore, MD [CGD05-04-157] (RIN: 1625-AA08) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10051. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Susquehanna River, Port Deposit, MD [CGD05-04-143] (RIN: 1625-AA08) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10052. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations; 2004 MTV Video Music Awards, American Airlines Arena, Port of Miami, Miami, FL [CGD07-04-103] (RIN: 1625-AA08) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10053. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Wiscasset, Maine, Demolition of Maine Yankee former containment building [CGD01-04-099] (RIN: 2115-AA00) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10054. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Metro North Railroad Bridge over the Norwalk River, Norwalk, Connecticut [CGD01-04-111] (RIN: 1625-AA00) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10055. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Delaware River, [CGD05-04-170] (RIN: 1625-AA00) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10056. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Anchorage Grounds and Safety Zone; Delaware Bay and River [CGD05-04-172] (RIN: 1625-AA00) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10057. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security and Safety Zone: Protection of Large Passenger Vessels, Portland, OR [CGD13-04-031] (RIN: 1625-AA00) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10058. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Bayou Lafourche, Clotilda, LA [CGD08-04-024] (RIN: 1625-AA09) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10059. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation; Massalina Bayou, Panama City, FL [CGD08-04-031] (RIN: 1625-AA09) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10060. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations: Connecticut River, CT. [CGD01-04-105] received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10061. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations: Fore River, Me. [CGD01-04-114] received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10062. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Lexington, NE. [Docket No. FAA-2004-18011; Airspace Docket No. 04-ACE-40] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10063. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; General Electric Company (GE); CT7-2D1 Turboshaft Engines [Docket No. FAA-2004-18758; Directorate Identifier 2004-NE-24-AD; Amendment 39-13763; AD 2004-16-07] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10064. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Series Airplanes [DOcket No. 2003-NM-107-AD; Amendment 39-13765; AD 2004-16-09] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10065. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 757 and 767 Airplanes [Docket No. 2003-NM-83-AD; Amendment 39-13767; AD 2004-16-11] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10066. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 767-200 and -300 Series Airplanes Equipped with Off-wing Escape Slides [Docket No. 2002-NM-151-AD; Amendment 39-13766; AD 2004-16-10] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10067. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Bombardier Model DHC-8-400, -401, and -402 Airplanes [Docket No. 2002-NM-132-AD; Amendment 39-13769; AD 2004-16-13] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10068. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Thales Avionics Traffic Advisory/Resolution Advisory (TA/RA) Vertical Speed Indicator-Traffic Alert and Collision Avoidance System (VSI-TCAS) Indicators, Installed on But Not Limited to Certain Transport Category Airplanes Equipped with TCAS II Change 7 Computers (ACAS II) [Docket No. 2002-NM-284-AD; Amendment 39-13770; AD 2004-16-14] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10069. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; BAE Systems (Operations) Limited Model Avro 146-RJ Series Airplanes [Docket No. 2003-NM-92-AD; Amendment 39-13762; AD 2004-16-06] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10070. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Boeing Model 747 Series Airplanes [Docket No. 2000-NM-419-AD; Amendment 39-13761; AD 2004-16-05] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10071. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Gulfstream Aerospace LP Model Galaxy and Model Gulfstream 200 Airplanes [Docket No. 2002-NM-

325-AD; Amendment 39-13759; AD 2004-16-03] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10072. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Short Brothers Model SD3 Series Airplanes [Docket No. 2002-NM-209-AD; Amendment 39-13758; AD 2004-16-02] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10073. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; MD Helicopters Inc. Model MD900 Helicopters [Docket No. 2004-SW-10AD; Amendment 39-13764; AD 2004-16-08] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10074. A letter from the Porgram Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Agusta S.p.A. Model A109K2 Helicopters [Docket No. 2004-SW-14-AD; Amendment 39-13755; AD 2004-15-21] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10075. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Establishment of Class E Airspace; Shungnak, AK [Docket No. FAA-2004-17661; Airspace Docket No. 04-AAL-08] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10076. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Revision of Class E Airspace; King Salmon, AK [Docket No. FAA-2004-17660; Airspace Docket No. 03-AAL-09] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10077. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class D Airspace Area; Mount Clemens, MI [Docket No. FAA-2003-16705; Airspace Docket No. 03-AGL-20] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10078. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Columbus, NE. [Docket No. FAA-2004-18013; Airspace Docket No. 04-ACE-42] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10079. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Urbana, OH [Docket No. FAA-2004-16963; Airspace Docket No. 04-AGL-01] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10080. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Georgetown, OH [Docket No. FAA-2004-17093; Airspace Docket No. 04-AGL-02] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10081. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Janesville, WI [Docket No. FAA-2004-17092; Airspace Docket No. 04-AGL-07] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10082. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class D Airspace; Camp Douglas, WI [Docket No. FAA-2004-17136; Airspace Docket No. 04-AGL-08] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10083. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class D Airspace; Rochester, MN; Modification of Class E Airspace; Rochester, MN. [Docket No. FAA-2004-17163; Airspace Docket No. 04-AGL-10] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10084. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; South Haven, MI [Docket No. FAA-2004-17096; Airspace Docket No. 04-AGL-05] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10085. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Kalamazoo, MI [Docket No. FAA-2004-17095; Airspace Docket No. 04-AGL-04] received September 24, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10086. A letter from the Chairman, Interagency Coordinating Committee on Oil Pollution Research, Department of Homeland Security, transmitting the Department's report on the Interagency Coordinating Committee on Oil Pollution Research for FY 2003 and 2004, pursuant to 33 U.S.C. 2761(e); to the Committee on Science.

10087. A letter from the Assistant Secretary of Defense for Health Affairs and the Acting Under Secretary for Health, Departments of Defense and Veterans Affairs, transmitting as required by Section 8147 of the Department of Defense Appropriations Act for FY 2002, the Findings and Recommendations from the Department of Defense (DoD) Department of Veterans Affairs (VA) Joint Assessment Study; jointly to the Committees on Armed Services and Veterans' Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. TOM DAVIS of Virginia: Committee on Government Reform. H.R. 10. A bill to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes; with an amendment (Rept. 108-724 Pt. 4). Ordered to be printed.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 10. A bill to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes, with an amendment (Rept. 108-724 Pt. 5). Ordered to be printed.

Mr. OXLEY: Committee on Financial Services. H.R. 5011. A bill to prevent the sale of abusive insurance and investment products to military personnel; with an amendment (Rept. 108-725). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON: Committee on Energy and Commerce. H.R. 3858. A bill to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation (Rept. 108-726). Referred to the Committee of the Whole House on the State of the Union.

Mr. BARTON: Committee on Energy and Commerce. H.R. 918. A bill to authorize the Health Resources and Services Administration, the National Cancer Institute, and the Indian Health Service to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services, with amendments (Rept. 108-727 Pt. 1). Ordered to be printed.

Mr. BARTON: Committee on Energy and Commerce. H.R. 3015. A bill to amend the Public Health Service Act to establish an electronic system for practitioner monitoring of the dispensing of any schedule II, III, or IV controlled substance, and for other purposes; with amendments (Rept. 108-728). Referred to the Committee of the Whole House on the State of the Union.

Mr. TOM DAVIS of Virginia: Committee on Government Reform. H.R. 4302. A bill to amend title 21, District of Columbia Official Code, to enact the provisions of the Mental Health Civil Commitment Act of 2002 which affect the Commission on Mental Health and require action by Congress in order to take effect (Rept. 108-729). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4453. A bill to improve access to physicians in medically underserved areas; with an amendment (Rept. 108-730). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 4306. A bill to amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment; with an amendment (Rept. 108-731). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. S. 1194. An act to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems; with an amendment (Rept. 108-732). Referred to the Committee of the Whole House on the State of the Union.

Mr. TOM DAVIS of Virginia: Committee on Government Reform. S. 129. An act to provide for reform relating to Federal employment, and for other purposes; with an amendment (Rept. 108–733). Referred to the Committee of the Whole House on the State of the Union.

Mr. FRELINGHUYSEN: Committee of Conference. Conference report on H.R. 4850. A bill making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–734). Ordered to be printed.

October 6, (Legislative Day October 5), 2004

Mr. PUTNAM: Committee on Rules. House Resolution 819. Resolution providing for consideration of the bill (H.R. 5212) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to storm damage, and for other purposes (Rept. 108–735). Referred to the House Calendar.

Mr. LINDER: Committee on Rules. House Resolution 822. Resolution waiving points of order against the conference report to accompany the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes (Rept. 108–736). Referred to the House Calendar.

Mrs. MYRICK: Committee on Rules. House Resolution 823. Resolution providing for consideration of the bill (H.R. 5107) to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes (Rept. 108–737). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committees on Education and the Workforce, Energy and Commerce, International Relations, Rules, Science, Transportation and Infrastructure, Ways and Means and the Select Committee on Homeland Security discharged from further consideration. H.R. 10 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committee on Resources discharged from further consideration. H.R. 918 referred to the Committee of the Whole House on the State of the Union.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 918. Referral to the Committee on Resources extended for a period ending not later than October 5, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. FILNER:

H.R. 5210. A bill to provide a monthly allotment of free telephone calling time to members of the United States Armed Forces deployed outside of the United States who are directly supporting Operation Iraqi Freedom or Operation Enduring Freedom; to the Committee on Armed Services.

By Mr. PICKERING (for himself, Mr. BERRY, Mr. MCCRERY, Mrs. EMERSON, and Mr. MORAN of Kansas):

H.R. 5211. A bill to suspend temporarily new shipper bonding privileges; to the Committee on Ways and Means.

By Mr. YOUNG of Florida (by request):

H.R. 5212. A bill making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to storm damage, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BILIRAKIS (for himself and Mrs. KELLY):

H.R. 5213. A bill to expand research information regarding multidisciplinary research projects and epidemiological studies; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BACA:

H.R. 5214. A bill to require combination 3-point safety belts on all school buses; to the Committee on Transportation and Infrastructure.

By Mr. BURNS:

H.R. 5215. A bill to amend the Internal Revenue Code of 1986 to allow a nonrefundable tax credit for elder care expenses; to the Committee on Ways and Means.

By Mrs. CAPITO:

H.R. 5216. A bill to suspend temporarily the duty on chloroneb; to the Committee on Ways and Means.

By Mr. CASTLE (for himself and Mr. KIRK):

H.R. 5217. A bill to provide for the security and safety of rail transportation systems in the United States, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. GEPHARDT:

H.R. 5218. A bill to increase health insurance coverage in America by requiring employers to offer health insurance coverage with greater government assistance and by expanding current safety net programs, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY:

H.R. 5219. A bill to require the Attorney General to establish a Federal register of cases of child abuse or neglect; to the Committee on the Judiciary.

By Mr. KING of New York (for himself and Mrs. MALONEY):

H.R. 5220. A bill to require the Secretary of the Treasury to mint coins in commemoration of the Washington National Opera, and for other purposes; to the Committee on Financial Services.

By Mr. RENZI (for himself and Mr. MATHESON):

H.R. 5221. A bill to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians; to the Committee on Financial Services.

By Ms. LORETTA SANCHEZ of California:

H.R. 5222. A bill to amend chapter 47 of title 10, United States Code (the Uniform Code of Military Justice), to provide standards for the use of military commissions for the trial of offenses under the law of war or in furtherance of international terrorism; to the Committee on Armed Services.

By Mr. SHAYS (for himself and Mrs. MALONEY):

H.R. 5223. A bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; to the Committee on Intelligence (Permanent Select), and in addition to the Committees on Armed Services, International Relations, Government Reform, the Judiciary, Rules, Transportation and Infrastructure, Energy and Commerce, Ways and Means, and Homeland Security (Select), for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ROHRABACHER (for himself, Mr. BOEHLERT, Mr. SMITH of Michigan, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. GUTKNECHT, Mr. SMITH of Texas, Mr. EHLERS, Mr. HALL, Mr. FEENEY, Mr. CALVERT, and Mr. WELDON of Florida):

H. Res. 820. A resolution to congratulate Mojave Aerospace Ventures for winning the privately funded $10,000,000 Ansari X Prize and commend the X Prize Foundation for spurring this achievement; to the Committee on Science.

By Mr. CRANE (for himself, Mr. HASTERT, Mr. DELAY, Mr. HYDE, Mr. LAMPSON, Mr. MANZULLO, Mr. JOHNSON of Illinois, Mr. LAHOOD, Mr. LIPINSKI, Mr. FOLEY, Mrs. BLACKBURN, Mrs. TAUSCHER, Mr. SMITH of Michigan, Mr. DUNCAN, Mr. YOUNG of Alaska, Mr. WELLER, Mr. KIRK, Mrs. BIGGERT, Mr. DREIER, Ms. ESHOO, and Mr. SHIMKUS):

H. Res. 821. A resolution condemning the abduction of Dylan Benwell from the United States and calling for his return; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

430. The SPEAKER presented a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 185 memorializing the President and Congress of the United States to maintain federal Section 8 program funding at 2004 levels; to the Committee on Financial Services.

431. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 156 memorializing the President and Congress of the United States to allow states to have certain regulatory power to create competition in the cable television industry; to the Committee on Energy and Commerce.

432. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 167 memorializing the Congress of the United States to

enact legislation redesignating the United States Postal Service facility located at 14-24 Abbott Road in Fair Lawn, New Jersey, as the Mary Ann Collura Post Office Building; to the Committee on Government Reform.

433. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 96 memorializing the Supreme Court and Congress of the United States to take all necessary measures to preserve the phrase "one nation under God" in the Pledge of Allegiance; to the Committee on the Judiciary.

434. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 29 memorializing the Congress of the United States to preserve Louisiana's sovereignty related to public expressions of religious faith within the state of Louisiana; to the Committee on the Judiciary.

435. Also, a memorial of the House of Representatives of the State of Mississippi, relative to House Resolution No. 51 memorializing the Congress of the United States to propose an amendment to the Constitution of the United States addressing the subject of judicial taxation; to the Committee on the Judiciary.

436. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 158 memorializing the Congress of the United States to enact and fully fund the National Aeronautics and Space Administration's Vision for Space Exploration Program; to the Committee on Science.

437. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 175 memorializing the Congress of the United States to restore funding for certain Small Business Administration loans eliminated by President Bush's proposed budget for FY 2005; to the Committee on Small Business.

438. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 137 memorializing the Congress of the United States to refrain from reducing benefits or increasing age requirements for Social Security programs; to the Committee on Ways and Means.

439. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 73 memorializing the Congress of the United States to modify limits on the sum of Social Security disability and workers' compensation benefits; to the Committee on Ways and Means.

440. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 195 memorializing the Congress of the United States to oppose the Australian Free Trade Agreement (AUSFTA) and other free trade agreements which are harmful to American dairy producers; to the Committee on Ways and Means.

441. Also, a memorial of the Legislature of the State of Louisiana, relative to House Concurrent Resolution No. 113 memorializing the Congress of the United States to oppose the Central America Free Trade Agreement and other free trade agreements which are harmful to American sugar producers; to the Committee on Ways and Means.

442. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 115 memorializing the Congress of the United States to defeat legislation creating the Central American Free Trade Agreement; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. CRANE introduced A bill (H.R. 5224) for the relief of Dylan Brian Benwell; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 10: Mr. GINGREY and Mrs. MILLER of Michigan.

H.R. 97: Mr. BUTTERFIELD.

H.R. 111: Mr. DOGGETT.

H.R. 296: Mr. KING of New York, Ms. LOWEY, and Mr. SWEENEY.

H.R. 443: Mr. MCCOTTER.

H.R. 623: Mr. MANZULLO and Mrs. SCHAKOWSKY.

H.R. 648: Mrs. CUBIN.

H.R. 738: Mr. WEINER, Ms. WOOLSEY, and Mr. CASE.

H.R. 785: Mr. GARY G. MILLER of California.

H.R. 1066: Mr. BARTLETT of Maryland.

H.R. 1111: Mr. ABERCROMBIE.

H.R. 1160: Mr. BUTTERFIELD.

H.R. 1267: Mr. OLVER.

H.R. 1336: Mr. PICKERING.

H.R. 1477: Ms. ESHOO and Mr. ISRAEL.

H.R. 1700: Mrs. JONES of Ohio.

H.R. 1741: Mr. LEWIS of Kentucky.

H.R. 1859: Mr. PICKERING, Mrs. MCCARTHY of New York, and Mr. ETHERIDGE.

H.R. 1924: Ms. HERSETH.

H.R. 1958: Ms. PELOSI and Mr. GONZALEZ.

H.R. 2037: Mr. HONDA.

H.R. 2490: Mr. CUMMINGS.

H.R. 2601: Mr. VAN HOLLEN.

H.R. 2680: Mrs. EMERSON, Mrs. CUBIN, Mr. BARTLETT of Maryland, Mr. CANTOR, Mr. SIMMONS, Mr. FOSSELLA, and Mr. HASTERT.

H.R. 2727: Mr. MOORE.

H.R. 3069: Mr. BURR.

H.R. 3203: Mr. CUMMINGS.

H.R. 3325: Mr. BLUMENAUER.

H.R. 3352: Mr. BISHOP of Utah.

H.R. 3438: Mr. MILLER of North Carolina, Mr. ORTIZ, Mr. ISSA, Mr. JOHN, Mr. CROWLEY, Mr. RODRIGUEZ, Ms. MAJETTE, Mr. UDALL of New Mexico, Mr. KING of New York, Mr. KUCINICH, and Mr. HINCHEY.

H.R. 3579: Ms. HERSETH.

H.R. 3729: Mr. TURNER of Texas, Mr. LAHOOD, Mr. CAPUANO, Mr. WOLF, Mr. COSTELLO, and Mr. TANNER.

H.R. 3950: Mr. RANGEL.

H.R. 3965: Mr. FILNER and Mr. OLVER.

H.R. 4026: Mr. YOUNG of Alaska and Mr. DAVIS of Tennessee.

H.R. 4057: Mr. KLINE.

H.R. 4154: Mr. ISRAEL.

H.R. 4180: Mrs. LOWEY.

H.R. 4187: Mr. RYAN of Wisconsin.

H.R. 4232: Mr. SANDLIN, Mr. GONZALEZ, Mr. REYES, Mr. BELL, Mr. SMITH of Texas, Mr. BONILLA, Mr. FROST, Mr. PAUL, Mr. EDWARDS, and Mr. DOGGETT.

H.R. 4249: Mr. BISHOP of New York, Ms. HOOLEY of Oregon, Mr. GUTIERREZ, Ms. HERSETH, Mr. KANJORSKI, Mr. BUTTERFIELD, Mr. BASS, Mr. LYNCH, Mr. WALSH, and Mr. MILLER of North Carolina.

H.R. 4264: Mr. ALLEN and Mr. LEVIN.

H.R. 4354: Mr. WEXLER.

H.R. 4374: Mr. KENNEDY of Rhode Island.

H.R. 4433: Mr. CLYBURN, Mr. SWEENEY, Mr. FILNER, Mr. WELLER, Mr. OWENS, Mr. SPRATT, Mrs. MALONEY, Ms. GINNY BROWN-WAITE of Florida, Mr. MICHAUD, Mr. MCNULTY, Ms. SOLIS, Mr. RODRIGUEZ, and Mr. HINCHEY.

H.R. 4463: Mr. ACEVEDO-VILÁ and Mr. PALLONE.

H.R. 4576: Mr. BOOZMAN.

H.R. 4595: Mr. ALLEN.

H.R. 4610: Mr. SKELTON and Mr. ROGERS of Alabama.

H.R. 4626: Mr. LEWIS of Kentucky.

H.R. 4628: Mr. GONZALEZ.

H.R. 4636: Mr. CRAMER, Mr. VAN HOLLEN, Mr. LARSON of Connecticut, Ms. EDDIE BERNICE JOHNSON of Texas, and Mr. HALL.

H.R. 4640: Mr. GILCHREST.

H.R. 4685: Mrs. BLACKBURN, Mr. RODRIGUEZ, Mr. MICHAUD, Mr. FROST, Mr. PUTNAM, Mr. BISHOP of Georgia, Mr. CARDOZA, and Mr. MCHUGH.

H.R. 4702: Mr. THORNBERRY and Mr. NUNES.

H.R. 4747: Mr. HINCHEY.

H.R. 4824: Mr. RODRIGUEZ.

H.R. 4888: Mr. ABERCROMBIE, Mr. WYNN, and Ms. LEE.

H.R. 4902: Mr. CHANDLER, Mr. CARSON of Oklahoma, Mr. PETERSON of Minnesota, Mr. HINCHEY, and Mr. BRADLEY of New Hampshire.

H.R. 4904: Mr. LAHOOD.

H.R. 4910: Mr. BELL, Ms. BORDALLO, Mr. FALEOMAVAEGA, Mr. GRIJALVA, Mr. ACKERMAN, Mr. KUCINICH, and Mr. FRANK of Massachusetts.

H.R. 4927: Mr. PICKERING, Mrs. BONO, and Mrs. JO ANN DAVIS of Virginia.

H.R. 4928: Mr. EVANS.

H.R. 4936: Mr. PAUL, Mr. MCDERMOTT, Mr. WALSH, Mr. BUTTERFIELD, Mr. STUPAK, Mr. BASS, Mr. FILNER, and Mr. VAN HOLLEN.

H.R. 4965: Mr. CHANDLER.

H.R. 4970: Mr. FILNER.

H.R. 4976: Ms. BERKLEY.

H.R. 4978: Mr. HINCHEY and Mr. FATTAH.

H.R. 4985: Mr. MCDERMOTT.

H.R. 5024: Mr. GORDON.

H.R. 5043: Mr. EVANS.

H.R. 5045: Mr. BARTLETT of Maryland, Mr. SAM JOHNSON of Texas, and Mr. KINGSTON.

H.R. 5048: Mr. ISRAEL.

H.R. 5061: Mr. FRANK of Massachusetts, Mr. WEXLER, and Ms. WOOLSEY.

H.R. 5063: Mr. FROST, Mr. WAXMAN, Mr. OWENS, and Mr. HINCHEY.

H.R. 5076: Mr. PRICE of North Carolina.

H.R. 5081: Mr. ROGERS of Alabama and Mr. WEXLER.

H.R. 5113: Ms. MCCOLLUM.

H.R. 5119: Mr. BRADY of Texas, Mr. LAMPSON, Mr. RYAN of Ohio, and Mr. RODRIGUEZ.

H.R. 5123: Mr. ENGLISH.

H.R. 5144: Mr. CARSON of Oklahoma, Mr. BOOZMAN, Mr. SCOTT of Georgia, and Mr. SOUDER.

H.R. 5145: Mr. MCHUGH and Mr. MICHAUD.

H.R. 5150: Ms. SLAUGHTER, Mr. SHERMAN, Ms. WATSON, Ms. MCCARTHY of Missouri, Mr. VAN HOLLEN, Mr. ETHERIDGE, and Mr. ROTHMAN.

H.R. 5167: Mr. OSBORNE and Mr. LATOURETTE.

H.R. 5182: Ms. LORETTA SANCHEZ of California.

H.R. 5186: Mr. BACHUS, Mr. CASTLE, and Mrs. NORTHUP.

H.R. 5189: Mrs. MALONEY.

H.R. 5193: Mr. CANTOR, Mr. TANCREDO, Mr. FALEOMAVAEGA, Mr. PENCE, and Mr. CROWLEY.

H.R. 5198: Mrs. WILSON of New Mexico.

H.R. 5199: Mr. PALLONE.

H.R. 5203: Mr. MORAN of Kansas, Mr. ROGERS of Alabama, Mr. LUCAS of Oklahoma, Mr. ACEVEDO-VILÁ, Mr. CHANDLER, Ms. MCCOLLUM, Mr. SKELTON, Mrs. EMERSON, Ms. KAPTUR, Mrs. MUSGRAVE, Mr. TERRY, Mr. MOORE, Mr. Marshall, Ms. Herseth, Ms. Roybal-Allard, Mr. McIntyre, Mr. Lucas of Kentucky, Mrs. Cubin, Mr. Simpson, Mr. Cardoza, Mr. Holden, Mr. Alexander, Mr. Kildee, and Ms. Hooley of Oregon.

H.J. Res. 57: Ms. Bordallo.

H.J. Res. 103: Ms. McCollum.

H. Con. Res. 178: Mrs. Davis of California.

H. Con. Res. 306: Mr. Hayworth.

H. Con. Res. 430: Mr. Jackson of Illinois.

H. Con. Res. 457: Mr. Kirk.

H. Res. 28: Mr. McCotter and Mr. Faleomavaega.

H. Res. 45: Mr. Bishop of Georgia.

H. Res. 341: Mr. McCotter.

H. Res. 750: Mr. Green of Wisconsin, Mr. Levin, Mr. LaTourette, Mrs. Miller of Michigan, Mr. McHugh, Mr. Dingell, Mr. Ehlers, and Mr. Kildee.

H. Res. 796: Mr. Gillmor.

H. Res. 805: Mr. Davis of Illinois, Mr. Wilson of South Carolina, Mrs. McCarthy of New York, Mr. Towns, Mr. Van Hollen, and Mr. George Miller of California.

H. Res. 813: Mr. Frank of Massachusetts and Mr. Berman.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 5212

Offered By: Mr. Stenholm

Amendment No. 1: Add at the appropriate place the following new title:

TITLE

SEC. ___. CROP DISASTER ASSISTANCE.

(a) Definitions.—In this section:

(1) Additional coverage.—The term "additional coverage" has the meaning given the term in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)).

(2) Insurable commodity.—The term "insurable commodity" means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(3) Noninsurable commodity.—The term "noninsurable commodity" means an eligible crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(b) Emergency Financial Assistance.—Notwithstanding section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)), the Secretary of Agriculture (referred to in this title as the "Secretary") shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this section available to producers on a farm that have incurred qualifying crop or quality losses for the 2003 or 2004 crop (as elected by a producer), but not both, due to damaging weather or related condition, as determined by the Secretary.

(c) Administration.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(d) Reduction in Payments.—The amount of assistance that a producer would otherwise receive for a qualifying crop or quality loss under this section shall be reduced by the amount of assistance that the producer receives under the crop loss assistance program announced by the Secretary on August 27, 2004.

(e) Ineligibility for Assistance.—Except as provided in subsection (f), the producers on a farm shall not be eligible for assistance under this section with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(1) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses; and

(2) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses.

(f) Contract Waiver.—The Secretary may waive subsection (e) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—

(1) in the case of an insurable commodity, to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) providing additional coverage for the insurable commodity for each of the next 2 crops; and

(2) in the case of a noninsurable commodity, to file the required paperwork and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity for each of the next 2 crops under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(g) Effect of Violation.—In the event of the violation of a contract under subsection (f) by a producer, the producer shall reimburse the Secretary for the full amount of the assistance provided to the producer under this section.

SEC. ___. LIVESTOCK ASSISTANCE PROGRAM.

(a) In General.—The Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2003 or 2004 losses (as elected by a producer), but not both, in a county that has received an emergency designation by the President or the Secretary after January 1, 2003, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(b) Administration.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(c) Mitigation.—In determining the eligibility for or amount of payments for which a producer is eligible under the livestock assistance program, the Secretary shall not penalize a producer that takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

SEC. ___. TREE ASSISTANCE PROGRAM.

The Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide assistance under the tree assistance program established under subtitle C of title X of the Farm Security and Rural Investment Act of 2002 to producers who suffered tree losses during the winter of 2003 through 2004.

SEC.   . COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

SEC. ___. REGULATIONS.

(a) In General.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) Procedure.—The promulgation of the regulations and administration of this title shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) Congressional Review of Agency Rulemaking.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC.   . EMERGENCY DESIGNATION.

Amounts appropriated or otherwise made available in this title are each designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of the Department of Defense Appropriations Act, 2005 (Public Law 108-287; 118 Stat. 1014). However, such amounts shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement, is transmitted by the President to the Congress.

H.R. 10

Offered By: Mr. Ose of California

Amendment No. 2: At the end of title III of the bill, insert the following:

Subtitle F—Security Barriers

SEC. 3121. EXPEDITED COMPLETION OF SECURITY BARRIERS.

(a) In General.—In order to construct the physical barriers and roads described in section 102 of the Omnibus Consolidated Appropriations Act, 1997 (Public Law 104-208, div. C), the tracts of land described in subsection (b) shall be exempt from the requirements of the provisions listed in subsection (c).

(b) Legal Description.—The tracts of land referred to in subsection (a) are as follows:

(1) Zone west.—A tract of land situated within Section 2, 3, 4, 5, 7, 8, 9, 10, and 11, Township 19 South, Range 2 West of the San Bernadino Meridian, within the County of San Diego, State of California, more particularly described as follows: Beginning at the Southwest corner of Fractional Section 7, T19S, R2W; said Point-of-Beginning being on the United States/Mexico International Boundary Line and also being a point of mean sea level of the Pacific Ocean (at Borderfield State Park); thence, N 02°31′00″ W, a distance of approximately 800.00 feet to a point. Thence, N 84°44′08″ E, a distance of approximately 1,845.12 feet to a point. Said

point being on the Section line common to Section 7 and 8, T19S, R2W. Thence, S 01°05′10″ W, along said Section line, a distance of approximately 270.62 feet to a point. Thence, S 89°49′43″ E, a distance of approximately 1,356.50 feet to a point. Thence, N 45°34′58″ E, a distance of approximately 1,901.75 feet to a point. Said point being on the Section line common to Sections 5 and 8, T19S, R2W. Thence, N 00°00′00″ E, a distance of approximately 300.00 feet to a point. Thence, S 89°54′53″ E, a distance of approximately 1,322.05 feet to a point. Thence, S 00°25′27″ W, a distance of approximately 300.00 feet to a point. Said point being on the Section line common to Sections 5 and 8, T19S, R2W. Thence, S 89°37′09″ E, along the Section line common to Section 4, 5, 8, and 9, T19S, R2W, a distance of approximately 5,361.32 feet to a point. Thence, N 00°12′59″ E, a distance of approximately 400.00 feet to a point. Thence, N 90°00′00″ E, a distance of approximately 1,349.81 feet to a point. Said point being on the Section line common to Sections 3 and 4, T19S, R2W. Thence, S 00°30′02″ W, a distance of approximately 410.37 feet to a point. Said point being the Section corner common to Sections 3, 4, 9, and 10, T19S, R2W. Thence, S 89°36′11″ E, along the Section line common to Sections 2, 3, 10, and 11, T19S, R2W, a distance of approximately 6,129.36 feet to a point. Thence, along the arc of a curve to the left, having a radius of 518.88 feet, and a distance of 204.96 feet to a point. Thence, S 89°59′11″ E, a distance of approximately 258.66 feet to a point. Thence, S 00°00′00″ E, a distance of approximately 111.74 feet to a point. Said point being within the NW ¼ of fractional section 11, T19S, R2W, on the United States/Mexico International Boundary. Thence, S 84°41′20″ W, along said United States/Mexico International Boundary, a distance of approximately 19,210.48 feet to the Point-of-Beginning. Said tract of land containing an area of 396.61 acre, more or less.

(2) ZONE EAST.—A tract of land situated within Section 32 and 33, Township 18 South, Range 1 East of the San Bernadino Meridian, County of San Diego, State of California, and being described as follows: Beginning at the ¼ Section line of Section 32, T18S, R1E. Said Point-of-Beginning being on the United States/Mexico International Boundary Line and having a coordinate value of X = 6360877.25 Y = 1781730.88. Thence, N 00°32′02″ W, a distance of approximately 163.56 feet to a point. Thence, N 78°33′17″ E, a distance of approximately 1,388.23 feet to a point. Thence, N 84°37′31″ E, a distance of approximately 1,340.20 feet to a point. Thence, N 75°00′00″ E, a distance of approximately 1,000.00 feet to a point. Thence, S 88°06′07″ E, a distance of approximately 1,806.81 feet to a point. Thence, N 80°00′00″ E, a distance of approximately 1,050.00 feet to a point. Thence, N 87°00′00″ E, a distance of approximately 1,100.00 feet to a point. Thence, S 00°00′00″ W, a distance of approximately 300.00 feet to a point. Said point being on the United States/Mexico International boundary. Thence, S 84°44′09″ W, along said boundary, a distance of approximately 7,629.63 to the Point-of-Beginning. Said tract of land having an area of approximately 56.60 acres more or less.

(c) EXEMPTION FROM CERTAIN REQUIREMENTS.—The provisions referred to in subsection (a) areas as follows:

(1) Noise Control Act of 1972 (42 U.S.C. 4901 et seq.), as amended by Quiet Communities of 1978 (P.L. 95-609).

(2) Clean Air Act and amendments of 1990 (42 U.S.C. 7401-7671q).

(3) Clean Water Act of 1977 (33 U.S.C. 1342).

(4) Executive Order 11988 (Floodplain Management), as amended by Executive Order 12608.

(5) Executive Order 11990 (Protection of Wetlands), as amended by Executive Order 12608.

(6) Coastal Zone Management Act of 1972 (16 U.S.C. 1456(c)).

(7) Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901–6992k) as amended by Hazardous and Solid Waste Amendments of 1984 (P.L. 98–616; 98 Stat. 3221).

(8) Comprehensive, Environmental Response, Compensation, Liability Act of 1980 (42 U.S.C. 9601–9675), as amended by Emergency Planning and Community Right-To-Know-Act of 1986 (42 U.S.C. 11001 et seq.).

(9) Farmland Protection Policy Act of 1981 (7 U.S.C. 4201 et seq.).

(10) Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1544).

(11) Migratory Bird Treaty Act of 1918 (16 U.S.C. 703-712).

(12) Bald and Golden Eagle Act of 1940, as amended (16 U.S.C. 668–668d).

(13) National Historic Preservation Act of 1966 (16 U.S.C. 470 et seq.), as amended Executive Order 13007—Sacred Sites Presidential Memorandum regarding government to Government Relations (April 29, 1994).

(14) Native American Graves Protection and Repatriation Act (43 CFR Part 10).

(15) Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa–470ll).

(16) Executive Order 12898 (Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations) of 1994.

SENATE—*Wednesday, October 6, 2004*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

The PRESIDENT pro tempore. Today's prayer will be offered by CAPT Alan T. Baker, Chaplain of the U.S. Naval Academy, Annapolis, MD.

PRAYER

The guest Chaplain offered the following prayer:

Let us pray.

Lord, in this Chamber of leaders, who represent in their person, attitude, and vocation each of our 50 States in this great union, we now ask Your blessing, we invoke Your presence, we call upon Your wisdom, and we seek Your will for this great Nation.

Use these Senators throughout this crucial time in our Nation's history. May their work, conducted both in and out of this Chamber, build and not tear down. May their relationships, both in session and thereafter, be ones of collegiality, friendship, and respect. May You be with them as they strive to keep America great.

May You bless the 108th Congress and guide them as they continue to be compass points for our Nation and our world. May the direction they point keep them from temptation and evil, as they offer help and hope to those whose compass is adrift.

We ask this in the name of the one who created us, who sustains us, and who delivers us. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Good morning to the Chair and everyone listening today.

We will have a brief period of morning business for 30 minutes, with the first half under the control of the majority and the second 15 minutes under the control of the minority. We will then resume debate on the intelligence reform bill.

Yesterday, we did invoke cloture on the bill by a vote of 85 to 10; therefore, we will conclude this bill today.

This morning the managers will be here and will have additional cleared amendments to consider prior to a series of stacked votes, which are to begin at 11:30 this morning. In addition to those amendments that can be worked out, Senators may want to come to the Chamber to make closing remarks on the bill.

The order from last night provides for the Senate to begin voting at 11:30 on the pending amendments that will require rollcall votes. It is expected some of the pending amendments will be accepted after some modifications, or possibly withdrawn.

In any event, the voting sequence today will be lengthy. Therefore, Members should be prepared to remain close to the Chamber during that time. I expect to limit the votes to 10 minutes after the first vote in order to expedite passage of the bill.

I remind my colleagues that at the conclusion of the pending intelligence reform bill, we will begin consideration of the resolution relating to the Senate's intelligence restructuring. Our distinguished whips will have a proposal to put forth and we will begin work on that later today. Therefore, additional votes will occur following the completion of the Collins-Lieberman bill.

Lastly, I add that before we finish our business on Friday, which is our goal, we will consider any of the available conference reports, specifically, those of Homeland Security appropriations and FSC/ETI, if those are available.

RECOGNITION OF THE MINORITY LEADER

The PRESIDENT pro tempore. The minority leader is recognized.

COMPLETING THE SENATE'S WORK

Mr. DASCHLE. Mr. President, we have come a long way and I congratulate our managers and thank, once again, our assistant Democratic leader for his assistance in moving our effort along. We will complete our work on the bill today. That is very gratifying. I only hope now once we have completed our work we can expedite consideration with the House. We will await their decisions with regard to how they might proceed. Clearly, we are in a position to complete our work in a reasonable time. I hope the same spirit of bipartisanship that was so clearly demonstrated from the very first day with regard to consideration of this legislation can be equally as evident and apparent as we finish our work. It is the only way the bill will get done under these circumstances. Again, I thank the majority leader for setting that tone.

I also say we are in a very good position to do the same with the legislative reorganization. A lot of thought and effort has gone into the working group's recommendations. I am one who believes this resolution is as close to the consensus within the Congress, within the Senate, at least, regarding how we might respond to the recommendations made by the 9/11 Commission as we will get. We cannot let the perfect be the enemy of the good.

We have provided the Senate with an opportunity to address the concerns raised by the 9/11 Commission in a very reasonable, thoughtful, and comprehensive way.

I thank the assistant Republican leader and the assistant Democratic leader for their work and hope we can complete our work as a result of their contribution in the next couple of days.

We could have a very productive week. As the majority leader has indicated, there are other bills that could be addressed, as well. We have made a lot of progress and I hope we continue to do so.

I yield the floor.

DOMESTIC VIOLENCE AWARENESS MONTH

Mr. FRIST. Mr. President, this month is Domestic Violence Awareness Month. It was launched over 20 years ago by the National Coalition Against Domestic Violence. In 1989, the first Domestic Violence Awareness Month commemorative legislation was passed by the Congress. It has been passed every year since 1989.

We have come a long way in understanding the causes of domestic violence. Most importantly, we understand now that spousal battery is not a mere private matter, something that happens behind closed doors. Domestic violence is a crime. It devastates lives, rips apart families, and affects every aspect of community life. Its victims deserve our best efforts to prevent and prosecute family violence as we would any other violent crime.

Battery is a pattern of fear and intimidation to establish power and control over another person. It is wrong. Battering happens when one person believes they are entitled to control another. Acts of domestic violence include physical assault, sexual abuse, and psychological cruelty. It often escalates from insults and verbal jabs to physical harm.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Fortunately, the work done by many courageous and committed individuals, including community leaders and churches and police departments, family courts, shelters, and advocates, have made a difference. The Department of Justice reports that the number of female victims of intimate violence declined through the 1990s. The number of male victims of intimate violence also went down over this period.

As a society, we are much more aware of the danger signs and of our responsibility to respond and to intervene and to act. We are also more aware of our responsibility as moms and dads and husbands and wives to teach our children by example the value of compassion and respect.

I commend those dedicated to keeping this in the public's consciousness. I urge my colleagues to join in the effort to raise the public's awareness. We have come a long way, but there is still more to do.

I yield the floor.

Mr. DASCHLE. Senator BIDEN has long been a champion in bringing domestic violence to the forefront of the national agenda. He was a leader in the bipartisan effort to pass the Violence Against Women Act, and I worked with him last year to ensure the independence of the Office on Violence Against Women at the Department of Justice.

The Violence Against Women Act made a statement in law that fighting domestic violence is not just sound family policy, it is a moral imperative. It made a statement that domestic violence is not the shameful secret of a select few families, it is an issue with immense repercussions for all of us. Most importantly, it made a statement that as a country, a society, and a national family, we can do something about domestic violence.

As a direct result of the Violence Against Women Act our Nation has made significant strides in the fight against domestic violence. There are more domestic abuse hotlines and more shelters today than there were 10 years ago. There are more doctors, nurses, therapists, teachers, police officers, judges and other community leaders today who recognize the signs of domestic violence, and know how to help when they see those signs.

VAWA has also provided financial means to Native American communities and tribes to combat domestic violence. Before 1994, domestic violence and sexual assault services and resources were rare in Indian Country. VAWA has enabled Native communities to provide safe locations, counseling services, and technical assistance and training, and it has given these communities the flexibility to tailor those services to the unique needs of Indian people.

In addition, just last Wednesday, the Senate passed a VAWA STOP grant technical fix that would allow for a direct Federal tribal coalition relationship. This fix provides an important clarification to ensure that tribal domestic violence and sexual assault programs have a direct link with the Department of Justice underscoring the unique Federal-tribal relationship.

In South Dakota, in Rapid City and on the Pine Ridge Indian Reservation, a non-profit organization known as Cangleska is helping to break the cycle of violence by providing domestic violence prevention and intervention advocacy and services. Cangleska works with organizations like Sacred Circle that serve as a vital national resource for Native women, and I am proud to have it based in South Dakota.

There are similar organizations doing good work in communities all across America, Native and non-Native, rich and poor. We have made progress. But there is much more to be done.

Each year, more than 1 million women in America are victims of domestic violence, and more than 3 million American children witness domestic violence. Protecting the victims of domestic violence is essential, but it is not enough. Domestic violence does not just destroy families, it cascades through generations. Children who get abused or witness abuse are more likely to become parents who abuse.

Next year, when Congress re-authorizes the Violence Against Women Act, in addition to taking further steps to prevent domestic violence, we need to do more to help the children who witness it. This is the only way to begin to break the cycle of domestic violence.

This month, we acknowledge the strength and bravery of the victims and survivors of domestic violence, and we rededicate ourselves to raising awareness about and confronting this deeply disturbing issue.

Let us also vow to do even more in the months ahead to create a country and a climate where home is a refuge, and domestic violence a thing of the past.

Mr. CAMPBELL. Mr. President, today on the Senate floor we are recognizing the month of October as National Domestic Violence Awareness Month.

For far too long, we have been reluctant to talk openly about family violence. When I was growing up, few viewed violence in the home as a crime. As a young deputy sheriff, I learned that people thought of it as a private matter.

Today, we know that domestic violence is not a private family matter, it is a serious crime.

And for far too long, domestic violence has been seen as a problem which impacts only women, but this is not true either. Domestic violence is not just a woman's issue. It impacts the entire American family.

Domestic violence damages children. The seeds of violence are planted early. We know that children are harmed both emotionally and developmentally when they witness or experience violence.

Violence is a learned behavior. So, the cycle of domestic abuse continues generation after generation.

Domestic violence also threatens the security and peace of entire communities. The impacts of abuse are felt by the families, friends and co-workers of victims. They are felt by law enforcement officials, medical workers and other social service workers who are called upon to repair the lives shattered by violence.

Now, there are advocacy groups, support groups, 24-hour-crisis hotlines, and housing assistance.

And, today there is a network of almost 1800 domestic violence programs in the United States. Approximately 1,200 of these include shelter. Now, most shelters include facilities for the children, too.

Understanding first-hand the impact of family violence, I have made anti-violence and domestic violence legislation a top priority throughout my years in Congress.

A year ago, during the month of October, the Stamp Out Family Violence Stamp was issued. The stamp, similar to the Breast Cancer Stamp, earns monies for domestic violence shelters throughout the country, with special emphasis on programs for children who witness domestic violence. By the end of July this year, the stamp had netted $1.2 million for shelter programs.

But there is more to be done. Domestic violence can be prevented. Around the country there is innovative and exciting work taking place to help reduce family violence. While we must continue our efforts to provide help and shelter for victims, we must also step up our efforts in providing helps that will prevent violence.

Many believe that enacting broader Federal laws is the answer to this problem. But, I believe that adding more rules on the books without the ability to enforce them is a hollow and incomplete gesture.

We must all speak out on this issue. Victims must speak up and ask for help. Local, State and national authorities must speak up. And, communities must recognize the pervasive effects of violence on all aspects of community life. I believe that by combining education, research, and community-based efforts, we can create reasonable, multi-faceted solutions to a problem that has no boundaries and knows no laws.

Mrs. FEINSTEIN. Mr. President, today with my colleague, Senator KYL, I commemorate Domestic Violence Awareness Month and pay tribute to the millions of victims of domestic violence in the United States: both those who daily face fear and pain at the hands of the ones they love, and those who have had the courage to seek help.

Domestic violence causes far more pain than the visible marks of bruises and scars. It is devastating to be abused by someone that you love and think loves you in return. It is estimated that approximately 3 million incidents of domestic violence are reported each year in the United States. Tragically, domestic violence remains a pervasive threat to the fabric of America's families and the well-being of America's future.

Around the world, one out of three women is abused by their domestic partner or another member of their family. This means that each of us probably knows at least one victim of domestic abuse.

It is primarily a crime against women, who account for approximately 85 percent of domestic abuse victims each year. Indeed, nearly one-third of American women report being physically or sexually abused by a husband or boyfriend at some point in their lives, and each year as many as 324,000 women experience domestic violence during their pregnancy. It is truly heartbreaking to hear these victims' stories and to know that so many women and even some men face this pain on a regular basis.

Domestic violence does not only happen to adults. Forty percent of girls age 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend, and approximately one in five female high school students reports being physically and/or sexually abused by a dating partner. And these are only the cases that are reported.

Additionally, many children are caught in the middle, witnessing abuse or being abused themselves. Domestic violence is witnessed by between 3.3 and 10 million children every year. And, studies show that half of all men who frequently assault their wives also frequently abuse their children. The emotional impact of this abuse during childhood can have a devastating effect on the rest of a person's life.

Domestic abuse creates a cycle of violence. Children who are abused or witness abuse are at a higher risk of abusing their own family and significant others as an adult as well as long-term physical and mental health problems, including alcohol and substance abuse. It is evident that these abuse victims follow the example they learned in childhood and continue the cycle of violence when they are adults.

Statistics can show the wide scope of domestic violence, but numbers cannot demonstrate how frightening domestic violence is to a victim. I have read stories of many victims, both men and women, whose lives are changed forever by the fear and pain they feel as a result of their partner's violent behavior.

Let me talk about just one story I read recently. At first glance, Pam Butler appeared to have the perfect life. She grew up in a stable, loving family in Palo Alto, CA. That stability was shattered when she met Michael Braga.

Michael Braga was a charismatic but troubled man who quickly romanced Pam Butler. He began to control every aspect of her life: limiting her contact with friends and family, controlling her money and living space and chipping away at her self-confidence. This behavior quickly escalated into violence. Pam was beaten unconscious on several occasions. She painfully learned to hide the signs of the beatings because she was ashamed to be in such a horrible situation.

After several beatings caused re-injury to an old skull fracture, Pam Butler realized that staying in the relationship could kill her. She enlisted the help of Santa Clara County Assistant District Attorney Joyce Allegro.

I am pleased to report that Mr. Braga was arrested and prosecuted. Following his trial, he was sentenced to 12 years in prison, one of the longest sentences for domestic violence passed down in California history.

As a result of her experiences with domestic violence, Pam Butler has devoted many hours to assisting other victims. She is the Domestic Violence Victim Advocate for the County of Santa Clara's Social Services Agency. She has also spoken about domestic violence across the United States. Her story is an inspiration to every person who has been a victim of domestic violence.

Another heartbreaking story is that of Michele, a Chicago woman who had been abused just as her mother and grandmother had before her. Michele's father hit and insulted her throughout her upbringing. Unfortunately, Michele was not able to break the cycle of violence and fell into the same trap as her mother and grandmother.

Her first husband beat her, cheated on her, called her insulting names and controlled her ability to come and go from her house. Although she was well-read and bright, Michele did not believe she had the ability to escape this horrible situation.

Ultimately, her husband left her and her children, and she continued the cycle of violence with other abusive men. Eventually, she and her children found themselves homeless. Only then did she realize that she could get help. Michele now encourages other victims to seek help and speak out against domestic violence.

It is vital that we act to stop the cycle of domestic violence. To this end, last April the Senate passed the Victims' Rights Act by a vote of 96 to 1. I am proud to have been a long-time supporter and cosponsor of this important legislation. The act amends the federal criminal code to expand the rights of victims, especially the protection of victims of domestic violence, during the course of an alleged offender's trial and imprisonment.

This is landmark legislation in its ability to ensure the rights of all victims, but it is especially important for victims of domestic abuse. The Victims' Rights Act assures victims the right to be reasonably protected from the accused. It guarantees the right to reasonable, accurate and timely notice of any public proceeding involving the crime, as well as any release or escape of the accused offender. And it protects the victim's right to be treated with fairness and with respect for his or her dignity and privacy.

The Victims' Rights Act is one of the most important pieces of legislation that I have had the privilege of supporting during my 12 years in the Senate. It is currently before the House Subcommittee on Crime, Terrorism and Homeland Security, and I strongly encourage the House to take it up soon.

In closing, I am grateful for the opportunity to honor the victims of domestic violence and to call for an end to the cycle of violence. It is my sincere hope that we will all know peace and security in our own homes.

The PRESIDENT pro tempore. The minority leader is recognized.

Mr. DASCHLE. Mr. President, I join the majority leader and others who I understand will come to the floor to call attention to the need for recognition of the problems of domestic violence. October is National Domestic Violence Awareness Month. As the majority leader noted, last week we passed a resolution supporting the efforts to address more effectively domestic violence in this country.

This is an important issue, a very troubling issue to people all over this country. We have been lax in recognizing the depth and the breadth of the problem within our country. In South Dakota and across the land, new efforts are being made to address the need for greater awareness, the need for greater education, the need for greater prevention, the need for greater response. And it is only if we as Senate leadership ensure that the people of this country recognize the importance of making this a higher priority will those needs be addressed throughout the Nation.

So I commend those who are taking the floor this morning to once again draw attention to these needs, draw attention to our need to respond, and to draw attention to the important priority it ought to have as we consider public policy.

ONGOING JOB CRISIS

Mr. DASCHLE. Mr. President, 18 months ago, a group of 450 economists, including 10 Nobel laureates, made it clear that because the White House put the narrow interests of a few ahead of our Nation's economy, its jobs plan would fail. It would fail to create jobs, it would fail to lift wages, and it would fail to bring down our deficit.

The warning was clear. Now the record is undeniable. In the last 3 years, we have lost 1.6 million private sector jobs. The last time the economy took this long to replace jobs lost in a recession was the Great Depression. Mr. President, 2.7 million manufacturing jobs have been lost, and many sent overseas on a one-way ticket. Unemployment has increased 40 percent, and today 8 million Americans are out of work. And 1.7 million have been out of work for 6 months or longer.

That is horrible news for a couple that is hoping to retire, a family that is trying to put a child through college, or anyone who has been living from paycheck to paycheck.

But this situation touches all Americans, including those who have jobs today. That is because the weakness in the job market has undermined wage and salary growth. Real household income has dropped 3.4 percent since 2001. Adding to the squeeze, college tuition is up, gas prices have risen to all-time highs, and the cost of health care has risen by 45 percent since 2001.

Middle-class families are beginning to believe that the deck is stacked against them, and for good reason. The CBO recently confirmed what many of us have been saying for the past few years: The President's economic plan rewards wealth and punishes work by shifting the tax burden onto the shoulders of middle-class families. Even with middle-class families bearing more than their fair share of the tax burden, the country is looking at years and years of record deficits and debt.

This past weekend, I traveled around South Dakota, meeting with people and going door to door. More than any time in my memory, people tell me they need two or three jobs—not to get ahead, not to save for a house or their child's education, but simply to make their monthly bills. Many good manufacturing jobs have left the State, and it is getting more difficult to find full-time jobs that pay a wage good enough to raise a family.

Recently, I received a letter from a young woman in Lake Andes. She has done everything right. She went to college, got a master's degree, and got advanced skills that could help move our economy forward. But because there are so few good jobs, she has been out of work now for months. Just to get by, she has applied for lower skilled work. But often she is passed over for those jobs because employers worry that she is overqualified. What does it say about our economy that someone with real skills, willing to work hard, cannot get a job?

Out in our small towns and farming and ranching communities, the story can even get worse. I have been visiting these communities for more than 25 years. There is nothing more gratifying to me than to see a family farmer or rancher raise their children, teach them how to farm, and then pass their land down to them. That is why we led the fight to create an exemption in the estate tax to allow families to pass from one generation to the next the farms they have lived on for generations before. But too many family farms are getting swallowed up.

More often, children are forced to leave the communities they know and the families they love to find work in other places. They don't want to leave, but they cannot find work good enough to allow them to raise a family. So the way of life their families have enjoyed for generations is being lost. These families have been struggling for years, watching all they have worked for slip away from them. Yet when they look to Washington, they do not see their Government fighting for them, or even hearing them at times. The administration continues to say the economy has turned a corner. When these families look ahead, they don't see a corner, they see a cliff, and they are worried they are going to fall off.

Americans do not want to wait until after the election to do something. They need help now. I am glad we extended the middle-class tax cuts. Middle-class families need relief. Previous tax cuts were unfairly skewed to the very wealthiest of Americans. This was the right thing to do. It will probably help those people who are struggling, but there is much more that we need to do.

First, we need to pass a real jobs bill, one that puts top priority on creating jobs at home, closes corporate tax loopholes, and ends the incentives that encourage companies to ship American jobs overseas.

Second, we need to extend the unemployment benefits. Every week, another 85,000 Americans exhaust their unemployment benefits. They should not be punished because the economic policies that are in place have created the longest jobs slump since the Great Depression.

Third, it is time to raise the minimum wage. Today, the minimum wage is $5.15 an hour, and it is worth less than $3 when using 1968 wage indicators. Americans who work at the minimum wage for 40 hours a week, 52 weeks a year, still fall $5,000 short of the poverty line. No American who works full time, 52 weeks a year, should live in poverty. In the time we have left this year, we should increase the minimum wage to $7. It will not lift every working family out of poverty, but it will move millions of minimum wage workers closer to the life of security and dignity they deserve.

Fourth, we need to pass a Transportation bill that would provide needed infrastructure improvements across the Nation.

Fifth, we need to help workers whose jobs have been outsourced overseas to get back on their feet.

Finally, we need to pass the renewable fuels standard. In South Dakota alone, a renewable fuels standard would create 10,000 jobs and revitalize the rural economy. By reducing reliance on foreign oil, families would be less vulnerable to high energy costs.

It looks as though this Congress will end having failed to take strong action on behalf of American working families. Unfortunately, the leadership has stood in the way of commonsense proposals that would create jobs and improve the lives of working people.

Republican opposition to legislation designed to create jobs and help workers would be troubling at any time, but considered together, at a time when working families continue to feel the effects of a 3-year-long jobs slump, their stubborn opposition demonstrates a troubling indifference to the needs of American middle-class families.

Americans still dream of a better life. They still dream of a better future for themselves and their families. We have a responsibility to give Americans a chance to make that dream real. But it is time we tell Americans who are struggling that help is on the way. We are not helpless. We can create jobs, lift wages, and stop the outsourcing of the American workplace. All it takes is leadership.

Americans have been looking to Congress to provide the new direction of economic leadership they need. We have 1 more week before the Senate recesses. The American people are demanding action, and we have an obligation to deliver it.

I yield the floor.

Mr. REID addressed the Chair.

The PRESIDENT pro tempore. Will the Senator allow me to make an announcement?

Mr. REID. Yes.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved that has not been used.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for 30 minutes, with the first half under the control of the majority leader and the second half under the control of the Democratic leader.

The Senator from Arizona.

DOMESTIC VIOLENCE

Mr. KYL. Mr. President, there are a lot of problems that affect people around the world and in this country. Some go unmentioned and yet affect millions of lives and are with us every day. One of those problems is the problem of domestic violence.

I was so pleased that both the majority leader and the Democratic leader, this morning, began their official presentations in the Senate talking about the problem of domestic violence and the fact that the Senate, last week, unanimously passed a resolution which supports "the goals and ideals of National Domestic Violence Awareness Month," which is this month of October, and expresses "the sense of the Senate that Congress should raise awareness of domestic violence in the United States and its devastating effects on families."

Our message in passing this resolution is aimed both at a national audience as well as every individual who is a victim of domestic violence or who knows one. Their message is not a moment of silence, as is frequently the case but, rather, the message is: "It's time to talk." And all around the country—indeed, the world—this message is being conveyed today and for the remainder of this month.

I want to thank Marie Claire magazine, for example, and organizations that are promoting this theme: "It's time to talk." And why is that important? Because as almost anyone who understands the problem of domestic violence knows, the biggest reason the problem remains with us is that it is kept a secret.

People are ashamed or afraid to talk, to begin the conversation that would confront and, therefore, solve the problem. That is why "It's time to talk" is so important. It is not just the victims who should talk, it is society as a whole.

As the resolution states:

> There is a need to increase the public awareness about and understanding of domestic violence and the needs of battered women and their children.

It is hard to convey the sense of this problem talking statistics, but I think it is important that we understand the magnitude of the problem, not in terms of human suffering with individual stories but to understand the statistics of how serious the problem is. We have made progress to be sure, but it is still a very serious problem.

An average of more than three women are murdered by their husbands or boyfriends in the United States every day, and someone in the United States is sexually assaulted every 2 minutes each year. Each year, about 342,000 pregnant women in the United States are battered by the men in their lives, leading to pregnancy complications, including low weight gain, anemia, infections, and many others. In 2002 alone, 250,000 women and girls older than the age of 12 were raped or sexually assaulted, a quarter of a million women. One out of every 12 women has been stalked in her lifetime.

It is an issue not only for today's generation but for children because nearly 9 million witness domestic violence every day. This obviously creates a risk factor in their lives for having long-term physical and mental health problems, including substance abuse, being a victim of abuse, and becoming a perpetrator of abuse. A boy who witnesses his father's domestic violence is 10 times more likely to engage in domestic violence than a boy from a nonviolent home. Forty percent of girls ages 14 to 17 report knowing someone their age who has been hit or beaten by a boyfriend. One in five adolescent girls in the United States becomes a victim of physical or sexual abuse or both in a dating relationship.

The cost is devastating. The real cost is the emotional and psychological harm that occurs to victims of domestic violence and to their families. But there is also a staggering cost to society. As we noted in the resolution adopted in the Senate, the cost of domestic violence, including rape, physical assault, and stalking, exceeds $5.8 billion each year, of which $4.1 billion is spent on direct medical and mental health care services.

The problem exists in my State of Arizona. Just to cite a couple statistics: 81 of the 440 homicides reported in Arizona in the year 2003 were a result of domestic and/or dating violence; this year, as of September 8, there were 61 domestic violence-related deaths reported; in the year 2002, every 5 minutes police responded to a call involving domestic violence; every 19 minutes an arrest was made as a result of a domestic violence incident; and every 36 minutes police were called to the scene of domestic violence where children were present. In that same year, 91 law enforcement agencies in Arizona reported a total of over 112,000 calls to service for domestic violence. Of those calls, there were a total of 26,000 arrests made.

I conclude by acknowledging the dedication of all the people tirelessly working behind the scenes to try to end domestic violence and to deal with the crisis of strengthening the survivors of domestic violence.

I have toured centers in Arizona—for example, city centers against family violence in Mesa, Glendale, and Scottsdale, all leading the way. We have raised money and dedicated sites for the Autumn House Domestic Violence Shelter, Chrysalis Shelter, the Center Against Sexual Abuse, ChildHelp USA, and the Sexual Assault Recovery Institute, and many others. I thank all of them for their efforts in trying to deal with this important crisis.

I also thank those of my colleagues who have been involved in this effort: my colleague DIANNE FEINSTEIN, who has worked so tirelessly in this effort in trying to provide help for victims of crime, for example; Senator BIDEN, who was one of the authors of the resolution about which I spoke earlier. There are others who will come to the floor of the Senate throughout the morning either to provide statements or to deliver them here noting the nature of the problem.

It is fitting that this month is designated as National Domestic Violence Awareness Month. It is fitting that our resolution passed in the Senate notes that we should raise awareness of domestic violence in the United States and its devastating effects on families, as I said in the beginning. In order to solve this problem, we have to begin by acknowledging it and confronting it. It is indeed time to talk.

The PRESIDING OFFICER. The Senator from Minnesota.

WAR ON TERROR AND THE ECONOMY

Mr. COLEMAN. Mr. President, I rise today to discuss the situation in the war on terror. I listened to the debate last night, and I heard the candidate from the other side of the aisle talk about what a mess things were, how terrible everything was, how terrible things are in Afghanistan. Afghanistan is on the verge of having elections. Ten million Afghanis have registered to vote in spite of threats.

The Vice President made a compelling case talking about El Salvador. People thought that democracy would never flourish. Yet because of the desire for democracy and the opportunity to vote, we have seen matters turn around.

I had the opportunity to be with the President of El Salvador and the Presidents of other Central American countries at a breakfast. We have democracy in Central America. The lure of democracy is so powerful.

I was listening to the distinguished minority leader, and he made references to the Great Depression, references to the economic situation today in analogy to the Great Depression.

The President has made it clear: As long as any American does not have employment, we have to do better. But the reality is so far from the Great Depression. Some people must walk around and see us surrounded in darkness. In 1996, when Bill Clinton was running for reelection, the January to August average unemployment at this time, where we stand today, was 5.5 percent. It is 5.6 percent today. The unemployment rate for African Americans during that same period, the first-term average of President Clinton was 11.3 percent. It is 9.9 percent today. The unemployment rate for Hispanics during the first term of President Clinton was 9.7 percent. It is 7.2 percent today. America's standard of living is on the rise. Real after-tax incomes are up nearly 10 percent since December 2000, substantially better than the comparable time period in the previous business cycle. Consumer confidence continues to be substantially high. The national home ownership rate was at an alltime high. Minority ownership has set a new record of 51 percent in the second quarter and is up 2.1 percentage points from a year ago. Core inflation remains low. Mortgage rates remain at historic lows.

There are challenges in this economy, but to draw a comparison to the Great Depression is a little excessive. The reality is, we do have things to do. But I urge my colleagues on the other side of the aisle: Set us free. Let's get an energy bill passed, an energy bill that had 44 Republicans voting for it, 13 Democrats. The reality is that if the minority leader wanted to get this done, it could get done.

I represent the State of Minnesota. We are neighbors of the folks in South Dakota. I know they want an energy bill. Within that energy bill is a renewable fuels standards that would double the production of ethanol and will bring to life the soybean biodiesel industry, a great opportunity for our communities. If you want to grow jobs, get an energy bill passed. Give us the number of votes we need to get through cloture.

Let us have class action reform. We came within a few votes of getting that done. You want to grow jobs, talk to the manufacturers in this country, talk to the small business people. They will tell you what they need. They need class action reform. Our friends on the other side won't give it to us.

We need asbestos reform. We need medical malpractice reform. We couldn't even get welfare reform done. Again, those on the other side of the aisle were filibustering, saying: We will not allow it to happen. There is no work requirement today in welfare, if the welfare reform change that was previously passed expires.

We have a lot of work to do. There is a plan and a vision out there. The vision is to make American business competitive with businesses all over the world. We do that by cutting taxes. We don't do that by raising the tax on small businesses, many of which are subchapter S corporations or sole proprietorships that pay taxes at the rate of the highest level. They pay more than large corporations pay. Yet my friends on the other side of the aisle talk about rolling back that tax cut, which would have a devastating effect on small business.

In Minnesota we sometimes talk about the Scandinavian who loved his wife so much he almost told her. As I listened to the distinguished minority leader, I got this sense that folks care so much they will almost do something.

We have a path to do something. It lies through an energy bill. It lies through medical malpractice reform. It lies through class action reform. It lies through getting the FSC/ETI JOBS bill through. Right now American manufacturers are paying a double-digit tax, in effect, because of a WTO violation.

We can lower that. We can change it. Instead, we find it blocked. No, it is not the Great Depression. There is more work to be done. There is a path, but the path doesn't lie with obstruction. I know the people of Minnesota and of South Dakota need an energy bill, and they want one.

In the last few minutes I have, because I want to give some time to my friend and colleague, the Senator from Pennsylvania, I want to talk a little about what is happening in the war on terror and in Iraq.

This week, the forces of freedom won a major battle. We reclaimed the city of Samarra. We reclaimed it by working with the 5,000-member joint force of Americans and Iraqis liberating that city from insurgents and foreign fighters. The fact is that we are not out there by ourselves, and the reality is that we need the Iraqis to step forward, and they are doing so. Yet the Prime Minister of Iraq came here and addressed a joint session of this body and the House. He then was disparaged by the Democratic nominee for President; the Iraqi sacrifice was disparaged.

Last night, we heard the Democratic Vice Presidential candidate simply dismiss the sacrifice of our strongest ally. We are not in this alone. We are not going to win it alone. But we can win it. We are not going to win it if we take an attitude that it is simply a diversion, if we take an attitude that things are so messed up that nothing will come together. We are not going to win it with folks who don't have the resolve to see this through or have the consistency to say, yes, it is a good thing that Saddam is no longer in power. We are not going to win by dismissing the contributions of our allies—the Polish, the English, the Italians, the Salvadorans, and on and on. We are not going to win it if we dismiss the sacrifice of the Iraqi people. We need them to step forward. We saw in Samarra what happens when you come together: You can liberate a city from insurgents.

Mr. President, we have a lot of work to do. The situation is not perfect, but we can get it done with the leadership of this President.

I yield the floor.

Mr. SANTORUM. Mr. President, how much time is remaining?

The PRESIDENT pro tempore. There is 1 minute remaining.

GOOD SAMARITAN VOLUNTEER FIREFIGHTER ASSISTANCE ACT

Mr. SANTORUM. Mr. President, I was going to talk about the Kerry health plan, but I will do that later. I want to talk briefly on the Good Samaritan Volunteer Firefighter Assistance Act. We have been trying to clear a provision that would allow more equipment—used equipment—to go to volunteer firefighters from companies all over the United States by giving a slight change in the liability standard for companies that donate this equipment.

We have done this in the area of the Good Samaritan Food Donation Act, which resulted in billions and billions of dollars in additional food going out to hungry people in America. Nobody has been sued, by the way. What was sued under the Good Samaritan Food Donation Act—we were not taking money out of anyone's pocket with lawsuits. No one, to my knowledge, has been sued by donating firefighting equipment. Nobody is going to lose out—no lawyers—from lawsuits by this donation. It is an opportunity for companies that waste a lot of resources to be able to give back.

UNANIMOUS-CONSENT REQUEST—H.R. 1787

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 748, H.R. 1787, the Good Samaritan Volunteer Firefighter Assistance Act.

Mr. DURBIN. Reserving the right to object, Mr. President, I might say to the Senator from Pennsylvania, it is a very good bill and one I may be anxious to support. I think one Senator has a problem, but I am told it is very close. I will object at this moment, but I encourage the Senator to work actively because I believe we can clear this bill quickly.

Mr. SANTORUM. Mr. President, we have been working for several weeks on this bill. I know both Senators COLLINS and LIEBERMAN have been helpful. We are getting to the end of the bill. It is vitally important to be able to get this passed so we can get this help on the way. It only had three negative votes in the House of Representatives. This is something we should be able to do for our first responders.

The PRESIDENT pro tempore. There will now be a period under the control of the minority leader for 15 minutes.

The Senator from Illinois is recognized.

VICE PRESIDENTIAL DEBATE

Mr. DURBIN. Mr. President, last night, I was in Cleveland, OH—I got back in the early hours of this morning—to be present at the Vice Presidential debate between our colleague, Senator EDWARDS, and Vice President CHENEY. It is an interesting responsibility and assignment that I had, along with several of my colleagues on the Republican side, to provide the so-called spin after the debate. You would think that voters could reach their own conclusions about who said what and how they should vote, but there are many who line up in an effort to stress the important and strong points made by their candidate. That was my role last night.

I am not going to presume to tell anybody who watched that debate who won or lost. I will point out two specific things that were said by Vice President CHENEY that I believe demand some clarification. He said at one point in the debate that he had never met Senator EDWARDS. In fact, he said:

> In my capacity as Vice President, I am President of the Senate, the presiding officer. I am in the Senate most Tuesdays in session. The first time I met you [Senator EDWARDS] was when you walked on the stage tonight.

That is what Vice President CHENEY said last night. You know, all of us forget from time to time when we have met someone. In this particular instance, the Vice President had forgotten that at least on two previous occasions he had not only met Senator EDWARDS but had been in very close contact with him. In fact, at the National Prayer Breakfast on February 1, 2001, Vice President CHENEY acknowledged Senator EDWARDS, who was in the audience. They were at the same event. Then, at the swearing-in ceremony for Senator EDWARDS' colleague, Senator ELIZABETH DOLE, in 2003, in fact, Vice President CHENEY was standing right next to Senator DOLE and Senator EDWARDS.

So to suggest that he never met the man last night—it turns out that he had a lapse in memory. It happens to us all. It is a rather incidental thing in the scheme of things but for the other lapse of memory the Vice President had last night. I listened to him say these words, and I could not believe it. He said:

> I have not suggested there is a connection between Iraq and 9/11.

I wrote that down and underlined it, saying I can't believe that, because I have heard him say repeatedly that there was a connection between 9/11 and Iraq that warranted our invasion of Iraq before we put together a broad and strong coalition to share in the burden. So with some research we find that at least on two occasions, and many others perhaps, the Vice President has forgotten again. This is what he said on December 2, 2002:

> His [Saddam Hussein] regime has had high level contacts with al-Qaida going back a decade, and has provided training to al-Qaida terrorists.

That is a direct quote from Vice President CHENEY, who said last night he had never suggested that connection.

Then again, on January 22, 2004, on National Public Radio, the "Morning Edition," he said:

> I think there is overwhelming evidence that there was a connection between al-Qaida and the Iraqi government.

Those are his quotes. Last night, he denied them. I will tell you why he should have denied them. He was wrong. He was wrong then and wrong the other times he suggested the connection between Saddam Hussein and al-Qaida to justify our invasion of Iraq. In fact, the 9/11 Commission, a bipartisan commission, has dismissed that premise. The Senate Intelligence Committee, which I serve on, has dismissed that premise and said the intelligence community failed us when they made that suggestion. And here is the best part. On October 4 of this year, Secretary Donald Rumsfeld, in the President's Cabinet with the Vice President, said he had no hard evidence to link al-Qaida and Saddam Hussein. The Secretary of Defense said:

> To my mind, I have not seen any strong, hard evidence linking the two.

Why is this significant? It is significant for the same reason that the report that is about to come out today, ordered by this administration, a report prepared by the chief U.S. weapons inspector in Iraq, again says that there is no evidence of weapons of mass destruction. This administration is in denial when it comes to the reality of Iraq.

Mr. STEVENS. Would the Senator like to yield there?

Mr. DURBIN. No, not until I have completed my statement; then I'll be happy to yield.

This administration is in denial when it comes to the reality of Iraq. We have a Vice President who linked Saddam Hussein and al-Qaida, and that has been debunked and dismissed by several sources, including his own Secretary of Defense, and an administration that still clings to this notion of weapons of mass destruction despite report after report of no evidence of weapons of mass destruction, and they tell the American people that is why we had to do this; that is why we had to invade before we put together a coalition, that is why we had to send troops into combat before they had the necessary body armor to protect themselves, before the Humvee vehicles that our brave soldiers were driving in Iraq were protected with armor, before our helicopters had the necessary defensive equipment, we sent our troops into harm's way.

The Bush administration saw an urgency based on wrong information. Today, neither the President nor Vice President will accept the reality that they were wrong. How can you make a policy in America to make it stronger unless and until you accept the reality?

Last night, Vice President CHENEY could not accept the reality that he was wrong linking 9/11 to Saddam Hussein, and the President cannot accept the reality that there were no weapons of mass destruction. In fact, now the report says the best they can find was a desire to build weapons of mass destruction. Is that what it takes to justify a preemptive attack on a country, that its leader may desire to create a weapon that could threaten us? I certainly hope the standard would be much higher.

If you look at the record—I listened to the Senator from Minnesota who talked to us about domestic issues—it is hard to imagine that they are going to make an argument on the Republican side that this has been a successful administration when it comes to domestic issues.

Just take a look at private sector jobs. Under President Clinton, 20.7 million private sector jobs were created; under President Bush, we lost 1.6 million private sector jobs. You have to go back 70 years through Democratic and Republican Presidents to find such a failure in the creation of jobs. But this administration clings tenaciously to the notion that their economic policy is the best.

I see the Senator from Delaware. How much time do I have remaining in morning business?

The PRESIDING OFFICER. The Senator has 7½ minutes.

Mr. DURBIN. Will the Chair advise me when I have 1 minute remaining?

Let me also talk about our fiscal situation. When we talk about the need for more money for education, more money for health care, tax credits for small businesses to provide health insurance, tax deductions for families to help pay for college tuition, we find we are in a difficult position to even consider it. Why?

Here is the chart that tells the story. Take a look at this. As President Clinton left office, there was a $236 billion surplus in the Federal Treasury. Today, under President Bush's leadership, there is a deficit of $422 billion, the largest deficit in the history of the United States.

We have our hands tied when it comes to doing things to help American families get through this tough time when they see the cost of gasoline, the cost of health care, and the cost of college tuition going up, while their personal incomes are not increasing.

Take a look, as well, at the specifics when it comes to real household income for families in America under President Bush. It declined by $1,535, 4 years of President Bush; real family income down $1,500.

Now take a look at the cost to families. Under President Bush's leadership, the cost of family health care premiums has gone up $3,599. When Senator EDWARDS turned last night to Vice President CHENEY and said, I don't think America can take 4 more years of this, this is what he is talking about. Real family income is declining and the cost to families for the necessities of life is increasing.

What we are finding out over and over is that families are not better off. We have seen household income go down under the Bush administration, gasoline prices up 22 percent, college tuition costs up 28 percent, family health care premiums up 45 percent. That is the harsh reality of the cost of living for working families across America.

When Senator EDWARDS confronted Vice President CHENEY last night with those realities, what the Vice President said was, Well, we certainly hope everyone can find a job. Hope is not enough. You need a policy that does not reward the wealthiest in America with tax cuts, but that instead helps working families deal with the realities of the costs of life.

The Vice President and the President are wrong. They are wrong in their policies and some say resolute. I say perhaps too resolute, in sticking with the policy that has failed.

We are in a position where we need new leadership. We have that opportunity, and last night's debate showed the sharp contrast between the projected programs and hopes and policies of the Kerry/Edwards ticket as opposed to the harsh realities of the programs we have seen over the last 4 years.

Mr. President, I yield the floor.

Mr. STEVENS. Mr. President, I ask unanimous consent that I have 5 minutes and the Senator from Delaware have 5 minutes.

Mr. DURBIN. I object to that request. If the Senator from Alaska is going to address me, I would like to have 5 minutes.

Mr. REID. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. STEVENS. If the Senator will not yield to me, I will not yield to him. I want 5 minutes and the Senator from Delaware wants 5 minutes. Does the Senator object?

Mr. DURBIN. I object, Mr. President.

Mr. STEVENS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, it is my understanding that, under the order that is now before the Senate, we on the minority side have about 3½ minutes remaining; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. REID. I ask unanimous consent that the Senator from Delaware be given 5 minutes and the Senator from Alaska be given 10 minutes.

Mr. STEVENS. I object. I only want 5 minutes, and I want to be able to respond to the Senator from Illinois. He would not yield to me. I see no reason why I should yield to him.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. Senator CARPER has 3 minutes now. There is no unanimous consent request pending now, is there?

The PRESIDING OFFICER. There is not.

Mr. STEVENS. What is the time situation?

Mr. REID. I yield 3 minutes to the Senator from Delaware, Mr. CARPER.

The PRESIDING OFFICER. The Senator has 2½ minutes remaining. The Senator from Delaware is recognized for 2½ minutes.

Mr. STEVENS. Mr. President, I cannot hear.

The PRESIDING OFFICER. The Senator from Delaware has 2½ minutes.

The Senator from Delaware.

ESTABLISHING A NATIONAL PARK

Mr. CARPER. Mr. President, later this morning, I will introduce legislation, along with Senator BIDEN, calling for a feasibility study by the Department of the Interior for establishing a National Park Service unit in a State that has never had a national park.

Believe it or not, the State that started the Nation, the first State to ever ratify the Constitution, has no national park.

The State in which the first Swedes and Finns came to America and landed on what is now Wilmington, DE, calling it New Sweden, has no national park.

The State where John Dickinson grew up, who is a coauthor of the Great Compromise creating a bicameral legislature, has no national park.

I could go on.

The heritage of our State and the history of our State together create a fabric which, in a sense, is the tapestry of America. Senator BIDEN and I thus call on the Department of the Interior to conduct a feasibility study to see if maybe a wonderful idea that has evolved from a committee led by Dr. Jim Soles, a professor at the University of Delaware, might win favor with the Department of the Interior and maybe with our colleagues in the year to come.

What is being proposed is a Delaware national coastal heritage park.

It would weave together many of the elements and attractions along the coast of our State, which include the Atlantic Ocean, the Delaware Bay, and the Delaware River.

For the last year or more, a wonderful group of Delawareans has worked together with the Delaware State Division of Parks and Recreation, with the National Park Service, with the Delaware Division of Historical and Cultural Affairs to develop what we believe is a unique and innovative concept, a concept that would include four hubs. The major hub would be in Wilmington, DE, at the rocks where the first Swedes and Finns came ashore in 1638 to America to establish what is now the longest living active Episcopal church, Old Swedes Church, in North America.

That hub would be almost like the hub of a wheel, with spokes emanating to historic sites, natural areas, recreational opportunities, and other attractions in the area. There would be three other similar hubs up and down the State of Delaware as well.

Later today, when I have more time, I welcome the opportunity to share with my colleagues a bit more about this proposal. I have

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Alaska.

Mr. STEVENS. I yield myself time under the intelligence bill.

Mr. REID. Has the bill been reported?

The PRESIDING OFFICER. No.

NATIONAL INTELLIGENCE REFORM ACT OF 2004

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 2845, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 2845) to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

Pending:

Kyl Amendment No. 3801, to modify the privacy and civil liberties oversight.

Stevens Amendment No. 3839, to strike section 201, relating to public disclosure of intelligence funding.

Leahy/Grassley Amendment No. 3945, to require Congressional oversight of translators employed and contracted for by the Federal Bureau of Investigation.

Reid (for Harkin) Amendment No. 3821, to modify the functions of the Privacy and Civil Liberties Oversight Board.

Roberts Amendment No. 3742, to clarify the continuing applicability of section 504 of the National Security Act of 1947 to the obligation and expenditure of funds appropriated for the intelligence and intelligence-related activities of the United States.

Stevens Amendment No. 3827, to strike section 206, relating to information sharing.

Stevens Amendment No. 3840, to strike the fiscal and acquisition authorities of the National Intelligence Authority.

Stevens Amendment No. 3882, to propose an alternative section 141, relating to the Inspector General of the National Intelligence Authority.

Warner Amendment No. 3876, to preserve certain authorities and accountability in the implementation of intelligence reform.

Levin Modified Amendment No. 3809, to exempt military personnel from certain personnel transfer authorities.

Levin Amendment No. 3810, to clarify the definition of National Intelligence Program.

Stevens Amendment No. 3830, to modify certain provisions relating to the Central Intelligence Agency.

Warner Amendment No. 3875, to clarify the definition of National Intelligence Program.

Reid (for Leahy) Amendment No. 3913, to address enforcement of certain subpoenas.

Reid (for Leahy) Amendment No. 3916, to strengthen civil liberties protections.

Reid (for Leahy) Amendment No. 3915, to establish criteria for placing individuals on the consolidated screening watch list of the Terrorist Screening Center.

Collins (for Frist) Modified Amendment No. 3895, to establish the National Counterproliferation Center within the National Intelligence Authority.

Collins (for Frist) Amendment No. 3896, to include certain additional Members of Congress among the congressional intelligence committees.

The PRESIDING OFFICER. Under the previous order, the time until 11:30 a.m. will be equally divided for debate between the two managers and 15 minutes of that time will be under the control of Senator WARNER and Senator LEVIN.

The Senator from Maine.

Ms. COLLINS. Mr. President, I yield 10 minutes to the Senator from Alaska. I then hope we can proceed to four pending amendments of the Senator from Alaska.

Mr. REID. On this time, on behalf of Senator LIEBERMAN, I yield 10 minutes to the Senator from Illinois.

The PRESIDING OFFICER. The Senator from Alaska is recognized for 10 minutes, to be followed by the Senator from Illinois for 10 minutes.

AMENDMENTS NOS. 3830, AS MODIFIED, 3840, AS MODIFIED, AND 3882, AS MODIFIED, EN BLOC

Mr. STEVENS. I have sent three of the pending amendments to the desk in an amended form. These changes have been coordinated with the managers of the bill and I believe they are acceptable to them.

The first amendment, No. 3840, revises the acquisition authority of the national intelligence director and that is at the desk. The second amendment, No. 3830, modifies a certain provision related to the Central Intelligence Agency and that amendment is at the desk. Amendment No. 3882 revises the provisions related to the inspector general of the National Intelligence Authority. It conforms these provisions to those in the Inspector General Act and avoids duplication of the inspector general efforts across the impacted agencies. That amendment is at the desk.

I appreciate the courtesy of the managers of the bill and their staffs, and their willingness to engage in dialog on these amendments with me and my staff.

We are still working to resolve differences over amendment No. 3827 regarding the information-sharing network to address some of the concerns identified by the White House and others. We hope to reach a resolution on that language this morning, but, as I said, I thank the managers of the bill for their help in resolving these issues. It has been a matter of great concern to those of us who have worked with the intelligence community for quite some time.

I now ask unanimous consent that amendments Nos. 3840, 3830, and 3882 be amended as noted in the revised amendments that I have sent to the desk; that the amendments be considered en bloc and adopted en bloc, and that the motions to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendments, as modified, were agreed to, as follows:

AMENDMENT NO. 3830

On page 28, beginning on line 16, strike "of the National Intelligence Director".

On page 43, beginning on line 1, strike "**OF THE NATIONAL INTELLIGENCE DIRECTOR**".

On page 43, beginning on line 5, strike "of the National Intelligence Director" and insert "for the National Intelligence Director and the Director of the Central Intelligence Agency".

On page 43, line 14, add at the end the following: "Any use of funds from the Reserve shall be subject to the direction and approval of the National Intelligence Director and in accordance with procedures issued by the Director.".

On page 43, beginning on line 17, strike "of the National Intelligence Director".

On page 141, between lines 15 and 16, insert the following:

(H) the Director of the Central Intelligence Agency or his designee;

On page 141, line 16, strike "(H)" and insert "(I)".

On page 141, line 18, strike "(I)" and insert "(J)".

On page 141, line 21, strike "(J)" and insert "(K)".

On page 194, beginning on line 23, strike "of the National Intelligence Director".

AMENDMENT NO. 3840

On page 109, line 6, insert the words "within the National Intelligence Program" after the words "for each intelligence program".

On page 109, strike lines 12 and 13 and insert the following:

(B) serve as exclusive milestone decision authority, except that with respect to Department of Defense programs the Director shall serve as milestone decision authority jointly with the Secretary of Defense or the designee of the Secretary; and

On page 110, strike lines 8 through 18 and insert the following:

(4) If the National Intelligence Director and the Secretary of Defense are unable to reach agreement on a milestone decision under this subsection, the Director shall assume milestone decision authority subject to review by the President at the request of the Secretary.

AMENDMENT NO. 3882

On page 60, strike line 5 and all that follows through page 77, line 18, and insert the following:

SEC. 141. INSPECTOR GENERAL OF THE NATIONAL INTELLIGENCE AUTHORITY.

(a) INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—There is an Inspector General of the National Intelligence Authority. The Inspector General of the National Intelligence Authority and the Office of the Inspector General of the National Intelligence Authority shall be subject to the provisions of the Inspector General Act of 1978 (5 U.S.C. App.).

(b) AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978 RELATING TO INSPECTOR GENERAL OF NATIONAL INTELLIGENCE AUTHORITY.—The Inspector General Act of 1978 (5 U.S.C. App.) is amended—

(1) by redesignating section 8J as section 8K; and

(2) by inserting after section 8I the following new section:

"SPECIAL PROVISIONS CONCERNING THE NATIONAL INTELLIGENCE AUTHORITY

"SEC. 8J. (a)(1) Notwithstanding the last 2 sentences of section 3(a), the Inspector General of the National Intelligence Authority (in this section referred to as the 'Inspector General') shall be under the authority, direction, and control of the National Intelligence Director (in this section referred to as the 'Director') with respect to audits or investigations, or the issuance of subpoenas, which require access to information concerning intelligence or counterintelligence matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to information described in paragraph (1), the Director may prohibit the Inspector General from initiating, carrying out, or completing any investigation, inspection, or audit, or from issuing any subpoena, if the Director determines that such prohibition is necessary to preserve the vital national security interests of the United States.

"(3) If the Director exercises the authority under paragraph (1) or (2), the Director shall submit to the congressional intelligence committees an appropriately classified statement of the reasons for the exercise of such authority within 7 days.

"(4) The Director shall advise the Inspector General at the time a report under paragraph (3) is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of such report.

"(5) The Inspector General may submit to the congressional intelligence committees any comments on a report of which the Inspector General has notice under paragraph (4) that the Inspector General considers appropriate.

"(b) In addition to the qualifications for the appointment of the Inspector General under section 3(a), the Inspector General shall be appointed on the basis of prior experience in the field of intelligence or national security.

"(c)(1)(A) In addition to the duties and responsibilities of the Inspector General specified elsewhere in this Act, the Inspector General shall, for the purpose stated in subparagraph (B), provide policy direction for, and conduct, supervise, and coordinate audits and investigations relating to—

"(i) the coordination and collaboration among elements of the intelligence community within the National Intelligence Program; and

"(ii) the coordination and collaboration between elements of the intelligence community within the National Intelligence Program and other elements of the intelligence community.

"(B) The Inspector General shall conduct the activities described in subparagraph (A) to ensure that the coordination and collaboration referred to in that paragraph is conducted efficiently and in accordance with applicable law and regulation.

"(C) Before undertaking any investigation, inspection, or audit under subparagraph (A), the Inspector General shall consult with any other inspector general having responsibilities regarding an element of the intelligence community whose activities are involved in the investigation, inspection, or audit for the purpose of avoiding duplication of effort and ensuring effective coordination and cooperation.

"(2) In addition to the matters of which the Inspector General is required to keep the Director and Congress fully and currently informed under section 4(a), the Inspector General shall—

"(A) keep the Director and Congress fully and currently informed concerning—

"(i) violations of civil liberties and privacy that may occur in the programs and operations of the National Intelligence Authority; and

"(ii) violations of law and regulations, violations of civil liberties and privacy, and fraud and other serious problems, abuses, and deficiencies that may occur in the coordination and collaboration referred to in clauses (i) and (ii) of paragraph (1)(A); and

"(B) report the progress made in implementing corrective action with respect to the matters referred to in subparagraph (A).

"(3) To enable the Inspector General to fully and effectively carry out the duties and responsibilities specified in this Act, the Inspector General and the inspectors general of the other elements of the intelligence community shall coordinate their internal audit, inspection, and investigative activities to avoid duplication and ensure effective coordination and cooperation.

"(4) The Inspector General shall take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Inspector General, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appropriate to minimize the disclosure of intelligence sources and methods described in such reports.

"(d)(1) Each semiannual report prepared by the Inspector General under section 5(a) shall—

"(A) include an assessment of the effectiveness of all measures in place in the National Intelligence Authority for the protection of civil liberties and privacy of United States persons; and

"(B) be transmitted by the Director to the congressional intelligence committees.

"(2) In addition the duties of the Inspector General and the Director under section 5(d)—

"(A) the Inspector General shall report immediately to the Director whenever the Inspector General becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to—

"(i) the coordination and collaboration among elements of the intelligence community within the National Intelligence Program; and

"(ii) the coordination and collaboration between elements of the intelligence community within the National Intelligence Program and other elements of the intelligence community; and

"(B) the Director shall transmit to the congressional intelligence committees each report under subparagraph (A) within 7 calendar days of receipt of such report, together with such comments as the Director considers appropriate.

"(3) Any report required to be transmitted by the Director to the appropriate committees or subcommittees of Congress under section 5(d) shall also be transmitted, within the 7-day period specified in that section, to the congressional intelligence committees.

"(4) In the event that—

"(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the duties or responsibilities of the Inspector General;

"(B) an investigation, inspection, or audit carried out by the Inspector General should focus on any current or former National Intelligence Authority official who holds or held a position in the Authority that is subject to appointment by the President, by and with the advice and consent of the Senate, including such a position held on an acting basis;

"(C) a matter requires a report by the Inspector General to the Department of Justice on possible criminal conduct by a current or former official described in subparagraph (B);

"(D) the Inspector General receives notice from the Department of Justice declining or approving prosecution of possible criminal conduct of any current or former official described in subparagraph (B); or

"(E) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary information in the course of an investigation, inspection, or audit,

the Inspector General shall immediately notify and submit a report on such matter to the congressional intelligence committees.

"(5) Pursuant to title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.), the Director shall submit to the congressional intelligence committees any report or findings and recommendations of an investigation, inspection, or audit conducted by the office which has been requested by the Chairman or Ranking Minority Member of either committee.

"(e)(1) In addition to the other authorities of the Inspector General under this Act, the Inspector General shall have access to any personnel of the National Intelligence Authority, or any employee of a contractor of the Authority, whose testimony is needed for the performance of the duties of the Inspector General. Whenever such access is, in the judgment of the Inspector General, unreasonably refused or not provided, the Inspector General shall report the circumstances to the Director without delay.

"(2) Failure on the part of any employee or contractor of the National Intelligence Authority to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director, including loss of employment or termination of an existing contractual relationship.

"(3) Whenever, in the judgment of the Director, an element of the intelligence community that is part of the National Intelligence Program has unreasonably refused or not provided information or assistance requested by the Inspector General under paragraph (1) or (3) of section 6(a), the Director shall so inform the head of the element, who shall promptly provide such information or assistance to the Inspector General.

"(4) The level of classification or compartmentalization of information shall not, in and of itself, provide a sufficient rationale for denying the Inspector General access to any materials under section 6(a).

"(f) In addition to the authorities and requirements in section 7 regarding the receipt of complaints by the Inspector General—

"(1) the Inspector General is authorized to receive and investigate complaints or information from any person concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety; and

"(2) once such complaint or information has been received from an employee of the Federal Government—

"(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation or the disclosure is made to an official of the Department of Justice responsible for determining whether a prosecution should be undertaken; and

"(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

"(g) In this section, the terms 'congressional intelligence committees', 'intelligence community', and 'National Intelligence Program' have the meanings given such terms in section 2 of the National Intelligence Reform Act of 2004.".

(c) TECHNICAL AND CONFORMING AMENDMENTS TO INSPECTOR GENERAL ACT OF 1978.—(1)(A) Section 8H(a)(1) of the Inspector General Act of 1978 (5 U.S.C. App.) is further amended—

(i) by redesignating subparagraph (C) as subparagraph (D); and

(ii) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) An employee of the National Intelligence Authority, of an entity other than the Authority who is assigned or detailed to the Authority, or of a contractor of the Authority who intends to report to Congress a complaint or information with respect to an urgent concern may report the complaint or information to the Inspector General of the National Intelligence Authority.".

(B) In support of this paragraph, Congress makes the findings set forth in paragraphs (1) through (6) of section 701(b) of the Intelligence Community Whistleblower Protection Act of 1998 (title VII of Public Law 105-272; 5 U.S.C. App. 8H note).

(2) The Inspector General Act of 1978 is further amended—

(A) in section 8K, as redesignated by subsection (b)(1) of this section, by striking "8F or 8H" and inserting "8F, 8H, 8I, or 8J"; and

(B) in section 11—

(i) in paragraph (1), by inserting "the National Intelligence Director;" after "the Attorney General;"; and

(ii) in paragraph (2), by inserting "the National Intelligence Authority," after "the National Aeronautics and Space Administration,".

(d) SEPARATE BUDGET ACCOUNT.—The National Intelligence Director shall, in accordance with procedures to be issued by the Director in consultation with congressional intelligence committees, include in the National Intelligence Program budget a separate account for the Office of Inspector General of the National Intelligence Authority.

(e) SENSE OF CONGRESS ON ADOPTION OF STANDARDS OF REVIEW.—It is the sense of Congress that the Inspector General of the National Intelligence Authority, in consultation with other Inspectors General of the intelligence community and the President's Council on Integrity and Efficiency, should adopt standards for review and related precedent that are generally used by the intelligence community for reviewing whistleblower reprisal complaints made under sections 7 and 8J(f) of the Inspector General Act of 1978.

On page 203, strike lines 9 through 22.

On page 204, line 1, strike "**312.**" and insert "**311.**".

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the senior Senator from Alaska for working with Senator LIEBERMAN and me to resolve these three amendments. I very much appreciate the good-faith suggestions that were made on both sides, and I am grateful to him for working with us to address his concerns.

I think we have come up with very good suggestions, and I am pleased that the amendments have been adopted.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. How much time do I have remaining of the 10 minutes?

The PRESIDING OFFICER. There is 7½ minutes.

WEAPONS OF MASS DESTRUCTION

Mr. STEVENS. Mr. President, I have heard this talk about the inspectors and their conclusion that they have not found weapons of mass destruction. Seventeen times the United Nations asked Saddam Hussein to disclose where the weapons of mass destruction were. We know he used them on the Kurds. We know he used them in Iran. We know we have evidence he was trying to build additional weapons but the inspectors kept asking to return. They asked again and again to return so they could find out if there was evidence of where he had those weapons of mass destruction.

Now they are before the Armed Services Committee this morning and they are going to testify that they have found "no evidence" of the weapons of mass destruction. We had the same conclusion with regard to the Iraqi air force. We were told Saddam had destroyed a series of airplanes. Later we found them buried in the Iraqi desert—a whole series of airplanes—the whole airplane buried. It was capable of being dug up, brought out of the dirt and used.

Now, we have not found the weapons of mass destruction yet. This Senator believes he had them. We know he had them in the Kurd area. We know he used them on Iran. This idea that somehow or another the President or the Vice President have lied, I am tired of hearing this disrespect for the President and Vice President of the United States and I will be willing to debate any time what happened in Iraq.

I went to Kuwait time after time, and to Saudi Arabia, and talked to the pilots who were flying the continuous air patrol over Iraq. Since the gulf war, our pilots were up there every day, and every day they were shot at by ground-to-air weapons that Saddam was not supposed to have at all.

This idea that somehow or another the President and Vice President of the United States lied because they believed there were weapons of mass destruction there, I believe there are weapons of mass destruction there and I still believe there are weapons there somewhere. Where they have taken them, I do not know, but they have not found them. The inspectors kept finding enough reason to go back and go back. They went back 17 times.

To say the President lied, what about those inspectors who said, We have to go back; we have not found them yet but we are going to find some more? Did they lie?

I think there ought to be greater respect for the Presidency and the Vice Presidency of this country, and in this campaign. I have never heard such disrespect. I did not go out and campaign against President Clinton and say he lied, and yet we know he did. He admitted he lied about the matters that were before the grand jury. Now we did not go out and accuse the President of lying. We had a lot of discussions on the floor about that.

So if we want to compare Presidents and who lied and who did not, I am ready any time the Democrats want to do it, but I am tired of this disrespect. It is time we showed respect for the system. I do not remember in the past when a Senator asked another Senator to yield and if that Senator had time, it normally would happen. At the very least the Senator would say: Let me finish my statement now and I will yield at the end of my statement. That kind of senatorial courtesy has to come back to the Senate.

If the Senator wants me to yield, I will yield the remainder of my time.

The PRESIDING OFFICER. Has the Senator yielded the floor?

The Senator from Illinois.

Mr. DURBIN. Mr. President, it is my understanding I have 10 minutes.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Mr. President, let me say that——

Mr. STEVENS. The Senator has 10 minutes on his time on the 1 hour to which the Senator is entitled.

The PRESIDING OFFICER. That is correct.

Mr. DURBIN. Mr. President, if the Senator will check the record, he will find that without exception I have always yielded for a question but I was in a difficult position because the Senator from Delaware wanted to speak after me. In the entire amount of time given to me, I would have been happy to yield.

I think, frankly, dialog between two Senators is something perilously close to debate in the Senate, which we hardly ever have. I am sorry we did not have that opportunity, but I think we have the opportunity at this moment.

What I hear from the Senator from Alaska is that we should show respect for the Office of the Presidency. I could not agree more. Whether the President is of my party or any other party, he should be given respect. Even if I disagree with that President, his policy or his statements, I am hoping that I will always be viewed as a person who has that respect for the Office of the Presidency. That is the least that is expected of every single Member of Congress, and I hope the people across the United States.

Having said that, I do not believe that disagreeing with the policies of an administration is disrespectful. In fact, I think it is part of the national debate which makes America so unique.

I do not believe it is disrespectful to say that the information given by the President, the Vice President, the Secretary of Defense, and the Secretary of State was wrong and misleading. It was. I have never used the word "lie," nor would I because a lie means there was a deliberate misrepresentation. I don't have any evidence there was a deliberate misrepresentation. But there was a misrepresentation, at least in four specific elements. Let me tell you what they were.

The administration misled the American people in believing there were weapons of mass destruction—an arsenal of chemical, biological, and nuclear weapons set to strike countries in the Middle East as well as the United States—in Iraq before our invasion. We know now, based on clear and convincing evidence, there is no indication that Saddam Hussein ever had these arsenals of weapons of mass destruction. So when the President and the administration said that to justify the invasion, they were wrong. The American people were misled. That is a fact.

Point No. 2, this administration misled the American people about the capacity of Iraq to build nuclear weapons. Yesterday I came to the floor and talked about the most recent disclosure about aluminum tubes. The American people were misled into believing Saddam Hussein was about to become a nuclear power, threatening the region and the United States. The administration was wrong. The American people were misled.

Point No. 3, the administration said there was linkage, and I quoted this morning direct quotes from Vice President CHENEY. They argued there was linkage between Saddam Hussein and the 9/11 tragedy in America; that somehow Saddam Hussein and al-Qaida were consorting to attack the United States. We have seen repeatedly through the 9/11 Commission Report, the Senate Intelligence Committee report, as well as clear statements now, today, by the Secretary of Defense, that was wrong. The American people were misled. That is a fact.

These elements are facts that cannot be denied. To say the administration misled the American people is there for the record. I have not said the President lied. But I do say he gave wrong information to the American people, and even the President has conceded that fact. When the Secretary of Defense says there is no linkage, when the President removes the offensive words from the State of the Union Address, he concedes the fact that statements made before the invasion were misleading and they were wrong.

Why in the world can't this administration accept that reality? Why do they have to cling to the fiction that was presented to the American people?

The Senator from Alaska said we should show respect for the Presidency, and I agree. But more important, we need to show respect for the American people. They are the ones we serve, the President and every Member of Congress. We need to show them respect by giving them the clear, unvarnished truth so they understand the facts before we make critical decisions.

We have now lost over 1,050 of our best and brightest and bravest American soldiers in Iraq. We lost them because we invaded that country before we let the inspectors do their job in Iraq, before we created a broad coalition of countries that would join us in this military effort, and here we stand today.

Last night, Vice President CHENEY said don't demean the coalition. Other countries stand with us. I certainly respect the fact that they would stand by the side of America. But make no mistake, when you open the morning paper, regularly, virtually every morning you learn of the death of another American soldier. It is American soldiers who are fighting and dying in Iraq in much greater numbers, even, than any other country I should say, and much greater numbers than I think should be the case.

Had this President done the same thing his father did, gone to the United Nations for approval of our invasion, put together a coalition of nations which included Arab nations—President Bush's father understood that, in the Persian Gulf. He knew that to bring in Arab nations as part of the coalition meant there would be less resentment in Arab states for our action. This President did not wait to bring in an Arab state to help us in this coalition of the willing. As a consequence, the resentment against the actions of the United States in the Arab world has been growing apace, and we have found the recruiting efforts to find more terrorists to not only invade Iraq and kill our soldiers but to spread around the world are mushrooming. Are we safer today because of that invasion, because we didn't build the coalition? I think not.

I am glad Saddam Hussein is in prison. I am glad he is out of power. But don't diminish the cost to the United States and the fact that there is no end in sight to this war in Iraq.

There was no plan from this administration to execute this war and protect our troops with body armor, with Humvees armored, with protective equipment on helicopters, and certainly we understand today, based on Ambassador Bremer's statements just 2 days ago, that we didn't have a sufficient number of troops to bring stability to the region.

We are paying the price for those bad decisions. Statements were made by this administration that were wrong and misleading. Decisions were made that clearly evidence that we were not prepared, as we should have been. We are paying that price, and there is no end in sight.

If the Senator from Alaska suggests it is disrespectful to the President to raise these issues, I respectfully disagree with him. It is our obligation to have an open, honest, national debate about the foreign policy of this country, which involves families far and wide in Illinois, Alaska, and around the United States.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I am delighted to have an opportunity to debate with the Senator from Illinois because I listened to the comments he made before, comments I violently disagree with. For instance, in 1998, President Clinton went before the general officers of this Nation, officers from all of our units of the military, and he told them he believed Saddam Hussein had weapons of mass destruction. He laid down a just challenge to Saddam Hussein to come forward and disclose them or he believed he might have to go into Iraq himself. That seems to be forgotten.

Apparently, the Senator from Illinois didn't hear the Vice President when he mentioned Mr. Zarqawi last night, a man who was in Iraq before even the problems of Afghanistan who was operating there. He is back there now. He had operated in Afghanistan and Pakistan, was part of the bad guys there. Now we know he is back in Iraq again. He is mentioned as being one of the senior contacts within the al-Qaida organization that was there before and came back again now. The Vice President has mentioned the contacts that existed in the al-Qaida world in Iraq.

I still believe he was right. There is no question about it. There was a portion of the terrorist organization in Iraq before, and they are back there now.

As far as the weapons of mass destruction, I believe at the time we had seen the briefings—and I am one of the eight in the Congress who received the same briefings the President of the United States got about Iraq. We got them in confidence. As a matter of fact, even the statement the Senator from Illinois made about Mr. Bremer, who is the President's representative, that is from a classified report that we should not be discussing on the floor. It ended up somehow being leaked, that one line from the report. But the report deals with the overall relationship of Mr. Bremer to the whole process.

The problem is this: When we look at the Bremer situation, what Bremer did—we were there. We talked to him. He did want more forces around Baghdad. He thought there should be more. The President relied upon our general officers. He told me personally and he told us as we went to Iraq and came back from Iraq, we are doing what our general officers request, as far as the troop strength is concerned.

The general officers disagreed with Bremer as to the location of those forces. There is no question about it. We probably should have had more. In my opinion, we should have been able to come through Iraq from the north, through Turkey, and come from the south from Kuwait, and had two forces moving through Iraq and squash those people over there.

Instead, because of developments in Turkey, we could not go through Turkey. We flew our troops down to Kuwait, we took their supples all the way around, and when the supplies reached them they then went in, and instead of having forces meet in Baghdad, particularly in Saddam Hussein's home part of Iraq, they then come back to Baghdad, and that left them spread out. My memory is that the insurrection started in the south because the forces had gone north and we couldn't spread them that thin.

People said: Send more troops. Send more troops. We heard that on the floor: Send more troops. The ability to maintain and supply those troops was a real difficult situation, particularly when all the support supplies were coming through Kuwait. We even started sending some supplies through Jordan.

But the problem really is what happened in terms of Saddam Hussein, in terms of the relationship to al-Qaida, and the relationship to weapons of mass destruction. I stood here on the floor of the Senate and called Saddam Hussein a Hitler. I did that at least 9 months before the war started. I still believe he was a Hitler. He invaded Kuwait, and we had to kick him out. He was rebuilding his military within that area that he still maintained control of in Iraq. We had control of the south and north part of his country. Yet look at it in terms of the no-fly zone we were trying to protect.

But in terms of the part he controlled he was rebuilding his military because of the money that came into his hands through the "food-for-oil" program.

You can stand here, no matter what you say, and say we haven't found weapons of mass destruction. That is true. We haven't found them. I still believe there are some out there, whether they are in adjoining nations or buried in the ground. Whatever happened to them, he had them.

To accuse the administration of misleading the public when they relied upon the intelligence analysts that we relied on—the same intelligence analysts President Clinton relied on when he made his 1998 speech. Certainly those of us who were here supported the resolution that asked the President to send troops into Iraq; we believed it. When you look at it, if we want to get into situations when Senator KERRY voted against the 1991 war resolution in spite of what Iraq did in invading Kuwait, he voted against us going into Kuwait to liberate Kuwait.

I think my friends on the other side of the aisle have been wrong for 30 years. As a matter of fact, those on the other side of the aisle mainly opposed the Reagan buildup in the 1980s. I was chairman of the Defense Appropriations Subcommittee, and I remember those votes. Fifty times here we voted on amendments that were offered to try to strike weapons systems from the defense bill that I managed to bring to the floor to rebuild the military capacity of the United States. All of those amendments came from the other side of the aisle.

When you look at it, when you look at the trouble, why did we have a shortage of intelligence? President Clinton started degrading human intelligence in the CIA. He denuded the intelligence system as far as human intelligence is concerned because he wanted to rely on the satellites in the air and the communications systems, electrical systems.

I cannot believe we are going to get into these one-sided statements. I would like to have a full debate. I am sort of at a loss. I don't have my records. The Senator from Illinois has his records, but I don't have them.

But I have a feeling that had we not denuded the CIA in the 1990s, we would have had better intelligence. But the information we had relied upon, the American public relied upon, and this Senate relied upon when we voted to give the President the right to go into Iraq.

To say the President was wrong because he relied on the same intelligence we relied upon I think is a faulty argument, and it should not happen on the floor of the Senate in a political season where we are trying to destroy the reputation which the President deserves for having the guts to do what Clinton didn't have the guts to do.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. There are 3½ minutes remaining.

Mr. DURBIN. Mr. President, let me say in response to the Senator from Alaska before he leaves the floor—I want to let him know I want to respond to his comments so there will be no mistake about it.

First, the statement that Ambassador Bremer's comments had something to do with classified information, what I have said on the floor was based upon some front pages of the newspapers. Ambassador Bremer was reported to have said to a private organization in a speech that one of the problems we have in Iraq today stems from the fact that we had an inadequate number of troops in the field to bring stability, to stop the looting and violence immediately after the deposition of Saddam Hussein. That is not classified. It is on the front pages of the newspapers. Ambassador Bremer has now backed away from those comments. But the fact is he made them, and many believe the same thing—that we had an inadequate number of troops at the right and appropriate moment and are paying the price today because the insurgency has grown.

Second, last night Vice President CHENEY, and this morning the Senator from Alaska, make a great deal about the so-called Ayman al-Zawahiri link, a ruthless terrorist who is affiliated with al-Qaida. The Vice President made the statement last night that the Senator made today—that there was a linkage between Ayman al-Zawahiri and Saddam Hussein and, therefore, proof positive al-Qaida and Saddam Hussein were working together justified the invasion.

I commend to my colleagues and those following the debate this morning's report from MSNBC.com from Washington:

> A CIA report has found no conclusive evidence that former Iraqi President Saddam Hussein harbored Ayman al-Zawahiri which the Bush administration asserted before the invasion of Iraq.

This is a fact. It comes from the President's own CIA. They continue to build these straw men to justify an invasion when the facts don't back them up—no weapons of mass destruction, no nuclear arsenal, no evidence of bringing in yellowcake from Niger, no evidence of linkage with al-Qaida. And they cling tenaciously and stubbornly to these assertions even though the facts defeat them.

How can you trust an administration that will not accept the facts and reality to prepare a defense for America? Shouldn't the defense of our Nation be based on reality rather than theory? Shouldn't it be based on sound intelligence instead of political ideology? I would think so.

Any President who comes to this office with a predetermined set of ideas on what we need to do to protect America regardless of the facts is not serving our country well. I hope both political parties would acknowledge that.

AMENDMENT NO. 3801

Let me also say we are about to consider in the early parts of the debate this morning an amendment by Senator KYL to the underlying bill on intelligence reform. I oppose this amendment. I hope my colleagues will join me in opposing it.

We have come together with a bipartisan agreement on the civil liberties board. It is a board which has been created by both sides of the aisle working to implement the recommendations in the 9/11 Commission report. What Senator KYL is trying to do is take away some important powers and responsibilities of this board.

For example, he wants to eliminate the board's standard of review. This is the standard that the board uses to take a look at proposed expansions of the government's power and make sure they don't infringe on rights. What Senator KYL suggests is we take away the standard of review from the civil liberties board. That would frankly create a ship above water.

We need to make sure this board has a standard of review so they can look at government actions and decide whether they go too far. That is what the 9/11 Commission suggested and that is what we should stick to.

Senator KYL's amendment also would remove the Board's subpoena power. He said he would be concerned that this civil liberties board would be subpoenaing members of our Government, agents of our Government, to come in from all over the world and give them evidence. I hope the Senator from Arizona will read this provision more carefully and more closely because the subpoena authority in this bill is very narrow. It only applies to people outside of the Government.

The Kyl amendment would also eliminate the requirement of the board to inform the public about its activities in a manner consistent with protecting classified information. This directly contradicts the recommendation of the 9/11 Commission. We are talking about protecting the American public's rights, liberties, and freedoms. It is essential that the work of the civil liberties board be made public so the American people can understand what they are doing and whether our Government has gone too far. Why the Senator from Arizona would want to keep secrecy and a veil over this activity, I don't understand.

I certainly hope we reject the Kyl amendment which would demolish the Collins-Lieberman civil liberties board, a bipartisan creation. It would upset the delicate balance between government powers and civil liberties this bill strikes. I urge my colleagues to oppose the amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I ask unanimous consent that the time for the quorum call be charged equally to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Is there still time on both sides under the order that has been entered?

The PRESIDING OFFICER. There is 20 minutes on each side.

Mr. REID. The Senator from Delaware gets 5 minutes.

Mr. CARPER. I thank the minority leader for yielding to me.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. CARPER. I thank the Chair.

(The remarks of Mr. CARPER pertaining to the introduction of S. 2899 are located in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. REID. I suggest the absence of a quorum and I ask the time be charged equally.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. REID pertaining to the submission of S. Res. 448 are printed in today's RECORD under "Submitted Resolutions.")

The PRESIDING OFFICER. The Senator from Vermont is recognized.

Mr. LEAHY. Parliamentary inquiry: Was there time reserved for the Senator from Vermont prior to the vote?

The PRESIDING OFFICER. No.

Mr. LEAHY. Mr. President, I seek recognition in my own right.

Ms. COLLINS. Mr. President, how much time does the Senator need? I believe 30 minutes has been reserved for Senator WARNER and Senator LEVIN of the hour and a half of debate that was available this morning.

Mr. LEAHY. Mr. President, am I correct that we are planning to vote at 11:30 on the Kyl amendment?

The PRESIDING OFFICER. That is the order.

Mr. LEAHY. Mr. President, I will speak for 3 to 4 minutes on the Kyl amendment.

Mr. REID. Mr. President, if I may say to my distinguished friend, the Senator from Vermont, time was evenly divided, and the minority's time is gone. We were not aware of the Senator from Vermont needing time.

I ask the Senator from Maine, does she wish to make a statement? All the time left is hers.

Ms. COLLINS. Mr. President, I do intend to speak, so we need to reserve time. I am also concerned that the two Senators who specifically requested time have not had an opportunity to speak.

Mr. REID. They have had an opportunity but have not taken it. We need to get this vote off near the time. The Senator from Vermont needs 3 or 4 minutes.

I ask unanimous consent that the Senator from Vermont be recognized for 4 minutes and that time also be added to that of the majority, so there would be an extra 8 minutes. We cannot extend it past that time because there are things people need to do.

Ms. COLLINS. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont is recognized.

Mr. LEAHY. Mr. President, I thank the Senator from Nevada and the Senator from Maine.

Mr. President, I rise today to discuss the provisions in the Collins-Lieberman bill establishing a privacy and civil liberties oversight board and to respond to some of the disturbing discourse and efforts to undermine those provisions.

It is unquestioned that one of the key recommendations of the 9/11 Commission was the creation of a civil liberties board to fill a clear void in government structure for addressing these concerns. The Commission discovered that there was "no office within the government whose job it is to look across the government at the actions we are taking to protect ourselves to ensure that liberty concerns are appropriately considered." In response to this vacuum, the Commission explicitly recommended that "at this time of increased and consolidated government authority, there should be a board within the executive branch to oversee adherence to the guidelines we recommend and the commitment the government makes to defend our civil liberties." The 9/11 Commission concluded: "We must find ways of reconciling security with liberty, since the success of one helps protect the other."

The Commission was certainly right. There is no doubt that such a board is needed given the heightened civil liberty tensions created by the realities of terrorism and modern warfare. The tools of the information age include precise data-gathering, networked databases, and tracking and sensing technologies impervious to the common eye. The legal tools are similarly powerful, ranging from substantial capabilities under the USA PATRIOT Act and under our immigration laws. As the Commission noted, "[e]ven without the changes we recommend, the American public has vested enormous authority in the U.S. government." In an even more pointed and ominous assessment of these powers, Vice Chairman Hamilton noted, in a recent Judiciary Committee hearing, these developments are "an astounding intrusion in the lives of ordinary Americans that (are) routine today in government."

One of my colleagues suggested that this bill is solely to strengthen our intelligence tools and "not a bill regarding our civil liberties." But this is a myopic view. You cannot divorce one from the other. Security and liberty are always in tension in a free society, and that is readily apparent today. It is our vigilant duty to work hard at striking the right balance. We must enhance our capabilities, but with such powerful tools comes heightened responsibility, and the Commission has challenged us to take up those reins: "This shift of power and authority to the government calls for an enhanced system of checks and balances to protect the precious liberties that are vital to our way of life."

We have an obligation to ensure that there are mechanisms in place that will see to it that this power is subject to appropriate checks and balances and congressional oversight. An effective civil liberties board can help provide those checks and contribute to preserving both liberty and security.

We need a civil liberties board whose members collectively can think critically and independently about the policies we implement as a nation and about how they affect our fundamental rights. The board must be able to participate in the policymaking process, review technology choices and options, peer into various agencies and assess actions, review classified materials and investigate concerns. This board must have the versatility to work closely with government officials, but at the same time it must be sufficiently independent to assess those government policies without fear, favor or compromise. Given these significant responsibilities, it is equally important that the board be accountable to Congress and the American people.

The civil liberties board outlined in the Collins-Lieberman bill makes great strides toward meeting these goals. It represents a true bipartisan effort from conception to introduction. I was pleased to work with these Senators along with Senator DURBIN to make this civil liberties board the kind of board that would honor the 9/11 Commission's intent. It should not go without notice that Commissioners Slade Gorton and Richard Ben-Veniste issued a bipartisan statement that, "A civil liberties board of the kind we recommend can be found in the Collins-Lieberman bill in the Senate."

This legislation establishes a bipartisan board that would have access to the documents and information needed to assess our counterterrorism policies that affect the vital civil liberties of the American people. It provides a mechanism for them to work closely with administration officials, including working with a network of newly created department-level privacy and civil liberty officers, whose proximity to decision makers will ensure that these concerns are considered from the earliest stages of policy formation. It requires the board to report to Congress on a regular basis, and—without compromising classified information—to inform the public about policies that affect their vital liberties.

Unfortunately, Senator KYL's amendment 3801 attempts to gut the carefully crafted, bipartisan civil liberty and privacy provisions that are the hallmark of the Collins-Lieberman bill. It is inconsistent with the recommendations of the 9/11 Commission and would undermine the civil liberties that we cherish.

First, Senator KYL's amendment attempts to cut off the information flow that would ensure that the board could accurately, reliably and effectively advise on the impact of policies on privacy and civil liberties. It would also eliminate the board's ability to subpoena people outside of the government who may have important information, such as private sector data collectors working on behalf of the government. It would also eliminate the privacy officers, as well as public hearings and reports to the public.

It is clear that the Commission intended for the board to have access to the information that it needed in order to effectively assess policy. In a recent House Judiciary Committee hearing, Vice Chairman Hamilton said, "The key requirement is that government agencies must be required to respond to the board." He went on to note that the Commission itself had subpoena power, and "if we had not had it, our job would have been much, much more difficult." I would note that the Collins-Lieberman bill does not go as far as to mandate subpoena power over government officials, but rather only over relevant non-government persons.

Given the secrecy and civil liberty concerns that have been pervasive in this administration, we should be enhancing information flow and dialogue, not eliminating it. It is ironic that at the same time that the administration has been making it more difficult for the public to learn what government agencies are up to, the government and its private sector partners have been quietly building more and more databases to learn and store more information about the American people themselves.

Second, Senator KYL's amendment would eliminate a provision that gives the board important guidance on how to review requests by the government for new and enhanced powers. This is a critical omission. In order to balance liberty and security, we need to ensure that the board will be looking at policies through a prism that would allow for heightened security protection, while also ensuring that intrusions are not disproportionate to benefits, or that they would unduly undermine privacy and civil liberties. This guidance would also keep the board focused on the right priorities and prevent the mission creep that some fear.

Contrary to assertions that this would be a "citizen board" gone wild that would "haul any agent in anywhere in the world and grill him," this board would consist of highly accomplished members who have the appropriate clearance to access classified information, who have extensive professional expertise on civil liberty and privacy issues, and who have the knowledge of how to view these concerns in the context of important antiterrorism objectives. Again, its subpoena power would be limited to nongovernment persons, and so could not used willy-nilly to drag in agents from the field.

It simply cannot be that the government can create and implement policies that impinge on our liberties without having to account to anyone. While that may make things convenient or easy, it certainly does not preserve the ideals of the country we are fighting to protect. As the Commission reminded us, "if our liberties are curtailed, we lose the values that we are struggling to defend."

Some have suggested that we leave this responsibility to "federal agencies that are already equipped and designed for that function." But this misses precisely the point raised in the report. There is currently no such suitable entity that can look across government and offer an independent, uncompromised assessment of the impact of government powers on civil liberties. And I emphasize look, because some would suggest that we do not need a board with an affirmative obligation to go out and review policy. To the contrary, what we do not need is passivity. We need to be as vigilant about protecting our fundamental rights as we are in hunting down and capturing terrorists. It is what Commissioner Gorton, a former Republican Senator from Washington, described as a "watchdog to assure maximum protection of individual rights and liberties in those programs." Similarly, Commissioner Hamilton has said that "it ought to have a very tough investigative staff and it ought to be a very active board and agency."

Others have suggested that the administration's recent efforts are a suitable substitute. I strongly disagree. Rather, the Executive Order attempted to foist upon us an anemic civil liberties board. I and several of my colleagues noted in a letter to the President that the board was not a bipartisan or independent entity. It had no authority to access information and it had no accountability. It was housed in the Department of Justice, and it was comprised solely of administration officials from the law enforcement and intelligence communities, precisely the communities that the board would have an obligation to oversee. It was the proverbial case of the fox guarding the henhouse. This would not have resulted in a vigorous consideration of policy that the Commission intended.

As the Commission noted, the "burden of proof for retaining a particular governmental power should be on the Executive, to explain (a) that the power actually materially enhances security and (b) that there is adequate supervision of the Executive's use of the powers to ensure protection of civil liberties. If the power is granted, there must be adequate guidelines and oversight to properly confine its use."

We should be looking for ways to ensure that this burden of proof will be met, rather than weakening oversight and accountability.

As the 9/11 Commission noted, when it comes to security and civil liberties, "while protecting our homeland, Americans should be mindful of threats to vital personal and civil liberties. This balancing is no easy task, but we must constantly strive to keep it right."

Senator KYL's amendment fails to "keep it right," and I urge that the Senate honor the spirit of the recommendations of the 9/11 Commission, and reject it.

Senators COLLINS and LIEBERMAN have it right in their bill and we should not allow that to be gutted.

I ask unanimous consent that a letter to the President from myself and others on this subject be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, September 21, 2004.

Hon. GEORGE W. BUSH,
President of the United States,
The White House, Washington, DC.

DEAR PRESIDENT BUSH: We are writing in response to the recent creation and activities of the Administration's Board on Safeguarding Americans' Civil Liberties.

One of the key recommendations of the 9/11 Commission was the creation of a civil liberties board to balance the enormous powers granted by the people to the government for protection against terrorism. Critically, it concluded: "We must find ways of reconciling security with liberty, since the success of one helps protect the other."

There is no doubt that such a board is needed given heightened civil liberty tensions created by the realities of terrorism and modem warfare. The tools of the information age include precise data-gathering, networked databases, and tracking and sensing technologies impervious to the common eye. With such powerful tools comes heightened responsibility.

But the civil liberties board established by the August 27, 2004, Executive Order and the manner in which it is proceeding do little to further the goal of balancing liberty and security. The board resembles a presidential advisory team, and not an independent, bipartisan entity. Housed in the Department of Justice, the board will be comprised solely of Administration officials from the law enforcement and intelligence communities, precisely the communities that the board will need to oversee. In essence, this board's responsibility would be to oversee itself; it is the proverbial case of the fox guarding the hen house. Further, the board has no meaningful investigative authority, and there is no apparent role for Congress.

While such an entity may help inform the White House of the impact of Administration policies on civil liberties, it is no substitute for the sort of civil liberties board that would meet the 9/11 Commission's call for an "enhanced system of checks and balances to protect the precious liberties that are vital to our way of life." Simply put, the Executive Order does not establish an entity with the authority, independence and accountability necessary to protect civil liberties.

Further, the board's hasty meeting, with no discussion of these matters, and with no advance notice to the public, is inherently inconsistent with the very characteristics of openness and accountability necessary to protect civil liberties. A post-meeting press release is simply not the kind of open communication that will foster any trust and confidence in this board's ability to protect the liberties we hold dear.

It is important that we have a civil liberties board that can think critically and independently about the policies we implement as a nation and how they impact our fundamental rights. Choices about its composition, powers and accountability should serve that goal and will need to be openly discussed and carefully weighed. The board must be able to participate in the policy-making process, review technology choices, peer into various agencies and assess actions, review classified materials, and investigate concerns. In particular, the board will need to be sufficiently independent of the Department of Justice to assess its actions without compromise.

Accountability is essential. We cannot assign a board such significant responsibilities without periodically reviewing its progress to ensure that its mandates are being met. Regular reports to Congress and the public provide such checks.

As the 9/11 Commission noted, when it comes to security and civil liberties, the "balancing is no easy task, but we must constantly strive to keep it right." We agree. We must do this right and we must do it together. Congress is currently considering various proposals to create an effective civil liberties board that can achieve these goals, and we hope that the Administration and its civil liberties advisors will support and cooperate with Congress in its development.

Sincerely,

PATRICK LEAHY,
EDWARD M. KENNEDY,
RUSSELL D. FEINGOLD,
U.S. Senators.

Mr. LEAHY. Mr. President, I retain the remainder of my time.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. ROCKEFELLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Will the Senator suspend? Is time yielded to the Senator from West Virginia?

Ms. COLLINS. Mr. President, I yield 5 minutes to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 5 minutes.

Mr. ROCKEFELLER. Mr. President, I rise to speak in opposition to the amendment of my good friend from Virginia, Senator WARNER. The Warner amendment would effectively undermine the ability of the national intelligence director to manage the intelligence programs by changing the definition in the bill of what constitutes a national intelligence program.

Under the Collins-Lieberman bill, the national intelligence program includes all programs—all programs—projects, and activities of a number of national intelligence agencies, including the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office.

The Collins-Lieberman bill has been carefully crafted to provide the new intelligence director with the consolidated budget, personnel, and tasking authority necessary to manage the newly defined national intelligence program. The Warner amendment seeks to unravel this. It is a major "undoing" amendment. It unravels these unified authorities under the intelligence director by giving the Secretary of Defense significant control over the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office.

I specifically mention this troika of national intelligence agencies—NSA, NGA, and the NRO—because each agency is partially funded through the Joint Military Intelligence Program budget, known as JMIP.

For instance, in the President's fiscal year 2005 budget request, 30 percent of the National Geospatial-Intelligence Agency's budget comes from the JMIP. Similarly, hundreds of millions of dollars in the NRO and NSA budgets are funded through JMIP.

The Warner amendment would eliminate these programs from the definition of the national intelligence program, thereby splitting the management of these national intelligence agencies between the national intelligence director and the Secretary of Defense.

It is very important to note that these programs are not—repeat, not—tactical military intelligence programs. The Secretary of Defense would retain control over these tactical military programs under the pending bill. So under the Collins-Lieberman bill, the national intelligence director, consistent with the 9/11 Commission mandate, is given authority over the programs and activities of these three basic programs.

But now the Warner amendment would have the Senate say: Hold on, we do not want the director to have complete authority over these agencies. We want a sizable portion of their activities to be jointly shared, jointly managed, jointly tasked by the national intelligence director and the Secretary of Defense.

That is exactly what the situation is today and why we are trying to change all of this. It is exactly the type of bifurcated arrangement the 9/11 Commission highlighted as fundamentally dysfunctional. This is exactly the type of crossways organizational setup that inhibits our intelligence community from achieving efficiency and effectiveness of management that we need to protect our national security. This is exactly the type of problem the Collins-Lieberman bill would correct.

Adoption of the Warner amendment would strip away from the national intelligence director an essential ability to manage what is now an intelligence community in name but not in reality.

I urge my colleagues to oppose this amendment. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from West Virginia for his comments.

Mr. President, I ask unanimous consent that it be in order for the Senator from Arizona and the Senator from Georgia to each have 2 minutes to discuss their amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arizona is recognized for 2 minutes.

AMENDMENT NO. 3801

Mr. KYL. Mr. President, we are going to be asking unanimous consent to withdraw amendment No. 3801, which is an amendment Senator CHAMBLISS and I offered to deal with the problem of overlapping and redundant civil rights and privacy investigations, entities, or individuals that would be added to those that already exist to protect civil rights and privacy in the national intelligence director office and other offices of the intelligence community.

The head of the 9/11 Commission, Philip Zelikow, the Executive Director, noted one of the biggest problems we have with our intelligence collection and analysis when he said:

> We also found—

"We" meaning the 9/11 Commission—

> that the 9/11 story illustrated the danger of risk aversion from constant worry of being investigated. We gave several important examples of officials who overinterpreted existing legal constraints for fear of exceeding their authority. We were also astonished by the extent to which CIA officials, beyond any others in the Government, already conduct their work in a manner that anticipates and guards themselves for the prospect of future investigations.

We found this in the Intelligence Committee, and the 9/11 Commission found the same thing—a profound aversion to taking risks because of all the people looking over the shoulders of these agents, ready to pounce on them if they do anything wrong or make a mistake.

What does the underlying legislation do? It exacerbates the problem because it requires that existing agencies of the Government either designate an existing officer or create a new position for privacy and civil liberties. Notwithstanding the fact that each Department—Homeland Security, Health and Human Services, CIA, and others—already have officers with the responsibility, including an inspector general, chief privacy officer, and the officer for civil rights and civil liberties.

In each one of these agencies, those officers currently exist. There is a new mandate placed on all of them, in addition to which the President, following the 9/11 Commission recommendation, appointed his own board on Safeguarding American's Civil Liberties, and the bill creates a privacy and civil liberties oversight board with subpoena power and puts under the National Intelligence Authority an officer for civil rights and liberties and a privacy officer, in addition to the already existing inspector general.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. KYL. Mr. President, I ask unanimous consent for an additional 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KYL. And the creation of an ombudsman. This is overkill. It is going to exacerbate the problem of risk aversion with having too many people looking over the shoulder of too many people we tasked with the difficult job of collecting and analyzing intelligence.

Mr. President, 9/11 did not happen because we had too many people with privacy being violated or civil rights being violated. It happened because our intelligence was not good enough. Too many of these are going to impede our intelligence, and that is why we offered this amendment. I regret we are going to have to withdraw it, but I appreciate the fact that the sponsors of the legislation are committed to working with us in the conference to try to bring a better balance to the bill.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. CHAMBLISS. Mr. President, I thank my colleague from Arizona for his tremendous leadership on this particular issue.

I voted yesterday with our leadership to invoke cloture on this bill, but, frankly, I did so reluctantly because I sympathize with the comments that the Senator from Alaska, Mr. STEVENS, made just yesterday and the day before relative to the fact that we are rushing into an issue that is so complex that we really need to take the time to do this right. But I understand we are at the end of this session and that we need to get this bill done and get it to conference. That is the only reason that Senator KYL and I are willing to withdraw this amendment. Let's get it to conference and try to clean this up there.

Once again, I have been reminded about the problems we have at the CIA under the leadership now of a new CIA Director whose hands are going to be tied by this particular provision that we are seeking to modify in this bill. We are concentrating, from an overall intelligence reform standpoint, on building up our collection of intelligence through human assets. But now with the creation of the civil liberties board in this bill, a political bureaucracy is being established that is going to be looking over the shoulder of every CIA agent around the world and is going to have the ability to determine whether that CIA agent violated the civil liberties of somebody in the prosecution of gathering intelligence. I think this is a very harmful provision in this bill.

The Senator from Arizona has provided strong leadership on this issue, and I thank him for that. We need to clean up the provision of the bill as it relates to the civil liberties board before we destroy the morale of our agents in the field. While I regret we are going to have to withdraw the amendment at this point in time, I also am encouraged by the comments of the chairman, as well as Senator LIEBERMAN, that they are willing to work with us as we move into conference. It is critical to make the necessary modifications in conference to ensure that our intelligence community has a free hand in trying to gather intelligence to protect the lives of our citizens without violating civil liberties, and without violating privacy rights. Our intelligence professionals have and will conduct their dangerous and important work within the framework of our laws.

I yield the floor.

The PRESIDING OFFICER. The Senator's time has expired.

AMENDMENT NO. 3801, WITHDRAWN

Mr. KYL. Mr. President, I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the two Senators. I understand their concern. This issue is going to be the subject of much discussion, I am sure, in the Senate-House conference. I very much appreciate the issues they have raised. I take them seriously, and I appreciate their cooperation in withdrawing the amendment. I thank my colleagues.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I join Senator COLLINS in thanking the Senator from Georgia and the Senator from Arizona for their support of the bill, for their deep commitment to national security, for raising the questions they have raised, which are good questions, and, frankly, for being willing, as we approach the final passage of this bill, to not press this particular concern and to allow us to go forward. I look forward to working with them on matters of intelligence and national security in the years ahead.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3742, AS MODIFIED

Ms. COLLINS. Mr. President, I ask unanimous consent that we proceed to the consideration of the Roberts amendment, No. 3742, as modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Kansas.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the pending amendment be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ROBERTS. I ask unanimous consent to call up amendment No. 3742, with a modification.

The PRESIDING OFFICER. The amendment is pending.

The amendment (No. 3742), as modified, is as follows:

AMENDMENT NO. 3742, AS MODIFIED

On page 33, between lines 2 and 3, insert the following:

SEC. 114. FUNDING OF INTELLIGENCE ACTIVITIES.

(a) FUNDING OF ACTIVITIES.—(1) Notwithstanding any other provision of this Act, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence or intelligence-related activity only if—

(A) those funds were specifically authorized by the Congress for use for such activities;

(B) in the case of funds from the Reserve for Contingencies of the National Intelligence Director, and consistent with the provisions of section 503 of the National Security Act of 1947 (50 U.S.C. 413b) concerning any significant anticipated intelligence activity, the National Intelligence Director has notified the appropriate congressional committees of the intent to make such funds available for such activity; or

(C) in the case of funds specifically authorized by the Congress for a different activity—

(i) the activity to be funded is a higher priority intelligence or intelligence-related activity; and

(ii) the National Intelligence Director, the Secretary of Defense, or the Attorney General, as appropriate, has notified the appropriate congressional committees of the intent to make such funds available for such activity.

(2) Nothing in this subsection prohibits the obligation or expenditure of funds available to an intelligence agency in accordance with sections 1535 and 1536 of title 31, United States Code.

(b) APPLICABILITY OF OTHER AUTHORITIES.—Notwithstanding any other provision of this Act, appropriated funds available to an intelligence agency may be obligated or expended for an intelligence, intelligence-related, or other activity only if such obligation or expenditure is consistent with subsections (b), (c), and (d) of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

(c) DEFINITIONS.—In this section:

(1) The term "intelligence agency" means any department, agency, or other entity of the United States involved in intelligence or intelligence-related activities.

(2) The term "appropriate congressional committees" means—

(A)(i) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives; and

(ii) the Select Committee on Intelligence and the Committee on Appropriations of the Senate;

(B) in the case of a transfer of funds to or from, or a reprogramming within, the Department of Defense—

(i) the committees and select committees referred to in subparagraph (A);

(ii) the Committee on Armed Services of the House of Representatives; and

(iii) the Committee on Armed Services of the Senate; and

(C) in the case of a transfer of funds to or from, or a reprogramming within, the Federal Bureau of Investigation—

(i) the committees and select committees referred to in subparagraph (A);

(ii) the Committee on the Judiciary of the House of Representatives; and

(iii) the Committee on the Judiciary of the Senate.

(3) The term "specifically authorized by the Congress" means that—

(A) the activity and the amount of funds proposed to be used for that activity were identified in a formal budget request to the Congress, but funds shall be deemed to be specifically authorized for that activity only to the extent that the Congress both authorized the funds to be appropriated for that activity and appropriated the funds for that activity; or

(B) although the funds were not formally requested, the Congress both specifically authorized the appropriation of the funds for the activity and appropriated the funds for the activity.

On page 33, line 3, strike "**114.**" and insert "**115.**".

On page 35, line 1, strike "**115.**" and insert "**116.**".

On page 38, line 21, strike "**116.**" and insert "**117.**".

On page 40, line 10, strike "**117.**" and insert "**118.**".

On page 43, line 1, strike "**118.**" and insert "**119.**".

On page 200, between line 18 and 19, insert the following:

SEC. 309. CONFORMING AMENDMENTS ON FUNDING OF INTELLIGENCE ACTIVITIES.

Section 504 of the National Security Act of 1947 (50 U.S.C. 414) is amended—

(1) in subsection (a)(3)—

(A) in subparagraph (A), by adding "and" at the end;

(B) by striking subparagraph (B); and

(C) by redesignating subparagraph (C) as subparagraph (B); and

(2) in subsection (e), by striking paragraph (2) and inserting the following new paragraph (2):

"(2) the term 'appropriate congressional committees' means—

"(A)(i) the Permanent Select Committee on Intelligence and the Committee on Appropriations of the House of Representatives; and

"(ii) the Select Committee on Intelligence and the Committee on Appropriations of the Senate;

"(B) in the case of a transfer of funds to or from, or a reprogramming within, the Department of Defense—

"(i) the committees and select committees referred to in subparagraph (A);

"(ii) the Committee on Armed Services of the House of Representatives; and

"(iii) the Committee on Armed Services of the Senate; and

"(C) in the case of a transfer of funds to or from, or a reprogramming within, the Federal Bureau of Investigation—

"(i) the committees and select committees referred to in subparagraph (A);

"(ii) the Committee on the Judiciary of the House of Representatives; and

"(iii) the Committee on the Judiciary of the Senate; and".

On page 200, line 19, strike "**309.**" and insert "**310.**".

On page 201, line 11, strike "**310.**" and insert "**311.**".

On page 203, line 9, strike "**311.**" and insert "**312.**".

On page 204, line 1, strike "**312.**" and insert "**313.**".

Mr. ROBERTS. Mr. President, I thank Chairman COLLINS and Senator LIEBERMAN for working with me to include this provision in the act. It preserves an important requirement from section 504 of the National Security Act of 1947. It is very simple: That funds appropriated for an intelligence activity must be specifically authorized.

I appreciate your cooperation on this matter. It is a very simple amendment.

I yield to the distinguished chairman of the Governmental Affairs Committee.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank Senator ROBERTS for offering this amendment. As chairman of the Senate Intelligence Committee, his expertise and advice on this bill have been invaluable. As he indicates, this preserves a requirement in section 504 of the National Security Act of 1947 that funds appropriated for an intelligence activity must also be specifically authorized before being obligated or expended.

It is my understanding that other committees with interest in this matter have been consulted and there is no objection. I will ask for the yeas and nays.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I strongly support this amendment and thank Senator ROBERTS for offering it. I thank him generally for the many ways in which he has strengthened this bill.

The bottom line here is this amendment will ensure that intelligence activities, which by their nature are classified and not subject to public scrutiny, receive specific review and authorization by the Senate and House of Representatives Intelligence Committees. It is another way to make clear that what we have said all along, that this bill does not represent an alteration of power and authority between the Congress and the executive branch, is in fact what happens. I thank the Senator and I am glad to support the amendment.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment, as modified.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Ms. MURKOWSKI). Are there any Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 198 Leg.]

YEAS—98

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Byrd
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hollings
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes

Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NOT VOTING—2

Edwards
Kerry

The amendment (No. 3742), as modified, was agreed to.

Ms. COLLINS. Madam President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, for the information of my colleagues, I am going to ask unanimous consent that we go to Senator LEAHY's amendment No. 3945. I anticipate that being accepted on a voice vote. Therefore, there will be no further rollcalls until 2 o'clock, for the information of my colleagues.

Mr. REID. Could we make that 2:15?

Ms. COLLINS. Madam President, I would be glad to amend the request to make it 2:15. I ask unanimous consent that be the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

AMENDMENT NO. 3945

Mr. LEAHY. Madam President, I understand my amendment regarding translators, No. 3945, is now before the Senate.

The PRESIDING OFFICER. It is pending.

Mr. LEAHY. Madam President, this is an amendment on behalf of myself and Senator GRASSLEY. We did this because 3 years ago, a law was passed requiring the Attorney General to report on the FBI translators program, why it was failing, and how he is going to fix it. The Attorney General has never followed the law and submitted that report.

Our amendment requires the Attorney General to submit a report on FBI translators within 30 days of enactment of this act.

Senator GRASSLEY, of course, is well known as being one of the most vigilant people on FBI oversight issues.

Last week the Justice Department's Office of Inspector General released an unclassified version of its Audit of the FBI's Foreign Language Program. The report shows that despite concerns expressed for years by some of us in Congress and by former FBI contractors, among others, and despite an influx of tens of millions of dollars to hire new linguists, the FBI foreign language translation unit continues to be saddled with growing backlogs, systemic difficulties, security problems, too few qualified staff, and an astounding lack of organization.

What is the use of taping thousands of hours of conversations of intelligence targets in foreign languages if we cannot translate the material promptly, securely, accurately and efficiently? The administration owes Congress and the American public an explanation as to why it has repeatedly failed to take the necessary steps to fix these serious intelligence failings.

Almost 3 years ago, Congress required the Attorney General to report upon where the FBI translators program was failing and how he was going to fix it. The Attorney General has never submitted that report.

To make sure that report is delayed no more, and to respond to the Inspector General's recommendations, Senator GRASSLEY and I have offered the Translator Reports Act of 2004 as an amendment. I am proud to be joined in this effort by my friend from Iowa, who has been ever-vigilant on FBI oversight issues.

Our amendment requires the Attorney General to submit a report on FBI translators within 30 days of enactment of the National Intelligence Reform Act. It also adds further reporting requirements that will be crucial to understanding whether or not the FBI is capable of fixing, and has fixed, the problems outlined by the Inspector General.

This report will allow Congress to meet the 9/11 Commission's directive that Congress exercise greater oversight over the counterintelligence and counterterrorism needs of the executive branch. I urge my colleagues to vote in favor of the amendment.

Madam President, I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I appreciate the Senator from Vermont working with Senator LIEBERMAN and me. His amendment would require the Attorney General to submit annual reports to the House and Senate Judiciary Committees on the number of translators employed or contracted for by the FBI and other components of the Department of Justice, the needs of the FBI for translation services, a description of the implementation of quality control procedures, among other provisions.

As we know, there is a serious backlog of translation in the FBI, and this sends a very strong message that Congress is going to be carefully monitoring the progress of this program.

I urge support for the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Madam President, I thank the Senator from Vermont for this amendment. It responds to a direct call, a conclusion of the 9/11 Commission report that the FBI did not dedicate sufficient resources to the surveillance and translation needs of counterterrorism agents and lacks sufficient translators proficient in Arabic and other key languages.

The reporting requirement contained in this amendment will obviously help and force Congress to determine the scope of the problem and develop possible fixes. I thank the Senator from Vermont for his initiative and accept the amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

If not, the question is on agreeing to amendment No. 3945.

The amendment (No. 3945) was agreed to.

Mr. LEAHY. Madam President, I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3821, AS MODIFIED

Mr. LIEBERMAN. Madam President, I call up among the pending amendments amendment No. 3821 offered by the Senator from Iowa, Mr. HARKIN.

The PRESIDING OFFICER. The amendment is pending.

Mr. LIEBERMAN. I ask unanimous consent on behalf of Senator HARKIN to send a modification of the amendment to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

On page 158, between lines 9 and 10 insert the following:

(C) the minority views on any findings, conclusions, and recommendations of the Board resulting from its advice and oversight functions under subsection (d).

Mr. LIEBERMAN. Madam President, I urge adoption of the amendment, as modified.

The PRESIDING OFFICER. Is there further debate on the modified amendment?

Mr. LIEBERMAN. Very briefly, the Harkin amendment is focused on a requirement relative to the new board we are creating in this proposal. The new board, to watch out for the privacy and civil liberties rights of American citizens and others, is required to make periodic reports to Congress. This amendment now simply says that in those reports, there should be an opportunity for minority views to be recorded as well. It is a good amendment, as modified, having eliminated some more controversial provisions. I urge its adoption.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Madam President, I very much appreciate the fact that the

Senator from Iowa has worked with us on it. The revised amendment, unlike the original, is one I support and I, too, urge adoption of the modified amendment.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on agreeing to the amendment.

The amendment (No. 3821), as modified was agreed to.

Mr. LIEBERMAN. Madam President, I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3809, AS MODIFIED

Ms. COLLINS. Madam President, I ask unanimous consent to proceed to the consideration of Levin amendment No. 3809, as modified.

The PRESIDING OFFICER. Without objection, the amendment is pending.

AMENDMENT NO. 3962 TO AMENDMENT NO. 3809, AS MODIFIED

Ms. COLLINS. Madam President, I call up a second-degree amendment to that amendment. The second degree is numbered 3962. I ask unanimous consent that it be considered.

The PRESIDING OFFICER. Without objection, the clerk will report.

The legislative clerk read as follows:

The Senator from Maine [Ms. COLLINS], for herself and Mr. LIEBERMAN, proposes an amendment numbered 3962 to amendment No. 3809, as modified.

Ms. COLLINS. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1, line 3, strike "military" and all that follows through page 2, line 9, and insert the following:

uniformed services personnel, except that the Director may transfer military positions or billets if such transfer is for a period not to exceed three years; and

(E) nothing in section 143(i) or 144(f) shall be construed to authorize the Director to specify or require the head of a department, agency, or element of the United States Government to approve a request for the transfer, assignment, or detail of uniformed services personnel, except that the Director may take such action with regard to military positions or billets if such transfer is for a period not to exceed three years.

Ms. COLLINS. Madam President, I am going to have Senator LEVIN first discuss this issue, and then Senator LIEBERMAN and I will respond.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Madam President, military personnel comprise an important part of the national intelligence community. Managing military personnel is the appropriate function of the Secretary of Defense and the military departments.

The bill, as drafted, would permit the transfer of military personnel within the national intelligence program. This amendment strikes that language and does not permit the transfer of the military personnel within the national intelligence program.

The second-degree amendment makes it clear that the positions, of course, cannot be transferred. In other words, providing that the people who are in those positions are not transferred by the national intelligence director, if it is just the money for the positions, which providing it falls within the scope of reprogramming, for instance, and can be done in any event; providing it is the positions or the money attached to the positions that are transferred from one part of the intelligence community to another, that we do not prevent. It is the transfer of uniformed people that cannot be accepted, and this amendment would prevent that from happening.

So if we are in a situation, for instance, where the national intelligence director says, I want those five people from a particular agency, and if these are uniform military personnel, that would not be possible when my amendment is adopted. The national intelligence director would be able to transfer positions, or the money, and say $400,000 or $1 million or whatever, providing, again, it is within or below the limit that is established, which would require programming approval by the Congress; providing it is below that limit, the NID continues to have that authority, which he would have in any event, to transfer funds or positions from one place to another. So we don't touch the money or the positions.

However, we maintain a chain of command. We maintain military careers. These are uniform military careers, and we do not have an outside civilian person changing that career by transferring a uniform military person from one place to another.

I thank my colleagues, the managers of the bill, for working out this language with us. It is a very important change in terms of military careers, in terms of military personnel, in terms of the management of military personnel, in terms of morale. But it does not disturb, again, the budgetary power or the shifting around of budgets—or billets, as we call them—or positions, providing, again, they are underneath and within the limits established by the reprogramming procedures that have been established, where individual agency heads are allowed to transfer money from one place to another. If it is above that limit, it is established by the reprogramming procedures, then, of course, they have to go through the normal reprogramming process before money can be transferred from one place to another.

The PRESIDING OFFICER. The Senator from Maine is recognized.

Ms. COLLINS. Madam President, the Collins-Lieberman bill grants the national intelligence director the authority to transfer personnel within the national intelligence program to meet higher priorities. This is extremely important authority because we want to make sure the NID can, for example, staff up the National Counterterrorism Center with individuals from a variety of agencies, including military personnel who may be at the Defense Intelligence Agency, for example.

But the compromise that we have reached addresses two important concerns. One, it puts a 3-year limit on the length of time for this personnel. That is important because we don't want to disrupt the military careers of individuals who are temporarily transferred. Second, it makes clear that we are talking about slots, or billets, and not individual members of the military.

In other words, the NID cannot say: I want "Colonel Murkowski" to go to the National Counterterrorism Center. Instead, the NID would say: I want a linguist to go to the National Counterterrorism Center, or describe what the slot may be.

I think this is a good compromise on this issue, and it leaves intact the strong authority of the national intelligence director, while addressing the legitimate concerns raised by Senator LEVIN.

Mr. LIEBERMAN. Madam President, I rise to support this modification of the amendment. Here, again, we have reasoned together about the significant changes that will come about as a result of the underlying proposal in the creation of an NID. I think it will come out with a result that is fair and will be effective.

As I have said before, our intelligence forces today are like an army without a general. The whole idea of creating an NID is to put somebody in charge. Part of being in charge has to mean the ability to transfer the forces to places where the director thinks they are needed.

Senator LEVIN was understandably concerned about the impact that might have on the military chain of command. In an initial proposal he said these transfers could not occur without the approval of the Secretary of Defense. We thought that would frustrate the authority that we are trying to give to the national intelligence director. So we have come to a very reasonable compromise, which is, as Senator COLLINS and Senator LEVIN said, with regard to uniform military personnel working within the intelligence community. If the NID believes he needs three, four, or five positions from military intelligence, the slots can be moved. But the NID, with regard to uniformed military personnel, cannot go in and say, I want—as Senator COLLINS said—"Colonel Murkowski" to be transferred to the national intelligence center, or some other subdivision of the intelligence community. That is quite reasonable. But it would allow the position, the slot, to be transferred. And then, presumably, for a process of negotiation, it would allow a process of negotiation to go on for the Secretary of Defense or the NID, or their designees, as to who actually filled that slot. With regard to nonuniformed personnel, including military personnel, those within the Department of Defense, they can be transferred by the national intelligence director, acting on his own.

I think this is a very good, balanced compromise. I thank Senator LEVIN for his characteristic thoughtfulness. I even thank him for his persistence, which I think has brought about a good result. I am happy to support this amendment, as modified.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, my thanks to the managers, not just for their work on this amendment, but their work generally on this bill. It has been exemplary and a model to all of us in this Senate as to how we can achieve things on a bipartisan basis. They worked together beautifully, and I commend them for it.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3962 to amendment No. 3809, as modified.

The amendment (No. 3962) was agreed to.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 3809, as modified, as amended.

The amendment (No. 3809), as modified, as amended, was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. LIEBERMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDING THE TRADEMARK ACT OF 1946

Ms. COLLINS. Madam President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 2796 and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2796) to clarify that service marks, collective marks, and certification marks are entitled to the same protections, rights, and privileges as trademarks.

There being no objection, the Senate proceeded to consider the bill.

Ms. COLLINS. Madam President, I ask unanimous consent that the bill be read a third time and passed, that the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2796) was read the third time and passed, as follows:

S. 2796

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROTECTIONS, RIGHTS, AND PRIVILEGES OF SERVICE MARKS, COLLECTIVE MARKS, AND CERTIFICATION MARKS.

The Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (commonly referred to as the Trademark Act of 1946) is amended—

(1) in section 3 (15 U.S.C. 1053) in the first sentence, by striking "protection" and inserting "protections, rights, and privileges"; and

(2) in section 4 (15 U.S.C. 1054) in the first sentence, by striking "protection" and inserting "protections, rights, and privileges".

COPYRIGHT ROYALTY AND DISTRIBUTION REFORM ACT OF 2004

Ms. COLLINS. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 744, H.R. 1417.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 1417) to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on the Judiciary with an amendment to strike all after the enacting clause and insert in lieu thereof the following: (Insert the part printed in italic.)

H.R. 1417

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Copyright Royalty and Distribution Reform Act of 2004".

[SEC. 2. REFERENCE.

[Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 17, United States Code.

[SEC. 3. COPYRIGHT ROYALTY JUDGE AND STAFF.

[(a) IN GENERAL.—Chapter 8 is amended to read as follows:

["CHAPTER 8—PROCEEDINGS BY COPYRIGHT ROYALTY JUDGES

["Sec.

["801. Copyright Royalty Judges; appointment and functions.

["802. Copyright Royalty Judgeships; staff.

["803. Proceedings of Copyright Royalty Judges.

["804. Institution of proceedings.

["805. General rule for voluntarily negotiated agreements.

["§ 801. Copyright Royalty Judges; appointment and functions

["(a) APPOINTMENT.—The Librarian of Congress shall appoint 3 full-time Copyright Royalty Judges, and shall appoint one of the three as the Chief Copyright Royalty Judge. In making such appointments, the Librarian shall consult with the Register of Copyrights.

["(b) FUNCTIONS.—Subject to the provisions of this chapter, the functions of the Copyright Royalty Judges shall be as follows:

["(1) To make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118, 119 and 1004. The rates applicable under sections 114(f)(1)(B), 115, and 116 shall be calculated to achieve the following objectives:

["(A) To maximize the availability of creative works to the public.

["(B) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

["(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

["(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

["(2) To make determinations concerning the adjustment of the copyright royalty rates under section 111 solely in accordance with the following provisions:

["(A) The rates established by section 111(d)(1)(B) may be adjusted to reflect—

["(i) national monetary inflation or deflation; or

["(ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of October 19, 1976,

[except that—

["(I) if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(1)(B) shall be permitted; and

[“(II) no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber.

[The Copyright Royalty Judges may consider all factors relating to the maintenance of such level of payments, including, as an extenuating factor, whether the industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

[“(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 8, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Judges shall consider, among other factors, the economic impact on copyright owners and users; except that no adjustment in royalty rates shall be made under this subparagraph with respect to any distant signal equivalent or fraction thereof represented by—

[“(i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal; or

[“(ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

[“(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

[“(D) The gross receipts limitations established by section 111(d)(1)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section, and the royalty rate specified therein shall not be subject to adjustment.

[“(3)(A) To authorize the distribution, under sections 111, 119, and 1007, of those royalty fees collected under sections 111, 119, and 1005, as the case may be, to the extent that the Copyright Royalty Judges have found that the distribution of such fees is not subject to controversy.

[“(B) In cases where the Copyright Royalty Judges determine that controversy exists, the Copyright Royalty Judges shall determine the distribution of such fees, including partial distributions, in accordance with section 111, 119, or 1007, as the case may be.

[“(C) the Copyright Royalty Judges shall make a partial distribution of such fees during the pendency of the proceeding under subparagraph (B) if all participants under section 803(b)(2) in the proceeding that are entitled to receive those fees that are to be partially distributed—

[“(i) agree to such partial distribution;

[“(ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B); and

[“(iii) file the agreement with the Copyright Royalty Judges.

[“(D) The Copyright Royalty Judges and any other officer or employee acting in good faith in distributing funds under subparagraph (C) shall not be held liable for the payment of any excess fees under subparagraph (C). The Copyright Royalty Judges shall, at the time the final determination is made, calculate any such excess amounts.

[“(4) To accept or reject royalty claims filed under section 111, 119, and 1007, on the basis of timeliness or the failure to establish the basis for a claim.

[“(5) To accept or reject rate adjustment petitions as provided in section 804 and petitions to participate as provided in section 803(b)(1) and (2).

[“(6) To determine the status of a digital audio recording device or a digital audio interface device under sections 1002 and 1003, as provided in section 1010.

[“(7)(A) To adopt as the basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, an agreement concerning such matters reached among some or all of the participants in a proceeding at any time during the proceeding, except that—

[“(i) the Copyright Royalty Judges shall provide to the other participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, distribution, or other determination set by the agreement an opportunity to comment on the agreement and object to its adoption as the basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, as the case may be; and

[“(ii) the Copyright Royalty Judges may decline to adopt the agreement as the basis for statutory terms and rates or as the basis for the distribution of statutory royalty payments, as the case may be, if any other participant described in subparagraph (A) objects to the agreement and the Copyright Royalty Judges find, based on the record before them, that the agreement is not likely to meet the statutory standard for setting the terms and rates, or for distributing the royalty payments, as the case may be.

[“(B) License agreements voluntarily negotiated pursuant to section 112(e)(5), 114(f)(3), 115(c)(3)(E)(i), 116(c), or 118(b)(2) that do not result in statutory terms and rates shall not be subject to clauses (i) and (ii) of subparagraph (A).

[“(c) Rulings.—The Copyright Royalty Judges may make any necessary procedural or evidentiary rulings in any proceeding under this chapter and may, before commencing a proceeding under this chapter, make any such rulings that would apply to the proceedings conducted by the Copyright Royalty Judges. The Copyright Royalty Judges may consult with the Register of Copyrights in making any rulings under section 802(f)(1).

[“(d) Administrative Support.—The Librarian of Congress shall provide the Copyright Royalty Judges with the necessary administrative services related to proceedings under this chapter.

[“(e) Location in Library of Congress.—The offices of the Copyright Royalty Judges and staff shall be in the Library of Congress.

[“§ 802. Copyright Royalty Judgeships; staff

[“(a) Qualifications of Copyright Royalty Judges.—Each Copyright Royalty Judge shall be an attorney who has at least 7 years of legal experience. The Chief Copyright Royalty Judge shall have at least 5 years of experience in adjudications, arbitrations, or court trials. Of the other two Copyright Royalty Judges, one shall have significant knowledge of copyright law, and the other shall have significant knowledge of economics. An individual may serve as a Copyright Royalty Judge only if the individual is free of any financial conflict of interest under subsection (h). In this subsection, ‘adjudication’ has the meaning given that term in section 551 of title 5, but does not include mediation.

[“(b) Staff.—The Chief Copyright Royalty Judge shall hire 3 full-time staff members to assist the Copyright Royalty Judges in performing their functions.

[“(c) Terms.—The terms of the Copyright Royalty Judges shall each be 6 years, except of the individuals first appointed, the Chief Copyright Royalty Judge shall be appointed to a term of 6 years, and of the remaining Copyright Royalty Judges, one shall be appointed to a term of 2 years, and the other shall be appointed to a term of 4 years. An individual serving as a Copyright Royalty Judge may be reappointed to subsequent terms. The term of a Copyright Royalty Judge shall begin when the term of the predecessor of that Copyright Royalty Judge ends. When the term of office of a Copyright Royalty Judge ends, the individual serving that term may continue to serve until a successor is selected.

[“(d) Vacancies or Incapacity.—

[“(1) Vacancies.—If a vacancy should occur in the position of Copyright Royalty Judge, the Librarian of Congress shall act expeditiously to fill the vacancy, and may appoint an interim Copyright Royalty Judge to serve until another Copyright Royalty Judge is appointed under this section. An individual appointed to fill the vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed shall be appointed for the remainder of that term.

[“(2) Incapacity.—In the case in which a Copyright Royalty Judge is temporarily unable to perform his or her duties, the Librarian of Congress may appoint an interim Copyright Royalty Judge to perform such duties during the period of such incapacity.

[“(e) Compensation.—

[“(1) Judges.—The Chief Copyright Royalty Judge shall receive compensation at the rate of basic pay payable for level AL-1 for administrative law judges pursuant to section 5372(b) of title 5, and each of the other two Copyright Royalty Judges shall receive compensation at the rate of basic pay payable for level AL-2 for administrative law judges pursuant to such section. The compensation of the Copyright Royalty Judges shall not be subject to any regulations adopted by the Office of Personnel Management pursuant to its authority under section 5376(b)(1) of title 5.

[“(2) Staff members.—Of the staff members appointed under subsection (b)—

[“(A) the rate of pay of one staff member shall be not more than the basic rate of pay payable for GS-15 of the General Schedule;

[“(B) the rate of pay of one staff member shall be not less than the basic rate of pay payable for GS-13 of the General Schedule and not more than the basic rate of pay payable for GS–14 of such Schedule; and

[“(C) the rate of pay for the third staff member shall be not less than the basic rate of pay payable for GS–8 of the General Schedule and not more than the basic rate of pay payable for GS–11 of such Schedule.

[“(f) INDEPENDENCE OF COPYRIGHT ROYALTY JUDGE.—

[“(1) IN MAKING DETERMINATIONS.—

[“(A) IN GENERAL.—Subject to subparagraph (B), the Copyright Royalty Judges shall have full independence in making determinations concerning adjustments and determinations of copyright royalty rates and terms, the distribution of copyright royalties, the acceptance or rejection of royalty claims, rate adjustment petitions, and petitions to participate, and in issuing other rulings under this title, except that the Copyright Royalty Judges may consult with the Register of Copyrights on any matter other than a question of fact. Any such consultations between the Copyright Royalty Judges and the Register of Copyright on any question of law shall be in writing or on the record.

[“(B) NOVEL QUESTIONS.—(i) Notwithstanding the provisions of subparagraph (A), in any case in which the Copyright Royalty Judges in a proceeding under this title are presented with a novel question of law concerning an interpretation of those provisions of this title that are the subject of the proceeding, the Copyright Royalty Judges shall request the Register of Copyrights, in writing, to submit a written opinion on the resolution of such novel question. The Register shall submit and make public that opinion within such time period as the Copyright Royalty Judges may prescribe. Any consultations under this subparagraph between the Copyright Royalty Judges and the Register of Copyrights shall be in writing or on the record. The opinion of the Register shall not be binding on the Copyright Royalty Judges, but the Copyright Royalty Judges shall take the opinion of the Register into account in making the judges' determination on the question concerned.

[“(ii) In clause (i), a 'novel question of law' is a question of law that has not been determined in prior decisions, determinations, and rulings described in section 803(a).

[“(2) PERFORMANCE APPRAISALS.—

[“(A) IN GENERAL.—Notwithstanding any other provision of law or any regulation of the Library of Congress, and subject to subparagraph (B), the Copyright Royalty Judges shall not receive performance appraisals.

[“(B) RELATING TO SANCTION OR REMOVAL.—To the extent that the Librarian of Congress adopts regulations under subsection (h) relating to the sanction or removal of a Copyright Royalty Judge and such regulations require documentation to establish the cause of such sanction or removal, the Copyright Royalty Judge may receive an appraisal related specifically to the cause of the sanction or removal.

[“(g) INCONSISTENT DUTIES BARRED.—No Copyright Royalty Judge may undertake duties inconsistent with his or her duties and responsibilities as Copyright Royalty Judge.

[“(h) STANDARDS OF CONDUCT.—The Librarian of Congress shall adopt regulations regarding the standards of conduct, including financial conflict of interest and restrictions against ex parte communications, which shall govern the Copyright Royalty Judges and the proceedings under this chapter.

[“(i) REMOVAL OR SANCTION.—The Librarian of Congress may sanction or remove a Copyright Royalty Judge for violation of the standards of conduct adopted under subsection (h), misconduct, neglect of duty, or any disqualifying physical or mental disability. Any such sanction or removal may be made only after notice and opportunity for a hearing, but the Librarian of Congress may suspend the Copyright Royalty Judge during the pendency of such hearing. The Librarian shall appoint an interim Copyright Royalty Judge during the period of any such suspension.

[“§ 803. Proceedings of Copyright Royalty Judges

[“(a) PROCEEDINGS.—

[“(1) IN GENERAL.—The Copyright Royalty Judges shall act in accordance with this title, and to the extent not inconsistent with this title, in accordance with subchapter II of chapter 5 of title 5, in carrying out the purposes set forth in section 801. The Copyright Royalty Judges shall act in accordance with regulations issued by the Copyright Royalty Judges and on the basis of a fully documented written record, prior decisions of the Copyright Royalty Tribunal, prior copyright arbitration royalty panel determinations, rulings by the Librarian of Congress before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, prior determinations of Copyright Royalty Judges under this chapter, and decisions of the court in appeals under this chapter before, on, or after such effective date. Any participant in a proceeding under subsection (b)(2) may submit relevant information and proposals to the Copyright Royalty Judges.

[“(2) JUDGES ACTING AS PANEL AND INDIVIDUALLY.—The Copyright Royalty Judges shall preside over hearings in proceedings under this chapter en banc. The Chief Copyright Royalty Judge may designate a Copyright Royalty Judge to preside individually over such collateral and administrative proceedings, and over such proceedings under paragraphs (1) through (5) of subsection (b), as the Chief Judge considers appropriate.

[“(3) DETERMINATIONS.—Final determinations of the Copyright Royalty Judges in proceedings under this chapter shall be made by majority vote. A Copyright Royalty Judge dissenting from the majority on any determination under this chapter may issue his or her dissenting opinion, which shall be included with the determination.

[“(b) PROCEDURES.—

[“(1) INITIATION.—

[“(A) CALL FOR PETITIONS TO PARTICIPATE.—(i) Promptly upon the filing of a petition for a rate adjustment or determination under section 804(a) or 804(b)(8), or by no later than January 5 of a year specified in section 804 for the commencement of a proceeding if a petition has not been filed by that date, the Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter calling for the filing of petitions to participate in a proceeding under this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004 or 1007, as the case may be.

[“(ii) Petitions to participate shall be filed by no later than 30 days after publication of notice of commencement of a proceeding, under clause (i), except that the Copyright Royalty Judges may, for substantial good cause shown and if there is no prejudice to the participants that have already filed petitions, accept late petitions to participate at any time up to the date that is 90 days before the date on which participants in the proceeding are to file their written direct statements.

[“(B) PETITIONS TO PARTICIPATE.—Each petition to participate in a proceeding shall describe the petitioner's interest in the subject matter of the proceeding. Parties with similar interests may file a single petition to participate.

[“(2) PARTICIPATION IN GENERAL.—Subject to paragraph (4), a person may participate in a proceeding under this chapter, including through the submission of briefs or other information, only if—

[“(A) that person has filed a petition to participate in accordance with paragraph (1) (either individually or as a group under paragraph (1)(B)), together with a filing fee of $150;

[“(B) the Copyright Royalty Judges have not determined that the petition to participate is facially invalid; and

[“(C) the Copyright Royalty Judges have not determined, sua sponte or on the motion of another participant in the proceeding, that the person lacks a significant interest in the proceeding.

[“(3) VOLUNTARY NEGOTIATION PERIOD.—

[“(A) IN GENERAL.—Promptly after the date for filing of petitions to participate in a proceeding, the Copyright Royalty Judges shall make available to all participants in the proceeding a list of such participants and shall initiate a voluntary negotiation period among the participants.

[“(B) LENGTH OF PROCEEDINGS.—The voluntary negotiation period initiated under subparagraph (A) shall be 3 months.

[“(C) DETERMINATION OF SUBSEQUENT PROCEEDINGS.—At the close of the voluntary negotiation proceedings, the Copyright Royalty Judges shall, if further proceedings under this chapter are necessary, determine whether and to what extent paragraphs (4) and (5) will apply to the parties.

[“(4) SMALL CLAIMS PROCEDURE IN DISTRIBUTION PROCEEDINGS.—

[“(A) IN GENERAL.—If, in a proceeding under this chapter to determine the distribution of royalties, a participant in the proceeding asserts that the contested amount of the claim is $10,000 or less, the Copyright Royalty Judges shall decide the controversy on the basis of the filing in writing of the initial claim, the initial response by any opposing participant, and one additional response by each such party. The participant asserting the claim shall not be required to pay the filing fee under paragraph (2).

[“(B) BAD FAITH INFLATION OF CLAIM.—If the Copyright Royalty Judges determine that a participant asserts in bad faith an amount in controversy in excess of $10,000 for the purpose of avoiding a determination under the procedure set forth in subparagraph (A), the Copyright Royalty Judges shall impose a fine on that participant in an amount not to exceed the difference between the actual amount distributed and the amount asserted by the participant.

[“(5) PAPER PROCEEDINGS IN RATEMAKING PROCEEDINGS.—The Copyright Royalty Judges in proceedings under this chapter to determine royalty rates may decide, sua sponte or upon motion of a participant, to determine issues on the basis of initial filings in writing, initial responses by any opposing participant, and one additional response by each such participant. Prior to making such decision to proceed on such a paper record only, the Copyright Royalty Judges shall offer to all parties to the proceeding the opportunity to comment on the decision. The procedure under this paragraph—

[“(A) shall be applied in cases in which there is no genuine issue of material fact, there is no need for evidentiary hearings, and all participants in the proceeding agree in writing to the procedure; and

[“(B) may be applied under such other circumstances as the Copyright Royalty Judges consider appropriate.

[“(6) REGULATIONS.—

[“(A) IN GENERAL.—The Copyright Royalty Judges may issue regulations to carry out their functions under this title. Not later than 120 days after Copyright Royalty Judges or interim Copyright Royalty Judges, as the case may be, are first appointed after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, such judges shall issue regulations to govern proceedings under this chapter.

[“(B) INTERIM REGULATIONS.—Until regulations are adopted under subparagraph (A), the Copyright Royalty Judges shall apply the regulations in effect under this chapter on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, to the extent such regulations are not inconsistent with this chapter, except that functions carried out under such regulations by the Librarian of Congress, the Register of Copyrights, or copyright arbitration royalty panels that, as of such date of enactment, are to be carried out by the Copyright Royalty Judges under this chapter, shall be carried out by the Copyright Royalty Judges under such regulations.

[“(C) REQUIREMENTS.—Regulations issued under subparagraph (A) shall include the following:

[“(i) The written direct statements of all participants in a proceeding under paragraph (2) shall be filed by a date specified by the Copyright Royalty Judges, which may be no earlier than four months, and no later than five months, after the end of the voluntary negotiation period under paragraph (3). Notwithstanding the preceding sentence, a participant in a proceeding may, within 15 days after the end of the discovery period specified in clause (iii), file an amended written direct statement based on new information received during the discovery process.

[“(ii)(I) Following the submission to the Copyright Royalty Judges of written direct statements by the participants in a proceeding under paragraph (2), the judges shall meet with the participants for the purpose of setting a schedule for conducting and completing discovery. Such schedule shall be determined by the Copyright Royalty Judges.

[“(II) In this chapter, the term ‘written direct statements’ means witness statements, testimony, and exhibits to be presented in the proceedings, and such other information that is necessary to establish terms and rates, or the distribution of royalty payments, as the case may be, as set forth in regulations issued by the Copyright Royalty Judges.

[“(iii) Hearsay may be admitted in proceedings under this chapter to the extent deemed appropriate by the Copyright Royalty Judges.

[“(iv) Discovery in such proceedings shall be permitted for a period of 60 days, except for discovery ordered by the Copyright Royalty Judges in connection with the resolution of motions, orders and disputes pending at the end of such period.

[“(v) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may, upon written notice, seek discovery of information and materials relevant and material to the proceeding. Any objection to any such discovery request shall be resolved by a motion or request to compel discovery made to the Copyright Royalty Judges. Each motion or request to compel discovery shall be determined by the Copyright Royalty Judges, or by a Copyright Royalty Judge when permitted under subsection (a)(2), who may approve the request only if the evidence that would be produced is relevant and material. A Copyright Royalty Judge may refuse a request to compel discovery of evidence that has been found to be relevant and material, only upon good cause shown. For purposes of the preceding sentence, the basis for ‘good cause’ may only be that—

[“(I) the discovery sought is unreasonably cumulative or duplicative, or is obtainable from another source that is more convenient, less burdensome, or less expensive;

[“(II) the participant seeking discovery has had ample opportunity by discovery in the action to obtain the information sought; or

[“(III) the burden or expense of the proposed discovery outweighs its likely benefit, taking into account the needs and resources of the participants, the importance of the issues at stake, and the importance of the proposed discovery in resolving the issues.

[“(vi) The rules in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, relating to discovery in proceedings under this title to determine the distribution of royalty fees, shall continue to apply to such proceedings on and after such effective date.

[“(vii) The Copyright Royalty Judges may issue subpoenas requiring the production of evidence or witnesses, but only if the evidence requested to be produced or that would be proffered by the witness is relevant and material.

[“(viii) The Copyright Royalty Judges shall order a settlement conference among the participants in the proceeding to facilitate the presentation of offers of settlement among the participants. The settlement conference shall be held during a 21-day period following the end of the discovery period.

[“(c) DETERMINATION OF COPYRIGHT ROYALTY JUDGES.—

[“(1) TIMING.—The Copyright Royalty Judges shall issue their determination in a proceeding not later than 11 months after the conclusion of the 21-day settlement conference period under subsection (b)(3)(C)(vi), but, in the case of a proceeding to determine successors to rates or terms that expire on a specified date, in no event later than 15 days before the expiration of the then current statutory rates and terms.

[“(2) REHEARINGS.—

[“(A) IN GENERAL.—The Copyright Royalty Judges may, in exceptional cases, upon motion of a participant under subsection (b)(2), order a rehearing, after the determination in a proceeding is issued under paragraph (1), on such matters as the Copyright Royalty Judges determine to be appropriate.

[“(B) TIMING FOR FILING MOTION.—Any motion for a rehearing under subparagraph (A) may only be filed within 15 days after the date on which the Copyright Royalty Judges deliver their initial determination concerning rates and terms to the participants in the proceeding.

[“(C) PARTICIPATION BY OPPOSING PARTY NOT REQUIRED.—In any case in which a rehearing is ordered, any opposing party shall not be required to participate in the rehearing.

[“(D) NO NEGATIVE INFERENCE.—No negative inference shall be drawn from lack of participation in a rehearing.

[“(E) CONTINUITY OF RATES AND TERMS.—(i) If the decision of the Copyright Royalty Judges on any motion for a rehearing is not rendered before the expiration of the statutory rates and terms that were previously in effect, in the case of a proceeding to determine successors to rates and terms that expire on a specified date, then—

[“(I) the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion shall be effective as of the day following the date on which the rates and terms that were previously in effect expire; and

[“(II) in the case of a proceeding under section 114(f)(1)(C) or 114(f)(2)(C), royalty rates and terms shall, for purposes of section 114(f)(4)(B), be deemed to have been set at those rates and terms contained in the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion, as of the date of that determination.

[“(ii) The pendency of a motion for a rehearing under this paragraph shall not relieve persons obligated to make royalty payments who would be affected by the determination on that motion from providing the statements of account and any reports of use, to the extent required, and paying the royalties required under the relevant determination or regulations.

[“(iii) Notwithstanding clause (ii), whenever royalties described in clause (ii) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the motion for rehearing is resolved or, if the motion is granted, within 60 days after the rehearing is concluded, return any excess amounts previously paid to the extent necessary to comply with the final determination of royalty rates by the Copyright Royalty Judges.

[“(3) CONTENTS OF DETERMINATION.—A determination of the Copyright Royalty Judges shall be accompanied by the written record, and shall set forth the facts that the Copyright Royalty Judges found relevant to their determination. Among other terms adopted in a determination, the Copyright Royalty Judges may specify notice and recordkeeping requirements of users of the copyrights at issue that apply in lieu of those that would otherwise apply under regulations.

[“(4) CONTINUING JURISDICTION.—The Copyright Royalty Judges may amend the determination or the regulations issued pursuant to the determination in order to correct any technical errors in the determination or to respond to unforeseen circumstances that preclude the proper effectuation of the determination.

[“(5) PROTECTIVE ORDER.—The Copyright Royalty Judges may issue such orders as may be appropriate to protect confidential information, including orders excluding confidential information from the record of the determination that is published or made available to the public, except that any terms or rates of royalty payments or distributions may not be excluded.

[“(6) PUBLICATION OF DETERMINATION.—The Librarian of Congress shall cause the determination, and any corrections thereto, to be published in the Federal Register. The Librarian of Congress shall also publicize the determination and corrections in such other manner as the Librarian considers appropriate, including, but not limited to, publication on the Internet. The Librarian of Congress shall also make the determination, corrections, and the accompanying record available for public inspection and copying.

[“(d) JUDICIAL REVIEW.—

[“(1) APPEAL.—Any determination of the Copyright Royalty Judges under subsection (c) may, within 30 days after the publication of the determination in the Federal Register, be appealed, to the United States Court of Appeals for the District of Columbia Circuit, by any aggrieved participant in the proceeding under subsection (b)(2) who fully participated in the proceeding and who would be bound by the determination. If no appeal is brought within that 30-day period, the determination of the Copyright Royalty Judges shall be final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in paragraph (2).

[“(2) EFFECT OF RATES.—

[“(A) EXPIRATION ON SPECIFIED DATE.—When this title provides that the royalty rates and terms that were previously in effect are to expire on a specified date, any adjustment or determination by the Copyright Royalty Judges of successor rates and terms for an ensuing statutory license period shall be effective as of the day following the date of expiration of the rates and terms that were previously in effect, even if the determination of the Copyright Royalty Judges is rendered on a later date.

[“(B) OTHER CASES.—In cases where rates and terms do not expire on a specified date or have not yet been established, successor or new rates or terms shall take effect on the first day of the second month that begins after the publication of the determination of the Copyright Royalty Judges in the Federal Register, except as otherwise provided in this title, and the rates and terms previously in effect, to the extent applicable, shall remain in effect until such successor rates and terms become effective.

[“(C) OBLIGATION TO MAKE PAYMENTS.—(i) The pendency of an appeal under this subsection shall not relieve persons obligated to make royalty payments under section 111, 112, 114, 115, 116, 118, 119, or 1003, who would be affected by the determination on appeal, from providing the statements of account (and any report of use, to the extent required) and paying the royalties required under the relevant determination or regulations.

[“(ii) Notwithstanding clause (i), whenever royalties described in clause (i) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the final resolution of the appeal, return any excess amounts previously paid (and interest thereon, if ordered pursuant to paragraph (3)) to the extent necessary to comply with the final determination of royalty rates on appeal.

[“(3) JURISDICTION OF COURT.—If the court, pursuant to section 706 of title 5, modifies or vacates a determination of the Copyright Royalty Judges, the court may enter its own determination with respect to the amount or distribution of royalty fees and costs, and order the repayment of any excess fees, the payment of any underpaid fees, and the payment of interest pertaining respectively thereto, in accordance with its final judgment. The court may also vacate the determination of the Copyright Royalty Judges and remand the case to the Copyright Royalty Judges for further proceedings in accordance with subsection (a).

[“(e) ADMINISTRATIVE MATTERS.—

[“(1) DEDUCTION OF COSTS OF LIBRARY OF CONGRESS AND COPYRIGHT OFFICE FROM FILING FEES.—

[“(A) DEDUCTION FROM FILING FEES.—The Librarian of Congress may, to the extent not otherwise provided under this title, deduct from the filing fees collected under subsection (b) for a particular proceeding under this chapter the reasonable costs incurred by the Librarian of Congress, the Copyright Office, and the Copyright Royalty Judges in conducting that proceeding, other than the salaries of the Copyright Royalty Judges and the 3 staff members appointed under section 802(b).

[“(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the costs of proceedings under this chapter not covered by the filing fees collected under subsection (b). All funds made available pursuant to this subparagraph shall remain available until expended.

[“(2) POSITIONS REQUIRED FOR ADMINISTRATION OF COMPULSORY LICENSING.—Section 307 of the Legislative Branch Appropriations Act, 1994, shall not apply to employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 112, 114, 115, 116, 118, or 119 or chapter 10.

[“§ 804. Institution of proceedings

[“(a) FILING OF PETITION.—With respect to proceedings referred to in paragraphs (1) and (2) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 111, 112, 114, 115, 116, 118, and 1004, during the calendar years specified in the schedule set forth in subsection (b), any owner or user of a copyrighted work whose royalty rates are specified by this title, or are established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests a determination or adjustment of the rate. The Copyright Royalty Judges shall make a determination as to whether the petitioner has such a significant interest in the royalty rate in which a determination or adjustment is requested. If the Copyright Royalty Judges determine that the petitioner has such a significant interest, the Copyright Royalty Judges shall cause notice of this determination, with the reasons therefor, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter. With respect to proceedings under paragraph (1) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 112 and 114, during the calendar years specified in the schedule set forth in subsection (b), the Copyright Royalty Judges shall cause notice of commencement of proceedings under this chapter to be published in the Federal Register as provided in section 803(b)(1)(A).

[“(b) TIMING OF PROCEEDINGS.—

[“(1) SECTION 111 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (A) or (D) of section 801(b)(2) applies may be filed during the year 2005 and in each subsequent fifth calendar year.

[“(B) In order to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (B) or (C) of section 801(b)(2) applies, within 12 months after an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests an adjustment of the rate. The Copyright Royalty Judges shall then proceed as set forth in subsection (a) of this section. Any change in royalty rates made under this chapter pursuant to this subparagraph may be reconsidered in the year 2005, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(3)(B) or (C), as the case may be. A petition for adjustment of rates under section 11(d)(1)(B) as a result of a change is the rules and regulations of the Federal Communications Commission shall set forth the change on which the petition is based.

[“(C) Any adjustment of royalty rates under section 111 shall take effect as of the first accounting period commencing after the publication of the determination of the Copyright Royalty Judges in the Federal Register, or on such other date as is specified in that determination.

[“(2) CERTAIN SECTION 112 PROCEEDINGS.—Proceedings under this chapter shall be commenced in the year 2007 to determine reasonable terms and rates of royalty payments for the activities described in section 112(e)(1) relating to the limitation on exclusive rights specified by section 114(d)(1)(C)(iv), to become effective on January 1, 2009. Such proceedings shall be repeated in each subsequent fifth calendar year.

[“(3) SECTION 114 AND CORRESPONDING 112 PROCEEDINGS.—

[“(A) FOR ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES.—Proceedings under this chapter shall be commenced as soon as practicable after the effective date of the Copyright Royalty and Distribution Reform Act of 2004 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of eligible nonsubscription transmission services and new subscription services, to be effective for the period beginning on January 1, 2006, and ending on December 31, 2010. Such proceedings shall next be commenced in January 2009 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2011. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

[“(B) FOR PREEXISTING SUBSCRIPTION AND SATELLITE DIGITAL AUDIO RADIO SERVICES.—Proceedings under this chapter shall be commenced in January 2006 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of preexisting subscription services, to be effective during the period beginning on January 1, 2008, and ending on December 31, 2012, and preexisting satellite digital audio radio services, to be effective during the period beginning on January 1, 2007, and ending on December 31, 2012. Such proceedings shall next be commenced in 2011 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2013. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

[“(C)(i) Notwithstanding any other provision of this chapter, this subparagraph shall govern proceedings commenced pursuant to sections 114(f)(1)(C) and 114(f)(2)(C) concerning new types of services.

[“(ii) Not later than 30 days after a petition to determine rates and terms for a new type of service that is filed by any copyright owner of sound recordings, or such new type of service, indicating that such new type of service is or is about to become operational, the Copyright Royalty Judges shall issue a notice for a proceeding to determine rates and terms for such service.

["(iii) The proceeding shall follow the schedule set forth in such subsections (b), (c), and (d) of section 803, except that—

["(I) the determination shall be issued by not later than 24 months after the publication of the notice under clause (ii); and

["(II) the decision shall take effect as provided in subsections (c)(2) and (d)(2) of section 803 and section 114(f)(4)(B)(ii) and (C).

["(iv) The rates and terms shall remain in effect for the period set forth in section 114(f)(1)(C) or 114(f)(2)(C), as the case may be.

["(4) SECTION 115 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment or determination of royalty rates as provided in section 115 may be filed in the year 2006 and in each subsequent fifth calendar year, or at such other times as the parties have agreed under section 115(c)(3)(B) and (C).

["(5) SECTION 116 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b) concerning the determination of royalty rates and terms as provided in section 116 may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.

["(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Copyright Royalty Judges shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration, commence a proceeding to promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of nondramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the Copyright Royalty Judges, in accordance with section 803, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).

["(6) SECTION 118 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 118 may be filed in the year 2006 and in each subsequent fifth calendar year.

["(7) SECTION 1004 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment of reasonable royalty rates under section 1004 may be filed as provided in section 1004(a)(3).

["(8) PROCEEDINGS CONCERNING DISTRIBUTION OF ROYALTY FEES.—With respect to proceedings under section 801(b)(3) concerning the distribution of royalty fees in certain circumstances under section 111, 116, 119, or 1007, the Copyright Royalty Judges shall, upon a determination that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

["§ 805. General rule for voluntarily negotiated agreements

["Any rates or terms under this title that—

["(1) are agreed to by participants to a proceeding under section 803(b)(2),

["(2) are adopted by the Copyright Royalty Judges as part of a determination under this chapter, and

["(3) are in effect for a period shorter than would otherwise apply under a determination pursuant to this chapter,

[shall remain in effect for such period of time as would otherwise apply under such determination, except that the Copyright Royalty Judges shall adjust the rates pursuant to the voluntary negotiations to reflect national monetary inflation during the additional period the rates remain in effect.".

[(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by striking the item relating to chapter 8 and inserting the following:

["8. Proceedings by Copyright Royalty Judges .... 801".

[SEC. 4. DEFINITION.

[Section 101 is amended by inserting after the definition of "copies" the following:

["A 'Copyright Royalty Judge' is a Copyright Royalty Judge appointed under section 802 of this title, and includes any individual serving as an interim Copyright Royalty Judge under such section.".

[SEC. 5. TECHNICAL AMENDMENTS.

[(a) CABLE RATES.—Section 111(d) is amended—

[(1) in paragraph (2), in the second sentence, by striking "a copyright arbitration royalty panel" and inserting "the Copyright Royalty Judges."; and

[(2) in paragraph (4)—

[(A) in subparagraph (A), by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges";

[(B) in subparagraph (B)—

[(i) in the first sentence, by striking "Librarian of Congress shall, upon the recommendation of the Register of Copyrights," and inserting "Copyright Royalty Judges shall";

[(ii) in the second sentence, by striking "Librarian determines" and inserting "Copyright Royalty Judges determine"; and

[(iii) in the third sentence—

[(I) by striking "Librarian" each place it appears and inserting "Copyright Royalty Judges"; and

[(II) by striking "convene a copyright arbitration royalty panel" and inserting "conduct a proceeding"; and

[(C) in subparagraph (C), by striking "Librarian of Congress" and inserting "Copyright Royalty Judges".

[(b) EPHEMERAL RECORDINGS.—Section 112(e) is amended—

[(1) in paragraph (3)—

[(A) by amending the first sentence to read as follows: "Voluntary negotiation proceedings initiated pursuant to section 804(a) for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by paragraph (1) shall cover the 5-year period beginning on January 1 of the second year following the year in which the proceedings are commenced, or such other period as the parties may agree."; and

[(B) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

[(2) in paragraph (4)—

[(A) by amending the first sentence to read as follows: "In the absence of license agreements negotiated under paragraphs (2) and (3), the Copyright Royalty Judges shall commence a proceeding pursuant to chapter 8 to determine and publish in the Federal Register a schedule of reasonable rates and terms which, subject to paragraph (5), shall be binding on all copyright owners of sound recordings and transmitting organizations entitled to a statutory license under this subsection during the 5-year period specified in paragraph (3), or such other period as the parties may agree.";

[(B) by striking "copyright arbitration royalty panel" each subsequent place it appears and inserting "Copyright Royalty Judges";

[(C) in the fourth sentence, by striking "its decision" and inserting "their decision"; and

[(D) in the last sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

[(3) in paragraph (5), by striking "or decision by the Librarian of Congress" and inserting ", decision by the Librarian of Congress, or determination by the Copyright Royalty Judges";

[(4) by striking paragraph (6) and redesignating paragraphs (7), (8), and (9), as paragraphs (6), (7), and (8), respectively; and

[(5) in paragraph (6)(A), as so redesignated, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges".

[(c) SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS.—Section 114(f) is amended—

[(1) in paragraph (1)—

[(A) in subparagraph (A)—

[(i) by amending the first sentence to read as follows: "Voluntary negotiation proceedings initiated pursuant to section 804(a) for the purpose of determining reasonable terms and rates of royalty payments for subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services shall cover the 5-year period beginning on January 1 of the year following the second year in which the proceedings are commenced, except where differential transitional periods are provided in section 804(b)(3), or such other period as the parties may agree."; and

[(ii) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

[(B) in subparagraph (B)—

[(i) by amending the first sentence to read as follows: "In the absence of license agreements negotiated under subparagraph (A), the Copyright Royalty Judges shall commence a proceeding pursuant to chapter 8 to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), or such other date as the parties may agree."; and

[(ii) in the second sentence, by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

[(C) by amending subparagraph (C) to read as follows:

["(C) The procedures under subparagraphs (A) and (B) also shall be initiated pursuant to a petition filed by any copyright owners of sound recordings, any preexisting subscription services, or any preexisting satellite digital audio radio services indicating that a new type of subscription digital audio transmission service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of transmission service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for subscription digital audio transmission services most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.";

[(2) in paragraph (2)—

[(A) in subparagraph (A)—

[(i) by amending the first sentence to read as follows: "Voluntary negotiation proceedings initiated pursuant to section 804(a) for the purpose of determining reasonable terms and rates of royalty payments for public performances of sound recordings by means of eligible nonsubscription transmissions and transmissions by new subscription services specified by subsection (d)(2) shall cover the 5-year period beginning on January 1 of the second year following the year in which the proceedings are commenced, except where different transitional periods are provided in section 804(b)(3)(A), or such other period as the parties may agree."; and

[(ii) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

[(B) in subparagraph (B)—

[(i) by amending the first sentence to read as follows: "In the absence of license agreements negotiated under subparagraph (A), the Copyright Royalty Judges shall commence a proceeding pursuant to chapter 8 to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (3), shall be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the period specified in subparagraph (A), or such other period as the parties may agree."; and

[(ii) by striking "copyright arbitration royalty panel" each subsequent place it appears and inserting "Copyright Royalty Judges"; and

[(C) by amending subparagraph (C) to read as follows:

["(C) The procedures under subparagraphs (A) and (B) shall also be initiated pursuant to a petition filed by any copyright owners of sound recordings or any eligible nonsubscription service or new subscription service indicating that a new type of eligible nonsubscription service or new subscription service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for preexisting subscription digital audio transmission services or preexisting satellite digital radio audio services, as the case may be, most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.";

[(3) in paragraph (3), by striking "or decision by the Librarian of Congress" and inserting ", decision by the Librarian of Congress, or determination by the Copyright Royalty Judges"; and

[(4) in paragraph (4), by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges".

[(d) Phonorecords of Nondramatic Musical Works.—Section 115(c)(3) is amended—

[(1) in subparagraph (A)(ii), by striking "(F)" and inserting "(E)";

[(2) in subparagraph (B)—

[(A) by striking "under this paragraph" and inserting "under this section"; and

[(B) by striking "subparagraphs (B) through (F)" and inserting "this subparagraph and subparagraphs (B) through (E)";

[(3) in subparagraph (C)—

[(A) by amending the first sentence to read as follows: "Voluntary negotiation proceedings initiated pursuant to a petition filed under section 804(a) for the purpose of determining reasonable terms and rates of royalty payments for the activities specified by this section shall cover the period beginning with the effective date of such terms and rates, but not earlier than January 1 of the second year following the year in which the petition is filed, and ending on the effective date of successor terms and rates, or such other period as the parties may agree."; and

[(B) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

[(4) in subparagraph (D)—

[(A) by amending the first sentence to read as follows: "In the absence of license agreements negotiated under subparagraphs (B) and (C), the Copyright Royalty Judges shall commence proceedings pursuant to chapter 8 to determine and publish in the Federal Register a schedule of rates and terms which, subject to subparagraph (E), shall be binding on all copyright owners of nondramatic musical works and persons entitled to obtain a compulsory license under subsection (a)(1) during the period specified in subparagraph (C) or such other period as may be determined pursuant to subparagraphs (B) and (C), or such other period as the parties may agree.";

[(B) in the third sentence, by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

[(C) in the last sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

[(5) in subparagraph (E)—

[(A) in clause (i)—

[(i) in the first sentence, by striking "the Librarian of Congress" and inserting "a copyright arbitration royalty panel, the Librarian of Congress, or the Copyright Royalty Judges"; and

[(ii) in the second sentence, by striking "(C), (D) or (F) shall be given effect" and inserting "(C) or (D) shall be given effect as to digital phonorecord deliveries"; and

[(B) in clause (ii)(I), by striking "(C), (D) or (F)" each place it appears and inserting "(C) or (D)"; and

[(6) by striking subparagraph (F) and redesignating subparagraphs (G) through (L) as subparagraphs (F) through (K), respectively.

[(e) Coin-Operated Phonorecord Players.—Section 116 is amended—

[(1) in subsection (b), by amending paragraph (2) to read as follows:

["(2) Chapter 8 proceeding.—Parties not subject to such a negotiation may have the terms and rates and the division of fees described in paragraph (1) determined in a proceeding in accordance with the provisions of chapter 8."; and

[(2) in subsection (c)—

[(A) in the subsection heading, by striking "Copyright Arbitration Royalty Panel Determinations" and inserting "Determinations by Copyright Royalty Judges"; and

[(B) by striking "a copyright arbitration royalty panel" and inserting "the Copyright Royalty Judges".

[(f) Use of Certain Works in Connection With Noncommercial Broadcasting.—Section 118 is amended—

[(1) in subsection (b)—

[(A) in paragraph (1)—

[(i) in the first sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

[(ii) by striking the second and third sentences;

[(B) in paragraph (2), by striking "the Librarian of Congress:" and all that follows through the end of the sentence and inserting "a copyright arbitration royalty panel, the Librarian of Congress, or the Copyright Royalty Judge, if copies of such agreements are filed with the Copyright Royalty Judges within 30 days of execution in accordance with regulations that the Copyright Royalty Judges shall issue."; and

[(C) in paragraph (3)—

[(i) in the second sentence—

[(I) by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

[(II) by striking "paragraph (2)." and inserting "paragraph (2) or (3).";

[(ii) in the last sentence, by striking "'Librarian of Congress" and inserting "Copyright Royalty Judges"; and

[(iii) by striking "(3) In" and all that follows through the end of the first sentence and inserting the following:

["(3) Voluntary negotiation proceedings initiated pursuant to a petition filed under section 804(a) for the purpose of determining a schedule of terms and rates of royalty payments by public broadcasting entities to copyright owners in works specified by this subsection and the proportionate division of fees paid among various copyright owners shall cover the 5-year period beginning on January 1 of the second year following the year in which the petition is filed. The parties to each negotiation proceeding shall bear their own costs.

["(4) In the absence of license agreements negotiated under paragraph (2) or (3), the Copyright Royalty Judges shall, pursuant to chapter 8, conduct a proceeding to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Copyright Royalty Judges.";

[(2) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively;

[(3) in subsection (c), as so redesignated, in the matter preceding paragraph (1)—

[(A) by striking "(b)(2)" and inserting "(b)(2) or (3)";

[(B) by striking "(b)(3)" and inserting "(b)(4)"; and

[(C) by striking "a copyright arbitration royalty panel" and inserting "the Copyright Royalty Judges";

[(4) in subsection (d), as so redesignated—

[(A) by striking "in the Copyright Office" and inserting "with the Copyright Royalty Judges"; and

[(B) by striking "Register of Copyrights" and inserting "Copyright Royalty Judges"; and

[(5) in subsection (f), as so redesignated, by striking "(d)" and inserting "(c)".

[(g) Secondary Transmissions by Satellite Carriers.—Section 119(b) is amended—

[(1) in paragraph (3), by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

[(2) in paragraph (4)—

[(A) in subparagraph (A), by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges"; and

[(B) by amending subparagraphs (B) and (C) to read as follows:

["(B) DETERMINATION OF CONTROVERSY; DISTRIBUTIONS.—After the first day of August of each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents. If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

["(C) WITHHOLDING OF FEES DURING CONTROVERSY.—During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, subject to any distributions made under section 801(b)(3).".

[(h) DIGITAL AUDIO RECORDING DEVICES.

[(1) ROYALTY PAYMENTS.—Section 1004(a)(3) is amended by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges".

[(2) ENTITLEMENT TO ROYALTY PAYMENTS.—Section 1006(c) is amended by striking "Librarian of Congress shall convene a copyright arbitration royalty panel which" and inserting "Copyright Royalty Judges".

[(3) PROCEDURES FOR DISTRIBUTING ROYALTY PAYMENTS.—Section 1007 is amended—

[(A) in subsection (a), by amending paragraph (1) to read as follows:

["(1) FILING OF CLAIMS.—During the first 2 months of each calendar year, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Judges a claim for payments collected during the preceding year in such form and manner as the Copyright Royalty Judges shall prescribe by regulation."; and

[(B) by amending subsections (b) and (c) to read as follows:

["(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—After the period established for the filing of claims under subsection (a), in each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a). The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.

["(c) RESOLUTION OF DISPUTES.—If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.".

[(4) DETERMINATION OF CERTAIN DISPUTES.—(A) Section 1010 is amended to read as follows:

["§ 1010. Determination of certain disputes

["(a) SCOPE OF DETERMINATION.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to petition the Copyright Royalty Judges to determine whether such device is subject to section 1002, or the basis on which royalty payments for such device are to be made under section 1003.

["(b) INITIATION OF PROCEEDINGS.—The parties under subsection (a) shall file the petition with the Copyright Royalty Judges requesting the commencement of a proceeding. Within 2 weeks after receiving such a petition, the Chief Copyright Royalty Judge shall cause notice to be published in the Federal Register of the initiation of the proceeding.

["(c) STAY OF JUDICIAL PROCEEDINGS.—Any civil action brought under section 1009 against a party to a proceeding under this section shall, on application of one of the parties to the proceeding, be stayed until completion of the proceeding.

["(d) PROCEEDING.—The Copyright Royalty Judges shall conduct a proceeding with respect to the matter concerned, in accordance with such procedures as the Copyright Royalty Judges may adopt. The Copyright Royalty Judges shall act on the basis of a fully documented written record. Any party to the proceeding may submit relevant information and proposals to the Copyright Royalty Judges. The parties to the proceeding shall each bear their respective costs of participation.

["(e) JUDICIAL REVIEW.—Any determination of the Copyright Royalty Judges under subsection (d) may be appealed, by a party to the proceeding, in accordance with section 803(d) of this title. The pendency of an appeal under this subsection shall not stay the determination of the Copyright Royalty Judges. If the court modifies the determination of the Copyright Royalty Judges, the court shall have jurisdiction to enter its own decision in accordance with its final judgment. The court may further vacate the determination of the Copyright Royalty Judges and remand the case for proceedings as provided in this section.".

[(B) The item relating to section 1010 in the table of sections for chapter 10 is amended to read as follows:

["1010. Determination of certain disputes.".

[SEC. 6. EFFECTIVE DATE AND TRANSITION PROVISIONS.

[(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect 6 months after the date of the enactment of this Act, except that the Librarian of Congress shall appoint interim Copyright Royalty Judges under section 802(d) of title 17, United States Code, as amended by this Act, within 90 days after such date of enactment to carry out the functions of the Copyright Royalty Judges under title 17, United States Code, to the extent that Copyright Royalty Judges provided for in section 801(a) of title 17, United States Code, as amended by this Act, have not been appointed before the end of that 90-day period.

[(b) TRANSITION PROVISIONS.—

[(1) IN GENERAL.—Subject to paragraph (2), the amendments made by this Act shall not affect any proceedings commenced, petitions filed, or voluntary agreements entered into before the enactment of this Act under the provisions of title 17, United States Code, amended by this Act, and pending on such date of enactment. Such proceedings shall continue, determinations made in such proceedings, and appeals taken therefrom, as if this Act had not been enacted, and shall continue in effect until modified under title 17, United States Code, as amended by this Act. Such petitions filed and voluntary agreements entered into shall remain in effect as if this Act had not been enacted.

[(2) EFFECTIVE PERIODS FOR CERTAIN RATE-MAKING PROCEEDINGS.—Notwithstanding paragraph (1), terms and rates in effect under section 114(f)(2) or 112(e) of title 17, United States Code, for new subscription services, eligible nonsubscription services, and services exempt under section 114(d)(1)(C)(iv) of such title for the period 2003 through 2004, and any rates published in the Federal Register under the authority of the Small Webcaster Settlement Act of 2002 for the years 2003 through 2004, shall be effective until the first applicable effective date for successor terms and rates specified in section 804(b)(2) or (3)(A) of title 17, United States Code, or until such later date as the parties may agree. Any proceeding commenced before the enactment of this Act pursuant to section 114(f)(2) and chapter 8 of title 17, United States Code, to adjust or determine such rates and terms for periods following 2004 shall be terminated upon the enactment of this Act and shall be null and void.

[(c) EXISTING APPROPRIATIONS.—Any funds made available in an appropriations Act before the date of the enactment of this Act to carry out chapter 8 of title 17, United States Code, shall be available to the extent necessary to carry out this section.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Royalty and Distribution Reform Act of 2004".

SEC. 2. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 17, United States Code.

SEC. 3. COPYRIGHT ROYALTY JUDGE AND STAFF.

(a) IN GENERAL.—Chapter 8 is amended to read as follows:

"CHAPTER 8—PROCEEDINGS BY COPYRIGHT ROYALTY JUDGES

"Sec.
"801. Copyright Royalty Judges; appointment and functions.
"802. Copyright Royalty Judgeships; staff.
"803. Proceedings of Copyright Royalty Judges.
"804. Institution of proceedings.
"805. General rule for voluntarily negotiated agreements.

"§ 801. Copyright Royalty Judges; appointment and functions

"(a) APPOINTMENT.—Upon the recommendation of the Register of Copyrights, the Librarian of Congress shall appoint 3 full-time Copyright Royalty Judges, and shall appoint 1 of the 3 as the Chief Copyright Royalty Judge.

"(b) FUNCTIONS.—Subject to the provisions of this chapter, the functions of the Copyright Royalty Judges shall be as follows:

"(1) To make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118, 119 and 1004. The rates applicable under sections 114(f)(1)(B), 115, and 116 shall be calculated to achieve the following objectives:

"(A) To maximize the availability of creative works to the public.

"(B) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

"(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

"(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

"(2) To make determinations concerning the adjustment of the copyright royalty rates under section 111 solely in accordance with the following provisions:

"(A) The rates established by section 111(d)(1)(B) may be adjusted to reflect—

"(i) national monetary inflation or deflation; or

"(ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of October 19, 1976,

except that—

"(I) if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(1)(B) shall be permitted; and

"(II) no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber.

The Copyright Royalty Judges may consider all factors relating to the maintenance of such level of payments, including, as an extenuating factor, whether the industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

"(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 8, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to insure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Judges shall consider, among other factors, the economic impact on copyright owners and users; except that no adjustment in royalty rates shall be made under this subparagraph with respect to any distant signal equivalent or fraction thereof represented by—

"(i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal; or

"(ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

"(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

"(D) The gross receipts limitations established by section 111(d)(1)(C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section, and the royalty rate specified therein shall not be subject to adjustment.

"(3)(A) To authorize the distribution, under sections 111, 119, and 1007, of those royalty fees collected under sections 111, 119, and 1005, as the case may be, to the extent that the Copyright Royalty Judges have found that the distribution of such fees is not subject to controversy.

"(B) In cases where the Copyright Royalty Judges determine that controversy exists, the Copyright Royalty Judges shall determine the distribution of such fees, including partial distributions, in accordance with section 111, 119, or 1007, as the case may be.

"(C) The Copyright Royalty Judges may make a partial distribution of such fees during the pendency of the proceeding under subparagraph (B) if all participants under section 803(b)(2) in the proceeding that are entitled to receive those fees that are to be partially distributed—

"(i) agree to such partial distribution;

"(ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B);

"(iii) file the agreement with the Copyright Royalty Judges; and

"(iv) agree that such funds are available for distribution.

"(D) The Copyright Royalty Judges and any other officer or employee acting in good faith in distributing funds under subparagraph (C) shall not be held liable for the payment of any excess fees under subparagraph (C). The Copyright Royalty Judges shall, at the time the final determination is made, calculate any such excess amounts.

"(4) To accept or reject royalty claims filed under sections 111, 119, and 1007, on the basis of timeliness or the failure to establish the basis for a claim.

"(5) To accept or reject rate adjustment petitions as provided in section 804 and petitions to participate as provided in section 803(b) (1) and (2).

"(6) To determine the status of a digital audio recording device or a digital audio interface device under sections 1002 and 1003, as provided in section 1010.

"(7)(A) To adopt as a basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, an agreement concerning such matters reached among some or all of the participants in a proceeding at any time during the proceeding, except that—

"(i) the Copyright Royalty Judges shall provide to those that would be bound by the terms, rates, distribution, or other determination set by the agreement an opportunity to comment on the agreement and shall provide to the other participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, distribution, or other determination set by the agreement an opportunity to comment on the agreement and object to its adoption as a basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, as the case may be; and

"(ii) the Copyright Royalty Judges may decline to adopt the agreement as a basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, as the case may be, if any other participant described in subparagraph (A) objects to the agreement and the Copyright Royalty Judges conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates, or for distributing the royalty payments, as the case may be.

"(B) License agreements voluntarily negotiated pursuant to section 112(e)(5), 114(f)(3), 115(c)(3)(E)(i), 116(c), or 118(b) (2) or (3) that do not result in statutory terms and rates shall not be subject to clauses (i) and (ii) of subparagraph (A).

"(C) Interested parties may negotiate and agree to, and the Copyright Royalty Judges may adopt, an agreement that specifies as terms notice and recordkeeping requirements that apply in lieu of those that would otherwise apply under regulations.

"(8) To perform other duties, as assigned by the Register of Copyrights within the Library of Congress, except as provided in section 802(g) at times when Copyright Royalty Judges are not engaged in performing the other duties set forth in this section.

"(c) RULINGS.—As provided in section 802(f)(1), the Copyright Royalty Judges may make any necessary procedural or evidentiary rulings in any proceeding under this chapter and may, before commencing a proceeding under this chapter, make any such rulings that would apply to the proceedings conducted by the Copyright Royalty Judges.

"(d) ADMINISTRATIVE SUPPORT.—The Librarian of Congress shall provide the Copyright Royalty Judges with the necessary administrative services related to proceedings under this chapter.

"(e) LOCATION IN LIBRARY OF CONGRESS.—The offices of the Copyright Royalty Judges and staff shall be in the Library of Congress.

"§ 802. Copyright Royalty Judgeships; staff

"(a) QUALIFICATIONS OF COPYRIGHT ROYALTY JUDGES.—

"(1) IN GENERAL.—Each Copyright Royalty Judge shall be an attorney who has at least 7 years of legal experience. The Chief Copyright Royalty Judge shall have at least 5 years of experience in adjudications, arbitrations, or court trials. Of the other two Copyright Royalty Judges, one shall have significant knowledge of copyright law, and the other shall have significant knowledge of economics. An individual may serve as a Copyright Royalty Judge only if the individual is free of any financial conflict of interest under subsection (h).

"(2) DEFINITION.—In this subsection, the term 'adjudication' has the meaning given that term in section 551 of title 5, but does not include mediation.

"(b) STAFF.—The Chief Copyright Royalty Judge shall hire 3 full-time staff members to assist the Copyright Royalty Judges in performing their functions.

"(c) TERMS.—The terms of the Copyright Royalty Judges shall each be 6 years, except of the *individuals first appointed, the Chief Copyright Royalty Judge shall be appointed to a term of 6 years, and of the remaining Copyright Royalty Judges, one shall be appointed to a term of 2 years, and the other shall be appointed to a term of 4 years. An individual serving as a Copyright Royalty Judge may be reappointed to subsequent terms. The term of a Copyright Royalty Judge shall begin when the term of the predecessor of that Copyright Royalty Judge ends. When the term of office of a Copyright Royalty Judge ends, the individual serving that term may continue to serve until a successor is selected.*

"(d) VACANCIES OR INCAPACITY.—

"(1) VACANCIES.—If a vacancy should occur in the position of Copyright Royalty Judge, the Librarian of Congress shall act expeditiously to fill the vacancy, and may appoint an interim Copyright Royalty Judge to serve until another Copyright Royalty Judge is appointed under this section. An individual appointed to fill the vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed shall be appointed for the remainder of that term.

"(2) INCAPACITY.—In the case in which a Copyright Royalty Judge is temporarily unable to perform his or her duties, the Librarian of Congress may appoint an interim Copyright Royalty Judge to perform such duties during the period of such incapacity.

"(e) COMPENSATION.—

"(1) JUDGES.—The Chief Copyright Royalty Judge shall receive compensation at the rate of basic pay payable for level AL–1 for administrative law judges pursuant to section 5372(b) of title 5, and each of the other two Copyright Royalty Judges shall receive compensation at the rate of basic pay payable for level AL–2 for administrative law judges pursuant to such section. The compensation of the Copyright Royalty Judges shall not be subject to any regulations adopted by the Office of Personnel Management pursuant to its authority under section 5376(b)(1) of title 5.

"(2) STAFF MEMBERS.—Of the staff members appointed under subsection (b)—

"(A) the rate of pay of one staff member shall be not more than the basic rate of pay payable for level 10 of GS–15 of the General Schedule;

"(B) the rate of pay of one staff member shall be not less than the basic rate of pay payable for GS–13 of the General Schedule and not more than the basic rate of pay payable for level 10 of GS–14 of such Schedule; and

"(C) the rate of pay for the third staff member shall be not less than the basic rate of pay payable for GS–8 of the General Schedule and not more than the basic rate of pay payable for level 10 of GS–11 of such Schedule.

"(3) LOCALITY PAY.—All rates of pay referred to under this subsection shall include locality pay.

"(f) INDEPENDENCE OF COPYRIGHT ROYALTY JUDGE.—

"(1) IN MAKING DETERMINATIONS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the Copyright Royalty Judges shall have full independence in making determinations concerning adjustments and determinations of copyright royalty rates and terms, the distribution of copyright royalties, the acceptance or rejection of royalty claims, rate adjustment petitions, and petitions to participate, and in issuing other rulings under this title, except that the Copyright Royalty Judges may consult with the Register of Copyrights on any matter other than a question of fact. A Copyright Royalty Judge or Judges, or by motion to the Copyright Royalty Judge or Judges, any participant in a proceeding may request a determination of the resolution by the Register of Copyrights on any material question of substantive law (not including questions of procedure before the Copyright Royalty Judges, the ultimate adjustments and determinations of copyright royalty rates and terms, the ultimate distribution of copyright royalties, or the acceptance or rejection of royalty claims, rate adjustment petitions, or petitions to participate) concerning an interpretation or construction of those provisions of this title that are the subject of the proceeding. Any such motion requesting a written decision by the Register of Copyrights shall be in writing or on the record, and reasonable provision shall be made for comment by the participants in the proceeding in such a way as to minimize duplication and delay. Except as provided in subparagraph (B), the Register of Copyrights shall deliver to the Copyright Royalty Judges his or her decision within 14 days of receipt by the Register of Copyrights of all of the briefs or comments of the participants. Such decision shall be in writing and shall be included by the Copyright Royalty Judges in the record that accompanies their final determination. If such a decision is timely delivered to the Register of Copyrights, the Copyright Royalty Judges shall apply the legal determinations embodied in the decision of the Register of Copyrights in resolving material questions of substantive law.

"(B) NOVEL QUESTIONS.—(i) In any case in which a novel question of law concerning an interpretation of those provisions of this title that are the subject of the proceeding is presented, the Copyright Royalty Judges shall request a decision of the Register of Copyrights, in writing, to resolve such novel question. To the extent practicable, provision shall be made for comment on such request by the participants in the proceeding, in such a way as to minimize duplication and delay. The Register shall transmit his or her decision to the Copyright Royalty Judges within 30 days of receipt by the Register of Copyrights of all of the briefs or comments of the participants. Such decision shall be in writing and included by the Copyright Royalty Judges in the record that accompanies their final determination. If such a decision is timely transmitted, the Copyright Royalty Judges shall apply the legal determinations embodied in the decision of the Register of Copyrights in resolving material questions of substantive law.

"(ii) In clause (i), a 'novel question of law' is a question of law that has not been determined in prior decisions, determinations, and rulings described in section 803(a).

"(C) CONSULTATION.—Notwithstanding the provisions of subparagraph (A), the Copyright Royalty Judges shall consult with the Register of Copyrights with respect to any determination or ruling that would require that any act be performed by the Copyright Office, and any such determination or ruling shall not be binding upon the Register of Copyrights.

"(D) SUA SPONTE REVIEW OF LEGAL CONCLUSIONS BY THE REGISTER OF COPYRIGHTS.—The Register of Copyrights may review for legal error the resolution by the Copyright Royalty Judges of a material question of substantive law under this title that underlies or is contained in a final determination of the Copyright Royalty Judges. If the Register of Copyrights concludes, after taking into consideration the views of the participants in the proceeding, that any resolution reached by the Copyright Royalty Judges was in material error, the Register of Copyrights shall issue a written decision correcting such legal error, which shall be made part of the record of the proceeding. Additionally, the Register of Copyrights shall cause to be published in the Federal Register such written decision together with a specific identification of the legal conclusion of the Copyright Royalty Judges that is determined to be erroneous. As to conclusions of substantive law involving an interpretation of the statutory provisions of this title, the decision of the Register of Copyrights shall be binding upon the Copyright Royalty Judges in subsequent proceedings under this chapter. When a decision has been rendered pursuant to subsection 802(f)(1)(D), the Register of Copyrights may, on the basis of and in accordance with such decision, intervene as of right in any appeal of a final determination of the Copyright Royalty Judges pursuant to section 803(d) in the United States Court of Appeals for the District of Columbia Circuit. If, prior to intervening in such an appeal, the Register of Copyrights gives notification and undertakes to consult with the Attorney General with respect to such intervention, and the Attorney General fails within reasonable period after receipt of such notification to intervene in such appeal, the Register of Copyrights may intervene in such appeal in his or her own name by any attorney designated by the Register of Copyrights for such purpose. Intervention by the Register of Copyrights in his or her own name shall not preclude the Attorney General from intervening on behalf of the United States in such an appeal as may be otherwise provided or required by law.

"(E) EFFECT ON JUDICIAL REVIEW.—Nothing in this section shall be interpreted to alter the standard applied by a court in reviewing legal determinations involving an interpretation or construction of the provisions of this title or to affect the extent to which any construction or interpretation of the provisions of this title shall be accorded deference by a reviewing court.

"(2) PERFORMANCE APPRAISALS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law or any regulation of the Library of Congress, and subject to subparagraph (B), the Copyright Royalty Judges shall not receive performance appraisals.

"(B) RELATING TO SANCTION OR REMOVAL.—To the extent that the Librarian of Congress adopts regulations under subsection (h) relating to the sanction or removal of a Copyright Royalty Judge and such regulations require documentation to establish the cause of such sanction or removal, the Copyright Royalty Judge may receive an appraisal related specifically to the cause of the sanction or removal.

"(g) INCONSISTENT DUTIES BARRED.—No Copyright Royalty Judge may undertake duties that conflict with his or her duties and responsibilities as a Copyright Royalty Judge.

"(h) STANDARDS OF CONDUCT.—The Librarian of Congress shall adopt regulations regarding the standards of conduct, including financial conflict of interest and restrictions against ex parte communications, which shall govern the Copyright Royalty Judges and the proceedings under this chapter.

"(i) REMOVAL OR SANCTION.—The Librarian of Congress may sanction or remove a Copyright Royalty Judge for violation of the standards of conduct adopted under subsection (h), misconduct, neglect of duty, or any disqualifying physical or mental disability. Any such sanction or removal may be made only after notice and opportunity for a hearing, but the Librarian of Congress may suspend the Copyright Royalty Judge during the pendency of such hearing. The Librarian shall appoint an interim Copyright Royalty Judge during the period of any such suspension.

"§ 803. Proceedings of Copyright Royalty Judges

"(a) PROCEEDINGS.—

"(1) IN GENERAL.—The Copyright Royalty Judges shall act in accordance with regulations issued by the Copyright Royalty Judges and the Librarian of Congress, and on the basis of a written record, prior determinations of the Copyright Royalty Tribunal, Librarian of Congress, copyright arbitration royalty panels, the Register of Copyrights, and the Copyright Royalty Judges (to the extent those determinations

are not inconsistent with a decision of the Register of Copyrights that was timely delivered pursuant to subsection 802(f)(1)(D)), under this chapter, and decisions of the court of appeals under this chapter before, on, or after the effective date of the Copyright Royalty and Distribution Reform Act of 2004.

"(2) JUDGES ACTING AS PANEL AND INDIVIDUALLY.—The Copyright Royalty Judges shall preside over hearings in proceedings under this chapter en banc. The Chief Copyright Royalty Judge may designate a Copyright Royalty Judge to preside individually over such collateral and administrative proceedings, and over such proceedings under paragraphs (1) through (5) of subsection (b), as the Chief Judge considers appropriate.

"(3) DETERMINATIONS.—Final determinations of the Copyright Royalty Judges in proceedings under this chapter shall be made by majority vote. A Copyright Royalty Judge dissenting from the majority on any determination under this chapter may issue his or her dissenting opinion, which shall be included with the determination.

"(b) PROCEDURES.—

"(1) INITIATION.—

"(A) CALL FOR PETITIONS TO PARTICIPATE.—(i) Promptly upon the filing of a petition for a rate adjustment or upon a determination made under section 804(a) or as provided under section 804(b)(8), or by no later than January 5 of a year specified in section 804 for the commencement of a proceeding if a petition has not been filed by that date, the Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter calling for the filing of petitions to participate in a proceeding under this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004, or 1007, as the case may be.

"(ii) Petitions to participate shall be filed by no later than 30 days after publication of notice of commencement of a proceeding, under clause (i), except that the Copyright Royalty Judges may, for substantial good cause shown and if there is no prejudice to the participants that have already filed petitions, accept late petitions to participate at any time up to the date that is 90 days before the date on which participants in the proceeding are to file their written direct statements. Notwithstanding the preceding sentence, petitioners whose petitions are filed more than 30 days after publication of notice of commencement of a proceeding are not eligible to object to a settlement reached during the voluntary negotiation period under section 803(b)(3), and any objection filed by such a petitioner shall not be taken into account by the Copyright Royalty Judges.

"(B) PETITIONS TO PARTICIPATE.—Each petition to participate in a proceeding shall describe the petitioner's interest in the subject matter of the proceeding. Parties with similar interests may file a single petition to participate.

"(2) PARTICIPATION IN GENERAL.—Subject to paragraph (4), a person may participate in a proceeding under this chapter, including through the submission of briefs or other information, only if—

"(A) that person has filed a petition to participate in accordance with paragraph (1) (either individually or as a group under paragraph (1)(B)), together with a filing fee of $150;

"(B) the Copyright Royalty Judges have not determined that the petition to participate is facially invalid; and

"(C) the Copyright Royalty Judges have not determined, sua sponte or on the motion of another participant in the proceeding, that the person lacks a significant interest in the proceeding.

"(3) VOLUNTARY NEGOTIATION PERIOD.—

"(A) IN GENERAL.—Promptly after the date for filing of petitions to participate in a proceeding, the Copyright Royalty Judges shall make available to all participants in the proceeding a list of such participants and shall initiate a voluntary negotiation period among the participants.

"(B) LENGTH OF PROCEEDINGS.—The voluntary negotiation period initiated under subparagraph (A) shall be 3 months.

"(C) DETERMINATION OF SUBSEQUENT PROCEEDINGS.—At the close of the voluntary negotiation proceedings, the Copyright Royalty Judges shall, if further proceedings under this chapter are necessary, determine whether and to what extent paragraphs (4) and (5) will apply to the parties.

"(4) SMALL CLAIMS PROCEDURE IN DISTRIBUTION PROCEEDINGS.—

"(A) IN GENERAL.—If, in a proceeding under this chapter to determine the distribution of royalties, a participant in the proceeding asserts a claim in the amount of $10,000 or less, the Copyright Royalty Judges shall decide the controversy on the basis of the filing of the written direct statement by the participant, the response by any opposing participant, and 1 additional response by each such party. The participant asserting the claim shall not be required to pay the filing fee under paragraph (2).

"(B) BAD FAITH INFLATION OF CLAIM.—If the Copyright Royalty Judges determine that a participant asserts in bad faith an amount in controversy in excess of $10,000 for the purpose of avoiding a determination under the procedure set forth in subparagraph (A), the Copyright Royalty Judges shall impose a fine on that participant in an amount not to exceed the difference between the actual amount distributed and the amount asserted by the participant.

"(5) PAPER PROCEEDINGS.—The Copyright Royalty Judges in proceedings under this chapter may decide, sua sponte or upon motion of a participant, to determine issues on the basis of the filing of the written direct statement by the participant, the response by any opposing participant, and one additional response by each such participant. Prior to making such decision to proceed on such a paper record only, the Copyright Royalty Judges shall offer to all parties to the proceeding the opportunity to comment on the decision. The procedure under this paragraph—

"(A) shall be applied in cases in which there is no genuine issue of material fact, there is no need for evidentiary hearings, and all participants in the proceeding agree in writing to the procedure; and

"(B) may be applied under such other circumstances as the Copyright Royalty Judges consider appropriate.

"(6) REGULATIONS.—

"(A) IN GENERAL.—The Copyright Royalty Judges may issue regulations to carry out their functions under this title. All regulations issued by the Copyright Royalty Judges are subject to the approval of the Librarian of Congress. Not later than 120 days after Copyright Royalty Judges or interim Copyright Royalty Judges, as the case may be, are first appointed after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, such judges shall issue regulations to govern proceedings under this chapter.

"(B) INTERIM REGULATIONS.—Until regulations are adopted under subparagraph (A), the Copyright Royalty Judges shall apply the regulations in effect under this chapter on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, to the extent such regulations are not inconsistent with this chapter, except that functions carried out under such regulations by the Librarian of Congress, the Register of Copyrights, or copyright arbitration royalty panels that, as of such date of enactment, are to be carried out by the Copyright Royalty Judges under this chapter, shall be carried out by the Copyright Royalty Judges under such regulations.

"(C) REQUIREMENTS.—Regulations issued under subparagraph (A) shall include the following:

"(i) The written direct statements of all participants in a proceeding under paragraph (2) shall be filed by a date specified by the Copyright Royalty Judges, which may be no earlier than four months, and no later than five months, after the end of the voluntary negotiation period under paragraph (3). Notwithstanding the preceding sentence, the Copyright Royalty Judges may allow a participant in a proceeding to file an amended written direct statement based on new information received during the discovery process, within 15 days after the end of the discovery period specified in clause (iii).

"(ii)(I) Following the submission to the Copyright Royalty Judges of written direct statements by the participants in a proceeding under paragraph (2), the judges shall meet with the participants for the purpose of setting a schedule for conducting and completing discovery. Such schedule shall be determined by the Copyright Royalty Judges.

"(II) In this chapter, the term 'written direct statements' means witness statements, testimony, and exhibits to be presented in the proceedings, and such other information that is necessary to establish terms and rates, or the distribution of royalty payments, as the case may be, as set forth in regulations issued by the Copyright Royalty Judges.

"(iii) Hearsay may be admitted in proceedings under this chapter to the extent deemed appropriate by the Copyright Royalty Judges.

"(iv) Discovery in such proceedings shall be permitted for a period of 60 days, except for discovery ordered by the Copyright Royalty Judges in connection with the resolution of motions, orders and disputes pending at the end of such period.

"(v) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may request of an opposing participant nonprivileged documents directly related to the written direct statement of that participant. Any objection to such a request shall be resolved by a motion or request to compel production made to the Copyright Royalty Judges according to regulations adopted by the Copyright Royalty Judges. Each motion or request to compel discovery shall be determined by the Copyright Royalty Judges, or by a Copyright Royalty Judge when permitted under subsection (a)(2). Upon such motion, the Copyright Royalty Judges may order discovery pursuant to regulations established under this paragraph.

"(vi) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may, upon a written motion to the Copyright Royalty Judges, request of an opposing participant or witness other relevant information and materials if absent the discovery sought the moving party would be prejudiced or the Copyright Royalty Judges' resolution of the proceeding would be substantially impaired. Absent a showing of substantial good cause or demonstration of a likelihood of substantial prejudice, no participant in a proceeding may take more than 3 depositions and propound more than 10 interrogatories in that proceeding. Absent such a showing, the total number of depositions ordered in such a proceeding shall not exceed 10, and the total number of interrogatories shall not exceed 25 in each proceeding. In determining whether discovery will be granted under this clause, the Copyright Royalty Judges may consider—

"(I) whether the information sought would serve to protect the integrity of the proceeding, to prevent substantial prejudice to any participant, or to correct a material misrepresentation or omission by any participant;

"(II) whether the burden or expense of producing the requested information or materials outweighs the likely benefit, taking into account the needs and resources of the participants, the importance of the issues at stake, and the probative value of the requested information or materials in resolving such issues;

"(III) whether the requested information or materials would be unreasonably cumulative or duplicative, or are obtainable from another source that is more convenient, less burdensome, or less expensive; and

"(IV) whether the participant seeking discovery has had ample opportunity by discovery in the proceeding or by other means to obtain the information sought.

"(vii) The rules and practices in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, relating to discovery in proceedings under this chapter to determine the distribution of royalty fees, shall continue to apply to such proceedings on and after such effective date.

"(viii) In proceedings to determine royalty rates, the Copyright Royalty Judges may issue a subpoena commanding a participant or witness in a proceeding to determine royalty rates to appear and give testimony or to produce and permit inspection of documents or tangible things if the Copyright Royalty Judges' resolution of the proceeding would be substantially impaired by the absence of such testimony or production of documents or tangible things. Such subpoena shall specify with reasonable particularity the materials to be produced or the scope and nature of the required testimony. Nothing in this subparagraph shall preclude the Copyright Royalty Judges from requesting the production by a nonparticipant of information or materials relevant to the resolution by the Copyright Royalty Judges of a material issue of fact. A Copyright Royalty Judge may not issue a subpoena under this clause to any person who was a participant in a proceeding to determine royalty rates and has negotiated a settlement with respect to those rates.

"(ix) The Copyright Royalty Judges shall order a settlement conference among the participants in the proceeding to facilitate the presentation of offers of settlement among the participants. The settlement conference shall be held during a 21-day period following the end of the discovery period and shall take place outside the presence of the Copyright Royalty Judges.

"(x) No evidence, including exhibits, may be submitted in the written direct statement of a participant without a sponsoring witness, except where the Copyright Royalty Judges have taken official notice, or in the case of incorporation by reference of past records, or for good cause shown.

"(c) DETERMINATION OF COPYRIGHT ROYALTY JUDGES.—

"(1) TIMING.—The Copyright Royalty Judges shall issue their determination in a proceeding not later than 11 months after the conclusion of the 21-day settlement conference period under subsection (b)(3)(C)(vi), but, in the case of a proceeding to determine successors to rates or terms that expire on a specified date, in no event later than 15 days before the expiration of the then current statutory rates and terms.

"(2) REHEARINGS.—

"(A) IN GENERAL.—The Copyright Royalty Judges may, in exceptional cases, upon motion of a participant under subsection (b)(2), order a rehearing, after the determination in a proceeding is issued under paragraph (1), on such matters as the Copyright Royalty Judges determine to be appropriate.

"(B) TIMING FOR FILING MOTION.—Any motion for a rehearing under subparagraph (A) may only be filed within 15 days after the date on which the Copyright Royalty Judges deliver their initial determination concerning rates and terms to the participants in the proceeding.

"(C) PARTICIPATION BY OPPOSING PARTY NOT REQUIRED.—In any case in which a rehearing is ordered, any opposing party shall not be required to participate in the rehearing, except as provided under subsection (d)(1).

"(D) NO NEGATIVE INFERENCE.—No negative inference shall be drawn from lack of participation in a rehearing.

"(E) CONTINUITY OF RATES AND TERMS.—(i) If the decision of the Copyright Royalty Judges on any motion for a rehearing is not rendered before the expiration of the statutory rates and terms that were previously in effect, in the case of a proceeding to determine successors to rates and terms that expire on a specified date, then—

"(I) the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion shall be effective as of the day following the date on which the rates and terms that were previously in effect expire; and

"(II) in the case of a proceeding under section 114(f)(1)(C) or 114(f)(2)(C), royalty rates and terms shall, for purposes of section 114(f)(4)(B), be deemed to have been set at those rates and terms contained in the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion, as of the date of that determination.

"(ii) The pendency of a motion for a rehearing under this paragraph shall not relieve persons obligated to make royalty payments who would be affected by the determination on that motion from providing the statements of account and any reports of use, to the extent required, and paying the royalties required under the relevant determination or regulations.

"(iii) Notwithstanding clause (ii), whenever royalties described in clause (ii) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the motion for rehearing is resolved or, if the motion is granted, within 60 days after the rehearing is concluded, return any excess amounts previously paid to the extent necessary to comply with the final determination of royalty rates by the Copyright Royalty Judges.

"(3) CONTENTS OF DETERMINATION.—A determination of the Copyright Royalty Judges shall be supported by the written record and shall set forth the findings of fact relied on by the Copyright Royalty Judges. Among other terms adopted in a determination, the Copyright Royalty Judges may specify notice and recordkeeping requirements of users of the copyrights at issue that apply in lieu of those that would otherwise apply under regulations.

"(4) CONTINUING JURISDICTION.—The Copyright Royalty Judges may, with the approval of the Register of Copyrights, issue an amendment to a written determination to correct any technical or clerical errors in the determination or to modify the terms, but not the rates, of royalty payments in response to unforeseen circumstances that would frustrate the proper implementation of such determination. Such amendment shall be set forth in a written addendum to the determination that shall be distributed to the participants of the proceeding and shall be published in the Federal Register.

"(5) PROTECTIVE ORDER.—The Copyright Royalty Judges may issue such orders as may be appropriate to protect confidential information, including orders excluding confidential information from the record of the determination that is published or made available to the public, except that any terms or rates of royalty payments or distributions may not be excluded.

"(6) PUBLICATION OF DETERMINATION.—The Librarian of Congress shall cause the determination, and any corrections thereto, to be published in the Federal Register. The Librarian of Congress shall also publicize the determination and corrections in such other manner as the Librarian considers appropriate, including, but not limited to, publication on the Internet. The Librarian of Congress shall also make the determination, corrections, and the accompanying record available for public inspection and copying.

"(7) LATE PAYMENT.—A determination of Copyright Royalty Judges may include terms with respect to late payment, but in no way shall such terms prevent the copyright holder from asserting other rights or remedies provided under this title.

"(d) JUDICIAL REVIEW.—

"(1) APPEAL.—Any determination of the Copyright Royalty Judges under subsection (c) may, within 30 days after the publication of the determination in the Federal Register, be appealed, to the United States Court of Appeals for the District of Columbia Circuit, by any aggrieved participant in the proceeding under subsection (b)(2) who fully participated in the proceeding and who would be bound by the determination. Any party that did not participate in a rehearing may not raise any issue that was the subject of that rehearing at any stage of judicial review of the hearing determination. If no appeal is brought within that 30-day period, the determination of the Copyright Royalty Judges shall be final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in paragraph (2).

"(2) EFFECT OF RATES.—

"(A) EXPIRATION ON SPECIFIED DATE.—When this title provides that the royalty rates and terms that were previously in effect are to expire on a specified date, any adjustment or determination by the Copyright Royalty Judges of successor rates and terms for an ensuing statutory license period shall be effective as of the day following the date of expiration of the rates and terms that were previously in effect, even if the determination of the Copyright Royalty Judges is rendered on a later date.

"(B) OTHER CASES.—In cases where rates and terms do not expire on a specified date or have not yet been established, the Copyright Royalty Judges shall determine the dates that successor or new rates or terms shall take effect. Except as otherwise provided in this title, the rates and terms previously in effect, to the extent applicable, shall remain in effect until such successor rates and terms become effective.

"(C) OBLIGATION TO MAKE PAYMENTS.—

"(i) The pendency of an appeal under this subsection shall not relieve persons obligated to make royalty payments under section 111, 112, 114, 115, 116, 118, 119, or 1003, who would be affected by the determination on appeal, from—

"(I) providing the statements of account and any report of use; and

"(II) paying the royalties required under the relevant determination or regulations.

"(ii) Notwithstanding clause (i), whenever royalties described in clause (i) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the final resolution of the appeal, return any excess amounts previously paid (and interest thereon, if ordered pursuant to paragraph (3)) to the extent necessary to comply with the final determination of royalty rates on appeal.

"(3) JURISDICTION OF COURT.—If the court, pursuant to section 706 of title 5, modifies or vacates a determination of the Copyright Royalty

Judges, the court may enter its own determination with respect to the amount or distribution of royalty fees and costs, and order the repayment of any excess fees, the payment of any underpaid fees, and the payment of interest pertaining respectively thereto, in accordance with its final judgment. The court may also vacate the determination of the Copyright Royalty Judges and remand the case to the Copyright Royalty Judges for further proceedings in accordance with subsection (a).

"(e) ADMINISTRATIVE MATTERS.—

"(1) DEDUCTION OF COSTS OF LIBRARY OF CONGRESS AND COPYRIGHT OFFICE FROM FILING FEES.—

"(A) DEDUCTION FROM FILING FEES.—The Librarian of Congress may, to the extent not otherwise provided under this title, deduct from the filing fees collected under subsection (b) for a particular proceeding under this chapter the reasonable costs incurred by the Librarian of Congress, the Copyright Office, and the Copyright Royalty Judges in conducting that proceeding, other than the salaries of the Copyright Royalty Judges and the 3 staff members appointed under section 802(b).

"(B) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to pay the costs incurred under this chapter not covered by the filing fees collected under subsection (b). All funds made available pursuant to this subparagraph shall remain available until expended.

"(2) POSITIONS REQUIRED FOR ADMINISTRATION OF COMPULSORY LICENSING.—Section 307 of the Legislative Branch Appropriations Act, 1994, shall not apply to employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 112, 114, 115, 116, 118, or 119 or chapter 10.

"§804. Institution of proceedings

"(a) FILING OF PETITION.—With respect to proceedings referred to in paragraphs (1) and (2) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 111, 112, 114, 115, 116, 118, 119, and 1004, during the calendar years specified in the schedule set forth in subsection (b), any owner or user of a copyrighted work whose royalty rates are specified by this title, or are established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests a determination or adjustment of the rate. The Copyright Royalty Judges shall make a determination as to whether the petitioner has such a significant interest in the royalty rate in which a determination or adjustment is requested. If the Copyright Royalty Judges determine that the petitioner has such a significant interest, the Copyright Royalty Judges shall cause notice of this determination, with the reasons for such determination, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter. With respect to proceedings under paragraph (1) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 112 and 114, during the calendar years specified in the schedule set forth in subsection (b), the Copyright Royalty Judges shall cause notice of commencement of proceedings under this chapter to be published in the Federal Register as provided in section 803(b)(1)(A).

"(b) TIMING OF PROCEEDINGS.—

"(1) SECTION 111 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (A) or (D) of section 801(b)(2) applies may be filed during the year 2005 and in each subsequent fifth calendar year.

"(B) In order to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (B) or (C) of section 801(b)(2) applies, within 12 months after an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests an adjustment of the rate. The Copyright Royalty Judges shall then proceed as set forth in subsection (a) of this section. Any change in royalty rates made under this chapter pursuant to this subparagraph may be reconsidered in the year 2005, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(3) (B) or (C), as the case may be. A petition for adjustment of rates under section 11(d)(1)(B) as a result of a change is the rules and regulations of the Federal Communications Commission shall set forth the change on which the petition is based.

"(2) CERTAIN SECTION 112 PROCEEDINGS.—Proceedings under this chapter shall be commenced in the year 2007 to determine reasonable terms and rates of royalty payments for the activities described in section 112(e)(1) relating to the limitation on exclusive rights specified by section 114(d)(1)(C)(iv), to become effective on January 1, 2009. Such proceedings shall be repeated in each subsequent fifth calendar year.

"(3) SECTION 114 AND CORRESPONDING 112 PROCEEDINGS.—

"(A) FOR ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES.—Proceedings under this chapter shall be commenced as soon as practicable after the effective date of the Copyright Royalty and Distribution Reform Act of 2004 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of eligible nonsubscription transmission services and new subscription services, to be effective for the period beginning on January 1, 2006, and ending on December 31, 2010. Such proceedings shall next be commenced in January 2009 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2011. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

"(B) FOR PREEXISTING SUBSCRIPTION AND SATELLITE DIGITAL AUDIO RADIO SERVICES.—Proceedings under this chapter shall be commenced in January 2006 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of preexisting subscription services, to be effective during the period beginning on January 1, 2008, and ending on December 31, 2012, and preexisting satellite digital audio radio services, to be effective during the period beginning on January 1, 2007, and ending on December 31, 2012. Such proceedings shall next be commenced in 2011 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2013. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

"(C)(i) Notwithstanding any other provision of this chapter, this subparagraph shall govern proceedings commenced pursuant to section 114(f)(1)(C) and 114(f)(2)(C) concerning new types of services.

"(ii) Not later than 30 days after a petition to determine rates and terms for a new type of service that is filed by any copyright owner of sound recordings, or such new type of service, indicating that such new type of service is or is about to become operational, the Copyright Royalty Judges shall issue a notice for a proceeding to determine rates and terms for such service.

"(iii) The proceeding shall follow the schedule set forth in such subsections (b), (c), and (d) of section 803, except that—

"(I) the determination shall be issued by not later than 24 months after the publication of the notice under clause (ii); and

"(II) the decision shall take effect as provided in subsections (c)(2) and (d)(2) of section 803 and section 114(f)(4)(B)(ii) and (C).

"(iv) The rates and terms shall remain in effect for the period set forth in section 114(f)(1)(C) or 114(f)(2)(C), as the case may be.

"(4) SECTION 115 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment or determination of royalty rates as provided in section 115 may be filed in the year 2006 and in each subsequent fifth calendar year, or at such other times as the parties have agreed under section 115(c)(3) (B) and (C).

"(5) SECTION 116 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b) concerning the determination of royalty rates and terms as provided in section 116 may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.

"(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Copyright Royalty Judges shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration, commence a proceeding to promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of nondramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the Copyright Royalty Judges, in accordance with section 803, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).

"(6) SECTION 118 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 118 may be filed in the year 2006 and in each subsequent fifth calendar year.

"(7) SECTION 1004 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment of reasonable royalty rates under section 1004 may be filed as provided in section 1004(a)(3).

"(8) PROCEEDINGS CONCERNING DISTRIBUTION OF ROYALTY FEES.—With respect to proceedings under section 801(b)(3) concerning the distribution of royalty fees in certain circumstances under section 111, 119, or 1007, the Copyright Royalty Judges shall, upon a determination that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

"§805. General rule for voluntarily negotiated agreements

"Any rates or terms under this title that—

"(1) are agreed to by participants to a proceeding under section 803(b)(3),

"(2) are adopted by the Copyright Royalty Judges as part of a determination under this chapter, and

"(3) are in effect for a period shorter than would otherwise apply under a determination pursuant to this chapter,

shall remain in effect for such period of time as would otherwise apply under such determination, except that the Copyright Royalty Judges shall adjust the rates pursuant to the voluntary negotiations to reflect national monetary inflation during the additional period the rates remain in effect.".

(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by striking the item relating to chapter 8 and inserting the following:

"8. Proceedings by Copyright Royalty Judges .... 801".

SEC. 4. DEFINITION.

Section 101 is amended by inserting after the definition of "copies" the following:

"A 'Copyright Royalty Judge' is a Copyright Royalty Judge appointed under section 802 of this title, and includes any individual serving as an interim Copyright Royalty Judge under such section.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) CABLE RATES.—Section 111(d) is amended—

(1) in paragraph (2), in the second sentence, by striking "a copyright arbitration royalty panel" and inserting "the Copyright Royalty Judges."; and

(2) in paragraph (4)—

(A) in subparagraph (A), by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges";

(B) in subparagraph (B)—

(i) in the first sentence, by striking "Librarian of Congress shall, upon the recommendation of the Register of Copyrights," and inserting "Copyright Royalty Judges shall";

(ii) in the second sentence, by striking "Librarian determines" and inserting "Copyright Royalty Judges determine"; and

(iii) in the third sentence—

(I) by striking "Librarian" each place it appears and inserting "Copyright Royalty Judges"; and

(II) by striking "convene a copyright arbitration royalty panel" and inserting "conduct a proceeding"; and

(C) in subparagraph (C), by striking "Librarian of Congress" and inserting "Copyright Royalty Judges".

(b) EPHEMERAL RECORDINGS.—Section 112(e) is amended—

(1) in paragraph (3)—

(A) by amending the first sentence to read as follows: "Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for the activities specified by paragraph (1) during the 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, or such other periods as the parties may agree."; and

(B) by striking the second sentence;

(C) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(D) in the fourth sentence, by striking "negotiation";

(2) in paragraph (4)—

(A) by amending the first sentence to read as follows: "The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (5), be binding on all copyright owners of sound recordings and transmitting organizations entitled to a statutory license under this subsection during the 5-year period specified in paragraph (3), or such other period as the parties may agree.";

(B) by striking "copyright arbitration royalty panel" each subsequent place it appears and inserting "Copyright Royalty Judges";

(C) in the fourth sentence, by striking "its decision" and inserting "their decision";

(D) in the fifth sentence, by striking "negotiated as provided" and inserting "described"; and

(E) in the last sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

(3) in paragraph (5), by striking "or decision by the Librarian of Congress" and inserting ", decision by the Librarian of Congress, or determination by the Copyright Royalty Judges";

(4) by striking paragraph (6) and redesignating paragraphs (7), (8), and (9), as paragraphs (6), (7), and (8), respectively; and

(5) in paragraph (6)(A), as so redesignated, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges".

(c) SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS.—Section 114(f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by amending the first sentence to read as follows: "Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services specified by subsection (d)(2) during 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except where different transitional periods are provided in section 804(b), or such periods as the parties may agree.";

(ii) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(iii) in the fourth sentence, by striking "negotiation";

(B) in subparagraph (B)—

(i) by amending the first sentence to read as follows: "The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (3), be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), a transitional period provided in section 804(b), or such other period as the parties may agree.";

(ii) in the second sentence, by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

(iii) in the second sentence, by striking "negotiated as provided" and inserting "described"; and

(C) by amending subparagraph (C) to read as follows:

"(C) The procedures under subparagraphs (A) and (B) also shall be initiated pursuant to a petition filed by any copyright owners of sound recordings, any preexisting subscription services, or any preexisting satellite digital audio radio services indicating that a new type of subscription digital audio transmission service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of transmission service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for subscription digital audio transmission services most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.";

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by amending the first paragraph to read as follows: "Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services specified by subsection (d)(2) during 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except where different transitional periods are provided in section 804(b), or such periods as the parties may agree.";

(ii) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(iii) in the fourth sentence, by striking "negotiation";

(B) in subparagraph (B)—

(i) by amending the first sentence to read as follows: "The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (3), be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), a transitional period provided in section 804(b), or such other period as the parties may agree.";

(ii) by striking "copyright arbitration royalty panel" each subsequent place it appears and inserting "Copyright Royalty Judges"; and

(iii) in the last sentence by striking "negotiated as provided" and inserting "described in"; and

(C) by amending subparagraph (C) to read as follows:

"(C) The procedures under subparagraphs (A) and (B) shall also be initiated pursuant to a petition filed by any copyright owners of sound recordings or any eligible nonsubscription service or new subscription service indicating that a new type of eligible nonsubscription service or new subscription service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for preexisting subscription digital audio transmission services or preexisting satellite digital radio audio services, as the case may be, most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.";

(3) in paragraph (3), by striking "or decision by the Librarian of Congress" and inserting ", decision by the Librarian of Congress, or determination by the Copyright Royalty Judges"; and

(4) in paragraph (4)—

(A) by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges"; and

(B) by adding after the first sentence "The notice and recordkeeping rules in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004 shall remain in effect until new regulations are promulgated by the Copyright Royalty Judges. If new regulations are promulgated under this subparagraph, the Copyright Royalty Judges shall take into account the substance and effect of the rules in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004 and shall, to the extent practicable, avoid significant disruption of the function of the designated agents that are authorized to collect and distribute royalty fees as such functions exist on the day prior to the effective date of this Act.".

(d) PHONORECORDS OF NONDRAMATIC MUSICAL WORKS.—Section 115(c)(3) is amended—

(1) in subparagraph (A)(ii), by striking "(F)" and inserting "(E)";

(2) in subparagraph (B)—

(A) by striking "under this paragraph" and inserting "under this section"; and

(B) by striking "subparagraphs (B) through (F)" and inserting "this subparagraph and subparagraphs (B) through (E)";

(3) in subparagraph (C)—

(A) by amending the first sentence to read as follows: "Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for the activities specified by this section during periods beginning with the effective date of such rates and terms, but not earlier than January 1 of the second year following the year in which the petition requesting the proceeding is filed, and ending on the effective date of successor rates and terms, or such other period as the parties may agree.";

(B) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(C) in the fourth sentence, by striking "negotiation";

(4) in subparagraph (D)—

(A) by amending the first sentence to read as follows: "The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to subparagraph (E), be binding on all copyright owners of nondramatic musical works and persons entitled to obtain a compulsory license under subsection (a)(1) during the period specified in subparagraph (C), such other period as may be determined pursuant to subparagraphs (B) and (C), or such other period as the parties may agree.";

(B) in the third sentence, by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

(C) in the third sentence, by striking "negotiated as provided in subparagraphs (B) and (C)" and inserting "described";

(5) in subparagraph (E)—

(A) in clause (i)—

(i) in the first sentence, by striking "Librarian of Congress" and inserting "Librarian of Congress, Copyright Royalty Judges, or a copyright arbitration royalty panel to the extent those determinations were accepted by the Librarian of Congress"; and

(ii) in the second sentence, by striking "(C), (D) or (F) shall be given effect" and inserting "(C) or (D) shall be given effect as to digital phonorecord deliveries"; and

(B) in clause (ii)(I), by striking "(C), (D) or (F)" each place it appears and inserting "(C) or (D)"; and

(6) by striking subparagraph (F) and redesignating subparagraphs (G) through (L) as subparagraphs (F) through (K), respectively.

(e) COIN-OPERATED PHONORECORD PLAYERS.—Section 116 is amended—

(1) in subsection (b), by amending paragraph (2) to read as follows:

"(2) CHAPTER 8 PROCEEDING.—Parties not subject to such a negotiation may have the terms and rates and the division of fees described in paragraph (1) determined in a proceeding in accordance with the provisions of chapter 8."; and

(2) in subsection (c)—

(A) in the subsection heading, by striking "COPYRIGHT ARBITRATION ROYALTY PANEL DETERMINATIONS" and inserting "DETERMINATIONS BY COPYRIGHT ROYALTY JUDGES"; and

(B) by striking "a copyright arbitration royalty panel" and inserting "the Copyright Royalty Judges".

(f) USE OF CERTAIN WORKS IN CONNECTION WITH NONCOMMERCIAL BROADCASTING.—Section 118 is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in the first sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(ii) by striking the second and third sentences;

(B) in paragraph (2), by striking "Librarian of Congress:" and all that follows through the end of the sentence and inserting "Librarian of Congress, a copyright arbitration royalty panel, or the Copyright Royalty Judges, to the extent that they were accepted by the Librarian of Congress, if copies of such agreements are filed with the Copyright Royalty Judges within 30 days of execution in accordance with regulations that the Copyright Royalty Judges shall issue."; and

(C) in paragraph (3)—

(i) in the second sentence—

(I) by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

(II) by striking "paragraph (2)." and inserting "paragraph (2) or (3).";

(ii) in the last sentence, by striking "'Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(iii) by striking "(3) In" and all that follows through the end of the first sentence and inserting the following:

"(3) Voluntary negotiation proceedings initiated pursuant to a petition filed under section 804(a) for the purpose of determining a schedule of terms and rates of royalty payments by public broadcasting entities to copyright owners in works specified by this subsection and the proportionate division of fees paid among various copyright owners shall cover the 5-year period beginning on January 1 of the second year following the year in which the petition is filed. The parties to each negotiation proceeding shall bear their own costs.

"(4) In the absence of license agreements negotiated under paragraph (2) or (3), the Copyright Royalty Judges shall, pursuant to chapter 8, conduct a proceeding to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Copyright Royalty Judges.";

(2) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively;

(3) in subsection (c), as so redesignated, in the matter preceding paragraph (1)—

(A) by striking "(b)(2)" and inserting "(b)(2) or (3)";

(B) by striking "(b)(3)" and inserting "(b)(4)"; and

(C) by striking "a copyright arbitration royalty panel under subsection (b)(3)" and inserting "the Copyright Royalty Judges under subsection (b)(3), to the extent that they were accepted by the Librarian of Congress";

(4) in subsection (d), as so redesignated—

(A) by striking "in the Copyright Office" and inserting "with the Copyright Royalty Judges"; and

(B) by striking "Register of Copyrights shall prescribe" and inserting "Copyright Royalty Judges shall prescribe as provided in section 803(b)(6)"; and

(5) in subsection (f), as so redesignated, by striking "(d)" and inserting "(c)".

(g) SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—Section 119(b) is amended—

(1) in paragraph (3), by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(2) in paragraph (4)—

(A) in subparagraph (A), by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges"; and

(B) by amending subparagraphs (B) and (C) to read as follows:

"(B) DETERMINATION OF CONTROVERSY; DISTRIBUTIONS.—After the first day of August of each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents. If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

"(C) WITHHOLDING OF FEES DURING CONTROVERSY.—During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have the discretion to proceed to distribute any amounts that are not in controversy.".

(h) DIGITAL AUDIO RECORDING DEVICES.—

(1) ROYALTY PAYMENTS.—Section 1004(a)(3) is amended by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges".

(2) ENTITLEMENT TO ROYALTY PAYMENTS.—Section 1006(c) is amended by striking "Librarian of Congress shall convene a copyright arbitration royalty panel which" and inserting "Copyright Royalty Judges".

(3) PROCEDURES FOR DISTRIBUTING ROYALTY PAYMENTS.—Section 1007 is amended—

(A) in subsection (a), by amending paragraph (1) to read as follows:

"(1) FILING OF CLAIMS.—During the first 2 months of each calendar year, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Judges a claim for payments collected during the preceding year in such form and manner as the Copyright Royalty Judges shall prescribe by regulation."; and

(B) by amending subsections (b) and (c) to read as follows:

"(b) DISTRIBUTION OF PAYMENTS IN THE ABSENCE OF A DISPUTE.—After the period established for the filing of claims under subsection (a), in each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a). The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.

"(c) RESOLUTION OF DISPUTES.—If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.".

(4) DETERMINATION OF CERTAIN DISPUTES.—(A) Section 1010 is amended to read as follows:

"§ 1010. Determination of certain disputes

"(a) SCOPE OF DETERMINATION.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to petition the Copyright Royalty Judges to determine whether such device is subject to section 1002, or the basis on which royalty payments for such device are to be made under section 1003.

"(b) INITIATION OF PROCEEDINGS.—The parties under subsection (a) shall file the petition with the Copyright Royalty Judges requesting the commencement of a proceeding. Within 2 weeks after receiving such a petition, the Chief Copyright Royalty Judge shall cause notice to be published in the Federal Register of the initiation of the proceeding.

"(c) STAY OF JUDICIAL PROCEEDINGS.—Any civil action brought under section 1009 against a party to a proceeding under this section shall, on application of one of the parties to the proceeding, be stayed until completion of the proceeding.

"(d) PROCEEDING.—The Copyright Royalty Judges shall conduct a proceeding with respect to the matter concerned, in accordance with such procedures as the Copyright Royalty Judges may adopt. The Copyright Royalty Judges shall act on the basis of a fully documented written record. Any party to the proceeding may submit relevant information and proposals to the Copyright Royalty Judges. The parties to the proceeding shall each bear their respective costs of participation.

"(e) JUDICIAL REVIEW.—Any determination of the Copyright Royalty Judges under subsection (d) may be appealed, by a party to the proceeding, in accordance with section 803(d) of this title. The pendency of an appeal under this subsection shall not stay the determination of the Copyright Royalty Judges. If the court modifies the determination of the Copyright Royalty Judges, the court shall have jurisdiction to enter its own decision in accordance with its final judgment. The court may further vacate the determination of the Copyright Royalty Judges and remand the case for proceedings as provided in this section.".

(B) The item relating to section 1010 in the table of sections for chapter 10 is amended to read as follows:

"1010. Determination of certain disputes.".

SEC. 6. EFFECTIVE DATE AND TRANSITION PROVISIONS.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect 6 months after the date of the enactment of this Act, except that the Librarian of Congress shall appoint 1 or more interim Copyright Royalty Judges under section 802(d) of title 17, United States Code, as amended by this Act, within 90 days after such date of enactment to carry out the functions of the Copyright Royalty Judges under title 17, United States Code, to the extent that Copyright Royalty Judges provided for in section 801(a) of title 17, United States Code, as amended by this Act, have not been appointed before the end of that 90-day period.

(b) TRANSITION PROVISIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this Act shall not affect any proceedings commenced, petitions filed, or voluntary agreements entered into before the enactment of this Act under the provisions of title 17, United States Code, amended by this Act, and pending on such date of enactment. Such proceedings shall continue, determinations made in such proceedings, and appeals taken therefrom, as if this Act had not been enacted, and shall continue in effect until modified under title 17, United States Code, as amended by this Act. Such petitions filed and voluntary agreements entered into shall remain in effect as if this Act had not been enacted. For the purposes of this paragraph, the Librarian of Congress may determine whether a proceeding has commenced.

(2) PENDING PROCEEDINGS.—Notwithstanding paragraph (1), any proceeding commenced before the enactment of this Act may be terminated by the Librarian of Congress, with the approval of the Copyright Royalty Judges. In such cases, the Copyright Royalty Judges shall initiate a new proceeding in accordance with regulations adopted pursuant to section 803(b)(6) of title 17, United States Code.

(3) EFFECTIVE PERIODS FOR CERTAIN RATEMAKING PROCEEDINGS.—Notwithstanding paragraph (1), terms and rates in effect under section 114(f)(2) or 112(e) of title 17, United States Code, for new subscription services, eligible nonsubscription services, and services exempt under section 114(d)(1)(C)(iv) of such title for the period 2003 through 2004, and any rates published in the Federal Register under the authority of the Small Webcaster Settlement Act of 2002 for the years 2003 through 2004, shall be effective until the later of the first applicable effective date for successor terms and rates specified in section 804(b)(2) or (3)(A) of title 17, United States Code, or until such later date as the parties may agree or the Copyright Royalty Judges may establish. If successor terms and rates have not yet been established by such date, licensees shall continue to make royalty payments at the rates and on the terms previously in effect, subject to retroactive adjustment when successor rates and terms for such services are established.

(c) EXISTING APPROPRIATIONS.—Any funds made available in an appropriations Act before the effective date of this Act to carry out chapter 8 of title 17, United States Code, shall be available to the extent necessary to carry out this section.

Mr. HATCH. Mr. President, I am pleased that the Senate is considering the Hatch-Leahy substitute to H.R. 1417, the "Copyright Royalty and Distribution Reform Act of 2004," which provides a much-needed overhaul of the process by which statutory royalty rates are determined and the manner in which the fees paid pursuant to statutory licenses are distributed to copyright holders.

The extensive reforms made this bill are important to virtual all the participants in the process, and I hope that my colleagues will consent to move this bill without delay.

The measure we are considering today represents a recently-reached compromise which I am hopeful can be enacted without delay.

Because the areas of disagreement with H.R. 1417 were relatively narrow in scope, the Hatch-Leahy substitute to H.R. 1417 retains most of the House-passed bill, but does contain a few important changes that are the product of several months of negotiations and discussions between the Hatch and Leahy offices and various stakeholders. The most significant substantive change involves the scope of available discovery in ratemaking proceedings. The changes to the discovery provisions are self-explanatory, so I will not belabor them here.

This bill responds to widespread dissatisfaction among the participants in the current system involving Copyright Arbitration Royalty Panels—or "CARPs". I will refrain from going into detail about this highly-technical bill—which many would find about as interesting as watching astroturf grow—and will simply express my firm belief that it addresses many of the legitimate concerns expressed by the stakeholders, the members of the House and Senate Judiciary Committees, and the many others that have provided valuable input and that lent us their expertise during the legislative process. I am content simply to refer my colleagues to the comprehensive and detailed committee report drafted by the House if they desire an explanation of the concerns and problems this legislation addresses.

While we were not able to reach absolute consensus on a few difficult issues, for the most part this legislation reflects broad agreement on the fundamental changes that are required to make the existing CARP process more efficient, logical, and—some would content—bearable by participants.

In conclusion, I would be remiss if I did not publicly recognize that this legislation is the product of some very hard work by our counterparts in the House. Chairman SENSENBRENNER, Chairman SMITH, and Representative BERMAN deserve much of the credit for building a near consensus on this bill and for moving it through the House. I commend them for their bicameral, bipartisan approach to this legislation and for the hard work put in by their respective staffs.

In particular, I would like to thank Blaine Merritt, David Whitney, and Alec French for their hard work.

I would also like to thank Marybeth Peters, the Register of Copyrights, and David O. Carson, the General Counsel of the Copyright Office, for providing invaluable technical assistance to members in both chambers of Congress on this complicated bill.

I would be equally remiss if I did not recognize the outstanding efforts of some in the Senate, including Senator LEAHY and his staff—in particular Susan Davies, Rich Phillips, and Dan Fine—for their efforts on this bill. I also commend Mary Foden and Dave Jones of my staff for their hard work and their efforts to build a consensus around the bill in the Senate.

With that, I will urge my colleagues to vote for H.R. 1417 with the Hatch-Leahy substitute.

Mr. LEAHY. Mr. President, I am pleased that the Senate is taking up and passing the Copyright Royalty and Distribution Reform Act of 2004. I have been working to reform the copyright royalty arbitration procedures for several years. As early as 2002, I noted in a Judiciary Committee hearing that there was widespread dissatisfaction with the current law.

In particular, we heard the testimony of Frank Schliemann of Onion River

Radio of Montpelier, VT. Mr. Schliemann noted that many small webcasters could not afford to take part in CARP proceedings, even though their livelihoods would depend on the outcome. We also heard from Billy Strauss, president of Websound, another small webcaster in Brattleboro, VT. Mr. Strauss noted many of the structural problems that plagued the old CARP procedures. In addition, I have been concerned that the current procedures are often hindered by unreasonable delays, and the outcomes subject to manipulation.

The Copyright Royalty and Distribution Reform Act responds to these concerns. It replaces arbitrators, who serve for only one CARP procedure and are paid by the parties, with full-time administrative judges. As a result, the financial burden of taking part in a CARP procedure is alleviated. In addition, all parties can rest assured that there will be continuity and stability in the resolution of these proceedings. At the same time, this bill preserves the traditional role of the Register of Copyrights. This bill also resolves longstanding disputes over the availability of discovery. Because discovery is available where it is needed, the copyright royalty judges will have the information necessary to render a correct determination but the costs of discovery will be kept to a minimum.

I am pleased to have cosponsored with Senator HATCH the amendment in the nature of a substitute to the House bill. I thank Chairman SENSENBRENNER, Chairman SMITH, and Congressman BERMAN for their leadership in this matter. We believe that in adopting this version of the House bill, H.R. 1417, we will be able to move to final passage without delay. It is time these important reforms were implemented.

Ms. COLLINS. Madam President, I ask unanimous consent that the amendment that is at the desk be agreed to, the committee-reported substitute, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3975) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (H.R. 1417), as amended, was read the third time and passed.

ECONOMIC DEVELOPMENT ADMINISTRATION REAUTHORIZATION ACT OF 2004

Ms. COLLINS. Madam President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 754, S. 1134.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 1134) to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965.

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Environment and Public Works with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

(Strike the part shown in black brackets and insert the part shown in italic.)

S. 1134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[SHORT TITLE.—This Act may be cited as the "Economic Development Administration Reauthorization Act of 2003".

[SEC. 2. FINDINGS AND DECLARATIONS.

[Section 2 of the Public Works and Economic Development Act of 1965, as amended ("PWEDA") (42 U.S.C. 3121), is revised to read as follows:

["SEC. 2. FINDINGS AND DECLARATIONS.

["(a) FINDINGS.—Congress finds that—

["(1) while the fundamentals for growth in the American economy remain strong, there continue to be areas experiencing chronic high unemployment, underemployment, low per capita incomes, and outmigration as well as areas facing sudden and severe economic dislocations due to structural economic changes, changing trade patterns, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;

["(2) sustained economic growth in our Nation, States, cities and rural areas is produced by expanding free enterprise through trade and enhanced competitiveness of regions;

["(3) the goal of Federal economic development programs is to raise the standard of living for all citizens and increase the wealth and overall rate of growth of the economy by encouraging local and regional communities to develop a more competitive and diversified economic base by:

["(A) promoting job creation through increased innovation, productivity, and entrepreneurship; and

["(B) empowering local and regional communities experiencing chronic high unemployment and low per capita income to attract substantially increased private-sector capital investment;

["(4) while economic development is an inherently local process, the Federal Government should work in partnership with public and private local, regional, tribal and State organizations to maximize the impact of existing resources and enable regions, communities, and citizens to participate more fully in the American dream and national prosperity;

["(5) in order to avoid wasteful duplication of effort and achieve meaningful, long-lasting results, Federal, State, tribal and local economic development activities should have a clear focus, improved coordination, a comprehensive approach, common measures of success, and simplified and consistent requirements; and

["(6) Federal economic development efforts will be more effective if they are coordinated with, and build upon, the trade, workforce investment, and technology programs of the United States.

["(b) DECLARATIONS.—Congress declares that, in order to promote a strong and growing economy throughout the United States:

["(1) assistance under this Act should be made available to both rural and urban distressed communities;

["(2) local communities should work in partnership with neighboring communities, Indian tribes, the States, and the Federal Government to increase their capacity to develop and implement comprehensive economic development strategies to enhance regional competitiveness in the global economy and support long-term development of regional economies; and

["(3) whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to focus on strengthening entrepreneurship and competitiveness, and to take advantage of the development opportunities afforded by technological innovation and expanding and newly opened global markets.".

[SEC. 3. DEFINITIONS.

[Section 3 of PWEDA (42 U.S.C. 3122) is amended as follows:

[(1) Subparagraph (4)(A) of this section is amended by striking subparagraph (i) and re-designating sucoessive subparagraphs (ii) through (vii) as (i) through (vi) and revising subparagraph (iv) as re-designated to read as follows:

["(iv) a city or other political subdivision of a State, including a special purpose unit of State or local government, or a consortium of political subdivisions;".

[(2) Subparagraph 4(B) is amended by adding at the end thereof a new sentence:

["The requirement under subparagraph (A)(vi) that the nonprofit organization or association is 'acting in cooperation with officials of a political subdivision of a State' does not apply in the case of research, training and technical assistance grants under section 207 that are national or regional in scope.".

[(3) Paragraphs (8), (9) and (10) are amended by re-designating them as paragraphs (9), (10), and (11) and a new paragraph (8) is added as follows:

["(8) REGIONAL COMMISSIONS.—The term 'Regional Commissions' as used in section 403 of this Act refers to the regional economic development authorities: the Delta Regional Authority (Public Law No. 106–554, sec. 1(a)(4) [div. B, title VI], 114 Stat. 2763A–268) (7 U.S.C. 2009aa et seq.), the Denali Commission (Public Law No. 105–277, div. C, title III, 112 Stat. 2681-637) (42 U.S.C. 3121 note), and the Northern Great Plains Regional Authority (Public Law No. 107–171, 116 Stat. 375) (7 U.S.C. 2009bb et seq.).".

[(4) A new paragraph (12) is added at the end to read as follows:

["(12) UNIVERSITY CENTER.—The term 'university center' refers to a University Center for Economic Development established pursuant to the authority of section 207(a)(2)(D) of this Act.".

[SEC. 4. WORKING WITH NONPROFIT ORGANIZATIONS IN ESTABLISHMENT OF ECONOMIC DEVELOPMENT PARTNERSHIPS.

[Section 101 of PWEDA (42 U.S.C. 3131) is amended as follows:

[(1) In subsection (b) strike "and multi-State regional organizations" and insert in lieu thereof ``multi-State regional organizations, and nonprofit organizations''.

[(2) In subsection (d), strike ``adjoining'' each time it occurs.

[SEC. 5. SUB-GRANTS IN CONNECTION WITH PUBLIC WORKS PROJECTS.

[Section 201 of PWEDA (42 U.S.C. 3141) is amended by adding a new subsection (d) as follows:

[``(d) Sub-Grants.—

[``(1) Subject to paragraph (2), a recipient of a grant under this section may directly expend the grant funds or may redistribute the funds in the form of a sub-grant to other recipients eligible to receive assistance under this section to fund required components of the scope of work approved for the project.

[``(2) Under paragraph (1), a recipient may not redistribute grant funds to a for-profit entity.''.

[SEC. 6. CLARIFICATION OF GRANTS FOR STATE PLANNING.

[Section 203 of PWEDA (42 U.S.C. 3143) is amended as follows:

[(1) Revise paragraph (1) of subsection (d) to read as follows:

[``(1) Development.—Any State plan developed with assistance under this section shall, to the maximum extent practicable, take into consideration regional economic development strategies.'';

[(2) Strike paragraph (3) of subsection (d) in its entirety and re-designate paragraphs (4) and (5) as (3) and (4);

[(3) Revise re-designated paragraph (3) of subsection (d) by striking ``and'' at the end of subparagraph (C) and re-designating current subparagraph (D) as (E) and adding a new subparagraph (D) to read as follows:

[``(D) assist in carrying out state's workforce investment strategy (as outlined in the State plan required under section 112 of the Workforce Investment Act of 1998 (29 U.S.C. 2822)); and'';

[(4) Add a new subsection (e) at the end thereof as follows:

[``(e) Sub-Grants.—

[``(1) Subject to paragraph (2), a recipient of a grant under this section may directly expend the grant funds or may redistribute the funds in the form of a sub-grant to other recipients eligible to receive assistance under this section to fund required components of the scope of work approved for the project.

[``(2) Under paragraph (1), a recipient may not redistribute grant funds to a for-profit entity.''.

[SEC. 7. SIMPLIFICATION OF DETERMINATION OF GRANT RATES.

[Sections 204 and 205 of PWEDA (42 U.S.C. 3144, 3145) are amended to read as follows:

[``SEC. 204. COST SHARING.

[``(a) Federal Share.—The Secretary shall issue regulations to establish the applicable grant rates for projects based on the relative needs of the areas in which the projects are located. Except as provided in subsection (c) below, the amount of a grant for a project under this title may not exceed 80 percent of the cost of the project.

[``(b) Non-Federal Share.—In determining the amount of the non-Federal share of the cost of a project, the Secretary may provide credit toward the non-Federal share for all contributions both in cash and in-kind, fairly evaluated, including contributions of space, equipment, and services, and assumptions of debt.

[``(c) Increase in Federal Share.—

[``(1) Indian tribes.—In the case of a grant to an Indian tribe, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

[``(2) Certain States, political subdivisions, and nonprofit organizations.—In the case of a grant to a State (or a political subdivision of a State), that the Secretary determines has exhausted its effective taxing and borrowing capacity, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted its effective borrowing capacity, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

[``SEC. 205. GRANTS SUPPLEMENTING OTHER AGENCY GRANTS (42 U.S.C. 3145).

[``(a) Definition of Designated Federal Grant Program.—In this section, the term `designated Federal grant program' means any Federal grant program that—

[``(1) provides assistance in the construction or equipping of public works, public service, or development facilities;

[``(2) is designated as eligible for an allocation of funds under this section by the Secretary; and

[``(3) assists projects that are—

[``(A) eligible for assistance under this title; and

[``(B) consistent with a comprehensive economic development strategy.

[``(b) Supplementary Grants.—Subject to subsection (c) below, in order to assist eligible recipients to take advantage of designated Federal grant programs, on the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the eligible recipient is eligible but, because of the recipient's economic situation, for which the eligible recipient cannot provide the required non-Federal share.

[``(c) Requirements Applicable to Supplementary Grants.—

[``(1) Amount of supplementary grants.—The share of the project cost supported by a supplementary grant under this section may not exceed the applicable grant rate under section 204.

[``(2) Form of supplementary grants.—The Secretary shall make supplementary grants by—

[``(A) the payment of funds made available under this Act to the heads of the Federal agencies responsible for carrying out the applicable Federal programs; or

[``(B) the award of funds under this Act which will be combined with funds transferred from other Federal agencies in projects administered by the Secretary.

[``(3) Federal share limitations specified in other laws.—Notwithstanding any requirement as to the amount or source of non-Federal funds that may be applicable to a Federal program, funds provided under this section may be used to increase the Federal share for specific projects under the program that are carried out in areas described in section 301(a) above the Federal share of the cost of the project authorized by the law governing the program.''.

[SEC. 8. REGULATIONS ON ALLOCATIONS TO ENSURE JOB CREATION POTENTIAL.

[Subsection 206 of PWEDA (42 U.S.C. 3146) is amended by striking ``and'' at the end of subparagraph (1)(C), inserting ``and'' at the end of paragraph (2), and adding a new paragraph (3) at the end thereof to read as follows:

[``(3) allocations of assistance under this title promote job creation through increased innovation, productivity, and entrepreneurship, and financial assistance extended pursuant to such allocations will have a high probability of meeting or exceeding applicable performance requirements established in connection with extension of the assistance.''.

[SEC. 9. INCREASED FLEXIBILITY IN GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.

[(a) Section 207 of PWEDA (42 U.S.C. 3147) is amended by striking ``and'' at the end of subparagraph (2)(F) of subsection (a), re-designating current subparagraph (G) as (H), and adding a new subparagraph (G) to read as follows:

[``(G) studies that evaluate the effectiveness of collaborations between projects funded under this Act with projects funded under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.); and''.

[(b) Section 207 is further amended by adding a new subsection (c) to read as follows:

[``(c) Sub-Grants.—A recipient of a grant under this section may directly expend the grant funds or may redistribute the funds in the form of a sub-grant to other recipients eligible to receive assistance under this section to fund required components of the scope of work approved for the project.''.

[SEC. 10. REMOVAL OF SECTION.

[Section 208 of PWEDA (42 U.S.C. 3148) is stricken in its entirety and insert in lieu thereof:

[``SEC. 208. [Repealed].''.

[SEC. 11. IMPROVEMENTS IN ADMINISTRATION GRANTS FOR ECONOMIC ADJUSTMENT INVOLVING REVOLVING LOAN FUND PROJECTS.

[(a) Subsection (d) of section 209 of PWEDA (42 U.S.C. 3149) is amended by striking ``an eligible'' in each case it occurs in paragraphs (1) and (2) and inserting in lieu thereof ``a recipient''.

[(b) Section 209 of PWEDA (42 U.S.C. 3149) is amended by adding a new subsection (e) at the end thereof as follows:

[``(e) Special Provisions Relating to Revolving Loan Fund Grants.—The Secretary shall promulgate regulations to ensure the proper operation and financial integrity of revolving loan funds established by recipients with assistance under this section.

[``(1) Efficient administration.—In order to improve the ability to manage and administer the Federal interest in revolving loan funds and in accordance with regulations issued for such purposes, the Secretary may amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria. In addition, the Secretary may assign or transfer assets of a revolving loan fund to a third party for the purpose of liquidation and a third party may retain assets of the fund to defray costs related to liquidation. The Secretary may also take such other actions with respect to management and administration as the Secretary determines to be appropriate to carry out the purposes of this Act, including actions to enable revolving loan funds operators to sell or securitize loans to the secondary market (except that such actions may not include issuance of a Federal guaranty by the Secretary).

[``(2) Release of federal interests.—The Secretary may release, in whole or in part, any property interest in connection with a revolving loan fund grant after the date that is 20 years after the date on which the grant was awarded, provided that the recipient—

[``(A) is in compliance with the terms of its grant and operating the fund at an acceptable level of performance as determined by the Secretary; and

[``(B) reimburses the government prior to the release for the amount of the Secretary's investment in the fund or the pro-rata share of the fund at the time of the release, whichever is less.

Any action taken by the Secretary pursuant to this subsection with respect to a revolving loan fund shall not constitute a new obligation provided that all grant funds associated with the original grant award have been disbursed to the recipient.".

[SEC. 12. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

[Section 211 of PWEDA (42 U.S.C. 3151) is amended to read as follows:

["SEC. 211. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

["In any case in which the Secretary has made a grant for a construction project under sections 201 or 209 of this title, and before closeout of the project, the Secretary determines that the cost of the project based on the designs and specifications that were the basis of the grant has decreased because of decreases in costs—

["(1) without further appropriations action, the Secretary may approve the use of the excess funds or a portion of the funds to improve the project; and

["(2) any amount of excess funds remaining after application of paragraph (1) may be used for other investments authorized for support under this Act.

In addition to paragraphs (1) and (2) of this section, in the event of construction underruns in projects utilizing funds transferred from other Federal agencies pursuant to section 604 of this Act, the Secretary may utilize these funds in conjunction with paragraphs (1) or (2) with the approval of the originating agency or will return the funds to the originating agency.".

[SEC. 13. SPECIAL IMPACT AREAS.

[Title II of PWEDA is further amended by adding a new section 214 as follows:

["SEC. 214. SPECIAL IMPACT AREAS.

["SPECIAL IMPACT AREAS.—The Secretary is authorized to make grants, enter into contracts and provide technical assistance for projects and programs that the Secretary finds will fulfill a pressing need of the area and be useful in alleviating or preventing conditions of excessive unemployment or underemployment or assist in providing useful employment opportunities for the unemployed or underemployed residents in the area. In extending assistance under this section, the Secretary may waive, in whole or in part, as appropriate, the provisions of section 302 of this Act provided that the Secretary determines that such assistance will carry out the purposes of the Act.".

[SEC. 14. PERFORMANCE INCENTIVES.

[Title II of PWEDA is further amended by adding a new section 215 as follows:

["SEC. 215. PERFORMANCE INCENTIVES.

["(a) In accordance with regulations issued for such purposes, the Secretary may award transferable performance credits in an amount that does not exceed 10 percent of the grant amount awarded under sections 201 or 209 of this Act on or after the effective date of this amendment. The Secretary shall base such performance incentives on the extent to which a recipient meets or exceeds performance requirements established in connection with extension of the assistance.

["(b) A recipient awarded a transferable performance credit under this section may redeem the credit to increase the Federal share of a subsequent grant funded under sections 201 and 209 of this Act above the maximum Federal share allowable under section 204 up to 80 percent of the project cost. A performance credit must be redeemed within 5 years of its issue date.

["(c) An original recipient may also sell or transfer the credit in its entirety to another eligible recipient for use in connection with a grant approved by the Secretary under this Act without reimbursement to the Secretary for redemption in accordance with subsection (b) above.

["(d) The Secretary shall attach such terms and conditions or limitations as the Secretary deems appropriate in issuing a performance credit. Performance credits shall be paid out of appropriations for economic development assistance programs made available in the year of redemption to the extent of availability.

["(e) The Secretary shall include information regarding issuance of performance credits in the annual report under section 603 of this Act.".

[SEC. 15. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.

[Subparagraph (a)(3)(A) of section 302 of PWEDA (42 U.S.C. 3162) is amended by adding "maximizes effective development and use of the workforce (consistent with any applicable state and local workforce investment strategy under the Workforce Investment Act of 1998 (29 U.S.C. 2801 et seq.)," between "access," and "enhances".

[SEC. 16. DESIGNATION OF ECONOMIC DEVELOPMENT DISTRICTS.

[Subparagraph (a)(3)(B) of section 401 of PWEDA (42 U.S.C. 3171) is amended by striking "by each affected State and".

[SEC. 17. DISTRICT INCENTIVES.

[Section 403 of PWEDA (42 U.S.C. 3173) is amended by striking it in its entirety and re-designating sections 404 and 405 as sections 403 and 404. Section 403 as re-designated is amended by adding at the end the following new sentence: "If any part of an economic development district is in a region covered by one or more other Regional Commissions as defined in section 3(8) of this Act, the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the affected regional commission.".

[SEC. 18. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.

[Section 502 of PWEDA (42 U.S.C. 3192) is amended to read as follows:

["SEC 502. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE

["In carrying out this Act, the Secretary shall—

["(1) maintain a central information clearinghouse on the Internet with information on economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal Government, links to State economic development organizations, and links to other appropriate economic development resources;

["(2) assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal and State laws in locating and applying for the assistance;

["(3) assist areas described in section 301(a) and other areas by providing to interested persons, communities, industries, and businesses in the areas any technical information, market research, or other forms of assistance, information, or advice that would be useful in alleviating or preventing conditions of excessive unemployment or underemployment in the areas; and

["(4) obtain appropriate information from other Federal agencies needed to carry out the duties under this Act.".

[SEC. 19. REMOVAL OF UNUSED AUTHORITY.

[Section 505 of PWEDA (42 U.S.C. 3195) is amended by striking it in its entirety and sections 506 and 507 are re-designated as sections 505 and 506.

[SEC. 20. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

[Section 505 of PWEDA (42 U.S.C. 3196) as re-designated is amended as follows:

[(1) In subsection (c), strike "after the effective date of the Economic Development Administration Reform Act of 1998".

[(2) In paragraph (d)(2), strike "and" before "disseminating results" and insert ", and measuring the outcome-based results of the university centers' activities" before the period at the end thereof.

[(3) In paragraph (d)(3) of section 506, insert before the period at the end thereof "as evidenced by outcome-based results, including the number of jobs created or retained, and amount of private-sector funds leveraged".

[(4) In subsection (e) of section 506, strike "university center or" each occasion it occurs.

[SEC. 21. CITATION CORRECTIONS.

[Section 602 PWEDA (42 U.S.C. 3212) is amended by striking the citations to "40 U.S.C. 276A—276A-5" and "section 276c" and inserting in lieu thereof, "40 U.S.C. 3141 et seq." and "section 3154", respectively.

[SEC. 22. DELETION OF UNNECESSARY PROVISION.

[Section 609 of PWEDA (42 U.S.C. 3219) is amended by striking subsection (a) in its entirety and striking the subsection designation "(b)".

[SEC. 23. GENERAL AUTHORIZATION OF APPROPRIATIONS.

[Section 701 of PWEDA (42 U.S.C. 3231) is amended to read as follows:

["SEC. 701. GENERAL AUTHORIZATION OF APPROPRIATIONS.

["(a) ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS.—There are authorized to be appropriated for economic development assistance programs to carry out this Act $331,027,000 for fiscal year 2004, and such sums as may be necessary for fiscal years 2005, 2006, 2007, and 2008, to remain available until expended.

["(b) SALARIES AND EXPENSES.—There are authorized to be appropriated for salaries and expenses of administering this Act $33,377,000 for fiscal year 2004, and such sums as may be necessary for each of the fiscal years from 2005 through 2008, to remain available until expended.".]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Development Administration Reauthorization Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings and declarations.
Sec. 102. Definitions.
Sec. 103. Establishment of Economic Development partnerships.
Sec. 104. Coordination.

TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

Sec. 201. Grants for planning.
Sec. 202. Cost sharing.
Sec. 203. Supplementary grants.
Sec. 204. Regulations on relative needs and allocations.

Sec. 205. Grants for training, research, and technical assistance.
Sec. 206. Prevention of unfair competition.
Sec. 207. Grants for economic adjustment.
Sec. 208. Use of funds in projects constructed under projected cost.
Sec. 209. Special impact areas.
Sec. 210. Performance awards.
Sec. 211. Planning performance awards.
Sec. 212. Direct expenditure or redistribution by recipient.
Sec. 213. Brownfields redevelopment.
TITLE III—COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES
Sec. 301. Eligibility of areas.
Sec. 302. Comprehensive Economic Development strategies.
TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS
Sec. 401. Incentives.
Sec. 402. Provision of comprehensive Economic Development strategies to Regional Commissions.
TITLE V—ADMINISTRATION
Sec. 501. Economic Development information clearinghouse.
Sec. 502. Businesses desiring Federal contracts.
Sec. 503. Performance evaluations of grant recipients.
Sec. 504. Conforming amendments.
TITLE VI—MISCELLANEOUS
Sec. 601. Annual report to Congress.
Sec. 602. Relationship to assistance under other law.
Sec. 603. Sense of Congress regarding Economic Development Representatives.
TITLE VII—FUNDING
Sec. 701. Authorization of appropriations.
Sec. 702. Funding for grants for planning and grants for administrative expenses.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS AND DECLARATIONS.

Section 2 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121) is amended to read as follows:

"SEC. 2. FINDINGS AND DECLARATIONS.

"(a) FINDINGS.—Congress finds that—

"(1) there continue to be areas of the United States experiencing chronic high unemployment, underemployment, outmigration, and low per capita incomes, as well as areas facing sudden and severe economic dislocations because of structural economic changes, changing trade patterns, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;

"(2) economic growth in the States, cities, and rural areas of the United States is produced by expanding economic opportunities, expanding free enterprise through trade, developing and strengthening public infrastructure, and creating a climate for job creation and business development;

"(3) the goal of Federal economic development programs is to raise the standard of living for all citizens and increase the wealth and overall rate of growth of the economy by encouraging communities to develop a more competitive and diversified economic base by—

"(A) creating an environment that promotes economic activity by improving and expanding public infrastructure;

"(B) promoting job creation through increased innovation, productivity, and entrepreneurship, and

"(C) empowering local and regional communities experiencing chronic high unemployment and low per capita income to develop private sector business and attract increased private sector capital investment;

"(4) while economic development is an inherently local process, the Federal Government should work in partnership with public and private State, regional, tribal, and local organizations to maximize the impact of existing resources and enable regions, communities, and citizens to participate more fully in the American dream and national prosperity;

"(5) in order to avoid duplication of effort and achieve meaningful, long-lasting results, Federal, State, tribal, and local economic development activities should have a clear focus, improved coordination, a comprehensive approach, and simplified and consistent requirements; and

"(6) Federal economic development efforts will be more effective if the efforts are coordinated with, and build upon, the trade, workforce investment, transportation, and technology programs of the United States.

"(b) DECLARATIONS.—In order to promote a strong and growing economy throughout the United States, Congress declares that—

"(1) assistance under this Act should be made available to both rural- and urban-distressed communities;

"(2) local communities should work in partnership with neighboring communities, the States, Indian tribes, and the Federal Government to increase the capacity of the local communities to develop and implement comprehensive economic development strategies to alleviate economic distress and enhance competitiveness in the global economy; and

"(3) whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to support entrepreneurship to take advantage of the development opportunities afforded by technological innovation and expanding newly opened global markets.".

SEC. 102. DEFINITIONS.

(a) ELIGIBLE RECIPIENT.—Section 3(4)(A) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122(4)(A)) is amended—

(1) by striking clause (i) and redesignating clauses (ii) through (vii) as clauses (i) through (vi), respectively; and

(2) in clause (iv) (as redesignated by paragraph (1)) by inserting ", including a special purpose unit of a State or local government engaged in economic or infrastructure development activities," after "State".

(b) REGIONAL COMMISSIONS; UNIVERSITY CENTER.—Section 3 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122) is amended—

(1) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (11), respectively;

(2) by inserting after paragraph (7) the following:

"(8) REGIONAL COMMISSIONS.—The term 'Regional Commissions' means—

"(A) the Appalachian Regional Commission established under chapter 143 of title 40, United States Code;

"(B) the Delta Regional Authority established under subtitle F of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa et seq.);

"(C) the Denali Commission established under the Denali Commission Act of 1998 (42 U.S.C. 3121 note; 112 Stat. 2681–637 et seq.); and

"(D) the Northern Great Plains Regional Authority established under subtitle G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb et seq.)."; and

(3) by adding at the end the following:

"(12) UNIVERSITY CENTER.—The term 'university center' means an institution of higher education or a consortium of institutions of higher education established as a University Center for Economic Development under section 207(a)(2)(D).".

SEC. 103. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PARTNERSHIPS.

Section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended—

(1) in subsection (b), by striking "and multi-State regional organizations" and inserting "multi-State regional organizations, and nonprofit organizations"; and

(2) in subsection (d)(1), by striking "adjoining" each place it appears.

SEC. 104. COORDINATION.

Section 103 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3132) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary";

(2) in subsection (a) (as designated by paragraph (1)), by inserting "Indian tribes," after "districts,"; and

(3) by adding at the end the following:

"(b) MEETINGS.—To carry out subsection (a), or for any other purpose relating to economic development activities, the Secretary may convene meetings with Federal agencies, State and local governments, economic development districts, Indian tribes, and other appropriate planning and development organizations.".

TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

SEC. 201. GRANTS FOR PLANNING.

Section 203(d) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3143(d)) is amended—

(1) in paragraph (1), by inserting ", to the maximum extent practicable," after "developed" the second place it appears;

(2) by striking paragraph (3) and inserting the following:

"(3) COORDINATION.—Before providing assistance for a State plan under this section, the Secretary shall consider the extent to which the State will consider local and economic development district plans."; and

(3) in paragraph (4)—

(A) by striking "and" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by adding after subparagraph (C) the following:

"(D) assist in carrying out the workforce investment strategy of a State;

"(E) promote the use of technology in economic development, including access to high-speed telecommunications; and".

SEC. 202. COST SHARING.

(a) FEDERAL SHARE.—Section 204 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144) is amended by striking subsection (a) and inserting the following:

"(a) FEDERAL SHARE.—Except as provided in subsection (c), the Federal share of the cost of any project carried out under this title shall not exceed—

"(1) 50 percent; plus

"(2) an additional percent that—

"(A) shall not exceed 30 percent; and

"(B) is based on the relative needs of the area in which the project will be located, as determined in accordance with regulations promulgated by the Secretary.".

(b) NON-FEDERAL SHARE.—Section 204(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144(b)) is amended by inserting "assumptions of debt," after "equipment,".

(c) INCREASE IN FEDERAL SHARE.—Section 204 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144) is amended by adding at the end the following:

"(c) INCREASE IN FEDERAL SHARE.—

"(1) INDIAN TRIBES.—In the case of a grant to an Indian tribe for a project under this title, the

Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

"(2) CERTAIN STATES, POLITICAL SUBDIVISIONS, AND NONPROFIT ORGANIZATIONS.—In the case of a grant to a State, or a political subdivision of a State, that the Secretary determines has exhausted the effective taxing and borrowing capacity of the State or political subdivision, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted the effective borrowing capacity of the nonprofit organization, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

"(3) TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.—In the case of a grant provided under section 207, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project if the Secretary determines that the project funded by the grant merits, and is not feasible without, such an increase.".

SEC. 203. SUPPLEMENTARY GRANTS.

(a) IN GENERAL.—Section 205 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3145) is amended by striking subsection (b) and inserting the following.

"(b) SUPPLEMENTARY GRANTS.—Subject to subsection (c), in order to assist eligible recipients in taking advantage of designated Federal grant programs, on the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the recipient is eligible but for which the recipient cannot provide the required non-Federal share because of the economic situation of the recipient.".

(b) REQUIREMENTS APPLICABLE TO SUPPLEMENTARY GRANTS.—Section 205(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3145(c)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) AMOUNT OF SUPPLEMENTARY GRANTS.—The share of the project cost supported by a supplementary grant under this section may not exceed the applicable Federal share under section 204.

"(2) FORM OF SUPPLEMENTARY GRANTS.—The Secretary shall make supplementary grants by—

"(A) the payment of funds made available under this Act to the heads of the Federal agencies responsible for carrying out the applicable Federal programs; or

"(B) the provision of funds under this Act, which will be combined with funds transferred from other Federal agencies in projects administered by the Secretary."; and

(2) by striking paragraph (4).

SEC. 204. REGULATIONS ON RELATIVE NEEDS AND ALLOCATIONS.

Section 206 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3146) is amended—

(1) in paragraph (1)(C), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3)(A) rural and urban economically distressed areas are not harmed by the establishment or implementation by the Secretary of a private sector leveraging goal for a project under this title;

"(B) any private sector leveraging goal established by the Secretary does not prohibit or discourage grant applicants under this title from public works in, or economic development of, rural or urban economically distressed areas; and

"(C) the relevant Committees of Congress are notified prior to making any changes to any private sector leveraging goal; and

"(4) grants made under this title promote job creation and will have a high probability of assisting the recipient in meeting or exceeding applicable performance requirements established in connection with the grants.".

SEC. 205. GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.

(a) IN GENERAL.—Section 207(a)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (I); and

(3) by inserting after subparagraph (F) the following:

"(G) studies that evaluate the effectiveness of coordinating projects funded under this Act with projects funded under other Acts;

"(H) assessment, marketing, and establishment of business clusters; and".

(b) COOPERATION REQUIREMENT.—Section 207(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147(a)) is amended by striking paragraph (3) and inserting the following:

"(3) COOPERATION REQUIREMENT.—In the case of a project assisted under this section that is national or regional in scope, the Secretary may waive the provision in section 3(4)(A)(vi) requiring a nonprofit organization or association to act in cooperation with officials of a political subdivision of a State.".

SEC. 206. PREVENTION OF UNFAIR COMPETITION.

(a) IN GENERAL.—Section 208 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3148) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 208.

SEC. 207. GRANTS FOR ECONOMIC ADJUSTMENT.

(a) ASSISTANCE TO MANUFACTURING COMMUNITIES.—Section 209(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)) is amended—

(1) in paragraph (3), by striking "or";

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(5) the loss of manufacturing jobs, for reinvesting in and diversifying the economies of the communities.".

(b) DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT; SPECIAL PROVISIONS RELATING TO REVOLVING LOAN FUND GRANTS.—Section 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149) is amended by striking subsection (d) and inserting the following:

"(d) SPECIAL PROVISIONS RELATING TO REVOLVING LOAN FUND GRANTS.—

"(1) IN GENERAL.—The Secretary shall promulgate regulations to maintain the proper operation and financial integrity of revolving loan funds established by recipients with assistance under this section.

"(2) EFFICIENT ADMINISTRATION.—The Secretary may—

"(A) at the request of a grantee, amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria;

"(B) assign or transfer assets of a revolving loan fund to third party for the purpose of liquidation, and the third party may retain assets of the fund to defray costs related to liquidation; and

"(C) take such actions as are appropriate to enable revolving loan fund operators to sell or securitize loans (except that the actions may not include issuance of a Federal guaranty by the Secretary).

"(3) TREATMENT OF ACTIONS.—An action taken by the Secretary under this subsection with respect to a revolving loan fund shall not constitute a new obligation if all grant funds associated with the original grant award have been disbursed to the recipient.

"(4) PRESERVATION OF SECURITIES LAWS.—

"(A) NOT TREATED AS EXEMPTED SECURITIES.—No securities issued pursuant to paragraph (2)(C) shall be treated as exempted securities for purposes of the Securities Act of 1933 (15 U.S.C. 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless exempted by rule or regulation of the Securities and Exchange Commission.

"(B) PRESERVATION.—Except as provided in subparagraph (A), no provision of this subsection or any regulation promulgated by the Secretary under this subsection supersedes or otherwise affects the application of the securities laws (as the term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))) or the rules, regulations, or orders of the Securities and Exchange Commission or a self-regulatory organization under that Commission.".

SEC. 208. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

Section 211 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151) is amended to read as follows:

"SEC. 211. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

"(a) IN GENERAL.—In the case of a grant to a recipient for a construction project under section 201 or 209, if the Secretary determines, before closeout of the project, that the cost of the project, based on the designs and specifications that were the basis of the grant, has decreased because of decreases in costs, the Secretary may approve, without further appropriation, the use of the excess funds (or a portion of the excess funds) by the recipient—

"(1) to increase the Federal share of the cost of a project under this title to the maximum percentage allowable under section 204; or

"(2) to improve the project.

"(b) OTHER USES OF EXCESS FUNDS.—Any amount of excess funds remaining after application of subsection (a) may be used by the Secretary for providing assistance under this Act.

"(c) TRANSFERRED FUNDS.—In the case of excess funds described in subsection (a) in projects using funds transferred from other Federal agencies pursuant to section 604, the Secretary shall—

"(1) use the funds in accordance with subsection (a), with the approval of the originating agency; or

"(2) return the funds to the originating agency.

"(d) REVIEW BY COMPTROLLER GENERAL.—

"(1) REVIEW.—The Comptroller General of the United States shall review the implementation of this section for each fiscal year.

"(2) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller General under this subsection.".

SEC. 209. SPECIAL IMPACT AREAS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) is amended by adding at the end the following:

"SEC. 214. SPECIAL IMPACT AREAS.

"(a) IN GENERAL.—On the application of an eligible recipient that is determined by the Secretary to be unable to comply with the requirements of section 302, the Secretary may waive,

in whole or in part, the requirements of section 302 and designate the area represented by the recipient as a special impact area.

"(b) CONDITIONS.—The Secretary may make a designation under subsection (a) only after determining that—

"(1) the project will fulfill a pressing need of the area; and

"(2) the project will—

"(A) be useful in alleviating or preventing conditions of excessive unemployment or underemployment; or

"(B) assist in providing useful employment opportunities for the unemployed or underemployed residents in the area.

"(c) NOTIFICATION.—At the time of the designation under subsection (a), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice of the designation, including a justification for the designation.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 213 the following:

"Sec. 214. Special impact areas.".

SEC. 210. PERFORMANCE AWARDS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 209) is amended by adding at the end the following:

"SEC. 215. PERFORMANCE AWARDS.

"(a) IN GENERAL.—The Secretary may make a performance award in connection with a grant made, on or after the date of enactment of this section, to an eligible recipient for a project under section 201 or 209.

"(b) PERFORMANCE MEASURES.—

"(1) REGULATIONS.—The Secretary shall promulgate regulations to establish performance measures for making performance awards under subsection (a).

"(2) CONSIDERATIONS.—In promulgating regulations under paragraph (1), the Secretary shall consider the inclusion of performance measures that assess—

"(A) whether the recipient meets or exceeds scheduling goals;

"(B) whether the recipient meets or exceeds job creation goals;

"(C) amounts of private sector capital investments leveraged; and

"(D) such other factors as the Secretary determines to be appropriate.

"(c) AMOUNT OF AWARDS.—

"(1) IN GENERAL.—The Secretary shall base the amount of a performance award made under subsection (a) in connection with a grant on the extent to which a recipient meets or exceeds performance measures established in connection with the grant.

"(2) MAXIMUM AMOUNT.—The amount of a performance award may not exceed 10 percent of the amount of the grant.

"(d) USE OF AWARDS.—A recipient of a performance award under subsection (a) may use the award for any eligible purpose under this Act, in accordance with section 602 and such regulations as the Secretary may promulgate.

"(e) FEDERAL SHARE.—Notwithstanding section 204, the funds of a performance award may be used to pay up to 100 percent of the cost of an eligible project or activity.

"(f) TREATMENT IN MEETING NON-FEDERAL SHARE REQUIREMENTS.—For the purposes of meeting the non-Federal share requirements under this, or any other, Act the funds of a performance award shall be treated as funds from a non-Federal source.

"(g) TERMS AND CONDITIONS.—In making performance awards under subsection (a), the Secretary shall establish such terms and conditions as the Secretary considers to be appropriate.

"(h) FUNDING.—The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.

"(i) REPORTING REQUIREMENT.—The Secretary shall include information regarding performance awards made under this section in the annual report required under section 603.

"(j) REVIEW BY COMPTROLLER GENERAL.—

"(1) REVIEW.—The Comptroller General shall review the implementation of this section for each fiscal year.

"(2) ANNUAL REPORT.—Not later than 1 year after the date of enactment of this section, and annually thereafter, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller under this subsection.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 214 the following:

"Sec. 215. Performance awards.".

SEC. 211. PLANNING PERFORMANCE AWARDS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 210) is amended by adding at the end the following:

"SEC. 216. PLANNING PERFORMANCE AWARDS.

"(a) IN GENERAL.—The Secretary may make a planning performance award in connection with a grant made, on or after the date of enactment of this section, to an eligible recipient for a project under this title located in an economic development district.

"(b) ELIGIBILITY.—The Secretary may make a planning performance award to an eligible recipient under subsection (a) in connection with a grant for a project if the Secretary determines before closeout of the project that—

"(1) the recipient actively participated in the economic development activities of the economic development district in which the project is located;

"(2) the project is consistent with the comprehensive economic development strategy of the district;

"(3) the recipient worked with Federal, State, and local economic development entities throughout the development of the project; and

"(4) the project was completed in accordance with the comprehensive economic development strategy of the district.

"(c) MAXIMUM AMOUNT.—The amount of a planning performance award made under subsection (a) in connection with a grant may not exceed 5 percent of the amount of the grant.

"(d) USE OF AWARDS.—A recipient of a planning performance award under subsection (a) shall use the award to increase the Federal share of the cost of a project under this title.

"(e) FEDERAL SHARE.—Notwithstanding section 204, the funds of a planning performance award may be used to pay up to 100 percent of the cost of a project under this title.

"(f) FUNDING.—The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 215 the following:

"Sec. 216. Planning performance awards.".

SEC. 212. DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 211) is amended by adding at the end the following:

"SEC. 217. DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.

"(a) IN GENERAL.—Subject to subsection (b), a recipient of a grant under section 201, 203, or 207 may directly expend the grant funds or may redistribute the funds in the form of a subgrant to other eligible recipients to fund required components of the scope of work approved for the project.

"(b) LIMITATION.—A recipient may not redistribute grant funds received under section 201 or 203 to a for-profit entity.

"(c) ECONOMIC ADJUSTMENT.—Subject to subsection (d), a recipient of a grant under section 209 may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

"(d) LIMITATION.—Under subsection (c), a recipient may not provide any grant to a private for-profit entity.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 216 the following:

"Sec. 217. Direct expenditure or redistribution by recipient.".

SEC. 213. BROWNFIELDS REDEVELOPMENT.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 212) is amended by adding at the end the following:

"SEC. 218. BROWNFIELDS REDEVELOPMENT.

"(a) DEFINITION OF BROWNFIELD SITE.—In this section, the term 'brownfield site' has the meaning given the term in section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(39)).

"(b) GRANTS.—On the application of eligible recipients, the Secretary may make grants for projects on brownfield sites to alleviate or prevent conditions of inadequate private capital investment, unemployment, underemployment, blight, underutilized or abandoned land, outmigration or population loss, or infrastructure deterioration, including projects consisting of—

"(1) acquisition, development, or reuse of land and infrastructure improvements for a public works, service, or facility;

"(2) development of public facilities, including design and engineering, construction, rehabilitation, alteration, expansion, or improvement, and related machinery and equipment;

"(3) business development (including funding of a revolving loan fund);

"(4) planning;

"(5) technical assistance; and

"(6) any other assistance determined by the Secretary to alleviate the economic impacts of brownfield sites consistent with the objectives of this title.

"(c) PROHIBITION ON REMEDIATION.—

"(1) DEFINITIONS.—In this subsection:

"(A) HAZARDOUS SUBSTANCE.—The term 'hazardous substance' has the meaning given the term in section 101(14) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(14)).

"(B) RELEASE.—The term 'release' has the meaning given the term in section 101(22) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(22)).

"(C) REMEDIATION.—The term 'remediation' does not include response activities described in section 104(a)(3) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(a)(3)).

"(2) PROHIBITION.—Except as provided in paragraph (3), a grant made under this section shall not be used for remediation to prevent or minimize the release of hazardous substances.

"(3) EXCEPTION FOR INCIDENTAL REMEDIATION.—

"(A) IN GENERAL.—Paragraph (2) does not apply to remediation that is incidental to the economic redevelopment project.

"(B) LIMITATION.—Except as provided in subparagraph (C), incidental remediation shall not exceed $50,000 at any individual project.

"(C) EXCEPTIONAL CIRCUMSTANCES.—

"(i) IN GENERAL.—Subject to clause (ii), the Secretary may waive subparagraph (B) in exceptional circumstances that further the mission of the Economic Development Administration.

"(ii) LIMITATION.—If the Secretary waives subparagraph (B) for a project, the cost of the incidental remediation at the project shall not exceed $200,000.

"(D) STANDARDS.—A recipient of a grant under this section that is used for incidental remediation shall—

"(i) obtain written approval or clearance from the appropriate Federal and State regulatory authority for the hazardous waste remediation; and

"(ii) comply with all applicable Federal and State laws.

"(4) EFFECT ON FEDERAL AND STATE LAWS.—Nothing in this section affects any liability, obligation, or response authority under Federal or State law.

"(d) ADDITIONAL LIMITATIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a grant made under this section shall be subject to section 104(k)(4)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9604(k)(4)(B)).

"(2) EXCEPTIONS.—

"(A) ADMINISTRATIVE COSTS.—A recipient of a grant made under this section may use grant funds for the administrative costs of economic development activities.

"(B) COMPLIANCE COSTS.—A recipient of a grant made under this section may use grant funds for the compliance costs of economic development activities.

"(C) BONA FIDE PROSPECTIVE PURCHASER.—For purposes of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq.), a recipient of a grant under this section that otherwise satisfies the definition of 'bona fide prospective purchaser' under section 101(40) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(40)) shall be considered to be within that definition regardless of the date on which the grant recipient acquires ownership of a facility.

"(e) ASSISTANCE AT OTHER SITES.—Nothing in this section affects the authority of the Secretary to provide assistance to eligible recipients under this Act for economic development projects at a site other than a brownfield site.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 217 the following:

"Sec. 218. Brownfields redevelopment.".

TITLE III—COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

SEC. 301. ELIGIBILITY OF AREAS.

Section 301(c)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(c)(1)) is amended by inserting after "most recent Federal data available" the following: "(including data available from the Bureau of Economic Analysis, the Bureau of Labor Statistics, the Census Bureau, the Bureau of Indian Affairs, or any other Federal source determined by the Secretary to be appropriate)".

SEC. 302. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.

(a) IN GENERAL.—Section 302(a)(3)(A) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162(a)(3)(A)) is amended by inserting "maximizes effective development and use of the workforce consistent with any applicable State or local workforce investment strategy, promotes the use of technology in economic development (including access to high-speed telecommunications)," after "access,".

(b) APPROVAL OF OTHER PLAN.—Section 302(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162(c)) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary"; and

(2) by adding at the end the following:

"(2) EXISTING STRATEGY.—To the maximum extent practicable, a plan submitted under this paragraph shall be consistent and coordinated with any existing comprehensive economic development strategy for the area.".

TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

SEC. 401. INCENTIVES.

(a) IN GENERAL.—Section 403 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3173) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 403.

SEC. 402. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO REGIONAL COMMISSIONS.

(a) IN GENERAL.—Section 404 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3174) is amended to read as follows:

"SEC. 404. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO REGIONAL COMMISSIONS.

"If any part of an economic development district is in a region covered by 1 or more of the Regional Commissions, the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the affected Regional Commission.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 404 and inserting the following:

"Sec. 404. Provision of comprehensive economic development strategies to Regional Commissions.".

TITLE V—ADMINISTRATION

SEC. 501. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.

Section 502 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3192) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) maintain a central information clearinghouse on the Internet with—

"(A) information on economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal Government;

"(B) links to State economic development organizations; and

"(C) links to other appropriate economic development resources;";

(2) by striking paragraph (2) and inserting the following:

"(2) assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal and State laws in locating and applying for the assistance;";

(3) by striking the period at the end of paragraph (3) and inserting "; and"; and

(4) by adding at the end the following:

"(4) obtain appropriate information from other Federal agencies needed to carry out the duties under this Act.".

SEC. 502. BUSINESSES DESIRING FEDERAL CONTRACTS.

(a) IN GENERAL.—Section 505 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3195) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 505.

SEC. 503. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

(a) IN GENERAL.—Section 506(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3196(c)) is amended by striking "after the effective date of the Economic Development Administration Reform Act of 1998".

(b) EVALUATION CRITERIA.—Section 506(d)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3196(d)(2)) is amended by inserting "program performance," after "applied research,".

SEC. 504. CONFORMING AMENDMENTS.

Section 602 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3212) is amended—

(1) in the first sentence, by striking "in accordance with" and all that follows before the period at the end and inserting "in accordance with subchapter IV of chapter 31 of title 40, United States Code"; and

(2) in the third sentence, by striking "section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)" and inserting "section 3145 of title 40, United States Code".

TITLE VI—MISCELLANEOUS

SEC. 601. ANNUAL REPORT TO CONGRESS.

Section 603 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3213) is amended—

(1) by striking "Not later" and inserting the following:

"(a) IN GENERAL.—Not later"; and

(2) by adding at the end the following:

"(b) INCLUSIONS.—Each report required under subsection (a) shall—

"(1) include a list of the waivers issued under section 218(c)(3)(C);

"(2) include a list of all grant recipients by State, including the projected private sector dollar to Federal dollar investment ratio for each grant recipient;

"(3) include a discussion of any private sector leveraging goal with respect to grants awarded to—

"(A) rural and urban economically distressed areas; and

"(B) highly distressed areas; and

"(4) after the completion of a project, include the realized private sector dollar to Federal dollar investment ratio for the project.".

SEC. 602. RELATIONSHIP TO ASSISTANCE UNDER OTHER LAW.

Section 609 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3219) is amended—

(1) by striking subsection (a); and

(2) by striking "(b) ASSISTANCE UNDER OTHER ACTS.—".

SEC. 603. SENSE OF CONGRESS REGARDING ECONOMIC DEVELOPMENT REPRESENTATIVES.

(a) FINDINGS.—Congress finds that—

(1) planning and coordination among Federal agencies, State and local governments, Indian tribes, and economic development districts is vital to the success of an economic development program;

(2) economic development representatives of the Economic Development Administration provide distressed communities with the technical assistance necessary to foster this planning and coordination; and

(3) in the 5 years preceding the date of enactment of this Act, the number of economic development representatives has declined by almost 25 percent.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary should maintain a sufficient number of economic development representatives to ensure that the Economic Development Administration is able to provide effective assistance to distressed communities and foster economic growth and development among the States.

TITLE VII—FUNDING

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Section 701 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231) is amended to read as follows:

"SEC. 701. GENERAL AUTHORIZATION OF APPROPRIATIONS.

"(a) ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS.—There are authorized to be appropriated for economic development assistance programs to carry out this Act, to remain available until expended—

"(1) $400,000,000 for fiscal year 2004;

"(2) $425,000,000 for fiscal year 2005;

"(3) $450,000,000 for fiscal year 2006;

"(4) $475,000,000 for fiscal year 2007; and

"(5) $500,000,000 for fiscal year 2008."

"(b) SALARIES AND EXPENSES.—There are authorized to be appropriated for salaries and expenses of administering this Act, to remain available until expended—

"(1) $33,377,000 for fiscal year 2004; and

"(2) such sums as are necessary for each fiscal year thereafter.".

SEC. 702. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Title VII of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231 et seq.) is amended by adding at the end the following:

"SEC. 704. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

"(a) IN GENERAL.—Of the amounts made available under section 701 for each fiscal year, not less than $27,000,000 shall be made available for grants provided under section 203.

"(b) WAIVER.—Subsection (a) shall not apply in any case in which the total amount made available for a fiscal year for all programs under this Act (excluding programs described in paragraphs (1) and (2) of section 209(c)) is less than $255,000,000.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 703 the following:

"Sec. 704. Funding for grants for planning and grants for administrative expenses.".

Mr. JEFFORDS. Mr. President, I am pleased that today we are about to enact S. 1134, the Economic Development Administration Reauthorization Act of 2004. This bipartisan bill, which I helped craft, will strengthen the agency's ability to assist economically distressed communities in Vermont and across the Nation by providing approximately $1.3 billion in economic development grants over the next 5 years.

Since its establishment in 1965, the Economic Development Administration, EDA, has invested more than $18.4 billion in more than 52,000 projects in all 50 States and in U.S. territories. These EDA investments have been supplemented by approximately $8.3 billion in matching funds from investment partners and have leveraged approximately $90.6 billion in private sector investment. In total, these investments have created more than 2.9 million jobs and saved more than 830,000 jobs.

In Vermont, for example, EDA funds have been used to develop a business incubator in Randolph and will soon be used to provide high-speed Internet access to the states most rural region of Caledonia, Essex, Orleans, Lamoille, Franklin, and Grand Isle Counties. My goal with this legislation has been to increase the investment of EDA dollars in Vermont, and 5 years from now I believe that will be demonstrated.

The bill we are considering today is slightly altered from the one that we passed out of the Environment and Public Works Committee last June. In an effort to speed eventual enactment into law, this substitute bill is not only supported by myself, Senator INHOFE, the Chairman of the Environment and Public Works Committee, Senators BOND and REID, the Chairman and Ranking Member of the Environment Committee's Transportation and Infrastructure Subcommittee, but it is also supported by our House counterparts on the Transportation and Infrastructure Committee.

I am pleased we were able to increase funding for planning in this bill. EDA has an important role to play in supporting planning at the local level. EDA has an important role as well to encourage the leveraging of federal funds. However, there is language in this bill that ensures that rural and urban economically distressed areas are not adversely impacted by internal EDA leveraging goals.

Turning to brownfields, I am pleased this bill encourages EDA to promote the redevelopment of abandoned industrial facilities and brownfields. The economic and social benefits of brownfields redevelopment are well documented. For example, in June 2003, the U.S. Conference of Mayors estimated that brownfields redevelopment could generate more than 575,000 additional jobs and up to $1.9 billion annually in new tax revenues for cities. In addition, according to EPA, every acre of reused brownfields preserves an estimated 4.5 acres of unused open space. Estimates of the number of brownfields sites nationwide range from 450,000 to as many as a million.

This bill complements the 2002 Environmental Protection Agency brownfields cleanup law by encouraging EDA to make economic redevelopment of brownfields a priority. In other words, EPA's focus is to facilitate the environmental assessment and cleanup of abandoned sites, whereas EDA's role is to encourage the economic reuse of the property.

I agree with EDA Administrator David Sampson, who in response to a question from the EPW Committee, wrote, "cleanup activities are most appropriately handled by state and federal environmental regulatory agencies with the background and technical expertise to address complex remediation issues." As such, I expect that EDA would only fund redevelopment projects at sites that have been certified as "clean" by EPA or the State environmental agency. In the rare circumstance that an EDA grant recipient discovers minimal contamination as part of a redevelopment project, this bill would require any remediation activities be conducted in compliance with all Federal, State, and local laws and standards. EDA grantees should obtain the prior written approval of EPA or the State environmental agency to ensure that the remediation is protective of human health and the environment.

Of course, EDA also must uphold the "polluter pays" principle by ensuring that Federal dollars are never given to the polluter to clean up contamination that they caused in the first place. Likewise, nothing in this bill in any way affects the liability of any party under Superfund, RCRA or any other federal or state law.

The final brownfields-related aspect of the bill requires a General Auditing Office study of EDA's brownfield grants. This study should provide valuable data on the extent to which EDA brownfield redevelopment grants involve remediation activities, the environmental standards applied and the role of Federal, State and local environmental agencies and public participation in the cleanup process. It is my hope that such information will enable future Congresses to revisit these issues to ensure more explicitly that any remediation performed is truly incidental to the larger economic redevelopment project and that cleanups performed using federal dollars are protective of human health and the environment.

In closing I praise the bipartisan member and staff effort that went into crafting this important bill. In particular, I acknowledge the work of Geoffrey Brown and Malcolm Woolf on my staff; Angie Giancarlo and Frank Fannon on Senator INHOFE's staff; David Montes on Senator REID's staff; and Nick Karellas and Ellen Stein on Senator BOND's staff.

Mrs. BOXER. Mr. President, the Economic Development Administration provides critical support to distressed communities. Included in this reauthorization bill is assistance for the productive reuse of abandoned industrial facilities and the redevelopment of brownfields. I support that effort.

Unfortunately, the bill also includes new language allowing EDA to do site assessment and remediation. This is, and should remain, the job of the Environmental Protection Agency. As is evident in the manager's amendment to the bill, it is Congress's intent that EDA abide by the same site assessment and remediation standards and protocols as does EPA.

Furthermore, under this bill, Federal funds provided by EDA for assessment or cleanup will only be provided consistent with the "Polluter Pays" principle. That is, funds will not be provided to those who are responsible for the pollution.

Specifically, EDA shall not provide funds for response costs to parties potentially responsible for those costs under section 107 of CERCLA, or to owners or operators responsible for corrective action under the Leaking Underground Storage Tank program pursuant to the Solid Waste Disposal Act, or to any other party responsible for the pollution.

Mr. President, EDA agrees with Congress's intent. On April 28, 2004, David Sampson, Assistant Secretary of Commerce for Economic Development, told the Senate Environment and Public Works Committee, "EDA is not seeking to in any way relieve a responsible party from liability under CERCLA nor to provide funds to a party to undertake clean-ups required under CERCLA, since to do so would undercut the 'Polluter Pays' principle on which CERCLA was founded."

Under any Federal program, when Federal funds are used for cleanup, it is very important to ensure that assessment and cleanup costs not be shifted away from the polluter and onto taxpayers. To the limited extent EDA is involved in funding cleanups, Congress's intent in this bill and EDA's policy is that polluters remain responsible for their own cleanup costs. Polluters must pay to clean up their own messes.

Mr. LAUTENBERG. Mr. President, I rise to speak on the bill to reauthorize the Economic Development Administration, EDA, which provides critical support to needed communities. Since its establishment, the Economic Development Administration has invested over $18 billion in more than 50,000 projects in all parts of the United States. These investments have been supplemented by matching funds from investment partners, and have leveraged a great deal of investment by the private sector.

The reauthorization bill before us today includes assistance for the productive use of abandoned industrial facilities and the redevelopment of brownfields. I support that effort. While the Environmental Protection Agency's role under the 2002 law is to facilitate the environmental assessment and cleanup of abandoned brownfield sites, EDA's role is to encourage the economic reuse of the property.

Under this bill, Federal funds provided by EDA for assessment or cleanup will only be provided consistent with the "Polluter Pays" principle. That is, funds will not be provided to those who are responsible for the pollution. They are responsible for cleaning up the mess they made. That is, funds will not be provided to those who are responsible for the pollution. They are responsible for cleaning up the mess they made.

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It is very important to ensure that assessment and clean-up costs are not shifted from the polluter to the taxpayers. To the extent that EDA is involved in funding cleanups, Congress' intent in this bill and EDA's policy must be the same: polluters are responsible for paying to clean up their own messes.

Mr. INHOFE. Mr. President, I rise to discuss S. 1134, the Economic Development Administration reauthorization bill, that was approved by the Senate today. This is an important piece of legislation for our Nation's economically distressed communities. These areas count on EDA to help create favorable environments for long-term economic growth. Studies have shown that EDA uses Federal dollars efficiently and effectively—creating and retaining long-term jobs at an average cost that is among the lowest in government. The bill emphasizes coordination, flexibility and performance. These tools will allow the Secretary to continue and even improve and increase the good work done by the agency.

In particular, I would like to highlight the performance award program and the reforms to the revolving loan fund, RLF, program included in the bill. The performance award program will allow the Secretary to reward those grant recipients who meet or exceed expectations regarding performance measures such as jobs created and private sector investment.

The reforms to the RLF program are needed to ensure the agency can continue to capitalize new and recapitalize existing RLFs. The current administrative burden of these funds is large. This bill will allow the Secretary to reduce that burden, both for the agency and for the local RLF managers, while providing appropriate oversight.

Enactment of this legislation will be good for my home State of Oklahoma in several ways as well. First, it will ensure that the communities of Elgin and Durant are able to move forward with infrastructure improvements that will support the attraction of private sector investment and the creation of jobs. Enactment will also result in much needed investment in Ottawa County, providing funding for the city of Miami—a city that has suffered economic hardship due to its proximity to a Superfund site.

Additionally, the bill preserves the ability of Economic Development Districts to use planning funds to provide technical assistance and cover administrative costs. This is especially important for the small, rural communities of Oklahoma that do not have the resources to maintain the professional and technical capacity needed to develop and implement comprehensive economic development strategies. Economic Development Districts work to fill this hole and should not be prevented from doing so.

I would like to thank my colleagues here in the Senate, in the House of Representatives and in the administration for working so diligently and cooperatively with me to complete work on this very important legislation. I would also like to thank the staff for their hard work—from my staff: Angie Giancarlo and Frank Fannon; from Senator JEFFORDS' staff: Geoff Brown and Malcolm Woolf; from Senator BOND's staff: Nick Karellas and Ellen Stein; from Senator REID's staff: David Montes; and from EDA: Nat Wienecke, Paul Pisano, Ben Erulkar and Dennis Alvord.

Mr. JEFFORDS. Mr. President, the Economic Development Administration Reauthorization Act of 2004, S. 1134, contains important provisions relating to the redevelopment of brownfields. As the ranking member of the Environment and Public Works Committee, I want to take the opportunity to explain these provisions. Before I begin, let me acknowledge the contributions of Senator CHAFEE, chair of the Superfund and Waste Management subcommittee, in developing these provisions and note that he supports my comments today.

S. 1134 encourages EDA to promote the redevelopment of abandoned industrial facilities and brownfields. The economic and social benefits of brownfields redevelopment are well documented. For example, in June 2003, the U.S. Conference of Mayors estimated that brownfields redevelopment could generate more than 575,000 additional jobs and up to $1.9 billion annually in new tax revenues for cities. In addition, according to EPA, every acre of reused brownfields preserves an estimated 4.5 acres of unused open space.

Estimates of the number of brownfields sites nationwide range from 450,000 to as many as a million.

This bill complements the 2002 Environmental Protection Agency brownfields cleanup law by encouraging EDA to make economic redevelopment of brownfields a priority. In other words, EPA's focus is to facilitate the environmental assessment and cleanup of abandoned sites, whereas EDA's role is to encourage the economic reuse of the property.

I agree with EDA Administrator David Sampson, who in response to a question from the EPW Committee, wrote, "cleanup activities are most appropriately handled by state and federal environmental regulatory agencies with the background and technical expertise to address complex remediation issues." As such, I expect that EDA would only fund redevelopment projects at sites that have been certified as "clean" by EPA or the State environmental agency. In the rare circumstance that an EDA grant recipient discovers minimal contamination as part of a redevelopment project, this bill would require any remediation activities be conducted in compliance with all Federal, State, and local laws and standards. EDA grantees should obtain the prior written approval of EPA or the State environmental agency to ensure that the remediation is protective of human health the environment.

Of course, EDA also must uphold the "polluter pays" principle by ensuring that Federal dollars are never given to the polluter to clean up contamination that they caused in the first place. Likewise, nothing in this bill in any way affects the liability of any party under Superfund, RCRA or any other Federal or State law.

The final brownfields-related aspect of the bill requires a General Auditing Office study of EDA's brownfield grants. This study should provide valuable data on the extent to which EDA brownfield redevelopment grants involve remediation activities, the environmental standards applied and the role of Federal, State and local environmental agencies and public participation in the cleanup process. It is my hope that such information will enable future Congresses to revisit these issues to ensure more explicitly that any remediation performed is truly incidental to the larger economic redevelopment project and that cleanups performed using Federal dollars are protective of human health and the environment.

In closing I would like to praise the bipartisan Member and staff work that went into crafting this important bill and urge swift passage by the other body.

Ms. COLLINS. Madam President, I ask unanimous consent that the substitute amendment that is at the desk be agreed to, the committee-reported amendment, as amended, be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3976) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 1134), as amended, was read the third time and passed.

Ms. COLLINS. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

NATIONAL INTELLIGENCE REFORM ACT OF 2004—Continued

Mr. BYRD. Mr. President, the Senate has voted overwhelmingly to invoke cloture on the national intelligence reform bill. I voted against cloture on the bill. The Senate leadership, in supporting cloture on this bill—I speak most respectfully—argued that this debate has gone on long enough. In essence, that is what has been stated.

I will soon begin my 47th year in this body. I never thought I would see the demise of the Senate as a debating institution. I am very sorry about that. I have seen the demise of the Senate as a debating institution. I have been here when debate on a bill went over 100 days.

Today's situation is eerily reminiscent of the autumn of 2002. A few years ago, the hue and cry went up for all Senators to support a massive bureaucratic reshuffling of our homeland security agencies and a war resolution—I will refer to in that way—against Iraq just weeks before election day.

Like a whipped dog fearing his master, the Senate obediently complied with the demands of the White House, to which our leadership said: let us get this matter behind us; let us get it behind us.

I know many of the Members who come to this body in this day and time are from the other body, and I speak most respectfully of the other body. I came from the other body likewise. But I can remember when I was in the other body I often said, Thank God for the Senate of the United States. That is when I was still in the other body. Thank God for the Senate of the United States. They take their time over there to debate. In this day and time, we do not take time to debate.

Hindsight reveals the mistakes that the Senate made 2 years ago. Today, the Department of Homeland Security finds itself bogged down by bureaucratic infighting, unresolved turf wars, and insufficient funding. The central argument for the war resolution against Iraq, the threat of weapons of mass destruction, has disintegrated into a mess of lies and hot air. The calls for Congress to act quickly were revealed to be ill-advised, misguided, misinformed.

The 108th Congress has an opportunity to learn from the mistakes of the 107th Congress. Yet the repeated calls by Senators for immediate action on this bill suggests we have learned very little.

Most of the hundreds of amendments offered to this bill, or certainly scores of amendments, have focused on trying to speed up reforms that we already do not understand. Apparently, few Senators have dared to speak about the need for caution in arranging a massive, secretive bureaucracy. It would be the most secretive around.

The risk that this bill will grow into a hydra-headed monster increases exponentially as election day nears. Many believe the House bill will include a number of provisions unrelated to intelligence reform, all the way from amendments on immigration to reauthorization of the PATRIOT Act. I hear lately the House has no intention of adding that last mentioned measure. In the rush to pass this bill on a political timetable, what type of Faustian bargains will be struck to jam this bill through the Congress? We have had it happen before. We have been jammed on these important bills. We have had our backs against the wall because of some nearing date, perhaps of a recess, and so forth. What kind of deals with the devil will be made in order to get this bill done in time for election day? That is the big rush—get this bill through in time for election day.

Even one Republican Member of the House of Representatives is concerned that a slam-dunk conference would open the door to politically motivated poison pills. Why is there such a clamor to vote on a bill that is increasingly viewed as a way to make political hay in the hours before a Presidential election? Will Senators even get to read the conference report on this bill before we are expected to vote on it? If we pass this bill, who knows what may be lurking in the walls surrounding that conference between the two Houses unless the House should decide to accept the Senate-passed bill, making it all the more important for the Senate to take our time and thoroughly debate the bill.

The mistake of how the Senate is choosing to consider this bill is not the fault of the 9/11 Commission. That panel is a group of experienced and dedicated public servants. Their research went straight to the heart of the question that has burned in the minds of millions of Americans for 3 years: Namely, how did such a powerful Nation fail to defend itself from those attacks?

In chilling detail, the panel's report lays out the facts about how the U.S. Government failed to stop 19 hijackers—not from Iraq—19 hijackers armed with box cutters; 19 hijackers, not from Iraq, not a one. Not even one of those 19 hijackers came from Iraq. Yet some have attempted to tie the hijackers with Iraq.

"The document is an improbable literary triumph," declared U.S. Circuit Judge Richard Posner in the New York Times Book Review. "However, the commission's analysis and recommendations are unimpressive," he said, "not sustained by the report's narrative," he said, "come to very little . . . [and more] of the same."

That is pretty harsh criticism. And contrary to what some believe about the critics of intelligence reform, Judge Posner is not protecting his turf, and he does not have an ax to grind.

The Senate Appropriations Committee held hearings 2 weeks ago on the September 11 recommendations. A bipartisan array of national security experts pleaded with the Congress as they gave testimony to the Appropriations Committee, pleaded with the Congress not to rush these reforms.

My, what an impressive list of names: The former chairman of the Senate Intelligence Committee, David Boren; former Senator Bill Bradley; former Secretary of Defense Frank Carlucci; former Secretary of Defense William Cohen—we all remember him. He has been an outstanding Secretary of Defense. He was a Republican—former CIA Director Robert Gates; former Deputy Secretary of Defense John Hamre; former Senator Gary Hart; former Secretary of State Henry Kissinger—he indicated we ought to take several months on this bill—former chairman of the Senate Armed Services Committee Sam Nunn—there is a good one for you. I served in the Senate with Sam Nunn. I served on the Armed Services Committee when he was chairman. Here is a man who is a careful, careful legislator—former Senator Warren Rudman, Republican from New Hampshire; former Secretary of State George Shultz, another Republican.

Among them they have decades of knowledge and experience, and the Congress stands ready to dismiss their concerns out of hand.

I pointed out that several of these distinguished persons are Republicans just to emphasize there are several preeminent Republicans who have had great experience in government who say: Wait, take your time. What is the hurry here? Why the big hurry?

This group of 11 experienced public servants who urged the Congress to stop, look, and listen, they have no turf to protect. They have long since left the service of the executive and legislative branches. Why does the Senate not take their advice? Why does the Senate not pause to listen to their sage advice?

Let us remember that 2 years ago Members of Congress fell all over themselves in a mad frenzy to adopt the advice of Senator Hart and Senator Rudman to create a Department of Homeland Security. Anyone who did not agree with the Hart-Rudman report was viewed as being obstructionist or out of touch. But today, the Senate sloughs off the counsel of those same two men to slow down—slow down. That is what the Senate is all about.

The Senate is not a second House of Representatives with a 6-year term. Thank God for that. As I said many years ago when I was a Member of the other body, the body that is closest to the people, I said thank God for the Senate. So I did not come to this body with any idea of changing the rules to make it a second House of Representatives with a 6-year term. I never thought that about it. I have thought that it is meant to be a place where men and women could argue as long as their feet would hold them erect. I have said time and again that as long as we have a forum in which elected representatives of the people can speak out, speak out without fear and speak out as long as they want to speak on a matter they feel very deeply about, thank God, the people's liberties will be secure.

But today, as I say, the Senate sloughs off the counsel of these eminent luminaries to slow down. How quickly we turn on the advice of our friends.

I fear the Senate wants change, in some instances, merely for the sake of change, and that we do not yet possess an adequate understanding of why we are doing what we are doing. It is not even clear why or how the 9/11 Commissioners arrived at all of their recommendations. The Commission's report does not explain it. What recommendations did the Commission consider and reject, and why did they reject the recommendations? Did the 9/11 panel receive any independent assessments of their ideas before they were published? Will the Commission's proposals prevent intelligence failures in other areas, such as stopping a repeat of the Iraq weapons of mass destruction fiasco? Even as the Senate rushes to pass this intelligence reform bill, with one eye on the public opinion polls, of course, and the other on the adjournment date, we do not know the answer to these questions.

Given the Senate's failure to ask more questions about the creation of a Department of Homeland Security and the need for war in Iraq, I would hope this Chamber would be more circumspect about rushing to restructure our intelligence agencies on the eve of a Presidential election.

These agencies are very secretive—very secretive. And look at the power Congress is about to give the national intelligence director. Look at the power. He is not an elected individual. I would hope that the Senate would pause to consider the powers that may be shifted to the executive branch in this legislation. I also hope that Senators will consider if such a timid Congress could possibly exercise proper oversight over a powerful and secretive bureaucracy.

We are being naive about these intelligence reforms. It may be comforting to embrace the 9/11 report, and I hold in the highest regard the members, as I say, of that Commission and for its work. It may be comforting to embrace the 9/11 report, but its reforms ignore more fundamental intelligence problems.

At the Appropriations Committee hearing on September 21, 2004, I asked Henry Kissinger: If the 9/11 Commission's recommendations had been implemented in 2002, would our intelligence agencies have come to a different conclusion about Iraq's nonexistent weapons of mass destruction? His answer was no, nothing would have been different. There still would have been false claims of huge stockpiles of WMD in Iraq.

Mr. President, we are all too focused just on the failings of 9/11. The Senate has not focused enough attention on the intelligence failures leading to war in Iraq, in which, as of the last reading of the news reports, we have lost 1,061 men and women. For what? For what did they give their lives? I would wonder, if I had a grandchild who had gone and lost his life in this war, for what did he give his life? Was it worth it? Was it worth it to invade a country under the new doctrine of preemption, which flies right into the face of the Constitution of the United States?

I did not hear the Constitution mentioned last night in the debate. I am not sure, maybe I had my back turned at the moment. I have a sick wife and maybe, perhaps, I did not hear it. But I certainly did not hear it in the first debate between Mr. Bush and Mr. KERRY; not one time did I hear the Constitution mentioned. And I did not hear it mentioned last night. Yet it is mentioned every day throughout this country in the courtrooms of this Nation, the Constitution of the United States. Here we have these Presidential debates and nobody—if I find I am mistaken about last night's debate, I will certainly amend my words in this respect, but I do not believe I missed something there.

The Senate has not focused enough attention on the intelligence failures leading to the war in Iraq. We have not focused enough attention on the nuclear threat posed by Iran and North Korea. We have not focused enough attention on China. We have not focused enough attention on the proliferation of deadly germs and gases.

Any of these challenges could be responsible for the next catastrophic attack on our country or our interests, and they are conspicuously ignored by this bill. Congress is showing myopic vision in failing to see the universe of threats to this country. Terrorism may be the most immediate threat to our country, but it is not the only threat.

As a Member of the Senate and as the then-chairman of the Appropriations Committee in the Senate, I and my committee responded quickly to the attack of 9/11. Within 3 days, Congress passed an appropriations bill, appropriating $40 billion—within 3 days, $40 billion. Congress, both Houses, passed an appropriations bill appropriating $40 billion. In other words, $40 for every minute since Jesus Christ was born, $40 for every minute since Jesus Christ was born—$40 billion. So Congress acted quickly.

We all are concerned. There is no monopoly of concern on either side of the aisle here. I support the effort to reform our intelligence agencies. I support the creation of a national intelligence director. But I do not support this hurry in which we are engaged. We need to stop, look, and listen, debate, offer amendments, answer questions, hold more hearings, like TED STEVENS and I holding hearings in the Appropriations Committee.

I have been one of the harshest critics of the status quo. Intelligence agencies are expected to uncover terrorists plots against our country and produce unbiased, accurate intelligence, free from political interference. The CIA and other agencies have fallen tragically short on both marks. However, I am not convinced that the Congress fully understands the implications of the reforms proposed by the 9/11 Commission, and the rush to vote on these issues before the Presidential elections means it will not have that opportunity. Henry Kissinger called attention to that fact.

We are legislating in an atmosphere, just before a Presidential election, that is not conducive to thoughtful reform of these intelligence agencies. But the greatest contribution the Senate can make to the cause of the 9/11 families is to take the time to get those reforms right. Prematurely cutting off debate on this bill only succeeds in further politicizing a process that is more mindful of election day than it is the result of this debate.

Like 2 years ago, the Senate is being stampeded into voting on major, far-reaching legislation. The result of this ill-considered course is easily seen: Any reforms the Congress enacts will be the product of rush and haste rather than thoughtful deliberation. We owe more to the memories of those who lost their lives on September 11.

Mr. President, a little earlier I made the statement to the effect that I heard no one in last night's debate on either side mention the Constitution of the United States. My press has since called me and told me I was wrong. That, indeed, one of the candidates—and he said Senator EDWARDS—did mention the Constitution of the United States. Thank God for that.

Mr. LEVIN. Mr. President, I ask unanimous consent that following the remarks of the Senator from Virginia and I be recognized to offer a Warner-Levin amendment which which has now been worked out and cleared. I think Senator WARNER is somewhere nearby. If there is no objection, I ask unanimous consent to put us next in line with that amendment, which is a modified amendment and has been agreed to.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Pennsylvania.

HEALTH CARE

Mr. SANTORUM. Mr. President, I rise to talk about an issue that is getting quite a bit of play in the press, other than the security issue having to do with our intelligence community and homeland security. This is a different kind of security issue. It is an issue having to do with health care. I wanted to discuss with Members today the two approaches that the candidates for President have about health care and what the consequences are to the consumer, to the patient, as well as to the taxpayer and to our health care system in general.

This is a very important debate we are having about health care because there is an acute problem. It is a problem that, candidly, this Congress has not dealt with. We saw in the debates last night and other conversations about the importance of a Patients' Bill of Rights, which would have done nothing but add more cost to the health care system. It would have caused more uninsured, and that is the term I want to focus on today, "the uninsured."

As I travel around Pennsylvania—and I am sure this is true for my colleagues as they travel in their States—what we hear repeatedly is the problem of the spiraling cost of health care. A Patients' Bill of Rights would have done nothing but add more cost to that system and add more to the uninsured problem. What we don't hear are answers from Congress on how to deal with the problem of the uninsured.

We have two Presidential candidates who have laid out a plan to deal with this very complex problem. I will say that Senator JUDD GREGG chaired a task force on our side of the aisle that put forth a variety of different proposals to deal with the uninsured because it is a very complicated group of people in the sense that there isn't one reason people are uninsured. Senator GREGG has given eloquent talks about the approach we have offered. But, candidly, we have not moved forward on this on either side of the aisle to try to bring it to fruition.

The Presidential candidates have put forward some ideas. I wanted to talk about both of those plans.

Let me first talk about Senator KERRY's plan. Senator KERRY has proposed a plan which, according to the revenue estimates, runs in the area of about $1.5 trillion over the next 10 years, $1.5 trillion in new spending for tax breaks to provide for the uninsured. What the Senator from Massachusetts has suggested is that this $1.5 trillion will cover roughly 27 million people who are currently uninsured, which would make up a little over half of the uninsured in America. But at a cost of $1.5 trillion over 10 years to get someone insured in America, one person under his proposal is $5,500 per insured per year—not per family, per insured per year, $5,500 in Government subsidies to provide for insurance per year. That is a very high-cost way of trying to provide insurance.

On top of that, not only is it a high-cost way, but as you will see in a moment, it is a very bureaucratic way. It is a very inefficient way, and it is a further Government takeover of the private health care system. It federalizes under Medicaid a dramatic expansion of Medicaid for a lot of the people who currently are either uninsured or in many cases insured by private sector employers.

I want to talk about the fiscal voodoo that is going on as to how this program is going to be paid for, which is one of the many proposals that Senator KERRY has put forth in the election. But this is by far the most expensive, $1.5 trillion. He says he is going to pay for it by repealing the Bush tax cuts.

As you can see from this chart, the Bush tax cuts, scored over the next 10 years, will cost the Treasury $1 trillion. So there is still an unaccounted for half a trillion dollars, if we repeal all of them.

Now, what he has said is he only wants to repeal the ones that are on those who make over $200,000. Well, if we go down here and look at what is the tax cut for those who make $200,000, it is roughly $612 billion over the next 10 years, which is less than half of this $1.5 trillion. There is still almost $900 billion in unaccounted-for new spending or tax incentives in the Kerry plan that are not paid for. He could add an additional $400 billion, roughly, in getting rid of the 10-percent bracket and the marriage penalty, the child credit, and the middle-class rate reductions. We can do that, too. We are still half a trillion dollars short.

The plan doesn't add up. It adds up to a fiscal disaster. As many know, the biggest group of people, as far as percentage, who pay in this bracket for which the Senator from Massachusetts wants to eliminate this tax reduction is small businesses. These are the job creators. He wants to eliminate tax incentives for people in small business who are the job creators. He wants to get rid of, I assume, or add other taxes on to pay for the additional $900 billion it is going to take to pay for this new proposal which spends $5,500 per person to provide insurance for them. I would just suggest that that is a very costly way.

Let me contrast that with the President's approach, which does not, as Senator KERRY's plan does through his program, displace private insurance. What do I mean by that? The reason this costs so much is because he is going to be insuring more people than the 27 million in his new program, but a lot of those people he is insuring are already insured.

He is going to take them from the private sector and move them to the public sector. That is why it costs so much. It is a new publicly borne cost that is now a privately borne cost. The taxpayers are going to pay for this, as opposed to employers and employees.

What the President has done is a much smarter, more targeted approach. He put together a plan that does not cost $1.5 trillion but $129 billion. It spends $1,900 to attract someone who is currently uninsured into the new insurance pool that will be created, and it does so in a way that doesn't take someone who has insurance and displaces them into a public pool, which is what the Kerry plan does. So this is a much more commonsense approach, leaving the private insurance market, which has served our country so well, in place and not replacing it with a public sector plan, but creating incentives through low-income tax credits, small employer tax credits, above-the-line deductions, some private market reforms, like AHPs and other things, to broaden the pool for people to be able to purchase health insurance.

This will add almost 7 million people to the ranks of the insured from the ranks of the uninsured. It does so at a responsible cost, something we can likely afford over the next 10 years, as opposed to blowing a hole through the deficit. I find it remarkable that we hear over and over again from the Senator from Massachusetts about how this President has very high deficits, yet we look at a plan here that, under the current scenario he proposes, is a $600 billion repeal of taxes to pay for a $1.5 trillion program. If you are talking about blowing a hole in the deficit, this will do so, and then some; it will add about $100 billion in new deficits every year as a result of this proposal.

This is only part of the problem. The other part of the problem is how the Kerry plan works. Unlike the Bush plan which, again, doesn't displace people from the private sector to the public sector, does not cost $5,500 per person to get them into the insured category, Senator KERRY's plan is incredibly complicated and promises things he cannot deliver. For example, he talks about how he is going to provide the same health plan that Members of Congress have, by participating in the Federal Employees Health Benefit system. He said that, and then the Federal Employees Union got to him and said, whoa, whoa, whoa, you are not going to do that; you are not going to put everybody into our insurance pools. That is going to drive up the cost of our health care dramatically. You can say you are going to give everybody what Members of Congress have, but we are going to set up a separate pool.

So he sets up a separate insurance pool. It is not what Members of Congress have. It is something completely different. It sets up this insurance pool that people can participate in, but the cost of that pool is going to be based on who enrolls in it. So I don't understand how that will save any money, because all insurance pools are based on who is enrolled in the plan. So there is this idea that somehow or other we are going to give you a congressional health care benefit—which, by the way, is the same as every other Federal employee—for nothing, when in fact they are going to get something like a congressional health care plan. Let me assure you, it won't be for nothing; it will be for a lot of money, in a very complicated way.

This is a chart that tries to describe how the Kerry plan works from the standpoint of the Medicare portion over here, including schools, by the way. Schools are going to be responsible for being a social service agency and signing up people for Medicaid. Now we talk so much about how schools are being asked to do so much more when it comes to education. Senator KERRY has another idea for them. They are going to take the responsibility for enrolling children into Medicaid as part of their responsibilities.

Over here, you have sort of how we interact with the doctors and the hospitals. You have this new agency, the premium rebate pool agency—not a particularly creative acronym. We have this agency that is going to determine what is covered, how much we pay. So you are going to have, in a sense, the Federal Government making these decisions as to what doctors you see, how much they are going to pay these doctors, what is going to be covered by these plans.

Again, it is not just an expansion of Medicaid, which is very costly, and bringing a lot of new people into the Medicaid Program, many of whom already have insurance, not only setting up this other plan to deal with how we are going to handle the "private market reforms" Senator KERRY wants to impose to help, in this case, those who are high-cost patients in the health care system. So here is the congressional health plan, and you have all these different organizations, or different functions with new organizations, and some are going to be organizations that will have increased responsibility to offer this new congressional health plan, which isn't a congressional health care plan.

You have a tax credit idea. It is not simple. In fact, Senator KERRY has not been particularly clear about how these tax credits will work. He has several of them, not just one. There are four different tax credits Senator KERRY is going to put in place here. Here they are. This is a very complicated system, and it is an extremely costly system, and one that puts more people into Government, less in the private sector, and when private sector reforms happen, puts more oversight into the Government over the private sector—all at the cost of $1.7 trillion.

This is not the direction we want to take in health care. We don't want more Government oversight of the private sector to drive up costs in the private sector. We don't want more people from the private markets going into the Government pools, and we don't want to create the shell game that Senator KERRY is in the area of the new congressional health plan, which isn't a congressional health plan.

The idea of tax credits has some appeal to me. The President's proposal is to try to provide tax credits. But this is a very complicated plan, and it has not been well spelled out. We worked very hard to try to understand it. It is not a very well thought out, planned out approach. I suggest this is bad policy. This is complicated policy. It is very costly policy. It doesn't deliver to people what has been promised. What it does deliver is a big tax bill, or very big deficits in the future, neither of which is something we should be desirous of here in the Senate.

With that, I think we have done a pretty good comparison of where the President wants to go, which is responsible reform and the encouragement of people who do not have insurance to be insured, without disrupting the private markets, without increasing the size of the Government-run health care plans, and doing so at a responsible cost, as opposed to Senator KERRY, who wants to dramatically increase Government's role in health care, increase the Government's role in overseeing private health care, and play a shell game because it sounds good that you are getting congressional health care for nothing, when in fact you are not, and for a lot. Again, I will give Senator KERRY credit for the tax credit idea, but it is very foggy and not particularly well thought out, in my opinion. So I think it is a failure on all fronts. It is very complicated and will not serve the best interests of the patients in America and will not serve the interests of taxpayers in America.

With that, I yield the floor.

The PRESIDING OFFICER. Under the previous order, the Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I am joined by my colleague, the ranking member of the Armed Services Committee, the Senator from Michigan. This is an amendment which we have jointly worked out together.

AMENDMENT NO. 3875, AS MODIFIED

Mr. WARNER. Mr. President, from a parliamentary standpoint, I now send a modification to amendment No. 3875 to the desk.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment (No. 3875), as modified, is as follows:

On page 210, strike line 23 and insert the following:

SEC. 336. COMPONENTS OF NATIONAL INTELLIGENCE PROGRAM.

(a) IN GENERAL.—Notwithstanding any other provision of this Act, the National Intelligence Program shall consist of all programs, projects, and activities that are part of the National Foreign Intelligence Program as of the effective date of this section.

(b) JOINT REVIEW OF CERTAIN PROGRAMS.—(1) The National Intelligence Director and the Secretary of Defense shall jointly review the programs, projects, and activities as follows:

(A) The programs, projects, and activities within the Joint Military Intelligence Program as of the effective date of this section.

(B) The programs, projects, and activities within the Tactical Intelligence and Related Activities program as of the effective date of this section.

(C) The programs, projects, and activities of the Defense Intelligence Agency as of the effective date of this section that support the intelligence staff of the Chairman of the Joint Chiefs of Staff, the intelligence staffs of the unified combatant commands, and the portions of the sensitive compartmented communications systems that support components of the Department of Defense.

(2) As part of the review under paragraph (1), the Director shall consult with the head of each element of the intelligence community.

(3)(A) The review under paragraph (1) with respect to the programs, projects, and activities referred to in paragraph (1)(C) shall be completed not later than 60 days after the date on which the first individual nominated as National Intelligence Director after the date of the enactment of this Act is confirmed by the Senate.

(B) Upon completion of the review under paragraph (1) of the programs, projects, and activities referred to in paragraph (1)(C), the Director shall submit to the President recommendations regarding the programs, projects, or activities, if any, referred to in paragraph (1)(C) to be included in the National Intelligence Program, together with any comments that the Secretary of Defense considers appropriate.

(C) During the period of the review under paragraph (1) of the programs, projects, and activities referred to in paragraph (1)(C), no action shall be taken that would have the effect of prejudicing the outcome of such review.

(4)(A) The review under paragraph (1) with respect to the programs, projects, and activities referred to in subparagraphs (A) and (B) of paragraph (1) shall be completed not later than one year after the effective date of this section.

(B) Upon completion of the review under paragraph (1) of the programs, projects, and activities referred to in subparagraphs (A) and (B) of paragraph (1), the Director shall submit to the President recommendations regarding the programs, projects, or activities, if any, referred to in such subparagraphs to be included in the National Intelligence Program, together with any comments that the Secretary of Defense considers appropriate.

SEC. 337. GENERAL REFERENCES.

Mr. WARNER. I thank the Presiding Officer. I shall be very brief on this matter.

The distinguished manager and comanager have worked with my staff and Senator LEVIN and myself, and we have come to an agreement on this issue.

Again, it is an amendment by myself, Mr. LEVIN, Mr. STEVENS, Mr. INOUYE, Mr. ALLARD, Mr. SESSIONS, Mr. CORNYN, and Mr. CHAMBLISS.

I start by referring to the 9/11 report. This is a very important report which has been a roadmap for so many of the provisions and it is a roadmap I have used for this provision.

I read from page 412:

> The Defense Department's military intelligence programs—the joint military intelligence program (JMIP) and the tactical intelligence and related activities programs (TIARA)—would remain part of that department's responsibility.

That is the purpose of this amendment. It is to clarify. I think it was the intent of the managers all along. They made statements comparable to what is in the 9/11 report from which I just quoted and, therefore, this amendment would leave in place those programs being performed by what we call the combat agencies, largely under a contractual relationship, and they would remain in place, but with the understanding that upon completion of a review, to be conducted by the national intelligence director and the Secretary of Defense, if they reach, as is specified under the bill, a joint opinion as to the desirability to move them into the national intelligence program, in all likelihood that can be achieved.

I thank the managers. I yield the floor to my distinguished colleague from Michigan. I thank my distinguished colleague, Senator LEVIN, for his work on this very important amendment, an aspect of which is tailored to meet a concern that the Senator from Michigan has.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, my concern about the definition of intelligence programs that the budget execution authority would be transferred to relates to the definition in the bill that, in turn, relates to the Defense Intelligence Agency.

There are a number of Defense Intelligence Agency programs which, in my judgment, should not have their budget execution authority transferred to the new national intelligence program. Specifically, there are three programs. These are a small set of DIA programs but, nonetheless, there are three in particular to which I refer.

First is the intelligence staff of the Joint Chiefs of Staff. Second is the intelligence staff of the combatant commanders. Third is certain sensitive communications systems which support the Department of Defense command structure.

The principal purpose of those programs is to support joint or tactical military operations, and I think it would be a mistake to transfer the budget execution authority for those three programs to the national intelligence director. They are just simply too deeply embedded in supporting joint or tactical military operations for that to make sense.

However, rather than trying to resolve that debate here and rather than having the bill transfer the budget execution to the national intelligence program, what we have arrived at is a compromise which does the same thing relative to these programs, as Senator WARNER just outlined, relative to a number of other programs; that is, we assign and task the new national intelligence director and the Secretary of Defense to review these DIA programs, then to make a recommendation as to where the budget execution ought to rest, whether it should be in the national intelligence program or in the Department of Defense, and then to make a recommendation to the Office of Management and Budget and then to the President who would make the decision on this issue.

The review would be an expedited review. It would not take more than 60 days. But it would make it possible to have this decision in review based on the facts relating to this program rather than to make an abstract judgment about all programs in the Defense Intelligence Agency in this bill.

During this period of review, we have agreed that nothing would be done to prejudice the outcome of this review. With the adoption of this amendment, assuming it is adopted, then my amendment No. 3810 will be withdrawn because that is the purpose of this amendment.

Again, as I did with another amendment earlier today, I thank the managers of the bill for working with us to make this possible. It is a very rational approach, as well as a good compromise to a very complicated situation. We want to avoid—we want lines to be clear, but we do not want them to be arbitrary in a way which will force budget execution of programs to be where they logically should not be.

I also thank Senator WARNER for his leadership on a very related issue. The way in which we have addressed these two issues is similar but not exactly the same. It just makes a lot of sense.

I thank the managers for their willingness to work with us on this matter.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator from Virginia.

Mr. WARNER. Mr. President, I thank my distinguished colleague and ranking member. Given that the two of us are about to start a hearing in 10 minutes, I guess it is best we go to the adoption of the amendment, but I yield for any comments the distinguished chairman may like to make.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, first, I thank the distinguished chairman and ranking member of the Armed Services Committee for working so closely with Mr. LIEBERMAN and me on this very important issue to set forth a process for determining what intelligence assets belong in the NIP, the national intelligence program, versus the joint military intelligence program and the tactical program.

The Collins-Lieberman bill gives the national intelligence director strong budgetary authority over the national intelligence program. Senator LIEBERMAN and I envision that his program will be composed of the intelligence assets that serve national purposes, meaning those that pertain to the interests of more than one department.

In the long run, I strongly believe the budgets for the National Security Agency, the National Geospatial-Intelligence Agency, and the National Reconnaissance Office should be wholly within the national intelligence program.

Currently, these agencies have split budgets, and the heads of these agencies tell us that leads to a great deal of administrative inefficiency. Now, it is possible that some intelligence assets from the Department of Defense's Joint Military Intelligence Program may ultimately be moved to the national intelligence program, but, of course, military intelligence assets that principally serve joint or tactical military needs should stay within the Department of Defense, and I think the language is very clear on this point.

Through this amendment, we have tried to address concerns that both Senators have raised. I think the compromise language does address and alleviate those concerns. The reviews that are underway will help us better define the parts of the intelligence budget that will be completed within 1 year after the effective date, in one case 60 days, in the case that Senator LEVIN is concerned with the three activities in the Defense Intelligence Agency.

The reviews mandated in this compromise amendment will provide a rational process for determining which assets belong in the national intelligence program and which do not. I very much appreciate the cooperation of our colleagues, and I do urge adoption of the amendment.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to support the amendment as modified. In fact, I know that the chairman and ranking member of the Armed Services Committee have to go to a hearing, so that may only shorten the praise that I want to offer to them.

Mr. LEVIN. The Senator can take his time.

Mr. LIEBERMAN. Take my time?

Mr. LEVIN. Yes.

Mr. LIEBERMAN. I truly thank them for their extraordinary service on behalf of our national security generally but also for their work on this amendment. We had some very good discussions about this, and I never had a moment where I felt they were doing this just to protect turf. I know they were pursuing these questions with a genuine interest in what would work best for our national security, both the intelligence and the military sides of it.

This is not an uncomplicated problem. We are setting up a national intelligence director. We want that person to coordinate the intelligence community, and budget authority is a critical part of that. Senator WARNER is quite right, obviously, in the section that he read from the 9/11 Commission Report.

Interestingly, as my colleagues on the Governmental Affairs Committee may remember, when Dr. Zelikow, the chief of staff of the Commission, came before our committee, he said they had changed their mind a bit on putting the Joint Military Intelligence Program into the Department of Defense budget control because of the Commissioners' concern that the national intelligence assets—the National Security Agency, Geospatial Agency, and Reconnaissance—all have a single budgetary accountability, in this case to the national intelligence budget. I believe in the long run that is the way it ought to go.

I must say in my own mind, perhaps simplistically, I always believed that what we wanted to do was to say that the national intelligence director should have control over the national intelligence budget; that the Secretary of Defense should have clear control over TIARA, the tactical intelligence budget; and that the Joint Military Intelligence Program was somewhere in between. We had to find a rational way to decide where authority went.

I think in some sense what we are saying in this legislation is we are not quite ready to make those decisions. So this amendment that we agreed to essentially freezes the status quo with regard to the JMIP and the particular programs that we discussed in the Defense Intelligence Agency, subjects them to review, consideration of all of the factors—effectiveness, budgetary authority, all the rest, military effectiveness—and then has a decision made ultimately by the Office of Management and Budget on recommendation from the national intelligence director.

It is a very strong, balanced, reasonable conclusion which does no damage to the basic purpose of this legislation and provides for, ultimately, a rational allocation of budget authority in the shared interest of our national security, which is, after all, what this is all about.

So this is really what legislating is supposed to be about. I thank my colleagues for all the work they and our staffs have done, and I move adoption of the modified amendment.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, the yeas and nays had been ordered. I ask unanimous consent that the order for the yeas and nays on this amendment be vitiated and that we have a voice vote.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 3875), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I want to thank our colleagues and managers of the bill and, as always, thank Senator WARNER. The managers have worked so well with us, and I want to thank them for that, and also thank them for the way they worked with each other.

AMENDMENT NO. 3810, WITHDRAWN

Mr. LEVIN. I ask unanimous consent that amendment No. 3810 now be withdrawn since that was covered in the amendment which was just adopted.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

AMENDMENT NO. 3827, AS MODIFIED

Mr. STEVENS. I call up amendment No. 3827, and I send to the desk a modified version of that amendment.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

Mr. STEVENS. I think it is already before the Senate.

The PRESIDING OFFICER. The amendment has now been modified.

The amendment (No. 3827), as modified, is as follows:

(Purpose: To strike section 206, relating to information sharing)

On page 126, strike lines 23 through 25.

On page 127, line 1, strike “(2)” and insert “(1)”.

On page 127, line 4, strike “(3)” and insert “(2)”.

On page 128, strike lines 1 through 3 and insert the following:

(3) ENVIRONMENT.—The term “Environment” means the Information Sharing Environment as described under subsection (c).

On page 130, strike line 10 and insert the following:

(c) INFORMATION SHARING ENVIRONMENT.—

On page 130, line 20, strike “Network” and insert “Environment”.

On page 133, lines 5 and 6, delete “Director of the Office of Management and Budget” and insert “principal officer as designated in subsection 206(g)”.

On page 133, line 10, strike “Network” and insert “Environment”.

On page 134, line 2, strike “Network” and insert “Environment”.

On page 134, line 22, strike “Network” and insert “Environment”.

On page 135, beginning on line 16, strike “the Director of Management and Budget shall submit to the President and” and insert “the President shall submit”.

On page 135 strike lines 19 through 22 and insert “Environment. The enterprise architecture and implementation plan shall be prepared by the principal officer in consultation with the Executive Council and shall include—”.

On page 135, line 24, strike “Network” and insert “Environment”.

On page 136, line 3, strike “Network” and insert “Environment”.

On page 136, line 5, strike “Network” and insert “Environment”.

On page 136, line 7, strike “Network” and insert “Environment”.

On page 137, beginning on line 4, strike “Network” and insert “Environment”.

On page 137, line 8, strike “Network” and insert “Environment”.

On page 137, line 11, strike “Network” and insert “Environment”.

On page 137, line 14, strike “Network” and insert “Environment”.

On page 137, line 16, strike “Network;” and insert “Environment; and”.

On page 137, line 18, strike “Network” and insert “Environment”.

On page 137, line 21, strike “that the Director of Management and Budget determines” and insert “determined” and insert a period.

On page 138, strike lines 1 through 3 and insert the following:

(g) RESPONSIBILITIES OF EXECUTIVE COUNCIL FOR INFORMATION SHARING ENVIRONMENT.—

On page 138, beginning on line 4, insert “(1) Not later than 120 days after the date of enactment, with notification to Congress, the President shall designate an individual as the principal officer responsible for information sharing across the Federal government. That individual shall have and exercise governmentwide authority and have management expertise in enterprise architecture, information sharing, and interoperability.”

On page 138, beginning on line 6, strike “The Director of Management and Budget” and insert “The principal officer designated under this subsection”.

On page 138, beginning on line 9, strike “Network” and insert “Environment”.

On page 138, line 14, strike “Network” and insert “Environment”.

On page 138, line 17, strike “Network” and insert “Environment”.

On page 138, line 21, strike “to the President and”.

On page 139, line 5, strike “Network” and insert “Environment”.

On page 140, strike lines 5 through 17.

On page 140, strike lines 18 and 19 and insert the following:

(h) ESTABLISHMENT OF EXECUTIVE COUNCIL.—

On page 140, strike line 20 through line 24 and insert “There is established an Executive Council on information sharing that shall assist the principal officer as designated under subsection 206(g) in the execution of the duties under this Act concerning information sharing.”.

On page 141, line 1, insert “The Executive Council shall be chaired by the principal officer as designated in subsection 206(g).”

On page 141, beginning on line 4, strike “, who shall serve as the Chairman of the Executive Council”.

On page 142, beginning on line 2, strike “assist the Director of Management and Budget in—” and insert “assist the President in—”.

On page 142, beginning on line 4, strike “Network” and insert “Environment”.

On page 142, line 8, strike “Network” and insert “Environment”.

On page 142, line 11, strike “Network” and insert “Environment”.

On page 142, line 12, strike “Network” and insert “Environment”.

On page 142, beginning on line 15, strike “Network;” and insert “Environment; and”.

On page 142, strike lines 22 through 24, and insert “(F) considering input provided by persons from outside the federal government with significant experience and expertise in policy, technical, and operational matters, including issues of security, privacy, or civil liberties.

On page 143, beginning on line 7, strike “the Director of Management and Budget, in the capacity as Chair of the Executive Council,” and insert “the principal officer as designated in section 206(g)”.

On page 144, strike line 3 and all that follows through page 145, line 10.

On page 145 line 11, strike “(j)” and insert “(i)”.

On page 145, beginning on line 14, strike “through the Director of Management and Budget” and insert “principal officer as designated in section 206(g)”.

On page 145, line 16, strike “Network” and insert “Environment”.

On page 145, line 21, strike “Network” and insert “Environment”.

On page 145, line 22, strike “Network” and insert “Environment”.

On page 146, line 4, strike “Network” and insert “Environment”.

On page 146, line 7, strike “Network” and insert “Environment”.

On page 146, line 9, strike “Network” and insert “Environment”.

On page 146, line 13, strike “Network” and insert “Environment”.

On page 147, line 2, strike “Network” and insert “Environment”.

On page 147, line 6, strike “Network” and insert “Environment”.

On page 147, line 8, strike “Network” and insert “Environment”.

On page 147, line 11, strike “Network” and insert “Environment”.

On page 147, line 17, strike “Network” and insert “Environment”.

On page 147, line 22, strike “Network” and insert “Environment”.

On page 148, line 6, strike “Network” and insert “Environment”.

On page 148, line 8, strike “Network” and insert “Environment”.

On page 148, line 16, strike “Network” and insert “Environment”.

On page 148, line 17, strike “(k)” and insert “(j)”.

On page 148, line 20, strike “Network” and insert “Environment”.

On page 148, line 24, strike “Network” and insert “Environment”.

On page 149, line 3, strike “Network” and insert “Environment”.

On page 149, line 5, strike “Network” and insert “Environment”.

On page 149, line 10, strike “(l)” and insert “(k)”.

On page 149, line 13, strike “Network” and insert “Environment”.

On page 149, line 14, strike “Network” and insert “Environment”.

On page 149, beginning on line 14, strike “the Director of Management and Budget” and insert “the principal officer as designated in section 206(g)”.

On page 149, line 19, strike “Network” and insert “Environment”.

On page 150, line 2, strike “Network” and insert “Environment”.

On page 150, line 9, strike “Network” and insert “Environment”.

On page 150, line 13, strike “Network” and insert “Environment”.

On page 150, line 16, strike “Network” and insert “Environment”.

On page 150, line 18, strike “(m)” and insert “(l)”.

On page 150, beginning on line 23, strike “Network” and insert “Environment”.

On page 151, line 2, strike “Network” and insert “Environment”.

On page 151, line 3, strike “Network” and insert “Environment”.

On page 152, line 7, strike “Network” and insert “Environment”.

On page 152, line 11, strike “Network” and insert “Environment”.

On page 152, line 19, strike “(n)” and insert “(m)”.

On page 152, beginning on line 21, strike “to the Director of Management and Budget”.

On page 153, line 1, strike “Network” and insert “Environment”.

Mr. STEVENS. Mr. President, I again thank the managers of the bill, Senator COLLINS and Senator LIEBERMAN and their staffs, for working with us on this amendment. That amendment has now been modified, and I think it meets the objections or the reservations that were set forth by the administration Statement of Position, the so-called SAP, that we received on this bill.

It has been modified to make certain that the President will have the authority to designate an entity. We all agree, we hope, that he will not delegate this matter to the national intelligence director. I think it is a function that is essential to carry out the purposes of this bill. Therefore, I am offering the modified amendment.

I ask unanimous consent that the amendment, as modified, be considered and adopted, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered. The amendment is agreed to.

The amendment (No. 3827), as modified, was agreed to.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3839, WITHDRAWN

Mr. STEVENS. I ask unanimous consent that amendment No. 3839 be withdrawn from consideration. I am still sad about the vote that was against the position I supported with regard to disclosing the aggregated top line of intelligence. I hope before we are through with this bill that we will find some way to accommodate some of the reservations I have about that process, but in any event I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. STEVENS. Mr. President, I say to the two Senators, it is my intention now to support this bill. I congratulate them for listening to us. Sometimes I have raised my voice. One newspaper said I shouted at the distinguished Senator from Maine. That is just my trial lawyer voice, and I apologize for it.

I do thank the Senator for her courtesy and apologize if I have been mistaken in terms of the tone of my voice, but that is my voice. I cannot do much about it.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the senior Senator from Alaska for his cooperation and his many helpful suggestions for improving this bill. I have great affection and respect for the senior Senator. I very much appreciate the fact that he is going to support this bill on final passage. That means a great deal to me and will certainly assist us. I look forward to continuing to consult with him as we move through the conference process, and I will tell the senior Senator from Alaska that I am very relieved today to see that he is not wearing his "Incredible Hulk" tie but, rather, a very restrained tie from some national museum, I believe. I know that bodes well for the day ending well. Again, I thank the Senator. I very much enjoy working with him.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I am delighted that we have reached a meeting of the minds on the information-sharing part of the bill, which preserves intact the considerable reforms that are called for which will protect our national security, as advanced by Senator DURBIN, but also quite appropriately embrace the concerns that Senator STEVENS and the administration had as to who would be in charge of this transformation.

Second, I grew up in a family where if you were not passionate and didn't raise your voice about things that mattered to you, it was thought that something was wrong. I also want to make clear that when you raised your voice the other day, I did not think you were only shouting at the Senator from Maine, I thought that I was also included as a recipient.

Look, it reminds me of the old Teddy Roosevelt line about being in the arena, not standing on the side reading a newspaper but getting into the arena and fighting with all your heart for what you believe in. I admire the Senator greatly for doing that. I would much rather have him on my side rather than against me, and that is why I am particularly thrilled to hear the announcement of the Senator from Alaska that he will support this measure as amended.

I thank him and I yield the floor.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I have spoken just now with the two managers of the bill. There is not going to be a vote in the immediate future. As the record indicates, this legislation has to be completed by 4:30, so final passage certainly will take place at 4:30. There may be an amendment or two before that time, but there is nothing right now. If people are on their way over, they should turn around and go back. There probably won't be anything, probably within the next hour.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, of all the testimony presented to the Committee on Governmental Affairs during our eight hearings on the recommendations of the 9/11 Commission perhaps none was more powerful than that of Mary Fetchet. Her son, Brad, died in the World Trade Center on September 11. Here are a few of her words.

She said:

> When American lives are at stake, indifference or inertia is unacceptable. When critical reforms are implemented to make our country safer, I will know that neither Brad's life nor the lives of nearly 3,000 others who perished on September 11 were lost in vain.

Throughout this debate it has been the families of the victims of 9/11 who have reminded us of why we are here and why these reforms are so important.

In passing the National Intelligence Reform Act of 2004—as I believe we will later this afternoon—the Senate will reject indifference and inertia. We will endure critical reforms to make our country safer. We will declare that the lives lost to terrorism were not lost in vain. The action we take in their memory will benefit people of good will in this country and throughout the world today and for many years to come.

This legislation will make the most sweeping changes in our intelligence structures in more than 50 years. It is the result of enormous effort. The issues are complex and many. The timetable was tight, but the stakes were so high and the times so dangerous that we simply could not delay this urgent task. Now we are on the threshold of getting the job done and getting it done right.

I am deeply grateful to my good friend Senator LIEBERMAN. This legislation would not have been possible without his tireless effort and his bipartisan spirit. From the moment we were first assigned the task of developing this legislation on July 22nd, our fellow members of the Governmental Affairs Committee dug in with energy and intellect. I am grateful to the Presiding Officer as one of the committee members for his contributions. It was an August recess we will never forget.

We are very grateful to the leaders of the Senate. Senator FRIST and Senator DASCHLE had the confidence in our committee that they felt they could charge us with this enormous and critical undertaking.

Our whips, Senator REID and Senator MCCONNELL, have also been very helpful. Senator REID has been a constant presence in the Chamber throughout this debate.

We could not have accomplished all that we did without our dedicated staff, led by Michael Bopp and Joyce Rechtschaffen. We have worked so closely with them. We have worked arm in arm. They have literally worked day and night to produce this bill. I am so proud of their extraordinary efforts.

Our staffs were supplemented by hard-working detailees from the CIA, the DIA, and other agencies, as well as by members of the Commission staff who, rather than going back to their previous jobs and lives, worked with us on the committee to help give the benefit of their expertise. Without the efforts of all these staff members we never could have gotten the job done. I am very grateful to all of them.

This legislation, however, is not merely the result of months of extraordinary effort by our committee or of the expert and insightful testimony we heard from more than two dozen witnesses at eight hearings. Rather, it builds upon a rock-solid foundation laid by the 9/11 Commission and the investigation that it conducted over 20 months, including 19 days of hearings with 160 witnesses. I thank all Commission members for all of their extraordinary effort.

The need for reform in our intelligence system was not, however, suddenly revealed in hearings spurred by one catastrophic failure 3 years ago. The failures that led to that day are numerous and reach back many years. They were overlooked in terrorist attack after terrorist attack for more than a decade. The call for reform was made in studies, commission reports, and legislation going back half a century. It is a call we can no longer ignore.

Our committee was guided by clear principles. An intelligence community designed for the Cold War must be transformed into one designed to win the war against global terrorism and future national security threats. The new structure must build upon the strengths of the old and recognize the considerable improvements made since September 11.

The unique experience, expertise, and viewpoints of the 15 agencies that comprise our intelligence community are assets that must be preserved. The barriers to information sharing, cooperation, and coordination within the community, what the 9/11 Commission calls stovepipes, must be demolished. In their place must come a structure with the agility the times and the threats demand—not another layer of bureaucracy.

We were determined, in crafting this new structure, that we not infringe upon the freedoms that define us as Americans. The legislation that came out of our committee by a unanimous vote adhered to these important principles and it has been strengthened by the vigorous debate we have had in the Senate during the past week. The debate has not merely been vigorous but also highly informed. Throughout these proceedings, it has been clear the commitment that drove our committee to act is shared by the full Senate. From the authorities of the national intelligence director to the structure of our transformed intelligence community to the protection of civil liberties, many critical issues have been raised, debated, and resolved. I particularly thank the members of the Committee on Armed Services, the Select Committee on Intelligence, and the Appropriations Committee, particularly their chairs and ranking members. Their knowledge and their input have been invaluable.

Many important issues have been raised and will be resolved as this transformation continues. One of the most remarkable aspects of this debate has been the widespread recognition that intelligence reform is not a single act but an ongoing process.

The fundamental obligation of government is to protect its citizens and those protections must evolve to meet new threats. This legislation brings about much-needed reforms and it creates an environment in which this ongoing process can continue.

I began these remarks with a quote from a mother who has suffered the worst loss any parent can endure. She turned her loss into positive advocacy. It is Senator BYRD, however, who inspires me to end these remarks with a quote from the Constitution.

> To form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defense, promote the general welfare, and secure the blessings of liberty to ourselves and our Posterity . . .

The opening lines of our Constitution provide, in some ways, a job description of America's Government that is a miracle of clarity as well as an awesome challenge. Rarely does one piece of legislation encompass all of its elements or do we have the opportunity to do so in a way that clearly demonstrates the spirit that animates it. This is one of those rare times. Let us do what the times demand. Let us act to approve this legislation this afternoon and by doing so make our country safer.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Has the Senator from Maine completed her statement?

Ms. COLLINS. Yes.

AMENDMENT NO. 3915, AS MODIFIED

Mr. LEAHY. Mr. President, after 9/11, there was broad agreement that the absence of an accurate, reliable, and comprehensive terrorist watch list was a serious deficiency. Unfortunately, 3 years later, we still have not accomplished this important task.

My amendment, which has been modified to reach an agreement with Senators COLLINS and LIEBERMAN, addresses this deficiency. It requires a report to Congress on the watch list, specifically on the standards in place to ensure we have a list that is reliable and accurate, and that we have procedures for determining threat levels and the consequences to listed individuals. It also mandates a process for individuals erroneously listed on the "Automatic Selectee" and "No-Fly" lists to have their names removed. Finally, it would require an assessment of the privacy and civil liberty implications of using these lists. It is critical that we have a complete, accurate and consolidated watch list, but we also need to be mindful of our liberties in the process.

We know that one of the most senior and respected Members of this Senate who for decades has taken the same flight was told he could not board because he was, apparently, on some kind of terrorist list. They said: Of course, it is an obvious error, and we will get it cleared up. But repeatedly when he tried to get on the same plane, he was continually stopped.

Now, as a Member of the Senate, after six or seven times of this happening, and after calls from the White House, the head of Homeland Security and others, the problem was finally corrected. Can you imagine what it is like if you are Jane Smith or John Jones from a small town somewhere in this country, but you have to travel on business and your name is there, and you lose important clients, you lose important business, or you are unable to get home to visit a friend or a family member, and you probably cannot pick up the phone and call the White House and say, "Look, this is the sixth or seventh time I have been mistakenly barred from traveling. Please fix it"?

Now, there are other concerns I would like to have addressed, but this modified version reflects the agreement with Senators COLLINS and LIEBERMAN.

Mr. President, I believe the modified amendment is at the desk, and I ask unanimous consent it be in order to call up my amendment No. 3915 and that it be so modified.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, (No. 3915) as modified, is as follows:

At the appropriate place, insert the following:

SEC.   . TERRORIST WATCH LISTS

(a) CRITERIA FOR WATCH LIST. The National Intelligence Director of the United States, in consultation with the Secretary of Homeland Security, the Secretary of State, and the Attorney General, shall report to Congress on the criteria for placing individuals on the Terrorist Screening Center consolidated screening watch list, including minimum standards for reliability and accuracy of identifying information, the degree of information certainty and the range of threat levels that the individual poses, and the range of applicable consequences that apply to the person if located. To the greatest extent consistent with the protection of law enforcement sensitive information, classified information, and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(b) SAFEGUARDS AGAINST ERRONEOUS LISTINGS.—The Secretary of Homeland Security shall establish a process for individuals to challenge "Automatic Selectee" or "No Fly" designations on the applicable lists as maintained by the Transportation Security Administration and have their names removed from such lists, if erroneously present.

(c) REPORT.—Not later than 180 days after the date of enactment of this Act, the Department of Homeland Security Privacy Officer shall submit a report assessing the impact of the "No Fly" and "Automatic Selectee" lists on privacy and civil liberties to the Committee on the Judiciary, the Committee on Governmental Affairs, and the Committee on Commerce, Science and Transportation of the Senate, and the Committee on the Judiciary, the Committee on Government Reform, the Committee on Transportation and Infrastructure, and the Select Committee on Homeland Security of the House of Representatives. The report shall include any recommendations for practices, procedures, regulations, or legislation to eliminate or minimize adverse effects of such lists on privacy, discrimination, due process and other civil liberties, as well as the implications of applying those lists to other modes of transportation. In its analysis, the report shall also consider the effect these recommendations would have on the ability of such lists to protect the United States against terrorist attacks. To the greatest extent consistent with the protection of law enforcement sensitive information, classified information, and applicable law, the report shall be in unclassified form and available to the public, with a classified annex where necessary.

(d) EFFECTIVE DATE.—Notwithstanding section 341 or any other provision of this Act, this section shall become effective on the date of enactment of this Act.

Mr. LEAHY. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank Senator LEAHY for working with Senator LIEBERMAN and me on his amendment. It requires two reports related to watch lists: one on the criteria for listing a name on the Terrorist Screening Center's consolidated watch list, and another on the effect of the "automatic selectee" and "no-fly" lists on privacy and civil liberties.

We worked with him to incorporate some modifications that make the amendment acceptable to the two managers and incorporate some recommendations from the administration.

I am well aware of some of the problems with the watch list. A constituent of mine from Camden, ME, a retired physician, has the misfortune to have a name that is identical to a name that is on the watch list. Every time he flies, he encounters great difficulties. I believe the Senator's amendment will help to address that.

It is important to ensure we are safe and that those who want to do us harm do not have access to aircraft. But at the same time we want to make sure that law-abiding travelers are not impeded from conducting their travels simply because they have the misfortune to share a name with someone on the watch list.

The process required by the Senator, I think, will be helpful. I urge adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment, as modified.

The amendment (No. 3915), as modified, was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Vermont.

Mr. LEAHY. Mr. President, first, I thank the distinguished chair of the committee for her cooperation and help, and also commend her and her distinguished ranking member for moving this far along.

AMENDMENT NO. 3916, AS MODIFIED

Mr. President, a major weakness uncovered after 9/11 was the failure of Government agencies to share information with one another. The 9/11 Commission recommended a governmentwide information system to ensure that we connect the dots. The Commission also recommended that the "[p]rotection of privacy rights should be one key element" of implementing the system. Given the sweeping powers that Congress is about to grant for building an information sharing system, we have to protect the privacy and civil liberties of the American people.

After all, we fought a Revolution to guarantee our privacy. The distinguished Presiding Officer and the distinguished chair know, because they come from New England, that the Revolution was fought on our soil.

We all agree we must maximize this information, but we must also maximize the protection of personal information. And we need assurances that private information will be protected before we build the system, not after. We certainly do not want to repeat what happened with CAPPS II, when $100 million of taxpayer money was spent on deploying a system that then subsequently collapsed because we failed to adequately account for civil liberties and privacy concerns.

My amendment, which has been modified to reach an agreement with Senators COLLINS and LIEBERMAN, would require that we take advantage of available privacy-enhancing technology that would prevent unauthorized dissemination of information. It also requires the Administration to fulfill its obligations to report to Congress on plans for the network before spending funds to build it. This oversight is critical to ensuring the network maximizes security while balancing civil liberties and privacy.

Senators COLLINS and LIEBERMAN have agreed to accept this important amendment.

Mr. President, I ask unanimous consent that it be in order to call up amendment No. 3916, and that it be modified.

The PRESIDING OFFICER. The amendment is pending.

Without objection, the amendment is so modified.

The amendment, No. 3916, as modified, is as follows:

On page 132, line 23, strike "and".

On page 133, line 3, strike the period and insert "; and".

On page 133, between lines 3 and 4, insert the following:

(L) utilizing privacy-enhancing technologies that minimize the inappropriate dissemination and disclosure of personally identifiable information.

On page 153, between lines 2 and 3, insert the following:

(o) LIMITATION ON FUNDS.—Notwithstanding any other provision of this section, none of the funds provided pursuant to subsection (n) may be obligated for deployment or implementation of the Network unless the guidelines and requirements under subsection (e) are submitted to Congress.

Mr. LEAHY. Mr. President, I understand there is no objection to this amendment from the managers of the bill.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, again, I thank Senator LEAHY for modifying his amendment to address concerns that the manager raised. I have no objection to the modified amendment, and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The amendment (No. 3916), as modified, was agreed to.

Mr. LEAHY. I move to reconsider the vote.

Ms. COLLINS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 3913 WITHDRAWN

Mr. LEAHY. Mr. President, I have an amendment No. 3913, which I will soon withdraw. It is on the subpoena powers of the civil liberties board created in this bill.

We have worked hard to strengthen the powers of the board both at the committee level and then here on the floor, and I believe we have made great progress. We added teeth to this oversight body and fought against efforts to weaken it.

I think the goal of this amendment, which is to give the board enforcement power for its subpoena authority, is an important one. However, in order to expedite the passage of this bill, I will withdraw the amendment now. I look forward to working with my colleagues on this important issue next year. But I also understand the need to expedite the passage of this bill. There may be another time to bring this up. I will withdraw the amendment now, though I look forward to working with my colleagues on the issue next year.

I withdraw the amendment.

The PRESIDING OFFICER. Without objection, the amendment is withdrawn.

Mr. LEAHY. I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I thank the Senator from Vermont for his cooperation on that last issue. As I have explained to my colleagues, the bill strikes a very delicate balance on the civil liberties board's power, and there were amendments to strengthen it as well as amendments to weaken it. I appreciate my colleagues' cooperation on both sides of the aisle. I am sure there will be more discussion of this issue as we go along.

I thank the Senator from Vermont and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CONSOLIDATION OF AMENDMENTS

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that it be in order for previously agreed upon amendments, which I will list, to be consolidated into one title under the heading: "9/11 Commission Report Implementation Act," with a short title section (a), short title: This act may be cited as the "9/11 Commission Report Implementation Act of 2004."

The amendments should be included in this order: No. 3942, No. 3807, No. 3702, No. 3774, No. 3705, No. 3766, No. 3806.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. LIEBERMAN. Mr. President, I yield the floor and suggest the absence of a quorum.

The legislative clerk proceeded to call the roll.

Ms. STABENOW. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. Mr. President, I ask unanimous consent that I be permitted to speak for up to 30 minutes and have that time allotted against my 1 hour postcloture.

The PRESIDING OFFICER. Is there objection? The Senator from Maine.

Ms. COLLINS. Mr. President, reserving the right to object, will the Senator from Michigan inform me whether her statement is going to be germane to the bill as is required in the postcloture situation?

Ms. STABENOW. Mr. President, I will ask to speak as in morning business using this time.

The PRESIDING OFFICER. Is there objection?

Ms. COLLINS. Mr. President, I will not object because I am aware that the Senator could speak for up to an hour under the cloture rules, although I remind the Senator that she could not speak on the subject about which she appears to be ready to speak. But in the interest of moving forward, and since there have been others today who have also spoken as in morning business, I will not object. I do think it is unfortunate, however.

(The remarks of Mrs. STABENOW are printed in today's RECORD under "Morning Business.")

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. Mr. President, I rise today to commend my colleagues on the adoption of amendment No. 3765 to S. 2845, the National Intelligence Reform Act of 2004, which will create an Office of Geospatial Management within the Department of Homeland Security, DHS.

This amendment originated as a stand alone bill, S. 1230, which was introduced by Senator ALLARD and amended by Senators COLLINS, LIEBERMAN, and myself in a Governmental Affairs Committee business meeting. I thank Senator ALLARD, who shares my interest in geospatial information sharing, for offering this amendment, as well as Senators COLLINS and LIEBERMAN for their continued support on this issue.

Much of the discussion that has grown from the 9/11 Commission report has centered around the institutional stovepipes that impede information sharing within the Government, which is why this amendment is so important. While the term "geospatial" is foreign to many, the tools it describes are relied upon by all. The 9/11 Commission recommended that the President "lead a government-wide effort to bring major national security institutions into the information revolution." Geospatial coordination is a critical component of that effort.

Geospatial technologies, such as satellite imagery and aerial photography, provide data that create the maps and charts that can help prevent a disaster from occurring or lessen the impact of an unforeseeable event by equipping first responders with up-to-date information. In the event of a terrorist chemical attack, knowing which way a contaminated plume will travel can save lives. Similarly, the damage of a natural disaster, such as a wildfire, can be lessened by maps that help predict which areas will be in the path of the blaze.

All levels of government are more effective and efficient when employing geospatial technology, especially in the area of homeland security. According to DHS, geospatial information is used for intelligence, law enforcement, first response, disaster recovery, and agency management—virtually every function of the Department.

When the Department was created in 2003, it brought together components from 22 separate agencies, each of which managed its geospatial needs independently. In the past year, the Department has encountered significant difficulties integrating personnel, financial systems, and computer systems from the legacy agencies. Geospatial information has been no different.

A September 2004 Government Accountability Office, GAO, report entitled "Maritime Security: Better Planning Needed to Help Ensure Effective Port Security Assessment Program," found that the development of a geographic information system, GIS—GIS is often used as a synonym for geospatial to map the Nation's most strategic ports would greatly benefit the Coast Guard as it implements the Port Security Assessment Program. A GIS would integrate all security information pertaining to one port into a single database so that it is easily accessible and can be frequently updated. In addition, it would give the Coast Guard the ability to visually map a port so that it can quickly identify the location and surrounding environment of an at-risk container before deploying a response team, for example.

However, GAO also found that:

> The Coast Guard lacks a strategy that clearly defines how the (GIS) program will be managed, how much it will cost, or what activities will continue over the long term.

The legacy agencies that make up DHS had traditionally managed their own geospatial procurement. But many of the homeland and non-homeland security missions of DHS complement each other. Sharing maps and data reduces redundancy, provides savings, and ensures better information for disaster response.

Currently, the DHS Chief Information Officer, CIO, is working to break down this geospatial stovepiping within the Department by naming a Geospatial Information Officer. However, there is no single office in DHS officially responsible for geospatial management and, therefore, no corresponding budget. In the present structure, the Geospatial Information Officer does not have the authority to compel the five DHS directorates to cooperate with his efforts. The entire agency should make geospatial coordination a priority.

A geospatial management office needs to be created and codified within DHS. A congressionally mandated office would give the Geospatial Information Officer more authority with which to do this job.

The Office of Geospatial Management has the potential to significantly increase the quality of the resources homeland security officials rely on by reducing redundancy and improving the quality of geospatial procurement. But in order to do this it needs authority and funding.

This office would also serve as a mechanism for coordinating with State and local authorities. Much of the geospatial information available today is created at the State and local levels. Centralizing this information will make it more widely available to first responders and other homeland security officials.

In order to facilitate this process, it is also important that local governments initiate their own coordination efforts. In June 2003, the city of Honolulu conducted a pilot program to foster geospatial coordination and collaboration among public and private stakeholders in critical infrastructure protection. Representatives from local and State government, utility companies, and other private organizations came together to identify potential impediments to geospatial information sharing in Honolulu and to develop a plan to circumvent those impediments. I commend the government of the City and County of Honolulu for hosting such an exemplary event. This sort of commitment at a local level is crucial to breaking down the geospatial stovepipes that exist at all levels of government. I hope other cities will follow suit.

This amendment will help DHS to better coordinate its activities, and will ultimately make our Nation safer and prevent duplicative spending. I appreciate my colleagues' endorsement of this important issue, and urge that this language be maintained in the final version of the intelligence reorganization bill that is sent to the President.

Mrs. MURRAY. Mr. President, I strongly support the intelligence reform bill now before the Senate, and I will vote for it.

The 9/11 Commission worked incredibly hard in a bipartisan manner to identify how to better protect our country from terrorism. They have given us a roadmap to protect our people, and we should move forward with it promptly.

In their report, the commissioners said we need clear direction for our country's intelligence community. They stressed better coordination as a key area where we can make the greatest difference. The bill on the floor does that, it has bipartisan support, and we should move it forward.

As a member of both the Homeland Security Appropriations Subcommittee and the Senate's 9/11 Working Group, I have looked closely at these challenges. And over the past few years, I have worked closely with the Department of Homeland Security, including the Coast Guard, FBI, TSA, Border Patrol, as well as the National Guard and local law enforcement throughout Washington State. Through our work together, I have learned first hand the difficulties they face every day in defending our country.

I especially want to commend the September 11 families who bravely stood up and spoke out. They forced our government to fully examine the terrorist attacks and to find ways to make our people safer. Their brave advocacy has made a difference.

Mr. President, this is an important step toward achieving a truly integrated national effort in the global war on terror. I am proud to support it.

Mr. KOHL. Mr. President, I rise today in support of S.2845, the National Intelligence Reform Act of 2004. The bill before us today is the result of tireless work by the Government Affairs Committee and its able chair and ranking member. It also reflects intensive consideration by other committees with jurisdiction over issues addressed in the bill, including the Judiciary and Appropriations Committees of which I am a member. The bill makes some important changes in the way our intelligence community is managed. It is a bipartisan bill which strikes a balance between ensuring that we have a strong national intelligence director, on the one hand, and that we meet the intelligence needs of the agencies which house our intelligence collection systems, on the other.

The 9/11 Commission threw down the gauntlet when it released its final report, calling on Congress and the President to enact meaningful reforms that will help prevent future catastrophic terrorist acts. In painstaking detail, the commission made clear how the attacks of September 11, 2001, took place and how our government struggled to respond. They then made 41 distinct recommendations across a wide range of policy areas creating a framework for our efforts. We have a responsibility to enact as many of these recommendations as feasible. With the threat of terrorism still high, we must have the best intelligence at our fingertips, a robust law enforcement effort, and an effective homeland defense if we are to foil future catastrophic terror attacks.

S. 2845 is an important first step. I believe the reforms in this bill fully implement the commission's recommendations on the need for a more unified intelligence effort. They address the lack of intelligence sharing among the 15 agencies which make up our intelligence community. Recognizing the limitations of the Director of Central Intelligence, who technically has the authority to manage all our intelligence resources, the bill centralizes the management and coordination of intelligence agencies by creating a national intelligence director or NID who has strong budgetary and personnel powers. The NID will also have the authority to create uniform classification standards and to set collection priorities. Yet the bill leaves the intelligence resources of each agency within their existing organizations so those agencies can effectively and efficiently meet their intelligence collection needs, so military operations and readiness are not compromised, and so we can maintain the diversity of views critical to sound intelligence analysis.

Beyond a more unified approach to intelligence collection and analysis, the Commission called for a more integrated response to our enemies. As the Commission noted, our bulky national security institutions are still structured to respond to the Cold War. In retrospect, it is no surprise that they were unable to respond to a non-state terrorist network. By unifying the intelligence resources dispersed across the government, we are striving to create a more nimble intelligence apparatus that can lead our response to these non-traditional threats. To that end, this bill enacts the Commission's recommendation to establish a civilian-led joint command for counterterrorism—a National counterterrorism Center—to act on joint intelligence by integrating civilian and military counterterrorism efforts across the government and to serve as the President's principal advisor on joint operations. The NCTC will help address many of the operational shortcomings identified in the 9/11 Commission report.

Intelligence reform is an important bulwark in the war on terror but it is not our only line of defense. Even if the intelligence reforms in this bill were in place before 9/11, they would not guarantee that the events of that fateful day could have been averted. That is why I supported the McCain transportation security and the Hutchison cargo security amendments. These amendments direct TSA to produce a national transportation strategy, to implement a system for comparing names of air passengers against the consolidated terrorist watch lists, to screen all air passengers and their carry-on bags for explosives, and to set up a system to screen air cargo. And I am pleased that we have accepted amendments that address the role of diplomacy, foreign aid, and the military in the war on terrorism. The 9/11 Commission recommendations in these areas have not received nearly as much attention as the recommendations relating to intelligence reform. I hope that we address these recommendations more fully in the next Congress. We must act broadly and on many fronts to put an end to the threat posed by al-Qaida and those who subscribe to its ideology.

As we work to bolster our national preparedness in areas of border security and emergency preparedness, we must balance the privacy and civil liberties of individuals against our national security requirements. While some have suggested otherwise, these principles are not mutually exclusive, and I strongly believe that we can preserve both. S.2485 recognizes the importance of individual rights by creating a Privacy and Civil Liberties Oversight Board. By providing the Civil Liberties Board with appropriate authority, the legislation ensures that its members will have access to the information they need to provide informed advice to the Executive Branch, Congress, and the American public as to how we can best protect privacy without compromising security.

As we complete action on this bill, we are reminded of the deep sense of urgency that pervades our work. I appreciate that there are some in this body who wish we had taken a slower approach. Last month, the Senate Appropriations Committee held hearings on the 9/11 Commission recommendations with a particular focus on intelligence reform. Witnesses, including Dr. Henry Kissinger, raised concerns, some of which have been addressed in amendments. The general sentiment of those hearings, however, was that we should approach intelligence reform much more gingerly. Unfortunately, we do not have the luxury of time. Many of the reforms we enact today are based on recommendations that were made by previous commissions. These are not new ideas that require more study. The 9/11 Commission did us a tremendous service by creating a framework for action and by galvanizing the political will to enact these needed reforms.

Finally, Mr. President, I want to hail the bipartisan spirit in which this bill was crafted. For too long, Congress has ignored the views of the minority at its peril. We have budget resolutions that represent the priorities of just one party and conference committees that do the same. It is impossible to address the problems of the day unless we put our differences aside to work on real solutions that have broad support. This intelligence reform bill is an important reminder of how much more we could accomplish if we would just work together. I want to urge my colleagues who will serve on the conference committee to maintain the bipartisan spirit in which this bill has been considered in the Senate. When the final version of this bill comes before the Senate, it should not go beyond the recommendations of the 9/11 Commission in its scope, and it should not include partisan provisions that jeopardize passing meaningful reform in this Congress.

Mr. KYL. Mr. President, I rise today to discuss this body's efforts to reform the U.S. intelligence community.

My distinguished colleagues from Maine and Connecticut have worked hard to develop legislation to address some of the executive branch structural reforms recommended by the 9/11 Commission. To be sure, there is a need to change, the way we do business if we are to effectively battle terrorist organizations, like al-Qaida, and protect the American people from another devastating terrorist attack. But I believe that many provisions of the bill before us are tackling the problem from the wrong angle.

I think it is important that we move forward with deliberate speed. Past efforts, like the Goldwater-Nichols Act of 1986, should set an example. That overhaul of the Defense Department took several years from start to finish. It was a huge undertaking, as is our current effort to reform the intelligence community. The 9/11 Commission did a good job of cataloguing and critiquing the failures of 9/11—I believe it spent some 18 months on that effort. But it spent far less time developing the recommendations to solve the problems. We are now acting on those recommendations over a period of less than 2 weeks on the Senate floor. It is important to ask whether, in the middle of a war, it is wise to attempt such a fundamental reorganization with a deadline of October 8 for Senate consideration, a conference and then adoption of a conference report.

Nevertheless, I will support moving this legislation forward, as the President has strongly urged us to do, so that we may try to resolve outstanding issues in the Senate-House conference committee. As Congress prepares its final intelligence reform bill to be sent to the President, we must be especially careful to do no harm. I will continue to press the issues about which I am concerned during the conference.

Today I plan to discuss: No. 1, how the 9/11 Commission recommendations fail to thoroughly address the problems it identified; No. 2, deficiencies in the Governmental Affairs Committee proposal; and No. 3, what I think we should be doing instead—focusing on intelligence community reform, instead of just reorganization. I will also touch very briefly on two additional areas in which I had proposed amendments: visa reform, and tools and resources for fighting terror.

Former Secretary of Defense James Schlesinger identified one of the key problems with the 9/11 Commission recommendations:

> [The Commission] has . . . proposed a substantial reorganization of the intelligence community—changes that do not logically flow from the problems that the Commission identified in its narrative.

The Commission identified four categories of failures by the U.S. Government that ultimately led to the attacks of September 11, 2001: imagination, policy, capabilities, and management. After reviewing the 9/11 Commission's narrative of these failures and studying its 41 recommendations to prevent future such failures, I am hard pressed to see what most of the recommendations have to do with the problems identified.

I will briefly touch on each of these broad problems identified by the Commission and assess how they will be addressed by both the Commission and later the Senate's legislation.

First, lack of imagination. I agree that this problem was a significant contributor not only to the failure of intelligence community to predict the 9/11 attacks, but also the vast majority of the intelligence failures that have plagued our intelligence community over the past 20 years. A lack of imagination is simply an extension of the much broader and more pervasive cultural problems such as risk aversion, group think and a lack of competitive analysis that continue to hamper our intelligence and law enforcement agencies. I will deal with these problems in more detail later; but it is clear that none of the Commission's recommendations or this bill's provisions begin to address this culture problem; and, in fact, one recommendation could substantially increase risk aversion, a problem exacerbated by the bill's redundant provisions piling on layers of civil liberties and privacy review.

The Commission itself notes that "Imagination is not a gift usually associated with bureaucracies," and so it is ironic that Commission proposes to create an even more bureaucratic intelligence structure. Chairman Kean and Vice Chairman Hamilton contend that an empowered NID will foster competitive analysis and quash group think because that individual will draw on the perspectives of all the intelligence agencies, rather than just the CIA, as the DCI is now more likely to do.

But a convincing case can be made that the creation of national intelligence director with budgetary authority over most of the intelligence community could actually exacerbate the community's lack of imagination. Under such a centralized system, it is far more likely that agencies, like DHS's Information Analysis office, will be inclined to provide a commonly accepted view because the NID will control their budgets. As such, they will lack the protection that their previous patron—the Department of Homeland Security, in this case—provided them. Risk aversion and group think are, therefore, likely to become even more widespread problems.

The second failure identified by the Commission is one of policy. Here the report faults not the intelligence community, but political leaders, including Members of Congress, for failing to act even when there was a clear threat. Terrorists had demonstrated time and time again that they were at war with us: in 1993 at the World Trade Center; in 1995 at a U.S. military barracks in Saudi Arabia; in 1998 at the U.S. Embassies in Kenya and Tanzania; and in 2000 with the bombing of the *USS Cole*. Almost a decade of attacks resulted in little more than a single cruise missile strike that destroyed a pharmaceutical plant.

This failure of decisionmaking really calls for a fix that can't be legislated—good leadership.

The Commission makes a number of related recommendations on how to fight the war on terror, with the goal of making another attack less likely. These range from the obvious, "make a long-term commitment to Afghanistan," to the irrelevant and unwise, declassifying the overall intelligence budget. On the whole, however, most of recommendations are already being implemented in some fashion, and have been underway since shortly after the attacks. I commend to my colleagues a fact sheet prepared by the White House detailing its implementation of the majority of the 9/11 Commission's recommendation.

On a more specific level, one area where not enough work has been done is that of terrorists' travel. The Commission correctly identifies the importance of the problem arguing, "[f]or terrorists, travel documents are as important as weapons," and I am, therefore, surprised that the Commission and the committee have decided to put that issue on the backburner. I will return to this issue in more detail shortly, but it is one area where Congress can make an important contribution to U.S. security and we should not abdicate that responsibility.

The third failure is one of capabilities. It is here that the 9/11 Commission highlights numerous glaring weaknesses in how the intelligence community shared information, prepared for potential attacks and planned for U.S. responses. The Commission recommends improvements in information sharing and the parts of this legislation that seek to implement these are important.

Regardless of how we ultimately decide to organize the intelligence community, it is important that we improve and streamline information sharing. Congress has already taken some important steps toward that objective. For example, the PATRIOT Act, enacted shortly after the September 11 attacks, improved information sharing by breaking down legal barriers between intelligence and law enforcement, but it is clear we will not be able to make the PATRIOT Act provisions permanent in this bill.

Unfortunately, the 9/11 Commission overlooks the fact that solving the capabilities problem requires far more than just improving the sharing of information. The problem extends beyond what intelligence is available to an analyst at any given time. The 9/11 Commission, the Joint House-Senate Inquiry into the 9/11 attacks, and the recently completed Senate Select Committee on Intelligence investigation into pre-war intelligence on Iraq all point to far deeper deficiencies. They identify core cultural problems. Indeed, too often the right information is not collected due to, among other things, excessive risk aversion, and analysis of the information is not adequately questioned to ensure that group think has not replaced sound judgment.

The Commission focused on only one recommendation for fixing a laundry list of problems with the CIA's collection and analysis, and only one recommendation on improvements to the FBI's intelligence capabilities. On the other hand, the Commission devoted three recommendations to protecting civil liberties, though none is designed to prevent a future attack.

The last failure identified by the Commission is one of management. It is this failure that leads the Commission to recommend the creation of the National Intelligence Director. The report highlights the inability of then-DCI George Tenet to mobilize the entire intelligence community after he issued a memo stating, "We are at war" with terrorists. However, the 9/11 Commission's report states that the DCI's memo had "little overall effect on mobilizing the CIA." If even the CIA, where the Director has complete budgetary and line control, did not respond to the DCI's memo, we should not be confident that simply putting someone at the top of a new organizational chart is the panacea that some claim.

It warrants noting that the 9/11 Commission details an example, from before 9/11 and the changes that followed, where the intelligence and law enforcement communities were able to mobilize, break down stovepipes and information was shared "widely and abundantly." This example—termed the "Millennium Exception" by the Commission—focuses on the last weeks of December 1999, when the government "acted in concert to deal with terrorism." The Government's approach to this threat, demonstrate the power of strong leadership and commitment, despite what some call a disjointed intelligence organization.

Too often problems of management have less to do with organizational structure, and more to do with the managers themselves. I fear that we are rushing to implement sweeping organizational changes because it is the easy thing to do, not because it is necessarily the right thing to do. In the meantime, the hard work of changing the culture of the community seems to have been pushed to the side.

The Senate is currently considering a reorganization package that contains a number of the 9/11 Commission's 41 recommendations. Among the most significant, the bill establishes a Senate-confirmed national intelligence director with strong budget, personnel, security, and other authorities; creates a national counterterrorism center, NCTC, to integrate intelligence capabilities and develop joint counterterrorism plans; redefines the National Foreign Intelligence Program as the National Intelligence Program—which includes the national collection agencies within the Defense Department, NSA, NGA, and NRO; and contains provisions that require the establishment of an information sharing network.

The bill is called the National Intelligence Reform Act of 2004. But it does not reform the intelligence community; it reorganizes it. It does not get at the fundamental problems in the intelligence community identified by the 9/11 Commission and the other intelligence investigations and inquiries over the last several years. And, unfortunately, in at least one glaring respect, it violates the first rule of medicine and legislating in that it does do harm. Moreover, even if the reshuffling of bureaucracy can ultimately be made to work, doing so now, while our country is at war, makes it very hard to supply our strategists, planners, and warfighters the information they need, when they need it.

I have taken under careful advisement the cautious tone of many former and current officials. For example, in his testimony to the Senate Armed Services Committee on August 17, 2004, Secretary of Defense Donald Rumsfeld stated:

> In pursuit of strengthening our nation's intelligence capabilities, I would offer a cautionary note. It is important that we move with all deliberate speed; however, moving too quickly risks enormous error . . . And we are considering these important matters while waging a war.

The Center for Strategic and International Studies, CSIS, recently released a statement, signed by an experienced group of former officials, urging similar caution. The statement was endorsed by: former Senators David Boren, Bill Bradley, Gary Hart, Sam Nunn, and Warren Rudman; former Secretaries of Defense Frank Carlucci and William Cohen; former Deputy Secretary of Defense John Hamre; former Director of Central Intelligence Robert Gates; former Secretary of State and National Security Advisor Henry Kissinger; and former Secretary of State George Shultz. It said:

> Rushing in with solutions before we understand all of the problems is a recipe for failure.

In his testimony, Secretary Rumsfeld discussed in detail his concerns about how intelligence community reorganization could potentially adversely affect the Defense Department. He expressed his strong reservations about the national collection agencies—the NSA, NGA, and NRO—being removed from the Defense Department, where they are now located, and aligned under the direct leadership of the national intelligence director. He stated:

> "We wouldn't want to place new barriers or filters between the military Combatant Commanders and those agencies when they perform as combat support agencies. It would be a major step to separate these key agencies from the military Combatant Commanders, which are the major users of such capabilities.

The Defense Department worked tirelessly in the decade after the first gulf war to ensure that the speed and scope of intelligence support to military operations would be improved for future conflicts. It was General Schwartzkopf's view that the national intelligence support during Desert Storm was not adequate. Now, as we have seen from the success of our military operations in Afghanistan, Iraq, and the broader War on Terror, "gaps and seams," as Secretary Rumsfeld refers to them, have been drastically reduced.

General Myers, Chairman of the Joint Chiefs of Staff, also expressed his concerns on the subject during his testimony to the Senate Armed Services Committee, stating:

> . . . for the warfighter, from the combatant commander down to the private on patrol, timely, accurate intelligence is literally a life and death matter every day. . . . As we move forward, we cannot create any institutional barriers between intelligence agencies—and of course that would include the National Security Agency, the National Geospacial-Intelligence Agency, and the National Reconnaissance office and the rest of the warfighting team.

I am concerned that the reorganization package before the Senate places this effective system in jeopardy.

In S. 2485, the NSA, NGA, and NRO remain within DOD; but this is somewhat deceiving. These national collection agencies will also be within the newly defined National Intelligence Program. The Committee-reported bill would essentially remove the Secretary of Defense from any meaningful management role over these agencies.

First, the national intelligence director would have the authority to appoint the heads of these agencies, albeit with the concurrence of the Secretary of Defense. What makes this unusual and potentially problematic? Well, consider the fact that the Director of the National Security Agency, a general officer, is dual-hatted as the Deputy Commander for Network Attack, Planning, and Integration at Strategic Command, or that the Director of the National Reconnaissance Office also serves as an Under Secretary of the Air Force. These positions truly support the mission of the Defense Department.

Second, the national intelligence director would have the authority to execute the budgets of these agencies. It is one thing to say that the NID should manage the entire budget for the National Intelligence Program, and, therefore, to help develop agencies' budgets and even receive their appropriation. It is quite another to altogether remove the Secretary of Defense from the loop by requiring that the NID suballocate funding directly back to the agencies. This effectively removes the Secretary from the management loop.

I have studied the Defense Secretary's testimony to the Senate Armed Services Committee, as well as the testimony of other experts. I am also aware that there were some good amendments in the committee markup to help preserve the Defense Department's equities. But I am still not convinced that we are doing no harm. As General Myers commented during the course of the Senate Armed Services Committee's discussion on the subject, "[T]he devil's in the details."

I recognize that during the course of the Senate's debate on this bill, several of my colleagues have offered amendments to ensure that the equities of the Defense Department are protected, and I applaud them for their efforts.

So, while I am not convinced we are doing no harm—particularly with respect to ensuring our warfighters have the intelligence support they need—I am also not convinced that we are necessarily doing much good. Again, the solutions of the 9/11 Commission, and, in turn, the Senate bill, don't seem to match the problems.

I would like to discuss an example of what I believe we could do to help minimize our chances of another catastrophic terrorist attack—by addressing cultural problems in the intelligence community, including risk aversion, group think, and a failure of leadership.

I was a member of the Senate Intelligence Committee for 8 years and participated in the first of the post-9/11 evaluations—the joint Senate-House inquiry, formally named the Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001. Along with the current Intelligence Committee chairman, I offered additional views to that report which, had I been part of the 9/11 Commission, I would similarly have submitted. Those additional views describe the core cultural problems in the intelligence community that can't simply be solved by reorganizing agencies. On this, the Commission report and the bill before us missed the mark in many respects.

First, let's consider risk aversion, which plays out not only in the intelligence community, but also in foreign policy decisionmaking, economics, business investments, and so on. There are many potential reasons for risk aversion—a particular action might have adverse, unintended consequences, might get one into trouble with one's superiors, or might simply draw unwanted attention, just to name a few. When an individual or a government acts, there is always a calculation of risk; but some governments and some individuals are more willing to take chances than others. This is a product of both leadership and environment.

An aversion to taking risks—even when they should be taken—plagues our intelligence community. Indeed, in the course of our congressional inquiry on the 9/11 attacks no intelligence or law-enforcement agency escaped being described by its own officials as hampered by an aversion to thinking critically, exposing their views to others, and being willing to boldly take risks. Time and time again, this has contributed to intelligence failures—most recently, of course, 9/11 and the intelligence communities' claims about Saddam's stockpiles of weapons of mass destruction.

The 9/11 Commission also addressed the issue of risk aversion within the CIA, noting the net result for that agency pre-9/11:

> . . . an organization capable of attracting extraordinarily motivated people but institutionally averse to risk, with its capacity for covert action atrophied, predisposed to restrict the distribution of information, having difficulty assimilating new types of personnel, and accustomed to presenting descriptive reportage of the latest intelligence.

One of the most well known examples of the problem of risk aversion in the context of the 9/11 attacks was the FBI's failure to respond to the "Phoenix Memorandum," written by a Phoenix special agent who wanted to alert his superiors about suspicious individuals seeking pilot training. The now-famous electronic communication to FBI headquarters recommended that the FBI consider seeking authority to obtain visa information from the State Department on individuals who obtained visas to attend flight school.

The intelligence operations specialists at headquarters who reviewed the memo told the staff of the congressional joint inquiry that they had decided among themselves that seeking that authority raised profiling concerns. These concerns stemmed at least in part from previous public allegations of racial profiling against FBI agents who had questioned two Middle Eastern men acting suspiciously on a flight from Phoenix to Washington, DC, in 1999.

On a broader—not case-specific—level, the intelligence community's clandestine service has been seriously hampered by an aversion to taking risks. According to the 9/11 Commission's report, James Pavitt, the head of the CIA's Directorate of Operations, recalled that covert action had gotten the clandestine service into trouble in the past, and he had no desire to see it happen again.

It is likely that this "trouble" was at least in part a result of congressional actions, for example the 1976 Church Committee investigation, which was set up in the wake of revelations about assassination plots organized by the CIA. The investigation resulted in some 183 recommendations, and subsequent legislative proposals and debate that consumed considerable attention over a number of years. In part, that debate focused on specific, clearly defined limitations and prohibitions on intelligence activities.

Obviously, as we move forward with reforming congressional oversight of the intelligence community, there will be a need to balance strong and effective oversight with not hamstringing the community and creating an even more risk averse environment.

The culture of risk aversion in the clandestine service was also accentuated by executive branch actions during the Clinton administration. For example, risk aversion in the clandestine service was compounded by the 1995 Deutch Guidelines, CIA guidelines promulgated by then-Director of the CIA, John Deutch, which severely limited the ability of CIA case officers to meet with and recruit foreign nationals who may have been involved in dubious activities or have blood on their hands. Incidentally, during his tenure, Mr. Deutch also conducted a CIA-wide "asset scrub," which applied an inflexible reporting standard to all CIA spies that, if not met, resulted in their automatic firing. How can you effectively penetrate an organization or adversarial regime without dealing with unsavory characters? Thankfully, the Deutch Guidelines were finally repealed by the DCI in July 2002; but, their repercussions had a lasting effect on the culture of the Directorate of Operations.

So, here we have a clandestine service unwilling to take the risks that are, by nature, part of the job. Compound that with the fact that the DO had few resources. Between 1992 and 1998, the Central Intelligence Agency closed one-third of its overseas field stations, lost one-quarter of its clandestine service case officers, lost 40 percent of its recruited spies, and CIA intelligence reports declined by nearly one-half.

The result of this deterioration of a key part of our intelligence community was that, before 9/11, we had not one human source inside al-Qaida's command structure. What did the 9/11 Commission recommend to transform the clandestine service into a unit more effectively able to penetrate al-Qaida.

> The CIA Director should emphasize . . . "(b) transforming the clandestine service by building its human intelligence capabilities; (c) developing a stronger language program, with high standards and sufficient financial incentives; (d) renewing emphasis on recruiting diversity among operations officers so they can blend more easily in foreign cities; (e) ensuring a seamless relationship between human source collection and signals collection at the operational level; and (f) stressing a better balance between unilateral and liaison operations.

As Reuel Gerecht, American Enterprise Institute scholar, commented in a recent article in the Weekly Standard, "That's it. In a 447-page report on the intelligence failings of 9/11, the clandestine service gets nine lines. The important bit—'transforming the clandestine service . . .' is a 10-word platitude." The intelligence reform bill we are considering this week similarly fails to delve into this central problem. Even if we put the resources back in, we have not figured out how to deal with the mentality now ingrained in our covert officers.

Finally, as I previously noted, I believe the bill currently before the Senate will exacerbate the risk aversion problem in at least one respect: its creation of an excessive, redundant bureaucracy to oversee the protection of privacy and civil liberties. Should there be protections and oversight? Yes. But should there be so many layers of such oversight that intelligence officers are more worried about getting into trouble than about adequately performing their missions? Certainly not.

The provisions in this bill dealing with privacy and civil liberties are quite extensive. In summary, the bill establishes: two officers within the National Intelligence Authority, one responsible for privacy, the other for civil rights and civil liberties; an Inspector General within the National Intelligence Authority, who, in part, monitors and informs the National Intelligence Director of any violations of civil liberties and privacy; an Ombudsman within the National Intelligence Authority to protect against so-called politicization of intelligence; an independent Privacy and Civil Liberties Oversight Board with extensive investigative authorities; and privacy and civil liberties officers within the Departments of Justice, Defense, State, Treasury, Health and Human Services, and Homeland Security, the National Intelligence Authority, the Central Intelligence Agency, and any other department, agency, or element of the Executive Branch designated by the Privacy and Civil Liberties Oversight Board to be appropriate for coverage.

These provisions reach far beyond what the 9/11 Commission recommended—an executive branch board to oversee the protection privacy and civil liberties. The President already created such a board through executive order on August 27.

Under the construct offered in the Governmental Affairs Committee bill there will simply be too many people performing the same task. It will be inefficient; it will be counterproductive; and it will add yet another legal hurdle for our intelligence officers to overcome. Our goal should be to make it easier for them to do their jobs—to detect and prevent future catastrophic terrorist attacks—not more difficult. Let's not forget why we are reforming the intelligence community. It is to prevent another 9/11. The problem is not that we invaded suspects' privacy, but that we didn't know enough about them to prevent the attack.

I offered an amendment to S. 2845, which I discussed several times on the floor of the Senate, to eliminate some of this redundant oversight. I withdrew that amendment reluctantly, but with the understanding that the issue would be resolved in conference. I plan to continue to press my case on this matter because I believe it is central to ensuring that we do not make worse the already existing problem of risk aversion within the intelligence community.

Second, group think. This problem is not unrelated to the problem of risk aversion. The result of analysts' fears of taking risks is often that they are unable to think outside the box, to break free of the generally-accepted assumptions held by their agency or by the rest of the intelligence community.

In his August 16 testimony to the Senate Armed Services Committee, former Secretary of Defense James Schlesinger discussed the problem at length, stating:

> Different organizations will drift gravitate towards different ways of organizing reality—based upon their range of responsibilities and, also, their interests in a narrower sense. Most individuals make themselves comfortable in their own organizations by not challenging a prevailing consensus.Q

Another cause of group think is simply a lack of imagination. In a recent op-ed in the Washington Post, Henry Kissinger raises some important questions about the reforms currently being pursued. He states that the basic premise of the "current emphasis on centralization" through the creation of a director of national intelligence "seems to be that the cause of most intelligence failures is inadequate collection and coordination." Kissinger believes, however, that "the breakdown usually occurs in the assessment stage." He attributes that breakdown to a failure of imagination to connect the dots of available knowledge. His op-ed describes in detail how a lack of imagination led to the major intelligence failures of the last 4 decades: the 1973 Middle East War, the Indian nuclear test of 1998, the September 11 attacks, and the failure to find WMD stockpiles in Iraq.

How do we solve this problem? Well, let's take the issue of Iraq's weapons. The Senate concluded in its bipartisan report on the intelligence community's assessment:

> The presumption that Iraq had active WMD programs was so strong that formalized IC mechanisms to challenge assumptions and "group think,": such as "red teams," "devil advocacy," and other types of alternative, or competitive analysis, were not utilized.

Former Defense Secretary James Schlesinger recommends precisely what the bipartisan report said was lacking. In his testimony, SASC, August 16, he stated:

> The only solution within an organization is to establish a Devil's Advocacy organization to challenge the prevailing beliefs.

This is an imperfect solution, as Secretary Schlesinger further notes, but, still, if we had had such mechanisms, we would have had a far greater chance of reaching the truth. Yet, neither the Commission nor the Committee recommends such a "red team" or "devil's advocacy" entity or process. We will have to do it by amendment.

This is one place where we can learn from our past successes and failures. Historically speaking, "red teams," have been helpful inside and outside of the intelligence community. In the 1970s, for example, the intelligence community persisted in underestimating the size and scale of the Soviet arms build-up. In response, Congress created a "red team" called Team B to review the IC's analysis. Team B's report, which documented how far off the intelligence community was, laid the foundation for President Reagan to rebuild the U.S. military in the 1980s.

More recently, the Rumsfeld Commission on the ballistic missile threat was created to play devil's advocate with the findings of the intelligence community. Not surprisingly, the Commission found the estimates far off, dramatically underestimating the time it would take for a country to procure or produce a ballistic missile.

The chairmen of the 9/11 Commission, Thomas Kean and Lee Hamilton, recognize the group think problem in their September 8 Washington Post op-ed, and offer that their proposed reforms "institutionalize information-sharing, thus guaranteeing a competitive airing of views." They further state:

> We don't want dissent quashed by groupthink; we want competing analyses to be shared broadly . . .

But as key experts, like Henry Kissinger and Jim Schlesinger, point out, it is valid to question whether centralized intelligence—which we are now pursuing—encourages conformity, making the problem of group think worse. At best, that structural change will do nothing to affect the problem.

Last, but certainly not least, leadership is a problem that simply cannot be solved legislatively. Conversely, good leadership can potentially solve the other cultural issues I have identified.

Al-Qaida's attack on Washington and New York occurred after a long period of poor leadership at the highest levels of the U.S. Government regarding terrorism. Despite repeated assaults on the United States and its interests, the U.S. Government was still unwilling to treat terrorism as a true national security issue until after 9/11.

This was, of course, partly a failure of political leadership. But the intelligence community is not absolved, either. The problem of inadequate allocation of resources in the intelligence community, for example, was at least partly a result of confused leadership in the community. In spite of a 1998 declaration of war on al-Qaida by the Director of Central Intelligence, two key organizations—namely, the Defense Intelligence Agency and the Federal Aviation Administration—were not allowed, though they offered, to throw their support behind the antiterror effort.

Counterterrorism analytic centers were fragmented across the administration at the Pentagon, the CIA, and various FBI locations. Only after 9/11 did various intelligence and law enforcement entities begin to put aside their parochialism and work together in a more productive manner. And certainly reorganization was a partial fix for the problem—in particular, the new Terrorist Threat Integration Center, TTIC, which merges and analyzes all threat information in a single location under the direction of the DCI, has been beneficial. But, with better leadership of the intelligence community, the condition would not have been so prevalent in the first place. It would not have taken a monumental disaster for these entities to cooperate more effectively with one another.

I would now like to briefly discuss visa reform. I am pleased that the Collins-Lieberman bill, with the addition of Kyl amendment No. 3926, will at least tighten up immigration law to require, in statute, that most temporary visa applicants be personally interviewed by State Department consular officers during the application process, and that all such applicants be required to actually complete their visa applications to get a visa. Past misuse of immigration law allowed 15 of the 19 September 11 hijackers to enter the United States without completing their applications or being interviewed.

Some might question why such State Department regulations need to be included as statutory language in the Immigration and Nationality Act. Section 214(b) of the INA governs the admission of nonimmigrants to the United States. It presumes that an alien who applies for a temporary visa actually intends to stay in the United States permanently "until he establishes to the satisfaction of the consular office" that he intends to stay temporarily. This means that the burden of proof is on the alien to show that he is eligible to receive a visa and that he will not overstay or otherwise violate the terms of the visa. Had the State Department required its consular affairs officers to implement section 214(b) correctly, and thus to conduct in-person interviews and require that visa applications be completely and accurately filled out, to meet the burden of proof requirement, the tragedy of 9/11 could have been prevented.

The intent of Section 214(b) was not carried out by the State Department consular affairs officers who issued visas to the 9/11 hijackers. Fifteen of the 19 men who flew hijacked airplanes into the World Trade Center, the Pentagon, and the Pennsylvania countryside were Saudi nationals who should have been denied admission to the United States under section 214(b) because their visa applications contained inaccuracies or omissions. These were not trivial mistakes in spelling or punctuation. The applications omitted such fundamental information as: means of financial support, home address, and destination or address while in the United States. According to an October 28, 2002 National Review article by Joel Mowbray under the title and subtitle "Visas for Terrorists: They were ill-prepared. They were laughable. They were approved," only one of the 15 applicants listed an actual destination address for inside the United States. The rest listed locations such as "California," "New York," or simply "Hotel."

Section 214(b) should also have been used to require face-to-face interviews of those applying for nonimmigrant visas. Only two of the 15 Saudi hijackers were interviewed by State Department officials. Such laxity by consular officers, however, occurred under guidelines and practices put in place by senior State Department officials. According to cables and other written notices sent over time by Mary Ryan, who was Assistant Secretary for Consular Affairs on September 11, 2001, shortening the visa application process wherever possible was a "very worthy goal."

Such top-down guidelines were explored in an October 2002 GAO report, "Border Security: Visa Process Should Be Strengthened as Antiterrorism Tool." The report says the State Department's written guidelines and resulting practices for visa issuance allowed for "widespread discretionary adherence among consular officers in adhering to the burden of proof requirements included in section 214(b)." The GAO report also says the State Department's "Consular Best Practices Handbook" gave consular managers and staff the discretion to "waive personal appearance and interviews for certain nonimmigrant visa applicants."

The 9/11 Commission was provided detailed information about the State Department's use of section 214(b) and its contribution, in my opinion, to the tragedy of 9/11. In a letter to the 9/11 Commission on April 23, 2004, I said how important it was that the 9/11 Commission focus on the State Department's contribution to the dysfunction of the visa-issuance system prior to September 11. In a followup letter on May 13, 2004 to the Commission, I stated that correct use of the statutory law governing nonimmigrant visa issuance could have kept several, if not all, of the 9/11 hijackers from entering the country.

The amendment that the bill managers have accepted is based on the regulations promulgated by the State Department in the Foreign Affairs Manual it issued after September 11. It requires that all aliens who apply for a nonimmigrant visa submit to an in-person interview with a consular affairs officer. Although the primary purpose of the in-person interview is to determine whether an applicant will overstay his or her visa, it is also a prime opportunity for a consular affairs officer to gauge the intent of the applicant to try to make sure that the applicant does not intend to harm the United States. I recognize that not every person may have to be interviewed, so my amendment allows applicants under the age of 12, individuals over the age of 65, diplomats, and certain other individuals to be exempt from the in-person interview requirement if the consular affairs officer deems it appropriate.

My amendment also requires that, even if the nonimmigrant visa applicant falls into a category for which an interview is not necessarily required, one will be required if he is not a national of the country in which he is applying for a visa; if he was previously refused a visa; or if he is listed in the Consular Lookout and Support System. CLASS is the State Department's database that lists all applicants about whom the Department has security concerns. Finally, my amendment requires that all applicants for nonimmigrant visas provide complete and accurate information in response to every question on the nonimmigrant visa application. This is to ensure that the application is completely filled out and that the applicant has provided enough information to meet the burden of proof required by section 214(b) of the INA.

The codification of these few provisions will help ensure that terrorists are not able to enter the country using legally issued visas. Provisions to that effect ought to be in any piece of legislation aimed at preventing additional terrorist attacks on this country. I appreciate the willingness of Senators COLLINS and LIEBERMAN to work with me to modify the amendment to make it acceptable.

Before I close, I want to note that I have separately discussed another related area in serious need of attention: making sure we have the legal authorities and resources we need to effectively fight terror. I had prepared several amendments on this topic, which I intended to introduce to this bill, but because some Members erroneously believed that these amendments were highly controversial, I chose not to pursue them.

These amendments, one of which was my Tools for Terrorism, TFTA, bill in its entirety, others of which were parts of that bill, should not have been considered controversial. TFTA is not new—it is composed of bills that have been pending, have been approved by the Justice Department, and have been the subject of nine separate hearings. TFTA consists of all or part of 11 bills currently pending in the House and Senate. Every provision of the bill previously has either been introduced as a bill in the House or Senate or had a committee hearing. Every provision of the bill has the full support of the Justice Department. Collectively, the provisions of this bill have been the subject of nine separate hearings before House and Senate committees and have been the subject of four separate committee reports. Furthermore, collectively, the bills included in TFTA have been pending before Congress for 13 years.

That said, in the interest of allowing the Senate to move forward quickly, and noting that some of the provisions of my TFTA bill are included in the House version of the Intelligence Reform bill, I have decided to continue to try to press my case during the House-Senate conference.

My intention today was not to create a sense of futility in this body's efforts, but rather to express reservations about the proposed solutions and highlight those areas I know need to be resolved if we are to effectively wage the war on terror. A careful reading of the congressional joint inquiry report, the Senate's Iraq intelligence investigation, and the 9/11 Commission's narrative of the failures that led to 9/11 all point to far deeper deficiencies than can be solved by bureaucratic reorganization.

I plan to vote for this bill, but I do so recognizing that it is imperfect, and also with the clear intention of continuing to press my case for various modifications in conference.

Finally, while it is true that, if we do reform right, we will be able to improve our intelligence, it will never be the case that our intelligence is perfect. It is next to impossible to imagine every possibly means by which we might be attacked. As Judge Richard Posner points out in his New York Times Book review:

> The [9/11 Commission] narrative points to something different, banal and deeply disturbing; that it is almost impossible to take effective action to prevent something that hasn't occurred previously.

This does not mean we should not try; it does mean that we have to be realistic about the limitations of intelligence.

Those limitations make solid political leadership all the more important. Intelligence, diplomacy, military, law enforcement—these are all tools in our arsenal to fight the war on terror and whatever other threats may come our way. Decisionmakers must be willing to use them effectively. That is what will offer our greatest protection against another devastating attack.

Mr. DASCHLE. Mr. President, Congress has no more solemn obligation than to ensure our Government can effectively defend the American people. We must put America's security first.

The attacks of September 11 exposed serious weaknesses at every level of our Government's response to terrorism.

Since that awful day, many of us in Congress have resolved to do everything possible to understand how a handful of terrorists could defeat the entire U.S. Government's defenses and then adapt those defenses in order to prevent future attacks and make America safer.

The bill we are about vote on reflects the lessons of our inquiries.

It is thorough, thoughtful, bipartisan, and most important, rooted firmly in the facts behind the greatest failure of American intelligence in our lifetime.

When enacted, this legislation will improve our Government's ability to disrupt and prevent the kind of devastating attacks we witnessed that fateful day 3 years ago. In short, it will make America and Americans more secure.

I can think of no more important action this Senate can take in the remaining days of this session than to pass this legislation and move it to a conference with the House.

Immediately following the attack of the World Trade Center and Pentagon, Congress began a thorough investigation to uncover precisely what went wrong in the days leading up to September 11.

The House and Senate Intelligence Committees conducted a bipartisan inquiry.

They received thousands of pages of documents, conducted hundreds of hours of hearings, and heard from scores of Government and nongovernment witnesses who offered meaningful insights into what happened and how.

The unanimous, bipartisan recommendations of that report were available in December 2002.

Independent of this effort, President Bush had asked GEN Brent Scowcroft, National Security Advisor to former President Bush, to examine our intelligence community and suggest reforms that could make it function more effectively.

According to press accounts, the recommendations of that investigation were available in March 2002.

In addition, despite opposition from the White House, a strong bipartisan coalition was forged in the Congress to establish an independent, blue ribbon commission to investigate the circumstances surrounding the 9/11 attacks and provide us with a roadmap for how to improve our defenses, specifically those of our intelligence community.

The White House eventually gave the Commission its support and its cooperation. The unanimous, bipartisan recommendations of that commission were released in July 2004.

That is three separate investigations in less than 3 years—three separate investigations that originated in either the Congress or the Bush administration. Each investigation represented different points of view and perspectives. Yet each investigation reached the same conclusion: If our intelligence community is to respond quickly and effectively to terrorism, there must be a single person in charge with the authority to allocate resources and direct personnel. There must be a single person responsible for setting the direction of our intelligence operations.

And there must be a single person accountable for the success or failure of those operations.

The legislation before us reflects the lessons learned from these investigations and it is particularly faithful to the 9/11 Commission's recommendations.

Not only does this legislation establish a national intelligence director with real power, it goes on to make a series of fundamental changes in the intelligence community and related Government agencies.

Just as important as what it does, is what it does not do. It does not stray from the 9/11 Commission's recommendations. It avoids extraneous issues that would have only brought divisiveness and delay to this debate. Time is of the essence.

As Governor Kean said when releasing his commission's report:

> Every day that passes is a day of increased risk if we do not make changes.

America could not wait and the Senate wisely focused on the most urgent challenges at hand.

I am especially grateful to Senators COLLINS and LIEBERMAN, the managers of this important legislation.

Shortly after the 9/11 Commission issued its report, Senator FRIST and I assigned them the difficult task of taking the Commission's recommendations on the executive branch and producing a bill that converts these proposals into legislative language.

They have not only done that, they have managed to grasp the details of this complicated bill and produce strong bipartisan support for their bill.

As I noted above, Senate passage will get this bill to a conference with the House and their version of this legislation. Unfortunately, it appears that some in the other body do not share this goal of swiftly enacting the 9/11 Commission's recommendations. They do not believe we should limit our work to the 9/11 Commission's work. Nor do they believe our top goal should be to defeat terrorists rather than push partisan political agendas.

Many of the people who are apparently willing to pursue this course have fought real reform efforts from the start. They opposed forming the 9/11 Commission. They opposed cooperating with the 9/11 Commission. They opposed giving the Commission the time and funding it needed to do its job. It is not surprising to learn now that they are now opposed to giving the Commission's recommendations a fair hearing.

We can't afford to keep kicking this can down the road. It may seem obvious, but there are some who seem not to understand that American lives are at stake.

This is the best—and perhaps last—opportunity to enact meaningful comprehensive reform legislation to make Americans more secure.

With today's strong bipartisan vote, the Senate can make a clear statement that we are ready to seize this opportunity to protect America and more effectively fight terrorism.

I hope our colleagues in the House who have opposed the Commission's work to this point will be able at long last to set aside their partisan agenda and follow the bipartisan example of the Senate.

The families of the victims of 9/11 and, indeed, all Americans should expect no less from their elected representatives.

Mr. FEINGOLD. Mr. President, I want to voice my strong support for S. 2845, the National Intelligence Reform Act of 2004, and to commend my colleagues on the Governmental Affairs Committee for their careful work in drafting this important legislation. In producing this bill, Senators COLLINS and LIEBERMAN have managed to combine urgent action with careful deliberation. I hope that this difficult balance can be maintained in conference.

While the authors of this bill deserve our thanks, the fact is that we would not be debating desperately needed intelligence reforms today had it not been for the work of the National Commission on Terrorist Attacks upon the United States—and for the work of the many concerned Americans, including families of 9/11 victims, who fought to establish the Commission and to protect its independence and authority. The 9/11 Commission worked hard to produce a thorough account of the facts concerning what the various elements of the U.S. Government knew, what action was taken to address the terrorist threat, and where communication and coordination broke down. All Americans deserve answers to these questions. And we have a duty to act on the Commission's recommendations and to put this country on a firmer, smarter footing to fight the terrorist forces that have attacked this country and wish to attack us again.

At the same time, we know that reorganization for its own sake is simply disruptive and distracting—a smokescreen of busy work and changing flow charts that can obscure serious flaws rather than remedy them. And needlessly trampling on the civil liberties, protected by our Constitution and guarded by generations of Americans, in the name of reform would be a horrible mistake. Hundreds of thousands of brave men and women have died defending our freedoms throughout our history. We cannot fail to guard those precious freedoms now.

The Senate bill creates a civil liberties board to evaluate new policies and ensure that civil liberties concerns are considered as the President and executive agencies propose and implement policies to protect the Nation against terrorism. The Commission specifically recommended the creation of such a board within the executive branch that would have as its primary mission the protection of our citizens' civil liberties. I am pleased that Senator KYL agreed to withdraw an amendment that would have undermined this provision. The supporters of this amendment suggested that efforts to protect our privacy and civil liberties will undermine the work of the intelligence and law enforcement community. I respectfully disagree. Americans reasonably expect their Federal Government to protect them from terrorism while respecting their privacy and civil liberties. We can, and must, do both.

The Collins-Lieberman bill is the right approach. It is important that the privacy and civil liberties oversight provisions in this bill be included in the final legislation that goes to the President's desk.

Similarly, it would be a grave mistake for the conference to add extraneous provisions increasing the power of the Government, such as those contained in another amendment offered by Senator KYL that derive from the so-called PATRIOT II proposal. We have not had the kind of full and informed debate on these proposals that the 9/11 Commission called for. For this bill to remain true to the Commission's recommendations, it cannot be used as a way to bypass the very deliberation that the Commission said is essential.

Even after we finish work on this bill, our work will be far from complete. The Commission's intelligence reform proposals have been the focus of most of the media attention surrounding the 9/11 report, and they are at the heart of the legislative efforts in which we are currently engaged. But the Commission's call for more focused, effective ways to attack the terrorists and their organizations, and, critically, to prevent the continued growth of terrorism, deserve equally intense examination and action.

We need to make a long-term commitment to denying terrorists sanctuaries, and to cultivating new generations of partners, not enemies, overseas. As the ranking member of the Subcommittee on African Affairs, I know that we do not have the intelligence resources or the diplomatic resources that we should around the world. We do not really have any policy at all to deal with Somalia, a failed state in which terrorists have operated and found sanctuary. And there is a great deal of work to be done to help countries in which we know terrorists have operated to improve the basic capacities of border patrols who could stop wanted individuals, and customs agents who could help stop weapons proliferation and auditors who could freeze terrorist assets. And we can do more to help root out the corruption that undermines these safeguards at every turn.

I am pleased that the Senate accepted an amendment that I offered to this bill, which arises from my experience with African affairs. I know many Africanists are concerned about terrorist activity in the Sahel, and the U.S. Government is working with partners in that region to address this issue. Some of these same terrorists are based in north Africa, above the Sahel, which various parts of the U.S. Government and our own congressional committees consider to be a different region of the world, one usually lumped together with the Middle East rather than sub-Saharan Africa. In other words, getting counter-terrorism right in Mali really requires understanding a number of things about Algeria, and getting it right in the Horn of Africa requires an understanding of Yemen as well as Kenya. But the policymakers who specialize in these places don't necessarily work together.

These geographic stovepipes hamper good policy, and cap fragment the picture that our intelligence community is able to piece together. And it is not just Africa, and it is not just terrorism. Where National Intelligence Centers are established with a specific regional focus, the National Intelligence Director needs to ensure that regular contact and cooperation among linked centers is institutionalized, not ad hoc. My amendment strengthens information sharing, and signals Congress's intent to ensure that the centers that are eventually established are as effective as possible.

There is also much more to getting our policies right when it comes to homeland security and emergency preparedness, and that work will continue long after we complete work on this bill. We still lack a comprehensive homeland security plan with clear priorities, deadlines, and accountability. Without such plans, it is not possible to properly target our homeland security dollars to meet our most pressing needs. We are getting on the right track, however. The Commission recommended that future transportation security budgets be based on a thorough assessment of threats and vulnerabilities, and I am pleased that the Senate adopted my amendment to the fiscal year 2005 Department of Homeland Security bill to require just that. Senator MCCAIN also included a provision to require a national transportation security strategy, and I was pleased to support it. These steps will help, but there is more we must do.

I was also pleased to support the amendment offered by Senator COLLINS to coordinate and simplify the homeland security grant process, which is based on a bill I cosponsored. This important amendment will make it much easier for local first responders to get funding by reducing the many, and often redundant, grant application steps. The amendment also gives local officials far more flexibility in spending homeland security dollars, including paying for overtime costs associated with homeland security tasks and training. Successful programs, such as FIRE Act grants, the COPS program, and the Emergency Management Performance Grant program, are protected in this legislation. The amendment allocates funding based on threat, as recommended by the Commission, but also maintains baseline funding so that States and local officials can have a predictable stream of funding to meet the homeland security needs faced by all jurisdictions. This amendment will help simplify and rationalize the current homeland security grant system. However, I agree with Senator LIEBERMAN that more resources must be allocated to meet our homeland security needs.

I hope that the conference is able to quickly agree upon a final version of this bill that follows the Senate's approach and does not contain extraneous and controversial provisions. And I look forward to continuing to work with my colleagues on both sides of the aisle to ensure that what we have learned from the 9/11 Commission becomes a part of how we do business every day. This intelligence reform bill is a very good start, not the end, of the efforts we must make to bring about real changes that will enhance our security and the security of our children.

Mr. CHAMBLISS. Mr. President, first, let me again thank my colleagues from Maine and Connecticut for their hard work preparing and bringing an intelligence reform bill to the Senate floor. Reforming the intelligence community is serious business, and I appreciate the professional and thoughtful approach taken by the Government Affairs Committee, especially the chairman and ranking member.

I rise today to express some of my concerns on S. 2845, the National Intelligence Reform Act of 2004.

First, it is important to fully understand exactly why we are debating the reformation of our intelligence community in the first place. Our enemy has attacked us in new ways that no one ever thought about or occurred before in the entire history of mankind. The attacks on 9/11 were made on predominately civilian targets, using commercial civilian airlines, loaded with totally innocent, ordinary citizens. No one really planned for an attack of this nature because as a God-fearing nation, it was hard to imagine that some human beings could be so evil, so warped in their interpretation of their own religion that they believe the slaughter of innocent people by the thousands is somehow condoned or even approved by their God. Well, we now know the nature of our enemy, and it is dangerous beyond anything we have known in the past. And we are reminded of our enemy's evil nature every time we see a video of an innocent person pleading for their life or being beheaded in Iraq. These Islamic terrorists have in effect "hijacked" the Muslim faith, distorted it to meet their own twisted philosophy of life, and we must stop them.

Let me be absolutely clear on this point: the Islamic terrorists want to frighten us, they want to disrupt our economy and our way of life, and they want to kill us; they will stop at nothing, including suicide attacks to achieve their evil goals. I have said in this chamber many times that effective intelligence is our first line of defense against this enemy and only good intelligence will prevent them from ever again attacking us on our own homeland.

That is why we are here today to put more "teeth" into our intelligence community. We are here to debate and vote on legislation that should provide more security for our citizens.

The Collins-Lieberman legislation that we are considering is a good bill in many ways, but it only marks the beginning of a process to rebuild our intelligence capabilities, not the end.

The bill establishes a National Intelligence Director; a position that I view as the "foundation" upon which all other intelligence reform measures will be built. However, there are some other measures relative to intelligence reform that will require our attention as soon as possible.

This bill leaves the intelligence community at fifteen members, eight of which are in the Department of Defense. As you know, I had a bipartisan amendment that was co-sponsored by my colleague from Nebraska, Senator BEN NELSON, that would create a unified command for military intelligence giving the new National Intelligence Director a single point of contact for military-related intelligence requirements and collection capabilities instead of eight. This is a major issue that must be addressed soon; otherwise the National Intelligence Director will have an unrealistically large span of control.

Collectively, the eight members of the intelligence community that this bill leaves in the Department of Defense are huge, with tens of thousands of people and multi-billion dollar budgets. How someone outside of the Department of Defense, like the national intelligence director, could adequately and efficiently manage these vast intelligence capabilities by dealing with eight separate military members is beyond me. Senator NELSON and I are committed to fix this shortcoming by introducing a bill to create a unified combatant command for military intelligence this coming January.

The Central Intelligence Agency is left intact in this bill, which is the right decision. But the bill does not adequately address the importance of human intelligence, HUMINT, or emphasize rebuilding this critical capability. HUMINT is a dirty and dangerous occupation, and it, more than any other intelligence discipline, will be the key to eliminating al-Qaida and all other terrorist organizations. We really owe our HUMINT case officers in the Central Intelligence Agency, the Defense Intelligence Agency, and other agencies all our thanks, support, and the resources necessary to get the job done.

The portion of this bill that creates a civil liberties board with broad subpoena power is particularly troubling to me. We need to take more risks in HUMINT and we need to rebuild the morale of our HUMINT collectors. What kind of message are we sending to our intelligence agents in the field who are risking their lives to protect us by creating a board designed to look over their shoulders and, which is redundant to the President's Board on Safeguarding Americans' Civil Liberties? We could create a morale problem throughout our intelligence community that might take years to repair and, I hasten to add, at a time when we need HUMINT more than ever to protect our citizens.

I am voting for S. 2845, the National Intelligence Reform Act of 2004, because it does establish the national intelligence director and gives statutory authority for the newly created National Counterterrorism Center. However, I will continually seek ways to address my concerns with this bill, some of which I have mentioned above. I want to reiterate again, that this bill marks only the beginning of the process to reform our intelligence community, not the end.

I yield the floor.

Mr. ENSIGN. Mr. President, I rise to discuss the recommendations of the 9/11 Commission Report that deal with the integrity of our borders and visitor access to America.

In the decade before 9/11, al-Qaida studied how to exploit gaps and weaknesses in the passport, visa, and entry systems of the United States and other countries. Al-Qaida actually set up its own passport office in Kandahar and developed working relationships with travel facilitators—travel agents, document forgers, and corrupt government officials.

Since 9/11, some important steps have been taken to strengthen our homeland security. While these efforts have made us safer, we are not safe enough. A real world example was reported this past Saturday by the Washington Post. Peru and the U.S. intercepted a criminal network with possible al-Qaida links that smuggled Arabs into America after receiving false papers in Lima. Keeping Americans secure means being diligent on all fronts, at home and abroad.

The amendment that I am offering ties directly to two important recommendations of the Commission Report prohibiting terrorist travel to our country.

The first is the Commission recommendation that "Targeting travel is at least as powerful a weapon against terrorists as targeting their money. . . Better technology and training to detect terrorist travel documents are the most important immediate steps to reduce America's vulnerability to clandestine entry."

Americans need to know that every reasonable step is being taken to ensure that those who would harm our country and our citizens do not travel freely and easily into the United States. This is a task that deserves our full attention when the vast number of travel documents handled in our embassies, consulates, and border stations is considered. Specialists must be developed and deployed in consulates and at the border to detect terrorists through their travel practices, including their documents.

Last year there were about seven hundred consular officers stationed overseas in 211 posts. In addition to processing six million non-immigrant visa applications and nearly 600,000 immigrant visa applications, they provided a full range of services to American citizens. Chronic understaffing has led to an over-reliance on foreign workers to screen and review visa applications, jobs that normally would be handled by American officers. This process leaves too many gray areas; one mistake or intentional oversight in a foreign nationals review of an application could mean the lives of thousands of innocents. My amendment goes a long way to bolster the visa application process by mandating that American consular officials review and approve each and every immigrant and nonimmigrant visa application.

Over the last 2 years the State Department has hired an average of 65 new consular officials. That number has not proven enough. My amendment provides the State Department the authority to increase the number of consular officials by 150 each year for 4 years, ensuring that trusted American resources are responsible for reviewing all visa applications.

Currently, consular officers only receive an overview in fraudulent document training. My amendment mandates that these consular officers are suitably trained in detecting fraudulent documents and document forensics, prior to beginning their service.

Our due diligence cannot stop here.

The second Commission recommendation that relates to my amendment states that we should ". . . raise U.S. and border security standards for travel and border crossing over the medium and long term . . ." The Commission goes on to say that "It is elemental to border security to know who is coming into the country. Today more than 9 million people are in the United States outside the legal immigration system."

Pre-9/11 the INS had only about 2,000 agents for interior enforcement and only 9,800 border patrol agents. With the priorities of the agency concentrated on immigration and narcotics, our northern border was often neglected and no major counterterrorism effort was underway. These gaps in our security created a weakness that allowed the loss of over 3,000 innocent citizens. More robust enforcement of routine immigration laws could have made a difference.

We must have the resources to be able to detect and, if need be, detain terrorists who seek entry through our borders. My amendment makes providing the necessary personnel for border security and immigration enforcement a top priority. It provides authority to increase the number of border patrol agents by 1,000 each year for a 5-year period. It also increases the number Immigration and Customs Enforcement investigators by 800 per year for a period of 5 years.

The Commission found that many of the 19 9/11 hijackers, including known operatives, could have been watchlisted and were vulnerable to detection by border authorities; however, without adequate staff and coordinated efforts, the evildoers were allowed unhampered entry.

The world has changed dramatically since 9/11 when the evil doers used our open and trusting society against us. We can not allow a repeat of that tragedy. This amendment will allow those who guard our frontiers the tools they need to ensure the safety of the citizens of the United States of America.

Ms. SNOWE. Mr President, I rise to address a very specific but invaluable component of the intelligence reform package before us today.

As many may know, before the release of the 9/11 Commission report earlier this year, I introduced stand-alone legislation cosponsored by Senator MIKULSKI—creating an Inspector General for Intelligence. The "Intelligence Community Accountability Act of 2004" proposed an independent inspector general for the entire intelligence community—all fifteen agencies and department members. I introduced this legislation largely as a result of my experience as a member of the Senate Intelligence Committee which undertook a year-long investigation on the prewar intelligence of Iraq.

I commend the efforts and tremendous work of the authors of the underlying bill—they have embraced the concept and spirit of my earlier bill and have included language in their legislation creating an Inspector General for the National Intelligence Director. I would also like to thank Senators ROBERTS, MIKULSKI and FEINSTEIN for their support in being original cosponsors of an amendment I was prepared to offer on this subject. I will not offer that amendment but I want to make clear my intentions to continue working for better and more comprehensive accountability in our intelligence community.

In that vein, I want to express my strong opposition to any amendment or proposal that would weaken the language on the authorities and powers of the NID's inspector general. Any such amendment, if accepted or approved, would be a grave step backward in an area that is in critical need of a step forward. . . . I am of course talking about accountability in the intelligence community.

Any amendment to scale back the IG provisions of the bill would fly in the face of the 521-page report that followed the committee's investigation on Iraq pre-war intelligence and would ignore vital problems of information sharing that have been found throughout the community.

Any inspector general who is to serve the National Intelligence Director must have the power and authority to access employees and information in the agencies that lie in the national intelligence program. How can an IG be effective if his hands are tied because of turf battles and arguments over jurisdiction?

My preference would be to enhance some of the authorities of the NID's inspector general as proposed by the underlying bill, but I would rather work to preserve the bill's language as it exists now than to gut it through the passage of any proposal that rescinds the abilities of the IG to delve into the coordination and communication between and among the various entities of the intelligence community.

Issues of accountability have often been central to the work we as Senators do in seeking to bring better government to our constituents—particularly when matters of national security are at stake.

I saw firsthand the consequences of serious inadequacies in accountability during my 12 years as a member of the House Foreign Affairs International Operations Subcommittee and as Chair of the International Operations Subcommittee of the Senate Foreign Relations Committee. During the 99th Congress, I worked to bring the State Department Accountability Review Board into fruition as part of the Omnibus Diplomatic Security and Anti-Terrorism Act of 1986.

Among other issues, it was a lack of accountability that permitted the radical Egyptian Sheik Rahman, the mastermind of the first World Trade Center bombing in 1993, to enter and exit the U.S. five times totally unimpeded even after he was put on the State Department's Lookout List in 1987, and allowed him to get permanent residence status by the INS even after the State Department issued a certification of visa revocation. In 1995 and again after the terrorist attacks of 9/11, I introduced legislation establishing Terrorist Lookout Committees in our embassies and consulates abroad—all in an effort to create more accountability in the protection of our homeland.

In this same vein, my membership on the Senate Select Committee on Intelligence has allowed me to realize that the need for greater levels of accountability in our intelligence community is and must be a priority. It is all too evident that in addressing the key concerns and problems seen in the management of our intelligence agencies, accountability is an area unquestionably in need of dramatic improvement.

I am pleased that as intelligence community reform has gained momentum, the concept of an inspector general has been very much a part of the debate. Indeed, an inspector general is included in the broad and comprehensive intelligence reform legislation authored by Senator FEINSTEIN—legislation that I was proud to co-sponsor earlier this year.

An inspector general for the whole intelligence community was also included in reform legislation offered by Senator GRAHAM, the former chairman of the Senate intelligence community. Language creating a community-wide inspector general was contained in the proposal by current Intelligence Committee Chairman ROBERTS as well as the recent bill offered by Senators MCCAIN and LIEBERMAN.

And as I indicated, an inspector general is included in the underlying bill crafted by the Senate Governmental Affairs Committee. I commend and, once again, thank all of my colleagues for including this key component in their proposals. This bill takes a step forward in addressing the key issue of intelligence community accountability and it should not be weakened by any additional amendments or modifications.

The belief that any new Director of National Intelligence should have an independent inspector general is one that few seriously dispute. In testimony before the intelligence committee in July, former Deputy Secretary of Defense John Hamre stated that an inspector general "will help far more in driving and shaping the quality of outputs from this community." And Secretary of State Colin Powell called an inspector general a "good idea" while speaking before the Governmental Affairs Committee.

When I first drafted and then introduced my stand-alone legislation in early June, I had certainly envisioned that the inspector general the bill would establish would reside within a newly re-organized intelligence community. When I introduced my bill, I stated then that it was intended to be part of a larger initiative to overhaul the entire intelligence community's organizational structure. We have reached that point, and I am here today to continue my efforts to ensure that the final product the Senate approves contains the best possible mechanisms to bring accountability to the community.

As I indicated earlier, I have participated in this national debate on bettering our diplomatic, intelligence and national security services on many fronts and for many years. But it was as a member of the Senate Intelligence Committee, which spent a year reviewing the pre-war intelligence on Iraq's weapons of mass destruction programs, the regime's ties to terrorism, Saddam Hussein's human rights abuses and his regime's impact on regional stability that I realized the real and dire need for intelligence community change.

In looking at the intelligence community, we must remember that it is an amorphous entity made of up fifteen agencies, parts of departments, and independent bodies all spread out within our Federal Government. They each have their own mission, chain of command, procedures, history and institutional paradigms. The necessity for a stronger, independent head of the intelligence community became obvious to me and that measures must be legislated and instituted to hold the community and its amalgamation of agencies more accountable for the failures and shortcomings we had discovered.

The committee's report on the prewar intelligence on Iraq revealed systemic flaws in the intelligence community, perhaps, most notably in many instances, a stunning lack of accountability and sound, "hands-on" management practices. These poor management practices contributed to the mischaracterization of intelligence reporting on Iraq's WMD programs.

I recognize that intelligence analysis is an imprecise art, with rarely—if ever—any absolutes; however, our report revealed that many judgements regarding Iraq's weapons of mass destruction programs and capabilities were based on old assumptions allowed to be carried over year after year, virtually unchecked and unchallenged, without any critical re-examination of the issue.

In short, there was a lack of analytic rigor performed on one of the most critical and defining issues spanning more than a decade—that of the preponderance of weapons of mass destruction within Iraq and the looming threat they posed to Iraq's neighbors and to the U.S.

Intelligence community managers, collectors and analysts believed that

Iraq had WMDs, a notion that dates back to Iraq's pre-1991 efforts to retain, build and hide those programs. In many cases, the committee's report showed that the intelligence community made intelligence information fit into its preconceived notions about Iraq's WMD programs.

From our review, we know the intelligence community relied on sources that supported its predetermined ideas, and we also know that there was no alternative analysis or "red teaming" performed on such a critical issue, allowing assessments to go unchallenged. This loss of objectivity or unbiased approach to intelligence collection and analysis led to erroneous assumptions about Iraq's WMD program.

For example, the committee's review showed that analysts minimized reporting from a biological weapons source because the source reported information that did not fit with their beliefs about the existence of mobile biological weapons facilities.

We also know that the key judgment in the National Intelligence Estimate that Iraq was developing an unmanned aerial vehicle "probably intended to deliver biological warfare agents" overstated what was in the intelligence reporting. This review revealed that some intelligence community UAV analysts failed to objectively assess significant evidence that clearly indicated that non-biological weapons delivery missions were more likely.

In addition, the committee's report revealed that, despite overwhelming evidence suggesting that the aluminum tubes Iraq was trying to procure were for artillery rockets, some intelligence community analysts rejected information and analysis from experts, including the International Atomic Energy Agency and the Department of Energy, who refuted the claim that the tubes were being procured for use in Iraq's nuclear weapons program. This information was rejected because it did not fit into some analysts' notion that Iraq was procuring these tubes as part of its nuclear reconstitution effort.

Clearly stated, the intelligence community failed to "think outside the box," a phrase often used by the community's analytic cadre to describe more innovative approaches to examining a problem set.

Critical thinking and objectivity are crucial elements in both the collection and analytic trade crafts and ought to be ingrained, by appropriate training and effective oversight by management, in every collector and analyst entering the ranks of the intelligence community. Management has the responsibility to ensure analysts are trained to produce—and actually produce—the best, most objective, unvarnished assessments, and both management and the analysts and collectors have the responsibility to ensure that their trade-craft is practiced properly.

Along this same line of accountability, our report revealed how poor leadership and management resulted in the intelligence community's failure to convey the uncertainties in many of the assessments in the National Intelligence Estimate on Iraq's Continuing Programs for Weapons of Mass Destruction.

For example, the intelligence community assessed that Iraq had mobile transportable facilities for producing biological warfare agents but failed to alert intelligence consumers that this assessment was based primarily on reporting from a single human intelligence source to whom the intelligence community never had direct access and with whom there were credibility problems.

In the analysis on Iraq's chemical weapons activities, the intelligence community failed to explain that several assessments were based on layers of analysis of a single stream of intelligence reporting regarding the presence of a tanker truck that was assessed to be involved in the possible transshipment of chemical munitions.

Finally, during coordination sessions with Secretary Powell in preparation for his speech before the United Nations in February 2003, the intelligence community was instructed to include in the presentation only corroborated, solid intelligence.

In fact, from our review we learned that the DCI told a national intelligence officer who was also working on the speech to "back up the material and make sure we had good stuff to support everything." When Secretary Powell spoke before the UN, he said that every statement he was about to make would be "backed up by sources, solid sources . . . based on solid intelligence."

Incredibly, from our review, we know that much of the intelligence provided or cleared by the CIA for inclusion in Secretary Powell's speech was incorrect and uncorroborated. For example, the IC never alerted Secretary Powell that most of the intelligence regarding Iraq's mobile biological warfare program came from one source with questionable credibility nor did anyone alert Secretary Powell to the fact one of the sources cited in his speech was deemed to be a fabricator—something known by IC analysts since the May 2002 issuance of a "fabrication notice."

An independent, over-arching community-level inspector general who can delve into the communication between and among agencies, or the lack thereof, can assist in bridging the disconnects that lead to such failures. This IG should be properly empowered to reach into and across the bureaucratic and organization lines that separate each community agency so that next time, if the Department of Energy's assessments about the intended use of aluminum tubes by a dangerous regime are ignored or cast aside, someone can be held accountable.

There is no question that the intelligence community requires systemic changes. We are here today to do just that. Americans have a right to know that their intelligence services are doing the best job possible in protecting their security. I say this even while I must recognize the dedication and professionalism of the thousands of Americans who make up our intelligence community.

Each day across this country and around the world, they labor, mostly without recognition, to keep this country safe from harm. Our intelligence employees work under very demanding conditions and in environments that are extremely dangerous and can often shift without notice.

It is their vigilance upon which we rely to give us the forewarning necessary to counter the many dangers present in our world. Although it is impossible to directly express our deep appreciation for their efforts, we have an obligation to express our eternal gratitude to those who serve America so well.

Yet, however appreciative we are of the service done by those who work in the fifteen agencies that make up our nation's intelligence community, we as a Congress have a responsibility to continue to work to find ways to help them do an even better job, and more importantly, to ensure that any failures are not repeated and that we learn from past mistakes. At the same time, we have an obligation to the people of this country to ensure that both pride and comfort in our intelligence services exist. The people of this Nation, and those of us elected to represent them, have a right to know that when mistakes are made, corrections soon follow. That is what brings us here today.

I ask unanimous consent that a chart entitled "Decades of Terrorism" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DECADES OF TERRORISM

Oct. 23, 1983—Beirut Barracks bombing; Dec. 12, 1983—US Embassy bombing, Kuwait; Sept. 20, 1984—East Beirut bombing; Dec. 3, 1984—Kuwait Airways hijacking; April 12, 1985—Madrid restaurant bombing.

June 14, 1985—TWA flight 847 hijacking; Oct. 7, 1985—Achille Lauro attack; Dec. 18, 1985—Rome and Vienna bombings; April 2, 1986—TWA flight 840 bombing; April 5, 1986—Germany disco bombing.

Dec. 21, 1988—Pan-Am Flight 103 bombing; Feb. 26, 1993—World Trade Center bombing; Nov. 13, 1995—US Military HQ attack, Saudi Arabia; June 5, 1996—Khobar Towers bombing; Aug. 7, 1998—US Embassy bombings in Africa.

Oct. 12, 2000—USS Cole attack; Sept. 11, 2001—9/11; May 12, 2003—Housing compound bombing in Saudi Arabia; May 29–31, 2004—Saudi oil company attacks; June 11–19, 2004—Paul Johnson kidnaping/execution.

9/11 COMMISSION REPORT

"The massive departments and agencies that prevailed in the great struggles of the twentieth century must work together in new ways, so that all the instruments of national power can be combined."

Ms. SNOWE. This chart beside me illustrates in the starkest of terms, what we are dealing with. . . . ..and what this legislation is all about. I call the contents of this chart to the attention of my colleagues to serve as a reminder of "the big picture." The goal of this reform movement is and has always been to make sure our intelligence agencies are better equipped, organized and managed so that we are in a greater position to detect threats and stop attacks. We want an intelligence community that is better prepared to ensure we don't keep adding to this list.

I also refer my colleagues to a quote from the preface of the 9/11 Commission Report: "The massive departments and agencies that prevailed in the greatest struggles of the twentieth century mush work together in new ways, so that all the instruments of national power can be combined." This bill we are debating today speaks directly to this charge. And it is my view that a strong Inspector general is a vital component of that effort.

An inspector general will help to enhance the authorities of the National Intelligence Director that we will shortly create, assisting this person in instituting better management accountability, and helping him/her to resolve problems within the intelligence community systematically.

Ideally, the inspector general for intelligence should have the ability to investigate current issues within the intelligence community, not just conduct "lessons learned" studies. The IG should have the abilities to seek to identify problem areas and identify the most efficient and effective business practices required to ensure that critical deficiencies can be addressed before it is too late, before we have another intelligence failure, before lives are lost.

In short, an inspector general for intelligence that can look across the entire intelligence community will help improve management, coordination, cooperation and information sharing among the intelligence agencies. A strong, effective IG will help break down the barriers that have perpetuated the parochial, stove-pipe approaches to intelligence community management and operations.

As I stated earlier, I was prepared to offer an amendment that would have expanded on the language already included in the underlying bill—but let me be clear, there are many positive aspects of the inspector general as contained in this bill.

I am pleased, for example, that the bill ensures independence of the IG by including a separate budget account for his office. I also welcome the language pertaining to staffing, reports, subpoena powers and complaint procedures.

I have no doubt that the authors of the underlying bill and I share the same goal—an independent IG with proper authorities to assist in preventing some of the failures I've detailed here today.

As the Chairman of the intelligence committee stated last week on the Senate floor, members of the committee received a frightening briefing last week in closed session where we were told that despite the current terrorist threat we face, and the high state of alert we live under, information sharing between the intelligence agencies is still not taking place and no one is holding anyone accountable for their failure to do so.

Too many incidents of failure to prevent attacks, failure to properly collect the needed intelligence, failure to adequately analyze that intelligence and failure to share information within the community beg for better accountability in the entirety of the community. Who better to do this than a single IG, who can reach across the community, work with the existing individual agency IG's, and confront any problem with a macro, overarching view? It is my hope that the new inspector general for the NID, as authorized in this bill, will take great strides to guarantee that information sharing and accountability are woven into the fabric of the intelligence community. Mr. President, this is the whole reason we are here today.

Mr. LIEBERMAN. Mr. President, I thought I would take this moment of quiet on the floor—we are just about a half hour away from voting final passage of this bill—to thank my staff and the staff of Senator COLLINS, which is led by Michael Bopp. My staff is led by Joyce Rechtschaffen and Kevin Landy, who has been a team leader on this effort. It has been a mighty team. They worked very hard to help Senator COLLINS and me put the hearings together on the 9/11 Commission Report; to work, many of them, over August in addition to working on the hearings, to draft the legislation I introduced with Senator MCCAIN to adopt the nonintelligence parts of the Commission report, and then to work in the week and a half—this being the eighth day of consideration on the floor—to see this bill at the point it is now.

I am very proud that the committee, in the first instance, and now the Senate itself, has responded to the challenge of the 9/11 Commission Report. But, more to the point, it has responded to the deficiencies in our current systems of intelligence and homeland security generally and brought forth a bill that I am convinced, if we can hold it through conference, which we certainly intend to do, will make the American people a lot safer in an age of terrorism.

I want to list the names of all the members of my staff who have worked so hard to bring this legislation to the edge of adoption: Mike Alexander, David Barton, Rajesh De, Christine Healey, Larry Novey, Holly Idelson, Beth Grossman, Mary Beth Schultz, Andrew Weinschenk, Fred Downey, Kathy Seddon, Donny Williams, Jason Yanussi, Dave Berick, Adam Sedgewick, Megan Finlayson, Rachel Sotsky, Tim Profeta, William Bonvillian, Sarah Wachtel, Scott Campbell, Wendy Wang, Laurie Rubenstein, Leslie Phillips, Chuck Ludlam, and Janet Burrell.

Mr. REID. Mr. President, while the distinguished comanager of the bill is on the floor—I am sorry Senator COLLINS is not on the floor—on behalf of the whole Senate, we need to extend to you our congratulations. We all applaud and commend the great work done. This has been a very difficult job. While those of us who were home in August, doing the things we do—having townhall meetings and doing campaign events—you and SUSAN were here doing work to get us in a position so when we came back here there would be an instrument that you could recommend to the other members of your committee who worked with you during this downtime in August—most of it down. This vehicle is now about to be completed. It is a sea change. It is the first part of what the 9/11 Commission recommended, and it is good work. The Senator from Connecticut and Senator COLLINS should feel very good about their accomplishment. I think it is not only a significant improvement from what we had, it is a sea change in what we had before. The American people are going to be safer as a result of this. Congress is going to be more responsible as a result.

Mr. LIEBERMAN. Mr. President, I thank my friend from Nevada for his kind words. I thank him for his characteristic presence and support on the floor.

This has been an extraordinary chapter in my own legislative career here and one that I am very grateful to have had. It has been a real honor to work with Senator COLLINS. I think from the beginning she and I went into this process having had a good relationship working on the committee as Chair and ranking member. This was a moment where we should be working together without any regard to party liabilities or party caucuses; this was an urgent matter of national security.

America was attacked on 9/11, 2001. The 9/11 Commission report was an indictment of various parts of our intelligence and security systems—border security, for instance—and an appeal for urgent action to close those gaps, to strengthen where we are vulnerable; again, an enemy to cause us harm and death, the likes of which we have never faced before; as someone else wrote, "an enemy who hates us more than they love their own lives."

Senator COLLINS and I from the beginning went forward on not only a bipartisan basis but on a nonpartisan basis—which turned out to be the case in our committee as well—and with the strong support of the bipartisan leadership of Senator FRIST and Senator DASCHLE. That has been the case on the floor of the Senate.

I am proud to say that I believe the proposal came from the Governmental Affairs Committee as a strong proposal. I feel that within a half hour of moving to final passage it has grown stronger as a result of action taken by the full Senate on the floor.

There is work yet to be done. Obviously, passing the Senate doesn't make it law; we have to go to conference and present something to the President which he can sign. But I think everyone here has caught the moment of urgency and responded to it in the national interest. This is a great way for us to end this session. I am speaking now apart from the national security implications—just what service in the Senate is all about and what message we send to the American people.

The message here is not just in the content of this law proposal but in the way we have done it, which is we are capable still in an increasingly political or partisan time, particularly prior to a national election, to put all that aside and do what is best for the American people.

I note the presence on the floor of my friend and colleague from Arizona. He and I have worked very hard together.

We thank our colleagues on both sides. In addition to the core parts of the Governmental Affairs Committee bill which adopted the critical intelligence recommendations of the 9/11 Commission establishing a national intelligence director, a national counterterrorism center, Senator MCCAIN and I offered amendments which accomplish and respond to all of the other major recommendations of the 9/11 Commission with regard to border security, for instance, and foreign policy; outreach to the Muslim world so that this bill, as we are ready to vote on it, really meets the challenges of the 9/11 Commission and responds to the pleas of the families who lost loved ones on 9/11 to do whatever we humanly could to make sure nothing like 9/11 ever happens again in the United States of America. I believe the product we are about to vote on does exactly that.

I thank the Chair and note the presence of other colleagues on the floor. I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from New Hampshire.

Mr. SUNUNU. Mr. President, I rise at this time as we head toward a vote on final passage to voice my strong support for this legislation. But equally important, I wish to pay tribute to the work of Senator LIEBERMAN and Senator COLLINS in fashioning this legislation in a bipartisan way. I am pleased to serve on the Governmental Affairs Committee with both of them.

This has been put together in a way that reflects the core recommendations of the September 11 Commission. It takes our intelligence-gathering system and creates a strong intelligence director but gives that director the kind of budget and personnel responsibility that will enable him to be effective as we continue to fight a long war on terrorism—a global fight the length of which we can't determine right now but whose priority and importance is undisputed. It takes all of the assets of our intelligence-gathering network—the assets that serve our national intelligence operation but puts them under the national intelligence director—and gives that director the authority and the flexibility that is going to be necessary to be effective.

It deals with important issues such as border security and transportation today under the responsibility of the Commerce Committee. It creates a counterterrorism center—something that has already been done. But it is important that we authorize the counterterrorism center which is going to be responsible for putting together all of our efforts in dealing with terrorist threats, collecting and distributing that to law enforcement officials, and making sure that our objective of identifying threats to this country, whether it is through financing or the movement of personnel and materials, is done effectively.

While this legislation responds to the September 11 Commission recommendations, I think it is also important to recognize that the September 11 Commission report dealt with the weaknesses that led to the attacks in New York City and Washington and the downing of the plane in Pennsylvania. In order for this legislation to be effective, we need to continue to make sure all of our intelligence assets are focused on the future. There are going to be new threats and new challenges in what will be an evolving fight. The counterterrorism center is going to have to evolve over time to deal with new threats from different parts of the world.

We are going to have to improve our techniques for information sharing. We are going to have to develop new technologies for information gathering around the world. We will have to continue to improve our human intelligence system—something that was, unfortunately, lacking in the years which led up to September 11. This is going to be a continuing process of change.

I think it is most important that this legislation creates the infrastructure and a culture and a leadership structure that can respond to these changes which can evolve with the times and that can deal with the unexpected.

If there is one thing we can be sure of, it is that the fighting of terrorism around the world will include many unexpected, unpredictable events. But if we are to succeed, we want to make sure our intelligence-gathering operation has all the tools and the support that is necessary.

This is a very strong piece of legislation. It was put together in a bipartisan way, but it is not strong because it is bipartisan. I think it is receiving the bipartisan support because it is a strong, thoughtful piece of legislation.

We have a lot of work left to do. We are going to go to a conference with the House, and that in and of itself will be a long process to overcome any differences in the legislation. But I hope in the end and I believe in the end this will be a bill that makes our intelligence-gathering capability and our ability to fight terrorism around the world stronger and which will meet with the core and the thrust of the September 11 Commission report.

Thank you, Mr. President. I yield the floor.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, later this afternoon the Senate is expected to adopt an amendment by the majority leader that establishes a national counterproliferation center. Establishing such a center now is premature and prejudges the ongoing work of the WMD Commission on which I have the honor of serving.

I am one who said we have to get this done, and have done everything under my power to be of some small assistance to the managers of the bill to complete our work on the 9/11 Commission's recommendations. So I find myself in kind of an interesting position saying that we ought to slow down on this one, but I am saying it because this issue was not addressed by the 9/11 Commission.

The President asked the WMD Commission to examine whether the U.S. Government should establish a national counterproliferation center and to offer our recommendation. If I may quote from the President's remarks on the day that he announced the establishment of the WMD Commission:

> Given the growing threat of weapons and missile proliferation in our world, it may also be necessary to create a similar center in our government to bring together our intelligence analysis planning and operations to track and prevent the spread of weapons of mass destruction. I asked the committee commission headed by Judge Laurence Silberman and Senator Chuck Robb to determine the merits of creating such a center.

In other words, the WMD Commission has been chartered to determine the creation of such a center. I have to tell my colleagues, as a member of that

Commission, we have not yet reached a point where we could either recommend or not recommend. The Commission and its staff have held a number of discussions on the desirability of establishing a counterproliferation center, and we will soon examine the structure and responsibilities that such a center might entail, if it should be established at all. In response to the President's specific request, we will issue a formal recommendation in our final report in March.

This amendment could seriously undermine the work of the WMD Commission. The amendment would establish a national counterproliferation center before the Commission has even had a chance to fully study the issue. Rather than waiting for an in-depth review of the pros and cons of moving ahead with such a center—a review that will be fully completed in March—this amendment goes ahead and does it anyway. The proponents of this amendment, and I understand that, have argued that the center would not be established for a year after enactment of the underlying bill and the structures and responsibilities could be changed later. But if we are planning to delay establishing the center for a year and if we are open to changes which would presumably require changes in law, then why are we passing this amendment? Why interrupt the work of the WMD Commission when we could have the benefit of their assessment in a few months?

If the WMD Commission concludes no center is needed, or something different is more appropriate, then it would be very hard to find an opportunity to take this recommendation into account, short of passing legislation that will rescind this amendment if it is enacted.

I don't believe we should interfere with the WMD Commission's work. What we should do is allow all of the facts to be considered and debated, and then we can take the appropriate actions at that time.

Let's make no mistake, establishing this center would be a very significant action by the Congress. It cuts to the heart of the security issues that we all agree are critical to our Nation. We need to make sure that if we are going to do this, we do it right. We should await the WMD Commission's report, hear a variety of opinions, and structure the center, if it is needed, in a way that makes the most sense of the task at hand. We should not take the shortcuts on an issue of such importance, but I am afraid we are on the verge of doing just that.

We owe it to the American people to fully assess the implications of building a national counterproliferation center. This will be far reaching. I don't believe any Members have had a chance to examine this in any detail. The amendment puts the cart before the horse and I strongly oppose it.

I repeat again, the 9/11 Commission did not address the issue of counterproliferation. They addressed a broad variety of issues but counterproliferation was not one of them. And weapons of mass destruction, in the sense of the charter of the WMD Commission, was not part of their deliberations.

I have strongly supported the 9/11 Commission recommendations. I am proud of the work Senator COLLINS and Senator LIEBERMAN have done in addressing every single one of the 9/11 Commission recommendations with the exception of two that have to do with the congressional reorganization.

Having said that, this amendment is out of the purview of the September 11 Commission and, frankly, out of the purview of this pending legislation.

The majority leader has assured me there will be language, certain caveats about how it could be changed, et cetera, and I appreciate that. We have had a significant dialog on the issue. But the difference I have with the amendment and the majority leader is basically that we have said we are going to establish this national counterproliferation center, period.

This is not an issue of national emergency. I think it does a disservice to the WMD Commission on which I serve, which would report out in March their recommendations and conclusions, and we would be acting, then, on far firmer ground.

Maybe we can talk about it more after this bill is passed. I know the White House has severe reservations about this amendment. Maybe we could continue a dialog on it and at least make this amendment significantly more palatable so that the Weapons of Mass Destruction Commission recommendations that come out in March can be fully and completely considered.

I thank the majority leader for his commitment to maintaining a dialog on this issue. I may not be able to speak again in the Senate, but I again express my profound and deep appreciation to Senator COLLINS and Senator LIEBERMAN who have displayed adequately for all Americans as well as Members of this body that if there is a cause great enough and people good enough that we will act in a bipartisan fashion for the good of this Nation.

I have been in this body for only 18 years, but this is one of my prouder moments because of the way this entire body has acted in the national interest.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

AMENDMENT NO. 3895, AS FURTHER MODIFIED

Mr. FRIST. Mr. President, I rise to comment on the amendment we will be voting on in a bit. It does center on the establishment of a counterproliferation center.

I appreciate the comments of my distinguished colleague from Arizona. We have had the opportunity to talk over the course of today about this amendment and we have a modification. I have talked to the White House and, based on that conversation, made further modifications.

The reason we should vote on this amendment and it should be a part of this package that we can all be very proud of passing here in 10, 15, or 20 minutes is that the greatest threat facing our country is not a terrorist. We all know it is not just the terrorists. The greatest threat is a terrorist armed with some sort of weapon of mass destruction.

In debate the other night before 60 million people, President Bush and Senator KERRY cited the nexus between proliferation and terrorism being their single greatest concern and the most significant challenge our country faces. This whole concept of counterproliferation—talk about a counterproliferation center is not a new idea, but it is a new component of U.S. policy and has been looking at the safety and security of the American people and an overhaul of our intelligence gathering and intelligence system. The counterproliferation is an important component to be addressed.

Counterproliferation is a broad topic and it includes everything the United States and its allies do to halt, to deter, to stop to roll back the trafficking of weapons of mass destruction, their delivery systems and related materials.

It means interdicting these dangerous materials before they get into the hands of the world's most dangerous terrorists. It means stopping these items before terrorist groups can assemble them into weapons and deliver them to our homeland.

Again, we are talking about counterproliferation, not just counterterrorism. But counterproliferation also means unraveling those proliferation networks that supply, sustain, finance, and enable proliferation suppliers and customers. They are the linkages and supply chains between countries that proliferate, firms that proliferate, middlemen, and their customers around the globe.

The most famous network unraveled by the U.S. and its partners was the AQ Khan network. It was this network that supplied Libya, Iran, and possibly others, with nuclear equipment, materials, and know-how. Counterproliferation works, but it takes close cooperation, it takes close coordination, and it takes teamwork within the United States, and with our friends and allies around the world.

The most famous interdiction of recent times was the stopping of the BBC China, a ship that was delivering nuclear parts and components to Libya before being interdicted at a friendly port by some of our European allies. This interdiction had a major effect on prompting Colonel Qadhafi to come clean and to give up his programs.

With more and more countries possibly pursuing weapons of mass destruction programs, and with those same proliferators skirting international laws, treaties, and export control regimes, counterproliferation can help fill the gap and slow or stop this dangerous trade.

The President's Proliferation Security Initiative was a positive step in this direction, but there is more that we can do and we should do. This amendment directs what we can and should do.

The President's Proliferation Security Initiative is supported by over 60 countries, and nearly two dozen are active participants. As we expand globally, however, we, at the same time, need to develop internally. Indeed, the 9/11 Commission called for strengthening the Proliferation Security Initiative in its report and its recommendations.

Establishing a National Counterterrorism Center is necessary. We are doing that. But the National Counterterrorism Center will be focusing on terrorists and terrorist groups. The Nation needs a similar center that, working closely with the National counterterrorism Center, will focus, clarify, and coordinate our country's counterproliferation efforts.

In other words, as the counterterrorism center focuses on the customers, the end users of these dangerous weapons—the terrorists—the national counterproliferation center will be focusing on the suppliers and brokers and distributors of these weapons. This separate center will endeavor to stop these activities before they ever reach the terrorists, before they ever reach the bad guys.

That is what my amendment does. Establishing a national counterproliferation center not only promotes this critical function called counterproliferation that is so necessary to defend our country, it also breaks down the stovepipes that currently exist within the executive branch.

This amendment tracks very closely to the structure, authorities, and roles established for the National Counterterrorism Center. Further, we have made changes to this amendment as amendments to the National Counterterrorism Center have been offered on the floor.

This amendment has also been modified to make clear that counterproliferation does not include programs such as the Cooperative Threat Reduction Program and other threat reduction programs; that our traditional nonproliferation efforts as they pertain to treaties and regimes are not included; and that it does not apply to programs that provide protective gear, clothing, and other items that protect our troops on the battlefield from weapons of mass destruction attacks.

Finally, as my distinguished colleague from Arizona said, I am well aware—we all are—that the President has a Commission studying this issue. That is why this amendment sets the parameters for a national counterproliferation center without getting into the explicit detail. It also does not call for any existing agencies or efforts to be disestablished.

The amendment is also consistent with the framework and authorities for the NID that have been established in the underlying bill.

I have also modified the implementation date so that this center does not have to be established until late next year.

All of this gives the President the flexibility to fine-tune the center based on the findings of his Commission. It also gives him time to establish the center, particularly since the administration will be busy in the coming months setting up the counterterrorism center.

The bottom line is this: Just as we take the offensive in the global war on terrorism, we must similarly take the offensive in stopping the proliferation of weapons of mass destruction. Our nonproliferation efforts are a good defense, but they are not sufficient. We need a good offense, and counterproliferation is just the answer.

The role of the national counterproliferation center, therefore, is to coordinate, plan, and manage those efforts. It is to break down the stovepipes that exist in this nascent effort. It is to deny the terrorists and others access to weapons of mass destruction and their materials while the National Counterterrorism Center works to dismantle terrorist groups and bring terrorists to justice.

Mr. President, establishing a national counterproliferation center is not only the smart thing to do, it is something we must do. I encourage my colleagues to give this amendment their full support. Doing so will make the country and the American people much safer.

Let me also add, in response to the Senator from Arizona, we have received input from the White House on how to improve this amendment. We have incorporated their ideas. The White House, at this point, does not oppose this amendment.

I am confident this amendment does strike the proper balance between establishing the national counterproliferation center and, at the same time, leaving the President more than sufficient time—a year—and flexibility to modify it as he sees fit or as the Commission recommends.

This amendment is crafted in a manner so as to leave the whole range of details for the President and the Commission to flush out as they see fit.

Finally, the modified amendment also includes a provision we worked on with a number of Senators, including Senator McCAIN's staff, that makes clear that the intent of this amendment is not to undermine or override the Commission.

Mr. President, I yield the floor and do appreciate the consideration of my colleagues in supporting this amendment.

The PRESIDING OFFICER. The Democratic whip.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. COLLINS. Mr. President, I know of no further debate on the leader's amendment. The modification has been sent to the desk. Mr. President, this is the Frist amendment No. 3895, as further modified.

The PRESIDING OFFICER. The amendment is further modified.

The amendment, as further modified, is as follows:

On page 94, strike line 5 and insert the following:

SEC. 144. NATIONAL COUNTERPROLIFERATION CENTER.

(a) NATIONAL COUNTERPROLIFERATION CENTER.—(1) Within one year of enactment of this Act there shall be established within the National Intelligence Authority a National Counterproliferation Center.

(2) The purpose of the Center is to develop, direct, and coordinate the efforts and activities of the United States Government to interdict the trafficking of weapons of mass destruction, related materials and technologies, and their delivery systems to terrorists, terrorist organizations, other non-state actors of concern, and state actors of concern.

(b) DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—(1) There is a Director of the National Counterproliferation Center, who shall be the head of the National Counterproliferation Center, and who shall be appointed by the President, by and with the advice and consent of the Senate.

(2) Any individual nominated for appointment as the Director of the National Counterproliferation Center shall have significant expertise in matters relating to the national security of the United States and matters relating to the proliferation of weapons of mass destruction, their delivery systems, and related materials and technologies that threaten the national security of the United States, its interests, and allies.

(3) The individual serving as the Director of the National Counterproliferation Center may not, while so serving, serve in any capacity in any other element of the intelligence community, except to the extent that the individual serving as Director of the National Counterproliferation Center is doing so in an acting capacity.

(c) SUPERVISION.—(1) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the budget, personnel, activities, and programs of the National Counterproliferation Center.

(2) The Director of the National Counterproliferation Center shall report to the National Intelligence Director on the activities of the Directorate of Intelligence of the National Counterproliferation Center under subsection (g).

(3) The Director of the National Counterproliferation Center shall report to the President and the National Intelligence Director on the planning and progress of counterproliferation operations.

(d) PRIMARY MISSIONS.—The primary missions of the National Counterproliferation Center shall be as follows:

(1) To develop and unify strategy for the Counterproliferation efforts of the United States Government.

(2) To make recommendations to the National Intelligence Director with regard to the collection and analysis requirements and priorities of the National Counterproliferation Center.

(3) To integrate counterproliferation intelligence activities of the United States Government, both inside and outside the United States, and with other governments.

(4) To conduct stgrategic planning and develop recommended courses of action for multilateral and United States Government counterproliferation activities, which—

(A) involve more than one department, agency, or element of the executive branch (unless otherwise directed by the President) of the United States Government; and

(B) include the mission, objectives to be achieved, courses of action, parameters for such courses of action, coordination of agency operational activities, recommendations for operational activities, and assignment of national, departmental, or agency responsibilities.

(5) To ensure that the collection, analysis, and utilization of counterproliferation intelligence, and the conduct of counterproliferation operations, by the United States Government are informed by the analysis of all-source intelligence.

(e) DUTIES AND RESPONSIBILITIES OF DIRECTOR OF NATIONAL COUNTERPROLIFERATION CENTER.—Notwithstanding any other provision of law, at the direction of the President and the National Intelligence Director, the Director of the National Counterproliferation Center shall—

(1) serve as a principal adviser to the President and the National Intelligence Director on operations relating to interagency counterproliferation planning and activities;

(2) provide unified strategic direction for the counterproliferation efforts of the United States Government and for the effective integration and deconfliction of counterproliferation intelligence and operations across agency boundaries, both inside and outside the United States, and with foreign governments;

(3) advise the President and the National Intelligence Director on the extent to which the counterproliferation program recommendations and budget proposals of the departments, agencies, and elements of the United States Government conform to the policies and priorities established by the President and the National Security Council;

(4) advise the President on, the selections of personnel to head the nonmilitary operating entities of the United States Government with principal missions relating to Counterproliferation;

(5) advise the President and the National Intelligence Director on the science and technology research and development requirements and priorities of the counterproliferation programs and activities of the United States Government; and

(6) perform such other duties as the National Intelligence Director may prescribe or are prescribed by law;

(f) DIRECTORATE OF INTELLIGENCE.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Intelligence.

(2) The Directorate shall have primary responsibility within the United States Government for the analysis of information regarding proliferators (including individuals, entities, organizations, companies, and states) and their networks, from all sources of intelligence, whether collected inside or outside the United States.

(3) The Directorate shall—

(A) be the principal repository within the United States Government for all-source information on suspected proliferators, their networks, their activities, and their capabilities;

(B) propose intelligence collection and analysis requirements and priorities for action by elements of the intelligence community inside and outside the United States;

(C) have primary responsibility within the United States Government for net assessments and warnings about weapons of mass destruction proliferation threats, which assessments and warnings shall be based on a comparison of the intentions and capabilities of proliferators with assessed national vulnerabilities and countermeasures;

(D) conduct through a separate office independent analyses (commonly referred to as "red teaming") of intelligence collected and analyzed with respect to proliferation; and

(E) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(g) DIRECTORATE OF PLANNING.—(1) The Director of the National Counterproliferation Center shall establish and maintain within the National Counterproliferation Center a Directorate of Planning.

(2) The Directorate shall have primary responsibility for conducting strategic planning and developing courses of action for counterproliferation activities, as described in subsection (d)(4).

(3) The Directorate shall—

(A) provide guidance, and develop strategy and interagency plans, to counter proliferation activities based on policy objectives and priorities established by the National Security Council;

(B) develop plans under subparagraph (A) utilizing input from personnel in other departments, agencies, and elements of the United States Government who have expertise in the priorities, functions, assets, programs, capabilities, and operations of such departments, agencies, and elements with respect to counterproliferation;

(C) assign responsibilities and propose courses of action for counterproliferation operations to the departments and agencies of the United States Government (including the Department of Defense, the Department of State, the Central Intelligence Agency, the Federal Bureau of Investigation, the Department of Homeland Security, and other departments and agencies of the United States Government), consistent with the authorities of such departments and agencies;

(D) monitor the implementation of operations assigned under subparagraph (C) and update interagency plans for such operations as necessary;

(E) report to the President and the National Intelligence Director on the performance of the departments, agencies, and elements of the United States with regard to the plans developed under subparagraph (A); and

(F) perform such other duties and functions as the Director of the National Counterproliferation Center may prescribe.

(4) The Directorate may not direct the execution of operations assigned under paragraph (3).

(h) STAFF.—(1) The National Intelligence Director may appoint deputy directors of the National Counterproliferation Center to oversee such portions of the operations of the Center as the National Intelligence Director considers appropriate.

(2) To assist the Director of the National Counterproliferation Center in fulfilling the duties and responsibilities of the Director of the National Counterproliferation Center under this section, the National Intelligence Director shall employ in the National Counterproliferation Center a professional staff having an expertise in matters relating to such duties and responsibilities.

(3) In providing for a professional staff for the National Counterproliferation Center under paragraph (2), the National Intelligence Director may establish as positions in the excepted service such positions in the Center as the National Intelligence Director considers appropriate.

(4) The National Intelligence Director shall ensure that the analytical staff of the National Counterproliferation Center is comprised primarily of experts from elements in the intelligence community and from such other personnel in the United States Government as the National Intelligence Director considers appropriate.

(5)(A) In order to meet the requirements in paragraph (4), the National Intelligence Director shall, from time to time—

(i) specify the transfers, assignments, and details of personnel funded within the National Intelligence Program to the National Counterproliferation Center from any element of the intelligence community that the National Intelligence Director considers appropriate; and

(ii) in the case of personnel from a department, agency, or element of the United States Government and not funded within the National Intelligence Program, request the transfer, assignment, or detail of such personnel from the department, agency, or other element concerned.

(B)(i) The head of an element of the intelligence community shall promptly effect any transfer, assignment, or detail of personnel specified by the National Intelligence Director under subparagraph (A)(i).

(ii) The head of a department, agency, or element of the United States Government receiving a request for transfer, assignment, or detail of personnel under subparagraph (A)(ii) shall, to the extent practicable, approve the request.

(6) Personnel employed in or assigned or detailed to the National Counterproliferation Center under this subsection shall be under the authority, direction, and control of the Director of the National Counterproliferation Center on all matters for which the Center has been assigned responsibility and for all matters related to the accomplishment of the missions of the Center.

(7) Performance evaluations of personnel assigned or detailed to the National Counterproliferation Center under this subsection shall be undertaken by the supervisors of such personnel at the Center.

(8) The supervisors of the staff of the National Counterproliferation Center may,

with the approval of the National Intelligence Director, reward the staff of the Center for meritorious performance by the provision of such performance awards as the National Intelligence Director shall prescribe.

(9) The National Intelligence Director may delegate to the Director of the National Counterproliferation Center any responsibility, power, or authority of the National Intelligence Director under paragraphs (1) through (8).

(10) The National Intelligence Director shall ensure that the staff of the National Counterproliferation Center has access to all databases and information maintained by the elements of the intelligence community that are relevant to the duties of the Center.

(i) SUPPORT AND COOPERATION OF OTHER AGENCIES.—(1) The elements of the intelligence community and the other departments, agencies, and elements of the United States Government shall support, assist, and cooperate with the National Counterproliferation Center in carrying out its missions under this section.

(2) The support, assistance, and cooperation of a department, agency, or element of the United States Government under this subsection shall include, but not be limited to—

(A) the implementation of interagency plans for operations, whether foreign or domestic, that are developed by the National Counterproliferation Center in a manner consistent with the laws and regulations of the United States and consistent with the limitation in subsection (h)(4);

(B) cooperative work with the Director of the National Counterproliferation Center to ensure that ongoing operations of such department, agency, or element do not conflict with operations planned by the Center;

(C) reports, upon request, to the Director of the National Counterproliferation Center on the performance of such department, agency, or element in implementing responsibilities assigned to such department, agency, or element through joint operations plans; and

(D) the provision to the analysts of the National Counterproliferation Center electronic access in real time to information and intelligence collected by such department, agency, or element that is relevant to the missions of the Center.

(3) In the event of a disagreement between the National Intelligence Director and the head of a department, agency, or element of the United States Government on a plan developed or responsibility assigned by the National Counterproliferation Center under this subsection, the National Intelligence Director may either accede to the head of the department, agency, or element concerned or notify the President of the necessity of resolving the disagreement.

(j) DEFINITIONS.—In this section:

(1) The term "counterproliferation" means—

(A) activities, programs and measures for interdicting (including deterring, preventing, halting, and rolling back) the transfer or transport (whether by air, land or sea) of weapons of mass destruction, their delivery systems, and related materials and technologies to and from states and non-state actors (especially terrorists and terrorist organizations) of proliferation concern;

(B) enhanced law enforcement activities and cooperation to deter, prevent, halt, and rollback proliferation-related networks, activities, organizations, and individuals, and bring those involved to justice; and

(C) activities, programs, and measures for identifying, collecting, and analyzing information and intelligence related to the transfer or transport of weapons, systems, materials, and technologies as described in subparagraph (A).

(2) "Counterproliferation" does not include—

(A) the Cooperative Threat Reduction and other threat reduction programs run or administered by the Department of Defense, Department of Energy and Department of State;

(B) the nonproliferation efforts and activities of the United States Government as they apply to the implementation and management of nonproliferation treaties, conventions, and regimes; or,

(C) programs designated to protect members of the Armed Forces from the employment of weapons of mass destruction by developing and fielding protective equipment, gear and clothing, and other means to enhance the survivability of Armed Forces personnel on the battlefield.

(3) The term "statès and non-state actors of proliferation concern" refers to countries or entities (including individuals, entities, organizations, companies, and networks) that should be subject to counterproliferation activities because of their actions or intent to engage in proliferation through—

(A) efforts to develop or acquire chemical, biological, or nuclear weapons and associated delivery systems; or

(B) transfers (either selling, receiving, or facilitating) of weapons of mass destruction, their delivery systems, or related materials.

(k) REPORTS ON EESTABLISHMENT.—(1)(A) The President shall submit to Congress a report on the plans of the President to establish the National Counterproliferation Center as required by this section.

(B) The report shall be submitted not later than six months after the date of the enactment of this Act, and not later than 30 days before the date of the establishment of the National Counterproliferation Center.

(2) The President shall submit to Congress from time to time such updates of the plans under paragraph (1)(a) as the President considers appropriate. Each update shall include such recommendations for legislative or administrative action as the President considers appropriate to improve the effectiveness of the National Counterproliferation Center consistent with its mission.

(m) CONSTRUCTION WITH CERTAIN CONDITIONS.—Nothing in this section shall override recommendations contained in the forthcoming final report of the President's Commission on Weapons of Mass Destruction, established by Executive Order in February 2004, that will improve the effectiveness of the National Counterproliferation Center: *Provided further*, That in the case of a conflict between the WMD Commission's final report and the National Counterproliferation Center as established in this section, the Congress and the President shall consider the Commission's recommendations and act as soon as practicable thereafter to make such modifications to statute as deemed necessary.

SEC. 145. NATIONAL INTELLIGENCE CENTERS.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as further modified.

The amendment (No. 3895), as further modified, was agreed to.

Ms. COLLINS. I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Ms. COLLINS. Mr. President, I have a series of cleared amendments at the desk. Some of them are modifications of previously submitted amendments. Therefore, I ask unanimous consent that the amendments be considered en bloc, modified as necessary, agreed to en bloc, with the motions to reconsider laid upon the table.

Mr. REID. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. REID. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3896

Ms. COLLINS. Mr. President, I ask unanimous consent that the Frist amendment No. 3896 be considered at this point.

The PRESIDING OFFICER. Without objection, the amendment is now pending.

Ms. COLLINS. Mr. President, I know of no further debate on this amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 3896) was agreed to.

Ms. COLLINS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 3876, WITHDRAWN

Mr. WARNER. Mr. President, I have worked with the distinguished managers. Like so many things in the course of our legislative process, we have worked out a very large number of items, and they have been accepted. One remains and, in my judgment, the various good-faith proposals simply do not meet the criteria that I feel has to be established. So I have two courses of action. One, which I intend to follow, is to withdraw the amendment. The second, of course, would be to press this on with a vote. Frankly, given the structure of the vote—I don't say this as criticism—it does not allow the time in which to get sufficient information and viewpoints to my colleagues to prevail on such a vote. So I think the better course of action for this Senator is to continue to press my concerns in the course of the conference.

At this time, I call up amendment No. 3876.

The PRESIDING OFFICER. The amendment is pending.

Mr. WARNER. Mr. President, I ask that the amendment be withdrawn.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. For a little expression of the explanation of the amendment, I go back to two very important documents. The first is a letter dated September 28, 2004, Statement of Administration Policy. I ask unanimous consent that the following paragraph be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

> The Administration notes that the Committee bill did not include Section 6 ("Preservation of Authority and Accountability") of the Administration's proposal; the Administration supports inclusion of this provision in the Senate bill. The legislation should also recognize that its provisions would be executed to the extent consistent with the constitutional authority of the President: to conduct the foreign affairs of the United States; to withhold information the disclosure of which could impair the foreign relations, the national security, deliberative processes of the Executive, or the performanceof the Executive's constitutional duties; to recommend for congressional consideration such measures as the President may judge necessary or expedient; and to supervise the unitary executive.

Mr. WARNER. That paragraph states that:

> The Administration opposes the Committee's attempt to define in statute programs that should be included in the National Intelligence Program.

I believe we have to work this out in a clearer fashion. It is also more clear than what is in the amendment structure today, so I will put that aside and then go to the subject of this amendment.

The last paragraph of the September 28 letter reads:

> The Administration notes that the Committee did not include Section 6, ("Preservation of Authority and Accountability") of the Administration's proposal; the Administration supports the inclusion of this provision in the Senate bill.

That was the basic intent of my amendment; therefore, I will take the opportunity to work on that during the course of conference in the hopes of achieving that goal.

I thank the managers for their effort to work on it, and we will hopefully work on it further to achieve this administration goal.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I very much appreciate the cooperation of the chairman of the Armed Services Committee. We have incorporated many of his suggestions into the bill. I appreciate his advice.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Ms. COLLINS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MODIFICATION TO NO. 3807

Ms. COLLINS. Mr. President, I ask unanimous consent to modify amendment No. 3807, with the changes at the desk, notwithstanding its prior adoption.

The PRESIDING OFFICER. Without objection, it is so ordered.

The modification is as follows:

hold driver's licenses and personal identification cards.

(4) NEGOTIATED RULEMAKING.—

(A) IN GENERAL.—Before publishing the proposed regulations required by paragraph (2) to carry out this title, the Secretary of Transportation shall establish a negotiated rulemaking process pursuant to subchapter IV of chapter 5 of title 5, United States Code (5 U.S.C. 561 et seq.).

(B) REPRESENTATION ON NEGOTIATED RULEMAKING COMMITTEE.—Any negotiated rulemaking committee established by the Secretary of Transportation pursuant to subparagraph (A) shall include representatives from—

(i) among State offices that issue driver's licenses or personal identification cards;

(ii) among State elected officials;

(iii) the Department of Homeland Security; and

(iv) among interested parties, including organizations with technological and operational expertise in document security and organizations that represent the interests of applicants for such licenses or identification cards.

(C) TIME REQUIREMENT.—The process described in subparagraph (A) shall be conducted in a timely manner to ensure that—

(i) any recommendation for a proposed rule or report is provided to the Secretary of Transportation not later than 9 months after the date of enactment of this Act; and

(ii) a final rule is promulgated not later than 18 months after the date of enactment of this Act.

(c) GRANTS TO STATES.—

(1) ASSISTANCE IN MEETING FEDERAL STANDARDS.—Beginning on the date a final regulation is promulgated under subsection (b)(2), the Secretary of Transportation shall award grants to States to assist them in conforming to the minimum standards for driver's licenses and personal identification cards set forth in the regulation.

(2) ALLOCATION OF GRANTS.—The Secretary of Transportation shall award grants to States under this subsection based on the proportion that the estimated average annual number of driver's licenses and personal identification cards issued by a State applying for a grant bears to the average annual number of such documents issued by all States.

(3) MINIMUM ALLOCATION.—Notwithstanding paragraph (2), each State shall receive not less than 0.5 percent of the grant funds made available under this subsection.

(d) EXTENSION OF EFFECTIVE DATE.—The Secretary of Transportation may extend the date specified under subsection (b)(1)(A) for up to 2 years for driver's licenses issued by a State if the Secretary determines that the State made reasonable efforts to comply with the date under such subsection but was unable to do so.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Secretary of Transportation for each of the fiscal years 2005 through 2009, such sums as may be necessary to carry out this section.

SEC. ___08. SOCIAL SECURITY CARDS.

(a) SECURITY ENHANCEMENTS.—The Commissioner of Social Security shall—

(1) not later than 180 days after the date of enactment of this section, issue regulations to restrict the issuance of multiple replacement social security cards to any individual to minimize fraud;

(2) within 1 year after the date of enactment of this section, require verification of records provided by an applicant for an original social security card, other than for purposes of enumeration at birth; and

(3) within 18 months after the date of enactment of this section, add death, fraud, and work authorization indicators to the social security number verification system.

(b) INTERAGENCY SECURITY TASK FORCE.—The Commissioner of Social Security, in consultation with the Secretary of Homeland Security, shall form an interagency task force for the purpose of further improving the security of social security cards and numbers. Not later than 1 year after the date of enactment of this section, the task force shall establish security requirements, including—

(1) standards for safeguarding social security cards from counterfeiting, tampering, alteration, and theft;

(2) requirements for verifying documents submitted for the issuance of replacement cards; and

(3) actions to increase enforcement against the fraudulent use or issuance of social security numbers and cards.

AMENDMENTS NOS. 3733, AS MODIFIED, 3760, 3837, AS MODIFIED, 3861, AS MODIFIED, 3880, AS MODIFIED, 3924, AS MODIFIED, 3977, 3978, 3979, AND 3980

Ms. COLLINS. Mr. President, Senator LIEBERMAN and I have a series of cleared amendments at the desk. Some of these are modifications of previously submitted amendments. Therefore, I ask unanimous consent that the amendments be considered en bloc, modified as necessary, agreed to en bloc, with the motions to reconsider laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 3733, AS MODIFIED

At the appropriate place, insert the following:

SEC. ___. REPORT ON USE OF DATABASES.

(a) DEFINITIONS.—In this section:

(1) DATA-MINING.—The term "data-mining" means a query or search or other analysis of 1 or more electronic databases, where—

(A) at least 1 of the databases was obtained from or remains under the control of a non-Federal entity, or the information was acquired initially by another department or agency of the Federal Government;

(B) the search does not use a specific individual's personal identifiers to acquire information concerning that individual; and

(C) a department or agency of the Federal Government or a non-Federal entity acting on behalf of the Federal Government is conducting the query or search or other analysis to find a pattern indicating terrorist, criminal, or other law enforcement related activity.

(2) DATABASE.—The term "database" does not include telephone directories, information publicly available via the Internet or

available by any other means to any member of the public without payment of a fee, or databases of judicial and administrative opinions.

(b) Reports on Data-Mining Activities.—

(1) Requirement for report.—Beginning one year after the effective date of this section the National Intelligence Director shall submit a report, public to the extent possible with a classified annex, to Congress on all activities of the intelligence community to use or develop data-mining technology.

(2) Content of report.—A report submitted under paragraph (1) shall include, for each activity to use or develop data-mining technology that is required to be covered by the report, the following information:

(A) A thorough description of the data-mining technology, the plans for the use of such technology, the data that will be used, and the target dates for the deployment of the data-mining technology.

(B) An assessment of the likely impact of the implementation of the data-mining technology on privacy and civil liberties.

(C) A thorough discussion of the policies, procedures, and guidelines that are to be developed and applied in the use of such technology for data-mining in order to—

(i) protect the privacy and due process rights of individuals; and

(ii) ensure that only accurate information is collected and used.

(D) Any necessary classified information in an annex that shall be available to the Committee on Governmental Affairs, the Committee on the Judiciary, and the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence and Committee on the Judiciary of the House of Representatives.

(3) Time for report.—The report required under paragraph (1) shall be submitted not later than September 30th of each year.

(4) Expiration.—The requirements of this subsection shall expire 4 years after the date of enactment of this Act.

AMENDMENT NO. 3760

(Purpose: To provide that the Privacy and Civil Liberties Oversight Board include in certain reports, any proposal that the Board advised against, but actions were taken to implement)

On page 158, line 5, strike "and".

On page 158, line 9, strike the period and insert "; and".

On page 158, insert between lines 9 and 10, the following:

(C) each proposal reviewed by the Board under subsection (d)(1) that—

(i) the Board advised against implementation; and

(ii) notwithstanding such advice, actions were taken to implement.

AMENDMENT NO. 3837, AS MODIFIED

At the end, add the following:

TITLE IV—ADVANCED TECHNOLOGY NORTHERN BORDER SECURITY PILOT PROGRAM

SEC. 401. ESTABLISHMENT.

The Secretary of Homeland Security may carry out a pilot program to test various advanced technologies that will improve border security between ports of entry along the northern border of the United States.

SEC. 402. PROGRAM REQUIREMENTS.

(a) Required Features.—The Secretary of Homeland Security shall design the pilot program under this title to have the following features:

(1) Use of advanced technological systems, including sensors, video, and unmanned aerial vehicles, for border surveillance.

(2) Use of advanced computing and decision integration software for—

(A) evaluation of data indicating border incursions;

(B) assessment of threat potential; and

(C) rapid real-time communication, monitoring, intelligence gathering, deployment, and response.

(3) Testing of advanced technology systems and software to determine best and most cost-effective uses of advanced technology to improve border security.

(4) Operation of the program in remote stretches of border lands with long distances between 24-hour ports of entry with a relatively small presence of United States border patrol officers.

(5) Capability to expand the program upon a determination by the Secretary that expansion would be an appropriate and cost-effective means of improving border security.

(b) Coordination With Other Agencies.—The Secretary of Homeland Security shall ensure that the operation of the pilot program under this title—

(1) is coordinated among United States, State and local, and Canadian law enforcement and border security agencies; and

(2) includes ongoing communication among such agencies.

SEC. 403. ADMINISTRATIVE PROVISIONS.

(a) Procurement of Advanced Technology.—The Secretary of Homeland Security may enter into contracts for the procurement or use of such advanced technologies as the Secretary determines appropriate for the pilot program under this title.

(b) Program Partnerships.—In carrying out the pilot program, the Secretary of Homeland Security may provide for the establishment of cooperative arrangements for participation in the pilot program by such participants as law enforcement and border security agencies referred to in section 402(b), institutions of higher education, and private sector entities.

SEC. 404. REPORT.

(a) Requirement for Report.—Not later than one year after the date of the enactment of this Act, the Secretary of Homeland Security shall submit to Congress a report on the pilot program under this title.

(b) Content.—The report under subsection (a) shall include the following matters:

(1) A discussion of the implementation of the pilot program, including the experience under the pilot program.

(2) A recommendation regarding whether to expand the pilot program along the entire northern border of the United States and a timeline for the implementation of the expansion.

SEC. 405. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated such sums as may be necessary to carry out the pilot program under this title.

AMENDMENT NO. 3861, AS MODIFIED

At the appropriate place, insert the following:

SEC.   . BORDER SURVEILLANCE.

(a) In General.—Not later than 6 months after the date of enactment of this Act, the Secretary of Homeland Security shall submit to the President and the appropriate committees of Congress a comprehensive plan for the systematic surveillance of the Southwest border of the United States by remotely piloted aircraft.

(b) Contents.—The plan submitted under subsection (a) shall include—

(1) recommendations for establishing command and control centers, operations sites, infrastructure, maintenance, and procurement;

(2) cost estimates for the implementation of the plan and ongoing operations;

(3) recommendations for the appropriate agent within the Department of Homeland Security to be the executive agency for remotely piloted aircraft operations;

(4) the number of remotely piloted aircraft required for the plan;

(5) the types of missions the plan would undertake, including—

(A) protecting the lives of people seeking illegal entry into the United States;

(B) interdicting illegal movement of people, weapons, and other contraband across the border;

(C) providing investigative support to assist in the dismantling of smuggling and criminal networks along the border;

(D) using remotely piloted aircraft to serve as platforms for the collection of intelligence against smugglers and criminal networks along the border; and

(E) further validating and testing of remotely piloted aircraft for airspace security missions; and

(6) the equipment necessary to carry out the plan.

(7) A recommendation regarding whether to expand the pilot program along the entire southwestern border.

(c) Implementation.—The Secretary of Homeland Security shall implement the plan submitted under subsection (a) as a pilot program as soon as sufficient funds are appropriated and available for this purpose.

(d) Authorization of Appropriations.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.

AMENDMENT NO. 3880, AS MODIFIED

On page 19, between lines 14 and 15, insert the following:

(c) Consistency of Personnel Policies and Programs With Certain Other Personnel Policies and Standards.—(1) The personnel policies and programs developed and implemented under subsection (a)(8) with respect to members of the uniformed services shall be consistent with any other personnel policies and standards applicable to the members of the uniformed services.

(2) It is the sense of the Senate that the NID shall seek input from the Secretary of Defense, the secretaries of the military departments, and, as appropriate, the Secretary of Homeland Security in developing and implementing such policies and programs.

On page 19, line 15, strike "(c)" and insert "(d)".

On page 20, line 4, strike "(d)" and insert "(e)".

AMENDMENT NNO. 3924, AS MODIFIED

At the appropriate place, insert the following:

SEC.   . ENTERPRISE ARCHITECTURE.

(a) Definition of Enterprise Architecture.—In this section, the term "enterprise architecture" means a detailed outline or blueprint of the information technology of the Federal Bureau of Investigation that will satisfy the ongoing mission and goals of the Federal Bureau of Investigation and that sets forth specific and identifiable benchmarks.

(b) Enterprise Architecture.—The Federal Bureau of Investigation shall—

(1) continually maintain and update an enterprise architecture; and

(2) maintain a state of the art and up to date information technology infrastructure that is in compliance with the enterprise architecture of the Federal Bureau of Investigation.

(c) REPORT.—Subject to subsection (d), the Director of the Federal Bureau of Investigation shall report to the House and Senate Judiciary Committees, on an annual basis, on whether the major information technology investments of the Federal Bureau of Investigation are in compliance with the enterprise architecture of the Federal Bureau of Investigation and identify any inability or expectation of inability to meet the terms set forth in the enterprise architecture.

(d) FAILURE TO MEET TERMS.—If the Director of the Federal Bureau of Investigation identifies any inability or expectation of inability to meet the terms set forth in the enterprise architecture in a report under subsection (c), the report under subsection (c) shall—

(1) be twice a year until the inability is corrected;

(2) include a statement as to whether the inability or expectation of inability to meet the terms set forth in the enterprise architecture is substantially related to resources; and

(3) if the inability or expectation of inability is substantially related to resources, include a request for additional funding that would resolve the problem or a request to reprogram funds that would resolve the problem.

(e) Federal Bureau of Investigation's Enterprise Architecture, Agency Plans and Reports—This section shall be carried out in compliance with the requirements set forth in Sec. 206(f) and (1).

AMENDMENT NO. 3977

On page 4, beginning on line 10, strike "information gathered, and activities" and inserting "foreign intelligence gathered, and information gathering and other activities".

On page 4, line 16, insert before the period the following: ", but does not include personnel, physical, document, or communications security programs".

On page 23, line 8, strike the period and insert "as it pertains to those programs, projects, and activities within the National Intelligence Program".

On page 24, line 10, insert "transactional deposit" after "establish".

On page 181, line 9, insert "or involving intelligence acquired through clandestine means" before the period

AMENDMENT NO. 3978

(Purpose: to authorize the Secretary of State to increase the number of consular officers, clarify the responsibilities and functions of consular officers, and require the Secretary of Homeland Security to increase the number of border patrol agents and customs enforcement investigators)

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) INCREASED NUMBER OF CONSULAR OFFICERS.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) LIMITATION ON USE OF FOREIGN NATIONALS FOR VISA SCREENING.—

(1) IMMIGRANT VISAS.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: "All immigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(2) NONIMMIGRANT VISAS.—Subsection (d) of such section is amended by adding at the end the following: "All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(c) TRAINING FOR CONSULAR OFFICERS IN DETECTION OF FRAUDULENT DOCUMENTS.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: "As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.".

(d) ASSIGNMENT OF ANTI-FRAUD SPECIALISTS.—

(1) SURVEY REGARDING DOCUMENT FRAUD.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) REQUIREMENT FOR SPECIALIST.—

(A) IN GENERAL.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify the diplomatic and consular posts at which visas are issued that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall assign or designate at each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

(B) EXCEPTIONS.—The Secretary of State is not required to assign or designate a specialist as described in subparagraph (A) at a diplomatic and consular post if an employee of the Department of Homeland Security is assigned on a full-time basis to such post under the authority in section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were made available during the preceding fiscal year. Of the additional border patrol agents, in each fiscal year not less than 20 percent of such agents shall be assigned to duty stations along the northern border of the United States.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were made available during the preceding fiscal year.

AMENDMENT NO. 3979

(Purpose: To amend the Immigration and Nationality Act to ensure that nonimmigrant visas are not issued to individuals with connections to terrorism or who intend to carry out terrorist activities in the United States)

At the end, add the following new title:

TITLE IV—VISA REQUIREMENTS

SEC. 401. IN PERSON INTERVIEWS OF VISA APPLICANTS.

(a) REQUIREMENT FOR INTERVIEWS.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a nonimmigrant visa—

"(1) who is at least 12 years of age and not more than 65 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

"(A) by a consular official and such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

"(B) by a consular official and such alien is applying for a visa—

"(i) not more than 12 months after the date on which the alien's prior visa expired;

"(ii) for the classification under section 101(a)(15) for which such prior visa was issued;

"(iii) from the consular post located in the country in which the alien is a national; and

"(iv) the consular officer has no indication that the alien has not complied with the immigration laws and regulations of the United States; or

"(C) by the Secretary of State if the Secretary determines that such waiver is—

"(i) in the national interest of the United States; or

"(ii) necessary as a result of unusual circumstances; and

"(2) notwithstanding paragraph (1), to submit to an in person interview with a consular officer if such alien—

"(A) is not a national of the country in which the alien is applying for a visa;

"(B) was previously refused a visa, unless such refusal was overcome or a waiver of ineligibility has been obtained;

"(C) is listed in the Consular Lookout and Support System (or successor system at the Department of State);

"(D) may not obtain a visa until a security advisory opinion or other Department of State clearance is issued unless such alien is—

"(i) within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

"(ii) not a national of a country that is officially designated by the Secretary of State as a state sponsor of terrorism; or

"(E) is identified as a member of a group or sector that the Secretary of State determines—

"(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

"(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

"(iii) poses a security threat to the United States.".

SEC. 402. VISA APPLICATION REQUIREMENTS.

Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting "The alien shall provide complete and accurate information in response to any request for information contained in the application." after the second sentence.

SEC. 403. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect 90 days after date of the enactment of this Act.

AMENDMENT NO. 3960

(Purpose: To require the establishment of pilot projects relating to the coordination of information among emergency first responders, and for other purposes)

At the appropriate place, insert the following:

SEC. ___. REGIONAL MODEL STRATEGIC PLAN PILOT PROJECTS.

(a) PILOT PROJECTS.—Consistent with sections 302 and 430 of the Homeland Security Act of 2002 (6 U.S.C. 182, 238), not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Executive Director of the Office of State and Local Government Coordination and Preparedness and the Undersecretary for Science and Technology, shall establish not fewer than 2 pilot projects in high threat urban areas or regions that are likely to implement a national model strategic plan.

(b) PURPOSES.—The purposes of the pilot projects required by this section shall be to develop a regional strategic plan to foster interagency communication in the area in which it is established and coordinate the gathering of all Federal, State, and local first responders in that area, consistent with the national strategic plan developed by the Department of Homeland Security.

(c) SELECTION CRITERIA.—In selecting urban areas for the location of pilot projects under this section, the Secretary shall consider—

(1) the level of threat risk to the area, as determined by the Department of Homeland Security;

(2) the number of Federal, State, and local law enforcement agencies located in the area;

(3) the number of potential victims from a large scale terrorist attack in the area; and

(4) such other criteria reflecting a community's risk and vulnerability as the Secretary determines is appropriate.

(d) INTERAGENCY ASSISTANCE.—The Secretary of Defense shall provide assistance to the Secretary of Homeland Security, as necessary for the development of the pilot projects required by this section, including examining relevant standards, equipment, and protocols in order to improve interagency communication among first responders.

(e) REPORTS TO CONGRESS.—The Secretary of Homeland Security shall submit to Congress—

(1) an interim report regarding the progress of the interagency communications pilot projects required by this section 6 months after the date of enactment of this Act; and

(2) a final report 18 months after that date of enactment.

(f) FUNDING.—There are authorized to be made available to the Secretary of Homeland Security, such sums as may be necessary to carry out this section.

Ms. COLLINS. Mr. President, I thank everyone who has worked so hard on this bill, particularly my colleague and partner, Senator LIEBERMAN.

I believe we are ready to move to third reading.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill, as amended, pass?

Ms. COLLINS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS) and the Senator from Massachusetts (Mr. KERRY) are necessarily absent.

The PRESIDING OFFICER (Mr. BENNETT). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 96, nays 2, as follows:

[Rollcall Vote No. 199 Leg.]

YEAS—96

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Breaux
Brownback
Bunning
Burns
Campbell
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Corzine
Craig
Crapo
Daschle
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Fitzgerald
Frist
Graham (FL)
Graham (SC)
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Jeffords
Johnson
Kennedy
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
McCain
McConnell
Mikulski
Miller
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Nickles
Pryor
Reed
Reid
Roberts
Rockefeller
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—2

Byrd
Hollings

NOT VOTING—2

Edwards
Kerry

The bill (S. 2845), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

INTELLIGENCE COMMITTEE REORGANIZATION

The PRESIDING OFFICER (Mr. ALEXANDER). Under the previous order, the Senate will now proceed to the consideration of S. Res. 445, which the clerk will report.

The legislative clerk read as follows:

A resolution (S. Res. 445) to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

AMENDMENT NO. 3981

(Purpose: To implement the Congressional oversight recommendations of the 9/11 Commission)

Mr. MCCONNELL. Mr. President, on behalf of Senator REID and myself, I send to the desk an amendment in the nature of a substitute and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kentucky [Mr. MCCONNELL], for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE, proposes an amendment numbered 3981.

Mr. MCCONNELL. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike all after the resolving clause and insert the following:

SEC. 100. PURPOSE.

It is the purpose of titles I through V of this resolution to improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government, and to improve the Senate's oversight of homeland security.

TITLE I—HOMELAND SECURITY OVERSIGHT REFORM

SEC. 101. HOMELAND SECURITY.

(a) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS.—The Committee on Governmental Affairs is renamed as the Committee on Homeland Security and Governmental Affairs.

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

(1) Department of Homeland Security, except matters relating to the Coast Guard, to the Transportation Security Administration, to the Federal Law Enforcement Training Center and the revenue functions of the Customs Service.

(2) Archives of the United States.

(3) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(4) Census and collection of statistics, including economic and social statistics.

(5) Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.

(6) Federal Civil Service.

(7) Government information.

(8) Intergovernmental relations.

(9) Municipal affairs of the District of Columbia, except appropriations therefor.

(10) Organization and management of United States nuclear export policy.

(11) Organization and reorganization of the executive branch of the Government.

(12) Postal Service.

(13) Status of officers and employees of the United States, including their classification, compensation, and benefits.

(c) ADDITIONAL DUTIES.—The committee shall have the duty of—

(1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(2) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(4) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(d) JURISDICTION OF SENATE COMMITTEES.—The jurisdiction of the Committee on Homeland Security and Governmental Affairs provided in subsection (b) shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate.

TITLE II—INTELLIGENCE OVERSIGHT REFORM

SEC. 201. INTELLIGENCE OVERSIGHT.

(a) COMMITTEE ON ARMED SERVICES MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress) (referred to in this section as "S. Res. 400") is amended by—

(1) inserting "(A)" after "(3)"; and

(2) inserting at the end the following:

"(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.".

(b) NUMBER OF MEMBERS.—Section 2(a) of S. Res. 400 is amended—

(1) in paragraph (1), by inserting "not to exceed" before "fifteen members";

(2) in paragraph (1)(E), by inserting "not to exceed" before "seven"; and

(3) in paragraph (2), by striking the second sentence and inserting "Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin.".

(c) ELIMINATION OF TERM LIMITS.—Section 2 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(d) APPOINTMENT OF CHAIRMAN AND RANKING MEMBER.—Section 2(b) of S. Res. 400, as redesignated by subsection (c) of this section, is amended by striking the first sentence and inserting the following: "At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee.".

(e) SUBCOMMITTEES.—Section 2 of S. Res. 400, as amended by subsections (a) through (d), is amended by adding at the end the following:

"(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman and Vice Chairman of the select Committee, respectively.".

(f) REPORTS.—Section 4(a) of S. Res. 400 is amended by inserting ", but not less than quarterly," after "periodic".

(g) STAFF.—Section 15 of S. Res. 400 is amended to read as follows:

"SEC. 15. (a) The select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member's designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

"(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces, and shall have full access to select Committee staff, information, records, and databases.

"(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee clearance requirements for employment by the select Committee.".

(h) NOMINEES.—S. Res. 400 is amended by adding at the end the following:

"SEC. 17. (a) The select Committee shall have final responsibility for reviewing, holding hearings, and voting on civilian persons nominated by the President to fill a position within the intelligence community that requires the advice and consent of the Senate.

"(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with that person.".

TITLE III—COMMITTEE STATUS

SEC. 301. COMMITTEE STATUS.

(a) HOMELAND SECURITY.—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

(b) INTELLIGENCE.—The Select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

TITLE IV—INTELLIGENCE-RELATED SUBCOMMITTEES

SEC. 401. SUBCOMMITTEE RELATED TO INTELLIGENCE OVERSIGHT.

(a) ESTABLISHMENT.—There is established in the Select Committee on Intelligence a Subcommittee on Oversight which shall be in addition to any other subcommittee established by the select Committee.

(b) RESPONSIBILITY.—The Subcommittee on Oversight shall be responsible for ongoing oversight of intelligence activities.

SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.

(a) ESTABLISHMENT.—There is established in the Committee on Appropriations a Subcommittee on Intelligence. The Subcommittee on Military Construction shall be combined with the Subcommittee on Defense into 1 subcommittee.

(b) JURISDICTION.—The Subcommittee on Intelligence of the Committee on Appropriations shall have jurisdiction over funding for intelligence matters.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This resolution shall take effect on the convening of the 109th Congress.

Mr. McCONNELL. Mr. President, I rise today to introduce, along with Senator REID and the majority and Democratic leaders, an amendment to a resolution to reform the Senate's oversight of intelligence and homeland security matters. If enacted, it will mark the most significant changes made in this body since the 1970s relating to the way the Senate operates.

Let me speak for a moment about why we must make significant reforms. The world did not change on September 11, 2001, only our perception of it did. In fact, the world had changed long before that particular clear September day. Frankly, we are nearly a decade late realizing it.

The first clue the world had changed and that a new enemy lurked in the shadows occurred on February 26, 1993, when Islamic terrorists bombed the World Trade Center, killing six and injuring hundreds.

These terrorists had ties to al-Qaida, which was busy then building its army of terrorists in the Sudan.

Four years later, on August 7, 1998, al-Qaida attacked two U.S. embassies in Kenya and Tanzania, killing hundreds and injuring thousands.

And on October 12, 2000—nearly 4 years ago today—these same al-Qaida terrorists attacked the USS *Cole* while it was in port in Yemen. These terrorists killed 17 soldiers and injured 40 more.

And yet it took the carnage of September 11 to awaken America, the Congress, our governmental institutions, and our CIA analysts to the magnitude of the threat that Islamic terrorism poses to the American people.

It took September 11 to show us how much the world had changed since the days of the Cold War.

In the wake of those attacks, Congress and the President swung into action—and brought the fight to the enemy.

We in Congress passed the PATRIOT Act, which reformed the FBI and provided our law enforcement agencies with greater tools to combat terrorism. We fast-tracked the procurement of specialized equipment such as the Predator unmanned aerial vehicle for our military forces in Afghanistan.

Congress created the Department of Homeland Security to consolidate and coordinate Government activities that protect America, and to solve some of the problems that contributed to the failure to anticipate September 11.

The administration has issued important executive orders reforming the intelligence community in a way that facilitates coordination of essential information.

Today, the Senate passed the Intelligence Reform Act of 2004, which dramatically reforms our intelligence agencies. These reforms will improve the collection, analysis, and integration of our Nation's most vital intelligence, assuring that red flags are no longer ignored.

What we have not done, however, is reform ourselves.

Congress, as did our intelligence agencies, failed to appreciate the threat prior to September 11. We certainly appreciate it now. And I hope we can reform this institution in a way that allows us to better monitor and influence the executive agencies tasked with keeping America safe.

It is time to put our own house in order.

In August, Senator FRIST and Senator DASCHLE—in response to the 9/11 Commission recommendations—asked the Senate to do just that. They created a working group of 22 senior Members of the Senate, and asked Senator REID and me to chair it.

We worked closely with these Members to discuss the advantages and disadvantages of the 9/11 Commission recommendations, and also to brainstorm new ideas and improvements to our oversight of the intelligence community and Department of Homeland Security.

I want to thank these Members for their many good ideas and for their patience and willingness to work on a bipartisan basis to do something that is very difficult but also very worthwhile.

After convening a number of meetings with our Members, Senator REID and I met frequently to hammer out a list of recommendations that broadly reflects the consensus or majority views of our group.

Not every Senator will be happy with each and every recommendation. But such is the nature of compromise. We have endeavored to be honest brokers, and I hope we have achieved that goal.

Some Members will complain this reform goes too far. Others will complain it does not go far enough.

I hope most Members will agree with me that it is an appropriate balance of reform that improves our ability to conduct oversight of intelligence and homeland security during a very serious time for our country.

Neither Senator REID, nor I, nor the 20 other members of our working group have a monopoly on wisdom. And were our recommendations part of the New Testament, they would not be written in red ink.

The resolution before us today is not a final product. It is a work in progress. And we hope Members who want to improve upon this resolution will come to the floor and offer amendments.

We would like to accept non-controversial amendments, and to allow Members to vote on amendments that may be a bit more contentious. We want the Senate to work its will.

But before ceding control of this resolution to the will of the Senate, let me describe the philosophy behind our recommendations, as well as some of the recommendations themselves.

The most sweeping change we recommend is to consolidate Congressional jurisdiction over the Department of Homeland Security. If you don't think this is major reform, ask the roughly 25 Senate committee or subcommittee chairmen who currently have jurisdiction over Homeland Security agencies or programs.

Trust me. They have made sure Senator REID and I know how significant this reform is.

The current system of homeland security is broken. These 25 different Senate committees or subcomittes can only have a narrow view of part of the department's activities.

Congressional oversight is like a team of blindfolded scientists, each examining a different part of a horse and trying to describe what kind of animal it is. No committee can step back and look at the horse as a whole.

The Department of Homeland Security deserves its own authorization committee. We wouldn't divide jurisdiction over the Department of Defense by creating an Army committee, a Navy/Marine committee, and an Air Force committee. So why have we done so with Homeland Security?

The status quo also hampers the Department's ability to do its primary job: protecting the homeland.

Currently, the department has to report to 88 House and Senate committees or subcommittees.

This year alone, Secretary Ridge or his subordinates have testified at 164 hearings. They have given over 1300 briefings. And the year isn't over yet.

Mr. President, that's almost 40 briefings a week. In fact, there are probably Homeland Security personnel crawling around Capitol Hill right now, when they should be back in their offices working to keep us safe.

We didn't create the Department of Homeland Security so that it can provide us with a gluttony of power point presentations but to keep America safe. We should consolidate jurisdiction so that both Congress and the Department can do their job more effectively, and more efficiently.

To do this, we recommend that jurisdiction over the Department be integrated under the Governmental Affairs Committee, which should be renamed the Homeland Security and Governmental Affairs Committee.

There will be exceptions to this jurisdictional consolidation. And we encourage Members who are concerned about jurisdictional issues to file amendments to work with the chairman and ranking member of Governmental Affairs to reach agreements about appropriate jurisdictional arrangements.

We welcome amendments and debate on these issues.

On Intelligence oversight, the working group believed that our oversight of intelligence must be strengthened.

The task force wanted to work with the committee to help structure it so it was comprised of devoted experts who have the time and expertise in the intelligence field. The members now serving on the committee have done so with great distinction. But they need better tools and fewer competing demands on their time in order to conduct focused and comprehensive oversight.

And so we have recommended the status of the committee be raised from B to A. This may seem like a minor and arcane detail, but it means a great deal. On my side of the aisle, Senators can serve on the committee without having to give up any other assignments. Some Members serve on three or four other committees in addition to intelligence.

Quite simply, they cannot devote the time necessary to conduct effective oversight with so many other obligations.

This elevation in status will require Senators interested in intelligence to make a choice to serve on the committee. But once on the committee, they will not be term limited, and each member of the committee will be able to play an integral role in conducting oversight.

The Intelligence Committee is an important committee, and a popular committee, and I am confident that a good number of members will want to serve on it.

As I have said, we also have removed term limits, in order to allow members to develop the expertise needed to conduct effective oversight. No other Committee in the Senate says after you've spent 8 years becoming an expert that you get the boot. Now the Intelligence Committee won't have to say goodbye to its most experienced members.

We have allowed members to hire personal designated staff, to give them a trusted representative on the committee. There was strong support for this recommendation, which will reinstate previous committee policy.

In addition to the 14 suggested improvements to the Select Committee on Intelligence, we also have recommended the Appropriations Committee create a Subcommittee on Intelligence.

Appropriations jurisdiction over oversight is currently dispersed throughout multiple subcommittees. We propose the creation of an Intelligence Subcommittee of Appropriations that would consolidate the roughly 80 percent of the intelligence budget that will come under the jurisdiction of the national intelligence director.

This subcommittee will improve the Appropriations Committee's ability to live up to its responsibility to exercise oversight over the national intelligence budget. For the same reasons that homeland security jurisdiction should be consolidated, so, too, should intelligence appropriations jurisdiction.

Not all of us agree on this recommendation, and I fully expect that Senators will offer an amendment to implement the 9/11 Commission's recommendation to create a combined authorization and appropriations committee.

These recommendations require us to use a different set of muscles in our oversight. And some of these reforms are not easy. But few things worth doing are.

We have a historic opportunity to reform this Chamber for the better, and I believe we should not shirk our responsibility to do so. We must do it now in order to do all we can to protect the American people from the next major terrorist attack.

This is a partisan body, and we have pointed fingers for 3 years about who was to blame for the failures of our intelligence and homeland security prior to 9/11. Some blamed the Clinton Administration, others blamed the Bush Administration. Some saw fault in the FBI, others in the CIA, and still other in the military's aversion to covert operations. We are good at pointing fingers at others, but we have not pointed them at ourselves.

Just as our CIA analysts failed to piece together the clues about al-Qaida's intention to attack our cities with hijacked airplanes, so, too, did we fail to question their assessments. We failed to question their focus on old threats. We failed to challenge them to take risks. We failed to question the lack of CIA operatives in Iraq, or why our human intelligence capabilities had become so eroded. Despite the numerous attacks on American targets by Islamic radicals, we failed to put more money in the intelligence budget to hire Arabic linguists.

These are not the faults of the Clinton administration or the Bush administration. They are our fault, too, and we have a chance today to correct them.

I say to my colleagues, I believe we have an opportunity to improve our oversight of the arms of Government that keep America safe. Let us not cause some future generation to look back 50 years from this moment and ask the question: Why did they not act?

Now is our opportunity to do just that, and I encourage my fellow Senators to come to the floor and offer amendments so that we can move this package forward as soon as possible.

Mr. President, I yield the floor.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, about an hour ago, the Senate marked a historical moment with the passage of S. 2845, the National Intelligence Reform Act of 2004. Passage of that act was a major milestone—a major milestone—on the road to the most significant overhaul of our intelligence community in over 50 years.

The Senate bill includes nearly all of the recommendations made by the 9/11 Commission as they centered on intelligence reform within the executive branch—39 recommendations.

It is important to note, however, the Commission said that overhauling the executive branch is not enough and, thus, we are now on the Senate resolution to address the final two recommendations of the 9/11 Commission, and that is the overhaul of how we do business in oversight of intelligence functions.

The Democratic leader and I were just talking about how pleased we were in the fulfillment of the process we set out at the end of July where both arms—one being the one we just completed on the Senate floor in the form of the executive branch intelligence jurisdiction, and the second arm being the overhaul of our Senate oversight—has worked so well to date, but we still have that second arm to address, and that is what we are on today.

The Democratic leader and I have come to the floor to outline to our colleagues, A, the importance of completing that oversight function reform in this body but, B, and equally important, to point out we do not have very much time to address this issue with the range and number of other issues we have to address. We have plenty of time to address these issues, but we need to do so in an expeditious way, in a way that allows people to have their amendments considered, to have them debated, and to have them voted upon, but we need to do so in a timely manner.

We ask our colleagues to bring their amendments to the resolution to the managers so they can be considered.

With that, I turn to the Democratic leader, and then I will have further comments on other legislation we have to address before departing.

The PRESIDING OFFICER. The Democratic leader.

Mr. DASCHLE. Mr. President, I associate myself with the remarks of the majority leader. He made note of the fact that this is a historic day. This is a day when the Senate, with an overwhelmingly bipartisan vote, responded to the recommendations of the 9/11 Commission and other commissions that have urged our Government to take action to make us safer. We made a major step today in creating the infrastructure to make America safer.

I compliment the majority leader for his efforts and also, of course, the two managers. Senator COLLINS and Senator LIEBERMAN deserve great credit for the work product we voted on only moments ago. This is historic not only for its substance, but I would like to think it is also historic for the process that brought us here.

As the majority leader has noted, we have an opportunity to replicate the substance and the process with the second piece of our work. I think in an equally bipartisan fashion. Senator MCCONNELL and Senator REID have worked hand in glove. They deserve great commendation and credit for the work they have done.

They have consulted with every Member of the Senate. They have worked particularly with our chairs and ranking members, and they have now brought us a work product that was amended slightly as a result of that consultative process last night.

After working and laying out the work product, they listened, they responded, and we have the response they put into the RECORD last night. So everybody has had a chance to review their work, and we are now, as the majority leader noted, asking for the same degree of cooperation and bipartisanship on this legislative work as we have on the bill.

In that context, it will be important for Senators to indicate to us as quickly as possible their intent with regard to amendments. I know both cloakrooms are going to be seeking the response of Senators who may wish to offer amendments.

Based on that response, because of the time of year, we may be required to file cloture just so we can accelerate the consideration of this effort. I will support that effort if it may be required, but, again, as we have done each day during the deliberations of the bill, I hope we could start the day with somewhat of a status report on where we are and what needs to be done and a reiteration of the importance of this work and our efforts in doing it in the same manner.

So I hope we can continue as we have. As I said, this is a historic day, but there is much more history to be made and so much more work to be done.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, while the Democratic leader and I are both on the floor, because it reflects the discussions we have had over the course of today, there is other business that we will be conducting over the course of the week. There has been huge progress made today on a bill in conference, the FSC/ETI manufacturing jobs bill. We expect to address that hopefully very soon—I believe the House will be addressing it tomorrow—maybe tomorrow night or late tomorrow afternoon. It is a bill we are both committed to addressing before we leave.

As everyone knows, we had planned to leave on Friday, October 8. It is a bill that also has been handled in an admirable way in conference by Chairman GRASSLEY, and Chairman THOMAS from the House, with a very open discussion, open debate, and votes in the conference. We plan on addressing that bill as soon as it is available and the plans will be to complete that as well before we depart.

Homeland Security appropriations is currently in conference and we expect to be able to address that as well.

I mention all of those bills because tonight is Wednesday and we have Thursday and Friday. Although our shared goal is that we leave Friday, if it requires being here Saturday or later, it means that we would have to do just that. It should not. The way these bills have been handled over the last several weeks, it simply should not require going into Saturday, but if necessary, we may just have to do that.

I will comment briefly on the resolution as well because I have not had the opportunity to do so. I know the managers want to be able to proceed directly, but I just wanted to outline that in mid-August Senator DASCHLE and I did assemble a task force of 22 Members to look at the recommendations proposed by the 9/11 Commission that deal with reform of the Congress. We charged this task force to look at the range of issues and possibilities and to present the Democratic and Republican leaders with a proposal and their recommendations.

To reflect the leadership's commitment to the importance of this issue of congressional reform, we asked our respective assistant leaders, Senator MCCONNELL and Senator REID, who are managing the bill now, to chair this task force. Over the past several weeks, Senators MCCONNELL and REID have held a series of meetings, collectively and individually. As Senator DASCHLE has said and as I have also said, we have had the opportunity to meet as conferences and caucuses to address these issues.

The managers of the bill have also consulted with the 9/11 Commission and others to solicit their ideas and their reflections and recommendations. The product of their efforts is captured in the Senate resolution today and the amendment that has just been introduced.

Right now, as we talk, the amendment may or may not be a perfect product—it is probably not a perfect product—but it is a very good and very solid product. It does reflect the majority view of the task force as they looked at a whole range of options and alternatives, individual items to improve Senate oversight of intelligence, which is the objective, and that is what will be achieved by this resolution.

There are a number of contentious issues that have not been fully addressed, that we expect to be addressed tonight on the Senate floor.

When the Democratic leader said we are reaching out to people to bring those potential amendments forward, that is exactly what we mean. It was Senator MCCONNELL's and Senator REID's recommendation, rightly I believe, to have the Members decide through debate and through the offering of amendments on the floor how we might make that proposal better. That is about as open and transparent a process as one can have, but it does require Members to come forward and participate in that floor debate.

I will close by saying that I personally thank Senators MCCONNELL and REID for their efforts and to the other Members of the leadership task force and to all the Members for their cooperation and their participation in, once again, a nonpartisan manner.

I reiterate that it is the leadership's desire on both sides of the aisle to complete this before we depart.

I close where I began, and that is, without Senate reform of the way we conduct oversight of intelligence and homeland security, our efforts to overhaul the executive branch, which we took a major step forward just an hour ago in this body, will be incomplete, inadequate, and really inconsistent with our obligations to the American people.

The PRESIDING OFFICER. The assistant Democratic leader.

Mr. REID. Mr. President, I, first, extend my appreciation to Senator MCCONNELL. Senator MCCONNELL and I were given a task and we have done the best we can. I have served in the Congress now for 22 years. This is one of the hardest things I have ever had to do, if not the hardest. It has been a very difficult 3 or 4 weeks that Senator MCCONNELL and I have spent working with Members.

I have known MITCH MCCONNELL for many years, the senior Senator from Kentucky, but as happens when one is thrown into a situation of stress, working closely together, one develops a different relationship, and the bond Senator MITCH MCCONNELL and I have formed over this last month is one that will be with us forever.

I appreciate his willingness to allow me to drop in his office unannounced and call on him all times of the night and day. He has a fine staff and he has worked extremely well with my staff. Without belaboring the point, I appreciate all he has done to get us to this point. Without him, we could not be where we are now.

I have five children. My oldest child is a girl. I have one girl, my daughter Lana. I can remember as if it were yesterday, my little girl was going away to school, to college. I can still remember I cried that day, I felt so sad that my little girl was going to go away. I still feel some emotion when I think about it.

The reason I mention that is my daughter leaving to go to college is only an example of how difficult change is. Why did I feel bad? Because of change. I had been with my little girl for 18 years, and suddenly she was going to leave. Change in our lives is always very difficult. Change in the life of the Senate is difficult. What Senator MCCONNELL and I have brought before the Senate is a change. I repeat, I only give the example of my daughter for illustrative purposes. But change here for 98 Senators with whom we have been working is difficult. It is not the same as sending a daughter to school, but it is still a change. Any time you change, it is difficult. That is what this has been about.

We have been considering ways to reform the executive branch of Government for 2 weeks. It is now done. Now it is time to turn the focus on reform of the Senate. A lot of change is taking place here in the waning days of this Congress, important changes brought about as a result of more than 3,000 Americans being killed through a terrorist act. That is why we are doing this.

A commission was appointed, led by long-time Congressman Lee Hamilton and former Governor of New Jersey Thomas Kean. They had members who worked very hard for a year. They had 80 full-time staff. They came to us with recommendations as to how we had to change the executive branch of Government. We have done the best we can in that regard. We have changed, as far as the Senate sees it, the executive branch of Government. It has been painful. It has been painful for a lot of Senators. But we did it because we had to do it.

I will elaborate on that a little bit later, but the Commission said doing one without the other is doing nothing. If we walked away from this body now, as some have suggested, and said we have done our job, we have done the executive improvement, we may not have done everything, but we have done all we have time to do—we cannot leave here without having done this.

What we do tonight and tomorrow is nothing the President has to sign. The bill that passed here earlier this evening by a vote of 96 to 2 is something the President has to sign. He does not have to sign this. This is something the Senate is doing on its own. We are doing it because the Commission said you cannot have one without the other.

As I said, some have said, Why do this? Some have said, Maybe the House isn't going to do anything; why does the Senate have to tackle this issue?

We can't maintain the status quo after 9/11. We have to look at every facet of our Government. We did this: The homeland security functions, our intelligence functions, and our congressional oversight.

I extend my appreciation to Senators ROBERTS and ROCKEFELLER. They have, during the most difficult times in the history of the Intelligence Committee, been asked to guide this country through these perilous times, and they did it without having much to do it with. The Intelligence Committee, as indicated by the 9/11 Commission, is weak and toothless. So I appreciate very much the work of these two very wise men. Being able to work together—it wasn't easy. They had a difficult time. The members of the Intelligence Committee also worked well.

But, as the 9/11 Commission indicated, we need to give the Intelligence Committee more authority and power. That is what we are in the process of doing. We, in effect, said, Can we do better? Can we do better for ROCKEFELLER and ROBERTS and others, not only today but in the years to come? We have found, under the leadership of the 9/11 Commission, that oversight of the intelligence community is not strong enough—not enough power, not enough resources, not enough muscle.

As my friend Senator MCCONNELL has indicated, the homeland security oversight is now splintered among 88 committees and subcommittees—not 8 in the Senate, not 8 in the House. Governor Ridge and I came together in 1982, each as a Member of Congress. I don't know the exact number of times he has come here, but I think it was 164 times so far this year. Think about it. We can do better.

We do not need these weak and fractionalized subcommittees and committees, all wanting a piece of the Secretary of Homeland Security. We are not going to make a tweak here and a tweak there. As the 9/11 Commission found:

> Tinkering with the existing committee structure is not sufficient. The United States needs a strong, stable and capable committee structure to give America's national intelligence agencies oversight, support and leadership.

We can't make all these changes in the executive branch which we did in this bill we just passed and not put our own house in order. The 9/11 Commission made that point very clear:

> The other reforms suggested, such as the National Counterterrorism Center and a National Intelligence Director, will not work if Congressional oversight does not change too.

It has not been easy. We have taken 10 standing committees and taken jurisdiction from each of the 10 and given them to this new committee that will be formed from the Governmental Affairs Committee. It will now be the Homeland Security/Governmental Affairs.

People have had to give things up. Some have given them up graciously. Some have given them up kicking and screaming. There will be amendments offered here to reverse some of the changes we have recommended in the amendment that is now before the Senate. Senator MCCONNELL and I recognize that should be a fair, open process. We are not infallible. Maybe we made some mistakes, but we certainly tried not to.

The Commission made the point clear that it will not work if congressional oversight does not change also. So here we are, with a resolution encompassing some of the most important recommendations of the 9/11 Commission—no doubt the most difficult. Obviously we would not be here without the fine work of the 9/11 Commission that I boasted about more than once, and without the urging of many brave families whose lives were shaken by the tragedy of 9/11.

I served in the House of Representatives with Lee Hamilton. I served under his leadership on the Foreign Affairs Committee in the House of Representatives. He is a fine man. He was a mentor to me. He and Governor Kean have made their mark upon the country with their excellent report. We are also here on the verge of landmark reform because of the strong partisan interest of our colleagues in reforming this institution. There may be different opinions about some of the details, but I believe the consensus is very strong about bringing much-needed reform to the intelligence and homeland security functions.

As I started my statement using an example of my dear daughter Lana, I said change is hard. I understand that. I am a member of committees. The committees on which I serve have given up things to make this work.

I also want to extend my grudging appreciation to the two leaders, Senators DASCHLE and FRIST. The next time they have one of these nice things to pass out, they will think of someone else. This has been very hard for Senator MCCONNELL and me, but they have stood with us. They are fine leaders. And if we get this done—and I am hopeful and confident we will—it all goes directly to their leadership. Both of these men are so busy that they look to their assistants. I am the assistant Democratic leader, the whip. Senator MCCONNELL is the assistant Republican leader, the whip. We have done our best representing our caucuses. We run separate and apart from our two leaders. I run elected on my own, as does Senator MCCONNELL. But we believe this was the time when without any question the two leaders were doing absolutely the right thing. That is why we have spent so much of our time, energy, and effort in carrying out what they have directed us to do.

I jokingly said I grudgingly send my appreciation. I really don't do that. I am happy Senator DASCHLE had enough confidence in me to allow me to go forward on this noble experiment.

I have spoken to members of the 9/11 Commission on quite a few occasions in conference calls and personal meetings, and I appreciate their time. The time is up for this Commission, but they are still devoting large blocks of time to people like me who come to them for direction, guidance, and understanding. They wanted first of all to know what we were doing was nonpartisan. I think Senator MCCONNELL and I proved to them time and time again that it was.

Let us talk about the specifics.

The so-called task force recommended that the Senate inplement virtually all of the congressional reform recommendations made by the 9/11 Commission. I will go over what we have done. There are three basic areas we looked at. One is to reform the Intelligence Committee process. The other is to create a different, new committee on homeland security, which I have talked about, and the other is to make sure the appropriations process was part of this.

What we have done to strengthen collection of intelligence is eliminate term limits. We have to ensure that the majority has no more than a one-member advantage. This came directly from the 9/11 Commission. We maintain apportioned slots for these committees. The chairman and ranking member of Armed Services. I will offer an amendment because I heard directly from the Intelligence Committee itself that they also wanted in addition to the Armed Services Committee members of the Foreign Relations Committee doing that. In this instance, it will be Senator LUGAR, chairman of the committee, and Senator BIDEN, ranking member, who will serve as ex officio members. I will offer an amendment at a subsequent time, and elevate the status, as I heard Senator MCCONNELL talk about, from B to A.

We have maintained the majority and minority leaders' ability to appoint all committee members. Members not appointed will serve without term limits.

This is so important. Frankly, this is not anything that the 9/11 Commission recommended, but it came from Senator WARNER in meetings we had with Senator MCCONNELL and me. Senator WARNER has been here a long time. I have served with him from the day after I came here as a member of the Environment and Public Works Committee. He has been so easy to work with. If there were ever a stereotype of a southern gentleman, it is JOHN WARNER. And JOHN WARNER in his typical gentlemanly fashion suggested to us that for a committee which is important, the chairman and ranking member should serve at the pleasure of the two leaders.

The reason for this is what I refer to as the "Wilbur Mills problem." Wilbur

Mills was a long-time Member of Congress and became chairman of the powerful Ways and Means Committee. This was a man who never had a problem in the world as far as anything dealing with ethics and morality. Suddenly, for whatever reason, Wilbur Mills—this distinguished Member of Congress who served 30 years—started doing a lot of things very publicly that were an embarrassment to this institution. He was there based on seniority and there was no way he could be disposed of. We don't want that. It is something that probably would never happen, but we need that protection. The people who are representing and leading this Intelligence Committee have to be above reproach ethically and morally. The two leaders should have the ability to do that.

That is why Senator McCONNELL and I, along with Senator WARNER—that is where this came from. We believe that committees around here are too large. One of the things we set out to do was not have more committees. We wanted to do what we could to make the committees smaller. We did this. We reduced the size of the committee from 17 to 15. That may not sound like much, but it was a step forward. We have followed our philosophy and reduced the size of the committee. This is something the 9/11 Commission recommended. The staff positions for each member—maintain nonpartisan professional staff, give the Intelligence Committee a stronger role in reviewing civilian intelligence nominees. This is something else the 9/11 Commission recommended.

That is one of the things they recommended in intelligence. We have done that. But we have gone a step further, and said not only that but the Intelligence Committee should be able to form whatever subcommittee they feel would help that committee perform the functions they have for the country.

Maintain committee subpoena authority; require the committee to make regular reports to the full Senate.

For the purpose of showing how much we did related to the recommendations of the of 9/11 Commission, all we have to do is look right here. We have done what they have recommended, and more.

If you look here, the committee conducts ongoing oversight, checked off; create subcommittee dedicated to oversight, another check; ensure committee has subpoena authority, check that off; ensure majority has not more than one-member advantage, check that off; ensure apportioned members slots for Armed Services, Appropriations, Foreign Relations and Judiciary; one-year term limit; reduce the size of the Intelligence Committee; ensure the Intelligence Committee has a nonpartisan professional staff.

I think we have done that. It is good work. It was not easy, but good.

We have talked about the operations committee, which recommended 14 specific measures to give the committee greater stature and power.

We believe the proposed measures such as elevating the committee from B to A, ending term limits, and creating a subcommittee on oversight will give the committee muscle and that will be oversight of the intelligence agencies.

I have talked about the need for the Appropriations subcommittee to focus on investigations. We have done that.

What I have not talked about is Senator BOB GRAHAM. BOB GRAHAM was chairman of the Intelligence Committee, ranking member, served in a very good way, former Governor of Florida, served in the Senate for 18 years. He is leaving now. He is retiring. When someone suggested to him that you should put the function of the appropriations and authorization all in one committee, he said it would concentrate power in too small a number of people and it would be devastatingly wrong for the intelligence community. So what we came up with, we feel, is something better than that; that is, as one distinguished Senator said, if we can have an Appropriations subcommittee for the District of Columbia, for agriculture, and the legislative branch of Government, we ought to have one for intelligence. It is simply too important, and we agree. Senator McCONNELL and I agree.

Therefore, we have now merged the Military Construction Subcommittee, which I chaired for a Congress or two, with Defense—again, we don't want to create more subcommittees or more committees—leaving 12 subcommittees for Appropriations. We have created another one on intelligence.

There has been a lot of complaints that the monetary function of the Intelligence Committee was hidden in the Defense Subcommittee on Appropriations. That won't be the case anymore. It will have chairmen selected based on seniority. I am sure it will be one of the senior members of the Senate. That is about all you have on the Appropriations Committee, and I think it would do well. This is a significant development.

We will increase the number of members and staff who oversee the intelligence community spending and finally shed light on programs that have been tucked away far too long.

Governor Kean was asked at a recent Select Committee on Intelligence hearing about the creation of an appropriations subcommittee on intelligence. Governor Kean said:

> I think [an intelligence appropriations subcommittee] would be very much in my mind, be within the spirit of our recommendations.

I have spoken to Congressman Hamilton and indicated to him what we were going to do. He feels the same as Governor Kean about this.

Now, an appropriations subcommittee on intelligence is exactly the kind of conforming change that is required now that we have passed the Collins-Lieberman bill, where centralization and coordination of the intelligence community is achieved through the establishment of a national intelligence director.

Some Members suggest a joint authorizing and appropriating committee, but there are very strong feelings that creates too much power and too much secrecy for a handful of members, so it actually results in fewer checks and balances and much weaker oversight.

There was a broad consensus to consolidate the oversight of the Department of Homeland Security. Without any question, we should not have to have the director or his assistants appear before 88 committees and subcommittees of the Congress. We ought to have a single homeland security authorizing committee. This would match the Homeland Security Appropriations Subcommittee we created last year.

With this we achieve the much-needed consolidation by replacing homeland security oversight in the Governmental Affairs Committee and renaming the committee Homeland Security and Governmental Affairs.

What we have now before the Senate is significant and sweeping reform. This resolution with the amendment we placed therein, though it might not be perfect, and Senator McCONNELL and I would never say it was, is extremely powerful and makes the required structural changes at the same time it sends a clear message to the American people that the Senate understands the problems, and we are ready to make changes that will help keep our country safe.

Let's end what the Commission calls a "dysfunctional" oversight process. It is the right thing to do. This is the right time to do it.

We welcome anyone who wants to offer amendments. We do recognize, however, as the two leaders mentioned earlier, that it is almost 7 o'clock tonight, and we are supposed to leave Friday. We need to finish this legislation. People cannot wait us out. If Members do not come tonight and tomorrow to offer amendments, we are going to go to third reading. We are not going to wait around while people do other things. This is not January or March or April or May or September. It is just a few days until the leaders have said we are going to go home. At the very best, it will be difficult to get out of here late Friday or even Saturday.

The two leaders are absolutely right in saying we want everyone to have an opportunity to review this resolution. The amendment was filed last night, and everyone has had more than 24 hours to read it, to study it, to prepare their amendments. It is not a 400-page amendment. It is a few pages in length, very simple and direct, and is something we are doing to change this body. It is a significant change, and we recognize that, but a most important change.

Members offering extraneous matters on this—and that is always possible—should understand they are doing it in the face of what the 9/11 Commission said: we have to do this. I hope Members would not come and offer amendments relating to extraneous matters.

If there is something wrong with the amendment Senator McCONNELL and I sent to the desk, let us know. We have worked with a lot of folks. But we cannot go back to the way things were before. We cannot have a committee called the Department of Homeland Security and not have anything that deals with homeland security. We have to have a committee on homeland security that has the ability to oversee what is going on and have more homeland security for our country.

The time is here. It seems logical that there will not be any votes tonight, but that is up to the leaders to announce. I repeat: This cannot go on forever. There has to come a time when people offer amendments. I hope that would happen before too long. We are here for business, Senator McCONNELL and I.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LITTLE ROCK CENTRAL HIGH

Mr. PRYOR. Mr. President, I thank my colleagues for something they have done not just for me or even for the city of Little Rock or the State of Arkansas but for the country. They are trying to help on a project we are working on, Little Rock Central High School.

In 1957, the two biggest stories in the world that year were Sputnik and Little Rock Central High School because Little Rock was the first major southern school district to try to integrate their schools to try to follow the law as laid out in Brown v. Board of Education, Topeka, KS, and to try with all deliberate speed to integrate their schools.

They took that charge seriously and, as we all know, the situation there got chaotic and very difficult. There has been a lot written about it. It is one of the major milestones in the history of the struggle for civil rights in this country.

In September of 2007, Little Rock Central will celebrate the 50th anniversary of the desegregation crisis at Little Rock Central High. We all know the story of the Little Rock Nine—Ernest Green, Elizabeth Eckford, Gloria Ray Karlmark, Carlotta Walls LaNier, Minnijean Brown Trickey, Terrence Roberts, Jefferson Thomas, Thelma Mothershed Wair, and Melba Pattillo Beals.

We all know the story of these brave children who went into the lion's den, so to speak, to strike a blow against the old system of "separate but equal" that was not working, and was fair. That was not right.

They showed tremendous courage not just for themselves and their personal safety, but they led by example. It is very important we as a Nation honor them and honor Little Rock for making the effort, and honor the school for all the progress they made since 1957.

Little Rock Central High School now is considered one of the best high schools in America. It has been an amazing success story. It shows how things can work when the community pulls together and tries to put difficulties of the past behind them.

I could talk on and on about how proud I am of the Little Rock Nine and the way Little Rock has handled the situation, but today I thank Members of this Senate for their support of S. 420. It is critical to acknowledge what happened at Little Rock 47 years ago.

I thank two Members of this body specifically who really helped get this on track: first, CONRAD BURNS, who is the Interior Subcommittee chairman; and then the ranking member on that subcommittee, BYRON DORGAN. They have both been fantastic. Their staffs have helped. They have made arrangements for us to get $733,000 in this Interior appropriations bill in order to do the design phase of the new visitor center at Little Rock Central High School.

Our goal is to try to have the visitor center completed and totally constructed and up and running by the September 2007 anniversary. But we could not have done this without Senator BURNS and Senator DORGAN because they have shown a great deal of leadership. Also, I must say, Bruce Evans, Ric Molen, and Peter Kiefhaber, on their staffs, have been great to work with.

Another group that Senator LINCOLN and I both want to thank is the Congressional Black Caucus over on the House side. They have been fantastic. In fact, they have entered a sister resolution to this, and all 38 members of the Black Caucus signed on to the resolution. They have been great. Chairman ELIJAH CUMMINGS has shown some great leadership on this issue, and it has brought hope to the civil rights community for this hopefully very positive celebration they will have in 2007.

The last person I want to thank, who is always there working behind the scenes trying to get things done for his congressional district, is Congressman VIC SNYDER. VIC SNYDER has shown great leadership in this matter, as he does consistently in everything he does. He has worked behind the scenes and he has worked with all sides. He is doing everything he can to make sure this becomes a reality, again not just for his district or the State but really for the Nation.

So, Mr. President, again, I thank everyone for their help and their support in what we are trying to do at Little Rock Central High School. I happen to have gone there. I am very proud of that school. It is a great landmark in the struggle for civil rights. The people in Arkansas decided to make Little Rock Central not stand for a negative but stand for a positive, stand for progress. It is something that certainly the community but also the State has rallied around. We are very proud of what they have done at Little Rock.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. CHAFEE). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

CLOTURE MOTION

Mr. McCONNELL. Mr. President, I send a cloture motion to the pending amendment to the desk.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate the pending amendment on S. Res. 445, a resolution to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

Bill Frist, Mitch McConnell, Harry Reid, John Cornyn, Craig Thomas, Jim Inhofe, Mike Crapo, Conrad Burns, Norm Coleman, Tom Daschle, Lamar Alexander, Jim Talent, Wayne Allard, Gordon Smith, Larry Craig, Robert F. Bennett, Pete Domenici, Susan Collins.

Mr. McCONNELL. Mr. President, we have hotlined in both cloakrooms all offices asking for an indication of how many amendments might be offered to the underlying resolution. Regretfully, it is roughly 50.

I am authorized to say on behalf of the majority leader, it is our intention to wrap up business this week. We have no intention of trying to shut out any Senators who want to offer amendments. We had hoped some might come over tonight and offer them. We will certainly have all day tomorrow to deal with any and all amendments that Senators feel strongly about and on which they would like to have votes. But we really must move the process along, and that is the reason the majority leader wished to file a cloture motion tonight.

Mr. REID. Will the Senator yield?

Mr. MCCONNELL. Yes, I yield to my friend and colleague from Nevada.

Mr. REID. Mr. President, around here, we do not often see cloture motions signed by all four leaders. This cloture motion does have four leaders. We are serious about completing this bill at the earliest possible date. It would be a travesty if, having just completed a very significant piece of legislation led by Senators COLLINS and LIEBERMAN, we not do our share of the legislative reform that needs to be done.

The cloture motion was filed with reluctance. No one wanted to do it. But with the 8th of October staring us in the face literally, we have no choice but to do this. I hope people tomorrow will recognize there will be an effort made to offer these amendments. At 1 o'clock tomorrow, all first-degree amendments must be filed. That is the rule.

I hope people will come and discuss with us what problems they see with this amendment. We will be happy to work with them, but I think people should be ready to offer their amendments.

We have taken what we thought needed to be done from the 10 committees to give this committee, the homeland security committee, some strength. We hope people recognize that.

I understand how people are concerned about maintaining the jurisdiction of what they have, but this is a time when people have to give up a little bit for the good of the country and for the good of the Senate.

I totally support the cloture petition that was filed by the distinguished Senator from Kentucky on behalf of the two leaders because that is basically what happened.

CLOTURE MOTION

Mr. MCCONNELL. Mr. President, I send a second cloture motion to the resolution to the desk as well.

The PRESIDING OFFICER. The cloture motion having been presented under rule XXII, the Chair directs the clerk to read the motion.

The legislative clerk read as follows:

CLOTURE MOTION

We the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on S. Res. 445, a resolution to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

Bill Frist, Mitch McConnell, Harry Reid, John Cornyn, Craig Thomas, Jim Inhofe, Mike Crapo, Conrad Burns, Norm Coleman, Tom Daschle, Lamar Alexander, James Talent, Wayne Allard, Gordon Smith, Larry Craig, Robert F. Bennett, Pete Domenici, Susan Collins.

Mr. MCCONNELL. Mr. President, as my good friend from Nevada has indicated, we hope to process all of the amendments that Members of the Senate feel strongly about. We will be open for business on this resolution all day tomorrow, and there should be ample time to deal with all of the amendments that our colleagues feel strongly about and wish to offer.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I think everyone within the sound of our voices should understand the majority leader and minority leader were on the Senate floor and they both said we are going to stay here until we finish this, the Homeland Security conference report and the FSC tax bill. Those matters are going to be finished. If we can finish on Friday, we will be out of here. If we are finished on Saturday, we will be out of here. But the two leaders have said we are going to work to finish this legislation.

We are dealing with Senators who know all the rules just as we do, but I will indicate that this is a little different time. We are trying to bring Congress to a close, at least this part of it. Everyone should understand the determination of the two leaders to move this matter forward and the other things that are going to come before the Senate.

Mr. MCCONNELL. Mr. President, the assistant Democratic leader has clearly outlined what the goal of the two leaders, both Republican and Democrat, are for the balance of this session before we adjourn for the election. We are hoping to complete all of those items no later than Friday.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. MCCONNELL. Mr. President, I ask unanimous consent that there be a period for morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

HEALTH CARE

Ms. STABENOW. Mr. President, I appreciate those comments. I actually would not be here asking to do this if it were not for the earlier comments of the Senator from Pennsylvania, speaking as in morning business, as it relates to Senator KERRY's health care plan. I felt in fairness, as someone who works extensively on health care, that it was important to come down and speak to the errors that were presented earlier as my colleague spoke on the other side of the aisle.

First, it is important to know that it does not matter who we talk to today, it does not matter who comes into my office or what conversation I have with people throughout the great State of Michigan, the issue of health care always comes up.

Right now the big three automakers, struggling to compete internationally with their business competitors around the world, are talking about the need to address the high cost of health care. They have indicated to me on more than one occasion that this needs to be one of our top priorities of the Congress and the President of the United States: to tackle the explosion in health care costs.

We also know that half of those costs is the explosion in prescription drug prices, and that specifically needs to be addressed. We have proposals we have been consistently bringing to this body and bringing to the President of the United States that will bring prices down. So when we talk to our manufacturers in Michigan, this is a huge issue. If I talk to the workers who work for our manufacturers, it is a huge issue for them. They are being asked to pay more copays, more premiums, to take pay cuts, in some cases layoffs, as a result of the high cost of health care and the fact that there has been no action to address this while premiums and costs continue to go up faster and faster.

I could talk to a group of seniors in Michigan and certainly talk about medicine and the fact that the bill that passed this last year for Medicare is more about helping the prescription drug industry than it is about helping our seniors in this country. They know what we need to be doing. They want to see the pharmacists be able to do business with pharmacists in Canada, be able to bring prices down, cut them in half or, in some cases, 70 percent.

Seniors understand we have a crisis as it relates to the cost of medicine and health care in this country, and they certainly know when we look at the fact that this administration has announced the largest Medicare premium increase—17½ percent—in the history of the program since 1965 when it was instituted even though it is estimated that Social Security will go up possibly only as much as 3 percent. I have a bill that has been introduced with colleagues of mine to cap that Medicare increase at the cost of Social Security increases, and up to now we have not been able to get a vote on this. Yet this will be taking effect in January and taking more out of the pockets of our seniors.

We know that one of the major reasons for the increase—it is not just normal inflation—is because of the costs that are being rolled into the premium increases relating to privatization that was part of the prescription drug bill. We were told privatization would save money. The reality is, we have the highest Medicare increases in the history of the program.

So we can talk to seniors. We can talk to families who are struggling every day and seeing their costs go up. We see the real household income in 2000 has gone down $1,535. Family health care premiums have gone up, $3,000 on average, to $3,599. This is not what ought to be happening. We have a crisis going on in our country.

I can talk to young people getting out of college who find themselves no longer eligible to be on their parents' insurance, who now go into their first job and maybe do not have health insurance on their first job. This is a very real story for me in my own family. Young people are hoping and praying they remain healthy, that nothing happens to them until they can get into a job that has some health care.

We know that the majority of people, about 80 percent of the people who do not have health insurance in this country, are working. We are not talking about people who are not working; we are talking about people who are working one job, two jobs, three jobs, working for small businesses. I can go to any small business in Michigan and, I would guess, across our great country, and they want to talk to me about what is happening in health care and health insurance, an explosion in pricing. The average premium for small businesses has more than doubled in the last 5 years.

This is a crisis, and I am proud of the fact that JOHN KERRY and JOHN EDWARDS are stepping up to say this will be one of our highest priorities, to address this crisis. Everybody knows we have it. Everybody, from manufacturers to small businesses to seniors to workers to young families to students right out of college, everybody understands that we have a crisis in this country. I believe it is one of the major moral issues of our time. In the last 4 years we have seen this over and over again. Whenever it was a choice between the pharmaceutical lobby and the people of our country, the pharmaceutical lobby has won. Whenever it was a choice between the insurance industry and the people of this country, the insurance industries have won, the HMOs have won.

Frankly, on behalf of the people of my great State, we want somebody fighting for us, for the people of our country. The proposals that are put forward by Senator KERRY and Senator EDWARDS address the costs of health care and the access to health care. It is overdue for families. Again, this chart shows incomes going down, family health care premiums going up. We can do something about this. A big piece of this is the cost of prescription drugs. Frankly, the rest of the premiums that we see going up are because of folks who do not have insurance.

Our Secretary of Health and Human Services said, when asked about why—I believe it was in the context of why our Government is supporting the development of a health care system in Iraq with American tax dollars, but why we did not see the administration having the same sense of passion and urgency about Americans and health care. The Secretary of Health and Human Services said: Well, we kind of have universal health care coverage in our country because if someone is sick and goes into an emergency room, they get treated.

Well, that is true. When folks go into the emergency room and they go in sicker than they should be, go in instead of going to the doctor or instead of getting preventive care, they get treated. And what happens? The hospital then is forced to turn around and put those costs back on folks with insurance, resulting in family health care premiums skyrocketing.

This is not by accident. Part of this is a result of the fact that we have folks walking into the emergency room sicker than they should be or inappropriately getting care that should be in a doctor's office, that should be on the front end where it is more effective, more efficient, costs less.

In Michigan alone, last year my hospitals tell me that they spent over $1 billion in uncompensated care for folks walking into the emergency room. We now see it materializing in requests to expand emergency rooms. I have all kinds of requests from hospitals that are bulging at the seams to expand their emergency rooms. So we are paying for this on the back end. Families are paying through family health care premiums rising more. We all pay because of emergency rooms being expanded. Businesses are paying in loss of competitiveness. Seniors are paying.

What JOHN KERRY and JOHN EDWARDS are saying is we need to face that, we can do better than that, and we need to tackle it on the front end. So what are they suggesting? Well, I will mention just a few things. First, half of the premium increases are prescription drugs. It is very simple. They say Medicare, first, ought to be able to negotiate group discounts. Everybody else can. The VA can on behalf of veterans. Any other insurance system negotiates group discounts, but Medicare is prohibited under the new bill. We know why. The insurance lobby did their job. The prescription drug lobby did their job. So they are going to go back and change that. We negotiate group discounts. We can actually close the gap in coverage so it is a better benefit.

We also have seen from both JOHN KERRY and JOHN EDWARDS a complete commitment to allow us to do, on a bipartisan basis, what we have the votes to do in the Senate if we could ever get this up for a vote, and that is to open the border to Canada and to other countries where it is safe, under strict FDA rules and regulations, to allow our pharmacists to do business with pharmacists in Canada and in other countries to bring back prescription drugs to the local pharmacy at half the price.

I am tired of putting seniors on a bus. Just a week ago I was involved, again with AARP, out at the Ambassador Bridge in Detroit. We had people at the other two bridges in Michigan, talking about and demonstrating the difference in prices. I am, frankly, tired of seeing in my State people who have to drive across the bridge or through the tunnel in order to be able to demonstrate lower prices or be able to purchase at lower prices. The Kerry-Edwards administration will bring back those prices to the local pharmacy. It will make a major difference.

What else are they suggesting? I hear this all the time. We know one of the major problems right now under the insurance system is, particularly for a small business, for example, a small business may have 10 employees, and they may have low rates. Then one person gets very ill—gets cancer, has a car accident, something else happens—and they have a tremendous amount of costs for their care. That one case throws the insurance rates of the business up dramatically. What the Kerry-Edwards administration is talking about is having the Federal Government come in and, when the costs exceed $50,000 for an individual, the Federal Government would serve as reinsurance, to cover those few cases that are very expensive and throw the entire cost off for the business. It makes sense. We can do that.

We have also indicated we need to make a commitment to cover all children in our country—and we do. This is a moral obligation. It is all about priorities. It is always about priorities. It is always about our values and priorities. If we make the right choices, we can make sure every child has the health care they need.

Then they have also said that every person in this country ought to have the same ability to buy into the Federal employee health care system as we do. In our country we have the employer, meaning taxpayers or American citizens, who have less health care than the employees—us or other Federal employees. They want to change that. They can do that through an umbrella, allow people to buy in, businesses to buy in. They can choose either traditional programs or HMOs, but they would have the benefit of sharing administrative costs and bulk purchasing and sharing other efficiencies to bring costs down.

They have a number of very specific proposals that will allow greater access, that will allow costs to come down, and will directly tackle the stranglehold that has been occurring in this country, where a few special interests have been able to stop this body and this administration and others from making choices about what is best for American families.

We know there are folks who benefit by the current system. The pharmaceutical industry and insurance industry do well. They control what the price will be, what the access will be, and they don't want to change. They and their spokespeople will come forward and scare people, that somehow to do any change at all means some big, bureaucratic, top-down government system and socialized medicine, and they use all these other words, but it is used to scare people and to stop us from moving together and doing what needs to be done.

We need to be working together, partnering with business, with communities, with local governments and State and Federal Government to create a system where we make better decisions, provide health care to people on the front end rather than when they are very sick and walking into an emergency room, and bringing prices down by designing a system that works for us.

There is no doubt in my mind that we are capable of doing that. If we have the will, the political will and the right leadership in this country, there is no question that we cannot sit down, figure out a system that provides and maintains the best of what is great about American medicine and American health care, and also create some new opportunities to benefit from what is the best and yet create a better system for everyone.

We can do that. But first we have to have the right leadership, which is why I am supporting JOHN KERRY and JOHN EDWARDS. They understand. Senator KERRY has said his first initiative to come forward to the Congress as President of the United States will be on health care. My biggest concern since coming here, related to health care, has been there is not the sense of urgency we need to sit down and get this done. We need the political will to stand up to folks, the special interests with a lot of money who benefit from the way the system is today. We need to have the courage and the leadership to be able to design a system and tackle this in a way that makes sense for people.

There is absolutely no doubt in my mind that this can be done. There is also absolutely no doubt in my mind that it must be done. If our businesses are going to survive in a global economy, if our families are going to survive, in terms of providing health care for their children and moms and dads and grandpas and grandmas, if we are going to survive in terms of older care and care for the disabled in this country, if we are going to continue to have the quality of life Americans need and deserve, we have to tackle the health care issue and have more than just slogans and scare tactics for people.

We have to do better than the last 4 years. Real household income is down. Family health care premiums are up. This is the wrong direction. We can do better and with a change in administrations, working together in a bipartisan way, we will do better.

LOCAL LAW ENFORCEMENT ACT OF 2003

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. On May 1, 2003, Senator KENNEDY and I introduced the Local Law Enforcement Enhancement Act, a bill that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society.

On August 25, 2000, in Palm Springs, CA, a judge ordered a U.S. Marine, Lance Horton, to pay $4,300 to a gay couple he admitted beating and to complete charity work as part of his 5-year probation. Horton pleaded guilty to two counts of assault and to two hate crimes.

I believe that Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

NOTICE OF CHANGE IN SENATE PUBLIC TRANSPORTATION SUBSIDY REGULATIONS

COMMITTEE ON RULES AND ADMINISTRATION

Mr. LOTT. Mr. President, I wish to announce that in accordance with Title V of the Rules of Procedure of the Senate Committee on Rules and Administration, the Committee has updated the Senate Public Transportation Subsidy regulations effective October 1, 2004.

Based on the Committee's review of the 1992 regulations which authorize the issuance of tax free "de minimis fringe benefit": transit fare media, and a review of the Transportation Equity Act for the 21st Century (P.L. 105-78), the Committee has concluded that its regulations should be updated to reflect statutory changes in the dollar amount allowed to be issued as a "de minimis fringe benefit." In addition, the Committee has streamlined the process for office participation in this program.

PUBLIC TRANSPORTATION SUBSIDY REGULATIONS

Sec. 1. Policy

It is the policy of the Senate to encourage employees to use public mass transportation in commuting to and from Senate offices.

Sec. 2. Authority

The Tax Reform Act of 1986, as amended by the Transportation Equity Act for the 21st Century (P.L. 105-78) allows employers to give employees as a tax free "de minimis fringe benefit" transit fare media of a value not exceeding $100 per month. The Fiscal Year 1991 Treasury-Postal Appropriations Act (Pub. L. 101-509) allows Federal agencies to participate in state or local government transit programs that encourage employees to use public transportation.

Sec. 3. Definitions

(a) Public Mass Transportation—A transportation system operated by a State or local government, e.g. bus or rail transit system.

(b) Fare Media—A ticket, pass, or other device, other than cash, used to pay for transportation on a public mass transit system.

(c) Office—Refers to a Senate employee's appointing authority, that is, the Senator, committee chairman, elected officer, or an official of the Senate who appointed the employee. For purposes of these regulations, an employee in the Office of the President pro tempore, Deputy President pro tempore, Majority Leader, Minority Leader, Majority Whip, Minority Whip, Secretary of the Conference of the Majority, or Secretary of the Conference of the Minority shall be considered to be an employee, whose appointing authority is the Senator holding such position.

(d) Qualified Employee—An individual employed in a Senate office whose salary is disbursed by the Secretary of the Senate, whose salary is within the limit set by his or her appointing authority for participation in a transit program under these regulations, and who is not a member of a car pool or the holder of any Senate parking privilege.

(e) Qualified program refers to the program of a public mass transportation system that encourages employees to use public transportation in accordance with the requirements of Pub. L. 101-509 whose participation in the Senate program in accordance with these regulations has been approved by the Committee on Rules and Administration.

Sec. 4. Program requirements

(a) Each office within the Senate is authorized to provide to qualified employees under its supervision a de minimis fringe employment benefit of transit fare media of a value not to exceed the amount authorized by statute currently not to exceed $100 per month.

(b) Each appointing authority may establish a salary limit for participation in this program by his or her employees. If such salary limit is established, all staff paid at or below that limit, and who meet the other criteria established in these regulations, must be permitted to participate in this program.

(c) For purposes of these regulations, an individual employed for a partial month in an office shall be considered employed for the full month in that office.

(d) The fare media purchased by participating offices under this program shall only be used by qualified employees for travel to and from their official duty station.

(e) Any fare media purchased under this program may not be sold or exchanged although exchanges of Metro Card Media for transportation on the Virginia Railway Express (VRE) or the Maryland Transit Administration's MARC trains are permissible.

(f) In addition to any criminal liability, any person misusing, selling, exchanging or obtaining or using a fare media in violation of these regulations shall be required to reimburse the office for the full amount of the fare media involved and may be disqualified from further participation in this program.

Sec. 5. Office administration of program

Each office electing to participate in this program shall be responsible for its administration in accordance with these regulations, shall designate an individual to manage its program, and may adopt rules for its participation consistent with these regulations.

An employee who wishes to participate in this program shall make application with his or her office on a form which shall include a certification that such person is not a member of a motor pool, does not have any Senate parking privilege (or has relinquished same as a condition of participation), will use the fare media personally for traveling to and from his or her duty station, and will not exchange or sell the fare media provided under this program. The application shall include the following statement:

This certification concerns a matter within the jurisdiction of an agency of the United States and making a false, fictitious, or fraudulent certification may render the maker subject to criminal prosecution under 18 U.S.C.§1001.

Safekeeping and distribution of fare media purchased for an office is the responsibility of the program manager in that office. Participating offices may not refund or replace any damaged, misplaced, lost, or stolen fare media.

Sec. 6. Senate stationery room responsibilities

The only program currently available in the Washington, DC metropolitan area at this time is "Metro Pool," a program established through Metro by the District of Columbia. Transit benefits will be provided through Metro Pool for participating offices in the Washington, D. C. area. The Committee on Rules and Administration shall enter into an agreement with Metro Pool for purchase of fare media by the Senate Stationery Room as required by participating offices on a monthly basis.

A participating office shall purchase the fare media with its authorized appropriated funds from the Senate Stationery Room through its stationery account pursuant to 2 U.S.C.§119.

Each office shall present to the Senate Stationery Room [two copies of] the certification referred to in section 7 of these regulations. A new certification shall be submitted when an employer is added to or deleted from the program. The Stationery Room shall make available to the Senate Rules Committee Audit Section a monthly summary of office participation in this program. In addition, the Stationery Room may not refund or replace any damaged, misplaced, lost, or stolen fare media that has been purchased through the office's stationery account.

Sec. 7. Certification

The certification required by section 6 shall be approved by the appointing authority and shall include the name, and social security number of each participating employee within that office, and the following statements:

(a) Each person included on the list is currently a qualified employee as defined in Section 3.

(b) No person included on the list has any current Senate parking privilege and that no parking privileges will be restored to any person on the list during the period for which the fare media is purchased.

(c) That each month's fare media for each participating employee does not exceed the maximum dollar amount specified in statute (currently $100).

Sec. 8. Other participating programs

Section 6 provides for procedures for participation by Washington offices in the Metro Pool program established through Metro by the District of Columbia. Additional programs in the Washington, D. C. metropolitan area, or programs offered in other locations where Members have offices that meet the requirements of the law and these regulations, may be used for qualified employees, subject to the following requirements:

(A) Authorization—The public transit system shall submit information to the Committee on Rules and Administration that it participates in an established state or local government program to encourage the use of public transportation for employees in accordance with the provisions of Pub. L. 101-509 and these regulations. If the program meets the requirements of the statute and these regulations and is approved by the Committee on Rules and Administration, any Senate office served by such transit system may provide benefits to its employees pursuant to these regulations.

(B) Procedures—

(1) A qualified program operating in the Washington, D.C. metropolitan area that permits purchase arrangements similar to those provided by the Metro Pool program shall participate in the Senate program in accordance with the procedures set forth in Section 6.

(2) A qualified program operating in the Washington, D. C. metropolitan area that does not have purchase arrangements similar to Metro Pool, or a qualified program located outside that metropolitan area, that permits purchases directly by an office, may make arrangements for purchase of media directly with a participating office. Such an office may provide for direct payment to that system and shall submit the certification in accordance with Section 7.

(3) In the case of a qualified program that does not permit purchase arrangements as provided in paragraphs (1) or (2) above, an office may provide for reimbursement to a qualified employee and shall submit a certification in accordance with Section 7.

(C) Documentation—The following documentation must accompany a voucher submitted under paragraph 8(B)(2) or (3):

(1) A copy of the Rules Committee approval, in accordance with section 8(A), with the first voucher submitted for that transit program, provided subsequent vouchers identify the transit program.

(2) The certification.

(3) Proof of purchase of the fare media.

(D) Voucher Guidance—In the case of a Senator's state office, reimbursement for payment to either a qualified transit system, or a qualified employee shall be from the Senators' Official Personnel and Office Expense Account (SOP& OEA) as a home state office expense on a seven part voucher. In the Washington, DC metropolitan area, reimbursement for payment to either a qualified transit system, or a qualified employee shall be as follows:

(1) in the case of a Senator's office from the SOP & OEA as an "other official expense" (discretionary expense).

(2) in the case of a Senate committee or administrative office as an "Other" expense.

Sec. 9. Special circumstances

Any circumstances not covered under these regulations shall be considered on application to the Committee on Rules and Administration.

Sec. 10. Effective date

These regulations shall take effect on the first day of the month following date of approval.

HONORING OUR ARMED FORCES

LANCE CORPORAL MICHAEL ALLRED, USMC

LANCE CORPORAL QUINN A. KEITH, USMC

LANCE CORPORAL CESAR F. MACHADO-OLMOS, USMC

Mr. HATCH. Mr. President, September was a hard month for the people of Utah. Three more of our sons were called home into the arms of God. Each was a Marine, each a Lance Corporal, each did not live to see their 23rd birthday. I hope that my colleagues will join me in saluting these brave men of honor, who died to defend this nation and to bring freedom to an oppressed people.

Lance Corporal Michael Allred was a young man who knew he wanted to be in the military. His brother Brad said it best, that Lance Corporal Allred "was happy to serve, and he knew what he was doing was right . . . he died doing something he loved."

Ironically, Lance Corporal Allred was killed in the same attack that also took the life of another one of Utah's sons, Lance Corporal Quinn A. Keith. His family asked that I write a few words that were shared at his funeral. While I was learning about his life, I will always remember what his uncle Clyde said about Lance Corporal Keith, "He was scared to be there, but he knew he had to be there."

The third name to be added to this list of honor is Lance Corporal Cesar F. Machado-Olmos. His life is also extraordinary, since at the time of his death, he had not yet become an American citizen. Imagine, a young man who loved this country so much that before he even became a citizen he entered into a life of service and chose to earn the title of United States Marine.

Our Nation is truly blessed, not because of our material wealth or our influence across the globe. Our Nation is blessed because the ideas of freedom and liberty still echo in the minds of the young men and women of this country, and in the most selfless of acts, they volunteered to defend our Nation. These three men, Lance Corporal Michael Allred, Lance Corporal Quinn A. Keith and Lance Corporal Cesar F. Machado-Olmos epitomized the sacrifice and devotion to duty that is required to earn the noble title of United States Marine. The United States Senate and I stand in humble tribute to these Marines. They will be missed but never forgotten.

ENDORSING THE MINIMUM WAGE

Mr. KENNEDY. Mr. President, in the Bush economy, minimum wage workers are falling farther and farther behind. But every time Democrats in Congress have tried to raise the minimum wage, the Republican leadership has refused even to allow a vote on it. Three times in the 108th Congress, the Republican leadership has brought down a bill rather than allow an up-or-down vote on the minimum wage first on the State Department bill, then on the welfare bill, and, finally, on the class action bill.

Now, 562 prominent economists including four Nobel Prize winners in economics and seven past presidents of the American Economic Association have endorsed the increase to $7 an hour. I ask unanimous consent that a copy of their letter be printed in the RECORD, following my statement.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. KENNEDY. In today's economy, corporate profits are surging, but workers' wages are stagnant. Minimum wage workers are hardest hit, because they haven't had an increase in the minimum wage for 7 long years. That is why so many of us continue to fight for the Fair Minimum Wage Act, which will raise the minimum wage from $5.15 to $7 in three moderate steps to $5.85 60 days after enactment; $6.45 1-year later; to $7 1-year after that.

It is long past time for Congress to approve an increase in the minimum wage. No one who works for a living should have to live in poverty.

EXHIBIT 1

IT'S TIME FOR A RAISE

Hundreds of economists support a minimum wage increase

The minimum wage has been an important part of our nation's economy for 65 years. It is based on the principle of valuing work by establishing an hourly wage floor beneath which employers cannot pay their workers. In so doing, the minimum wage helps to equalize the imbalance in bargaining power that low-wage workers face in the labor market. The minimum wage is also an important tool in fighting poverty.

The value of the 1997 increase in the federal minimum wage has been fully eroded. The real value of today's federal minimum wage is less than it has been in 46 out of the last 48 years. Moreover, the ratio of the minimum wage to the average hourly wage of non-supervisory workers is 33%, its lowest level in 55 years. This decline is causing hardship for low-wage workers and their families.

We believe that a modest increase in the minimum wage would improve the well-being of low-wage workers and would not have the adverse effects that critics have claimed. In particular, we share the view the Council of Economic Advisers expressed in the 1999 Economic Report of the President that "the weight of the evidence suggests that modest increases in the minimum wage have had very little or no effect on employment." While controversy about the precise employment effects of the minimum wage continues, research has shown that most of the beneficiaries are adults, most are female, and the vast majority are members of low-income working families.

As economists who are concerned about the problems facing low-wage workers, we believe the Fair Minimum Wage Act of 2004's proposed phased-in increase in the federal minimum wage to $7.00 falls well within the range of options where the benefits to the labor market, workers, and the overall economy would be positive.

Twelve states and the District of Columbia have set their minimum wages above the federal level. Additional states, including Florida, Nevada, and New York, are considering similar measures. As with a federal increase, modest increases in state minimum wages in the range of $1.00 to $2.00 can significantly improve the lives of low-income workers and their families, without the adverse effects that critics have claimed.

Henry Aaron, The Brookings Institution; Rebecca Blank, University of Michigan; Ronald G. Ehrenberg, Cornell University; Clive Granger, University of California—San Diego; Lawrence F. Katz, Harvard University; Lawrence R. Klein, University of Pennsylvania; Frank Levy, Massachusetts Institute of Technology; Lawrence Mishel, Economic Policy Institute; Paul A. Samuelson, Massachusetts Institute of Technology; Robert M. Solow, Massachusetts Institute of Technology.

552 OTHER ECONOMISTS AGREE

Economists supporting increase in minimum wage

Frank Ackerman, Global Development and Environment Institute—Tufts University; Irma Adelman, University of California—Berkeley; Randy Albelda, University of Massachusetts—Boston; Robert J. Alexander, Rutgers University; Marcus Alexis, Northwestern University; Sylvia Allegretto, Economic Policy Institute; Gar Alperovitz, University of Maryland—College Park; Teresa L. Amott, Gettysburg College; Alice Amsden, Massachusetts Institute of Technology; Bernard E. Anderson, University of Pennsylvania; Robert M. Anderson, University of California—Berkeley; Eileen Appelbaum, Rutgers University; Robert K. Arnold, Institute of Regional and Urban Studies; David D. Arsen, Michigan State University; Enid Arvidson, University of Texas—Arlington; Michael Ash, University of Massachusetts; Glen Atkinson, University of Nevada—Reno; Alice Audie-Figueroa, United Automobile Workers.

Robert Axtell, The Brookings Institution and Middlebury College; M.V. Lee Badgett, University of Massachusetts; Ron Baiman, University of Illinois—Chicago; Asatar Bair, City College of San Francisco; Dean Baker, Center for Economic and Policy Research; Benjamin Balak, Rollins College; Stephen E. Baldwin, KRA Corporation and George Washington University; Erol Balkan, Hamilton College; Laurence M. Ball, Johns Hopkins University; Brad Barham, University of Wisconsin—Madison; Drucilla K. Barker, Hollins University; David Barkin, Universidad Autonoma Metropolitana—Xochimilco; Christopher Barrett, Cornell University; Timothy J. Bartik, W.E. Upjohn Institute for Employment Research; Laurie J. Bassi, McBassi & Company; Bradley W. Bateman, Grinnell College; Francis M. Bator, Harvard University; Sandy Baum, Skidmore College; William J. Baumol†, New York University; Steve Beckman, United Automobile Workers; Stephen H. Bell, Urban Institute; Dale L. Belman, Michigan State University; Michael H. Belzer, Wayne State University; Lourdes Beneria, Cornell University; Barbara R. Bergmann, American University and University of Maryland; Eli Berman, University of California—San Diego.

Jared Bernstein, Economic Policy Institute; Michael Best, University of Massachusetts—Lowell; Charles L. Betsey, Howard University; David M. Betson, University of Notre Dame; Carole Biewener, Simmons College; Sherrilyn Billger, Illinois State University; Melissa Binder, University of New Mexico; L. Josh Bivens, Economic Policy Institute; Stanley W. Black, University of North Carolina—Chapel Hill; Margaret Blair, Vanderbilt University Law School; Robert Blecker, American University; Alan S. Blinder, Princeton University; Barry Bluestone, Northeastern University; Peter Bohmer, The Evergreen State College; Roger Bolton, Williams College; James F. Booker, Siena College; Heather Boushey, Center for Economic and Policy Research; Samuel Bowles, Santa Fe Institute; James K. Boyce, University of Massachusetts—Amherst; Ralph Bradburd, Williams College; Katharine Bradbury, Gerard Bradley, New Mexico Department of Labor; Mark D. Brenner, University of Massachusetts; Vernon M. Briggs, Jr., Cornell University; Daniel W. Bromley, University of Wisconsin; Eileen L. Brooks, University of California—Santa Cruz; Annette N. Brown, BearingPoint, Inc.; Christopher Brown, Arkansas State University; Clair Brown, University of California—Berkeley; Michael Brun, Illinois State University; Neil H. Buchanan, Rutgers School of Law.

Robert Buchele, Smith College; Mary A. Burke, Florida State University; Paul G. Burkett, Indiana State University; Stephen V. Burks, University of Minnesota—Morris; Joyce Burnette, Wabash College; Gary Burtless, The Brookings Institution; Dallas Burtraw, Resources for the Future; Paul D. Bush, California State University—Fresno; Antonio Callari, Franklin and Marshall College; James Campen, University of Massachusetts—Boston; Maria Cancian, University of Wisconsin—Madison; Paul Cantor, Norwalk Community College; Peter Cappelli, University of Pennsylvania; Anthony P. Carnevale, National Center on Education and the Economy; Jeffrey P. Carpenter, Middlebury College; Françoise Carré, University of Massachusetts—Boston; Michael J. Carter, University of Massachusetts—Lowell; Susan B. Carter, University of California—Riverside; John Carvellas, Saint Michael's College.

Karl E. Case, Wellesley College; Jeff Chapman, Economic Policy Institute; John Dennis Chasse, State University of New York—Brockport; Howard Chernick, Hunter College and the Graduate Center, City University of New York; Robert Cherry, Brooklyn College—City University of New York; Lawrence Chimerine, Radnor International Consulting, Inc.; Charles R. Chittle, Bowling Green State University; Kimberly Christensen, State University of New York—Purchase; Paul P. Christensen, Hofstra University; Richard D. Coe, New College of Florida; Robert M. Coen, Northwestern University; Steve Cohn, Knox College; David C. Cole, Harvard Institute for International Development; Helen Connolly, Northeastern University; John E. Connor, Villanova University; Patrick Conway, University of North Carolina—Chapel Hill; James V Cornehls, University of Texas—Arlington; David Crary, Eastern Michigan University; Vincent Crawford, University of California—San Diego; James Crotty, University of Massachusetts; Stephen Cullenberg, University of California—Riverside.

James Cypher, California State University—Fresno; Anita Dancs, National Priorities Project; Nasser Daneshvary, University of Nevada—Las Vegas; David M. Danning, Massachusetts Teachers Association; Sheldon Danziger, University of Michigan; Jane D'Arista, New School University; Paul A. David, Stanford University; Sidney Davidson, University of Chicago; John B. Davis, Marquette University and University of Amsterdam; Charles W. de Seve, American Economics Group, Inc.; Jayne Dean, Wagner College; Gregory E. DeFreitas, Hofstra University; Brad DeLong, University of California—Berkeley; James G. Devine, Loyola Marymount College; Peter Diamond, Massachusetts Institute of Technology; Ranjit Dighe, State University of New York—Oswego; Randall Dodd, Financial Policy Forum; Peter B. Doeringer, Boston University; Peter Dorman, The Evergreen State College; Robert Drago, Pennsylvania State University; Laura Dresser, University of Wisconsin—Madison; Arindrajit Dube, University of California—Berkeley; Richard B. Du Boff, Bryn Mawr College; Marie Duggan, Keene State College; Greg J. Duncan, Northwestern University; Steven Durlauf, University of Wisconsin—Madison.

Donald H. Dutkowsky, Syracuse University; Amitava K. Dutt, University of Notre Dame; M. Jan Dutta, Rutgers University; Gary Dymski, University of California—Riverside; John A. Edgren, Eastern Michigan University; Barry Eichengreen, University of California—Berkeley; Bernard Elbaum, University of California—Santa Cruz; Catherine S. Elliott, New College of Florida; Zohreh Emami, Alverno College; Richard W. England, University of New Hampshire; Ernie Englander, George Washington University; Gerald Epstein, University of Massachusetts—Amherst; Sharon J. Erenburg, Eastern Michigan University; Christopher L. Erickson, University of California—Los Angeles; Timothy J. Essenburg, Bethel University; Susan L. Ettner, University of California—Los Angeles; Linda Ewing, United Automobile Workers; Colleen Fahy, Assumption College; David Fairris, University of California—Riverside.

Henry S. Farber, Princeton University; Andrew Farrant, Franklin and Marshall College; Jeff Faux, Economic Policy Institute; Sasan Fayazmanesh, California State University— Fresno; Steve Fazzari, Washington University; Rashi Fein, Harvard Medical School; Robert M. Feinberg, American University; Susan F Feiner, University of Southern Maine; David Felix, Washington University; Ronald F. Ferguson, Harvard University; William D. Ferguson, Grinnell College; Rudy Fichtenbaum, Wright State University; Deborah M. Figart, Richard Stockton College; T. Aldrich Finegan, Vanderbilt University; Lydia Fischer, United Automobile Workers; Albert Fishlow, Columbia University; John Fitzgerald, Bowdoin College; Sean Faherty, Franklin and Marshall College.

Maria S. Floro, American University; Nancy Folbre, University of Massachusetts; Harold A. Forman, United Food and Commercial Workers; Mathew Forstater, University of Missouri—Kansas City; Harriet Fraad; Alan Frishman, Hobart and William Smith Colleges; Kevin Furey, Chemeketa Community College; James K. Galbraith, University of Texas—Austin; Monica Galizzi, University of Massachusetts—Lowell; Kevin P. Gallagher, Boston University; David Gallo, California State University—Chico; Irwin Garfinkel, Columbia University; Deborah L. Garvey, Santa Clara University; Jonah B. Gelbach, University of Maryland; Robley George, Center for Study of Democratic Societies; Christophre Georges, Hamilton College; Malcolm Getz, Vanderbilt University; Teresa Ghilarducci, University of Notre Dame; Lisa A. Giddings, University of Wisconsin—La Crosse; Richard J. Gilbert, University of California—Berkeley.

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Mitchell Harwitz, State University of New York—Buffalo; Robert Haveman, University of Wisconsin—Madison; F. Gregory Hayden, University of Nebraska—Lincoln; Sue Headlee, American University; Carol E. Heim, University of Massachusetts—Amherst; James Heintz, University of Massachusetts—Amherst; Paul A. Heise, Lebanon Valley College; Suzanne Helburn, University of Colorado—Denver; Susan Helper, Case Western Reserve University; John F Henry, California State University—Sacramento; Edward Herman, University of Pennsylvania; Stephen Herzenberg, Keystone Research Center; Donald D. Hester, University of Wisconsin—Madison; Gillian Hewitson, Franklin and Marshall College; William Hildred, Northern Arizona University; Marianne T. Hill, Center for Policy Research and Planning; Martha S. Hill, University of Michigan; Michael G. Hillard, University of Southern Maine; Albert O. Hirschman, Institute for Advanced Study; Rod Hissong, University of Texas—Arlington; Emily Hoffman, Western Michigan University.

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Gary A. Latanich, Arkansas State University; Robert Z. Lawrence, Harvard University; William Lazonick, University of Massachusetts—Lowell and INSEAD; Frederic S. Lee, University of Missouri—Kansas City; J. Paul Leigh, University of California—Davis; Nancey Green Leigh, Georgia Institute of Technology; Charles L. Leven, Washington University; Charles Levenstein, University of Massachusetts—Lowell; Margaret C. Levenstein, University of Michigan; Henry M. Levin, Columbia University and Stanford University; David I. Levine, University of California—Berkeley; Herbert S. Levine, University of Pennsylvania; Mark Levinson, UNITE HERE; Mark Levitan, Community Service Society of New York; Stephen Levy, Center for Continuing Study of California Economy; Arthur Lewbel, Boston College; James D. Likens, Pomona College; Edward J. Lincoln, Council on Foreign Relations; David L. Lindauer, Wellesley College; Charles Lindblom, Yale University; Victor D. Lippit, University of California—Riverside; Mark C. Long, University of Washington; Pamela Loprest, The Urban Institute; Richard Lotspeich, Indiana State University; Michael C. Lovell, Wesleyan University.

Milton D. Lower, Stephanie Luce, Labor Center—University of Massachusetts; Jens Ludwig, Georgetown University; Dan Luria, Michigan Manufacturing Technology Center; Lisa M. Lynch, Tufts University; Robert Lynch, Washington College; Arthur MacEwan, University of Massachusetts—Boston; Hasan MacNeil, California State University—Chico; Craig R. MacPhee, University of Nebraska—Lincoln; Janice F. Madden, University of Pennsylvania; Mark H. Maier, Glendale Community College; Jay Mandle, Colgate University; Andrea Maneschi, Vanderbilt University; Dave E. Marcotte, University of Maryland—Baltimore County; Stephen A. Marglin, Harvard University; Robert A. Margo, Vanderbilt University; Stephen V. Marks, Pomona College; Ann R. Markusen, University of Minnesota; Ray Marshall, University of Texas—

Austin; Jeffrey Martin; Patrick L. Mason, Florida State University; Julie A. Matthaei, Wellesley College; Peter H. Matthews, Middlebury College; Anne Mayhew, University of Tennessee; Alan K. McAdams, Cornell University.

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Richard J. Murnane, Harvard University; Michael Murray, Bates College; Peggy Musgrave, University of California—Santa Cruz; Richard A. Musgrave, Harvard University; Ellen Mutari, Richard Stockton College; Michele Naples, The College of New Jersey; Tara Natarajan, St. Michael's College; Julie A. Nelson, Tufts University; Reynold F. Nesiba, Augustana College—Sioux Falls, SD; Egon Neuberger, State University of New York—Stony Brook; Donald A. Nichols, University of Wisconsin—Madison; Laurie Nisonoff, Hampshire College; Emily Northrop, Southwestern University; Leslie Nulty, Carol O'Cleireacain, The Brookings Institution; Seamus O'Cleireacain, State University of New York—Purchase; Stephen A. O'Connell, Swarthmore College.

William P. O'Dea, State University of New York—Oneonta; Mehmet Odekon Skidmore, College; Amy O'Hara, Erik Olsen, Franklin and Marshall College; Paulette Olson Wright, State University; Paul Ong, University of California—Los Angeles; Van Doorn Ooms, Committee for Economic Development; Douglas V. Orr, Eastern Washington University; Jonathan M. Orszag, Competition Policy Associates, Inc.; Peter Orszag, The Brookings Institution; Paul Osterman, Massachusetts Institute of Technology; Shallanne Osterreich, Ithaca College; Rudolph A. Oswald, George Meany, Labor Studies Center; Spencer J. Pack, Connecticut College; Arnold Packer, Johns Hopkins University; Thomas Palley, US-China Economic and Security Review Commission.

Dimitri B. Papadimitriou, The Levy Economic Institute of Bard College; James A. Parrott, Fiscal Policy Institute; Manuel Pastor, University of California—Santa Cruz; Eva A. Paus, Mount Holyoke College; Michael Perelman, California State University—Chico; Kenneth R. Peres, Communications Workers of America; George L. Perry, The Brookings Institution; Joseph Persky, University of Illinois—Chicago; Karen A. Pfeifer, Smith College; Ronnie J. Phillips, Colorado State University; Michael J. Piore, Massachusetts Institute of Technology; Steven C. Pitts, University of California—Berkeley; Karen R. Polenske, Massachusetts Institute of Technology; Robert Pollin, University of Massachusetts—Amherst; Marshall Pomer, Macroeconomic Policy Institute; Marilyn Power, Sarah Lawrence College; Robert E. Prasch, Middlebury College; Lee Price, Economic Policy Institute; Jean L. Pyle, University of Massachusetts—Lowell; Paddy Quick, St. Francis College; John M. Quigley, University of California—Berkeley; Willard W. Radell, Jr., Indiana University of Pennsylvania; Fredric Raines, Washington University; Steven Raphael, University of California—Berkeley; Wendy Rayack, Wesleyan University.

Robert Rebelein, Vassar College; James Rebitzer, Case Western Reserve University; Michael Reich, University of California—Berkeley; Robert B. Reich, Brandeis University; Kenneth A. Reinert, George Mason University; Trudi Renwick, Fiscal Policy Institute; Andrew Reschovsky, University of Wisconsin—Madison; James Reschovsky, Center for Studying Health System Change; Daniel Richards, Tufts University; Tom Riddell, Smith College; Ronald G. Ridker, World Bank; Alice M. Rivlin, The Brookings Institution and Georgetown University; Bruce Roberts, University of Southern Maine; John Roche St. John, Fisher College; Charles P. Rock, Rollins College; William M. Rodgers III, Rutgers University; Dani Rodrik, Harvard University; Frank Roosevelt, Sarah Lawrence College; Howard F Rosen, Trade Adjustment Assistance Coalition; Sumner Rosen, National Jobs for All Coalition and Columbia University; Joshua L. Rosenbloom, University of Kansas; William W. Ross, Fu Associates, Ltd.; Roy J. Rotheim, Skidmore College; Joydeep Roy, Economic Policy Institute; David F. Ruccio, University of Notre Dame; Lynda Rush, California State Polytechnic University—Pomona.

Vernon W. Ruttan, University of Minnesota; Gregory M. Saltzman, Albion College; Sydney Saltzman, Cornell University and University of Michigan; Saskia Sassen, University of Chicago Law School; Christine Sauer, University of New Mexico; Max Sawicky, Economic Policy Institute; Peter V. Schaeffer, West Virginia University; William C. Schaniel, State University of West Georgia; F M. Scherer, Harvard University; A. Allan Schmid, Michigan State University; Stephen J. Schmidt, Union College; John Schmitt, 17th Street Economics; Juliet Schor, Boston College; Charles L. Schultze, The Brookings Institution; Elliot Sclar, Columbia University; Allen J. Scott, University of California, Los Angeles; Bruce R. Scott, Harvard Business School; Robert Scott, Economic Policy Institute; Stephanie Seguino, University of Vermont; Lawrence Seidman, University of Delaware; Jean Shackelford, Bucknell University; Harley Shaiken, University of California—Berkeley; Philip Shapira, Georgia Institute of Technology; Robert J. Shapiro, Sonecon LLC; Mohammed Sharif, University of Rhode Island; Lois B. Shaw, Institute for Women's Policy Research; Bertram Silverman, Hofstra University; Stephen J. Silvia, American University.

Margaret C. Simms, Joint Center for Political and Economic Studies; Michael Simmons, North Carolina A&T State University; Betty F. Slade, Courtenay Slater, Timothy M. Smeeding, Center for Policy Research, Syracuse University; Joel Sobel, University of California-San Diego; Martin C. Spechler, Indiana University-Purdue University Indianapolis; Marcus Stanley, Case Western Reserve University; James L. Starkey, University of Rhode Island; Howard Stein, University of Michigan; Mary Huff Stevenson, University of Massachusetts-Boston; Michael Storper, University of California-Los Angeles and London School of Economics; Diana Strassmann, Rice University; Myra H. Strober, Stanford University; David M. Sturges, Colgate University; Richard Sutch, University of California-Riverside; Paul A. Swanson, William Paterson University; William Tabb, Queens College; David Terkla, University of Massachusetts-Boston; Ross D. Thomson, University of Vermont; Emanuel D. Thorne, Brooklyn College-City University of New York.

Jill Tiefenthaler, Colgate University; Thomas H. Tietenberg, Colby College; Chris Tilly, University of Massachusetts-Lowell; Marc R. Tool, California State University-Sacramento; Scott Trees, Siena College; A. Dale Tussing, Syracuse University; Laura D'Andrea Tyson, London Business School; Christopher Udry, Yale University; Daniel A. Underwood, Peninsula College; Lynn Unruh, University of Central Florida; David Vail, Bowdoin College; Marjolein van der Veen, Shoreline Community College; Don Vandegrift, The College of New Jersey; Douglas Vickers, University of Massachusetts; Michael Vogt, Eastern Michigan University; Paula B. Voos, Rutgers University; Mark Votruba, Case Western Reserve University; Jeff Waddoups, University of Nevada-Las Vegas; Matt Warning, University of Puget Sound; Robert W. Wassmer, California State University-Sacramento; Sidney Weintraub, Center for Strategic and International Studies; Mark Weisbrot, Center for Economic and Policy Research; Charles L. Weise, Gettysburg College; Thomas E. Weisskopf, University of Michigan; Christian E. Weller, Center for American Progress; Fred M. Westfield, Vanderbilt University; Charles J. Whalen, Perspectives on Work.

Melvin I. White, Brooklyn College-City University of New York; Cathleen Whiting, Williamette University; Howard Wial, Keystone Research Center; Charles K. Wilber, University of Notre Dame; Linda Wilcox Young, Southern Oregon University; Arthur R. Williams, John Willoughby, American University; Paul Winters, American University; Barbara L. Wolfe, University of Wisconsin-Madison; Edward Wolff, New York University; Martin Wolfson, University of Notre Dame; Brenda Wyss, Wheaton College; Yavuz Yasar, University of Denver; Carol Zabin, University of California-Berkeley; June Zaccone, National Jobs for All Coalition and Hofstra University; David A. Zalewski, Providence College; Henry W. Zaretsky, Henry W Zaretsky & Associates, Inc.; Lyuba Zarsky, Global Development and Environment Institute-Tufts University; Andrew Zimbalist, Smith College.

* indicates Nobel Laureates. †indicates past presidents of the American Economic Association. Affiliations are provided for identification purposes only and should not be construed as the official view of any of the institutions listed.

APPRECIATION FOR BRIAN GREEN

Mr. ALLARD. Mr. President, I rise today to express my appreciation for the outstanding service of Brian Green to me and to my fellow members on the Senate Armed Services Committee.

Brian Green has been a professional staff member and staff lead for the Strategic Forces Subcommittee of the Senate Armed Services Committee for over 3 years. As the chairman of the Strategic Forces Subcommittee for much of that time. I have had the opportunity to closely observe Brian. I can honestly tell you that Brian is an exceptional staffer and a tremendous human being.

As the staff lead for the subcommittee, Brian has helped me and the other members of subcommittee fulfill our responsibilities pertaining to the oversight of Department of Defense strategic, ballistic missile defense, and military space programs. His expertise and recommendations have proved critical time and time again during the Senate Armed Services Committee consideration of the annual defense authorization bill.

I can personally attest to numerous occasions when Brian provided the need information and proposals that made the difference in achieving the subcommittee's objectives. I cannot stress enough how much of a relief it was to know that Brian was always available to advance the subcommittee's policy goals and on guard to protect the subcommittee's interests.

During his time in the Senate, Brian also helped promote and protect our Nation's effort to develop and deploy a ballistic missile defense system. He played a lead role in coordinating the opposition to proposed budget cuts to the program. Brian's ability to work with multiple offices, the National Security Council, and the White House was pivotal in the debate and eventually led to the restoration of funding.

Brian came to the to the Senate after serving 4 years as a professional staff member on the House Armed Services Committee. While in the House, Brian played a crucial role in developing the House-version of the National Missile Defense Act of 1999 and the creation of the National Nuclear Security Administration in the Department of Energy.

It is not just his achievements that cause Brian to stand out. He has been utterly committed to his job. Brian works until the job is completed and completed well. He has an innate ability to find solutions to difficult problems, including those that might have considerable political implications. Perhaps most significantly, Brian is a team player and approaches his job without pretense. Members and staff alike have always appreciated Brian's willingness to work with them on even the most minute policy or budget issue.

It is disappointing to lose Brian to the private sector. We will miss his diligence, his integrity and his expertise. At the same time, I am grateful that Brian was able to serve the Senate for so long and so faithfully. I congratulate Brian on his new position and wish him the best in the future.

I yield the floor.

CERTIFIED REGISTERED NURSE ANESTHETISTS

Mr. INOUYE. Mr. President, I commend military certified registered nurse anesthetists, CRNAs. CRNAs are advanced practice nurses who administer anesthesia. Today, CRNAs administer approximately 65 percent of the anesthetics given to patients each year for all types of surgical cases in the United States.

Nurse anesthetists have been the principal anesthesia providers in combat areas in every war in which the United States has been engaged since World War I. In World War II, there were 17 nurse anesthetists to every 1 physician anesthetist. In Vietnam, the ratio of CRNAs to physician anesthetists was approximately 3 to 1. During the Panama strike authorized in 1989, only CRNAs were sent with the fighting forces. In addition, the vast majority of anesthesia providers deployed for Operation Iraqi Freedom and Operation Enduring Freedom has been CRNAs. Nurse anesthetists are again carrying the load by providing 80 percent of the anesthesia requirements in Iraq and Afghanistan. We rely heavily on CRNAs to accomplish wartime missions and our need for their services will only increase in the future.

In all of the uniformed services, maintaining adequate numbers of Active Duty and Reserve CRNAs is of utmost concern. For several years, the number of CRNAs serving on active duty has fallen somewhat short of the number authorized by the Department of Defense. This lag in recruitment has been further exacerbated by a strong demand for CRNAs in both the public and private sectors. One reason the military has difficulty retaining CRNAs is that a large pay gap exists between annual civilian salaries and military pay.

I am deeply concerned about retention of these CRNAs, particularly in the Army Nurse Corps. It has come to my attention that within the next 3 years, the Army Nurse Corps could lose up to 50 percent of its current complement of CRNAs. A recent survey of Army CRNAs revealed that despite overall satisfaction with their anesthesia practice, dissatisfaction with pay and frequent deployments are the primary reasons for leaving active duty.

One strategy that is proving effective in increasing overall satisfaction is the Army Surgeon General's 180-day rotation policy. I urge continuation of this policy. However, this is not enough to ensure that we meet our mission. I am quite certain that another remedy to prevent further losses would be an across-the-board increase in incentive speciality pay for all CRNAs, regardless of Active-Duty service obligation. I trust that the Department of Defense is also concerned and actively pursuing measures to address this very important issue.

PARDONING "JACK" JOHNSON

Mr. HATCH. Mr. President, I rise to express my support for S. Res. 447, which asks the President to pardon posthumously John Arthur "Jack" Johnson for Mr. Johnson's racially-motivated 1913 conviction.

As a huge fan of the sport of boxing, I admire the great achievements of Mr. Johnson in his too short career. But I feel a greater need to recognize and pardon Mr. Johnson for the great injustice he suffered. Although it is too late to properly rectify what was done to Jack Johnson, I hope in some small way we can call attention to his remarkable achievements and repair his good name.

Jack Johnson was the first African-American boxer to win the heavyweight title. While this was a landmark achievement for African-Americans, Johnson's achievements unfortunately had the effect of escalating racial tensions and his subsequent victories provoked racial rioting. The effort to dethrone him brought about the search for the "Great White Hope" during his 1908–1915 reign as heavyweight champion.

The consensus is that while Johnson was not defeated in the boxing ring he could be stopped by trumped-up criminal charges. In 1913, Johnson was found guilty of violating the "white-slavery" Mann Act for taking his future wife out of State. Johnson was convicted and he tried to appeal his sentence. Before the ruling on his appeal, Johnson fled the country and was a fugitive for 7 years before he returned to the United States in 1920. Johnson turned himself over to Federal authorities and served 10 months in Ft. Leavenworth, KS.

Mr. Johnson went on to continue fighting but never returned to the same glory. He was killed in a car accident in 1946 at the age of 68. Eight years later, he became a charter member of the Boxing Hall of Fame.

I am hopeful that the President will accept this petition and issue a posthumous Presidential pardon for Jack Johnson. Mr. Johnson defied the racist standards of his day to become a world champion. He was a hero and example to a greatly oppressed people who had too few public heroes to look to emulate.

KINSHIP CAREGIVERS

Mrs. CLINTON. Mr. President, I rise today to recognize the important work of kinship caregivers across the Nation and to commend the Edgewood Center for Children and Families in San Francisco, CA, for its long-spanning commitment to caring for children.

Kinship caregivers are making a real difference in the lives of children all across our country. According to the Census, more than 6 million children—1 in 12—live in households headed by grandparents or other relatives. Similarly, a study conducted by the American Association of Retired Persons found that the number of children living in grandparent-headed households increased by 30 percent between 1990 and 2000. Unfortunately, while grandparents and other relatives have stepped forward to provide safe and loving homes for the children in their care, they also often face great difficulties in achieving emotional and financial stability.

With millions of children still in need of loving, permanent homes and countless grandparents and relatives willing to raise these children who need our support, there is more work to be done. The Edgewood Center for Children and Families is the oldest children's charity in the western United States serving children and families that provides a national model for keeping families intact. Edgewood Center's Kinship Support Network is the first program in the nation to provide comprehensive, private-sector support services to relative caregiver families. This program uses mentoring, support groups, and training to prepare grandparents and relatives for parenting, while providing tutoring, independent living skills, and mental health care for adopted children. Last year, as many as 95.5 percent of the children in Edgewood's program either remained with their kinship families or were reunited with their parents, and less than 2 percent had to be moved into foster care. This is an enormous success considering that only 78 percent of Kinship families remained stable in the years prior to the inception of Edgewood's programs.

In July, I introduced the Kinship Caregiver Support Act, S. 2706, to establish community "kinship navigator" programs with services similar to the Edgewood's Kinship Support Networks. My legislation would also help ease the financial burden of kinship caregivers so that these families receive the financial support they need. I look forward to working with my colleagues in the Senate to ensure passage of the Kinship Caregiver Support Act so that we help strengthen kinship families all across America.

Again, I commend the Edgewood Center for Children and Families for its tradition of excellence in providing services to kinship caregivers and extend my best wishes for continued success in the future.

HONORING FAVORITE TEACHERS

Mr. DAYTON. Mr. President, nearly 4,000 Minnesotans honored their favorite teacher at my Minnesota State fair booth this summer. I honor these teachers further by submitting their names to the CONGRESSIONAL RECORD, as follows:

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Filmore Central Middle School—Ms. Paulson; Fine Arts Interdisciplinary Resource School—Scott Charlesworth; Five Hawks Elementary—Eleanor Doherty, Anne Nelson, Grace Tillotson; Focus Beyond—Dan Nicklaey; Foley High School—Bill Brand, Dave Voeltz; Foley Intermediate School—Darryl Bosshart, Janet Johnson, Lisa Wruck; Folwell Middle School—Amanda Guanzon; Forest Elementary—Bill Lubansky, Terri Moore, Tina Olinyk, Norma Jean Terhaar; Forest Hills Elementary—Ms. McKeaver, Steve Watson; Forest Lake Elementary—Barbara Crawford, Janie Reid, Joy Sietsma; Forest Lake High School—Alice Berven, Henry Hebert, Bill Streeter, Ms. Unzie, Donald Thompson; Four Seasons Elementary—Rebecca Brown, Ms. Casserly-Smith, Ms. Graver; Four Winds Elementary—Laura Manthey; Fourth Baptist Christian School—Karen Fitzgefald, Kay Wohlenhaus; Franklin Elementary (Anoka)—Don Gawreluk, Patricia Georg; Franklin Elementary (Rochester)—Pat Taylor; Franklin Junior High School (Brainerd)—Robert Bjorge; Franklin Magnet Elementary (St. Paul)—Mary Tacheny; Franklin Middle School (Minneapolis)—Rod Gordon, Kris Shaban; Frazee High School—Ta Fett; Fred Moore Middle School—Don Bright, Sonja Chamberlain, Denise Collins, Nancy Jacobsen, Mary Ewens; Frederic Elementary—Stacy Cox, Nancy Steinke; Freeman Elementary (Woodland, CA); Fridley High School—David Loo, Dave Ryan, Constance Schindel, Joanne Toews; Fridley Middle School—Jean Andrews, Debra Kay, Tonya Lee; Friendly Hills Middle School—Pam Hough, Emily Jedlicka, Peter Klabachek; Friends School of Minnesota—Susan Cahan, Laurie Carlson, Elizabeth Herbert, Kak Jarvis, Sally Wiedemann; Frost Lake Magnet—Mrs. Brink, Megan Doerr, Mary McCrossan; Gage Elementary—Kerry Much; Galtier Magnet—Gloria Johnson, Nancy Pavek; Gan Shelanu Preschool—Barb Kahn; Garden City Elementary—Maren Dahl, Shella Huggett, Peter Pearson, Nancy Wavrin; Garfield Elementary—Jodi Sweet; Gatewood Elementary—Mrs. Bergland, Monica Grubb, Karen Jensen, Becky Knickerbocker, Mary Ofstie, Mrs. Van Waye, Monia Grubb, Justin Ingahm; Gideon Pond Elementary—Eileen Abrahamson, Karen Krafka, Cindy Nepsund, Mrs. Rognlie; Glacier Hills Elementary—Karen Colbert, Shelley Grandbois; Gleason Lake Elementary—Beth Blomlie, James Dvorak, Jerilyn Horvath, Deanna Rehnke, Barb Abramson, Mary Savage; Glen Lake Elementary—Stephanie Bell, George Rota; Glencoe-Silver Lake High School—Richard Cohrs, Josh Olson; Glendale Elementary (Prior Lake)—Sarah Wrobleski; Glendale Union High School (Phoenix, AZ)—Bill Roseberry; Golden Lake Elementary—Mrs. Flolid, Todd Trick; Goodhue Elementary—Nancy Conway, Jennifer Doerhoerfer; Gordon Bailey Elementary—Sara Sorenson; Grace Christian Academy (Park Rapids)—Grace Becker; Grace Christian School (Grand Rapids)—Letha Lemon; Graded School (Sao Paolo, Brazil)—Todd Brown; Grainwood Elementary—Terri Zenk; Grand Meadow High School—Janet Moe; Grand Rapids—Christine Dimich; Grandview Middle School—Katie Rutledge, Sara Sedlack, Mrs. Seifert, Ms. Swanson, Pamela Weber; Grantsburg Middle School (Grantsburg, WI)—Kim Nelson; Greenleaf Elementary—Sarah Czech, Kathy Johnson, Maxine Johnson, Mrs. Taffe, Maureen Williams; Greenwood Elementary—Mary Dvorak, Bonnie Hatton, Mrs. Lachmiller, Amy Westman; Grey Cloud Elementary—Ray Rawson, Mrs. Weber, Ms. Ferber; Grove City—Cheryl Riebe, Doug Torgerson; Groveland Elementary—Mark Brazinski, Rebecca Faatz, Shirley Herzig, Jane Meyer, Georgia Rasmus, Patti Berger, Niki Danou, Brent Frank, Heidi Hammerback, Connie Johnson, Jeff Sambs; Gustavus Adolphus College—Laurent Dechery, Lisa Heldke, Scoot Moore; Hale Elementary—Patty Kypke, Mrs. Lotzer, Sarah Mickkelson, Mrs. Van Valkenburg, Candy Welschan; Hale Field Community School—Tracey Schultz; Hamilton Elementary—Mrs. Kunkel; Hamline University—Garvin Davenport, Walter Enloe, Paul Gorski, Rita Johnson, Carol Mayer; Hancock Hamline Magnet Elementary—Mr. Lein, Virginia Porter, Karen Rickey, Elizabeth Srigley, Allison Theissen, Margie Warrington; Hannahville Indian School (Wilson, MI); Harambee Elementary—Denise Abbott, Pam Booker, Melissa Hein, Nicole Napierala, Mrs. Robinson, Stacie Stanely; Harding High School—Harder Angie, Pete Bothun, Erik Brant, Daniel Cornell, Ms. Harper, Mr. Peterson; Harley Hopkins Elementary—Mr. Marrier; Harriet Bishop Elementary—Joe Risteau, Paul Wallenta; Hartley Elementary—Lori DeKruif; Hastings High School—Jerry Dempsey, Sue Gaul, Stephanie Jones, Nancy Ostrem, Laura Scott, Susan Varley-Gaul; Hastings Middle School—Jim Hanson, Ronda Keller, Robin Starch; Hawley Elementary—Lee Eklund, Jane Eklund; Haworth Public School, (Haworth, NJ)—Vito Nasta; Hawthorne Elementary—Jill Petersen; Hayden Heights Elementary—Peggy George, Ms. McQuade, Judith Bobnick, Be Cheuyee Vang; Hayes Elementary—Mr. Barry, Mrs. Gunderson, Mrs. Jansen, Dan Riely; Healy High School—Gary Banick; Hennepin County Semi Independent Living Skills—David Schuweiler; Henning Elementary—Nancy Brutlag; Henry Hill Intermediate School—Brian Franklin; Henry Sibley High School—Larry Cannon, Corey Chirhart, Mr. Christianson, Aaron Kapaun, Mr. Livgard, Mark Tobias; Heritage Middle School—Kristi Cooper, Tony Gatti, Erin Hagen, Carol Larsen, Pamela Lienke, Jack Lineham, Hollie Monson-Haefel, Dave Schultz; Hermantown Early Education—Martha Troolin; Hermantown Elementary—Jan Peterson; Hermantown High School—Ellen Minter; Heron Lake-Okabena Public School—Mr. Olson; Hiawatha Elementary—Carol Dunn, Kathy Maarum, Kim McGowan, Jo Wells, Stafford Gutknecht; Hibbing Community College—Mr. Kraus; Hibbing High School—Lori Bandemer, Matt Bergan, Ross Harvey, Wayne Hysjalien, Pat McGauley, Carl Sandness, Rosser Van Harvewinkle; Hidden Hills Middle School—Tara Sugden; Hidden Oaks Middle School—Mary Ballsrud; Hidden Valley Elementary—David Bloomquist, Steve Kraft, Lynn Palin; High Park High School—Mr. Simmons; Highland Catholic School—Cara Hagen; Highland Elementary, (Apple Valley)—Phil Bribble, Nicole Leighton, Mrs. Scarpetta; Highland Elementary, (Columbia Heights)—Mrs. Davis, Kathleen Johnson; Highland Elementary (Edina)—Skye Sanford, Sue Johnson, Sue Mayerle, Mike Seaman, Mark Wallace; Highland Junior High (St. Paul)—Nancy Nelson; Highland Park Elementary (St. Paul)—Eileen Cotter, Dan Gorman, Danielle Porter Born, Gody Rider; Highland Park High School (St. Paul)—Michelle Costello, Charlotte Landreau, Ryan Redetzke, Anupma Sharma, Mr. Simmons, Roy Erickson, Lorraine Martin, Eraine Schmidt; Highland Park Junior High, (St. Paul)—Mrs. Banda, Tom Bedard, Leon Rogalia, Jim Migley; Highview Middle School—Maureen Hagg, Jon

Larson, Jodie Maurere-Knudson, Ben Pennings, Andy Schmidt, Mary Verville; Highwood Hills Elementary—Lucy Heidmen, Mr. Gillis; Hill City High School—Mr. Baratto, Mr. Carlson; Hillcrest Elementary—Amy Gonzales, Judy Peterson; Hill-Murray School—Shane Rose, Renae Elert, Mary Grau-Stumpf, Andrew Hill, Mrs. Pottebaum, Denise; Hillside Elementary—Nicole Karnowski, David Krupa, Tiffany Shommer; Hilltop Elementary (Inver Grove Heights)—MaryAnn Curro; Hilltop Primary School (Minnetrista)—Craig Schmidt; Hilltop Primary School (Mound)—Jill Borg; Hinckley-Finlayson High School—Mr. Eaves, Patty Olson; Holland Community School—Mark Bergum, Gregory McDaniels; Holy Angels Academy—Gregg Sawyer; Holy Family Catholic School—Case Unverzagt, Jim Walker; Home School—Phyllis Ellefson, Mary Hanson, Pamela Henkel, Jan Roe, Kristen Ryan; Homecroft Elementary—Mr. Funk, Mrs. Jorgensen, Ms. Lewandski; Hoover Elementary—Mrs. Hanson, Mary Brown, Mrs. Starr; Hope Academy—Mary Brown; Hope Community Academy—Ms. Schmidt, Ms. Tao; Hopkins High School—Audrey Johnson, Karen Sandhoff, Danielle Viera, Rita Wigfield, Grey Bartz, Don Bates, Judy Bohn, Jerry Christian, Rolf Eisland, April Felt, Rob Fuhr, Sara Garcia, Kary Hansen, Jane Harris, Mr. Hoeger, Ms. Joddock, James Johnson, Cyndy Kalland, Dain Liepa, Carrie Lucking, Cassandra Oberempt, Rick Rexroth, Mrs. Sperling, Dan Tockman, David Williams; Hopkins North Junior High—Paula Len, Anne Campbell, Jennie Salzer, Andrea Yesnes, David Beckman, Rueben Garcia, Dani Jacobs, Janet Mortenson, Beth Oscar; Hopkins West Junior High—Kim Campbell, Sarah Roesler, John Sorensen, Gail Weinhold, Norah Garrison, Donna Philippot; Horace Mann Elementary—Heather Long, Judi Ronnei, Maria Spann; Houlton Elementary—Tim Hassler; Howard Lake-Waverly-Winsted School—Marilyn Eide, Paul Fabbe, Pam Halverson, Joan Johnson, Jim Weniger; Hoyt Lakes—Joan Sarich; Hudson Middle School—Ron Forehand, Mr. Grambow, Gayle Hoaglund; Hugo Elementary—Carla Triggs; Humboldt Senior High School—Mike Mencke, Diane Hopen; Hutchinson High School—Sue Hein; Hutchinson Park Elementary—Katie Weisenberger; IHM St. Lukes—Connie Wittek, Pauline Zweber; Independence Elementary—Joel Hagberg, Jolen Huston; Indian Mounds Elementary School—Mrs. Barclay, Shawn Conradi, Jody Petter; International School of Minnesota—Amy Blaubach, Susan Charter, Mrs. Edwards; Inver Grove Heights Middle School—Otto Mickelson, Josh Alexander, Lisa Dombroske, Jesse Kramer, Fran Mountain, Judy Pflngsten, Deb Schmidt; Inver Hills Community College—Judy DeBoer; InVEST (New Hope)—Lynn Trombley; Irondale High School—Joe Helm, Sarah Anderson, Stephanie Brandt, Ellen Clifford, Mara Corey, Mr. Domingos, Ms. Eklund, Jon Erickson, Mrs. Evans, Jamie Nygaard, Ronald Olsen, Tom Rodefel, Andra Storla, Bill Sucha, Cynthia Thyren; Ironwood Area School District. (Ironwood)—MI Marion Olson; Isanti Middle School—Carl Buepre, Patricia Peterson; Isham Elementary, (Wadsworth, OH)—Mrs. Striver; Island Lake Elementary—Kay Baker, Mrs. Frichard, Larry Gannon, Jacki Harren, Robin Lavelle, Kathy Robertson, Karen Saari, Dianne Schillinger, Hal Shaver, Ms. Westhuil; J. J. Hill Magnet—Elaine Bargo, Linda Anastus, Candy Schnepf, Eilene Bachman, Lynn Schultz, Ann Pannier, Angela Weckworth; Jack & Jill Preschool (Hopkins)—Carol Johnson; Jack and Jill Preschool (Roseville)—Ms. Jenny; Jackson Magnet, (St. Paul)—Tina Garcia, Duffy Hansen, Patricia LeFebvre; Jackson Middle School, (Champlin)—Brian Erlandson, Karla Haben, William Hintz, Nancy Johnson, Kari Lace, Dean Noren, Andrea Stack, Joe Thiel; Jefferson Elementary (Mankato)—Ron Arsenault, Linda Kilander; Jefferson Elementary (Minneapolis)—Anne LeDuc, Ms. Lyden, Loren Meinke, Sally Novatny, Lynn Ronning, Britta Walker; Jefferson Elementary (New Ulm)—Marlene Ingebritson, Cleo Matzke, Ms. Rotenberry; Jefferson High School (Bloomington)—Meredith Aby, Tim Anderson, Mark Caine, Sean Faulk, Dan Fretland, Heidi Jacobson, Lisa Leary, Mr. Lyons, Kathleen Morgan, Sandra Morgan, Teri Roder, Mr. Rotenberry, Schonn Schnitzer; Jenny Lind Elementary—Ms. Pencook; Jewish Community Center, ECC—Sondra Burkstein; John A. Johnson Elementary—Joclyn Webb, Polly Williams; John Adams Middle School—Kim Hewett, Deb Las, Dawn Sonju; John F. Kennedy Elementary—Christy Vosika; John Glenn Middle School—Janelle Fischler, Mr. Grill, Mr. Mullen, Denise Rupret, Anne Sawyer, John Siegrist, Travis Stewart; John Ireland School—Ms. Pape; John Marshall High School—Mr. Burnham, Rick Swenson; Johnson High School—Peggy Carnes, Rita Good, Mitchell McDonald, Kathy Thueson, Ned Widnagel; Johnsville Elementary—Jackie Nasland, Mr. West; Jonathan Elementary—Jeff Paulsen, Mr. Sullivan, Christine Taylor-Thone; Jordan Elementary—Mary Clawson; Jordan Park Community School—Ms. Covington; JW Smith, Mary Murphy; Kaposia Education Center—Ben Anderson, Mr. Ross, Frank Arend, Janelle Johnson, Mrs. Lee; Kasson-Mantorville Middle School—Becky Tri; Katherine Curren Elementary—Diane Bancroft, Mrs. Schappa; Keewaydin Elementary—Carol Fisher Craig Henderson, Linda Jensen, Mrs. Parsons, Mrs. Scanlon; Kelley High School—Ruth Cook; Kennedy Elementary (Lakeville)—Nathan Moudry; Kennedy Elementary (St. Joseph)—Jennie Heydt-Nelson; Kennedy High School, (Bloomington)—Jon Anderson, Frances Bressman, Mrs. Coval, Richard Green, Bill Johnson, Earl Lyons, Mr. Raymond, Matt Vollum; Kenneth Hall Elementary—Jean Nolby; Kenny Elementary—Danielle Duroche, Mellisa Engel, Laurie Hanzel; Kent-Meridian High School—Christine Robertson; Kenwood Elementary—Patty Sharp, Linda Smith; Kenwood Trail Junior High—Bryan Backstrom, Dan Bale, Amy Jo Hyde, Tim Leighton, Mr. Rousemiller, Sigrid Ruhmann; Kenyon-Wanamingo Elementary—Tony Donkers, Tracy Erlandson, Bonnie Rapp; Kerkhoven High School—Bill Wagner; Kimball Elementary—Dode Klien, Susan Sides; Kimberly Lane Elementary—Nancy Carlson, Greta Cender, Debra Donahue, Turi Hembre, Barbara Hughes; King of Grace Lutheran School—Steve Balza; King's Christian Academy—Chad Nuest, Brandi Schmidgal; Kingsland High School—Shirley Gangstad, Stephanie Derby; Kittson Central School District—Betty Shablow; L. H. Tanglen Elementary—Phyllis O'Brien, Kris Sand, Ms. Asproth, Kevin Athmann, Lisa Becker, Kari Bliss, Pam Weinhold, Kim Mach, Mr. Washington; L. O. Jacob Elementary—John Keran; La Cross Central High School—Brad Saron; Lake Country School—Larry Schaefer, Patricia Schaefer, Zoe Saint Mane; Lake Crystal Elementary School—Sue Hytjan; Lake Elmo Elementary—Jill Berkhof, Mrs. Bolstorff, Ms. Dahl, Kelly Kane, Jo Ellen Tate, Paula Verstegan; Lake Harriet Community School—Upper Campus—Gino Marchetti, Calvin Boone, Zoe Meyer, Jeff Tousingnant, Kristin Siefert; Lake Harriet Community School—Lower Campus—Patricia Hauser, Barb Johnson, Jane Lyga Jones, Marilynn O'Donnell; Lake Junior High—Eric VanScoy; Lake Marion Elementary—Traci Radtke, Michelle Stewart, Ann Hoffman; Lake Myrtle Elementary, Harriet Robbins; Lake Ripley Elementary—Mimi Wendlandt; Lakeaires Elementary—Cristin Atkinson, Jean Anderson; Lakes International Language Academy—Aaron Arrendondo, Bobbi Jo Rademacher; Lakeside Elementary (Chicago)—Shanda Waller; Lakeside Elementary (Lindstrom)—Kay Olen; Lakeview Elementary, (Lakeville)—Timothy King, Mr. Arlt, Susan Clark, Kate Drexler-Booth, Nathan Earp, Julie Hassinger-Slezak, Paul Lund, Edith Mako; Lakeview Elementary (Robinsdale)—Mrs. Gilbertson, Barry Thorvilson

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CHILDCARE MEANS PARENTS IN SCHOOLS

Mr. DURBIN. Mr. President, I rise to speak on behalf of the Childcare Means Parents in Schools Act. I am pleased to join Senator DODD and Senator SNOWE as a cosponsor of the measure. This bill would amend the CCAMPIS Program authorized under Higher Education Act to better facilitate the higher education of those students with children.

For college students who are parents, a safe, nurturing environment for one's children is integral to degree attainment. Nearly 40 percent of students at higher education institutions are over 25 years old and almost 30 percent of undergraduates have children. Most American families utilize childcare: 75 percent of children under 5 are in some type of childcare. And for most families, childcare is the second largest expense in their budget after rent or mortgage.

The Dodd-Snowe bill will modify the definition of "low income student" to extend childcare services to graduate students, international students and other students who would not qualify under the present language but may need childcare assistance. This bill also increases the program authorization to a level that could fund about one-quarter of the 4,000 colleges and universities eligible to apply. The amount of the minimum grant would be raised in order to make the grant process more cost-effective for applying institutions.

Good childcare is often recognized as a first step to school success. It also can be an essential part of the process of being a good student. The peace of mind afforded by the security of knowing one's child is well cared for frees higher education students to pursue their own studies with a more focused determination. Without that foundation, a college education may not be attained.

I urge my colleagues to support the bill and further extend the opportunity of higher education to parents across America.

SATELLITE HOME VIEWER ACT

Mr. LEAHY. Mr. President, I am very pleased that the other body just passed their version of the Satellite Home Viewer Act under suspension of the rules. H.R. 4518, the W.J. (Billy) Tauzin Satellite Television Act of 2004, is a strong bill.

During this process, I have heard from many Vermonters who are concerned about not being able to receive Vermont stations over satellite. Others have been concerned about possibly having their ability to receive certain stations terminated. One reason for these strong concerns is that Vermont has the highest percentage in the Nation of TV owners who receive programming using satellite dishes. One reason for this is our beautiful mountains and valleys which make it more difficult to receive TV signals using regular antennas.

The Hatch-Leahy Satellite Homer Viewer Extension Act of 2004 was approved by the Senate Judiciary Committee in June. All the members of the Judiciary Committee supported that bill.

In the other body, members of both the Judiciary Committee and the Energy and Commerce Committee worked together in a bipartisan fashion to craft a comprehensive bill which will be good for consumers and for the affected industries. That bill, if enacted, will be a boon to public television, the satellite industry, the movie, music and television industries, and to satellite dish owners throughout America.

I am especially pleased that it contains a provision which I worked on with my colleagues from New Hampshire, Senator SUNUNU and Senator GREGG. We, along with Senator JEFFORDS, introduced legislation to ensure that satellite dish owners in every county in each of our States would be able to receive signals, via satellite, from our respective in-State television stations. While our two States represent a small television market as compared to some of the major population markets, nonetheless this provision is very important to residents in six of our collective counties—two in Vermont and four counties in New Hampshire. The Senate bill, S. 2013, as reported in June by the Judiciary Committee also contained this provision just included in H.R. 4518.

In Vermont this will mean that satellite dish owners in Bennington and Windham Counties will be able to receive all Vermont network stations in addition to the out-of-State network stations they now receive.

It is very important that in the waning days of this Congress that the Senate enact this satellite legislation. In 1998 and 1999 over 2 million families were faced with the prospect of losing the ability to receive one or more of their satellite television network stations. Back then, Congress acted and not only protected access to those stations but also expanded consumer opportunities to receive more programming options.

Families who own satellite dishes may end up being the big losers if provisions of that act are not extended. Many Midwestern and Rocky Mountain States have vast areas where satellite dish owners receive imported network stations such as ABC, NBC, CBS or Fox. Thousands of these families do not have any other choices. They do not have access to TV stations over-the-air because of mountain terrain or distance from the broadcast towers. They do not have access to cable because of the rough terrain or the lack of population density which makes it economically impossible for cable companies to invest. Without access to network stations via satellite, over-the-air, or cable, those families will no longer be able to receive national news programming or other network TV programming.

If Congress does not reauthorize provisions of current law by December 31, 2004, hundreds of thousands of households will lose satellite access to network TV stations. Since information about subscribers is proprietary it is difficult for me to tell you exactly how many families will be affected by this, but I assure you it is not a small number.

The Senate Judiciary Committee got its job done in June. We reported a great bill out of committee without a single amendment and without a single nay vote. That bill was introduced on January 21, 2004, by Chairman HATCH and was cosponsored by myself and Senators DEWINE and KOHL. When the bill was reported out of committee on June 17, 2004, I noted that the bill does far more than just protect satellite dish owners from losing signals. I pointed out that the new satellite bill "protects subscribers in every state, expands viewing choices for most dish owners, promotes access to local programming, and increases direct, head-to-head, competition between cable and satellite providers."

I continued by saying that "easily, this bill will benefit 21 million satellite television dish owners throughout the nation, and I am happy to note that over 85,000 of those subscribers are in Vermont."

The Senate Judiciary Committee-reported bill, and the recently passed bill H.R. 4518, go far beyond protecting what current subscribers receive. The bills allow additional programming via satellite through adoption of the so-called "significantly viewed" test now used for cable, but not satellite subscribers. That test means that, in general, if a person in a cable service area that historically received over-the-air TV reception from "nearby" stations outside that area, those cable operators could offer those station signals in that person's cable service area. In other words, if you were in an area in which most families in the past had received TV signals using a regular rooftop antenna then you could be offered that same signal TV via cable. By having similar rules, satellite carriers will be able to directly compete with cable providers who already operate under the significantly viewed test. This gives home dish owners more choices of programming.

In the past, Congress got the job done. Congress worked well together in 1998 and 1999 when we developed a major satellite law that transformed the industry by allowing local television stations to be carried by satellite and beamed back down to the local communities served by those stations. This marked the first time that thousands of TV owners were able to get the full complement of local network stations. In 1997 we found a way to avoid cutoffs of satellite TV service to millions of homes and to protect the local affiliate broadcast system. The following year we forged an alliance behind a strong satellite bill to permit local stations to be offered by satellite, thus increasing competition between cable and satellite providers.

We also worked with the Public Broadcasting System so they could offer a national feed as they transitioned to having their local programming beamed up to satellites and then beamed back down to much larger audiences.

Because of those efforts, in Vermont and most other States, dish owners are able to watch their local stations instead of getting signals from distant stations. Such a service allows television watchers to be more easily connected to their communities as well as providing access to necessary emergency signals, news and broadcasts.

I hope we are able to work together to finish this important satellite television bill in the few remaining days of this Congress.

OMNIBUS APPROPRIATIONS

Mr. CAMPBELL. Mr. President, I rise to express my support for the conference report accompanying those appropriations bills which, because of our pending adjournment, have been included as an omnibus package.

I intend to vote for this omnibus bill knowing full well that, like all bills, it is not perfect in every Senator's eyes.

I want to thank Chairman STEVENS and Ranking Member Senator BYRD as well as the chairman and ranking members of the Subcommittees for including my requests which are vital to Colorado. As America's third fastest growing State, our burgeoning population has placed great stress on our schools, hospitals, universities and transportation. Federal monies, which

I have sought to earmark as an appropriation for Colorado, are extremely important.

In this omnibus conference report over $175 million will be flowing into Colorado.

Having said this, there is one section in the bill that concerns me. Partially because it affects my State, but more so because it was never considered in the committee of jurisdiction. Neither was it discussed in the conference committee on Wednesday, November 19 as we worked out the final House and Senate disagreements.

I did not know of the language as the bill came to the floor just before we adjourned for the year. In fact, in a multi-hundred page bill I was not aware of it until after it passed. But, as I understand it, this language is in keeping with a long standing practice of satisfying Native American land claims.

Let me give some historical perspective to this issue as I understand it. In 1971, the U.S. Congress passed a bill which was signed into law called the "Native American Claims Settlement Act". This was an effort to bring a degree of fairness to native tribes of America's newest State—Alaska—who had lost much of the use of their aboriginal land through the encroachment and settlement of non-natives.

As part of the settlement, the native peoples were given use of 44 million acres and a percentage of the royalties from oil and gas production thereon. They shared these royalties with State government and for the purposes of administering their tribal governments and revenues. Alaska natives and tribes became shareholders of Native Alaskan corporations. They also retained the same rights that tribes in the lower 48 States and as they pertained to the "trust responsibility" of the Federal Government.

As I understand the 1971 act, however, these tribal corporations around the city of Anchorage were not considered land based tribes and were treated differently in terms of rights and benefits they would have accrued had they been in control of aboriginal land. These native groups (corporations) were allowed to use their portion of the accumulated revenue, in the form of "bidding credits", to purchase either Federal or private land in Alaska or other States. I only know of four States where land was actually purchased. Alaska, California, Hawaii and Colorado are the four I am aware of, although there may have been others. I have never been able to find a comprehensive list of land purchased, if it even exists.

The Native Alaskan corporations were authorized in the 1971 act to "partner" with tribes in the lower 48 on business ventures. So, in effect, the lower 48 tribes became recipients of badly needed investment capital provided by the Native Alaskan corporations while their "partner" could petition the Federal Government to put the land into trust status.

One such purchase was in downtown Denver. It had been a piece of Federal land, adjacent to the Federal courthouse and was being used as a parking lot for court employees. That lot was not put into trust, but was owned by the Native Alaskan Corporation.

There were, at the time, some preliminary discussions between one of the Colorado land based Ute Indian tribes and one Native Alaskan corporation on how best to use this "native" land for economic development purposes.

These purposes were limited by a variety of other laws such as the 1988 Indian Gaming Regulatory Act, which did not allow tribes to have casino gaming unless they reached a negotiated agreement called a "gaming compact" with the State in which they were located. In turn, court decisions further complicated the picture. An example of this was in the Seminole vs. the State of Florida case. In 1996, the Supreme Court ruled that States cannot be "forced" to negotiate a compact with tribes as required by the 1988 Indian Gaming Regulatory Act.

At the time, I voided the discussions concerning the downtown piece of property about which I have spoken by implementing a suggestion from the Federal courts to submit a line item request to appropriate funds to purchase that parking lot back from the Native Alaska corporation. I did so and through subsequent appropriations secured the money to build a new Byron White Federal Court complex on that site.

Since I was not in the U.S. Senate in 1971, I can only give you my view of how that act affected this language in question. I don't know if it violates any existing statute, if my constituency would support or oppose it or if it is in keeping with the Native American Claims Settlement Act. This probably could have been flushed out through the hearing process had we seen it in bill form.

So, in closing Mr. President, because I was not aware of the language of this final conference report until about 2 hours ago and do not know the effect it would have on Colorado, I do not support that section. Since it is, however, included in a non-amendable conference report and, recognizing the importance of the money in this report to the State of Colorado, I will vote for the final report.

ADDITIONAL STATEMENTS

150TH ANNIVERSARY OF THE YMCA OF GREATER INDIANAPOLIS

• Mr. LUGAR. Mr. President, I rise today to call to the attention of my colleagues a signal anniversary that has occurred in my home State of Indiana, the 150th anniversary of the YMCA of Greater Indianapolis.

Since 1854, the YMCA of Greater Indianapolis has been committed not only to providing Hoosiers with an outlet for social, mental, and physical development, but also has maintained a consistent adherence to community service. As one of the first 50 YMCAs chartered in North America, this institution, whose humble beginnings originated in the basement of the Second Presbyterian Church on Monument Circle, has grown to tremendous proportions. Currently serving more than 140,000 Hoosiers, the YMCA of Greater Indianapolis has partnered with over 120 churches, schools and other community groups to reach out to both the urban community along with the surrounding counties. In 2003, 4,688 volunteers, under the direction of the YMCA of Greater Indianapolis, donated their valuable time and energy to provide nearly 98,000 hours of service. Additionally, YMCA branches in Indianapolis presented almost $4 million for scholarships, program subsidies and varied community services.

I am pleased to take a moment to acknowledge the outstanding efforts the YMCA of Greater Indianapolis has afforded for the past century and a half, and I look forward to their future leadership in building stronger families and a stronger community.•

RETIREMENT OF GENERAL ED EBERHART

• Mr. ALLARD. Mr. President, today I would like to praise a man who for more than 36 years has served his country with honor and distinction. General Ralph E. Eberhart, or Ed his friends call him, will soon be retiring from the United States Air Force. He embodies that which we most value in our military leaders—visionary leadership, unwavering dedication, and mission accomplishment.

I would like to personally thank General Eberhart for his service to our great Nation. Not only do I remember our many discussions pertaining to national security, but I fondly recall sharing stories about Colorado. You see, General Eberhart started his long journey at the Air Force Academy in Colorado Springs. As fate would have it, he will soon be finishing his career where he started—in the great state of Colorado.

In the Spring of 1968, Ed Eberhart was sworn in as a Second Lieutenant in the United States Air Force. Since that day, General Eberhart has successfully mastered nine aircraft and totaled more than 5,000 flying hours in the cockpit. His service spanned tours of duty in Vietnam, Germany, Japan, and perhaps the toughest, at the Pentagon. General Eberhart's career was highlighted with numerous awards and decorations, and he has successfully attained four stars in the United States Air Force. In every job that the General has held, he has successfully fulfilled his obligations and made the advancements only a select few of his peers have made.

In February 2000, General Eberhart's success awarded him the honor of leading a combatant command for the United States, and he was soon confirmed as a triple-hatted commander. He was given the awesome responsibility of commanding not only the North American Aerospace Defense Command, or NORAD, but also U.S. Space Command and Air Force Space Command.

During his tenure as Commander of U.S. Space and Air Force Space Command, General Eberhart successfully led military space into a new era. The United States relies upon our space superiority and without it, we cannot maintain dominance of the battlefield. General Eberhart guided our spacelift operations to a 100 percent success rate, thus maintaining our assured access to space. Additionally, when he took command of U.S. Space Command, the United States had just begun to appreciate the value that space-based capabilities bring to the fight—especially after our air campaign in Kosovo. Because of General Eberhart's direction in the space arena—specifically regarding precision guided weapons—we were able to increase the effectiveness of our present capabilities by further integrating space capabilities with air, maritime and land assets. U.S. Space Command's contributions were later seen as the hallmarks of Operation Enduring Freedom in Afghanistan, which traces directly back to General Eberhart and his vision for the full integration of space and terrestrial units.

The general was also at the focus of our post-September 11 world while in command of NORAD. In 2001, Operation Noble Eagle saw NORAD go from having 14 military aircraft on alert around the Nation to more than 100 in a very short period of time. The response was necessary to protect our skies from internal threats that had manifested themselves in the most horrible of weapons—airliners filled with unsuspecting travelers. General Eberhart soon saw himself having to support continuous combat air patrols, including all the supporting logistics such as tankers and integrating NATO AWACS into that mission.

Ultimately, that fateful day of September 11 triggered not only a change in the focus of NORAD missions, but also showed the need for a unified command that focused on protecting our homeland. And who did the President of the United States trust to lead this new command? General Ed Eberhart. So again, Colorado was fortunate enough to be called home by General Eberhart as he began the challenge of building Northern Command while continuing to lead NORAD. As the combatant command charged with the defense of the homeland, Northern Command reached full operational capability ahead of schedule. Under General Eberhart's leadership, we have seen this unified command continue to fulfill its duties of protecting the American homeland.

It is apparent that while leading these commands, General Ed Eberhart exemplified visionary thinking. He tackled transformation in the space arena by stressing joint integration of space capabilities and then transformed the way the U.S. military defends our borders and supports civilian agencies with Northern Command.

I cannot express enough gratitude to General Eberhart for his service to our country while in the United States Air Force. We in Colorado were proud to host him as a cadet at the Academy, and continue to be proud when he took command in our great State nearly 30 years later. It was in these roles that I was thankfully given the opportunity to know Ed Eberhart on a personal and professional basis. As General Eberhart prepares to fly off into the wild blue yonder of retirement, I would again like to thank him for his 36 years of blood, sweat, and tears to our Nation, and I wish him and his wife, Karen, the very best in the future.•

RICHARD D. "DICK" LLOYD

• Ms. MURKOWSKI. Mr. President, there is a standing joke among longtime Alaskans that visitors who come to Anchorage to view our glittering skyline, set off against the grandeur of the Chugach Mountains and the placid beauty of the Cook Inlet, haven't seen the "real Alaska."

Whether one agrees with this observation or not, all will agree that one does not have to travel far from Anchorage to experience our unique natural beauty and abundant wildlife. About 45 minutes from downtown Anchorage, easily accessible on paved roads, there is an oasis in Chugach State Park called the "Eagle River Nature Center."

The Eagle River Nature Center nestled in the Chugach Mountains is home to interpretive programs all year around. It is the starting point for miles of well-groomed hiking trails from which one can view moose and occasionally encounter bear. It has been described in terms like "glorious, enchanting and captivating." A place to view snow covered mountains in hues of pink and orange illuminated by the alpenglow sunset. It is a place where John Muir and Theodore Roosevelt would feel right at home.

Born as the Chugach State Park Visitor Center, the facility was in danger of being lost to budget cuts. By 1996, the budget had dwindled to a mere $14,000 from $185,000 in 1981. The center needed a savior.

Then along came a remarkable individual, Richard D. "Dick" Lloyd. Dick recognized that volunteers can accomplish things that government agencies cannot and organized the existing volunteers into a non-profit organization to operate the facility. Dick and his wife Carole and Asta Spurgis formed the Friends of the Nature Center which took over and revitalized the visitor center and turned it into the world-class nature center it is today.

I have the sad duty of informing the Senate that Dick Lloyd passed away on August 22, 2004 from pancreatic cancer at the age of 60. Dick's death was not sudden. He learned of his condition just before Christmas of 2002 when doctors predicted that he would have a few months to live.

But Dick didn't view this diagnosis as an excuse to slow down. Much to the contrary, he devoted his remaining days to the nature center he loved, sledding down the hills adjacent to the center in the winter, giving encouragement to young people maintaining the trails in the summer perched on a lawn chair because he was too weak to offer physical help. Some twenty days before his death he was promoting the nature center's hike-a-thon event called the "Coyote Crawl". In the words of his beloved wife Carole, "That was Dick. He was taking care of his baby to the end."

As Chief Executive Officer, Executive Director and co-founder of the Friends of Eagle River Nature Center, Dick's hard work, vision and stamina led the way in transforming the center into a model for public-private partnership in managing public parklands. Today, through his dedication and leadership, it is a centerpiece of Chugach State Park, providing unparalleled educational, economic and outdoor opportunities on a year-round basis.

For local students, it provides hands-on learning experiences with classes on natural sciences and the environment. For the Eagle River community, it generates significant economic activity by attracting tens of thousands of visitors each year from around the area and around the world. And for those who simply share Dick's love of Alaska's wild outdoors, it offers countless camping, hiking and other recreational opportunities.

Through the legacy of the Eagle River Nature Center, generations to come will share in the legacy of Richard D. Lloyd, a man with the vision to have a dream, the courage to pursue it and the strength to make it a reality.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the PRESIDING OFFICER laid before the Senate messages from the President of the United States submitting a nomination and a withdrawal which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 1:30 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 918. An act to amend the Public Health Service Act to authorize a demonstration grant program to provide patient navigator services to reduce barriers and improve health care outcomes, and for other purposes.

H.R. 2023. An act to give a preference regarding States that require schools to allow students to self-administer medication to treat that student's asthma or anaphylaxis, and for other purposes.

H.R. 2119. An act to provide for the conveyance of Federal lands, improvements, equipment and resource materials at the Oxford Research Station in Granville County, North Carolina, to the State of North Carolina.

H.R. 2929. An act to protect users of the Internet from unknowing transmission of their personally identifiable information through spyware programs, and for other purposes.

H.R. 2984. An act to amend the Agricultural Adjustment Act to remove the requirement that processors be members of an agency administering a marketing order applicable to pears.

H.R. 3015. An act to provide for the establishment of a controlled substance monitoring program in each State.

H.R. 3514. An act to authorize the Secretary of Agriculture to convey certain lands and improvements associated with the National Forest System in the State of Pennsylvania, and for other purposes.

H.R. 3858. An act to amend the Public Health Service Act to increase the supply of pancreatic islet cells for research, and to provide for better coordination of Federal efforts and information on islet cell transplantation.

H.R. 4504. An act to improve protections for children and to hold States accountable for the safe and timely placement of children across State lines, and for other purposes.

H.R. 4555. An act to amend the Public Health Service Act to revise and extend provisions relating to mammography quality standards.

H.R. 4569. An act to provide for the development of a national plan for the control and management of Sudden Oak Death, a tree disease caused by the fungus-like pathogen Phytophthora ramorum, and for other purposes.

H.R. 4620. An act to confirm the authority of the Secretary of Agriculture to collect approved State commodity assessments on behalf of the State from the proceeds of marketing assistance loans.

H.R. 5011. An act to prevent the sale of abusive insurance and investment products to military personnel.

H.R. 5042. An act to amend the Department of Agriculture Organic Act of 1994 to ensure that the dependents of employees of the Forest Service stationed in Puerto Rico receive a high-quality elementary and secondary education.

H.J. Res. 57. Joint resolution expressing the sense of the Congress in recognition of the contributions of the seven Columbia astronauts by supporting establishment of a Columbia Memorial Space Science Learning Center.

The message also announced that the House has agreed to the following concurrent resolutions, in which it requests the concurrence of the Senate:

H. Con. Res. 34. Concurrent resolution expressing the sense of the Congress that private health insurance companies should take a proactive role in promoting healthy lifestyles, and for other purposes.

H. Con. Res. 250. Concurrent resolution recognizing community organization of public access defibrillation programs.

H. Con. Res. 306. Concurrent resolution honoring the service of Native American Indians in the United States Armed Forces.

H. Con. Res. 480. Concurrent resolution recognizing the spirit of Jacob Mock Doub and his contribution to encouraging youth to be physically active and fit and expressing the sense of Congress that "National Take a Kid Mountain Biking Day" should be established in Jacob Mock Doub's honor.

The message further announced that the House has passed the following bill, without amendment:

S. 33. An act to authorize the Secretary of Agriculture to sell or exchange all or part of certain administrative sites and other land in the Ozark-St. Francis and Ouachita National Forests and to use funds derived from the sale or exchange to acquire, construct, or improve administrative sites.

The message also announced that the House has passed the following bill, with amendments:

S. 878. An act to authorize an additional permanent judgeship in the District of Idaho, and for other purposes.

The message further announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes.

MEASURES REFERRED

The following bill was read the first and the second times by unanimous consent, and referred as indicated:

H.R. 5011. An act to prevent the sale of abusive insurance and investment products to military personnel; to the Committee on Banking, Housing, and Urban Affairs.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. SPECTER for the Committee on Veterans' Affairs.

*Robert Allen Pittman, of Florida, to be an Assistant Secretary of Veterans Affairs (Human Resources and Administration)

Robert N. Davis, of Florida, to be a Judge of the United States Court of Appeals for Veterans Claims for the term prescribed by law.

Mary J. Schoelen, of the District of Columbia, to be a Judge of the United States Court of Appeals for Veterans Claims for the term of fifteen years.

William A. Moorman, of Virginia, to be a Judge of the United States Court of Appeals for Veterans Claims for the term of fifteen years.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were confirmed:

Christopher J. LaFleur, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Contributions, amount, date, donee:

1. Self, none.
2. Spouse, none.
3. Children and Spouses, none.
4. Parents: Lydia B. LaFleur (mother): $25, 08/11/00, Hillary R. Clinton for NY Senate; $15, 09/10/02, Friends of Carl McCall.
5. Grandparents, none.
6. Brothers and Spouses, none.
7. Sisters and Spouses: Ingrid and Peter Yurchenco (sister and brother-in-law): $50, 01/20/00, Democratic National Committee; $50, 02/19/00, Democratic National Committee; $50, 05/17/00, Montgomery Democratic Club; $20, 06/06/00, Friends of Freeman & Wilson; $100, 07/03/00, Rush Holt for Congress; $50, 08/25/00, Democratic National Committee; $35, 09/24/00, Friends of Freeman & Wilson; $100, 09/29/00, Rush Holt for Congress; $100, 10/31/00, Rush Holt for Congress; $50, 11/01/00, Friends of Freeman & Wilson; $100, 02/28/01, 2001 Victory Fund, (NJ Democratic Committee); $50, 03/21/01, Montgomery Democratic Club; $100, 04/19/01, Rush Holt for Congress; $50, 07/19/01, Democratic National Committee; $100, 08/13/01, Friends of Freeman & Wilson; $100, 10/01/01, 2001 Victory Fund, (NJ Democratic Committee); $100, 10/28/01, WWW for Township Committee; $50, 02/19/02, Montgomery Democratic Organization; $35, 05/02/02, Jeffords for Vermont; $50, 11/05/02, Rush Holt for Congress; $50, 09/27/02, Karen Wintress for Township Committee; $50, 10/11/02, Cardin for Congress; $50, 05/22/03, Democratic National Committee; $25, 11/25/03, Democratic National Committee; $25, 03/06/

04, John Kerry for President; $25, 03/22/04, John Kerry for President; $75, 04/10/04, Democratic National Committee.

B. Lynn Pascoe, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: B. Lynn Pascoe.

Post: Jakarta.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse: Diana L. Pascoe, none.

3. Children and Spouses: Kimberley and Christopher Farrell, none; Gwendolyn J. Pascoe, none.

4. Parents: Harrison B. (deceased) and Oma B. Pascoe, none.

5. Brothers and Spouses: Lewis and Judy Pascoe, none, Lowell (deceased) and Trudy Pascoe, none.

Ryan C. Crocker, of Washington, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Ryan C. Crocker.

Post: Ambassador to the Islamic Republic of Pakistan.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse: Christine Crocker, none.

3. Children and Spouses, none.

4. Parents: Carol Crocker, none; Howard Crocker (deceased 1971), none.

5. Grandparents, (deceased 1923).

6. Brothers and Spouses, none.

7. Sisters and Spouses, none.

Marcie B. Ries, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contributions made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Marcie Berman Ries.

Post: Albania.

Contributions, amount, date, donee:

1. Self, none.

2. Spouse: Charles P. Ries, none.

3. Children and Spouses: Alexander B. Ries, none; Meredith B. Ries, none.

4. Parents: Mona Berman (mother), $50, 2000, Rep. Wexler Reelection Committee; $100, 2004, John Kerry for President; $85, 2004, Democratic National Committee.

Carroll Berman (father), none.

5. Sisters and Spouses: Laura Berman, none.

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations and the nominations were placed on the Executive Calendar:

*Catherine Todd Bailey, of Kentucky, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Latvia.

(The following is a list of all members of my immediate family and their spouses. I have asked each of these persons to inform me of the pertinent contribution made by them. To the best of my knowledge, the information contained in this report is complete and accurate.)

Nominee: Catherine Todd Bailey.

Post: Ambassador to Latvia.

Contributions, amount, date, donee:

1. Self: $2,000, 2004, Alice Forgy Kerr for Congress; $1,000, 1999, Anne Northup for Congress; $1,000, 1999, Anne Northup for Congress; $900, 2000, Anne Northup for Congress; $1,000, 2001, Anne Northup for Congress; $1,000, 2001, Anne Northup for Congress; $2,000, 2003, Anne Northup for Congress; $1,000, 2004, Anne Northup for Congress; $2,000, 2003, Bush-Cheney 2004 Inc.; $472, 1999, Bush for President Inc.; $527, 1999, Bush for President Inc.; $250, 2000, Bush for President Inc.; $1,000, 1999, Citizens for Bunning; $1,000, 1999, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 1999, Fletcher for Congress; $1,000, 1999, Fletcher for Congress; $1,000, 2002, HALPAC—Help America's Leaders Political Action Committee; $1,000, 2002, HALPAC—Help America's Leaders Political Action Committee; $1,000, 2003, HALPAC—Help America's Leaders Political Action Committee; $1,000, 2001, Hal Rogers for Congress; $1,000, 2001, John Thune for South Dakota; $200, 2003, Louisville & Jefferson County Republican Executive Committee; $1,000, 1999, McConnell Senate Committee 2002; $1,000, 1999, McConnell Senate Committee 2002; $1,000, 2002, Norm Coleman for US Senate; $25,000, 2003, Republican National Committee; $5,000, 1999, Republican Party of Kentucky; $5,000, 2000, Republican Party of Kentucky; $310, 2001, Republican Party of Kentucky; $310, 2001, Republican Party of Kentucky; $4,500, 2001, Republican Party of Kentucky; $200, 2003, Republican Party of Kentucky; $7,500, 2003, Republican Party of Kentucky; $1,000, 2004, Republican Party of Kentucky; $15,000, 1999, RNC Republican National State Elections Committee; $1,750, 2000, RNC Republican National State Elections Committee; $1,750, 2000, RNC Republican National State Elections Committee; $16,000, 2000, RNC Republican National State Elections Committee; $84,000, 2000, RNC Republican National State Elections Committee; $700, 2001, RNC Republican National State Elections Committee; $3,960, 2001, RNC Republican National State Elections Committee; $5,000, 2001, RNC Republican National State Elections Committee; $15,000, 2001, RNC Republican National State Elections Committee; $15,500, 2001, RNC Republican National State Elections Committee; $20,000, 2001, RNC Republican National State Elections Committee; $100,000, 2001, RNC Republican National State Elections Committee; $125,000, 2002, RNC Republican National State Elections Committee; $25,000, 2003, RNC Republican National State Elections Committee; $11,500, 2004, RNC Republican National State Elections Committee; $125,000, 2002, RNSEC; $24,660, 2001, RNSEC; $103,500, 2000, RNSEC; $20,000, 1999, 1999 State Victory Fund Committee.

2. Spouse: Irving W. Bailey, II: $1,000, 2000, Anne Northup for Congress; $1,000, 2000, Anne Northup for Congress; $1,000, 2001, Anne Northup for Congress; $1,000, 2002, Anne Northup for Congress; $2,000, 2004, Anne Northup for Congress; $2,000, 2004, Anne Northup for Congress; $1,000, 1999, Bush for President; $2,000, 2003, Bush-Cheney 2004 Inc.; $2,000, 2003, Bush-Cheney 2004 Inc.; $2,000, 2003, Bush-Cheney 2004 Inc.; $2,000, 2003, Bush-Cheney 2004 Inc.; $1,000, 2000, Citizens for Bunning; $1,000, 2,000, Citizens for Bunning; $1,000, 2000, Citizens for Bunning; $1,000, 2000, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 2003, Citizens for Bunning; $1,000, 2002, HALPAC—Help America's Leaders Political Action Committee; $1,000, 2002, HALPAC—Help America's Leaders Political Action Committee; $1,000, 2000, Fletcher for Congress; $1,000, 2000, Fletcher for Congress; $1,000, 2001, Fletcher for Congress; $1,000, 1999, McConnell Senate Committee; $1,000, 1999, McConnell Senate Committee; $1,000, 1999, McConnell Senate Committee 2002; $1,000, 1999, McConnell Senate Committee 2002; $1,000, 2002, National Association of Small Business; $1,000, 2002, National Association of Small Business Investment Companies Political Action Committee; $1,000, 2003, National Association of Small Business; $1,000, 2003, National Association of Small Business Investment Companies Political Action Committee; $5,000, 2002, Republican Party of Florida Federal Campaign Account; $5,000, 2000, Republican Party of Kentucky; $5,000, 2000, Republican Party of Kentucky; $5,000, 2001, Republican Party of Kentucky; $5,000, 2002, Republican Party of Kentucky; $5,000, 2001, Republican Party of Kentucky; $25,000, 2003, RNC Republican National State Elections Committee; $25,000, 2004, RNC Republican National State Elections Committee; $20,000, 2002, RNSEC; $20,000, 2002, RNSEC.

3. Children and Spouses: Chris Bailey, none.

Meredith Hernandez: $2,000, 2003, Citizens for Bunning; $2,000, 2004, Bush-Cheney 2004 Inc.; $13,500, 2004, RNC Republican National State Elections Committee.

Michele Thomas, none.

John Receveur, none.

De Bailey, none.

Rafael Hernandez Sainz, none.

Charles Thomas, none.

4. Parents: Martell Todd, deceased; John Todd, deceased.

5. Grandparents: Geneva Schwarzkopf, deceased; David Schawarzkopf, deceased; Warren Todd, deceased; May Gish Todd, deceased.

6. Sisters and Spouses: Marlene Stout: $2,000, 2004, Bush-Cheney 2004 Inc.

Pat Todd Petric, none.

Richard Stout: $2,000, 2004, Bush-Cheney 2004 Inc.

*Douglas Menarchik, of Texas, to be an Assistant Administrator of the United States Agency for International Development.

*Hector E. Morales, of Texas, to be United States Executive Director of the Inter-American Development Bank for a term of three years.

*Lloyd O. Pierson, of Virginia, to be an Assistant Administrator of the United States Agency for International Development.

*Lloyd O. Pierson, an Assistant Administrator of the United States Agency for International Development, to be a Member of the Board of Directors of the African Development Foundation for a term expiring September 22, 2009.

Department of State nominations beginning with Ryan C. Crocker and ending with Johnny Young, which nominations were received by the Seante and appeared in the Congressional Record on September 13, 2004.

*Nominee has committed to respond to requests to appear and testify before any duly constituted committee of the Senate.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. CARPER (for himself and Mr. BIDEN):

S. 2899. A bill to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing 1 or more units of the National Park System in Delaware, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. CAMPBELL, and Mr. INOUYE):

S. 2900. A bill to authorize the President to posthumously award a gold medal on behalf of Congress to Elizabeth Wanamaker Peratrovich and Roy Peratrovich in recognition of their outstanding and enduring contributions to civil rights and dignity of the Native peoples of Alaska and the Nation; to the Committee on Banking, Housing, and Urban Affairs.

By Mrs. HUTCHISON (for herself and Mr. BREAUX):

S. 2901. A bill for the relief of Rona Ramon, Asaf Ramon, Tal Ramon, Yiftach Ramon, and Noah Ramon; to the Committee on the Judiciary.

By Mr. CRAIG (for himself, Ms. STABENOW, and Mr. WYDEN):

S. 2902. A bill to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. LUGAR:

S. 2903. A bill to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to passage or adoption of rules for athletic competitions and practices; to the Committee on the Judiciary.

By Mr. CAMPBELL:

S. 2904. A bill to authorize the exchange of certain land in the State of Colorado; to the Committee on Energy and Natural Resources.

By Mr. ENZI (for himself, Mrs. CLINTON, Mr. HAGEL, and Mr. SCHUMER):

S. 2905. A bill to protect members of the Armed Forces from unscrupulous practices regarding sales of insurance, financial, and investment products; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BINGAMAN (for himself, Ms. MIKULSKI, Mr. GRAHAM of Florida, Mr. CORZINE, Mr. HARKIN, Mr. DURBIN, Mr. FEINGOLD, Mr. ROCKEFELLER, and Mr. KOHL):

S. 2906. A bill to amend title XVIII of the Social Security Act to provide for reductions in the medicare part B premium through elimination of certain overpayments to Medicare Advantage organizations; to the Committee on Finance.

By Mr. DODD (for himself and Mr. KENNEDY):

S. 2907. A bill to amend the Public Health Service Act to improve the quality and efficiency of health care delivery through improvements in health care information technology, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. SPECTER (for himself, Mrs. FEINSTEIN, Mr. ENSIGN, Ms. CANTWELL, Mr. DEWINE, and Mr. LEAHY):

S. 2908. A bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes; to the Committee on the Judiciary.

By Mr. SPECTER:

S. 2909. A bill to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area; to the Committee on Energy and Natural Resources.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. REID:

S. Res. 448. A resolution designating the first day of April 2005 as "National Asbestos Awareness Day"; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. BROWNBACK, and Mr. LEAHY):

S. Res. 449. A resolution encouraging the protection of the rights of refugees; to the Committee on Foreign Relations.

By Mr. FRIST (for himself and Mr. DASCHLE):

S. Res. 450. A resolution to authorize testimony and representation in United States v. Daniel Bayly, *et. al*, considered and agreed to.

By Mr. DOMENICI (for himself, Mr. CRAIG, Mr. CRAPO, Ms. LANDRIEU, Mr. GRAHAM of South Carolina, Mr. FITZGERALD, Mr. SESSIONS, Mr. VOINOVICH, Mr. PRYOR, Mrs. LINCOLN, Mr. MILLER, and Mr. ALEXANDER):

S. Con. Res. 141. A concurrent resolution recognizing the essential role of nuclear power in the national energy policy of the United States and supporting the increased use of nuclear power and the construction and development of new and improved nuclear power generating plants; to the Committee on Energy and Natural Resources.

ADDITIONAL COSPONSORS

S. 453

At the request of Mrs. HUTCHISON, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 453, a bill to authorize the Health Resources and Services Administration and the National Cancer Institute to make grants for model programs to provide to individuals of health disparity populations prevention, early detection, treatment, and appropriate follow-up care services for cancer and chronic diseases, and to make grants regarding patient navigators to assist individuals of health disparity populations in receiving such services.

S. 845

At the request of Mr. GRAHAM of Florida, the name of the Senator from Washington (Ms. CANTWELL) was added as a cosponsor of S. 845, a bill to amend titles XIX and XXI of the Social Security Act to provide States with the option to cover certain legal immigrants under the medicaid and State children's health insurance programs.

S. 989

At the request of Mr. REID, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 989, a bill to provide death and disability benefits for aerial firefighters who work on a contract basis for a public agency and suffer death or disability in the line of duty, and for other purposes.

S. 1134

At the request of Mr. INHOFE, the names of the Senator from Vermont (Mr. JEFFORDS) and the Senator from Nevada (Mr. REID) were added as cosponsors of S. 1134, a bill to reauthorize and improve the programs authorized by the Public Works and Economic Development Act of 1965.

S. 1223

At the request of Mr. BINGAMAN, the name of the Senator from Minnesota (Mr. DAYTON) was added as a cosponsor of S. 1223, a bill to increase the number of well-trained mental health service professionals (including those based in schools) providing clinical mental health care to children and adolescents, and for other purposes.

S. 1369

At the request of Mr. AKAKA, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 1369, a bill to ensure that prescription drug benefits offered to medicare eligible enrollees in the Federal Employees Health Benefits Program are at least equal to the actuarial value of the prescription drug benefits offered to enrollees under the plan generally.

S. 1379

At the request of Mr. JOHNSON, the name of the Senator from New Hampshire (Mr. GREGG) was added as a cosponsor of S. 1379, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1419

At the request of Ms. LANDRIEU, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 1419, a bill to support the establishment or expansion and operation of programs using a network of public and private community entities to provide mentoring for children in foster care.

S. 1428

At the request of Mr. MCCONNELL, the name of the Senator from Maine

(Ms. SNOWE) was added as a cosponsor of S. 1428, a bill to prohibit civil liability actions from being brought or continued against food manufacturers, marketers, distributors, advertisers, sellers, and trade associations for damages or injunctive relief for claims of injury resulting from a person's weight gain, obesity, or any health condition related to weight gain or obesity.

S. 1728

At the request of Mr. SPECTER, the name of the Senator from Maryland (Ms. MIKULSKI) was added as a cosponsor of S. 1728, a bill to amend the September 11th Victim Compensation Fund of 2001 (Public Law 107-42; 49 U.S.C. 40101 note) to provide compensation for the United States Citizens who were victims of the bombings of United States embassies in East Africa on August 7, 1998, the attack on the U.S.S. Cole on October 12, 2000, or the attack on the World Trade Center on February 26, 1993, on the same basis as compensation is provided to victims of the terrorist-related aircraft crashes on September 11, 2001.

S. 1784

At the request of Mrs. FEINSTEIN, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1784, a bill to eliminate the safe-harbor exception for certain packaged pseudoephedrine products used in the manufacture of methamphetamine.

S. 2146

At the request of Ms. LANDRIEU, the names of the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Rhode Island (Mr. REED) were added as cosponsors of S. 2146, a bill to require the Secretary of the Treasury to mint coins in commemoration of the contributions of Dr. Martin Luther King, Jr., to the United States.

S. 2425

At the request of Mr. COCHRAN, the name of the Senator from Maine (Ms. SNOWE) was added as a cosponsor of S. 2425, a bill to amend the Tariff Act of 1930 to allow for improved administration of new shipper administrative reviews.

S. 2439

At the request of Mrs. HUTCHISON, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S. 2439, a bill to award a congressional gold medal to Michael Ellis DeBakey, M.D.

S. 2602

At the request of Mr. DODD, the names of the Senator from New Mexico (Mr. BINGAMAN), the Senator from Washington (Mrs. MURRAY), the Senator from Louisiana (Mr. BREAUX), the Senator from Washington (Ms. CANTWELL) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2602, a bill to provide for a circulating quarter dollar coin program to honor the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the United States Virgin Islands, and the Commonwealth of the Northern Mariana Islands, and for other purposes.

S. 2623

At the request of Mr. KOHL, the name of the Senator from Florida (Mr. GRAHAM) was added as a cosponsor of S. 2623, a bill to amend section 402 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 to provide a 2-year extension of supplemental security income in fiscal years 2005 through 2007 for refugees, asylees, and certain other humanitarian immigrants.

S. 2647

At the request of Mr. HOLLINGS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2647, a bill to establish a national ocean policy, to set forth the missions of the National Oceanic and Atmospheric Administration, to ensure effective interagency coordination, and for other purposes.

S. 2648

At the request of Mr. HOLLINGS, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 2648, a bill to strengthen programs relating to ocean science and training by providing improved advice and coordination of efforts, greater interagency cooperation, and the strengthening and expansion of related programs administered by the National Oceanic and Atmospheric Administration.

S. 2722

At the request of Mr. DURBIN, the names of the Senator from West Virginia (Mr. BYRD) and the Senator from Maryland (Ms. MIKULSKI) were added as cosponsors of S. 2722, a bill to maintain and expand the steel import licensing and monitoring program.

S. 2764

At the request of Mr. DODD, the name of the Senator from Michigan (Ms. STABENOW) was added as a cosponsor of S. 2764, a bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

S. 2798

At the request of Mr. LUGAR, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. 2798, a bill to provide for increased planning and funding for health promotion programs of the Department of Health and Human Services.

S. 2807

At the request of Mr. CRAPO, the name of the Senator from North Dakota (Mr. DORGAN) was added as a cosponsor of S . 2807, a bill to amend the Internal Revenue Code of 1986 to exempt containers used primarily in potato farming from the excise tax on heavy trucks and trailers.

S. 2828

At the request of Mr. MCCAIN, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 2828, a bill to amend the Federal Election Campaign Act of 1971 to define political committee and clarify when organizations described in section 527 of the Internal Revenue Code of 1968 must register as political committees, and for other purposes.

S. 2852

At the request of Mr. SANTORUM, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of S. 2852, a bill to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

S. 2861

At the request of Mrs. MURRAY, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 2861, a bill to prevent abuse of the special allowance subsidies under the Federal Family Education Loan Program.

S. CON. RES. 8

At the request of Ms. COLLINS, the names of the Senator from Maryland (Mr. SARBANES), the Senator from Virginia (Mr. WARNER), the Senator from Florida (Mr. GRAHAM) and the Senator from Oklahoma (Mr. INHOFE) were added as cosponsors of S. Con. Res. 8, a concurrent resolution designating the second week in May each year as "National Visiting Nurse Association Week".

S. RES. 269

At the request of Mr. LEVIN, the name of the Senator from Illinois (Mr. FITZGERALD) was added as a cosponsor of S. Res. 269, a resolution urging the Government of Canada to end the commercial seal hunt that opened on November 15, 2003.

S. RES. 430

At the request of Mr. HATCH, the names of the Senator from Illinois (Mr. FITZGERALD), the Senator from Michigan (Mr. LEVIN), the Senator from Massachusetts (Mr. KENNEDY) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Res. 430, a resolution designating November 2004 as "National Runaway Prevention Month".

AMENDMENT NO. 3705

At the request of Ms. COLLINS, the names of the Senator from Arkansas (Mr. PRYOR) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of amendment No. 3705 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3742

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3742 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the

United States Government, and for other purposes.

AMENDMENT NO. 3821

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3821 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3827

At the request of Mr. STEVENS, the name of the Senator from Hawaii (Mr. INOUYE) was added as a cosponsor of amendment No. 3827 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3875

At the request of Mr. STEVENS, the names of the Senator from Michigan (Mr. LEVIN), the Senator from Hawaii (Mr. INOUYE), the Senator from Colorado (Mr. ALLARD), the Senator from Alabama (Mr. SESSIONS), the Senator from Texas (Mr. CORNYN) and the Senator from Georgia (Mr. CHAMBLISS) were added as cosponsors of amendment No. 3875 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3913

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3913 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3915

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3915 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3916

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3916 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

AMENDMENT NO. 3945

At the request of Mr. CORZINE, his name was added as a cosponsor of amendment No. 3945 proposed to S. 2845, a bill to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. CARPER (for himself and Mr. BIDEN):

S. 2899. A bill to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing 1 or more units of the National Park System in Delaware, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. CARPER. Mr. President, a few minutes ago, I was recognized and I spoke about the first State. The first State is Delaware. Delaware became the first State December 7th, 1787, when we ratified the Constitution. For 1 week, Delaware was the entire United States of America. We opened things up for the rest of the country, and Pennsylvania came in, New Jersey, and others. For the most part, we are pleased the way it turned out.

It is ironic that the State that helped start this country, the State whose history is part of the fabric of this country's history, has no national park to celebrate our place in the founding of this country and the growth of this country over the last 200-some years.

A couple of years ago, my family and I were planning a vacation. We were trying to decide where to go. We were thinking about going to Alaska. We actually got on the National Park Service Web site to see about the national parks in Alaska. They have terrific national parks. We went up there and had a wonderful visit. Before we did that, we looked at that National Park Service Web site to see what other attractions there are in the other 49 States. There is a unit of the National Park Service in 49 States in this country, but we found nothing for Delaware.

For years gone by and for the immediate future when families like ours are deciding where they are going to go on their summer vacation in 2005 or 2006, they will have the same choices as they had in 2004 and the years before this, businesses, one of the most enduring businesses, large or small, in the United States.

There are other attractions. The Underground Railroad literally runs the length and breadth of our State. Many slaves found their freedom crossing the Christina River into northern Delaware not far from where the first Swedes landed just down the river.

A second hub would be located in the southern part of New Castle County along the Delaware River. Not far from where the hub would be is Fort Delaware. During the Confederate war, tens of thousands of Confederate soldiers were held prisoner at Fort Delaware, in the middle of the Delaware River. From that hub, Port Penn, along the Delaware River, will emanate to the spokes that lead to attractions, including Fort Delaware.

A third hub is Kent County, DE. Kent County, DE, is home of the Golden Fleece Tavern. On December 7, 1787, a band of several dozen men decided, after studying and debating the Constitution that had been sent out from Philadelphia, from the Constitutional Convention, they decided to ratify at the Golden Fleece Tavern on that cold December morning.

Not far from that is a place called John Dickinson Mansion. That mansion was home of a Delawarean who participated in the Constitutional Convention. At that Constitutional Convention, he worked with folks from Connecticut to develop the compromise that makes it clear that every State gets two Senators today and that all the States have representatives in the House of Representatives right down that hall in coordination with the size of the population of that State. That is just one of the many and those choices will not include a national park in Delaware or a unit of National Park in our State.

Senator BIDEN, a couple of years ago, tried to address this problem. For a while, the idea of creating a national park gave some thought to creating a national park in the Great Cyprus Swamp in the southeast corner. Those familiar with Bethany, Rehoboth, and Lewes may or may not know there is a huge swamp where the last of the bald cyprus in North America are. We thought of designating the Great Cyprus Swamp as a national park. The idea ran into some disfavor in southern Delaware and was abandoned.

I am delighted Senator BIDEN has joined in introducing today our legislation to call on the Department of the Interior to conduct a feasibility study to see if what we think is a great idea developed by our park committee in Delaware, led by Dr. Jim Soles over the last year, might find favor with the Department of the Interior, the Congress, and with the President.

The committee has envisioned four wheels, four hubs, starting in the northern part of our State in Wilmington, DE, where the first Swedes and Finns came in 1638. They landed at Port Christina and established the colony of New Sweden. That hub will serve as a gateway through which visitors might come.

Think of a hub as a bicycle wheel with spokes emanating from the hubs, and the spokes would lead to attractions throughout the northern part of our State. One is the Hagley Museum, where the first powder mills were built along the banks of the Brandywine River providing support for what became the DuPont Company that has endured for over 200 attractions that would lead from the hub down to the spokes that people who come to the central part of our State might visit.

Further south in our State is a place called Lewes. It was settled by the

Dutch back in the 1600s. It is a place that had been literally raided, attacked by Indians, wiped out, and came back to be a thriving, prosperous community. The history of early Lewes is captured in the Swaanendael Museum. Not far away is a beautiful State park, Cape Henlopen State Park, which a lot of people visit every year.

We have wildlife refuges in the southern and northern part of the State. There are tens of millions of birds that stop and feed on the way either to the southern hemisphere in the winter or on the way back up North in the spring.

Our State has a lot to offer. Our heritage is one that is rich and reflects the tapestry of our country we have had on the coastal regions of our State over the last 200 years. We do not want to keep it just to ourselves but share it with the rest of the country and the rest of the world.

We are excited to work with the Department of the Interior, our colleagues, and the administration, present or future, to establish a coastal heritage park for the State of Delaware so a year or two from now, when people sit with their families, turn on their computers, and go to the National Park Service Web site to see what is available around the country to visit, they will find a lot of good things about the other 49 States, but they will find some very special things in Delaware, too.

I thank Senators for the time to introduce this with my colleague, Senator JOE BIDEN.

Mr. CARPER. Mr. President, I rise today to introduce the Delaware National Coastal Special Resources Study Act. I am pleased to be joined in introducing this bill by Senator BIDEN. This bill authorizes the Secretary of the Interior to study the feasibility of establishing a National Park Service unit in Delaware.

Delaware is first in so many ways. Yet we are the only State without a National Park. Last year, I wondered whether Delawareans agreed with me that we should have a unit of the National Park Service. Through surveys and town meetings, I polled Delawareans on this question in 2003. The answer was a resounding and nearly unanimous "yes."

However, folks were less unanimous on where the park should be located and which aspect of Delaware it should feature. So I formed a 12-member committee representing communities throughout the State. They discussed many fine ideas, and narrowed them down to four proposals with a common thread. In one way or another, each proposal related to Delaware's coastal region.

The committee recommended joining these proposals. The result would be a national park highlighting America's history, cultural heritage, commercial progress and natural beauty. The Delaware National Coastal Heritage Park will reveal that the various threads that together make up the fabric of Delaware are an ideal microcosm for the tapestry of America.

To understand our proposal, first let me ask you to stop thinking about Yosemite or Yellowstone or Shenandoah. This proposal is not like those big, traditional national parks. Ours is a different, more innovative and creative way of thinking about a park. Delaware's coastal region is rich in historical sites, museums, parks, and wildlife areas. Together, these sites highlight the threads of history, heritage, commerce, and nature.

A series of four gateway hubs, or interpretive centers, located along the coast will guide visitors to the many existing attractions in the coastal communities that underlie the park. Connecting these attractions through the National Park Service will allow us to tell our unique story to the Nation.

And, as I'd like to demonstrate for you, our story is worth telling.

The history of America, beginning well before the first European settlers, is seen in the Lenni Lenape and Nanticoke Native American tribes. They settled and prospered in the area in and around Delaware thousands of years before the first European settlement in the early 1600s. Members of the modern Nanticoke Indian Association and the Lenape Tribe of Delaware trace their ancestry to the earliest inhabitants of Delaware's coastline. A visit to the Nanticoke Museum brings our early history to life.

Delaware's shores were explored by the Swedes, Dutch and English. Our small State was the subject of competing claims for its territory from the beginning of European settlement. The earliest colonial settlement in Delaware, known as Swaanendael, was established in 1631 in what is present day Lewes. The settlement ended in tragedy when it was wiped out in a clash with the local Native American population. The Swaanendael Museum in Lewes illustrates Delaware's Dutch roots.

The Swedes established the first permanent European settlement in the Delaware Valley. The *Kalmar Nyckel*, a replica of the ship that carried Swedes to our shores, is docked in Wilmington and currently hosts visitors from around the world.

Founded in Wilmington in 1638, Fort Christina was the earliest lasting bastion in the region. However, as a main line for coastal defense in America, Delaware boasts forts throughout the State. Forts displaying various methods and philosophies of coastal defense can be found along the Delaware River from Fort Delaware and Fort Dupont in New Castle County to Fort Miles in Sussex County. Delaware was the site of military action in both the Revolutionary War and the War of 1812. And at the onset of World War II, the U.S. Army established a military base at Cape Henlopen. You can still see the bunkers and gun emplacements that were camouflaged among the dunes along with the concrete observation towers that were built to spot enemy ships.

Delaware's pivotal role in America's fight for independence culminated in Caesar Rodney's legendary ride to Philadelphia to sign the Declaration of Independence. The Golden Fleece Tavern in Kent County was the meeting place where, on December 7, 1787, it was unanimously decided that Delaware would ratify the Constitution, giving us the distinction of being the First State.

Transportation was dominated by water. New Castle thrived as a port town, second only to Philadelphia. Additional ports in Wilmington and Lewes provided harbor for ocean-going vessels in the export trade. A walk through old New Castle is like stepping back in time.

Delaware historically holds the distinction of being one of America's most prosperous industrial, economic and commercial centers. Some of the Nation's leading ship and rail building establishments were located in the State, as were textile and papermaking companies. Frenchman Eleuthere Irenee duPont founded a gunpowder mill on the banks of the Brandywine River near Wilmington. The history of the DuPont Company is captured at the scenic Hagley Museum.

Delaware's role in the Underground Railroad is too important not to tell. There are documented Underground Railroad sites all over the State. Underground Railroad historians believe that Harriet Tubman made numerous trips through Delaware after her own daring escape. Tubman-Garrett Park in Wilmington overlooks the spot where escaping slaves swam across the Christina River as part of their journey. Wilmington and Camden in Kent County were considered safe stations on the way to freedom. Through the Delaware National Coastal Heritage Park, more Americans could come to understand the historic road to freedom traveled by thousands of enslaved Africans.

Delaware is not only rich in history. It is also famed for its natural refuges and conservatories. William Penn proclaimed that Cape Henlopen and its natural resources were for the common usage, thus establishing some of the Nation's first "public lands." Some of America's earliest beach resorts sprouted up along the Delaware Bay and coastline during the mid-to-late 19th century. They remain in use to this day. The Bombay Hook National Wildlife Refuge is an important link in the Atlantic Flyway, a trail of wildlife refuges used by migrating birds each year. This makes Bombay Hook a must-see for bird watchers and nature lovers. The Little Creek Wildlife area is a 4,500 acre mecca for crabbers and fishermen.

This is just a taste of the scenic beauty, ethnic heritage, and historical significance that greet visitors to Delaware's coastal shores. The national park selection committee realized that these events and places are threads of human and natural activity that create the very fabric of our society. And the committee realized that a park unit that helped local residents and visitors alike recognize and understand these threads would be a very appropriate and fitting addition to the National Park system. Our national park would demonstrate that coastal regions like those found in Delaware are a vital part of America's past, present, and future.

But the committee also felt that the park itself should be very different from traditional parks. Instead of a large landmass, the park will be structured much like a series of four bicycle wheels, each with a hub and spokes. The hubs will be interpretive centers located strategically along the coastline. Local residents and tourists would learn about how our coastline has contributed to the development of our State and our Nation. These centers would provide information and guidance about the many, many existing historic sites, natural areas, recreational opportunities and other attractions that are part of our coastal region. The spokes will be the multitude of attractions and sites that demonstrate the threads of America's history and scenic beauty.

The gateway hub will be located at the 7th Street Peninsula at the site of the original Fort Christina. There are various attractions within a short walking distance related to the coastal theme of the park. This site would also provide information, advice and directions about other sites in the Wilmington area. It might also include a visitor's center, park headquarters, perhaps a replica of the original Fort Christina.

A second hub would be located along the Delaware River in southern New Castle County. It would provide information on attractions such as Fort Delaware on Pea Patch Island, Fort DuPont and the renowned historic district in the old city of New Castle as well other related attractions in New Castle County.

The third hub would be located in Kent County, also along the coast of the Delaware River. It would provide information on the existing preserved natural areas and on the myriad other attractions in Kent County including the John Dickinson Mansion, Dover's historic Green and others.

A Sussex County hub would be located in the Lewes area and would provide information on the numerous historic sites and natural areas that have made Sussex County's coastal region so pivotal to Delaware.

Together, these four interpretive centers would direct visitors to the many existing attractions that would help our guests understand and appreciate the many threads of Delaware's Coastal Region—threads that help make up the fabric of America.

Every year, millions of Americans plan their vacations around our Nation's national park system. They log onto the Park Service website and search for ideas for their family vacations. Right now, that search will turn up nothing for Delaware. With a national park unit here in Delaware, that will change.

In the future, those families will be considering a trip to Delaware to visit our Coastal Heritage Park. Those trips will be a significant boost to our economy—they will create jobs and economic activity that can only be good for our State.

Just as important—or maybe even more important—these additional visitors will bring more attention to our existing historic sites and other attractions. That additional attention will help guarantee they are preserved for future generations.

By encouraging more Delawareans themselves to visit these wonderful places, a National Park unit will help enrich our own understanding of our own history.

I have described to you today a vision resulting from the hard work of many dedicated Delawareans. Today, I take the next step in making their vision a reality.

The bill I've introduced today—the Delaware National Coastal Special Resources Study Act—authorizes the National Park Service to conduct a "Special Resource Study" to make recommendations as to the feasibility of this proposal. The study itself would take from 1 to 2 years to complete and would include estimated costs of implementing the proposal.

I believe this is an exciting proposal and one that, when incorporated into the National Park System, will become an important element in preserving the wonderful human and natural history presented by our coastal region.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2899

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Delaware National Coastal Special Resources Study Act".

SEC. 2. STUDY.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the "Secretary") shall conduct a special resources study of the national significance, feasibility of long-term preservation, and public use of sites in the coastal region of the State of Delaware.

(b) INCLUSION OF SITES IN THE NATIONAL PARK SYSTEM.—The study under subsection (a) shall include an analysis and any recommendations of the Secretary concerning the suitability and feasibility of—

(1) designating 1 or more of the sites along the Delaware coast as units of the National Park System that relate to the themes described in section 3; or

(2) establishing a national heritage area that incorporates the sites along the Delaware coast that relate to the themes described in section 3.

(c) STUDY GUIDELINES.—In conducting the study authorized under subsection (a), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System contained in section 8 of Public Law 91–383 (16 U.S.C. 1a–5).

(d) CONSULTATION.—In preparing and conducting the study under subsection (a), the Secretary shall consult with—

(1) the State of Delaware;

(2) the coastal region communities; and

(3) the general public.

SEC. 3. THEMES.

The study authorized under section 2 shall evaluate sites along the coastal region of the State of Delaware that relate to—

(1) the history of indigenous peoples, which would explore history of Native American tribes of Delaware, such as the Nanticoke and Lenni Lenape;

(2) the colonization and establishment of the frontier, which would chronicle the first European settlers in the Delaware Valley who built fortifications for the protection of settlers;

(3) the founding of a nation, which would document the contributions of Delaware to the development of our constitutional republic;

(4) industrial development, which would investigate the exploitation of water power in Delaware with the mill development on the Brandywine River;

(5) transportation, which would explore how water served as the main transportation link, connecting Colonial Delaware with England, Europe, and other colonies;

(6) coastal defense, which would document the collection of fortifications spaced along the river and bay from Fort Delaware on Pea Patch Island to Fort Miles near Lewes;

(7) the last stop to freedom, which would detail the role Delaware has played in the history of the Underground Railroad network; and

(8) the coastal environment, which would examine natural resources of Delaware that provide resource-based recreational opportunities such as crabbing, fishing, swimming, and boating.

SEC. 4. REPORT.

Not later than 1 year after funds are made available to carry out this Act under section 5, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report containing the findings, conclusions, and recommendations of the study conducted under section 2.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

Mr. BIDEN. Mr. President, today I rise in support of the Delaware National Coastal Special Resources Study Act and join my colleague, Senator CARPER, in asking this body to support our efforts to construct the Delaware National Coastal Heritage Park. Delaware is the only State not to have a national park and we feel strongly that the time has come. Today, through this legislation, we are asking the Secretary of the Interior to study the feasibility of establishing a National Park Service unit in the State of Delaware.

As I stand before you, I know what most of you are thinking. Do we have an area worthy of such designation? Do we have picturesque mountains like the Grand Tetons or the Great Smokey Mountains? Are people drawn to our coasts to find the spirituality of JoshuaTree? Do we possess landscape on par with the beauty and serenity of Acadia National Park? Well, in a word, yes. A little of all of the magnificence found in some of our Nation's most famous parks can be found in our State of Delaware and that is why the proposal presented by Senator CARPER is so unique and worthy of the next step.

I have to commend my colleague. Senator CARPER brought together a committee of dedicated Delawareans to analyze the validity of a national park in the State of Delaware. After much deliberation, the committee suggested a series of four interpretive centers, scattered throughout the state, to highlight the many treasures of our state. While there are numerous sites identified in the proposal, I would just like to take a moment to speak to several that have been especially close to me in my years in the Senate.

Pea Patch Island is a 228-acre park located off the coast of Delaware City, Delaware that houses Fort Delaware, one of our country's oldest Civil War-era fortifications and Delaware's oldest State Park. The island, with its fort, seawall and other archeological remains, is listed on the National Registry of Historic Places. The island also houses a State nature preserve, providing critical habitat to thousands of wading birds. It is also the largest heronry north of Florida.

Delaware also played a special role in the Underground Railroad and the proposal will highlight the 18 sites in Delaware including a hideout at the Governor's mansion, the court house where abolitionist Thomas Garrett was tried, the Mother African Church in Wilmington where an African American Festival founded in 1814 was used as a cover to help slaves escape is still celebrated, and numerous other sites utilized by the principal Underground Railroad conductor, Harriet Tubman.

Finally, I would like to mention our coastline, our beaches. Now into October, we have said goodbye to another fantastic beach season with millions of people visiting our shores. The historic sites and wildlife refuges that dot our coastline are unique to the area and to the Nation.

These links to Delaware's past are important to our Nation's future and I am proud to join my colleague in supporting this legislation.

By Ms. MURKOWSKI (for herself, Mr. STEVENS, Mr. CAMPBELL, and Mr. INOUYE):

S. 2900. A bill to authorize the President to posthumously award a gold medal on behalf of Congress to Elizabeth Wanamaker Peratrovich and Roy Peratrovich in recognition of their outstanding and enduring contributions to civil rights and dignity of the Native peoples of Alaska and the Nation; to the Committee on Banking, Housing, and Urban Affairs.

Ms. MURKOWSKI. Mr. President, I was proud to join with my colleagues and tens of thousands of America's first peoples, including a substantial contingent of Alaska Natives, in participating in the opening ceremonies for the National Museum of the American Indian. I don't have to tell you what a special week this was for the first peoples of America and particularly for my Alaska Native people. We take pride in our new National Museum of the American Indian and all that it represents. First and foremost, it represents a commitment on the part of the American people that the substantial contributions of American Indians, Alaska Natives and Native Hawaiians be preserved in perpetuity in a prominent location adjacent to the U.S. Capitol. It represents a commitment that the Native experience will not be lost to history.

Today, I want to share with the Senate a piece of Native history that is very significant to the Native people of Alaska and indeed, the first peoples of our entire Nation. It is the story of a Tlingit couple, Roy and Elizabeth Peratrovich. Roy and Elizabeth are to the Native peoples of Alaska what Dr. Martin Luther King, Jr. and Rosa Parks are to African Americans. Everybody knows about Dr. Martin Luther King, Jr. and Rosa Parks, but hardly anyone outside the State of Alaska knows about Roy and Elizabeth Peratrovich. That is going to change today.

Elizabeth was born in 1911, about 17 years before Dr. King. She was born in Petersburg, AK. After college she married Roy Peratrovich, a Tlingit from Klawock, AK; and the couple had three children. Roy and Elizabeth moved to Juneau. They were excited about buying a new home. But they could not buy the house that they wanted because they were Native. They could not enter the stores or restaurants they wanted. Outside some of these stores and restaurants there were signs that read "No Natives Allowed." History has also recorded a sign that read "No Dogs or Indians Allowed."

On December 30, 1941, following the invasion of Pearl Harbor, Elizabeth and Roy wrote to Alaska's Territorial Governor:

> In the present emergency our Native boys are being called upon to defend our beloved country. There are no distinctions being made there. Yet when we patronized good business establishments we are told in most cases that Natives are not allowed.
>
> The proprietor of one business, an inn, does not seem to realize that our Native boys are just as willing to lay down their lives to protect the freedom he enjoys. Instead he shows his appreciation by having a 'No Natives Allowed' sign on his door.

In that letter Elizabeth and Roy noted:

> We were shocked when the Jews were discriminated against in Germany. Stories were told of public places having signs, "No Jews Allowed." All freedom loving people were horrified at what was being practiced in Germany, yet it is being practiced in our own country.

In 1943, the Alaska Legislature, at the behest of Roy and Elizabeth considered an anti-discrimination law. It was defeated. But Roy and Elizabeth were not defeated. Two years later, in 1945, the anti-discrimination measure was back before the Alaska Legislature. It passed the lower house, but met with stiff opposition in the Alaska Senate.

One by one Senators took to the floor to argue against the mixing of the races. A church leader testified that it would take thirty to one hundred years before Alaska Natives would reach the equality of the white man.

Elizabeth Peratrovich rose from the gallery and said she would like to be heard. She was recognized, as was the custom of the day. In a quiet, dignified and steady voice she said, "I would not have expected that I, who am barely out of savagery, would have to remind gentleman with five thousand years of recorded history behind them of our Bill of Rights." She was asked by a Senator if she thought the proposed bill would eliminate discrimination, Elizabeth Peratrovich queried in rebuttal, "Do your laws against larceny and even murder prevent these crimes? No law will eliminate crimes but at least you legislators can assert to the world that you recognize the evil of the present situation and speak your intent to help us overcome discrimination."

When she finished, there was a wild burst of applause from the gallery and the Senate floor alike. The territorial Senate passed the bill by a vote of eleven to five. On February 16, 1945, Alaska had an anti-discrimination law that provided all citizens of the territory of Alaska are entitled to full and equal enjoyment of public accommodations. Following passage of the anti-discrimination law, Roy and Elizabeth could be seen dancing at the Baranof Hotel, one of Juneau's finest. They danced among people they didn't know. They danced in a place where the day before they were not welcome.

There is an important lesson to be learned from the battles of Elizabeth and Roy Peratrovich. Even in defeat, they knew that change would come from their participation in our political system. They were not discouraged by their defeat in 1943. They came back fighting and enjoyed the fruits of their victory two years later.

Nineteen years before the United States Congress prohibited discrimination in public accommodations in the Civil Rights Act of 1964; eighteen years before Dr. Martin Luther King, Jr. spoke of his dream on the steps of the Lincoln Memorial—Alaska had a civil rights law. Elizabeth would not live to see the United States adopt the same law she brought to Alaska in 1945. She passed away in 1958 at the age of 47.

The State of Alaska has acknowledged Elizabeth Peratrovich's contribution to history by designating February 16 of each year as Elizabeth Peratrovich Day. It has also designated one of the public galleries in the Alaska House of Representatives as the Elizabeth Peratrovich Gallery.

But what about Roy? Why has his role not been recognized? Roy Peratrovich passed away in 1989 at age 81. He died 9 days before the first Elizabeth Peratrovich Day was observed in the State of Alaska. Perhaps it was because Roy was still alive at the time this honor was bestowed; it is Elizabeth that has gotten all the credit for passage of the anti-discrimination law.

Members of the Peratrovich family tell me that this is not entirely unjustified because without Elizabeth's stirring speech the anti-discrimination law would not have passed. But they also point out, as does the historical record, that Elizabeth and Roy were a focused and effective team. History should recognize that the anti-discrimination law was enacted due to the joint efforts of Roy and Elizabeth Peratrovich. I rise today to do my part toward that end.

Joined by my colleague, the distinguished senior Senator from Alaska, Mr. STEVENS, the distinguished Chairman of the Senate Committee on Indian Affairs, Mr. CAMPBELL and the distinguished Vice Chairman of that committee, Mr. INOUYE, I offer legislation to recognize the contributions of Roy and Elizabeth Peratrovich with a Congressional Gold Medal. Congressional Gold Medals have been awarded to a number of African- Americans who have made contributions to the cause of civil rights, among them, Rosa Parks, Roy Wilkins, Dorothy Height, the nine brave individuals who desegregated the schools of Little Rock, Arkansas and others involved in the effort to desegregate public education.

As our Nation focuses on the many contributions of our first people and the challenges they have faced throughout our Nation's history with the opening of the National Museum of the American Indian, it is high time that we also acknowledge the work of American Indians, Alaska Natives and Native Hawaiians in the struggle for civil rights and social justice. Honoring Elizabeth and Roy Peratrovich's substantial contribution with a Congressional Gold Medal is a fine start.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2900

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

Congress makes the following findings:

(1) Elizabeth Wanamaker, a Tlingit Indian, was born on July 4, 1911, in Petersburg, Alaska.

(2) Elizabeth married Roy Peratrovich, a Tlingit Indian from Klawock, Alaska, on December 15, 1931.

(3) In 1941, the couple moved to Juneau, Alaska.

(4) Roy and Elizabeth Peratrovich discovered that they could not purchase a home in the section of Juneau in which they desired to live due to discrimination against Alaska Natives.

(5) In the early 1940s, there were reports that some businesses in Southeast Alaska posted signs reading "No Natives Allowed".

(6) Roy, as Grand President of the Alaska Native Brotherhood and Elizabeth, as Grand President of the Alaska Native Sisterhood, petitioned the Territorial Governor and the Territorial Legislature to enact a law prohibiting discrimination against Alaska Natives in public accommodations.

(7) Rebuffed by the Territorial Legislature in 1943, they again sought passage of an anti-discrimination law in 1945.

(8) On February 8, 1945, as the Alaska Territorial Senate debated the anti-discrimination law, Elizabeth, who was sitting in the visitor's gallery of the Senate, was recognized to present her views on the measure.

(9) The eloquent and dignified testimony given by Elizabeth that day is widely credited for passage of the antidiscrimination law.

(10) On February 16, 1945, Territorial Governor Ernest Gruening signed into law an act prohibiting discrimination against all citizens within the jurisdiction of the Territory of Alaska in access to public accommodations and imposing a penalty on any person who shall display any printed or written sign indicating discrimination on racial grounds of such full and equal enjoyment.

(11) Nineteen years before Congress enacted the Civil Rights Act of 1964, and 18 years before the Reverend Dr. Martin Luther King, Jr. delivered his "I have a Dream" speech, one of America's first antidiscrimination laws was enacted in the Territory of Alaska, thanks to the efforts of Elizabeth and Roy Peratrovich.

(12) Since 1989, the State of Alaska has observed Elizabeth Peratrovich Day on February 16 of each year and a visitor's gallery of the Alaska House of Representatives in the Alaska State Capitol has been named for Elizabeth Peratrovich.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) PRESENTATION AUTHORIZED.—The President is authorized, on behalf of the Congress, to posthumously award a gold medal of appropriate design to Elizabeth Wanamaker Peratrovich and Roy Peratrovich, in recognition of their outstanding and enduring contributions to the civil rights and dignity of the Native peoples of Alaska and the Nation.

(b) DESIGN AND STRIKING.—For the purpose of the presentation referred to in subsection (a), the Secretary of the Treasury (in this Act referred to as the "Secretary") shall strike a gold medal with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

SEC. 3. DUPLICATE MEDALS.

The Secretary may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, and at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

SEC. 4. NATIONAL MEDALS.

The medals struck under this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 5. FUNDING.

(a) AUTHORITY TO USE FUND AMOUNTS.—There is authorized to be charged against the United States Mint Public Enterprise Fund such sum as may be appropriated to pay for the cost of the medals authorized by this Act.

(b) PROCEEDS OF SALE.—Amounts received from the sale of duplicate bronze medals under section 3 shall be deposited in the United States Mint Public Enterprise Fund.

By Mrs. HUTCHISON (for herself and Mr. BREAUX):

S. 2901. A bill for the relief of Rona Ramon, Asaf Ramon, Tal Ramon, Yiftach Ramon, and Noah Ramon; to the Committee on the Judiciary.

Mrs. HUTCHISON. Mr. president, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2901

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PERMANENT RESIDENT STATUS FOR RONA RAMON, ASAF RAMON, TAL RAMON, YIFTACH RAMON, AND NOAH RAMON.

(a) IN GENERAL.—Notwithstanding subsections (a) and (b) of section 201 of the Immigration and Nationality Act (8 U.S.C. 1151), Rona Ramon, Asaf Ramon, Tal Ramon, Yiftach Ramon, and Noah Ramon shall each be eligible for issuance of an immigrant visa or for adjustment of status to that of an alien lawfully admitted for permanent residence upon filing an application for issuance of an immigrant visa under section 204 of such Act (8 U.S.C. 1154) or for adjustment of status to lawful permanent resident.

(b) ADJUSTMENT OF STATUS.—If Rona Ramon, Asaf Ramon, Tal Ramon, Yiftach Ramon, or Noah Ramon enters the United States before the filing deadline specified in subsection (c), he or she shall be considered to have entered and remained lawfully and shall, if otherwise eligible, be eligible for adjustment of status under section 245 of the Immigration and Nationality Act (8 U.S.C. 1255) as of the date of the enactment of this Act.

(c) DEADLINE FOR APPLICATION AND PAYMENT OF FEES.—Subsections (a) and (b) shall apply only if the application for issuance of an immigrant visa or the application for adjustment of status is filed with appropriate fees within 2 years after the date of the enactment of this Act.

(d) REDUCTION OF IMMIGRANT VISA NUMBER.—Upon the granting of an immigrant visa or permanent residence to Rona Ramon, Asaf Ramon, Tal Ramon, Yiftach Ramon, and Noah Ramon, the Secretary of State shall instruct the proper officer to reduce by 5, during the current or next following fiscal year, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 203(a) of the Immigration and Nationality Act (8 U.S.C. 1153(a)) or, if applicable, the total number of immigrant visas that are made available to natives of the country of the aliens' birth under section 202(e) of such Act (8 U.S.C. 1152(e)).

(e) DENIAL OF PREFERENTIAL IMMIGRATION TREATMENT FOR CERTAIN RELATIVES.—The natural parents, brothers, and sisters of Rona Ramon, Asaf Ramon, Tal Ramon, Yiftach Ramon, and Noah Ramon shall not, by virtue of such relationship, be accorded any right, privilege, or status under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.).

By Mr. CRAIG (for himself, Ms. STABENOW, and Mr. WYDEN):

S. 2902. A bill to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. CRAIG. Mr. President, I rise today to introduce the "Specialty Crop Competitiveness Act of 2004." This bipartisan legislation co-sponsored by the distinguished Senator from Michigan, Senator STABENOW, increases the focus on the contribution that specialty crops add to the United States agricultural economy. This bill specifically provides the proper and necessary attention to many challenges faced throughout each segment of the industry.

Most do not realize the significance of specialty crops and their value to the U.S. economy and the health of U.S. citizens. According to the United States Department of Agriculture Economic Research Service, fruits and vegetables alone added $29.9 billion to the U.S. economy in 2002. This figure does not even include the contribution of nursery and other ornamental plant production.

The specialty crop industry also accounts for more than $53 billion in cash receipts for U.S. producers, which is close to fifty-four percent of the total cash receipts for all crops. A surprising fact to some is that my State of Idaho is the Nation's fourth largest producer of specialty crops. Idaho proudly boasts production of cherries, table grapes, apples, onions, carrots, several varieties of seed crops and of course one of our most notable specialty crops, potatoes.

Maintaining a viable and sustainable specialty crop industry also benefits the health of America's citizens. Obesity continues to plague millions of people today and is a very serious and deepening threat not only to personal health and well-being, but to the resources of the economy as well. This issue is now receiving the necessary attention at the highest levels, and specialty crops will continue to play a prominent role in reversing the obesity trend.

The "Specialty Crop Competitiveness Act" will also provide a stronger position for the U.S. industry in the global market arena. This legislation promotes initiatives that will combat diseases both native and foreign that continue to be used as non-tariff barriers to U.S. exports by foreign governments. Additionally, provisions in this bill seek improvements to Federal regulations and resources that impede timely consideration of industry sanitary and phytosanitary petitions. This bill does not provide direct subsidies to producers like other programs. This legislation takes a major step forward to highlight the significance of this industry to the agriculture economy, the benefits to the health of U.S. citizens, and the need for a stable, affordable, diverse, and secure supply of food.

Although we near the end of the 108th Congress, I look forward to working with my colleagues and the Administration now to consider this comprehensive and necessary legislation.

Ms. STABENOW. Mr. President, I rise to join my colleague Senator CRAIG in introducing The Specialty Crop Competitiveness Act of 2004. This legislation would help increase the production and consumption of fruits and vegetables in the United States. I would like to thank my colleague Senator CRAIG for his hard work and leadership on this legislation, and his outstanding commitment to the specialty crop community.

Fruits and vegetables are vital to good health, and far too many Americans do not consume enough of the fresh fruits and vegetables that they desperately need. Increased consumption of fresh produce will provide tremendous health and economic benefits to consumers and growers.

For far too long, specialty crops have been ignored by the United States Department of Agriculture. The majority of crops grown in America, from apples, pears, and cherries, to tomatoes, carrots, cucumbers, and nursery plants do not receive the same subsidies or USDA consideration as program crops. All of our farmers work hard and take a great gamble every year to produce and receive a return on their crops. They gamble against heat, drought, frost, storms, and more recently a flood of foreign produce to our markets.

I represent a diverse agricultural State, and I want American farmers to understand that this legislation is in no way designed to take away funding from program crops, but rather to bring specialty crops up to the status of program crops. This legislation would address a number of issues critical to our nation's specialty crop growers. First, it would create a specialty crop block grant to state agriculture departments to support production-related research, commodity production, nutrition, food safety and inspection and other competitiveness enhancing programs.

The legislation would also improve our growers' access to foreign markets. Thus far, many of our trade agreements have failed to open new markets to our growers, but rather have created new headaches. Our markets have faced problems from new invasive species, currency manipulation, and a flood of products, such as apple juice concentrate, which have invaded hurt our Nation's growers. Therefore, this legislation would require the Animal Plant Health Inspection Service (APHIS) to create a division that would handle industry petitions on sanitary and phytosanitary barriers to specialty crop exports. It would increase the technical assistance funding for specialty crop and study the effects of recent trade agreements and propose a strategy for specialty crop producers to more effectively benefit from international trade opportunities. In order to benefit our farmers, we must ensure that free trade is fair trade.

Also important to my home State of Michigan is the Tree Assistance Program (TAP), which is designed to provide financial relief to growers who lose trees and vines due to natural causes. This past summer in Michigan, a number of our fruit growers suffered damage from hail storms on the western side of our State. TAP funds will be critical to restoring trees and vines damaged in the storms. However, it take a number of years to obtain a return on new fruit trees. Because of the high per acre cost of establishing perennial crops, our legislation would increase the limitation on assistance under the TAP from $75,000 to $150,000 for each eligible farm.

In addition, this legislation would correct a two year old misinterpretation by the USDA. The 2002 Farm Bill states that at least $200 million must be spent annually on the purchase of specialty crops. The Farm Bill Conference Report emphasizes that the allocated $200 million is to be used for additional purchases, over and above the purchases made under current law. For example in 2001, the USDA purchased $243 million in fresh fruits and vegetables; therefore the new total under the Farm Bill should be $443 million in purchases.

Unfortunately, the USDA is not complying with this provision. Instead of adding the $200 million on top of baseline spending for school lunch and senior programs, USDA has eliminated the baseline spending so there is no guarantee of any new spending on fruits and vegetables for our children. In fact, in 2002 USDA did not even meet the minimum purchase requirement; only $181 million in fresh fruits and vegetables were purchased. The Specialty Crops Competitiveness Act will correct this discrepancy and provide our Nation's children with much needed fruits and vegetables.

Supporting our Nation's specialty crop growers and providing nutritious fruits and vegetables to our nation's consumers is vital to ensuring our own health and the health of our economy. I am proud to introduce this legislation and I hope that my colleagues will join me in its support.

By Mr. LUGAR:

S. 2903. A bill to provide immunity for nonprofit athletic organizations in lawsuits arising from claims of ordinary negligence relating to passage or adoption of rules for athletic competitions and practices; to the Committee on the Judiciary.

Mr. LUGAR. Mr. President, I rise today in order to express my support for the Nonprofit Athletic Organization Protection Act of 2004.

Our country has invested a tremendous number of resources in providing our children with the ability to play sports. In every town in America, you will find boys and girls playing America's most popular sports: baseball, soccer, football and, of course, basketball. A recent study by the Sporting Goods Manufacturers Association showed that in 2000 at least 36 million American children played on at least one team sport. Of those 36 million, 26 million children between the ages of 6–17, played on an organized team in an organized league. A study by Statistical Research, Inc. for the Amateur Athletic Foundation and ESPN found that 94 percent of American children play some sport during the year.

The ability for children to participate in sporting events provides our society many benefits that government cannot provide. Studies have shown that these benefits include betterment to a child's health, academic performance, social development and safety.

It is no wonder that the most obvious benefit of organized sports is physical fitness. The National Institute of Health Care Maintenance has identified physical activity such as sports as a key factor in the maintenance of a healthy body. Lack of physical activity, along with unhealthy eating habits, has been identified as the leading cause of obesity in children. The center notes: "Physical activity provides numerous mental and physical benefits to health, including reduction in the risk of premature mortality, cardiovascular diseases, hypertension, diabetes, depression, and cancers." The Washington Times reported on May 14th of this year that a Cooper Institute for Aerobics Research study indicated, "Low fitness outranks fatness as a risk factor for mortality." By encouraging our children to participate in organized sports, we increase physical fitness and fight obesity.

A second benefit in the participation of organized sports is an increase in academic performance. The National Institute of Health Care Maintenance has highlighted "a recent largescale analysis reported by the California Department of Education [has shown] that the level of physical fitness attained by students was directly related to their performance on standardized achievement measures." When we encourage our children to participate in organized sports, we increase the ability for them to achieve academically.

A third benefit for young people who participate in organized sports is that they learn positive social development. Organized sports teach values of teamwork, fair play, and friendly competition. Success in organized sports is also a vital self-esteem builder in many children.

These three benefits have been widely discussed on the floor of the Senate, and we have acted to implement several programs designed to reduce obesity and increase fitness, educational standards and the social well-being of our children.

The fourth benefit to participation in organized youth sports, providing a safe place to play, is a topic that has not received as much attention as the first three. Nonetheless, it is no less important. Fewer kids are simply going outside to play, due to the attraction of TV, video games, and the Internet, combined with parents' safety concerns about letting children run around outside unsupervised. As a result, organized sports teams are an increasingly important source of safe physical activity in children. The American Academy of Pediatrics has stated, "In contrast to unstructured or free play, participation in organized sports provides a greater opportunity to develop rules specifically designed for health and safety."

One primary reason why organized sports provide such an opportunity for safe play is that non-profit, volunteer organizations establish rules to provide a safe place to play. These organizations are made up of professional people who are in the business of providing children a fun and safe avenue for athletic exercise. Organizations like the Boys and Girls Club, the National Council of Youth Sports, the National Federation of State High School Associations and others exist largely to establish rules in order to minimize the risk of injury our children face while participating in sports. No matter how well these organizations perform their work, however, boys and girls will be injured.

Over the last several years, more and more of these rule making bodies have become targets for lawsuits seeking to prove that the rule maker was negligent in making the rules of play. These lawsuits claim that had a different rule been in place, the injury would not have happened. Indeed, these suits place rule makers into a Catch-22. A child can be injured in almost any situation no matter how a rule is written. The result has been to have more and more lawsuits.

As a consequence, the insurance premiums of these organizations have risen dramatically over the past several years. In his testimony before the House Judiciary Committee this past July, Robert Kanaby the Executive Director of the National Federation of State High School Associations testified that: "Over the last three years, the annual liability insurance premiums for the National High School Federation have increased three-fold to about $1,000,000. We have been advised by experts that given our claims experience and the reluctance of insurers to offer such coverage to an organization 'serving 7,000,000 potential claimants,' the premiums will likely increase significantly in years to come. Since we operate on a total budget of about $9,000,000, such an increase would be, to put it mildly, problematical." The costs have increased to the point where it is possible that these organizations will cease from providing age appropriate rules and the safety of youth sports will decline.

Because of this problem, I am introducing today the Nonprofit Athletic Organization Protection Act of 2004. This legislation will eliminate lawsuits based on claims that a non-profit rulemaking body is liable for the physical injury when the rule was made by a properly licensed rulemaking body that has acted within the scope of its authority. Lawsuits may be maintained if the rule maker was grossly negligent or engaged in criminal or reckless misconduct. This reasonable legislation will help sports rule makers to do their job. If we do not pass this legislation, it is likely that rule makers will eventually close their doors since they will be unable to afford the insurance needed to provide a safe sporting environment.

No one who has participated in the debate surrounding this problem has disagreed that the current lawsuit culture needs reform. Instead, two concerns have arisen regarding the scope of the legislative remedy: first, that the remedy was overly broad preventing law suits against rule makers on other issues; second, that this legislation would prevent lawsuits against rule makers who are negligent.

To remedy these concerns, the legislation introduced today contains a provision that explicitly says that lawsuits involving "antitrust, labor, environmental, defamation, tortuous interference of contract law or civil rights law, or any other federal, state, or local law providing protection from discrimination" are not barred by this bill.

The additional provision would also provide no legal immunity from lawsuit if the rule maker has authority to determine coach eligibility. Additionally, the PROTECT Act passed last year, we authorized a pilot program that enabled the National Center for Missing and Exploited Children to do background checks on coaches who participate in certain programs. This program has been successful, weeding out many who would potentially harm our children. So much so that last Friday, by unanimous consent, Senators HATCH and BIDEN shepherded through an extension of this program for an additional 18 months with an aim of eventually making this program permanent.

As my colleagues know, I am a runner. I enjoy the activity and the positive effect that running and athletics have played in my life. I would hope that my nine grandchildren will be able to have an opportunity to participate in organized sports and that lawsuits against rule makers for allegedly faulty rules will not prevent these organizations from functioning properly. I encourage my colleagues to support passage of this legislation.

By Mr. CAMPBELL:

S. 2904. A bill to authorize the exchange of certain land in the State of Colorado; to the Committee on Energy and Natural Resources.

Mr. CAMPBELL. Mr. President, I am today introducing legislation to complete a small land exchange between the U.S. Forest Service, Bureau of Land Management and Pitkin County at the Ashcroft Townsite near Aspen, CO. This exchange is long overdue, as it has been over a decade since work on this proposal began.

I am very pleased to assist this particular land exchange because it will result in the Forest Service acquiring a piece of land known as the "Ryan Property", which is one of the most scenic properties in the entire Aspen area . . . and that's saying a lot!

I am personally familiar with the Ryan Property and its truly spectacular scenery, and would like to note that the Ryan Property was the training ground for the U.S. Army's famous 10th Mountain Division during World War II before the more well-known Camp Hale was built near Leadville.

The Ryan Property also has a series of extremely popular cross country skiing trails, which connect the trails on adjacent Forest Service lands, and lie adjacent to the heavily-used Cathedral Lake Trail and trailhead. This is a truly magnificent piece of land that my bill will convey into permanent public ownership.

The acquisition of these lands by the Forest Service will complete the Ashcroft Preservation Project, initiated by the Forest Service in 1980 to protect the scenic and historic beauty of the Ashcroft area.

As I indicated earlier, completion of this land exchange has not been without difficulty. Indeed, the exchange was first suggested by the Forest Service in 1992. In the year 2000, Pitkin County and the Aspen Valley Land Trust purchased the property, at the request of the Forest Service, to keep it from development until a land exchange could be completed.

Unfortunately, since that time, procedural difficulties, personnel changes, and changing priorities have hindered completion of the exchange. As well, various alternative exchange land packages have been discussed and agreed upon by the parties involved over the years.

Finally, this year, an agreement was reached between the Forest Service, BLM, and Pitkin County to go forward with a three-party exchange, and it is my intention to help them finish it. While this exchange will follow according to existing regulations, with my bill Congress will direct that it occur, so that the types of problems which have prevented its completion thus far will not delay it further.

Additionally, with the special provisions written into this legislation, upon completion of the exchange the County and Land Trust will actually be donating land value to the United States, which is a great benefit for the public.

Accordingly, I am introducing my legislation today in the hopes that it still might be able to see some action this fall. I note that the exchange has the support of a broad array of governmental and non-profit entities including Pitkin County, the City of Aspen, the Aspen Valley Land Trust, the Aspen Skiing Company, the Roaring Fork Conservancy, Ashcroft Ski Touring, Wilderness Workshop, Conservation Fund, and many others.

It is my feeling that this is exactly the type of consensus land conservation effort we should all be supporting, and hope for swift and successful passage of this legislation.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2904

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pitkin County Land Exchange Act of 2004".

SEC. 2. PURPOSE.

The purpose of this Act is to authorize, direct, expedite, and facilitate the exchange of land between the United States, Pitkin County, Colorado, and the Aspen Valley Land Trust.

SEC. 3. DEFINITIONS.

In this Act:

(1) ASPEN VALLEY LAND TRUST.—

(A) IN GENERAL.—The term "Aspen Valley Land Trust" means the Aspen Valley Land Trust, a nonprofit organization as described in section 501(c)(3) of the Internal Revenue Code of 1986.

(B) INCLUSIONS.—The term "Aspen Valley Land Trust" includes any successor, heir, or assign of the Aspen Valley Land Trust.

(2) COUNTY.—The term "County" means Pitkin County, a political subdivision of the State.

(3) FEDERAL LAND.—The term "Federal land" means—

(A) the approximately 5.5 acres of National Forest System land located in the County, as generally depicted on the map entitled "Ryan Land Exchange-Wildwood Parcel Conveyance to Pitkin County" and dated August 2004;

(B) the 12 parcels of National Forest System land located in the County totaling approximately 5.92 acres, as generally depicted on the map entitled "Ryan Land Exchange-Smuggler Mountain Patent Remnants-Conveyance to Pitkin County" and dated August 2004; and

(C) the approximately 40 acres of Bureau of Land management land located in the County, as generally depicted on the map entitled "Ryan Land Exchange-Crystal River Parcel Conveyance to Pitkin County" and dated August 2004.

(4) NON-FEDERAL LAND.—The term "non-Federal land" means—

(A) the approximately 35 acres of non-Federal land in the County, as generally depicted on the map entitled "Ryan Land Exchange-Ryan Property Conveyance to Forest Service" and dated August 2004; and

(B) the approximately 18.2 acres of non-Federal land located on Smuggler Mountain in the County, as generally depicted on the map entitled "Ryan Land Exchange-Smuggler Mountain-Grand Turk and Pontiac Claims Conveyance to Forest Service".

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(6) STATE.—The term "State" means the State of Colorado.

SEC. 4. LAND EXCHANGE.

(a) IN GENERAL.—If the County offers to convey to the United States title to the non-Federal land that is acceptable to the Secretary, the Secretary and the Secretary of the Interior shall—

(1) accept the offer; and

(2) on receipt of acceptable title to the non-Federal land, simultaneously convey to the County, or at the request of the County, to the Aspen Valley Land Trust, all right, title, and interest of the United States in and to the Federal land, subject to all valid existing rights and encumbrances.

(b) TIMING.—

(1) IN GENERAL.—Except as provided in paragraph (2), it is the intent of Congress that the land exchange directed by this Act shall be completed not later than 1 year after the date of enactment of this Act.

(2) EXCEPTION.—The Secretary, the Secretary of the Interior, and the County may agree to extend the deadline specified in paragraph (1).

SEC. 5. EXCHANGE TERMS AND CONDITIONS.

(a) EQUAL VALUE EXCHANGE.—The value of the Federal land and non-Federal land to be exchanged under this Act—

(1) shall be equal; or

(2) shall be made equal in accordance with subsection (c).

(b) APPRAISALS.—

(1) IN GENERAL.—The value of the Federal land and non-Federal land shall be determined by the Secretary through appraisals conducted in accordance with—

(A) the Uniform Appraisal Standards for Federal Land Acquisitions;

(B) the Uniform Standards of Professional Appraisal Practice; and

(C) Forest Service appraisal instructions.

(2) VALUE OF CERTAIN FEDERAL LAND.—In conducting the appraisal of the parcel of Federal land described in section 3(3)(C), the appraiser shall not consider the easement required for that parcel under subsection (d)(1) for purposes of determining the value of that parcel.

(c) EQUALIZATION OF VALUES.—

(1) SURPLUS OF NON-FEDERAL LAND.—If the final appraised value of the non-Federal land exceeds the final appraised value of the Federal land, the County shall donate to the United States the excess value of the non-Federal land, which shall be considered to be a donation for all purposes of law.

(2) SURPLUS OF FEDERAL LAND.—

(A) IN GENERAL.—If the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land, the value of the Federal land and non-Federal land may be equalized by the County—

(i) making a cash equalization payment to the Secretary;

(ii) conveying to the Secretary certain land located in the County, comprising approximately 160 acres, as generally depicted on the map entitled "Sellar Park Parcel" and dated August 2004; or

(iii) using a combination of the methods described in clauses (i) and (ii), as the Secretary and the County determine to be appropriate.

(B) DISPOSITION AND USE OF PROCEEDS.—

(i) DISPOSITION OF PROCEEDS.—Any cash equalization payment received by the Secretary under subparagraph (A)(i) shall be deposited in the fund established by Public Law 90-171 (commonly known as the "Sisk Act") (16 U.S.C. 484a).

(ii) USE OF PROCEEDS.—Amounts deposited under clause (i) shall be available to the Secretary, without further appropriation, for the acquisition of land or an interest in land in the State for addition to the National Forest System.

(d) CONDITIONS ON CERTAIN CONVEYANCES.—

(1) CONDITIONS ON CONVEYANCE OF CRYSTAL RIVER PARCEL.—

(A) IN GENERAL.—The Secretary of the Interior shall not convey to the County the parcel of land described in section 3(3)(C) until the County grants to the Aspen Valley Land Trust, the Roaring Fork Conservancy, or any other entity acceptable to the Secretary of the Interior and the County, a permanent conservation easement to the parcel, the terms of which—

(i)(I) provide public access to the parcel; and

(II) require that the parcel shall be used only for recreational, fish and wildlife conservation, and open space purposes; and

(ii) are acceptable to the Secretary of the Interior.

(B) REVERSION.—In the deed of conveyance that conveys the parcel of land described in section 3(3)(C) to the County, the Secretary of the Interior shall provide that title to the parcel shall revert to the United States at no cost to the United States if—

(i) the parcel is used for a purpose other than that described in subparagraph (A)(i)(II); or

(ii) the County or the entity holding the conservation easement elect to discontinue administering the parcel.

(2) CONDITIONS ON CONVEYANCE OF WILDWOOD PARCEL.—

(A) IN GENERAL.—Before the Secretary conveys to the County the parcel described in section 3(3)(A), the Secretary shall require the County, at the expense of the County, to transmit to the Secretary a quitclaim deed to the parcel that permanently relinquishes any claim that, before the date of introduction of this Act, was brought against the United States asserting the right, title, or interest of the claimant in and to the parcel.

(B) RESERVATION OF EASEMENT.—In the deed of conveyance of the parcel described in section 3(3)(A) to the County, or at request of the County, to the Aspen Valley Land Trust, the Secretary shall, as determined to be appropriate by the Secretary in consultation with the County, reserve to the United States a permanent easement to the parcel for the location, construction, and public use of the East of Aspen Trail.

SEC. 6. MISCELLANEOUS PROVISIONS.

(a) INCORPORATION, MANAGEMENT, AND STATUS OF ACQUIRED LAND.—

(1) IN GENERAL.—Land acquired by the Secretary under this Act shall become part of the White River National Forest.

(2) MANAGEMENT.—On acquisition, land acquired by the Secretary under this Act shall be administered in accordance with the laws (including rules and regulations) generally applicable to the National Forest System.

(3) LAND AND WATER CONSERVATION FUND.—For purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*-9), the boundaries of the White River National Forest shall be deemed to be the boundaries of the White River National Forest as of January 1, 1965.

(b) REVOCATION OF ORDERS AND WITHDRAWAL.—

(1) REVOCATION OF ORDERS.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(2) WITHDRAWAL OF FEDERAL LAND.—On the date of enactment of this Act, if not already withdrawn or segregated from entry and appropriation under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.), the Federal land is withdrawn, subject to valid existing rights, until the date of the conveyance of the Federal land to the County.

(3) WITHDRAWAL OF NON-FEDERAL LAND.—On acquisition of the non-Federal land by the Secretary, the non-Federal land is permanently withdrawn from all forms of appropriation and disposition under the public land laws (including the mining and mineral leasing laws) and the Geothermal Steam Act of 1970 (30 U.S.C. 1001 et seq.).

(c) BOUNDARY ADJUSTMENTS.—The Secretary with jurisdiction over the land and the County may agree to—

(1) minor adjustments to the boundaries of the Federal land and non-Federal land; and

(2) modifications or deletions of parcels and mining claim remnants of Federal land or non-Federal land to be exchanged on Smuggler Mountain.

(d) MAP.—If there is a discrepancy between a map, acreage estimate, and legal or other description of the land to be exchanged under this Act, the map shall prevail unless the Secretary with jurisdiction over the land and the County agree otherwise.

By Mr. ENZI (for himself, Mrs. CLINTON, Mr. HAGEL, and Mr. SCHUMER):

S. 2905. A bill to protect members of the Armed Forces from unscrupulous practices regarding sales of insurance, financial, and investment products; to the Committee on Banking, Housing, and Urban Affairs.

Mr. ENZI. Mr. President, I rise today with my colleague from New York to introduce legislation to stop the sale of questionable financial products through hard sales tactics to our military personnel and their families. Over the course of recent months, it has become increasingly clear that the lack of clear lines in the oversight of insurance and securities sales on military bases has allowed certain individuals to push high cost financial products on unknowing military personnel. This practice must be stopped now. Our soldiers and their families deserve much better than that especially since they are putting themselves on the front line day after day for our freedom.

The bill that we introduce today will halt completely the sale of a mutual fund-like product that charges a 50-percent sales commission against the first year of contributions by a military family. Currently, there are hundreds of mutual fund products available on the market that charge less than 6 percent. The excessive sales charges of these contractually based financial products make them susceptible to abusive and misleading sales practices. Unfortunately, a small group of individuals target these products almost entirely to military families.

In addition, certain life insurance products are being offered to our service members disguised and marketed as investment products. These products provide very low death benefits while charging very high premiums, especially in the first few years. Many of these products are unsuitable for the insurance and investment needs of military families.

One of the major problems with the sales of insurance products on military bases is whether State insurance regulators or military base commanders are responsible for the oversight of sales agents. Typically, military base commanders will bar certain sales agents from a military base only to have the sales agents show up at other military facilities. Since there is no record of the bar, State insurance regulators have been unable to have adequate oversight of the individuals. The bill that we introduce today will rectify that problem. It will state clearly that State insurance regulators have jurisdiction of the sale of insurance products on military bases.

In addition, the bill will urge State insurance regulators to work with the Department of Defense to develop life insurance product standards and disclosures. The Department of Defense also will keep a list of individuals who are barred or banned from military bases due to abuse or unscrupulous sales tactics and to share that list with Federal and State insurance, securities and other relevant regulators.

Finally, the bill that we are introducing today will protect our military families by preventing investment companies to issue periodic payment plan certificates, the mutual fund-like investment product with extremely high first-year costs. This type of financial instrument has been criticized by securities regulators since the late 1960s.

We believe that this legislation is but the first step in helping our military families. Last year, I worked with Senators SHELBY, SARBANES, AKAKA and STABENOW to develop financial literacy initiatives for the Federal Government and for students. My colleague from New York and I will be working next year to strengthen the financial literacy programs for military personnel. By providing military families with the tools to analyze and compare financial products, we will give them an advantage over sales agents who attempt to sell high cost financial and insurance products ill-suited to military life.

It should be noted that there are many upstanding financial and insurance companies that sell very worthwhile investment and insurance products to military families. They should be applauded for the fine job that they do in helping our families. This bill is targeted at the few who abuse the system and prey upon our military in times when our country needs them the most.

Last night, a similar bipartisan bill passed the House of Representatives by an overwhelming vote of 396-2. Congress is fully aware of the dangers faced by our military personnel in keeping our country safe from harm. Likewise, we must do all that we can to arm our soldiers when they face the dangers of planning for their financial futures.

I urge my colleagues to take up this bill immediately so that we can help our men and women in the military and their families.

By Mr. BINGAMAN (for himself, Ms. MIKULSKI, Mr. GRAHAM of Florida, Mr. CORZINE, Mr. HARKIN, Mr. DURBIN, Mr. FEINGOLD, Mr. ROCKEFELLER, and Mr. KOHL):

S. 2906. A bill to amend title XVIII of the Social Security Act to provide for reductions in the medicare part B premium through elimination of certain overpayments to Medicare Advantage organizations; to the Committee on Finance.

Mr. BINGAMAN. Mr. President, on a late Friday afternoon back on September 3, 2004, the Bush Administration announced, just before the Labor Day holiday weekend, that there will be a 17.4 percent increase in the Medicare Part B premium for seniors and people with disabilities. The increase would raise premiums for seniors and people with disabilities from $66.60 per month to $78.20 per month and represents the largest dollar increase in the history of the Medicare program.

In fairness, the premium is set in statute to reflect 25 percent of Medicare Part B spending. However, a large share of the increase is due directly to provisions that were included in the Medicare prescription drug bill that passed last year that did far more to help HMOs, insurance companies, and drug companies than it did for Medicare beneficiaries. In fact, because of this formula, the dramatic increase in payments made to HMOs and insurance companies also has the very unfortunate effect of increasing the Medicare premium, even for seniors and people with disabilities that either do not have access to an HMO or choose not to enroll in an HMO.

As a result, today I am introducing legislation, the "Affordability in Medicare Premiums Act," with Senators MIKULSKI, GRAHAM of Florida, CORZINE, HARKIN, DURBIN, FEINGOLD, ROCKEFELLER, and KOHL, that would reduce the 17.4 percent premium increase announced by the Administration and instill greater fairness in the Medicare premium in the future. It would do so in three ways.

First, the bill recognizes that one of the contributing factors in the dramatic increase in the Medicare premium was the enactment of provider and managed care plan payment increases in the Medicare drug bill. In the case of payments targeted exclusively to managed care plans, the Congressional Research Service has estimated that payments to HMOs will increase by 17.4 percent between 2004 and 2005. The CMS Office of the Actuary estimates that the vast majority of the increase comes from payments to HMOs over and above that made to traditional Medicare for either preventive services or in the physician payment adjustment.

As a result of these targeted increases in payments just to HMOs, Dr. Brian Biles, with George Washington University and the Commonwealth Fund, has estimated that HMOs will be paid $2.7 billion, or 7.8 percent, in excess of traditional, fee-for-service Medicare in 2005. Moreover, the Medicare Payment Advisory Commission, or MedPAC, has found that in almost one-third of the counties in the United States will have payments to HMOs that will exceed that of traditional Medicare by more than 20 percent.

I voted against the Medicare prescription drug bill, in part due to the overpayments made to HMOs in that legislation. If the rhetoric behind private insurance plans is that they will modernize and save Medicare money, it certainly makes little sense to overpay them by what the CMS Office of the Actuary estimates to be $50 billion over the next 10 years. That is why I have cosponsored legislation to eliminate that overpayment.

In the meantime, for the 89 percent of Medicare enrollees that choose not to enroll or do not even have access to a Medicare HMO, they certainly should not have to pay 25 percent of the Part B costs of the overpayment or excessive subsidies to managed care plans through what is now called the Medicare Advantage program, as they are required to now.

Consequently, our legislation, the "Affordability in Medicare Premiums Act," would eliminate that part of the Medicare premium that is attributable to the costs associated with these overpayments to HMOs. Just as somebody should not have to pay the premium of another for choosing a more costly health plan, our Nation's senior citizens or people with disabilities should not have to pay higher premiums because the Administration and Congress choose to overpay HMOs in the Medicare program.

Unfortunately, as it works now, if more Medicare beneficiaries decided this year to enroll in Medicare HMOs, then Medicare spending increases, on average, by at least 8.4 percent for each new managed care enrollee. With that increased cost, all Medicare beneficiaries, even those that neither have access to nor choose not to enroll in an HMO must pay higher premiums.

Second, the bill recognizes that HMOs are also overpaid by Medicare even further due to the Administration's decision to not appropriately "risk adjust" payments to health plans. As MedPAC explained in its March 2004 Report to the Congress, "From the time plans were first paid based on capitation, the program has adjusted the capitation rates to reflect expected health care spending differences among plans based on the characteristics of their enrollees." In 1997, Congress required the Secretary to improve the risk adjustment system. However, in implementation of the new system, which is phased in to cushion the impact on health plans, the Centers for Medicare and Medicaid Services, or CMS, went further by estimating the impact of the new system on aggregate plan payments and has restored the difference.

MedPAC has argued against this and points out that without accurate adjustments it results in even further inequity between traditional Medicaid and private health plans. As MedPAC says, "If plans in general attract healthier-than-average beneficiaries, the Medicare program pays more than these same beneficiaries would cost in the [fee-for-service] program."

Dr. Biles estimates that the CMS policy will add another $1.4 billion, or 4.0 percent, to health plan overpayments. The CMS Office of the Actuary estimates that if this policy continues over the next 10 years that it will cost the Medicare program an additional $54 billion in overpayments. HMOs should not reap a significant financial windfall by avoiding serving Medicare beneficiaries who have greater health care needs than average. Moreover, once again, those that do not have access to or choose not to enroll in a Medicare HMO should not be required to pay higher premiums for these overpayments.

Therefore, the legislation requires CMS to risk adjust health plan payments and dictates that these Part B savings be redirected into reducing the Medicare Part B premiums for all Medicare beneficiaries. Furthermore, Part A savings would be applied to reduce the federal deficit and extend the solvency of the Medicare Trust Fund.

And finally, our bill repeals the $10 billion that was established in the Medicare drug bill to allow the Secretary to pay health plans for what is called a "health plan stabilization fund." This fund truly serves no other purpose than to further increase overpayments and subsidies to health plans. Savings in Medicare Part B from the repeal of the provision are also redirected into reducing Medicare premiums for all Medicare beneficiaries. Once again, Part A savings would be applied to reduce the federal deficit and further extend the solvency of the Medicare Trust Fund.

If nothing is done in the next two months, this premium increase will result in a cumulative increase in premiums of 56.4 percent between 2001 and 2005. That is unacceptable to our nation's senior citizens and disabled citizens who often live on fixed incomes. Rather than hiding this fact, as the Administration has sought to do, we urge them to do something about it by supporting this critical and urgent legislation.

The "Affordability in Medicare Premiums Act" is all about priorities. For the 89 percent of Medicare beneficiaries that are not enrolled in an HMO, they should not have to pay added premiums as a result of an estimated $114 billion in overpayments to HMOs over the next 10 years. We have chosen to help senior citizens and people with disabilities living on fixed incomes over HMOs. It is a matter of simple fairness.

Dr. Biles estimates that the average premium would decline for Medicare beneficiaries by at least $5 per month if our legislation is passed.

I would also underscore that by requiring risk adjustment and repealing the $10 billion PPO fund, about half of those savings would be Medicare Trust Fund or Part A dollars. As a result, the legislation has the effect of both extending the solvency of the Medicare Trust Fund and also saving taxpayers over $30 billion in coming years.

And finally, the Medicaid program would also save hundreds of millions of dollars over the next ten years due to the fact that Medicaid pays the cost-sharing and premiums for low-income senior citizens and the disabled who are both enrolled in Medicare and Medicaid. The Federal Funds Information for States, or FFIS, has estimated that the Medicare Part B premium increase will cost the Medicaid program over $800 million in 2005. By reducing the Medicare premium, the Medicaid program—and thereby, both federal and state governments and taxpayers—will see spending decline in this area.

I would like to thank Senators MIKULSKI, GRAHAM of Florida, CORZINE, HARKIN, DURBIN, FEINGOLD, ROCKEFELLER, and KOHL for working with me on introducing this important legislation on behalf of our nation's seniors and disabled enrolled in Medicare.

I ask for unanimous consent that the Fact Sheet supporting the legislation and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AFFORDABILITY IN MEDICARE PREMIUMS ACT

Senators Jeff Bingaman, Barbara Mikulski, Bob Graham, Jon Corzine, Tom Harkin, Russ Feingold, Jay Rockefeller, and Herb Kohl are introducing legislation entitled the "Affordability in Medicare Premiums Act." The bill would substantially reduce the growth in the Medicare Part B premium scheduled to take place in 2005 and instill greater fairness in the Medicare Part B premium in the future. It would do so in a fiscally responsible manner while also managing to extend the solvency of the Medicare Part A Trust Fund and reduce the Federal deficit.

BACKGROUND

On September 3, 2004, the Bush Administration announced that the Medicare Part B premium will rise from $66.60 per month in 2004 to $78.20 per month in 2005—a 17.4 percent increase. This $11.60 monthly or $138 a year increase for Medicare enrollees represents the single largest in the history of the Medicare program.

One of the major factors contributing to the dramatic increase was the enactment of provider and managed care plan payment increases in the Medicare Modernization Act. In the case of payments to managed care plans, the Centers for Medicare and Medicaid Services (CMS) Office of the Actuary estimates that payments will increase by 14.4 percent between 2004 and 2005. This will occur on a base payment to HMOs that was already estimated by the Commonwealth Fund to exceed fee-for-service costs by 8.4 percent or $552 per Medicare Advantage plan enrollee in 2004.

Since the increase in payments to Medicare Advantage health plans attributable to Part B spending is paid for by increased premiums for all Medicare beneficiaries, the result is that senior citizens and people with disabilities that are not enrolled in Medicare HMOs have been and will increasingly be cross-subsidizing overpayments to these Medicare HMOs.

REDUCES PART B PREMIUMS FOR THE 89 PERCENT OF THOSE NOT ENROLLED IN MEDICARE HMOS

The legislation would eliminate this cross-subsidization by making sure that the 89 percent of Medicare enrollees that currently choose not to enroll or do not have access to a Medicare HMO are no longer paying for the overpayments to these plans. The legislation would achieve this by requiring CMS to estimate the Part B premium for Medicare beneficiaries at what the cost would be if HMOs were paid at 100% of the cost of traditional Medicare fee-for-service.

In short, rather than subsidizing HMOs, the legislation allows seniors and people with disabilities—many on fixed incomes and with large out-of-pocket costs (an estimated $3,455 for senior citizens enrolled in Medicare)—to have their Part B premium reduced to use these dollars on their own health care rather than for overpayments to HMOs that they have chosen not to enroll in or to which they do not even have access.

For example, according to the Congressional Research Service (CRS), as of March 2003, the following states had either no enrollment or less than 5 percent of their Medicare beneficiaries enrolled in managed care plans: Montana, Wyoming, Utah, North Dakota, South Dakota, Nebraska, Iowa, Wisconsin, Michigan, Illinois, Indiana, Kentucky, Arkansas, Mississippi, Georgia, North Carolina, Virginia, West Virginia, Maryland, Delaware, New Jersey, New Hampshire, Vermont, Maine, and Alaska.

As the Commonwealth Fund has found, "Over 40 percent of Medicare beneficiaries, particularly those living in rural areas, do not have access to a Medicare Advantage plan. Nor do all Medicare beneficiaries in urban areas have their physicians in Medicare Advantage plan networks." As a result, virtually all of the Medicare beneficiaries in these states, often with no access to a Medicare HMO at all, are paying for the overpayment to managed care plans operating in other areas in the country.

Furthermore, even for states with larger enrollment in Medicare HMOs, such as California, Massachusetts, New York, New Mexico, or Rhode Island, it makes little sense for those not enrolled in managed care plans to pay the rapidly growing Part B premium due to HMO overpayments that were already occurring in Medicare but are now scheduled to increase much more rapidly as a result of the Medicare Modernization Act.

IMPROVES HEALTH PLAN PAYMENTS AND FURTHER REDUCING PREMIUMS FOR ALL MEDICARE ENROLLEES

The bill further recognizes that HMOs are overpaid by Medicare in two ways—first, by the direct overpayment in legislation, and second, by the failure of the Bush Administration to appropriately "risk adjust" payments to health plans based on the fact that health plans attract, on average, healthier people than those in traditional Medicare. Congress passed legislation in 1997 as part of the Balanced Budget Act that required payments to plans to be adjusted or "risk adjusted" based on the health of their enrollees. However, CMS has interpreted the law to allow it to risk adjust payments in a "budget neutral" manner by redistributing plan overpayments among all plans.

The CMS Office of the Actuary estimates that the Bush Administration's failure to adjust for the health of plan enrollees led to an overpayment of $3 billion in 2004 and would lead to another $54 billion in overpayments if payments are not risk adjusted through 2014.

Therefore, the legislation requires CMS to risk adjust health plan payments in a manner that saves the Medicare program these funds. Furthermore, those savings will be further plowed back into reducing the Medicare Part B premium for all Medicare beneficiaries, including those enrolled in Medicare Advantage plans.

And finally, it repeals the $10 billion that was established in the Medicare Modernization Act that allows the Secretary to pay PPOs for what is called a "health plan stabilization fund." This fund serves no purpose other than to increase overpayments to PPOs over and above what Medicare Advantage plans already receive. Savings from the repeal of this provision are also plowed back into reducing the Medicare Part B premium for all Medicare beneficiaries, including those enrolled in Medicare Advantage plans.

SAVES THE MEDICAID PROGRAM FUNDING AS WELL.

The Federal Funds Information for States has estimated that the Medicare Part B premium increase will cost states by over $800 million in CY 2005. This legislation would significantly reduce that impact.

ENSURES LEGISLATION IS FISCALLY RESPONSIBLE MANNER, EXTENDS THE SOLVENCY OF THE MEDICARE PART A TRUST FUND, AND REDUCES THE FEDERAL BUDGET DEFICIT

The savings from these two changes in payments to HMOs are used to reduce the Medicare Part B premiums for seniors citizens and people with disabilities in a fiscally responsible manner while also extending the solvency of the Medicare Part A Trust Fund, reducing spending in the Medicaid program, and reducing the federal deficit.

S. 2906

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Affordability in Medicare Premiums Act of 2004".

SEC. 2. REDUCTION OF MEDICARE PART B PREMIUM FOR INDIVIDUALS NOT ENROLLED IN A MEDICARE ADVANTAGE PLAN.

Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)) is amended—

(1) in paragraph (3), in the first sentence, by striking "The Secretary" and inserting "Subject to paragraph (5), the Secretary"; and

(2) by adding at the end the following new paragraph:

"(5)(A) For each year (beginning with 2005), the Secretary shall reduce the monthly premium rate determined under paragraph (3) for each month in the year for individuals who are not enrolled in a Medicare Advantage plan (including such individuals subject to an increased premium under subsection (b) or (i)) so that the aggregate amount of such reductions in the year is equal to the aggregate amount of reduced expenditures from the Federal Supplementary Medicare Insurance Trust Fund that the Secretary estimates would result in the year if the annual Medicare+Choice capitation rate for the year was equal to the amount specified under subparagraph (D) of section 1853(c)(1), and not subparagraph (A), (B), or (C) of such section.

"(B) In order to carry out subsections (a)(1) and (b)(1) of section 1840, the Secretary shall transmit to the Commissioner of Social Security and the Railroad Retirement Board by the beginning of each year (beginning with 2005), such information determined appropriate by the Secretary, in consultation with the Commissioner of Social Security and the Railroad Retirement Board, regarding the amount of the monthly premium rate determined under paragraph (3) for individuals after the application of subparagraph (A).".

SEC. 3. FUNDING REDUCTIONS IN THE MEDICARE PART B PREMIUM THROUGH REDUCTIONS IN PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.

Section 1839(a) of the Social Security Act (42 U.S.C. 1395r(a)), as amended by section 2, is amended—

(1) in paragraph (3), in the first sentence, by striking "paragraph (5)" and inserting "paragraphs (5) and (6)"; and

(2) by adding at the end the following new paragraph:

"(6) For each year (beginning with 2005), the Secretary shall reduce the monthly premium rate determined under paragraph (3) for each month in the year for each individual enrolled under this part (including such an individual subject to an increased premium under subsection (b) or (i)) so that the aggregate amount of such reductions in the year is equal to an amount equal to—

"(A) the aggregate amount of reduced expenditures from the Federal Supplementary Medicare Insurance Trust Fund in the year that the Secretary estimates will result from the provisions of, and the amendments made by, sections 4 and 5 of the Affordability in Medicare Premiums Act of 2004; minus

"(B) the aggregate amount of reductions in the monthly premium rate in the year pursuant to paragraph (5)(A).".

SEC. 4. APPLICATION OF RISK ADJUSTMENT REFLECTING CHARACTERISTICS FOR THE ENTIRE MEDICARE POPULATION IN PAYMENTS TO MEDICARE ADVANTAGE ORGANIZATIONS.

Effective January 1, 2005, in applying risk adjustment factors to payments to organizations under section 1853 of the Social Security Act (42 U.S.C. 1395w–23), the Secretary of Health and Human Services shall ensure that payments to such organizations are adjusted based on such factors to ensure that the health status of the enrollee is reflected in such adjusted payments, including adjusting for the difference between the health status of the enrollee and individuals enrolled under the original medicare fee-for-service program under parts A and B of title XVIII of such Act. Payments to such organizations must, in aggregate, reflect such differences.

SEC. 5. ELIMINATION OF MA REGIONAL PLAN STABILIZATION FUND (SLUSH FUND).

Subsection (e) of section 1858 of the Social Security Act (42 U.S.C. 1395w–27a), as added by section 221(c) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108–173), is repealed.

Ms. MIKULSKI. Mr. President, I rise today to join my colleagues in introducing the Affordability in Medicare Premiums Act of 2004. This bill would protect seniors against the outrageous increases in their Medicare costs. It does this by preventing HMOs from taking money out of the pockets of seniors.

Health care costs are skyrocketing, and seniors are paying a greater share out of their pockets each year. Medicare premiums are on the rise. Prescription drug costs are shooting through the roof. Seniors are facing higher co-pays and deductibles for doctor visits, and hospital and skilled nursing home visits. While seniors are paying more and more, the administration has just announced the largest increase in Medicare premiums in the history of Medicare.

Just last year this administration supported a Medicare benefit that provides seniors only a hollow promise for a prescription drug benefit. This new benefit will force over 2 million seniors to lose their drug coverage, coerce seniors into HMOs, while doing nothing to stop the soaring cost of prescription drugs.

Now this administration announces a 17.4 percent increase in Part B premiums. That's an extra $11.60 out of a seniors pocket each month. Seniors are falling further and further behind, while their Medicare premiums are getting larger, and their Social Security barely keeps up with inflation. Our seniors are struggling to buy the basics like food, clothing and other simple necessities. And that's not okay.

I ran the numbers and here's what I found. Medicare Part B insurance premiums are rising faster and faster every year. In 2003, they rose 8.7 percent. This year, Medicare Part B premiums rose by 13.5 percent. Next year these premiums will rise by 17.4 percent, which is the biggest increase in Medicare history.

In contrast, Social Security cost of living adjustments (COLA's) rose by a mere 1.4 percent in 2003; and 2.1 percent in 2004; and are projected to rise only about 3 percent for 2005. So, there's less and less of a senior's Social Security check to make ends meet.

Medicare provides health insurance coverage to 41 million seniors and disabled. Roughly 570,000 Marylanders rely on Medicare. These benefits need to be stable and secure. That's what I'm fighting for.

I believe honor thy mother and father is not just a good commandment to live by, it is good public policy to govern by. This bill would eliminate the 17.4 percent increase in premiums, which saves seniors $11.60/month. This bill would also lower premiums paid by seniors below today's rate of $66.00 per month by using the savings from stopping subsidies to HMO's. My bill is fully paid for by stopping the overpayments to HMOs. I do not believe that HMO's should not get higher reimbursements to serve seniors than traditional Medicare. My bill would also eliminate the $10 billion HMO slush fund for insurance companies to participate in the new Medicare drug plan. This would save a senior at least $115 next year to a senior on a fixed income. This is a small fortune.

This bill is not an answer to skyrocketing health care costs, but it is a stopgap measure. It will give seniors a little breathing room.

I am working hard on several bills to fix the Prescription Drug Benefit that was passed last year, including legislation that protects seniors Social Security COLA's; legislation that provides a real drug benefit for seniors; and, legislation that allow the government to negotiate with drug companies to lower the cost of prescription drugs. I am fighting to end the giveaways to insurance companies, and use those savings to improve Medicare.

Congress created Medicare to provide a safety net for seniors. It is time to stop putting money in the pockets of HMOs and use that money to provide quality care for seniors. This bill is a good first step down that road, but a you can see, it is not the only step. Seniors cannot afford 17 percent increases in their Medicare premiums.

I urge my colleagues to join me in expressing support for this bill.

By Mr. DODD (for himself and Mr. KENNEDY):

S. 2907. A bill to amend the Public Health Service Act to improve the quality and efficiency of health care delivery through improvements in health care information technology, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

Mr. DODD. Mr. President, today I am pleased to announce the introduction of the Information Technology for Health Care Quality Act. Let me thank Senator KENNEDY for joining me in introducing this bill. By encouraging health care providers to invest in information technology (IT), this legislation has the potential to bring skyrocketing health care costs under control and improve the overall quality of care in our nation.

We are facing a health care crisis in our country. The Census Bureau recently released a report showing that 45 million Americans were without health insurance in 2003—an increase of 1.4 million over 2002. In many respects, we have the greatest health system in the world, but far too many Americans are unable to take advantage of this system.

The number of uninsured continues to rise because the cost of health care continues to soar. Year after year, health care costs increase by double-digit percentages. The cost of employer-sponsored coverage increased by 11 percent this year, after a 14 percent increase in 2003. Employers are dropping health care coverage because they can no longer afford to foot the bill.

One of the ways to provide health care coverage to every American is to reign in health care costs. And expanding the use of IT in health care is the best tool we have to control costs. Studies have shown that as much as one-third of health care spending is for redundant or inappropriate care. Estimates suggest that up to 14 percent of laboratory tests and 11 percent of medication usage are unnecessary. Finally, and perhaps most disturbingly, we know that it takes, on average, 17 years for evidence to be incorporated into clinical practice. Along these same lines, a recent study showed that patients receive the best evidence-based treatment only about half the time.

Significant cost-savings will undoubtedly be realized simply by moving away from a paper-based system, where patient charts and test results are easily lost or misplaced, to an electronic system where data is easily stored, transferred from location to location, and retrieved at any time. With health IT, physicians will have their patients' medical information, at their fingertips. A physician will no longer have to take another set of X-Rays because the first set was misplaced, or order a test that the patient had six months ago in another hospital because she is unaware that the test ever took place. The potential for cost-savings from simply eliminating redundancies and unnecessary tests, and reducing administrative and transaction costs, is substantial.

Of course, when we consider the improved quality of care and patient safety that will result from wider adoption of health IT, the impact on cost is even greater. For example, IT can provide decision support to ensure that physicians are aware of the most up-to-date, evidence-based best practices regarding a specific disease or condition, which will reduce expensive hospitalizations. Given all of these benefits, estimates suggest that Electronic Health Records (EHRs) alone could save more than $100 billion each year. The full benefits of IT could be multiple hundreds of billions annually. Such a significant reduction in health care costs would allow us to provide coverage to millions of uninsured Americans.

The benefits of IT go beyond economics. I am sure that all of my colleagues are familiar with the Institute of Medicine (IOM) estimate that up to 98,000 Americans die each year as a result of medical errors. A RAND Corporation study from last year showed that, on average, patients receive the recommended care for certain widespread chronic conditions only half of the time. That is an astonishing figure. To put it in a slightly different way, for many of the health conditions with which physicians should be most familiar, half of all patients are essentially being treated incorrectly.

Most experts in the field of patient safety and health care quality, including the IOM, agree that improving IT is one of the crucial steps towards safer and better health care. By providing physicians with access to patients' complete medical history, as well as electronic cues to help them make the correct treatment decisions, IT has the potential to significantly impact the care that Americans receive. It is impossible to put a value on the potential savings in human lives that would undoubtedly result from a nationwide investment in health care information technology.

It might seem counterintuitive that we can realize tremendous cost savings while, at the same time improving care for patients. But in fact, improving patient care is essential to reducing costs. IT is the key to unlocking the door—it has the potential to lead to improvements in care and efficiency that will save patients' lives, reduce costs, and reduce the number of uninsured.

Unfortunately, despite the impact that IT can have on cost, efficiency, patient safety, and health care quality, most health care providers have not yet begun to invest in new technologies. The use of IT in most hospitals and doctors' offices lags far behind almost every other sphere of society. The vast majority of written work, such as patient charts and prescriptions, is still done using pen and paper. This leads to mistakes, higher costs, reduced quality of care, and in the most tragic cases, death.

There is no question in my mind that the Federal government has a significant role to play in expanding investment in health IT. The legislation that I am introducing today defines that role. First, this bill would establish Federal leadership in defining a National Health Information Infrastructure (NHII) and adopting health IT standards. While I am pleased that the administration has already appointed a National Coordinator for Health Information Technology, I believe that the authority given to the Coordinator and the resources at his disposal are not equal to the enormity of his task. That is why my legislation creates an office in the White House, the Office of Health Information Technology, to oversee all of the Federal Government's activities in the area of health IT, and to create and implement a national strategy to expand the adoption of IT in health care.

This office would also be responsible for leading a collaborative effort between the public and private sectors to develop technical standards for health IT. These standards will ensure that health care information can be shared between providers, so that a family moving from Connecticut to California will not have to leave their medical history behind. At the same time, this bill would ensure that the adopted standards protect the privacy of patient records. While the creation of portable electronic health records is an important goal, privacy and confidentiality must not be sacrificed.

This legislation would also provide financial assistance to individual health care providers to stimulate investment in IT, and to communities to help them set up interoperable IT infrastructures at the local level, often referred to as Local Health Information Infrastructures—LHIIs. IT requires a huge capital investment. Many providers, especially small doctors offices, and safety-net and rural hospitals and health centers, simply cannot afford to make the type of investment that is needed.

Finally, this legislation would provide for the development of a standard set of health care quality measures. The creation of these measures is critical to better understanding how our health care system is performing, and where we need to focus our efforts to improve the quality of care. IT has the potential to drastically improve our ability to capture these quality measures. All recipients of Federal funding under this bill would be required to regularly report on these measures, as well as the impact that IT is having on health care quality, efficiency, and cost savings.

The establishment of standard quality measures is also the first step in moving our nation towards a system where payment for health care is more appropriately aligned—a system in which health care providers are paid not simply for the volume of patients that they treat, but for the quality of care that they deliver. To this end, my legislation would require the Secretary of Health and Human Services to report to Congress on possible changes to Federal reimbursement and payment structures that would encourage the adoption of IT to improve health care quality and patient safety.

It is time for our country to make a concerted effort to bring the health care sector into the 21st century. We must invest in health IT systems, and we must begin to do so immediately. The number of uninsured, the skyrocketing cost of care, and the number of medical errors should all serve as a wake-up call. We have a tool at our disposal to address all of these problems, and there is no more time to waste. I urge my colleagues to support this legislation.

By Mr. SPECTER (for himself, Mrs. FEINSTEIN, Mr. ENSIGN, Ms. CANTWELL, Mr. DEWINE, and Mr. LEAHY):

S. 2908. A bill to amend title 18, United States Code, to strengthen prohibitions against animal fighting, and for other purposes; to the Committee on the Judiciary.

Mr. SPECTER. Mr. President, I seek recognition to introduce the "Animal Fighting Protection Enforcement Act of 2004" with my colleagues Senators FEINSTEIN, ENSIGN, CANTWELL, DEWINE and LEAHY.

The bipartisan bill we are introducing today is very similar to S. 736 with the same title, introduced by Senator ENSIGN and currently cosponsored by fifty-one Senators including me. This new bill is identical to another bill, H.R. 4264, pending in the House of Representatives.

Specifically, this bill provides felony penalties by authorizing jail time of up to two years for violations of Federal animal fighting law, rather than the misdemeanor penalty (up to one year) under current law. Most States have felony-level penalties for animal fighting violations, but federal prosecutors are reluctant to pursue animal fighting cases without felony-level penalties. Both the Senate and House included this felony provision in their farm bills in 2002, with identical wording, but the provision was dropped in conference. The Senate also passed this as an amendment to the "Healthy Forests" bill, but it was again removed in conference.

The bill also outlaws cockfighting implements by prohibiting interstate and foreign commerce of the razor-sharp knives and ice pick-like gaffs are strapped onto birds' legs during cockfighting combat. These devices are specially designed for cockfighting and have no other known purpose.

H.R. 4264 tracks language in Section 26 of the Animal Welfare Act (7 U.S.C. 2156) that prohibits interstate and foreign commerce of animals for fighting purposes. This covers dog fighting, cockfighting, and other fights between animals "conducted for purposes of sport, wagering, or entertainment," with an explicit exemption for an activity "the primary purpose of which involves the use of one or more animals in hunting another animal or animals, such as waterfowl, bird, raccoon, or fox hunting."

Under current law, it already is illegal to: 1. Sponsor or exhibit an animal in an animal fighting venture if the person knows that any animal was bought, sold, delivered, transported, or received in interstate or foreign commerce for participation in the fighting venture. 2. Knowingly sell, buy, transport, deliver, or receive an animal in interstate or foreign commerce for purposes of participation in a fighting venture, regardless of the law in the destination State, dog fighting is illegal in all 50 States; cockfighting is illegal in 48 States. 3. Knowingly use the Postal Service or any interstate instrumentality to promote an animal fighting venture in the U.S., e.g., through advertisement, unless the venture involves birds and the fight is to take place in a State that allows cockfighting. As explained on USDA's website explaining the Federal animal fighting law, "In no event may the Postal Service or other interstate instrumentality be used to transport an animal for purposes of having the animal participate in a fighting venture, even if such fighting is allowed in the destination state".

The efforts to pass further Federal animal fighting prohibitions have been endorsed by more than 150 local police and sheriffs departments across the country, as well as The Humane Society of the United States, the National Chicken Council, representing 95 percent of U.S. chicken producers/processors, the American Veterinary Medical Association, and many other organizations. I urge my colleagues in the Senate to cosponsor this bill and support its quick passage.

By Mr. SPECTER:

S. 2909. A bill to authorize the Secretary of the Interior to allow the Columbia Gas Transmission Corporation to increase the diameter of a natural gas pipeline located in the Delaware Water Gap National Recreation Area; to the Committee on Energy and Natural Resources.

Mr. SPECTER. Mr. President, I seek recognition to introduce a bill to authorize the Secretary of the Interior to modify existing right-of-way agreements to allow an increase in the diameter of an existing natural gas pipeline in the Delaware Water Gap National Recreation Area in Pike County, Pennsylvania.

In 1947, Columbia Gas Transmission Corporation installed a 14-inch diameter pipeline, known as Line 1278, that included construction in the then rural areas of Pike, Northampton and Monroe counties. This system has become an important part of the energy delivery system to key eastern markets.

The United States Department of Transportation (DOT) directed Columbia in 2002 and 2003 to take actions going forward with Line 1278, including additional testing, additional cathodic, corrosion, protection and replacement of portions of the pipeline. DOT ordered that the replacement must be completed by 2007. To comply with the DOT instructions, Columbia in December 2003 filed an application with the Federal Energy Regulatory Commission to replace about 43 miles of this pipeline, including 3.5 miles of the line that now lie within the Delaware Water Gap National Recreation Area.

At issue are two right-of-way agreements affecting property now within the Delaware Water Gap National Recreation Area that do not allow Columbia to increase the diameter of the pipeline. The Recreation Area was formed in 1965 through the acquisition of many tracts of private property. Columbia's Line 1278 runs through 14 of these tracts under the terms of right-of-way agreements obtained from landowners prior to the Recreation Area's creation. Agreements affecting 12 of the 14 tracts include language allowing Columbia to increase the diameter of the pipeline. However, two of the agreements, representing about 890 feet of the pipeline, do not include such authorization.

Under current law, the Secretary of the Interior lacks legislative authorization to enter into an agreement to grant a pipeline easement that will allow an increase in the diameter of Line 1278. To complete the planned upgrade to improve energy reliability in the region, enabling legislation is required.

This bill would authorize the Secretary of the Interior to enter into an agreement with Columbia to grant a pipeline easement to allow an increase in the diameter of Line 1278 from 14 inches to 20 inches in diameter. Timely enactment will allow the replacement to be performed efficiently in conjunction with the overall replacement project, and the uniform size will facilitate the use of "smart pigging" technology to utilize inspection vehicles inside pipelines to help assure long-term safety and reliability of this important energy infrastructure.

I urge my colleagues to support this legislation for this important project.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 448—DESIGNATING THE FIRST DAY OF APRIL 2005 AS "NATIONAL ASBESTOS AWARENESS DAY"

Mr. REID submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 448

Whereas deadly asbestos fibers are invisible and cannot be smelled or tasted;

Whereas when airborne fibers are inhaled or swallowed, the damage is permanent and irreversible;

Whereas these fibers can cause mesothelioma, asbestosis, lung cancer, and pleural diseases;

Whereas asbestos-related diseases can take 10 to 50 years to present themselves;

Whereas the expected survival rate of those diagnosed with mesothelioma is between 6 and 24 months;

Whereas little is known about late stage treatment and there is no cure for asbestos-related diseases;

Whereas early detection of asbestos-related diseases would give patients increased treatment options and often improve their prognosis;

Whereas asbestos is a toxic and dangerous substance and must be disposed of properly;

Whereas nearly half of the more than 1,000 screened firefighters, police officers, rescue workers, and volunteers who responded to the World Trade Center attacks on September 11, 2001, have new and persistent respiratory problems;

Whereas the industry groups with the highest incidence rates of asbestos-related diseases, based on 2000 to 2002 figures, were shipyard workers, vehicle body builders (including rail vehicles), pipefitters, carpenters and electricians, construction (including insulation work and stripping), extraction, energy and water supply, and manufacturing;

Whereas the United States imports more than 30,000,000 pounds of asbestos used in products throughout the Nation;

Whereas asbestos-related diseases kill 10,000 people in the United States each year, and the numbers are increasing;

Whereas asbestos exposure is responsible for 1 in every 125 deaths of men over the age of 50;

Whereas safety and prevention will reduce asbestos exposure and asbestos-related diseases;

Whereas asbestos has been the largest single cause of occupational cancer;

Whereas asbestos is still a hazard for 1,300,000 workers in the United States;

Whereas asbestos-related deaths have greatly increased in the last 20 years and are expected to continue to increase;

Whereas 30 percent of all asbestos-related disease victims were exposed to asbestos on naval ships and in shipyards;

Whereas asbestos was used in the construction of virtually all office buildings, public schools, and homes built before 1975; and

Whereas the establishment of a "National Asbestos Awareness Day" would raise public awareness about the prevalence of asbestos-related diseases and the dangers of asbestos exposure: Now, therefore, be it

Resolved, That the Senate designates the first day of April 2005 as "National Asbestos Awareness Day".

Mr. REID. Mr. President, Alan Reinstein was diagnosed with mesothelioma on June 16, 2003 and underwent radical surgery to remove his affected lung, diaphragm, and other parts of his body. Today, Alan continues his courageous battle with this terrible illness.

I received a phone call last week from by brother Don, indicating that a long-time family friend, Harold Hansen, had died from mesothelioma.

I am submitting a resolution today to designate the first day of April of next year as National Asbestos Awareness Day.

Harold Hansen was a family friend, such a wonderful man. In fact, my brother called me a short time ago and said: Harold is sick. He has mesothelioma.

I said: Did he ever work around asbestos. And he said not that he remembers.

I knew a lawyer who might be able to help him and referred him to the lawyer. Now Harold is dead.

This is a terribly difficult problem in America. I talked about Alan; his wife Linda could not just sit back and watch her husband suffer. Knowing others were also suffering, she helped create the Asbestos Disease Awareness Organization to unite asbestos victims. One goal of the organization is to educate the public and the medical community about asbestos-caused diseases. The occurrence of asbestos-related diseases, including mesothelioma, asbestosis, and lung cancer is growing.

Over the next decade, it is estimated that 100,000 victims in the United States alone will die of asbestos-related disease. About 30 a day will die from this condition.

I received many letters from Nevadans with asbestos-related diseases in their families.

Eleanor Shook from Searchlight, NV, where I was born and reared, lost her husband Chuck to this dread condition 2 years ago. They found that Chuck was sick, and 2 months later he died—no cure, no treatment, no reprieve. He had been repeatedly exposed to asbestos during all the years he was working to raise his family.

I also got a letter from Jack Holmes, a former teacher from Las Vegas, who wrote:

> I am dying. I have malignant mesothelioma . . . I can expect extreme pain and suffering before I die.

I also heard from Robert Wright of Henderson, who was exposed to asbestos in the Navy and now suffers from asbestosis.

These are just a few of the hundreds of Nevadans who are suffering today from asbestos-related diseases. Every one of these stories is a tragedy because they all could have been prevented. Asbestos-related diseases are uncurable, and they are deadly. They can be prevented with greater awareness and education.

Most Americans think asbestos was banned a long time ago. But companies use asbestos every day in their water pipes, as insulation, and in building materials and other substances. Asbestos kills, and kills invisibly. Asbestos cannot be smelled, tasted, or seen, and moves through the air in tiny particles and embeds itself in the lining of the lungs once it is inhaled. It stays there for up to 50 years, damaging tissue and eventually causing disease. Inhalation of asbestos is permanent and irreversible. Simply walking by a recently demolished building that contains asbestos can be enough to breathe in a deadly amount.

I was in New York and a New York police officer was with me. He was part of an undercover unit that had New York City policemen dressed in construction clothes. They were running a construction business. That was part of what they were undercover doing. One of the reasons they did it is because there are people in this country so evil, so malignant that they are willing to take asbestos that these people said they had—it really wasn't asbestos—and they would take it and dispose of it. They would dispose of it in school grounds, and they had no concern where they disposed of what they thought was asbestos. Of course, they were arrested. But asbestos is a terrible problem. It is such a difficult problem in New York City alone where they remove asbestos. They are setting up these undercover operations to catch some of the people who are trying to make money on the disposal of asbestos.

Exposure to asbestos has had numerous consequences for victims and their families. Better awareness and education can help to eliminate future exposure. Early detection can give patients increased treatment options and often improves their prognosis. For these reasons, I am introducing a resolution to designate the first day of April as Asbestos Awareness Day. Asbestos awareness will lead to prevention, early diagnosis, new treatments, and a cure.

Just as the victims of families of asbestos-related disease joined together in founding the Asbestos Disease Awareness Organization, the Senate must unite in and pay tribute to victims by observing April 1 as Asbestos Awareness Day. I hope all Senators will join me in this effort.

SENATE RESOLUTION 449—ENCOURAGING THE PROTECTION OF THE RIGHTS OF REFUGEES

Mr. KENNEDY (for himself, Mr. BROWNBACK, and Mr. LEAHY) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. Res. 449

Whereas the Convention Relating to the Status of Refugees dated July 28, 1951 (189 UST 150) (hereinafter referred to as the "Convention") and the Protocol Relating to the Status of Refugees done at New York January 31, 1967 (19 UST 6223) (hereinafter referred to as the "Protocol") provide that individuals who flee a country to avoid persecution deserve international protection;

Whereas such protection includes freedom from forcible return and the basic rights necessary for a refugee to live a free, dignified, self-reliant life, even while in exile;

Whereas such rights, as recognized in the Convention, include the right to earn a livelihood, including the right to engage in wage-employment or self-employment, practice a profession, own property, freedom of movement and residence, and receive travel documents;

Whereas such rights are applicable to a refugee independent of whether a solution is available that would permit the refugee to return to the country that the refugee fled;

Whereas such rights are part of the core protection mandate of the United Nations High Commissioner for Refugees;

Whereas more than 50 percent of the refugees in the world are effectively "warehoused", which means such refugees have been confined to a camp or segregated settlement or otherwise deprived of their basic rights in a situation that has existed for at least 10 years;

Whereas donor countries, including the United States, have typically offered less developed countries hosting refugees assistance if they keep refugees warehoused in camps or segregated settlements but have not provided adequate assistance to host countries that permit refugees to live and work among the local population; and

Whereas warehousing refugees not only violates the rights of the refugees but also debilitates their humanity, often reducing the refugees to enforced idleness, dependency, disempowerment, and despair: Now, therefore, be it

Resolved, That the United States Senate—

(1) denounces the practice of warehousing refugees, which is the confinement of refugees to a camp or segregated settlement or other deprivation of the refugees' basic rights in a situation that has lasted 10 years or more, as a denial of basic human rights and a squandering of human potential;

(2) urges the Secretary of State to actively pursue models of refugee assistance that permit refugees to enjoy all the rights recognized in the Convention Relating to the Status of Refugees dated July 28, 1951 (189 UST 150) (hereinafter referred to as the "Convention") and the Protocol Relating to the Status of Refugees done at New York January 31, 1967 (19 UST 6223) (hereinafter referred to as the "Protocol");

(3) urges the Secretary of State to encourage other donor nations and other members of the Executive Committee of the United Nations High Commissioner for Refugees' Programme to shift the incentive structure of refugee assistance and to build mechanisms into relief and development assistance to encourage the greater enjoyment by refugees of their rights under the Convention;

(4) encourages the international community, including donor countries, host countries, and members of the Executive Committee of the United Nations High Commissioner for Refugees' Programme, to denounce resolutely the practice of warehousing refugees in favor of allowing refugees to exercise their rights under the Convention;

(5) calls upon the United Nations High Commissioner for Refugees to monitor refugee situations more effectively for the realization of all the rights of refugees under the Convention, including those related to freedom of movement and the right to earn a livelihood;

(6) encourages those countries that have not yet ratified the Convention or the Protocol to do so;

(7) encourages those countries that have ratified the Convention or the Protocol but have done so with reservations on key articles pertaining to the right to work and freedom of movement to remove such reservations; and

(8) encourages all countries to enact legislation or promulgate policies to provide for the legal enjoyment of the basic rights of refugees as outlined in the Convention.

Mr. KENNEDY. Mr. President, it is a privilege to join my colleagues, Senator BROWNBACK and Senator LEAHY, in submitting a resolution to call attention to the plight of the large number of refugees throughout the world confined to refugee camps or segregated settlements for extended periods of time. In the vast majority of cases, these refugees are being "warehoused," often for years, and in violation of their basic rights under the Refugee Convention adopted over half a century ago.

We know of 300,000 Angolans in Zambia, Congo-Kinshasa, and Namibia, two million Afghans in Iran and Pakistan, 100,000 Bhutanese in Nepal, and 500,000 refugees from Sudan who have lived in refugee camps in various countries for 20 years. Shamefully, of the world's nearly 12 million more than 7 million have been restricted to refugee camps or segregated settlements for a decade or even longer.

These tragic statistics aren't front page news. Refugees seldom dominate the headlines. But the reality is that the troubles of our time are exacting a heavy toll on people fleeing from conflicts and oppression. Throughout the world, men, woman and children are on the move, silent witnesses to the cruelties that plague our age.

Refugee camps are often created quickly, to address a crisis. But the solution sometimes creates a greater problem when temporary refugee camps turn into long-term places of detention and confinement, often under extreme conditions with little attention paid to the growing number of refugees that find themselves in endless and harmful situations.

Under the Refugee Convention of 1951, refugees have rights, including the right to earn a livelihood, to engage in wage-employment or self-employment, to practice a profession, to own property, and to have freedom of movement and residence. "Warehoused" refugees can do none of these things. Unable to work, travel, own property or obtain an education, they live unlived lives, without the basic freedoms they are entitled to have under the Convention of 1951.

Without the chance to obtain an education or earn a living, refugees becomes easy recruitment targets for terrorist groups. We can be vigilant against terrorism, and we can do so without abandoning the basic humanity of refugees and squandering their lives in squalid warehouses.

The resolution we are offering denounces the practice of warehousing refugees and urges all nations to grant refugees their basic rights under the Refugee Convention.

America has a proud history as a haven for refugees, especially since the end of World War II. Assistance to refugees has been a conspicuous aspect of our leadership in the world. As a leader in this area, we need to say to the world that the widespread practice of warehousing refugees violates international law. As members of the world community, we have a responsibility to ensure that refugees are able to exercise the basic rights granted to them under the Refugee Convention.

Over 100 international organizations support the end of warehousing, including more than twenty U.S.-based agencies. Nobel laureates have condemned this practice, including Archbishop Desmond Tutu of South Africa, and worldwide support continues to grow.

Last year, the United States was the largest global contributor to agencies assisting refugees. But, there is far more to do. We must strengthen our own commitment, and work with other countries to meet the worldwide challenge. To do too little will only add to the injustice endured by millions of refugees around the world, jeopardize our own national security, and ignore incalculable human potential that is being lost.

I urge our colleagues to join us in supporting this resolution, and help us to give new priority to ending this inhumane practice that has been festering too long in so many parts of the world.

I ask unanimous consent that editorials from the New York Times and Washington Times be printed in the RECORD.

There being no objection, the editorials were ordered to be printed in the RECORD, as follows:

[From The New York Times, Sept. 28, 2004]

WAREHOUSES FOR REFUGEES

The starvation and disease stalking the refugee camps near the Darfur region of Sudan are a reminder that for many refugees, conditions where they land are not much better than the conditions they flee. The world has 12 million refugees, and 7.4 million of them have been living in camps or settlements for more than 10 years. Many are prohibited from traveling or working, confined to crowded, squalid tents, at the mercy of marauding gangs, and utterly dependent on handouts of food insufficient to ward off hunger and on health care that does not prevent cholera and dysentery. Some people have lived in such camps for generations.

Half a million refugees from Myanmar, for example, have lived in camps in neighboring countries for 20 years, with no right to work or travel. The same is true of about 140,000 Somalis, who have lived since 1991 in closed camps in northern Kenya.

The camps are often established quickly to deal with refugee emergencies and never get dismantled. The original goal—allowing refugees to return home when conditions improve—has had the perverse effect of preventing them from establishing new lives in a new country. Countries like Pakistan, Zambia and Chad, which end up accepting the vast majority of refugees from troubled countries on their borders, would rather quarantine them than integrate them into their societies.

It is time to rethink warehousing, and refugee groups and the United Nations high commissioner for refugees have recently begun to explore how to help refugees become more self-reliant. Refugees who learn skills or earn money can be an asset to their war-torn homelands when they return. Moreover, there are ways to open up refugee camps without angering host populations. Zambia, for example, has given Angolan refugees land to farm. The food they grow has turned sleepy villages into trading centers, fueling local commerce.

Wealthy countries need to absorb more people for permanent resettlement. Europe, shamefully, accepts only a handful. The United States has become far less welcoming over the last 10 years, and particularly since the terrorist acts of Sept. 11, 2001. In 1992, the United States accepted 132,531 refugees; last year it was 28,422, although this year that number will almost double.

The security concerns about accepting refugees from the camps are unfounded. No terrorist would want to spend years in squalid camps and then undergo a long and uncertain vetting process simply to infiltrate the United States.

Indeed, the security threat comes from the camps' concentration of idle, frustrated, resentful young men. Warehousing itself can breed terrorism: Afghanistan's Taliban movement was born in the refugee camps of Pakistan.

Initially, reducing warehousing will require commitment from wealthy countries with the wherewithal to provide land, training and microcredit. That will cost more than doling out a weekly ration of rice and cooking oil. But it could reduce costs later, and it is a way to create a more promising future for millions.

[From the Washington Times, Sept. 10, 2004]

UNWAREHOUSING REFUGEES

(By Arthur E. Dewey)

Long-staying refugees in rural camps or urban ghettos are not commodities in a sad state of storage, but vibrant human beings carving out lives for themselves in exile.

That said, where they lack the right to work legally or integrate into the community, they can languish in dependency and lose hope for the future. Refugee "warehousing" is an issue that demands attention—and is getting it.

The U.S. Committee for Refugees has made this issue a centerpiece of its current advocacy campaign. Meanwhile, the State Department, the Office of the U.N. High Commissioner for Refugees, UNHCR, and other partner agencies are taking dramatic steps to address the warehousing problem.

The key step is facilitating voluntary repatriation. Tens of thousands of long-staying refugees have returned to Sierra Leone, Angola and Liberia from neighboring countries. More than 80,000 Iraqis have gone home since the fall of Saddam. But the biggest success story is Afghanistan, where more than 3 million have returned from long stays in Pakistan and Iran.

This continuing repatriation represents one of the largest refugee solutions in modern times, and the number of refugees caught in these dead-end situations has decreased remarkably.

While "de-warehousing" refugees—through repatriation, local integration, or resettlement—is an important first step, it is not enough. Sustaining repatriation requires commitment from the international donor community over the long haul. Returnees need long-term transitional help and employment opportunities to restore their dignity and self reliance.

To that end, the U.S. started an employment program called the Afghan Conservation Corps, ACC. Already, 750,000 seedlings have been planted on the dusty hillsides around Kabul by thousands of returning refugees, internally displaced persons, demilitarized militias, and Afghan women.

Ultimately, hundreds of thousands will join them in working on similar projects. The ACC is a model for how to make de-warehousing irreversible.

There are still critics who charge we are not doing enough to bring to the United States needy refugees who can't be repatriated. I say, "Watch what we are doing." Watch, for example, the rapid response to an unexpected opening in Thailand to interview 15,000 Lao Hmong stranded for more than a decade in Wat Tham Krabok. By year's end, most will be resettled in the U.S. Watch also our admitting Meshketian Turks from Russia who had been rootless for decades.

Resettlement is costly and labor-intensive, but we have spared no expense or effort to resettle refugees in the United States, when that is the most appropriate solution.

We know there remain vulnerable people—especially women and children—who have waited for years or even decades for rescue. This administration is committed to overcoming the obstacles in the way of such a rescue.

We urge other countries to be more generous in giving aid, admitting refugees and facilitating local integration where appropriate. As Secretary of State Colin Powell said during World Refugee Day commemorations in June: "We join other nations in easing the plight of all those who will close their eyes tonight in a strange land to dream of the home they were forced to flee. It's up to all of us to defend the non-negotiable demands of human dignity. It's up to all of us to help the world's refugees feel at home again."

It takes a home, not a warehouse, to make these dreams come true.

SENATE RESOLUTION 450—TO AUTHORIZE TESTIMONY AND REPRESENTATION IN UNITED STATES v. DANIEL BAYLY, ET. AL

Mr. FRIST (for himself and Mr. DASCHLE) submitted the following resolution; which was considered and agreed to:

S. RES. 450

Whereas, by Senate Resolution 317, 107th Congress, the Senate authorized the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs to produce records from its investigation into the collapse of Enron Corporation to law enforcement and regulatory officials and agencies;

Whereas, by Senate Resolution 394, 108th Congress, the Senate authorized testimony and legal representation of a former employee of, and a detailee to, the Permanent Subcommittee on Investigation in the case of United States v. Daniel Bayly, et al., Cr. No. H-03-363, pending in the United States District Court for the Southern District of Texas;

Whereas, in the case of United States v. Daniel Bayly, et al., subpoenas for testimony have been issued to Claire Barnard, a former employee of, and Edna Falk Curtin, a former detailee to, the Permanent Subcommittee on Investigations;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Claire Barnard and Edna Falk Curtin are authorized to testify in the case of United States v. Daniel Bayly, et al., except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Claire Barnard and Edna Falk Curtin in connection with the testimony authorized in section one of this resolution.

SENATE CONCURRENT RESOLUTION 141—RECOGNIZING THE ESSENTIAL ROLE OF NUCLEAR POWER IN THE NATIONAL ENERGY POLICY OF THE UNITED STATES AND SUPPORTING THE INCREASED USE OF NUCLEAR POWER AND THE CONSTRUCTION AND DEVELOPMENT OF NEW AND IMPROVED NUCLEAR POWER GENERATING PLANTS

Mr. DOMENICI (for himself, Mr. CRAIG, Mr. CRAPO, Ms. LANDRIEU, Mr. GRAHAM of South Carolina, Mr. FITZGERALD, Mr. SESSIONS, Mr. VOINOVICH,

Mr. PRYOR, Mrs. LINCOLN, Mr. MILLER, and Mr. ALEXANDER) submitted the following concurrent resolution; which was referred to the Committee on Energy and Natural Resources:

S. CON. RES. 141

Whereas the Energy Information Administration in the Department of Energy estimates that by 2025 the United States will need more than 300,000 megawatts of new electricity-generating capacity to maintain its current levels of growth and standards of living;

Whereas Vision 2020, the nuclear energy industry's plan to increase the use of nuclear energy through the year 2020 to meet the projected growth in the demand for electricity, calls for maintaining the Nation's nonemitting electricity generation at 30 percent, which would require 50,000 megawatts of new nuclear power to be generated;

Whereas meeting the increasing demand for continuous and reliable, or baseload, electricity is essential for supporting the economic growth which is necessary to maintain the Nation's standard of living;

Whereas even the aggressive implementation of energy-efficiency initiatives cannot replace the need for new electricity-generating capacity;

Whereas nuclear power generated by the 103 commercial nuclear power plants operating in the United States provides the electricity for 20 percent of the United States;

Whereas consumers of nuclear power enjoy a higher level of price stability compared to consumers of other energy sources;

Whereas nuclear power plants do not produce harmful emissions or greenhouse gases and can provide States, and the Nation as a whole, with flexibility in meeting goals for clean air and economic growth at lower costs than other sources of power;

Whereas increasing nuclear power generation will require designing and building new plants as well as operating the new facilities, which together will create thousands of new jobs;

Whereas the nuclear power industry, the Department of Energy, and the Nuclear Regulatory Commission are working together to demonstrate the effectiveness of a new licensing process for nuclear power plants, which allows full public participation in decisions about the designs and sites of new nuclear power plants without causing delays in construction or commercial operation;

Whereas nuclear energy, science, and technology applications are vital in the diagnosis and treatment of disease, food and mail safety, space exploration, structural inspection, and other important applications;

Whereas for decades, commercial nuclear power generating facilities have had an unmatched safety record;

Whereas nuclear power plants in the United States use excess material from Russian weapons programs to generate power, which is a vital component of United States nonproliferation policy;

Whereas many countries intend to build new nuclear power plants, with 29 new plants currently under construction worldwide and more than twice that many being planned, and the United States must continue to play a leadership role both in domestic nuclear power production and in encouraging the use of nuclear power in other countries; and

Whereas the United States continues to lead the world in the development, use, and control of nuclear technology: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress—

(1) recognizes the essential role of nuclear power in the national energy policy of the United States; and

(2) supports the increased use of nuclear power and the construction and development of new and improved nuclear power generating plants as a means of contributing to national energy independence and maintaining a clean environment.

Mr. DOMENICI. Mr. President, I rise to submit a resolution recognizing the essential role that nuclear power plays in our national energy policy and to voice support for this remarkable technology. America's nuclear power reactors supply electricity for one in five homes and businesses in the United States and do so affordably, reliably and without producing any emissions. To ensure that nuclear energy's important contribution to our nation continues, we must develop and build new nuclear power plants based on advanced technology and safety features.

Our Nation will require 40 percent more energy by 2020, requiring the use of all available energy sources—wind, solar, hydro, natural gas, coal and nuclear energy. Even the most aggressive conservation and energy efficient programs will not satisfy all of our increasing energy needs. We will require significant additional electric generating capacity to meet this rising demand—electricity generation that is absolutely necessary to keep our economy growing. And we must provide this new power while protecting our environment.

America's 103 nuclear power reactors provide safe, clean and reliable, baseload electricity around the clock. Over the past 50 years, America's nuclear power plants have posted a safety record that is unrivalled. In addition, nuclear plants produce electricity without producing harmful emissions or greenhouse gases. Nuclear energy is the only major energy source that is both emission-free and expandable.

The use of nuclear energy also reduces our dependence on foreign sources of energy. Protecting our Nation's energy independence must remain at the forefront of our energy policy decisions.

Since scientists first harnessed the power of the atom for the benefit of mankind, the United States has led the world in the development of nuclear science and technology. With some 29 nuclear reactors under construction in other countries, the United State's leadership role in commercial nuclear power could be diminished. Our scientists, engineers and technicians must research, develop and build new nuclear facilities to keep their skills sharp and further their knowledge. In addition, new plant project also will mean more jobs for those scientists, engineers and technicians, as well as many other trades.

America's nuclear power plants contribute to nonproliferation efforts. Through the public-private "Megatons to Megawatts" program, which this body has strongly supported, 50 percent of the fuel used in our commercial reactors comes from converted Russian warheads.

Nuclear energy also is one of the most efficient means of producing hydrogen, another key to our energy future. Hydrogen will help reduce our dependence on imported petroleum in the transportation sector, and, like nuclear energy, is a clean air energy.

Therefore, I call upon my colleagues to join me in support of this resolution recognizing nuclear energy's important contributions to our Nation, such as maintaining our energy independence and protecting our environment. And I urge all of you to join me in supporting research, development and construction of new nuclear power plants today, so that nuclear energy can continue providing these benefits in the future.

AMENDMENTS SUBMITTED & PROPOSED

SA 3975. Ms. COLLINS (for Mr. HATCH (for himself and Mr. LEAHY)) proposed an amendment to the bill H.R. 1417, To amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges.

SA 3976. Ms. COLLINS (for Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND, and Mr. REID)) proposed an amendment to the bill S. 1134, to reauthorize and improve the programs authorized by the Public Works and Economic Development Act of 1965.

SA 3977. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes.

SA 3978. Ms. COLLINS (for Mr. ENSIGN) proposed an amendment to the bill S. 2845, supra.

SA 3979. Ms. COLLINS (for Mr. KYL) proposed an amendment to the bill S. 2845, supra.

SA 3980. Mr. LIEBERMAN (for Mr. SCHUMER) proposed an amendment to the bill S. 2845, supra.

SA 3981. Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) proposed an amendment to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence.

SA 3982. Mr. FRIST (for Mr. HATCH (for himself and Mr. BIDEN)) proposed an amendment to the bill S. 2195, to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

SA 3983. Mr. MCCONNELL (for Mr. MCCAIN (for himself and Mr. NELSON, of Florida)) proposed an amendment to the bill H.R. 2608, to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes.

SA 3984. Mr. BAYH (for himself, Mr. ROBERTS, Mr. WYDEN, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select

Committee on Intelligence; which was ordered to lie on the table.

SA 3985. Mr. CHAMBLISS (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, supra; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 3975. Ms. COLLINS (for Mr. HATCH (for himself and Mr. LEAHY)) proposed an amendment to the bill H.R. 1417, to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Royalty and Distribution Reform Act of 2004".

SEC. 2. REFERENCE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 17, United States Code.

SEC. 3. COPYRIGHT ROYALTY JUDGE AND STAFF.

(a) IN GENERAL.—Chapter 8 is amended to read as follows:

"CHAPTER 8—PROCEEDINGS BY COPYRIGHT ROYALTY JUDGES

"Sec.
"801. Copyright Royalty Judges; appointment and functions.
"802. Copyright Royalty Judgeships; staff.
"803. Proceedings of Copyright Royalty Judges.
"804. Institution of proceedings.
"805. General rule for voluntarily negotiated agreements.

"§ 801. Copyright Royalty Judges; appointment and functions

"(a) APPOINTMENT.—The Librarian of Congress shall appoint 3 full-time Copyright Royalty Judges, and shall appoint 1 of the 3 as the Chief Copyright Royalty Judge. The Librarian shall make appointments to such positions after consultation with the Register of Copyrights.

"(b) FUNCTIONS.—Subject to the provisions of this chapter, the functions of the Copyright Royalty Judges shall be as follows:

"(1) To make determinations and adjustments of reasonable terms and rates of royalty payments as provided in sections 112(e), 114, 115, 116, 118, 119 and 1004. The rates applicable under sections 114(f)(1)(B), 115, and 116 shall be calculated to achieve the following objectives:

"(A) To maximize the availability of creative works to the public.

"(B) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

"(C) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

"(D) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

"(2) To make determinations concerning the adjustment of the copyright royalty rates under section 111 solely in accordance with the following provisions:

"(A) The rates established by section 111(d)(1)(B) may be adjusted to reflect—

"(i) national monetary inflation or deflation; or

"(ii) changes in the average rates charged cable subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar level of the royalty fee per subscriber which existed as of the date of October 19, 1976,

except that—

"(I) if the average rates charged cable system subscribers for the basic service of providing secondary transmissions are changed so that the average rates exceed national monetary inflation, no change in the rates established by section 111(d)(1)(B) shall be permitted; and

"(II) no increase in the royalty fee shall be permitted based on any reduction in the average number of distant signal equivalents per subscriber.

The Copyright Royalty Judges may consider all factors relating to the maintenance of such level of payments, including, as an extenuating factor, whether the industry has been restrained by subscriber rate regulating authorities from increasing the rates for the basic service of providing secondary transmissions.

"(B) In the event that the rules and regulations of the Federal Communications Commission are amended at any time after April 15, 1976, to permit the carriage by cable systems of additional television broadcast signals beyond the local service area of the primary transmitters of such signals, the royalty rates established by section 111(d)(1)(B) may be adjusted to ensure that the rates for the additional distant signal equivalents resulting from such carriage are reasonable in the light of the changes effected by the amendment to such rules and regulations. In determining the reasonableness of rates proposed following an amendment of Federal Communications Commission rules and regulations, the Copyright Royalty Judges shall consider, among other factors, the economic impact on copyright owners and users; except that no adjustment in royalty rates shall be made under this subparagraph with respect to any distant signal equivalent or fraction thereof represented by—

"(i) carriage of any signal permitted under the rules and regulations of the Federal Communications Commission in effect on April 15, 1976, or the carriage of a signal of the same type (that is, independent, network, or noncommercial educational) substituted for such permitted signal; or

"(ii) a television broadcast signal first carried after April 15, 1976, pursuant to an individual waiver of the rules and regulations of the Federal Communications Commission, as such rules and regulations were in effect on April 15, 1976.

"(C) In the event of any change in the rules and regulations of the Federal Communications Commission with respect to syndicated and sports program exclusivity after April 15, 1976, the rates established by section 111(d)(1)(B) may be adjusted to assure that such rates are reasonable in light of the changes to such rules and regulations, but any such adjustment shall apply only to the affected television broadcast signals carried on those systems affected by the change.

"(D) The gross receipts limitations established by section 111(d)(1) (C) and (D) shall be adjusted to reflect national monetary inflation or deflation or changes in the average rates charged cable system subscribers for the basic service of providing secondary transmissions to maintain the real constant dollar value of the exemption provided by such section, and the royalty rate specified therein shall not be subject to adjustment.

"(3)(A) To authorize the distribution, under sections 111, 119, and 1007, of those royalty fees collected under sections 111, 119, and 1005, as the case may be, to the extent that the Copyright Royalty Judges have found that the distribution of such fees is not subject to controversy.

"(B) In cases where the Copyright Royalty Judges determine that controversy exists, the Copyright Royalty Judges shall determine the distribution of such fees, including partial distributions, in accordance with section 111, 119, or 1007, as the case may be.

"(C) The Copyright Royalty Judges may make a partial distribution of such fees during the pendency of the proceeding under subparagraph (B) if all participants under section 803(b)(2) in the proceeding that are entitled to receive those fees that are to be partially distributed—

"(i) agree to such partial distribution;

"(ii) sign an agreement obligating them to return any excess amounts to the extent necessary to comply with the final determination on the distribution of the fees made under subparagraph (B);

"(iii) file the agreement with the Copyright Royalty Judges; and

"(iv) agree that such funds are available for distribution.

"(D) The Copyright Royalty Judges and any other officer or employee acting in good faith in distributing funds under subparagraph (C) shall not be held liable for the payment of any excess fees under subparagraph (C). The Copyright Royalty Judges shall, at the time the final determination is made, calculate any such excess amounts.

"(4) To accept or reject royalty claims filed under sections 111, 119, and 1007, on the basis of timeliness or the failure to establish the basis for a claim.

"(5) To accept or reject rate adjustment petitions as provided in section 804 and petitions to participate as provided in section 803(b) (1) and (2).

"(6) To determine the status of a digital audio recording device or a digital audio interface device under sections 1002 and 1003, as provided in section 1010.

"(7)(A) To adopt as a basis for statutory terms and rates or as a basis for the distribution of statutory royalty payments, an agreement concerning such matters reached among some or all of the participants in a proceeding at any time during the proceeding, except that—

"(i) the Copyright Royalty Judges shall provide to those that would be bound by the terms, rates, or other determination set by any agreement in a proceeding to determine royalty rates an opportunity to comment on the agreement and shall provide to the other participants in the proceeding under section 803(b)(2) that would be bound by the terms, rates, or other determination set by the agreement an opportunity to comment on the agreement and object to its adoption as a basis for statutory terms and rates; and

"(ii) the Copyright Royalty Judges may decline to adopt the agreement as a basis for statutory terms and rates for participants that are not parties to the agreement, if any other participant described in subparagraph (A) objects to the agreement and the Copyright Royalty Judges conclude, based on the record before them if one exists, that the agreement does not provide a reasonable basis for setting statutory terms or rates.

"(B) License agreements voluntarily negotiated pursuant to section 112(e)(5), 114(f)(3), 115(c)(3)(E)(i), 116(c), or 118(b) (2) or (3) that do not result in statutory terms and rates shall not be subject to clauses (i) and (ii) of subparagraph (A).

"(C) Interested parties may negotiate and agree to, and the Copyright Royalty Judges may adopt, an agreement that specifies as terms notice and recordkeeping requirements that apply in lieu of those that would otherwise apply under regulations.

"(8) To perform other duties, as assigned by the Register of Copyrights within the Library of Congress, except as provided in section 802(g) at times when Copyright Royalty Judges are not engaged in performing the other duties set forth in this section.

"(c) Rulings.—As provided in section 802(f)(1), the Copyright Royalty Judges may make any necessary procedural or evidentiary rulings in any proceeding under this chapter and may, before commencing a proceeding under this chapter, make any such rulings that would apply to the proceedings conducted by the Copyright Royalty Judges.

"(d) Administrative Support.—The Librarian of Congress shall provide the Copyright Royalty Judges with the necessary administrative services related to proceedings under this chapter.

"(e) Location in Library of Congress.—The offices of the Copyright Royalty Judges and staff shall be in the Library of Congress.

"§ 802. Copyright Royalty Judgeships; staff

"(a) Qualifications of Copyright Royalty Judges.—

"(1) In general.—Each Copyright Royalty Judge shall be an attorney who has at least 7 years of legal experience. The Chief Copyright Royalty Judge shall have at least 5 years of experience in adjudications, arbitrations, or court trials. Of the other two Copyright Royalty Judges, one shall have significant knowledge of copyright law, and the other shall have significant knowledge of economics. An individual may serve as a Copyright Royalty Judge only if the individual is free of any financial conflict of interest under subsection (h).

"(2) Definition.—In this subsection, the term 'adjudication' has the meaning given that term in section 551 of title 5, but does not include mediation.

"(b) Staff.—The Chief Copyright Royalty Judge shall hire 3 full-time staff members to assist the Copyright Royalty Judges in performing their functions.

"(c) Terms.—The individual first appointed the Chief Copyright Royalty Judge shall be appointed to a term of 6 years, and of the remaining individuals first appointed Copyright Royalty Judges, 1 shall be appointed to a term of 4 years, and the other shall be appointed to a term of 2 years. Thereafter, the terms of succeeding Copyright Royalty Judges shall each be 6 years. An individual serving as a Copyright Royalty Judge may be reappointed to subsequent terms. The term of a Copyright Royalty Judge shall begin when the term of the predecessor of that Copyright Royalty Judge ends. When the term of office of a Copyright Royalty Judge ends, the individual serving that term may continue to serve until a successor is selected.

"(d) Vacancies or Incapacity.—

"(1) Vacancies.—If a vacancy should occur in the position of Copyright Royalty Judge, the Librarian of Congress shall act expeditiously to fill the vacancy, and may appoint an interim Copyright Royalty Judge to serve until another Copyright Royalty Judge is appointed under this section. An individual appointed to fill the vacancy occurring before the expiration of the term for which the predecessor of that individual was appointed shall be appointed for the remainder of that term.

"(2) Incapacity.—In the case in which a Copyright Royalty Judge is temporarily unable to perform his or her duties, the Librarian of Congress may appoint an interim Copyright Royalty Judge to perform such duties during the period of such incapacity.

"(e) Compensation.—

"(1) Judges.—The Chief Copyright Royalty Judge shall receive compensation at the rate of basic pay payable for level AL-1 for administrative law judges pursuant to section 5372(b) of title 5, and each of the other two Copyright Royalty Judges shall receive compensation at the rate of basic pay payable for level AL-2 for administrative law judges pursuant to such section. The compensation of the Copyright Royalty Judges shall not be subject to any regulations adopted by the Office of Personnel Management pursuant to its authority under section 5376(b)(1) of title 5.

"(2) Staff members.—Of the staff members appointed under subsection (b)—

"(A) the rate of pay of 1 staff member shall be not more than the basic rate of pay payable for level 10 of GS-15 of the General Schedule;

"(B) the rate of pay of 1 staff member shall be not less than the basic rate of pay payable for GS-13 of the General Schedule and not more than the basic rate of pay payable for level 10 of GS-14 of such Schedule; and

"(C) the rate of pay for the third staff member shall be not less than the basic rate of pay payable for GS-8 of the General Schedule and not more than the basic rate of pay payable for level 10 of GS-11 of such Schedule.

"(3) Locality pay.—All rates of pay referred to under this subsection shall include locality pay.

"(f) Independence of Copyright Royalty Judge.—

"(1) In making determinations.—

"(A) In general.—(i) Subject to clause (ii) of this subparagraph and subparagraph (B), the Copyright Royalty Judges shall have full independence in making determinations concerning adjustments and determinations of copyright royalty rates and terms, the distribution of copyright royalties, the acceptance or rejection of royalty claims, rate adjustment petitions, and petitions to participate, and in issuing other rulings under this title, except that the Copyright Royalty Judges may consult with the Register of Copyrights on any matter other than a question of fact.

"(ii) A Copyright Royalty Judge or Judges, or, by motion to the Copyright Royalty Judge or Judges, any participant in a proceeding may request an interpretation by the Register of Copyrights concerning any material question of substantive law (not including questions of procedure before the Copyright Royalty Judges, the ultimate adjustments and determinations of copyright royalty rates and terms, the ultimate distribution of copyright royalties, or the acceptance or rejection of royalty claims, rate adjustment petitions, or petitions to participate) concerning an interpretation or construction of those provisions of this title that are the subject of the proceeding. Any such request for a written interpretation by the Register of Copyrights shall be on the record. Reasonable provision shall be made for comment by the participants in the proceeding on the material question of substantive law in such a way as to minimize duplication and delay. Except as provided in subparagraph (B), the Register of Copyrights shall deliver to the Copyright Royalty Judges a response within 14 days of receipt by the Register of Copyrights of all of the briefs or comments of the participants. Such decision shall be in writing and shall be included by the Copyright Royalty Judges in the record that accompanies their final determination. If such a decision is timely delivered to the Copyright Royalty Judges, the Copyright Royalty Judges shall apply the legal interpretation embodied in the response of the Register of Copyrights in resolving material questions of substantive law.

"(B) Novel questions.—(i) In any case in which a novel material question of substantive law concerning an interpretation of those provisions of this title that are the subject of the proceeding is presented, the Copyright Royalty Judges shall request a decision of the Register of Copyrights, in writing, to resolve such novel question. Reasonable provision shall be made for comment on such request by the participants in the proceeding, in such a way as to minimize duplication and delay. The Register shall transmit his or her decision to the Copyright Royalty Judges within 30 days of receipt by the Register of Copyrights of all of the briefs or comments of the participants. Such decision shall be in writing and included by the Copyright Royalty Judges in the record that accompanies their final determination. If such a decision is timely delivered, the Copyright Royalty Judges shall apply the legal determinations embodied in the decision of the Register of Copyrights in resolving material questions of substantive law.

"(ii) In clause (i), a 'novel question of law' is a question of law that has not been determined in prior decisions, determinations, and rulings described in section 803(a).

"(C) Consultation.—Notwithstanding the provisions of subparagraph (A), the Copyright Royalty Judges shall consult with the Register of Copyrights with respect to any determination or ruling that would require that any act be performed by the Copyright Office, and any such determination or ruling shall not be binding upon the Register of Copyrights.

"(D) Review of legal conclusions by the Register of Copyrights.—The Register of Copyrights may review for legal error the resolution by the Copyright Royalty Judges of a material question of substantive law under this title that underlies or is contained in a final determination of the Copyright Royalty Judges. If the Register of Copyrights concludes, after taking into consideration the views of the participants in the proceeding, that any resolution reached by the Copyright Royalty Judges was in material error, the Register of Copyrights shall issue a written decision correcting such legal error, which shall be made part of the record of the proceeding. Additionally, the Register of Copyrights shall cause to be published in the Federal Register such written decision together with a specific identification of the legal conclusion of the Copyright Royalty Judges that is determined to be erroneous. As to conclusions of substantive law involving an interpretation of the statutory provisions of this title, the decision of the Register of Copyrights shall be binding as precedent upon the Copyright Royalty Judges in subsequent proceedings under this chapter.

When a decision has been rendered pursuant to section 802(f)(1)(D), the Register of Copyrights may, on the basis of and in accordance with such decision, intervene as of right in any appeal of a final determination of the Copyright Royalty Judges pursuant to section 803(d) in the United States Court of Appeals for the District of Columbia Circuit. If, prior to intervening in such an appeal, the Register of Copyrights gives notification and undertakes to consult with the Attorney General with respect to such intervention, and the Attorney General fails within reasonable period after receipt of such notification to intervene in such appeal, the Register of Copyrights may intervene in such appeal in his or her own name by any attorney designated by the Register of Copyrights for such purpose. Intervention by the Register of Copyrights in his or her own name shall not preclude the Attorney General from intervening on behalf of the United States in such an appeal as may be otherwise provided or required by law.

"(E) EFFECT ON JUDICIAL REVIEW.—Nothing in this section shall be interpreted to alter the standard applied by a court in reviewing legal determinations involving an interpretation or construction of the provisions of this title or to affect the extent to which any construction or interpretation of the provisions of this title shall be accorded deference by a reviewing court.

"(2) PERFORMANCE APPRAISALS.—

"(A) IN GENERAL.—Notwithstanding any other provision of law or any regulation of the Library of Congress, and subject to subparagraph (B), the Copyright Royalty Judges shall not receive performance appraisals.

"(B) RELATING TO SANCTION OR REMOVAL.—To the extent that the Librarian of Congress adopts regulations under subsection (h) relating to the sanction or removal of a Copyright Royalty Judge and such regulations require documentation to establish the cause of such sanction or removal, the Copyright Royalty Judge may receive an appraisal related specifically to the cause of the sanction or removal.

"(g) INCONSISTENT DUTIES BARRED.—No Copyright Royalty Judge may undertake duties that conflict with his or her duties and responsibilities as a Copyright Royalty Judge.

"(h) STANDARDS OF CONDUCT.—The Librarian of Congress shall adopt regulations regarding the standards of conduct, including financial conflict of interest and restrictions against ex parte communications, which shall govern the Copyright Royalty Judges and the proceedings under this chapter.

"(i) REMOVAL OR SANCTION.—The Librarian of Congress may sanction or remove a Copyright Royalty Judge for violation of the standards of conduct adopted under subsection (h), misconduct, neglect of duty, or any disqualifying physical or mental disability. Any such sanction or removal may be made only after notice and opportunity for a hearing, but the Librarian of Congress may suspend the Copyright Royalty Judge during the pendency of such hearing. The Librarian shall appoint an interim Copyright Royalty Judge during the period of any such suspension.

"§ 803. Proceedings of Copyright Royalty Judges

"(a) PROCEEDINGS.—

"(1) IN GENERAL.—The Copyright Royalty Judges shall act in accordance with regulations issued by the Copyright Royalty Judges and the Librarian of Congress, and on the basis of a written record, prior determinations and interpretations of the Copyright Royalty Tribunal, Librarian of Congress, copyright arbitration royalty panels, the Register of Copyrights, and the Copyright Royalty Judges (to the extent those determinations are not inconsistent with a decision of the Register of Copyrights that was timely delivered to the Copyright Royalty Judges pursuant to section 802(f)(1) (A) or (B), or with a decision of the Register of Copyrights pursuant to section 802(f)(1)(D)), under this chapter, and decisions of the court of appeals under this chapter before, on, or after the effective date of the Copyright Royalty and Distribution Reform Act of 2004.

"(2) JUDGES ACTING AS PANEL AND INDIVIDUALLY.—The Copyright Royalty Judges shall preside over hearings in proceedings under this chapter en banc. The Chief Copyright Royalty Judge may designate a Copyright Royalty Judge to preside individually over such collateral and administrative proceedings, and over such proceedings under paragraphs (1) through (5) of subsection (b), as the Chief Judge considers appropriate.

"(3) DETERMINATIONS.—Final determinations of the Copyright Royalty Judges in proceedings under this chapter shall be made by majority vote. A Copyright Royalty Judge dissenting from the majority on any determination under this chapter may issue his or her dissenting opinion, which shall be included with the determination.

"(b) PROCEDURES.—

"(1) INITIATION.—

"(A) CALL FOR PETITIONS TO PARTICIPATE.—(i) Promptly upon a determination made under section 804(a), or no later than January 5 of a year specified in section 804(b) (2) or (3), or as provided under section 804(b)(8), or by no later than January 5 of a year specified in section 804 for the commencement of a proceeding if a petition has not been filed by that date, the Copyright Royalty Judges shall cause to be published in the Federal Register notice of commencement of proceedings under this chapter calling for the filing of petitions to participate in a proceeding under this chapter for the purpose of making the relevant determination under section 111, 112, 114, 115, 116, 118, 119, 1004, or 1007, as the case may be.

"(ii) Petitions to participate shall be filed by no later than 30 days after publication of notice of commencement of a proceeding, under clause (i), except that the Copyright Royalty Judges may, for substantial good cause shown and if there is no prejudice to the participants that have already filed petitions, accept late petitions to participate at any time up to the date that is 90 days before the date on which participants in the proceeding are to file their written direct statements. Notwithstanding the preceding sentence, petitioners whose petitions are filed more than 30 days after publication of notice of commencement of a proceeding are not eligible to object to a settlement reached during the voluntary negotiation period under section 803(b)(3), and any objection filed by such a petitioner shall not be taken into account by the Copyright Royalty Judges.

"(B) PETITIONS TO PARTICIPATE.—Each petition to participate in a proceeding shall describe the petitioner's interest in the subject matter of the proceeding. Parties with similar interests may file a single petition to participate.

"(2) PARTICIPATION IN GENERAL.—Subject to paragraph (4), a person may participate in a proceeding under this chapter, including through the submission of briefs or other information, only if—

"(A) that person has filed a petition to participate in accordance with paragraph (1) (either individually or as a group under paragraph (1)(B)), together with a filing fee of $150;

"(B) the Copyright Royalty Judges have not determined that the petition to participate is facially invalid; and

"(C) the Copyright Royalty Judges have not determined, sua sponte or on the motion of another participant in the proceeding, that the person lacks a significant interest in the proceeding.

"(3) VOLUNTARY NEGOTIATION PERIOD.—

"(A) IN GENERAL.—Promptly after the date for filing of petitions to participate in a proceeding, the Copyright Royalty Judges shall make available to all participants in the proceeding a list of such participants and shall initiate a voluntary negotiation period among the participants.

"(B) LENGTH OF PROCEEDINGS.—The voluntary negotiation period initiated under subparagraph (A) shall be 3 months.

"(C) DETERMINATION OF SUBSEQUENT PROCEEDINGS.—At the close of the voluntary negotiation proceedings, the Copyright Royalty Judges shall, if further proceedings under this chapter are necessary, determine whether and to what extent paragraphs (4) and (5) will apply to the parties.

"(4) SMALL CLAIMS PROCEDURE IN DISTRIBUTION PROCEEDINGS.—

"(A) IN GENERAL.—If, in a proceeding under this chapter to determine the distribution of royalties, a participant in the proceeding asserts a claim in the amount of $10,000 or less, the Copyright Royalty Judges shall decide the controversy on the basis of the filing of the written direct statement by the participant, the response by any opposing participant, and 1 additional response by each such party. The participant asserting the claim shall not be required to pay the filing fee under paragraph (2).

"(B) BAD FAITH INFLATION OF CLAIM.—If the Copyright Royalty Judges determine that a participant asserts in bad faith an amount in controversy in excess of $10,000 for the purpose of avoiding a determination under the procedure set forth in subparagraph (A), the Copyright Royalty Judges shall impose a fine on that participant in an amount not to exceed the difference between the actual amount distributed and the amount asserted by the participant.

"(5) PAPER PROCEEDINGS.—The Copyright Royalty Judges in proceedings under this chapter may decide, sua sponte or upon motion of a participant, to determine issues on the basis of the filing of the written direct statement by the participant, the response by any opposing participant, and one additional response by each such participant. Prior to making such decision to proceed on such a paper record only, the Copyright Royalty Judges shall offer to all parties to the proceeding the opportunity to comment on the decision. The procedure under this paragraph—

"(A) shall be applied in cases in which there is no genuine issue of material fact, there is no need for evidentiary hearings, and all participants in the proceeding agree in writing to the procedure; and

"(B) may be applied under such other circumstances as the Copyright Royalty Judges consider appropriate.

"(6) REGULATIONS.—

"(A) IN GENERAL.—The Copyright Royalty Judges may issue regulations to carry out their functions under this title. All regulations issued by the Copyright Royalty Judges are subject to the approval of the Librarian of Congress. Not later than 120 days after Copyright Royalty Judges or interim

Copyright Royalty Judges, as the case may be, are first appointed after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, such judges shall issue regulations to govern proceedings under this chapter.

“(B) Interim Regulations.—Until regulations are adopted under subparagraph (A), the Copyright Royalty Judges shall apply the regulations in effect under this chapter on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, to the extent such regulations are not inconsistent with this chapter, except that functions carried out under such regulations by the Librarian of Congress, the Register of Copyrights, or copyright arbitration royalty panels that, as of such date of enactment, are to be carried out by the Copyright Royalty Judges under this chapter, shall be carried out by the Copyright Royalty Judges under such regulations.

“(C) Requirements.—Regulations issued under subparagraph (A) shall include the following:

“(i) The written direct statements of all participants in a proceeding under paragraph (2) shall be filed by a date specified by the Copyright Royalty Judges, which may be not earlier than 4 months, and not later than 5 months, after the end of the voluntary negotiation period under paragraph (3). Notwithstanding the preceding sentence, the Copyright Royalty Judges may allow a participant in a proceeding to file an amended written direct statement based on new information received during the discovery process, within 15 days after the end of the discovery period specified in clause (iii).

“(ii)(I) Following the submission to the Copyright Royalty Judges of written direct statements by the participants in a proceeding under paragraph (2), the judges shall meet with the participants for the purpose of setting a schedule for conducting and completing discovery. Such schedule shall be determined by the Copyright Royalty Judges.

“(II) In this chapter, the term ‘written direct statements’ means witness statements, testimony, and exhibits to be presented in the proceedings, and such other information that is necessary to establish terms and rates, or the distribution of royalty payments, as the case may be, as set forth in regulations issued by the Copyright Royalty Judges.

“(iii) Hearsay may be admitted in proceedings under this chapter to the extent deemed appropriate by the Copyright Royalty Judges.

“(iv) Discovery in such proceedings shall be permitted for a period of 60 days, except for discovery ordered by the Copyright Royalty Judges in connection with the resolution of motions, orders and disputes pending at the end of such period.

“(v) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may request of an opposing participant nonprivileged documents directly related to the written direct statement or written rebuttal statement of that participant. Any objection to such a request shall be resolved by a motion or request to compel production made to the Copyright Royalty Judges according to regulations adopted by the Copyright Royalty Judges. Each motion or request to compel discovery shall be determined by the Copyright Royalty Judges, or by a Copyright Royalty Judge when permitted under subsection (a)(2). Upon such motion, the Copyright Royalty Judges may order discovery pursuant to regulations established under this paragraph.

“(vi)(I) Any participant under paragraph (2) in a proceeding under this chapter to determine royalty rates may, by means of written motion or on the record, request of an opposing participant or witness other relevant information and materials if absent the discovery sought the Copyright Royalty Judges' resolution of the proceeding would be substantially impaired. In determining whether discovery will be granted under this clause, the Copyright Royalty Judges may consider—

“(aa) whether the burden or expense of producing the requested information or materials outweighs the likely benefit, taking into account the needs and resources of the participants, the importance of the issues at stake, and the probative value of the requested information or materials in resolving such issues;

“(bb) whether the requested information or materials would be unreasonably cumulative or duplicative, or are obtainable from another source that is more convenient, less burdensome, or less expensive; and

“(cc) whether the participant seeking discovery has had ample opportunity by discovery in the proceeding or by other means to obtain the information sought.

“(II) This clause shall not apply to any proceeding scheduled to commence after December 31, 2010.

“(vii) In a proceeding under this chapter to determine royalty rates, the participants entitled to receive royalties shall collectively be permitted to take no more than 10 depositions and secure responses to no more than 25 interrogatories and the participants obligated to pay royalties shall collectively be permitted to take no more than 10 depositions and secure responses to no more than 25 interrogatories. The Copyright Royalty Judges shall resolve any disputes among similarly aligned participants to allocate the number of depositions or interrogatories permitted under this clause.

“(viii) The rules and practices in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004, relating to discovery in proceedings under this chapter to determine the distribution of royalty fees, shall continue to apply to such proceedings on and after such effective date.

“(ix) In proceedings to determine royalty rates, the Copyright Royalty Judges may issue a subpoena commanding a participant or witness to appear and give testimony or to produce and permit inspection of documents or tangible things if the Copyright Royalty Judges' resolution of the proceeding would be substantially impaired by the absence of such testimony or production of documents or tangible things. Such subpoena shall specify with reasonable particularity the materials to be produced or the scope and nature of the required testimony. Nothing in this subparagraph shall preclude the Copyright Royalty Judges from requesting the production by a nonparticipant of information or materials relevant to the resolution by the Copyright Royalty Judges of a material issue of fact.

“(x) The Copyright Royalty Judges shall order a settlement conference among the participants in the proceeding to facilitate the presentation of offers of settlement among the participants. The settlement conference shall be held during a 21-day period following the end of the discovery period and shall take place outside the presence of the Copyright Royalty Judges.

“(xi) No evidence, including exhibits, may be submitted in the written direct statement or written rebuttal statement of a participant without a sponsoring witness, except where the Copyright Royalty Judges have taken official notice, or in the case of incorporation by reference of past records, or for good cause shown.

“(c) Determination of Copyright Royalty Judges.—

“(1) Timing.—The Copyright Royalty Judges shall issue their determination in a proceeding not later than 11 months after the conclusion of the 21-day settlement conference period under subsection (b)(3)(C)(x), but, in the case of a proceeding to determine successors to rates or terms that expire on a specified date, in no event later than 15 days before the expiration of the then current statutory rates and terms.

“(2) Rehearings.—

“(A) In general.—The Copyright Royalty Judges may, in exceptional cases, upon motion of a participant under subsection (b)(2), order a rehearing, after the determination in a proceeding is issued under paragraph (1), on such matters as the Copyright Royalty Judges determine to be appropriate.

“(B) Timing for filing motion.—Any motion for a rehearing under subparagraph (A) may only be filed within 15 days after the date on which the Copyright Royalty Judges deliver their initial determination concerning rates and terms to the participants in the proceeding.

“(C) Participation by opposing party not required.—In any case in which a rehearing is ordered, any opposing party shall not be required to participate in the rehearing, except as provided under subsection (d)(1).

“(D) No negative inference.—No negative inference shall be drawn from lack of participation in a rehearing.

“(E) Continuity of rates and terms.—(i) If the decision of the Copyright Royalty Judges on any motion for a rehearing is not rendered before the expiration of the statutory rates and terms that were previously in effect, in the case of a proceeding to determine successors to rates and terms that expire on a specified date, then—

“(I) the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion shall be effective as of the day following the date on which the rates and terms that were previously in effect expire; and

“(II) in the case of a proceeding under section 114(f)(1)(C) or 114(f)(2)(C), royalty rates and terms shall, for purposes of section 114(f)(4)(B), be deemed to have been set at those rates and terms contained in the initial determination of the Copyright Royalty Judges that is the subject of the rehearing motion, as of the date of that determination.

“(ii) The pendency of a motion for a rehearing under this paragraph shall not relieve persons obligated to make royalty payments who would be affected by the determination on that motion from providing the statements of account and any reports of use, to the extent required, and paying the royalties required under the relevant determination or regulations.

“(iii) Notwithstanding clause (ii), whenever royalties described in clause (ii) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the motion for rehearing is resolved or, if the motion is granted, within 60 days after the rehearing is concluded, return any excess amounts previously paid to the extent necessary to comply with the final determination of royalty rates by the Copyright Royalty Judges. Any underpayment of royalties resulting from a rehearing shall be paid within the same period.

"(3) Contents of determination.—A determination of the Copyright Royalty Judges shall be supported by the written record and shall set forth the findings of fact relied on by the Copyright Royalty Judges. Among other terms adopted in a determination, the Copyright Royalty Judges may specify notice and recordkeeping requirements of users of the copyrights at issue that apply in lieu of those that would otherwise apply under regulations.

"(4) Continuing jurisdiction.—The Copyright Royalty Judges may, with the approval of the Register of Copyrights, issue an amendment to a written determination to correct any technical or clerical errors in the determination or to modify the terms, but not the rates, of royalty payments in response to unforeseen circumstances that would frustrate the proper implementation of such determination. Such amendment shall be set forth in a written addendum to the determination that shall be distributed to the participants of the proceeding and shall be published in the Federal Register.

"(5) Protective order.—The Copyright Royalty Judges may issue such orders as may be appropriate to protect confidential information, including orders excluding confidential information from the record of the determination that is published or made available to the public, except that any terms or rates of royalty payments or distributions may not be excluded.

"(6) Publication of determination.—Following review of the determination by the Register of Copyrights under section 802(f)(1)(D), the Librarian of Congress shall cause the determination, and any corrections thereto, to be published in the Federal Register. The Librarian of Congress shall also publicize the determination and corrections in such other manner as the Librarian considers appropriate, including, but not limited to, publication on the Internet. The Librarian of Congress shall also make the determination, corrections, and the accompanying record available for public inspection and copying.

"(7) Late payment.—A determination of Copyright Royalty Judges may include terms with respect to late payment, but in no way shall such terms prevent the copyright holder from asserting other rights or remedies provided under this title.

"(d) Judicial Review.—

"(1) Appeal.—Any determination of the Copyright Royalty Judges under subsection (c) may, within 30 days after the publication of the determination in the Federal Register, be appealed, to the United States Court of Appeals for the District of Columbia Circuit, by any aggrieved participant in the proceeding under subsection (b)(2) who fully participated in the proceeding and who would be bound by the determination. Any participant that did not participate in a rehearing may not raise any issue that was the subject of that rehearing at any stage of judicial review of the hearing determination. If no appeal is brought within that 30-day period, the determination of the Copyright Royalty Judges shall be final, and the royalty fee or determination with respect to the distribution of fees, as the case may be, shall take effect as set forth in paragraph (2).

"(2) Effect of rates.—

"(A) Expiration on specified date.—When this title provides that the royalty rates and terms that were previously in effect are to expire on a specified date, any adjustment or determination by the Copyright Royalty Judges of successor rates and terms for an ensuing statutory license period shall be effective as of the day following the date of expiration of the rates and terms that were previously in effect, even if the determination of the Copyright Royalty Judges is rendered on a later date. A transmission service shall be obligated to continue making payments under the rates and terms previously in effect until such time as rates and terms for the successor period are established. Whenever royalties pursuant to this section are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the final determination of the Copyright Royalty Judges establishing rates and terms for a successor period or the exhaustion of all rehearings or appeals of such determination, if any, return any excess amounts previously paid to the extent necessary to comply with the final determination of royalty rates. Any underpayment of royalties by a copyright user shall be paid to the entity designated by the Copyright Royalty Judges within the same period.

"(B) Other cases.—In cases where rates and terms have not, prior to the inception of an activity, been established for that particular activity under the relevant license, such rates and terms shall be retroactive to the inception of activity under the relevant license covered by such rates and terms. In other cases where rates and terms do not expire on a specified date, successor rates and terms shall take effect on the first day of the second month that begins after the publication of the determination of the Copyright Royalty Judges in the Federal Register, except as otherwise provided in this title, or by the Copyright Royalty Judges, or as agreed by the participants in a proceeding that would be bound by the rates and terms. Except as otherwise provided in this title, the rates and terms, to the extent applicable, shall remain in effect until such successor rates and terms become effective.

"(C) Obligation to make payments.—

"(i) The pendency of an appeal under this subsection shall not relieve persons obligated to make royalty payments under section 111, 112, 114, 115, 116, 118, 119, or 1003, who would be affected by the determination on appeal, from—

"(I) providing the statements of account and any report of use; and

"(II) paying the royalties required under the relevant determination or regulations.

"(ii) Notwithstanding clause (i), whenever royalties described in clause (i) are paid to a person other than the Copyright Office, the entity designated by the Copyright Royalty Judges to which such royalties are paid by the copyright user (and any successor thereto) shall, within 60 days after the final resolution of the appeal, return any excess amounts previously paid (and interest thereon, if ordered pursuant to paragraph (3)) to the extent necessary to comply with the final determination of royalty rates on appeal. Any underpayment of royalties resulting from an appeal (and interest thereon, if ordered pursuant to paragraph (3)) shall be paid within the same period.

"(3) Jurisdiction of court.—If the court, pursuant to section 706 of title 5, modifies or vacates a determination of the Copyright Royalty Judges, the court may enter its own determination with respect to the amount or distribution of royalty fees and costs, and order the repayment of any excess fees, the payment of any underpaid fees, and the payment of interest pertaining respectively thereto, in accordance with its final judgment. The court may also vacate the determination of the Copyright Royalty Judges and remand the case to the Copyright Royalty Judges for further proceedings in accordance with subsection (a).

"(e) Administrative Matters.—

"(1) Deduction of costs of library of congress and copyright office from filing fees.—

"(A) Deduction from filing fees.—The Librarian of Congress may, to the extent not otherwise provided under this title, deduct from the filing fees collected under subsection (b) for a particular proceeding under this chapter the reasonable costs incurred by the Librarian of Congress, the Copyright Office, and the Copyright Royalty Judges in conducting that proceeding, other than the salaries of the Copyright Royalty Judges and the 3 staff members appointed under section 802(b).

"(B) Authorization of appropriations.—There are authorized to be appropriated such sums as may be necessary to pay the costs incurred under this chapter not covered by the filing fees collected under subsection (b). All funds made available pursuant to this subparagraph shall remain available until expended.

"(2) Positions required for administration of compulsory licensing.—Section 307 of the Legislative Branch Appropriations Act, 1994, shall not apply to employee positions in the Library of Congress that are required to be filled in order to carry out section 111, 112, 114, 115, 116, 118, or 119 or chapter 10.

"§ 804. Institution of proceedings

"(a) Filing of Petition.—With respect to proceedings referred to in paragraphs (1) and (2) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 111, 112, 114, 115, 116, 118, 119, and 1004, during the calendar years specified in the schedule set forth in subsection (b), any owner or user of a copyrighted work whose royalty rates are specified by this title, or are established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests a determination or adjustment of the rate. The Copyright Royalty Judges shall make a determination as to whether the petitioner has such a significant interest in the royalty rate in which a determination or adjustment is requested. If the Copyright Royalty Judges determine that the petitioner has such a significant interest, the Copyright Royalty Judges shall cause notice of this determination, with the reasons for such determination, to be published in the Federal Register, together with the notice of commencement of proceedings under this chapter. With respect to proceedings under paragraph (1) of section 801(b) concerning the determination or adjustment of royalty rates as provided in sections 112 and 114, during the calendar years specified in the schedule set forth in subsection (b), the Copyright Royalty Judges shall cause notice of commencement of proceedings under this chapter to be published in the Federal Register as provided in section 803(b)(1)(A).

"(b) Timing of Proceedings.—

"(1) Section 111 proceedings.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (A) or (D) of section 801(b)(2) applies may be filed during the year 2005 and in each subsequent fifth calendar year.

"(B) In order to initiate proceedings under section 801(b)(2) concerning the adjustment of royalty rates under section 111 to which subparagraph (B) or (C) of section 801(b)(2) applies, within 12 months after an event described in either of those subsections, any owner or user of a copyrighted work whose royalty rates are specified by section 111, or by a rate established under this chapter before or after the enactment of the Copyright Royalty and Distribution Reform Act of 2004, may file a petition with the Copyright Royalty Judges declaring that the petitioner requests an adjustment of the rate. The Copyright Royalty Judges shall then proceed as set forth in subsection (a) of this section. Any change in royalty rates made under this chapter pursuant to this subparagraph may be reconsidered in the year 2005, and each fifth calendar year thereafter, in accordance with the provisions in section 801(b)(3) (B) or (C), as the case may be. A petition for adjustment of rates established by section 111(d)(1)(B) as a result of a change is the rules and regulations of the Federal Communications Commission shall set forth the change on which the petition is based.

"(C) Any adjustment of royalty rates under section 111 shall take effect as of the first accounting period commencing after the publication of the determination of the Copyright Royalty Judges in the Federal Register, or on such other date as is specified in that determination.

"(2) CERTAIN SECTION 112 PROCEEDINGS.—Proceedings under this chapter shall be commenced in the year 2007 to determine reasonable terms and rates of royalty payments for the activities described in section 112(e)(1) relating to the limitation on exclusive rights specified by section 114(d)(1)(C)(iv), to become effective on January 1, 2009. Such proceedings shall be repeated in each subsequent fifth calendar year.

"(3) SECTION 114 AND CORRESPONDING 112 PROCEEDINGS.—

"(A) FOR ELIGIBLE NONSUBSCRIPTION SERVICES AND NEW SUBSCRIPTION SERVICES.—Proceedings under this chapter shall be commenced as soon as practicable after the effective date of the Copyright Royalty and Distribution Reform Act of 2004 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of eligible nonsubscription transmission services and new subscription services, to be effective for the period beginning on January 1, 2006, and ending on December 31, 2010. Such proceedings shall next be commenced in January 2009 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2011. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

"(B) FOR PREEXISTING SUBSCRIPTION AND SATELLITE DIGITAL AUDIO RADIO SERVICES.—Proceedings under this chapter shall be commenced in January 2006 to determine reasonable terms and rates of royalty payments under sections 114 and 112 for the activities of preexisting subscription services, to be effective during the period beginning on January 1, 2008, and ending on December 31, 2012, and preexisting satellite digital audio radio services, to be effective during the period beginning on January 1, 2007, and ending on December 31, 2012. Such proceedings shall next be commenced in 2011 to determine reasonable terms and rates of royalty payments, to become effective on January 1, 2013. Thereafter, such proceedings shall be repeated in each subsequent fifth calendar year.

"(C)(i) Notwithstanding any other provision of this chapter, this subparagraph shall govern proceedings commenced pursuant to section 114(f)(1)(C) and 114(f)(2)(C) concerning new types of services.

"(ii) Not later than 30 days after a petition to determine rates and terms for a new type of service that is filed by any copyright owner of sound recordings, or such new type of service, indicating that such new type of service is or is about to become operational, the Copyright Royalty Judges shall issue a notice for a proceeding to determine rates and terms for such service.

"(iii) The proceeding shall follow the schedule set forth in such subsections (b), (c), and (d) of section 803, except that—

"(I) the determination shall be issued by not later than 24 months after the publication of the notice under clause (ii); and

"(II) the decision shall take effect as provided in subsections (c)(2) and (d)(2) of section 803 and section 114(f)(4)(B)(ii) and (C).

"(iv) The rates and terms shall remain in effect for the period set forth in section 114(f)(1)(C) or 114(f)(2)(C), as the case may be.

"(4) SECTION 115 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment or determination of royalty rates as provided in section 115 may be filed in the year 2006 and in each subsequent fifth calendar year, or at such other times as the parties have agreed under section 115(c)(3)(B) and (C).

"(5) SECTION 116 PROCEEDINGS.—(A) A petition described in subsection (a) to initiate proceedings under section 801(b) concerning the determination of royalty rates and terms as provided in section 116 may be filed at any time within 1 year after negotiated licenses authorized by section 116 are terminated or expire and are not replaced by subsequent agreements.

"(B) If a negotiated license authorized by section 116 is terminated or expires and is not replaced by another such license agreement which provides permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending March 1, 1989, the Copyright Royalty Judges shall, upon petition filed under paragraph (1) within 1 year after such termination or expiration, commence a proceeding to promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of nondramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings by the Copyright Royalty Judges, in accordance with section 803, to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116(b).

"(6) SECTION 118 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the determination of reasonable terms and rates of royalty payments as provided in section 118 may be filed in the year 2006 and in each subsequent fifth calendar year.

"(7) SECTION 1004 PROCEEDINGS.—A petition described in subsection (a) to initiate proceedings under section 801(b)(1) concerning the adjustment of reasonable royalty rates under section 1004 may be filed as provided in section 1004(a)(3).

"(8) PROCEEDINGS CONCERNING DISTRIBUTION OF ROYALTY FEES.—With respect to proceedings under section 801(b)(3) concerning the distribution of royalty fees in certain circumstances under section 111, 119, or 1007, the Copyright Royalty Judges shall, upon a determination that a controversy exists concerning such distribution, cause to be published in the Federal Register notice of commencement of proceedings under this chapter.

"§ 805. General rule for voluntarily negotiated agreements

"Any rates or terms under this title that—

"(1) are agreed to by participants to a proceeding under section 803(b)(3),

"(2) are adopted by the Copyright Royalty Judges as part of a determination under this chapter, and

"(3) are in effect for a period shorter than would otherwise apply under a determination pursuant to this chapter,

shall remain in effect for such period of time as would otherwise apply under such determination, except that the Copyright Royalty Judges shall adjust the rates pursuant to the voluntary negotiations to reflect national monetary inflation during the additional period the rates remain in effect.".

(b) CONFORMING AMENDMENT.—The table of chapters for title 17, United States Code, is amended by striking the item relating to chapter 8 and inserting the following:

"8. Proceedings by Copyright Royalty Judges .... 801".

SEC. 4. DEFINITION.

Section 101 is amended by inserting after the definition of "copies" the following:

"A 'Copyright Royalty Judge' is a Copyright Royalty Judge appointed under section 802 of this title, and includes any individual serving as an interim Copyright Royalty Judge under such section.".

SEC. 5. TECHNICAL AMENDMENTS.

(a) CABLE RATES.—Section 111(d) is amended—

(1) in paragraph (2), in the second sentence, by striking "a copyright arbitration royalty panel" and inserting "the Copyright Royalty Judges."; and

(2) in paragraph (4)—

(A) in subparagraph (A), by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges";

(B) in subparagraph (B)—

(i) in the first sentence, by striking "Librarian of Congress shall, upon the recommendation of the Register of Copyrights," and inserting "Copyright Royalty Judges shall";

(ii) in the second sentence, by striking "Librarian determines" and inserting "Copyright Royalty Judges determine"; and

(iii) in the third sentence—

(I) by striking "Librarian" each place it appears and inserting "Copyright Royalty Judges"; and

(II) by striking "convene a copyright arbitration royalty panel" and inserting "conduct a proceeding"; and

(C) in subparagraph (C), by striking "Librarian of Congress" and inserting "Copyright Royalty Judges".

(b) EPHEMERAL RECORDINGS.—Section 112(e) is amended—

(1) in paragraph (3)—

(A) by amending the first sentence to read as follows: "Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for the activities specified by paragraph (1) during the 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, or such other periods as the parties may agree."; and

(B) by striking the second sentence;

(C) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(D) in the fourth sentence, by striking "negotiation";

(2) in paragraph (4)—

(A) by amending the first sentence to read as follows: "The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (5), be binding on all copyright owners of sound recordings and transmitting organizations entitled to a statutory license under this subsection during the 5-year period specified in paragraph (3), or such other period as the parties may agree.";

(B) by striking "copyright arbitration royalty panel" each subsequent place it appears and inserting "Copyright Royalty Judges";

(C) in the fourth sentence, by striking "its decision" and inserting "their decision";

(D) in the fifth sentence, by striking "negotiated as provided" and inserting "described"; and

(E) in the last sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges";

(3) in paragraph (5), by striking "or decision by the Librarian of Congress" and inserting ", decision by the Librarian of Congress, or determination by the Copyright Royalty Judges";

(4) by striking paragraph (6) and redesignating paragraphs (7), (8), and (9), as paragraphs (6), (7), and (8), respectively; and

(5) in paragraph (6)(A), as so redesignated, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges".

(c) SCOPE OF EXCLUSIVE RIGHTS IN SOUND RECORDINGS.—Section 114(f) is amended—

(1) in paragraph (1)—

(A) in subparagraph (A)—

(i) by amending the first sentence to read as follows: "Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for subscription transmissions by preexisting subscription services and transmissions by preexisting satellite digital audio radio services specified by subsection (d)(2) during 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except where different transitional periods are provided in section 804(b), or such periods as the parties may agree.";

(ii) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(iii) in the fourth sentence, by striking "negotiation";

(B) in subparagraph (B)—

(i) by amending the first sentence to read as follows: "The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (3), be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), a transitional period provided in section 804(b), or such other period as the parties may agree.";

(ii) in the second sentence, by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

(iii) in the second sentence, by striking "negotiated as provided" and inserting "described"; and

(C) by amending subparagraph (C) to read as follows:

"(C) The procedures under subparagraphs (A) and (B) also shall be initiated pursuant to a petition filed by any copyright owners of sound recordings, any preexisting subscription services, or any preexisting satellite digital audio radio services indicating that a new type of subscription digital audio transmission service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of transmission service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for subscription digital audio transmission services most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.";

(2) in paragraph (2)—

(A) in subparagraph (A)—

(i) by amending the first paragraph to read as follows: "Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for subscription transmissions by eligible nonsubscription transmission services and transmissions by new subscription services specified by subsection (d)(2) during 5-year periods beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except where different transitional periods are provided in section 804(b), or such periods as the parties may agree.";

(ii) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(iii) in the fourth sentence, by striking "negotiation";

(B) in subparagraph (B)—

(i) by amending the first sentence to read as follows: "The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to paragraph (3), be binding on all copyright owners of sound recordings and entities performing sound recordings affected by this paragraph during the 5-year period specified in subparagraph (A), a transitional period provided in section 804(b), or such other period as the parties may agree.";

(ii) by striking "copyright arbitration royalty panel" each subsequent place it appears and inserting "Copyright Royalty Judges"; and

(iii) in the last sentence by striking "negotiated as provided" and inserting "described in"; and

(C) by amending subparagraph (C) to read as follows:

"(C) The procedures under subparagraphs (A) and (B) shall also be initiated pursuant to a petition filed by any copyright owners of sound recordings or any eligible nonsubscription service or new subscription service indicating that a new type of eligible nonsubscription service or new subscription service on which sound recordings are performed is or is about to become operational, for the purpose of determining reasonable terms and rates of royalty payments with respect to such new type of service for the period beginning with the inception of such new type of service and ending on the date on which the royalty rates and terms for preexisting subscription digital audio transmission services or preexisting satellite digital radio audio services, as the case may be, most recently determined under subparagraph (A) or (B) and chapter 8 expire, or such other period as the parties may agree.";

(3) in paragraph (3), by striking "or decision by the Librarian of Congress" and inserting ", decision by the Librarian of Congress, or determination by the Copyright Royalty Judges"; and

(4) in paragraph (4)—

(A) by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges"; and

(B) by adding after the first sentence "The notice and recordkeeping rules in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004 shall remain in effect unless and until new regulations are promulgated by the Copyright Royalty Judges. If new regulations are promulgated under this subparagraph, the Copyright Royalty Judges shall take into account the substance and effect of the rules in effect on the day before the effective date of the Copyright Royalty and Distribution Reform Act of 2004 and shall, to the extent practicable, avoid significant disruption of the functions of any designated agent authorized to collect and distribute royalty fees.".

(d) PHONORECORDS OF NONDRAMATIC MUSICAL WORKS.—Section 115(c)(3) is amended—

(1) in subparagraph (A)(ii), by striking "(F)" and inserting "(E)";

(2) in subparagraph (B)—

(A) by striking "under this paragraph" and inserting "under this section";

(B) by inserting "on a nonexclusive basis" after "common agents"; and

(C) by striking "subparagraphs (C) through (F)" and inserting "this subparagraph and subparagraphs (C) through (E)"; and

(3) in subparagraph (C)—

(A) by amending the first sentence to read as follows: "Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for the activities specified by this section during periods beginning with the effective date of such rates and terms, but not earlier than January 1 of the second year following the year in which the petition requesting the proceeding is filed, and ending on the effective date of successor rates and terms, or such other period as the parties may agree.";

(B) in the third sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(C) in the fourth sentence, by striking "negotiation";

(4) in subparagraph (D)—

(A) by amending the first sentence to read as follows: "The schedule of reasonable rates and terms determined by the Copyright Royalty Judges shall, subject to subparagraph (E), be binding on all copyright owners of nondramatic musical works and persons entitled to obtain a compulsory license under subsection (a)(1) during the period specified in subparagraph (C), such other period as may be determined pursuant to subparagraphs (B) and (C), or such other period as the parties may agree.";

(B) in the third sentence, by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

(C) in the third sentence, by striking "negotiated as provided in subparagraphs (B) and (C)" and inserting "described";

(5) in subparagraph (E)—

(A) in clause (i)—

(i) in the first sentence, by striking "Librarian of Congress" and inserting "Librarian of Congress, Copyright Royalty Judges, or a copyright arbitration royalty panel to the extent.those determinations were accepted by the Librarian of Congress"; and

(ii) in the second sentence, by striking "(C), (D) or (F) shall be given effect" and inserting "(C) or (D) shall be given effect as to digital phonorecord deliveries"; and

(B) in clause (ii)(I), by striking "(C), (D) or (F)" each place it appears and inserting "(C) or (D)"; and

(6) by striking subparagraph (F) and redesignating subparagraphs (G) through (L) as subparagraphs (F) through (K), respectively.

(e) Coin-Operated Phonorecord Players.—Section 116 is amended—

(1) in subsection (b), by amending paragraph (2) to read as follows:

"(2) Chapter 8 proceeding.—Parties not subject to such a negotiation may have the terms and rates and the division of fees described in paragraph (1) determined in a proceeding in accordance with the provisions of chapter 8."; and

(2) in subsection (c)—

(A) in the subsection heading, by striking "Copyright Arbitration Royalty Panel Determinations" and inserting "Determinations by Copyright Royalty Judges"; and

(B) by striking "a copyright arbitration royalty panel" and inserting "the Copyright Royalty Judges".

(f) Use of Certain Works in Connection With Noncommercial Broadcasting.—Section 118 is amended—

(1) in subsection (b)—

(A) in paragraph (1)—

(i) in the first sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(ii) by striking the second and third sentences;

(B) in paragraph (2), by striking "Librarian of Congress:" and all that follows through the end of the sentence and inserting "Librarian of Congress, a copyright arbitration royalty panel, or the Copyright Royalty Judges, to the extent that they were accepted by the Librarian of Congress, if copies of such agreements are filed with the Copyright Royalty Judges within 30 days of execution in accordance with regulations that the Copyright Royalty Judges shall issue."; and

(C) in paragraph (3)—

(i) in the second sentence—

(I) by striking "copyright arbitration royalty panel" and inserting "Copyright Royalty Judges"; and

(II) by striking "paragraph (2)." and inserting "paragraph (2) or (3).";

(ii) in the last sentence, by striking "'"Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(iii) by striking "(3) In" and all that follows through the end of the first sentence and inserting the following:

"(3) Voluntary negotiation proceedings initiated pursuant to a petition filed under section 804(a) for the purpose of determining a schedule of terms and rates of royalty payments by public broadcasting entities to copyright owners in works specified by this subsection and the proportionate division of fees paid among various copyright owners shall cover the 5-year period beginning on January 1 of the second year following the year in which the petition is filed. The parties to each negotiation proceeding shall bear their own costs.

"(4) In the absence of license agreements negotiated under paragraph (2) or (3), the Copyright Royalty Judges shall, pursuant to chapter 8, conduct a proceeding to determine and publish in the Federal Register a schedule of rates and terms which, subject to paragraph (2), shall be binding on all owners of copyright in works specified by this subsection and public broadcasting entities, regardless of whether such copyright owners have submitted proposals to the Copyright Royalty Judges.";

(2) by striking subsection (c) and redesignating subsections (d) through (g) as subsections (c) through (f), respectively;

(3) in subsection (c), as so redesignated, in the matter preceding paragraph (1)—

(A) by striking "(b)(2)" and inserting "(b)(2) or (3)";

(B) by striking "(b)(3)" and inserting "(b)(4)"; and

(C) by striking "a copyright arbitration royalty panel under subsection (b)(3)" and inserting "the Copyright Royalty Judges under subsection (b)(3), to the extent that they were accepted by the Librarian of Congress";

(4) in subsection (d), as so redesignated—

(A) by striking "in the Copyright Office" and inserting "with the Copyright Royalty Judges"; and

(B) by striking "Register of Copyrights shall prescribe" and inserting "Copyright Royalty Judges shall prescribe as provided in section 803(b)(6)"; and

(5) in subsection (f), as so redesignated, by striking "(d)" and inserting "(c)".

(g) Secondary Transmissions by Satellite Carriers.—Section 119(b) is amended—

(1) in paragraph (3), by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(2) in paragraph (4)—

(A) in subparagraph (A), by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges"; and

(B) by amending subparagraphs (B) and (C) to read as follows:

"(B) Determination of controversy; distributions.—After the first day of August of each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents. If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

"(C) Withholding of fees during controversy.—During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have the discretion to proceed to distribute any amounts that are not in controversy.".

(h) Digital Audio Recording Devices.—

(1) Royalty payments.—Section 1004(a)(3) is amended by striking "Librarian of Congress" each place it appears and inserting "Copyright Royalty Judges".

(2) Entitlement to royalty payments.—Section 1006(c) is amended by striking "Librarian of Congress shall convene a copyright arbitration royalty panel which" and inserting "Copyright Royalty Judges".

(3) Procedures for distributing royalty payments.—Section 1007 is amended—

(A) in subsection (a), by amending paragraph (1) to read as follows:

"(1) Filing of claims.—During the first 2 months of each calendar year, every interested copyright party seeking to receive royalty payments to which such party is entitled under section 1006 shall file with the Copyright Royalty Judges a claim for payments collected during the preceding year in such form and manner as the Copyright Royalty Judges shall prescribe by regulation."; and

(B) by amending subsections (b) and (c) to read as follows:

"(b) Distribution of Payments in the Absence of a Dispute.—After the period established for the filing of claims under subsection (a), in each year, the Copyright Royalty Judges shall determine whether there exists a controversy concerning the distribution of royalty payments under section 1006(c). If the Copyright Royalty Judges determine that no such controversy exists, the Librarian of Congress shall, within 30 days after such determination, authorize the distribution of the royalty payments as set forth in the agreements regarding the distribution of royalty payments entered into pursuant to subsection (a). The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.

"(c) Resolution of Disputes.—If the Copyright Royalty Judges find the existence of a controversy, the Copyright Royalty Judges shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty payments. During the pendency of such a proceeding, the Copyright Royalty Judges shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall, to the extent feasible, authorize the distribution of any amounts that are not in controversy. The Librarian of Congress shall, before such royalty payments are distributed, deduct the reasonable administrative costs incurred by the Librarian under this section.".

(4) Determination of certain disputes.—(A) Section 1010 is amended to read as follows:

"§ 1010. Determination of certain disputes

"(a) Scope of Determination.—Before the date of first distribution in the United States of a digital audio recording device or a digital audio interface device, any party manufacturing, importing, or distributing such device, and any interested copyright party may mutually agree to petition the Copyright Royalty Judges to determine whether such device is subject to section 1002, or the basis on which royalty payments for such device are to be made under section 1003.

"(b) Initiation of Proceedings.—The parties under subsection (a) shall file the petition with the Copyright Royalty Judges requesting the commencement of a proceeding. Within 2 weeks after receiving such a petition, the Chief Copyright Royalty Judge shall cause notice to be published in the Federal Register of the initiation of the proceeding.

"(c) Stay of Judicial Proceedings.—Any civil action brought under section 1009 against a party to a proceeding under this section shall, on application of one of the parties to the proceeding, be stayed until completion of the proceeding.

"(d) Proceeding.—The Copyright Royalty Judges shall conduct a proceeding with respect to the matter concerned, in accordance with such procedures as the Copyright Royalty Judges may adopt. The Copyright Royalty Judges shall act on the basis of a fully documented written record. Any party to the proceeding may submit relevant information and proposals to the Copyright Royalty Judges. The parties to the proceeding shall each bear their respective costs of participation.

"(e) JUDICIAL REVIEW.—Any determination of the Copyright Royalty Judges under subsection (d) may be appealed, by a party to the proceeding, in accordance with section 803(d) of this title. The pendency of an appeal under this subsection shall not stay the determination of the Copyright Royalty Judges. If the court modifies the determination of the Copyright Royalty Judges, the court shall have jurisdiction to enter its own decision in accordance with its final judgment. The court may further vacate the determination of the Copyright Royalty Judges and remand the case for proceedings as provided in this section.".

(B) The item relating to section 1010 in the table of sections for chapter 10 is amended to read as follows:

"1010. Determination of certain disputes.".

SEC. 6. EFFECTIVE DATE AND TRANSITION PROVISIONS.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect 6 months after the date of enactment of this Act, except that the Librarian of Congress shall appoint 1 or more interim Copyright Royalty Judges under section 802(d) of title 17, United States Code, as amended by this Act, within 90 days after such date of enactment to carry out the functions of the Copyright Royalty Judges under title 17, United States Code, to the extent that Copyright Royalty Judges provided for in section 801(a) of title 17, United States Code, as amended by this Act, have not been appointed before the end of that 90-day period.

(b) TRANSITION PROVISIONS.—

(1) IN GENERAL.—Subject to paragraphs (2) and (3), the amendments made by this Act shall not affect any proceedings commenced, petitions filed, or voluntary agreements entered into before the date of enactment of this Act under the provisions of title 17, United States Code, as amended by this Act, and pending on such date of enactment. Such proceedings shall continue, determinations made in such proceedings, and appeals taken therefrom, as if this Act had not been enacted, and shall continue in effect until modified under title 17, United States Code, as amended by this Act. Such petitions filed and voluntary agreements entered into shall remain in effect as if this Act had not been enacted. For purposes of this paragraph, the Librarian of Congress may determine whether a proceeding has commenced. The Librarian of Congress may terminate any proceeding commenced before the date of enactment of this Act pursuant to chapter 8 of title 17, United States Code, and any proceeding so terminated shall become null and void. In such cases, the Copyright Royalty Judges may initiate a new proceeding in accordance with regulations adopted pursuant to section 803(b)(6) of title 17, United States Code.

(2) CERTAIN ROYALTY RATES PROCEEDINGS.—Notwithstanding any other provision of law, proceedings to determine royalty rates pursuant to section 119(c) of title 17, United States Code, shall be conducted pursuant to the provisions of title 17, United States Code, and the rules and practices in effect under that chapter on the day before any provision of this Act takes effect.

(3) PENDING PROCEEDINGS.—Notwithstanding paragraph (1), any proceedings to establish or adjust rates and terms for the statutory licenses under section 114(f)(2) or 112(e) of title 17, United States Code, for a statutory period commencing on or after January 1, 2005, shall be terminated upon the date of enactment of this Act and shall be null and void. The rates and terms in effect under section 114(f)(2) or 112(e) of title 17, United States Code, on December 31, 2004, for new subscription services, eligible nonsubscription services, and services exempt under section 114(d)(1)(C)(iv) of such title, and the rates and terms published in the Federal Register under the authority of the Small Webcaster Settlement Act of 2002 (17 U.S.C. 114 note; Public Law 107-321) (including the amendments made by that Act) for the years 2003 through 2004, as well as any notice and recordkeeping provisions adopted pursuant thereto, shall remain in effect until the later of the first applicable effective date for successor terms and rates specified in section 804(b) (2) or (3)(A) of title 17, United States Code, or such later date as the parties may agree or the Copyright Royalty Judges may establish. For the period commencing January 1, 2005, an eligible small webcaster or a noncommercial webcaster, as defined in the regulations published by the Register of Copyrights pursuant to the Small Webcaster Settlement Act of 2002 (17 U.S.C. 114 note; Public Law 107-321) (including the amendments made by that Act), may elect to be subject to the rates and terms published in those regulations by complying with the procedures governing the election process set forth in those regulations not later than the first date on which the webcaster would be obligated to make a royalty payment for such period. Until successor terms and rates have been established for the period commencing January 1, 2006, licensees shall continue to make royalty payments at the rates and on the terms previously in effect, subject to retroactive adjustment when successor rates and terms for such services are established.

(4) INTERIM PROCEEDINGS.—Notwithstanding subsection (a), as soon as practicable after the date of enactment of this Act, the Copyright Royalty Judges or Interim Copyright Royalty Judges shall publish the notice described in section 803(b)(1)(A) of title 17, United States Code, as amended by this Act, to initiate a proceeding to establish or adjust rates and terms for the statutory licenses under section 114(f)(2) or 112(e) of title 17, United States Code, for new subscription services and eligible nonsubscription services for the period commencing January 1, 2006. The Copyright Royalty Judges or Interim Copyright Royalty Judges are authorized to cause that proceeding to take place as provided in subsection (b) of section 803 of that title within the time periods set forth in that subsection. Notwithstanding section 803(c)(1) of that title, the Copyright Royalty Judges shall not be required to issue their determination in that proceeding before the expiration of the statutory rates and terms in effect on December 31, 2004.

(c) EXISTING APPROPRIATIONS.—Any funds made available in an appropriations Act to carry out chapter 8 of title 17, United States Code, shall be available to the extent necessary to carry out this section.

SA 3976. Ms. COLLINS (for Mr. INHOFE (for himself, Mr. JEFFORDS, Mr. BOND, and Mr. REID)) proposed an amendment to the bill S. 1134, to reauthorize and improve the programs authorized by the Public Works and Economic Development Act of 1965; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Development Administration Reauthorization Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings and declarations.
Sec. 102. Definitions.
Sec. 103. Establishment of Economic Development partnerships.
Sec. 104. Coordination.

TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

Sec. 201. Grants for planning.
Sec. 202. Cost sharing.
Sec. 203. Supplementary grants.
Sec. 204. Regulations on relative needs and allocations.
Sec. 205. Grants for training, research, and technical assistance.
Sec. 206. Prevention of unfair competition.
Sec. 207. Grants for economic adjustment.
Sec. 208. Use of funds in projects constructed under projected cost.
Sec. 209. Special impact areas.
Sec. 210. Performance awards.
Sec. 211. Planning performance awards.
Sec. 212. Direct expenditure or redistribution by recipient.
Sec. 213. Brightfields demonstration program.

TITLE III—COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

Sec. 301. Eligibility of areas.
Sec. 302. Comprehensive Economic Development strategies.

TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

Sec. 401. Incentives.
Sec. 402. Provision of comprehensive Economic Development strategies to Regional Commissions.

TITLE V—ADMINISTRATION

Sec. 501. Economic Development information clearinghouse.
Sec. 502. Businesses desiring Federal contracts.
Sec. 503. Performance evaluations of grant recipients.
Sec. 504. Conforming amendments.

TITLE VI—MISCELLANEOUS

Sec. 601. Annual report to Congress.
Sec. 602. Relationship to assistance under other law.
Sec. 603. Brownfields redevelopment report.
Sec. 604. Savings clause
Sec. 605. Sense of Congress regarding Economic Development Representatives.

TITLE VII—FUNDING

Sec. 701. Authorization of appropriations.
Sec. 702. Funding for grants for planning and grants for administrative expenses.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS AND DECLARATIONS.

Section 2 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121) is amended to read as follows:

"SEC. 2. FINDINGS AND DECLARATIONS.

"(a) FINDINGS.—Congress finds that—

"(1) there continue to be areas of the United States experiencing chronic high unemployment, underemployment, outmigration, and low per capita incomes, as well as areas facing sudden and severe economic dislocations because of structural economic changes, changing trade patterns, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;

``(2) economic growth in the States, cities, and rural areas of the United States is produced by expanding economic opportunities, expanding free enterprise through trade, developing and strengthening public infrastructure, and creating a climate for job creation and business development;

``(3) the goal of Federal economic development programs is to raise the standard of living for all citizens and increase the wealth and overall rate of growth of the economy by encouraging communities to develop a more competitive and diversified economic base by—

``(A) creating an environment that promotes economic activity by improving and expanding public infrastructure;

``(B) promoting job creation through increased innovation, productivity, and entrepreneurship; and

``(C) empowering local and regional communities experiencing chronic high unemployment and low per capita income to develop private sector business and attract increased private sector capital investment;

``(4) while economic development is an inherently local process, the Federal Government should work in partnership with public and private State, regional, tribal, and local organizations to maximize the impact of existing resources and enable regions, communities, and citizens to participate more fully in the American dream and national prosperity;

``(5) in order to avoid duplication of effort and achieve meaningful, long-lasting results, Federal, State, tribal, and local economic development activities should have a clear focus, improved coordination, a comprehensive approach, and simplified and consistent requirements; and

``(6) Federal economic development efforts will be more effective if the efforts are coordinated with, and build upon, the trade, workforce investment, transportation, and technology programs of the United States.

``(b) Declarations.—In order to promote a strong and growing economy throughout the United States, Congress declares that—

``(1) assistance under this Act should be made available to both rural- and urban-distressed communities;

``(2) local communities should work in partnership with neighboring communities, the States, Indian tribes, and the Federal Government to increase the capacity of the local communities to develop and implement comprehensive economic development strategies to alleviate economic distress and enhance competitiveness in the global economy;

``(3) whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to support entrepreneurship to take advantage of the development opportunities afforded by technological innovation and expanding newly opened global markets; and

``(4) assistance under this Act should be made available to promote the productive reuse of abandoned industrial facilities and the redevelopment of brownfields.''.

SEC. 102. DEFINITIONS.

(a) Eligible Recipient.—Section 3(4)(A) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122(4)(A)) is amended—

(1) by striking clause (i) and redesignating clauses (ii) through (vii) as clauses (i) through (vi), respectively; and

(2) in clause (iv) (as redesignated by paragraph (1)) by inserting ``, including a special purpose unit of a State or local government engaged in economic or infrastructure development activities,'' after ``State''.

(b) Regional Commissions; University Center.—Section 3 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122) is amended—

(1) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (11), respectively;

(2) by inserting after paragraph (7) the following:

``(8) Regional commissions.—The term `Regional Commissions' means—

``(A) the Appalachian Regional Commission established under chapter 143 of title 40, United States Code;

``(B) the Delta Regional Authority established under subtitle F of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa et seq.);

``(C) the Denali Commission established under the Denali Commission Act of 1998 (42 U.S.C. 3121 note; 112 Stat. 2681–637 et seq.); and

``(D) the Northern Great Plains Regional Authority established under subtitle G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb et seq.).''; and

(3) by adding at the end the following:

``(12) University center.—The term `university center' means an institution of higher education or a consortium of institutions of higher education established as a University Center for Economic Development under section 207(a)(2)(D).''.

SEC. 103. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PARTNERSHIPS.

Section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended—

(1) in subsection (b), by striking ``and multi-State regional organizations'' and inserting ``multi-State regional organizations, and nonprofit organizations''; and

(2) in subsection (d)(1), by striking ``adjoining'' each place it appears.

SEC. 104. COORDINATION.

Section 103 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3132) is amended—

(1) by inserting ``(a) In General.—'' before ``The Secretary'';

(2) in subsection (a) (as designated by paragraph (1)), by inserting ``Indian tribes,'' after ``districts,''; and

(3) by adding at the end the following:

``(b) Meetings.—To carry out subsection (a), or for any other purpose relating to economic development activities, the Secretary may convene meetings with Federal agencies, State and local governments, economic development districts, Indian tribes, and other appropriate planning and development organizations.''.

TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

SEC. 201. GRANTS FOR PLANNING.

Section 203(d) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3143(d)) is amended—

(1) in paragraph (1), by inserting ``, to the maximum extent practicable,'' after ``developed'' the second place it appears;

(2) by striking paragraph (3) and inserting the following:

``(3) Coordination.—Before providing assistance for a State plan under this section, the Secretary shall consider the extent to which the State will consider local and economic development district plans.''; and

(3) in paragraph (4)—

(A) by striking ``and'' at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by adding after subparagraph (C) the following:

``(D) assist in carrying out the workforce investment strategy of a State;

``(E) promote the use of technology in economic development, including access to high-speed telecommunications; and''.

SEC. 202. COST SHARING.

(a) Federal Share.—Section 204 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144) is amended by striking subsection (a) and inserting the following:

``(a) Federal Share.—Except as provided in subsection (c), the Federal share of the cost of any project carried out under this title shall not exceed—

``(1) 50 percent; plus

``(2) an additional percent that—

``(A) shall not exceed 30 percent; and

``(B) is based on the relative needs of the area in which the project will be located, as determined in accordance with regulations promulgated by the Secretary.''.

(b) Non-Federal Share.—Section 204(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144(b)) is amended by inserting ``assumptions of debt,'' after ``equipment,''.

(c) Increase in Federal Share.—Section 204 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144) is amended by adding at the end the following:

``(c) Increase in Federal Share.—

``(1) Indian tribes.—In the case of a grant to an Indian tribe for a project under this title, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

``(2) Certain states, political subdivisions, and nonprofit organizations.—In the case of a grant to a State, or a political subdivision of a State, that the Secretary determines has exhausted the effective taxing and borrowing capacity of the State or political subdivision, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted the effective borrowing capacity of the nonprofit organization, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

``(3) Training, research, and technical assistance.—In the case of a grant provided under section 207, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project if the Secretary determines that the project funded by the grant merits, and is not feasible without, such an increase.''.

SEC. 203. SUPPLEMENTARY GRANTS.

(a) In General.—Section 205 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3145) is amended by striking subsection (b) and inserting the following:

``(b) Supplementary Grants.—Subject to subsection (c), in order to assist eligible recipients in taking advantage of designated Federal grant programs, on the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the recipient is eligible but for which the recipient cannot provide the required non-Federal share because of the economic situation of the recipient.''.

(b) Requirements Applicable to Supplementary Grants.—Section 205(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3145(c)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) Amount of supplementary grants.—The share of the project cost supported by a supplementary grant under this section may not exceed the applicable Federal share under section 204.

"(2) Form of supplementary grants.—The Secretary shall make supplementary grants by—

"(A) the payment of funds made available under this Act to the heads of the Federal agencies responsible for carrying out the applicable Federal programs; or

"(B) the award of funds under this Act, which will be combined with funds transferred from other Federal agencies in projects administered by the Secretary."; and

(2) by striking paragraph (4).

SEC. 204. REGULATIONS ON RELATIVE NEEDS AND ALLOCATIONS.

Section 206 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3146) is amended—

(1) in paragraph (1)(C), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3)(A) rural and urban economically distressed areas are not harmed by the establishment or implementation by the Secretary of a private sector leveraging goal for a project under this title;

"(B) any private sector leveraging goal established by the Secretary does not prohibit or discourage grant applicants under this title from public works in, or economic development of, rural or urban economically distressed areas; and

"(C) the relevant Committees of Congress are notified prior to making any changes to any private sector leveraging goal; and

"(4) grants made under this title promote job creation and will have a high probability of meeting or exceeding applicable performance requirements established in connection with the grants.".

SEC. 205. GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.

(a) In General.—Section 207(a)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (I); and

(3) by inserting after subparagraph (F) the following:

"(G) studies that evaluate the effectiveness of coordinating projects funded under this Act with projects funded under other Acts;

"(H) assessment, marketing, and establishment of business clusters; and".

(b) Cooperation Requirement.—Section 207(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147(a)) is amended by striking paragraph (3) and inserting the following:

"(3) Cooperation requirement.—In the case of a project assisted under this section that is national or regional in scope, the Secretary may waive the provision in section 3(4)(A)(vi) requiring a nonprofit organization or association to act in cooperation with officials of a political subdivision of a State.".

SEC. 206. PREVENTION OF UNFAIR COMPETITION.

(a) In General.—Section 208 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3148) is repealed.

(b) Conforming Amendment.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 208.

SEC. 207. GRANTS FOR ECONOMIC ADJUSTMENT.

(a) Assistance to Manufacturing Communities.—Section 209(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)) is amended—

(1) in paragraph (3), by striking "or";

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(5) the loss of manufacturing jobs, for reinvesting in and diversifying the economies of the communities.".

(b) Direct Expenditure or Redistribution by Recipient; Special Provisions Relating to Revolving Loan Fund Grants.—Section 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149) is amended by striking subsection (d) and inserting the following:

"(d) Special Provisions Relating to Revolving Loan Fund Grants.—

"(1) In general.—The Secretary shall promulgate regulations to maintain the proper operation and financial integrity of revolving loan funds established by recipients with assistance under this section.

"(2) Efficient administration.—The Secretary may—

"(A) at the request of a grantee, amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria;

"(B) assign or transfer assets of a revolving loan fund to third party for the purpose of liquidation, and the third party may retain assets of the fund to defray costs related to liquidation; and

"(C) take such actions as are appropriate to enable revolving loan fund operators to sell or securitize loans (except that the actions may not include issuance of a Federal guaranty by the Secretary).

"(3) Treatment of actions.—An action taken by the Secretary under this subsection with respect to a revolving loan fund shall not constitute a new obligation if all grant funds associated with the original grant award have been disbursed to the recipient.

"(4) Preservation of securities laws.—

"(A) Not treated as exempted securities.—No securities issued pursuant to paragraph (2)(C) shall be treated as exempted securities for purposes of the Securities Act of 1933 (15 U.S.C. 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless exempted by rule or regulation of the Securities and Exchange Commission.

"(B) Preservation.—Except as provided in subparagraph (A), no provision of this subsection or any regulation promulgated by the Secretary under this subsection supersedes or otherwise affects the application of the securities laws (as the term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))) or the rules, regulations, or orders of the Securities and Exchange Commission or a self-regulatory organization under that Commission.".

SEC. 208. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

Section 211 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151) is amended to read as follows:

"SEC. 211. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

"(a) In General.—In the case of a grant to a recipient for a construction project under section 201 or 209, if the Secretary determines, before closeout of the project, that the cost of the project, based on the designs and specifications that were the basis of the grant, has decreased because of decreases in costs, the Secretary may approve, without further appropriation, the use of the excess funds (or a portion of the excess funds) by the recipient—

"(1) to increase the Federal share of the cost of a project under this title to the maximum percentage allowable under section 204; or

"(2) to improve the project.

"(b) Other Uses of Excess Funds.—Any amount of excess funds remaining after application of subsection (a) may be used by the Secretary for providing assistance under this Act.

"(c) Transferred Funds.—In the case of excess funds described in subsection (a) in projects using funds transferred from other Federal agencies pursuant to section 604, the Secretary shall—

"(1) use the funds in accordance with subsection (a), with the approval of the originating agency; or

"(2) return the funds to the originating agency.

"(d) Review by Comptroller General.—

"(1) Review.—The Comptroller General of the United States shall regularly review the implementation of this section.

"(2) Report.—Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller General on implementation of this subsection.".

SEC. 209. SPECIAL IMPACT AREAS.

(a) In General.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) is amended by adding at the end the following:

"SEC. 214. SPECIAL IMPACT AREAS.

"(a) In General.—On the application of an eligible recipient that is determined by the Secretary to be unable to comply with the requirements of section 302, the Secretary may waive, in whole or in part, the requirements of section 302 and designate the area represented by the recipient as a special impact area.

"(b) Conditions.—The Secretary may make a designation under subsection (a) only after determining that—

"(1) the project will fulfill a pressing need of the area; and

"(2) the project will—

"(A) be useful in alleviating or preventing conditions of excessive unemployment or underemployment; or

"(B) assist in providing useful employment opportunities for the unemployed or underemployed residents in the area.

"(c) Notification.—At the time of the designation under subsection (a), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice of the designation, including a justification for the designation.".

(b) Conforming Amendment.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 213 the following:

"Sec. 214. Special impact areas.".

SEC. 210. PERFORMANCE AWARDS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 209) is amended by adding at the end the following:

"SEC. 215. PERFORMANCE AWARDS.

"(a) IN GENERAL.—The Secretary may make a performance award in connection with a grant made, on or after the date of enactment of this section, to an eligible recipient for a project under section 201 or 209.

"(b) PERFORMANCE MEASURES.—

"(1) REGULATIONS.—The Secretary shall promulgate regulations to establish performance measures for making performance awards under subsection (a).

"(2) CONSIDERATIONS.—In promulgating regulations under paragraph (1), the Secretary shall consider the inclusion of performance measures that assess—

"(A) whether the recipient meets or exceeds scheduling goals;

"(B) whether the recipient meets or exceeds job creation goals;

"(C) amounts of private sector capital investments leveraged; and

"(D) such other factors as the Secretary determines to be appropriate.

"(c) AMOUNT OF AWARDS.—

"(1) IN GENERAL.—The Secretary shall base the amount of a performance award made under subsection (a) in connection with a grant on the extent to which a recipient meets or exceeds performance measures established in connection with the grant.

"(2) MAXIMUM AMOUNT.—The amount of a performance award may not exceed 10 percent of the amount of the grant.

"(d) USE OF AWARDS.—A recipient of a performance award under subsection (a) may use the award for any eligible purpose under this Act, in accordance with section 602 and such regulations as the Secretary may promulgate.

"(e) FEDERAL SHARE.—Notwithstanding section 204, the funds of a performance award may be used to pay up to 100 percent of the cost of an eligible project or activity.

"(f) TREATMENT IN MEETING NON-FEDERAL SHARE REQUIREMENTS.—For the purposes of meeting the non-Federal share requirements under this, or any other, Act the funds of a performance award shall be treated as funds from a non-Federal source.

"(g) TERMS AND CONDITIONS.—In making performance awards under subsection (a), the Secretary shall establish such terms and conditions as the Secretary considers to be appropriate.

"(h) FUNDING.—The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.

"(i) REPORTING REQUIREMENT.—The Secretary shall include information regarding performance awards made under this section in the annual report required under section 603.

"(j) REVIEW BY COMPTROLLER GENERAL.—

"(1) REVIEW.—The Comptroller General shall regularly review the implementation of this section.

"(2) REPORT.—Not later than 1 year after the date of enactment of this section, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller on implementation of this subsection.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 214 the following:

"Sec. 215. Performance awards.".

SEC. 211. PLANNING PERFORMANCE AWARDS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 210) is amended by adding at the end the following:

"SEC. 216. PLANNING PERFORMANCE AWARDS.

"(a) IN GENERAL.—The Secretary may make a planning performance award in connection with a grant made, on or after the date of enactment of this section, to an eligible recipient for a project under this title located in an economic development district.

"(b) ELIGIBILITY.—The Secretary may make a planning performance award to an eligible recipient under subsection (a) in connection with a grant for a project if the Secretary determines before closeout of the project that—

"(1) the recipient actively participated in the economic development activities of the economic development district in which the project is located;

"(2) the project is consistent with the comprehensive economic development strategy of the district;

"(3) the recipient worked with Federal, State, and local economic development entities throughout the development of the project; and

"(4) the project was completed in accordance with the comprehensive economic development strategy of the district.

"(c) MAXIMUM AMOUNT.—The amount of a planning performance award made under subsection (a) in connection with a grant may not exceed 5 percent of the amount of the grant.

"(d) USE OF AWARDS.—A recipient of a planning performance award under subsection (a) shall use the award to increase the Federal share of the cost of a project under this title.

"(e) FEDERAL SHARE.—Notwithstanding section 204, the funds of a planning performance award may be used to pay up to 100 percent of the cost of a project under this title.

"(f) FUNDING.—The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 215 the following:

"Sec. 216. Planning performance awards.".

SEC. 212. DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 211) is amended by adding at the end the following:

"SEC. 217. DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.

"(a) IN GENERAL.—Subject to subsection (b), a recipient of a grant under section 201, 203, or 207 may directly expend the grant funds or may redistribute the funds in the form of a subgrant to other eligible recipients to fund required components of the scope of work approved for the project.

"(b) LIMITATION.—A recipient may not redistribute grant funds received under section 201 or 203 to a for-profit entity.

"(c) ECONOMIC ADJUSTMENT.—Subject to subsection (d), a recipient of a grant under section 209 may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

"(d) LIMITATION.—Under subsection (c), a recipient may not provide any grant to a private for-profit entity.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 216 the following:

"Sec. 217. Direct expenditure or redistribution by recipient.".

SEC. 213. BRIGHTFIELDS DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 212) is amended by adding at the end the following:

"SEC. 218. BRIGHTFIELDS DEMONSTRATION PROGRAM.

"(a) DEFINITION OF BRIGHTFIELD SITE.—In this section, the term 'brightfield site' means a brownfield site that is redeveloped through the incorporation of 1 or more solar energy technologies.

"(b) DEMONSTRATION PROGRAM.—On the application of an eligible recipient, the Secretary may make a grant for a project for the development of a brightfield site if the Secretary determines that the project will—

"(1) use 1 or more solar energy technologies to develop abandoned or contaminated sites for commercial use; and

"(2) improve the commercial and economic opportunities in the area in which the project is located.

"(c) SAVINGS CLAUSE.—To the extent that any portion of a grant awarded under subsection (b) involves remediation, the remediation shall be subject to section 612.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2004 through 2008, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 217 (as added by section 212(b)) the following:

"Sec. 218. Brightfields demonstration program.".

TITLE III—COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

SEC. 301. ELIGIBILITY OF AREAS.

Section 301(c)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(c)(1)) is amended by inserting after "most recent Federal data available" the following: "(including data available from the Bureau of Economic Analysis, the Bureau of Labor Statistics, the Census Bureau, the Bureau of Indian Affairs, or any other Federal source determined by the Secretary to be appropriate)".

SEC. 302. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.

(a) IN GENERAL.—Section 302(a)(3)(A) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162(a)(3)(A)) is amended by inserting "maximizes effective development and use of the workforce consistent with any applicable State or local workforce investment strategy, promotes the use of technology in economic development (including access to high-speed telecommunications)," after "access,".

(b) Approval of Other Plan.—Section 302(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162(c)) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) In general.—The Secretary"; and

(2) by adding at the end the following:

"(2) Existing strategy.—To the maximum extent practicable, a plan submitted under this paragraph shall be consistent and coordinated with any existing comprehensive economic development strategy for the area.".

TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

SEC. 401. INCENTIVES.

(a) In General.—Section 403 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3173) is repealed.

(b) Conforming Amendment.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 403.

SEC. 402. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO REGIONAL COMMISSIONS.

(a) In General.—Section 404 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3174) is amended to read as follows:

"SEC. 404. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO REGIONAL COMMISSIONS.

"If any part of an economic development district is in a region covered by 1 or more of the Regional Commissions, the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the affected Regional Commission.".

(b) Conforming Amendment.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 404 and inserting the following:

"Sec. 404. Provision of comprehensive economic development strategies to Regional Commissions.".

TITLE V—ADMINISTRATION

SEC. 501. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.

Section 502 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3192) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) maintain a central information clearinghouse on the Internet with—

"(A) information on economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal Government;

"(B) links to State economic development organizations; and

"(C) links to other appropriate economic development resources;";

(2) by striking paragraph (2) and inserting the following:

"(2) assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal and State laws in locating and applying for the assistance;";

(3) by striking the period at the end of paragraph (3) and inserting "; and"; and

(4) by adding at the end the following:

"(4) obtain appropriate information from other Federal agencies needed to carry out the duties under this Act.".

SEC. 502. BUSINESSES DESIRING FEDERAL CONTRACTS.

(a) In General.—Section 505 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3195) is repealed.

(b) Conforming Amendment.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 505.

SEC. 503. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

(a) In General.—Section 506(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3196(c)) is amended by striking "after the effective date of the Economic Development Administration Reform Act of 1998".

(b) Evaluation Criteria.—Section 506(d)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3196(d)(2)) is amended by inserting "program performance," after "applied research,".

SEC. 504. CONFORMING AMENDMENTS.

Section 602 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3212) is amended—

(1) in the first sentence, by striking "in accordance with" and all that follows before the period at the end and inserting "in accordance with subchapter IV of chapter 31 of title 40, United States Code"; and

(2) in the third sentence, by striking "section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)" and inserting "section 3145 of title 40, United States Code".

TITLE VI—MISCELLANEOUS

SEC. 601. ANNUAL REPORT TO CONGRESS.

Section 603 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3213) is amended—

(1) by striking "Not later" and inserting the following:

"(a) In General.—Not later"; and

(2) by adding at the end the following:

"(b) Inclusions.—Each report required under subsection (a) shall—

"(1) include a list of all grant recipients by State, including the projected private sector dollar to Federal dollar investment ratio for each grant recipient;

"(2) include a discussion of any private sector leveraging goal with respect to grants awarded to—

"(A) rural and urban economically distressed areas; and

"(B) highly distressed areas; and

"(3) after the completion of a project, include the realized private sector dollar to Federal dollar investment ratio for the project.".

SEC. 602. RELATIONSHIP TO ASSISTANCE UNDER OTHER LAW.

Section 609 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3219) is amended—

(1) by striking subsection (a); and

(2) by striking "(b) Assistance Under Other Acts.—".

SEC. 603. BROWNFIELDS REDEVELOPMENT REPORT.

(a) In General.—Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171 et seq.) is amended by adding at the end the following:

"SEC. 611. BROWNFIELDS REDEVELOPMENT REPORT.

"(a) Definition of Brownfield Site.—In this section, the term 'brownfield site' has the meaning given the term in section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(39)).

"(b) Report.—

"(1) In general.—Not later than 1 year after the date of enactment of this section, the Comptroller General shall prepare a report that evaluates the grants made by the Economic Development Administration for the economic development of brownfield sites.

"(2) Contents.—The report shall—

"(A) identify each project conducted during the previous 10-year period in which grant funds have been used for brownfield sites redevelopment activities; and

"(B) include for each project a description of—

"(i) the type of economic development activities conducted;

"(ii) if remediation activities were conducted—

"(I) the type of remediation activities; and

"(II) the amount of grant money used for those activities in dollars and as a percentage of the total grant award;

"(iii) the economic development and environmental standards applied, if applicable;

"(iv) the economic development impact of the project;

"(v) the role of Federal, State, or local environmental agencies, if any; and

"(vi) public participation in the project.

"(3) Submission of Report.—The Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of the report.".

(b) Conforming Amendment.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 610 the following:

"Sec. 611. Brownfields redevelopment report.".

SEC. 604. SAVINGS CLAUSE.

(a) In General.—Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171 et seq.) (as amended by section 603(a)) is amended by adding at the end the following:

"SEC. 612. SAVINGS CLAUSE.

"To the extent that any portion of grants made under this Act are used for an economic development project that involves remediation, the remediation shall be conducted in compliance with all applicable Federal, State, and local laws and standards.".

(b) Conforming Amendment.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 611 (as added by section 603(b)) the following:

"Sec. 612. Savings clause.".

SEC. 605. SENSE OF CONGRESS REGARDING ECONOMIC DEVELOPMENT REPRESENTATIVES.

(a) Findings.—Congress finds that—

(1) planning and coordination among Federal agencies, State and local governments, Indian tribes, and economic development districts is vital to the success of an economic development program;

(2) economic development representatives of the Economic Development Administration provide distressed communities with the technical assistance necessary to foster this planning and coordination; and

(3) in the 5 years preceding the date of enactment of this Act, the number of economic development representatives has declined by almost 25 percent.

(b) Sense of Congress.—It is the sense of Congress that the Secretary should maintain a sufficient number of economic development representatives to ensure that the Economic Development Administration is able to provide effective assistance to distressed communities and foster economic growth and development among the States.

TITLE VII—FUNDING

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Section 701 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231) is amended to read as follows:

"SEC. 701. GENERAL AUTHORIZATION OF APPROPRIATIONS.

"(a) Economic Development Assistance Programs.—There are authorized to be appropriated for economic development assistance programs to carry out this Act, to remain available until expended—

"(1) $400,000,000 for fiscal year 2004;

"(2) $425,000,000 for fiscal year 2005;

"(3) $450,000,000 for fiscal year 2006;

"(4) $475,000,000 for fiscal year 2007; and

"(5) $500,000,000 for fiscal year 2008."

"(b) Salaries and Expenses.—There are authorized to be appropriated for salaries and expenses of administering this Act, to remain available until expended—

"(1) $33,377,000 for fiscal year 2004; and

"(2) such sums as are necessary for each fiscal year thereafter.".

SEC. 702. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

(a) In General.—Title VII of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231 et seq.) is amended by adding at the end the following:

"SEC. 704. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

"Of the amounts made available under section 701 for each fiscal year, not less than $27,000,000 shall be made available for grants provided under section 203.".

(b) Conforming Amendment.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 703 the following:

"Sec. 704. Funding for grants for planning and grants for administrative expenses".

SA 3977. Ms. COLLINS (for herself and Mr. LIEBERMAN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

On page 4, beginning on line 10, strike "information gathered, and activities" and inserting "foreign intelligence gathered, and information gathering and other activities".

On page 4, line 16, insert before the period the following: ", but does not include personnel, physical, document, or communications security programs".

On page 23, line 8, strike the period and insert "as it pertains to those programs, projects, and activities within the National Intelligence Program".

On page 24, line 10, insert "transactional deposit" after "establish".

On page 181, line 9, insert "or involving intelligence acquired through clandestine means" before the period.

SA 3978. Ms. COLLINS (for Mr. ENSIGN) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following:

TITLE IV—OTHER MATTERS

SEC. 401. RESPONSIBILITIES AND FUNCTIONS OF CONSULAR OFFICERS.

(a) Increased Number of Consular Officers.—The Secretary of State, in each of fiscal years 2006 through 2009, may increase by 150 the number of positions for consular officers above the number of such positions for which funds were allotted for the preceding fiscal year.

(b) Limitation on Use of Foreign Nationals for Visa Screening.—

(1) Immigrant visas.—Subsection (b) of section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following: "All immigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(2) Nonimmigrant visas.—Subsection (d) of such section is amended by adding at the end the following: "All nonimmigrant visa applications shall be reviewed and adjudicated by a consular officer.".

(c) Training for Consular Officers in Detection of Fraudulent Documents.—Section 305(a) of the Enhanced Border Security and Visa Entry Reform Act of 2002 (8 U.S.C. 1734(a)) is amended by adding at the end the following: "As part of the consular training provided to such officers by the Secretary of State, such officers shall also receive training in detecting fraudulent documents and general document forensics and shall be required as part of such training to work with immigration officers conducting inspections of applicants for admission into the United States at ports of entry.".

(d) Assignment of Anti-Fraud Specialists.—

(1) Survey regarding document fraud.—The Secretary of State, in coordination with the Secretary of Homeland Security, shall conduct a survey of each diplomatic and consular post at which visas are issued to assess the extent to which fraudulent documents are presented by visa applicants to consular officers at such posts.

(2) Requirement for specialist.—

(A) In general.—Not later than July 31, 2005, the Secretary of State shall, in coordination with the Secretary of Homeland Security, identify the diplomatic and consular posts at which visas are issued that experience the greatest frequency of presentation of fraudulent documents by visa applicants. The Secretary of State shall assign or designate at each such post at least one full-time anti-fraud specialist employed by the Department of State to assist the consular officers at each such post in the detection of such fraud.

(B) Exceptions.—The Secretary of State is not required to assign or designate a specialist as described in subparagraph (A) at a diplomatic and consular post if an employee of the Department of Homeland Security is assigned on a full-time basis to such post under the authority in section 428 of the Homeland Security Act of 2002 (6 U.S.C. 236).

SEC. 402. INCREASE IN FULL-TIME BORDER PATROL AGENTS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 1,000 the number of positions for full-time active duty border patrol agents within the Department of Homeland Security above the number of such positions for which funds were made available during the preceding fiscal year. Of the additional border patrol agents, in each fiscal year not less than 20 percent of such agents shall be assigned to duty stations along the northern border of the United States.

SEC. 403. INCREASE IN FULL-TIME IMMIGRATION AND CUSTOMS ENFORCEMENT INVESTIGATORS.

In each of fiscal years 2006 through 2010, the Secretary of Homeland Security shall, subject to the availability of appropriations for such purpose, increase by not less than 800 the number of positions for full-time active duty investigators within the Department of Homeland Security investigating violations of immigration laws (as defined in section 101(a)(17) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(17)) above the number of such positions for which funds were made available during the preceding fiscal year.

SA 3979. Ms. COLLINS (for Mr. KYL) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the end, add the following new title:

TITLE IV—VISA REQUIREMENTS

SEC. 401. IN PERSON INTERVIEWS OF VISA APPLICANTS.

(a) Requirement for Interviews.—Section 222 of the Immigration and Nationality Act (8 U.S.C. 1202) is amended by adding at the end the following new subsection:

"(h) Notwithstanding any other provision of this Act, the Secretary of State shall require every alien applying for a nonimmigrant visa—

"(1) who is at least 12 years of age and not more than 65 years of age to submit to an in person interview with a consular officer unless the requirement for such interview is waived—

"(A) by a consular official and such alien is within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G) or is granted a diplomatic visa on a diplomatic passport or on the equivalent thereof;

"(B) by a consular official and such alien is applying for a visa—

"(i) not more than 12 months after the date on which the alien's prior visa expired;

"(ii) for the classification under section 101(a)(15) for which such prior visa was issued;

"(iii) from the consular post located in the country in which the alien is a national; and

"(iv) the consular officer has no indication that the alien has not complied with the immigration laws and regulations of the United States; or

"(C) by the Secretary of State if the Secretary determines that such waiver is—

"(i) in the national interest of the United States; or

"(ii) necessary as a result of unusual circumstances; and

"(2) notwithstanding paragraph (1), to submit to an in person interview with a consular officer if such alien—

"(A) is not a national of the country in which the alien is applying for a visa;

"(B) was previously refused a visa, unless such refusal was overcome or a waiver of ineligibility has been obtained;

"(C) is listed in the Consular Lookout and Support System (or successor system at the Department of State);

"(D) may not obtain a visa until a security advisory opinion or other Department of State clearance is issued unless such alien is—

"(i) within that class of nonimmigrants enumerated in section 101(a)(15)(A) or 101(a)(15)(G); and

"(ii) not a national of a country that is officially designated by the Secretary of State as a state sponsor of terrorism; or

"(E) is identified as a member of a group or sector that the Secretary of State determines—

"(i) poses a substantial risk of submitting inaccurate information in order to obtain a visa;

"(ii) has historically had visa applications denied at a rate that is higher than the average rate of such denials; or

"(iii) poses a security threat to the United States.".

SEC. 402. VISA APPLICATION REQUIREMENTS.

Section 222(c) of the Immigration and Nationality Act (8 U.S.C. 1202(c)) is amended by inserting "The alien shall provide complete and accurate information in response to any request for information contained in the application." after the second sentence.

SEC. 403. EFFECTIVE DATE.

Notwithstanding section 341 or any other provision of this Act, this title shall take effect 90 days after date of the enactment of this Act.

SA 3980. Mr. LIEBERMAN (for Mr. SCHUMER) proposed an amendment to the bill S. 2845, to reform the intelligence community and the intelligence and intelligence-related activities of the United States Government, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . REGIONAL MODEL STRATEGIC PLAN PILOT PROJECTS.

(a) PILOT PROJECTS.—Consistent with sections 302 and 430 of the Homeland Security Act of 2002 (6 U.S.C. 182, 238), not later than 90 days after the date of enactment of this Act, the Secretary of Homeland Security, in coordination with the Executive Director of the Office of State and Local Government Coordination and Preparedness and the Undersecretary for Science and Technology, shall establish not fewer than 2 pilot projects in high threat urban areas or regions that are likely to implement a national model strategic plan.

(b) PURPOSES.—The purposes of the pilot projects required by this section shall be to develop a regional strategic plan to foster interagency communication in the area in which it is established and coordinate the gathering of all Federal, State, and local first responders in that area, consistent with the national strategic plan developed by the Department of Homeland Security.

(c) SELECTION CRITERIA.—In selecting urban areas for the location of pilot projects under this section, the Secretary shall consider—

(1) the level of threat risk to the area, as determined by the Department of Homeland Security;

(2) the number of Federal, State, and local law enforcement agencies located in the area;

(3) the number of potential victims from a large scale terrorist attack in the area; and

(4) such other criteria reflecting a community's risk and vulnerability as the Secretary determines is appropriate.

(d) INTERAGENCY ASSISTANCE.—The Secretary of Defense shall provide assistance to the Secretary of Homeland Security, as necessary for the development of the pilot projects required by this section, including examining relevant standards, equipment, and protocols in order to improve interagency communication among first responders.

(e) REPORTS TO CONGRESS.—The Secretary of Homeland Security shall submit to Congress—

(1) an interim report regarding the progress of the interagency communications pilot projects required by this section 6 months after the date of enactment of this Act; and

(2) a final report 18 months after that date of enactment.

(f) FUNDING.—There are authorized to be made available to the Secretary of Homeland Security, such sums as may be necessary to carry out this section.

SA 3981. Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) proposed an amendment to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; as follows:

Strike all after the resolving clause and insert the following:

SEC. 100. PURPOSE.

It is the purpose of titles I through V of this resolution to improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government, and to improve the Senate's oversight of homeland security.

TITLE I—HOMELAND SECURITY OVERSIGHT REFORM

SEC. 101. HOMELAND SECURITY.

(a) COMMITTEE ON HOMELAND SECURITY AND GOVERNMENT AFFAIRS.—The Committee on Governmental Affairs is renamed as the Committee on Homeland Security and Governmental Affairs.

(b) JURISDICTION.—There shall be referred to the committee all proposed legislation, messages, petitions, memorials, and other matters relating primarily to the following subjects:

(1) Department of Homeland Security, except matters relating to the Coast Guard, the Transportation Security Administration, the Federal Law Enforcement Training Center, and the revenue functions of the Customs Service.

(2) Archives of the United States.

(3) Budget and accounting measures, other than appropriations, except as provided in the Congressional Budget Act of 1974.

(4) Census and collection of statistics, including economic and social statistics.

(5) Congressional organization, except for any part of the matter that amends the rules or orders of the Senate.

(6) Federal Civil Service.

(7) Government information.

(8) Intergovernmental relations.

(9) Municipal affairs of the District of Columbia, except appropriations therefor.

(10) Organization and management of United States nuclear export policy.

(11) Organization and reorganization of the executive branch of the Government.

(12) Postal Service.

(13) Status of officers and employees of the United States, including their classification, compensation, and benefits.

(c) ADDITIONAL DUTIES.—The committee shall have the duty of—

(1) receiving and examining reports of the Comptroller General of the United States and of submitting such recommendations to the Senate as it deems necessary or desirable in connection with the subject matter of such reports;

(2) studying the efficiency, economy, and effectiveness of all agencies and departments of the Government;

(3) evaluating the effects of laws enacted to reorganize the legislative and executive branches of the Government; and

(4) studying the intergovernmental relationships between the United States and the States and municipalities, and between the United States and international organizations of which the United States is a member.

(d) JURISDICTION OF SENATE COMMITTEES.—The jurisdiction of the Committee on Homeland Security and Governmental Affairs provided in subsection (b) shall supersede the jurisdiction of any other committee of the Senate provided in the rules of the Senate.

TITLE II—INTELLIGENCE OVERSIGHT REFORM

SEC. 201. INTELLIGENCE OVERSIGHT.

(a) COMMITTEE ON ARMED SERVICES MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 400, agreed to May 19, 1976 (94th Congress) (referred to in this section as "S. Res. 400") is amended by—

(1) inserting "(A)" after "(3)"; and

(2) inserting at the end the following:

"(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.".

(b) NUMBER OF MEMBERS.—Section 2(a) of S. Res. 400 is amended—

(1) in paragraph (1), by inserting "not to exceed" before "fifteen members";

(2) in paragraph (1)(E), by inserting "not to exceed" before "seven"; and

(3) in paragraph (2), by striking the second sentence and inserting "Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin.".

(c) ELIMINATION OF TERM LIMITS.—Section 2 of Senate Resolution 400, 94th Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(d) APPOINTMENT OF CHAIRMAN AND RANKING MEMBER.—Section 2(b) of S. Res. 400, as redesignated by subsection (c) of this section, is amended by striking the first sentence and inserting the following: "At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee.".

(e) SUBCOMMITTEES.—Section 2 of S. Res. 400, as amended by subsections (a) through (d), is amended by adding at the end the following:

"(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman and Vice Chairman of the select Committee, respectively.".

(f) Reports.—Section 4(a) of S. Res. 400 is amended by inserting ", but not less than quarterly," after "periodic".

(g) Staff.—Section 15 of S. Res. 400 is amended to read as follows:

"Sec. 15. (a) The select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member's designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

"(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces, and shall have full access to select Committee staff, information, records, and databases.

"(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee clearance requirements for employment by the select Committee.".

(h) Nominees.—S. Res. 400 is amended by adding at the end the following:

"Sec. 17. (a) The select Committee shall have final responsibility for reviewing, holding hearings, and voting on civilian persons nominated by the President to fill a position within the intelligence community that requires the advice and consent of the Senate.

"(b) Other committees with jurisdiction over the nominees' executive branch department may hold hearings and interviews with that person.".

TITLE III—COMMITTEE STATUS

SEC. 301. COMMITTEE STATUS.

(a) Homeland Security.—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

(b) Intelligence.—The Select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

TITLE IV—INTELLIGENCE-RELATED SUBCOMMITTEES

SEC. 401. SUBCOMMITTEE RELATED TO INTELLIGENCE OVERSIGHT.

(a) Establishment.—There is established in the Select Committee on Intelligence a Subcommittee on Oversight which shall be in addition to any other subcommittee established by the select Committee.

(b) Responsibility.—The Subcommittee on Oversight shall be responsible for ongoing oversight of intelligence activities.

SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.

(a) Establishment.—There is established in the Committee on Appropriations a Subcommittee on Intelligence. The Subcommittee on Military Construction shall be combined with the Subcommittee on Defense into 1 subcommittee.

(b) Jurisdiction.—The Subcommittee on Intelligence of the Committee on Appropriations shall have jurisdiction over funding for intelligence matters.

TITLE V—EFFECTIVE DATE

SEC. 501. EFFECTIVE DATE.

This resolution shall take effect on the convening of the 109th Congress.

SA 3982. Mr. FRIST (for Mr. Hatch (for himself and Mr. Biden)) proposed an amendment to the bill S. 2195, to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors; as follows:

In section 4(c) in the matter proposed to be inserted, strike "primarily".

SA 3983. Mr. McCONNELL (for Mr. McCain (for himself and Mr. Nelson of Florida)) proposed an amendment to the bill H.R. 2608, to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes; as follows:

Strike out all after the enacting clause and insert the following:

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Title I—Earthquake Hazard Reduction

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. National earthquake hazards reduction program.
Sec. 104. Authorization of appropriations.

Title II—Windstorm Impact Reduction

Sec. 201. Short title.
Sec. 202. Findings.
Sec. 203. Definitions.
Sec. 204. National windstorm impact reduction program.
Sec. 205. National advisory committee on windstorm impact reduction.
Sec. 206. Savings clause.
Sec. 207. Authorization of appropriations.
Sec. 208. Biennial report.
Sec. 209. Coordination.

Title III—Commercial Space Transportation

Sec. 301. Authorization of appropriations.

TITLE I—EARTHQUAKE HAZARD REDUCTION

SEC. 101. SHORT TITLE.

This title may be cited as the "National Earthquake Hazards Reduction Program Reauthorization Act of 2004".

SEC. 102. DEFINITIONS.

Section 4 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.) is amended by adding at the end the following new paragraphs:

"(8) The term 'Interagency Coordinating Committee' means the Interagency Coordinating Committee on Earthquake Hazards Reduction established under section 5(a).

"(9) The term 'Advisory Committee' means the Advisory Committee established under section 5(a)(5).".

SEC. 103. NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM.

Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704(b)) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Establishment.—

"(1) In general.—There is established the National Earthquake Hazards Reduction Program.

"(2) Program activities.—The activities of the Program shall be designed to—

"(A) develop effective measures for earthquake hazards reduction;

"(B) promote the adoption of earthquake hazards reduction measures by Federal, State, and local governments, national standards and model code organizations, architects and engineers, building owners, and others with a role in planning and constructing buildings, structures, and lifelines through—

"(i) grants, contracts, cooperative agreements, and technical assistance;

"(ii) development of standards, guidelines, and voluntary consensus codes for earthquake hazards reduction for buildings, structures, and lifelines;

"(iii) development and maintenance of a repository of information, including technical data, on seismic risk and hazards reduction; and

"(C) improve the understanding of earthquakes and their effects on communities, buildings, structures, and lifelines, through interdisciplinary research that involves engineering, natural sciences, and social, economic, and decisions sciences; and

"(D) develop, operate, and maintain an Advanced National Seismic Research and Monitoring System established under section 13 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7707), the George E. Brown, Jr. Network for Earthquake Engineering Simulation established under section 14 of that Act (42 U.S.C. 7708), and the Global Seismographic Network.

"(3) Interagency coordinating committee on earthquake hazards reduction.—

"(A) In general.—There is established an Interagency Coordinating Committee on Earthquake Hazards Reduction chaired by the Director of the National Institute of Standards and Technology (referred to in this subsection as the 'Director').

"(B) Membership.—The committee shall be composed of the directors of—

"(i) the Federal Emergency Management Agency;

"(ii) the United States Geological Survey;

"(iii) the National Science Foundation;

"(iv) the Office of Science and Technology Policy; and

"(v) the Office of Management and Budget.

"(C) Meetings.—The Committee shall meet not less than 3 times a year at the call of the Director.

"(D) Purpose and duties.—The Interagency Coordinating Committee shall oversee the planning, management, and coordination of the Program. The Interagency Coordinating Committee shall—

"(i) develop, not later than 6 months after the date of enactment of the National Earthquake Hazards Reduction Program Reauthorization Act of 2004 and update periodically—

"(I) a strategic plan that establishes goals and priorities for the Program activities described under subsection (a)(2); and

"(II) a detailed management plan to implement such strategic plan; and

"(ii) develop a coordinated interagency budget for the Program that will ensure appropriate balance among the Program activities described under subsection (a)(2), and, in accordance with the plans developed under clause (i), submit such budget to the Director of the Office of Management and Budget at the time designated by that office for agencies to submit annual budgets.

"(4) Annual report.—The Interagency Coordinating Committee shall transmit, at the time of the President's budget request to

Congress, an annual report to the Committee on Science and the Committee on Resources of the House of Representatives, and the Committee on Commerce, Science, and Transportation of the Senate. Such report shall include—

"(A) the Program budget for the current fiscal year for each agency that participates in the Program, and for each major goal established for the Program activities under subparagraph (3)(A);

"(B) the proposed Program budget for the next fiscal year for each agency that participates in the Program, and for each major goal established for the Program activities under subparagraph (3)(A);

"(C) a description of the activities and results of the Program during the previous year, including an assessment of the effectiveness of the Program in furthering the goals established in the strategic plan under (3)(A);

"(D) a description of the extent to which the Program has incorporated the recommendations of the Advisory Committee;

"(E) a description of activities, including budgets for the current fiscal year and proposed budgets for the next fiscal year, that are carried out by Program agencies and contribute to the Program, but are not included in the Program; and

"(F) a description of the activities, including budgets for the current fiscal year and proposed budgets for the following fiscal year, related to the grant program carried out under subsection (b)(2)(A)(i).

"(5) ADVISORY COMMITTEE.—

"(A) IN GENERAL.—The Director shall establish an Advisory Committee on Earthquake Hazards Reduction of at least 11 members, none of whom may be an employee (as defined in subparagraphs (A) through (F) of section 7342(a)(1) of title 5, United States Code, including representatives of research and academic institutions, industry standards development organizations, State and local government, and financial communities who are qualified to provide advice on earthquake hazards reduction and represent all related scientific, architectural, and engineering disciplines. The recommendations of the Advisory Committee shall be considered by Federal agencies in implementing the Program.

"(B) ASSESSMENT.—The Advisory Committee shall assess—

"(i) trends and developments in the science and engineering of earthquake hazards reduction;

"(ii) effectiveness of the Program in carrying out the activities under (a)(2);

"(iii) the need to revise the Program; and

"(iv) the management, coordination, implementation, and activities of the Program.

"(C) REPORT.—Not later than 1 year after the date of enactment of the National Earthquake Hazards Reduction Program Reauthorization Act of 2004 and at least once every 2 years thereafter, the Advisory Committee shall report to the Director on its findings of the assessment carried out under subparagraph (B) and its recommendations for ways to improve the Program. In developing recommendations, the Committee shall consider the recommendations of the United States Geological Survey Scientific Earthquake Studies Advisory Committee.

"(D) FEDERAL ADVISORY COMMITTEE ACT APPLICATION.—Section 14 of the Federal Advisory Committee Act (5 App. U.S.C. 14) shall not apply to the Advisory Committee.";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "Federal Emergency Management Agency" and all that follows through "of the Agency" and inserting "National Institute of Standards and Technology shall have the primary responsibility for planning and coordinating the Program. In carrying out this paragraph, the Director of the Institute";

(ii) by striking subparagraphs (B) and (C) and redesignating subparagraphs (D) and (E) as subparagraphs (C) and (D), respectively;

(iii) by inserting after subparagraph (A) the following:

"(B) support the development of performance-based seismic engineering tools, and work with appropriate groups to promote the commercial application of such tools, through earthquake-related building codes, standards, and construction practices;";

(iv) by striking "The principal official carrying out the responsibilities described in this paragraph shall be at a level no lower than that of Associate Director."; and

(v) in subparagraph (D), as redesignated by clause (ii), by striking "National Science Foundation, the National Institutes of Standards and Technology" and inserting "Federal Emergency Management Agency, the National Science Foundation";

(B) by striking so much of paragraph (2) as precedes subparagraph (B) and inserting the following:

"(2) DEPARTMENT OF HOMELAND SECURITY; FEDERAL EMERGENCY MANAGEMENT AGENCY.—

"(A) PROGRAM RESPONSIBILITIES.—The Under Secretary of Homeland Security for Emergency Preparedness and Response (the Director of the Federal Emergency Management Agency)—

"(i) shall work closely with national standards and model building code organizations, in conjunction with the National Institute of Standards and Technology, to promote the implementation of research results;

"(ii) shall promote better building practices within the building design and construction industry including architects, engineers, contractors, builders, and inspectors;

"(iii) shall operate a program of grants and assistance to enable States to develop mitigation, preparedness, and response plans, prepare inventories and conduct seismic safety inspections of critical structures and lifelines, update building and zoning codes and ordinances to enhance seismic safety, increase earthquake awareness and education, and encourage the development of multi-State groups for such purposes;

"(iv) shall support the implementation of a comprehensive earthquake education and public awareness program, including development of materials and their wide dissemination to all appropriate audiences and support public access to locality-specific information that may assist the public in preparing for, mitigating against, responding to and recovering from earthquakes and related disasters;

"(v) shall assist the National Institute of Standards and Technology, other Federal agencies, and private sector groups, in the preparation, maintenance, and wide dissemination of seismic resistant design guidance and related information on building codes, standards, and practices for new and existing buildings, structures, and lifelines, and aid in the development of performance-based design guidelines and methodologies supporting model codes for buildings, structures, and lifelines that are cost effective and affordable;

"(vi) shall develop, coordinate, and execute the National Response Plan when required following an earthquake, and support the development of specific State and local plans for each high risk area to ensure the availability of adequate emergency medical resources, search and rescue personnel and equipment, and emergency broadcast capability;

"(vii) shall develop approaches to combine measures for earthquake hazards reduction with measures for reduction of other natural and technological hazards including performance-based design approaches;

"(viii) shall provide preparedness, response, and mitigation recommendations to communities after an earthquake prediction has been made under paragraph (3)(D); and

"(ix) may enter into cooperative agreements or contracts with States and local jurisdictions and other Federal agencies to establish demonstration projects on earthquake hazard mitigation, to link earthquake research and mitigation efforts with emergency management programs, or to prepare educational materials for national distribution.";

(C) in paragraph (3)—

(i) by inserting "and other activities" after "shall conduct research";

(ii) in subparagraph (C), by striking "the Agency" and inserting "the Director of the Federal Emergency Management Agency and the Director of the National Institute of Standards and Technology";

(iii) in subparagraph (D), by striking "the Director of the Agency" and inserting "the Director of the Federal Emergency Management Agency and the Director of the National Institute of Standards and Technology";

(iv) in subparagraph (E), by striking "establish, using existing facilities, a Center for the International Exchange of Earthquake Information" and inserting "operate, using the National Earthquake Information Center, a forum for the international exchange of earthquake information";

(v) in subparagraph (F), by striking "Network" and inserting "System"; and

(vi) by inserting after subparagraph (H) the following new subparagraphs:

"(I) work with other Program agencies to coordinate Program activities with similar earthquake hazards reduction efforts in other countries, to ensure that the Program benefits from relevant information and advances in those countries; and

"(J) maintain suitable seismic hazard maps in support of building codes for structures and lifelines, including additional maps needed for performance-based design approaches.";

(D) in paragraph (4)—

(i) by redesignating subparagraphs (D), (E), and (F) as subparagraphs (E), (F), and (H), respectively;

(ii) by inserting after subparagraph (C) the following:

"(D) support research that improves the safety and performance of buildings, structures, and lifeline systems using large-scale experimental and computational facilities of the George E. Brown Jr. Network for Earthquake Engineering Simulation and other institutions engaged in research and the implementation of the National Earthquake Hazards Reduction Program;";

(iii) in subparagraph (F) (as so redesignated), by striking "; and" and inserting a semicolon; and

(iv) by inserting after subparagraph (F) (as so redesignated) the following:

"(G) include to the maximum extent practicable diverse institutions, including Historically Black Colleges and Universities and those serving large proportions of Hispanics, Native Americans, Asian-Pacific Americans, and other underrepresented populations; and";

(E) in paragraph (5), by striking "The National" and inserting "In addition to the lead agency responsibilities described under paragraph (1), the National"; and

(F) in paragraph (5)—

(i) by striking "and" after the semicolon in subparagraph (C);

(ii) by redesignating subparagraph (D) as subparagraph (E); and

(iii) by inserting after subparagraph (C) the following:

"(D) support the development and commercial application of cost effective and affordable performance-based seismic engineering by providing technical support for seismic engineering practices and related building code, standards, and practices development; and"; and

(3) in subsection (c)(1), by striking "Agency" and inserting "Interagency Coordinating Committee".

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—Section 12 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706) is amended—

(1) by adding at the end of subsection (a) the following:

"(8) There are authorized to be appropriated to the Federal Emergency Management Agency for carrying out this title—

"(A) $21,000,000 for fiscal year 2005,

"(B) $21,630,000 for fiscal year 2006,

"(C) $22,280,000 for fiscal year 2007,

"(D) $22,950,000 for fiscal year 2008, and

"(E) $23,640,000 for fiscal year 2009,

of which not less than 10 percent of available program funds actually appropriated shall be made available each such fiscal year for supporting the development of performance-based, cost-effective, and affordable design guidelines and methodologies in codes for buildings, structures, and lifelines.";

(2) by inserting "(1)" before "There" in subsection (b);

(3) by striking "subsection" in the last sentence and inserting "paragraph";

(4) by redesignating paragraphs (1) through (5) of subsection (b) as subparagraphs (A) through (E), respectively;

(5) by adding at the end of subsection (b) the following:

"(2) There are authorized to be appropriated to the United States Geological Survey for carrying out this title—

"(A) $77,000,000 for fiscal year 2005, of which not less than $30,000,000 shall be made available for completion of the Advanced National Seismic Research and Monitoring System established under section 13;

"(B) $84,410,000 for fiscal year 2006, of which not less than $36,000,000 shall be made available for completion of the Advanced National Seismic Research and Monitoring System established under section 13;

"(C) $85,860,000 for fiscal year 2007, of which not less than $36,000,000 shall be made available for completion of the Advanced National Seismic Research and Monitoring System established under section 13;

"(D) $87,360,000 for fiscal year 2008, of which not less than $36,000,000 shall be made available for completion of the Advanced National Seismic Research and Monitoring System established under section 13; and

"(E) $88,900,000 for fiscal year 2009, of which not less than $36,000,000 shall be made available for completion of the Advanced National Seismic Research and Monitoring System established under section 13.";

(6) by inserting "(1)" before "To" in subsection (c);

(7) by adding at the end of subsection (c) the following:

"(2) There are authorized to be appropriated to the National Science Foundation for carrying out this title—

"(A) $38,000,000 for fiscal year 2005;

"(B) $39,140,000 for fiscal year 2006;

"(C) $40,310,000 for fiscal year 2007;

"(D) $41,520,000 for fiscal year 2008; and

"(E) $42,770,000 for fiscal year 2009.";

(8) by inserting "(1)" before "To" in subsection (d); and

(9) by adding at the end of subsection (d) the following:

"(2) There are authorized to be appropriated to the National Institute of Standards and Technology for carrying out this title—

"(A) $10,000,000 for fiscal year 2005,

"(B) $11,000,000 for fiscal year 2006,

"(C) $12,100,000 for fiscal year 2007,

"(D) $13,310,000 for fiscal year 2008, and

"(E) $14,640,000 for fiscal year 2009,

of which $2,000,000 shall be made available each such fiscal year for supporting the development of performance-based, cost-effective, and affordable codes for buildings, structures, and lifelines.".

(b) Separate Authorization for the Advanced National Seismic Research and Monitoring System.—Section 13 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7707) is amended by striking subsection (c).

(c) Separate Authorization for the Network for Earthquake Engineering Simulation.—Section 14(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7708(b)) is amended—

(1) by striking "and" after the semicolon in paragraph (3);

(2) by striking "2004." in paragraph (4) and inserting "2004;";

(3) by adding at the end the following:

"(5) $20,000,000 for fiscal year 2005, all of which shall be available for operations and maintenance;

"(6) $20,400,000 for fiscal year 2006, all of which shall be available for operations and maintenance;

"(7) $20,870,000 for fiscal year 2007, all of which shall be available for operations and maintenance;

"(8) $21,390,000 for fiscal year 2008, all of which shall be available for operations and maintenance; and

"(9) $21,930,000 for fiscal year 2009, all of which shall be available for operations and maintenance.".

TITLE II—WINDSTORM IMPACT REDUCTION

SEC. 201. SHORT TITLE.

This Act may be cited as the "National Windstorm Impact Reduction Act of 2004".

SEC. 202. FINDINGS.

The Congress finds the following:

(1) Hurricanes, tropical storms, tornadoes, and thunderstorms can cause significant loss of life, injury, destruction of property, and economic and social disruption. All States and regions are vulnerable to these hazards.

(2) The United States currently sustains several billion dollars in economic damages each year due to these windstorms. In recent decades, rapid development and population growth in high-risk areas has greatly increased overall vulnerability to windstorms.

(3) Improved windstorm impact reduction measures have the potential to reduce these losses through—

(A) cost-effective and affordable design and construction methods and practices;

(B) effective mitigation programs at the local, State, and national level;

(C) improved data collection and analysis and impact prediction methodologies;

(D) engineering research on improving new structures and retrofitting existing ones to better withstand windstorms, atmospheric-related research to better understand the behavior and impact of windstorms on the built environment, and subsequent application of those research results; and

(E) public education and outreach.

(4) There is an appropriate role for the Federal Government in supporting windstorm impact reduction. An effective Federal program in windstorm impact reduction will require interagency coordination, and input from individuals, academia, the private sector, and other interested non-Federal entities.

SEC. 203. DEFINITIONS.

In this title:

(1) Director.—The term "Director" means the Director of the Office of Science and Technology Policy.

(2) Program.—The term "Program" means the National Windstorm Impact Reduction Program established by section 204(a).

(3) State.—The term "State" means each of the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and any other territory or possession of the United States.

(4) Windstorm.—The term "windstorm" means any storm with a damaging or destructive wind component, such as a hurricane, tropical storm, tornado, or thunderstorm.

SEC. 204. NATIONAL WINDSTORM IMPACT REDUCTION PROGRAM.

(a) Establishment.—There is established the National Windstorm Impact Reduction Program.

(b) Objective.—The objective of the Program is the achievement of major measurable reductions in losses of life and property from windstorms. The objective is to be achieved through a coordinated Federal effort, in cooperation with other levels of government, academia, and the private sector, aimed at improving the understanding of windstorms and their impacts and developing and encouraging implementation of cost-effective mitigation measures to reduce those impacts.

(c) Interagency Working Group.—Not later than 90 days after the date of enactment of this Act, the Director shall establish an Interagency Working Group consisting of representatives of the National Science Foundation, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology, the Federal Emergency Management Agency, and other Federal agencies as appropriate. The Director shall designate an agency to serve as Chair of the Working Group and be responsible for the planning, management, and coordination of the Program, including budget coordination. Specific agency roles and responsibilities under the Program shall be defined in the implementation plan required under subsection (e). General agency responsibilities shall include the following:

(1) The National Institute of Standards and Technology shall support research and development to improve building codes and standards and practices for design and construction of buildings, structures, and lifelines.

(2) The National Science Foundation shall support research in engineering and the atmospheric sciences to improve the understanding of the behavior of windstorms and their impact on buildings, structures, and lifelines.

(3) The National Oceanic and Atmospheric Administration shall support atmospheric sciences research to improve the understanding of the behavior of windstorms and their impact on buildings, structures, and lifelines.

(4) The Federal Emergency Management Agency shall support the development of risk assessment tools and effective mitigation techniques, windstorm-related data collection and analysis, public outreach, information dissemination, and implementation of mitigation measures consistent with the Agency's all-hazards approach.

(d) PROGRAM COMPONENTS.—

(1) IN GENERAL.—The Program shall consist of three primary mitigation components: improved understanding of windstorms, windstorm impact assessment, and windstorm impact reduction. The components shall be implemented through activities such as data collection and analysis, risk assessment, outreach, technology transfer, and research and development. To the extent practicable, research activities authorized under this title shall be peer-reviewed, and the components shall be designed to be complementary to, and avoid duplication of, other public and private hazard reduction efforts.

(2) UNDERSTANDING OF WINDSTORMS.—Activities to enhance the understanding of windstorms shall include research to improve knowledge of and data collection on the impact of severe wind on buildings, structures, and infrastructure.

(3) WINDSTORM IMPACT ASSESSMENT.—Activities to improve windstorm impact assessment shall include—

(A) development of mechanisms for collecting and inventorying information on the performance of buildings, structures, and infrastructure in windstorms and improved collection of pertinent information from sources, including the design and construction industry, insurance companies, and building officials;

(B) research, development, and technology transfer to improve loss estimation and risk assessment systems; and

(C) research, development, and technology transfer to improve simulation and computational modeling of windstorm impacts.

(4) WINDSTORM IMPACT REDUCTION.—Activities to reduce windstorm impacts shall include—

(A) development of improved outreach and implementation mechanisms to translate existing information and research findings into cost-effective and affordable practices for design and construction professionals, and State and local officials;

(B) development of cost-effective and affordable windstorm-resistant systems, structures, and materials for use in new construction and retrofit of existing construction; and

(C) outreach and information dissemination related to cost-effective and affordable construction techniques, loss estimation and risk assessment methodologies, and other pertinent information regarding windstorm phenomena to Federal, State, and local officials, the construction industry, and the general public.

(e) IMPLEMENTATION PLAN.—Not later than 1 year after date of enactment of this title, the Interagency Working Group shall develop and transmit to the Congress an implementation plan for achieving the objectives of the Program. The plan shall include—

(1) an assessment of past and current public and private efforts to reduce windstorm impacts, including a comprehensive review and analysis of windstorm mitigation activities supported by the Federal Government;

(2) a description of plans for technology transfer and coordination with natural hazard mitigation activities supported by the Federal Government;

(3) a statement of strategic goals and priorities for each Program component area;

(4) a description of how the Program will achieve such goals, including detailed responsibilities for each agency; and

(5) a description of plans for cooperation and coordination with interested public and private sector entities in each program component area.

(f) BIENNIAL REPORT.—The Interagency Working Group shall, on a biennial basis, and not later than 180 days after the end of the preceding 2 fiscal years, transmit a report to the Congress describing the status of the windstorm impact reduction program, including progress achieved during the preceding two fiscal years. Each such report shall include any recommendations for legislative and other action the Interagency Working Group considers necessary and appropriate. In developing the biennial report, the Interagency Working Group shall consider the recommendations of the Advisory Committee established under section 205.

SEC. 205. NATIONAL ADVISORY COMMITTEE ON WINDSTORM IMPACT REDUCTION.

(a) ESTABLISHMENT.—The Director shall establish a National Advisory Committee on Windstorm Impact Reduction, consisting of not less than 11 and not more than 15 non-Federal members representing a broad cross section of interests such as the research, technology transfer, design and construction, and financial communities; materials and systems suppliers; State, county, and local governments; the insurance industry; and other representatives as designated by the Director.

(b) ASSESSMENT.—The Advisory Committee shall assess—

(1) trends and developments in the science and engineering of windstorm impact reduction;

(2) the effectiveness of the Program in carrying out the activities under section 204(d);

(3) the need to revise the Program; and

(4) the management, coordination, implementation, and activities of the Program.

(c) BIENNIAL REPORT.—At least once every two years, the Advisory Committee shall report to Congress and the Interagency Working Group on the assessment carried out under subsection (b).

(d) SUNSET EXEMPTION.—Section 14 of the Federal Advisory Committee Act shall not apply to the Advisory Committee established under this section.

SEC. 206. SAVINGS CLAUSE.

Nothing in this title supersedes any provision of the National Manufactured Housing Construction and Safety Standards Act of 1974. No design, construction method, practice, technology, material, mitigation methodology, or hazard reduction measure of any kind developed under this title shall be required for a home certified under section 616 of the National Manufactured Housing Construction and Safety Standards Act of 1974 (42 U.S.C. 5415), pursuant to standards issued under such Act, without being subject to the consensus development process and rulemaking procedures of that Act.

SEC. 207. AUTHORIZATION OF APPROPRIATIONS.

(a) FEDERAL EMERGENCY MANAGEMENT AGENCY.—There are authorized to be appropriated to the Federal Emergency Management Agency for carrying out this title—

(1) $8,700,000 for fiscal year 2006;
(2) $9,400,000 for fiscal year 2007; and
(3) $9,400,000 for fiscal year 2008.

(b) NATIONAL SCIENCE FOUNDATION.—There are authorized to be appropriated to the National Science Foundation for carrying out this title—

(1) $8,700,000 for fiscal year 2006;
(2) $9,400,000 for fiscal year 2007; and
(3) $9,400,000 for fiscal year 2008.

(c) NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.—There are authorized to be appropriated to the National Institute of Standards and Technology for carrying out this title—

(1) $3,000,000 for fiscal year 2006;
(2) $4,000,000 for fiscal year 2007; and
(3) $4,000,000 for fiscal year 2008.

(d) NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION.—There are authorized to be appropriated to the National Oceanic and Atmospheric Administration for carrying out this title—

(1) $2,100,000 for fiscal year 2006;
(2) $2,200,000 for fiscal year 2007; and
(3) $2,200,000 for fiscal year 2008.

SEC. 208. BIENNIAL REPORT.

Section 37(a) of the Science and Engineering Equal Opportunities Act (42 U.S.C. 1885d(a)) is amended by striking "By January 30, 1982, and biennially thereafter" and inserting "By January 30 of each odd-numbered year".

SEC. 209. COORDINATION.

The Secretary of Commerce, the Director of the National Institute of Standards and Technology, the Director of the Office of Science and Technology Policy and the heads of other Federal departments and agencies carrying out activities under this title and the statutes amended by this title shall work together to ensure that research, technologies, and response techniques are shared among the programs authorized in this title in order to coordinate the Nation's efforts to reduce vulnerability to the hazards described in this title.

TITLE III—COMMERCIAL SPACE TRANSPORTATION

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

Section 70119 of title 49, United States Code, is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) $11,941,000 for fiscal year 2005;
"(2) $12,299,000 for fiscal year 2006;
"(3) $12,668,000 for fiscal year 2007;
"(4) $13,048,000 for fiscal year 2008; and
"(5) $13,440,000 for fiscal year 2009.".

SA 3984. Mr. BAYH (for himself, Mr. ROBERTS, Mr. WYDEN, and Mrs. FEINSTEIN) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr. FRIST, and Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; which was ordered to lie on the table; as follows:

Section 201 is amended by adding at the end the following:

(i) REFERRAL.—Section 3 of S. Res. 400 is amended by—

(1) striking subsection (b); and

(2) redesignating subsections (c) and (d) as subsections (b) and (c), respectively.

SA 3985. Mr. CHAMBLISS (for himself and Mr. KENNEDY) submitted an amendment intended to be proposed to amendment SA 3981 proposed by Mr. MCCONNELL (for himself, Mr. REID, Mr.

FRIST, Mr. DASCHLE) to the resolution S. Res. 445, to eliminate certain restrictions on service of a Senator on the Senate Select Committee on Intelligence; which was ordered to lie on the table; as follows:

At the end of section 101(b)(1) insert the following:

"and except matters relating to the U.S. Citizenship and Immigration Service, the U.S. Customs and Border Protection, and the U.S. Immigration and Customs Enforcement, other than predominantly and substantially anti-terrorism matters; and except matters relating to the immigration functions of the Directorate of Border and Transportation Security.".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ARMED SERVICES

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on October 6, 2004, at 10 a.m., in open session to consider the following nominations: Francis J. Harvey to be Secretary of the Army; Richard Greco, Jr., to be Assistant Secretary of the Navy for Financial Management; and General Gregory S. Martin, USAF, for reappointment to the grade of General and to be Commander, United States Pacific Command.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ARMED SERVICES

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Armed Services be authorized to meet during the session of the Senate on October 6, 2004, at 2:30 p.m., in open session to receive testimony on the report of the Special Advisor to the Director of Central Intelligence for strategy regarding Iraqi weapons of mass destruction programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 6, 2004 at 9:30 a.m. to hold a hearing on Addressing the New Reality of Current Visa Policy on International Student Researchers.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, October 6, 2004 at 2:30 p.m. to hold a hearing on Neglected Diseases in East Asia: Are Public Health Programs Working?

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Health, Education, Labor, and Pensions and the Committee on the Judiciary be authorized to meet for a joint hearing on BioShield II: Responding to an Ever-Changing Threat during the session of the Senate on Wednesday, October 6, 2004 at 10 a.m. in SH 216.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON INDIAN AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Indian Affairs be authorized to meet on Wednesday, October 6, 2004, at 10 a.m., in room 485 of the Hart Senate Office Building to conduct a business meeting on pending Committee matters.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Ms. COLLINS. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on October 6, 2004, for a markup on the nominations of Robert N. Davis, to be Judge, U.S. Court of Appeals for Veterans Claims; Mary J. Schoelen, to be a Judge, U.S. Court of Appeals for Veterans Claims; William A. Moorman, to be Judge, U.S. Court of Appeals for Veterans Claims; and Robert Allen Pittman, to be Assistant Secretary (Human Resources and Administration), U.S. Department of Veterans Affairs.

The meeting will take place in S-216 in the Capitol, immediately following the first rollcall vote of the Senate after 11:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on October 6, 2004, at 10 a.m., to hold a closed hearing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON COMPETITION, FOREIGN COMMERCE, AND INFRASTRUCTURE

Ms. COLLINS. Mr. President, I ask unanimous consent that the Subcommittee on Competition, Foreign Commerce, and Infrastructure be authorized to meet on Wednesday, October 6, 2004, at 2:30 p.m., on Natural Gas.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. McCONNELL. Mr. President, in executive session, I ask unanimous consent that the Foreign Relations Committee be discharged from further consideration of the following nominations: PN 1790, PN 1825, PN 1991, PN 1992, career senior Foreign Service list PN 1952.

I further ask unanimous consent that the Senate proceed to their consideration, the nominations be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's actions, and the Senate resume legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed are as follows:

DEPARTMENT OF STATE

Christopher J. LaFleur, of New York, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Malaysia.

B. Lynn Pascoe, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Indonesia.

Ryan C. Crocker, of Washington, a Career Member of the Senior Foreign Service, Class of Career Minister, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Islamic Republic of Pakistan.

Marcie B. Ries, of the District of Columbia, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Albania.

The following-named Career Members of the Senior Foreign Service, Class of Career Minister, for the personal rank of Career Ambassador in recognition of especially distinguished service of a sustained period:

To be career ambassador

Ryan C. Crocker, of Washington
Marc Isaiah Grossman, of Virginia
A. Elizabeth Jones, of Maryland
Alan Philip Larson, of Iowa
Johnny Young, of Maryland

NOMINATIONS PLACED ON THE CALENDAR—PN–1881, PN–1880, PN–1840, PN–1829, PN–1830

Mr. McCONNELL. Mr. President, I further ask consent that the Foreign Relations Committee be discharged from consideration of the following nominations, and that the nominations be placed on the calendar: PN 1881, PN–1880, PN–1840, PN–1829, PN–1830.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

The PRESIDING OFFICER. The Senate will resume legislative session.

APPOINTMENT

The PRESIDING OFFICER. the Chair, on behalf of the Vice President, in accordance with 22 U.S.C. 1928a–1928d, as amended, appoints the following Senators as members of the

Senate Delegation to the NATO Parliamentary Assembly during the Second Session of the 108th Congress: Senator CHARLES GRASSLEY of Iowa, Senator MIKE DEWINE of Ohio, Senator MIKE ENZI of Wyoming and Senator GEORGE VOINOVICH of Ohio.

ANABOLIC STEROID CONTROL ACT OF 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 750, S. 2195.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2195) to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

[Strike the part shown in black brackets and insert the part in italic.]

S. 2195

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Anabolic Steroid Control Act of 2004".

[SEC. 2. AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

[(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

[(1) in paragraph (41)—

[(A) by realigning the margin so as to align with paragraph (40); and

[(B) by striking subparagraph (A) and inserting the following:

["(A) The term 'anabolic steroid' means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone), and includes—

["(i) androstanediol—

["(I) 3β,17β-dihydroxy-5α-androstane; and

["(II) 3α,17β-dihydroxy-5α-androstane;

["(ii) androstanedione (5α-androstan-3,17-dione);

["(iii) androstenediol—

["(I) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);

["(II) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);

["(III) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene); and

["(IV) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);

["(iv) androstenedione—

["(I) 1-androstenedione ([5α]-androst-1-en-3,17-dione);

["(II) 4-androstenedione (androst-4-en-3,17-dione); and

["(III) 5-androstenedione (androst-5-en-3,17-dione);

["(v) bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

["(vi) boldenone (17β-hydroxyandrost-1,4,-diene-3-one);

["(vii) calusterone (7β,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

["(viii) clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);

["(ix) dehydrochloromethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one);

["(x) Δ1-dihydrotestosterone (a.k.a. '1-testosterone') (17β-hydroxy-5α-androst-1-en-3-one);

["(xi) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);

["(xii) drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);

["(xiii) ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);

["(xiv) fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one);

["(xv) formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one);

["(xvi) furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);

["(xvii) 13α-ethyl-17α-hydroxygon-4-en-3-one;

["(xviii) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);

["(xix) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);

["(xx) mestanolone (17α-methyl-17β-hydroxy-5α-androstan-3-one);

["(xxi) mesterolone (1α-methyl-17β-hydroxy-[5α]-androstan-3-one);

["(xxii) methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);

["(xxiii) methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);

["(xxiv) methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);

["(xxv) methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);

["(xxvi) mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);

["(xxvii) 17α-methyl-Δ1-dihydrotestosterone (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one) (a.k.a. '17-α-methyl-1-testosterone');

["(xxviii) nandrolone (17β-hydroxyestr-4-en-3-one);

["(xxix) norandrostenediol—

["(I) 19-nor-4-androstenediol (3β, 17β-dihydroxyestr-4-ene);

["(II) 19-nor-4-androstenediol (3α, 17β-dihydroxyestr-4-ene);

["(III) 19-nor-5-androstenediol (3β, 17β-dihydroxyestr-5-ene); and

["(IV) 19-nor-5-androstenediol (3α, 17β-dihydroxyestr-5-ene);

["(xxx) norandrostenedione—

["(I) 19-nor-4-androstenedione (estr-4-en-3,17-dione); and

["(II) 19-nor-5-androstenedione (estr-5-en-3,17-dione;

["(xxxi) norbolethone (13β,17α-diethyl-17β-hydroxygon-4-en-3-one);

["(xxxii) norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);

["(xxxiii) norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);

["(xxxiv) oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);

["(xxxv) oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);

["(xxxvi) oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one);

["(xxxvii) stanozolol (17α-methyl-17β-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);

["(xxxviii) stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);

["(xxxix) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

["(xl) testosterone (17β-hydroxyandrost-4-en-3-one);

["(xli) tetrahydrogestrinone (13β,17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);

["(xlii) trenbolone (17β-hydroxyestr-4,9,11-trien-3-one); and

["(xliii) any salt, ester, or ether of a drug or substance described in this paragraph."; and

[(2) in paragraph (44), by inserting "anabolic steroids," after "marihuana,".

[(b) AUTHORITY AND CRITERIA FOR CLASSIFICATION.—Section 201(g) of the Controlled Substances Act (21 U.S.C. 811(g)) is amended—

[(1) in paragraph (1), by striking "substance from a schedule if such substance" and inserting "drug which contains a controlled substance from the application of titles II and III of the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 802 et seq.) if such drug"; and

[(2) in paragraph (3), by adding at the end the following:

["(C) Upon the recommendation of the Secretary of Health and Human Services, a compound, mixture, or preparation which contains any anabolic steroid, which is intended for administration to a human being or an animal, and which, because of its concentration, preparation, formulation or delivery system, does not present any significant potential for abuse.".

[(c) ANABOLIC STEROIDS CONTROL ACT.—Section 1903 of the Anabolic Steroids Control Act of 1990 (Public Law 101-647) is amended—

[(1) by striking subsection (a); and

[(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

[SEC. 3. SENTENCING COMMISSION GUIDELINES.

[The United States Sentencing Commission shall—

[(1) review the Federal sentencing guidelines with respect to offenses involving anabolic steroids;

[(2) consider amending the Federal sentencing guidelines to provide for increased penalties with respect to offenses involving anabolic steroids in a manner that reflects the seriousness of such offenses and the need to deter anabolic steroid trafficking and use; and

[(3) take such other action that the Commission considers necessary to carry out this section.

[SEC. 4. PREVENTION AND EDUCATION PROGRAMS.

[(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the "Secretary") shall award grants to public and nonprofit private entities to enable such entities to carry out science-based education programs in elementary and secondary schools to highlight the harmful effects of anabolic steroids.

[(b) ELIGIBILITY.—

[(1) APPLICATION.—To be eligible for grants under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

[(2) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give preference to applicants that intend to use grant funds to carry out programs based on—

[(A) the Athletes Training and Learning to Avoid Steroids program;

[(B) the Athletes Targeting Healthy Exercise and Nutrition Alternatives program; and

[(C) other programs determined to be effective by the National Institute on Drug Abuse.

[(c) USE OF FUNDS.—Amounts received under a grant under subsection (a) shall be used primarily for education programs that will directly communicate with teachers, principals, coaches, as well as elementary and secondary school children concerning the harmful effects of anabolic steroids.

[(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for each of fiscal years 2005 through 2010.

[SEC. 5. NATIONAL SURVEY ON DRUG USE AND HEALTH.

[(a) IN GENERAL.—The Secretary of Health and Human Services shall ensure that the National Survey on Drug Use and Health includes questions concerning the use of anabolic steroids.

[(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $1,000,000 for each of fiscal years 2005 through 2010.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anabolic Steroid Control Act of 2004".

SEC. 2. AMENDMENTS TO THE CONTROLLED SUBSTANCES ACT.

(a) DEFINITIONS.—Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (41)—

(A) by realigning the margin so as to align with paragraph (40); and

(B) by striking subparagraph (A) and inserting the following:

"(A) The term 'anabolic steroid' means any drug or hormonal substance, chemically and pharmacologically related to testosterone (other than estrogens, progestins, corticosteroids, and dehydroepiandrosterone), and includes—

"(i) androstanediol—

"(I) 3β,17β-dihydroxy-5α-androstane; and

"(II) 3α,17β-dihydroxy-5α-androstane;

"(ii) androstanedione (5α-androstan-3,17-dione);

"(iii) androstenediol—

"(I) 1-androstenediol (3β,17β-dihydroxy-5α-androst-1-ene);

"(II) 1-androstenediol (3α,17β-dihydroxy-5α-androst-1-ene);

"(III) 4-androstenediol (3β,17β-dihydroxy-androst-4-ene); and

"(IV) 5-androstenediol (3β,17β-dihydroxy-androst-5-ene);

"(iv) androstenedione—

"(I) 1-androstenedione ([5α]-androst-1-en-3,17-dione);

"(II) 4-androstenedione (androst-4-en-3,17-dione); and

"(III) 5-androstenedione (androst-5-en-3,17-dione);

"(v) bolasterone (7α,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

"(vi) boldenone (17β-hydroxyandrost-1,4,-diene-3-one);

"(vii) calusterone (7β,17α-dimethyl-17β-hydroxyandrost-4-en-3-one);

"(viii) clostebol (4-chloro-17β-hydroxyandrost-4-en-3-one);

"(ix) dehydrochloromethyltestosterone (4-chloro-17β-hydroxy-17α-methyl-androst-1,4-dien-3-one);

"(x) Δ1-dihydrotestosterone (a.k.a. '1-testosterone') (17β-hydroxy-5α-androst-1-en-3-one);

"(xi) 4-dihydrotestosterone (17β-hydroxy-androstan-3-one);

"(xii) drostanolone (17β-hydroxy-2α-methyl-5α-androstan-3-one);

"(xiii) ethylestrenol (17α-ethyl-17β-hydroxyestr-4-ene);

"(xiv) fluoxymesterone (9-fluoro-17α-methyl-11β,17β-dihydroxyandrost-4-en-3-one);

"(xv) formebolone (2-formyl-17α-methyl-11α,17β-dihydroxyandrost-1,4-dien-3-one);

"(xvi) furazabol (17α-methyl-17β-hydroxyandrostano[2,3-c]-furazan);

"(xvii) 13β-ethyl-17α-hydroxygon-4-en-3-one;

"(xviii) 4-hydroxytestosterone (4,17β-dihydroxy-androst-4-en-3-one);

"(xix) 4-hydroxy-19-nortestosterone (4,17β-dihydroxy-estr-4-en-3-one);

"(xx) mestanolone (17α-methyl-17β-hydroxy-5α-androstan-3-one);

"(xxi) mesterolone (1α-methyl-17β-hydroxy-[5α]-androstan-3-one);

"(xxii) methandienone (17α-methyl-17β-hydroxyandrost-1,4-dien-3-one);

"(xxiii) methandriol (17α-methyl-3β,17β-dihydroxyandrost-5-ene);

"(xxiv) methenolone (1-methyl-17β-hydroxy-5α-androst-1-en-3-one);

"(xxv) 17α-methyl-3β, 17β-dihydroxy-5α-androstane;

"(xxvi) 17α-methyl-3α,17β-dihydroxy-5α-androstane;

"(xxvii) 17α-methyl-3β,17β-dihydroxyandrost-4-ene.

"(xxviii) 17α-methyl-4-hydroxynandrolone (17α-methyl-4-hydroxy-17β-hydroxyestr-4-en-3-one);

"(xxix) methyldienolone (17α-methyl-17β-hydroxyestra-4,9(10)-dien-3-one);

"(xxx) methyltrienolone (17α-methyl-17β-hydroxyestra-4,9-11-trien-3-one);

"(xxxi) methyltestosterone (17α-methyl-17β-hydroxyandrost-4-en-3-one);

"(xxxii) mibolerone (7α,17α-dimethyl-17β-hydroxyestr-4-en-3-one);

"(xxxiii) 17α-methyl-Δ1-dihydrotestosterone (17β-hydroxy-17α-methyl-5α-androst-1-en-3-one) (a.k.a. '17-α-methyl-1-testosterone');

"(xxxiv) nandrolone (17β-hydroxyestr-4-en-3-one);

"(xxxv) norandrostenediol—

"(I) 19-nor-4-androstenediol (3β, 17β-dihydroxyestr-4-ene);

"(II) 19-nor-4-androstenediol (3α, 17β-dihydroxyestr-4-ene);

"(III) 19-nor-5-androstenediol (3β, 17β-dihydroxyestr-5-ene); and

"(IV) 19-nor-5-androstenediol (3α, 17β-dihydroxyestr-5-ene);

"(xxxvi) norandrostenedione—

"(I) 19-nor-4-androstenedione (estr-4-en-3,17-dione); and

"(II) 19-nor-5-androstenedione (estr-5-en-3,17-dione;

"(xxxvii) norbolethone (13β,17α-diethyl-17β-hydroxygon-4-en-3-one);

"(xxxviii) norclostebol (4-chloro-17β-hydroxyestr-4-en-3-one);

"(xxxix) norethandrolone (17α-ethyl-17β-hydroxyestr-4-en-3-one);

"(xl) normethandrolone (17α-methyl-17β-hydroxyestr-4-en-3-one);

"(xli) oxandrolone (17α-methyl-17β-hydroxy-2-oxa-[5α]-androstan-3-one);

"(xlii) oxymesterone (17α-methyl-4,17β-dihydroxyandrost-4-en-3-one);

"(xliii) oxymetholone (17α-methyl-2-hydroxymethylene-17β-hydroxy-[5α]-androstan-3-one);

"(xliv) stanozolol (17α-methyl-17α-hydroxy-[5α]-androst-2-eno[3,2-c]-pyrazole);

"(xlv) stenbolone (17β-hydroxy-2-methyl-[5α]-androst-1-en-3-one);

"(xlvi) testolactone (13-hydroxy-3-oxo-13,17-secoandrosta-1,4-dien-17-oic acid lactone);

"(xlvii) testosterone (17β-hydroxyandrost-4-en-3-one);

"(xlviii) tetrahydrogestrinone (13β,17α-diethyl-17β-hydroxygon-4,9,11-trien-3-one);

"(xlix) trenbolone (17β-hydroxyestr-4,9,11-trien-3-one); and

"(xlx) any salt, ester, or ether of a drug or substance described in this paragraph.

The substances excluded under this subparagraph may at any time be scheduled by the Attorney General in accordance with the authority and requirements of subsections (a) through (c) of section 201."; and

(2) in paragraph (44), by inserting "anabolic steroids," after "marihuana,".

(b) AUTHORITY AND CRITERIA FOR CLASSIFICATION.—Section 201(g) of the Controlled Substances Act (21 U.S.C. 811(g)) is amended—

(1) in paragraph (1), by striking "substance from a schedule if such substance" and inserting "drug which contains a controlled substance from the application of titles II and III of the Comprehensive Drug Abuse Prevention and Control Act (21 U.S.C. 802 et seq.) if such drug"; and

(2) in paragraph (3), by adding at the end the following:

"(C) Upon the recommendation of the Secretary of Health and Human Services, a compound, mixture, or preparation which contains any anabolic steroid, which is intended for administration to a human being or an animal, and which, because of its concentration, preparation, formulation or delivery system, does not present any significant potential for abuse.".

(c) ANABOLIC STEROIDS CONTROL ACT.—Section 1903 of the Anabolic Steroids Control Act of 1990 (Public Law 101-647) is amended—

(1) by striking subsection (a); and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect 90 days after the date of enactment of this Act.

SEC. 3. SENTENCING COMMISSION GUIDELINES.

The United States Sentencing Commission shall—

(1) review the Federal sentencing guidelines with respect to offenses involving anabolic steroids;

(2) consider amending the Federal sentencing guidelines to provide for increased penalties with respect to offenses involving anabolic steroids in a manner that reflects the seriousness of such offenses and the need to deter anabolic steroid trafficking and use; and

(3) take such other action that the Commission considers necessary to carry out this section.

SEC. 4. PREVENTION AND EDUCATION PROGRAMS.

(a) IN GENERAL.—The Secretary of Health and Human Services (referred to in this Act as the "Secretary") shall award grants to public and nonprofit private entities to enable such entities to carry out science-based education programs in elementary and secondary schools to highlight the harmful effects of anabolic steroids.

(b) ELIGIBILITY.—

(1) APPLICATION.—To be eligible for grants under subsection (a), an entity shall prepare and submit to the Secretary an application at such time, in such manner, and containing such information as the Secretary may require.

(2) PREFERENCE.—In awarding grants under subsection (a), the Secretary shall give preference to applicants that intend to use grant funds to carry out programs based on—

(A) the Athletes Training and Learning to Avoid Steroids program;

(B) The Athletes Targeting Healthy Exercise and Nutrition Alternatives program; and

(C) other programs determined to be effective by the National Institute on Drug Abuse.

(c) USE OF FUNDS.—Amounts received under a grant under subsection (a) shall be used primarily for education programs that will directly communicate with teachers, principals, coaches, as well as elementary and secondary school children concerning the harmful effects of anabolic steroids.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $15,000,000 for each of fiscal years 2005 through 2010.

SEC. 5. NATIONAL SURVEY ON DRUG USE AND HEALTH.

(a) IN GENERAL.—The Secretary of Health and Human Services shall ensure that the National

Survey on Drug Use and Health includes questions concerning the use of anabolic steroids.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section, $1,000,000 for each of fiscal years 2005 through 2010.

DIETARY SUPPLEMENTS

Mr. BIDEN. The purpose of S. 2195, The Anabolic Steroid Control Act of 2004, is to address the abuse of steroids by athletes and, especially, by youngsters and teenagers. Some substances marketed as dietary supplements, such as androstenedione, will be anabolic steroids under this bill. That means that they will be regulated as controlled substances and not as dietary supplements. As such, there will be significant controls on their distribution and use, including substantial criminal penalties.

Mr. DURBIN. Will the Senator yield for a question?

Mr. BIDEN. I will.

Mr. DURBIN. I would like to commend the senior Senator from Delaware and the chairman of the Judiciary Committee, the senior Senator from Utah, for their leadership on this important legislation. I would also like to ask the distinguished Senator from Delaware to elaborate on how this bill affects DHEA, a hormone precursor that is sometimes marketed as a dietary supplement.

Mr. BIDEN. I thank the senior Senator from Illinois for his question, and for working with us to clarify this issue in the bill. We do not intend this bill to stop the use of substances that are legitimately marketed as dietary supplements, or to limit access to substances that are not abused as steroids by athletes or children. With respect to DHEA, this legislation does not make it a controlled substance, and the legislation should mean that legitimate users of DHEA would continue to have access to it if it is lawfully marketed.

Mr. HATCH. Will the Senator yield?

Mr. BIDEN. I will.

Mr. HATCH. I too would like to thank the senior Senator from Illinois for working with the senior Senator from Delaware and with me on this legislation. I would also like to clarify, however, that the legislation does provide that, if the Drug Enforcement Administration should find that DHEA is being abused by athletes, by youngsters, or by teenagers, DEA can schedule it as a controlled substance.

Mr. KENNEDY. Will the Senator yield for a question?

Mr. HATCH. I will.

Mr. KENNEDY. I commend the senior Senator from Utah, as well as the senior Senator from Delaware, for their leadership on this legislation, and for working with me and the senior Senator from Illinois to address the issue of DHEA. Could the Senator explain to me how the Drug Enforcement Administration would go about scheduling DHEA?

Mr. HATCH. Certainly. The legislation clarifies that DEA may schedule DHEA by applying the standards in section 201 of the Controlled Substances Act, including the standard eight factors listed in section 201(c) of that Act.

Mr. DURBIN. Will the distinguished Senator yield for a question?

Mr. HATCH. I will.

Mr. DURBIN. Will the Senator please explain whether the Drug Enforcement Administration will need to consider that DHEA meets each of the eight factors in section 201(c) to schedule it?

Mr. HATCH. The DEA need not find that DHEA meets each of the eight factors before it can be scheduled. For example, if DEA considers that DHEA has no or minimal psychic or physiological dependence liability, DEA may nonetheless schedule DHEA if DEA concludes, after consideration of the facts and relative importance of other of the factors such as the actual or relative potential for abuse; the history and current pattern of abuse; or the scope, duration, and significance of abuse, that it should be scheduled. Karen P. Tandy, the administrator of the DEA, has written me a letter stating that the presence of each of the eight factors is not a mandatory prerequisite to scheduling. I ask unanimous consent that the letter dated May 20, 2004, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF JUSTICE,
DRUG ENFORCEMENT ADMINISTRATION,
Washington, DC, May 20, 2004.

HON. ORRIN G. HATCH,
Chairman, Committee on the Judiciary,
U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I am writing to respond to questions your staff posed regarding consideration of certain statutory factors incident to scheduling substances under the Controlled Substances Act.

The relevant statutory provision, 21 U.S.C. §811(c), requires consideration of eight specific factors as one of the prerequisites to whether a substance should be scheduled. The presence of each individual factor or specific findings with respect to each individual factor are not a mandatory prerequisite to scheduling. These statutory factors are: (1) The drug's actual or relative potential for abuse; (2) Scientific evidence of the drug's pharmacological effects; (3) The state of current scientific knowledge regarding the subject; (4) Its history and current pattern of abuse; (5) The scope, duration, and significance of abuse; (6) What, if any, risk there is to the public health; (7) The drug's psychic or physiological dependence liability and; (8) Whether a substance is an immediate precursor of a substance already controlled.

You should be aware that evaluation of these eight factors is not solely determinative and is part of a more extensive scheduling process. The entire process for scheduling substances to which these eight factors apply includes: consideration of additional statutory criteria relevant to each specific schedule [21 U.S.C. §811(b)]; an evaluation and recommendation by the Secretary of Health and Human Services; and then a formal rulemaking.

I appreciate the opportunity to clarify this matter, and please let me know if I may answer any further questions.

Sincerely,

KAREN P. TANDY,
Administrator.

Mr. KENNEDY. Will my good friend from Utah yield for a further question?

Mr. HATCH. Certainly.

Mr. KENNEDY. If DHEA becomes an abuse problem by athletes or by youngsters or teenagers, and DEA fails to act, can the Senator assure me and the senior Senator from Illinois that the Judiciary Committee will act accordingly?

Mr. HATCH. Yes, I am committed to stepping in to change the law to protect the public health if abuse of DHEA by athletes or by youngsters or teenagers is a problem and DEA fails to take effective action with the authority we have given it. I must add for the record that at the present time I am not aware of sufficient evidence of DHEA abuse among athletes or young people to warrant it being categorized as an anabolic steroid at this time.

Mr. BIDEN. Will the Senator yield?

Mr. HATCH. Yes.

Mr. BIDEN. I, too, am committed to acting whenever any substance, whether it is DHEA or another steroid substance, becomes an abuse problem.

Mr. MCCONNELL. I ask unanimous consent that the technical amendment at the desk be agreed to; the committee-reported amendment, as amended, be agreed to; the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table en bloc, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3982) was agreed to, as follows:

In section 4(c) in the matter proposed to be inserted, strike "primarily".

The committee amendment, in the nature of a substitute, as amended, was agreed to.

The bill (S. 2195), as amended, was read the third time and passed.

DISTRICT OF COLUMBIA APPROPRIATIONS FOR THE FISCAL YEAR 2005, AND FOR OTHER PURPOSES—CONFERENCE REPORT

Mr. MCCONNELL. Mr. President, I submit a report of the committee of conference on the bill (H.R. 4850), and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4850), making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, signed by a majority of the conferees on the part of both Houses.

(The conference report is printed in the proceedings of the House in the RECORD of Tuesday, October 5, 2004.)

Ms. LANDRIEU. Mr. President, I am very pleased to join Chairman DEWINE while the Senate considers passage of the fiscal year 2005 District of Columbia appropriations conference report. The bill totals $560 million, which is an increase of $18.3 million from fiscal year 2004. The conference agreement represents a concerted effort of the House and Senate members to complete a bi-partisan bill only 6 days into the new fiscal year. This is a true win for the District of Columbia, whose budget has been delayed in Congress past December and January in recent years.

During our 3-year term as chairman and ranking member of the D.C. Appropriations Subcommittee, Senator DEWINE and I have met many challenges to stay in our allocation and deal appropriately with controversial issues. Above it all we have remained great friends. The conference report meets the District's current needs in security, criminal justice, education, and child welfare.

The conference report funds the three criminal justice functions transferred to the Federal Government for funding and oversight in the National Capital Revitalization and Self-Government Improvement Act of 1997. These functions, the courts, offender supervision, and defender services, are funded at a level which will meet the needs of FY 2005, though it was necessary to reduce funding in order to support other priorities of the Mayor and Council of the District.

The conferees recommend $190.8 million for the D.C. Courts, of which $56 million is for capital improvements which we believe will be sufficient to continue restoration of the historic Old Courthouse and planning for the new Family Court facility. I was pleased to attend the ribbon cutting just a few weeks ago for the renovated interim space of the Family Court, which we funded last year. The courts have done a tremendous job of improving how the court operates, as well as improving the points where residents interact with the court—the training of their staff and the aesthetic of space. It is so important, especially for children visiting the court, to have a space that welcomes them and enables confidence in the justice system. The courts are to be commended for doing so much with small increases and we have confidence they will be able to continue this year.

In addition, $180 million is included for the Court Services and Offender Supervision Agency which is responsible for all adult offenders reentering the community from prison. This agency has a critical role in public safety in the District and we have worked to ensure they have the tools needed to do their job. Chairman DEWINE championed an initiative to lower the caseload ratios for special population offenders and expand use of technology to ensure offenders are meeting their parole requirements. The conference also includes $38.5 million for defender services which represents indigent defendants in the District. It is our intention this level will enable the courts to increase the pay of lawyers from $50 to $60 per hour, an increase which was started 3 years ago.

Outside of the Congress' responsibility for the main criminal justice functions in the District, the bill also funds several key initiatives which the House and Senate have launched to contribute to improving education and the welfare of children in the District. I want to recognize Senator DEWINE's commitment to abused and neglected children in this city, including $5 million for early intervention services, mental health services, and to support foster parents. Through Senator DEWINE's commitment the status of children in the child welfare system has improved greatly, and with his sure hand I am confident it will continue to improve. There is much work to be done. In addition, $6 million was included in the conference report on behalf of the House Chairman RODNEY FRELINGHUYSEN to renovate school libraries in the District of Columbia public schools which will enable many more of the 65,000 students in the system to enjoy books and technology.

Great communities need great schools. This bill includes $26 million for public education in support of the committee's goal to improve education in the District, evenly divided between traditional public schools and public charter schools. A new superintendent has been hired for the D.C. Public School system, Dr. Clifford Janey, and we are excited about his energy to reform and improve and want to support his efforts as strongly as possible. This bill includes certain tools to contribute to Dr. Janey's work.

In our public schools we must recognize and reward excellence. We must acknowledge and eliminate failure. This bill directs a total of $4 million for a new incentive grant program for public education improvement in both traditional public schools and public charter schools. These grants will be awarded to the principal of high-performing or significantly improved public schools to reward their good work. A reward is a powerful incentive to build on success and meet some of the areas which can make their school thrive. I want to take this opportunity to recognize the House chairman and ranking member for their support of this new program which will contribute to reinvigorating our public schools.

The second prong of the School Improvement Fund, $13 million for public charter schools, is a contribution to strengthen the chartering system. With 42 charters granted to date, the highest number of charter schools per capita, is a leader in the effort to use charter schools to spur system-wide improvement from within our system of public education. Senator DEWINE and I maintain our commitment to serve as a full and equal partner in this endeavor.

Strengthening charter schools, which were created in the District by Congress in the 1995 School Reform Act, is a primary tenet of our work to improve education. Pursuant to Section 120 of P.L. 106–522, the FY 01 DC Appropriations Act, the local government is prohibited from amending the School Reform Act. Therefore, Congress has continued our oversight responsibility of the charter school law this year. The bill fortifies the environment where strong, accountable, academically excellent charter schools flourish.

Finally, the conference report begins a new investment in the administration of justice in the District by contributing $8 million to the construction of a new forensics lab, a top priority for the Mayor and council. This laboratory will alleviate contract pressure D.C. imposes on other Federal agencies, such as the FBI, to complete local forensic work and ensure timely processing of lab work, such as DNA tests. The bill also contributes to security and emergency preparedness in the Nation's capital with $21 million to bolster the police and first responders. This includes the annual payment of $15 million for security of Federal installations in the city and to enable the police presence now required. The conferees also provide $6 million to complete the Unified Communications Center which will coordinate all first-responders in the capital region. In addition to all of the important investments in the District, there is $7.8 million for cleaning up the Anacostia River and providing recreation for the entire region and $2.5 million for transportation improvements.

I would like to close by thanking the Mayor of the District of Columbia, Anthony Williams, the entire Council, particularly the Chair Linda Cropp, and the D.C. Delegate to Congress ELEANOR HOLMES NORTON for their many contributions and advice in developing this bill. The D.C. Appropriations Subcommittee has a unique role to fund certain aspects of the city government and we could not do that well without the guidance of the elected representative of the city's residents. They are great partners for Chairman DEWINE and I to ensure the bill meets the needs of the District. I am especially pleased this year that we are passing the final budget so early in the fiscal year, because the city's local budget, nearly $8 billion, of locally-generated tax dollars, must be approved as part of this bill.

I appreciate the chairman's consideration and our ability to work together so well. And finally, no bill could be completed without the diligent work of our staff, Mary Dietrich for Senator DEWINE and Kate Eltrich and Kathleen Strottman on my staff. This year has been blessed by a comity not often observed in the Congress in regards to our Capital City, and I thank all my colleagues for their commitment to a positive year and a first-rate bill for the District.

Mr. McCONNELL. Mr. President, was that the reading of the DC conference report?

The PRESIDING OFFICER. Yes.

Mr. McCONNELL. I ask unanimous consent that the Senate now proceed to the consideration of the conference report to accompany H.R. 4850, the DC appropriations bill, provided that the conference report be adopted, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The conference report was agreed to.

SENATE LEGAL COUNSEL AUTHORIZATION

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 450, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 450) to authorize testimony and representation of the United States v. Daniel Bayly, et al.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, this resolution concerns a request for testimony and representation in a criminal case arising out of the Enron debacle. The Justice Department's Enron Task Force has brought a case in Federal court in Texas against six individuals formerly associated with the Enron Corporation and Merrill Lynch. The indictment alleges conspiracy, false statements, obstruction of justice, and perjury relating to transactions involving offshore power barges. The Government alleges that Enron in essence parked assets with Merrill Lynch to enhance fraudulently Enron's financial statements.

The transactions at the center of this case were the subject of extensive investigation and a hearing by the Permanent Subcommittee on Investigations of the Committee on Government Affairs during the last Congress. In the course of the subcommittee's investigation, subcommittee staff interviewed two of the individuals who are now on trial, about these transactions.

Last Congress the Senate agreed to Senate Resolution 317, authorizing the Permanent Subcommittee on Investigations to cooperate with requests from law enforcement agencies for access to subcommittee records from its Enron investigation. In June of this year, the Senate agreed to Senate Resolution 394, authorizing a former subcommittee counsel and a subcommittee detailee who interviewed the defendants to testify at this trial.

The trial of this case began on September 20, 2004, in Houston. One of the defendants has now additionally subpoenaed a former subcommittee employee and a former detailee to testify about the same events. Accordingly, this resolution would authorize the former subcommittee staff to testify at this trial with representation by the Senate Legal Counsel.

Mr. McCONNELL. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 450) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 450

Whereas, by Senate Resolution 317, 107th Congress, the Senate authorized the Permanent Subcommittee on Investigations of the Committee on Governmental Affairs to produce records from its investigation into the collapse to Enron Corporation to law enforcement and regulatory officials and agencies;

Whereas, by Senate Resolution 394, 108th Congress, the Senate authorized testimony and legal representation of a former employee of, and a detailee to, the Permanent Subcommittee on Investigation in the case of United States v. Daniel Bayly, et al., Cr. No. H-03-363, pending in the United States District Court for the Southern District of Texas;

Whereas, in the case of United States v. Daniel Bayly, et al., subpoenas for testimony have been issued to Claire Barnard, a former employee of, and Edna Falk Curtin, a former detailee to, Permanent Subcommittee on Investigation;

Whereas, pursuant to sections 703(a) and 704(a)(2) of the Ethics in Government Act of 1978, 2 U.S.C. §§288b(a) and 288c(a)(2), the Senate may direct its counsel to represent employees of the Senate with respect to any subpoena, order, or request for testimony relating to their official responsibilities;

Whereas, by the privileges of the Senate of the United States and Rule XI of the Standing Rules of the Senate, no evidence under the control or in the possession of the Senate can, by administrative or judicial process, be taken from such control or possession but by permission of the Senate;

Whereas, when it appears that evidence under the control or in the possession of the Senate is needed for the promotion of justice, the Senate will take such action as will promote the ends of justice consistent with the privileges of the Senate: Now, therefore, be it

Resolved, That Claire Barnard and Edna Falk Curtin are authorized to testify in the case of United States v. Daniel Bayly, et al., except concerning matters for which a privilege should be asserted.

SEC. 2. The Senate Legal Counsel is authorized to represent Claire Barnard and Edna Falk Curtin in connection with the testimony authorized in section one of this resolution.

FAMILY FARMER BANKRUPTCY RELIEF ACT OF 2004

Mr. McCONNELL. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. 2864, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (S. 2864) to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, I am pleased that the Senate is passing legislation to renew and extend family farmer bankruptcy protection through June 30, 2005.

Senator GRASSLEY and I introduced the Family Farmer Bankruptcy Relief Act, S. 2864, to retroactively renew and temporarily extend these protections that our farmers have come to rely upon because Chapter 12 of the Bankruptcy Code expired on January 1, 2004. Representative TAMMY BALDWIN and Representative NICK SMITH have introduced companion legislation in the House of Representatives.

But our bipartisan legislation is just a short-term fix. We need to stop playing politics and permanently reauthorize the Chapter 12 family farmer protections.

Too many family farmers have been left in legal limbo in bankruptcy courts across the country because Chapter 12 of the Bankruptcy Code is still a temporary measure. This is the eleventh time that Congress must act to restore or extend basic bankruptcy safeguards for family farmers because Chapter 12 is still a temporary provision despite its first passage into law in 1986. Our family farmers do not deserve these lapses in bankruptcy law that could mean the difference between foreclosure and farming.

Mr. President, I ask unanimous consent that a letter from many representatives of family farmers that underscores the need for renewing the Chapter 12 bankruptcy protections be printed in the RECORD at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEAHY. It is time to end this absurdity and make these bankruptcy protections permanent. Everyone agrees that Chapter 12 has worked. It is time for Congress to make Chapter 12 a permanent part of the Bankruptcy Code to provide a stable safety net for our Nation's family farmers.

I will continue to work with Senator GRASSLEY, Senator FEINGOLD, Representative BALDWIN, Representative NICK SMITH and others on both sides of the aisle to pass legislation that once and for all assures our farmers of permanent bankruptcy protections to help them keep their farms. In the meantime, the House of Representatives should quickly pass the Family Farmer Bankruptcy Relief Act and end the current lapse in basic bankruptcy protections for our family farmers.

OCTOBER 6, 2004.

Hon. PATRICK LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: The undersigned organizations urge immediate passage of S. 2864 that reinstates Chapter 12 bankruptcy provisions of our nation's family farmers. Since January 1, 2004 farmers facing serious financial problems resulting from low commodity prices, increasing production costs, and natural disasters have not been able to consider filing a Chapter 12 bankruptcy.

The need for a separate bankruptcy code that enables farmers to stay on the land while reorganizing their debt is as urgent now as it was in 1986 when initially enacted by Congress. This lapse in coverage results in farmers having to face foreclosure and liquidation. Instead, Chapter 12 would offer farmers the opportunity to negotiate with their creditors. This benefits the farm family, their creditors and rural businesses.

Please act quickly. Every day that Congress delays on Chapter 12 has a direct cost to our nation's family farmers and rural communities.

Sincerely,

American Corn Growers Association.
Association of Chapter 12 Trustees.
Community Food Security Coalition.
Family Farm Defenders.
Farm Aid.
Farm Wives United (New York).
Federation of Southern Cooperatives.
Livestock Marketing Association.
National Bankruptcy Conference.
National Catholic Rural Life Conference.
National Family Farm Coalition.
National Farmers Union.
New York Sustainable Agriculture Working Group (NYSAWG).
Northeast States Association for Agricultural Stewardship (NSAAS).
Rural Advancement Foundation International (RAFI-USA).
Rural Coalition/Coalicion Rural.
Southern Sustainable Agriculture Working Group (SSAWG).
Soybean Producers of America.
Women, Food, and Agriculture.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 2864) was read the third time and passed as follows:

S. 2864

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Family Farmer Bankruptcy Relief Act of 2004".

SEC. 2. EIGHTEEN-MONTH EXTENSION OF PERIOD FOR WHICH CHAPTER 12 OF TITLE 11, UNITED STATES CODE, IS REENACTED.

(a) AMENDMENTS.—Section 149 of title I of division C of Public Law 105-277 (11 U.S.C. 1201 note) is amended—

(1) by striking "January 1, 2004" each place that term appears and inserting "July 1, 2005"; and

(2) in subsection (a)—

(A) by striking "June 30, 2003" and inserting "December 31, 2003"; and

(B) by striking "July 1, 2003" and inserting "January 1, 2004".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) are deemed to have taken effect on January 1, 2004.

NATIONAL EARTHQUAKE HAZARDS REDUCTION PROGRAM REAUTHORIZATION ACT OF 2003

Mr. McCONNELL. Mr. President, I ask unanimous consent the Senate proceed to the immediate consideration of Calendar No. 771, H.R. 2608.

The PRESIDING OFFICER. The clerk will report the bill by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2608) to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCAIN. Mr. President, I wish to speak in relation to the H.R. 2608, the National Earthquake Hazards Reduction Program Reauthorization Act, which passed with a substitute amendment by unanimous consent.

Earthquakes are some of the world's most dangerous natural hazards. They can seem to strike with sudden unpredictability, and can affect a large area causing damage miles away from the epicenter. The National Earthquake Hazards Reduction Program, NEHRP, was created in 1977 to conduct basic research about earthquakes and develop strategies, such as stricter building codes, to mitigate the effects of them. The NEHRP program is composed of the Federal Emergency Management Agency, FEMA, in the Department of Homeland Security's Emergency Preparedness and Response, EP&R, Directorate; the National Institute of Standards and Technology, NIST; the U.S. Geological Survey, USGS; and the National Science Foundation, NSF.

The 6.0 magnitude earthquake that struck Parkfield, California last week demonstrated both the dangers of earthquakes and the success of the NEHRP program. Because of the strong building codes and preparations developed by NEHRP and taken by the people of Parkfield, there were no fatalities.

This bill would authorize the NEHRP program from Fiscal Year, FY, 2005 through FY 2009. In addition, it would make a number of reforms to the program, including designating NIST as the program's lead agency and establishing an Interagency Coordinating Committee and an Advisory Committee on Earthquake Hazards Reduction to improve the program's coordination and implementation.

This bill also would require the Director of the Office of Science and Technology Policy to establish a National Windstorm Impact Reduction Program consisting of representatives from NIST, NSF, FEMA, and the National Oceanic and Atmospheric Administration, NOAA. The purpose of this program would be to improve our understanding of windstorms and how they affect our communities. We recently witnessed the devastation to Florida by Hurricanes Charley, Frances, Ivan, and Jeanne. Congress should recognize the importance of windstorm research to develop ways to reduce future damage from hurricanes, tornadoes, and other such phenomena.

Finally, the bill would authorize funding for the Federal Aviation Administration's Office of Commercial Space Transportation from FY 2005 through FY 2009. SpaceShipOne demonstrated yesterday that we are at the beginning of a new age in space travel, in which private citizens will be able to finance, operate, and travel in their own vehicles. It is vital that this office be adequately funded to ensure that the government plays an appropriate oversight role in this promising field.

Mr. President, I thank my colleagues for their support of this legislation, and ask unanimous consent that my statement be printed in the RECORD.

Mr. HOLLINGS. Mr. President, I rise today in support of the substitute amendment to H.R. 2608, the National Earthquake Hazards Reduction Program Reauthorization Act. I fully support this amendment. The first two titles in this substitute amendment were distinct bills, each extremely important to fighting the respective hazard. I want to thank Senator BILL NELSON and Senator HUTCHISON for their work in bring the wind title to the committee's attention.

Earthquakes are deadly natural hazards that arrive without warning and can claim thousands of lives. For example, a 6.6 magnitude earthquake in Iran last year killed 30,000 people, while a similar magnitude quake in California killed two people. Thousands of lives have been saved as a result of the fine research conducted through the National Earthquake Hazards Reduction Program. I support the earthquake title of the substitute amendment, but I want to reiterate that the National Institute of Standards and Technology needs greater funding if it is to fulfill its new role as the lead agency in this program. I hope that my colleagues will see to it that this excellent agency has the resources it needs to continue to develop standards that protect the public.

Building codes work. The hurricanes we've seen in the past month prove that. According to the St. Petersburg Times, houses built before the building codes were revised in 1992, as a result of Hurricane Andrew, were blown off their foundations. Houses built after new building codes were in place are still standing. These disasters cost the country several billion dollars in damage each year. By establishing a national program to improve design and engineering to protect against windstorms, we can save not only money, but more importantly lives.

Mr. NELSON of Florida. Mr. President, I rise today in support of the windstorm impact reduction bill, a bill included in the earthquake bill before the Senate for consideration today. The windstorm bill, supported in the Senate by me and Senator HUTCHISON and by Representatives MOORE and NEUGEBAUER in the House, sets up a national program to reduce the loss of life and property due to windstorms.

It is an understatement to say that the four hurricanes that hit Florida—Hurricanes Charley, Frances, Ivan and Jeanne—in the last 6 weeks demonstrate the great need for this legislation. More than 70 lives were lost, and homes, businesses, roads and bridges were devastated by the hurricanes. It is estimated that the losses from these hurricanes will surpass the $20 billion in losses from Hurricane Andrew in 1992, the costliest hurricane ever.

It is imperative that the amount of destruction suffered by the State of Florida never be repeated again. This bill will give us the tools to protect our communities from future material losses and to reduce human suffering. An interagency working group consisting of representatives of the National Science Foundation, the National Oceanic and Atmospheric Administration, the National Institute of Standards and Technology and the Federal Emergency Management Agency will be responsible for planning and managing this program.

The program will have three goals: No. 1, improved understanding of windstorms; No. 2, windstorm impact assessment; and No. 3, windstorm impact reduction. We will achieve these goals through data collection and analysis, outreach, technology transfer, and research and development.

As a result of this program, we will translate existing and future information and research findings into cost-effective and affordable practices for design and construction professionals, and State and local officials. And this Interagency group will provide biennial updates of their progress to Congress so we know what progress has been made and what more needs to be done.

We'll also get a broad cross-section of interests involved through an advisory committee—so that real life issues are addressed and on-site expertise is utilized. Any my hope is that the devastation of Hurricanes Charley, Frances, Ivan and Jeanne will never be experienced again in my State of Florida or in any other State.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the McCain substitute amendment which is at the desk be agreed to; the bill, as amended, be read a third time and passed; the motion to reconsider be laid upon the table with no intervening action or debate; and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 3983) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

The bill (H.R. 2608), as amended, was read the third time and passed.

BELARUS DEMOCRACY ACT OF 2003

Mr. McCONNELL. Mr. President, also I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 854 which is at the desk.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A bill (H.R. 854) to provide for the promotion of democracy, human rights and rule of law in the Republic of Belarus, and for the consolidation and strengthening of Belarus sovereignty and independence.

There being no objection, the Senate proceeded to consider the bill.

Mr. BIDEN. Mr. President, I am today in support of H.R. 854, the Belarus Democracy Act. Alexander Lukashenka, President of Belarus, is the last remaining dictator in Europe. After orchestrating an illegal and unconstitutional referendum in November 1996, enabling him to impose a new constitution, abolish the duly-elected parliament, and install a largely powerless national assembly, he has progressively abolished the previously existing democracy in that country.

Belarusian authorities under Lukashenka's control have mounted a major systematic crackdown on civil society through the closure, harassment, and repression of non-governmental organizations and independent trade unions. Three leaders of the democratic forces in Belarus—Victor Gonchar, Anatoly Krasovsky, and Yuri Zakharenka—and one critical journalist, Dmitry Zavadsky, have disappeared and are presumed dead. Former Belarus Government officials have made credible allegations, with evidence, that officials of the Lukashenka regime were involved in the disappearances. Lukashenka's administration has repressed freedom of speech and expression, has reversed the revival of Belarusian language and culture, and has harassed religious groups.

The Government of Belarus has made no substantive progress in addressing criteria established in 2000 by the Organization for Security and Cooperation in Europe to end repression and the climate of fear, permit functioning independent media, ensure transparency of the election process, and strengthen the functions of parliament. The campaign for the parliamentary elections to be held October 17 has not been fair. Lukashenka has also added a referendum to the ballot to eliminate term-limits for the presidency so that he can run again in 2006.

H.R. 854, the Belarus Democracy Act, authorizes funds to assist in the observation of elections and the promotion of free and fair electoral processes; the development of democratic political parties; radio and television broadcasting to and within Belarus; the development of non-governmental organizations promoting democracy and supporting human rights; the development of independent media within Belarus and from outside the country; international exchanges and professional training programs for leaders and members of the democratic forces; and other activities consistent with the purposes of the Act.

Like most other legislation, this bill is not perfect. I would have preferred even stronger legislation. In fact, I had prepared such legislation, which I planned to introduce in the form of an amendment to the State Department Authorization legislation if it had reached the Senate floor. My bill would have authorized, with specific numbers, increased funding for the activities described above; would have streamlined and tightened controls on exports to Belarus; and would have imposed visa bans on Lukashenka and his inner circle.

Unfortunately, for unrelated reasons, the State Department Authorization bill has not been brought up, and there is no time in the closing days of the 108th Congress to introduce my legislation as a free-standing bill.

Nonetheless, I strongly support H.R. 854. It makes unmistakably clear to President Lukashenka and his cohorts that the United States strongly disapproves of his brutal authoritarian rule and that we intend to continue to oppose him. Lukashenka is an anachronism in twenty-first century Europe and is surely destined for the ash-heap of history. The Belarus Democracy Act may hasten this process. I urge my colleagues to support H.R. 854.

I thank the Chair and yield the floor.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 854) was read the third time and passed.

ORDERS FOR THURSDAY, OCTOBER 7, 2004

Mr. McCONNELL. Mr. President, I ask unanimous consent that when the Senate completes its business today, it adjourn until 9:30 a.m. tomorrow, Thursday, October 7. I further ask unanimous consent that following the prayer and pledge the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and that there then be a period for morning business for up to 30 minutes with the first 15 minutes under the control of the Democratic leader or his designee, and the second 15 minutes under the control of the majority leader or his designee; provided that following morning business the Senate then resume consideration of S. Res. 445, the Senate intelligence reform resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. McCONNELL. Mr. President, tomorrow morning the Senate will continue to debate on the Senate intelligence reform resolution. Amendments will be offered and debated throughout the day tomorrow. I reminded all of our colleagues a few moments ago that I filed a cloture motion on the resolution. It is our hope that we can complete action on the resolution without having to take a cloture vote. However, in order to ensure that we can complete the Senate's business by Friday, we are scheduled to vote on cloture on Friday morning, if that is necessary.

In addition to the Senate intelligence resolution, the Senate may begin consideration of the FSC JOBS conference report tomorrow.

Senators should, therefore, expect a very busy day tomorrow with rollcalls possible throughout the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. McCONNELL. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:01 p.m., adjourned until Thursday, October 7, 2004, at 9:30 a.m.

NOMINATIONS

Executive nomination received by the Senate October 6, 2004:

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES AIR FORCE TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. BRUCE A. WRIGHT, 5759

DISCHARGED NOMINATIONS

The Senate Committee on Foreign Relations was discharged from further consideration of the following nominations:

CHRISTOPHER J. LAFLEUR, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MALAYSIA.

B. LYNN PASCOE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF INDONESIA.

DEPARTMENT OF STATE NOMINATIONS BEGINNING WITH RYAN C. CROCKER AND ENDING WITH JOHNNY YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

RYAN C. CROCKER, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

MARCIE B. RIES, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ALBANIA.

THE SENATE COMMITTEE ON FOREIGN RELATIONS WAS DISCHARGED FROM FURTHER CONSIDERATION OF THE FOLLOWING NOMINATIONS AND THE NOMINATIONS WERE PLACED ON THE EXECUTIVE CALENDAR:

*CATHERINE TODD BAILEY, OF KENTUCKY, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF LATVIA.

*DOUGLAS MENARCHIK, OF TEXAS, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

*HECTOR E. MORALES, OF TEXAS, TO BE UNITED STATES EXECUTIVE DIRECTOR OF THE INTER-AMERICAN DEVELOPMENT BANK FOR A TERM OF THREE YEARS.

*LLOYD O. PIERSON, OF VIRGINIA, TO BE AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT.

*LLOYD O. PIERSON, AN ASSISTANT ADMINISTRATOR OF THE UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT, TO BE A MEMBER OF THE BOARD OF DIRECTORS OF THE AFRICAN DEVELOPMENT FOUNDATION FOR A TERM EXPIRING SEPTEMBER 22, 2009.

*NOMINEE HAS COMMITTED TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

CONFIRMATIONS

Executive nominations confirmed by the Senate October 6, 2004:

DEPARTMENT OF STATE

CHRISTOPHER J. LAFLEUR, OF NEW YORK, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO MALAYSIA.

B. LYNN PASCOE, OF VIRGINIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF INDONESIA.

RYAN C. CROCKER, OF WASHINGTON, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF CAREER MINISTER, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE ISLAMIC REPUBLIC OF PAKISTAN.

MARCIE B. RIES, OF THE DISTRICT OF COLUMBIA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF ALBANIA.

DEPARTMENT OF STATE NOMINATIONS BEGINNING RYAN C. CROCKER AND ENDING JOHNNY YOUNG, WHICH NOMINATIONS WERE RECEIVED BY THE SENATE AND APPEARED IN THE CONGRESSIONAL RECORD ON SEPTEMBER 13, 2004.

WITHDRAWAL

Executive message transmitted by the President to the Senate on October 06, 2004, withdrawing from further Senate consideration the following nomination:

LT. GEN. BRUCE A. WRIGHT, TO BE GENERAL, IN THE UNITED STATES AIR FORCE, WHICH WAS SENT TO THE SENATE ON SEPTEMBER 7, 2004.

HOUSE OF REPRESENTATIVES—*Wednesday, October 6, 2004*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. ISAKSON).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
October 6, 2004.

I hereby appoint the Honorable JOHNNY ISAKSON to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend John J. Ryan, Pastor, St. Brendan Roman Catholic Church, Ormond Beach, Florida, offered the following prayer:

Almighty and Eternal God, from all time and through eternity You guide those You have created in every endeavor.

You place Your own hopes and dreams in the hearts of men and women, so that people of every race, language, and way of life might advance in the ways of peace and justice.

As we navigate the seas of life, guard us, defend us, and be with us. Give us clear direction.

Grant that Your spirit of prudence and wisdom fill our hearts and minds to accomplish Your works and lead us safely to the shores of goodness and justice.

Gracious God, we thank You for every blessing we enjoy, for every goodness we know.

As You have led us over the waters of the ages, lead us to that freedom which does not end and is perfected in You who art our refuge, our strength, our help in ages past, and our hope for years to come. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Illinois (Mr. SHIMKUS) come forward and lead the House in the Pledge of Allegiance.

Mr. SHIMKUS led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 4175. An act to increase, effective as of December 1, 2004, the rates of disability compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for survivors of certain service-connected disabled veterans, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested.

S. 2484. An act to amend title 38, United States Code, to simplify and improve pay provisions for physicians and dentists and to authorize alternate work schedules and executive pay for nurses, and for other purposes.

S. 2895. An act to authorize the Gateway Arch in St. Louis, Missouri, to be illuminated by pink lights in honor of breast cancer awareness month.

S. 2896. An act to modify and extend certain privatization requirements of the Communications Satellite Act of 1962.

WELCOMING THE REVEREND JOHN J. RYAN

(Mr. MICA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MICA. Mr. Speaker, this morning, it is my distinct pleasure and really and truly an honor to welcome father John J. Ryan to the United States House of Representatives.

Father Ryan is the pastor of St. Brendan Roman Catholic Church in Ormond Beach, Florida, which is part of my district. He is a member of the presbyterate of the Diocese of Orlando and has served as a priest for 30 years.

Originally from New Jersey, Father Ryan has spent the majority of his priesthood ministering in the Orlando diocese.

Father Ryan has been a forerunner in the civic and ecumenical communities. In 2002, he gathered over 2,000 people of various faiths to mark the first anniversary of September 11.

In this service, he assembled Protestant, Jewish, Muslim, Catholic, and Orthodox religious leaders at his parish as well as representatives of every part of the civic community, from mayors, police chiefs, fire chiefs and every branch of the military service.

Father Ryan is no stranger to bringing together people of every race and every religion to share their common bond as members of the human society. He embodies the perfect blend of civic pride and religious faith.

Mr. Speaker, the Congress of the United States is privileged and honored today by the visit of a humble and great man, Father John J. Ryan of Ormond Beach, Florida.

ENSURING FAIR AND FREE ELECTIONS IN BELARUS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Mr. Speaker, in October, we will have fair and free elections in Afghanistan. Ten million Afghans are registered to vote, one-half being women. When they go to the polls. There will be threats, intimidation and violence, but the Afghans will go.

Compare that to other elections in October held in the European country of Belarus. Candidates have been intimidated, but the people will still go to the polls. The problem is, the dictator will count the votes and the ballots.

If the international community can help ensure fair and free elections in Afghanistan and Iraq, surely they can help enforce fair and free elections in the Nation of Belarus. I call upon them to do so, and I hope they will ensure fair and free elections in Belarus.

CONGRATULATING SENATOR JOHN EDWARDS FOR SUCCESSFUL DEBATE

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, I rise this morning to congratulate my friend, Senator JOHN EDWARDS, for his outstanding performance in last night's debate. Once again, he has done us proud.

JOHN EDWARDS grew up the son of a mill worker in rural North Carolina. He understands the challenges that ordinary people face in these tough economic times. Simply put, he gets it when it comes to the problems, challenges, aspirations and dreams of hard-

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☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

working families. That is why he will make an outstanding Vice President.

During last night's debate, JOHN EDWARDS clearly stated why the Bush-Cheney administration's stubborn refusal to admit mistakes is so wrong for America. The Bush-Cheney record of failed policies, broken promises, and tired excuses is a strong change in our national leadership. JOHN EDWARDS articulated that case very strongly last night.

Mr. Speaker, JOHN EDWARDS and JOHN KERRY have a better plan to strengthen middle-class families, to create good jobs, provide targeted tax relief for middle-class families and invest in jobs for tomorrow for the broader future of America. We need new leadership in America. JOHN EDWARDS demonstrated last night that he and JOHN KERRY are ready to take our country in a new and better direction.

KERRY DOES NOT GET IT ON IRAQ

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, on the one hand, Mr. KERRY calls Iraq a mistake. On the other hand, he says our soldiers are not dying for a mistake. He has failed time and again to make sense of his flip-flops. And while he looked good in the debate last week, he sounded like the same old candidate with 57 varieties of stances on Iraq. His call for a timetable to get troops out of Iraq sends a message that terrorists can outlast us. It is a fancy way to spin the fact that he wants to retreat.

His repeated statements that Iraq is a "quagmire," "the wrong war in the wrong place at the wrong time," repels allies; it does not rally them to our cause. And, talking about real coalitions is a fancy way to spin the fact that, under his watch, other nations would dictate the deployment of our military, and it insults our coalition partners and the Iraqi forces who are risking their lives every day for freedom.

JOHN KERRY just does not get it.

ADMINISTRATION MUST ADMIT MISTAKES

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, here are a few headlines from the last 24 hours: "Iraqi Arms Threat Was Waning," the definitive government report saying there was a diminishing threat from Iraq and its weapons of mass destruction; "France Was Ready To Send Troops to Iraq," 15,000, but did not because of the relationship with President Bush; "Bremmer Criticizes Troop Levels," Paul Bremmer now says we never had enough troops on the ground; "White House Embraced Disputed Arms Intelligence," the White House claimed Iraq was buying aluminum tubes to facilitate uranium enrichment even though their own experts told them otherwise; "Funds To Build Iraq Are Drifting Away From Target," only 27 cents on the dollar are going to rebuild Iraq.

This does not even include what Secretary of Defense Rumsfeld acknowledged yesterday, that there was no relationship between Iraq and al Qaeda.

Mr. Speaker, their house of cards that was the case for going to war and how to prosecute this war have collapsed. In going to war, this administration allowed ideology to trump reality. Iraq was not an imminent threat, there was no impending mushroom cloud. With the costs and casualties, candor would be a welcome addition to this White House.

You cannot fix a problem if you do not acknowledge that you have one.

PRESIDENT BUSH HAS A RECORD OF LEADERSHIP

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, last night, Americans saw the choice of DICK CHENEY and JOHN EDWARDS. It is being debated now who prevailed.

Where people know JOHN EDWARDS best, his and my home, birth State of South Carolina and his home State of North Carolina, the people are overwhelmingly supporting DICK CHENEY to continue his service with President Bush to best protect American families in the war on terrorism.

Senator KERRY has a 20-year record in the Senate of voting against every major weapons system that won the Cold War and that our troops are using today. Senator KERRY has proposed budget cuts in intelligence even after the first World Trade Center bombing. He voted against the first Gulf War; he voted for the current war in Iraq and then against the funding to give our troops the body armor needed to fight the war. This is not the kind of record Americans expect in a commander in chief.

President Bush and Vice President CHENEY have a strong and clear record of leading our Nation in the war on terror. President Bush has shown he will take the fight to the terrorists wherever they are, protecting American families from future terror attacks here at home.

In conclusion, may God bless our troops. We will never forget September 11.

NOW IS NOT THE TIME TO CUT VETERANS' BENEFITS

(Mr. STRICKLAND asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STRICKLAND. Mr. Speaker, I have a message for America's veterans and the families who love them.

As reported in Sunday's Washington Post, Staff Sergeant Gene Westbrook, 35, of Lawton, Oklahoma, was deployed to Iraq in January as a drill sergeant, sent to train Iraqi Army recruits. While on duty on April 28, south of Sadr City in Baghdad, he was hit by a mortar shell, and the shrapnel severed his spine. He is now paralyzed from the chest down, has limited movement in his right arm and battles constant infections. His wife takes care of him full-time.

"I love the military," said Staff Sergeant Westbrook. "That was my life. But I do not believe they are taking care of me now."

He has received no disability benefits because his paperwork is missing. He is supporting his wife and three children on his regular military pay of $2,800 a month as he awaits a ruling on whether he will receive $6,500 from the VA for his disability.

At the same time, President Bush's budget for 2005 calls for cutting the Department of Veterans' Affairs staff that handles disability claims. What is the President thinking, cutting the budget for this vital function while our disabled servicemen wait for justice?

HONORING DARRELL WALTRIP

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, today I rise to honor one of my constituents, someone that many of my colleagues may know, Darrell Waltrip. My colleagues might know him by his 84 racing victories, third best victory in NASCAR circuit or from his newest career in broadcasting. In middle Tennessee, we also know that he is a successful businessman.

But to those suffering with Multiple Sclerosis, he is more; he is a hero.

This year, Darrell is being honored by the Mid South Chapter of the National MS Society with the MS Hope Award for his outstanding dedication to helping end this devastating disease.

Darrell has given of his time and of his heart to educate the public on what we can do to help eradicate MS, and his support of the Mid South Chapter has been to expand the advocacy and research.

Today, I want to join those honoring Darrell Waltrip and thank him for his continuing fight against MS.

REPUBLICAN RHETORIC DOES NOT MATCH REALITY

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, well, the Republican rhetoric about the economy does not match the reality on this issue either. New figures show U.S. companies announced layoffs of more than 100,000 people last month.

If that is not bad enough, the pace of new job postings plunged in September to a mere 16,000. This is the President's economic equivalent of Mission Accomplished. Over the third quarter, job layoffs topped a quarter of a million workers. That is 20 percent worse than the last quarter, and they call it progress. The September figure for layoffs was the largest number in 8 months, and they call it progress.

They cannot create a job, so they create a sound bite. They do the same thing in Iraq every day. Things are getting better, they explain, while the rest of America looks at the nightly news and wonders what in the world these people are talking about. Every night, they deny what is before their eyes.

They have not done the job. The record is clear, and so is the outcome. In 27 days, the American people will give the President and the Vice President bus fare out of town.

□ 1015

HONORING HAROLD ZINKIN

(Mr. RADANOVICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RADANOVICH. Mr. Speaker, I rise today to recognize Mr. Harold Zinkin of Fresno, California, posthumously for his service to his community and generous good will. Mr. Zinkin recently passed away on September 22, 2004.

Harold Zinkin was born in San Francisco, California, in 1922. As the son of Russian immigrants, this first-generation American lived a life that was nothing short of achieving the American Dream.

As a young man, Mr. Zinkin enlisted in the U.S. Navy in response to the attack on Pearl Harbor. Later he became a champion bodybuilder and was one of the patriarchs of California's fitness movement that rose out of the famed Muscle Beach. Mr. Zinkin's vision for the future of health and wellness came to fruition through his creation of revolutionary fitness equipment called the Universal Gym Machine. He was also instrumental in creating one of the most dynamic and successful shopping and entertainment complexes throughout California's Central Valley.

Mr. Speaker, I rise today to recognize Harold Zinkin for his tremendous service to his community, California's Central Valley and worldwide.

FAILING ECONOMIC HEALTH OF OUR NATION

(Ms. SOLIS asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. SOLIS. Mr. Speaker, as Americans head to the polls in 4 weeks, we should ask ourselves, Are we better off now than we were 4 years ago?

The answer lies in the facts, and the facts do not lie. Eight million people are looking for work and 1.4 million people lost their health insurance last year; 4.3 million people have slipped into poverty since President Bush took office, and a projected 10-year $5.6 trillion budget surplus has turned into a $422 billion annual deficit.

Families in my district are all too aware of the sad state of our economy. Unemployment they say is at its lowest at 5.4 percent; but unemployment in my district, in East Los Angeles and the San Gabriel Valley in Los Angeles County, is well above the norm. Just look at the schedule here. East Los Angeles, South El Monte, 9.8 percent, double-digit unemployment and it has been that way for the last 3½ years.

We know in my district that it is time for a change in leadership. We want jobs here. We want investments in America. We want to lift those boats.

150TH ANNIVERSARY OF THE REPUBLICAN PARTY

(Mr. COX asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COX. Mr. Speaker, this year is the 150th anniversary of the founding of the Republican Party. Over a century and a half, from the abolition of slavery, to the establishments of women's right to vote, to freeing millions of people in the Soviet Union, Afghanistan and Iraq, the Republican Party has been the most effective political organization in the history of the world in advancing the cause of freedom.

The right of American women to vote is a uniquely Republican accomplishment advanced by Republicans, opposed by Democrats. All of the leading suffragists, including Lucretia Mott, Elizabeth Cady Stanton, and Susan B. Anthony were Republican. The first woman elected to this House was Republican.

Today marks the birth of Mary Louise Smith in 1914, elected to be the first woman to chair the Republican National Committee. Each day of the year the Republican Freedom Calendar, prepared by the Republican Policy Committee, records an important achievement, an important milestone in the Republican Party's history of advancing the civil rights of every American. The calendar is available at policy.house.gov on the Internet.

LARGE CIVIL AIRCRAFT AGREEMENT

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, this morning the United States filed a World Trade Organization dispute settlement case against the European Union regarding billions of dollars in unfair subsidies provided to Airbus by European governments. The U.S. has also exercised its rights to immediately terminate the 1992 U.S.-EU agreement on large civil aircraft. That agreement placed limits on certain government support, including limiting it to one-third of the costs of developing a new character aircraft.

The time has come for the American Government to recognize the damage that has occurred to our economy and to take firm action to curtail what I believe is both unfair and illegal foreign competition. These subsidies from four European governments, which include aircraft launch assistance, capital injections, debt forgiveness, have enabled Airbus to develop and range market airliners well below cost. Unless this practice is checked, I am afraid it will threaten to drive the Boeing Company, Airbus' only remaining worldwide competitor and our largest net exporter, out of the commercial airline manufacturing business altogether.

Over the last few years Airbus has grown to dominate the large commercial aircraft industry, out-delivering Boeing for the first time in history in 2003. I want to support Ambassador Zellig's action. He has courageously filed this case on behalf of our government.

ARE WE BETTER OFF

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, are we better off today than we were 4 years ago? If you live in Nevada, the answer is no. The number of Nevadans living in poverty has increased by 11,000. The family income in Nevada has dropped by $1,511; 82,000 Nevadans lost their health insurance. There are now 400,000 Nevadans who live every day without health insurance. They pray they do not get sick. Those who are lucky enough to have health insurance saw their premiums go up by an average of 3,229. What working family can afford that?

Gas prices in Nevada are the highest in the Nation; 26,717 Nevadans filed bankruptcy in 2003. That is a 48 percent increase since Bush became President. Nevada has the strongest economy in the United States. So if people are suffering in the State of Nevada, can you just imagine what is going on in the rest of the country.

After 4 years it is time for new leadership in the White House who will fight for all Nevadans and who will fight for you.

BAD MEMORY

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, last night Vice President CHENEY was let out of his bunker for the night, and it seems all that time in an undisclosed location has confused him a bit about the facts. Last night he said he had never publicly stated that there was a connection between al Qaeda and Iraq. Does he forget his interview with Tim Russert last year in which he said just that? Does he also forget now it is a common statement in his political stump speeches where he tries to invoke fear in Americans?

I think he has determined his record with Bush is so bad that the only thing he can do is strike fear in the American people.

Vice President CHENEY also said last night that he had never met Senator EDWARDS before. That is simply not true. Just turn on any news outlet today and you will see the proof, pictures of CHENEY and EDWARDS standing side by side at a prayer breakfast last year. I suspect as the day goes on we will see more and more of these pictures.

Mr. Speaker, Vice President CHENEY and President Bush cannot lead this country if they continue to mislead the American people.

THE RIGHT THING TO DO

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, last night Vice President CHENEY said he was proud of the record in Iraq, and this is exactly what he said: "We did in Iraq what was exactly the right thing to do, and I recommend it all over again, I would."

And yet in today's Washington Post we learned that the most definitive accounts of Iraq's arms programs will show that Saddam Hussein possessed a diminishing threat at the time the United States invaded and did not possess or have concrete plans to develop nuclear, chemical, or biological weapons.

This investigation found that the state of Hussein's weapon development program and knowledge was less advanced in 2003 when the war began than it was in 1998 when the international inspectors left Iraq. The fact of the matter is over 1,000 Americans have died in this war; thousands and thousands of Americans have been wounded; thousands and thousands of Iraqis have been killed and wounded, and they have been killed or wounded in a war of choice because Iraq was not an imminent threat to the United States. But this administration chose, in spite of all of the evidence to go to war, to put our young people at risk and to lose their lives because they wanted to manipulate the evidence. They wanted to manipulate the war on terror, and they wanted to frighten this Nation.

Mr. Vice President, if you had to do it all over again, I hope you would not.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair would remind Members that remarks should be addressed to the Chair and not to the Vice President.

AID FOR HAITI

(Ms. LEE asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. LEE. Mr. Speaker, I rise to discuss very briefly the devastation of Tropical Storm Jeanne on Haiti. The lack of infrastructure and our failed United States policies quite frankly helped contribute to leaving the Haitian people vulnerable to the devastation of Tropical Storm Jeanne which took the lives of over 2,000 Haitians. In Haiti's flood-torn cities, children sleep on tin roofs because flood waters have not subsided; gun shots are heard in darkness as thieves and thugs continue to steal from the people and cheat them of their chance for protection and peace. Men and women dig mass graves scrambling to identify the bodies of lost loved ones. Children are not going to school. Women do not have food for their families.

With so many causalities and so many sick, so many still missing and much despair, what can we do? What can the greatest superpower, the wealthiest country in the world do for our neighbors next door? We must provide a real commitment to help Haitians. We must provide a way to help with the basic services of food and shelter as well as the restoration of democracy. We must support $500 million to build the region, to take a more comprehensive and democratic approach to our policies toward Haiti.

FLORIDA VOTER SUPPRESSION

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, as the time is nearing, as we have listened to the candidates for office of President and Vice President of the United States, we are reminded that this may be in fact the most important election in our history. It may begin to change the course of history for this Nation and begin to put us on the right course.

So today I rise, Mr. Speaker, to remind Americans that every vote is precious. Why again in the State of Florida has voter suppression risen again as has been raised by my colleagues from Florida, particularly the gentleman from Florida (Mr. HASTINGS), the gentleman from Florida (Mr. MEEK), and the gentlewoman from Florida (Ms. BROWN).

Again we have the State of Florida attacking individuals who are trying to vote and to register to vote. Now we find out in the State of Florida that even after thousands have registered to vote, what do you have but the government suggesting that those registration cards will be deemed illegal and will be deemed where the voters will not be able to vote. Why? Because somebody did not check a box, an unnecessary box, a box that the law does not say that they have to check.

I do not understand, Mr. Speaker, why again we have Florida in the center of the eye of the storm, unfortunately, the eye of the storm of suppressing voters in the United States of America. We are all going to be in Florida. We are all going to make sure that people are able to vote, and we are all going to make sure that this is an election that is fair. Our lives depend on it.

MENTAL HEALTH AWARENESS WEEK

(Mr. KENNEDY of Rhode Island asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KENNEDY of Rhode Island. Mr. Speaker, this week is Mental Health Awareness Week and still the mental health parity legislation supported by 249 representatives, 70 Senators and 369 national organizations is bottled up.

The leadership of this House, which refuses to bring up this popular legislation for a vote, is sentencing millions of Americans to joblessness and underemployment. Mental illnesses are treatable and individuals with mental illnesses are frequently able to hold down good jobs as productive members of society, but only if they are treated.

As the Chicago Tribune reported several years ago, employees who are depressed are twice as likely to take time off for health reasons as employees who are not depressed and are seven times more likely to be less productive on the job.

President Bush's New Freedom Commission on Mental Health found a shocking 90 percent unemployment rate among individuals with serious mental illnesses, while also finding that most of them could work with just modest supports.

The American Dream is not just for those lucky enough to live free of disease and disability. During this mental health awareness week, I call on this House to finally at long last pass mental health parity.

□ 1030

DISASTER RELIEF

(Mr. HASTINGS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HASTINGS of Florida. Mr. Speaker, later today we will take up the Emergency Supplemental Appropriations Act for the year 2005. It is a help, but it is simply not enough. From today's newspapers, we learn that the four hurricanes which struck over 6 weeks have wiped out thousands of jobs and billions of dollars' worth of property. Economists estimate that that is the case.

The hurricanes caused parts of 10 eastern States from Florida to Vermont to be declared Federal disaster areas. The storms destroyed or seriously damaged many hotels, restaurants, stores, factories and other businesses while temporarily closing seaports, harbors, theme parks and other tourist destinations. Insurance payments will be as much as $23 billion.

I call on the House of Representatives to get past this set of disasters and realize that there will be others, and to establish in this Congress a disaster relief fund and a separate jurisdiction dealing specifically with disaster relief from drought to fires, to storms, to earthquakes and whatever may occur in our Nation.

IRAQI ARMS THREAT

(Ms. DELAURO asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. DELAURO. Mr. Speaker, today's Washington Post reports that at the time this administration brought us to war in Iraq, Saddam Hussein posed not the gathering threat that President Bush and Vice President CHENEY continue to claim he was, but rather, a diminishing one.

The findings of the chief U.S. weapons inspector in Iraq are but one more example of a President and a Vice President intent on misleading the American people into war and blind to the realities of Iraq today. This comes one day after the startling admission by the former head of the Coalition Provisional Authority in Iraq, Paul Bremer, that we did not have enough troops on the ground after the invasion to guard sensitive areas like weapons stockpiles. Today, those very weapons are being used against our troops by militants and by terrorists.

At every step of the way, determining the threat level posed by Saddam, how much the war would cost, how many casualties America would bear, George Bush and DICK CHENEY have been consistent, consistently wrong. As we saw last night and last Thursday in the debates, George Bush and DICK CHENEY are incapable of fixing Iraq because they refuse to see the mess that they have created there.

They refuse to see the mess that they have created in the U.S. economy.

The American people? They see it every single day.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ISAKSON). The Chair must remind all Members that remarks in debate may not engage in personalities toward the President and the Vice President or the acknowledged candidates for those offices. Policies may be addressed in critical terms, but personal references of an offensive or accusatory nature are not proper.

READY FOR CHANGE

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DAVIS of Illinois. Mr. Speaker, I must confess that I am not surprised that the Vice President did not know that he knew Senator EDWARDS, because it seems to me that there are a lot of things that they know but do not say.

They did not know that there were no weapons of mass destruction in Iraq, but we went to war anyway. They did not know that trickle-down would not solve the Nation's economic problems. They promote it anyway. They did not know that senior citizens need a real prescription drug program, but they sham it anyway.

They may not know that the American people are ready for change, but they are, and we shall see in a little bit.

PROVIDING FOR CONSIDERATION OF H.R. 5107, JUSTICE FOR ALL ACT OF 2004

Mrs. MYRICK. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 823 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 823

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5107) to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary; (2) the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Sensenbrenner of Wisconsin or his designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read, and shall be separately debatable for twenty minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentlewoman from North Carolina (Mrs. MYRICK) is recognized for 1 hour.

Mrs. MYRICK. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this morning the Rules Committee met and granted a modified closed rule for H.R. 5107, the Justice for All Act. The measure is a combination of a House-passed bill, H.R. 3214, expanding DNA testing to catch more criminals and to allow wrongly convicted people a chance to prove their innocence, and a Senate-passed bill, S. 2329, that improves victims' rights.

I am also very pleased that the gentleman from Wisconsin (Mr. SENSENBRENNER) included a manager's amendment to address Members' concerns and the Department of Justice, as well as victims' rights groups' concerns. H.R. 3214 passed the House in November, 2003, by a 357–67 margin. S. 2329 passed the Senate in April 2004 on a 96–1 vote.

Regarding the crimes victims portion of this bill, the legislation seeks to remedy the apparent disparity between the great number of rights and protections afforded to a person accused of a crime, but the relatively few rights and remedies for victims. The bill amplifies the existing rights for victims and sets forth an explicit enforcement mechanism. Additionally, H.R. 5107 provides funding for legal counsel for victims to assist them in the process and to ensure that these rights are enforced.

On the DNA side of this bill, it seeks to position DNA testing so it can finally reach its enormous potential.

Unfortunately, the current Federal and State DNA collection and analysis system suffers from a variety of problems. In many cases public crime laboratories are overwhelmed by backlogs of unanalyzed DNA samples, samples that could be used to solve violent crimes if the States had the funds to eliminate this backlog.

In my home State of North Carolina, the number of unprocessed DNA samples is 7,000 and the number of unprocessed DNA rape kits is estimated to be 6,000. North Carolina authorities say that the processing and entering of the DNA backlog could solve hundreds of crimes.

This legislation will authorize a significant increase in resources to better use DNA in solving crimes, taking dangerous people off the streets and sparing many innocent Americans from further crimes. To that end, I urge my colleagues to support the rule and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentlewoman from North Carolina for yielding me this time, and I yield myself such time as I may consume.

I rise in strong support of the underlying legislation. I commend our colleagues on the Committee on the Judiciary for their excellent bipartisan work. Perhaps this should be a model to all of us here in the House of Representatives.

Mr. Speaker, the underlying bill makes DNA technology available to our criminal justice system in order to enhance its efficiency and certainty in exonerating the innocent as well as identifying and convicting the guilty.

News stories praising the successful use of DNA to solve crimes are plentiful. To give just an example, consider the following: After 14 years on Florida's death row, Frank Lee Smith died of cancer on January 30, 2000, before he was exonerated of rape and murder. An autopsy revealed that the victim had been raped and sodomized. Through shaky eyewitness descriptions, the police put together a composite sketch that set off Frank Lee Smith's arrest on April 29, 1985. The prosecution relied on the identification of Smith by the victim's mother and Smith's criminal history. The jury unanimously recommended the death penalty.

Mr. Speaker, only after Smith's death was a blood sample from him obtained by the State prosecutor's office which was then tested against a semen sample taken from the victim. The samples were sent to the FBI laboratory, which reported that Frank Lee Smith was excluded as the depositor of the semen. On December 15, 2000, 11 months after his death and 14 years after his 1986 conviction, Frank Lee Smith was exonerated based on exculpatory DNA testing results. These results not only cleared Smith of the crime, but also identified Eddie Lee Mosley, a convicted rapist and murderer, as the true perpetrator.

The case of Frank Lee Smith is not unique. Since 1976, 111 people in 25 States have been released after spending years on death row for crimes they did not commit. DNA testing was responsible for exonerating 12 of the people freed from death row and another 126 who were wrongfully convicted of serious crimes. In at least 34 of these cases, the same tests that exonerated an innocent person led to the apprehension of the real perpetrator.

Despite DNA's enormous potential, the current Federal and State DNA collection and analysis system suffers from a variety of problems. In many instances, public crime laboratories are overwhelmed by backlogs of unanalyzed DNA samples, as pointed out by my colleague and friend from North Carolina (Mrs. MYRICK). In addition, many of the laboratories are ill-equipped to handle the increasing flow of DNA samples and evidence.

Furthermore, the problems of backlogs and the lack of up-to-date technology result in significant delays in the administration of justice. For example, some estimates indicate that DNA evidence from at least 300,000 rape crime scenes have been collected but never analyzed in a crime lab.

As you can imagine, Mr. Speaker, the cases of those exonerated by DNA testing have revealed disturbing fissures and trends in our criminal justice system. They confirm that our criminal justice system is fallible. Judges, juries, police, defense attorneys and prosecutors are all human and all make mistakes.

But we have the means at our disposal to minimize this. The underlying legislation could have an immediate and direct effect, and I urge my colleagues to support its passage. With our action today, many crimes can be solved, many guilty people can be taken off the streets, and many victims can be spared from further crimes.

Mr. Speaker, I ask my colleagues to vote for this rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. MYRICK. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Illinois (Mr. LAHOOD), the original author of the House bill who has been working on this issue for a long, long time.

Mr. LAHOOD. I thank the gentlewoman from North Carolina for yielding me this time.

Mr. Speaker, I have been a part of a group of people that have worked on this bill. Primarily my friend from Massachusetts (Mr. DELAHUNT) and I some 5 years ago started working on this bill.

This is a very good bill. I urge Members to support the rule and to support the bill.

☐ 1045

We have been down this path a few times before in the House, and we are trying to find a way to get our friends in the other body to come along with us. But I got involved in this as a proponent of the death penalty and somebody who supports the death penalty, but also as a result of a group of students at Northwestern University several years ago, who did a study of those sitting on death row and found that of those who were on death row that had been given the death sentence, 12 of them were actually innocent and were released by the governor of the State of Illinois because they were innocent, which means that there were 12 people out on the street who had actually committed the crimes.

This bill allows for the ability of people who have the responsibility for prosecuting these cases to have 100 percent certainty, through the use of DNA testing, through the use of providing that competent counsel is provided to defendants, people that really know how to deal with capital cases. And it is a very important way to really fix a flawed criminal justice system, a system that has allowed for innocent people to sit on death row and guilty people to be out on the street.

It is a very good bill, and I want to really congratulate the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary, for his willingness to look at this bill and to do some things that he felt were important; and also the gentleman from Massachusetts (Mr. DELAHUNT) for hanging in there with us on this.

I think we have a chance to pass this this year. And it would be a very good fix, to fix a flawed system in our country and really give a sense of opportunity to people that innocent people are not going to be convicted, and guilty people are going to be found and tracked down and locked up and, in some instances, be given the death penalty for serious crimes.

I thank the gentlewoman for yielding me this time, and I look forward to the House passing this bill today.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, let me, first of all, add my appreciation to the cosponsors of this legislation, particularly the gentleman from Illinois and the gentleman from Massachusetts. Americans cannot imagine how important this legislation is. And as I do that, let me recite some of the elements of the bill that are very important and to be able to congratulate them on that.

The bill would increase the authorized funding levels for the DNA analysis backlog elimination program to $151 million per year for the next 5 years. This will help eliminate the large backlog of DNA evidence that has not been analyzed and provide resources to remedy the lack of training, equipment, technology, and standards for handling DNA and other forensic evidence.

This bill also authorizes funding for training for law enforcement, correctional court and medical personnel on the use of DNA evidence, and authorizes grant programs to reduce other forensic science backlog, research, new DNA technology, and promotes the use of DNA technology to identify missing persons and provides funds for the FBI and the administration of DNA programs.

I wanted to list that because this is an act of love and respect for justice. It includes respect for the rights of the States who protect the injured and the victims. At the same time, it has the approval and support of the Innocence Project, which has worked with many of us around the Nation, but particularly, Mr. Speaker, in the State of Texas.

Let me tell the Members why this legislation is so crucial, and particularly for States like mine.

Over the last 2 years we have had a complete collapse of the DNA laboratory in the State of Texas, but let me specifically cite Harris County. Unfortunately, unlike the two legislators who have cosponsored this legislation, in Texas, of course, we have not had the kind of reasonable response by our district attorney and our lab is still in collapse.

This funding and this sort of guide will help local jurisdictions, including State governments and county governments who have the responsibility to prosecute on behalf of the victims, to get it right. We have not been able to get it right. And, frankly, in not getting it right, we have seen the 12 that have been on the streets in Illinois and the many victims in the State of Texas.

For example, Josiah Sutton was an individual whose DNA had not been appropriately reviewed, and, therefore, he was convicted and sentenced to many years for rape he did not do. This legislation helps to bring that into focus and to be able to suggest that we can handle justice for the victims, but as well, justice for the unfortunately accused.

Let me also say what this DNA legislation will do. It will provide the standards that are necessary and the guidelines that prosecutors need to adhere to. In our State, Senator Rodney Ellis has called for a moratorium of any executions, particularly coming out of Harris County, because we have a faulty DNA. The tragedy, of course, is that it has not been listened to.

I hope with the successful passage of this legislation we will be able to send a loud message. I would have wanted, however, a fuller open rule on this legislation, but my sensitivity to the importance of it would suggest that even without the open rule, we should move forward.

But let me suggest that there are many other aspects of DNA that can be used effectively. My legislation that has been enthusiastically embraced by John Walsh of "America's Most Wanted" had to do with providing a DNA bank for child predators. We know that over the years this House has been in a flurry around the incidences of abducted children, where children have been abducted. The tragedy that occurred in Utah with respect to Ms. Smart, I had her father testify before our committee dealing with issues on child abduction.

And let me just say that having a DNA bank that banks those who have been convicted of acts against children; violent acts, sexual acts against children, would also help our law enforcement across the Nation be able to both find the culprit and also relieve the innocent of the burden of being convicted falsely. We know in that case one of the individuals that was incarcerated ultimately died and happened not to be the particular perpetrator in that case.

But let me just say that I am hoping that the legislation will find legs as we might move into the next Congress.

But I do want to stand and support this legislation, Justice for All Act of 2004, and say to my constituents, and particularly the district attorney of Harris County, it is time to wake up. It is time to recognize new technology. It is time to embrace this legislation as it helps our local jurisdiction. And I might say that at the passage of this legislation today, I hope my district attorney, District Attorney Rosenthal, will recognize the importance of a moratorium on executions as they did in Illinois.

I ask my colleagues to support the rule and to support this legislation.

Mr. HASTINGS of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MYRICK. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. LINDER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 822 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 822

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Georgia (Mr. LINDER) is recognized for 1 hour.

Mr. LINDER. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, this is a standard rule for consideration of an appropriations conference report, and H. Res. 822 provides for the consideration of the conference reports for H.R. 4850, the District of Columbia Appropriations Act of 2005. The rule waives all points of order against the conference report and against its consideration. It also provides that the conference report shall be considered as read.

Mr. Speaker, the House Committee on Appropriation continues to work hard to complete the work on the remaining appropriations bills in order to fund the responsibilities of the Federal Government. It has passed 12 of 13 regular appropriations bills and continues to work with the House and Senate leadership and the Senate Appropriations Committee to complete the appropriations process.

While the 108th Congress has passed a continuing resolution funding the government through November 20, I am pleased that the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the District of Columbia Subcommittee of the Committee on Appropriations today presents the House with another individual appropriations conference report to send to the President.

Mr. Speaker, I believe that the details of a bill should principally be discussed during a general debate on this legislation. However, I did want to note that the fiscal year 2005 D.C. Appropriations bill will provide funding for the new Bioterrorism and Forensics Lab and will provide full funding for the school improvement program, including $13 million for public school improvements, $13 million for charter schools, and $14 million for opportunity scholarships to promote academic achievement and school choice.

I support these efforts to assist the District of Columbia students whose opportunities for success and growth are undermined simply because they reside in one of the least effective school districts in America.

Mr. Speaker, the Committee on Rules has reported a good rule for consideration of this conference report, and I urge my colleagues to support it so that we may proceed with the general debate and consideration of this bipartisan legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume, and I thank the gentleman from Georgia (Mr. LINDER) for yielding me the customary time.

Mr. Speaker, this rule is typical of that for most conference reports, and I will not oppose it.

Mr. Speaker, there is no perfect legislation and certainly not when it comes to funding matters. The underlying conference report providing appropriations for the District of Columbia in fiscal year 2005 includes a variety of provisions that are controversial and detrimental to the District's residents and, frankly, the country as a whole.

I do not have to tell my colleagues about the uniqueness of the District of Columbia as a Federal city. It is the only place in the Nation where constitutionally Congress can exercise micromanagement at the highest and lowest of levels.

Taking into consideration the fact that the District of Columbia has no voting representation in Congress, we should be mindful of this privileged duty and careful not to put our parochial agendas on the table when considering this conference report.

As the gentleman from Georgia mentioned, the report approves the expenditure of a total of $8.3 billion in local funds for the District and directly appropriates $560 million for various District programs and projects. It includes $25.6 million for a tuition assistance program for college-bound students, $3 million for improvements to the Anacostia waterfront area, $6 million for a new public school library initiative, and $5 million to improve foster care in the District.

While there are many quality programs funded by the conference report, such as the ones I just mentioned, the report also includes legislative riders that are a smorgasbord of controversy. The report prohibits the use of funds for abortions, registering same-sex couples, and for the distribution of clean needles and syringes. None of these prohibitions were sought by the District, and they represent nothing more than the ideological impositions of the majority.

Furthermore, deep down inside the conference report is what the majority has dubbed a three-pronged school choice program. This program is heralded by school voucher advocates as a way to improve academic performance while promoting school choice. The reality is, however, the approach is a direct cut in Congress' funding commitment to the District's public schools.

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That, Mr. Speaker, is an embarrassment to this institution.

Our education system will never improve if we continue to divert our attention away from improving public schools, the schools that are free of cost and guaranteed to every child in America. Our public schools will never improve if we continue to underfund the No Child Left Behind Act. If the majority wants to point fingers at who is to fault for failures in our education system, then it ought to stop pointing fingers at the District of Columbia and start pointing them at all of our districts that have failing schools.

In less than 3 years after its passage, the No Child Left Behind Act has been underfunded by President Bush and Congressional Republicans by more than $27 billion. Let me repeat that. In less than 3 years after its passage, the No Child Left Behind Act has been underfunded by President Bush and Congressional Republicans by more than $27 billion.

If we want to have a real discussion about education, then let's have one. But let us be honest with the American people about what we are doing to the entire Nation's education system. Let us start telling the American people the truth and stop using the District as a petri dish of ideological shortcomings when considering the needs and lives of the residents of the Nation's Capital.

It is high time that we as lawmakers in this great body stop playing political chess games with our responsibility to this process. We should allow the people of Washington, D.C., to govern themselves, and they should have a voting privilege in the House of Representatives.

Funding for the education of the Nation's children and overall healthy well-being of its citizens should be our primary focus and goal. The D.C. appropriations bill is not the stage to act out our experimental projects that will not necessarily prove beneficial in the end.'

We must be mindful of the District's citizens that we have been given charge over. They are silenced in this process by the Constitution, and we must be responsible in our actions on their behalf.

I urge my colleagues to consider this responsibility when voting on the underlying conference report.

Mr. HASTINGS of Florida. Mr. Speaker, I am privileged to yield 7 minutes to my good friend, the gentlewoman from the District of Columbia (Ms. NORTON), the non-voting Delegate that should be voting like all of us, especially on this subject, who on behalf of this community has pursued outstanding legislation.

Ms. NORTON. Mr. Speaker, I thank the gentleman for yielding me time. I thank the gentleman for his graciousness in respecting the independence of the people of the District of Columbia, citizens of the United States entitled to the same rights that all other Americans have.

I appreciate that the Committee on Rules, its chairman, its ranking member, Members who come forward today with this bill, have brought forward a conference report and a rule that enables the District of Columbia to get its own money out, and the money that is due it from the Federal Government, on time.

I think that we should be apologizing to the American people that, at a time when all but two of our appropriations are not out, as we get ready to go home, we are having to spend time on the budget of a local jurisdiction. It must be hard to make people back home understand what we are doing, working on the taxpayer-raised budget of the District of Columbia and its Federal funds, rather than on the large Federal appropriations that await conference reports and the President's signature.

At the same time, I am grateful for the timeliness of this conference report. Of the 13 appropriations bills, only two, Defense and D.C., will be signed by the President when we leave to go home at the end of this week. In a real sense, this turns on its head the practice in recent years and, certainly, since the Republican majority has been in control.

D.C., irrelevant, literally irrelevant, to Members of the House and Senate, because almost all of the money is raised by our own local residents and taxpayers. D.C., the smallest, has traditionally been the most troublesome of the appropriations; the last out, the appropriation that caused more Members to come to the floor with amendments. Amendments that had to do with the District of Columbia? Absolutely not. Amendments that were of special interest to that Member but of no relevance to the District of Columbia.

The opposite has been the case this year, and it is because of the leadership of the appropriators and of the authorizers. There are no new riders. Three were threatened, but the appropriators and the authorizers worked together so that those riders did not come forward to be voted on on this floor. It is not that these Members are omnipotent, it is that, when leaders exercise leadership and discourage extraneous material, particularly on the appropriation of a local jurisdiction, an independent jurisdiction, their leadership can and this year has proved to be critical.

At the same time, I must take strong exception to the riders that remain; not new riders, but riders that remain. They are particularly inexcusable.

First, the needle-exchange rider, which makes D.C. alone in the United States of America. Hundreds of jurisdictions use their own money to pay for the exchange of dirty needles for clean needles, in accordance with all of the scientific evidence, and, I may say, all of the great scientific organizations, official and private, that say you save lives when you do not allow dirty needles to be passed around so that you spread HIV-AIDS.

So I should thank the Congress of the United States in the name of the people of the District of Columbia that, because of the needle-exchange admonition and bar in our appropriation, we have the highest HIV-AIDS rate in the country.

The interference with needle exchange, of course, is very different from other interference, because it costs lives. It is why we have so many men, women and children who otherwise would not be anywhere close to the AIDS epidemic with AIDS today. That calamity is laid at the feet of this Congress and essentially at the feet of this House, because the Senate asked that the District be able to spend its own local money for needle exchange. It was the House that refused to let the conference report come forward if, in fact, that was included.

There are, of course, other old riders in this bill. The old rider that says all the rest of you in the United States of America can spend your money for abortions for poor women, but not the residents of the District of Columbia. They are American citizens, but we are not about to treat them as first-class citizens. Remember, they are second-class citizens. So they can't spend their own money for abortions for their own poor women.

Perhaps as a matter of ordinary democracy, the most shameful rider says that the District can't spend its own money to lobby for its own rights. This House, not the Senate, the Senate has said, we are not on that boat, let them spend their own money if they want to spend their own money to get full and equal rights in the House and in the Senate, and we think that is their right and prerogative as Americans, but the House said, "Oh, no, that is not for the District. In my district, we better be able to spend our own money to lobby for anything we want to. Not in the Nation's Capital."

This is a time of war, this is a time of great and urgent matters in our country. This is not the time when we ought to be considering this appropriation at all. At the same time, I am grateful that, if it had to be here, that before we went home this appropriation was out of Congress; that I am not here in November, that I am not here in December, trying to get my own money out of this Congress.

In past years, the House has been critical of the management of the District of Columbia without conceding that not allowing the District to spend its own money on time has wrapped the District in knots as it tries to balance on last year's budget while waiting for the Congress to release its own money.

The appropriators, the gentleman from New Jersey (Mr. FRELINGHUYSEN), the gentleman from Pennsylvania (Mr. FATTAH), our authorizer, the gentleman from Virginia (Mr. TOM DAVIS), have gone very far in helping us to meet this burden. I appreciate that the Committee on Rules has taken taking us to the next step and making us one of two appropriations to clear the Congress before we clear out of here.

Mr. HASTINGS of Florida. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LINDER. Mr. Speaker, I have no further requests for time, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5107.

The SPEAKER pro tempore (Mr. ISAKSON). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

JUSTICE FOR ALL ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, pursuant to House Resolution 823, I call up the bill (H.R. 5107), to protect crime victims' rights, to eliminate the substantial backlog of DNA samples collected from crime scenes and convicted offenders, to improve and expand the DNA testing capacity of Federal, State, and local crime laboratories, to increase research and development of new DNA testing technologies, to develop new training programs regarding the collection and use of DNA evidence, to provide post-conviction testing of DNA evidence to exonerate the innocent, to improve the performance of counsel in State capital cases, and for other purposes, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 823, the bill is considered read for amendment.

The text of H.R. 5107 is as follows:

H.R. 5107

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Justice for All Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—SCOTT CAMBELL, STEPHANIE ROPER, WENDY PRESTON, LOUARNA GILLIS, AND NILA LYNN CRIME VICTIMS' RIGHTS ACT

Sec. 101. Short title.
Sec. 102. Crime victims' rights.
Sec. 103. Increased resources for enforcement of crime victims' rights.
Sec. 104. Reports.

TITLE II—DEBBIE SMITH ACT OF 2004

Sec. 201. Short title.
Sec. 202. Debbie Smith DNA Backlog Grant Program.
Sec. 203. Expansion of Combined DNA Index System.
Sec. 204. Tolling of statute of limitations.
Sec. 205. Legal assistance for victims of violence.
Sec. 206. Ensuring private laboratory assistance in eliminating DNA backlog.

TITLE III—DNA SEXUAL ASSAULT JUSTICE ACT OF 2004

Sec. 301. Short title.
Sec. 302. Ensuring public crime laboratory compliance with Federal standards.
Sec. 303. DNA training and education for law enforcement, correctional personnel, and court officers.
Sec. 304. Sexual assault forensic exam program grants.
Sec. 305. DNA research and development.
Sec. 306. National Forensic Science Commission.
Sec. 307. FBI DNA programs.
Sec. 308. DNA identification of missing persons.
Sec. 309. Enhanced criminal penalties for unauthorized disclosure or use of DNA information.
Sec. 310. Tribal coalition grants.
Sec. 311. Expansion of Paul Coverdell Forensic Sciences Improvement Grant Program.
Sec. 312. Report to Congress.

TITLE IV—INNOCENCE PROTECTION ACT OF 2004

Sec. 401. Short title.

Subtitle A—Exonerating the innocent through DNA testing

Sec. 411. Federal post-conviction DNA testing.
Sec. 412. Kirk Bloodsworth Post-Conviction DNA Testing Grant Program.
Sec. 413. Incentive grants to States to ensure consideration of claims of actual innocence.

Subtitle B—Improving the quality of representation in State capital cases

Sec. 421. Capital representation improvement grants.
Sec. 422. Capital prosecution improvement grants.
Sec. 423. Applications.
Sec. 424. State reports.
Sec. 425. Evaluations by Inspector General and administrative remedies.
Sec. 426. Authorization of appropriations.

Subtitle C—Compensation for the wrongfully convicted

Sec. 431. Increased compensation in Federal cases for the wrongfully convicted.

Sec. 432. Sense of Congress regarding compensation in State death penalty cases.

TITLE I—SCOTT CAMBELL, STEPHANIE ROPER, WENDY PRESTON, LOUARNA GILLIS, AND NILA LYNN CRIME VICTIMS' RIGHTS ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "Scott Campbell, Stephanie Roper, Wendy Preston, Louarna Gillis, and Nila Lynn Crime Victims' Rights Act".

SEC. 102. CRIME VICTIMS' RIGHTS.

(a) Amendment to Title 18.—Part II of title 18, United States Code, is amended by adding at the end the following:

"CHAPTER 237—CRIME VICTIMS' RIGHTS

"Sec.

"3771. Crime victims' rights.

"§ 3771. Crime victims' rights

"(a) Rights of Crime Victims.—A crime victim has the following rights:

"(1) The right to be reasonably protected from the accused.

"(2) The right to reasonable, accurate, and timely notice of any public court proceeding involving the crime or of any release or escape of the accused.

"(3) The right not to be excluded from any such public court proceeding, unless the court determines that testimony by the victim would be materially affected if the victim heard other testimony at that proceeding.

"(4) The right to be reasonably heard at any public proceeding involving release, plea, or sentencing.

"(5) The reasonable right to confer with the attorney for the Government in the case.

"(6) The right to full and timely restitution as provided in law.

"(7) The right to proceedings free from unreasonable delay.

"(8) The right to be treated with fairness and with respect for the victim's dignity and privacy.

"(b) Rights Afforded.—In any court proceeding involving an offense against a crime victim, the court shall ensure that the crime victim is afforded the rights described in subsection (a). Before denying a crime victim the right described in subsection (a)(3), the court shall make every effort to permit the fullest attendance possible by the victim and shall consider reasonable alternatives to the exclusion of the victim from the criminal proceeding. The reasons for any decision denying relief under this chapter shall be clearly stated on the record.

"(c) Best Efforts To Accord Rights.—

"(1) Government.—Officers and employees of the Department of Justice and other departments and agencies of the United States engaged in the detection, investigation, or prosecution of crime shall make their best efforts to see that crime victims are notified of, and accorded, the rights described in subsection (a).

"(2) Advice of attorney.—The prosecutor shall advise the crime victim that the crime victim can seek the advice of an attorney with respect to the rights described in subsection (a).

"(3) Notice.—Notice of release otherwise required pursuant to this chapter shall not be given if such notice may endanger the safety of any person.

"(d) Enforcement and Limitations.—

"(1) Rights.—The crime victim or the crime victim's lawful representative, and the attorney for the Government may assert the rights described in subsection (a). A person accused of the crime may not obtain any form of relief under this chapter.

"(2) Multiple crime victims.—In a case where the court finds that the number of crime victims makes it impracticable to accord all of the crime victims the rights described in subsection (a), the court shall fashion a reasonable procedure to give effect to this chapter that does not unduly complicate or prolong the proceedings.

"(3) Motion for relief and writ of mandamus.—The rights described in subsection (a) shall be asserted in the district court in which a defendant is being prosecuted for the crime or, if no prosecution is underway, in the district court in the district in which the crime occurred. The district court shall take up and decide such motion forthwith. If the district court denies the relief sought, the movant may petition the court of appeals for a writ of mandamus. The court of appeals may issue the writ on the order of a single judge pursuant to circuit rule or the Federal Rules of Appellate Procedure. The court of appeals shall take up and decide such application forthwith within 72 hours after the petition has been filed. In no event shall proceedings be stayed or subject to a continuance of more than five day, or affect the defendant's right to a speedy trial, for purposes of enforcing this chapter.

"(4) Error.—In any appeal in a criminal case, the Government may assert as error the district court's denial of any crime victim's right in the proceeding to which the appeal relates.

"(5) Limitation on relief.—In no case shall a failure to afford a right under this chapter provide grounds for a new trial, or to reopen a plea or a sentence, except in the case of restitution as provided in title 18.

"(6) No cause of action.—Nothing in this chapter shall be construed to authorize a cause of action for damages or to create, to enlarge, or to imply any duty or obligation to any victim or other person for the breach of which the United States or any of its officers or employees could be held liable in damages. Nothing in this chapter shall be construed to impair the prosecutorial discretion of the Attorney General or any officer under his direction.

"(e) Definitions.—For the purposes of this chapter, the term 'crime victim' means a person directly and proximately harmed as a result of the commission of a Federal offense or an offense in the District of Columbia. In the case of a crime victim who is under 18 years of age, incompetent, incapacitated, or deceased, the legal guardians of the crime victim or the representatives of the crime victim's estate, family members, or any other persons appointed as suitable by the court, may assume the crime victim's rights under this chapter, but in no event shall the defendant be named as such guardian or representative.

"(f) Procedures To Promote Compliance.—

"(1) Regulations.—Not later than 1 year after the date of enactment of this chapter, the Attorney General of the United States shall promulgate regulations to enforce the rights of crime victims and to ensure compliance by responsible officials with the obligations described in law respecting crime victims.

"(2) Contents.—The regulations promulgated under paragraph (1) shall—

"(A) designate an administrative authority within the Department of Justice to receive and investigate complaints relating to the provision or violation of the rights of a crime victim;

"(B) require a course of training for employees and offices of the Department of Justice that fail to comply with provisions of Federal law pertaining to the treatment of crime victims, and otherwise assist such employees and offices in responding more effectively to the needs of crime victims;

"(C) contain disciplinary sanctions, including suspension or termination from employment, for employees of the Department of Justice who willfully or wantonly fail to comply with provisions of Federal law pertaining to the treatment of crime victims; and

"(D) provide that the Attorney General, or the designee of the Attorney General, shall be the final arbiter of the complaint, and that there shall be no judicial review of the final decision of the Attorney General by a complainant.".

(b) Table of Chapters.—The table of chapters for part II of title 18, United States Code, is amended by inserting at the end the following:

"237. Crime victims' rights .... 3771".

(c) Repeal.—Section 502 of the Victims' Rights and Restitution Act of 1990 (42 U.S.C. 10606) is repealed.

SEC. 103. INCREASED RESOURCES FOR ENFORCEMENT OF CRIME VICTIMS' RIGHTS.

(a) Crime Victims Legal Assistance Grants.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404C the following:

"SEC. 1404D. CRIME VICTIMS LEGAL ASSISTANCE GRANTS.

"(a) In General.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public and private entities, to develop, establish, and maintain programs for the enforcement of crime victims' rights as provided in law.

"(b) Prohibition.—Grant amounts under this section may not be used to bring a cause of action for damages.

"(c) False Claims Act.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.".

(b) Authorization of Appropriations.—In addition to funds made available under section 1402(d) of the Victims of Crime Act of 1984, there are authorized to be appropriated to carry out this title—

(1) $2,000,000 for fiscal year 2005 and $5,000,000 for each of fiscal years 2006, 2007, 2008, and 2009 to United States Attorneys Offices for Victim/Witnesses Assistance Programs;

(2) $2,000,000 for fiscal year 2005 and $5,000,000 in each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for enhancement of the Victim Notification System;

(3) $300,000 in fiscal year 2005 and $500,000 for each of the fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice for staff to administer the appropriation for the support of organizations as designated under paragraph (4);

(4) $7,000,000 for fiscal year 2005 and $11,000,000 for each of the fiscal years 2006,

2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice, for the support of organizations that provide legal counsel and support services for victims in criminal cases for the enforcement of crime victims' rights in Federal jurisdictions, and in States and tribal governments that have laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code; and

(5) $5,000,000 for fiscal year 2005 and $7,000,000 for each of fiscal years 2006, 2007, 2008, and 2009, to the Office for Victims of Crime of the Department of Justice, for the support of—

(A) training and technical assistance to States and tribal jurisdictions to craft state-of-the-art victims' rights laws; and

(B) training and technical assistance to States and tribal jurisdictions to design a variety of compliance systems, which shall include an evaluation component.

(c) INCREASED RESOURCES TO DEVELOP STATE-OF-THE-ART SYSTEMS FOR NOTIFYING CRIME VICTIMS OF IMPORTANT DATES AND DEVELOPMENTS.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by inserting after section 1404D the following:

"SEC. 1404E. CRIME VICTIMS NOTIFICATION GRANTS.

"(a) IN GENERAL.—The Director may make grants as provided in section 1404(c)(1)(A) to State, tribal, and local prosecutors' offices, law enforcement agencies, courts, jails, and correctional institutions, and to qualified public or private entities, to develop and implement state-of-the-art systems for notifying victims of crime of important dates and developments relating to the criminal proceedings at issue in a timely and efficient manner, provided that the jurisdiction has laws substantially equivalent to the provisions of chapter 237 of title 18, United States Code.

"(b) INTEGRATION OF SYSTEMS.—Systems developed and implemented under this section may be integrated with existing case management systems operated by the recipient of the grant.

"(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to funds made available under section 1402(d), there are authorized to be appropriated to carry out this section—

"(1) $5,000,000 for fiscal year 2005; and

"(2) $5,000,000 for each of the fiscal years 2006, 2007, 2008, and 2009.

"(d) FALSE CLAIMS ACT.—Notwithstanding any other provision of law, amounts collected pursuant to sections 3729 through 3731 of title 31, United States Code (commonly known as the 'False Claims Act'), may be used for grants under this section, subject to appropriation.".

SEC. 104. REPORTS.

(a) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Not later than 1 year after the date of enactment of this Act and annually thereafter, the Administrative Office of the United States Courts, for each Federal court, shall report to Congress the number of times that a right established in chapter 237 of title 18, United States Code, is asserted in a criminal case and the relief requested is denied and, with respect to each such denial, the reason for such denial, as well as the number of times a mandamus action is brought pursuant to chapter 237 of title 18, and the result reached.

(b) GOVERNMENT ACCOUNTABILITY OFFICE.—

(1) STUDY.—The Comptroller General shall conduct a study that evaluates the effect and efficacy of the implementation of the amendments made by this title on the treatment of crime victims in the Federal system.

(2) REPORT.—Not later than 4 years after the date of enactment of this Act, the Comptroller General shall prepare and submit to the appropriate committees a report containing the results of the study conducted under subsection (a).

TITLE II—DEBBIE SMITH ACT OF 2004

SEC. 201. SHORT TITLE.

This title may be cited as the "Debbie Smith Act of 2004".

SEC. 202. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by amending the heading to read as follows:

"SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.";

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "or units of local government" after "eligible States"; and

(ii) by inserting "or unit of local government" after "State";

(B) in paragraph (2), by inserting before the period at the end the following: ", including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect"; and

(C) in paragraph (3), by striking "within the State";

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "or unit of local government" after "State" both places that term appears; and

(ii) by inserting ", as required by the Attorney General" after "application shall";

(B) in paragraph (1), by inserting "or unit of local government" after "State";

(C) in paragraph (3), by inserting "or unit of local government" after "State" the first place that term appears;

(D) in paragraph (4)—

(i) by inserting "or unit of local government" after "State"; and

(ii) by striking "and" at the end;

(E) in paragraph (5)—

(i) by inserting "or unit of local government" after "State"; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

"(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "The plan" and inserting "A plan pursuant to subsection (b)(1)";

(ii) in subparagraph (A), by striking "within the State"; and

(iii) in subparagraph (B), by striking "within the State"; and

(B) in paragraph (2)(A), by inserting "and units of local government" after "States";

(5) in subsection (e)—

(A) in paragraph (1), by inserting "or local government" after "State" both places that term appears; and

(B) in paragraph (2), by inserting "or unit of local government" after "State";

(6) in subsection (f), in the matter preceding paragraph (1), by inserting "or unit of local government" after "State";

(7) in subsection (g)—

(A) in paragraph (1), by inserting "or unit of local government" after "State"; and

(B) in paragraph (2), by inserting "or units of local government" after "States"; and

(8) in subsection (h), by inserting "or unit of local government" after "State" both places that term appears.

(b) REAUTHORIZATION AND EXPANSION OF PROGRAM.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting "(1) or" before "(2)"; and

(B) by inserting at the end the following

"(4) To collect DNA samples specified in paragraph (1).

"(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.";

(2) in subsection (b), as amended by this section, by inserting at the end the following:

"(7) Specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4).";

(3) by amending subsection (c) to read as follows:

"(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

"(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

"(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

"(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

"(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

"(ii) the population in the jurisdiction; and

"(iii) the number of part 1 violent crimes in the jurisdiction.

"(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

"(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

"(A) For fiscal year 2005, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(B) For fiscal year 2006, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(C) For fiscal year 2007, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(D) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(E) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).";

(4) in subsection (g)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.";

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

"(1) $151,000,000 for fiscal year 2005;

"(2) $151,000,000 for fiscal year 2006;

"(3) $151,000,000 for fiscal year 2007;

"(4) $151,000,000 for fiscal year 2008; and

"(5) $151,000,000 for fiscal year 2009."; and

(6) by adding at the end the following:

"(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

"(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

"(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

"(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

"(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

"(C) to support future capacity building efforts; and

"(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

"(l) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.".

SEC. 203. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking "of persons convicted of crimes;" and inserting the following: "of—

"(A) persons convicted of crimes;

"(B) persons who have been indicted or who have waived indictment for a crime; and

"(C) other persons whose DNA samples are collected under applicable legal authorities, provided that DNA profiles from arrestees who have not been indicted and DNA samples that are voluntarily submitted solely for elimination purposes shall not be included in the Combined DNA Index System;"; and

(2) in subsection (d)(2)—

(A) by striking "if the responsible agency" and inserting "if—

"(i) the responsible agency";

(B) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(ii) the person has not been convicted of an offense on the basis of which that analysis was or could have been included in the index, and all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal.".

(b) FELONS CONVICTED OF FEDERAL CRIMES.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

"(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

"(1) Any felony.

"(2) Any offense under chapter 109A of title 18, United States Code.

"(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

"(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).".

(c) MILITARY OFFENSES.—Section 1565(d) of title 10, United States Code, is amended to read as follows:

"(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

"(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

"(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d))).".

(d) KEYBOARD SEARCHES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(e) AUTHORITY FOR KEYBOARD SEARCHES.—

"(1) IN GENERAL.—The Director shall ensure that any person who is authorized to access the index described in subsection (a) for purposes of including information on DNA identification records or DNA analyses in that index may also access that index for purposes of carrying out a one-time keyboard search on information obtained from any DNA sample lawfully collected for a criminal justice purpose except for a DNA sample voluntarily submitted solely for elimination purposes.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'keyboard search' means a search under which information obtained from a DNA sample is compared with information in the index without resulting in the information obtained from a DNA sample being included in the index.

"(3) NO PREEMPTION.—This subsection shall not be construed to preempt State law.".

SEC. 204. TOLLING OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3297. Cases involving DNA evidence

"In a case in which DNA testing implicates an identified person in the commission of a felony, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"3297. Cases involving DNA evidence.".

(c) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section if the applicable limitation period has not yet expired.

SEC. 205. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg 6) is amended—

(1) in subsection (a), by inserting "dating violence," after "domestic violence,";

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

"(1) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

"(A) the length of the relationship;

"(B) the type of relationship; and

"(C) the frequency of interaction between the persons involved in the relationship."; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting "dating violence," after "domestic violence,";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting ", dating violence," after "between domestic violence"; and

(ii) by inserting "dating violence," after "victims of domestic violence,";

(B) in paragraph (2), by inserting "dating violence," after "domestic violence,"; and

(C) in paragraph (3), by inserting "dating violence," after "domestic violence,";

(4) in subsection (d)—

(A) in paragraph (1), by inserting ", dating violence," after "domestic violence";

(B) in paragraph (2), by inserting ", dating violence," after "domestic violence";

(C) in paragraph (3), by inserting ", dating violence," after "domestic violence"; and

(D) in paragraph (4), by inserting "dating violence," after "domestic violence,";

(5) in subsection (e), by inserting "dating violence," after "domestic violence,"; and

(6) in subsection (f)(2)(A), by inserting "dating violence," after "domestic violence,".

SEC. 206. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(d)(3)) is amended to read as follows:

"(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

"(A) IN GENERAL.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services.

"(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

"(C) PAYMENTS.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).".

TITLE III—DNA SEXUAL ASSAULT JUSTICE ACT OF 2004

SEC. 301. SHORT TITLE.

This title may be cited as the "DNA Sexual Assault Justice Act of 2004".

SEC. 302. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)) is amended to read as follows:

"(2) prepared by laboratories that—

"(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2004, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

"(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and".

SEC. 303. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence.

(b) ELIGIBLE ENTITY.—For purposes of subsection (a), an eligible entity is an organization consisting of, comprised of, or representing—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $12,500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 304. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) ELIGIBLE ENTITY.—For purposes of this section, the term "eligible entity" includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs;

(D) State sexual assault coalitions;

(E) medical personnel, including doctors, medical examiners, coroners, and nurses, involved in treating victims of sexual assault; and

(F) victim service providers involved in treating victims of sexual assault.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 305. DNA RESEARCH AND DEVELOPMENT.

(a) IMPROVING DNA TECHNOLOGY.—The Attorney General shall make grants for research and development to improve forensic DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) DEMONSTRATION PROJECTS.—The Attorney General shall make grants to appropriate entities under which research is carried out through demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 306. NATIONAL FORENSIC SCIENCE COMMISSION.

(a) APPOINTMENT.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the "Commission"), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under subsection (b).

(b) RESPONSIBILITIES.—The Commission shall—

(1) assess the present and future resource needs of the forensic science community;

(2) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(3) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(4) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(5) disseminate, through the National Institute of Justice, best practices concerning the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(6) examine additional issues pertaining to forensic science as requested by the Attorney General;

(7) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(8) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in paragraph (7) to ensure—

(A) the appropriate use and dissemination of DNA information;

(B) the accuracy, security, and confidentiality of DNA information;

(C) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(D) that any other necessary measures are taken to protect privacy; and

(9) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in paragraphs (1) through (8).

(c) PERSONNEL; PROCEDURES.—The Attorney General shall—

(1) designate the Chair of the Commission from among its members;

(2) designate any necessary staff to assist in carrying out the functions of the Commission; and

(3) establish procedures and guidelines for the operations of the Commission.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 307. FBI DNA PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of fiscal years 2005 through 2009 to carry out the DNA programs and activities described under subsection (b).

(b) PROGRAMS AND ACTIVITIES.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 308. DNA IDENTIFICATION OF MISSING PERSONS.

(a) IN GENERAL.—The Attorney General shall make grants to States and units of local government to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 309. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

"(c) CRIMINAL PENALTY.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $100,000. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.".

SEC. 310. TRIBAL COALITION GRANTS.

(a) IN GENERAL.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

"(d) TRIBAL COALITION GRANTS.—

"(1) PURPOSE.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

"(A) increasing awareness of domestic violence and sexual assault against Indian women;

"(B) enhancing the response to violence against Indian women at the tribal, Federal, and State levels; and

"(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to Indian women victimized by domestic and sexual violence.

"(2) GRANTS TO TRIBAL COALITIONS.—The Attorney General shall award grants under paragraph (1) to—

"(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against Indian women; and

"(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against Indian women.

"(3) ELIGIBILITY FOR OTHER GRANTS.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).".

(b) TECHNICAL AMENDMENT.—Effective as of November 2, 2002, and as if included therein as enacted, Public Law 107-273 (116 Stat. 1789) is amended in section 402(2) by striking "sections 2006 through 2011" and inserting "sections 2007 through 2011".

(c) AMOUNTS.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 402(2) of Public Law 107-273, as amended by subsection (b)) is amended by amending subsection (b)(4) (42 U.S.C. 3796gg-1(b)(4)) to read as follows:

"(4) 1/54 shall be available for grants under section 2001(d);".

SEC. 311. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) FORENSIC BACKLOG ELIMINATION GRANTS.—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking "shall use the grant to carry out" and inserting "shall use the grant to do any one or more of the following:

"(1) To carry out"; and

(B) by adding at the end the following:

"(2) To eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence.

"(3) To train, assist, and employ forensic laboratory personnel, as needed, to eliminate such a backlog.";

(2) in subsection (b), by striking "under this part" and inserting "for the purpose set forth in subsection (a)(1)"; and

(3) by adding at the end the following:

"(e) BACKLOG DEFINED.—For purposes of this section, a backlog in the analysis of forensic science evidence exists if such evidence—

"(1) has been stored in a laboratory, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility; and

"(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.".

(b) EXTERNAL AUDITS.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.".

(c) THREE-YEAR EXTENSION OF AUTHORIZATION OF APPROPRIATIONS.—Section 1001(a)(24) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(24)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(G) $20,000,000 for fiscal year 2007;

"(H) $20,000,000 for fiscal year 2008; and

"(I) $20,000,000 for fiscal year 2009.".

(d) TECHNICAL AMENDMENT.—Section 1001(a) of such Act, as amended by subsection (c), is further amended by realigning paragraphs (24) and (25) so as to be flush with the left margin.

SEC. 312. REPORT TO CONGRESS.

(a) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this Act and the amendments made by this Act.

(b) CONTENTS.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as "CODIS");

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this Act are carried out;

(3) the distribution of grant amounts under this Act among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and other personnel authorized under sections 303 and 304;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA research and development programs to improve forensic DNA technology, and implement demonstration projects under section 305;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 306;

(7) the use of funds by the Federal Bureau of Investigation under section 307;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 308;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under the amendments made by section 311;

(10) State compliance with the requirements set forth in section 413; and

(11) any other matters considered relevant by the Attorney General.

TITLE IV—INNOCENCE PROTECTION ACT OF 2004

SEC. 401. SHORT TITLE.

This title may be cited as the "Innocence Protection Act of 2004".

Subtitle A—Exonerating the Innocent Through DNA Testing

SEC. 411. FEDERAL POST-CONVICTION DNA TESTING.

(a) FEDERAL CRIMINAL PROCEDURE.—

(1) IN GENERAL.—Part II of title 18, United States Code, is amended by inserting after chapter 228 the following:

"CHAPTER 228A—POST-CONVICTION DNA TESTING

"Sec.
"3600. DNA testing.
"3600A. Preservation of biological evidence.

"§ 3600. DNA testing

"(a) IN GENERAL.—Upon a written motion by an individual under a sentence of imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the 'applicant'), the court that entered the judgment of conviction shall order DNA testing of specific evidence if—

"(1) the applicant asserts, under penalty of perjury, that the applicant is actually innocent of—

"(A) the Federal offense for which the applicant is under a sentence of imprisonment or death; or

"(B) another Federal or State offense, if—

"(i)(I) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(e) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

"(II) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and

"(ii) in the case of a State offense—

"(I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and

"(II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense;

"(2) the specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

"(3) the specific evidence to be tested—

"(A) was not previously subjected to DNA testing and the applicant did not knowingly and voluntarily waive the right to request DNA testing of that evidence in a court proceeding after the date of enactment of the Innocence Protection Act of 2004; or

"(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing;

"(4) the specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing;

"(5) the proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices;

"(6) the applicant identifies a theory of defense that—

"(A) is not inconsistent with an affirmative defense presented at trial; and

"(B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant's assertion under paragraph (1);

"(7) if the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial;

"(8) the proposed DNA testing of the specific evidence—

"(A) would produce new material evidence to support the theory of defense referenced in paragraph (6); and

"(B) assuming the DNA test result excludes the applicant, would raise a reasonable probability that the applicant did not commit the offense;

"(9) the applicant certifies that the applicant will provide a DNA sample for purposes of comparison; and

"(10) the applicant's motion is filed for the purpose of demonstrating the applicant's actual innocence of the Federal or State offense, and not to delay the execution of the sentence or the administration of justice.

"(b) Notice to the Government; Preservation Order; Appointment of Counsel.—

"(1) Notice.—Upon the receipt of a motion filed under subsection (a), the court shall—

"(A) notify the Government; and

"(B) allow the Government a reasonable time period to respond to the motion.

"(2) Preservation order.—To the extent necessary to carry out proceedings under this section, the court shall direct the Government to preserve the specific evidence relating to a motion under subsection (a).

"(3) Appointment of counsel.—The court may appoint counsel for an indigent applicant under this section in the same manner as in a proceeding under section 3006A(a)(2)(B).

"(c) Testing Procedures.—

"(1) In general.—The court shall direct that any DNA testing ordered under this section be carried out by the Federal Bureau of Investigation.

"(2) Exception.—Notwithstanding paragraph (1), the court may order DNA testing by another qualified laboratory if the court makes all necessary orders to ensure the integrity of the specific evidence and the reliability of the testing process and test results.

"(3) Costs.—The costs of any DNA testing ordered under this section shall be paid—

"(A) by the applicant; or

"(B) in the case of an applicant who is indigent, by the Government.

"(d) Time Limitation in Capital Cases.—In any case in which the applicant is sentenced to death—

"(1) any DNA testing ordered under this section shall be completed not later than 60 days after the date on which the Government responds to the motion filed under subsection (a); and

"(2) not later than 120 days after the date on which the DNA testing ordered under this section is completed, the court shall order any post-testing procedures under subsection (f) or (g), as appropriate.

"(e) Reporting of Test Results.—

"(1) In general.—The results of any DNA testing ordered under this section shall be simultaneously disclosed to the court, the applicant, and the Government.

"(2) NDIS.—The Government shall submit any test results relating to the DNA of the applicant to the National DNA Index System (referred to in this subsection as 'NDIS').

"(3) Retention of DNA sample.—

"(A) Entry into NDIS.—If the DNA test results obtained under this section are inconclusive or show that the applicant was the source of the DNA evidence, the DNA sample of the applicant may be retained in NDIS.

"(B) Match with other offense.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant results in a match between the DNA sample of the applicant and another offense, the Attorney General shall notify the appropriate agency and preserve the DNA sample of the applicant.

"(C) No match.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant does not result in a match between the DNA sample of the applicant and another offense, the Attorney General shall destroy the DNA sample of the applicant and ensure that such information is not retained in NDIS if there is no other legal authority to retain the DNA sample of the applicant in NDIS.

"(f) Post-Testing Procedures; Inconclusive and Inculpatory Results.—

"(1) Inconclusive results.—If DNA test results obtained under this section are inconclusive, the court may order further testing, if appropriate, or may deny the applicant relief.

"(2) Inculpatory results.—If DNA test results obtained under this section show that the applicant was the source of the DNA evidence, the court shall—

"(A) deny the applicant relief; and

"(B) on motion of the Government—

"(i) make a determination whether the applicant's assertion of actual innocence was false, and, if the court makes such a finding, the court may hold the applicant in contempt;

"(ii) assess against the applicant the cost of any DNA testing carried out under this section;

"(iii) forward the finding to the Director of the Bureau of Prisons, who, upon receipt of such a finding, may deny, wholly or in part, the good conduct credit authorized under section 3632 on the basis of that finding;

"(iv) if the applicant is subject to the jurisdiction of the United States Parole Commission, forward the finding to the Commission so that the Commission may deny parole on the basis of that finding; and

"(v) if the DNA test results relate to a State offense, forward the finding to any appropriate State official.

"(3) Sentence.—In any prosecution of an applicant under chapter 79 for false assertions or other conduct in proceedings under this section, the court, upon conviction of the applicant, shall sentence the applicant to a term of imprisonment of not less than 3 years, which shall run consecutively to any other term of imprisonment the applicant is serving.

"(g) Post-Testing Procedures; Motion for New Trial or Resentencing.—

"(1) In general.—Notwithstanding any law that would bar a motion under this paragraph as untimely, if DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, the applicant may file a motion for a new trial or resentencing, as appropriate. The court shall establish a reasonable schedule for the applicant to file such a motion and for the Government to respond to the motion.

"(2) Standard for granting motion for new trial or resentencing.—The court shall grant the motion of the applicant for a new trial or resentencing, as appropriate, if the DNA test results, when considered with all other evidence in the case (regardless of whether such evidence was introduced at trial), establish by a preponderance of the evidence that a new trial would result in an acquittal of—

"(A) in the case of a motion for a new trial, the Federal offense for which the applicant is under a sentence of imprisonment or death; and

"(B) in the case of a motion for resentencing, another Federal or State offense, if—

"(i) such offense was legally necessary to make the applicant eligible for a sentence as a career offender under section 3559(e) or an armed career offender under section 924(e), and exoneration of such offense would entitle the applicant to a reduced sentence; or

"(ii) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or a new sentencing proceeding.

"(h) Other Laws Unaffected.—

"(1) Post-conviction relief.—Nothing in this section shall affect the circumstances under which a person may obtain DNA testing or post-conviction relief under any other law.

"(2) Habeas corpus.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.

"(3) Application not a motion.—An application under this section shall not be considered to be a motion under section 2255 for purposes of determining whether the application or any other motion is a second or successive motion under section 2255.

"§ 3600A. Preservation of biological evidence

"(a) In General.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is under a sentence of imprisonment for such offense.

"(b) Defined Term.—For purposes of this section, the term 'biological evidence' means—

"(1) a sexual assault forensic examination kit; or

"(2) semen, blood, saliva, hair, skin tissue, or other identified biological material.

"(c) Applicability.—Subsection (a) shall not apply if—

"(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

"(2) the defendant knowingly and voluntarily waived the right to request DNA testing of such evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2004;

"(3) the defendant is notified after conviction that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice; or

"(4)(A) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

"(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing.

"(d) Other Preservation Requirement.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

"(e) Regulations.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2004, the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

"(f) Criminal Penalty.—Whoever knowingly and intentionally destroys, alters, or tampers with biological evidence that is required to be preserved under this section with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding, shall be fined under this title, imprisoned for not more than 5 years, or both.

"(g) Habeas Corpus.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.".

(2) Clerical amendment.—The chapter analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 228 the following:

"228A. Post-conviction DNA testing .. 3600".

(b) System for Reporting Motions.—

(1) Establishment.—The Attorney General shall establish a system for reporting and tracking motions filed in accordance with section 3600 of title 18, United States Code.

(2) Operation.—In operating the system established under paragraph (1), the Federal courts shall provide to the Attorney General any requested assistance in operating such a system and in ensuring the accuracy and completeness of information included in that system.

(3) Report.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that contains—

(A) a list of motions filed under section 3600 of title 18, United States Code, as added by this Act;

(B) whether DNA testing was ordered pursuant to such a motion;

(C) whether the applicant obtained relief on the basis of DNA test results; and

(D) whether further proceedings occurred following a granting of relief and the outcome of such proceedings.

(4) Additional information.—The report required to be submitted under paragraph (3) may include any other information the Attorney General determines to be relevant in assessing the operation, utility, or costs of section 3600 of title 18, United States Code, as added by this Act, and any recommendations the Attorney General may have relating to future legislative action concerning that section.

(c) Effective Date; Applicability.—This section and the amendments made by this section shall take effect on the date of enactment of this Act and shall apply with respect to any offense committed, and to any judgment of conviction entered, before, on, or after that date of enactment.

SEC. 412. KIRK BLOODSWORTH POST-CONVICTION DNA TESTING GRANT PROGRAM.

(a) In General.—The Attorney General shall establish the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program to award grants to States to help defray the costs of post-conviction DNA testing.

(b) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

(c) State Defined.—For purposes of this section, the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 413. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

For each of fiscal years 2005 through 2009, all funds appropriated to carry out sections 303, 305, 307, and 412 shall be reserved for grants to eligible entities that—

(1) meet the requirements under section 303, 305, 307, or 412, as appropriate; and

(2) demonstrate that the State in which the eligible entity operates—

(A) provides post-conviction DNA testing of specified evidence—

(i) under a State statute enacted before the date of enactment of this Act (or extended or renewed after such date), to any person convicted after trial and under a sentence of imprisonment or death for a State offense, in a manner that ensures a meaningful process for resolving a claim of actual innocence; or

(ii) under a State statute enacted after the date of enactment of this Act, or under a State rule, regulation, or practice, to any person under a sentence of imprisonment or death for a State offense, in a manner comparable to section 3600(a) of title 18, United States Code (provided that the State statute, rule, regulation, or practice may make post-conviction DNA testing available in cases in which such testing is not required by such section), and if the results of such testing exclude the applicant, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar such application as untimely; and

(B) preserves biological evidence secured in relation to the investigation or prosecution of a State offense—

(i) under a State statute or a State or local rule, regulation, or practice, enacted or adopted before the date of enactment of this Act (or extended or renewed after such date), in a manner that ensures that reasonable measures are taken by all jurisdictions within the State to preserve such evidence; or

(ii) under a State statute or a State or local rule, regulation, or practice, enacted or adopted after the date of enactment of this Act, in a manner comparable to section 3600A of title 18, United States Code, if—

(I) all jurisdictions within the State comply with this requirement; and

(II) such jurisdictions may preserve such evidence for longer than the period of time that such evidence would be required to be preserved under such section 3600A.

Subtitle B—Improving the Quality of Representation in State Capital Cases

SEC. 421. CAPITAL REPRESENTATION IMPROVEMENT GRANTS.

(a) In General.—The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) Defined Term.—In this section, the term "legal representation" means legal counsel and investigative, expert, and other services necessary for competent representation.

(c) Use of Funds.—Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

(d) Effective System.—As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

(1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—

(A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;

(B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital representation; or

(C) pursuant to a statutory procedure enacted before the date of the enactment of this Act under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and

(2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

(D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;

(E) monitor the performance of attorneys who are appointed and their attendance at training programs, and remove from the roster attorneys who fail to deliver effective representation or who fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; and

(F) ensure funding for the full cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

(i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and

(ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

SEC. 422. CAPITAL PROSECUTION IMPROVEMENT GRANTS.

(a) In General.—The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

(b) Use of Funds.—

(1) Permitted uses.—Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

(2) Prohibited use.—Grants awarded under subsection (a) shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

SEC. 423. APPLICATIONS.

(a) In General.—The Attorney General shall establish a process through which a State may apply for a grant under this subtitle.

(b) Application.—

(1) In general.—A State desiring a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

(2) Contents.—Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 421(d)(1)(C), a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this subtitle shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this subtitle; and

(ii) allocated in accordance with section 426(b).

SEC. 424. STATE REPORTS.

(a) In General.—Each State receiving funds under this subtitle shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

(b) Capital Representation Improvement Grants.—With respect to the funds provided under section 421, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in a program described in section 421(d)(1)(A), an entity described in section 421(d)(1)(B), or selection committee or similar entity described in section 421(d)(1)(C); and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 421(d)(1)(C), to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 421(d)(2)(A);

(ii) establish and maintain a roster of qualified attorneys in accordance with section 421(d)(2)(B);

(iii) assign attorneys from the roster in accordance with section 421(d)(2)(C);

(iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 421(d)(2)(D);

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 421(d)(2)(E); and

(vi) ensure funding for the full cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 421(d)(2)(F), including a statement setting forth—

(I) if the State employs a public defender program under section 421(d)(1)(A), the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 421(d)(1)(B), the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 421(d)(1)(C), an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in specific capital cases or to supplant non-Federal funds.

(c) Capital Prosecution Improvement Grants.—With respect to the funds provided under section 422, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 422(b)(1)(A);

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 422(b)(1)(B);

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 422(b)(1)(C);

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 422(b)(1)(D);

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 422(b)(1)(E); and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

(d) Public Disclosure of Annual State Reports.—The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

SEC. 425. EVALUATIONS BY INSPECTOR GENERAL AND ADMINISTRATIVE REMEDIES.

(a) Evaluation by Inspector General.—

(1) In general.—As soon as practicable after the end of the first fiscal year for which

a State receives funds under a grant made under this title, the Inspector General of the Department of Justice (in this section referred to as the "Inspector General") shall—

(A) after affording an opportunity for any person to provide comments on a report submitted under section 424, submit to Congress and to the Attorney General a report evaluating the compliance by the State with the terms and conditions of the grant; and

(B) if the Inspector General concludes that the State is not in compliance with the terms and conditions of the grant, specify any deficiencies and make recommendations for corrective action.

(2) Priority.—In conducting evaluations under this subsection, the Inspector General shall give priority to States that the Inspector General determines, based on information submitted by the State and other comments provided by any other person, to be at the highest risk of noncompliance.

(3) Determination for statutory procedure states.—For each State that employs a statutory procedure described in section 421(d)(1)(C), the Inspector General shall submit to Congress and to the Attorney General, not later than the end of the first fiscal year for which such State receives funds, after affording an opportunity for any person to provide comments on a certification submitted under section 423(b)(2)(D), a determination as to whether the State is in substantial compliance with the requirements of the applicable State statute.

(b) Administrative Review.—

(1) Comment.—Upon receiving the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall provide the State with an opportunity to comment regarding the findings and conclusions of the report or the determination.

(2) Corrective action plan.—If the Attorney General, after reviewing the report under subsection (a)(1) or the determination under subsection (a)(3), determines that a State is not in compliance with the terms and conditions of the grant, the Attorney General shall consult with the appropriate State authorities to enter into a plan for corrective action. If the State does not agree to a plan for corrective action that has been approved by the Attorney General within 90 days after the submission of the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall, within 30 days, direct the State to take corrective action to bring the State into compliance.

(3) Report to congress.—Not later than 90 days after the earlier of the implementation of a corrective action plan or a directive to implement such a plan under paragraph (2), the Attorney General shall submit a report to Congress as to whether the State has taken corrective action and is in compliance with the terms and conditions of the grant.

(c) Penalties for Noncompliance.—If the State fails to take the prescribed corrective action under subsection (b) and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 421 and 422 and require the State to return the funds granted under such sections for that fiscal year. Nothing in this paragraph shall prevent a State which has been subject to penalties for noncompliance from reapplying for a grant under this subtitle in another fiscal year.

(d) Periodic Reports.—During the grant period, the Inspector General shall periodically review the compliance of each State with the terms and conditions of the grant.

(e) Administrative Costs.—Not less than 2.5 percent of the funds appropriated to carry out this subtitle for each of fiscal years 2005 through 2009 shall be made available to the Inspector General for purposes of carrying out this section. Such sums shall remain available until expended.

(f) Special Rule for "Statutory Procedure" States Not in Substantial Compliance With Statutory Procedures.—

(1) In general.—In the case of a State that employs a statutory procedure described in section 421(d)(1)(C), if the Inspector General submits a determination under subsection (a)(3) that the State is not in substantial compliance with the requirements of the applicable State statute, then for the period beginning with the date on which that determination was submitted and ending on the date on which the Inspector General determines that the State is in substantial compliance with the requirements of that statute, the funds awarded under this subtitle shall be allocated solely for the uses described in section 421.

(2) Rule of construction.—The requirements of this subsection apply in addition to, and not instead of, the other requirements of this section.

SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization for Grants.—There are authorized to be appropriated $100,000,000 for each of fiscal years 2005 through 2009 to carry out this subtitle.

(b) Restriction on Use of Funds To Ensure Equal Allocation.—Each State receiving a grant under this subtitle shall allocate the funds equally between the uses described in section 421 and the uses described in section 422, except as provided in section 425(f).

Subtitle C—Compensation for the Wrongfully Convicted

SEC. 431. INCREASED COMPENSATION IN FEDERAL CASES FOR THE WRONGFULLY CONVICTED.

Section 2513(e) of title 28, United States Code, is amended by striking "exceed the sum of $5,000" and inserting "exceed $100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and $50,000 for each 12-month period of incarceration for any other plaintiff".

SEC. 432. SENSE OF CONGRESS REGARDING COMPENSATION IN STATE DEATH PENALTY CASES.

It is the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

The SPEAKER pro tempore. After one hour of debate on the bill, it shall be in order to consider the amendment printed in House Report 108-737 if offered by the gentleman from Wisconsin (Mr. Sensenbrenner) or his designee, which shall be considered read and shall be debatable for 20 minutes, equally divided and controlled by the proponent and an opponent.

The Chair recognizes the gentleman from Wisconsin (Mr. Sensenbrenner).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5107, the Justice for All Act of 2004. This bill is called "justice for all" because it will enhance the rights and protections of all persons who are involved in the criminal justice system.

It does this through two different but complimentary mechanisms. First, a new set of statutory victims' rights that are both enforceable in a court of law and supported by fully-funded victims-assistance programs; and, two, a comprehensive DNA bill that seeks to ensure that the true offender is caught and convicted of the crime.

Victims of crime have long complained that theirs are the forgotten voices in the criminal justice system. For example, Roberta Roper, whose daughter Stephanie was kidnapped, brutally raped, tortured and murdered in 1982, testified before the Subcommittee on the Constitution that, unlike her daughter's killers, she had no right to be informed, no rights to attend the trial and no rights to be heard before sentencing.

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Her experience, and that of many others like her, have led victims' rights advocates to push for a victims' rights statute to counterbalance the rights provided to the accused under the Constitution.

The victims' rights portion of this bill originated with S. 2329, which passed the Senate on April 22, 2004, by a vote of 96 to 1. Like S. 2329, this bill contains eight enumerated rights for the victim: including the right to be reasonably protected from the accused, the right to timely notice of public court proceedings involving the crime, the right not to be excluded from such public court proceedings, the right to be reasonably heard at those proceedings, the reasonable right to confer with the prosecutor, the right to restitution, the right to proceedings free from unreasonable delay and the right to be treated with fairness and respect.

Each of these rights is enforceable by both the prosecutor and the crime victim. The crime victim and the prosecutor may assert the crime victim's right and, if necessary, seek a stay of any proceedings in which the victim's rights are being denied. The government or the crime victim can then seek a writ of mandamus from the appropriate Court of Appeals to ensure that the crime victim's rights are protected.

In addition, the Justice for All Act contains important provisions to ensure that the criminal justice system will continue to operate in an efficient manner and that there will be an appropriate level of finality to all proceedings.

Finally, this legislation will provide funds for victims' assistance programs at both the Federal and State level. Of particular importance are funds to support programs that provide legal counsel for crime victims. These funds will help to develop a body of laws to protect the rights of victims in the Federal courts. The National Crime Victim Law Institute is but one example of an organization that provides the type of legal counsel envisioned by the bill.

The bill is not identical to the Senate-passed bill, but it is close. Since Senate passage, the committee has worked with many interested parties on these issues. That process resulted in H.R. 5107 which, as introduced, addressed many of the concerns raised by S. 2329. However, at the Committee on the Judiciary's markup, I stated that we will continue to work on this bill until we have the best bill possible. After several more weeks of negotiations, I believe that the manager's amendment, which I will offer in a bit, moves even further in the right direction and now represents that best possible bill.

The second important element of the Justice for All Act contained in titles II through IV pertains to the use of DNA technology. These provisions come from H.R. 3214 which passed the House by a vote of 357 to 67 on November 5, 2003, but continues to await action in the Senate. The DNA portion of the Justice for All Act as introduced was identical to the version of H.R. 3214 passed by the House last November.

Titles II through IV of the Justice for All Act seek to resolve another problem that victims face, the frustration and depression over the length of time it takes to track down and apprehend the attacker. DNA samples can help to quickly apprehend offenders and solve crimes if law enforcement agencies have access to the most up-to-date testing capabilities. Additionally, DNA technology is increasingly vital to ensuring accuracy and fairness in the criminal justice system. DNA can identify criminals with incredible accuracy when biological evidence exists, and DNA can be used to clear suspects and exonerate persons mistakenly accused or convicted of crimes.

The current Federal and State DNA collection and analysis system needs improvement. The Justice for All Act will provide the necessary funding to ensure these critical programs have access to the necessary equipment and training. It will provide funds to eliminate the backlog of DNA samples in need of testing and provide greater access to potentially exculpatory evidence to those who may have been wrongfully convicted of a crime.

However, as we did with the victims' rights portion of the bill, we have continued to work with all parties to address concerns relating to the DNA testing portions of the bill. Those changes, which are reflected in the manager's amendment, greatly improve the bill, and I will describe them in greater detail when the amendment comes up.

As I mentioned earlier, this bill has been the process of lengthy negotiations among many different parties. Most of the parties have worked to get this result, and I think they now believe that this is a good product. Unfortunately, however, the Department of Justice was unable to come to this conclusion. I, and the other cosponsors of this legislation, bent over backwards to satisfy their concerns. No matter how much we bent, nothing would satisfy them. As chairman of the committee with the authorizing jurisdiction over the department, I am very disappointed with its position on this bill. This bill contains many, many good things for the department, and its absolute obstinence despite many, many efforts to compromise is completely unreasonable.

This reminds me of the debate over the breakup of the Immigration and Naturalization Service in 2002, a clearly dysfunctional agency that needed reform. Out of blind bureaucratic inertia, the department opposed that much-needed legislation until the very last moment. In short, Mr. Speaker, I sincerely hope that the department will come to its senses, throw off its blinders and endorse this good and important legislation.

I would finally like to thank those who did cooperate in this process. The chairman of the Subcommittee on the Constitution, the gentleman from Ohio (Mr. CHABOT) has been a tireless advocate for victims' rights, as well as the gentleman from Michigan (Ranking Member CONYERS), the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Wisconsin (Mr. GREEN), the gentleman from Illinois (Mr. LAHOOD), the gentlewoman from New York (Mrs. MALONEY), and all of the other important cosponsors for this important bill.

In addition, I want to thank my own staff, Katy Crooks, and general counsel, Philip Kiko, Jay Apperson, and Stewart Jeffries, as well as staffers of the gentleman from Massachusetts (Mr. DELAHUNT), Mark Agrast and Christine Leonard. This would not have happened without their tireless work. I urge my colleagues to support this very good bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER) just indicated, this is really the culmination of an extraordinary bipartisan effort towards a common goal. I would echo his kudos for so many Members on both sides of the aisle, as well as staff. My colleague, the gentleman from Illinois (Mr. LAHOOD) who has been here from the beginning; this has been an odyssey, if you will, of some 4 or 5 years. On our side of the aisle, I want to make particular note of the efforts of the gentleman from New York (Mr. WEINER), the gentleman from California (Mr. SCHIFF), the gentleman from Virginia (Mr. SCOTT), the gentlewoman from New York (Mrs. MALONEY) and, of course, my friend who I serve with on the Committee on the Judiciary, my colleague, the gentleman from Wisconsin (Mr. GREEN). But it has to be stated that without the efforts of the distinguished chairman of the committee, the gentleman from Wisconsin (Mr. SENSENBRENNER), we would not be here today. It is really that simple, and I want to acknowledge his Herculean efforts.

This comprehensive legislation seeks to repair, if you will, the two sides of injustice when mistakes happen. I encourage my colleagues, Mr. Speaker, to consider today that the victims of the criminal justice system do not always look alike; they just get caught in this system in different ways. Think of victims like Debbie Smith of Virginia for whom title II of this bill is named. As she has said, and these are her words, "It gives no comfort to the victims and their families to know that the wrong person is behind bars and the real perpetrator is free to walk the streets" and commit that crime again.

Debbie Smith is a courageous advocate who has done so much to help her fellow survivors of sexual assault. Yet, it took 6 years for the DNA evidence to be tested in her case, evidence that ultimately led to the capture of that rapist. Only then was she free from what she has called an "emotional prison."

And there are other categories of victims in America today, individuals charged with false accusations and imprisoned based on wrongful convictions. Like my friend, Kirk Bloodsworth of Maryland, the first death row inmate to be exonerated by DNA testing after 10 years on death row. Kirk had to convince his lawyer to get the test. DNA established Kirk's innocence, and it also led to the identification and conviction of the real perpetrator, the real murderer, within this past year.

Debbie Smith and Kirk Bloodsworth are both among the innocent whom we seek to protect, Mr. Speaker. Think of the human costs when an innocent person is executed or spends long years in jail. Imagine the scars of a victim who waits years to know the identity of their assailant. Mr. Speaker, we are not talking about hypothetical scenarios here: we are talking about real people, ordinary Americans facing the most extreme miscarriages of justice.

Just this past week in Michigan, a murder case was thrown out of court after DNA evidence demonstrated that the defendant was innocent. Almost every week there is a news story about the use of DNA evidence to exonerate the innocent. Earlier this year in Texas, DNA exonerated Josiah Sutton. During Mr. Sutton's trial, he asked for a DNA test, but his attorney told him that he did not have enough money to obtain it. Mr. Sutton was convicted on charges of rape and sentenced to 25 years in prison.

Four and a half years into that sentence, Mr. Sutton benefited from a moment of serendipity, pure chance, if you will. Listening to the radio, his mother heard about an investigation into DNA testing problems at a Houston crime lab. She called reporters, who agreed to investigate. A UCLA professor conducted an analysis of the DNA evidence and concluded there was no basis for Mr. Sutton's conviction. Since then, he has been fully exonerated, and the crime lab has been shut down.

Well, this bill would help the States protect victims. This comprehensive legislation, as the chairman indicated, contains four titles. I will not review them now; the chairman has done a more than adequate job. It also includes the original bill that was filed by myself and the gentleman from Illinois (Mr. LAHOOD) entitled the Innocence Protection Act. And here, in the final hours of this legislative session, the version of the Innocence Protection Act that is included in this bill, it is not all that we wanted, but it is an important step forward, and as I just enumerated by pointing just to two different cases, it is long overdue.

Mr. Speaker, the criminal justice system is about the search for the truth, and like all human enterprises, it is fallible. Judges and jurors and police, eye witnesses, defense counsel and prosecutors are all human beings and all make mistakes. I served as a prosecutor for some 20 years. I made mistakes, and those mistakes are etched forever in my mind.

But we have the means now at our disposal to minimize the possibility of error, and especially where lives are at stake, we have no choice, we have no option, we must take advantage of them. Because this bill at its core is about restoring public confidence in the integrity of the American justice system, that system, which really does set us apart, sets our democracy apart among the family of nations, that makes us the viable, healthy democracy that we are.

So I would encourage my colleagues to accept the manager's amendment, to pass this bill, and, hopefully, in the course of the next several days, there will be an awakening, if you will, elsewhere in this city, and the bill should be signed before too long, because our system is at stake.

Mr. Speaker, I reserve the balance of my time.

□ 1130

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the original author of the Innocents Protection Act, the gentleman from Illinois (Mr. LAHOOD).

Mr. LAHOOD. Mr. Speaker, I offer my thanks to the chairman of the committee for hanging in there with us and being so persistent about this important piece of legislation. My thanks to the gentleman from Massachusetts (Mr. DELAHUNT) for also hanging in there with us 5 years ago when he and I collaborated on this and introduced this bill. I think we had an idea it would take this long, but I think we are getting close. And if we can persuade the other body that this is the right approach and a good bill, I think we will have come a long way over the last 5 years to perfect a bill.

I really thank the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER). He really has helped us perfect this idea that there has to be 100 percent certainty in capital cases and in death penalty cases.

As a proponent of capital punishment, I believe very strongly that it can be a deterrent, but there has to be 100 percent certainty; and that is really what one of the titles the Innocents Protection Act's title of this bill really allows for and provides for. We could not be here today without really the leadership of the chairman. So I am grateful to him.

When we look in the eyes of people like Kirk Bloodsworth and Debbie Smith and to be able to tell them that we are getting close to solving some very serious problems and really trying to get to perfection in a flawed system. I am very proud of the students at the Northwestern University in Chicago for the work that they did that really highlighted the flaw in this system after a study where they looked at all death penalty cases in Illinois.

And as a result of their study, 12 people were released from death row because it was found that they were innocent. And at that point I think we all realized that there were 12 people on the street that were guilty of the crimes that were free people. And that kind of initiative and that kind of study really emboldened us to move ahead with this legislation. We could not have done it without them.

We could not have done it without the determination of people like Kirk Bloodsworth and Debbie Smith and the chairman and the gentleman from Massachusetts (Mr. DELAHUNT).

Mr. Speaker, I have prepared remarks that really go into more detail, but I just wanted to be here today to say thanks to all those who have had the determination to make this happen, I ask all Members to support this bill.

Mr. Speaker, I rise today as a supporter of the death penalty, and supporter of this bill. In the 106th and 107th Congresses, I sponsored the Innocence Protection Act with Mr. DELAHUNT, which is now included as section 3 in the Justice For All Act.

I am a proponent of the death penalty, as a deterrent to violent crime, and this bill provides the materials necessary to repair our flawed system. I believe that those of us that support the death penalty have a responsibility to ensure it is applied fairly. As a just society, we must condemn the guilty, exonerate the innocent, and protect all Americans' fundamental right to truth. It is my belief that this legislation allows us to save the death penalty, to know that we are utilizing it in instances where we are confident of wrongdoing.

Mr. Speaker, we cannot afford one more innocent life to be lost due to inexperienced counsel, or unprocessed DNA kits. We must permit inmates access to post-conviction DNA testing to establish innocence and compensate those who have served time for crimes they did not commit.

In order to continue to rightfully punish our guilty, we must establish minimum standards of competency for counsel in capital cases. As long as innocent Americans are on death row, the guilty remain on our streets. This legislation would increase public confidence in our Nation's judicial system as it relates to the death penalty. Individuals have spent years on death row for crimes they did not commit.

A death sentence is the ultimate punishment. Its absolute finality commands that we be 100 percent certain of an individual's guilt. In protecting the innocent, we also make sure the guilty do not go free.

I applaud the chairman for his determination in crafting this bipartisan piece of legislation that assures fundamental accuracy and fairness in our judicial system.

Mr. DELAHUNT. Mr. Speaker, I yield 3½ minutes to the gentleman from California (Mr. SCHIFF), a distinguished colleague and prominent member of the House Committee on the Judiciary.

Mr. SCHIFF. Mr. Speaker, as a cosponsor of the Advancing Justice Through DNA Technology Act of 2003, which passed overwhelmingly in the House in November 2003, I rise in strong support of the bill on the floor today, the Justice For All Act, which I am also proud to be an original cosponsor of.

At the outset I want to compliment my colleague, the gentleman from Massachusetts (Mr. DELAHUNT). From the very beginning we spoke about this bill, two former prosecutors, and while I had been focused mainly on the power of DNA to solve unsolved crimes, to go after violent felons who still walk the streets, my good friend, the gentleman from Massachusetts (Mr. DELAHUNT), made the equally compelling point that DNA evidence has the power to exonerate those charged with the most serious crimes, to exonerate those on death row even; as has been proved the case, not merely calling into question evidence in an original trial, but rather proving conclusively the innocence of people who faced the ultimate penalty.

The DNA database improvements in this bill will help solve countless crimes and also exonerate innocent individuals wrongly imprisoned.

As a former prosecutor, I have witnessed the powerful force that DNA profiles have in solving crimes. The FBI's DNA database contains around 2 million DNA profiles and has yielded thousands of matches in criminal investigations, but thousands of additional matches can and should be made. For this reason I worked on legislation last year to increase the effectiveness of DNA databases. This legislation was aimed at replicating on a nationwide basis the tremendous State successes in solving crimes using DNA.

States have taken the lead in expanding DNA and crime-solving efforts. For example, in Virginia those efforts have yielded tremendous results with forensics officials making over a thousand cold hits, finally providing resolution to a great number of unsolved crimes. The legislation before us today makes important changes in Federal law in order to replicate these tremendous successes on a nationwide basis. These additional tools will provide additional database searching capabilities for Federal, State and local law enforcement agencies, helping to solve thousands of cold cases including unsolved murders and unsolved rape cases.

In addition, the authorization of much needed funding to eliminate the current backlog of unanalyzed DNA samples in the Nation's crime labs and the important Innocents Protection Provision will help ensure that inmates have access to DNA testing to establish their innocence.

I am pleased the House of Representatives is poised to approve these changes in a bipartisan fashion, and I hope this legislation will be approved by the Congress as a whole and quickly enacted into law.

In conclusion, I want to again thank my colleague, the gentleman from Massachusetts (Mr. DELAHUNT), for his pioneering efforts on the Innocents Protection Act for bringing really to this body an awareness of the power of DNA to exonerate those who have been wrongly convicted of the most devastating cases facing the ultimate penalty. We could not have more important work before this body.

I want to compliment the commitment of the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), for his superlative leadership in this legislation, without which we would not be here on the floor today.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Ohio (Mr. CHABOT), the chairman of the Subcommittee on the Constitution.

Mr. CHABOT. Mr. Speaker, I want to commend the chairman and thank him for his leadership, particularly the aspect of the bill which promotes and supports victims of crime.

Providing crime victims with dignity and respect through an established and enforceable set of rights ensures that justice is not reserved only for the accused but extends to those who have personally been affected by the crimes. And after all, we have thousands and thousands of people in this country that are affected in an adverse way by crime every single year.

The proposal before us today, the Justice For All Act, H.R. 5107, draws heavily from the Crime Victim's Rights legislation providing victims with substantive enforceable rights such as the right to be present during proceedings and the right to confront assailants at those proceedings and the right to be notified about the release or escape of the perpetrator from custody.

I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) also for including in the bill protections that DNA testing can afford families who may have members missing or their remains unidentified.

I want to particularly thank and recognize the courageous person in the greater Cincinnati area, that is Deborah Culberson, who lost her daughter, Keri, to a terrible murder, and the perpetrator is behind bars, but they have not been able to locate or identify her daughter's remains. And she has stepped forward and she has been just a very forceful person behind making sure that we have a DNA database which families who have lost loved ones may be able to identify and, therefore, provide at least some closure to that family. It is a terrible tragedy.

This may not directly benefit her, but it may benefit others in the future who face these tragedies in their own families.

There is no question that the rights afforded by H.R. 5107 are a positive step toward making certain justice is served not only for the accused but for the innocent victims. I would strongly encourage very strong bipartisan support for this legislation. It is important legislation. Some of it is a first step and many of us think we may in the future be able to go further. But I think this is a very positive step. I want to once again thank and recognize the gentleman from Wisconsin (Mr. SENSENBRENNER) for his leadership on this.

Mr. DELAHUNT. Mr. Speaker, I yield 3½ minutes to the gentleman from New York (Mr. WEINER), a member of the committee who has championed a particular title in this bill and who has brought to the attention of the Committee on the Judiciary the need to do something about testing for rape kits.

Mr. WEINER. Mr. Speaker, it is remarkable that in DNA people see this issue through many different prisms, all of them positive. For those of us in this Chamber who are concerned about law enforcement, DNA is truly a miracle. It is better than a fingerprint. It is better than a video tape. It is better than an eye witness. It is better than a lie detector. With DNA we can find out who did a crime, and as other speakers have spoken to here, we can also find out who did not do it.

But the prism I look at this issue through was formed early in my congressional career. The prism I look at DNA through is a series of cardboard boxes all stacked in a refrigerated warehouse in Long Island City. That is where I found rape kits that were evidence for crime scenes, completely anonymous except for the numbers written on the side of these cardboard boxes, 16,000 of them in early 1999 when I was first elected, all collected at crime scenes in New York City, all that had not been analyzed, all that had not been processed, all representing a victim that was awaiting justice.

That backlog is heartrending. That backlog does not represent a simple number on the box. That backlog represent an individual, an individual crime. And the mystery was that it was not being stored in that refrigerated warehouse because of any bureaucratic problem. It was not being stored there because of any legal loggerhead. It came down to one thing: money.

In 1999 I was proud to introduce in this House for the first time an authorization for congressional funding to help cities and states dig out of their backlog. With former Congressman Gilman and former Congressman McCollum we passed for the first time the Backlog Elimination Act. Because of that law, now localities across this country have been able to reduce their backlogs. They have not been eliminated. Also authorized in that law was a study that we learned the problem was not just in New York City; it was in small-town sheriffs' offices all around this country, in suburbs, in communities large and small.

The analysis of those rape kits did not just provide statistics; it provided hits on cold cases. In New York City alone 154 cold cases that had been put on the shelf literally and figuratively were solved. They got leads in more than 200 other cases.

Let us remember the nature of sexual assault. Experts tell us again and again that it is a recidivist crime. Someone that we are able to catch once and take off the street could conceivably not only solve several crimes but prevent several more from happening.

Last year the gentleman from Wisconsin (Mr. GREEN) and I tried to ramp up this issue one more time. And we realized that we had in partnership the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Illinois (Mr. LAHOOD), who also saw DNA testing as an enormous opportunity. I believe we have crafted under the guidance of the gentleman from Wisconsin (Mr. SENSENBRENNER), frankly, a bill that in anyone's prism would be seen as positive. There is no reason even in this moment of pitch partisanship in this House and in the other body, even in this time there is no reason why we should sit any longer on this legislation.

I would urge in the strongest possible terms that we pass this legislation. We have passed in similar ways out of the committee and on this floor before. We have unified this House behind the issue of using DNA to bring justice to those who did crimes, justice to those who did not do crimes, and justice to those victims of crimes and their families.

I would urge in the strongest terms possible that we not allow election-year politics to stop the other body from doing justice by this legislation. I urge passage of H.R. 5107.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Wisconsin (Mr. GREEN).

Mr. GREEN of Wisconsin. Mr. Speaker, let me begin by joining my voice with others in saluting the chairman. Without his tireless efforts, quite simply we would not be here today, and also, of course, the gentlewoman from New York (Mrs. MALONEY), the gentleman from Massachusetts (Mr. DELAHUNT), the gentleman from Illinois (Mr. LAHOOD), the gentleman from Ohio (Mr. CHABOT), and the gentleman from New York (Mr. WEINER). Their ideas have made this bill so much better, so much stronger and we are all in their debt.

Mr. Speaker, over 300,000 women and 92,000 men are raped each year in this country, the United States. Those numbers represent lives destroyed and families shattered. Today we fight back. We will put an end to headlines like this one from CNN dated June 29, 2004: "A suspected serial rapist on the street while his DNA sat in the police crime lab for years."

□ 1145

The rapist in that case reported assaulting upwards of 56 women since 1988, and yet his DNA sat untested for 2½ years in an Ohio crime lab. I wish I could tell my colleagues that that case was unique. Hardly.

There are thousands and thousands and thousands of untested crime scene DNA kits collecting dust on shelves. That means that there are likely innocent Americans wrongly sitting behind bars, and even more likely, guilty Americans still walking the streets. How can we not act and act today?

This bill will help. This bill will save lives.

Title II of the bill, the Debbie Smith Act, will provide grants to State and local authorities to get rid of their backlogs, to train more experts, to ensure better handling and processing of evidence.

In fact, some estimate that it could quickly lead to solving as many as 66,000 open rape and murder cases. That is 66,000 victims and their families who would finally have a little justice and, perhaps, just perhaps, a little peace of mind.

How can we not act on this measure? How can we not offer this lifeline to victims and their families? How can we not act to prevent future crimes by tracking down those who have already attacked and will most certainly attack again?

This is good work. It is important work. I urge my colleagues' support. Let us get this done.

Mr. DELAHUNT. Mr. Speaker, I yield 4 minutes to the gentleman from New York (Mr. NADLER), one of the leaders on the Democratic side on the House Committee on the Judiciary.

Mr. NADLER. Mr. Speaker, I thank the gentleman for yielding me time.

I rise in support of the Advancing Justice Through DNA Act. Although the science of DNA analysis has vastly improved our ability to identify the guilty and to exonerate the innocent, neither our laws nor the resources we have made available have allowed our criminal justice system to make full use of that technology. This legislation would go a long way toward correcting that terrible gap.

I want to congratulate, in particular, the gentleman from Massachusetts (Mr. DELAHUNT) who introduced the Innocence Protection Act several years ago and has worked tirelessly on this matter ever since. We all owe him a great debt of gratitude. No one whose innocence can be proved by DNA evidence should languish in prison because of procedural or financial obstacles to the use of that DNA evidence, and no one whose guilt can be proved by DNA evidence should remain unconvicted and free to menace others because of procedural or financial obstacles to the use of that DNA evidence.

It is imperative, in connection with one of the titles of this bill, that we eliminate the shameful backlog of untested rape kits, and this bill will go a long way towards that goal. I have worked with NOW, RAINN and Lifetime Television to raise awareness of this issue and to build consensus for decisive action. Together, we have pushed, prodded and demanded that Federal funding be provided to test these kits quickly. Today, we are one step closer to that goal.

I am pleased that this bill includes a provision very similar to the Rape Kit DNA Analysis Backlog Elimination Act, which I introduced in March of 2002. That legislation would have provided $250 million to eliminate the rape kit backlog. I am also pleased that, like my bill and like the bill introduced by the gentleman from New York (Mr. WEINER) and the gentlewoman from New York (Mrs. MALONEY), this legislation adds funding specifically for rape kits.

But we are not there yet. These programs still need to be funded, and I am hopeful that we will not simply authorize funding for these programs, as this bill does and as I hope the Senate will go along with, but I am hopeful that we will also actually appropriate the money we are today acknowledging is needed to do the job right.

This issue is too important to ignore. Police departments must have the resources they need to solve crimes and put criminals behind bars.

This legislation represents a serious effort to combat crime, to locate and apprehend rapists, to use powerful evidence to put them in prison, and in the larger sense, it also represents a serious effort to take out of prison people who do not belong there in light of the capability of DNA evidence to prove their innocence.

We have adopted similar legislation before. I urge its adoption now, and I hope the Senate will go along.

I thank the gentleman for yielding me time.

Mr. DELAHUNT. Mr. Speaker, I yield 4½ minutes to the gentlewoman from New York (Mrs. MALONEY), who also has been a champion in terms of protecting the victims of rape and making an effort to secure the apprehension of those who perpetrated that particularly heinous crime.

Mrs. MALONEY. Mr. Speaker, I thank the gentleman for yielding me time and for his leadership on so many important issues before this body.

Mr. Speaker, I rise in strong support of the Justice for All Act, and I would like to commend the truly heroic leadership of the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Michigan (Ranking Member CONYERS) and the efforts of many, the gentleman from New York (Mr. NADLER), the gentleman from New York (Mr. WEINER), the gentleman from Illinois (Mr. LAHOOD) and especially the gentleman from Massachusetts (Mr. DELAHUNT) for his tireless work on the Innocence Protection Act and for my colleague, the gentleman from Wisconsin (Mr. GREEN), who has worked selflessly on passing the Debbie Smith Act for many, many years.

This marks the second time this bill has passed this body this year, and I do not understand why both bodies cannot come together to pass the same legislation, which so many people support in a bipartisan manner, that will lock up the guilty and free the innocent. The longer we delay, the longer the victims of sexual assault and rape must wait to see their attackers put in prison.

This bill includes provisions to protect the rights of crime victims, as well as legislation, the Advancing Justice Through DNA Technology Act, which includes the Debbie Smith Act and the Innocence Protection Act; and the House overwhelmingly passed, last year, both of these to improve the use of DNA technology in prosecuting criminals.

DNA is accurate, it never forgets, it cannot be intimidated by a prosecutor; and we have to put this technology to use in convicting criminals and freeing the innocent.

In the 105th Congress, I offered legislation to provide funding to process the backlog of DNA evidence in rape cases. After holding a hearing, along with former Representative Steve Horn, with a courageous rape survivor, Debbie Smith, she recounted how in 1989 she was dragged from her kitchen and raped in her backyard while her husband was asleep upstairs. She lived in fear for years because the rapist said that he would come back and kill her. Then she finally learned after 6 years that, through DNA processing, they had found a cold hit identifying her assailant, who had been jailed 6 months after her assault for another crime, but for 6 long years she literally lived in agony.

It was because of Debbie Smith's story that I introduced the Debbie Smith Act, which would help combat the epidemic of violence against women in the United States, where a sexual assault occurs every 2 minutes.

We know that DNA processing techniques could serve as a conclusive proof in countless other rape cases, and many of us were outraged when we learned that there were hundreds of thousands of backlogged rape kits collecting dust across this country, but they did not have adequate support for the crime labs and adequate government funding to process them.

The bill would accomplish several critical objectives in Title II of the bill, the Debbie Smith Act, which includes providing funding to process the backlog of DNA evidence, setting national standards for DNA evidence collection, creating a national DNA file in the FBI for rapists and criminals who cross State lines, and providing grant money for a sexual assault forensic examiner program. The police tell us if they have the evidence from the same program, it almost always leads to a conviction. It also provides funding to train law enforcement authorities on the collection and handling of DNA evidence.

I want to say that the dismal reality in this country is that only 6 percent, according to the FBI, only 6 percent of women who have been raped will ever see their attacker spend a day in jail. Yet we know that each unprocessed DNA kit represents a life like Debbie Smith's, and it represents a rapist which the FBI tells us will attack, on the average, eight times. By processing this evidence, we may be able not only to convict rapists, but to prevent them from harming other men and women in our country.

So this is tremendously important legislation, and the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Illinois (Mr. LAHOOD) have talked about other aspects of it. We should all join in passing it. I hope that every Member of this body will join in supporting this important effort.

May I add that Lifetime Television started a national petition in support of this bill. Many, many organizations, RAINN and others, have worked tirelessly with this body to pass it. We thank them, too.

Mr. SENSENBRENNER. Mr. Speaker, I yield 2 minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Speaker, I thank the gentleman for yielding me time.

I just want to thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for such hard work on this bill and for making the changes that they have made to it to make it a better bill. I also want to commend the gentleman from Massachusetts (Mr. DELAHUNT) for his untiring work on this issue over so many years, and certainly we need something like this bill. We need to make sure that those who are innocent have their day in court, all they need in court.

I do have some concerns about this bill. I feel compelled to note them. There are still some problematic areas here.

For example, H.R. 5107 contains a provision permitting post-conviction DNA testing of convicts who have pleaded guilty. Even though those convicts may have not even requested DNA testing that was available at the time of their trial, this will permit defendants to reopen cases, to retraumatize victims and waste resources, even if there is no reason to think that testing will change the outcome of the case.

The bill also contains a 5-year limitation on the duration of its proposed post-conviction DNA testing remedy, but it also contains a large loophole. A convicted inmate may seek new testing more than 5 years after the conviction if they can prove that it is in the interest of justice. This is an opportunity to flout the time limits and will undoubtedly attract lawyers to do so. There is no reason to permit this testing past the 5-year mark. To do so simply invites abuse and retraumatizes victims.

A person who is actually innocent, think about it, they have every reason to seek relief promptly, to request an available test immediately. Those who seek to delay that are simply looking to hide something. They are looking to delay until it is impossible for the government to retry the case. Think about it. Years later, if we have a case where eyewitness and other testimony might conflict or actually supplement or add to DNA testing there, it is impossible to retry a case 20 years later because witnesses may be gone, other evidence may be gone. So we need to make sure that the remedies are sought early, not later.

With that, I hope that these other concerns are addressed with the other body so that we can have a good bill on this subject.

Mr. DELAHUNT. Mr. Speaker, I yield 2½ minutes to the gentleman from Illinois (Mr. RUSH), my friend, who has championed justice throughout his career. And I would point out that it was in Illinois, through the efforts of some students at the Northwestern School of Journalism that first brought this to the attention of the country, and that a former governor in Illinois, George Ryan, had the courage to raise this issue, to make it a national issue and to bring it to the attention of those who are concerned about the search for truth.

Mr. RUSH. Mr. Speaker, I rise in support of the bill, H.R. 5107.

Mr. Speaker, I want to congratulate the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the full committee, and I certainly want to congratulate and commend the gentleman from Massachusetts (Mr. DELAHUNT).

□ 1200

The gentleman's tireless work, his dedicated work over the many years has certainly borne fruit in this legislation, and I want to extend my congratulations to all those who have played such a vital role in bringing this legislation to the floor here this morning.

Mr. Speaker, the legislation that we are considering provides grants, approximately $2 billion over 5 years, to States and local governments for DNA testing. This bill would help eliminate the backlog in the testing of DNA samples from criminal defendants and inmates, including those from rape kits. It would also enhance access to DNA analysis by inmates and improve the quality of legal representation in State capital cases. But, Mr. Speaker, more importantly, this bill will also provide victims of crimes with new rights, such as the right to a reasonable, accurate and timely notice of any public court proceeding involving the crime of or the release or the escape of the accused, so vital, so necessary for the victims of crime in our country today. It would also allow victims to be reasonably heard at any public proceeding involving the release, plea or sentencing of the accused.

Mr. Speaker, as it has been stated time and time again, something is wrong with our criminal justice system here in America. I believe that the criminal justice system here in America is broken. Time and time again we have seen innocent people spend years on death row for crimes that they did not commit.

Mr. Speaker, we can all agree that a death sentence is the ultimate punishment in the criminal justice system, and the imposition of such a sentence warrants absolute certainty, a 100 percent certainty that the person accused is guilty of the crime committed. That said, Mr. Speaker, all safeguards should be utilized, including DNA testing, before capital sentences are imposed.

Mr. Speaker, the gentleman from Massachusetts (Mr. DELAHUNT) and others have alluded to the actions of our State, our Governor, and, Mr. Speaker, I am proud to stand in support of this legislation. I think it is a testimony to his courage that the Congress is now considering this bill.

Mr. DELAHUNT. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), my friend and colleague and a leader on the Committee on the Judiciary.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I wish to offer my sincere applause to the gentleman from Massachusetts (Mr. DELAHUNT) and the gentleman from Illinois (Mr. LAHOOD). I know the work they have done and the effective work our chairman has done. The gentleman from Wisconsin (Mr. SENSENBRENNER) has done a very effective job, along with the gentleman from Michigan (Mr. CONYERS).

I mentioned in the rule the very important elements, and I want to again refer very quickly to those important elements of this legislation and to the legislation that I introduced, H.R.89, Save Our Children: Stop the Violent Predators Against Children DNA act of 2003. This legislation that we will be passing, and I hope we can work it out with the Senate, will lay the groundwork for legislation that will help enhance victims' rights and bring about justice.

I happen to represent an organization that I have worked with over a number of years, called Justice For All, a victims' rights organization, and this is a good day for them because it does have elements of protecting or respecting victims. As the co-chair and founder of the Congressional Children's Caucus, I have deeply been impacted by the negative violent acts against our children, and I believe the legislation I coauthored will be a wonderful complement to this.

We realize the important role that archived DNA evidence played in the case of Elizabeth Smart who was kidnapped from her bedroom at knifepoint in 2002 by Mitchell, 50, and his wife, Wanda Barzee. So we realize this can be an important component to this legislation.

We also know this legislation will be helpful to the DNA labs around the country. I have mentioned the Houston judicial system, which convicted Josiah Sutton in 1998 of the rape of a woman whose body was dumped in a Fort Bend County field. The court eventually granted him bail in March after an independent lab determined that he was sentenced to 25 years in prison for a rape he did not commit, but he stayed in prison for a very long period of time.

This DNA bill will help get us back on track for the victims and the innocent. Attorney Neufeld remarked that the most important question for the people of Houston and the people of Texas is what went wrong that allowed this young man to be convicted for a crime he did not commit?

Now, Mr. Speaker, let me indicate that I happen to think that the 5-year provision on filing a motion could be extended, but I am grateful that lawyers can show that, if there is compelling evidence or show that there is an added reason to go beyond the 5 years, that they will have it. I would have preferred a straight 10-year period, because, Mr. Speaker, I can assure you that people incarcerated do not have the resources, do not hear about it, do not know, and there are not all these lawyers running around to represent incarcerated persons. This balance is for the victims' families and the tragedy that comes about.

And the last thing I will say is that I hope we look at the standards so that we can be assured of the victims' rights but also the protection of this bill. Again, this is a blow against injustice. This is a strike for justice and fairness as relates to those incarcerated unfairly or charged unfairly and for our victims. And I ask my colleagues to support this legislation.

Mr. Speaker, I rise in support of this important legislation that is the result of much work and bi-partisan collaboration. Our work on this legislation, H.R. 5107, the Justice For All Act of 2004 will have far-reaching implications for victims of violent or sexual crimes, suspected perpetrators of these crimes, and individuals who have been wrongfully implicated for the commission of these crimes. Therefore, it is vital that we have good faith collaboration among our colleagues in passing it through this body and on the Floor of the Committee of the Whole.

While I am a co-sponsor of this legislation, as I was of one of its components, H.R. 3214, the Advancing Justice Through DNA Technology Act, I hope that I am able to work with my colleagues to incorporate important provisions of legislation that I introduced, H.R. 89, the "Save Our Children: Stop the Violent Predators Against Children DNA Act of 2003" into this legislation as we move to debate before the Committee of the Whole.

As co-founder and chair of the Congressional Children's Caucus, I am deeply committed to doing everything possible to ensure the safety of our children and the expeditious capture of predators that seek to do them harm. The thrust of my legislation is to create a DNA database of child sexual offenders, to supplement the database currently maintained by each of the 50 States, so that we can better protect America's children from these criminals.

I introduced this legislation, in part, as a result of the important role that property-kept and archived DNA evidence played in the case of Elizabeth Smart, who was kidnapped from her bedroom at knifepoint in 2002 by Mitchell, 50, and his wife Wanda Barzee, 58. The safe return of Elizabeth Smart has shown us that the involvement of DNA evidence can help prevent what otherwise might have been a tragic ending.

The technological tool that this legislation employs must be improved because it plays such a key role in streamlining and expediting our criminal justice system. Our law enforcement agencies are becoming increasingly more reliant upon the analysis of deoxyribonucleic acid (DNA) to verify or rule out the identity of a suspect or a charged individual in processing criminal cases. The more reliant we become, the more our individual rights are at stake. We must, however, significantly raise the bar of our technology and the standards of review for DNA and ballistics crime lab accreditation to minimize mistakes that cost people years of their lives.

Provided that our bipartisan coalition is fortunate enough to pass this legislation today, as I stated before, I hope to engage with my colleagues to fashion the inclusion of provisions of my legislation in the bill as transmitted to the Committee of the Whole.

On July 7, I offered an amendment to H.R. 4754, the Commerce, Justice, and State Department Appropriations bill. The Jackson-Lee amendment called for a $10 million increase of the Community Oriented Policing Services (COPS) program that deals with DNA analysis and sought to minimize the margin of error that threatens individual liberties and rights.

CRIME LAB ACCREDITATION

The certification of our crime labs for conformance to our accepted standards is done by groups such as the American Society of Crime Laboratory Directors (ASCLD). The accreditation process is part of a laboratory's quality assurance program that should also include proficiency testing, continuing education and other programs to help the laboratory give better overall service to the criminal justice system. Certification and accreditation are done via a process of self-evaluation led by individual crime laboratory directors.

Our labs are not functioning at optimum levels, and this sub-par performance translates to the miscarriage of justice and prosecution of innocent people. Improvement of lab performance begins with tighter employment policies for the lab staff. For example, the ASCLD's Credential Review Committee has a DNA Advisory Board and codified standards for its technical staff. The following was taken from its website:

> DNA Advisory Board Standard 5.2.1.1 provides a mechanism for waiving the educational requirements for current technical leaders/technical managers who do not meet the degree requirements of section 5.2.1 but who otherwise qualify based on knowledge and experience. Consequently, ASCLD has established this procedure for obtaining a waiver.
>
> One waiver is available per laboratory if the current technical leader/technical manager does not meet the degree requirements of DAB Standard 5.2.1. Waivers are available only to current technical leaders/technical managers. Waivers are permanent and portable for the recipient individual. A laboratory may request a second waiver if the first recipient leaves the employ of the laboratory.

Although experience is quite important in selecting staff, formal education and increased resources are vital when it comes to technical performance and the legal implications of that performance. I hope that the State and local grant programs found in sections 204, 206, 304, 308, and 412 will help cities like Houston vastly improve the standards of its DNA/ballistics lab accreditation.

TEXAS LAW AND CRIME LAB ACCREDITATION

In 2001, Texas passed a law formalizing a process for post-conviction access to DNA testing. The Texas Court of Criminal Appeals, however, has not applied the law as it was designed to work and has denied access to testing in a number of cases.

The Texas House passed a bill in April of last year requiring crime laboratories that test DNA to meet accreditation standards, a law designed to prevent future scandals like the one that recently plagued the Houston Police Department.

The Houston Judicial System convicted Josiah Sutton in 1998 for the rape of a woman whose body was dumped in a Fort Bend County field. But the Court eventually granted him bail in March after an independent lab determined that he was sentenced to 25 years in prison for a rape he didn't commit. An audit and an ongoing series of retesting of DNA samples by the Texas Department of Public Safety and a crime lab professional from Tarrant County revealed potential contamination problems at the subject lab as well as poor working conditions and inadequate training.

Attorney Neufeld remarked that:

> [t]he most important question for the people of Houston and the people of Texas is, "What went wrong that allowed this young man to be convicted for a crime he didn't commit?"
>
> And it is absolutely clear that what you have going on is a system of malpractice by the Houston crime laboratory that allows its criminalists to distort and conceal evidence.

What I fear about the dangers of poor training and placement of checks may be summed up by what Neufeld added:

> One of the biggest problems of . . . [crime labs] is that they [are] much more concerned with being a servant to the police and prosecutors than they [are] to science . . . [a]nd if people want to pursue a career in science, the word science has to come before law enforcement.

The objectivity that is required to make forensic science effective must be divorced from the latitude exercised by some of our law enforcement personnel. Therefore, we must include adequate technology and resources to prevent injustice and the ruination of young lives like the young Houston man, Josiah Sutton.

Furthermore, other problems with DNA testing in criminal cases affect the inmate directly. The discretion with which the decision whether to use DNA testing leaves room for inconsistent adjudication and differential treatment of convicted persons. Statutory guidelines regarding when to order the test would exclude some cases that might not meet the standards but still might deserve testing. Moreover, some inmates who seek exoneration may request executive clemency. In addition to requiring very difficult measures to achieve justice, some argue that the tests administered are inadequate because they do not provide specific, clear, and fair procedures for inmates to bring claim of innocence.

In addition to negligent handling or unskilled analysis of DNA evidence, the backlog of cases causes our criminal justice system to crumble despite the level of sophistication of our technology. Houston police have turned over about 525 case files involving DNA testing to the Harris County district attorney's office, which has said that at least 25 cases warrant re-testing, including those of seven people on death row. The numbers will grow significantly as more files are collected and analyzed, according to the assistant district attorney supervising the project.

The Fort Worth police crime lab's serology/DNA unit has been criticized recently for a backlog that was slowing down court cases. The unit's performance suffers from understaffing and overworking.

My concern as to the practice of using these DNA tests is that the inmates' civil liberties and rights to due process are continually placed into jeopardy because of a lack of resources. Furthermore, our staffing and personnel problems threaten to undermine the benefits of technology.

Mr. Speaker, with this legislation, I hope that the problems that I have enumerated can be mitigated and addressed. I support this legislation and ask that my colleagues do the same.

Mr. DELAHUNT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, the issue raised by the gentleman from Arizona (Mr. FLAKE) was one of the most vexatious issues in the negotiations that are leading up to the manager's amendment, which I will offer shortly. And the most difficult of the issues that the manager's amendment deals with relates to the time limit for seeking post-conviction DNA testing.

On one side there were a group of people who wanted to have no time limit at all, and a motion could be made at any time as long as the defendant was still alive and in jail. On the other side, there were people who wanted to have a hard and fast limit, and the shorter the limitation possible they were in favor of. Those people said that defendants would simply game the system waiting until the witnesses had died and the DNA had evaporated and, consequently, there would not be enough evidence to conduct a retrial.

The compromise that was worked out, I think, is a fair one. For the first 5 years after conviction, there is a rebuttable presumption in favor of the test. After 5 years, there is a rebuttable presumption against the test, but the defendant can get a motion granted if the court finds that the applicant was incompetent at trial, there is newly discovered DNA evidence, or that denial of the motion to retest would result in manifest injustice or for good cause shown.

So, for the first 5 years, the burden is on the prosecution to show that the test should not be granted. After 5 years, the burden effectively is on the defendant to show that the test should be granted for the reasons that I have enumerated.

I believe that takes care of the concerns that the gentleman from Arizona (Mr. FLAKE) has expressed, and I would urge adoption of the manager's amendment and overwhelming support of the bill.

Mr. Speaker, I ask unanimous consent that a letter from the National District Attorneys Association expressing support for the manager's amendment to H.R. 5107 be included in the RECORD.

NATIONAL DISTRICT ATTORNEYS
ASSOCIATION,
Alexandria, VA, October 6, 2001.

Hon. JIM SENSENBRENNER,
Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

Hon. JOHN CONYERS Jr.,
Committee on the Judiciary, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN SENSENBRENNER AND CONGRESSMAN CONYERS: As President of the National District Attorneys Association I want to express my support for the Managers Amendment that I understand has been offered to H.R. 5107 the "Justice For All Act."

The Amendment has addressed our major concerns with the "Advancing Justice Through DNA Technology Act." The clear indication that Capital Resource Centers are not to be funded through federal funds is important as is the stipulation that the funding is to be used for training counsel in capital cases.

While the compromise standard for new trials does not reach our criteria of a "preponderance" it is a marked improvement over prior efforts.

The importance of DNA to our system of criminal justice cannot be over emphasized and the problems that our laboratories and courts are encountering are in our daily headlines. "The Justice For All Act" provides the resources desperately needed by the states to overcome serious impediments to the effective use of DNA to seek justice and truth in our criminal justice system.

Sincerely,

PAUL F. WALSH Jr.,
District Attorney, Bristol County, MA, President, National District Attorneys Association.

Ms. PRYCE of Ohio. Mr. Speaker, as a woman, a former prosecutor and judge, and Federal representative for Ohio's 15th district, I rise today in support of H.R. 5107, the Justice For All Act.

Sadly, for far too many women, the grief of rape and other forms of sexual assault is compounded by the lack of apprehension, prosecution and conviction of the perpetrator. As my community has recently witnessed first hand with the arrest of accused serial rapist Robert Patton, Jr. in the Columbus area, linking DNA obtained at rape scenes to the DNA of felons already convicted of crimes through the FBI's combined DNA Index System is often the best change we have to close a painful chapter in the lives of women who have been the victims of rape and sexual assault. It is also the best chance to put rapists behind bars before they have a chance to repeat their crimes.

Last year, the Federal government provided $100 million to speed up the processing of untested DNA through the Department of Justice and the DNA Index System. And recently, the

House passed legislation to increase this amount by over 75 percent to $176 million—mirroring the President's budget request.

Funding is critical, but it is only part of the solution. Making needed improvements to the way the system operates is also essential.

That's why I signed on as an original cosponsor and plan to vote for the Justice for All Act today. This legislation will not only increase the amount of funding available for DNA analysis, but it will also lift some of the barriers that currently stand in the way of ensuring DNA technology is used effectively and efficiently. Specifically, it will focus on eliminating the backlog of DNA samples collected from crime scenes and convicted offenders and improving the DNA testing capacity of federal, state, and local crime laboratories. These two initiatives will have a direct effect on crime fighting in my state of Ohio, which has an extensive backlog of DNA samples that need to be tested.

I pledge to continue to work with my colleagues to further identify the gaps in our system and push for, and implement, effective solutions. And I call upon our partners at the state and local level to do the same. Together, with the support of law enforcement and the citizens in our community, we can put into place a speedier and fairer justice system for victims of rape and sexual assault, always keeping in mind our ultimate goal of preventing these heinous crimes in the first place.

Mr. ROYCE. Mr. Speaker, I am pleased that the Crime Victims' Rights Act was included in H.R. 5107, the Justice for All Act. I have long been an advocate of victim's rights. I am the author of the first State anti-stalking law in the country. At the Federal level, I introduced the Interstate Stalking Punishment and Prevention Act, which was signed into law, making it a felony to cross State lines to stalk someone.

As a State senator, I worked to establish rights for crime victims in California's state constitution as author and campaign co-chair of Proposition 115, the Crime Victims/Speedy Trial Initiative. I have been working for the passage of a Federal victims' rights bill for quite sometime. I introduced a victim's rights bill in the House and cosponsored the Chabot bill, included in H.R. 5107.

Because victims' rights vary from State to State, a Federal law would help ensure that all victims have at least a minimum level of rights in the criminal justice process. Our legal system must properly protect the rights of the accused and it should provide similar protection for the rights of victims. The bill establishes enhanced rights and protections for all victims of crime and spells out how these rights are to be enforced. In addition, the bill helps States implement and enforce victim's rights laws and retain their full power to protect victims in the ways most appropriate to local concerns and local needs.

This bill is a positive step forward for crime victims' rights and I look forward to it becoming law.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. All time for debate on the bill has expired.

AMENDMENT OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The SPEAKER pro tempore (Mr. TERRY). The Clerk will designate the amendment:

The text of the amendment is as follows:

Amendment offered by Mr. SENSENBRENNER:

Page 2, after line 7, in the item in the table of contents relating to TITLE I, strike "CAMBELL" and insert "CAMPBELL".

Page 3, line 1, strike "CAMBELL" and insert "CAMPBELL".

Page 4, line 12, insert after "proceeding" the following: ", or any parole proceeding,".

Page 4, line 16, insert after "the court" the following: ", after receiving clear and convincing evidence,".

Page 4, line 18, strike "affected" and insert "altered".

Page 4, line 21, insert after "proceeding" the following: "in the district court".

Page 4, lines 21–22, strike "or sentencing" and insert ", sentencing, or any parole proceeding".

Page 5, line 10, strike "Before" and all that follows through "the right" on line 11 and inserting "Before making a determination".

Page 7, line 2, strike "such motion" and insert "any motion asserting a victim's right".

Page 7, line 12, strike "day," and all that follows through "trial," and insert "days".

Page 7, line 13, insert after the period the following: "If the court of appeals denies the relief sought, the reasons for the denial shall be clearly stated on the record in a written opinion.".

Page 7, line 20, strike ", or" and all that follows through the end of line 22 and insert ". A victim may make a motion to re-open a plea or sentence only if—

"(A) the victim has asserted the right to be heard before or during the proceeding at issue and such right was denied;

"(B) the victim petitions the court of appeals for a writ of mandamus within 10 days; and

"(C) in the case of a plea, the accused has not pled to the highest offense charged.

This paragraph does not affect the victim's right to restitution as provided in title 18, United States Code.".

Page 15, strike line 4 and all that follows through the end of the bill (titles II, III, and IV) and insert the following new titles:

TITLE II—DEBBIE SMITH ACT OF 2004

SEC. 201. SHORT TITLE.

This title may be cited as the "Debbie Smith Act of 2004".

SEC. 202. DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.

(a) DESIGNATION OF PROGRAM; ELIGIBILITY OF LOCAL GOVERNMENTS AS GRANTEES.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) by amending the heading to read as follows:

"SEC. 2. THE DEBBIE SMITH DNA BACKLOG GRANT PROGRAM.";

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "or units of local government" after "eligible States"; and

(ii) by inserting "or unit of local government" after "State";

(B) in paragraph (2), by inserting before the period at the end the following: ", including samples from rape kits, samples from other sexual assault evidence, and samples taken in cases without an identified suspect"; and

(C) in paragraph (3), by striking "within the State";

(3) in subsection (b)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "or unit of local government" after "State" both places that term appears; and

(ii) by inserting ", as required by the Attorney General" after "application shall";

(B) in paragraph (1), by inserting "or unit of local government" after "State";

(C) in paragraph (3), by inserting "or unit of local government" after "State" the first place that term appears;

(D) in paragraph (4)—

(i) by inserting "or unit of local government" after "State"; and

(ii) by striking "and" at the end;

(E) in paragraph (5)—

(i) by inserting "or unit of local government" after "State"; and

(ii) by striking the period at the end and inserting a semicolon; and

(F) by adding at the end the following:

"(6) if submitted by a unit of local government, certify that the unit of local government has taken, or is taking, all necessary steps to ensure that it is eligible to include, directly or through a State law enforcement agency, all analyses of samples for which it has requested funding in the Combined DNA Index System; and";

(4) in subsection (d)—

(A) in paragraph (1)—

(i) in the matter preceding subparagraph (A), by striking "The plan" and inserting "A plan pursuant to subsection (b)(1)";

(ii) in subparagraph (A), by striking "within the State"; and

(iii) in subparagraph (B), by striking "within the State"; and

(B) in paragraph (2)(A), by inserting "and units of local government" after "States";

(5) in subsection (e)—

(A) in paragraph (1), by inserting "or local government" after "State" both places that term appears; and

(B) in paragraph (2), by inserting "or unit of local government" after "State";

(6) in subsection (f), in the matter preceding paragraph (1), by inserting "or unit of local government" after "State";

(7) in subsection (g)—

(A) in paragraph (1), by inserting "or unit of local government" after "State"; and

(B) in paragraph (2), by inserting "or units of local government" after "States"; and

(8) in subsection (h), by inserting "or unit of local government" after "State" both places that term appears.

(b) REAUTHORIZATION AND EXPANSION OF PROGRAM.—Section 2 of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135) is amended—

(1) in subsection (a)—

(A) in paragraph (3), by inserting "(1) or" before "(2)"; and

(B) by inserting at the end the following:

"(4) To collect DNA samples specified in paragraph (1).

"(5) To ensure that DNA testing and analysis of samples from crimes, including sexual assault and other serious violent crimes, are carried out in a timely manner.";

(2) in subsection (b), as amended by this section, by inserting at the end the following:

"(7) specify that portion of grant amounts that the State or unit of local government shall use for the purpose specified in subsection (a)(4).";

(3) by amending subsection (c) to read as follows:

"(c) FORMULA FOR DISTRIBUTION OF GRANTS.—

"(1) IN GENERAL.—The Attorney General shall distribute grant amounts, and establish appropriate grant conditions under this section, in conformity with a formula or formulas that are designed to effectuate a distribution of funds among eligible States and units of local government that—

"(A) maximizes the effective utilization of DNA technology to solve crimes and protect public safety; and

"(B) allocates grants among eligible entities fairly and efficiently to address jurisdictions in which significant backlogs exist, by considering—

"(i) the number of offender and casework samples awaiting DNA analysis in a jurisdiction;

"(ii) the population in the jurisdiction; and

"(iii) the number of part 1 violent crimes in the jurisdiction.

"(2) MINIMUM AMOUNT.—The Attorney General shall allocate to each State not less than 0.50 percent of the total amount appropriated in a fiscal year for grants under this section, except that the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands shall each be allocated 0.125 percent of the total appropriation.

"(3) LIMITATION.—Grant amounts distributed under paragraph (1) shall be awarded to conduct DNA analyses of samples from casework or from victims of crime under subsection (a)(2) in accordance with the following limitations:

"(A) For fiscal year 2005, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(B) For fiscal year 2006, not less than 50 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(C) For fiscal year 2007, not less than 45 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(D) For fiscal year 2008, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).

"(E) For fiscal year 2009, not less than 40 percent of the grant amounts shall be awarded for purposes under subsection (a)(2).";

(4) in subsection (g)—

(A) in paragraph (1), by striking "and" at the end;

(B) in paragraph (2), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(3) a description of the priorities and plan for awarding grants among eligible States and units of local government, and how such plan will ensure the effective use of DNA technology to solve crimes and protect public safety.";

(5) in subsection (j), by striking paragraphs (1) and (2) and inserting the following:

"(1) $151,000,000 for fiscal year 2005;

"(2) $151,000,000 for fiscal year 2006;

"(3) $151,000,000 for fiscal year 2007;

"(4) $151,000,000 for fiscal year 2008; and

"(5) $151,000,000 for fiscal year 2009."; and

(6) by adding at the end the following:

"(k) USE OF FUNDS FOR ACCREDITATION AND AUDITS.—The Attorney General may distribute not more than 1 percent of the grant amounts under subsection (j)—

"(1) to States or units of local government to defray the costs incurred by laboratories operated by each such State or unit of local government in preparing for accreditation or reaccreditation;

"(2) in the form of additional grants to States, units of local government, or nonprofit professional organizations of persons actively involved in forensic science and nationally recognized within the forensic science community—

"(A) to defray the costs of external audits of laboratories operated by such State or unit of local government, which participates in the National DNA Index System, to determine whether the laboratory is in compliance with quality assurance standards;

"(B) to assess compliance with any plans submitted to the National Institute of Justice, which detail the use of funds received by States or units of local government under this Act; and

"(C) to support future capacity building efforts; and

"(3) in the form of additional grants to nonprofit professional associations actively involved in forensic science and nationally recognized within the forensic science community to defray the costs of training persons who conduct external audits of laboratories operated by States and units of local government and which participate in the National DNA Index System.

"(l) USE OF FUNDS FOR OTHER FORENSIC SCIENCES.—The Attorney General may award a grant under this section to a State or unit of local government to alleviate a backlog of cases with respect to a forensic science other than DNA analysis if the State or unit of local government—

"(1) certifies to the Attorney General that in such State or unit—

"(A) all of the purposes set forth in subsection (a) have been met;

"(B) a significant backlog of casework is not waiting for DNA analysis; and

"(C) there is no need for significant laboratory equipment, supplies, or additional personnel for timely DNA processing of casework or offender samples; and

"(2) demonstrates to the Attorney General that such State or unit requires assistance in alleviating a backlog of cases involving a forensic science other than DNA analysis.

"(m) EXTERNAL AUDITS AND REMEDIAL EFFORTS.—In the event that a laboratory operated by a State or unit of local government which has received funds under this Act has undergone an external audit conducted to determine whether the laboratory is in compliance with standards established by the Director of the Federal Bureau of Investigation, and, as a result of such audit, identifies measures to remedy deficiencies with respect to the compliance by the laboratory with such standards, the State or unit of local government shall implement any such remediation as soon as practicable.".

SEC. 203. EXPANSION OF COMBINED DNA INDEX SYSTEM.

(a) INCLUSION OF ALL DNA SAMPLES FROM STATES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132) is amended—

(1) in subsection (a)(1), by striking "of persons convicted of crimes;" and inserting the following: "of—

"(A) persons convicted of crimes;

"(B) persons who have been charged in an indictment or information with a crime; and

"(C) other persons whose DNA samples are collected under applicable legal authorities, provided that DNA profiles from arrestees who have not been charged in an indictment or information with a crime, and DNA samples that are voluntarily submitted solely for elimination purposes shall not be included in the National DNA Index System;"; and

(2) in subsection (d)(2)—

(A) by striking "if the responsible agency" and inserting "if—

"(i) the responsible agency";

(B) by striking the period at the end and inserting "; or"; and

(C) by adding at the end the following:

"(ii) the person has not been convicted of an offense on the basis of which that analysis was or could have been included in the index, and all charges for which the analysis was or could have been included in the index have been dismissed or resulted in acquittal.".

(b) FELONS CONVICTED OF FEDERAL CRIMES.—Section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d)) is amended to read as follows:

"(d) QUALIFYING FEDERAL OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying Federal offenses are the following offenses, as determined by the Attorney General:

"(1) Any felony.

"(2) Any offense under chapter 109A of title 18, United States Code.

"(3) Any crime of violence (as that term is defined in section 16 of title 18, United States Code).

"(4) Any attempt or conspiracy to commit any of the offenses in paragraphs (1) through (3).".

(c) MILITARY OFFENSES.—Section 1565(d) of title 10, United States Code, is amended to read as follows:

"(d) QUALIFYING MILITARY OFFENSES.—The offenses that shall be treated for purposes of this section as qualifying military offenses are the following offenses, as determined by the Secretary of Defense, in consultation with the Attorney General:

"(1) Any offense under the Uniform Code of Military Justice for which a sentence of confinement for more than one year may be imposed.

"(2) Any other offense under the Uniform Code of Military Justice that is comparable to a qualifying Federal offense (as determined under section 3(d) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135a(d))).".

(d) KEYBOARD SEARCHES.—Section 210304 of the DNA Identification Act of 1994 (42 U.S.C. 14132), as amended by subsection (a), is further amended by adding at the end the following new subsection:

"(e) AUTHORITY FOR KEYBOARD SEARCHES.—

"(1) IN GENERAL.—The Director shall ensure that any person who is authorized to access the index described in subsection (a) for purposes of including information on DNA identification records or DNA analyses in that index may also access that index for purposes of carrying out a one-time keyboard search on information obtained from any DNA sample lawfully collected for a criminal justice purpose except for a DNA sample voluntarily submitted solely for elimination purposes.

"(2) DEFINITION.—For purposes of paragraph (1), the term 'keyboard search' means a search under which information obtained from a DNA sample is compared with information in the index without resulting in the information obtained from a DNA sample being included in the index.

"(3) NO PREEMPTION.—This subsection shall not be construed to preempt State law."

(e) INCREASED PENALTIES FOR MISUSE OF DNA ANALYSES.—(1) Section 210305(c)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14133(c)(2)) is amended by striking "$100,000" and inserting "$250,000, or imprisoned for a period of not more than one year, or both".

(2) Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended by striking "$100,000" and inserting "$250,000, or imprisoned for a period of not more than one year, or both".

(f) REPORT TO CONGRESS.—If the Department of Justice plans to modify or supplement the core genetic markers needed for compatibility with the CODIS system, it shall notify the Judiciary Committee of the Senate and the Judiciary Committee of the House of Representatives in writing not later than 180 days before any change is made and explain the reasons for such change.

SEC. 204. TOLLING OF STATUTE OF LIMITATIONS.

(a) IN GENERAL.—Chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"§ 3297. Cases involving DNA evidence

"In a case in which DNA testing implicates an identified person in the commission of a felony, except for a felony offense under chapter 109A, no statute of limitations that would otherwise preclude prosecution of the offense shall preclude such prosecution until a period of time following the implication of the person by DNA testing has elapsed that is equal to the otherwise applicable limitation period.".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 213 of title 18, United States Code, is amended by adding at the end the following:

"3297. Cases involving DNA evidence.".

(c) APPLICATION.—The amendments made by this section shall apply to the prosecution of any offense committed before, on, or after the date of the enactment of this section if the applicable limitation period has not yet expired.

SEC. 205. LEGAL ASSISTANCE FOR VICTIMS OF VIOLENCE.

Section 1201 of the Violence Against Women Act of 2000 (42 U.S.C. 3796gg-6) is amended—

(1) in subsection (a), by inserting "dating violence," after "domestic violence,";

(2) in subsection (b)—

(A) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively;

(B) by inserting before paragraph (2), as redesignated by subparagraph (A), the following:

"(1) DATING VIOLENCE.—The term 'dating violence' means violence committed by a person who is or has been in a social relationship of a romantic or intimate nature with the victim. The existence of such a relationship shall be determined based on a consideration of—

"(A) the length of the relationship;

"(B) the type of relationship; and

"(C) the frequency of interaction between the persons involved in the relationship."; and

(C) in paragraph (3), as redesignated by subparagraph (A), by inserting "dating violence," after "domestic violence,";

(3) in subsection (c)—

(A) in paragraph (1)—

(i) by inserting ", dating violence," after "between domestic violence"; and

(ii) by inserting "dating violence," after "victims of domestic violence,";

(B) in paragraph (2), by inserting "dating violence," after "domestic violence,"; and

(C) in paragraph (3), by inserting "dating violence," after "domestic violence,";

(4) in subsection (d)—

(A) in paragraph (1), by inserting ", dating violence," after "domestic violence";

(B) in paragraph (2), by inserting ", dating violence," after "domestic violence";

(C) in paragraph (3), by inserting ", dating violence," after "domestic violence"; and

(D) in paragraph (4), by inserting "dating violence," after "domestic violence,";

(5) in subsection (e), by inserting "dating violence," after "domestic violence,"; and

(6) in subsection (f)(2)(A), by inserting "dating violence," after "domestic violence,".

SEC. 206. ENSURING PRIVATE LABORATORY ASSISTANCE IN ELIMINATING DNA BACKLOG.

Section 2(d)(3) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135(d)(3)) is amended to read as follows:

"(3) USE OF VOUCHERS OR CONTRACTS FOR CERTAIN PURPOSES.—

"(A) IN GENERAL.—A grant for the purposes specified in paragraph (1), (2), or (5) of subsection (a) may be made in the form of a voucher or contract for laboratory services, even if the laboratory makes a reasonable profit for the services.

"(B) REDEMPTION.—A voucher or contract under subparagraph (A) may be redeemed at a laboratory operated on a nonprofit or for-profit basis, by a private entity that satisfies quality assurance standards and has been approved by the Attorney General.

"(C) PAYMENTS.—The Attorney General may use amounts authorized under subsection (j) to make payments to a laboratory described under subparagraph (B).".

TITLE III—DNA SEXUAL ASSAULT JUSTICE ACT OF 2004

SEC. 301. SHORT TITLE.

This title may be cited as the "DNA Sexual Assault Justice Act of 2004".

SEC. 302. ENSURING PUBLIC CRIME LABORATORY COMPLIANCE WITH FEDERAL STANDARDS.

Section 210304(b)(2) of the DNA Identification Act of 1994 (42 U.S.C. 14132(b)(2)) is amended to read as follows:

"(2) prepared by laboratories that—

"(A) not later than 2 years after the date of enactment of the DNA Sexual Assault Justice Act of 2004, have been accredited by a nonprofit professional association of persons actively involved in forensic science that is nationally recognized within the forensic science community; and

"(B) undergo external audits, not less than once every 2 years, that demonstrate compliance with standards established by the Director of the Federal Bureau of Investigation; and".

SEC. 303. DNA TRAINING AND EDUCATION FOR LAW ENFORCEMENT, CORRECTIONAL PERSONNEL, AND COURT OFFICERS.

(a) IN GENERAL.—The Attorney General shall make grants to provide training, technical assistance, education, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by—

(1) law enforcement personnel, including police officers and other first responders, evidence technicians, investigators, and others who collect or examine evidence of crime;

(2) court officers, including State and local prosecutors, defense lawyers, and judges;

(3) forensic science professionals; and

(4) corrections personnel, including prison and jail personnel, and probation, parole, and other officers involved in supervision.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $12,500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 304. SEXUAL ASSAULT FORENSIC EXAM PROGRAM GRANTS.

(a) IN GENERAL.—The Attorney General shall make grants to eligible entities to provide training, technical assistance, education, equipment, and information relating to the identification, collection, preservation, analysis, and use of DNA samples and DNA evidence by medical personnel and other personnel, including doctors, medical examiners, coroners, nurses, victim service providers, and other professionals involved in treating victims of sexual assault and sexual assault examination programs, including SANE (Sexual Assault Nurse Examiner), SAFE (Sexual Assault Forensic Examiner), and SART (Sexual Assault Response Team).

(b) ELIGIBLE ENTITY.—For purposes of this section, the term "eligible entity" includes—

(1) States;

(2) units of local government; and

(3) sexual assault examination programs, including—

(A) sexual assault nurse examiner (SANE) programs;

(B) sexual assault forensic examiner (SAFE) programs;

(C) sexual assault response team (SART) programs;

(D) State sexual assault coalitions;

(E) medical personnel, including doctors, medical examiners, coroners, and nurses, involved in treating victims of sexual assault; and

(F) victim service providers involved in treating victims of sexual assault.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $30,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 305. DNA RESEARCH AND DEVELOPMENT.

(a) IMPROVING DNA TECHNOLOGY.—The Attorney General shall make grants for research and development to improve forensic DNA technology, including increasing the identification accuracy and efficiency of DNA analysis, decreasing time and expense, and increasing portability.

(b) DEMONSTRATION PROJECTS.—The Attorney General shall make grants to appropriate entities under which research is carried out through demonstration projects involving coordinated training and commitment of resources to law enforcement agencies and key criminal justice participants to demonstrate and evaluate the use of forensic DNA technology in conjunction with other forensic tools. The demonstration projects shall include scientific evaluation of the public safety benefits, improvements to law enforcement operations, and cost-effectiveness of increased collection and use of DNA evidence.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 306. NATIONAL FORENSIC SCIENCE COMMISSION.

(a) APPOINTMENT.—The Attorney General shall appoint a National Forensic Science Commission (in this section referred to as the "Commission"), composed of persons experienced in criminal justice issues, including persons from the forensic science and criminal justice communities, to carry out the responsibilities under subsection (b).

(b) RESPONSIBILITIES.—The Commission shall—

(1) assess the present and future resource needs of the forensic science community;

(2) make recommendations to the Attorney General for maximizing the use of forensic technologies and techniques to solve crimes and protect the public;

(3) identify potential scientific advances that may assist law enforcement in using forensic technologies and techniques to protect the public;

(4) make recommendations to the Attorney General for programs that will increase the number of qualified forensic scientists available to work in public crime laboratories;

(5) disseminate, through the National Institute of Justice, best practices concerning

the collection and analyses of forensic evidence to help ensure quality and consistency in the use of forensic technologies and techniques to solve crimes and protect the public;

(6) examine additional issues pertaining to forensic science as requested by the Attorney General;

(7) examine Federal, State, and local privacy protection statutes, regulations, and practices relating to access to, or use of, stored DNA samples or DNA analyses, to determine whether such protections are sufficient;

(8) make specific recommendations to the Attorney General, as necessary, to enhance the protections described in paragraph (7) to ensure—

(A) the appropriate use and dissemination of DNA information;

(B) the accuracy, security, and confidentiality of DNA information;

(C) the timely removal and destruction of obsolete, expunged, or inaccurate DNA information; and

(D) that any other necessary measures are taken to protect privacy; and

(9) provide a forum for the exchange and dissemination of ideas and information in furtherance of the objectives described in paragraphs (1) through (8).

(c) Personnel; Procedures.—The Attorney General shall—

(1) designate the Chair of the Commission from among its members;

(2) designate any necessary staff to assist in carrying out the functions of the Commission; and

(3) establish procedures and guidelines for the operations of the Commission.

(d) Authorization of Appropriations.—There are authorized to be appropriated $500,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 307. FBI DNA PROGRAMS.

(a) Authorization of Appropriations.—There are authorized to be appropriated to the Federal Bureau of Investigation $42,100,000 for each of fiscal years 2005 through 2009 to carry out the DNA programs and activities described under subsection (b).

(b) Programs and Activities.—The Federal Bureau of Investigation may use any amounts appropriated pursuant to subsection (a) for—

(1) nuclear DNA analysis;

(2) mitochondrial DNA analysis;

(3) regional mitochondrial DNA laboratories;

(4) the Combined DNA Index System;

(5) the Federal Convicted Offender DNA Program; and

(6) DNA research and development.

SEC. 308. DNA IDENTIFICATION OF MISSING PERSONS.

(a) In General.—The Attorney General shall make grants to promote the use of forensic DNA technology to identify missing persons and unidentified human remains.

(b) Requirement.—Each State or unit of local government that receives funding under this section shall be required to submit the DNA profiles of such missing persons and unidentified human remains to the National Missing Persons DNA Database of the Federal Bureau of Investigation.

(c) Authorization of Appropriations.—There are authorized to be appropriated $2,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

SEC. 309. ENHANCED CRIMINAL PENALTIES FOR UNAUTHORIZED DISCLOSURE OR USE OF DNA INFORMATION.

Section 10(c) of the DNA Analysis Backlog Elimination Act of 2000 (42 U.S.C. 14135e(c)) is amended to read as follows:

"(c) Criminal Penalty.—A person who knowingly discloses a sample or result described in subsection (a) in any manner to any person not authorized to receive it, or obtains or uses, without authorization, such sample or result, shall be fined not more than $250,000, or imprisoned for a period of not more than one year. Each instance of disclosure, obtaining, or use shall constitute a separate offense under this subsection.".

SEC. 310. TRIBAL COALITION GRANTS.

(a) In General.—Section 2001 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796gg) is amended by adding at the end the following:

"(d) Tribal Coalition Grants.—

"(1) Purpose.—The Attorney General shall award grants to tribal domestic violence and sexual assault coalitions for purposes of—

"(A) increasing awareness of domestic violence and sexual assault against American Indian and Alaska Native women;

"(B) enhancing the response to violence against American Indian and Alaska Native women at the tribal, Federal, and State levels; and

"(C) identifying and providing technical assistance to coalition membership and tribal communities to enhance access to essential services to American Indian women victimized by domestic and sexual violence.

"(2) Grants to tribal coalitions.—The Attorney General shall award grants under paragraph (1) to—

"(A) established nonprofit, nongovernmental tribal coalitions addressing domestic violence and sexual assault against American Indian and Alaska Native women; and

"(B) individuals or organizations that propose to incorporate as nonprofit, nongovernmental tribal coalitions to address domestic violence and sexual assault against American Indian and Alaska Native women.

"(3) Eligibility for other grants.—Receipt of an award under this subsection by tribal domestic violence and sexual assault coalitions shall not preclude the coalition from receiving additional grants under this title to carry out the purposes described in subsection (b).".

(b) Technical Amendment.—Effective as of November 2, 2002, and as if included therein as enacted, Public Law 107-273 (116 Stat. 1789) is amended in section 402(2) by striking "sections 2006 through 2011" and inserting "sections 2007 through 2011".

(c) Amounts.—Section 2007 of the Omnibus Crime Control and Safe Streets Act of 1968 (as redesignated by section 402(2) of Public Law 107-273, as amended by subsection (b)) is amended by amending subsection (b)(4) (42 U.S.C. 3796gg-1(b)(4)) to read as follows:

"(4) 1/54 shall be available for grants under section 2001(d);".

SEC. 311. EXPANSION OF PAUL COVERDELL FORENSIC SCIENCES IMPROVEMENT GRANT PROGRAM.

(a) Forensic Backlog Elimination Grants.—Section 2804 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797m) is amended—

(1) in subsection (a)—

(A) by striking "shall use the grant to carry out" and inserting "shall use the grant to do any one or more of the following:

"(1) To carry out"; and

(B) by adding at the end the following:

"(2) To eliminate a backlog in the analysis of forensic science evidence, including firearms examination, latent prints, toxicology, controlled substances, forensic pathology, questionable documents, and trace evidence.

"(3) To train, assist, and employ forensic laboratory personnel, as needed, to eliminate such a backlog.";

(2) in subsection (b), by striking "under this part" and inserting "for the purpose set forth in subsection (a)(1)"; and

(3) by adding at the end the following:

"(e) Backlog Defined.—For purposes of this section, a backlog in the analysis of forensic science evidence exists if such evidence—

"(1) has been stored in a laboratory, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility; and

"(2) has not been subjected to all appropriate forensic testing because of a lack of resources or personnel.".

(b) External Audits.—Section 2802 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3797k) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) in paragraph (3), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(4) a certification that a government entity exists and an appropriate process is in place to conduct independent external investigations into allegations of serious negligence or misconduct substantially affecting the integrity of the forensic results committed by employees or contractors of any forensic laboratory system, medical examiner's office, coroner's office, law enforcement storage facility, or medical facility in the State that will receive a portion of the grant amount.".

(c) Three-Year Extension of Authorization of Appropriations.—Section 1001(a)(24) of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3793(a)(24)) is amended—

(1) in subparagraph (E), by striking "and" at the end;

(2) in subparagraph (F), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(G) $20,000,000 for fiscal year 2007;

"(H) $20,000,000 for fiscal year 2008; and

"(I) $20,000,000 for fiscal year 2009.".

(d) Technical Amendment.—Section 1001(a) of such Act, as amended by subsection (c), is further amended by realigning paragraphs (24) and (25) so as to be flush with the left margin.

SEC. 312. REPORT TO CONGRESS.

(a) In General.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit to Congress a report on the implementation of this title and the amendments made by this title.

(b) Contents.—The report submitted under subsection (a) shall include a description of—

(1) the progress made by Federal, State, and local entities in—

(A) collecting and entering DNA samples from offenders convicted of qualifying offenses for inclusion in the Combined DNA Index System (referred to in this subsection as "CODIS");

(B) analyzing samples from crime scenes, including evidence collected from sexual assaults and other serious violent crimes, and entering such DNA analyses in CODIS; and

(C) increasing the capacity of forensic laboratories to conduct DNA analyses;

(2) the priorities and plan for awarding grants among eligible States and units of local government to ensure that the purposes of this title are carried out;

(3) the distribution of grant amounts under this title among eligible States and local governments, and whether the distribution of such funds has served the purposes of the Debbie Smith DNA Backlog Grant Program;

(4) grants awarded and the use of such grants by eligible entities for DNA training and education programs for law enforcement, correctional personnel, court officers, medical personnel, victim service providers, and other personnel authorized under sections 303 and 304;

(5) grants awarded and the use of such grants by eligible entities to conduct DNA research and development programs to improve forensic DNA technology, and implement demonstration projects under section 305;

(6) the steps taken to establish the National Forensic Science Commission, and the activities of the Commission under section 306;

(7) the use of funds by the Federal Bureau of Investigation under section 307;

(8) grants awarded and the use of such grants by eligible entities to promote the use of forensic DNA technology to identify missing persons and unidentified human remains under section 308;

(9) grants awarded and the use of such grants by eligible entities to eliminate forensic science backlogs under the amendments made by section 202;

(10) State compliance with the requirements set forth in section 313; and

(11) any other matters considered relevant by the Attorney General.

TITLE IV—INNOCENCE PROTECTION ACT OF 2004

SEC. 401. SHORT TITLE.

This title may be cited as the "Innocence Protection Act of 2004".

Subtitle A—Exonerating the Innocent Through DNA Testing

SEC. 411. FEDERAL POST-CONVICTION DNA TESTING.

(a) Federal Criminal Procedure.—

(1) In general.—Part II of title 18, United States Code, is amended by inserting after chapter 228 the following:

"CHAPTER 228A—POST-CONVICTION DNA TESTING

"Sec.
"3600. DNA testing.
"3600A. Preservation of biological evidence.

"§ 3600. DNA testing

"(a) In General.—Upon a written motion by an individual under a sentence of imprisonment or death pursuant to a conviction for a Federal offense (referred to in this section as the 'applicant'), the court that entered the judgment of conviction shall order DNA testing of specific evidence if the court finds that all of the following apply:

"(1) The applicant asserts, under penalty of perjury, that the applicant is actually innocent of—

"(A) the Federal offense for which the applicant is under a sentence of imprisonment or death; or

"(B) another Federal or State offense, if—

"(i) evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or new sentencing hearing; and

"(ii) in the case of a State offense—

"(I) the applicant demonstrates that there is no adequate remedy under State law to permit DNA testing of the specified evidence relating to the State offense; and

"(II) to the extent available, the applicant has exhausted all remedies available under State law for requesting DNA testing of specified evidence relating to the State offense.

"(2) The specific evidence to be tested was secured in relation to the investigation or prosecution of the Federal or State offense referenced in the applicant's assertion under paragraph (1).

"(3) The specific evidence to be tested—

"(A) was not previously subjected to DNA testing and the applicant did not—

"(i) knowingly and voluntarily waive the right to request DNA testing of that evidence in a court proceeding after the date of enactment of the Innocence Protection Act of 2004; or

"(ii) knowingly fail to request DNA testing of that evidence in a prior motion for postconviction DNA testing; or

"(B) was previously subjected to DNA testing and the applicant is requesting DNA testing using a new method or technology that is substantially more probative than the prior DNA testing.

"(4) The specific evidence to be tested is in the possession of the Government and has been subject to a chain of custody and retained under conditions sufficient to ensure that such evidence has not been substituted, contaminated, tampered with, replaced, or altered in any respect material to the proposed DNA testing.

"(5) The proposed DNA testing is reasonable in scope, uses scientifically sound methods, and is consistent with accepted forensic practices.

"(6) The applicant identifies a theory of defense that—

"(A) is not inconsistent with an affirmative defense presented at trial; and

"(B) would establish the actual innocence of the applicant of the Federal or State offense referenced in the applicant's assertion under paragraph (1).

"(7) If the applicant was convicted following a trial, the identity of the perpetrator was at issue in the trial.

"(8) The proposed DNA testing of the specific evidence may produce new material evidence that would—

"(A) support the theory of defense referenced in paragraph (6); and

"(B) raise a reasonable probability that the applicant did not commit the offense.

"(9) The applicant certifies that the applicant will provide a DNA sample for purposes of comparison.

"(10) The motion is made in a timely fashion, subject to the following conditions:

"(A) There shall be a rebuttable presumption of timeliness if the motion is made within 60 months of enactment of the Justice For All Act of 2004 or within 36 months of conviction, whichever comes later. Such presumption may be rebutted upon a showing—

"(i) that the applicant's motion for a DNA test is based solely upon information used in a previously denied motion; or

"(ii) of clear and convincing evidence that applicant's filing is done solely to cause delay or harass.

"(B) There shall be a rebuttable presumption against timeliness for any motion not satisfying subparagraph (A) above. Such presumption may be rebutted upon the court's finding—

"(i) that the applicant was or is incompetent and such incompetence substantially contributed to the delay in the applicant's motion for a DNA test;

"(ii) the evidence to be tested is newly discovered DNA evidence;

"(iii) that applicant's motion is not based solely upon the applicant's own assertion of innocence and, after considering all relevant facts and circumstances surrounding the motion, a denial would result in a manifest injustice; or

"(iv) upon good cause shown.

"(C) For purposes of this paragraph—

"(i) the term 'incompetence' has the meaning as defined in section 4241 of title 18, United States Code;

"(ii) the term 'manifest' means that which is unmistakable, clear, plain, or indisputable and requires that the opposite conclusion be clearly evident.

"(b) Notice to the Government; Preservation Order; Appointment of Counsel.—

"(1) Notice.—Upon the receipt of a motion filed under subsection (a), the court shall—

"(A) notify the Government; and

"(B) allow the Government a reasonable time period to respond to the motion.

"(2) Preservation order.—To the extent necessary to carry out proceedings under this section, the court shall direct the Government to preserve the specific evidence relating to a motion under subsection (a).

"(3) Appointment of counsel.—The court may appoint counsel for an indigent applicant under this section in the same manner as in a proceeding under section 3006A(a)(2)(B).

"(c) Testing Procedures.—

"(1) In general.—The court shall direct that any DNA testing ordered under this section be carried out by the Federal Bureau of Investigation.

"(2) Exception.—Notwithstanding paragraph (1), the court may order DNA testing by another qualified laboratory if the court makes all necessary orders to ensure the integrity of the specific evidence and the reliability of the testing process and test results.

"(3) Costs.—The costs of any DNA testing ordered under this section shall be paid—

"(A) by the applicant; or

"(B) in the case of an applicant who is indigent, by the Government.

"(d) Time Limitation in Capital Cases.—In any case in which the applicant is sentenced to death—

"(1) any DNA testing ordered under this section shall be completed not later than 60 days after the date on which the Government responds to the motion filed under subsection (a); and

"(2) not later than 120 days after the date on which the DNA testing ordered under this section is completed, the court shall order any post-testing procedures under subsection (f) or (g), as appropriate.

"(e) Reporting of Test Results.—

"(1) In general.—The results of any DNA testing ordered under this section shall be simultaneously disclosed to the court, the applicant, and the Government.

"(2) NDIS.—The Government shall submit any test results relating to the DNA of the applicant to the National DNA Index System (referred to in this subsection as 'NDIS').

"(3) Retention of DNA sample.—

"(A) Entry into NDIS.—If the DNA test results obtained under this section are inconclusive or show that the applicant was the source of the DNA evidence, the DNA sample of the applicant may be retained in NDIS.

"(B) Match with other offense.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant results in a match between the DNA sample of the applicant and another offense, the Attorney General shall notify the appropriate agency and preserve the DNA sample of the applicant.

“(C) NO MATCH.—If the DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, and a comparison of the DNA sample of the applicant does not result in a match between the DNA sample of the applicant and another offense, the Attorney General shall destroy the DNA sample of the applicant and ensure that such information is not retained in NDIS if there is no other legal authority to retain the DNA sample of the applicant in NDIS.

“(f) POST-TESTING PROCEDURES; INCONCLUSIVE AND INCULPATORY RESULTS.—

“(1) INCONCLUSIVE RESULTS.—If DNA test results obtained under this section are inconclusive, the court may order further testing, if appropriate, or may deny the applicant relief.

“(2) INCULPATORY RESULTS.—If DNA test results obtained under this section show that the applicant was the source of the DNA evidence, the court shall—

“(A) deny the applicant relief; and

“(B) on motion of the Government—

“(i) make a determination whether the applicant's assertion of actual innocence was false, and, if the court makes such a finding, the court may hold the applicant in contempt;

“(ii) assess against the applicant the cost of any DNA testing carried out under this section;

“(iii) forward the finding to the Director of the Bureau of Prisons, who, upon receipt of such a finding, may deny, wholly or in part, the good conduct credit authorized under section 3632 on the basis of that finding;

“(iv) if the applicant is subject to the jurisdiction of the United States Parole Commission, forward the finding to the Commission so that the Commission may deny parole on the basis of that finding; and

“(v) if the DNA test results relate to a State offense, forward the finding to any appropriate State official.

“(3) SENTENCE.—In any prosecution of an applicant under chapter 79 for false assertions or other conduct in proceedings under this section, the court, upon conviction of the applicant, shall sentence the applicant to a term of imprisonment of not less than 3 years, which shall run consecutively to any other term of imprisonment the applicant is serving.

“(g) POST-TESTING PROCEDURES; MOTION FOR NEW TRIAL OR RESENTENCING.—

“(1) IN GENERAL.—Notwithstanding any law that would bar a motion under this paragraph as untimely, if DNA test results obtained under this section exclude the applicant as the source of the DNA evidence, the applicant may file a motion for a new trial or resentencing, as appropriate. The court shall establish a reasonable schedule for the applicant to file such a motion and for the Government to respond to the motion.

“(2) STANDARD FOR GRANTING MOTION FOR NEW TRIAL OR RESENTENCING.—The court shall grant the motion of the applicant for a new trial or resentencing, as appropriate, if the DNA test results, when considered with all other evidence in the case (regardless of whether such evidence was introduced at trial), establish by compelling evidence that a new trial would result in an acquittal of—

“(A) in the case of a motion for a new trial, the Federal offense for which the applicant is under a sentence of imprisonment or death; and

“(B) in the case of a motion for resentencing, another Federal or State offense, if evidence of such offense was admitted during a Federal death sentencing hearing and exoneration of such offense would entitle the applicant to a reduced sentence or a new sentencing proceeding.

“(h) OTHER LAWS UNAFFECTED.—

“(1) POST-CONVICTION RELIEF.—Nothing in this section shall affect the circumstances under which a person may obtain DNA testing or post-conviction relief under any other law.

“(2) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.

“(3) NOT A MOTION UNDER SECTION 2255.—A motion under this section shall not be considered to be a motion under section 2255 for purposes of determining whether the motion or any other motion is a second or successive motion under section 2255.

“§ 3600A. Preservation of biological evidence

“(a) IN GENERAL.—Notwithstanding any other provision of law, the Government shall preserve biological evidence that was secured in the investigation or prosecution of a Federal offense, if a defendant is under a sentence of imprisonment for such offense.

“(b) DEFINED TERM.—For purposes of this section, the term ‘biological evidence’ means—

“(1) a sexual assault forensic examination kit; or

“(2) semen, blood, saliva, hair, skin tissue, or other identified biological material.

“(c) APPLICABILITY.—Subsection (a) shall not apply if—

“(1) a court has denied a request or motion for DNA testing of the biological evidence by the defendant under section 3600, and no appeal is pending;

“(2) the defendant knowingly and voluntarily waived the right to request DNA testing of the biological evidence in a court proceeding conducted after the date of enactment of the Innocence Protection Act of 2004;

“(3) after a conviction becomes final and the defendant has exhausted all opportunities for direct review of the conviction, the defendant is notified that the biological evidence may be destroyed and the defendant does not file a motion under section 3600 within 180 days of receipt of the notice;

“(4)(A) the evidence must be returned to its rightful owner, or is of such a size, bulk, or physical character as to render retention impracticable; and

“(B) the Government takes reasonable measures to remove and preserve portions of the material evidence sufficient to permit future DNA testing; or

“(5) the biological evidence has already been subjected to DNA testing under section 3600 and the results included the defendant as the source of such evidence.

“(d) OTHER PRESERVATION REQUIREMENT.—Nothing in this section shall preempt or supersede any statute, regulation, court order, or other provision of law that may require evidence, including biological evidence, to be preserved.

“(e) REGULATIONS.—Not later than 180 days after the date of enactment of the Innocence Protection Act of 2004, the Attorney General shall promulgate regulations to implement and enforce this section, including appropriate disciplinary sanctions to ensure that employees comply with such regulations.

“(f) CRIMINAL PENALTY.—Whoever knowingly and intentionally destroys, alters, or tampers with biological evidence that is required to be preserved under this section with the intent to prevent that evidence from being subjected to DNA testing or prevent the production or use of that evidence in an official proceeding, shall be fined under this title, imprisoned for not more than 5 years, or both.

“(g) HABEAS CORPUS.—Nothing in this section shall provide a basis for relief in any Federal habeas corpus proceeding.”.

(2) CLERICAL AMENDMENT.—The chapter analysis for part II of title 18, United States Code, is amended by inserting after the item relating to chapter 228 the following:

“228A. Post-conviction DNA testing ... 3600”.

(b) SYSTEM FOR REPORTING MOTIONS.—

(1) ESTABLISHMENT.—The Attorney General shall establish a system for reporting and tracking motions filed in accordance with section 3600 of title 18, United States Code.

(2) OPERATION.—In operating the system established under paragraph (1), the Federal courts shall provide to the Attorney General any requested assistance in operating such a system and in ensuring the accuracy and completeness of information included in that system.

(3) REPORT.—Not later than 2 years after the date of enactment of this Act, the Attorney General shall submit a report to Congress that contains—

(A) a list of motions filed under section 3600 of title 18, United States Code, as added by this title;

(B) whether DNA testing was ordered pursuant to such a motion;

(C) whether the applicant obtained relief on the basis of DNA test results; and

(D) whether further proceedings occurred following a granting of relief and the outcome of such proceedings.

(4) ADDITIONAL INFORMATION.—The report required to be submitted under paragraph (3) may include any other information the Attorney General determines to be relevant in assessing the operation, utility, or costs of section 3600 of title 18, United States Code, as added by this title, and any recommendations the Attorney General may have relating to future legislative action concerning that section.

(c) EFFECTIVE DATE; APPLICABILITY.—This section and the amendments made by this section shall take effect on the date of enactment of this Act and shall apply with respect to any offense committed, and to any judgment of conviction entered, before, on, or after that date of enactment.

SEC. 412. KIRK BLOODSWORTH POST-CONVICTION DNA TESTING GRANT PROGRAM.

(a) IN GENERAL.—The Attorney General shall establish the Kirk Bloodsworth Post-Conviction DNA Testing Grant Program to award grants to States to help defray the costs of post-conviction DNA testing.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of fiscal years 2005 through 2009 to carry out this section.

(c) STATE DEFINED.—For purposes of this section, the term “State” means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

SEC. 413. INCENTIVE GRANTS TO STATES TO ENSURE CONSIDERATION OF CLAIMS OF ACTUAL INNOCENCE.

For each of fiscal years 2005 through 2009, all funds appropriated to carry out sections 303, 305, 308, and 412 shall be reserved for grants to eligible entities that—

(1) meet the requirements under section 303, 305, 308, or 412, as appropriate; and

(2) demonstrate that the State in which the eligible entity operates—

(A) provides post-conviction DNA testing of specified evidence—

(i) under a State statute enacted before the date of enactment of this Act (or extended or renewed after such date), to persons convicted after trial and under a sentence of imprisonment or death for a State felony offense, in a manner that ensures a reasonable process for resolving claims of actual innocence; or

(ii) under a State statute enacted after the date of enactment of this Act, or under a State rule, regulation, or practice, to persons under a sentence of imprisonment or death for a State felony offense, in a manner comparable to section 3600(a) of title 18, United States Code (provided that the State statute, rule, regulation, or practice may make post-conviction DNA testing available in cases in which such testing is not required by such section), and if the results of such testing exclude the applicant, permits the applicant to apply for post-conviction relief, notwithstanding any provision of law that would otherwise bar such application as untimely; and

(B) preserves biological evidence secured in relation to the investigation or prosecution of a State offense—

(i) under a State statute or a State or local rule, regulation, or practice, enacted or adopted before the date of enactment of this Act (or extended or renewed after such date), in a manner that ensures that reasonable measures are taken by all jurisdictions within the State to preserve such evidence; or

(ii) under a State statute or a State or local rule, regulation, or practice, enacted or adopted after the date of enactment of this Act, in a manner comparable to section 3600A of title 18, United States Code, if—

(I) all jurisdictions within the State comply with this requirement; and

(II) such jurisdictions may preserve such evidence for longer than the period of time that such evidence would be required to be preserved under such section 3600A.

Subtitle B—Improving the Quality of Representation in State Capital Cases

SEC. 421. CAPITAL REPRESENTATION IMPROVEMENT GRANTS.

(a) In General.—The Attorney General shall award grants to States for the purpose of improving the quality of legal representation provided to indigent defendants in State capital cases.

(b) Defined Term.—In this section, the term "legal representation" means legal counsel and investigative, expert, and other services necessary for competent representation.

(c) Use of Funds.—Grants awarded under subsection (a)—

(1) shall be used to establish, implement, or improve an effective system for providing competent legal representation to—

(A) indigents charged with an offense subject to capital punishment;

(B) indigents who have been sentenced to death and who seek appellate or collateral relief in State court; and

(C) indigents who have been sentenced to death and who seek review in the Supreme Court of the United States; and

(2) shall not be used to fund, directly or indirectly, representation in specific capital cases.

(d) Apportionment of Funds.—

(1) In general.—Of the funds awarded under subsection (a)—

(A) not less than 75 percent shall be used to carry out the purpose described in subsection (c)(1)(A); and

(B) not more than 25 percent shall be used to carry out the purpose described in subsection (c)(1)(B).

(2) Waiver.—The Attorney General may waive the requirement under this subsection for good cause shown.

(e) Effective System.—As used in subsection (c)(1), an effective system for providing competent legal representation is a system that—

(1) invests the responsibility for appointing qualified attorneys to represent indigents in capital cases—

(A) in a public defender program that relies on staff attorneys, members of the private bar, or both, to provide representation in capital cases;

(B) in an entity established by statute or by the highest State court with jurisdiction in criminal cases, which is composed of individuals with demonstrated knowledge and expertise in capital representation; or

(C) pursuant to a statutory procedure enacted before the date of the enactment of this Act under which the trial judge is required to appoint qualified attorneys from a roster maintained by a State or regional selection committee or similar entity; and

(2) requires the program described in paragraph (1)(A), the entity described in paragraph (1)(B), or an appropriate entity designated pursuant to the statutory procedure described in paragraph (1)(C), as applicable, to—

(A) establish qualifications for attorneys who may be appointed to represent indigents in capital cases;

(B) establish and maintain a roster of qualified attorneys;

(C) except in the case of a selection committee or similar entity described in paragraph (1)(C), assign 2 attorneys from the roster to represent an indigent in a capital case, or provide the trial judge a list of not more than 2 pairs of attorneys from the roster, from which 1 pair shall be assigned, provided that, in any case in which the State elects not to seek the death penalty, a court may find, subject to any requirement of State law, that a second attorney need not remain assigned to represent the indigent to ensure competent representation;

(D) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases;

(E)(i) monitor the performance of attorneys who are appointed and their attendance at training programs; and

(ii) remove from the roster attorneys who—

(I) fail to deliver effective representation or engage in unethical conduct;

(II) fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs; or

"(III) during the past 5 years, have been sanctioned by a bar association or court for ethical misconduct relating to the attorney's conduct as defense counsel in a criminal case in Federal or State court; and

(F) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, who shall be compensated—

(i) in the case of a State that employs a statutory procedure described in paragraph (1)(C), in accordance with the requirements of that statutory procedure; and

(ii) in all other cases, as follows:

(I) Attorneys employed by a public defender program shall be compensated according to a salary scale that is commensurate with the salary scale of the prosecutor's office in the jurisdiction.

(II) Appointed attorneys shall be compensated for actual time and service, computed on an hourly basis and at a reasonable hourly rate in light of the qualifications and experience of the attorney and the local market for legal representation in cases reflecting the complexity and responsibility of capital cases.

(III) Non-attorney members of the defense team, including investigators, mitigation specialists, and experts, shall be compensated at a rate that reflects the specialized skills needed by those who assist counsel with the litigation of death penalty cases.

(IV) Attorney and non-attorney members of the defense team shall be reimbursed for reasonable incidental expenses.

SEC. 422. CAPITAL PROSECUTION IMPROVEMENT GRANTS.

(a) In General.—The Attorney General shall award grants to States for the purpose of enhancing the ability of prosecutors to effectively represent the public in State capital cases.

(b) Use of Funds.—

(1) Permitted uses.—Grants awarded under subsection (a) shall be used for one or more of the following:

(A) To design and implement training programs for State and local prosecutors to ensure effective representation in State capital cases.

(B) To develop and implement appropriate standards and qualifications for State and local prosecutors who litigate State capital cases.

(C) To assess the performance of State and local prosecutors who litigate State capital cases, provided that such assessment shall not include participation by the assessor in the trial of any specific capital case.

(D) To identify and implement any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases.

(E) To establish a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate.

(F) To provide support and assistance to the families of murder victims.

(2) Prohibited use.—Grants awarded under subsection (a) shall not be used to fund, directly or indirectly, the prosecution of specific capital cases.

SEC. 423. APPLICATIONS.

(a) In General.—The Attorney General shall establish a process through which a State may apply for a grant under this subtitle.

(b) Application.—

(1) In general.—A State desiring a grant under this subtitle shall submit an application to the Attorney General at such time, in such manner, and containing such information as the Attorney General may reasonably require.

(2) Contents.—Each application submitted under paragraph (1) shall contain—

(A) a certification by an appropriate officer of the State that the State authorizes capital punishment under its laws and conducts, or will conduct, prosecutions in which capital punishment is sought;

(B) a description of the communities to be served by the grant, including the nature of existing capital defender services and capital prosecution programs within such communities;

(C) a long-term statewide strategy and detailed implementation plan that—

(i) reflects consultation with the judiciary, the organized bar, and State and local prosecutor and defender organizations; and

(ii) establishes as a priority improvement in the quality of trial-level representation of indigents charged with capital crimes and trial-level prosecution of capital crimes;

(D) in the case of a State that employs a statutory procedure described in section 421(e)(1)(C), a certification by an appropriate officer of the State that the State is in substantial compliance with the requirements of the applicable State statute; and

(E) assurances that Federal funds received under this subtitle shall be—

(i) used to supplement and not supplant non-Federal funds that would otherwise be available for activities funded under this subtitle; and

(ii) allocated in accordance with section 426(b).

SEC. 424. STATE REPORTS.

(a) In General.—Each State receiving funds under this subtitle shall submit an annual report to the Attorney General that—

(1) identifies the activities carried out with such funds; and

(2) explains how each activity complies with the terms and conditions of the grant.

(b) Capital Representation Improvement Grants.—With respect to the funds provided under section 421, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) an explanation of the means by which the State—

(A) invests the responsibility for identifying and appointing qualified attorneys to represent indigents in capital cases in a program described in section 421(e)(1)(A), an entity described in section 421(e)(1)(B), or a selection committee or similar entity described in section 421(e)(1)(C); and

(B) requires such program, entity, or selection committee or similar entity, or other appropriate entity designated pursuant to the statutory procedure described in section 421(e)(1)(C), to—

(i) establish qualifications for attorneys who may be appointed to represent indigents in capital cases in accordance with section 421(e)(2)(A);

(ii) establish and maintain a roster of qualified attorneys in accordance with section 421(e)(2)(B);

(iii) assign attorneys from the roster in accordance with section 421(e)(2)(C);

(iv) conduct, sponsor, or approve specialized training programs for attorneys representing defendants in capital cases in accordance with section 421(e)(2)(D);

(v) monitor the performance and training program attendance of appointed attorneys, and remove from the roster attorneys who fail to deliver effective representation or fail to comply with such requirements as such program, entity, or selection committee or similar entity may establish regarding participation in training programs, in accordance with section 421(e)(2)(E); and

(vi) ensure funding for the cost of competent legal representation by the defense team and outside experts selected by counsel, in accordance with section 421(e)(2)(F), including a statement setting forth—

(I) if the State employs a public defender program under section 421(e)(1)(A), the salaries received by the attorneys employed by such program and the salaries received by attorneys in the prosecutor's office in the jurisdiction;

(II) if the State employs appointed attorneys under section 421(e)(1)(B), the hourly fees received by such attorneys for actual time and service and the basis on which the hourly rate was calculated;

(III) the amounts paid to non-attorney members of the defense team, and the basis on which such amounts were determined; and

(IV) the amounts for which attorney and non-attorney members of the defense team were reimbursed for reasonable incidental expenses;

(3) in the case of a State that employs a statutory procedure described in section 421(e)(1)(C), an assessment of the extent to which the State is in compliance with the requirements of the applicable State statute; and

(4) a statement confirming that the funds have not been used to fund representation in specific capital cases or to supplant non-Federal funds.

(c) Capital Prosecution Improvement Grants.—With respect to the funds provided under section 422, a report under subsection (a) shall include—

(1) an accounting of all amounts expended;

(2) a description of the means by which the State has—

(A) designed and established training programs for State and local prosecutors to ensure effective representation in State capital cases in accordance with section 422(b)(1)(A);

(B) developed and implemented appropriate standards and qualifications for State and local prosecutors who litigate State capital cases in accordance with section 422(b)(1)(B);

(C) assessed the performance of State and local prosecutors who litigate State capital cases in accordance with section 422(b)(1)(C);

(D) identified and implemented any potential legal reforms that may be appropriate to minimize the potential for error in the trial of capital cases in accordance with section 422(b)(1)(D);

(E) established a program under which State and local prosecutors conduct a systematic review of cases in which a death sentence was imposed in order to identify cases in which post-conviction DNA testing may be appropriate in accordance with section 422(b)(1)(E); and

(F) provided support and assistance to the families of murder victims; and

(3) a statement confirming that the funds have not been used to fund the prosecution of specific capital cases or to supplant non-Federal funds.

(d) Public Disclosure of Annual State Reports.—The annual reports to the Attorney General submitted by any State under this section shall be made available to the public.

SEC. 425. EVALUATIONS BY INSPECTOR GENERAL AND ADMINISTRATIVE REMEDIES.

(a) Evaluation by Inspector General.—

(1) In general.—As soon as practicable after the end of the first fiscal year for which a State receives funds under a grant made under this subtitle, the Inspector General of the Department of Justice (in this section referred to as the "Inspector General") shall—

(A) submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report evaluating the compliance by the State with the terms and conditions of the grant; and

(B) if the Inspector General concludes that the State is not in compliance with the terms and conditions of the grant, specify any deficiencies and make recommendations to the Attorney General for corrective action.

(2) Priority.—In conducting evaluations under this subsection, the Inspector General shall give priority to States that the Inspector General determines, based on information submitted by the State and other comments provided by any other person, to be at the highest risk of noncompliance.

(3) Determination for statutory procedure states.—For each State that employs a statutory procedure described in section 421(e)(1)(C), the Inspector General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate, not later than the end of the first fiscal year for which such State receives funds, a determination as to whether the State is in substantial compliance with the requirements of the applicable State statute.

(4) Comments from public.—The Inspector General shall receive and consider comments from any member of the public regarding any State's compliance with the terms and conditions of a grant made under this subtitle. To facilitate the receipt of such comments, the Inspector General shall maintain on its website a form that any member of the public may submit, either electronically or otherwise, providing comments. The Inspector General shall give appropriate consideration to all such public comments in reviewing reports submitted under section 424 or in establishing the priority for conducting evaluations under this section.

(b) Administrative Review.—

(1) Comment.—Upon the submission of a report under subsection (a)(1) or a determination under subsection (a)(3), the Attorney General shall provide the State with an opportunity to comment regarding the findings and conclusions of the report or the determination.

(2) Corrective action plan.—If the Attorney General, after reviewing a report under subsection (a)(1) or a determination under subsection (a)(3), determines that a State is not in compliance with the terms and conditions of the grant, the Attorney General shall consult with the appropriate State authorities to enter into a plan for corrective action. If the State does not agree to a plan for corrective action that has been approved by the Attorney General within 90 days after the submission of the report under subsection (a)(1) or the determination under subsection (a)(3), the Attorney General shall, within 30 days, issue guidance to the State regarding corrective action to bring the State into compliance.

(3) Report to congress.—Not later than 90 days after the earlier of the implementation of a corrective action plan or the issuance of guidance under paragraph (2), the Attorney General shall submit a report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate as to whether the State has taken corrective action and is in compliance with the terms and conditions of the grant.

(c) Penalties for Noncompliance.—If the State fails to take the prescribed corrective action under subsection (b) and is not in compliance with the terms and conditions of the grant, the Attorney General shall discontinue all further funding under sections 421 and 422 and require the State to return the funds granted under such sections for that fiscal year. Nothing in this paragraph shall prevent a State which has been subject to penalties for noncompliance from reapplying for a grant under this subtitle in another fiscal year.

(d) Periodic Reports.—During the grant period, the Inspector General shall periodically review the compliance of each State with the terms and conditions of the grant.

(e) Administrative Costs.—Not less than 2.5 percent of the funds appropriated to carry out this subtitle for each of fiscal years 2005 through 2009 shall be made available to the Inspector General for purposes of carrying out this section. Such sums shall remain available until expended.

(f) SPECIAL RULE FOR "STATUTORY PROCEDURE" STATES NOT IN SUBSTANTIAL COMPLIANCE WITH STATUTORY PROCEDURES.—

(1) IN GENERAL.—In the case of a State that employs a statutory procedure described in section 421(e)(1)(C), if the Inspector General submits a determination under subsection (a)(3) that the State is not in substantial compliance with the requirements of the applicable State statute, then for the period beginning with the date on which that determination was submitted and ending on the date on which the Inspector General determines that the State is in substantial compliance with the requirements of that statute, the funds awarded under this subtitle shall be allocated solely for the uses described in section 421.

(2) RULE OF CONSTRUCTION.—The requirements of this subsection apply in addition to, and not instead of, the other requirements of this section.

SEC. 426. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION FOR GRANTS.—There are authorized to be appropriated $75,000,000 for each of fiscal years 2005 through 2009 to carry out this subtitle.

(b) RESTRICTION ON USE OF FUNDS TO ENSURE EQUAL ALLOCATION.—Each State receiving a grant under this subtitle shall allocate the funds equally between the uses described in section 421 and the uses described in section 422, except as provided in section 425(f).

Subtitle C—Compensation for the Wrongfully Convicted

SEC. 431. INCREASED COMPENSATION IN FEDERAL CASES FOR THE WRONGFULLY CONVICTED.

Section 2513(e) of title 28, United States Code, is amended by striking "exceed the sum of $5,000" and inserting "exceed $100,000 for each 12-month period of incarceration for any plaintiff who was unjustly sentenced to death and $50,000 for each 12-month period of incarceration for any other plaintiff".

SEC. 432. SENSE OF CONGRESS REGARDING COMPENSATION IN STATE DEATH PENALTY CASES.

It is the sense of Congress that States should provide reasonable compensation to any person found to have been unjustly convicted of an offense against the State and sentenced to death.

The SPEAKER pro tempore. Pursuant to House Resolution 823, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Massachusetts (Mr. DELAHUNT) each will control 10 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on September 22, 2004, the Committee on the Judiciary met and considered this combined Victim Rights-DNA bill. It was reported voted favorably, without amendment, on a voice vote. At the time, I assured my colleagues who raised concerns about the legislation that we would work with them as well as the Department of Justice to address the concerns. I believe this amendment represents a positive compromise in our efforts to address those concerns while protecting victims and ensuring DNA testing will be available to exonerate the innocent and to identify the guilty.

In the victims' rights portion of the legislation, we worked out a number of provisions with the authors of that part of the bill and the victims' rights groups to address issues raised by the Department of Justice, the courts, and outside groups. The result was a compromise that I believe effectively addresses the needs of victims of crime to be more involved in the criminal justice process but will not result in delaying court proceedings nor infringing on the right of a defendant to a speedy trial.

To address privacy concerns raised about DNA databases, my amendment includes increased penalties for misuse of DNA analyses from $100,000 to $250,000, and the possibility of a year in prison to discourage any person who would seek to misuse DNA for personal gain.

The amendment also requires a report to Congress if the Justice Department plans to modify or supplement the core generic markers needed for compatibility with the national DNA database. This is essential to reassure those who raise civil liberty concerns that DNA samples entered into the combined database would not be used for inappropriate purposes.

The legislation authorizes a substantial amount of money to provide grants to States to eliminate their DNA backlogs. Some have raised the concern that there may be some States that do not have a substantial backlog and, thus, would not receive funds. To ensure that the States are effectively using their resources, the amendment allows a State that has no DNA backlog to apply for grants for other forensic sciences.

With regard to the provision relating to the post-conviction DNA testing, the amendment offers a compromise, as I have previously stated, between those who wish to have no time limit on the ability of convicted persons seeking DNA testing and those who insist on a limitation of time, lest convicted persons game the system by waiting until the witnesses have died or waiting until the evidence has evaporated, thus effectively preventing a retrial.

The compromise provides for a 5-year period in which there would be a rebuttable presumption in favor of granting the DNA test. After 5 years, there is a presumption against granting a test unless the court finds that the applicant was incompetent, there is newly discovered DNA evidence, denial would result in a manifest injustice, or for other good cause shown. The amendment also includes tighter language to ensure that defendants cannot make repetitive motions for relief.

Because some of my colleagues in the Department of Justice raised concern about the standard for granting a new trial, the amendment increases the standard for obtaining a new trial to require that there be compelling evidence that a new trial would result in an acquittal. This represents a compromise from the preponderance of evidence and clear and convincing evidence.

With respect to funding prosecution and defense representation in capital cases, the original bill and this amendment do not allow funds to be used directly or indirectly to fund representation in specific capital cases. Additionally, report language on the DNA provision prohibits the creation of capital resource centers.

This amendment tightens the provisions relating to the training and appointment of capital counsel. The amendment specifies that no less than 75 percent of the funds shall be used to carry out training for representation and the creation of an effective system at the trial court level. No more than 25 percent of the funds shall be used to carry out training and systems for appellate representation.

The amendment also reduces the authorization of grants to States to provide training to defense attorneys and prosecutors, and to establish a system of appointment of counsel in capital cases.

Finally, the amendment provides for notification 180 days before the destruction of biological evidence, and provides that the time period will not begin to run until any direct appeal of the conviction was complete. This will ensure that the evidence in the case is preserved to benefit both the defendant and the government if the conviction is reversed.

I believe this amendment represents a good compromise package which will help ensure justice for all. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. DELAHUNT. Mr. Speaker, I yield myself such time as I may consume, and I support the amendment offered by the chairman for the reasons that he has enumerated.

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I would also make the observation, Mr. Speaker, in line with the points made by the gentleman from Wisconsin (Mr. GREEN), the gentlewoman from New York (Mrs. MALONEY), and particularly the gentleman from New York (Mr. WEINER) regarding the ability of law enforcement to identify sexual predators in the aftermath of the efforts made in New York City to reduce that backlog of DNA tests in those boxes that were sitting in that cold storage warehouse somewhere in Long Island.

I would remind those that are concerned about removing sexual predators from the streets of our communities in this country, and particularly let me remind our colleagues in government at the Department of Justice, the passage of this bill will undoubtedly lead, not to hundreds but to thousands of rapists and other sexual predators being identified. And as the gentleman from New York indicated, there is a likelihood, particularly in this category of criminals who tend to have a high rate of recidivism, that they are committing these crimes again all over this country.

Let me suggest that this particular act, Justice for All, is and will be, if signed by the President, one of the most effective means of reducing the incidence of sexual violence in this country. We have an opportunity here to defend women and others that are victims of sexual predators. I would think that that fact alone would compel those who are in opposition to this bill, whoever they may be, to rethink their position and support it.

Let me conclude by saying again to the gentleman from Wisconsin (Mr. SENSENBRENNER), this has been a remarkable effort, and to you, Mr. Speaker. This proposal before us today, this resolution, really does reflect a good-faith effort to address concerns raised by victims organizations, lawyers, civil liberties groups, prosecutors, and all those who have an interest in justice.

I urge the passage of the manager's amendment.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to House Resolution 823, the previous question is ordered on the bill and on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

CONFERENCE REPORT ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

Mr. FRELINGHUYSEN. Mr. Speaker, pursuant to House Resolution 822, I call up the conference report on the bill (H.R. 4850) making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore (Mr. TERRY). Pursuant to House Resolution 822, the conference report is considered as having been read.

(For conference report and statement, see proceedings of the House of October 5, 2004 at page 20877.)

The SPEAKER pro tempore. The gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) each will control 30 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. FRELINGHUYSEN).

GENERAL LEAVE

Mr. FRELINGHUYSEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on the conference report to accompany the bill, H.R. 4850, and that I may include tabular material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New Jersey?

There was no objection.

Mr. FRELINGHUYSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I bring before you today the fiscal year 2005 District of Columbia appropriations bill. First, Mr. Speaker, let me extend my particular thanks to the gentleman from Pennsylvania (Mr. FATTAH) for all his help and wise counsel and hard work and dedication to this city and to moving this bill forward in such an expeditious manner. He has been a pleasure to work with. May I also thank the other members of my committee on both sides of the aisle for their keen interest in this bill. I thank Chairman YOUNG for his guidance and support, and especially the staff. No bill moves without the dedication of a truly dedicated staff: Joel Kaplan, our subcommittee clerk on the majority side; Clelia Alvarado who works with him; Kathy Rowan who works with Joel Kaplan; Nancy Fox, my chief of staff. And on the minority side Martha Foley, the minority clerk, and working with her, Michelle Anderson-Lee who is dedicated as chief of staff to the gentleman from Pennsylvania (Mr. FATTAH).

Mr. Speaker, this bill totals $8.3 billion in local funds, $7.2 billion of which are in operating funds and $1.1 billion in capital outlay funds, and $560 million for Federal payments to various District programs and projects. There is much to be proud of in this bill. I believe it reflects Congress's continuing commitment to helping our Nation's Capital. This is where we all work and many of us live.

Of the $560 million provided for Federal payments to various programs and projects in the District, $409 million is allocated for the District of Columbia courts, public defender services, and the Court Services and Offender Supervision Agency. These are District functions that the Federal Government assumed responsibility for in the National Capital Revitalization and Self-Government Improvement Act of 1997.

The remaining $151 million are for programs and projects that directly benefit the District. They include many city priorities sought by Mayor Williams, the city council, city residents and supported by Members of Congress and our committee.

They include $25.6 million for the very popular tuition assistance program for District college-bound students, $15 million to reimburse the District for added emergency planning and security costs related to the presence of the Federal Government in this city, $40 million for the three-prong school choice program. This is a program which helps more school children and gives more parents in this city choices about their child's education. $6 million to complete the construction of the new unified communications center, badly needed and sought by the city.

More money for the Anacostia waterfront initiative; and more dollars for the District of Columbia Water and Sewer Authority, which in fact improves the cleanliness of the Anacostia River. $6 million for a new public school library initiative. Many school libraries are lacking books and computers that work. $5 million to improve foster care in the District. More money for transportation assistance and for family literacy. And $8 million for a new bioterrorism and forensics laboratory, a long-sought facility which will expedite a lot of critical work.

These are all initiatives we can be proud to support. In particular, I want to take a minute just to highlight the continuing efforts at helping the children of the District. To help the children of the District, the bill includes $5 million for the recently established foster care improvement program; $1 million, as I said earlier, for the family literacy program; $6 million for a new library learning center initiative to be matched by the District; and $40 million for the school improvement program.

Mr. Speaker, in summary, the fiscal year 2005 District of Columbia appropriations bill is fiscally responsible, balanced and deserves bipartisan support. I am proud of our work together this year to expedite this bill so that the city can spend its own resources and better use ours.

Mr. Speaker, I thank the gentleman from Pennsylvania (Mr. FATTAH) for his support.

DIVISION C--DISTRICT OF COLUMBIA APPROPRIATIONS BILL - FY 2005 (H.R. 4850)
(Amounts in thousands)

TITLE I

FEDERAL FUNDS

	FY 2004 Enacted	FY 2005 Request	House	Senate	Conference	Conference vs. Enacted
Federal payment for Resident Tuition Support	16,900	17,000	25,600	21,200	25,600	+8,700
Federal payment for Emergency Planning and Security Costs in the District of Columbia	10,935	15,000	15,000	15,000	15,000	+4,065
Federal payment to the District of Columbia Courts	166,775	228,060	202,110	195,010	190,800	+24,025
Defender Services in District of Columbia Courts	31,811	41,500	41,500	34,500	38,500	+6,689
Federal payment to the Court Services and Offender Supervision Agency for the District of Columbia	167,441	187,490	183,490	182,490	180,000	+12,559
Federal payment to the District of Columbia Water and Sewer Authority	29,823	10,000	10,000	10,000	4,800	-25,023
Federal payment for Hospital Bioterrorism Preparedness in the District of Columbia	7,456	---	---	---	---	-7,456
Federal payment for the Anacostia Waterfront Initiative /1	4,971	3,000	3,000	3,000	3,000	-1,971
Federal payment to the Criminal Justice Coordinating Council	1,292	1,300	1,300	1,300	1,300	+8
Federal payment for the Unified Communications Center	---	7,000	---	---	6,000	+6,000
Federal payment for the D.C. Fire and Emergency Medical Services Department	---	10,000	---	---	---	---
Federal payment for Capital Development in the District of Columbia /2	8,102	---	7,000	7,000	---	-8,102
Federal payment for Public School Facilities	4,473	---	---	---	---	-4,473
Federal payment for Public School Libraries	---	---	6,000	---	6,000	+6,000
Federal payment for the Family Literacy Program	1,988	---	1,000	---	1,000	-988
Federal payment for Transportation Assistance	3,479	---	---	5,000	2,500	-979
Federal payment for Foster Care Improvements in the District of Columbia	13,917	---	5,000	5,000	5,000	-8,917
Federal Payment to the Office of the Chief Financial Officer of the District of Columbia	32,159	---	19,000	32,500	32,500	+341
Federal Payment for emergency personnel cross training	497	---	---	---	---	-497
Federal payment for School Improvement	39,764	40,000	40,000	40,000	40,000	+236
Bioterrorism and Forensics Lab	---	---	---	8,000	8,000	+8,000
Total, Federal funds to the District of Columbia	541,783	560,350	560,000	560,000	560,000	+18,217

1/ Funds are for the Anacostia Riverwalk and Trail construction.

2/ Funds are for the Unified Communications Center construction

DISTRICT OF COLUMBIA FUNDS

Operating Expenses

	FY 2004 Enacted	FY 2005 Request	House	Senate	Conference	Conference vs. Enacted
Governmental direction and support	(284,415)	(416,069)	(416,069)	(416,069)	(416,069)	(+131,654)
Economic development and regulation	(276,647)	(334,745)	(334,745)	(334,745)	(334,745)	(+58,098)
Public safety and justice	(745,958)	(797,423)	(797,423)	(798,723)	(797,423)	(+51,465)
Public education system	(1,157,841)	(1,223,424)	(1,223,424)	(1,266,424)	(1,223,424)	(+65,583)
Human support services	(2,360,067)	(2,533,825)	(2,533,825)	(2,533,825)	(2,533,825)	(+173,758)
Public Works	(327,046)	(331,936)	(331,936)	(331,936)	(331,936)	(+4,890)
Cash Reserve	(50,000)	(50,000)	(50,000)	(50,000)	(50,000)	---
Repayment of Loans and Interest	(311,504)	(347,700)	(347,700)	(347,700)	(347,700)	(+36,196)
Payment of Interest on Short-Term Borrowing	(3,000)	(4,000)	(4,000)	(4,000)	(4,000)	(+1,000)
Certificates of Participation	(4,911)	(11,252)	(11,252)	(11,252)	(11,252)	(+6,341)
Settlements and Judgments	(22,522)	(20,270)	(20,270)	(20,270)	(20,270)	(-2,252)
Wilson Building	(3,704)	(3,633)	(3,633)	(3,633)	(3,633)	(-71)
Workforce Investments	(22,308)	(38,114)	(38,114)	(38,114)	(38,114)	(+15,806)
Non-Departmental Agency	(19,639)	(13,946)	(13,946)	(13,946)	(13,946)	(-5,693)
Equipment Lease Operating	---	(23,109)	(23,109)	---	(23,109)	(+23,109)
Pay-As-You-Go Capital	(11,267)	(6,531)	(6,531)	(6,531)	(6,531)	(-4,736)
Pay-As-You-Go Capital Contingency	---	(43,137)	(43,137)	(43,137)	(43,137)	(+43,137)
Tax Increment Financing Program	(1,940)	---	(9,710)	(9,710)	(9,710)	(+7,770)
Medicaid Disallowance	(57,000)	---	---	---	---	(-57,000)
Total, operating expenses, general fund	(5,659,769)	(6,199,114)	(6,208,824)	(6,230,015)	(6,208,824)	(+549,055)

Enterprise and Other Funds

	FY 2004 Enacted	FY 2005 Request	House	Senate	Conference	Conference vs. Enacted
Water and Sewer Authority	(259,095)	(275,289)	(275,289)	(287,206)	(287,206)	(+28,111)
Washington Aqueduct	(55,553)	(47,972)	(47,972)	(47,972)	(47,972)	(-7,581)
Stormwater Permit Compliance enterprise fund	(3,501)	(3,792)	(3,792)	(3,792)	(3,792)	(+291)
Lottery and Charitable Games enterprise fund	(242,755)	(247,000)	(247,000)	(247,000)	(247,000)	(+4,245)
Sports and Entertainment Commission	(13,979)	(7,322)	(7,322)	(7,322)	(7,322)	(-6,657)
District of Columbia Retirement Board	(13,895)	(15,277)	(15,277)	(15,277)	(15,277)	(+1,382)
Washington Convention Center enterprise fund	(69,742)	(77,176)	(77,176)	(77,176)	(77,176)	(+7,434)
National Capital Revitalization Corporation	(7,849)	(7,849)	(7,850)	(7,850)	(7,850)	(+1)
University of the District of Columbia	---	(85,102)	(85,102)	(85,102)	(85,102)	(+85,102)

DIVISION C--DISTRICT OF COLUMBIA APPROPRIATIONS BILL - FY 2005 (H.R. 4850)
(Amounts in thousands)

	FY 2004 Enacted	FY 2005 Request	House	Senate	Conference	Conference vs. Enacted
Other Post Employee Benefits Trust Fund	---	(953)	(953)	(953)	(953)	(+953)
District of Columbia Public Library Trust Fund	---	(17)	(17)	(17)	(17)	(+17)
Unemployment Insurance Trust Fund	---	(180,000)	(180,000)	(180,000)	(180,000)	(+180,000)
Total, Enterprise Funds	(666,369)	(947,749)	(947,750)	(959,667)	(959,667)	(+293,298)
Total, operating expenses	(6,326,138)	(7,146,863)	(7,156,574)	(7,189,682)	(7,168,491)	(+842,353)
Capital Outlay						
General fund	(904,913)	(725,886)	(725,886)	(725,886)	(725,886)	(-179,027)
Water and Sewer Fund	(229,807)	(371,040)	(371,040)	(371,040)	(371,040)	(+141,233)
Total, Capital Outlay	(1,134,720)	(1,096,926)	(1,096,926)	(1,096,926)	(1,096,926)	(-37,794)
Total, District of Columbia funds	(7,460,858)	(8,243,789)	(8,253,500)	(8,286,608)	(8,265,417)	(+804,559)
Grand total:						
Federal Funds to the District of Columbia	541,783	560,369	560,000	560,000	560,000	+18,217
District of Columbia funds	(7,460,858)	(8,243,789)	(8,253,500)	(8,286,608)	(8,265,417)	(+804,559)

Mr. Speaker, I reserve the balance of my time.

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume. I would like to thank the majority chairman of this committee. He has done extraordinary work in bringing to the floor a bill that has, I think, almost unanimous support in this House, not because it is a perfect bill but because it has been a perfect process, that is, a process that has been inclusive and that has been driven by the determined and public-spirited leadership of the chairman.

There are initiatives like the $6 million school library initiative and other initiatives that have the personal trademark of the chairman to try to improve the life chances of young people in this District. There are others that I will refer to momentarily.

I just want to thank the chairman for his extraordinary leadership and a process that has been perfect in terms of making sure that all of the issues that are important here in the District have been listened to and responded to. There has been a complete hearing process. I would like to thank the staff both on the Democratic side and on the majority side. Joel Kaplan has led the committee's work. Martha Foley. I would like to thank, obviously, Michelle Anderson on my staff and Rob Nabors for his excellent leadership and guidance as we have moved through this on the minority appropriations staff.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from the District of Columbia (Ms. NORTON).

Ms. NORTON. Mr. Speaker, I want to thank my good friend, the gentleman from Pennsylvania, for yielding me this time. I begin with special thanks to the gentleman from New Jersey and the gentleman from Pennsylvania, if they will allow me to call them the engineers who have wrought this miracle. For those of us in the District of Columbia, it seems nothing short of that. I call them the engineers because they drove the train straight to the station with no unnecessary stops along the way. For the residents of the District of Columbia whose appropriation is now out, that has very special meaning.

I am also grateful to the chairman of the full committee, the gentleman from Florida (Mr. YOUNG), who I believe is term-limited and to the ranking member, the gentleman from Wisconsin (Mr. OBEY), because throughout their tenure on the committee, leading the committee, they have always understood that if the D.C. appropriation had to be here at all, it ought to be up and out. I appreciate their leadership throughout.

I cannot say enough about the leadership of the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH). Their leadership shines on the face of this conference report. They must be exceedingly proud that there are only two conference reports out, ready for the President's signature, and that, except for Defense, D.C. is the only one. We are very grateful that D.C. is one of those two. We are particularly grateful because these two leaders have understood that these are Federal funds that are very different from other Federal funds, that these are Federal funds for a city and not a Federal agency, and, therefore, when the funds of a city are held up, untold damage is done to the management of that city.

□ 1230

The Congress has been critical of the management of the District of Columbia over the years without understanding the role the Congress has played in those management difficulties.

Try running a big city when their appropriation is here 3, 4, 5 months later than in their own State or city and perhaps they will get an understanding of why, for the District, this has meant management disarray, in part its fault, no doubt, but certainly with the degree of responsibility in the Congress itself, with disarray from bills for school books that could not be paid so books would not come, or could not be delivered, to vital programs that could not be started.

This year something very important happened, and it is the second year that it has happened. The appropriators were able to allow D.C. to spend its own money on time. This is the rest of the money. This is the Federal money. This is the nontaxpayer-raised money. That D.C. was able to begin October 1 spending its own money is virtually unheard of, at least since the majority took control, and it is profoundly appreciated by the residents of the District of Columbia. Spending our own money, not at last year's levels, but at the approved levels of the Committee on Appropriations has made a world of difference already.

I must say that I think that the District deserves this treatment and respect. It deserves it with seven balanced budgets and surpluses. It deserves it because the city that 8 years ago had an investment bond rating that was below investment grade now has an A rating by all three agencies.

One of the reasons that it has not been able to get above A, as it strives to do, is because of the congressional process. The investment agencies have been very clear that the District's budget having to come here at all imports uncertainty, and that uncertainty has to be reflected in the interest that the District of Columbia taxpayers pay. Therefore, anything of the kind we have seen this year, where our appropriation gets out on time, first and foremost comes to the attention of the investment agencies. And that means that taxpayer-raised money in the District of Columbia can go for the real necessities of the District of Columbia instead of for increased interest.

We have the highest debt service. All of this is wound up in the unique structural difference between the District and other States and localities.

The gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) have recognized that to the extent that they could mitigate the burden that the congressional process brings to the District budget both in time and in extra cost, that it was their choice to try to do so. And I appreciate that they have done exactly that.

Few States can say that they ran 7 straight years of surpluses and balanced budgets. These were years of some hardship for States. The District of Columbia was in the same economy and in some sense worse, because of 9/11, because our largest industry, the tourist industry, was seriously affected, and yet those surpluses have come. The reason for that is, of course, extraordinary prudence. For that prudence it seems to me we all would want to commend the Council of the District of Columbia and the Mayor of the District of Columbia. They have had the highest reserve fund, and I appreciate and they appreciate that there have been small reductions that I think take into account the prudence with which they have run the city.

This appropriation process, rounding it out, completing it, was necessary because the Federal funds for State functions particularly are in this bill. And these are State functions, prisons, courts that no city carries. The Revitalization Act, therefore, takes up the cost of those State functions, and those State functions are there, and we are very grateful for that. Other non-D.C. funds, Federal funds, are here.

I am grateful that the Public Safety Reimbursement Act, the act I introduced some years ago, is now regularly funded in the President's budget. It is fully funded here. It reimburses the District for national events, everything from President Reagan's funeral to the huge Choice March here. All that expense used to fall to the residents of the District of Columbia, making it very difficult for the city to get toward the balance and the surpluses that it now insists upon.

I am grateful for the increase in the Tuition Access Act. Not every Member understands why the Federal Government should be funding this bill. I can understand their confusion. But the gentleman from New Jersey (Mr. FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) worked so closely with us. The gentleman from Virginia (Mr. TOM DAVIS), who was the lead sponsor of this bill with me, worked on this bill 5 years ago because the District of Columbia has no State university system the way every other Member here does.

All this bill does is put the District in the same position that other Members are in by allowing our residents to go to State colleges, State university systems, and elsewhere. And look what it has done. In a region where one needs a college education to get any kind of decent job, we now have a 30 percent increase in young people going to college.

Most critical and what we have tried to do, the authorizers and the appropriators, is to put the District in the same position that any other city would be in. For us it means that taxpayers do not move out of the District when the children get to be 15, 16, and 17, because they can walk across the line into a region and get a low in-State tuition.

So this bill, besides its equity function, has been critical to keeping taxpayers in the District of Columbia. The large return to the Federal dollar is unspoken, but it cannot be denied.

I am grateful to the chairman. I am grateful to the ranking member, and I am grateful to the gentleman from Virginia (Mr. TOM DAVIS) that there were no riders on this bill. That is one of the reasons this bill was always last out, because we have to fight those riders, and that simply elongates, stretches out the time that this bill is on the floor.

I have seen this bill on the floor 8 and 10 hours. This is the smallest bill. This bill is irrelevant to every Member except me. With their eye focused on the prize, our appropriation, let us get it up and out; the appropriators have done their job to a fare-thee-well.

I regret that there are still riders on this bill that will not be on the bills in the Members' States, the rider that forbids us to pay using our local funds for abortions for poor women. That rider is perhaps always going to be controversial.

But the Senate removed two riders: the needle exchange rider, which would allow us to fund the exchange of dirty for clean needles and reduce the HIV/AIDS rate; and the rider, the shameless rider, that keeps us from lobbying for our own rights. Those, the Senate said, also should be eliminated from this bill. The House was not able to do so.

Finally, if I could once again thank the gentleman from New Jersey (Chairman FRELINGHUYSEN) and the gentleman from Pennsylvania (Mr. FATTAH) for the extraordinary job that they have done on this bill. Let me say that in a real sense, what they have done on this bill forecasts, is a prologue of what would happen if the budget autonomy bill that the gentleman from Virginia (Mr. TOM DAVIS) and I have pending before this House passes.

We think that there is a very decent chance of its passing in the session when we come back. It would automatically release our Federal funds, as my colleagues have had to do by act of the Committee on Appropriations. So they have, I think, demonstrated, by the way in which they have run the District of Columbia Subcommittee, something far larger; and that is how the House should move, to generally smooth the operation of the D.C. budget out of this House and into the hands of the people who raise the money, the people of the District of Columbia. They have my gratitude.

I know I expressed the gratitude of our elected officials in the District of Columbia and also of our residents, who have watched this bill this time pass through this House with what for us seems like lightning speed. It is the speed on the wings of the two leaders of our appropriation, and they have our thanks once again.

Mr. FATTAH. Mr. Speaker, I yield myself such time as I may consume.

Let me thank the gentlewoman from the District of Columbia for her comments and her insight and assistance as we move through.

Let me conclude my remarks, and I will be prepared to yield back the balance of my time. But let me just state, there is a lot that I could talk about that is in this bill in terms of help and assistance and innovation and creativity, but I think that a lot has already been said about the advances in the District's fiscal health and a lot of work that has been done.

I want to highlight just the college assistance program, the resident tuition program, which I was one of the original cosponsors of with the gentleman from Virginia (Mr. TOM DAVIS) and the gentlewoman from the District of Columbia (Ms. NORTON) some 5 years ago. It is an amazing program. It has been very successful.

And I want to return to what I was saying about the chairman of this committee. He has visited schools and committees, been out in neighborhoods and at the waterfront in the District. He has been active and aggressive in terms of trying to have the insight necessary to make some of the decisions that have to be made in this process; and I want to publicly thank him for his leadership on the subcommittee. It has been a pleasure to work with him this year on this process.

And I want to thank, again, the staff.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. FRELINGHUYSEN. Mr. Speaker, I yield myself such time as I may consume.

Let me return the compliment to the gentleman from Pennsylvania (Mr. FATTAH) for his dedication and knowledge of the District's needs and priorities. He has been a great coworker with me on behalf of all the members of the committee, a keen interest in bettering the lives of the citizens of this city. And both of us are so proud of the gentlewoman from the District of Columbia (Ms. NORTON). We appreciate her pats on the back to us.

This is a great city. We are trying to make it better. I thank her for her strong advocacy as we go about our work trying to get this bill out and the money to the city, their money as well as Federal money, because we know it will be well spent.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. TERRY). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will now put each question on which further proceedings were postponed earlier today in the following order:

passage of H.R. 5107;

adoption of the conference report to accompany H.R. 4850.

The first electronic vote will be conducted as a 15-minute vote. The remaining electronic vote will be conducted as a 5-minute vote.

JUSTICE FOR ALL ACT OF 2004

The SPEAKER pro tempore. The pending business is the question of the passage of the bill, H.R. 5107, on which further proceedings were postponed earlier today.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the passage of the bill, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 393, nays 14, not voting 25, as follows:

[Roll No. 497]

YEAS—393

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Bartlett (MD)
Beauprez
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burns
Burr

Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chabot
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—14

Barrett (SC)
Burgess
Carter
Culberson
Duncan
Flake
Garrett (NJ)
Granger
Hensarling
Johnson, Sam
Jones (NC)
Miller (FL)
Pence
Shadegg

NOT VOTING—25

Barton (TX)
Bass
Becerra
Boehlert
Chandler
DeMint
Gephardt
Hall
Houghton
Hyde
Istook
Kaptur
Kingston
Kleczka
Majette
Millender-McDonald
Nethercutt
Norwood
Paul
Sherwood
Slaughter
Tauzin
Towns
Wexler
Woolsey

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1307

Ms. GRANGER, Mr. GARRETT of New Jersey, and Mr. PENCE changed their vote from "yea" to "nay."

Mr. NEUGEBAUER changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CONFERENCE REPORT ON H.R. 4850, DISTRICT OF COLUMBIA APPROPRIATIONS ACT, 2005

The SPEAKER pro tempore. The pending business is the question of agreeing to the conference report on the bill, H.R. 4850.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

This is a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 377, nays 36, not voting 19, as follows:

[Roll No. 498]

YEAS—377

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Barton (TX)
Beauprez
Becerra
Bell
Berkley
Berman
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Dooley (CA)
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Foley
Forbes
Ford
Frank (MA)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Gordon
Granger
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McInnis
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Pickering
Pitts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin

Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Serrano
Sessions
Shaw
Shays
Sherman
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stark
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—36

Akin
Bartlett (MD)
Berry
Boswell
Brown-Waite, Ginny
Coble
Cubin
Duncan
Flake
Fossella
Franks (AZ)
Goode
Goodlatte
Graves
Green (TX)
Hayworth
Hefley
Hensarling
Jones (NC)
Manzullo
McHugh
McIntyre
Miller (FL)
Moore
Otter
Petri
Platts
Royce
Ryun (KS)
Sensenbrenner
Shadegg
Smith (MI)
Stearns
Taylor (MS)
Tierney
Toomey

NOT VOTING—19

Bass
Boehlert
DeMint
Gephardt
Houghton
Hyde
King (NY)
Kingston
Kleczka
Majette
Millender-McDonald
Nethercutt
Norwood
Paul
Sherwood
Slaughter
Tancredo
Tauzin
Towns

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WHITFIELD) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1318

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. WHITFIELD). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motions to suspend the rules on which a recorded vote or the yeas and nays are ordered or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

SATELLITE HOME VIEWER EXTENSION AND REAUTHORIZATION ACT OF 2004

Mr. DELAY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4518) to extend the statutory license for secondary transmissions under section 119 of title 17, United States Code, as amended.

The Clerk read as follows:

H.R. 4518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLES; TABLE OF CONTENTS.

(a) SHORT TITLES.—This Act may be cited as the "Satellite Home Viewer Extension and Reauthorization Act of 2004" or the "W. J. (Billy) Tauzin Satellite Television Act of 2004".

(b) TABLE OF CONTENTS.—

Sec. 1. Short titles; table of contents.

TITLE I—STATUTORY LICENSE FOR SATELLITE CARRIERS

Sec. 101. Extension of authority.
Sec. 102. Reporting of subscribers; significantly viewed and other signals; technical amendments.
Sec. 103. Statutory license for satellite carriers outside local markets.
Sec. 104. Statutory license for satellite retransmission of low power television stations.
Sec. 105. Definitions.
Sec. 106. Effect on certain proceedings.
Sec. 107. Statutory license for satellite carriers retransmitting superstation signals to commercial establishments.
Sec. 108. Expedited consideration of voluntary agreements to provide satellite secondary transmissions to local markets.
Sec. 109. Study.

TITLE II—FEDERAL COMMUNICATIONS COMMISSION OPERATIONS

Sec. 201. Extension of retransmission consent exemption.
Sec. 202. Cable/satellite comparability.
Sec. 203. Carriage of local stations on a single dish.
Sec. 204. Replacement of distant signals with local signals.
Sec. 205. Additional notices to subscribers, networks, and stations concerning signal carriage.
Sec. 206. Privacy rights of satellite subscribers.
Sec. 207. Reciprocal bargaining obligations.
Sec. 208. Unserved digital customers.
Sec. 209. Reduction of required tests.

TITLE I—STATUTORY LICENSE FOR SATELLITE CARRIERS

SEC. 101. EXTENSION OF AUTHORITY.

(a) IN GENERAL.—Section 4(a) of the Satellite Home Viewer Act of 1994 (17 U.S.C. 119 note; Public Law 103-369; 108 Stat. 3481) is amended by striking "December 31, 2004" and inserting "December 31, 2009".

(b) EXTENSION FOR CERTAIN SUBSCRIBERS.—Section 119(e) of title 17, United States Code, is amended by striking "December 31, 2004" and inserting "December 31, 2009".

SEC. 102. REPORTING OF SUBSCRIBERS; SIGNIFICANTLY VIEWED AND OTHER SIGNALS; TECHNICAL AMENDMENTS.

Section 119(a) of title 17, United States Code, is amended—

(1) in paragraph (1)—

(A) in the paragraph heading, by striking "AND PBS SATELLITE FEED";

(B) in the first sentence, by striking "(3), (4), and (6)" and inserting "(5), (6), and (8)";

(C) in the first sentence, by striking "or by the Public Broadcasting Service satellite feed"; and

(D) by striking the second sentence;

(2) in paragraph (2)—

(A) in subparagraph (A), by striking "(3), (4), (5), and (6)" and inserting "(5), (6), (7), and (8)"; and

(B) by striking subparagraph (C) and inserting the following:

"(C) EXCEPTIONS.—

"(i) STATES WITH SINGLE FULL-POWER NETWORK STATION.—In a State in which there is licensed by the Federal Communications Commission a single full-power station that was a network station on January 1, 1995, the statutory license provided for in subparagraph (A) shall apply to the secondary transmission by a satellite carrier of the primary transmission of that station to any subscriber in a community that is located within that State and that is not within the first 50 television markets as listed in the regulations of the Commission as in effect on such date (47 CFR 76.51).

"(ii) STATES WITH ALL NETWORK STATIONS AND SUPERSTATIONS IN SAME LOCAL MARKET.—In a State in which all network stations and superstations licensed by the Federal Communications Commission within that State as of January 1, 1995, are assigned to the same local market and that local market does not encompass all counties of that State, the statutory license provided under subparagraph (A) shall apply to the secondary transmission by a satellite carrier of the primary transmissions of such station to all subscribers in the State who reside in a local market that is within the first 50 major television markets as listed in the regulations of the Commission as in effect on such date (section 76.51 of title 47 of the Code of Federal Regulations).

"(iii) CERTAIN ADDITIONAL STATIONS.—If 2 adjacent counties in a single State are in a local market comprised principally of counties located in another State, the statutory license provided for in subparagraph (A) shall apply to the secondary transmission by a satellite carrier to subscribers in those 2 counties of the primary transmissions of any network station located in the capital of the State in which such 2 counties are located, if—

"(I) the 2 counties are located in a local market that is in the top 100 markets for the year 2003 according to Nielsen Media Research; and

"(II) the total number of television households in the 2 counties combined did not exceed 10,000 for the year 2003 according to Nielsen Media Research.

"(D) SUBMISSION OF SUBSCRIBER LISTS TO NETWORKS.—

"(i) INITIAL LISTS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, 90 days after commencing such secondary transmissions, submit to the network that owns or is affiliated with the network station—

"(I) a list identifying (by name and address, including street or rural route number, city, State, and zip code) all subscribers to which the satellite carrier makes secondary transmissions of that primary transmission to subscribers in unserved households; and

"(II) a separate list, aggregated by designated market area (as defined in section 122(j)) (by name and address, including street or rural route number, city, State, and zip code), which shall indicate those subscribers being served pursuant to paragraph (3), relating to significantly viewed stations.

"(ii) MONTHLY LISTS.—After the submission of the initial lists under clause (i), on the 15th of each month, the satellite carrier shall submit to the network—

"(I) a list identifying (by name and address, including street or rural route number, city, State, and zip code) any persons who have been added or dropped as subscribers under clause (i)(I) since the last submission under clause (i); and

"(II) a separate list, aggregated by designated market area (by name and street address, including street or rural route number, city, State, and zip code), identifying those subscribers whose service pursuant to paragraph (3), relating to significantly viewed stations, has been added or dropped.

"(iii) USE OF SUBSCRIBER INFORMATION.—Subscriber information submitted by a satellite carrier under this subparagraph may be used only for purposes of monitoring compliance by the satellite carrier with this subsection.

"(iv) APPLICABILITY.—The submission requirements of this subparagraph shall apply to a satellite carrier only if the network to which the submissions are to be made places on file with the Register of Copyrights a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.";

(3) by striking paragraph (8);

(4) by redesignating paragraphs (9) through (12) as paragraphs (10) through (13), respectively;

(5) by redesignating paragraphs (3) through (7) as paragraphs (5) through (9), respectively;

(6) by inserting after paragraph (2) the following:

"(3) SECONDARY TRANSMISSIONS OF SIGNIFICANTLY VIEWED SIGNALS.—

"(A) IN GENERAL.—Notwithstanding the provisions of paragraph (2)(B), and subject to subparagraph (B) of this paragraph, the statutory license provided for in paragraphs (1) and (2) shall apply to the secondary transmission of the primary transmission of a network station or a superstation to a subscriber who resides outside the station's local market (as defined in section 122(j)) but within a community in which the signal has been determined by the Federal Communications Commission, to be significantly viewed in such community, pursuant to the rules, regulations and authorizations of the Federal Communications Commission in effect on April 15, 1976, applicable to determining with respect to a cable system whether signals are significantly viewed in a community.

"(B) LIMITATION.—Subparagraph (A) shall apply only to secondary transmissions of the primary transmissions of network stations and superstations to subscribers who receive secondary transmissions from a satellite carrier pursuant to the statutory license under section 122.

"(C) WAIVER.—

"(i) IN GENERAL.—A subscriber who is denied the secondary transmission of the primary transmission of a network station under subparagraph (B) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station in the local market affiliated with the same network where the subscriber is located. The network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station shall be deemed to agree to the waiver request. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934 shall not constitute a waiver for purposes of this subparagraph.

"(ii) SUNSET.—The authority under clause (i) to grant waivers shall terminate on December 31, 2008, and any such waiver in effect shall terminate on that date.";

(7) in paragraph (2)(B)(i), by adding at the end the following new sentence: "The limitation in this clause shall not apply to secondary transmissions under paragraph (3).".

SEC. 103. STATUTORY LICENSE FOR SATELLITE CARRIERS OUTSIDE LOCAL MARKETS.

Section 119 of title 17, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting after paragraph (3), as added by section 102 of this Act, the following:

"(4) STATUTORY LICENSE WHERE RETRANSMISSIONS INTO LOCAL MARKET AVAILABLE.—

"(A) RULES FOR SUBSCRIBERS UNDER SUBSECTION (e).—

"(i) FOR THOSE RECEIVING DISTANT SIGNALS.—In the case of a subscriber of a satellite carrier who is eligible to receive the secondary transmission of the primary transmission of a network station solely by reason of subsection (e) (in this subparagraph referred to as a 'distant signal'), and who, as of October 1, 2004, is receiving the distant signal of that network station, the following shall apply:

"(I) In a case in which the satellite carrier makes available to the subscriber the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network—

"(aa) if, within 60 days after receiving the notice of the satellite carrier under section 338(h)(1) of the Communications Act of 1934, the subscriber elects to retain the distant signal; but

"(bb) only until such time as the subscriber elects to receive such local signal.

"(II) Notwithstanding subclause (I), the statutory license under paragraph (2) shall not apply with respect to any subscriber who is eligible to receive the distant signal of a television network station solely by reason of subsection (e), unless the satellite carrier, within 60 days after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, submits to that television network a list, aggregated by designated market area (as defined in section 122(j)(2)(C)), that—

"(aa) identifies that subscriber by name and address (street or rural route number, city, State, and zip code) and specifies the distant signals received by the subscriber; and

"(bb) states, to the best of the satellite carrier's knowledge and belief, after having made diligent and good faith inquiries, that the subscriber is eligible under subsection (e) to receive the distant signals.

"(ii) FOR THOSE NOT RECEIVING DISTANT SIGNALS.—In the case of any subscriber of a satellite carrier who is eligible to receive the distant signal of a network station solely by reason of subsection (e) and who did not receive a distant signal of a station affiliated with the same network on October 1, 2004, the statutory license under paragraph (2) shall not apply to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same network.

"(B) RULES FOR OTHER SUBSCRIBERS.—In the case of a subscriber of a satellite carrier who is eligible to receive the secondary transmission of the primary transmission of a network station under the statutory license under paragraph (2) (in this subparagraph referred to as a 'distant signal'), other than subscribers to whom subparagraph (A) applies, the following shall apply:

"(i) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier to that subscriber of the distant signal of a station affiliated with the same television network if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network a list, aggregated by designated market area (as defined in section 122(j)(2)(C)), that identifies that subscriber by name and address (street or rural route number, city, State, and zip code) and specifies the distant signals received by the subscriber.

"(ii) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122, the statutory license under paragraph (2) shall apply only to secondary transmissions by that satellite carrier of the distant signal of a station affiliated with the same network to that subscriber if—

"(I) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to provide pursuant to the statutory license under section 122 the secondary transmissions of the primary transmission of stations from the local market of such local network station; and

"(II) the satellite carrier, within 60 days after such date, submits to each television network a list that identifies each subscriber in that local market provided such a signal by name and address (street or rural route number, city, State, and zip code) and specifies the distant signals received by the subscriber.

"(C) FUTURE APPLICABILITY.—The statutory license under paragraph (2) shall not apply to the secondary transmission by a satellite carrier of a primary transmission of a network station to a person who—

"(i) is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004; and

"(ii) at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the secondary transmission of the primary transmission of a local network station affiliated with the same television network pursuant to the statutory license under section 122.

"(D) OTHER PROVISIONS NOT AFFECTED.—This paragraph shall not affect the applicability of the statutory license to secondary transmissions under paragraph (3) or to unserved households included under paragraph (12).

"(E) WAIVER.—A subscriber who is denied the secondary transmission of a network station under subparagraph (C) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station in the local market affiliated with the same network where the subscriber is located. The network station shall accept or reject the subscriber's request for a waiver within 30 days after receipt of the request. If the network station fails to accept or reject the subscriber's request for a waiver within that 30-day period, that network station shall be deemed to agree to the waiver request. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934 shall not constitute a waiver for purposes of this subparagraph.

"(F) Available Defined.—For purposes of this paragraph, a satellite carrier makes available a secondary transmission of the primary transmission of local station to a subscriber or person if the satellite carrier offers that secondary transmission to other subscribers who reside in the same zip code as that subscriber or person.".

(2) Subsection (a) is amended by adding at the end the following:

"(14) Waivers.—A subscriber who is denied the secondary transmission of a signal of a network station under subsection (a)(2)(B) may request a waiver from such denial by submitting a request, through the subscriber's satellite carrier, to the network station asserting that the secondary transmission is prohibited. The network station shall accept or reject a subscriber's request for a waiver within 30 days after receipt of the request. If a television network station fails to accept or reject a subscriber's request for a waiver within the 30-day period after receipt of the request, that station shall be deemed to agree to the waiver request and have filed such written waiver. Unless specifically stated by the network station, a waiver that was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 under section 339(c)(2) of the Communications Act of 1934, and that was in effect on such date of enactment, shall constitute a waiver for purposes of this subparagraph.".

(3) Subsection (b)(1) is amended by striking subparagraph (B) and inserting the following:

"(B) a royalty fee for that 6-month period, computed by multiplying the total number of subscribers receiving each secondary transmission of each superstation or network station during each calendar month by the appropriate rate in effect under this section.".

(4) Subsection (b)(1) is further amended by adding at the end the following flush sentence: "Notwithstanding the provisions of subparagraph (B), a satellite carrier whose secondary transmissions are subject to statutory licensing under paragraph (1) or (2) of subsection (a) shall have no royalty obligation for secondary transmissions to a subscriber under paragraph (3) of such subsection.".

(5) Subsection (c) is amended—

(A) by amending paragraph (1) to read as follows:

"(1) Applicability and Determination of Royalty Fees.—The appropriate fee for purposes of determining the royalty fee under subsection (b)(1)(B) shall be the appropriate fee set forth in part 258 of title 37, Code of Federal Regulations, as in effect on July 1, 2004, as modified under this subsection.";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking "July 1, 1996," and inserting "January 2, 2005,";

(ii) in subparagraph (C)—

(I) in the heading, by inserting "; Public Notice" after "Agreements";

(II) in the first sentence, by striking "Voluntary agreements" and inserting "(i) Voluntary agreements"; and

(III) by adding at the end the following:

"(ii)(I) Within 10 days after the publication in the Federal Register of a notice of the initiation of voluntary negotiation proceedings, parties who have reached a voluntary agreement may request that the royalty fees in that agreement be applied to all satellite carriers, distributors, and copyright owners without convening an arbitration proceeding pursuant to paragraph (3).

"(II) Upon receiving a request under subclause (I), the Librarian of Congress shall immediately provide public notice of the royalty fees from the voluntary agreement and afford parties an opportunity to state that they object to those fees.

"(III) The Librarian shall adopt the royalty fees from the voluntary agreement for all satellite carriers, distributors, and copyright owners without convening an arbitration proceeding unless a party with an intent to participate in the arbitration proceeding and a significant interest in the outcome of that proceeding objects under subclause (II)."; and

(iii) in subparagraph (D), by striking "December 31, 1999," and inserting "December 31, 2009";

(C) in paragraph (3)—

(i) in subparagraph (A)—

(I) by striking "January 1, 1997," and inserting "May 1, 2005,";

(II) by striking "who are not parties to a voluntary agreement filed with the Copyright Office in accordance with paragraph (2)." and inserting "and distributors— ";

"(i) in the absence of a voluntary agreement filed in accordance with paragraph (2) that establishes the royalty fees to be paid by all satellite carriers and distributors; or

"(ii) if an objection to the fees from a voluntary agreement submitted for adoption by the Librarian of Congress to apply to all satellite carriers, distributors, and copyright owners is received under paragraph (2)(C) from a party with an intent to participate in the arbitration proceeding and a significant interest in the outcome of that proceeding.";

(ii) in the first sentence of subparagraph (B), by inserting after "value of secondary transmissions" the following: ", except that the Librarian of Congress and any copyright arbitration royalty panel shall adjust those fees to account for the obligations of the parties under any applicable voluntary agreements filed with the Copyright Office pursuant to paragraph (2)." ; and

(iii) in subparagraph (C)(ii), by striking "become effective as provided" and all that follows through "later" and inserting "be effective as of January 1, 2005"; and

(D) by striking paragraphs (4) and (5)

(6) Subsection (a)(7), as redesignated by section 102(5) of this Act, is amended—

(A) in subparagraph (A), by striking "who does not reside in an unserved household" and inserting "who is not eligible to receive the transmission under this section";

(B) in subparagraph (B), by striking "who do not reside in unserved households" and inserting "who are not eligible to receive the transmission under this section"; and

(C) in subparagraph (D), by striking "is for private home viewing to an unserved household" and inserting "is to a subscriber who is eligible to receive the secondary transmission under this section".

SEC. 104. STATUTORY LICENSE FOR SATELLITE RETRANSMISSION OF LOW POWER TELEVISION STATIONS.

(a) In General.—Section 119(a) of title 17, United States Code (as amended by sections 102 and 103 of this Act), is further amended by adding at the end the following:

"(15) Carriage of Low Power Television Stations.—

"(A) In General.—Notwithstanding paragraph (2)(B), and subject to subparagraphs (B) through (F) of this paragraph, the statutory license provided for in paragraphs (1) and (2) shall apply to the secondary transmission of the primary transmission of a network station or a superstation that is licensed as a low power television station, to a subscriber who resides within the same local market.

"(B) Geographic Limitation.—

"(i) Network Stations.—With respect to network stations, secondary transmissions provided for in subparagraph (A) shall be limited to secondary transmissions to subscribers who—

"(I) reside in the same local market as the station originating the signal; and

"(II) reside within 35 miles of the transmitter site of such station, except that in the case of such a station located in a standard metropolitan statistical area which has 1 of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20.

"(ii) Superstations.—With respect to superstations, secondary transmissions provided for in subparagraph (A) shall be limited to secondary transmissions to subscribers who reside in the same local market as the station originating the signal.

"(C) No Applicability to Repeaters and Translators.—Secondary transmissions provided for in subparagraph (A) shall not apply to any low power television station that retransmits the programs and signals of another television station for more than 2 hours each day.

"(D) Royalty Fees.—Notwithstanding subsection (b)(1)(B), a satellite carrier whose secondary transmissions of the primary transmissions of a low power television station are subject to statutory licensing under this section shall have no royalty obligation for secondary transmissions to a subscriber who resides within 35 miles of the transmitter site of such station, except that in the case of such a station located in a standard metropolitan statistical area which has 1 of the 50 largest populations of all standard metropolitan statistical areas (based on the 1980 decennial census of population taken by the Secretary of Commerce), the number of miles shall be 20. Carriage of a superstation that is a low power television station within the station's local market, but outside of the 35-mile or 20-mile radius described in the preceding sentence, shall be subject to royalty payments under section (b)(1)(B).

"(E) Limitation to Subscribers Taking Local-into-Local Service.—Secondary transmissions provided for in subparagraph (A) may be made only to subscribers who receive secondary transmissions of primary transmissions from that satellite carrier pursuant to the statutory license under section 122, and only in conformity with the requirements under 340(b) of the Communications Act of 1934, as in effect on the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004.".

SEC. 105. DEFINITIONS.

Section 119(d) of title 17, United States Code, is amended—

(1) in paragraph (2)(A), by striking "a television broadcast station" and inserting "a television station licensed by the Federal Communications Commission";

(2) by amending paragraph (9) to read as follows:

"(9) SUPERSTATION.—The term 'superstation' means a television station, other than a network station, licensed by the Federal Communications Commission, that is secondarily transmitted by a satellite carrier.";

(3) in paragraph (10)—

(A) in subparagraph (B), by striking "granted under regulations established under section 339(c)(2) of the Communications Act of 1934" and inserting "that meets the standards of subsection (a)(14) whether or not the waiver was granted before the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004"; and

(B) in subparagraph (D), by striking "(a)(11)" and inserting "(a)(12)"; and

(4) by striking paragraphs (11) and (12) and inserting the following:

"(11) LOCAL MARKET.—The term 'local market' has the meaning given such term under section 122(j), except that with respect to a low power television station, the term 'local market' means the designated market area in which the station is located.

"(12) LOW POWER TELEVISION STATION.—The term 'low power television station' means a low power television as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term "low power television station" includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.

"(13) COMMERCIAL ESTABLISHMENT.—The term 'commercial establishment'—

"(A) means an establishment used for commercial purposes, such as a bar, restaurant, private office, fitness club, oil rig, retail store, bank or other financial institution, supermarket, automobile or boat dealership, or any other establishment with a common business area; and

"(B) does not include a multi-unit permanent or temporary dwelling where private home viewing occurs, such as a hotel, dormitory, hospital, apartment, condominium, or prison."

SEC. 106. EFFECT ON CERTAIN PROCEEDINGS.

Nothing in this title shall modify any remedy imposed on a party that is required by the judgment of a court in any action that was brought before May 1, 2004, against that party for a violation of section 119 of title 17, United States Code.

SEC. 107. STATUTORY LICENSE FOR SATELLITE CARRIERS RETRANSMITTING SUPERSTATION SIGNALS TO COMMERCIAL ESTABLISHMENTS.

(a) IN GENERAL.—Section 119 of title 17, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by inserting "or for viewing in a commercial establishment" after "for private home viewing" each place it appears; and

(B) by striking "household" and inserting "subscriber";

(2) in subsection (b), by striking "for private home viewing" each place it appears;

(3) in subsection (d)(1)—

(A) by striking "for private home viewing"; and

(B) by inserting "in accordance with the provisions of this section" before the period;

(4) in subsection (d)(6), by inserting "pursuant to this section" before the period; and

(5) in subsection (d)(8)—

(A) by striking "who" and inserting "or entity that";

(B) by striking "for private home viewing"; and

(C) by inserting "in accordance with the provisions of this section" before the period.

(b) CONFORMING AMENDMENTS.—Subsections (a)(4) and (d)(1)(A) of section 111 of title 17, United States Code, are each amended by striking "for private home viewing".

SEC. 108. EXPEDITED CONSIDERATION OF VOLUNTARY AGREEMENTS TO PROVIDE SATELLITE SECONDARY TRANSMISSIONS TO LOCAL MARKETS.

Section 119 of title 17, United States Code, is amended by adding at the end the following:

"(f) EXPEDITED CONSIDERATION BY JUSTICE DEPARTMENT OF VOLUNTARY AGREEMENTS TO PROVIDE SATELLITE SECONDARY TRANSMISSIONS TO LOCAL MARKETS.—

"(1) IN GENERAL.—In a case in which no satellite carrier makes available, to subscribers located in a local market, as defined in section 122(j)(2), the secondary transmission into that market of a primary transmission of one or more television broadcast stations licensed by the Federal Communications Commission, and two or more satellite carriers request a business review letter in accordance with section 50.6 of title 28, Code of Federal Regulations (as in effect on July 7, 2004), in order to assess the legality under the antitrust laws of proposed business conduct to make or carry out an agreement to provide such secondary transmission into such local market, the appropriate official of the Department of Justice shall respond to the request no later than 90 days after the date on which the request is received.

"(2) DEFINITION.—For purposes of this subsection, the term 'antitrust laws'—

"(A) has the meaning given that term in subsection (a) of the first section of the Clayton Act (15 U.S.C. 12(a)), except that such term includes section 5 of the Federal Trade Commission Act (15 U.S.C. 45) to the extent such section 5 applies to unfair methods of competition; and

"(B) includes any State law similar to the laws referred to in paragraph (1).".

SEC. 109. STUDY.

No later than June 30, 2008, the Register of Copyrights shall report to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate the Register's findings and recommendations on the operation and revision of the statutory licenses under sections 111, 119, and 122 of title 17, United States Code. The report shall include, but not be limited to, the following:

(1) A comparison of the royalties paid by licensees under such sections, including historical rates of increases in these royalties, a comparison between the royalties under each such section and the prices paid in the marketplace for comparable programming.

(2) An analysis of the differences in the terms and conditions of the licenses under such sections, an analysis of whether these differences are required or justified by historical, technological, or regulatory differences that affect the satellite and cable industries, and an analysis of whether the cable or satellite industry is placed in a competitive disadvantage due to these terms and conditions.

(3) An analysis of whether the licenses under such sections are still justified by the bases upon which they were originally created.

(4) An analysis of the correlation, if any, between the royalties, or lack thereof, under such sections and the fees charged to cable and satellite subscribers, addressing whether cable and satellite companies have passed to subscribers any savings realized as a result of the royalty structure and amounts under such sections.

(5) An analysis of issues that may arise with respect to the application of the licenses under such sections to the secondary transmissions of the primary transmissions of network stations and superstations that originate as digital signals, including issues that relate to the application of the unserved household limitations under section 119 of title 17, United States Code, and to the determination of royalties of cable systems and satellite carriers.

TITLE II—FEDERAL COMMUNICATIONS COMMISSION OPERATIONS

SEC. 201. EXTENSION OF RETRANSMISSION CONSENT EXEMPTION.

Section 325(b)(2)(C) of the Communications Act of 1934 (47 U.S.C. 325(b)(2)(C)) is amended by striking "December 31, 2004" and inserting "December 31, 2009".

SEC. 202. CABLE/SATELLITE COMPARABILITY.

(a) AMENDMENT.—Part I of title III of the Communications Act of 1934 is amended by inserting after section 339 (47 U.S.C. 339) the following new section:

"SEC. 340. SIGNIFICANTLY VIEWED SIGNALS PERMITTED TO BE CARRIED.

"(a) SIGNIFICANTLY VIEWED STATIONS.—In addition to the broadcast signals that subscribers may receive under section 338 and 339, a satellite carrier is also authorized to retransmit to a subscriber located in a community the signal of any station located outside the local market in which such subscriber is located, to the extent such signal—

"(1) has, before the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, been determined by the Federal Communications Commission to be a signal a cable operator may carry as significantly viewed in such community, except to the extent that such signal is prevented from being carried by a cable system in such community under the Commission's network nonduplication and syndicated exclusivity rules; or

"(2) is, after such date of enactment, determined by the Commission to be significantly viewed in such community in accordance with the same standards and procedures concerning shares of viewing hours and audience surveys as are applicable under the rules, regulations, and authorizations of the Commission to determining with respect to a cable system whether signals are significantly viewed in a community.

"(b) LIMITATIONS.—

"(1) ANALOG SERVICE LIMITED TO SUBSCRIBERS TAKING LOCAL-INTO-LOCAL SERVICE.—With respect to a signal that originates as an analog signal of a network station, this section shall apply only to retransmissions to subscribers of a satellite carrier who receive retransmissions from that satellite carrier pursuant to section 338.

"(2) DIGITAL SERVICE LIMITATIONS.—With respect to a signal that originates as a digital signal of a network station, this section shall apply only if—

"(A) the subscriber receives from the satellite carrier pursuant to section 338 the retransmission of the digital signal of a network station in the subscriber's local market that is affiliated with the same television network; and

"(B) either—

"(i) the retransmission of the local network station occupies at least the equivalent bandwidth as the digital signal retransmitted pursuant to this section; or "(ii) the retransmission of the local network station is comprised of the entire bandwidth of the digital signal broadcast by such local network station.

"(3) LIMITATION NOT APPLICABLE WHERE NO NETWORK AFFILIATES.—The limitations in paragraphs (1) and (2) shall not prohibit a retransmission under this section to a subscriber located in a local market in which there are no network stations affiliated with the same television network as the station whose signal is being retransmitted pursuant to this section.

"(4) AUTHORITY TO GRANT STATION-SPECIFIC WAIVERS.—Paragraphs (1) and (2) shall not prohibit a retransmission of a network station to a subscriber if and to the extent that the network station in the local market in which the subscriber is located, and that is affiliated with the same television network, has privately negotiated and affirmatively granted a waiver from the requirements of paragraph (1) and (2) to such satellite carrier with respect to retransmission of the significantly viewed station to such subscriber.

"(c) PUBLICATION AND MODIFICATIONS OF LISTS; REGULATIONS.—

"(1) IN GENERAL.—The Commission shall—

"(A) within 60 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004—

"(i) publish a list of the stations that are eligible for retransmission under subsection (a) (1) and the communities in which such stations are eligible for such retransmission; and

"(ii) commence a rulemaking proceeding to implement this section by publication of a notice of proposed rulemaking;

"(B) adopt rules pursuant to such rulemaking within one year after such date of enactment.

"(2) PUBLIC AVAILABILITY OF LIST.—The Commission shall make readily available to the public in electronic form, on the Internet website of the Commission or other comparable facility, a list of the stations that are eligible for retransmission under subsection (a) and the communities in which such stations are eligible for such retransmission. The Commission shall update such list within 10 business days after the date on which the Commission issues an order making any modification of such stations and communities.

"(3) MODIFICATIONS.—In addition to cable operators and television broadcast station licensees, the Commission shall permit a satellite carrier to petition for decisions and orders—

"(A) by which stations may be added to those that are eligible for retransmission under subsection (a), and by which communities may be added in which such stations are eligible for such retransmission; and

"(B) by which network nonduplication or syndicated exclusivity regulations are applied to the retransmission in accordance with subsection (e).

"(d) EFFECT ON OTHER OBLIGATIONS AND RIGHTS.—

"(1) NO EFFECT ON CARRIAGE OBLIGATIONS.—Carriage of a signal under this section is not mandatory, and any right of a station licensee to have the signal of such station carried under section 338 is not affected by the eligibility of such station to be carried under this section.

"(2) RETRANSMISSION CONSENT RIGHTS NOT AFFECTED.—The eligibility of the signal of a station to be carried under this section does not affect any right of the licensee of such station to grant (or withhold) retransmission consent under section 325(b)(1).

"(e) NETWORK NONDUPLICATION AND SYNDICATED EXCLUSIVITY.—

"(1) NOT APPLICABLE EXCEPT AS PROVIDED BY COMMISSION REGULATIONS.—Signals eligible to be carried under this section are not subject to the Commission's regulations concerning network nonduplication or syndicated exclusivity unless, pursuant to regulations adopted by the Commission, the Commission determines to permit network nonduplication or syndicated exclusivity to apply within the appropriate zone of protection.

"(2) LIMITATION.—Nothing in this subsection or Commission regulations shall permit the application of network nonduplication or syndicated exclusivity regulations to the retransmission of distant signals of network stations that are carried by a satellite carrier pursuant to a statutory license under section 119(a)(2)(A) or (B), with respect to persons who reside in unserved households, under 119(a)(4)(A), or under section 119(a)(12).

"(f) ENFORCEMENT.—

"(1) ORDERS AND DAMAGES.—Upon complaint, the Commission shall issue a cease and desist order to any satellite carrier found to have violated this section in carrying any television broadcast station. Such order may, if a complaining station requests damages—

"(A) provide for the award of damages to a complaining station that establishes that the violation was committed in bad faith, in an amount up to $50 per subscriber, per station, per day of the violation; and

"(B) provide for the award of damages to a prevailing satellite carrier if the Commission determines that the complaint was frivolous, in an amount up to $50 per subscriber alleged to be in violation, per station alleged, per day of the alleged violation.

"(2) COMMISSION DECISION.—The Commission shall issue a final determination resolving a complaint brought under this subsection not later than 180 days after the submission of a complaint under this subsection. The Commission may hear witnesses if it clearly appears, based on written filings by the parties, that there is a genuine dispute about material facts. Except as provided in the preceding sentence, the Commission may issue a final ruling based on written filings by the parties.

"(3) REMEDIES IN ADDITION.—The remedies under this subsection are in addition to any remedies available under title 17, United States Code.

"(4) NO EFFECT ON COPYRIGHT PROCEEDINGS.—Any determination, action, or failure to act of the Commission under this subsection shall have no effect on any proceeding under title 17, United States Code, and shall not be introduced in evidence in any proceeding under that title. In no instance shall a Commission enforcement proceeding under this subsection be required as a predicate to the pursuit of a remedy available under title 17.

"(g) NOTICES CONCERNING SIGNIFICANTLY VIEWED STATIONS.—Each satellite carrier that proposes to commence the retransmission of a station pursuant to this section in any local market shall—

"(1) not less than 60 days before commencing such retransmission, provide a written notice to any television broadcast station in such local market of such proposal; and

"(2) designate on such carrier's website all significantly viewed signals carried pursuant to section 340 and the communities in which the signals are carried.

"(h) ADDITIONAL CORRESPONDING CHANGES IN REGULATIONS.—

"(1) COMMUNITY-BY-COMMUNITY ELECTIONS.—The Commission shall, no later than April 30, 2005, revise section 76.66 of its regulations (47 CFR 76.66), concerning satellite broadcast signal carriage, to permit (at the next cycle of elections under section 325) a television broadcast station that is located in a local market into which a satellite carrier retransmits a television broadcast station pursuant to section 338, to elect, with respect to such satellite carrier, between retransmission consent pursuant to such section 325 and mandatory carriage pursuant to section 338 separately for each county within such station's local market, if—

"(A) the satellite carrier has notified the station, pursuant to paragraph (3), that it intends to carry another affiliate of the same network pursuant to this section during the relevant election period in the station's local market; or

"(B) on the date notification under paragraph (3) was due, the satellite carrier was retransmitting into the station's local market pursuant to this section an affiliate of the same television network.

"(2) UNIFIED NEGOTIATIONS.—In revising its regulations as required by paragraph (1), the Commission shall provide that any such station shall conduct a unified negotiation for the entire portion of its local market for which retransmission consent is elected.

"(3) ADDITIONAL PROVISIONS.—The Commission shall, no later than April 30, 2005, revise its regulations to provide the following:

"(A) NOTIFICATIONS BY SATELLITE CARRIER.—A satellite carrier's retransmission of television broadcast stations pursuant to this section shall be subject to the following limitations:

"(i) In any local market in which the satellite carrier provides service pursuant to section 338 on the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the carrier may notify a television broadcast station in that market, at least 60 days prior to any date on which the station must thereafter make an election under section 76.66 of the Commission's regulations (47 CFR 76.66), of—

"(I) each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market pursuant to this section during the next election cycle under such section of such regulations; and

"(II) for each such affiliate, the communities into which the satellite carrier reserves the right to make such retransmissions.

"(ii) In any local market in which the satellite carrier commences service pursuant to section 338 after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the carrier may notify a station in that market, at least 60 days prior to the introduction of such service in that market, and thereafter at least 60 days prior to any date on which the station must thereafter make an election under section 76.66 of the Commission's regulations (47 CFR 76.66), of each affiliate of the same television network that the carrier reserves the right to retransmit into that station's local market during the next election cycle under such section of such regulations.

"(iii) Beginning with the 2005 election cycle, a satellite carrier may only retransmit pursuant to this section during the pertinent election period a signal—

"(I) as to which it has provided the notifications set forth in clauses (i) and (ii); or

"(II) that it was retransmitting into the local market under this section as of the date such notifications were due.

"(B) HARMONIZATION OF ELECTIONS AND RETRANSMISSION CONSENT AGREEMENTS.—If a satellite carrier notifies a television broadcast station that it reserves the right to retransmit an affiliate of the same television network during the next election cycle pursuant to this section, the station may choose between retransmission consent and mandatory carriage for any portion of the 3-year election cycle that is not covered by an existing retransmission consent agreement.

"(i) DEFINITIONS.—As used in this section:

"(1) LOCAL MARKET; SATELLITE CARRIER; SUBSCRIBER; TELEVISION BROADCAST STATION.—The terms 'local market', 'satellite carrier', 'subscriber', and 'television broadcast station' have the meanings given such terms in section 338(k).

"(2) NETWORK STATION; TELEVISION NETWORK.—The terms 'network station' and 'television network' have the meanings given such terms in section 339(d).

"(3) COMMUNITY.—The term 'community' means—

"(A) a county or a cable community, as determined under the rules, regulations, and authorizations of the Commission applicable to determining with respect to a cable system whether signals are significantly viewed; or

"(B) a satellite community, as determined under such rules, regulations, and authorizations (or revisions thereof) as the Commission may prescribe in implementing the requirements of this section.

"(4) BANDWIDTH.—The terms 'equivalent bandwidth' and 'entire bandwidth' shall be defined by the Commission by regulation.".

SEC. 203. CARRIAGE OF LOCAL STATIONS ON A SINGLE DISH.

(a) AMENDMENTS.—Section 338 of the Communications Act of 1934 (47 U.S.C. 338(d)) is amended—

(1) by redesignating subsections (g) and (h) as subsections (j) and (k), respectively;

(2) by inserting after subsection (f) the following new subsection:

"(g) CARRIAGE OF LOCAL STATIONS ON A SINGLE DISH.—

"(1) SINGLE DISH.—Each satellite carrier that retransmits the analog signals of local television broadcast stations in a local market shall retransmit such analog signals in such market by means of a single reception antenna and associated equipment.

"(2) EXCEPTION.—If the carrier retransmits signals in the digital television service, the carrier shall retransmit such digital signals in such market by means of a single reception antenna and associated equipment, but such antenna and associated equipment may be separate from the single reception antenna and associated equipment used for analog television service signals.

"(3) EFFECTIVE DATE.—The requirements of paragraphs (1) and (2) of this subsection shall apply on and after one year after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004.

"(4) NOTICE OF DISRUPTIONS.—A carrier that is providing signals of a local television broadcast station in a local market under this section on the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004 shall, not later than 270 days after such date of enactment, provide to the licensees for such stations and the carrier's subscribers in such local market a notice that displays prominently and conspicuously a clear statement of—

"(A) any reallocation of signals between different reception antennas and associated equipment that the carrier intends to make in order to comply with the requirements of this subsection;

"(B) the need, if any, for subscribers to obtain an additional reception antenna and associated equipment to receive such signals; and

"(C) any cessation of carriage or other material change in the carriage of signals as a consequence of the requirements of this paragraph.".

(b) CONFORMING AMENDMENTS: COMMISSION ENFORCEMENT OF SECTION; LOW POWER TELEVISION STATIONS.—

(1) Section 338(a) of such Act is amended by striking paragraphs (1) and (2) and inserting the following:

"(1) IN GENERAL.—Each satellite carrier providing, under section 122 of title 17, United States Code, secondary transmissions to subscribers located within the local market of a television broadcast station of a primary transmission made by that station shall carry upon request the signals of all television broadcast stations located within that local market, subject to section 325(b).

"(2) REMEDIES FOR FAILURE TO CARRY.—In addition to the remedies available to television broadcast stations under section 501(f) of title 17, United States Code, the Commission may use the Commission's authority under this Act to assure compliance with the obligations of this subsection, but in no instance shall a Commission enforcement proceeding be required as a predicate to the pursuit of a remedy available under such section 501(f).

"(3) LOW POWER STATION CARRIAGE OPTIONAL.—No low power television station whose signals are provided under section 119(a)(14) of title 17, United States Code, shall be entitled to insist on carriage under this section, regardless of whether the satellite carrier provides secondary transmissions of the primary transmissions of other stations in the same local market pursuant to section 122 of such title, nor shall any such carriage be considered in connection with the requirements of subsection (c) of this section.".

(2) Section 338(c)(1) of such Act is amended by striking "subsection (a)" and inserting "subsection (a)(1)".

(3) Section 338(k) of such Act (as redesignated by subsection (a)(1)) is amended—

(A) by redesignating paragraphs (4) through (7) as paragraphs (5) through (8), respectively; and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) LOW POWER TELEVISION STATION.—The term 'low power television station' means a low power television station as defined under section 74.701(f) of title 47, Code of Federal Regulations, as in effect on June 1, 2004. For purposes of this paragraph, the term "low power television station" includes a low power television station that has been accorded primary status as a Class A television licensee under section 73.6001(a) of title 47, Code of Federal Regulations.".

SEC. 204. REPLACEMENT OF DISTANT SIGNALS WITH LOCAL SIGNALS.

Section 339(a) of the Communications Act of 1934 (47 U.S.C. 339(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following new paragraph:

"(2) REPLACEMENT OF DISTANT SIGNALS WITH LOCAL SIGNALS.—Notwithstanding any other provision of paragraph (1), the following rules shall apply after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004:

"(A) RULES FOR GRANDFATHERED SUBSCRIBERS.—

"(i) FOR THOSE RECEIVING DISTANT SIGNALS.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station solely by reason of section 119(e) of title 17, United States Code (in this subparagraph referred to as a 'distant signal'), and who, as of October 1, 2004, is receiving the distant signal of that network station, the following shall apply:

"(I) In a case in which the satellite carrier makes available to the subscriber the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber—

"(aa) if, within 60 days after receiving the notice of the satellite carrier under section 338(h)(1) of this Act, the subscriber elects to retain the distant signal; but

"(bb) only until such time as the subscriber elects to receive such local signal.

"(II) Notwithstanding subclause (I), the carrier may not retransmit the distant signal to any subscriber who is eligible to receive the signal of a network station solely by reason of section 119(e) of title 17, United States Code, unless such carrier, within 60 days after the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, submits to that television network the list and statement required by subparagraph (E)(i).

"(ii) FOR THOSE NOT RECEIVING DISTANT SIGNALS.—In the case of any subscriber of a satellite carrier who is eligible to receive the distant signal of a network station solely by reason of section 119(e) of title 17, United States Code, and who did not receive a distant signal of a station affiliated with the same network on October 1, 2004, the carrier may not provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber.

"(B) RULES FOR OTHER SUBSCRIBERS.—In the case of a subscriber of a satellite carrier who is eligible to receive the signal of a network station under this section (in this subparagraph referred to as a 'distant signal'), other than subscribers to whom subparagraph (A) applies, the following shall apply:

"(i) In a case in which the satellite carrier makes available to that subscriber, on January 1, 2005, the signal of a local network station affiliated with the same television network pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliate with the same network to that subscriber if the subscriber's satellite carrier, not later than March 1, 2005, submits to that television network the list and statement required by subparagraph (E)(i).

"(ii) In a case in which the satellite carrier does not make available to that subscriber, on January 1, 2005, the signal of a local network station pursuant to section 338, the carrier may only provide the secondary transmissions of the distant signal of a station affiliated with the same network to that subscriber if—

"(I) that subscriber seeks to subscribe to such distant signal before the date on which such carrier commences to carry pursuant to section 338 the signals of stations from the local market of such local network station; and

"(II) the satellite carrier, within 60 days after such date, submits to each television network the list and statement required by subparagraph (E)(ii).

"(C) FUTURE APPLICABILITY.—A satellite carrier may not provide a distant signal (within the meaning of subparagraph (A) or (B)) to a person who—

"(i) is not a subscriber lawfully receiving such secondary transmission as of the date of the enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004; and

"(ii) at the time such person seeks to subscribe to receive such secondary transmission, resides in a local market where the satellite carrier makes available to that person the signal of a local network station affiliated with the same television network pursuant to section 338.

"(D) Authority to grant station-specific waivers.—This paragraph shall not prohibit a retransmission of a distant signal (within the meaning of subparagraph (A) or (B)) of any distant network station to any subscriber to whom the signal of a local network station affiliated with the same network is available pursuant to section 338, if and to the extent that such local network station has affirmatively granted a waiver from the requirements of this paragraph to such satellite carrier with respect to retransmission of such distant network station to such subscriber.

"(E) Notices to networks of distant signal subscribers.—

"(i) Within 60 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, each satellite carrier that provides a distant signal of a network station to a subscriber pursuant to subparagraph (A) or (B)(i) of this paragraph shall submit to each network—

"(I) a list, aggregated by designated market area, identifying each subscriber provided such a signal by—

"(aa) name;

"(bb) address (street or rural route number, city, State, and zip code); and

"(cc) the distant network signal or signals received; and

"(II) a statement that, to the best of the carrier's knowledge and belief after having made diligent and good faith inquiries, the subscriber is qualified under the existing law to receive the distant network signal or signals pursuant to subparagraph (A) or (B)(i) of this paragraph.

"(ii) Within 60 days after the date a satellite carrier commences to carry pursuant to section 338 the signals of stations from a local market, such a satellite carrier that provides a distant signal of a network station to a subscriber pursuant to subparagraph (B)(ii) of this paragraph shall submit to each network—

"(I) a list identifying each subscriber in that local market provided such a signal by—

"(aa) name;

"(bb) address (street or rural route number, city, State, and zip code); and

"(cc) the distant network signal or signals received; and

"(II) a statement that, to the best of the carrier's knowledge and belief after having made diligent and good faith inquiries, the subscriber is qualified under the existing law to receive the distant network signal or signals pursuant to subparagraph (B)(ii) of this paragraph.

"(F) Other provisions not affected.—This paragraph shall not affect the eligibility of a subscriber to receive secondary transmissions under section 340 of this Act or as an unserved household included under section 119(a)(12) of title 17, United States Code.

"(G) Available defined.—For purposes of this paragraph, a satellite carrier makes available a local signal to a subscriber or person if the satellite carrier offers that local signal to other subscribers who reside in the same zip code as that subscriber or person.".

SEC. 205. ADDITIONAL NOTICES TO SUBSCRIBERS, NETWORKS, AND STATIONS CONCERNING SIGNAL CARRIAGE.

Section 338 of the Communications Act of 1934 (47 U.S.C. 338) is further amended by inserting after subsection (g) (as added by section 203) the following new subsection:

"(h) Additional Notices to Subscribers, Networks, and Stations Concerning Signal Carriage.—

"(1) Notices to and elections by subscribers concerning grandfathered signals.—Any carrier that provides a distant signal of a network station to a subscriber pursuant section 339(a)(2)(A) shall—

"(A) within 60 days after the local signal of a network station of the same television network is available pursuant to section 338, or within 60 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, whichever is later, send a notice to the subscriber—

"(i) offering to substitute the local network signal for the duplicating distant network signal; and

"(ii) informing the subscriber that, if the subscriber fails to respond in 60 days, the subscriber will lose the distant network signal but will be permitted to subscribe to the local network signal; and

"(B) if the subscriber—

"(i) elects to substitute such local network signal within such 60 days, switch such subscriber to such local network signal within 10 days after the end of such 60-day period; or

"(ii) fails to respond within such 60 days, terminate the distant network signal within 10 days after the end of such 60-day period.

"(2) Notice to station licensees of commencement of local-into-local service.—

"(A) Notice required.—Within 180 days after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the Commission shall revise the regulations under this section relating to notice to broadcast station licensees to comply with the requirements of this paragraph.

"(B) Contents of commencement notice.—The notice required by such regulations shall inform each television broadcast station licensee within any local market in which a satellite carrier proposes to commence carriage of signals of stations from that market, not later than 60 days prior to the commencement of such carriage—

"(i) of the carrier's intention to launch local-into-local service under this section in a local market, the identity of that local market, and the location of the carrier's proposed local receive facility for that local market;

"(ii) of the right of such licensee to elect carriage under this section or grant retransmission consent under section 325(b);

"(iii) that such licensee has 30 days from the date of the receipt of such notice to make such election; and

"(iv) that failure to make such election will result in the loss of the right to demand carriage under this section for the remainder of the 3-year cycle of carriage under section 325.

"(C) Transmission of notices.—Such regulations shall require that each satellite carrier shall transmit the notices required by such regulation via certified mail to the address for such television station licensee listed in the consolidated database system maintained by the Commission.".

SEC. 206. PRIVACY RIGHTS OF SATELLITE SUBSCRIBERS.

(a) Amendment.—Section 338 of the Communications Act of 1934 (47 U.S.C. 338) is further amended by inserting after subsection (h) (as added by section 205) the following new subsection:

"(i) Privacy Rights of Satellite Subscribers.—

"(1) Notice.—At the time of entering into an agreement to provide any satellite service or other service to a subscriber and at least once a year thereafter, a satellite carrier shall provide notice in the form of a separate, written statement to such subscriber which clearly and conspicuously informs the subscriber of—

"(A) the nature of personally identifiable information collected or to be collected with respect to the subscriber and the nature of the use of such information;

"(B) the nature, frequency, and purpose of any disclosure which may be made of such information, including an identification of the types of persons to whom the disclosure may be made;

"(C) the period during which such information will be maintained by the satellite carrier;

"(D) the times and place at which the subscriber may have access to such information in accordance with paragraph (5); and

"(E) the limitations provided by this section with respect to the collection and disclosure of information by a satellite carrier and the right of the subscriber under paragraphs (7) and (9) to enforce such limitations.

In the case of subscribers who have entered into such an agreement before the effective date of this subsection, such notice shall be provided within 180 days of such date and at least once a year thereafter.

"(2) Definitions.—For purposes of this subsection, other than paragraph (9)—

"(A) the term 'personally identifiable information' does not include any record of aggregate data which does not identify particular persons;

"(B) the term 'other service' includes any wire or radio communications service provided using any of the facilities of a satellite carrier that are used in the provision of satellite service; and

"(C) the term 'satellite carrier' includes, in addition to persons within the definition of satellite carrier, any person who—

"(i) is owned or controlled by, or under common ownership or control with, a satellite carrier; and

"(ii) provides any wire or radio communications service.

"(3) Prohibitions.—

"(A) Consent to collection.—Except as provided in subparagraph (B), a satellite carrier shall not use any facilities used by the satellite carrier to collect personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned.

"(B) Exceptions.—A satellite carrier may use such facilities to collect such information in order to—

"(i) obtain information necessary to render a satellite service or other service provided by the satellite carrier to the subscriber; or

"(ii) detect unauthorized reception of satellite communications.

"(4) Disclosure.—

"(A) Consent to disclosure.—Except as provided in subparagraph (B), a satellite carrier shall not disclose personally identifiable information concerning any subscriber without the prior written or electronic consent of the subscriber concerned and shall take such actions as are necessary to prevent unauthorized access to such information by a person other than the subscriber or satellite carrier.

"(B) Exceptions.—A satellite carrier may disclose such information if the disclosure is—

"(i) necessary to render, or conduct a legitimate business activity related to, a satellite service or other service provided by the satellite carrier to the subscriber;

"(ii) subject to paragraph (9), made pursuant to a court order authorizing such disclosure, if the subscriber is notified of such order by the person to whom the order is directed;

"(iii) a disclosure of the names and addresses of subscribers to any satellite service or other service, if—

"(I) the satellite carrier has provided the subscriber the opportunity to prohibit or limit such disclosure; and

"(II) the disclosure does not reveal, directly or indirectly, the—

"(aa) extent of any viewing or other use by the subscriber of a satellite service or other service provided by the satellite carrier; or

"(bb) the nature of any transaction made by the subscriber over any facilities used by the satellite carrier; or

"(iv) to a government entity as authorized under chapters 119, 121, or 206 of title 18, United States Code, except that such disclosure shall not include records revealing satellite subscriber selection of video programming from a satellite carrier.

"(5) Access by subscriber.—A satellite subscriber shall be provided access to all personally identifiable information regarding that subscriber which is collected and maintained by a satellite carrier. Such information shall be made available to the subscriber at reasonable times and at a convenient place designated by such satellite carrier. A satellite subscriber shall be provided reasonable opportunity to correct any error in such information.

"(6) Destruction of information.—A satellite carrier shall destroy personally identifiable information if the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under paragraph (5) or pursuant to a court order.

"(7) Penalties.—Any person aggrieved by any act of a satellite carrier in violation of this section may bring a civil action in a United States district court. The court may award—

"(A) actual damages but not less than liquidated damages computed at the rate of $100 a day for each day of violation or $1,000, whichever is higher;

"(B) punitive damages; and

"(C) reasonable attorneys' fees and other litigation costs reasonably incurred.

The remedy provided by this subsection shall be in addition to any other lawful remedy available to a satellite subscriber.

"(8) Rule of construction.—Nothing in this title shall be construed to prohibit any State from enacting or enforcing laws consistent with this section for the protection of subscriber privacy.

"(9) Court orders.—Except as provided in paragraph (4)(B)(iv), a governmental entity may obtain personally identifiable information concerning a satellite subscriber pursuant to a court order only if, in the court proceeding relevant to such court order—

"(A) such entity offers clear and convincing evidence that the subject of the information is reasonably suspected of engaging in criminal activity and that the information sought would be material evidence in the case; and

"(B) the subject of the information is afforded the opportunity to appear and contest such entity's claim.".

(b) Effective Date.—Section 338(i) of the Communications Act of 1934 (47 U.S.C. 338(i)) as amended by subsection (a) of this section shall be effective 60 days after the date of enactment of this Act.

SEC. 207. RECIPROCAL BARGAINING OBLIGATIONS.

(a) Amendments.—Section 325(b)(3)(C) of the Communications Act of 1934 (47 U.S.C. 325(b)(3)(C)) is amended—

(1) by striking "Within 45 days" and all that follows through "1999, the" and inserting "The";

(2) by striking the second sentence;

(3) by striking "and" at the end of clause (i);

(4) in clause (ii)—

(A) by striking "January 1, 2006" and inserting "January 1, 2010"; and

(B) by striking the period at the end and inserting "; and"; and

(5) by adding at the end the following new clauses:

"(iii) until January 1, 2010, prohibit a multichannel video programming distributor from failing to negotiate in good faith for retransmission consent under this section, and it shall not be a failure to negotiate in good faith if the distributor enters into retransmission consent agreements containing different terms and conditions, including price terms, with different broadcast stations if such different terms and conditions are based on competitive marketplace considerations.".

(b) Deadline.—The Federal Communications Commission shall prescribe regulations to implement the amendments made by subsection (a)(5) within 180 days after the date of enactment of this Act.

SEC. 208. UNSERVED DIGITAL CUSTOMERS.

(a) Inquiry Required.—Consistent with the digital television service rules of the Federal Communications Commission in effect on the date of enactment of this Act, and the propagation prediction models derived from Bulletin No. 69 of the Commission's Office of Engineering and Technology, the Commission shall initiate an inquiry to recommend the appropriate methodologies for determining which consumers are in locations where the consumer will be unable, on and after the date on which analog television services are discontinued pursuant to the provisions of section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)), to receive broadcast digital television service signals that are transmitted from a station's permanent digital television channel that are of sufficient intensity to be able to receive and display digital television service using receiving terrestrial outdoor antennas of reasonable cost and ease of installation. Such methodologies shall be based on the current field strength requirements for digital television stations in section 73.622(e)(1) of the Commission's regulations (47 CFR 622(e)(1)).

(b) Report Required.—The Federal Communications Commission shall submit a report on the results of the inquiry required by subsection (a) to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate not later than December 31, 2005. Such report shall include—

(1) a proposal, using the best engineering practices for the broadcast television industry, for a predictive methodology for determining both which consumers—

(A) receive a digital signal of sufficient intensity to be able to receive and display digital television service using receiving terrestrial outdoor antennas of reasonable cost and ease of installation; or

(B) will receive such a signal after a local station begins transmitting on its permanent digital television channel;

(2) an analysis of whether it is possible to identify the areas of the country within which consumers will not, on and after the date on which analog television services are discontinued pursuant to the provisions of section 309(j)(14) of the Communications Act of 1934 (47 U.S.C. 309(j)(14)), be able to receive a digital television signal of sufficient intensity to be able to receive and display digital television service using receiving terrestrial outdoor antennas of reasonable cost and ease of installation; and

(3) if possible, an identification, on a county-by-county or more localized basis, of such areas for each television network.

SEC. 209. REDUCTION OF REQUIRED TESTS.

Section 339(c)(4) of the Communications Act of 1934 (47 U.S.C. 339(c)(4)) is amended by inserting after subparagraph (C) the following new subparagraphs:

"(D) Reduction of verification burdens.—Within one year after the date of enactment of the Satellite Home Viewer Extension and Reauthorization Act of 2004, the Commission shall by rule exempt from the verification requirements of subparagraph (A) any request for a test made by a subscriber to a satellite carrier—

"(i) to whom the retransmission of the signals of local broadcast stations is available under section 338 from such carrier; or

"(ii) for whom the predictive model required by paragraph (3) predicts a signal intensity that exceeds the signal intensity standard in effect under section 119(d)(10)(A) of such title by such number of decibels as the Commission specifies in such rule.

"(E) Exception.—A subscriber in a local market in which the satellite carrier does not offer the signals of local broadcast stations under section 338 and whose household is predicted to meet or exceed the number of decibels specified by the Commission pursuant to subparagraph (D)(ii), may, at his or her own expense, authorize a signal intensity test to be performed pursuant to the procedures specified by the Commission in section 73.686(d) of title 47, Code of Federal Regulations, by a tester who is approved by the satellite carrier and by each affected network station, or who has been previously approved by the satellite carrier and by each affected network station but not previously disapproved. A tester may not be so disapproved for a test after the tester has commenced such test. The tester shall give 5 business days advance written notice to the satellite carrier and to the affected network station or stations. A signal intensity test conducted in accordance with the preceding sentence shall be determinative of the signal strength received at that household for purposes of determining whether the household is capable of receiving a Grade B intensity signal.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. DELAY) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. DELAY).

Mr. DELAY. Mr. Speaker, I ask unanimous consent that the chairman of the Committee on Energy and Commerce, the gentleman from Texas (Mr. BARTON), and the chairman of the Committee on the Judiciary, the gentleman from Wisconsin (Mr. SENSENBRENNER), each be allowed to control 10 minutes of the time currently under my control.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. BARTON) and I be allowed to yield portions of the time that has been yielded to us by the majority leader.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself 6 minutes.

Mr. Speaker, I thank the majority leader for calling up this bill which is appropriately named in tribute to our colleague, the gentleman from Louisiana (Mr. TAUZIN), who will retire at the end of this year after having served the citizens of Louisiana for more than a quarter century.

This bill is a product of a remarkable collaborative effort that has involved members of the Committee on the Judiciary and Committee on Energy and Commerce. I would like to especially thank the gentleman from Texas (Mr. BARTON) for his excellent cooperation through this entire process.

The manager's amendment to the bill, which the Committee on the Judiciary approved unanimously on July 7, 2004, incorporates H.R. 4501 which was the Committee on Energy and Commerce version of the bill reported on July 22.

The manager's amendment incorporates important refinements to both the copyright and communications acts. These provisions are designed to extend for an additional 5 years the license that permits satellite TV companies such as DirecTV and EchoStar to retransmit to their subscribers TV programming shown on distant network stations and superstations. The extension will ensure that Americans who live in rural areas where they have trouble receiving signals from the regular broadcast stations will continue to have access to network TV programming.

Significantly, this bill does not simply preserve the status quo for the statutory period. Instead, the bill changes both the copyright and communications acts to ensure, first, that consumers will have greater choice in programming; second, that satellite providers will have greater freedom to deliver the content consumers desire; third, that free, over-the-air local broadcasters will have the opportunity to serve needs that are specific to their communities; and, fourth, the copyright owners will enjoy the first compulsory royalty fee adjustment in nearly 5 years.

The amendments have been carefully negotiated and crafted. They have benefited from an open process which has involved at least four committee hearings, the introduction and mark-up of two committee-reported bills to the House, and a willingness to consider numerous refinements to achieve the right policy and to gain consensus.

As a result, the bill is supported by numerous organizations including the National Association of Broadcasters, numerous local broadcast stations, and the Capital Broadcasting Company. In addition, the royalty provision contained in the judiciary title has been specifically endorsed by effective stakeholders. This is a culmination of a painstaking effort under the leadership of the gentleman from Texas (Mr. SMITH) and the ranking member, the gentleman from California (Mr. BERMAN), who encouraged affected parties to negotiate a voluntary agreement.

As a result, the section 119 rate provisions contained in the manager's amendment are now supported by the two largest DBS providers, DirecTV and EchoStar; their trade association, the Satellite Broadcasting and Communications Association, and major copyright owners including the Motion Picture Association and the Office of the Commission of Baseball. Together those entities represent the copyright owners who receive the overwhelming majority of copyright royalties paid under the license and the satellite carriers who make the vast majority of such payments.

In return for extending the license to satellite companies, the bill does require the beneficiaries to accept certain reporting requirements. These requirements are designed to protect the legitimate interests of copyright owners and free over-the-air broadcasters.

I would like to take a moment to acknowledge the contributions of the subcommittee chairman, the gentleman from Texas (Mr. SMITH). We could not have reached this point without his steady work. I also want to thank the gentleman from Texas (Mr. BARTON) for all his help and support during the process. Thanks also go to other key players, the gentleman from Michigan (Mr. UPTON), the gentleman from Michigan (Mr. CONYERS), the gentleman from California (Mr. BERMAN), the gentleman from Michigan (Mr. DINGELL), and the gentleman from Massachusetts (Mr. MARKEY), all of whom have made significant contributions to this effort. I appreciate all their efforts.

I am pleased that we have been able to work together in developing this joint bill, and I look forward to building on this success next year. The bill promotes the interests of consumers, satellite providers, broadcasters, and copyright owners. It is a balanced bill and deserves the support of this House.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that the gentleman from Texas (Mr. GONZALEZ) be allowed to control 10 minutes of my time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BERMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4518 and ask my colleagues to vote in favor of its passage. I am happy to join my friend from Wisconsin (Mr. SENSENBRENNER), the chairman of the committee, the gentleman who rolled me yesterday, in supporting this legislation.

This bill is a must-pass piece of legislation. Its core provision re-authorizes the statutory license found in section 119 of the Copyright Act which is due to expire on December 31 of this year. The section 119 enables satellite television companies to retransmit distant superstation and network signals to the subscribers who cannot obtain comparable signals over the air.

Extension of the section 119 license is very important to many satellite TV subscribers who might otherwise lose access to a number of popular television stations. The section 119 license is also of great benefit to satellite TV companies as it provides them with the equivalent of a valuable government subsidy. It guarantees satellite companies the ability to retransmit copyrighted broadcast programming, without the permission of the copyright owners and to do so at a government set rate.

I support this extension of the section 119 license despite my longstanding opposition to statutory licensing of copyrighted works. Section 119 was originally enacted in order to help satellite television become competitive with cable television which benefits from an analogous license. With 22 percent of the pay TV market, it appears that satellite television has reached that goal. However, expiration of section 119 without simultaneous expiration of the analogous statutory license for cable television may upset that competitive balance. When Congress revisits this issue in 2009, it may reach a different conclusion or even decide to do away with both licenses. Until then, however, we should strive to maintain a competitive balance.

The legislation before us does far more than simply reauthorize the section 119 statutory license. It is a combination of two bills that emerged from the Committee on the Judiciary and the Committee on Energy and Commerce. As such, it is the culmination of a long, sometimes difficult but ultimately successful collaboration between our two committees.

I commend the chairmen of both committees, the Committee on Energy and Commerce and the Committee on the Judiciary, for their steady and inclusive stewardship throughout this collaborative effort. I leave it to my colleagues of the Committee on Energy and Commerce to describe the provisions of title II which fall in their jurisdiction. However, I do want to express my support for title II and in particular the single dish requirement contained therein.

This provision requires that satellite TV providers enable customers to obtain all local broadcast programming through a single satellite dish, rather than having to install two dishes. The one-dish requirement will prevent further de facto discrimination against broadcast stations carrying minority, religious, and public interest programming.

As for title I, I am pleased most of all by its royalty provisions. These provisions represent a marked improvement over the provisions found in the Judiciary-reported version of H.R. 4518. The bill before us today does not mandate any increase in royalty rates. Nor does it establish a specific royalty rate for the retransmission of distant signals. Rather, the royalty rate will be set through adoption of a voluntary industry agreement, or in the absence of an acceptable agreement, by a copyright arbitration royalty panel.

While I do not know its terms, I understand that a voluntary industry agreement on royalties has already been reached. EchoStar, DirecTV, the Satellite Broadcast Communications Associations, and the relevant copyright owners have written us a letter to this effect. The letter also expresses unequivocal support for the royalty provisions contained in the bill before us today. If no interested party raises a well-founded objection, the legislation directs the copyright office to expeditiously adopt the voluntary industry agreement.

The adoption of this agreement would represent perhaps the least contentious establishment of section 119 royalties since section 119 was first enacted. All involved deserve a great deal of credit for reaching a mutually acceptable agreement in such a compressed time frame.

Once again, Mr. Speaker, I note my support for H.R. 4518, as amended, and ask my colleagues to add their support.

Mr. Speaker, I reserve the balance of my time.

Mr. BARTON of Texas. Mr. Speaker, do we have the time allocated equally on both sides, or do I need to yield time to the minority?

The SPEAKER pro tempore. The gentleman from Texas (Mr. BARTON) has 10 minutes, and the time has been distributed as agreed to.

Mr. BARTON of Texas. So the gentleman from Texas (Mr. GONZALEZ) have 10 minutes?

The SPEAKER pro tempore. Yes, sir. I might point out for further clarification, the gentleman from California (Mr. BERMAN) has 10 minutes and the gentleman from Texas (Mr. GONZALEZ) has 10 minutes.

Mr. BARTON of Texas. Mr. Speaker, I was under the impression that perhaps I needed to yield time to the gentleman from Texas (Mr. GONZALEZ), but apparently not, so I yield myself such time as I may consume.

Mr. Speaker, I will focus on what the gentleman from California (Mr. BERMAN) asked me to focus on, which is title II of H.R. 4518 which addresses a communications provision that originated in H.R. 4501. Before I do that, I do want to say how appreciative I am that we have all agreed to name this after the former chairman of the committee, the gentleman from Louisiana (Mr. TAUZIN). It really is a tribute to him. He was an expert in telecommunications. He took a personal interest in telecommunications acts, and I am proud that my House colleagues have agreed that we can name the bill in his honor.

I would also like to inform the House that another of our colleagues, the gentleman from Georgia (Mr. NORWOOD), a distinguished member of the Committee on Energy and Commerce, did have a lung implant last evening, and he is doing well today in the hospital. When he came out from anesthesia, his first question was was his staff at work today. So he was obviously doing well.

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Let me go to the issue at hand. Current law authorizes direct broadcast satellite operators, such as DirecTV and EchoStar, to provide the signals of distant broadcast network stations to a consumer who cannot receive an over-the-air signal from the local network stations. The Communications Act exempts satellite operators from having to obtain consent from a distant broadcaster to carry the signal into the local market. That exemption expires at the end of this year. The bill before us would extend that exemption to December 31, 2009.

Cable operators currently may carry certain out-of-market signals into a local market if the signals can be viewed by a significant number of people in the local market using over-the-air antennas. The bill would extend to satellite operators the authority to carry such significantly viewed signals on comparable terms as cable operators.

EchoStar currently uses two satellite dishes in some markets to provide local broadcast stations. Some broadcasters argue that this harms the ratings of stations on the second dish because not all customers are aware of, or want to install, that second dish. The bill before us would give EchoStar 1 year from date of enactment to provide all local stations in a market on a single satellite dish.

The bill would also require satellite operators to stop offering distant signals in markets where they carry local signals. It does, however, grandfather certain existing subscribers.

Although broadcasters are starting to transmit in digital, their digital signals do not yet reach all consumers over the air. As a result, many consumers could not receive a digital signal over the air even if they had a digital television. Once the digital television transition is complete, analog broadcasts will cease.

At that time, it will be important for satellite operators to be able to provide distant digital signals to consumers in so-called "white areas," who cannot receive local digital signals over the air, just as satellite operators currently offer distant analog signals to subscribers who are unserved over the air.

The bill requires the Federal Communications Commission to submit a report to the House Committee on Energy and Commerce at the end of 2005 on how it would propose to implement a digital white air area once the DTV transition ends.

Mr. Speaker, I'm proud to bring before the House today H.R. 4518, the "Satellite Home Viewer Extension and Reauthorization Act of 2004", SHVERA. The bill will also be known as "The W.J. 'Billy' Tauzin Satellite Television Act of 2004," in honor of our former House Energy and Commerce Committee chairman. He has done so much to foster the growth of satellite television, increase television service competition, and improve choices for consumers that it is only fitting that we name this bill after him. Chairman TAUZIN is currently recovering from a bout with cancer. My understanding is that he is doing so with his characteristic vigor and good humor, and is faring well. I am sure all join me in wishing him a speedy recovery.

The bill reauthorizes certain expiring provisions in the communications and copyright acts regarding satellite television. It also increases parity and enhances competition between satellite and cable operators by modernizing other provisions. Because the bill implicates both communications and copyright issues, the House Energy and Commerce Committee and the House Judiciary Committee have worked closely in drafting the legislation. Indeed, pursuant to a compromise between the House Energy and Commerce Committee and the House Judiciary Committee, H.R. 4518 has now been amended to combine its copyright provisions with the Communications Act provisions of H.R. 4501, which my committee reported 3 months ago.

H.R. 4501 resulted from an extensive examination of satellite television issues. The Subcommittee on Telecommunications and the Internet held an oversight hearing on March 10, 2004, and a legislative hearing on April 1, 2004. The subcommittee then marked up the legislation on April 28, 2004, and the full committee marked up the bill on June 3, 2004. I will focus the remainder of my remarks to title II of H.R. 4518, as amended, which addresses the Communications Act provisions that originated in H.R. 4501.

Current law authorizes direct broadcast satellite, DBS, operators, such as DirecTV and Echostar, to provide the signals of distant broadcast network stations to a consumer who cannot receive an over-the-air signal from the local network stations. The Communications Act exempts satellite operators from having to obtain consent from a distant broadcaster to carry the signal into the local market. That exemption expires at the end of this year. The bill would extend it to December 31, 2009.

Cable operators currently may carry certain out-of-market signals into a local market if the signals can be viewed by a "significant number" of people in the local market using over-the-air antennas. The bill would extend to satellite operators the authority to carry such significantly viewed signals on comparable terms as cable operators.

Echostar currently uses two satellite dishes in some markets to provide local broadcast stations. Some broadcasters argue that this harms the ratings of stations on the second dish because not all customers are aware of, or want to install, the second dish. The bill would give Echostar 1 year from enactment to provide all local stations in a market on a single satellite dish.

The bill also requires satellite operators to stop offering distant signals in markets where they carry local signals. It does, however, grandfather certain existing subscribers.

Although broadcasters are starting to transmit in digital, their digital signals do not yet reach all consumers over the air. As a result, many consumers could not receive a digital signal over the air even if they had a digital television. Once the digital television transition is complete, analog broadcasts will cease. At that time, it will be important for satellite operators to be able to provide distant digital signals to consumers in "white areas" who cannot receive local digital signals over the air, just as satellite operators currently offer distant analog signals to subscribers who are "unserved" over the air. The bill requires the Federal Communications Commission to submit a report to the House Energy and Commerce Committee at the end of 2005 on how it would propose to implement a digital white area once the LTV transition ends.

Since its introduction about a decade ago, satellite television service has become a significant facilities-based competitor to cable service. Satellite retransmission of broadcast programming is responsible for much of the growth. Satellite-delivered television service started as a way to serve consumers, particularly in rural areas, who could not get adequate over-the-air reception and did not have access to cable. But DBS does more than serve otherwise unserved areas. Its nationwide coverage allows it to compete against cable operators, and in so doing it improves consumer options. Indeed, the presence of satellite operators has caused cable operators to upgrade their infrastructure to allow consumers to receive high-quality video and more channels, as well as interactive, broadband, video-on-demand, and Internet telephony services.

By extending the expiring provisions, increasing parity, and promoting further competition, this legislation will continue to enhance service to consumers.

I urge my colleagues to support the bill.

Mr. Speaker, I reserve the balance of my time, and I ask unanimous consent that the gentleman from Michigan (Mr. UPTON), the distinguished subcommittee chairman, control the balance of my time.

The SPEAKER pro tempore (Mr. WHITFIELD). Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GONZALEZ. Mr. Speaker, I yield myself as much time as I may consume.

Mr. Speaker, I rise in support of H.R. 4518, the Satellite Home Viewer Extension Reauthorization Act of 2004. I would like to thank the gentleman from Texas (Chairman BARTON) and the gentleman from Wisconsin (Chairman SENSENBRENNER), the gentleman from Michigan (Ranking Member DINGELL) and the gentleman from Michigan (Ranking Member CONYERS) and the subcommittee chairmen and ranking members for their hard work on this piece of legislation.

H.R. 4518 is a comprehensive, bipartisan bill crafted jointly by the Committee on Energy and Commerce and the Committee on the Judiciary that will preserve localism, protect consumer privacy and increase competition between cable and satellite companies.

Local broadcasters play a vital role in providing to the communities they serve local news and weather, information on community events and entertainment. In 1999, Congress recognized the important role of local broadcasters when it last authorized this act. Specifically, the act requires satellite companies to offer in a nondiscriminatory manner all local broadcast signals once the satellite carriers begin offering local-into-local service in a market. This requirement, dubbed "carry one, carry all," was the cornerstone of the act.

Unfortunately, in several markets, one satellite company has refused to comply with this requirement. For several years, I have heard complaints from local Spanish language broadcasters that one particular satellite company has refused to carry Spanish language broadcasts on the same dish on which it carries the signals of the major television networks. In fact, in my own home State of Texas nine of the eleven stations bumped by that particular satellite company to a second dish are Spanish language stations.

In these two-dish markets, customers do not receive all of the channels for which they have paid if they do not ask that particular company for the second dish. This is unfair to consumers, and it harms the viability of local broadcasters because fewer people are watching their channels.

The negative effects of a two-dish practice are made even greater by a failure to inform many customers of a particular company of the need for a second dish. This practice is wrong. It undermines basic principles of localism by essentially giving Spanish language and other minority-themed stations a second-class status in their own home markets.

I thank my colleagues for including language in this bill that would put an end to this two-dish practice within 1 year. Forcing satellite providers to carry all local broadcast signals on one dish will finally ensure the equal treatment of all broadcasters.

Protecting the privacy of consumers who subscribe to satellite television is also very important. Although current law protects the privacy of persons who subscribe to cable television service, it does not protect those who subscribe to satellite service.

I commend the gentleman from Massachusetts (Mr. MARKEY) in particular for seeing to it that this bill extends to satellite subscribers the same privacy protections in effect for cable subscribers.

Finally, increasing competition between cable and satellite companies is an important goal of this act. Prior to the last reauthorization of the act, cable companies provided their customers with all of the local broadcast channels, but satellite companies were not permitted to do the same. Since Congress gave satellite companies the authority to provide local-into-local service in 1999, the number of subscribers to satellite has about doubled.

This legislation before us today makes further important strides in increasing parity which should lead to greater competition between cable and satellite. Right now, cable television companies can provide their subscribers with signals that are significantly viewed in a local market. Satellite television providers have no such authority. H.R. 4518 would fix this inequity by permitting satellite carriers of those same significantly viewed signals.

Mr. Speaker, this is a good bill that preserves local broadcasting, protects the privacy of satellite television service subscribers, and will provide a more level playing field for satellite companies on which to compete against cable providers. I support these goals and urge all Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Texas (Mr. SMITH), the chairman of the Subcommittee on Courts, the Internet, and Intellectual Property.

Mr. SMITH of Texas. Mr. Speaker, first of all, I thank the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman of the Committee on the Judiciary, for yielding me time.

Mr. Speaker, I support the manager's amendment to H.R. 4518, the Satellite Home Viewer Extension and Reauthorization Act of 2004 which I introduced.

I, too, would like to acknowledge the contributions and support of the gentleman from Texas (Chairman BARTON) and our colleagues on the Committee on Energy and Commerce.

Without the hard work of the gentleman from Michigan (Mr. UPTON), sitting to my right, the gentleman from Michigan (Mr. DINGELL) and the gentleman from Massachusetts (Mr. MARKEY), a bill this complex would not have been able to move under suspension.

Also, I want to especially thank the gentleman from Wisconsin (Chairman SENSENBRENNER) for his leadership, as well as recognize the personal effort and contributions of both the gentleman from Michigan (Mr. CONYERS) and the gentleman from California (Mr. BERMAN).

This bill will reauthorize the Copyrights Act's distant-signal license, which benefits the satellite industry. Because of this bill, Americans will continue to be able to receive television programming over satellite.

This legislation strikes a balance between the interests of intellectual property owners and the interests of the satellite providers who distribute copyrighted programming.

With time running out this session, it is now critically important that H.R. 4518 be enacted without delay.

The bill makes important changes to both the Copyright Act and the Communications Act to ensure that consumers will have greater choices in programming; that satellite providers have greater freedom to deliver the content consumers desire; that free over-the-air local broadcasters have the opportunity to serve needs that are specific to their communities; and that copyright owners receive the first adjustment to their compensation in 5 years.

In addition, the bill requires the Copyright Office to complete a study and provide recommendations on whether Congress should take further steps to create more parity with the cable compulsory license.

Mr. Speaker, I would also like to recognize the hard work and countless hours that were dedicated by the Copyright Office's Bill Roberts, as well as by David Whitney of my staff, Sampak Garg of the gentleman from Michigan's (Mr. CONYERS) staff, and Alec French from the gentleman from California's (Mr. BERMAN) staff.

Mr. Speaker, H.R. 4518 is a carefully crafted bill that promotes the interests of consumers, satellite providers, broadcasters and copyright owners. It is a fair and balanced bill that deserves the support of this House.

Mr. Speaker, I would like to insert a copy of the September 23 letter by DirecTV, EchoStar, the Motion Picture Association, Major League Baseball into the RECORD, as well as an October 5 letter by Eddie Fritts of the National Association of Broadcasters that endorses H.R. 4518 at this point.

NATIONAL ASSOCIATION OF
BROADCASTERS,
Washington, DC, October 5, 2004.

DEAR REPRESENTATIVE: I understand that this week the House of Representatives will consider H.R. 4518, the Satellite Home Viewer Extension and Reauthorization Act. On behalf of your local television stations, I am writing to urge you to support this critical legislation, which will help preserve localism in television and protect the interests of the American viewer.

The legislation enjoys widespread, bipartisan support. The bill is the result of extensive compromise and negotiation between Members of the two Committees of jurisdiction, the Judiciary Committee and the Energy and Commerce Committee and is carefully crafted to address a range of satellite television issues in a pro-consumer fashion. For instance:

The bill would create incentives for satellite subscribers to gradually shift to selecting their local television stations in their programming packages.

It would phase-out a discriminatory "2-dish" practice which relegates some local television stations to a second dish, where they are all but invisible to satellite subscribers.

The bill would give satellite providers parity with cable by allowing them to import "significantly viewed" out-of-market stations from adjoining markets.

The legislation balances this new privilege with key safeguards ensuring such a practice is not abused to the detriment of local television and consumers.

The bill provides a long needed update to copyright rates, increasing compensation for copyright holders.

Some have argued the legislation should be modified to include a "Digital White Areas" provision, which would permit satellite companies to import national, distant, digital network digital networks from Los Angeles or New York into local television markets, supplanting local television stations. However, the vast majority of industry stakeholders, including local broadcast stations, the television networks, cable operators, and DirecTV have rejected this approach and are instead working to see local high-definition digital television available on cable and satellite systems: We urge you to reject the Digital White Areas proposal as well.

Ultimately, as the product of an open process of hearings and mark-ups in both Committees of jurisdiction, H.R. 4518 would reauthorize the Satellite Home Viewer Improvement Act in a manner consistent with broadcast television localism. I strongly urge you to pass H.R. 4518 as written. The measure will take import strides in protecting the interests of consumers and furthering localism in television.

Sincerely,

EDDIE FRITTS.

SEPTEMBER 23, 2004.

Re H.R. 4518, Satellite Home Viewer—Extension and Reauthorization Act of 2004.

Hon. F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

Hon. LAMAR SMITH,
Chairman, Subcommittee on Courts, the Internet and Intellectual Property, House of Representatives, Rayburn House Office Building, Washington, DC.

Hon. JOHN CONYERS, Jr.,
Ranking Member, Committee on the Judiciary, House of Representatives, Rayburn House Office Building, Washington, DC.

Hon. HOWARD L. BERMAN,
Ranking Member, Subcommittee on Courts, the Internet and Intellectual Property, House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMEN: This letter is written on behalf of the undersigned representatives of those (1) copyright owners who receive the vast majority of the copyright royalties paid for the statutory licenses set forth in Section 119 of the Copyright Act, 17 U.S.C. §119; and (2) satellite carriers who pay the vast majority of the Section 119 royalties.

At your request, we undertook negotiations over the copyright royalty rates that satellite carriers should pay under Section 119 for the statutory license to retransmit superstations and network stations. As we are certain you understand, negotiations of this nature necessarily involve a number of difficult and competing considerations and strongly-held views. Nevertheless, we are pleased to report that, with the considerable assistance of you and your staff, our negotiations have been successful. We have entered into a voluntary agreement specifying the royalty fees that satellite carriers would pay for the Section 119 license during each of the years 2005 through 2009.

Our agreement is effective only if legislation is enacted into law, prior to January 1, 2005, with provisions that: (1) reauthorize 17 U.S.C. §119 for the five-year period ending December 31, 2009; (2) permit affected parties to enter into voluntary agreements as an alternative to a Copyright Arbitration Royalty Panel ("CARP") proceeding; (3) provide for the convening, if necessary, of a CARP proceeding to adjust the royalty rates payable under 17 U.S.C. §119, provided that such provisions require the Librarian of Congress and any CARP to adjust any fees set by arbitration to account for the obligations of the parties under any applicable voluntary agreements filed with the Copyright Office; and (4) amend the Section 119 compulsory license to permit the retransmission of superstations to commercial establishments. These provisions are collectively referred to herein as the "Section 199 Rate Provisions."

If legislation containing each of these Section 119 Rate Provisions is enacted into law prior to January 1, 2005, we will submit to the Copyright Office our voluntary agreement that specifies the agreed-upon royalty rates, and this agreement will become binding on the parties. We will also jointly petition the Copyright Office to adopt these rates for all copyright owners, satellite carriers and distributors under Section 119.

Attachment A hereto describes in narrative form the changes that we believe must be made to H.R. 4518, as reported to the House of Representatives on September 7, 2004, for that bill to incorporate the above-identified Section 119 Rate Provisions. Attachment B provides specific suggested language amending H.R. 4518 to reflect the Section 119 Rate Provisions. Attachment C contains a red-lined version of H.R. 3518 showing the proposed Section 119 Rate Provisions.

There are a few additional points that we wish to emphasize. First, the rates to which the parties have agreed reflect multiple considerations and difficult compromises—including a desire to be responsive to your reasonable requests for a negotiated agreement and to avoid the costs and uncertainties of further controversy and political litigation. Accordingly, our agreement provides that its terms do not have any precedential value. Nevertheless, we firmly believe that it is in the best interests of all copyright owners and satellite carriers alike, as well as those consumers who receive the valuable copyrighted works offered under the Section 119 statutory license, for Congress to enact the Section 119 Rate Provisions—and for the Copyright Office ultimately to adopt the rates set forth in our voluntary agreement.

Second, nothing in our voluntary agreement prevents any party from supporting or opposing provisions other than those reflected in the attached Section 119 Rate Provisions.

Third, each of the Parties to this agreement (DIRECTV, EchoStar and the copyright owners) supports the attached Section 119 Rate Provisions. This is not to say, however, that each of the parties would support any legislative vehicle to which the Section 119 Rate Provisions could be attached. Each Party must base its decision on whether to support any such legislation on the totality of the provisions therein.

Finally, we wish to personally thank each of you and your staff for your continuing efforts in bring the parties together and assisting us to resolve our considerable differences in an amicable way that serves the best interests of all concerned. In particular, we wish to recognize the hard work of David Whitney, Alec French, Sampak Garg and Cameron Gilreath. We very much appreciated their professionalism, their diligence and their patience throughout the process. It is our fervent wish that all of these efforts bear fruit with the passage of legislation that resolves the Section 119 rate issues for the upcoming five-year period.

Sincerely,

Program Suppliers: Fritz Attaway, Executive Vice President and Washington Counsel, Motion Picture Association of America, Inc.

Joint Sports Claimants: Thomas J. Ostertag, Senior Vice President & General Counsel, Office of the Commissioner of Baseball.

DirecTV, Inc.: Daniel M. Fawcett, Executive Vice President and General Counsel.

EchoStar Satellite L.L.C.: David K. Moskowitz, Executive Vice President & General Counsel.

Satellite Broadcasting & Communications Association: Richard DalBello, President.

Mr. Speaker, finally and obviously, I urge all Members to support this good piece of legislation, and I appreciate in advance their support.

Mr. UPTON. Mr. Speaker, I yield 1½ minutes to the gentleman from Indiana (Mr. BUYER), my friend and colleague, a member of the Subcommittee on Telecommunications and the Internet.

Mr. BUYER. Mr. Speaker, I appreciate the gentleman's good work on this.

The act we are approving today continues a strong policy of continuing local-to-local service. It also pushes the satellite industry to be as competitive as possible with cable.

For the first time, the bill will allow satellite carriers to deliver significantly viewed stations from nearby markets as cable now is able to do. In any given community, the significantly viewed stations that the direct broadcast service will be allowed to carry are exactly the same ones that cable can carry.

The act imposes a variety of limits designed to protect free, local, over-the-air broadcasting. For example, the only subscribers who can receive significantly viewed stations are those who are already receiving their own local stations by satellite.

Nor can the direct broadcast service company offer a digital signal of a significantly viewed affiliate of, say, CBS to a subscriber to which it offers only the analog feed of the local CBS station or carry the significantly viewed CBS station with more digital broadband than the local station.

There also are some pretty strong provisions in this. If the satellite carrier abuses this new regime by carrying an unauthorized station, it will be both subject to swift and severe penalties at the FCC and will forfeit its compulsory license under the Copyright Act which is conditioned on compliance with all applicable FCC rules regulations and authorization.

I had been impressed with the satellite industry and how it has created this industry, but they also now need to be fair players in the marketplace.

As Congress made clear when we passed the 1999 Satellite Home Viewer Improvement Act ("SHVIA"), it is far better for local communities if satellite carriers offer their customers local television stations—including network stations—rather than TV stations from other cities. Put another way, local-to-local service is the right way, and—except when there is no other choice—distant network stations are the wrong way, to deliver broadcast programming by satellite. Local-to-local fosters localism and helps keep free, over-the-air television available to everyone, while delivery of distant network stations to households that can receive their own local stations (whether over the air or via local-to-local service) has just the opposite effect.

The pro-local-to-local policy of the 1999 SHVIA has been an astounding success. The satellite industry has grown spectacularly since then, spurred—as the satellite industry has many times reminded us—by the availability of local-to-local service. In fact, in the past year, the number of cable subscribers has actually shrunk, while satellite carriers continue to expand at a rapid clip.

Recognizing that local-to-local is not just good policy but good business, the DBS firms have expanded local-to-local service at a rate far faster than the industry predicted a few years ago. As to analog service, EchoStar recently announced that it was serving no fewer than 150 local markets, covering more than 90 percent of the television households in the United States. And for its part, DirecTV expects to offer local-to-local in at least 130 local markets by the end of 2004—and has committed to offering local-to-local in every market as soon as 2006, and no later than 2008.

I want to commend DirecTV for its commitment to provide service to all 210 Designated Market Areas. I hope that EchoStar is on a similar path and will provide more certainty as to when this might occur just as DirecTV has done. It is my hope that this service is provided sooner rather than later so that those satellite subscribers in Lafayette, Indiana will be able to receive their local affiliate station and achieve true local-into-local service.

But there is still more: DirecTV announced just a few weeks ago that it plans to offer high-definition local-to-local service in many markets over the next few years. With the first of its new satellites, DirecTV plans to offer during 2005 more than 500 local high-definition channels, enabling it to offer local HD programming to the majority of U.S. television households. And with the launch of still more new satellites, DirecTV will be able to add even more local HD markets in the future. Of course, in the highly competitive world of multichannel television providers, there is little doubt that DirecTV's competitors will be driven to try to match—or exceed—DirecTV's local-to-local offerings. And that is all to the good.

The Act we are approving today continues the strong policy of encouraging local-to-local service and pushing the satellite industry to be as competitive as possible with cable. For the first time, the bill will allow satellite carriers to deliver "significantly-viewed" stations from nearby markets, as cable is now able to do. In any given community, the "significantly viewed" stations that DBS will be allowed to carry are exactly the same ones that cable can carry. The Act imposes a variety of limits designed to protect free, local, over-the-air broadcasting: For example, the only subscribers who can receive significantly-viewed stations are those who already receive their own local stations by satellite. (Since cable always offers local stations, this rule ensures a level playing field.) Nor can a DBS company offer a digital signal of a significantly-viewed affiliate of, say, CBS, to a subscriber to which it offers only the analog feed of the local CBS station, or carry a significantly-viewed CBS station with more digital bandwidth than the local CBS station (unless the carrier offers the entire bandwidth of the local digital station).

If a satellite carrier abuses this new regime—by carrying unauthorized stations—it will both be subject to swift and severe penalties at the FCC, and will forfeit its compulsory license under the Copyright Act, which is conditioned on compliance with all applicable FCC rules, regulations, and authorizations.

Mr. GONZALEZ. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. ENGEL).

Mr. ENGEL. Mr. Speaker, I thank the gentleman for yielding time to me. And, Mr. Speaker, I am pleased to rise in strong support of this proconsumer legislation, the Satellite Home Viewers Extension and Reauthorization Act.

I also want to thank the chairman and ranking member of the Committee on Energy and Commerce for the manner in which this legislation moved through our committee. The Committee on Energy and Commerce moved through the process, it was completely open and bipartisan; and I thank the Chair for that.

The Satellite Home Viewer Improvement Act expires at the end of this year. Thus, we must act quickly to ensure our constituents continue to receive the services they enjoy.

This bill also does a great service to our communities by preserving and strengthening local broadcasting.

My interest in this legislation was piqued when I discovered that one of the two satellite companies was engaging in a discriminatory practice that forced 95 percent of their customers to pay for services they do not receive.

EchoStar's system requires two satellite dishes on a rooftop to be able to receive all of the local channels and other channels they offer. Nothing is wrong with that. It is how their technology works. However, EchoStar is discriminatory in choosing which local broadcasters would end up on the second dish which is inconvenient. Most often it is Spanish language, public and religious broadcasters.

On top of that, EchoStar does a poor job informing its customers of the need for a second dish, and the company requires a second technician to come out and install the second dish. The company states that only about 5 percent of their customers take the second dish, which means that 95 percent of customers are paying for services they do not receive.

This legislation requires all satellite companies to put all local channels on one of the two dishes. I think that is important, and I think it is a major breakthrough.

This provision is also key to the health of the satellite industry by setting the ground rules for providing local broadcast stations. Local-to-local has been a driving force in the satellite television industry's growth. In 1999, just prior to the establishment of the local-to-local compulsory license, the industry had 10.1 million subscribers. Only 4 years later, after the advent of local-to-local, the industry had more than doubled its subscriber base to 20.4 million.

Another key provision gives consumers of satellite TV service the same choices as cable subscribers. Specifically, the bill gives satellite the ability to import significantly viewed stations from adjoining markets. At the same time, the bill includes safeguards to ensure this new privilege is not abused to the detriment of local television and television viewers.

☐ 1345

This means, for example, a satellite prescriber in Baltimore could soon be getting Washington, D.C., local stations if they are significantly viewed. For people who live in or near Baltimore and commute to D.C. to work, the traffic reports are obviously vital.

In closing, Mr. Speaker, this legislation enjoys widespread bipartisan support in Congress as well as the endorsement of nearly all key industry stakeholders, including local television stations, the television networks, cable operators, and DirecTV.

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today we are considering H.R. 4518, which is alternatively named the "W.J. 'Billy' Tauzin Satellite Television Act of 2004," in honor of our former chairman, BILLY TAUZIN. It is particularly fitting that this is named after Boudreaux friend, BILLY TAUZIN, since he was the chief architect of the regulatory landscape which promoted the creation of a vibrant satellite TV industry to the benefit of so many consumers across the country.

Mr. Speaker, our prayers remain with BILLY TAUZIN as he continues his fight against cancer, and I know that he is fighting with the same vim and vigor that characterizes his very able public service.

This bill reauthorizes certain expiring provisions in the communications and copyright acts. It also modernizes other provisions to increase parity and enhance competition between satellite and cable operations. And given that this bill affects both communications and copyright issues, the Committee on Energy and Commerce worked very closely with the House Committee on the Judiciary on a bipartisan basis in putting this bill together.

Procedurally, this bill combines the elements of H.R. 4501, which was reported by the House Committee on Energy and Commerce, with elements of H.R. 4518, which was reported by the House Committee on the Judiciary. I want to commend my colleagues on both committees, on both sides of the aisle, for their cooperation and dedication of this mission, particularly the gentleman from Wisconsin (Mr. SENSENBRENNER), chairman of the Committee on the Judiciary; the gentleman from Texas (Mr. SMITH), chairman of the Subcommittee on Courts, the Internet, and Intellectual Property; and, obviously, the ranking member of the Committee on Energy and Commerce, the gentleman from Michigan (Mr. DINGELL) and the ranking member of the Subcommittee on Telecommunications and the Internet, the gentleman from Massachusetts (Mr. MARKEY), for their very active work on this legislation.

This bill resulted from an extensive examination of satellite TV issues in our committee. The subcommittee on Telecommunications and the Internet held an oversight hearing on March 10, a legislative hearing on April 1, subcommittee markup to legislation on April 28, and the full committee markup to legislation on June 3 that would become H.R. 4501. As I recall, that bill passed in both the subcommittee and full committee on a voice vote. It was extensively bipartisan from the very start. And without a doubt, by extending these expiring provisions, increasing parity between satellite TV and cable operators, promoting competition between satellite TV and cable, the bill will enhance consumer choice and service.

Mr. Speaker, this bill builds upon the solid foundation laid by our friend BILLY TAUZIN. I commend this bill to my colleagues on both sides of the aisle and urge its passage.

Mr. Speaker, I yield back the balance of my time.

Mr. GONZALEZ. Mr. Speaker, I yield myself such time as I may consume.

Just briefly again, Mr. Speaker, this is a bill that makes good business sense and is a good deal for the consumer, standing for the proposition those are not mutually exclusive concepts.

Mr. DINGELL. Mr. Speaker, I rise today in support of H.R. 4518, the Satellite Home Viewer Extension and Reauthorization Act of 2004. I congratulate Chairmen BARTON and SENSENBRENNER, Ranking Member CONYERS and the subcommittee chairmen and ranking members of their hard work on this legislation. The task of combining separate Energy and Commerce and Judiciary Committee bills into a single product is never easy, but I am pleased with this bipartisan bill before us today. Let us hope that the other body will act with due haste to ensure that this legislation becomes law this year.

I note that the bill before us incorporates the language of both H.R. 4501 and H.R. 4518 was solely referred to the Committee on Energy and Commerce. H.R. 4518 was referred solely to the Committee on the Judiciary. The members of both committees worked long and hard on their respective bills. Accordingly, the legislative history on H.R. 4518 includes the legislative history of H.R. 4501.

The bill before us achieves three very critical goals. First, it will increase regulatory parity between cable and satellite providers, thereby strengthen satellite companies' ability to compete in the multichannel video marketplace. Currently, cable providers can offer their subscribers out-of-market television signals that are "significantly viewed" in the subscribers' local communities. Satellite companies, however, are prevented by law from offering to their subscribers the same signals. This bill would change the law to provide satellite companies an equal right to provide their subscribers those "significantly viewed" signals. This increased parity should help spur greater competition between cable and satellite providers and ultimately benefit consumers in the form of lower prices and better service.

Second, the act will protect consumers and foster localism by ensuring that satellite customers receive all of their local broadcast signals when these signals become available via satellite. Local broadcasters provide their communities with important local programming. Whether it is local news, weather, or community events, these broadcasters are there, on the ground serving their friends and neighbors. This idea of localism was recognized and fostered by Congress during the last reauthorization of this statute in 1999, through a provision called "carry one, carry all." This policy mandates that a satellite provider, in a nondiscriminatory fashion, offer all local broadcast signals in a market if it offers one.

Finally, I am also pleased that this bill will help protect consumer privacy. This bill will force satellite carriers to comply with the same privacy obligations that already apply to cable television providers. Personally identifiable information will now be better protected.

Mr. Speaker, H.R. 4518 will encourage competition between cable and satellite. It also furthers the goal of localism and protects consumers. I urge my colleagues to support it.

Mr. CONYERS. Mr. Speaker, I rise in support of this legislation, of which I am an original cosponsor. I first would like to note the comity that went into drafting this bill. We worked with the Commerce Committee on addressing the relevant issues based on jurisdiction. Further, Chairman SENSENBRENNER and his staff worked diligently with us on drafting this legislation. I would particularly like to thank David Whitney, counsel to the majority, whose diligence and bipartisanship are the only reason we are here today.

In 1999, we passed the Satellite Home Viewer Improvement Act to allow satellite companies to retransmit distant network signals to customers who could not receive clear over-the-air television signals. Such companies have to pay a government-set rate to the broadcast copyright owners. While I had, and still have, hesitations about creating compulsory licenses that require content owners to sell their work for a set fee, I believe this license led to significant competition in programming distribution.

As a result of this policy decision, the satellite industry has dedicated significant technological and financial resources to expanding the choices available to consumers. I am certain we can all agree that is a good thing.

The 1999 law expires at the end of this calendar year, so we must reauthorize it. The bill before us extends the license for 5 years. Importantly, the bill goes beyond that in addressing the desires of consumers in that it permits the satellite companies to retransmit a significantly viewed local signal to a customer.

The bill also settles a gray area in terms of what satellite service customers can get when local-to-local satellite television is available. Under the new regime, current subscribers will be allowed to choose between the distant signal service or the local service. New customers would be provided with the local service.

Despite the benefits of this legislation and the work of the interested parties, much remains to be done in terms of providing complete television service across the country. I look forward to working with the content owners and satellite companies in making that happen.

I urge my colleagues to vote "yes" on this legislation.

Mr. TANCREDO. Mr. Speaker, I wish to express my views on the legislation before us today.

This legislation includes a requirement for Echostar, better known as Dish Network, to eliminate the solution it developed to serve more Americans with local service than any other satellite TV company. The legislation would eliminate its "two dish" solution within 12 months. This requirement will cause consumer inconvenience and hamper the rollout of local programming. The "two dish" remedy maximizes the number of television markets that can receive local channels by utilizing the scarce spectrum available.

I believe a better route to dealing with the lack of spectrum, which I know is a priority for you, is for this legislation to include a provision similar to that of the Senate Commerce Committee. That committee voted to allow satellite TV providers to offer High Definition TV service to markets where a local broadcaster is not even offering a digital signal. As noted in the Digital Transition Coalition letter which I will also enter into the RECORD, the freed-up spectrum could be redeployed to our Nation's first responders, auctioned to wireless companies eager to offer new advanced services, and raise funds that could be returned to the taxpayer or put to paying off the debt.

I look forward to our continuing work on this legislation.

DIGITAL TRANSITION COALITION,
Washington, DC, October 4, 2004.

Hon. J. DENNIS HASTERT,
Speaker, House of Representatives,
U.S. Capitol, Washington, DC.

DEAR SPEAKER HASTERT: The Digital Transition Coalition is writing to express its concern regarding the House reauthorization of the Satellite Home Viewer Improvement Act (SHVIA). While the legislation adopts rate increase adjustments for content owners and allows satellite companies to provide "distant network signals" to subscribers who cannot receive "over-the-air" broadcast signals, it fails to include the "digital white area" provision adopted by the Senate Commerce Committee which would accelerate the digital television transition. Without this provision, millions of Americans, especially consumers in rural areas, will have to wait even longer for digital and High-Definition television and be denied the world of innovation derived from freed-up spectrum.

H.R. 4501, approved by the Committee on Energy & Commerce, did not include an important provision to speed up the return of tens of billions of dollars of analog spectrum currently held by broadcasters. Despite the fact that Congress years ago set a 2006 deadline for broadcasters to return the analog spectrum (in exchange for tens of billions of dollars of free digital spectrum), it is clear that deadline will not be met. As a result, consumers in more than 39 million U.S. households (about 36 percent nationwide) will continue to be deprived of receiving all their network signals in digital.

As taxpayer groups, consumer advocates and technology leaders, our coalition has strongly supported proposals to allow direct broadcast satellite providers to offer a distant digital network signal into local television markets where broadcasters are not transmitting a full-power digital signal. We believe such a measure is essential to provide market-based pressure on local broadcasters to complete the digital transition and return the public's valuable analog spectrum for other uses.

The satellite home viewer reauthorization legislation is the vehicle to address this issue. The Senate Commerce Committee, in its version of the satellite legislation, adopted a "digital white area" provision that will help provide the necessary impetus to speed up the digital transition and serve the needs of millions of television viewers who are disadvantaged by the current situation. In contrast, the House Commerce Committee bill requests a perfunctory report on the matter without any immediate remedy.

As such an important issue for consumers and the economy, we strongly urge that a digital white area provision be added to the House legislation. We appreciate your consideration of our request, and we look forward to continuing to work with the Congressional leadership, the committee chairmen and ranking members to further improve this legislation.

Sincerely,

Grover Norquist, Americans for Tax Reform; The Honorable Andrea Seastrand, The California Space Authority; Tom Schatz, Council for Citizens Against Government Waste; Charles Ergen, EchoStar Communications Corporation; George Landrith, Frontiers of Freedom; Andrew Jay Schwartzman, Media Access Project; Gigi Sohn, Public Knowledge; Richard DalBello, Satellite Broadcasting and Communications Association; Karen Kerrigan, Small Business Survival Committee.

Mr. GONZALEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BERMAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. WHITFIELD). The question is on the motion offered by the gentleman from Texas (Mr. DELAY) that the House suspend the rules and pass the bill, H.R. 4518, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A Bill to extend the statutory license for secondary transmissions by satellite carriers of transmissions by television broadcast stations under title 17, United States Code, and to amend the Communications Act of 1934 with respect to such transmissions, and for other purposes.".

A motion to reconsider was laid on the table.

WATER SUPPLY, RELIABILITY, AND ENVIRONMENTAL IMPROVEMENT ACT

Mr. POMBO. Mr. Speaker, I move to suspend the rules and concur in the Senate amendment to the bill (H.R. 2828) to authorize the Secretary of the Interior to implement water supply technology and infrastructure programs aimed at increasing and diversifying domestic water resources.

The Clerk read as follows:

Senate amendment:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Water Supply, Reliability, and Environmental Improvement Act".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows.

Sec. 1. Short title; table of contents.

TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Bay Delta program.
Sec. 104. Management.
Sec. 105. Reporting requirements.
Sec. 106. Crosscut budget.
Sec. 107. Federal share of costs.
Sec. 108. Compliance with State and Federal law.
Sec. 109. Authorization of appropriation.

TITLE II—MISCELLANEOUS

Sec. 201. Salton Sea study program.
Sec. 202. Alder Creek water storage and conservation project feasibility study and report.
Sec. 203. Folsom Reservoir temperature control device authorization.

TITLE I—CALIFORNIA WATER SECURITY AND ENVIRONMENTAL ENHANCEMENT

SEC. 101. SHORT TITLE.

This title may be cited as the "Calfed Bay-Delta Authorization Act".

SEC. 102. DEFINITIONS.

In this title:

(1) CALFED BAY-DELTA PROGRAM.—The terms "Calfed Bay-Delta Program" and "Program" mean the programs, projects, complementary actions, and activities undertaken through coordinated planning, implementation, and assessment activities of the State agencies and Federal agencies as set forth in the Record of Decision.

(2) CALIFORNIA BAY-DELTA AUTHORITY.—The terms "California Bay-Delta Authority" and "Authority" mean the California Bay-Delta Authority, as set forth in the California Bay-Delta Authority Act (Cal. Water Code §79400 et seq.).

(3) DELTA.—The term "Delta" has the meaning given the term in the Record of Decision.

(4) ENVIRONMENTAL WATER ACCOUNT.—The term "Environmental Water Account" means the Cooperative Management Program established under the Record of Decision.

(5) FEDERAL AGENCIES.—The term "Federal agencies" means—

(A) the Department of the Interior, including—

(i) the Bureau of Reclamation;

(ii) the United States Fish and Wildlife Service;

(iii) the Bureau of Land Management; and

(iv) the United States Geological Survey;

(B) the Environmental Protection Agency;

(C) the Army Corps of Engineers;

(D) the Department of Commerce, including the National Marine Fisheries Service (also known as "NOAA Fisheries");

(E) the Department of Agriculture, including—

(i) the Natural Resources Conservation Service; and

(ii) the Forest Service; and

(F) the Western Area Power Administration.

(6) FIRM YIELD.—The term "firm yield" means a quantity of water from a project or program that is projected to be available on a reliable basis, given a specified level of risk, during a critically dry period.

(7) GOVERNOR.—The term "Governor" means the Governor of the State of California.

(8) RECORD OF DECISION.—The term "Record of Decision" means the Calfed Bay-Delta Program Record of Decision, dated August 28, 2000.

(9) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(10) STATE.—The term "State" means the State of California.

(11) STATE AGENCIES.—The term "State agencies" means—

(A) the Resources Agency of California, including—

(i) the Department of Water Resources;

(ii) the Department of Fish and Game;

(iii) the Reclamation Board;

(iv) the Delta Protection Commission;

(v) the Department of Conservation;

(vi) the San Francisco Bay Conservation and Development Commission;

(vii) the Department of Parks and Recreation; and

(viii) the California Bay-Delta Authority;

(B) the California Environmental Protection Agency, including the State Water Resources Control Board;

(C) the California Department of Food and Agriculture; and

(D) the Department of Health Services.

SEC. 103. BAY DELTA PROGRAM.

(a) IN GENERAL.—

(1) RECORD OF DECISION AS GENERAL FRAMEWORK.—The Record of Decision is approved as a general framework for addressing the Calfed Bay-Delta Program, including its components relating to water storage, ecosystem restoration, water supply reliability (including new firm yield), conveyance, water use efficiency, water quality, water transfers, watersheds, the Environmental Water Account, levee stability, governance, and science.

(2) REQUIREMENTS.—

(A) IN GENERAL.—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) consistent with—

(i) the Record of Decision;

(ii) the requirement that Program activities consisting of protecting drinking water quality, restoring ecological health, improving water supply reliability (including additional storage, conveyance, and new firm yield), and protecting Delta levees will progress in a balanced manner; and

(iii) this title.

(B) MULTIPLE BENEFITS.—In selecting activities and projects, the Secretary and the heads of the Federal agencies shall consider whether the activities and projects have multiple benefits.

(b) AUTHORIZED ACTIVITIES.—The Secretary and the heads of the Federal agencies are authorized to carry out the activities described in subsections (c) through (f) in furtherance of the Calfed Bay-Delta Program as set forth in the Record of Decision, subject to the cost-share and other provisions of this title, if the activity has been—

(1) subject to environmental review and approval, as required under applicable Federal and State law; and

(2) approved and certified by the relevant Federal agency, following consultation and coordination with the Governor, to be consistent with the Record of Decision.

(c) AUTHORIZATIONS FOR FEDERAL AGENCIES UNDER APPLICABLE LAW.—

(1) SECRETARY OF THE INTERIOR.—The Secretary of the Interior is authorized to carry out the activities described in paragraphs (1) through (10) of subsection (d), to the extent authorized under the reclamation laws, the Central Valley Project Improvement Act (title XXXIV of Public Law 102-575; 106 Stat. 4706), the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(2) ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY.—The Administrator of the Environmental Protection Agency is authorized to carry out the activities described in paragraphs (3), (5), (6), (7), (8), and (9) of subsection (d), to the extent authorized under the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), and other applicable law.

(3) SECRETARY OF THE ARMY.—The Secretary of the Army is authorized to carry out the activities described in paragraphs (1), (2), (6), (7), (8), and (9) of subsection (d), to the extent authorized under flood control, water resource development, and other applicable law.

(4) SECRETARY OF COMMERCE.—The Secretary of Commerce is authorized to carry out the activities described in paragraphs (2), (6), (7), and (9) of subsection (d), to the extent authorized under the Fish and Wildlife Coordination Act (16 U.S.C. 661 et seq.), the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.), and other applicable law.

(5) SECRETARY OF AGRICULTURE.—The Secretary of Agriculture is authorized to carry out the activities described in paragraphs (3), (5), (6), (7), (8), and (9) of subsection (d), to the extent authorized under title XII of the Food Security Act of 1985 (16 U.S.C. 3801 et seq.), the Farm Security and Rural Investment Act of 2002 (Public Law 107–171; 116 Stat. 134) (including amendments made by that Act), and other applicable law.

(d) DESCRIPTION OF ACTIVITIES UNDER APPLICABLE LAW.—

(1) WATER STORAGE.—

(A) IN GENERAL.—Activities under this paragraph consist of—

(i) planning and feasibility studies for projects to be pursued with project-specific study for enlargement of—

(I) the Shasta Dam in Shasta County; and

(II) the Los Vaqueros Reservoir in Contra Costa County;

(ii) planning and feasibility studies for the following projects requiring further consideration—

(I) the Sites Reservoir in Colusa County; and

(II) the Upper San Joaquin River storage in Fresno and Madera Counties;

(iii) developing and implementing groundwater management and groundwater storage projects; and

(iv) comprehensive water management planning.

(B) STORAGE PROJECT AUTHORIZATION AND BALANCED CALFED IMPLEMENTATION.—

(i) IN GENERAL.—If on completion of the feasibility study for a project described in clause (i) or (ii) of subparagraph (A), the Secretary, in consultation with the Governor, determines that the project should be constructed in whole or in part with Federal funds, the Secretary shall submit the feasibility study to Congress.

(ii) FINDING OF IMBALANCE.—If Congress fails to authorize construction of the project by the end of the next full session following the submission of the feasibility study, the Secretary, in consultation with the Governor, shall prepare a written determination making a finding of imbalance for the Calfed Bay-Delta Program.

(iii) REPORT ON REBALANCING.—

(I) IN GENERAL.—If the Secretary makes a finding of imbalance for the Program under clause (ii), the Secretary, in consultation with the Governor, shall, not later than 180 days after the end of the full session described in clause (ii), prepare and submit to Congress a report on the measures necessary to rebalance the Program.

(II) SCHEDULES AND ALTERNATIVES.—The report shall include preparation of revised schedules and identification of alternatives to rebalance the Program, including resubmission of the project to Congress with or without modification, construction of other projects, and construction of other projects that provide equivalent water supply and other benefits at equal or lesser cost.

(C) WATER SUPPLY AND YIELD STUDY.—

(i) IN GENERAL.—The Secretary, acting through the Bureau of Reclamation and in coordination with the State, shall conduct a study of available water supplies and existing and future needs for water—

(I) within the units of the Central Valley Project;

(II) within the area served by Central Valley Project agricultural, municipal, and industrial water service contractors; and

(III) within the Calfed Delta solution area.

(ii) RELATIONSHIP TO PRIOR STUDY.—In conducting the study, the Secretary shall incorporate and revise, as necessary, the results of the study required by section 3408(j) of the Central Valley Project Improvement Act of 1992 (Public Law 102–575; 106 Stat. 4730).

(iii) REPORT.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report describing the results of the study, including—

(I) new firm yield and water supply improvements, if any, for Central Valley Project agricultural water service contractors and municipal and industrial water service contractors, including those identified in Bulletin 160;

(II) all water management actions or projects, including those identified in Bulletin 160, that would—

(aa) improve firm yield or water supply; and

(bb) if taken or constructed, balance available water supplies and existing demand with due recognition of water right priorities and environmental needs;

(III) the financial costs of the actions and projects described under subclause (II); and

(IV) the beneficiaries of those actions and projects and an assessment of the willingness of the beneficiaries to pay the capital costs and operation and maintenance costs of the actions and projects.

(D) MANAGEMENT.—The Secretary shall conduct activities related to developing groundwater storage projects to the extent authorized under law.

(E) COMPREHENSIVE WATER PLANNING.—The Secretary shall conduct activities related to comprehensive water management planning to the extent authorized under law.

(2) CONVEYANCE.—

(A) SOUTH DELTA ACTIONS.—

(i) IN GENERAL.—In the case of the South Delta, activities under this subparagraph consist of—

(I) the South Delta Improvements Program through actions to—

(aa) increase the State Water Project export limit to 8,500 cfs;

(bb) install permanent, operable barriers in the South Delta, under which Federal agencies shall cooperate with the State to accelerate installation of the permanent, operable barriers in the South Delta, with an intent to complete that installation not later than September 30, 2007;

(cc) evaluate, consistent with the Record of Decision, fish screens and intake facilities at the Tracy Pumping Plant facilities; and

(dd) increase the State Water Project export to the maximum capability of 10,300 cfs;

(II) reduction of agricultural drainage in South Delta channels, and other actions necessary to minimize the impact of drainage on drinking water quality;

(III) evaluation of lower San Joaquin River floodway improvements;

(IV) installation and operation of temporary barriers in the South Delta until fully operable barriers are constructed; and

(V) actions to protect navigation and local diversions not adequately protected by temporary barriers.

(ii) ACTIONS TO INCREASE PUMPING.—Actions to increase pumping shall be accomplished in a manner consistent with the Record of Decision requirement to avoid redirected impacts and adverse impacts to fishery protection and with any applicable Federal or State law that protects—

(I) water diversions and use (including avoidance of increased costs of diversion) by in-Delta water users (including in-Delta agricultural users that have historically relied on water diverted for use in the Delta);

(II) water quality for municipal, industrial, agricultural, and other uses; and

(III) water supplies for areas of origin.

(B) NORTH DELTA ACTIONS.—In the case of the North Delta, activities under this subparagraph consist of—

(i) evaluation and implementation of improved operational procedures for the Delta Cross Channel to address fishery and water quality concerns;

(ii) evaluation of a screened through-Delta facility on the Sacramento River; and

(iii) evaluation of lower Mokelumne River floodway improvements.

(C) INTERTIES.—Activities under this subparagraph consist of—

(i) evaluation and construction of an intertie between the State Water Project California Aqueduct and the Central Valley Project Delta Mendota Canal, near the City of Tracy, as an operation and maintenance activity, except that the Secretary shall design and construct the intertie in a manner consistent with a possible future expansion of the intertie capacity (as described in subsection (f)(1)(B)); and

(ii) assessment of a connection of the Central Valley Project to the Clifton Court Forebay of the State Water Project, with a corresponding increase in the screened intake of the Forebay.

(D) PROGRAM TO MEET STANDARDS.—

(i) IN GENERAL.—Prior to increasing export limits from the Delta for the purposes of conveying water to south-of-Delta Central Valley Project contractors or increasing deliveries through an intertie, the Secretary shall, not later than 1 year after the date of enactment of this Act, in consultation with the Governor, develop and initiate implementation of a program to meet all existing water quality standards and objectives for which the Central Valley Project has responsibility.

(ii) MEASURES.—In developing and implementing the program, the Secretary shall include, to the maximum extent feasible, the measures described in clauses (iii) through (vii).

(iii) RECIRCULATION PROGRAM.—The Secretary shall incorporate into the program a recirculation program to provide flow, reduce salinity concentrations in the San Joaquin River, and reduce the reliance on the New Melones Reservoir for meeting water quality and fishery flow objectives through the use of excess capacity in export pumping and conveyance facilities.

(iv) BEST MANAGEMENT PRACTICES PLAN.—

(I) IN GENERAL.—The Secretary shall develop and implement, in coordination with the State's programs to improve water quality in the San Joaquin River, a best management practices plan to reduce the water quality impacts of the discharges from wildlife refuges that receive water from the Federal Government and discharge salt or other constituents into the San Joaquin River.

(II) COORDINATION WITH INTERESTED PARTIES.—The plan shall be developed in coordination with interested parties in the San Joaquin Valley and the Delta.

(III) COORDINATION WITH ENTITIES THAT DISCHARGE WATER.—The Secretary shall also coordinate activities under this clause with other entities that discharge water into the San Joaquin River to reduce salinity concentrations discharged into the River, including the timing of discharges to optimize their assimilation.

(v) ACQUISITION OF WATER.—The Secretary shall incorporate into the program the acquisition from willing sellers of water from streams tributary to the San Joaquin River or other sources to provide flow, dilute discharges of salt or other constituents, and to improve water quality in the San Joaquin River below the confluence of the Merced and San Joaquin Rivers, and to reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives.

(vi) PURPOSE.—The purpose of the authority and direction provided to the Secretary under this subparagraph is to provide greater flexibility in meeting the existing water quality standards and objectives for which the Central Valley Project has responsibility so as to reduce the demand on water from New Melones Reservoir used for that purpose and to assist the Secretary in meeting any obligations to Central Valley Project contractors from the New Melones Project.

(vii) UPDATING OF NEW MELONES OPERATING PLAN.—The Secretary shall update the New Melones operating plan to take into account, among other things, the actions described in this title that are designed to reduce the reliance on New Melones Reservoir for meeting water quality and fishery flow objectives, and to ensure that actions to enhance fisheries in the Stanislaus River are based on the best available science.

(3) WATER USE EFFICIENCY.—

(A) WATER CONSERVATION PROJECTS.—Activities under this paragraph include water conservation projects that provide water supply reliability, water quality, and ecosystem benefits to the California Bay-Delta system.

(B) TECHNICAL ASSISTANCE.—Activities under this paragraph include technical assistance for urban and agricultural water conservation projects.

(C) WATER RECYCLING AND DESALINATION PROJECTS.—Activities under this paragraph include water recycling and desalination projects, including groundwater remediation projects and projects identified in the Bay Area Water Plan and the Southern California Comprehensive Water Reclamation and Reuse Study and other projects, giving priority to projects that include regional solutions to benefit regional water supply and reliability needs.

(D) WATER MEASUREMENT AND TRANSFER ACTIONS.—Activities under this paragraph include water measurement and transfer actions.

(E) URBAN WATER CONSERVATION.—Activities under this paragraph include implementation of best management practices for urban water conservation.

(F) RECLAMATION AND RECYCLING PROJECTS.—

(i) PROJECTS.—This subparagraph applies to—

(I) projects identified in the Southern California Comprehensive Water Reclamation and Reuse Study, dated April 2001 and authorized by section 1606 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–4); and

(II) projects identified in the San Francisco Bay Area Regional Water Recycling Program described in the San Francisco Bay Area Regional Water Recycling Program Recycled Water Master Plan, dated December 1999 and authorized by section 1611 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h–9).

(ii) DEADLINE.—Not later than 180 days after the date of enactment of this Act, the Secretary shall—

(I) complete the review of the existing studies of the projects described in clause (i); and

(II) make the feasibility determinations described in clause (iii).

(iii) FEASIBILITY DETERMINATIONS.—A project described in clause (i) is presumed to be feasible if the Secretary determines for the project—

(I) in consultation with the affected local sponsoring agency and the State, that the existing planning and environmental studies for the project (together with supporting materials and

documentation) have been prepared consistent with Bureau of Reclamation procedures for projects under consideration for financial assistance under the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h et seq.); and

(II) that the planning and environmental studies for the project (together with supporting materials and documentation) demonstrate that the project will contribute to the goals of improving water supply reliability in the Calfed solution area or the Colorado River Basin within the State and otherwise meets the requirements of section 1604 of the Reclamation Wastewater and Groundwater Study and Facilities Act (43 U.S.C. 390h-2).

(iv) REPORT.—Not later than 90 days after the date of completion of a feasibility study or the review of a feasibility study under this subparagraph, the Secretary shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report describing the results of the study or review.

(4) WATER TRANSFERS.—Activities under this paragraph consist of—

(A) increasing the availability of existing facilities for water transfers;

(B) lowering transaction costs through permit streamlining; and

(C) maintaining a water transfer information clearinghouse.

(5) INTEGRATED REGIONAL WATER MANAGEMENT PLANS.—Activities under this paragraph consist of assisting local and regional communities in the State in developing and implementing integrated regional water management plans to carry out projects and programs that improve water supply reliability, water quality, ecosystem restoration, and flood protection, or meet other local and regional needs, in a manner that is consistent with, and makes a significant contribution to, the Calfed Bay-Delta Program.

(6) ECOSYSTEM RESTORATION.—

(A) IN GENERAL.—Activities under this paragraph consist of—

(i) implementation of large-scale restoration projects in San Francisco Bay and the Delta and its tributaries;

(ii) restoration of habitat in the Delta, San Pablo Bay, and Suisun Bay and Marsh, including tidal wetland and riparian habitat;

(iii) fish screen and fish passage improvement projects, including the Sacramento River Small Diversion Fish Screen Program;

(iv) implementation of an invasive species program, including prevention, control, and eradication;

(v) development and integration of Federal and State agricultural programs that benefit wildlife into the Ecosystem Restoration Program;

(vi) financial and technical support for locally-based collaborative programs to restore habitat while addressing the concerns of local communities;

(vii) water quality improvement projects to manage or reduce concentrations of salinity, selenium, mercury, pesticides, trace metals, dissolved oxygen, turbidity, sediment, and other pollutants;

(viii) land and water acquisitions to improve habitat and fish spawning and survival in the Delta and its tributaries;

(ix) integrated flood management, ecosystem restoration, and levee protection projects;

(x) scientific evaluations and targeted research on Program activities; and

(xi) strategic planning and tracking of Program performance.

(B) REPORTING REQUIREMENTS.—The Secretary or the head of the relevant Federal agency (as appropriate under clause (ii)) shall provide to the appropriate authorizing committees of the Senate and the House of Representatives and other appropriate parties in accordance with this subparagraph—

(i) an annual ecosystem program plan report in accordance with subparagraph (C); and

(ii) detailed project reports in accordance with subparagraph (D).

(C) ANNUAL ECOSYSTEM PROGRAM PLAN.—

(i) IN GENERAL.—Not later than October 1 of each year, with respect to each ecosystem restoration action carried out using Federal funds under this title, the Secretary, in consultation with the Governor, shall submit to the appropriate authorizing committees of the Senate and the House of Representatives an annual ecosystem program plan report.

(ii) PURPOSES.—The purposes of the report are—

(I) to describe the projects and programs to implement this subsection in the following fiscal year; and

(II) to establish priorities for funding the projects and programs for subsequent fiscal years.

(iii) CONTENTS.—The report shall describe—

(I) the goals and objectives of the programs and projects;

(II) program accomplishments;

(III) major activities of the programs;

(IV) the Federal agencies involved in each project or program identified in the plan and the cost-share arrangements with cooperating agencies;

(V) the resource data and ecological monitoring data to be collected for the restoration projects and how the data are to be integrated, streamlined, and designed to measure the effectiveness and overall trend of ecosystem health in the Bay-Delta watershed;

(VI) implementation schedules and budgets;

(VII) existing monitoring programs and performance measures;

(VIII) the status and effectiveness of measures to minimize the impacts of the program on agricultural land; and

(IX) a description of expected benefits of the restoration program relative to the cost.

(iv) SPECIAL RULE FOR LAND ACQUISITION USING FEDERAL FUNDS.—For each ecosystem restoration project involving land acquisition using Federal funds under this title, the Secretary shall—

(I) identify the specific parcels to be acquired in the annual ecosystem program plan report under this subparagraph; or

(II) not later than 150 days before the project is approved, provide to the appropriate authorizing committees of the Senate and the House of Representatives, the United States Senators from the State, and the United States Representative whose district would be affected, notice of any such proposed land acquisition using Federal funds under this title submitted to the Federal or State agency.

(D) DETAILED PROJECT REPORTS.—

(i) IN GENERAL.—In the case of each ecosystem restoration program or project funded under this title that is not specifically identified in an annual ecosystem program plan under subparagraph (C), not later than 45 days prior to approval, the Secretary, in coordination with the State, shall submit to the appropriate authorizing committees of the Senate and the House of Representatives recommendations on the proposed program or project.

(ii) CONTENTS.—The recommendations shall—

(I) describe the selection of the program or project, including the level of public involvement and independent science review;

(II) describe the goals, objectives, and implementation schedule of the program or project, and the extent to which the program or project addresses regional and programmatic goals and priorities;

(III) describe the monitoring plans and performance measures that will be used for evaluating the performance of the proposed program or project;

(IV) identify any cost-sharing arrangements with cooperating entities;

(V) identify how the proposed program or project will comply with all applicable Federal and State laws, including the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.); and

(VI) in the case of any program or project involving the acquisition of private land using Federal funds under this title—

(aa) describe the process and timing of notification of interested members of the public and local governments;

(bb) describe the measures taken to minimize impacts on agricultural land pursuant to the Record of Decision; and

(cc) include preliminary management plans for all properties to be acquired with Federal funds, including an overview of existing conditions (including habitat types in the affected project area), the expected ecological benefits, preliminary cost estimates, and implementation schedules.

(7) WATERSHEDS.—Activities under this paragraph consist of—

(A) building local capacity to assess and manage watersheds affecting the Delta system;

(B) technical assistance for watershed assessments and management plans; and

(C) developing and implementing locally-based watershed conservation, maintenance, and restoration actions.

(8) WATER QUALITY.—Activities under this paragraph consist of—

(A) addressing drainage problems in the San Joaquin Valley to improve downstream water quality (including habitat restoration projects that improve water quality) if—

(i) a plan is in place for monitoring downstream water quality improvements; and

(ii) State and local agencies are consulted on the activities to be funded;

except that no right, benefit, or privilege is created as a result of this subparagraph;

(B) implementation of source control programs in the Delta and its tributaries;

(C) developing recommendations through scientific panels and advisory council processes to meet the Calfed Bay-Delta Program goal of continuous improvement in Delta water quality for all uses;

(D) investing in treatment technology demonstration projects;

(E) controlling runoff into the California aqueduct, the Delta-Mendota Canal, and other similar conveyances;

(F) addressing water quality problems at the North Bay Aqueduct;

(G) supporting and participating in the development of projects to enable San Francisco Bay Area water districts, and water entities in San Joaquin and Sacramento Counties, to work cooperatively to address their water quality and supply reliability issues, including—

(i) connections between aqueducts, water transfers, water conservation measures, institutional arrangements, and infrastructure improvements that encourage regional approaches; and

(ii) investigations and studies of available capacity in a project to deliver water to the East Bay Municipal Utility District under its contract with the Bureau of Reclamation, dated July 20, 2001, in order to determine if such capacity can be utilized to meet the objectives of this subparagraph;

(H) development of water quality exchanges and other programs to make high quality water available for urban and other users;

(I) development and implementation of a plan to meet all Delta water quality standards for

which the Federal and State water projects have responsibility;

(J) development of recommendations through science panels and advisory council processes to meet the Calfed Bay-Delta Program goal of continuous improvement in water quality for all uses; and

(K) projects that are consistent with the framework of the water quality component of the Calfed Bay-Delta Program.

(9) SCIENCE.—Activities under this paragraph consist of—

(A) supporting establishment and maintenance of an independent science board, technical panels, and standing boards to provide oversight and peer review of the Program;

(B) conducting expert evaluations and scientific assessments of all Program elements;

(C) coordinating existing monitoring and scientific research programs;

(D) developing and implementing adaptive management experiments to test, refine, and improve scientific understandings;

(E) establishing performance measures, and monitoring and evaluating the performance of all Program elements; and

(F) preparing an annual science report.

(10) DIVERSIFICATION OF WATER SUPPLIES.—Activities under this paragraph consist of actions to diversify sources of level 2 refuge supplies and modes of delivery to refuges while maintaining the diversity of level 4 supplies pursuant to section 3406(d)(2) of the Central Valley Project Improvement Act (Public Law 102–575; 106 Stat. 4723).

(e) NEW AND EXPANDED AUTHORIZATIONS FOR FEDERAL AGENCIES.—

(1) IN GENERAL.—The heads of the Federal agencies described in this subsection are authorized to carry out the activities described in subsection (f) during each of fiscal years 2005 through 2010, in coordination with the Governor.

(2) SECRETARY OF THE INTERIOR.—The Secretary of the Interior is authorized to carry out the activities described in paragraphs (1), (2), and (4) of subsection (f).

(3) ADMINISTRATOR OF THE ENVIRONMENTAL PROTECTION AGENCY AND THE SECRETARIES OF AGRICULTURE AND COMMERCE.—The Administrator of the Environmental Protection Agency, the Secretary of Agriculture, and the Secretary of Commerce are authorized to carry out the activities described in subsection (f)(4).

(4) SECRETARY OF THE ARMY.—The Secretary of the Army is authorized to carry out the activities described in paragraphs (3) and (4) of subsection (f).

(f) DESCRIPTION OF ACTIVITIES UNDER NEW AND EXPANDED AUTHORIZATIONS.—

(1) CONVEYANCE.—Of the amounts authorized to be appropriated under section 109, not more than $184,000,000 may be expended for the following:

(A) SAN LUIS RESERVOIR.—Funds may be expended for feasibility studies, evaluation, and implementation of the San Luis Reservoir lowpoint improvement project, except that Federal participation in any construction of an expanded Pacheco Reservoir shall be subject to future congressional authorization.

(B) INTERTIE.—Funds may be expended for feasibility studies and evaluation of increased capacity of the intertie between the State Water Project California Aqueduct and the Central Valley Project Delta Mendota Canal.

(C) FRANKS TRACT.—Funds may be expended for feasibility studies and actions at Franks Tract to improve water quality in the Delta.

(D) CLIFTON COURT FOREBAY AND THE TRACY PUMPING PLANT.—Funds may be expended for feasibility studies and design of fish screen and intake facilities at Clifton Court Forebay and the Tracy Pumping Plant facilities.

(E) DRINKING WATER INTAKE FACILITIES.—

(i) IN GENERAL.—Funds may be expended for design and construction of the relocation of drinking water intake facilities to in-Delta water users.

(ii) DRINKING WATER QUALITY.—The Secretary shall coordinate actions for relocating intake facilities on a time schedule consistent with subsection (d)(2)(A)(i)(I)(bb) or take other actions necessary to offset the degradation of drinking water quality in the Delta due to the South Delta Improvement Program.

(F) NEW MELONES RESERVOIR.—

(i) IN GENERAL.—In addition to the other authorizations granted to the Secretary by this title, the Secretary shall acquire water from willing sellers and undertake other actions designed to decrease releases from the New Melones Reservoir for meeting water quality standards and flow objectives for which the Central Valley Project has responsibility to assist in meeting allocations to Central Valley Project contractors from the New Melones Project.

(ii) PURPOSE.—The authorization under this subparagraph is solely meant to add flexibility for the Secretary to meet any obligations of the Secretary to the Central Valley Project contractors from the New Melones Project by reducing demand for water dedicated to meeting water quality standards in the San Joaquin River.

(iii) FUNDING.—Of the amounts authorized to be appropriated under section 109, not more than $30,000,000 may be expended to carry out clause (i).

(G) RECIRCULATION OF EXPORT WATER.—Funds may be used to conduct feasibility studies, evaluate, and, if feasible, implement the recirculation of export water to reduce salinity and improve dissolved oxygen in the San Joaquin River.

(2) ENVIRONMENTAL WATER ACCOUNT.—

(A) IN GENERAL.—Of the amounts authorized to be appropriated under section 109, not more than $90,000,000 may be expended for implementation of the Environmental Water Account.

(B) NONREIMBURSABLE FEDERAL EXPENDITURE.—Expenditures under subparagraph (A) shall be considered a nonreimbursable Federal expenditure in recognition of the payments of the contractors of the Central Valley Project to the Restoration Fund created by the Central Valley Project Improvement Act (Title XXXIV of Public Law 102–575; 106 Stat. 4706).

(C) USE OF RESTORATION FUND.—

(i) IN GENERAL.—Of the amounts appropriated for the Restoration Fund for each fiscal year, an amount not to exceed $10,000,000 for any fiscal year may be used to implement the Environmental Water Account to the extent those actions are consistent with the fish and wildlife habitat restoration and improvement purposes of the Central Valley Project Improvement Act.

(ii) ACCOUNTING.—Any such use of the Restoration Fund shall count toward the 33 percent of funds made available to the Restoration Fund that, pursuant to section 3407(a) of the Central Valley Project Improvement Act, are otherwise authorized to be appropriated to the Secretary to carry out paragraphs (4) through (6), (10) through (18), and (20) through (22) of section 3406(b) of that Act.

(iii) FEDERAL FUNDING.—The $10,000,000 limitation on the use of the Restoration Fund for the Environmental Water Account under clause (i) does not limit the appropriate amount of Federal funding for the Environmental Water Account.

(3) LEVEE STABILITY.—

(A) IN GENERAL.—For purposes of implementing the Calfed Bay-Delta Program within the Delta (as defined in Cal. Water Code § 12220)), the Secretary of the Army is authorized to undertake the construction and implementation of levee stability programs or projects for such purposes as flood control, ecosystem restoration, water supply, water conveyance, and water quality objectives.

(B) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary of the Army shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report that describes the levee stability reconstruction projects and priorities that will be carried out under this title during each of fiscal years 2005 through 2010.

(C) SMALL FLOOD CONTROL PROJECTS.—Notwithstanding the project purpose, the authority granted under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s) shall apply to each project authorized under this paragraph.

(D) PROJECTS.—Of the amounts authorized to be appropriated under section 109, not more than $90,000,000 may be expended to—

(i) reconstruct Delta levees to a base level of protection (also known as the "Public Law 84–99 standard");

(ii) enhance the stability of levees that have particular importance in the system through the Delta Levee Special Improvement Projects Program;

(iii) develop best management practices to control and reverse land subsidence on Delta islands;

(iv) develop a Delta Levee Emergency Management and Response Plan that will enhance the ability of Federal, State, and local agencies to rapidly respond to levee emergencies;

(v) develop a Delta Risk Management Strategy after assessing the consequences of Delta levee failure from floods, seepage, subsidence, and earthquakes;

(vi) reconstruct Delta levees using, to the maximum extent practicable, dredged materials from the Sacramento River, the San Joaquin River, and the San Francisco Bay in reconstructing Delta levees;

(vii) coordinate Delta levee projects with flood management, ecosystem restoration, and levee protection projects of the lower San Joaquin River and lower Mokelumne River floodway improvements and other projects under the Sacramento-San Joaquin Comprehensive Study; and

(viii) evaluate and, if appropriate, rehabilitate the Suisun Marsh levees.

(4) PROGRAM MANAGEMENT, OVERSIGHT, AND COORDINATION.—

(A) IN GENERAL.—Of the amounts authorized to be appropriated under section 109, not more than $25,000,000 may be expended by the Secretary or the other heads of Federal agencies, either directly or through grants, contracts, or cooperative agreements with agencies of the State, for—

(i) Program support;

(ii) Program-wide tracking of schedules, finances, and performance;

(iii) multiagency oversight and coordination of Program activities to ensure Program balance and integration;

(iv) development of interagency cross-cut budgets and a comprehensive finance plan to allocate costs in accordance with the beneficiary pays provisions of the Record of Decision;

(v) coordination of public outreach and involvement, including tribal, environmental justice, and public advisory activities in accordance with the Federal Advisory Committee Act (5 U.S.C. App.); and

(vi) development of Annual Reports.

(B) PROGRAM-WIDE ACTIVITIES.—Of the amount referred to in subparagraph (A), not less than 50 percent of the appropriated amount shall be provided to the California Bay-Delta Authority to carry out Program-wide management, oversight, and coordination activities.

SEC. 104. MANAGEMENT.

(a) COORDINATION.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall coordinate their activities with the State agencies.

(b) PUBLIC PARTICIPATION.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall cooperate with local and tribal governments and the public through an advisory committee established in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) and other appropriate means, to seek input on Program planning and design, technical assistance, and development of peer review science programs.

(c) SCIENCE.—In carrying out the Calfed Bay-Delta Program, the Federal agencies shall seek to ensure, to the maximum extent practicable, that—

(1) all major aspects of implementing the Program are subjected to credible and objective scientific review; and

(2) major decisions are based upon the best available scientific information.

(d) GOVERNANCE.—

(1) IN GENERAL.—In carrying out the Calfed Bay-Delta Program, the Secretary and the Federal agency heads are authorized to participate as nonvoting members of the California Bay-Delta Authority, as established in the California Bay-Delta Authority Act (Cal. Water Code §79400 et seq.), to the extent consistent with Federal law, for the full duration of the period the Authority continues to be authorized by State law.

(2) RELATIONSHIP TO FEDERAL LAW AND AGENCIES.—Nothing in this subsection shall preempt or otherwise affect any Federal law or limit the statutory authority of any Federal agency.

(3) CALIFORNIA BAY-DELTA AUTHORITY.—

(A) ADVISORY COMMITTEE.—The California Bay-Delta Authority shall not be considered an advisory committee within the meaning of the Federal Advisory Committee Act (5 U.S.C. App.).

(B) FINANCIAL INTEREST.—The financial interests of the California Bay-Delta Authority shall not be imputed to any Federal official participating in the Authority.

(C) ETHICS REQUIREMENTS.—A Federal official participating in the California Bay-Delta Authority shall remain subject to Federal financial disclosure and conflict of interest laws and shall not be subject to State financial disclosure and conflict of interest laws.

(e) ENVIRONMENTAL JUSTICE.—The Federal agencies, consistent with Executive Order 12898 (59 Fed. Reg. 7629), should continue to collaborate with State agencies to—

(1) develop a comprehensive environmental justice workplan for the Calfed Bay-Delta Program; and

(2) fulfill the commitment to addressing environmental justice challenges referred to in the Calfed Bay-Delta Program Environmental Justice Workplan, dated December 13, 2000.

(f) LAND ACQUISITION.—Federal funds appropriated by Congress specifically for implementation of the Calfed Bay-Delta Program may be used to acquire fee title to land only where consistent with the Record of Decision.

SEC. 105. REPORTING REQUIREMENTS.

(a) REPORT.—

(1) IN GENERAL.—Not later than February 15 of each year, the Secretary, in cooperation with the Governor, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a report that—

(A) describes the status of implementation of all components of the Calfed Bay-Delta Program;

(B) sets forth any written determination resulting from the review required under subsection (b) or section 103(d)(1)(B); and

(C) includes any revised schedule prepared under subsection (b) or section 103(d)(1)(B)(iii)(II).

(2) CONTENTS.—The report required under paragraph (1) shall describe—

(A) the progress of the Calfed Bay-Delta Program in meeting the implementation schedule for the Program in a manner consistent with the Record of Decision;

(B) the status of implementation of all components of the Program;

(C) expenditures in the past fiscal year for implementing the Program;

(D) accomplishments during the past fiscal year in achieving the objectives of additional and improved—

(i) water storage;

(ii) water quality, including—

(I) the water quality targets described in section 2.2.9 of the Record of Decision; and

(II) any pending actions that may affect the ability of the Calfed Bay-Delta Program to achieve those targets and requirements;

(iii) water use efficiency;

(iv) ecosystem restoration;

(v) watershed management;

(vi) levee system integrity;

(vii) water transfers;

(viii) water conveyance;

(ix) water supply reliability (including new firm yield), including progress in achieving the water supply targets described in section 2.2.4 of the Record of Decision and any pending actions that may affect the ability of the Calfed Bay-Delta Program to achieve those targets; and

(x) the uses and assets of the environmental water account described in section 2.2.7 of the Record of Decision;

(E) Program goals, current schedules, and relevant financing agreements, including funding levels necessary to achieve completion of the feasibility studies and environmental documentation for the surface storage projects identified in section 103 by not later than September 30, 2008;

(F) progress on—

(i) storage projects;

(ii) conveyance improvements;

(iii) levee improvements;

(iv) water quality projects; and

(v) water use efficiency programs;

(G) completion of key projects and milestones identified in the Ecosystem Restoration Program, including progress on project effectiveness, monitoring, and accomplishments;

(H) development and implementation of local programs for watershed conservation and restoration;

(I) progress in improving water supply reliability and implementing the Environmental Water Account;

(J) achievement of commitments under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and endangered species law of the State;

(K) implementation of a comprehensive science program;

(L) progress toward acquisition of the Federal and State permits (including permits under section 404(a) of the Federal Water Pollution Control Act (33 U.S.C. 1344(a))) for implementation of projects in all identified Program areas;

(M) progress in achieving benefits in all geographic regions covered by the Program;

(N) legislative action on—

(i) water transfer;

(ii) groundwater management;

(iii) water use efficiency; and

(iv) governance;

(O) the status of complementary actions;

(P) the status of mitigation measures; and

(Q) revisions to funding commitments and Program responsibilities.

(b) ANNUAL REVIEW OF PROGRESS AND BALANCE.—

(1) IN GENERAL.—Not later than November 15 of each year, the Secretary, in cooperation with the Governor, shall review progress in implementing the Calfed Bay-Delta Program based on—

(A) consistency with the Record of Decision; and

(B) balance in achieving the goals and objectives of the Calfed Bay-Delta Program.

(2) REVISED SCHEDULE.—If, at the conclusion of each such annual review or if a timely annual review is not undertaken, the Secretary or the Governor determines in writing that either the Program implementation schedule has not been substantially adhered to, or that balanced progress in achieving the goals and objectives of the Program is not occurring, the Secretary and the Governor, in coordination with the Bay-Delta Public Advisory Committee, shall prepare a revised schedule to achieve balanced progress in all Calfed Bay-Delta Program elements consistent with the intent of the Record of Decision.

(c) FEASIBILITY STUDIES.—Any feasibility studies completed as a result of this title shall include identification of project benefits and a cost allocation plan consistent with the beneficiaries pay provisions of the Record of Decision.

SEC. 106. CROSSCUT BUDGET.

(a) IN GENERAL.—The President's budget shall include such requests as the President considers necessary and appropriate for the appropriate level of funding for each of the Federal agencies to carry out its responsibilities under the Calfed Bay-Delta Program.

(b) REQUESTS BY FEDERAL AGENCIES.—The funds shall be requested for the Federal agency with authority and programmatic responsibility for the obligation of the funds, in accordance with subsections (b) through (f) of section 103.

(c) REPORT.—Not later than 30 days after submission of the budget of the President to Congress, the Director of the Office of Management and Budget, in coordination with the Governor, shall submit to the appropriate authorizing and appropriating committees of the Senate and the House of Representatives a financial report certified by the Secretary containing—

(1) an interagency budget crosscut report that—

(A) displays the budget proposed, including any interagency or intra-agency transfer, for each of the Federal agencies to carry out the Calfed Bay-Delta Program for the upcoming fiscal year, separately showing funding requested under both pre-existing authorities and under the new authorities granted by this title; and

(B) identifies all expenditures since 1998 by the Federal and State governments to achieve the objectives of the Calfed Bay-Delta Program;

(2) a detailed accounting of all funds received and obligated by all Federal agencies and State agencies responsible for implementing the Calfed Bay-Delta Program during the previous fiscal year;

(3) a budget for the proposed projects (including a description of the project, authorization level, and project status) to be carried out in the upcoming fiscal year with the Federal portion of funds for activities under subsections (b) through (f) of section 103; and

(4) a listing of all projects to be undertaken in the upcoming fiscal year with the Federal portion of funds for activities under subsections (b) through (f) of section 103.

SEC. 107. FEDERAL SHARE OF COSTS.

(a) IN GENERAL.—The Federal share of the cost of implementing the Calfed Bay-Delta Program for fiscal years 2005 through 2010 in the aggregate, as set forth in the Record of Decision, shall not exceed 33.3 percent.

(b) PAYMENT FOR BENEFITS.—The Secretary shall ensure that all beneficiaries, including beneficiaries of environmental restoration and

other Calfed program elements, shall pay for the benefit received from all projects or activities carried out under the Calfed Bay-Delta Program.

(c) INTEGRATED RESOURCE PLANNING.—Federal expenditures for the Calfed Bay-Delta Program shall be implemented in a manner that encourages integrated resource planning.

SEC. 108. COMPLIANCE WITH STATE AND FEDERAL LAW.

Nothing in this title—

(1) invalidates or preempts State water law or an interstate compact governing water;

(2) alters the rights of any State to any appropriated share of the waters of any body of surface or ground water;

(3) preempts or modifies any State or Federal law or interstate compact governing water quality or disposal;

(4) confers on any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resource; or

(5) alters or modifies any provision of existing Federal law, except as specifically provided in this title.

SEC. 109. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated to the Secretary and the heads of the Federal agencies to pay the Federal share of the cost of carrying out the new and expanded authorities described in subsections (e) and (f) of section 103 $389,000,000 for the period of fiscal years 2005 through 2010, to remain available until expended.

TITLE II—MISCELLANEOUS

SEC. 201. SALTON SEA STUDY PROGRAM.

Not later than December 31, 2006, the Secretary of the Interior, in coordination with the State of California and the Salton Sea Authority, shall complete a feasibility study on a preferred alternative for Salton Sea restoration.

SEC. 202. ALDER CREEK WATER STORAGE AND CONSERVATION PROJECT FEASIBILITY STUDY AND REPORT.

(a) STUDY.—Pursuant to Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), the Secretary of the Interior (referred to in this section as the "Secretary"), through the Bureau of Reclamation, and in consultation and cooperation with the El Dorado Irrigation District, is authorized to conduct a study to determine the feasibility of constructing a project on Alder Creek in El Dorado County, California, to store water and provide water supplies during dry and critically dry years for consumptive use, recreation, in-stream flows, irrigation, and power production.

(b) REPORT.—

(1) TRANSMISSION.—On completion of the study authorized by subsection (a), the Secretary shall transmit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report containing the results of the study.

(2) CONTENTS OF REPORT.—The report shall contain appropriate cost sharing options for the implementation of the project based on the use and possible allocation of any stored water.

(3) USE OF AVAILABLE MATERIALS.—In developing the report under this section, the Secretary shall use reports and any other relevant information supplied by the El Dorado Irrigation District.

(c) COST SHARE.—

(1) FEDERAL SHARE.—The Federal share of the costs of the feasibility study authorized by this section shall not exceed 50 percent of the total cost of the study.

(2) IN-KIND CONTRIBUTION FOR NON-FEDERAL SHARE.—The Secretary may accept as part of the non-Federal cost share the contribution such in-kind services by the El Dorado Irrigation District as the Secretary determines will contribute to the conduct and completion of the study.

(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $3,000,000.

SEC. 203. FOLSOM RESERVOIR TEMPERATURE CONTROL DEVICE AUTHORIZATION.

Section 1(c) of Public Law 105–295 (112 Stat. 2820) (as amended by section 219(b) of Public Law 108–137 (117 Stat. 1853)) is amended in the second sentence by striking "$3,500,000" and inserting "$6,250,000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material in the record on H.R. 2828, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Today's consideration of this historic bill is a giant step forward in resolving California's water supply problems. This legislation is proof that developing our water supplies is a bipartisan endeavor. Chairman of the Subcommittee on Water and Power, the gentleman from California (Mr. CALVERT), the original author of the bill, Senator FEINSTEIN, the ranking member on the Subcommittee on Water and Power, the gentlewoman from California (Mrs. NAPOLITANO), and others have worked constructively to reach agreement with our Senate colleagues since the bill passed out of the House.

The original intent of Calfed was to provide balance to a complex water delivery system to ensure everyone gets better together. That is what this bill does. H.R. 2828, as amended, simply and truly ensures that water quality, water supply and reliability, environmental restoration, fisheries protection, recreational values, and others all advance together. We have made significant progress in resolving the tough issues to bring before this chamber a bill that works for all those involved.

This bill makes historic strides in water quality improvements throughout California and brings together the collective efforts of all water users to provide cleaner water for everyone. The importance in moving the program forward with balanced implementation cannot be overemphasized. It is the very essence of the bill as now amended.

Specifically, balanced implementation for the first time under this bill creates storage as the linchpin for implementation of all Calfed elements. Across the board, newer and larger facilities are needed to store the excess flows now running to the ocean for later use by growing populations and the environment. Actions are necessary now to secure water and provide better water supplies for future generations of Californians. This bill ensures that the program will be carried out in balance with new water storage or else the entire program will simply not exist. To reiterate, new water storage is the linchpin of the entire program. Without it, we cannot achieve our goals of a balanced program.

My colleagues in the House and Senate have brought ultimate resolution to this bipartisan effort, and I urge my colleagues to support this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, I want to begin by thanking the gentleman from California (Mr. CALVERT) and the gentleman from California (Mr. POMBO) for their assistance, and leadership, in moving this legislation, along with the gentlewoman from California (Mrs. NAPOLITANO) from our side of the aisle. I also want to thank Senator BOXER and Senator FEINSTEIN for helping to get this successfully through the Senate.

I just want to raise a couple of points, and that is that this past summer, when an earlier version of this legislation was on the House floor, I offered a motion, along with the gentlewoman from California (Mrs. TAUSCHER) to correct what I believed was a fatal flaw in that legislation, the so-called preauthorization provision of the House, that would have granted a blank check to Federal agencies to spend billions of dollars on dams and other projects in California. It was our strong belief that this provision would in fact never pass the Senate; it would become controversial and bog down this matter in the legislative process.

Fortunately, that provision of this legislation was removed at the insistence of members of the Senate. And the discussion that somehow, if we removed it, it would blow up the Calfed program has turned out to be the opposite. The removal of that has allowed Senators from other parts of the country to let us proceed for this long overdue legislation and hold together the coalition that was put together in the House in support of this legislation on both sides of the aisle.

Again, I want to thank all of the tireless efforts that Senator FEINSTEIN put into negotiating this legislation in the Senate. There is no question this was most difficult for the gentleman from California (Mr. CALVERT) in the House. I just asked him whether or not various Members of the House were happy, and he told me happiness was not the test in this legislation, but perhaps relative happiness was the test. And I think maybe, that being the goal, we have put together support for this legislation. And I want to thank him for those negotiations.

The bill we are considering today contains one complicated provision having to do with the balance in the Calfed program. Concerns have been raised that the finding of imbalance in this provision would be disruptive to the Calfed program. This should not be the case. Congress might indeed exercise its prerogative and refuse to authorize a surface storage project if a less expensive or less damaging water supply alternative exists. That action would trigger this rebalancing provision, which includes a specific remedy and report to the Congress that should include those alternative supplies. As in the case of surface storage facilities, these alternative water supplies should be financed by the principle of "beneficiary pays," just like every other aspect of the Calfed program.

Finally, it is important to note that the bill reflects the fact that ecosystem restoration and several other Calfed activities, that have not received new authorization in this bill, are already authorized under Federal law. As the program moves forward, the authorization will include the balanced funding for these program elements as well.

Again, I want to thank all of the members of the Committee on Resources, and I want to thank the gentlewoman from California (Mrs. TAUSCHER) and the gentleman from California (Mr. POMBO), who we share areas covering the great Sacramento San Joaquin Delta in our State, and the gentleman from California (Mr. POMBO) was able to get some people to slow down and give some serious consideration to the problems that have plagued the users of the delta, both the agricultural interests and our municipal users and the environmental concerns in the delta to make sure that in fact we could come up with the most balanced program possible to meet all of those needs.

Mr. Speaker, I reserve the balance of my time.

Mr. POMBO. Mr. Speaker, I yield 2 minutes to the gentleman from California (Mr. DREIER).

Mr. DREIER. Mr. Speaker, I thank my friend for yielding me this time, and I would like to build on the remarks of my friend from Martinez by saying that I am extraordinarily happy that everyone else is relatively happy over this very important piece of legislation. I am happy because my colleagues, the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. CALVERT) have worked so closely with the gentleman from California (Mr. GEORGE MILLER), the gentlewoman from California (Mrs. TAUSCHER), the gentlewoman from California (Mrs. NAPOLITANO), and others.

Focusing on the Bay-Delta region is something that has been a priority for many, many years, and it is something that will benefit not only Californians, but it will benefit us regionally.

I also want to join in extending congratulations to our California colleague DIANNE FEINSTEIN, and of course our friend Senator PETE DOMENICI, who worked hard and long in fashioning this. The gentleman from California (Mr. CALVERT) has been championing this effort for many, many years.

One other word of thanks has to go out on this, and I know some people will cringe when I say this, Mr. Speaker, but exactly 1 year ago tomorrow, the people of California, by an overwhelming margin, chose to recall the governor and elect Arnold Swarzenegger as our new governor. That happened exactly 1 year ago. And from that campaign forward, this has been a very high priority for Governor Swarzenegger.

We have seen in California huge geographic disagreement over the issue of water. And it has taken a long period of time for our State, and there are often so many jokes about what happens to California water and disagreements, almost a civil war on this issue of water between the north and the south, and to be able to focus on this Calfed issue in a bipartisan way and to address the regional concerns is something that is virtually unprecedented.

So I would like to argue that it took the leadership not only of Arnold Swarzenegger but of this tremendous coalition here in the House of Representatives, and I think it will go a long way towards addressing the very important agriculture needs and the economic needs of our State. And I thank the gentleman from California (Mr. POMBO) once again for his strong support in this effort.

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Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Mrs. NAPOLITANO) who has been very active in this matter for several years.

Mrs. NAPOLITANO. Mr. Speaker, I rise in strong support of H.R. 2828, the bill to reauthorize the CALFED Bay-Delta Program. I certainly associate myself with the comments of my colleagues, with the exception of Chairman DREIER's. I never saw the Governor at our meetings. I wish he had been. It would have helped. I would like to thank my good friend and colleague from California (Mr. CALVERT). His tireless efforts during the past two sessions of Congress to bring all CALFED stakeholders to the table and resolve several complex issues relating to California water management have paid off.

I also would like to thank and recognize the gentleman from California (Mr. POMBO), the gentleman from California (Mr. DREIER), the gentleman from West Virginia (Mr. RAHALL), and the gentleman from California (Mr. GEORGE MILLER) and especially Senators FEINSTEIN, BOXER, and DOMENICI for their excellent assistance while we worked to move this legislation throughout the 108th Congress.

The State of California for the past several years has also been operating under the most restrictive allocation of Colorado River water in history. We have been, rightfully so, told by the Interior Department that we need to reduce our water take from the river by 800,000 acre-feet by the year 2016.

Mr. Speaker, I am very pleased that this final version of H.R. 2828 addresses the current severe drought situation by including strong water-use efficiency language that would enable Southern California to take less water from Colorado River and the fragile bay-delta ecosystem through recycling and restoring our groundwater supply. As a former local and State-elected official, I have learned firsthand how groundwater reclamation activities combined with recycling efforts solved problems at the local level.

Now, as a Member of Congress, I have also learned that these projects commonly referred to, and everybody knows them as title XVI, title XVI projects, provide solutions to some of the most challenging community issues we face today and will confront tomorrow, not only in Southern California but throughout the western States.

Mr. Speaker, the key to solving California's water problems is in building partnerships. I sincerely appreciate the partnership and progress that we have all made on this legislation since its introduction last fall. I look forward to the enactment of H.R. 2828.

Mr. POMBO. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. NUNES).

Mr. NUNES. Mr. Speaker, it is really a privilege to stand up today and thank all of my colleagues who have worked so hard on this bill. This has been one of these bills in Congress that has really been a California Member bipartisan effort that we have worked with both Republicans and Democrats to come forth with a compromise on such tough language dealing with water. The gentleman from California (Mr. CALVERT) and the gentlewoman from California (Mrs. NAPOLITANO) should be thanked for holding hearings throughout the State of California last year leading up to this language.

We have strong commitments on storage. The gentleman from California (Mr. DREIER) mentioned Governor Schwarzenegger's support on storage. This is part of the overall agreement that has been achieved not only through this bill but through other agreements that have been made outside it because of this bill passing today on the floor of the House.

As we move forward, it is important for the folks in the United States and all over California to realize as California grows to 35, 40 million people, we have to have new water storage. This bill lays the groundwork for that. We are going to be working hard with the appropriators to continue to move forward on the storage aspects and the funding for the studies and obviously with our colleagues in the Senate, DIANNE FEINSTEIN, who has done a phenomenal job in moving this language forward.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Mrs. TAUSCHER).

Mrs. TAUSCHER. I thank the gentleman for yielding me this time.

Mr. Speaker, I am very pleased today to have the opportunity to vote in support of reasonable and responsible CALFED legislation. I want to thank the gentleman from California (Mr. POMBO), the gentleman from California (Mr. CALVERT), the gentlewoman from California (Mrs. NAPOLITANO), and especially the gentleman from California (Mr. GEORGE MILLER) for their leadership and especially the gentleman from California (Mr. POMBO) and the gentleman from California (Mr. CALVERT) for acceding to the Senate language.

As I said when the House first considered this legislation this summer, it is well past time that the State of California and the Federal Government get to work in active partnership to restore the delta's ecosystem and meet our State's growing water needs.

For too many years, Mr. Speaker, because agreement was not reached, California lost tens of millions of dollars which could have been used to begin work on these vitally important projects. In fiscal years 2001, 2002, 2003 and 2004, zero was appropriated for the CALFED projects. We could not allow this to continue. And so I am glad today we are considering the Senate version of this measure, ushered through by the hard work of our senior Senator, DIANNE FEINSTEIN.

This bill preserves the existing record of decision, strips the divisive preauthorization language, and best balances the vital water interests in our region. Fortunately, today's legislation will make new water projects subject to the critical public review and public participation process which the gentleman from California (Mr. GEORGE MILLER) and I have been fighting for, which will secure the integrity of the CALFED program into the future.

Under an open process and through this renewed Federal-State partnership, we can begin to address issues of water supply restoration, ecosystem restoration, and water-quality enhancement so vital to the future of California. As the sixth largest economy in the world, as home to some of the world's most unique, yet endangered, species and ecosystems, and as a major key to the economic strength of our Nation, it is critical that we endeavor to address our State's aging water infrastructure and diminishing resources. The CALFED program will allow us to do so. I am pleased to join my California colleagues in supporting it. I urge a "yes" vote.

Mr. POMBO. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. CALVERT), the author of the legislation.

Mr. CALVERT. I thank the gentleman from California for yielding me this time.

Mr. Speaker, today's consideration of this bill is a giant step forward in resolving California's water supply problems. Our water security is a critically important issue. In California alone in the last 2 decades, the population has grown over 30 percent while the water supply in storage has increased by a mere 2 percent. Over the next 15 years, California must reduce its dependence on the Colorado River by 15 percent while the population in California is projected to grow by yet another 30 percent. California's Department of Water Resources estimates that the gap between water supply and demand in the State will total 2.4 million acre-feet in normal years of rainfall and up to 6.2 million acre-feet in drought years. When you consider that a family of five uses an average of one acre-foot of water per year, it is not that difficult to imagine how destabilizing such shortages would be to California and to other western States.

We have come a long way over the last few years in assuring a reliable water supply for California. Since I have been chairman of the Subcommittee on Water and Power, we have conducted many field hearings in California, legislative hearings here in Washington, markups and too many meetings to count to get to where we are today. Today's bill is a culmination of the work and deliberation by many of us over the years. Since 1995, I have worked to bring certainty and a balanced road map for water use in California and the West. Since this bill passed the House several months ago, I have worked with the gentleman from California (Mr. POMBO), Senator FEINSTEIN, the gentleman from California (Mr. GEORGE MILLER), and, of course, the gentlewoman from California (Mrs. NAPOLITANO) and many others who have worked hard to bring this bill to the floor.

The original intent of CALFED was to provide a balance to a complex water delivery system. H.R. 2828 achieves this goal. Under this bill, the environment, recreation, drinking water, agriculture, and industry all get better together. As our distinguished colleague from California (Mr. POMBO) has stated, this bill makes historic strides in water-quality improvements throughout the entire State of California. Improved water quality helps everybody across the board. We also create new water supplies for Northern and Southern California, and we enhance surface storage to improve our water quality and supply.

Lastly, I want to thank Governor Schwarzenegger's participation recently to assure us that these feasibility reports that are in the record of decision will move forward where we can have a balanced and completed project and that we can meet our future with assurance. I urge my colleagues to support this important legislation.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself such time as I may consume.

Again, I want to rise in support of this legislation, but I do want to note some concurrent problems that concern me with respect to this legislation because the goals of this legislation were to strike a balance in the operation of this water system, a balance in the development of facilities and the utilization of this water between the consumption of this water, whether it be in industry or whether it be in the agricultural industry or in our municipalities or for the environment, to make sure that there was balance to those efforts. I think to the extent it was practicable, the gentleman from California (Mr. CALVERT) and others have worked that balance out.

I am concerned that as we get ready to pass this legislation and send it to the President, we now see other activities that are taking place along at the same time, and, that is, we see the emergence now of the operations criteria and plan which is the new document that sets the stage for California's most far-reaching, according to the Sacramento Bee, the most far-reaching plumbing shifts in a decade.

Under the plan, water contractors would increase the pumping from the very same delta that this legislation is designed to help protect and preserve both for its local economies, for its agricultural industries and for its environmental assets, would increase the pumping from the delta by some 27 percent to Southern California.

The suggestion is that that has to be done. Part of it is because there are contracts that have to be met. We know that many of these contracts are up currently for renewal in a number of the water districts south of the delta. The Bureau of Reclamation and the Federal Government has within its authority to modify those contracts. All of the evidence suggests that they are not prepared to do that, that they are going to maximize the water deliveries under those contracts even though those contracts envisioned a water delivery at a time that California had 20 million fewer people than it does today and when the demands on water north of the delta are different today than they were then. They are not going to modify those contracts, and they are going to try, I think, contrary to the law, they are going to try to extend those contracts for another 40 years.

The fact of the matter is that that is contrary to the protection of this Sacramento-San Joaquin Delta, and as outlined in this new operations criteria means less water flowing into San Francisco Bay. After a decades-long struggle to protect San Francisco Bay, you can start to see the reignition of a whole series of battles starting to take place because there is this rush by the State administration and the Federal Government to maximize the amount of water that can be sent south.

The concern is that when we have tried to make sure that all of the evidence was on the table, with both of our Senators and the gentlewoman from California (Ms. PELOSI) and other members of the California delegation, we asked for a continuation of the public hearings on these contract terms, the bureau has ignored our request. When we asked the bureau to extend that public comment period until those important questions were answered, the bureau ignored our request.

What worries me is this ignoring of the public interest, of the public input into this decision now fits into what we now see, that the political operations within NOAA and the scientists who are there to develop the standards for the protections of the salmon runs in the Sacramento-San Joaquin Delta, in the American River, we now see, according again to the Sacramento Bee this last weekend, that there is an overriding of the setting of those standards in terms of the adequate water flows and releases that are necessary to protect those endangered runs of salmon. We see that that is now being done for political reasons.

What worries me the most is this is the same cast of characters that arbitrarily and capriciously in the court case, it was determined, overrode the scientists on the Klamath River and led to one of the largest kill-offs of salmon in the history of the west coast, if not the largest, because they decided that they did not want to live with good science, they decided they would override it.

So all of a sudden as we pass CALFED today, we see that in fact the Sacramento-San Joaquin Delta, San Francisco Bay, the American River, maybe the runs in the Sacramento River, the fisheries runs there, may be more imperiled than at any time in history.

Why is that happening? Because what we see in spite of the agreements of cooperation, of balancing that we see in the CALFED, we see there starting to be a repetition of the same old habits which is to try and maximize the pumping from the Sacramento-San Joaquin Delta to send it south for the purposes of fulfilling these contracts or other needs.

My concern is that at a time when the chairman really held up this process until such time as the delta water agencies and others could come in and make sure what the impacts were going to be on delta water quality, on delta usage, we now see a parallel process taking place that has all of the earmarks of another devastating blow to delta water quality, to the usages in the delta, to the protection of the environment, and to the protection of the delta economy.

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I raise these at this time because, as we celebrate the long effort and the successful effort with the passage in this House of the CALFED legislation, we see that the forces who continue to have a design on the Sacramento-San Joaquin Delta, on the impacts on San Francisco Bay by increasing the diversions from this very complicated and fragile environment, we see that they never rest. And they are back now, apparently with the cooperation of the Schwarzenegger administration in Sacramento, with the cooperation of the Bush administration, in fact, with not only the cooperation of the Bush administration but the Bush administration's political appointees now coming in and overriding the scientists who have done the studies designed to protect the delta and protect its fisheries.

So I guess the bottom line and the end of this story is, there is an awful lot of work that remains to be done. There is an awful lot of concern that we have over the long-term protection of the delta, and I would hope that the gentleman from California (Mr. POMBO) would look at these articles that are in the "Sacramento Bee" because they raise the most serious concerns about our economy and about our environment.

Mr. Speaker, I include for the RECORD the articles that I alluded to.

[From sacbee.com, Oct. 2, 2004]

REWRITE SOFTENS REPORT ON RISKS TO FISH

(By Stuart Leavenworth)

Officials at a federal fisheries agency ordered their biologists to revise a report on salmon and other endangered fish so that more water can be shipped to Southern California from the Delta, according to interviews and internal agency documents obtained by The Bee.

Biologists with NOAA Fisheries, an arm of the National Oceanic and Atmospheric Administration, concluded in August that a plan to pump more water through the Sacramento-San Joaquin Delta could jeopardize endangered salmon and other fish.

NOAA administrators in Long Beach, however, overruled the biologists and supervised a rewriting of their analysis. That, in turn, removed the last major obstacle to a plan that could send more water south, affecting how much is reserved in Northern California, including for salmon in the American River.

NOAA officials say the revisions were justified. Agency biologists made some errors and "unsubstantiated conclusions" in their original draft, said James Lecky, an agency administrator in Long Beach who ordered the revisions.

Some agency employees, however, say some of the changes had no basis in science and substantially weaken protections for endangered winter-run salmon, steelhead trout and other fish.

"I haven't seen anything this bad at NOAA since working here," said one agency biologist who asked that his name not be used. "The Sacramento office (of NOAA Fisheries) is totally demoralized."

At issue is a state-federal plan for operating the massive network of reservoirs, aqueducts and pumping plants that move water around California. The U.S. Bureau of Reclamation and state Department of Water Resources are planning major changes for those facilities, partly to free up water that can be shipped through the Delta.

The U.S. Fish and Wildlife Service gave its blessing to the plan in August, but NOAA Fisheries has sought extensions in releasing its own analysis.

Documents obtained by The Bee explain why.

In August, NOAA biologists issued a draft stating that the plan "is likely to jeopardize the continued existence of Sacramento winter-run Chinook salmon and Central Valley Steelhead," as well as spring-run salmon.

The documents outlined several measures the Bureau of Reclamation could adopt to reduce impacts on fish, but the document was never signed.

Instead, Lecky delivered the draft to his counterparts in the Bureau of Reclamation, who offered suggestions on revisions, he said.

Lecky said such document sharing is commonplace as federal agencies undergo what is known as a consultation under the Endangered Species Act. NOAA officials wanted to ensure they had appropriately interpreted the bureau's plans, he said, and receive feedback on their own analysis.

A copy of NOAA's latest draft, however, shows that administrators have altered the report in ways that go beyond mere word changes.

The updated version, 289 pages and dated Sept. 27, no longer concludes that winter-run salmon or other fish could face extinction by the extra water diversions by state and federal facilities.

The report concludes that the new operations would likely reduce the juvenile population of winter-run salmon by 5 percent to 22 percent, but says that agencies can help minimize those losses by monitoring and adapting.

The latest version also softens the wording for how the Bureau of Reclamation can avoid future impacts on fish.

In the original report, NOAA biologists called on the Bureau of Reclamation to reserve 450,000 to 600,000 acre-feet of water in Folsom Lake by September to provide adequate supplies for returning salmon and steelhead.

The latest version changes the wording from "shall maintain" to "shall target" the extra water.

In addition, the latest draft no longer calls for a minimum flow standard for the American River, as the original did. The state

Water Resources Control Board called for an American River flow standard in 1988, but federal officials haven't yet agreed to one.

A former state official who now works for a leading environmental group reviewed the two versions and said he was stunned by the revisions.

"The September draft guts the minimal protections that were in the earlier version," said Jonas Minton, a former deputy secretary for the Department of Water Resources. "The new version includes commitments to talk instead of commitments to protect fish."

Minton, who now works for the Planning and Conservation League, agreed that supervisors often make routine changes to a scientific document. "It's an entirely different thing to change science for political purposes," he said.

In an interview, NOAA's Lecky disputed that political appointees had pressed for changes. Everything has been handled within NOAA's Southwest Regional Office in Long Beach, he said.

Lecky declined to comment further on the revisions, saying The Bee had obtained a "predecisional document" that was subject to further review. Sources say a final version could be released next week.

Formerly known as the National Marine Fisheries Service, NOAA Fisheries enforces the Endangered Species Act for fish that spend part of their lives in the ocean, such as salmon. In recent years, NOAA has become embroiled in several controversies over water allocations and fish.

In 2002, NOAA biologist Michael Kelly warned that the Reclamation Bureau's water plans in Oregon could lead to fish kills downstream on the Klamath River. Later that year, warm water and disease killed about 77,000 returning salmon, according to a report by the California Department of Fish and Game.

Kelly later resigned from NOAA after another disagreement with Lecky.

In recent months, the Bureau of Reclamation has been pushing to sign long-term contracts with irrigation districts and finalize plans for shipping more water through the Delta. Some of California's most powerful groups—including the Chamber of Commerce, Westlands Water District and the Metropolitan Water District of Southern California—are lobbying for extra water.

Environmentalists suspect this pressure prompted some of NOAA's recent actions, although they acknowledge they can't prove it.

Bureau of Reclamation officials say the public will have full opportunity to comment on any changes in water operations. The Bureau and the Department of Water Resources have scheduled an informational meeting in Sacramento on Thursday from 9 a.m. to noon at the Best Western Expo Inn, 1413 Howe Ave.

[From sacbee.com, Sept. 26, 2004]

MAJOR SHIFT MAPPED FOR DELTA WATER

(By Stuart Leavenworth)

Under pressure from some of California's biggest cities and farm districts, federal and state officials are planning major changes in how water is stored and distributed across the state, including increased pumping of supplies from the Sacramento-San Joaquin Delta.

The proposed changes, outlines in an obscure state-federal document called the Operations Criteria and Plan, sets the stage for California's most far-reaching plumbing shifts in a decade. Under the plan, water contractors would increase pumping from the Delta by 27 percent, sending more to Southern California and the San Jaoquin Valley. Less water would flow to the San Francisco Bay and less would be reserved for endangered salmon during the driest of droughts.

Increased pumping from the Delta originally was envisioned under Cal-Fed, a state-federal water collaboration launched in 1994. But the U.S. Bureau of Reclamation unveiled other proposals only recently, and those are coming under fire from environmentalists, Delta farmers and sportfishing groups.

All sides agree the liquid power struggle will be a major test of Gov. Arnold Schwarzenegger and his water lieutenant, Lester Snow. Schwarzenegger has styled himself as a business-friendly, pro-environmental governor who can solve entrenched disputes. But solutions don't come easy in the Delta, where there are symbolic shadings and big stakes attached to any effort to move water around.

"The key decision-maker will be Governor Schwarzenegger," said Tom Graff, an Oakland-based lawyer for Environmental Defense, a group that has fought past plans to increase water exports from Northern California. "At some point, he and his appointees will have to decide if they uphold the environmental commitments of Cal-Fed."

Created with an eye toward raising all boats in the Delta, Cal-Fed once was touted as a $8.6 billion "fix" for the estuary. The program has multiple goals of increasing water supplies for farms and cities while restoring fish hurt partly by water diversions. It's still unclear if those goals can be reconciled.

The largest estuary on the West Coast, the Delta has lost roughly half its historic flow into San Francisco Bay because of upstream water diversions. If state and federal officials turn on the pumps at the wrong time, they can suck fish and larvae toward and into the pumps. The diversions also can worsen water quality for Delta farmers and the Contra Costa Water Agency by drawing salt and bromides up the estuary.

In recent years, Cal-Fed has helped water managers coordinate a complex system of raising or lowering pumping rates to meet environmental demands. A special pool of water—the Environmental Water Account—helps compensate water districts hurt by unexpected restrictions on Delta pumping.

Despite those successes, Cal-Fed has few vocal champions. Water users say the program has spent about $500 million buying potential habitat to help fish and wildlife but has done little to prevent future water shortages. Environmentalists say fish stocks remain a fraction of their past numbers, and note that Delta water standards still are violated.

Frustrated with Cal-Fed's open meetings and often plodding process, California's big water users teamed up with state and federal officials last August, and quietly negotiated their own plan for increasing Delta pumping. It became known as the Napa agreement.

For decades, the state Department of Water Resources and the Bureau of Reclamation have maintained separate reservoirs, separate aqueducts and separate pumping plants in the Delta. Napa promised to change all that. For the first time, state contractors would be able to store their water in the federal government's big reservoirs. Federal contractors, meanwhile, could ship some of their water through the state's Harvey Banks Pumping Plant and its 11 massive electrical pumps, which suck water 244 feet up in elevation and deliver it to the California Aqueduct.

Integrating these water works hasn't been controversial; the plan to increase pumping is. The Napa pact would allow the Banks plant to ramp up its regular pumping rates about 27 percent, from 6,680 to 8,500 cubic feet per second. State officials say the extra water would come from outflow to the Bay.

The state's two largest water agencies—Westlands Water District, with 570,000 acres in irrigation, and the Metropolitan Water District of Southern California, with 18 million customers—stand to be major beneficiaries. Those districts and others may end up gaining several hundred thousand acre-feet of water, said Tim Quinn, a vice president for Metropolitan.

In addition, the increased pumping capacity could lay the groundwork for more sales of water from Northern California rice farmers to Southern California.

To those excluded from the talks, the Napa meeting was less a breakthrough than a backroom deal, and a betrayal of Cal-Fed's principles.

Delta farm districts, environmental groups, sportfishing interests and many midsize urban districts were not at the table. At the urging of U.S. Rep. Richard Pombo, R-Tracy, and state Sen. Mike Machado, D-Linden, the Napa signatories later crafted side agreements with Delta farmers, who fear that extra pumping could foul their water supply. But environmentalists were not included.

"A lot of groups in the conservation sector are getting ready to wash their hands of the Cal-Fed process," said Steve Evans of Friends of the River, a Sacramento-based conservation group. "It is clear that major agencies are acting outside of Cal-Fed. . . ."

Up until the last few years, irrigation districts in the San Joaquin Valley were voicing the same complaints. Farmers lost supplies when President George H.W. Bush signed the 1992 Central Valley Project Improvement Act, which allocated more water for the environment. Many farmers were skeptical that Cal-Fed would come to their aid.

In 2001, however, President George W. Bush took office and agribusiness gained new clout. Interior Secretary Gale Norton appointed Bennett Raley, a lawyer for Colorado ranchers, to manage Western water issues. She also hired Jason Peltier, a lobbyist for Central Valley irrigation districts, to handle Cal-Fed.

Two years ago, farmers won back some of their water when Bush and his appointees declined to appeal a court ruling challenging implementation of the 1992 act. South-of-Delta farmers now are pushing for extra water guarantees, said Thad Bettner, deputy general manager of the Westlands Water District, because they fear their existing supplies will be lost as California cities grow.

If federal and state officials implement key parts of the Napa pact, Westlands and other water exporters could see immediate gains. Federal water for San Joaquin Valley wildlife refuges could be moved through the state pumps, freeing up more capacity in federal pumps for irrigation supplies. In exchange, the federal Bureau of Reclamation would assume some of the state's responsibilities for meeting Bay-Delta flow requirements.

Quinn, the Metropolitan vice president, said increased pumping would occur only when it wouldn't hurt fish and water quality. He dismisses claims of a water grab by Southern California, noting that Cal-Fed has long planned to increase the capacity of the pumps.

Graff and other environmentalists, however, say it is clear that Southern California is relying more heavily on the Delta because of the Colorado River drought. Earlier this year, Environmental Defense came across financial documents filed by Metropolitan that show the agency plans to boost Delta diversions to 1.7 million acre-feet by 2008, and has steadily increased diversions the last several years.

"All this whining from urban water agencies about the supposed lack of balance in Cal-Fed is hogwash," said Evans. Metropolitan, he said, "is receiving nearly double the water they received just a few years ago."

Hoping to make the pumping plan more palatable, Cal-Fed has come up with supplemental proposals to improve water quality in the estuary, a fig leaf for Delta farmers and urban agencies.

Environmentalists say those plans do little for fish, and they are even more troubled by the Operating Plan and Criteria, which shows how the Bureau of Reclamation expects to meet future water demands.

According to that operating plan, the bureau proposes to end decade-old protections for endangered winter-run salmon in the upper reaches of the Sacramento River.

Winter-run salmon lost their historic spawning grounds when the bureau built Shasta Dam in the 1930s. Surviving fish were nearly wiped out during the drought of 1975-77, when the bureau nearly emptied Shasta and warmed up the river.

After winter-run salmon were added to the federal Endangered Species List in 1989, the agency was ordered to carry over 1.9 million acre-feet of water in Shasta every year. Those reserves ensure that salmon have cold water to survive a drought, but they also hamper the bureau in meeting its contract obligations.

This year, with pressure building on the bureau to ship more water through the Delta, the agency is proposing to end the carry-over storage requirement and reduce the stretch of river where it must legally maintain cool water temperatures.

Reclamation officials contend they can protect salmon without these hard-line restrictions. Marian Echeverria, a spokeswoman for the bureau, said the agency now has access to water sources that weren't available back in the early 1990s.

Even with those assurances, some environmentalists and Delta farmers fear Northern California will bear the brunt of the proposed changes. Delta farmers say their irrigation supplies will become more salty as more freshwater is shipping south.

"This process needs a whole lot more daylight," said Tom Zuckerman, a lawyer for the Central Delta Water Agency. He suspects federal officials are rushing the process so they can sign new, long-term contracts with water districts by year's end.

The outcome could hinge on NOAA Fisheries, a federal agency charged with protecting endangered salmon and other ocean-migrating fish. NOAA biologists initially wanted to issue what is known as a "jeopardy opinion" under the Endangered Species Plan. Such a ruling would have blocked the bureau's plan, but NOAA hasn't yet issued a final decision.

Another wild card is Schwarzenegger and his director of water resources, Snow, who worked as regional director of the Bureau of Reclamation in the Clinton administration. Snow says state and federal officials erred by not holding recent public workshops on the operating plan. "It wasn't very artfully handled," he said in an interview last week.

Nonetheless, said Snow, critics are jumping the gun. The Department of Water Resources, he said, is studying how planned Delta diversions would affect fisheries and flows to the Bay. The public will have ample opportunities to comment on any final proposal, which would need to meet both federal and state environmental laws, he said.

Snow said he also is awaiting the opinion from NOAA Fisheries and will examine it closely.

"We will not stand by and allow a lessening of salmon protections that will cause problems for the state," said Snow. "If NOAA Fisheries does something that gives the bureau a free pass, we are going to catch that."

Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DOOLEY), who has been involved in these water issues from the day he came to Congress. And I thank him for his help and all of his years of service in these years in the House on these issues of concern to our State.

Mr. DOOLEY of California. Mr. Speaker, first off, I want to thank the gentleman from California (Mr. GEORGE MILLER), the gentleman from California (Mr. POMBO), and the gentleman from California (Mr. CALVERT), as well as Senator FEINSTEIN, for really puttingtogether a bipartisan product that is in the interest of all Californians.

All too often in the past, during my tenure at Congress, when we had a California water bill on the floor, a lot of our colleagues would shudder because oftentimes that would end up in almost a civil war among the Californians because California water issues have been difficult to solve. It has been difficult to strike that balance between providing for enhancement of the environment and still meeting the economic needs of our State through our agriculture sector as well as our municipal sector.

That is what is important about this bill, because it is a rare occasion. I hope marking a turning point, where we are solving our problems by coming together, understanding that we can provide greater certainty in the delivery of water to enhance the environment as well as to expand our economy by finding ways in which we can provide for greater conservation, greater storage, and more efficient management of our water supplies.

I think that this, hopefully, is a turning point because all too often in the past we have seen too many of the interests in California water that have retreated to the courts, that have relied on the courts to try to solve some of the difficult choices that we have to make. And I think the leadership that was demonstrated by the parties that I mentioned earlier hopefully is a call to action among all the interests impacted by California water, that they need to come together in a cooperative and a constructive manner to try to build upon this effort to ensure that we are going to have that balanced approach in utilizing the water in the State of California that could enhance our environment and, once again, ensure that we are providing the economic future which is so important to the citizens of our State.

I rise in strong support of the Senate amendments to H.R. 2828, the Calfed Bay-Delta Authorization Act.

Passage today will finally enable this vitally important legislation, long in the making, to be sent to the President for signature.

The Senate-passed version we have now before us merges many of the provisions in the House bill with a handful of changes negotiated after the House passed its version on July 9 of this year. It reflects a careful balance and set of compromises that represent our best chance for this bill becoming law this year.

The successful evolution of this bill is a credit to the leadership of many of my colleagues in the California delegation. I want to give special recognition, however, to Senators FEINSTEIN and BOXER, and Representatives POMBO, CALVERT, NAPOLITANO and CARDOZA for their steadfast stewardship and commitment.

On a bipartisan basis, these and other Members worked long and hard to bring parties together. We consulted a wide range of affected stakeholders, both regional and national. We tried to bring a visionary yet pragmatic approach to the management of California's water resources. During each step of the legislative process, we tried to improve on the bill and strengthen its base of support.

This bill authorizes $389 million for water projects in the CALFED program over the six-year-period FY 2005 through 2010. It creates new water supplies, improves water quality and reliability, and ensures ecosystem restoration. It evenhandedly provides for California's different water interests, implementing the CALFED program in a balanced manner.

One area of difference between the House and Senate-passed bills focused on the House provision that would have pre-authorized certain water storage projects, subject only to a Congressional disapproval resolution. I appreciate the interest of certain House Members to expedite the very lengthy process now involved in getting water storage projects from design to implementation. Nevertheless, the preauthorization provision of the House bill was met in the Senate with objections on both sides of the aisle and threatens to stand in the way of this bill becoming law this year.

Instead of a pre-authorized provision, the Senate amendments explicitly authorize groundwater storage and feasibility studies for major new off-stream and expanded reservoirs, including the enlargement of Los Vaqueros reservoir, the raise of Shasta Dam, Upper San Joaquin surface storage, and Sites Reservoir. With these four storage projects, California could acquire an additional 3.2 million acre feet of storage.

In addition, the Senate amendments include new procedures and safeguards if Congress fails to approve a storage project by the end of the Congressional session following the submission to Congress of a federal feasibility study. In such a case, the Secretary of Interior must, within 180 days, make a finding of "imbalance" and report to Congress on revised schedules and alternatives to rebalance the CALFED Program.

Although the Senate amendment does not expedite the storage authorization process as directly as the House bill attempted to do, it is an improvement over the status quo. Moreover, an even larger point must not be lost in this discussion.

Any water storage project, whether currently in the pipeline or subject to the new authority in this bill, requires appropriated funds. Due to the fact that Federal authorization for the CALFED program has lapsed, federal appropriations are not currently being approved for CALFED. This fact is disadvantaging water users and water projects throughout California.

The time has come for Congress to reauthorize the CALFED program, and allow projects—for water quality, water supply, and fisheries protection—to move forward.

I urge my colleagues to vote today in support of the Senate amendments to H.R. 2828.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Just in closing I want to thank all of my colleagues who were able to work in a bipartisan manner to get this done. The gentleman from California (Chairman CALVERT) worked on this bill for a long time, and before him the gentleman from California (Mr. DOOLITTLE) worked on this bill, and there was a lot of work that went into making this happen. And we all know that some of our colleagues were not as cooperative, but I do appreciate those that were able to work with us and get this done.

I urge the passage of the bill.

Mr. CARDOZA. Mr. Speaker, I am pleased to support the passage of H.R. 2828 today.

Calfed reauthorization is an issue that Congress has debated for years and years and today—as a result of numerous parties working together—we are making significant strides toward increasing water supply, quality and reliability for California.

This is an enormous accomplishment and I applaud Representatives POMBO, NAPOLITANO and CALVERT and our esteemed Senator from California, Senator FEINSTEIN, for overcoming the numerous hurdles that have prevented this issue from progressing in years past.

This proposal will greatly strengthen California's agricultural economy and address the needs of a fast growing population by creating additional surface storage projects.

This delicate balance, while difficult to achieve, is critical to the success of Calfed.

Today, I urge my colleagues to support this measure because it will set California on the path to a sustainable water supply for its citizens, its economy and its environment.

Mr. THOMAS. Mr. Speaker, I rise today in support of H.R. 2828, the Water Supply, Reliability, and Environmental Improvement Act. This legislation, authored by my good friend, Resources Water and Power Subcommittee Chairman KEN CALVERT, is the result of many years of hard work by the California water community to find a way to balance the competing water needs of agriculture, the environment, and a growing population.

My district in the Central Valley of California is a prime example of these changing needs. In 1960, Kern County had a population of about 291,000 people and an agricultural base that produced commodities with a farm gate value of $247 million. In 2000, those numbers had increased to a population of 661,000 people and farm gate value approaching $2.5 billion. Much of this growth is due to the construction of the State Water Project in the mid-1960's, but virtually no investment in that all-important infrastructure has been made since that time. Our water infrastructure requires attention and upgrading to continue supporting California's agriculture economy, and H.R. 2828 provides for many of these necessary improvements.

I congratulate all my colleagues from California who have worked tirelessly to overcome regional differences and reconcile competing priorities to ensure that this vital legislation is enacted.

Mr. POMBO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. QUINN). The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and concur in the Senate amendment to the bill, H.R. 2828.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate amendment was concurred in.

A motion to reconsider was laid on the table.

IMPROVEMENTS TO EMPLOYMENT VERIFICATION SYSTEM UNDER IMMIGRATION AND NATIONALITY ACT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4306) to amend section 274A of the Immigration and Nationality Act to improve the process for verifying an individual's eligibility for employment, as amended.

The Clerk read as follows:

H.R. 4306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. IMPROVEMENTS TO EMPLOYMENT VERIFICATION SYSTEM.

(a) IN GENERAL.—Section 274A(b) of the Immigration and Nationality Act (8 U.S.C. 1324a(b)) is amended—

(1) in paragraph (1)(A), by inserting before "A person or entity has complied" the following: "Such attestation may be manifested by either a hand-written or an electronic signature.";

(2) in paragraph (2), by adding at the end the following: "Such attestation may be manifested by either a hand-written or an electronic signature."; and

(3) in paragraph (3), by inserting "a paper, microfiche, microfilm, or electronic version of" after "must retain".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the earlier of—

(1) the date on which final regulations implementing such amendments take effect; or

(2) 180 days after the date of the enactment of this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4306 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4306, which would allow employers to electronically complete and store Eligibility Employment Verification Forms, known as Forms I-9.

Currently, employers must complete one of these forms for each employee to show that they have verified that the employee is eligible to work in the United States. The employer must then retain that form for at least 3 years and make it available for inspection by Immigration and Customs Enforcement, the Justice Department's Civil Rights Division, and the Department of Labor.

This legislation is straightforward and sensible. It would benefit employers in preparing and storing Forms I-9 and benefit the government in enforcing immigration, antidiscrimination, and the labor laws of our Nation.

The current regulation requires employers to retain Forms I-9 "in their original form or on microfilm or microfiche." This regulation, promulgated in 1988, has failed to keep up with modern technology. For this reason, almost all employers have resorted to keeping Forms I-9 in the original format in which they are completed, that is, on paper.

With employers required to retain a Form I-9 for each employee for years, American businesses are holding an overwhelming number of the forms today. That is a lot of paper and paper which can easily be lost, damaged, or tampered with. This format is insecure, wasteful, and with the advent of electronic data storage, totally unnecessary.

Allowing the electronic completion and storage of Forms I-9 would also aid the men and women charged with enforcing our law, particularly when auditing large employers with multiple outlets spread across the country. In reviewing the Forms I-9 of employers who choose to keep the documents electronically, officers will be able to request one electronic file instead of potentially thousands of paper documents. This legislation would not require employers to electronically complete or store Forms I 9. It would simply permit them to do so if they so choose.

Accordingly, I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I appreciate the remarks of the distinguished chairman of the Committee on the Judiciary, and as well, I want to acknowledge the chairman of the Immigration, Border Security, and Claims Subcommittee and the gentleman from Michigan (Mr. CONYERS), ranking member on the full committee.

This is an important change on the benefits side of the immigration puzzle. This regulation, 8 CFR 274a2(b)(2) requires United States employers to process and retain I 9 forms for up to 3 years. These forms are used to verify the employment eligibility and identify all employees in the United States. They are required to be kept on paper or on microfilm or microfiche.

This was fine in 1988, when the regulation was promulgated. Computers were expensive and less widely used in 1988. Paper records were an unavoidable burden then, and microfilm and microfiche were being used far more in 1988 than they are now. It is not appropriate to be restricted, however, at this point in time to such records on that kind of data in this computer age that we live in today.

Most of our corporations and small businesses are technologically sophisticated and therefore are able to access the information highway. More than half of the benefits applications that are submitted to U.S. Citizenship and Immigration Service are filed on its Web site, but employers are still required to maintain paper I 9 forms.

Employers should be permitted to keep the Form I 9 in electronic form as an option. In addition to saving paper and storage space, an electronic storage system would permit a central reservoir of sensitive data and allow retrieval of I-9 forms in a fraction of the time it takes to retrieve paper, microfiche, or microfilm copies and might, in fact, Mr. Speaker, be even more accurate.

H.R. 4306 simply would allow employers the option of electronic processing and storage of the I 9 forms. This would include electronic signatures.

I urge my colleagues to support this legislation.

The regulation 8 CFR § 274a2(b)(2) requires United States employers to process and retain I–9 forms for up to 3 years. These forms are used to verify the employment eligibility and identity of all employees in the United States. They are required to be kept on paper or on microfilm or microfiche. This was fine in 1988, when the regulation was promulgated. Computers were expensive and less widely used in 1988. Paper records were an unavoidable burden then, and microfilm and microfiche were being used far more in 1988 than they are now. It is not appropriate to be restricted to such records in the computer age that we live in today.

More than half of the benefits applications that are submitted to the U.S. Citizenship and Immigration Service are filed on its website, but employers are still required to maintain paper I–9 forms. Employers should be permitted to keep the Form I–9 in electronic form. In addition to saving paper and storage space, an electronic storage system would permit a central reservoir of data and allow retrieval of I–9 forms in a fraction of the time it takes to retrieve paper, microfiche, or microfilm copies.

H.R. 4306 simply would allow employers the option of electronic processing and storage of the I–9 forms. This would include electronic signatures. I urge you to vote for H.R. 4306.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 4 minutes to the gentleman from Utah (Mr. CANNON) the author of the bill.

Mr. CANNON. Mr. Speaker, I rise to urge my colleagues to support H.R. 4306, legislation that I introduced along with the gentleman from New Jersey (Mr. ANDREWS).

I would like to thank the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE), ranking member of the subcommittee, for their support of this bill. This is a noncontroversial bill that reinserts logic into the regulatory process by updating an outdated regulation.

The Immigration Reform and Control Act of 1986 requires the Employment Eligibility Verification form, also known as the I 9 form, to be completed and stored by an employer in order to verify the employment eligibility and identity of the employer's workforce.

The statute also stipulates that all employers must maintain these documents for at least 3 years after the date of hire or 1 year after employment is terminated, but many employers maintain the forms for longer periods of time simply because of the cost to audit the files every year.

But, Mr. Speaker, the real regulatory burden occurs with the accompanying regulations. These regulations require that the employer must retain the forms "in their original form, either paper or on microfilm or microfiche." When these regulations were promulgated, microfiche was in the stratosphere of technological progress, but to place this in proper perspective, these regulations went into effect 5 years before Adobe Acrobat was invented. With new technology available today, it is vitally important that the Congress streamline burdensome and outdated regulations.

The House Corrections Day Advisory Committee was implemented to fix such things. H.R. 4306 went before the Correction Committee, a bipartisan committee cochaired by the gentleman from Michigan (Mr. CAMP) and the gentleman from California (Mr. WAXMAN), and received the committee's blessing that this legislation should receive consideration and passage because it rectifies an outdated regulation.

The need for this legislation is evidenced by the hundreds of millions of records that are stored in warehouses across the country in order to comply with the IRCA regulations. All businesses, especially those with high employee turnover, have a burden maintaining these documents in storage all over the country. Most companies do not use microfiche, so they are inundated with reams of paper to file and maintain. Some companies ship all their forms to one centralized location while others maintain the document where an individual is originally hired, even if he is transferred, causing audits to be complex and inefficient. The nonuniform method causes burdens to the employers and the investigators who may need to access specific files.

This legislation enhances security and provides greater privacy protections for employees. Electronic computer storage with backup systems is far more secure than paper-based systems in which the paper documents can be lost, damaged, misfiled or accessed by unauthorized individuals. The automatic time and date stamping of documents which occurs on automated systems will also help prevent fabrication or tampering.

It is our intent to provide employers a more practical option to meet their obligations. By permitting these forms to be completed and stored on a computer rather than simply on paper, an employer can avoid unnecessary administrative and storage costs. This will allow employers to reinvest the savings, benefiting the broader economy through the creation of new jobs.

In addition to allowing the electronic completion and storage of the I 9 forms, this legislation also allows employers to convert existing I 9 forms into electronic versions for storage purposes. An employer who continues to use paper I-9 forms with handwritten signatures should be able to convert those forms into an electronic version for storage and security purposes.

Mr. Speaker, this legislation does not mandate anything new. It allows employers to adopt electronic completion and storage of I 9 forms if they so choose. For a small employer with few employees and a few new hires per year, the paper route may be the most logical.

□ 1430

But in the industries with high employee turnover, electronic completion of I-9 forms will save time and money and help in enforcement.

I would like to thank the staff that worked on this bill. Personally I would like to thank from the Committee on the Judiciary Phil Kiko, Joseph Gibson, Art Arthur, George Fishman, Perry Apelbaum, and Nolan Rappaport; from leadership, Brett Loper and Andrew Shore; and Robert Knotts from the staff of the gentleman from New Jersey (Mr. ANDREWS); and Todd Thorpe and Matthew Iandoli from my staff.

Mr. Speaker, I urge my colleagues to support this legislation.

Ms. JACKSON-LEE of Texas. Mr. Speaker, it is my pleasure to yield 3 minutes to the distinguished gentleman from New Jersey (Mr. ANDREWS), who has been very diligent on these issues.

Mr. ANDREWS. Mr. Speaker, I thank my friend for yielding me time.

Mr. Speaker, I would like to begin by thanking the gentleman from Wisconsin (Chairman SENSENBRENNER) for his help and cooperation and that of his very fine staff; the ranking member, the gentleman from Michigan (Mr. CONYERS), and his fine staff; and my friend, the gentlewoman from Texas (Ms. JACKSON-LEE), for her help and support. Most especially I would like to say to my coauthor, the gentleman from Utah (Mr. CANNON), it has been a pleasure to work with him on a commonsense approach to solving a problem that is a wave of the present.

The law dates back 16 years, but the technology is changing every minute. What seems to be a simple change in this bill I think will have a profoundly positive effect on businesses, small and large, around the country.

As we have an increasingly diverse workforce with people from all over the world enriching our economy and our country, that workforce carries with it the responsibility to maintain records on the legal status of various workers. The maintenance of those records is burdensome, expensive and done in an ungainly way, an unseemly way in some cases, under present law.

The purpose of our bill is to make it much more simple. We say to employers that at their option they may retrieve these documents and create these documents and store these documents on electronic records rather than paper records. It is a small improvement for business, but I think it is a significant improvement that will make the records more accurate, more accessible, less burdensome to maintain and less expensive to maintain. This is how business ought to be done here.

I again thank the gentleman from Utah (Mr. CANNON) for his leadership on this and all others on both sides of the aisle. I would urge our colleagues, both Republican and Democrat, to vote "yes."

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wanted to make sure that I added as well my appreciation to the gentleman from Utah (Mr. CANNON) for his great work, along with the gentleman from New Jersey (Mr. ANDREWS) on this legislation, and also the cooperation of the chairman and the ranking member.

One of the provisions that we were able to keep in recognizing the importance of technology is giving the option of having paper, just in case there are those who had to utilize that method because of their own lack of access to the superinformation highway.

Mr. Speaker, I just wanted to add what I heard from the 9/11 Commission families yesterday regarding a debate that we will have tomorrow, and I understand that, but it did have to do with immigration issues.

My concern as we move this legislative initiative along is that it is unclear to the American public as we lump together the question of benefits versus enforcement. This bill that we have before us helps to enhance the benefits side of the responsibilities of homeland security, and that is to ensure legalization, to ensure process, to ensure that the system works. We have so much intimidated Americans around the question of immigration that, unfortunately, we have not been able to move valuable legislation on the question of immigration reform.

Let me cite, Mr. Speaker, some issues that in fact the gentleman from Wisconsin (Chairman SENSENBRENNER) worked long and hard on. We have not been able to bring that back up again, 245(i) which is the reunification of family members. We have not been able to address that, families who are here legally. We have not been able to address those questions.

The whole question of immigration reform as it relates to documenting illegal immigrants, many of us have had comprehensive reform packages ready and waiting to be addressed, particularly talking about earned access to legalization, the Dream Act, which allows those individuals who were born here who happen not to be citizens to access higher education, legislation that deals with technology that would help secure our borders more definitively, and basic civil rights and civil liberties that are contained in the Comprehensive Fairness Reform Act of 2004 that the ranking member and I were joined on by a number of Members.

We can begin to define immigration the way we have done so in this debate today as balancing fairness and the rights of Americans as relates to making sure they have an immigration system that works, and then working with certainly those who are concerned about ensuring the safety of the homeland, particularly measuring out immigration reform that deals with security, but also deals with fairness. I think we would be much further along and I think this legislation points to the fact that Americans are willing to welcome bipartisan immigration legislation that helps fix the backlog, that helps fix some of the problems that employers face.

Might I just say in conclusion, we are going to be talking about another bill in just a moment here dealing with physicians. But our school districts around the country, many of them have asked for flexibility in immigration as it relates to school teachers who have been utilized in the elementary and primary and secondary schools, along with those who have been utilized in our higher education.

So we have a long way to go, Mr. Speaker. I believe the more we can do this in a bipartisan way, we will be making long headway. I know the gentleman from Utah (Mr. CANNON) has often said in fixing a broken system and separating out the question of terrorism and immigration, separating out enforcement, which has a bipartisan approach, from, if you will, the benefits side of it, that makes the system work on behalf of the good work of the gentleman from New Jersey (Mr. ANDREWS) and the gentleman from Utah (Mr. CANNON).

Mr. Speaker, with that, I ask my colleagues to support H.R. 4306.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. QUINN). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4306, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ACCESS TO RURAL PHYSICIANS IMPROVEMENT ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4453) to improve access to physicians in medically underserved areas, as amended.

The Clerk read as follows:

H.R. 4453

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MODIFICATION OF VISA REQUIREMENTS WITH RESPECT TO INTERNATIONAL MEDICAL GRADUATES.

(a) EXTENSION OF DEADLINE.—

(1) IN GENERAL.—Section 220(c) of the Immigration and Nationality Technical Corrections Act of 1994 (8 U.S.C. 1182 note) (as amended by section 11018 of Public Law 107–273) is amended by striking "2004." and inserting "2006.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if enacted on May 31, 2004.

(b) EXEMPTION FROM H–1B NUMERICAL LIMITATIONS.—Section 214(l)(2)(A) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(2)(A)) is amended by adding at the end the following: "The numerical limitations contained in subsection (g)(1)(A) shall not apply to any alien whose status is changed under the preceding sentence, if the alien obtained a waiver of the 2-year foreign residence requirement upon a request by an interested Federal agency or an interested State agency.".

(c) LIMITATION ON MEDICAL PRACTICE AREAS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)) is amended by striking "agrees to practice medicine" and inserting "agrees to practice primary care or specialty medicine".

(d) EXEMPTION FROM GEOGRAPHIC LIMITATIONS.—Section 214(l)(1)(D) of the Immigration and Nationality Act (8 U.S.C. 1184(l)(1)(D)), as amended by subsection (c), is further amended—

(1) by striking "except that," and all that follows through the period at the end and inserting "except that—"; and

(2) by adding at the end the following:

"(i) in the case of a request by the Department of Veterans Affairs, the alien shall not be required to practice medicine in a geographic area designated by the Secretary; and

"(ii) in the case of a request by an interested State agency, the head of such State agency determines that the alien is to practice medicine under such agreement in a facility that serves patients who reside in one or more geographic areas so designated by the Secretary of Health and Human Services (without regard to whether such facility is within such a designated geographic area), and the grant of such waiver would not cause the number of the waivers granted on behalf of aliens for such State for a fiscal year (within the limitation described in subparagraph (B)) in accordance with the conditions of this clause to exceed 5.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4453.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4453, introduced by the gentleman from Kansas (Mr. MORAN), would extend the program under which foreign doctors can avoid having to return home for 2 years by agreeing to practice in medically underserved areas here in America.

Aliens who participate in medical residencies in the United States on the "J" exchange program visas must generally leave the U.S. after the completion of their residencies and reside abroad for at least 2 years. The intent behind the policy is to encourage American-trained foreign doctors to return home to improve health conditions and advance the medical profession in their native countries.

In 1994, Congress created a waiver of the 2-year foreign residence requirement. State departments of public health may request a waiver for foreign doctors who commit to practicing medicine for no less than 3 years in geographic areas designated by the Secretary of Health and Human Services as having a shortage of health care professionals. The number of foreign doctors who can receive this waiver is limited to 30 per State each year.

The waiver program has proven to be an important means of ensuring quality medical care in areas of the United States with physician shortages. This bill would extend the program to June 2006. It would also allow each State to place five of the doctors it sponsors each year in areas not designated by HHS as physician-shortage areas.

The bill continues the practice of allowing foreign doctors receiving a waiver to receive an H-1B visa regardless of the H-1B visa quota and will allow doctors receiving waivers to practice specialty medicine.

I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to acknowledge again the chairman of the Committee on the Judiciary and the ranking member, along with the chairman of my subcommittee, the gentleman from Indiana (Mr. HOSTETTLER), and also the gentleman from Kansas (Mr. MORAN), for the work on this legislation, and again cite this is an immigration bill. It is a health care impact bill, but it is a bill that we have been able to work on from the perspective of benefits again, and I think that this is truly how we should be approaching this question, to take away the fear and address the problem and resolve it.

Let me first of all acknowledge that this bill has good support in the other body. But as we were deliberating on the bill and it came to a point where we were talking about extensions, frankly, Mr. Speaker, I wanted to extend this particular bill, that I will begin to detail the rights of, for physicians to remain in the United States for 5 years. The proposal was for 1 year.

Interestingly enough, out of that negotiation and in a bipartisan effort, coming from the Texas Medical Center, being housed in Houston, knowing the great need of physicians and also the great need of underserved areas, I thought the 5-year extension would have been the best. We wound up in a bipartisan effort in negotiations to work on a 2-year extension.

So let me rise to support H.R. 4453, the Access to Rural Physicians Improvement Act of 2004, which makes it possible for foreign doctors to provide medical services in a geographic area which has been designated by the Secretary of Health and Human Services as having a shortage of health care professionals.

Aliens who attend medical schools in the United States on "J" exchange program visas are required to leave the country afterwards and reside abroad for 2 years before they can receive a visa to work here as physicians. In 1994, Congress created a temporary waiver of this 2-year foreign residence requirement. It applied to foreign doctors who would commit to practicing medicine for no less than 3 years in a geographic area designated by the Secretary of Health and Human Services as having a shortage of health care professionals. This program has been successful for 10 years in bringing highly qualified physicians to medically underserved areas. It sunsetted on June 1 of this year.

The first physician recommended for a waiver in Texas was Dr. Maria Camacho, a pediatric internist. Her services to the residents of Harlingen in Cameron County provided a level of health care to children that was previously unavailable in that county.

Dr. K.M. Moorthi is a nephrologist who was recommended for a waiver to serve at a facility in Pecos, Texas, in Reeves County. He works at a brand new dialysis center. Patients requiring dialysis three times per week in that part of Texas used to have to travel more than 70 miles each way for treatment. Now it is available in Pecos.

The Access to Rural Physicians Improvement Act will provide a 2-year extension for this waiver program. It also will establish a pilot flexibility provision which will allow a State agency to place a doctor in an area that has not been designated as underserved if the doctor will nevertheless serve patients from an underserved area. This exception is limited to five doctors in each State. Finally, the doctors that receive a waiver to come here with H-1B waivers will not be counted toward the annual H-1B cap.

Mr. Speaker, I ask my colleagues to support this legislation.

The Access to Rural Physicians Improvement Act of 2004, H.R. 4453, makes it possible for foreign doctors to provide medical services in a geographic area which has been designated by the Secretary of Health and Human Services as having a shortage of health care professionals.

Aliens who attend medical school in the United States on J exchange program visas are required to leave the country afterwards and reside abroad for 2 years before they can receive a visa to work here as physicians. In 1994, Congress created a temporary waiver of this two-year foreign residence requirement. It applied to foreign doctors who would commit to practicing medicine for no less than three years in a geographic area designated by the Secretary of Health and Human Services as having a shortage of health care professionals. This program has been successful for ten years in bringing highly qualified physicians to medically underserved areas. It sunsetted on June 1st of this year.

The first physician recommended for a waiver in Texas was Dr. Maria Camacho, a Pediatric Intensivist. Her services to the residents of Harlingen in Cameron County provide a level of health care to children that was previously unavailable in that county.

Dr. K.M. Moorthi is a Nephrologist who was recommended for a waiver to serve at a facility in Pecos, Texas, in Reeves County. He works at a brand new dialysis center. Patients requiring dialysis 3 times per week in that part of Texas used to have to travel more than 70 miles each way for the treatments. Now it is available in Pecos.

The Access to Rural Physicians Improvement Act will provide a two-year extension for this waiver program. It also will establish a pilot flexibility provision which will allow a State agency to place a doctor in an area that has not been designated as underserved if the doctor will nevertheless serve patients from an underserved area. This exception is limited to five doctors in each state. Finally, the doctors who receive a waiver to come here with H–1B visas will not count towards the annual H–1B cap.

I urge you to vote for H.R. 4453.

Mr. Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield 3 minutes to the gentleman from Kansas (Mr. MORAN), the author of the bill.

Mr. MORAN of Kansas. Mr. Speaker, I thank the gentleman from Wisconsin (Chairman SENSENBRENNER), and I thank the gentlewoman from Texas for her remarks in support of this legislation.

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It has been adequately described and well-defined.

This is an important program that serves both rural America and the core center of cities. It brings rural and urban America together. But as a Member of Congress from Kansas who cares greatly about the future of rural communities across my State, I recognize this is a significant component to meeting the needs, the health care needs of our communities. I know that should we lose our physicians, should we lose our hospitals, our doctors, our home health care agencies, the ability to keep those communities together, to keep our communities alive and well for the future dissipates quickly.

So this is one way in which we have been successful in Kansas and many communities across the country in attracting and retaining physicians.

The good news about the program is, there is a 3-year commitment that the physician remain in that underserved community for a 3-year period of time but, in reality, nearly two-thirds of all physicians in Kansas who participate in this program remain longer. They become an integral part of the community and an integral part of the health care delivery system. Jewell County, Kansas, population 3,791, has two J–1 physicians in their community. They are the only two physicians in the county, Dr. Kalderon and Dr. Meena. They have brought a breath of fresh air to Jewell County and to its hospital. Absent physicians, we cannot keep our hospital doors open, and this program has made it possible for the citizens, the residents of Jewell County to access health care. The great news is that these people become so important to not only the delivery of health care, but components of the community that make a huge difference in the future of that community.

So once, when there was despair and concern as to whether or not we would be able to access health care, whether or not the community hospital would stay alive and well, and whether or not people could be able to afford to live, because rural folks live in that community, senior citizens, young families, the question was answered when the J–1 physicians arrived and stayed.

So, Mr. Speaker, this issue is important. It matters to the future of our country, and it matters especially to the future of rural communities. I thank the gentlewoman from Wisconsin (Mr. SENSENBRENNER) as well as the gentlewoman from Texas (Ms. JACKSON-LEE) for their support today, and I ask my colleagues in Congress to quickly pass this bill, let the Senate act quickly and keep this program, this highly-valuable program, in place.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, but let me just thank the gentleman from Kansas and as well mention the gentleman from Texas (Mr. STENHOLM) who is a strong, strong supporter of this legislation.

Mr. Speaker, a few years ago, before coming to Congress, I was named to a committee, appointed by the attorney general of the State of Texas, talking about the closing of hospitals in the State of Texas, particularly because of the lack of physicians. So this legislation for our rural communities is extremely important, primarily because we are even seeing, today, hospitals and facilities being closed. This legislation will go a long way, and I particularly want to bring attention again to the idea that even if a physician goes to a served area, we have the flexibility now potentially to allow five doctors to serve in a served area but as well be able to serve in an underserved area, and that flexibility, I am delighted to indicate, is part of this legislation.

So you may be at the Texas Medical Center, but you may be able to go and serve in rural areas at places outside of that particular jurisdiction.

I rise in strong support of H.R. 4453, which I have been pleased to work on and cosponsor with the gentleman from Kansas (Mr. MORAN). I thank the gentleman from Wisconsin (Mr. SENSENBRENNER) for bringing the bill to the floor today.

Mr. Speaker, H.R. 4453 reauthorizes and expands the State Conrad 20 program. The 2-year reauthorization allows States to continue to act as an interested government agency in order to sponsor foreign-born doctors to practice in medically underserved areas. The number of doctors that can be sponsored per State is expanded from 20 to 30.

Since the mid-1990s, the J–1 Visa Program has helped numerous rural counties and underserved communities meet the health care needs of their community.

Nonetheless, the demand for doctors continues to grow. Despite a continuing population migration to urban and suburban communities throughout the State, the vast majority of Texas remains rural, posing unique challenges to the delivery and accessibility of high-quality health care. Not only are health care services likely to be unevenly distributed, but many rural residents do not even have access to a local doctor, primary care provider, or hospital.

Regrettably, a doctor would diagnose the health care problems in rural communities as chronic and persistent. The issues are not new, and we have tried a variety of medicines to remedy these problems, but we still have a long way to go before we achieve a healthy rural America.

Access to primary care promotes appropriate entry into the health system and is vital to ensure the long-term viability of rural health care delivery.

Without access to local health care professionals, rural residents are frequently forced to leave their communities to receive necessary treatments. Not only is this a burden to rural residents, who are often older or lack reliable transportation, but it drains vital health care dollars from the local community, further straining the financial well-being of rural communities.

It is imperative that we identify and expand those programs that provide physicians, pharmacists, nurses, dentists, and physician assistants incentives to practice in rural areas.

The J–1 visa waiver program was expanded in 1995, allowing medical exchange graduates in U.S. residency training to extend their stay for 3 years, provided they practice in an underserved community.

For certain rural—as well as urban—areas in the United States, the J–1 doctors have been key providers.

In rural West Texas, the area I represent, residents are benefiting directly from the services of J–1 visa physicians.

The cities of Rotan and Winters, Texas are two communities in my district that continue to rely on the care of these health care professionals.

The City of Abilene, Texas intends to use the J–1 Visa Program next year after they have exhausted all other avenues to pursue a psychiatrist.

The city is "medically underserved" in the area of psychiatry and faces extreme difficulties in attracting a mental health professional.

The J–1 Visa Program may be their best solution.

Since 1995, Texas alone has received the services of 400 J-1 physicians. This represents service to a population of over 1 million people. One million people have received health care that they would not otherwise have received, or at least it would have been more difficult to receive, as a result of this program that we reauthorize today.

This isn't the final answer to our health care shortage problems but it certainly is an important part of that answer and I commend Congressman MORAN for his leadership on this issue.

I urge my colleagues to support H.R. 4453, the Access to Rural Physicians Improvement Act.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I ask my colleagues to support this legislation, and I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. QUINN). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 4453, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MENTALLY ILL OFFENDER TREATMENT AND CRIME REDUCTION ACT OF 2004

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1194) to foster local collaborations which will ensure that resources are effectively and efficiently used within the criminal and juvenile justice systems.

The Clerk read as follows:

S. 1194

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Mentally Ill Offender Treatment and Crime Reduction Act of 2004".

SEC. 2. FINDINGS.

Congress finds the following:

(1) According to the Bureau of Justice Statistics, over 16 percent of adults incarcerated in United States jails and prisons have a mental illness.

(2) According to the Office of Juvenile Justice and Delinquency Prevention, approximately 20 percent of youth in the juvenile justice system have serious mental health problems, and a significant number have co-occurring mental health and substance abuse disorders.

(3) According to the National Alliance for the Mentally Ill, up to 40 percent of adults who suffer from a serious mental illness will come into contact with the American criminal justice system at some point in their lives.

(4) According to the Office of Juvenile Justice and Delinquency Prevention, over 150,000 juveniles who come into contact with the juvenile justice system each year meet the diagnostic criteria for at least 1 mental or emotional disorder.

(5) A significant proportion of adults with a serious mental illness who are involved with the criminal justice system are homeless or at imminent risk of homelessness, and many of these individuals are arrested and jailed for minor, nonviolent offenses.

(6) The majority of individuals with a mental illness or emotional disorder who are involved in the criminal or juvenile justice systems are responsive to medical and psychological interventions that integrate treatment, rehabilitation, and support services.

(7) Collaborative programs between mental health, substance abuse, and criminal or juvenile justice systems that ensure the provision of services for those with mental illness or co-occurring mental illness and substance abuse disorders can reduce the number of such individuals in adult and juvenile corrections facilities, while providing improved public safety.

SEC. 3. PURPOSE.

The purpose of this Act is to increase public safety by facilitating collaboration among the criminal justice, juvenile justice, mental health treatment, and substance abuse systems. Such collaboration is needed to—

(1) protect public safety by intervening with adult and juvenile offenders with mental illness or co-occurring mental illness and substance abuse disorders;

(2) provide courts, including existing and new mental health courts, with appropriate mental health and substance abuse treatment options;

(3) maximize the use of alternatives to prosecution through graduated sanctions in appropriate cases involving nonviolent offenders with mental illness;

(4) promote adequate training for criminal justice system personnel about mental illness and substance abuse disorders and the appropriate responses to people with such illnesses;

(5) promote adequate training for mental health and substance abuse treatment personnel about criminal offenders with mental illness or co-occurring substance abuse disorders and the appropriate response to such offenders in the criminal justice system;

(6) promote communication among adult or juvenile justice personnel, mental health and co-occurring mental illness and substance abuse disorders treatment personnel, nonviolent offenders with mental illness or co-occurring mental illness and substance abuse disorders, and support services such as housing, job placement, community, faith-based, and crime victims organizations; and

(7) promote communication, collaboration, and intergovernmental partnerships among municipal, county, and State elected officials with respect to mentally ill offenders.

SEC. 4. DEPARTMENT OF JUSTICE MENTAL HEALTH AND CRIMINAL JUSTICE COLLABORATION PROGRAM.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by adding at the end the following:

"PART HH—ADULT AND JUVENILE COLLABORATION PROGRAM GRANTS

"SEC. 2991. ADULT AND JUVENILE COLLABORATION PROGRAMS.

"(a) DEFINITIONS.—In this section, the following definitions shall apply:

"(1) APPLICANT.—The term 'applicant' means States, units of local government, Indian tribes, and tribal organizations that apply for a grant under this section.

"(2) COLLABORATION PROGRAM.—The term 'collaboration program' means a program to promote public safety by ensuring access to adequate mental health and other treatment services for mentally ill adults or juveniles that is overseen cooperatively by—

"(A) a criminal or juvenile justice agency or a mental health court; and

"(B) a mental health agency.

"(3) CRIMINAL OR JUVENILE JUSTICE AGENCY.—The term 'criminal or juvenile justice agency' means an agency of a State or local government or its contracted agency that is responsible for detection, arrest, enforcement, prosecution, defense, adjudication, incarceration, probation, or parole relating to the violation of the criminal laws of that State or local government.

"(4) DIVERSION AND ALTERNATIVE PROSECUTION AND SENTENCING.—

"(A) IN GENERAL.—The terms 'diversion' and 'alternative prosecution and sentencing' mean the appropriate use of effective mental health treatment alternatives to juvenile justice or criminal justice system institutional placements for preliminarily qualified offenders.

"(B) APPROPRIATE USE.—In this paragraph, the term 'appropriate use' includes the discretion of the judge or supervising authority, the leveraging of graduated sanctions to encourage compliance with treatment, and law enforcement diversion, including crisis intervention teams.

"(C) GRADUATED SANCTIONS.—In this paragraph, the term 'graduated sanctions' means an accountability-based graduated series of sanctions (including incentives, treatments, and services) applicable to mentally ill offenders within both the juvenile and adult justice system to hold individuals accountable for their actions and to protect communities by providing appropriate sanctions for inducing law-abiding behavior and preventing subsequent involvement in the criminal justice system.

"(5) MENTAL HEALTH AGENCY.—The term 'mental health agency' means an agency of a State or local government or its contracted agency that is responsible for mental health services or co-occurring mental health and substance abuse services.

"(6) MENTAL HEALTH COURT.—The term 'mental health court' means a judicial program that meets the requirements of part V of this title.

"(7) MENTAL ILLNESS.—The term 'mental illness' means a diagnosable mental, behavioral, or emotional disorder—

"(A) of sufficient duration to meet diagnostic criteria within the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association; and

"(B)(i) that, in the case of an adult, has resulted in functional impairment that substantially interferes with or limits 1 or more major life activities; or

"(ii) that, in the case of a juvenile, has resulted in functional impairment that substantially interferes with or limits the juvenile's role or functioning in family, school, or community activities.

"(8) NONVIOLENT OFFENSE.—The term 'nonviolent offense' means an offense that does not have as an element the use, attempted use, or threatened use of physical force against the person or property of another or is not a felony that by its nature involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

"(9) PRELIMINARILY QUALIFIED OFFENDER.—The term 'preliminarily qualified offender' means an adult or juvenile accused of a nonviolent offense who—

"(A)(i) previously or currently has been diagnosed by a qualified mental health professional as having a mental illness or co-occurring mental illness and substance abuse disorders; or

"(ii) manifests obvious signs of mental illness or co-occurring mental illness and substance abuse disorders during arrest or confinement or before any court; and

"(B) has faced, is facing, or could face criminal charges for a misdemeanor or nonviolent offense and is deemed eligible by a diversion process, designated pretrial screening process, or by a magistrate or judge, on the ground that the commission of the offense is the product of the person's mental illness.

"(10) SECRETARY.—The term 'Secretary' means the Secretary of Health and Human Services.

"(11) UNIT OF LOCAL GOVERNMENT.—The term 'unit of local government' means any city, county, township, town, borough, parish, village, or other general purpose political subdivision of a State, including a State court, local court, or a governmental agency located within a city, county, township, town, borough, parish, or village.

"(b) PLANNING AND IMPLEMENTATION GRANTS.—

"(1) IN GENERAL.—The Attorney General, in consultation with the Secretary, may award nonrenewable grants to eligible applicants to prepare a comprehensive plan for and implement an adult or juvenile collaboration program, which targets preliminarily qualified offenders in order to promote public safety and public health.

"(2) PURPOSES.—Grants awarded under this section shall be used to create or expand—

"(A) mental health courts or other court-based programs for preliminarily qualified offenders;

"(B) programs that offer specialized training to the officers and employees of a criminal or juvenile justice agency and mental health personnel serving those with co-occurring mental illness and substance abuse problems in procedures for identifying the symptoms of preliminarily qualified offenders in order to respond appropriately to individuals with such illnesses;

"(C) programs that support cooperative efforts by criminal and juvenile justice agencies and mental health agencies to promote public safety by offering mental health treatment services and, where appropriate, substance abuse treatment services for—

"(i) preliminarily qualified offenders with mental illness or co-occurring mental illness and substance abuse disorders; or

"(ii) adult offenders with mental illness during periods of incarceration, while under the supervision of a criminal justice agency, or following release from correctional facilities; and

"(D) programs that support intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

"(3) APPLICATIONS.—

"(A) IN GENERAL.—To receive a planning grant or an implementation grant, the joint applicants shall prepare and submit a single application to the Attorney General at such time, in such manner, and containing such information as the Attorney General and the Secretary shall reasonably require. An application under part V of this title may be made in conjunction with an application under this section.

"(B) COMBINED PLANNING AND IMPLEMENTATION GRANT APPLICATION.—The Attorney General and the Secretary shall develop a procedure under which applicants may apply at the same time and in a single application for a planning grant and an implementation grant, with receipt of the implementation grant conditioned on successful completion of the activities funded by the planning grant.

"(4) PLANNING GRANTS.—

"(A) APPLICATION.—The joint applicants may apply to the Attorney General for a nonrenewable planning grant to develop a collaboration program.

"(B) CONTENTS.—The Attorney General and the Secretary may not approve a planning grant unless the application for the grant includes or provides, at a minimum, for a budget and a budget justification, a description of the outcome measures that will be used to measure the effectiveness of the program in promoting public safety and public health, the activities proposed (including the provision of substance abuse treatment services, where appropriate) and a schedule for completion of such activities, and the personnel necessary to complete such activities.

"(C) PERIOD OF GRANT.—A planning grant shall be effective for a period of 1 year, beginning on the first day of the month in which the planning grant is made. Applicants may not receive more than 1 such planning grant.

"(D) AMOUNT.—The amount of a planning grant may not exceed $75,000, except that the Attorney General may, for good cause, approve a grant in a higher amount.

"(E) COLLABORATION SET ASIDE.—Up to 5 percent of all planning funds shall be used to foster collaboration between State and local governments in furtherance of the purposes set forth in the Mentally Ill Offender Treatment and Crime Reduction Act of 2004.

"(5) IMPLEMENTATION GRANTS.—

"(A) APPLICATION.—Joint applicants that have prepared a planning grant application may apply to the Attorney General for approval of a nonrenewable implementation grant to develop a collaboration program.

"(B) COLLABORATION.—To receive an implementation grant, the joint applicants shall—

"(i) document that at least 1 criminal or juvenile justice agency (which can include a mental health court) and 1 mental health agency will participate in the administration of the collaboration program;

"(ii) describe the responsibilities of each participating agency, including how each agency will use grant resources to provide supervision of offenders and jointly ensure that the provision of mental health treatment services and substance abuse services for individuals with co-occurring mental health and substance abuse disorders are coordinated, which may range from consultation or collaboration to integration in a single setting or treatment model;

"(iii) in the case of an application from a unit of local government, document that a State mental health authority has provided comment and review; and

"(iv) involve, to the extent practicable, in developing the grant application—

"(I) preliminarily qualified offenders;

"(II) the families and advocates of such individuals under subclause (I); and

"(III) advocates for victims of crime.

"(C) CONTENT.—To be eligible for an implementation grant, joint applicants shall comply with the following:

"(i) DEFINITION OF TARGET POPULATION.—Applicants for an implementation grant shall—

"(I) describe the population with mental illness or co-occurring mental illness and substance abuse disorders that is targeted for the collaboration program; and

"(II) develop guidelines that can be used by personnel of an adult or juvenile justice agency to identify preliminarily qualified offenders.

"(ii) SERVICES.—Applicants for an implementation grant shall—

"(I) ensure that preliminarily qualified offenders who are to receive treatment services under the collaboration program will first receive individualized, validated, needs-based assessments to determine, plan, and coordinate the most appropriate services for such individuals;

"(II) specify plans for making mental health, or mental health and substance abuse, treatment services available and accessible to preliminarily qualified offenders at the time of their release from the criminal justice system, including outside of normal business hours;

"(III) ensure that there are substance abuse personnel available to respond appropriately to the treatment needs of preliminarily qualified offenders;

"(IV) determine eligibility for Federal benefits;

"(V) ensure that preliminarily qualified offenders served by the collaboration program will have adequate supervision and access to effective and appropriate community-based mental health services, including, in the case of individuals with co-occurring mental health and substance abuse disorders, coordinated services, which may range from consultation or collaboration to integration in a single setting treatment model;

"(VI) make available, to the extent practicable, other support services that will ensure the preliminarily qualified offender's successful reintegration into the community (such as housing, education, job placement, mentoring, and health care and benefits, as well as the services of faith-based and community organizations for mentally ill individuals served by the collaboration program); and

"(VII) include strategies, to the extent practicable, to address developmental and learning disabilities and problems arising from a documented history of physical or sexual abuse.

"(D) HOUSING AND JOB PLACEMENT.—Recipients of an implementation grant may use grant funds to assist mentally ill offenders compliant with the program in seeking housing or employment assistance.

"(E) POLICIES AND PROCEDURES.—Applicants for an implementation grant shall strive to ensure prompt access to defense counsel by criminal defendants with mental illness who are facing charges that would trigger a constitutional right to counsel.

"(F) FINANCIAL.—Applicants for an implementation grant shall—

"(i) explain the applicant's inability to fund the collaboration program adequately without Federal assistance;

"(ii) specify how the Federal support provided will be used to supplement, and not supplant, State, local, Indian tribe, or tribal organization sources of funding that would otherwise be available, including billing third-party resources for services already covered under programs (such as Medicaid, Medicare, and the State Children's Insurance Program); and

"(iii) outline plans for obtaining necessary support and continuing the proposed collaboration program following the conclusion of Federal support.

"(G) OUTCOMES.—Applicants for an implementation grant shall—

"(i) identify methodology and outcome measures, as required by the Attorney General and the Secretary, to be used in evaluating the effectiveness of the collaboration program;

"(ii) ensure mechanisms are in place to capture data, consistent with the methodology and outcome measures under clause (i); and

"(iii) submit specific agreements from affected agencies to provide the data needed by the Attorney General and the Secretary to accomplish the evaluation under clause (i).

"(H) STATE PLANS.—Applicants for an implementation grant shall describe how the adult or juvenile collaboration program relates to existing State criminal or juvenile justice and mental health plans and programs.

"(I) USE OF FUNDS.—Applicants that receive an implementation grant may use funds for 1 or more of the following purposes:

"(i) MENTAL HEALTH COURTS AND DIVERSION/ALTERNATIVE PROSECUTION AND SENTENCING PROGRAMS.—Funds may be used to create or expand existing mental health courts that meet program requirements established by the Attorney General under part V of this title, other court-based programs, or diversion and alternative prosecution and sentencing programs (including crisis intervention teams and treatment

accountability services for communities) that meet requirements established by the Attorney General and the Secretary.

"(ii) TRAINING.—Funds may be used to create or expand programs, such as crisis intervention training, which offer specialized training to—

"(I) criminal justice system personnel to identify and respond appropriately to the unique needs of preliminarily qualified offenders; or

"(II) mental health system personnel to respond appropriately to the treatment needs of preliminarily qualified offenders.

"(iii) SERVICE DELIVERY.—Funds may be used to create or expand programs that promote public safety by providing the services described in subparagraph (C)(ii) to preliminarily qualified offenders.

"(iv) IN-JAIL AND TRANSITIONAL SERVICES.—Funds may be used to promote and provide mental health treatment and transitional services for those incarcerated or for transitional reentry programs for those released from any penal or correctional institution.

"(J) GEOGRAPHIC DISTRIBUTION OF GRANTS.—The Attorney General, in consultation with the Secretary, shall ensure that planning and implementation grants are equitably distributed among the geographical regions of the United States and between urban and rural populations.

"(c) PRIORITY.—The Attorney General, in awarding funds under this section, shall give priority to applications that—

"(1) demonstrate the strongest commitment to ensuring that such funds are used to promote both public health and public safety;

"(2) demonstrate the active participation of each co-applicant in the administration of the collaboration program;

"(3) document, in the case of an application for a grant to be used in whole or in part to fund treatment services for adults or juveniles during periods of incarceration or detention, that treatment programs will be available to provide transition and re-entry services for such individuals; and

"(4) have the support of both the Attorney General and the Secretary.

"(d) MATCHING REQUIREMENTS.—

"(1) FEDERAL SHARE.—The Federal share of the cost of a collaboration program carried out by a State, unit of local government, Indian tribe, or tribal organization under this section shall not exceed—

"(A) 80 percent of the total cost of the program during the first 2 years of the grant;

"(B) 60 percent of the total cost of the program in year 3; and

"(C) 25 percent of the total cost of the program in years 4 and 5.

"(2) NON-FEDERAL SHARE.—The non-Federal share of payments made under this section may be made in cash or in-kind fairly evaluated, including planned equipment or services.

"(e) FEDERAL USE OF FUNDS.—The Attorney General, in consultation with the Secretary, in administering grants under this section, may use up to 3 percent of funds appropriated to—

"(1) research the use of alternatives to prosecution through pretrial diversion in appropriate cases involving individuals with mental illness;

"(2) offer specialized training to personnel of criminal and juvenile justice agencies in appropriate diversion techniques;

"(3) provide technical assistance to local governments, mental health courts, and diversion programs, including technical assistance relating to program evaluation;

"(4) help localities build public understanding and support for community reintegration of individuals with mental illness;

"(5) develop a uniform program evaluation process; and

"(6) conduct a national evaluation of the collaboration program that will include an assessment of its cost-effectiveness.

"(f) INTERAGENCY TASK FORCE.—

"(1) IN GENERAL.—The Attorney General and the Secretary shall establish an interagency task force with the Secretaries of Housing and Urban Development, Labor, Education, and Veterans Affairs and the Commissioner of Social Security, or their designees.

"(2) RESPONSIBILITIES.—The task force established under paragraph (1) shall—

"(A) identify policies within their departments that hinder or facilitate local collaborative initiatives for preliminarily qualified offenders; and

"(B) submit, not later than 2 years after the date of enactment of this section, a report to Congress containing recommendations for improved interdepartmental collaboration regarding the provision of services to preliminarily qualified offenders.

"(g) MINIMUM ALLOCATION.—Unless all eligible applications submitted by any State or unit of local government within such State for a planning or implementation grant under this section have been funded, such State, together with grantees within the State (other than Indian tribes), shall be allocated in each fiscal year under this section not less than 0.75 percent of the total amount appropriated in the fiscal year for planning or implementation grants pursuant to this section.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Justice to carry out this section—

"(1) $50,000,000 for fiscal year 2005; and

"(2) such sums as may be necessary for fiscal years 2006 through 2009.".

(b) LIST OF "BEST PRACTICES".—The Attorney General, in consultation with the Secretary of Health and Human Services, shall develop a list of "best practices" for appropriate diversion from incarceration of adult and juvenile offenders.

The SPEAKER pro tempore (Mr. FOLEY). Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 1194, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Before beginning my statement, let me state that after the committee filed the committee report on this legislation, we received a Congressional Budget Office cost estimate dated October 6, 2004, and I will insert this cost estimate into the RECORD at this point.

OCTOBER 6, 2004.

Hon F. JAMES SENSENBRENNER, Jr.,
Chairman, Committee on the Judiciary, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for S. 1194, the Mentally Ill Offender Treatment and Crime Reduction Act of 2004.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Susanne S. Mehlman.

Sincerely,

DOUGLAS HOLTZ-EAKIN,
Director.

Enclosure.

S. 1194—Mentally Ill Offender Treatment and Crime Reduction Act of 2004

Summary: S. 1194 would authorize the appropriation of $50 million for fiscal year 2005 and such sums as may be necessary for the 2006–2009 period for the Department of Justice to make grants to state and local governments to improve the treatment of criminal offenders with mental illnesses or substance abuse disorders. CBO estimates that implementing the bill would cost $172 million over the 2005–2009 period, assuming the appropriation of the necessary amounts. Enacting S. 1194 would not affect direct spending or revenues.

S. 1194 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act (UMRA). The creation of a new grant for mental health programs in the state, local, or tribal justice systems would benefit those governments.

Estimated cost to the Federal Government: The estimated budgetary impact of S. 1194 is shown in the following table. For this estimate, CBO assumes that the authorized amounts will be appropriated near the start of each fiscal year and that outlays will follow the historical rate of spending for similar programs. For the 2006–2009 authorization levels, CBO estimated the necessary funding levels by adjusting the fiscal year 2005 authorization level for anticipated inflation. The costs of this legislation fall within budget function 750 (administration of justice).

	By fiscal year, in millions of dollars—				
	2005	2006	2007	2008	2009
CHANGES IN SPENDING SUBJECT TO APPROPRIATION					
Estimated Authorization Level	50	51	52	53	55
Estimated Outlays	11	26	37	45	53

Intergovernmental and private-sector impact: S. 1194 contains no intergovernmental or private-sector mandates as defined in UMRA and would benefit state, local, and tribal governments by authorizing a joint grant program between those justice systems and social service providers. These grants could be used for planning and implementing alternative court systems for defendants with mental illness, creating training and treatment programs, and coordinating efforts of state and local governments. Any costs to those governments would be voluntarily as conditions of receiving federal aid.

Previous CBO estimate: On October 28, 2003, CBO transmitted a cost estimate for S. 1194, as reported by the Senate Committee on the Judiciary on October 23, 2003. The two versions of the bill are similar, though the authorization levels and timing of the authorizations differ and the cost estimates reflect those differences.

Estimate prepared by: Federal Costs: Susanne S. Mehlman; Impact on State, Local, and Tribal Governments: Melissa Merrell; and Impact on the Private Sector: Paige Piper Bach.

Estimate approved by: Peter H. Fontaine, Deputy Assistant Director for Budget Analysis.

Mr. Speaker, many of our Nation's inmates are mentally ill, and the system is not well equipped to deal with them. The Bureau of Justice Statistics estimated in 1999 that 16 percent of State prison inmates, 7 percent of Federal inmates, and 16 percent of those in local jails or on probation reported either a mental condition or an overnight stay in a mental hospital.

According to this study and others, homelessness and unemployment are most prevalent amongst the mentally ill. Mental health treatment and other forms of assistance for the nonviolent mentally ill offenders can reduce recidivism in the criminal justice system. These offenders require treatment for their mental illness and often for their drug and alcohol abuse problems as well.

In response to this problem, Members on both sides of the aisle have proposed this bill to establish a grant program to encourage States to address this issue. The grants may be used to fund mental health courts or diversion programs for those with mental health issues. They may also be used to promote cooperation between the criminal justice system and the mental health community, or to train both criminal justice personnel and mental health providers to respond to the needs of mentally ill offenders.

In addition, changes were made to S. 1194 by the Committee on the Judiciary to encourage a system of graduated sanctions for mentally ill offenders and supervision of those who are offered a diversion option to ensure the safety of the community.

I believe this legislation will reduce recidivism amongst the mentally ill while striking the appropriate balance between protecting our communities and addressing the needs of mentally ill offenders. I urge my colleagues to join me in supporting it.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this is Mental Health Awareness Week, and I rise to support S. 1194, the Mentally Ill Offender Treatment and Crime Reduction Act of 2003. This bill is designed to address the needs of mental illness sufferers who become entangled in the criminal justice system. All too often we find that mentally ill defendants are inappropriately placed into criminal or juvenile corrections facilities, and the negative impact that this has on the individual and society is reflected in increased recidivism rates, wasted administrative costs, and unnecessary overcrowding of correction facilities, among other things. The Bureau of Justice reported that, in 1998, over 280,000 individuals in jail or prison and almost 550,000 of those on probation had a mental impairment.

The mentally ill are disproportionately represented in jails and prisons and amongst our homeless, leaving them vulnerable to criminal acts as well as criminal activities. Five percent of all Americans have a serious mental illness, but 16 to 20 percent of incarcerated persons have a mental impairment. We need to direct the kinds of resources for this issue that will provide meaningful solutions, including expanding diversion programs, community-based treatment, re-entry services, and improved treatment during incarcerations.

The Mentally Ill Offender Treatment and Crime Reduction Act of 2003 recognizes that true partnerships between the mental health and criminal and juvenile corrections systems and between the Federal and State governments are needed to meet these challenges. Indeed, the bill requires that Federal funds authorized under this program be supplemented with contributions from the States, local governments and tribal organizations.

Under the provisions of this bill, planning and implementation grants would be authorized for creation or expansion of mental health courts or other court-based programs for preliminary qualified offenders; training of criminal and juvenile justice personnel and mental health professionals about mental illness and substance abuse disorders; creation or expansion of cooperative efforts between criminal and juvenile justice agencies and mental health agencies; and creation or expansion of intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

Mr. Speaker, S. 1194 would authorize a grants program of $100 million a year for 2 years and would authorize amounts necessary to cover the final 3 years. Furthermore, this bill would establish a Federal interagency task force to identify better Federal, local and interdepartmental coordination of mental health services.

Congress has an obligation to legislate to protect the community from those who become aggressive or violent because of mental illness. We also have a responsibility to see that the offender receives the proper treatment for his or her illness. Far too often, mental illness goes undiagnosed, and many in our prison systems would do better in alternative settings designed to handle their particular needs.

This legislation has many supporters. It has been advocated by the U.S. Conference of Bishops and, according to its statement, S. 1194 would be a good start in ensuring that mentally ill offenders receive the proper treatment they need with grants designed to create community-based treatment programs and other services.

Mr. Speaker, I ask my colleagues in the first instance to support this particular legislation and, as well, to be cognizant of the need for more mental health services around the Nation at this time.

Mr. Speaker, I rise in support of S. 1194, the "Mentally Ill Offender Treatment and Crime Reduction Act of 2003." This bill is designed to address the needs of mental illness sufferers who become entangled within the criminal justice system.

All too often, we find that mentally ill defendants are inappropriately placed into criminal or juvenile corrections facilities, and the negative impact that this has on the individual and society is reflected in increased recidivism rates, wasted administrative costs, and unnecessary overcrowding of corrections facilities, among other things.

The Bureau of Justice reported that in 1998 over 280,000 individuals in jail or prison and almost 550,000 of those on probation had a mental impairment. The mentally ill are disproportionately represented in jails and prisons. Five percent of all Americans have a serious mental illness, but sixteen to twenty percent of incarcerated individuals have a mental impairment.

We need to direct the kinds of resources for this issue that will provide meaningful solutions, including expanding diversion programs, community-based treatment, re-entry services, and improved treatment during incarceration. The Mentally Ill Offender Treatment and Crime Reduction Act of 2003 recognizes that true partnerships between the mental health and criminal and juvenile corrections systems and between the Federal and State Governments are needed to meet these challenges. Indeed, the bill requires that Federal funds authorized under this program be supplemented with contributions from the States, local governments, and tribal organizations.

Under the provisions of this Bill, planning and implementation grants would be authorized for the:

Creation or expansion of mental health courts or other court-based "programs for preliminarily qualified offenders";

Training of criminal and juvenile justice personnel and mental health professionals about mental illness and substance abuse disorders;

Creation or expansion of cooperative efforts between criminal and juvenile justice agencies and mental health agencies; and

Creation or expansion of intergovernmental cooperation between State and local governments with respect to the mentally ill offender.

S. 1194 would authorize the grants program at $100 million a year for 2 years and would authorize the amounts necessary to cover the final 3 years. Furthermore, this bill would establish a Federal "Interagency Task Force" to identify better Federal-local and interdepartmental coordination of mental health services.

Congress has an obligation to legislate to protect the community from those who become aggressive or violent because of mental illness. We also have a responsibility to see that the offender receives the proper treatment for his or her illness. Far too often, mental illness goes undiagnosed, and many in our prison system would do better in alternative settings designed to handle their particular needs.

This legislation has been advocated by the U.S. Conference of Bishops. According to its statement, S. 1194 would be "a good start towards ensuring that mentally ill offenders receive the proper treatment they need with grants designed to create community based treatment programs and other services."

In Texas, past treatment of mentally ill offenders illustrates the need for legislation such as S. 1194. Senior U.S. District Judge William Wayne Justice, who is experienced in dealing with mentally ill prisoners in Texas, ruled in 1980 that the Texas prison system is unconstitutional and placed it under Federal control for 30 years. In Judge Justice's estimation, the Texas laws that apply to the mentally ill "lack compassion and emphasize vengeance." KPFT news reported him as having said, "We have allowed the spirit of vengeance such unrivaled sway in our dealings with those who commit crime that we have ceased to consider properly whether we have taken adequate account of the role that mental impairment may play in the determination of moral responsibility. As a result, we punish those who we cannot justly blame. Such result is not, I believe worthy of a civil society."

The Mentally Ill Offender Treatment and Crime Reduction Act of 2003 takes a good first step toward reforming a system that has operated under a shield for far too long. We must continue to make this legislation effective enough to save the lives of these defendants who are truly victims.

Mr. Speaker, for the reasons above-stated, I support the legislation before this body as reported favorably by the Full Committee on the Judiciary and its Subcommittee on Crime, Terrorism, and Homeland Security.

Mr. Speaker, I am delighted to yield 5 minutes to the gentleman from Rhode Island (Mr. KENNEDY), one of this Congress's most vocal and most passionate voices for the underserved when it comes to mental health services around the Nation and has consistently battled on their behalf.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank the gentlewoman for her kind words and her leadership on this issue as well. I thank the chairman as well for his work on this legislation.

I just wanted an opportunity to speak on this for a moment or two. It is true that, this week, we are celebrating the Mental Health Awareness Month, and it is appropriate as we celebrate it, to reflect on what we are doing as a Nation to address mental illness in this country. We have 271 cosponsors of mental health parity legislation in this House. We have 71 cosponsors in the United States Senate for mental health parity. We have 368 sponsors by national organizations endorsing mental health parity, and yet, mental health parity legislation is bottled up in committee.

Mental health parity legislation is very basic. It simply says that mental illness is treated as every other physical illness. And if anyone had a doubt that mental illness is not a physical illness, if their common sense did not tell them this, well, we have reams of evidence and knowledge supporting it. Even the Surgeon General Carmona and the former Surgeon General Satcher have released very extensive reports about the need to address the problem of mental illness in this country.

I say all of this because, today, we are addressing a bill that is designed to meet the needs of those who are incarcerated in this country by developing a stronger mental health network for those prisoners either coming out of prison or those juveniles before they end up in prison. But, Mr. Speaker, I would suggest that we would not have the problems in this country, where in our prison system we have 2 million people in this country incarcerated, more people incarcerated in this country than any other industrialized Nation on the face of the earth.

□ 1500

That is an indictment, an indictment on our society that we as a country are picking up the broken pieces of people's lives because we as a country have not done what we are supposed to do in providing those support services, providing that counseling, making sure that our health care system treats the health care needs of those with mental illness.

It is discriminatory for someone with a chemical imbalance in their brain not to be given the same services and health care that someone suffering diabetes would be given. It is a shame and a violation that we are spending less money on mental health care research than many, many other diseases that do not even reflect a fraction of the burden of the disease that mental illness does in this country.

The biggest mental health hospital in this country is Los Angeles County Jail. The biggest mental health hospital is Los Angeles County Jail. Our prisons represent the unmet need of this country when it comes to those with mental illness.

So, Mr. Speaker, when it comes to S. 1194, I want to come down here and say this is the kind of legislation we need. We need to do more of this. But I might add we ought to do this in a comprehensive fashion, and that means we ought to pass mental health parity legislation. I hope we get a chance, if not in this Congress, in next Congress to finally pass mental health parity legislation. Not is it only a matter of failure in our health care system, but it is a matter of civil rights and human rights for those who suffer from mental illness because, indeed,their illness is the only illness that is being discriminated against in this country.

We spend money for every other illness, but we do not spend the money on this illness because somehow our country has not recognized that this is a real physical illness and as such we as a Nation are continuing the discrimination, the stigma that exists against people with mental illness. I look forward to working with my colleagues on this and many other bills that have to do with juvenile justice and mental illness.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, it is an indictment. Certainly this bill stands as a model of what we can do for incarcerated persons suffering from mental illness; but we are long overdue, long overdue from the vast understanding of mental health in this country and the need for a mental health parity bill. I cannot thank the gentleman enough for being the leader of this team that continues to work on this issue.

Mr. Speaker, I yield 4 minutes to the gentleman from Ohio (Mr. STRICKLAND), who brings not only his professional background, but we have worked over the years together, particularly after the numerous school shootings, on issues dealing with counselors in schools and the need for mental health care in schools.

Mr. STRICKLAND. Mr. Speaker, I rise in support of S. 1194, the Mentally Ill Offender Treatment and Crime Reduction Act. As the sponsor of H.R. 2387, the companion House bill to S. 1194, I am very pleased to have this legislation on the floor, and I would like to thank my colleagues on the Committee on the Judiciary and their staff who have been instrumental in moving this legislation.

S. 1194 was introduced and shepherded through the Senate by Ohio Senator MIKE DEWINE, and I would like to thank him for his leadership and friendship. Senator DEWINE and I have worked together to end the criminalization of the mentally ill since the 106th Congress when we introduced and passed into law a bill that established a small demonstration program to help communities begin and operate mental health courts. Response to the mental health courts program has been tremendous, with the Department of Justice receiving applications from far more communities than they could fund with the small appropriations allocated for the program.

I am fortunate that two of the mental health courts grants have been awarded to jurisdictions that serve my constituents in Youngstown, Ohio and Athens, Hocking, and Vinton counties.

To build on the success of the mental health courts, Senator DEWINE and I introduced the bill before us today. As a counseling psychologist who has worked at a maximum security prison, I know how important this legislation is for improving mental health treatment. This bill addresses one small part of the mentally ill population's complex treatment system by seeking to treat mentally ill individuals who are or who become involved in the criminal or juvenile justice systems.

According to the Bureau of Justice statistics, over 16 percent of adults incarcerated in U.S. jails and prisons have a mental illness. In addition, the Office of Juvenile Justice and Delinquency Prevention reports that over 20 percent of the youth in the juvenile justice system have serious mental health problems, and many more have co-occurring mental health and substance abuse disorders. If a person with mental illness does not receive treatment, his or her condition almost certainly will worsen when he or she is in custody. Generally, the criminal justice system is not equipped to identify and ensure that people with mental illness find appropriate treatment programs, either through diversion into community treatment or within a jail or prison.

The Mentally Ill Offender Treatment and Crime Reduction Act addresses the needs of both the criminal justice system and the mentally ill offender population. The bill creates a grant program for communities that will provide resources for diversion programs across the spectrum of the criminal justice system. Communities will also be able to design programs that provide mental health treatment in jails and in prisons.

And, finally, grants will be available for transitional and aftercare programs that seek to ensure offenders are provided appropriate treatment and care when they transition from jail back into the community. They transition from the jail or prison back into the communities when they have completed their sentences.

In addition, the bill calls for an interagency task force to be established at the Federal level. Task force members will include the Attorney General, the Secretaries of Health and Human Services, Labor, Education, Veterans Affairs, and Housing and Urban Development and the Commissioner of Social Security who will be charged with identifying ways that Federal Departments can respond in a collaborative way to the needs of mentally ill adults and juveniles.

I believe that encouraging collaboration at the Federal, State, and local levels of government is essential to ensuring that people with mental illness are able to access appropriate treatment. Again, I would like to thank the chairman of the committee and the staff of the committee, as well as Members on my side of the aisle and for Senator MIKE DEWINE's heroic efforts in the Senate for bringing this bill to the floor.

Mr. SENSENBRENNER. Mr. Speaker, I yield 1 minute to the gentleman from California (Mr. CUNNINGHAM).

Mr. CUNNINGHAM. Mr. Speaker, I commend both the minority and the majority for bringing this bill up as a suspension. It should pass well. But I would like to address something my friend, the gentleman from Rhode Island (Mr. KENNEDY), said. It is not negative. It is just a difference of opinion and the fact that we ought to condemn our society for all of the people that are in jail.

I remember a young gentleman that spray-painted a car in Singapore, and he was caned. And I guarantee you he would not do that in Singapore, although the gentleman from Wisconsin (Mr. SENSENBRENNER) did tell me he did get in trouble in the United States and then got a letter from the head of Singapore and said, I do not think he would have done that here.

In many cases, our penalties are not strong enough. We found that if many times a youth will commit a crime and just get their hands slapped, he will commit another crime and get their hands slapped and each time it elevates in severity. And many times we need the counseling, we need the guidance, I agree. And in first-time offenders I think it is very important too, but in many cases the penalty is not strong enough, so we end up with more people in jail.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield 2 minutes to the distinguished gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, I would agree with the gentleman. The big problem here is a lot of these kids do not get anyone to pay attention to them until it starts to be too late. They commit so many crimes. They do not have the people intervene early when they show the predisposition to having a proclivity to commit crimes where they might just be calling out for help. And so the kind of grants that are going to be provided under this legislation ideally will be used as they are designed to be used in the prevention of kids getting into trouble. Because at the very outset, those children, if identified with mental illness, will get the treatment they need.

I have talked to both family court judges in Rhode Island and State court judges. The family court is very excited about the chance to have a mental health court where the child can be brought in and the family can be brought in and they can be given a treatment plan.

In the State court situations, the judges can talk about bail and say, listen, you have a chance. If you go to this treatment program you can avoid perhaps getting sentenced, if it is a minor petty crime.

So these things make sense not only for those who are caught up in our prison system, but of course it makes sense for all of us as a society to try to do the right thing early on, and I think this legislation goes in that direction. That is why I support it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, in closing, I was expecting another speaker. I do not see that that person has arrived at this point. But let me in closing on this legislation ask my colleagues to support it.

Let me mention a fallen colleague, Senator Paul Wellstone, who I had the pleasure of having spend some time with me in my congressional district; and what the distinguished gentleman said from Rhode Island (Mr. KENNEDY) is very accurate.

We visited juvenile detention centers and found in the course of that visit individuals who really needed to have intervention with respect to mental health concerns. We found that constantly. And I just want to mention that in Texas past treatments of mentally ill offenders certainly illustrates the need for this legislation.

Senior U.S. District Judge William Wayne Justice, who is experienced in dealing with mentally ill prisoners in Texas, ruled in 1980 that the Texas prison system is unconstitutional and placed under Federal control for 30 years. In Judge Justice's estimation, the Texas laws that apply to the mentally ill lack compassion and emphasize a vengeance.

KPFT News reported him as having said, "We have allowed the spirit of vengeance such unrivaled sway in our dealings with those who commit crime that we cease to consider properly whether we have taken adequate account of the role that mental impairment may play in the determination of moral responsibility. As a result, we punish those who we cannot justify blame. Such result is not I believe worthy of civil society."

This mentally ill offender treatment bill will answer the question long asked in the State of Texas and many other States. Maybe the bill will also give comfort to Lydia Roumo who called me today to indicate that her sister-in-law was diagnosed manic depressive. The family had sought help in many places but could not get her hospitalized due to laws in this particular Nation. Unfortunately, she stopped taking her medication,. deteriorated and became homeless.

Certainly, this is part of the mental health concern. But the tragedy of her sister-in-law is as she became homeless she also became a victim of crime and was murdered just a few days ago.

The combination of homeless persons with mental impairment, the combination of people who perpetrate terrible acts with mental impairment and juveniles warrants an enthusiastic support of the Mentally Ill Offender Treatment and Crime Reduction Act of 2003. I thank the authors of this legislation. And to Lydia, let me say that this is one step towards trying to solve her problem and the problems of many, many families around the Nation who have experienced the devastation of mental illness.

Mr. Speaker, I yield back the balance of my time.

☐ 1515

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 1194, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXTENDING AUTHORITY OF SUPREME COURT POLICE, MODIFYING VENUE OF PROSECUTIONS RELATING TO SUPREME COURT BUILDING AND GROUNDS, AND AUTHORIZING ACCEPTANCE OF GIFTS TO UNITED STATES SUPREME COURT

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2742) to extend certain authority of the Supreme Court Police, modify the venue of prosecutions relating to the Supreme Court building and grounds, and authorize the acceptance of gifts to the United States Supreme Court.

The Clerk read as follows:

S. 2742

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORITY FOR THE UNITED STATES SUPREME COURT POLICE TO PROTECT COURT OFFICIALS OFF THE SUPREME COURT GROUNDS.

Section 6121(b)(2) of title 40, United States Code, is amended by striking "2004" and inserting "2008".

SEC. 2. VENUE FOR PROSECUTIONS RELATING TO THE UNITED STATES SUPREME COURT BUILDING AND GROUNDS.

Section 6137 of title 40, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) VENUE AND PROCEDURE.—Prosecution for a violation described in subsection (a) shall be in the United States District Court for the District of Columbia or in the Superior Court of the District of Columbia, on information by the United States Attorney or an Assistant United States Attorney.".

SEC. 3. GIFTS TO THE UNITED STATES SUPREME COURT.

The Chief Justice or his designee is authorized to accept, hold, administer, and utilize gifts and bequests of personal property pertaining to the history of the United States Supreme Court or its justices, but gifts or bequests of money shall be covered into the Treasury.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2742, currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2742 contains three provisions that will benefit the administrative operations of the U.S. Supreme Court.

First, the bill renews until 2008 authority provided under current law that allows the Supreme Court police to provide security for the Justices when they leave the Supreme Court premises. The Supreme Court police offer that protection, and without this extension, their services would be confined to the immediate area of the Court's grounds. In other words, they would not travel with the Justices when they vacation or speak out of the area, a responsibility that is imposed upon the Marshal's Service when necessary. The need for this protection is illustrated by the recent assault on Justice Souter near his home.

Second, S. 2742 creates statutory authority for the Court to accept gifts. The scope of this text was narrowed with the Committee on the Judiciary's input and is now limited exclusively to gifts "pertaining to the history of the Court or its Justices." The Court presently may accept gifts based on Comptroller General opinions.

Third, this legislation empowers the U.S. District Court for the District of Columbia, along with the D.C. Superior Court, to adjudicate cases relating to crimes committed in the Supreme Court building and on Court grounds. Under current law, all cases are referred to the D.C. Superior Court. Because some of the crimes committed on Court grounds implicate first amendment rights, the Court and the Department of Justice believe that a Federal court will do a better job of promoting uniform results since it is more experienced in handling constitutional challenges.

Mr. Speaker, the House Committee on the Judiciary, in a bipartisan fashion, worked with the Supreme Court and the other body to ensure that S. 2742 is devoid of controversy.

These changes are important to the operation of the Court. I urge Members to support the bill.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, let me also rise and thank the other body and thank the ranking member and the chairman of the Committee on the Judiciary for legislation that I think is very important. I support the legislation introduced by Senator HATCH and cosponsored by Mr. LEAHY from Vermont.

The goals of this legislation are, namely, to extend to December 29, 2008, the authority of the Marshal of the Supreme Court and the Supreme Court police to protect the Justices and official guests of the Court away from the court building and grounds; add the U.S. District Court to the District of Columbia to venue provisions governing prosecutions relating to the Supreme Court building and grounds, where venue now lies in the Superior Court of the District of Columbia; authorizes the Chief Justice to accept, hold, administer and use gifts of personal property to facilitate the work of the Supreme Court.

As a general matter, I am an advocate of extending the discretion and jurisdiction of the Federal courts. In the midst of this House's consideration and passage of several measures that patently strip the jurisdiction of the courts and the discretion of the judges, it is refreshing that we see a piece of legislation pass that actually works to enhance the Court and its security.

This legislation, S. 2742, is to add protection to the Supreme Court, and it would renew their authority to provide security for their Justices when they leave the Supreme Court and surrounding area.

On May 1 of this year, Supreme Court Justice David Souter suffered minor injuries when a group of young men assaulted him when he jogged right in this vicinity. Other judges have had some experiences along those lines.

Another provision in this legislation allows the Supreme Court to accept gifts "pertaining to the history of the Supreme Court of the United States or its Justices." The Administrative Office of the Courts currently has statutory authority to accept gifts on behalf of the judiciary. This provision would grant the Supreme Court its own authority to accept gifts that would elevate or enhance its historical presence in this Nation. It would, of course, narrow the type of gift that can be received to historical items. This provision strikes the proper balance of maintaining the very favored place in history that the Supreme Court maintains, and then will improve the Court's overall function and administrative relief or issue and, as well, ensure the ethical considerations be made in order.

Again, prosecution of offenses against the Court now were moved to the district court. I think that is an appropriate way of handling these matters, and I would ask in light of the fact that our Supreme Court, now more than ever, is well-known to the American public, handling any number of controversial issues. I believe that S. 2742 is an appropriate legislative initiative to help us in the administration of justice.

With that, I ask my colleagues to support it.

Mr. Speaker, I rise to support the legislation introduced by the Gentleman from Utah, Mr. HATCH on July 22, 2004 and co-sponsored by Mr. LEAHY from Vermont. The goals of this legislation, namely to:

Extend to December 29, 2008, the authority of the Marshall of the Supreme Court and the Supreme Court Police to protect the Justices and official guests of the court away from the court building and grounds;

Add the U.S. District Court for the District of Columbia to venue provisions governing prosecutions relating to the Supreme Court building and grounds—where venue now lies in the Superior Court of the District of Columbia; and

Authorizes the Chief Justice to accept, hold, administer, and use gifts and bequests of personal property to facilitate the work of the Supreme Court.

As a general matter, I am an advocate of extending the discretion and jurisdiction of the federal courts. In the midst of this House's consideration and passage of several measures that patently strip the jurisdiction of the courts and the discretion of the judges, it is refreshing to see a piece of legislation pass that actually expands the reach of the court.

The Gentlemen co-sponsored S. 2742 at the request of the Supreme Court. This legislation would renew their authority to provide security for their justices when the leave the Supreme Court.

On May 1 of this year, Supreme Court Justice David Souter suffered minor injuries when a group of young men assaulted him as he jogged right in this vicinity. He is not the first justice to be injured in this manner. Justice Stephen Breyer was thrown from his bicycle several years ago and suffered minor injuries. These reports underscore the importance of off-campus security for Justices. If no congressional action is taken, the authority of Supreme Court police to protect its Justices off to court grounds will expire at the end of this year.

Another provision in this legislation allows the Supreme Court to accept gifts "pertaining to the history of the Supreme Court of the United States or its justices." The Administrative Office of the Courts currently has statutory authority to accept gifts on behalf of the judiciary. This provision would grant the Supreme Court its own authority to accept gifts but it would narrow the types of gifts that can received to historical items. This provision strikes the proper balance and will improve the courts's overall function.

Finally, this legislation also would provide an additional venue for the prosecution of offenses that occur on the Supreme Court grounds. Currently, the DC Superior Court is the only place of proper venue despite the uniquely federal interest at stake. This legislation would allow suit to be brought in United States District Court in the District of Columbia.

Mr. Speaker, I ask that my colleagues join me in supporting this important legislation.

Mr. Speaker, I yield back my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the Senate bill, S. 2742.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

40TH ANNIVERSARY OF SIXTEENTH STREET BAPTIST CHURCH BOMBING

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 389) honoring the young victims of the Sixteenth Street Baptist Church bombing, recognizing the historical significance of the tragic event, and commending the efforts of law enforcement personnel to bring the perpetrators of this crime to justice on the occasion of its 40th anniversary.

The Clerk read as follows:

H. RES. 389

Whereas the Sixteenth Street Baptist Church of Birmingham, Alabama was constructed in 1911 and served as a center for African-American life in the city and a rallying point for the civil rights movement during the 1960s;

Whereas on Sunday, September 15, 1963, segregationists protesting the mandatory integration of Birmingham's public schools firebombed the Sixteenth Street Baptist Church;

Whereas the blast killed Addie Mae Collins, age 14, Denise McNair, age 11, Carole Robertson, age 14, and Cynthia Wesley, age 14, all members of the Church, while they were preparing for Sunday service;

Whereas September 15, 1963 has been called the darkest day in the history of Birmingham and one of the darkest days of the entire civil rights movement;

Whereas this act of terrorism raised national and international awareness of the African-American civil rights struggle and galvanized those dedicated to the cause of civil rights;

Whereas Congress passed the Civil Rights Act of 1964 and the Voting Rights Act of 1965 in the wake of the bombing;

Whereas the 4 men suspected of the bombing, Bobby Frank Cherry, Herman Cash, Thomas Blanton, and Robert Chambliss, were not immediately prosecuted because authorities believed it impossible to obtain a conviction in the heated racial climate of the mid-1960s;

Whereas Alabama Attorney General Bill Baxley successfully prosecuted Robert Chambliss 13 years after the bombing;

Whereas after the indictment and conviction of Robert Chambliss the bombing investigation was closed;

Whereas the investigation was reopened in 1995 due to the efforts of Federal Bureau of Investigation Special Agent Rob Langford and local African-American leaders;

Whereas in 2001 and 2002 a joint Federal and State task force, under the supervision of United States Attorney Douglas Jones and Alabama Attorney General William Pryor, successfully prosecuted Thomas Blanton and Bobby Frank Cherry with the assistance of State and local law enforcement personnel; and

Whereas the bombing, the prosecution of the offenders, and the cause of civil rights in general have become national and international concerns: Now, therefore, be it

Resolved, That the House of Representatives, on the occasion of the 40th anniversary of the bombing of the Sixteenth Street Baptist Church of Birmingham, Alabama;

(1) honors the memory of Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley;

(2) recognizes the historical significance of the bombing and the enduring impact it has had on the cause of civil rights everywhere;

(3) commends the efforts of the Alabama Attorney General's office for its successful prosecution of Robert Chambliss in 1977, the efforts of the joint Federal and State task force for the successful prosecution of Bobby Frank Cherry and Thomas Blanton in 2001 and 2002, and the efforts of all other law enforcement personnel who worked to bring the persons responsible for the bombing to justice.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 389 currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 389, a resolution honoring the young victims of the Sixteenth Street Baptist Church bombing, recognizing the historical significance of the tragic event, and commending the efforts of law enforcement personnel to bring the perpetrators of this crime to justice on the occasion of its 40th anniversary. This resolution expresses the sense of the House and of all its Members that the bombing brought shame and sadness to the American community.

As we all know, our country has had a difficult history in the struggle to end racial discrimination. Nevertheless, there are some events in our history that are so awful that we must never forget them, even after the racial situation has vastly improved.

We are here today on one of these occasions. On Sunday, September 15, 1963, four little girls, Denise McNair, Cynthia Wesley, Carole Robertson and

Addie Mae Collins, went to Sunday School to worship and were senselessly murdered by those who practice hate and bigotry.

In 1977, 14 years after the crime, Robert Edward Chambliss, one of the four suspects, was convicted of murder. In 1994, 31 years after the crime, another of the suspects, Herman Frank Cash, died before he could be prosecuted. In 2001, 39 years after the crime, Thomas Blanton, Jr., was convicted of murder, and in 2002, the last of the suspects, Bobby Frank Cherry, was also convicted of murder.

The law enforcement community deserves to be commended for this 39-year-long investigation that brought justice to the families and friends of Denise, Cynthia, Carole and Addie Mae.

The Sixteenth Street Church bombing did lead to the passage of the 1964 Civil Rights Act. As we remember that tragic bombing, let us also work to meet the goals of the Civil Rights Act so that the deaths of those four girls are not in vain.

I would like to thank the gentleman from Alabama (Mr. DAVIS) and the gentleman from Alabama (Mr. BACHUS) for introducing this resolution. I ask for Members' support in passing it.

Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I might consume.

First of all, let me rise to give overwhelming support to the gentleman from Alabama (Mr. DAVIS), my friend and distinguished colleague from the 7th Congressional District, and thank him for his leadership in bringing this important resolution to the Committee of the Whole today and to my colleague. Let me also thank his cosponsor, the gentleman from Alabama (Mr. BACHUS) for this important legislation.

It is important to note that the gentleman from Alabama's (Mr. DAVIS) leadership was exhibited even in his freshman term. Coming from Birmingham, Alabama, he knew the important crucialness of this particular legislation.

This is, in essence, way before we were calling it such, a hate crime that occurred in Birmingham, Alabama, 40 years ago. In 1963, four young African American girls at the age of no more than 14, their names being Addie Mae Collins, Denise McNair, Carole Robertson and Cynthia Wesley, were bombed senselessly at the Sixteenth Street Baptist Church, and this day is considered the darkest day of history in Birmingham. This happened because there were those who felt the hatred of color was more superior than the respect for human life and human dignity.

This resolution not only pays respect to the young ladies who lost the many years remaining in their lives, but it encourages good law enforcement. It is a testament that there is good law enforcement and that it helps people when it is done thoroughly and with integrity.

The act perpetrated in Birmingham was what we consider a terrorist offense, and the actors were rightly brought to justice some 13 years later. It is important to note that all around the country we look to the depth of the work of law enforcement that occurred after the tragedy of the bombing in Birmingham in that church one Sunday morning as a testament that no act of violence, violation of civil rights or murder of innocent persons should go uninvestigated, no matter how long it takes.

This resolution congratulates all of those who persisted to bring the perpetrators to justice, and it pays tribute to these young girls and their families.

So I ask my colleagues to support this legislation, and I thank the immediate cosponsor, or the author of this legislation, the gentleman from Alabama (Mr. DAVIS), and his cosponsor.

Mr. Speaker, I reserve my time.

Mr. SENSENBRENNER. Mr. Speaker, I yield the balance of my time to the gentleman from Virginia (Mr. GOODLATTE) and ask unanimous consent that he be allowed to yield time as he deems fit.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Ms. JACKSON-LEE. Mr. Speaker, it gives me great pleasure to yield 7 minutes to the distinguished gentleman from Alabama (Mr. DAVIS), for his leadership and for his vision, allowing us in its 40th year, coming to honor or to acknowledge this historic tragedy in the resolution.

Mr. DAVIS of Alabama. Mr. Speaker, let me thank my good friend from Texas for yielding me time, and let me begin, as is customary, by certainly thanking the Chair of this committee and the ranking member of the committee, the gentleman from Michigan (Mr. CONYERS).

I am well aware that in these last several days of the session there are a lot of bills competing to make their way onto this floor. There is a lot of potential legislation that could have been offered and put before this body, and I want to certainly thank them for allowing this bill to move forward.

Let me thank my good friend and my colleague, the gentleman from Alabama (Mr. BACHUS), from Alabama's 6th District, for making this commemoration a bipartisan cause.

Finally, let me thank my colleagues from the Senate side, Senator SHELBY and Senator SESSIONS, who have agreed to do everything in their power to move this resolution promptly through the Senate.

□ 1530

Let me begin, Mr. Speaker, by talking for a moment about that day, because it seems so distant and so far away as we stand here in this civilized capitol. It is hard to imagine, as people watch this on the television screens or in the gallery, that we were once a country where four little girls got up one Sunday morning, went to Sunday school wearing their Sunday best and never had a chance to make it home. It is hard to imagine, standing in this civilized place, that we were once a country that was so raw and so full of hate that this kind of crime could happen and that years and years would go by without it being prosecuted.

September 15, 1963, was a very different place. America was a very different land. And it is fitting that we come here today to call attention to these four little girls. Their names, Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley, echo across these last decades, and the violence that was inflicted on my city of Birmingham, Alabama, rings across those decades as well.

After I speak today, my good friend and colleague, the gentleman from Georgia (Mr. LEWIS), will stand here, and I am reminded every time I see him of the journey we have made in America in the last 41 years. We have gone from a place where four little girls could not find safety in the sanctuary of a church to the House of Representatives where 40 of us who proudly sit here are African-Americans, and to a U.S. Senate that will soon host another African-American.

We have come a long way from a time where four little girls could not find sanctuary in a church to a place where a native of Birmingham, Alabama, an African-American, is now our National Security Advisor, and another person with Birmingham ties, an African-American, is now our Secretary of State.

But it is still fitting that, as far as we have come, that we take the time to think about the tragedy. And I am pleased that my colleagues will have an opportunity to pass this resolution that writes this violent act in stone so that all future generations can see it.

Another important part of this resolution is that it honors the law enforcement personnel. The reality is, it took 14 years for the Alabama Attorney General William Baxley to bring the first of the killers to justice. It took 31 years, to 1994, for the Federal Government to reopen its investigation, and it took until the spring of 2001 for the final killer who still lives to be brought to justice.

Without the work of the former United States Attorney Doug Jones and the former Alabama Attorney General William Pryor, this justice would not have been achieved and the indictment and prosecution of these killers would not have occurred. Honoring them is an important part of this resolution.

Let me end with just these two observations. Whenever we think of this kind of sadness in America, we should also still look to the promise in our country. Whenever I hear the eloquence of the gentleman from Georgia (Mr. LEWIS), as this chamber will in a few moments, it ought to remind us of the promise that exists.

It so happens that this September 15, 2004, the gentleman from Georgia (Mr. LEWIS) and I were at this church at a commemorative event. He was there as the keynote Speaker. I was there to introduce him. And during the course of that service something enormously profound happened. We looked up in the balcony, and there was a choir of little black girls from Sixth Avenue Baptist Church in Birmingham, Alabama, and they were standing there singing America the Beautiful, and they were waving American flags as they did it.

I looked over at my colleague and my friend from Georgia, and he had a tear in his eye, as did many people who were in that church. And I have to say to my colleagues today, Mr. Speaker, that to stand in that place, 41 years after four little girls could not even manage to leave there alive, and to see those little black girls singing about the beauty of their country and waving the flag that we so proudly salute, if that does not make you feel proud to be an American, then I do not know what will.

So I conclude today simply by saying that memory is enormously important. Commemoration is enormously important. But the real power of this institution is to take those memories and translate them into contemporary good works; to take the power of those memories and to translate them into an enduring commitment to make this country as just as possible. So in their spirit, I offer this resolution and, in advance, thank this House for passing it.

Mr. GOODLATTE. Mr. Speaker, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume to thank the distinguished gentleman from Alabama and to say to him that I am glad he has reminded this House of the history of Alabama but as well the progeny and the fruits of Alabama that cross America's leadership landscape.

I thank him for paying tribute to these young girls and these families who have long suffered, as well as the law enforcement who did their job.

The gentleman mentioned one of our colleagues, and needless to say, whenever we have the opportunity to introduce the gentleman from Georgia (Mr. LEWIS) in any affiliation with the movement, as we called it, we can say nothing more than to be so grateful that he has graced our presence in this institution by his presence and membership in this body. He speaks the truth, but he has lived it as well.

Mr. Speaker, I am delighted to yield 4 minutes to the distinguished gentleman from Georgia (Mr. LEWIS).

Mr. LEWIS of Georgia. Mr. Speaker, I want to thank my colleague and my friend, the dear gentlewoman from Texas, for yielding me this time. I want to thank my friend and colleague, the gentleman from Alabama, (Mr. DAVIS), for bringing this resolution before us.

Mr. Speaker, 41 years ago last month, domestic terrorists bombed the Sixteenth Street Baptist Church in Birmingham, Alabama, claiming four innocent lives and changing the course of American history. On that Sunday morning, four beautiful young girls, Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley went to church and never came home. Four young lives, so full of promise, cut short by hatred.

Church is usually a safe haven, but it was anything but safe when segregationists who opposed the integration of Birmingham schools, lunch counters, and restaurants targeted the Sixteenth Street Baptist Church on Sunday, September 15, 1963.

As long as I can remember, I will never ever forget that Sunday. It was one of the most painful and one of the darkest hours of the Civil Rights movement. Within 3 hours of the bombing, I made my way to Birmingham. I stood in front of the church and witnessed the devastation, the pain and the hurt. I kept asking myself: What is it, what is it in human beings, what is it in our makeup that would make us so mean, so hateful, and so vicious toward our fellow human beings? What is it, what is it in us that would drive human beings to plant a bomb in a church on Sunday morning knowing that others will be killed?

I recall attending the funerals later that week. There was so much pain, so much sorrow, so much sadness, so much hurt. As horrible and tragic as their deaths were, those four young girls did not die in vain. Their blood has liberated not just the Nation, but a people. Their murders did not stop integration, as the terrorists had planned it. Instead, their deaths shed new light on the struggle for civil rights and spurred support for the movement.

While we in the Civil Rights movement were profoundly saddened by the loss of four precious flowers from God, we did not despair. Rather, our resolve to continue to fight was solidified. In the words of my friend, my brother, my colleague, and mentor, Dr. Martin Luther King, Jr., their deaths called us to "work passionately and relentlessly for the realization of the American Dream."

In their honor, we persevered. And in their honor, we celebrated the passage of the Civil Rights Act of 1964 and the Voting Rights Act of 1965.

So, Mr. Speaker, I think it is fitting that, today, we honor the memory of these four young lives and recognize the importance of this tragedy in the cause of civil rights for all Americans. Like all my colleagues who have spoken before, I ask each of you to join in supporting this long overdue recognition by passing this resolution.

Ms. JACKSON-LEE of Texas. Mr. Speaker, may I ask how much time remains?

The SPEAKER pro tempore (Mr. FOLEY). The gentlewoman from Texas has 6 minutes remaining.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am delighted to yield 2 minutes to the distinguished gentleman from Illinois (Mr. DAVIS), and to thank him for his commitment to these issues of civil rights and justice and this resolution.

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Alabama for giving us the opportunity to honor the memories of Addie Mae Collins, Denise McNair, Carole Robertson, and Cynthia Wesley. These four girls were killed over 40 years ago in the firebombing of the Sixteenth Street Baptist Church in Birmingham. I would also like to commend the efforts of the Alabama Attorney General's Office for its role in prosecuting the perpetrators of this evil and cowardly act of terror.

The Sixteenth Street Church, a rallying point for the Civil Rights movement in the 1960s, was firebombed. Let us honor the memory of these girls by ensuring their sacrifice was not in vain. Let us work to bring about Martin Luther King's color-blind America. Let us not forget that although we have come a long way, there is still much further to go.

Since this incident, which occurred in the lifetime of most of my colleagues in the House, our country has changed profoundly. Black parents can thankfully now send their children to church knowing that the chances of them being murdered by segregationists is not that great. Sadly, they cannot send their children to school confident in the belief that they will be educated or safe. Instead, many of them must fear they will fall prey to the drugs and violence that plague our inner city schools and inner city communities. They may fear they will fall prey to poverty, as 4 million additional families did last year. Or that they, like 45 million Americans, will not have access to health care. I hope that these problems can be addressed as rapidly as earlier problems were during the Civil Rights movement.

So, Mr. Speaker, this day gives us the opportunity to celebrate lives that were lost, but also to ensure and make sure that those lives were not in vain.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I yield myself such time as I may consume, and let me just say that we hope in this body that tragedies like the bombing in Birmingham would never have to occur again. We thank the gentleman from Alabama (Mr. DAVIS) for honoring us by bringing this to our attention and to the attention again of the Nation.

Just a few years ago, in Texas, something that we now define as a hate crime, occurred in Jasper County. James Byrd, an African-American male, was murdered and, ultimately, his body dismembered. As I close my remarks, I want to insert in the RECORD the words of his daughter, Frances Renee Byrd Mullins, in support of the James Byrd, Jr. Hate Crimes bill passed in Texas and authored by Representative Senfronia Thompson.

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I will not read her statement at this time, but I would simply say that this commemorative resolution and statement being made today is not only to pay tribute, as I have already said, to these murdered young girls but to be able to remind us that we must be ever vigilant and diligent in fighting against hatred, hateful acts, murderous acts as we have done today by this statement, continued into the history of the United States, that we never repeat the past.

I ask my colleagues to support H. Res. 389.

Mr. Speaker, I rise to give overwhelming support to my distinguished Colleague from the State of Alabama, its 7th Congressional District, ARTUR DAVIS, and to thank him for his leadership in bringing this important resolution to the Committee of the Whole today.

He will come to the Floor to remind us of the act of terrorism that occurred in Birmingham, Alabama years ago—in 1963. Four young African-American girls, at an age of no more than 14, were murdered in a senseless bombing of the Sixteenth Street Baptist Church, and this day is considered the "darkest day in the history of Birmingham."

This resolution not only pays respect to the young ladies who lost the many years remaining in their full lives, but it encourages good law enforcement. It is the testament that there is good law enforcement and that it helps people when it is done thoroughly and with integrity. The act perpetrated in Birmingham was what we consider a "terrorist offense," and the actor(s) were rightly brought to justice some 13 years later.

In my Congressional District in Houston, I am no stranger to the heinous perpetration of hate crimes and similar terrorist offenses.

On June 7, 1998 in Jasper County—minutes from Houston in Southeast Texas, James Byrd's throat was cut before he was dragged to bits along a lonely country road. I would like to share an excerpt from testimony given by Mr. Byrd's oldest daughter, Francis Renee (Byrd) Mullins in support of the James Byrd Jr. Hate Crimes Bill 87–60 authored by Rep. Senfronia Thompson, D-Houston:

> As I come before you today it still sends chills through my body just knowing the reasoning behind my being here. I find it difficult to speak today because moments like these let me know that the fact of the matter is that my father is gone and has been for almost a year. I feel in my heart I am doing the right thing by supporting this bill so that no other family will have to suffer my tragic fate. I do not want to sound rhetorical, but I feel as if I have to tell the story in this way. For a moment, I want you to imagine, if you can, walking home from an anniversary party, when three individuals pick you up, take you to a remote area, beat you repeatedly, then while you are still alive chain you by your ankles to the back of a truck and then proceed to drag you for about two and a half to three miles down a logging road. The point in which you actually die after enduring a tremendous amount of pain and broken bones is when your head and arm are ripped from your body like a piece of paper is torn. Now stop imagining. After coming back from the road my dad was dragged to death on, how can we not want to do the right thing and pass this bill? What if it was your father, mother, sister, brother or even an animal that you love? An animal should not have to undergo what my father went through on the early morning of June 7, 1998.

Mr. Speaker, hate crimes are real, and they affect the lives of real people. This is why I have co-sponsored the Local Law Enforcement Hate Crimes Enforcement Prevention Act 2004.

We must prevent hate crimes from occurring and we must bring justice in a timely fashion. Mr. Speaker, I thank the gentleman from Alabama.

Mr. Speaker, I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

I want to thank all the Members who have spoken so eloquently in favor of this resolution and who have helped to remind us of this tragedy of 40 years ago. This devastating event for this church and these families helped bring us together; a wrong put us on the path to doing things right. This is a very worthwhile resolution. I thank everybody who has helped to bring it forward. I thank the chairman of the Committee on the Judiciary; I thank the gentlewoman from Texas and others.

I urge my colleagues to support the resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and agree to the resolution, H. Res. 389.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

INTERNET SPYWARE (I-SPY) PREVENTION ACT OF 2004

Mr. GOODLATTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4661) to amend title 18, United States Code, to discourage spyware, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4661

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Internet Spyware (I-SPY) Prevention Act of 2004".

SEC. 2. PENALTIES FOR CERTAIN UNAUTHORIZED ACTIVITIES RELATING TO COMPUTERS.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by inserting after section 1030 the following:

"§ 1030A. Illicit indirect use of protected computers

"(a) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and intentionally uses that program or code in furtherance of another Federal criminal offense shall be fined under this title or imprisoned not more than 5 years, or both.

"(b) Whoever intentionally accesses a protected computer without authorization, or exceeds authorized access to a protected computer, by causing a computer program or code to be copied onto the protected computer, and by means of that program or code—

"(1) intentionally obtains, or transmits to another, personal information with the intent to defraud or injure a person or cause damage to a protected computer; or

"(2) intentionally impairs the security protection of the protected computer;

shall be fined under this title or imprisoned not more than 2 years, or both.

"(c) No person may bring a civil action under the law of any State if such action is premised in whole or in part upon the defendant's violating this section. For the purposes of this subsection, the term 'State' includes the District of Columbia, Puerto Rico, and any other territory or possession of the United States.

"(d) As used in this section—

"(1) the terms 'protected computer' and 'exceeds authorized access' have, respectively, the meanings given those terms in section 1030; and

"(2) the term 'personal information' means—

"(A) a first and last name;

"(B) a home or other physical address, including street name;

"(C) an electronic mail address;

"(D) a telephone number;

"(E) a Social Security number, tax identification number, drivers licence number, passport number, or any other government-issued identification number; or

"(F) a credit card or bank account number or any password or access code associated with a credit card or bank account.

"(e) This section does not prohibit any lawfully authorized investigative, protective, or intelligence activity of a law enforcement agency of the United States, a State, or a political subdivision of a State, or of an intelligence agency of the United States.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by inserting after the item relating to section 1030 the following new item:

"1030A. Illicit indirect use of protected computers.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

In addition to any other sums otherwise authorized to be appropriated for this purpose, there are authorized to be appropriated for each of fiscal years 2005 through 2008, the sum of $10,000,000 to the Attorney General for prosecutions needed to discourage the use of spyware and the practice commonly called phishing.

SEC. 4. FINDINGS AND SENSE OF CONGRESS CONCERNING THE ENFORCEMENT OF CERTAIN CYBERCRIMES.

(a) FINDINGS.—Congress makes the following findings:

(1) Software and electronic communications are increasingly being used by criminals to invade individuals' and businesses' computers without authorization.

(2) Two particularly egregious types of such schemes are the use of spyware and phishing scams.

(3) These schemes are often used to obtain personal information, such as bank account and credit card numbers, which can then be used as a means to commit other types of theft.

(4) In addition to the devastating damage that these heinous activities can inflict on individuals and businesses, they also undermine the confidence that citizens have in using the Internet.

(b) SENSE OF CONGRESS.—Because of the serious nature of these offenses, and the Internet's unique importance in the daily lives of citizens and in interstate commerce, it is the sense of Congress that the Department of Justice should use the amendments made by this Act, and all other available tools, vigorously to prosecute those who use spyware to commit crimes and those that conduct phishing scams.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. GOODLATTE) and the gentlewoman from California (Ms. LOFGREN) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. GOODLATTE).

GENERAL LEAVE

Mr. GOODLATTE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4661, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 4661, the Internet Spyware (I-SPY) Prevention Act. This bipartisan legislation which I introduced with the gentlewoman from California (Ms. LOFGREN) and the gentleman from Texas (Mr. SMITH) will impose tough criminal penalties on the most egregious purveyors of spyware without imposing a broad regulatory regime on legitimate software providers. I believe that this targeted approach is the best way to combat spyware.

Spyware is a growing and serious problem. The Federal Trade Commission has testified that spyware appears to be a new and rapidly growing practice that poses a risk of serious harm to consumers. Spyware is software that provides a tool for criminals to crack into computers to conduct nefarious activities, such as altering a user's security settings, collecting personal information to steal a user's identity, or to commit other crimes.

The I-SPY Prevention Act would impose criminal penalties on the most egregious behaviors associated with spyware. Specifically, this legislation would impose up to a 5-year prison sentence on anyone who uses software to intentionally break into a computer and uses that software in furtherance of another Federal crime. In addition, it would impose up to a 2-year prison sentence on anyone who uses spyware to intentionally break into a computer and either alter the computer's security settings or obtain personal information with the intent to defraud or injure a person or with the intent to damage a computer. By imposing stiff penalties on these bad actors, this legislation will help deter the use of spyware and will thus help protect consumers from these aggressive attacks.

Enforcement is crucial in combating spyware. The I-SPY Prevention Act authorizes $10 million for fiscal years 2005 through 2008 to be devoted to prosecutions and expresses the sense of Congress that the Department of Justice vigorously enforce the laws against spyware violations as well as against online phishing scams in which criminals send fake e-mail messages to consumers on behalf of famous companies and request account information that is later used to conduct criminal activities.

In addition, the I-SPY Prevention Act is technology-friendly. It would not interfere with the development of technological solutions to block spyware. Many technologies are currently available to help consumers detect and rid their computers of spyware. As these technologies progress, we must be careful not to impose unnecessary burdens on these innovators who are helping to fight against spyware. Furthermore, by targeting the truly bad actors, this legislation would protect the ability of legitimate software companies to innovate and develop new and exciting products and services in response to consumer demand instead of imposing a one-size-fits-all regulation on the entire industry.

The I-SPY Prevention Act is a targeted approach that protects consumers by imposing stiff penalties on the truly bad actors without imposing excessive red tape and regulations on legitimate technology companies. I urge my colleagues to support this important legislation. I thank the chairman of the Committee on the Judiciary for bringing this legislation forward.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am proud to have partnered with my colleague from Virginia (Mr. GOODLATTE) on this legislation to combat spyware. Spyware is quickly becoming one of the biggest threats to consumers on the Internet. It is one of the reasons why we have an identity theft epidemic. Thieves are using spyware to harvest personal information from unsuspecting Americans. Criminals are even using spyware to track every keystroke an individual makes, including credit card and Social Security numbers.

Spyware also adversely affects the business community which must spend money to block and remove it from their systems. Microsoft has stated that spyware is "at least partially responsible for approximately one-half of all application crashes" reported to them. Experts estimate that as many as 80 to 90 percent of all personal computers contain some form of spyware. Earthlink recently identified more than 29 million spyware programs. In short, spyware is a very real problem that is endangering consumers, damaging businesses, and creating millions of dollars of additional costs.

I am proud to support H.R. 4661, this bipartisan measure that identifies the truly unscrupulous acts associated with spyware and subjects them to criminal punishment. This bill is important because it focuses on behavior, not on technology. It targets the worst form of spyware without unduly burdening technological innovation.

H.R. 4661 also authorizes for the Attorney General the money he needs to find and prosecute spyware offenders. At the same time, it is important to note that this bill does not prevent existing or future State laws that prohibit spyware. Report language clearly explains that this bill only preempts civil actions that are based on violations of this new Federal criminal law. It does not prevent a State from passing a similar law, nor does it prevent any lawsuits that are premised on existing State laws.

I am honored that this bill has the strong support of some of the biggest names in technology, including Microsoft and Dell. It is also supported by the U.S. Chamber of Commerce, the Center For Democracy and Technology, and even the Distributed Computing Industry Association, which represents peer-to-peer networks. Consumers and businesses cannot wait any longer for help.

I urge my colleagues to support H.R. 4661.

Mr. Speaker, I reserve the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to particularly thank the gentlewoman from California for her help in making this legislation possible. This is truly a bipartisan effort that has been broadly supported in the Committee on the Judiciary and by other Members of Congress. I think it is a very appropriate approach to a very serious problem. I also want to thank the gentleman from North Carolina (Mr. COBLE), chairman of the Subcommittee on Crime, and the gentleman from Texas (Mr. SMITH), chairman of the Subcommittee on Courts, the Internet, and Intellectual Property, who also were very helpful and very supportive as we moved this legislation forward.

There are a number of organizations. The gentlewoman from California mentioned some. I would like to call Members' attention to others that have indicated their strong support of this legislation, including the Information Technology Association of America; the Information Technology Industry Council; the Business Software Alliance; the Center For Democracy and Technology; NetChoice, a coalition representing e-commerce companies and thousands of e-consumers from across the Nation; the Internet Commerce Coalition; the Chamber of Commerce of the United States of America; the Software Information Industry Association; and a host of individual companies and individuals who have been in touch with us about the ravages that occur with spyware and the phishing scam.

These are things that are great threats to consumers. We want them to feel confident when they use the Internet. The Internet holds great promise for people to be able to use the Internet for education, for commerce, for communicating with families and friends and people who share a common cause with them; but people increasingly know of the dangers they face on the Internet, from hackers and spam and pornography and people attempting to participate in various types of fraudulent schemes.

Many of those center around the use of spyware and phishing. These are threats to people's use of the Internet. We need to crack down on the people who perpetrate these actions. This is the legislation to do that, to make sure that people feel comfortable, that they themselves and their children can go online and have the opportunity to use the Internet with confidence that their personal information is not being stolen, that they are not becoming the victim of identity theft, that they are not confronting what looks like a Web site of a legitimate company using all of the technology available.

Some of these criminals will actually create a duplicate Web site that looks exactly like the original, but then attempt to use that Web site to extract information from you by suggesting that they need to update their account information or need your Social Security number or need your driver's license or some other personal information which they then intend to use to steal from your bank account, run up credit card bills, whatever the case might be. This legislation is designed to come down hard on those people.

Mr. Speaker, I urge my colleagues to support the legislation.

Mr. Speaker, I reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I yield myself such time as I may consume.

I would like to thank as well the gentleman from Virginia for such a productive collaboration on this bill. I think it is a good product and one that we can all be very satisfied with. I also want to take a moment to thank two members of my staff. The staff does not generally get thanked in public. Andrew Kugler, a lawyer on my staff and a brand new father, worked very hard with the gentleman from Virginia's staff to make sure that all these issues were dealt with successfully; and while he was on paternity leave, Ur Jaddou on my staff filled in for him. So thanks to both of those fine lawyers for the effort that they made. The staff works behind the scenes, but they help us accomplish a lot, and we need to thank them.

I also wanted to mention and agree with the gentleman from Virginia in terms of the phishing issue. I will admit that one of the brightest people I know, my daughter, was caught up actually in a phishing scheme. Very smart people can get taken by these phishing schemes. As soon as her thumb hit the send button, she thought, oh, my goodness, what have I done. We had to call and cancel all the credit cards and the like.

This is something that preys upon people. If you think about the impact of phishing and also spyware, it is not just an inconvenience to consumers; but if we do not successfully abate this, we are going to have a very serious impact on the vitality of the Internet itself, because if people cannot trust Internet commerce, they will not use Internet commerce and so that is going to have an impact on the productivity of the American economy.

What we are doing here today is important for consumers, it is important for businesses, but it is also important for the future of our high-tech economy because we have got to make sure that the Internet is safe for commerce and for individual users and also for businesses.

I urge and I do believe that this House will in large number support the bill. When you do, you are striking a blow for the continued vitality of the Internet as an instrument of commerce and economic growth for America.

Mr. Speaker, I reserve the balance of my time.

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Mr. GOODLATTE. Mr. Speaker, I thank the gentlewoman for her comments.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. SMITH), chairman of the Courts, the Internet, and Intellectual Property Subcommittee of the House Committee on the Judiciary and a real leader on technology issues in the Congress.

Mr. SMITH of Texas. Mr. Speaker, I thank the gentleman from Virginia (Chairman GOODLATTE) for his nice comments, and I am happy to join him in cosponsoring this legislation, but I especially want to express my appreciation to him for being the author and introducing this legislation.

Computer spyware is a growing problem that threatens the future of commerce over the Internet. A recent report found that more than 3 million scans for spyware have been performed just this year alone. These scans revealed approximately 83 million instances of spyware. That is certainly disturbing.

Spyware can be a confusing problem for consumers. Many do not know they have it, or if they do, they do not know how to get rid of it. A Yahoo! Internet search of the term "spyware" yields over 8 million results. It is no wonder that the problem is only getting worse.

Mr. Speaker, H.R. 4661 addresses spyware through the regulation of bad behavior rather than the regulation of technology. It provides strong penalties for those who engage in the illicit activities of spyware and phishing.

Rather than add to an already confusing regulatory structure, the bill takes a very narrow approach. H.R. 4661 sets strong penalties for anyone who intentionally uses software to break into a computer in order to alter security settings or obtain personal information. It further authorizes money for the Department of Justice to prosecute spyware and phishing crimes.

Mr. Speaker, I again urge my colleagues to put an end to spyware and support this bill, and again I want to thank the gentleman from Virginia (Chairman GOODLATTE) for introducing this piece of legislation.

Mr. SENSENBRENNER. Mr. Speaker, I rise today in support of H.R. 4661, the "Internet Spyware Prevention Act of 2004." This narrow criminal legislation will deter and allow the prosecution of the worst forms of behavior involving spyware by providing additional tools and resources to criminal prosecutors. I would like to thank the Gentleman from Virginia, Mr. GOODLATTE, for introducing the legislation before us today.

Technologies designed to enhance the speed and efficiency of data transfer have fueled the explosive growth of the Internet. Unfortunately, the sad reality is that the same software and technology innovations that have enhanced and personalized usage of the Internet can also provide opportunities for abuse and illegal behavior.

Like many other ills on the Internet these latest malicious behaviors cannot be stopped by federal legislation alone. In fact, there is no one silver bullet—legal, regulatory, or technological—to end the misuse of spyware or the related practice of "phishing." But greater consumer awareness and use of available technological countermeasures clearly hold the greatest promise for curbing these abusive practices. Congressional efforts will only help if they focus on behavior—not rapidly changing technology.

H.R. 4661 is a good start because it focuses on behavior that is criminal, not on technologies. Unlike some other proposals, this bill does not set up new requirements that dictate how things appear on a computer screen or that bombard a user with unwanted notices. Nor does this bill pose the same dangers of strict liability for legitimate companies who make a mistake. In short, it represents a measured solution to the problem it seeks to correct.

I believe that this narrow legislation updating necessary criminal law provisions and emphasizing increased enforcement, rather than broad regulation, is the correct legislative response at this time. I urge may colleagues to support H.R. 4661 and reserve the balance of my time.

Ms. LOFGREN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOODLATTE. Mr. Speaker, I urge my colleagues to support this legislation, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Virginia (Mr. GOODLATTE) that the House suspend the rules and pass the bill, H.R. 4661, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GOODLATTE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 1134. An act to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965.

S. 2796. An act to clarify that service marks, collective marks, and certification marks are entitled to the same protections, rights, and privileges of trademarks.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1417. An act to amend title 17, United States Code, to replace copyright arbitration royalty panels with Copyright Royalty Judges, and for other purposes.

HONORING NATIONAL NURSE PRACTITIONERS WEEK

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 500) honoring the goals and ideals of National Nurse Practitioners Week.

The Clerk read as follows:

H. CON. RES. 500

Whereas there are more than 106,000 licensed nurse practitioners in the United States providing high-quality, cost-effective health care;

Whereas nurse practitioners are registered nurses, with advanced education and advanced clinical training, most with master's or post-master's degrees;

Whereas nurse practitioners diagnose acute and chronic conditions, prescribe medications, treat illnesses, and counsel patients on health care issues, in coordination with physicians and other health care providers;

Whereas the excellence, safety, and cost-effectiveness of the care provided by nurse practitioners has been established;

Whereas nurse practitioners provide health care to people of all ages and in diverse health care settings, such as private office practice, hospitals, long-term care facilities, schools, State and local health departments, and managed care facilities;

Whereas more than 20 percent of nurse practitioners practice in rural settings with populations of less than 25,000, and of the 62 percent who work in cities with populations of more than 50,000, more than 39 percent work in inner-city areas; and

Whereas the American Academy of Nurse Practitioners has designated the week of November 7–13, 2004, as National Nurse Practitioners Week in recognition of the many contributions that this dedicated group of health care professionals makes to the health and well-being of the people in the communities they serve in this great country: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) honors the goals and ideals of National Nurse Practitioners Week; and

(2) offers sincere support to nurse practitioners around the country as they continue to provide high-quality health care to many Americans.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the House Concurrent Resolution 500.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Con. Res. 500, honoring the goals and ideals of National Nurse Practitioners Week, introduced by the gentleman from Texas (Mr. BURGESS).

The American Academy of Nurse Practitioners has designated the week of November 7 through 13, 2004, as National Nurse Practitioners Week in recognition of the many contributions that this dedicated group of health care professionals makes to the people and well-being of the people in the communities they serve in this great country.

Currently, there are more than 100,000 licensed nurse practitioners in the United States providing high-quality, cost-effective health care. These nurses have advanced education and advanced clinical training, most with Master's or post-Master's degrees. Every day they, in coordination with physicians and other health care providers, diagnose acute and chronic conditions, prescribe medications, treat illnesses, and counsel patients on health care issues.

I urge my colleagues to offer their support to nurse practitioners around the country and to help us support H. Con. Res. 500.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, nurse practitioners play a critical role in meeting our Nation's medical needs. Working hand-in-hand with other professionals, nurse practitioners improve the flexibility and responsiveness and efficiency of our health care system. Because of their focus on primary care, disease prevention, and counseling, nurse practitioners serve as health care first responders for many American families. From weight management, blood pressure, dangerous infections, injuries, nurse practitioners have the frontline view of health care in our country.

Nurse practitioners also improve the health care system's ability to reach underserved populations. As we all know, primary health care is desperately needed in many urban and central city communities.

As this resolution notes, nurse practitioners have been there to help meet this need. Twenty percent of nurse practitioners serve in rural areas. Forty percent who serve in metropolitan areas work in central city settings.

In this age of double-digit health care cost inflation, nurse practitioners help to improve the cost effectiveness of American health care. By improving patient choice of provider and by promoting competition, nurse practitioners help to moderate spiraling health care costs.

Nurse practitioner training programs were first developed some 40 years ago. A shortage of doctors forced State governments to innovate, and a few nurse practitioners were certified, mostly, in those days, initially in pediatrics. From that modest beginning, the nurse practitioner profession has grown to fill an important and vital role in America's health care system. There are now more than 100,000 nurse practitioners serving the American public.

I join my colleagues in urging the House to agree to this concurrent resolution celebrating those 100,000 nurse practitioners and marking the goals and ideals of National Nurse Practitioners Week.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. BURGESS), the writer of this bill, a gentleman who is a medical doctor, who certainly has practical real-world experience in the world of nurse practitioners.

Mr. BURGESS. Mr. Speaker, I thank the chairman for allowing this bill to come to the floor. I am aware that there are many of pieces of legislation that could have filled these hours this week.

Mr. Speaker, nurse practitioners fill a vital role in America's health care system. As the gentleman from Ohio pointed out, there are over 106,000 nurse practitioners providing high-quality care around the Nation, and they are especially important in rural and underserved areas.

These health care professionals are critical in my district, especially in areas of Fort Worth, Texas. John Peter Smith, the public hospital system in Tarrant County, maintains 23 clinics for low-income and indigent patients around the county.

Nurse practitioners are able to enhance the services provided in many of these health care clinics. By utilizing nurse practitioners, John Peter Smith is able to see significantly more patients in an outpatient setting and to do so on a finite, fixed taxpayer-funded budget. John Peter Smith and the patients served by the health system could not do without the dedicated corps of nurse practitioners.

And on a personal note, Mr. Speaker, I have worked with nurse practitioners both in a training program at Parkland Hospital and I have had several come through my private practice in Lewisville, Texas, who trained there and stayed on with me to work in private practice, Lori Driggs and Jenny Andrews, and certainly I learned a great deal more from them than I was ever able to teach them.

Mr. Speaker, on November 7 through 13, 2004, the American Academy of Nurse Practitioners will recognize National Nurse Practitioners Week to honor the dedication and commitment of these health care professionals. I rise to commend nurse practitioners for the contribution they make to the health and well-being of our country.

Mr. BROWN of Ohio. Mr. Speaker, I yield 1 minute to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I simply rise in strong support of H. Con. Res. 500, honoring the goals and ideals of National Nurse Practitioners Week. I also want to commend the gentleman from Florida (Chairman BILIRAKIS), chairman of the subcommittee, and the gentleman from Ohio (Mr. BROWN), ranking member, for the tremendous work that they do on health and health-related issues.

A great deal of my personal health care is provided by a nurse practitioner, and I simply commend her and all of the other nurse practitioners throughout the country who make up an integral part of our health care delivery system. And I would urge agreement to this concurrent resolution.

Mr. BROWN of Ohio. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 500.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AMENDING SECTION 340E OF PUBLIC HEALTH SERVICE ACT RELATING TO CHILDREN'S HOSPITALS

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5204) to amend section 340E of the Public Health Service Act (relating to children's hospitals) to modify provisions regarding the determination of the amount of payments for indirect expenses associated with operating approved graduate medical residency training programs.

The Clerk read as follows:

H.R. 5204

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DISREGARD OF NEWBORN BASSINETS IN CALCULATING CASE MIX FOR RECEIPT BY CHILDREN'S HOSPITALS OF FUNDING FOR GRADUATE MEDICAL EDUCATION PROGRAMS.

(a) IN GENERAL.—Section 340E(d) of the Public Health Service Act (42 U.S.C. 256e(d)) is amended—

(1) in paragraph (1), by striking "related to" and inserting "associated with"; and

(2) in paragraph (2)(A)—

(A) by inserting "ratio of the" after "hospitals and the"; and

(B) by inserting at the end before the semicolon "to beds (but excluding beds or bassinets assigned to healthy newborn infants)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments for periods beginning with fiscal year 2005.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. BILIRAKIS) and the gentleman from Ohio (Mr. BROWN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. BILIRAKIS).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5204, which would amend section 340(e) of the Public Health Service Act to modify provisions regarding the determination of the amount of payments for indirect expenses associated with operating approved graduate medical residency training programs. This legislation was introduced by the gentlewoman from California (Ms. ESHOO), a lady who does so many great things in the Congress, particularly for her district.

Children's hospitals receive important funding through the Federal Children's Hospitals Graduate Medical Education, which we call GME, Payment Program. This funding helps train residents and better enables children's hospitals to serve all children, regardless their ability to pay.

Next year, the Committee on Energy and Commerce plans to work to reauthorize the Children's Graduate Medical Education Program. As chairman of the Health Subcommittee and a proponent of the children's hospitals throughout my entire time in Congress, I plan to vigorously support this reauthorization.

However, while we will be working to reauthorize the program next year, H.R. 5204 provides a necessary, immediate fix for a small number of hospitals that treat a disproportionately high number of healthy infants. Healthy infants. This legislation would allow these hospitals to receive fair CHGME payments by excluding the number of healthy beds and bassinets in children's hospitals from the case mix adjustment. By excluding these healthy beds and bassinets, these hospitals will no longer be penalized for treating healthy babies.

I urge all my colleagues to support H.R. 5204 today.

Mr. Speaker, I reserve the balance of my time.

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Mr. BROWN of Ohio. Mr. Speaker, I yield myself 2 minutes.

Mr. Speaker, I am pleased to support this legislation and I want to commend its author the gentlewoman from California (Ms. ESHOO). She has played a leading role in establishing the successful graduate medical education program that is the focus of today's bill and a whole host of other issues.

The Children's Hospital Graduate Medical Education program, known as Children's GME program, corrected an anomaly in medical education funding that prevented children's hospitals from establishing medical training programs for pediatricians and other children's health specialists, in large part because of the peculiarity of the way we fund graduate medical education through Medicare.

The legislation of the gentlewoman from California (Ms. ESHOO) improves that program by ensuring that hospitals with special programs for certain newborns are not discriminated against in the calculation of medical education funding. This correction is included in both the House and Senate versions of GME reauthorization legislation.

I am proud to be the lead Democratic sponsor of this legislation, along with my colleague, the gentlewoman from Connecticut (Mrs. JOHNSON), through H.R. 4578. This legislation before us today provides an interim solution until the reauthorization bill is written into the law, and I urge my colleagues to support the bill offered by the gentlewoman from California (Ms. ESHOO).

Mr. BILIRAKIS. Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. ESHOO), the sponsor of the bill.

Ms. ESHOO. Mr. Speaker, I want to thank my good friend, the gentleman from Ohio (Mr. BROWN), for his leadership as ranking member on this Subcommittee on Health, which is so important not only here in the Congress but for our entire country; and to my good friend, the gentleman from Florida (Mr. BILIRAKIS), our chairman. Surely we would not be here this afternoon were it not for his support and pushing to bring this to the floor so that we can consider it.

What this bill is about, Mr. Speaker, is legislation that is going to fix a flaw in the Children's Hospital Graduate Medical Education payment formula. This formula inadvertently penalizes Lucile Packard Children's Hospital, which is in my district in Palo Alto.

If I just might depart for a moment, Lucile Packard is the mother and the visionary that established this hospital in Palo Alto. There are many from across the world and from different parts of the country that come to have their children cared for there. So I think she is watching us, and she would be very proud. Were it not for Lucile Packard, as I said, this hospital would not exist today.

Mr. Speaker, a portion of the Graduate Medical Education calculation is based on the severity of case mixes. At Lucile Packard Hospital, which is only one of two hospitals in the United States that offers pregnancy and healthy newborn services, it is then penalized. Most do not take care of healthy newborn babies. When they become part of the mix with the very ill ones, the formula becomes skewed. So if the hospital did not care for the healthy newborns, we would not be here today.

The Committee on Energy and Commerce took a look at this to fix it permanently. As the gentleman stated, that will be taken care of in 2006. Today, we are fixing the small gap between now and 2006. It is going to go a long way.

I want to reassure my colleagues, there are not any costs associated with the bill. This is paid for by a reduction in the fiscal year 2005 payment to all hospitals that receive these payments under the program, and that would not have happened unless the hospitals came together. And they have endorsed this. There is endorsement from the National Association of Children's Hospitals, and I want to thank them for coming together to allow this to happen.

I also want to thank John Ford on the staff of the gentleman from Michigan (Mr. DINGELL) and certainly Chuck Clapton on the staff of the gentleman from Texas (Chairman BARTON), and I want to urge all my colleagues to vote in favor of H.R. 5204. It is going to help a great deal, and that help is going to be appreciated not only by the children and their families, but also the young physicians that have devoted themselves to a life in medicine; and in this graduate medical payment, it will enjoy the fullness it should and this will be repaired.

Again, I thank the gentleman from Florida (Mr. BILIRAKIS), most of all for his friendship that I have enjoyed and benefited from and am grateful for since first coming to the House.

Mr. BROWN of Ohio. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise in strong support of H.R. 5204 and commend the gentlewoman from California (Ms. ESHOO) for her sponsorship of this legislation.

I represent a congressional district that has five medical schools and 28 hospitals, including Children's Memorial in Chicago, which is one of the best in the Nation. This legislation is going to be very helpful to several of these institutions.

I simply rise in strong support of this legislation, urge passage, and commend again the leadership of this subcommittee for its tremendous activity related to health care and the health care needs of people in these United States of America.

Ms. JACKSON-LEE of Texas. As one of the co-chairs of the Congressional Children's Caucus, I urge my colleagues today to support H.R. 5204, amending section 304e of the Public Health Service Act as it relates to payments to children's hospitals under the Graduate Medical Education program.

The existing provisions of the Public Service Health Act unfairly penalize the two hospitals in the U.S. that offer both pregnancy and healthy newborn services. This penalty is related to calculation of the reimbursements that hospitals receive under the Children's Hospital Graduate Medical Education program (CHGME).

As it is currently configured, the CHGME program calculates payments to hospitals based on severity of the "case mix index." Healthy newborns, like those treated in these two hospitals, reduce the severity of the case mix index and thus the payments to the hospitals. I believe the current method of calculating these payments is unreasonable.

For example, one of the only two hospitals offering healthy newborn services in the U.S. is the Lucile Packard Children's Hospital. When healthy newborns are excluded from the calculation, the Packard hospital has the highest "case mix index" of all children's hospitals in California. With the healthy newborns included, it has the lowest. In other words, Packard is unfairly denied resources to treat seriously ill newborns because it also provides services to healthy newborns. Until the problem is corrected, the Packard hospital will continue to be shortchanged more than $300,000 each year.

This bill corrects the reimbursement problem faced by these two hospitals only for fiscal year 2005. Another bill to reauthorize the Children's Hospital Graduate Medical Education Act, currently on referral to the Subcommittee on Health, will correct this problem in fiscal year 2006 and future years. This legislation is needed to provide relief to the two affected hospitals in fiscal year 2005. This legislation does not change the eligibility for hospitals to qualify under the CHGME program.

I believe that it is unreasonable to penalize hospitals offering services to healthy newborns and urge my colleagues to support this legislation.

Mr. BROWN of Ohio. Mr. Speaker, I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 5204.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RESEARCH REVIEW ACT OF 2004

Mr. BILIRAKIS. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5213) to expand research information regarding multidisciplinary research projects and epidemiological studies, as amended.

The Clerk read as follows:

H.R. 5213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Research Review Act of 2004".

SEC. 2. MULTI-DISCIPLINARY RESEARCH TEAM AND CONSORTIA REPORT.

(a) In General.—The Secretary of Health and Human Services (referred to in this Act as the "Secretary"), in coordination with the Director of the National Institutes of Health, shall prepare a report outlining the methods by which the Roadmap for Medical Research, an initiative of such Institutes, has advanced the use of multidisciplinary research teams and consortia of research institutions to advance treatments, develop new therapies, and collaborate on clinical trials, including with respect to spinal cord injury and paralysis research.

(b) Report.—Not later than February 1, 2005, the Secretary shall submit the report under subsection (a) to the Committee on Energy and Commerce of the House of Representatives and to the Committe on Health, Education, Labor, and Pensions of the Senate.

SEC. 3. EPIDEMIOLOGICAL STUDY REPORT.

(a) In General.—The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall prepare a report outlining the epidemiological studies currently under way at such Centers, future planned studies, the criteria involved in determining what epidemiological studies to conduct, defer, or suspend and the scope of those studies, including with respect to the inflammatory bowel disease epidemiological study. The report shall include a description of the activities the Centers for Disease Control and Prevention undertakes to establish partnerships with research and patient advocacy communities to expand epidemiological studies.

(b) Report.—Not later than May 1, 2005, the Secretary shall submit the report under subsection (a) to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Health, Education, Labor, and Pensions of the Senate.

SEC. 4. STUDY BY GOVERNMENT ACCOUNTABILITY OFFICE ON MEDICARE AND MEDICAID COVERAGE STANDARDS.

(a) In General.—The Comptroller General of the United States shall conduct a study on the coverage standards that, under the programs under titles XVIII and XIX of the Social Security Act (commonly known as Medicare and Medicaid, respectively), apply to patients with inflammatory bowel disease for the following therapies:

(1) Parenteral nutrition.
(2) Enteral nutrition formula.
(3) Medically necessary food products.
(4) Ostomy supplies.
(5) Therapies approved by the Food and Drug Administration for Crohn's disease and ulcerative colitis.

(b) Content.—The study under subsection (a) shall take into account the appropriate outpatient or home health care delivery settings.

(c) Report.—Not later than six months after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report describing the findings of the study under subsection (a).

SEC. 5. STUDY BY GOVERNMENT ACCOUNTABILITY OFFICE INVOLVING DISABILITY INSURANCE.

(a) In General.—The Comptroller General of the United States shall conduct a study of the problems patients encounter when applying for disability insurance benefits under title II of the Social Security Act. The study shall include recommendations for improving the application process for patients with inflammatory bowel disease.

(b) Report.—Not later than six months after the date of the enactment of this Act, the Comptroller General shall submit to the Congress a report describing the findings of the study under subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. Bilirakis) and the gentleman from Ohio (Mr. Brown) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. Bilirakis).

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5213, as amended.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 5213, the Research Review Act. I introduced this legislation only with the fantastic cooperation of my colleagues and friends, the gentlewoman from New York (Mrs. Kelly) and the gentleman from Ohio (Mr. Brown) from Ohio, the ranking member on my subcommittee. It was with their cooperation and with the hard work of members of the staff, Mr. Speaker, we were able to get this thing done at really almost the 11th hour.

As chairman of the Committee on Energy and Commerce, Subcommittee on Health, I am extremely concerned, as I think all of us are, about how Federal agencies that fall under our committee's jurisdiction set their priorities for disease research. Every day I have patients, along with their families and friends, looking to me to increase research funding for diseases and conditions that afflict them or their loved ones. While I know that it is not in anyone's best interests to mandate agencies to conduct research into specific diseases, I do believe it is my job, I believe it is our job, to ensure that the Federal initiatives are sufficient.

Next year, I look forward to working with the gentleman from Texas (Chairman Barton), the gentleman from Ohio (Mr. Brown) and the gentleman from Michigan (Mr. Dingell) and all the members of the Committee on Energy and Commerce to reauthorize the National Institutes of Health. My subcommittee has held five hearings during this Congress, the 108th, to highlight research activities at the NIH and to educate members and others about the work that the NIH is doing so we can assess how to help NIH better meet its stated mission.

One thing that has become clear is that while NIH is an exemplary agency, its transparency and accountability in letting Members of Congress and the public know what research is being funded and why could be improved. Providing the public with information is not a problem that is unique to the NIH, however; many of our agencies have similar problems translating their efforts to the public.

I introduced H.R. 5213 to take an additional step in assisting Congress to understand the process of Federal agencies. I believe that this legislation will assist Members of Congress as we work with Federal agencies in the future. It will allow two agencies, the NIH and the CDC, to highlight their involvement using the examples of two debilitating conditions that afflict many individuals, paralysis and inflammatory bowel disease, which we refer to as IBD.

H.R. 5213 directs the Secretary of Health and Human Services, in coordination with the Director of the National Institutes of Health, to prepare a report outlining the methods by which the roadmap for medical research created by Director Dr. Elias Zerhouni has advanced the use of multidisciplinary research teams and institutions to advance treatments, develop new therapies and collaborate in clinical trials, and to also include in this report how this relates to the Federal research initiatives into spinal cord and paralysis research.

The bill also requires the Director of the Centers for Disease Control and Prevention, CDC, to prepare a report outlining epidemiological studies conducted at the CDC, including the irritated bowel disease study currently under way at CDC. The study would include a description of the activity CDC is undertaking to establish partnerships with research and patient advocacy groups to expand these studies, such as the partnership between the CDC and the Chron's and Colitis Foundation.

Additionally, H.R. 5213 directs the General Accounting Office to conduct studies on the Medicare and Medicaid coverage standards that apply to patients with inflammatory bowel disease for therapy, such as medically necessary food products and nutrition services, and the problems that IBD patients encounter when applying for Social Security disability benefits.

Both paralysis and inflammatory bowel disease are crippling diseases, Mr. Speaker, though in very different ways, and both can be extremely debilitating.

I would like to thank the Christopher Reeve Foundation and, in particular, Mr. Christopher Reeve and the Chron's and Colitis Foundation for all of their help. I have worked closely with both of these groups, as well, as I indicated, with the gentlewoman from New York (Mrs. KELLY) and the gentleman from Ohio (Mr. BROWN) to develop this legislation.

I do want to thank the staff, Mr. Ford from the other side, Cheryl Jaeger and Jeanne Haggerty of our staff on this side, for their hard work in getting this piece of legislation ready to come to the floor today; and also I would like to thank the gentleman from Texas (Chairman BARTON) for his leadership in working to provide oversight and reauthorize these Federal agencies; and obviously the cooperation I have always had with the gentleman from Ohio (Mr. BROWN).

I urge my colleagues to approve this important bipartisan bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BROWN of Ohio. Mr. Speaker, I yield myself 3 minutes.

Mr. Speaker, over the past 20 or so years, overall inpatient, that is hospital and rehabilitation, overall inpatient days for those living with paralysis have been cut in half. However, those individuals living with paralysis still face astronomical medical costs, and only one-third remain employed after becoming paralyzed.

Fortunately, we stand on the brink of amazing breakthroughs in science for those living with paralysis, with spinal cord injury and other physical disabilities. Through the Christopher Reeve Paralysis Foundation, Christopher Reeve and his wife, Dana, have courageously pushed forward by helping thousands of patients and their families adjust to the dramatic changes engendered by paralysis and by investing in the awareness and advancement of medical research.

I have been honored to cosponsor the Christopher Reeve Paralysis Act in the past two Congresses, alongside my friend, the chairman of the Subcommittee on Health, the gentleman from Florida (Mr. BILIRAKIS).

This legislation is an important step toward understanding the developments and advancements in paralysis and spinal cord injury research and will help our Nation's leaders in medical research set their priorities for the future.

I am also pleased that this legislation includes several provisions relating to the inflammatory bowel disease known as IBD. I have heard from many Ohioans who suffer through this disease, including a remarkable young woman named Sarah Levin.

Sarah Levin takes 11 medications a day. She has endured major surgery and taken steroids that have compromised her physical health. She has been forced to miss work again and again, because Chron's disease can flare up at any time.

Despite the difficult conditions, Sarah has joined her father and thousands of advocates across this country working on legislation focusing on IBD.

□ 1630

Like so many others, she has been tireless. She has been positive. And her efforts have made a real difference for many of those who are suffering.

This legislation will examine the epidemiology of IBD and therapies currently approved by FDA for the treatment of this debilitating condition.

These studies will also examine appropriate settings for the treatment of IBD and barriers that currently exist for those IBD patients applying for Social Security disability benefits.

This bill contains important measures that promote the public health, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I yield such time as she may consume to the gentlewoman from New York (Mrs. KELLY), who probably knows more about IBD, with the exception of the medical doctors in the Congress, and she shares that information with us, and we are just very indebted to her for making us aware of the horrors of this disease.

Mrs. KELLY. Mr. Speaker, I rise today in support of this measure, H.R. 5213, the Research Review Act of 2004.

This bill represents an important step forward in a long struggle by so many important people in the Crohn's and colitis advocacy communities, patients and their families who have worked so hard to support and advance this legislation. My legislation was H.R. 290, the Inflammatory Bowel Disease Act. We have rolled that bill into this act, and I am very grateful to my colleague, the gentleman from Florida (Mr. BILIRAKIS), for his interest in this issue and for his leadership in getting this bill to the Floor.

Crohn's Disease and ulcerative colitis, collectively known as inflammatory bowel disease, are chronic disorders of the gastrointestinal tract that cause severe pain and suffering in the more than 1 million Americans who are afflicted. We are at an exciting time with respect to the prospect for research and advances on these challenging diseases.

A few years ago, the scientific community discovered the first gene associated with Crohn's disease. This landmark discovery and other advancements in the field have opened up exciting new research pathways which have the potential to lead to better treatments and, hopefully, soon, one day, a cure. However, more needs to be done. This legislation seeks to further this momentum by capitalizing on these promising opportunities.

The IBD epidemiologic study at the Centers for Disease Control is critical to our understanding of the scope of this group of diseases. The CDC, together with the Crohn's and Colitis Foundation of America, have made significant strides toward uncovering vital information about the people who are afflicted with digestive disorders and how many there are out there. This will provide the foundation to move forward with research and disease management and then a cure. We should encourage this type of public-private partnership, and I hope that the CDC will support this worthy project on a long-term basis.

Again, I really want to thank my colleague, the gentleman from Florida (Mr. BILIRAKIS), and my colleague, the gentleman from Texas (Mr. BARTON), and my colleague, the gentleman from Ohio (Mr. BROWN), for their work on this. I encourage all Members to support this measure.

Mr. Speaker, I hope that all Members will vote for this bill.

Mr. BROWN of Ohio. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. BILIRAKIS. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Florida (Mr. BILIRAKIS) that the House suspend the rules and pass the bill, H.R. 5213, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BILIRAKIS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

DISTRICT OF COLUMBIA MENTAL HEALTH CIVIL COMMITMENT MODERNIZATION ACT OF 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4302) to amend title 21, District of Columbia Official Code, to enact the provisions of the Mental Health Civil Commitment Act of 2002 which affect the Commission on Mental Health and require action by Congress in order to take effect, as amended.

The Clerk read as follows:

H.R. 4302

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Mental Health Civil Commitment Modernization Act of 2004".

SEC. 2. COMPOSITION, APPOINTMENT, AND ORGANIZATION OF COMMISSION ON MENTAL HEALTH.

(a) IN GENERAL.—Section 21-502, District of Columbia Official Code, is amended to read as follows:

"§ 21-502. Commission on Mental Health; composition; appointment and terms of members; organization; chairperson; salaries

"(a) The Commission on Mental Health is continued. The Chief Judge of the Superior Court of the District of Columbia shall appoint the members of the Commission, and the Commission shall be composed of 9 members and an alternate chairperson. One member shall be a magistrate judge of the Court appointed pursuant to title 11, District of Columbia Official Code, who shall be a member of the bar of the Court and has engaged in active practice of law in the District of Columbia for a period of at least 5 years prior to his or her appointment. The magistrate judge shall be the Chairperson of the Commission and act as the administrative head of the Commission. The Chairperson shall preside at all hearings and direct all of the proceedings before the Commission. Eight members of the Commission shall be psychiatrists or qualified psychologists, as those terms are defined in section 21-501, who have not had less than 5 years of experience in the diagnosis and treatment of mental illness.

"(b)(1) Appointment of members of the Commission shall be for terms of 4 years.

"(2) The initial appointment of a psychiatrist or a qualified psychologist shall be for a probationary period of one year. After the initial one-year probationary appointment, subsequent appointments of the psychiatrist or qualified psychologist shall be for terms of 4 years.

"(c) The psychiatrist or qualified psychologist members of the Commission shall serve on a part-time basis and shall be rotated by assignment of the Chief Judge of the Court, so that at any one time the Commission shall consist of the Chairperson and 2 members, each of whom is either a psychiatrist or a qualified psychologist. Members of the Commission who are psychiatrists or qualified psychologists may practice their professions during their tenures of office, but may not participate in the disposition of a case of a person in which they have rendered professional service or advice.

"(d) The Chief Judge of the Court shall appoint a magistrate judge of the Court to serve as an alternate Chairperson of the Commission. The alternate Chairperson shall serve on a part time basis and act as Chairperson in the absence of the permanent Chairperson.

"(e) The rate of compensation for the members of the Commission who are psychiatrists or qualified psychologists shall be fixed by the Executive Officer of the Court.".

(b) CLERICAL AMENDMENT.—The item relating to section 21-502 in the table of sections for subchapter I of chapter 5 of title 21, District of Columbia Official Code, is amended to read as follows:

"21-502. Commission on Mental Health; composition; appointment and terms of members; organization; chairperson; salaries.".

(c) EFFECTIVE DATE; TRANSITION FOR CURRENT MEMBERS.—The amendments made by this section shall take effect on the date of the enactment of this Act, except nothing in this section or the amendments made by this section may be construed to affect the appointment or term of service of any individual who serves as a member or alternate member of the Commission on Mental Health (including an individual who serves as the Chairperson or alternate Chairperson of the Commission) on such date.

SEC. 3. COMMISSION MEMBERS DEEMED COMPETENT AND COMPELLABLE WITNESSES AT MENTAL HEALTH PROCEEDINGS.

Section 21-503(b), District of Columbia Official Code, is amended by striking "The Commission, or any of the members thereof," and inserting "Commission members who are psychiatrists or qualified psychologists".

SEC. 4. DETENTION FOR EMERGENCY OBSERVATION AND DIAGNOSIS.

Section 21-526, District of Columbia Official Code, is amended by adding at the end the following new subsections:

"(c) The maximum period of time for detention for emergency observation and diagnosis may be extended for up to 21 days, if judicial proceedings under subchapter IV of this chapter have been commenced before the expiration of the order entered under section 21-524 and a psychiatrist or qualified psychologist has examined the person who is the subject of the judicial proceedings and is of the opinion that the person being detained remains mentally ill and is likely to injure himself or others as a result of the illness unless the emergency detention is continued. For good cause shown, the Court may extend the period of detention for emergency observation and diagnosis. The period of detention for emergency observation and diagnosis may be extended pursuant to section 21-543(b) or following a hearing before the Commission pursuant to subsections (d) and (e) of this section.

"(d) If the Commission, at the conclusion of its hearing pursuant to section 21-542, has found that the person with respect to whom the hearing was held is mentally ill and, because of the mental illness, is likely to injure himself or others if not committed, and has concluded that a recommendation of inpatient commitment is the least restrictive alternative available to prevent the person from injuring himself or others, the detention for emergency observation and diagnosis may be continued by the Department or hospital—

"(1) pending the conclusion of judicial proceedings under subchapter IV of this chapter;

"(2) until the Court enters an order discharging the person; or

"(3) until the Department or hospital determines that continued hospitalization is no longer the least restrictive form of treatment appropriate for the person being detained.

"(e) If the Commission, at the conclusion of its hearing, finds that the person is mentally ill, is likely to injure himself or other persons as a result of mental illness if not committed, and that outpatient treatment is the least restrictive form of commitment appropriate, then, within 14 days of the date of the hearing, the person shall be discharged from inpatient status and shall receive outpatient mental health services or mental health supports as an emergency nonvoluntary patient consistent with this subchapter, pending the conclusion of judicial proceedings under subchapter IV of this chapter.".

SEC. 5. REPRESENTATION BY COUNSEL OF PERSONS ALLEGED TO BE MENTALLY ILL.

Section 21-543, District of Columbia Official Code, is amended—

(1) in subsection (a) (as redesignated by section 2(r)(1) of the Mental Health Civil Commitment Act of 2002), by striking the last sentence; and

(2) by adding at the end the following new subsection:

"(b) The Commission may not grant a continuance for counsel to prepare his case for more than 5 days. The Commission may grant continuances for good cause shown for periods of up to 14 days. If the Commission grants a continuance, the emergency observation and detention of the person about whom the hearing is being held shall be extended for the duration of the continuance.".

SEC. 6. HEARING AND DETERMINATION ON QUESTION OF MENTAL ILLNESS.

(a) IN GENERAL.—Section 21-545, District of Columbia Official Code, is amended—

(1) in subsection (a), by striking "jury trial" each place it appears and inserting "jury trial or a trial by the Court";

(2) by amending subsection (b) to read as follows:

"(b)(1) If the Court or jury finds that the person is not mentally ill or is not likely to injure himself or others as a result of mental illness, the Court shall dismiss the petition and order the person's release.

"(2) If the Court or jury finds that the person is mentally ill and, because of that mental illness, is likely to injure himself or others if not committed, the Court may order the person's commitment to the Department or to any other facility, hospital, or mental health provider that the Court believes is the least restrictive alternative consistent with the best interests of the person and the public. An order of commitment issued pursuant to this paragraph shall be for a period of one year."; and

(3) by adding at the end the following new subsections:

"(c) The psychiatrists and qualified psychologists who are members of the Commission shall be competent and compellable witnesses at a hearing or trial held pursuant to this chapter.

"(d) The jury to be used in any case where a jury trial is demanded under this chapter shall be impaneled, upon order of the Court, from the jurors in attendance upon other branches of the Court, who shall perform the services in addition to and as part of their duties in the Court.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to trials under section 21-545, District of Columbia Code, which are initiated on or after the date of the enactment of this Act.

SEC. 7. RENEWAL OF COMMITMENT STATUS BY COMMISSION.

(a) IN GENERAL.—Subchapter IV of chapter 5 of title 21, District of Columbia Official Code, is amended by inserting after section 21-545 the following new section:

"§ 21-545.01. Renewal of commitment status by commission; review by Court

"(a) At least 60 days prior to the expiration of an order of commitment issued pursuant to section 21-545 or this section, the chief clinical officer of the Department, or the chief of service of the facility, hospital, or mental health provider to which the person is committed may petition the Commission for a renewal of the order of commitment for that person. For good cause shown, a petition of commitment may be filed within the last 60 days of the one-year period of commitment. The petition for renewal of commitment shall be supported by a certificate of a psychiatrist or qualified psychologist stating that he has examined the person and is of the opinion that the person is mentally ill, and, because of the illness, is likely to injure himself or other persons if not committed. The term of the renewed commitment order shall not exceed one year.

"(b) Within 3 days of the filing of a petition under subsection (a) of this section, the Commission shall send a copy of the petition and supporting certificate by registered mail to the person with respect to whom the petition was filed and by regular mail to the person's attorney.

"(c) The Commission shall promptly examine a person for whom a petition is filed under subsection (a) of this section, and, in accordance with the procedures described in sections 21-542 and 21-543, shall thereafter promptly hold a hearing on the issue of the person's mental illness and whether, as a result of a mental illness, the person is likely to injure himself or other persons if not committed.

"(d) If the Commission finds, after a hearing under subsection (c) of this section, that the person with respect to whom the hearing was held is no longer mentally ill, or is not mentally ill to the extent that the person is likely to injure himself or other persons if not committed, the Commission shall immediately order the termination of the commitment and notify the Court of that fact in writing.

"(e) If the Commission finds, after a hearing under subsection (c) of this section, that the person with respect to whom the hearing was held remains mentally ill to the extent that the person is likely to injure himself or others if not committed, the Commission shall order the renewal of the commitment of the person for an additional term not to exceed one year and shall promptly report that fact, in writing, to the Court. The report shall contain the Commission's findings of fact and conclusions of law. A copy of the report shall be served by registered mail on the person with respect to whom the hearing was held and by mail on the person's attorney.

"(f) If a petition for a renewal of an order of commitment is pending at the expiration of the commitment period ordered under section 21-545 or this section, the Court may, for good cause shown, extend the period of commitment pending resolution of the renewal petition.

"(g) Within the last 30 days of the period of commitment, the chief clinical officer of the Department, or the chief of service of the facility, hospital, or mental health provider to which a person is committed, shall notify the Court which ordered the person's commitment pursuant to section 21-545 or this section of the decision not to seek renewal of commitment. Notice to the Court shall be in writing and a copy of the notice shall be mailed to the person who was committed and the person's attorney.

"(h)(1) A person for whom the Commission orders renewed commitment pursuant to subsection (e) of this section may seek a review of the Commission's order by the Superior Court of the District of Columbia, and the Commission, orally and in writing, shall advise the person of this right.

"(2) A review of the Commission's order of renewed commitment, in whole or in part, may be made by a judge of the appropriate division sua sponte and shall be made upon a motion of one of the parties made pursuant to procedures established by rules of the Court. The reviewing judge shall conduct such proceedings as required by the rules of the Court.

"(3) An appeal to the District of Columbia Court of Appeals may be made only after a judge of the Court has reviewed the Commission's order of renewed commitment.".

(b) CLERICAL AMENDMENT.—The table of sections of subchapter IV of chapter 5 of title 21, District of Columbia Official Code, is amended by inserting after the item relating to section 21-545 the following:

"21-545.01. Renewal of commitment status by Commission; review by Court.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4302, the District of Columbia Civil Commitment Modernization Act of 2004.

I introduced this legislation, along with the gentlewoman from the District of Columbia (Ms. NORTON), in order to amend the authorities of the D.C. Commission on Mental Health. The Commission is a branch of the D.C. Superior Court that presides over civil commitment hearings and makes recommendations to the court.

Mr. Speaker, this legislation is important because the current mental health care system in the District is outdated, and these improvements are imperative and long overdue. First, H.R. 4302 will limit the duration of civil commitment to one year from indeterminate. The bill includes provisions that will create a streamlined procedure for civil recommitment, permit the commission to determine the least restrictive setting for the patient's care and permit qualified psychologists to join the panel of doctors who preside over commitment hearings. In addition, these changes will enable private hospitals to provide emergency in-patient psychiatric treatment, relieving a significant financial burden from the District of Columbia.

H.R. 4302 is based on the D.C. Mental Health Civil Commitment Act of 2002 which passed the D.C. Council last year. Today's legislation is necessary, because the D.C. Home Rule Act requires congressional approval of measures that affect the D.C. Superior Court.

Mr. Speaker, I urge Members to join with the gentlewoman from the District of Columbia and myself to help the District modernize its mental health care practices and end the era of Federal court cases against the city.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I ask unanimous consent that the gentlewoman from the District of Columbia (Ms. NORTON) manage the time on our side for this bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Ms. NORTON. Mr. Speaker, I thank the gentleman from Illinois for yielding me this time to manage the bill, and I especially thank my good friend, the gentleman from Virginia (Mr. DAVIS), the chairman of the Committee on Government Reform, for introducing this bill with me.

Mr. Speaker, I yield myself such time as I may consume.

The District of Columbia Mental Health Civil Commitment Modernization Act would significantly help modernize the way mental health services in the District of Columbia are delivered. Under the Home Rule Charter, these changes require affirmative action by the Congress.

The amendments are intended to reinvigorate the rights of people with mental illness in the District of Columbia and encourage community-based treatment alternatives to costly and restrictive hospital confinement. The amendments are designed to ensure that people with mental illness are treated in the least restrictive setting, consistent with the individual's needs and public safety. The amendments also are designed to promote the use of private or community hospitals by people who are in need of acute psychiatric care, thus reducing the burden on Saint Elizabeth's Hospital.

Mr. Speaker, H.R. 4302 would adopt verbatim the changes to the Commission on Mental Health proposed in the District's law. In passing this bill, the Congress will play an important role in aiding the District to reform its mental health services and to treat its mental health patients with dignity and respect.

Last year, the District government approved sweeping changes to its 40-year old civil commitment statute, commonly referred to as the "Ervin Act" after its principal author, Sam Ervin. Some provisions required no more than the 30-day congressional review period, while others required affirmative congressional approval. The amendments were intended to reinvigorate the rights of people with mental illness and encourage community-based treatment alternatives to costly and restrictive hospital confinement. The amendments are designed to ensure that people with mental illness are treated in the least restrictive setting consistent with the individual's needs and public safety. The amendments also are designed to promote the use of private or community hospitals by people who are in need of acute psychiatric care, thus reducing the burden on St. Elizabeth's Hospital, and increasing the amount of acute care that can be paid for by Medicaid instead of local tax dollars.

Among its significant improvements, the District's new law sets a limit on the length of commitment and limits how long a person can be confined to a hospital while waiting for a hearing. Specifically, this bill: (1) changes the duration of civil commitment from an indeterminate period to a year period; (2) permits the Commission on Mental Health to determine the least restrictive setting for a patient's care; (3) sets new limits on the postponement of the Commission's hearing; and (4) permits qualified psychologists to join the panel of doctors who preside over hearings on a rotating basis.

H.R. 4302 would adopt verbatim the changes to the Commission on Mental Health proposed in the District's law. In passing this bill, the Congress will play an important role in aiding the District to reform its mental health services and to treat its mental health patients with the dignity and respect.

Mr. Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I have no other speakers, urge adoption of the bill, and yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the bill, H.R. 4302, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FEDERAL WORKFORCE FLEXIBILITY ACT OF 2003

Mr. TOM DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 129) to provide for reform relating to Federal employment, and for other purposes, as amended.

The Clerk read as follows:

S. 129

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Workforce Flexibility Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

Sec. 101. Recruitment, relocation, and retention bonuses.
Sec. 102. Streamlined critical pay authority.

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

Sec. 201. Agency training.
Sec. 202. Annual leave enhancements.
Sec. 203. Compensatory time off for travel.

TITLE III—PROVISIONS RELATING TO PAY ADMINISTRATION

Sec. 301. Corrections relating to pay administration.
Sec. 302. Technical corrections.

TITLE I—REFORMS RELATING TO FEDERAL HUMAN CAPITAL MANAGEMENT

SEC. 101. RECRUITMENT, RELOCATION, AND RETENTION BONUSES.

(a) BONUSES.—

(1) IN GENERAL.—Chapter 57 of title 5, United States Code, is amended by striking sections 5753 and 5754 and inserting the following:

"§ 5753. Recruitment and relocation bonuses

"(a)(1) This section may be applied to—

"(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and

"(B) employees in a category approved by the Office of Personnel Management at the request of the head of an Executive agency.

"(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(3) In this section, the term 'employee' has the meaning given that term in section 2105, except that such term also includes an employee described in subsection (c) of that section.

"(b) The Office of Personnel Management may authorize the head of an agency to pay a bonus under this section to an individual only if—

"(1) the position to which such individual is appointed (as described in paragraph (2)(A)) or to which such individual moves or must relocate (as described in paragraph (2)(B)) is likely to be difficult to fill in the absence of such a bonus; and

"(2) the individual—

"(A) is newly appointed as an employee of the Federal Government; or

"(B)(i) is currently employed by the Federal Government; and

"(ii)(I) moves to a new position in the same geographic area under circumstances described in regulations of the Office; or

"(II) must relocate to accept a position in a different geographic area.

"(c)(1) Payment of a bonus under this section shall be contingent upon the employee entering into a written service agreement to complete a period of employment with the agency, not longer than 4 years. The Office may, by regulation, prescribe a minimum service period for purposes of this section.

"(2)(A) The agreement shall include—

"(i) the commencement and termination dates of the required service period (or provisions for the determination thereof);

"(ii) the amount of the bonus;

"(iii) the method of payment; and

"(iv) other terms and conditions under which the bonus is payable, subject to the requirements of this section and regulations of the Office.

"(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

"(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

"(ii) the effect of the termination.

"(C) The required service period shall commence upon the commencement of service with the agency or movement to a new position or geographic area, as applicable, unless the service agreement provides for a later commencement date in circumstances and to the extent allowable under regulations of the Office, such as when there is an initial period of formal basic training.

"(d)(1) Except as provided in subsection (e), a bonus under this section shall not exceed 25 percent of the annual rate of basic pay of the employee at the beginning of the service period multiplied by the number of years (including a fractional part of a year, as determined under regulations of the Office) in the required service period of the employee involved.

"(2) A bonus under this section may be paid as an initial lump sum, in installments, as a final lump sum upon the completion of the full period of service required by the agreement, or in a combination of these forms of payment.

"(3) A bonus under this section is not part of the basic pay of an employee for any purpose.

"(4) Under regulations of the Office, a recruitment bonus under this section may be paid to an eligible individual before that individual enters on duty.

"(e) The Office may authorize the head of an agency to waive the limitation under subsection (d)(1) based on a critical agency need, subject to regulations prescribed by the Office. Under such a waiver, the maximum bonus allowable shall—

"(1) be equal to the maximum that would be determined if subsection (d)(1) were applied by substituting '50' for '25'; but

"(2) in no event exceed 100 percent of the annual rate of basic pay of the employee at the beginning of the service period.

Nothing in this subsection shall be considered to permit the waiver of any requirement under subsection (c).

"(f) The Office shall require that an agency establish a plan for the payment of recruitment bonuses before paying any such bonuses, and a plan for the payment of relocation bonuses before paying any such bonuses, subject to regulations prescribed by the Office.

"(g) The Office may prescribe regulations to carry out this section, including regulations relating to the repayment of a bonus under this section in appropriate circumstances when the agreed-upon service period has not been completed.

"§ 5754. Retention bonuses

"(a)(1) This section may be applied to—

"(A) employees covered by the General Schedule pay system established under subchapter III of chapter 53; and

"(B) employees in a category approved by the Office of Personnel Management at the request of the head of an Executive agency.

"(2) A bonus may not be paid under this section to an individual who is appointed to or who holds—

"(A) a position to which an individual is appointed by the President, by and with the advice and consent of the Senate;

"(B) a position in the Senior Executive Service as a noncareer appointee (as such term is defined under section 3132(a)); or

"(C) a position which has been excepted from the competitive service by reason of its confidential, policy-determining, policy-making, or policy-advocating character.

"(3) In this section, the term 'employee' has the meaning given that term in section 2105, except that such term also includes an employee described in subsection (c) of that section.

"(b) The Office of Personnel Management may authorize the head of an agency to pay a retention bonus to an employee if—

"(1) the unusually high or unique qualifications of the employee or a special need of the agency for the employee's services makes it essential to retain the employee; and

"(2) the agency determines that, in the absence of a retention bonus, the employee would be likely to leave—

"(A) the Federal service; or

"(B) for a different position in the Federal service under conditions described in regulations of the Office.

"(c) The Office may authorize the head of an agency to pay retention bonuses to a group of employees in 1 or more categories of positions in 1 or more geographic areas, subject to the requirements of subsection (b)(1) and regulations prescribed by the Office, if there is a high risk that a significant portion of employees in the group would be likely to leave in the absence of retention bonuses.

"(d)(1) Payment of a retention bonus is contingent upon the employee entering into a written service agreement with the agency to complete a period of employment with the agency.

"(2)(A) The agreement shall include—

"(i) the length of the required service period;

"(ii) the amount of the bonus;

"(iii) the method of payment; and

"(iv) other terms and conditions under which the bonus is payable, subject to the requirements of this section and regulations of the Office.

"(B) The terms and conditions for paying a bonus, as specified in the service agreement, shall include—

"(i) the conditions under which the agreement may be terminated before the agreed-upon service period has been completed; and

"(ii) the effect of the termination.

"(3)(A) Notwithstanding paragraph (1), a written service agreement is not required if the agency pays a retention bonus in biweekly installments and sets the installment payment at the full bonus percentage rate established for the employee with no portion of the bonus deferred.

"(B) If an agency pays a retention bonus in accordance with subparagraph (A) and makes a determination to terminate the payments, the agency shall provide written notice to the employee of that determination. Except as provided in regulations of the Office, the employee shall continue to be paid the retention bonus through the end of the pay period in which such written notice is provided.

"(4) A retention bonus for an employee may not be based on any period of such service which is the basis for a recruitment or relocation bonus under section 5753.

"(e)(1) Except as provided in subsection (f), a retention bonus, which shall be stated as a percentage of the employee's basic pay for the service period associated with the bonus, may not exceed—

"(A) 25 percent of the employee's basic pay if paid under subsection (b); or

"(B) 10 percent of an employee's basic pay if paid under subsection (c).

"(2)(A) A retention bonus may be paid to an employee in installments after completion of specified periods of service or in a single lump sum at the end of the full period of service required by the agreement.

"(B) An installment payment is derived by multiplying the amount of basic pay earned in the installment period by a percentage not to exceed the bonus percentage rate established for the employee.

"(C) If the installment payment percentage established for the employee is less than the bonus percentage rate established for the employee, the accrued but unpaid portion of the bonus is payable as part of the final installment payment to the employee after completion of the full service period under the terms of the service agreement.

"(D) For purposes of this paragraph, the bonus percentage rate established for an employee means the bonus percentage rate established for such employee in accordance with paragraph (1) or subsection (f), as the case may be.

"(3) A retention bonus is not part of the basic pay of an employee for any purpose.

"(f) Upon the request of the head of an agency, the Office may waive the limit established under subsection (e)(1) and permit the agency head to pay an otherwise eligible employee or category of employees retention bonuses of up to 50 percent of basic pay, based on a critical agency need.

"(g) The Office shall require that, before paying any bonuses under this section, an agency shall establish a plan for the payment of any such bonuses, subject to regulations prescribed by the Office.

"(h) The Office may prescribe regulations to carry out this section.".

(2) CLERICAL AMENDMENT.—The table of sections for chapter 57 of title 5, United States Code, is amended by striking the item relating to section 5754 and inserting the following:

"5754. Retention bonuses.".

(3) SENSE OF CONGRESS.—It is the sense of the Congress that the Director of the Office of Personnel Management—

(A) should, each time a bonus is paid under the amendment made by paragraph (1) to recruit or relocate a Federal employee from one Government agency to another within the same geographic area or to retain a Federal employee who might otherwise leave one Government agency for another within the same geographic area, be notified of that payment within 60 days after the date on which such bonus is paid; and

(B) should monitor the payment of such bonuses (in the circumstances described in subparagraph (A)) to ensure that they are an effective use of the Federal Government's funds and have not adversely affected the ability of those Government agencies that lost employees to other Government agencies (in such circumstances) to carry out their mission.

(b) RELOCATION PAYMENTS.—Section 407 of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note; 104 Stat. 1467) is repealed.

(c) REPORTS.—

(1) RECRUITMENT AND RELOCATION BONUSES.—

(A) IN GENERAL.—The Office of Personnel Management shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives annually, for each of the first 5 years during which section 5753 of title 5, United States Code (as amended by subsection (a)(1)) is in effect, a report on the operation of such section.

(B) CONTENTS.—Each report submitted under this paragraph shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under the section of title 5, United States Code, referred to in subparagraph (A) was used by the respective agencies, including, with respect to each such agency and each type of bonus under such section—

(i) the number and dollar-amount of bonuses paid—

(I) to individuals holding positions within each pay grade, pay level, or other pay classification; and

(II) if applicable, to individuals who moved between positions that were in different agencies but the same geographic area (including the names of the agencies involved); and

(ii) a determination of the extent to which such bonuses furthered the purposes of such section.

(2) RETENTION BONUSES.—

(A) IN GENERAL.—The Office of Personnel Management shall submit to the Committee on Governmental Affairs of the Senate and the Committee on Government Reform of the House of Representatives annually, for each of the first 5 years during which section 5754 of title 5, United States Code (as amended by subsection (a)(1)) is in effect, a report on the operation of such section.

(B) CONTENTS.—Each report submitted under this paragraph shall include, with respect to the period covered by such report, a description of how the authority to pay bonuses under the section of title 5, United States Code, referred to in subparagraph (A) was used by the respective agencies, including, with respect to each such agency—

(i) the number and dollar-amount of bonuses paid—

(I) to individuals holding positions within each pay grade, pay level, or other pay classification; and

(II) if applicable, to prevent individuals from moving between positions that were in different agencies but the same geographic area (including the names of the agencies involved); and

(ii) a determination of the extent to which such bonuses furthered the purposes of such section.

(d) EFFECTIVE DATE AND APPLICATION.—

(1) EFFECTIVE DATE.—Except as provided under paragraphs (2) and (3), this section shall take effect on the first day of the first applicable pay period beginning on or after the 180th day after the date of the enactment of this Act.

(2) APPLICATION TO AGREEMENTS.—A recruitment or relocation bonus service agreement that was authorized under section 5753 of title 5, United States Code, before the effective date under paragraph (1) shall continue, until its expiration, to be subject to such section as in effect on the day before such effective date.

(3) APPLICATION TO ALLOWANCES.—Payment of a retention allowance that was authorized under section 5754 of title 5, United States Code, before the effective date under paragraph (1) shall continue, subject to such section as in effect on the day before such effective date, until the retention allowance is reauthorized or terminated (but no longer than 1 year after such effective date).

SEC. 102. STREAMLINED CRITICAL PAY AUTHORITY.

Section 5377 of title 5, United States Code, is amended—

(1) by striking "Office of Personnel Management" each place it appears and inserting "Office of Management and Budget";

(2) by striking "Office of Management and Budget" each place it appears and inserting "Office of Personnel Management";

(3) in subsection (g), by striking "prescribing regulations under this section or"; and

(4) in subsection (h), by striking "Committee on Post Office and Civil Service" and inserting "Committee on Government Reform".

TITLE II—REFORMS RELATING TO FEDERAL EMPLOYEE CAREER DEVELOPMENT AND BENEFITS

SEC. 201. AGENCY TRAINING.

(a) Training To Accomplish Performance Plans and Strategic Goals.—Section 4103 of title 5, United States Code, is amended by adding at the end the following:

"(c) The head of each agency shall, on a regular basis—

"(1) evaluate each program or plan established, operated, or maintained under subsection (a) with respect to accomplishing specific performance plans and strategic goals in performing the agency mission; and

"(2) modify such program or plan as needed to accomplish such plans and goals.".

(b) Specific Training Programs.—

(1) In general.—Chapter 41 of title 5, United States Code, is amended by adding after section 4120 the following:

"§ 4121. Specific training programs

"In consultation with the Office of Personnel Management, the head of each agency shall establish—

"(1) a comprehensive management succession program to provide training to employees to develop managers for the agency; and

"(2) a program to provide training to managers on actions, options, and strategies a manager may use in—

"(A) relating to employees with unacceptable performance;

"(B) mentoring employees and improving employee performance and productivity; and

"(C) conducting employee performance appraisals.".

(2) Clerical amendment.—The table of sections for chapter 41 of title 5, United States Code, is amended by adding at the end the following:

"4121. Specific training programs.".

SEC. 202. ANNUAL LEAVE ENHANCEMENTS.

(a) Creditability of Prior Nongovernmental Service for Purposes of Determining Rate of Leave Accrual.—

(1) In general.—Section 6303 of title 5, United States Code, is amended by adding at the end the following:

"(e)(1) Not later than 180 days after the date of the enactment of this subsection, the Office of Personnel Management shall prescribe regulations under which, for purposes of determining years of service under subsection (a), credit shall, in the case of a newly appointed employee, be given for any prior service of such employee that would not otherwise be creditable for such purposes, if—

"(A) such service—

"(i) was performed in a position the duties of which directly relate to the duties of the position to which such employee is so appointed; and

"(ii) meets such other requirements as the Office may prescribe; and

"(B) in the judgment of the head of the appointing agency, the application of this subsection is necessary in order to achieve an important agency mission or performance goal.

"(2) Service described in paragraph (1)—

"(A) shall be creditable, for the purposes described in paragraph (1), as of the effective date of the employee's appointment; and

"(B) shall not thereafter cease to be so creditable, unless the employee fails to complete a full year of continuous service with the agency.

"(3) An employee shall not be eligible for the application of paragraph (1) on the basis of any appointment if, within 90 days before the effective date of such appointment, such employee has held any position in the civil service.".

(2) Conforming amendment.—The second sentence of section 6303(a) of title 5, United States Code, is amended by striking the period and inserting ", and for all service which is creditable by virtue of subsection (e).".

(b) Other Annual Leave Enhancements.—Section 6303 of title 5, United States Code, is amended by adding after subsection (e) (as added by subsection (a)) the following:

"(f) Notwithstanding any other provision of this section, the rate of accrual of annual leave under subsection (a) shall be 1 day for each full biweekly pay period in the case of any employee who holds a position which is subject to—

"(1) section 5376 or 5383; or

"(2) a pay system equivalent to either of the foregoing, as determined by the Office of Personnel Management.".

(c) Applicability.—None of the amendments made by subsection (a) shall apply in the case of any employee holding a position pursuant to an appointment made before the effective date of the regulations implementing such amendments.

SEC. 203. COMPENSATORY TIME OFF FOR TRAVEL.

(a) In General.—Subchapter V of chapter 55 of title 5, United States Code, is amended by adding at end the following:

"§ 5550b. Compensatory time off for travel

"(a) Notwithstanding section 5542(b)(2), each hour spent by an employee in travel status away from the official duty station of the employee, that is not otherwise compensable, shall be treated as an hour of work or employment for purposes of calculating compensatory time off.

"(b) An employee who has any hours treated as hours of work or employment for purposes of calculating compensatory time under subsection (a), shall not be entitled to payment for any such hours that are unused as compensatory time.".

(b) Clerical Amendment.—The table of sections for chapter 55 of title 5, United States Code, is amended by inserting after the item relating to section 5550a the following:

"5550b. Compensatory time off for travel.".

(c) Effective Date.—The amendments made by this section shall take effect on the earlier of—

(1) the effective date of any regulations prescribed to carry out such amendments; or

(2) the 90th day after the date of the enactment of this Act.

TITLE III—PROVISIONS RELATING TO PAY ADMINISTRATION

SEC. 301. CORRECTIONS RELATING TO PAY ADMINISTRATION.

(a) In General.—Chapter 53 of title 5, United States Code, is amended—

(1) in section 5302, by striking paragraph (8) and inserting the following:

"(8) the term 'rates of pay under the General Schedule', 'rates of pay for the General Schedule', or 'scheduled rates of basic pay' means the rates of basic pay under the General Schedule as established by section 5332, excluding pay under section 5304 and any other additional pay of any kind; and";

(2) in section 5305—

(A) by striking subsection (a) and inserting the following:

"(a)(1) Whenever the Office of Personnel Management finds that the Government's recruitment or retention efforts with respect to 1 or more occupations in 1 or more areas or locations are, or are likely to become, significantly handicapped due to any of the circumstances described in subsection (b), the Office may establish for the areas or locations involved, with respect to individuals in positions paid under any of the pay systems referred to in subsection (c), higher minimum rates of pay for 1 or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all rates of the pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum rate of basic pay (excluding any locality-based comparability payment under section 5304 or similar provision of law) for the grade or level by more than 30 percent, and no rate may be established under this section in excess of the rate of basic pay payable for level IV of the Executive Schedule. In the case of individuals not subject to the provisions of this title governing appointment in the competitive service, the President may designate another agency to authorize special rates under this section.

"(2) The head of an agency may determine that a category of employees of the agency will not be covered by a special rate authorization established under this section. The head of an agency shall provide written notice to the Office of Personnel Management (or other agency designated by the President to authorize special rates under the last sentence of paragraph (1)) which identifies the specific category or categories of employees that will not be covered by special rates authorized under this section. If the head of an agency removes a category of employees from coverage under a special rate authorization after that authorization takes effect, the loss of coverage will take effect on the first day of the first pay period after the date of the notice.";

(B) in subsection (b), by striking paragraph (4) and inserting the following:

"(4) any other circumstances which the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) considers appropriate.";

(C) in subsection (d)—

(i) by striking "President" and inserting "Office of Personnel Management"; and

(ii) by striking "or by such agency as he may designate" and inserting "(or by such other agency as the President may designate under the last sentence of subsection (a)(1))";

(D) in subsection (e), by striking "basic pay" and inserting "pay";

(E) by striking subsection (f) and inserting the following:

"(f) When a schedule of special rates established under this section is adjusted under subsection (d), a covered employee's special rate will be adjusted in accordance with conversion rules prescribed by the Office of Personnel Management (or by such other agency as the President may under the last sentence of subsection (a)(1) designate).";

(F) in subsection (g)(1)—

(i) by striking "basic pay" and inserting "pay"; and

(ii) by striking "President (or his designated agency)" and inserting "Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate)";

(G) by striking subsection (h) and inserting the following:

"(h) An employee shall not for any purpose be considered to be entitled to a rate of pay established under this section with respect to any period for which such employee is entitled to a higher rate of basic pay under any other provision of law. For purposes of this subsection, the term 'basic pay' includes any applicable locality-based comparability payment under section 5304 or similar provision of law."; and

(H) by adding at the end the following:

"(i) If an employee who is receiving a rate of pay under this section becomes subject, by virtue of moving to a new official duty station, to a different pay schedule, such employee's new rate of pay shall be initially established under conversion rules prescribed by the Office of Personnel Management (or such other agency as the President may under the last sentence of subsection (a)(1) designate) in conformance with the following:

"(1) First, determine the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the rate range) before the move.

"(2) Then, if (in addition to the change in pay schedule) the move also involves any personnel action or other change requiring a rate adjustment under any other provision of law, rule, or regulation, apply the applicable rate adjustment provisions, treating the rate determined under paragraph (1) as if it were the rate last received by the employee before the rate adjustment.

"(j) A rate determined under a schedule of special rates established under this section shall be considered to be part of basic pay for purposes of subchapter III of chapter 83, chapter 84, chapter 87, subchapter V of chapter 55, and section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe.";

(3) in section 5334—

(A) in subsection (b), by adding at the end the following:

"If an employee's rate after promotion or transfer is greater than the maximum rate of basic pay for the employee's grade, that rate shall be treated as a retained rate under section 5363. The Office of Personnel Management shall prescribe by regulation the circumstances under which and the extent to which special rates under section 5305 (or similar provision of law) or locality-adjusted rates under section 5304 (or similar provision of law) are considered to be basic pay in applying this subsection."; and

(B) by adding at the end the following:

"(g) In the case of an employee who—

"(1) moves to a new official duty station, and

"(2) by virtue of such move, becomes subject to a different pay schedule,

any rate adjustment under the preceding provisions of this section, with respect to such employee in connection with such move, shall be made—

"(A) first, by determining the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the rate range) before the move, and

"(B) then, by applying the provisions of this section that would otherwise apply (if any), treating the rate determined under subparagraph (A) as if it were the rate last received by the employee before the rate adjustment.";

(4) in section 5361—

(A) by amending paragraph (4) to read as follows:

"(4) 'rate of basic pay' means—

"(A) the rate of basic pay payable to an employee under law or regulations before any deductions or additions of any kind, but including—

"(i) any applicable locality-based comparability payment under section 5304 or similar provision of law;

"(ii) any applicable special pay under section 5305 or similar provision of law; and

"(iii) subject to such regulations as the Office of Personnel Management may prescribe, any applicable existing retained rate of pay established under section 5363 or similar provision of law; and

"(B) in the case of a prevailing rate employee, the scheduled rate of pay determined under section 5343;";

(B) in paragraph (6), by striking "and" at the end;

(C) in paragraph (7), by striking the period and inserting"; and"; and

(D) by adding at the end the following:

"(8) 'retained rate' means the rate of basic pay to which an employee is entitled under section 5363(b)(2).";

(5) in section 5363—

(A) in subsection (a), by striking the matter following paragraph (4) and inserting the following:

"is entitled to a rate of basic pay in accordance with regulations prescribed by the Office of Personnel Management in conformity with the provisions of this section."; and

(B) by striking subsections (b) and (c) and inserting the following:

"(b)(1)(A) If, as a result of any event described in subsection (a), the employee's former rate of basic pay is less than or equal to the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved, the employee is entitled to basic pay at the lowest rate of basic pay payable for such grade that equals or exceeds such former rate of basic pay.

"(B) This section shall cease to apply to an employee to whom subparagraph (A) applies once the appropriate rate of basic pay has been determined for such employee under this paragraph.

"(2)(A) If, as a result of any event described in subsection (a), the employee's former rate of basic pay is greater than the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved, the employee is entitled to basic pay at a rate equal to the lesser of—

"(i) the employee's former rate of basic pay; or

"(ii) 150 percent of the maximum rate of basic pay payable for the grade of the employee's position immediately after the occurrence of the event involved,

as adjusted by subparagraph (B).

"(B) A rate to which an employee is entitled under this paragraph shall be increased at the time of any increase in the maximum rate of basic pay payable for the grade of the employee's position by 50 percent of the dollar amount of each such increase.

"(3) For purposes of this subsection, the term 'former rate of basic pay', as used with respect to an employee in connection with an event described in subsection (a), means the rate of basic pay last received by such employee before the occurrence of such event.

"(c)(1) Notwithstanding any other provision of this section, in the case of an employee who—

"(A) moves to a new official duty station, and

"(B) in conjunction with such move, becomes subject to both a different pay schedule and (disregarding this subsection) the preceding provisions of this section, this section shall be applied—

"(i) first, by determining the rate of pay to which such employee would be entitled at the new official duty station based on such employee's position, grade, and step (or relative position in the pay range) before the move, and

"(ii) then, by applying the provisions of this section that would apply (if any), treating the rate determined under clause (i) as if it were the rate last received by the employee before the application of this section.

"(2) A reduction in an employee's rate of basic pay resulting from a determination under paragraph (1)(ii) is not a basis for an entitlement under this section.

"(3) The rate of basic pay for an employee who is receiving a retained rate at the time of moving to a new official duty station at which different pay schedules apply shall be subject to regulations prescribed by the Office of Personnel Management consistent with the purposes of this section.

"(d) A retained rate shall be considered part of basic pay for purposes of this subchapter and for purposes of subchapter III of chapter 83, chapters 84 and 87, subchapter V of chapter 55, section 5941, and for such other purposes as may be expressly provided for by law or as the Office of Personnel Management may by regulation prescribe. The Office shall, for any purpose other than any of the purposes referred to in the preceding sentence, prescribe by regulation what constitutes basic pay for employees receiving a retained rate.

"(e) This section shall not apply, or shall cease to apply, to an employee who—

"(1) has a break in service of 1 workday or more;

"(2) is entitled, by operation of this subchapter, chapter 51 or 53, or any other provision of law, to a rate of basic pay which is equal to or higher than, or declines a reasonable offer of a position the rate of basic pay for which is equal to or higher than, the retained rate to which the employee would otherwise be entitled; or

"(3) is demoted for personal cause or at the employee's request."; and

(6) in section 5365(b), by inserting after "provisions of this subchapter" the following: "(subject to any conditions or limitations the Office may establish)".

(b) Special Rates for Law Enforcement Officers.—Section 403(c) of the Federal Employees Pay Comparability Act of 1990 (5 U.S.C. 5305 note) is amended by striking all after "provision of law)" and inserting "and shall be basic pay for all purposes. The rates shall be adjusted at the time of adjustments in the General Schedule to maintain the step linkage set forth in subsection (b)(2).".

(c) Repeal.—Section 4505a(a)(2) of title 5, United States Code, is amended—

(1) by striking "(2)(A)" and inserting "(2)"; and

(2) by striking subparagraph (B).

(d) Effective Date; Conversion Rules.—

(1) Effective Date.—This section shall take effect on the first day of the first applicable pay period beginning on or after the 180th day after the date of the enactment of this Act.

(2) Conversion Rules.—

(A) Individuals Receiving a Retained Rate or a Rate Greater Than the Maximum Rate for the Grade.—Subject to any regulations the Office of Personnel Management may prescribe, an employee under a covered pay schedule who, on the day before the effective date of this section, is receiving a retained rate under section 5363 of title 5, United States Code, or is receiving under similar authority a rate of basic pay that is greater than the maximum rate of basic pay payable for the grade of the employee's position shall have that rate converted as of the effective date of this section, and the employee shall be considered to be receiving a retained rate under section 5363 of such title (as amended by this section). The newly applicable retained rate shall equal the formerly applicable retained rate as adjusted to include any applicable locality-based payment under section 5304 of title 5, United States Code, or similar provision of law.

(B) DEFINITION.—For purposes of this paragraph, the term "covered pay schedule" has the meaning given such term by section 5361 of title 5, United States Code.

SEC. 302. TECHNICAL CORRECTIONS.

(a)(1) Section 5304 of title 5, United States Code, as amended by section 1125 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136), is amended—

(A) in subsection (g)(2)(A), by striking "(A)-(D)" and inserting "(A)-(C)"; and

(B) in subsection (h)(2)(B)(i), by striking "or (vii)" and inserting "or (vi)".

(2) The amendments made by this subsection shall take effect as if included in the enactment of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136).

(b) Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Administrator of the Office of Electronic Government.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Virginia (Mr. TOM DAVIS) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Virginia (Mr. TOM DAVIS).

GENERAL LEAVE

Mr. TOM DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 129, the Federal Workforce Flexibility Act, is a momentous step toward effectively reforming the Federal civil service system. For 2 years, the Committee on Government Reform has worked to revitalize the management structure of specific departments and agencies: Homeland Security, Defense, NASA, the SEC and the GAO, to name a few. This legislation provides the rest of the Federal Government many of the flexibilities authorized for these specified agencies.

As we increase flexibilities provided to agencies and managers, we enhance their ability to manage their workforce. S. 129 is supported by the National Treasury Employees Union and the administration, and I urge my colleagues to support it as well.

Mr. Speaker, S. 129 will help Federal managers build a strong workforce by allowing managers to use recruitment, relocation and retention bonuses in a more strategic manner. This legislation also ensures that agencies will effectively manage their employee training efforts.

Under this bill, agencies will be required to align their training with performance plans and strategic goals, establish a comprehensive management succession program, and provide special training to managers who are dealing with unacceptable performances. In addition, it streamlines critical pay authority for positions that are difficult to fill and enhances annual leave benefits. It also allows workers to take time off in exchange for travel, and offers many other positive reforms for the Federal civil service.

Despite all of these reforms, it is our hope that the bill would include two additional provisions that we unfortunately had to remove due to direct spending implications, as well as a provision dealing with air traffic controller retirement.

The first provision would have corrected current inequities in retirement benefit calculations for part-time Federal service under the Civil Service Retirement System. The second would have codified the current practice of providing civil service retirement credit for attendance at one of the four Federal military service academies. And the final provision would have taken the air traffic controller retirement policy that was included as part of last year's aviation authorization bill and conformed it to existing government-wide enhanced annuity retirement policy.

Mr. Speaker, the Committee on Government Reform intends to pursue all of these legislative initiatives in the 109th Congress, and I look forward to working with my colleagues on these issues.

I want to commend the work of the Subcommittee on Civil Service on this legislation, especially our former chair, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from Illinois (Ranking Member DAVIS). Their good work and cooperation is reflected in this bill before us today, and their dedication to improving the Federal service generally is of great importance as we seek to make our government more competitive in the labor market.

Mr. Speaker, as chairman of the Committee on Government Reform, I have made my top priority the transformation of the Federal Government into an organization that is more efficient, effective and responsive to the needs of the American people. For this to occur, the establishment of a modernized human capital management system is of utmost importance. S. 129 is integral to this effort, and I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to join with the gentleman from Virginia (Chairman TOM DAVIS) in consideration of S. 129, the Federal Workforce Flexibility Act of 2004, which would provide a variety of personnel flexibilities for Federal agencies.

Among other things, these government-wide flexibilities would provide Federal agencies with additional tools for recruiting employees for difficult-to-fill positions and for retaining employees with unusual qualifications. I am pleased that the flexibilities in this bill apply government-wide, and I view this as a better approach than the agency-specific reform bills that Congress has passed in recent years.

During the subcommittee markup of S. 129, this subcommittee accepted my amendment that prohibits recruitment, relocation and retention bonuses from being paid to political appointees. There is no evidence that the Federal Government is having difficulty recruiting or retaining political appointees, and therefore, such bonuses are not needed for this group of employees.

In addition, my amendment requires the Office of Personnel Management to report the number of bonuses paid under the bill. This will allow Congress to evaluate whether these bonuses are effective in improving the recruitment and retention of highly qualified employees.

Earlier this month, we were reminded of how important it is to make these kinds of determinations. The Government Accounting Office, or GAO, report found that agencies are not using all of the hiring flexibilities that Congress has given them over the years. This troubling GAO finding deserves this committee's further oversight. After all, it does no good to authorize recruiting tools that are never used.

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Furthermore, the minority amendment recommends that OPM monitor recruitment bonuses paid by one Federal agency to hire an individual working in another Federal agency that is located in the same geographic area. OPM also will have to study bonuses that are used to keep current employees from leaving a position at one Federal agency for a position at another Federal agency. It is not generally in the government's best interest for agencies to engage in bidding wars over each other's employees. OPM should ensure that bonuses paid to employees moving within the Federal Government are an effective use of the government's resources and do not negatively impact the human capital needs of the entire Federal Government.

Finally, I want to highlight one provision in this bill that provides compensatory time for Federal employees when they travel on official business during nonworking hours. If it is necessary for an employee to travel on Sunday to attend an out-of-town meeting on Monday, that employee should receive some type of credit for giving up his or her weekend to travel for the government. I am pleased that an effort to place caps on compensatory time was dropped from the bill.

I want to commend the gentleman from Virginia (Mr. TOM DAVIS) and the ranking member, the gentleman from California (Mr. WAXMAN), for their leadership in bringing this legislation to the floor. I urge its support.

Mr. Speaker, I yield back the balance of my time.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

I again want to thank my ranking member, the gentleman from California (Mr. WAXMAN), and the gentleman from Illinois (Mr. DAVIS) for their work. It has been a good bipartisan operation. I thank, of course, the sponsors from the other body as well. I urge my colleagues to support this.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I rise today in strong support of S. 129, the Federal Workforce Flexibility Act of 2004. As the original sponsor of the House version of this legislation, H.R. 1601, I am proud to see S. 129 considered on the House floor today.

This bill is an important tool as the Federal Government works to become a model employer: As the former-Chair of the Civil Service Subcommittee, I held hearings to explore what steps we can take to attract, motivate, and retain the best qualified workers to the Federal Government. S. 129 addresses the very real pay, benefit, and personal issues we investigated that keep potential employees from joining the civil service and sometimes drive our best employees and managers away.

The Federal Workforce Flexibility Act would do many things to improve the effectiveness of the Federal Government, including expanding agencies' abilities to offer recruitment, retention, and relocation bonuses, allowing agencies to offer enhanced annual leave benefits to mid-career hires, emphasizing training, streamlining critical pay authority, and making it easier for agencies to establish demonstration projects.

Mr. Speaker, S. 129 will go a long way in strengthening the Federal workforce, and I urge my colleagues to support this important legislation.

Mr. TOM DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Virginia (Mr. TOM DAVIS) that the House suspend the rules and pass the Senate bill, S. 129, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONGRATULATING ANDREW WOJTANIK FOR WINNING THE 16TH ANNUAL NATIONAL GEOGRAPHIC BEE

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 815) congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee, conducted by the National Geographic Society.

The Clerk read as follows:

H. RES. 815

Whereas the 16th Annual National Geographic Bee was held in Washington, D.C., from May 25 to May 26, 2004;

Whereas the National Geographic Bee encourages the participation of millions of students and thousands of schools nationwide;

Whereas Andrew Wojtanik, an 8th grade student at Lakewood Middle School in Overland Park, Kansas, displayed his mastery of world geography by winning the 16th Annual National Geographic Bee;

Whereas Andrew Wojtanik competed against 54 other elementary, middle, and junior high school students from across the United States, Puerto Rico, the Virgin Islands, and the Pacific Territories;

Whereas the National Geographic Bee tests the knowledge of students in a variety of subjects related to world geography, including physical, economic, cultural, political, and environmental topics;

Whereas the creation of the National Geographic Bee is an example of the National Geographic Society's commitment to broadening the understanding of students and the general public about the world around them;

Whereas geographic literacy has become increasingly important as technology and world events more often cross borders, oceans, and continents;

Whereas surveys consistently show that the level of geographic knowledge among people in the United States lags behind citizens of other countries;

Whereas a National Geographic-Roper survey of young adults between the ages of 18 and 24 in 9 different countries recently indicated that young adults in the United States were outperformed in geographic literacy by young adults in Sweden, Germany, Italy, France, Japan, Great Britain, and Canada;

Whereas the National Geographic-Roper survey also indicated that only 13 percent of young adults in the United States between the ages of 18 and 24 could correctly identify Iraq on a map of the Asia and the Middle East: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates Andrew Wojtanik, the champion of the 16th Annual National Geographic Bee, for his comprehensive knowledge of geography; and

(2) directs the Clerk of the House of Representatives to make available enrolled copies of this resolution to Lakewood Middle School in Overland Park, Kansas, for appropriate display and to transmit an enrolled copy of this resolution to Andrew Wojtanik and his family.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 815.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 815 congratulates Andrew Wojtanik for winning the 16th Annual National Geographic Bee conducted by the National Geographic Society.

Mr. Speaker, this is a terrific and well-deserved honor for a terrific and deserving young man. I strongly support the resolution and urge all of my colleagues to do the same.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, 14-year-old 8th grader Andrew Wojtanik from Lakewood Middle School in Overland Park, Kansas, took top honors at the 2004 National Geographic Bee, which was held here in Washington, D.C. in May.

Andrew should be an example for all young people because he won a $25,000 college scholarship, a lifetime membership in the National Geographic Society, and a week at a Sea World Busch Gardens Adventure Camp.

The winning question was: "Peshawar, a city in the North-West Frontier Province of Pakistan has had strategic importance for decades because of its location near a historic pass."

Andrew answered correctly when he replied, "Khyber Pass."

How many of us would have answered that question correctly? Well, I do not know. But for a $25,000 scholarship I am sure that there are many young people who would try.

I congratulate Andrew and urge all of my colleagues to vote affirmatively for this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman from Kansas (Mr. MOORE), the author of this resolution, and I urge passage and congratulate Andrew Wojtanik.

Mr. MOORE. Mr. Speaker, on behalf of his proud neighbors in Kansas' Third Congressional District, and particularly on behalf of the students and teachers at Lakewood Middle School in Overland Park, Kansas, I am honored today to speak in favor of my resolution congratulating Andrew Wojtanik for winning the 16th Annual National Geographic Bee. I have been joined in this effort by Representatives JIM RYUN and JERRY MORAN of Kansas, and by Representatives MAJOR OWENS, EARL

BLUMENAUER, and MAX BURNS. This resolution is similar to H. Res. 804, which we introduced last week, and reintroduced on Monday due to some jurisdictional issues which prevented bringing the original resolution to the floor quickly.

On May 26, 2004, Andrew won the 16th Annual National Geographic Bee when he correctly answered a question about the Khyber Pass in Northern Pakistan.

While Andrew's comprehensive knowledge of geography is an inspiration to students everywhere, studies suggest that most of Andrew's peers would be unable to find Pakistan on a map, let alone be aware of the significance of the Khyber Pass. Only 13 percent of young adults in the United States between the ages of 18 and 24 can correctly identify Iraq on a map of Asia and the Middle East. Year after year, American students are consistently outperformed in geographic literacy by students in Sweden, Germany, Italy, France, Japan, Great Britain, and Canada.

The truth is that many students in the United States receive only a minimal amount of geography education during their educational careers. In 2001, Congress acknowledged the importance of including geography education in school curriculums when it designated geography as a "core subject" in the No Child Left Behind Act; yet, geography remains the only core subject identified in that act without a Federal program designed to improve educational performance.

Congress must honor its commitment to the children of the United States and address the need for improved geography education. As we have recognized in other areas of education, the only way to truly improve the educational system at a student-level is to help schools use the most effective teaching techniques to increase student knowledge and understanding. Geography education is no exception.

The National Geographic Society Alliance Program is an excellent example of current efforts to improve geography education at the state and local level. Alliances around the country provide teachers with intensive professional development opportunities in geography education, cultivating opportunities for teachers in State-level chapters to collaborate on geography education efforts and to participate in NGS professional development programs. And the success of the National Geographic Society Alliance Program is seen through the achievements of its students—students of teachers who have been involved in the Alliance program have statistically higher levels of geographic literacy achievement than other students. Promoting proven, effective teaching techniques, such as those developed through the National Geographic Society Alliance Program, will be essential if Congress is to successfully foster greater geographic literacy among American students.

If we are to continue our efforts to develop the most educated citizenry in the world, we must closely examine how we educate our youngest citizens about the world. This resolution acknowledges the good work of the National Geographic Society and its commitment to geographic literacy through a variety of means, including its sponsorship of the National Geographic Bee and the successful operation of its Alliance Program. This is a useful first step to refocusing attention on the need for geographic literacy and its important role in our children's education.

It is my hope that passage of this resolution will do more than just applaud Andrew Wojtanik's mastery of geography skills—this resolution will reaffirm Congress's commitment to geography and recognize a national public-private partnership dedicated to improving geographic literacy among American students. For these reasons, I urge my colleagues to join with me in supporting this resolution today.

Mr. DUNCAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and agree to the resolution, H. Res. 815.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

HONORING THE 10 COMMUNITIES SELECTED TO RECEIVE THE 2004 ALL-AMERICA CITY AWARD

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 464) honoring the 10 communities selected to receive the 2004 All-America City Award.

The Clerk read as follows:

H. CON. RES. 464

Whereas the All-America City award is the oldest and most respected community recognition program in the Nation;

Whereas for 55 years the National Civic League has encouraged and recognized civic excellence by honoring communities of all sizes where business, citizens, voluntary organizations, and governments work together to address critical issues;

Whereas the All-America City Award recognizes exemplary grassroots community-oriented problem-solving, and is given to communities that confront challenges and achieve results cooperatively; and

Whereas more than 4000 communities have competed and more than 500 communities have been named All-America Cities: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress honors the cities of Concord, North Carolina; Evansville, Indiana; Cottage Grove, Oregon; Spokane, Washington; Springfield, Ohio; Montevideo, Minnesota; Pembroke Pines, Florida; Stockton, California; Philippi, West Virginia; and Hidalgo, Texas, on receiving the National Civic League 2004 All-America City Award.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Con. Res. 464.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Con. Res. 464. This measure honors the 10 communities selected to receive the 2004 All-America City Award. I commend our colleague, the gentleman from North Carolina (Mr. HAYES), for introducing this resolution.

Each year the National Civic League announces the recipients of the All-America City Award, perhaps our country's most prestigious civic recognition program. In an effort to promote community development, the All-America City Award is given to communities where citizens, government, businesses, and nonprofit organizations work together to effectively achieve the highest levels of civic participation.

Since 1949, more than 4,000 communities have applied for the award and about 500 have been selected as All-America cities. This year 10 communities received this honor. The 2004 award winners are Stockton, California; Pembroke Pines, Florida; Evansville, Tennessee; Montevideo, Minnesota; Concord, North Carolina; Springfield, Ohio; Cottage Grove, Oregon; Hidalgo, Texas; Spokane, Washington; and Philippi, West Virginia.

I offer my congratulations to these 10 communities. I urge my colleagues to join with the 10 co-sponsors of the resolution and myself in honoring these 10 cities for winning the All-America City Award.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 464, introduced by my distinguished colleague from North Carolina (Mr. HAYES), honors 10 American cities for receiving the National Civic League 2004 All-America City Award. The American cities are Concord, North Carolina; Evansville, Indiana; Cottage Grove, Oregon; Spokane, Washington; Springfield, Ohio; Montevideo, Minnesota; Pembroke Pines, Florida; Stockton, California; Philippi, West Virginia; and Hidalgo, Texas.

Established in 1894, the National Civic League is one of America's oldest community advocacy organizations. The league's motto is "strengthening citizen democracy by transforming democratic institutions."

Their mission is to make democratic institutions and systems more accountable, inclusive, and responsive to citizens in communities across the country by informing, uniting, and empowering citizens. The National Civic

League's annual award, the All-America City Award, is America's original and most prestigious community recognition award.

The award encourages and recognizes civic excellence by honoring communities of all sizes where community members, government businesses, and nonprofit organizations all work together to address critical local issues. Each year 10 cities are chosen to receive the All-America City Award. Each of the 10 cities demonstrates an efficient government, a willingness to help its less fortunate citizens, and a strong sense of community.

Therefore, Mr. Speaker, I commend again Concord, Evansville, Cottage Grove, Spokane, Springfield, Montevideo, Pembroke Pines, Stockton, Philippi, and Hidalgo for their awards. I commend the gentleman from North Carolina (Mr. HAYES) for introducing House Concurrent Resolution 464.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from North Carolina (Mr. HAYES), the author of this resolution.

Mr. HAYES. Mr. Speaker, I thank the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) for helping and supporting this legislation. I congratulate the gentleman from Texas (Mr. HINOJOSA) for his city as well.

Mr. Speaker, I rise to honor the people of Concord, North Carolina, and the other nine recipients of the 2004 All-America City Award.

It has been my distinct honor to represent the people of Concord since I was first elected to represent the 8th Congressional District of North Carolina. This opportunity is especially dear to me because this is my hometown and where much of my family still resides.

In fact, my family has called Concord home for decades, centuries now that I look at it; and we have had the privilege of watching this community grow. Concord personifies the term "Southern hospitality" and is home to some of the most engaging, welcoming and civically responsible citizens of the State of North Carolina.

Through close relationships I have forged with citizens of Concord and the pride I have in this community, it is truly an honor today for me to highlight this great city.

Because of Concord's hard work, the rest of America is getting to see the positive spirit of accomplishment that I have been fortunate to witness and experience my entire life. All-America City Award is a 55-year-old program that is sponsored by the National Civic League that recognizes excellence. The award is given annually to 10 communities that exemplify and display a positive spirit of grass-roots involvement and collaborative problem-solving in an effort to better the community.

The cities selected to receive this award exhibit the American spirit of hard work and cooperation as they seek to identify and correct community-wide challenges. Concord is a community where citizens, businesses, volunteers, and government officials work together to address the issues that are vitally important to their citizens.

Concord should take pride in the fact that they are in contention for recognition by this national organization for their hard work. Truly, Concord is a great example for other communities to emulate as other communities seek to meet the many challenges that face us all, communities large and small.

To qualify for the award, Concord representatives submitted a detailed application highlighting the city's three most pressing challenges. They are medical needs of the uninsured and underinsured, eliminating substandard housing in the community, and extending the mentoring and civic responsibilities of the Boys and Girls Club of Concord.

Programs such as Community Care Plan, Cabarrus Housing Partners, and the Boys and Girls Club of America have been designed and implemented to ensure the aforementioned areas are addressed.

I am pleased to represent such a fine community where the citizens come together to solve problems at a local level rather than waiting on someone else to fix things. A wise man once said there are three types of people in the world: those who watch what happen, those who make things happen, and those who wonder what happened. Rest assured, the people of my hometown, Concord, North Carolina, are people who make good things happen. It is my honor and privilege to represent these good folks.

I am proud that the National Civic League will recognize the city of Concord's success by awarding them the All-America City Award.

Mr. DAVIS of Illinois. Mr. Speaker, it is easy to see why the gentleman from North Carolina (Mr. HAYES), especially from Concord, is such a distinguished gentleman.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HINOJOSA), a proud representative of Texas.

Mr. HINOJOSA. Mr. Speaker, I wish to acknowledge and thank the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from North Carolina (Mr. HAYES), as well as my good friend and colleague, the ranking member, the gentleman from Illinois (Mr. DAVIS).

Mr. Speaker, I join my colleagues in support of H.R. 464, honoring the 2004 All-America City Award winners. One of these year's recipients, Hidalgo, Texas, is in my congressional district. The city of Hidalgo, Texas, is a small town of about 7,500 residents located along the U.S.-Mexico border.

□ 1700

It is home to the fourth largest U.S. port of entry and has become a vibrant center of trade and commerce since the implementation of NAFTA.

Under the leadership of Mayor John David Franz, this community has created a business-friendly environment that has led to the opening of new businesses and the creation of good-paying jobs. Taking advantage of the natural resources and rare wildlife of the Lower Rio Grande Valley, the city of Hidalgo, Texas, has fostered ecotourism which brings bird watchers from throughout the world to the region's world-class birding centers.

Outstanding leaders such as former President Carter was one of the latest visitors to this beautiful city.

Recently, Hidalgo opened the new Dodge Arena, a $20 million multipurpose complex featuring a 6,800-seat arena that will be a venue for ice hockey, football, soccer, and first-class concerts. For the past 27 years, the city of Hidalgo has played host to the Borderfest, the largest and oldest heritage and music festival in south Texas. This annual festival draws thousands of visitors from all over the world.

In receiving this year's All-American City Awards, the city of Hidalgo had to compete with communities throughout the country. The selection committee looked at a variety of factors, including community achievements, creative leveraging of community resources, participation of the public, private and nonprofit sectors, and the development of quality community projects.

I want to congratulate Mayor Franz and all of the people of the city of Hidalgo on receiving this prestigious award.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Indiana (Mr. HOSTETTLER) to speak on behalf of Evansville, Indiana.

Mr. HOSTETTLER. Mr. Speaker, I rise today to honor those communities designated as All-America Cities, particularly the city of Evansville in my district.

Evansville is to be commended and should take pride for being recognized by the National Civic League as an All-America City. Evansville, like all of southwest and west central Indiana, is a wonderful place to live, work and raise a family. The city has a rich heritage and its citizens hold dear Hoosier values like faith, family and hard work.

The All-America City Award recognizes in Evansville an exemplary grassroots community approach to problem-solving where community members, government businesses and nonprofit organizations work together to address critical local issues.

The National Civic League recognized Evansville, Indiana, as a community that cooperatively tackles challenges and achieves results.

The All-America City Award is America's original and most prestigious community recognition award.

Mr. Speaker, I ask my colleagues to join me and the other cosponsors of this resolution in commending Evansville and the other cities honored by the National Civic League.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield such time as he might consume to the gentleman from Texas (Mr. DOGGETT), one of the other proud sons of Texas.

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for the time, and I am pleased to join in support of this resolution.

The All-America City Award is the oldest and most prestigious community recognition program in this Nation, and I am particularly pleased that this year one of the cities chosen, the only city chosen from the State of Texas, is right on our U.S.-Mexican border, and that is the city of Hidalgo.

Hidalgo is quite literally a representation of America's future. With a population that is nearly 98 percent Hispanic, Hidalgo is at the forefront of a demographic that is occurring rapidly in many of our Nation's cities. Also, with nearly half of its residents in elementary, middle or high school, Hidalgo is today comprised of the youth that will be the leaders of America tomorrow.

Hidalgo is one of the oldest cities in the State of Texas, and it started as a small trading post and ferry landing opposite Reynosa, Mexico, many years ago. Over the years, it has grown to the fourth largest U.S. port of entry, a major entry point for trade and commerce from throughout two continents and a city that is intimately involved with our country's relationship with Mexico.

Hidalgo is often the first taste of America for many visitors to this country. This, combined with the fact that it is one of the country's southernmost cities, makes it not surprising that Hidalgo is sometimes referred to as being "where the U.S. begins."

The city has flourished under the leadership of my friends, Mayor John David Kranz, Mayor Pro Tem Tomas Perez, and City Manager Joe Vera and of very committed city council members Alvin Samano, Dan Dillard, Pedro Fonseca, and Siglinde Franz. Their hard work and dedication to serving the people of Hidalgo has contributed much to the community's success. Hidalgo works because Hidalgo works together.

Unfortunately, as a gateway to the United States, many people have seen Hidalgo only in traveling through it. Now, the people of this fine city have done much, through innovation and hospitality, to make Hidalgo a destination.

Project: Tour Hidalgo, a comprehensive and collaborative initiative that focuses resources, ideas, the spirit of volunteerism and community outreach, has increased tourism, tourism that focuses on the culture of Mexico and the United States, on ecotourism, a number of hike-and-bike trails to be built along the border and, of course, the many other aspects of the city that come alive during the holiday season.

I remember last year at the great Posada, with the Grammy-award-winning Hidalgo resident, Ramon Ayala, that we had around 7- or 8,000 spectators. It was quite a happening, and it drew people throughout Texas to share in the joy of the holiday season.

Borderfest also pulls in not only Texans but winter Texans from all over the country for a 4-day festival in March. Last year, about 50,000 people participated, five times the population of the city. It begins appropriately with an abrazo at the international bridge between the mayor of Hidalgo and the mayor of Reynosa, indicating the close relationship between the two countries.

In the 1980s, when advancements in technology made the city's old irrigation pumphouses obsolete, it was preserved as a museum that is now recognized by the National Trust for Historic Preservation.

With a sense of humor to accompany the other pleasant qualities of this community, when a few years ago it was noted that Hidalgo was the first place that the Africanized honey bee came, instead of avoiding this apparent bit of trouble, the city created a 10-foot-tall, 2,000-pound, full-color statue of the feared killer bee, and since that time the killer bee statue has become a tourist attraction. The Killer Bees became the name of the professional hockey team at the far southern edge of the United States. That is one winning team.

At the same time, Hidalgo has made substantial and impressive efforts to improve the standard of living for its residents. Almost half of all the families in Hidalgo are sustained on incomes below the poverty level.

It has been a long-time goal of the city to attract industries that will provide its citizens with a living wage. That is why the city created Team Hidalgo, a program through which the city and private businessmen and -women work with economic development experts and nonprofit groups to improve the economy of the area. To date, Team Hidalgo's greatest achievement has been the development of Dodge Arena, the spectacular 7,000 seat facility that is now drawing people throughout south Texas not only to the winning Killer Bees hockey team and an arena football team, but to a number of high-profile entertainment activities.

The students of Hidalgo spend their days in schools run by two separate and quality school districts, the Valley View Independent School District led by Superintendent Leonel Galaviz and School Board President and the Hidalgo Independent School District, led by Superintendent Daniel King and School Board President Noe Reyes. These are school districts with leadership on their boards and in the administration that devote their efforts to educational excellence.

The city is one that I hope to represent beginning in January. It is a place that I have visited a number of times and with whose leadership I have continued to work on a number of local projects. It is wonderful that the National Civic League has recognized these fine attributes of the community by naming it an All-America City.

As the city said in its application, despite being closer to Mexico than it is to many other cities in the United States, Hidalgo is truly all-American.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume, and I have no other speakers on this.

Let me close simply by saying that the All-America City Award was a program that was carried on for many years by Look magazine, one of our largest national circulation magazines, and I am very proud that in 1962 my hometown of Knoxville, Tennessee, received one of the very earliest All-America City Awards.

My father served as mayor of Knoxville for 6 years, from 1959 to 1964, and Look magazine recognized Knoxville not only for many civic improvements but also because of my father's work in leading the peaceful integration of the city, which made sure that Knoxville did not go through many of the troubles that most other cities in the North and the South went through during that time period.

So this is a great, great award. It is one that the people of Knoxville were always proud of; and these cities should be proud of it, too.

I thank the sponsor the gentleman from North Carolina (Mr. HAYES) and the cosponsors. I urge passage of this resolution.

Mr. HOBSON. Mr. Speaker, I rise today in support of House Concurrent Resolution 464 honoring the 10 cities named 2004 All-America Cities, and I would like to thank Representative ROBIN HAYES for his leadership in introducing this resolution.

Each year, the All-America Cities Award recognizes communities whose residents have been successful at identifying problems and working cooperatively to solve them. While all 10 cities named All-America Cities this year are deserving of this honor, I am particularly proud that Springfield, Ohio, my hometown, is one of them.

Springfield is a city that typifies an American heartland community. While it embraces its manufacturing past, Springfield has a clear goal of transitioning to a more diverse economy. This new focus emphasizes research and development. Recently, the Springfield Technology Park was established, which includes the new Lexis-Nexis data center and the new Ohio Supercomputer Center. Other high technology businesses are following. Not only is Springfield securing its economic future, it is developing proactive solutions to the other challenges it faces.

Springfield's All-America Cities application highlighted three programs that were designed to meet these challenges. The projects truly demonstrate the positive results that can be achieved through cooperation between public and private entities.

First, the Neighborhood Housing Partnership of Greater Springfield is an organization dedicated to making residents' dreams of home ownership come true. Government, private foundations, lenders, corporations, and realtors have all come together to provide financial assistance and support services to first-time homebuyers.

The second program, the Clark County Literacy Coalition, is a community partnership designed to help adults to acquire literacy skills. The Springfield-Clark County Chamber of Commerce, the Warder Literacy Center, and the Clark County Public Library are just three of the groups working cooperatively to help the residents of Springfield improve their reading and parenting skills.

A third organization, Rocking Horse Center, provides comprehensive health care services for children and young families. The local government, local hospitals, and other community organizations have come together to provide health services and child care advice to the community and to ensure affordable health care to those children who need it most.

In closing, I would like to congratulate the City of Springfield, the Springfield-Clark County Chamber of Commerce, and the Neighborhood Housing Partnership of Greater Springfield for their hard work in making sure that Springfield's All-America Cities application would be successful. The citizens of Springfield are also to be commended for making Springfield such a great place to live and work.

Mr. Speaker, I join today with my colleagues, the proud citizens of Springfield, and the residents of the other nine 2004 All-America Cities in support of this resolution.

Mr. DUNCAN. Mr. Speaker, I yield back the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 464.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

PERMISSION FOR ADDITIONAL COSPONSORS FOR H.R. 10 SUBMITTED BY THE SPEAKER

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that, notwithstanding clause 7 of rule XII, the Union Calendar print of H.R. 10 may reflect additional cosponsors submitted by the Speaker.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

LEONARD C. BURCH POST OFFICE BUILDING

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5051) to designate the facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, as the "Leonard C. Burch Post Office Building".

The Clerk read as follows:

H.R. 5051

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEONARD C. BURCH POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1001 Williams Street in Ignacio, Colorado, shall be known and designated as the "Leonard C. Burch Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Leonard C. Burch Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5051, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on behalf of the distinguished gentleman from Colorado, the sponsor of H.R. 5051, I rise in support of the Leonard C. Burch Post Office Designation Act.

Leonard Burch was chairman of the Southern Ute Tribal Council for more than 32 years. He was the first elected tribal chairman in 1966, making him the youngest ever at age 32. Chairman Burch was an effective, ambitious leader for the Southern Utes and helped to economically develop this tribe based in the Rocky Mountains.

Mr. Speaker, Leonard Burch died in August 2003 after suffering a heart attack. This post office will be a deserved honor for Leonard Burch, and I know it will make his family very proud.

I thank the sponsor, the gentleman from Colorado (Mr. MCINNIS), for bringing this bill to the floor today. I am pleased to urge passage of H.R. 5051.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join my colleague in consideration of H.R. 5051, legislation naming a U.S. postal facility in Ignacio, Colorado, as the "Leonard C. Burch Post Office."

The gentleman from Colorado (Mr. MCINNIS), a Republican, introduced this measure which enjoys the support and cosponsorship of the entire Colorado delegation on September 9, 2004.

Leonard C. Burch was the long-time leader of the Southern Ute tribe of Colorado. He is credited with bringing his tribe from the brink of bankruptcy and into solvency. Through his efforts, the tribe became a major player in the energy development market with assets of $1.5 billion.

□ 1715

As part of the Council For Energy Resource Tribes, Burch was instrumental in improving energy development in tribes throughout the country. Mr. Burch was also regarded as a skilled diplomat and testified before Congress on numerous occasions advocating for greater tribal control over its own resources.

Mr. Burch passed away last year after suffering a heart attack at the age of 69. We join the Southern Ute Tribe in their loss, for not only have they lost a great leader, but also the United States has lost a truly great man. I urge swift passage of this resolution.

Mr. UDALL of Colorado. Mr. Speaker, I rise today in support of H.R. 5051, the Leonard C. Burch Post Office Building Designation Act.

Leonard Burch served as chairman of the Southern Ute Tribe for 30 years. He became the youngest chairman of the Southern Ute Indian Tribe in south-western Colorado in 1966. Although it was criticized at the time, his decision to reinvest tribal royalties back into the tribal corporations has proved to be far sighted. Through this reinvestment the Southern Ute Indian Tribe is one of the wealthiest Indian tribe in the country.

In an effort to regain the rights to the resources on their land, Chairman Burch taught himself the intricacies of the oil and gas business. As a result, he was instrumental in the Southern Ute Tribe becoming the primary beneficiary of their own mineral rights. Under his leadership the tribe was able to acquire several commercial buildings, multiple energy companies, including the largest natural gas company in the state of Colorado, a real estate company, and a casino.

Chairman Burch championed the cause of tribal sovereignty. He was able to bring the Southern Ute Indian Tribe from relative obscurity into one of the most prominent and wealthy tribes in the country. The Southern Ute Tribe's business success can be used as a positive example for Native American tribes throughout the country. Chairman Burch was the driving force behind this success story.

Mr. Speaker, I ask my colleagues to join me and the Colorado delegation in honoring the life and accomplishments of Chairman Leonard Burch and support the designation of the Ignacio Main Post Office as the Leonard C. Burch Post Office Building.

For more information about the life of Chairman Burch, I am attaching an obituary published in The Durango Herald on August 2, 2003.

LEONARD CLOUD BURCH

Leonard Cloud Burch, the longtime leader of the Southern Ute Indian Tribe who advocated economic self-sufficiency, died Friday, Aug. 1, 2003, at Mercy Medical Center.

Mr. Burch, 69 who died after suffering a heart attack on Thursday, served as chairman of the Southern Ute Indian Tribal Council for more than 32 years. He was first elected tribal chairman in 1966.

Under his leadership the Southern Utes became an economic force in the Four Corners and the largest employers in the country.

Starting with interests in natural-gas wells, the Utes used revenues from businesses to fund improvements in tribal education, health and social services. He was invited by five separate U.S. presidents to conferences on American Indian policies at the White House.

He received numerous awards, including: the Durango Citizen of the Year Award (1997), the 15th annual Martin Luther King Humanitarian Award (2000) and the Council of Energy Resources Tribes' Achievement Award (2002). He was also recognized for his commitment to regional water resources development.

To settle various water claims by regional tribes, including the Southern Utes, Mr. Burch advocated development of the Animas-La Plata Project, a water-storage project now under construction south of Durango.

He was born on Dec. 24, 1933, to Sam and Clara (Cloud) Burch. Upon graduation from Ute Vocational High School in Ignacio, he enlisted in the U.S. Air Force, and he served four years. After his return from service, Mr. Burch worked for five years with the Bureau of Indian Affairs. He married Irene Coolidge, who had also attended school in Ignacio.

He is survived by his wife; seven daughters, Leonora Bravo of Ignacio, Leona Burch of Ignacio, Lena Mae Burch of Missoula, Mont., Lisa Burch-Watts of Ignacio, Leora Lucero of Ignacio, Laurena Burch of Albuquerque, and Lynnette Sage of Ignacio; 14 grandchildren; a brother, Anthony Burch of Two Rivers, Alaska; a sister, Bertha Grove of Bayfield; a half-brother, Everett Burch of Bayfield; and a half-sister, Judy Lansing-Burch of Ignacio.

A viewing and a visitation will be from noon to 8 p.m. Monday at Hood Mortuary. A public memorial service will be at 10 a.m. Tuesday at the SunUte Recreation Center in Ignacio.

Donations honoring Mr. Burch should be made to the Leonard Burch Scholarship Fund, PO Box 2717, Durango CO 81302 or to the American Heart Association.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, I urge passage of this bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 5051.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ADAM G. KINSER POST OFFICE BUILDING

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4807) to designate the facility of the United States Postal Service located at 140 Sacramento Street in Rio Vista, California, as the "Adam G. Kinser Post Office Building".

The Clerk read as follows:

H.R. 4807

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ADAM G. KINSER POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 140 Sacramento Street in Rio Vista, California, shall be known and designated as the "Adam G. Kinser Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Adam G. Kinser Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and to include extraneous material on H.R. 4807, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4807 that would establish the Adam G. Kinser Post Office. I congratulate the gentleman from California (Mr. OSE) for introducing this bill and for securing the cosponsorship of the entire 53-Member delegation from California to comply with Committee on Government Reform policy.

All Americans mourn the loss of those who die in the service of their country in the Armed Services. Brave, dedicated 21-year-old Specialist Adam Kinser was one of these tremendous Americans. Adam proudly fought for his country in Afghanistan as part of the war on global terror.

In his senior year of high school, Adam felt a calling to serve his country and enlisted in the Army Reserves. In July 2003, the Army sent Specialist Kinser to Afghanistan as part of the Army Reserves' 304th Psychological Operations Company. On January 29, 2004, Kinser and eight fellow soldiers were working near a weapons cache in Ghanzi, 60 miles southwest of Kabul, when an explosion took the life of all nine men.

Mr. Speaker, Adam Kinser was a loving son and brother, dedicated student athlete, husband, and father. He was, in short, an American hero. The House joins with the community of Rio Vista and the family of Adam G. Kinser in grieving the loss of their beloved star student athlete. This post office will forever commemorate Adam's sacrifice to his grateful Nation.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Committee on Government Reform, I am pleased to join with my colleague in consideration of H.R. 4807, legislation naming the U.S. postal facility in Rio Vista, California, after Adam Kinser.

This measure, which was introduced by the gentleman from California (Mr. OSE) on July 9, 2004, was unanimously reported by our committee on September 15, 2004. H.R. 4807 enjoys the support and cosponsorship of the entire California delegation.

Adam Kinser, a native of Rio Vista, California, joined the United States Army Reserve during his senior year of high school. A high school football player and hardworking member of his family's business, Adam was no stranger to hard work and dedication. He served with the 304th Psychological Operations Company, U.S. Army Reserve, based in Sacramento, California.

Last summer, Specialist Kinser was sent to Afghanistan. Earlier last year, he married his childhood sweetheart and learned prior to his deployment that his wife was expecting. Sadly, he was killed early this year, January 29, when an arms depot exploded in Ghanzi, Afghanistan. He left behind a wife and a son.

Mr. Speaker, I commend my colleague for seeking to honor the sacrifice of Specialist Kinser and urge swift adoption of this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to our colleague, the gentleman from California (Mr. OSE), the author of this bill.

Mr. OSE. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time, and I thank the gentleman from Illinois for his kind remarks.

Mr. Speaker, I rise today in support of H.R. 4807, the Adam G. Kinser Post Office Act. Adam was a national hero, a loving son and brother, a dedicated student, an athlete, and a proud father to be. These are just a few phrases that can be used to describe him. Frankly, while no list of descriptions can ever do justice to understanding his bravery, the compassion of this young man who gave his life for his country at age 21 merits recognition.

Adam Gareth Kinser was born in 1983, and from the age of 5 was raised in Rio Vista, California the very southern portion of my district. He and his four younger siblings grew up there. Even as a child, Adam stood out in his community, not only to his family and friends but also to his peers, teachers and teammates. He was a hardworking student. Adam was even a teaching assistant in some of his high school classes, and a former teacher described him as, frankly, the best the United States has to offer.

His positive attitude, his willingness to help others, his kind heart made him a natural role model to his friends and classmates. He was a leader on the field. He was also an outstanding varsity athlete. He ran track, played basketball, and he started on the football team as quarterback for three seasons, so as a sophomore, junior and senior.

Adam's leadership and compassion extended beyond school and the athletic fields into his home, where he acted as a mentor and a protector to his younger siblings, one of whom recalls that Adam "was always protecting me, even when I didn't want it."

A true role model and leader in his community, Adam also wanted to serve and protect his country, even as such a young man. During his senior year in high school, he joined the Army Reserve and was attending boot camp at Fort Bragg, North Carolina, on September 11, 2001. Adam was called up for active duty in July of 2003 and served in Afghanistan with the Army Reserves' 304th Psychological Operations Company.

During Christmas 2003, Adam returned home for some well-earned R&R, where his wife, Tiffany, surprised him with the amazing gift of an ultrasound of their soon-to-be-born son. Adam was ecstatic to be a father, and after returning to fulfill his duty in Afghanistan, he literally was counting down the days until he would be reunited with his wife and new baby.

As my colleagues have said, a tragic turn of events prevented Adam from coming home. On January 29 of this year, Adam was among nine soldiers doing his duty working on a weapons cache near Ghanzi, 60 miles southwest of Kabul. An explosion took place that took his life and that of eight others.

Adam's death sent the Rio Vista community into a period of mourning and a recognition of loss for the young man that many knew and loved. They had watched Adam with pride from the time he was 5 years old, growing up to become a strong athlete, an excellent student and a brave soldier. Adam was the first Rio Vistan to give his life in wartime since the Korean War, and he will be missed by his newborn son and his family as well as by the whole community of Rio Vista.

Mr. Speaker, in order to ensure that the memory of this young man, this father, this brave soldier lives on, I am sponsoring this legislation to rename the post office in Adam's hometown in his name. It would be a great honor not only to his family but also to the Rio Vista community for this country to honor this true hero who valiantly gave back to his country that which is most precious, his life.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there is really no adequate way that we can show appreciation to this young man for giving his life in service to this Nation, but certainly, this is a very appropriate way to recognize the contributions that Adam Kinser gave to this Nation, and I guess you could say, in a way, it is the least that we can do.

I know that all Members of this Congress, on both sides of the aisle, join me and the sponsor, the gentleman from California (Mr. OSE), in expressing our condolences and our appreciation and the thanks of a grateful Nation to the family of Adam G. Kinser, and I urge passage of this bill.

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 4807.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ROBERT J. OPINSKY POST OFFICE BUILDING

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2415) to designate the facility of the United States Postal Service located at 4141 Postmark Drive, Anchorage, Alaska, as the "Robert J. Opinsky Post Office Building".

The Clerk read as follows:

S. 2415

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ROBERT J. OPINSKY POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 4141 Postmark Drive, in Anchorage, Alaska, shall be known and designated as the "Robert J. Opinsky Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Robert J. Opinsky Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 2415, the Senate bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2415 honors a devoted Postal Service employee of more than four decades, Robert Opinsky. Bob Opinsky began his career with the Postal Service in 1956 as a $1.50-an-hour temporary clerk. Through hard work and dedication, he was able to work up the ranks of the Postal Service and become the district manager of the Postal Service in Alaska. He retired in 1996.

Bob Opinsky was a terrific leader within the Postal Service community; therefore, I am pleased to support this post office designation in his honor, an exceedingly appropriate tribute to his postal career.

Mr. Speaker, I thank the Senator from Alaska, Mr. STEVENS, for advancing this legislation. I support it, and I urge passage of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 2415, to designate the facility of the United States Postal Service located at 4141 Postmark Drive in Anchorage, Alaska, as the Robert J. Opinsky Post Office Building.

Mr. Opinsky was an outstanding, hardworking postal employee who worked his way up through the ranks.

He was known as a man who delivered mail through rain, sleet or snow. It is fitting and proper that we designate this facility in his honor.

Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the Senate bill, S. 2415.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

LIEUTENANT GENERAL JAMES V. EDMUNDSON POST OFFICE BUILDING

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4847) to designate the facility of the United States Postal Service located at 560 Bay Isles Road in Longboat Key, Florida, as the "Lieutenant General James V. Edmundson Post Office Building".

The Clerk read as follows:

H.R. 4847

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIEUTENANT GENERAL JAMES V. EDMUNDSON POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 560 Bay Isles Road in Longboat Key, Florida, shall be known and designated as the "Lieutenant General James V. Edmundson Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Lieutenant General James V. Edmundson Post Office Building.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4847, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 4847, a bill that designates the facility of the U.S. Postal Service located at 560 Bay Isles Road, in Longboat Key, Florida, as the Lieutenant General James V. Edmundson Post Office Building.

□ 1730

All Members of the Florida congressional delegation have cosponsored this legislation, and I am pleased to join with them today in urging the passage of this bill.

Lieutenant General James Valentine Edmundson was an American hero and veteran of World War II, the Korean War, and the Vietnam War. General Edmundson flew more than 10,000 hours, including 107 combat missions during World War II. In 1973, after 35 years of highly distinguished service in the United States Air Force, General Edmundson retired as Deputy Commander in Chief of the U.S. Readiness Command at MacDill Air Force Base, Florida. General Edmundson's incredible list of distinctions includes the Army Distinguished Service Medal, the Air Force Distinguished Service Medal, the Silver Star, the Legion of Merit, the Distinguished Flying Cross, the Bronze Star, and the Purple Heart.

Mr. Speaker, I strongly support H.R. 4847, a bill that honors the valor and achievements of Lieutenant General James Valentine Edmundson. I thank the gentlewoman from Florida (Ms. HARRIS) for her work on H.R. 4847.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join in consideration and urge strong support for H.R. 4847, to designate the facility of the United States Postal Service located at 560 Bay Isles Road in Longboat Key, Florida, as the Lieutenant General James V. Edmundson Post Office Building.

Lieutenant Edmundson was an outstanding pilot during the early days of the Army Air Corps and helped lay the groundwork for the United States Air Force to become the entity that it is today. It is fitting and proper that we would name a postal facility in his honor. I urge the passage of the bill.

Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Florida (Ms. HARRIS).

Ms. HARRIS. Mr. Speaker, I rise in support of legislation that honors a true American hero. Lieutenant General James V. Edmundson served in the United States Army Air Corps and the United States Air Force for nearly 4 decades. During his career of selflessness and service, he flew a total of 181 combat air missions; 107 of these missions occurred during World War II, 32 transpired during the Korean War, and 42 took place in Vietnam.

Surviving Pearl Harbor, General Edmundson fought in the pivotal Pacific theater battles of Midway and Guadalcanal. During his distinguished career, he earned seven Distinguished Flying Crosses, eight air medals, three Legions of Merit, the Silver Star, and the Bronze Star. In his own words, however, the highlight of his career was "flying as lead pilot in the formation of 500 B-29s over Tokyo Bay as the Japanese signed the surrender."

General Edmundson retired from the Air Force in 1973, but his contributions to his community and to his Nation never ceased. Settling in southwest Florida in the town of Longboat Key, he served as mayor, vice mayor and town commissioner. Moreover, General Edmundson remained active in several community organizations, most notably the Kiwanis Club, which elected to him to its board of directors.

Sadly, General James V. Edmundson passed away on June 19, 2001, at the age of 86. He embodied the adage: "It is not how they died that made them heroes, but how they lived."

Mr. Speaker, in honor of this profile of courage and the values he cherished, I urge my colleagues to support H.R. 4847, which redesignates the U.S. postal facility located at 560 Bay Isles Road in Longboat Key, Florida, as the Lieutenant General James V. Edmundson Post Office Building.

Mr. DUNCAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 4847.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

BILL MONROE POST OFFICE

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4968) to designate the facility of the United States Postal Service located at 25 McHenry Street in Rosine, Kentucky, as the "Bill Monroe Post Office".

The Clerk read as follows:

H.R. 4968

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BILL MONROE POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 25 McHenry Street in Rosine, Kentucky, shall be known and designated as the "Bill Monroe Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Bill Monroe Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, most Americans know that the heart of bluegrass music country is accordingly located in the Bluegrass State of Kentucky. This bill, H.R. 4968, names this Rosine, Kentucky, post office after the father of bluegrass music, Bill Monroe. Bill Monroe is credited with almost singlehandedly creating the musical art form of bluegrass. In 1939, Mr. Monroe started a band called the Bluegrass Boys, which became one of the most popular musical groups in the Nation during that era. The highly decorated Monroe was ultimately inducted into the Country Music Hall of Fame, and he remains a musical legend to this day.

Mr. Speaker, I thank the gentleman from Kentucky (Mr. LEWIS) for sponsoring this honor for Bill Monroe. I support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

I am pleased to urge support for H.R. 4968, to designate the facility of the United States Postal Service located at 25 McHenry Street in Rosine, Kentucky, as the Bill Monroe Post Office. As we have already heard, Mr. Monroe was an outstanding musician and is known as the father of bluegrass. His music can be heard all over the world. I must confess that I am indeed a fan. I think it is proper that we name a postal facility in his honor.

Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Kentucky (Mr. LEWIS), the sponsor of this legislation.

Mr. LEWIS of Kentucky. I thank the gentleman from Tennessee for allowing me this time.

Mr. Speaker, I would also like to thank the gentleman from Virginia (Mr. TOM DAVIS) for allowing the swift consideration of a bill to honor a proud part of Kentucky's heritage, the founder of bluegrass music, Bill Monroe. This is but a small tribute to the legacy of Mr. Monroe. I along with my Kentucky colleagues in this Chamber am proud to name a post office in the community of Rosine, Kentucky, for him.

The history of bluegrass music begins with Bill Monroe. His influence can be seen extensively in contemporary bluegrass, inspiring new generations of musicians and fans to appreciate his unique style. Today his musical art form is preserved through events like the annual Bluegrass Jamboree in Ohio County that show the fine tradition that makes bluegrass music synonymous with Kentucky.

Mr. DUNCAN. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 4968.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

LIEUTENANT JOHN F. FINN POST OFFICE

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5053) to designate the facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, as the "Lieutenant John F. Finn Post Office".

The Clerk read as follows:

H.R. 5053

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LIEUTENANT JOHN F. FINN POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, shall be known and designated as the "Lieutenant John F. Finn Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Lieutenant John F. Finn Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, Lieutenant John F. Finn, a 12-year veteran of the Albany Police Department, was shot three times while chasing a robbery suspect on December 23, 2003. Lieutenant Finn was immediately admitted to Albany Medical Center, and he remained in critical condition for 7 weeks. He sadly succumbed to his wounds on February 12 of this year, as I said, approximately 7 weeks later. H.R. 5053 remembers the life and service of Lieutenant Finn.

Mr. Speaker, according to the National Law Enforcement Officers Memorial Fund, an average of 163 law enforcement officers have been killed annually in the line of duty over the last 10 years. Our Nation's police officers make themselves vulnerable every day in working to maintain the peace in American communities. We mourn with the citizens of Albany on this occasion and the House intends for this post office designation to serve as a lasting tribute to Lieutenant John F. Finn's patriotism, courage, sacrifice, and service to this Nation.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join in support of H.R. 5053, to designate the facility of the United States Postal Service located at 1475 Western Avenue, Suite 45, in Albany, New York, as the Lieutenant John F. Finn Post Office.

As we have just heard, Lieutenant John Finn lost his life protecting, serving, and looking after the well-being of others. If ever there are individuals that should be remembered by our society, it is those who give of themselves and lose their lives for the benefit of others. It is appropriate that we name a postal facility in honor of Lieutenant Finn. I would urge the passage of this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SWEENEY).

Mr. SWEENEY. I thank the gentleman for yielding me this time.

Mr. Speaker, I am honored to be here today in support of this legislation, in support of the effort here to honor one of the really great citizens of this Nation and certainly of our area. When my friend and colleague from New York (Mr. MCNULTY) asked me to cosponsor this bill and to come and speak on it, I was truly touched and honored by the opportunity. This is probably one of the more important things that I will do in my tenure here, because, Mr. Speaker, Lieutenant John Finn, while not from my district, from a district adjacent to my district, certainly touched, saved, and protected the lives of many of my constituents; and his passing was a deep, deep tragedy felt by all of the people of my district and I think indeed all of the people of this Nation. That is why this is such an appropriate response by this body, and I am proud to be part of it.

John Finn was a model citizen, a loving father, a doting husband, and a wonderful human being. He was, frankly, the person we would want all our children to be. He was the kind of person we would want to recognize as a great American.

I remember in the area, we had a memorial service shortly after his passing and his family, his wife, Maura McNulty-Finn, handled that process and the loss of John Finn in the community with such grace and such dignity and really won the respect of the entire community, and his daughters, Clara and Molly, two beautiful little girls, really touched the heartstrings of all of the people who recognized the loss that they were realizing and will realize for the rest of their lives.

John Finn was an officer of the law who took his job incredibly seriously, winning numerous awards for saving lives and constantly upholding his duties to those he swore to protect. Unfortunately, Lieutenant Finn, like far too many of our Nation's police officers, was killed in the line of duty. He was cut down in the prime of his life while doing his job, a job he did far better than most. He was killed because he made a choice on the night of December 23, yes, December 23, 2 days before Christmas of last year. Instead of backing down and living to fight another day, he chose to face danger head-on when he walked into that convenience store and into a hail of bullets. On that night, trying to stop a robbery, he joined the company of untold American heroes who gave the ultimate sacrifice so others may be saved. Lieutenant Finn died protecting others and upholding a code he chose to live by. He chose to live his life to the end with honor and bravery, and that is something our constituents and our government will never be able to repay.

We can, however, show our appreciation and honor his memory by naming the Lieutenant John F. Finn Post Office Building. We owe it to his family and his loved ones. Indeed, Mr. Speaker, we owe it to ourselves.

Mr. Speaker, when I attended Lieutenant Finn's funeral service, I was moved by the thousands from the area and from other States who filled an arena in Albany to pay their last respects to such a fine man. Today we are giving something back. I am really privileged to be part of it.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

I certainly agreed with everything that our colleague, the gentleman from New York (Mr. SWEENEY), just said. I commend the gentleman from New York (Mr. MCNULTY) and the gentleman from New York (Mr. SWEENEY) for this bill.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. MCNULTY).

Mr. MCNULTY. Mr. Speaker, I thank the gentleman for yielding me this time to comment on my bill, H.R. 5053, which designates the United States Post Office at 1475 Western Avenue in Albany, New York as the "Lieutenant John F. Finn Post Office."

Mr. Speaker, John Francis Finn was born in Port Jefferson on Long Island. He was the son of Bill and Mary Finn, and he was a great brother to Bill, Michael, Mary and Rose. He graduated from Smithtown High School, also on Long Island, and the University at Albany.

He joined the Albany Police Department on January 31, 1991. He had a 13-year career with the Albany Police Department with many diverse assignments. He completed them all with exemplary commitment, dedication, and compassion. He was named a detective in the juvenile unit in 1993, promoted to sergeant in 1996, and promoted to lieutenant in the year 2001.

Mr. Speaker, on December 23, 2003, Lt. Finn responded to an armed robbery at a convenience store. Although he was wearing a protective vest, the suspect, armed with a semiautomatic weapon, struck Lt. Finn three times in the lower abdomen and leg.

Over the next few weeks, John underwent numerous surgeries and received exceptional care at the Albany Medical Center. He passed away 51 days later, on February 12th of this year, becoming the ninth member of the Albany Police Department to be killed in the line of duty.

Mr. Speaker, over 5,000 officers and mourners from around the northeastern United States attended the memorial service in February at the Pepsi Arena in Albany. The service recalled John's distinguished career and life of service and sacrifice. He had received two lifesaving awards from the Albany Police Department. The Kiwanis Club named him Officer of the Year in the year 2000, and the Albany County Youth Recognition Awards have been renamed in honor of Lt. Finn.

Governor Pataki named Lt. Finn Police Officer of the Year in 2003 and presented that award to Lt. Finn's wife, Maura McNulty-Finn, and to his two daughters, Clara and Molly.

Maura was the love of his life, and Clara and Molly were his pride and joy. He brought his daughters to work with him when he volunteered, as he frequently did. He was also instrumental in creating the Children and Family Services Unit in the Albany Police Department.

Mr. Speaker, at John's memorial service, I quoted scripture in saying, "No greater love can one man have than that he lay down his life for his friends." That is what John Finn did.

At this particular time, when we have many service personnel serving overseas, we are mindful of their sacrifice. We remember their service on a daily basis, as well we should. We should always remember that had it not been for all the men and women who wore the uniform of the United States military, the rest of us would not have the privilege of going around bragging, as I often do, about how we live in the freest and most open democracy on the Earth. Freedom is not free. We paid a tremendous price for it.

But while we do that, I think we sometimes neglect to remember the sacrifices made by the folks who are protecting the homeland security and who go out and take chances every single day, just like John Finn did last December 23 when he gave his life for his friends.

So I am honored to be here today, Mr. Speaker, to recall John's life of service and sacrifice, to pay this small tribute to him, and to do what I know he would really like, and that is to thank all of the other police officers all across the Nation who take these kinds of chances every single day.

Mr. BISHOP of New York. Mr. Speaker, I rise today to honor Lieutenant John F. Finn of the Albany, NY, Police Department. Originally from Port Jefferson, NY, within my congressional district, Lieutenant Finn passed away on February 12 of this year from gunshot wounds received while attempting to apprehend a robbery suspect.

John Finn was a lifelong resident of New York, and after attending Smithtown High School West on Long Island he pursued an undergraduate degree at SUNY Albany. Following school, Finn began a career in law enforcement marked by innovation and success. A 13-year veteran of the Albany force, John Finn served admirably throughout his career and during that tenure received two lifesaving awards from his department and the 2000 Officer of the Year from the Kiwanis Club. On July 26th, 2004, New York State officially recognized the contributions of Lieutenant Finn by posthumously awarding him the Governor's Police Officer of the Year Award for 2003.

Lieutenant Finn was a model policeman and family man, dedicating his life to protecting others. Finn's commitment to the well being of others remains visible in the good works of the Children and Family Services Unit of the Albany Police Department, which Finn helped create. Lieutenant Finn's surviving family includes his wife Maura McNulty-Finn and daughters Clara and Molly.

During his final days, Lieutenant Finn continued to exemplify bravery and fortitude by fighting hard for nearly 2 months after taking three bullets from a semiautomatic weapon. Thankfully, Finn's murderer now resides behind bars, and in a testament to Lieutenant Finn's affect on the community, nearly 5,000 people attended a public service in his honor.

Mr. Speaker, I wish to extend my deepest condolences to John Finn's family and friends and I am happy to help memorialize this brave man by designating a Federal building in his honor. I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 5053.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

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CONGRESSMAN JACK FIELDS POST OFFICE

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4232) to redesignate the facility of the United States Postal Service located at 4025 Feather Lakes Way in Kingwood, Texas, as the "Congressman Jack Fields Post Office".

The Clerk read as follows:

H.R. 4232

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSMAN JACK FIELDS POST OFFICE.

(a) REDESIGNATION.—The facility of the United States Postal Service located at 4025 Feather Lakes Way in Kingwood, Texas, and known as the Kingwood Post Office, is hereby redesignated as the "Congressman Jack Fields Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the Congressman Jack Fields Post Office.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4232 honors a very distinguished former Member of this body, Congressman Jack Fields of Texas, with whom I had the privilege of serving. Congressman Fields, who made a living as a businessman and attorney, was elected as a Republican Member of the 97th and to the seven succeeding Congresses. He served in the House from 1981 until 1987.

Many of us had a chance to work alongside Congressman Fields, and we could not be happier about this post office designation in his honor. He was a very devoted Representative of the people of Texas and the Nation as a whole. He was a leading member of the House Committee on Energy and Commerce and contributed to this body and to this country in ways too numerous to mention at this time.

I commend the gentleman from Texas (Mr. BRADY) for honoring Congressman Jack Fields in this legislation. I urge passage of this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join in consideration of H.R. 4232, to redesignate the facility of the United States Postal Service located at 4025 Feather Lakes Way in Kingwood, Texas, as the "Congressman Jack Fields Post Office."

Congressman Fields represented himself extremely well as a Member of this body, has an outstanding record of service not only to the people of his community but to the people of the Nation. It is appropriate that we would name a postal facility in his honor.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Texas (Mr. BRADY), the sponsor of this legislation.

Mr. BRADY of Texas. Mr. Speaker, it is a wonderful honor to join with my Republican and Democrat friends, the Texas delegation of this Chamber, to honor our former colleague Congressman Jack Fields, by renaming the post office in Kingwood, Texas, where he and his family live, as the "Congressman Jack Fields Post Office."

He represented the 8th District of Texas from 1981 to 1997, 16 years. He retired really at the pinnacle of his career for a very powerful reason, to spend more time with his family, his wonderful wife, Lynn, and children, daughters Jordan and Lexi and stepson Josh Hughes. Jack left as chairman of the House Committee on Commerce's Telecommunications and Finance Subcommittee, a very important post, and as vice chairman of the Committee's Commerce, Trade and Hazardous Materials Subcommittee.

For those who know him, Jack was born in Humble, Texas, on February 3, 1952. His family had lived and has lived on the same plot of land since the 1860s. His family is remarkable. Those who know his dad and for all the contributions, the special place he played in the Humble community; his mom, who was beloved by all; his brother Jess, a distinguished community leader; his wife, Lynn, a top educator/school board member for many years. His whole family is just remarkable. So there is no exception; Jack was, as well.

Jack earned his Bachelor's degree from Baylor in Waco, Texas, in 1974. While attending Baylor, Jack served an unprecedented two terms as school body president and was twice named Outstanding Baylor Man. In 1977, Jack earned his law degree from Baylor Law School and for 9 years has served as a Baylor University trustee. As one would imagine, he is a little partial to the Baylor Bears.

Jack served as a member of the Telecommunications and Finance Subcommittee from 1985 until his retirement. During his years of service he had maintained jurisdiction over international and interstate telecommunications. It oversaw the Federal Communications Commission, as well as the telephone, cellular, cable and broadcast industries, among others. It also worked on issues at the Security and Exchange Commission, as well as activities of investment bankers, stock brokers, investment advisers, stock exchanges, and the mutual fund industry.

As subcommittee chairman in 1995, Jack Fields led the effort in the House to enact the first comprehensive reform of the Communications Act of 1934 in more than 6 decades, the measure promoting greater competition in all telecommunications-related industries. Congress passed the legislation, and President Clinton signed it into law in February of 1996.

As subcommittee chairman, Jack's efforts led to passage of the National Securities Markets Improvement Act of 1996, which protects investors while also promoting greater efficiency and capital formation in the financial markets. Jack also played a critical role in passing the Securities Litigation Reform Act that reforms the Federal civil justice system regarding private securities litigation.

He has been nothing close to retired since he left Congress. He has set up his own firm, has stayed involved in his ranching and timber interests. He opened the 21st Century Group, a Washington-based governmental affairs firm. He sits on the board of directors of AIM Mutual funds, the eighth largest mutual fund company in the United States; and Administaff, a premier professional employer organization with clients nationwide, based in Kingwood.

In addition, he sits on the board of the Discovery Channel Global Education Fund, a nonprofit organization dedicated to providing education resources to people in need throughout the world through the use of technology.

Let me close with this: Jack Fields served for 16 years with distinction and integrity, with firm, conservative principles. He was a champion for veterans, a champion for small business, a champion for the second amendment and for family values, which he lived each day of his life. He reached across the aisle to work with Members and became close friends with former Congressman Mickey Leland. They worked together on issues related to poverty and hunger throughout the world.

I am so proud to serve in the seat that Jack Fields held for 16 years. The citizens of Humble and Kingwood in the Eighth Congressional District join me in honoring Jack Fields in naming the post office in Kingwood after him so that future generations within our community will know Jack Fields's service to Texas, service to Humble, Kingwood, and service to our great Nation. I am proud to be part of this effort.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from New Jersey (Mr. PAYNE).

Mr. PAYNE. Mr. Speaker, I am pleased to rise in support of this resolution to name the post office in Kingwood, Texas, after our former colleague, a man I am proud to call a friend, Jack Fields. He is certainly deserving of this honor.

As a Member of the House of Representatives, Jack embodied the finest qualities of public service. He was diligent and hard working on behalf of his constituents. But he also distinguished himself through the courtesy with which he treated colleagues of both parties. He reached across the aisle to form friendships with our late colleague, who served with me in the Congressional Black Caucus, Mickey Leland of Houston, Texas. In an era where there was too little emphasis on civility, Jack never lost the sense of decorum or his ability to respect the opinion of others.

While Jack is best known for his leadership in enacting key legislation in telecommunications as chairman of the Telecommunications and Finance Subcommittee, he has also used his expertise to advocate for the continent of Africa. During his tenure, I had the pleasure of traveling to South Africa with Jack on a trip organized by the newly formed, at that time, Discovery Channel Global Education Fund. We have served together as board members of the fund, which provides schools and community centers in underserved areas with televisions, VCRs, satellite technology, teacher training, and the ongoing delivery of relevant video programming. The organization, which reaches over 130,000 children and their communities throughout South Africa, Tanzania, Uganda, Zimbabwe, Mexico, and Peru, is expanding now into Romania, Angola, India, Namibia, and Afghanistan.

Jack's work on telecommunications issues in Congress sparked an interest in his using the latest technology to improve education in rural villages through distance learning and other innovations. After Congressman Mickey Leland's untimely death, Jack honored him by introducing legislation in his name to improve the quality of life for children in Africa by improving access to worldwide educational resources through satellite technology.

Mr. Speaker, it is a pleasure to support this bill, and I know my colleagues will join me in congratulating our former colleague and a terrific human being, Jack Fields, on achieving this great distinction.

Mr. DUNCAN. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I thank the gentleman for yielding me this time to pay tribute to Jack Fields today.

While Jack and I never served together in this distinguished body, I am well aware of the distinguished career that he had here in Congress for 16 years and the contributions he made to our great State of Texas. Whether he was playing a major role in passing the landmark Communications Act of 1996 or his reputation for excellent constituent service to the people back home that took care of him and he took care of constantly, Jack set the pace and standard for each of us who have followed him to Congress.

Jack was the epitome of a Congressman who worked in a bipartisan manner, except when he was playing third base for the GOP in the annual congressional baseball game or was the "short but slow" power forward in the congressional basketball game.

I thank Jack for his service to Texas and to the United States Congress. This recognition today is well deserved.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from New York (Mr. MCNULTY).

Mr. MCNULTY. Mr. Speaker, I thank the gentleman for yielding me this time.

I also join in support of this tribute to Jack Fields, with whom I did serve. He is certainly very deserving of this tribute.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from Florida (Mr. BOYD).

Mr. BOYD. Mr. Speaker, I thank my friend from Illinois (Mr. DAVIS) for yielding me time.

I will not take long. I think many Members have been here talking about Jack Fields and folks that served with him. I, like the gentleman from Texas (Mr. BRADY), did not have the opportunity to serve with him, but I have gotten to know him quite well.

I first heard about him when I was in the State legislature working in Florida and we were doing a rewrite of the telecommunications law. We knew that Jack Fields was the subcommittee chairman and would ultimately take some of what we did and use it as a model. At least we hoped he would.

After I got here and got to know Jack Fields, then I began to understand what people were saying about him and what you heard here today about what a broad-reaching gentleman he was, not only in terms of the legislation that he worked on but also in his friends on both sides of the aisle.

He just always has done a great job. He has been involved in so many different kinds of legislation, telecommunications, environmental policy, national security improvements and many, many other issues in his 16-year career.

I am glad to come today and support this legislation which will honor Jack Fields.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 1 minute to the gentleman from California (Mr. HONDA).

Mr. HONDA. Mr. Speaker, I thank my friend from Illinois for yielding me time.

Mr. Speaker, I rise today in strong support of H.R. 4232, to redesignate the facility of the United States Postal Service located at 4025 Feather Lakes Way in Kingwood, Texas, as the "Congressman Jack Fields Post Office." I urge my colleagues to join me in honoring Jack Field's accomplishments and life of dedicated public service.

In 1981, Jack was elected to the U.S. House of Representatives by the voters of Texas Eighth Congressional District. During his 16 years as a Member of the House, Jack distinguished himself as a statesman and a leader, earning an impressive legislative record.

As chairman of the House Committee on Commerce Subcommittee on Telecommunications, Jack led the effort in the House to enact the first comprehensive reform of the Communications Act of 1934, legislation that was designed to promote competition in all telecommunications-related industries and create an environment in which new telecommunications technologies could flourish.

This act, known as the Telecommunications Act of 1996, was signed into law by President Clinton. It is widely acknowledged that this legislation encouraged the extraordinary innovation and growth in telecommunications and Internet service.

While serving as the ranking member on the Committee on Merchant Marine and Fisheries, Jack was instrumental in overhauling our Nation's oil spill liability laws in the wake of the Exxon Valdez accident in Alaska. He also advocated for the protection of endangered species and wetlands; fisheries and wildlife refuges; promotion of American ports and Merchant Marine and the safety of the cruise ship industry.

Following his retirement from Congress in 1997, Jack opened two companies, Twenty-First Century Group, Inc., a Washington, D.C., based governmental affairs and strategic planning company, and Texana Global, Inc., an international trade corporation headquartered in his hometown of Humble, Texas. Jack also continues to serve as vice president of Rosewood Memorial Park and Funeral Home, which his family has owned and operated since the 1930s.

Mr. Speaker, once again I would like to congratulate Jack on the contributions he has made and strongly encourage my colleagues to support this legislation in recognition of his significant contributions to this country.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 1 minute to the gentlewoman from California (Ms. NAPOLITANO).

Mrs. NAPOLITANO. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, as you have heard, there have been very many accolades directed at Jack Fields, former Member of Congress. I would like to repeat them all, but time is short.

I have got to say that I have met the gentleman. I have heard of his accomplishments. I have been able to work with his staff. And I can tell you that he really, truly is a dedicated public servant. I am very happy to lend my support, and I trust that my colleagues will join us, as this was truly a person dedicated to representing his district and the people of the United States of America.

Mr. Speaker, I urge all my colleagues to support passage of the bill, H.R. 4232, that will name the Jack Fields Post Office in the City of Kingwood, Texas.

Mr. DAVIS of Illinois. Mr. Speaker, I would like to thank the gentleman from Tennessee (Mr. DUNCAN) for his indulgence, and I yield back the balance of my time.

Mr. MARKEY. Mr. Speaker, I rise in honor of a friend and former colleague, Jack Fields of Texas. Today the House has designated a post office in Jack's home state of Texas the "Congressman Jack Fields Post Office." On the House Floor this afternoon, we're naming a post office for a man who always knew how to deliver for his constituents. This is a fitting tribute to a gifted legislator who represented the 8th Congressional District of Texas in the U.S. House of Representatives from 1980 to 1996.

I was proud to serve with Jack on the Committee on Commerce from 1982 to 1996. In 1995, Jack became the Chairman of the Committee's Subcommittee on Telecommunications and Finance. As the Subcommittee's Ranking Member, I worked closely with Jack on the first comprehensive reform of the Communications Act of 1934—The Telecommunications Act of 1996—which was designed to encourage competition in all telecommunications-related industries and create an environment in which new telecommunications technologies could thrive. President Clinton signed the bill into law in February 1996.

Jack was a trusted colleague. More importantly, he was, and is, one of my best friends. He was a master legislator and a master basketball player. On the House Floor or on the basketball floor, he was always an MVP. He worked across party lines to move legislation forward that benefited the American people. He has retired from Congress, but his distinguished legacy remains.

Mr. GREEN of Texas. Mr. Speaker I rise today in support of H.R. 4232, which would designate the U.S. Postal Service located at 4025 Feather Lakes Way in Kingswood, Texas as the "Congressman Jack Fields Post Office."

Congressman Jack Fields was born in Humble, Texas. He received his bachelor of arts and his law degree from Baylor University in Waco, Texas and was admitted to the Texas bar in 1977. He served as a Member of Congress from 1981 to 1997. During his tenure in Congress he served as Chairman of the House Telecommunications Act of 1934, which was passed as the 1996 Telecommunications Act. He was also instrumental in rewriting the National Securities Market Improvement Act of 1996 and the Securities Litigation Reform Act.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am honored to be here today to pay tribute to a friend and former Colleague, Jack Fields, as I rise in strong support of this Bill. Although I only had the pleasure of serving 1 term with Congressman Fields we developed an immediate and lasting friendship that has only strengthened as time has passed. I count myself fortunate to have served that 1 term with him.

Congressman Fields blessed the 8th congressional district of Texas with 16 years of service through his constant dedication to his constituents and determination to do what was right. He was a role model both in his district, the State of Texas, and here in Congress. He worked tirelessly for his constituents and our great Nation and he was, and is, a truly great American.

I have many fond memories of the two years we worked together, but probably the one most important thing I remember about Congressman Fields was his willingness and ability to cross the aisle. Congressman Fields was a strong Republican, yet that did not prevent him from engaging and working with Democrats on a range of topics. For Congressman Fields there were many issues that were larger and more important than partisanship. Congressman Fields truly was a man of honor and dignity.

In fact, I look back at these days with a sense of nostalgia, when Democrats and Republicans would and could work together to get things done. The most important thing for Congressman Fields was to take every effort to move towards a better America. It wasn't partisanship, or special interests, his goal was to help the 8th congressional district of Texas, the State of Texas, and the United States of America. I truly believe that the 108th Congress would work much better if we had more men and women like Congressman Jack Fields. He had the ability to look beyond partisanship to the real issues that were facing our country and take them on head first.

And so I support this bill with open arms. Congressman Fields is a great friend, a loyal ally, and true gentleman. Supporting this bill is the least we can do to honor the truly excellent and distinguished career of Congressman Jack Fields.

Mr. DUNCAN. Mr. Speaker, I have no additional speakers, and I urge passage of this bill to honor our good friend and colleague, Congressman Jack Fields.

Mr. Speaker, I yield back balance of my time.

The SPEAKER pro tempore (Mr. SHIMKUS). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 4232.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

IRMA RANGEL POST OFFICE BUILDING

Mr. DUNCAN. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4829) to designate the facility of the United States Postal Service located at 103 East Kleberg in Kingsville, Texas, as the "Irma Rangel Post Office Building".

The Clerk read as follows:

H.R. 4829

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF IRMA RANGEL POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 103 East Kleberg in Kingsville, Texas, shall be known and designated as the "Irma Rangel Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Irma Rangel Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Tennessee (Mr. DUNCAN) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Tennessee (Mr. DUNCAN).

GENERAL LEAVE

Mr. DUNCAN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4829.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 4829 designates the post office in Kingsville, Texas, as the

Irma Rangel Post Office Building. I congratulate the gentleman from Texas (Mr. HINOJOSA) for garnering the cosponsorship of each Member of the Texas delegation and for advancing the bill to the floor today.

Mr. Speaker, Irma Rangel was the first Mexican-American woman elected to the Texas State House of Representatives. She was a political institution in the State of Texas and very deserving of this honor today.

Irma Rangel sadly lost her valiant struggle against cancer on May 18, 2003. On June 2, 2003, the House unanimously agreed to a resolution that expressed sorrow following Irma Rangel's death. Today's legislation will be a more lasting tribute to Irma Rangel's groundbreaking service, and I support its passage.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to join in support of H.R. 4829, to designate the facility of the United States Postal Service located at 103 East Kleberg in Kingsville, Texas, as the Irma Rangel Post Office Building.

Irma Rangel was an outstanding civic, community and political leader who became an institution in her community, and I commend the gentleman from Texas for seeking to honor her in this manner.

I would urge passage of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. BRADY).

Mr. BRADY of Texas. Mr. Speaker, I had the opportunity to serve with Irma in the Texas legislature. They broke the mold with Irma Rangel. She was so knowledgeable and so caring. I sat just a few seats away from her in my freshman year. She was and is in our memories a wonderful legislator.

I was a Republican, and there were times when she could certainly put me in my place. But the fact of the matter is, she had such a great heart for people. She had such a great heart for Texas. She was a tireless worker for people who had no voice and who needed someone to stand up in the halls of Austin and fight for their beliefs.

I am proud to be a supporter of this important bill. I appreciate the gentleman from Texas (Mr. RODRIGUEZ) and the gentleman from Texas (Mr. HINOJOSA) and other members of the Texas delegation bringing this very important person to America's attention and naming this Post Office after someone who is so deserving of it. I am glad to be part of this effort.

Mr. DAVIS of Illinois. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas (Mr. HINOJOSA)

Mr. HINOJOSA. Mr. Speaker, I thank the gentleman from Tennessee (Mr. DUNCAN) and my good friend, the gentleman from Illinois (Mr. DAVIS).

Mr. Speaker, I rise in support of H.R. 4829, a bill to designate the U.S. Post Office in Kingsville, Texas, as the Irma Rangel Post Office Building.

First, I want to thank the gentleman from Virginia (Chairman TOM DAVIS), the ranking member, the gentleman from California (Mr. WAXMAN), and, of course, my good friend, the gentleman from Illinois (Mr. DAVIS) for all their assistance in bringing this bill to the House floor today. I also want to thank all my colleagues in the Texas delegation for their unanimous support of this legislation.

Last year, the people of Texas lost a true Texas legend when State Representative Irma Rangel finally lost her battle with cancer. Irma Rangel was the first Mexican-American woman elected to the Texas House of Representatives, where she served the people of the great State of Texas for 26 years.

During her tenure, she devoted her efforts to increasing the educational attainment of Hispanics, empowering Texas youth with the tools they need to succeed and bring economic development to Texas.

She was proud of her legislation that ensured that all Texas high school seniors who graduated in the top 10 percent of their class will be able to attend any public university in the State of Texas. As a former teacher, she knew that the economy of Texas depends on creating a highly educated, diverse workforce.

□ 1815

Irma was always ready to engage her colleagues not only on the pressing issues of the day, but also on the issues that were forgotten or ignored, but were important to average working families. She was famous for her motto, "will it help or hurt" and used it as a standard for judging legislation.

She was a fighter for her congressional district, and because of her relentless efforts, Texas A&M Kingsville now has a School of Pharmacy, the first such professional school in south Texas.

Irma was also a courageous example of how to live life fully, even with cancer. She survived bouts of breast and ovarian cancer before she finally succumbed to the brain cancer. When she lost all of her hair because of chemotherapy treatments, she proudly wore her bright, colorful hats on the Floor of the Texas House. She was a positive force in educating women about cancer treatment and prevention. Her fighting spirit, her courage and her passion for educational excellence will truly be missed.

It is very fitting that the U.S. Post Office in her hometown of Kingsville, Texas, should bear her name. Every Member of Congress from Texas endorsed and cosponsored this legislation.

Mr. Speaker, I urge my colleagues to support H.R. 4829.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 3 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I rise today in strong support of H.R. 4829, the legislation to honor State Representative Irma Rangel by naming the Post Office in her name in her beloved hometown of Kingsville, Texas.

Irma Rangel had three careers over the course of her life. She was a teacher first, then a lawyer, then a State legislator. In each one of those roles, Irma was dedicated to helping the poor, improving the Hispanic community, reaching out to everyone, and fighting for justice and equality. I have had the honor not only of calling her a friend but also a colleague in the Texas House.

During my tenure in the Texas legislature, I had the privilege of working with Representative Irma Rangel. As a colleague on the Committee on Higher Education, I saw Irma consistently fight to improve the quality and accessibility of education for not only her constituents but all students. She was a driving force in securing the passage of the 10 Percent Plan, which makes the top 10 percent of students in every high school eligible for admission to any State or college university, in the wake of the devastating Hopwood case.

I would like to just mention that, during this particular case, I had filed that particular legislation, and I was very pleased to have worked directly with her. It was at that point that I got elected to the Congress, and she was able to move forward a piece of legislation that has meant tremendous advantages for both African-Americans and Latinos, in spite of the Hopwood case, and when the administration in Texas went after us on affirmative action.

Her advocacy helped create the School of Pharmacy at the Texas A&M University at Kingsville, the first professional school in south Texas, now named the Irma Rangel School of Pharmacy. We all look forward to the day when the first class of the School of Pharmacy graduates from Texas A&M, Kingsville.

For many young Hispanic women, she was also a trailblazer. She was the first Hispanic woman elected to the Texas legislature and the first woman to act as the chairman of the Mexican-American Legislative Caucus. I would also add, she was extremely responsible, along with a large number of others, but she was right there, because she was part of the Higher Education Committee in Texas, when we recognized the disparities that existed throughout south Texas, where we had no universities of any professional type, and we fought. We were very pleased with then Governor Ann Richards and others to be able to push forward what she made happen in the late 1980s and early 1990s, and that was the formation of a 4-year institution in Corpus Christi; the formation of a 4-year institution in Brownsville, Texas; the formation of a 4-year institution in Webb County; the expansion of the A&M downtown campus in San Antonio. During her tenure, in her efforts in higher education, she knew that those were the areas that she needed to move on.

She has left a lasting legacy, and this is a tribute that will continue to remind the residents of south Texas of her strength and courage.

Mr. DAVIS of Illinois. Mr. Speaker, I do not have any additional requests for time, and I yield back the balance of my time.

Mr. DUNCAN. Mr. Speaker, I have no other additional speakers. I urge passage of this bill, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the motion offered by the gentleman from Tennessee (Mr. DUNCAN) that the House suspend the rules and pass the bill, H.R. 4829.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3242

Mr. OSE. Mr. Speaker, I ask unanimous consent to have the name of the gentlewoman from Missouri (Mrs. EMERSON) removed as a cosponsor of H.R. 3242.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

PROVIDING FOR CONSIDERATION OF H.R. 5212, EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR HURRICANE DISASTERS ASSISTANCE ACT, 2005

Mr. PUTNAM. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 819 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 819

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5212) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to storm damage, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; (2) the amendment printed in the report of the Committee on Rules accompanying this resolution, if offered by Representative Hensarling of Texas or his designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read, and shall be separately debatable for 20 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Florida (Mr. PUTNAM) is recognized for 1 hour.

Mr. PUTNAM. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, H. Res. 819 is a modified, closed rule that provides for consideration of H.R. 5212, making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to storm damage and for other purposes.

The rule waives all points of order against consideration of the bill and provides for 1 hour of debate in the House, equally divided and controlled by the Chairman and Ranking Minority Member of the Committee on Appropriations. The rule provides for consideration of the Hensarling amendment which shall be separately debatable for 20 minutes, equally divided and controlled by the proponent and an opponent. Finally, the rule provides one motion to recommit.

Mr. Speaker, this is my inaugural rule, and I want to begin by thanking the Speaker for the honor of serving on this distinguished committee, and what an important rule to begin with, as it impacts the Sunshine State that the gentleman from Florida (Mr. HASTINGS) and I are so honored to represent.

Mr. Speaker, on four occasions in a span of 6 weeks, portions of my home State of Florida have been designated disaster areas. Additionally, areas in nine other States have been declared disaster areas due to hurricane-related damage. Between August 13 and September 26, five hurricanes wreaked havoc upon the eastern and Gulf coasts of the United States. For the first time since 1886, a single State has been hit by four hurricanes in one season.

The widespread devastation caused by these natural disasters is breathtaking. Damage was sustained along the entire eastern seaboard from ravaging winds in the Florida Keys and the Florida panhandle to tornadoes and mudslides in the Carolinas and severe flooding up the east coast.

The emergency supplemental appropriations bill, H.R. 5212, provides substantial resources for recovery. This rule brings to the Floor legislation to help families and farmers and businesses rebuild in the aftermath of nature's destruction.

The long-range economic effects of these storms will be severe. All facets of the economy were affected due to power outages, crop losses, and wind and water damage. It is difficult to comprehend the impact of these successive storms on Florida's economy. Florida's largest economic engine is tourism. The land of pristine beaches and world-class attractions has seen significant hardship for the tourism industry, while entire communities along the panhandle have been washed away. Businesses, large and small, are suffering from the aftermath of these storms. Many remained closed for weeks at a time while they went without utilities, losing important revenue. Mom-and-pop shops have fewer beachgoers to serve. Families and businesses now face multiple insurance deductibles following the damage of multiple storms that hit the same areas.

Florida's agriculture industry sustained the loss of up to 40 percent or more of its citrus crop for this season, along with the loss of trees that provide future harvests. In addition to citrus, the vegetable, sugar, cattle, timber, dairy, nursery, and other industries suffered severe losses.

Our infrastructure, Mr. Speaker, was utterly destroyed in some areas. Bridges, interstate bridges were washed away, cutting off evacuation routes and isolating communities. Hospitals were forced to close due to damage. Schools were shut down to serve as shelters. In my county alone, 13 days of school have been missed. The school year has essentially begun anew on four separate occasions. Military bases have been closed following extensive damage to hangars, equipment and training areas. Traffic lights lay in the middle of intersections. Daily life came to consist of searching for ice and batteries and helping neighbors wield a chain saw to remove a tree on top of your home, business or vehicle.

President Bush has recommended a total of $11 billion in assistance to the States that have been affected by these storms. The bill provides for $6.5 billion for disaster recovery efforts for FEMA, which is in addition to the $2 billion that was appropriated for FEMA earlier this month. FEMA uses these resources for a variety of disaster relief activities, including direct assistance to impacted individuals and families, debris removal, utility and infrastructure repairs, emergency food and shelter, and mitigation.

Mr. Speaker $1.1 billion for the Department of Defense; $929 million for disaster relief activities of the Small Business Administration; $800 million for the Federal Highway Administration's emergency relief program for repairs to roads and highways; $600 million in agricultural assistance to provide needed help to producers suffering crop loss from these hurricanes; $245 million for the Army Corps of Engineers; $150 million for community development grants; $50 million for the Public Health and Social Services Emergency Fund to help provide nutritional, medical and social services to affected elderly individuals; $126 million for NASA; $121 million to repair damage to VA facilities that support our ever-so-important servicemen and women and the veterans; $70 million to support the American Red Cross in their mission to shelter, feed and otherwise support the victims of these storms.

In addition to this enacted and requested emergency funding, Federal agencies will continue to use existing resources and programs for response and recovery efforts from all recent hurricanes and storms.

I am proud that our President has followed through with an assistance package that amounts to more than $12.2 billion in restoration efforts for damages occurring as a result of Hurricanes Charley, Frances, Ivan and Jeanne, storms that the gentleman from Florida (Mr. HASTINGS) and I have come to know by their first name in an all-too-intimate way. I am deeply grateful to our governor Jeb Bush for his tireless efforts throughout this period, and I want to applaud the extraordinary efforts of our chairman, a fellow Floridian of the Committee on Appropriations, the gentleman from Largo (Mr. YOUNG), and all of his team. Their hard work guarantees that Floridians can recover from the devastation left by these storms.

Finally, Mr. Speaker, I just want to take a moment to praise the combined efforts of FEMA, local first responders, local cities and counties, recovery operations, managers, utility companies, the men and women and everyday heroes who climb to the top of telephone poles to restore power while the wind is still out there and the water is still coming in; people from around the country who rush in with mobile semis that can feed 10,000 people at a time, giving hope to an entire community. Storms like this tend to bring out the best in people, Mr. Speaker, and it is an impressive thing to see the American spirit alive and well.

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I urge my colleagues to support this rule and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Florida (Mr. PUTNAM), my friend, for yielding me the time. I also welcome the gentleman from Florida (Mr. PUTNAM) to the committee and thank him for taking my place as the most junior member on the committee.

Mr. Speaker, I rise today in strong opposition to this closed rule which tosses aside bipartisanship and abdicates this body's role to independently craft responsible public policy. This closed rule neglects millions of Americans who are hurting today not only from hurricanes but also from prolonged drought, flood, and freezes.

As all in this body know, my home State of Florida and others throughout the East have been ravaged over the last month by a series of hurricanes. It is the first time in more than a century that any State has been hit by four storms of this magnitude in less than a month. First there was Charley, and then the others that followed; and when the last one passed, millions were left literally picking up the pieces of their homes and lives.

Nineteen States along the eastern seaboard, from Florida to Vermont, were declared disaster areas. Seaports and airports came to a halt and the insurance industry is reporting more than $23 billion in claims, not including the millions of uninsured home owners and renters who lost everything they had in these storms. For them, their only relief is Federal Emergency Assistance.

In my district, the after-effects of these storms will be felt for many years to come. From Ft. Pierce in the north to Pahokee and Clewiston in the west to Ft. Lauderdale in the south, people are hurting.

I thank my colleagues for their encouraging words and support during this trying time. But we need more than consolations, and we need more than understanding.

The underlying supplemental appropriations bill which the House is considering today is deeply appreciated, appreciated by all of us in Florida; but, frankly, it is not enough.

We know that the majority knows that and the President knows that, but the willingness to deliver for those in distress just is not there unless a photo op comes along with it. This closed rule blocks my good friend from Florida (Mr. BOYD) from offering a substitute that would have provided nearly $2 billion in emergency assistance beyond the President's shortchanging proposal, to help all communities recover from the hurricanes.

When I attempted to amend the rule at 7 a.m. this morning, to make the Boyd amendment in order, the majority defeated it along a straight party line vote. The underlying legislation mirrors the President's request and neglects the well-known needs of Florida and her neighboring States. In contrast, the Boyd substitute provides nearly $500 million more than the President's request in emergency agriculture disaster assistance, not only for Florida agriculture, which is suffering from more than $2.2 billion in losses in just 4 short weeks, but also for North Carolina and New York.

Citrus and sugar growers, ranchers, nurseries and dairy farmers are all shortchanged or just plain ignored in the underlying legislation. In contrast, they are helped under the Boyd amendment which was not made in order. The Boyd substitute would also increase emergency funding to the Department of Defense for reimbursements to the National Guard and facility repairs, beach nourishment, and repairs to VA hospitals and the Kennedy Space Center.

Most importantly, the Boyd substitute mirrors the bipartisan agreement that was reached between the outstanding chairman of this committee and the ranking member of the committee equally outstanding but was rejected by the President who seemingly has a knack for leading with a reckless disregard of the obvious.

The rule also blocks the gentleman from Texas (Mr. STENHOLM) from offering an amendment to help States who are suffering from prolonged drought. In doing so, Republicans have dug themselves into a hole, and we are now going to see some true colors shine. Not only are they blocking the gentleman from Texas (Mr. STENHOLM), someone who spent his entire life fighting for the well-being of farmers and ranchers across this country, from offering his amendment, but now they are trying to make in order an inferior amendment that the Committee on Rules never heard testimony on.

The amendment will be offered by the gentleman from Texas (Mr. NEUGEBAUER). Not only does it provide less assistance than the Stenholm amendment, but it also cuts funding in the Farmland Conservation Program. The Neugebauer amendment literally robs Peter to pay Paul.

As is done here often, we are refusing to help those most in need. We have tried the bipartisan approach led by the chairman of the Committee on Appropriations, but the President said, no, thank you. We have tried the bipartisan approach in the Committee on Rules, but the Republican leadership said, We are just not interested.

When the Committee on Rules had the opportunity this morning to reject the President's "my way or the highway approach," it balked and folded.

I wish I could be more bipartisan, Mr. Speaker, especially on an issue as critically important to the welfare of all of our constituents in Florida as well as the Northeast. But they are making it difficult on the other side to be bipartisan. How is it that we got money to pass trillions in tax cuts to the wealthiest of Americans, but we do not have the money to help Americans recover from natural disasters of all kind.

Where is the compassion? But better yet, where is the outrage? I urge my colleagues to oppose this closed rule and do all that we know we can if we were to pass it to help those most in need. My constituents are depending on our vote. Please do not let them down.

Mr. Speaker, I reserve the balance of my time.

Mr. PUTNAM. Mr. Speaker, I certainly understand the passion of the gentleman from Florida (Mr. HASTINGS), and I will remind him that in addition to the $11 billion that is in this package, the President delivered $500 million in assistance to citrus, nursery, and fruit vegetable growers just 2 weeks ago in the aftermath of the first two storms. And as we gather data from these storms and whatever else the Atlantic sea may have in store for us, there will be additional assistance forthcoming.

Mr. Speaker, I yield 3 minutes to the gentleman from Florida (Mr. YOUNG), the distinguished chairman of the Committee on Appropriations.

Mr. YOUNG of Florida. Mr. Speaker, I thank my young colleague from Florida for yielding me the time. I want to congratulate him for having risen to the high level of being a member of the Committee on Rules, the newest member of the Committee on Rules. And I believe that his expertise and his talents will show through as he presents these rules from day to day. I look forward to working with the gentleman from Florida (Mr. PUTNAM) because in Florida he is a hero, and I think as Members get to know him as a member of the Committee on Rules, they will agree.

There is good news and bad news here today. The good news is Florida has not had a hurricane in the last 10 days. Now, that is a switch because we have become so accustomed to them. This delegation on a bipartisan basis has joined together to help the people of Florida recover from these tragedies.

The gentleman from Florida (Mr. PUTNAM) mentioned several of the problems that his part of the State has experienced. The gentleman from Florida (Mr. HASTINGS) has talked about other issues. So I wanted to mention to the membership that there are two bills today. This bill, H.R. 5212, is the one that we will call up under this rule. This bill, H.R. 5227, which I also introduced today, includes everything in H.R. 5212 plus $1.6 billion in additional funding that is required, and that we, as a delegation, have identified.

I just want you to know that I am going to do everything possible, everything that I can, to make sure that H.R. 5227 is the bill that goes to the President's desk and not H.R. 5212 because it is short.

Incidentally, for those who are concerned about the extra $1.6 billion, I have offset it. I have offset the entire $1.6 billion so, in fact, the top number is going to be the same in either bill. But H.R. 5227 covers a lot more of what has been promised to the people of Florida and neighboring states due to these terrible, terrible tragedies called Hurricane Charley and Hurricane Frances and Hurricane Ivan and Hurricane Jeanne and Tropical Storm Bonnie.

Not one section of the entire State of Florida escaped damage from one of these storms or maybe in some cases three of these storms. And so the Governor has made promises, the President has made promises to the people of Florida, and I am going to do everything that I can, despite any bureaucracy or despite any problems here in the Congress, to help the President of the United States deliver on his promises.

I will discuss this more in length as we get into the bill itself.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 5 minutes to the gentleman from Texas (Mr. STENHOLM), my good friend and a leader in this fight.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding me time.

I rise in strong opposition to this rule, and I urge Members to vote "no" on the previous question, and not because I disagree with the chairman of the Committee on Appropriations and his eloquent defense of the need for assistance for Florida. I support that. I do not know of anyone that does not support that.

But I rise to point out to my colleagues today that there should be an element of fairness associated with how we respond to the disaster in Florida.

The President called for crop loss assistance. His emergency legislation was not offset, what the President asked us to do. But unfortunately he only asked for victims of 2004 hurricanes and tropical storms.

Now, again, we all agree that we should help Florida. But, as Senator PAT ROBERTS said so eloquently, How on Earth can you provide disaster assistance to people who have suffered gravely over hurricanes and then deny assistance to people who have not had any rain for 3 years?

We have other disasters, and what I and 41 of my colleagues joined in cosponsoring a bill yesterday have said, let us treat all disasters fairly. Let us not for the first time in a long time differentiate between various kinds of disasters. Let us look at the disasters and let us fund them, as the President asked us to do.

Now, there will be an argument saying that we should offset the additional agricultural disasters. I ask my friends on both sides of the aisle who may lean towards that position, why? Why make a differentiation between a disaster in Nebraska and one in Florida or Pennsylvania when the farmer has been affected the same way?

To those who suggest that there is an easy offset by reopening the farm bill which we will hear in just a moment an amendment offered that reopens the farm bill not by what I say, but what 25 farm organizations are saying to us tonight and 15 conservation groups are saying for us to think long and hard before we undo the delicate balance that puts together the 2002 farm bill that the gentleman from Texas (Mr. COMBEST) and I and many of my colleagues still in this body worked so hard to put together.

Do not be deceived for one half second that if you get into the conservation title in paying for this disaster for other farmers, you are not reopening the farm bill because you are, not by what I say, but by what 25 farm organizations all around the country are saying. Be careful before we go there.

Now, to those that suggest there is some fiscal responsibility about this let me make it very clear. Whatever amount of money the President of the United States designates for disaster assistance, that is what we offered in our amendment. Whatever the President said. And if he says it is going to be less, then we will prorate it out to all farmers and disasters all over. That is the way we have always done things. We treat everyone fairly.

The bill before us and the proposed amendment does not treat everyone fairly.

I ask my colleagues, before you join in a move that reopens the farm bill, think it out twice because there will be repercussions that will affect producers, and there is going to be a lot of other needs that we are going to have to address.

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But once we begin to tear up the coalition that was put together when we stood on this floor and we made agreements with the conservation crowd, the environmental groups, we made deals.

This farm bill, the 2002 farm bill, we had a partnership. It was the greenest farm bill in the history that I have been here, in the history of this body, and now all of a sudden we have an amendment that is going to tear that coalition up, and folks are going to stand on this floor and say it is not going to have any effect on anything.

I urge my colleagues, the 14 of my friends on this side of the aisle that cosponsored the bill we introduced yesterday, stick with me on this one. We have got the votes to pass it; and it is my understanding I am not arguing differently what the chairman of the Committee on Appropriations, who made an offer some time last week to deal with this disaster within committee, and the leadership of the House chose not to accept it, and I am sorry they did not because we could have avoided a lot of this problem that we are about to get into.

So, again, in summation, how do we separate a disaster from Nebraska from a disaster from Pennsylvania from a disaster from Texas? Do not separate the two. Let us deal with it in one package. Oppose this rule. Particularly, vote "no" on the previous question.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

I appreciate the work the gentleman has done in agriculture, and I appreciate the gentleman's record in matters affecting the budget, which is why I draw to his attention the fact that we have improved upon this rule and will be providing for additional assistance beyond the Southeast, beyond the Carolinas, beyond Florida, to assist those affected farmers and ranchers and fully offset it, which is an important piece of fiscal responsibility.

What is so sacred, what is so sacrosanct about a farm bill that my colleague would hold it up so high that he would not use it to help farmers? Farmers in Florida, farmers in Georgia, farmers in the Carolinas, perhaps farmers who do not have access to the billions of dollars that are allocated in the farm bill on an annual basis; but farmers who have suffered from four separate hurricanes, many farmers who had the eye of three storms come over their field, pass over their ranch, we would say to them, we do not want to open the farm bill to help you because that is for other farmers?

The farm bill, as it is today, has a reserve because it has worked. I was on the committee. I voted for it. I supported it. It is a good package, but why would we let that package stand in the way of assistance to farmers? Is that not what the farm bill is for?

Is that not why we put all the effort and time and labor into it, to help people in need, to help farmers who are suffering? Ranchers who have had their fences devastated, their barns blown to the ground? Row crop farmers who have seen all of their plastic torn up? Citrus growers who have seen a sea of brown from Charley and yellow from Frances and green from Jeanne, where Mother Nature has color-coded the devastation that is their crop, that is on the ground rotting? We would say to them, we will not open it up?

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 3 minutes to the distinguished gentleman from Missouri (Mr. SKELTON), my good friend.

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding me time.

And let me first congratulate the gentleman from Florida (Mr. PUTNAM) for being assigned to the Committee on Rules. I am sure in days ahead we will see a lot of each other as we testify before the committee.

Mr. Speaker, I speak about agriculture disaster assistance. Let me commend at the outset the gentleman from Texas (Mr. STENHOLM) for introducing a disaster package in the House and for his tireless work on behalf of American agriculture. No one in this body does more for farmers than the gentleman from Texas (Mr. STENHOLM).

We are here today to discuss emergency funding for natural disasters. Fewer and fewer of us in this House represent rural areas. When natural disasters impact the people we are privileged to represent, we tend to band together across party lines to do what is right for those outstanding Americans, our farmers. This is especially true when it comes to those from rural areas.

That is why, Mr. Speaker, I must say I am disappointed that the Republican leaders in this House have decided to play politics with America's farmers. Rather than passing a stand-alone, emergency disaster bill for U.S. producers whose economic well-being has been turned upside down by extremely dry weather, Republicans have decided it would be better to slash funding for programs within the 2002 farm bill.

The gentleman from Texas' (Mr. STENHOLM) bill declared that the drought conditions facing our farmers were an emergency that they should be paid for, just like any other national emergency, through an emergency supplemental spending bill. Opening up the 2002 farm bill to pay for this assistance is wrong-headed and ends up hurting some farmers to help others. This political theater has no place in the House, and it does a disservice to the men and women who are in the fields right now all across our land harvesting the food that we eat.

Over the past several years, Missourians have experienced Mother Nature's fury. Tornadoes, flooding, and drought have plagued our State. Widespread drought has had the greatest impact on Missouri farms and on the rural communities that dot the countryside.

I come from the Show-Me State. It is high time that the Congress shows all American farmers that we are here to help them when disaster strikes.

Mr. PUTNAM. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE), the distinguished Chairman of the Committee on Agriculture, my former chairman and someone who is passionate about all of America's farmers and ranchers.

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman for yielding me time, and I rise in support of this rule.

I want to thank the Committee on Appropriations for their hard work, and I want to call the attention of my colleagues to the opportunity that we expect to have, the opportunity to put in place a way to provide the kind of assistance that America's farmers and ranchers need and deserve all across this country.

For weeks, we have been working on this problem, and we have come upon a solution, and a solution that will work. It is a solution that is very, very, very similar to one that this Congress joined together in a bipartisan fashion, across the aisle, to support just about 18 months ago to help farmers in the 2001-2002 disaster period. That was to take funds from a program that had funds available, took them off the back end of it and went ahead and paid it.

Now we find that this program has in it four-and-a-half times as much money as was in the program when the gentleman from Texas and my predecessor, the gentleman from Texas, Mr. COMBEST, wrote the farm bill and put money in for this new program; but after that work was done, others, apart from those here today, went in and took the cap off that program.

So, in addition to being able to meet the needs of farmers all across this country from Florida to Texas to Minnesota, we will have the opportunity to do the same thing. We will have the opportunity to pay for it, and we will have the opportunity to have money in that program in a greater amount than was in the program when we did this the last time. We will have the opportunity to put a cap on that program because I think those on the other side of the aisle would agree that the future of farm programs is very dependent on one program not being uncapped, not having the opportunity to spend these enormous amounts of money.

So I am pleased to join with the gentleman from Texas (Mr. NEUGEBAUER), who is going to have, if this rule is passed, the opportunity to offer an amendment to take care of this problem for every American and end this problem.

I would ask my colleagues on the other side of the aisle to join us in the same bipartisan effort that helped America's farmers and ranchers when we did this in the beginning of 2003 in a very, very similar circumstance with a very, very similar solution.

Mr. HASTINGS of Florida. Mr. Speaker, would the Chair tell us, please, how much time each side has remaining?

The SPEAKER pro tempore (Mr. SIMPSON). The gentleman from Florida (Mr. HASTINGS) has 16 minutes remaining. The gentleman from Florida (Mr. PUTNAM) has 13½ minutes remaining.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Wisconsin (Mr. OBEY), the distinguished ranking member of the Committee on Appropriations, my good friend.

Mr. OBEY. Mr. Speaker, I thank the gentleman for the time.

Mr. Speaker, it is too bad we are here under these conditions tonight, because the gentleman from Florida (Mr. YOUNG) tried to bring out a bill which would have met all of the problems all of the parts of the country face. Unfortunately, the gang that cannot shoot straight has called for other ways to deal with the problem, and so we are dealing with only half a bill.

I want to make one point: that I speak not as the ranking Democrat on the Committee on Appropriations, but simply as a Member of Congress from Wisconsin.

One of the deficiencies with this rule is that it does not allow for an amendment to extend the Milk Income Loss Contract program. Now, that program was authorized in the 2002 farm bill. It is currently scheduled to expire next year, while other commodity programs run through the end of the farm bill, September of 2007.

In my view, dairy farmers ought to be treated under the milk program in exactly the same way that farmers of other major commodities are treated under the farm bill. If Congress fails to extend the milk program through to the end of the farm bill, then dairy farmers across the country will be at a disadvantage when Congress prepares a new authorization in 2007. That is because, under existing budget rules, there will be no budget score for milk, and only the milk price program will appear in the budget baseline. That means the budget baseline for dairy price safety programs will be deceptively low, about $800 million below where it needs to be in order to ensure that dairy farmers are not treated less equitably than they are treated today.

I do not think this Congress ought to allow that to happen, but unfortunately, we are not going to be allowed to try to correct the problem by the rule which is being adopted tonight.

The gentleman from Florida (Mr. PUTNAM) I notice indicated that the farm bill ought to be used to help farmers. There is one way the Committee on Rules could have done it. They could have helped dairy farmers across the country, but they chose not to do so. I regret that, which is one of many reasons I will be voting against this rule.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

I am disappointed that the gentleman will be voting against the rule. I know his passion for America's farmers, and I know that farmers all across this land have been affected.

Perhaps it is the Floridian in me, but I would argue that this rule goes a long way towards those affected by some very substantial and unforeseen events, and the improvements that have been made would go a long way towards extending that beyond those areas affected by hurricanes. After neglecting those areas who have been dealing with a drought now for years. I know that the reservoirs are going dry.

I know that people are frustrated and they are concerned about what their livelihood will hold because of this drought issue, and frankly, that is why I think these improvements were put in there. I think it is a fiscally responsible approach to helping as many of America's farmers who have been stricken by these disasters as possible, and certainly, the dairy industry is one that has been impacted. It has been impacted in Florida when the power was lost for days at a time, and of course, America's modern agricultural system, if we cannot get power to these milking parlors, the cows go dry.

That is a legitimate problem, and we worked on a bipartisan basis as a delegation and, frankly, as a group of people who are concerned about the future of American agriculture to find ways to solve this disaster assistance problem.

Just as, 18 months ago, we were able to reach down into section 32 funds, which are traditionally designated for fruit and vegetables and marketing and nutrition programs, in providing drought assistance to the Midwest, we are similarly using an account to reach down into and provide assistance for farmers from Florida and Georgia and the Carolinas who are desperately in need.

Mr. Speaker, I reserve the balance of my time.

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Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Florida (Mr. BOYD).

Mr. BOYD. Mr. Speaker, I want to thank my friend, my colleague, the gentleman from Florida (Mr. HASTINGS), for yielding me this time.

Mr. Speaker, I want us all to take a deep breath and remind ourselves of what is taking place here. This country was hit with five major storms within the last couple of months. All five of those storms made original landfall in the State of Florida. That is the first time that has happened in over 100 years. It is catastrophic in Florida and in other parts of the southeastern United States, actually, outside the southeastern United States.

We have an excellent emergency management agency in this country, in FEMA, and we get nothing but good remarks from everybody who has been hit by these storms about FEMA, and everyone has done a good job of keeping money in the FEMA pipeline. We have been able to do that under the leadership of the gentleman from Florida (Mr. YOUNG), who heads the Committee on Appropriations.

Mr. Speaker, I want to make sure I am speaking against this rule that is being brought to us under the leadership of the Committee on Rules and my colleague, the gentleman from Florida (Mr. PUTNAM), today. I am speaking against it because after those five storms that hit America, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) directed their staffs, under the leadership, and went out and did a lot of work to find out from the State, from the local governments, from the Federal agencies, the Department of Defense, the Department of Transportation, all those areas which would be affected by the storms, what the needs were, what the Federal requirements were, what those needs were as a result of those storms. That report was compiled, brought back to Congress and put in the form of a bill and actually taken down to the White House for their blessing.

During that compilation, the gentleman from Florida (Mr. YOUNG), myself, and the gentleman from Florida (Mr. MILLER) visited Pensacola Naval Air Station, where Ivan hit and completely obliterated Pensacola Beach and Perdido Key, and did major damage to one of our defense installations there. The White House turned down the committee request for the emergency bill and said they would only accept the proposal that they had brought forward, which was about $2 billion short.

So when the Committee on Rules met yesterday, I went and asked the Committee on Rules to allow us to introduce as an amendment, the bill the gentleman from Florida (Mr. YOUNG) held in his hands a few minutes ago when he made his presentation. I think that bill certainly more adequately reflects the needs of this Nation in response to these hurricanes, but I want to tell you the differences in those two bills.

There is $486 million more for agriculture producers and processors, and that is not just in Florida. There is $486 million in Ag, $455 million for defense, $750 million for transportation. We all saw pictures of I-10. So, Mr. Speaker, I hope we will defeat the rule.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I have enjoyed certainly a very close working relationship with both of these gentlemen from Florida as we have tried to do everything we can to bring in the appropriate amount of relief for a State that is hurting. There have been heroic efforts in the State of Florida bringing the I-10 bridge back on line in a matter of days and bringing, internally, administrative relief to agriculture and those issues affected early on.

I would just say, Mr. Speaker, that it is important that we keep in mind that this is a process. As we reach the end of this congressional session, there has been a rush to pull together the adequate, the accurate and adequate damage numbers, and that is difficult to do. It is difficult to pull together the data on transportation needs. It is particularly difficult to pull together the data on agricultural needs when they are still mounting.

I would say that, 6 months from now, we will still be dealing with damages that are presenting themselves that came about as a result of the hurricanes. So for the other side to say that they would reject all of the relief for lack of marginally additional relief seems a little bit foolhardy, adding to the fact that we are to be accused of ignoring the Midwestern States when we have a proposal to do just that, to expand the relief beyond those hurricane stricken States and take care of those who have been dealing with drought.

I think we are delivering, in a number of ways, and frankly, from all of our working relationships with the chairman of the Committee on Appropriations, there is a high level of confidence that those issues will be taken care of in conference and through his additional legislation that he is filing.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Pennsylvania (Mr. DOYLE).

Mr. DOYLE. Mr. Speaker, I rise today in strong opposition to this rule. Two weeks ago, heavy rains from hurricane Ivan inundated my district in southwestern Pennsylvania, and many communities across Pennsylvania experienced disastrous flooding and mudslides.

This was no typical storm, Mr. Speaker. It has been estimated this was a 100-year rain, perhaps a 500-year rain, one that we will never see again in western Pennsylvania. And the damage inflicted went far beyond the federally determined floodplain. It devastated homes and businesses that were not expected to buy flood insurance.

Several of the worst hit communities were, Etna, Millvale, Sharpsburg, Carnegie and small communities along the Allegheny River. As soon as the flooding subsided, I toured the communities affected by the flooding and met with the owners of many small businesses that had been damaged.

Jane Moran got walloped by Ivan twice. Her 7-Eleven store in Etna was severely damaged, and her home nearby was damaged so badly it has been condemned. Her husband and three sons all had to move into a one-bedroom apartment with her daughter and boyfriend and, until recently, were wearing borrowed clothes.

In Millvale, 8 feet of water from Girty's Run flooded many of that municipality's businesses; 190 of the 230 businesses in Millvale suffered damage. The flood waters caused $400,000 in damage to Jerry Kitman's furniture store. His wife Judy's business, Lasting Memories floral shop, was also completely destroyed.

Ed and Arleen Carr, the owners of Yetters Candy Store, a family business that had been in operation 75 years, saw all of their equipment and supplies completely destroyed.

Grant Street Diner and Catering, a family-owned business, was completely destroyed, and 5,000 pounds of food were ruined.

Mr. Speaker, I say this to you because these people are the embodiment of the American Dream. They worked hard and invested every penny in their businesses and they need help now. President Bush was in my district on September 23, and he told these people, we understand the Federal Government has an obligation to help, and we will.

Well, Mr. Speaker, we need your help, and what we do not need are loans. That is all that are available to these businesses right now. These mom-and-pop shops are already loaned up to their eyeballs, and they do not need another loan. What they need is a grant.

Last night, we went to the Committee on Rules and asked for a one-time grant of up to $250,000 for these small businesses in these areas that were not in Federal flood zones and, through no fault of their own, find their businesses gone. If we do not give these businesses grants, they are not coming back, and the communities they sit in are not coming back.

What do we tell these folks? Do we tell them we have $20 billion to rebuild schools and businesses and infrastructure in Iraq, but when it comes to American taxpayers they have to take loans? Mr. Speaker, we can do better than that. We have supported all disaster relief for Florida, for our friends on the west coast that have fires and earthquakes. People in Pennsylvania need some help. Mom-and-pop businesses are the backbone of this country, and they are asking for our help tonight.

I ask that we defeat this rule so that we can go back to the drawing board and put an amendment in there that will allow grants to small businesses so that we can restore these people's businesses and the American dream. I ask all my colleagues to support defeating this rule.

Mr. PUTNAM. Mr. Speaker, I yield 2½ minutes to the gentleman from Nebraska (Mr. OSBORNE), a tireless advocate for disaster relief and for drought relief.

Mr. OSBORNE. Mr. Speaker, I thank the gentleman for yielding me this time.

My colleagues, this is what the drought map looked like the early part of the summer. Unfortunately, that is about what the drought map has looked like for 5 years. There have been minor changes here and there, but many climatologists have said this is a 500-year drought. It is not one that is every 30 or 40, but a 500-year drought. In many cases, it has been worse than what we encountered in the 1930s.

So what we find now is that almost all of the reservoirs in this part of the country are down to 15, 20, 25 percent full, and many will be empty next year. So irrigators as well as dry land people are paying the price.

Mr. Speaker, this has been a monumental problem and a 1-year drought is bad, but when you have 5 years, the amount of crop insurance you can buy goes down each year. So as a result, crop insurance does not do it. People have lost equity each year now for 5 years, and ranchers have not had pastures. Therefore, they have had to sell their breeding herds, and as a result, many of them are in pretty desperate shape.

So it seems that nobody likes drought relief. Many people say that it is not a natural disaster. But it is as much a natural disaster as any other. You cannot stop it. You cannot predict it. It is like a hurricane, a flood or whatever.

I would prefer that we do not have any offsets. I have great admiration for the gentleman from Texas (Mr. STENHOLM) and the way he has tried to approach this. But I have made enough phone calls and done enough talking around here to realize this is the only way we are going to get it done.

So we greatly appreciate the fact that the gentleman from Texas (Mr. NEUGEBAUER) has made an effort here. The chairman of the Committee on Agriculture has done a good job here, and so we do have a possibility now to get $3 billion out of the conservation and security program.

It appears to me this is the only workable solution we have. It may not be the perfect, but it is the workable, and therefore, I recommend that we support this rule, and we support this amendment.

Mr. Speaker, I would like to thank both gentlemen from Texas for their work in this regard as well as the chairman.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 3 minutes to the gentleman from North Dakota (Mr. POMEROY).

Mr. POMEROY. Mr. Speaker, I thank the gentleman for yielding me this time. I have such high regard for my preceding speaker, the gentleman from Nebraska (Mr. OSBORNE). He has done a great deal to advance the cause of disaster response from this Congress. But I believe he is incorrect in concluding that, what is before us in the so-called Neugebauer amendment or nothing.

If rural Republicans would hang with the Democratic Members of this chamber, we would, in bipartisan fashion, reject any other approach that did not have the Senate-type approach upon giving disaster relief without cannibalizing the farm bill. We could do it. We could do it. We do not need that many. If rural Members would stand up for their farmers and reject this cockeyed notion we ought to cannibalize the farm bill to get help to farmers now, we could, in bipartisan fashion, pass exactly what the Senate passed.

That is why the Committee on Rules did not make it in order. They know we would win. It would sure be nice to have a democracy actually have a chance in the House once in a while. This Senate passed a disaster response. Why are we not at least allowed a vote as to whether this might be the will of what the House would work? Instead, they have advanced a very different proposal. While it does offer desperately-needed disaster relief to farmers, it takes the wrong approach.

We would not even be here without the work of the gentleman from Texas (Mr. STENHOLM), ranking member on the Committee on Agriculture. By introducing his legislation, by getting 40-some other sponsors of both parties behind it, he forced an issue that has created the need of the majority to put forward this response, but the shape of their response is most regrettable. It requires dollar-for-dollar reduction out of the farm bill, taking down that conservation program.

And if my colleagues do not think that the smell of politics is not swirling around this chamber right now, after virtually being nowhere to be seen on this disaster issue, they drum up the gentleman from Texas (Mr. NEUGEBAUER), the opponent of the gentleman from Texas (Mr. STENHOLM), and have him sponsor this ill-advised alternative.

I am kind of surprised the gentleman from Texas (Mr. NEUGEBAUER) took them up on their little offer. It is opposed by virtually every agriculture coalition: American Corn Growers, American Farm Bureau, National Cotton Council. You see, they understand that it is just wrong for farmers to have to give up their farm bill, give up the protection that the farm bill offers in order to get the disaster response they need.

I thought the gentleman from Florida (Mr. PUTNAM) offered an interesting rhetorical question: Why not use the farm bill to help farmers? Well, why should we have to reduce the farm bill's ability to help farmers in order to have it as an offset for this disaster bill? In the farm bill, we are coming in so far under what was projected; there is plenty of budget savings there. It was projected to have cost us $50 billion by now.

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But because of the price-support nature of the thing, it has only cost us $35 billion.

There is savings in the farm bill without cannibalizing the farm bill. Reject this bill. Let us vote on the Senate approach.

Mr. PUTNAM. Mr. Speaker, I yield myself such time as I may consume.

The gentleman will have the opportunity to vote for $600 million in agricultural assistance, and the gentleman will have an opportunity to vote for drought relief.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I am pleased to yield 2 minutes to the gentlewoman from South Dakota (Ms. HERSETH), an outstanding new Member of the House of Representatives.

Ms. HERSETH. Mr. Speaker, I rise this evening in opposition to this proposed rule. I begin by saying that I fully support the emergency spending that is contained in H.R. 5212. The people of Florida and throughout the Southeast deserve the assistance contained in that bill. The reason for my strong opposition to the rule is simple. It does not treat all disasters equally, and thereby it does not treat all deserving Americans equally.

The recent hurricanes are catastrophic weather events. They certainly do constitute emergencies, and the losses sustained should be compensated as such. However, droughts are catastrophic weather events as well, as my distinguished colleague from Nebraska pointed out. The only difference being, they are not as visually striking. They ease in gradually over the course of weeks and months and even years. They do not have names. They do not rip roofs off the buildings. They do not make good TV and, therefore, breaking-news coverage. None of the major news networks has sent reporters to Faith, South Dakota, to cover the ongoing drought.

But that does not make drought any less devastating both financially and emotionally for the people that are affected. I oppose the Neugebauer amendment to this rule because it helps suffering farmers by raiding farm programs, programs that may not be favored by some but programs that as negotiated in 2002 are an important part of our national farm policy. The Neugebauer amendment would rob Peter to pay Paul, and I oppose it.

This rule should be rejected so that we can offer a fair amendment to the legislation, the proposal by my distinguished colleague from Texas (Mr. STENHOLM) that enjoys bipartisan support. I have cosponsored this legislation because I believe that it takes the correct approach, the fair approach. It would treat all weather-related disasters equally. I urge my colleagues to defeat this rule and to support the Stenholm alternative.

Beyond these prepared comments, I must say that those in South Dakota whose livelihoods depend in large measure on the weather, that are involved in farming and ranching, are sick and tired of politics being played with this important issue. They deserve better. They deserve equal treatment. They deserve emergency disaster assistance.

Mr. PUTNAM. Mr. Speaker, I yield 2 minutes to the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Speaker, really what we are here tonight about is farmers and ranchers. The farmers and ranchers do not want us to have to be here tonight. They did not ask for these droughts. They did not ask for these disasters. But, in fact, they experienced them just like the people in Florida did, and it affects farming and ranching families all across America.

Several of my colleagues have gotten up and spoken about the tremendous impact it has had on those families and those economies. What we are talking about tonight is about doing something in this House for those farmers and ranchers. I rise today in support of the rule because it is going to help them. This is not something that is new, that was invented this evening. This is something that was done for the 2001 and 2002 disaster relief program, and it was taken out of this very same program in the 2003 bill. So we are not reinventing the wheel. We are trying to come up tonight in this House and say to the American families that make their living in farming and ranching across America, We care about you. We are trying to help you just like we did in 2001 and 2002.

One of the reasons that I introduced a new risk management crop insurance tool was to take our farm families away from having to depend on the will of the United States Congress when they have these kinds of disasters because currently a lot of our risk management tools, our crop insurance products, are not adequate to cover these losses, and so they have to come back to this Congress and say, Would you please help us.

What we need to do is to help them tonight and pass this rule.

Mr. HASTINGS of Florida. Mr. Speaker, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM). When my colleague from Florida was speaking, he tried to get his attention. I do not know whether he wanted to have a colloquy or whether he wanted to make a statement.

Mr. STENHOLM. Mr. Speaker, I was going to ask the gentleman from Florida a simple question. When we are talking about offsets, the President did not request offsets. The bill before us today, the President's request, did not require offsets for the Florida disasters. I just think making a differentiation between disasters in Nebraska and South Dakota and Texas from those disasters in Florida, which I concur are very serious and should be addressed, but it really makes no real sense for us to set a precedent of deciding some disasters are worse than others.

You were making that point. I just wanted to say, we are not arguing that point. We are saying a disaster is a disaster, and the President in his request to this body did not require offsets of the disasters which you are defending and supporting, which I concur with you. What I do not understand is why the leadership on your side has suddenly decided we want a separate rule for other disasters. That makes no sense.

Mr. PUTNAM. Mr. Speaker, I yield 2½ minutes to the gentlewoman from Brooksville, Florida (Ms. GINNY BROWN-WAITE).

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today to express my support both for the rule and for the basic bill, H.R. 5212. Since the early weeks of August, Florida has been ravaged by an unprecedented four hurricanes. I represent northern Polk County, and the gentleman from Florida (Mr. PUTNAM) represents southern Polk County. He has some cities in his district that have been hit by all four storms, whether they came in from the east coast or the west coast. Those areas were the most hard hit. My constituents were harmed, too, but nowhere near the harm that occurred, certainly in the panhandle and in the area of the gentleman from Florida (Mr. PUTNAM).

Hurricanes Charley, Ivan, Frances, and Jeanne greeted the Sunshine State with a voracity and viciousness that has brought destruction and despair to nearly every resident. The aftermath of these storms has left Floridians very weary. Floridians face a very dire situation. There is much damage to be repaired and the road to normalcy seems long and tiring. We must answer the needs of Florida and other States hit by the hurricanes and provide the necessary relief. We should not forget our commitment to our constituents. Today, by voting for the rule and for H.R. 5212, Congress has that opportunity to bring a little light back to the Sunshine State.

This resolution provides for the assistance that these States, including Florida, need. The Florida delegation and I have worked very closely to ensure that the trials and tribulations of Florida's residents are known by the rest of the Nation and that they are not forgotten in the bubble of the Beltway. Through a special order, my distinguished colleagues and I have worked to ensure that the needs of Florida are known and that residents' pleas for assistance are heard, respected, and, yes, answered.

In the early weeks after the initial hurricanes came ashore, the gentleman from Florida (Mr. YOUNG) certainly stepped forward, and we worked to provide a $2 billion supplemental appropriation. Once again, we are grateful to the gentleman from Florida (Mr. YOUNG) for this additional appropriation which will help to get on the road to recovery, not just for Florida but for other States affected by the hurricanes.

Mr. HASTINGS of Florida. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I urge Members to vote "no" on the previous question. Disasters know no boundaries, and they certainly know no political affiliation. But what we have created here is a system that pits disaster against disaster and States against States and that just is not right.

Mr. Speaker, I urge Members to vote "no" on the previous question. If the previous question is defeated, I will offer an amendment to the rule that will make in order an amendment by the gentleman from Texas (Mr. STENHOLM) that would add language to the bill to provide nationwide crop loss disaster assistance for weather-related losses for the last two crop years. This would help our Nation's farmers who have been hit so hard by not only hurricanes but by terrible droughts in the West and Midwest and by freezing weather in the North.

Mr. Speaker, I urge Members on both sides of the aisle to vote "no" on the previous question. A "no" vote will not stop the House from taking up the emergency supplemental appropriations bill. However, a "yes" vote will prevent the House from considering the Stenholm amendment and providing the help that is desperately needed by our farmers.

Mr. Speaker, I ask unanimous consent to insert the text of the amendment immediately prior to the vote on the previous question.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. HASTINGS of Florida. Mr. Speaker, it is ironic. We cannot provide the assistance we need to provide here tonight when by a minuscule comparison of funds, this is just a little more than 1 percent of what we are spending in Baghdad.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. PUTNAM

Mr. PUTNAM. Mr. Speaker, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. PUTNAM:

Strike all after the resolved clause and insert:

That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 5212) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to storm damage, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations. After general debate the bill shall be considered for amendment under the five-minute rule. The bill shall be considered as read. No amendment to the bill shall be in order except the amendment printed in the report of the Committee on Rules accompanying this resolution and the amendment numbered 2 for printing in the Congressional Record pursuant to clause 8 of rule XVIII. Each such amendment may be offered by the Member designated in the report or the Member who submitted it for printing in the Congressional Record, shall be considered as read, shall be debatable for twenty minutes equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

PARLIAMENTARY INQUIRY

Mr. STENHOLM. I have a parliamentary inquiry, Mr. Speaker.

The SPEAKER pro tempore. The gentleman may inquire.

Mr. STENHOLM. Am I to understand that we now have an amendment to the rule that we were considering and does this amendment also provide for 1 hour of debate as to the nature of the amendment?

The SPEAKER pro tempore. The amendment offered by the gentleman from Florida is currently pending. The gentleman from Florida is entitled to 1 hour of debate.

Mr. STENHOLM. The gentleman from Florida is entitled to 1 hour of debate and anyone who might be in opposition is entitled to no time for discussion of the amendment?

The SPEAKER pro tempore. The gentleman from Florida remains the manager of the amendment and will be recognized for debate on his motion but may move the previous question.

Mr. STENHOLM. Further requesting or asking for a parliamentary inquiry so that I and my colleagues might further understand this most unusual procedure that we are going through tonight. I do not recall a situation like this. There is 1 hour of debate, but it is controlled by the majority who have the right to offer an amendment to the rule under the rule that we were just debating?

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The SPEAKER pro tempore (Mr. SIMPSON). The manager of the resolution may do so.

Mr. STENHOLM. Mr. Speaker, if the majority should so choose to move the previous question on it without further discussion, they have every right to do so?

The SPEAKER pro tempore. That is correct.

Mr. STENHOLM. Mr. Speaker, I thank the Chair for his explanation.

Mr. PUTNAM. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, as one can tell, I drew a hot one from my inaugural first rule. But I cannot think of a better group of colleagues to work on this with than the gentleman from Florida (Mr. HASTINGS); the gentleman from Florida (Mr. BOYD); and the gentleman from Florida (Mr. YOUNG), certainly our senior delegation member.

This Emergency Supplemental Appropriation is so vitally important to rebuilding the infrastructure, the economies, and the communities of the hurricane-damaged areas throughout the Southeast, and now, with the amendment, those communities of the Midwest and far West who have suffered so greatly under the drought. I urge my colleagues to support this rule.

The material previously referred to by Mr. HASTINGS of Florida is as follows:

PREVIOUS QUESTION FOR H. RES. 819—RULE ON H.R. 5212 EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR DISASTER RELIEF ACT FOR FY05

Strike all after the resolved clause and insert:

Resolved, That upon the adoption of this resolution it shall be in order without intervention of any point of order to consider in the House the bill (H.R. 5212) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to storm damage, and for other purposes. The bill shall be considered as read for amendment. The previous question shall be considered as ordered on the bill and on any amendment thereto to final passage without intervening motion except: (1) one hour of debate on the bill equally divided and controlled by the chairman and ranking minority member of the Committee on Appropriations; (2) the amendment printed in Section 2 of the resolution, if offered by Representative Stenholm of Texas or his designee, which shall be in order without intervention of any point of order or demand for division of the question, shall be considered as read, and shall be separately debatable for 30 minutes equally divided and controlled by the proponent and an opponent; and (3) one motion to recommit with or without instructions.

SEC. 2.

The amendment referred to in the resolution is as follows:

AMENDMENT TO H.R.
SUPPLEMENTAL APPROPRIATIONS BILL
OFFERED BY MR. STENHOLM

Add at the appropriate place the following new title:

TITLE ___

SEC. ___. CROP DISASTER ASSISTANCE.

(a) DEFINITIONS.—In this section:

(1) ADDITIONAL COVERAGE.—The term "additional coverage" has the meaning given the term in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)).

(2) INSURABLE COMMODITY.—The term "insurable commodity" means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(3) NONINSURABLE COMMODITY.—The term "noninsurable commodity" means an eligible crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(b) EMERGENCY FINANCIAL ASSISTANCE.—Notwithstanding section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)), the Secretary of Agriculture (referred to in this title as the "Secretary") shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this section available to producers on a farm that have incurred qualifying crop or quality losses for the 2003 or 2004 crop (as elected by a producer), but not both, due to damaging weather or related condition, as determined by the Secretary.

(c) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(d) REDUCTION IN PAYMENTS.—The amount of assistance that a producer would otherwise receive for a qualifying crop or quality loss under this section shall be reduced by the amount of assistance that the producer receives under the crop loss assistance program announced by the Secretary on August 27, 2004.

(e) INELIGIBILITY FOR ASSISTANCE.—Except as provided in subsection (f), the producers on a farm shall not be eligible for assistance under this section with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(1) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses; and

(2) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses.

(f) CONTRACT WAIVER.—The Secretary may waive subsection (e) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—

(1) in the case of an insurable commodity, to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) providing additional coverage for the insurable commodity for each of the next 2 crops; and

(2) in the case of a noninsurable commodity, to file the required paperwork and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity for each of the next 2 crops under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(g) EFFECT OF VIOLATION.—In the event of the violation of a contract under subsection (f) by a producer, the producer shall reimburse the Secretary for the full amount of the assistance provided to the producer under this section.

SEC. . LIVESTOCK ASSISTANCE PROGRAM.

(a) IN GENERAL.—The Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2003 or 2004 losses (as elected by a producer), but not both, in a county that has received an emergency designation by the President or the Secretary after January 1, 2003, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(b) ADMINISTRATION.—The Secretary shall make assistance available under this section in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(c) MITIGATION.—In determining the eligibility for or amount of payments for which a producer is eligible under the livestock assistance program, the Secretary shall not penalize a producer that takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

SEC. . TREE ASSISTANCE PROGRAM.

The Secretary shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide assistance under the tree assistance program established under subtitle C of title X of the Farm Security and Rural Investment Act of 2002 to producers who suffered tree losses during the winter of 2003 through 2004.

SEC. . COMMODITY CREDIT CORPORATION.

The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this title.

SEC. . REGULATIONS.

(a) IN GENERAL.—The Secretary may promulgate such regulations as are necessary to implement this title.

(b) PROCEDURE.—The promulgation of the regulations and administration of this title shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) CONGRESSIONAL REVIEW OF AGENCY RULEMAKING.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

SEC. . EMERGENCY DESIGNATION.

Amounts appropriated or otherwise made available in this title are each designated as an emergency requirement pursuant to section 402 of S. Con. Res. 95 (108th Congress), as made applicable to the House of Representatives by H. Res. 649 (108th Congress) and applicable to the Senate by section 14007 of the Department of Defense Appropriations Act, 2005 (Public Law 108-287; 118 Stat. 1014). However, such amounts shall be available only to the extent that an official budget request, that includes designation of the entire amount of the request as an emergency requirement, is transmitted by the President to the Congress.

Mr. PUTNAM. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the amendment in the nature of a substitute and on the resolution.

The SPEAKER pro tempore. The question is on ordering the previous question.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Florida. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 9 of rule XX, this 15-minute vote on ordering the previous question will be followed by 5-minute votes on the amendment offered by the gentleman from Florida (Mr. PUTNAM), if ordered, and on the adoption of the resolution, if ordered.

The vote was taken by electronic device, and there were—yeas 216, nays 186, not voting 30, as follows:

[Roll No. 499]

YEAS—216

Aderholt
Akin
Alexander
Bachus
Baker
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole
Collins
Crane
Crenshaw
Cubin
Culberson
Cunningham
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Dreier
Duncan
Dunn
Ehlers
Emerson
English
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Fossella
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Goode
Goodlatte
Granger
Graves
Green (WI)
Greenwood
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Isakson
Issa
Istook
Jenkins
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas (OK)
Manzullo
McCotter
McCrery
McHugh
McInnis
McKeon
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Ose
Otter
Oxley
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Portman
Pryce (OH)
Putnam
Quinn
Radanovich
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schrock
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Smith (MI)
Smith (NJ)
Smith (TX)
Souder
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Toomey
Turner (OH)
Upton
Vitter
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)
Young (FL)

NAYS—186

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Becerra
Bell
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boswell
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Case
Chandler
Clyburn
Conyers
Cooper
Costello
Cramer
Crowley
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Deutsch
Dicks
Dingell
Doggett
Dooley (CA)
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Frost
Gonzalez
Gordon
Green (TX)
Grijalva
Gutierrez
Hastings (FL)
Herseth
Hill
Hinchey
Holden
Holt
Honda
Hooley (OR)
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick
Kind
Kucinich
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren
Lowey
Lucas (KY)
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McDermott
McGovern
McIntyre
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Rodriguez
Ross
Rothman
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sanchez, Loretta
Sanders
Sandlin
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sherman
Skelton
Smith (WA)
Snyder
Solis
Spratt
Stark
Stenholm
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Waters
Watson
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—30

Boehlert
Carson (OK)
Clay
Cox
DeMint
Gephardt
Harman
Hinojosa
Hoeffel
Houghton
Jefferson
John
Jones (OH)
Kingston
Kleczka
Majette
Millender-McDonald
Neal (MA)
Nethercutt
Norwood
Paul
Pelosi
Ruppersberger
Sánchez, Linda T.
Simpson
Slaughter
Tauzin
Towns
Watt
Waxman

□ 1954

Mr. LEWIS of Georgia and Mr. RANGEL changed their vote from "yea" to "nay."

So the previous question was ordered.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore (Mr. SIMPSON). The question is on the amendment in the nature of a substitute offered by the gentleman from Florida (Mr. PUTNAM).

The amendment in the nature of a substitute was agreed to.

The resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YOUNG of Florida. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5212 and that I may include tabular material on the same.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR HURRICANE DISASTERS ASSISTANCE ACT, 2005

The SPEAKER pro tempore. Pursuant to House Resolution 819 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 5212.

□ 1955

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 5212) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to storm damage, and for other purposes, with Mr. GILLMOR in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered as having been read the first time.

Under the rule, the gentleman from Florida (Mr. YOUNG) and the gentleman from Wisconsin (Mr. OBEY) each will control 30 minutes.

The Chair recognizes the gentleman from Florida (Mr. YOUNG).

Mr. YOUNG of Florida. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 5212 is a bill to further respond to the devastation brought upon the State of Florida and other neighboring States by Hurricane Charley, Hurricane Frances, Hurricane Ivan, Hurricane Jeanne, and Tropical Storm Bonnie, more adverse weather than a State has seen in hundreds of years.

This is the second supplemental that the House will consider. The first supplemental was introduced on September 7, the day we reconvened. We passed that bill on September 7, the other body deemed it passed on September 7, and it arrived at the President's desk just in time to make sure that the cash flow to the needy folks in Florida would not be disrupted.

We are now reaching a similar situation. The FEMA funds are about to run out once again, and this bill will provide additional funds for FEMA and other disaster recovery and relief efforts.

I want the Members to know how I feel about this bill. This is a good bill, as far as it goes. There is nothing political in this bill, at least not yet. There are no special projects for any Member. We resisted all attempts to add to this supplemental. So this really gets to the point of recovery from five major storms.

I have lived in Florida for 58 years. I have seen the devastation of hurricanes and tornadoes. They go together. Hurricanes are large storms and hurricanes spawn tornadoes.

I have seen homes totally destroyed. I have seen mobile home parks obliterated, gone. I have seen major buildings with their roofs gone. I have seen infrastructure for cities and counties destroyed. I have seen highways, believe it or not, that have been totally destroyed, with large chunks of asphalt just lying around like parts of a jigsaw puzzle waiting to be put together. But you cannot just put them back together. You have to rebuild them.

Last week, the gentleman from Florida (Mr. BOYD) and I went to Florida to Pensacola, to the Naval Air Station; and there we were met by the gentleman from Florida (Mr. MILLER), and we reviewed some tremendous, very costly damage created by the hurricanes.

There is a lot more to be said about the tremendous pressure of living through a hurricane, and I have lived through a number of hurricanes. These five storms that I have talked about, have affected every section of Florida, and in some cases three of the storms have hit the same section.

□ 2000

Governor Jeb Bush became the manager of the recovery effort, and he has done an outstanding job. He managed the recovery effort on the part of the State. He coordinated the counties, and he coordinated the cities and all of the relief agencies that have been there to help out the people that really needed help.

President Bush visited the State five times, and visited the hurricane sites and viewed for himself the disaster and visited with the people. He handed out bags of ice and bottles of water. He did a good job, and he made commitments and promises to the people of Florida. It is my intention, Mr. Chairman, to make sure that no one stands in the way of following through on those promises that President Bush made to the people of Florida.

Mr. Chairman, the bill that we take up today meets a lot of these promises, but it does not meet them all. There is another bill that I introduced today, H.R. 5227, that does include, in fact, the promises that President Bush made to the people of Florida. And, the additional funds that we have included in H.R. 5227, over and above the President's request of approximately $11 billion, we have offset. We have offset $1.6 billion that we would have added to the President's request. We are not permitted to bring this bill up today, but I will tell my colleagues, and I will tell anyone willing to listen on either side of the aisle; this hurricane relief has been very bipartisan, and I appreciate all of the support that Members have given us; and this Chairman is going to do everything possible to see this bill enacted into law because it meets the real requirements of recovery efforts in the great State of Florida. It is not the bill that we are considering today, but we are going to do everything possible to make sure that it ends up on the President's desk.

The gentleman from Florida (Mr. BOYD) would have offered an amendment that would have increased H.R. 5212 by $1.6 billion, and that is what this second bill (H.R. 5227) does, it increases the bill by $1.6 billion. He and I traveled together to many parts of Florida; we visited and we saw for ourselves what the damages were and what the recovery effort was going to take.

So we will do our very best to make sure that the promises that the President made to the people of Florida will not be stymied by some bureaucracy or some group of people who might not want us to move this legislation. But one way or another, we are going to move it.

Mr. Chairman, a lot of Members wish to be heard on this issue, especially Florida Members, so at this point I reserve the balance of my time.

Emergency Supplemental Appropriations (H.R. 5212)
(Amounts in thousands)

	FY 2004 Request	Recommended in the Bill	Bill vs. Request
DEPARTMENT OF AGRICULTURE			
Forest Service			
National forest system (emergency)	2,000	2,000	---
Capital improvement and maintenance (emergency)	33,000	33,000	---
General Provisions			
Emergency Watershed Protection Program/Emergency Conservation Program (emergency)	230,000	230,000	---
Section 32 transfer (emergency)	90,000	90,000	---
Producer assistance (emergency) /1	265,000	265,000	---
Total, DEPARTMENT OF AGRICULTURE: New (budget obligational) authority	620,000	620,000	---
1/ Amounts requested are for FY 2005			
DEPARTMENT OF COMMERCE			
National Oceanic and Atmospheric Administration			
Operations, research, and facilities (emergency)	7,900	7,900	---
Procurement, acquisition and construction (emergency)	6,800	6,800	---
Total, DEPARTMENT OF COMMERCE: New (budget obligational) authority	14,700	14,700	---
DEPARTMENT OF DEFENSE			
Military Personnel			
Military personnel, Navy (emergency)	1,000	1,000	---
Military personnel, Air Force (emergency)	13,225	13,225	---
Operation and Maintenance			
Operation and maintenance, Army (emergency)	2,844	2,844	---
Operation and maintenance, Navy (emergency)	404,591	404,591	---
Operation and maintenance, Air Force (emergency)	128,672	128,672	---
Operation and maintenance, defense-wide (emergency)	172,506	172,506	---
Operation and maintenance, Army Reserve (emergency)	1,442	1,442	---
Operation and maintenance, Navy Reserve (emergency)	399	399	---
Operations and maintenance, Army National Guard (emergency)	3,350	3,350	---
Operations and maintenance, Air National Guard (emergency)	1,085	1,085	---
Total, Operation and Maintenance	714,889	714,889	---
Other Department of Defense Programs			
Defense health program (emergency)	10,286	10,286	---
Procurement			
Other procurement, Air Force (emergency)	2,500	2,500	---
Procurement, defense-wide (emergency)	102,500	102,500	---
Military Construction			
Military Construction, Navy (emergency)	138,800	138,800	---
Military Construction, Army Reserve (emergency)	8,700	8,700	---
Base realignment and closure account (emergency)	50	50	---

Emergency Supplemental Appropriations (H.R. 5212)
(Amounts in thousands)

	FY 2004 Request	Recommended in the Bill	Bill vs. Request
Family Housing			
Family housing, operation and maintenance, Army (emergency)	313	313	---
Family housing, operation and maintenance, Navy and Marine Corps (emergency)	3,276	3,276	---
Family housing, operation and maintenance, Air Force (emergency)	5,600	5,600	---
Total, Family Housing	9,189	9,189	---
Revolving and Management Funds			
Working Capital Fund, Defense-Wide (emergency)	77,000	77,000	---
General Provisions			
General transfer authority (Sec. 201) (emergency)	(210,000)	(210,000)	---
Total, DEPARTMENT OF DEFENSE: New (budget obligational) authority	1,078,139	1,078,139	---
DEPARTMENT OF HEALTH AND HUMAN SERVICES			
Departmental Management			
Public health and social services emergency fund (emergency)	50,000	50,000	---
DEPARTMENT OF HOMELAND SECURITY			
Security, Enforcement, and Investigations			
United States Coast Guard			
Operating expenses (emergency)	26,000	26,000	---
Preparedness and Recovery			
Emergency Preparedness and Response			
Disaster relief (emergency)	6,500,000	6,500,000	---
Total, DEPARTMENT OF HOMELAND SECURITY: New (budget obligational) authority	6,526,000	6,526,000	---
DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT			
Community Planning and Development			
Community development fund (emergency)	150,000	150,000	---
DEPARTMENT OF THE INTERIOR			
United States Geological Survey			
Surveys, investigations, and research (emergency)	1,000	1,000	---
United States Fish and Wildlife Service			
Resource management (emergency)	2,700	2,700	---
Construction (emergency)	24,700	24,700	---
National Park Service			
Construction (emergency)	48,900	48,900	---

Emergency Supplemental Appropriations (H.R. 5212)
(Amounts in thousands)

	FY 2004 Request	Recommended in the Bill	Bill vs. Request
Total, DEPARTMENT OF THE INTERIOR: New (budget obligational) authority	77,300	77,300	---
DEPARTMENT OF JUSTICE			
Federal Prison Systems			
Salaries and expenses (emergency)	5,500	5,500	---
Buildings and facilities (emergency)	18,600	18,600	---
Total, DEPARTMENT OF JUSTICE New (budget obligational) authority	24,100	24,100	---
DEPARTMENT OF TRANSPORTATION			
Federal Aviation Administration			
Operations (emergency)	5,100	5,100	---
Emergency assistance to airports (Airport and Airway Trust Fund) (emergency)	25,000	25,000	---
Federal Highway Administration			
Federal-aid highways (Highway Trust Fund), Emergency relief program (emergency)	800,000	800,000	---
Total, DEPARTMENT OF TRANSPORTATION: New (budget obligational) authority	830,100	830,100	---
DEPARTMENT OF VETERANS AFFAIRS			
Veterans Health Administration			
Medical services (emergency)	38,283	38,283	---
Medical administration (emergency)	1,939	1,939	---
Medical facilities (emergency)	46,910	46,910	---
Total, Veterans Health Administration	87,132	87,132	---
Departmental Administration			
General operating expenses (emergency)	545	545	---
National cemetery administration (emergency)	50	50	---
Construction, minor projects (emergency)	36,343	36,343	---
Total, Departmental Administration	36,938	36,938	---
Total, DEPARTMENT OF VETERANS AFFAIRS New (budget obligational) authority	124,070	124,070	---
CORPS OF ENGINEERS - CIVIL WORKS			
Flood control, Mississippi River and tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee (emergency)	4,000	4,000	---
Operation and maintenance, general (emergency)	94,000	94,000	---
Flood control and coastal emergencies (emergency)	147,000	147,000	---
Total, CORPS OF ENGINEERS - CIVIL WORKS: New (budget obligational) authority	245,000	245,000	---
ENVIRONMENTAL PROTECTION AGENCY			
Buildings and facilities (emergency)	3,000	3,000	---

Emergency Supplemental Appropriations (H.R. 5212)
(Amounts in thousands)

	FY 2004 Request	Recommended in the Bill	Bill vs. Request
INTERNATIONAL ASSISTANCE PROGRAMS			
Agency for International Development			
International disaster and famine assistance * (emergency)	100,000	100,000	---
NATIONAL AERONAUTICS AND SPACE ADMINISTRATION			
Space flight capabilities (emergency)	126,000	126,000	---
SMALL BUSINESS ADMINISTRATION			
Disaster loans program account:			
Direct loans subsidy (emergency)	501,000	501,000	---
Administrative expenses (emergency)	428,000	428,000	---
Total, SMALL BUSINESS ADMINISTRATION: New (budget obligational) authority	929,000	929,000	---
EXECUTIVE OFFICE OF THE PRESIDENT AND FUNDS APPROPRIATED TO THE PRESIDENT			
Unanticipated needs (emergency)	70,000	70,000	---
Grand total: New (budget obligational) authority	10,967,409	10,967,409	---

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida (Mr. BOYD).

Mr. BOYD. Mr. Chairman, I want to thank my Ranking Member, the gentleman from Wisconsin (Mr. OBEY), for yielding me this time.

Again, let me thank the gentleman from Florida (Chairman YOUNG) my friend, who did invite me to travel with him around Florida to see the results of the five storms that landed in Florida, and it left Florida on many occasions and went to other parts of the country.

Now, many of the people in Florida, Mr. Chairman, are really probably not watching this tonight, because many of them do not have power still. They are trying to put their lives back together. In the district that I represent, we lost six people that were killed in Hurricane Ivan, not because they did not get out of the way of a hurricane, but because tornadoes spawned down and caught them off guard and killed them and some of their relatives.

Mr. Chairman, the gentleman from Florida (Mr. YOUNG) has it right. He has it right. The bill that he says he is going to introduce has it right. The Office of Management and Budget of the White House and the leaders of this House have it wrong. The bill that we are on now is inadequate to meet the needs of the Nation caused by the five storms that landed in Florida in the last 2 months, and I want to outline very specifically what those shortfalls are.

In agriculture, after consultation with all of the agriculture folks around the country and in the different States that were affected, it is $486 million short. Defense and military construction: Defense, the main priority of this Federal Government, $455 million short in the bill that we are looking at now. That is the difference between this bill and the bill that the gentleman from Florida (Mr. YOUNG) has introduced separately.

Interior: That is for cleanup and facility repairs and Forest Service repairs, $105 million. Those are Federal lands, Federal property.

Transportation: Mr. Chairman, many Americans saw the daunting picture of I-10 going across Escambia Bay that was torn up and ruined; that is a $250 million fix. Then there is the Federal highway, a $750 million shortfall in the bill before us today for the needs caused by the hurricane. I could go on and on.

Mr. Chairman, OMB of the White House has it wrong; the gentleman from Florida (Chairman YOUNG) has it right. I know that the gentleman from Florida (Chairman YOUNG) has a good plan and will work in concert with he gentleman from Wisconsin (Ranking Member OBEY) to get this done the right way. It is important that the Members of this House remember that they were elected by the folks in their districts to represent their interests. If they are going to turn over that responsibility to somebody in the White House, they might as well give up their card, Mr. Chairman.

It is time to stand up and do the right thing and support the gentleman from Florida (Chairman YOUNG) and the gentleman from Wisconsin (Mr. OBEY) on getting this emergency supplemental done correctly.

Mr. YOUNG of Florida. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Florida (Mr. FOLEY), whose district enjoyed the visits of several hurricanes.

Mr. FOLEY. Mr. Chairman, I thank the gentleman from Florida (Chairman YOUNG) for his hard work on behalf of Floridians. I want to thank the White House, and I want to thank the President specifically and Governor Jeb Bush for their tireless efforts to help those who have suffered the damages of four hurricanes.

This has been a unique and unusual year in our State. The gentleman from Tallahassee said it very brilliantly when he said that we have all suffered in Florida. Virtually every one of 67 counties has had some impact from the four storms that have visited our State.

The gentleman from Florida (Chairman YOUNG) has designed a supplemental bill on behalf of the OMB and the White House that does meet many of the critical needs of our State, from NASA to FEMA to the Corps of Engineers to beach renourishment to fixing problems, including a generous allocation to the Red Cross which has expended considerable resources to helping those Floridians who are in a time of desperate need. But I also want to suggest that the gentleman from Florida (Chairman YOUNG) has a bill that will enhance and further the efforts that have been left out of this supplemental package.

Now, I appreciate all that has been done on behalf of Florida by our colleagues from 50 States and the territories we all represent. We are deeply grateful for the efforts made on behalf of the leadership and others to bring this bill to the Floor in a timely manner to remedy and remediate the problems we have experienced in Florida. But, as the gentleman from Florida (Chairman YOUNG) clearly stated, more needs to be done.

Not all crops have been considered in this supplemental. In my district, sugar suffered a drastic and dramatic loss of crop, as have citrus, as have row crop, as have plant nurseries, as have cattle and dairy. Those are considered in the bill; others have not been. We want to bring equity to the table. Anybody who has suffered a loss should be brought whole.

I want to thank those, specifically FEMA's director, Mike Brown, and all of the FEMA employees that are in Florida today and other States that have suffered as a result of the hurricanes. We have over 3,000-plus FEMA active-duty workers as well as volunteers who are in our State assisting the governor in bringing relief to the desperate citizens of Florida.

So I applaud the gentleman from Florida (Chairman YOUNG) for his deliberation and the speed in which this measure was brought to the floor. And I commend to the leadership and to the White House H.R. 5227, a furtherance of that effort to bring whole the damages suffered by Floridians.

Hurricane Charley came to Punta Gorda on August 13; followed by Frances to Stewart, Florida, a district I represent as well as Punta Gorda; followed by Jeanne hitting the very exact same territory. The gentleman from Florida (Chairman SHAW) has been extraordinarily helpful in coordinating the efforts of our State delegate agencies and bringing relief to our citizens. The effort is largely made whole by the work of the gentleman from Florida (Chairman YOUNG), but I hope we are able to consider in the remaining hours of this session H.R. 5227, authored by the gentleman from Florida (Mr. YOUNG) to remedy the remaining issues outstanding.

Mr. OBEY. Mr. Chairman, I yield 2½ minutes to the distinguished gentlewoman from New York (Mrs. LOWEY).

Mrs. LOWEY. Mr. Chairman, I rise in appreciation for the work of the gentleman from Florida (Chairman YOUNG) and the gentleman from Wisconsin (Ranking Member OBEY) in responding to the crisis in Florida, but I rise with concerns about what is not included in this bill.

We continue to receive daily reports of the ongoing genocide in Darfur. Despite commitments from the White House to do so, the Sudanese government has not taken steps to reduce the violence and reign in military forces. While the United States and the United Nations continue to put pressure on Khartoum, the situation on the ground in Darfur gets worse, and prospects increase for a rapid escalation of violence.

The only chance we have in the immediate future to end the killing and prevent future violence is to enable the deployment of more African Union monitors to Darfur. Incredibly, while the State Department has clearly identified the need for additional funds to support such a force, the administration has not requested these funds.

The African Union has reached consensus on the deployment of a force of between 3,200 and 3,600 troops to Darfur. The government of Sudan has agreed to this. Several African nationals have committed to send troops. The cost to support this force for 1 year has been estimated by the State Department to be $220 million and, at the moment, the United States has contributed $20 million from existing sources, and other donors are being sought to share the cost.

However, no other donors have yet come forward. The State Department needs at least $33 million immediately to get this force mobilized and deployed. Prospects of getting additional funding to meet the need for the full $220 million cost are uncertain.

We can take immediate action to secure these funds. As this supplemental goes to conference, I will work to ensure that we include the transfer of $93 million from Iraq reconstruction funds for this African Union force or to meet unforeseen needs for humanitarian relief.

The Secretary of State has clearly indicated to a number of Members that these funds are necessary and that there are no other sources from existing accounts. Congress has already provided the administration with the authority to transfer up to .5 percent of Iraq construction funds to meet unforeseen needs in Sudan. The President could exercise this authority today if he chose to, but we have been told that the White House is not inclined to do so. Adding language mandating the transfer will not add to the cost of the bill, as we are transferring funds already available, and it would not set a precedent for future transfers from Iraq reconstruction; it is a one-time authority only.

The latest report on Iraq indicated that only $1.2 billion of the $18 billion we provided has been spent; only $7.1 billion has been obligated. Surely, we can respond to this genocide in Sudan, and I hope my colleagues on both sides of the aisle will work with me to make this happen.

□ 2015

Mr. YOUNG of Florida. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Arizona (Mr. KOLBE), the chairman of the Subcommittee on Foreign Operations, Export Financing and Related Programs of the Committee on Appropriations.

Mr. KOLBE. Mr. Chairman, I thank the gentleman for yielding me time.

I want to comment on the gentlewoman's remarks that just preceded me, my distinguished friend and colleague, the gentlewoman from New York (Mrs. LOWEY). I quite agree with her that we need the money for Darfur and we need the money to make sure that we can have a peace settlement in that region, and that we can have forces there that can enforce that peace. But as she pointed out, the authority for that exists already in law. And while we can spend tonight beating up on the administration for not exercising it, they have the ability to do that, and I think they will exercise that at the appropriate time. No legislation, no action by this Congress is needed in order for them to do that.

Mr. Chairman, I want to take my moment here to rise and thank the gentleman from Florida (Mr. YOUNG) for introducing this supplemental legislation and to rise in support of the international disaster assistance in the Caribbean.

While the vast majority of the funds in the bill are intended to assist American citizens who have been affected by recent hurricanes and tropical storms, there is $100 million that is set aside here in order to help our neighbors in the islands of the Caribbean. Several of these nations were devastated by wind, rain and flooding due to these hurricanes, particularly in Haiti, Grenada, the Bahamas, and Jamaica. Approximately 3,000 people in Haiti are either confirmed dead or reported missing due to flooding caused by Tropical Storm Jeanne. In addition, Hurricane Ivan destroyed nine out of 10 homes on the island of Grenada.

The United States has already responded with $18 million in humanitarian assistance to those in the region that have been affected by these storms. But the scope of the destruction is very significant and additional resources are necessary. I am pleased the administration responded positively to our recommendation that $100 million was needed, and amended the initial request of $50 million. I support this assistance. I urge passage of this legislation. Even as we respond at home to the needs of our people in this country, I think Americans remain generous in their response to people who are devastated by hurricanes and disasters in other countries, including our neighboring Caribbean countries. I urge support of this legislation.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Maryland (Mr. HOYER), the minority whip.

Mr. HOYER. Mr. Chairman, I thank my friend from Wisconsin (Mr. OBEY) for yielding me time.

Mr. Chairman, it is regrettable that this bill fails to provide even a modest amount for the gravest humanitarian emergency facing the world today, the senseless slaughter of innocent civilians in Darfur.

I want to congratulate the chairman for bringing this bill forward at this time, and I certainly support it, and I support the provisions. I certainly join the gentleman from Arizona (Mr. KOLBE) in his observations with reference to $100 million for our Caribbean friends who have been devastated. However, both the President and the Secretary of State have called the tragedy in Sudan genocide. And the United Nations has identified it as "the world's worst humanitarian crisis."

But we still have the opportunity to support an African Union peacekeeping force intended to put an end to the blood shed and we must not turn our backs.

How can it be that destruction of 400 villages, the murder of 50,000 civilians, and the displacement of more than one million people is not an emergency worth a modest investment to stop the slaughter?

It is true we have provided millions of dollars in humanitarian relief for those already affected by this ongoing horror. But we have not yet adopted the appropriate sense of urgency about ending the murderous campaign of the Sudanese Government and its Janjaweed henchmen.

The USAID estimates that 350,000 more people could die of disease and malnutrition over the next 9 months. The fact is the killing must stop before the farmers and herders can return home to Darfur and resume feeding their families. At the very least, Mr. Chairman, we ought to require the administration to use existing authority to reprogram $93 million in unobligated Iraq reconstruction money now, the operative word is now, to end the genocide in Sudan, as the gentlewoman from New York (Mrs. LOWEY) as proposed and the gentleman from Illinois (Mr. JACKSON) has proposed, and indeed, I think as the gentleman from Arizona (Mr. KOLBE) supports.

Ten years ago when 800,000 Africans died in the Rwandan genocide, we vowed, as the world has too often: never again. How is it that the world so quickly forgets what "never again" means? What generated the sentiment "never again" in the children, the women, the elderly? They will not understand if we simply talk, if we simply say at some point in time we will act.

We now have an opportunity to prove that we meant never again, that this Nation, a beacon for human rights, decency and freedom will not stand by, Mr. Chairman, and watch the slaughter of innocent men, women and children. This Nation and the world have a moral obligation to act. Mr. Chairman, we cannot ignore that moral obligation.

Mr. YOUNG of Florida. Mr. Chairman, I yield 3 minutes to a very distinguished gentleman from Florida (Mr. SHAW) who has lived through several hurricanes right in his own home town.

Mr. SHAW. Mr. Chairman, I would like to speak just a moment to the comments of my friend, the gentleman from Maryland (Mr. HOYER). What he said about the suffering in Africa is absolutely correct, but that has nothing to do with this bill. This bill is about us and our neighbors, and that is what we are talking about here this evening.

Florida is bleeding. It is bleeding. We have had tremendous damage all throughout the State. Four hurricanes in one year. There is nobody in this House, there is nobody alive today that can remember the tremendous suffering that one State has suffered because of the hit of four hurricanes. Alabama, Georgia, North Carolina, South Carolina, this is what this is about, and our neighbors to the Caribbean. And Haiti, where they have bodies that are still hanging in trees because of the devastation that they have been hit with.

These are the people that we are talking about tonight. These are the people that we need to take care of because of this appropriations bill.

Mr. Chairman, my friend, the gentleman from St. Petersburg, Florida (Mr. YOUNG), how fortunate we are to have him as chairman and the cooperation of the gentleman from Wisconsin (Mr. OBEY) that we have gotten.

One thing about this Congress, we come together, we come together to bring an end to suffering, to bring an end to the damage and tremendous damage that has been done in the State of Florida and across the southeastern United States.

So tonight we will be united in our vote, and I am confident that we will get great support on both sides of the aisle, and I thank the chairman very much for bringing this bill so quickly. This is absolutely unforeseen, the tremendous suffering that we have had in my own home State of Florida, and I urge everyone to vote "yes" on this most important bill.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. JACKSON).

Mr. JACKSON of Illinois. Mr. Chairman, this emergency supplemental should contain funding for African Union peace keepers in Sudan to address the worst humanitarian crisis in the world today, but it does not. Six thousand to 10,000 Darfurians are dying each month. That is why the language should be in this bill, because this is the only bill leaving this station until after the election.

1.2 million live in overcrowded camps needing security and struggling to survive; 50,000 Darfurians have been brutally murdered, many in front of their own family. This Congress in a unanimous way went on record to declaring it a genocide and since 2003 the Sudanese Government and their murderous Arab militia, the Janjaweed, have waged a deliberate and systematic campaign of rape, torture, starvation, and murder.

In September, the gentleman from Arizona (Mr. KOLBE) and I traveled to see the devastation and destruction in Darfur. We both concluded that the first and immediate step was to provide security for the people of Darfur. This supplemental is the only bill that can provide security for the people of Darfur. So we pledged to work together for an expanded African Union and force in Darfur. But the chairman came to the floor and said that the President already has the authority. But the President just a few days ago in a debate declared that it was a genocide, so why has he not exercised the authority?

Like the distinguished minority whip, the gentleman from Maryland (Mr. HOYER), said, we need the help now. Now the African Union is moving forward to save lives. In the last few days they have reached an agreement to deploy 3,500 additional troops into Darfur at an estimated cost of $240 million of which the United States is expected to contribute one-third. Yes, we must help the people of Darfur, but this Congress is also on record suggesting that it is a genocide. Yes, the people of Florida; yes, the people in the southern United States. But, Mr. Chairman, not to do so would be a moral failure.

Mr. YOUNG of Florida. Mr. Chairman, I yield 3 minutes to the gentleman from Florida (Mr. WELDON), the very distinguished member of the Committee on Appropriations from Florida's east coast and Cape Canaveral and the Space Center.

Mr. WELDON of Florida. Mr. Chairman, I thank the gentleman for yielding me time, and I want to commend him for bringing this work and this piece of legislation to the floor.

The past 6 weeks for me in the congressional district I represent have been the worst 6 weeks that I have ever had to deal with. We had Charley rip through the west side of the district after devastating the southwest coast, Punta Gorda, Port Charlotte. It came up into Orlando and devastated the community of Kissimmee and St. Cloud, the community that I represent; 200,000 people without electrical power, hundreds of businesses destroyed, thousands of homes damaged or destroyed.

I thought that was it for the season and then a few weeks later we had Frances, devastating the community of Vero Beach, Sabastian, Melbourne Beach, Melbourne. Again, leaving businesses destroyed, people unable to go into their homes. Tragically, it wreaked horrible damage at our Nation's space center, Kennedy Space Center, the vehicle assembly building badly damaged, a critical building that makes thermal installation tiles and blankets for the Space Shuttle, the roof torn off of it.

I thought we had had enough. I thought that was basically it. And then to our shock and amazement Jeanne came through, a more powerful hurricane than Frances with higher sustained winds, leaving again hundreds of thousands of people without electrical power, shuttering businesses. There are thousands, literally, there are thousands of people in my congressional district who have had their homes destroyed, destroyed.

You do not know what it is like to go to people's street and they have seen everything they have absolutely destroyed.

This is very, very timely legislation. I very much appreciate the money that the President has put in for the beach renourishment, but I will just share with the chairman, I do not think this figure is adequate. I think my congressional district alone can consume two-thirds of that money. And I am looking forward to working with you. This is not about just a place for people to swim. It is not just about sea turtles having a place to lay their eggs. I have hotels that cannot open, people that cannot go to their jobs. This is very, very bad; and it is very, very timely we do this.

I know there are a lot of people that have been devastated in the Carolinas and in Alabama and certainly in the gentleman from Florida's (Mr. MILLER) district in the panhandle. I see he has come to the floor. I think his district is probably the worst hit in the State. I thank the chairman for his hard work. We are looking to him to be our hero again.

□ 2030

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from Michigan (Ms. KILPATRICK).

Ms. KILPATRICK. Mr. Chairman, I thank the gentleman from Florida (Mr. YOUNG), our senior chairman for the Committee on Appropriations, and the gentleman from Wisconsin (Mr. OBEY), our ranking member, for bringing the bill to the floor. I want to thank them on their speediness. I know $2 billion has already been appropriated. This allows another $10 billion, not near enough, but it is certainly a start.

Florida very definitely must be helped. The residents there have shown that they are true patriots and Americans, and yes, they need the help.

Also, the countries in the Caribbean, I thank my colleagues for the $100 million, and it is most important that we help our neighbors in this time of devastation. Whole countries have been devastated, 80 percent of some of their housing, their schools, their hospitals. This will begin to help them, and I thank my colleagues for that. It is not enough, but it is a start, and I hope we will continue to work on it.

There is much more to be done in the Caribbean, in Florida, and as was mentioned, I am sure this Congress will be there.

In Darfur, as has been mentioned, in the Sudan, they, too, are in a crisis. People are dying every day, Mr. Chairman. We need to help them. The President has declared a genocide. The Secretary of State has declared a genocide. We need to help them.

I call on the World Bank and the Inter-Development Bank to forgive the loans of those Caribbean nations, to offer grants for those nations. Those people need to get back on their feet as well.

I call on the World Bank and the Inter-Development Bank to help Darfur, to help the Sudanese people. I think it is time to issue sanctions against Sudan. That would help to make sure that the Janjaweed would not terrorize the community, the nation, the people; and they are doing just that.

So I ask for our President and this Congress, we must be the leaders that God intends that we be. We must stand up, yes, help Florida, give those people what they need. They have been there with us, and we owe it to them. The Caribbean neighbors that we have, Haiti devastated, and this appropriations bill that is now a supplemental moving quickly, and we thank the leadership for that.

We need to do more for Darfur. We have got to do it. We ask for one-half percent of the money that was appropriated to Iraq, $20 billion appropriated, $2 billion spent. We can do better and I hope we will.

Today we are considering H.R. 5212, Emergency Supplemental Appropriations for Hurricane Disasters. The funding levels within the supplemental will provide $100 million for the Caribbean region which has been devastated by recent hurricanes and tropical storms. As a member of the House Appropriations Committee and the Subcommittee on Foreign Operations, I have advocated for funds sufficient to address humanitarian and reconstruction needs for countries affected in the Caribbean.

While I am happy that funds have been provided, I am dismayed that more funds were not provided. The good news is that Haiti, which is in dire need of assistance, will receive perhaps as much as $72 million in aid. The bad news is that other countries in the region will not receive anything close to the monies necessary to rebuild schools and to repair their infrastructures.

The country of Jamaica will receive only $17 million, but the government estimates that it will take $250 million to rebuild homes, replant crops, and build seawalls to protect against future hurricanes and tropical storms. Grenada was also hit hard by storms and will receive approximately $9 million in aid. Preliminary government estimates are that 80 percent of the housing stock has been damaged, 10 percent or 10,000 homes will need to be replaced and 82,000 persons have been displaced from their homes. Clearly Grenada needs more money, and so do the countries of the Bahamas and St. Vincent and the Grenadines that will receive $500,000 respectively.

Mr. Chairman, our Caribbean neighbors and friends are confronting destruction of such magnitude that it will take them years to recover. Many of these countries have previously received loans from the World Bank and Inter-Development Bank. Virtually all of the countries affected by the hurricanes can ill afford to carry more loan debt. I call on the World Bank and the Inter-Development Bank to forgive the debt of Caribbean countries affected by recent hurricanes. I also ask both institutions to issue immediate grants to these countries to help restore their schools, hospitals, food production capability, and the other essentials of everyday life. These international lending institutions must re-evaluate how to facilitate a policy of loan forgiveness or grants for these storm ravaged Caribbean countries.

It is an unfortunate reality that the region will continue to confront seasonal hurricanes and storms. Invariably, the region will continue to rely on the United States to provide humanitarian and disaster assistance in the future. Although our nation is limited in its ability to fully fund post-hurricane reconstruction efforts, we must endeavor to provide greater resources than the allocation in the supplemental. I support the bill before us. I regret that we could not provide greater funding to address the dire circumstances that exist in the Caribbean.

Mr. YOUNG of Florida. Mr. Chairman, last week I had the privilege of accepting an invitation from the gentleman from Florida (Mr. MILLER) to visit his district where the naval air station at Pensacola is located and was devastated. I am happy to yield 3 minutes to the gentleman from Florida (Mr. MILLER) who has done a tremendous job in helping his people recover from this hurricane.

Mr. MILLER of Florida. Mr. Chairman, I thank the chairman, and I rise this evening in support of H.R. 5212. I thank the chairman on behalf of the 630,000 resilient folks of Florida's Emerald Coast, home to America's first settlement, the cradle of naval aviation, the largest Air Force base in the Western Hemisphere and thousands of small business owners, farmers and military veterans. The chairman's commitment to our efforts to rebuild stronger and better than ever has not gone unnoticed and will not be forgotten.

Mr. Chairman, on September 16, Hurricane Ivan devastated northwest Florida, leaving no life untouched. It was a monstrous storm, residents locked down as they were instructed, and nearly a day before the storm began its march towards the northern Gulf coast, defenseless beaches began to feel its first blows. By midnight, rising seas, hurricane force winds and driving rain were being felt all across my congressional district.

The storm continued its rage through the night and well into the next day with its 130-mile-an-hour winds, its 16-foot storm surge, leaving damage, devastation and death in its path for hundreds of miles.

In the days following Ivan, President Bush, a host of Cabinet secretaries and under secretaries and the chairman visited my district and saw firsthand the devastation. My colleague has seen that we are a resilient people and we will bounce back.

Folks now have ice, they have food, they have water. The lights are coming back on. The bridges are being mended. Roofs are tarped and naval aviators are training once again, but we still need help.

This emergency funding measure will deliver what we need to rebuild our bases, our seashores, our bridges, our roads and our lives, and I think that this bill is just what the Federal Government should be doing to fulfill its responsibility to provide the appropriate aid as quickly as possible. From here, we will ensure that it gets into the intended hands as quickly as possible.

As for the Panhandle's future, it is not our character to give up hope. Our communities will continue to unite together. We will rebuild our military infrastructure, and Pensacola will remain the cradle of aviation. To me, there is no place in the world like the Florida Panhandle, and its residents know that there is no better place to rebuild our lives.

I thank the chairman for his efforts.

Mr. YOUNG of Florida. Mr. Chairman, might I inquire as to how much time is remaining on either side?

The CHAIRMAN. The gentleman from Florida (Mr. YOUNG) has 10½ minutes remaining, and the gentleman from Wisconsin (Mr. OBEY) has 17½ minutes remaining.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to another distinguished gentleman from Florida (Mr. DAVIS).

Mr. DAVIS of Florida. Mr. Chairman, I represent the Tampa Bay area, adjacent to the gentleman from Florida's (Mr. YOUNG) district.

The community I represent went through four separate preparations for these horrific hurricanes that have been described tonight, and we were blessed to avoid most of the damage, but the State has suffered immensely. As we stand here tonight, enjoying some electricity, there are still thousands of people in Florida who have no electricity and no water.

I rise tonight in support of the resolution, applauding the gentleman from Florida (Mr. YOUNG) for bringing our congressional delegation together and also to thank our colleagues and the folks they represent around the country for coming together to support us at a very, very difficult time. We will not forget this.

I also want to take the opportunity to thank the countless volunteers and workers, particularly from utility companies, Ohio, Pennsylvania, Tennessee, Kentucky, Georgia. These convoys were traveling night and day up and down our interstate highways, people coming and spending a lot of time away from their families, working around the clock for much longer periods than they expected, to help us put the State back together.

I also want to recognize the faith community, the Georgia Baptist Convention, other people coming from churches and other religious organizations throughout the country to volunteer, in many cases on their own nickel, in some very difficult circumstances. We will not forget that either, and we are very appreciative.

Finally, I want to highlight what the gentleman from Florida (Mr. BOYD), whose district is adjacent to the gentleman from Florida (Mr. MILLER), pointed out: There is roughly a discrepancy of about $2 billion between what had been originally determined to be the amount that was needed for hurricane relief and what we are voting on tonight, and it is very important, if we are going to get this job done, we get it done right.

So I want to encourage the Congress to work with the gentleman from Florida (Chairman YOUNG) as he attempts to fill that gap. There are a couple of areas involving highway grant funds, money for beach restoration, money for repair of military facilities; and a good job is worth doing well. We need to make sure we get this done right before the bill gets to the President's desk.

Mr. YOUNG of Florida. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Florida (Mr. MICA) for the purpose of a colloquy.

Mr. MICA. Mr. Chairman, I am pleased to engage with the chairman of the Committee on Appropriations in this colloquy.

First of all, I want to take a moment and commend the gentleman from Florida (Chairman YOUNG) and the Committee on Appropriations for bringing this supplemental appropriation to the floor. I thank him for his leadership in the House of Representatives and for his service to our State and our Nation in this difficult time.

As some of my colleagues may know, central Florida is the fern capital of the United States. Unfortunately, the nursery and fern industry suffered the second largest amount of agricultural damage from recent hurricanes, just behind citrus.

The United States Department of Agriculture staff estimates that 65 percent of the industry's total acreage in central Florida has been totally lost. In addition to $32 million in infrastructure losses, the industry has suffered crop losses of $76 million. Worse, it takes some 7 years to reestablish crops in natural shade, and the long-term loss is estimated at $235 million.

Mr. Chairman, the total economic impact from hurricanes on the fern industry, the lifeblood of this central part of our State, is $342 million.

It is my understanding that by adding an additional $90 million to section 32 funds, the USDA will be able to ensure that they will have adequate funds to make payments to producers in Florida, including those in the fern industry.

I would ask the gentleman from Florida if this is his understanding as well.

Mr. YOUNG of Florida. Mr. Chairman, will the gentleman yield?

Mr. MICA. I yield to the gentleman from Florida.

Mr. YOUNG of Florida. Mr. Chairman, I will say to the gentleman that, yes, this is my understanding.

Mr. OBEY. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Chairman, I appreciate the gentleman's courtesy in permitting me to speak on this bill. I rise in support of it. Our hearts again go out to the victims of natural disasters like the hurricane in the Southeast, but I would, with all due respect, suggest that we ought to start thinking about how we can do more.

This is the second time we have done this in 2 months, but it is not just a once-in-a-century occurrence in Florida. In 2003, President Bush issued 56 major disaster declarations. So far this year he has already issued 46. During the 8 years I have been in Congress there have been at least 10 disaster supplementals, and we have appropriated over $20 billion in disaster relief funding in supplementals.

CRS has testified that there is no systematic accounting of disaster relief funding, even just the Federal cost. Now these bills are popular and they are important. They make us feel better; they help people. But always acting after the fact we create a wider hole for the taxpayers, and we keep putting people in harm's way.

I remember in 1999, where we had supplemental funding that put hog lagoons back in a flood plain. Now, we should not just continue to clean up after these tragedies and these messes.

Congress has an opportunity to make a real difference to prevent some of the future damage when we have major legislation like this. Whether it is flooding, fires, hurricanes, drought or earthquakes, we can make a difference ahead of time.

I look at what happened in California with the recent wildfires that we have seen earlier in this Congress. We saw in Ventura County and Los Angeles County. Stevenson Ranch, where people did some thoughtful planning before the fact and the losses were dramatically reduced.

We should at a minimum create a comprehensive national strategy for responding to and preparing for recurrent natural hazards. It ought to include consistent Federal policies. We should shift some of our Federal investments to prevention and protection. We should provide technical and financial assistance to support State and local mitigation efforts like in the State of Florida, hazard mapping, land use planning, building standards, retrofitting existing structures. We should use our Federal facilities in States like Florida to model the best practice in terms of location and safe construction.

Now, earlier this year, we stepped in this direction, reforming the flood insurance program. The funding in this bill will save the Federal Government millions of dollars in avoided flood damage, such as we are currently seeing in Florida, and it will reduce losses in the future and take people out of harm's way. Unfortunately, this bill, authorized, has not been funded.

I sincerely hope we pass this bill today, and I look forward to seeing what the chairman and the ranking member can work out to do it in a comprehensive way to make sure that people are not left in the lurch.

But when my colleagues are adding more in, please consider doing a little bit to help people in Florida and other areas avoid danger in the future. Fund the flood insurance reform that does not cost any general fund money. It simply takes some that is already there in that fund and allows it to be used. And let us not put people back in harm's way; let us give them a helping hand, as well as assistance.

Mr. YOUNG of Florida. Mr. Chairman, the gentlewoman from Florida (Ms. HARRIS) knows exactly what it is like to live through a hurricane and to suffer severe damage to properties and investments. I yield 3 minutes to the gentlewoman from Florida (Ms. HARRIS).

Ms. HARRIS. Mr. Chairman, I rise in support of H.R. 5212, which provides the people of Florida with the emergency assistance they need and deserve.

As I have visited emergency operations centers, Red Cross shelters and temporary housing sites throughout Florida's 13th Congressional District, I have been truly amazed by the courage, faith and compassion that I have witnessed.

We have heard about the resilience of these Floridians. I am reminded when I was visiting Hardee and De Soto, just moments before Hurricane Jeanne hit, several neighboring counties had offered to do a barbecue for some 600 folks who had been put out of their homes. When the rains once again came, I was humbled to hear those residents, who had lost everything, say that they were glad Jeanne was crossing once again their threshold since they had lost everything; if it came this way, they had nothing else to lose, and they were glad it was not going to harm anyone else.

□ 2045

The people of Florida have met the unprecedented devastation of four hurricanes with extraordinary selflessness, determination and unity. They have done everything they can to begin rebuilding their lives. Now it is our turn to do everything we can to help them.

Thanks to the leadership of the gentleman from Florida (Mr. YOUNG), we acted swiftly and decisively in appropriating an initial $2 billion for hurricane relief last week, and it was a good start, but a small fraction of the assistance necessary to combat the continued threat to property, to health and to livelihoods.

For example, these hurricanes destroyed beaches throughout our State, including Venice Beach in Southwest Florida. Homes now lie unprotected and exposed. This bill provides the critical funding that will enable the Army Corps of Engineers to prevent further damage.

I understand the desire on the part of many of my colleagues to address other disasters as part of this bill. We cannot, however, afford to get bogged down in considering additional measures that do not specifically relate to hurricane relief. Hurricane victims simply cannot afford to wait while we evaluate unrelated assistance proposals, as worthy as they may be.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the distinguished gentlewoman from California (Ms. WATERS).

Ms. WATERS. Mr. Chairman, I thank the gentleman for yielding me this time, and I rise in support of H.R. 5212, the Supplemental Appropriations Act, which provides disaster relief for damage caused by hurricanes Charley, Frances, Ivan and Jeanne, which caused widespread damage in several States of the United States as well as several Caribbean countries.

My colleagues, I would like to say that my heart goes out to all of the families and victims of these disasters, but I am very pleased that we live in a prosperous Nation where we can appropriate $11 billion to assist in recovery actions of Florida and other areas that were devastated. The recent hurricanes had devastating impacts on the entire Caribbean region. In Grenada, Hurricane Ivan destroyed 90 percent of all the homes, as well as numerous government buildings, hospitals, schools and churches. In Haiti, Hurricane Jeanne caused extensive flooding, killed over 3,000 people, with thousands more in desperate need of food, clean water, emergency shelter, and medical care. And stagnant waters have given rise to a large mosquito population that could lead to a malaria epidemic.

I could go on and tell you about Jamaica and St. Vincent and the other islands in the Caribbean. And I am thankful President Bush proposed $50 million in supplemental appropriations, and I understand, as of this evening, that has been raised to $100 million. We are indeed grateful that we can help our small neighboring countries in this way. But this cannot begin to meet the tremendous needs of thousands of affected people in Haiti and Grenada and other Caribbean nations.

I sent a letter to the chairman and ranking member of the Committee on Appropriations requesting a supplemental appropriation of at least $500 million in disaster relief for the Caribbean. Sixteen Members of Congress signed my letter. That is all the time I had to get signatures. This Supplemental Appropriations Act does provide, again, $100 million for these nations, and I am grateful, but I would hope that, in conference, we could raise that to $500 million. It would go a long way in these very small countries and help them to deal with this terrible devastation they are experiencing.

Mr. YOUNG of Florida. Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, what has happened on this bill is that after the four disasters that have been referred to this evening, the committee did what we did after the Congress was hit by anthrax a number of years ago. The committee went around to the agencies to try to figure out exactly what it was they needed to fully meet the needs of people who had been hit by these disasters. They went to the Agriculture Department, and the Agriculture Department people unofficially told the Congress what they thought the real level of need was.

There are some 35 States who have legitimate needs that need to be responded to with respect to refurbishing or reconstructing highways that have been damaged. And there are various other needs that will be listed in a chart which I will ask at the proper time to insert in the record following the remarks I am now making.

Essentially, the chairman, his staff and my staff, tried to work out what we thought was a tightly disciplined package to meet legitimate needs being faced in this unprecedented hurricane year. Unfortunately, the way this place has come to work more and more is that people who know the least about problems are the people who often have the most to say about how they are dealt with.

And so, as a result, people who did not go around looking at the damage on the ground, as some of our Florida colleagues did, people who did not have a direct knowledge of the damage that was done and the kind of relief that was needed, they, for ideological reasons, decided that the committee product did not suit their pure idea of what was good and righteous, and so they decided, well, no, that is too much money. So the bill has been scaled back.

Now, as a result of its being scaled back, we are going to have a couple of amendments that are offered in Rube Goldberg fashion which will try to meet some of these legitimate needs by slashing into funds that meet other Americans' legitimate needs in programs ranging from agriculture conservation to cancer research. So we will be asked to vote for a bill which, as the gentleman from Florida indicated, may be good as far as it goes, but it sure does not go very far given the real need.

Now, this damage did not occur in my district, but there have been times when it did, and I know how badly we needed that help. And I know when my farmers were hit with droughts how badly they needed that help. And if we cannot remember what it was like when our constituents were hit with this kind of problem, then we cannot expect other Members to remember when we have a problem.

So I regret the fact that we have this half-a-loaf approach. I assume people will vote for it in the end because it is about all that we can get out of the system, but this, again, is a sorry mess. This Congress has not hesitated to provide $128,000 tax cuts to people making a million bucks a year. But, oh, if you are a farmer who was hit by drought or if you are a property owner hit by hurricane damage or if you are a town chairman trying to deal with your road problem, sorry, buddy, you take second place, you take third place, you can sit in the caboose. We have to put that millionaire in the front seat, first class.

That is essentially what this Congress has done on program after program all year long. We should not be surprised they would do it again tonight. It is too bad, but there is not much we can do about it because the powers that be in this place have decided this is the way it is going to be.

Mr. Chairman, may I ask how much time remains?

The CHAIRMAN. The gentleman from Wisconsin has 5½ minutes.

Mr. OBEY. Mr. Chairman, I yield 5 minutes to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding me this time, and I first want to commend the chairman and the committee for the manner in which they have attempted to deal with a very serious problem, and not just in his State.

I repeat again, the devastation that has occurred in Florida I recognize, and I recognize the need for this body to step forward and to help, as the gentleman from Wisconsin just expressed. We have some disasters in west Texas, drought, excessive rain, some of it produced by the same storm system that hit Florida.

My frustration, not with the chairman but with the leadership on the Chairman's side of the aisle, is what I expressed by offering the amendment and asking that the previous question be struck. Because, yesterday, we had 44 Members of this body, including 14 on the Republican side of the aisle, that supported the best policy way of dealing with the problems that we are having all over the United States.

The President did not say our bill was bad. The President, in his proposal, said that we should treat disasters just like we have always treated them, as an emergency. The moment we begin to treat disasters as nonemergency and begin to budget for them, we have problems, and we have understood that in this body with the rule over the years, with the budget. Now, all of a sudden, once again, the leadership on the Republican side waves their magic wand, and all of a sudden, everyone falls into line.

And no matter how many times some try to explain we are not reopening the farm bill, we are reopening the farm bill in ways that it will take a few months perhaps to fully understand and appreciate. Because once we begin to tamper with the farm bill, just once, for short-term political benefit, then get ready for what happens next. I have been around here a few years, and I know what happens.

I guess the point I want to make, though, is, what happened between yesterday and today? What is it that yesterday had everyone from non-Florida States saying the best way to deal with this disaster is to treat everyone alike and fairly, 2003 to 2004, declare it an emergency, which is what this whole debate and discussion is about; then, all of a sudden we say, no, we are going to treat agriculture different? Of all of the appropriation bills, of all of the authorization bills, of anything that we have done in this body, we are now saying, treat agriculture different.

In fact, we now have a Member of the House Ag Committee, and to my chagrin, the chairman of the House Committee on Agriculture, who has adopted this now. Why? Because the leadership of this House said we have to do it this way. Well, 14 Members, and you can start taking a look, there are many Members who voted for the previous question who when they wake up tomorrow will find out that their district has benefitted from the conservation security program and that they have voted now to cut out a program that many of their producers have said is a good program and should be carried forward. But because they have followed their leadership, not the policymakers of this body, they have decided that that is the way to go.

Well, I understand. It takes 218 votes. We lost on the previous question. Fourteen Members who yesterday said treat everybody alike today said, no, we are going to follow the leadership of this body.

□ 2100

Take a good look at the leadership of this body and their opinion of what farm policy should be. That is what they are doing on their side of the aisle. But as long as they have got 218 votes, they can do it.

I conclude my remarks by again commending the gentleman from Florida (Mr. YOUNG). Of all of the people on their side of the aisle, Mr. Chairman, I constantly marvel at his demeanor, his patience, the manner in which he accepts his frustrations from time to time and deals with a very difficult job, but he does it well. I know a little bit about what has gone on within his committee, and I want to thank him publicly for what he has tried to do.

I hope that when they get to conference and work with the other body that he does what he said a moment ago, and we will put together a bill that deals with all of the problems in a fair and equitable way. And I will stand with him on that, as I do tonight.

Mr. OBEY. Mr. Chairman, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I am going to repeat just briefly what I said earlier, that H.R. 5212, which is the bill we have under consideration at this moment, is a good bill as far as it goes. But it does not go far enough. It is about $1.6 billion short, and that $1.6 billion we added in H.R. 5227. For those who were concerned about spending the extra money, we have offset it. In our bill, H.R. 5227, we offset that $1.6 billion, so there is no real added cost.

I want a good vote on H.R. 5212. I want to get this bill into conference as soon as we can. We need to finish this job before we leave here for the election break. I do not want the people in Florida to have to wait 3 or 4 weeks before this financial recovery comes to them. I would point out again that FEMA has advised me that by Friday night this week, they will be pretty much out of money. We cannot let that happen.

I wanted to just take a minute and explain what we think should be in this bill that is not, and what is in H.R. 5227. For agriculture, we add $509 million for additional assistance for agriculture and rural areas.

For highways and airports, we add $750 million for the Federal Highway Administration's emergency relief program. Highways, believe it or not, have been seriously damaged and destroyed by the hurricanes that visited Florida.

For NASA, we add $59 million to repair the damage at the Kennedy Space Center, but also to harden the existing facilities to prevent further damage from hurricanes.

For the Army Corps of Engineers, this is very important to a lot of Members, we add $147 million to make emergency repairs to waterways and shore areas, including dredging harbors and inlets that have been filled in by the erosion of the storm and shore protection projects.

For National parks and wildlife refuges, we add $108 million to repair those facilities, to clear debris from the national parks, forests and wildlife refuges based on the most recent estimates from the Federal agencies.

We add $7 million to adequately reflect the most current damages to the United States Coast Guard and their facilities.

As I said earlier, there is nothing political in this bill. These are not Member projects. These are not political projects. These are things that were damaged in disastrous hurricanes, that need to be fixed. H.R. 5227 fixes them; H.R. 5212 does not.

Again, H.R. 5212 is a good bill as far as it goes and it does maintain most of the promises that the President made to Florida. We are going to make sure and I am going to do everything possible to make sure that everything the President promised is going to be delivered by the Congress. I would not do less. I would do everything possible to see the additional hurricane relief, recovery, and disaster funds that I have included in H.R. 5227, become part of the appropriations process, and part of the appropriations bill. And let us get on with rebuilding a great State, a great State where every section of that State was affected by one or more of those disastrous hurricanes.

Mr. Chairman, I thank you very much for the way you have conducted the consideration of this bill today and the discussion and debate on the floor. I look forward to further discussion on two amendments that I know that the rule has made in order.

But, all in all, I want to pass H.R. 5212 with the hope and expectation that H.R. 5227 will come along behind it, which is the better bill. But H.R. 5212 is a good bill as far as it goes.

Mr. STEARNS. Mr. Chairman, I rise today, along with many of my distinguished colleagues, to speak on the importance of Supplemental Disaster Relief. First, I want to thank the Florida delegation, President Bush and Governor Bush for their efforts. Florida, in itself, has experienced an unprecedented number of hurricanes that have ravished our state in the past months. The 6th District of Florida, which I represent, is located in the North Central region of the state and does not contain any coastline.

However, it is important to realize how an entire state and outlying states can be affected by natural disasters. The 6th District of Florida is an example of such. All of the counties in my district, though all land-locked, were declared disaster areas by FEMA, by one hurricane or another. Farmers, businesses, schools and communities were halted in preparation of the hurricanes that were coming and were immobilized for days, and even weeks after the hurricanes hit. There are many different areas of a community that get affected by natural disasters and this supplemental package makes sure that all facets are getting the relief needed. In closing, I want to praise FEMA for doing an exceptional job responding and providing help to the citizens of Florida and praise Chairman YOUNG for his efforts in seeking aid for such a worthy cause. I urge my colleagues to support the Supplemental Disaster Relief funding.

Ms. CORRINE BROWN of Florida. I want to thank the gentlemen from Wisconsin and Florida for their hard work on this legislation.

This bill is needed now and the Committee is doing its job by getting this bill to be considered on its own rather than as part of another appropriations bill.

However, there are still thousands of people in Florida without electricity.

These storms had a huge impact on our tourist based economy with millions of dollars lost in hotel rooms alone.

Car dealerships, mobile home dealerships, boat dealerships have been wiped from the face of the earth.

I rise to object to the limited funds available for the small farmers in Florida. It is the end of the growing season and there is no chance to recover any of the investment that the small farmers in my district put into their land.

Farmers are losing an entire year's crop and have nothing to show for it.

Wihle some crops still have time to rebound and get back some investment by the end of the growing season, the squash farmers in my area are totally out of luck. I heard from one gentleman, Mr. Roy Brown, who has 40 acres of squash that is ruined. He has put $520 into each acre, for a total loss of $20,000.

While there is some compensation available, by rule he can only get 50 percent of his investment back. That leaves him over $10,000 in the hole.

Why did it take so long for the money to get to these people? Have they not suffered enough without needing to wait for us to get to work?

We need more money for these people who have suffered from 4 hurricanes in a 6-week period.

Mr. JACKSON of Illinois. Mr. Chairman, this emergency supplemental should contain funding for African Union peacekeepers in Sudan to address the worst humanitarian crisis in the world today. But, it does not.

6,000 to 10,000 Darfurians are dying each month. .

1.2 million live in overcrowded camps, needing security and struggling to survive.

50,000 Darfurians have been brutally murdered, many in front of their own family.

Since 2003, the Sudanese government and their murderous Arab militia, the "Janjaweed," have waged a deliberate and systematic campaign of rape, torture, starvation and murder.

In September, Chairman JIM KOLBE and I traveled to see the devastation and destruction in Darfur. We both concluded that the first and immediate step was to provide security for the people of Darfur.

So, we pledged to work together for an expanded African Union force and mission in Darfur.

The Administration seemed to agree. In last week's debate, the president stated: "in . . . Darfur, I agree it's genocide . . . I agree with my opponent that we shouldn't be committing troops. That we ought to be working with the African Union to do so . . . My hope is that the African Union moves rapidly to help save lives."

Now, the AU is moving forward to save lives. In the last few days, they've reached an agreement to deploy 3,500 additional troops into Darfur, at an estimated cost of $240 million, of which the United States is expected to contribute about one-third.

But, this emergency supplemental does not provide it. What a glaring omission with potentially tragic consequences.

So, Mr. Chairman, we must amend this supplemental in conference by transferring funds from the Iraq Reconstruction and Relief Fund to support the AU peacekeeping force in Sudan.

Not to do so would be a moral failure.

Mr. MEEKS of New York. Mr. Chairman, I rise today to join with other Members of Congress in calling for humanitarian assistance to the Caribbean countries devastated by Hurricane Charley, Frances, Ivan, and Jean.

We all know that the southern United States and particularly Florida have been hurt badly by the worst series of hurricanes in decades and I pray for their continued strength and determination through these difficult times.

But, even as we help Florida, Alabama, and other states here in the United States struggle to recover from the devastation inflicted by successive hurricanes, we cannot be indifferent to the destruction the hurricanes delivered to a number of our Caribbean neighbors.

Ninety percent of the buildings on Grenada have been damaged. The Bahamas and Jamaica have been hit hard. The Puerto Rico, the Dominican Republic, and Haiti have experienced flooding and mudslides. The hurricanes have robbed hundreds of people of their lives and tens of thousands of their livelihoods.

Two-thirds of the population of Grenada have been left homeless and it is estimated that millions will be needed to rebuild. Death tolls in Haiti are at the 3,000 marker.

While $50 million will begin to address the humanitarian and reconstruction needs, this is only a beginning. Hurricane Mitch in Honduras required $400 million. We can do at least as much for our neighbors.

Ms. LEE. Mr. Chairman, first, I thank the distinguished Gentleman (Mr. HASTINGS) for yielding and for his leadership on the Rules Committee.

The funding level for hurricane-ravaged Caribbean countries is totally inadequate, and this bill fails to include any funding to address the ongoing genocide in Sudan.

The Bush Administration's actions on Darfur continue to be too little, too late.

It took months for them to call the actions of the Khartoum Government and their militias a "genocide" against the Darfur people.

Now, that we have called the killing, raping, and torture what it is, the Republican leadership has done little to nothing to bring international support through funding and resources.

I stand here today with my colleagues calling on this Administration to re-program and re-allocate money from the re-building Iraq accounts, and into the peacekeeping and humanitarian relief programs desperately needed in Darfur.

Not only does this bill ignore the desperation of the victims in Sudan, but it provides woefully inadequate resources for our Caribbean neighbors suffering from the devastating blows of the hurricanes.

. Our Third Border neighbors are suffering. Earlier this year, the House passed H. Con. Res. 496, a bi-partisan resolution that I introduced, expressing empathy for the Caribbean, and urging the U.S. government to step up and lend a hand to our neighbors in need.

The last I checked, we were the wealthiest, most powerful country in the world.

We can afford to give $200 billion to fight an unfounded war in Iraq, but we cannot imagine giving one-one thousandth ($^{1}/_{1000}$th) of that to our neighbors who are in desperate need.

There were four hurricanes in five weeks. People are starving. Homes are in shambles, and more than 441,000 people are displaced.

Frankly, the $100 million included in this bill to assist the Caribbean is embarrassing.

We should be considering at least $250 million, or really $500 million as may Congressional Black Caucus colleagues and I continue to push for.

Seventy percent of Grenadians have been left homeless; all their economic sectors were severely affected.

More than 2000 Haitians are dead, and 300,000 people homeless.

We must support rebuilding the entire region and take a more comprehensive and democratic approach in our policies toward Haiti.

For weeks, CARICOM officials and congressional leaders have been meeting to discuss the damage to the entire region. Most Americans know firsthand the devastation caused by natural disasters—floods, droughts, hurricanes, tornadoes, fires and earthquakes.

Throughout our country, individuals, churches, grassroots groups, non-profit organizations have rushed to assist in relief efforts to the region.

Mr. Chairman, these nations are simply overwhelmed.

So while the $100 million in assistance this bill contains is a good start, it is only that. That is why my colleagues and I will advocate for additional funding to address these disasters.

· Mr. YOUNG of Florida. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the bill is considered read for amendment under the 5-minute rule.

The text of H.R. 5212 is as follows:

H.R. 5212

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2005, to provide emergency supplemental appropriations for additional disaster assistance relating to storm damage, and for other purposes, namely:

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

NATIONAL FOREST SYSTEM

For an additional amount for "National Forest System," $2,000,000, to remain available until expended, for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

CAPITAL IMPROVEMENTS AND MAINTENANCE

For an additional amount for "Capital Improvements and Maintenance", $33,000,000, to remain available until expended, for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

GENERAL PROVISIONS—DEPARTMENT OF AGRICULTURE

AGRICULTURAL ASSISTANCE

AGRICULTURAL HURRICANE ASSISTANCE

SEC. 101. (a) CROP DISASTER ASSISTANCE.—(1)(A) The Secretary of Agriculture shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance available to producers on a farm in the United States, including Puerto Rico that have incurred qualifying losses for the 2004 or 2005 crop of an agricultural commodity due to damaging weather related to any hurricane or tropical storm of the 2004 hurricane season, in counties declared disaster areas by the President of the United States.

(B) The Secretary shall make assistance available under this section in the same manner as provided under section 202 of Public Law 108–7, including using the same loss thresholds as were used in administering that section.

(2)(A) The payment rate for a crop for assistance provided under this section to the producers on a farm shall be calculated as follows:

(i) If the producers obtained a policy or plan of insurance, including a catastrophic risk protection plan, for the crop under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.), 50 percent of the established RMA price for the crop.

(ii) If a policy or plan of insurance, including a catastrophic risk protection plan, for the crop was not available to the producers under the Federal Crop Insurance Act, 50 percent of the State average price for the crop.

(iii) Subject to sub-paragraphs 4 and 5, if the producers did not obtain a policy or plan of insurance, including a catastrophic risk protection plan, available for the crop under the Federal Crop Insurance Act, 45 percent of the established RMA price for the crop.

(B) The amount of assistance that a producer would otherwise receive for a qualifying crop or quality loss under paragraph A of this subsection shall be reduced by the amount of assistance that the producer receives from section 32 of the Act of August 24, 1935 with respect to 2004 hurricane losses.

(C)(i) Assistance provided under this section to a producer for losses to a crop, together with the amounts specified in paragraph (2)(A) applicable to the same crop, may not exceed 95 percent of what the value of the crop would have been in the absence of the losses, as estimated by the Secretary.

(ii) In applying the limitation in paragraph (C)(i), the Secretary shall include the following:

(A) Any crop insurance payment made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or payment under section 196 of the Federal Agricultural Improvement and Reform Act of 1996 (7 U.S.C. 7333) that the producer receives for losses to the same crop.

(B) The value of the crop that was not lost (if any), as estimated by the Secretary.

(iii) Payments will be limited to a maximum of $80,000 per producer.

(A) This limit applies to the sum of payments from this program, as well as payments made under section 32 of the Act of August 24, 1935 with respect to 2004 hurricane losses.

(3) Except as provided in paragraph (4), the producers on a farm shall not be eligible for assistance under this section with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(A) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act for the crop incurring the losses; and

(B) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 for the crop incurring the losses; or

(C) had adjusted gross incomes, as defined by section 1001D of the Food Security Act of 1985, of greater than $2.5 million in 2003; or

(D) were not in compliance with highly erodible land conservation and wetland conservation provisions.

(4) The Secretary may waive paragraphs (3)(A) and (B) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—

(A) in the case of an insurable commodity, to obtain a policy or plan of insurance under the Federal Crop Insurance Act providing additional coverage for the insurable commodity for each of the next two crop years;

(B) in the case of a noninsurable commodity, to file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity for each of the next two crops under section 196 of the Federal Agriculture Improvement and Reform Act of 1996.

(5) In the event of the violation of a contract under paragraph (4) by a producer, the producer shall reimburse the Secretary for the full amount of the assistance provided to the producer under this section.

(6) Definitions.—In this sub-section:

(A) The term "additional coverage" has the meaning given the term in section 502(b)(1) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)(1).

(B) The term "insurable commodity" means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act.

(C) The term "noninsurable commodity" means an eligible crop for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996.

(b) Clean-Up Assistance. The Secretary shall provide up to $100,000,000 of Commodity Credit Corporation funds for the Emergency Watershed Protection Program and/or the Emergency Conservation Program to carry out additional activities in response to the 2004 hurricanes and tropical storms, including the provision of technical and financial assistance for improvements and clean-up. Persons that received payments from section 32 of the Act of August 24, 1935 with respect to 2004 hurricane losses are not eligible for these funds. Funds will be allocated to the programs, as determined by the Secretary.

(c) Section 32 Payments.—The Secretary shall transfer $90,000,000 of funds of the Commodity Credit Corporation to the fund established by section 32 of the Act of August 24, 1935 (7 U.S.C. 612c), to carry out payments with respect to 2004 hurricane losses.

(d) The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section, to remain available through September 30, 2006.

(e) The Secretary may promulgate such regulations as are necessary to implement this section, provided that the Secretary shall use the authority provided under 5 U.S.C. 808.

(f) Congress designates the amounts provided under this section as an emergency requirement for the specific purposes authorized herein.

Sec. 102. In addition to amounts otherwise provided, up to $130,000,000, to remain available until expended, for the Emergency Watershed Protection Program and/or the Emergency Conservation Program for emergency hurricane-related expenses including the provision of technical and financial assistance for improvements and clean-up: *Provided*, That Congress designates this amount as an emergency requirement for these purposes. Persons that received payments from section 32 of the Act of August 24, 1935 with respect to 2004 hurricane losses are not eligible for these funds.

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

OPERATIONS, RESEARCH, AND FACILITIES

For an additional amount for "Operations, Research, and Facilities", $7,900,000, to remain available until expended: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

PROCUREMENT, ACQUISITION AND CONSTRUCTION

For an additional amount for "Procurement, Acquisition and Construction", $6,800,000, to remain available until expended: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

DEPARTMENT OF DEFENSE

Military Personnel

MILITARY PERSONNEL, NAVY

For an additional amount for "Military Personnel, Navy", $1,000,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of evacuation, which shall be available for transfer to reimburse costs incurred in FY 2004 as a result of emergency evacuations due to hurricanes: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

MILITARY PERSONNEL, AIR FORCE

For an additional amount for "Military Personnel, Air Force", $13,225,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of evacuation, which shall be available for transfer to reimburse costs incurred in FY 2004 as a result of emergency evacuations due to hurricanes: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

Operation and Maintenance

OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Operation and Maintenance, Army", $2,844,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, evacuation, base preparation, and base recovery; of which not to exceed 25 percent shall be available for transfer to reimburse costs incurred in FY 2004 as a result of emergency evacuations and immediate recovery related to basic infrastructure due to hurricanes: *Provided*, That Congress designates these amounts as an emergency requirement for this specific purpose.

OPERATION AND MAINTENANCE, NAVY

For an additional amount for "Operation and Maintenance, Navy", $404,591,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, evacuation, base preparation, and base recovery; of which not to exceed 25 percent shall be available for transfer to reimburse costs incurred in FY 2004 as a result of emergency evacuations and immediate recovery related to basic infrastructure due to hurricanes: *Provided*, That Congress designates these amounts as an emergency requirement for this specific purpose.

OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Operation and Maintenance, Air Force", $128,672,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, evacuation, base preparation, and base recovery; of which not to exceed 25 percent shall be available for transfer to reimburse costs incurred in FY 2004 as a result of emergency evacuations and immediate recovery related to basic infrastructure due to hurricanes: *Provided*, That Congress designates these amounts as an emergency requirement for this specific purpose.

OPERATION AND MAINTENANCE, DEFENSE-WIDE

For an additional amount for "Operation and Maintenance, Defense-Wide", $172,506,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, evacuation, base preparation, base recovery, and delayed satellite launches; of which not to exceed 25 percent shall be available for transfer to reimburse costs incurred in FY 2004 as a result of emergency evacuations and immediate recovery related to basic infrastructure due to hurricanes: *Provided*, That Congress designates these amounts as an emergency requirement for this specific purpose: *Provided further*, That the Secretary of Defense may transfer these funds to appropriations for military personnel; operation and maintenance; procurement; and family housing: *Provided further*, That funds transferred shall be merged with and made available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense.

OPERATION AND MAINTENANCE, ARMY RESERVE

For an additional amount for "Operation and Maintenance, Army Reserve", $1,442,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, evacuation, base preparation, and base recovery; of which not to exceed 25 percent shall be available for transfer to reimburse costs incurred in FY 2004 as a result of emergency evacuations and immediate recovery related to basic infrastructure due to hurricanes: *Provided*, That Congress designates these amounts as an emergency requirement for this specific purpose.

OPERATION AND MAINTENANCE, NAVY RESERVE

For an additional amount for "Operation and Maintenance, Navy Reserve", $399,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, evacuation, base preparation, and base recovery; of which not to exceed 25 percent shall be available for transfer to reimburse costs incurred in FY 2004 as a result of emergency evacuations and immediate recovery related to basic infrastructure due to hurricanes: *Provided*, That Congress designates these amounts as an emergency requirement for this specific purpose.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Army National Guard", $3,350,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, evacuation, base preparation, and base recovery; of which not to exceed 25 percent shall be available for transfer to reimburse costs incurred in FY 2004 as a result of emergency evacuations and immediate recovery related to basic infrastructure due to hurricanes: *Provided*, That Congress designates these amounts as an emergency requirement for this specific purpose.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For an additional amount for "Operation and Maintenance, Air National Guard", $1,085,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, evacuation, base preparation, and base recovery; of which not to exceed 25 percent shall be available for transfer to reimburse costs incurred in FY 2004 as a result of emergency evacuations and immediate recovery related to basic infrastructure due to hurricanes: *Provided*, That Congress designates these amounts as an emergency requirement for this specific purpose.

Other Department of Defense Programs

DEFENSE HEALTH PROGRAM

For an additional amount for "Defense Health Program", $10,286,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, evacuation, base preparation, and base recovery: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

Procurement

OTHER PROCUREMENT, AIR FORCE

For an additional amount for "Other Procurement, Air Force," $2,500,000, to remain available until September 30, 2005, for emergency hurricane-related expenses and replacement of destroyed or damaged equipment: *Provided*, That Congress designates these amounts as an emergency requirement for this specific purpose.

PROCUREMENT, DEFENSE-WIDE

For an additional amount for "Procurement, Defense-Wide", $102,500,000, to remain available until September 30, 2005 for emergency hurricane-related expenses, for the costs of repairs to structures and facilities, replacement of destroyed or damaged equipment, and preparation and recovery of naval vessels under construction: *Provided*, That Congress designates these amounts as an emergency requirement for this specific purpose: *Provided further*, That the Secretary of Defense may transfer these funds to appropriations for procurement; research, development, test, and evaluation; and military construction: *Provided further*, That funds transferred shall be merged with and made available for the same purposes and for the same time period as the appropriation to which transferred: *Provided further*, That this transfer authority is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That such funds may be obligated and expended to carry out rebuilding of military construction projects not otherwise authorized by law.

Military Construction

MILITARY CONSTRUCTION, NAVY

For an additional amount for "Military Construction, Navy", $138,800,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and facilities: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose: *Provided further*, That such funds may be obligated and expended to carry out rebuilding of military construction projects not otherwise authorized by law.

MILITARY CONSTRUCTION, ARMY RESERVE

For an additional amount for "Military Construction, Army Reserve", $8,700,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and facilities: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose: *Provided further*, That such funds may be obligated and expended to carry out rebuilding of military construction projects not otherwise authorized by law.

BASE REALIGNMENT AND CLOSURE ACCOUNT

For an additional amount for "Base Realignment and Closure Account", $50,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

Family Housing

FAMILY HOUSING, OPERATION AND MAINTENANCE, ARMY

For an additional amount for "Family Housing, Operation and Maintenance, Army", $313,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, evacuation, base preparation, and base recovery: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

FAMILY HOUSING, OPERATION AND MAINTENANCE, NAVY AND MARINE CORPS

For an additional amount for "Family Housing, Operation and Maintenance, Navy and Marine Corps", $3,276,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, evacuation, base preparation, and base recovery: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

FAMILY HOUSING, OPERATION AND MAINTENANCE, AIR FORCE

For an additional amount for "Family Housing, Operation and Maintenance, Air Force", $5,600,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, evacuation, base preparation, and base recovery: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

Revolving and Management Funds

WORKING CAPITAL FUND, DEFENSE-WIDE

For an additional amount for "Working Capital Fund, Defense-Wide", $77,000,000, to remain available until September 30, 2005, for emergency hurricane-related expenses, for the costs of repairs to structures and equipment, and base recovery: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

General Provisions—Department of Defense

GENERAL TRANSFER AUTHORITY

SEC. 201. Upon his determination that such action is necessary in the national interest, the Secretary of Defense may transfer between appropriations up to $210,000,000 of the funds made available to the Department of Defense in this title: *Provided*, That the Secretary shall notify the Congress promptly of each transfer made pursuant to this authority: *Provided further*, That the transfer authority provided in this section is in addition to any other transfer authority available to the Department of Defense: *Provided further*, That the authority in this section is subject to the same terms and conditions as the authority provided in section 8005 of the Department of Defense Appropriations Act, 2005, except for the fourth proviso.

SEC. 202. Funds appropriated in this title, or made available by the transfer of funds in or pursuant to this title, for intelligence activities are deemed to be specifically authorized by the Congress for purposes of section 504 of the National Security Act of 1947 (50 U.S.C. 414).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DEPARTMENTAL MANAGEMENT

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For an additional amount for "Public Health and Social Services Emergency Fund" to support aging services, social services and health services associated with natural disaster recovery and response efforts, $50,000,000, to remain available until expended: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

DEPARTMENT OF HOMELAND SECURITY

EMERGENCY PREPAREDNESS AND RESPONSE

DISASTER RELIEF FUND

For an additional amount for necessary expenses under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.), $6,500,000,000, to remain available until expended: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

UNITED STATES COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating Expenses", $26,000,000, to remain available until expended for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT FUND

For an additional amount for "Community Development Fund", as authorized under title I of the Housing and Community Development Act of 1974 (Act), for emergency expenses resulting from natural disasters in Florida, except those activities reimbursable by the Federal Emergency Management Agency or available through the Small Business Administration, and for reimbursement for expenditures incurred from the regular Community Development Block Grant formula allocation used to achieve these same purposes, $150,000,000, to remain available until September 30, 2007: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose: *Provided further*, That such funds may be awarded to the State of Florida for affected areas: *Provided further*, That notwithstanding 42 U.S.C. 5306 (d) (2), the State of Florida is authorized to provide such assistance to entitlement communities: *Provided further*, That in administering these funds for economic revitalization activities in Florida, the Secretary may waive, or specify alternative requirements for, any provision of any statute or regulation that the Secretary administers in connection with the obligation by the Secretary or the use by the recipient of these funds (except for requirements related to fair housing, nondiscrimination, labor standards, and the environment), upon a finding that such waiver is required to facilitate the use of such funds, and would not be inconsistent with the overall purpose of the statute or regulation: *Provided further*, That for activities funded by amounts provided herein, the Secretary may waive, on a case-by-case basis and upon such other terms as the Secretary may specify, in whole or in part, the requirements that activities principally benefit persons of low- and moderate-income pursuant to 42 U.S.C. 5301(c) and 5304(b)(3): *Provided further*, That the Secretary shall publish in the Federal Register any waiver of any statute or regulation authorized under this heading no later than 5 days before the effective date of such waiver.

DEPARTMENT OF THE INTERIOR

UNITED STATES GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For an additional amount for "Surveys, Investigations, and Research", $1,000,000, to remain available until expended for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For an additional amount for "Resource Management", $2,700,000, to remain available until expended for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

CONSTRUCTION

For an additional amount for "Construction", $24,700,000, to remain available until expended for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

NATIONAL PARK SERVICE

CONSTRUCTION AND MAJOR MAINTENANCE

For an additional amount for "Construction and Major Maintenance", $48,900,000, to remain available until expended for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

DEPARTMENT OF JUSTICE

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities", $18,600,000, to remain available until expended for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

SALARIES AND EXPENSES

For an additional amount for "Salaries and Expenses", $5,500,000, to remain available until expended for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

DEPARTMENT OF TRANSPORTATION

FEDERAL AVIATION ADMINISTRATION

OPERATIONS

For an additional amount for "Operations", $5,100,000, to remain available until expended for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

EMERGENCY ASSISTANCE TO AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

Notwithstanding any other provision of law, for emergency hurricane-related insurance-ineligible capital costs to repair or replace public-use airport-related facilities at public-use airports identified in the National Plan of Integrated Airport Systems, to enable the Federal Aviation Administration to compensate entities for such capital costs, up to $25,000,000, to be derived from the Airport and Airway Trust Fund, to remain available until June 30, 2006: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

FEDERAL HIGHWAY ADMINISTRATION

FEDERAL-AID HIGHWAYS

EMERGENCY RELIEF PROGRAM

(HIGHWAY TRUST FUND)

For an additional amount for the Emergency Relief Program for emergency expenses resulting from 2004 Hurricanes Charley, Frances, Ivan, and Jeanne, as authorized by title 23 U.S.C. 125, $800,000,000, to be derived from the Highway Trust Fund (other than the Mass Transit Account): *Provided*, That notwithstanding 23 U.S.C. 125(d)(1), the Secretary of Transportation may obligate more than $100,000,000 for projects arising from Hurricanes Charley, Frances, Ivan, and Jeanne: *Provided further*, That any amounts in excess of those necessary for emergency expenses relating to the above hurricanes may be used for other projects authorized under 23 U.S.C. 125: *Provided further*, That amounts provided herein shall remain available until expended: *Provided further*, That the entire amount is designated by the Congress as an emergency requirement for this specific purpose.

DEPARTMENT OF VETERANS AFFAIRS

VETERANS HEALTH ADMINISTRATION

MEDICAL SERVICES

For an additional amount for "Medical Services", $38,283,000, to remain available until September 30, 2005, for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

MEDICAL FACILITIES

For an additional amount for "Medical Facilities", $46,910,000, to remain available until expended for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

MEDICAL ADMINISTRATION

For an additional amount for "Medical Administration", $1,939,000, to remain available until September 30, 2005, for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

DEPARTMENTAL ADMINISTRATION

GENERAL OPERATING EXPENSES

For an additional amount for "General Operating Expenses", $545,000, to remain available until September 30, 2005, for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

NATIONAL CEMETERY ADMINISTRATION

For an additional amount for "National Cemetery Administration", $50,000, to remain available until September 30, 2005, for hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

CONSTRUCTION, MINOR PROJECTS

For an additional amount for "Construction, Minor Projects", $36,343,000, to remain available until expended for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

CORPS OF ENGINEERS—CIVIL WORKS

OPERATION AND MAINTENANCE, GENERAL

For an additional amount for "Operation and Maintenance, General" for hurricane-related expenses necessary to dredge navigation channels and repair other Corps projects, $94,000,000, to remain available until expended: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

FLOOD CONTROL AND COASTAL EMERGENCIES

For an additional amount for "Flood Control and Coastal Emergencies" as authorized by section 5 of the Flood Control Act of August 16, 1941, as amended (33 USC 701n), for emergency hurricane-related expenses from coastal storm damages and flooding, $147,000,000, to remain available until expended: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For an additional amount for "Flood Control, Mississippi River and Tributaries, Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee" to cover the additional costs of dredging and mat laying operations on the main stem of the lower Mississippi River due to hurricanes and other severe storms, $4,000,000, to remain available until expended: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

ENVIRONMENTAL PROTECTION AGENCY

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and Facilities," $3,000,000, to remain available until expended, for emergency hurricane-related expenses: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

INTERNATIONAL ASSISTANCE PROGRAMS

AGENCY FOR INTERNATIONAL DEVELOPMENT

INTERNATIONAL DISASTER AND FAMINE ASSISTANCE

For an additional amount for "International Disaster and Famine Assistance", $100,000,000, to remain available until expended, for emergency hurricane-related expenses without regard to section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

SPACE FLIGHT CAPABILITIES

For an additional amount for "Space Flight Capabilities", to repair facilities damaged and take other emergency measures due to the effects of hurricanes, $126,000,000, to remain available until expended: *Provided*, That Congress designates this amount as an emergency requirement for this specific purpose.

SMALL BUSINESS ADMINISTRATION

DISASTER LOANS PROGRAM ACCOUNT

For an additional amount for "Disaster Loans Program Account" for emergency expenses resulting from natural or other disasters, to remain available until expended, $501,000,000 for the cost of direct loans; and $428,000,000 for administrative expenses to carry out the disaster loan program, which may be transferred to the appropriations for "Salaries and expenses": *Provided*, That Congress designates these amounts as an emergency requirement for this specific purpose.

EXECUTIVE OFFICE OF THE PRESIDENT

UNANTICIPATED NEEDS

For an additional amount for "Unanticipated Needs", not to exceed $70,000,000, to remain available until September 30, 2005, for the American Red Cross for reimbursement of disaster relief and recovery expenditures and emergency services associated with Hurricanes Charley, Frances and Ivan, and only to the extent funds are not made available for those activities by other federal sources: *Provided*, That these funds may be administered by any authorized federal government agency to meet the purposes of this provision and that total administrative costs shall not exceed three percent of the total appropriation: *Provided further*, That the Comptroller General shall audit the use of these funds by the American Red Cross: *Provided further*, That Congress designates this amount as an emergency requirement for this specific purpose.

This Act may be cited as the "Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act, 2005".

The **CHAIRMAN**. No amendment to the bill shall be in order except the amendment printed in House Report 108–735 and amendment number 2 for printing in the designated place in the CONGRESSIONAL RECORD. Each amendment may be offered only by a Member designated in the report or the Member who submitted it for printing in the CONGRESSIONAL RECORD, shall be considered read, debatable for 20 minutes, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 2 OFFERED BY MR. NEUGEBAUER

Mr. **NEUGEBAUER**. Mr. Chairman, I offer an amendment.

The **CHAIRMAN**. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 offered by Mr. NEUGEBAUER:

In section 101, strike the section heading and subsection (a) and insert the following (and redesignate existing subsections (b) through (f) accordingly):

SEC. 101. AGRICULTURAL DISASTER ASSISTANCE.

(a) CROP DISASTER ASSISTANCE.—

(1) DEFINITIONS.—In this subsection:

(A) ADDITIONAL COVERAGE.—The term "additional coverage" has the meaning given the term in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)).

(B) INSURABLE COMMODITY.—The term "insurable commodity" means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(C) NONINSURABLE COMMODITY.—The term "noninsurable commodity" means an agricultural commodity for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(2) EMERGENCY FINANCIAL ASSISTANCE.—Notwithstanding section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)), the Secretary of Agriculture shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this subsection available to producers on a farm that have incurred qualifying crop or quality losses for the 2003 or 2004 crop (as elected by a producer), but not both crops, due to damaging weather or related condition, as determined by the Secretary.

(3) ADMINISTRATION.—The Secretary shall make assistance available under this subsection in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(4) INELIGIBILITY FOR ASSISTANCE.—Except as provided in paragraph (5), the producers on a farm shall not be eligible for assistance under this subsection with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(A) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses; and

(B) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses.

(5) CONTRACT WAIVER.—The Secretary may waive paragraph (4) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—

(A) in the case of an insurable commodity, to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) providing additional coverage for the insurable commodity for each of the next 2 crops; and

(B) in the case of a noninsurable commodity, to file the required paperwork and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity for each of the next 2 crops under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(6) EFFECT OF VIOLATION.—In the event of the violation of a contract under paragraph (5) by a producer, the producer shall reimburse the Secretary for the full amount of the assistance provided to the producer under this subsection.

(7) PAYMENT LIMITATIONS.—

(A) LIMIT ON AMOUNT OF ASSISTANCE.—Assistance provided under this subsection to a producer for losses to a crop, together with the amounts specified in subparagraph (B) applicable to the same crop, may not exceed 95 percent of what the value of the crop would have been in the absence of the losses, as estimated by the Secretary.

(B) OTHER PAYMENTS.—In applying the limitation in subparagraph (A), the Secretary shall include the following:

(i) Any crop insurance payment made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or payment under section 196 of the Federal Agricultural Improvement and Reform Act of 1996 (7 U.S.C. 7333) that the producer receives for losses to the same crop.

(ii) The value of the crop that was not lost (if any), as estimated by the Secretary.

(C) EFFECT OF FLORIDA DISASTER PROGRAMS.—The amount of assistance that a producer would otherwise receive under this subsection shall be reduced by the amount of assistance that the producer receives for the same loss under the Florida Disaster Programs carried out pursuant to the Farm Service Agency notice (DAP-203) released October 4, 2004.

(b) LIVESTOCK ASSISTANCE PROGRAM.—

(1) EMERGENCY FINANCIAL ASSISTANCE.—The Secretary of Agriculture shall use such sums as are necessary of funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2003 or 2004 losses (as elected by a producer), but not both, in a county that has received an emergency designation by the President or the Secretary after January 1, 2003, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-51).

(2) ADMINISTRATION.—The Secretary shall make assistance available under this subsection in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106-387; 114 Stat. 1549A-51).

(3) MITIGATION.—In determining the eligibility for or amount of payments for which a producer is eligible under the livestock assistance program, the Secretary shall not penalize a producer that takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

(c) TREE ASSISTANCE PROGRAM.—

(1) EMERGENCY ASSISTANCE.—The Secretary of Agriculture shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide assistance under the tree assistance program established under sections 10201 through 10204 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8201 et seq.) to producers who suffered tree losses during the period beginning on December 1, 2003, and ending on December 31, 2004.

(2) ADDITIONAL ASSISTANCE.—In addition to providing assistance to eligible orchardists under the tree assistance program, the Secretary shall use an additional $15,000,000 of the funds of the Commodity Credit Corporation to provide reimbursement under section 10203 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8203) to eligible forest land owners who produce periodic crops of timber from trees for commercial purposes and who have suffered tree losses during the period specified in paragraph (1).

(d) EMERGENCY CONSERVATION PROGRAM.—The Secretary of Agriculture shall use an additional $50,000,000 of the funds of the Commodity Credit Corporation to provide assistance under the Emergency Conservation Program under title IV of the Agriculture Credit Act of 1978 (16 U.S.C. 2201 et seq.). Participants in the Emergency Conservation Program shall receive the maximum cost share percentage allowed under section 701.26 of title 7, Code of Federal Regulations.

(e) OFFSET.—Section 1241(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(3)) is amended by inserting before the period at the end the following: ", using not more than $6,037,000,000 for the period of fiscal years 2005 through 2014".

The CHAIRMAN. Pursuant to House Resolution 819, the gentleman from Texas (Mr. NEUGEBAUER) and the gentleman from Wisconsin (Mr. OBEY) each will control 10 minutes.

The Chair recognizes the gentleman from Texas (Mr. NEUGEBAUER).

Mr. NEUGEBAUER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment represents a fiscally responsible approach to agriculture disaster assistance. I want those that were devastated by the successive hurricanes that hit Florida and surrounding States to receive the much-needed aid they deserve. I also want to make sure that the disaster assistance package that helps farmers across the country who have faced losses in the past 2 years, including those who lost over 1.3 million acres of crops in west Texas last year, get their appropriate aid.

I supported the bill that the gentleman from Texas (Mr. STENHOLM) introduced that mirrored the assistance package that the Senate had approved. Unfortunately, like my friend from Nebraska (Mr. OSBORNE) pointed out earlier, it has become apparent that that bill, without offsets, will not be successful.

This amendment will provide assistance in a manner that is consistent with the Senate amendment. The cost is offset through the same mechanism used to fund the agriculture disaster program 2 years ago, capping the CSP or known as the Conservation Security Program. This offset does not impact current funding of the CSP, and even with the cap, the CSP will receive ample funds over the next 10 years.

This approach does not, and I repeat does not, reopen the farm bill; it simply puts the 2003 cap back on the CSP. No farm commodity programs will be affected by this offset.

Many have said, well, I would prefer a disaster program that had no offset. So would I. However, when we know that the preferred alternative is not going to be accepted in these negotiations, then we are willing to consider other alternatives that would ensure its passage. What is more important to me is, the farmers that suffered these losses in 2003 and 2004 get the very-much-needed relief that they deserve.

It is a shame that disaster assistance becomes the political football this time of year in Washington. That is why I introduced legislation earlier this year that would provide a new crop insurance tool that would help alleviate the need for disaster programs in the future.

I urge Members to support this amendment in order to provide agriculture disaster assistance for all farmers and ranchers who experienced severe losses and provide it in a fiscally responsible way.

Mr. Chairman, I reserve the balance of my time.

Mr. OBEY. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. I thank the gentleman for yielding me this time.

Mr. Chairman, it is amazing, listening to my colleague saying that the bill that he cosponsored yesterday would not be accepted. Why? Fourteen Republicans signed onto the bill yesterday. All of my Democratic colleagues indicated their support on a vote. Therefore, if my colleague from west Texas would have chosen to vote his conscience, it would have passed. He can say all he wants to that it would not have passed, but the only reason is that once again when the leadership speaks, folks on that side jump.

On September 27, the President proposed the disaster assistance before the House today. His request included agriculture assistance for hurricane and tropical storm disaster victims. On Monday, I introduced H.R. 5203, which is cosponsored by 42 Members, 16 of them Republicans. This morning at 7 a.m., the leadership of this House, through the Rules Committee, said very clearly, no fairness is required. Disaster aid without offsets was okay for Florida producers, but not producers elsewhere who are hurting just as much.

The cosponsors of my bill, as well as the organizations, 25 farm groups, agree with me and disagree with my friend from Texas.

Instead of taking up this bill at 10 a.m., the leadership took a few hours to see the error of its ways and to at least allow some drought assistance, a flawed one, but drought assistance to be considered. But that leadership has demanded that agriculture disasters be treated differently than other disasters which are alleviated by the bill and that we reopen the farm bill.

The President has not required offsets for the agriculture disaster assistance that he requested. It was the leadership in this House that made that request. The President understands the unpredictable nature of disasters and requested emergency spending appropriately.

In following the leadership and choosing this path of reopening the farm bill, this House and the Members of it who are concerned for agriculture will surely come to regret it. But the House has spoken. I notice that the leadership has spoken. And when the leadership of this body on the other side of the aisle says, this is the way it is going to be, everybody falls in line.

I have never operated that way in 26 years. When I disagreed with my leadership in what I believed was right, not just for west Texas in this concern, but with the other States who have just as much interest in this as we do, we said "no" to the leadership.

I know that some of my colleagues on the other side of the aisle's consciences are bothering them a little bit right now because deep down in their hearts they know that what we are about to do and the reasons for which we are about to do it are not in the best interests of American agriculture. They know that, but they have chosen to follow a leadership that has put politics ahead of policy and interjected policy and politics into an appropriations process that should never have gotten to this point.

I repeat, the President did not request offsets for agricultural disasters. The only people that have requested this are the leadership of this House. Sixteen Members on the other side of the aisle yesterday were doing the right thing. Today, they are doing the wrong thing for American agriculture, and 25 agricultural groups have said this is wrong and have sent a letter to every Member of this House. Fifteen conservation groups have said this is wrong. And some of you have voted not in the best interest of your districts because the Conservation Security Program is already working within your districts and you have been for it.

Mr. NEUGEBAUER. Mr. Chairman, I yield 2½ minutes to the gentleman from Texas (Mr. BONILLA), chairman of the Subcommittee on Agriculture, Rural Development, Food and Drug Administration and Related Agencies of the Committee on Appropriations.

Mr. BONILLA. Mr. Chairman, I rise in strong support of the Neugebauer amendment. This is a hard chore to accomplish. The gentleman from Texas (Mr. NEUGEBAUER) has been working day and night to make this work.

Every producer in this country that has ever come to see me before about a pending problem, an emergency situation that they face, people who represent different commodity groups, know that we have always done everything we possibly can to help them. But it is difficult. Money does not grow on trees and sometimes we have to take from one place and put it in another to make it work for the foreseeable future. It is no different than American families have to do when they have to struggle to make ends meet during emergency situations in their own homes and in their own neighborhoods.

We have always tried to be fair. In the years that I have chaired the Agriculture Appropriations Subcommittee, I have learned a lot, heard a lot and worked a lot on situations similar to this over the years. There is always a different solution that we try to look for.

In this case, we do have an offset that applies to one particular program, the CSP program. But tomorrow will be another day and we will figure out how to handle a shortfall, as we always do, in the future when we face a pressing need.

I would say to everyone out there who has concerns about this, tomorrow is another day. Today is the day we have to get this done for producers and for commodity groups all across the country.

□ 2115

Again, I commend the gentleman from Texas (Mr. NEUGEBAUER) for working day and night to try to pull this deal together. It is a good deal.

Is everyone happy? Absolutely not. But it is the best that we can possibly do. Our hearts are in the right place, and we have worked hard to get to this point.

I urge all of my colleagues to support the Neugebauer amendment.

Mr. OBEY. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Florida (Mr. YOUNG), committee chairman.

Mr. YOUNG of Florida. Mr. Chairman, I thank the gentleman for yielding me this time, and I thank him very much for all the cooperation that he has shown us as we prepared this legislation for these tremendous supplementals for hurricane disaster relief.

I am not going to speak in opposition to the amendment, but I want to say this. The process is disturbing. The inconsistencies in the process are disturbing.

For example, I have talked often this afternoon about H.R. 5227 that does what I think needs to be done in this hurricane relief, and the additional agriculture disaster assistance that the gentleman offers in his amendment is included in H.R. 5227. But the process would not allow me, as chairman of the committee, to include this additional agriculture disaster funding in H.R. 5212. That inconsistency, to me, is very disturbing and it is not acceptable.

I am not going to argue against the amendment because I tried to include similar funding myself. The gentleman from Texas, I do not know who he knows or what he knows, but he got a chance to do it. But the chairman of the committee could not. The process is not acceptable.

Mr. OBEY. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I agree with the gentleman. That is what I meant when I said that the way this House is being run these days, the people who know the least about these things are evidently being given the opportunity to do the most about them, which is backwards in terms of my understanding of the legislative body.

Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, the gentleman from Texas (Mr. BONILLA), I greatly admire, respect, and appreciate the job that he has done and is doing; but it is curious he would make a fiscally responsible argument for my amendment when he does not make the same one for the $12 billion that we have all agreed is emergency spending.

Why would you come to the floor and defend one small part that does bad policy for agriculture, and you know it? But just as the chairman has expressed his concern about the procedure and the gentleman from Wisconsin (Mr. OBEY) has echoed the procedure, and everybody knows what the procedure is in this, the sad thing about this is that the policy that is going to be interjected because of the misuse of procedure in this body is going to be devastating to American agriculture. It is going to be bad. And that is why 25 groups agree with me and disagree with the gentleman from West Texas.

The chairman has said it more eloquently. The procedure lacks a little bit in common sense.

Mr. NEUGEBAUER. Mr. Chairman, I yield 1½ minutes to the distinguished gentleman from Virginia (Mr. GOODLATTE), chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Chairman, obviously we would prefer to provide assistance without offsets, but the reality of the situation is that there will be no disaster money before we go home unless we provide budget offsets. We will not touch the farm commodity programs that are the heart of the farm bill.

The savings we are making will cap the Conservation Security Program at $6 billion. That is three times the amount of money that was put into this program. It was a new program when the farm bill was created. This is a new program still in its start-up phase. The gentleman suggested that some people might be at risk for this program. This year, this program will spend $175 million. With the 3 years remaining in the farm bill and $9 billion to spend, nothing is at risk in the rest of the farm bill.

We should make sure we accomplish two things here: use this money, as we did 18 months ago with support from the folks on the other side of the aisle, to do exactly what we are doing today; and make sure that we put a cap back on this program so that it does not raid other parts of the farm bill. We can accomplish both of those goals here tonight.

I urge my colleagues to support this vital amendment.

I want to thank the gentleman from Texas (Mr. NEUGEBAUER) for his leadership on the issue of disaster assistance for producers. We have been working for several weeks to find a way to help farmers and ranchers from west Texas to Minnesota to Colorado, as well as those devastated by hurricanes in the Southeast. With the tight budgets we now face, it has been a difficult task, but we believe the Neugebauer amendment provides the path to secure assistance our producers need.

I urge my colleagues to support this sound amendment.

Mr. NEUGEBAUER. Mr. Chairman, I yield 1½ minutes to the gentleman from Kansas (Chairman MORAN).

Mr. MORAN of Kansas. Mr. Chairman, I thank the gentleman from Texas for yielding me this time.

I rise tonight in support of this amendment. I would like to show a photograph from home of what we face in our State. These issues that Florida has encountered as a result of hurricanes create tremendous problems, but 5 years of no rain in western Kansas results in a photograph like this. This is not the 1930s; this is the spring of 2004, and we have Kansas counties that are drier now than in the "Dirty '30s."

This issue is important to us. It is about whether or not our farmers and ranchers can survive and live into the future, whether or not there is hope and opportunity for rural communities, whether or not we have young people in school, whether or not we have people who shop on our main streets. This is about the survival of rural America.

And I am pleased to be here tonight to see the House take action in a responsible way, designed to address the serious needs faced by many rural American communities as a result of weather-related conditions through no fault of their own. This is an opportunity for us to come together as a country and support not only Florida and the southern part of the United States whose sympathy and condolences we have for the disasters they have encountered but also to recognize that all of America is in this battle together.

I thank the gentleman for allowing me the opportunity to speak tonight in favor of this amendment, finally bringing it to the House floor, addressing this issue we seriously face.

Mr. NEUGEBAUER. Mr. Chairman, I yield 1½ minutes to the gentleman from Nebraska (Mr. OSBORNE).

Mr. OSBORNE. Mr. Chairman, I thank the gentleman for yielding me this time.

We have stated very clearly the need for drought assistance. Some have said this is a 500-year drought, and it certainly is in most areas. Reservoirs are depleted. One part of Nebraska had 1 inch of rain in 12 months, no pastures. So it is badly needed.

There has been a lot of argument tonight about the process, and I must say that I agree with some of those arguments. There is some validity.

Two years ago Mr. Thune and the gentleman from Kansas (Mr. MORAN) and I went to the White House two or three times, when we had this same problem. And we were told unequivocally that there would be no aid without an offset. And so that is where we find ourselves again tonight. I am not pointing the finger at anybody. I am just saying that is the reality.

And I agree with many of the things the gentleman from Texas (Mr. STENHOLM) has said, but I guess I have to weigh that against getting drought relief for some farmers that I think need it very badly, and this is the only option that I see at the present time that is workable, that will work. So I admit to discomfort, but it is the best we can do.

I urge support of this amendment.

Mr. NEUGEBAUER. Mr. Chairman, I yield 1½ minutes to the gentlewoman from Colorado (Mrs. MUSGRAVE).

Mrs. MUSGRAVE. Mr. Chairman, as we think of our friends in Florida, we saw them boarding up their windows in preparation for the tropical storm that would hit and be devastating. However, in many parts of rural Colorado, the businesses on Main Street are boarding up their windows because our ag producers are having such a horrific time with the prolonged drought.

The gentleman from Kansas (Mr. MORAN) and the gentleman from Nebraska (Mr. OSBORNE) are in the same region, and we know the devastation that this prolonged drought has shown. We have not had reporters in rural Colorado, standing there and showing the disaster, because it has been over a long period of time, getting worse every year.

So we desperately need this relief at this time for our farmers and for our individuals that raise cattle, that have even had to sell off their breeding stock because the pastures have not had any grass on them now for years.

So at this difficult time we make difficult choices, and I rise in support of the efforts of the gentleman from Texas (Mr. NEUGEBAUER).

Mr. OBEY. Mr. Chairman, I yield 1 minute to the gentleman from Texas (Mr. STENHOLM).

Mr. STENHOLM. Mr. Chairman, I thank the gentleman for yielding me this time.

And one point I want to make: I will not accept for one-half second the fiscal responsibility comment that was made. For a majority party that has presided over the largest deficits in the history of our country, I will not accept any charge that tonight we get fiscally responsible by choosing to treat agriculture different from any other disaster.

Do not make the fiscally responsible argument. That dog will not hunt. We are talking about policy. Twenty-five agricultural groups are agreeing with me. The majority is agreeing with the leadership of the House and are deciding, for some strange reason, this is a political point that needs to be made.

The President did not ask for offsets. Why did their leadership suddenly ask for offsets for agriculture when we are not offsetting any other part of this bill? If they want to get fiscal responsibility, I will join with them and we will treat agriculture just like every other aspect, but I will not allow agriculture to be singled out, which this amendment is doing tonight.

The SPEAKER pro tempore (Mr. ISAKSON). The gentleman from Texas (Mr. NEUGEBAUER) has 15 seconds remaining.

Mr. NEUGEBAUER. Mr. Chairman, I yield myself the balance of my time.

I will just close with this thought. I came to this House tonight not to talk about politics, but about getting the job done for farmers and ranchers around this country, and I hope that my colleagues on both sides of the aisle will join me and let us get the job done for American farm and ranch families.

Mr. OBEY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, what is happening on this floor tonight is blatant, obvious, raw politics. That is all it is.

The Republican majority leadership is bringing a bill to the floor which has over $10 billion in aid to various areas of the country. No offsets. No offsets at all. But when on this side of the aisle we are trying to deal with disaster problems for farmers on an equal footing with the hurricane disasters that we have just had in Florida and other States, then we are told, Oh, no. All of a sudden a new rule has to apply.

I would say to the gentleman from Nebraska that is like saying that in an Oklahoma-Nebraska football game, Oklahoma has to go 200 yards for a touchdown while Nebraska only has to go 100 yards. It just is not fair. It is not square.

I would make another point. Even if we were going to have offsets, this is a "let's pretend" offset. This is a phony offset, because if we take a look at the scoring by the beloved Congressional Budget Office, which the majority party used to stick with, come hell or high water, if we take a look at this, there is no offset whatsoever in the first fiscal year, zero savings by this "let's pretend" offset.

In the second year there is a $56 million savings out of a $2.8 billion cost. Who are they kidding?

□ 2130

This is a political maneuver. This is not a financial or budgetary offset. It is a joke. And if it did not do so much damage to farmers, I would laugh at it. Over 3 years, it provides only one-tenth the offset that is required to meet the standard budget rules around here.

What we have got here tonight is not an offset, it is a political shell game, and the problem is that shell game results in sticking it to farmers. Shame on you.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. ISAKSON). All time having been yielded, the question is on the amendment offered by the gentleman from Texas (Mr. NEUGEBAUER).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. HENSARLING

Mr. HENSARLING. Mr. Chairman, I offer an amendment.

The CHAIRMAN pro tempore. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment offered by Mr. HENSARLING:

At the end of the bill (before the short title), insert the following:

SEC. ____. (a) OFFSETTING GOVERNMENT-WIDE RESCISSION.—Of the discretionary budget authority provided in appropriation Acts for fiscal year 2005, there is rescinded the total amount determined by the Director of the Office of Management and Budget to be required to offset the discretionary budget authority that is provided in this Act and designated as an emergency requirement.

(b) APPLICATION.—The rescission made by subsection (a)—

(1) shall take effect immediately after the enactment of all of the regular appropriation Acts for fiscal year 2005 (whether enacted separately, included in a consolidated appropriations law, or covered by a continuing appropriations law that funds programs through the end of the fiscal year);

(2) shall not apply to the discretionary budget authority provided for the Departments of Defense, Homeland Security, and Veterans Affairs; and

(3) shall be applied proportionately to the discretionary budget authority provided for each other department, agency, instrumentality, and entity of the Federal Government.

(c) REPORT.—The Director of the Office of Management and Budget shall include in the President's budget submission for fiscal year 2006 a report specifying the reductions made to each account, program, project, and activity pursuant to this section.

The CHAIRMAN pro tempore. Pursuant to House Resolution 819, the gentleman from Texas (Mr. HENSARLING) and a Member opposed each will control 10 minutes.

The Chair recognizes the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Chairman, I yield myself of such time as I may consume.

Mr. Chairman, I first want to congratulate the distinguished chairman of the Committee on Appropriations for his good work to help those devastated by the recent hurricanes.

My amendment represents a very simple proposition. But before stating that proposition, let me state the proposition it does not stand for. Specifically, nothing contained in this amendment would deny one penny of relief to those who suffered the ravages of the hurricanes that hit Florida; not one penny less, not one penny delay.

The proposition this amendment does stand for is that so-called emergency spending for natural disasters should come out of the budget. In other words, this supplemental spending should be offset with lower-priority spending, which, frankly, was our practice throughout the decade of the nineties. In every single year of the nineties, when supplemental spending bills were enacted, so were rescissions of other spending.

In that spirit, Mr. Chairman, this amendment would reduce 2005 discretionary spending approximately 3 percent, exempting national defense, homeland security and veterans spending.

Unfortunately, today, when we pass supplemental spending, we just add it to the deficit. We pass the bill along to our children and grandchildren. Many, many Members have come to the floor to decry deficit spending. It will be interesting to see how many of them truly want to do something about it and support this amendment.

Mr. Chairman, the true question before us is, who will tighten their belt to pay for this $10.9 billion of hurricane damage? Families, or government. I vote for the government.

Opponents of this amendment will argue that it will gut vital government programs. I simply reject that notion. I believe the government spending is already out of control. For only the fourth time in our Nation's history, the Federal Government is now spending over $20,000 per household. Over the last decade, almost every major department of government has grown way beyond the rate of inflation. Interior is up 42 percent; HHS, 110 percent; education, 125 percent; and the list goes on.

Mr. Chairman, much of the Federal budget helps our Nation in vital ways, but much of it does not: $800,000 outhouses, rain forests constructed in Iowa, wheelchairs costing four times as much as they should. Again, the $10.9 billion will either come out of the Federal budget, or the family budget.

Let us look at the family budget. The average down payment on a home in America is $21,600. If we defeat this amendment, might we be denying half a million Americans their first home? The average home computer costs $482. If we defeat this amendment, might we be denying over 20 million school children an invaluable educational tool?

To pay for hurricane relief, we must either tighten the Federal budget, or ask families to tighten theirs. This amendment comes down on the side of families.

Mr. YOUNG of Florida. Mr. Chairman, I claim the time in opposition to the amendment.

The CHAIRMAN pro tempore. The gentleman from Florida (Mr. YOUNG) is recognized for 10 minutes.

Mr. YOUNG of Florida. Mr. Chairman, I yield 5 minutes to the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Chairman, I would simply like to point out some of the budget reductions which will be caused by this amendment: The National Institutes of Health would be cut by $884 million from the House-passed bill.

The Centers For Disease Control, who told us yesterday we have a crisis on our hands with respect to childhood influenza, this amendment would cut $136 million from the House-passed bill for that agency.

Head Start, this amendment would cut $214 million, $10 million below last year's level.

The Low Income Heating Assistance Program, LIHEAP, would be cut $62 million from the House level.

The Federal Aviation Administration, they would be funded nearly one-half billion dollars below the fiscal 2004 level.

Education would be cut by $1.8 billion below the House-passed labor-health bill.

No Child Left Behind would be cut by $440 million. The vice president last night in the debate talked about the importance of that program.

. Title I grants would be cut by $414 million.

Special education, which both political parties posed for holy political pictures on for the last 4 years, that program is being cut by $400 million.

Pell Grants, the President at the national convention talked about the need to expand Pell Grants. This would cut Pell Grants, would exacerbate the shortfall by $300 million.

The FBI would be cut $161 million, including personnel resources for the Office of Intelligence and counterterrorism field investigations.

NASA would be cut.

National parks would be cut by $70 million, meaning a layoff of some 800 park rangers and maintenance staff.

Nuclear nonproliferation programs, which both presidential candidates said last week were their number one concern, would be cut by $40 million.

Law enforcement assistance would be cut by $81 million.

This is a family-friendly amendment? Give me a break.

Mr. Chairman, I yield back the balance of my time.

Mr. HENSARLING. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, such reductions can be made by department heads.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. FEENEY), who has seen hurricanes up close.

Mr. FEENEY. Mr. Chairman, I thank the courageous gentleman from Texas (Mr. HENSARLING) for the great job he is doing trying to contain Federal spending, and I really do want to thank our appropriations chairman. The gentleman from Florida (Mr. YOUNG) is a great hero, not just in Florida but nationally. He has set priorities straight. He has done an incredible job.

I want to say that I do speak in favor of this amendment, though, on offsets. We know that we are going to have emergencies on a regular annual basis. We do not know where they are going to be. We do not know what they are going to be. That is why they are emergencies. This is one of the reasons we need a huge supplemental fund, a rainy day fund in the Federal budget, just like a family budget or a business budget needs one, and that is something that conservatives in this House have advocated for.

I support the funding for FEMA. They ran out of money before the first hurricane in Florida. We had four. Thank goodness and thank God that the gentleman from Florida (Mr. YOUNG) and his friends understand the pressure that has been put on the people of Florida and we are going to live up to our moral and financial obligations.

Thank God for people like the gentleman from Texas (Mr. HENSARLING) who have started the Washington Waste Watchers to try to save money where it is being wasted and defunded all the legitimate needs of the people throughout our country.

Mr. Chairman, there are bureaucrats running agencies throughout our country, and they know that if they do not use and spend all of their dollars every year, they don't get to save them. So what they do is they go out in extraordinary ways and find ways to spend the money in unfortunate and unnecessary ways so they get more money the following year.

That type of mentality is what the gentleman from Texas (Mr. HENSARLING) and his amendment is trying to address.

House conservatives have asked that a rainy day fund be put in place every year for emergencies, because on an average basis, FEMA knows there are 30 declared disasters each and every year in America. We do not know where or when, but they are going to happen. And the appropriate way is to budget for those emergencies.

I can tell you, the rainy day fund, we know it rains in Florida, and God knows it has rained a lot the last four hurricanes.

Finally, Floridians are great resilient people. They can survive four hurricanes. If we can survive deficit spending by the Federal Government largesse for the next 20 or 30 years, that is a different story.

Mr. YOUNG of Florida. Mr. Chairman, I reserve the balance of my time.

Mr. HENSARLING. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Indiana (Mr. CHOCOLA), the author of the rainy day amendment.

Mr. CHOCOLA. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I rise tonight in strong support of this amendment, but the reality is, this amendment should never have had to be offered in the first place. What we should do is budget for emergencies, in other words, create a rainy day fund as part of our budget process.

Every single year, Federal tax dollars are used to pay for emergencies, yet we almost never budget for them. If we want to be honest with the American people and exercise fiscal responsibility when we know we are going to spend money, we should budget for it.

Since 1953, FEMA has had over 1,500 disaster declarations, which averages more than 30 per year. Since 1980, we have had 58 weather disasters, 49 of those have been since 1988, which have totaled almost $220 billion.

Mr. Chairman, hurricanes are disasters, but they are not surprises. There is no question that the people of Florida deserve the relief contemplated in this spending bill. That is not the issue we are discussing tonight.

The issue is, if we care about the size of the deficit, if we care about fiscal responsibility, if we care about future generations of Americans and if we care about being responsible, then we must learn to prioritize spending and reform our budget process to reflect reality.

Hurricane relief is a high priority, and so is the future of our children and our grandchildren. Let us do the right thing tonight and let us provide relief to the victims who in some cases have lost everything, and let us also do the right thing tonight by not creating future victims of a larger deficit.

I encourage my colleagues to support the Hensarling amendment.

The CHAIRMAN pro tempore. The gentleman from Texas (Mr. HENSARLING) has 3 minutes remaining and the gentleman from Florida (Mr. YOUNG) has 7½ minutes remaining.

Mr. HENSARLING. Mr. Chairman, I yield 1 minute to the gentleman from South Carolina (Mr. BARRETT).

Mr. BARRETT of South Carolina. I thank the gentleman for yielding me time.

Mr. Chairman, I rise tonight in full support of the amendment offered by my good friend the gentleman from Texas (Mr. HENSARLING) because it allows us to help those in need while at the same time requires us to be fiscally responsible.

My heart goes out to the folks of Florida and everybody that has been affected by hurricanes. My prayers and my thoughts are with them. There is no doubt they have been through a horrible ordeal, and they need our help, and they will get it. But in doing so, we must make sure that we can pay the bill.

This amendment would fully offset the cost of the $10.9 billion supplemental through a rescission in the FY 2005 discretionary spending, once enacted. Funding for defense, homeland security and veterans would be specifically exempt. We must look at the bottom line, and we have to start today making sound fiscal decisions.

Mr. Chairman, I urge my colleagues to join me in ensuring that the Federal Government helps those in need today, but in a responsible manner.

Mr. HENSARLING. Mr. Chairman, I yield 1½ minutes to the gentleman from Arizona (Mr. FLAKE).

Mr. FLAKE. Mr. Chairman, I thank the gentleman for yielding me time.

Mr. Chairman, I thank the gentleman for bringing this amendment forward. It is important. We need to be fiscally conservative at long last here. We have got to make sure that we offset these programs. If we do not, we are simply adding to the burden of our kids and our grandkids. It is simply not right. So I welcome this amendment, and simply say that the notion that we cannot find savings elsewhere in the Federal Government is simply absurd.

We have seen the run-up of spending in each of the Federal agencies over the last several years. We know that savings can be had, and we simply need to find them. When we look at the debate that was just had on the farm programs, I distinctly remember, a couple of years ago when we were debating a rather large farm bill, it being said that we needed to do this because we cannot keep doing emergency supplementals and that this program will take care of them.

□ 2145

Well, guess what? Here we are again. We need to find real offsets, and that is what this amendment does, and I thank the gentleman for offering it.

The CHAIRMAN pro tempore (Mr. ISAKSON). The gentleman from Texas (Mr. HENSARLING) has 1 minute remaining; the gentleman from Florida (Mr. YOUNG) has 7½ minutes remaining.

Mr. HENSARLING. Mr. Chairman, does the gentleman from Florida have the right to close?

The CHAIRMAN pro tempore. Yes, the gentleman from Florida (Mr. YOUNG) has the right to close.

Mr. HENSARLING. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, we have an opportunity tonight to aid Florida without imposing costs on our families, on our children, on our grandchildren. Either we must tighten the Federal budget, or we must force families to tighten their budget.

I would ask each Member to think about families in their district before they make this vote. I think about the Kings in Athens, Texas, and how this supplemental will impact their ability to pay for that last tuition payment for their son. I think about the Williams in Mesquite, Texas, and their small business, their paint and body shop. How is this supplemental going to impact their ability to hire two more workers? I think about the Evans in Garland, Texas, and I wonder how this supplemental will impact their ability to make those health insurance premiums.

We are going to relieve the people in Florida. The question is, is the $10 billion going to come out of the government budget, or is it going to come out of the family budget? Again, we believe it should come out of the government budget. We believe that we should protect the family budget. I would urge all Members to vote for this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. YOUNG of Florida. Mr. Chairman, I yield myself the balance of the time.

Mr. Chairman, I want to congratulate the gentleman from Texas and those of his colleagues, our colleagues, who have spoken in favor of this amendment. I will tell my colleagues that, as the chairman of the Committee on Appropriations, the committee that must pass legislation, the only bills that have to pass in this place are appropriations bills. Other bills can go by for years, and as my colleagues know, many of them do. We have been working on a transportation bill, not I, but others, working on a transportation bill for 3 or 4 years now and have not passed it. But these gentlemen have done a really good job in making sure that in our must-pass appropriations bills, that we pay close attention to what we are doing, that we make sure that we are able to justify whatever we are suggesting, because we know that if we do not do it right, they are going to be all over us, as they should be.

So I compliment them for their effort. But tonight I have to oppose their amendment, and there are several reasons. One is, when we adopted the budget resolution, well, actually we never did; we deemed the budget resolution as approved by the House. We actually reduced the President's budget request by $2 billion. What is the significance of that? Why do I even bring this up? The President asked for a very austere budget, and I say amen to him. The House budget that we worked under was $2 billion less than that, and, Mr. Chairman, I say to my friend, the gentleman from Texas, all of the bills that we have passed are within that budget. We did not exceed the budget, except for the emergency designations dealing with things like body armor for troops in Iraq and ammunition and things of that nature. So we were starting with a very austere budget, and we stayed within that budget.

The Committee on Appropriations 2½ months ago reported its final and last bill. The Committee on Appropriations worked hard and we got the bills out, we had them out. Mr. Chairman, 2½ months ago, we reported the last one. Twelve of those bills have passed. One has not passed because, as one of our distinguished colleagues said to me, it is not going on the floor because there is not enough money in it. Sort of inconsistent, wanting to hold down the budget, but then complaining that there is not enough money in it.

But the problem that I have with this is that they do not take the across-the-board cut from the bill that is before the House tonight. They take the across-the-board cut from future legislation, the 2005 bills. Now, the problem with that is, none of us really know how much those 2005 bills are going to appropriate. Why is that? Because despite the fact that we have done our job in the House, as I suggested, at the other end of the Capitol, they have not, and we have no control over that. That is the price of a bicameral legislature, and I support a bicameral legislature. There are days when I wish I did not, but I do, from the standpoint of a constitutional government. But borrowing from next year's appropriation to pay for this emergency supplemental tonight to me is not conservative government. That is borrowing in the future. That is borrowing from things that we are going to need to do in fiscal year 2005, this coming year.

So because of that, while, again, I applaud my colleagues for their fiscal conservatism, and probably, I would be more supportive if my job was not to make sure that all of the appropriations bills pass, but that is my job. I have to make sure that all of the appropriations bills pass, because if they do not, the government shuts down, and we do not want that to happen. I do not want that to happen on my watch, and it has not happened on my watch, and it is not going to.

But anyway, for those reasons, I applaud the gentleman from Texas on this amendment and those who spoke in favor of it, but I have to ask my colleagues to vote against it and then get on with passing this very important bill, this very good bill as far as it goes. But as I have repeated myself tonight several times, it just does not go far enough. But we are going to pass this bill tonight, and then we will work on making it a better bill as we go through the process.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. All time having been yielded, the question is on the amendment offered by the gentleman from Texas (Mr. HENSARLING).

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. YOUNG of Florida. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 89, noes 321, not voting 22, as follows:

[Roll No. 500]

AYES—89

Akin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Beauprez
Bishop (UT)
Blackburn
Blunt
Boehner
Boozman
Brady (TX)
Brown-Waite,
 Ginny
Burgess
Burton (IN)
Cannon
Carter
Chabot
Chocola
Coble
Cole
Collins
Cox
Crane
Cubin
Davis, Jo Ann
Davis, Tom
Deal (GA)
Duncan
Feeney
Flake
Forbes
Fossella
Franks (AZ)
Garrett (NJ)
Gibbons
Gingrey
Goode
Goodlatte
Graves
Green (WI)
Gutknecht
Harris
Hart
Hayworth
Hefley
Hensarling
Herger
Hoekstra
Hostettler
Jenkins
Johnson, Sam
Jones (NC)
Keller
King (IA)
Kline
Lewis (KY)
Manzullo
McInnis
Miller (FL)
Miller, Gary
Moran (KS)
Musgrave
Myrick
Nussle
Otter
Pence
Petri
Pitts
Portman
Radanovich
Ramstad
Rehberg
Rohrabacher
Royce
Ryan (WI)
Schrock
Sensenbrenner
Shadegg
Smith (MI)
Sullivan
Tancredo
Taylor (MS)
Thornberry
Tiahrt
Toomey
Turner (OH)
Whitfield
Wilson (SC)

NOES—321

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Andrews
Baca
Baird
Baker
Baldwin
Bass
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
Bonilla
Bonner
Bono
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brown (OH)
Brown (SC)
Brown, Corrine
Burns
Burr
Butterfield
Buyer
Calvert
Camp
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Case
Castle
Chandler
Clay
Clyburn
Conyers
Cooper
Costello
Cramer
Crenshaw
Crowley
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Foley
Ford
Frank (MA)
Frelinghuysen
Frost
Gallegly
Gerlach
Gilchrest
Gillmor
Gonzalez
Gordon
Granger
Green (TX)
Greenwood
Grijalva
Gutierrez
Hall
Harman
Hastings (FL)
Hastings (WA)
Hayes
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Holden
Holt
Honda
Hooley (OR)
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Jackson (IL)
Jackson-Lee
 (TX)
Jefferson
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Kanjorski
Kaptur
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (NY)
Kirk
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin

Lewis (CA)
Lewis (GA)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, George
Mollohan
Moore
Moran (VA)
Murphy
Murtha
Nadler
Napolitano
Neugebauer
Ney
Northup
Nunes
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Peterson (MN)
Peterson (PA)
Pickering
Platts
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Quinn
Rahall
Rangel
Regula
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Ryun (KS)
Sabo
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Scott (GA)
Scott (VA)
Serrano
Sessions
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sweeney
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Tibert
Tierney
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velazquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—22

Bachus
Boehlert
DeMint
Dooley (CA)
Gephardt
Houghton
Istook
Jones (OH)
Kingston
Kleczka
Millender-McDonald
Neal (MA)
Nethercutt
Norwood
Paul
Pelosi
Slaughter
Stark
Tauzin
Towns
Watt
Young (AK)

ANNOUNCEMENT BY THE CHAIRMAN PRO TEMPORE

The CHAIRMAN pro tempore (Mr. ISAKSON) (during the vote). Members are advised that 2 minutes remain in the vote..

□ 2217

Messrs. BILIRAKIS, STEARNS, SMITH of Texas, LINDER, ABERCROMBIE amd NEY changed their vote from "aye" to "no".

Mr. MANZULLO, Ms. HART and Mr. TIHART changed their vote from "no" to "aye".

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. There being no other amendments, under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. THORNBERRY) having assumed the chair, Mr. GILLMOR, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 5212) making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to storm damage, and for other purposes, pursuant to House Resolution 819, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 20, as follows:

[Roll No. 501]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Ballenger
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Becerra
Bell
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehner
Bonilla
Bonner
Bono
Boozman
Boswell
Boucher
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burns
Burr
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carson (IN)
Carson (OK)
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Clyburn
Coble
Cole
Collins
Conyers
Cooper
Costello
Cox
Cramer
Crane
Crenshaw
Crowley
Cubin
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
DeMint
Deutsch
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Dunn
Edwards
Ehlers
Emanuel
Emerson
Engel
English
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Flake
Foley
Forbes
Ford
Fossella
Frank (MA)
Franks (AZ)
Frelinghuysen
Frost
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (TX)
Green (WI)
Greenwood
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Hill
Hinchey
Hinojosa
Hobson
Hoeffel
Hoekstra
Holden
Holt
Honda
Hooley (OR)
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inslee
Isakson
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
John
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
LaHood
Lampson
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren
Lowey
Lucas (KY)
Lucas (OK)
Lynch
Majette
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy (MO)
McCarthy (NY)
McCollum
McCotter
McCrery
McDermott
McGovern
McHugh
McInnis
McIntyre
McKeon
McNulty
Meehan
Meek (FL)
Meeks (NY)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Ose
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Pomeroy
Porter
Portman
Price (NC)
Pryce (OH)
Putnam
Quinn
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rodriguez
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Sandlin
Saxton
Schakowsky
Schiff
Schrock
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (MI)
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Stearns
Stenholm
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tibert
Tierney
Toomey
Turner (OH)
Turner (TX)
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Vitter
Walden (OR)
Walsh
Wamp
Waters
Watson
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (FL)

NOT VOTING—20

Boehlert
Dooley (CA)
Gephardt
Houghton
Jones (OH)
Kingston
Kleczka
Millender-McDonald
Neal (MA)
Nethercutt
Norwood
Paul
Pelosi
Rangel
Slaughter
Stark
Tauzin
Towns
Watt
Young (AK)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. MURPHY) (during the vote). There are 2 minutes remaining in this vote.

☐ 2236

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken tomorrow, and the votes postponed earlier today on H.R. 4661 and H.R. 5213 also will be taken tomorrow.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Monahan, one of its clerks, announced that the Senate has passed without amendment a bill of the House of the following title:

H.R. 854. An act to provide for the promotion of democracy, human rights, and rule of law in the Republic of Belarus and for the consolidation and strengthening of Belarus sovereignty and independence.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2608. An act to reauthorize the National Earthquake Hazards Reduction Program, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which the concurrence of the House is requested:

S. 2195. An act to amend the Controlled Substances Act to clarify the definition of anabolic steroids and to provide for research and education activities relating to steroids and steroid precursors.

S. 2864. An act to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 4850) "An Act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 2005, and for other purposes.".

SPECIAL OLYMPICS SPORT AND EMPOWERMENT ACT OF 2004

Mr. McKEON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5131) to provide assistance to Special Olympics to support expansion of Special Olympics and development of education programs and a Healthy Athletes Program, and for other purposes.

The Clerk read as follows:

H.R. 5131

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Special Olympics Sport and Empowerment Act of 2004".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Special Olympics celebrates the possibilities of a world where everybody matters, everybody counts, every person has value, and every person has worth.

(2) The Government and the people of the United States recognize the dignity and value the giftedness of children and adults with an intellectual disability.

(3) The Government and the people of the United States are determined to end the isolation and stigmatization of people with an intellectual disability.

(4) For more than 36 years, Special Olympics has encouraged skill, sharing, courage, and joy through year-round sports training and athletic competition for children and adults with intellectual disabilities.

(5) Special Olympics provides year-round sports training and competitive opportunities to 1,500,000 athletes with intellectual disabilities in 26 sports and plans to expand the joy of participation through sport to hundreds of thousands of people with intellectual disabilities within the United States and worldwide over the next 5 years.

(6) Special Olympics has demonstrated its ability to provide a major positive effect on the quality of life of people with intellectual disabilities, improving their health and physical well-being, building their confidence and self-esteem, and giving them a voice to become active and productive members of their communities.

(7) In society as a whole, Special Olympics has become a vehicle and platform for breaking down artificial barriers, improving public health, changing negative attitudes in education, and helping athletes overcome the prejudice that people with intellectual disabilities face in too many places.

(8) The Government of the United States enthusiastically supports Special Olympics, recognizes its importance in improving the lives of people with intellectual disabilities, and recognizes Special Olympics as a valued and important component of the global community.

(b) PURPOSE.—The purposes of this Act are to—

(1) provide support to Special Olympics to increase athlete participation in and public awareness about the Special Olympics movement;

(2) dispel negative stereotypes about people with intellectual disabilities;

(3) build athletic and family involvement through sport; and

(4) promote the extraordinary gifts of people with intellectual disabilities.

SEC. 3. ASSISTANCE FOR SPECIAL OLYMPICS.

(a) EDUCATION ACTIVITIES.—The Secretary of Education may award grants to, or enter into contracts or cooperative agreements with, Special Olympics to carry out the following:

(1) Activities to promote the expansion of Special Olympics, including activities to increase the participation of individuals with intellectual disabilities within the United States.

(2) The design and implementation of Special Olympics education programs, including character education and volunteer programs that support the purposes of this Act, that can be integrated into classroom instruction and are consistent with academic content standards.

(b) INTERNATIONAL ACTIVITIES.—The Secretary of State may award grants to, or enter into contracts or cooperative agreements with, Special Olympics to carry out the following:

(1) Activities to increase the participation of individuals with intellectual disabilities in Special Olympics outside of the United States.

(2) Activities to improve the awareness outside of the United States of the abilities and unique contributions that individuals with intellectual disabilities can make to society.

(c) HEALTHY ATHLETES.—

(1) IN GENERAL.—The Secretary of Health and Human Services may award grants to, or enter into contracts or cooperative agreements with, Special Olympics for the implementation of on-site health assessments, screening for health problems, health education, data collection, and referrals to direct health care services.

(2) COORDINATION.—Activities under paragraph (1) shall be coordinated with private health providers, existing authorized programs of State and local jurisdictions, or the Department of Health and Human Services, as applicable.

(d) LIMITATION.—Amounts appropriated to carry out this section shall not be used for direct treatment of diseases, medical conditions, or mental health conditions. Nothing in the preceding sentence shall be construed to limit the use of non-Federal funds by Special Olympics.

SEC. 4. APPLICATION AND ANNUAL REPORT.

(a) APPLICATION.—

(1) IN GENERAL.—To be eligible for a grant, contract, or cooperative agreement under subsection (a), (b), or (c) of section 3, Special Olympics shall submit an application at such time, in such manner, and containing such information as the Secretary of Education, Secretary of State, or Secretary of Health and Human Services, as applicable, may require.

(2) CONTENT.—At a minimum, an application under this subsection shall contain the following:

(A) ACTIVITIES.—A description of activities to be carried out with the grant, contract, or cooperative agreement.

(B) MEASURABLE GOALS.—Information on specific measurable goals and objectives to be achieved through activities carried out with the grant, contract, or cooperative agreement.

(b) ANNUAL REPORT.—

(1) IN GENERAL.—As a condition on receipt of any funds under subsection (a), (b), or (c) of section 3, Special Olympics shall agree to submit an annual report at such time, in such manner, and containing such information as the Secretary of Education, Secretary of State, or Secretary of Health and Human Services, as applicable, may require.

(2) CONTENT.—At a minimum, each annual report under this subsection shall describe

the degree to which progress has been made toward meeting the goals and objectives described in the applications submitted under subsection (a).

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated—

(1) for grants, contracts, or cooperative agreements under section 3(a), $5,500,000 for fiscal year 2005, and such sums as may be necessary for each of the 4 succeeding fiscal years;

(2) for grants, contracts, or cooperative agreements under section 3(b), $3,500,000 for fiscal year 2005, and such sums as may be necessary for each of the 4 succeeding fiscal years; and

(3) for grants, contracts, or cooperative agreements under section 3(c), $6,000,000 for each of fiscal years 2005 through 2009.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. McKEON) and the gentleman from Maryland (Mr. HOYER) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. McKEON).

GENERAL LEAVE

Mr. McKEON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5131.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. McKEON. Mr. Speaker, I ask unanimous consent that the remaining time I control be controlled by the gentleman from Missouri (Mr. BLUNT), the distinguished majority whip

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BLUNT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I certainly am grateful to my friend, the gentleman from California (Mr. McKEON), and his committee for sending this bill directly to the floor. I am pleased to be a sponsor of this historic legislation to provide support to the Special Olympics organization founded by Eunice Shriver over three decades ago and to the thousands of athletes who participate in these games.

This authorization proves the commitment of the United States Congress to this positive organization and all of its participants. Special Olympics is an international organization dedicated to empowering individuals with intellectual disabilities who become physically fit, productive and respected members of society through sports training and competition.

Special Olympics has become an important vehicle and platform for breaking down artificial barriers, improving public health, changing negative attitudes in education, and helping athletes overcome the prejudice that people with their disabilities often face.

Special Olympics provides year-round sports training and competitive opportunities for nearly 1.5 million athletes in 26 different sports. In my home State of Missouri, Special Olympics serves nearly 14,000 athletes ranging from 8 to 80 years old.

With the resources we hope to authorize today, Special Olympics plans to expand participation to hundreds of thousands of people worldwide over the next 5 years. These new resources will also help Special Olympics continue the vision, dental, hearing, and nutritional health screenings they currently provide for their athletes. These services are handled entirely by volunteer health professionals and are critical to enhancing the lives of people who might otherwise go completely without care.

Finally, these resources will allow students of all abilities the chance to learn about differences and engage in creating local Special Olympics teams and events as part of a school-based curriculum. Children and adults with intellectual disabilities who participate in Special Olympics develop improved physical fitness and motor skills, greater self-confidence, and a more positive self-image.

I would like to thank my colleague across the aisle, the gentleman from Maryland (Mr. HOYER), the Democratic whip, for his leadership on this issue. It is probably not as often as it should be that Democrats and Republicans, Senators and House Members stand together in total agreement on an issue of this importance. We have worked hard with our friends in the other body to see that that happens.

The government of the United States of America enthusiastically supports Special Olympics and recognizes its importance in improving the lives of people with intellectual disabilities, and I urge my colleagues to move forward and pass this legislation at the end of our debate.

Mr. Speaker, I reserve the balance of my time.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

First, Mr. Speaker, let me say how pleased I am to have had the opportunity to work with the majority whip on this legislation. I want to say that the gentleman from Missouri (Mr. BLUNT) is my friend, and he and I have had the opportunity to work on a number of issues together. He was extraordinarily helpful with the Help America Vote Act, and he and I, as some may know, meet on a regular basis and have lunch either in his office or in my office.

The majority whip referenced our working together in a bipartisan way. I think he is absolutely correct, this is an example of how we can work together and how when we do work together we can do very productive and positive things.

At the outset, I want to thank April Ponnuru for the work that she has done, a member of the staff of the gentleman from Missouri (Mr. BLUNT), as well as my own staff member, Jane Sung. Both of them have worked very hard to get this legislation to where it is today.

I am pleased, of course, to support the Special Olympics Sport and Empowerment Act 2004, which the gentleman from Missouri and I, and others, have cosponsored. In 1968, Mr. Speaker, at the launch of the first Special Olympics games, Eunice Kennedy Shriver repeated the words of the ancient Roman gladiators and said, "Let me win. But if I cannot win, let me be brave in the attempt." This has since become the Special Olympics athletes' pledge.

Special Olympics has a remarkable history. It began with Eunice Shriver, who believed that people with intellectual disabilities were underestimated and deserved the same opportunities and experiences as the rest of society. In 1962, she began a day camp in her back yard in Maryland, where individuals with intellectual disabilities could participate in physical activities.

It is ironic that I met Eunice and Sarge Shriver in 1962 at the Washingtonian Motel at the Young Democrats convention that year. Sarge Shriver was our speaker. Since that time, I have become and been a very good friend of Sarge Shriver and Eunice Shriver. Her work in the ensuing years led quickly to expanded multiple camps and eventually to the first international Special Olympics in 1968. Today, under the leadership of Chairman and CEO Timothy Shriver, the Special Olympics is a worldwide movement with nearly 1.5 million participating athletes in 150 countries around the world; one person with an idea and a vision starting something in her backyard, one person who had been given substantial benefits in life but who knew that she wanted to use those benefits, as so many in her family have done, for the benefit of all.

The bill that we are considering today is about the future of Special Olympics.

☐ 2245

This bill will help Special Olympics take the next steps to reach more athletes in more aspects of their lives. For example, Mr. Speaker, this bill will formally authorize the critical "healthy athletes" program, where tens of thousands of athletes receive health care screenings at competition venues.

This bill will also allow Special Olympics to develop educational programs for athletes, including character education and volunteer opportunities. Furthermore, Mr. Speaker, this bill will allow Special Olympics to further expand their reach internationally through cultural exchanges and other programs in cooperation with the State Department. How very important this is at a time when tensions are so high in so many areas of the world, and this program can seek to ease those tensions while at the same time giving opportunities to the intellectually disadvantaged.

But what distinguishes this from so many bills that we consider in this body is that, at its core, the biggest success of Special Olympics is not simply how it empowers and improves the lives of the athletes involved. The biggest success is how it affects the attitudes of millions of others. I do not know how many in this body have ever been huggers. That term is not used today, an analogous term is used, but being a hugger was being involved at the Special Olympics and, as those athletes competed, knowing full well that it was in the competition that they succeeded, to congratulate them, to, yes, indeed, physically hug them and say, well done, good job, you're special, what an incredible difference that has made in the lives of so many.

Special Olympics has helped to reverse prejudices and stigmas that are often too unfairly put upon people with intellectual disabilities. With Special Olympics, the world sees for itself that people with intellectual disabilities can be, and are, exceptional athletes and can compete, achieve and, yes, win.

I am pleased that the House of Representatives can play a role in this mission. Mr. Speaker, I had the great honor of being one of the cosponsors of the Americans with Disabilities bill. That was passed in 1990 and signed by President Bush into law. He said at the time of signing, and we have said since, that this bill opened opportunities and focused on what people could do, what their ability was, not what their disability was. This bill takes another step forward in ensuring that one of the finest programs that we have in America and around the world, the Special Olympics, will thrive, expand and serve even millions more.

Mr. Speaker, I rise in very strong support of this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BLUNT. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia (Mr. CANTOR), the chief deputy whip.

Mr. CANTOR. Mr. Speaker, I thank the majority whip for yielding me this time and congratulate him for bringing this bill forward. I also thank the minority whip, the gentleman from Maryland, for his work on this piece of legislation. I, too, rise in support of this bill. I think I, too, have been a hugger. I know many of our colleagues in this House have attended several Special Olympics events and have seen firsthand the limitless capabilities of these athletes. I am encouraged just about the prospects of how many more athletes will be drawn to these events because of the passage of this legislation.

A few years ago, Special Olympics Virginia received a grant that allowed the organization to implement a program specifically aimed at Richmond's inner city and giving individuals there otherwise bound to a life without physical athletic competition just a whole new outlook. Over a period of 4 years, the program grew to serve over 1,000 athletes. I am hopeful that this legislation will serve as a catalyst for the same type of growth all across the Commonwealth of Virginia and throughout our country.

I would like to recognize Paul Marretti from my district who is a Special Olympics global messenger. Paul educates individuals around the world about the mission, philosophy and benefits of Special Olympics. He is a true leader who is committed to educating people, including Members of Congress, about this incredible program as well as introducing it and attracting more athletes to it.

I would also like to recognize Mr. Roy Zeidman, Mr. Rick Jeffreys and everyone at Special Olympics Virginia who make such a difference in so many lives. I am hopeful that this legislation will further help all of them in their efforts.

Mr. HOYER. Mr. Speaker, I yield such time as he may consume to the gentleman from Rhode Island (Mr. KENNEDY), the nephew of Eunice Shriver, a member of the family that has contributed so much to the welfare of this country and to the welfare of our people.

Mr. KENNEDY of Rhode Island. Mr. Speaker, I want to thank my good friend and colleague, the minority whip, the gentleman from Maryland (Mr. HOYER) for his leadership and thank him for his friendship to my Aunt Eunice and my Uncle Sarge Shriver. Growing up, I recall many times when I saw him in the house, and now I enjoy serving with him in this House.

To Majority Whip BLUNT, I want to thank him as well for his spearheading this effort. It means a lot to so many millions of Americans, but it means a lot to me and my family that he would do such a thing and take his leadership position to help those who are often the most vulnerable in our society. It says a lot about him. I respect him for it.

As the gentleman from Maryland said, the motto of Special Olympics is, "Let me win. But if I cannot win, let me be brave in the attempt." These inspiring words have really been the hallmark of Special Olympics, and I am proud to stand with my colleagues in support of H.R. 5131, the Special Olympics Empowerment Act.

When my Aunt Eunice created the Special Olympics over 36 years ago from a grant by my family's foundation, the Joseph P. Kennedy, Jr., Foundation which was named after my uncle who died in World War II, she had hoped to create an opportunity for those with intellectual disabilities like my Aunt Rosemary. She hoped to create a forum in which not only her sister Rosemary but others could dispel the myths associated with their disabilities.

The creation of Special Olympics has allowed over 1.5 million persons around the globe the opportunity to compete athletically in over 25 sports. The Special Olympics has become a vehicle and a platform to break down artificial barriers, improve public health, change negative attitudes in education and help athletes overcome the intolerance held against them due merely to their intellectual disability.

This act will provide funds to the Special Olympics in order to carry out an expansion of the organization and increase the participation of potential athletes. The funding would also permit Special Olympics to increase the activity of the organization well beyond our borders and further awareness outside the United States of the contributions that individuals with intellectual disabilities can make in their society.

I had the opportunity with many of my colleagues to travel over to Iraq several months ago. I was asked by the liaison for the military what were some of the things that I would be interested in learning when I went over there. My Aunt Eunice always was after us to make sure we asked, wherever we were, how people with intellectual disabilities were being treated. Especially traveling around the world, I thought this was something that was important for me to follow through, so I asked the liaison to find out for me whether I could not meet the Special Olympics team of Iraq which had just competed in the international games in Ireland. I was in Saddam Hussein's palace, surrounded by thousands and thousands of both military and civilian workers helping to reconstruct that country. I was with my colleagues and someone came and touched me on the shoulder and said, "Congressman KENNEDY, your group is here to meet with you." Of course, I was excited about going down the hall and seeing the Special Olympics team of Iraq. I went down the hall, and there was the Special Olympics team of Iraq and surrounding them were practically every worker in Saddam Hussein's palace, all there with smiles on their faces. It had melted the place. These are people who were consumed with war, and on the sight of the inspirational Special Olympics, they just smiled. I think that says so much about the power of Special Olympics; it shows our common humanity. No matter where we are in the world, we are all members of the same human family. Nothing drives that message home more than the Special Olympics. I think that is what is really the power behind it. I am convinced that the power of this legislation is that we can have our international diplomacy moved forward tremendously just by expanding the Special Olympics program, because who is going to want to do war if they see the power of peace and love that the Special Olympics embodies.

I want to thank the gentleman from Missouri and the gentleman from Maryland for their leadership.

Mr. HOYER. Mr. Speaker, I yield myself such time as I may consume.

In closing, let me again thank the majority whip for his diligence and leadership in working on this legislation and for ensuring its passage before we leave here for the election period. He has been a privilege to work with. His commitment to this objective is very clear and very powerful. I thank him. I join with him in supporting this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. BLUNT. Mr. Speaker, I want to again thank my friend from Maryland (Mr. HOYER) and both of our staffs for their work together and their work with the other body to see that we do get this legislation passed not just here but headed to the President's desk before we are done here in the next few days. It is always a pleasure to work with the gentleman from Maryland. I was pleased we were able to do this effectively with our friends on the other side of the building as well. Certainly, the gentleman from Rhode Island's aunt, Eunice Shriver, is a person who has made a difference in the lives of millions because she reached out to make a difference. Today, we have an opportunity to reach out and join her in that effort. I am pleased to be part of this bipartisan effort to make Special Olympics officially something recognized and encouraged by the United States Government.

SPECIAL OLYMPICS,
Washington, DC, October 5, 2004.

Hon. ROY BLUNT,
House Majority Whip,
House of Representatives, Washington, DC.

DEAR MR. BLUNT: On behalf of our athletes, families, volunteers, and staff around the world, I would like to thank you for your leadership in introducing the historic "Special Olympics Sport and Empowerment Act of 2004," H.R. 5131 that will authorize $15 million per year for the next 5 years to support the expansion of Special Olympics programs. We are equally elated that Senator Santorum is leading the effort to pass the companion bill in the Senate.

We consider it an honor that you recognize Special Olympics as a responsible and accomplished steward of federal funding. Indeed, millions of individuals with intellectual disabilities, as well as their families and countless communities, have benefited from our programs. Passage of the "Special Olympics Sport and Empowerment Act of 2004" will allow us to substantially expand these successful programs, including Healthy Athletes. As you know, Healthy Athletes provides much needed health care screenings and services to address preventable secondary health conditions such as obesity, poor fitness, nutritional deficiencies, untreated or poorly treated vision, and dental, hearing, and podiatric problems. Expansion of the program is particularly important since people with intellectual disabilities have a 40% higher risk of the health conditions referenced above.

I understand that some concern has been raised that the funding contained in H.R. 5131 may be used for abortion, abortion referral, or sex education. Please be assured that Special Olympics has not provided nor referred such services in the past; we would never use federal funds for such a purpose. I would be happy to discuss such concerns with you or your colleagues if necessary.

Thank you again for your leadership.

Sincerely,
TIMOTHY P. SHRIVER, PH.D.,
Chairman & CEO.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MURPHY). The question is on the motion offered by the gentleman from California (Mr. McKEON) that the House suspend the rules and pass the bill, H.R. 5131.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

HONORING PRESIDENT JIMMY CARTER ON HIS 80TH BIRTHDAY

Mr. DEAL of Georgia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 798) honoring former President James Earl (Jimmy) Carter on the occasion of his 80th birthday, as amended.

The Clerk read as follows:

H. RES. 798

Whereas Jimmy Carter was born in Plains, Georgia, on October 1, 1924;

Whereas Jimmy Carter attended Georgia Southwestern College and the Georgia Institute of Technology, and received a B.S. degree from the United States Naval Academy in 1946;

Whereas Jimmy Carter served honorably as a submariner in the United States Navy in both the Atlantic and Pacific fleets, working under Admiral Hyman Rickover in the development of the nuclear submarine program;

Whereas Jimmy Carter continued his commitment to public service, serving as Georgia State Senator and Governor of Georgia;

Whereas Jimmy Carter was elected the 39th President of the United States on November 2, 1976;

Whereas Jimmy Carter created both the Departments of Education and Energy;

Whereas Jimmy Carter oversaw deregulation of the airline, energy and banking industries;

Whereas Jimmy Carter established human rights as a tenet of American foreign policy;

Whereas Jimmy Carter inaugurated diplomatic relations with the People's Republic of China;

Whereas Jimmy Carter successfully negotiated both the Panama Canal and SALT II Treaties;

Whereas Jimmy Carter was instrumental in the completion of the Camp David Accord between Israel and Egypt, signaling a new era of peace between those two countries;

Whereas Jimmy Carter has continued his service to his country since leaving the Presidency by championing safe and affordable housing, human rights, and disease prevention;

Whereas Jimmy Carter remains actively committed to promoting democracy abroad and supervising elections in fledgling democracies;

Whereas Jimmy Carter was awarded the 2002 Nobel Peace Prize for "his decades of untiring effort to find peaceful solutions to international conflicts, to advance democracy and human rights, and to promote economic and social development"; and

Whereas Jimmy Carter serves as an international symbol of the integrity and compassion of the country he loves: Now, therefore, be it

Resolved, That the House of Representatives honors former President Jimmy Carter on the occasion of his 80th birthday and extends best wishes to him and his family.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. DEAL) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. DEAL).

GENERAL LEAVE

Mr. DEAL of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material as it relates to this resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution which wishes President Jimmy Carter a happy 80th birthday. Our 39th President was born on October 1, 1924, some 80 years ago last Friday, in Plains, Georgia.

In his 4 years in the White House, President Carter worked to make the Federal Government more competent and compassionate and more responsive to the American people. But perhaps President Carter's most significant accomplishment in office was his coordination of the signing of the Camp David Accord between Israel and Egypt. This achievement ushered in an important new beginning for these two Middle East countries.

The President continues to this day to be active in world affairs. For his efforts across the globe, he was awarded the 2002 Nobel Peace Prize. President Carter has always been a very compassionate and tremendously principled man who has based his leadership on his deep Baptist faith.

Mr. Speaker, I know I speak for all Members when I wish President Carter and his family the very best on the occasion of his 80th birthday. My distinguished colleague from my home State of Georgia (Mr. LEWIS) deserves commendation from all Members for extending these birthday wishes to President Carter on behalf of the House of Representatives.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise to recognize a milestone in the extraordinary life of one of America's distinguished statesmen, former President Jimmy Carter, who celebrated his 80th birthday last Friday, October 1.

In the aftermath of Watergate, America yearned for a leader with honesty and integrity to lead our country. We found that man in Jimmy Carter, a farmer from Georgia with dreams of a better day for America, and we elected him as our 39th President.

□ 2300

As President, Jimmy Carter achieved great distinction for his mediation of the Camp David Accords, a historic alliance between Israel and Egypt. President Carter succeeded in obtaining ratification of the Panama Canal treaties, established full diplomatic relations with the People's Republic of China, and completed the negotiation of the SALT II nuclear limitation treaty with the Soviet Union.

Perhaps what many find most admirable about Jimmy Carter is his 24 years of continued service as one of the world's great humanitarians. In 1982, Jimmy Carter founded the Carter Center, a nonprofit, nonpartisan center that is dedicated to the promotion of democracy, human rights, and conflict resolution throughout the world. The center's work has been extraordinary. The Carter Center has fought to eradicate Guinea worm disease, to ease tensions in Haiti, and to help free political prisoners throughout the world. Through these achievements, Jimmy Carter has earned the respect of this Nation as one of the most active humane and generous former Presidents in American history.

In 2002, Jimmy Carter's achievements as a Middle East diplomat and as the driving force behind the Carter Center earned him the Nobel Peace Prize. The Nobel Committee awarded the prize to Jimmy Carter "for his decades of untiring effort to find peaceful solutions to international conflicts, to advance democracy and human rights, and to promote economic and social development."

Now 80, the steadfast and courageous advocate for peace and justice continues to represent the very best of American values.

I am honored and pleased to thank Jimmy Carter for his selfless work and to wish him a happy birthday.

Mr. Speaker, I reserve the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. LEWIS), who brings us to this point.

Mr. LEWIS of Georgia. Mr. Speaker, I thank the gentleman from Illinois (Mr. DAVIS) for yielding me this time. I thank the gentleman from Georgia (Mr. DEAL) for speaking on behalf of this legislation and being here tonight.

Mr. Speaker, I rise today to recognize a fellow Georgian, a man whom I am proud to call a friend, former President Jimmy Carter. It is fitting that we honor President Carter on the occasion of his 80th birthday, which was celebrated just a few days ago.

President Carter has spent the better part of his life in public service, serving honorably as an officer of the United States Navy, as a Georgia State senator, as Governor of Georgia, and as the 39th President of the United States.

During his Presidency, he was a steadfast champion on human rights. Jimmy Carter established human rights as a tenet of American foreign policy and pressed nations to uphold basic standards. In the foreign policy arena, he successfully negotiated both the SALT II and Panama Canal treaties. However, his greatest achievement was the Camp David Accord. President Carter was instrumental in brokering the long-sought-after peace agreement between Israel and Egypt.

I have known Jimmy Carter for more than 40 years. He is a truly dedicated, committed human being. Considered the most successful ex-President of our time, President Carter has used his position not to earn a lot of money but to do good. He has used his position to continue his commitment to peace by going around the world doing good, monitoring elections, and fighting for health care and eradication of diseases that afflict humankind the world over.

In addition, he has been influential in mediating international crises around the world, including those in North Korea, Somalia, and Haiti.

A true man of peace, Jimmy Carter serves as a living international symbol of what is right, of what is good and what is compassionate. In 2002, President Carter's effort to promote peace earned him recognition by the Norwegian Nobel Committee, which awarded him the Nobel Peace Prize.

Now, Mr. Speaker, it is our turn to recognize his tireless efforts to improve the human condition and to bring peace to a world in need of peace.

So tonight I ask all of my colleagues to join us in extending the birthday wishes of the House to former President Jimmy Carter.

Mr. DEAL of Georgia. Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield 4 minutes to the gentleman from Georgia (Mr. BISHOP) from the Albany area of Georgia.

Mr. BISHOP of Georgia. Mr. Speaker, I thank the gentleman from Illinois for yielding me this time. And I thank my colleagues for bringing this resolution.

I am very proud to represent President Carter. Plains, Georgia, and Sumter County are in the Second Congressional District. So it is a very proud moment for me to be here to today to help celebrate his 80th birthday.

Today, we certainly honor and give recognition to a man who truly serves as a living international symbol of American compassion and integrity. But his integrity did not begin with winning the Nobel Peace Prize in 2002 or when he brokered peaceful solutions to international conflict. Rather, his humanity stems from a foundation of values laid in rural Georgia years ago, where church and school heavily influenced his early life. Those values, infused in the noble profession of peanut farming, shaped his character, influenced his political ideologies, and added to his commitment to democracy, to freedom, and to peace.

His commitment to humankind carried him through his early years of public service, on the school board, State senator, governor, and through election as the 39th President of the United States.

President Carter negotiated the Panama Canal treaties. He conceived the Camp David Accords, which laid a foundation for settling disputes in the Middle East, a feat that eluded peacemakers, I guess, for decades and decades, and he was behind the second Strategic Arms Limitation Talks with the then-Soviet Union.

But President Carter's success was not limited to just foreign policy. On the American home front, he worked on developing programs for harnessing alternative sources of energy such as solar, nuclear, and geothermal power. He created new departments of education and energy. His environmental track record included passage of legislation to preserve the wilderness and the vast natural resources in Alaska.

President Carter's deep commitment to social justice and human rights continued even after he left office. In 1984, he started the Jimmy Carter Work Project with Habitat for Humanity. Through this project volunteers built thousands of houses, raising the awareness of the need for affordable housing.

And today he remains loyal to his roots in rural Georgia and has worked to create job opportunities through State and local partnerships, which has stimulated economic growth and tourism.

President Carter has served his Nation and the world as the best example of American service. His actions always bring to mind dedication, statesmanship, and above all, honor.

□ 2310

I am privileged to recognize and to commend President Carter, my role model, my constituent in the Second District of Georgia, and my friend, on the occasion of his 80th birthday.

The late Dr. Benjamin Elijah Mays, President Emeritus of Moorehouse College, said, "You make your living by what you get; you make your life by what you give." We are all pleased because of the life that President and Mrs. Carter have made.

Mr. DAVIS of Illinois. Mr. Speaker, it is my pleasure to yield 5 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman from Illinois for yielding me time, and I welcomed hearing my colleagues from Georgia. It is interesting to think of President Carter as having deep roots down in the heart of Texas, but he does.

Let me say to my colleagues that my daughter's first political experience was as a 7-month-old at a rally for President Carter in Houston, Texas. I think that made an indelible mark on her and began her own journey of concern and interest in the needs of others.

So I rise today to honor the 39th President of the United States, Jimmy Carter, as he celebrates his 80th birthday. Truly this is a man worthy of commendation and the recognition of this entire body.

It is rare when a man can achieve the position of President, but it is even rarer when the same man can continue to do public service long after his political career is long over. That is President Jimmy Carter.

I can see his smiling face even now as he has traveled around the world touching the lives of people in the United States and around the world. He has championed safe and affordable housing, human rights and disease prevention. His fight for those who are underprivileged and often overlooked earned him the 2002 Nobel Peace Prize for his decades of untiring efforts to find peaceful solutions to international conflicts, to advance democracy and human rights and to promote economic and social development.

I wonder if there is a place around the world where there has been hostility, divisiveness over elections and the search for democracy that President Carter and his lovely bride have not gone to count the votes and to ensure the integrity of the process and to help promote democracy.

President Carter loved this Nation, and, by doing so, by loving it, he has continued his work or the new work of his life in seeking to bring peace and reconciliation around the world.

I had the privilege, as I said, of having my 7-month-old daughter with me in a rally for President Carter. I am glad it was her first introduction to politics. I then had the honor of having President Carter alongside of us, many volunteers, as we worked in a project in my Congressional district for Habitat for Humanity, some 30 or so homes, families now living with integrity and dignity in the project that President Carter and his wife adopted in the aftermath of their presidential responsibilities. What President we know spent these long years of service to his community and to his Nation and to the world way after, way after, his tenure in office?

I am reminded of the words of President Carter when he said, "Globalization as defined by rich people like us is a very nice thing. You are talking about the Internet, you are talking about cell phones, you are talking about computers. This doesn't affect two-thirds of the people of the world."

This is a simple testament to what President Carter understood and what he believed in, and that is helping the least of those.

As I conclude my remarks on President Carter, let me make mention of another one of his friends that has since gone on, and that was Congressman Mickey Leland. There lies the nexus of the additional connection of President Carter to Texas, because in the last years of President Carter's tenure as president Mickey Leland was elected to the office of Congressperson of the 18th Congressional District representing Texas, and he became a good friend of the President.

Mickey Leland became a very good friend to President Carter, which leads me to make mention of another individual that was honored today. I was not able to arrive on the floor of the House at the time of the redesignation of the Kingwood Post Office facility to be named the Congressman Jack Fields Post Office facility, and I would like to briefly add my words and commendation to Congressman Jack Fields, who was a very, very strong friend of Mickey Leland and his family.

We have many fond memories of that friendship, and I have fond memories of the 2 years that I had the privilege of working with Congressman Fields, an individual who loved his country as well and worked with Democrats and Republicans. The great work that he did on restructuring the telecommunications industry, he did it in an enormously bipartisan way.

I cannot imagine a greater tribute to a great American, a great Houstonian and great Texan than Jack Fields, a friend of Mickey Leland, one who laughed frequently about the relationship they had on the basketball court.

Let me conclude by saying, Mr. Speaker, that these two individuals are joined by their knowledge and their great love of America and joined by their friendship with my friend and colleague Mickey Leland. I ask support of this legislation.

I rise today to honor the 39th President of the United States, Jimmy Carter, as he celebrates his 80th birthday. Truly, this is a man worthy of commendation and the recognition of this entire body. It is rare when a man can achieve the position of President, but it is even rarer when that same man can continue to do public service long after his political career is over.

Even after leaving office, President Carter has continued to touch the lives of people here in the United States and around the world. As he did during his Presidency, he has championed safe and affordable housing, human rights, and disease prevention. His fight for those who are underprivileged and often overlooked earned him the 2002 Nobel Peace Prize for "his decades of untiring effort to find peaceful solutions to international conflicts, to advance democracy and human rights, and to promote economic and social development." It was President Carter who reminded us of our responsibilities as a nation and as individuals when he said:

> A strong nation, like a strong person, can afford to be gentle, firm, thoughtful, and restrained. It can afford to extend a helping hand to others. It's a weak nation, like a weak person, that must behave with bluster and boasting and rashness and other signs of insecurity.

It was President Carter who made human rights and compassion a staple of American foreign policy. At a time of increasing violence and international unrest it was President Carter who offered a calm and decisive approach to American foreign policy. It was President Carter who simply stated: "America did not invent human rights. In a very real sense human rights invented America." It was President Carter who was instrumental in the negotiation and signing of the Camp David Accord between Israel and Egypt, which gave hope to those around the world that even the most entrenched of adversaries could make peace.

It was President Carter who successfully negotiated both the Panama Canal and SALT II Treaties, which to this day hold such great importance. It was also President Carter who inaugurated diplomatic relations with the People's Republic of China. In these difficult diplomatic situations President Carter never backed down because he knew that the price for a lack of international cooperation was far greater than any price he would pay simply for trying. Even today, it is President Jimmy Carter who remains actively committed to promoting peace and democracy abroad, supervising elections in fledgling democracies, and helping to defuse international crises in North Korea, Somalia, and Haiti. There are many men of rhetoric about how the world should be, but there are only a few men like President Carter who take the time to make their noble vision into reality.

I want to conclude my remarks by quoting the words of President Carter when he said:

> Globalization, as defined by rich people like us, is a very nice thing . . . you are talking about the Internet, you are talking about cell phones, you are talking about computers. This doesn't affect two-thirds of the people of the world.

This simple statement is a testament to the selflessness that has defined President Carter's life. Time after time when he could have used circumstances for his own advantage, he instead chose to take the more difficult path and use those circumstances to aid the less fortunate. It is that great spirit that defines the noble intentions of our nation and the future we hope to obtain. Again, I wish President Carter a happy 80th birthday and may God bless him in all his future endeavors.

Mr. DAVIS of Illinois. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DEAL of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as we conclude this debate on this resolution, I again thank my colleague, the gentleman from Georgia (Mr. Lewis), for introducing the resolution as we honor our native son, a man that the State of Georgia is indeed proud of, our 39th President, and truly wish to President Carter and his family the best wishes of this body.

I urge my colleagues to adopt and support H. Res. 798.

Ms. MAJETTE. Mr. Speaker, I rise today to recognize former President Jimmy Carter who celebrated his 80th birthday last week. President Carter continues to show us by his example and by his spirit of service what it means to be an American and a world citizen.

President Carter served our country as a naval officer; he then served the people of Georgia both in State government and as Governor.

As President, he served this Nation during challenging times. He opened the door of opportunity to women, African Americans and Hispanics by appointing them to many jobs in the Federal Government. He created the Department of Education, worked to improve the environment, and expanded the National Park System protection of the Alaskan wilderness. He worked hard to battle inflation and unemployment during his administration and was able to increase jobs by nearly 8 million and to decrease the budget deficit. During the energy crisis he had a comprehensive energy program.

In foreign affairs, his accomplishments include the Panama Canal treaties, the Camp David Accords, the treaty of peace between Egypt and Israel, the SALT II treaty with the Soviet Union, and the establishment of U.S. diplomatic relations with the People's Republic of China. He championed human rights throughout the world.

Since leaving the White House, President Carter has dedicated his life to peace, democracy, human rights, and the elimination of human suffering, touching the lives of millions of people around the world. Through his exceptional work at the Carter Center, he has all but eliminated Guinea worm disease in Africa, and has treated millions who suffer from river blindness and trachoma. President Carter was awarded the Nobel Peace Prize for 2002 "for his decades of untiring effort to find peaceful solutions to international conflicts, to advance democracy and human rights, and to promote economic and social development."

He is a leader in the fight against poverty nationwide, and particularly in Georgia, through his Atlanta Project, which addresses the many social problems that come with poverty. He and Mrs. Carter are also regular volunteers for Habitat for Humanity, a charitable organization dedicated to ending homelessness.

President Carter is a man of faith and a man who loves his country. He has succeeded in making this world a better place than he found it. He is an inspiration for those of us who serve our communities and our Nation.

I am proud to call him a fellow Georgian and in celebration of his 80th birthday, I extend my thanks and best wishes to President Jimmy Carter and his family.

Mr. DEAL of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Mario Diaz-Balart of Florida.). The question is on the motion offered by the gentleman from Georgia (Mr. Deal) that the House suspend the rules and agree to the resolution, H. Res. 798, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

HIGHER EDUCATION EXTENSION ACT OF 2004

Mr. BOEHNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5185) to temporarily extend the programs under the Higher Education Act of 1965, as amended.

The Clerk read as follows:

H.R. 5185

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Higher Education Extension Act of 2004".

SEC. 2. EXTENSION OF PROGRAMS.

(a) Extension of Duration to Include Fiscal Year 2005.—The authorization of appropriations for, and the duration of, each program authorized under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) shall be extended through fiscal year 2005.

(b) Performance of Required and Authorized Functions.—If the Secretary of Education, a State, an institution of higher education, a guaranty agency, a lender, or another person or entity—

(1) is required, in or for fiscal year 2004, to carry out certain acts or make certain determinations or payments under a program under the Higher Education Act of 1965, such acts, determinations, or payments shall be required to be carried out, made, or continued during the period of the extension under this section; or

(2) is permitted or authorized, in or for fiscal year 2004, to carry out certain acts or make certain determinations or payments under a program under the Higher Education Act of 1965, such acts, determinations, or payments are permitted or authorized to be carried out, made, or continued during the period of the extension under this section.

(c) Extension at Current Levels.—The amount authorized to be appropriated for a program described in subsection (a) during the period of extension under this section shall be the amount authorized to be appropriated for such program for fiscal year 2004, or the amount appropriated for such program for such fiscal year, whichever is greater. Except as provided in any amendment to the Higher Education Act of 1965 enacted during fiscal year 2005, the amount of any payment required or authorized under subsection (b) in or for fiscal year 2005 shall be determined in the same manner as the amount of the corresponding payment required or authorized in or for fiscal year 2004.

(d) Advisory Committees and Other Entities Continued.—Any advisory committee, interagency organization, or other entity that was, during fiscal year 2004, authorized or required to perform any function under the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), or in relation to programs under that Act, shall continue to exist and is authorized or required, respectively, to perform such function during fiscal year 2005.

(e) Additional Extension not Permitted.—Section 422 of the General Education Provisions Act (20 U.S.C. 1226a) shall not apply to further extend the authorization of appropriations for any program described in subsection (a) on the basis of the extension of such program under this section.

(f) Exception.—The programs described in subsection (a) for which the authorization of appropriations, or the duration of which, is extended by this section include provisions applicable to institutions in, and students in or from, the Freely Associated States, except that those provisions shall be applicable with respect to institutions in, and students in or from, the Federated States of Micronesia and the Republic of the Marshall Islands only to the extent specified in Public Law 108-188.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. Boehner) and the gentleman from Michigan (Mr. Kildee) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. Boehner).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5185.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, each year millions of Americans, young and old, participate in higher education programs at this Nation's colleges and universities. Higher education has become more important than ever, with a changing marketplace and increasing international competition. That is why the Federal investment in the Higher Education Act is so important.

For 2 years, my colleagues and I have been working to strengthen and renew the Higher Education Act so that we can better serve the millions of low and middle income students aspiring for college education. We have made great progress, but, unfortunately, we were not able to complete our work.

Today I stand in support of the Higher Education Extension Act so we can ensure these vital programs continue to serve American students. Yet I regret we were not able to accomplish a full reauthorization.

In May, the gentleman from California (Mr. McKEON) and I introduced the College Access and Opportunity Act to complete the Higher Education Act reauthorization. That bill was the final piece of our comprehensive effort to expand the college access by focusing on fairness, accountability, affordability, and quality. That bill contained a number of reforms that I had hoped would be enacted by today.

The College Access and Opportunity Act would have realigned our student aid programs to place first priority back where it belongs, on the millions of low and middle income students who have not yet received a higher education.

□ 2320

The bill would have strengthened Pell grants, college access programs, and campus-based student aid. It would have broken down barriers and eliminated outdated regulations that are preventing nontraditional students from achieving their higher education goals. It would have significantly realigned the multibillion dollar student loan programs to extend access for current and future students, and restore fairness so that all student borrowers could be treated equally. Consumer protections for borrowers would have been strengthened, and red tape would have been reduced. And because accountability is the cornerstone of education reform, colleges and universities would have been held more accountable to the students, parents, and taxpayers they serve through increased sunshine and transparency.

Yet, none of these reforms will be enacted today because partisan politics got in the way of student-focused reforms. The bill before us is critically important. We cannot allow programs under the Higher Education Act to expire. Too many students depend on this assistance as they strive for a higher education. Yet, it is equally important that we remain committed to comprehensive reforms that will build upon these programs, strengthening them to expand college access.

Mr. Speaker, I strongly support the extension of the Higher Education Act. Millions of American students depend on these programs, and we must not let our commitment to higher education lapse. But it is equally important that we remain focused on the ultimate goal of enacting comprehensive reforms that will strengthen and renew the Higher Education Act so we can meet the needs of current and future students. I encourage my colleagues to support this bill and work with us in the coming year to complete a comprehensive reform package so that we can better serve American students pursuing the dream of a college education.

Mr. Speaker, I reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill extends our higher education program for one year. We need to do this because Congress has not completed its work in reauthorizing the Higher Education Act this session.

While I support this legislation, it represents a missed opportunity. Students are facing some of the worst tuition increases in decades. Families have struggled to find ways to pay for college. Unfortunately, the bipartisan cooperation has not been as helpful as it was back in 1998, and the administration has neglected its role.

The Congress and the Bush administration have frozen the maximum Pell grant over the last 3 years. Indeed, Republican higher education legislation which failed to move would have jeopardized college affordability for millions of students by eliminating the ability of students to lock in low, fixed interest rates when they consolidate their student loans, by reducing student choice in how they can repay their student loans, and by increasing the ability of students to go further into debt.

If we did reauthorize the Higher Education Act, we could have addressed the critical needs of students, including allowing student borrowers to refinance their consolidation loans and lock in today's low interest rates. This increases the long-term affordability of college. We could have provided incentives to help colleges hold down increases in tuition. Recent tuition increases have hit American families and students especially hard. We could have allowed working students to keep more of the funding they earn than having it used to calculate their student aid. Unfortunately, today, we are not going to be improving our student aid programs. Instead, we are keeping the status quo.

While this bill is necessary, we have lost an opportunity. I look forward to working with my colleagues as we did in 1998, hopefully in a bipartisan fashion in the next Congress, to improve our higher education programs.

Mr. Speaker, I reserve the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. McKEON), the chairman of the Subcommittee on 21st Century Competitiveness.

Mr. McKEON. Mr. Speaker, I thank the chairman for yielding me this time. I appreciate the opportunity.

I rise in strong support of H.R. 5185, the Higher Education Extension Act of 2004. This legislation will provide for the continuation of all of the programs authorized within the Higher Education Act for a period of 1 year. This extension will allow Congress to finish its work on the reauthorization of the Higher Education Act to provide more streamlined, flexible, cost-effective, and student-friendly programs for the future.

The House has done a great deal of work to move forward on the Higher Education Act reauthorization. We passed four bills from this chamber that unfortunately received no further consideration in the other body. There have been bills introduced by my friends on the other side of the aisle, and the majority has also introduced several other bills, including H.R. 4283, the College Access and Opportunity Act. This most recent comprehensive legislative package provides for a great many benefits for current students, while holding institutions of higher education, accrediting agencies, and participants in the student loan programs more accountable. The bill maintains two student loan programs and equal benefits for all student loan borrowers, regardless of the program in which their school participates. Unfortunately, both the calendar and election-year politics stood in the way of the legislative process moving forward in its entirety.

This extension will allow all programs to run without interruption and ensure student financial aid will be available to all eligible students. It is a clean, straight-line extension, meaning that this bill has not been weighed down with other amendments, but does strictly what it was intended to do, extend all current programs.

The majority has continued to attempt to work with our colleagues on several pieces of legislation. However, many of those attempts failed. Now there is a deadline approaching. No one in this chamber wants to see these programs expire, nor do we want to instill any sort of concern on the part of students, institutions, or student loan providers. It is time to put politics aside, pass this legislation and get it to the President for his immediate signature.

I have every confidence that the Committee on Education and the Workforce will come together early in the 109th session and move quickly to enact a comprehensive, bipartisan higher education reauthorization bill. I look forward to working with my colleagues to do so, and I urge the passage of H.R. 5185 today.

Mr. KILDEE. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I thank the gentleman from Michigan for yielding me this time.

Mr. Speaker, while I support this temporary extension of the Higher Education Act, I am very disappointed that we have not passed the full Higher Education Act reauthorization.

The committee chair is correct. Higher education is more important than ever to ensure America's economic prosperity, security, and health. Just as college has become essential to both individuals and society's success, college tuition has risen dramatically, causing students to take on high loan debt, $17,000, on average; to work long hours that interfere with academic success sometimes; or to forgo college altogether. Yet, Congress has failed to pass the Higher Education Act.

Now, one party controls the White House, the Senate, and the House; the same party. Yet, they have failed to pass a Higher Education Act. Where are the priorities? Congress seems to have no trouble passing tax cuts for the wealthy, but to provide opportunities for students to attend college does not seem to be a priority.

Mr. Speaker, the failure of the House to pass a higher education reauthorization is emblematic of this ineffective Congress. In past years, the Higher Education Act was one of the easiest to pass, one of the most bipartisan, a bill we could count on. And with this temporary extension, we have missed many opportunities today. We could have increased the Pell grant and provided it year-round. We could have significantly increased aid to minority-serving institutions. We could have increased assistance to low-income and first-generation college students. We could have increased loan forgiveness. We could have eliminated origination fees on student loans. We could have provided child care for parents who are attempting to go back to college. We could have changed the student aid formulas for working students. But, today, we pass a temporary extension. We have failed to do any of those things, and American college students and their parents are paying for Congress' failure.

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Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Let me thank my colleague on the other side of the aisle. We have been locked in a really difficult situation trying to come to an agreement on the reauthorization of this bill. But it is not just here. I think we could have overcome our differences, but clearly there was no action in the other body, and we have no choice but to extend the Higher Education Act, which the underlying bill here today does.

This is important to millions of low- and middle-income American students who depend on Pell grants and student loans to achieve their dream of a college education. I ask my colleagues to support the bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). The question is on the motion offered by the gentleman from Ohio (Mr. BOEHNER) that the House suspend the rules and pass the bill, H.R. 5185, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TAXPAYER-TEACHER PROTECTION ACT OF 2004

Mr. BOEHNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5186) to reduce certain special allowance payments and provide additional teacher loan forgiveness on Federal student loans, as amended.

The Clerk read as follows:

H.R. 5186

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Taxpayer-Teacher Protection Act of 2004''.

SEC. 2. REDUCTION OF SPECIAL ALLOWANCE PAYMENTS FOR LOANS FROM THE PROCEEDS OF TAX EXEMPT ISSUES.

Section 438(b)(2)(B) (20 U.S.C. 1087-1(b)(2)(B)) is amended—

(1) in clause (i), by striking ''this division'' and inserting ''this clause'';

(2) in clause (ii), by striking ''division (i) of this subparagraph'' and inserting ''clause (i) of this subparagraph'';

(3) in clause (iv), by inserting ''or refunded after September 30, 2004, and before January 1, 2006,'' after ''October 1, 1993,''; and

(4) by adding at the end the following new clause:

''(v) Notwithstanding clauses (i) and (ii), the quarterly rate of the special allowance shall be the rate determined under subparagraph (A), (E), (F), (G), (H), or (I) of this paragraph, or paragraph (4), as the case may be, for a holder of loans that—

''(I) were made or purchased with funds—

''(aa) obtained from the issuance of obligations the income from which is excluded from gross income under the Internal Revenue Code of 1986 and which obligations were originally issued before October 1, 1993; or

''(bb) obtained from collections or default reimbursements on, or interest or other income pertaining to, eligible loans made or purchased with funds described in division (aa), or from income on the investment of such funds; and

''(II) are—

''(aa) financed by such an obligation that, after September 30, 2004, and before January 1, 2006, has matured or been retired or defeased;

''(bb) refinanced after September 30, 2004, and before January 1, 2006, with funds obtained from a source other than funds described in subclause (I) of this clause; or

''(cc) sold or transferred to any other holder after September 30, 2004, and before January 1, 2006.''.

SEC. 3. LOAN FORGIVENESS FOR TEACHERS.

(a) IMPLEMENTING HIGHLY QUALIFIED TEACHER REQUIREMENTS.—

(1) AMENDMENTS.—

(A) FFEL LOANS.—Section 428J(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1078-10(b)(1)) is amended—

(i) in subparagraph (A), by inserting ''and'' after the semicolon; and

(ii) by striking subparagraphs (B) and (C) and inserting the following:

''(B) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 of the Elementary Secondary Education Act of 1965; and''.

(B) DIRECT LOANS.—Section 460(b)(1)(A) of such Act (20 U.S.C. 1087j(b)(1)(A)) is amended—

(i) in clause (i), by inserting ''and'' after the semicolon; and

(ii) by striking clauses (ii) and (iii) and inserting the following:

''(ii) if employed as an elementary school or secondary school teacher, is highly qualified as defined in section 9101 of the Elementary and Secondary Education Act of 1965; and''.

(2) TRANSITION RULE.—

(A) RULE.—The amendments made by paragraph (1) of this subsection to sections 428J(b)(1) and 460(b)(1)(A) of the Higher Education Act of 1965 shall not be applied to disqualify any individual who, before the date of enactment of this Act, commenced service that met and continues to meet the requirements of such sections as such sections were in effect on the day before the date of enactment of this Act.

(B) RULE NOT APPLICABLE TO INCREASED QUALIFIED LOAN AMOUNTS.—Subparagraph (A) of this paragraph shall not apply for purposes of obtaining increased qualified loan amounts under sections 428J(c)(3) and 460(c)(3) of the Higher Education Act of 1965 as added by subsection (b) of this section.

(b) ADDITIONAL AMOUNTS ELIGIBLE TO BE REPAID.—

(1) FFEL LOANS.—Section 428J(c) of the Higher Education Act of 1965 (20 U.S.C. 1078-10(c)) is amended by adding at the end the following:

''(3) ADDITIONAL AMOUNTS FOR TEACHERS IN MATHEMATICS, SCIENCE, OR SPECIAL EDUCATION.—Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall repay under this section shall be not more than $17,500 in the case of—

''(A) a secondary school teacher—

''(i) who meets the requirements of subsection (b); and

''(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

''(B) an elementary school or secondary school teacher—

''(i) who meets the requirements of subsection (b);

''(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 602 of the Individuals with Disabilities Education Act); and

''(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, is teaching children with disabilities that correspond with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.''.

(2) DIRECT LOANS.—Section 460(c) of the Higher Education Act of 1965 (20 U.S.C. 1087j(c)) is amended by adding at the end the following:

"(3) ADDITIONAL AMOUNTS FOR TEACHERS IN MATHEMATICS, SCIENCE, OR SPECIAL EDUCATION.—Notwithstanding the amount specified in paragraph (1), the aggregate amount that the Secretary shall cancel under this section shall be not more than $17,500 in the case of—

"(A) a secondary school teacher—

"(i) who meets the requirements of subsection (b)(1); and

"(ii) whose qualifying employment for purposes of such subsection is teaching mathematics or science on a full-time basis; and

"(B) an elementary school or secondary school teacher—

"(i) who meets the requirements of subsection (b)(1);

"(ii) whose qualifying employment for purposes of such subsection is as a special education teacher whose primary responsibility is to provide special education to children with disabilities (as those terms are defined in section 602 of the Individuals with Disabilities Education Act); and

"(iii) who, as certified by the chief administrative officer of the public or non-profit private elementary school or secondary school in which the borrower is employed, is teaching children with disabilities that correspond with the borrower's special education training and has demonstrated knowledge and teaching skills in the content areas of the elementary school or secondary school curriculum that the borrower is teaching.".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply only with respect to eligible individuals who are new borrowers (as such term is defined in 103 of the Higher Education Act of 1965 (20 U.S.C. 1003)) on or after October 1, 1998, and before October 1, 2005.

(c) INFORMATION ON BENEFITS TO RURAL SCHOOL DISTRICTS.—The Secretary shall—

(1) notify local educational agencies eligible to participate in the Small Rural Achievement Program authorized under subpart 1 of part B of title VI of the Elementary and Secondary Education Act of 1965 of the benefits available under the amendments made by this section; and

(2) encourage such agencies to notify their teachers of such benefits.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. BOEHNER).

GENERAL LEAVE

Mr. BOEHNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5186.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today the House has an opportunity to pass a bill that will protect taxpayers, support school teachers and help poor schools ensure every student has the opportunity to learn from a qualified teacher.

I want to particularly thank my colleague, the gentleman from California (Mr. McKEON) and the gentleman from South Carolina (Mr. WILSON) for the vital roles they have played for bringing this bill to the floor.

For more than 10 years, a complex Federal policy known as the 9.5 percent "special allowance" has resulted in excess taxpayer subsidies for some student loan providers. This policy was adopted under the Clinton administration, and while some would call it a loophole, the loan providers were told by the Clinton administration that it was perfectly legal and legitimate.

The excess taxpayer subsidies being paid under this policy have in recent years begun to balloon, and if we fail to act, billions of dollars in excess taxpayer subsidies will be paid to student loan providers legally.

Now, this may be technically legal but I think it is unfair to taxpayers and unfair to students, and it is unfair to the schools, people who should be the beneficiaries of this funding. When you boil it down, it is just plain bad policy.

Eight months ago President Bush called on Congress to pass legislation to shut down these excess taxpayer subsidies. The Bush administration noted that ending the excess subsidies without legislation was likely to take at least 2 years. Because of the precedents established under the previous administration, it would take the administration 2 years to end the policy without legislation. Two years is too long to wait.

So the President asked Congress to pass legislation this year that would allow the 9.5 percent subsidies to be stopped now.

The legislation before us should be a no-brainer. It is called the Taxpayer-Teacher Protection Act because that is exactly what it will do. The bill will protect taxpayers by shutting down the excess subsidies to lenders, as the President has asked, and it will use the money to help teachers and poor schools across the country.

Rural and urban schools are confronting a shortage of qualified teachers in key subjects. This shortage is very serious and particularly hurts schools in our poorest communities.

According to the most recent data available from the National Center for Education Statistics, 67 percent of our public middle and high schools have vacancies in special education, 70 percent had vacancies in mathematics, 61 percent had vacancies in biological or life sciences. And according to the Committee For Economic Development, almost a third of high school math classes are taught by teachers who did not major or even minor in mathematics. For biology it is 45 percent, and in life sciences the percentage rises to 60 percent.

President Bush has repeatedly asked Congress to create new incentives for good teachers to teach in our poorest schools. The President has asked that we increase the amount of loan forgiveness that is available to qualified teachers in these key subjects who agree to teach for at least 5 years in our poorest schools. The President wants us to increase loan relief for the teachers from the current maximum of $5,000 to a new maximum of $17,500, more than triple the amount that is currently available.

The President asked us to do this after the No Child Left Behind Act became law. And he asked for it again last week in Springfield, Ohio, where I was with him at an education event.

Under this bill we will shut down the excess subsidies for now and use the money to provide loan relief for highly qualified teachers in high-needs schools, helping our schools deal with the teacher shortage.

The House last year overwhelmingly passed legislation written by the gentleman from South Carolina (Mr. WILSON) that called for similar teacher loan relief. Shutting off these excess subsidies now via this bill will also pave the way for us to devote billions of dollars over the next several years to college access programs for low- and middle-income students.

This was the original intent of the bill introduced by the gentleman from California (Mr. McKEON) and I back in May. And that bill, the College Access and Opportunity Act, would permanently shut down the excess subsidies as part of a comprehensive reauthorization of the Higher Education Act.

We continue to believe a long-term, multiyear reauthorization of the Higher Education Act is the proper vehicle for ensuring that the 9.5 percent subsidies stay shut down, because it would ensure that billions of dollars are used to expand college access for low- and middle-income students.

Let us make no mistake about this. We are closing the loophole, and once it is closed, it is not coming back. The only question today is whether Democrats and Republicans can agree on how the money should be used within the Higher Education Act.

We could not find an agreement on the big question of the reauthorizing the bill this year, and unfortunately, this looks like that debate will continue into next year. But in the meantime this bill gives us the chance to close down the subsidies now and use the money for something we can all agree is a worthy cause.

Now, there are some who say this bill does not go far enough. They contend it should shut down subsidies retroactively. Let me say, here is the problem with that.

Shutting the 9.5 percent subsidies down retroactively will not just affect the big kids on the block, those in the student loan business who do it for a profit. It will affect smaller, nonprofit student aid providers all across America, nonprofit organizations that were told years ago by the Federal Government that this practice is 100 percent legal and legitimate. And as we will see as this debate goes on, we are talking about nonprofit student aid organizations from all over the country, whether it be the big student aid organization in California, where 85 percent of their effort is aimed at minority children, and Texas, Arizona, all across the country.

Over the past few days Congress has heard an earful from nonprofit student aid providers warning that retroactive cuts would hurt students and families that need help paying for college. We have heard from Chela in California and we have heard from a provider in South Texas. Half of their loans go to Hispanic students, all needy students.

We have heard from nonprofit providers in New Mexico, Rhode Island, Oklahoma. "Cuts in these subsidies, especially retroactive cuts, would immediately cause a negative impact to Iowa students," warned a nonprofit organization in Iowa.

Now, we need to shut down the subsidies, but we need to make sure that we are not shutting down nonprofit student aid organizations in the process. And if we go any further than what we propose in this bill, I think we are going to hurt the very families and students that we are actually trying to help.

So I would urge my colleagues to support the measure on the floor today. It is the right thing to do for our taxpayers, teachers and American students.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself 3 minutes.

Let me say at the outset, that the Members on this side of the aisle enthusiastically support this legislation brought to the floor by the chairman of the committee and the chairman of the subcommittee. We only ask, what has been holding it up? Why were you not here earlier? But you are here now and we will celebrate the fact that you are here now.

I must say that we were excited when the gentleman from Maryland (Mr. VAN HOLLEN) and the gentleman from Michigan (Mr. KILDEE) were able to get an amendment this past September onto the floor of the House so we could get this issue in front of the House, get it out into the daylight and let the Members work the will of the House, something that does not happen too often in this Chamber. The will is quite stifled most of the time.

But when this issue is put before the House by the gentleman from Maryland (Mr. VAN HOLLEN) and the gentleman from Michigan (Mr. KILDEE), and the House got a chance to look at it, Republicans and Democrats, conservatives from the North, East, South, West, around the country, 414 to 3, they said, get rid of this loophole. It is unjustified, it is unconscionable, it is expensive and it is killing the credibility of this program.

Tonight, we answer that call by the House of Representatives to get rid of this program. But tragically tonight we only answer a part of that call because we do not deal with those provisions in this program that continue these unconscionable profits at the 9.5 percent loans due to the recycling. We are going to stop this loophole for this year, and we ought to stop the recycling.

This is not retroactive. But when you do not stop the recycling, the good purposes for which our colleagues across the aisle are going to put this money to use, and that is to help those teachers, provide loan forgiveness for those teachers in difficult districts who are making the special efforts, some 10,000 additional teachers, who could have access to loan forgiveness, now will not have access to that loan forgiveness.

All it would require is to close the loophole. That is what the House voted on when they voted on the Kildee-Van Hollen amendment. They voted to close a loophole, not sort of close a loophole, not part way close a loophole, but close a loophole. Maybe only for 1 year now, and that is the best we can do under these circumstances, but the entire loophole.

The difference is billions of dollars. The difference is 10,000 teachers in need of loan forgiveness. That is the choice.

I heard this was held up because we had all this power. We would like to use our power now to tell you and persuade you to join with us and close the entire loophole and get those other 10,000 teachers that are eligible. Power to the people, to the Democrats, because apparently that is why you have not done it now for 2 years. So we want to join with you. We can have a manager's amendment tonight to close the loophole like 414 of our colleagues urge.

I want to thank the gentleman from Michigan (Mr. KILDEE) and the gentleman from Maryland (Mr. VAN HOLLEN) for their creativity and tenacity in getting this before the House of Representatives, getting it into the full Chamber where the Members on a bipartisan basis have overwhelmingly repudiated this program. I am sorry we cannot go the whole way.

Mr. Speaker, I reserve the balance of my time.

Mr. McKEON. Mr. Speaker, I yield myself 4½ minutes.

Mr. Speaker, the Taxpayer-Teacher Protection Act is a straightforward plan to shut down excess subsidies for student loan providers and direct the savings to expanded student loan relief for teachers. There is a sense of urgency in the bill before us, and I agree that these reforms should be sent to the President for his signature as soon as possible. Yet I find it troubling that we are here today when these reforms could have been enacted months ago, if not for the partisan foot-dragging on the other side of the aisle.

The fact is, President Bush called on Congress to shut down these subsidies 8 months ago in his fiscal year 2005 budget request. Unfortunately, Democrats chose not to address the issue in any of their Higher Education Act reauthorization plans, and they refused to work with us to enact our legislation that would have shut down the 9.5 percent floor.

Let us be clear on this point. The reason we are here today is because those on the other side of the aisle did nothing to shut down these subsidies in their own legislation and they have stonewalled our efforts to cut off the subsidies as part of a larger reauthorization bill.

What is worse, our Democratic colleagues who have finally belatedly joined us in calling for an end to the excess subsidies are advocating for changes that would cut student loan benefits.

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This runs counter to the very principle that is driving these reforms, that Federal student aid should be directed to student benefits.

The bill before us is the first step to permanently ending the 9.5 percent special allowance subsidy. Make no mistake, by approving this bill, the Congress will have taken the first step to ensuring a permanent end to the excess subsidy payments.

We have always maintained that the best solution is to provide a permanent legislative fix that will direct these resources to student benefits. We proposed that type of permanent solution earlier this year, and we will fight for its enactment next year. In the meantime, this bill is the right answer today.

Prospective changes like those in the bill before us will ensure the loophole is shut down without jeopardizing student benefits. The GAO recently recommended Congress put an end to the excess loan provider benefits with prospective changes. That is because the GAO recognizes that retroactive changes would harm students by reducing borrower benefits.

The recipients of the 9.5 percent special allowance subsidy are largely nonprofit State secondary markets. These organizations are required to use the proceeds of the 9.5 percent subsidy to provide student benefits.

Many of the nonprofit State organizations have told us that retroactive changes would force cuts to programs that forgive loans for nurses, reduce loan fees and interest rates for students, provide alternative loans for needy students and families, and help high school students and families plan for college and find financial aid. These are just a few of the student benefits that would be cut under the misguided Democratic plans to make retroactive changes.

We wish our Democratic friends had understood the importance of this issue sooner so that these reforms would already be enacted. In February, President Bush called on the Congress to shut down the excess subsidies. In May, the gentleman from Ohio (Chairman BOEHNER) and I introduced a bill that would do just that. At the same time, Democratic leaders attacked that proposal and prevented us from enacting comprehensive reforms that would expand college access, all the while offering proposals of their own that ignored the excess subsidy payments. We are pleased that the Democrats have finally come around, but we wish they had realized the importance of this issue sooner.

Shutting down these excess subsidies is important, and so is the need for the expanded loan forgiveness this bill will provide. The Republican plan to permanently end the excess subsidies for student loan providers is hinged on the idea that these resources must be used for student benefits in the Federal student loan program. That is why the Taxpayer-Teacher Protection Act takes the savings generated by shutting down excess loan provider profits and targets them to student loan relief for teachers.

K-12 schools in high poverty areas, including rural and urban schools, are facing severe shortages of teachers in key subjects. The House has already approved a similar expansion of student loan relief. That bill, authorized by the gentleman from South Carolina (Mr. WILSON) received widespread support among Republicans and Democrats alike, and I expect similar support today.

President Bush has led efforts to expand loan forgiveness for teachers of math, science and special education who commit to teaching at least 5 years in disadvantaged schools. The current loan forgiveness of $5,000 will be more than tripled, to $17,500, under the bill, providing a valuable tool for disadvantaged schools seeking to place a highly qualified teacher in every classroom.

I hope we can all work together now to pass this bill and get it to the President for his signature.

Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. KILDEE), one of the sponsors of the original amendment to get this in front of the House.

Mr. KILDEE. Mr. Speaker, let me make it clear that the Kildee-Van Hollen efforts to end this subsidy have never gone after existing loans. Both the Kildee-Van Hollen amendment and H.R. 5113 affect prospective loans.

Mr. Speaker, I am going to support this bill today despite some glaring inadequacies.

H.R. 5186 makes an improvement over current law which has been providing lenders excessive subsidies, but it also fails to address a large share of this subsidy and only enacts this change for about 1 year.

The loophole, which this bill only partially closes, has increased lender profits by nearly $1 billion in fiscal year 2004. Under this antiquated loophole, lenders presently receive an additional 5.5 percent return, compared to subsidies on regular student loans. That is free money. Worse, this loophole has reduced resources that should be used to make college cheaper for students.

The gentleman from Maryland (Mr. VAN HOLLEN) and I became concerned about this issue in October of last year when we asked the General Accountability Office to investigate how lenders were exploiting this loophole. This report produced alarming results including:

The Federal subsidy provided under this loophole has grown nearly five times from $200 million in fiscal year 2001 to $1 billion in fiscal year 2004.

The volume of loans carrying this subsidy has grown from $11 billion in fiscal year 1995 to over $17 billion at the end of the third quarter in 2004.

Clearly, these facts demand immediate action.

The GAO's report on this matter called for such action by the Bush administration. Unfortunately, they failed to answer that charge. Due to this refusal, Congress now has to take steps to deal with this issue. I am pleased that the gentleman from Ohio (Chairman BOEHNER) and the gentleman from California (Mr. MCKEON) have now responded to our calls to close this loophole.

Today's effort is especially timely considering that all committee Democratic members called for a markup on the gentleman from Maryland's (Mr. VAN HOLLEN) and my legislation to eliminate this lender loophole.

However, it is important that Members understand that this bill has two major deficiencies. First of all, it does not completely close the loophole which lenders have been exploiting. It keeps on "recycling." Cyclists pedal through the Tour de France for handsome profits; recyclists pedal through the U.S. Treasury for even greater profits.

This is free money and it should be stopped. Under this legislation, lenders will continue to receive sizeable and excessive subsidies, perpetuating this taxpayer ripoff.

Second, this bill does not close this loophole permanently. Instead, it opts for about a 1-year fix. This loophole should be permanently and completely closed, and the savings should be used to make college cheaper for needy students.

Failing to completely and permanently close this loophole is a lost opportunity to create more aid for needy students.

Permanently and completely closing this loophole would enable us to increase the bill's loan forgiveness provisions even more, or enact other means to make college more affordable. Students are bearing the brunt of rising college costs and shrinking aid.

It is unfortunate that we cannot completely and permanently address this problem and provide more help. I would hope that passage of this legislation does not end our efforts to fully and permanently close this loophole.

Mr. BOEHNER. Mr. Speaker, I yield myself such time as I may consume.

I would remind my colleagues that we are less than 4 weeks from a Presidential election and an election for all of us who serve here in the House. We all know what happens when we get to the eve of election. We all find religion.

Now, the President called for the elimination of this 9.5 percent subsidy back in February. I have been working on this for a year. It was in the gentleman from California's (Mr. MCKEON) and my bill that we introduced back in May, and my colleagues on the other side want to criticize us for not acting sooner. Yet, the substitute, or their own higher education reauthorization, never even addressed this very subject.

Now, I would say to my colleagues it takes two to tango, and they all know how things get done around here. We need to work together.

The criticism about this bill not going far enough, I think, is well understood by Members on both sides of the aisle. While, in fact, it may shut down some subsidies that go to for-profit lenders, the problem we have is those lenders in the nonprofit sector who use that money to aid students and needy students will be burned in the process, and I think we take a great risk in going down that path today.

That is why the bill that we have before us shuts these things down, these 9.5 percent loans, for the next year and allows us, in the reauthorization of the Higher Education Act, to make sure that when we shut these 9.5 percent loans down permanently, we do so in a way that we do not hurt the nonprofit community that helped many low-income and needy students around the country.

Mr. Speaker, I yield 2 minutes to the gentleman from Nevada (Mr. PORTER).

Mr. PORTER. Mr. Speaker, I rise in support of the Taxpayer-Teacher Protection Act, and I strongly encourage my colleagues on both sides of the aisle to join me in voting for this commonsense bill.

The reforms before us are straightforward, even simple, but they are also incredibly important. I was proud to cosponsor this legislation and look forward to the benefits it provides our teachers.

This bill addresses two pressing issues within the Federal higher education programs. First, it will shut down excess subsidies being paid to certain student loan providers. Second, it will direct these dollars so that we can increase student loan relief for teachers.

In February, President Bush called on Congress to put an end to excess subsidies paid to certain student loan providers. Republicans answered the President's call by introducing legislation in May that would shut this practice down and direct the resources back to where they belong, to student benefits within the Higher Education Act.

This bill will finally allow us to enact that important reform and will direct the savings to increased loan relief for teachers.

The second piece of this bill will provide critical support for our Nation's classrooms, and I would like to commend my colleague, the gentleman from South Carolina (Mr. WILSON), for his leadership in this area.

The loan relief provider in this bill will increase loan forgiveness for teachers of math, science and special education who serve in disadvantaged schools. I know firsthand how rural and urban school districts are struggling to find highly qualified teachers in these key subjects, and that is why I am so proud to support this bill. In Clark County, Nevada, alone, we are required to hire, on average, 2,000 new teachers a year.

Currently, the Higher Education Act provides loan forgiveness of up to $5,000 for teachers who teach for at least 5 years in Title I schools. These schools, which serve larger shares of disadvantaged students, often struggle to recruit and retain the teachers they need.

Although the current loan forgiveness is valuable, we have discovered particular shortages in math, science and special education. To help schools recruit teachers in these high-demand subject areas, we must target our resources where they are needed most.

I appreciate and urge my colleagues to join me in supporting this bill.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 4 minutes to the gentleman from Maryland (Mr. VAN HOLLEN), who again was the spark plug for getting this legislation before the full House and getting this bill to the floor.

Mr. VAN HOLLEN. Mr. Speaker, I want to join with my colleagues, the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Michigan (Mr. KILDEE) in thanking the gentleman from Ohio (Chairman BOEHNER) and the subcommittee chairmen and the others on that side for joining us in addressing a problem that we all agree has allowed lenders to pocket billions of dollars of taxpayer money at the expense of our students.

The good news is that this bill begins to address the problem. The bad news is it does not do the job fully or permanently.

As the chairman knows, the gentleman from Michigan (Mr. KILDEE), the gentleman from California (Mr. GEORGE MILLER) and I introduced an earlier bill after the passage of the amendment that would close the 9.5 percent loophole permanently, completely, immediately and prospectively, not retroactively, and would redirect the proceeds, the savings, to the students that we were intending to benefit all along.

Unfortunately, we have not had an opportunity in committee or on this floor to deal with that bill that would address the problem fully and permanently; and when I heard there was going to be a bill introduced on the other side of the aisle, I thought this is a good thing, it does not matter who has got their name on it. It does not matter whether it is Republican leadership or Democratic leadership. The important thing is to get the job done for the American people.

But when we take a look at the bill, it has two very serious problems. One is it does not deal with the issue permanently. Why not? We could do it this year. We could do it now.

Secondly, it does leave a big part of the loophole in place. It would continue to permit lenders to make new 9.5 percent-eligible loans using the proceeds from existing 9.5 percent-eligible loans through a scheme or process called recycling.

Now, the Government Accountability Office has told all of us that that portion of the loophole accounts for 40 percent of the loss of taxpayers' dollars, and here is what the GAO says about closing the loophole, and I quote from their September report:

"Industry experts acknowledge that the government could take action to eliminate the 9.5 percent yield for loans made or purchased in the future without compromising the ability of lenders to meet their obligations with respect to their pre-October 1, 1993, tax exempt bonds."

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That is what the Miller-Kildee-Van Hollen legislation does. It shuts it down prospectively. And as the GAO report says, without government action, the taxpayers remain exposed to additional special allowance payments that can easily and rapidly escalate into billions of dollars.

Now, when you close a loophole, my idea is you take care of the problem all at once. You do not just shut down 60 percent of the hole, allowing 40 percent to continue to drain taxpayer dollars at the expense of students. And that is what the other bill does.

If you were talking about just protecting nonprofits, you would have crafted your bill to deal with just nonprofits. The GAO report makes it absolutely clear that the great bulk of lenders involved in recycling are for-profits.

Secondly, if you address the problem the way we do, you will be sure the students directly benefit from the savings, 100 percent of the savings, from closing the loophole, not just a portion of the savings of closing the loophole.

I would remind my friends on the other side of the aisle that the original purpose of the Higher Education Act was to help America's students afford college. It was not to provide government-guaranteed profits to a few lenders and bond investors. We are missing, unfortunately, a golden opportunity to deal with this once and for all.

Mr. BOEHNER. Mr. Speaker, I reserve the balance of my time.

Mr. GEORGE MILLER of California. Mr. Speaker, how much time do I have remaining?

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). The gentleman from California has 9 minutes remaining.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise to discuss H.R. 5186, introduced by a number of Republican Members to address a billion dollar and growing windfall subsidy for student loan lenders. Like my Democratic colleagues, I will support H.R. 5186, because it is certainly better than current law. But on this issue, that is a pretty low bar.

I believe that families who are struggling to pay college tuition deserve to know exactly how low my Republican colleagues have set that bar. Lenders recently have taken increased advantage of a provision in the Higher Education Act that guarantees them 9.5 percent in returns on certain loans. That is almost triple the rate of return on most student loans.

In fiscal year 2004, that meant that $1 billion that could have helped hardworking Americans pay for college instead went into lenders' pockets. Democrats have been working to close this loophole for the last year, but Republicans did virtually nothing until public outrage reached the boiling point.

Even now, the Republican bill would leave 40 percent of the billion dollar loophole open. They would rather that $400 million go to the lender profits than to Pell Grants or low-income students or to the teacher loan forgiveness that they include in 5186, and we all support.

I do not agree. The Bush administration also has refused to close the loophole administratively, even though the nonpartisan Government Accountability Office found the administration has the authority to absolutely do so.

Democrats have a better response: H.R. 5113. I am proud to be a cosponsor of H.R. 5113, because it would fully and permanently close this loophole and put the savings into Pell Grants. That is the kind of help that hardworking men and women deserve to put themselves and their children through college so that they can better their lives.

That is the kind of help I wish we were offering here today. Unfortunately, we are not. But because a half loaf is better than none, I will support H.R. 5186.

Mr. BOEHNER. Mr. Speaker, I am pleased to yield 2 minutes to the gentleman from Georgia (Mr. GINGREY), a member of our committee.

Mr. GINGREY. Mr. Speaker, I want to thank the chairman, the gentleman from Ohio (Mr. BOEHNER), for bringing H.R. 5186, the Taxpayer Teacher Protection Act, to the floor this evening.

As a sponsor of H.R. 2211, the Ready to Teach Act, I believe it is important to permanently end excess student loan subsidies and to redirect savings to expanding loan relief for teachers of key subject areas in high-poverty, K–12 schools. The Ready to Teach Act was designed to benefit efforts in recruiting and training the best teachers to fill much-needed vacancies in subject areas such as math, science, foreign language and special ed.

Every child deserves an opportunity to achieve a quality education, and I believe H.R. 5186 will aid these efforts so that every child is given a chance to succeed to the best of his or her ability. The Taxpayer Teacher Protection Act redirects the excess loan provider profits to student loan relief for teachers.

High-poverty schools are struggling to find highly qualified math, science, and special education teachers. This bill would more than triple loan forgiveness for teachers of these key subjects who agree to teach in title I schools for at least 5 years. The expanded loan relief for math, science, and special education teachers will help States and schools recruit and retain the teachers they desperately need. This bill will help schools place a highly qualified teacher in every public school classroom, as called for by the bipartisan No Child Left Behind bill.

President Bush called on Congress 8 months ago to shut down the excess lender earnings received through the 9.5 percent floor. I support President Bush in his commitment to finding commonsense solutions to our education problems. Removing the 9.5 percent subsidy will help our most stressed schools fill vacancies with much-needed quality instruction, and I ask my colleagues to pass this bill.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 2 minutes to the gentleman from Illinois (Mr. DAVIS), a member of the committee.

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of H.R. 5186, but I also know that much more needs to be done. I agree with all of those who suggest and predict that there is a tremendous need to provide loan forgiveness for math, science and special education teachers. But there is also a tremendous need to recruit teachers for disadvantaged communities where it is very difficult to get specialized teachers to come.

There is also a tremendous need to recruit male teachers for early childhood in elementary education. Many, many school boys do not see a male teacher until they reach eighth grade. So many of them grow up with the idea that education is not for them; that it is a girl-female thing.

So I support this legislation, but, of course, it falls short of the mark, and I look forward to the day when we will have a real loan forgiveness program that provides us with the teachers we need for America's children.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 1 minute to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for yielding me this time, and I rise with enthusiasm to support this legislation and to make comment on the legislation authored by the gentleman from California, the gentleman from Maryland (Mr. VAN HOLLEN) and the gentleman from Michigan (Mr. KILDEE).

I hope, as we move forward, that we will find our way to telling America's mothers and fathers and those who support young people going to college that we permanently have closed the loophole that now earns nearly $1 billion in excess subsidies from this loophole.

Mr. Speaker, I come to the floor because I have been inundated by students around the country, and particularly, just Monday, a young man stood up in a town hall meeting and said he was from LaSalle University, and he pleaded not for issues dealing with war and peace, but he said, you know what, there are students in my college dropping out by the wayside because they cannot afford to pay for college.

In my own hometown in Houston, I am talking to students working at Burger King and McDonalds because they have no opportunity to go to college. This is a good start. We need to help our students. I ask support for this bill, but I hope we will go further.

Mr. Speaker, I am pleased to be here today to support this bill, which both sides of the Education and the Workforce Committee can agree upon—despite it having several tragic flaws. Under an antiquated provision in the Higher Education Act, lenders are guaranteed a 9.5 percent rate of return on student loans originally backed by non-taxable securities issued before 1993. This rate of return is 6 percent higher than the return which lenders receive on regular student loans.

In 2004, it is estimated that lenders earned nearly $1 billion in excess subsidies from this loophole. While this bill is an improvement over current law, it fails to fully address this problem, as Democratic proposals have done. This bill doesn't close the loophole allowing a practice which has created up to 40 percent of the current loans receiving this wasteful subsidy to continue. The bill continues a current lender practice typically referred to as "recycling." Recycling involves lenders using the interest payments from student borrowers and the excessive subsidies paid by the Federal government to make new loans which also receive a guaranteed 9.5 percent rate of return. Recycling alone is responsible for 40 percent of the current loan volume which is guaranteed this 9.5 percent rate of return. Allowing this practice to continue will allow lenders to collect hundreds of millions of dollars in profits.

This bill fails to provide a permanent fix to this problem. It partially closes this loophole for only a year, rather than permanently ending this abusive practice. This loophole should be permanently and completely closed and the savings should be used to make college cheaper for needy students.

This bill fails to even do what President Bush called for in his last Budget. President Bush called for ending this loophole, yet the Republicans fail to fully close it.

Republicans only introduced legislation which they actually intended to move once public outcry on this issue grew. The Republican Higher Education reauthorization bill has floundered for several months, never having even been marked up in Committee. As the outcry over this wasteful subsidy increased, Republicans decided to move last minute legislation. This contrasts with over a year-long effort by Democratic Members on this issue.

The Bush Administration has refused to act on this issue. Despite a recent GAO report calling on the Department of Education to close this loophole administratively, the Bush Department of Education has refused to act, claiming they do not have the authority and cannot overcome bureaucratic hurdles. The GAO report strongly disagrees with this view.

Democratic Members have a better response. H.R. 5113 (introduced by Representatives KILDEE, VAN HOLLEN and GEORGE MILLER) would permanently and completely close this wasteful lender subsidy. We should be focusing now on legislative initiatives that will truly help those seeking an education, rather than creating more hurdles and obstacles.

Finally, I also support H.R. 5185, which extends the much-needed Higher Education Act—but only temporarily. This bill also helps teachers in loan forgiveness. But this is not enough—our students are losing higher education opportunities because there is no opportunity and no money. Shame on us!

Mr. GEORGE MILLER of California. Mr. Speaker, I yield 3 minutes to the gentleman from New Jersey (Mr. HOLT).

Mr. HOLT. Mr. Speaker, I thank the ranking member on the Committee on

Education and the Workforce for yielding me this time.

We are talking about education, so maybe we should take a moment for a textbook example of euphemism. Taxpayer Teacher Protection Act. Now, one would think this would mean to save the taxpayers money. In fact, what we are doing is allowing lending institutions to continue to get a guaranteed exorbitant rate of return and make a killing.

Let me just review what this bill does. I rise in support of H.R. 5186. It is an improvement over current law. But it fails to address the problem. It ignores the Government Accountability Office's recommendation to immediately stop lenders from issuing new loans at 9.5 percent. It ignores the GAO's recommendation to close the loophole permanently.

It allows hundreds of millions of dollars in new loans to be issued at the bloated rates of 9.5 percent. It denies additional loan forgiveness to 10,000 teachers working in the Nation's most needy public schools. It chooses special interests over taxpayers by allowing the loophole to continue for up to 40 percent of the 9.5 percent loans.

As the outcry around the country over this wasteful subsidy increased, the Republicans decided to move last-minute, half-baked, barely adequate legislation. It contrasts sharply with the year-long efforts by the gentleman from Michigan, Maryland, and California, the Kildee-Van Hollen-Miller bill, H.R. 5113, which would permanently and completely close this wasteful lender subsidy.

Mr. GEORGE MILLER of California. Mr. Speaker, could you advise the time remaining?

The SPEAKER pro tempore. The gentleman from California has 3 minutes remaining.

Mr. GEORGE MILLER of California. Mr. Speaker, I yield myself the balance of my time.

Again, Mr. Speaker, we support this legislation. But it is interesting, you know, with the 10-year T-bill rate at 4 percent and the 2-year bill or the 3-year bill at about 1.5 to 2 percent, that a very select group of lenders can get 9.5 percent, the only place in the world you can get a return of 9.5 percent on your money, or the difference between the margin there. It is the only place in the world you can go to get this money, unless you are borrowing from the Mafia.

But what happens with this legislation is, while hiding behind a legitimate claim by nonprofits, they keep open the recycling loophole that is overwhelmingly used, according to the General Accountability Office, by for-profit lenders. Nothing to do with retroactivity, because we stop this practice in the future, and we can stop recycling in the future.

But they have chosen not to do it. They said, if the Democrats had cooperated, they would have done this earlier. Well, we are cooperating, so do it. It is earlier. Do it now. We have this newfound power bestowed upon us by the chairman of the committee. We want it now.

You said you did not do it because we did not cooperate. The more I think about it, it was a brilliant strategy because we did not have to take all that other stuff in your legislation, where these kids were going to lose their rights to low-interest loans and be able to lock in low-interest loans in repayments. We did not have to take all that, which would have punished millions of young people, and we are going to get this loophole closed, too.

Sounds like a brilliant piece of strategy. And here we are at the end of the session with the Republicans implementing, talk about bipartisanship, the Republicans are now implementing this Democratic strategy. It is a wonderful evening to be here at midnight to finally see where the Republicans are saying the Democrats made us do it.

Mr. Speaker, we enthusiastically support this bill. We hope that the Republicans next year will go the full steps to closing the loophole in its entirety.

Mr. Speaker, I yield back the balance of my time.

Mr. BOEHNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I never cease to be amazed at what happens during political silly season here in the Nation's Capital.

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Here we are on the eve of an election and we are going to have a virtual unanimous vote on this bill. Even though my colleagues on the other side have criticized it so much, for a bill that sounds as bad as they have criticized it, I am wondering why they are going to vote for it.

But I want to say, Welcome. Welcome. They are taking credit for stumbling across this billion-dollar excess subsidies when we have been working on this for about a year to try to shut this down in a reasonable and responsible way. And while I know that people want to go all the way and shut it down and be really tough, what about those nonprofit student aid organizations around the country who have these loans, who use those excess profits to help low-income students and mostly minority students all over the country?

Let us stop the nonsense. Let us get on to do the people's work. By passage of this bill today, we will end this practice for the most part for the next year, use those savings to help expand the need for high quality teachers in title I schools in math, science and special ed, and help more students get a better chance at an education.

Mr. CASTLE. Mr. Speaker, I rise in support of H.R. 5186, and thank the gentleman from Ohio (Mr. BOEHNER) for bringing this measure to the floor today. The bill represents responsible use of the taxpayers' dollars, and will go a long way in giving our Nation's math, science, and special education teachers much needed support.

What we are talking about today is a special category of student loans for which the government guarantees the lenders a return of 9.5 percent, even though the prevailing rate charged to students may be much lower. The 9.5 percent loans, backed by tax-exempt bonds, were established when interest rates were high in the 1980's to keep lenders in the college loan business. As interest rates declined over the past several years lenders have essentially been able to find a loophole ensuring the subsidy will continue. This is appalling, and according to a recent GAO report, the subsidy payments for 9.5 percent loans have risen from $209 million in fiscal year 2001 to $556 million in fiscal year 2003 and hit $634 million in the first three quarters of fiscal year 2004.

In the past year the President and the vast majority of this House have called for an elimination of the subsidy. Despite attempts to phase out the subsidy, we have not been successful until today. As Members of Congress we have a duty to responsibly spend the taxpayers' money. This is clearly a case where we were in the wrong, and we must now act to remedy the situation. This is especially true when you consider the fact that the savings from closing the loophole will provide additional loan forgiveness to address teacher shortages in key subjects.

Loan forgiveness will be expanded from the current maximum of $5,000 to a new maximum of $17,500 for highly-qualified math, science, and special education teachers who agree to teach for five or more years in high-poverty schools. Teachers in low income schools across the country currently receive loan forgiveness. While I wish we could find a way to increase assistance to more teachers, the fact is that a crisis exists with our math, science, and special education teachers. In the wake of No Child Left Behind's requirement to have a highly qualified teacher in every classroom, this assistance will go a long way in helping to meet the requirement.

Today's measure is a combination of sound fiscal responsibility and an effort to help students across the country. A mixture of the two things I work toward every day. I urge my colleagues to support the bill.

Mr. WILSON of South Carolina. Mr. Speaker, I rise in support of H.R. 5186, the Taxpayer-Teacher Protection Act. In doing so, I'd like to thank Chairmen BOEHNER and MCKEON for their leadership on this issue, supported by Majority Leader TOM DELAY.

H.R. 5186 moves efficiently and effectively to end unfair subsidies for lenders in the student loan program and redirects those funds to assist the teachers of this country. What could be better? While it took some time for my colleagues on the other side of the aisle to agree with us on the need to stop the excess subsidies for student loan providers, I'm confident that today, we all recognize the importance of the measure before us. I'm also certain they agree with us on the need to assist teachers, given their past votes of overwhelming support on similar teacher loan forgiveness bills.

This bill is straightforward and increases the amount of loan forgiveness for secondary math and science teachers and for K–12 special education teachers to a maximum of $17,500 from the $5,000 currently provided in the Higher Education Act for all teachers in high-poverty schools.

This bill is similar to legislation I introduced, H.R. 438, which passed the House with strong bipartisan support by a margin of 417–7 on July 9, 2003.

The purpose of the bill is to ensure our future workforce is scientifically literate and competent, skills that the Committee for Economic Development and the American Society of Mechanical Engineers have identified as keys to our country's ability to compete in the global marketplace. Unfortunately, our high school students consistently test toward the bottom in math and science compared to the rest of the world.

Teachers working in schools that face the greatest difficulty in recruiting math, science and special-ed teachers will be eligible for the increased amount of loan forgiveness after teaching for five years. This commitment to these schools and the students they serve is well worth the recognition and support of this Congress. To further assist children in low-income schools, eligible teachers must be highly qualified as required by the No Child Left Behind Act.

I look forward to the day when a group of math, science and special-ed teachers begins teaching in our Nation's neediest schools inspired by the incentives of this bill. Those teachers will clearly know they are part of a national program designed to ensure all American children are equipped with the life skills necessary to contribute and succeed in a technologically driven world economy.

The goal with this bill, and the bill I was proud to sponsor earlier in this session, is to ensure our Nation remains a competitive force in the world. I hope a secondary effect will be to send a strong signal that America honors and respects those who accept the calling to teach. I am proud that my wife Roxanne has been a teacher in Lexington County encouraging young people to reach their highest fulfillment. This bill provides a common sense solution that shuts down excess profits for loan providers, and directs the resources to one of our Nation's most valuable resources—teachers, professional educators who make a difference in children's lives.

I urge my colleagues to support passage of H.R. 5186.

May God bless our troops, and we will never forget September 11th.

Mr. Speaker, I want to thank you for all of your efforts in bringing forward this very important piece of legislation. It will serve to provide a much-needed benefit to highly qualified teachers teaching in title I schools. The benefits provided in this legislation will increase loan forgiveness for those teachers in the high shortage subject areas of math, science and special education. In addition to the important role that special education teachers play in the lives of students with disabilities, I would also like to recognize the importance of the many related service providers that help children with disabilities every day. Speech-language pathologists and audiologists provide the single largest component of related services under IDEA and are key to providing a quality education to children with disabilities. A number of independent studies conducted by the U.S. Department of Education and other organizations have concluded that we must do more to attract people into these professions, or we will be faced with a chronic shortage of such personnel in our schools within the next decade. I am pleased with the efforts we are making today to address these shortages, and I look forward to working with you in the future to do even more.

Mr. EHLERS. Mr. Speaker, I rise today in support of H.R. 5186. This legislation ends the loophole that allowed some tax-exempt student loan providers to reap high rates of return on certain loans. The savings would be used to fund increased loan forgiveness for urgently needed math, science and special education teachers in Title I schools.

Jobs of the future will require workers who understand the basic concepts and principles of math and science. However, studies show that our students lack even the basic math and science skills and rank near-last in international comparisons. Our country urgently needs to improve our math and science education in order to ensure our workers can compete in the workplace.

Research has shown that a highly-qualified teacher with an extensive background in subject matter and teaching skills is a very important factor in improving student learning, especially in science, technology, engineering and mathematics. Unfortunately, as school districts struggle to find, train and keep qualified math and science teachers, many have had to resort to hiring out-of-field teachers, particularly in high schools.

Often, those with an interest in science, technology, engineering and mathematics select college majors outside of teaching due to the possibility of higher salaries. Increasing loans forgiveness for math and science teachers should attract more college students to teaching careers.

This legislation meets an urgent need, and I ask my colleagues to support it.

Mr. BOEHNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). The question is on the motion offered by the gentleman from Ohio (Mr. BOEHNER) that the House suspend the rules and pass the bill, H.R. 5186, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. GEORGE MILLER of California. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

MAKING IN ORDER MOTIONS TO SUSPEND THE RULES FOR THE REMAINDER OF THIS LEGISLATIVE DAY

Mr. BOEHNER (during consideration of H.R. 5186). Mr. Speaker, I ask unanimous consent that the Speaker be authorized to entertain motions to suspend the rules for the remainder of this legislative day.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

SUPPORTING EFFORTS TO PROMOTE AWARENESS OF EFFECTIVE RUNAWAY YOUTH PREVENTION PROGRAMS

Mr. PORTER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 805) supporting efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and supports for youth in high-risk situations.

The Clerk read as follows:

H. RES. 805

Whereas preventing young people from running away and supporting youth in high-risk situations is a family, community, and national concern;

Whereas the prevalence of runaway and homeless youth in the Nation is staggering, with studies suggesting that between 1,600,000 and 2,800,000 young people live on the streets of the United States each year;

Whereas running away from home is widespread, with 1 out of every 7 children in the United States running away before the age of 18;

Whereas youth that end up on the streets are often those who have been "thrown out" of their homes by their families; who have been physically, sexually, or emotionally abused at home; who have been discharged by State custodial systems without adequate transition plans; who have lost their parents through death or divorce; and who are too poor to secure their own basic needs;

Whereas the celebration of National Runaway Prevention Month will encourage all sectors of society to develop community-based solutions to prevent runaway and homeless episodes among the Nation's youth;

Whereas effective programs that support runaway youth and assist young people in remaining at home succeed because of partnerships created among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations, and businesses;

Whereas the future well-being of the Nation is dependent on the value placed on young people and the opportunities provided for youth to acquire the knowledge, skills, and abilities necessary to develop into safe, healthy, and productive adults;

Whereas Congress supports an array of community-based support services that address the critical needs of runaway and homeless youth, including street outreach, emergency shelters, and transitional living programs;

Whereas Congress supports programs that provide crisis intervention and referrals to reconnect runaway youth to their families and to link young people to local resources that provide positive alternatives to running away; and

Whereas the purpose of National Runaway Prevention Month in November 2004 is to increase public awareness of the life circumstances of youth in high-risk situations and the need for safe and productive alternatives, resources, and supports for youth, their families, and their communities: Now, therefore, be it

Resolved, That the House of Representatives supports efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and supports for youth in high-risk situations.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. PORTER) and the gentleman from Michigan (Mr. KILDEE) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. PORTER).

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Res. 805.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. PORTER. Mr. Speaker, I yield myself such time as I may consume.

I rise today in support of H. Res. 805 which seeks to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources and supports for youth in high-risk situations. I would like to thank the leadership for allowing this resolution to come to the House floor as it highlights a very tragic and important issue.

Runaway and thrownaway episodes among our Nation's youth are serious and widespread, with one out of every seven children and youth in the United States running away or being turned out of the home before the age of 18. A recent study by the Federal Office of Juvenile Justice and Delinquency Prevention estimates that nearly 1.7 million youth experienced a runaway or thrownaway episode in a single year. The prevalence of runaway and homeless youth in the Nation is astounding, with studies suggesting that between 1.6 million and 2.8 million young people live on the streets of the United States each year. The primary factors of running away or being thrown away are severe family conflict, abuse and neglect, and parental abuse of alcohol and drugs.

In the district that I represent in southern Nevada, the statistics are similar. In the year 2003, the Las Vegas Metropolitan Police Department reported 4,527 runaways. There were approximately 3,500 children who required emergency shelter. 1,800 of these children were placed in foster care. In addition to that, the Clark County School District reported that 3,011 of our students were homeless. These astonishing statistics highlight the need for our support of those important programs that seek to prevent these types of incidents.

Many of the conditions that lead young people to leave or be turned out of their homes are preventable through interventions that can strengthen families and support youth in high-risk situations. Successful interventions are grounded in partnerships among families, community-based human service agencies, law enforcement agencies, schools, faith-based organizations and businesses.

The National Network For Youth and the National Runaway Switchboard have collaborated since 2002 in cosponsoring National Runaway Prevention Month during the month of November. National Runaway Prevention Month is a public education initiative aimed at increasing the awareness of issues facing runaways as well as making the public aware of the role they play in preventing youth from running away. As a result of this collaboration, communities across the country have undertaken a range of activities to commemorate National Runaway Prevention Month.

Preventing young people from running away and supporting youth in high-risk situations is a family, community and national concern. Please join us in encouraging all Americans to play a role in supporting the millions of young people who have run away and who are at risk of doing so each year. H.R. 805 supports efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources and supports for youth in high-risk situations.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this resolution. H. Res. 805 promotes the need for greater public awareness of effective runaway youth prevention programs and the increasing need for safe and productive alternatives, resources and supports for youth in high-risk situations.

Mr. Speaker, let me first applaud the hard work of the front line workers who are on the ground working with runaway and homeless youth every day. For many youth, these workers represent the only responsible and caring adults they will have contact with during their time on the streets. Many of these workers are volunteers who make themselves available 24 hours a day. They venture into dangerous situations, providing a lifeline to these young people. They should be acknowledged for their efforts.

Mr. Speaker, the youth who come to these programs represent a lost generation. Most of them are not runaways. They have been thrown away, thrown away by their parents and by society. When they come to these programs, they do so out of a need for security, shelter and comfort they cannot find at home. These programs provide that comfort. They provide basic life skills, training, job preparation and placement, health referrals and services.

As of this fall, youth who visit these programs will be automatically eligible for school nutrition programs and will be able to receive meals and snacks through shelter programs. The reauthorization of child nutrition programs enacted this summer made this possible and ensures that these youth can get a nutritious meal even if they are on the street. Nearly 150,000 youth are served at basic centers and through transitional living programs. Yet as this resolution points out, many more runaways and homeless youth find themselves without these critical community services.

It is appropriate, Mr. Speaker, that Congress take time out to promote greater public awareness of the needs of these young people and the services that are available to them in the community.

In closing, I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. PORTER. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I want to thank my colleague from Nevada and the gentleman from Michigan for introducing House Resolution 805 to bring awareness and express support for runaway youth prevention programs. As the author of H.R. 1925, the Runaway, Homeless, and Missing Children Protection Act, which was signed into law by President Bush almost a year ago today, I believe it is important to protect our children from early tragedy. As some of my colleagues may remember, H.R. 1925 reauthorizes and amends the Runaway and Homeless Youth Act and the Missing Children's Assistance Act and extends the National Center For Missing and Exploited Children and other program activities annual funding through the year 2008.

As an OB/GYN physician for almost 30 years and as a legislator, I have made it a priority to protect and defend children. The future well-being of the Nation is dependent on the value placed on young people and the opportunities provided for youth to acquire the knowledge, the skills and the abilities necessary to develop into safe, healthy and productive adults. I care about the safety of all youth and I want to end the vicious cycle that creates broken families and unwanted children.

With statistics indicating that one out of seven children run away from home before the age of 18, I believe we need to work to promote and encourage organizations that help children vacate dangerous homes and prevent others from making hasty and, oftentimes, unsafe decisions to leave.

Mr. Speaker, with November being National Runaway Prevention Month, I believe it is important for Congress to recognize effective runaway youth prevention programs so we can save lives and prevent tragedy. National Runaway Prevention Month will educate young people about the risks associated with running away from home and the resources available to them should they run away or be expelled from home. During the month of November, communities across the country will sponsor activities to celebrate National Runaway Prevention Month. Planned activities include inviting lawmakers, media, community leaders and others to visit programs that serve youth, organizing community service events and developing materials and presentations to educate youth, parents, teachers, law enforcement officials, businesses and other community members about local resources available to youths in crisis.

With the future well-being of our children at stake, I ask my colleagues to pass this resolution and support National Runaway Prevention Month.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today as one of the original cosponsors of H. Res. 805. According to the second National Incidence Studies of Missing, Abducted, Runaway and Throwaway Children released in October of 2002, it is estimated that there is approximately 800,000 children reported missing each year, which is more than 2,000 children each day. This legislation, in a way, honors the individuals and organizations who work so hard to reach out to our young people that are in some of the most desperate situations.

As we can all imagine, the situation on the streets for these young people is desperate and incredibly rough. Half of the HIV cases in the United States are in the youth population—homeless and runaway youth are two to ten times higher than non-homeless teens to have HIV and the Centers for Disease Control and Prevention report that 94% of homeless youth are sexual active. We unfortunately can not make street life disappear or even reach a level of utopia—but we can ensure that there are services available to help with the daily street life, whether it is trying to find a bed, a warm meal or some safe, genuine companionship.

Mr. Speaker, I support this legislation and again commend the individuals who have dedicated their lives to helping the lives of young people in need.

Mr. GRIJALVA. Mr. Speaker, I rise today in strong support of H. Res. 805, a bill that supports efforts to promote greater public awareness of effective runaway youth prevention programs and the need for safe and productive alternatives, resources, and supports for youth in high-risk situations.

Studies suggest that somewhere between 1.6 and 2.8 million youth live on the streets of America, with one in seven youth running away at least once before their eighteenth birthday. 43 percent of runaway youth reports being abused by their caretaker, and over a quarter have been sexually assaulted. They face disproportionately high rates of sexually transmitted diseases, HIV/AIDS, and teen pregnancy. Tragically, two-thirds of these youth have attempted suicide. To survive on the street, many youth turn to illegal activities such as drugs, theft, prostitution, and pornography.

Runaways are not throwaways. Passing this important bipartisan resolution is an important step towards Congress' full recognition of this problem as a national crisis. Our children are this Nation's greatest resource, and none should be considered expendable. I urge my colleagues to not just support this resolution, but to also continue our strong support of Runaway and Homeless Youth (Basic Center) Grant Program, The Transitional Living Program (TLP), and The Sexual Abuse Prevention (Street Outreach) Program.

I would like to take a moment to recognize the important contributions made by Our Town Family Center in Tucson, Arizona. Volunteers at this facility assist in outreach efforts to runaway youth, missing children, and homeless street youth in case management, advocacy, phone intake, and administrative support, and help the mobile outreach team cruise the streets to make contact with street youth in need of food, clothing, shelter, and medical information.

It is the responsibility of Congress to support these valuable community contributions to America's most troubled youth. This resolution rightfully recognizes the problem that this country faces, and the important role that community action plays in working towards real solutions. Mr. Speaker, I urge my colleagues to support this bipartisan statement of support.

Mr. KILDEE. Mr. Speaker, I yield back the balance of my time.

Mr. PORTER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. PORTER) that the House suspend the rules and agree to the resolution, H. Res. 805.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

SENSE OF CONGRESS REGARDING STUDENT TRAVEL

Mr. PORTER. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 131) expressing the sense of the Congress that student travel is a vital component of the educational process, as amended.

The Clerk read as follows:

H. CON. RES. 131

Whereas travel is a vital component of the educational experience for Americans of all ages;

Whereas the area of Washington, D.C., is rich in American history and is visited by students from across the Nation;

Whereas student trips to Washington, D.C., and other historic areas have decreased due to the attacks on the World Trade Center, Washington, D.C., and Pennsylvania and the fear of additional attacks;

Whereas many students in the United States will not be able to experience landmarks and monuments celebrating the Nation's democracy, political figures, and scientific achievement;

Whereas the absence of student travel to the Nation's historic sites will leave a vital gap in the education of America's youth; and

Whereas America's youth must be cognizant of American history to understand fully the concepts and responsibilities of democracy and citizenship: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that student travel is a vital component of the educational process and should be encouraged so that Americans, young and old, can participate in travel, the perfect freedom.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. PORTER) and the gentlewoman from the District of Columbia (Ms. NORTON) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. PORTER).

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H. Con. Res. 131.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. PORTER. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H. Con. Res. 131 offered by the gentlewoman from the District of Columbia (Ms. NORTON). House Concurrent Resolution 131 recognizes the critical role that student travel plays in the educational process.

I support this resolution because I agree we should recognize the unique value that educational travel can provide to our Nation's students. It can be very worthwhile to extend the educational experience outside of the classroom in order to give students the opportunity to gain valuable skills through experience and direct interaction. I also agree that in the wake of September 11, we should encourage students and their families to continue taking advantage of the rich history that exists in Washington, D.C. I firmly believe that students who are given the chance to travel to Washington, D.C. will have a unique opportunity to deepen their understanding of American history, culture, government and politics.

I commend the gentlewoman from the District of Columbia for her leadership in authoring this resolution to recognize the importance and value of student travel and urge my colleagues to adopt this measure.

Mr. Speaker, I reserve the balance of my time.

□ 0030

Ms. NORTON. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman for his words of encouragement on H. Con. Res. 131, and I begin by thanking, as well, the gentleman from Ohio (Mr. BOEHNER) and the gentleman from California (Mr. GEORGE MILLER), the chairman and ranking member of the Committee on Education and the Workforce, respectively, for working with me to introduce and schedule this resolution in a timely manner.

I rise this evening to speak to an issue that we all care deeply about, the education of the Nation's children not only from the perspective of the classroom, but about activities outside the classroom that also enrich a student's educational experience, including field trips and traveling to the Nation's historic sites, many of which are located here in the Nation's capital. This resolution acknowledges that student travel is an integral component of the educational process today.

H. Con. Res. 131 has application to districts in every State of the Union. However, the attacks of September 11 and subsequent security alerts have made us all more watchful, particularly here in the District of Columbia where so many of the symbols of democracy are located. For the months following the 9/11 attacks, visits to our Nation's monuments were down more than 30 percent. The Smithsonian Museums reported a similar decline in attendance. I am pleased that these numbers appear to have since reversed and tourism to the District has been rebounding since 2003. According to the Washington, D.C., Convention and Tourism Corporation, close to 1 million students have traveled to the Nation's capital since 9/11.

The District of Columbia showcases symbols of freedom that are recognized worldwide. Students can come to see the Declaration of Independence, see the flag that flew over the Pentagon on September 11, view exhibitions that trace the history of our country from its inception to the present, and learn how this country, the great experiment, has grown and fared over the past 228 years. The educational experience that students receive in visiting this city, above even others in our country, enhances what they are learning in our Nation's classrooms and inspires the next generation of leaders.

Therefore, I urge Members to join with me in encouraging student travel to the Nation's capital and to other tourist sites throughout the United States, realizing the educational value and inspirational impact that such visits have on the lives of the Nation's youth.

I thank them again for their support and urge agreement to H. Con. Res. 131.

Mr. Speaker, I yield back the balance of my time.

Mr. PORTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). The question is on the motion offered by the gentleman from Nevada (Mr. PORTER) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 131, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

LIGHTS ON AFTERSCHOOL

Mr. PORTER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 809) supporting the goals and ideals of "Lights On Afterschool!", a national celebration of after-school programs, as amended.

The Clerk read as follows:

H. RES. 809

Whereas high-quality after-school programs provide safe, challenging, engaging, and fun learning experiences to help children and youth develop their social, emotional, physical, cultural, and academic skills;

Whereas high-quality after-school programs support working families by ensuring that their children are safe and productive after the regular school day ends;

Whereas high-quality after-school programs build stronger communities by involving the Nation's students, parents, business leaders, and adult volunteers in the lives of the Nation's young people, thereby promoting positive relationships among children, youth, families, and adults;

Whereas high-quality after-school programs engage families, schools, and diverse community partners in advancing the well-being of the Nation's children;

Whereas "Lights On Afterschool!", a national celebration of after-school programs on October 14, 2004, promotes the critical importance of high-quality after-school programs in the lives of children, their families, and their communities;

Whereas more than 28,000,000 children in the United States have parents who work outside the home, and 14,300,000 children have no place to go after school; and

Whereas many after-school programs across the Nation are struggling to keep their doors open and their lights on: Now, therefore, be it

Resolved, That the House of Representatives—

(1) supports the goals and ideals of "Lights On Afterschool!", a national celebration of after-school programs; and

(2) requests that the President issue a proclamation calling on the communities of the Nation to engage in innovative after-school programs and activities that ensure the doors stay open and the lights stay on for all children after school.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nevada (Mr. PORTER) and the gentleman from Michigan (Mr. KILDEE) each will control 20 minutes.

The Chair recognizes the gentleman from Nevada (Mr. PORTER).

GENERAL LEAVE

Mr. PORTER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 809.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nevada?

There was no objection.

Mr. PORTER. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H. Res. 809, offered by the gentleman from Michigan (Mr. KILDEE). This resolution seeks to support the goals and ideals of "Lights On Afterschool!", a national celebration of after-school programs.

On October 14, 2004, more than 6,000 communities across the country will rally for after-school programs by participating in the fifth anniversary of "Lights On Afterschool!" This nationwide event is aimed at bringing attention to the need for high-quality after-school programs that keep kids safe, help working families, and improve academic achievement.

I support this resolution because after-school programs are an important part of many American students' lives. High-quality after-school programs provide safe, challenging, and fun learning experiences that help children and youth develop their social, emotional, physical, cultural, and academic skills. I am pleased that we are able to help bring attention to the critical importance of after-school programs in the lives of children, their families, and their communities.

This resolution is simple and straightforward. It supports the goals and ideals of "Lights On Afterschool!", a nationwide celebration of after-school programs and requests that the President issue a proclamation calling on the communities to engage in innovative after-school programs and activities that ensure the doors stay open and the lights stay on for children after school.

I commend the gentleman (Mr. KILDEE) for his leadership in offering H. Res. 809 and urge my colleagues' support.

Mr. Speaker, I reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H. Res. 809. This resolution supports the goals and ideals of "Lights On Afterschool!", a national celebration of after-school programs.

All of us know the value of high-quality after-school programs. These programs help reduce crime in our communities and provide children a safe and nurturing environment when the school day ends. In addition, after-school programs play key roles in the social and educational development of our children. This helps improve their academic achievements and ensures that they become contributing, positive members of society.

The importance of after-school programs, especially to parents who work, is undeniable. H. Res. 809 recognizes the efforts of "Lights On Afterschool!". Organized by the Afterschool Alliance, this is the fifth annual "Lights On Afterschool!" Day. This day will bring together educators, community leaders, lawmakers, parents, business and religious leaders, and youth for the Nation's largest annual rally for after-school programs on October 14. The event will call attention to after-school programs and the resources needed to keep their lights on and their doors open.

"Lights On Afterschool!" was launched in October, 2000. That year more than 1,200 events were held across the country. But last year more than half a million people rallied at more than 5,000 events to show their support for after-school programs. The Afterschool Alliance expects this year's event to be even larger.

This resolution is only a small part of our effort to thank and support those involved with after-school programs. The Afterschool Alliance and its executive director, Judy Samelson, deserve a great deal of credit for spearheading the drive to expand after-school programs and get the resources they need.

I hope Members will join me in recognizing their efforts and the importance of after-school programs by supporting this program.

Mr. Speaker, I reserve the balance of my time.

Mr. PORTER. Mr. Speaker, I reserve the balance of my time.

Mr. KILDEE. Mr. Speaker, I yield 3 minutes to the gentlewoman from California (Ms. WOOLSEY).

Ms. WOOLSEY. Mr. Speaker, I rise in support of H. Res. 809, a bipartisan resolution introduced by the gentleman from Michigan (Mr. KILDEE) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) to raise the awareness of "Lights On Afterschool!", a national celebration of after-school programs.

Children need after-school programs for many reasons. Most of us think of these programs, first, as offering children critical opportunities to develop their social, emotional, physical, cultural, and academic skills. And good programs do. But after-school programs are especially indispensable to the majority of families in which parents are in the workforce. For these families, after-school programs mean that they will not have to worry nearly as much about where their children are and what their children are doing between the school bell and the dinner bell. That is the time when most teenagers, by the way, are involved in crime or when pregnancy occurs because there is nothing for these children to do after school.

After-school programs build strong communities by involving a wide range of parents and teachers and business leaders, community organization volunteers in the lives of young people.

Mr. Speaker, of the more than 28 million children in the United States whose parents work outside the home, more than half have no place to go after school. That is why the "Lights On Afterschool!" effort is so important and deserves our commemoration. That is also why it is critical for Congress and the President to address the fact that, as noted in this resolution, many after-school programs across the Nation are being forced to shut down for lack of funding.

So I ask my colleagues to join me in supporting not only this resolution, but also in efforts to increase Federal funding for after-school programs so that our children receive the services that they need, the services that they deserve.

Finally, I would note that after-school programs are an essential, but not the only component to help working parents address the many challenges in providing for their families in the 21st century economy. That is why I have introduced H.R. 3780, the Balancing Act, as a comprehensive response to these challenges, and I encourage all of my colleagues to join me when I reintroduce the Balancing Act next Congress because the Balancing Act includes after-school programs.

I also encourage my colleagues to vote for H. Res. 809.

Mr. KILDEE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PORTER. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nevada (Mr. PORTER) that the House suspend the rules and agree to the resolution, H. Res. 809, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

RELATING TO EARLY ORGANIZATION OF THE HOUSE OF REPRESENTATIVES FOR THE 109TH CONGRESS

Mr. NEY. Mr. Speaker, I offer a resolution (H. Res. 824) relating to early organization of the House of Representatives for the One Hundred Ninth Congress, and ask unanimous consent for its immediate consideration.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LARSON of Connecticut. Mr. Speaker, reserving the right to object, I want to thank the chairman for his timely handling of this matter.

I also wanted to ensure that the legislative purposes of this resolution are clear.

One purpose of this resolution is to continue the practice of allowing the House party leaders to call an early organizing caucus of their respective party members, and to do so before the statutorily established date of December 1st. Each party leader can schedule the caucus to begin on any date of his or her choosing after the date of the election. While it is customary to schedule the caucuses to begin at the same time, it is up to each party leader to make that decision for his or her party caucus. If the House has adjourned sine die, then each incumbent Members-elect, and a designated staff person, can be paid for their transportation expenses to attend the caucus. If the House has not adjourned sine die, then there are no travel expenses paid for incumbent Members-elect or their staff. New Members-elect, and a designated staff person from the district, can also attend with all attendance expenses paid by the House.

The resolution also has the purpose of continuing the practice of allowing the House Leadership's orientation program(s), hosted by the Committee on House Administration, to be conducted at any time, or at multiple times, after the date of the election, and allows each Member-elect, and a designated staff person, to be reimbursed for the expenses of attendance. The orientation program has usually been conducted as a part of, and during the same time period as the party caucuses. However if the caucuses are conducted at different times, then the orientation program could be conducted before, during, or after each caucus, with the Member-elect's, and designated staff person's expenses of attendance paid by the House.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

The Clerk read the resolution, as follows:

H. RES. 824

Resolved,

SECTION 1. TIMING OF ORGANIZATIONAL CAUCUSES AND CONFERENCES FOR ONE HUNDRED NINTH CONGRESS.

Any organizational caucus or conference in the House of Representatives for the One Hundred Ninth Congress may begin on or after November 3, 2004.

SEC. 2. APPLICABILITY OF CERTAIN PROVISIONS TO ATTENDANCE OF MEMBERS AT ORIENTATION PROGRAMS.

(a) IN GENERAL.—With the approval of the majority leader (in the case of a Member or Member-elect of the majority) or the minority leader (in the case of a Member or Member-elect of the minority), the provisions of law described in subsection (b) shall apply with respect to the attendance of a Member or Member-elect at a program conducted by the Committee on House Administration for the orientation of new members of the One Hundred Ninth Congress in the same manner as such provisions apply to the attendance of the Member or Member-elect at the organizational caucus or conference.

(b) PROVISIONS DESCRIBED.—The provisions of law described in this subsection are as follows:

(1) Subsections (b) and (c) of section 202 of House Resolution 988, Ninety-third Congress, agreed to on October 8, 1974, and enacted into permanent law by chapter III of title I of the Supplemental Appropriations Act, 1975 (2 U.S.C. 29a).

(2) Section 1 of House Resolution 10, Ninety-fourth Congress, agreed to on January 14, 1975, and enacted into permanent law by section 201 of the Legislative Branch Appropriations Act, 1976 (2 U.S.C. 43b–2).

SEC. 3. DEFINITION.

As used in this resolution, the term "organizational caucus or conference" means a party caucus or conference authorized to be called under section 202(a) of House Resolution 988, Ninety-third Congress, agreed to on October 8, 1974, and enacted into permanent law by chapter III of title I of the Supplemental Appropriations Act, 1975 (2 U.S.C. 29a(a)).

The resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the resolution, H. Res. 824.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDING CONGRESSIONAL ACCOUNTABILITY ACT TO PERMIT SECOND TERM FOR BOARD OF DIRECTORS OF OFFICE OF COMPLIANCE

Mr. NEY. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 5122) to amend the Congressional Accountability Act of 1995 to permit members of the Board of Directors of the Office of Compliance to serve for 2 terms, with a Senate amendment thereto, and concur in the Senate amendment.

The Clerk read the title of the bill.

The Clerk read the Senate amendment, as follows:

Senate amendment:

Page 2, line 11, strike out "the date of the enactment of this Act" and insert "September 30, 2004".

□ 0045

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. LARSON of Connecticut. Reserving the right to object, Mr. Speaker, I want to thank the chairman for his expeditious handling of this matter.

Mr. Speaker, as I indicated during earlier debate on this bill, I believe that the Members of the Board of Directors of the Office of Compliance should be eligible for a second term of service. The current Board has constructively served Legislative Branch employees, the Members of this body, and the public, by applying the same workplace laws to the Legislative Branch, and to the Congress, that are applied to the private sector. The Board has promoted educational opportunities for both employees and managers, and has undertaken outreach efforts to promote life-safety awareness, and to raise workplace consciousness. The Board should be congratulated for taking a positive approach to the tasks of education and enforcement. A Government Accountability Office audit has confirmed that the Board, and the Office of Compliance, are operating efficiently and consistent with their statutory mandate.

However, the GAO audit also found that the efficiency of the Office would be greatly impaired by the loss of institutional memory and operational continuity. To remedy this situation, the GAO recommended that both the board, and the four statutory executive officers of the Office, each of whom is appointed by the Board, be eligible for an additional term of service. By allowing the Board an additional term, but denying the Board the opportunity to reappoint their executive staff, much of the efficiency and continuity recognized by the GAO may be lost.

It is my continued hope that a way can be found allow the Board to reappoint their management team to a second term of service. I do not know what concerns led the drafters of the Congressional Accountability Act to limit the Compliance Office's executives to a single 5 year term of service, but it now appears that dropping that limit will make for a better and more efficient Office. So I hope that we will consider implementing the GAO's full recommendation, and lift the term limit on the executive officers, as we are lifting the term limit on the Members of the Board.

Again, I want to recognize my chairman, and thank him for his cooperation in taking this first step to maintaining the efficiency and continuity of the Office of Compliance.

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the initial request of the gentleman from Ohio?

There was no objection.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 5122.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

RECOGNIZING AND SUPPORTING EFFORTS TO PROMOTE GREATER CIVIC AWARENESS AMONG PEOPLE OF UNITED STATES

Mr. NEY. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 796) recognizing and supporting all efforts to promote greater civic awareness among the people of the United States.

The Clerk read as follows:

H. RES. 796

Whereas the Constitution of the United States establishes a representative form of government in which the people of the United States elect Members of the House of Representatives and Senators of the Senate, and each of the States appoint electors who, based on the popular vote of the State, select the President and the Vice-President;

Whereas the 15th, 19th, 24th, and 26th amendments to the Constitution establish that the right of citizens of the United States to vote shall not be denied or abridged on account of race, color, or previous condition of servitude; on account of sex; by reason of failure to pay any poll tax or other tax; and on account of age for those 18 years of age and older;

Whereas the right of citizens of the United States to vote is fundamental to our representative form of government;

Whereas many eligible citizens do not exercise the right to vote;

Whereas numerous civic awareness organizations and advocacy groups at the Federal, State, and local level actively promote voter registration and voter participation; and

Whereas many communities and schools have instituted civic awareness programs: Now, therefore, be it

Resolved, That the House of Representatives—

(1) recognizes and supports all efforts to promote greater civic awareness among the people of the United States, including civic awareness programs such as candidate forums and voter registration drives; and

(2) encourages local communities and elected officials at all levels of government to promote greater awareness among the electorate of civic responsibility and the importance of participating in these elections.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. NEY) and the gentleman from Illinois (Mr. COSTELLO) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank again our ranking member, the gentleman from Connecticut, for this important measure.

Mr. Speaker, I rise today in support of House Resolution 796, which recognizes and supports all efforts to promote greater civic awareness among the people of the United States.

Mr. Speaker, today our soldiers are fighting in Afghanistan and Iraq to build and protect democracy. This Saturday, Afghanistan will hold a historic election. Reports indicate that more than 10 million Afghans have registered to vote and will participate in the election—despite threats and violence by the opponents of democracy. Iraq is scheduled to hold elections in January, an event that will forever alter the direction of that country and, hopefully, forever separate it from its despotic past.

While we fight abroad to build democracy, unfortunately, here at home, too many of our citizens take our rights for granted and fail to exercise them. Mr. Speaker, no matter what side of the aisle you sit on, we all agree that the election coming up on November 2 will be an extremely important one—one that all eligible citizens should participate in. This resolution encourages that participation because the right to elect our leaders should be exercised and never taken for granted.

When terrorists attacked us three years ago on September 11th, they were attacking not only innocent civilians, but also the very ideals and freedoms that we celebrate as fundamental human rights in this country. Those rights and freedoms are what the terrorists fear and hate most.

Now, more than ever before, it is imperative that every American participate by exercising the precious gift each citizen has been given, the freedom to choose our leaders.

Recently, the House of Representatives passed a resolution expressing the sense of Congress that the actions of terrorists will never cause the delay of any national election.

We need our citizens to mirror that same resolve and show terrorists that we cherish our democracy and will not be deterred from exercising the rights we have.

There have been a number of reports about how voter registrations have increased dramatically in the past year. State and local elections officials are working hard to process those registrations and make sure that all eligible voters are able to cast a vote on Election Day. I would encourage our citizens to do what they can to help this election run smoothly. Confirm that you are properly registered and find out where your polling place is. This can be done by contacting your local board of elections office, or, in many cases, just visiting their Web site. Doing these things in advance, instead of waiting until Election Day, can protect your right to vote and will make things go much smoother for everyone on Election Day.

While voters need to do their part, we should note that over a million, perhaps as many as 2 million, people will volunteer to serve as poll workers this year. Without them, we simply could not have elections in this country. We should recognize that our democracy survives only through the hard work and participation of millions of our citizens—both as voters and poll workers. I encourage others to volunteer to help at the polls as a poll worker or assistant.

I sincerely hope that every citizen of this great Nation will participate in the 2004 election, and will also do what they can to see that it goes smoothly. Whether it be through early voting, absentee ballots, or visiting the polls on election day, it is our great privilege to live in a country where we have the right to choose our leaders, and it is our responsibility to exercise this right. I thank the gentleman from Texas for introducing this resolution and encourage my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. LARSON of Connecticut. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would just like to concur with the chairman of our distinguished committee, and thank the gentleman from Arkansas (Mr. ROSS) and the gentleman from Texas (Mr. HALL) for bringing forth this most important piece of legislation, and from the bottom of my heart I want to thank especially those members who worked tirelessly for us in the Clerk's office and recognize Mr. Trandahl and Gigi Kelaher and the distinguished Mr. Paul Hayes and so many members who come here day in and day out and carry on these duties, considering the lateness of the hour.

Mr. Speaker, I rise today in support of a resolution that aims to support the very core of our democracy: voting. The resolution, H. Res. 796, recognizes efforts to promote greater civic awareness in this country.

With this in mind, it is important to reference the words that embody our democratic right that are written in the Constitution. This document establishes that "citizens of the United States shall not be denied or abridged their right to vote on account of race, color, or previous condition of servitude; on account of sex; by reason of failure to pay any poll tax or other tax, and on account of age for those 18 years of age and older."

This election is arguably one of the most important in our Nation's history. It is too important to sit on the sidelines. I call on all citizens to participate in our democracy by casting a ballot on November second. I would also urge citizens to think about other ways they can use their civic spirit to assist their communities. For example, maybe they could volunteer to drive other voters to the polls or donate their time to assist at local polling places. The friendly, dedicated individuals that help us as we head to the polling booth are often taken for granted. However, the pool of these volunteers has been severely reduced over the years. This year, millions of poll workers are needed on Election Day.

These volunteers are the backbone of the election process, sometimes working up to 16-hour days with little, if any pay. In most cases, volunteers are needed for such long hours simply because there are not enough of them. In addition, the majority of those who do volunteer to be poll workers continue to be older citizens. We need to inspire a younger generation of poll workers to continue to carry the torch of democracy.

I call on colleges and universities to offer college credit to students who serve as poll workers, and corporations to offer paid leave to employees who volunteer as poll workers. Voters should go to the Election Assistance Commission's Web site at *www.eac.gov*, to learn how they can become poll workers in their state.

Yesterday, I sent a letter to 43 presidents of public and private higher education institutions in my home state of Connecticut. I reminded these academic leaders that the Higher Education Act Amendments of 1998 require that they make a good-faith effort to distribute voter-registration materials to their students prior to elections. I urged them to review their compliance with this federal law.

For many students, the first time they have the opportunity to vote is during their college career. Therefore, it is imperative that institutions of higher learning do all they can to help young people get into the habit of voting while they are young.

States can do their part by offering better training to poll workers. Many of the problems associated with this year's primaries have been attributed to poor poll worker training. I hope we do not see a repeat of these mistakes during the general election.

Several newspapers have reported that there are a record number of new voters registered for this coming election. I urge election officials to be mindful of these first-time voters so they will have the opportunity to participate in the election process without a repeat of past frustrations, or misinterpretation of voting laws, including the Help America Vote Act.

I am extremely concerned about voter intimidation, and I ask all citizens to be mindful of voters who may be denied their right to vote at the polls. Should an eligible voter be afraid to cast a ballot, I urge them to call the Department of Justice's Civil Rights Division or civil rights groups to ensure these circumstances are documented.

These concerns are not unwarranted. In South Dakota's June 2004 special election, Native American voters were prevented from voting after they were challenged to provide photo IDs, which they were not required to present under State or Federal law. In 2003 in Philadelphia, voters in African-American areas were systematically challenged by men carrying clipboards, driving a fleet of some 300 sedans with magnetic signs designed to look like law enforcement insignia. These are just two examples in a report by the NAACP and the People for the American Way Foundation.

Our Nation has certainly tried to respect the democratic wishes of the framers of our Constitution through ongoing efforts to ensure that all citizens are inspired to vote. Voting is a powerful act. The simple act of pulling a lever, or checking a box or touching a screen indicates to policy makers that the voices of those they represent must not be ignored. It also gives citizens an instant sense of community, and that alone is certainly worth recognizing and supporting.

I urge my colleagues to support this resolution and to continue to expand voter participation.

[From the San Jose Mercury News, Oct. 5, 2004]

POLL WATCHERS TO ENSURE EVERY VOTE COUNTS

(By L.A. Chung)

Nancy Frishberg remembers helping her father register people to vote when Adlai Stevenson mounted his second doomed campaign against Dwight D. Eisenhower. She was "clean for Gene" in 1968, before Hubert Humphrey beat Eugene McCarthy for the Democratic nomination.

In other words, the Redwood City woman is familiar with being on the losing side of presidential campaigns. Even so, her belief in the democratic process was undiminished until she heard the infamous reports about voter disenfranchisement in 2000 and problems during the primaries this year.

So Frishberg, 55, has decided to become a poll monitor Nov. 2. She and about 19,000 others have signed up with the Election Protection Coalition, a nonpartisan group, to fan out across the country to watch for problems at the polls.

"I'm trained as a scientist and in observational research," said Frishberg, a linguist and contributor to Stanford's Human-Computer Interface program. "The difference here is I'm willing to intervene." That means alerting the coalition's network of lawyers, who will file injunctions if there are violations. She's spending her own money to fly to Phoenix, one of the cities where past problems at the polls have been identified. Her commitment comes, she says, from her intensely non-partisan desire that every vote counts.

Bigger than expected "We've been stunned by the amount of energy we're seeing," said Michael Kieschnick, president of Working Assets, a socially progressive company that is recruiting volunteers for the coalition. The country may be highly polarized, but the coalition has been attracting people who are primarily concerned about the integrity of the election.

"It's not who won or lost in Florida," Kieschnick said, referring to the state that has come to symbolize problems at the polls. Rather, "for the first time, people realized not all the votes get counted—and which ones get counted sometimes depends on elected officials. People looked in the mirror of Florida and didn't seem to like that."

Working Assets, a long-distance and credit card services company, has worked hard to promote voter registration, Kieschnick said. But more new voters means more potential problems—from learning where to vote to figuring out how to work the various voting machines. Plus, there were troubling reports of election officials who seemed ready to make it harder for new voters.

The secretary of state in Ohio, for example, just retreated from his directive last month that voter registration forms must be printed on 80-pound paper stock, potentially disenfranchising those who had filled out forms on lighter paper. He also faces a lawsuit challenging state guidelines that would prevent voters from casting provisional ballots if they mistakenly went to the wrong polling places.

Keeping the trust in fact, election experts predict a huge number of provisional ballots, which could determine a close race.

We're not at the point where we want overseas election monitors to come. That's something Jimmy Carter and Sen. RICHARD LUGAR have done from the Phillipines to South Africa.

Still, the outpouring of volunteers for the Election Protection Coalition is important and useful. At least 35 cities in nine states —Arizona, Colorado, Florida, Illinois, Michigan, New Mexico, Ohio, Pennsylvania and Wisconsin—will be monitored. In each place there was some kind of trigger—past voting rights violations, accusations of voter intimidation or problems with people going to the polls and finding their names don't appear.

"In no case are we predicting there will be a problem," Kieschnick said. "In all these cases there is some reason to believe the odds are higher that there could be problems."

I'm just hoping that Frishberg and other volunteers are surprised at what they find in the field. Pleasantly surprised.

That would be the bigger victory for democracy in these times.

[From the Washington Post, Oct, 1, 2004]

ENSURING THAT VOTING'S SANCTITY WINS OUT

(By Donna Britt)

Cuddling her fluffy white Maltese dog in her Silver Spring living room, Joan Biren explains why on Election Day, she and five friends will be in Philadelphia doing something that most Americans believe happens only in corrupt foreign governments:

Watching a polling place to ensure that registered voters are allowed to cast their ballots for the candidates of their choice.

It isn't just that Biren sees the bitterly contested presidential election of 2000 as an event "as threatening to our democracy as anything that has happened in my lifetime," or even that "suppression and intimidation of voters, particularly minorities, has a very long history in this country," she says.

As with others who've volunteered to be poll-watchers through the nonpartisan Election Protection coalition—which tomorrow will sponsor orientation-trainings in the District—Biren knows of several recent disturbing incidents:

Last year in Philadelphia, voters in black neighborhoods were challenged by unauthorized men carrying clipboards and driving sedans with magnetic signs designed to look like law enforcement insignia, according to a recent report by the NAACP and People for the American Way, "The Long Shadow of Jim Crow: Voter Intimidation and Suppression in America."

In South Dakota's primary in June, some Native American voters complained that they were prevented from casting ballots when they couldn't provide photo IDs and weren't informed that they could have signed personal affidavits instead.

In Michigan, state Rep. John Pappapgeorge (R) actually was quoted in July in the Detroit Free Press as saying, "If we do not suppress the Detroit vote, we're going to have a tough time in this election."

More than 80 percent of Detroit's population is black.

It's no wonder that on Nov. 2, hundreds of volunteers, "including many people like me—white, middle-class," Biren says, "are feeling moved to go into areas that are principally black and Latino to ensure that . . . people who are registered to vote and who want to vote are not disenfranchised.

"It's not about Bush or Kerry or about Democrats or Republicans," Biren insists. "I'm working for democracy."

Working for democracy—for the grand, noble notion of free and fair elections—is just one reason why Americans from every political party are casting their votes by absentee ballots and traveling to sometimes-distant locations to act as poll monitors. Another pressing reason is expressed by Washington attorney J.E. McNeil:

"Every time I hear either [presidential] candidate's voice on the radio, I turn it off, count to 20, then turn it back on—I'm stressed," says McNeil, 53, who will monitor polls in Philadelphia. Sitting in front of a TV, following election returns, would make her "flip out," she says. ". . . I'd rather be doing something helpful and concrete.

"Something that keeps me from having to watch it."

Of course, watching it, in the most up-close-and-personal way, is exactly what 10,735 volunteers—one-quarter of whom already have trained and received their Election Day assignments—plan to do. Volunteers include "people who are not activists in daily life . . . who really want to make sure this is a fair election," says Becky Bond of Working Assets, the long-distance provider that's helping the Election Protection coalition of civil rights groups organize the effort.

(Saturday's three two-hour orientation trainings are at 9 a.m., noon and 3 p.m. at National City Christian Church in Northwest Washington. For more info, log on to *electionprotection.org*).

Election Protection hopes to monitor "every precinct where there's a danger of voter suppression or where it's already happened," says Bond, 34, places where voters "have been asked for unnecessary ID or to sign affidavits, or where they've needed language assistance and couldn't get it." She cites the Latino mother with four children in Florida who was told by a poll worker, "You can't bring those kids in here."

"In fact," Bond says, "she could."

Volunteers choose among 38 sites where monitors have been deemed necessary. They receive initial training either in person or by conference call from representatives of civil rights organizations and learn about their duties as poll monitors and the voting laws in various jurisdictions. On election eve, they'll receive more detailed information and copies of their designated state's Voters' Bill of Rights so "if there's a dispute, they can go in and say, 'I've got the Voters' Bill of Rights right here,' which can quickly resolve the problem," Bond says.

They'll also have all cell phones to connect them to a lawyer hotline for instant advice or, if necessary, "to tell a lawyer to 'Get over here right now,'" Bond says.

"In the past . . . so many problems at the poll were documented after an election—when it's too late. If people don't have their vote counted again . . ."

Bond's voice trails off at the prospect. Finally, she continues. "There's so much at stake. People's faith in elections is on the line."

Former middle school teacher Noel Tieszen says that when the last presidential election "made it clear that the electoral system doesn't work for everyone," she decided that such a "debacle" shouldn't be repeated. She and her boyfriend, a lawyer, will monitor polls in Allentown, PA.

"More important than who we vote for is that we have a right to be involved in the process," says Tieszen, 29, of the District. When that right is denied "through incompetence or discrimination in a government that's supposedly of the people, by the people and for the people, it's the responsibility of the people to do something.

"I'd rather the wrong guy win than the right guy win through an unfair electoral process," she says.

Denyse Brown of Richmond is a self-employed nurse-practitioner who insists that it's worth "giving up five days of pay" to travel to Raleigh, NC, to monitor polls there. Election Protection's mission reminded her of Jewish women in Israel who daily monitored and documented the abuse of Palestinian women by Israeli border guards. Because the women were watching, abuses were reduced.

"I've never been involved in politics in a big way," Brown, 58, says. "But it's my philosophy that everything happens for a reason. . . . Thanks to the 2000 election, lots of people who'd never been involved are jumping up saying, 'Enough is enough.'"

In her high-backed chair, Biren is stroking her Maltese and explaining something she has learned in her 61 years: In tumultuous times, "you have to do some kind of action to keep from falling into despair," she says. Taking action, "helps more than sitting around and worrying, even if what you're doing is a small thing."

She pauses.

"Making every vote count is not a small thing."

[From the New Yorker, Spet. 20, 2004]

POLL POSITION

(By Jeffrey Toobin)

On March 7, 1965, John Lewis, the twenty-five-year-old chairman of the Student Nonviolent Coordinating Committee, let about six hundred marchers across the Edmund Pettus Bridge, in Selma, Alabama. When they reached the crest of the bridge, the protesters were set upon by helmeted Alabama state troopers and local sheriff's posses, who were swinging clubs and firing tear gas. One of the first troopers on the bridge slammed his nightstick into the left side of Lewis's head, fracturing his skull. "I remember how strangely calm I felt as I thought, 'This is it,'" Lewis wrote years later in his autobiography. "'People are going to die here. I'm going to die here.'" As it turned out, more than fifty marchers were treated for injuries, but no one died.

The attack on the unarmed protesters shocked the country, and President Johnson used the events of what became known as Bloody Sunday to advance an essential part of his civil-rights program. On March 15th, Johnson addressed a Joint Session of Congress to demand that legislators pass, at long last, the Voting Rights Act. Adopting the great anthem of the civil-rights movement, the President concluded his speech with the words ". . . and we shall overcome:" Five months later, on August 6th, Johnson signed the bill into law, and invited Lewis to the Oval Office to celebrate the occasion. Toward the end of their meeting, as Lewis recalled, Johnson told him, "Now, John, you've got to go back and get all those folks registered. You've got to go back and get those boys by the balls. Just like a bull gets on top of a cow. You've got to get 'em by the balls and you've got to squeeze, squeeze 'em till they hurt."

Thirty-seven years later, in 2002, Lewis was called on by a federal court to answer a charge that he had violated the Voting Rights Act by discriminating against African-Americans. Lewis was an eight-term member of Congress by then, and a pillar of the Georgia Democratic Party. In the nearly four decades since the act's passage, it had revolutionized the franchise in the South. The literacy tests that were still in effect throughout the region were immediately suspended. Federal registrars replaced local officials who refused to register blacks. And the Attorney General was authorized to eliminate poll taxes wherever they remained. Amended and expanded in 1970, 1975, and 1982, the act also prohibited the kind of racial gerrymandering that allowed white state legislators to draw district lines that prevented African-Americans from winning elective office. It was this provision which Lewis was charged with violating.

During most of that time, the Justice Department's Voting Section, which consists of three dozen or so lawyers who are responsible for enforcing the Voting Rights Act, had insisted that states in the South draw some legislative districts with heavy minority populations, so that African-Americans could be assured of representation. But in the redistricting that followed the 2000 census Lewis and the Democrats, who then controlled Georgia's General Assembly, decided that this process had become counter-productive to black interests and they spread the largely Democratic African-American vote around to more districts. "My congressional district was probably sixty or sixty-five per cent black," Lewis told me recently. "Now it's barely fifty-two per cent. That's fine, I can win, and I'm running unopposed this year." As Lewis testified in the voting-rights trial, Georgia is "not the same state that it was . . . in 1965 or in 1975 or even in 1980 or 1990. We've changed. We have come a great distance. It's not just in Georgia but in the American South. I think people are preparing to lay down the burden of race."

The Justice Department argued that the Georgia plan violated the rights of African-Americans in several of the redrawn districts, a contention that outraged Lewis. "For them to suggest that someone who almost lost his life to get the Voting Rights Act passed wanted to violate it, that was just unbelievable," he told me.

But the government's position wasn't frivolous. The Georgia plan did make it somewhat less certain that blacks would win in several legislative districts. That could be seen as a "retrogression" of African-American rights, which is prohibited by the Voting Rights Act. The fight went all the way to the United States Supreme Court, which last year upheld Georgia's redistricting plan by a margin of just five to four. As it turned out, the five more conservative justices supported the Georgia plan, while the more liberal justices dissented, saying, in effect, that the Voting Rights Act had been designed to help black voters—not to serve the shifting agendas of incumbent politicians, Africa-American or otherwise. "If one appreciates irony, it is a wonderful case," Daniel Lowenstein, a professor of law at U.C.L.A., says. "Here you have the standard five so-called conservatives on the Court deciding in favor of John Lewis and the Democratic Party of Georgia, and the so-called liberals in favor of the Republicans in Georgia."

The Georgia controversy also raised a question that once seemed unthinkable: Is the Voting Rights Act obsolete? The question has special salience because key provisions of the law expire in 2007, and it's not clear how, or whether, Congress will reauthorize them. "The Voting Rights Act was a transformation statute," Samuel Issacharoff, a professor at Columbia Law School, says. "It's hard to think of any civil-rights law in any walk of life that has been as dramatically effective." In more recent years, the law has gone far beyond such basic issues as eliminating the poll tax; it has, for instance, stopped cities from annexing suburbs to dilute the importance of the minority vote, and the law has made sure that city councils are elected by neighborhood, rather than in at-large citywide races, which had been another way to limit the number of minority candidates who would win seats. As a result of all its changes, according to Issacharoff, "The act created a black political class that is now deeply embedded and politically savvy." The civil-rights establishment—which includes interlocking networks of public-interest organizations, legal academics, and social scientists—is now conducting a sober and uncertain appraisal of the law, but doing so with little momentum and unclear goals.

It is a vacuum that the Justice Department, under John Ashcroft, has moved quickly to fill. As 2007 approaches and liberal activists cautiously explore their options, conservative—including those in the Justice Department—are using the traditional language of voting rights to recast the issues, invariably in ways that help Republican candidates. The results of this quiet rightward revolution within the Justice Department may be apparent as soon as the November election.

On October 8, 2002, Attorney General Ashcroft stood before an invited audience in the Great Hall of the Justice Department to outline his vision of voting rights, in words that owed much to the rhetoric used by L.B.J. and Lincoln. "The right of citizens to vote and have their vote count is the cornerstone of our democracy—the necessary precondition of government of the people, by the people, and for the people," Ashcroft told the group, which included several veteran civil-rights lawyers.

The Attorney General had come forward to launch the Voting Access and Integrity Initiative, whose name refers to the two main traditions in voting-rights law. Voter-access efforts, which has long been associated with Democrats, seek to remove barriers that discourage poor and minority voters; the Voting Rights Act itself is the paradigmatic voter-access policy. The voting-integrity movement, which has traditionally been favored by Republicans, targets fraud in the voting process, from voter registration to voting and ballot counting. Despite the title, Ashcroft's proposal favored the "integrity" side of the ledger, mainly by assigning a federal prosecutor to watch for election crimes in each judicial district. These lawyers, Ashcroft said, would "deter and detect discrimination, prevent electoral corruption, and bring violators to justice."

Federal law gives the Justice Department the flexibility to focus on either voter access or voting integrity under the broad heading of voting rights, but such shifts of emphasis may have a profound impact on how votes are cast and counted. In the abstract, no one questions the goal of eliminating voting fraud, but the idea of involving federal prosecutors in election supervision troubles many civil-rights advocates, because few assistant United States attorneys have much familiarity with the laws protecting voter access. That has traditionally been the province of the lawyers in the Voting Section of the Civil Rights Division, whose role is defined by the Voting Rights Act. In a subtle way, the Ashcroft initiative nudged some of these career civil-rights lawyers toward the sidelines.

Addressing the real but uncertain dimensions of voter fraud means risking potentially greater harm to legitimate voters. "There is no doubt that there has been fraud over the years—people voting twice, immigrants voting, unregistered people voting—but no one knows how bad the problem is," Lowestein says. "It is a very hard subject for an academic or anyone else to study, because by definition it takes place under the table." And, despite its neutral-sounding name, "voting-integrity" has had an incendiary history. "It's one of those great euphemisms," Pamela S. Karlan, a professor at Stanford Law School, says. "By and large, it's been targeted at minority voters." During the Senate hearings on William Rehnquist's nomination as Chief justice, in 1986, a number of witnesses testified that in the early nineteen-sixties Rehnquist, then a lawyer in private practice and a Republican political activist, had harassed black and Latino voters at Arizona polling places, demanding to know if they were "qualified to vote." (Rehnquist denied doing so.) In the 1981 governor's race in New Jersey, the Republican Party hired armed off-duty police officers to work in a self-described National Ballot Security Task Force, which posted signs at polling places in minority neighborhoods reading, "Warning, This Area Is Being Patrolled by the National Ballot Security Task Force. It Is a Crime to Falsify a Ballot or to Violate Election Laws."

As recently as last year's gubernatorial election in Kentucky, Republicans placed "challengers" who may query a voter's eligibility, in poling places in Louisville's predominantly black neighborhoods, an act that many Democrats regarded as an attempt at racial intimidation. An emphasis on voting integrity, whatever the motivations behind it, often helps Republicans at the polls.

The person in over-all charge of the Administration's voting-rights portfolio is R. Alexander Acosta, the Assistant Attorney General for the Civil Rights Division. On May 4th, Acosta invited representatives of many leading traditional civil-rights organization, such as the N.A.A.C.P. Legal Defense and Educational Fund and the Leadership Conference on Civil Rights, to the seventh-floor conference room in the Justice Department Building to talk about his plans for the upcoming election. Acosta, who is a thirty-five-year-old Cuban-American from Miami, served first as a top political appointee in the Civil Rights Division, where he was known for his close attention to the rights of Spanish-speaking minorities. After the 2000 census, Acosta asked the Census Bureau to make data available before the 2002 elections, hoping to locate Spanish-speaking communities and provide bilingual ballots. "Alex was very helpful in making sure that the bureau got the data on a timely basis, so jurisdictions could make all aspects of voting accessible," says Marisa Demeo, who was then a lawyer with the Mexican-American Legal Defense and Education Fund, which gave Acosta its 2003 Excellence in Government Service Award.

The May 4th meeting addressed issues that related more to the traditional voting-rights concerns of African-Americans than to those of Latinos. Acosta opened the session with an unusual request: that no one takes notes on what he had to say. The meeting was a courtesy, he said, but he didn't want to have his exact words thrown back at him later. (Acosta has declined repeated requests to be interviewed.) According to several people present at the meeting, Acosta described how Voting Section lawyers will monitor ballot access at the polls while federal prosecutors will be on call to respond to allegations of fraud. He informed the group that ninety-three federal prosecutors would travel to Washington in July for a two-day training session, and that they would all be on duty on Election Day. Acosta said that the changes were being made in good faith and asked those assembled to keep an open mind.

The idea of placing prosecutors on call on Election Day created misgivings both inside and outside the Voting Section. "A lot of assistant U.S. attorneys are going to be more interested in voting integrity than in voter protection," Jon Greenbaum, a lawyer who recently left the Voting Section, after nearly seven years, to join the progressive Lawyers' Committee for Civil Rights Under Law, told me. "How many people are scared off from voting because you ask them a question at a polling place? There is no way to know." As another civil-rights lawyer puts it, "Voting is kind of an irrational act anyway. It's easy to discourage people from doing it." Justice officials insist that they don't want to keep anyone from legitimately voting. "I understand that, historically, intimidation is something that could be used as a method to get people not to vote," Luis Reyes, who is counsellor to Acosta, says. "But intimidation is antithetical to our mission with this initiative."

By most accounts, Ashcroft's Access and Integrity Initiative came too late to make much difference in the 2002 elections, which followed his announcement by about a month. Civil-rights advocates note, however, that the only major fraud investigation that came out of that election concerned Native Americans in South Dakota, who generally vote overwhelmingly for Democrats.

The spectre of the vote-counting controversy in Florida after the 2000 election still haunts most discussions of voting-rights law, and gives everything about voting rights a partisan slant. This is especially true of the government's most direct response to the 2000 election—the legislation that became known as the Help America Vote Act, or HAVA, which Congress passed in 2002 and which is only now having widespread practical effect. Though HAVA is often described as Congress's answer to the Florida imbroglio, some of its original inspiration, according to Kit Bond, a Missouri Republican who was one of its principal sponsors in the Senate, was a voting controversy in Missouri that same year. "I don't believe we had anywhere near an honest election in St. Louis in 2000," Bond told me. "They kept the polls open late and let all kinds of people vote who shouldn't have—people who registered from vacant lots, dead people on the rolls, even a springer spaniel. After what I saw, I said we are going to make it easier to vote but harder to cheat." (On November 7, 2000, Democrats in St. Louis persuaded a local judge to extend voting hours, arguing that high voter turnout had caused lines to back up at polling places; Republicans charged that the maneuver was an illegal attempt to gain partisan advantage.)

At the time HAVA was passed, it was generally portrayed as a compromise between voter access and voting integrity: Democrats got more money for the states to invest in modern voting technology, and Republicans won new and tighter restrictions on fraud. So far, though, implementation of the law seems to have favored Republicans. HAVA authorized the government to spend up to $3.9 billion over three years on new registration systems and voting machines, but states have received less than half of the original amount. The law requires each state to create a computerized list of all registered voters, but forty states have been granted waivers of this obligation until 2006. The anti-fraud provisions, however, are expected to take effect in time for the November elections. This is what Bond intended. "There is nothing like the fear of jail time to get people to stop messing with elections," he told me. HAVA also requires states to allow people who claim they are wrongly denied the right to vote at the polls the chance to cast "provisional" ballots. The recent history of provisional ballots is not promising, though. For example, in Chicago during this year's primary, 5,498 of 5,914 provisional ballots were ultimately disqualified. The question of how and whether provisional votes will be counted in 2004 is unsettled in many states and could delay the posting of results on Election Night.

One of the more controversial parts of the new law requires, in most circumstances, voters who have registered by mail to provide their driver's license or Social Security numbers, and to produce an official photo I.D. at the polls, or a utility bill. Hans A. von Spakovsky, a counsel to Acosta and the main Justice Department interpreter of HAVA, wrote to Judith A. Arnold, an assistant attorney general in Maryland, that the Justice Department believed states must "verify" the Social Security numbers that people submit on their registration forms. For most states, this requirement won't apply until 2006, but it may be a major hurdle for both the states and newly registered voters. "What D.O.J. is saying is clearly contrary to the statute in our view," Armold says.

Von Spakovsky, a longtime activist in the voting-integrity cause, has emerged as the Administration's chief operative on voting rights. Before going to Washington, he was a lawyer in private practice and a Republican appointee to the Fulton County Registration and Election Board, which runs elections in Atlanta. He belonged to the Federalist Society, a prominent organization of conservative lawyers, and had also joined the board of advisers of a lesser-known group called the Voting Integrity Project.

The V.I.P. was founded by Deborah Phillips, a former county official of the Virginia Republican Party, as an organization devoted principally to fighting voting fraud and promoting voter education. In 1997, von Spakovsky wrote an article for the Georgia Public Policy Foundation, a conservative research group, that called for an aggressive campaign to "purge" the election rolls of felons. Within months of that article's publication, the V.I.P. helped put von Spakovsky's idea into action. Phillips met with the company that designed the process for the removal of alleged felons from the voting rolls in Florida, a process that led, notoriously, to the mistaken disenfranchisement of thousands of voters, most of them Democratic, before the 2000 election. (This year, Florida again tried to purge its voting rolls of felons, but the method was found to be so riddled with errors that it had to be abandoned.) During the thirty-six-day recount in Florida, von Spakovsky worked there as a volunteer for the Bush campaign. After the Inauguration, he was hired as an attorney in the Voting Section and was soon promoted to be counsel to the Assistant Attorney General, in what is known as the "front office" of the Civil Rights Division. In that position, von Spakovsky, who is forty-five years old, has become an important voice in the Voting Section. (Von Spakovsky, citing Justice Department policy, has also declined repeated requests to be interviewed.)

In a recent speech at Georgetown University, von Spakovsky suggested that voting integrity will remain a focus for the Justice Department, and that voter access might best be left to volunteers. "Frankly, the best thing that can happen is when both parties and candidates have observers in every single polling place, wherever the votes are collected and tabulated, because that helps make sure that nothing happens that shouldn't happen, that the votes are counted properly, and that there is transparency to maintain public confidence in elections," he said. "Not enough people volunteer to be poll-watchers. They ought to do that so that there are poll-watchers everywhere in the country throughout the whole election process." The Bush-Cheney campaign has announced plans to place lawyers on call for as many as thirty thousand precincts on Election Day, to monitor for vote fraud. Democratic lawyers also plan to be out in force.

Since Ashcroft took office, traditional enforcement of the Voting Rights Act has declined. The Voting Section has all but stopped filing lawsuits against communities alleged to have engaged in discrimination against minority voters. "D.O.J. is a very bureaucratic institution," Jon Greenbaum, the former Voting Section lawyer, said, "and it's hard to get cases filed under any Administration, but we were filing cases in the Clinton years." As even civil-rights advocates acknowledge, there are fewer vote-discrimination cases to bring than there have been in the past. The Justice Department's Web site says that "several lawsuits of this nature are filed every year," but since Bush was sworn in the Voting Section has filed just one contested radical vote-discrimination case, in rural Colorado, which it lost.

Justice Department sources say the Voting Section is also considering whether to sue a Mississippi locality that has an African-American majority. Such a lawsuit would be the first use of a key section of the Voting Rights Act to protect the rights of white voters.

The main business of the Voting Section is still passing judgment on legislative redistricting in areas that have a history of discrimination. Under Ashcroft, its actions have consistently favored Republicans—for instance, in Georgia, where the department challenged the Democrats' gerrymander, and in Mississippi, where the Voting Section stalled the redistricting process for so long that a pro-Republican redistricting plan went into effect by default. The Voting Section's role in the controversial redistricting of Texas was more direct and, ultimately, more significant. After the 2000 census, Texas, like most states, put through a new redistricting plan. Then, after the midterm elections, Tom DeLay, the House Majority Leader, who is from Houston, engineered passage of a revised congressional redistricting plan through the state legislature, which may mean a shift of as many as seven seats from the Democrats to the Republicans. It was unprecedented for a state to make a second redistricting plan after a post-census plan had been adopted. When the DeLay plan was submitted to the Justice Department for approval, career officials in the Voting Section producted an internal legal opinion of seventy-three pages, with seventeen hundred and fifty pages of supporting documents, arguing that the plan should be rejected as a retrogression of minority rights. However, according to people familiar with the deliberations, the political staff of the Voting Section exercised its right to overrule that decision and approved the DeLay plan, which is now in effect for the 2004 elections.

Far from Washington, and even farther from the reigning ideology there, some civil-rights advocates have begun to sketch the beginnings of an alternative scenario for voting rights. At a conference at Harvard Law School on May 10th, under the direction of Christopher Edley, who is also a member of the United States Commission on Civil Rights, about forty litigators, law professors, and social scientists started debating key moves for the reauthorization of the Voting Rights Act in 2007.

"Mostly, we concentrated on trying to identify the right questions," Edley, who recently became the dean of Boalt Hall, the law school of the University of California at Berkeley, said. "You can't be utopian. This was not an exercise in how to reinvent democracy. But we were trying to figure out what could one plausibly argue for." Decades removed from the struggles of the nineteen-sixties, Edley and his colleagues faced a complex set of issues. How should the government draw multiethnic districts, where Hispanics or Asians lay claim to seats held by whites or even by African-Americans? "Who speaks for the African-American community?" Edley asked. "Is it the African-American incumbents, or do we discount their testimony, because of their self-interest?"

For Edley and his colleagues, the lessons of the Florida recount suggest possible reforms of the Voting Rights Act. Some of the more lurid allegations of racial discrimination in Florida during the 2000 election, like racial profiling at roadblocks near polling places in black neighborhoods, were never proved, but there is little doubt that African-Americans faced disproportionate difficulties at the polls. In Jacksonville, for example, apparently because of a confusing ballot design, more than twenty-five thousand votes—nine per cent of all ballots cast—were rendered invalid. Nearly nine thousand of these invalid votes were concentrated in African-American precincts. Gadsden County had the highest percentage of black voters in the state and the highest rate of disqualified ballots, with one in eight votes not counted. In its current form, the Voting Rights Act offers no specific redress for these problems. Perhaps, Edley suggested, the law should be expanded to include such things as the quality of voting machines. "In Florida, we saw tremendous geographic disparities in spoilage rates for ballots," Edley said. "We don't accept those kinds of disparities when it comes to the standards for drinking water. Why do we accept them when it comes to the quality of the voting process?" Still, Edley recognizes that control of the Justice Department may matter as much as the precise words of the laws on the books. "Obviously, the effectiveness of it is going to be greatly diminished if enforcement takes on a pronounced ideological tilt," he says.

Under Ashcroft, the Justice Department has also changed its method of hiring lawyers, who are supposed to be apolitical, and often go on to spend their careers working for the government. The department, which employs close to four thousand attorneys, hires junior-level lawyers through a program known as the Attorney General's Honors Program, which brings in about a hundred and fifty new lawyers each year. In the past, the program was run by mid-level career officials, who were known for their political independence. Since 2002, the Honors Program has been run by political appointees. "It's called the Attorney General's Honors Program, and when Attorney General Ashcroft signed the first batch of appointments he said, 'I'm the Attorney General. How come I don't know anything about this?'" Mark Corallo, Ashcroft's spokesman, says. "He said he wanted the top people in the department getting involved. He said he wanted greater outreach, different law schools approached, reaching out not just for racial minorities but for economic minorities as well." Corallo dismisses complaints about the changes as coming from malcontents. "A bunch of mid-level people here had their boondoggle taken away from them, going on these recruiting trips for weeks at a time, wining and dining at great hotels on the government's dime," he said.

Lawyers inside and outside the department say that the change in the Honors Program has already had an effect, especially in politically sensitive places like the Voting Section. "The front office disbanded the hiring committee and took over all hiring," one lawyer who recently left the Voting Section told me. "That was a huge deal. Under previous Republican Administrations, that hadn't happened. They even took it over for summer volunteer clerks." Thanks to these changes, some in the department believe, it's only a matter of time before tensions in the Voting Section disappear. As a current employee puts it, "Soon, there won't be any difference between the career people and the political people. The front office is replicating itself. Everyone here will be on the same page."

[From the Washington Post, October 6, 2004]

INDIAN HEALTH AGENCY BARRED NEW-VOTER DRIVE

(By Jo Becker)

Officials at a federal program that runs hospitals and clinics serving Native Americans this summer prohibited employees from using those facilities to sign up new voters, saying that even nonpartisan voter registration was prohibited on federal property.

Staff members at several Indian Health Service hospitals and clinics in New Mexico, a presidential battleground state where about one-tenth of the population is Native American, were trying to register employees, patients and family members who use the facilities.

In a July e-mail, Ronald C. Wood, executive officer of the program's regional Navajo office, told his hospital and clinic directors that "we are in a very sensitive political season" and outlined a policy that he said came from Indian Health Service headquarters.

"There have been recent questions about whether we can do non-partisan voter registration drives in our IHS facilities during non-duty hours," Wood wrote. "The guidance from HQs staff is that we should not allow voter registration in our facilities or on federal property."

Several of those involved in the registration effort questioned what they saw as a double standard, given that the federal government encourages registration on military bases, where voters traditionally have favored Republicans.

Democrats and civil rights groups yesterday said they had been unaware of the directive and were concerned that the motive was partisan. Native Americans have become an important constituency for Democrats.

"Why should it be permissible to conduct voter registration on one type of federal facility—military bases—but not on another? asked Elliott Mincberg, legal director at the People for the American Way Foundation.

The Indian Health Service, a program under the Department of Health and Human Services, said in a statement yesterday that outside groups are not prohibited to register voters at IHS facilities. As to Wood's instruction to the program's employees, the statement said: "No IHS employee will be registering voters as part of his or her official duties."

Wood did not return phone calls, but in his e-mail he referred employees' questions to Jeanelle Raybon, director of the IHS office on integrity and ethics. Raybon declines to clarify the agency's statement or answer questions about whether Wood's instructions reflected IHS policy.

She would say only that employees are expected to follow the Hatch Act. That law restricts partisan activity by federal workers but does not speak to nonpartisan registration drives. A 1992 memo by the General Services Administration, which controls federal buildings, authorizes voter registration on federal property.

Defense Department spokesman Glenn Flood said that service members must comply with the Hatch Act but that the military encourages them to take part in registering others "on or off-base," so long as the activity is nonpartisan and does not interfere with official duties.

Joseph E. Sandler, general counsel for the Democratic National Committee, said that the Hatch Act does not apply in this case and that he plans to investigate the matter.

Also yesterday, the DNC outlined an aggressive legal strategy it says is needed to protect minority voters from intimidation at the polls.

It unveiled an ad to air on African American radio stations implying that President Bush cares only about getting white voters to the polls. Lt. Gov. Michael S. Steele, the first black Republican elected statewide in Maryland, rebutted that charge. Both the GOP and the administration want to get out the vote, he said, "black or white."

Several Bush administration agencies have been criticized after taking steps to block or question other registration efforts.

The Homeland Security Department sought to block a nonpartisan group from registering new citizens outside a Miami naturalization ceremony in August.

The Justice Department has launched inquiries into new registrations submitted by Democratic leaning groups in several key states. Democrats say the probes are politically motivated.

[From the Washington Post, October 6, 2004]

Election Day Anti-Terrorism Plans Draw Criticism

(By Spencer S. Hsu and Jo Becker)

A push by the 50 states to coordinate anti-terrorism activities before Election Day is drawing warnings from Democrats, civil rights groups and election officials, who say excessive measures could suppress turnout among urban and minority voters.

They contend that an elevated national threat warning—and any actions in response—could scare away voters, intentionally or not, especially in cities, which tend to vote Democratic. Voting rights advocates worry that fear of terrorism could lead to federal agents and local police being posted at polling places, a tactic that has historically been used in some places to intimidate minority citizens.

Such generalized threats "could have the consequence of discouraging people that may otherwise be motivated to vote," said Jeff Fischer, senior adviser to IFES, a Washington-based organization that promotes democratic elections.

"There is a fine line that public officials must walk," weighing the specifics of the threat, communicating openly with voters and reacting judiciously, he said.

Citing the March 11 bombings in Madrid before elections in Spain, Department of Homeland Security officials have warned that terrorists might try a similar assault here before the Nov. 2 elections. In recent weeks there has been a focus on Election Day, although the government has said it has no intelligence about the timing, status or target of a possible attack.

State and federal officials issued a security planning bulletin last week urging governors, state homeland security advisers and election officials to coordinate preparations and contingency plans. The document advised officials to think through how they would handle threat information, secure or change polling places and ballot-counting centers, guard members of the electoral college, and communicate to the public.

In interviews, the bulletin's authors said they were aware of the political minefield surrounding the issue. But they said that if there were an attack and elections and homeland security officials were unprepared, the consequences could be more disruptive.

"There is no doubt that the threat that is posed nationwide prior to the election here in this country is very real," said Bryan Sierra, spokesman for the Justice Department. "We have an absolute responsibility to provide that information to state and local governments, who are charged with protecting their citizens."

Sensitivity over the political fallout of the warnings is especially high because of the narrow partisan divide in the country and bitter memories of the 2000 presidential race, which turned on tiny vote margins in some states and partly on decisions made by Florida election officials.

Analysts say that regardless of intent, terrorism warnings have shaped voter attitudes, an influence that could grow if the warnings are extended to polling sites. Kathleen Hall Jamieson, director of the Annenberg Public Policy Center at the University of Pennsylvania, said people who oppose President Bush "see a clear pattern to scare the electorate," while his supporters see "an administration vigilantly protecting the country." As for undecided or swing voters, "raising the public's anxiety level helps the candidacy of George Bush, because at the moment the polls suggest the public feels it's safer to have George Bush as president," she said.

Critics of the warnings point to Minnesota Secretary of State Mary Kiffmeyer's effort to raise terrorism awareness as an example of how election security measures could chill turnout. Kiffmeyer (R) gave local election officials fliers that warned voters to watch for unattended packages, vehicles "riding low on springs" and "homicide bombers."

Bombers may have a "shaved head or short hair," "smell of unusual herbal/flower water or perfume," wear baggy clothes or appear to be whispering to themselves, the flier warned.

Several local election officials were outraged over what they saw as an attempt to discourage voting with excessively dire warnings and stereotyping descriptions that could single out voters from specific religious, racial or ethnic groups for harassment. They refused to distribute the fliers.

Kiffmeyer said the language of the bulletin was taken from Minnesota's homeland security agency, which developed it with federal guidance. "What if something happens? I don't want to say, 'I didn't want to scare people, so I didn't pass out this information,'" Kiffmeyer said. "And do people really think this isn't on the minds of the public when they saw what happened in Madrid and in Russia?"

But Oregon Deputy Secretary of State Paddy J. McGuire (D) said he believes the intent of such a message is not to protect the homeland but to "scare people away from the polls."

Some Democrats are suspicious of the timing of the announcements, noting that warnings about an election-season threat came on April 19, when Bush was close to his low in the polls; on Aug. 1, right after the Democratic National Convention; and last week, as the president's post-National Republican Convention bounce ebbed.

In a statement last week, Sen. Edward M. Kennedy (Mass.), the ranking Democrat on the Senate Judiciary Committee, warned that it is possible for terrorism response plans created in the name of election security to discourage voting and "become a thinly veiled partisan tactic to tilt the elections."

Spokesmen for Ashcroft and Ridge emphasized that the effort to secure the election was initiated and led by the states, which administer elections. Federal law normally prohibits the presence of armed federal agents near polling sites. They also noted that the effort is supported by the National Governors Association, chaired by Virginia Gov. Mark R. Warner (D), whose aides have said it is vital to address the issue of election security in a post-Sept. 11, 2001, era.

"We do not do politics at Homeland Security," Ridge spokesman Brian Roehrkasse said.

Nevertheless, partisan tensions were apparent as officials of the NGA and the National Association of Secretaries of State and homeland security experts sparred last week over the timing and content of a public announcement.

Rebecca Vigil-Giron (D), New Mexico secretary of state and president of the secretaries of state association, said the directive sent out by her organization to the states to step up preparations to safeguard national balloting has been "blown way out of proportion." She said election officials must plan a coordinated response to an election disrupted by a terrorist attack, but she said, "I want to make very sure that these plans don't look anything like voter suppression."

Still, civil rights organizations are worried. People for the American Way Foundation issued a report concluding that various efforts in the name of combating voter fraud have replaced Jim Crow-era laws restricting ballot access as a way to hold down minority voting.

Elliott Mincberg, the foundation's legal director, said he suspected that efforts to protect against terrorism, could have the same effect. "The devil is in the details," he said, "and I want to be sure that this is not done in a way that scares people away from the polls."

Mr. DAVIS of Illinois. Mr. Speaker, I rise in support of this resolution to promote greater civic awareness among all people of the United States. This issue is particularly important at a time when voter participation has been decreasing. The Census Bureau found that only 46% of eligible voters participated in the 2002 elections.

This is not acceptable. Full participation in the electoral process by all Americans is truly a bipartisan concern. We are a society that values democracy. One of the most basic of all rights in a free and democratic society is the right to participate. Exercising the right to vote makes us productive members of society and contributes to the substance of our laws and character. The fact of the matter is clear; the right to vote is the most basic constitutional act of citizenship.

As a society, we must take steps to raise civic awareness and to develop strategies to promote civic responsibility. Too many people have shed blood and died for us to have this right. While promoting civic awareness, we must also ensure that there are no barriers to the process. In 2000, a number of people went to the polls, but their votes were not counted due to faulty equipment and human error. This must never happen in the world's greatest democracy.

Again, I rise in support of this legislation because it represents progress in addressing voter complacency.

Mr. LARSON of Connecticut. Mr. Speaker, I yield back the balance of my time.

Mr. NEY. Mr. Speaker, I just want to again thank the gentleman from Texas (Mr. HALL) and the gentleman from Arkansas (Mr. ROSS) for their introduction and support of this resolution.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and agree to the resolution, H. Res. 796.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 796.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

LAKE PONTCHARTRAIN RESTORATION PROGRAM AUTHORIZATION

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4470) to amend the Federal Water Pollution Control Act to extend the authorization of appropriations for the Lake Pontchartrain Basin Restoration Program from fiscal year 2005 to 2010, as amended.

The Clerk read as follows:

H.R. 4470

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAKE PONTCHARTRAIN RESTORATION PROGRAM.

(a) STAKEHOLDERS CONFERENCE.—For purposes of carrying out section 121 of the Federal Water Pollution Control Act (33 U.S.C. 1273), the Lake Pontchartrain, Louisiana, basin stakeholders conference convened on February 25, 2002, shall be treated as being a management conference convened under section 320 of such Act (33 U.S.C. 1330).

(b) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 121(f)(1) of the Federal Water Pollution Control Act (33 U.S.C. 1273(f)(1)) is amended by inserting before the period at the end the following: ", $19,000,000 for fiscal year 2006, and $20,000,000 for each of fiscal years 2007 through 2010".

SEC. 2. TECHNICAL CORRECTION.

The second section 121 of the Federal Water Pollution Control Act (33 U.S.C. 1274; relating to wet weather watershed projects) is redesignated as section 122.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Illinois (Mr. COSTELLO) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4470, to reauthorize the Lake Pontchartrain Basin Program. Working with the gentleman from Louisiana (Mr. JEFFERSON), the gentleman from Louisiana (Mr. BAKER) and other Members, the gentleman from Louisiana (Mr. VITTER) developed legislation during his very first year in the Congress to authorize EPA to help people in Louisiana and Mississippi address pollution problems affecting Lake Pontchartrain.

Their legislation, the Lake Pontchartrain Basin Restoration Act, was enacted into law as title V of the Estuaries and Clean Water Act of 2000. Now, 4 years later, it is now time to reauthorize Lake Pontchartrain Basin Program.

H.R. 4470, introduced by the gentleman from Louisiana (Mr. VITTER), the gentleman from Louisiana (Mr. JEFFERSON) the gentleman from Louisiana (Mr. BAKER) and the gentleman from Louisiana (Mr. TAUZIN), would reauthorize the Lake Pontchartrain Basin Restoration Program for an addition will 5 years.

I want to commend all of the sponsors for their efforts to restore the ecological health of Lake Pontchartrain, and I urge all Members to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. COSTELLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4470, a bill that would reauthorize appropriations for the Environmental Protection Agency Lake Pontchartrain Basin Restoration Program.

Since its authorization in 2000, this program has been helpful in coordinating restoration work for Lake Pontchartrain, located in Southeastern Louisiana. This legislation would extend the authorization of $20 million annually through 2010 for restoration projects and studies recommended by the Lake Pontchartrain Management Conference, as well as public education projects to inform the local community of public health concerns and practical ways to help clean up the lake.

Mr. Speaker, I support the efforts to clean up Lake Pontchartrain and urge all of my colleagues to join me in supporting this bipartisan legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from Louisiana (Mr. VITTER), the author and champion of the legislation and, again, in his very first year in Congress.

Mr. VITTER. Mr. Speaker, I rise in strong support of my legislation, H.R. 4470. In 2000, Congress passed the Lake Pontchartrain Basin Restoration Act by an overwhelming margin. The purpose of the legislation was to give Lake Pontchartrain the same status as the Great Lakes and the Florida Everglades in their restoration efforts.

In addition, this legislation also created a real and innovative partnership between the Federal Government and local Louisiana stakeholders to further efforts to clean up the lake. This was the first step in achieving the ultimate goal of fully restoring the lake.

The basin is a 5,000 square mile watershed encompassing 16 parishes in the State of Louisiana as well as four counties in the State of Mississippi. It is the second-largest lake in the United States after the Great Lakes, and its 1.5 million residents in the whole basin make it the most populated part of Louisiana.

Since we first passed this legislation in 2000, a great deal has been done. There has been real and clearly monitored improvement in water clarity in Lake Pontchartrain. "No swimming" signs are coming down as water quality improves and beaches are reopened. But more work remains to be done.

We have come so far. Various water quality studies have been conducted. These studies provide keys to solutions, pointing us in the right direction in the future. But now we must continue that work and also move on to the next stage of that vital work, which includes actual construction of key projects.

Mr. Speaker, this legislation would move on to that next phase with the reauthorization of the program for fiscal years 2005 to 2010. It was reported unanimously from both the subcommittee and the committee with bipartisan support. I urge all of my colleagues to vote in favor of it.

Mr. Speaker, I thank all of the Members of the committee, particularly the chairman, the ranking member, and also the chair and ranking member of the relevant subcommittee, for all of their work in passing this bill.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H.R. 4470. The bill extends the authorization of appropriations for the Environmental Protection Agency's (EPA) Lake Pontchartrain Basin Restoration Program. Since its establishment in 2000, this program has helped coordinate restoration work for Lake Pontchartrain, in southeastern Louisiana.

This legislation authorizes $99 million through 2010 for restoration projects and studies recommended by the Lake Pontchartrain Management Conference, public education projects to inform the local community of public health concerns, and practical ways to help clean up the Lake. It also clarifies the status of the Management Conference so that protection of Lake Pontchartrain can proceed expeditiously.

I support the bill, and urge all Members to join me in that support.

Mr. LATOURETTE. Mr. Speaker, I urge passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 4470, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

TIJUANA RIVER VALLEY ESTUARY AND BEACH SEWAGE CLEANUP ACT OF 2000 AMENDMENT

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4794) to amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 to extend the authorization of appropriations, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4794

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACTIONS TO BE TAKEN.

(a) SECONDARY TREATMENT.—Section 804(a)(1) of the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 (22 U.S.C. 277d–44(a)(1); 114 Stat. 1978) is amended by striking "Subject to" and all that follows through "of this Act," and inserting "Pursuant to Treaty Minute 311 to the Treaty for the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, dated February 3, 1944,".

(b) CONTRACT.—Section 804(c) of such Act is amended as follows:

(1) By striking paragraph (1) and inserting the following:

"(1) IN GENERAL.—Notwithstanding any provision of Federal procurement law, the Commission may enter into a multiyear fee-for-services contract with the owner of a Mexican facility in order to carry out the secondary treatment requirements of subsection (a) and make payments under such contract, subject to the availability of appropriations and subject to the terms of paragraph (2).".

(2) In paragraph (2)(I) by striking ", with such annual payment" and all that follows through the period at the end and inserting ", including costs associated with the purchase of any insurance or other financial instrument under subparagraph (K). Costs associated with the purchase of such insurance or other financial instrument may be amortized over the term of the contract.".

(3) In paragraph (2) by redesignating subparagraphs (J) through (P) as subparagraphs (L) through (R), respectively, and by inserting after subparagraph (I) the following:

"(J) Neither the Commission nor the United States Government shall be liable for payment of any cancellation fees if the Commission cancels the contract.

"(K) The owner of the Mexican facility may purchase insurance or other financial instrument to cover the risk of cancellation of the contract by the Commission. Any such insurance or other financial instrument shall not be provided or guaranteed by the United States Government, and the Government may reserve the right to validate independently the reasonableness of the premium when negotiating the annual service fee with the owner.".

(4) By striking paragraphs (2)(L) and (2)(M) (as redesignated by paragraph (3) of this subsection) and inserting the following:

"(L) Transfer of ownership of the Mexican facility to an appropriate governmental entity, other than the United States, if the Commission cancels the contract.

"(M) Transfer of ownership of the Mexican facility to an appropriate governmental entity, other than the United States, if the owner of the Mexican facility fails to perform under the contract.".

(5) In paragraph (2)(N) (as redesignated by paragraph (3) of this subsection) by inserting after "competitive procedures" the following: "under applicable law".

SEC. 2. IMPLEMENTATION OF NEW TREATY MINUTE.

Section 805 of the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 (22 U.S.C. 277d–45; 114 Stat. 1980) is amended—

(1) in the section heading striking "**negotiation of**"; and

(2) by adding at the end the following:

"(c) IMPLEMENTATION.—In light of the continuing threat to the environment and to public health and safety within the United States as a result of the river and ocean pollution in the San Diego-Tijuana border region, the Commission is requested to give the highest priority to the implementation of Treaty Minute 311 to the Treaty for the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande, dated February 3, 1944, which establishes a framework for the siting of a treatment facility in Mexico to provide for the secondary treatment of effluent from the IWTP at the Mexican facility, to provide for additional capacity for advanced primary and secondary treatment of additional sewage emanating from the Tijuana River area, Mexico, and to meet the water quality standards of Mexico, the United States, and the State of California consistent with the provisions of this title, in order that the other provisions of this title to address such pollution may be implemented as soon as possible.".

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

Section 806 of the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 (22 U.S.C. 277d–46; 114 Stat. 1981) is amended by striking "a total of $156,000,000 for fiscal years 2001 through 2005" and inserting "such sums as may be necessary".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Illinois (Mr. COSTELLO) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4794, to amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000.

For years the United States Congress has been trying to address a public health and environmental problem that exists along the U.S.-Mexican border. Raw or partially treated sewage from the Tijuana, Mexico area flows spot United States and ends up on California beaches.

In 2000, Congress addressed this problem by authorizing the United States to contract with a plant in Mexico for waste water treatment services that would meet the clean water standards. That law required the United States and Mexico to negotiate a new treaty. That negotiation was completed in February of this year. Now the United States must negotiate a contract.

It is my understanding that those negotiations are finally underway, but before a contract can be signed, the Tijuana Valley Estuary and Beach Sewage Cleanup Act authorization must be extended and updated. H.R. 4794 provides that authority.

I want to congratulate and commend the gentleman from California (Mr. HUNTER), the gentleman from California (Mr. FILNER), the gentleman from California (Mr. CUNNINGHAM), the gentleman from California (Mr. ISSA) and the gentlewoman from California (Mrs. DAVIS) for their persistence. This is a good piece of legislation. I urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. COSTELLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4794. This critical bipartisan bill would reauthorize and update legislation to address the ongoing problem of sewage that migrates across the U.S.-Mexican border into the waters off of San Diego, California. In light of recent efforts of the International Boundary Water Commission to successfully negotiate a treaty minute on this issue, the Committee on Transportation and Infrastructure, working with the gentleman from California (Mr. FILNER) and the gentleman from California (Mr. HUNTER), developed this legislation to amend existing law to reflect the terms of the new treaty minute.

Other than annual appropriations, this legislation should be the last legislative hurdle necessary for the construction of the treatment facilities to protect the public and the ecological health of the San Diego region.

I commend our committee colleague the gentleman from California (Mr. FILNER) who first brought this issue to our committee's attention in the 106th Congress, as well as my friend the gentleman from California (Mr. HUNTER) for their efforts in pursuing this legislation.

Mr. Speaker, time is of the essence for this legislation. The United States will face court-ordered sanctions unless we get about the business of cleaning up this sewage. But even more importantly, every day's delay is another day that the United States citizens are faced with raw sewage in the river and off the California coast. It is time for our work to begin and for this project to move forward.

Mr. Speaker, I strongly urge this legislation and urge my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, it is my pleasure to yield such time as he may consume to the gentleman from California (Mr. HUNTER), one of the champions of this legislation

Mr. HUNTER. Mr. Speaker, I want to thank the gentleman from Ohio (Mr.

LATOURETTE) and the gentleman from Illinois (Mr. COSTELLO) for managing this bill. I think they have described it very well, the problem that we have with pollution that sweeps north on to California beaches. Not only is it a public health hazard and one that accrues to the detriment of thousands and thousands of families in the San Diego region, but also has a major impact on our economy. This situation of polluted beaches from raw sewage costs us in excess of some $15 million a year.

In an attempt to look for a better way to address this border sewage problem, the House and the Tijuana River Estuary and Beach Cleanup Act, P.L. 106-457, authorized what we thought was a cutting edge concept involving a public-private partnership approach that will save taxpayer money and ensure that a wastewater treatment facility is brought online as quickly as possible and in complete compliance with the U.S. Clean Water Act regulations.

OMB has certified, incidentally, that the public-private partnership approach will save significant funds over a similar plant built and operated by the Federal Government.

So this is a new approach, Mr. Speaker, but we think it is going to work and work very effectively.

Since the passage of P.L. 106–457, the IBWC, the International Boundary and Water Commission, has completed treaty minute negotiations with Mexico and has begun the process of addressing this decades old problem. As a result, in order to ensure that the project continues to move forward expeditiously, all of us in the San Diego congressional delegation introduced H.R. 4794, which has been well described as the Tijuana River Estuary and Beach Cleanup Reauthorization Act.

This legislation will make necessary technical corrections to the base law to address changing circumstances and bring the law into line with the binational treaty that was negotiated. So this is what we need to get this project moving.

We want to thank all of our friends and good colleagues who have worked on this, including the gentleman from Alaska (Chairman YOUNG) and the subcommittee chairman, the gentleman from Tennessee (Mr. DUNCAN), as well as the ranking members, the gentleman from Minnesota (Mr. OBERSTAR) and the gentleman from Illinois (Mr. COSTELLO), for their help and guidance with this very important bipartisan legislation. The bill represents a real victory for the citizens of San Diego and for the taxpayers.

Mr. Speaker, I urge all my colleagues to strongly support its passage and, again, to the gentlemen managing the bill, I thank them very much for their support.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H.R. 4794. The bill amends legislation enacted in 2000 to address the continuing problem of untreated or partially treated sewage that migrates across the U.S.-Mexican border into the waters off San Diego, California.

Since the original legislation in 2000, the United States, acting through the International Boundary Waters Commission (IBWC), has successfully negotiated an agreement with Mexico on implementing a bi-national effort to address this problem. The bill makes minor changes to reflect those discussions, and provides an updated authorization level to allow for the construction of the wastewater treatment facility, as contemplated in 2000. It also addresses an interpretation by the Office of Management and Budget that was contrary to the original intent of the Committee on Transportation and Infrastructure when the bill was first developed.

When this bill is enacted, it should create all the authority necessary for the construction of treatment facilities to protect the public and the ecological health of the San Diego region.

I commend our Committee colleague, Mr. FILNER, who first brought this issue to the Committee's attention in the 106th Congress, for his efforts in pursuing this legislation.

I support the bill and urge an "aye" vote.

Mrs. DAVIS of California. Mr. Speaker, I rise in strong support of H.R. 4794, which will amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000 to bring it up to date to include the International Boundary and Water Commission Treaty Minute No. 311 between the United States and Mexico. Reauthorization will pave the way for an ultimate solution to the long-standing problem of sewage outfall that pollutes the Tijuana River Valley Estuary and the precious beaches of Imperial Beach.

Located on the southwest corner of the United States, Imperial Beach offers its residents and visitors an exceptional coastal experience situated as it is between the wonderful Tijuana Estuary natural wetlands and bird habitat and the mighty Pacific Ocean.

Unfortunately, the metropolitan area of Tijuana and San Diego has grown well beyond the existing capacity to provide for the current sewage volume and allow a healthy and safe environment for the population along the border.

The 2000 Act provided the framework for improving the existing South Bay International Wastewater Treatment Plant, which was constructed by the International Boundary and Water Commission following authorization in a 1987 Water Quality Act. However, the plant was only built to advanced primary standards and not to the required secondary treatment standard as required by the law.

Since that time, the rapid growth in the metropolitan region has resulted in a frequent flow of untreated or partially treated sewage through the Tijuana River, which flows north from Tijuana across the border to the Pacific Ocean at Imperial Beach. This pollution is a public health threat as well as an environmental danger.

This reauthorization addresses a multitude of details to implement a privately built and operated plant in Tijuana. Although the realization of the new Minute in February took a very long time, I hope that with new leadership now in place on the Commission and with this authorization in place there will be rapid progress toward the fulfillment of this desperately needed public safety facility.

I want to thank my colleague from San Diego, Representative HUNTER, for taking the leadership in the time-consuming process of bringing agreement on the details from numerous administration entities.

I urge your support for this measure, which has been co-sponsored by the bipartisan San Diego delegation.

Mr. CUNNINGHAM. Mr. Speaker, in 2002, the City of San Diego declared a local emergency regarding the flow of sewage across the border from Tijuana to San Diego. It is estimated that 70 million gallons per day of sewage is released into the Tijuana River Valley and flows into the Pacific Ocean.

It is imperative that something be done to stop the flow of sewage from Tijuana into the Pacific. This legislation is a positive and significant step forward in ensuring that the requirements of the Clean Water Act are met. It makes the necessary changes that would effectively allow for the building of a waster water sewage treatment facility in Mexico that will process 50+ million gallons of water per day in compliance with the Clean Water Act.

I have been working for years now to ensure a solution to this problem, and I believe the proposal to construct a treatment plant in Mexico is the most cost-effective solution. This bill will enable that to occur, and to eliminate the potential threat to the quality of water in the San Diego-Tijuana border at zero cost to taxpayers. This bill will ensure major environmental benefits for California and is the best option to address this serious public health and safety concern for San Diego.

OMB certified that the public-private partnership approach will save significant funds. The International Boundary and Water Commission (IBWC) has completed treaty minute negotiations with Mexico. This process has taken years, and I would like to thank the IBWC for working on the issue. I would like to thank DUNCAN HUNTER, DARREL ISSA and SUSAN DAVIS for all their hard work. H.R. 4794's introduction by this delegation makes technical corrections to the base law. I would like to thank Chairman DON YOUNG, the Ranking Member JAMES OBERSTAR and JERRY COSTELLO for all their help. This bill is a victory for San Diego, Mexico and the environment.

Mr. FILNER. Mr. Speaker, I rise in strong support of H.R. 4794, the bipartisan bill to amend the Tijuana River Valley Estuary and Beach Sewage Cleanup Act of 2000. The House and Senate passed this bill four years ago in an effort to resolve an enormous health problem in my district. Fifty million gallons of raw sewage flow through the Tijuana River from Mexico into San Diego beaches everyday. Most Americans cannot imagine the environmental and health impacts caused by this problem.

Eleven years ago, the San Diego city council declared a state of emergency in the Tijuana River Valley because of sewage from Mexico flowing over the border and spoiling our beaches and waterways. Every two weeks since then, the city council has continued to declare a state of emergency.

I worked with my colleagues to establish a bipartisan plan for a public-private partnership to solve this problem, but the crisis continues. And four years after the signing of the bill nothing has been done. The International Boundary and Water Commission has failed to take the steps necessary to build the wastewater treatment plant that Congress authorized and that families in San Diego deserve.

The IBWC has a new Commissioner who, I believe, recognizes the responsibility that the IBWC has been given from Congress: To end the flow of raw sewage into southern California. That is why I have joined my Congressional colleagues from San Diego in offering this bill to continue the authorization for this project, so we can make sure that this environmental nightmare comes to an end.

Mr. COSTELLO. Mr. Speaker, I have no further speakers, and I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I have no additional speakers, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 4794, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

□ 0100

NORMAN Y. MINETA RESEARCH AND SPECIAL PROGRAMS IMPROVEMENT ACT

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5163) to amend title 49, United States Code, to provide the Department of Transportation a more focused research organization with an emphasis on innovative technology, and for other purposes, as amended.

The Clerk read as follows:

H.R. 5163

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Norman Y. Mineta Research and Special Programs Improvement Act".

SEC. 2. PIPELINE AND HAZARDOUS MATERIALS SAFETY ADMINISTRATION.

(a) IN GENERAL.—Section 108 of title 49, United States Code, is amended to read as follows:

"§108. Pipeline and Hazardous Materials Safety Administration

"(a) IN GENERAL.—The Pipeline and Hazardous Materials Safety Administration shall be an administration in the Department of Transportation.

"(b) SAFETY AS HIGHEST PRIORITY.—In carrying out its duties, the Administration shall consider the assignment and maintenance of safety as the highest priority, recognizing the clear intent, encouragement, and dedication of Congress to the furtherance of the highest degree of safety in pipeline transportation and hazardous materials transportation.

"(c) ADMINISTRATOR.—The head of the Administration shall be the Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be an individual with professional experience in pipeline safety, hazardous materials safety, or other transportation safety. The Administrator shall report directly to the Secretary of Transportation.

"(d) DEPUTY ADMINISTRATOR.—The Administration shall have a Deputy Administrator who shall be appointed by the Secretary. The Deputy Administrator shall carry out duties and powers prescribed by the Administrator.

"(e) CHIEF SAFETY OFFICER.—The Administration shall have an Assistant Administrator for Pipeline and Hazardous Materials Safety appointed in the competitive service by the Secretary. The Assistant Administrator shall be the Chief Safety Officer of the Administration. The Assistant Administrator shall carry out the duties and powers prescribed by the Administrator.

"(f) DUTIES AND POWERS OF THE ADMINISTRATOR.—The Administrator shall carry out—

"(1) duties and powers related to pipeline and hazardous materials transportation and safety vested in the Secretary by chapters 51, 57, 61, 601, and 603; and

"(2) other duties and powers prescribed by the Secretary.

"(g) LIMITATION.—A duty or power specified in subsection (f)(1) may be transferred to another part of the Department of Transportation or another government entity only if specifically provided by law.".

(b) TRANSFER OF DUTIES AND POWERS OF RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION.—The authority of the Research and Special Programs Administration exercised under chapters 51, 57, 61, 601, and 603 of title 49, United States Code, is transferred to the Administrator of the Pipeline and Hazardous Materials Safety Administration.

(c) CONFORMING AMENDMENTS.—

(1) CHAPTER ANALYSIS.—The analysis for chapter 1 of title 49, United States Code, is amended by striking the item relating to section 108 and inserting the following:

"108. Pipeline and Hazardous Materials Safety Administration.".

(2) DOT INSPECTORS.—Section 5118(b)(3)(A) of title 49, United States Code, is amended by striking "Research and Special Programs Administration" and inserting "Pipeline and Hazardous Materials Safety Administration".

(3) NTSB SAFETY RECOMMENDATIONS.—Section 19(a) of the Pipeline Safety Improvement Act of 2002 (49 U.S.C 1135 note; 116 Stat. 3009) is amended by striking "Research and Special Program Administration" and inserting "Pipeline and Hazardous Materials Safety Administration".

(4) NATIONAL MARITIME ENHANCEMENTS INSTITUTES.—Section 8(f)(2) of Public Law 101–115 (46 U.S.C. App. 1121–2(f)(2)) is amended by striking "Research and Special Programs Administration" and inserting "Research and Innovative Technology Administration".

(5) OIL POLLUTION RESEARCH AND DEVELOPMENT PROGRAM.—Section 7001 of the Oil Pollution Act of 1990 (33 U.S.C. 2761) is amended—

(A) in subsection (a)(3) by striking "Research and Special Projects Administration" and inserting "Pipeline and Hazardous Materials Safety Administration"; and

(B) in subsection (c)(11) by striking "Research and Special Programs Administration" and inserting "Pipeline and Hazardous Materials Safety Administration".

(6) PENALTIES.—Section 844(g)(2)(B) of title 18, United State Code, is amended by striking "Research and Special Projects Administration" and inserting "Pipeline and Hazardous Materials Safety Administration".

(d) EXECUTIVE SCHEDULE PAY RATE.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Administrator, Pipeline and Hazardous Materials Safety Administration.".

SEC. 3. BUREAU OF TRANSPORTATION STATISTICS.

(a) ESTABLISHMENT.—Section 111(a) of title 49, United States Code, is amended by striking "in the Department of Transportation" and inserting "in the Research and Innovative Technology Administration".

(b) APPOINTMENT OF DIRECTOR.—Section 111(b) of title 49, United States Code, is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) APPOINTMENT.—The Bureau shall be headed by a Director who shall be appointed in the competitive service by the Secretary."; and

(2) by striking paragraphs (3) and (4).

(c) EXECUTIVE SCHEDULE PAY RATE.—Section 5316 of title 5, United States Code, is amended by striking the undesignated paragraph relating to the Director, Bureau of Transportation Statistics.

SEC. 4. RESEARCH AND INNOVATIVE TECHNOLOGY ADMINISTRATION.

(a) IN GENERAL.—Section 112 of title 49, United States Code, is amended—

(1) by striking the section heading and inserting the following:

"§112. Research and Innovative Technology Administration";

(2) by striking subsection (a) and inserting the following:

"(a) ESTABLISHMENT.—The Research and Innovative Technology Administration shall be an administration in the Department of Transportation.";

(3) by striking subsection (d) and inserting the following:

"(d) POWERS AND DUTIES OF THE ADMINISTRATOR.—The Administrator shall carry out—

"(1) powers and duties prescribed by the Secretary for—

"(A) coordination, facilitation, and review of the Department's research and development programs and activities;

"(B) advancement, and research and development, of innovative technologies, including intelligent transportation systems;

"(C) comprehensive transportation statistics research, analysis, and reporting;

"(D) education and training in transportation and transportation-related fields; and

"(E) activities of the Volpe National Transportation Center; and

"(2) other powers and duties prescribed by the Secretary."; and

(4) by striking subsection (e).

(b) CLARIFICATION.—

(1) IN GENERAL.—Nothing in this Act shall grant any authority to the Research and Innovative Technology Administration over research and other programs, activities, standards, or regulations administered by the Secretary of Transportation through the National Highway Traffic Safety Administration.

(2) APPLICABILITY.—Paragraph (1) shall not apply to the research and other programs, activities, standards, or regulations provided for in highway and traffic safety programs, administered by the Secretary through the National Highway Traffic Safety Administration, in title 23, United States Code, and chapter 303 of title 49, United States Code, as in effect on the date of enactment of this Act.

(c) Office of Intermodalism.—Section 5503(a) of title 49, United States Code, is amended to read as follows:

"(a) Establishment.—There is established in the Research and Innovative Technology Administration an Office of Intermodalism.".

(d) Transfer of Powers and Duties of Research and Special Programs Administration.—The authority of the Research and Special Programs Administration, other than authority exercised under chapters 51, 57, 61, 601, and 603 of title 49, United States Code, is transferred to the Administrator of the Research and Innovative Technology Administration.

(e) Conforming Amendment.—The analysis for chapter 1 of title 49, United States Code, is amended by striking the item relating to section 112 and inserting the following:

"112. Research and Innovative Technology Administration.".

(f) Executive Schedule Pay Rate.—Section 5314 of title 5, United States Code, is amended by striking the undesignated paragraph relating to the Administrator, Research and Special Programs Administration and inserting the following:

"Administrator, Research and Innovative Technology Administration.".

(g) Report.—

(1) In general.—Not later than 120 days after the date of enactment of this Act, the Administrator of the Research and Innovative Technology Administration shall submit to the Committee on Transportation and Infrastructure and the Committee on Science of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the research activities of the Department of Transportation.

(2) Contents.—The report shall include—

(A) a summary of the mission and strategic goals of the Administration;

(B) a prioritized list of the research and development activities that the Department intends to pursue over the next 5 years;

(C) a description of the primary purposes for conducting such research and development activities, such as reducing traffic congestion, improving mobility, and promoting safety;

(D) an estimate of the funding levels needed to implement such research and development activities for the current fiscal year; and

(E) any additional information the Administrator considers appropriate.

(3) Development.—In developing the report, the Administrator shall—

(A) solicit input from a wide range of stakeholders;

(B) take into account how the research and development activities of other Federal, State, private sector, and not-for-profit institutions contribute to the achievement of the purposes identified under paragraph (2)(C); and

(C) address methods to avoid unnecessary duplication of efforts in achieving such purposes.

SEC. 5. SAVINGS PROVISIONS.

(a) Transfer of Assets and Personnel.—Personnel, property, and records employed, used, held, available, or to be made available in connection with functions transferred within the Department of Transportation by this Act shall be transferred for use in connection with the functions transferred, and unexpended balances of appropriations, allocations, and other funds (including funds of any predecessor entity) shall also be transferred accordingly.

(b) Legal Documents.—All orders, determinations, rules, regulations, permits, grants, loans, contracts, settlements, agreements, certificates, licenses, and privileges—

(1) that have been issued, made, granted, or allowed to become effective by any officer or employee, or any other Government official, or by a court of competent jurisdiction, in the performance of any function that is transferred by this Act; and

(2) that are in effect on the effective date of such transfer (or become effective after such date pursuant to their terms as in effect on such effective date),

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the Department, any other authorized official, a court of competent jurisdiction, or operation of law.

(c) Proceedings.—The provisions of this Act shall not affect any proceedings, including administrative enforcement actions, pending before this Act takes effect, insofar as those functions are transferred by this Act; but such proceedings, to the extent that they relate to functions so transferred, shall proceed in accordance with applicable law and regulations. Nothing in this subsection shall be deemed to prohibit the conclusion or modification of any proceeding described in this subsection under the same terms and conditions and to the same extent that such proceeding could have been concluded or modified if this Act had not been enacted. The Secretary of Transportation is authorized to provide for the orderly transfer of pending proceedings.

(d) Suits.—

(1) In general.—This Act shall not affect suits commenced before the date of enactment of this Act, except as provided in paragraphs (2) and (3). In all such suits, proceedings shall be had, appeals taken, and judgments rendered in the same manner and with the same effect as if this Act had not been enacted.

(2) Suits by or against department.—Any suit by or against the Department begun before the date of enactment of this Act, shall proceed in accordance with applicable law and regulations, insofar as it involves a function retained and transferred under this Act.

(3) Procedures for remanded cases.—If the court in a suit described in paragraph (1) remands a case, subsequent proceedings related to such case shall proceed under procedures that are in accordance with applicable law and regulations as in effect at the time of such subsequent proceedings.

(e) Continuance of Actions Against Officers.—No suit, action, or other proceeding commenced by or against any officer in his or her official capacity shall abate by reason of the enactment of this Act.

(f) Exercise of Authorities.—An officer or employee of the Department, for purposes of performing a function transferred by this Act, may exercise all authorities under any other provision of law that were available with respect to the performance of that function to the official responsible for the performance of the function immediately before the effective date of the transfer of the function by this Act.

(g) References.—A reference relating to an agency, officer, or employee affected by this Act in any Federal law, Executive order, rule, regulation, or delegation of authority, or in any document pertaining to an officer or employee, is deemed to refer, as appropriate, to the agency, officer, or employee who succeeds to the functions transferred by this Act.

(h) Definition.—In this section, the term "this Act" includes the amendments made by this Act.

SEC. 6. REPORTS.

(a) Reports by the Inspector General.—Not later than 30 days after the date of enactment of this Act, the Inspector General of the Department of Transportation shall submit to the Secretary of Transportation and the Administrator of the Pipeline and Hazardous Materials Safety Administration a report containing the following:

(1) A list of each statutory mandate regarding pipeline safety or hazardous materials safety that has not been implemented.

(2) A list of each open safety recommendation made by the National Transportation Safety Board or the Inspector General regarding pipeline safety or hazardous materials safety.

(b) Reports by the Secretary.—

(1) Statutory mandates.—Not later than 90 days after the date of enactment of this Act, and every 180 days thereafter until each of the mandates referred to in subsection (a)(1) has been implemented, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report on the specific actions taken to implement such mandates.

(2) NTSB and inspector general recommendations.—Not later than January 1st of each year, the Secretary shall transmit to the Committee on Transportation and Infrastructure and the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a report containing each recommendation referred to in subsection (a)(2) and a copy of the Department of Transportation response to each such recommendation.

SEC. 7. DEADLINE FOR TRANSFERS.

The Secretary shall provide for the orderly transfer of duties and powers under this Act, including the amendments made by this Act, as soon as practicable but not later than 90 days after the date of enactment of this Act.

The SPEAKER pro tempore (Mr. Mario Diaz-Balart of Florida). Pursuant to the rule, the gentleman from Ohio (Mr. LaTourette) and the gentleman from Illinois (Mr. Costello) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LaTourette).

Mr. LaTOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the Norman Y. Mineta Research and Special Programs Improvement Act Reorganizes the current Research and Special Programs Administration to two new administrations: the Research and Innovative Technologies Administration, and the Pipeline and Hazardous Materials Safety Administration.

The new Research and Innovative Technologies Administration will have the research authority currently exercised by the Research and Special Programs Administration. This includes the coordination, facilitation, and review of the department's research and development programs and activities; the advancement of innovative technologies and intelligent transportation systems; and any other research authority that the Secretary deems appropriate.

The new Pipeline and Hazardous Material Safety Administration will hold the authority currently exercised by the Research and Special Programs Administration with regard to pipeline safety and will also include all current law hazardous materials authority exercised by the Office of Hazardous Materials.

As the caption of the bill indicates, Mr. Speaker, I would say that, when I was first elected in 1995, Norm Mineta was the ranking Democrat on the Committee on Transportation and Infrastructure. I found him to be, and he continues to be a wonderful, was a wonderful Member of Congress, a true leader in transportation. He is now, of course, the current Secretary of the Department of Transportation, and I can think of no more fitting honor than to name this new administration in his honor. I urge all of our colleagues to pass the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. COSTELLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 5163, the Norman Y. Mineta Research and Special Programs Improvement Act. This bill will achieve long overdue improvements in the U.S. Transportation Department's handling of pipeline and hazardous materials transportation safety programs and DOT's transportation research programs. Under this bill, the department would reorganize the current Research and Special Programs Administration into two administrations: the Pipeline and Hazardous Material Safety Administration and the Research and Innovative Technology Administration.

Creating this agency will elevate the profile of pipeline transportation and hazardous materials transportation within the department. Importantly, the bill declares that safety will be the highest priority of the Pipeline and Hazardous Material Safety Administration and creates a position of chief safety officer within the PHMSA.

We know from experience that accidents in the pipeline or hazardous materials transportation can be devastating. In 1999 and in 2000, two separate pipeline accidents occurred, resulting in the deaths of 15 people. Additionally, over the past 10 years, accidents involving hazardous materials have accounted for more than 220 deaths, 3,500 injuries, and well over $500 million in damage.

Mr. Speaker, this bill is a direct response to these tragic incidents, and the creation of this administration is an important first step to ensure the safety of pipeline and hazardous materials transportation is at the forefront of DOT's regulation and supervision of these activities.

This bill also creates a new research administration that will better focus DOT's transportation research activities and helps ensure that Federal dollars are invested in research and innovative technologies that help address our Nation's most pressing transportation problems.

The Research and Innovative Technology Administration will help coordinate and facilitate the department's research activities. This bill transfers the department's Bureau of Transportation Statistics and Office of Intermodalism to RITA.

Finally, Mr. Speaker, this bill is appropriately named after Secretary of Transportation Norm Mineta. Throughout his service as the chairman of the Committee on Transportation and Infrastructure in this body and his service as Secretary of Transportation for the Nation, Norm Mineta has devoted himself to the betterment of our Nation's transportation system. This bill does just that, and I urge Members to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

At this point I will insert into the RECORD an exchange of letters between the chairman of our full committee, the gentleman from Alaska (Mr. YOUNG) and the gentleman from Virginia (Mr. TOM DAVIS) regarding H.R. 5163.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES, COMMITTEE ON GOVERNMENT REFORM,
Washington, DC, October 6, 2004.
Hon. Don Young,
Chairman, Committee on Transportation and Infrastructure, House of Representatives, Washington, DC.

DEAR MR. YOUNG: I am writing regarding H.R. 5163, "Norman Y. Mineta Research and Special Programs Improvement Act." As you know, the bill includes provisions within the jurisdiction of the Committee on Government Reform. Specifically, the Committee has jurisdiction over the Executive Schedule Pay Rate in Title 5 of the U.S. Code.

In the interests of moving this important legislation forward, I will agree to waive sequential consideration of this bill by the Committee on Government Reform. However, I do so only with the understanding that this procedural route should not be construed to prejudice the Committee on Government Reform's jurisdictional interest and prerogatives on this bill or other similar legislation. I respectfully request your support for the appointment of outside conferees from the Committee on Government Reform should this bill or a similar Senate bill be considered in conference with the Senate.

Finally, I would ask that you include a copy of our exchange of letters on this matter in the committee report and in the Congressional Record during floor consideration. Thank you for your assistance and cooperation in this matter.

Sincerely,

TOM DAVIS
Chairman.

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE,
Washington, DC, October 6, 2004.
Hon. TOM DAVIS, CHAIRMAN, COMMITTEE ON GOVERNMENT REFORM, RAYBURN BUILDING, WASHINGTON, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of October 6, 2004 regarding H.R. 5163, the Norman Y. Mineta Research and Special Programs Reorganization Act, and for your willingness to waive consideration of provisions in the bill that falls within your Committee's jurisdiction under House Rules.

I agree that your waiving consideration of these provisions of H.R. 5163 does not waive your Committee's jurisdiction over the bill. I also acknowledge your right to seek conferees on any provisions that are under your Committee's jurisdiction during any House-Senate conferees on such provisions.

As you request, your letter and this response will be included in the Committee report on the legislation and the Congressional Record.

Thank you for your cooperation in moving this legislation to the House Floor.

Sincerely,

DON YOUNG,
Chairman.

Mr. DINGELL. Mr. Speaker, I support H.R. 5163, the "Norman Y. Mineta Research and Special Programs Reorganization Act." I thank my good friend Secretary Mineta for his leadership on this issue, and I thank Chairman Young and Ranking Member Oberstar for working cooperatively with Committee on Energy and Commerce Chairman Barton and me to ensure an acceptable outcome for all.

The legislation we consider today accomplishes many worthy objectives. My remarks, however, will focus on one particular provision with respect to the National Highway Traffic Safety Administration (NHTSA). The NHTSA administers many programs, including research and development, that improve the safety and fuel economy of motor vehicles in the United States. The authors of this legislation worked with Chairman Barton and me to ensure that these programs were not affected by the legislation before us today. Specifically, section 4(b) of the bill clearly states that the newly formed Research and Innovative Technology Administration will have no authority over the programs, activities, standards, and regulations of NHTSA over which the Committee on Energy and Commerce has jurisdiction, including motor vehicle safety and fuel economy.

I urge all my colleagues to support this legislation.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of H.R. 5163, the Norman Y. Mineta Research and Special Programs Improvement Act. I believe this bill is appropriately named—as my good friend, Norm Mineta, has dedicated a lifetime to improving transportation and strengthening safe in this country.

Last year, the Department of Transportation (DOT) approached the Transportation Committee with a proposal to reorganize the DOT. The proposal was, first, to abolish the Research and Special Programs Administration (RSPA) and reinvent it as the Research and Technology Innovation Administration, and then to transfer the pipeline program, which is housed under RSPA, to the Federal Railroad

Administration. That proposal raised serious concerns that pipeline safety would not get adequate attention in an agency focused solely on railroads. The Committee, on a bipartisan basis, directed the DOT to go back to the drawing board, and they have now come back to us with a much better proposal. This bill will restructure the Research and Special Programs Administration by splitting its functions into two separate, more-focused agencies within the Department of Transportation: the new Research and Innovative Technology Administration (RITA) and the new Pipeline and Hazardous Materials Safety Administration (PHMSA).

Mr. Speaker, I've had 20 years experience with the Office of Pipeline Safety (OPS), and I believe that this Act is a good "first step" toward helping the Department raise pipeline and hazardous materials safety to the level of significance they deserve, and need.

Our nation's pipeline system consists of more than two million miles of pipe moving millions of gallons of hazardous liquids and more than 55 billion cubic feet of natural gas daily. Although moving commodities such as crude oil, diesel fuel, gasoline, and natural gas through pipelines may be safer than moving the same commodities on other transportation modes, pipeline incidents can have catastrophic consequences, such as the deadly explosions in Bellingham, Washington, and Carlsbad, New Mexico, in which a total of 15 people were killed.

This past June, DOT Inspector General Kenneth Mead released an audit report that found severe deficiencies in the government's pipeline safety program. The Inspector General found: Of the 31 mandates from legislation enacted in 1992 and 1996, six mandates have yet to be implemented, and all of these are over eight years past due. For example, two such mandates, which are a decade overdue, require defining "natural gas and hazardous liquid gathering lines" in order to determine which lines can and should be regulated. Separately, seven NTSB safety recommendations remain open, two of which were identified in an Inspector General report issued in March 2000. This is unacceptable, and it is my hope that this bill will set OPS on a path toward finalizing all mandated and recommendations in a timely fashion, while ensuring that the agency is working effectively to promote safety as its highest priority.

To accomplish this, we included safeguards in this bill, which are modeled after the safety functions of the Federal Aviation Administration and the Federal Motor Carrier Safety Administration. First, we require PHMSA to consider the assignment and maintenance of safety as the highest priority. Second, we require PHMSA to hire a Chief Safety Officer who will help keep the agency focused on its new safety mission. Third, we require the Inspector General to transmit to the Secretary of Transportation and to Congress periodic reports on the progress PHMSA has or has not made on implementing the outstanding statutory mandates and recommendations.

Pipeline security must also receive more focused attention. The Department of Transportation and the Department of Homeland Security have just finalized a Memorandum of Understanding that seeks to improve the Departments' cooperation and coordination in promoting the safe, secure, and efficient movement of people and goods throughout our vast transportation network. However, no such agreement exists to specifically address the unique challenge of securing our Nation's pipelines. The Committee report therefore directs the Departments of Transportation and Homeland Security and the Departments of Transportation and Energy to execute separate Memorandums of Understanding governing the roles, responsibilities, and resources of the Departments in addressing pipeline and hazardous materials transportation security.

With respect to hazardous materials transportation, from 1994 to 2003 (the most recent information available), more than 157,000 hazardous materials incidents and accidents have occurred. These accidents have accounted for more than 220 deaths, 3,500 injuries, and well over $500 million in damages. Yet responsibility for the hazardous materials transportation safety has bounced around the Department and is now buried deep within RSPA. Unless the office has a higher profile within the Department and the federal hazmat program itself is significantly improved, there will surely be more deaths and injuries.

We have included long-needed improvements to federal hazmat law in H.R. 3550 and I support enactment of those provisions through the comprehensive surface transportation reauthorization bill. But for now, let us begin the strengthening of our hazmat laws with the creation of this new Administration and a renewed focus on pipeline and hazardous materials safety.

Furthermore, this bill creates a new Administration to focus on DOT's research and development activities: the Research and Innovative Technology Administration. By creating a separate Administration to manage these important activities, this bill goes a long way to move transportation research forward and to ensure that federal dollars are invested in research and innovative technologies that help address our Nation's pressing transportation needs.

This bill also places the Bureau of Transportation Statistics and the Office of Intermodalism within RITA. I championed the creation of the Office of Intermodalism. Yet, regrettably, since its creation it has not fulfilled its original mission. This bill will help give the Office new direction, and help contribute and perhaps improve upon DOT's intermodal programs and activities.

I'd like to thank Secretary Mineta for spearheading this reform, an thank him for his continued commitment to transportation safety. I support this bill, and I urge all Members vote for it.

Mr. EHLERS. Mr. Speaker, I rise today in strong support of H.R. 5163, the Norman Y. Mineta Research and Special Programs Improvement Act. The goal of this legislation is to align and strengthen the planning of research and development activities at the Department of Transportation.

As chairman of the Environment, Technology, and Standards Subcommittee of the Science Committee, I have spent the past two years examining surface transportation research programs and identifying ways to improve the coordination, planning and implementation of this important research. I developed a comprehensive bill to achieve these goals, most of which was included in the House version of the larger transportation reauthorization bill. Unfortunately, we have not yet been able to reconcile our differences with the Senate to pass the larger bill.

However, I am pleased that Secretary Mineta had the personal vision and commitment to seek to reorganize the Department to begin efforts to reform and strengthen research programs. Mr. Mineta, in addition to being Secretary of Transportation (and previously Secretary of Commerce), was a leader on transportation issues in the House of Representatives for 20 years. Specifically, he has always made sure that research played a strong role in developing transportation policy and programs. This legislation is a perfect example of his commitment to that goal.

This bill is a good first step in reforming and strengthening research at the Department of Transportation. The chief responsibility of the new Administration created by this bill, the Research and Innovative Technology Administration, is to coordinate research across the Department. This is to ensure that we are getting the maximum out of our research dollars by funding research that contributes directly towards the goals of the transportation system and is not unnecessarily duplicative of other research efforts. But we have much to do to improve research at the Department, and I look forward to completing the job early next year as we pass the larger reauthorization bill.

Mr. Speaker, I want to thank Chairman YOUNG and his staff for working with me and my staff to incorporate our views into this legislation. I urge my colleagues to support the Norman Y. Mineta Research and Special Programs Improvement Act.

Mr. COSTELLO. Mr. Speaker, we have no further speakers, and I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I urge passage of the bill, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the bill, H.R. 5163, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

ECONOMIC DEVELOPMENT ADMINISTRATION REAUTHORIZATION ACT OF 2004

Mr. LATOURETTE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1134) to reauthorize and improve the program authorized by the Public Works and Economic Development Act of 1965.

The Clerk read as follows:

S. 1134

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Economic Development Administration Reauthorization Act of 2004".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Findings and declarations.
Sec. 102. Definitions.
Sec. 103. Establishment of Economic Development partnerships.
Sec. 104. Coordination.

TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

Sec. 201. Grants for planning.
Sec. 202. Cost sharing.
Sec. 203. Supplementary grants.
Sec. 204. Regulations on relative needs and allocations.
Sec. 205. Grants for training, research, and technical assistance.
Sec. 206. Prevention of unfair competition.
Sec. 207. Grants for economic adjustment.
Sec. 208. Use of funds in projects constructed under projected cost.
Sec. 209. Special impact areas.
Sec. 210. Performance awards.
Sec. 211. Planning performance awards.
Sec. 212. Direct expenditure or redistribution by recipient.
Sec. 213. Brightfields demonstration program.

TITLE III—COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

Sec. 301. Eligibility of areas.
Sec. 302. Comprehensive Economic Development strategies.

TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

Sec. 401. Incentives.
Sec. 402. Provision of comprehensive Economic Development strategies to Regional Commissions.

TITLE V—ADMINISTRATION

Sec. 501. Economic Development information clearinghouse.
Sec. 502. Businesses desiring Federal contracts.
Sec. 503. Performance evaluations of grant recipients.
Sec. 504. Conforming amendments.

TITLE VI—MISCELLANEOUS

Sec. 601. Annual report to Congress.
Sec. 602. Relationship to assistance under other law.
Sec. 603. Brownfields redevelopment report.
Sec. 604. Savings clause
Sec. 605. Sense of Congress regarding Economic Development Representatives.

TITLE VII—FUNDING

Sec. 701. Authorization of appropriations.
Sec. 702. Funding for grants for planning and grants for administrative expenses.

TITLE I—GENERAL PROVISIONS

SEC. 101. FINDINGS AND DECLARATIONS.

Section 2 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121) is amended to read as follows:

"SEC. 2. FINDINGS AND DECLARATIONS.

"(a) FINDINGS.—Congress finds that—

"(1) there continue to be areas of the United States experiencing chronic high unemployment, underemployment, outmigration, and low per capita incomes, as well as areas facing sudden and severe economic dislocations because of structural economic changes, changing trade patterns, certain Federal actions (including environmental requirements that result in the removal of economic activities from a locality), and natural disasters;

"(2) economic growth in the States, cities, and rural areas of the United States is produced by expanding economic opportunities, expanding free enterprise through trade, developing and strengthening public infrastructure, and creating a climate for job creation and business development;

"(3) the goal of Federal economic development programs is to raise the standard of living for all citizens and increase the wealth and overall rate of growth of the economy by encouraging communities to develop a more competitive and diversified economic base by—

"(A) creating an environment that promotes economic activity by improving and expanding public infrastructure;

"(B) promoting job creation through increased innovation, productivity, and entrepreneurship; and

"(C) empowering local and regional communities experiencing chronic high unemployment and low per capita income to develop private sector business and attract increased private sector capital investment;

"(4) while economic development is an inherently local process, the Federal Government should work in partnership with public and private State, regional, tribal, and local organizations to maximize the impact of existing resources and enable regions, communities, and citizens to participate more fully in the American dream and national prosperity;

"(5) in order to avoid duplication of effort and achieve meaningful, long-lasting results, Federal, State, tribal, and local economic development activities should have a clear focus, improved coordination, a comprehensive approach, and simplified and consistent requirements; and

"(6) Federal economic development efforts will be more effective if the efforts are coordinated with, and build upon, the trade, workforce investment, transportation, and technology programs of the United States.

"(b) DECLARATIONS.—In order to promote a strong and growing economy throughout the United States, Congress declares that—

"(1) assistance under this Act should be made available to both rural- and urban-distressed communities;

"(2) local communities should work in partnership with neighboring communities, the States, Indian tribes, and the Federal Government to increase the capacity of the local communities to develop and implement comprehensive economic development strategies to alleviate economic distress and enhance competitiveness in the global economy;

"(3) whether suffering from long-term distress or a sudden dislocation, distressed communities should be encouraged to support entrepreneurship to take advantage of the development opportunities afforded by technological innovation and expanding newly opened global markets; and

"(4) assistance under this Act should be made available to promote the productive reuse of abandoned industrial facilities and the redevelopment of brownfields.".

SEC. 102. DEFINITIONS.

(a) ELIGIBLE RECIPIENT.—Section 3(4)(A) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122(4)(A)) is amended—

(1) by striking clause (i) and redesignating clauses (ii) through (vii) as clauses (i) through (vi), respectively; and

(2) in clause (iv) (as redesignated by paragraph (1)) by inserting ", including a special purpose unit of a State or local government engaged in economic or infrastructure development activities," after "State".

(b) REGIONAL COMMISSIONS; UNIVERSITY CENTER.—Section 3 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3122) is amended—

(1) by redesignating paragraphs (8), (9), and (10) as paragraphs (9), (10), and (11), respectively;

(2) by inserting after paragraph (7) the following:

"(8) REGIONAL COMMISSIONS.—The term 'Regional Commissions' means—

"(A) the Appalachian Regional Commission established under chapter 143 of title 40, United States Code;

"(B) the Delta Regional Authority established under subtitle F of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009aa et seq.);

"(C) the Denali Commission established under the Denali Commission Act of 1998 (42 U.S.C. 3121 note; 112 Stat. 2681–637 et seq.); and

"(D) the Northern Great Plains Regional Authority established under subtitle G of the Consolidated Farm and Rural Development Act (7 U.S.C. 2009bb et seq.)."; and

(3) by adding at the end the following:

"(12) UNIVERSITY CENTER.—The term 'university center' means an institution of higher education or a consortium of institutions of higher education established as a University Center for Economic Development under section 207(a)(2)(D).".

SEC. 103. ESTABLISHMENT OF ECONOMIC DEVELOPMENT PARTNERSHIPS.

Section 101 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3131) is amended—

(1) in subsection (b), by striking "and multi-State regional organizations" and inserting "multi-State regional organizations, and nonprofit organizations"; and

(2) in subsection (d)(1), by striking "adjoining" each place it appears.

SEC. 104. COORDINATION.

Section 103 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3132) is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Secretary";

(2) in subsection (a) (as designated by paragraph (1)), by inserting "Indian tribes," after "districts,"; and

(3) by adding at the end the following:

"(b) MEETINGS.—To carry out subsection (a), or for any other purpose relating to economic development activities, the Secretary may convene meetings with Federal agencies, State and local governments, economic development districts, Indian tribes, and other appropriate planning and development organizations.".

TITLE II—GRANTS FOR PUBLIC WORKS AND ECONOMIC DEVELOPMENT

SEC. 201. GRANTS FOR PLANNING.

Section 2[illegible]d) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3143(d)) is amended—

(1) in paragraph (1), by inserting ", to the maximum extent practicable," after "developed" the second place it appears;

(2) by striking paragraph (3) and inserting the following:

"(3) COORDINATION.—Before providing assistance for a State plan under this section, the Secretary shall consider the extent to which the State will consider local and economic development district plans."; and

(3) in paragraph (4)—

(A) by striking "and" at the end of subparagraph (C);

(B) by redesignating subparagraph (D) as subparagraph (F); and

(C) by adding after subparagraph (C) the following:

"(D) assist in carrying out the workforce investment strategy of a State;

"(E) promote the use of technology in economic development, including access to high-speed telecommunications; and".

SEC. 202. COST SHARING.

(a) Federal Share.—Section 204 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144) is amended by striking subsection (a) and inserting the following:

"(a) Federal Share.—Except as provided in subsection (c), the Federal share of the cost of any project carried out under this title shall not exceed—

"(1) 50 percent; plus

"(2) an additional percent that—

"(A) shall not exceed 30 percent; and

"(B) is based on the relative needs of the area in which the project will be located, as determined in accordance with regulations promulgated by the Secretary.".

(b) Non-Federal Share.—Section 204(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144(b)) is amended by inserting "assumptions of debt," after "equipment,".

(c) Increase in Federal Share.—Section 204 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3144) is amended by adding at the end the following:

"(c) Increase in Federal Share.—

"(1) Indian tribes.—In the case of a grant to an Indian tribe for a project under this title, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

"(2) Certain states, political subdivisions, and nonprofit organizations.—In the case of a grant to a State, or a political subdivision of a State, that the Secretary determines has exhausted the effective taxing and borrowing capacity of the State or political subdivision, or in the case of a grant to a nonprofit organization that the Secretary determines has exhausted the effective borrowing capacity of the nonprofit organization, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project.

"(3) Training, research, and technical assistance.—In the case of a grant provided under section 207, the Secretary may increase the Federal share above the percentage specified in subsection (a) up to 100 percent of the cost of the project if the Secretary determines that the project funded by the grant merits, and is not feasible without, such an increase.".

SEC. 203. SUPPLEMENTARY GRANTS.

(a) In General.—Section 205 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3145) is amended by striking subsection (b) and inserting the following:

"(b) Supplementary Grants.—Subject to subsection (c), in order to assist eligible recipients in taking advantage of designated Federal grant programs, on the application of an eligible recipient, the Secretary may make a supplementary grant for a project for which the recipient is eligible but for which the recipient cannot provide the required non-Federal share because of the economic situation of the recipient.".

(b) Requirements Applicable to Supplementary Grants.—Section 205(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3145(c)) is amended—

(1) by striking paragraphs (1) and (2) and inserting the following:

"(1) Amount of supplementary grants.—The share of the project cost supported by a supplementary grant under this section may not exceed the applicable Federal share under section 204.

"(2) Form of supplementary grants.—The Secretary shall make supplementary grants by—

"(A) the payment of funds made available under this Act to the heads of the Federal agencies responsible for carrying out the applicable Federal programs; or

"(B) the award of funds under this Act, which will be combined with funds transferred from other Federal agencies in projects administered by the Secretary."; and

(2) by striking paragraph (4).

SEC. 204. REGULATIONS ON RELATIVE NEEDS AND ALLOCATIONS.

Section 206 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3146) is amended—

(1) in paragraph (1)(C), by striking "and" at the end;

(2) in paragraph (2), by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following:

"(3)(A) rural and urban economically distressed areas are not harmed by the establishment or implementation by the Secretary of a private sector leveraging goal for a project under this title;

"(B) any private sector leveraging goal established by the Secretary does not prohibit or discourage grant applicants under this title from public works in, or economic development of, rural or urban economically distressed areas; and

"(C) the relevant Committees of Congress are notified prior to making any changes to any private sector leveraging goal; and

"(4) grants made under this title promote job creation and will have a high probability of meeting or exceeding applicable performance requirements established in connection with the grants.".

SEC. 205. GRANTS FOR TRAINING, RESEARCH, AND TECHNICAL ASSISTANCE.

(a) In General.—Section 207(a)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by redesignating subparagraph (G) as subparagraph (I); and

(3) by inserting after subparagraph (F) the following:

"(G) studies that evaluate the effectiveness of coordinating projects funded under this Act with projects funded under other Acts;

"(H) assessment, marketing, and establishment of business clusters; and".

(b) Cooperation Requirement.—Section 207(a) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3147(a)) is amended by striking paragraph (3) and inserting the following:

"(3) Cooperation requirement.—In the case of a project assisted under this section that is national or regional in scope, the Secretary may waive the provision in section 3(4)(A)(vi) requiring a nonprofit organization or association to act in cooperation with officials of a political subdivision of a State.".

SEC. 206. PREVENTION OF UNFAIR COMPETITION.

(a) In General.—Section 208 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3148) is repealed.

(b) Conforming Amendment.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 208.

SEC. 207. GRANTS FOR ECONOMIC ADJUSTMENT.

(a) Assistance to Manufacturing Communities.—Section 209(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149(c)) is amended—

(1) in paragraph (3), by striking "or";

(2) in paragraph (4), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following:

"(5) the loss of manufacturing jobs, for reinvesting in and diversifying the economies of the communities.".

(b) Direct Expenditure or Redistribution by Recipient; Special Provisions Relating to Revolving Loan Fund Grants.—Section 209 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3149) is amended by striking subsection (d) and inserting the following:

"(d) Special Provisions Relating to Revolving Loan Fund Grants.—

"(1) In general.—The Secretary shall promulgate regulations to maintain the proper operation and financial integrity of revolving loan funds established by recipients with assistance under this section.

"(2) Efficient administration.—The Secretary may—

"(A) at the request of a grantee, amend and consolidate grant agreements governing revolving loan funds to provide flexibility with respect to lending areas and borrower criteria;

"(B) assign or transfer assets of a revolving loan fund to third party for the purpose of liquidation, and the third party may retain assets of the fund to defray costs related to liquidation; and

"(C) take such actions as are appropriate to enable revolving loan fund operators to sell or securitize loans (except that the actions may not include issuance of a Federal guaranty by the Secretary).

"(3) Treatment of actions.—An action taken by the Secretary under this subsection with respect to a revolving loan fund shall not constitute a new obligation if all grant funds associated with the original grant award have been disbursed to the recipient.

"(4) Preservation of securities laws.—

"(A) Not treated as exempted securities.—No securities issued pursuant to paragraph (2)(C) shall be treated as exempted securities for purposes of the Securities Act of 1933 (15 U.S.C. 77a et seq.) or the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.), unless exempted by rule or regulation of the Securities and Exchange Commission.

"(B) Preservation.—Except as provided in subparagraph (A), no provision of this subsection or any regulation promulgated by the Secretary under this subsection supersedes or otherwise affects the application of the securities laws (as the term is defined in section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a))) or the rules, regulations, or orders of the Securities and Exchange Commission or a self-regulatory organization under that Commission.".

SEC. 208. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

Section 211 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3151) is amended to read as follows:

"SEC. 211. USE OF FUNDS IN PROJECTS CONSTRUCTED UNDER PROJECTED COST.

"(a) In General.—In the case of a grant to a recipient for a construction project under section 201 or 209, if the Secretary determines, before closeout of the project, that the cost of the project, based on the designs and specifications that were the basis of the grant, has decreased because of decreases in costs, the Secretary may approve, without further appropriation, the use of the excess funds (or a portion of the excess funds) by the recipient—

“(1) to increase the Federal share of the cost of a project under this title to the maximum percentage allowable under section 204; or

“(2) to improve the project.

“(b) OTHER USES OF EXCESS FUNDS.—Any amount of excess funds remaining after application of subsection (a) may be used by the Secretary for providing assistance under this Act.

“(c) TRANSFERRED FUNDS.—In the case of excess funds described in subsection (a) in projects using funds transferred from other Federal agencies pursuant to section 604, the Secretary shall—

“(1) use the funds in accordance with subsection (a), with the approval of the originating agency; or

“(2) return the funds to the originating agency.

“(d) REVIEW BY COMPTROLLER GENERAL.—

“(1) REVIEW.—The Comptroller General of the United States shall regularly review the implementation of this section.

“(2) REPORT.—Not later than 1 year after the date of enactment of this subsection, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller General on implementation of this subsection.”.

SEC. 209. SPECIAL IMPACT AREAS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) is amended by adding at the end the following:

“SEC. 214. SPECIAL IMPACT AREAS.

“(a) IN GENERAL.—On the application of an eligible recipient that is determined by the Secretary to be unable to comply with the requirements of section 302, the Secretary may waive, in whole or in part, the requirements of section 302 and designate the area represented by the recipient as a special impact area.

“(b) CONDITIONS.—The Secretary may make a designation under subsection (a) only after determining that—

“(1) the project will fulfill a pressing need of the area; and

“(2) the project will—

“(A) be useful in alleviating or preventing conditions of excessive unemployment or underemployment; or

“(B) assist in providing useful employment opportunities for the unemployed or underemployed residents in the area.

“(c) NOTIFICATION.—At the time of the designation under subsection (a), the Secretary shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a written notice of the designation, including a justification for the designation.”.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 213 the following:

“Sec. 214. Special impact areas.”.

SEC. 210. PERFORMANCE AWARDS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 209) is amended by adding at the end the following:

“SEC. 215. PERFORMANCE AWARDS.

“(a) IN GENERAL.—The Secretary may make a performance award in connection with a grant made, on or after the date of enactment of this section, to an eligible recipient for a project under section 201 or 209.

“(b) PERFORMANCE MEASURES.—

“(1) REGULATIONS.—The Secretary shall promulgate regulations to establish performance measures for making performance awards under subsection (a).

“(2) CONSIDERATIONS.—In promulgating regulations under paragraph (1), the Secretary shall consider the inclusion of performance measures that assess—

“(A) whether the recipient meets or exceeds scheduling goals;

“(B) whether the recipient meets or exceeds job creation goals;

“(C) amounts of private sector capital investments leveraged; and

“(D) such other factors as the Secretary determines to be appropriate.

“(c) AMOUNT OF AWARDS.—

“(1) IN GENERAL.—The Secretary shall base the amount of a performance award made under subsection (a) in connection with a grant on the extent to which a recipient meets or exceeds performance measures established in connection with the grant.

“(2) MAXIMUM AMOUNT.—The amount of a performance award may not exceed 10 percent of the amount of the grant.

“(d) USE OF AWARDS.—A recipient of a performance award under subsection (a) may use the award for any eligible purpose under this Act, in accordance with section 602 and such regulations as the Secretary may promulgate.

“(e) FEDERAL SHARE.—Notwithstanding section 204, the funds of a performance award may be used to pay up to 100 percent of the cost of an eligible project or activity.

“(f) TREATMENT IN MEETING NON-FEDERAL SHARE REQUIREMENTS.—For the purposes of meeting the non-Federal share requirements under this, or any other, Act the funds of a performance award shall be treated as funds from a non-Federal source.

“(g) TERMS AND CONDITIONS.—In making performance awards under subsection (a), the Secretary shall establish such terms and conditions as the Secretary considers to be appropriate.

“(h) FUNDING.—The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.

“(i) REPORTING REQUIREMENT.—The Secretary shall include information regarding performance awards made under this section in the annual report required under section 603.

“(j) REVIEW BY COMPTROLLER GENERAL.—

“(1) REVIEW.—The Comptroller General shall regularly review the implementation of this section.

“(2) REPORT.—Not later than 1 year after the date of enactment of this section, the Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a report on the findings of the Comptroller on implementation of this subsection.”.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 214 the following:

“Sec. 215. Performance awards.”.

SEC. 211. PLANNING PERFORMANCE AWARDS.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 210) is amended by adding at the end the following:

“SEC. 216. PLANNING PERFORMANCE AWARDS.

“(a) IN GENERAL.—The Secretary may make a planning performance award in connection with a grant made, on or after the date of enactment of this section, to an eligible recipient for a project under this title located in an economic development district.

“(b) ELIGIBILITY.—The Secretary may make a planning performance award to an eligible recipient under subsection (a) in connection with a grant for a project if the Secretary determines before closeout of the project that—

“(1) the recipient actively participated in the economic development activities of the economic development district in which the project is located;

“(2) the project is consistent with the comprehensive economic development strategy of the district;

“(3) the recipient worked with Federal, State, and local economic development entities throughout the development of the project; and

“(4) the project was completed in accordance with the comprehensive economic development strategy of the district.

“(c) MAXIMUM AMOUNT.—The amount of a planning performance award made under subsection (a) in connection with a grant may not exceed 5 percent of the amount of the grant.

“(d) USE OF AWARDS.—A recipient of a planning performance award under subsection (a) shall use the award to increase the Federal share of the cost of a project under this title.

“(e) FEDERAL SHARE.—Notwithstanding section 204, the funds of a planning performance award may be used to pay up to 100 percent of the cost of a project under this title.

“(f) FUNDING.—The Secretary shall use any amounts made available for economic development assistance programs to carry out this section.”.

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 215 the following:

“Sec. 216. Planning performance awards.”.

SEC. 212. DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 211) is amended by adding at the end the following:

“SEC. 217. DIRECT EXPENDITURE OR REDISTRIBUTION BY RECIPIENT.

“(a) IN GENERAL.—Subject to subsection (b), a recipient of a grant under section 201, 203, or 207 may directly expend the grant funds or may redistribute the funds in the form of a subgrant to other eligible recipients to fund required components of the scope of work approved for the project.

“(b) LIMITATION.—A recipient may not redistribute grant funds received under section 201 or 203 to a for-profit entity.

“(c) ECONOMIC ADJUSTMENT.—Subject to subsection (d), a recipient of a grant under section 209 may directly expend the grant funds or may redistribute the funds to public and private entities in the form of a grant, loan, loan guarantee, payment to reduce interest on a loan guarantee, or other appropriate assistance.

"(d) LIMITATION.—Under subsection (c), a recipient may not provide any grant to a private for-profit entity.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 216 the following:

"Sec. 217. Direct expenditure or redistribution by recipient.".

SEC. 213. BRIGHTFIELDS DEMONSTRATION PROGRAM.

(a) IN GENERAL.—Title II of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3141 et seq.) (as amended by section 212) is amended by adding at the end the following:

"SEC. 218. BRIGHTFIELDS DEMONSTRATION PROGRAM.

"(a) DEFINITION OF BRIGHTFIELD SITE.—In this section, the term 'brightfield site' means a brownfield site that is redeveloped through the incorporation of 1 or more solar energy technologies.

"(b) DEMONSTRATION PROGRAM.—On the application of an eligible recipient, the Secretary may make a grant for a project for the development of a brightfield site if the Secretary determines that the project will—

"(1) use 1 or more solar energy technologies to develop abandoned or contaminated sites for commercial use; and

"(2) improve the commercial and economic opportunities in the area in which the project is located.

"(c) SAVINGS CLAUSE.—To the extent that any portion of a grant awarded under subsection (b) involves remediation, the remediation shall be subject to section 612.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for each of fiscal years 2004 through 2008, to remain available until expended.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 217 (as added by section 212(b)) the following:

"Sec. 218. Brightfields demonstration program.".

TITLE III—COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES

SEC. 301. ELIGIBILITY OF AREAS.

Section 301(c)(1) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161(c)(1)) is amended by inserting after "most recent Federal data available" the following: "(including data available from the Bureau of Economic Analysis, the Bureau of Labor Statistics, the Census Bureau, the Bureau of Indian Affairs, or any other Federal source determined by the Secretary to be appropriate)".

SEC. 302. COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES.

(a) IN GENERAL.—Section 302(a)(3)(A) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162(a)(3)(A)) is amended by inserting "maximizes effective development and use of the workforce consistent with any applicable State or local workforce investment strategy, promotes the use of technology in economic development (including access to high-speed telecommunications)," after "access,".

(b) APPROVAL OF OTHER PLAN.—Section 302(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3162(c)) is amended—

(1) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary"; and

(2) by adding at the end the following:

"(2) EXISTING STRATEGY.—To the maximum extent practicable, a plan submitted under this paragraph shall be consistent and coordinated with any existing comprehensive economic development strategy for the area.".

TITLE IV—ECONOMIC DEVELOPMENT DISTRICTS

SEC. 401. INCENTIVES.

(a) IN GENERAL.—Section 403 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3173) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 403.

SEC. 402. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO REGIONAL COMMISSIONS.

(a) IN GENERAL.—Section 404 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3174) is amended to read as follows:

"SEC. 404. PROVISION OF COMPREHENSIVE ECONOMIC DEVELOPMENT STRATEGIES TO REGIONAL COMMISSIONS.

"If any part of an economic development district is in a region covered by 1 or more of the Regional Commissions, the economic development district shall ensure that a copy of the comprehensive economic development strategy of the district is provided to the affected Regional Commission.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 404 and inserting the following:

"Sec. 404. Provision of comprehensive economic development strategies to Regional Commissions.".

TITLE V—ADMINISTRATION

SEC. 501. ECONOMIC DEVELOPMENT INFORMATION CLEARINGHOUSE.

Section 502 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3192) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) maintain a central information clearinghouse on the Internet with—

"(A) information on economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment programs and activities of the Federal Government;

"(B) links to State economic development organizations; and

"(C) links to other appropriate economic development resources;";

(2) by striking paragraph (2) and inserting the following:

"(2) assist potential and actual applicants for economic development, economic adjustment, disaster recovery, defense conversion, and trade adjustment assistance under Federal and State laws in locating and applying for the assistance;";

(3) by striking the period at the end of paragraph (3) and inserting "; and"; and

(4) by adding at the end the following:

"(4) obtain appropriate information from other Federal agencies needed to carry out the duties under this Act.".

SEC. 502. BUSINESSES DESIRING FEDERAL CONTRACTS.

(a) IN GENERAL.—Section 505 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3195) is repealed.

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by striking the item relating to section 505.

SEC. 503. PERFORMANCE EVALUATIONS OF GRANT RECIPIENTS.

(a) IN GENERAL.—Section 506(c) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3196(c)) is amended by striking "after the effective date of the Economic Development Administration Reform Act of 1998".

(b) EVALUATION CRITERIA.—Section 506(d)(2) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3196(d)(2)) is amended by inserting "program performance," after "applied research,".

SEC. 504. CONFORMING AMENDMENTS.

Section 602 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3212) is amended—

(1) in the first sentence, by striking "in accordance with" and all that follows before the period at the end and inserting "in accordance with subchapter IV of chapter 31 of title 40, United States Code"; and

(2) in the third sentence, by striking "section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 276c)" and inserting "section 3145 of title 40, United States Code".

TITLE VI—MISCELLANEOUS

SEC. 601. ANNUAL REPORT TO CONGRESS.

Section 603 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3213) is amended—

(1) by striking "Not later" and inserting the following:

"(a) IN GENERAL.—Not later"; and

(2) by adding at the end the following:

"(b) INCLUSIONS.—Each report required under subsection (a) shall—

"(1) include a list of all grant recipients by State, including the projected private sector dollar to Federal dollar investment ratio for each grant recipient;

"(2) include a discussion of any private sector leveraging goal with respect to grants awarded to—

"(A) rural and urban economically distressed areas; and

"(B) highly distressed areas; and

"(3) after the completion of a project, include the realized private sector dollar to Federal dollar investment ratio for the project.".

SEC. 602. RELATIONSHIP TO ASSISTANCE UNDER OTHER LAW.

Section 609 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3219) is amended—

(1) by striking subsection (a); and

(2) by striking "(b) ASSISTANCE UNDER OTHER ACTS.—".

SEC. 603. BROWNFIELDS REDEVELOPMENT REPORT.

(a) IN GENERAL.—Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171 et seq.) is amended by adding at the end the following:

"SEC. 611. BROWNFIELDS REDEVELOPMENT REPORT.

"(a) DEFINITION OF BROWNFIELD SITE.—In this section, the term 'brownfield site' has the meaning given the term in section 101(39) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(39)).

"(b) REPORT.—

"(1) IN GENERAL.—Not later than 1 year after the date of enactment of this section, the Comptroller General shall prepare a report that evaluates the grants made by the Economic Development Administration for the economic development of brownfield sites.

"(2) CONTENTS.—The report shall—

"(A) identify each project conducted during the previous 10-year period in which grant funds have been used for brownfield sites redevelopment activities; and

"(B) include for each project a description of—

"(i) the type of economic development activities conducted;

"(ii) if remediation activities were conducted—

"(I) the type of remediation activities; and

"(II) the amount of grant money used for those activities in dollars and as a percentage of the total grant award;

"(iii) the economic development and environmental standards applied, if applicable;

"(iv) the economic development impact of the project;

"(v) the role of Federal, State, or local environmental agencies, if any; and

"(vi) public participation in the project.

"(3) SUBMISSION OF REPORT.—The Comptroller General shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Transportation and Infrastructure of the House of Representatives a copy of the report.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 610 the following:

"Sec. 611. Brownfields redevelopment report.".

SEC. 604. SAVINGS CLAUSE.

(a) IN GENERAL.—Title VI of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3171 et seq.) (as amended by section 603(a)) is amended by adding at the end the following:

"SEC. 612. SAVINGS CLAUSE.

"To the extent that any portion of grants made under this Act are used for an economic development project that involves remediation, the remediation shall be conducted in compliance with all applicable Federal, State, and local laws and standards.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 611 (as added by section 603(b)) the following:

"Sec. 612. Savings clause.".

SEC. 605. SENSE OF CONGRESS REGARDING ECONOMIC DEVELOPMENT REPRESENTATIVES.

(a) FINDINGS.—Congress finds that—

(1) planning and coordination among Federal agencies, State and local governments, Indian tribes, and economic development districts is vital to the success of an economic development program;

(2) economic development representatives of the Economic Development Administration provide distressed communities with the technical assistance necessary to foster this planning and coordination; and

(3) in the 5 years preceding the date of enactment of this Act, the number of economic development representatives has declined by almost 25 percent.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary should maintain a sufficient number of economic development representatives to ensure that the Economic Development Administration is able to provide effective assistance to distressed communities and foster economic growth and development among the States.

TITLE VII—FUNDING

SEC. 701. AUTHORIZATION OF APPROPRIATIONS.

Section 701 of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231) is amended to read as follows:

"SEC. 701. GENERAL AUTHORIZATION OF APPROPRIATIONS.

"(a) ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS.—There are authorized to be appropriated for economic development assistance programs to carry out this Act, to remain available until expended—

"(1) $400,000,000 for fiscal year 2004;

"(2) $425,000,000 for fiscal year 2005;

"(3) $450,000,000 for fiscal year 2006;

"(4) $475,000,000 for fiscal year 2007; and

"(5) $500,000,000 for fiscal year 2008."

"(b) SALARIES AND EXPENSES.—There are authorized to be appropriated for salaries and expenses of administering this Act, to remain available until expended—

"(1) $33,377,000 for fiscal year 2004; and

"(2) such sums as are necessary for each fiscal year thereafter.".

SEC. 702. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

(a) IN GENERAL.—Title VII of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231 et seq.) is amended by adding at the end the following:

"SEC. 704. FUNDING FOR GRANTS FOR PLANNING AND GRANTS FOR ADMINISTRATIVE EXPENSES.

"Of the amounts made available under section 701 for each fiscal year, not less than $27,000,000 shall be made available for grants provided under section 203.".

(b) CONFORMING AMENDMENT.—The table of contents contained in section 1(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3121 note) is amended by inserting after the item relating to section 703 the following:

"Sec. 704. Funding for grants for planning and grants for administrative expenses".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Ohio (Mr. LATOURETTE) and the gentleman from Illinois (Mr. COSTELLO) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. LATOURETTE).

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1134, the Economic Development Reauthorization Act of 2004, which was passed by the Senate last night, reflects the bipartisan, bicameral work of the Committee on Transportation and Infrastructure and the Environment and Public Works Committee of the Senate. This bill is virtually identical to H.R. 2535 which passed the House by a voice vote on October 21 of last year.

The changes that were made to the bill in the Senate, I believe, are very straightforward, and while we may not agree with all of them, were agreed to in the spirit of compromise.

This legislation will provide the important resources in these economically distressed areas to support the revitalization of communities through public works projects, creation of business incubators, support for business clusters, as well as a number of other important programs.

I encourage our colleagues to support this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. COSTELLO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of S. 1134, a bill to reauthorize the programs authorized by the Public Works and Economic Development Act of 1965. This is a consensus bill worked out with Members of the other body on both sides of the aisle. It reauthorizes the time-tested, successful programs of the Economic Development Administration.

I know EDA works because I have seen it work; providing jobs, job training, infrastructure investment, and creating real economic opportunities in distressed communities in my district and across the country.

Since the 1998 EDA Reauthorization Act, EDA has been able to further document its truly impressive performance. According to a series of Rutgers University studies, EDA capital projects are on time and under budget. These projects produce private-sector employment in 96 to 98 percent of the cases. Moreover, EDA capital projects create jobs at a cost of approximately $3,000 to $8,000 per job, and EDA's revolving loan projects create jobs at a lower rate. For every $1 million spent by EDA and public works funding, 325 direct permanent jobs are created, $10 million is leveraged in private sector investment, and the local tax base is increased by $10 million.

EDA's job creation and leveraging of private sector investment is critical for our struggling economy. Under this administration, our economy has lost 1.6 million private sector jobs in the last 4 years. EDA, the only Federal agency specifically tasked with the mission of supporting economic development in distressed and rural areas, must continue to identify opportunities for future economic growth, using its expertise and proven excellence.

The bill authorizes EDA programs for 5 years and provides the agency with the funding levels necessary to effect real growth and development in economically distressed communities. The bill builds upon the 1998 act and establishes several new innovative programs. For example, the bill authorizes EDA to provide performance incentive awards to high performing grantees. Grantees can use these performance grants in any manner consistent with the act.

In addition, the bill authorizes a Brightfields Demonstration program to establish solar energy projects on redeveloped brownfields sites.

Finally, the bill continues EDA's focus on planning and its vital importance to economic development. In many States, small and underserved communities are often unable to invest the necessary resources to maintain the professional and technical capacity needed to develop and implement effective, comprehensive economic development strategies. Economic Development Districts, which are multicounty public economic development planning entities, serve as a cost-effective and efficient method to ensure that local communities have the resources needed to pursue new economic development opportunities.

This legislation provides that a minimum of $27 million be available each year for planning purposes. In addition, the legislation assumes that EDA will continue to protect and preserve the role of EDDs in the planning program as currently practiced and administered by EDA. Planning is critical to continuing to provide important support to economically distressed rural and urban communities that are often unable to afford and maintain the professional and technical capacity necessary to implement comprehensive economic development strategies. It is essential that this program continue to function consistent with current policies and practices.

This bill was worked out, as I mentioned, with the other body in a bipartisan way. I extend my thanks to the chairman of the full committee, the gentleman from Alaska (Mr. YOUNG), the gentleman from Minnesota (Ranking Member OBERSTAR), to the chairman of the subcommittee, my friend, the gentleman from Ohio (Mr. LATOURETTE) for his hard work on this bill as well, and the Ranking Member of the subcommittee, the gentlewoman from the District of Columbia (Ms. NORTON).

Mr. Speaker, I strongly support this legislation and ask my colleagues to support it.

Mr. Speaker, I reserve the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my friend, the gentleman from Illinois (Mr. COSTELLO), who was the ranking member in our subcommittee in the last Congress and is a great bipartisan partner. I want to congratulate the gentlewoman from the District of Columbia (Ms. NORTON) for working with us on this bill. I want to thank not only our staff on the Republican side, but also the staff on the Democratic side for making this be a truly bipartisan, good piece of legislation. I want to thank Dr. Sampson who is the Assistant Secretary for shepherding this bill through both chambers and achieving a successful result. Lastly, I want to thank Danielle from the Majority Leader's office for making sure we could speak tonight and get this good piece of legislation taken care of.

Mr. Speaker, I reserve the balance of my time.

Mr. COSTELLO. Mr. Speaker, we have no further speakers, and I yield back the balance of my time.

Mr. LATOURETTE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. LATOURETTE) that the House suspend the rules and pass the Senate bill, S. 1134.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LATOURETTE. Mr. Speaker, on that, I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

GENERAL LEAVE

Mr. LATOURETTE. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4470, H.R. 4794, H.R. 5163, and S. 1134.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

AMENDING THE LEASE LOT CONVEYANCE ACT OF 2002 TO PROVIDE THAT AMOUNTS RECEIVED BY THE UNITED STATES UNDER THAT ACT SHALL BE DEPOSITED IN THE RECLAMATION FUND

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1791) to amend the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under that Act shall be deposited in the reclamation fund, and for other purposes.

The Clerk read as follows:

S. 1791

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LEASE LOT CONVEYANCE.

Section 4(b) of the Lease Lot Conveyance Act of 2002 (116 Stat. 2879) is amended—

(1) by striking "As consideration" and inserting the following:

"(1) IN GENERAL.—As consideration"; and

(2) by adding at the end the following:

"(2) USE.—Amounts received under paragraph (1) shall be—

"(A) deposited by the Secretary, on behalf of the Rio Grande Project, in the reclamation fund established under the first section of the Act of June 17, 1902 (43 U.S.C. 391); and

"(B) made immediately available to the Irrigation Districts, to be credited in accordance with section 4(I) of the Act of December 5, 1924 (43 U.S.C. 501).".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1791, authored by our Senate colleague PETE DOMENICI of New Mexico, amends the Lease Lot Conveyance Act of 2002 to provide that the amounts received by the United States under the act shall be deposited by the Secretary of the Interior in the reclamation fund for the benefit of the Elephant Butte Irrigation District and El Paso County Water Improvement District.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. POMBO. Mr. Speaker, I yield 2 minutes to the gentleman from New Mexico (Mr. PEARCE).

Mr. PEARCE. Mr. Speaker, I am pleased to rise in support of S. 1791, a bill to amend the Lease Lot Conveyance Act of 2002.

The Lease Lot Conveyance Act of 2002 directed the Secretary of the Interior to convey property to 403 cabin sites to the Elephant Butte/Caballo Leaseholders Association at fair market value. The necessary appraisals are almost done, and this land will be conveyed to the association in accordance to the 2002 act.

The need for the amendment has arisen because the 2002 act was unclear and did not state specifically what the Bureau of Reclamation should do with the receipts.

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The original agreement was for the money to be derived from the sale of this property to be deposited into the Reclamation Fund for immediate use by the applicable irrigation districts to help with their annual operations and maintenance costs. Because of a drafting oversight, the Bureau of Reclamation cannot fulfill the responsibilities of the original agreement of the 2002 act. This bill simply corrects the oversight.

According to the Congressional Budget Office, S. 1791 would have no effect on Federal revenues.

Mr. Speaker, I urge adoption of the bill.

Mr. RODRIGUEZ. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the Senate bill, S. 1791.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

CHIMAYO WATER SUPPLY SYSTEM AND ESPANOLA FILTRATION FACILITY ACT OF 2004

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2511) to direct the Secretary of the Interior to conduct a feasibility study of a Chimayo water supply system, to provide for the planning, design, and construction of a water supply, reclamation, and filtration facility for Espanola, New Mexico, and for other purposes.

The Clerk read as follows:

S. 2511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Chimayo Water Supply System and Espanola Filtration Facility Act of 2004".

TITLE I—CHIMAYO WATER SUPPLY SYSTEM

SEC. 101. DEFINITIONS.

In this title:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STUDY AREA.—The term "study area" means the Santa Cruz River Valley in the eastern margin of the Espanola Basin.

(3) SYSTEM.—The term "system" means a water supply system described in section 102(a).

(4) TOWN.—The term "Town" means the town of Chimayo, New Mexico, located in Rio Arriba County and Santa Fe County, New Mexico.

SEC. 102. CHIMAYO WATER SUPPLY SYSTEM FEASIBILITY STUDY.

(a) IN GENERAL.—The Secretary, in cooperation with appropriate State and local authorities, shall conduct a study to determine the feasibility of constructing a water supply system for the Town in the study area that includes potable water transmission lines, pump stations, and storage reservoirs.

(b) SCOPE OF STUDY.—In conducting the study under subsection (a), the Secretary shall—

(1) consider operating the system in connection with the Espanola Water Filtration Facility;

(2) consider various options for supplying water to the Town, including connection to a regional water source, local sources, sources distributed throughout the Town, and sources located on adjacent Bureau of Land Management land;

(3) consider reusing or recycling water from local or regional sources;

(4) consider using alternative water supplies such as surface water, brackish water, nonpotable water, or deep aquifer groundwater; and

(5) determine the total lifecycle costs of the system, including—

(A) long-term operation, maintenance, replacement, and treatment costs of the system; and

(B) management costs (including personnel costs).

(c) DEADLINE FOR STUDY.—As soon as practicable, but not later than 3 years after the date of enactment of this Act, the Secretary shall complete the study.

(d) COST SHARING.—The Federal share of the cost of the study shall be 75 percent.

(e) COORDINATION.—The Secretary shall coordinate activities of the Bureau of Reclamation, the Bureau of Land Management, and the United States Geological Survey in the furtherance of the study, including—

(1) accessing any Bureau of Land Management land adjacent to the study area that is necessary to carry out this section; and

(2) the drilling of any exploratory wells on Bureau of Land Management land adjacent to the study area that are necessary to determine water resources available for the Town.

(f) REPORT.—The Secretary shall submit to Congress a report on the results of the feasibility study not later than the earlier of—

(1) the date that is 1 year after the date of completion of the feasibility study; or

(2) the date that is 4 years after the date of enactment of this Act.

SEC. 103. EMERGENCY WATER SUPPLY DEVELOPMENT ASSISTANCE.

(a) IN GENERAL.—The Secretary may enter into contracts with water authorities in the study area to provide emergency water supply development assistance to any eligible person or entity, as the Secretary determines to be appropriate.

(b) ELIGIBLE ACTIVITIES.—The Secretary may provide assistance under subsection (a) for—

(1) hauling water;

(2) the installation of water purification technology at the community wells or individual point-of-use;

(3) the drilling of wells;

(4) the installation of pump stations and storage reservoirs;

(5) the installation of transmission and distribution pipelines to bring water to individual residential service connections;

(6) the engineering, design, and installation of an emergency water supply system; and

(7) any other eligible activity, as the Secretary determines to be appropriate.

(c) COST SHARING.—The Federal share of the cost of any activity under this section shall be 75 percent.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated—

(1) to carry out section 102, $2,000,000 for the period of fiscal years 2005 through 2008; and

(2) to carry out section 103, $3,000,000 for the period of fiscal years 2005 through 2010.

(b) LIMITATION.—Amounts made available under subsection (a)(1) shall not be available for the construction of water infrastructure for the system.

TITLE II—ESPANOLA WATER FILTRATION FACILITY

SEC. 201. DEFINITIONS.

In this title:

(1) COMPONENT.—The term "component" means a water delivery infrastructure development described in section 202(b).

(2) FACILITY.—The term "facility" means the Espanola water filtration facility described in section 202(a).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Commissioner of Reclamation.

SEC. 202. ESPANOLA WATER FILTRATION FACILITY.

(a) IN GENERAL.—The Secretary shall provide financial assistance to the city of Espanola, New Mexico, for the construction of an Espanola water filtration facility consisting of projects—

(1) to divert and fully use imported water to meet future demands in the greater Espanola, New Mexico region, including construction of—

(A) presedimentation basins for removal of sediments;

(B) an influent pump station to supply water into treatment facilities;

(C) a pretreatment facility;

(D) filtration facilities;

(E) finished water storage facilities;

(F) a finished water booster pump station;

(G) sludge dewatering facilities; and

(H) potable water transmission lines to connect into the water distribution facilities of the city of Espanola, New Mexico; and

(2) to use reclaimed water to enhance groundwater resources and surface water supplies.

(b) PARTICIPATION.—The Secretary may provide financial assistance to the Santa Clara and San Juan Pueblos of New Mexico and the non-Federal sponsors of the facility for the study, planning, design, and construction of a water delivery infrastructure development for the Santa Clara and San Juan Pueblos as a component of the facility.

(c) COST SHARING.—The Federal share of the total cost of the facility and the component shall not exceed 25 percent.

(d) LIMITATION ON USE OF FUNDS.—Funds provided by the Secretary may not be used for the operation or maintenance of the facility or the component.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the construction of the facility $3,000,000 for the period of fiscal years 2005 through 2009.

The SPEAKER pro tempore (Mr. PEARCE). Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2511, authored by Senator DOMENICI of New Mexico, directs the Secretary of Interior to study the feasibility of constructing a potable water supply system for the town of Chimayo, New Mexico, in the Santa Cruz River Valley. The bill also directs the Secretary to plan, design, and construct a water filtration system for the city of Espanola, New Mexico.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume. We have no objection to this consideration of this measure.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in support of S. 2511, the Chimayo Water Supply System and Española Filtration Facility Act of 2004. Both of these communities located in my district are in dire need of improvements to their water facilities and I am pleased that the House is acting today to address the needs.

The unincorporated community of Chimayo, home to 3,000 citizens and the world-famous Santuario de Chimayo, currently relies on individual wells for their potable water. They also are forced to rely on largely deteriorated septic systems to dispose of wastewater. The absence or deterioration of sewer and water infrastructure in the region results in 75% of well samples taken having significant contamination. Also, because of the unreliability of the well water, some residents use free-flowing water from irrigation ditches for drinking, also containing high levels of different types of contamination. This situation is so badly in need of remedy, that in 2001 the region was declared an emergency area and required National Guard tanker trucks to bring potable water to the area. Still today Chimayo remains an emergency area.

To address this situation, S. 2511 directs the Secretary of the Interior, in cooperation with State and local authorities to conduct a feasibility study of constructing a water supply system for Chimayo. In conducting the feasibility study, the Secretary is to consider various options for supplying water, long-term operation and maintenance costs, and local water resources. The bill would also direct the Secretary to provide emergency water assistance to Chimayo, which may include water treatment, installation of an emergency water supply system and installation of transmission and distribution lines.

Similarly in need of improved water infrastructure is the City of Española. Currently the City's water system produces approximately 1,000 gallons per minute less than is needed to provide for its current population. This production shortfall has resulted in inadequate water pressure throughout the city. The chronic lack of pressure is prevalent especially in the portion of the City where the Española Hospital is located. The City has twice declared a state of emergency due to lack of adequate water and water pressure, and has been forced to call on the National Guard to supply water to the hospital.

S. 2511 authorizes the Secretary of the Interior to provide financial assistance to the City of Española for the construction of a water filtration facility, and to the nearby Pueblos of Santa Clara and San Juan for related infrastructure.

Mr. Speaker, both of these communities will greatly benefit from this legislation. I urge my colleagues to support passage of this bill, and I would like to thank the two New Mexico Senators for their work on this bill.

Mr. RODRIGUEZ. Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the Senate bill, S. 2511.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

NATIONAL PARK SYSTEM LAWS TECHNICAL AMENDMENTS ACT OF 2004

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 2178) to make technical corrections to laws relating to certain units of the National Park System and to National Park programs.

The Clerk read as follows:

S. 2178

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Park System Laws Technical Amendments Act of 2004".

SEC. 2. LACKAWANNA VALLEY HERITAGE AREA.

Section 106 of the Lackawanna Valley National Heritage Area Act of 2000 (16 U.S.C. 461 note; Public Law 106–278) is amended by striking subsection (a) and inserting the following:

"(a) AUTHORITIES OF MANAGEMENT ENTITY.—For purposes of preparing and implementing the management plan, the management entity may—

"(1) make grants to, and enter into cooperative agreements with, the State and political subdivisions of the State, private organizations, or any person; and

"(2) hire and compensate staff.".

SEC. 3. HAWAI'I VOLCANOES NATIONAL PARK.

Section 5 of the Act of June 20, 1938 (16 U.S.C. 392c) is amended by striking "Hawaii Volcanoes" each place it appears and inserting "Hawai'i Volcanoes".

SEC. 4. "I HAVE A DREAM" PLAQUE AT LINCOLN MEMORIAL.

Section 2 of Public Law 106–365 (114 Stat. 1409) is amended by striking "and expand contributions" and inserting "and expend contributions".

SEC. 5. WILD AND SCENIC RIVERS.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended—

(1) by redesignating paragraph (162) (relating to White Clay Creek, Delaware and Pennsylvania) as paragraph (163);

(2) by designating the second paragraph (161) (relating to the Wekiva River, Wekiwa Springs Run, Rock Springs Run, and Black Water Creek, Florida) as paragraph (162);

(3) by designating the undesignated paragraph relating to the Wildhorse and Kiger Creeks, Oregon, as paragraph (164);

(4) by redesignating the third paragraph (161) (relating to the Lower Delaware River and associated tributaries, New Jersey and Pennsylvania) as paragraph (165) and by indenting appropriately; and

(5) by redesignating the undesignated paragraph relating to the Rivers of Caribbean National Forest, Puerto Rico, as paragraph (166).

SEC. 6. ROSIE THE RIVETER/WORLD WAR II HOME FRONT NATIONAL HISTORICAL PARK.

The Rosie the Riveter/World War II Home Front National Historical Park Establishment Act of 2000 (16 U.S.C. 410ggg et seq.) is amended—

(1) in section 2(b), by striking "numbered 963/80000" and inserting "numbered 963/80,000"; and

(2) in section 3—

(A) in subsection (a)(1), by striking "August 35" and inserting "August 25";

(B) in subsection (b)(1), by striking "the World War II Child Development Centers, the World War II worker housing, the Kaiser-Permanente Field Hospital, and Fire Station 67A" and inserting "the Child Development Field Centers (Ruth C. Powers) (Maritime), Atchison Housing, the Kaiser-Permanente Field Hospital, and Richmond Fire Station 67A"; and

(C) in subsection (e)(2), by striking "the World War II day care centers, the World War II worker housing, the Kaiser-Permanente Field Hospital, and Fire Station 67," and inserting "the Child Development Field Centers (Ruth C. Powers) (Maritime), Atchison Housing, the Kaiser-Permanente Field Hospital, and Richmond Fire Station 67A,".

SEC. 7. VICKSBURG CAMPAIGN TRAIL BATTLEFIELDS.

The Vicksburg Campaign Trail Battlefields Preservation Act of 2000 (114 Stat. 2202) is amended—

(1) in section 2(a)(1), by striking "and Tennessee" and inserting "Tennessee, and Kentucky"; and

(2) in section 3—

(A) in paragraph (1), by striking "and Tennessee," and inserting "Tennessee, and Kentucky,"; and

(B) in paragraph (2)—

(i) in subparagraph (R), by striking "and" at the end;

(ii) by redesignating subparagraph (S) as subparagraph (T); and

(iii) by inserting after subparagraph (R) the following:

"(S) Fort Heiman in Calloway County, Kentucky, and resources in and around Columbus in Hickman County, Kentucky; and".

SEC. 8. HARRIET TUBMAN SPECIAL RESOURCE STUDY.

Section 3(c) of the Harriet Tubman Special Resource Study Act (Public Law 106–516; 114 Stat. 2405) is amended by striking "Public Law 91–383" and all that follows through "(P.L. 105–391; 112 Stat. 3501)" and inserting "section 8 of Public Law 91–383 (16 U.S.C. 1a–5)".

SEC. 9. PUBLIC LAND MANAGEMENT AGENCY FOUNDATIONS.

Employees of the foundations established by Acts of Congress to solicit private sector funds on behalf of Federal land management agencies shall qualify for General Service Administration contract airfares.

SEC. 10. SHORT TITLES.

(a) NATIONAL PARK SERVICE ORGANIC ACT.—The Act of August 25, 1916 (commonly known as the "National Park Service Organic Act") (16 U.S.C. 1 et seq.) is amended by adding at the end the following:

"SEC. 5. SHORT TITLE.

"This Act may be cited as the 'National Park Service Organic Act'.".

(b) NATIONAL PARK SYSTEM GENERAL AUTHORITIES ACT.—Public Law 91–383 (commonly known as the "National Park System General Authorities Act") (16 U.S.C. 1a–1 et seq.) is amended by adding at the end the following:

"SEC. 14. SHORT TITLE.

"This Act may be cited as the 'National Park System General Authorities Act'.".

SEC. 11. PARK POLICE INDEMNIFICATION.

Section 2(b) of Public Law 106-437 (114 Stat. 1921) is amended by striking "the Act" and inserting "of the Act".

SEC. 12. BOSTON HARBOR ISLANDS NATIONAL RECREATION AREA.

Section 1029 of division I of the Omnibus Parks and Public Lands Management Act of 1996 (110 Stat. 4233) is amended—

(1) in subsection (c)(2)(B)(i), by striking "reference" and inserting "referenced"; and

(2) in subsection (d)(4), by inserting a period after "plans".

SEC. 13. NATIONAL HISTORIC PRESERVATION ACT.

Section 5(a)(8) of the National Historic Preservation Act Amendments of 2000 (Public Law 106-208; 114 Stat. 319) is amended by striking "section 110(1)" and inserting "section 110(*l*)".

SEC. 14. NATIONAL TRAILS SYSTEM ACT.

The National Trails System Act (16 U.S.C. 1241 et seq.) is amended—

(1) in section 5—

(A) in subsection (c)—

(i) in paragraph (19), by striking "Kissimme" and inserting "Kissimmee";

(ii) in paragraph (40)(D) by striking "later that" and inserting "later than"; and

(iii) by designating the undesignated paragraphs relating to the Metacoment-Monadnock-Mattabesett Trail and The Long Walk Trail as paragraphs (41) and (42), respectively; and

(B) in the first sentence of subsection (d), by striking "establishment."; and

(2) in section 10(c)(1), by striking "The Ice Age" and inserting "the Ice Age".

SEC. 15. VICKSBURG NATIONAL MILITARY PARK.

Section 3(b) of the Vicksburg National Military Park Boundary Modification Act of 2002 (16-U.S.C. 430h-11) is amended by striking "the Secretary add it" and inserting "the Secretary shall add the property".

SEC. 16. ALLEGHENY PORTAGE RAILROAD NATIONAL HISTORIC SITE.

Section 2(2) of the Allegheny Portage Railroad National Historic Site Boundary Revision Act (Public Law 107-369; 116 Stat. 3069) is amended by striking "NERO 423/80,014 and dated May 01" and inserting "NERO 423/80,014A and dated July 02".

SEC. 17. TALLGRASS PRAIRIE NATIONAL PRESERVE.

Section 1006(b) of division I of the Omnibus Parks and Public Lands Management Act of 1996 (110 Stat.

4208) is amended by striking "subsection (a)(1)" and inserting "subsection (a)".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. Pombo) and the gentleman from Texas (Mr. Rodriguez) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. Pombo).

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 2178, introduced by Senator Domenici of New Mexico, simply makes technical corrections to 15 National Park-related laws passed during the 106th and 107th Congresses. The bill corrects errors in spelling and format; but does not make changes in any of the affected laws.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to consideration of this measure.

Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I have no additional requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. Pombo) that the House suspend the rules and pass the Senate bill, S. 2178.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

NORTHERN RIO GRANDE NATIONAL HERITAGE AREA ACT

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 211) to establish the Northern Rio Grande National Heritage Area in the State of New Mexico, and for other purposes, as amended.

The Clerk read as follows:

S. 211

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NORTHERN RIO GRANDE NATIONAL HERITAGE AREA

SECTION 101. SHORT TITLE.

This Act may be cited as the "Northern Rio Grande National Heritage Area Act".

SEC. 102. CONGRESSIONAL FINDINGS.

The Congress finds that—

(1) northern New Mexico encompasses a mosaic of cultures and history, including eight Pueblos and the descendants of Spanish ancestors who settled in the area in 1598;

(2) the combination of cultures, languages, folk arts, customs, and architecture make northern New Mexico unique;

(3) the area includes spectacular natural, scenic, and recreational resources;

(4) there is broad support from local governments and interested individuals to establish a National Heritage Area to coordinate and assist in the preservation and interpretation of these resources;

(5) in 1991, the National Park Service study Alternative Concepts for Commemorating Spanish Colonization identified several alternatives consistent with the establishment of a National Heritage Area, including conducting a comprehensive archaeological and historical research program, coordinating a comprehensive interpretation program, and interpreting a cultural heritage scene; and

(6) establishment of a National Heritage Area in northern New Mexico would assist local communities and residents in preserving these unique cultural, historical and natural resources.

SEC. 103. DEFINITIONS.

As used in this Act—

(1) the term "heritage area" means the Northern Rio Grande Heritage Area; and

(2) the term "Secretary" means the Secretary of the Interior.

SEC. 104. NORTHERN RIO GRANDE NATIONAL HERITAGE AREA.

(a) Establishment.—There is hereby established the Northern Rio Grande National Heritage Area in the State of New Mexico.

(b) Boundaries.—The heritage area shall include the counties of Santa Fe, Rio Arriba, and Taos.

(c) Management Entity.—

(1) The Northern Rio Grande National Heritage Area, Inc., a non-profit corporation chartered in the State of New Mexico, shall serve as the management entity for the heritage area.

(2) The Board of Directors for the management entity shall include representatives of the State of New Mexico, the counties of Santa Fe, Rio Arriba and Taos, tribes and pueblos within the heritage area, the cities of Santa Fe, Espanola and Taos, and members of the general public. The total number of Board members and the number of Directors representing State, local and tribal governments and interested communities shall be established to ensure that all parties have appropriate representation on the Board.

SEC. 105. AUTHORITY AND DUTIES OF THE MANAGEMENT ENTITY.

(a) Management Plan.—

(1) Not later than 3 years after the date of enactment of this Act, the management entity shall develop and forward to the Secretary a management plan for the heritage area.

(2) The management entity shall develop and implement the management plan in cooperation with affected communities, tribal and local governments and shall provide for public involvement in the development and implementation of the management plan.

(3) The management plan shall, at a minimum—

(A) provide recommendations for the conservation, funding, management, and development of the resources of the heritage area;

(B) identify sources of funding;

(C) include an inventory of the cultural, historical, archaeological, natural, and recreational resources of the heritage area;

(D) provide recommendations for educational and interpretive programs to inform the public about the resources of the heritage area; and

(E) include an analysis of ways in which local, State, Federal, and tribal programs may best be coordinated to promote the purposes of this Act.

(4) If the management entity fails to submit a management plan to the secretary as provided in paragraph (1), the heritage area shall no longer be eligible to receive Federal funding under this Act until such time as a plan is submitted to the Secretary.

(5) The Secretary shall approve or disapprove the management plan within 90 days after the date of submission. If the Secretary disapproves the management plan, the Secretary shall advise the management entity in writing of the reasons therefore and shall make recommendations for revisions to the plan.

(6) The management entity shall periodically review the management plan and submit to the Secretary any recommendations for proposed revisions to the management plan. Any major revisions to the management plan must be approved by the Secretary.

(b) Authority.—The management entity may make grants and provide technical assistance to tribal and local governments, and other public and private entities to carry out the management plan.

(c) Duties.—The management entity shall—

(1) give priority in implementing actions set forth in the management plan;

(2) encourage by appropriate means economic viability in the heritage area consistent with the goals of the management plan; and

(3) assist local and tribal governments and non-profit organizations in—

(A) establishing and maintaining interpretive exhibits in the heritage area;

(B) developing recreational resources in the heritage area;

(C) increasing public awareness of, and appreciation for, the cultural, historical, archaeological and natural resources and sits in the heritage area;

(D) the restoration of historic structures related to the heritage area; and

(E) carrying out other actions that the management entity determines appropriate to fulfill the purposes of this Act, consistent with the management plan.

(d) PROHIBITION ON ACQUIRING REAL PROPERTY.—The management entity may not use Federal funds received under this Act to acquire real property or an interest in real property.

(e). PUBLIC MEETINGS.—The management entity shall hold public meetings at least annually regarding the implementation of the management plan.

(f) ANNUAL REPORTS AND AUDITS.—

(1) For any year in which the management entity receives Federal funds under this Act, the management entity shall submit an annual report to the Secretary setting forth accomplishments, expenses and income, and each entity to which any grant was made by the management entity.

(2) The management entity shall make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds. The management entity shall also require, for all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organization make available to the Secretary for audit all records concerning the expenditure of those funds.

SEC. 106. DUTIES OF THE SECRETARY.

(a) TECHNICAL AND FINANCIAL ASSISTANCE.—The Secretary may, upon request of the management entity, provide technical and financial assistance to develop and implement the management plan.

(b) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate—

(1) the conservation of the significant natural, cultural, historical, archaeological, scenic, and recreational resources of the heritage area; and

(2) the provision of educational, interpretive, and recreational opportunities consistent with the resources and associated values of the heritage area.

SEC. 107. PRIVATE PROPERTY PROTECTIONS; SAVINGS PROVISIONS.

(a) PRIVATE PROPERTY PROTECTION.—

(1) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation or promotion to the management entity.

(2) LANDOWNER WITHDRAWAL.—Any owner of private property included within the boundary of the heritage area, shall have their property immediately removed from within the boundary by submitting a written request to the management entity.

(3) ACCESS TO PRIVATE PROPERTY.—Nothing in this Act shall be construed to require any private property owner to permit public access (including Federal, State, or local government access) to such private property. Nothing in this Act shall be construed to modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(4) LIABILITY.—Designation of the heritage area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(5) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this Act shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(6) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this Act shall be construed to require the owner of any private property located within the boundaries of the heritage area to participate in or be associated with the heritage area.

(b) EFFECT OF ESTABLISHMENT.—The boundaries designated for the heritage area represent the area within which Federal funds appropriated for the purpose of this Act shall be expended. The establishment of the heritage area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the heritage area or its viewshed by the Secretary, the National Park Service, or the management entity.

(c) TRIBAL LANDS.—Nothing in this Act shall restrict or limit a tribe from protecting cultural or religious sites on tribal lands.

(d) TRUST RESPONSIBILITIES.—Nothing in this Act shall diminish the Federal Government's trust responsibilities or government-to-government obligations to any federally recognized Indian tribe.

SEC. 108. SUNSET.

The authority of the Secretary to provide assistance under this Act terminates on the date that is 15 years after the date of enactment of this Act.

SEC. 109. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this Act $10,000,000, of which not more than $1,000,000 may be authorized to be appropriated for any fiscal year.

(b) COST-SHARING REQUIREMENT.—The Federal share of the total cost of any activity assisted under this Act shall be not more than 50 percent.

TITLE II—NATIONAL AVIATION HERITAGE AREA

SEC. 201. SHORT TITLE.

This title may be cited as the "National Aviation Heritage Area Act".

SEC. 202. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) Few technological advances have transformed the world or our Nation's economy, society, culture, and national character as the development of powered flight.

(2) The industrial, cultural, and natural heritage legacies of the aviation and aerospace industry in the State of Ohio are nationally significant.

(3) Dayton, Ohio, and other defined areas where the development of the airplane and aerospace technology established our Nation's leadership in both civil and military aeronautics and astronautics set the foundation for the 20th Century to be an American Century.

(4) Wright-Patterson Air Force Base in Dayton, Ohio, is the birthplace, the home, and an integral part of the future of aerospace.

(5) The economic strength of our Nation is connected integrally to the vitality of the aviation and aerospace industry, which is responsible for an estimated 11,200,000 American jobs.

(6) The industrial and cultural heritage of the aviation and aerospace industry in the State of Ohio includes the social history and living cultural traditions of several generations.

(7) The Department of the Interior is responsible for protecting and interpreting the Nation's cultural and historic resources, and there are significant examples of these resources within Ohio to merit the involvement of the Federal Government to develop programs and projects in cooperation with the Aviation Heritage Foundation, Incorporated, the State of Ohio, and other local and governmental entities to adequately conserve, protect, and interpret this heritage for the educational and recreational benefit of this and future generations of Americans, while providing opportunities for education and revitalization.

(8) Since the enactment of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102-419), partnerships among the Federal, State, and local governments and the private sector have greatly assisted the development and preservation of the historic aviation resources in the Miami Valley.

(9) An aviation heritage area centered in Southwest Ohio is a suitable and feasible management option to increase collaboration, promote heritage tourism, and build on the established partnerships among Ohio's historic aviation resources and related sites.

(10) A critical level of collaboration among the historic aviation resources in Southwest Ohio cannot be achieved without a congressionally established national heritage area and the support of the National Park Service and other Federal agencies which own significant historic aviation-related sites in Ohio.

(11) The Aviation Heritage Foundation, Incorporated, would be an appropriate management entity to oversee the development of the National Aviation Heritage Area.

(12) Five National Park Service and Dayton Aviation Heritage Commission studies and planning documents: "Study of Alternatives: Dayton's Aviation Heritage", "Dayton Aviation Heritage National Historical Park Suitability/Feasibility Study", "Dayton Aviation Heritage General Management Plan", "Dayton Historic Resources Preservation and Development Plan", and Heritage Area Concept Study, demonstrated that sufficient historical resources exist to establish the National Aviation Heritage Area.

(13) With the advent of the 100th anniversary of the first powered flight in 2003, it is recognized that the preservation of properties nationally significant in the history of aviation is an important goal for the future education of Americans.

(14) Local governments, the State of Ohio, and private sector interests have embraced the heritage area concept and desire to enter into a partnership with the Federal government to preserve, protect, and develop the Heritage Area for public benefit.

(15) The National Aviation Heritage Area would complement and enhance the aviation-related resources within the National Park Service, especially the Dayton Aviation Heritage National Historical Park, Ohio.

(b) PURPOSE.—The purpose of this title is to establish the Heritage Area to—

(1) encourage and facilitate collaboration among the facilities, sites, organizations, governmental entities, and educational institutions within the Heritage Area to promote heritage tourism and to develop educational and cultural programs for the public;

(2) preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, structures, facilities, and sites within the National Aviation Heritage Area;

(3) encourage within the National Aviation Heritage Area a broad range of economic opportunities enhancing the quality of life for present and future generations;

(4) provide a management framework to assist the State of Ohio, its political subdivisions, other areas, and private organizations, or combinations thereof, in preparing and implementing an integrated Management Plan to conserve their aviation heritage and in developing policies and programs that will preserve, enhance, and interpret the cultural, historical, natural, recreation, and scenic resources of the Heritage Area; and

(5) authorize the Secretary to provide financial and technical assistance to the State of Ohio, its political subdivisions, and private organizations, or combinations thereof, in preparing and implementing the private Management Plan.

SEC. 203. DEFINITIONS.

For purposes of this title:

(1) BOARD.—The term "Board" means the Board of Directors of the Foundation.

(2) FINANCIAL ASSISTANCE.—The term "financial assistance" means funds appropriated by Congress and made available to the management entity for the purpose of preparing and implementing the Management Plan.

(3) HERITAGE AREA.—The term "Heritage Area" means the National Aviation Heritage Area established by section 104 to receive, distribute, and account for Federal funds appropriated for the purpose of this title.

(4) MANAGEMENT PLAN.—The term "Management Plan" means the management plan for the Heritage Area developed under section 106.

(5) MANAGEMENT ENTITY.—The term "management entity" means the Aviation Heritage Foundation, Incorporated (a nonprofit corporation established under the laws of the State of Ohio).

(6) PARTNER.—The term "partner" means a Federal, State, or local governmental entity, organization, private industry, educational institution, or individual involved in promoting the conservation and preservation of the cultural and natural resources of the Heritage Area.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(8) TECHNICAL ASSISTANCE.—The term "technical assistance" means any guidance, advice, help, or aid, other than financial assistance, provided by the Secretary.

SEC. 204. NATIONAL AVIATION HERITAGE AREA.

(a) ESTABLISHMENT.—There is established in the States of Ohio and Indiana, the National Aviation Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall include the following:

(1) A core area consisting of resources in Montgomery, Greene, Warren, Miami, Clark, Champaign, Shelby, and Auglaize Counties in Ohio.

(2) The Neil Armstrong Air & Space Museum, Wapakoneta, Ohio.

(3) Sites, buildings, and districts within the core area recommended by the Management Plan.

(c) MAP.—A map of the Heritage Area shall be included in the Management Plan. The map shall be on file in the appropriate offices of the National Park Service, Department of the Interior.

(d) MANAGEMENT ENTITY.—The management entity for the Heritage Area shall be the Aviation Heritage Foundation.

SEC. 205. AUTHORITIES AND DUTIES OF THE MANAGEMENT ENTITY.

(a) AUTHORITIES.—For purposes of implementing the Management Plan, the management entity may use Federal funds made available through this title to—

(1) make grants to, and enter into cooperative agreements with, the State of Ohio and political subdivisions of that State, private organizations, or any person;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.—The management entity shall—

(1) develop and submit to the Secretary for approval the proposed Management Plan in accordance with section 106;

(2) give priority to implementing actions set forth in the Management Plan, including taking steps to assist units of government and nonprofit organizations in preserving resources within the Heritage Area;

(3) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area in developing and implementing the Management Plan;

(4) maintain a collaboration among the partners to promote heritage tourism and to assist partners to develop educational and cultural programs for the public;

(5) encourage economic viability in the Heritage Area consistent with the goals of the Management Plan;

(6) assist units of government and nonprofit organizations in—

(A) establishing and maintaining interpretive exhibits in the Heritage Area;

(B) developing recreational resources in the Heritage Area;

(C) increasing public awareness of and appreciation for the historical, natural, and architectural resources and sites in the Heritage Area; and

(D) restoring historic buildings that relate to the purposes of the Heritage Area;

(7) conduct public meetings at least quarterly regarding the implementation of the Management Plan;

(8) submit substantial amendments to the Management Plan to the Secretary for the approval of the Secretary; and

(9) for any year in which Federal funds have been received under this title—

(A) submit an annual report to the Secretary that sets forth the accomplishments of the management entity and its expenses and income;

(B) make available to the Secretary for audit all records relating to the expenditure of such funds and any matching funds; and

(C) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of such funds.

(c) USE OF FEDERAL FUNDS.—

(1) IN GENERAL.—The management entity shall not use Federal funds received under this title to acquire real property or an interest in real property.

(2) OTHER SOURCES.—Nothing in this title precludes the management entity from using Federal funds from other sources for authorized purposes.

SEC. 206. MANAGEMENT PLAN.

(a) PREPARATION OF PLAN.—Not later than 3 years after the date of the enactment of this title, the management entity shall submit to the Secretary for approval a proposed Management Plan that shall take into consideration State and local plans and involve residents, public agencies, and private organizations in the Heritage Area.

(b) CONTENTS.—The Management Plan shall incorporate an integrated and cooperative approach for the protection, enhancement, and interpretation of the natural, cultural, historic, scenic, and recreational resources of the Heritage Area and shall include the following:

(1) An inventory of the resources contained in the core area of the Heritage Area, including the Dayton Aviation Heritage Historical Park, the sites, buildings, and districts listed in section 202 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102–419), and any other property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, or maintained because of its significance.

(2) An assessment of cultural landscapes within the Heritage Area.

(3) Provisions for the protection, interpretation, and enjoyment of the resources of the Heritage Area consistent with the purposes of this title.

(4) An interpretation plan for the Heritage Area.

(5) A program for implementation of the Management Plan by the management entity, including the following:

(A) Facilitating ongoing collaboration among the partners to promote heritage tourism and to develop educational and cultural programs for the public.

(B) Assisting partners planning for restoration and construction.

(C) Specific commitments of the partners for the first 5 years of operation.

(6) The identification of sources of funding for implementing the plan.

(7) A description and evaluation of the management entity, including its membership and organizational structure.

(c) DISQUALIFICATION FROM FUNDING.—If a proposed Management Plan is not submitted to the Secretary within 3 years of the date of the enactment of this title, the management entity shall be ineligible to receive additional funding under this title until the date on which the Secretary receives the proposed Management Plan.

(d) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—The Secretary, in consultation with the State of Ohio, shall approve or disapprove the proposed Management Plan submitted under this title not later than 90 days after receiving such proposed Management Plan.

(e) ACTION FOLLOWING DISAPPROVAL.—If the Secretary disapproves a proposed Management Plan, the Secretary shall advise the management entity in writing of the reasons for the disapproval and shall make recommendations for revisions to the proposed Management Plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(f) APPROVAL OF AMENDMENTS.—The Secretary shall review and approve substantial amendments to the Management Plan. Funds appropriated under this title may not be expended to implement any changes made by such amendment until the Secretary approves the amendment.

SEC. 207. TECHNICAL AND FINANCIAL ASSISTANCE; OTHER FEDERAL AGENCIES.

(a) Technical and Financial Assistance.—Upon the request of the management entity, the Secretary may provide technical assistance, on a reimbursable or non-reimbursable basis, and financial assistance to the Heritage Area to develop and implement the management plan. The Secretary is authorized to enter into cooperative agreements with the management entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(1) conserving the significant natural, historic, cultural, and scenic resources of the Heritage Area; and

(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(b) Duties of Other Federal Agencies.—Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to such activities;

(2) cooperate with the Secretary and the management entity in carrying out their duties under this title;

(3) to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(4) to the maximum extent practicable, conduct or support such activities in a manner which the management entity determines will not have an adverse effect on the Heritage Area.

SEC. 208. COORDINATION BETWEEN THE SECRETARY AND THE SECRETARY OF DEFENSE AND THE ADMINISTRATOR OF NASA.

The decisions concerning the execution of this title as it applies to properties under the control of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall be made by such Secretary or such Administrator, in consultation with the Secretary of the Interior.

SEC. 209. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) Notification and Consent of Property Owners Required.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) Landowner Withdraw.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

SEC. 210. PRIVATE PROPERTY PROTECTION.

(a) Access to Private Property.—Nothing in this title shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) Liability.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) Recognition of Authority to Control Land Use.—Nothing in this title shall be construed to modify the authority of Federal, State; or local governments to regulate land use.

(d) Participation of Private Property Owners in Heritage Area.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) Effect of Establishment.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—To carry out this title there is authorized to be appropriated $10,000,000, except that not more than $1,000,000 may be appropriated to carry out this title for any fiscal year.

(b) Fifty Percent Match.—The Federal share of the cost of activities carried out using any assistance or grant under this title shall not exceed 50 percent.

SEC. 212. SUNSET PROVISION.

The authority of the Secretary to provide assistance under this title terminates on the date that is 15 years after the date that funds are first made available for this title.

TITLE III—WRIGHT COMPANY FACTORY STUDY

SEC. 301. STUDY AND REPORT.

(a) Study.—

(1) In general.—The Secretary shall conduct a special resource study updating the study required under section 104 of the Dayton Aviation Heritage Preservation Act of 1992 (Public Law 102-419) and detailing alternatives for incorporating the Wright Company factory as a unit of Dayton Aviation Heritage National Historical Park.

(2) Contents.—The study shall include an analysis of alternatives for including the Wright Company factory as a unit of Dayton Aviation Heritage National Historical Park that detail management and development options and costs.

(3) Consultation.—In conducting the study, the Secretary shall consult with the Delphi Corporation, the Aviation Heritage Foundation, State and local agencies, and other interested parties in the area.

(b) Report.—Not later than 3 years after funds are first made available for this section, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report describing the results of the study conducted under this section.

TITLE IV—STEEL INDUSTRY NATIONAL HISTORIC SITE

SEC. 401. SHORT TITLE.

This title may be cited as the "Steel Industry National Historic Site Act".

SEC. 402. FINDINGS AND PURPOSES.

(a) Findings.—The Congress finds the following:

(1) Certain sites and structures in the Commonwealth of Pennsylvania symbolize in physical form the heritage of the steel industry of the United States.

(2) Certain buildings and other structures in the Commonwealth of Pennsylvania are nationally significant historical resources, including the United States Steel Homestead Works, the Carrie Furnace complex, and the Hot Metal Bridge.

(3) Despite substantial efforts for cultural preservation and historical interpretation by the Commonwealth of Pennsylvania and by individuals and public and private entities in the Commonwealth, these buildings and other structures may be lost without the assistance of the Federal Government.

(b) Purposes.—The purposes of this title are to ensure the preservation, interpretation, visitor enjoyment, and maintenance of the nationally significant historical and cultural sites and structures described in subsection (a) for the benefit and inspiration of present and future generations.

SEC. 403. STEEL INDUSTRY NATIONAL HISTORIC SITE, PENNSYLVANIA.

(a) Establishment.—The Steel Industry National Historic Site is hereby established as a unit of the National Park System in the Commonwealth of Pennsylvania.

(b) Description.—

(1) Inclusion of certain property.—Subject to paragraph (2), the historic site shall consist of the following properties, each of which relate to the former United States Steel Homestead Works, as depicted on the map entitled "Steel Industry National Historic Site", dated November 2003, and numbered 80,000:

(A) The historic location of the Battle of Homestead site in the borough of Munhall, Pennsylvania, consisting of approximately 3 acres of land, including the pumphouse and water tower and related structures, within the property bounded by the Monongahela River, the CSX railroad, Waterfront Drive, and the Damascus-Marcegaglia Steel Mill.

(B) The historic location of the Carrie Furnace complex in the boroughs of Swissvale and Rankin, Pennsylvania, consisting of approximately 35 acres of land, including blast furnaces 6 and 7, the ore yard, the cast house, the blowing engine house, the AC power house, and related structures, within the property bounded by the proposed southwesterly right-of-way line needed to accommodate the Mon/Fayette Expressway and the relocated CSX railroad right-of-way, the Monongahela River, and a property line drawn northeast to southwest approximately 100 yards east of the AC power house.

(C) The historic location of the Hot Metal Bridge, consisting of the Union railroad bridge and its approaches, spanning the Monongahela River and connecting the mill sites in the boroughs of Rankin and Munhall, Pennsylvania.

(2) Availability of map.—The map referred to in paragraph (1) shall be available for public inspection in an appropriate office of the National Park Service.

(c) Acquisition of Property.—To further the purposes of this section, the Secretary of the Interior may acquire, only by donation, property for inclusion in the historic site as follows:

(1) Any land or interest in land with respect to the property identified in subsection (b)(1).

(2) Up to 10 acres of land adjacent to or in the general proximity of the property identified in such subsection, for the development of visitor, administrative, museum, curatorial, and maintenance facilities.

(3) Personal property associated with, and appropriate for, the interpretation of the historic site.

(d) Private Property Protections.—Nothing in this title shall be construed—

(1) to require any private property owner to permit public access (including Federal,

State, or local government access) to the private property; or

(2) to modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(e) ADMINISTRATION.—The Secretary of the Interior shall administer the historic site in accordance with this title and the provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (16 U.S.C. 1 et seq.), and the Act of August 21, 1935 (16 U.S.C. 461 et seq.).

(f) COOPERATIVE AGREEMENTS.—

(1) IN GENERAL.—Until such time as the Secretary of the Interior has acquired the property identified in subsection (b)(1), as depicted on the map referred to in such subsection, the Secretary may enter into a cooperative agreement with any interested individual, public or private agency, organization, or institution to further the purposes of the historic site.

(2) CONTRARY PURPOSES.—Any payment made by the Secretary pursuant to a cooperative agreement under this subsection shall be subject to an agreement that conversion, use, or disposal of the project so assisted for purposes contrary to the purpose of the historic site, as determined by the Secretary, shall result in a right of the United States to reimbursement of all funds made available to such a project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

(g) TECHNICAL ASSISTANCE.—The Secretary of the Interior may provide technical assistance to any person for—

(1) the preservation of historic structures within the historic site; and

(2) the maintenance of the natural and cultural landscape of the historic site.

(h) GENERAL MANAGEMENT PLAN.—

(1) PREPARATION.—Not later than three years after the date on which funds are first made available to carry out this title, the Secretary of the Interior shall prepare a general management plan for the historic site that will incorporate or otherwise address substantive comments made during the consultation required by paragraph (2).

(2) CONSULTATION.—The Secretary shall prepare the general management plan in consultation with—

(A) an appropriate official of each appropriate political subdivision of the Commonwealth of Pennsylvania that has jurisdiction over all or a portion of the lands included in the historic site;

(B) an appropriate official of the Steel Industry Heritage Corporation; and

(C) private property owners in the vicinity of the historic site.

(3) SUBMISSION OF PLAN TO CONGRESS.—Upon the completion of the general management plan, the Secretary shall submit a copy of the plan to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives.

SEC. 404. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for the purposes of this title $25,000,000.

TITLE V—ST. CROIX NATIONAL HERITAGE AREA STUDY

SEC. 501. ST. CROIX NATIONAL HERITAGE AREA STUDY.

(a) SHORT TITLE.—This section may be cited as the "St. Croix National Heritage Area Study Act".

(b) STUDY.—The Secretary of the Interior, in consultation with appropriate State historic preservation officers, States historical societies, and other appropriate organizations, shall conduct a study regarding the suitability and feasibility of designating the island of St. Croix as the St. Croix National Heritage Area. The study shall include analysis, documentation, and determination regarding whether the island of St. Croix—

(1) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(2) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(3) provides outstanding recreational and educational opportunities;

(4) contains resources important to the identified theme or themes of the island of St. Croix that retain a degree of integrity capable of supporting interpretation;

(5) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles of all participants (including the Federal Government), and have demonstrated support for the concept of a national heritage area;

(6) has a potential management entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity; and

(7) has a conceptual boundary map that is supported by the public.

(c) PRIVATE PROPERTY.—In conducting the study required by this section, the Secretary of the Interior shall analyze the potential impact that designation of the area as a national heritage area is likely to have on land within the proposed area or bordering the proposed area that is privately owned at the time that the study is conducted.

(d) REPORT.—Not later than 3 fiscal years after the date on which funds are first made available for this section, the Secretary of the Interior shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report on the findings, conclusions, and recommendations as the Secretary deems appropriate.

TITLE VI—ARABIA MOUNTAIN NATIONAL HERITAGE AREA

SEC. 601. SHORT TITLE.

This title may be cited as the "Arabia Mountain National Heritage Area Act".

SEC. 602. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The Arabia Mountain area contains a variety of natural, cultural, historical, scenic, and recreational resources that together represent distinctive aspects of the heritage of the United States that are worthy of recognition, conservation, interpretation, and continuing use.

(2) The best methods for managing the resources of the Arabia Mountain area would be through partnerships between public and private entities that combine diverse resources and active communities.

(3) Davidson-Arabia Mountain Nature Preserve, a 535-acre park in DeKalb County, Georgia—

(A) protects granite outcrop ecosystems, wetland, and pine and oak forests; and

(B) includes federally-protected plant species.

(4) Panola Mountain, a national natural landmark, located in the 860-acre Panola Mountain State Conservation Park, is a rare example of a pristine granite outcrop.

(5) The archaeological site at Miners Creek Preserve along the South River contains documented evidence of early human activity.

(6) The city of Lithonia, Georgia, and related sites of Arabia Mountain and Stone Mountain possess sites that display the history of granite mining as an industry and culture in Georgia, and the impact of that industry on the United States.

(7) The community of Klondike is eligible for designation as a National Historic District.

(8) The city of Lithonia has 2 structures listed on the National Register of Historic Places.

(b) PURPOSES.—The purposes of this title are as follows:

(1) To recognize, preserve, promote, interpret, and make available for the benefit of the public the natural, cultural, historical, scenic, and recreational resources in the area that includes Arabia Mountain, Panola Mountain, Miners Creek, and other significant sites and communities.

(2) To assist the State of Georgia and the counties of DeKalb, Rockdale, and Henry in the State in developing and implementing an integrated cultural, historical, and land resource management program to protect, enhance, and interpret the significant resources within the heritage area.

SEC. 603. DEFINITIONS.

For the purposes of this title, the following definitions apply:

(1) HERITAGE AREA.—The term "heritage area" means the Arabia Mountain National Heritage Area established by section 504.

(2) MANAGEMENT ENTITY.—The term "management entity" means the Arabia Mountain Heritage Area Alliance or a successor of the Arabia Mountain Heritage Area Alliance.

(3) MANAGEMENT PLAN.—The term "management plan" means the management plan for the heritage area developed under section 506.

(4) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(5) STATE.—The term "State" means the State of Georgia.

SEC. 604. ARABIA MOUNTAIN NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Arabia Mountain National Heritage Area in the State.

(b) BOUNDARIES.—The heritage area shall consist of certain parcels of land in the counties of DeKalb, Rockdale, and Henry in the State, as generally depicted on the map entitled "Arabia Mountain National Heritage Area", numbered AMNHA/80,000, and dated October, 2003.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(d) MANAGEMENT ENTITY.—The Arabia Mountain Heritage Area Alliance shall be the management entity for the heritage area.

SEC. 605. AUTHORITIES AND DUTIES OF THE MANAGEMENT ENTITY.

(a) AUTHORITIES.—For purposes of developing and implementing the management plan, the management entity may—

(1) make grants to, and enter into cooperative agreements with, the State, political subdivisions of the State, and private organizations;

(2) hire and compensate staff; and

(3) enter into contracts for goods and services.

(b) DUTIES.—

(1) MANAGEMENT PLAN.—

(A) IN GENERAL.—The management entity shall develop and submit to the Secretary the management plan.

(B) CONSIDERATIONS.—In developing and implementing the management plan, the management entity shall consider the interests of diverse governmental, business, and nonprofit groups within the heritage area.

(2) PRIORITIES.—The management entity shall give priority to implementing actions described in the management plan, including assisting units of government and nonprofit organizations in preserving resources within the heritage area.

(3) PUBLIC MEETINGS.—The management entity shall conduct public meetings at least quarterly on the implementation of the management plan.

(4) ANNUAL REPORT.—For any year in which Federal funds have been made available under this title, the management entity shall submit to the Secretary an annual report that describes the following:

(A) The accomplishments of the management entity.

(B) The expenses and income of the management entity.

(5) AUDIT.—The management entity shall—

(A) make available to the Secretary for audit all records relating to the expenditure of Federal funds and any matching funds; and

(B) require, with respect to all agreements authorizing expenditure of Federal funds by other organizations, that the receiving organizations make available to the Secretary for audit all records concerning the expenditure of those funds.

(c) USE OF FEDERAL FUNDS.—

(1) IN GENERAL.—The management entity shall not use Federal funds made available under this title to acquire real property or an interest in real property.

(2) OTHER SOURCES.—Nothing in this title precludes the management entity from using Federal funds made available under other Federal laws for any purpose for which the funds are authorized to be used.

SEC. 606. MANAGEMENT PLAN.

(a) IN GENERAL.—The management entity shall develop a management plan for the heritage area that incorporates an integrated and cooperative approach to protect, interpret, and enhance the natural, cultural, historical, scenic, and recreational resources of the heritage area.

(b) BASIS.—The management plan shall be based on the preferred concept in the document entitled "Arabia Mountain National Heritage Area Feasibility Study", dated February 28, 2001.

(c) CONSIDERATION OF OTHER PLANS AND ACTIONS.—The management plan shall—

(1) take into consideration State and local plans; and

(2) involve residents, public agencies, and private organizations in the heritage area.

(d) REQUIREMENTS.—The management plan shall include the following:

(1) An inventory of the resources in the heritage area, including—

(A) a list of property in the heritage area that—

(i) relates to the purposes of the heritage area; and

(ii) should be preserved, restored, managed, or maintained because of the significance of the property; and

(B) an assessment of cultural landscapes within the heritage area.

(2) Provisions for the protection, interpretation, and enjoyment of the resources of the heritage area consistent with the purposes of this title.

(3) An interpretation plan for the heritage area.

(4) A program for implementation of the management plan that includes—

(A) actions to be carried out by units of government, private organizations, and public-private partnerships to protect the resources of the heritage area; and

(B) the identification of existing and potential sources of funding for implementing the plan.

(5) A description and evaluation of the management entity, including the membership and organizational structure of the management entity.

(e) SUBMISSION TO SECRETARY FOR APPROVAL.—

(1) IN GENERAL.—Not later than 3 years after the date of the enactment of this Act, the management entity shall submit the management plan to the Secretary for approval.

(2) EFFECT OF FAILURE TO SUBMIT.—If a management plan is not submitted to the Secretary by the date specified in paragraph (1), the Secretary shall not provide any additional funding under this title until such date as a management plan for the heritage area is submitted to the Secretary.

(f) APPROVAL AND DISAPPROVAL OF MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 90 days after receiving the management plan submitted under subsection (e), the Secretary, in consultation with the State, shall approve or disapprove the management plan.

(2) ACTION FOLLOWING DISAPPROVAL.—

(A) REVISION.—If the Secretary disapproves a management plan submitted under paragraph (1), the Secretary shall—

(i) advise the management entity in writing of the reasons for the disapproval;

(ii) make recommendations for revisions to the management plan; and

(iii) allow the management entity to submit to the Secretary revisions to the management plan.

(B) DEADLINE FOR APPROVAL OF REVISION.—Not later than 90 days after the date on which a revision is submitted under subparagraph (A)(iii), the Secretary shall approve or disapprove the revision.

(g) REVISION OF MANAGEMENT PLAN.—

(1) IN GENERAL.—After approval by the Secretary of a management plan, the management entity shall periodically—

(A) review the management plan; and

(B) submit to the Secretary, for review and approval by the Secretary, the recommendations of the management entity for any revisions to the management plan that the management entity considers to be appropriate.

(2) EXPENDITURE OF FUNDS.—No funds made available under this title shall be used to implement any revision proposed by the management entity under paragraph (1)(B) until the Secretary approves the revision.

SEC. 607. TECHNICAL AND FINANCIAL ASSISTANCE.

(a) IN GENERAL.—At the request of the management entity, the Secretary may provide technical and financial assistance to the heritage area to develop and implement the management plan.

(b) PRIORITY.—In providing assistance under subsection (a), the Secretary shall give priority to actions that facilitate—

(1) the conservation of the significant natural, cultural, historical, scenic, and recreational resources that support the purposes of the heritage area; and

(2) the provision of educational, interpretive, and recreational opportunities that are consistent with the resources and associated values of the heritage area.

SEC. 608. EFFECT ON CERTAIN AUTHORITY.

(a) OCCUPATIONAL, SAFETY, CONSERVATION, AND ENVIRONMENTAL REGULATION.—Nothing in this title—

(1) imposes an occupational, safety, conservation, or environmental regulation on the heritage area that is more stringent than the regulations that would be applicable to the land described in section 504(b) but for the establishment of the heritage area by section 504; or

(2) authorizes a Federal agency to promulgate an occupational, safety, conservation, or environmental regulation for the heritage area that is more stringent than the regulations applicable to the land described in section 504(b) as of the date of enactment of this Act, solely as a result of the establishment of the heritage area by section 504.

(b) LAND USE REGULATION.—Nothing in this title—

(1) modifies, enlarges, or diminishes any authority of the Federal Government or a State or local government to regulate any use of land as provided for by law (including regulations) in existence on the date of enactment of this Act; or

(2) grants powers of zoning or land use to the management entity.

SEC. 609. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) NOTIFICATION AND CONSENT OF PROPERTY OWNERS REQUIRED.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) LANDOWNER WITHDRAW.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

SEC. 610. PRIVATE PROPERTY PROTECTION.

(a) ACCESS TO PRIVATE PROPERTY.—Nothing in this title shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) LIABILITY.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) RECOGNITION OF AUTHORITY TO CONTROL LAND USE.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) PARTICIPATION OF PRIVATE PROPERTY OWNERS IN HERITAGE AREA.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) EFFECT OF ESTABLISHMENT.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary.

the National Park Service, or the management entity.

SEC. 611. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $10,000,000, to remain available until expended, of which not more than $1,000,000 may be used in any fiscal year.

(b) FEDERAL SHARE.—The Federal share of the cost of any project or activity carried out using funds made available under this title shall not exceed 50 percent.

SEC. 612. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this title terminates on the date that is 15 years after the date that funds are first made available for this title.

TITLE VII—UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA

SEC. 701. SHORT TITLE.

This title may be cited as the "Upper Housatonic Valley National Heritage Area Act".

SEC. 702. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds the following:

(1) The upper Housatonic Valley, encompassing 29 towns in the hilly terrain of western Massachusetts and northwestern Connecticut, is a singular geographical and cultural region that has made significant national contributions through its literary, artistic, musical, and architectural achievements, its iron, paper, and electrical equipment industries, and its scenic beautification and environmental conservation efforts.

(2) The upper Housatonic Valley has 139 properties and historic districts listed on the National Register of Historic Places including—

(A) five National Historic Landmarks—

(i) Edith Wharton's home, The Mount, Lenox, Massachusetts;

(ii) Herman Melville's home, Arrowhead, Pittsfield, Massachusetts;

(iii) W.E.B. DuBois' Boyhood Homesite, Great Barrington, Massachusetts;

(iv) Mission House, Stockbridge, Massachusetts; and

(v) Crane and Company Old Stone Mill Rag Room, Dalton, Massachusetts; and

(B) four National Natural Landmarks—

(i) Bartholomew's Cobble, Sheffield, Massachusetts, and Salisbury, Connecticut;

(ii) Beckley Bog, Norfolk, Connecticut;

(iii) Bingham Bog, Salisbury, Connecticut; and

(iv) Cathedral Pines, Cornwall, Connecticut.

(3) Writers, artists, musicians, and vacationers have visited the region for more than 150 years to enjoy its scenic wonders, making it one of the country's leading cultural resorts.

(4) The upper Housatonic Valley has made significant national cultural contributions through such writers as Herman Melville, Nathaniel Hawthorne, Edith Wharton, and W.E.B. DuBois, artists Daniel Chester French and Norman Rockwell, and the performing arts centers of Tanglewood, Music Mountain, Norfolk (Connecticut) Chamber Music Festival, Jacob's Pillow, and Shakespeare & Company.

(5) The upper Housatonic Valley is noted for its pioneering achievements in the iron, paper, and electrical generation industries and has cultural resources to interpret those industries.

(6) The region became a national leader in scenic beautification and environmental conservation efforts following the era of industrialization and deforestation and maintains a fabric of significant conservation areas including the meandering Housatonic River.

(7) Important historical events related to the American Revolution, Shays' Rebellion, and early civil rights took place in the upper Housatonic Valley.

(8) The region had an American Indian presence going back 10,000 years and Mohicans had a formative role in contact with Europeans during the seventeenth and eighteenth centuries.

(9) The Upper Housatonic Valley National Heritage Area has been proposed in order to heighten appreciation of the region, preserve its natural and historical resources, and improve the quality of life and economy of the area.

(b) PURPOSES.—The purposes of this title are as follows:

(1) To establish the Upper Housatonic Valley National Heritage Area in the State of Connecticut and the Commonwealth of Massachusetts.

(2) To implement the national heritage area alternative as described in the document entitled "Upper Housatonic Valley National Heritage Area Feasibility Study, 2003".

(3) To provide a management framework to foster a close working relationship with all levels of government, the private sector, and the local communities in the upper Housatonic Valley region to conserve the region's heritage while continuing to pursue compatible economic opportunities.

(4) To assist communities, organizations, and citizens in the State of Connecticut and the Commonwealth of Massachusetts in identifying, preserving, interpreting, and developing the historical, cultural, scenic, and natural resources of the region for the educational and inspirational benefit of current and future generations.

SEC. 703. DEFINITIONS.

In this title:

(1) HERITAGE AREA.—The term "Heritage Area" means the Upper Housatonic Valley National Heritage Area, established in section 604.

(2) MANAGEMENT ENTITY.—The term "Management Entity" means the management entity for the Heritage Area designated by section 604(d).

(3) MANAGEMENT PLAN.—The term "Management Plan" means the management plan for the Heritage Area specified in section 606.

(4) MAP.—The term "map" means the map entitled "Boundary Map Upper Housatonic Valley National Heritage Area", numbered P17/80,000, and dated February 2003.

(5) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(6) STATE.—The term "State" means the State of Connecticut and the Commonwealth of Massachusetts.

SEC. 704. UPPER HOUSATONIC VALLEY NATIONAL HERITAGE AREA.

(a) ESTABLISHMENT.—There is established the Upper Housatonic Valley National Heritage Area.

(b) BOUNDARIES.—The Heritage Area shall be comprised of—

(1) part of the Housatonic River's watershed, which extends 60 miles from Lanesboro, Massachusetts to Kent, Connecticut;

(2) the towns of Canaan, Colebrook, Cornwall, Kent, Norfolk, North Canaan, Salisbury, Sharon, and Warren in Connecticut; and

(3) the towns of Alford, Becket, Dalton, Egremont, Great Barrington, Hancock, Hinsdale, Lanesboro, Lee, Lenox, Monterey, Mount Washington, New Marlboro, Pittsfield, Richmond, Sheffield, Stockbridge, Tyringham, Washington, and West Stockbridge in Massachusetts.

(c) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service, Department of the Interior.

(d) MANAGEMENT ENTITY.—The Upper Housatonic Valley National Heritage Area, Inc. shall be the management entity for the Heritage Area.

SEC. 705. AUTHORITIES, PROHIBITIONS AND DUTIES OF THE MANAGEMENT ENTITY.

(a) DUTIES OF THE MANAGEMENT ENTITY.—To further the purposes of the Heritage Area, the management entity shall—

(1) prepare and submit a management plan for the Heritage Area to the Secretary in accordance with section 606;

(2) assist units of local government, regional planning organizations, and nonprofit organizations in implementing the approved management plan by—

(A) carrying out programs and projects that recognize, protect and enhance important resource values within the Heritage Area;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Area;

(C) developing recreational and educational opportunities in the Heritage Area;

(D) increasing public awareness of and appreciation for natural, historical, scenic, and cultural resources of the Heritage Area;

(E) protecting and restoring historic sites and buildings in the Heritage Area that are consistent with heritage area themes;

(F) ensuring that signs identifying points of public access and sites of interest are posted throughout the Heritage Area; and

(G) promoting a wide range of partnerships among governments, organizations and individuals to further the purposes of the Heritage Area;

(3) consider the interests of diverse units of government, businesses, organizations and individuals in the Heritage Area in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least semi-annually regarding the development and implementation of the management plan;

(5) submit an annual report to the Secretary for any fiscal year in which the management entity receives Federal funds under this title, setting forth its accomplishments, expenses, and income, including grants to any other entities during the year for which the report is made;

(6) make available for audit for any fiscal year in which it receives Federal funds under this title, all information pertaining to the expenditure of such funds and any matching funds, and require in all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organizations make available for such audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic development that is consistent with the purposes of the Heritage Area.

(b) AUTHORITIES.—The management entity may, for the purposes of preparing and implementing the management plan for the Heritage Area, use Federal funds made available through this title to—

(1) make grants to the State of Connecticut and the Commonwealth of Massachusetts, their political subdivisions, nonprofit organizations and other persons;

(2) enter into cooperative agreements with or provide technical assistance to the State

of Connecticut and the Commonwealth of Massachusetts, their subdivisions, nonprofit organizations, and other interested parties;

(3) hire and compensate staff, which shall include individuals with expertise in natural, cultural, and historical resources protection, and heritage programming;

(4) obtain money or services from any source including any that are provided under any other Federal law or program;

(5) contract for goods or services; and

(6) undertake to be a catalyst for any other activity that furthers the purposes of the Heritage Area and is consistent with the approved management plan.

(c) Prohibitions on the Acquisition of Real Property.—The management entity may not use Federal funds received under this title to acquire real property, but may use any other source of funding, including other Federal funding outside this authority, intended for the acquisition of real property.

SEC. 706. MANAGEMENT PLAN.

(a) In General.—The management plan for the Heritage Area shall—

(1) include comprehensive policies, strategies and recommendations for conservation, funding, management and development of the Heritage Area;

(2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the natural, historical and cultural resources of the Heritage Area;

(4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Area in the first 5 years of implementation;

(5) include an inventory of the natural, historical, cultural, educational, scenic, and recreational resources of the Heritage Area related to the themes of the Heritage Area that should be preserved, restored, managed, developed, or maintained;

(6) describe a program of implementation for the management plan including plans for resource protection, restoration, construction, and specific commitments for implementation that have been made by the management entity or any government, organization, or individual for the first 5 years of implementation; and

(7) include an interpretive plan for the Heritage Area.

(b) Deadline and Termination of Funding.—

(1) Deadline.—The management entity shall submit the management plan to the Secretary for approval within 3 years after funds are made available for this title.

(2) Termination of funding.—If the management plan is not submitted to the Secretary in accordance with this subsection, the management entity shall not qualify for Federal funding under this title until such time as the management plan is submitted to the Secretary.

SEC. 707. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) Technical and Financial Assistance.—The Secretary may, upon the request of the management entity, provide technical assistance on a reimbursable or non-reimbursable basis and financial assistance to the Heritage Area to develop and implement the approved management plan. The Secretary is authorized to enter into cooperative agreements with the management entity and other public or private entities for this purpose. In assisting the Heritage Area, the Secretary shall give priority to actions that in general assist in—

(1) conserving the significant natural, historical, cultural, and scenic resources of the Heritage Area; and

(2) providing educational, interpretive, and recreational opportunities consistent with the purposes of the Heritage Area.

(b) Approval and Disapproval of Management Plan.—

(1) In general.—The Secretary shall approve or disapprove the management plan not later than 90 days after receiving the management plan.

(2) Criteria for approval.—In determining the approval of the management plan, the Secretary shall consider whether—

(A) the management entity is representative of the diverse interests of the Heritage Area including governments, natural and historic resource protection organizations, educational institutions, businesses, and recreational organizations;

(B) the management entity has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;

(C) the resource protection and interpretation strategies contained in the management plan, if implemented, would adequately protect the natural, historical, and cultural resources of the Heritage Area; and

(D) the management plan is supported by the appropriate State and local officials whose cooperation is needed to ensure the effective implementation of the State and local aspects of the management plan.

(3) Action following disapproval.—If the Secretary disapproves the management plan, the Secretary shall advise the management entity in writing of the reasons therefore and shall make recommendations for revisions to the management plan. The Secretary shall approve or disapprove a proposed revision within 60 days after the date it is submitted.

(4) Approval of amendments.—Substantial amendments to the management plan shall be reviewed by the Secretary and approved in the same manner as provided for the original management plan. The management entity shall not use Federal funds authorized by this title to implement any amendments until the Secretary has approved the amendments.

SEC. 708. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal agency conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to such activities;

(2) cooperate with the Secretary and the management entity in carrying out their duties under this title and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and,

(3) to the maximum extent practicable, conduct or support such activities in a manner which the management entity determines will not have an adverse effect on the Heritage Area.

SEC. 709. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) Notification and Consent of Property Owners Required.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) Landowner Withdraw.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

SEC. 710. PRIVATE PROPERTY PROTECTION.

(a) Access to Private Property.—Nothing in this title shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) Liability.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) Recognition of Authority to Control Land Use.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) Participation of Private Property Owners in Heritage Area.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) Effect of Establishment.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

SEC. 711. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated for the purposes of this title not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Area under this title.

(b) Matching Funds.—Federal funding provided under this title may not exceed 50 percent of the total cost of any assistance or grant provided or authorized under this title.

SEC. 712. SUNSET.

The authority of the Secretary to provide assistance under this title shall terminate on the day occurring 15 years after funds are first made available for this title.

TITLE VIII—OIL REGION NATIONAL HERITAGE AREA

SEC. 801. SHORT TITLE; DEFINITIONS.

(a) Short Title.—This title may be cited as the "Oil Region National Heritage Area Act".

(b) Definitions.—For the purposes of this title, the following definitions shall apply:

(1) Heritage area.—The term "Heritage Area" means the Oil Region National Heritage Area established in section 703(a).

(2) Management entity.—The term "management entity" means the Oil Heritage Region, Inc., or its successor entity.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 802. FINDINGS AND PURPOSE.

(a) Findings.—The Congress finds the following:

(1) The Oil Region of Northwestern Pennsylvania, with numerous sites and districts listed on the National Register of Historic

Places, and designated by the Governor of Pennsylvania as one of the State Heritage Park Areas, is a region with tremendous physical and natural resources and possesses a story of State, national, and international significance.

(2) The single event of Colonel Edwin Drake's drilling of the world's first successful oil well in 1859 has affected the industrial, natural, social, and political structures of the modern world.

(3) Six national historic districts are located within the State Heritage Park boundary, in Emlenton, Franklin, Oil City, and Titusville, as well as 17 separate National Register sites.

(4) The Allegheny River, which was designated as a component of the national wild and scenic rivers system in 1992 by Public Law 102–271, traverses the Oil Region and connects several of its major sites, as do some of the river's tributaries such as Oil Creek, French Creek, and Sandy Creek.

(5) The unspoiled rural character of the Oil Region provides many natural and recreational resources, scenic vistas, and excellent water quality for people throughout the United States to enjoy.

(6) Remnants of the oil industry, visible on the landscape to this day, provide a direct link to the past for visitors, as do the historic valley settlements, riverbed settlements, plateau developments, farmlands, and industrial landscapes.

(7) The Oil Region also represents a cross section of American history associated with Native Americans, frontier settlements, the French and Indian War, African Americans and the Underground Railroad, and immigration of Swedish and Polish individuals, among others.

(8) Involvement by the Federal Government shall serve to enhance the efforts of the Commonwealth of Pennsylvania, local subdivisions of the Commonwealth of Pennsylvania, volunteer organizations, and private businesses, to promote the cultural, national, and recreational resources of the region in order to fulfill their full potential.

(b) Purpose.—The purpose of this title is to enhance a cooperative management framework to assist the Commonwealth of Pennsylvania, its units of local government, and area citizens in conserving, enhancing, and interpreting the significant features of the lands, water, and structures of the Oil Region, in a manner consistent with compatible economic development for the benefit and inspiration of present and future generations in the Commonwealth of Pennsylvania and the United States.

SEC. 803. OIL REGION NATIONAL HERITAGE AREA.

(a) Establishment.—There is hereby established the Oil Region National Heritage Area.

(b) Boundaries.—The boundaries of the Heritage Area shall include all of those lands depicted on a map entitled "Oil Region National Heritage Area", numbered OIRE/20,000 and dated October, 2000. The map shall be on file in the appropriate offices of the National Park Service. The Secretary of the Interior shall publish in the Federal Register, as soon as practical after the date of the enactment of this Act, a detailed description and map of the boundaries established under this subsection.

(c) Management Entity.—The management entity for the Heritage Area shall be the Oil Heritage Region, Inc., the locally based private, nonprofit management corporation which shall oversee the development of a management plan in accordance with section 705(b).

SEC. 804. COMPACT.

To carry out the purposes of this title, the Secretary shall enter into a compact with the management entity. The compact shall include information relating to the objectives and management of the area, including a discussion of the goals and objectives of the Heritage Area, including an explanation of the proposed approach to conservation and interpretation and a general outline of the protection measures committed to by the Secretary and management entity.

SEC. 805. AUTHORITIES AND DUTIES OF MANAGEMENT ENTITY.

(a) Authorities of the Management Entity.—The management entity may use funds made available under this title for purposes of preparing, updating, and implementing the management plan developed under subsection (b). Such purposes may include—

(1) making grants to, and entering into cooperative agreements with, States and their political subdivisions, private organizations, or any other person;

(2) hiring and compensating staff; and

(3) undertaking initiatives that advance the purposes of the Heritage Area.

(b) Management Plan.—The management entity shall develop a management plan for the Heritage Area that—

(1) presents comprehensive strategies and recommendations for conservation, funding, management, and development of the Heritage Area;

(2) takes into consideration existing State, county, and local plans and involves residents, public agencies, and private organizations working in the Heritage Area;

(3) includes a description of actions that units of government and private organizations have agreed to take to protect the resources of the Heritage Area;

(4) specifies the existing and potential sources of funding to protect, manage, and develop the Heritage Area;

(5) includes an inventory of the resources contained in the Heritage Area, including a list of any property in the Heritage Area that is related to the themes of the Heritage Area and that should be preserved, restored, managed, developed, or maintained because of its natural, cultural, historic, recreational, or scenic significance;

(6) describes a program for implementation of the management plan by the management entity, including plans for restoration and construction, and specific commitments for that implementation that have been made by the management entity and any other persons for the first 5 years of implementation;

(7) lists any revisions to the boundaries of the Heritage Area proposed by the management entity and requested by the affected local government; and

(8) includes an interpretation plan for the Heritage Area.

(c) Deadline; Termination of Funding.—

(1) Deadline.—The management entity shall submit the management plan to the Secretary within 2 years after the funds are made available for this title.

(2) Termination of funding.—If a management plan is not submitted to the Secretary in accordance with this subsection, the management entity shall not qualify for Federal assistance under this title.

(d) Duties of Management Entity.—The management entity shall—

(1) give priority to implementing actions set forth in the compact and management plan;

(2) assist units of government, regional planning organizations, and nonprofit organizations in—

(A) establishing and maintaining interpretive exhibits in the Heritage Area;

(B) developing recreational resources in the Heritage Area;

(C) increasing public awareness of and appreciation for the natural, historical, and architectural resources and sites in the Heritage Area;

(D) the restoration of any historic building relating to the themes of the Heritage Area;

(E) ensuring that clear signs identifying access points and sites of interest are put in place throughout the Heritage Area; and

(F) carrying out other actions that the management entity determines to be advisable to fulfill the purposes of this title;

(3) encourage by appropriate means economic viability in the Heritage Area consistent with the goals of the management plan;

(4) consider the interests of diverse governmental, business, and nonprofit groups within the Heritage Area; and

(5) for any year in which Federal funds have been provided to implement the management plan under subsection (b)—

(A) conduct public meetings at least annually regarding the implementation of the management plan;

(B) submit an annual report to the Secretary setting forth accomplishments, expenses and income, and each person to which any grant was made by the management entity in the year for which the report is made; and

(C) require, for all agreements entered into by the management entity authorizing expenditure of Federal funds by any other person, that the person making the expenditure make available to the management entity for audit all records pertaining to the expenditure of such funds.

(e) Prohibition on the Acquisition of Real Property.—The management entity may not use Federal funds received under this title to acquire real property or an interest in real property.

SEC. 806. DUTIES AND AUTHORITIES OF THE SECRETARY.

(a) Technical and Financial Assistance.—

(1) In general.—

(A) Overall assistance.—The Secretary may, upon the request of the management entity, and subject to the availability of appropriations, provide technical and financial assistance to the management entity to carry out its duties under this title, including updating and implementing a management plan that is submitted under section 705(b) and approved by the Secretary and, prior to such approval, providing assistance for initiatives.

(B) Other assistance.—If the Secretary has the resources available to provide technical assistance to the management entity to carry out its duties under this title (including updating and implementing a management plan that is submitted under section 705(b) and approved by the Secretary and, prior to such approval, providing assistance for initiatives), upon the request of the management entity the Secretary shall provide such assistance on a reimbursable basis. This subparagraph does not preclude the Secretary from providing nonreimbursable assistance under subparagraph (A).

(2) Priority.—In assisting the management entity, the Secretary shall give priority to actions that assist in the—

(A) implementation of the management plan;

(B) provision of educational assistance and advice regarding land and water management techniques to conserve the significant natural resources of the region;

(C) development and application of techniques promoting the preservation of cultural and historic properties;

(D) preservation, restoration, and reuse of publicly and privately owned historic buildings;

(E) design and fabrication of a wide range of interpretive materials based on the management plan, including guide brochures, visitor displays, audio-visual and interactive exhibits, and educational curriculum materials for public education; and

(F) implementation of initiatives prior to approval of the management plan.

(3) Documentation of Structures.—The Secretary, acting through the Historic American Building Survey and the Historic American Engineering Record, shall conduct studies necessary to document the industrial, engineering, building, and architectural history of the Heritage Area.

(b) Approval and Disapproval of Management Plans.—The Secretary, in consultation with the Governor of Pennsylvania, shall approve or disapprove a management plan submitted under this title not later than 90 days after receiving such plan. In approving the plan, the Secretary shall take into consideration the following criteria:

(1) The extent to which the management plan adequately preserves and protects the natural, cultural, and historical resources of the Heritage Area.

(2) The level of public participation in the development of the management plan.

(3) The extent to which the board of directors of the management entity is representative of the local government and a wide range of interested organizations and citizens.

(c) Action Following Disapproval.—If the Secretary disapproves a management plan, the Secretary shall advise the management entity in writing of the reasons for the disapproval and shall make recommendations for revisions in the management plan. The Secretary shall approve or disapprove a proposed revision within 90 days after the date it is submitted.

(d) Approving Changes.—The Secretary shall review and approve amendments to the management plan under section 705(b) that make substantial changes. Funds appropriated under this title may not be expended to implement such changes until the Secretary approves the amendments.

(e) Effect of Inaction.—If the Secretary does not approve or disapprove a management plan, revision, or change within 90 days after it is submitted to the Secretary, then such management plan, revision, or change shall be deemed to have been approved by the Secretary.

SEC. 807. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the Heritage Area shall—

(1) consult with the Secretary and the management entity with respect to such activities;

(2) cooperate with the Secretary and the management entity in carrying out their duties under this title and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner that the management entity determines shall not have an adverse effect on the Heritage Area.

SEC. 808. SUNSET.

The Secretary may not make any grant or provide any assistance under this title after the expiration of the 15-year period beginning on the date that funds are first made available for this title.

SEC. 809. REQUIREMENTS FOR INCLUSION OF PRIVATE PROPERTY.

(a) Notification and Consent of Property Owners Required.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Area until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(b) Landowner Withdraw.—Any owner of private property included within the boundary of the Heritage Area shall have their property immediately removed from the boundary by submitting a written request to the management entity.

SEC. 810. PRIVATE PROPERTY PROTECTION.

(a) Access to Private Property.—Nothing in this title shall be construed to—

(1) require any private property owner to allow public access (including Federal, State, or local government access) to such private property; or

(2) modify any provision of Federal, State, or local law with regard to public access to or use of private property.

(b) Liability.—Designation of the Heritage Area shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) Recognition of Authority to Control Land Use.—Nothing in this title shall be construed to modify the authority of Federal, State, or local governments to regulate land use.

(d) Participation of Private Property Owners in Heritage Area.—Nothing in this title shall be construed to require the owner of any private property located within the boundaries of the Heritage Area to participate in or be associated with the Heritage Area.

(e) Effect of Establishment.—The boundaries designated for the Heritage Area represent the area within which Federal funds appropriated for the purpose of this title may be expended. The establishment of the Heritage Area and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Area or its viewshed by the Secretary, the National Park Service, or the management entity.

SEC. 811. USE OF FEDERAL FUNDS FROM OTHER SOURCES.

Nothing in this title shall preclude the management entity from using Federal funds available under Acts other than this title for the purposes for which those funds were authorized.

SEC. 812. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to carry out this title—

(1) not more than $1,000,000 for any fiscal year; and

(2) not more than a total of $10,000,000.

(b) 50 Percent Match.—Financial assistance provided under this title may not be used to pay more than 50 percent of the total cost of any activity carried out with that assistance.

TITLE IX—WESTERN RESERVE HERITAGE AREAS STUDY

SEC. 901. SHORT TITLE.

This Act may be cited as the "Western Reserve Heritage Areas Study Act".

SEC. 902. NATIONAL PARK SERVICE STUDY REGARDING THE WESTERN RESERVE, OHIO.

(a) Findings.—The Congress finds the following:

(1) The area that encompasses the modern-day counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio with the rich history in what was once the Western Reserve, has made a unique contribution to the cultural, political and industrial development of the United States.

(2) The Western Reserve is distinctive as the land settled by the people of Connecticut after the Revolutionary War. The Western Reserve holds a unique mark as the original wilderness land of the West that many settlers migrated to in order to begin life outside of the original 13 colonies.

(3) The Western Reserve played a significant role in providing land to the people of Connecticut whose property and land was destroyed during the Revolution. These settlers were descendants of the brave immigrants who came to the Americas in the 17th century.

(4) The Western Reserve offered a new destination for those who moved west in search of land and prosperity. The agricultural and industrial base that began in the Western Reserve still lives strong in these prosperous and historical counties.

(5) The heritage of the Western Reserve remains transfixed in the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio. The people of these counties are proud of their heritage as shown through the unwavering attempts to preserve agricultural land and the industrial foundation that has been embedded in this region since the establishment of the Western Reserve. Throughout these counties, historical sites, and markers preserve the unique traditions and customs of its original heritage.

(6) The counties that encompass the Western Reserve continue to maintain a strong connection to its historic past as seen through its preservation of its local heritage, including historic homes, buildings, and centers of public gatherings.

(7) There is a need for assistance for the preservation and promotion of the significance of the Western Reserve as the natural, historic and cultural heritage of the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa and Ashland in Ohio.

(8) The Department of the Interior is responsible for protecting the Nation's cultural and historical resources. There are significant examples of such resources within these counties and what was once the Western Reserve to merit the involvement of the Federal Government in the development of programs and projects, in cooperation with the State of Ohio and other local governmental entities, to adequately conserve, protect, and interpret this heritage for future generations, while providing opportunities for education and revitalization.

(b) Study.—

(1) In General.—The Secretary shall, in consultation with the State of Ohio, the counties of Trumbull, Mahoning, Ashtabula,

Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland, and other appropriate organizations, carry out a study regarding the suitability and feasibility of establishing the Western Reserve Heritage Area in these counties in Ohio.

(2) CONTENTS.—The study shall include analysis and documentation regarding whether the Study Area—

(A) has an assemblage of natural, historic, and cultural resources that together represent distinctive aspects of American heritage worthy of recognition, conservation, interpretation, and continuing use, and are best managed through partnerships among public and private entities and by combining diverse and sometimes noncontiguous resources and active communities;

(B) reflects traditions, customs, beliefs, and folklife that are a valuable part of the national story;

(C) provides outstanding opportunities to conserve natural, historic, cultural, or scenic features;

(D) provides outstanding recreational and educational opportunities;

(E) contains resources important to the identified theme or themes of the Study Area that retain a degree of integrity capable of supporting interpretation;

(F) includes residents, business interests, nonprofit organizations, and local and State governments that are involved in the planning, have developed a conceptual financial plan that outlines the roles for all participants, including the Federal Government, and have demonstrated support for the concept of a national heritage area;

(G) has a potential management entity to work in partnership with residents, business interests, nonprofit organizations, and local and State governments to develop a national heritage area consistent with continued local and State economic activity;

(H) has a conceptual boundary map that is supported by the public; and

(I) has potential or actual impact on private property located within or abutting the Study Area.

(c) BOUNDARIES OF THE STUDY AREA.—The Study Area shall be comprised of the counties of Trumbull, Mahoning, Ashtabula, Portage, Geagua, Lake, Cuyahoga, Summit, Medina, Huron, Lorain, Erie, Ottawa, and Ashland in Ohio.

TITLE X—GULLAH/GEECHEE CULTURAL HERITAGE

SEC. 1001. SHORT TITLE.

This Act may be cited as the "Gullah/Geechee Cultural Heritage Act".

SEC. 1002. PURPOSES.

The purposes of this Act are to—

(1) recognize the important contributions made to American culture and history by African-Americans known as the Gullah/Geechee who settled in the coastal counties of South Carolina and Georgia;

(2) assist State and local governments and public and private entities in the South Carolina and Georgia in interpreting the story of the Gullah/Geechee and preserving Gullah/Geechee folklore, arts, crafts, and music; and

(3) assist in identifying and preserving sites, historical data, artifacts, and objects associated with the Gullah/Geechee for the benefit and education of the public.

SEC. 1003. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the Gullah/Geechee Cultural Heritage Corridor Commission established under this Act.

(2) HERITAGE CORRIDOR.—The term "Heritage Corridor" means the Gullah/Geechee Cultural Heritage Corridor established by this Act.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 1004. GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR.

(a) ESTABLISHMENT.—There is established the Gullah/Geechee Cultural Heritage Corridor.

(b) BOUNDARIES.—

(1) IN GENERAL.—The Heritage Corridor shall be comprised of those lands and waters generally depicted on a map entitled "Gullah/Geechee Cultural Heritage Corridor" numbered GGCHC/80,000, and dated September 2004. The map shall be on file and available for public inspection in the appropriate offices of the National Park Service and in an appropriate State office in each of the States included in the Heritage Corridor. The Secretary shall publish in the Federal Register, as soon as practicable after the date of enactment of this Act a detailed description and map of the boundaries established under this subsection.

(2) REVISIONS.—The boundaries of the heritage corridor may be revised if the revision is—

(A) proposed in the management plan developed for the Heritage Corridor;

(B) approved by the Secretary in accordance with this Act; and

(C) placed on file in accordance with paragraph (1).

(c) ADMINISTRATION.—The Heritage Corridor shall be administered in accordance with the provisions of this Act.

SEC. 1005. GULLAH/GEECHEE CULTURAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is hereby established a commission to be known as "Gullah/Geechee Cultural Heritage Corridor Commission" whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of a management plan for those land and waters specified in section 4.

(b) MEMBERSHIP.—The Commission shall be composed of nine members appointed by the Secretary as follows:

(1) Four individuals nominated by the State Historic Preservation Officer of South Carolina and two individuals nominated by the State Historic Preservation Officer of Georgia and appointed by the Secretary.

(2) Two individuals from South Carolina and one individual from Georgia who are recognized experts in historic preservation, anthropology, and folklore, appointed by the Secretary.

(c) TERMS.—Members of the Commission shall be appointed to terms not to exceed 3 years. The Secretary may stagger the terms of the initial appointments to the Commission in order to assure continuity of operation. Any member of the Commission may serve after the expiration of their term until a successor is appointed. A vacancy shall be filled in the same manner in which the original appointment was made.

(d) TERMINATION.—The Commission shall terminate 10 years after the date of the enactment of this Act.

SEC. 1006. OPERATION OF THE COMMISSION.

(a) DUTIES OF THE COMMISSION.—To further the purposes of the Heritage Corridor, the Commission shall—

(1) prepare and submit a management plan to the Secretary in accordance with section 7;

(2) assist units of local government and other persons in implementing the Approved management plan by—

(A) carry out programs and projects that recognize, protect, and enhance important resource values within the Heritage Corridor;

(B) establishing and maintaining interpretive exhibits and programs within the Heritage Corridor;

(C) developing recreational and educational opportunities in the Heritage Corridor;

(D) increasing public awareness of and appreciation for the historical, cultural, natural, and scenic resources of the Heritage Corridor;

(E) protecting and restoring historic sites and buildings in the Heritage Corridor that are consistent with heritage corridor themes;

(F) ensuring that clear, consistent, and appropriate signs identifying points of public access and sites of interest are posted throughout the Heritage Corridor; and

(G) promoting a wide range of partnerships among governments, organizations, and individuals to further the purposes of the Heritage Corridor;

(3) consider the interests of diverse units of government, business, organizations, and individuals in the Heritage Corridor in the preparation and implementation of the management plan;

(4) conduct meetings open to the public at least quarterly regarding the development and implementation of the management plan;

(5) submit an annual report to the Secretary for any fiscal year in which the Commission receives Federal funds under this Act, setting forth its accomplishments, expenses, and income, including grants made to any other entities during the year for which the report is made;

(6) make available for audit for any fiscal year in which it receives Federal funds under this Act, all information pertaining to the expenditure of such funds and any matching funds, and require all agreements authorizing expenditures of Federal funds by other organizations, that the receiving organization make available for audit all records and other information pertaining to the expenditure of such funds; and

(7) encourage by appropriate means economic viability that is consistent with the purposes of the Heritage Corridor.

(b) AUTHORITIES.—The Commission may, for the purposes of preparing and implementing the management plan, use funds made available under this Act to—

(1) make grants to, and enter into cooperative agreements with the States of South Carolina and Georgia, political subdivisions of those States, a nonprofit organization, or any person;

(2) hire and compensate staff;

(3) obtain funds from any source including any that are provided under any other Federal law or program; and

(4) contract for goods and services.

SEC. 1007. MANAGEMENT PLAN.

(a) IN GENERAL.—The management plan for the Heritage Corridor shall—

(1) include comprehensive policies, strategies, and recommendations for conservation, funding, management, and development of the Heritage Corridor;

(2) take into consideration existing State, county, and local plans in the development of the management plan and its implementation;

(3) include a description of actions that governments, private organizations, and individuals have agreed to take to protect the historical, cultural, and natural resources of the Heritage Corridor;

(4) specify the existing and potential sources of funding to protect, manage, and develop the Heritage Corridor in the first 5 years of implementation;

(5) include an inventory of the historical, cultural, natural, resources of the Heritage Corridor related to the themes of the Heritage Corridor that should be preserved, restored, managed, developed, or maintained;

(6) recommend policies and strategies for resource management that consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental and interagency cooperative agreements to protect the Heritage Corridor's historical, cultural, and natural resources;

(7) describe a program for implementation of the management plan including plans for resources protection, restoration, construction, and specific commitments for implementation that have been made by the Commission or any government, organization, or individual for the first 5 years of implementation;

(8) include an analysis and recommendations for the ways in which Federal, State, or local programs may best be coordinated to further the purposes of this Act; and

(9) include an interpretive plan for the Heritage Corridor.

(b) Submittal of Management Plan.—The Commission shall submit the management plan to the Secretary for approval not later than 3 years after funds are made available for this Act.

(c) Failure to Submit.—If the Commission fails to submit the management plan to the Secretary in accordance with subsection (b), the Heritage Corridor shall not qualify for Federal funding until the management plan is submitted.

(d) Approval or Disapproval of Management Plan.—

(1) In general.—The Secretary shall approve or disapprove the management plan not later than 90 days after receiving the management plan.

(2) Criteria.—In determining whether to approve the management plan, the Secretary shall consider whether—

(A) the Commission has afforded adequate opportunity, including public hearings, for public and governmental involvement in the preparation of the management plan;

(B) the resource preservation and interpretation strategies contained in the management plan would adequately protect the cultural and historic resources of the Heritage Corridor; and

(C) the Secretary has received adequate assurances from appropriate State and local officials whose support is needed to ensure the effective implementation of the State and local aspects of the plan.

(3) Action following disapproval.—If the Secretary disapproves the management plan, the Secretary shall advise the Commission in writing of the reasons therefore and shall make recommendations for revisions to the management plan. The Secretary shall approve or disapprove a proposed revision not later than 60 days after the date it is submitted.

(4) Approval of amendments.—Substantial amendments to the management plan shall be reviewed and approved by the Secretary in the same manner as provided in the original management plan. The Commission shall not use Federal funds authorized by this Act to implement any amendments until the Secretary has approved the amendments.

SEC. 1008. TECHNICAL AND FINANCIAL ASSISTANCE.

(a) In General.—Upon a request of the Commission, the Secretary may provide technical and financial assistance for the development and implementation of the management plan.

(b) Priority for Assistance.—In providing assistance under subsection (a), the Secretary shall give priority to actions that assist in—

(1) conserving the significant cultural, historical, and natural resources of the Heritage Corridor; and

(2) providing educational and interpretive opportunities consistent with the purposes of the Heritage Corridor.

(c) Spending for Non-Federal Property.—

(1) In general.—The Commission may expend Federal funds made available under this Act on nonfederally owned property that is—

(A) identified in the management plan; or

(B) listed or eligible for listing on the National Register for Historic Places.

(2) Agreements.—Any payment of Federal funds made pursuant to this Act shall be subject to an agreement that conversion, use, or disposal of a project so assisted for purposes contrary to the purposes of this Act, as determined by the Secretary, shall result in a right of the United States to compensation of all funds made available to that project or the proportion of the increased value of the project attributable to such funds as determined at the time of such conversion, use, or disposal, whichever is greater.

SEC. 1009. DUTIES OF OTHER FEDERAL AGENCIES.

Any Federal agency conducting or supporting activities directly affecting the Heritage Corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner in which the Commission determines will not have an adverse effect on the Heritage Corridor.

SEC. 1010. COASTAL HERITAGE CENTERS.

In furtherance of the purposes of this Act and using the authorities made available under this Act, the Commission shall establish one or more Coastal Heritage Centers at appropriate locations within the Heritage Corridor in accordance with the preferred alternative identified in the Record of Decision for the Low Country Gullah Culture Special Resource Study and Environmental Impact Study, December 2003.

SEC. 1011. PRIVATE PROPERTY PROTECTION.

(a) Access to Private Property.—Nothing in this Act shall be construed to require any private property owner to permit public access (including Federal, State, or local government access) to such private property. Nothing in this Act shall be construed to modify any provision of Federal, State, or local law with regard to public access to or use of private lands.

(b) Liability.—Designation of the Heritage Corridor shall not be considered to create any liability, or to have any effect on any liability under any other law, of any private property owner with respect to any persons injured on such private property.

(c) Recognition of Authority to Control Land Use.—Nothing in this Act shall be construed to modify any authority of Federal, State, or local governments to regulate land use.

(d) Participation of Private Property Owners in Heritage Corridor.—Nothing in this Act shall be construed to require the owner of any private property located within the boundaries of the Heritage Corridor to participate in or be associated with the Heritage Corridor.

(e) Effect of Establishment.—The boundaries designated for the Heritage Corridor represent the area within which Federal funds appropriated for the purpose of this Act shall be expended. The establishment of the Heritage Corridor and its boundaries shall not be construed to provide any nonexisting regulatory authority on land use within the Heritage Corridor or its viewshed by the Secretary or the management entity.

(f) Notification and Consent of Property Owners Required.—No privately owned property shall be preserved, conserved, or promoted by the management plan for the Heritage Corridor until the owner of that private property has been notified in writing by the management entity and has given written consent for such preservation, conservation, or promotion to the management entity.

(g) Landowner Withdrawal.—Any owner of private property included within the boundary of the Heritage Corridor shall have their property immediately removed from within the boundary by submitting a written request to the management entity.

SEC. 1012. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There is authorized to be appropriated for the purposes of this Act not more than $1,000,000 for any fiscal year. Not more than a total of $10,000,000 may be appropriated for the Heritage Corridor under this Act.

(b) Cost Share.—Federal funding provided under this Act may not exceed 50 percent of the total cost of any activity for which assistance is provided under this Act.

(c) In-Kind Contributions.—The Secretary may accept in-kind contributions as part of the non-Federal cost share of any activity for which assistance is provided under this Act.

SEC. 1013. TERMINATION OF AUTHORITY.

The authority of the Secretary to provide assistance under this Act shall terminate on the day occurring 15 years after the date of the enactment of this Act.

TITLE XI—UTAH TEST AND TRAINING RANGE PROTECTION

SEC. 1101. SHORT TITLE.

This title may be cited as the "Utah Test and Training Range Protection Act".

SEC. 1102. DEFINITIONS.

In this title:

(1) The term "covered wilderness" means the wilderness area designated by this title and wilderness study areas located near lands withdrawn for military use and beneath special use airspace critical to the support of military test and training missions at the Utah Test and Training Range, including the Deep Creek, Fish Springs, Swasey Mountain, Howell Peak, Notch Peak, King Top, Wah Wah Mountain, and Conger Mountain units designated by the Department of the Interior.

(2) The term "Tribe" means the Skull Valley Band of Goshute Indians.

(3) The term "Utah Test and Training Range" means those portions of the military

operating area of the Utah Test and Training Area located solely in the State of Utah. The term includes the Dugway Proving Ground.

(4) The term "Wilderness Act" means Public Law 88–577, approved September 3, 1964 (16 U.S.C. 1131 et seq.).

SEC. 1103. MILITARY OPERATIONS AND OVERFLIGHTS, UTAH TEST AND TRAINING RANGE.

(a) FINDINGS.—The Congress finds the following:

(1) The testing and development of military weapons systems and the training of military forces are critical to ensuring the national security of the United States.

(2) The Utah Test and Training Range in the State of Utah is a unique and irreplaceable national asset at the core of the test and training mission of the Department of Defense.

(3) The Cedar Mountain Wilderness Area designated by section 1105, as well as several wilderness study areas, are located near lands withdrawn for military use or are beneath special use airspace critical to the support of military test and training missions at the Utah Test and Training Range.

(4) The Utah Test and Training Range and special use airspace withdrawn for military uses create unique management circumstances for the covered wilderness in this title, and it is not the intent of Congress that passage of this title shall be construed as establishing a precedent with respect to any future national conservation area or wilderness designation.

(5) Continued access to the special use airspace and lands that comprise the Utah Test and Training Range, under the terms and conditions described in this section, is a national security priority and is not incompatible with the protection and proper management of the natural, environmental, cultural, and other resources of such lands.

(b) OVERFLIGHTS.—Nothing in this title or the Wilderness Act shall preclude low-level overflights and operations of military aircraft, helicopters, missiles, or unmanned aerial vehicles over the covered wilderness, including military overflights and operations that can be seen or heard within the covered wilderness.

(c) SPECIAL USE AIRSPACE AND TRAINING ROUTES.—Nothing in this title or the Wilderness Act shall preclude the designation of new units of special use airspace, the expansion of existing units of special use airspace, or the use or establishment of military training routes over the covered wilderness.

(d) COMMUNICATIONS AND TRACKING SYSTEMS.—Nothing in this title shall prevent any required maintenance of existing communications, instrumentation, or electronic tracking systems (or infrastructure supporting such systems) or prevent the installation of new communication, instrumentation, or other equipment necessary for effective testing and training to meet military requirements in wilderness study areas located beneath special use airspace comprising the Utah Test and Training Range, including the Deep Creek, Fish Springs, Swasey Mountain, Howell Peak, Notch Peak, King Top, Wah Wah Mountain, and Conger Mountain units designated by the Department of Interior, so long as the Secretary of the Interior, after consultation with the Secretary of the Air Force, determines that the installation and maintenance of such systems, when considered both individually and collectively, comply with section 603 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782).

(e) EMERGENCY ACCESS AND RESPONSE.—Nothing in this title or the Wilderness Act shall preclude the continuation of the memorandum of understanding in existence as of the date of enactment of this title between the Department of the Interior and the Department of the Air Force with respect to emergency access and response.

(f) PROHIBITION ON GROUND MILITARY OPERATIONS.—Except as provided in subsections (d) and (e), nothing in this section shall be construed to permit a military operation to be conducted on the ground in covered wilderness in the Utah Test and Training Range unless such ground operation is otherwise permissible under Federal law and consistent with the Wilderness Act.

SEC. 1104. PLANNING PROCESS FOR FEDERAL LANDS IN UTAH TEST AND TRAINING RANGE.

(a) ANALYSIS OF MILITARY READINESS AND OPERATIONAL IMPACTS.—The Secretary of the Interior shall develop, maintain, and revise land use plans pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S. C. 1712) for Federal lands located in the Utah Test and Training Range in consultation with the Secretary of Defense. As part of the required consultation in connection with a proposed revision of a land use plan, the Secretary of Defense shall prepare and transmit to the Secretary of the Interior an analysis of the military readiness and operational impacts of the proposed revision within six months of a request from the Secretary of Interior.

(b) LIMITATION ON RIGHTS-OF-WAYS.—The Secretary of the Interior shall not grant or issue any authorizations for rights-of-way under section 501(a)(6) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761(a)(6)) upon Federal lands identified as inventory units UTU-020-086, UTU-020-088, UTU-020-095, UTU-020-096, UTU-020-100, UTU-020-101, UTU-020-103, UTU-020-104, UTU-020-105, and UTU-020-110, as generally depicted on the map entitled "Wilderness Inventory, State of Utah" and dated August 1979, until the later of the following:

(1) The completion of a full revision of the Pony Express Area Resource Management Plan, dated January 12, 1990, by the Salt Lake Field Office of the Bureau of Land Management.

(2) January 1, 2015.

SEC. 1105. DESIGNATION AND MANAGEMENT OF CEDAR MOUNTAIN WILDERNESS, UTAH.

(a) DESIGNATION.—Certain Federal lands in Tooele County, Utah, as generally depicted on the map entitled "Cedar Mountain Wilderness" and dated March 7, 2004, are hereby designated as wilderness and, therefore, as a component of the National Wilderness Preservation System to be known as the Cedar Mountain Wilderness Area.

(b) WITHDRAWAL.—Subject to valid existing rights, the Federal lands in the Cedar Mountain Wilderness Area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws, from location, entry, and patent under the United States mining laws, and from disposition under all laws pertaining to mineral and geothermal leasing, and mineral materials, and all amendments to such laws.

(c) MAP AND DESCRIPTION.—(1) As soon as practicable after the date of the enactment of this title, the Secretary of the Interior shall transmit a map and legal description of the Cedar Mountain Wilderness Area to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(2) The map and legal description shall have the same force and effect as if included in this title, except that the Secretary of the Interior may correct clerical and typographical errors in the map and legal description.

(3) The map and legal description shall be on file and available for public inspection in the office of the Director of the Bureau of Land Management and the office of the State Director of the Bureau of Land Management in the State of Utah.

(d) ADMINISTRATION.—Subject to valid existing rights and this title, the Cedar Mountain Wilderness Area shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act, except that any reference in such provisions to the effective date of the Wilderness Act (or any similar reference) shall be deemed to be a reference to the date of the enactment of this title.

(e) LAND ACQUISITION.—Any lands or interest in lands within the boundaries of the Cedar Mountain Wilderness Area acquired by the United States after the date of the enactment of this Act shall be added to and administered as part of the Cedar Mountain Wilderness Area.

(f) FISH AND WILDLIFE MANAGEMENT.—As provided in section 4(d)(7) of the Wilderness Act (16 U.S.C. 1133(d)(7)), nothing in this title shall be construed as affecting the jurisdiction of the State of Utah with respect to fish and wildlife on the Federal lands located in that State.

(g) GRAZING.—Within the Cedar Mountain Wilderness Area, the grazing of livestock, where established before the date of the enactment of this title, shall be permitted to continue subject to such reasonable regulations, policies, and practices as the Secretary of the Interior considers necessary, as long as such regulations, policies, and practices fully conform with and implement the intent of Congress regarding grazing in such areas, as such intent is expressed in the Wilderness Act, section 101(f) of Public Law 101–628 (104 Stat. 4473), and appendix A of the Report of the Committee on Interior and Insular Affairs to accompany H.R. 2570 of the 101st Congress (H. Rept. 101–405).

(h) BUFFER ZONES.—Congress does not intend for the designation of the Cedar Mountain Wilderness Area to lead to the creation of protective perimeters or buffer zones around the wilderness area. The fact that nonwilderness activities or uses can be seen or heard within the wilderness area shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(i) RELEASE FROM WILDERNESS STUDY AREA STATUS.—The lands identified as the Browns Spring Cherrystem on the map entitled "Proposed Browns Spring Cherrystem" and dated May 11, 2004, are released from their status as a wilderness study area, and shall no longer be subject to the requirements of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782(c)) pertaining to the management of wilderness study areas in a manner that does not impair the suitability of those areas for preservation of wilderness.

SEC. 1106. IDENTIFICATION OF ADDITIONAL BUREAU OF LAND MANAGEMENT LAND IN UTAH AS TRUST LAND FOR SKULL VALLEY BAND OF GOSHUTES.

(a) IDENTIFICATION OF TRUST LAND.—The Secretary of the Interior shall identify approximately 640 additional acres of Bureau of Land Management land in the State of Utah to be administered in trust for the benefit of the Skull Valley Band of Goshutes.

(b) SPECIAL CONSIDERATIONS.—In identifying the land under subsection (a), the Secretary of the Interior shall—

(1) consult with leaders of the Tribe and the Governor of Utah; and

(2) ensure that the land has ready access to State or Federal highways and, in the judgment of the Secretary, provides the best opportunities for commercial economic development in closest proximity to other lands of the Tribe.

(c) PLACEMENT IN TRUST.—Not later than December 31, 2005, the Secretary of the Interior shall place the land identified pursuant to subsection (a) into trust for the purposes of economic development for the Tribe. At least 30 days before placing the land in trust for the Tribe, the Secretary shall publish in the Federal Register legal descriptions of the land to be placed in trust.

(d) MANAGEMENT OF TRUST LAND.—The land placed into trust for the Tribe under subsection (c) shall be administered in accordance with laws generally applicable to property held in trust by the United States for Indian Tribes, except that the land shall immediately revert to the administrative control of the Bureau of Land Management if the Tribe sells, or attempts to sell, any part of the land.

(e) EFFECT.—Nothing in this section—

(1) affects any valid right-of-way, lease, permit, mining claim, grazing permit, water right, or other right or interest of any person or entity (other than the United States) in or to the trust land that exists before the date on which the land is placed in trust for the Tribe under subsection (c);

(2) enlarges, impairs, or otherwise affects a right or claim of the Tribe to any land or interest in land based on Aboriginal or Indian title that exists before the date of the enactment of this title;

(3) constitutes an express or implied reservation of water or water right for any purpose with respect to the trust land; or

(4) affects any water right of the Tribe that exists before the date of the enactment of this title.

SEC. 1107. RELATION TO OTHER LANDS AND LAWS.

(a) OTHER LANDS.—Nothing in this title shall be construed to affect any Federal lands located outside of the covered wilderness or the management of such lands.

(b) CONFORMING REPEAL.—Section 2815 of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 852) is amended by striking subsection (d).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 211, introduced by Senator BINGAMAN of New Mexico, and as amended by the Committee on Resources, contains 11 titles; however, eight of the 11 have already once passed this House. Therefore, in the interest of brevity, I will focus on the two titles that have not yet been considered by the full House, titles I and XI of the bill.

Title I would establish the Northern Rio Grande National Heritage Area across three counties within the State of New Mexico to commemorate the unique combination of cultures, languages, folk arts, customs, and architecture associated with the Spanish colonization of New Mexico beginning in 1598.

Finally, title XI contains language that would ensure the continued availability of the Utah Test and Training Range in northwestern Utah to support the readiness and training needs of the United States Armed Forces. That title takes advantage of the opportunity to make permanent the terms of military access and use, while also taking an important step towards resolving the outstanding Bureau of Land Management wilderness recommendations in Utah.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objection to consideration of this measure.

This bill, S. 211, authorizes a single new National Heritage Area in New Mexico. Over the course of this Congress, however, a number of Heritage Area proposals have moved forward, but unfortunately, few have actually been enacted into law. Therefore, consideration of Senate bill 211 provides an opportunity to combine several of these proposals.

Mr. Speaker, we have no objection to the consideration of this measure.

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in support of S. 211, which includes language to establish the Northern Rio Grande National Heritage Area. I am pleased to have sponsored H.R. 505, companion legislation to S. 211 as introduced and passed in the Senate. That version of the Senate legislation only provided for establishment of the Northern Rio Grande National Heritage Area. The bill before us today, however, includes an additional 100 pages of legislative language pertaining to other heritage area designations. Nevertheless, I am pleased that we will be moving one step closer to making the Northern Rio Grande Heritage Area a reality.

The establishment of the Northern Rio Grande National Heritage Area is a citizen-driven effort to protect the remaining significant resources representative of the Spanish and Pueblo colonial era in north-central New Mexico. The bill identifies the northern New Mexico counties of Rio Arriba, Santa Fe and Taos as a National Heritage Area—an elite designation from Congress reserved for areas regarded as a significant resource.

Northern New Mexico boasts many sites of historic and cultural significance. Our State is a blend of Pueblo and Hispanic cultures, making it a very unique and special place in our country. This legislation would identify many of the sites that tell northern New Mexico's story, help preserve them and, in the process, allow them to be more thoroughly enjoyed by New Mexicans and visitors to our State. Preservation would directly led to economic development of this area through enhanced tourism.

The legislation creates a non-profit corporation governed by a 15- to 25-member board of trustees charged with developing a management plan for the heritage area. The board will consist of representatives from the State, affected counties, tribes, cities and others. The corporation's plan would consist of recommendations for identifying, conserving and preserving cultural, historical and natural resources within the heritage area, along with strategies to promote tourism of the region's natural and cultural assets.

The Northern Rio Grande Heritage Area is supported by the city of Española, the city of Santa Fe, Santa Fe County, Rio Arriba County, Taos County, La Jicarita Enterprise Community, the Chimayo Cultural Preservation Association, and the Eight Northern Pueblos. I urge my colleagues to join me and these communities and organizations in support of this legislation by voting for its passage today.

Mrs. CHRISTENSEN. Mr. Speaker, I rise in support of S. 211 to authorize a single new National Heritage Area in New Mexico. While the bill combines a number of Heritage Area in New Mexico. While the bill combines a number of Heritage Area proposals, I am particularly pleased to see my legislation, H.R. 1594, to provide for a study of the suitability and feasibility of establishing my home island of St. Croix as a National Heritage Area was also included in this package.

The island of St. Croix has a long, distinguished, and varied history, including being the site where Christopher Columbus first stepped onto what is now American soil. There is significant interest in preserving and enhancing the natural, historical and cultural resources of the island on a cooperative basis and such a study would provide guidance on how we can best achieve those purposes.

Even though each of the U.S. Islands can make a good case for designation as a National Heritage Area, the island of St. Croix with its two historic towns—Christiansted built in 1734 and Frederiksted built in 1752—is richly blessed with all of the attributes that would justify this designation.

The town's historic architecture matured over a 100-year period. The town of Christiansted is one of the finest examples of Danish architectural designs in this hemisphere. Its history can be traced back some 4,000 years to 2500 B.C.

In 1493 Columbus arrived at what is now the Salt River National Historic Park and Ecological Preserve, making it the only site under the American flag where his men went ashore, as well as the first recorded hostile encounter between Europeans and Native Americans.

Frederiksted has the distinction of having been the first jurisdiction to have raised its flag in salute of the new Republic of the U.S.A., and indeed the first designed flag was done by a resident of that Island.

Mr. Speaker, S. 211 as amended, also includes important legislation to conserve and interpret important cultural and historical resources in Pennsylvania, Ohio and South Carolina. Many of our colleagues, including MIKE DOYLE of Pennsylvania, JIM CLYBURN of South Carolina and a new Member of this Congress, TIM RYAN of Ohio, have worked long and hard to shepherd these measures through the legislative process.

In conclusion, Mr. Speaker, I want to thank Full Committee Chairman POMBO, Ranking Member RAHALL, as well as Subcommittee

Chairman RADANOVICH for their efforts in moving S. 211 to the floor of the House today.

I urge our colleagues to support S. 211.

Mr. RODRIGUEZ. Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the Senate bill, S. 211, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill, as amended, was passed.

A motion to reconsider was laid on the table.

AMERICAN INDIAN PROBATE REFORM ACT OF 2004

Mr. POMBO. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1721) to amend the Indian Land Consolidation Act to improve provisions relating to probate of trust and restricted land, and for other purposes.

The Clerk read as follows:

S. 1721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "American Indian Probate Reform Act of 2004".

SEC. 2. FINDINGS.

Congress finds that—

(1) the Act of February 8, 1887 (commonly known as the "Indian General Allotment Act") (25 U.S.C. 331 et seq.), which authorized the allotment of Indian reservations, did not permit Indian allotment owners to provide for the testamentary disposition of the land that was allotted to them;

(2) that Act provided that allotments would descend according to State law of intestate succession based on the location of the allotment;

(3) the reliance of the Federal Government on the State law of intestate succession with respect to the descent of allotments has resulted in numerous problems affecting Indian tribes, members of Indian tribes, and the Federal Government, including—

(A) the increasingly fractionated ownership of trust and restricted land as that land is inherited by successive generations of owners as tenants in common;

(B) the application of different rules of intestate succession to each interest of a decedent in or to trust or restricted land if that land is located within the boundaries of more than 1 State, which application—

(i) makes probate planning unnecessarily difficult; and

(ii) impedes efforts to provide probate planning assistance or advice;

(C) the absence of a uniform general probate code for trust and restricted land, which makes it difficult for Indian tribes to work cooperatively to develop tribal probate codes; and

(D) the failure of Federal law to address or provide for many of the essential elements of general probate law, either directly or by reference, which—

(i) is unfair to the owners of trust and restricted land (and heirs and devisees of owners); and

(ii) makes probate planning more difficult;

(4) a uniform Federal probate code would likely—

(A) reduce the number of fractionated interests in trust or restricted land;

(B) facilitate efforts to provide probate planning assistance and advice and create incentives for owners of trust and restricted land to engage in estate planning;

(C) facilitate intertribal efforts to produce tribal probate codes in accordance with section 206 of the Indian Land Consolidation Act (25 U.S.C. 2205); and

(D) provide essential elements of general probate law that are not applicable on the date of enactment of this Act to interests in trust or restricted land; and

(5) the provisions of a uniform Federal probate code and other forth in this Act should operate to further the policy of the United States as stated in the Indian Land Consolidated Act Amendments of 2000, Public Law 106–462, 102, November 7, 2000, 114 Stat. 1992.

SEC. 3. INDIAN PROBATE REFORM.

(a) NONTESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (a) and inserting the following:

"(a) NONTESTAMENTARY DISPOSITION.—

"(1) RULES OF DESCENT.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted property, any trust or restricted interest in land or interest in trust personalty that is not disposed of by a valid will—

"(A) shall descend according to an applicable tribal probate code approved in accordance with section 206; or

"(B) in the case of a trust or restricted interest in land or interest in trust personalty to which a tribal probate code does not apply, shall descend in accordance with—

"(i) paragraphs (2) through (5); and

"(ii) other applicable Federal law.

"(2) RULES GOVERNING DESCENT OF ESTATE.—

"(A) SURVIVING SPOUSE.—If there is a surviving spouse of the decedent, such spouse shall receive trust and restricted land and trust personalty in the estate as follows:

"(i) If the decedent is survived by 1 or more eligible heirs described in subparagraph (B) (i), (ii), (iii), or (iv), the surviving spouse shall receive ⅓ of the trust personalty of the decedent and a life estate without regard to waste in the interests in trust or restricted lands of the decedent.

"(ii) If there are no eligible heirs described in subparagraph (B) (i), (ii), (iii), or (iv), the surviving spouse shall receive all of the trust personalty of the decedent and a life estate without regard to waste in the trust or restricted lands of the decedent.

"(iii) The remainder shall pass as set forth in subparagraph (B).

"(iv) Trust personalty passing to a surviving spouse under the provisions of this subparagraph shall be maintained by the Secretary in an account as trust personalty, but only if such spouse is Indian.

"(B) INDIVIDUAL AND TRIBAL HEIRS.—Where there is no surviving spouse of the decedent, or there is a remainder interest pursuant to subparagraph (A), the trust or restricted estate or such remainder shall, subject to subparagraphs (A) and (D), pass as follows:

"(i) To those of the decedent's children who are eligible heirs (or if 1 or more of such children do not survive the decedent, the children of any such deceased child who are eligible heirs, by right of representation, but only if such children of the deceased child survive the decedent) in equal shares.

"(ii) If the property does not pass under clause (i), to those of the decedent's surviving great-grandchildren who are eligible heirs, in equal shares.

"(iii) If the property does not pass under clause (i) or (ii), to the decedent's surviving parent who is an eligible heir, and if both parents survive the decedent and are both eligible heirs, to both parents in equal shares.

"(iv) If the property does not pass under clause (i), (ii), or (iii), to those of the decedent's surviving siblings who are eligible heirs, in equal shares.

"(v) If the property does not pass under clause (i), (ii), (iii), or (iv), to the Indian tribe with jurisdiction over the interests in trust or restricted lands;

except that notwithstanding clause (v), an Indian co-owner (including the Indian tribe referred to in clause (v)) of a parcel of trust or restricted land may acquire an interest that would otherwise descend under that clause by paying into the estate of the decedent, before the close of the probate of the estate, the fair market value of the interest in the land; if more than 1 Indian co-owner offers to pay for such interest, the highest bidder shall acquire the interest.

"(C) NO INDIAN TRIBE.—

"(i) IN GENERAL.—If there is no Indian tribe with jurisdiction over the interests in trust or restricted lands that would otherwise descend under subparagraph (B)(v), then such interests shall be divided equally among co-owners of trust or restricted interests in the parcel; if there are no such co-owners, then to the United States, provided that any such interests in land passing to the United States under this subparagraph shall be sold by the Secretary and the proceeds from such sale deposited into the land acquisition fund established under section 216 (25 U.S.C. 2215) and used for the purposes described in subsection (b) of that section.

"(ii) CONTIGUOUS PARCEL.—If the interests passing to the United States under this subparagraph are in a parcel of land that is contiguous to another parcel of trust or restricted land, the Secretary shall give the owner or owners of the trust or restricted interest in the contiguous parcel the first opportunity to purchase the interest at not less than fair market value determined in accordance with this Act. If more than 1 such owner in the contiguous parcel request to purchase the parcel, the Secretary shall sell the parcel by public auction or sealed bid (as determined by the Secretary) at not less than fair market value to the owner of a trust or restricted interest in the contiguous parcel submitting the highest bid.

"(D) INTESTATE DESCENT OF SMALL FRACTIONAL INTERESTS IN LAND.—

"(i) GENERAL RULE.—Notwithstanding subparagraphs (A) and (B), and subject to any applicable Federal law, any trust or restricted interest in land in the decedent's estate that is not disposed of by a valid will and represents less than 5 percent of the entire undivided ownership of the parcel of land of which such interest is a part, as evidenced by the decedent's estate inventory at the time of the heirship determination, shall descend in accordance with clauses (ii) through (iv).

"(ii) SURVIVING SPOUSE.—If there is a surviving spouse, and such spouse was residing on a parcel of land described in clause (i) at the time of the decedent's death, the spouse shall receive a life estate without regard to waste in the decedent's trust or restricted interest in only such parcel, and the remainder interest in that parcel shall pass in accordance with clause (iii).

"(iii) SINGLE HEIR RULE.—Where there is no life estate created under clause (ii) or there is a remainder interest under that clause, the trust or restricted interest or remainder interest that is subject to this subparagraph shall descend, in trust or restricted status, to—

"(I) the decedent's surviving child, but only if such child is an eligible heir; and if 2 or more surviving children are eligible heirs, then to the oldest of such children;

"(II) if the interest does not pass under subclause (I), the decedent's surviving grandchild, but only if such grandchild is an eligible heir; and if 2 or more surviving grandchildren are eligible heirs, then to the oldest of such grandchildren;

"(III) if the interest does not pass under subclause (I) or (II), the decedent's surviving great grandchild, but only if such great grandchild is an eligible heir; and if 2 or more surviving great grandchildren are eligible heirs, then to the oldest of such great grandchildren;

"(IV) if the interest does not pass under subclause (I), (II), or (III), the Indian tribe with jurisdiction over the interest; or

"(V) if the interest does not pass under subclause (I), (II), or (III), and there is no such Indian tribe to inherit the property under subclause (IV), the interest shall be divided equally among co-owners of trust or restricted interests in the parcel; and if there are no such co-owners, then to the United States, to be sold, and the proceeds from sale used, in the same manner provided in subparagraph (C).

The determination of which person is the oldest eligible heir for inheritance purposes under this clause shall be made by the Secretary in the decedent's probate proceeding and shall be consistent with the provisions of this Act.

"(iv) EXCEPTIONS.—Notwithstanding clause (iii)—

"(I)(aa) the heir of an interest under clause (iii), unless the heir is a minor or incompetent person, may agree in writing entered into the record of the decedent's probate proceeding to renounce such interest, in trust or restricted status, in favor of—

"(AA) any other eligible heir or Indian person related to the heir by blood, but in any case never in favor of more than 1 such heir or person;

"(BB) any co-owner of another trust or restricted interest in such parcel of land; or

"(CC) the Indian tribe with jurisdiction over the interest, if any; and

"(bb) the Secretary shall give effect to such agreement in the distribution of the interest in the probate proceeding; and

"(II) the governing body of the Indian tribe with jurisdiction over an interest in trust or restricted land that is subject to the provisions of this subparagraph may adopt a rule of intestate descent applicable to such interest that differs from the order of decedent set forth in clause (iii). The Secretary shall apply such rule to the interest in distributing the decedent's estate, but only if—

"(aa) a copy of the tribal rule is delivered to the official designated by the Secretary to receive copies of tribal rules for the purposes of this clause;

"(bb) the tribal rule provides for the intestate inheritance of such interest by no more than 1 heir, so that the interest does not further fractionate;

"(cc) the tribal rule does not apply to any interest disposed of by a valid will;

"(dd) the decedent died on or after the date described in subsection (b) of section 8 of the American Indian Probate Act of 2004, or on or after the date on which a copy of the tribal rule was delivered to the Secretary pursuant to item (aa), whichever is later; and

"(ee) the Secretary does not make a determination within 90 days after a copy of the tribal rule is delivered pursuant to item (aa) that the rule would be unreasonably difficult to administer or does not conform with the requirements in item (bb) or (cc).

"(v) RULE OF CONSTRUCTION.—This subparagraph shall not be construed to limit a person's right to devise any trust or restricted interest by way of a valid will in accordance with subsection (b).

"(3) RIGHT OF REPRESENTATION.—If, under this subsection, all or any part of the estate of a decedent is to pass to children of a deceased child by right of representation, that part is to be divided into as many equal shares as there are living children of the decedent and pre-deceased children who left issue who survive the decedent. Each living child of the decedent, if any, shall receive 1 share, and the share of each pre-deceased child shall be divided equally among the pre-deceased child's children.

"(4) SPECIAL RULE RELATING TO SURVIVAL.—In the case of intestate succession under this subsection, if an individual fails to survive the decedent by at least 120 hours, as established by clear and convincing evidence—

"(A) the individual shall be deemed to have predeceased the decedent for the purpose of intestate succession; and

"(B) the heirs of the decedent shall be determined in accordance with this section.

"(5) STATUS OF INHERITED INTERESTS.—Except as provided in paragraphs (2) (A) and (D) regarding the life estate of a surviving spouse, a trust or restricted interest in land or trust personalty that descends under the provisions of this subsection shall vest in the heir in the same trust or restricted status as such interest was held immediately prior to the decedent's death.".

(b) TESTAMENTARY DISPOSITION.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking subsection (b) and inserting the following:

"(b) TESTAMENTARY DISPOSITION.—

"(1) GENERAL DEVISE OF AN INTEREST IN TRUST OR RESTRICTED LAND.—

"(A) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted land, or a tribal probate code approved by the Secretary in accordance with section 206, the owner of a trust or restricted interest in land may devise such interest to—

"(i) any lineal descendant of the testator;

"(ii) any person who owns a preexisting undivided trust or restricted interest in the same parcel of land;

"(iii) the Indian tribe with jurisdiction over the interest in land; or

"(iv) any Indian;

in trust or restricted status.

"(B) RULES OF INTERPRETATION.—Any devise of a trust or restricted interest in land pursuant to subparagraph (A) to an Indian or the Indian tribe with jurisdiction over the interest shall be deemed to be a devise of the interest in trust or restricted status. Any devise of a trust or restricted interest in land to a person who is only eligible to be a devisee under clause (i) or (ii) of subparagraph (A) shall be presumed to be a devise of the interest in trust or restricted status unless language in such devise clearly evidences an intent on the part of the testator that the interest is to pass as a life estate or fee interest in accordance with paragraph (2)(A).

"(2) DEVISE OF TRUST OR RESTRICTED LAND AS A LIFE ESTATE OR IN FEE.—

"(A) IN GENERAL.—Except as provided under any applicable Federal law, any trust or restricted interest in land that is not devised in accordance with paragraph (1)(A) may be devised only—

"(i) as a life estate to any person, with the remainder being devised only in accordance with subparagraph (B) or paragraph (1); or

"(ii) except as provided in subparagraph (B), as a fee interest without Federal restrictions against alienation to any person who is not eligible to be a devisee under clause (iv) of paragraph (1)(A).

"(B) INDIAN REORGANIZATION ACT LANDS.—Any interest in trust or restricted land that is subject to section 4 of the Act of June 18, 1934 (25 U.S.C. 464), may be devised only in accordance with—

"(i) that section;

"(ii) subparagraph (A)(i); or

"(iii) paragraph (1)(A);

provided that nothing in this section or in section 4 of the Act of June 18, 1934 (25 U.S.C. 464), shall be construed to authorize the devise of any interest in trust or restricted land that is subject to section 4 of that Act to any person as a fee interest under subparagraph (A)(ii).

"(3) GENERAL DEVISE OF AN INTEREST IN TRUST PERSONALTY.—

"(A) TRUST PERSONALITY DEFINED.—The term 'trust personalty' as used in this section includes all funds and securities of any kind which are held in trust in an individual Indian money account or otherwise supervised by the Secretary.

"(B) IN GENERAL.—Subject to any applicable Federal law relating to the devise or descent of such trust personalty, or a tribal probate code approved by the Secretary in accordance with section 206, the owner of an interest in trust personalty may devise such an interest to any person or entity.

"(C) MAINTENANCE AS TRUST PERSONALTY.—In the case of a devise of an interest in trust personalty to a person or Indian tribe eligible to be a devisee under paragraph (1)(A), the Secretary shall maintain and continue to manage such interests as trust personalty.

"(D) DIRECT DISBURSEMENT AND DISTRIBUTION.—In the case of a devise of an interest in trust personalty to a person or Indian tribe not eligible to be a devisee under paragraph (1)(A), the Secretary shall directly disburse and distribute such personalty to the devisee.

"(4) INVALID DEVISES AND WILLS.—

"(A) LAND.—Any trust or restricted interest in land that is not devised in accordance with paragraph (1) or (2) or that is not disposed of by a valid will shall descend in accordance with the applicable law of intestate succession as provided for in subsection (a).

"(B) PERSONALTY.—Any trust personalty that is not disposed of by a valid will shall descend in accordance with the applicable law of intestate succession as provided for in subsection (a).".

(c) JOINT TENANCY; RIGHT OF SURVIVORSHIP.—Section 207(c) of the Indian Land Consolidation Act (25 U.S.C. 2206(c)) is amended by striking all that follows the heading, "Joint Tenancy; Right of Survivorship", and inserting the following:

"(1) PRESUMPTION OF JOINT TENANCY.—If a testator devises trust or restricted interests in the same parcel of land to more than 1 person, in the absence of clear and express language in the devise stating that the interest is to pass to the devisees as tenants in common, the devise shall be presumed to create a joint tenancy with the right of survivorship in the interests involved.

"(2) EXCEPTION.—Paragraph (1) shall not apply to any devise of an interest in trust or restricted land where the will in which such devise is made was executed prior to the date that is 1 year after the date on which the Secretary publishes the certification required by section 8(a)(4) of the American Indian Probate Reform Act of 2004.''.

(d) Rule of Construction.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding at the end the following:

''(h) Applicable Federal Law.—

''(1) In general.—Any references in subsections (a) and (b) to applicable Federal law include—

''(A) Public Law 91–627 (84 Stat. 1874);

''(B) Public Law 92–377 (86 Stat. 530);

''(C) Public Law 92–443 (86 Stat. 744);

''(D) Public Law 96–274 (94 Stat. 537); and

''(E) Public Law 98–513 (98 Stat. 2411).

''(2) No effect on laws.—Nothing in this Act amends or otherwise affects the application of any law described in paragraph (1), or any other Federal law that pertains to—

''(A) trust or restricted land located on 1 or more specific Indian reservations that are expressly identified in such law; or

''(B) the allotted lands of 1 or more specific Indian tribes that are expressly identified in such law.

''(i) Rules of Interpretation.—In the absence of a contrary intent, and except as otherwise provided under this Act, applicable Federal law, or a tribal probate code approved by the Secretary pursuant to section 206, wills shall be construed as to trust and restricted land and trust personalty in accordance with the following rules:

''(1) Construction that will passes all property.—A will shall be construed to apply to all trust and restricted land and trust personalty which the testator owned at his death, including any such land or personalty acquired after the execution of his will.

''(2) Class gifts.—

''(A) No differentiation between relationship by blood and relationship by affinity.—Terms of relationship that do not differentiate relationships by blood from those by affinity, such as 'uncles', 'aunts', 'nieces', or 'nephews', are construed to exclude relatives by affinity. Terms of relationship that do not differentiate relationships by the half blood from those by the whole blood, such as 'brothers', 'sisters', 'nieces', or 'nephews', are construed to include both types of relationships.

''(B) Meaning of 'heirs' and 'next of kin', etc.; time of ascertaining class.—A devise of trust or restricted interest in land or an interest in trust personalty to the testator's or another designated person's 'heirs', 'next of kin', 'relatives', or 'family' shall mean those persons, including the spouse, who would be entitled to take under the provisions of this Act for nontestamentary disposition. The class is to be ascertained as of the date of the testator's death.

''(C) Time for ascertaining class.—In construing a devise to a class other than a class described in subparagraph (B), the class shall be ascertained as of the time the devise is to take effect in enjoyment. The surviving issue of any member of the class who is then dead shall take by right of representation the share which their deceased ancestor would have taken.

''(3) Meaning of 'die without issue' and similar phrases.—In any devise under this chapter, the words 'die without issue', 'die without leaving issue', 'have no issue', or words of a similar import shall be construed to mean that an individual had no lineal descendants in his lifetime or at his death, and not that there will be no lineal descendants at some future time.

''(4) Persons born out of wedlock.—In construing provisions of this chapter relating to lapsed and void devises, and in construing a devise to a person or persons described by relationship to the testator or to another, a person born out of wedlock shall be considered the child of the natural mother and also of the natural father.

''(5) Lapsed devises.—Subject to the provisions of subsection (b), where the testator devises or bequeaths a trust or restricted interest in land or trust personalty to the testator's grandparents or to the lineal descendent of a grandparent, and the devisee or legatee dies before the testator leaving lineal descendents, such descendents shall take the interest so devised or bequeathed per stirpes.

''(6) Void devises.—Except as provided in paragraph (5), and if the disposition shall not be otherwise expressly provided for by a tribal probate code approved under section 206 (25 U.S.C. 2205), if a devise other than a residuary devise of a trust or restricted interest in land or trust personalty fails for any reason, such interest shall become part of the residue and pass, subject to the provisions of subsection (b), to the other residuary devisees, if any, in proportion to their respective shares or interests in the residue.

''(7) Family cemetery plot.—If a family cemetery plot owned by the testator at his decease is not mentioned in the decedent's will, the ownership of the plot shall descend to his heirs as if he had died intestate.

''(j) Heirship by Killing.—

''(1) Heir by killing defined.—As used in this subsection, 'heir by killing' means any person who knowingly participates, either as a principal or as an accessory before the fact, in the willful and unlawful killing of the decedent.

''(2) No acquisition of property by killing.—Subject to any applicable Federal law relating to the devise or descent of trust or restricted land, no heir by killing shall in any way acquire any trust or restricted interests in land or interests in trust personalty as the result of the death of the decedent, but such property shall pass in accordance with this subsection.

''(3) Descent, distribution, and right of survivorship.—The heir by killing shall be deemed to have predeceased the decedent as to decedent's trust or restricted interests in land or trust personalty which would have passed from the decedent or his estate to such heir—

''(A) under intestate succession under this section;

''(B) under a tribal probate code, unless otherwise provided for;

''(C) as the surviving spouse;

''(D) by devise;

''(E) as a reversion or a vested remainder;

''(F) as a survivorship interest; and

''(G) as a contingent remainder or executory or other future interest.

''(4) Joint tenants, joint owners, and joint obligees.—

''(A) Any trust or restricted land or trust personalty held by only the heir by killing and the decedent as joint tenants, joint owners, or joint obligees shall pass upon the death of the decedent to his or her estate, as if the heir by killing had predeceased the decedent.

''(B) As to trust or restricted land or trust personalty held jointly by 3 or more persons, including both the heir by killing and the decedent, any income which would have accrued to the heir by killing as a result of the death of the decedent shall pass to the estate of the decedent as if the heir by killing had predeceased the decedent and any surviving joint tenants.

''(C) Notwithstanding any other provision of this subsection, the decedent's trust or restricted interest land or trust personalty that is held in a joint tenancy with the right of survivorship shall be severed from the joint tenancy as though the property held in the joint tenancy were to be severed and distributed equally among the joint tenants and the decedent's interest shall pass to his estate; the remainder of the interests shall remain in joint tenancy with right of survivorship among the surviving joint tenants.

''(5) Life estate for the life of another.—If the estate is held by a third person whose possession expires upon the death of the decedent, it shall remain in such person's hands for the period of time following the decedent's death equal to the life expectancy of the decedent but for the killing.

''(6) Preadjudication rule.—

''(A) In general.—If a person has been charged, whether by indictment, information, or otherwise by the United States, a tribe, or any State, with voluntary manslaughter or homicide in connection with a decedent's death, then any and all trust or restricted land or trust personalty that would otherwise pass to that person from the decedent's estate shall not pass or be distributed by the Secretary until the charges have been resolved in accordance with the provisions of this paragraph.

''(B) Dismissal or withdrawal.—Upon dismissal or withdrawal of the charge, or upon a verdict of not guilty, such land and personalty shall pass as if no charge had been filed or made.

''(C) Conviction.—Upon conviction of such person, and the exhaustion of all appeals, if any, the trust and restricted land and trust personalty in the estate shall pass in accordance with this subsection.

''(7) Broad construction; policy of subsection.—This subsection shall not be considered penal in nature, but shall be construed broadly in order to effect the policy that no person shall be allowed to profit by his own wrong, wherever committed.

''(k) General Rules Governing Probate.—

''(1) Scope.—Except as provided under applicable Federal law or a tribal probate code approved under section 206, the provisions of this subsection shall govern the probate of estates containing trust and restricted interests in land or trust personalty.

''(2) Pretermitted spouses and children.—

''(A) Spouses.—

''(i) In general.—Except as provided in clause (ii), if the surviving spouse of a testator married the testator after the testator executed the will of the testator, the surviving spouse shall receive the intestate share in the decedent's trust or restricted land and trust personalty that the spouse would have received if the testator had died intestate.

''(ii) Exception.—Clause (i) shall not apply to a trust or restricted interest land where—

''(I) the will of a testator is executed before the date of enactment of this subparagraph;

''(II)(aa) the spouse of a testator is a non-Indian; and

''(bb) the testator devised the interests in trust or restricted land of the testator to 1 or more Indians;

''(III) it appears, based on an examination of the will or other evidence, that the will was made in contemplation of the marriage of the testator to the surviving spouse;

''(IV) the will expresses the intention that the will is to be effective notwithstanding any subsequent marriage; or

"(V)(aa) the testator provided for the spouse by a transfer of funds or property outside the will; and

"(bb) an intent that the transfer be in lieu of a testamentary provision is demonstrated by statements of the testator or through a reasonable inference based on the amount of the transfer or other evidence.

"(iii) SPOUSES MARRIED AT THE TIME OF THE WILL.—Should the surviving spouse of the testator be omitted from the will of the testator, the surviving spouse shall be treated, for purposes of trust or restricted land or trust personalty in the testator's estate, in accordance with the provisions of section 207(a)(2)(A), as though there was no will but only if—

"(I) the testator and surviving spouse were continuously married without legal separation for the 5-year period preceding the decedent's death;

"(II) the testator and surviving spouse have a surviving child who is the child of the testator;

"(III) the surviving spouse has made substantial payments toward the purchase of, or improvements to, the trust or restricted land in such estate; or

"(IV) the surviving spouse is under a binding obligation to continue making loan payments for the trust or restricted land for a substantial period of time;

except that, if there is evidence that the testator adequately provided for the surviving spouse and any minor children by a transfer of funds or property outside of the will, this clause shall not apply.

"(B) CHILDREN.—

"(i) IN GENERAL.—If a testator executed the will of the testator before the birth or adoption of 1 or more children of the testator, and the omission of the children from the will is a product of inadvertence rather than an intentional omission, the children shall share in the trust or restricted interests in land and trust personalty as if the decedent had died intestate.

"(ii) ADOPTED HEIRS.—Any person recognized as an heir by virtue of adoption under the Act of July 8, 1940 (25 U.S.C. 372a), shall be treated as the child of a decedent under this subsection.

"(iii) ADOPTED-OUT CHILDREN.—

"(I) IN GENERAL.—For purposes of this Act, an adopted person shall not be considered the child or issue of his natural parents, except in distributing the estate of a natural kin, other than the natural parent, who has maintained a family relationship with the adopted person. If a natural parent shall have married the adopting parent, the adopted person for purposes of inheritance by, from and through him shall also be considered the issue of such natural parent.

"(II) ELIGIBLE HEIR PURSUANT TO OTHER FEDERAL LAW OR TRIBAL LAW.—Notwithstanding the provisions of subparagraph (B)(iii)(I), other Federal laws and laws of the Indian tribe with jurisdiction over the trust or restricted interest in land may otherwise define the inheritance rights of adopted-out children.

"(3) DIVORCE.—

"(A) SURVIVING SPOUSE.—

"(i) IN GENERAL.—An individual who is divorced from a decedent, or whose marriage to the decedent has been annulled, shall not be considered to be a surviving spouse unless, by virtue of a subsequent marriage, the individual is married to the decedent at the time of death of the decedent.

"(ii) SEPARATION.—A decree of separation that does not dissolve a marriage, and terminate the status of husband and wife, shall not be considered a divorce for the purpose of this subsection.

"(iii) NO EFFECT ON ADJUDICATIONS.—Nothing in clause (i) shall prevent the Secretary from giving effect to a property right settlement relating to a trust or restricted interest in land or an interest in trust personalty if 1 of the parties to the settlement dies before the issuance of a final decree dissolving the marriage of the parties to the property settlement.

"(B) EFFECT OF SUBSEQUENT DIVORCE ON A WILL OR DEVISE.—

"(i) IN GENERAL.—If, after executing a will, a testator is divorced or the marriage of the testator is annulled, as of the effective date of the divorce or annulment, any disposition of trust or restricted interests in land or of trust personalty made by the will to the former spouse of the testator shall be considered to be revoked unless the will expressly provides otherwise.

"(ii) PROPERTY.—Property that is prevented from passing to a former spouse of a decedent under clause (i) shall pass as if the former spouse failed to survive the decedent.

"(iii) PROVISIONS OF WILLS.—Any provision of a will that is considered to be revoked solely by operation of this subparagraph shall be revived by the remarriage of a testator to the former spouse of the testator.

"(4) AFTER-BORN HEIRS.—A child in gestation at the time of decedent's death will be treated as having survived the decedent if the child lives at least 120 hours after its birth.

"(5) ADVANCEMENTS OF TRUST PERSONALTY DURING LIFETIME; EFFECT ON DISTRIBUTION OF ESTATE.—

"(A) The trust personalty of a decedent who dies intestate as to all or a portion of his or her estate, given during the decedent's lifetime to a person eligible to be an heir of the decedent under subsection (b)(2)(B), shall be treated as an advancement against the heir's inheritance, but only if the decedent declared in a contemporaneous writing, or the heir acknowledged in writing, that the gift is an advancement or is to be taken into account in computing the division and distribution of the decedent's intestate estate.

"(B) For the purposes of this section, trust personalty advanced during the decedent's lifetime is valued as of the time the heir came into possession or enjoyment of the property or as of the time of the decedent's death, whichever occurs first.

"(C) If the recipient of the trust personalty predeceases the decedent, the property shall not be treated as an advancement or taken into account in computing the division and distribution of the decedent's intestate estate unless the decedent's contemporaneous writing provides otherwise.

"(6) HEIRS RELATED TO DECEDENT THROUGH 2 LINES; SINGLE SHARE.—A person who is related to the decedent through 2 lines of relationship is entitled to only a single share of the trust or restricted land or trust personalty in the decedent's estate based on the relationship that would entitle such person to the larger share.

"(7) NOTICE.—

"(A) IN GENERAL.—To the maximum extent practicable, the Secretary shall notify each owner of trust and restricted land of the provisions of this Act.

"(B) COMBINED NOTICES.—The notice under subparagraph (A) may, at the discretion of the Secretary, be provided with the notice required under subsection (a) of section 8 of the American Indian Probate Reform Act of 2004.

"(8) RENUNCIATION OR DISCLAIMER OF INTERESTS.—

"(A) IN GENERAL.—Any person 18 years of age or older may renounce or disclaim an inheritance of a trust or restricted interest in land or in trust personalty through intestate succession or devise, either in full or subject to the reservation of a life estate (where the interest is an interest in land), in accordance with subparagraph (B), by filing a signed and acknowledged declaration with the probate decisionmaker prior to entry of a final probate order. No interest so renounced or disclaimed shall be considered to have vested in the renouncing or disclaiming heir or devisee, and the renunciation or disclaimer shall not be considered to be a transfer or gift of the renounced or disclaimed interest.

"(B) ELIGIBLE RECIPIENTS OF RENOUNCED OR DISCLAIMED INTERESTS; NOTICE TO RECIPIENTS.—

"(i) INTERESTS IN LAND.—A trust or restricted interest in land may be renounced or disclaimed only in favor of—

"(I) an eligible heir;

"(II) any person who would have been eligible to be a devisee of the interest in question pursuant to subsection (b)(1)(A) (but only in cases where the renouncing person is a devisee of the interest under a valid will); or

"(III) the Indian tribe with jurisdiction over the interest in question;

and the interest so renounced shall pass to its recipient in trust or restricted status.

"(ii) TRUST PERSONALTY.—An interest in trust personalty may be renounced or disclaimed in favor of any person who would be eligible to be a devisee of such an interest under subsection (b)(3) and shall pass to the recipient in accordance with the provisions of that subsection.

"(iii) UNAUTHORIZED RENUNCIATIONS AND DISCLAIMERS.—Unless renounced or disclaimed in favor of a person or Indian tribe eligible to receive the interest in accordance with the provisions of this subparagraph, a renounced or disclaimed interest shall pass as if the renunciation or disclaimer had not been made.

"(C) ACCEPTANCE OF INTEREST.—A renunciation or disclaimer of an interest filed in accordance with this paragraph shall be considered accepted when implemented in a final order by a decisionmaker, and shall thereafter be irrevocable. No renunciation or disclaimer of an interest shall be included in such order unless the recipient of the interest has been given notice of the renunciation or disclaimer and has not refused to accept the interest. All disclaimers and renunciations filed and implemented in probate orders made effective prior to the date of enactment of the American Indian Probate Reform Act of 2004 are hereby ratified.

"(D) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed to allow the renunciation of an interest that is subject to the provisions of section 207(a)(2)(D) (25 U.S.C. 2206(a)(2)(D)) in favor of more than 1 person.

"(9) CONSOLIDATION AGREEMENTS.—

"(A) IN GENERAL.—During the pendency of probate, the decisionmaker is authorized to approve written consolidation agreements effecting exchanges or gifts voluntarily entered into between the decedent's eligible heirs or devisees, to consolidate interests in any tract of land included in the decedent's trust inventory. Such agreements may provide for the conveyance of interests already owned by such heirs or devisees in such tracts, without having to comply with the Secretary's rules and requirements otherwise applicable to conveyances by deed of trust or restricted interests in land.

"(B) EFFECTIVE.—An agreement approved under subparagraph (A) shall be considered final when implemented in an order by a decisionmaker. The final probate order shall direct any changes necessary to the Secretary's land records, to reflect and implement the terms of the approved agreement.

"(C) Effect on purchase option at probate.—Any interest in trust or restricted land that is subject to a consolidation agreement under this paragraph or section 207(e) (25 U.S.C. 2206(e)) shall not be available for purchase under section 207(p) (25 U.S.C. 2206(p)) unless the decisionmaker determines that the agreement should not be approved.".

SEC. 4. PARTITION OF HIGHLY FRACTIONATED INDIAN LANDS.

Section 205 of the Indian Land Consolidation Act (25 U.S.C. 2204) (as amended by section 6(a)(2)) is amended by adding at the end the following:

"(d) Partition of Highly Fractionated Indian Lands.—

"(1) Applicability.—This subsection shall be applicable only to parcels of land (including surface and subsurface interests, except with respect to a subsurface interest that has been severed from the surface interest, in which case this subsection shall apply only to the surface interest) which the Secretary has determined, pursuant to paragraph (2)(B), to be parcels of highly fractionated Indian land.

"(2) Requirements.—Each partition action under this subsection shall be conducted by the Secretary in accordance with the following requirements:

"(A) Application.—Upon receipt of any payment or bond required under subparagraph (B), the Secretary shall commence a process for partitioning a parcel of land by sale in accordance with the provisions of this subsection upon receipt of an application by—

"(i) the Indian tribe with jurisdiction over the subject land that owns an undivided interest in the parcel of land; or

"(ii) any person owning an undivided interest in the parcel of land who is eligible to bid at the sale of the parcel pursuant to subclause (II), (III), or (IV) of subparagraph (D)(i);

provided that no such application shall be valid or considered if it is received by the Secretary prior to the date that is 1 year after the date on which notice is published pursuant to section 8(a)(4) of the American Indian Probate Reform Act of 2004.

"(B) Costs of serving notice and publication.—The costs of serving and publishing notice under subparagraph (F) shall be borne by the applicant. Upon receiving written notice from the Secretary, the applicant must pay to the Secretary an amount determined by the Secretary to be the estimated costs of such service of notice and publication, or furnish a sufficient bond for such estimated costs within the time stated in the notice, failing which, unless an extension is granted by the Secretary, the Secretary shall not be required to commence the partition process under subparagraph (A) and may deny the application. The Secretary shall have the discretion and authority in any case to waive either the payment or the bond (or any portion of such payment or bond) otherwise required by this subparagraph, upon making a determination that such waiver will further the policies of this Act.

"(C) Determination.—Upon receipt of an application pursuant to subparagraph (A), the Secretary shall determine whether the subject parcel meets the requirements set forth in section 202(6) (25 U.S.C. 2201(6)) to be classified as a parcel of highly fractionated Indian land.

"(D) Consent requirements.—

"(i) In general.—A parcel of land may be partitioned under this subsection only if the applicant obtains the written consent of—

"(I) the Indian tribe with jurisdiction over the subject land if such Indian tribe owns an undivided interest in the parcel;

"(II) any owner who, for the 3-year period immediately preceding the date on which the Secretary receives the application, has

"(aa) continuously maintained a bona fide residence on the parcel; or

"(bb) operated a bona fide farm, ranch, or other business on the parcel; and

"(III) the owners (including parents of minor owners and legal guardians of incompetent owners) of at least 50 percent of the undivided interests in the parcel, but only in cases where the Secretary determines that, based on the final appraisal prepared pursuant to subparagraph (F), any 1 owner's total undivided interest in the parcel (not including the interest of an Indian tribe or that of the owner requesting the partition) has a value in excess of $1,500.

Any consent required by this clause must be in writing and acknowledged before a notary public (or other official authorized to make acknowledgments), and shall be approved by Secretary unless the Secretary has reason to believe that the consent was obtained as a result of fraud or undue influence.

"(ii) Consent by the Secretary on behalf of certain individuals.—For the purposes of clause (i)(III), the Secretary may consent on behalf of—

"(I) undetermined heirs of trust or restricted interests and owners of such interests who are minors and legal incompetents having no parents or legal guardian; and

"(II) missing owners or owners of trust or restricted interests whose whereabouts are unknown, but only after a search for such owners has been completed in accordance with the provisions of this subsection.

"(E) Appraisal.—After the Secretary has determined that the subject parcel is a parcel of highly fractionated Indian land pursuant to subparagraph (C), the Secretary shall cause to be made, in accordance with the provisions of this Act for establishing fair market value, an appraisal of the fair market value of the subject parcel.

"(F) Notice to owners on completion of appraisal.—Upon completion of the appraisal, the Secretary shall give notice of the requested partition and appraisal to all owners of undivided interests in the parcel, in accordance with principles of due process. Such notice shall include the following requirements:

"(i) Written notice.—The Secretary shall attempt to give each owner written notice of the partition action stating the following:

"(I) That a proceeding to partition the parcel of land by sale has been commenced.

"(II) The legal description of the subject parcel.

"(III) The owner's ownership interest in the subject parcel as evidenced by the Secretary's records as of the date that owners are determined in accordance with clause (ii).

"(IV) The results of the appraisal.

"(V) The owner's right to receive a copy of the appraisal upon written request.

"(VI) The owner's right to comment on or object to the proposed partition and the appraisal.

"(VII) That the owner must timely comment on or object in writing to the proposed partition or the appraisal, in order to receive notice of approval of the appraisal and right to appeal.

"(VIII) The date by which the owner's written comments or objections must be received, which shall not be less than 90 days after the date that the notice is mailed under this clause or last published under clause (ii)(II).

"(IX) The address for requesting copies of the appraisal and for submitting written comments or objections.

"(X) The name and telephone number of the official to be contacted for purposes of obtaining information regarding the proceeding, including the time and date of the auction of the land or the date for submitting sealed bids.

"(XI) Any other information the Secretary deems to be appropriate.

"(ii) Manner of service.—

"(I) Service by certified mail.—The Secretary shall use due diligence to provide all owners of interests in the subject parcel, as evidenced by the Secretary's records at the time of the determination under subparagraph (C), with actual notice of the partition proceedings by mailing a copy of the written notice described in clause (i) by certified mail, restricted delivery, to each such owner at the owner's last known address. For purposes of this subsection, owners shall be determined from the Secretary's land title records as of the date of the determination under subparagraph (C) or a date that is not more than 90 days prior to the date of mailing under this clause, whichever is later. In the event the written notice to an owner is returned undelivered, the Secretary shall attempt to obtain a current address for such owner by conducting a reasonable search (including a reasonable search of records maintained by local, state, Federal and tribal governments and agencies) and by inquiring with the Indian tribe with jurisdiction over the subject parcel, and, if different from that tribe, the Indian tribe of which the owner is a member, and, if successful in locating any such owner, send written notice by certified mail in accordance with this subclause.

"(II) Notice by publication.—The Secretary shall give notice by publication of the partition proceedings to all owners that the Secretary was unable to serve pursuant to subclause (I), and to unknown heirs and assigns by—

"(aa) publishing the notice described in clause (i) at least 2 times in a newspaper of general circulation in the county or counties where the subject parcel of land is located or, if there is an Indian tribe with jurisdiction over the parcel of land and that tribe publishes a tribal newspaper or newsletter at least once every month, 1 time in such newspaper of general circulation and 1 time in such tribal newspaper or newsletter;

"(bb) posting such notice in a conspicuous place in the tribal headquarters or administration building (or such other tribal building determined by the Secretary to be most appropriate for giving public notice) of the Indian tribe with jurisdiction over the parcel of land, if any; and

"(cc) in addition to the foregoing, in the Secretary's discretion, publishing notice in any other place or means that the Secretary determines to be appropriate.

"(G) Review of comments on appraisal.—

"(i) In general.—After reviewing and considering comments or information timely submitted by any owner of an interest in the parcel in response to the notice required under subparagraph (F), the Secretary may, consistent with the provisions of this Act for establishing fair market value—

"(I) order a new appraisal; or

"(II) approve the appraisal;

provided that if the Secretary orders a new appraisal under subclause (I), notice of the new appraisal shall be given as specified in clause (ii).

"(ii) Notice.—Notice shall be given—

"(I) in accordance with subparagraph (H), where the new appraisal results in a higher valuation of the land; or

"(II) in accordance with subparagraph (F)(ii), where the new appraisal results in a lower valuation of the land.

"(H) Notice to owners of approval of appraisal and right to appeal.—Upon making the determination under subparagraph (G), the Secretary shall provide to the Indian tribe with jurisdiction over the subject land and to all persons who submitted written comments on or objections to the proposed partition or appraisal, a written notice to be served on such tribe and persons by certified mail. Such notice shall state—

"(i) the results of the appraisal;

"(ii) that the owner has the right to review a copy of the appraisal upon request;

"(iii) that the land will be sold for not less than the appraised value, subject to the consent requirements under paragraph (2)(D);

"(iv) the time of the sale or for submitting bids under subparagraph (I);

"(v) that the owner has the right, under the Secretary's regulations governing administrative appeals, to pursue an administrative appeal from—

"(I) the determination that the land may be partitioned by sale under the provisions of this section; and

"(II) the Secretary's order approving the appraisal;

"(vi) the date by which an administrative appeal must be taken, a citation to the provisions of the Secretary's regulations that will govern the owner's appeal, and any other information required by such regulations to be given to parties affected by adverse decisions of the Secretary;

"(vii) in cases where the Secretary determines that any person's undivided trust or restricted interest in the parcel exceeds $1,500 pursuant to paragraph (2)(D)(iii), that the Secretary has authority to consent to the partition on behalf of undetermined heirs of trust or restricted interests in the parcel and owners of such interests whose whereabouts are unknown; and

"(viii) any other information the Secretary deems to be appropriate.

"(I) Sale to eligible purchaser.—

"(i) In general.—Subject to clauses (ii) and (iii) and the consent requirements of paragraph (2)(D), the Secretary shall, after providing notice to owners under subparagraph (H), including the time and place of sale or for receiving sealed bids, at public auction or by sealed bid (whichever of such methods of sale the Secretary determines to be more appropriate under the circumstances) sell the parcel of land by competitive bid for not less than the final appraised fair market value to the highest bidder from among the following eligible bidders:

"(I) The Indian tribe, if any, with jurisdiction over the trust or restricted interests in the parcel being sold.

"(II) Any person who is a member, or is eligible to be a member, of the Indian tribe described in subclause (I).

"(III) Any person who is a member, or is eligible to be a member, of an Indian tribe but not of the tribe described in subclause (I), but only if such person already owns an undivided interest in the parcel at the time of sale.

"(IV) Any lineal descendent of the original allottee of the parcel who is a member or is eligible to be a member of an Indian tribe or, with respect to a parcel located in the State of California that is not within an Indian tribe's reservation or not otherwise subject to the jurisdiction of an Indian tribe, who is a member, or eligible to be a member, of an Indian tribe or owns a trust or restricted interest in the parcel.

"(ii) Right to match highest bid.—If the highest bidder is a person who is only eligible to bid under clause (i)(III), the Indian tribe that has jurisdiction over the parcel, if any, shall have the right to match the highest bid and acquire the parcel, but only if—

"(I) prior to the date of the sale, the governing body of such tribe has adopted a tribal law or resolution reserving its right to match the bids of such nonmember bidders in partition sales under this subsection and delivered a copy of such law or resolution to the Secretary; and

"(II) the parcel is not acquired under clause (iii).

"(iii) Right to purchase.—Any person who is a member, or eligible to be a member, of the Indian tribe with jurisdiction over the trust or restricted interests in the parcel being sold and is, as of the time of sale under this subparagraph, the owner of the largest undivided interest in the parcel shall have a right to purchase the parcel by tendering to the Secretary an amount equal to the highest sufficient bid submitted at the sale, less that amount of the bid attributable to such owner's share, but only if—

"(I) the owner submitted a sufficient bid at the sale;

"(II) the owner's total undivided interest in the parcel immediately prior to the sale was—

"(aa) greater than the undivided interest held by any other co-owners, except where there are 2 or more co-owners whose interests are of equal size but larger than the interests of all other co-owners and such owners of the largest interests have agreed in writing that 1 of them may exercise the right of purchase under this clause; and

"(bb) equal to or greater than 20 percent of the entire undivided ownership of the parcel;

"(III) within 3 days following the date of the auction or for receiving sealed bids, and in accordance with the regulations adopted to implement this section, the owner delivers to the Secretary a written notice of intent to exercise the owner's rights under this clause; and

"(IV) such owner tenders the amount of the purchase price required under this clause—

"(aa) not less than 30 days after the date of the auction or time for receiving sealed bids; and

"(bb) in accordance with any requirements of the regulations promulgated to implement this section.

"(iv) Interest acquired.—A purchaser of a parcel of land under this subparagraph shall acquire title to the parcel in trust or restricted status, free and clear of any and all claims of title or ownership of all persons or entities (not including the United States) owning or claiming to own an interest in such parcel prior to the time of sale.

"(J) Proceeds of sale.—

"(i) Subject to clauses (ii) and (iii), the Secretary shall distribute the proceeds of sale of a parcel of land under the provisions of this section to the owners of interests in such parcel in proportion to their respective ownership interests.

"(ii) Proceeds attributable to the sale of trust or restricted interests shall be maintained in accounts as trust personalty.

"(iii) Proceeds attributable to the sale of interests of owners whose whereabouts are unknown, of undetermined heirs, and of other persons whose ownership interests have not been recorded shall be held by the Secretary until such owners, heirs, or other persons have been determined, at which time such proceeds shall be distributed in accordance with clauses (i) and (ii).

"(K) Lack of bids or consent.—

"(i) Lack of bids.—If no bidder described in subparagraph (I) presents a bid that equals or exceeds the final appraised value, the Secretary may either—

"(I) purchase the parcel of land for its appraised fair market value on behalf of the Indian tribe with jurisdiction over the land, subject to the lien and procedures provided under section 214(b) (25 U.S.C. 2213(b)); or

"(II) terminate the partition process.

"(ii) Lack of consent.—If an applicant fails to obtain any applicable consent required under the provisions of subparagraph (D) by the date established by the Secretary prior to the proposed sale, the Secretary may either extend the time for obtaining any such consent or deny the request for partition.

"(3) Enforcement.—

"(A) In general.—If a partition is approved under this subsection and an owner of an interest in the parcel of land refuses to surrender possession in accordance with the partition decision, or refuses to execute any conveyance necessary to implement the partition, then any affected owner or the United States may—

"(i) commence a civil action in the United States district court for the district in which the parcel of land is located; and

"(ii) request that the court issue an order for ejectment or any other appropriate remedy necessary for the partition of the land by sale.

"(B) Federal role.—With respect to any civil action brought under subparagraph (A)—

"(i) the United States—

"(I) shall receive notice of the civil action; and

"(II) may be a party to the civil action; and

"(ii) the civil action shall not be dismissed, and no relief requested shall be denied, on the ground that the civil action is against the United States or that the United States is a necessary and indispensable party.

"(4) Grants and loans.—The Secretary may provide grants and low interest loans to successful bidders at sales authorized by this subsection, provided that—

"(A) the total amount of such assistance in any such sale shall not exceed 20 percent of the appraised value of the parcel of land sold; and

"(B) the grant or loan funds provided shall only be applied toward the purchase price of the parcel of land sold.

"(5) Regulations.—The Secretary is authorized to adopt such regulations as may be necessary to implement the provisions of this subsection. Such regulations shall include provisions for giving notice of sales to prospective purchasers eligible to submit bids at sales conducted under paragraph (2)(I).".

SEC. 5. OWNER-MANAGED INTERESTS.

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended by adding at the end the following:

"SEC. 221. OWNER-MANAGED INTERESTS.

"(a) PURPOSE.—The purpose of this section is to provide a means for the co-owners of trust or restricted interests in a parcel of land to enter into surface leases of such parcel for certain purposes without approval of the Secretary.

"(b) MINERAL INTERESTS.—Nothing in this section shall be construed to limit or otherwise affect the application of any Federal law requiring the Secretary to approve mineral leases or other agreements for the development of the mineral interest in trust or restricted land.

"(c) OWNER MANAGEMENT.—

"(1) IN GENERAL.—Notwithstanding any provision of Federal law requiring the Secretary to approve individual Indian leases of individual Indian trust or restricted land, where the owners of all of the undivided trust or restricted interests in a parcel of land have submitted applications to the Secretary pursuant to subsection (a), and the Secretary has approved such applications under subsection (d), such owners may, without further approval by the Secretary, enter into a lease of the parcel for agricultural purposes for a term not to exceed 10 years.

"(2) RULE OF CONSTRUCTION.—No such lease shall be effective until it has been executed by the owners of all undivided trust or restricted interests in the parcel.

"(d) APPROVAL OF APPLICATIONS FOR OWNER MANAGEMENT.—

"(1) IN GENERAL.—Subject to the provisions of paragraph (2), the Secretary shall approve an application for owner management submitted by a qualified applicant pursuant to this section unless the Secretary has reason to believe that the applicant is submitting the application as the result of fraud or undue influence. No such application shall be valid or considered if it is received by the Secretary prior to the date that is 1 year after the date on which notice is published pursuant to section 8(a)(4) of the American Indian Probate Reform Act of 2004.

"(2) COMMENCEMENT OF OWNER-MANAGED STATUS.—Notwithstanding the approval of 1 or more applications pursuant to paragraph (1), no trust or restricted interest in a parcel of land shall acquire owner-managed status until applications for all of the trust or restricted interests in such parcel of land have been submitted to and approved by the Secretary pursuant to this section.

"(e) VALIDITY OF LEASES.—No lease of trust or restricted interests in a parcel of land that is owner-managed under this section shall be valid or enforceable against the owners of such interests, or against the land, the interest or the United States, unless such lease—

"(1) is consistent with, and entered into in accordance with, the requirements of this section; or

"(2) has been approved by the Secretary in accordance with other Federal laws applicable to the leasing of trust or restricted land.

"(f) LEASE REVENUES.—The Secretary shall not be responsible for the collection of, or accounting for, any lease revenues accruing to any interests under a lease authorized by subsection (e), so long as such interest is in owner-managed status under the provisions of this section.

"(g) JURISDICTION.—

"(1) JURISDICTION UNAFFECTED BY STATUS.—The Indian tribe with jurisdiction over an interest in trust or restricted land that becomes owner-managed pursuant to this section shall continue to have jurisdiction over the interest to the same extent and in all respects that such tribe had prior to the interest acquiring owner-managed status.

"(2) PERSONS USING LAND.—Any person holding, leasing, or otherwise using such interest in land shall be considered to consent to the jurisdiction of the Indian tribe referred to in paragraph (1), including such tribe's laws and regulations, if any, relating to the use, and any effects associated with the use, of the interest.

"(h) CONTINUATION OF OWNER-MANAGED STATUS; REVOCATION.—

"(1) IN GENERAL.—Subject to the provisions of paragraph (2), after the applications of the owners of all of the trust or restricted interests in a parcel of land have been approved by the Secretary pursuant to subsection (d), each such interest shall continue in owner-managed status under this section notwithstanding any subsequent conveyance of the interest in trust or restricted status to another person or the subsequent descent of the interest in trust or restricted status by testate or intestate succession to 1 or more heirs.

"(2) REVOCATION.—Owner-managed status of an interest may be revoked upon written request of the owners (including the parents or legal guardians of minors or incompetent owners) of all trust or restricted interests in the parcel, submitted to the Secretary in accordance with regulations adopted under subsection (l). The revocation shall become effective as of the date on which the last of all such requests has been delivered to the Secretary.

"(3) EFFECT OF REVOCATION.—Revocation of owner-managed status under paragraph (2) shall not affect the validity of any lease made in accordance with the provisions of this section prior to the effective date of the revocation, provided that, after such revocation becomes effective, the Secretary shall be responsible for the collection of, and accounting for, all future lease revenues accruing to the trust or restricted interests in the parcel from and after such effective date.

"(i) DEFINED TERMS.—

"(1) For purposes of subsection (d)(1), the term 'qualified applicant' means—

"(A) a person over the age of 18 who owns a trust or restricted interest in a parcel of land; and

"(B) the parent or legal guardian of a minor or incompetent person who owns a trust or restricted interest in a parcel of land.

"(2) For purposes of this section, the term 'owner-managed status' means, with respect to a trust or restricted interest, that—

"(A) the interest is a trust or restricted interest in a parcel of land for which applications covering all trust or restricted interests in such parcel have been submitted to and approved by the Secretary pursuant to subsection (d);

"(B) the interest may be leased without approval of the Secretary pursuant to, and in a manner that is consistent with, the requirements of this section; and

"(C) no revocation has occurred under subsection (h)(2).

"(j) SECRETARIAL APPROVAL OF OTHER TRANSACTIONS.—Except with respect to the specific lease transaction described in paragraph (1) of subsection (c), interests that acquire owner-managed status under the provisions of this section shall continue to be subject to all Federal laws requiring the Secretary to approve transactions involving trust or restricted land (including leases with terms of a duration in excess of 10 years) that would otherwise apply to such interests if the interests had not acquired owner-managed status under this section.

"(k) EFFECT OF SECTION.—Subject to subsections (c), (f), and (h), nothing in this section diminishes or otherwise affects any authority or responsibility of the Secretary with respect to an interest in trust or restricted land.".

SEC. 6. ADDITIONAL AMENDMENTS.

(a) IN GENERAL.—The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended—

(1) in the second sentence of section 205(a) (25 U.S.C. 2204(a)), by striking "over 50 per centum of the undivided interests" and inserting "undivided interests equal to at least 50 percent of the undivided interest";

(2) in section 207 (25 U.S.C. 2206), by adding a subsection at the end as follows:

"(p) PURCHASE OPTION AT PROBATE.—

"(1) IN GENERAL.—The trust or restricted interests in a parcel of land in the decedent's estate may be purchased at probate in accordance with the provisions of this subsection.

"(2) SALE OF INTEREST AT FAIR MARKET VALUE.—Subject to paragraph (3), the Secretary is authorized to sell trust or restricted interests in land subject to this subsection, including the interest that a surviving spouse would otherwise receive under section 207(a)(2) (A) or (D), at no less than fair market value, as determined in accordance with the provisions of this Act, to any of the following eligible purchasers:

"(A) Any other eligible heir taking an interest in the same parcel of land by intestate succession or the decedent's other devisees of interests in the same parcel who are eligible to receive a devise under section 207(b)(1)(A).

"(B) All persons who own undivided trust or restricted interests in the same parcel of land involved in the probate proceeding.

"(C) The Indian tribe with jurisdiction over the interest, or the Secretary on behalf of such Indian tribe.

"(3) REQUEST TO PURCHASE; AUCTION; CONSENT REQUIREMENTS.—No sale of an interest in probate shall occur under this subsection unless—

"(A) an eligible purchaser described in paragraph (2) submits a written request to purchase prior to the distribution of the interest to heirs or devisees of the decedent and in accordance with any regulations of the Secretary; and

"(B) except as provided in paragraph (5), the heirs or devisees of such interest, and the decedent's surviving spouse, if any, receiving a life estate under section 207(a)(2) (A) or (D) consent to the sale.

If the Secretary receives more than 1 request to purchase the same interest, the Secretary shall sell the interest by public auction or sealed bid (as determined by the Secretary) at not less than the appraised fair market value to the eligible purchaser submitting the highest bid.

"(4) APPRAISAL AND NOTICE.—Prior to the sale of an interest pursuant to this subsection, the Secretary shall—

"(A) appraise the interest at its fair market value in accordance with this Act;

"(B) provide eligible heirs, other devisees, and the Indian tribe with jurisdiction over the interest with written notice sent by first class mail, that the interest is available for purchase in accordance with this subsection; and

"(C) if the Secretary receives more than 1 request to purchase the interest by a person described in subparagraph (B), provide notice of the manner (auction or sealed bid), time and place of the sale, a description, and the appraised fair market value, of the interest to be sold—

"(I) to the heirs or other devisees and the Indian tribe with jurisdiction over the interest, by first class mail; and

"(II) to all other eligible purchasers, by posting written notice in at least 5 conspicuous places in the vicinity of the place of hearing.

"(5) SMALL UNDIVIDED INTERESTS IN INDIAN LANDS.—

"(A) IN GENERAL.—Subject to subparagraph (B), the consent of a person who is an heir otherwise required under paragraph (3)(B) shall not be required for the auction and sale of an interest at probate under this subsection if—

"(i) the interest is passing by intestate succession; and

"(ii) prior to the auction the Secretary determines in the probate proceeding that the interest passing to such heir represents less than 5 percent of the entire undivided ownership of the parcel of land as evidenced by the Secretary's records as of the time the determination is made.

"(B) EXCEPTION.—Notwithstanding subparagraph (A), the consent of such heir shall be required for the sale at probate of the heir's interest if, at the time of the decedent's death, the heir was residing on the parcel of land of which the interest to be sold was a part.

"(6) DISTRIBUTION OF PROCEEDS.—Proceeds from the sale of interests under this subsection shall be distributed to the heirs, devisees, or spouse whose interest was sold in accordance with the values of their respective interests. The proceeds attributable to an heir or devisee shall be held in an account as trust personalty if the interest sold would have otherwise passed to the heir or devisee in trust or restricted status.";

(3) in section 206 (25 U.S.C. 2205)—

(A) in subsection (a), by striking paragraph (3) and inserting the following:

"(3) TRIBAL PROBATE CODES.—Except as provided in any applicable Federal law, the Secretary shall not approve a tribal probate code, or an amendment to such a code, that prohibits the devise of an interest in trust or restricted land to—

"(A) an Indian lineal descendant of the original allottee; or

"(B) an Indian who is not a member of the Indian tribe with jurisdiction over such an interest;

unless the code provides for—

"(i) the renouncing of interests to eligible devisees in accordance with the code;

"(ii) the opportunity for a devisee who is the spouse or lineal descendant of a testator to reserve a life estate without regard to waste; and

"(iii) payment of fair market value in the manner prescribed under subsection (c)(2)."; and

(B) in subsection (c)—

(i) in paragraph (1)—

(I) by striking the paragraph heading and inserting the following:

"(1) AUTHORITY.—

"(A) IN GENERAL.—";

(II) in the first sentence of subparagraph (A) (as redesignated by clause (i)), by striking "section 207(a)(6)(A) of this title" and inserting "section 207(b)(2)(A)(ii) of this title"; and

(III) by striking the last sentence and inserting the following:

"(B) TRANSFER.—The Secretary shall transfer payments received under subparagraph (A) to any person or persons who would have received an interest in land if the interest had not been acquired by the Indian tribe in accordance with this paragraph."; and

(ii) in paragraph (2)—

(I) in subparagraph (A)—

(aa) by striking the subparagraph heading and all that follows through "Paragraph (1) shall not apply" and inserting the following:

"(A) INAPPLICABILITY TO CERTAIN INTERESTS.—

"(i) IN GENERAL.—Paragraph (1) shall not apply";

(bb) in clause (i) (as redesignated by item (aa)), by striking "if, while" and inserting the following: "if—

"(I) while";

(cc) by striking the period at the end and inserting "; or"; and

(dd) by adding at the end the following:

"(II)(aa) the interest is part of a family farm that is devised to a member of the family of the decedent; and

"(bb) the devisee agrees that the Indian tribe with jurisdiction over the land will have the opportunity to acquire the interest for fair market value if the interest is offered for sale to a person or entity that is not a member of the family of the owner of the land.

"(ii) RECORDING OF INTEREST.—On request by the Indian tribe described in clause (i)(II)(bb), a restriction relating to the acquisition by the Indian tribe of an interest in a family farm involved shall be recorded as part of the deed relating to the interest involved.

"(iii) MORTGAGE AND FORECLOSURE.—Nothing in clause (i)(II) limits—

"(I) the ability of an owner of land to which that clause applies to mortgage the land; or

"(II) the right of the entity holding such a mortgage to foreclose or otherwise enforce such a mortgage agreement in accordance with applicable law.

"(iv) DEFINITION OF 'MEMBER OF THE FAMILY'.—In this paragraph, the term 'member of the family', with respect to a decedent or landowner, means—

"(I) a lineal descendant of a decedent or landowner;

"(II) a lineal descendant of the grandparent of a decedent or landowner;

"(III) the spouse of a descendant or landowner described in subclause (I) or (II); and

"(IV) the spouse of a decedent or landowner."; and

(II) in subparagraph (B), by striking "subparagraph (A)" and all that follows through "207(a)(6)(B) of this title" and inserting "paragraph (1)";

(4) in section 207 (25 U.S.C. 2206), by striking subsection (g);

(5) in section 213 (25 U.S.C. 2212)—

(A) by striking the section heading and inserting the following:

"SEC. 2212. FRACTIONAL INTEREST ACQUISITION PROGRAM.";

(B) in subsection (a), by—

(i) adding in paragraph (1) "or from an heir during probate in accordance with section 207(p) (25 U.S.C. 2206(p))" after "owner,"; and

(ii) striking "(2) AUTHORITY OF SECRETARY.—" and all that follows through "the Secretary shall submit" and inserting the following:

"(2) AUTHORITY OF SECRETARY.—The Secretary shall submit"; and

(iii) by striking "whether the program to acquire fractional interests should be extended or altered to make resources" and inserting "how the fractional interest acquisition program should be enhanced to increase the resources made";

(C) in subsection (b), by striking paragraph (4) and inserting the following:

"(4) shall minimize the administrative costs associated with the land acquisition program through the use of policies and procedures designed to accommodate the voluntary sale of interests under this section, notwithstanding the existence of any otherwise applicable policy, procedure, or regulation, through the elimination of duplicate—

"(A) conveyance documents;

"(B) administrative proceedings; and

"(C) transactions.";

(D) in subsection (c)—

(i) in paragraph (1)—

(I) in subparagraph (A), by striking "at least 5 percent of the" and inserting in its place "an";

(II) in subparagraph (A), by inserting "in such parcel" following "the Secretary shall convey an interest";

(III) in subparagraph (A), by striking "landowner upon payment" and all that follows and inserting the following: "landowner—

"(i) on payment by the Indian landowner of the amount paid for the interest by the Secretary; or

"(ii) if—

"(I) the Indian referred to in this subparagraph provides assurances that the purchase price will be paid by pledging revenue from any source, including trust resources; and

"(II) the Secretary determines that the purchase price will be paid in a timely and efficient manner."; and

(IV) in subparagraph (B), by inserting before the period at the end the following: "unless the interest is subject to a foreclosure of a mortgage in accordance with the Act of March 29, 1956 (25 U.S.C. 483a)"; and

(ii) in paragraph (3), by striking "10 percent or more of the undivided interests" and inserting "an undivided interest"; and

(E) by adding at the end of the section:

"(d) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $75,000,000 for fiscal year 2005, $95,000,000 for fiscal year 2006, and $145,000,000 for each of fiscal years 2007 through 2010.";

(6) in section 214 (25 U.S.C. 2213), by striking subsection (b) and inserting the following:

"(b) APPLICATION OF REVENUE FROM ACQUIRED INTERESTS TO LAND CONSOLIDATION PROGRAM.—

"(1) IN GENERAL.—The Secretary shall have a lien on any revenue accruing to an interest described in subsection (a) until the Secretary provides for the removal of the lien under paragraph (3), (4), or (5).

"(2) REQUIREMENTS.—

"(A) IN GENERAL.—Until the Secretary removes a lien from an interest in land under paragraph (1)—

"(i) any lease, resource sale contract, right-of-way, or other document evidencing a transaction affecting the interest shall contain a clause providing that all revenue derived from the interest shall be paid to the Secretary; and

"(ii) any revenue derived from any interest acquired by the Secretary in accordance with section 213 shall be deposited in the fund created under section 216.

"(B) APPROVAL OF TRANSACTIONS.—Notwithstanding section 16 of the Act of June 18, 1934 (commonly known as the 'Indian Reorganization Act') (25 U.S.C. 476), or any other provision of law, until the Secretary removes a lien from an interest in land under paragraph (1), the Secretary may approve a transaction covered under this section on behalf of an Indian tribe.

"(3) REMOVAL OF LIENS AFTER FINDINGS.—The Secretary may remove a lien referred to in paragraph (1) if the Secretary makes a finding that—

"(A) the costs of administering the interest from which revenue accrues under the lien will equal or exceed the projected revenues for the parcel of land involved;

"(B) in the discretion of the Secretary, it will take an unreasonable period of time for the parcel of land to generate revenue that equals the purchase price paid for the interest; or

"(C) a subsequent decrease in the value of land or commodities associated with the parcel of land make it likely that the interest will be unable to generate revenue that equals the purchase price paid for the interest in a reasonable time.

"(4) Removal of liens upon payment into the acquisition fund.—The Secretary shall remove a lien referred to in paragraph (1) upon payment of an amount equal to the purchase price of that interest in land into the Acquisition Fund created under section 2215 of this title, except where the tribe with jurisdiction over such interest in land authorizes the Secretary to continue the lien in order to generate additional acquisition funds.

"(5) Other removal of liens.—The Secretary may, in consultation with tribal governments and other entities described in section 213(b)(3), periodically remove liens referred to in paragraph (1) from interests in land acquired by the Secretary.";

(7) in section 215 (25 U.S.C. 2214), in the last sentence, by striking "section 2212 of this title" and inserting "this Act";

(8) in section 216 (25 U.S.C. 2215)—

(A) in subsection (a), by striking paragraph (2) and inserting the following:

"(2) collect all revenues received from the lease, permit, or sale of resources from interests acquired under section 213 or paid by Indian landowners under section 213."; and

(B) in subsection (b)—

(i) in paragraph (1)—

(I) in the matter preceding subparagraph (A), by striking "Subject to paragraph (2), all" and inserting "All";

(II) in subparagraph (A), by striking "and" at the end;

(III) in subparagraph (B), by striking the period at the end and inserting "; and"; and

(IV) by adding at the end the following:

"(C) be used to acquire undivided interests on the reservation from which the income was derived."; and

(ii) by striking paragraph (2) and inserting the following:

"(2) Use of funds.—The Secretary may use the revenue deposited in the Acquisition Fund under paragraph (1) to acquire some or all of the undivided interests in any parcels of land in accordance with section 205.";

(9) in section 217 (25 U.S.C. 2216)—

(A) in subsection (b)(1), by striking subparagraph (B) and inserting a new subparagraph (B) as follows:

"(B) Waiver of requirement.—The requirement for an estimate of value under subparagraph (A) may be waived in writing by an owner of a trust or restricted interest in land either selling, exchanging, or conveying by gift deed for no or nominal consideration such interest—

"(i) to an Indian person who is the owner's spouse, brother, sister, lineal ancestor, lineal descendant, or collateral heir; or

"(ii) to an Indian co-owner or to the tribe with jurisdiction over the subject parcel of land, where the grantor owns a fractional interest that represents 5 percent or less of the parcel.";

(B) in subsection (e), by striking the matter preceding paragraph (1), and inserting "Notwithstanding any other provision of law, the names and mailing addresses of the owners of any interest in trust or restricted lands, and information on the location of the parcel and the percentage of undivided interest owned by each individual shall, upon written request, be made available to";

(C) in subsection (e)(1), by striking "Indian";

(D) in subsection (e)(3), by striking "prospective applicants for the leasing, use, or consolidation of" and inserting "any person that is leasing, using, or consolidating, or is applying to lease, use, or consolidate,"; and

(E) by striking subsection (f) and inserting the following:

"(f) Purchase of Land by Indian Tribe.—

"(1) In general.—Except as provided in paragraph (2), before the Secretary approves an application to terminate the trust status or remove the restrictions on alienation from a parcel of, or interest in, trust or restricted land, the Indian tribe with jurisdiction over the parcel shall have the opportunity—

"(A) to match any offer contained in the application; or

"(B) in a case in which there is no purchase price offered, to acquire the interest in the parcel by paying the fair market value of the interest.

"(2) Exception for family farms.—

"(A) In general.—Paragraph (1) shall not apply to a parcel of, or interest in, trust or restricted land that is part of a family farm that is conveyed to a member of the family of a landowner (as defined in section 206(c)(2)(A)(iv)) if the conveyance requires that in the event that the parcel or interest is offered for sale to an entity or person that is not a member of the family of the landowner, the Indian tribe with jurisdiction over the land shall be afforded the opportunity to purchase the interest pursuant to paragraph (1).

"(B) Applicability of other provision.—Section 206(c)(2)(A) shall apply with respect to the recording and mortgaging of any trust or restricted land referred to in subparagraph (A).";

(10) in section 219(b)(1)(A) (25 U.S.C. 2218(b)(1)(A)), by striking "100" and inserting "90"; and

(11) in section 219, by adding at the end of the section:

"(g) Other Laws.—Nothing in this Act shall be construed to supersede, repeal, or modify any general or specific statute authorizing the grant or approval of any type of land use transaction involving fractional interests in trust or restricted land.".

(b) Definitions.—Section 202 of the Indian Land Consolidation Act (25 U.S.C. 2201) is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) 'Indian' means—

"(A) any person who is a member of any Indian tribe, is eligible to become a member of any Indian tribe, or is an owner (as of the date of enactment of the American Indian Probate Reform Act of 2004) of a trust or restricted interest in land;

"(B) any person meeting the definition of Indian under the Indian Reorganization Act (25 U.S.C. 479) and the regulations promulgated thereunder; and

"(C) with respect to the inheritance and ownership of trust or restricted land in the State of California pursuant to section 207, any person described in subparagraph (A) or (B) or any person who owns a trust or restricted interest in a parcel of such land in that State.";

(2) by striking paragraph (4) and inserting the following:

"(4) 'trust or restricted lands' means lands, title to which is held by the United States in trust for an Indian tribe or individual, or which is held by an Indian tribe or individual subject to a restriction by the United States against alienation; and 'trust or restricted interest in land' or 'trust or restricted interest in a parcel of land' means an interest in land, title to which is held in trust by the United States for an Indian tribe or individual, or which is held by an Indian tribe or individual subject to a restriction by the United States against alienation."; and

(3) by adding at the end the following:

"(6) 'parcel of highly fractionated Indian land' means a parcel of land that the Secretary, pursuant to authority under a provision of this Act, determines to have, as evidenced by the Secretary's records at the time of the determination—

"(A) 50 or more but less than 100 co-owners of undivided trust or restricted interests, and no 1 of such co-owners holds a total undivided trust or restricted interest in the parcel that is greater than 10 percent of the entire undivided ownership of the parcel; or

"(B) 100 or more co-owners of undivided trust or restricted interests;

"(7) 'land' means any real property, and includes within its meaning for purposes of this Act improvements permanently affixed to real property;

"(8) 'person' or 'individual' means a natural person;

"(9) 'eligible heirs' means, for purposes of section 207 (25 U.S.C. 2206), any of a decedent's children, grandchildren, great grandchildren, full siblings, half siblings by blood, and parents who are—

"(A) Indian; or

"(B) lineal descendents within 2 degrees of consanguinity of an Indian; or

"(C) owners of a trust or restricted interest in a parcel of land for purposes of inheriting by descent, renunciation, or consolidation agreement under section 207 (25 U.S.C. 2206), another trust or restricted interest in such parcel from the decedent; and

"(10) 'without regard to waste' means, with respect to a life estate interest in land, that the holder of such estate is entitled to the receipt of all income, including bonuses and royalties, from such land to the exclusion of the remaindermen.".

(c) Issuance of Patents.—Section 5 of the Act of February 8, 1887 (25 U.S.C. 348), is amended by striking the second proviso and inserting the following: "*Provided*, That the rules of intestate succession under the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act) shall apply to that land for which patents have been executed and delivered:".

(d) Transfers of Restricted Indian Land.—Section 4 of the Act of June 18, 1934 (25 U.S.C. 464), is amended in the first proviso by—

(1) striking ", in accordance with" and all that follows through "or in which the subject matter of the corporation is located,";

(2) striking ", except as provided by the Indian Land Consolidation Act" and all that follows through the colon; and

(3) inserting "in accordance with the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) (including a tribal probate code approved under that Act or regulations promulgated under that Act):".

(e) Estate Planning.—

(1) Conduct of activities.—Section 207(f)(1) of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by striking paragraph (1) and inserting the following:

"(1) In general.—

"(A) The activities conducted under this subsection shall be conducted in accordance with any applicable—

"(i) tribal probate code; or

"(ii) tribal land consolidation plan.

"(B) The Secretary shall provide estate planning assistance in accordance with this subsection, to the extent amounts are appropriated for such purpose.".

(2) Requirements.—Section 207(f)(2) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)(2)) is amended by striking "and" at the end of subparagraph (A), redesignating subparagraph (B) as subparagraph (D), and adding the following:

"(B) dramatically increase the use of wills and other methods of devise among Indian landowners;

"(C) substantially reduce the quantity and complexity of Indian estates that pass intestate through the probate process, while protecting the rights and interests of Indian landowners; and".

(3) Probate code development and legal assistance grants.—Section 207(f)(3) of the Indian Land Consolidation Act (25 U.S.C. 2206(f)(3)) is amended by striking paragraph (3) and inserting the following:

"(3) Probate code development and legal assistance grants.—In carrying out this section, the Secretary may award grants to—

"(A) Indian tribes, for purposes of tribal probate code development and estate planning services to tribal members;

"(B) organizations that provide legal assistance services for Indian tribes, Indian organizations, and individual owners of interests in trust or restricted lands that are qualified as nonprofit organizations under section 501(c)(3) of the Internal Revenue Code of 1986 and provide such services pursuant to Federal poverty guidelines, for purposes of providing civil legal assistance to such Indian tribes, individual owners, and Indian organizations for the development of tribal probate codes, for estate planning services or for other purposes consistent with the services they provide to Indians and Indian tribes; and

"(C) in specific areas and reservations where qualified nonprofit organizations referred to in subparagraph (B) do not provide such legal assistance to Indian tribes, Indian organizations, or individual owners of trust or restricted land, to other providers of such legal assistance;

that submit an application to the Secretary, in such form and manner as the Secretary may prescribe.

"(4) Authorization for appropriations.—There is authorized to be appropriated such sums as may be necessary to carry out the provisions of paragraph (3).".

(4) Notification to landowners.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206) is amended by adding at the end the following:

"(l) Notification to Landowners.—After receiving written request by any owner of a trust or restricted interest in land, the Secretary shall provide to such landowner the following information with respect to each tract of trust or restricted land in which the landowner has an interest:

"(1) The location of the tract of land involved.

"(2) The identity of each other co-owner of interests in the parcel of land.

"(3) The percentage of ownership of each owner of an interest in the tract.

"(m) Pilot Project for the Management of Trust Assets of Indian Families and Relatives.—

"(1) Development pilot project.—The Secretary shall consult with tribes, individual landowner organizations, Indian advocacy organizations, and other interested parties to—

"(A) develop a pilot project for the creation of legal entities such as private or family trusts, partnerships corporations, or other organizations to improve, facilitate, and assist in the efficient management of interests in trust or restricted lands or funds owned by Indian family members and relatives; and

"(B) develop proposed rules, regulations, and guidelines to implement the pilot project, including—

"(i) the criteria for establishing such legal entities;

"(ii) reporting and other requirements that the Secretary determines to be appropriate for administering such entities; and

"(iii) provisions for suspending or revoking the authority of an entity to engage in activities relating to the management of trust or restricted assets under the pilot project in order to protect the interests of the beneficial owners of such assets.

"(2) Primary purposes; limitation; approval of transactions; payments by secretary.—

"(A) Purposes.—The primary purpose of any entity organized under the pilot project shall be to improve, facilitate, and assist in the management of interests in trust or restricted land, held by 1 or more persons, in furtherance of the purposes of this Act.

"(B) Limitation.—The organization or activities of any entity under the pilot project shall not be construed to impair, impede, replace, abrogate, or modify in any respect the trust duties or responsibilities of the Secretary, nor shall anything in this subsection or in any rules, regulations, or guidelines developed under this subsection enable any private or family trustee of trust or restricted interests in land to exercise any powers over such interests greater than that held by the Secretary with respect to such interests.

"(C) Secretarial approval of transactions.—Any transaction involving the lease, use, mortgage or other disposition of trust or restricted land or other trust assets administered by or through an entity under the pilot project shall be subject to approval by the Secretary in accordance with applicable Federal law.

"(D) Payments.—The Secretary shall have the authority to make payments of income and revenues derived from trust or restricted land or other trust assets administered by or through an entity participating in the pilot project directly to the entity, in accordance with requirements of the regulations adopted pursuant to this subsection.

"(3) Limitations on pilot project.—

"(A) Number of organizations.—The number of entities established under the pilot project authorized by this subsection shall not exceed 30.

"(B) Regulations required.—No entity shall commence activities under the pilot project authorized by this subsection until the Secretary has adopted final rules and regulations under paragraph (1)(B).

"(4) Report to congress.—Prior to the expiration of the pilot project provided for under this subsection, the Secretary shall submit a report to Congress stating—

"(A) a description of the Secretary's consultation with Indian tribes, individual landowner associations, Indian advocacy organizations, and other parties consulted with regarding the development of rules and regulations for the creation and management of interests in trust and restricted lands under the pilot project;

"(B) the feasibility of accurately monitoring the performance of legal entities such as those involved in the pilot project, and the effectiveness of such entities as mechanisms to manage and protect trust assets;

"(C) the impact that the use of entities such as those in the pilot project may have with respect to the accomplishment of the goals of the Indian Land Consolidation Act (25 U.S.C. 2201 et seq.); and

"(D) any recommendations that the Secretary may have regarding whether to adopt a permanent program as a management and consolidation measure for interests in trust or restricted lands.

"(n) Notice to Heirs.—Prior to holding a hearing to determine the heirs to trust or restricted property, or making a decision determining such heirs, the Secretary shall seek to provide actual written notice of the proceedings to all heirs. Such efforts shall include—

"(1) a search of publicly available records and Federal records, including telephone and address directories and including electronic search services or directories;

"(2) an inquiry with family members and co-heirs of the property;

"(3) an inquiry with the tribal government of which the owner is a member, and the tribal government with jurisdiction over the property, if any; and

"(4) if the property is of a value greater than $2,000, engaging the services of an independent firm to conduct a missing persons search.

"(o) Missing Heirs.—

"(1) For purposes of this subsection and subsection (m), an heir may be presumed missing if—

"(A) such heir's whereabouts remain unknown 60 days after completion of notice efforts under subsection (m); and

"(B) in the proceeding to determine a decedent's heirs, the Secretary finds that the heir has had no contact with other heirs of the decedent, if any, or with the Department relating to trust or restricted land or other trust assets at any time during the 6-year period preceding the hearing to determine heirs.

"(2) Before the date for declaring an heir missing, any person may request an extension of time to locate such heir. The Secretary shall grant a reasonable extension of time for good cause.

"(3) An heir shall be declared missing only after a review of the efforts made in the heirship proceeding and a finding has been made that this subsection has been complied with.

"(4) An heir determined to be missing pursuant to this subsection shall be deemed to have predeceased the decedent for purposes of descent and devise of trust or restricted land and trust personalty within that decedent's estate.".

SEC. 7. ANNUAL NOTICE AND FILING REQUIREMENT FOR OWNERS OF INTERESTS IN TRUST OR RESTRICTED LANDS.

The Indian Land Consolidation Act (25 U.S.C. 2201 et seq.) is amended by adding at the end the following:

"SEC. 222. ANNUAL NOTICE AND FILING; CURRENT WHEREABOUTS OF INTEREST OWNERS.

"On at least an annual basis, the Secretary shall include along with other regular reports to owners of trust or restricted interests in land and individual Indian money account owners a change of name and address form by means of which the owner may confirm or update the owner's name and address. The change of name and address form shall include a section in which the owner may confirm and update the owner's name and address.''.

SEC. 8. NOTICE; EFFECTIVE DATE.

(a) NOTICE.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall notify Indian tribes and owners of trust or restricted lands of the amendments made by this Act.

(2) SPECIFICATIONS.—The notice required under paragraph (1) shall be designed to inform Indian owners of trust or restricted land of—

(A) the effect of this Act and the amendments made by this Act, with emphasis on the effect of the provisions of this Act and the amendments made by this Act, on the testate disposition and intestate descent of their interests in trust or restricted land;

(B) estate planning options available to the owners, including any opportunities for receiving estate planning assistance or advice;

(C) the use of negotiated sales, gift deeds, land exchanges, and other transactions for consolidating the ownership of land; and

(D) a toll-free telephone number to be used for obtaining information regarding the provisions of this Act and any trust assets of such owners.

(3) REQUIREMENTS.—The Secretary shall provide the notice required under paragraph (1)—

(A) by direct mail for those Indians with interests in trust and restricted lands for which the Secretary has an address for the interest holder;

(B) through the Federal Register;

(C) through local newspapers in areas with significant Indian populations, reservation newspapers, and newspapers that are directed at an Indian audience; and

(D) through any other means determined appropriate by the Secretary.

(4) CERTIFICATION.—After providing notice under this subsection, the Secretary shall—

(A) certify that the requirements of this subsection have been met; and

(B) publish notice of that certification in the Federal Register.

(b) EFFECTIVE DATE.—Section 207 of the Indian Land Consolidation Act (25 U.S.C. 2206), except subsections (e) and (f) of that section, shall not apply to the estate of an individual who dies before the date that is 1 year after the date on which the Secretary makes the certification required under subsection (a)(4).

SEC. 9. SEVERABILITY.

If any provision of this Act or of any amendment made by this Act, or the application of any such provision to any person or circumstance, is held to be invalid for any reason, the remainder of this Act and of amendments made by this Act, and the application of the provisions and of the amendments made by this Act to any other person or circumstance shall not be affected by such holding, except that each of subclauses (II), (III), and (IV) of section 205(d)(2)(I)(i) is deemed to be inseverable from the other 2, such that if any 1 of those 3 subclauses is held to be invalid for any reason, neither of the other 2 of such subclauses shall be given effect.

SEC. 10. REGULATIONS.

The Secretary is authorized to adopt such regulations as may be necessary to implement the provisions of this Act.

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Pursuant to the rule, the gentleman from California (Mr. POMBO) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. POMBO).

Mr. POMBO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 1721 amends the Indian Land Consolidation Act to provide a new uniform Federal probate code applicable to individual Indian trust lands. It also provides incentives for Indians to write wills, and mechanisms for the Interior Department, tribes and individual Indians to consolidate highly fractionated lands.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have no objections to consideration of this particular measure. Mr. Speaker, this bill is about the importance of the lands of the Native American. It is about protecting the rights of Indian parents to pass on the land that they received from their parents on to their children, where the value is not only commercial but also spiritual.

For these reasons, we have to get it right on this particular piece of legislation. We must ensure Indian lands stay in Indian hands and in the trust they believe in.

Congress has made several previous attempts to address the administration and management of the Indian allotments, and each endeavor has produced mixed results. We have had parts of two such attempts deemed unconstitutional, and the latest fix is under threat of being the cause of thousands of acres of land coming out of trust status if implemented as the administration plans. This would be a devastating policy throughout Indian country. We are acting together to keep this from happening.

We are pleased that this has occurred and I urge my colleagues to support the passage of this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I am pleased to be here today to speak on a complex and unique issue in Congress—Native American Land Management. The attitude of the U.S. government toward the Indian tribes has shifted over the last 300 years. It has oscillated between favoring tribes as the "governments" of Indians, and favoring their dismantlement. Currently, we have a system in which the Bureau of Indian Affairs works under the jurisdiction of the Department of Interior to manage all issues pertaining to Native Americans. This bill, S. 1721, addresses an inconsistency and bureaucratic bottleneck within that department.

In a period favoring dismantlement of the tribes and their reservations, Congress passed the General Allotment Act of 1887, also known as the Dawes Act. The Act provided for the allotment of reservations to individual Indians with the surplus going to others. This is why many reservations currently have lands inside them owned by non-Indians. Allotments to individual Indians were 40 to 160 acres in size, and to ensure the land was not taken by non-Indians through taxation, encroachment/trespass or state takings, the title to the land remained in trust with the United States.

Very few Indians write wills; this has never been a part of their tradition. When an Indians landowner dies, State probate law takes over because tribes lack authority to probate that land. As a result, shares of his or her undivided interest in the land fractionate, with heirs each inheriting equal shares of the undivided interest. With the passing of each generation, and few written wills, these interests continue to fractionate exponentially. Because the lands—and the accounts in which revenues generated from the land are deposited—are held in trust by the Department of the Interior, the government has a fiduciary responsibility to manage the lands and the accounts. This is extremely costly and difficult, especially when dealing with managing accounts that each might represent less than one-tenth of 1 percent of the undivided interest in a 160 acre tract of land.

The Department of the Interior has to manage each of these accounts, including the ones that generate just a few pennies a year. The purpose of S. 1721 is to slow and eventually stop further fractionation, and provide for the consolidation of the already-fractionated interests. Doing so will take some time, but over the long run the Interior Department will not have to spend billions of dollars and a great deal of time managing these interests. If fractionation is allowed to continue, the costs and difficulty of managing the lands and accounts will spin out of control.

The average Indians that dies owns ten separate interests in land spread throughout multiple States. At present, Interior must probate in each of these States when he or she dies. The average cost of each probate is $3,000 and lasts 18 months, There are 25,000 probates pending. This translates into the Interior spending $75 million over 18 months and repeating the cycle. There are about 5,000 deaths per year requiring probate; this number continuing to increase every year.

All these numbers add up to a lot of costs that will be saved by S. 1721, which provides a combination of: one uniform probate code for all States; incentives for Indians to write their own wills; and a rule that limits inheritance of a highly fractionated interest to only one heir. Having a sole heir is one of the most important aspects of S. 1721—it stops further fractionation. The bill also provides for consolidation of highly fractionated lands through various tools that make it easier for the Department of the Interior, tribes, or individual Indians to buy whole parcels of land from multiple owners. The goal of the bill is to keep these lands in trust for the benefit of Indians, which protects them from things such as State taxation.

Also, the bill makes it easier to let leases on individual Indians trust lands. Currently, it's extremely difficult to get concurrence of multiple owners of a fractionated parcel on decisions to lease the land. Consolidating the land has the effect of putting the land into more productive use.

According to the Department of the Interior, just to keep fractionation from getting worse at present, it would have to spend $250 million per year in buy-backs to maintain the current number of fractionated interests stable. The Department of Interior has said that if it can get the "single heir rule" in place by passing S.1721, it will be much more aggressive in the buy-back program, which is why it wants the authorization levels provided in the bill. The aggressive buy-back will lower the number fractionated interests over time.

This is probably the most important bill regarding Native Americans to be passed in this Congress. I thank my colleagues on the House Resources Committee and the Senate Indians Affairs Committee for their diligence to work to address this problem.

Mr. RODRIGUEZ. Mr. Speaker, I yield back the balance of my time.

Mr. POMBO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. POMBO) that the House suspend the rules and pass the Senate bill, S. 1721.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. POMBO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on S. 1791, S. 2511, S. 2178, S. 211 and S. 1721.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

CONGRATULATING MOJAVE AEROSPACE VENTURE FOR WINNING THE ANSARI X PRIZE

Mr. ROHRABACHER. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 820) to congratulate Mojave Aerospace Ventures for winning the privately funded $10,000,000 Ansari X Prize and commend the X Prize Foundation for spurring this achievement, as amended.

The Clerk read as follows:

H. RES. 820

Whereas the Ansari X Prize competition was created to promote the emerging commercial space transportation industry and inspire a new generation of explorers by accelerating the development of low-cost space launch vehicles for space exploration, tourism, science, and commerce;

Whereas the X Prize Foundation, headed by space entrepreneur Dr. Peter Diamandis, offered a $10,000,000 prize to the first contestant to privately finance, develop, and launch a spaceship capable of carrying 3 people to 100 kilometers (62.5 miles) above the Earth, returning safely to Earth, and repeating the launch with the same ship within 2 weeks;

Whereas the Ansari X Prize inspired 26 teams from 7 nations to invest their private funds and personal toil in pursuit of the dream of private space flight;

Whereas Mojave Aerospace Ventures, led by aviation pioneer Burt Rutan and software pioneer Paul Allen, designed and developed SpaceShipOne, the winning entry in the Ansari X Prize competition;

Whereas on June 21, 2004, SpaceShipOne, piloted by Mike Melvill, accomplished the first privately funded suborbital flight into space in the skies above Mojave, California;

Whereas on September 29, 2004, SpaceShipOne, once again piloted by Mike Melvill, successfully completed the first of 2 suborbital flights in pursuit of the Ansari X Prize competition, flying to an altitude of 337,600 feet (102.9 km); and

Whereas on October 4, 2004, SpaceShipOne, piloted by Brian Binnie, successfully completed the second of 2 suborbital flights in pursuit of the Ansari X Prize less than one week later, flying to an altitude of 368,000 feet (112.2 km), and thereby winning the Ansari X Prize competition: Now, therefore, be it

Resolved, That the House of Representatives—

(1) congratulates Mojave Aerospace Ventures, led by Burt Rutan and Paul Allen, for winning the privately funded $10,000,000 Ansari X Prize and inspiring the next generation of space explorers to even greater heights;

(2) commends the pilots of SpaceShipOne for their skill and bravery; and

(3) commends the founders of, contributors to, and management of the X Prize Foundation for spurring this achievement.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. ROHRABACHER) and the gentleman from Texas (Mr. LAMPSON) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. ROHRABACHER).

GENERAL LEAVE

Mr. ROHRABACHER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 820.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, there are two kind of frontiers. There are physical frontiers: uncharted land, unseen depths of oceans, unexplored space. And then there are frontiers of imagination: frontiers that require us to think a new way, to have a vision beyond what others see, to question assumptions about what is technologically possible.

Today, we honor Mojave Aerospace Ventures' SpaceShipOne, the winner of the X Prize for traversing this second kind of frontier.

Suborbital space is not a new destination. Brian Binnie and Mike Melvill, the pilots of SpaceShipOne, did not fly higher, farther or longer than the astronauts who came before them, yet Brian and Mike, together with SpaceShipOne designer Burt Rutan and sponsor Paul Allen, have nonetheless crossed a critical frontier. They have accepted and exceeded the X Prize Foundation's challenge, proving that commercial space transportation is viable and that space and its exploration and utilization will not be the sole arena of government, but is also open to the private sector and to private individuals and private companies.

The achievement of Mojave Aerospace will no doubt spur more entrepreneurial space ventures and inspire other dreamers to become doers.

Burt Rutan's design for SpaceShipOne has been said to echo that of the X-15, an experimental Cold War rocket plane like SpaceShipOne. It was launched in flight from a larger aircraft. It is not only Burt Rutan's elegant design, however, that reminds us of another time. The spirit of his team and the X Prize competition recalls the spirit of the early years of our Nation's space race. It recalls the Charles Lindbergh trans-Atlantic flight which was also the result of a prize that was offered for the first accomplishment. That accomplishment was, of course, the first nonstop trip from New York to Paris.

□ 0130

It also reminds us of Chuck Yeager, and others like Chuck Yeager, who broke the records of the sound barrier and other records in flight. It reminds us of these other moments when these other barriers were broken and that new opportunities were created in the accomplishment.

This spirit of exploration, this drive to push the limits of technology and endurance, is a signature of the American experience; that human flight into space, we now can say, is no longer the arena only of government and only the purview of companies that are directly financed by government, but now is open to private individuals and private companies and private enterprise and individual enterprise.

The X Prize awakens us to this spirit with a new generation of explorers. It awakens the spirit in students who will study science and math and engineering, as well as those who have been inspired toward bold innovations in other fields. Like Melvill, Binnie and Rutan, and the Mojave Aerospace Ventures, their team, these new explorers, will inspire the dreamers and give them courage and determination to turn their dreams into reality.

Today, we honor the winners of the X Prize for their victory and for completing the first privately funded, human, suborbital space flight. We also commend the X Prize Foundation and the 25 other teams who vied for the prize. We look forward to watching commercial space transportation to continue to develop, engaging new investors and engineers, scientists and pilots in the business of exploration.

This X Prize concept of offering a reward for an achievement, a technological achievement, is not a time that is past. What we have seen, through this accomplishment by Mojave Aerospace, is that this may be a vehicle to achieve new goals in space, and we will be looking into this. Hopefully, it will encourage further achievements that will help the United States and all of humankind set new records and push the frontiers.

Mr. Speaker, I reserve the balance of my time.

Mr. LAMPSON. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise to support the resolution by the chairman of the Subcommittee on Space and Aeronautics congratulating the winners of the Ansari X Prize on their intrepid voyages to the edge of space.

A century ago, as Orville Wright dropped down to the sand at Kitty Hawk after his 12-second flight into history, the impact of aviation on the world was only dimly seen. Yet, today, we take for granted that the other side of the world is only a mere few hours from our front door. Now, we honor the next Orville and Wilbur, Mike Melvill and Brian Binnie, pilots of SpaceShipOne's prize-winning flights.

In the space of a week, they have shown us all a new opportunity. If you are not satisfied with reading about space, well, the day is not far off when you can go there yourself.

SpaceShipOne did not get very far into space, but then, neither did Alan Shepard on his first Mercury flight. So let us not forget, though, that Alan Shepard later made it to the moon.

The resolution before the House also honors Burt Rutan, the pioneering designer at the head of Mojave Aerospace Ventures. Some 40 airplanes share Rutan's distinctive designs, and if one visits the National Air and Space Museum here on the mall, they can see his Voyager, which flew around the world nonstop in 1986.

That it was Rutan who broke the barrier of affordable access to space probably does not surprise many in the aviation fraternity, but as Tom Wolfe so memorably put it in The Right Stuff, "No bucks, no Buck Rogers."

Without Paul Allen's willingness to commit real money, SpaceShipOne might still be little more than scribbles on a napkin in a filing cabinet. Sometimes we have to look beyond the business case.

There is something about a contest that seems to inspire great deeds. We owe a great deal to Dr. Peter Diamandis, president of the Ansari X Prize Foundation. He set the goal that fired the imaginations of those eager to open space to the rest of us. The House is right to include him in our congratulations.

So, Mr. Speaker, I am pleased to join the gentleman from California in honoring the achievements of the Ansari X Prize winners and recommend that the House approve this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Mr. Speaker, I yield myself such time as I may consume. I have no other requests to speak, and I have just one last thought.

I believe that the investor invested $26 million in this project. We have no doubt that, if this project was just a government-funded project, that it probably would have been in the hundreds of millions of dollars. We will be looking at this X Prize concept of encouraging the private sector to try to achieve specific goals that would be worthy of such prizes and would also be very, very helpful to our whole technological efforts of our country.

So we will be looking at this as a vehicle in the future, and I am looking forward to working with the gentleman from Texas (Mr. LAMPSON) and people on both sides of the aisle, whose goal it is to make sure that America remains the leader in space. This is a great achievement today. We congratulate all those who are involved with SpaceShipOne.

Mr. THOMAS. Mr. Speaker, I rise today in support of H. Res. 820, which commends Mojave Aerospace Ventures and their great success capturing the Ansari X Prize on Monday, October 4. I am proud to represent Burt Rutan and his team based in Mojave, California, and it has been a great pleasure to watch their success.

The first private effort to enter space has succeeded. As part of a competition stimulating private enterprise in an area that formerly was totally government-controlled, the Ansari X Prize Foundation and the collaborators of Mojave Aerospace Ventures have proven that private organizations can achieve anything they put their minds to. The sky is no longer the limit.

Although almost 80 years apart, the X Prize is similar to the reward that in part led Charles Lindbergh to fly across the Atlantic in 1927. That achievement sparked the initial age of commercial aviation, and this achievement truly begins the era of commercial space aviation.

I congratulate Burt Rutan, pilots Mike Melvill and Brian Binnie, all the employees of Scaled Composites, and all those community volunteers who worked tirelessly to prepare for this event at the Mojave Spaceport. In recent days they have provided us with an exciting glimpse of the future, and I look forward to their next endeavors.

Mr. SMITH of Washington. Mr. Speaker, today, I wish to extend to Paul Allen and the entire SpaceShipOne team my heartfelt congratulations on their huge achievement. Since Orville and Wilbur Wright first took to the skies, mankind has consistently dreamed of loftier goals and continued to push the edge in manned flight, both commercially and through government endeavors. On October 4, the entire SpaceShipOne team expanded man's dream of commercial flight into space. While a noble achievement, this is but the first step in a long process towards the dream of many on Earth to fly to the reaches of outer space. Some day this dream will be a reality and it is because of the efforts and skills of people like those at Scaled Composites and the visionaries like Paul Allen that will make this dream a reality.

Mr. SIMPSON. Mr. Speaker, I rise today to congratulate and commend Mr. Paul Allen, Mr. Burt Rutan and all the men and women of Mojave Aerospace Ventures on winning the Ansari X Prize competition.

On December 17, 1903, Wilbur and Orville Wright made the first sustained, controlled, powered flight of an airplane at Kitty Hawk, NC. Now, a little over a century later Mojave Aerospace Ventures has followed in the footsteps of the Wright Brothers by designing, building and successfully flying the world's first privately funded spacecraft.

Mr. Speaker, the private support of Paul Allen, for the Mojave Aerospace Ventures was critical in reaching this historical milestone. This accomplishment exemplifies the ingenuity on which our Nation was founded and developed. Mr. Allen has shown that the entrepreneurial spirit which has made America great is alive and well and will continue towards even greater achievements in the future.

Mr. ROHRABACHER. Mr. Speaker, I yield back the balance of my time.

Mr. LAMPSON. Mr. Speaker, I have no other speakers, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). The question is on the motion offered by the gentleman from California (Mr. ROHRABACHER) that the House suspend the rules and agree to the resolution, H. Res. 820, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

SPECIALTY CROPS COMPETITIVENESS ACT OF 2004

Mr. OSE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3242) to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Specialty Crops Competitiveness Act of 2004".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds the following:

(1) A secure domestic food supply is a national security imperative for the United States.

(2) A competitive specialty crop industry in the United States is necessary for the production of an abundant, affordable supply of highly nutritious fruits, vegetables, and other specialty crops, which are vital to the health and well-being of all Americans.

(3) Increased consumption of specialty crops will provide tremendous health and economic benefits to both consumers and specialty crop growers.

(4) Specialty crop growers believe that there are numerous areas of Federal agriculture policy that could be improved to promote increased consumption of specialty crops and increase the competitiveness of producers in the efficient production of affordable specialty crops in the United States.

(5) As the globalization of markets continues, it is becoming increasingly difficult for United States producers to compete against heavily subsidized foreign producers in both the domestic and foreign markets.

(6) United States specialty crop producers also continue to face serious tariff and nontariff trade barriers in many export markets.

(b) Purpose.—It is the purpose of this Act to make necessary changes in Federal agriculture policy to accomplish the goals of increasing fruit, vegetable, and nut consumption and improving the competitiveness of United States specialty crop producers.

SEC. 3. DEFINITIONS.

In this Act:

(1) The term "specialty crop" means fruits and vegetables, tree nuts, dried fruits, and nursery crops (including floriculture).

(2) The term "State" means the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

(3) The term "State department of agriculture" means the agency, commission, or department of a State government responsible for agriculture within the State.

TITLE I—STATE ASSISTANCE FOR SPECIALTY CROPS

SEC. 101. SPECIALTY CROP BLOCK GRANTS.

(a) Availability and Purpose of Grants.—Subject to the appropriation of funds to carry out this section, the Secretary of Agriculture shall make grants to States for each of the fiscal years 2005 through 2009 to be used by State departments of agriculture solely to enhance the competitiveness of specialty crops.

(b) Grants Based on Value of Production.—Subject to subsection (c), the amount of the grant for a fiscal year to a State under this section shall bear the same ratio to the total amount appropriated pursuant to the authorization of appropriations in subsection (i) for that fiscal year as the value of specialty crop production in the State during the preceding calendar year bears to the value of specialty crop production during the preceding calendar year in all States whose application for a grant for that fiscal year is accepted by the Secretary under subsection (f).

(c) Minimum Grant Amount.—Subject to the appropriation of sufficient funds to carry out this subsection, each State shall receive at least $100,000 each fiscal year as a grant under this section notwithstanding the amount calculated under subsection (b) for the State.

(d) Eligibility.—To be eligible to receive a grant under this section, a State department of agriculture shall prepare and submit, for approval by the Secretary of Agriculture, an application at such time, in such a manner, and containing such information as the Secretary shall require by regulation, including—

(1) a State plan that meets the requirements of subsection (e);

(2) an assurance that the State will comply with the requirements of the plan; and

(3) an assurance that grant funds received under this section shall supplement the expenditure of State funds in support of specialty crops grown in that State, rather than replace State funds.

(e) Plan Requirements.—The State plan shall identify the lead agency charged with the responsibility of carrying out the plan and indicate how the grant funds will be utilized to enhance the competitiveness of specialty crops.

(f) Review of Application.—In reviewing the application of a State submitted under subsection (d), the Secretary of Agriculture shall ensure that the State plan would carry out the purpose of grant program, as specified in subsection (a). The Secretary may accept or reject applications for a grant under this section.

(g) Effect of Noncompliance.—If the Secretary of Agriculture, after reasonable notice to a State, finds that there has been a failure by the State to comply substantially with any provision or requirement of the State plan, the Secretary may disqualify, for one or more years, the State from receipt of future grants under this section.

(h) Audit Requirements.—For each year that a State receives a grant under this section, the State shall conduct an audit of the expenditures of grant funds by the State. Not later than 30 days after the completion of the audit, the State shall submit a copy of the audit to the Secretary of Agriculture.

(i) Authorization of Appropriations.—For each of the fiscal years 2005 through 2009, there is authorized to be appropriated to the Secretary of Agriculture $44,500,000 to make grants under this section.

TITLE II—SPECIALTY CROP ADVANCEMENT

SEC. 201. TECHNICAL ASSISTANCE FOR SPECIALTY CROPS.

For each of the fiscal years 2005 through 2009, there is authorized to be appropriated to the Secretary of Agriculture $2,000,000 to carry out section 3205 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 5680). Amounts appropriated pursuant to this authorization of appropriations shall be in addition to any other funds made available to carry out such section.

SEC. 202. REDUCTION IN BACKLOG OF AGRICULTURAL EXPORT PETITIONS.

(a) Reduction Efforts.—To the maximum extent practicable, the Secretary of Agriculture shall endeavor to reduce the backlog in the number of applications for permits for the export of United States agricultural commodities. In achieving such reduction, the Secretary shall not dilute or diminish existing personnel resources that are currently managing sanitary and phytosanitary issues for—

(1) United States agricultural commodities for which exportation is sought; and

(2) interdiction and control of pests and diseases, including for the evaluation of pest and disease concerns of foreign agricultural commodities for which importation is sought.

(b) Report.—The Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate an annual report specifying, for the year covered by the report—

(1) the total number of applications processed to completion;

(2) the number of backlog applications processed to completion;

(3) the percentage of backlog applications processed to completion; and

(4) the number of backlog applications remaining.

SEC. 203. REPORT ON SANITARY AND PHYTOSANITARY EXPORT ISSUES.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report on significant sanitary and phytosanitary issues that affect the export of specialty crops.

TITLE III—SPECIALTY CROP RESEARCH

SEC. 301. METHYL BROMIDE ALTERNATIVES.

(a) Priority.—The Secretary of Agriculture shall elevate the priority of current methyl bromide alternative research and extension activities and reexamine the risks and benefits of extending the phase-out deadline in effect on the date of the enactment of this Act, including the estimated cost to the grower or processor associated with any alternatives proposed.

(b) Authorization of Appropriations.—For each of the fiscal years 2005 through 2009, there is authorized to be appropriated to the Secretary of Agriculture $5,000,000 to carry out this section.

SEC. 302. NATIONAL SPECIALTY CROP RESEARCH PROGRAM.

Section 1672(e) of the Food, Agriculture, Conservation, and Trade Act of 1990 (7 U.S.C. 5925(e)) is amended by adding at the end of the following new paragraph:

"(45) Specialty Crop Research.—Research and extension grants may be made under this section for the purpose of improving the efficiency, productivity, and profitability of specialty crop production in the United States.".

SEC. 303. SPECIALTY CROP COMMITTEE.

The National Agricultural Research, Extension, and Teaching Policy Act of 1977 is amended by inserting after section 1408 (7 U.S.C. 3123) the following new section:

"SEC. 1408A. SPECIALTY CROP COMMITTEE.

"(a) Establishment.—Not later than 90 days after the date of the enactment of the Specialty Crops Competitiveness Act of 2004, the executive committee of the Advisory Board shall establish, and appoint the initial members of, a permanent specialty crops committee that will be responsible for studying the scope and effectiveness of research, extension, and economics programs affecting the specialty crop industry.

"(b) Members.—Individuals who are not members of the Advisory Board may be appointed as members of the specialty crops committee. Members of the specialty crops committee shall serve at the discretion of the executive committee.

"(c) Annual Committee Report.—Not later than 180 days after the establishment of the specialty crops committee, and annually thereafter, the specialty crops committee shall submit to the Advisory Board a report containing the findings of its study under subsection (a). The specialty crops committee shall include in each report recommendations regarding the following:

"(1) Measures designed to improve the efficiency, productivity, and profitability of specialty crop production in the United States.

"(2) Measures designed to improve competitiveness in research, extension, and economics programs affecting the specialty crop industry.

"(3) Programs that would—

"(A) enhance the quality and shelf-life of fresh fruits and vegetables, including their taste and appearance;

"(B) develop new crop protection tools and expand the applicability and cost-effectiveness of integrated pest management;

"(C) prevent the introduction of foreign invasive pests and diseases;

"(D) develop new products and new uses of specialty crops;

"(E) develop new and improved marketing tools for specialty crops;

"(F) enhance food safety regarding specialty crops;

"(G) improve mechanization of production practices; and

"(H) enhance irrigation techniques used in specialty crop production.

"(d) Consideration by Secretary.—In preparing the annual budget recommendations for the Department of Agriculture, the Secretary shall take into consideration those findings and recommendations contained in the most-recent report of the specialty crops committee that are adopted by the Advisory Board.

"(e) Annual Report by Secretary.—In the budget material submitted to Congress by the Secretary in connection with the budget submitted pursuant to section 1105 of title 31, United States Code, for a fiscal year, the Secretary shall include a report describing how the Secretary addressed each recommendation of the specialty crops committee described in subsection (d).".

TITLE IV—PEST AND DISEASE RESPONSE FUND

SEC. 401. PEST AND DISEASE RESPONSE FUND.

(a) Establishment.—There is established on the books of the Treasury an account to be known as the "Pest and Disease Response Fund". There shall be deposited into the Fund any proceeds received by the Secretary of Agriculture as reimbursement for services provided by the Secretary using amounts in the Fund.

(b) Availability.—Amounts in the Fund shall remain available until expended.

(c) Use of Fund.—In implementing the Animal Health Protection Act (7 U.S.C. 8301 et seq.) and the Plant Protection Act (7 U.S.C. 7701 et seq.), the Secretary of Agriculture shall have complete discretion regarding the use of amounts in the Fund to support emergency eradication and research activities in response to economic and health threats posed by pests and diseases affecting agricultural commodities.

(d) Authorization of Appropriations.—For each of the fiscal years 2005 through 2009, there is authorized to be appropriated to the Secretary of Agriculture $1,000,000 for deposit in the Fund.

SEC. 402. IMPORT AND EXPORT REGULATION REVIEW.

(a) Peer Review.—The Secretary of Agriculture shall enter into an agreement with the National Plant Board to obtain a peer review of the procedures and standards that govern the consideration of import and export requests under section 412 of the Plant Protection Act (7 U.S.C. 7712). The peer review shall be consistent with the guidance by the Office of Management and Budget pertaining to peer review and information quality.

(b) Elements of Review.—The peer review required by subsection (a) shall address, at a minimum—

(1) the preparation of risk assessments; and

(2) the sufficiency, type, and quality of data that should be submitted to the Secretary of Agriculture.

(c) Submission of Results.—The results of the peer review conducted under subsection (a) shall be submitted to the Secretary and Congress not later than 180 days after the date of the enactment of this Act.

SEC. 403. MAINTENANCE OF FREDERICKSBURG INSPECTION TRAINING CENTER.

For each of the fiscal years 2005 through 2009, there is authorized to be appropriated to the Secretary of Agriculture $1,500,000 for the maintenance of the Agricultural Marketing Service inspection training center in Fredericksburg, Virginia.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. Ose) and the gentleman from Texas (Mr. Stenholm) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. Ose).

Mr. OSE. Mr. Speaker, I yield myself such time as I may consume.

(Mr. OSE asked and was given permission to revise and extend his remarks, and include extraneous material.)

Mr. Speaker, I will include in the Record at this point an exchange of letters between the Committee on Agriculture and the Committee on Ways and Means regarding H.R. 3242.

House of Representatives,
Committee on Ways and Means,
Washington, DC, October 6, 2004.

Hon. Bob Goodlatte,
Chairman, Committee on Agriculture, Longworth House Office Building, Washington, DC.

Dear Chairman Goodlatte: I am writing concerning H.R. 3242, the "Specialty Crops Competitiveness Act of 2004," which is scheduled for floor consideration today.

As you know, the Committee on Ways and Means has jurisdiction over matters concerning the Office of the United States Trade Representative (USTR). Section 301 of the introduced bill establishes at least one position within the USTR having sole responsibility over trade matters concerning specialty crops, and thus falls within the jurisdiction of the Committee on Ways and Means.

Because you have removed this provision during Committee action, and in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this or similar legislation.

Thank you for your letter which confirms this understanding with respect to H.R. 3242, and I would ask that a copy of our exchange of letters on this matter be included in the Congressional Record during floor consideration.

Best regards,

Bill Thomas,
Chairman.

House of Representatives,
Committee on Agriculture,
Washington, DC, October 4, 2004.

Hon. William M. Thomas,
Chairman, House Committee on Ways and Means, Longworth House Office Building, Washington, DC.

Dear Mr. Chairman: I would like to take this opportunity to share with you a copy of H.R. 3242 as amended and passed by the Committee on Agriculture. As you know, the Committee on Ways and Means received an additional referral of this legislation and I am respectfully requesting that this legislation be discharged from your committee. This legislation, sponsored by Representative Ose, would ensure an abundant and affordable supply of nutritious fruits, vegetables, and other speciality crops for the American consumers and international markets by enhancing the competitiveness of the United States-grown speciality crops, and for other purposes.

As the committee of primary jurisdiction, on September 30, 2004, the Committee on Agriculture favorably reported this legislation by an affirmative voice vote. As this bill prepares to move to the floor I am asking for your discharge to move this legislation forward.

This discharge in no way affects your jurisdiction over the subject matter of the bill and it will not serve as precedent for future referrals. In addition, should a conference on the bill be necessary, I would support your request to have the Committee on Ways and Means represented on the conference committee. I would also include this letter and any response in the bill report filled by the Committee on Agriculture.

Thank you for your cooperation in this matter and look forward to working with your committee in the future.

Sincerely,

Bob Goodlatte,
Chairman.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield myself such time as I may consume.

As my colleagues know, there are over 250 specialty crops produced throughout the United States, from blueberries in Maine to pineapples in Hawaii, potatoes in Idaho to pecans in Texas. In 2003, fruits, vegetables and tree nuts earned U.S. farmers close to $30 billion in sales at the farm gate alone.

As markets for fruits, vegetables and other specialty crops become more global, it is becoming increasingly difficult for U.S. growers to compete against heavily subsidized foreign producers in both domestic and foreign markets.

H.R. 3242 has been a long-time coming and serves as a good first step towards addressing the needs of the specialty crop grower through Federal policy changes in both domestic and international trade issues.

These issues will no doubt continue to be discussed and debated as we prepare for the 2007 farm bill. Writing a farm bill is truly an exercise in balancing the equities between all commodity groups, and when the committee begins its deliberations on the next farm bill, this will provide a solid foundation upon which to construct the provisions dealing with specialty crops.

Let me take this opportunity to thank my colleague, the gentleman from Hawaii (Mr. Case) for his thoroughness and hard work to ensure that the unique products from his State are included within the scope of this bill.

I would also like to thank the gentleman from California (Mr. Ose) and the gentleman from California (Mr. Dooley) for their hard work and attention with this endeavor. They have worked closely with the U.S. specialty crop growers to identify various areas of Federal agricultural policy that should be improved to promote the competitiveness of this diverse industry throughout the United States.

It is important that we have a strong domestic specialty crop industry. I encourage my colleagues to support H.R. 3242.

Mr. Speaker, I reserve the balance of my time.

Mr. OSE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to recognize the able assistance of certain members, both majority and minority staffs, specifically Brent Gattis and Elizabeth Parker on the majority staff, and Ms. Lisa Kelley on the minority staff.

Mr. Speaker, I rise today in strong support of the United States speciality crop industry; an industry united behind a strong beginning to what will eventually become great changes in the history of Federal agricultural policy. I rise to support H.R. 3242 and a united specialty crop industry.

This industry is comprised of fruits and vegetables, nuts and nursery crops as well as many other agricultural niche markets. This industry represents the largest farm gate value in the country, $58.7 billion according to USDA's Economic Research Service. It also represents the largest nutritional value in the Nation, providing over 60 percent of the recommended daily servings for the United States. This industry does not receive price support payments and is frequently subjected to foreign price support mechanisms. Due to the industry's diverse array of products, the specialty crop industry in the United States faces a higher number of emerging pests and diseases every month than any other market in the world. This problem is compounded by frequent trade restrictions and the imposition of sanitary and phytosanitary barriers placed on our commodities to protect other countries from the very pests we are attempting to keep out of our borders. Despite these sweeping problems, the growers, shippers, and packers remain committed to participating in this vital agricultural sector.

For these reasons I introduced H.R. 3242, along with my colleague, CAL DOOLEY. This bill seeks to expand on successful domestic policies, not by undermining our neighbors here at home, but by beating back the competition that seeks to crush our domestic producers. The concepts contained within H.R. 3242 are about exporting product; the movement of product out of the United States, to meet the global competition head on. To liberalize trade outside the boundaries of the United States and within, our domestic producers must be given the proper tools to compete. A viable specialty crop industry is imperative to maintaining the concept of liberalized trade.

The future of U.S. agriculture, both at home and abroad is entirely dependent on the industry as a whole cooperating and communicating to build successful Federal policies together. Fighting here at home amongst ourselves diminishes the strength of a U.S. domestic policy and makes us vulnerable to our competitors who view this as weakness. This industry must learn to beat back competitors together, accomplish objectives together, and ultimately take back the market share that has been lost.

This is a small step, however significant to giving a sector of the industry the opportunity to compete globally, export internationally, and create or expand niche markets here at home. H.R. 3242 also provides a venue for an exchange of ideas on different levels of success in all areas of agriculture. This bill that I have offered here today seeks to lay a foundation for success for all of our producers.

Mr. Speaker, I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. FARR).

Mr. FARR. Mr. Speaker, I thank the gentleman for yielding me time.

I want to thank the sponsors of this bill, the gentleman from California (Mr. DOOLEY) and the gentleman from California (Mr. OSE), for introducing H.R. 3242, of which I am an original cosponsor.

I stand as the representative of the most productive agricultural land in the world. It is in the State of California, and it is the Central Coast Valley. We produce what this bill is talking about, specialty crops.

Specialty crops are essentially those crops that we eat every day in salads, the lettuce, the artichokes, the strawberries, the grapes. We grow flowers. We grow everything that is not essentially in the commodity world, and we grow that just with market forces; that is, if there is not a good price for the crop, the farmer loses.

So what this bill does is bring the specialty crop, which frankly last year made more money than the commodity crops did, and California being the leading State, and almost all of the agriculture in California is in specialty crops, it is a remarkably important bill for our State and for all the people of the country who are in farming in specialty crops, as the gentleman from Texas (Mr. STENHOLM) pointed out.

Our specialty crops have no price supports. There are no direct payments. There are no marketing loans. There are no countercyclical payments. All we are asking for in this bill is for some help with research money and market promotion.

I supported the bill in its original form, and I am a little disappointed the way it has come to the floor. Nonetheless, it is a step in the right direction.

The authorization for expenditure in this bill is $43 million, compared to what is authorized to the commodity crops which is $12 to $13 billion. So the message here, and I know that it is late at night, but I hope that the agriculture community will see that we, for a long time, have been a part of the big family of agriculture.

This is the time when we are raising the flag to say that the specialty crops out there need some help, and I am, as appropriator, looking forward to getting the support of everybody who supports this bill, to getting money appropriated for this program and hopefully moving in the direction ahead to raise the authorization to a much higher standard and to appropriate a great deal of money. I hope that we do not have a battle in agriculture, where we have to rob Peter to pay Paul. Nonetheless, the growing markets in the world are in the specialty crops, and as I said, the sales of specialty crops last year exceeded that of commodity crops.

So I thank the members of the Committee on Agriculture for bringing this bill to the floor. I look forward to working with them as an appropriator, and it is a step in the right direction.

I thank very much the gentleman from California (Mr. OSE), and I thank very much the gentleman from Texas (Mr. STENHOLM).

Mr. OSE. Mr. Speaker, I yield myself such time as I may consume.

I am familiar with the marvelous bounty of the previous speaker's district, and I understand his concern. I welcome his cosponsorship of this bill because it has been an important part of our success.

I also want to make sure that all parties know the integral part that the chairman and the ranking member played in getting this bill to this point. They have been most accommodating in providing us with guidance and insight as to the art of the possible, and I think we have achieved that.

I know that everybody on the committee when we had markups spoke very positively about the days ahead, as we work together within the agricultural family so that all of our producers have the opportunity to succeed.

Mr. Speaker, I have no additional speakers, and I reserve the balance of my time.

Mr. STENHOLM. Mr. Speaker, I have no further requests for time, encourage the passage of H.R. 3242, and I yield back the balance of my time.

GENERAL LEAVE

Mr. OSE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 3242, the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

Mr. BLUMENAUER. Mr. Speaker, the Specialty Crop Competitiveness Act is a step in the right direction in promoting profitable agribusiness in the United States that incorporates responsible land use and levels the playing field for producers.

Specialty Crop production is big business in Oregon, accounting for $905 million a year in revenue for the State of Oregon. There are over 30,000 producers of specialty crops in Oregon, dozens of processing/packing companies, and over 250 vineyards.

These specialty crops, which are not currently subsidized by the Federal Government, stand in stark contrast to sugar, cotton, and the other major crops that cost taxpayers billions of dollars each year and hamper the economies of developing nations.

Oregon has been a pioneer in maintaining an urban growth boundary that preserves valuable farmland that can be used to raise these niche climate crops that have a growing demand, both domestically and internationally. Not only does this benefit the Oregon economy, but our world famous pears, wines, berries, hazelnuts, and other specialty crops bring communities together in farmers market settings that benefit 64 communities in Oregon.

I urge my colleagues to usher in a new era of responsible crop production and vote for H.R. 3242.

Mr. GOODLATTE. Mr. Speaker, I rise today in support of H.R. 3242, the Specialty Crop Competitiveness Act of 2004.

The specialty crop sector is comprised of a diverse group of commodities produced across the Nation and is a vital portion of our agricultural community. Because of their hard work, Americans have access to a healthful and wholesome diet which includes fruits and vegetables. The 6th District of Virginia, which I represent, is home to a wide variety of these producers. They are part of the larger specialty crop sector, which makes the United States the second largest importer and exporter of fruits, nuts, vegetables and other horticultural products.

I would like to take the opportunity to commend Mr. OSE of California for his commitment to the fruit and vegetable sector. His hard work with the industry, as well as his colleagues here in Congress, has been fundamental to moving this bill forward. Mr. OSE has diligently represented his constituents and I am sure they will miss his leadership upon his retirement.

H.R. 3242 is the culmination of many months of hard work in developing a consensus document. While the markup of this legislation proceeded quite smoothly, it did outline some issues that need additional attention.

However, it is clear from the quality of the discussion among Committee Members, that we understand the importance of the specialty crop sector in production agriculture.

I believe this bill represents a first step in what will undoubtedly be a lengthy conversation leading up to the next Farm Bill. Some issues in this bill will likely be revisited as we proceed forward with this process. For example, I still have some reservations about the block grant system and whether or not it is the best way to address the long term goals of the agriculture community. However, I remain open to further consideration of this point and I believe this is a good faith effort to begin the conversation about improving the competitiveness of specialty crop producers in the context of the Farm Bill.

Again, I'd like to thank Mr. OSE for his commitment to this complex effort and would like to reiterate my support for passage of H.R. 3242.

Mr. CARDOZA. Mr. Speaker I rise in support of H.R. 3242, the "Specialty Crop Competitiveness Act".

While I remain concerned about the funding levels—my colleagues from California, Mr. OSE and Mr. DOOLEY, must be commended for their dedication and hard work over the past year on this legislation to bring the specialty crop industry long overdue recognition from Congress.

I especially want to mention my strong support for provisions in the bill that address methyl bromide use by specialty crop growers. Continued use of methyl bromide as a fumigant is of utmost importance to a number of crops in my district and throughout California and I greatly appreciate the House Agriculture Committee bringing this issue to the forefront of the debate.

As you may know there are over 250 specialty crops produced in the United States and the industry as a whole is vitally important to the continued prosperity of our farm economy. In 2002, specialty crops had a collective value of nearly $52 billion or about 53 percent of the value of all agricultural crops. Their farm-gate value continues to rise as growers throughout the United States consistently produce the most abundant, highest quality crops of their kind in the world.

Currently however, specialty crops do not enjoy the same support from the Federal Government as do traditional "program" crops. Their main source of government assistance is not through marketing loans, direct payments, or counter-cyclical payments but instead they are supported—albeit in much smaller proportions—through programs like the Market Access Program, conservation programs like EQUIP, and through research funding.

The honest truth is that the majority of the specialty crop industry does not want a traditional subsidy program as cotton, corn, rice and others enjoy. Instead, they simply desire a seat at the table and recognition for their hard work and contribution to the farm economy. H.r. 3242 does just that, it improves upon previous Farm Bill programs aimed at specialty crops and proposes a reinvigorated block grant program that will allow each State Department of Agriculture to apply for, and administer, marketing assistance programs tailored specifically to the needs of their respective crops.

This legislation could not come at any better time. As many of you know, specialty crop growers across the United States are currently in the midst of an industry crisis. They are facing a number of challenges in international trade, caused by lack of market access, rapidly increasing import competition and efforts by our trading partners to keep our products out of their markets. Additionally, our foreign competitors routinely employ considerably cheaper labor and liberally use pesticides that are banned here at home.

In my home State of California, the situation worsens. Growers are constantly dealing with new environmental regulations, which often require costly compliance measures such as purchasing new equipment and machinery or applying for Federal and State permits. Furthermore, the cost of land, water, labor and pesticides are significantly higher in California compared with other larger specialty crop States. It is no wonder that prime agricultural land is disappearing at such a rapid rate, right before our eyes.

H.R. 3242 will finally direct Federal support to specialty crop growers in a proactive manner, to promote consumption of specialty crops at home and abroad and increase the competitiveness of growers in the aggressive global market.

One of the key components to H.R. 3242 is Title 1, the Specialty Crop Block Grant program. In 2001, Congress approved a block grant program from which California received roughly $64 million and one of the first things I did as a member of Congress was to convene a forum of California's specialty crop industry to determine how the program was implemented and what the benefits were. The results were outstanding—milk vending machines were placed in schools, the California Grown program was a success, research programs for pest disease and prevention were completed and countless other important programs were funded for the first time in decades. Block grants worked in California and they will work in the United States but they only work if we adequately fund them.

There is no doubt in my mind that my colleague from California, Mr. OSE, fought the good fight to retain the full authorization included in the original Specialty Crop Competitiveness Act but the bill we are voting on tonight falls pathetically short of what is needed for this industry. The original H.R. 3242 allocated $470 million for the specialty crop block grant program, a number that may seem substantial at first but that one that is dwarfed by the billions of dollars spent annually on program crops. It is unfortunate that important legislation such as H.R. 3242 was not adequately funded and I remain committed to rectifying this inequity in the future.

Regardless of my concerns, I will be support H.R. 3242 tonight. I firmly believe that H.R. 3242 is an important first step in acknowledging the strength and important of our Nation's specialty crop industry and I urge my fellow members of the House of Representative to join me in approving this important legislation.

Mr. THOMAS. Mr. Speaker, I rise today in support of H.R. 3242, the Specialty Crop Competitiveness Act of 2004, which is intended to improve Federal agricultural policy in order to ensure that American consumers continue to have access to an abundant and affordable supply of nutritious fruits, vegetables, nuts, and other speciality crops. I thank Mr. OSE, Mr. DOOLEY, and House Agriculture Committee Chairman GOODLATTE for their efforts to develop this legislation.

This legislation is important to my constituents in the 22nd Congressional District of California, who collectively produce agricultural products with a farm gate value in excess of $3 billion, with specialty crops accounting for more than two-thirds of that value. Unlike other crops and many of their foreign competitors, U.S. specialty crop growers do not receive direct government support despite the fact that they face increased competition from imports; since 1995, imports of fruits, vegetables, and nuts have increased 80 percent, from $4.6 billion to $7.4 billion in 2002.

It is important to note that during the same period of time, while U.S. exports of fruits, vegetables, and nuts have increased since 1995, they have only increased 17 percent, from $5.2 billion to $6 billion. Moreover, U.S. producers continue to encounter sanitary and phytosanitary (SPS) barriers when they seek to export their goods to foreign markets. Accordingly, in my capacity as Chairman of the Committee on Ways and Means, I am extremely interested in efforts to open and expand foreign markets through the reduction of SPS barriers and the negotiation of multilateral and bilateral trade agreements.

H.R. 3242 seeks to assist U.S. specialty crop growers by authorizing funding that could be used by State departments of agriculture to create consumer demand for specialty crops, enhance food safety efforts, and to support production-related research. H.R. 3242 also seeks to help U.S. producers break down SPS barriers and reduce the number of pending export petitions for agriculture goods. With regard to those pending export petitions, I look forward to working with Chairman GOODLATTE to ensure that the process is more transparent so that Congress can enhance its ability to conduct oversight.

H.R. 3242 is strongly supported by over thirty organizations, including the Western Growers Association, Wine Institute, California Table Grape Commission, California Farm Bureau Federation, California Winegrape Growers Association, United Fresh Fruit and Vegetable Association, and Sunkist Growers. I encourage my colleagues to support H.R. 3242.

Mr. CASE. Mr. Speaker, I rise today to express my strong support for H.R. 3242, the Specialty Crops Competitiveness Act of 2004. I am a proud co-sponsor of this bipartisan bill, and I congratulate its author, Congressman OSE, and his staff for this significant accomplishment.

I represent a rural agricultural district spread over the 7 inhabited islands of Hawai'i, where all of our crops are specialty crops. Except for sugarcane, the great majority of Hawai'i's crops are not grown in any other State, nor are they the traditional Farm Bill "program crops." Therefore, programs to assist Hawai'i's specialty crop producers of crops like pineapple, tropical flowers, coffee, algae, cacao, and vanilla are very limited. And even though we have crop insurance programs for only two crops—macadamia nuts and nursery crops (fewer than any other State)—we are not designated as one of the States underserved by crop insurance programs.

For these and other reasons, my State receives less Federal support for agriculture as a percentage of the value of its agriculture than any other State. At the same time, we face unique challenges due to our distance from markets, quarantine requirements, and a transition from plantation to small-scale diversified agriculture. This transition has been extremely painful for many who traditionally were employed in good agricultural jobs in sugar or pineapple as well as for our rural island economies. I requested assignment to the House Agriculture Committee during my first full term in Congress to do what I can to enhance the future of agriculture in my State and to see that my State receives its fair share of assistance.

For this reason, I come to the floor today to extend a sincere mahalo to Chairman GOODLATTE and Ranking Member STENHOLM and their staffs for their assistance in ensuring that Hawai'i's specialty crops, from coffee to ginger root to kava, will be in fact be covered by this worthy bill.

Mr. OSE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. OSE) that the House suspend the rules and pass the bill, H.R. 3242, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

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HOMELESS VETERANS ASSISTANCE ACT OF 2004

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4248) to amend title 38, United States Code, to extend the authority of the Secretary of Veterans Affairs to make grants to expand or modify existing comprehensive service programs for homeless veterans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 4248

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Homeless Veterans Assistance Act of 2004".

SEC. 2. INCREASE IN AUTHORIZATION OF APPROPRIATIONS FOR FISCAL YEAR 2005.

Section 2013 of title 38, United States Code, is amended by striking "$75,000,000" in paragraph (4) and inserting "$99,000,000".

SEC. 3. PERMANENT AUTHORITY FOR SECRETARY OF VETERANS AFFAIRS TO OPERATE SEXUAL TRAUMA COUNSELING PROGRAM.

Section 1720D(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking "During the period through December 31, 2004, the" and inserting "The"; and

(2) in paragraph (2), by striking ", during the period through December 31, 2004,".

The SPEAKER pro tempore (Mr. MARIO DIAZ-BALART of Florida). Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Texas (Mr. RODRIGUEZ) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of H.R. 4248, as amended, the Homeless Veterans Assistance Act of 2004.

I point out to my colleagues that this legislation builds on the historic law signed by President Bush, the Homeless Veterans Assistance Act of 2001. I also want to point out to my colleagues and remind them that as we wrote those provisions and held several hearings to ascertain the need, the best practices, the policies that are more likely to work to try to mitigate the problem of homelessness, all of us, on both sides of the aisle, were utterly struck by the large number of veterans who were indeed homeless. The number that seemed to be most accurate at the time was something on the order of 275,000 homeless veterans on any given night.

Many of these men, some are women, but most are men, had post-traumatic stress disorder or some problem with alcohol or drugs or both or all three. We decided working with the VA, working with the NGOs, with the VSOs, Veterans Service Organizations, and others, to devise legislation that would comprehensively try to mitigate and hopefully end this terrible problem of homelessness among our veterans.

The good news is that the number, and it is still unconscionably high, has dropped precipitously over the last several years since enactment of the law. Secretary of the Committee on Veterans' Affairs, Tony Principi, testified at the beginning of this year that he believes that the number has dropped to about 200,000. Still too high, but far less than the 275,000, again, on the streets on any given night.

The legislation we have before us is a bipartisan piece of legislation, and I want to thank my good friend, the gentleman from Illinois (Mr. EVANS), who has played a key role in working with us on this. I also want to thank the gentleman from Texas (Mr. RODRIGUEZ), who has also played a very important role, and the gentleman from Connecticut (Mr. SIMMONS), the chairman of our Subcommittee on Health, and all of the Members who have tried to contribute to make this an important piece of legislation.

Let me point out to my colleagues specifically on the legislation that the VA's Homeless Grant and Per Diem program is authorized to provide competitive grants to community-based, including faith-based, organizations that offer transitional housing or service centers for homeless veterans. This program has proven to be the most economical, flexible, and innovative method to provide time-limited or transitional housing with supportive services for homeless veterans in all 50 States and the District of Columbia. Over 6,000 transitional housing beds are now available to veterans through the grant and per diem program.

In 2003, 66 percent of the veterans discharged from these programs were discharged to either independent housing or residential program housing, and 43 percent of all treatment episodes were documented as successful. This successful rate is the highest combined level of success ever achieved and ever recorded and remarkable, given the serious psychiatric disorders or substance abuse problems that often challenge recovery for homelessness.

The current authority for the grant and per diem program expires on September 30, 2005. In testimony before the Subcommittee on Health earlier this year, however, the administration stated that the total amount of grants made under this program was expected to exceed the current $75 million authorization in fiscal year 2005. To meet this growing demand for services for homeless veterans, the President's budget proposal requested an increase in the authorized level from $75 million to $100 million for the 4 years. Section 2 of H.R. 4248, as amended, would increase the authorization to $99 million for 2005. It will be up to the next Congress to extend the authorization beyond its September 30 expiration date.

Mr. Speaker, in 2003, the VA reported that more than 31,000 males and 27,000 female veterans responded to relevant screenings indicating unwanted sexual experiences that occurred during their military service time. Under current law, the authority to provide sexual trauma counseling for eligible veterans expires on December 31 of this year. H.R. 4248, as amended, would recognize the continuing need for these programs within the VA by permanently authorizing the counseling and treatment authority.

Mr. Speaker, I want to thank all the Members again who have worked on this.

Mr. Speaker, I reserve the balance of my time.

Mr. RODRIGUEZ. Mr. Speaker, I yield myself such time as I may consume, and I rise in support of the Homeless Veterans Assistance Act of 2004.

Let me first of all take this opportunity to thank the gentleman from New Jersey (Mr. SMITH), our chairman, for his activities in this area end his support of this particular piece of legislation.

The bill, as reported, includes provisions from the bill I introduced, H.R. 3849, the Military Sexual Trauma Counseling Act of 2004, to permanently extend the VA authority to provide counseling and treatment for women and men who have experienced sexual trauma during their service in the military. Current authority for the program expires at the end of this year, and it is critical we pass this particular piece of legislation today.

Since the military's sexual trauma program was authorized, the VA has embraced the challenge of developing unique resources to serve both women and men who have suffered such abuses during their military service. An overwhelming demand has been demonstrated for the sexual trauma program, with thousands of veterans, in addition to Reservists and National Guardsmen taking advantage of the resources available to them.

As the number of women serving in the military will continue to grow, the need for this program is sadly more evident. According to the VA report, more than half, 55 percent, of all women in the VA patient population said they had experienced sexual harassment while in the military and almost one quarter claimed to have been sexually assaulted.

Although the military is moving to address some of the longstanding problems it has had in managing sexism of all kinds in its increasingly integrated Armed Services workforce, we cannot expect the problem to disappear overnight. Already we hear media reports that more than 100 troops returning from both Iraq and Afghanistan have stated that they were raped during their service.

The VA's sexual trauma counseling programs are designed to create a secure and sensitive environment in which both women and men who serve in the military can deal with the emotional burdens of being a victim of sexual abuse. I am pleased that we are on the road to ensuring that these programs will be here for current and future veterans.

Mr. Speaker, I am also supportive of the provisions to increase the funding levels available for the homeless grant and per diem programs from the $75 million to the $99 million for 2005. We still have a very long way to go in meeting the Congress' goal to eliminate chronic homelessness by 2011, but this bill definitely takes us in the right direction.

Again, I wish to thank my friend, the gentleman from Connecticut (Mr. SIMMONS) for his cooperation in including the authority for the military's sexual trauma program in this particular piece of legislation as well as Chairman SMITH and Ranking Member EVANS for their support.

Mr. Speaker, let me also indicate, in terms of the data for the homelessness, the VA estimates that more than 299,321 veterans are homeless on any given night, and more than half a million experience homelessness over the course of a year. Roughly 25 percent of the homeless people out there are veterans. Additionally, 45 percent of the homeless veterans that are out there do suffer from mental health disorders. And in order to solve these chronic homelessness problems, we must provide comprehensive care for veterans, including housing, job training, and mental health care.

Mr. EVANS. Mr. Speaker, I rise in support of the Homeless Veterans Assistance Act of 2004.

I'd like to thank my colleague CIRO RODRIGUEZ for the provisions in this bill that originated in his bill, H.R. 3849, the Military Sexual Trauma Counseling Act of 2004. I'd also like to thank Chairman SMITH for helping in this bipartisan effort.

I am pleased that this legislation will permanently allow the VA to provide sexual trauma counseling to those men and women who experience such trauma during their service for our country. Unfortunately, the problems of sexual harassment and assault are not going away, and VA should continue to be available to veterans who need help picking up the pieces after these traumatic events.

Another much needed provision of this legislation will increase the FY 2005 funding level available for VA's homeless grant and per diem program to $99 million. VA's Homeless Grant and Per Diem Providers are a critical source of support to the mission of caring for our nation's homeless veterans.

Troops demobilizing from a difficult deployment in which many experienced combat and other stressors will likely add to the challenges of meeting the needs of homeless veterans. We have to continue to be the advocate for our homeless veterans who are often not able to advocate for themselves.

I ask my colleagues to join me in supporting this bill.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise as a strong supporter of H.R. 4248, the Homeless Veterans Assistance Reauthorization Act of 2004 which would amend title 38 of the United States Code, to extend the authority of the Secretary of Veterans Affairs to make grants to expand or modify existing comprehensive service programs for homeless veterans. I want to thank Chairman SMITH and Ranking Member EVANS for bringing this necessary piece of legislation before this entire body.

Veterans are some of America's most valued members of society. These are people who served our nation in a time of need, people who risked their lives to protect our own. Yet, it pains me to say that many of these same veterans who fought so bravely and risked so much in lands far abroad have come back to their nation and are now homeless. The problem of homeless veterans is far more prevalent than we would like to believe. About one-third of the entire adult homeless population has served their country in the Armed Services. On any given day, as many as 250,000 veterans, both male and female, are living on the streets or in shelters, and perhaps twice as many experience hopelessness at some point during the course of a year. Many other veterans are considered near homeless or at risk because of their poverty, lack of support from family and friends, and dismal living conditions in cheap hotels or in overcrowded or substandard housing.

This legislation is necessary not only because this problem is so devastating and prevalent, but also because homeless veterans have special needs that are unique from those faced by the rest of the homeless population. Almost all homeless veterans are male, with three percent being female, the vast majority are single, and most come from poor, disadvantaged backgrounds. Homeless veterans tend to be older and more educated than homeless non-veterans. But similar to the general population of homeless adult males, about 45 percent of homeless veterans suffer from mental illness and slightly more than 70 percent suffer from alcohol or other drug abuse problems. Roughly 56 percent are African American or Hispanic. H.R. 4248 helps to address the homeless veteran population by increasing and extending through FY 2008 the authorization of appropriations for homeless assistance to veterans furnished through the Department of Veterans Affairs. The Homeless Veterans Assistance Reauthorization Act of 2004 gives authority to the Secretary of Veterans Affairs through FY 2008 to make grants to furnish the assistance to homeless veterans through: outreach; rehabilitative services; vocational counseling and training; and transitional housing. This comprehensive program is needed if we are to fight this scourge that is a blight upon our nation. Our nation's veterans did not risk their lives abroad so that they could come home and feel a cold shoulder. We must all have outrage that so many of our nation's veterans live this way, only then can we find a way to correct this injustice.

Mr. DAVIS of Illinois. Mr. Speaker, I rise today in support of H.R. 4248, a bill to expand comprehensive service programs for homeless veterans. This bill is important because veterans have and continue to make an enormous contribution to our nation. The sacrifice of our men and women serving throughout the world should never be forgotten. They are serving to promote an secure the ideals of liberty, freedom, and democracy.

Therefore, it is important that when they return home they have access to transitional housing programs, counseling and specialized services to help them in their transition from military service. Too often veterans come home and their service is not fully appreciated. This has led to an issue of chronic homelessness among veterans. The Department of Veterans Affairs estimates that there are more than 300,000 homeless veterans on any given night or more than half a million experience homelessness over a given year. This is unacceptable in America.

In addition, to chronic homelessness many veterans suffer from lack of access to health care services, and job training. This bill is a step in the right direction. However, much work remains to be done to provide the level of services and outreach needed to ensure that we drastically reduce the number of homeless veterans.

Mr. RODRIGUEZ. Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 1248, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 38, United States Code, to increase the authorization of appropriations for the Secretary of Veterans Affairs to make grants to existing comprehensive service programs for homeless veterans, and for other purposes.".

A motion to reconsider was laid on the table.

SERVICEMEMBERS AND VETERANS LEGAL PROTECTIONS ACT OF 2004

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4658) to amend the Servicemembers Civil Relief Act to make certain improvements and technical corrections to that Act, as amended.

The Clerk read as follows:

H.R. 4658

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Servicemembers and Veterans Legal Protections Act of 2004".

(b) Table of Contents.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE i—IMPROVEMENTS TO SERVICEMEMBERS CIVIL RELIEF ACT

Sec. 101. Clarification of meaning of "judgment" as used in the Act.
Sec. 102. Requirements relating to waiver of rights under the Act.
Sec. 103. Right of servicemember plaintiffs to request stay of civil proceedings.
Sec. 104. Termination of leases.
Sec. 105. Prevention of double taxation of certain servicemembers.

TITLE II—EMPLOYMENT AND REEMPLOYMENT RIGHTS

Subtitle A—Extension of Health Care Coverage

Sec. 201. Two-year period of continuation of employer-sponsored health care coverage.
Sec. 202. Reinstatement of reporting requirements.

Subtitle B—Other Matters

Sec. 211. Requirement for employers to provide notice of rights and duties under USERRA.
Sec. 212. Demonstration project for referral of USERRA claims against Federal agencies to the Office of Special Counsel.

TITLE III—MATTERS RELATING TO FIDUCIARIES

Sec. 301. Definition of fiduciary.
Sec. 302. Inquiry, investigations, and qualification of fiduciaries.
Sec. 303. Misuse of benefits by fiduciaries.
Sec. 304. Additional protections for beneficiaries with fiduciaries.
Sec. 305. Annual report.
Sec. 306. Annual adjustment in benefits thresholds.
Sec. 307. Effective dates.

TITLE IV—OTHER MATTERS

Sec. 401. Inventory of medical waste management activities at Department health-care facilities.
Sec. 402. Technical amendments to education program provisions.

TITLE I—IMPROVEMENTS TO SERVICEMEMBERS CIVIL RELIEF ACT

SEC. 101. CLARIFICATION OF MEANING OF "JUDGMENT" AS USED IN THE ACT.

Section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511) is amended by adding at the end the following new paragraph:

"(9) Judgment.—The term 'judgment' means any judgment, decree, order, or ruling, final or temporary.".

SEC. 102. REQUIREMENTS RELATING TO WAIVER OF RIGHTS UNDER THE ACT.

Section 107 of the Servicemembers Civil Relief Act (50 U.S.C. App. 517) is amended—

(1) In subsection (a), by inserting after the first sentence the following new sentence: "Any such waiver that applies to an action listed in subsection (b) of this section is effective only if it is in writing and is executed as an instrument separate from the obligation or liability to which it applies.";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection (c):

"(c) Prominent Display of Certain Contract Rights Waivers.—Any waiver in writing of a right or protection provided by this Act that applies to a contract, lease, or similar legal instrument must be in at least 12 point type.".

SEC. 103. RIGHT OF SERVICEMEMBER PLAINTIFFS TO REQUEST STAY OF CIVIL PROCEEDINGS.

Section 202(a) of the Servicemembers Civil Relief Act (50 U.S.C. App. 522(a)) is amended by inserting "plaintiff or" before "defendant".

SEC. 104. TERMINATION OF LEASES.

(a) Joint Leases.—Subsection (a) of section 305 of the Servicemembers Civil Relief Act (50 U.S.C. App. 535) is amended to read as follows:

"(a) Termination by Lessee.—

"(1) In general.—The lessee on a lease described in subsection (b) may, at the lessee's option, terminate the lease at any time after—

"(A) the lessee's entry into military service; or

"(B) the date of the lessee's military orders described in paragraph (1)(B) or (2)(B) of subsection (b), as the case may be.

"(2) Joint leases.—A lessee's termination of a lease pursuant to this subsection shall terminate any obligation a dependent of the lessee may have under the lease.".

(b) Motor Vehicles Leases.—

(1) Applicability to PCS orders from States outside CONUS.—Subparagraph (B) of subsection (b)(2) of such section is amended by striking "military orders for" and all that follows through "or to deploy" and inserting "military orders—

"(i) for a change of permanent station—

"(I) from a location in the continental United States to a location outside the continental United States; or

"(II) from a location in a State outside the continental United States to any location outside that State; or

"(ii) to deploy".

(2) Definitions.—Such section is further amended by adding at the end the following new subsection:

"(i) Definitions.—

"(1) Military orders.—The term 'military orders', with respect to a servicemember, means official military orders, or any notification, certification, or verification from the servicemember's commanding officer, with respect to the servicemember's current or future military duty status.

"(2) Conus.—The term 'continental United States' means the 48 contiguous States and the District of Columbia.".

(c) Coverage of Individual Deployments.—Subsection (b) of such section is further amended in paragraph (1)(B) and paragraph (2)(B)(ii) (as designated by subsection (b) of this section) by inserting ", or as an individual in support of a military operation," after "deploy with a military unit".

SEC. 105. PREVENTION OF DOUBLE TAXATION OF CERTAIN SERVICEMEMBERS.

Section 511(c) of the Servicemembers Civil Relief Act (50 U.S.C. App. 571(c)) is amended by adding at the end the following new paragraph:

"(5) USE, EXCISE, OR SIMILAR TAXES.—A tax jurisdiction may not impose a use, excise, or similar tax on the personal property of a nonresident servicemember when the laws of the tax jurisdiction fail to provide a credit against such taxes for sales, use, excise, or similar taxes previously paid on the same property to another tax jurisdiction.".

TITLE II—EMPLOYMENT AND REEMPLOYMENT RIGHTS

Subtitle A—Extension of Health Care Coverage

SEC. 201. TWO-YEAR PERIOD OF CONTINUATION OF EMPLOYER-SPONSORED HEALTH CARE COVERAGE.

(a) IMPROVEMENT IN PERIOD OF COVERAGE.—Subsection (a)(1)(A) of section 4317 of title 38, United States Code, is amended by striking "18-month period" and inserting "24-month period".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to elections made under such section 4317 on or after the date of the enactment of this Act.

SEC. 202. REINSTATEMENT OF REPORTING REQUIREMENTS.

Section 4332 of title 38, United States Code, is amended in the matter preceding paragraph (1) by striking "no later than February 1, 1996, and annually thereafter through 2000" and inserting "no later than February 1, 2005, and annually thereafter".

Subtitle B—Other Matters

SEC. 211. REQUIREMENT FOR EMPLOYERS TO PROVIDE NOTICE OF RIGHTS AND DUTIES UNDER USERRA.

(a) NOTICE.—Chapter 43 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 4334. Notice of rights and duties

"(a) REQUIREMENT TO PROVIDE NOTICE.—Each employer shall provide to persons entitled to rights and benefits under this chapter a notice of the rights, benefits, and obligations of such persons and such employers under this chapter. The requirement for the provision of notice under this section may be met by the posting of the notice where employers customarily place notices for employees.

"(b) CONTENT OF NOTICE.—The Secretary shall provide to employers the text of the notice to be provided under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4334. Notice of rights and duties.".

(c) IMPLEMENTATION.—(1) Not later than the date that is 90 days after the date of the enactment of this Act, the Secretary of Labor shall make available to employers the notice required under section 4334 of title 38, United States Code, as added by subsection (a).

(2) The amendments made by this section shall apply to employers under chapter 43 of such title on and after the first date referred to in paragraph (1).

SEC. 212. DEMONSTRATION PROJECT FOR REFERRAL OF USERRA CLAIMS AGAINST FEDERAL AGENCIES TO THE OFFICE OF SPECIAL COUNSEL.

(a) ESTABLISHMENT OF PROJECT.—The Secretary of Labor and the Office of Special Counsel shall carry out a demonstration project under which certain claims against Federal executive agencies under the Uniformed Services Employment and Reemployment Rights Act under chapter 43 of title 38, United States Code, are referred to, or otherwise received by, the Office of Special Counsel for assistance, including investigation and resolution of the claim as well as enforcement of rights with respect to the claim.

(b) REFERRAL OF ALL PROHIBITED PERSONNEL ACTION CLAIMS TO THE OFFICE OF SPECIAL COUNSEL.—(1) Under the demonstration project, the Office of Special Counsel shall receive and investigate all claims under the Uniformed Services Employment and Reemployment Rights Act with respect to Federal executive agencies in cases where the Office of Special Counsel has jurisdiction over related claims pursuant to section 1212 of title 5, United States Code.

(2) For purposes of paragraph (1), a related claim is a claim involving the same Federal executive agency and the same or similar factual allegations or legal issues as those being pursued under a claim under the Uniformed Services Employment and Reemployment Rights Act.

(c) REFERRAL OF OTHER CLAIMS AGAINST FEDERAL EXECUTIVE AGENCIES.—(1) Under the demonstration project, the Secretary—

(A) shall refer to the Office of Special Counsel all claims described in paragraph (2) made during the period of the demonstration project; and

(B) may refer any claim described in paragraph (2) filed before the demonstration project that is pending before the Secretary at the beginning of the demonstration project.

(2) A claim referred to in paragraph (1) is a claim under chapter 43 of title 38, United States Code, against a Federal executive agency by a claimant with a social security account number with an odd number as its terminal digit, or, in the case of a claim that does not contain a social security account number, a case number assigned to the claim with an odd number as its terminal digit.

(d) ADMINISTRATION OF DEMONSTRATION PROJECT.—(1) The Office of Special Counsel shall administer the demonstration project. The Secretary shall cooperate with the Office of Special Counsel in carrying out the demonstration project.

(2) In the case of any claim referred, or otherwise received by, to the Office of Special Counsel under the demonstration project, any reference to the "Secretary" in sections 4321, 4322, and 4326 of title 38, United States Code, is deemed a reference to the "Office of Special Counsel".

(3) In the case of any claim referred to, or otherwise received by, the Office of Special Counsel under the demonstration project, the Office of Special Counsel shall retain administrative jurisdiction over the claim.

(e) PERIOD OF PROJECT.—The demonstration project shall be carried out during the period beginning on the date that is 60 days after the date of the enactment of this Act, and ending on September 30, 2007.

(f) EVALUATIONS AND REPORT.—(1) The Comptroller General of the United States shall conduct periodic evaluations of the demonstration project under this section.

(2) Not later than April 1, 2007, the Comptroller General shall submit to Congress a report on the evaluations conducted under paragraph (1). The report shall include the following information and recommendations:

(A) A description of the operation and results of the demonstration program, including—

(i) the number of claims described in subsection (c) referred to, or otherwise received by, the Office of Special Counsel and the number of such claims referred to the Secretary of Labor, and

(ii) for each Federal executive agency, the number of claims resolved, the type of corrective action obtained, the period of time for final resolution of the claim, and the results obtained.

(B) An assessment of whether referral to the Office of Special Counsel of claims under the demonstration project—

(i) improved services to servicemembers and veterans; or

(ii) significantly reduced or eliminated duplication of effort and unintended delays in resolving meritorious claims of those servicemembers and veterans.

(C) An assessment of the feasibility and advisability of referring all claims under chapter 43 of title 38, United States Code, against Federal executive agencies to the Office of Special Counsel for investigation and resolution.

(D) Such other recommendations for administrative action or legislation as the Comptroller General determines appropriate.

(g) DEFINITIONS.—In this section:

(1) The term "Office of Special Counsel" means the Office of Special Counsel established by section 1211 of title 5, United States Code.

(2) The term "Secretary" means the Secretary of Labor.

(3) The term "Federal executive agency" has the meaning given that term in section 4303(5) of title 38, United States Code.

TITLE III—MATTERS RELATING TO FIDUCIARIES

SEC. 301. DEFINITION OF FIDUCIARY.

(a) IN GENERAL.—(1) Chapter 55 of title 38, United States Code, is amended by adding at the end the following new section:

"§ 5506. Definition of 'fiduciary'

"For purposes of this chapter and chapter 61 of this title, the term 'fiduciary' means—

"(1) a person who is a guardian, curator, conservator, committee, or person legally vested with the responsibility or care of a claimant (or a claimant's estate) or of a beneficiary (or a beneficiary's estate); or

"(2) any other person having been appointed in a representative capacity to receive money paid under any of the laws administered by the Secretary for the use and benefit of a minor, incompetent, or other beneficiary.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5506. Definition of 'fiduciary'.".

(b) CONFORMING AMENDMENTS TO SECTION 5502.—Section 5502 of such title is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "other person" and inserting "other fiduciary"; and

(B) in the second sentence of paragraph (2), by inserting "for benefits under this title" after "in connection with rendering fiduciary services";

(2) in subsection (b), by striking "guardian, curator, conservator, or other person" each place it appears and inserting "fiduciary"; and

(3) in subsection (d), by striking "guardian, curator, or conservator" and inserting "fiduciary".

(c) CONFORMING AMENDMENT TO SECTION 6101.—Section 6101(a) of such title is amended by striking "guardian, curator," and all that follows through "beneficiary," and inserting "fiduciary (as defined in section 5506 of this title) for the benefit of a minor, incompetent, or other beneficiary under laws administered by the Secretary,".

SEC. 302. INQUIRY, INVESTIGATIONS, AND QUALIFICATION OF FIDUCIARIES.

(a) In General.—Chapter 55 of title 38, United States Code, as amended by section 301(a)(1), is further amended by adding at the end the following new section:

"§ 5507. Inquiry, investigations, and qualification of fiduciaries

"(a) Any certification of a person for payment of benefits of a beneficiary to that person as such beneficiary's fiduciary under section 5502 of this title shall be made on the basis of—

"(1) an inquiry or investigation by the Secretary of the fitness of that person to serve as fiduciary for that beneficiary, such inquiry or investigation—

"(A) to be conducted in advance of such certification;

"(B) to the extent practicable, to include a face-to-face interview with such person; and

"(C) to the extent practicable, to include a copy of a credit report for such person issued within one year of the date of the proposed appointment;

"(2) adequate evidence that certification of that person as fiduciary for that beneficiary is in the interest of such beneficiary (as determined by the Secretary under regulations); and

"(3) the furnishing of any bond that may be required by the Secretary.

"(b) As part of any inquiry or investigation of any person under subsection (a), the Secretary shall request information concerning whether that person has been convicted of any offense under Federal or State law which resulted in imprisonment for more than one year. If that person has been convicted of such an offense, the Secretary may certify the person as a fiduciary only if the Secretary makes a specific finding that the person has been rehabilitated and is an appropriate person to act as fiduciary for the beneficiary concerned under the circumstances.

"(c)(1) In the case of a proposed fiduciary described in paragraph (2), the Secretary, in conducting an inquiry or investigation under subsection (a)(1), may carry out such inquiry or investigation on an expedited basis that may include waiver of any specific requirement relating to such inquiry or investigation, including the otherwise applicable provisions of subparagraphs (A), (B), and (C) of such subsection. Any such inquiry or investigation carried out on such an expedited basis shall be carried out under regulations prescribed for purposes of this section.

"(2) Paragraph (1) applies with respect to a proposed fiduciary who is—

"(A) the parent (natural, adopted, or stepparent) of a beneficiary who is a minor;

"(B) the spouse or parent of an incompetent beneficiary;

"(C) a person who has been appointed a fiduciary of the beneficiary by a court of competent jurisdiction; or

"(D) being appointed to manage an estate where the annual amount of veterans benefits to be managed by the proposed fiduciary does not exceed $3600, as adjusted pursuant to section 5312 of this title.

"(d) Temporary Fiduciaries.—When in the opinion of the Secretary, a temporary fiduciary is needed in order to protect the assets of the beneficiary while a determination of incompetency is being made or appealed or a fiduciary is appealing a determination of misuse, the Secretary may appoint one or more temporary fiduciaries for a period not to exceed 120 days. If a final decision has not been made within 120 days, the Secretary may not continue the appointment of the fiduciary without obtaining a court order for appointment of a guardian, conservator, or other fiduciary under the authority provided in section 5502(b) of this title.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding after the item added by section 301(a)(2) the following new item:

"5507. Inquiry, investigations, and qualification of fiduciaries.".

SEC. 303. MISUSE OF BENEFITS BY FIDUCIARIES.

(a) Protection of Veterans Benefits When Administered by Fiduciaries.—(1) Chapter 61 of title 38, United States Code, is amended by adding at the end the following new sections:

"§ 6106. Misuse of benefits by fiduciaries

"(a) Fee Forfeiture in Case of Benefit Misuse by Fiduciaries.—A fiduciary may not collect a fee from a beneficiary for any month with respect to which the Secretary or a court of competent jurisdiction has determined that the fiduciary misused all or part of the individual's benefit, and any amount so collected by the fiduciary as a fee for such month shall be treated as a misused part of the individual's benefit.

"(b) Liability of Fiduciaries for Misused Benefits.—(1) If the Secretary or a court of competent jurisdiction determines that a fiduciary that is not a Federal, State, or local government agency has misused all or part of a beneficiary's benefit that was paid to such fiduciary, the fiduciary shall be liable for the amount misused, and such amount (to the extent not repaid by the fiduciary) shall be treated as an erroneous payment of benefits under this title to the fiduciary for purposes of laws pertaining to the recovery of overpayments. The amount of such overpayment shall constitute a liability of such fiduciary to the United States and may be recovered in the same manner as any other debt due the United States. Subject to paragraph (2), upon recovering all or any part of such amount, the Secretary shall pay an amount equal to the recovered amount to such beneficiary or such beneficiary's successor fiduciary.

"(2) The total of the amounts paid to a beneficiary (or a beneficiary's successor fiduciary) under paragraph (1) and under section 6107 of this title may not exceed the total benefit amount misused by the fiduciary with respect to that beneficiary.

"(c) Misuse of Benefits Defined.—For purposes of this chapter, misuse of benefits by a fiduciary occurs in any case in which the fiduciary receives payment, under any of laws administered by the Secretary, for the use and benefit of a beneficiary and uses such payment, or any part thereof, for a use other than for the use and benefit of such beneficiary or that beneficiary's dependents. Retention by a fiduciary of an amount of a benefit payment as a fiduciary fee or commission, or as attorney's fees (including expenses) and court costs, if authorized by the Secretary or a court of competent jurisdiction, shall be considered to be for the use or benefit of such beneficiary.

"(d) Regulations.—The Secretary may prescribe by regulation the meaning of the term 'use and benefit' for purposes of this section.

"(e) Finality of Determinations.—A determination by the Secretary that a fiduciary has misused benefits is a decision of the Secretary for purposes of section 511(a) of this title.

"§ 6107. Reissuance of benefits

"(a) Negligent Failure by Secretary.—(1) In any case in which the negligent failure of the Secretary to investigate or monitor a fiduciary results in misuse of benefits by the fiduciary, the Secretary shall pay to the beneficiary or the beneficiary's successor fiduciary an amount equal to the amount of benefits that were so misused.

"(2) There shall be considered to have been a negligent failure by the Secretary to investigate and monitor a fiduciary in the following cases:

"(A) A case in which the Secretary failed to timely review a fiduciary's accounting.

"(B) A case in which the Secretary was notified of allegations of misuse, but failed to act in a timely manner to terminate the fiduciary.

"(C) In any other case in which actual negligence is shown.

"(b) Reissuance of Misused Benefits in Other Cases.—(1) In any case in which a fiduciary described in paragraph (2) misuses all or part of an individual's benefit paid to such fiduciary, the Secretary shall pay to the beneficiary or the beneficiary's successor fiduciary an amount equal to the amount of such benefit so misused.

"(2) Paragraph (1) applies to a fiduciary that—

"(A) is not an individual; or

"(B) is an individual who, for any month during a period when misuse occurs, serves 10 or more individuals who are beneficiaries under this title.

"(c) Recoupment of Amounts Reissued.—In any case in which the Secretary reissues a benefit payment (in whole or in part) under subsection (a) or (b), the Secretary shall make a good faith effort to obtain recoupment from the fiduciary to whom the payment was originally made.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new items:

"6106. Misuse of benefits by fiduciaries.
"6107. Reissuance of benefits.".

SEC. 304. ADDITIONAL PROTECTIONS FOR BENEFICIARIES WITH FIDUCIARIES.

(a) Onsite Reviews and Required Accountings.—(1) Chapter 55 of title 38, United States Code, as amended by section 302(a), is further amended by adding at the end the following new sections:

"§ 5508. Periodic onsite reviews of institutional fiduciaries

"In addition to such other reviews of fiduciaries as the Secretary may otherwise conduct, the Secretary shall provide for the periodic onsite review of any person or agency located in the United States that receives the benefits payable under laws administered by the Secretary to another individual pursuant to the appointment of such person or agency as a fiduciary under section 5502(a)(1) of this title in any case in which the fiduciary is serving in that capacity with respect to more than 20 beneficiaries and the total annual amount of such benefits exceeds $50,000, as adjusted pursuant to section 5312 of this title.

"§ 5509. Authority to redirect delivery of benefit payments when a fiduciary fails to provide required accounting

"(a) Required Reports and Accountings.—The Secretary may require a fiduciary to file a report or accounting pursuant to regulations prescribed by the Secretary.

"(b) Actions Upon Failure to File.—In any case in which a fiduciary fails to submit a report or accounting required by the Secretary under subsection (a), the Secretary may, after furnishing notice to such fiduciary and the beneficiary entitled to such payment of benefits, require that such fiduciary appear in person at a regional office of the Department serving the area in which the beneficiary resides in order to receive such payments.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item added by section 302(b) the following new items:

"5508. Periodic onsite reviews of institutional fiduciaries.
"5509. Authority to redirect delivery of benefit payments when a fiduciary fails to provide required accounting.".

(b) CIVIL MONETARY PENALTIES; JUDICIAL ORDERS OF RESTITUTION.—(1) Chapter 61 of title 38, United States Code, as amended by section 303(a), is further amended by adding at the end the following new sections:

"§ 6108. Civil monetary penalties

"(a) PENALTY FOR CONVERSION.—Any person (including an organization, agency, or other entity) who, having received, while acting in the capacity of a fiduciary pursuant to section 5502 of this title, a payment under a law administered by the Secretary for the use and benefit of another individual, converts such payment, or any part thereof, to a use that such person knows or should know is other than for the use and benefit of such other individual shall be subject to, in addition to any other penalty that may be prescribed by law, a civil monetary penalty assessed by the Secretary of not more than $5,000 for each such conversion.

"(b) PENALTY IN LIEU OF DAMAGES.—Any person who makes a conversion of a payment described in subsection (a) and is subject to a civil monetary penalty under that subsection by reason of such conversion shall also be subject to an assessment by the Secretary, in lieu of damages sustained by the United States resulting from the conversion, of not more than twice the amount of any payments so converted.

"(c) COSTS OF RECOVERY.—From amounts collected under this section, the amount necessary to recoup the Department's costs of such collection shall be credited to appropriations currently available for the same purpose as the appropriation that incurred those costs, to remain available until expended.

"§ 6109. Authority for judicial orders of restitution

"(a) Any Federal court, when sentencing a defendant convicted of an offense arising from the misuse of benefits under this title, may order, in addition to or in lieu of any other penalty authorized by law, that the defendant make restitution to the Department.

"(b) Sections 3612, 3663, and 3664 of title 18 shall apply with respect to the issuance and enforcement of orders of restitution under subsection (a). In so applying those sections, the Department shall be considered the victim.

"(c) If the court does not order restitution, or orders only partial restitution, under subsection (a), the court shall state on the record the reasons therefor.

"(d)(1) Except as provided in paragraph (2), amounts received or recovered by the Secretary pursuant to an order of restitution under subsection (a), to the extent and in the amounts provided in advance in appropriations Acts, shall be available to defray expenses incurred by the Office of the Inspector General for the investigation of fiduciaries under this title.

"(2) Paragraph (1) shall not apply with respect to amounts received in connection with misuse by a fiduciary of funds paid as benefits under laws administered by the Secretary. Such amounts shall be paid to the individual whose benefits were misused unless the Secretary has previously reissued the misused benefits, in which case the amounts shall be treated in the same manner as overpayments recouped by the Secretary and shall be deposited to the credit of the applicable revolving fund, trust fund, or appropriation.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item added by section 303(b) the following new items:

"6108. Civil monetary penalties.
"6109. Authority for judicial orders of restitution.".

SEC. 305. ANNUAL REPORT.

(a) IN GENERAL.—Chapter 55 of title 38, United States Code, as amended by section 304(a)(1), is further amended by adding at the end the following new section:

"§ 5510. Annual report

"The Secretary shall include in the Annual Benefits Report of the Veterans Benefits Administration or the Secretary's Annual Performance and Accountability Report information concerning fiduciaries who have been appointed to receive payments for beneficiaries of the Department. As part of such information, the Secretary shall separately set forth the following:

"(1) The number of beneficiaries in each category (veteran, surviving spouse, child, adult disabled child, or parent).

"(2) The types of benefit being paid (compensation, pension, dependency and indemnity compensation, death pension or benefits payable to a disabled child under chapter 18 of this title).

"(3) The total annual amounts and average annual amounts of benefits paid to fiduciaries for each category and type of benefit.

"(4) The number of fiduciaries who are the (spouse, parent, legal custodian, court-appointed fiduciary, institutional fiduciary, custodian in fact, and supervised direct payment).

"(5) The number of cases in which the fiduciary was changed by the Secretary because of a finding that benefits had been misused.

"(6) How such cases of misuse of benefits were addressed by the Secretary.

"(7) The final disposition of such cases of misuse of benefits, including the number and dollar amount of any civil or criminal penalties imposed.

"(8) Such other information as the Secretary considers appropriate.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding after the items added by the amendment made by section 304(a)(2) the following new item:

"5510. Annual report.".

SEC. 306. ANNUAL ADJUSTMENT IN BENEFITS THRESHOLDS.

Section 5312(b)(1) of title 38, United States Code, is amended by inserting "and the annual benefit amount limitations under sections 5507(c)(2)(D) and 5508 of this title," after "(d)(3) of such section,".

SEC. 307. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided, this title and the amendments made by this title shall take effect on the first day of the seventh month beginning after the date of the enactment of this Act.

(b) SPECIAL RULES.—(1) Section 5510 of title 38, United States Code, as added by section 305(a), shall take effect on the date of the enactment of this Act.

(2) Sections 6106 and 6107 of title 38, United States Code, as added by section 303(a), shall apply with respect to any determinations by the Secretary of Veterans Affairs made after the date of the enactment of this Act of misuse of funds by a fiduciary.

TITLE IV—OTHER MATTERS

SEC. 401. INVENTORY OF MEDICAL WASTE MANAGEMENT ACTIVITIES AT DEPARTMENT HEALTH-CARE FACILITIES.

(a) INVENTORY.—The Secretary of Veterans Affairs shall establish and maintain a national inventory of medical waste management activities in the health-care facilities of the Department of Veterans Affairs. The inventory shall include the following:

(1) A statement of the current national policy of the Department on managing and disposing of medical waste, including regulated medical waste in all its forms.

(2) A description of the program of each geographic service area of the Department to manage and dispose of medical waste, including general medical waste and regulated medical waste, with a description of the primary methods used in those programs and the associated costs of those programs, with cost information shown separately for in-house costs (including full-time equivalent employees) and contract costs.

(b) REPORT.—Not later than April 15, 2005, the Secretary of Veterans Affairs shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on medical waste management activities in the facilities of the Department of Veterans Affairs. The report shall include the following:

(1) The inventory established under subsection (a), including all the matters specified in that subsection.

(2) A listing of each violation of medical waste management and disposal regulations reported at any health-care facility of the Department over the preceding five years by any State or Federal agency, along with an explanation of any remedial or other action taken by the Secretary in response to each such reported violation.

(3) A description of any plans to modernize, consolidate, or otherwise improve the management of medical waste and disposal programs at health-care facilities of the Department, including the projected costs associated with such plans and any barriers to achieving goals associated with such plans.

(4) An assessment or evaluation of the available methods of disposing of medical waste and identification of which of those methods are more desirable from an environmental perspective in that they would be least likely to result in contamination of air or water or otherwise cause future cleanup problems.

SEC. 402. TECHNICAL AMENDMENTS TO EDUCATION PROGRAM PROVISIONS.

(a) INAPPLICABILITY OF WAGE REQUIREMENTS FOR ON-JOB TRAINING PROGRAMS LEADING TO SELF-EMPLOYMENT.—(1) Section 3677(b) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1)(A) and subsection (c)(8), no wages shall be required to be paid an eligible person or veteran by a training establishment described in section 3452(e)(2) of this title.".

(2) Section 3452(e), as amended by section 301 of the Veterans Benefits Act of 2003 (Public Law 108–183; 117 Stat. 2658), is amended by striking "An" in paragraph (2) and inserting "For the period beginning on October 1, 2005, and ending on September 30, 2010, an".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in the enactment of section 301 of the Veterans' Benefits Act of 2003 (Public Law 108–183; 117 Stat. 2658).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise again in strong support of H.R. 4658, as amended, the Servicemembers and Veterans Legal Protections Act of 2004. This measure has a number of important provisions for servicemembers, veterans and their dependents.

H.R. 4658, as amended, would further strengthen the Servicemembers Civil Relief Act that was enacted just last year and signed by President Bush. There were several new issues that arose while we were considering that legislation, but their solution required further research and discussion. That discussion led to this legislation.

Most significantly, the bill would clarify that the Servicemembers Relief Act's lease termination protection under section 305 applies to military dependents who are on joint leases with servicemembers. This has always been the intent of Congress, but some landlords have recently tried to argue there is a loophole, leaving the servicemember's spouse liable if the servicemember is relieved from liability under the lease. That was pointed out most definitively in an oversight hearing we held very recently.

H.R. 4658 would make several other improvements to the SCRA, including strengthening protections relating to waivers of servicemembers rights. Additionally, it would provide motor vehicle lease termination protections for servicemembers stationed in Alaska and Hawaii.

Mr. Speaker, under title II of 4658, this title would strengthen the Uniformed Services Employment and Reemployment Rights Act, or USERRA, the law which protects the jobs and employment benefits of Guard and Reserve members who are called to active duty. I want to highlight the major provisions for my colleagues.

The bill would increase from 18 to 24 months the maximum period of employer-sponsored health coverage during active military service to reflect the longer deployments of Guard and Reserve members. It would also establish a 3-year demonstration project at the U.S. Office of the Special Counsel to improve enforcement of the act in cases involving Federal executive branch employees.

Additionally, the bill contains a requirement for employers to provide notice to employees of their rights. Title III of the bill would make a number of changes to strengthen the program which authorizes benefit payments to fiduciaries of veterans unable to manage their financial affairs. It would require greater scrutiny by VA fiduciaries to make fiduciaries subject to civil penalties for misuse of a veteran's assets.

Mr. Speaker, this measure would also require the Secretary of Veterans Affairs to establish an inventory of medical waste management activities in the VA, and to assess what methods of medical waste disposal are desirable from an environmental perspective. He would then report to Congress on plans to modernize or improve the management of medical waste and disposal programs.

Mr. Speaker, I urge support of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MICHAUD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4658, the Servicemembers and Veterans Legal Protections Act of 2004. I want to thank our ranking member, the gentleman from Illinois (Mr. EVANS), and our chairman, the gentleman from New Jersey (Mr. SMITH) for their leadership on this legislation, as well as my good friend and colleague on the Subcommittee on Benefits, the gentleman from South Carolina (Mr. BROWN).

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I have enjoyed working with them during this Congress. Additionally, I would like to thank Members and staffs on both sides of the aisle who have contributed to this bill.

H.R. 4658 contains a number of provisions aimed at enhancing and improving the Servicemembers Civil Relief Act, the Uniformed Services Employment and Reemployment Rights Act and other matters which will improve the quality of life of our troops, veterans and military families. Today, men and women who make up the Armed Forces and their families are under tremendous strain. Laws concerning reemployment rights and legal and financial protections for our service members help them to focus on serving the country. When these laws are effectively administered and vigorously enforced, they help our service members and their families and assist in recruitment and retention efforts.

Mr. Speaker, I am particularly pleased that we have included measures to improve certain sections of the Servicemembers Civil Relief Act. These measures were brought to our attention by service members and military lawyers who experienced problems we had not anticipated when the Servicemembers Civil Relief Act was passed last year. H.R. 4658 solved these identified problems.

H.R. 4658 also makes improvements to the Uniformed Services Employment and Reemployment Rights Act. I am particularly pleased that this bill includes measures to protect our most vulnerable veterans from financial abuse by those VA has authorized to handle their cash benefits. These provisions are drawn from H.R. 4032 which I joined the gentlewoman from California (Mrs. DAVIS) in introducing. Veterans and other VA beneficiaries who have their benefits paid to fiduciaries will have protections similar to those Congress recently afforded to Social Security beneficiaries.

Finally, I must express my deep regret that the majority leadership has rejected a provision in this bill supported by our committee. In response to a problem identified by the Secretary of Veterans Affairs, the administration proposed to permit VA to provide limited transitional care for newborns of veterans receiving maternity care from VA. Currently, VA is being charged high rates by hospitals who agree to provide contract maternity care to eligible veterans. Rates are excessive because under current law VA has no authority to pay for care of the newborn child after delivery. VA requested the authority to pay for newborn care for a maximum of 14 days in order to allow time to make other arrangements for newborns who would need ongoing care. The committee recognized that alternate payment sources such as private medical insurance may be available to pay for newborn care and therefore would have limited VA's liability to those situations where no other payment source was available. These provisions were rejected by the Republican leadership. VA will continue to have difficulty arranging for contract maternity care and will continue to be charged higher amounts. As a Blue Dog, I find this fiscally irresponsible.

I also believe we are sending the wrong message to servicewomen injured in Iraq or Afghanistan or otherwise disabled by military service. VA's failure to provide newborn care associated with maternity care is likely to alienate the increasing number of young women in our military. I will continue to push for reconsideration of this provision in the 109th Congress.

Mr. Speaker, the provisions in H.R. 4658 are of the utmost importance. We have an obligation to do all we can to ensure that service members and their families have peace of mind. Passing this legislation would be a strong step in the right direction. I urge all Members to support this bill.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, I want to take this time to thank my colleague here for his leadership on this particular piece of legislation. I also thank the gentleman from New Jersey (Mr. SMITH) on his efforts as well as the gentleman from Illinois (Mr. EVANS).

Mr. Speaker, I rise today in support of H.R. 4658, the Servicemembers Legal Protection Act. Although this legislation is a great measure and I urge its passage, I regret that it no longer has a provision introduced by the gentleman from Illinois (Mr. EVANS) and myself to assist the Department of Veterans Affairs in delivering a comprehensive maternity care benefit to women veterans. Women comprise an increasing portion of our armed services and will soon make up 20 percent of our active duty forces.

With that being said, we must continue to bring women veterans into the veterans health care system. VA medical centers do not deliver maternity care except in cases of emergency. Yet VA's contractors are reluctant to accept contracts if payment for infants' care is uncompensated, particularly if there is a risk for an adverse birth outcome. Ensuring at least partial payment for the infant's care would have allowed the VA to contract more easily for this routine care provided to women veterans and allow them to receive the care they deserve.

As I mentioned earlier, I am disappointed that the provision on women's comprehensive care is not in the final bill. However, I trust that the gentleman from New Jersey (Mr. SMITH) and the gentleman from Connecticut (Mr. SIMMONS) will continue to work with us in a bipartisan manner in order to ensure that we eventually bring passage. I urge my colleagues to vote in favor of this bill as it contains many important legal and financial protections for our military men and women and their families.

Mr. Speaker, in closing let me just say that we do have and we are expecting to have a larger number of women participating. If those veteran women are expecting, we are going to have difficulties unless we also take care of not only the veteran herself but also the child that she might be bearing.

Mr. MICHAUD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself 1 minute.

I want to thank the gentleman from Maine (Mr. MICHAUD) for his leadership on this legislation as part of the Benefits committee and the gentleman from Illinois (Mr. EVANS) as well. Again, this and the bill that was passed and signed by the President last year was a historic rewrite and expansion of the Servicemembers Relief Act, as we called it. It is a rewrite of the old Soldiers and Sailors Relief Act first enacted back in 1940. It provided significant upgrades and made for consistency and uniformity across the country when it came to adjudicating the protections for our servicemen who are deployed overseas. This is especially important to so many Guard and Reserve now serving so ably and so honorably in Iraq as well as in Afghanistan.

I also want to say that I deeply regret the loss of the newborn provision. As my colleagues might recall, I worked with my good friends on the other side of the aisle and on our side to put that in. We will be back hopefully and we can regain that sometime in the future. But I do thank him for bringing that up.

Mr. EVANS. Mr. Speaker, I rise in strong support of H.R. 4658, the Servicemembers and Veterans Legal Protection Act of 2004. I want to thank Chairman SMITH, as well as HENRY BROWN and MICHAEL MICHAUD, Chairman and Ranking Member of the Benefits Subcommittee, respectively, for their good work on this legislation. Additionally, I commend the Members and staffs on both sides of the aisle who have worked diligently to bring this bill forward. It has truly been a bipartisan effort.

H.R. 4658 is important legislation that contains a number of provisions aimed at enhancing and improving the Servicemembers civil Relief Act (SCRA), the Uniformed Services Employment and Reemployment Rights Act (USERRA) and other matters pertaining to the quality of life of our troops, veterans, and military families.

Mr. Speaker, not since world War II has the Nation's military—active duty and Reserve forces—undergone such a massive mobilization and troop rotation effort. According to the Department of Defense, since September 11, 2001, over 400,000 reserve forces have been mobilized, some of these National Guard or Reserve members have been called up more than once, and some of our servicemembers have been activated for nearly twenty-four months due to extensions of their orders or prevented due to "stop loss" from leaving military service at their expected time.

Needless to say, our armed forces are serving under stressful conditions, and they and their families are making great sacrifices. Accordingly, laws concerning reemployment rights, and legal and financial protections for our servicemembers play an integral part in their ability to serve the country. Indeed, if these laws are effectively administered and vigorously enforced, they not only provide comfort to our servicemembers and their families but they can also assist the Pentagon in in its recruitment and retention efforts.

Mr. Speaker, this bill contains a host of quality provisions. I am particularly pleased that we have included measures to improve and perfect certain sections of the Servicemembers Civil Relief Act, such as defining certain terms under the Act; requiring that waivers of protections under the Act be highlighted and signed as separate documents; specify that the Act applies to either a plaintiff or defendant; clarify that dependents of servicemembers have the same right as the servicemember to terminate a lease when the servicemember is deployed or receives a permanent change of station; and prevents multiple taxation of certain servicemembers.

H.R. 4658 also provides important and timely amendments to the Uniformed Services Employment and Reemployment Rights Act. One important provision would extend reservists' ability to continue employer-sponsored health coverage from 18 to 24 months; another provision establishes a demonstration project for the investigation and enforcement of federal USERRA complaints by the Office of Special Counsel. Finally, in the area of reemployment rights, this legislation includes a measure, originally introduced by my friend, Representative JIM MCGOVERN of Massachusetts, to require employers to provide greater notice and awareness to employees about reservists' reemployment rights.

I am also pleased that the bill contains a very important measure introduced by SUSAN DAVIS of California to enhance the fiduciary program within the VA. We must do a better job in protecting vulnerable veterans from financial misdeeds, neglect and manipulation by unsavory individuals or entities.

I have been a member of the House of Representatives for over 20 years. I cannot recall any instance when a proposal sent to the Congress by any Administration—Democratic or Republican—to address a problem in meeting the needs of veterans having been favorably reported by the Committee was barred from consideration on the floor by the House Leadership. Sadly that day has arrived.

The bill we are considering today was overwhelmingly approved by the Committee with a provision which would enable the Secretary to include a limited benefit for the newborn children of veterans who are eligible for maternity care from the Department of Veterans Affairs (VA). This provision was designed to address the difficulty which the Secretary has had in obtaining contracts in order to provide timely and adequate maternity care to service-disabled and low-income veterans. It was also designed to address the high cost of such care, which is charged when no provision is made for payment of services to newborn children.

As reported by the Committee, the bill would limit VA's liability by providing that VA payment would be made, only when there was no other resource, such as private health insurance or Medicaid responsible for the care. Care would only have been provided during the neonatal period and would have allowed a small window of time in order to obtain additional health care for those children who may qualify for other health care programs, such a Medicaid or State child health programs.

What message does this send to servicewomen risking their life and health in Iraq and Afghanistan today? What message does this send to service-disabled women veterans seeking maternity care from the VA today? I am extremely disappointed that in order for this bill to be considered by the House, it was necessary to eliminate the provision addressing a serious problem which will affect an increasing number of servicewomen in the months and years to come. I hope that we will address this issue early in the next session of Congress. Those women who have sacrificed for us deserve no less.

Mr. Speaker, H.R. 4658 includes many provisions aimed at protecting the legal, financial and employment rights of servicemembers, veterans and their families. Passing this bill sends the right message, and I urge all members to do just that.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise as a strong supporter of H.R. 4658, the Servicemembers Legal Protection Act of 2004, which would amend the Servicemembers Civil Relief Act to make certain improvements and technical corrections to that Act. I want to thank Chairman SMITH and Ranking Member EVANS for bringing this necessary piece of legislation before this entire body.

This legislation is one that is aimed at protecting members of the military by amending the Servicemembers Civil Relief Act (SCRA). The SCRA is a Federal law that updates and expands all military members' important financial and legal rights as they enter active duty or are deployed to new duty stations. This legislation recognizes the unique circumstances that members of the military are often faced with because of the nature of their work. This legislation prohibits tax jurisdictions from imposing use, excise, or similar taxes on the personal property of nonresident servicemembers absent a credit for such taxes paid on the same property in another tax jurisdiction. Members of the military are always ready to be on the move in order to serve our Nation, and we must protect their personal interests because of these unique circumstances.

This legislation is also welcome because it protects the interests of the families of those who serve in the Armed Forces. This legislation states that a servicemember's termination of a residential or motor vehicle lease shall terminate any obligation of the servicemember's dependents under such lease. This provision is necessary because no family should have to bear the financial burden when a family member is asked to move to fulfill their orders in the Armed Forces. Again, I urge all Members to approve H.R. 4658, because we should never leave our brave men and women of the Armed Forces in the dark when it comes to protecting their financial and legal rights.

Mr. MCGOVERN. Mr. Speaker, I rise in strong support of H.R. 4658, the Servicemembers Legal Protection Act of 2004. This important legislation includes a number of provisions intended to enhance and improve the quality of life of our troops, veterans, and military families. Specifically, I would like to address Section 211 of H.R. 4658 that amends the Uniformed Services Employment and Reemployment Rights Act (USERRA).

Since September 11, 2001, over 400,000 National Guardsmen and Reservists have been placed on active duty. Not since World War II have so many National Guardsmen and Reservist been called to active duty. They and their families face many burdens in service to their country. Their service has taken them away from not only their families, but their jobs as well.

One burden faced by the men and women of the National Guard and Reserves is their employment status upon return from active duty. The uncertainty of their activation and period of time away from their jobs also severely affects their employers, a situation that has been compounded by extended deployments. The U.S. Chamber of Commerce has estimated that 70 percent of military reservists called to active-duty work in small or medium-size companies.

In an effort to assist National Guardsmen, Reservists, and their employers, the National Committee for Employer Support of the Guard and Reserve (ESGR) was established to address potential problems arising among the Nation's employers. Trained ESGR employers manage to solve roughly 95 percent of the cases where problems have arisen when a Reserve or Guard member returns to his or her workplace through an informal process—without the Department of Labor having to get involved.

What about the other five percent? According to the ESGR, many of the problems facing this five percent of cases grew out of a lack of understanding of the rights and responsibilities of employers and their returning employees.

In response, I introduced H.R. 4477 with the bipartisan support of U.S. Representative JEB BRADLEY. The Committee on Veterans Affairs incorporated H.R. 4477 into Section 211 of H.R. 4658, the bill the House is considering today. Section 211 is simple and straightforward. It seeks to promote understanding between employees and employers when it comes to their rights and obligations under USERRA. Section 211 would require the Department of Labor to produce a poster—similar to the Family and Medical Leave poster-for employers to post at work sites.

Mr. Speaker, many employers across the country either do not know about USERRA, or they are only vaguely aware of it. By not complying with USERRA, employers put themselves at risk of facing Department of Labor investigations. By educating employers and employees before potential violations, we can protect employers from costly litigation, potential fines, and public embarrassment.

Mr. Speaker, Section 211 would not create additional paper work or burden employers with difficult Department of Labor requirements. In fact, Section 211 is an effort to educate employers and keep them from unknowingly breaking existing law.

Let me briefly share with you how I came to introduce H.R. 4477. I was contacted by a constituent who is a member of the Massachusetts ESGR. He suggested that simply altering USERRA to require its posting would solve many of the problems that he had seen arise between employers and returning Reservists and Guardsmen. He described how many employers are not fully aware of their responsibilities under USERRA, and why many employees are afraid to exercise their rights, even though those rights are protected by USERRA. In posting USERRA and familiarizing themselves with the law, employers and employees will gain a deeper understanding of USERRA and preferably work out any potential conflicts before employees are activated.

Mr. Speaker, I would like to thank Chairman CHRIS SMITH and Ranking Member LANE EVANS of the Committee on Veterans Affairs, as well as Chairman HENRY BROWN and Ranking Member MICHAEL MICHAUD of the Subcommittee on Benefits, for moving forward with H.R. 4658. Their dedication and leadership on issues affecting the well-being of our veterans and uniformed men and women are appreciated and respected by all members of this House, including myself. I would also like to extend my thanks to the staff of the Committee on Veterans Affairs for their hard work on H.R. 4658. In particular, I would like to extend my deep appreciation to Geoffrey Collver of the Democratic Staff of the Committee on Veterans Affairs for working closely with me on Section 211.

Mr. Speaker, I strongly urge the adoption of H.R. 4658.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the bill, H.R. 4658, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Servicemembers Civil Relief Act to make certain improvements and technical corrections to that Act, otherwise to improve legal protections provided to reserve component members called to active duty, and for other purposes."

A motion to reconsider was laid on the table.

CONGRATULATING AND COMMENDING THE VETERANS OF FOREIGN WARS

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 108) congratulating and commending the Veterans of Foreign Wars.

The Clerk read as follows:

H.J. RES. 108

Whereas the organization now known as the Veterans of Foreign Wars of the United States was founded in Columbus, Ohio, on September 29, 1899;

Whereas the VFW represents approximately 2,000,000 veterans of the Armed Forces who served overseas in World War I, World War II, Korea, Vietnam, the Persian Gulf War, Bosnia, Iraq, and Afghanistan; and

Whereas the VFW has, for the past 105 years, provided voluntary and unselfish service to the Armed Forces and to veterans, communities, States, and the Nation and has worked toward the betterment of veterans in general and society as a whole: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress—

(1) recognizes the historic significance of the 105th anniversary of the founding of the Veterans of Foreign Wars of the United States (the VFW);

(2) congratulates the VFW on achieving that milestone;

(3) commends the approximately 2,000,000 veterans who belong to the VFW and thanks them for their service to their fellow veterans and the Nation; and

(4) calls upon the President to issue a proclamation recognizing the anniversary of the VFW and the contributions made by the VFW to veterans and the Nation and calling upon the people of the United States to observe such anniversary with appropriate ceremonies and activities.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.J. Res. 108 which would congratulate and commend the Veterans of Foreign Wars on its 105th anniversary. Tracing its roots back to the Spanish-American war, the VFW is one of the Nation's oldest, largest and one of the most respected veterans service organizations. The VFW has a proud history of directly supporting America's veterans and their families. Over 100 full-time service officers work directly with veterans on claims for VA benefits and oversee VA's programs around the country as well. VFW's "Buddy Poppy" program is a symbol of their continuing tradition of caring for fellow veterans, and their community service programs have made VFW a valued partner for thousands of charitable and civic organizations around the country.

Mr. Speaker, I can attest to the valuable contributions of the VFW's legislative specialists who continue to provide expert advice and counsel to help us develop State and national veterans priorities and policy. Over the past 4 years, I have had the privilege, and before that for 6 years as vice chairman of the committee and the last 4 as chairman, of working closely with numerous VFW leaders both on the national level and on the State level back in my home State of New Jersey. My colleagues and I have benefited from the candid advice of VFW's Executive Director Bob Wallace from New Jersey, Legislative Director Dennis Cullinan, and past Commanders in Chief Ed Banas, Ray Sisk and John Gwizdak. We also look forward to working with the new Commander in Chief John Furgess.

I would also like to thank the leaders of the VFW in my home State of New Jersey, especially longtime leader and friend Mike Wysong. For the entire 24 years that I have served in Congress and on Committee on Veterans' Affairs, I have always been able to count on my State VFW leaders to lend their support and offer their ideas to help our State's veterans and also with national issues as well.

Mr. Speaker, I urge Members to support this resolution. It is a fine one.

Mr. Speaker, I reserve the balance of my time.

Mr. MICHAUD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is a pleasure that I rise in support of this joint resolution to congratulate and commend the Veterans of Foreign Wars for 105 years of dedicated service. These congratulations extend not only to the current members of the more than 9,000 VFW posts worldwide but to all members since the beginning of this accomplished veterans service organization who served in wartime overseas.

I would also like to recognize the contributions the VFW has made in my State of Maine. From Fort Kent in the north to Kittery in the south, the 13,500 members of the VFW located in 83 individual posts have always worked to improve the lives of veterans and our communities and I am honored to call many of them my friends.

The VFW's origins extend back to 1899 with the founding of the American Veterans of Foreign Service and the National Society of the Army of the Philippines, which merged in 1914 to form the Veterans of Foreign Wars of the United States. Originally the organization was created to help secure rights and benefits for veterans of the Spanish-American War and the Philippines War. They succeeded then as they do now, speaking with a loud and clear collective voice to serve veterans. This organization is to be congratulated and commended. The authors of this joint resolution are also to be commended for their efforts to recognize this great service organization.

Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. RODRIGUEZ).

Mr. RODRIGUEZ. Mr. Speaker, we are incredibly blessed in this country to have a group of veterans service organizations looking out for the best interest of our veterans. For the last 105 years, the Veterans of Foreign Wars have been making a difference in the lives of those who have given so much to this country, our veterans and their families.

Through their foundation, the VFW supports programs that promote citizenship education and volunteerism and facilitate aid for veterans and their families in need of both medical, rehabilitative, educational and employment services. Additionally, their members and those of the VFW Auxiliary volunteer countless hours at our veterans and military hospitals. During this time of increased military deployments, it is so important to have a network of veterans our injured soldiers and families can turn to for help and assistance.

Throughout my 7 years in Congress, I have been fortunate to meet with VFW members in Washington as well as in my district on a regular basis as they advocate for increased veterans funding, services for homeless veterans, better education benefits for our veterans and many other issues. They have an incredible history. I would like to take this opportunity not only to thank them for all they do for our veterans but also to congratulate them on their 105th anniversary.

Mr. LARSON of Connecticut. Mr. Speaker, I rise today to honor the 105th anniversary of the Veterans of Foreign Wars, who for decades have been committed to securing the rights and benefits of veterans that have serviced this country with honor, dignity, and valor.

In 1899, after the Spanish-American War and the Philippine War, a group of veterans banded together founding the Veterans of Foreign Wars to ensure proper medical benefits for members of the military returning from foreign service. With a mission to improve the lives of veterans, the Veterans of Foreign Wars has lobbied for quality health care, education, and retirement benefits of veterans and their families for over 105 years. They have worked to protect the memory and legacy of those who lost their lives while in military service defending the freedom and values of our great Nation. In the state of Connecticut, there are over 26,000 members and 6,000 auxiliary members of the Veterans of Foreign Wars. Nationwide, this organization has more than 2.6 million members who served in World War I, World War II, Korean war, Vietnam, Persian Gulf war, Bosnia, Afghanistan, and Iraq. The Connecticut Veterans of Foreign War posts have been instrumental in raising awareness and fighting for better health care and benefits for those who risked their lives for our country.

I believe that the Veterans of Foreign Wars should be recognized for their proud service to the veterans of Connecticut and the nation. Therefore, I urge my fellow Members to vote with me in support of H.J. Res. 108 and honor the Veterans of Foreign Wars as an organization committed to the courageous veterans of the United States of America.

Mr. COOPER. Mr. Speaker, I rise today in support to this important resolution honoring the Veterans of Foreign Wars on its 105th anniversary. I was proud to introduce this resolution with Mr. COLE of Oklahoma, and I want to express my thanks to the distinguished chairman and ranking member of the Veterans' Affairs Committee for helping move it quickly to the floor.

In the wake of the Spanish-American War and Philippine Insurrection, thousands of wounded veterans returned from war to find that there were no healthcare benefits or pensions provided for them. So, as people in the military do, they banded together to work as a team to provide care for each other by starting the Veterans of Foreign Wars organization. This believe in service to fellow veterans is the core value of the VFW, and it continues this tradition today.

The VFW now serves more than 2½ million American heroes who answered the call when the Nation needed them. For 105 years, the VFW has fought for increasing veterans' benefit, improving veterans' healthcare, and ensuring that America's veterans receive the recognition they deserve for their service. The VFW continues to live up to its motto every day—honoring the dead by helping the living. I am proud that the House is passing a resolution honoring such an effective and dedicated advocate for our Nation's veterans.

I am also proud that this year the Veterans of Foreign Wars will be held by a son of Tennessee and a Nashville native: VFW Commander-in-Chief John Furgess. John fought for his country in Vietnam as a young man, and when he returned he continued to serve by working for the Veterans Administration for 20 years. Over the course of his distinguished career in the VA and the Veterans of Foreign

Wars, John has helped thousands of veterans get the benefits they have earned and the care they deserve. John's dedication to his country and his fellow veterans is a model for all Americans, and I look forward to seeing the VFW flourish under his leadership in the coming year.

Finally, as we look back on the 105-year record of the Veterans of Foreign Wars, it is also important to look forward. I am also proud that in congratulating the veterans of Foreign Wars we are also honoring our Nation's future veterans—the troops engaged in combat overseas today in Iraq, Afghanistan, and elsewhere. The brave men and women of our Armed Forces put their lives on the line for all Americans, most of whom they have never met. There is no higher expression of selfless service than the willingness to risk one's life for others, and for the ideals that this country holds dear. The troops on the front line today—who are tomorrow's veterans—deserve our repeated thanks for serving the Nation.

Mr. MICHAUD. Mr. Speaker, I yield back the balance of my time.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and pass the joint resolution, H.J. Res. 108.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS THAT A MINUTE OF SILENCE SHOULD BE OBSERVED ANNUALLY ON VETERANS DAY

Mr. SMITH of New Jersey. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 195) expressing the sense of Congress that a minute of silence should be observed annually at 11:00 a.m. on Veterans Day, November 11, in honor of the veterans of all United States wars and to memorialize those members of the Armed Forces who gave their lives in the defense of the United States.

The Clerk read as follows:

H. CON. RES. 195

Whereas Reverend George Fox, Rabbi Alexander Goode, Reverend Clark Poling, and Father John Washington served aboard the USAT Dorchester during World War II;

Whereas Reverend Fox, Rabbi Goode, Reverend Poling, and Father Washington were referred to as the "Four Chaplains";

Whereas, on February 3, 1943, the Dorchester was hit by an enemy torpedo and began to sink;

Whereas in the face of grave danger the Four Chaplains sought to calm and reassure the men on board;

Whereas the Four Chaplains handed out lifejackets and directed the frightened men to lifeboats;

Whereas when the last lifejacket had been handed out, the Four Chaplains removed their own lifejackets and gave them to four men who had none;

Whereas the Dorchester sank and took with her 672 men and the Four Chaplains, who stood arm in arm with their heads bowed in prayer and went down with the ship;

Whereas none of the Four Chaplains inquired about whether the young man to whom he gave his lifejacket was a member of his own faith;

Whereas the Four Chaplains will remain forever in the memories of Americans as an example of the kind of heroism which has always characterized the best of the United States Armed Forces;

Whereas the sacrifice of the Four Chaplains stand as a testimony to all heroic veterans who have fought for the United States;

Whereas each year on November 11 the United States pays tribute to its war dead and veterans in a national observance known as Veterans Day; and

Whereas a national minute of silence observed annually at 11:00 a.m. on Veterans Day, November 11, would provide the people of the United States with an opportunity to honor the veterans of all United States wars and memorialize those members of the Armed Forces who gave their lives in defense of the United States: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that a minute of silence should be observed annually at 11:00 a.m. on Veterans Day, November 11, in honor of the veterans of all United States wars and to memorialize those members of the Armed Forces who gave their lives in the defense of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New Jersey (Mr. SMITH) and the gentleman from Maine (Mr. MICHAUD) each will control 20 minutes.

The Chair recognizes the gentleman from New Jersey (Mr. SMITH).

Mr. SMITH of New Jersey. Mr. Speaker, I yield myself such time as I may consume.

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Mr. Speaker, I rise in support of H. Con. Res. 195, legislation expressing the sense of Congress that a minute of silence should be observed annually at 11 a.m. on Veterans Day, November 11, in honor of the veterans of all United States wars and to memorialize those members of the Armed Forces who gave their lives in defense of our country.

Mr. Speaker, this resolution recounts a particularly moving event from World War II. On February 3, 1943, a German U-boat torpedoed the American transport ship, the USAT *Dorchester*, sinking it off the coast of Greenland. Among the nearly 1,000 American soldiers aboard the *Dorchester* were four chaplains whose selfless acts of courage have left a distinguished legacy.

The four chaplains, Reverend Fox, Rabbi Goode, Reverend Poling, and Father Washington worked to help save their fellow soldiers. They distributed life jackets until no more were available. Then the four chaplains removed their own life jackets and gave them to four other soldiers.

True to their faiths and to their fellow men until the end, they were last seen arms linked in prayer on the hull of the ship as it went down.

The sacrifice of the four chaplains stands as a testimony to all heroic veterans who have fought for the United States. A stained glass window on the third floor of the Pentagon's A-ring honors these brave Americans.

Mr. Speaker, H. Con. Res. 195 would provide the people of the U.S. with an opportunity to honor the veterans of all the United States wars and to memorialize those members of the Armed Forces who gave their lives in defense of our Nation.

Mr. Speaker, I reserve the balance of my time.

Mr. MICHAUD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is with great reverence that I support this concurrent resolution for a minute of silence at 11 a.m. on Veterans Day. On Veterans Day we recognize the over 26 million veterans in our country. We remember those who have passed away, and we honor those who currently wear the uniform. They are inspiring stories of shared sacrifice that come out of every battle in every war and conflict, none more telling than the one of "the four chaplains" of World War II.

These four chaplains shall not be forgotten nor will the many veterans who go unlisted by name on Veterans Day. These stories will be remembered as just one example of all historic service members who have fought and died for the United States.

November 11 has been set aside as the day of tribute to these men and women who have answered the call to service for our Nation. A minute of silence at 11 a.m. on Veterans Day will give all Americans the opportunity to pause and remember all veterans of the United States who have given so much in service to our country.

Mr. SMITH of New Jersey. Mr. Speaker, I yield back the balance of my time.

Mr. MICHAUD. Mr. Speaker, I yield myself such time as I may consume.

I do want once again want to thank the gentleman from Illinois (Mr. EVANS), the ranking member, and the gentleman from New Jersey (Chairman SMITH) for all that they have done for the veterans of our country.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise today as a strong supporter of H. Con. Res. 195 which expresses the sense of Congress that a minute of silence should be observed annually at 11:00 a.m. on Veterans Day, November 11, in honor of the veterans of all United States wars and to memorialize those members of the Armed Forces who gave their lives in the defense of the United States. I am proud to be a cosponsor of this legislation and I want to thank my distinguished colleague Congressman CLAY for honoring our veterans through this needed legislation. An annual moment of silence during Veteran's Day will serve as a constant reminder to the public that our nation will always honor their decorated veterans. Veteran's Day being the one day when we celebrate America's veterans for their patriotism, love of country, and willingness to serve and sacrifice for the common good.

The idea of having a national day to recognize the sacrifices of those who served in war was born in 1926, when Congress enacted a concurrent resolution recognizing November 11th as a national holiday. Originally this day was called "Armistice Day." This day was created to celebrate the end of the brutal hostilities of World War I. November 11th would be a day dedicated to the cause of world peace.

With the approval of legislation on June 1, 1954, November 11th became a day to honor American veterans of all wars. Later that same year, on October 8th, President Dwight D. Eisenhower, himself a decorated veteran of war, issued the first "Veterans Day Proclamation" which stated in part: "In order to insure proper and widespread observance of this anniversary, all veterans, all veterans' organizations, and the entire citizenry will wish to join hands in the common purpose." It was with that endearing spirit that America celebrated the first Veterans Day. This annual holiday continues to be one the most fundamental celebrations of the American spirit. Today, we express our sentiment that a moment of silence is needed to remember the full extent of sacrifices our veterans have made for this great nation.

This legislation is just a small portion of the effort being made by some in this body to protect and celebrate our nation's valiant veterans. We must all continue to fight for them in Washington because they went to the greatest lengths to fight for us abroad.

In the 18th Congressional district of Texas alone there are more than 38,000 veterans and they make up almost ten percent of the 18th district's civilian population over the age of 18. Yet, despite these large numbers we often forget about our veterans. We do this in part because our men and women of the armed services come home from war and lead normal productive lives; often our veterans go unnoticed in the general population. However, our veterans are not normal people; they are truly extraordinary individuals who have changed the course of our lives in ways that we may not even realize. I hope we will always keep this thought in mind; and observing a moment of silence on Veteran's Day will help us to remember. We cannot forget to celebrate our veterans, for if we forget to celebrate them, we forget all that makes this nation truly great. I urge all Members to support this legislation and to support our nation's veterans because without their sacrifice our nation would not be where it is today.

Mr. CLAY. Mr. Speaker, I rise in support of House Concurrent Resolution 195. It is most fitting and appropriate that the American people observe a moment of silence each year to remember and honor all the brave men and women who have given their lives in defense of our great nation.

A moment of silence on Veterans Day will give a national experience to the observance of this important federal holiday. This legislation's Veterans Day observance is also a special tribute to the valiant efforts of the Four Chaplains—Reverend George Fox, Rabbi Alexander Goode, Reverend Clark Poling and Father John Washington, who gave up their lives while serving on the USAT *Dorchester* during World War II. That ship was hit by enemy torpedo on February 3, 1943, and sank in the icy waters of the North Atlantic. The Four Chaplains helped to instill a sense of calm and reassurance to the soldiers in battle. They gave spiritual guidance and support as they gave up their own life jackets to those who had none. These American heroes then stood, arm in arm, heads bowed in prayer and went down with their ship.

The Four Chaplains will be forever remembered as heroes who characterized the very best qualities of American soldiers. Their lives serve as a testimony to all the heroes who have fought for our nation. Today, across the United States the memory of the Four Chaplains continues to bring comfort and inspiration. Four Chaplains Services bring together people of all races, faiths and creed in more than 2,000 interfaith services each year. It is only proper that our nation honor and celebrate the memory of the Four Chaplains.

Mr. Speaker, I want to express my appreciation to the Veterans Committee for moving this legislation forward; I appreciate all the members who have worked so hard to enhance our Veterans Day celebration. I want to especially thank my friend, Mr. PASCRELL, for all his efforts to promote a national moment of silence in honor of our nation's veterans and when the legislation before us is enacted into law, I would certainly hope that all radio and television stations will join in observing the Veterans Day moment of silence.

America's veterans are without any question the group most worthy of the gratitude of the people of our nation. It is time that we honor our heroes in a shared national moment of silence.

Mr. MICHAUD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from New Jersey (Mr. SMITH) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 195.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

COMPREHENSIVE PEACE IN SUDAN ACT

Mr. TANCREDO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 5061) to provide assistance for the current crisis in the Darfur region of Sudan and to facilitate a comprehensive peace in Sudan, as amended.

The Clerk read as follows:

H.R. 5061

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Comprehensive Peace in Sudan Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) APPROPRIATE CONGRESSIONAL COMMITTEES.—The term "appropriate congressional committees" means the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate.

(2) JEM.—The term "JEM" means the Justice and Equality Movement.

(3) SPLM.—The term "SPLM" means the Sudan People's Liberation Movement.

(4) SLA.—The term "SLA" means the Sudan Liberation Army.

(5) GOVERNMENT OF SUDAN.—The term "Government of Sudan" means the National Islamic Front-led government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of this Act (other than the coalition government agreed upon in the Nairobi Declaration on the Final Phase of Peace in the Sudan).

SEC. 3. FINDINGS.

Congress makes the following findings:

(1) Since seizing power through a military coup in 1989, the Government of Sudan repeatedly has attacked and dislocated civilian populations in southern Sudan in a coordinated policy of ethnic cleansing that has cost the lives of over 2,000,000 people and displaced more than 4,000,000 people.

(2) The Governments of the United States, the United Kingdom, and Norway each have committed significant resources to promote an internationally supported peace process between the Government of Sudan and the Sudan People's Liberation Movement (SPLM), under the auspices of the Inter-Governmental Authority on Development.

(3) Following the signing of the Machakos Agreement in July 2002, the Government of Sudan and the SPLM reached a number of important agreements on issues such as self-determination, security arrangements, and wealth and power sharing, culminating in a final framework agreement, the Nairobi Declaration on the Final Phase of Peace in the Sudan, signed on June 5, 2004.

(4) In early 2003, while the Government of Sudan and the SPLM were negotiating for a final, country-wide peace, armed conflict between forces of the Government of Sudan, including militia forces backed by the Government, and rebel forces, including the Sudan Liberation Army (SLA) and the Justice and Equality Movement (JEM), began in the Darfur region of western Sudan.

(5) Evidence collected by international observers in the Darfur region between February 2003 and September 2004 indicate a coordinated effort to target African Sudanese civilians in a scorched earth policy, similar to that which was employed in southern Sudan, that has destroyed African Sudanese villages, killing and driving away its people, while Arab Sudanese villages have been left unscathed.

(6) As a result of this campaign, which the United States Congress and executive branch have declared to be genocide, an estimated 50,000 people have been killed, 1,200,000 people have been internally displaced, and 200,000 people have been forced to flee to neighboring Chad.

(7) Reports further indicate the systematic rape of thousands of women and girls, the abduction of women and children, and the destruction of hundreds of ethnically African villages, including the poisoning of their wells and the plunder of their crops and cattle upon which the people of such villages sustain themselves.

(8) The Government of Sudan conducted aerial attack missions and deadly raids across the international border between Sudan and Chad in an illegal effort to pursue Sudanese civilians seeking refuge in Chad.

(9) In addition to the thousands of violent deaths directly caused by ongoing Sudanese military and government sponsored militia attacks in the Darfur region, the Government of Sudan has restricted humanitarian access to the region, primarily through bureaucratic and administrative obstruction, in an attempt to inflict the most devastating harm on those individuals displaced from their villages and homes without any means of sustenance or shelter.

(10) The Government of Sudan's continued support for the Janjaweed militias and their obstruction of the delivery of food, shelter, and medical care to the Darfur region is estimated by the World Health Organization to be resulting in up to 10,000 deaths per month and, should current trends continue, is projected to escalate to thousands of deaths each day by December 2004.

(11) The United Nations Special Rapporteur on Extrajudicial, Summary or Arbitrary Executions stated in a recent report to the United Nations Sub-Commission on Human Rights that "[i]t is beyond doubt that the [G]overnment of Sudan is responsible for extrajudicial and summary executions of large numbers of people over the last several months in the Darfur region", and that "[t]he current humanitarian disaster unfolding in Darfur, for which the government is largely responsible, has put millions of civilians at risk".

(12) Attacks on civilians in the Darfur region continue despite an April 8, 2004, temporary cease-fire agreement reached between the Government of Sudan and the JEM and SLA rebel groups in N'Djamena, Chad.

(13) The United Nations High Commissioner for Human Rights identified "massive human rights violations in Darfur perpetrated by the Government of Sudan and the Janjaweed, which may constitute war crimes and/or crimes against humanity".

(14) On July 22, 2004, the United States House of Representatives and Senate both declared that the atrocities unfolding in Darfur, Sudan are genocide.

(15) On September 9, 2004, Secretary of State Colin L. Powell stated before the Committee on Foreign Relations of the Senate: "When we reviewed the evidence compiled by our team, along with other information available to the State Department, we concluded that genocide has been committed in Darfur and that the Government of Sudan and the [Janjaweed] bear responsibility—and genocide may still be occurring.".

(16) On July 30, 2004, the United Nations Security Council passed Resolution 1556, calling upon the Government of Sudan to disarm the Janjaweed militias, apprehend and bring to justice Janjaweed leaders and their associates who have incited and carried out violations of human rights and international humanitarian law, as well as other atrocities in the Darfur region.

(17) On September 18, 2004, the United Nations Security Council passed Resolution 1564, determining that the Government of Sudan had failed to meet its obligations under Resolution 1556, calling for a military flight ban in and over the Darfur region, demanding the names of Janjaweed militiamen disarmed and arrested for verification, establishing an International Commission of Inquiry into violations of international humanitarian and human rights laws, and threatening sanctions should the Government of Sudan fail to fully comply with Security Council Resolutions 1556 and 1564.

(18) The African Union's commitment to conflict resolution and peacekeeping on the continent, and its mandate to prevent genocide, has led the organization to engage in both political and military action in an effort to end the conflict in the Darfur region.

(19) The SPLM should seek to play a constructive role in bringing about a political settlement between the Government of Sudan, the SLA, and the JEM.

(20) Practical implementation of a comprehensive peace agreement for Sudan, as envisioned in the Sudan Peace Act (50 U.S.C. 1701 note), and in the Machakos Protocol of 2002, is hampered by the ongoing violence in the Darfur region and by the Government of Sudan's complicity in the violence.

(21) The Government of Sudan's complicity in the atrocities in the Darfur region raises fundamental questions about the Government of Sudan's commitment to peace and stability in Sudan.

EC. 4. SENSE OF CONGRESS REGARDING GENOCIDE AND THE CONFLICT IN DARFUR, SUDAN.

(a) Sudan Peace Act. It is the sense of Congress that the Sudan Peace Act (50 U.S.C. 1701 note) remains relevant and should be extended to include the Darfur region of Sudan.

(b) Actions To Address Genocide and the Conflict in Darfur.—It is the sense of Congress that—

(1) the atrocities unfolding in the Darfur region of Sudan are genocide;

(2) the Government of Sudan has violated the Convention on the Prevention and Punishment of the Crime of Genocide, signed at Paris on December 9, 1948, to which it is a contracting party, as a result of its complicity in the violence in the Darfur region;

(3) a legitimate countrywide peace in Sudan will only be possible if the principles enumerated in the 1948 Universal Declaration of Human Rights, as affirmed in the Machakos Protocol of 2002, and the Nairobi Declaration on the Final Phase of Peace in the Sudan, are applied to all of Sudan, including the Darfur region;

(4) the parties to the Humanitarian Ceasefire on the Conflict in Darfur (the Government of Sudan, the SLA, and the JEM), signed in N'Djamena, Chad, on April 8, 2004, must meet their obligations under that agreement, including—

(A) to give up the use of force as a means of settling the conflict in the Darfur region;

(B) to allow safe and immediate access for the provision of humanitarian assistance throughout the Darfur region;

(C) to allow the deployment of and cooperate with international monitors and security forces; and

(D) to expedite the conclusion of a political agreement to end the conflict in the Darfur region;

(5) the President should impose targeted sanctions on the assets and activities of those Sudanese Government officials and other individuals who are determined to be involved in planning, carrying out, or otherwise involved in the policy of genocide in the Darfur region, as well as on the assets and activities of businesses controlled by the Government of Sudan and the National Congress Party;

(6) the United States Government should not normalize relations with Sudan, including through the lifting of any sanctions, until the Government of Sudan agrees to and takes demonstrable steps to implement a comprehensive peace agreement for all areas of Sudan, including the Darfur region;

(7) the United States and the international community should use all necessary means to assist international monitors and security forces in the Darfur region, particularly the African Union monitoring team, in order to ensure an appropriate international response to the crisis in the Darfur region;

(8) the United States should continue to provide humanitarian assistance to the areas of Sudan to which the United States has access and, at the same time, implement a plan to provide assistance to the areas of Sudan to which access has been obstructed or denied;

(9) the President should appoint a new Special Presidential Envoy for Peace in the Sudan to complement and continue the work of former Senator John C. Danforth, who shall be tasked with assisting all parties to the conflict in Sudan, including in the Darfur region, to achieve a just, comprehensive, and permanent peace in Sudan;

(10) the member states of the United Nations, particularly the member states from the African Union, the Arab League, and the Organization of the Islamic Conference, should undertake urgent measures to prevent the genocide in the Darfur region from escalating further, including the imposition of targeted sanctions against those responsible for the atrocities; and

(11) the international community, including African, Arab, and Muslim nations, should immediately provide logistical, financial, in-kind, and personnel resources necessary to save the lives of hundreds of thousands of individuals at risk as a result of the Darfur crisis.

SEC. 5. AMENDMENTS TO THE SUDAN PEACE ACT.

(a) Assistance for the Crisis in Darfur and for Comprehensive Peace in Sudan.—

(1) In general.—The Sudan Peace Act (50 U.S.C. 1701 note) is amended by adding at the end the following new section:

"SEC. 12. ASSISTANCE FOR THE CRISIS IN DARFUR AND FOR COMPREHENSIVE PEACE IN SUDAN.

"(a) Assistance To Support a Comprehensive Final Peace Agreement in Sudan and To Respond to the Humanitarian Crisis in Darfur.—

"(1) Authority.—Subject to the requirements of this section, the President is authorized to provide assistance for Sudan—

"(A) to support the implementation of a comprehensive peace agreement that applies to all regions of Sudan, including the Darfur region; and

"(B) to address the humanitarian and human rights crisis in the Darfur region and eastern Chad, including to support the African Union mission in the Darfur region of Sudan.

"(2) Requirement for certification.—Notwithstanding section 501(a) of the Assistance for International Malaria Control Act (Public Law 106–570; 50 U.S.C. 1701 note), assistance authorized under this section may be provided to the Government of Sudan only if the President transmits the certification described in paragraph (3).

"(3) Certification for the Government of Sudan.—The certification referred to in paragraph (2) is a certification transmitted by the President to the appropriate congressional committees that the Government of Sudan has taken demonstrable steps to—

"(A) ensure that the armed forces of Sudan and any associated militias are not committing atrocities or obstructing human rights monitors or the provision of humanitarian assistance;

"(B) demobilize and disarm militias supported or created by the Government of Sudan;

"(C) allow full and unfettered humanitarian assistance to all regions of Sudan, including Darfur;

"(D) allow an international commission of inquiry to conduct its investigation of atrocities in the Darfur region and Khartoum, preserve evidence of atrocities and prosecute those responsible for war crimes, crimes against humanity, and genocide;

"(E) cooperate fully with the African Union and all other observer and monitoring missions mandated to operate in Sudan;

"(F) ensure the safe return of displaced persons and refugees to their homes and rebuild the communities destroyed in the violence;

"(G) implement the Nairobi Declaration on the Final Phase of Peace in the Sudan; and

"(H) install a new coalition government based on the agreements reached in the Nairobi Declaration on the Final Phase of Peace in the Sudan.

"(4) SUSPENSION OF ASSISTANCE.—If, on a date after the President transmits the certification described in paragraph (3), the President determines that the Government of Sudan has ceased taking the actions described in such paragraph, the President shall immediately suspend the provision of any assistance to such Government until the date on which the President transmits to the appropriate congressional committees a further certification that the Government of Sudan has resumed taking such actions.

"(5) AUTHORIZATION OF APPROPRIATIONS.—

"(A) IN GENERAL.—In addition to any other funds otherwise available for such purposes, there are authorized to be appropriated to the President—

"(i) $100,000,000 for each of the fiscal years 2005, 2006, and 2007 to carry out paragraph (1)(A); and

"(ii) $150,000,000 for fiscal year 2005 to carry out paragraph (1)(B).

"(B) AVAILABILITY.—Amounts appropriated pursuant to the authorization of appropriations under subparagraph (A) are authorized to remain available until expended.

"(b) GOVERNMENT OF SUDAN DEFINED.—In this section, the term 'Government of Sudan' means the National Islamic Front government in Khartoum, Sudan, or any successor government formed on or after the date of the enactment of the Comprehensive Peace in Sudan Act (other than the coalition government agreed upon in the Nairobi Declaration on the Final Phase of Peace in the Sudan).".

(2) CONFORMING AMENDMENT.—Section 3(2) of such Act is amended by striking "The" and inserting "Except as provided in section 12, the".

(b) REPORTING REQUIREMENT.—Section 8 of the Sudan Peace Act (50 U.S.C. 1701 note) is amended in the first sentence by striking "Sudan" and inserting "Sudan, including the conflict in the Darfur region".

SEC. 6. SANCTIONS IN SUPPORT OF PEACE IN DARFUR.

(a) SANCTIONS.—Beginning on the date of the enactment of this Act, the President shall, notwithstanding paragraph (1) of section 6(b) of the Sudan Peace Act (50 U.S.C. 1701 note), implement the measures set forth in subparagraphs (A) through (D) of paragraph (2) of such section.

(b) SUSPENSION OF SANCTIONS.—The President may suspend the application of subsection (a) if the President transmits to the appropriate congressional committees a certification in accordance with paragraph (3) of section 12(a) of the Sudan Peace Act (as added by section 5(a)(1) of this Act).

(c) REINSTATEMENT OF SANCTIONS.—The President shall reinstate the sanctions listed in subsection (a) that have been suspended under subsection (b) if at any time the President determines and certifies to the appropriate congressional committees that the Government of Sudan is no longer in compliance with any of the criteria listed in subparagraphs (A) through (H) of section 12(a)(3) of the Sudan Peace Act (as added by section 5(a)(1) of this Act).

(d) WAIVER.—The President may waive the application of subsection (a) if the President determines and certifies to the appropriate congressional committees that such a waiver is in the national interest of the United States.

(e) CONTINUATION OF RESTRICTIONS.—Restrictions against the Government of Sudan that were imposed pursuant to title III and sections 508, 512, and 527 of the Foreign Operations, Export Financing, and Related Programs Act, 2004 (division D of Public Law 108-199; 118 Stat. 143), or any other similar provision of law, may not be lifted pursuant to such provisions of law unless the President transmits a certification to the appropriate congressional committees in accordance with paragraph (3) of section 12(a) of the Sudan Peace Act (as added by section 5(a)(1) of this Act).

SEC. 7. DISCLOSURE OF BUSINESS ACTIVITIES IN SUDAN.

(a) ANNUAL REPORT TO CONGRESS.—The Secretary of the Treasury shall, not later than 180 days after the date of the enactment of this Act, and not later than the end of each 1-year period thereafter, submit to Congress a report that includes—

(1) the identity of all entities that are engaged in commercial activity in Sudan;

(2) the nature and extent of that commercial activity in Sudan, including any plans for expansion or diversification;

(3) the identity of all agencies of the Sudanese Government with which any such entity is doing business; and

(4) the relationship of the commercial activity to any violations of religious freedom and other human rights in Sudan.

(b) DISCLOSURE TO THE PUBLIC.—The Secretary of the Treasury shall publish or otherwise make available to the public each report submitted under subsection (a).

SEC. 8. MULTILATERAL EFFORTS.

The President, acting through the United States Permanent Representative to the United Nations, should—

(1) press the United Nations Security Council to pursue accountability for those who are found responsible for orchestrating and carrying out the atrocities in the Darfur region, consistent with United Nations Security Council Resolutions 1556 (July 30, 2004) and 1564 (September 18, 2004);

(2) encourage member states of the United Nations to—

(A) freeze the assets of senior members of the Government of Sudan and their families held in each such member state;

(B) cease to import Sudanese oil;

(C) restrict the entry or transit of senior members of the Government of Sudan and their families through each such member state; and

(D) deny permission for any aircraft registered in Sudan to take off from, land in, or overfly each such member state; and

(3) urge member states of the United Nations to cease selling arms to the Government of Sudan, including by—

(A) taking the necessary measures to prevent the sale or supply to armed elements acting within the territory of Sudan, including the Government of Sudan, the Janjaweed and the Popular Defense Forces, by the nationals of such member states, from the territories of such member states, or through the use of flag vessels or aircraft of such member states, of arms and related materiel of all types, including weapons and ammunition, military vehicles and equipment, paramilitary equipment, and spare parts, as well as technical training or assistance related to the provision, manufacture, maintenance or use of such items, whether or not originating in the territories of such member states; and

(B) ensuring that the measures imposed in subparagraph (A) shall not apply to—

(i) supplies and related technical training and assistance to monitoring, verification, or peace support operations, including such operations led by regional organizations, that are authorized by the United Nations or are operating with the consent of the relevant parties;

(ii) supplies of non-lethal military equipment intended solely for humanitarian, human rights monitoring or protective use, and related technical training and assistance; and

(iii) supplies of protective clothing, including flak jackets and military helmets, for the personal use of United Nations or African Union personnel, human rights monitors, representatives of the media and humanitarian and development workers and associated personnel.

SEC. 9. REPORT ON UNITED STATES RESPONSE TO A COMPREHENSIVE PEACE AGREEMENT FOR SUDAN.

(a) REPORT.—Not later than 60 days after the date of enactment of this Act, the President shall transmit to the appropriate congressional committees a report on the planned United States response to a comprehensive peace agreement for Sudan.

(b) CONTENT.—The report required by subsection (a) shall include—

(1) a description of steps taken by the United States to respond to a modified peace process between the Government of Sudan and the SPLM that would account for the implementation of peace in all regions of Sudan, in particular Darfur;

(2) a contingency plan for extraordinary humanitarian assistance should the Government of Sudan continue to obstruct or delay the international humanitarian response to the crisis in Darfur, Sudan;

(3) if applicable, a notification and explanation of the President's intention to decline to impose targeted sanctions on the assets and activities of those Sudanese government officials and other individuals that are involved in carrying out the policy of genocide in the Darfur region, as well as on the assets and activities of businesses controlled by the Government of Sudan and the National Congress Party; and

(4) if applicable, a notification and explanation of the Government of the United States' intention to normalize relations with Sudan, including through the lifting of any sanctions, until the Government of Sudan agrees to and implements a comprehensive peace agreement for all areas of Sudan, including Darfur.

(c) FORM OF REPORT.—The report required by subsection (a) may be transmitted in classified form.

SEC. 10. ADDITIONAL AUTHORITIES; EXCEPTION TO EXPORT PROHIBITIONS.

(a) ADDITIONAL AUTHORITIES.—Notwithstanding any other provision of law, the President is authorized to undertake appropriate programs using Federal agencies, grants or contractual arrangements, or direct support of indigenous groups, agencies, or organizations in areas outside of control of the Government of Sudan in an effort to provide emergency relief, promote economic self-sufficiency, build civil authority, provide education, enhance rule of law and the development of judicial and legal frameworks, support people-to-people reconciliation efforts, or implement any program in support of any viable peace agreement at the local, regional, or national level in Sudan.

(b) EXCEPTION TO EXPORT PROHIBITIONS.—Notwithstanding any other provision of law, the prohibitions set forth with respect to Sudan in Executive Order No. 13067 of November 3, 1997 (62 Fed. Reg. 59989), shall not apply to any export from an area in Sudan outside of the control of the Government of Sudan, or to any necessary transaction directly related to that export, if the President determines that the export or related transaction, as the case may be, would directly benefit the economic development of that area and its people.

SEC. 11. TECHNICAL AMENDMENT.

Section 12 of the International Organizations Immunities Act (22 U.S.C. 288f-2) is amended by striking "Organization of African Unity" and inserting "African Union".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. TANCREDO) and the gentleman from New Jersey (Mr. PAYNE) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. TANCREDO).

GENERAL LEAVE

Mr. TANCREDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. TANCREDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we have a moral responsibility to react to what is happening in the country of Sudan and specifically in the area we know as Darfur; and what is happening there is genocide. This House has spoken on that. This Congress has spoken on that. We have called it what it is. It is genocide. Now we must take action as a result of the fact that this is happening, and we cannot ignore it.

This is the first time that we have ever declared genocide while it is happening. We have always in the past responded to it, but unfortunately, in just responding to its existence, little, if anything, was done to stop it from happening or going on.

Everyone is watching to see how we will respond. Secretary Powell and the United States administration have taken a courageous stand, but it is just the beginning. If we fail to act forcefully now, it will be open season for genocide. If we make empty threats, it will have serious consequences for the future of international peace and security.

Time and time again we have come to this floor both on Special Orders and during debate on resolutions and bills to urge our Members in the Congress of the United States to act forcefully with regard to Sudan in order to stem the horrible events that have been occurring there over the past, really, 25 or more years.

It is a country wracked with pain. It has experienced more than 2 million dead in a period of a civil war that has lasted, as I say, a quarter of a century. Four million displaced. In Darfur now we are witnessing something again of enormous tragedy. The numbers are staggering. At least 50,000 dead again now in Darfur because of the genocide going on there conducted by the government against the people in that area, and 350,000 or more in camps who are close to perishing simply because of the terrible conditions in which they are forced to exist.

Mr. Speaker, H.R. 5061 includes instructions for the U.S. permanent representative to the U.N. to urge member-states to pursue accountability for those complicit in the genocide in Darfur. It imposes targeted sanctions, including the freezing of assets on senior members of the Government of Sudan. It encourages the Permanent Representative to urge member-states to cease importing Sudanese oil and to impose an arms embargo on the Government of Sudan, the Janjaweed, who are responsible right now for the genocide, and the PDF.

Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of H.R. 5061. Mr. Speaker, let me thank the gentleman from Illinois (Chairman HYDE) and the gentleman from California (Mr. LANTOS), the ranking member, of the Committee on International Relations for working so hard to bring this bill to the floor. I would especially like to thank the gentleman from Colorado (Mr. TANCREDO), whom we just heard a moment ago, for sponsoring this bill and working so diligently towards peace in Sudan for so long. He is extremely dedicated, and it has been a pleasure working with him and other Members, the gentleman from Virginia (Mr. WOLF) the gentleman from California (Mr. ROYCE), the gentleman from Maryland (Mr. CUMMINGS), and others on this issue.

In just the last 12 months, the Government of Sudan and its allied Arab militia, the Janjaweed, have displaced more than 1 million people, as we heard, in the Darfur region, an additional 200,000 people into Chad, and has killed more than 50,000 innocent civilians, many more at risk today. Government troops and their allied Janjaweed militia have raped, tortured, maimed, and burned entire villages in a deliberate and systematic manner to cleanse the area of African Muslims.

They have used Antonov bombers and helicopter gunships to destroy the villages and then encourage the Janjaweed on camel and on horseback to finish the job. Men have been murdered, many times forced into huts and burned alive to death. Women and girls have been raped, many branded so it will be known publicly that they have been raped; therefore, they will be outcasts in the Muslim religion. They have been beaten.

Women have been abducted. Men have been killed. They have killed the animals. They have destroyed the crops. They have taken bodies and thrown them into the wells in order to contaminate the water so the people would never return.

In August, I had the opportunity to travel to eastern Chad and to meet with the foreign refugees in Camp Iridimi, 32 miles from the Sudanese border, and we heard firsthand of these horrors that I have just talked about that had been seen by these people and experienced by them. It was really a horrific situation to see.

H.R. 5061 is the culmination of a bipartisan effort to first call the Darfur situation in western Sudan exactly what it is, genocide, and then to follow up that genocide declaration with swift and strong action, as we have heard already some of the provisions of the legislation.

Mr. Speaker, as the Members know, both Chambers of the Congress declared genocide was occurring in Darfur on July 22, 422 to zero in the House and without a dissenting vote in the U.S. Senate just before we adjourned for summer recess. This is the first time, as it has been indicated, that genocide has been declared as it is going on. Normally it is after the fact that a study is done and then it is declared that genocide is happening.

So we can stop and prevent the genocide from continuing. And through the response from the administration, although the response of the administration lagged a bit, we were pleased that Secretary Powell made the determination before the Senate Foreign Relations Committee on September 9.

Mr. Speaker, this is an historic step. The United States Congress takes the word "genocide" very seriously. So in the wake of the genocide declaration, we must be careful that we follow up with a clear action that sends the right message to the Government of Sudan and to other would-be architects of genocide. It is crucial at this juncture that we show we will not sit idly by and allow a government to exterminate its own people, as is happening in Sudan.

Mr. Speaker, H.R. 5061 is a response to genocide. H.R. 5061 amends the Sudan Peace Act and restates the congressional declaration of genocide. It requires an annual report from the Treasury to tell us of all commercial activities in Sudan. It provides $450 million, $150 million of which would go towards the humanitarian crisis in Darfur and Chad, including support of the African Union peacekeeping mission, currently suggested at 5,000, although I believe there should be more. And $300 million to go towards development in southern Sudan over the next 3 years starting in fiscal year 2005. We must not forget about southern Sudanese. Southern Sudanese have been waiting for peace for a long time, for the last 25 years.

As has already been mentioned, more than 2 million have died as a result of the conflict between the north and the south, and an estimated 5 million people have been displaced over these years. They all certainly know too well what genocide is and what this government has done. This government which gave safe haven to Osama bin Laden from 1991 to 1996, where al Qaeda was created and built up and strengthened during that time.

We are also hopeful that funds will be made available in the current supplemental bill so that immediate funds could go to assist the AU to have immediate access to be able to start to get the troops that they need there immediately.

As I conclude, let me say that it is of the utmost importance that we support the African Union mission, logistically, financially, and to give them the proper mandate that they need. In order to protect civilians, they will often have to come face to face with the Janjaweed fighters. So, therefore, I hope that they will be able to use Chapter 7 and fight back, if necessary. It is critical that we save the lives of the Darfurians. We were hoping that we could have visa restrictions and capital market sanctions; however, at this time we are not able to do this. But if this government continues, I would urge my colleagues to then do the capital market sanctions and visa restrictions and continue to push.

But I hope that this will prove a first step after genocide has been declared that we are serious and that we will not tolerate this.

Mr. Speaker, I reserve the balance of my time.

Mr. TANCREDO. Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield 2 minutes to the gentlewoman from California (Ms. WOOLSEY).

☐ 0230

Ms. WOOLSEY. Mr. Speaker, I rise today to talk about Sudan, where the world's gravest humanitarian crisis is taking place. Nothing like this has happened since the tragedy that occurred in Rwanda in 1994. I want to thank the gentleman from New Jersey for yielding me time to speak.

Already, tens of thousands of Sudanese Africans have needlessly been killed and as many as 1.5 million more have been forced to seek refuge in neighboring countries. I am thankful that Members like the gentleman from New Jersey (Mr. PAYNE) and the gentleman from Colorado (Mr. TANCREDO) have worked so tirelessly to prevent the deaths of even more innocent lives and bring the picture to us here in the Congress so we can work with them also.

H.R. 5061 is vitally important legislation. This bill affirms that the atrocities occurring in Sudan are in fact genocide. It also imposes economic sanctions upon the government of Sudan until its leaders demonstrate that they are going to take every possible step to alleviate this situation.

Mr. Speaker, it is vitally important for the United States to lead the rest of the world in preventing the further loss of life in Sudan.

The true moral test of our government is not the strength of our economy or the size of our military; it is our compassion for those in the world who are less fortunate than we are. I urge passage of H.R. 5061 to help those who are less fortunate, and they certainly are in Sudan.

Mr. PAYNE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TANCREDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, just in closing, let me say it is my pleasure to be here on the floor with my dear friend and colleague the gentleman from (Mr. PAYNE), who has been a leader on this issue for long before I even came to the Congress of the United States. Although he was laudatory in his comments about my efforts, his certainly precede mine and deserve all of our thanks. I certainly give it to him. He has been a wonderful, wonderful leader on this and a great man to work with.

Mr. HYDE. Mr. Speaker, I submit for inclusion in the CONGRESSIONAL RECORD an exchange of letters between Chairman THOMAS of the Ways and Means Committee and me as Chairman of the International Relations Committee concerning H.R. 5061.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 6, 2004.

Hon. HENRY J. HYDE,
Chairman, Committee on International Relations, Rayburn House Office Building, Washington, DC

DEAR CHAIRMAN HYDE: I am writing concerning H.R. 5061, the "Comprehensive Peace in Sudan Act."

As you know, the Committee on Ways and Means has jurisdiction over revenue matters, including any legislation relating to imports. There are three provisions within the bill that may relate to imports and thus fall within the jurisdiction of the Committee on Ways and Means. Section 4(b)(6) expresses the Sense of Congress that "the United States Government should not normalize relations with Sudan, including through the lifting of any sanctions, until the government of Sudan agrees to and implements a comprehensive peace agreement." Section 7(a)(1) requires the President to impose certain sanctions outlined in the Sudan Peace Act (P.L. 107-245), including the requirement to "take all necessary and appropriate steps, including through multilateral efforts, to deny the Government of Sudan access to oil revenues," which could be interpreted to direct the President to impose an import ban on oil. Section 11(b) lifts the prohibition on exports from Sudan with respect to areas outside of control of the Government of Sudan.

However, in order to expedite this legislation for floor consideration, the Committee will forgo action on this bill. This is being done with the understanding that it does not in any way prejudice the Committee with respect to exercising its jurisdictional prerogatives on this or similar legislation.

I would appreciate your response to this letter, confirming this understanding with respect to H.R. 5061, and would ask that a copy of our exchange of letters on this matter be included in the CONGRESSIONAL RECORD during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

CONGRESS OF THE UNITED STATES,
Washington, DC, October 6, 2004.

Hon. BILL THOMAS,
Chairman, Committee on Ways and Means, Longworth House Office Building, Washington, DC

DEAR MR. CHAIRMAN: Thank you for your letter concerning H.R. 5061, the Comprehensive Peace in Sudan Act.

Clearly, under House Rule X, the Committee on Ways and Means has jurisdiction over revenue matters, including any legislation relating to imports. I concur with your assessment of the matters in H.R. 5061 which fall within the jurisdiction of the Committee on Ways and Means. I would note that section 11(b) of the bill, which lifts the prohibition on exports from Sudan with respect to areas outside of control of the Government of Sudan, is identical to language that was enacted into law as part of the International Malaria Control Act of 2000, P.L. 106-570.

I appreciate your willingness to permit this important bill to proceed to the floor without the necessity of your Committee formally considering it. I understand that it does not in any way prejudice the Committee with respect to exercising its jurisdictional prerogatives on this or similar legislation.

As you have requested, I will ensure that a copy of our exchange of letters on this matter be included in the CONGRESSIONAL RECORD during floor consideration.

Sincerely,

HENRY J. HYDE,
Chairman.

Mr. HONDA. Mr. Speaker, I rise in support of H.R. 5061, the Comprehensive Peace in Sudan Act, which seeks to provide humanitarian assistance for the current crisis in the Darfur region of Sudan and to facilitate a comprehensive peace in the region. This bill calls for a series of actions to be taken by our government as well as the international community to bring about a comprehensive peace in Sudan. The violent conflict between the Government of Sudan, including militia forces backed by the Government, and rebel forces (the Sudan Liberation Army and the Justice and Equality Movement) has resulted in horrific humanitarian abuses, and the passage and implementation of H.R. 5061 is a critical step in ending this crisis.

The Government of Sudan is in direct violation of the Humanitarian Ceasefire on the Conflict in Darfur, signed in N'Djamena, Chad, on April 8, 2004. This ceasefire agreement calls for the Government of Sudan and other signatories "to give up the use of force as a means of settling the conflict in the Darfur region; to allow safe and immediate access of all humanitarian assistance throughout the Darfur region; to allow the deployment of and cooperate with international monitors and security forces; and to expedite the conclusion of a political agreement to end the conflict in the Darfur region."

Secretary of State Colin Powell in his recent remarks before the Senate Foreign Relations Committee officially labeled the atrocities in Darfur as genocide and urged the international community to respond to this crisis, saying, "When we reviewed the evidence compiled by our team, along with other information available to the State Department, we concluded that genocide has been committed in Darfur and that the Government of Sudan and the Janjaweed bear responsibility—and genocide may still be occurring." Since seizing power through a military coup in 1989, the Government of Sudan has repeatedly attacked and dislocated civilian populations in southern Sudan in a coordinated policy of ethnic cleansing that cost the lives of over 2,000,000 people and displaced more than 4,000,000 people. Hundreds of villages have been damaged or destroyed, resulting in massive refugee flows into Chad and internally displaced persons in western Sudan. Additionally, innocent civilians have reportedly been sold into slavery, used as forced labor, or drafted into the military. The Janjaweed and Sudanese military forces have also engaged in the abduction of children, rape of innocent civilians, and the destruction of food and water sources. Widespread hunger and malnutrition continue to endanger the lives of innocent civilians.

Such inhumane violence and manipulation must end, and the Comprehensive Peace in Sudan Act that the House considers today is a critical first step in this effort. This legislation explicitly reaffirms Secretary Powell's assertion that genocide has and is continuing to take place in Sudan, and it imposes U.S. sanctions. But this bill is not merely punitive; it authorizes $450 million in needed humanitarian assistance, including $150 million for Sudanese refugees in Darfur and eastern Chad.

The Comprehensive Peace in Sudan Act seeks to rally international support for a strong response to the genocide in Sudan. The Sudanese government has already failed to comply with the April 8, 2004, ceasefire agreement. Because the Sudanese government has been given the opportunity to voluntarily end this violence but has continued to support the Janjaweed and orchestrate an extensive ethnic cleansing campaign in Darfur, the international community not only has a right, but also an obligation to intervene in this conflict to prevent further destruction.

The Comprehensive Peace in Sudan Act calls on the U.S. permanent representative to urge the Security Council and member states to pursue accountability for those complicit in the violence in Darfur. Specifically, this legislation recognizes the need for the creation of an international tribunal to try the offenders of war crimes, crimes against humanity, and genocide.

The legislation also calls on the U.S. permanent representative to the UN to seek the imposition of targeted sanctions (including the freezing of assets) on senior members of the Government of Sudan, to cease to import Sudanese oil, and to impose an arms embargo on the Government of Sudan, Janjaweed and Popular Defense Forces (PDF). These sanctions must be accompanied by a renewed commitment to international humanitarian assistance. Basic necessities such as food, water, shelter, medicine and clothing need to be sent to the region and distributed effectively. The resolution of the crisis in Sudan depends on international cooperation in providing humanitarian aid to this region to help restore, promote, and protect regional stability and security.

The international community must recognize this genocide not only as a brutal attempt at ethnic cleansing and a deliberate disregard for human rights, but also as a threat to international stability and security. Let us not delay intervention as we did during the 1994 Rwanda Genocide, when the international community watched as over 800,000 Tutsi men, women, and children were slaughtered by Hutu extremists in one of the most gruesome and appalling chapters in our history. We must learn from this horrific experience and actively work to end the violence in Sudan before it escalates even further. I condemn the genocide in the Sudan and I call on my colleagues to support H.R. 5061.

Mr. BLUMENAUER. Mr. Speaker, the good news is that Congress is again showing bipartisan leadership in addressing the ongoing genocide in Darfur. The bad news is that there is much more to be done.

I thank my friends, Mr. TANCREDO and Mr. PAYNE, for continuing to ensure that this issue is in front of us. It is important that tonight we are taking specific action to pressure the Government of Sudan to end the genocide.

This bill will place sanctions on Khartoum and on companies that continue to do business with this genocidal regime and authorizes assistance to address the humanitarian crisis. The Scope of that crisis is vast: 50,000 Darfurians have already been murdered, a million and a half people have been internally displaced, hundreds of thousands have sought refuge in Chad and close to 1 million people are still beyond the reach of relief agencies. International aid agencies such as MercyCorps and CARE are actively working to provide emergency lifesaving assistance in Darfur and deserve our highest gratitude.

However, this crisis goes beyond the humanitarian. This genocide has a political basis and will require a political solution—either diplomatic or military or, more likely, a combination of both.

The President should move the international community to action, supporting international efforts at sanctions, and ensuring that the African Union mission has the mandate and logistical support they will need to be effective at protecting the civilians in Darfur. I strongly support H.R. 5061, the Comprehensive Peace in Sudan Act, and am proud to have been a co-sponsor of it.

Mr. HOLT. Mr. Speaker, I rise in support of H.R. 5061, the Comprehensive Peace in Sudan. The bill expands the Sudan Peace Act by authorizing a total of $450 million in humanitarian assistance over the FY 2005 to FY 2007 period, including at least $150 million for humanitarian assistance for Sudanese refugees in Darfur and eastern Chad. The $150 million could also be used to support an African Union peacekeeping mission in Darfur.

However this bill alone will not be enough and authorization alone is not enough. The situation in Sudan is dire. The statistics are alarming and depressing. The numbers of causalities, deaths, rapes, injuries and displaced refugees beg the question, how can the world, the U.N., the United States and other civilized nations witness the murder of 30,000 innocent civilians, the forced removal of 130,000 people from their homes to Chad, and the displacement of more than one million people and do nothing.

Mr. Speaker, we cannot afford to allow this genocide that is occurring in Sudan to continue. We must rise to the occasion. We must forget about those partisan things that divide us. We must come together as a body, as a Congress, indeed, as a nation; and we must show the world the way to eliminate the kind of racial and religious hatred that exists in this world and we cannot afford to wait.

Mr. TANCREDO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Colorado (Mr. TANCREDO) that the House suspend the rules and pass the bill, H.R. 5061, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. TANCREDO. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

CELEBRATING 50TH ANNIVERSARY OF FALCON INTERNATIONAL DAM

Mr. TANCREDO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 818) celebrating the 50th anniversary of the opening of the Falcon International Dam, recognizing the dam's importance as a source of water and power and as a symbol of friendship and cooperation between the United States and the United Mexican States, and urging Mexico to honor all of its obligations under the 1944 Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande.

The Clerk read as follows:

H. RES. 818

Whereas the 1944 Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande between the United States and the United Mexican States provided for the construction of the Falcon International Dam on the Rio Grande River to provide flood control, water conservation, and hydroelectric power for the benefit of communities on both sides of the border;

Whereas on October 19, 1953, as construction on the dam neared completion, President Dwight D. Eisenhower and President Adolfo Ruiz Cortines of Mexico met at the center of the Falcon International Dam to dedicate it to the well-being of the residents of both countries;

Whereas the dam was completed on April 8, 1954, and the Falcon Power Plant generated power for commercial use for the first time on October 11, 1954;

Whereas the Falcon International Dam is 26,394 feet long, and its construction created a beautiful 60-mile-long reservoir known as Falcon Lake;

Whereas the construction of the dam and reservoir resulted in the submersion and relocation of 5 townships in the United States and Mexico, including the town of Zapata, Texas;

Whereas the Falcon International Dam and the adjacent United States Falcon State Park now serve as a valued community resource and source of pride for the residents of Zapata County, Texas and neighboring Starr County, Texas;

Whereas Falcon Lake is considered one of the best fishing lakes in Texas and supports an emerging recreational tourism industry;

Whereas the Falcon International Dam is an important source of water and power for irrigation and household use;

Whereas operations at the Falcon International Dam require a coordinated binational effort among numerous agencies, including the International Boundary and Water Commission, the United States Border Patrol, the Texas Parks and Wildlife Department, Zapata County, and their Mexican counterparts;

Whereas the Mexican government has incurred a deficit in its water delivery obligations, and this has lowered the water level in the reservoir and hurt the communities on the United States side of the border;

Whereas the Falcon International Dam serves as an important shared resource between the 2 countries and the continued success of the project requires mutual adherence to the terms of the Treaty;

Whereas the Falcon International Dam serves as a symbol of friendship and cooperation between the United States and Mexico; and

Whereas October 11, 2004 marks the 50th anniversary of the opening of the Falcon International Dam: Now, therefore, be it

Resolved, That the House of Representatives—

(1) celebrates the 50th anniversary of the opening of the Falcon International Dam;

(2) recognizes that building of the Falcon International Dam was an extraordinary project and that operating its facilities continues to represent a substantial undertaking;

(3) acknowledges recent payments by the United Mexican States under the 1944 Treaty Relating to the Utilization of Waters of the Colorado and Tijuana Rivers and of the Rio Grande between the United States and Mexico and urges Mexico to honor all of its obligations under the Treaty;

(4) recognizes that the Falcon International Dam has been both an important source of water and power and a symbol of friendship and cooperation between the United States and Mexico for 50 years; and

(5) recommits itself to the binational effort and spirit in which the Falcon International Dam was constructed.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. TANCREDO) and the gentleman from New Jersey (Mr. PAYNE) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. TANCREDO).

GENERAL LEAVE

Mr. TANCREDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 818.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. TANCREDO. Mr. Speaker, I yield myself such time as I may consider.

Mr. Speaker, I rise in support of the resolution offered by the gentleman from Texas (Mr. RODRIGUEZ). It is fitting we should recognize the importance of the Falcon International Dam. For 50 years this dam has benefited people on both sides of our shared border with Mexico.

This resolution notes that Mexico under President Fox has made its water payments to the United States under its 1944 Treaty Relating to the Utilization of Water of the Colorado and Tijuana Rivers and of the Rio Grande. I note the United States has never failed to make a water payment to Mexico, even in drought years, under the 1944 treaty. While we appreciate President Fox's efforts to meet these treaty obligations, Mexico still owes our States water from past years.

I want to thank the gentleman from Texas for working with our committee in preparing this resolution and urge my colleagues to join with me in support of it.

Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I rise in strong support of H. Res. 818 and yield myself such time as I may consume.

Mr. Speaker, I would like to thank the gentleman from Illinois (Chairman HYDE) and the ranking member, the gentleman from California (Mr. LANTOS) of the Committee on International Relations for expediting consideration of this important resolution which recognizes once again the close relationship between our country and the United Mexican States.

I would also like to recognize my friend and colleague, the gentleman from Texas (Mr. RODRIGUEZ), the Chairman of the Congressional Hispanic Caucus, for the outstanding work that he does in general and for this particular resolution as he is the author of it.

Mr. Speaker, H. Res. 818 acknowledges the 50th anniversary of the opening of the Falcon International Dam and the importance of this public infrastructure to the people both of the United States and of the United Mexican States. It is no coincidence that water, a vital element of life, is the medium through which the bonds of our two countries are continually nourished.

I strongly encourage all of my Members to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. TANCREDO. Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. RODRIGUEZ), the author of the resolution.

Mr. RODRIGUEZ. Mr. Speaker, let me take this opportunity to thank the gentleman from New Jersey (Mr. PAYNE) personally for allowing me the opportunity to say a few words and for his hard work on this particular piece of legislation.

In addition, I would like to thank the gentleman from North Carolina (Mr. BALLENGER) and the gentleman from Colorado (Mr. TANCREDO), as well as the gentleman from Illinois (Chairman HYDE) and the ranking member, the gentleman from California (Mr. LANTOS), for their efforts.

I also want to take the opportunity to thank the Chairman of the Democratic Caucus, the gentleman from New Jersey (Mr. MENENDEZ) and Jessica Lewis of his staff, who worked on this issue and helped make it happen.

Mr. Speaker, I rise today in support of H. Res. 818, a resolution commemorating the 50th anniversary of the opening of the Falcon International Dam. Like all large scale dams, the Falcon International Dam is an architectural wonder, a man-made barrier of cement and steel reining in the power of the most precious natural resources, our water.

What makes this particular dam special, though, is its location right on the Texas-Mexico border down in Zapata, Texas. Its construction was part of an international plan to improve not only flood control, but also water conservation, and provide hydroelectric power for the benefit of communities living on both sides of the border. It serves as a representation of the unique relationship that Mexico and the United States hold.

The particular dam provides electricity that helps the entire southern part of Texas, from Laredo in Webb County, to Hidalgo to Brownsville in all that area. While controversies surrounding the decision to build the dam existed, many families lost their land and five townships were submerged under the reservoir.

The Falcon International Dam is part of a vibrant history. On October 15, 1953, construction on the dam neared completion. President Dwight D. Eisenhower and President Adolfo Ruiz Cortines of Mexico met at the center to dedicate it to the well-being of the residents of both countries. The dam itself was completed on April 8, 1954, and the Falcon Power Plant generated power for commercial use for the first time on October 11, 1954.

For 50 years, Falcon International Dam has served as an important source of water and power for irrigation and household use in this region, and its beautiful 60-mile-long reservoir known as the Falcon Lake is known as one of the best fishing lakes in Texas and supports an emerging recreational tourism industry.

Yet maintaining and operating an international dam does not come without problems. As a shared resource governed by international treaty, events over the past decade have underscored the need for a better binational water management plan.

Persistent and severe drought conditions put strain on both Texas's and Mexico's water resources. For South Texas, the struggle has even been harder because of Mexico's decision to withhold water from the U.S.

Many of you have heard me speak before on the issue of the Mexican water debt, which peaked at 1.7 million acre feet. Farmers were unable to plan adequately for their planting seasons. The fluctuating reservoir levels on the Falcon Dam disturbed the delicate ecosystem and spawning season for the fish stock. The economic impact on South Texas agricultural economy was estimated at over $1 billion and 30,000 jobs.

In a perfect world, the two countries would work closely together to manage water storage and release so that neither side would be disproportionately hurt during these droughts. Economic losses would be shared, and, in the end, this is a fair way to allocate shared resources.

Unfortunately, this is not the way the situation has played out over time. While recent rains have allowed Mexico to release a portion of the water to the U.S., we must work to improve water conservation and development for the future and avoid these things occurring and happening.

As I think about the needs of the communities living on the Falcon International Dam, I strongly believe we must evaluate how best to allocate our resources so it would be fair to all. In order to do so, we must first renew our binational spirit. I fear relations with our neighbors have become strained on many levels, from immigration, to water, to the war in Iraq.

It is with this in mind that I introduced H. Res. 818. What better way to look to the future than to celebrate past accomplishments?

Mr. Speaker, I ask Members of this great House for support on this important resolution to celebrate the 50th anniversary of the opening of the Falcon International Dam, and recommit itself to the binational efforts and spirit in which the Falcon International Dam was constructed.

Mr. PAYNE. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. TANCREDO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Colorado (Mr. TANCREDO) that the House suspend the rules and agree to the resolution, H. Res. 818.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

CONDEMNING ABDUCTION OF DYLAN BENWELL

Mr. TANCREDO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 821) condemning the abduction of Dylan Benwell from the United States and calling for his return.

The Clerk read as follows:

H. RES. 821

Whereas Dylan Benwell, a 9-year-old lawful permanent resident with an application pending for United States citizenship, was taken from his home in Winthrop Harbor, Illinois, on July 22, 2004, by his maternal grandparents, Timothy and Ethel Blake, both of whom are citizens of Ireland;

Whereas Dylan and his mother once lived in Ireland with his maternal grandparents;

Whereas Dylan has legally remained in the sole custody of his mother Serena Benwell, and adoptive father, John Benwell, after a Virginia juvenile district court ruled on December 14, 2001, that Dylan should remain in the custody of his mother and stepfather;

Whereas Dylan and 3 of his siblings have been adopted by John Benwell, a United States citizen;

Whereas Dylan and his 5 brothers and sisters are a part of a caring and loving family;

Whereas Ethel Blake attempted to kidnap Dylan in 1999 from his kindergarten class in Virginia, and was charged with domestic battery upon John Benwell;

Whereas on July 16, 2001, Dylan told a Virginia social worker that he did not want to live in Ireland again with his grandparents and that he wished to live in the United States with his immediate family;

Whereas on November 29, 2001, Dylan told a social worker with Winthrop Harbor Schools, in Illinois, that he wanted to live with his mother, stepfather, and siblings and he also expressed worries that his grandparents might try to take him away again;

Whereas on December 6, 2001, after an individual session with Dylan, a social worker with the Great Lakes Naval Hospital reported to the Virginia juvenile district court that Dylan feared his grandparents after the first kidnapping attempt, after explaining that he did not wish to live with his grandparents because he had no friends to play with in Ireland, and implying that his grandparents spent a large part of their time drinking beer;

Whereas in recorded telephone conversations in the possession of the police department of Winthrop Harbor, Illinois, Dylan told Timothy Blake that he did not want to live with the Blakes in Ireland;

Whereas in 2001, a petition for the return of Dylan from the United States to Ireland, filed by Timothy and Ethel Blake in accordance with the Hague Convention on the Civil Aspects of International Child Abduction, signed at The Hague on October 25, 1980 (TIAS 11670) ("Hague Convention"), was rejected by a United States court which held that the Blakes had no custodial rights to Dylan upon relocation of the child's mother to the United States with her American husband;

Whereas Timothy and Ethel Blake succeeded in kidnapping Dylan from his home in Illinois 5 years after the initial attempt in Virginia, and have shown little concern for the trauma that the abduction of Dylan has caused their other grandchildren;

Whereas warrants for the arrest of Timothy and Ethel Blake on charges of aggravated kidnapping, a felony, have been issued by the State of Illinois and United States officials have filed a Hague Convention petition for custody of Dylan on behalf of the Benwell family;

Whereas the Congress, in 1932, enacted the first Federal kidnapping statute, in response to the kidnapping and murder of the infant son of Charles Lindbergh;

Whereas the Congress recognizes the gravity of international child abduction and enacted the International Parental Kidnapping Crime Act of 1993 (adding section 1204 to title 18, United States Code), the Parental Kidnapping Prevention Act of 1980 (adding section 1738A to title 28, United States Code, and section 463 to the Social Security Act), and substantial reform and reporting requirements for the Department of State through foreign relations authorization Acts for the fiscal years 1998 through 2001;

Whereas the United States is a contracting party to the Hague Convention, and adopted effective implementing legislation in the International Child Abduction Remedies Act (42 U.S.C. 11601 et seq.);

Whereas Ireland is a contracting party to the Hague Convention and adopted legislation for the implementation of the Act under the Child Abduction and Enforcement of Custody Orders Act (S.I. No. 235/1991); and

Whereas the Hague Convention establishes reciprocal rights and duties between and among its contracting states to expedite the return of abducted children to their states of habitual residence, and to ensure that the custodial and parental access rights of one contracting state are effectively respected in other contracting states: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns the abduction of Dylan Benwell from his home in the United States, the country of his custodial mother's domicile;

(2) commends the actions taken by the Office of Children's Issues of the Department of State and the United States Embassy in Dublin, Ireland;

(3) commends the hard work and dedication of the police department of Winthrop Harbor, Illinois, especially that of Detective Sergeant Tim Borowski;

(4) calls on the Government of Ireland to recognize that the safety and welfare of Dylan are the foremost concern;

(5) urges the Government of Ireland to recognize the decision of the Virginia juvenile district court;

(6) calls upon the Government of Ireland to recognize that this matter does not pertain to the custodial rights of Dylan's maternal grandparents, a matter already decided by

the courts, and instead relates to a violation of United States law and the Hague Convention on the Civil Aspects of International Child Abduction, signed at The Hague on October 25, 1980 (TIAS 11670) ("Hague Convention");

(7) urges the Government of Ireland not to reward or condone the unlawful action of Timothy and Ethel Blake, two Irish nationals, by keeping Dylan from his family; and

(8) urges the Government of Ireland to recognize that as a matter of international law under Article 1 of the Hague Convention, the Government of Ireland is required to secure the prompt return of Dylan, on the basis that Dylan was wrongfully removed from his home in the United States, a contracting state to the Convention.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. TANCREDO) and the gentleman from New Jersey (Mr. PAYNE) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. TANCREDO).

GENERAL LEAVE

Mr. TANCREDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 821.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. TANCREDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, child abduction is a terrible problem. Any parent's worst nightmare is to have a child abducted. The initial panic and then the terrified waiting to find out whether your beloved offspring is alive or dead is dreadful. Our government must do everything necessary to protect all of our people, especially our Nation's children.

This resolution condemns one of the most trying types of abduction, the abduction of a child by his maternal grandparents, who spirited him out of the United States to Ireland. Dylan Benwell was abducted almost literally from the arms of his parents.

Both Ireland and the United States are parties to the Hague Convention which deals with child abduction. It is my hope and the hope of the chief sponsor of this resolution that the Hague Convention process works and works expeditiously so that Dylan can be returned as soon as possible to the arms of his parents here in the United States.

□ 0245

I hope all Members will join me in supporting H. Res. 821. We wish for a speedy return home for Dylan and for all children who have been similarly victimized.

Mr. Speaker, I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I rise in support of this resolution, and I yield myself such time as I may consume.

Mr. Speaker, the resolution before the House condemns the recent abduction of an Illinois boy, Dylan Benwell, from the United States and calls for his immediate return home.

Mr. Speaker, until 10 weeks ago, Dylan Benwell was a happy, 9-year-old boy living at home with his mother and adopted father in Illinois, along with his 5 brothers and sisters. But on July 22nd, Dylan was abducted by his maternal grandparents and taken to their native home of Ireland.

Despite the fact that the United States courts have determined that Dylan's mother and adopted father have sole custody of the boy, Dylan has yet to be returned to his parents in the United States.

This resolution calls upon the Irish government to secure the prompt return of Dylan pursuant to Article I of the Hague Convention. Hopefully, by raising the profile of this case, Congress can increase the chances of a happy ending to this terrible saga.

Mr. Speaker, I urge my colleagues to support this resolution.

Mr. Speaker, I yield back the balance of my time.

Mr. TANCREDO. Mr. Speaker, I yield such time as he may consume to the gentleman from Illinois (Mr. CRANE).

Mr. CRANE. Mr. Speaker, I thank the distinguished colleague for yielding me this time.

Mr. Speaker, I rise today to encourage my colleagues to support House Resolution 821, a resolution condemning the abduction of Dylan Benwell from the United States and calling for his return.

Dylan Benwell was born in Ireland to Irish parents. Dylan's biological father died when he was 2 weeks old and his maternal grandparents, Timothy and Ethel Blake, helped care for Dylan following his father's death. Within a few years, Dylan's mother, Serena, met and married an American named John Benwell. Dylan moved with the family to the United States where John was stationed in the Navy in Norfolk, Virginia.

In 2001, Dylan's grandparents, the Blakes, filed for custody of Dylan, which was inexplicably granted by the Irish courts. When Dylan was in kindergarten, the Blakes attempted, but failed, to kidnap him from Virginia. The Blakes then filed a Hague Convention request, asking the courts to order the return of Dylan back to Ireland.

The case was heard in Chesapeake, Virginia and the Virginia court determined that Dylan should remain in the custody of his mother in the United States. Therefore, in the opinion of U.S. authorities, the question of custody has already been adjudicated, and it is clear that Dylan should be with his parents.

The Benwells moved to Winthrop Harbor, Illinois, which is in my district, after John Benwell was transferred to the Great Lakes Naval Station. While in Illinois, John Benwell adopted Dylan and his 3 older brothers. He and Serena also have 2 other children. The 4 oldest boys, including Dylan, have applied for American citizenship.

Unfortunately, the Blakes have remained obsessed with Dylan. As part of the 2001 decision, they were allowed to speak with Dylan on the telephone. During these conversations, they routinely asked Dylan if they wanted to live with them in Ireland. Dylan's answer was always no. Of course, Dylan's mother, his legal guardian, would not send him off with his grandparents.

Recently, the Blakes called Serena Benwell asking to see Dylan. They claimed that Timothy Blake was dying and wanted to make amends for attempting to kidnap Dylan 4 years ago. Serena finally gave in and allowed the Blakes to come to the U.S. to visit Dylan.

On Thursday, July 22, 2004, the Blakes took Dylan to lunch. In order to make sure the Blakes did not kidnap her son again, Mrs. Benwell asked them to give her their passports, which they did. Unfortunately, the passports were fakes and they took Dylan to Chicago's O'Hare International Airport and boarded a British Airways flight to Ireland. The Winthrop Harbor Police missed the Blakes and Dylan at the airport by just 15 minutes.

Dylan Benwell is only 9 years old. Many of us have children and grandchildren who are Dylan's age. Can my colleagues imagine the fear and confusion that this poor child is going through? Can my colleagues imagine their child or grandchild going through this?

Mr. Speaker, I am afraid for Dylan's safety. Consider the following: in a sworn affidavit, Mrs. Benwell told police detectives that her father, Timothy Blake, told her in 2001 that they wished that they had killed Dylan and themselves while they had him rather than allow him to become an American. In addition, according to Mrs. Benwell, Mr. Blake had attempted suicide in 1987, and Mrs. Benwell has also stated that her father physically abused her as a child.

To make matters worse, in 1999, after the Blakes attempted to kidnap Dylan from kindergarten, Ethel Blake was arrested in Virginia for physically striking John Benwell while he was holding his then 2-month-old daughter. Mrs. Benwell also told police that both of her parents have been patients in psychiatric institutions. After the abduction, when the Winthrop Harbor Police searched the hotel where the Blakes had been staying, they found several prescription drugs in the Blakes' room that are used to treat psychiatric and emotional disorders such as schizophrenia, depression, and anxiety.

For all of these reasons, I am deeply concerned about Dylan Benwell's safety and well-being. It is imperative that we return Dylan back to the care of his loving parents. I have been working with the State Department, which is very concerned, and has noted that this is a particularly worrisome case. The State Department believes that the Blakes took the case in their own hands and are now forum shopping, which completely goes against Hague Convention agreements.

It is essential that we in the House of Representatives urge the government of Ireland to recognize the decision of the Virginia juvenile district court. Above all, the Blakes should return Dylan promptly to his parents.

In passing this resolution today, the House of Representatives is making an important statement. Perhaps we are also giving some greater hope to a family in need of some hope. They have been through so much.

Mr. Speaker, it is for all of these reasons that I introduced House Resolution 821. I am committed to ensuring we return Dylan Benwell to the United States and to his family. So I urge my colleagues to vote in favor of this important resolution.

I would like to thank the gentleman from Illinois (Speaker HASTERT), the gentleman from Texas (Majority Leader DELAY), and the gentleman from Illinois (Chairman HYDE) for supporting my efforts to help Dylan and the Benwells. I want to also thank all of the Members who cosponsored this resolution, as well as the staff that helped bring this urgent resolution to the House Floor so expeditiously.

My deepest prayers and sympathy are for Dylan, his mother, Serena Benwell, and their family, as they go through these trying times.

Mr. HYDE. Mr. Speaker, one of the most heart-wrenching issues we will ever contemplate is the problem of child abductions. As a parent of four children and four grandchildren, I cannot think of a more terrifying nightmare than one in which one of my children or grandchildren were abducted or killed. The sheer panic, fear, and helplessness one must feel has to be paralyzing. I believe in a government that stands up for the rights of all people, including the most helpless ones—children.

While far too many crimes are committed against children by strangers, amazingly enough, some of the perpetrators of the worst types of crimes against children are parents or relatives. In the case before us, young Dylan Benwell was kidnapped from his parents by his maternal grandparents, Timothy and Ethel Blake, and taken to Ireland.

Dylan's mother and the Blakes had suffered an estranged relationship as a result of a previous attempt by the Blakes to kidnap Dylan. Dylan's mother finally relented and allowed her son to visit his grandparents because she was told that her father, Mr. Blake, was dying of cancer. Dylan's mother took her parents' passports as a precaution so that Dylan could not be kidnapped to Ireland. Shockingly, the Blakes had planned the kidnapping to such a degree that they already had duplicate passports issued, and once Dylan was in their possession, they immediately left with him for Ireland.

Dylan is not alone in his victimization. According to the State Department, more than 16,000 cases of international child abductions were reported in the past two decades.

The Hague Convention on the Civil Aspects of International Child Abduction serves as an important diplomatic tool in achieving the return of abducted children. Both the United States and the Republic of Ireland are contracting parties to the Hague convention, which establishes reciprocal duties to expedite the return of abducted children to their habitual residence. In Dylan's case, arrest warrants for aggravated kidnapping have been issued by the State of Illinois for the Blakes, and a Hague Convention petition has been filed on behalf of Dylan's parents for his return. Dylan's family now sits helplessly awaiting the Hague Convention process to bring him home to them.

Unfortunately, many countries have failed to take their obligations seriously in making certain that these children are sent home. Yet, in the instant case, I am confident that Ireland will follow the Hague Convention process scrupulously, as it has been an excellent treaty partner in the past. Considering the unusual facts of this case, however, it is my hope that Ireland expeditiously resolves this matter and finds that Dylan must be sent home.

In the meantime, it is imperative that our government continues to press all nations to take seriously their international treaty obligations under The Hague Convention, and to bring home our children.

I'd like to commend both the State Department for its efforts in bringing Dylan home and the efforts of my dear friend, Congressman PHIL CRANE. I know that he is doing everything possible to reunite Dylan with his parents.

I hope all Members will join me in supporting H. Res. 821. We wish for a speedy return home for Dylan and for all other children who have been similarly victimized.

Mr. TANCREDO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Colorado (Mr. TANCREDO) that the House suspend the rules and agree to the resolution, H. Res. 821.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

CALLING ON THE UNITED NATIONS SECURITY COUNCIL TO IMMEDIATELY CONSIDER AND TAKE APPROPRIATE ACTION TO RESPOND TO THE GROWING THREAT THAT THE RULING STATE PEACE AND DEVELOPMENT COUNCIL IN BURMA POSES TO THE SOUTHEAST ASIA REGION AND TO THE PEOPLE OF BURMA

Mr. TANCREDO. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 768) calling on the United Nations Security Council to immediately consider and take appropriate action to respond to the growing threat that the ruling State Peace and Development Council in Burma poses to the Southeast Asia region and to the people of Burma.

The Clerk read as follows:

H. RES. 768

Whereas the ruling State Peace and Development Council in Burma, formerly known as the State Law and Order Restoration Council, continues to refuse to uphold the 1990 election results in which the National League for Democracy, led by Aung San Suu Kyi, won 392 of the 485 contested parliamentary seats;

Whereas the ruling State Peace and Development Council in Burma has imprisoned or placed under house arrest Aung San Suu Kyi on a nearly continuous basis since 1995, most recently since May 2003 when she and National League for Democracy supporters were violently assaulted by government-affiliated forces;

Whereas according to the Department of State's 2003 Country Reports on Human Rights Practices, security forces of the ruling State Peace and Development Council in Burma continue to commit extrajudicial killings, rape, engage in torture, forcibly relocate persons, use forced labor, and conscript child soldiers;

Whereas in December of 2003 the United Nations General Assembly adopted a resolution expressing grave concern about the ongoing systematic violations of human rights abuses occurring against the people of Burma; and

Whereas the situation in Burma poses a threat to regional stability because of the continuous cross border flow of illegal narcotics, trafficked persons, and the unchecked spread of HIV/AIDS; because of the State Peace and Development Council's reported efforts to acquire military hardware from the People's Republic of China, the Russian Federation, and North Korea; and because of the destabilizing effects of the flight of over 200,000 refugees to Thailand and Bangladesh in an attempt to escape systematic terrorizing by the Burmese military: Now, therefore, be it—

Resolved, That it is the sense of the House of Representatives that the United Nations Security Council should immediately consider and take appropriate action to respond to the growing threat that the ruling State Peace and Development Council in Burma poses to the Southeast Asia region and to the people of Burma.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Colorado (Mr. TANCREDO) and the gentleman from New Jersey (Mr. PAYNE) each will control 20 minutes.

The Chair recognizes the gentleman from Colorado (Mr. TANCREDO).

GENERAL LEAVE

Mr. TANCREDO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Colorado?

There was no objection.

Mr. TANCREDO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today Burma is ruled by one of the world's most brutal military dictatorships. The State Peace and Development Council, the SPDC, rules through an insidious system of extrajudicial killings, rape, torture, conscription of child soldiers, and the use of modern day slavery. To date, approximately 2 million Burmese have been forcibly displaced because of the horrific policy of this regime.

Further, Mr. Speaker, the SPDC has arrested approximately 1,300 individuals for merely expressing critical opinions of the existing regime, including the leader of the National League For Democracy, Aung San Suu Kyi. Suu Kyi was awarded the Nobel Peace Prize and the U.S. Presidential Medal of Freedom. My colleagues will also recall that her party, the National League for Democracy, continues to be rebuffed from claiming the right to govern, despite having won 392 of the 485 contested parliamentary seats in 1990.

Mr. Speaker, H. Res. 768 will put Congress on record that the United Nations Security Council must take immediate action with regard to the ruling regime in Burma. This regime poses a serious threat to the regional stability of Southeast Asia. They have allowed the continuous cross-border flow of illegal narcotics, trafficked persons, and the unchecked spread of HIV/AIDS.

In addition, the SPDC has attempted to acquire military hardware from the People's Republic of China, the Russian Federation, and North Korea.

Finally, the repressive nature of the Burmese regime has led to the flight of over 200,000 refugees into Thailand and Bangladesh which, in turn, has led to severe problems in those nations.

It is time for the United Nations Security Council to take action to respond to the growing threat of Southeast Asia and the people of Burma. With the United Kingdom and the United States chairing the United Nations Security Council respectively in October and November, we should use this opportunity to press for action by the Security Council on Burma.

This resolution has strong bipartisan support, has 27 cosponsors, including the gentleman from Virginia (Mr. WOLF), the chairman of the Human Rights Caucus; and the gentleman from California (Mr. LANTOS), the Ranking Member of the Committee on International Relations.

Mr. Speaker, I urge my colleagues to support this important measure, and I reserve the balance of my time.

Mr. PAYNE. Mr. Speaker, I strongly support this resolution, and I yield myself such time as I may consume.

Mr. Speaker, the Burmese government is one of the worst violators of internationally-recognized human rights. Democratic leader Aung San Suu Kyi, Nobel Peace Prize winner, was thrown into prison after her 1990 electoral win and remains under tight house arrest.

About 5 years ago I was privileged to travel to Burma with a then colleague Tom Campbell, a member from California, and we were able to persuade the Burmese government to allow us to visit with Aung San Suu Kyi, and we had a meeting with her and our U.S. embassy. She was very defiant. She said she would remain under house arrest until the government of Burma would recognize the election of 1990.

Countless other leaders in the opposition National League for Democracy remain behind bars. Many of the elders who we met with were defiant and were also considered enemies of the government.

High-level representatives from the United Nations and other nations have tried for several years to encourage the Burmese government, the Burmese junta to enter into a true national reconciliation with the opposition. Sadly, the Burmese government has repeatedly rebuffed these important diplomatic efforts. They simply seem to have no interest.

As a result, the United States recently renewed import sanctions against Burma for another year and has continued to ratchet up diplomatic and economic pressure on the government of Burma on this terrible regime.

□ 0300

But, Mr. Speaker, pressure from the United States on Burma to move toward freedom and democracy will only bear fruit if our allies join us in imposing sanctions.

The resolution before the House urges the United Nations Security Council to consider and take appropriate action to respond to the growing threat that the Burmese government poses to the Southeast Asia region. Consideration by the Security Council of the situation in Burma is long overdue, and I hope that this important resolution will further encourage Security Council members to move forward with the concrete multi-lateral strategy to promotes democracy and freedom in Burma.

It is another opportunity that the People's Republic of China who is benefiting so much from normal trade relations with the United States, previously called the special trade relations but now normal trade relations, most favored nation status, that they had before and still have, could use its influence and power in Burma since they are a growing power in that area. The same way that we would urge the Chinese to use its influence in the Security Council and its influence with Sudan to urge that government to change its ways. And so this is an opportunity for the People's Republic of China to show that it is moving into the 21st century, into the new millennium with a new responsibility if it, indeed, is going to continue to benefit from the tremendous relations that it has with the United States.

Mr. LEACH. Mr. Speaker, I rise today in support of H. Res. 768, a measure symbolizing the deep concern of the House of Representatives with the deplorable situation in Burma.

Burma presents one of the most complicated and vexing foreign policy challenges in Asia for the United States and the world community. Numerous political prisoners remain in detention, including one of the most remarkable and courageous leaders of our time, Aung San Suu Kyi. The issue is how the U.S. can best secure their release and help start a meaningful political dialogue in Burma, while also endeavoring to advance a panoply of other priorities, including stable democratic governance, human rights, counternarcotics, regional stability, combating the HIV/AIDS pandemic, as well as economic and human development.

As we all understand, in response to repeated efforts by the ruling military to thwart the democratic aspirations of the Burmese people as well as to ongoing serious human rights violations, the U.S. has been compelled to utilize sanctions and coercive diplomacy as the centerpiece of our policy. those sanctions were renewed earlier this year.

In this context, it should be self-evident that the U.S. is confronted by multiple dilemmas in pursuing our objectives in Burma. For illustrative purposes, I would note just a few: the strongly nationalistic, self-centered outlook of the ruling regime; the reliance by the military elite on an illicit, underground economy for power and survival; the inability of major industrial countries to agree on comprehensive sanctions as the basis for a common strategy; competition for geopolitical influence in Burma between China and India; and the ongoing humanitarian crisis for the people of Burma—including for many ethnic minority groups along the country's borders—that calls out for a more robust and humane international response.

In this regard, as we look at analogies in human history, one that appears credible and reasonable from an American perspective in south Africa. As we examine the south African analogy of Nelson Mandela and the African National Congress to Aung San Suu Kyi and the National League for Democracy, it is important to note that when we considered sanctions in the United States it was a very serious debate, and Congress weighted heavily the fact that Mandela and the ANC were supportive of sanctions.

The second aspect of the South African analogy, and here is where the analogy begins to break down, the United States was supported by a number of countries in Western Europe. In fact, if anything, our traditional western European allies were stronger supporters of sanctions than the United States. Although America became the linchpin country, several European countries that had long-term relations with South Africa were more forward-leaning than the United States and very supportive of sanctions.

In this regard, from a leadership perspective, there is some discomfort that the rest of the world is not following the American lead on Burma, not only in Asia and most particularly ASEAN, but also Western Europe.

As a general proposition in international affairs, and we are seeing this most clearly in the Middle East and Southwest Asia, Europe is looking at American leadership as being too inclined to draw "lines in the sand" and not sufficiently attuned to nuance distinctions in foreign affairs. There may be some truth in this critique, but I think Burma is the one circumstance where they are most clearly wrong, that this is a "line in the sand" place, and this is a situation in which we should be expecting far more from Europe.

The good news is that the EU has begun to put a bit more pressure on the SPDC by demanding, for example, that ASEAN downgrade Burma's first-ever representation at the Asia-Europe Meeting (ASEM) in Hanoi in October. The forum, begun in 1996, brings together the European Union and 10 Asian nations, including China, Japan, and South Korea. This year marks the group's formal enlargement, adding the 10 new EU members who joined in May along with Burma, Cambodia and Laos. The summit formally opens on October 8, 2004.

Here it is positive that the EU has set a deadline for this Friday—the start of the summit—for the release of Aung San Suu Kyi from house arrest and for allowing her National League for Democracy party an integral role in drafting a new constitution. My understanding is that if the deadline elapsed without progress, the EU is prepared to enact a set of "intensified sanctions" reportedly consisting of a visa ban on junta officials and a halt to international funding for Burma. Having said that, it should be understood that these enhanced sanctions are rather modest in their scope and effect, in that the EU has imposed a visa ban since 1996 and that for well over a decade Burma has been effectively barred from lending by the international financial institutions.

It is also a hopeful sign that United Nations Secretary General Kofi Annan is also taking increased interest in the situation in Burma. The United States was appreciative of the fact that on September 29 the Secretary General convened a meeting with his special envoy to Burma Ambassador Razali Ismail and concerned U.N. members to discuss the lack of progress toward democracy and national reconciliation in Burma. The Congress joins with the executive branch in urging the Secretary General to remain focused on this matter and we hope and expect that his engagement will generate more international community cooperation on this vital issue. In this context, I would urge the Burmese authorities to promptly allow Ambassador Razali to return to Burma and to conduct additional visits as he deems necessary.

All Americans remain deeply concerned by the continued detention of courageous democracy advocate and Nobel peace Prize Laureate Aung San Suu Kyi, the failure of the junta to permit the National League for Democracy (NLD) to open its offices nationwide and operate freely, the junta's refusal to release over a thousand political prisoners, the recent arrest of political activists and the sentencing of four NLD members for illegal political activities.

As noted by the Department of State, America's position is clear: "the Burmese people's desire for a national reconciliation and the establishment of democracy must be respected." We again call upon the Burmese leadership to take tangible steps, including the immediate release of Aung San Suu Kyi and all political prisoners, the full and free participation of the National League for Democracy and representatives of the ethnic minorities in the National Convention and the initiation of a meaningful dialogue to advance national reconciliation and the establishment of democracy.

I urge support for the resolution.

Mr. WOLF. Mr. Speaker, I strongly support H. Res. 768, calling on the United Nations Security Council to immediately consider a resolution on Burma. I urge all members to support this important legislation.

Burma's military regime is one of the worst governments in the world. There is a complete lack of freedom of speech, religion, press, and basic human rights. They should be treated as a pariah in the international community.

Burma's ruling military uses forced labor, rape, torture, and imprisonment as a means to quiet opposition and suppress the Burmese people. Innocent women and children are often used as minesweepers and the government continues to commit numerous other gross human rights violations against ethnic minorities. This abuse of the innocent people of Burma must end.

Hundreds of thousands of civilians have fled into other countries to seek safety. In Thailand, border towns are packed with refugees forced to live their lives in camps or illegally as migrant workers. Conditions are rough and tensions run high.

Sadly, the situation in Burma continues to worsen. Just last week there were two reports of attacks on Karen and Karenni villages where unknown numbers of villagers were killed. Homes, schools and clinics were burned. Civilians are forced to flee into the jungle to avoid attack. Attacks are common with the typical village moving every 3 months to avoid attacks. Cut off from humanitarian aid, thousands of people are trapped in the jungle, constantly moving to avoid attacks. After attacks, it is common for the military to lay landmines throughout the villages to try to deter the villagers from ever returning.

We must not forget that while Burma continues to commit unspeakable abuses against its people, its democratically elected leader, Aung San Suu Kyi, remains under house arrest and the desire for democracy runs strong among the people of Burma. We must send a clear signal to the government of Burma that no amount of repression will legitimize their government. They must immediately release Aung San Suu Kyi, all political prisoners, cease attacking ethnic minorities, and allow true democracy and freedom to flourish in Burma.

I urge every Member to vote in support of this important legislation. We must send a strong message to the Government of Burma that the United States stands with the people of Burma and their quest for democracy.

Mr. PAYNE. Mr. Speaker, I yield back the balance of my time.

Mr. TANCREDO. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. OSE). The question is on the motion offered by the gentleman from Colorado (Mr. TANCREDO) that the House suspend the rules and agree to the resolution, H. Res. 768.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

A motion to reconsider was laid on the table.

MESSAGE FROM THE SENATE

The SPEAKER pro tempore laid before the House the following privileged message from the Senate:

In the Senate of the United States, July 15, 2004.

Ordered, That the Secretary be directed to request the return of the papers to accompany (S. 2589) entitled "An Act to clarify the status of certain retirement plans and the organizations which maintain the plans.", in compliance with a request of the Senate for the return thereof.

Attest:

Emily Reynolds, *Secretary.*

The SPEAKER pro tempore. Without objection, the request of the Senate is agreed to, and S. 2589 will be returned to the Senate.

There was no objection.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 3 o'clock and 3 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 0807

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. PUTNAM) at 8 o'clock and 7 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 10, 9/11 RECOMMENDATIONS IMPLEMENTATION ACT

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108-751) on the resolution (H. Res. 827) providing for consideration of the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING REQUIREMENT OF CLAUSE 6(a) OF RULE XIII WITH RESPECT TO CONSIDERATION OF CERTAIN RESOLUTIONS

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–752) on the resolution (H. Res. 828) waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF MOTIONS TO SUSPEND THE RULES

Mr. SESSIONS, from the Committee on Rules, submitted a privileged report (Rept. No. 108–753) on the resolution (H. Res. 829) providing for consideration of motions to suspend the rules, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. SLAUGHTER (at the request of Ms. PELOSI) for today and the balance of the week on account of medical reasons.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 2796. An act to clarify that service marks, collective marks, and certification marks are entitled to the same protections, rights, and privileges of trademarks; to the Committee on the Judiciary.

S. 2864. An act to extend for eighteen months the period for which chapter 12 of title 11, United States Code, is reenacted; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following title, which were thereupon signed by the Speaker:

H.R. 4011. An act to promote human rights and freedom in the Democratic People's Republic of Korea, and for other purposes.

H.R. 4850. An act making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against revenues of said District for the fiscal year ending September 30, 2005, and for other purposes.

SENATE ENROLLED BILLS SIGNED

The Speaker announced his signature to enrolled bills of the Senate of the following titles:

S. 551. An act to provide for the implementation of air quality programs developed in accordance with an Intergovernmental Agreement between the Southern Ute Indian Tribe and the State of Colorado concerning Air Quality Control on the Southern Ute Indian Reservation, and for other purposes.

S. 1421. An act to authorize the subdivision and dedication of restricted land owned by Alaska Natives.

S. 1814. An act to transfer Federal lands between the Secretary of Agriculture and the Secretary of the Interior.

S. 2319. An act to authorize and facilitate hydroelectric power licensing of the Tapoco Project.

BILLS PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on October 5, 2004 he presented to the President of the United States, for his approval, the following bills.

H.R. 982. To clarify the tax treatment of bonds and other obligations issued by the Government of American Samoa.

H.R. 2408. To amend the Fish and Wildlife Act of 1956 to reauthorize volunteer programs and community partnerships for national wildlife refuges and for other purposes.

H.R. 2771. To amend the Safe Drinking Water Act to reauthorize the New York City Watershed Protection Program.

H.R. 4115. To amend the Act of November 2, 1966 (80 Stat. 1112), to allow binding arbitration clauses to be included in all contracts affecting the land within the Salt River Pima-Maricopa Indian Reservation.

H.R. 4259. To amend title 31, United States Code, to improve the financial accountability requirements applicable to the Department of Homeland Security, to establish requirements for the Future Years Homeland Security Program of the Department, and for other purposes.

H.R. 5105. To authorize the Board of Regents of the Smithsonian Institution to carry out construction and related activities in support of the collaborative Very Energetic Radiation Imaging Telescope Array System (VERITAS) project on Kitt Peak near Tucson, Arizona.

ADJOURNMENT

Mr. SESSIONS. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 8 minutes a.m.), the House adjourned until today, Thursday, October 7, 2004, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

10088. A communication from the President of the United States, transmitting requests for an emergency FY 2004 supplemental appropriations for the Departments of Agriculture, Defense, the Interior, Transportation, and Veterans Affairs; as well as the Corps of Engineers, the Environmental Protection Agency, and International Assistance Programs; (H. Doc. No. 108–218); to the Committee on Appropriations and ordered to be printed.

10089. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General John B. Sylvester, United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

10090. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting a Determination by the Deputy Secretary pursuant to Section 2(b)(6) of the Export-Import Bank of 1945 Act, as amended, to allow the Export-Import Bank to proivde a guarantee or insurance in support of the sale of defense articles to Colombia; to the Committee on Financial Services.

10091. A letter from the Administrator, Environmental Protection Agency, transmitting the Superfund Five-Year Review Report to Congress-FY 2003, in accordance with the requirements in Section 121(c) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended by the Superfund Amendments and Reauthorization Act of 1986; to the Committee on Energy and Commerce.

10092. A letter from the Chairman, Commission for the Preservation of America's Heritage Abroad, transmitting a report on the activities of the Commission's work over the past three years, pursuant to 16 U.S.C. 469j(h) Public Law 99–83, 1303(h) (99 Stat. 282); to the Committee on International Relations.

10093. A letter from the Under Secretary for Industry and Security, Department of Commerce, transmitting a report that the Department intends to amend foreign policy-based export controls on exports of certain items under the authority of Section 6(b) of the Export Administration Act of 1979, as amended, and continued by Executive Order 13222 of August 17, 2001, as extended by the Notice of August 6, 2004; to the Committee on International Relations.

10094. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting notification of export of items to Iraq is in the national interest of the United States pursuant to Section 1504 of the Emergency Wartime Supplemental Appropriation Act, 2003, Pub. L. 108-11 (Transmittal No. DTC 04IZ-04); to the Committee on International Relations.

10095. A letter from the Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to Section 620C(c) of the Foreign Assistance Act of 1961, as amended, and in accordance with section 1(a)(6) of Executive Order 13313, a report prepared by the Department of State and the National Security Council on the progress toward a negotiated solution of the Cyprus question covering the period April 1, 2004 through May 31, 2004; to the Committee on International Relations.

10096. A letter from the Inspector General, Railroad Retirement Board, transmitting the budget request for the Office of Inspector General, Railroad Retirement Board, for fiscal year 2006, pursuant to 5 U.S.C. app. (Insp. Gen. Act) section 5(b); to the Committee on Government Reform.

10097. A letter from the Architect of the Capitol, transmitting a report discussing the Congressional Office recycling programs for traditional and electronic equipment waste (E-waste) for the third quarter of FY 2004, pursuant to the directions issued in House Report 107-576; to the Committee on House Administration.

10098. A letter from the Chairman, Dwight D. Eisenhower Memorial Commission, transmitting a report on plans and recommendations on a permanent Dwight D. Eisenhower memorial, pursuant to Public Law 106-79, section 8162 (113 Stat. 1275); to the Committee on Resources.

10099. A letter from the Secretary, Department of Agriculture, transmitting a report for calendar year 2003, the first year in which on-the-ground resource management activities have occurred within the Granite Watershed Enhancement and Protection Stewardship Project, pursuant to Public Law 105-281; to the Committee on Resources.

10100. A letter from the President, National Park Foundation, transmitting the Foundation's annual report for fiscal year 2003, pursuant to 16 U.S.C. 19n; to the Committee on Resources.

10101. A letter from the Chairperson, U.S. Commission on Civil Rights, transmitting the Commission's report entitled, "Ten-Year Check-Up: Have Federal Agencies Responded to Civil Rights Recommendations? Volume IV: An Evaluation of the Departments of Education, Health and Human Services, and Housing and Urban Development, and the Equal Employment Opportunity Commission," pursuant to 42 U.S.C. 1975a(c); to the Committee on the Judiciary.

10102. A letter from the Assistant Secretary, Bureau of Indian Affairs, Department of the Interior, transmitting the Department's final rule — Indian Reservation Roads Program (RIN: 1076-AE17) received September 13, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10103. A letter from the Attorney, TSA, Department of Homeland Security, transmitting the Department's final rule — Flight Training for Aliens and Other Designated Individuals; Security Awareness Training for Flight School Employees [Docket No. TSA-2004-19147] (RIN: 1652-AA35) received September 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10104. A letter from the Acting General Counsel FEMA, Department of Homeland Security, transmitting the Department's final rule — Hazard Mitigation Planning and Hazard Mitigation Grant Program (RIN: 1660-AA17) received September 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10105. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Safety Zone; Wiscasset, Maine. Demolition of Maine Yankee former containment building [CGD01-04-099] (RIN: 1625-AA00) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10106. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Special Local Regulations for Marine Events; Patapsco River, Inner Harbor, Baltimore, MD [CGD05-04-158] (RIN: 1625-AA08), pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10107. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Mandatory Ballast Water Management Program for U.S. Waters [USCG-2003-14273] (RIN: 1625-AA52) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10108. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; Portection of Military Cargo, Captian of the Port of Zone Puget Sound, WA [CGD13-04-019] (RIN: 1625-AA87) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10109. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Notification of Arrival in U.S. Ports; Certain Dangerous Cargoes; Electronic Submission [USCG-2003-16688] (RIN: 1625-AA82) received September 21, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10110. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Robinson Helicopter Company Model R44 Helicopters [Docket No. 95-SW-30-AD; Amendment 39-13704, AD 95-26-05 R1] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10111. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Schweizer Aircraft Corporation Model 269A, 269A-1, 269B, 296C, and TH-55A Helicopters [Docket No. 2002-SW-25-AD; Amendment 39-13709; AD 2003-13-15 R1] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10112. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Kaman Aerospace Coporation Model K-1200 Helicopters [Docket No. 2003-SW-46-AD; Amendment 39-13708; AD 2004-13-26] (RIN: 2120-AA64) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10113. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Greencastle, IN [Docket No. FAA-2003-16544; Airspace Docket No. 03-AGL-19] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10114. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Oshkosh, NE. [Docket No. FAA-2004-17427; Airspace Docket No. 04-ACE-27] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10115. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Columbus, NE. [Docket No. FAA-2004-18013; Airspace Docket No. 04-ACE-42] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10116. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Amendment of Class E Airspace; Dayton, TN [Docket No. FAA-2004-17616; Airspace Docket No. 04-ASO-6] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10117. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Ashtabula, OH [Docket No. FAA-2003-16225; Airspace Docket No. 03-AGL-18] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10118. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; North Platte, NE. [Docket No. FAA-2004-17723; Airspace Docket No. 04-ACE-35] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10119. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Broken Bow, NE. [Docket No. FAA-2004-18010; Airspace Docket No. 04-ACE-39] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10120. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Scottsbluff, NE. [Docket No. FAA-2004-17429; Airspace Docket No. 04-ACE-28] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10121. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Chadron, NE. [Docket No. FAA-2004-18012; Airspace Docket No. 04-ACE-41] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10122. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Airworthiness Directives; Short Brothers Model SD3 Series Airplanes [Docket No. 2003-NM-178-AD; Amendment 39-13760; AD 2004-16-04] (RIN: 2120-AA64) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10123. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Standard Instrument Approach Procedures; Miscellaneous Amendments [Docket No. 30420; Admt. No. 3102] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10124. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Wahoo, NE. [Docket No. FAA-2004-17725; Airspace Docket No. 04-ACE-37] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10125. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Mosby, MO. [Docket No. FAA-2004-17721; Airspace Docket No. 04-ACE-33] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10126. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; McCook, NE. [Docket No. FAA-2004-17722; Airspace Docket No. 04-ACE-34] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10127. A letter from the Paralegal Specialist, FAA, Department of Transportation, transmitting the Department's final rule — Modification of Class E Airspace; Ogallala, NE. [Docket No. FAA-2004-17724; Airspace Docket No. 04-ACE-36] received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10128. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Colo Void Clause Coalition; Antenna Systems Co-Location; Voluntary Best Practices [Docket No. FAA-2004-16982; Notice No. 04-03] received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10129. A letter from the Program Analyst, FAA, Department of Transportation, transmitting the Department's final rule — Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft[Docket No. FAA-2001-11133; Amendment No. 1-53; 21-85; 43-39; 45-24; 61-110; 65-45; 91-282] (RIN: 2120-AA19) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10130. A letter from the Attorney Advisor, Maritime Administration, Department of Transportation, transmitting the Department's final rule — Administrative Waivers of the Coastwise Trade Laws for Eligible Vessels [Docket No. MARAD-2003-15030] (RIN: 2133-AB49) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10131. A letter from the Attorney, RSPA, Department of Transportation, transmitting the Department's final rule — Hazardous Materials Regulations: Minor Editorial Corrections and Clarifications [Docket No. RSPA-04-16099 (HM-189W)] (RIN: 2137-AD99) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10132. A letter from the FMCSA Regulatory Officer, Department of Transportation, transmitting the Department's final rule — Limitations on the Issuance of Commercial Driver's Licenses With a Hazardous Materials Endorsement [Docket No. FMCSA-2001-11117] (RIN: 2126-AA70) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10133. A letter from the Senior Attorney, RSPA, Department of Transportation, transmitting the Department's final rule — Hazardous Materials Regulations; Compatibility with the Regulations of the International Atomic Energy Agency; Correction; Final Rule [Docket No. RSPA-99-6283(HM-230)] (RIN: 2137-AD40) received September 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10134. A letter from the Regulations Officer, Federal Highway Administration, Department of Transportation, transmitting the Department's final rule — Work Zone Safety and Mobility [FHWA Docket No. FHWA-2001-11130] (RIN: 2125-AE29) received September 14, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10135. A letter from the Senior Attorney, RSPA, Department of Transportation, transmitting the Department's final rule — Pipeline Safety: Periodic Underwater Inspections [Docket No. RSPA-97-3001; Amdt. Nos. 192-98, 195-82] (RIN: 2137-AC54) received August 16, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10136. A letter from the Senior Attorney, RSPA, Department of Transportation, transmitting the Department's final rule — Hazardous Materials: Availibility of Information for Hazardous Materials Transported by Aircraft. [Docket No. RSPA-00-7762(HM-206C)] (RIN: 2137-AD29) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10137. A letter from the FMCSA Regulatory Officer, Department of Transportation, transmitting the Department's final rule — Federal Motor Carrier Safety Regulations; Waivers, Exemptions, and Pilot Programs [Docket No. FMCSA-98-4145] (RIN: 2126-AA41) received September 10, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

10138. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Remedial actions applicable to tax-exempt bonds issued by state and local governments [TD 9150] (RIN: 1545-BC40) received August 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10139. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Rulings and determination letters. (Rev. Proc. 2004-56) received August 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10140. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Clarification of Definitions [TD 9153] (RIN: 1545-BD43) received August 17, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10141. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Guidance Under Section 1502; Treatment of Loss Carryovers from Separate Return Limitation Years. [TD 9155] (RIN: 1545-BD58) received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10142. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Applicable Federal Rates — September 2004 (Rev. Rul. 2004-69) received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10143. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Plan Amendments Following Election of Alternative Deficit Reduction Contribution [Notice 2004-59] received August 20, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10144. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Last-in, first-out inventories (Rev. Rul. 2004-91) received August 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10145. A letter from the Acting Chief, Publications and Regulations Br., Internal Revenue Service, transmitting the Service's final rule — Additional Rules for Exchange of Personal Property under Section 1031(a) [TD 9151] (RIN: 1545-BD26) received August 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10146. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Reduced Maximum Exclusion of Gain from Sale or Exchange of Principal Residence [TD 9152] (RIN: 1545-BB02) received August 19, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10147. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Deemed Election To Be an Association Taxable as a Corporation for a Qualified Election S Corporation [TD 9139] (RIN: 1545-BD24) received August 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10148. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Section 179 Elections [TD 9146] (RIN: 1545-BD35) received August 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10149. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Time and Manner of Making 163(d)(4)(B) Election to Treat Qualified Divided Income as Investment Income [TD 9147] (RIN: 1545-BD30) received August 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10150. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rates Update [Notice 2004-56] received August 6, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10151. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Allocation and Apportionment of Deductions for Charitable Contributions [TD 9143] (RIN: 1545-AP30) received July 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10152. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Administrative, Procedural, and Miscellaneous [Notice 2004-50] received July 28, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10153. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Last-in, First-out Inventories (Rev. Rul. 2004-81) received July 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10154. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Request for Information About Credit Default Swaps [Notice 2004-52] received July 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10155. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Deemed IRA's in Qualified Retirement Plans [TD 9142] (RIN: 1545-BB58) received July 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10156. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2004-51) received July 23, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10157. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — 401(k) Accelerated Deductions — received October 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10158. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Qualified Transportation Fringes (Rev. Rul. 2004-98) received October 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10159. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Examination of returns and claims for refund, credit, or abatement; determination of correct tax liability (Rev. Proc. 2004-60) received October 4, 2004, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

10160. A letter from the Chairman, U.S. International Trade Commission, transmitting pursuant to Section 2104(f) of the Trade Act of 2002, a report on the Commission's investigation entitled "U.S.-Bahrain Free Trade Agreement: Potential Economywide and Selected Sectoral Effects, Inv. No. TA-2104-15, USITC Publication 3726"; to the Committee on Ways and Means.

10161. A letter from the Chairman, U.S. International Trade Commission, transmitting the tenth annual report on the Andean Trade Preference Act (ATPA) entitled "Impact on U.S. Industries and Consumers and on Drug Crop Eradication and Crop Substitution," pursuant to 19 U.S.C. 3204; to the Committee on Ways and Means.

10162. A letter from the General Counsel, Office of Compliance, transmitting an update regarding the status of the Office of Compliance's biennial comprehensive Occupational Safety and Health (OSH) and Americans with Disabilities Act (ADA) public access and public accomodations inspections during calendar years 2004 and 2005, pursuant to Public Law 104-1, section 215(e) (109 Stat. 18); jointly to the Committees on House Administration and Education and the Workforce.

10163. A letter from the Railroad Retirement Board, transmitting the Board's Congressional Justification of Budget Estimates for Fiscal Year 2006, pursuant to 45 U.S.C. 231f(f); jointly to the Committees on Appropriations, Transportation and Infrastructure, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POMBO: Committee on Resources. H.R. 4667. A bill to authorize and facilitate hydroelectric power licensing of the Tapoco Project, and for other purposes (Rept. 108–721 Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4887. A bill to adjust the boundary of the Cumberland Island Wilderness, to authorize tours of the Cumberland Island National Seashore, and for other purposes; with an amendment (Rept. 108–738). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4984. A bill to provide that the royalty rate on the output from Federal lands of potassium and potassium compounds from the mineral sylvite in the 5-year period beginning on the date of the enactment of this Act shall be reduced to 1.0 percent, and for other purposes (Rept. 108–739). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. S. 434. An act to authorize the Secretary of Agriculture to sell or exchange all or part of certain parcels of National Forest System land in the State of Idaho and use the proceeds derived from the sale or exchange for National Forest System purposes (Rept. 108–740). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4285. A bill to provide for the conveyance of certain public land in Clark County, Nevada, for use as a heliport (Rept. 108–741). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 4282. A bill to express the policy of the United States regarding the United States relationship with Native Hawaiians and to provide a process for the recognition by the United States of the Native Hawaiian governing entity, and for other purposes (Rept. 108–742). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 3258. A bill to authorize the Secretary of the Interior, in cooperation with the University of New Mexico, to construct and occupy a portion of the Hibben Center for Archaeological Research at the University of New Mexico, and for other purposes; with an amendment (Rept. 108–743). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 3207. A bill to direct the Secretary of the Interior to conduct a study on the preservation and interpretation of the historic sites of the Manhattan Project for potential inclusion in the National Park System; with an amendment (Rept. 108–744). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. House Resolution 556. Resolution congratulating the United States Geological Survey on its 125th Anniversary (Rept. 108–745). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 5082. A bill to authorize the Secretary of Transportation to award grants to public transportation agencies and over-the-road bus operators to improve security, and for other purposes; with an amendment (Rept. 108–746). Referred to the Committee of the Whole House on the State of the Union.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 775. A bill to amend the Immigration and Nationality Act to eliminate the diversity immigrant program (Rept. 108–747). Referred to the Committee of the Whole House on the State of the Union.

Mr. OXLEY: Committee on Financial Services. H.R. 3755. A bill to authorize the Secretary of Housing and Urban Development to ensure zero-downpayment mortgages for one-unit residences; with an amendment (Rept. 108–748). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 5163. A bill to amend title 49, United States Code, to provide the Department of Transportation a more focused research organization with an emphasis on innovative technology, and for other purposes (Rept. 108–749 Pt. 1). Ordered to be printed.

Mr. GOODLATTE: Committee on Agriculture. H.R. 3242. A bill to ensure an abundant and affordable supply of highly nutritious fruits, vegetables, and other specialty crops for American consumers and international markets by enhancing the competitiveness of United States-grown specialty crops, and for other purposes; with an amendment (Rept. 108–750 Pt. 1). Ordered to be printed.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Ways and Means discharged from further consideration. H.R. 3242 referred to the Committee of the Whole House on the State of the Union.

Pursuant to clause 2 of rule XII the Committees on Energy and Commerce and Science discharged from further consideration. H.R. 5163 referred to the Committee of the Whole House on the State of the Union.

October 7, (legislative day of October 6), 2004

Mr. LINDER: Committee on Rules. House Resolution 827. Resolution providing for consideration of the bill (H.R. 10) to provide for reform of the intelligence community, terrorism prevention and prosecution, border security, and international cooperation and coordination, and for other purposes (Rept. 108–751). Referred to the House Calendar.

Mr. REYNOLDS: Committee on Rules. House Resolution 828. Resolution waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules (Rept. 108–752). Referred to the House Calendar.

Mr. SESSIONS: Committee on Rules. House Resolution 829. Resolution providing for consideration of motions to suspend the rules (Rept. 108–753). Referred to the House Calendar.

TIME LIMITATION OF REFERRED BILL

Pursuant to clause 2 of rule XII the following action was taken by the Speaker:

H.R. 3242. Referral to the Committee on Ways and Means extended for a period ending not later than October 6, 2004.

H.R. 5163. Referral to the Committees on Energy and Commerce and Science extended for a period ending not later than October 6, 2004.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. NADLER (for himself, Mr. SIMMONS, and Ms. CARSON of Indiana):

H.R. 5225. A bill to provide an exemption for low-income senior citizens from the communications excise tax and other fees and charges collected for the purpose of recovering some of the costs to telecommunications carriers of providing universal service and connecting the telephone exchange network to telephone toll service, and for other purposes; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. NEUGEBAUER (for himself, Mr. BURNS, Mrs. MUSGRAVE, Mr. ROGERS of Alabama, Mr. MORAN of Kansas, Mr. GOODLATTE, Mr. OSBORNE, Mr. REHBERG, Mr. THORNBERRY, Mr. LUCAS of Oklahoma, Mr. BOEHNER, Mr. TERRY, Mr. EVERETT, Mr. SIMPSON, and Mr. ALEXANDER):

H.R. 5226. A bill to respond to recent natural disasters adversely affecting agricultural producers; to the Committee on Agriculture.

By Mr. YOUNG of Florida:

H.R. 5227. A bill making emergency supplemental appropriations for the fiscal year ending September 30, 2005, for additional disaster assistance relating to natural disasters, and for other purposes; to the Committee on Appropriations, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELLER:

H.R. 5228. A bill to reduce temporarily the duty on 1-propene-2-methyl homopolymer; to the Committee on Ways and Means.

By Mr. BACA:

H.R. 5229. A bill to amend the Richard B. Russell National School Lunch Act to provide for automatic eligibility for free school lunch and breakfast programs to children of parents who are enlisted members of the Armed Forces on active duty; to the Committee on Education and the Workforce.

By Mr. BEAUPREZ:

H.R. 5230. A bill to amend title 49, United States Code, to ensure that the National Driver Registry includes certain information; to the Committee on Transportation and Infrastructure.

By Mrs. CAPPS:

H.R. 5231. A bill to designate the Piedras Blancas Light Station and the surrounding public land as an Outstanding Natural Area to be administered as a part of the National Landscape Conservation System, and for other purposes; to the Committee on Resources.

By Mr. FOLEY (for himself, Mr. HASTINGS of Florida, and Mr. MARIO DIAZ-BALART of Florida):

H.R. 5232. A bill to authorize ecosystem restoration projects for the Indian River Lagoon and the Picayune Strand, Collier County, in the State of Florida; to the Committee on Transportation and Infrastructure.

By Mr. LARSON of Connecticut:

H.R. 5233. A bill to help American families save, invest, and build a better future, and for other purposes; to the Committee on Ways and Means.

By Mr. MCKEON:

H.R. 5234. A bill to remediate groundwater contamination caused by perchlorates in the city of Santa Clarita, California; to the Committee on Transportation and Infrastructure.

By Mr. MOORE:

H.R. 5235. A bill to amend title II of the Social Security Act to ensure that the receipts and disbursements of the Social Security trust funds are not included in a unified Federal budget; to the Committee on the Budget, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PAUL:

H.R. 5236. A bill to prohibit the use of Federal funds for any universal or mandatory mental health screening program; to the Committee on Energy and Commerce, and in addition to the Committees on Education and the Workforce, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. RENZI:

H.R. 5237. A bill to authorize the placement of an equestrian statue depicting frontiersman, explorer, and missionary Jacob Hamblin on the grounds of the Forest Service Kaibab Plateau Visitor Center in Jacob Lake, Arizona, and for other purposes; to the Committee on Resources.

By Mr. SHADEGG:

H.R. 5238. A bill to direct the Attorney General and Secretary of Homeland Security to conduct a pilot study under which the Secretary may issue public warnings regarding threats to homeland security using an AMBER Alert system; to the Committee on the Judiciary.

By Mr. SMITH of New Jersey:

H.R. 5239. A bill to amend titles 10 and 38, United States Code, to improve educational benefits for members of the Selected Reserve, and for other purposes; to the Committee on Armed Services, and in addition to the Committee on Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SULLIVAN:

H.R. 5240. A bill to require the Secretary of Homeland Security to establish a U.S. Immigration and Customs Enforcement Office of Investigations field office in Tulsa, Oklahoma; to the Committee on the Judiciary, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATOURETTE (for himself and Mr. KUCINICH):

H. Con. Res. 510. Concurrent resolution expressing the sense of the Congress on the importance of revitalizing family farming; to the Committee on Agriculture.

By Mr. NEY:

H. Res. 824. A resolution relating to early organization of the House of Representatives for the One Hundred Ninth Congress; considered and agreed to.

By Mr. BRADY of Pennsylvania:

H. Res. 825. A resolution honoring Bernard Hopkins, the undisputed World Middleweight Champion; to the Committee on Government Reform.

By Ms. DEGETTE (for herself, Mr. UDALL of Colorado, and Mr. CUMMINGS):

H. Res. 826. A resolution expressing the sense of the House of Representatives that Pasqualine J. Gibbons of Denver, Colorado, an African American woman who valiantly served her country in the Army Air Corps during World War II, was unfairly passed over for promotion and should have held the grade of technical sergeant, rather than private first class, upon her discharge from the service on January 2, 1946; to the Committee on Armed Services.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

443. The SPEAKER presented a memorial of the Senate of the State of Iowa, relative to Senate Resolution No. 181 memorializing the President and Congress of the United States to recognize the contributions, bravery, and dedicated service of all Code Talkers, including the eight soldiers from the Meskwaki tribe, in the same manner as the Navajo Code Talkers by awarding them them appropriate medals of honor; to the Committee on Armed Services.

444. Also, a memorial of the Legislature of the State of California, relative to Senate Joint Resolution No. 31 memorializing the United States Congress to continue and fully fund the Carl D. Perkins Vocational and Technical Education Act of 1998; to the Committee on Education and the Workforce.

445. Also, a memorial of the Legislature of the State of California, relative to Senate Joint Resolution No. 24 memorializing the President and the Congress of the United States to recognize the problems caused by direct-to-consumer advertising of prescription drugs by pharmaceutical companies and to take specified actions in the regulation of consumer advertising of prescription drugs; to the Committee on Energy and Commerce.

446. Also, a memorial of the Legislature of the State of California, relative to Senate Joint Resolution No. 29 memorializing federal officials and entities and private industries to take various actions concerning foods and beverages that are advertised or marketed to children; to the Committee on Energy and Commerce.

447. Also, a memorial of the House of Representatives of the Commonwealth of Massachusetts, relative to a Resolution memorializing the Congress of the United States to reject any recommendations from the President's Commission to base postal service on profit seeking motives or to cut services to any American community; to the Committee on Government Reform.

448. Also, a memorial of the Legislature of the State of California, relative to Senate Joint Resolution No. 30 memorializing the President and Congress of the United States, the federal Secretary of Transportation, and the federal Department of Transportation to streamline the federal environmental review and permitting process by (1) ensuring adequate funding for the State Office of Historic Preservation in California; and (2) accelerating project delivery by developing a multiagency infrastructure team to be involved in the development of transportation projects from the early planning phase and continuing through the environmental permitting and construction to the Committee on Transportation and Infrastructure.

449. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate

Concurrent Resolution No. 20 memorializing the Congress of the United States to appropriate and expidite funding for the development of a hurricane evacuation route in Louisiana and Mississippi; to the Committee on Transportation and Infrastructure.

450. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 152 memorializing the Congress of the United States to enact legislation eliminating the "new shipper" bonding privilege; to the Committee on Ways and Means.

451. Also, a memorial of the Legislature of the State of Louisiana, relative to Senate Concurrent Resolution No. 159 memorializing the Congress of the United States to review federal laws, rules, and procedures affecting coastal wetlands activities and permitting in Louisiana, in order to promote effective stewardship by enhancing cooperation and effective communication between federal agencies and Louisiana state and local agencies; jointly to the Committees on Resources and Transportation and Infrastructure.

452. Also, a memorial of the House of Representatives of the State of Rhode Island, relative to House Resolution No. 04R351 memorializing the United States Congress to revise certain provisions of the Medicare Prescription Drug Improvement and Modernization Act of 2003 (H.R. 1); jointly to the Committees on Ways and Means and Energy and Commerce.

453. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 176 memorializing the President and Congress of the United States to restore full funding for the federal Office for Domestic Preparedness' First Responders grant program; jointly to the Committees on the Judiciary, Transportation and Infrastructure, and Energy and Commerce.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. TOOMEY introduced a bill (H.R. 5241) for the relief of Gabriella Dee; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 10: Mr. Ramstad.
H.R. 391: Mr. Graves.
H.R. 677: Mr. Johnson of Illinois.
H.R. 742: Mr. Renzi.
H.R. 822: Mr. Blumenauer.
H.R. 871: Mr. Spratt.
H.R. 930: Mr. Boswell.
H.R. 935: Mr. Meehan.
H.R. 1080: Mr. Sherman.
H.R. 1155: Mr. Langevin.
H.R. 1168: Mr. Meehan.
H.R. 1196: Mr. Meehan.
H.R. 1214: Mr. Tiahrt.
H.R. 1245: Mr. Meehan.
H.R. 1406: Mr. Simmons.
H.R. 1477: Mrs. Maloney, Mr. Blumenauer, and Mrs. McCarthy of New York.
H.R. 1508: Mr. Watt.
H.R. 1605: Mr. Meehan.
H.R. 1684: Mr. LaHood.
H.R. 1749: Mr. DeFazio.
H.R. 1878: Mr. Case.
H.R. 1998: Mr. Sessions, Mr. Nadler, and Mr. Gutierrez.
H.R. 2008: Mr. Tierney.
H.R. 2237: Mrs. Lowey.
H.R. 2256: Mr. McGovern.
H.R. 2262: Mr. Butterfield.
H.R. 2286: Mr. Meehan.
H.R. 2503: Mr. Andrews.
H.R. 2724: Mr. Fattah.
H.R. 2891: Mr. Meehan.
H.R. 2959: Mr. Van Hollen.
H.R. 3111: Mr. Graves, Mr. Towns, Mr. Ford, Mr. Green of Texas, and Mr. Fattah.
H.R. 3142: Mr. Wu.
H.R. 3195: Mr. Rangel.
H.R. 3243: Mr. Shays, Mr. Kucinich, Ms. DeLauro, Mrs. Jones of Ohio, Ms. Carson of Indiana, Mrs. Christensen, Mr. McNulty, Mr. Scott of Georgia, Mr. Pastor, Ms. Slaughter, Mr. Andrews, Mrs. McCarthy of New York, Mr. Watt, Mr. McDermott, Mr. Michaud, Mr. Moran of Virginia, Mr. Menendez, Mr. Van Hollen, and Mr. Filner.
H.R. 3281: Ms. Baldwin and Mr. Langevin.
H.R. 3352: Mr. Young of Alaska.
H.R. 3450: Mr. Wynn and Mr. Boswell.
H.R. 3459: Mr. Kucinich, Ms. Herseth, Mrs. Capps, and Mr. Van Hollen.
H.R. 3473: Mr. Davis of Tennessee.
H.R. 3543: Mr. Barrett of South Carolina.
H.R. 3545: Mr. Olver.
H.R. 3672: Mr. Meehan.
H.R. 3729: Ms. Berkley, Mr. Carson of Oklahoma, Mr. McIntyre, Mr. Lewis of Georgia, and Mr. Franks of Arizona.
H.R. 3776: Mr. Crane.
H.R. 3929: Mr. Kennedy of Minnesota.
H.R. 4026: Mr. Wynn and Mr. Johnson of Illinois.
H.R. 4067: Mr. Serrano.
H.R. 4102: Mr. Wexler.
H.R. 4169: Mr. King of New York and Mr. Ackerman.
H.R. 4264: Mr. Isakson and Mr. Nadler.
H.R. 4350: Mr. Meehan.
H.R. 4473: Ms. Eshoo and Mr. Wynn.
H.R. 4491: Mr. Gonzalez, Mr. Miller of North Carolina, Mr. Porter, Ms. Baldwin, Mr. Michaud, Mr. Weiner, Mr. Owens, Mr. Rangel, Mr. Paul, Mr. Crowley, Mr. Reyes, Mr. Sessions, and Mr. Tanner.
H.R. 4543: Mr. Vitter.
H.R. 4598: Mrs. Christensen, Mr. McDermott, and Mrs. Miller of Michigan.
H.R. 4628: Mr. Sabo
H.R. 4662: Mr. Miller of Florida.
H.R. 4668: Mr. Allen.
H.R. 4682: Mr. Gephardt, Mr. Gordon, Mr. DeFazio, Mr. Rodriguez, Mr. Reyes, Mr. Wu, and Ms. Waters.
H.R. 4703: Mr. Frost.
H.R. 4730: Mr. Platts, Ms. Kilpatrick, and Mr. Evans.
H.R. 4740: Mr. Evans.
H.R. 4849: Mr. Sam Johnson of Texas and Mr. McNulty.
H.R. 4851: Mr. Kingston, Mr. Feeney, and Mr. King of Iowa.
H.R. 4898: Mr. Hinchey and Mr. Nadler.
H.R. 4910: Ms. Carson of Indiana, Mr. Van Hollen, Mr. Meehan, Ms. Kaptur, and Ms. Linda T. Sánchez of California.
H.R. 4936: Ms. DeGette, Mr. Ford, Mr. Moran of Virginia, Mr. Price of North Carolina, and Mrs. Maloney.
H.R. 4978: Mr. Serrano and Ms. Watson.
H.R. 5024: Mr. Udall of Colorado.
H.R. 5040: Mr. Udall of Colorado.
H.R. 5057: Mr. Hefley, Mr. Sweeney, Mr. Cummings, Ms. Slaughter, Ms. Linda T. Sánchez of California, Mr. Kucinich, Ms. Majette, Mr. Wynn, Mr. Engel, Mr. Markey, Mr. Langevin, Ms. Woolsey, Mr. Reyes, and Mr. Bilirakis.
H.R. 5061: Mr. Berman and Mrs. Capps.
H.R. 5110: Mr. Hinchey.
H.R. 5111: Mr. Bradley of New Hampshire.
H.R. 5113: Mr. Michaud and Ms. Herseth.
H.R. 5114: Mr. Shimkus.
H.R. 5132: Mr. Blumenauer.
H.R. 5150: Mr. Allen and Mr. Udall of Colorado.
H.R. 5152: Mr. Burns.
H.R. 5165: Mr. Sessions and Mr. Lucas of Kentucky.
H.R. 5167: Ms. Hooley of Oregon, Mr. Abercrombie, Mr. Gilchrest, ane Mr. Green of Wisconsin.
H.R. 5170: Mr. Evans.
H.R. 5174: Mr. Lipinski.
H.R. 5185: Mr. Ehlers, Mr. Porter, Mr. Burns, and Mr. Wilson of South Carolina.
H.R. 5186: Mr. Graves, Mr. Ehlers, Mr. Porter, Mr. Burns, Mr. Neugebauer, and Mr. Simmons.
H.R. 5188: Mr. Brady of Texas, Mr. Putnam, Mr. Osborne, and Mr. Ose.
H.R. 5190: Mr. Shuster.
H.R. 5191: Mr. Lantos.
H.R. 5203: Mr. Nethercutt, Mr. Hinchey, Mr. Otter, Mr. Price of North Carolina, Mr. Michaud, Mrs. Kelly, and Mr. Matheson.
H.R. 5213: Mr. Brown of Ohio.
H. Con. Res. 137: Mr. Wexler.
H. Con. Res. 276: Mr. Mollohan.
H. Con. Res. 464: Ms. Ros-Lehtinen.
H. Con. Res. 482: Ms. Jackson-Lee of Texas, Mr. Owens, Mr. Capuano, Mr. Conyers, Ms. DeLauro, Ms. Corrine Brown of Florida, and Mr. Bishop of Georgia.
H. Con. Res. 492: Mr. Neal of Massachusetts.
H. Con. Res. 502: Mr. Smith of Texas and Mr. Etheridge.
H. Con. Res. 503: Mr. Brown of Ohio, Ms. McCarthy of Missouri, Mr. Towns, Mr. McDermott, Mr. Lampson, Ms. Eshoo, Mr. McNulty, Mr. Crowley, Ms. Schakowsky, and Mr. Stark.
H. Con. Res. 509: Mr. Tiahrt.
H. Res. 28: Mr. Pastor.
H. Res. 720: Mr. Gary G. Miller of California and Mr. Bradley of New Hampshire.
H. Res. 758: Mr. Rahall, Mr. Grijalva, Ms. Woolsey, Ms. McCollum, Mr. Ryan of Ohio, Mr. Kleczka, Ms. Schakowsky, Mr. Strickland, Mr. Hinchey, Mr. Smith of Michigan, and Mr. Lantos.
H. Res. 768: Mr. Sanders, Mr. Deutsch, Mr. Blumenauer, and Mr. Frank of Massachusetts.
H. Res. 782: Mr. Farr, Mr. Kucinich, Mr. Waxman, Mr. Baird, and Mr. Van Hollen.
H. Res. 805: Ms. Woolsey, Mr. Gonzalez, Mr. Frost, and Mr. Kildee.
H. Res. 810: Mr. Conyers, Mr. Frank of Massachusetts, Mr. Payne, Mrs. Christensen, and Ms. Ros-Lehtinen.
H. Res. 812: Mr. McGovern.
H. Res. 813: Mr. Jefferson.
H. Res. 820: Mr. Johnson of Illinois, Mrs. Biggert, and Mr. Thomas.
H. Res. 821: Mr. Ryan of Wisconsin and Mr. Costello.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3242: Mrs. Emerson.

PETITIONS, ETC.

Under clause 3 of rule XII, petitions and papers were laid on the clerk's desk and referred as follows:

117. The SPEAKER presented a petition of the Inhabitants of the Town of Shutesbury, Massachusetts, relative to a declaration petitiong for the strengthening of the Nuclear Non-Proliferation Treaty, the ceasing of all nuclear development programs, and calling for a plan for a nuclear-weapons free world; to the Committee on International Relations.

118. Also, a petition of Mr. Joseph Sulzer, a Citizen of Tacoma, Washington, relative to a notice of fraud, and petitioning the United States Congress for redress of grievances; to the Committee on Ways and Means.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 5212

Offered By: Mr. Neugebauer

Amendment No. 2: In section 101, strike the section heading and subsection (a) and insert the following (and redesignate existing subsections (b) through (f) accordingly):

SEC. 101. AGRICULTURAL DISASTER ASSISTANCE.

(a) Crop Disaster Assistance.—

(1) Definitions.—In this subsection:

(A) Additional coverage.—The term "additional coverage" has the meaning given the term in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)).

(B) Insurable commodity.—The term "insurable commodity" means an agricultural commodity (excluding livestock) for which the producers on a farm are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(C) Noninsurable commodity.—The term "noninsurable commodity" means an agricultural commodity for which the producers on a farm are eligible to obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(2) Emergency financial assistance.—Notwithstanding section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)), the Secretary of Agriculture shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this subsection available to producers on a farm that have incurred qualifying crop or quality losses for the 2003 or 2004 crop (as elected by a producer), but not both crops, due to damaging weather or related condition, as determined by the Secretary.

(3) Administration.—The Secretary shall make assistance available under this subsection in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for the quantity and quality losses as were used in administering that section.

(4) Ineligibility for assistance.—Except as provided in paragraph (5), the producers on a farm shall not be eligible for assistance under this subsection with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(A) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses; and

(B) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses.

(5) Contract waiver.—The Secretary may waive paragraph (4) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—

(A) in the case of an insurable commodity, to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) providing additional coverage for the insurable commodity for each of the next 2 crops; and

(B) in the case of a noninsurable commodity, to file the required paperwork and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity for each of the next 2 crops under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(6) Effect of violation.—In the event of the violation of a contract under paragraph (5) by a producer, the producer shall reimburse the Secretary for the full amount of the assistance provided to the producer under this subsection.

(7) Payment limitations.—

(A) Limit on amount of assistance.—Assistance provided under this subsection to a producer for losses to a crop, together with the amounts specified in subparagraph (B) applicable to the same crop, may not exceed 95 percent of what the value of the crop would have been in the absence of the losses, as estimated by the Secretary.

(B) Other payments.—In applying the limitation in subparagraph (A), the Secretary shall include the following:

(i) Any crop insurance payment made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or payment under section 196 of the Federal Agricultural Improvement and Reform Act of 1996 (7 U.S.C. 7333) that the producer receives for losses to the same crop.

(ii) The value of the crop that was not lost (if any), as estimated by the Secretary.

(C) Effect of Florida disaster programs.—The amount of assistance that a producer would otherwise receive under this subsection shall be reduced by the amount of assistance that the producer receives for the same loss under the Florida Disaster Programs carried out pursuant to the Farm Service Agency notice (DAP–203) released October 4, 2004.

(b) Livestock Assistance Program.—

(1) Emergency financial assistance.—The Secretary of Agriculture shall use such sums as are necessary of funds of the Commodity Credit Corporation to make and administer payments for livestock losses to producers for 2003 or 2004 losses (as elected by a producer), but not both, in a county that has received an emergency designation by the President or the Secretary after January 1, 2003, of which an amount determined by the Secretary shall be made available for the American Indian livestock program under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(2) Administration.—The Secretary shall make assistance available under this subsection in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(3) Mitigation.—In determining the eligibility for or amount of payments for which a producer is eligible under the livestock assistance program, the Secretary shall not penalize a producer that takes actions (recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

(c) Tree Assistance Program.—

(1) Emergency assistance.—The Secretary of Agriculture shall use such sums as are necessary of the funds of the Commodity Credit Corporation to provide assistance under the tree assistance program established under sections 10201 through 10204 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8201 et seq.) to producers who suffered tree losses during the period beginning on December 1, 2003, and ending on December 31, 2004.

(2) Additional assistance.—In addition to providing assistance to eligible orchardists under the tree assistance program, the Secretary shall use an additional $15,000,000 of the funds of the Commodity Credit Corporation to provide reimbursement under section 10203 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8203) to eligible forest land owners who produce periodic crops of timber from trees for commercial purposes and who have suffered tree losses during the period specified in paragraph (1).

(d) Emergency Conservation Program.—The Secretary of Agriculture shall use an additional $50,000,000 of the funds of the Commodity Credit Corporation to provide assistance under the Emergency Conservation Program under title IV of the Agriculture Credit Act of 1978 (16 U.S.C. 2201 et seq.). Participants in the Emergency Conservation Program shall receive the maximum cost share percentage allowed under section 701.26 of title 7, Code of Federal Regulations.

(e) Offset.—Section 1241(a)(3) of the Food Security Act of 1985 (16 U.S.C. 3841(a)(3)) is amended by inserting before the period at the end the following: ", using not more than $6,037,000,000 for the period of fiscal years 2005 through 2014".

EXTENSIONS OF REMARKS

RECOGNIZING WILLIAM (BILL) HOWARD AHMANSON

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MCKEON. Mr. Speaker, on October 9, 2004, the Los Angeles Police Reserve Foundation will recognize William (Bill) Howard Ahmanson for his untiring and committed efforts on behalf of his community, and the County of Los Angeles. He will be presented with the coveted "Twice A Citizen" Award for his extraordinary volunteer work, as well as his long record of dedicated support and service to the law enforcement community.

In 1986, Bill became a Los Angeles Police Reserve Officer. His experience includes the specialized CRASH (Community Relations Against Street Hoodlums) unit, Newton, Hollywood and Rampart Divisions. Currently he maintains a Specialist Reserve Status and is credited with being a member of the host committee for the 2004 International Association of the Chiefs of Police Convention that was held in Los Angeles. He is also the director of the Los Angeles Police Memorial Foundation that provides assistance to families of police officers who were killed in the line of duty. Recognizing that the rich history of the Los Angeles Police Department must be preserved for posterity, Bill is a director of the Los Angeles Police Historical Society (LAPHS). LAPHS was founded in 1989 to create a world-class museum that reflects the departments many contributions since its inception in 1869.

Horses are also an area of concern for Bill. As the vice president of the Los Angeles Police Equestrian Fund, he is able to direct the humane retirement of the department's horses and supervise acquisition of equipment for the officers and horses of the Los Angeles Police Mounted Unit.

Many of his civic responsibilities revolve around Los Angeles. Bill is a trustee of the Ahmanson Foundation whose philanthropy is directed toward organizations and institutions serving the greater Los Angeles community. He is also a trustee of the Los Angeles County Museum of Art. It was established to serve the public through the collection, conservation, exhibition and interpretation of significant works of art and to provide cultural experiences for a wide array of audiences.

He is a member of the Los Angeles County Workforce Investment Board (WIB). Nominated by Supervisor Yvonne Brathwaite Burke and appointed by the Los Angeles County Board of Supervisors. WIB implements the workforce Investment Act of 1998. This Board's mandate is to provide key policy decisions affecting the local workforce development system, and to identify and certify Work Source California Centers in Los Angeles County.

Bill is on the advisory board for the Stennis Family Foundation. The Stennis Family Foundation was founded by Erin and Michael Stennis to heighten awareness within the minority community on the prevention and cure of colorectal cancer, the nation's second leading cancer killer. Bill is also associated with Christ The King Roman Catholic Church and the Wilshire/Los Angeles Chapter of Rotary International.

Bill and his wife, Karla, along with their three children, Chris, Katie and Kara are Los Angeles residents.

Because he exemplifies all that is right with our nation's grassroots volunteer efforts, I am pleased to have the opportunity to recognize William "Bill" Howard Ahmanson as a dedicated, compassionate and committed American.

NORTH KOREAN HUMAN RIGHTS ACT OF 2004

SPEECH OF

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. WOLF. Madam Speaker, I strongly support H.R. 4011, the North Korean Human Rights Act of 2004, and urge all members to support this important legislation. The leadership of the North Korean government has proven to be volatile and unpredictable with a tight rein on a very closed, repressed society. The North Korean government is one of the worse abusers of human rights in the world. Freedom of religion does not exist and the government controls all information, expression, and access to media. Despite international aid efforts, it is estimated that 2 million North Koreans have died of starvation in the last 10 years. One out of every ten children is malnourished.

There are an estimated 200,000 political prisoners in camps. Prisoners are often used as slave labor and conditions in these camps are extremely harsh. Many prisoners die from disease, starvation, beatings, and torture.

In 2002 a former female political prisoner, who testified before Congress about the conditions in these camps described: kneeling Christians in a prison camp having molten steel poured over them by guards because they would not recant their faith; prisoners quarantined into small rooms because of illness and then being forced to lay on top of each other such that all of those underneath were suffocated and died; prisoners used as lab experiments; and numerous executions. The list of horrendous conditions goes on.

The North Korea Human Rights Act reaffirms that human rights in North Korea should remain a key concern in future dialogue and conditions direct aid to North Korea upon substantial improvements in transparency and accountability.

I call on every member of Congress to vote in favor of this important legislation. We must send a strong message to Kim Jong Il that the world will not sit by while his government systemically abuses its citizens.

POEM BY CALVIN DUNN OF LEXINGTON, MISSOURI

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. SKELTON. Mr. Speaker, Calvin Dunn, of my hometown of Lexington, Missouri, wrote an excellent poem, entitled "Our Flag–911." Mr. Dunn wrote this poem on the day after the events of September 11, 2001. I wish to share Mr. Dunn's writing with the rest of the chamber:

"Our Flag-911"

"Old Glory" what a beautiful sight, as she rises in the morn and gets put away at night.
For over 200 years she has waved in the wind, battled the rain and the snow again and again
She had been tattered, torn, ripped and burned, but bounces back each time with a lesson learned.
She has been spit on, trampled and even wollered in the dirt, yet she feels no pain and shows no hurt.
She is loved, adored, worshiped and praised and she will continue to fly for a million more days.
She is in foreign lands, across the sea, she's at the ball park waving "oh say can you see"
She's at the federal building flying high, she's at each veteran's final goodbye.
She flys at half mast where tragedy has been, but you can bet tomorrow, she'll fly high again.
So wherever you see her salute her and brag and remember those that died for that "rugged old flag."

ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF CYPRUS

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mrs. MALONEY. Mr. Speaker, I rise today to honor of the 44th Anniversary of the Republic of Cyprus. It was on October 1, 1960, that Cyprus became an independent republic after decades of British colonial rule.

I am very fortunate and privileged to represent Astoria, Queens—one of the largest

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

and most vibrant communities of Greek and Cypriot Americans in this country. It is truly one of my greatest pleasures as a Member of Congress to participate in the life of this community, and the wonderful and vital Cypriot friends that I have come to know are one of its greatest rewards.

Since the last celebration of Cyprus Independence Day, Cyprus has experienced events of major historic importance. On May 1, Cyprus became a full-fledged member of the European Union along with nine other countries from Central and Eastern Europe. Cyprus's accession to the EU is a historic achievement. As an EU member, Cyprus will represent European values and policies and, at the same time, will work toward even stronger transatlantic ties with the United States. This has been a long time in coming, and I believe that Cyprus will have much to contribute to the EU.

However, the commemoration of Cyprus' Independence Day this year, as in the past, is clouded by the fact that the Mediterranean island nation's territory continues to be illegally occupied by the Turkish military forces, in violation of UN Security Council resolutions. Unfortunately, the proposed UN reunification plan did not provide for a functional or durable solution to the island's division. Seventy-six percent of Greek Cypriot voters opposed it, citing concerns about security, property restitution, and the structure of the proposed government.

Cyprus and the United States have a great deal in common. We share a deep and abiding commitment to democracy, human rights, free markets, and the ideal and practice of equal justice under the law.

In fact, Cyprus was among the first nations to express its solidarity with the U.S. immediately following the September 11th terrorist attacks. Cyprus has taken many concrete and active steps to target the perpetrators, collaborators and financiers of terrorism. For example, Cyprus has endorsed and implemented all resolutions and decisions of the U.N. Security Council, the EU and other International Organizations pertaining to the fight against terrorism.

Unfortunately, Cyprus is not without its own difficult history. 37 percent of this nation is still occupied by a hostile foreign power, and it has been for 30 years. On July 20, 1974, Turkey invaded Cyprus, and to this day continues to maintain an estimated 35,000 heavily armed troops. Nearly 200,000 Greek Cypriots, who fell victim to a policy of ethnic cleansing, were forcibly evicted from their homes and became refugees in their own country.

Despite the hardships and trauma caused by the ongoing Turkish occupation, Cyprus has registered remarkable economic growth, and the people living in the Government-controlled areas enjoy one of the world's highest standards of living. Sadly, the people living in the occupied area continue to be mired in poverty.

Last year, the Turkish occupation regime partially lifted restrictions on freedom of movement across the artificial line of division created by Turkey's military occupation. Hundreds of thousands of Greek Cypriots and Turkish Cypriots have crossed the UN ceasefire line to visit their homes and properties or areas of their own country that were inaccessible to them for nearly 30 years. The peaceful and cooperative spirit in the person-to-person, family-to-family interactions between Greek Cypriots and Turkish Cypriots bodes well for the successful reunification of Cyprus.

In the times we are facing, it is clear that divisions among people create harmful, destructive environments. We must find a peaceful solution to the Cyprus problem. The relationship between Cyprus and the United States is strong and enduring, and we stand together celebrating democracy and freedom.

RECOGNIZING ALAN J. SKOBIN

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MCKEON. Mr. Speaker, I rise today to pay tribute to a very special man, Alan J. Skobin, who has a record of community and civic service that spans more than thirty years. His tireless efforts have made a significant, positive impact on the community and he will be honored on October 9, 2004 with the coveted "Twice A Citizen" Award from the Los Angeles Police Reserve Foundation for his extraordinary volunteer work.

Commissioner Skobin has served as a Reserve Deputy Sheriff with the Los Angeles County Sheriff's Department for more than twenty years, reaching the rank of Reserve Commander. His experience includes patrol and detective work as well as administration. He has also served on the Department's Valor Awards Evaluation Committee, and has received the coveted Distinguished Service Award from the Sheriff's Department for his overall service. Prior to joining the Sheriff's Department, he served as a Reserve Police Officer with the San Fernando Police Department for eight years, attaining the rank of Sergeant. He is also a graduate of the Federal Bureau of Investigation Citizens Academy.

Commissioner Skobin has also been recognized by a number of private organizations, including the California Peace Officers Association and Baseballers Against Drugs, which honored him with their Positive Image Award.

Alan J. Skobin was appointed to the Board of Police Commissioners by Mayor James K. Hahn in July of 2003, and was immediately elected Vice President. He previously served as Vice President of the Los Angeles City Board of Transportation Commissioners.

Commissioner Skobin is also a member of the State of California New Motor Vehicle Board, where he has served as Board President, chair of the Policy and Procedures Committee and a member of the Administration Committee. He previously served as a Commissioner on the Los Angeles County Institutional Inspections Commission. He is a founding director and member of the Executive Committee of the Sheriff's Youth Foundation of Los Angeles County, which funds education and intervention programs for thousands of at-risk youth each year, and has served as chair of the Youth Foundation's annual Salute to Youth Dinner. Commissioner Skobin is also on the Board of Directors, and is Website and Technology Chair, of the Los Angeles Business Council. He is a past member of the International Board of Trustees of Hugh O'Brian Youth Leadership (HOBY), an international leadership development program for high school students, the Western Region Advisory Committee to the United States Secretary of the Air Force Public Affairs Office, the Los Angeles Junior Chamber of Commerce, which recognized his leadership and service as Chair of the Justice and Protective Agencies Committee, and the Mid-Valley Community Police Council, where he served as President. A cancer and brain tumor survivor himself, Commissioner Skobin and his family are active with Padres Contra El Cancer, a nonprofit organization that improves the quality of life for children with cancer and their families.

Commissioner Skobin is a member of the San Fernando Valley Bar Association, the Los Angeles County Bar Association, the American Bar Association, the American Corporate Counsel Association, and is admitted to practice law in both state and Federal courts. Commissioner Skobin has also served as a member of the Judicial Election Evaluations Committee of the Los Angeles County Bar Association, and was an extern in the United States Federal District Court. Commissioner Skobin is Vice President and General Counsel of Galpin Motors, Inc., and has been in management with the Galpin organization since 1977. He has direct responsibility for, or is integrally involved with, a number of significant functions, including legal, information technology, risk management and insurance, real estate, investments and human resources.

Commissioner Skobin and his wife, Romi, are longtime San Fernando Valley residents. They, along with their two children, Jeff and Jennifer, have made community and civic endeavors an integral part of their lifestyle.

Because he exemplifies all that is right with our nation's grassroots volunteer efforts, I am pleased to have the opportunity to recognize Alan J. Skobin as a dedicated, compassionate and committed American.

CLEMENT J. ZABLOCKI ELEMENTARY SCHOOL IS DESIGNATED AS A 2004 BLUE RIBBON SCHOOL

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. KLECZKA. Mr. Speaker, it is with great pride that I acknowledge the outstanding achievements of the children, parents, teachers and principal at the Clement J. Zablocki Elementary School. The designation of a 2004 No Child Left Behind-Blue Ribbon Award honors only those schools that have successfully achieved excellence in academics and have closed the achievement gap in academic proficiency for all of their students.

The designation of the Clement J. Zablocki Elementary School is particularly meaningful to me because it is named for the former Congressman Clement J. Zablocki who was my predecessor in the United States Congress, and an effective and beloved Representative who served the citizens of Milwaukee's south side for many years.

It is evident that the principles of accountability, focusing on what works, increased flexibility, reduction of bureaucracy and the empowerment of parents, has been successfully integrated into the daily philosophy of the Zablocki Elementary School.

Under the outstanding leadership of Dr. Patricia Waldia this school has not only achieved academic excellence for the students, but has initiated innovative and creative ways of having the children of Zablocki Elementary School involved with community organizations, agencies and businesses that have enriched their lives and broadened their view of the community and world. Dr. Waldia has successfully established bonds between her staff, parents and the community that support all of the goals of the school.

The Clement J. Zablocki Elementary School is only the 5th elementary school in the Milwaukee Public Schools system to be designated as a Blue Ribbon school since 1982. This is an extraordinary and remarkable achievement.

I ask my colleagues in the House of Representatives to join me in paying tribute to the children, teachers and principal at the Clement J. Zablocki Elementary School and commend their efforts in providing a standard of excellence in the field of education.

RECOGNIZING THE WOMEN IN THE LAW FORUM

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Ms. GINNY BROWN-WAITE of Florida. Mr. Speaker, I rise today on behalf of the Congressional Caucus for Women's Issues to recognize the Women in the Law forum being hosted by the Women's Caucus on October 6, 2004. At this forum, we honor the achievements of the first women Justices of the United States Supreme Court, the Honorable Sandra Day O'Connor and the Honorable Ruth Bader Ginsburg, for their pioneering achievements and service to our nation as members of the highest court in the land.

Justice O'Connor was the 102nd Supreme Court Justice to be named to the bench and the first female member of the Court. A quietly determined woman who blazed new trails for her gender, Justice O'Connor is a role model for all Americans. She has left a thoughtful and enduring mark on American Jurisprudence, which has been molded through her wisdom and strong character.

Justice Ginsburg, the 107th Justice to serve on the Supreme Court and second woman Justice to be named to the bench, has advanced the development of our Nation's jurisprudence in order to make our society more equitable for both women and men. Justice Ginsburg brought with her a career of advocacy and experience which she effectively utilizes to empower Americans who have been historically disadvantaged.

Today, women owe their success in the legal profession, in part, to the groundbreaking actions of the women who came before us. Pioneers, such as Belva Lockwood and Susan B. Anthony, defied stereotypes and it is on their shoulders we stand today. Justices O'Connor and Ginsburg continue in this pioneering tradition as women in the law, distinguishing themselves with brilliant careers and exceptional legal minds.

It is an honor for the Congressional Caucus on Women's Issues to recognize Justices O'Connor and Ginsburg for their achievements.

On behalf of the Congressional Women's Caucus leadership, Representative SHELLEY MOORE-CAPITO, Representative LOUISE M. SLAUGHTER, Representative HILDA L. SOLIS, and every member of the Women's Caucus, I thank Justice O'Connor and Justice Ginsburg for their courage, fortitude, and perseverance. They both serve as inspirations to every woman in America.

HONORING BOBBY SHERMAN

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McKEON. Mr. Speaker, on October 9, 2004, the Los Angeles Police Reserve Foundation will recognize Bobby Sherman for his commitment and dedication to the Los Angeles County Reserve Foundation. He will be presented with the coveted "Twice A Citizen" Award for his extraordinary volunteer work.

Reserve officers are volunteers who supplement the deployment of full-time officers by performing a wide range of duties, including working as uniformed patrol officers, desk officers, detectives, chaplains and community-relations officers. During 2003, reserve officers donated 200,000 hours of service, the equivalent to more than 5 million dollars in officer salaries. The LAPD Reserve Officers live up to their motto; "To Be A Reserve Is To Be Twice A Citizen."

Bobby Sherman is one of the most successful and diversified figures in the entertainment industry. The first performer to star in three television serials before the age of 30, he has gone on to earn a fine reputation not only as an actor and singer, but as a producer, director and composer as well.

His career success allows him to devote much of his time and energy to charitable and community activities. He is a certified EMT Instructor, a technical reserve officer with the Los Angeles Police Department and a Reserve Deputy Sheriff with the San Bernardino County Sheriff's Department. He has been named LAPD's Reserve Officer of the Year for 1999, received the FBI's Exceptional Service Award and is the Vice Commander of the Court Services Reserve Unit for the San Bernardino County Sheriff. For fifteen years, he has served as a medical training officer at the Los Angels Police Academy, instructing thousands of police officers in first aid and CPR. Through The Bobby Sherman Volunteer EMT Foundation, he provides free first aid and emergency medical services at dozens of charitable and community events each year.

Bobby began his career on ABC's, Shindig, the first prime time rock and roll showcase. He starred for two seasons as Jeremy Bolt in ABC's Here Comes the Brides and then his own series Getting Together. He was a frequent guest star on the series Murder, She Wrote and Frazier and appeared in the motion pictures Wild In Streets, He is My Brother and Get Crazy. His records includes Hey Little Woman, Easy Come Easy Go, Julie Do Ya Love Me? and Cried Like a Baby, which along with others sold more than 10 million records and won seven gold singles and five gold albums. His Christmas album remains a perennial favorite and personal appearances sold out the Houston Astrodome and The Los Angeles Forum.

Bobby's autobiography Bobby Sherman:—Remembering You has been on several bestseller lists. He built and maintains a 24-track digital recording studio where he composed, arranged and performed the musical scores for many television programs and videos. He lives in San Fernando Valley and is the father of two sons, Christopher and Tyler.

Bobby is a stellar example of the statement "to protect and serve." We can only say a simple and heartfelt thank you to Bobby Sherman and to all the men and women who courageously protect and serve the citizens of America.

EXPRESSING SENSE OF CONGRESS REGARDING OPPRESSION BY CHINA OF FALUN GONG IN UNITED STATES AND CHINA

SPEECH OF

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. WOLF. Mr. Speaker, I strongly support H. Con. Res. 304, expressing the sense of Congress regarding oppression by the Government of China against the Falun Gong in the United States and in China. I urge all members of Congress to support this important legislation.

The United States must stand up for basic decency and human rights and for men and women who are being persecuted on account of their religious or political beliefs. As a congress, our policy must be a policy that helps promote human rights and freedom, not a policy that sides with dictators who oppress their own citizens.

H. Con. Res. 304 calls on the Government of China to stop the harassment of Falun Gong practitioners in the United States, calls for the immediate release from detention of all prisoners of conscience, and calls on the Attorney General to investigate reports that Chinese officials in the United States have committed illegal acts while attempting to intimidate Falun Gong practitioners.

Those who are persecuted for their religious or political beliefs around the world are encouraged when the United States speaks out on their behalf. America must be true to its founders and continue to stand up for basic decency and human rights. Thomas Jefferson said the God who gave us life, gave us liberty. Every man and woman—with inalienable rights. Those are the rights, not just for those who are blessed to be Americans, but for every man, woman and child in this world.

I call on every member of Congress to vote in favor of this important resolution.

CONGRATULATIONS TO MISSOURI TEACHER OF THE YEAR, LINDA EISINGER

HON. IKE SKELTON

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. SKELTON. Mr. Speaker, let me take this opportunity to congratulate Mrs. Linda Eisinger for receiving the Missouri Teacher of the Year Award.

Mrs. Eisinger was born on October 8, 1951, in Independence, Missouri. After graduating from Raytown High School, she attended Central Missouri State University where she graduated in 1973 with a degree in Elementary Education. In 1977, she received a Masters degree in Education from Central Missouri State University.

Mrs. Eisinger has been a teacher for over three decades, and this year she begins her 27th year as a teacher in Jefferson City. Currently, she is a third grade teacher at West Elementary School in Jefferson City.

Last spring, Mrs. Eisinger was chosen from more than 100 applications as the Jefferson City District's Teacher of the Year. Then, out of a group of six teachers competing for the State honor, she was chosen as the Missouri Teacher of the Year. As Missouri's Teacher of the Year, Mrs. Eisinger automatically will be entered in the National Teacher of the Year Competition.

Mr. Speaker, once again, I wish to extend my congratulations to Mrs. Linda Eisinger. It is with great pride that I honor her for being named the Missouri Teacher of the Year.

OXI DAY SPEECH

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mrs. MALONEY. Mr. Speaker, I rise to join the Hellenic-Americans and Philhellenes in my district and throughout the country in celebrating "OXI Day (No Day)," which falls on the 28th of October. This year marks the 64th anniversary of a very important day in Hellenic history, the day on which brave Greek patriots said "No" to fascism, "No" to injustice, and "No" to slavery.

For those individuals who lived through that momentous period and their descendants, many of whom live in the 14th Congressional District of New York, "OXI Day" is more than a memory: It is the embodiment of Hellenism and its highest ideals.

On October 28, 1940, a terrifying sound went up throughout all Greek cities and towns, the sound of sirens and klaxons announcing the invasion of Greece by the Nazis. Walls that before had echoed only with the tolling of church bells now reverberated with the din of alarms.

At a time when Europe was descending into the inferno of another world war, the people of Greece did not panic. Men went calmly to their closets and retrieved their military uniforms and weapons. Women went about their necessary tasks, and the children assisted as they were able. With level-headed determination and steadfast resolve, the citizenry of Greece mobilized against the coming invaders and delivered their resounding "No!" to the Axis aggressors.

On OXI Day, the people of Greece chose the harder path, the path of resistance. If they had opened their gates to the invaders, much bloodshed and many deprivations might have been avoided. That brave generation of Hellenes, refused to submit to oppression, even at the cost of their homes, their land, and their lives. They chose to fight and even to die so that their children and the children of other nations might live in liberty. Theirs was an act of self-sacrifice that clearly proclaimed the humanitarian ideals of their Orthodox Christian faith and their ethnic heritage.

Demonstrating poise under pressure, the heroes of that period fought against tyranny and delayed the Axis onslaught in the Balkan Peninsula. The Greek nation which said "OXI" contributed to the eventual downfall of the Fascist powers in Europe.

This year the Hellenic community is celebrating another great moment in their history, having successfully hosted a magnificent and peaceful Olympics at a time when terrorism imperils every public gathering. The smallest nation to ever host the Olympics, Greeks once again showed that they always rise to the occasion.

Mr. Speaker, I ask my colleagues to join me in saluting the heroes of OXI Day. In their brave words and deeds we see all of the highest virtues of Hellenic heritage: Passion for justice, courage at a time of trial, unity in the midst of conflict, and willingness to sacrifice one's life for the good of others. On this day, we thank Greece for saying "OXI."

RECOGNIZING ROBERT T. "TOM" FLESH

HON. HOWARD P. "BUCK" McKEON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MCKEON. Mr. Speaker, on October 9, 2004, the Los Angeles Police Reserve Foundation will recognize Robert T. "Tom" Flesh for his untiring and committed efforts on behalf of his community, the county of Los Angeles, and the State of California. He will be presented with the coveted "Twice A Citizen" Award for his extraordinary volunteer work, as well as his long record of dedicated support and service to the law enforcement community.

Tom is the Vice Chairman of the Los Angeles County Sheriff's Youth Foundation, an organization dedicated to the creation and implementation of effective programs for at-risk children and active intervention with their development. He also serves on the LA County Sheriff's Office Foundation, and he is on the Board of Directors of the Sinai Temple in Los Angeles. For many years, he served the West Los Angeles Little League as a commission, coach, and held offices on the Board of Directors. In addition, he is a member of the Board of Councilors in the School of Gerontology at the University of Southern California, the State Bar of California, a USC Associate, a member of the Los Angeles Business Council and many other professional and charitable organizations.

Mr. Flesh is a Public Member and President Emeritus of New Motor Vehicle Board of California. Tom was originally appointed by former Governor Pete Wilson and later reappointed by former Governor Gray Davis. Among his many accomplishments was the creation of a forum for industry manufacturers and dealers to dialog and exchange ideas in an effort to foster good relations. The forum has received national attention and has now been replicated in several states.

Tom's community leadership began in Los Angeles, where he attended local public school, graduating from Palisades High School and the University of Southern California. Later he attended Loyola Law School where he graduated with a Juris Doctorate Degree in 1975.

Tom started his career with Thrifty Oil Company, where he rose to the level of senior Vice President/General Counsel. Today, he is President and CEO of Safety Investment Company and Community Asset Management, a national real estate acquisition, development and management company emphasizing manufactured housing communities. The company has been in business since 1989.

Tom Flesh and his wife, Judy, live in Los Angeles. They, along with four children, Daniel, Jacqueline, Jamie and Michelle make community and civic endeavors a priority in their lives.

Because he exemplifies all that is right with our nation's grassroots volunteer efforts, I am pleased to have the opportunity to recognize Tom Flesh for his dedication, compassion and commitment.

TRIBUTE TO COLONEL MICHAEL SMITH ON HIS RETIREMENT FROM THE 440TH AIRLIFT WING

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. KLECZKA. Mr. Speaker, on Saturday, October 23, 2004, the 440th Airlift Wing will be honoring its Commander, Colonel Michael L. Smith, as he enters retirement following an illustrious thirty-three year career in the Air Force and Air Force Reserve.

Growing up in the cornfields of Iowa, Colonel Smith looked to the sky and dreamed of flying and serving his country. He pushed himself academically and entered United States Air Force Academy as a cadet in 1967, distinguishing himself as a student in engineering management. Following graduation, he attended pilot training, served actively in the Air Force for four years, and then transferred to the Air Force Reserves where he utilized what he learned at the academy by serving as an advisor to the director at the Headquarters of the Military Airlift Command and Air Force Reserves.

For the past nine years, he has become a fixture in Milwaukee as the 440th's Commander. He has trained his base and troops to be ready for any challenge that may come. Committed to the Air Force motto, "integrity first, service before self, and excellence in all [the members] do," Colonel Smith has shown himself to be an embodiment of those core values and has expected the same from those who serve with him.

Although Col. Smith is leaving his current post, he will continue to serve the men and women of the Armed Forces as an Ombudsman with the National Committee for Employer Support of the Guard and Reserve, ensuring that Wisconsin National Guard Members and Reservists receive the necessary support from their employers.

The same precision, enthusiasm and skill he shows when flying and leading the Airlift Wing will be useful when he is pursuing his other passions: golf, woodworking and photography with his wife Joni, and children, Brett and Abigail.

It is with both great appreciation and sadness that I join the 440th Airlift Wing, his family, and Milwaukee area as a whole in thanking Col. Michael Smith for his 33 years of exemplary service. I wish him all the best in his future endeavors.

PERSONAL EXPLANATION

HON. GINNY BROWN-WAITE

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. GINNY BROWN-WAITE of Florida. Mr. Speaker, on October 4, I was detained in Florida due to a speaking engagement and as a result, missed three votes. I ask that my absence be excused and the CONGRESSIONAL RECORD show that had I been present:

For rollcall No. 487—the motion to suspend the rules and pass S. Con. Res. 76, I would have voted "aye;" for rollcall No. 488—the motion to suspend the rules and pass S. 1814, I would have voted "yea," and for rollcall No. 489—the motion to suspend the rules and pass H.R. 567, I would have voted "yea."

INDIANA STATE DELEGATION WORKING TO PROMOTE CIVIC EDUCATION

HON. BARON P. HILL

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. HILL. Mr. Speaker, Alexander Hamilton once said, "Here, sir, the people govern." These words grace the entrance to the House of Representatives to remind us of the promise of our representative democracy. The Founders of this nation understood that a free society must rely on the knowledge, skills, and virtue of its citizens and those serving in public office on their behalf. That is why civic education in our schools is so important. In my state of Indiana, and throughout the nation, I am pleased to learn that a proactive effort has recently been initiated to improve civic learning and instruction.

On September 20–22 of last year the First Annual Congressional Conference on Civic Education was launched. The conference was sponsored by the Alliance for Representative Democracy and co-hosted by the four leaders of the U.S. Congress.

One of the very positive outcomes of the congressional conference was the establishment of state delegations that would return to the state to enact specific policies designed to restore the civic mission of our schools. I would like to recognize John J. Patrick, the facilitator of the Indiana delegation, for leadership in working to design an action plan to improve civic education in our state. These state activities include: (1) organizing conferences for professors of Indiana colleges and universities to emphasize civic education in the preparation of teachers; (2) producing reports about exemplary practices of civic education; (3) supporting programs to improve teaching and learning about the United States Constitution in schools, and (4) building a network of organizations and individuals to promote civic education in Indiana.

Mr. Speaker, I look forward to the success of the Indiana civic education delegation and their participation at the Second Annual Congressional Conference on Civic Education on December 4–6 of this year.

TRIBUTE TO 100TH ANNIVERSARY OF TRINITY EVANGELICAL LUTHERAN

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. UPTON. Mr. Speaker, I rise today to pay tribute to the 100th year anniversary of the Trinity Evangelical Lutheran Church in Kalamazoo, Michigan. This celebrated Church has stood and continues to stand as a symbol of faith, hope, and reverence.

The Trinity Evangelical Lutheran Church began as a mission congregation on December 4, 1904. The first service was held at "The Auditorium" on Portage Street, and the church was referred to as the English Lutheran in the 1905 Kalamazoo City Directory. When the congregation had grown to need a larger facility, the present site was purchased on April 11, 1926 for $7,200.00. The "new" Trinity Lutheran Church construction began September 12, 1927, with the cornerstone being laid on Reformation Sunday. The building was dedicated June 10, 1928, and 262 members moved into the new building.

Another stint with over crowded conditions and the need for more space led to another building project—the 34-room Parish Education Building. The cornerstone was laid in 1956 and the new $160,000.00 project was dedicated on October 13, 1957. Several projects over the years have changed the appearance of this wonderful church building, both "inside and out," bringing it to the current configuration 100 years later.

It goes without mention that God has richly blessed Trinity Lutheran Church in Kalamazoo and there is and always has been much talent, enthusiasm, and dedication among Trinity's members. Of even greater significance has been their repeated desire for and response to the Word of God for direction.

RECOGNIZING THE RETIREMENT OF CAPTAIN ROBERT J. APRILL

HON. MIKE ROGERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. ROGERS of Michigan. Mr. Speaker, I rise today to recognize the retirement of Captain Robert J. Aprill of the United States Naval Reserve. Captain Aprill joined the Reserve Officer Candidate program in February of 1974 while pursuing dual degrees at Eastern Michigan University in Political Science and History. After his graduation, Captain Apri! attended Officer Candidate School in Newport, Rhode Island and received his commission in the Naval Reserve in December 1975.

In his twenty nine years with the Naval Reserves, Captain Aprill has served America honorably. His many reserve duty assignments included: Training Officer and Executive USS *W.S. Sims*, Commanding Officer USS *Elmer Montgomery* and Gaining Command Liaison Officer USS *Elmer Montgomery*.

Mr. Speaker, since 1915 it has been the mission of the United States Naval Reserve to maintain a state of constant readiness and availability, able to deploy rapidly and effectively in times of peace or war. With the new threats facing America in the War on Terror, this mission has been paramount to America's security, but it cannot be accomplished without dedicated civilian soldiers like Captain Aprill. I would like to ask my colleagues to join me in thanking Captain Aprill for his service to America and to wish him the best in his retirement.

9/11 COMMISSION IMPLEMENTATION

HON. TOM DeLAY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. DELAY. Mr. Speaker, in this, the final week of this legislative session, Congress will cap off two years of diligent, important work protecting America's security, prosperity, and families. We have strengthened and improved health care for American seniors, funded the liberation of two enslaved nations, protected our homeland, outlawed partial-birth abortion and protected pregnant mothers, held the line on spending, and provided pro-growth tax relief to millions of American families.

And this week, the House will finish its work on the most sweeping homeland security and intelligence reform legislation in decades: the 9/11 Commission Implementation Act.

When the 9/11 Commission first released its report, many sought for Congress to either rubber-stamp or reject outright the commission's findings. But we in the House took a novel approach: we read them. And we studied them, in six committees, in more than 20 hearings.

The bill has been marked up by five full committees—Armed Services, Intelligence, Judiciary, Government Reform and Oversight, and Financial Services—and two more committees have approved it without markup. In other words, Mr. Speaker, we set out to craft a comprehensive, thoughtful, and valuable reform package, and that's exactly what we've got.

The 9/11 Commission Implementation Act takes the findings of the commission, shapes them into legislative language, and then adds in necessary details where the report lacked specifics. The 9/11 Commission's report is not just 41 recommendations. It is 567 pages of problems we face defending America. This bill goes right to those problems and begins the process of solving them one at a time.

The bill will reform America's intelligence infrastructure by establishing a National Intelligence Director and a National Counter-Terrorism Center, both strong recommendations of the commission. We will also include provisions that will help our intelligence and homeland security officers better fight terrorists, prevent them from ever endangering the American people, and prosecute those who do. And we will work to better secure our borders from penetration by terrorists, and make it easier for authorities to throw terrorists out once they do get in.

These are important reforms, all necessary to the protection of the American people and our victory in the war on terror, the most critical priority of this Congress and the entire government. Passage of these reforms will mark a fitting close to the legislative session, and, I should add, the debate surrounding it will serve—on its own—as a fitting reminder to the American people that those of us in Congress are more interested in winning the war than just winning the next election.

PERSONAL EXPLANATION

HON. CHRISTOPHER SHAYS

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. SHAYS. Mr. Speaker, on October 4, 2004, I had a meeting in my district and, therefore, missed three recorded votes.

I take my voting responsibility very seriously and would like the CONGRESSIONAL RECORD to reflect that, had I been present, I would have voted "aye" on rollcall Vote No. 487, "aye" on rollcall Vote No. 488, and "aye" on rollcall Vote No. 489.

PERSONAL EXPLANATION

HON. ROB PORTMAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. PORTMAN. Mr. Speaker, yesterday I was absent attending to a previously scheduled commitment and missed the votes on rollcall Vote No. 487, on S. Con. Res. 76, Recognizing November 2, 2003 as "A Tribute to Survivors" at the United States Holocaust Memorial Museum; rollcall Vote No. 488, on S. 1814, to Transfer Federal Lands Between the Secretary of Agriculture and Secretary of the Interior; and rollcall Vote No. 489, on H. Res. 567, Congratulating the American Dental Association for sponsoring the second annual "Give Kids a Smile" program.

Had I been present, I would have voted "yea" on rollcall Vote No. 487, "yea" on rollcall Vote No. 488; and "yea" on rollcall Vote No. 489.

IN MEMORY OF TROY H. LAGRONE

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. BURGESS. Mr. Speaker, my remarks today are to honor my friend, Troy H. LaGrone, retired President of Ben E. Keith Beers. Troy was a fixture in both the business and academic community in my hometown of Denton.

Troy LaGrone was a graduate of Carthage High School and later attended Draughton's Business College in Dallas before joining the Ben E. Keith Company as a clerk in 1953. After 47 years of service, in 2000, Mr. LaGrone retired as President of the company, but he continued to serve on its board of directors and for the company's Foundation.

In addition to his extensive business career, Mr. LaGrone had served in the U.S. Army and was consistently involved in local and community projects. Throughout the years, Troy served on the board of directors of the Denton State School, Denton Orchestra, Denton Public Schools Foundation and North Texas Fair. He organized the President's Fellows of the University of North Texas and chaired the President's Council. He also served on the President's Council of Texas Woman's University.

Mr. Troy LaGrone is survived by his wife, Sarah LaGrone and their three children, Joanna LaGrone-Headrick, Robert A. Strawn and James A. Strawn; one brother, Joe Ben LaGrone of Oak Ridge, Tennessee; four grandchildren; and one great-grandson.

As a Texan and a friend, I can say we were blessed to have had him with us as a guide, to encourage us and to direct our paths. I am glad I had the chance to know him, and I honor his life here today.

PERSONAL EXPLANATION

HON. ELTON GALLEGLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. GALLEGLY. Mr. Speaker, on Monday, October 4, I was unable to vote on the motion to suspend the Rules and agree to S. Con. Res. 76, (rollcall No. 487), on the motion to suspend the Rules and pass S. 1814 (rollcall No. 488), and on the motion to suspend the Rules and agree to H. Res. 567 (rollcall No. 489). Had I been present, I would have voted "yea" on all three measures.

RECOGNIZING THE CONTRIBUTIONS OF JOHN A. PEREZ

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Ms. SOLIS. Mr. Speaker, today I rise to recognize John A. Perez, the Director of Political Affairs for the United Food and Commercial Workers Union Local 324.

Mr. Perez has spent over a decade working as a labor organizer and political operative. He initially gained an appreciation for politics while growing up in the working class community of Highland Park, a nearby suburb of Los Angeles. From a young age, he appreciated the impact of politics on the lives of working people.

He channeled that appreciation into a career helping working people organize and gain political power. After graduating from the University of California Berkeley, John began working on designing and organizing education programs for several community-based organizations and unions. In the 2002 election, he served as Political Director of the California Labor Federation of the AFL–CIO, which represents over 2.1 million working families. He co-chairs the California Democratic Party Finance Committee and is an elected member of the Democratic National Committee.

In addition to his efforts to improve the lives of working families, Mr. Perez is very active in other areas including AIDS Project Los Angeles, the CORO Foundation, and the California League of Conservation Voters.

He has been an asset to the labor movement and numerous Democratic organizations. I commend him for his dedication to improving the lives of hard working people throughout Southern California.

HONORING PETER H. DIAMANDIS

HON. W. TODD AKIN

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. AKIN. Mr. Speaker, I rise today to honor Peter H. Diamandis, the X Prize Foundation and SpaceshipOne. The X Prize Foundation is based in St. Louis and SpaceShipOne is the now famous commercial rocket which won the Foundation's $10 million award for successfully completing two trips into space within a 14-day time span on October 4, 2004. Without the leadership and initiative of Peter H. Diamandis, president and founder of the Foundation, this historic feat would not have been accomplished.

Resurrecting the ingenuity of the Spirit of St. Louis Organization and the legacy of Charles Lindbergh, the X Prize Foundation ensures that Americans will continue to lead. The X Prize Foundation utilized the inspiration and "can-do spirit" so characteristic of other great

American entrepreneurs and innovators. Astounding the world and catapulting the commercial aviation industry into a new economic stratosphere, Charles Lindbergh's flight in 1927 was truly transformative. Lindbergh proved that the vision and leadership of the individual and private industry compose the greatest impetus to secure new technology and expand the horizons of human accomplishment. Seventy-seven years later, the X Prize Foundation provided the opportunity for pilots Brian Binnie and Michael Melvill to complete the two trips in order to claim the prize. With this most recent triumph, the horizon is no longer the objective, but rather the runway to the stars.

Beginning with the 1904 World's Fair, St. Louis has played an integral role in the aerospace industry. St. Louis has been home to the designers and builders of the beginnings of the Apollo Moon landings, the origin of Lindbergh's historic flight, a center of aerospace manufacturing and, most recently, the X Prize Foundation.

Mr. Speaker, I ask my colleagues to join me in honoring the initiative and ingenuity of the X Prize Foundation and the crew of SpaceShipOne for their great accomplishment of opening the door to the heavens more widely to everyone.

HONORING MRS. PAULA D. HAVERON, CONGRESSIONAL LIAISON REPRESENTATIVE

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Mrs. Paula D. Haveron, who retired on July 31, 2004, after completing over 42 years of Federal Service.

Mrs. Haveron began her Civil Service career in 1958 as a clerk-stenographer in the Office of Air Force Civil Engineers.

Having demonstrated her competence in working with Members of Congress and their staffs, Mrs. Haveron was selected for service in the Office of the Secretary of the Air Force, Legislative Liaison Inquiry Division, in 1960. Over the years, she served in numerous roles, culminating in her current duties as a Congressional Liaison Representative in 1997. In this capacity, Mrs. Haveron has been responsible for well over 100,000 constituent inquiries, from all 50 states and territories. In fact, she was the first civilian action officer to draft and successfully staff a Congressional response for signature by the Air Force Chief of Staff.

During her 42 years of work in the Office of Legislative Liaison, Mrs. Haveron has provided dedicated and professional service to both the U.S. Senate and the House of Representatives. She has developed close working relationships with many of our staffs, and her efforts have greatly enhanced congressional understanding of Air Force personnel matters. The distinctive accomplishments of Mrs. Paula D. Haveron highlight a long and distinguished career in the service of the Federal Government, and reflect great credit upon herself and the Department of the Air Force.

IN HONOR OF THE NORTH AMERICAN CONFERENCE ON ETHIOPIAN JEWRY

HON. JERROLD NADLER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. NADLER. Mr. Speaker, I rise today to pay tribute to the North American Conference on Ethiopian Jewry on the occasion of the first annual Adopt-A-Student reunion in Israel. On October 13th there will be a first-time reunion of Ethiopian Israeli graduates that were able to obtain education because of NACOEJ. Hundreds of American sponsors who provide support, correspondence and financial assistance have arranged to travel to Israel to take part in the celebration.

NACOEJ was founded in 1982 to help Jews cope with living conditions in Ethiopia; provide educational opportunities; aid with their emigration to Israel; and help aid the absorption of the émigrés into Israel's society while preserving their unique and ancient culture. In Ethiopia, NACOEJ is the sole supporter of compounds in Addis Ababa and Gondar Province providing 10,000 meals to babies, children, and pregnant or nursing women daily. In addition, it supports Jewish Day Schools for 3,500 students, as well as adult education, employment training, family food distributions and religious facilities.

In Ethiopia generations of Jews were always among the poorest inhabitants. Families faced poverty, famines and malaria epidemics while malnutrition, disease and civil war were a part of daily life. Yet since 1984, 2,200 Ethiopian Israeli university students have received NACOEJ living stipends that many times can mean the difference between dropping out and graduating. Many people that relocated to Israel are now leading free, fulfilling and fruitful lives because of the work this group does.

For their generosity, for their commitment to freedom and democracy in Ethiopia and Israel, and for their unyielding commitment to improving the lives of people in the worst of conditions, it is my privilege to honor the North American Conference on Ethiopian Jewry.

PERSONAL EXPLANATION

HON. ROBERT MENENDEZ

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MENENDEZ. Mr. Speaker, I was absent from votes in the House late in the afternoon on Thursday, September 30th, due to an unavoidable commitment, and, for the first two votes on Monday, October 4th, due to mechanical problems on the plane from Newark International Airport. Had I been present, I would have voted the following way:

On rollcall Vote No. 484, H.J. Res. 106, an amendment to the Constitution of the United States relating to marriage, "no";

On rollcall Vote No. 485, H. Con. Res. 501, honoring the life and work of Duke Ellington, "aye"

On rollcall Vote No. 486, H. Res. 792, honoring the United Negro College Fund on the occasion of the Funds 60th anniversary, "aye";

On rollcall Vote No. 487, S. Con. Res. 76, recognizing that November 2, 2003, shall be dedicated to "A Tribute to Survivors" at the United States Holocaust Memorial Museum, "aye"; and

On rollcall Vote No. 488, S. 1814, the Mingo Job Corps Civilian Conservation Center legislation, "aye".

MARRIAGE PROTECTION AMENDMENT

SPEECH OF

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, September 30, 2004

Mr. FRANK of Massachusetts. Mr. Speaker, during the debate last week on the amendment that would overturn Massachusetts' decision to allow same-sex marriage, I received permission to put into the RECORD an excellent article by M.V. Lee Badgett, refuting the shoddy scholarship of Stanley Kurtz, who has alleged with no logical basis that same-sex marriages have somehow caused a decline in heterosexual marriages in some European countries. I should note that Mr. Kurtz completely ignores, in his research, the most relevant example for us—civil unions in Vermont. But even with regard to the handful of European countries he analyzes, his work does not support the conclusion he is so desperate to sustain.

M.V. Lee Badgett has done a very good job of refuting Mr. Kurtz, and I was glad to have a chance to insert her analysis in the record of the debate from last Thursday. Unfortunately, her name was omitted. I recommend, Mr. Speaker, that those reading this insertion who are interested in the subject go to the CONGRESSIONAL RECORD for September 30, at page H7914, to read the article entitled "Will Providing Marriage Rights To Same-Sex Couples Undermine Heterosexual Marriage?" in which Ms. Badgett demolishes Mr. Kurtz.

A TRIBUTE TO SONNY HALL

HON. EDOLPHUS TOWNS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. TOWNS. Mr. Speaker, I rise in honor of Sonny Hall, the President of Transport Workers Union of America International, in commemoration of his 50 years of dedicated service to the union.

As the International President of TWU, Sonny Hall represents more than 110,000 men and women employed in the nation's transportation and allied industries. Hall was elected to this post at the Unions 19th Constitutional Convention in October 1993. Previously Sonny had served as President of TWU Local 100, the largest local union of TWU, representing nearly 38,000 members who operate the New York City subway system and both public and private bus lines.

Sonny, served in virtually every union position from Shop Steward on up. He was named President of Local 100 in May, 1985 and subsequently elected to full three-year terms in December 1985, 1988 and 1991. He joined TWU in 1950 as a Bus Cleaner for the old Omnibus Corp. and became a Bus Operator in 1957. In between, he served tours of duty in both the Marines and the Army.

Mr. Hall was elected an International Vice President at TWUs 17th Constitutional Convention in September 1985. He was appointed Executive Vice President by the International Executive Council on January 9, 1989, and was elected to that post for a four-year term at the Unions 18th Constitutional Convention in October, 1989.

Sonny was elected Secretary-Treasurer to the AFL–CIO Transportation Trades Department in 1995 and President of that organization in 1998. He was elected to the AFL–CIO's Executive Council at the Federation's Convention in October 1995. In addition to the aforementioned duties, Sonny is also a Board Member of the Mount Sinai Hospital Health and Safety Department; on the Board of Governors of the New York Chapter Arthritis Foundation, and the President's Advisory Council of the Deborah Heart and Lung Center of the Deborah Heart and Lung Foundation. He also serves as President of START (Safe Transit And Rail Transportation).

Sonny holds a B.A. from the Cornell Labor College and studied military and criminal law at the University of New Mexico. He is the son of a retired New York City Bus Operator, now deceased, who served the riding public for 30 years and was an early member of Local 100.

Mr. Speaker, after 50 years of dedicated service to the TWU, Sonny Hall is stepping down as International President of TWU. During this time, he has worked hard to improve the lives of TWU members, their members and all of organized labor. As such, he is more than worthy of receiving our recognition today and I urge my colleagues to join me in honoring this truly remarkable person.

COMMENDING Rx NEW HAMPSHIRE

HON. CHARLES F. BASS

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. BASS. Mr. Speaker, I rise to commend six months of operation of Rx New Hampshire, a website and program designed to bring affordable prescription drug costs to New Hampshire residents. Launched on April 5, 2004, it has already hosted more than 14,000 visits and is responsible for hundreds of anecdotal cases of Granite Staters using the information to save on their needed medications.

New Hampshire Governor Craig Benson is a leader on this issue and has demonstrated that affordable prescription drugs and safety are not mutually exclusive goals. In order to provide citizens with the confidence to use any of the screened pharmacies located in Canada listed on the State website at http://www.state.nh.us/governor/prescription/prescription.httnl, Governor Benson directed the New Hampshire Department of Health and Human Services to identify only those Canadian pharmacies that meet strict domestic and international accreditation standards. Onsite inspections of facilities in Canada have also been performed by independent New Hampshire pharmacists for each listed provider. Samples have been bought and shipped through the normal process and were analyzed for active ingredients at the NH State Police Forensic Laboratory and examined by the NH Board of Pharmacy. No significant difference between these drugs and a duplicate prescription list that was filled from local U.S. chain pharmacies was found.

For more information, I have linked the prescription drug section of my Congressional Web site at www.house.gov/bass to the Rx New Hampshire page and urge my House colleagues and all Americans to visit and examine the good work and solutions offered in the Granite State.

I again call on Congress and the Federal Drug Administration to adopt importation policies that do not stand in the way of such innovative and proven solutions to these growing costs. I am certain that Governor Benson and the New Hampshire Department of Health and Human Services would be willing to lend their expertise to any other State or Federal agency wise enough to follow their lead.

HONORING MRS. GREDIA GRECIA ALAJAR

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. PORTER. Mr. Speaker, I rise today to honor Mrs. Gredia Grecia Alajar, a retired teacher and Nevada's recipient of the Outstanding Older Worker Award. The work for and dedication to the community of retired individuals, like Mrs. Alajar, are inspiring to all of us as we seek to improve our districts and our States.

Mrs. Alajar, after a lifetime of teaching in the Philippines, Los Angeles, California, and Las Vegas, Nevada, returned to the workforce, this time as a member of health care delivery system. She is an integral part of the operations of the First Choice Home Health Care Agency.

Mrs. Alajar was born and raised in the Philippines, where she taught high school before moving to the United States in 1970. After overcoming the language barrier, she began teaching mentally challenged children. Her good works continued as she impacted the lives of many children facing challenges. I applaud Mrs. Alajar and her dedication to our community as an excellent role model for us all.

HONORING THE FORMER FIRST LADY OF NORTH SAINT PAUL, DOLORES SANDBERG

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Ms. McCOLLUM. Mr. Speaker, I rise today to honor a dear friend of mine, the former First Lady of North Saint Paul, Dolores Sandberg.

Dolores Sandberg passed away last month, surrounded by her family including her loving husband William, her daughter Karen and two grandchildren, Caroline and William.

Dolores was a woman of great character and strength. She always had a tremendous sense of humor and wit and was always positive even as she dealt with her illness.

She was also a woman who supported and loved North St. Paul and its people along with her husband Mayor Sandberg, our beloved mayor. I know that I am not the only one who will miss her kind words, warm smile and soft voice.

We will miss Dolores dearly. She led a life of dignity and warmth, and will be remembered fondly in the hearts of many.

HONORING THE ANI DANCE ENSEMBLE

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. SCHIFF. Mr. Speaker, Mr. WAXMAN and I rise today to honor "the Ani Dance Ensemble," part of the Armenian Educational and Cultural Society, Hamazkayin, as it celebrates its 30th anniversary. Hamazkayin was founded by a group of community leaders on May 28, 1928, in Cairo, Egypt with the objective of providing a sound education to the new generation and preserving the ethnic identity and cultural heritage of the Armenian people forced to live outside their homeland after the 1915 Armenian genocide.

Subsequently, Hamazkayin chapters sprouted throughout the Middle East, Europe, the United States, Canada, South America and Armenia to instill, perpetuate and preserve the centuries of Armenian culture. Hamazkayin has been successful in establishing secondary and higher educational institutions which have prepared scholars, literary figures, and community leaders throughout Armenia and the Diaspora. The establishment of "the Ani Dance Ensemble" achieves the objectives of Hamazkayin through their unique performances of traditional Armenian folk dances.

"The Ani Dance Ensemble" was established in 1974 in Los Angeles, California under the leadership of artistic directors/choreographers Ms. Suzy Barseghian-Tarpinian and Mr. Yeghia Hasholian. The ensemble has had more than 80 dances in its repertoire, and presently consists of 40 dancers. Since its inception it has performed and captivated audiences throughout California as well as cities across the nation including Washington DC, Chicago, Illinois; Falls Church, Virginia; and

Las Vegas, Nevada. In addition, the group has performed in Armenia and Karabagh in 1999, 2001, and 2004. The ensemble has also represented Armenian Culture through Armenian folk dances at the American Ethnic Day in Washington, DC in 1987. They are frequently invited by American, ethnic and Armenian organizations to perform at functions. As one of the oldest and most accomplished Armenian Dance Ensembles in the United States, it is recognized as one of the best ethnic dance groups in America.

It is our distinct honor to recognize the cultural contributions of "the Ani Dance Ensemble." I ask all members to join me in congratulating the "the Ani Dance Ensemble's" 30 years of performing traditional Armenian folk dances.

SENSE OF CONGRESS REGARDING HUMANITARIAN ASSISTANCE TO COUNTRIES OF CARIBBEAN DEVASTATED BY HURRICANES CHARLEY, FRANCES, IVAN, AND JEANNE

SPEECH OF

HON. KENDRICK B. MEEK

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, October 4, 2004

Mr. MEEK of Florida. Mr. Speaker, I rise today in support of H. Con. Res. 496, a bill I cosponsored, which expresses the sense of Congress on the need for humanitarian assistance to hurricane-ravaged Caribbean countries. As you know, Hurricanes Charley, Frances, Ivan and Jeanne struck the Caribbean, leading to widespread destruction and devastation.

This is a matter of great concern to me because many of my constituents in Dade and Broward Counties are from, have ancestors from, or have relatives presently living on the islands of the Caribbean. I also represent the largest Haitian constituency in the country. Of all the islands in the Caribbean, Haiti was particularly hard hit. As of today, the toll was more than 2,900 dead or missing and presumed dead. An estimated 300,000 Haitians are left homeless. The extent of this destruction has severely strained the already meager resources of the government, law enforcement authorities, and the United Nations forces in Haiti.

Haiti especially has suffered. Just yesterday, the Washington Post reported the heartwrenching story of Monise Alsenor, a Haitian mother, two of whose children are missing after water tore through her house and swept her family away. She could not reach her children as they yelled "save me!" in Creole. She and her husband spent the night holding onto a tree while the water tugged at them and the tree thorns ripped off their clothes. There are still reports of people living on roofs and of food and water shortages. The New York Times reported that two men were found lying in a semi-conscious state on the ground near an Argentine-run clinic. Doctors said that the two men appeared to have not eaten in several days and demonstrated signs of psychological trauma. I cite these accounts as examples of the terrible circumstances under which Haitians have suffered. Similar stories could sadly, easily be found thousands of times over throughout this poorest of nations and other countries in the Caribbean.

After Hurricane Jeanne ravaged the city of Gonaives, the international community's response was impressive. Trinidad-Tobago pledged $5 million in aid. Venezuela pledged $1 million and sent food, water, and medicine. Argentina dispatched rescue workers and supplies. Brazilians sent medical supplies. Chile also sent emergency aid, as did the Spanish, and the French.

Incredibly, the Bush Administration has been slow to respond to this tragedy. In the first several days after the disaster, as news reports out of Haiti detailed the widespread death, destruction and suffering, the United States was virtually silent while other nations, including European Union countries and Venezuela, immediately stepped in to help. For this reason, I wrote to President Bush to ask for substantial and immediate aid to help the flood victims. A copy of my letter follows this statement.

President Bush has proposed $12.2 billion for hurricane relief and recovery in Florida and the Southern states. $50 million of these funds are set aside for the Caribbean nations, and almost half is intended for Haiti. However, in the words of the Washington Post: "The amount set aside for the Caribbean nations is a pittance—not to mention a fraction of what was spent on U.S. military interventions in Haiti and Grenada." Millions more will be needed to help Haiti alone recover from Hurricane Jeanne's aftermath. The Bush administration should be supportive in a more substantial way.

It is because of these horrendous conditions that I support Congresswoman LEE's resolution. I call on this administration to provide greater humanitarian and emergency assistance to Haiti and other Caribbean nations.

SEPTEMBER 22, 2004.

President GEORGE W. BUSH,
The White House,
Washington, DC.

DEAR PRESIDENT BUSH: I write to bring to your personal attention a humanitarian crisis of the highest magnitude in Haiti and to ask that your Administration follow the lead of other nations and provide substantial and immediate assistance to help ease the desperate suffering of the people of Haiti.

Tropical Storm Jeanne caused devastating floods that ravaged this impoverished country this past weekend. As of this morning, the death toll in Haiti exceeded 800, with 1,000 missing. The death toll increases steadily as the water recedes.

Haiti is already the poorest nation in the Western Hemisphere, and this latest crisis has made conditions there even worse. This crisis also comes on the heels of ruinous floods four months ago when over 3,000 Haitians were killed, missing, or presumed dead. According to eyewitness accounts, there are bodies scattered in the streets. Some are forced to camp on the roofs of mud-filled homes. Unimaginably, families were sleeping in trees because of the destruction.

Numerous news reports document a desperate need for food, water, medicine, shelter and clothing. The Bishop of the Catholic Diocese of Gonaives said that the possibility exists that several thousand Haitians may die of starvation. "We have nothing," he is quoted by the Associated Press as saying. "About 80 to 90 percent of the houses are under water."

The present interim government of Haiti is totally unequipped and unable to deal with this massive crisis. It has neither the necessary resources nor the organization. Private voluntary groups are also reportedly overwhelmed by the enormity of this crisis, and there are numerous reports of mobs seizing aid vehicles. Transportation in Haiti, extremely difficult even in the best of times, is particularly crippled now.

However, despite the fact that this crisis struck Haiti over four days ago, the Administration reportedly has released only $60,000 in relief assistance to CARE. This is wholly inadequate to properly respond to this disaster. It pales compared to the $1.8 million provided by the European Union and $1 million and rescue supplies from Venezuela. Other nations are already acting. It is a national embarrassment that the United States of America should respond so slowly and inadequately to so great a crisis in a country so close to our shores. While your Administration assesses, monitors and watches, the suffering in Haiti gets worse.

Haiti does not need expressions of sympathy; it does not need promises. Haiti needs concrete help, and it needs it right now. Your Administration has a responsibility to immediately send significant U.S. emergency assistance to Haiti in the form of food, medicine, fresh water, clothing and emergency shelter and to immediately coordinate, with the international community, the manpower, transportation and distribution of these needed commodities to provide immediate relief to the people of Gonaives and the surrounding countryside.

The time frame for this aid should be hours, not weeks or months. Thank you for your attention and I look forward to your prompt reply to this urgent matter.

Sincerely yours,

KENDRICK B. MEEK,
Member of Congress.

PERSONAL EXPLANATION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. OWENS. Mr. Speaker, because of an emergency in my district, I missed rollcall votes Nos. 487, 488 and 489. If present, I would have voted "yea" on rollcall votes Nos. 487, 488 and 489.

THE INTRODUCTION OF THE RAILROAD SECURITY AND PUBLIC AWARENESS ACT OF 2004

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. CASTLE. Mr. Speaker, not enough is being invested in improving rail and transit security. We have seen massive efforts to shore up security in our skies and even on our roads, but efforts to boost rail security have not received the same federal commitment.

At present, rail and transit systems move 14 million passengers a day—almost eight times as many passengers as the U.S. aviation system, which carries 1.8 million air travelers daily. The federal government spends $9.16 per aviation passenger for aviation security yet only $115 million has been appropriated for transit security over the last 2 years, or six-tenths of a penny per passenger. Our national homeland security strategy is only as strong as our weakest link. This funding balance needs to be addressed in any comprehensive legislation implementing the 9/11 Commission's recommendations.

For these reasons, today Representative KIRK and I are introducing the Railroad Security and Public Awareness Act of 2004, which would enhance rail worker security training; fund station, train and infrastructure security projects; and increase passenger awareness of railroad security. Rail security is a priority for many Americans, who depend on rail for both inter-city travel and commuter service. I know that many states, including my own state of Delaware, rely on rail—for commuters, personal transportation, economic necessity, or a combination of services.

Few of us doubt that there is a real threat to our transportation systems, including the U.S. rail system. On April 2, the FBI and Department of Homeland Security (DHS) sent out an uncorroborated bulletin stating that terrorists could attempt this summer to conceal explosives in luggage and carry-on bags, such as duffel bags and backpacks. The bulletin indicated that such bombs could be made of ammonium nitrate fertilizer and diesel fuel, similar to what was used to blow up the Oklahoma City federal building in 1995.

Awareness among workers and riders must continue, so that Americans are well educated on the threats to our nation's rail systems, and our rail systems are well equipped to respond to an attack. The March attacks on Madrid's commuter rail system clearly shows that al Qaeda is targeting and will strike rail targets throughout the world using simplified methods of delivery.

Areas of vulnerability within our rail systems and the various delivery methods for attacks should be outlined and incorporated into a strong plan for employee training, passenger screening, and incident response. I realize that the answers to rail security are not the same answers to air security. Standard security precautions may not be practical for rail, many of which have the potential to drastically reduce ridership and cargo use.

My legislation would do the following:

(1) Require the Secretary of DHS to develop and issue detailed guidance for a rail worker security-training program to prepare front-line workers for potential threat conditions. Each railroad carrier would develop a rail worker security-training program in accordance with that guidance and submit it to the Secretary for approval. The legislation authorizes the Secretary of Homeland Security to make grants to railroads, hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges, and research centers, and State and local governments (for railroad facilities and infrastructure) for full or partial reimbursement of costs incurred to implement the program

(2) The Secretary of Homeland Security would develop and implement a national plan for public outreach and awareness. The plan would be designed to increase awareness of measures that the general public, railroad passengers, and railroad employees can take to increase railroad system security.

(3) The bill authorizes the Secretary of Homeland Security to make grants to railroads (including Amtrak), hazardous materials shippers, owners of rail cars used in the transportation of hazardous materials, universities, colleges, and research centers, and State and local governments (for railroad facilities and infrastructure) for full or partial reimbursement of costs incurred to prevent or respond to acts of terrorism, sabotage, or other railroad security threats. As examples, these areas can include such steps as securing critical communications, electric power (including traction power), computer, and train control systems essential for secure railroad operations or to continue railroad operations after an attack impacting railroad operations; secure passenger railroad stations, trains, and infrastructure; and all provisions included in the Railroad Transportation Security Directive established by the Transportation Security Administration on May 20, 2004.

The convenience of rail could easily be jeopardized if our security and response solutions are not well planned. We must ensure that attacks like those committed in Madrid in March are prevented but also that proper response training is undertaken to prepare for such an incident.

PERSONAL EXPLANATION

HON. DEVIN NUNES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. NUNES. Mr. Speaker, on the legislative day of Thursday, September 23, 2004, the House had rollcall Votes Nos. 469, 470, 471, and 472. Unfortunately, I was unavoidably detained. Had I been present, I would have voted "yea" on all four rollcall votes.

Mr. Speaker, on the legislative day of Monday, October 4, 2004, the House had rollcall Votes Nos. 487, 488, and 489. Unfortunately, I was unavoidably detained. Had I been present, I would have voted "yea" on all three rollcall votes.

TAIWAN'S NATIONAL DAY

HON. STEPHANIE TUBBS JONES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mrs. JONES of Ohio. Mr. Speaker, on behalf of my constituents I want to take this opportunity to extend to Taiwan President Chen Shui-bian, and the good people of Taiwan, our congratulations on their National Day.

President Chen is to be commended for his capable and skilled leadership, which is reflected by Taiwan's high standards of living and political reforms.

President Chen is to be further commended for his efforts seeking greater international understanding and harmony in the region. Taiwan and the United States share a long lasting friendship that has extended for over five decades.

Mr. Speaker, on Taiwan's National Day, I join my colleagues in the United States Congress to salute and honor the 23 million citizens of Taiwan. I join with all Americans who take pride in the many accomplishments of the Taiwanese people.

IN MEMORY OF IGNACIO GARCIA OF HOUSTON

HON. GENE GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. GREEN of Texas. Mr. Speaker, the following obituary was printed in the Houston Chronicle, Thursday September 30, 2004, after the death of a good friend and great Houstonian, Ignacio Garcia.

"Ignacio Garcia was born September 3, 1917, died September 28, 2004. Ignacio immigrated to the United States under the Bracero program and settled in Houston, August of 1959. He worked as an auto mechanic in the near north side of Houston and owned and operated an "Enco" gasoline station at North Main and Pinckney for over fifteen years. He then opened a garage with his son Victor and they worked together until his retirement in the early 1980's. Although officially retired, he was a constant help and source of inspiration and wisdom to his children, grandchildren, and anyone who [illegible] him. Ignacio Garcia was a 32-degree Mason and Past Worshipful Master of the Lorenzo De Zavala Masonic Lodge #1397 A.F. & A.M.

Survivors include his wife of 55 years, Mary Garcia and his Children and Grandchildren: Victor Garcia and his wife Elsa and Children, Victor Jr., Krista and Sara; Bernardo Garcia and his wife Gloria and children, Bernardo Jr., Adriana and Leia; Ignacio Garcia Jr. and his wife Elena; Rosa Gonzalez and her husband Juan and children Rosalinda, Raquel and Elisa; Adrian Garcia and his wife Monica and daughter, Nina. Mr. Garcia was preceded in death by his son Gilbert Garcia in 1995.

Mr. Speaker, I have personally known Mr. Garcia for many years and our community and his family will miss him.

RECOGNIZING TAIWAN'S NATIONAL DAY

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. HINCHEY. Mr. Speaker, I would like to join the people of the Republic of China in celebrating their forthcoming National Day on October 10th. I believe it is appropriate to recognize the substantial political and economic achievements of the Taiwanese people during the last few decades and to highlight the strong and important relationship that continues to grow between the people of Taiwan and the people of the United States.

Taiwan has established itself as a stable and successful Asian democracy in recent decades. The elected representatives at every level of Taiwan's government have successfully confronted the most significant challenge that faces an emerging democracy—the peaceful transition of power from an incumbent leader to a newly elected leader in accordance with the results of a free, fair, and legitimate election. Additionally, Taiwan boasts a thriving, multi-party democracy in which citizens and elected representatives alike freely debate and discuss the full range of issues that face Taiwan.

Just as the state of democracy in Taiwan has continued to strengthen, so too has the relationship between Taiwan and the United States. The relationship between the United States and Taiwan has grown stronger each year since the passage of the Taiwan Relations Act in 1979. Both nations have an unwavering commitment to democracy and a firm belief in the protection of fundamental human rights. Furthermore, Taiwan and the United States share important economic interests as well. Bilateral trade between Taiwan and the United States exceeded $65 billion last year, making Taiwan America's eighth largest trading partner. Additionally, last year nearly 30,000 Taiwanese students studied in colleges and universities in the United States; and aside from Asia, the people of Taiwan visit the United States more than any other country—even more evidence of the increasing interconnectivity between the peoples of Taiwan and the United States.

Unfortunately, at a time when Taiwan's political and economic example could most benefit the world community of nations, some countries continue to insist on Taiwan's isolation from that community. Restoration of Taiwan's membership to the United Nations and the World Health Organization would serve as beginning steps toward ending that isolation. As other new democracies emerge, I am convinced that the world could greatly benefit from the counsel of a nation that has recently transformed itself into a democracy as effectively and successfully as Taiwan. As an ally and friend to the United States, Taiwan is a nation of great importance, deserving not only of our recognition but also of our support.

Therefore, Mr. Speaker, on Taiwan's National Day, I would like to salute Taiwan's President Chen Shui-bian and the 23 million people of Taiwan for their many and varied accomplishments, and acknowledge the ever-growing bond that exists between Taiwan and the United States.

RONALD REAGAN'S VOICE OF FREEDOM PARK

HON. JOHN A. BOEHNER

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. BOEHNER. Mr. Speaker, I rise today to commend my neighbors in Butler County, Ohio for renaming a park at the former site of the Voice of America's Bethany station "Ronald Reagan's Voice of Freedom Park." This park is enjoyed by Butler County families each and every day, and it has been made all the more special by the fact that it is located on the same spot from where Voice of America broadcasts originated from 1944 to 1994.

In many ways, this "name change" isn't much of a "name change" at all. Ronald Reagan was and in many ways still is the Voice of America.

It's that voice which brought us back from the Vietnam era and the malaise of the 1970s. It's that voice that urged Mr. Gorbachev to "tear down this wall." And it's that voice that ended the Cold War through his policy of "peace through strength."

So, we're not marking the end of one name for this park and beginning of a new one. Instead, we're celebrating the passage of title from one Cold War messenger of freedom to another. Ronald Reagan recognized what an effective and influential tool the Voice of America was in our battle to end the Cold War. In fact, in 1983 he delivered an address via Voice of America, in which he outlined his vision for long-term negotiations with the Soviet Union. He recognized the vital role Voice of America played in our struggle against the Soviets, and he used it to the advantage of our nation and our fight for freedom.

Last week, another American President—George W. Bush—spoke in that park. He spoke of a different battle—this time against the evils of terrorism—in which we are currently engaged. Just like the Cold War, it will be a long struggle—but one which we know we will win. Why? Because we have the same message of freedom on our side that we did when Reagan and the Voice of America led us to victory against communism. And so that message of freedom and the Voice of America continues, in that park and across the globe.

Mr. Speaker, I thank my friends back home in Butler County who were involved in the effort to place President Reagan's name on the park. In this year of tributes to a man I know as a hero, I can think of very few higher than this one.

PAYING TRIBUTE TO THE UNITED CHURCH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to recognize the 120th anniversary of the United Church in Walsenburg, Colorado. Through good times and bad the church has stood the test of time, and I would like to join my colleagues here today in recognizing the Church and its long tenure of service before this body of Congress and this Nation.

The United Church, a Methodist congregation, was founded in 1884 by miners in Walsenburg. On a plot of land sold to them by the town's namesake for one dollar, the church built its first building. In 1929, the United Church built its current building with funds from its membership, a local bank, and the Methodists' Board of Church Extension. Although the Church struggled to survive during the depression and poor economic times, they were able to pay off all debts by 1944. In 1961, the United Church merged with the Community Congregational Church, and today has a membership of about 80 people.

Mr. Speaker, it is a privilege to recognize the United Church in the year of its 120th anniversary. For over a century it has provided compassion and spiritual guidance to the community, and I am honored to congratulate them on their anniversary before this body of Congress and this nation.

HONORING THE VOLUNTEER MEDICAL SERVICES CORPS OF LOWER MERION AND NARBERTH, PENNSYLVANIA

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. GERLACH. Mr. Speaker, I rise today to honor the Volunteer Medical Services Corps, VMSC, of Lower Merion and Narberth, Pennsylvania, which is celebrating 60 years of service to their community.

In 1944, during the height of World War II, the residents of Narberth Borough felt it was their duty to provide routine transportation for those involved in the war to and from the ports of Philadelphia. The group quickly became incorporated as the Volunteer Medical Corps of Narberth with the main goal was to provide first aid care to those in need and to facilitate non-emergency transports.

In 1951, the corps leased property from the Borough of Narberth and built a new building that could accommodate their needs and growing business. Since 1951, times have changed and medical services have continued to grow in size and scope, and VMSC of Lower Merion and Narberth has proven itself versatile as it has grown with the times. In the 1960's and 1970's when EMS became a specialty, the State health department and the Lower Merion Police Department recommended that VMSC expand its role and provide all emergency care for Lower Merion Township. VMSC quickly became the provider of emergency medical services not only to Lower Merion Township, but Narberth Borough as well.

In the 1990's, the VMSC again grew considerably thanks to its paid staff and volunteers. The company moved to a new headquarters in Ardmore, Pennsylvania and, during that time, it integrated another ambulance company into its own. In 1999, Pleasant Valley Ambulance was integrated in to VMSC, providing ALS services to the Conshohocken Area. This move also helped to reduce response time and the volunteers were able to provide a more timely service. The integration of Pleasant Valley Ambulance also gave VMSC the ability to bring advanced life-support units to those in need.

In 2002, VMSC founded a bike patrol unit. The bike patrol teams consist of two EMTs or medics who can help reduce responder time in large or crowded medical emergencies. The state-of-the-art equipment includes a full range of cardiac medicine, bandaging and splinting supplies, oxygen, and a defibrillator. The bike patrol is extremely important because the EMTs on bikes have the capability of arriving at the scene of an accident well before an ambulance and they can provide life saving care.

Today, VMSC prides itself on providing high-quality, cost-effective emergency and non-emergency medical transportation services to the ill and injured citizens of Lower Merion and Narberth, Pennsylvania. Mr. Speaker, I ask that my colleagues join me today in honoring the Volunteer Medical Services Corps of Lower Merion and Narberth for their commitment to providing quality care, mutual respect, and open communication with their community. It is an honor to recognize an organization that selflessly provides for its community each day and in turn creates a better quality of life for the citizens of Narberth and Lower Merion Township.

TAIWAN AND THE UNITED NATIONS

HON. BOBBY L. RUSH

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. RUSH. Mr. Speaker, Taiwan has been excluded from the United Nations since 1971 and since then, Taiwan's 23 million people have had no representation in the United Nations. Exclusion of Taiwan is a violation of the United Nations principle of universality.

I, therefore urge my colleagues and friends of Taiwan to support Taiwan's return to the United Nations because Taiwan's political reforms should be recognized by the international community. Taiwan's return to the United Nations will not hinder the eventual reunification of Taiwan with the Chinese mainland as long as such reunification has the approval of the 23 million people of Taiwan.

Mr. Speaker, I would also like to take this opportunity to welcome Taiwan's ambassador, Dr. David Lee, to Washington. Prior to his Washington assignment, he was Taiwan's premier diplomat in Europe and Taiwan's Political Vice Foreign Minister. I had the pleasure of having Ambassador Lee and his wife at my table during the Congressional Black Caucus' dinner during the Annual Legislative Conference. Ambassador Lee struck me as highly intelligent, poised and well-mannered. My colleagues and I look forward to working with him and his deputies.

Finally Mr. Speaker, my best wishes to Taiwan President Chen Shui-bian for his well-received Inaugural speech on May 20. His conciliatory attitude toward mainland China is most laudatory. President Chen should be recognized for his work towards permanent peace and stability in the Taiwan Strait.

PAYING TRIBUTE TO PEGGY LUE REECE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to pay tribute to Peggy Lue Reece, a truly amazing woman from Gunnison, Colorado. Peggy Lue spent nearly half a century working to better the Stockgrowers industry. She amassed an impressive record of accomplishments during her tenure, and I am honored to recognize her service before this body of Congress and this Nation.

Peggy Lou Reece began her service in the agriculture industry as Secretary for the Gunnison County Stockgrowers Association in 1963. For the last 41 years, she has held the post under the leadership of 21 presidents. In addition to secretarial duties, Peggy Lue also served as the organization's treasurer. She came from an agricultural family, and brought with her a great passion for the industry. Even in her retirement, Peggy Lue plans to help whenever she is needed.

Mr. Speaker, it is a privilege to honor Peggy Lue for her dedication to the Stockgrowers of Gunnison County and Colorado's Agriculture industry. She has served her community and state well for over 40 years and deserves our gratitude. It is with great pleasure that I recognize her today before this body of Congress and this Nation. Thanks, Peggy Lue, and I wish you well with all of your future endeavors.

HONORING THE GREEN VALLEYS ASSOCIATION

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. GERLACH. Mr. Speaker, I rise today to honor the Green Valleys Association on the occasion of their 40th Anniversary. For forty years, the Green Valleys Association has been working diligently to protect the watersheds and ecosystems in northern Chester County, Pennsylvania.

The Green Valleys Association was founded in 1964 by landowners who were threatened by the proposed damming of the French Creek in Chester County. The proposed damming would have transformed the area into a reservoir, so the landowners took a stand and created a formidable defense against the dam—a group called the French Creek Watershed Association. This spirit and drive has been, and still is, a part of all who work within the Association, now known as Green Valleys Association. Six years later, in 1972, the Association expanded to oversee all five of the northern and eastern Chester County's Schuylkill River watersheds. This area includes Pigeon Creek, Stony Run, Pickering Creek, French Creek, and Valley Creek. The region covered by the Association is largely rural and more than 70 percent of the population who live there depend on the activism of the Green Valleys Association to help protect their water resources. Today, the Association's activity spreads throughout 21 municipalities and over 155 square miles. The Green Valleys Association is unique in its work and purpose as it is the only watershed association in northern Chester County.

Throughout the past forty years, the Association has worked to protect the natural resources in northern Chester County by helping to limit the Warner Quarry expansion, protecting Valley Creek and by achieving "Exceptional Value" status for the upper French Creek. In fact, all of the watersheds under Green Valleys Association's oversight have been designated either "High Quality" or "Exceptional Value." Exceptional Value is the highest protective designation offered by the Commonwealth of Pennsylvania.

The Green Valleys Association has also taken on the task of educating the public on resources and the environment. They provide the community with information on environmental laws; organize meetings on water resources, effective land-use planning and wildlife resources; and bring the community together for local participation in stream watches. They also provide summer camps and school programs for students introducing them to important environmental concerns. The Green Valleys Association has also developed the Sustainable Watershed Management program to be utilized as a tool for local municipalities to incorporate in regulations of water use.

Mr. Speaker, I ask that my colleagues join me today in honoring Green Valleys Association's role as an educator and a protector of the watersheds of northern Chester County, Pennsylvania. They have done tremendous work, and for that, they should be commended.

CELEBRATING TAIWAN'S NATIONAL DAY—OCTOBER 10

HON. DANNY K. DAVIS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. DAVIS of Illinois. Mr. Speaker, as the Republic of China (Taiwan) gets ready to celebrate its National Day this October 10, I join my colleagues in sending my best wishes and congratulations to Taiwan President Chen Shui-bian and the Taiwanese people on this happy occasion.

In recent years Taiwan has continued to press forward with democratic reforms and economic development. We wish Taiwan continued success as a democracy and economic power and an early return to the World Health Organization.

The United States maintains a strong relationship with Taiwan. We appreciate Taiwan's continuing commitment to combating global terrorism and we are committed to help Taiwan find peaceful solutions to any and all external challenges it may face. I am sure that this strong relationship with Taiwan will grow and flourish in the years to come.

I commend President Chen Shui-bian for his commitment to a policy of mutual respect and dialog with China. I share his view that such a stance is the only reliable foundation for long-term peace and stability for the people and later generations on both sides of the Taiwan Strait. We all hope that peace and stability will forever prevail in the Taiwan Strait.

Greetings and congratulations, President Chen, to the people of Taiwan on your National Day.

PAYING TRIBUTE TO CHARLES CALVIN MOORE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, it is with a sad heart that I rise to recognize the passing of Charles Calvin Moore, a great man from Silverton, Colorado. Charles was a community leader, public servant, and a great friend to many. He made a tremendous impact on Silverton, and I am honored today to bring his contributions to the attention of this body of Congress and this nation.

Charles Moore arrived in Silverton in 1969 with his wife Penny with the intention of only staying two years. Thirty-four years later, he had made a profound impact on the city's institutions and its people. Charles began his life in Silverton as a science teacher, a position he held for eleven years. He also served his community as a leader in both the police department, and as the San Juan county Under Sheriff from 1987 to 2003. Charles also contributed as a member of the San Juan Regional Planning Commission, the Silverton Board of Trustees, the Silverton Ambulance Association, and the Treasurer of the Silverton Congregational Church.

Mr. Speaker, Charles Calvin Moore was a dedicated man that selflessly served his community and country, and I am honored to pay tribute to him before this body today. His lifetime of service is an incredible model for all Americans. My thoughts and prayers go out to his family and friends during this time of bereavement.

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HONORING STANLEY BALZEKAS ON THE OCCASION OF HIS 80TH BIRTHDAY

HON. WILLIAM O. LIPINSKI

OF ILLNOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to a remarkable gentleman, and friend, Mr. Stanley Balzekas in the celebration of his 80th birthday on October 8, 1924. It is with great honor that I recognize the contributions of a man who continues to serve the community of the Third Congressional District of Illinois.

The Balzekas family's years of service have been an invaluable contribution to the City of Chicago and beyond, as the Balzekas family members have been prominent leaders in the business and cultural life of our community. Stanley Balzekas's personal sacrifices of time and energy to family, friends and country stand as a testament of a truly fine individual. For his service to our Nation in the United States Army during World War II, we owe Mr. Balzekas a debt of gratitude.

Mr. Balzekas's interest and dedication to Chicago's great Lithuanian population has made him one of the foremost leaders amongst Chicago's diverse, ethnic communities; his great desire to bring peace to all people for the betterment of mankind is just one of his many noble qualities. He has worked with leading institutions, such as the Library of Congress, the National Endowment of the Arts and Humanities, Baltic freedom organizations, and the Chicago Public Library to enhance the world's understanding of Lithuania's deep history.

Mr. Balzekas has enriched the diverse fabric of our entire Chicago community by founding the Balzekas Museum of Lithuanian Culture, one of the largest ethnic museums and libraries in the United States. Through such measures, Mr. Balzekas has been a dedicated guardian of the heritage, history and culture of this nation's Lithuanian ancestry.

Currently, Mr. Balzekas proudly serves as the Honorary Consul General of the Consulate for the Republic of Lithuania in Palm Beach, Florida. He also presides over the Ethnic Cultural Preservation Council, Chicago Sister Cities International Committee, the Baltic Foundation, Ukrainian Institute of Modern Art and as vice-chairman for the Lithuanian-American Council.

Mr. Balzekas has been blessed with a wonderful family of three children and four grandchildren, all of which will be celebrating his birthday this week.

Mr. Speaker, I ask that my colleagues join me in honoring Mr. Stanley Balzekas on reaching the milestone year of 80, and I wish him many future years of happiness and enjoyment in his personal and professional endeavors.

* * *

TRIBUTE TO CINDY ROTH

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. CALVERT. Mr. Speaker, I rise today to honor an individual whose dedication and contributions to the community of Riverside, California are exceptional. Riverside County has been fortunate to have dynamic and dedicated community leaders who willingly and unselfishly give their time and talent to making their communities a better place to live and work. Cindy Roth is one of these individuals.

Cindy currently serves as the President and Chief Executive Officer of the Greater Riverside Chambers of Commerce. In this key position, Cindy has been instrumental in the development of Riverside's business community. She became the first woman to hold this post, and her leadership is a testament to her diligence and understanding of business management in Riverside.

Additionally, Cindy serves as the President of the Southern California Association of Chamber of Commerce Executives and is a past board member of the Western Association of Chamber of Commerce Executives.

Cindy's dedication is not only to local business, but also to the wider community. She serves as part of numerous organizations, including the Monday Morning Group of Western Riverside County, the Science and Technology Education Partnership, the Raincross Exchange Club, the Foundation Board of Trustees for La Sierra University, and the Honorary Commanders of March Field. She has received the 1996 Community Service Award from the Rotary Club of Arlington, the 2000 Athena of the Inland Valleys Award, and has been honored as the 2003 Woman of the Year by Assemblyman John Benoit.

It is no surprise that she is now honored as the 2004 Distinguished Citizen of the Inland Empire by the California Inland Empire Council, Boy Scouts of America. Cindy's tireless passion for community service has contributed immensely to the betterment of the community of Riverside. She has been the heart and soul of many community organizations and events and I am proud to call her a fellow community member, American and friend. I know that many in our community are grateful for her service and salute her as she receives this award.

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PAYING TRIBUTE TO BRYAN HESS

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Bryan Hess, a dedicated manager of Emergency Medical Services at the Gunnison Valley Hospital in Colorado. Bryan was recently awarded the Rural Healthcare Excellence Award by the Colorado Rural Health Center for his tireless efforts in the Gunnison community. It is my privilege to stand before this body of Congress and this Nation today to recognize Bryan receiving this well-deserved award.

Bryan began his medical career at the young age of sixteen as an Emergency Medical Technician in rural Pennsylvania. He currently serves as the manager of Emergency Medical Services at Gunnison Valley Hospital, as well as the Director and Coordinator of the local EMS training center. Through his leadership, several new technological innovations have been implemented for the services the organizations provide. These include the Life Pack 12 monitors that give an electrical representation of a patient's heart, and automated external defibrillators which aide first responders in procedures at the scene of an accident. One of the most important changes implemented by Bryan is a rigorous training program for the Gunnison Volunteer Fire Department and local search and rescue teams. The hard work and dedication of Bryan and his crew has paid off in providing excellent personal patient care in very stressful situations.

Mr. Speaker, Bryan Hess is a strong, dedicated individual who devotes his time to helping those in need. His work as a paramedic and director of Emergency Medical Services has taken him away from friends and family, often putting him in harm's way. It is my honor to stand here before this body and recognize the efforts of such a selfless and benevolent man. Congratulations on your award, Bryan, and I wish you all the best in your future endeavors.

RECOGNIZING THE FARMWORKER HOUSING DEVELOPMENT CORPORATION

HON. DARLENE HOOLEY

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Ms. HOOLEY of Oregon. Mr. Speaker, I rise today to honor Roberto Franco, who is stepping down as director of the Farmworker Housing Development Corporation, FHDC, after years of effective service to Oregon's farmworker community.

FHDC is a non-profit community-based organization that was founded in 1990 to help serve farm workers in Oregon's Mid-Willamette Valley by developing affordable housing for workers and their families. Despite many hurdles, under Mr. Franco's leadership at FHDC has been very successful in achieving its mission and now provides housing for over 100 families. The group's major complex, Nuevo Amenecer or "New Dawn," gives 93 families who otherwise might not have acceptable living quarters an opportunity to live in clean, decent, and dignified housing.

But FHDC has done more than put a roof over the head of those it serves. Mr. Franco led a successful effort to create the Cipriano Ferrel Education Center, a multipurpose community facility that serves the needs of Nuevo Amenecer residents and others in the community. With the opening of the center last year, FHDC has begun offering opportunities for self-enhancement to those who wish to get ahead. Earlier this year I visited Cipriano Ferrel to address a group working to improve financial literacy and homeownership opportunities for Oregon's Latino community.

Cipriano Ferrel includes a Head Start program, child care, and a computer lab that provides opportunities for both young and old alike to learn technology skills that will help them get ahead. In addition, Cipriano Ferrel provides adult educational programs, including literacy and language classes, homeownership education, preparation for becoming a U.S. citizen, and a microenterprise program that helps people start their own businesses. A recently announced grant by Microsoft to upgrade the computer lab will provide software and help fund an instructor, thus offering even more opportunities for Nuevo Amenecer residents and members of the community.

I want to thank Roberto Franco and the Farmworker Housing Development Corporation for their work in offering low-income farm workers additional opportunities. Thanks to you, hundreds of families truly have experienced a New Dawn.

CRIME PREVENTION FOUNDATION OF BROWN COUNTY

HON. MARK GREEN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. GREEN of Wisconsin. Mr. Speaker, the Crime Prevention Foundation of Brown County is the first of its kind in the United States. Its sole purpose is to provide financial support for crime prevention programs in Brown County, Wisconsin, and is managed by the Greater Green Bay Community Foundation. It will support programs like DARE, Crimestoppers, School Liaison Officers and Teen Court—programs that keep our children safe.

This program is completely privately funded, and will provide a stable, long-term funding source for these programs that face elimination because of state and local budget cuts. The Crime Prevention Foundation of Brown County is governed by a Board of Directors independent of any political body. The mission of the board is simply to support the most effective crime prevention activities in Brown County, Wisconsin.

This program is an innovative way to help continue effective programs that help keep our communities and kids out of harms way. I am proud to recognize the innovative efforts of the Crime Prevention Foundation of Brown County, and wish them great success.

PAYING TRIBUTE TO WILLIAM MOYER

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, it is with great pride that I rise today to recognize the legacy of William Moyer from Grand Junction, Colorado. William was a leader of the community who left an indelible print on the city of Grand Junction, and I would like to join my colleagues here today in recognizing his tremendous generosity before this body of Congress and this Nation.

Born in Pennsylvania in 1859, William Moyer traveled the country as a salesman. After a trip to Grand Junction in 1888, he decided to move there permanently in 1890. Four years later, he opened the Fair Store and married a local girl, Ida Shantz. William was an active member of the community and in addition to owning the Fair Store; he also had partial interests in the Grand Valley National Bank and the Valley Building and Loan Company. He used these associations to help students pay for college and to help small businesses survive difficult times with low or no interest loans.

When, in 1921 a young boy died while swimming the Colorado River, William knew something had to be done. He approached the city council and asked to build a swimming pool. William offered more than $25,000 for construction and made only one stipulation; that children would be able to swim free at the pool at least one day a week. The city council agreed and the pool was opened in 1922. This year a new pool is being opened that will bear the Moyer name. In addition, consistent with his original request, the pool will allow children to swim free every Wednesday.

Mr. Speaker, it is a privilege to honor William Moyer for his selfless contributions to the people of Grand Junction. Even today, 61 years after he passed away, he is fondly remembered in the community. Thanks, William, for everything you did. This Congressman and the people of Grand Junction will never forget you.

TRIBUTE TO ARMY STAFF SERGEANT (SSG) DARREN J. CUNNINGHAM

HON. MARTIN T. MEEHAN

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MEEHAN. Mr. Speaker, I rise to pay tribute to a fallen hero, Army Staff Sergeant (SSG) Darren J. Cunningham of Groton, Massachusetts. SSG Cunningham was deployed as part of Operation Iraqi Freedom and died tragically on September 30th when his unit came under mortar attack in Baghdad. He gave his life in service to our country, and we will forever be grateful.

Ever since he was a young boy, SSG Cunningham knew he wanted to pursue a career in the military. His eighth grade teacher recalls Darren talking about wanting to join the armed forces so that he could serve our country with pride. For Darren, the military stood for more than a respectable job: it offered education, discipline, and a chance to travel. The quote on high school yearbook page said it all: "My ambition is to enjoy life to the fullest, see the world."

At the age of eighteen, Darren graduated from high school and immediately enlisted in the Army. He moved up through the ranks of the 545th Military Police Company of the Army's First Cavalry, stationed at Fort Hood in Texas. He served nobly during the Persian Gulf War in 1991 and returned to Iraq as part of Operation Iraqi Freedom to train Iraqi police and help rebuild local infrastructure. He planned to retire next year.

SSG Cunningham leaves behind a wife and two children who adored him. His friends and family remember him as spirited, outgoing, fun, and a jokester. A great athlete, one of his proudest moments was being chosen as co-captain of the high school varsity basketball team. Today, SSG Cunningham's relatives, friends, community, and Nation mourn his loss.

SSG Cunningham died fighting for the country he loved, alongside his comrades-in-arms. Our Nation is humbled and grateful for his sacrifice. I ask my colleagues to join me in paying tribute to a father, husband and hero who made the ultimate sacrifice for our country.

TRIBUTE TO THE 2004 RIVER CATS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. MATSUI. Mr. Speaker, I rise in tribute to the 2004 River Cats, the deserving winners of the 2004 Pacific Coast League Championship. The 2004 River Cats successfully recaptured the Pacific Coast League championship for the second consecutive year by sweeping the Iowa Cubs in a hard fought thrilling three-game series. The 2004 Sacramento River Cats displayed their trademark determination and teamwork that continue to make them a great source of civic pride and a prominent local attraction for years to come. I ask all of my colleagues to join with me in saluting the triumphant 2004 Sacramento River Cats.

The 2004 Sacramento River Cats are comprised of an outstanding blend of experienced professionals with major league experience and bright young prospects who are destined to become the stars of tomorrow. The 2004 River Cats team is led by the excellent all-around play of 2004 Pacific Coast League Most Valuable Player and Playoff Most Valuable Player Dan Johnson. In addition, the outstanding roster was anchored by the consistent contributions of recently promoted major leaguers: Nick Swisher, Jairo Garcia, Esteban German, Joe Blanton, and Justin Lehr. All the aforementioned River Cats are among the best touted prospects in all of baseball. Whether a seasoned veteran or an up and coming prospect, every member of the 2004 River Cats demonstrated outstanding commitment to team play and hard work as they march toward the 2004 Pacific Coast League Championship.

In addition to a wonderful roster, the 2004 River Cats also benefited greatly from the tutelage of one of the best coaching staffs and the leadership of one of the most accomplished and innovative front offices in all of professional baseball. On the bench, the River Cats were lead by the 2003 Sporting News Minor League Manager of the Year Tony DeFrancesco. Mr. DeFrancesco and his able assistants were able to cultivate a spirit of camaraderie and an unyielding commitment to hard work and fair play in the clubhouse. In the front office, the River Cats are led by the extraordinary leadership of President and CEO Art Savage and the astute management of Executive Vice Presidents Warren Smith and Robert Hemond. Under this leadership team, the River Cats have taken great steps to forge one of the strongest and most unique relationships in all of sports with their team supporters. Given the River Cats front office's commitment to the city of Sacramento, it is no wonder why the River Cats have led all of Minor League Baseball in attendance during each of their five years in Sacramento.

Mr. Speaker, as the Sacramento River Cats conclude its second consecutive championship season and prepare to achieve greater triumphs in the future, I am honored to pay tribute to the many hard working men and women of the River Cats organization who brought so much joy and pride to the people of the Capitol Region and River Cats fans everywhere. Their successes are highly commendable, and it is a great honor for me to have the opportunity to pay tribute to their accomplishments. I ask all my colleagues to join with me in congratulating the Sacramento River Cats on a wonderful season and wishing them greater success in future seasons.

PAYING TRIBUTE TO DICK AND NANCY KNOWLTON

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Dick and Nancy Knowlton, two generous and loving people whose extraordinary compassion and dedication to each other and the State of Colorado is highly commendable. Dick and Nancy will celebrate their fiftieth wedding anniversary this year, and I am honored today to bring their story and their contributions to their community to the attention of this body of Congress and this Nation.

When Dick was young, his father Lyle suffered a debilitating heart attack at the age of 42 and was laid-off from his job for medical reasons. To make ends meet, the family would buy dilapidated homes and fix them up for profit. As a result, their living conditions were often barely habitable. Dick and his six brothers and sisters were raised by both Lyle and Rose. Rose was a sweet and lovely woman who took loving care of each of her children. It was Rose's love and guidance that led all of her seven children to lead successful lives. Upon graduation from high school, Dick attended college on a football scholarship at the University of Colorado where he would meet his future bride, Nancy VanDerbur. After he graduated from college, he received his papers for government service, and Dick and Nancy were married shortly before he left to serve his country.

Following his military service, Dick returned to work at the Hormel Company where he had begun working during the summers at the young age of fifteen. Through hard work and many hours of dedication, Dick worked his way up to become President, CEO, and Chairman of the Board of the Hormel Company. Along the way, Dick worked every job in the company from the gut shanty to the corner office and each job in between. When he retired, Dick received the Horatio-Alger Award in recognition of his status as a successful, self-made man. Fellow recipients of this prestigious award are Colin Powell, Henry Kissinger, Wayne Huizenga and fellow Coloradan Phil Anschutz. Dick is still very active in the Horatio Alger organization, which provides scholarships for kids with disadvantaged backgrounds.

Nancy was born and raised in Denver. Her grandfather founded Olinger Mortuaries, which Nancy's father eventually took over. Nancy and her sisters Gwen, Val, and Marilyn worked odd jobs at the family business before they all would eventually attend the University of Colorado. All four of the VanDerbur girls were beautiful, young, and successful women. Nancy's sister Marilyn would go on to win Miss America in 1958. Nancy is the consummate wife, mother and friend. She provides the strength that motivates Dick to be a strong father and community figure, and her work behind-the-scenes is worthy of multiple praises. Nancy is a warm and friendly person who is beloved by her many friends and family members, including each of her five children.

Mr. Speaker, it is a rare and beautiful thing when a couple's love and devotion for each other shines as brightly as does the love between Dick and Nancy Knowlton after fifty years of marriage. I rise before my colleagues today to recognize that beautiful accomplishment and to applaud the example that Dick and Nancy's loving marriage provides to countless Coloradoans. It is an honor to congratulate them on fifty years of dedication to each other, and I wish them all the best in the years ahead.

PERSONAL EXPLANATION

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. UDALL of Colorado. Mr. Speaker, because I was part of a Congressional delegation that traveled to Iraq, I missed several votes last week.

Had I been present, I would have voted as follows:

On rollcall No. 469, on ordering the previous question on H. Res. 785, waiving a requirement of clause 6(a) of rule XIII with respect to consideration of certain resolutions reported from the Committee on Rules, I would have voted "no."

On rollcall No. 470, on ordering the previous question on H. Res. 794, waiving points of order against the conference report to accompany the bill (H.R. 1308) to amend the Internal Revenue Code of 1986 to accelerate the increase in the refundability of the child tax credit, and for other purposes, I would have voted "no."

On rollcall No. 471, on adoption of H. Res. 794, I would have voted "no."

On rollcall No. 480, adoption of the conference report on H.R. 1308, I would have voted "yes."

TRIBUTE TO SAN FRANCISCO AIDS FOUNDATION EXECUTIVE DIRECTOR PAT CHRISTEN

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Ms. PELOSI. Mr. Speaker, tonight in my district, community leaders will gather to pay tribute to the work of Pat Christen, Executive Director of the San Francisco AIDS Foundation for the past 15 years. I want to join in expressing my admiration and gratitude for Pat's outstanding leadership in the fight against HIV/AIDS in San Francisco, across America, and around the world.

Pat has effectively and enthusiastically led the San Francisco AIDS Foundation through some of the most difficult times of the epidemic. She is the longest serving Executive Director of an AIDS service organization in the nation and has established a remarkable legacy.

In 1988, after returning from Africa as a Peace Corps volunteer and volunteering with the Foundation's hotline, Pat was named the Foundation's first director of public policy.

Within a year, she gathered colleagues from across the nation to address the growing crisis of caring for the thousands of people with AIDS who were critically ill and had no means of support.

Those initial discussions laid the foundation for the Ryan White CARE Act. I was an original co-sponsor of that legislation, and joined Congressman HENRY WAXMAN, Senator EDWARD KENNEDY and many of our colleagues who worked with Pat and community leaders from across the country to ensure swift passage. The CARE Act has proven to be one of the most significant public health achievements of the Congress in the past 15 years. Declines in AIDS deaths are a direct result of the therapies and services that have been made more widely available through the CARE Act to large numbers of uninsured and under-insured people with HIV and AIDS.

Pat's courage and competence later drew San Francisco to the forefront of the fight for effective needle exchange programs. When most leaders were intimidated by this innovative and controversial approach, Pat led the charge to city hall and Sacramento to put needle exchange in our HIV prevention strategy. Pat and others in San Francisco were also early to see that mobilization against this pandemic had to be international. She founded Pangaea, the global affiliate of the San Francisco AIDS Foundation, to apply San Francisco's experience as a leader in the domestic fight against HIV/AIDS to the global crisis. Through Pat's vision and leadership, Pangaea has brought hope and care to thousands of Africans facing HIV/ADS.

I have been proud to work with Pat and the San Francisco ADS Foundation over the years to ensure that HIV/ADS care, treatment, prevention, and research initiatives, domestically and internationally receive the funding they need, and to improve and strengthen those programs as the epidemic evolves.

Pat Christen's leadership at the Foundation may be coming to an end, but her legacy will live on as the fight to end AIDS continues. Her success reminds us what community leadership can do. It inspires us to not only work effectively at the local level, but also to take responsibility to make change at the national and global level. I know I join many in saying that the world is a better place because Pat Christen graced it with her leadership, vision, and integrity.

PAYING TRIBUTE TO PEDRO PICAZO-POTEET

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Pedro Picazo-Poteet, an extraordinary fifteen year old who has overcome seemingly impossible obstacles in order to compete in martial arts competitions. Pedro is a true fighter, and someone other citizens can look to for inspiration. I am honored to stand before this body of Congress and this Nation today to recognize his accomplishments.

In 2002, Pedro was riding his bike to school when he was hit by a car. His injuries were so extensive that the doctors were not certain whether he would live, and resulted in the loss of an arm. Pedro's grandmother Darla, who has raised Pedro since the age of eight, stayed by his side during his entire stay at the hospital. Although the family had to move to a different home to help pay for Pedro's medical costs, Darla refused to let Pedro quit pursuing his passion of martial arts. With the encouragement of his coach and family, Pedro has returned to martial arts and trains in the stick fighting competition. Pedro practices for hours, preparing himself for older, stronger, and more physical opponents.

Mr. Speaker, Pedro Picazo-Poteet is a strong, dedicated individual who has triumphed in the face of difficult obstacles. His persistent determination has taken him further than anyone imagined and I am honored to stand here before this body and recognize the efforts of such a zealous young man. Good luck with your martial arts training, Pedro, and I wish you all the best in your future endeavors.

OSHA'S FAILURE TO ESTABLISH AND ENFORCE SAFETY STANDARDS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. OWENS. Mr. Speaker, since 2001 the Occupational Safety and Health Administration, OSHA, has failed to carry out its core mission of protecting the health and safety of American workers. By withdrawing more rules aimed at workplace safety than it has promulgated over the past 4 years, OSHA has set an appalling track record indeed. As such, OSHA and the Bush administration have earned the dubious distinction of definitively turning back the clock on worker safety.

As documented by the Government Accountability Office, GAO, in a March 2004 report, OSHA has decreased the proportion of its budget dedicated to enforcement activities by 6 percent at the same time it has increased by 8 percent the proportion reserved for its Voluntary Protection Program, VPP. Under the VPP, OSHA offers regional partnerships with certain industry associations—such as construction—to reduce worker injuries and illness. In return for keeping injury rates 25 percent below the industry average and holding comprehensive training sessions for workers, participating contractors receive a lower priority for scheduled OSHA inspections. Although certain contractors participating in the VPP have met with some success in reducing injury rates, this can never suffice as a substitute for adequate enforcement of U.S. safety standards.

In its budget request for fiscal year 2006, the Bush administration promises to undermine even further OSHA's ability to develop and enforce essential safety and health standards through funding cuts of $12 million. This is a clear subversion of congressional intent in passing the OSHA Act more than 3 decades ago. Let me remind my colleagues that OSHA's clear statutory mandate is to "assure every working man and woman in the United States safe and healthful working conditions."

Mr. Speaker, I ask unanimous consent that an article that appeared in today's Washington Post, outlining OSHA's woeful neglect of worker safety, be printed in the RECORD at this point.

[From the Washington Post, Oct. 5, 2004]

OSHA WITHDRAWS MORE RULES THAN IT MAKES, REVIEWS FIND

(By Cindy Skrzycki)

It's no secret that the Bush administration prefers voluntary, collaborative efforts on the part of companies to improve their safety records. Since the administration took over in 2001, the Labor Department's Occupational Safety and Health Administration has forged hundreds of agreements with companies and business associations to improve their safety records while rulemaking has been sharply curtailed.

According to OSHA Assistant Secretary John Henshaw, the approach has resulted in safer workplaces with fewer fatalities, injuries and illnesses—what he calls the triple bottom line. "I've seen what works and doesn't work on the shop floor," said Henshaw, reflecting his own career as a safety and health professional at chemical companies, Monsanto Co. and Astaris LLC, before he came to the safety agency.

But labor unions and some watchdog groups would rather OSHA play its more traditional role, issuing regulations.

"We have a preference for an actual regulation that is enforceable and fair across the board," said J. Robert Shull, senior regulatory policy analyst at OMB Watch, a nonprofit group funded mostly by foundations that has three union officials among its 15 directors.

Adds Peg Seminario, director of occupational safety and health for the AFL–CIO: Setting and enforcing standards is part of their mission. "So why aren't they?"

Since fall 2000, the agency has not been regulating in the traditional sense, OMB Watch found in a series of reviews. Twenty-four rules that were in some stage of development on OSHA's agenda were withdrawn by the administration. Nine rules were completed, but none were major and several were related to recordkeeping.

In examining the agency's December 2003 and June 2004 regulatory agendas, which track the progress of its rules, OMB Watch found that since last December, OSHA has revised a rule on commercial diving operations, reexamined one on mechanical power presses and changed how musculoskeletal disorders are reported. It completed one rule, to protect shipyard workers from fire hazards, and yesterday proposed new standards to protect workers from hexavalent chromium, a chemical used in chrome plating. That was under a court order.

"It's a meager output. It's the black hole of government," Shull said. "OSHA cleared the decks of its agenda. Just swept it clean." His group maintains that gutting the agency's regulatory agenda is a sop to business, which won a big victory when the Bush administration cancelled a final rule to protect workers from ergonomic injuries.

Early in the Bush administration, Henshaw said he didn't put much stock in the regulatory agenda, calling it a wish list that contained proposals that had been incubating for years with no result. He said he preferred a "to-do" list—which OMB Watch now calls a "do-nothing" list.

That list has 24 items, including whether employers have to pay for protective equipment for their workers.

Said Henshaw, who inherited the protective equipment proposal from the Clinton administration: "We're reviewing the comments now and we're committed to taking the next step. But I don't want to say exactly what the next step is."

His emphasis, he said, has been on cooperative efforts with business and stepped-up enforcement of "bad actors" who are responsible for most safety problems.

The agency has formed 231 long-term alliances with trade associations and companies since 2002 that emphasize outreach, education, and sharing "best practices." OSHA under Henshaw has forged 214 active strategic partnerships that set safety goals involving 4,762 employers, and there are 1,153 voluntary protection program sites, where companies with exemplary safety records forego routine inspections.

Critics of the agency are leery of these arrangements, where union participation is minimal. And they don't entirely trust the numbers OSHA uses to support its claim that injures and illnesses are decreasing. Unions don't consider the reports dependable, she said, because they are furnished by employers.

Seminario points out that there have been two major changes in the way employers collect injury and illness data since 2002, making comparisons to earlier years difficult. For example, the incidence of musculoskeletal injuries on the job—injuries from repetitive work and poorly designed workplaces—is no longer reported separately.

Data collected by the Bureau of Labor Statistics on days missed from work for illness show that over the past few years, the percentage of days taken off due to injuries and illnesses related to ergonomic issues has remained constant—about 34 percent—though the overall number of injuries and illnesses has decreased.

The business community said it wasn't that focused on the proposed rules OSHA axed but wanted to prevent new regulations. And groups like the U.S. Chamber of Commerce have been unhappy that the safety regulators issued citations for ergonomic violations under a broad enforcement authority. Since Congress killed the ergo rule two years ago, OSHA has opened cases against seven companies for ergonomic-related violations.

Randel Johnson, vice president of labor, immigration and employee benefits for the chamber, called the trend troubling. "The agency has aggressively pursued ergonomics citations . . . demanding abatement measures that sound much like the repealed regulation and micromanaging targeted employers with a laundry list of requirements. Despite what the unions may allege, our life with OSHA has been no rose garden."

SENSE OF CONGRESS REGARDING HUMANITARIAN ASSISTANCE TO COUNTRIES OF CARIBBEAN DEVASTATED BY HURRICANES CHARLEY, FRANCES, IVAN, AND JEANNE

HON. SHEILA JACKSON-LEE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Ms. JACKSON-LEE of Texas. Mr. Speaker, I join my colleagues today to support H. Con. Res. 496 commending the governments of the countries of the Caribbean for their efforts to respond and assist the people of the region after the devastation caused by Hurricanes Charley, Frances, Ivan, and Jeanne from August to September 2004. I also recognize American aid workers, development organizations, and the response teams who have provided humanitarian assistance to the people of Grenada, Jamaica, the Bahamas, the Dominican Republic, Haiti and the other affected island nations.

Coming from Houston, I know all too well that hurricanes are a fact of life for anybody living in the region. But this year's hurricane season is different. The National Oceanic and Atmospheric . Administration predicted that 2004 would be an above average Atlantic hurricane season and three of these four hurricanes have been categorized by the National Weather Service as "major" hurricanes. The American people have also endured the impact of this year's hurricane season.

The challenges that the people in the Caribbean have faced since Charley's arrival in August have been particularly great. Hundreds have died and tens of thousands of people are displaced or are homeless as a result of these hurricanes. Some estimate that the cost of reconstruction in the region could exceed a quarter billion dollars.

Nevertheless the effects would have been greater were it not for the actions of the Caribbean governments and the international community. The U.S. assistance to the region is being coordinated by the U.S. Agency for International Development with the Caribbean Disaster Emergency Response Agency and donor organizations in the Eastern Caribbean Donor Group. International organizations such as the World Bank, the Inter-American Development Bank, the United Nations, and the Organization of American States have joined the U.S. in providing necessary assistance to the region.

I support this resolution and ask my colleagues to encourage the President and the Administrator of the U.S. Agency for International Development to provide the funding to private volunteer organizations, the United Nations, and regional institutions that will help to mitigate the effects from Hurricanes Charley, Frances, Ivan, and Jeanne and to provide technical assistance for the reconstruction that will help to minimize the impact of future hurricanes in the region.

PAYING TRIBUTE TO ADAM CAMPFIELD

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, I rise today to pay tribute to Adam Campfield, an extraordinary fourteen year old from my district, who has overcome seemingly impossible obstacles in order to compete in martial arts competitions. Adam is a true fighter, and someone other citizens can look to for inspiration and I am honored to stand before this body of Congress and this Nation today to recognize his accomplishments.

Adam earned his black belt despite the fact that he lost his vision to cancer when he was six years old. Adam's coach Troy says that there was no doubt that Adam had the ability; his worries came from being able to teach him the material. Adam grew up in a supportive family that would not allow him to use the word can't and today not only is he a martial arts competitor, but he also plays tennis and participates in a ski program. Adam's blindness has only sharpened his other senses, so much so that Adam has said that if he were given the option of not going blind he might not choose to have his vision.

Mr. Speaker, Adam Campfield is a strong, dedicated and gifted athlete who refuses to let life's impediments obstruct his physical activity. His persistent determination has taken him farther than anyone imagined and I am honored to stand here before this body and recognize the efforts of such a courageous young man. Good luck with your martial arts training, Adam, and I wish you all the best in your future endeavors.

SENSE OF CONGRESS REGARDING HUMANITARIAN ASSISTANCE TO COUNTRIES OF CARIBBEAN DEVASTATED BY HURRICANES CHARLEY, FRANCES, IVAN, AND JEANNE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. RANGEL. Mr. Speaker, by now we are all aware of the enormous toll exacted by Hurricanes Charley, Frances, Ivan, and Jeanne on the Caribbean. Indeed, the cumulative force of these disasters has claimed thousands of lives and displaced hundreds of thousands of residents. The tourism and agricultural sectors of the Caribbean, of which so many nations are dependent, have been battered.

While total monetary damage to the region has yet to be firmly established, it is easily in the billions of dollars. These staggering statistics not only sadden us, they clearly compel us to take significant action. The United States has already distributed some assistance, and the administration has requested an additional $50 million in emergency funds for the Caribbean in the supplemental appropriations bill we have before us this week.

While this assistance is appreciated, substantially more is needed if we are to make a meaningful impact. An October 4th editorial in the Washington Post noted that the requested assistance for the Caribbean is a minute fraction of the $12.2 billion requested for southern States affected by the recent hurricanes. I myself have joined other friends of the Caribbean in this House in asking that the administration at least double the size of its request for the Caribbean.

In light of these funding needs, I am extremely pleased to support the resolution introduced by the gentlewoman from California, H. Con. Res. 496. Congresswoman LEE'S resolution represents a non-partisan appeal to provide adequate humanitarian assistance to our neighbors in this time of crisis. I am proud to be a co-sponsor of this legislation, and urge my fellow colleagues to lend their support to this critical measure.

We have all borne witness to the difficult road our neighbors have taken towards democracy. As such, we must always strive to ensure that their road is free from obstruction. This resolution is but one step in that ongoing effort. Again, I sincerely thank Congresswoman LEE, and offer my whole-hearted support for her resolution.

[From the Washington Post, Oct. 4, 2004]

CALAMITY IN THE CARIBBEAN

In Haiti the bodies are still turning up. Reports from the island republic mention Haitians shoveling corpses out from under branches and mud—the detritus of Tropical Storm Jeanne and the floods it triggered last month. Perhaps 2,000 are dead, and more may be missing. In tiny Grenada, whose landmass is scarcely twice that of the District, 90 percent of the buildings on the island were damaged by Hurricane Ivan. The hurricane also decimated Grenada's nutmeg trees, which take a decade to become productive, and devastated hotels, mainstays of the tourist industry that provides the island with 70 percent of its income.

The storms paused long enough in the Caribbean on their way to Florida to deliver knockout blows to the bantamweight islands. Americans fixated on Florida may have barely noticed, but the destruction and suffering in the islands was overwhelming. The Dominican Republic, Puerto Rico, Jamaica, the Bahamas, the Turks and Caicos Islands, and St. Lucia—all were damaged. Grenada's recovery will take years.

Haiti, no stranger to calamity, is suffering a catastrophe. An estimated 300,000 people have been made homeless by floods. In the northwest, where Jeanne unleashed much of its wrath, food and potable water are scarce. Highways are cut or impassable; Port-de-Paix, a town of 45,000 on the north coast, is reachable only by air. In the port of Gonaives, Haiti's third-largest city, marauding gangs desperate from thirst and hunger have attacked trucks hauling bottled water and depots holding humanitarian food stockpiles. Fears of famine are rising, since flood waters and mud covered some of the most fertile acres in the country. Poverty, deforestation and the virtual absence of effective government all conspire to deepen the misery.

President Bush has proposed $12.2 billion in aid for hurricane-damaged areas, mostly in Florida and other Southern states. The package includes $50 million for the islands, nearly half of it for Haiti. We hope Congress passes it quickly, but let's be blunt: The amount set aside for the Caribbean nations is a pittance—not to mention a fraction of what was spent on U.S. military interventions in Haiti and Grenada.

Americans who wish to help may send their own donations. One conduit for such private support is CARE, which has been active in Haiti for 50 years and is deeply involved in the current relief efforts. Information is available at www.careusa.org.

CONGRATULATING AMERICAN DENTAL ASSOCIATION FOR SPONSORING SECOND ANNUAL "GIVE KIDS A SMILE" PROGRAM

HON. RICK LARSEN

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. LARSEN of Washington. Mr. Speaker, I rise today to express my support for H. Res. 567 which congratulates the American Dental Association for once again successfully administering the Give Kids a Smile program.

The Give Kids a Smile program has worked hard to emphasize the importance of kids' access to high quality dental care. This year's program, held on February 6, 2004, resulted in an estimated one million children receiving dental education, screening and care.

The Give Kids a Smile program highlights not only the importance of children's dental care but also the need to help those that may not have access. Access to dental care for children is a critical component of overall health care. Tooth decay is the most common chronic childhood disease and results in thousands of children experiencing poor eating and sleeping patterns and suffering decreased attention spans at school. Congress must join the American Dental Association in recognizing our role in providing assistance to children in need.

I want to thank the dentists, dental hygienists, dental assistants, and others who volunteered their time during this year's Give Kids a Smile program. In addition to the success of this program, America's dental community deserves our thanks for the services and help they provide year round.

PAYING TRIBUTE TO MICHAEL HESSE

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, I consider it a great privilege to recognize an outstanding individual who, for many years, has honorably served the interests of my district and the State of Colorado. Michael Hesse has served as my chief of staff, and during that time he has worked to improve the lives of many of his fellow Coloradans through his compassionate activism. Mike is a dedicated public servant and a dynamic leader whose devotion to Colorado is unparalleled. I am honored to recognize his service before this body of Congress and this Nation today.

Mike earned his bachelor's degree from the University of Denver School of Business in 1987. After graduation, President George H.W. Bush appointed Mike as the Assistant to the Health and Human Services Secretary, Louis Sullivan, from 1989 to 1992. In that capacity, Mike coordinated the President's National Initiative for Childhood Immunization and the Presidential Health Mission to Africa.

Mike has also played a vital role in furthering and representing the interests of his party. He served as the primary spokesperson and overall manager of the Bush-Quayle 1992 Colorado campaign, and was the 1992 executive director of the Colorado Republican Party. Mike's strong leadership and focused management led to effective candidate recruitment and significant improvement in fundraising goals by tripling the traditional party base support. Mike's political experience and dedication to the Mountain West made him a natural candidate for his position as the regional political director of Bob Dole for President. There, Mike was instrumental in building support for Western priorities while establishing close working relationships with officials on both the federal and local levels.

I learned firsthand of Mike's skills as an effective manager and team builder when he became my Chief of Staff in 1998. Through his direction, my office has been able to provide consistently high quality service to the people of Colorado's Third Congressional District. Mike has recruited a respected congressional staff who are committed to constituent casework and who work tirelessly to help me pass a number of sizable legislative initiatives, even in the face of seemingly insurmountable odds. Mike has implemented a strong organizational structure throughout the office that has enabled greater staff interaction and has stressed personal responsibility, by providing timely and substantive responses to inquiries from my constituents. Mike has also fostered valuable relationships with city, county, and State officials, and has a successful working relationship with many of my colleagues in Congress.

Mr. Speaker, Mike Hesse is a natural leader and a passionate public servant whose dedication to the State of Colorado and this Nation serves as an inspiration to us all. Indeed, the legislative and policy successes I have enjoyed over the last 6 years would not have been possible without Mike's leadership within my office. I consider it a great honor to recognize his service and accomplishments before this body of Congress today. I want to personally thank Mike for his many years of commitment to our home state. I have never worked with such a fine individual as Mike Hesse.

PERSONAL EXPLANATION

HON. SUE WILKINS MYRICK

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mrs. MYRICK. Mr. Speaker, I was unable to participate in the following votes. If I had been present, I would have voted as follows:

September 30, 2004: Rollcall vote 485, on H. Con. Res. 501, honoring the life and work of Duke Ellington, recognizing the 30th anniversary of the Duke Ellington School of the Arts, and supporting the annual Duke Ellington Jazz Festival, I would have voted yes.

October 4, 2004: Rollcall vote 487, on S. Con. Res. 76, recognizing that November 2, 2003, shall be dedicated to "A Tribute to Survivors" at the United States Holocaust Memorial Museum, I would have voted yes. Rollcall vote 488, on S. 1814, to transfer federal lands between the Secretary of Agriculture and the

Secretary of the Interior, I would have voted yes. Rollcall vote 489, on H. Res. 567, congratulating the American Dental Association for sponsoring the second annual "Give Kids a Smile" program which emphasizes the need to improve access to dental care for children, and thanking dentists for volunteering their time to help provide needed dental care, I would have voted yes.

October 5, 2004: Rollcall vote 490, on H. Res. 814, ordering the Previous Question, I would have voted yes. Rollcall vote 491, on H. Res. 814, adoption of the rule, I would have voted yes.

PAYING TRIBUTE TO SUE SMITH

HON. SCOTT McINNIS

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, October 5, 2004

Mr. McINNIS. Mr. Speaker, I consider it a great privilege to recognize an outstanding individual who for many years has honorably served the people of my congressional district and the entire State of Colorado. Susan Smith has served as my District Director for the past several years, and in that time, I have come to rely on her strong sense of integrity and leadership abilities to provide an unparalleled quality of constituent services to the people of my district. Sue has amassed an impressive record of public service over her lifetime, and I am honored to bring attention to her accomplishments today before this body of Congress and this Nation.

Before Sue joined my staff, she worked at Colorado's Pueblo Community College in the Executive Vice President's office, where she was in charge of the school's operational policies and procedures. One of her main responsibilities was overseeing the funds provided to PCC under the Carl D. Perkins Federal Grant. Sue has always been a strong advocate for the importance of higher education and, over the years, has volunteered her time and energies to countless youth-oriented non-profit organizations. Before joining my staff full-time, Sue coordinated an educational program for my office known as SEEDS. This terrific program accepts and refurbishes donated government computers and places them in schools throughout the region whose students are in need of the educational opportunities these computers provide.

Sue's variety of non-profit experience made her a perfect candidate for the director of my district offices. Sue oversees four district offices in Pueblo, Glenwood Springs, Grand Junction, and Durango in one of the largest congressional districts in the country. She has cultivated strong working relationships with city, county and state officials that have led to increased, effective communication and cooperation between local and federal governments. Through her diligent guidance and direction, my district offices have been able to make a difference in the lives of the people of Colorado's Third Congressional District. In addition, Sue coordinates my US Service Academy nomination process, which has enabled many high school students to pursue rewarding careers in our armed forces. Sue has personally spent countless hours aiding various local organizations as they try to navigate the complicated federal grant process in order to benefit from the much-needed funding those grants provide.

Mr. Speaker, Sue Smith is a dynamic and extraordinary leader whose amazing dedication to public service has made her a compassionate advocate for the interests of the State of Colorado. I am truly honored to stand before my colleagues to recognize the service of such a devoted public servant, a loving mother, and valued friend. Thank you, Sue, for your many years of hard work and your service to the people of Colorado and this Nation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, October 7, 2004 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

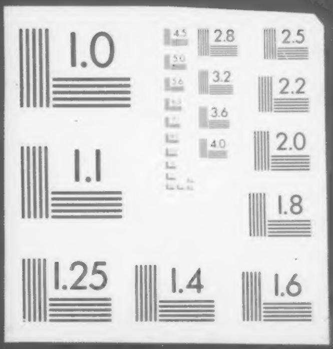
OCTOBER 8

9:30 a.m.

Joint Economic Committee

To hold hearings to examine the current employment situation for September.

SD–628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